Common Sense Business Regulation (BWC Rules)

(Note: The below criteria apply to existing and newly developed rules)

Rule 4123-6-37.3

Rule Review

1. ☒ The rule is needed to implement an underlying statute.

   Citation: __O.R.C. 4121.441(A)(8); O.R.C. 4123.66___

2. ☒ The rule achieves an Ohio specific public policy goal.

   What goal(s): _ The rule adopts a discounted pricing fee schedule for workers' compensation ambulatory surgical center services in accordance with O.R.C. 4121.441(A)(8) and *Ohio Hosp. Assn. v. Ohio Bur. of Workers' Comp.*, Franklin App. No. 06AP-471, 2007-Ohio-1499.___

3. ☒ Existing federal regulation alone does not adequately regulate the subject matter.

4. ☒ The rule is effective, consistent and efficient.

5. ☒ The rule is not duplicative of rules already in existence.

6. ☒ The rule is consistent with other state regulations, flexible, and reasonably balances the regulatory objectives and burden.

7. ☒ The rule has been reviewed for unintended negative consequences.

8. ☒ Stakeholders, and those affected by the rule were provided opportunity for input as appropriate.

   Explain: BWC held a stakeholder meeting on November 3, 2009, during which the proposed ambulatory surgical center fee schedule rule was presented to the Ohio Association of Ambulatory Surgical Centers. The proposed fee schedule rule was also posted on BWC's website on November 12, 2009 to give stakeholders the opportunity to provide additional feedback, which was reviewed and considered by BWC. No changes were made to the proposed rule as a result of the additional feedback.

9. ☒ The rule was reviewed for clarity and for easy comprehension.

10. ☒ The rule promotes transparency and predictability of regulatory activity.

11. ☒ The rule is based on the best scientific and technical information, and is designed so it can be applied consistently.

12. ☒ The rule is not unnecessarily burdensome or costly to those affected by rule.

If so, how does the need for the rule outweigh burden and cost? ____________

13. ☒ The Chief Legal Officer, or his designee, has reviewed the rule for clarity and compliance with the Governor's Executive Order.

Ohio Bureau of Workers' Compensation
2010 Ambulatory Surgical Center (ASC) Fee Schedule

The five character codes included in the Ohio Bureau of Workers' Compensation (BWC) 2010 Ambulatory Surgical Center Fee Schedule are obtained from Current Procedural Terminology (CPT®), copyright 2009 by the American Medical Association (AMA) and from the Health Care Procedure Coding System (HCPCS) National Level II Medicare codes.

CPT® is developed by the AMA as a listing of descriptive terms and five character identifying codes and modifiers for reporting medical services and procedures performed by physicians.

HCPCS are released by the Center for Medicare and Medicaid Services (CMS) as a listing of five character codes and descriptive terminology used for reporting supplies, materials and services by health care providers.

The responsibility for the content of the BWC 2010 Ambulatory Surgical Center Fee Schedule is with the State of Ohio Bureau of Workers' Compensation and no endorsement by the AMA is intended or should be implied. The AMA disclaims responsibility for any consequences or liability attributable or related to any use, nonuse or interpretation of information contained in the BWC 2010 Ambulatory Surgical Center Fee Schedule. No fee schedules, basic unit values, relative value guides, conversion factors or scales are included in any part of CPT. Any use of CPT outside of the BWC 2010 Ambulatory Surgical Center Fee Schedule should refer to the most current *Current Procedural Terminology* which contains the complete and most current listing of CPT codes and descriptive terms. Applicable FARS/DFARS apply.

For the purposes of this fee schedule services and/or supplies must be medically necessary for the treatment of the work related injury. The following definitions apply:

By Report (BR)

The procedure or service is not typically covered and will not routinely be reimbursed. Many of the –BR codes are unclassified/unspecified generic codes and are currently assigned a dollar amount of $0.00. A report is required to be obtained by the MCO for reimbursement consideration. Authorization and payment of codes identified as -BR require an individual analysis by the MCO prior to submission. The MCO analysis shall include researching the appropriateness of the code in relation to the service or procedure and cost comparisons in order for the MCO to approve high quality, cost-effective medical care. Research information from the MCO is required to be submitted to the BWC Medical Policy with each request. After review by the MCO, the report must be imaged into the BWC claim and a request must be submitted, utilizing the sensitive data transmission policy, to the BWC Medical Policy email box Medpol@bwc.state.oh.us for an adjustment to be processed. MCOs should note that most CPT codes have an assigned Relative Value Unit which must be utilized to determine reimbursement. Fees for CPT codes that do not have an established RVU must be compared to a like service to assist in determining appropriate fees. HCPCS codes are priced through multiple cost comparisons.

Not Covered (NC)

Not Covered. The procedure or service is not covered unless application of the *Miller* criteria requires an exception. See: OAC 4123-6-16.2(B)(1) through (B)(3).

ASC Fee

Reimbursement rate for the ASC facility for CPT® and HCPCS Level II codes. $0.00 (without –BR indicator) indicates that reimbursement for the procedure, service or supply is bundled into the payment rate for the associated surgical procedure.

ASC Reimbursement Levels 2010

The BWC 2010 Ambulatory Surgical Center Fee Schedule rates for covered services other than pain management (CPT ranges 62310-62319, 64400-64425, 64445-64495, 64510, 64520, and 64620-64627) shall be set at one hundred percent (100%) of the Medicare 2010 transitional Ambulatory Surgical Center Prospective Payment System rates published in Addendum AA and Addendum BB of the Department of Health and Human Services, Centers for Medicare and Medicaid Services' “42 CFR Parts 410, 416, and 419 Medicare Program: Changes to the Hospital Outpatient Prospective Payment System and CY 2010 Payment Rates; Changes to the Ambulatory Surgical Center Payment System and CY 2010 Payment Rates; Final Rule,” Federal Register, Volume 74, Number 223, Pages 60692 - 60752 (Addendum AA) and 60919 - 60943 (Addendum BB), November 20 2009.

The BWC 2010 Ambulatory Surgical Center Fee Schedule rates for covered pain management services (CPT ranges 62310-62319, 64400-64425, 64445-64495, 64510, 64520, and 64620-64627) shall be set at one hundred ten percent (110%) of the Medicare 2010 transitional Ambulatory Surgical Center Prospective Payment System rates published in Addendum AA and Addendum BB of the Department of Health and Human Services, Centers for Medicare and Medicaid Services rule specified above.

BWC Board of Directors

Executive Summary

BWC Ambulatory Surgical Center
Fee Schedule Rule

Introduction

Chapter 4123-6 of the Administrative Code contains BWC rules implementing the Health Partnership Program (HPP) for state fund employers, including rules relating to the adoption of provider fee schedules and payment for medical services and supplies to injured workers. BWC initially enacted the bulk of the Chapter 4123-6 HPP medical service rules (Ohio Administrative Code 4123-6-20 to 4123-6-46) in February 1997.

BWC first adopted a Chapter 4123-6 rule regarding fees for ambulatory surgical center services effective April 1, 2009.

Background Law

R.C. 4123.66(A) provides that the BWC Administrator "shall disburse and pay from the state insurance fund the amounts for medical, nurse, and hospital services and medicine as the administrator deems proper," and that the Administrator "may adopt rules, with the advice and consent of the [BWC] board of directors, with respect to furnishing medical, nurse, and hospital service and medicine to injured or disabled employees entitled thereto, and for the payment therefor."

R.C. 4121.441(A)(8) provides that the BWC Administrator, with the advice and consent of the BWC Board of Directors, shall adopt rules for implementation of the HPP "to provide medical, surgical, nursing, drug, hospital, and rehabilitation services and supplies" to injured workers, including but not limited to rules regarding "[d]iscounted pricing for all in-patient . . . medical services."

Pursuant to the 10th District Court of Appeals decision in *Ohio Hosp. Assn. v. Ohio Bur. of Workers' Comp.*, Franklin App. No. 06AP-471, 2007-Ohio-1499, BWC is required to adopt changes to its methodology for the payment of ambulatory surgical center services via the O.R.C. Chapter 119 rulemaking process.

BWC's ambulatory surgical center reimbursement methodology is based on Medicare's Ambulatory Surgical Center Prospective Payment System, which is updated annually. Therefore, BWC must also annually update OAC 4123-6-37.1, to keep in sync with Medicare.

Rule Changes

4123-6-37.3 Payment of ambulatory surgical center services.

BWC is proposing to amend OAC 4123-6-37.3 to update reimbursement rates for ambulatory surgical center services.

Under the proposed rule, unless an MCO has negotiated a different payment rate with an ambulatory surgical center, reimbursement for ambulatory surgical center services with a date of service of April 1, 2010 or after shall be equal to the lesser of the ambulatory surgical center's allowable billed charges or the BWC fee schedule for such services.

The BWC fee schedule for ambulatory surgical services shall be an appendix to the rule. As the preamble to the appendix indicates, fees for covered ambulatory surgical services other than pain management shall be set at 100% of the 2010 Medicare Ambulatory Surgical Center Prospective Payment System rates. Fees for covered ambulatory surgical pain management services shall be set at 110% of the 2010 Medicare Ambulatory Surgical Center Prospective Payment System rates.

Stakeholder Involvement

BWC held a stakeholder meeting on November 3, 2009, during which the proposed ambulatory surgical center fee schedule rule was presented to the Ohio Association of Ambulatory Surgical Centers.

The proposed fee schedule rule was also posted on BWC's website on November 12, 2009 to give stakeholders the opportunity to provide additional feedback, which was reviewed and considered by BWC. No changes were made to the proposed rule as a result of the additional feedback.

4123-6-37.3 Payment of ambulatory surgical center services.

Unless an MCO has negotiated a different payment rate with an ambulatory surgical center pursuant to rule 4123-6-08 of the Administrative Code, reimbursement for ambulatory surgical center services with a date of service of ~~April 1, 2009~~ April 1, 2010 or after shall be equal to the lesser of the ambulatory surgical center's allowable billed charges or the fee schedule amount indicated in the attached appendix A, developed with provider and employer input and effective ~~April 1, 2009~~ April 1, 2010.

Appendix A

BUREAU OF WORKERS' COMPENSATION

AMBULATORY SURGICAL CENTER FEE SCHEDULE

EFFECTIVE ~~APRIL 1, 2009~~ APRIL 1, 2010

Effective: 4/1/2010

R.C. 119.032 review dates: _________

Promulgated Under: 119.03
Statutory Authority: 4121.12, 4121.30, 4121.31, 4123.05
Rule Amplifies: 4121.121, 4121.44, 4121.441, 4123.66
Prior Effective Dates: 4/1/09

BWC 2010 Proposed Ambulatory Surgical Center Fees

Medical Service Enhancements

For those injured on the job, prompt, effective medical care is often the key to a quicker recovery and timely return-to-work and quality of life. The maintenance of a network of quality providers, which include medical facilities such as ambulatory surgical centers, is an important element to ensure the best possible recoveries from workplace injury. Such also ensures access to quality, cost-effective service. Access for injured workers, and employers, means the availability of quality, cost-effective treatment provided on the basis of medical necessity.

The Medical Services Division has focused on improving its core medical services functions. Our goals are as follows: enhance our medical provider network, establish a better benefits plan, institute an updated and competitive provider fee schedule, improve our managed care processes, and establish excellent medical bill payment services.

Ambulatory Surgical Center Fee Schedule

As stated, implementing a sound and effective provider fee schedule is a critical component of the Medical Services Division's goals. Ambulatory Surgical Centers (ASCs) billing represents a small number of bills BWC processes annually. However, this provider segment is a critical component of BWC's provider network. ASCs provide services in connection with surgical procedures that do not require inpatient hospitalization. Services provided by ASCs are the same as those provided in a hospital outpatient setting, but with lower cost and generally increased ease of access. In financial terms, these bills represent less than one percent (.97%) of BWC's overall medical expenses. The total ASC expenditures in calendar year 2008 totaled $7,034,562

BWC Current Rates

Beginning with services on April 1, 2009, BWC adopted the Centers for Medicare and Medicaid Services (CMS) Ambulatory Surgical Center (ASC) rates published in the 2009 Ambulatory Surgical Center Prospective Payment System (ASC PPS). The adoption of the 2009 Medicare and Medicaid Services rates also marked was the first update to ASC rates since 2005. Thus, the April 2009 fee schedule update also reflected BWC's adoption of the new Medicare and Medicaid reimbursement methodology.

Prior to April 2009 and since June 1996, the BWC's ASC fee schedule had been based on Medicare's Ambulatory Surgical Center List (aka ASC Groups). Medicare's ASC Groups had been Medicare's prospective payment system from 1982 through 2007. The ASC Groups' payment scheme placed approved reimbursements into one of nine groups based on average cost. The reimbursement rate for each group was then based on the average overhead cost for the group. Cost data used for rate setting was last collected by Medicare in 1986. Federal legislation froze the Medicare ambulatory surgical center rates from 2002-2007.

BWCs old fee schedule reflected Medicare's old ASC Group methodology. When Medicare moved to the new methodology in 2008 the reimbursement rates for several specialties increased and thus, BWC's reimbursement rate under the old methodology fell below Medicare's rate for many services; which precipitated BWC's change from the old methodology.

BWC, in adopting the new Medicare methodology, set its reimbursed level for covered services and supplies at 100% of the ASC PPS rate. CMS is in the third year of their transition period for the ASC PPS. Beginning January 2011, CMS will have fully implemented the ASC PPS. The transition schedule is provided in the table below.

Type of Service	2008	2009	2010	2011
Surgical service on the 2007 ASC List	75% ASC List rate 25% APC rate	50% ASC List rate 50% APC rate	25% ASC List rate 75% APC rate	100% APC rate
Surgical service not on the 2007 ASC List	100% APC rate	100% APC rate	100% APC rate	100% APC rate
Office based procedure not on the 2007 ASC List	75% MPFS rate 25% APC rate	50% MPFS rate 50% APC rate	25% MPFS rate 75% APC rate	100% APC rate

BWC Proposed Changes

BWC evaluated the proposed 2010 changes to the Medicare ASC rule. There were for the most part only minor changes in benefit coverage and or service shifts. The primary changes were in the reimbursement rates for covered procedures.

The service lines most utilized by BWC in the ASC setting are orthopedics and pain management. A review of the rates changes published for 2010 showed that orthopedic rates have increased and pain management rates have decreased. Based on the rate structure adopted in the ASC PPS we were fully aware that some rates would be changing significantly throughout the transition period.

BWC performed an analysis on the impacts of the identified changes on Ohio's ASC facilities. BWC performed this analysis using a sample of cost data provided to BWC from the Ohio Association of ASCs (OAASC) for several orthopedic and pain management procedures. The analysis indicated that reimbursing orthopedics at 100% of the CMS 2010 ASC PPS rate would result in reimbursements covering 113% of the facility cost; which was up from 91% in 2009. The analysis further showed that reimbursing pain management procedures at 100% of the CMS 2010 ASC PPS rate would result in reimbursements covering 64% of cost; which was down from an estimated 70% in 2009.

Therefore, Medical Services is recommending the following:

1. BWC adopt the rates published under the 2010 ASC PPS Ambulatory Payment Classification;

2. That 110% of ASC PPS 2010 transitional rate be adopted for designated pain management services; and
3. That 100% of the ASC PPS 2010 transitional rate be adopted.

Projected Impacts and Outcomes

This recommendation will result in an estimated increase payment of $860,000 dollars or 16% from the 2009 ASC reimbursements. The recommendation will also ensure that BWC maintain a competitive fee schedule with appropriate benefits and quality services being provided Ohio injured workers in a lower cost setting.

Ohio | Bureau of Workers' Compensation

Governor **Ted Strickland**
Administrator **Marsha P. Ryan**

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Stakeholder feedback and recommendations for changes to the BWC Ambulatory Surgical Center Fee Schedule - O.A.C. 4123-6-373

Line #	Rule # / Subject Matter	Stakeholder	Draft Rule Suggestions	Stakeholder Rationale	BWC Response	Resolution
1	Surgical implant reimbursement	Arkansas Best Corporation	Addressing surgical implant reimbursement. The recommendation is a "cost plus" formula (usually cost + 10% or cost + 15%, as high as cost + 25%). Such a formula makes sure that the facility recoups its cost and makes a little extra for administrative efforts.	Implants run from $370 all the way up to the sky, so a small profit percentage can end up being a very large profit. Some states set a $1,000 profit limit to avoid craziness.	BWC understands the stakeholder's comment. However, the cost of surgical implants are part of the orthopedic services reimbursement rates, and as such orthopedic services are projected to increase approximately 20 percent. Further, if BWC were to apply a cost plus formula for implants in addition to the surgical rate, then BWC would in essence be reimbursing twice for the device. At this time BWC has determined that BWC's recommendation is appropriate to ensure access to quality care for Ohio's injured workers.	BWC will maintains the current recommendation as proposed.
2	General Comment	Ohio Association of Ambulatory Surgical Centers	**(1)** Increasing BWC reimbursement percent of Medicare payment above 100% **(2)** Reimbursement rates for implant intensive procedures **(3)** Reimbursement for pain management **(4)** Greater access to surgical options for Injured workers	**(1)** Medicare payments are some of the lowest received by ASCs **(2)** Bundling of expensive implants into the surgical procedure **(3) S**tates BWC reimbursement will only cover 71% of actual costs **(4)** Comparison of other states indicates Ohio reimburses less than several other state workers compensation systems (Texas, California, Florida and Illinois)	BWC evaluation concluded that the recommendation is appropriate to ensure access to quality care. Based on the mix of services provided to injured workers during the April-June 2009 there is a projected rate increase of 20 percent for orthopedic services and a 10 percent increase for other services under the 2010 ASC PPS rates.	BWC will maintain the current recommendation as proposed
4	General Comment	Aetna Inc.	No rule change suggestions or recommendations			

OHIO BWC
2010 AMBULATORY SURGICAL CENTER FEE SCHEDULE PROPOSAL

Medical Services Division
Freddie Johnson, Director, Managed Care Services
Anne Casto, Casto Consulting
December 16, 2009

Introduction and Guiding Principles

- Legal Requirements For Fee Schedule Rule

- Proposed Time-line for Implementation
  - Stakeholder Feedback - November 3rd
  - Board Presentation - November/December
  - Proposed to JCARR - January
  - Effective Date – April 1, 2010

- Guiding Principle:

  Ensure access to high-quality medical care and vocational rehabilitation services by establishing an appropriate Benefit plan and Terms of service with competitive fee schedule which, in turn, enhances medical/vocational provider network

Fee Schedule Methodology

- Evaluation of current ASC services and experiences, considering the need for annual payment updates and/or other policy changes
- Evaluation of the Medicare ASC Prospective Payment System Updates
- Evaluation of bill and cost data provided by the Ohio Association of ASCs (OAASC)
- Setting payment adjustment factor (payment rate) at the right level
  - Develop payment adjustments that accurately reflect market, service, and patient cost differences

CMS' Ambulatory Surgical Center Prospective Payment System (ASC PPS) Update

ASC PPS Medicare Final rule released on CMS web site; to be published 11/20/2009 in Federal Register

- This is the third year of the CMS transition period
  - Blended rate
    - 75% OPPS rate and 25% ASC Level rate
      - Result is increase in orthopedic rates
      - Result is decrease in pain management rates
- Minor changes to coverage and/or status proposed in the ASC PPS rule
  - Changes to office-based versus surgical
  - Changes to covered services list
- No major proposals for the ASC PPS for Medicare

Calculating ASC Fees

ASC rate is a listed fee and is calculated per the formula below:

ASC PPS Rate X Adjustment Factor = BWC Rate

Impact Under 2010 ASC PPS

Service Area	Reimbursement Rate Impact		
	MCR Percent Change 2009 -2010	**BWC 2010 Proposed Payment Adjustment Factors**	**BWC Percent Change 2009-2010**
Orthopedics	20%	100% of MCR	20%
Pain Management	-2%	110% of MCR	8%
Other Services	10%	100% of MCR	10%
All Services	14%		16%

Recommendation

- Adopt the CY 2010 ASC PPS rates as published in CMS final rule
  - Rates are published in Addendum AA and BB
- Modification to payment adjustment factors
  - 110% Designated pain management procedures
  - 100% All other allowed procedures

Estimated Impact of Recommendations

- Model under 2010 ASC PPS
  - Estimated overall reimbursement increase estimated at 16%
  - Estimated Dollar Impact is $860,000
    - Orthotics and other services - $ 740,000
    - Pain Management services - $120,000
- Maintain competitive fee schedule which ensures injured workers' access to quality care

Thank You

Appendix

OAASC Submitted Data

- ASCs do not participate in the CMS Cost Report program; therefore we are not able to calculate estimated costs for the ASC setting
- Ohio Association of ASCs (OAASC) provided BWC with patient billing data for orthopedic and pain management procedures

April-July 2009 Experience*

Allowed Charges of separately paid items	Allowed Charges of separately paid + packaged items	Reimbursement	% of Allowed Billed Charges (total)
$8,604,633	$9,418,963**	$1,528,282	16%

*3.5 months of data

**$602,444 in bundled services + $211,886 in supplied reported with Z-code = $814,330

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Slid 5

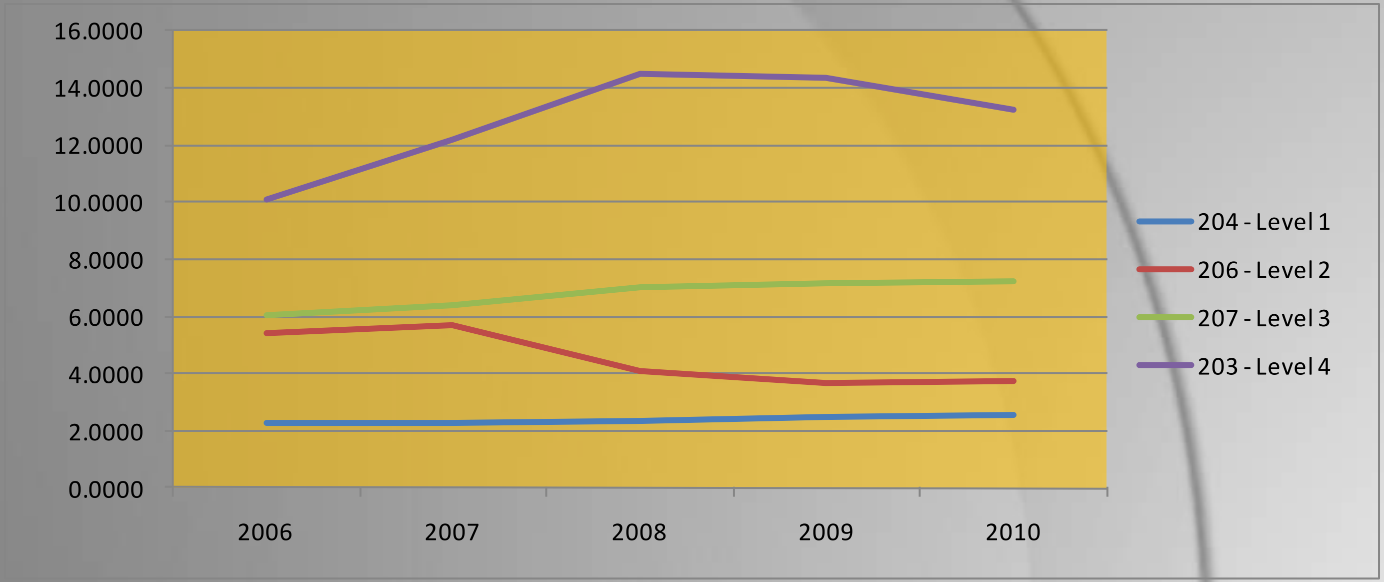
Summary of ASC Recommendation Impacts

Transition Schedule

Type of Service	2008	2009	2010	2011
Surgical service on the 2007 ASC List	75% ASC List rate 25% APC rate	50% ASC List rate 50% APC rate	25% ASC List rate 75% APC rate	100% APC rate
Surgical service not on the 2007 ASC List	100% APC rate	100% APC rate	100% APC rate	100% APC rate
Office based procedure not on the 2007 ASC List	75% MPFS rate 25% APC rate	50% MPFS rate 50% APC rate	25% MPFS rate 75% APC rate	100% APC rate

Pain Management Trend Data – Relative Weights

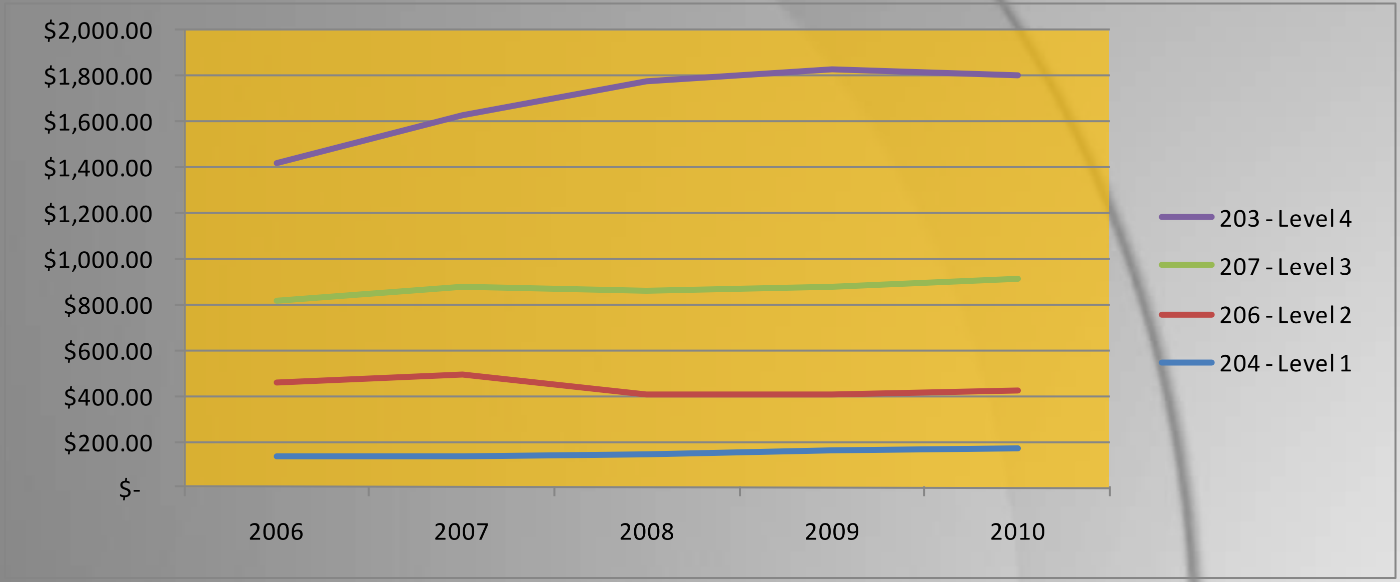
Medicare RW for Pain Management APCs					
APC Group	**2006**	**2007**	**2008**	**2009**	**2010**
204 - Level 1	2.2667	2.2614	2.3213	2.4871	2.5558
206 - Level 2	5.4011	5.7253	4.0964	3.6499	3.7221
207 - Level 3	6.0140	6.3603	7.0546	7.1721	7.2002
203 - Level 4	10.0965	12.1702	14.4879	14.3718	13.2439



Ohio Bureau of Workers' Compensation

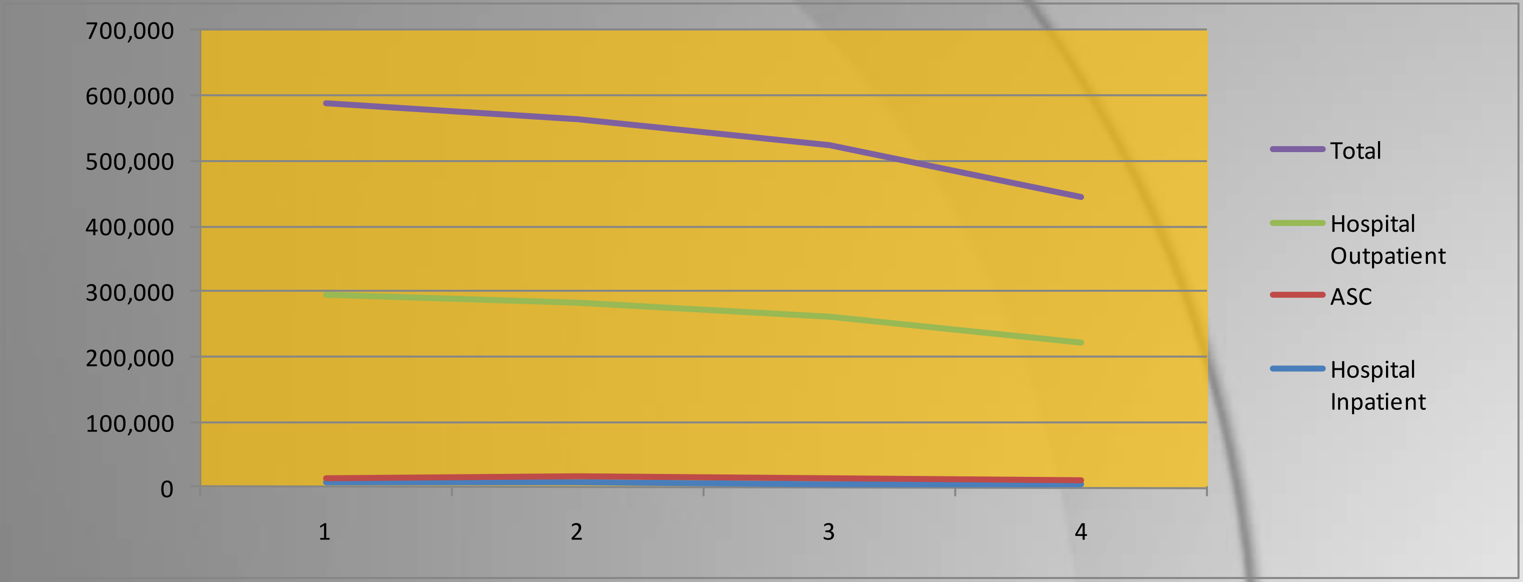
Pain Management Trend Data – Average Dollars

Medicare Reimbursement Rate for Pain Management APCs					
APC Group	**2006**	**2007**	**2008**	**2009**	**2010**
204 - Level 1	$ 134.89	$ 139.00	$ 147.85	$ 164.30	$ 172.28
206 - Level 2	$ 321.42	$ 351.92	$ 260.92	$ 241.11	$ 250.89
207 - Level 3	$ 357.90	$ 390.95	$ 449.34	$ 473.78	$ 485.34
203 - Level 4	$ 600.85	$ 748.08	$ 922.79	$ 949.39	$ 892.22



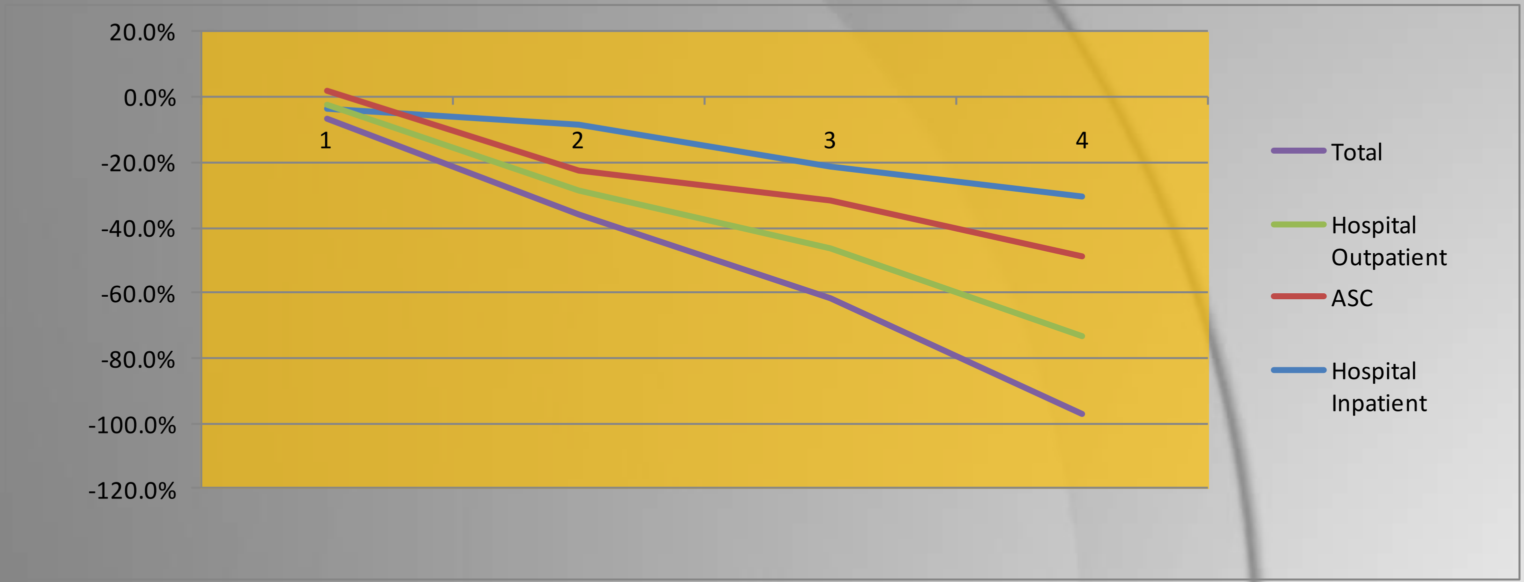
Hospital Services Trend Data – Volume Numbers

BWC Volume Trend 2006 to 2009				
Setting	2006	2007	2008	2009
Hospital Inpatient	6,423	6,209	5,688	4,476
ASC	8,814	9,292	8,008	7,178
Hospital Outpatient	278,813	266,487	248,403	211,275
Total	294,050	281,988	262,099	222,929



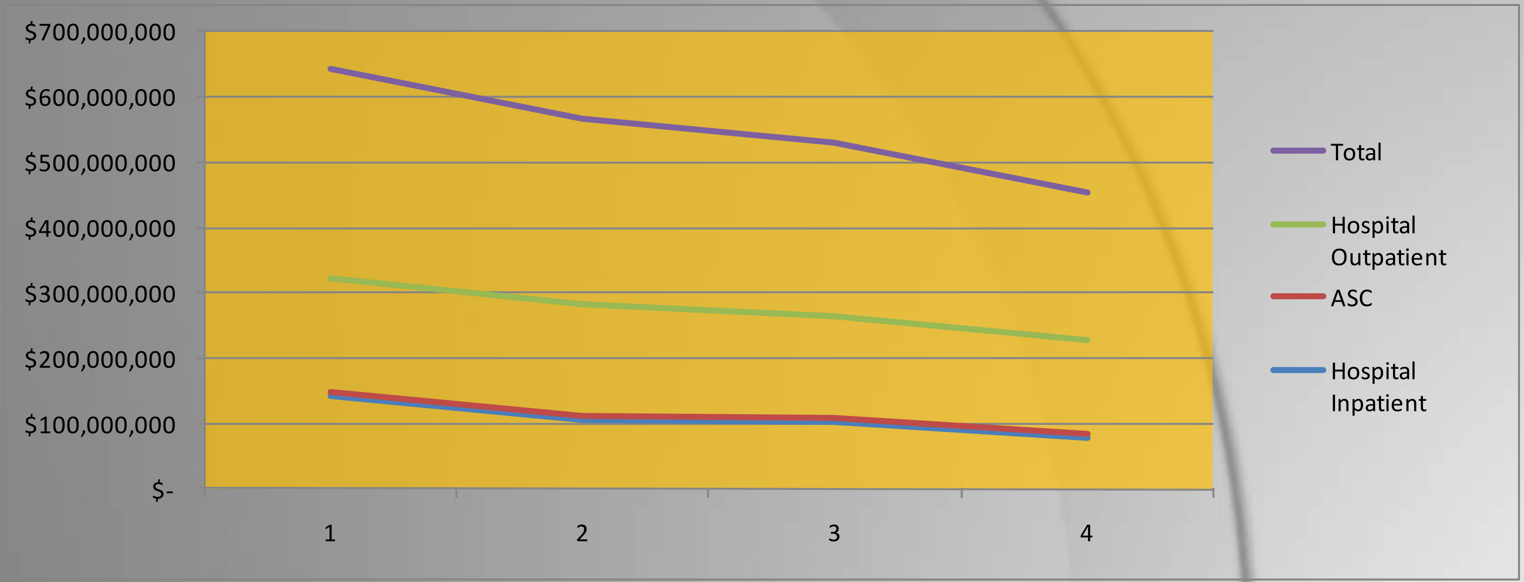
Hospital Services Trend Data – Volume Percentage

BWC Volume Trend - Change Percent - 2006 to 2009				
Setting	**2006 to 2007**	**2007 to 2008**	**2008 to 2009**	**2006 to 2009**
Hospital Inpatient	-3.3%	-8.4%	-21.3%	-30.3%
ASC	5.4%	-13.8%	-10.4%	-18.5%
Hospital Outpatient	-4.4%	-6.7%	-14.9%	-24.2%
Total	-4.1%	-7.0%	-14.9%	-24.2%



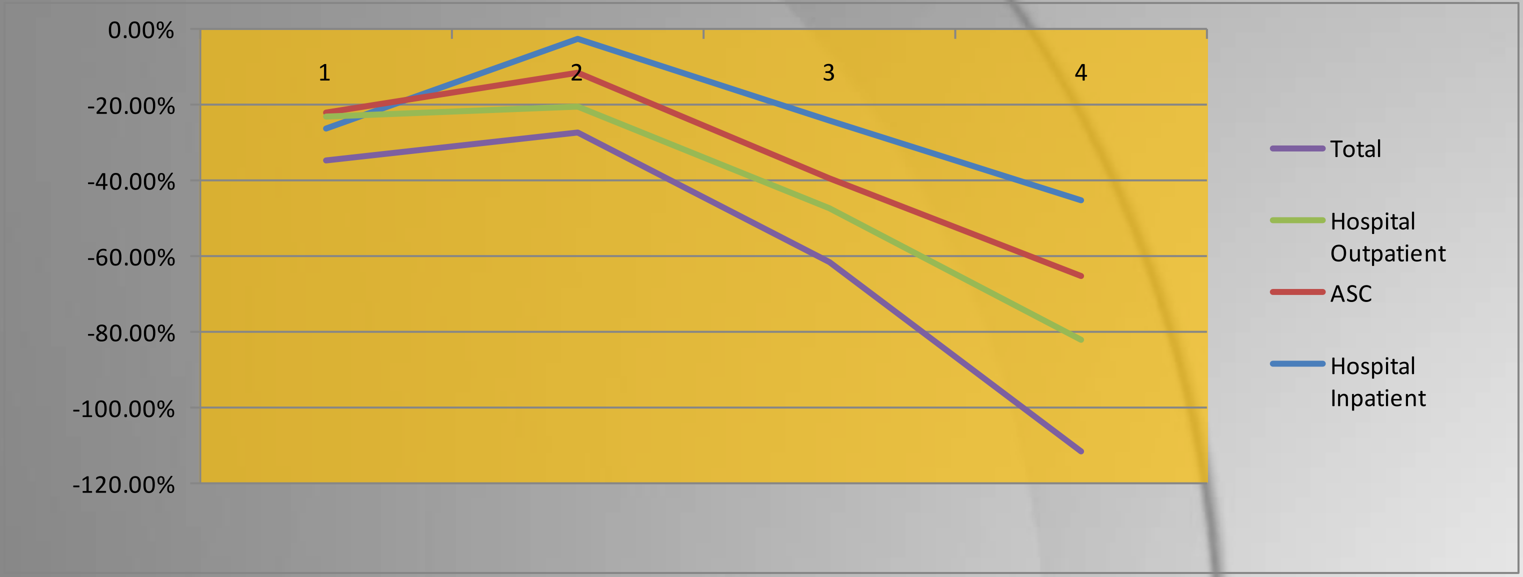
Hospital Services Trend Data – Dollars Numbers

BWC Reimbursement Trend 2006 to 2009				
Setting	**2006**	**2007**	**2008**	**2009**
Hospital Inpatient	$ 141,252,871	$ 104,542,729	$ 101,849,952	$ 77,341,372
ASC	$ 7,442,506	$ 7,734,149	$ 7,040,797	$ 5,961,873
Hospital Outpatient	$ 172,914,879	$ 171,354,704	$ 156,119,097	$ 143,629,371
Total	$ 321,610,256	$ 283,631,582	$ 265,009,846	$ 226,932,616



Hospital Services Trend Data – Dollars Percentage

BWC Reimbursement Trend 2006 to 2009				
Setting	2006 to 2007	2007 to 2008	2008 to 2009	2006 to 2009
Hospital Inpatient	-25.99%	-2.58%	-24.06%	-45.25%
ASC	3.92%	-8.96%	-15.32%	-19.89%
Hospital Outpatient	-0.90%	-8.89%	-8.00%	-16.94%
Total	-11.81%	-6.57%	-14.37%	-29.44%



Common Sense Business Regulation (BWC Rules)

(Note: The below criteria apply to existing and newly developed rules)

Vocational Rehabilitation Provider Fee Schedule

Rule 4123-18-09

Rule Review

1. ☒ The rule is needed to implement an underlying statute.

   Citation: __ R.C. 4121.61, R.C. 4121.441(A), R.C. 4121.44(C)(1) _ __

2. ☒ The rule achieves an Ohio specific public policy goal.

   What goal(s): _ The rule adopts a fee schedule for workers' compensation vocational rehabilitation services in accordance with R.C. 4121.61, R.C. 4121.441(A), R.C. 4121.44(C)(1), and *Ohio Hosp. Assn. v. Ohio Bur. of Workers' Comp.*, Franklin App. No. 06AP-471, 2007-Ohio-1499.___

3. ☒ Existing federal regulation alone does not adequately regulate the subject matter.

4. ☒ The rule is effective, consistent and efficient.

5. ☒ The rule is not duplicative of rules already in existence.

6. ☒ The rule is consistent with other state regulations, flexible, and reasonably balances the regulatory objectives and burden.

7. ☒ The rule has been reviewed for unintended negative consequences.

8. ☒ Stakeholders, and those affected by the rule were provided opportunity for input as appropriate.

   Explain: The proposed fee schedule was provided for review to BWC's Labor-Management-Government Advisory Council (LMG), which is responsible for providing advice and recommendations to BWC on rehabilitation matters (see R.C. 4121.70 and OAC 4123-18-18).

BWC also provided the proposed fee schedule to the following stakeholder groups: the International Association of Rehabilitation Professionals (IARP), the Ohio Physical Therapy Association (OPTA) and the Ohio Association of Rehabilitation Facilities (OARF) and the Ohio Association for Justice (OAJ). Meetings were held on June 23rd and June 25th with stakeholders to discuss the fee schedule. IARP attended both of the meetings and OPTA and OARF attended one meeting.

Stakeholders' questions, concerns and feedback resulted in productive revisions to the proposed rule.

Based on additional feedback received after the Board initially considered and approved the rule, BWC now proposes to revise the language in paragraph (B) of the rule to more closely "mirror" the language in Ohio Revised Code 4121.44(C)(1), which provides the statutory authority for the paragraph.

9. ☒ The rule was reviewed for clarity and for easy comprehension.

10. ☒ The rule promotes transparency and predictability of regulatory activity.

11. ☒ The rule is based on the best scientific and technical information, and is designed so it can be applied consistently.

12. ☒ The rule is not unnecessarily burdensome or costly to those affected by rule.

    If so, how does the need for the rule outweigh burden and cost? ____________

13. ☒ The Chief Legal Officer, or his designee, has reviewed the rule for clarity and compliance with the Governor's Executive Order.

BWC Board of Directors
Executive Summary
BWC Vocational Rehabilitation Provider Fee Schedule Rule
OAC 4123-18-09

Introduction

Chapter 4123-18 of the Ohio Administrative Code contains BWC rules providing for the vocational rehabilitation of injured workers in the Ohio workers' compensation system. The rules were first published as Industrial Commission (IC) rules in the early 1980's, and were converted to BWC rules in the early 1990's when H.B. 222 transferred authority over vocational rehabilitation services from the IC to BWC.

BWC reviewed revised the vocational rehabilitation rules in 2001, following the implementation of the Health Partnership Program (HPP), and again in 2004 and 2009, pursuant to five-year rule review.

Background Law

Ohio Revised Code (O.R.C.) 4121.61 provides that the Administrator, with the advice and consent of the BWC Board of Directors, shall "adopt rules, take measures, and make expenditures as it deems necessary to aid claimants who have sustained compensable injuries or incurred compensable occupational diseases . . . to return to work or to assist in lessening or removing any resulting handicap."

O.R.C. 4121.441(A) provides that the Administrator, with the advice and consent of the BWC Board of Directors, shall adopt rules for implementation of the HPP "to provide medical, surgical, nursing, drug, hospital, and rehabilitation services and supplies to an employee for an injury or occupational disease . . . ."

Prior to the 10th District Court of Appeals decision in *Ohio Hosp. Assn. v. Ohio Bur. of Workers' Comp.*, Franklin App. No. 06AP-471, 2007-Ohio-1499, BWC adopted the vocational rehabilitation provider fee schedule in the manner provided for in O.R.C. 4121.32(D), which grants BWC authority to "establish, adopt, and implement policy guidelines and bases for decisions involving reimbursement issues including, but not limited to . . . reimbursement fees . . . set forth in a reimbursement manual and provider bulletins."

However, pursuant to the Court of Appeals' decision in the *OHA* case, BWC is now required to adopt changes to its provider fee schedules, including the vocational rehabilitation provider fee schedule, via the O.R.C. Chapter 119 rulemaking process. BWC has undergone a systematic revision of its vocational rehabilitation provider fee schedule and, now proposes to adopt the newly revised vocational rehabilitation provider fee schedule as an Appendix to newly enacted OAC 4123-18-09.

Proposed Changes

The major substantive changes proposed for the vocational rehabilitation fee schedule include:

- There are currently a total of 76 vocational rehabilitation fee codes with a recommendation to add code W0513 for Ergonomic Implementation for a total of 77.

- Fee increases are proposed in 50 of the 77 codes representing the following 5 services:

1. Vocational Rehabilitation Case Management (39 codes)
2. Travel and Wait Time for case managers (4 codes)
3. Mileage for case managers and other providers (4 codes)
4. Occupational Rehabilitation – Comprehensive (2 codes)
5. Work Conditioning (1 code)

- There are a total of 9 codes with proposed changes to the Unit of Service (UOS). These changes may impact the overall price paid for 7 of the codes:

1. Ergonomics (2 codes)
2. Work Adjustment (2 codes)
3. Job Analysis (1 code)
4. Job Seeking Skills Training (1 code)
5. Job Placement/Development (1 code)

- The change in UOS for 2 codes will have no fee impact:

1. Vocational Evaluation (1 code)
2. Vocational Screening (1 code)

- There are proposed changes to the definitions for Other Provider Travel and Other Provider Mileage (4 codes) to allow for reimbursement of Travel and Mileage to providers of Transitional Work, Ergonomic Study, Ergonomic Implementation and Job Analysis.

- There are a total of 18 codes with no changes recommended.

Stakeholder Involvement

The proposed fee schedule was provided for review to BWC's Labor-Management-Government Advisory Council (LMG), which is responsible for providing advice and recommendations to BWC on rehabilitation matters (<u>see</u> R.C. 4121.70 and OAC 4123-18-18).

BWC also provided the proposed fee schedule to the following stakeholder groups: the International Association of Rehabilitation Professionals (IARP), the Ohio Physical Therapy Association (OPTA) and the Ohio Association of Rehabilitation Facilities (OARF) and the Ohio Association for Justice (OAJ). Meetings were held on June 23rd and June 25th with stakeholders to discuss the fee schedule. IARP attended both of the meetings and OPTA and OARF attended one meeting.

Stakeholders' questions, concerns and feedback resulted in productive revisions to the proposed rule.

Based on additional feedback received after the Board initially considered and approved the rule, BWC now proposes to revise the language in paragraph (B) of the rule to more closely "mirror" the language in Ohio Revised Code 4121.44(C)(1), which provides the statutory authority for the paragraph and which reads as follows:

> (C) Any [MCO] selected [by BWC to provide HPP services] shall demonstrate . . .
>
> (1) Arrangements and reimbursement agreements with a substantial number of the medical, professional and pharmacy providers currently being utilized by claimants.

4123-18-09 Vocational rehabilitation provider fee schedule. (New)

(A) Pursuant to sections 4121.441 and 4121.61 of the Revised Code, the bureau shall adopt rules for the provision of vocational rehabilitation services to injured workers. The administrator hereby adopts the vocational rehabilitation provider fee schedule indicated in the attached appendix A, developed with stakeholder input, effective January 1, 2010.

(B) Notwithstanding the provisions of paragraph (A) of this rule, consistent with the provisions of division (C)(1) of section 4121.44 of the Revised Code, managed care organizations may enter into other arrangements and reimbursement agreements with medical, professional and pharmacy providers.

Appendix A

BUREAU OF WORKERS' COMPENSATION

VOCATIONAL REHABILITATION PROVIDER FEE SCHEDULE

EFFECTIVE JANUARY 1, 2010

Effective: 1/1/2010

Promulgated Under: 119.03
Statutory Authority: 4121.12, 4121.30, 4121.31, 4123.05
Rule Amplifies: 4121.44, 4121.441, 4121.61, 4121.62, 4123.53, 4123.66
Prior Effective Dates:

Analysis of the Potential Need for a Definition
For "Safeguard/s/ed/ing" in the OAC Specific Safety Requirements

Chairman Harris, Directors:

In April 2009, during the Board of Directors' review of proposed changes to some of BWC's Ohio Administrative Code Specific Safety Requirements (SSR's hereafter), the Board asked the Division of Safety and Hygiene to explore, and if needed, provide and/or enhance the definitions of the terms "Guard" and/or "Safeguard" in the SSR's. Recognizing the importance of these definitions within the context of the SSR's, BWC's Division of Safety and Hygiene and Legal Division have held many careful discussions with interested parties representing different stakeholders. Those discussions were very enlightening to all parties involved, as they emphasized the value and importance of the high level of due diligence required and practiced in proposing any changes to the SSR's.

At the onset of these discussions, we explored changes to the definition of the term "guard". After thorough evaluation internally and through input from interested parties relative to the impact that any proposed changes would have on the technical and legal use of the term, we proposed keeping the current definition of the term "guard" in the SSR's.

Through these discussions, we established that the term "safeguard" or its permutations "safeguards", "safeguarding" and "safeguarded" are used sporadically in different parts of the SSR's. We also perceived that there might be a need to provide a definition for the term "safeguard" and evaluated, both internally as well as with interested parties, proposing certain language for such definition.

After careful review of the various contexts in which the term "safeguard" or its permutations are mentioned in the SSR's, we concluded that a definition that will satisfy these contexts will be very broad, possibly resulting in un/known and/or undesired mis/interpretation of some of the contexts in which the term is mentioned in the SSR's.

In the rest of this presentation, I will share with you how we reached this conclusion:

It is worth mentioning here that the root word "safeguard" is not used anywhere in the SSR's. However, the words "safeguards," "safeguarded" and "safeguarding" are used twenty times. A breakdown of the SSR's in which these words are used is shown in Table 1:

Table 1: Breakdown of the use of the words "safeguards," safeguarded" and "safeguarding" in the SSR's.

Specific Safety Rule Number and Title	**Safeguards**	**Safeguarded**	**Safeguarding**
4123:1-3-01 Construction, Scope and Definitions	1	-	-
4123:1-3-03 Construction, Personal protective equipment		-	2
4123:1-3-10 Construction, Scaffolding	1	-	-

Specific Safety Rule Number and Title	Safeguards	Safeguarded	Safeguarding
4123:1-5-01 Workshops and Factories, Scope and definitions	-	-	1
4123:1-5-10 Workshops and Factories, Mechanical Power Press	-	2	3
4123:1-5-11 Workshops and Factories, Forging machines, other power machines and machine tools, hydraulic and pneumatic presses, and power press brakes	1	-	-
4123:1-5-13 Workshops and Factories, Motor vehicles, mobile mechanized equipment, and marine operations-Appendix	7	-	-
4123:1-17 Window Cleaning	-	-	2

The following shows the context in which the above mentioned words are used:

In:

Chapter 4123:1-3 Construction
4123:1-3-01 Scope and definitions
(B) Definitions
(5) "Equipment" means and includes all machinery, tools, mechanical devices, derricks, hoists, conveyors, scaffolds, platforms, runways, ladders and related ***safeguards*** and protective construction used in connection with construction operations.

“Safeguards” in this context are described as equipment or protective construction to the use of other equipment such as machinery, tools, etc.

In:

Chapter 4123:1-3 Construction
4123:1-3-03 Personal protective equipment
(J) Safety belts, lifelines and lanyards
(2) Lifelines, safety belts or harnesses and lanyards shall be used only for employee ***safeguarding***. Any lifeline, safety belt, safety harness, or lanyard actually subjected to in-service loading, as distinguished from static load testing, shall be removed from service and shall not be used again for employee ***safeguarding*** until inspected and determined by an authorized person to be undamaged and suitable for reuse.

The use of the word “safeguarding” twice in this context describes the concept of safeguarding the employee. However, the intent of the rule is to prevent the use of equipment used fully or partially as part of a fall arrest system from being used for other purposes. Should such equipment be subjected to in-service loading, it will be inspected for the determination of whether or not it is suitable for reuse before such reuse.

In:

Chapter 4123:1-3 Construction
4123:1-3-10 Scaffolding
(I) Outrigger scaffolds
(3) Unless outrigger scaffolds are designed by a professional engineer competent in this field, they shall be constructed and erected in accordance with "Table 10-10." Outrigger scaffolds, designed by a professional engineer, shall provide equivalent or greater ***safeguards*** than those required herein.

In this context, the use of the word “safeguards” refers to a standard of care in the design process of outrigger scaffolds. Beyond that, it can also be interpreted as referring to the particulars of the design as it relates to scaffold loading (i.e. light duty versus medium duty), planks, guardrail etc.

In:

Chapter 4123:1-5 Workshops and Factories
4123:1-5-01 Scope and definitions
(B) Definitions.
(40) “Die setting” the process of placing or removing dies in or from a power press, and the process of adjusting the dies, other tooling, and ***safeguarding*** means to cause them to function properly and safely.

In this context, the word “safeguarding” refers to maintaining a safe power press after the “die setting,” “placing and adjusting dies” tasks or operations. In other words, assuring that the means by which the power press is kept safe during operation will not be compromised after a “die setting, placement, or adjustment.” Maintaining a power press safe can be achieved through various means. Those means include, but not limited to, one or a combination of a physical objects (barrier/guard), spatial separation, and/or electronic devices.

In:

Chapter 4123:1-5 Workshops and Factories
4123:1-5-10 Mechanical power presses
(D) *Safeguarding* the point of operation.
(5) Additional requirements for ***safeguarding***.

Where the operator feeds or removes parts by placing one or both hands in the point of operation, and a two-hand control, presence sensing device, type B gate, or movable barrier (on a part revolution clutch) is used for ***safeguarding***:

In this context, "safeguarding" refers to physical objects (barrier), electronic devices, and/or spatial separation to maintain safe operation of a power press.

Chapter 4123:1-5 Workshops and Factories
4123:1-5-10 Mechanical power presses
(E) Design, construction, setting, and feeding of dies.
(2) Scrap handling.
The employer shall provide means for handling scrap from roll feed or random length stock operations. Scrap cutters used in conjunction with scrap handling systems shall be ***safeguarded*** in accordance with paragraph (C) of this rule.
(4) Unitized tooling.
If unitized tooling is used, the opening between the top of the punch holder and the face of the slide, or striking pad, shall be ***safeguarded*** in accordance with the requirements of paragraph (C) of this rule.

In this context, paragraph (C) provides a long list of means to insure safe operation of power presses including the use of physical objects (barrier), electronic devices, and/or spatial separation to maintain safe operation of a power press. Paragraph (C) is included in Appendix A to this document. As an example, part of paragraph (C) states:

4123:1-5-10(5)(e) Two-hand controls for single stroke.
Two-hand controls for single stroke shall conform to the following requirements:
(i) All controls shall be protected against unintended operation.
(ii) The two-hand control system shall permit an adjustment which will require concurrent pressure from both hands during the die closing portion of the stroke.
(iii) The two-hand control system shall incorporate an anti-repeat feature.
(iv) The control system shall require the operator to release all hand controls before an interrupted stroke can be resumed.
(v) Where two-hand trip controls are used on multiple-station presses, there shall be a separate set of controls for each designated employee. Controls shall be activated and deactivated in sets of two. The clutch/brake control system shall prevent actuation of the clutch if all operating stations are bypassed.

In:

Chapter 4123:1-5 Workshops and Factories

4123:1-5-11 Forging machines, other power machines and machine tools, hydraulic and pneumatic presses, and power press brakes

(E) Hydraulic or pneumatic presses

(6) Other practices, means or methods which will provide ***safeguards***, preventing the hands or fingers of the operator from entering the danger zone during the operating cycle and which are equivalent in result to one of the types specified above.

In this context, the "types specified above" refers to the means of insuring safe operation of power presses, including the use of physical objects (barriers), electronic devices, and/or spatial separation to maintain safe operation of a power press.

In:

Chapter 4123:1-5 Workshops and Factories

4123:1-5-13 Motor vehicles, mobile mechanized equipment, and marine operations

Appendix to rule 4123:1-5-13 Summary table on use of industrial trucks in various locations

DS – diesel powered units that are provided with additional ***safeguards*** to the exhaust, fuel and electrical systems. They may be used in some locations where a D unit may not be considered suitable.

DY – diesel powered units that have all the ***safeguards*** of the DS units and in addition do not have any electrical equipment including the ignition and are equipped with temperature limitation features.

E – electrically powered units that have minimum acceptable ***safeguards*** against inherent fire hazards.

ES – electrically powered units that, in addition to all of the requirements for the E units, are provided with additional ***safeguards*** to the electrical system to prevent emission of hazardous sparks and to limit surface temperatures. They may be used in some locations where the use of an E unit may not be considered suitable

G – gasoline powered units having minimum acceptable ***safeguards*** against inherent fire hazards.

GS – gasoline powered units that are provided with additional ***safeguards*** to the exhaust, fuel, and electrical systems. They may be used in some locations where the use of a G unit may not be considered suitable.

LPS – liquefied petroleum gas powered units that are provided with additional ***safeguards*** to the exhaust, fuel, and electrical systems. They may be used in some locations where the use of an LP unit may not be considered suitable.

In this context "safeguards" refers to standard that governs the use of various types of industrial trucks according to the type of operation, type of goods/products transported, and the workplace environment. For example only certain types of industrial trucks can be used in a chemical plant depending on the materials present in the workplace (i.e. flammable liquid, flammable solid, etc.). OSHA regulations in 29CFR 1910.178 address the classifications of workplace environments and types of powered industrial trucks that can be operated in them. These classifications are based on ANSI B-56.1-1969 standard for powered industrial trucks.

In

Chapter 4123:1-5 Workshops and Factories
4123:1-5-17 Personal Protective Equipment

Two references to "safeguarding" in 4123:1-5-17 Personal Protective Equipment were removed and replaced with new language in the recent updates to the SSR's addressing Workshops and Factories.

The new language states:

(I) Protection of the body and exposed parts and other protective equipment
(6) Safety belts, safety harnesses, safety straps, lifelines, and lanyards
(a) Lifelines, safety belts or harnesses and lanyards shall be provided by the employer, and it shall be the responsibility of the employee to wear such equipment when exposed to hazards of falling where the operation being performed is more than 6 feet above the ground or above a floor or platform, except as otherwise specified in this chapter, and when required to work on stored material in silos, hoppers, tanks, and similar storage areas. Lifelines and safety belts or harnesses shall be securely fastened to the structure and shall sustain a static load of no less than three thousand pounds.

The old language stated:

~~(a) When required, lifelines shall be securely fastened to the structure. Safety belts, safety harnesses, safety straps, lifelines and lanyards shall be used only for employee safeguarding and shall sustain a static load of no less than five thousand four hundred pounds. Any safety belts, safety harness, safety strap, lifeline, or lanyard actually subjected to in-service loading, as distinguished from static load testing, shall be removed from service and shall not be used again for employee safeguarding.~~

In:

> **Chapter 4123:1-17 Window Cleaning**
> **4123:1-17-06 Safety belts, safety harnesses, lifelines and lanyards**
> (A) When required, lifelines shall be securely fastened to the structure. Lifelines, safety belts, safety harnesses, and lanyards shall be used only for employee ***safeguarding*** and shall sustain a static load of no less than five thousand four hundred pounds. Any lifeline, safety belt, safety harness, or lanyard actually subjected to in-service loading, as distinguished from static load testing, shall be removed from service and shall not be used again for employee ***safeguarding***.

The use of the word "safeguarding" twice in this context is describing a concept--safeguarding the employee. However, the intent of the rule is to prevent the use of equipment used fully or partially as part of a fall arrest system from being used for purposes other than employee safety. Should such equipment be subjected to in-service loading, it shall not be used for employee safeguarding afterwards.

Conclusion

As can be seen, the use of the words "safeguards," "safeguarded" and "safeguarding" triggered various meanings including equipment, tools, physical barriers, spatial separation, standards of care, design procedures and processes, and ultimately OSHA regulations and ANSI standards in the case of powered industrial trucks. The common theme that emerges from these different uses is that "safeguarding" is a concept related to insuring that an "*acceptable level"* of due diligence has been exercised to prevent an undesired outcome. In the case of the SSR's, this undesired outcome is an injury to an employee. Such "acceptable level" of due diligence can be very broad and subjective. In most cases, we rely on regulations and standards in providing a better understanding of what needs to be done. However, in some other cases a reasonable judgment will need to be made based on context, expectations, and comparative analysis. It is in these cases where a limiting or broad definition of "safeguard," may result in undesired interpretation. Accordingly, we recommend a specific definition of the word not be adopted. The concept should be as it relates to the circumstances governing such interpretation.

It is worth noting that the use of the word "safeguard" and/or any of its permutations is not limited to the safety literature. The word as a concept is used in management, business, and legal literature as well. In most situations, the interpretation of such usage is directly related to the context of such usage.

Appendix A

4123:1-5-10 Mechanical power presses

(C) Mechanical power press guarding.

(1) Brakes.

Friction brakes provided for stopping or holding the slide movement shall be inherently self-engaging by requiring power or force from an external source to cause disengagement. Brake capacity shall be sufficient to stop the motion of the slide quickly and capable of holding the slide and its attachments at any point in its travel.

(2) Machines using full revolution clutches.

(a) Single-stroke mechanism.

Machines using full revolution clutches shall incorporate a single-stroke mechanism.

(b) Compression-type springs.

If the single-stroke mechanism is dependent upon spring action, the spring(s) shall be of the compression type, operating on a rod or guided within a bore or tube and designed to prevent interleaving of the spring coils in event of breakage.

(c) Two-hand trip.

A two-hand trip shall have the individual operator's hand controls protected against unintentional operation and have the individual operator's hand controls arranged by design and construction and/or separation to require the use of both hands to trip the press and use a control arrangement requiring concurrent operation of the individual operator's hand controls.

(d) Anti-repeat feature.

Two-hand trip systems on full revolution clutch machines shall incorporate an anti-repeat feature.

(e) Multiple-station presses.

Where two-hand trip systems are used on multiple-station presses, there shall be a separate set of controls for each assigned employee.

(3) Foot pedals (treadle).

(a) Pedal mechanism.

The pedal mechanism shall be protected to prevent unintended operation from falling or moving objects or by accidental stepping onto the pedal.

(b) Pedal return springs.

If pedal return springs are provided they shall be of the compression type, operating on a rod or guided within a bore or tube, and designed to prevent interleaving of spring coils in event of breakage.

(c) Pedal counterweights.

If pedal counterweights are provided, the path of the travel of the weight shall be enclosed.

(4) Hand-operated levers.

(a) Spring latch.

Hand-lever-operated power presses shall be equipped with a spring latch on the operating lever to prevent premature or accidental tripping.

(b) More than one operating station.

The operating levers on hand-tripped presses having more than one operating station shall be interlocked to prevent the tripping of the press except by the concurrent use of all levers.

(5) Machines using part revolution clutches.

(a) Clutch/brake control.

The clutch shall release and the brake shall be applied when the external clutch engaging means is removed, deactivated or deenergized.

(b) Stop control.

A red color stop control shall be provided with the clutch/brake control system. Momentary operation of the stop control shall immediately deactivate the clutch and apply the brake. The stop control shall override any other control, and reactuation of the clutch shall require use of the operating (tripping) means which has been selected.

(c) Control selection.

A means of selecting “off,” “inch,” “single stroke,” and “continuous” (when the “continuous” function is furnished) shall be supplied with the clutch/brake control to select type of operation of the press.

(d) Inch operating means.

An inch operating means shall be provided and shall prevent exposure of the employee’s hands within the point of operation by:

(i) Requiring the concurrent use of both hands to actuate the clutch, or

(ii) Being a single control protected against accidental actuation and so located that the employee cannot reach into the point of operation while operating the single control.

(e) Two-hand controls for single stroke.

Two-hand controls for single stroke shall conform to the following requirements:

(i) All controls shall be protected against unintended operation.

(ii) The two-hand control system shall permit an adjustment which will require concurrent pressure from both hands during the die closing portion of the stroke.

(iii) The two-hand control system shall incorporate an anti-repeat feature.

(iv) The control system shall require the operator to release all hand controls before an interrupted stroke can be resumed.

(v) Where two-hand trip controls are used on multiple-station presses, there shall be a separate set of controls for each designated employee. Controls shall be activated and deactivated in sets of two. The clutch/brake control system shall prevent actuation of the clutch if all operating stations are bypassed.

(vi) The starting of a continuous run shall require a separate action by the operator in addition to the setting for continuous stroking of the press before actuation of the operating controls will result in continuous stroking.

(vii) If foot control is provided, the selection method between hand and foot control shall be separate from the stroking selector and shall be designed so that the selection may be supervised by the employer. (viii) Foot-operated controls shall be guarded to prevent accidental operation.

(ix) Clutch/brake control systems shall automatically deactivate in the event of failure of power or pressure supply for clutch engaging or failure of air supply. Reactivation shall require restoration of normal power or air and the use of the tripping mechanisms.

(x) Turnover bar operation shall be performed only when the power source is deenergized.

(6) Electrical.

(a) Disconnect switch.

A main power disconnect switch capable of being locked only in the “off” position shall be provided with every power press control system.

(b) Motor start button.

The motor start button shall be protected against accidental operation.

(c) Drive motor starter.

All mechanical power press controls shall incorporate a type of drive motor starter that will disconnect the drive motor from the source failure, and require operation of the motor start button to restart the motor when voltage conditions are restored to normal.

(d) Accidental ground.

All clutch/brake control electrical circuits shall be protected against the possibility of an accidental ground in the control circuit causing false operation of the press.

(7) Slide counterbalance systems.

(a) Spring counterbalance systems.

Spring counterbalance systems when used shall:

(i) Incorporate means to retain system parts in event of breakage, and

(ii) Have the capability to hold the slide and its attachments at midstroke, without brake applied.

(b) Air counterbalance cylinders.

Air counterbalance cylinders shall:

(i) Incorporate means to retain the piston and rod in case of breakage or loosening,

(ii) Have adequate capability to hold the slide and its attachments at any point in stroke, without brake applied; and

(iii) Incorporate means to prevent failure of capability (sudden loss of pressure) in event of air supply failure.

(8) Air controlling equipment.

Air controlling equipment shall be protected against foreign material and water entering the pneumatic system of the press. A means of air lubrication shall be provided when needed.

(9) Hydraulic equipment.

The maximum anticipated working pressures in any hydraulic system on a mechanical power press shall not exceed the safe working pressure rating of any component used in that system.

(10) Pressure vessels.

All pressure vessels used in conjunction with power presses shall conform to the American Society of Mechanical Engineers Code for Pressure Vessels, 1968 Edition.

(11) Control reliability.

When required by paragraph (C)(2)(e) of this rule, the control system shall operate so that a failure within the system does not prevent the normal stopping action from being applied to the press when required, but shall prevent initiation of a successive stroke until the failure is corrected. The failure shall be detectable by a simple test, or indicated by the control system. This requirement does not apply to those elements of the control system which have no effect on the protection against point of operation injuries.

(12) Brake system monitoring.

When required by paragraph (D)(5) of this rule, the brake monitor shall:

(a) Automatically prevent the activation of a successive stroke if the stopping time or braking distance deteriorates to a point where the safety distance being utilized does not meet the requirements set forth in paragraphs (D)(3)(c)(v) and (D)(3)(g)(iii) of this rule.

The brake monitor used with the type B gate or movable barrier device shall be installed in a manner to detect slide top-stop overrun beyond the limit established by the employer.

(b) Indicate when the performance of the braking system has deteriorated to the extent described in paragraph (C)(12)(a) of this rule; and

(c) Monitor the brake system performance on each stroke.

Medical Services and Safety Committee

Review of the Use of the Words Safeguard/s/ed/ing in the Specific Safety Requirements

December 16, 2009

Breakdown of the use of the words "safeguards," "safeguarded" and "safeguarding" in the SSR's

Specific Safety Rule Number and Title	Safeguards	Safeguarded	Safeguarding
4123:1-3-01 Construction, Scope and Definitions	1	-	-
4123:1-3-03 Construction, Personal protective equipment	-	-	2
4123:1-3-10 Construction, Scaffolding	1	-	-
4123:1-5-01 Workshops and Factories, Scope and definitions	-	-	1
4123:1-5-10 Workshops and Factories, Mechanical Power Press	-	2	3
4123:1-5-11 Workshops and Factories, Forging machines, other power machines and machine tools, hydraulic and pneumatic presses, and power press brakes	1	-	-
4123:1-5-13 Workshops and Factories, Motor vehicles, mobile mechanized equipment, and marine operations-Appendix	7	-	-
4123:1-17 Window Cleaning	-	-	2

Chapter 4123:1-3 Construction
4123:1-3-01 Scope and definitions

(B) Definitions

(5) "Equipment" means and includes all machinery, tools, mechanical devices, derricks, hoists, conveyors, scaffolds, platforms, runways, ladders and related ***safeguards*** and protective construction used in connection with construction operations.

Chapter 4123:1-3 Construction *cont.*
4123:1-3-03 Personal protective equipment

(J) Safety belts, lifelines and lanyards

(2) Lifelines, safety belts or harnesses and lanyards shall be used only for employee ***safeguarding***. Any lifeline, safety belt, safety harness, or lanyard actually subjected to in-service loading, as distinguished from static load testing, shall be removed from service and shall not be used again for employee ***safeguarding*** until inspected and determined by an authorized person to be undamaged and suitable for reuse.

Chapter 4123:1-3 Construction *cont.*
4123:1-3-10 Scaffolding

(I) Outrigger scaffolds

(3) Unless outrigger scaffolds are designed by a professional engineer competent in this field, they shall be constructed and erected in accordance with "Table 10-10." Outrigger scaffolds, designed by a professional engineer, shall provide equivalent or greater ***safeguards*** than those required herein.

Chapter 4123:1-5 Workshops and Factories
4123:1-5-01 Scope and definitions

(B) Definitions

(40) “Die setting” : the process of placing or removing dies in or from a power press, and the process of adjusting the dies, other tooling, and ***safeguarding*** means to cause them to function properly and safely.

Chapter 4123:1-5 Workshops and Factories *cont.*

4123:1-5-10 Mechanical power presses

(D) *Safeguarding* the point of operation

(5) Additional requirements for ***safeguarding***

Where the operator feeds or removes parts by placing one or both hands in the point of operation, and a two-hand control, presence sensing device, type B gate, or movable barrier (on a part revolution clutch) is used for ***safeguarding***:

Chapter 4123:1-5 Workshops and Factories *cont.*

4123:1-5-10 Mechanical power presses

(E) Design, construction, setting, and feeding of dies

(2) Scrap handling

The employer shall provide means for handling scrap from roll feed or random length stock operations. Scrap cutters used in conjunction with scrap handling systems shall be safeguarded in accordance with paragraph (C) of this rule.

(4) Unitized tooling

If unitized tooling is used, the opening between the top of the punch holder and the face of the slide, or striking pad, shall be safeguarded in accordance with the requirements of paragraph (C) of this rule.

Chapter 4123:1-5 Workshops and Factories *cont*.

4123:1-5-11 Forging machines, other power machines and machine tools, hydraulic and pneumatic presses, and power press brakes

(E) Hydraulic or pneumatic presses

(6) Other practices, means or methods which will provide ***safeguards***, preventing the hands or fingers of the operator from entering the danger zone during the operating cycle and which are equivalent in result to one of the types specified above.

Chapter 4123:1-5 Workshops and Factories *cont.*

4123:1-5-13 Motor vehicles, mobile mechanized equipment, and marine operations

Appendix to rule 4123:1-5-13 Summary table on use of industrial trucks in various locations

- E/G–electrically/gasoline powered units that have minimum acceptable ***safeguards*** against inherent fire hazards.
- DS/GS/LPS–diesel/gasoline/liquefied petroleum gas powered units that are provided with additional ***safeguards*** to the exhaust, fuel, and electrical systems. They may be used in some locations where the use of a D/G/LP unit may not be considered suitable.
- DY–diesel powered units that have all the ***safeguards*** of the DS units and in addition do not have any electrical equipment including the ignition and are equipped with temperature limitation features.
- ES–electrically powered units that, in addition to all of the requirements for the E units, are provided with additional ***safeguards*** to the electrical system to prevent emission of hazardous sparks and to limit surface temperatures. They may be used in some locations where the use of an E unit may not be considered suitable.

Chapter 4123:1-17 Window Cleaning

4123:1-17-06 Safety belts, safety harnesses, lifelines and lanyards

(A) When required, lifelines shall be securely fastened to the structure. Lifelines, safety belts, safety harnesses, and lanyards shall be used only for employee ***safeguarding*** and shall sustain a static load of no less than five thousand four hundred pounds. Any lifeline, safety belt, safety harness, or lanyard actually subjected to in-service loading, as distinguished from static load testing, shall be removed from service and shall not be used again for employee ***safeguarding***.

Chapters of 4123:1 with no mention of safeguards/safeguarded/safeguarding

- 4123:1-1 Elevators
- 4123:1-7 Metal Casting
- 4123:1-9 Steel Making, Manufacturing, and Fabricating
- 4123:1-11 Laundering and Drycleaning
- 4123:1-13 Rubber and Plastic Industries
- 4123:1-21 Fire Fighting

Chapter 4123:1-3 Construction
4123:1-3-10 Scaffolding

Table 10-10. Minimum nominal size and maximum spacing of members of outrigger scaffolds.

	Light duty	Medium duty
Maximum scaffold load.	25 p.s.f.	50 p.s.f.
Outrigger size	2 × 10 in.	3 × 10 in.
Maximum outrigger spacing.	10 ft. 0 in.	6 ft. 0 in.
Planking	2 × 10 in.	2 × 10 in.
Guardrail	2 × 4 in.	2 × 4 in.
Guardrail uprights	2 × 4 in.	2 × 4 in.
Toeboards	4 in. (minimum)	4 in. (minimum).

Common Sense Business Regulation (BWC Rules)

(Note: The below criteria apply to existing and newly developed rules)

Rule 4123-6-37.2

Rule Review

1. ☒ The rule is needed to implement an underlying statute.

   Citation: __O.R.C. 4121.441(A)(8); O.R.C. 4123.66___

2. ☒ The rule achieves an Ohio specific public policy goal.

   What goal(s): _ The rule adopts a discounted hospital outpatient reimbursement methodology based on Medicare's "Outpatient Prospective Payment System" or "OPPS" methodology, in accordance with O.R.C. 4121.441(A)(8) and *Ohio Hosp. Assn. v. Ohio Bur. of Workers' Comp.*, Franklin App. No. 06AP-471, 2007-Ohio-1499._

3. ☒ Existing federal regulation alone does not adequately regulate the subject matter.

4. ☒ The rule is effective, consistent and efficient.

5. ☒ The rule is not duplicative of rules already in existence.

6. ☒ The rule is consistent with other state regulations, flexible, and reasonably balances the regulatory objectives and burden.

7. ☒ The rule has been reviewed for unintended negative consequences.

8. ☒ Stakeholders, and those affected by the rule were provided opportunity for input as appropriate.

   Explain: BWC presented the initial recommendations to the Ohio Hospital Association in July with up meeting in September; BWC presented the methodology to the MCO League and the MCO Business Council in August; and the self-insured division of BWC was presented with the methodology in September. The rule was available for review and public comment on BWC's Web site from November 24 through December 4, 2009.

9. ☒ The rule was reviewed for clarity and for easy comprehension.

10. ☒ The rule promotes transparency and predictability of regulatory activity.

11. ☒ The rule is based on the best scientific and technical information, and is designed so it can be applied consistently.

12. ☒ The rule is not unnecessarily burdensome or costly to those affected by rule.

    If so, how does the need for the rule outweigh burden and cost? _____________

13. ☒ The Chief Legal Officer, or his designee, has reviewed the rule for clarity and compliance with the Governor's Executive Order.

BWC Board of Directors

Executive Summary

BWC Hospital Outpatient Services
Payment Rule

Introduction

The Health Partnership Program (HPP) rules were first promulgated in 1996, prior to the implementation of the HPP in 1997. HPP rules establishing criteria for the payment of various specific medical services were subsequently adopted in February 1997.

Ohio Administrative Code 4123-6-37, initially adopted February 12, 1997 and amended March 1, 2004, provides general criteria for the payment of hospital services under the HPP. Ohio Administrative Code 4123-6-37.2 provides specific methodology for the payment of hospital outpatient services. It was initially adopted effective September 1, 2007, and has not been amended since.

Background Law

R.C. 4123.66(A) provides that the BWC Administrator "shall disburse and pay from the state insurance fund the amounts for medical, nurse, and hospital services and medicine as the administrator deems proper," and that the Administrator "may adopt rules, with the advice and consent of the [BWC] board of directors, with respect to furnishing medical, nurse, and hospital service and medicine to injured or disabled employees entitled thereto, and for the payment therefor."

R.C. 4121.441(A)(8) provides that the BWC Administrator, with the advice and consent of the BWC Board of Directors, shall adopt rules for implementation of the HPP "to provide medical, surgical, nursing, drug, hospital, and rehabilitation services and supplies" to injured workers, including but not limited to rules regarding "[d]iscounted pricing for all . . . out-patient medical services."

Pursuant to the 10th District Court of Appeals decision in *Ohio Hosp. Assn. v. Ohio Bur. of Workers' Comp.*, Franklin App. No. 06AP-471, 2007-Ohio-1499, BWC is required to adopt changes to its methodology for the payment of hospital outpatient services via the O.R.C. Chapter 119 rulemaking process.

Proposed Changes

BWC's current hospital outpatient services reimbursement rule is based on a cost-plus methodology with a cap, utilizing outpatient cost-to-charge ratios (CCR) from Ohio Medicaid as the basis for determining the cost of hospital outpatient services.

BWC is proposing to move from this retrospective cost-plus reimbursement methodology to a prospective payment methodology for hospital outpatient services for 2010, based on a modified version of Medicare's Outpatient Prospective Payment System (OPPS).

As more fully set forth in the accompanying document "BWC 2010 Proposed Hospital Outpatient Fee Summary," for hospital outpatient services with a date of service on or after May 1, 2010, BWC is recommending the following changes to OAC 4123-6-37.2:

1. Adoption of a modified OPPS methodology for hospital outpatient reimbursement methodology;

2. Adoption of payment adjustment factors to be used with modified OPPS;

3. Modification to OPPS “hold harmless” calculation;

4. Modification to payment for children’s hospitals.

Stakeholder Involvement

BWC presented the initial recommendations to the Ohio Hospital Association in July with up meeting in September; BWC presented the methodology to the MCO League and the MCO Business Council in August; and the self-insured division of BWC was presented with the methodology in September. The rule was available for review and public comment on BWC’s Web site from November 24 through December 4, 2009.

4123-6-37.2 Payment of hospital outpatient services.

(A) HPP:

Unless an MCO has negotiated a different payment rate with a hospital pursuant to rule 4123-6-10 of the Administrative Code, reimbursement for hospital outpatient services with a date of service of May 1, 2010 or after shall be as follows:

(1) Except as otherwise provided in this rule, reimbursement for hospital outpatient services shall be equal to the applicable medicare reimbursement rate for the hospital outpatient service under the medicare outpatient prospective payment system as of the calendar quarter immediately prior to the calendar quarter in which the hospital outpatient service was rendered, multiplied by a bureau-specific payment adjustment factor, which shall be 2.53 for children's hospitals and 1.89 for all hospitals other than children's hospitals.

(a) The medicare integrated outpatient code editor and medicare medically unlikely edits in effect as of the calendar quarter immediately prior to the calendar quarter in which the hospital outpatient service was rendered shall be utilized to process bills for hospital outpatient services under this rule; however, the outpatient code edits identified in table 1 of appendix A of this rule shall not be applied.

(b) The annual medicare outpatient prospective payment system outlier reconciliation process shall not be applied to payments for hospital outpatient services under this rule.

(c) For purposes of this rule, hospitals shall be identified as "children's hospitals," "critical access hospitals," "rural sole community hospitals," "essential access community hospitals" and "exempt cancer hospitals" based on the hospitals' designation in the medicare outpatient provider specific file in effect as of the calendar quarter immediately prior to the calendar quarter in which the hospital outpatient service was rendered.

(2) Services reimbursed via fee schedule. These services shall not be wage index adjusted.

(a) Services reimbursed via fee schedule to which the bureau-specific payment adjustment factor shall be applied.

(i) Except as otherwise provided in paragraphs (A)(2)(b)(ii) and (A)(2)(b)(iii) of this rule, hospital outpatient services reimbursed via fee schedule under the medicare outpatient prospective payment system shall be reimbursed under the applicable medicare fee schedule in effect as of the calendar quarter immediately prior to the calendar quarter in which the hospital outpatient service was rendered.

(b) Services reimbursed via fee schedule to which the bureau-specific payment adjustment factor shall not be applied.

(i) Hospital outpatient vocational rehabilitation services for which the bureau has established a fee, which shall be reimbursed in accordance with table 2 of appendix A of this rule.

(ii) Hospital outpatient services reimbursed via fee schedule under the medicare outpatient prospective payment system that the bureau has determined shall be reimbursed at a rate other than the applicable medicare fee schedule in effect as of the calendar quarter immediately prior to the calendar quarter in which the hospital outpatient service was rendered, which shall be reimbursed in accordance with table 3 of appendix A of this rule

(iii) Hospital outpatient services not reimbursed under the medicare outpatient prospective payment system that the bureau has determined are necessary for treatment of injured workers, which shall be reimbursed in accordance with tables 4 and 5 of appendix A of this rule.

(3) Services reimbursed at reasonable cost. To calculate reasonable cost, the line item charge shall be multiplied by the hospital's outpatient cost to charge ratio from the medicare outpatient provider specific file in effect as of the calendar quarter immediately prior to the calendar quarter in which the hospital outpatient service was rendered. These services shall not be wage index adjusted.

(a) Services reimbursed at reasonable cost to which the bureau-specific payment adjustment factor shall be applied.

(i) Critical access hospitals shall be reimbursed at one hundred and one per cent of reasonable cost for all payable line items.

(b) Services reimbursed at reasonable cost to which the bureau-specific payment adjustment factor shall not be applied.

(i) Services designated as "inpatient only" under the medicare outpatient prospective payment system.

(ii) Hospital outpatient services reimbursed at reasonable cost as identified in tables 3 and 4 of appendix A of this rule.

(4) Add-on payments calculated using the applicable medicare outpatient prospective payment system methodology and formula in effect as of the calendar quarter immediately prior to the calendar quarter in which the hospital outpatient service was rendered. These add-on payments shall be calculated prior to application of the bureau-specific payment adjustment factor.

(a) Outlier add-on payment. An outlier add-on payment shall be provided on a line item basis for partial hospitalization services and for ambulatory payment classification (APC) reimbursed services for all hospitals other than critical access hospitals.

(b) Rural hospital add-on payment. A rural hospital add-on payment shall be provided on a line item basis for rural sole community hospitals, including essential access community hospitals; however, drugs, biological, devices reimbursed via pass-through and reasonable cost items shall be excluded. The rural add-on payment shall be calculated prior to the outlier add-on payment calculation.

(c) Hold harmless add-on payment. A hold harmless add-on payment shall be provided on a line item basis to exempt cancer centers and children’s hospitals. The hold harmless add-on payment shall be calculated after the outlier add-on payment calculation.

(5) Providers without a medicare provider number.

(a) Providers without a medicare provider number shall be reimbursed for hospital outpatient services at thirty-eight per cent of billed charges for all payable line items.

(6) For purposes of this rule, the "applicable medicare reimbursement rate for the hospital outpatient service under the medicare outpatient prospective payment system " and the “medicare outpatient prospective payment system " shall be determined in accordance with the medicare program established under Title XVIII of the Social Security Act, 79 Stat. 286 (1965), 42 U.S.C. 1395 et seq. as amended, as implemented by the following materials, which are incorporated by reference:

(a) 42 C.F.R. Part 419 as published in the October 1, 2009 Code of Federal Regulations;

(b) Department of health and human services, centers for medicare and medicaid services' “42 CFR Parts 410, 416, and 419 Medicare Program: Changes to the Hospital Outpatient Prospective Payment System and CY 2010 Payment Rates; Changes to the Ambulatory Surgical Center Payment System and CY 2010 Payment Rates; Final Rule” 74 Fed. Reg. 60315 – 61012 (2009).

(B) QHP or self-insuring employer (non-QHP):

A QHP or self-insuring employer may reimburse hospital outpatient services at:

(1) The applicable rate under the methodology set forth in paragraph (A) of this rule; or

(2)(a) For Ohio hospitals that annually report a total outpatient cost-to-charge ratio to Ohio medicaid, reimbursement shall be equal to the hospital’s allowable billed charges multiplied by the hospital’s reported cost-to-charge ratio as set forth below plus sixteen percentage points, not to exceed sixty percent of the hospital’s allowed billed charges.

To assist QHPs and self-insuring employers in determining reimbursement under this paragraph, the bureau shall make available to QHPs and self-insuring employer the hospital’s most recently reported cost-to-charge ratio not later than thirty days following the bureau’s receipt of the hospital’s most recently reported cost-to-charge ratio from Ohio medicaid.

(b) For Ohio hospitals that do not annually report a total outpatient cost-to-charge ratio to Ohio medicaid and out-of-state hospitals, reimbursement shall be equal to fifty-six percent of the hospital’s allowed billed charges; or

(3) The rate negotiated between the hospital and the QHP or self-insuring employer in accordance with rule 4123-6-46 of the Administrative Code.

Effective: 05/01/2010

Promulgated Under: 119.03
Statutory Authority: 4121.12, 4121.30, 4121.31, 4123.05

Rule Amplifies: 4121.121, 4121.44, 4121.441, 4123.66
Prior Effective Dates: 9/1/07

Ohio Bureau of Workers' Compensation

Governor **Ted Strickland**
Administrator **Marsha P. Ryan**

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Stakeholder feedback and recommendations for changes to the BWC Hospital Outpatient Services Fee Schedule - O.A.C. 4123-6-37.2

Line #	Rule # / Subject Matter	Stakeholder	Draft Rule Suggestions	Stakeholder Rationale	BWC Response	Resolution
1	General Comment	Ohio Hospital Assoication	Opposes adoption of the proposed payment methodology; however, if adopted, the payment adjustment factor must be more than the proposed 166% of the Medicare rate; recommend an extended transition period.	Opposes adoption of proposed methodology due to complexity of system; expense of implementation and maintenance; inability for self-insured employers to comprehend and manage payments under this complex system; redistributive effect of payment among hospitals; Medicare rate does not cover hospital cost.	Benefits of a prospective payment system outweigh the complexity of the system; BWC is fully aware of the resources required for the adoption of the OPPS; Ohio SI employers can select their own payment system, provided they reimburse at not less than the BWC base fees for provider services; BWC believes that when the system is fully implemented and costs are monitored and closely managed, all facilities will be appropriately reimbursed for services provided. However, some facilities will initially experience some increase in profitability, versus other facilities which will experience decreases in profitability based on the facilities' current cost structures; BWC recognizes the potential impact on providers as the system shifts from a retrospective to a prospective system, and has modified the original recommendation.	BWC has modified it original recommendaton and is proposing a 2 year transition period with the first year having a payment adjustment factor of 189% and the second year having a payment adjustment factor of 166%
2	General Comment	Anthony Hrudka, Cleveland Clinic Foundation	This stakeholder presented in general the same comments as the Ohio Hospital Association.	The rationale is the same	BWC response is same as above for Ohio Hospital Association	BWC response is same as above for Ohio Hospital Association
3	General Comment	Aetna Inc. (commenting as a self insured employer)	No rule change suggestions or recommendations			
4	General Comment and question	Rick Wickstrom, WorkAbility Network	**(1)** Proposed reimbursement for W0710 (work conditioning) and W0703 (occupation rehab) should be raised for non-hospital outpatient providers. **(2)** Proposed reimbursement for W0637 (transitional work per 15 minutes) should be raised for hospital based outpatient providers.		**(1)** The first stakeholder recommendation does not apply to this fee schedule consideration as the focus is outpatient hospital and not professional provider or vocational rehabilitation fee schedule. **(2)** BWC evaluated historical hospital cost data to arrive from facilities that provided transitional work services, and determined that the established recommended amounts would ensure access to quality care for Ohio's injured worker for this type of service. This type of service does not take place in the hospital outpatient service facility, but rather on the job site.	BWC will maintain the current proposed recommendation for vocational rehabilitation services as part of hospital outpatient services.

BWC 2010 Proposed Hospital Outpatient Fees

Medical Services Enhancements

Prompt, effective medical care makes a big difference for those injured on the job. It is often the key to a quicker recovery and timely return-to-work and quality of life for injured workers. Thus, maintaining a network of dependable medical and vocational rehabilitation service providers ensures injured workers get the prompt care they need. Maintaining a network of hospitals to provide appropriate care is an important element to ensure the best possible recoveries from workplace injuries. It also ensures access to quality, cost-effective service. Access for injured workers, and employers, means the availability of quality, cost-effective treatment provided on the basis of medical necessity. It facilitates faster recovery and a prompt, safe return to work.

The Medical Services Division has focused on improving its core medical services functions. Our goals are as follows: enhance our medical provider network, establish a better benefits plan, institute an updated and competitive provider fee schedule, improve our managed care processes, and establish excellent medical bill payment services.

Hospital Outpatient Fee Schedule

As stated, implementing a sound and effective provider fee schedule is a critical component of the Medical Services Division's goals. An appropriate outpatient fee schedule is integral to assuring that injured workers are receiving quality care so that they may achieve the best possible recovery from their injuries. Hospital outpatient bills represent about seven percent of the bills BWC processes annually; and about seventeen percent of BWC's overall medical expenses. Hospital outpatient services include emergency department visits which may be the first treatment following an injury; as well as surgery or rehabilitation services intended to return the injured worker to employment. BWC hospital outpatient fee schedule rule was last updated September 1, 2007.

The current methodology is based on a cost-plus methodology with a cap. Currently, BWC utilizes outpatient cost-to-charge ratios (CCR) from Medicaid as the basis for determining the cost of hospital outpatient services. BWC then adds sixteen percentage points to the facility CCR in order to determine the hospital specific payment level. Allowed charges are then multiplied by the CCR plus sixteen percentage points to determine the reimbursement rate. The limitation is that the CCR plus sixteen percentage points cannot exceed .60 or sixty percent of allowed billed charges. Under the current retrospective cost-based methodology, one challenge BWC has had to manage is that of not knowing the actual reimbursement rate for an individual service until after the service is rendered to the patient.

Once the charge for the service is reported to BWC, the hospital-specific cost-to-charge ratio plus sixteen percentage points is utilized to determine the actual reimbursement rate. This brings about three additional challenges. First there is disparity in payments among providers. The payment rate for a given service is neither equitable nor consistent among providers. Second, it is difficult to predict expenditures for a benefit period. Not only does BWC not know the charge for a service prior to the service being rendered, the current methodology does not limit charge increases by provider from one benefit period to the next. Lastly, the current system does not encourage facilities to improve their cost structure. The current methodology reimburses providers at their cost plus sixteen percentage points. Therefore, as the cost of providing a service increases as represented by the facility charge, so does the BWC reimbursement rate.

2010 Proposed Hospital Outpatient Fee Schedule Recommendation

BWC is proposing to move from a retrospective cost plus reimbursement methodology to a prospective payment methodology for hospital outpatient services for 2010. Moving to a prospective payment system will address the current fee reimbursement challenges discussed above. Under a prospective payment system, rates and policies are established in advance and remain constant during the benefit period. BWC would know prior to a service being rendered the reimbursement amount for that service, which will assist BWC with estimating hospital outpatient expenditures from year to year. Further, since the rates are established in advance and remain consistent, equity of payments among service providers and services rendered is achieved. Further, under a prospective payment system providers are encouraged to practice cost containment. Rates are established in advance, which provides service providers the data they can use to determine the best mix of their resources to achieve established budget goals without foregoing the provision of quality services.

BWC's recommendation is to adopt a modified version of the Outpatient Prospective Payment System (OPPS) that is currently utilized by The Centers for Medicare and Medicaid Services (CMS). Under the proposed methodology and rate modification the aggregate payments for hospital outpatient services are projected to decrease by twenty-two percent. For services May 1, 2010 and after, the Medical Services Division is recommending the following changes:

1. Adoption of a modified OPPS methodology for hospital outpatient reimbursement methodology

2. Adoption of payment adjustment factors to be used with modified OPPS
3. Modification to OPPS Hold Harmless calculation
4. Modification to payment for Children's Hospitals
5. Modification to billing protocol

1. Proposed Adoption of a modified OPPS methodology

The CMS OPPS is a prospective payment system that provides payments for hospital outpatient services. The system utilizes four different reimbursement methodologies: fee schedule, ambulatory payment classification system, reasonable cost, and average sale price. The system is a partial packaged system; meaning that some services, supplies or procedures are separately payable and some are packaged or bundled. A partially packaged system allows for adequate payment rates in a healthcare setting where there is wide variation in treatment pathways and resource consumption.

In addition to the payment methodology, there are adjustments and provisions that are administered under CMS's OPPS. BWC is proposing to adopt some of the adjustments and provisions and modify others. Additionally, BWC will add necessary Ohio workers compensation components to the payment system, such as fee schedule payment for vocational rehabilitation services; given such services are not included in the base system as they are not utilized or covered for Medicare beneficiaries under Medicare.

Several other workers' compensation jurisdictions (Texas, South Carolina, California, North Dakota, Tennessee, Washington, and West Virginia) have adopted a version of the OPPS. Administration and level of payment vary among the states.

2. Proposed Adoption of Payment Adjustment Factors

There are four reimbursement methodologies utilized within the OPPS: ambulatory payment classifications, fee schedules, reasonable cost and average sale price. Since this is a prospective payment system the use of the reasonable cost methodology is limited. Ambulatory payment classifications (APCs) are groups of clinically similar procedures or services with similar resource consumption. Therefore, the reimbursement rate for APCs and fee schedule items is based on the average resource consumption to provide the service, procedure, test or supply. CMS rates are calculated to reimbursement facilities at 100% of allowed CMS cost.

BWC has set reimbursement considering industry standards, relevant publications, and what we believe will ensure achievement of the guiding principle of injured workers' access to quality care. BWC is proposing to adopt a payment adjustment factor of 166% of the OPPS rate as outlined in the fee rule. At this payment level BWC will reimbursement facilities, on average, at 114% of cost.

Adopting the proposed methodology and payment adjustment factor is projected to result in a decrease of 22% in outpatient reimbursement. While the recommended change in reimbursement methodology will add value to Ohio's workers compensation system, BWC acknowledges that the potential impact of the changes on Providers. Thus, to assist Providers in adjusting to the new payment methodology, BWC is proposing a two year transition plan to phase in the recommended 166% payment adjustment factor.

In year one of the transition (2010) the proposed payment adjustment factor would be 189% of the OPPS rate for hospitals other than Children's Hospitals. For year two of the transition plan (2011) the proposed payment adjustment factor would be 166% of the OPPS rate for hospitals other than Children's Hospitals. The special considerations and payment adjustment factor for Children's Hospitals are discussed in section 4, Modification to Payment for Children's Hospitals.

3. Modification to the Hold Harmless Provision

During implementation of the OPPS, CMS provided a transitional period to assist facilities with the migration from cost based payment to prospective payment. The transition period has expired. However, one component of the transition period has become a permanent provision of the system and is called the hold harmless provision. Under this provision, the IPPS exempt cancer centers and IPPS exempt children's hospitals are permanently held harmless; meaning that their current payments cannot be less than the rate that would have been paid prior to the implementation of OPPS by CMS in August 2000. Currently, there is one IPPS exempt cancer center in the state of Ohio and four Children's Hospitals.

Under the CMS version of OPPS, the hold harmless add-on payment is calculated quarterly with reconciliation at year end. However, under BWC regulations all payments must be made at the bill level. Therefore, we have taken the intent of the hold harmless provision and applied it at the bill level. Using the 1996 payment to cost ratio for facilities that qualify for this provision (The James Cancer Center and Children's Hospitals) BWC will calculate the add-on hold harmless payment and apply this in addition to the APC payments received under OPPS. Although BWC is deviating from the exact formula used by CMS, we believe we have captured the intent of the provision and are administering the payment at the appropriate level.

4. Modification to Payment for Children's Hospitals

There are four Children's Hospitals that treated BWC injured workers during 2008. In total for 2008 these encounters represent .11% of the total encounters, .13% of the total charges, and

.16% of total reimbursements. Even though these services represent a very small portion of the total hospital outpatient services, the care that these facilities provide are critical. These facilities normally provide service for BWC injured workers with burn care treatments.

Financial analysis showed that reimbursing Children's Hospitals at 166% of the OPPS rate would not adequately reimbursement facilities for their outpatient services. Therefore, BWC is proposing to address this impact by recommending a payment adjustment factor of 253% for Children's Hospitals. This rate will allow the facilities to receive the same level of reimbursement that they receive today under BWC's cost plus reimbursement methodology. *Please note as stated above the OPPS rate for Children's Hospitals also includes the hold harmless add-on payment as discussed above in section 3, Modification to the Hold Harmless Provision.*

5. Modification to Billing Protocols

In order to administer a modified OPPS, BWC must revise some of the current billing protocols. For example, BWC must allow the use of modifiers, modify revenue code usage, allow for HCPCS Level II codes to be reported, and revisit duplicate bill logic. Therefore, as part of this update to the hospital outpatient reimbursement methodology revision, BWC will revise billing protocols as well. BWC will align with national billing standards thus eliminating current "BWC only" billing regulations.

Projected Impacts and Outcomes

With the reimbursement methodology change of this proposed rule, BWC is adjusting hospital outpatient rates to be more in alignment with commercial payers. The projected impact is an overall payment decrease of 22% or approximately $30 million. The recommended two year transition plan is estimated to allow half, $15 million, of the impact to occur in year one (2010) and the second half, $15 million, to occur in year two (2012).

Additionally, the recommended changes will improve consistency in reimbursement rates among facilities. The predictability of reimbursements from year to year will be improved; thus, aiding in rate setting and stability in medical cost experiences of the system. Further, the recommendation will align all BWC fee reimbursement schedules to a prospective payment approach.

2010 Hospital Outpatient Fee Schedule Appendix

Hospital Outpatient Services

- Clinic visits
- Emergency department visits
- Outpatient surgery
- Laboratory services
- Radiology services
- Therapy services
  - Physical therapy, occupational therapy, speech language pathology
- Vocational Rehab services

Other Payers Utilizing OPPS Methodology

- BCBS Michigan
- BCBS Mississippi
- Medicaid Vermont
- Medicaid Michigan

OPPS Structure

- OPPS is comprised of three key reimbursement methodologies
  - APC
  - Fee Schedule
  - Reasonable Cost (limited use)
- OPPS is a partially packaged system
  - Allows for treatment and protocol flexibility
    - Important for ED and clinic services

CMS 2010 OPPS Update

- OPPS Medicare Final rule released 10/30 via the CMS website; published 11/20/2009 in Federal Register
- Market basket is 2.1%
- Estimated impact is increase of 1.9%
  - Urban 2.0%
  - Rural 1.6%
- Major Changes
  - Pulmonary, cardiac and intensive cardiac rehabilitation program revision
  - New guidance for physician supervision requirements
  - APC changes for certain procedures

OPPS Modification Detail

- Modification to coverage
    - Allow Medicare non-covered services that are applicable to the injured worker environment to be covered
        - Screening eye exams (Snellen)
        - IDET (Intradiscal Electro-thermal Therapy)
        - Acupuncture
    - Indicate non-coverage for supplies that are not applicable for the injured worker environment
        - Non-speech generating devices
        - Designated drugs
        - Pediatric supplies
- Modification to editing system
    - Deactivated edits that are not applicable to the workers compensation environment
        - Edits based on National Coverage Determinations which specify benefit package under Medicare

Programming for Administrative Effectiveness

- Many "lessons learned" from IPPS implementation are being applied to the OPPS implementation plan
- Working with billing vendor to modify systems to required specifications
    - IOCE
    - Medically Unlikely Edits
    - PRICER
        - Will allow billing vendor to be utilized by SI employers that choose to use proposed methodology

Current Reimbursement Formula

Allowed Charge x RCC + 16 percentage points = BWC Rate

Proposed Reimbursement Formula

CMS Rate* + Add-on amount** x BWC PAF*** = BWC Rate

*APC Rate (detail slide 25)
Fee Schedule (detail slide 26)
Reasonable cost
(detail slides 28 and 29)

**Outlier
Hold Harmless
Rural Adjustment

***253% Children's
189% All Others

Basic APC Methodology

CMS APC Rate x Wage Index (60% of rate) + Outlier add-on if applicable + SCH* or HH** add-on if applicable = Total CMS Rate

Total CMS Rate x BWC PAF*** = BWC Rate

* Sole Community Hospitals
** Hold Harmless (Cancer Hospitals and Children's Hospitals)
*** Payment adjustment factor

Basic Fee Schedule Methodology

CMS FS Rate x BWC PAF = BWC Rate

BWC Fee Schedule* Methodology

BWC Rate = BWC Rate

*BWC Vocational Rehabilitation Services
*Services and supplies covered by BWC but excluded from the OPPS or the Medicare benefit package

Basic Reasonable Cost Methodology

Allowed Charge x Overall outpatient ratio of cost to charge (RCC) = CMS Rate

CMS Rate x BWC PAF = BWC Rate

Reasonable Cost Methodology for Inpatient Only Procedures

Allowed Charge x Overall outpatient ratio of cost to charge (RCC) = BWC Rate

Critical Access Hospital Methodology

Allowed Charge x Overall outpatient ratio of cost to charge (RCC) x 1.01 = CMS Rate

CMS Rate x BWC PAF = BWC Rate

Ohio BWC 2010 Hospital Outpatient Fee Methodology Proposal

Medical Services Division
Freddie Johnson, Director, Managed Care Services
Anne Casto, Casto Consulting
December 16, 2009

Introduction and Guiding Principles

- Legal Requirements For Fee Schedule Rule
- Proposed Time-line for Implementation
  - Stakeholder Feedback - July 29 - present
  - Board Presentation – December/January
  - Proposed to JCARR - February
  - Effective Date – May 1, 2010
- Guiding Principle:

  Ensure access to high-quality medical care and vocational rehabilitation services by establishing an appropriate Benefit plan and Terms of service with competitive fee schedule which, in turn, enhances medical/vocational provider network

Fee Schedule Methodology

- Evaluation of current hospital outpatient services and experiences, considering the need for modification to the reimbursement methodology and/or other policy changes
- Evaluation of the Medicare Outpatient Prospective Payment System and 2010 updates
- Setting payment adjustment factor (payment rate) at the right level
- Develop payment adjustments that accurately reflect market, service, and patient cost differences

Hospital Outpatient Services Experience

Hospital Outpatient History			
Year	Encounters	Allowed Charges	Reimbursement
2006	278,838	$261,401,861	$173,574,333
2007	266,713	$237,401,671	$171,881,391
2008	249,534	$182,981,842	$156,915,972

- Under the current cost-based system BWC reimbursed
  - 146% of cost
  - 212% of Medicare

Current Methodology

- Retrospective reimbursement methodology
  - Cost plus
    - Ohio Medicaid cost-to-charge ratio plus 16 percentage points, not to exceed 60% of allowed billed charges
  - Ohio BWC incurs a significant risk by using this type of reimbursement methodology
    - As charges increase so does BWC reimbursement levels
      - No limit on % increase of charges per year
    - There is some protection with the use of a cap (60% allowed billed charges)

Current Retrospective Reimbursement Formula

Allowed Charge × CCR* + 16 percentage points = BWC Rate

CT Scan Head $1,741.00 × .30 + .16 .46 = $800.86

*CCR – Cost to Charge Ratio

Move to Prospective Payment

- Rates and policies are established in advance
- Rates remain constant during the effective period
- Impacts
  - Promotes predictability of payments
  - Promotes equity and consistency of payments
  - Encourages facilities to improve efficiency of providing care
  - Rate increases are better controlled from year to year
    - Able to project financial impact

Ohio | Bureau of Workers' Compensation

Predictability, Consistency and Equity of Payments

- Currently BWC cannot predict the payout for services. Payment is determined after the service is delivered based on the hospital's charge

Facility	Service	2009 Charge	2009 Payment	Proposed Rate
Hospital A	Blood count (85025)	$51.40	$18.50	**$21.05**
Hospital B	Blood count (85025)	$56.00	$24.08	**$21.05**
Hospital C	Blood count (85025)	$51.30	$28.22	**$21.05**
Hospital D	Blood count (85025)	$115.18	$57.59	**$21.05**

Encourage Facilities to Improve Efficiency of Providing Care

Facility	Service	2009 Charge	2009 Payment	Proposed Rate
Hospital A	Mid-Level ED*	$255.00	$147.90	**$264.94**
Hospital B	Mid-Level ED	$435.00	$204.45	**$264.94**
Hospital C	Mid-Level ED	$584.50	$210.42	**$264.94**
Hospital D	Mid-Level ED	$705.75	$310.53	**$264.94**
Hospital E	Mid-Level ED	$573.00	$343.80	**$264.94**
Hospital F	Mid-Level ED	$703.00	$393.68	**$264.94**

*ED – Emergency Department

Control Rate Increases and Predict Financial Impact

Year	Service	Rate	Percent Increase from previous year
2010	Arthroscopy, knee	$2,016.77	3.7%
2009	Arthroscopy, knee	$1,943.12	6.0%
2008	Arthroscopy, knee	$1,833.13	4.1%
2007	Arthroscopy, knee	$1,759.49	5.3%

Outpatient Prospective Payment System (OPPS)

- CMS Prospective Payment System
- Publicly available system
  - Empirically sound
- Reviewed, debated and maintained each year
  - Comments provided by hospital community, supplier community, Medicare Payment Advisory Commission, and APC* Advisory Panel
- Updated quarterly
- Improved editing of bill data
- Improved monitoring of bill data accuracy

*APC - Ambulatory Payment Classification

Other WC States Using Medicare's OPPS Model

State	Payment Adjustment Factor	State	Payment Adjustment Factor
Washington	108% to 162%	Tennessee	150%
California	122%	North Dakota	165%
West Virginia	135%	Texas	200%
South Carolina	140%		

Median = 145%
Mean = 148%

Reimbursement Formula

Current Retrospective Reimbursement Formula

Allowed Charge × RCC + 16 percentage points = BWC Rate

Proposed Prospective Reimbursement Formula

CMS Rate + Add-on amount × BWC PAF* = BWC Rate

* PAF - Payment Adjustment Factor

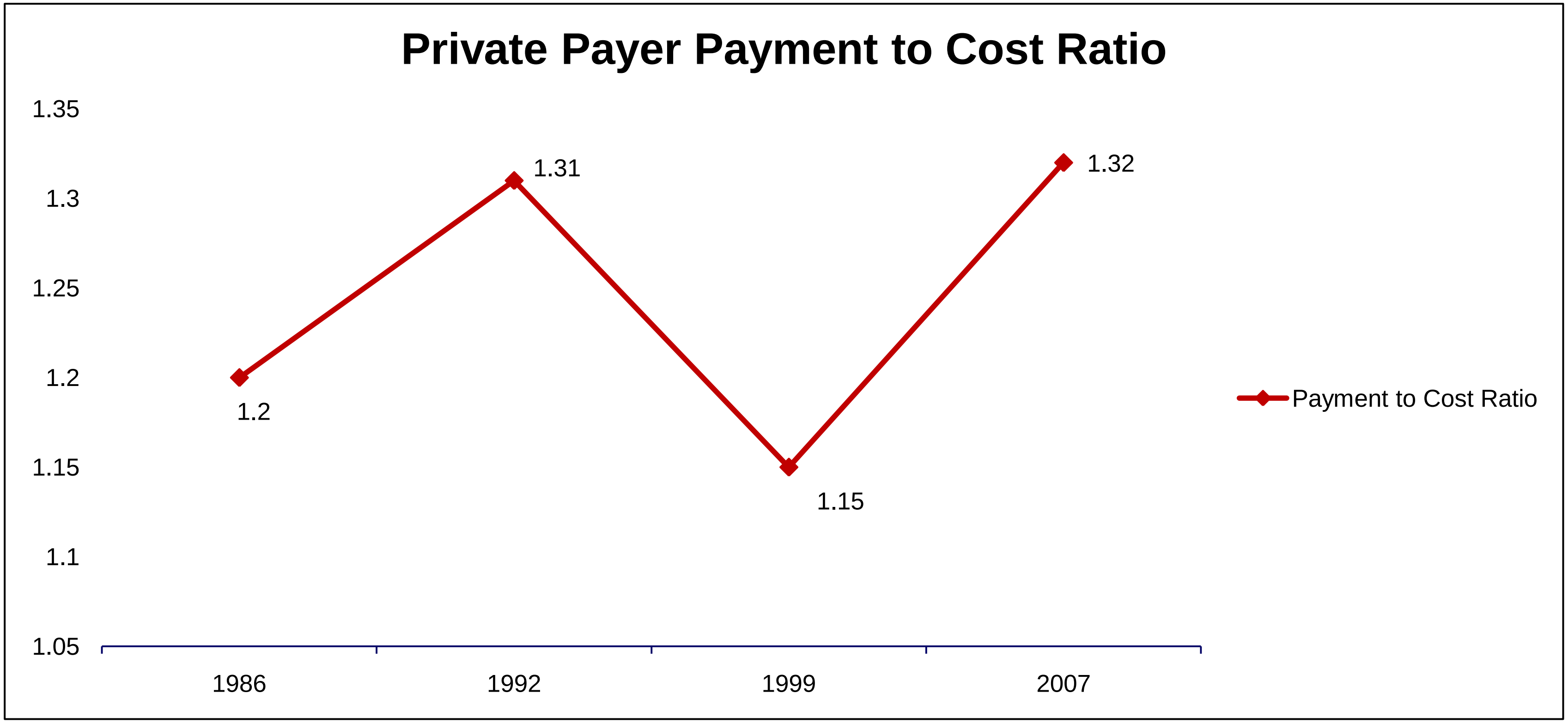
BWC's Evaluation of Medicare's OPPS

- Modification to coverage
  - Allow Medicare non-covered services that are applicable to the injured worker environment to be covered
  - Indicate non-coverage for supplies that are not applicable for the injured worker environment
- Modification to reimbursement formula
  - Modify add-on payment formula for cancer hospitals and Children's hospitals to allow add-on payment at the line item level
- Modification to editing system
  - Deactivated edits that are not applicable to the workers compensation environment

Setting Payment Adjustment Factor for Ohio BWC

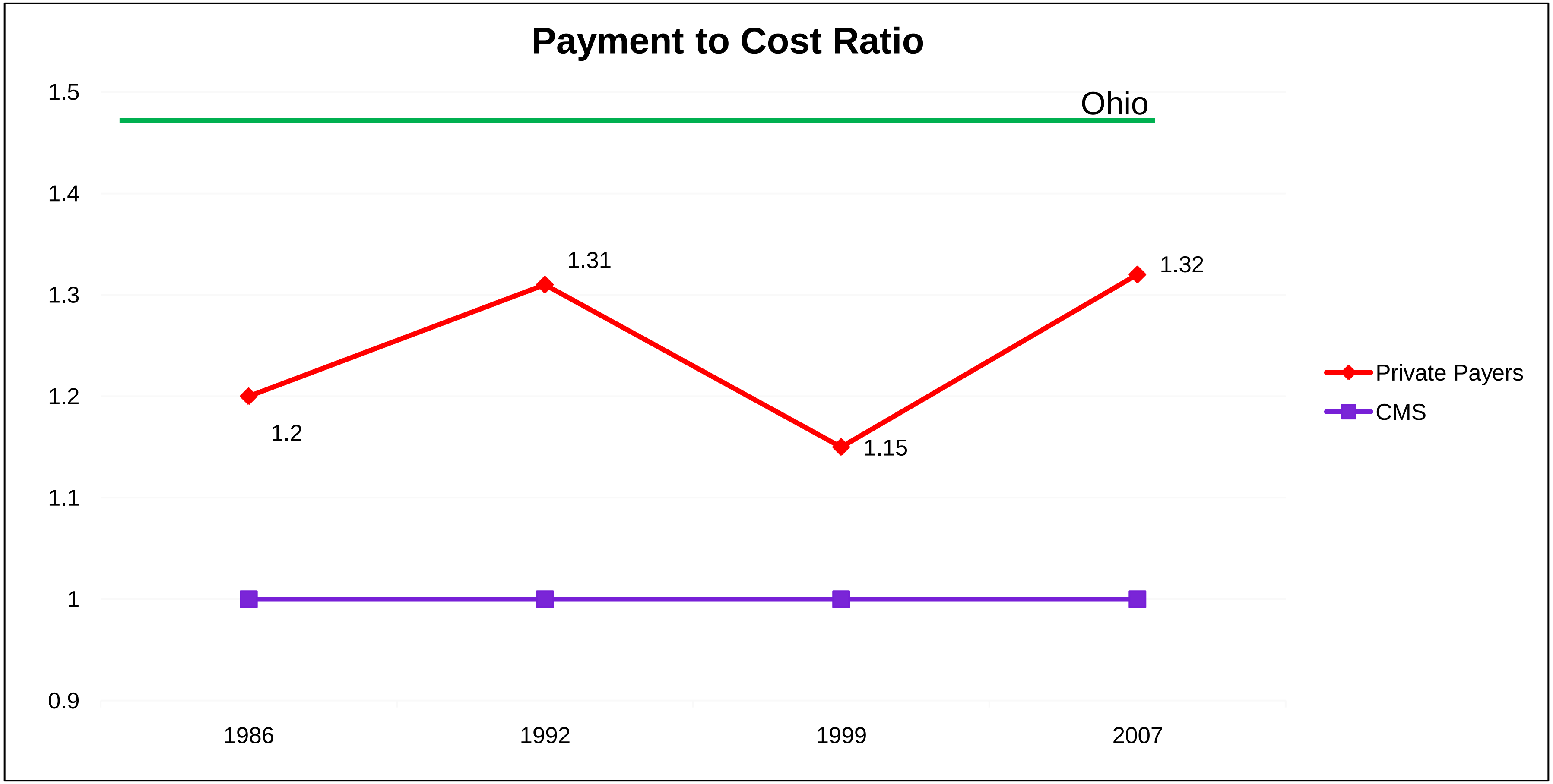
- Financial analysis
  - Percent of cost
  - Percent of allowed billed charges
    - Overall
    - Category of service
    - Type of facility
- Outcome
  - 166% of OPPS rate
    - 114% of cost

Private Payer Rates

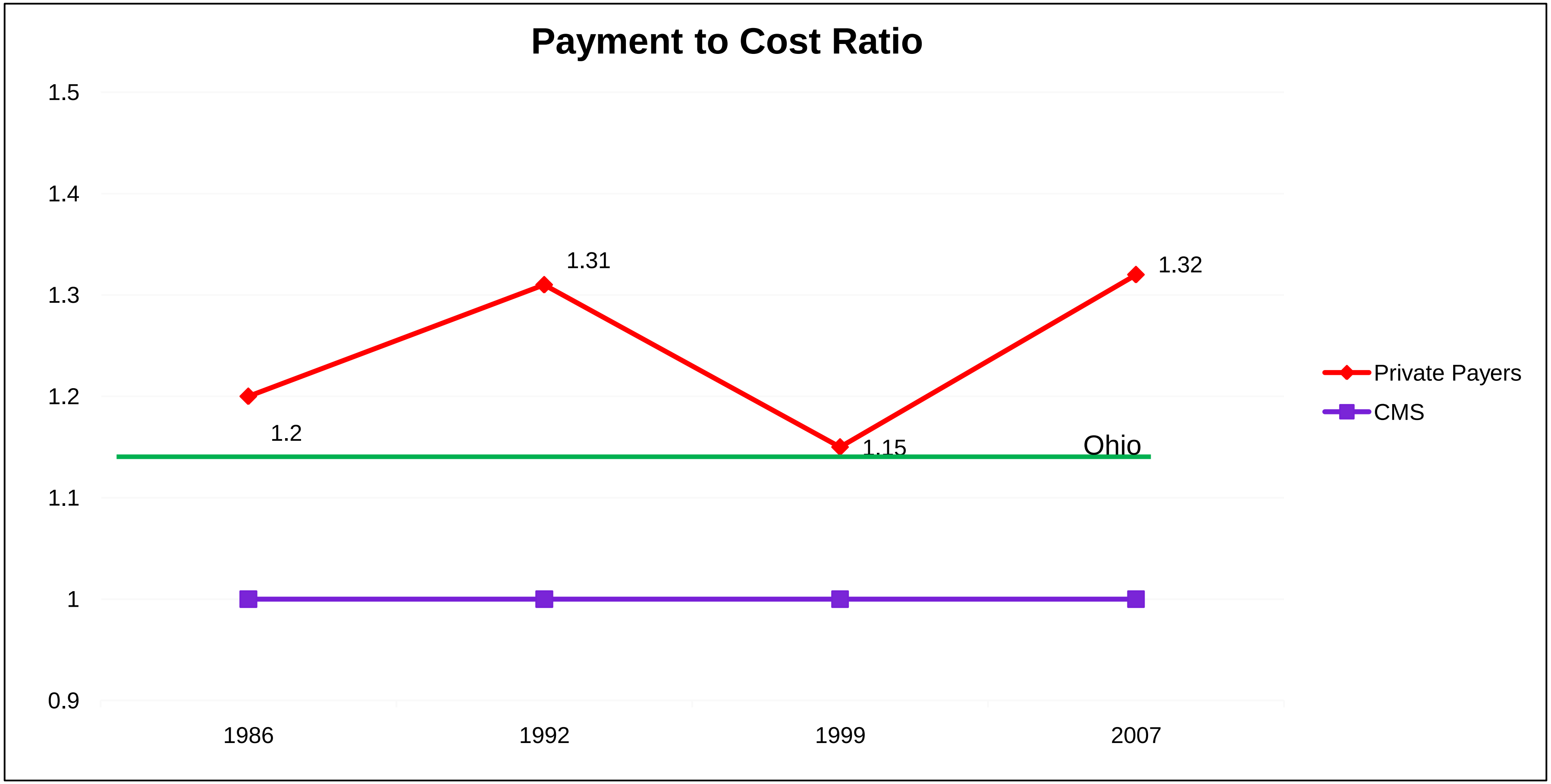


MedPAC Report to Congress: Medicare Payment Policy (March 2009), Chapter 2A, figure 2A-6

Private Payer vs. CMS



BWC Proposed Rate Impact: Payment to Cost Ratio



Projected Impact and Concerns

- Children's Hospitals
  - 4 facilities
    - Children's Hosp Medical Center, Cincinnati (6 visits)
    - Children's Hosp Medical Center, Akron (239 visits)
    - Children's Hospital, Columbus (22 visits)
    - Children's Medical Center, Dayton (11 visits)
- 166% of OPPS rate
  - 53% of cost
- 253% of OPPS rate
  - Remain at current reimbursement level

Projected Impact and Concerns

- Impact estimated at @ $30 million decrease in reimbursement
- Learning from cost based to DRGs for Inpatient Hospital

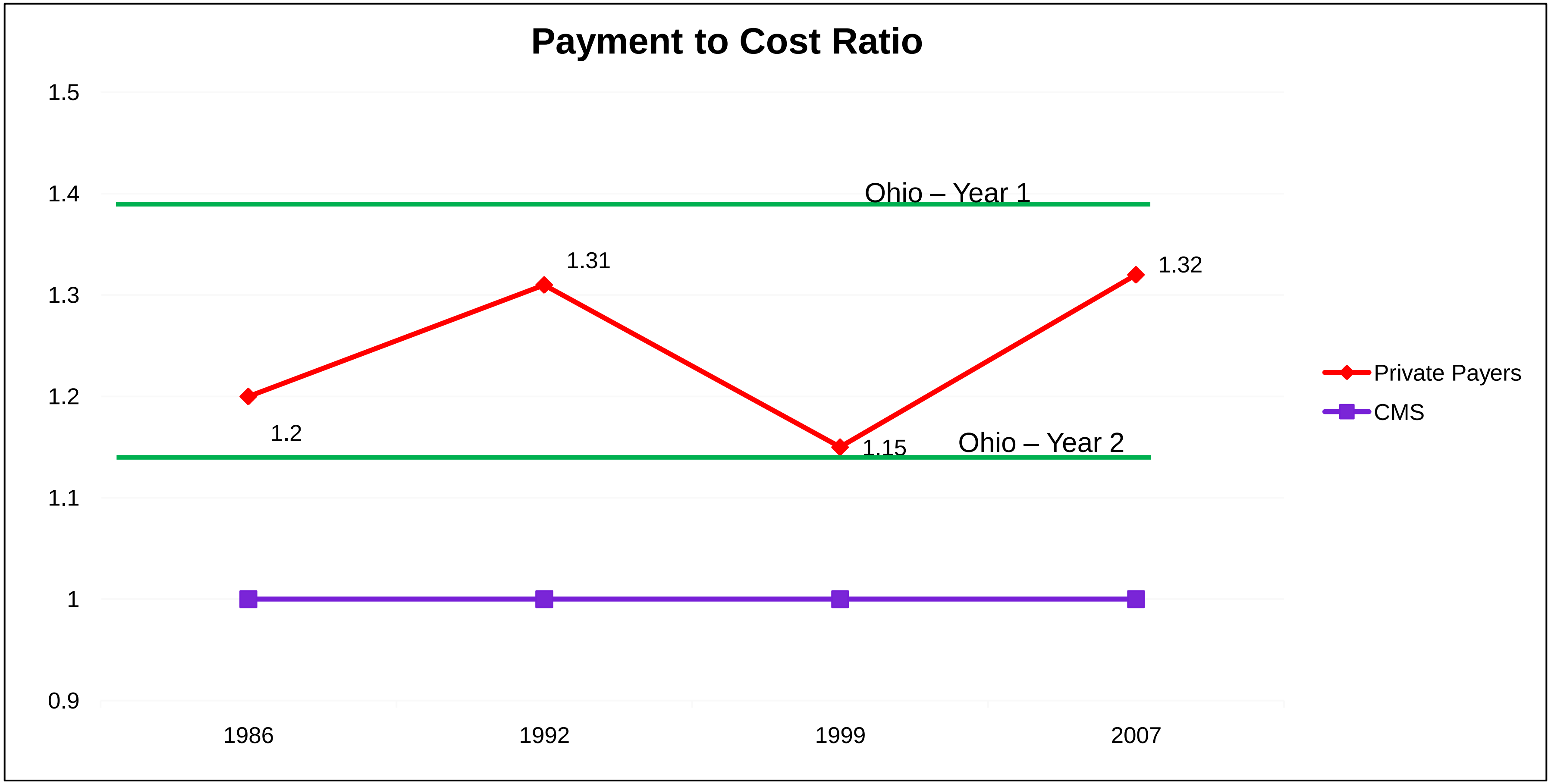
Two Year Transition Plan for Hospital Outpatient Services				
Year	PAF	Percent of BWC Cost	Estimated Impact	Estimated % Impact
2010	189% 253%	130%	-$15,545,477	-11%
2011	166% 253%	114%	-$15,268,062	-11%

Reimbursement Formula

Proposed Prospective Reimbursement Formula

CMS Rate	+	Add-on amount	×	BWC PAF	=	BWC Rate
APC Rate Average Sale Price Fee Schedule Reasonable Cost		Outlier Hold Harmless Rural Adjustment		253% Children's 189% All Others		
CT Head $195.07	+	n/a	×	189%	=	$368.68

BWC Proposed Rate Impact: Payment to Cost Ratio



Recommendation

- Adopt a modified OPPS reimbursement methodology for hospital outpatient setting
- Adopt rates as published in 2010 OPPS final rule
- Apply 253% payment adjustment factor to OPPS rates for Children's Hospitals
- Apply 189% payment adjustment factor to OPPS rates for all other facilities

Impacts

- Estimated reduction in percent reimbursement: 22% decrease
  - 2010: -11% or -$15 million
  - 2011: -11% or -$15 million
- Increase predictability of medical payments
- Improved data for rate setting
- Maintain competitive fee schedule ensuring access to quality care for Ohio's injured workers

Thank You

Common Sense Business Regulation (BWC Rules)

(Note: The below criteria apply to existing and newly developed rules)

Rule 4167-3-04.2 Amending of standards

Rule Review

1. ☒ The rule is needed to implement an underlying statute.

   Citation: __R.C. 4167.7(A)(2)(b) (PPE)

2. ☒ The rule achieves an Ohio specific public policy goal.

   What goal(s): The goal is to ensure that employers in the state of OHIO comply with the OAC requirements to provide a workplace safe from recognized workplace hazards and to protect employees safety and health. This also aligns with the mission of the Ohio BWC to "protect workers and employers from a loss as a result of workplace accidents, and to enhance the general health and well-being of Ohioans and the Ohio economy"

3. ☒ Existing federal regulation alone does not adequately regulate the subject matter. YES – Federal OSHA regulations when promulgated are not applicable to the Ohio public employer therefore it is necessary to adopt or amend under RC 4167 so they become rules or standards for the Ohio public sector.

4. ☒ The rule is effective, consistent and efficient.

5. ☒ The rule is not duplicative of rules already in existence.

6. ☒ The rule is consistent with other state regulations, flexible, and reasonably balances the regulatory objectives and burden.

7. ☒ The rule has been reviewed for unintended negative consequences.

8. ☒ Stakeholders, and those affected by the rule were provided opportunity for input as appropriate.

Explain: On May 17, 2007, OSHA published a Notice of Proposed Rulemaking (NPRM) (72 FR 27771) entitled "Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment." The NPRM set July 16, 2007, as a deadline for submitting comments and for requesting an informal public hearing on the proposed rule. The Agency received approximately 25 comments and 4 requests for an informal public hearing. OSHA then published a Federal Register notice scheduling an informal public hearing for December 4, 2007 (72 FR 50302). The informal public hearing took place as scheduled, and OSHA received testimony from nine witnesses. Thomas M. Burke, Administrative Law Judge, presided at the hearing. At the end of the hearing, Judge Burke set deadlines of January 3, 2008, for submission of post-hearing comments, and February 4, 2008, for the submission of final summations and briefs. Judge Burke closed and certified the record for this rulemaking on June 23, 2008.

9. ☒ The rule was reviewed for clarity and for easy comprehension.

10. ☒ The rule promotes transparency and predictability of regulatory activity.

11. ☒ The rule is based on the best scientific and technical information, and is designed so it can be applied consistently.

12. ☒ The rule is not unnecessarily burdensome or costly to those affected by rule.

    If so, how does the need for the rule outweigh burden and cost? ____________

13. ☒ The Chief Legal Officer, or his designee, has reviewed the rule for clarity and compliance with the Governor's Executive Order.

Executive Summary

Occupational Safety and Health Amended Rules for Personal Protective Equipment

Introduction

Chapter 4167-3-04.2 of the Ohio Administrative Code requires the Public Employment Risk Reduction Program to amend rules promulgated by the Federal Occupational Safety and Health Administration (OSHA). Chapter 4167 was initially enacted in 1992 with the ratification of House Bill 308. The scope of H.B. 308 was to provide on the job safety and health protection to Ohio public employees through the adoption and application of federal safety and health rules and regulations for General Industry, Construction, and Agriculture.

Background Law

Under House Bill 308, Chapter 4167.07 the administrator is to adopt rules for employment risk reduction standards.

(A) The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules that establish employment risk reduction standards. Except as provided in division (B) of this section, in adopting these rules, the administrator shall do both of the following: (1) By no later than July 1, 1994, adopt as a rule and an Ohio employment risk reduction standard every federal occupational safety and health standard then adopted by the United States secretary of labor pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, as amended; (2) By no later than one hundred twenty days after the United States secretary of labor adopts, modifies, or revokes any federal occupational safety and health standard, by rule do one of the following: (a) Adopt the federal occupational safety and health standard as a rule and an Ohio employment risk reduction standard; (b) Amend the existing rule and Ohio employment risk reduction standard to conform to the modification of the federal occupational safety and health standard; (c) Rescind the existing rule and Ohio employment risk reduction standard that corresponds to the federal occupational safety and health standard the United States secretary of labor revoked.

Proposed Change

OSHA is issuing this final rule to revise the personal protective equipment (PPE) sections of its general industry standards regarding requirements for eye- and face-protective devices, head protection, and foot protection. OSHA is updating the references in its regulations to recognize more recent editions of the applicable national consensus standards, and is deleting editions of the national consensus standards that PPE must meet if purchased before a specified date. In addition,
OSHA is amending its provision that requires safety shoes to comply with a specific American National Standards Institute (ANSI) standard, and a provision

that requires filter lenses and plates in eye-protective equipment to meet a test for transmission of radiant energy specified by another ANSI standard. In amending these paragraphs, OSHA will require this safety equipment to comply with the applicable PPE design provisions. These revisions are a continuation of OSHA's effort to update or remove references to specific consensus and industry standards located throughout its standards.

Stakeholder Involvement

On May 17, 2007, OSHA published a Notice of Proposed Rulemaking (NPRM) (72 FR 27771) entitled "Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment." The NPRM set July 16, 2007, as a deadline for submitting comments and for requesting an informal public hearing on the proposed rule. The Agency received approximately 25 comments and 4 requests for an informal public hearing. OSHA then published a Federal Register notice scheduling an informal public hearing for December 4, 2007 (72 FR 50302). The informal public hearing took place as scheduled, and OSHA received testimony from nine witnesses. Thomas M. Burke, Administrative Law Judge, presided at the hearing. At the end of the hearing, Judge Burke set deadlines of January 3, 2008, for submission of post-hearing comments, and February 4, 2008, for the submission of final summations and briefs. Judge Burke closed and certified the record for this rulemaking on June 23, 2008.

Common Sense Business Regulation (BWC Rules)

(Note: The below criteria apply to existing and newly developed rules)

Rule 4167-3-04.2 Amending of standards

Rule Review

1. ☒ The rule is needed to implement an underlying statute.

   Citation: __R.C. 4167.7(A)(2)(b) (Acetylene)

2. ☒ The rule achieves an Ohio specific public policy goal.

   What goal(s): The goal is to ensure that employers in the state of OHIO comply with the OAC requirements to provide a workplace safe from recognized workplace hazards and to protect employees safety and health. This also aligns with the mission of the Ohio BWC to "protect workers and employers from a loss as a result of workplace accidents, and to enhance the general health and well-being of Ohioans and the Ohio economy"

3. ☒ Existing federal regulation alone does not adequately regulate the subject matter. Federal OSHA regulations when promulgated are not applicable to the Ohio public employer therefore it is necessary to adopt or amend under RC 4167 so they become rules or standards for the Ohio public sector.

4. ☒ The rule is effective, consistent and efficient.

5. ☒ The rule is not duplicative of rules already in existence.

6. ☒ The rule is consistent with other state regulations, flexible, and reasonably balances the regulatory objectives and burden.

7. ☒ The rule has been reviewed for unintended negative consequences.

8. ☒ Stakeholders, and those affected by the rule were provided opportunity for input as appropriate.

   Explain: On August 11, 2009, OSHA published the direct final rule in the Federal Register that revised the Acetylene Standard for general industry by updating references to standards published by standards-developing organizations (see 74 FR 40442). In that Federal Register document OSHA also stated that it would confirm the effective date of the direct final rule, if it received no significant adverse comments on the direct final rule.

   OSHA received eight comments on the direct final rule, which it determined were not significant adverse comments. Several of these comments observed that the Compressed Gas Association updated the CGA G-1 standard this year, and recommended that OSHA adopt this new Edition.

9. ☒ The rule was reviewed for clarity and for easy comprehension.

10. ☒ The rule promotes transparency and predictability of regulatory activity.

11. ☒ The rule is based on the best scientific and technical information, and is designed so it can be applied consistently.

12. ☒ The rule is not unnecessarily burdensome or costly to those affected by rule.

    If so, how does the need for the rule outweigh burden and cost? ____________

13. ☒ The Chief Legal Officer, or his designee, has reviewed the rule for clarity and compliance with the Governor's Executive Order.

BWC Board of Directors

Executive Summary

Occupational Safety and Health Amended Rules for Acetylene

Introduction

Chapter 4167-3-04.2 of the Ohio Administrative Code requires the Public Employment Risk Reduction Program to amend rules promulgated by the Federal Occupational Safety and Health Administration (OSHA). Chapter 4167 was initially enacted in 1992 with the ratification of House Bill 308. The scope of H.B. 308 was to provide on the job safety and health protection to Ohio public employees through the adoption and application of federal safety and health regulations for General Industry, Construction, and Agriculture.

Background Law

Under House Bill 308, Chapter 4167.07 the administrator is to adopt rules for employment risk reduction standards.

(A) The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules that establish employment risk reduction standards. Except as provided in division (B) of this section, in adopting these rules, the administrator shall do both of the following: (1) By no later than July 1, 1994, adopt as a rule and an Ohio employment risk reduction standard every federal occupational safety and health standard then adopted by the United States secretary of labor pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, as amended; (2) By no later than one hundred twenty days after the United States secretary of labor adopts, modifies, or revokes any federal occupational safety and health standard, by rule do one of the following: (a) Adopt the federal occupational safety and health standard as a rule and an Ohio employment risk reduction standard; (b) Amend the existing rule and Ohio employment risk reduction standard to conform to the modification of the federal occupational safety and health standard; (c) Rescind the existing rule and Ohio employment risk reduction standard that corresponds to the federal occupational safety and health standard the United States secretary of labor revoked.

Proposed Change

OSHA is revising the Acetylene Standard for general industry by updating references to standards published by standards-developing organizations (i.e., "SDO standards"). The direct final rule stated that it would become effective on November 9, 2009, unless OSHA received no significant adverse comments on the direct final rule by September 10, 2009.

Stakeholder Involvement

On August 11, 2009, OSHA published the direct final rule in the Federal Register that revised the Acetylene Standard for general industry by updating references to standards published by standards-developing organizations. OSHA received eight comments on the direct final rule, which it determined were not significant adverse comments. Several of these commentators observed that the Compressed Gas Association updated the CGA G-1 standard this year, and recommended that OSHA adopt this new edition (Exs. OSHA-2008-0034-0017, -0010, and -

0022). OSHA did not include the 2009 edition of CGA G-1 in the direct final rule because that edition was not made available to OSHA prior to publication of the direct final rule, and, therefore, was beyond the scope of this rulemaking.

4167-3-04.2 Amending of standards.

In accordance with division (A)(2)(b) of section 4167.07 of the Revised Code, the administrator of workers' compensation, with the advise and consent of the bureau of workers' compensation board of directors, has amended Ohio employment risk reduction standards as referenced by:

(A) U.S. Department of Labor [OSHA, 2007] 29 CFR 1910 - amended; changes to subpart S Electrical. Federal register, vol. 72, No. 30, pages 7136 through and including 7221, February 14, 2007.

(B) U.S. Department of Labor [OSHA, 2007] “29 CFR Parts 1910; 1915; 1917; 1918; and 1926 employer payment for personal protective equipment; final rule.” Federal Register, vol. 72, no. 220, pages 64341 through and including 64430, November 15, 2007.

<u>(C) U.S. Department of Labor [OSHA, 2009] “29 CFR Parts 1910; 1915; 1917; 1918; -amend; Cutting and brazing, Eye and face protection, Foot protection, Head protection, Incorporation by reference, Ventilation, and Welding; Final rule.” Federal Register, vol. 74, no. 173, pages 46350 through and including 46361, September 9, 2009.</u>

<u>(D) U.S. Department of Labor [OSHA, 2009] “29 CFR Parts 1910; Revising Standards Referenced in the Acetylene Standard. Final rule. Federal Register, vol 74, no 216, pages 57883 through and including 57884, November 10, 2009.</u>

Promulgated Under: 4167.07
Statutory Authority: 4121.12, 4121.121, 4167.02, 4167.07
Rule Amplifies: 4167.07
Prior Effective Dates: 12/10/07, 11/03/08

Ohio | Industrial Commission

Ohio | Bureau of Workers' Compensation

Annual Report

July 1, 2008, to June 30, 2009

BWC and the IC

Mission statements

BWC — To protect injured workers and employers from loss as a result of workplace accidents, and to enhance the general health and well-being of Ohioans and the Ohio economy

IC — To serve injured workers and Ohio employers through expeditious and impartial resolution of issues arising from workers' compensation claims and through establishment of adjudication policy

Ohio Bureau of Workers' Compensation
30 W. Spring St.
Columbus, OH 43215-2256
ohiobwc.com
1-800-OHIOBWC

Industrial Commission of Ohio
30 W. Spring St., Seventh floor
Columbus, OH 43215-2233
www.ohioic.com
800-521-2691

Trustees of Ohio's workers' compensation system

Two agencies administer Ohio's workers' compensation system: the Ohio Bureau of Workers' Compensation (BWC) and the Industrial Commission of Ohio (IC). BWC is the administrative and insurance arm, collecting workers' compensation insurance premiums from employers, and overseeing compensable claims of injured workers. The IC is the claims adjudicative branch that resolves disputes arising from a workers' compensation claim.

Joint BWC/IC annual report

To ensure fairness and impartiality within the system, BWC and the IC operate as independent agencies. However, Ohio law requires BWC to prepare and publish an annual report for both agencies each year. This joint BWC/IC annual report fulfills this requirement for fiscal year 2009.

Comprehensive reporting

In addition to this document, BWC is required to submit the following reports:

- BWC's Division of Safety & Hygiene annual report
- Outcomes and Savings of the Health Partnership Program (semi-annual report)
- Fiscal Year 2009 Investment Class Annual Report Comments
- Audited Financial Statements

Table of contents

BWC — Investing in long-term improvement

DRAFT

Administrator's letter

Dear Governor Strickland,

I am pleased to present the Ohio Bureau of Workers' Compensation (BWC) annual report for fiscal year 2009 (FY09).

The year was one in which BWC and its Board of Directors charted a path to improve the agency's performance and brought greater stability to Ohio's workers' compensation system. Our core mission of protecting workers and employers from loss has been a significant driver for the progress we've made toward long-term reform.

We have also been guided by the recommendations outlined in the results of the mandated, comprehensive study of Ohio's workers' compensation system. While we continue to analyze and schedule implementation of many of the 146 recommendations, a number of these recommendations have been important in guiding our ongoing rate reform efforts. We are already seeing tremendous results which include:

- A 25.3 percent base rate reduction for non group-rated employers;
- A collective savings of more than $139 million for more than half of Ohio's private employers;
- New insurance products to help employers save on workers' compensation costs;
- More accurate and transparent reserving;
- Reduction in base rates for 441 or Ohio's 532 manual classifications; and
- Rates that are now competitive with those of many other states.

While rate reform represents a significant accomplishment for FY09, this report will highlight a number of other achievements in our mission to serve injured workers and Ohio employers. These include:

- Creation of a performance-based process to incent prompt treatment and timely payment by managed care organizations;
- Significant improvements to BWC's pharmacy program;
- Skilled investment management which kept BWC's investment portfolio solid — experiencing just a 1.1 percent loss — when other funds were deeply impacted by economic turmoil;
- Adoption of a new investment policy statement and an implementation strategy for diversifying the State Insurance Fund's fixed-income and equity investments; and
- Cost savings initiatives that lowered administrative spending by $21 million.

I am pleased with the progress we are making toward strengthening and renewing confidence in Ohio's workers' compensation system. I have no doubt you will find the information in this report clearly demonstrates BWC's ongoing commitment to injured workers and Ohio employers.

Sincerely,

Marsha P Ryan

Marsha P. Ryan
BWC Administrator

DRAFT

Operational overview

About us

BWC was created in 1912 to protect the health and well-being of Ohio workers, while providing insurance coverage for their employers. As a state-operated insurance fund, the agency provides total workers' compensation services for employers and their injured employees.

The State Insurance Fund covers medical expenses and lost wages for approximately two-thirds of the state's work force. The remaining third receives workers' compensation coverage directly through their employers who are part of the self-insurance program guided by strict qualifications set by BWC.

Claims and employer services

Following a national trend, Ohio saw fewer workplace injuries in FY 2009. BWC handled 132,549 claims for state-fund employers, compared with 159,611 last year. Of those, 118,855 were allowable claims versus 143,199 last year. Medical-only claims totaled 101,791 followed by 15,428 lost-time claims. There were also 1,439 occupational disease claims. Tragically, 197 workers lost their lives as a result of workplace accidents.

In fiscal year 2009, compensation to injured workers totaled nearly $2 billion; just slightly less than the $2.1 billion paid the previous fiscal year. Employer premium collections and assessments amounted to $2.4 billion this fiscal year.

Financial summary

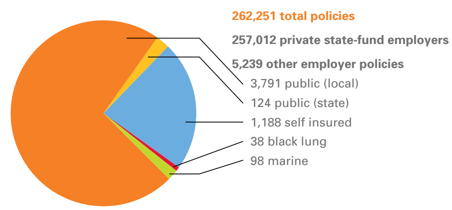
At the close of fiscal year 2009, BWC had assets totaling $22.4 billion. Adequate net assets are required to fund the costs of our 1.3 million open claims.

A breakdown of BWC's total investment assets on June 30, 2009, shows a fair value of almost $17.1 billion. Passively managed bonds make up most of the investment portfolio. However, it also includes passively managed stocks, as well as cash and cash equivalents.

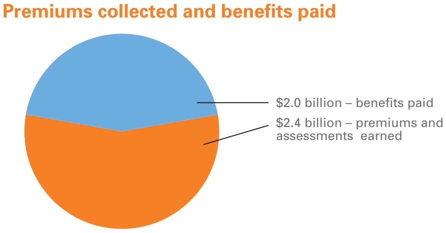
During an extremely volatile market, BWC's portfolio performed well. The total rate of return on invested assets this fiscal year was negative 1.1 percent. Net investment income for this fiscal year was negative $195 million. This included $738 million in interest and dividend income, less $928 million decline in the fair value of investments and $5 million in investment expenses.

For complete financial details please refer to the section of this report titled Fiscal Year 2009 Audited Financial Statements for BWC and the IC.

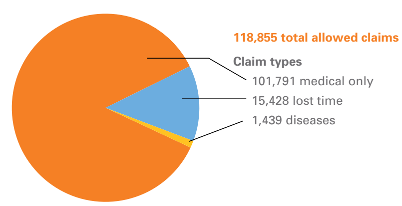
Employer policy totals and types



Premiums collected and benefits paid



Claim totals and types



Source: BWC data warehouse. All statistics are as of June 30, 2009.

DRAFT

BWC Board of Directors

Appointed by Governor Ted Strickland, the BWC Board of Directors provides professional expertise, accountability, transparency and a broad representation of BWC's customers – Ohio workers and employers. The Board has direct authority to advise BWC's administrator and to set overall policy for the agency.

Board members represent the interests of Ohio workers and employers, and the public at large. By law, four members must have specific expertise in the areas of investments (two members), accounting and actuarial science. The Board has three committees mandated by law: the actuarial, audit and investment committees, which convene monthly. There is also a governance committee that was created to oversee board operations.

Fiscal year 2009 accomplishments

As fiduciaries of Ohio's workers' compensation system, the BWC Board of Directors develops policies for establishing actuarially sound premium rates that reflect the exposure employers bring to the system. In 2009, the Board was actively engaged as the agency implemented new rates and created new programs aimed at stabilizing premiums and providing relief for small businesses.

The Board's FY09 achievements include:

- Adoption of a rate-reform plan designed to improve pricing accuracy and premium equity among group- and non group-rated employers;
- Approval of a cap on premium increases intended to limit extreme cost swings for employers and provide financial relief for many small businesses;
- Selection of Deloitte Consulting LLC as the actuarial consultant for rate making, reserving and special projects;
- Updating the State Insurance Fund investment policy statement to further diversify the passively managed fixed income and equity investments. The State Insurance Fund's investment portfolio asset target is 70 percent fixed income investments and 30 percent equities; and
- Hosting three public forums to gain input from Ohio's workers' compensation community.

Board leadership

William J. Lhota, Chair

Lhota, of Worthington, has been president and CEO of the Central Ohio Transit Authority (COTA) since 2004. Lhota previously spent 37 years at American Electric Power where he served in various management positions.

James W. Harris, Vice Chair

Harris, of Gahanna, works part time for the United Auto Workers (UAW) on workers' compensation legislation. He retired in 2003 after more than 20 years of experience on the UAW international staff. Harris also served as the director of the Ohio Department of Industrial Relations from 1983 to 1991.

William J. Lhota, Chair
Represents self-insured employers
Term expires June 12, 2010

James W. Harris, Vice Chair
Represents employee organizations
Term expires June 12, 2010

Charles A. Bryan
Chair of the Actuarial Committee, actuary
Term expires June 12, 2010

David Lee Caldwell
Represents employee organizations
Term expires June 12, 2012

Alison L. Falls
Chair of the Governance Committee
Investment and securities expert
Term expires June 12, 2010

Kenneth M. Haffey
Chair of the Audit Committee
Certified public accountant
Term expires June 12, 2012

James A. Hummel
Represents state-fund employers with more than 100 employees
Term expires June 12, 2011

Jim M. Matesich
Represents state-fund employers with fewer than 100 employees
Term expires June 12, 2012

Thomas R. Pitts
Represents employees
Term expires June 12, 2011

Larry Price
Represents the public
Term expires June 12, 2011

Robert C. Smith
Chair of the Investment Committee
Investment and securities expert
Term expires June 12, 2012

BWC executive leadership

Administrator Marsha P. Ryan

Appointed by Governor Strickland in 2007, Ryan continues to lead BWC toward achieving its mission to protect injured workers and employers from loss as a result of workplace accidents, and to enhance the general health and well-being of Ohioans and the Ohio economy. With an outstanding dedication to quality customer service, Ryan is directing efforts to make the agency more responsive and accountable to Ohio's workforce and employers.

In fiscal year 2009, BWC continued to strengthen its accountability and commitment to Ohio's employers and injured workers. Recommendations from the comprehensive study conducted in 2008 by Deloitte Consulting were evaluated, and timelines for implementation have been established.

Administrator
Marsha P. Ryan

Chief Operating Officer
Raymond Mazzotta

Fiscal and Planning
Tracy Valentino

Customer Services
Tina Kielmeyer

Medical Services and Compliance
Robert Coury

Infrastructure and Technology
Thomas Croyle

Actuarial
John Pedrick

Investments
C. Bruce Dunn

Internal Audit
Caren Murdock

Legal
James Barnes

Communications
Maria Smith

Legislative and policy
Christina Madriguera

Medical director
Dr. Robert J. Balchick

Human Resources
Toni Brokaw

Listing above is as of June 30, 2009.

BWC: Realizing long-term rate reform and better services

Stabilizing Ohio's rating program

Comprehensive rate reform is bringing greater equity and stability to Ohio's group-rating program, making certain each employer pays the right rate for the risk they bring to the system. To create this balance, rates for non group-rated employers were reduced by an average of 25.3 percent, effective July 1, 2009.

Group-rated employers will pay an average of 9.6 percent more in premium due to a decrease in the credibility table, lowering the maximum discount from 85 percent to 77 percent.

Additionally, a cap was placed on premium increases to limit extreme cost swings for many employers. The capping plan stabilizes premiums and provides additional relief for small businesses.

Simplifying various rating plans was an essential component of rate reform. Effective July 1, 2009, two new plans were available for private-sector employers. They are:

- A new, standard deductible program that affords businesses an up-front premium discount in exchange for the employer assuming a portion of claims costs up to a set amount; and
- The group-retrospective rating program which enables employers to pool their collective risk with the potential to earn refunds based on the outstanding safety performance of their group.

Transitioned to a new claims reserving system

In July 2008, BWC successfully activated a new claims reserving system. Micro Insurance Reserving Analysis (MIRA) II provides more accurate, individual claim reserves than its predecessor, and provides full transparency by allowing employers to see the cost drivers that impact their premiums.

MIRA II is also helping to improve the performance and stability of Ohio's workers' compensation rates, and has proven to be a valuable tool in setting accurate premiums for Ohio employers.

Better services

Prompt, effective medical care leads to quicker recovery, a timely return to work and improved quality of life for injured workers. To effectively meet the needs of injured workers, BWC is focused on improving services.

BWC is expanding its medical resources and research capabilities by partnering with the Ohio State University's College of Public Health's Center for Health Outcomes, Policy and Evaluation Studies. The College possesses experience, skill and ability in conducting applied health services research studies that assist organizations in evaluating clinical effectiveness, quality of care, cost of medical services and other investigations in the areas of health outcomes and policy. The agency's first collaboration with the College will be in the development of a strategy for optimal usage of pharmacologic treatment for pain management of injured workers. This will help to improve the safety, quality and cost-effectiveness of pain-management programs.

Enhanced medical provider network

BWC's Medical Services Division is replacing its provider enrollment system. The system maintains provider demographic information, credentials, certification and bill processing. The new system improves provider outreach and recruitment, and facilitates the decertification of repeat, non-compliant providers. In addition, we are working to improve our recruitment of quality medical providers.

To improve outreach to current and prospective providers, a communications plan was implemented that includes new education and orientation Web offerings as well as enhanced training methods.

Better benefits plans

For injured workers to have access to high-quality medical care, BWC provides an appropriate benefits plan and terms of service with competitive fee schedules. The agency substantially improved its medical, vocational rehabilitation and pharmaceutical benefits plans by overhauling provider fee and reimbursement schedules. The new fee schedule provides a necessary increase in reimbursement rates for approximately 85 percent of services and products rendered. Further, BWC updated the terms of service which improves clarity and accountability.

A new pharmacy program director is leading BWC's efforts in pharmacy program integrity, centralization and efficiency. To ensure proper usage of medications, BWC has placed tighter controls on the most often-prescribed drugs. These Medical Services reforms, along with the implementation of a rebate collection policy have resulted in a savings of several million dollars in fiscal year 2009. Finally, the agency selected a new pharmacy benefit manager which is expected to help improve drug utilization.

Better managed care processes

Managed care organizations (MCOs) oversee the medical portion of injured workers' claims. They are the link between injured workers, employers, medical providers and BWC.

In fiscal year 2009, BWC continued to strengthen the measurements that assess managed care outcome and performance by requiring greater accountability and improved performance from MCOs. The 2009-2010 MCO contract emphasizes performance as a basis for payment.

Qualifications for disability-management coordinators have been strengthened and improvements to the alternative dispute resolution (ADR) process were implemented. These changes will provide customers with more timely, effective and efficient resolution of medical treatment disputes. The current ADR process will be shortened by more than 67 percent, or 21 days, while maintaining fairness and due process for all parties.

Enhanced medical bill payment services

BWC implemented a clinical editing program to assure providers receive appropriate reimbursement for their services and guarantees processing consistency. This program identifies improperly billed services, enforces billing standards and identifies variances across MCO bill payments. It is believed that these first edits will result in a yearly savings of approximately $1 million.

In addition, the 2009 inpatient hospital fee schedule features new Medicare-based pricing methodology for outlier payments; those services or products beyond the standard bill payment agreement. This update identifies the true outlier bills for appropriate payment which eliminates overpayment and guarantees equitable reimbursement to hospitals.

Safer workplaces

Prevention is one of the cornerstones of BWC's business philosophy. The BWC Division of Safety & Hygiene (DSH) provides year-round training and consultation to Ohio employers and their workforce, and offers many value-added safety services at no additional cost.

DSH developed a research plan to monitor and improve specialized field safety services. The preferred markets program is a two-year customer outreach occupational safety and accident injury prevention effort. The program provides services to 1,661 selected employers from four industry groups, which experience high claims frequency and severity. The goal is to assist these companies in improving safety at their workplaces and consequently reduce injuries and workers' compensation costs. The primary objective is to decrease frequency, severity of claims and costs by 5 percent in each of the four customer groups over a two-year period.

In addition, DSH began to evaluate three major areas for our safety intervention and drug-free workplace grants.

- Make safety grants available to employers even if no claims have occurred.
- Require applicants to submit a safety consultation report with their applications.
- Retool and modernize our drug-free workplace programs.

Education and outreach

DSH offers education and outreach to promote safe workplaces for all Ohioans. These services include safety education and training; on-site and field consulting safety services; publications; library and research services; safety grants and loan programs. BWC supports more than 80 safety councils statewide and sponsors the annual Ohio Safety Congress & Expo, the largest of its kind in the Midwest.

Introduced last spring, BWC Education on Demand affords business groups and trade associations the opportunity to market workers' compensation-themed classes to their membership at their convenience. BWC staff members teach the courses.

Additional accomplishments

Legal

In fiscal year 2009, BWC's Legal Division achieved success in: pursuing subrogation, serving as a model for records and information management, and improving employer adjudication. The Division's subrogation unit collected nearly $19.4 million from third-party insurers involved with workers' compensation claims. This is an increase of 10.26 percent over last fiscal year's collections of $17.7 million. The division expects these collections to increase through fiscal year 2010.

Records and information management

Three state agencies — the Department of Administrative Services, the Office of the Ohio Attorney General (AG) and the Office of the Ohio Secretary of State — recognized BWC as the agency to model for records and information management (RIM). The agency's state-of-the-art system stores and shares record inventories with more than 820 record retention schedules.

In addition, Microsoft featured BWC in a case study of best practices for the RIM unit's use of the company's SharePoint product. The case study showcased BWC as an industry leader.

Employer adjudication

Utilizing the Kaizen method to eliminate unnecessary processes, the Division's adjudicating unit made great strides toward improving customer service to Ohio employers. BWC's total adjudication process previously averaged 169 days. After implementing the Kaizen method, the process has been reduced to 56 days, with final orders being dispatched in an average of 7.9 days. The implementation of an adjudicating tracker system in February 2009 has also increased efficiency. The system generates reports with certain performance indicators, leading to further process improvements.

Special investigations

BWC's special investigations department's (SID's) mission is to prevent loss to the workers' compensation system. The special investigations unit (SIU) and the safety violations investigation unit (SVIU) comprise the department.

Performance results

The SIUs achieved these results in fiscal year 2009.

Year end statistics	FY 2008	FY 2009
New allegations	5,135	5,149
Rejected allegations	2,256	2,272
Cases closed	2,965	2,781
Open cases	1,526	1,328
Referred for prosecution	314	222
Indicted	102	101
Convicted	119	92

Customer services

Quality service to injured workers and Ohio employers is a cornerstone of BWC's mission, and the Customer Services Division continually looks for ways to enhance the customer's workers' compensation experience.

Certified sponsors

To strengthen BWC's group-rating plans, the Division is requiring all current and new group-rating and retrospective-rating sponsors to apply for BWC-certification every three years. Only a certified sponsor or an affiliate can market and enroll employers in the group-retrospective and group-rating plans.

Interstate jurisdiction

During fiscal year 2009, Ohio employers benefited from changes to interstate jurisdiction laws which expanded the definition of an employee. The change is helping Ohio employers avoid paying double to cover work done outside the state.

Additionally, the law prohibits an employee from filing a claim for Ohio benefits if he or she has or will file a claim for the same injury in another state. It also grants BWC the authority to regain the costs for any claim found to be under the jurisdiction of another state.

DSH

In March 2009, BWC hired a new superintendent of DSH to lead the division in its efforts to keep Ohio workers safe. In addition to its many service offerings, DSH is leading a program designed to enhance safety training for group rating sponsors. A BWC safety professional is assigned to each sponsoring organization and meets with the group sponsor quarterly, advising the sponsor on occupational safety and health communication and education strategies. The assigned safety professional also evaluates the group sponsor's annual safety plan to assure compliance with the Group-Rating Safety Requirement and for certification.

New employer compliance department

In August 2008, BWC rolled out its employer compliance department to engage employers and educate them on the importance of compliance with Ohio's requirement that all firms obtain and maintain workers' compensation coverage. It identifies non-complying employers, assists them in recognizing their obligations to the state insurance fund and develops plans to reinstate compliance. The Department identifies employers who persist in operating without coverage or who evade their true premium rate for further remedies, including criminal investigation, collections enforcement, or in some cases, injunction from operation.

To date, the Department has identified more than 8,500 non-compliant employers and has confirmed more than $60.5 million in recovered premium, penalties and interest. It has restored more than 2,500 employers to full compliance with more than 175 employers participating in payment plans to assist them in obtaining compliance.

Dayton/Springfield consolidation

In March 2009, BWC merged the Springfield Customer Service Office with the Dayton Customer Service Office allowing for greater efficiency and cost savings by eliminating service and operational redundancies, decreasing per capita administrative costs and saving on commercial lease expenses. The merger resulted in relocating 29 staff members to the Dayton office and an annual savings of more than $760,000.

Next steps

BWC will make additional evaluations and improvements in fiscal year 2010 with the comprehensive study serving as a guide for fundamental, long-term improvements to Ohio's workers' compensation system.

BWC year end statistics

	FY 2009	FY 2008	FY 2007
State-fund claims filed			
Lost time	15,428	18,738	19,487
Medical only	101,791	122,540	133,221
Occupational disease	1,439	1,685	1,793
Death	197	236	176
Disallowed or dismissed	13,694	16,412	17,015
Total	132,549	159,611	171,692
Net allowed injuries	118,855	143,199	154,677

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.

	FY 2009	FY 2008	FY 2007
Open claims (per statute)			
Lost time	407,841	486,942	532,262
Medical only	913,373	928,549	1,008,281
Total	1,321,214	1,415,491	1,540,543
Benefits paid			
Medical benefits paid	$833,508,906	$839,466,966	$788,735,401
Compensation paid			
Wage loss	$19,123,153	$18,351,000	$19,566,863
Temporary total	258,845,993	254,370,076	257,483,825
Temporary partial	48,179	69,398	151,507
Permanent partial	23,361,375	23,812,862	25,871,729
% permanent partial	84,406,058	80,295,738	88,224,580
Lump sum settlement	206,137,108	312,317,176	242,020,469
Lump sum advancement	20,581,269	20,396,760	16,543,090
Permanent total & DWRF	385,463,075	385,273,687	383,661,796
Death	82,396,222	81,991,570	79,870,369
Rehabilitation	43,429,274	40,371,244	37,774,178
Other	6,973,290	7,148,595	10,867,270
Total compensation paid	$1,130,764,996	$1,224,398,106	$1,162,035,675
Total benefits paid	$1,964,273,902	$2,063,865,072	$1,950,771,076

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	FY 2009	FY 2008	FY 2007
Fraud statistics			
Fraud dollars identified	$65,183,784	$73,528,436	$100,019,724
Dollars spent to dollars saved ratio	1 to 5.65	1 to 5.99	1 to 8.33
Prosecution referrals	222	314	301
Active employers by type			
Private	257,012	264,870	270,499
Public (local)	3,791	3,810	3,783
Public (state)	124	125	126
Self-insured	1,188	1,174	1,139
Black lung	38	39	37
Marine fund	98	92	95
Total	262,251	270,110	275,679
BWC personnel	2,158	2,412	2,542
MCO fees paid	$161,317,153	$168,327,075	$173,138,584

BWC combined funds financial data

(000s omitted)

	FY 2009	FY 2008	FY 2007
Operating revenues			
Premium and assessment income, net of provision for uncollectibles	$2,360,930	$2,138,402	$2,395,421
Assessment income due to statutory change	$ —	$ —	$1,875,512
Other income	17,197	22,247	17,703
Total operating revenues	$2,378,127	$2,160,649	$4,288,636
Non-operating revenues			
Net investment earnings	$733,284	$862,670	$802,270
Increase (decrease) in fair value	(928,019)	(143,510)	109,160
Net investment income (loss)	$(194,735)	$ 719,160	$911,430
Dividends, rebates and credits			
Dividends and credits	$ —	$ —	$ —
Total BWC assets	$22,420,349	$22,381,974	$22,140,786
Total net assets (deficit)	$2,515,342	$2,503,289	$2,305,546

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

The IC — Building on a history of fiscal prudence

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Chairperson's letter

Doing More With Less

During fiscal year 2009, the IC successfully moved forward with technological advancements that better enabled us to answer Governor Strickland's call for accountability, efficiency and transparency in state government. The implementation of cutting-edge technologies continued to help us streamline operations while reducing costs. Over the past decade, there has been a 25 percent reduction in our personnel due, in part, to automation. Yet, injured workers and employers are receiving faster service that utilizes less money and less labor.

We continued to build on our history of fiscal prudence, while excelling in the following areas during fiscal year 2009:

- Consolidated office space in our Columbus office, which will save $800,000 annually;
- Consolidated district offices resulting in an annual savings of more than $2 million;
- Converted from standard to Internet Protocol telephone service, which will save $200,000 per year;
- Reduced employee overtime and overnight delivery expenses resulting in a savings of $58,000 annually;
- Continued a long history of minimal budget increases that have averaged only six-tenths of 1 percent;
- Maintained a high success and compliance rate in adjudicating claims well within the statutorily imposed time frames;
- Maintained an equitable rate assessment for employers by continually monitoring our caseload.

In the next fiscal year, we will continue our commitment to foster quality customer service and ensure all parties receive prompt and fair hearings on disputed workers' compensation claims. While we continue to do more with less, when the ultimate goal is great public service, each year brings new challenges to serve a constantly changing population with the utmost fiscal prudence.

Sincerely,

Gary M. DiCeglio
Chairman of the Ohio Industrial Commission

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About the IC

The IC conducts more than 175,000 hearings annually, and most of these hearings take place within 45 days of the original claim appeal. That means you may expect great customer service as the IC provides a forum for appealing BWC and self-insured employer decisions. Since 1912, the IC has been resolving issues between parties who have a dispute in a workers' compensation claim. Throughout the appeals process, the agency offers information and resources to assist parties, including a customer service phone line and assorted Web services.

The IC conducts hearings on disputed claims at three levels: the District level, the Staff level and the Commission level. The governor appoints the three-member Commission and the Ohio Senate confirms these appointments. By previous vocation, employment or affiliation, one member must represent employees, one must represent employers and one must represent the public. This fiscal year, Kevin Abrams represented the general public; William E. Thompson represented employers; and Gary M. DiCeglio represented the interests of injured workers. DiCeglio is the Chairman of the Commission.

Fiscal year's highlights

The agency's work force decreased by more than 150 employees during the past decade. Yet, it has continually met and exceeded statutory requirements for timely service. Upgrades in technology and early retirement incentives facilitated this reduction. So, the IC has not had to lay off employees. The IC is an agency that is already used to maximizing productivity while minimizing expenditures, a philosophy that is serving it well in these tough economic times. Prudent planning has allowed the agency's budget to remain relatively flat while implementing many upgrades in technology and servicing a steady level of the number of claims heard each year.

The IC conducted 175,726 hearings in fiscal year 2009. In addition to the Commissioners, there are 99 hearing officers — all attorneys — in five regional and eight district offices throughout the state. These hearing officers make decisions — District and Staff hearing levels — before an appeal may be heard by the Commission. Commission level hearings are granted on a discretionary basis.

In fiscal year 2009, the IC continued its high success rate in handling claims well within the 45 day time frame mandated by statute. From the date of the filing of the appeal to the date of hearing, District level (first level) hearings averaged 29.5 days. Staff level (second level) hearing appeals averaged 27.5 days.

The statistics from the date the appeal was filed to the date the order was mailed are just as favorable. For the District level, the appeal filing to mailing date took 32.8 days on average during the fiscal year. For the Staff level, it averaged 30.5 days.

The agency's continued success is due, in part, to technological advances that have made it easier than ever to file appeals on the Web via the Industrial Commission Online Network (ICON). There were 66,539 first-level appeals filed on the ICON during the fiscal year. There were also 69,241 second-level or above appeals (Staff and Commission level appeals) filed on ICON during the fiscal year. That marks an increase of 9 percent from last year's online filings at both levels.

Ask IC is another technological tool that has helped increase customer satisfaction. It is an e-mail feature of the IC's Web site, www.ohioic.com. Ask IC gives injured workers, employers and their representatives the opportunity to submit questions to the agency's customer service department.

This fiscal year, the IC's customer service department received and responded to 819 Ask IC submissions. The department also scheduled 1,165 interpreters to help facilitate hearings where language could be a barrier. In addition, the IC's toll-free customer service line received 12,081 calls this fiscal year. In person, staff assisted 6,365 people at its Columbus office.

Key customer service initiatives

The IC underwent a very public facelift during the past fiscal year when it launched the brand new www.ohioic.com. The new site accelerated the IC's service to customers via streamlined navigation and Quick Links for ease of use. In addition, the agency updated its online manuals to user and printer friendly PDFs. Plus, it now displays the latest IC news and events on the site's homepage.

In addition, the site now meets the Americans with Disabilities Act (ADA) Compliance Guidelines as well as the State of Ohio Executive Branch Web Site Standardization Policy. The Web Site Standardization Policy requires cabinet-level state agencies to build sites that look similar to www.Ohio.gov, so that customers may grow accustomed to using similar navigation tools when they visit state agency Web sites.

The IC added several other enhancements since the launch of the new www.ohioic.com. These include the brand new Medical Specialist Resources section, which features the IC's *Mediscene* newsletter for medical examiners. This new section also features an examiner credentialing page that breaks down the requirements for becoming a specialist who performs medical exams on behalf of the Commission. It also includes information regarding the maintenance of examiner credentials. A team of information technology and communications staff members designed and built the entire site from the ground up, utilizing only the cost of labor.

The new www.ohioic.com has also helped the IC fulfill Governor Strickland's call for transparency in state government. The agency added a link to the 2010/2011 Budget Booklet titled *Building on a History of Fiscal Prudence* to its home page. It published this booklet in March 2009 to provide information about the IC to legislators during the state's biennium budget process. It is loaded with information about cost savings initiatives undertaken by the agency in the past fiscal year, data on agency productivity, as well as the IC's plan to continue its history of fiscal prudence. The agency has also added more of its internal reports than ever before to the site, including its annual "Production Activity Report." This report examines statistical data on operational activities to estimate appropriate agency resources.

In addition to a new Internet site, the IC implemented several other high-tech initiatives including: Helpdesk Expert Automation Tool (HEAT), the Customer Service Pool, the Word Processing Pool and VoIP phones. A Claims Examining Pool is also in the works.

HEAT is a new tracking system for customer service. During each phone call, a customer service associate types in specific information about the type of call and the response to the call. Management can then run reports and study the types of calls, phone call lengths and the IC's responses to customers.

The Customer Service Pool came into being when a vacancy arose in the agency's customer service department. Instead of hiring a new customer service associate (CSA), staff members arranged the transfer of calls from Columbus to the Dayton office. Since two offices had recently consolidated, the Dayton office had two more CSAs than they needed. Thus, those CSAs could pick up the extra workload to make up for the vacancy in the Columbus office. In this case, the pool created a more efficient way of doing business and prevented layoffs.

The IC also implemented a Word Processing Pool in a similar manner. Since the IC went paperless a few years ago, it does all word processing online. This new pool allows word processors in a less busy IC office to pull up and complete work from other offices. The pool spreads the work out across the state so that the workload of one office is not overwhelming, while another office does not have enough work to do.

Cost savings initiatives

During the past fiscal year, the IC sought out and implemented numerous cost saving initiatives. In an effort toward greater efficiency, the agency consolidated several district offices. This includes:

- Springfield closed and moved into the Dayton office;
- Canton closed and moved into the Akron office;
- Bridgeport and Zanesville closed and combined into a new Cambridge office;
- Hamilton closed and moved into the Cincinnati office.

The IC also consolidated the space it used in its Columbus headquarters, which will save $800,000 in rent annually. The IC expects all of these consolidations, combined with other cost saving implementations, to save the agency more than 15 million dollars during the next five years.

A huge cost saver for the fiscal year has been the installation of Voice over Internet Protocol (VoIP) phones in most agency offices. Because these new phones operate via the Internet, they do not need landlines. They are not only more reliable, but the IC no longer has to pay for the installation and usage of each individual phone line. The IC estimates the installation of these new phones alone during the next five years will save it $865,000.

The agency also significantly reduced employee overtime and overnight delivery expenses. This has resulted in a savings of more than $58,000 annually. Furthermore, it reduced the purchases of supplies by more than $60,000 per year.

Finally, the IC will save thousands of dollars in printing and mailing costs annually due to the elimination of hard copy dissemination of its annual newsletter, the *Adjudicator*. The *Adjudicator* provides Supreme Court case updates, updates to the *Hearing Officer Manual* and other IC news. During fiscal year 2009, the IC began collecting the e-mail addresses of employers, employer representatives, legislators and other parties interested in continuing to receive the Adjudicator. This will enable it to distribute the publication exclusively via e-mail. January 2010 will mark the first round of electronic dissemination of this valuable publication.

Appendixes

BWC's Division of Safety and Hygiene Annual Report

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Division of Safety & Hygiene Financial Information

BWC's Division of Safety and Hygiene (DSH) budget appropriation for fiscal year 2009 was $20.7 million, which excludes safety grants, the loan program and OSHA On-Site's Federal Grant. Additionally, $6 million were appropriated for grants (Safety Intervention Grant and Drug-Free Workplace training) and loans programs. As of June 30, 2009, DSH's disbursements for safety services were $18.32 million. Grant and loan disbursements were $3.95 million. Table B provides a general description of the DSH disbursements for safety services. The total premium assessment for Fiscal Year 2009 was $22.42 million (Table C). Federal OSHA-On-Site Grant provided an additional source of funding, which was $1.55 million.

BWC's Occupational Safety and Health Services

DSH provides a wide variety of occupational safety and health services to Ohio employers and employees. Primarily, DSH's services include safety education and training, safety councils, safety congress, safety grants and loan programs, on-site and field consulting safety services and library services. Table A provides general statistics about the number of employers who benefited from these services.

Table A: Overview of BWC's occupational safety and health services statistics by policy type, Fiscal Year 2009.

Service Type	Number of Employers Served by Employer Type					
	Private employers	Public employers	State agencies	Self-insured	Marine Fund	Total
Training and education	3,795	242	31	214	-	4,282
Safety congress	1,837	331	-	329	-	2,497
Safety council	7,725	906	13	448	1	9,093
Video library	1,435	187	18	152		1,792
Specialized field consulting services	4,239	462	38	309	-	5,048
OSHA on-site	654	N/A	N/A	N/A	-	654
PERRP*	N/A	911	N/A	N/A	-	911
Total	19,685	3,039	100	1,452	1	24,277

*= Public Employer Risk Reduction Program calendar year 2008 figures.
^ = 9,971 employees completed safety training through this service;
** = A total number of 94 Safety Intervention Grants were awarded to 90 employers.

Table B: Division of Safety & Hygiene disbursements.

	Safety Admin	Field Consultations	Meetings & Conventions Safety Council & Congress	Education Services	Customer Contact Center	Resource Center	Technical Advisors	Business Development	OSHA State Fund Match	PERRP	Training Overhead	Totals	Safety Grants	Long Term Care Loan
Payroll	$80,634	$11,360,279	$294,364	$277,632	$161,004	$313,278	$626,566	$437,555	$222,075	$986,783	$0	$14,760,170	$0	
Overtime	$0	4	$0	$4,193	$42	$0	$0	$0		$9	$0	$4,248	$0	
Purchased services		0	$17,654	$411,818	$0	$0	$10,000	$0	$5,257	$0	$0	$444,729	$0	
Other Pers Service	$6,605	$4,611	$0	$6,939	$0	$59,729	$255	$195	$1,574	$1,795	$6,010	$87,713	$0	
Total	$87,239	$11,364,894	$312,018	$700,582	$161,046	$373,007	$636,821	$437,750	$228,906	$988,587	$6,010	$15,296,860	$0	
Edible products	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	
Supplies	$211,268	$24,009	$2,444	$19,536	$0	$112,145	$40,309	$1,015	$1,833	$1,880	$0	$414,439	$0	
Vehicle maintenance	$11,363	$173,595	$1,169	-$6	$0	$0	$11,582	$0	$1,988	$13,088	$0	$212,779	$0	
Travel	$115	$66,110	$14,019	$11,041	$10	$176	$4,813	$0	$2,713	$2,966	$0	$101,963	$0	
Communications	$39,867	$105,539	$11,200	$828	$0	$2,182	$2,219	$569	$1,300	$5,417	$0	$169,121	$0	
Fuel/Utilities	$0	$0	$0	$0	$0	$0	$0	$0		$0	$0	$0	$0	
Maintenance/Repairs	$19,736	$12,835	$0	$881	$0	$6,276	$13,966	$99	$1,044	$0	$0	$54,837	$0	
Rentals	$590,268	$250	$156,487	$55,287	$0	$0	$0	$0	$0	$0	$0	$802,292	$0	
Printing/Advertising	$1,014	$0	$6,241	$5,648	$0	$52,037	$0	$0	$0	$0	$0	$64,940	$0	
General/Other/Subsidies	$50,337	$38,868	$1,066,354	$34,626	$0	$9,278	$1,706	$510	$1,241	$4,556	$0	$1,207,476	$3,950,733	$15,590
Total	$923,968	$421,206	$1,257,914	$127,841	$10	$182,094	$74,595	$2,193	$10,119	$27,907	$0	$3,027,847	$3,950,733	$15,590
Office Equipment	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Motor Vehicles	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Communication Equipment	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Med/Lab/Therpeut	$0	$0	$0	$863	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Data Proc Equipment	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Copy/Print Equipment	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Total	$0	$0	$0	$863	$0	$0	$0	$0	$0	$0	$0	$863	$0	$0
Grand Total *	$1,011,207	$11,786,100	$1,569,932	$829,286	$161,056	$555,101	$711,416	$439,943	$239,025	$1,016,494	$6,010	$18,325,570	$3,950,733	$15,590

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Table C: Fiscal Year 2009 Division of Safety & Hygiene premium assessments.

Employer type	Assessments
Private	$16,632,399
Public taxing districts	$3,004,267
Public state	$758,142
Self-insured	$2,029,109
Total assessments	$22,423,917

Training and education services

BWC's safety education and training services conducts classroom and Web-based safety courses in industrial and construction safety, industrial hygiene, ergonomics and risk management. BWC offered 70 courses through 367 classes at 11 locations. Seventy–eight additional classes were held at employers' businesses. Additionally, six online courses were offered through BWC's Learning Management System and were completed by 458 students. More than 1,260 new employers participated in training and education classes last year. A total of 9,791 students successfully completed a training class. Fifty-two percent of these students were first time students.

DSH's Customer Contact Center provides technical support to address questions related to occupational safety and health, refers customers to other BWC business units and helps students register for safety training courses.

The center handled 12,846 calls from employers and employees throughout Ohio:

- 6,441 calls were placed by private employers;
- 477 calls were placed by public employer taxing districts;
- 1,340 calls were placed by state agency public employers;
- 567 calls were placed by self-insured employers;
- 4,021 calls were received through transfer, interagency or other parties.

Ohio Safety Council Program

The Ohio Safety Council Program provides a forum for promoting occupational safety and health, loss prevention, worker compensation cost control and management and networking to Ohio employers through monthly meetings. In fiscal year 2009, BWC continued to co-sponsor 80 safety councils, organized through chambers of commerce, trade and manufacturing associations, American Red Cross Chapters and other local community organizations.

In fiscal year 2009, BWC provided $1,064,044 in subsidies toward the direct costs of these councils and paid $27.7 million in premium rebates to employers who met the Safety Councils' enrollment, active participation and performance requirements during fiscal year 2008. Beyond subsidies and rebates, of the 9,092 safety council member employers enrolled in safety councils, DSH recognized 8,811 employers through a structured awards program for demonstrating strong injury prevention records.

Ohio Safety Congress & Exposition

The Ohio annual Safety Congress & Exposition originated in 1927 and is the largest state conference of its kind. This year, congress hosted representatives from 2,497 businesses during three days. Nearly 5,000 employer representatives participated in the free event, which showcased the latest advances in safety and health education and training, equipment and technology.

While continuing to maintain a superb level of customer service to the participants, expenditures were decreased by 30 percent. For the first time in over a decade, revenue exceeded operational costs by $11,980. The event also provided BWC's employees a platform for professional development and training, reducing the funding needed to provide for such purposes through external sources.

In a post event survey, participants estimated the value of services provided to be $2.8 million. Fifty-eight percent of the participants indicated the congress helped them recognize cost-reduction safety measures for their businesses. Furthermore, about 50 percent of participants indicated a savings by utilizing the event as a venue for safety training and continuing education.

Grant and loan programs[1]

The primary focus of BWC's safety grant and loan programs is to assist employers in managing the financial costs associated with implementing safety measures to prevent accidents and injuries in the workplace. Another major goal is to establish safety best practices in the field of occupational safety and health. The grant and loan programs include the Safety Intervention Grant (SIG) Program, Drug-Free Workplace Grant (DFWP) Program and the Long Term Care Loan Program. In fiscal year 2009, BWC awarded $3,950,733 in 1,633 SIG and DFWP grants to 1,479 employers compared to $3,776,064 in 1,206 SIG and DFWP grants to 1,142 employers in Fiscal Year 2008.

Safety Intervention Grant Program

The SIG Program, now in its 10th year, provides financial assistance to employers to purchase safety equipment. The program provided 4-to-1 matching funds, up to a maximum of $40,000. The use of the funds can only be directed toward the purchase or improvement of equipment to reduce or eliminate the risk of injury. In fiscal year 2009, BWC awarded 94 SIG grants totaling $2,528,095 to 90 employers; compared to 98 grants totaling $2,725,961 to 96 employers in fiscal year 2008.

In fiscal year 2009, 72 percent of the awards went to employers with 200 or fewer employees. The majority of employers who participated in the program were manufacturing employers (36) followed by construction (seven).

To establish industry best-practices in occupational safety and health, employers receiving grant funds through the SIG program were required to provide two year-end case studies and provide quarterly reports to document their experience with the equipment purchased through the grant funds. The collected data is used to establish baseline best practices in safety, advance knowledge in the area of occupational safety and health and benefit other employers facing similar hazards at their workplaces.

Last year, 26 employers completed their participation in the grant program. Showing a reduction in claims from the baseline total of 192 to 69 in the follow-up period, the return-on-investment for this group of completed participants is estimated at 1.9 years.

[1] Certain number of grants were applied for toward the end of one Fiscal Year and were awarded during the beginning of the next Fiscal year, which explains any differences when adding dollar amounts.

Drug-Free Workplace Grant Program

These grants help Ohio's employers initiate training needed to maintain a drug-free workplace. In fiscal year 2009, there were a total of 1,539 grants amounting to $1,394,004 awarded to 1,391 employers in 19 industries. Construction and manufacturing accounted for 51 percent of participating employers. Twenty-five special taxing districts and schools benefited from these grants. In comparison, in fiscal year 2008 BWC awarded 1,108 drug-free workplace grants totalling $1,050,103 to 1,050 employers.

Long Term Care Loan Program

This program provides Ohio's nursing homes and hospitals interest reimbursement for loans. Recipients use the loans to purchase lift equipment to reduce the frequency and severity of workplace injuries to employees who lift residents or patients. Participating employers may purchase sit-to-stand floor lifts, ceiling lifts, other lifts and fast electric beds. In fiscal year 2009, BWC provided $15,590 in interest reimbursements to five employers.

BWC's on-site and field consulting services

BWC's on-site and field consulting safety services includes the OSHA On-Site Consultation Program, Public Employer Risk Reduction Program (PERRP) and specialized field consulting safety services. BWC's on-site and field safety specialists work directly with all employers on hazard and risk assessment and mitigation as well as the introduction of safety interventions in the workplace.

OSHA On-Site Consultation Program

The OSHA On-Site Consultation Program is 90 percent funded by a Federal OSHA grant of $1,546,308 with the remaining 10 percent funded by BWC. The program is directed toward providing highly specialized services to relatively small employers (less than 250 employees at one site) in high hazard/high risk industries.

In fiscal year 2009, the program field consultants conducted 957 visits to workplaces throughout Ohio and improved workplace safety for 654 employers with 50,182 employees. Also, the program provided safety on-site training for 1,329 employees.

PERRP

Legislation created in 1994 requires the adoption and application of federal occupational safety and health rules for general industry and construction to public employers and employees. PERRP is responsible for assisting the public sector work force in creating safe and healthy working environments. PERRP staff provides free safety and health inspections, consultations, site-specific evaluations, written program reviews, safety training, and hazard recognition.

PERRP's safety and health consultants identified 9,310 serious hazards at 911 public employer workplaces that affected 27,275 employees. Written reports of findings were processed within 14 days on average. Expeditious reporting allows employers to begin the abatement process and address these serious hazards. Additionally, PERRP's consultants provided on-site safety training to close to 1,300 employees at 27 employer locations throughout Ohio.

Specialized field consulting safety services

Specialized consulting services provided through the BWC customer service offices help employers implement safety programs, identify hazards and apply remediation techniques. These field activities included thousands of noise measurements, air quality sampling, ergonomic surveys and safety audits in workplaces throughout Ohio.

Field consultants made 18,270 visits to 9,292 Ohio workplaces belonging to 5,048 employers to provide consulting services in industrial hygiene, industrial and construction safety, and ergonomics. It is estimated that those employers who benefited from these services employ close to 1.2 million employees.

BWC's library services

BWC's library services are part of the larger Ohio State Library System and provide free access to safety literature and video resources dealing with state of the art developments in occupational safety and health, workers' compensation and rehabilitation of injured workers. BWC's library is the only library of its kind in Ohio and among a few in the nation with such specialized services.

The library collection was opened to the Ohiolink library system this year. The video library offers a large selection of safety and health videotapes and DVDs. Over the years, this collection has proved to be a convenient and popular source for Ohio employers to obtain training aids for their workers. In fiscal year 2009, the video library serviced 1,792 employers and circulated 11,291 videotapes and DVDs to these employers.

BWC's technical advisors unit

The technical advisors unit provides state-wide specialized technical support to BWC's on-site and field consulting specialists in ergonomics and industrial hygiene as well as industrial and construction safety.

The unit is tasked with maintaining and updating the Ohio Administrative Code Specific Safety Requirements and monitors new advancements in safety literature, standards and technology. The technical advisors provide technical support for the training courses and modules, as well as teaching several occupational safety and industrial hygiene courses. This unit is also tasked with the technical pre-approval evaluation and post-approval monitoring of the safety intervention grants.

BWC's industrial hygiene laboratory

BWC's industrial hygiene laboratory provides a wide variety of laboratory support services to BWC's field consultants. The laboratory handles the inventory, repairs, maintenance and calibration of more than 2,000 measurement devices and tools used by industrial hygienists. Last year, the laboratory performed certified calibration of 963 devices used by field consultants saving BWC more than $148,000.

Working with an external specialized laboratory, BWC's laboratory coordinated elaborate testing of about 13,000 air quality samples to measure workers' exposure to a wide variety of chemicals at 863 Ohio workplaces.

Research Activities and Initiatives

BWC continues to improve its services by capitalizing on several research projects and initiatives. In fiscal year 2009, DSH continued the tracking and reporting on two fiscal year 2008 projects: The Ohio Occupational Fatalities Report and the Preferred Customer Market Initiative. The agency also completed another research data driven project dealing with the nature and extent of injuries in Ohio's Restaurants.

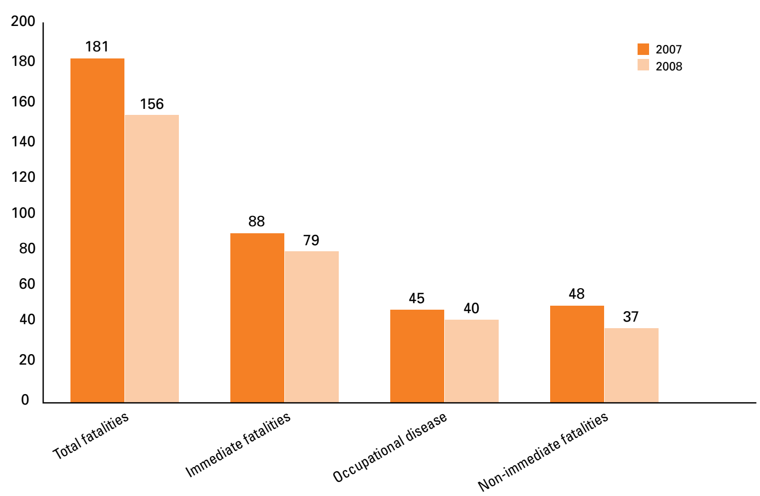
Ohio occupational fatalities for calendar year 2008

BWC's calendar year 2008 claims data shows that 156 workers lost their lives in Ohio as a result of workplace injuries or occupational diseases.[2] In 79 (50.7 percent) cases the deaths were immediate fatal events. In 37 cases (23.7 percent), the fatality took place on a date subsequent to the injury date. The remaining 40 fatalities (25.6 percent) resulted from occupational diseases. Figure 1 provides an overview of the fatalities statistics in Ohio for calendar years 2007 and 2008.

The fatality analysis has also revealed several observations including:

- Proportional to the number of individuals working, more fatal events took place on the job between midnight and 8 a.m. than other times of the day;
- Fatalities involving men were at a rate of 16.3 to 1 compared to women — 147 males compared to nine females;
- There was a marked increase in fatal events in Ohio's southwestern region, up from 21 percent in 2007 to 33.9 percent in 2008. On the other hand, fatalities decreased in Ohio's northeast region, down from 33.7 percent in 2007 to 27.6 percent in 2008. These two regions account for 61.5 percent of all occupational fatalities in 2008;
- Transportation-related accidents continue to be a leading cause of occupational fatalities in Ohio. Close to 34 percent of all occupational fatalities in 2008 in Ohio were transportation-related accidents;
- Most of calendar year 2008 occupational fatalities in Ohio occurred in the construction, commercial and transportation sectors;
- Asbestosis and cardiac events lead the causes of occupational related diseases in 2008.

Figure 1 – Ohio occupational fatalities, 2007 & 2008

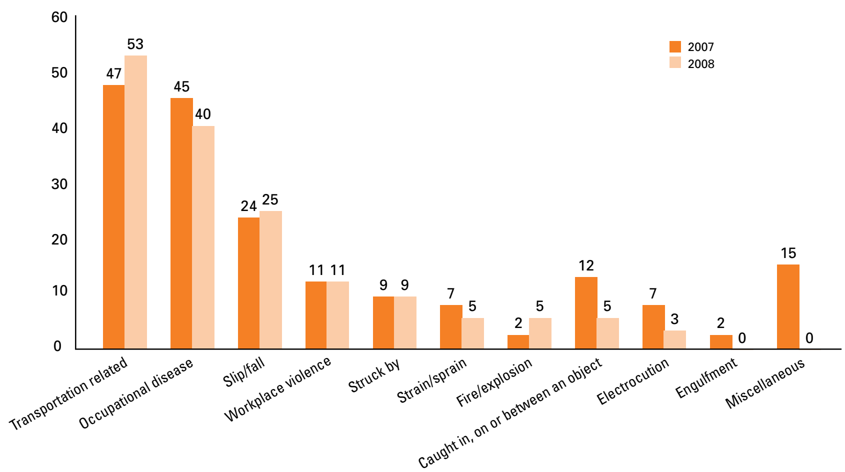


[2] Calendar Year 2008 data is not yet fully mature. Claims can be filed for up to two years from the accident or death date. Calendar Year 2008 occupational fatality data are not considered complete until the end of Calendar Year 2010.

Occupational fatalities by causation

The causes of Ohio's workplace fatalities reflect national trends. Transportation-related accidents accounted for 34 percent of Ohio fatalities in calendar year 2008. Occupational disease accounted for 25.6 percent and slips and/or falls for 16 percent. These three categories made up 75.6 percent of all fatality claims. Fatalities resulting from workplace violence accounted for 7 percent. Figure 2 provides an overview of the distribution of Ohio's fatalities by causation for calendar years 2007 and 2008.

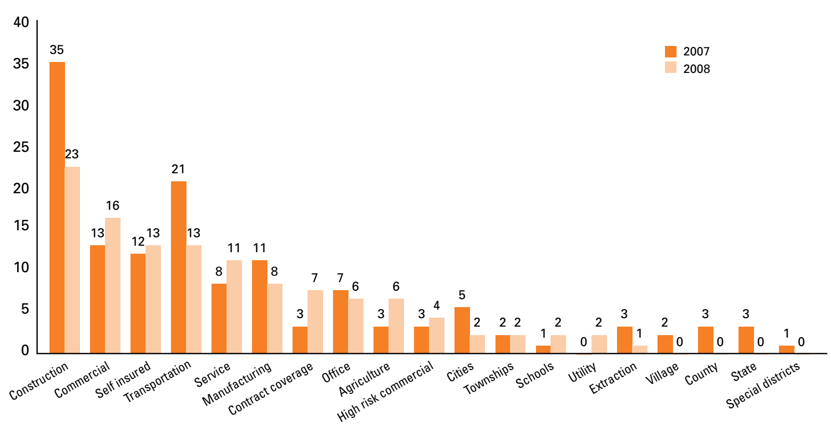
Figure 2 – Ohio occupational fatalities by causation, 2007 & 2008



Occupational fatalities by industry type

According to the U.S. Census Bureau, construction jobs represented 4.5 percent of Ohio jobs, yet 19.8 percent of all immediate workplace fatalities (not including occupational disease) were in the construction sector. Commercial sector fatalities comprised 14 percent and the transportation sector fatalities comprised 11 percent of the 2008 fatalities. Together, these three sectors totaled 45 percent of all the identified workplace fatalities in Ohio. Figure 3 provides an overview of the distribution of Ohio's fatalities by industry type for calendar years 2007 and 2008.

Figure 3 – Ohio occupational fatalities by industry, 2007 & 2008



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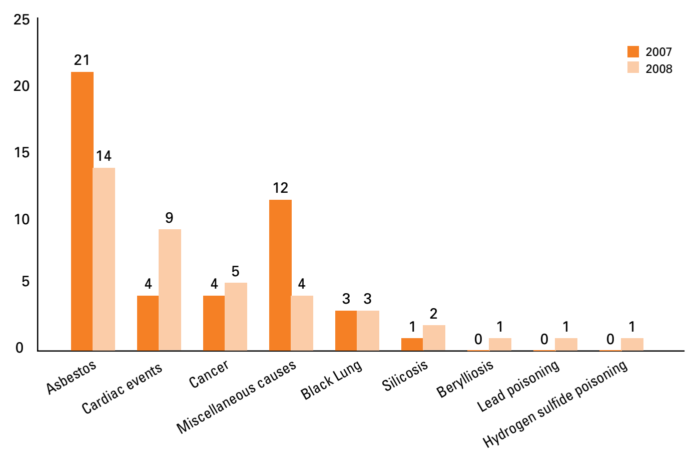
Occupational disease fatalities by disease type

BWC data shows 40 occupational disease-related fatalities in 2008. The majority of occupational disease deaths are the result of chronic exposure to asbestos (35 percent), followed by occupational exposures resulting in cardiac events (22.5 percent), cancers (12.5 percent) and black lung claims from coal mining operations (7.5 percent). Together, these represent 77.5 percent of all occupational disease fatalities. Figure 4 provides an overview of the distribution of Ohio's occupational disease fatalities by disease type for calendar years 2007 and 2008.

Figure 4 – Ohio occupational disease fatalities by disease type



Preferred customer market (PCM)

BWC selected 1,661employers from four industry groups with a large number of claims and high costs. The goal: to assist these companies in improving safety at their workplaces and consequently reduce injuries and workers' compensation costs. The selected employers include: 75 public employer taxing districts limited to cities, counties and schools; 864 construction companies; 85 temporary staffing agencies with 15 or more manual classifications (not professional employer organizations); and 637 nursing homes.

The primary objective was to decrease frequency and severity of claims and costs by 5 percent in each of the four customer groups over a two-year period. This was considered to be an attainable goal based on similar effort by DSH in the years 2002 and 2004.

A summary of the services provided to these employers is shown in Table D. Many of the selected customers participated in one or more DSH service. Field consulting services devoted about 5.1 percent of their time to these customers in fiscal year 2009.

Table E provides a summary of the results relative to reductions in claim frequency and severity for Fiscal Year 2009. Overall, for all PCM employers who benefited from BWC's safety services, the number of claims filed decreased by 11.7 percent and the number of days away decreased by 6.8 percent when compared to fiscal year 2008. Cost estimates were not made due to changes to BWC's reserving system (MIRA).

Table D: Percent of PCM employers participating in BWC's occupational safety and health services.

DSH services*	Construction	Nursing homes	Public employer taxing district	Temporary agencies
Safety training	28.8	35.3	69.3	37.7
Safety congress	13.4	10.2	53.3	9.4
Safety councils	43.3	53.1	92	77.7
Drug-free program	64.0	45.8	16	28.2
Premium discount program	46.0	43.6	30.7	58.8
Retrospective rated	2.8	1.6	73.3	3.5
Safety grants	30.9	28.7	41.3	12.9
Library training aids	11	7.5	53.3	14.1
Workers' Comp University	10.1	13.0	48.0	15.3
Field consulting* (% of staff time)	2.0	0.9	2.0	0.2

** Field consulting results list the percent of time field consulting staff spent with the selected employers out of the total field consultants' time.*

Table E: Summary of PCM employer claims frequency and severity results for Fiscal Year 2009.

Select employer	Total employers by classification	Number of employers touched	Claims frequency Payroll adjusted %	Lost time days away Payroll adjusted %
Construction	864	515	-20.5	-8.1
Nursing homes	637	292	-4.3	-12.2
Public employer taxing district	75	59	-7.9	-5.1
Temporary agency	85	48	-^	-^

^ No reliable estimates could be made due to the nature of highly fluctuating payroll reporting and high turnover rates among employees working for temporary agencies.

Nature and extent of workplace injuries in Ohio's restaurants

In collaboration with the Ohio Restaurant Association, BWC analyzed the data for 4,381 claims reported between 2003 and 2006 for 712 restaurants throughout Ohio. The analysis revealed that open wound (44 percent), sprain (18 percent), and burn (13 percent) injuries comprise 75 percent of these claims.

The claims data for these three types of injuries were further analyzed to understand the major factors that contributed to the incidents leading to these claims and injuries. Based on these factors, a set of occupational safety intervention measures were targeted to prevent these common incidents in restaurants. Safety intervention measures and strategies related to employee training and education, housekeeping procedures, and use of better tools and equipment were researched to assist restaurants in preventing injuries. This research was used to develop specific training and education aids, including the design of specialized classes to prevent these types of injuries in restaurants.

BWC - OSHA alliance

BWC worked with OSHA, CBS Personnel Holdings Inc., and the Ohio Staffing and Search Association to create a training video for temporary staff workers to utilize before they are sent out to a job. The video can be viewed on BWC's Web site. Additionally, four half-day safety classes were designed and taught to staffing companies. The Alliance is working on producing the training materials and DVD in Spanish.

Market Value of BWC Safety & Hygiene Services

Table F provides estimates of the market value of DSH's services as it relates to the number of employers who benefited from these services in fiscal year 2009. The estimates are based on private market fee schedules to provide such services.

Table F: Estimated market value of BWC's occupational safety and health services based on number of service hours provided at private market fee schedules.

Employer Type	DSH Services							
	Consultative	Video-library	Training center	Congress	Library/ other	PERRP	On-Site	Total
Private	$10,232,140	$1,454,940	$1,772,295	$1,318,800			$1,952,250	$16,730,425
Public taxing districts	$2,108,904	$271,800	$188,070	$306,600		$737,766		$3,613,140
Public state	$495,981	$103,500	$225,290	$148,575		$208,088		$1,181,434
Self insured	$1,609,440	$181,400	$278,295	$521,850				$2,590,985
Other		$20,700	$41,145		$411,551			$473,396
Marine fund	$1,250							$1,250
Total	$14,447,715	$2,032,340	$2,505,095	$2,295,825	$411,551	$945,854	$1,952,250	**$24,590,630**

Outcomes and Savings of the Health Partnership Program

semi-annual report

Jan. 1 to June 30, 2009

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The Health Partnership Program

The Health Partnership Program (HPP) has been BWC's system for providing managed care services since its implementation in March 1997. BWC publishes this HPP outcomes and savings report every six months. Per law, the agency also presents this report to the governor, the speaker of the House of Representatives and the president of the Senate.

BWC's chief of medical services and compliance directs the program. The Medical Services Division coordinates BWC's health-care services through a network of provider and managed care organizations (MCOs).

The agency determines compensability and pays indemnity benefits. However, it contracts with MCOs to manage the medical component of workers' compensation claims. MCOs educate employers and injured workers on HPP and process *First Report of an Injury, Occupational Disease or Death* (FROI) forms. They also help employers establish transitional/early return-to-work programs. In addition, MCOs process medical bills and make provider payments.

BWC monitors how MCOs perform. For example, BWC measures the effectiveness of the MCOs' return-to-work efforts using the Degree of Disability Management (DoDM) model. The agency also measures their FROI timing, FROI data accuracy, bill timing and bill-data accuracy. In addition, it publishes most of these measures in an annual MCO Report Card. BWC encourages employers to view this report before selecting an MCO.

There are now 18 certified MCOs statewide. This is a decrease of one MCO since BWC's last report (July 2009).

Medical Services Division objectives

Medical Services' goal is to ensure prompt, quality, cost-effective health care for injured workers to facilitate their early, safe and sustained return to work and quality of life. The division coordinates health-care delivery through provider networks and MCOs. It does this by using management, pricing and payment strategies that benefit injured workers and employers.

Medical Services specific responsibilities are to:

- Develop, maintain and execute quality and cost-effective medical, vocational rehabilitation and pharmaceutical benefits plans and associated fee schedules;
- Develop and support the appropriate managed-care processes, including contract management and training;
- Establish and maintain a quality pool of medical and vocational service providers to make certain injured workers have access to quality, cost-effective and timely care;
- Evaluate and process medical bills, guaranteeing proper and timely payment consistent with benefits plan criteria.

In March 2009, Deloitte Consulting LLP completed its comprehensive review of BWC's workers' compensation program. As part of that review, Deloitte studied:

- MCO effectiveness (Report 2.6);
- BWC's current medical bill-payment processes (Report 2.3);
- The vocational rehabilitation program (Report 4.1).

The division is evaluating Deloitte's recommendations to ensure their proper alignment with existing divisional and BWC-wide objectives.

Benefits plan design

For injured workers to have access to high-quality medical care, BWC must have appropriate benefits plans and terms of service with competitive fee schedules. This, in turn, enhances the medical provider network. Medical Services has begun to improve medical, vocational rehabilitation and pharmaceutical services by revising the benefits plans and their corresponding fee schedules. The division has instituted annual reviews.

Further, it revised the pharmacy drug benefits plan. The division expanded the list of prior authorization categories for drugs not typically used to treat workers' compensation injuries. In the past year, Medical Services has placed tighter controls on BWC's most prescribed drugs. This guarantees injured workers will use them as intended. These and other plan reforms resulted in a savings of several million dollars in the second quarter of fiscal year 2009, which continued into the first half of 2010.

Medical Services has also completed a cost and feasibility study for implementation of the Ambulatory Procedure Classification reimbursement methodology for outpatient hospital services. It also started the analysis and design needed to implement the new methodology.

Below is a summary of the fee schedule updates already in place or scheduled for calendar year 2009.

Fee schedule	Effective date	Update summary
Providers — physicians, therapists, etc.	Feb. 19, 2009	Updated to Medicare's 2008 *relative value units* (RVUs) and updated BWC's conversion factors
Update to providers — physicians, therapists, etc.	Proposed: Sept. 21, 2009 Revised to: Nov. 1, 2009	Updated to Medicare's 2009 *RVUs* and other refinements as needed to the Feb. 19, 2009 fee schedule
Providers — vocational rehabilitation	Originally proposed: Nov. 16, 2009 Deferred to late March 2010 at the earliest	This will update the fee schedule for the 76 codes specific to vocational rehabilitation, which were last updated in 1999
Ambulatory Surgical Centers	April 1, 2009	Implemented a new Medicare-based pricing methodology
Hospitals — in-patient setting	Feb. 1, 2009	Updated the Medicare Severity — Diagnosis Related Grouping to the 2009 federal fiscal-year values
Hospitals — out-patient setting	April 1, 2009	Updated to the state fiscal year 2007 cost-to-charge ratios

Managed-care processes

Medical Services selected a new pharmacy benefits manager through a competitive bid process. SXC Health Solutions Corp. will allow BWC to offer new, state-of-the-art, Web-based prior authorization technology. This will enable prescribers to obtain instant approvals to fill many pharmaceutical requests. In addition, per the terms of the contract, BWC expects to significantly reduce the turnaround time for reimbursing injured workers for out-of-pocket expenses.

The division also plans to increase the use of generic medications to lower pharmaceutical spending, without impacting the quality of care for injured workers. In addition, Medical Services has begun to collect rebates from drug manufacturers and anticipate revenue of more than $5 million for this effort in calendar year 2009.

The 2009-2010 MCO contract enhancements further support several managed-care improvement goals. For example, starting Jan. 1, 2010, each MCO will staff a certified medical coder. This will lend support to the MCOs' provider bill processing and make certain the appropriateness of provider payments. Also, effective Jan. 1, 2010, the division will tighten benchmarks for several key process measures.

The division has completed BWC's re-design of the alternative dispute resolution (ADR) process for treatment authorization disputes. It implemented the streamlined process effective Nov. 1, 2009. Medical Services plans additional changes for 2010.

Medical providers

Medical Services is replacing the agency's provider enrollment system. The system maintains provider demographic information, certification, credentialing and billing-support services (a shared goal with BWC's Infrastructure & Technology Division). The divisions will complete full system installation and refinement in 2009 and 2010.

In addition, Medical Services and the Communications Division have put in place a revised provider communications plan. The plan includes new education and orientation Web offerings for medical providers. It also calls for delivery of physician information packets when providers receive their BWC notice of certification. The division will continue to enhance communications and training processes for new and existing providers.

It will also complete a provider penetration analysis to determine access-to-care levels. This will provide direction in developing our recruitment and retention efforts.

Also, Medical Services will continue provider outreach and educational programs, and will continue to eliminate unnecessary barriers for participating providers. Finally, it will create and institute provider performance measures and non-compliance reforms.

Medical bill payment

Medical Services implemented a new medical bill-payment clinical editing software on June 30, 2008. It allows BWC to identify improperly billed services, enforce billing standards, identify the effectiveness of MCO bill review and ensure the consistency of bill processing. It also permits us to capture data that identifies outliers. The division estimates these first edits will result in a yearly savings in excess of $1 million.

By the end of 2009, Medical Services will issue a request for proposal for a new medical bill-payment and managed-care system. Such a system would allow for direct provider payments, medical document submission and other improvements. This system would also integrate services such as clinical editing and hospital pricing methodologies that separate software contracts now handle. The contract will:

- Yield an improved cost-benefit ratio;
- Simplify providers' interaction with Ohio's workers' compensation system;
- Reduce duplication of efforts between MCOs and BWC.

The next two pages show selected measurements of the HPP's impact during the last four years.

Selected HPP measurements

All dollar amounts are shown in 1,000s.

The figures below are limited to the HPP.

Measurement	Time period July 1 to Dec. 31, 2005	Time period Jan. 1 to June 30, 2006	Time period July 1 to Dec. 31, 2006	Time period Jan. 1 to June 30, 2007	Time period July 1 to Dec. 31, 2007	Time period Jan. 1 to June 30, 2008	Time period July 1 to Dec. 31, 2008	Time period Jan. 1 to June 30, 2009
Active employers (1)	252,440	252,433	251,591	244,973	238,900	238,064	234,772	231,438
Active claims (2)	367,773	343,128	332,104	319,974	307,572	294,683	283,510	267,647
FROI timing (3)	16.72	18.30	16.19	16.83	16.00	17.15	16.88	17.77
% of FROIs filed within seven days of date of injury (4)	71.78%	73.25%	73.17%	73.84%	74.23%	74.44%	73.80%	73.87%
% of claims determined within 14 days of date of injury (5)	68.29%	67.29%	68.25%	70.55%	69.19%	70.29%	72.00%	74.42%
Bill timing (6) LDOS–MCO MCO–BWC BWC–MCO MCO–Provider	82.69 66.94 6.63 7.18 1.95	82.65 67.20 6.41 7.09 1.95	81.23 65.76 6.32 7.20 1.95	81.30 65.97 6.26 7.12 1.95	83.97 67.72 7.10 7.20 1.95	84.05 68.63 6.10 7.38 1.95	83.15 68.42 5.35 7.42 1.95	79.80 67.62 5.86 4.37 1.95
Total regular medical payments (7)	$413,805	$407,462	$379,926	$385,381	$388,302	$427,933	$411,857	$397,314
Payments for file reviews and IMEs (8)	$9,753	$10,191	$10,381	$9,873	$9,452	$10,145	$9,500	$10,470
MCO fees (9)	$83,754	$89,068	$84,588	$88,551	$77,328	$90,999	$81,167	$80,151
Total medical payments plus MCO fees	$507,312	$506,721	$474,896	$483,805	$475,082	$529,077	$502,523	$487,934
Total indemnity payments (10)	$530,231	$543,163	$550,011	$592,531	$610,727	$598,066	$579,472	$535,611
Grand total (11) Benefits paid (Total medical payments plus MCO fees plus total indemnity payments)	$1,027,790	$1,039,693	$1,014,525	$1,066,463	$1,076,357	$1,116,998	$1,072,496	$1,013,076

(1) Average number of employers in an active, reinstated or debtor in possession status assigned to an MCO during the time frames noted

(2) Average number of active claims (claims with a payment or application submitted to us within the last 13 months) assigned to an MCO during the time frames noted

(3) Average time, in calendar days, from date of injury to date BWC received a FROI for all FROIs received during the time frames noted for claims assigned to an MCO

(4) Percent of claims assigned to an MCO where BWC receipt of the FROI is within seven calendar days from the date of injury where FROI was received during the time frames noted

(5) Percent of claims assigned to an MCO determined within 14 days of the date of injury where the determination was during the periods indicated regardless of date of injury or filing date. BWC considers a claim determined when we place it in Allow/Appeal or Disallow/Appeal status.

(6) Average time, in calendar days, between the last date of service being billed (LDOS) to a check being issued to the provider for bills processed by the MCOs. This does not include bills for prescription drugs processed through BWC's pharmacy benefits manager. It is further broken down into the component steps of the process:

- *LDOS to MCO receipt;*
- *MCO receipt (for review and payment determination) to BWC receipt;*
- *BWC receipt (for review and final payment determination) to date monies are deposited into the MCO's provider account;*
- *MCO receipt of the final payment information and monies to the MCO issuing the check to the provider.*

The agency recently concluded a desk audit of the MCOs' current check issuance timing and has updated the report to reflect the findings.

(7) Payments for medical services made on claims assigned to an MCO during the time frames noted. Amounts include payments on claims associated with bankrupt self-insured claims assigned to the MCOs and payments for prescription drugs processed through BWC's pharmacy benefits manager. Regular denotes that this category includes payments for physicians, hospitals, therapies, diagnostic testing, etc. It excludes payments made for file reviews and independent medical examinations (IMEs) requested to facilitate administrative decisions in the claim.

(8) Payments made for file reviews and IMEs during the time frames noted that are requested to facilitate administrative decisions in the claim

(9) Payments issued to the MCOs during the time frames noted per the MCO Agreement for their services. BWC bases MCO contracts on calendar years. Fluctuations in the amounts paid to the MCOs between six-month periods are attributable to several factors, including:

- *Changes in the overall amount available to the MCOs from year to year;*
- *Timing of different types of payments (administrative payments are monthly, outcome payments are quarterly, and in the past, we made exceptional performance payments annually);*
- *Change in 2008 where BWC pre-paid MCOs a portion of their outcome payment throughout the quarter. The increase seen in the Jan. 1 to June 30, 2008 time period is due to the introduction of pre-payment of outcome monies.*
- *BWC made some payments after the end of the contract. For example, the agency made the 2005 exceptional performance payment in February 2006.*

(10) Payments for salary compensation made on claims assigned to an MCO during the time frames noted. This includes payments for temporary total, living maintenance, wage loss, lump sum settlements, etc. Amounts include payments on claims associated with bankrupt self-insured claims assigned to the MCOs.

(11) Excludes payments for file reviews and IMEs as these are not benefits paid to or on behalf of an injured worker but are conducted to facilitate administrative decisions in the claim

Fiscal Year 2009

Investment Class Annual Report Comments

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Background

The U.S. and global financial markets experienced an extreme level of volatility in valuation and performance over the 2009 fiscal year period from July 1, 2008 through June 30, 2009. This was brought about by a weakening economy aggravated by questionable lending underwriting practices and leveraged asset management strategies employed by a number of prominent financial institutions. These conditions resulted in the bankruptcy of Lehman Brothers and the U.S. federal government takeover of Fannie Mae, Freddie Mac and AIG in September 2008 as well as necessary financial support given by the U.S. Treasury to some of the largest U.S. commercial banks, insurance companies and investment banks. These developments created significant stress on the daily functioning of certain credit markets over 4Q2008 and 1Q2009 and resulted in a worldwide flight by investors away from perceived risky assets to safe liquid assets.

The investment portfolio of the Bureau held up relatively well in market value during the very challenging period of fiscal year 2009, especially when compared to most public fund institutional portfolios. The portfolio provided a total return of negative 1.1% (net of investment management fees) during this period. This is attributable to the emphasis placed on high quality fixed income investments by the investment policy of the Bureau. The average credit quality of the fixed income portfolio of the Bureau was "AA" over the fiscal year. At the beginning of fiscal 2009, the investment policy asset allocation targets were 80% fixed income (including 1% cash) and 20% equities for each of the three largest trust funds of the Bureau (State Insurance Fund, Disabled Workers' Relief Fund and Coal Workers' Pneumoconiosis Fund) which aggregate over 99% of invested assets of the Bureau.

The Board of Directors of the Bureau in April 2009 approved a change in asset allocation targets for the State Insurance Fund to 70% fixed income and 30% equities, with the 10% increase in equities allocated to international equities (formerly 0% allocation) and the 10% reduction in fixed income reducing long duration bond exposure. In addition to this portfolio asset allocation change, there were several asset allocation target changes made within the portfolio fixed income classes also approved by the Board to further reduce average duration of the bond portfolio. These decisions were made by the Board after several careful reviews of a rigorous asset-liability modeling study requested of the Bureau's investment consulting firm. The new asset allocation mix for the State Insurance Fund, representing approximately 92% of total Bureau invested assets, is expected to increase its portfolio return and lower its variance or dispersion of expected annual portfolio return over the long term.

Due to the necessary planning and preparation period required to carefully transition asset classes of large size, the new asset allocation targets were not yet reflected in the State Insurance Fund portfolio at the end of fiscal year 2009. The transitioning of such assets to the new investment policy allocation targets are being implemented and executed at a carefully planned systematic pace during the first six months of fiscal year 2010 ending December 2009. At the request of the Board, similar asset-liability studies will be performed on four additional Bureau trust funds by the Bureau's investment consultant. The outcome of these studies could result in additional asset class allocation target changes beneficial to these trust funds as well.

Valuation and Performance

Total investment assets at fair value held by the Bureau were $17,077 million on June 30, 2009, a decrease of $208 million when compared to $17,285 million on June 30, 2008. As stated earlier, the total rate of return on invested assets of the Bureau for the fiscal year 2009 ended June 30, 2009 was a negative 1.1% net of investment management fees. Net investment income reported for fiscal year 2009 was a negative $195 million, comprised of $738 million in interest and dividend income less $928 million in decrease in fair value of investments and $5 million in investment expenses, including $3 million in investment manager fees. These investment fees represented an average annual fee of less than 2 basis points (2/100 of 1%) of total average month-end value of bond and stock assets managed by outside passive indexed managers for fiscal 2009.

The asset allocation mix of the Bureau investment portfolio at fair value on June 30, 2009 was 76.4% bonds, 20.6% stocks and 3.0% cash and cash equivalents. This asset mix compares to 79.4% bonds, 18.4% stocks and 2.2% cash and cash equivalents on June 30, 2008.

There were two significant portfolio quarterly rebalancing events executed during fiscal year 2009 as well as several investment manager redemption events initiated for either operational cash purposes or for minor portfolio rebalancing purposes involving redeployment of month-end bond cash interest income received. These activities are important to highlight in that they had a material impact on the respective fair value levels of both the bond and equity portfolios over the course of fiscal 2009.

Each identified bond and equity asset class in the Bureau's investment policy has a target portfolio allocation and a defined asset allocation range. During the tumultuous period of the first nine months of fiscal 2009 ending March 31, 2009 in which U.S. stocks significantly underperformed bonds during each of the first three quarters, the stock portfolio allocation of the Bureau's total investment portfolio fell below the defined minimum target range of 17% for stock ownership at the end of each of the calendar quarters ending December 2008 and March 2009. This development triggered the need to rebalance the investment portfolio of each affected trust fund per the investment policy of the Bureau. The investment policy requires purchasing the asset class that is below minimum ownership percentage and selling the asset class that is above targeted ownership percentage in sufficient amounts so as to achieve a portfolio asset mix whereby each asset class is once again within acceptable ownership ranges as consistent with the investment policy.

As a result of the above, the two major quarterly portfolio rebalancing events that occurred in early January 2009 and early April 2009 involved a total of $979 million of additional investments made in stocks (passive managed S&P index funds) that were funded from bond portfolio directed redemptions of $899 million in value ($739 million from long duration bonds and $160 million from TIPS) and $80 million of operational cash. Remaining asset redemption activity during the fiscal year resulted from (i) the need to raise cash to fund operations ($253 million all from long duration bond portfolio redemptions), (ii) monthly rebalancing activity from long duration bond cash interest redirected to stocks ($126 million) and (iii) the deployment of $39 million in cash to fund initial commingled intermediate duration bond fund investments for the Public Work-Relief Employees' Fund and Marine Industry Fund.

To summarize these portfolio rebalancing and operational need redemption activities, the bond portfolio had net investment manager redemptions of $1,239 million consisting of $1,118 million from long duration bonds and $160 million from TIPS, offset by $39 million invested in intermediate duration bonds. The stock portfolio of S&P 500 indexed stocks had a net inflow of funds totaling $1,093 million from directed portfolio rebalancing purchases.

The total fair value of the bond portfolio of the Bureau was $13,050 million on June 30, 2009 compared to $13,724 million on June 30, 2008, representing a reduction of $674 million. As explained herein, the bond portfolio had net investment manager redemptions of $1,239 million during the fiscal year period initiated for several purposes. Excluding these net redemptions, the bond portfolio had an increase in fair value of $565 million for fiscal year 2009. The total rate of return of bonds owned by the Bureau was 4.1% for fiscal year 2009. Virtually all bonds owned during fiscal year 2009 were passively managed by several index managers under contract to match targeted benchmark index returns.

A total fair value of $7,424 million of bonds directly owned (excluding $40 million in commingled funds) or approximately 57% of total bonds owned at fair value on June 30, 2009 represented direct U.S. government obligations, including $3,456 million of U.S. Treasury inflation protected securities (TIPS) representing 26% of total bonds owned at fair value and 20% of total Bureau invested assets owned at fair value. The total rate of return of the TIPS portfolio was a negative 1.4% for fiscal year 2009.

The total fair value of $13,050 million for the bond portfolio of the Bureau on June 30, 2009 was comprised of $9,554 million of long duration index bonds, $3,456 million of TIPS index bonds and $40 million of intermediate duration bonds represented in a commingled index fund. This compares to June 30, 2008 fair values of $10,061 million for long duration bonds and $3,663 for TIPS, with no ownership of intermediate duration bonds. A long duration bond is defined as having a final remaining maturity of ten years or longer. An intermediate duration bond has a final remaining maturity of between one and ten years.

The long duration bond portfolio of the Bureau had a total rate of return of 5.9% for fiscal year 2009. The intermediate duration bond investments in a commingled index fund were made in February 2009 by the Public Work-Relief Employees' Fund and the Marine Industry Fund in the amount of $39 million funded by cash held. These intermediate duration bond investments had a total rate of return of 1.5% from February 2009 inception through June 30, 2009.

The total fair value of the equities portfolio of the Bureau was $3,516 million on June 30, 2009 compared to $3,180 million on June 30, 2008, representing an increase of $336 million. As mentioned earlier, the equities portfolio had net inflow of funds of $1,093 million from directed portfolio rebalancing purchases. If these portfolio rebalancing inflows are excluded, the equities portfolio had a decrease in fair value of $757 million. The total rate of return of equity investments of the Bureau was negative 26.0% for fiscal year 2009 which matched the S&P 500 index return over this period. All but $4 million of miscellaneous equity investments in the Bureau's equity portfolio on June 30, 2009 were represented by passively managed S&P 500 indexed portfolios.

At the end of fiscal year 2008 ending June 30, 2008, a total of 66 private equity partnerships had been sold by the Bureau since June 2007 for total proceeds of $399 million, with all such proceeds reinvested in an S&P 500 indexed portfolio. The last remaining private equity fund investment targeted for sale was sold in fiscal year 2009 on October 2008 for proceeds of $0.9 million. There currently remains one private equity partnership owned by the Bureau on June 30, 2009 that is being liquidated via its own portfolio sales. A cash distribution of $1 million was received by the Bureau from this partnership in fiscal year 2009, reducing its carrying value to under $0.2 million on June 30, 2009.

The Bureau received cash distributions totaling $13.1 million from the capital coin fund during fiscal year 2009, representing liquidation proceeds and legal settlements achieved from the coin fund liquidation firm contracted by the State of Ohio to oversee the liquidation of remaining coin fund assets. As a result of these significant coin fund distributions in fiscal 2009, the Bureau has now received a total of $54.5 million, net of coin-related expenses paid directly by the Bureau, compared to its total coin fund investment of $50 million. All remaining unencumbered coin and collectible assets not reserved for litigation claims were liquidated in fiscal year 2009 with the completion of several small auctions and a direct sale transaction with a dealer. There are believed to be sufficient funds retained in a capital coin fund bank account to pay future projected professional fees and possible litigation settlements.

Total cash and cash equivalents of the Bureau had a fair value of $504 million on June 30, 2009 compared to $378 million on June 30, 2008. The Bureau utilized an institutional U.S. government money market fund offered by its custodian bank throughout fiscal year 2009 to earn interest income on its short-term invested assets. The total rate of return earned by the Bureau on its cash and cash-equivalent assets was 1.2% for fiscal year 2009.

The following table provides a summary of asset class valuations, relevant funds transfer activity and performance returns as stated herein.

Asset class fair value/performance summary

Fiscal year 2009 ending June 30, 2009

($millions)	(A)	(B)	(C)	(D)	(E)	(F)	(G)	
Asset class	**Fair value 6/30/09**	**Fair value 6/30/08**	**Actual fair value change**	**Net From portfolio rebalancing**	**Net for fundings**	**Total inflow/ (outflow)**	**Adjusted fair value change**	**FY 2009 annual return**
Long duration bonds	$ 9,554	$ 10,061	$ (507)	$ (865)	$ (253)	$ (1,118)	$ 611	+ 5.9%
U.S. TIPS	3,456	3,663	(207)	(160)		(160)	(47)	- 1.4%
Commingled fund bonds	40		40		39	39	1*	+ 1.5%*
Total bonds	13,050	13,724	(674)	(1,025)	(214)	(1,239)	565	4.1%
U.S. equities	3,516	3,180	336	1,105	(12)	1,093	(757)	-26.0%
Miscellaneous	6	3	3				3	
Cash and equivalents	504	378	126	(80)	225	145	(19)	+ 1.2%
Net change			$ (208)	0	0	0	$ (208)	
Total invested assets	$17,077	$17,285	$ (208)					- 1.1%

Asset class fair values shown exclude accrued investment income and trade payables/receivables
Amounts rounded to nearest $1 million as reflective in several summations in table
*Return since February 2009 inception with fair value appreciation of $1 million

Column Definitions

C = A minus B
F = D plus E
G = C minus F

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Audited Financial Statements

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OHIO BUREAU OF WORKERS' COMPENSATION
AND INDUSTRIAL COMMISSION OF OHIO
(A DEPARTMENT OF THE STATE OF OHIO)
Columbus, Ohio

Financial Statements
and
Supplementary Financial Information
For the years ended June 30, 2009 and 2008

And Independent Auditors' Report Thereon

CONTENTS

OHIO BUREAU OF WORKERS' COMPENSATION
AND
INDUSTRIAL COMMISSION OF OHIO

(A DEPARTMENT OF THE STATE OF OHIO)

MANAGEMENT'S DISCUSSION AND ANALYSIS

This section presents management's discussion and analysis of the Ohio Bureau of Workers' Compensation's (BWC's) and the Industrial Commission of Ohio's (IC's) financial performance for fiscal years ended June 30, 2009, 2008, and 2007. BWC and IC are collectively referred to as BWC/IC. This information is based on BWC/IC's financial statements, which begin on Page 8.

Financial highlights

- BWC/IC's total assets at June 30, 2009 were $22.4 billion, an increase of $38 million or 0.2 percent compared to June 30, 2008.
- BWC/IC's total liabilities at June 30, 2009 were $19.9 billion, an increase of $26 million or 0.1 percent compared to June 30, 2008.
- BWC/IC's operating revenues for fiscal year 2009 were $2.4 billion, an increase of $217 million or 10.1 percent compared to fiscal year 2008.
- BWC/IC's operating expenses for fiscal year 2009 were $2.2 billion, a decrease of $516 million or 19.2 percent from fiscal year 2008.
- BWC/IC's total net assets increased by $12 million in fiscal year 2009, compared to a $198 million increase in fiscal year 2008.

Financial statement overview

BWC/IC's financial statements are prepared in accordance with accounting principles generally accepted in the United States of America. Management's discussion and analysis is intended to serve as an introduction to BWC/IC's financial statements, which are prepared using the accrual basis of accounting and the economic resources measurement focus.

- Statement of Net Assets - This statement presents information reflecting BWC/IC's assets, liabilities and net assets. Net assets represent the amount of total assets less total liabilities. The statement is categorized by current and noncurrent assets and liabilities. For the purpose of the accompanying financial statements, current assets and liabilities are generally defined as those assets and liabilities with immediate liquidity or those that are collectible or will be due within 12 months of the statement date.
- Statement of Revenues, Expenses and Changes in Net Assets - This statement reflects the operating revenues and expenses, as well as non-operating revenues and expenses, for the fiscal year. Major sources of operating revenues are premium and assessment income. Major sources of operating expenses are workers' compensation benefits and compensation adjustment expenses. Revenues and expenses related to capital and investing activities are reflected in the non-operating component of this statement.
- Statement of Cash Flows - The statement of cash flows is presented using the direct method of reporting, which reflects cash flows from operating, noncapital financing, capital and related financing, and investing activities. Cash collections and payments are reflected in this statement to arrive at the net increase or decrease in cash and cash equivalents for the fiscal year.
- Notes to the Financial Statements - The notes provide additional information that is essential to a full understanding of BWC/IC's financial position and results of operations presented in the financial statements.
- Supplemental Information - This section includes supplemental schedules presenting the statement of net assets and the statement of revenues, expenses and changes in net assets for the individual accounts administered by BWC/IC. This section also includes required supplemental information that presents 10 years of revenue and reserve development information.

Continued

Financial analysis

Components of BWC/IC's Statements of Net Assets and Statements of Revenues, Expenses and Changes in Net Assets as of June 30, 2009, June 30, 2008, and June, 30, 2007, and for the years then ended were as follows (000's omitted):

	2009	2008	2007
Current assets	$ 2,260,793	$ 1,921,520	$ 1,953,056
Noncurrent assets	20,159,556	20,460,454	20,187,730
Total assets	$22,420,349	$22,381,974	$22,140,786
Current liabilities	$ 2,791,337	$ 2,625,578	$ 2,697,850
Noncurrent liabilities	17,113,670	17,253,107	17,137,390
Total liabilities	$19,905,007	$19,878,685	$19,835,240
Net assets invested in capital assets, net of related debt	$ 24,058	$ 18,368	$ 5,179
Unrestricted net assets	2,491,284	2,484,921	2,300,367
Total net assets	$ 2,515,342	$ 2,503,289	$ 2,305,546
Net premium and assessment income, including provision for uncollectibles	$2,360,930	$2,138,402	$ 2,395,421
Assessment income due to statutory change	-	-	1,875,512
Other income	17,197	22,247	17,703
Total operating revenues	$2,378,127	$2,160,649	$ 4,288,636
Workers' compensation benefits and compensation adjustment expenses	$2,073,534	$2,587,483	$ 2,667,148
Other expenses	92,536	94,364	100,527
Total operating expenses	$2,166,070	$2,681,847	$ 2,767,675
Operating transfers out	$ (5,049)	$ -	$ -
Net investment income (loss)	(194,735)	719,160	911,430
Loss on disposal of capital assets	(220)	(219)	(224)
Increase in net assets	$ 12,053	$ 197,743	$ 2,432,167

BWC/IC's total net assets increased by $12 million during fiscal year 2009, compared to a $198 million increase during fiscal year 2008.

- Net premium and assessment income exceeded workers' compensation benefits and compensation adjustment expenses by $287 million in fiscal year 2009. In fiscal year 2008, workers' compensation benefits and compensation adjustment expenses exceeded net premium and assessment income by $449 million.
- Workers' compensation benefits and compensation adjustment expenses were $2.1 billion in fiscal year 2009, compared to $2.6 billion in fiscal year 2008. This decrease is primarily attributable to continuing favorable improvements in medical payments, lump sum settlements, and loss development during the last 12 months. An offset to these decreases is an increase in liability due to the lowering of the discount rate from 5.0 percent to 4.5 percent.

Continued

- The favorable trends in medical payments resulted in a change to the medical inflation assumptions used in the fiscal year 2009 actuarial evaluation. Medical inflation is assumed to be 6.0 percent in the first year of development, increasing by 1.0 percent in each of the next two years, with a long-term inflation assumption of 9.0 percent. The fiscal year 2008 actuarial evaluation used a long term medical inflation assumption of 9.0 percent beginning in the first year of development. Medical reserves for claims occurring on or before June 30, 2008 declined by $732 million in fiscal year 2009. In fiscal year 2008, the medical reserves for claims occurring on or before June 30, 2007 declined by $701 million.

- In fiscal year 2009, BWC/IC recorded net investment losses of $195 million, compared to net investment income of $719 million in fiscal year 2008. The decline in net investment income was primarily attributable to a $928 million decline in the fair value of the investment portfolio in fiscal year 2009.

- A total of 67 private equity partnerships have been sold by BWC/IC since June 2007 for total proceeds of $400 million. All proceeds from the private equity sales were reinvested in the passively managed large-cap domestic equity portfolio. At June 30, 2009, there remains one private equity fund investment owned by BWC/IC, that is being liquidated via its own portfolio asset sales and resulting distributions to its investors. Cash distributions totaling $13.1 million were received in fiscal year 2009 from the coin fund liquidation firm contracted by the State to oversee the liquidation of the remaining coin fund related assets.

- Ohio House Bill 100 passed in June 2007, granting BWC/IC the authority to assess employers in future periods for amounts needed to fund the Disabled Workers' Relief Fund (DWRF). BWC/IC recorded an unbilled receivable equal to DWRF's discounted reserve for compensation and compensation adjustment expenses in the statement of net assets. This statutory change resulted in premium and assessment income increasing by $1.9 billion in fiscal year 2007.

As of June 30, 2009 and June 30, 2008, BWC/IC had debt in special obligation bonds of $80.7 million and $97.3 million, respectively. These bonds were issued in 2003, through the Ohio Building Authority (OBA) to refund the 1993 William Green Building Series A bonds. The bonds are collateralized by lease rental payments pledged by BWC/IC to OBA. These bonds were rated Aa3 by Moody's Investors Service, Inc.

Continued

Conditions expected to affect financial position or results of operations

BWC/IC has identified four areas of focus for comprehensive improvements to the workers' compensation system:

- Provide stable costs to avoid unexpected financial hardship for employers;
- Develop better services to clearly demonstrate BWC/IC's value and enhance Ohio's quality of life;
- Establish accurate rates to fairly match rates with risks and to ensure proper distribution of costs among all employers; and
- Create safe workplaces by promoting safety awareness to prevent claims that cause loss.

Private employer base rates decreased an average of 12 percent for premiums effective July 1, 2009 preceded by a 5 percent premium rate decrease effective July 1, 2008. BWC/IC decreased public employer taxing district premiums by an average of 5 percent for the January 1, 2009 policy year. Premium rates for state agencies, universities, and university hospitals decreased by 10 percent effective July 1, 2008 followed by a 3.75 percent reduction for July 1, 2009.

The BWC Board of Directors approved a comprehensive rate reform plan to set rates more accurately and equitably. The maximum discount for group rated employers has been reduced to 77 percent and a 100 percent cap has been placed on increases to an employer's experience modifier to limit extreme premium swings for many employers. The deductible program and group retrospective plans are two new insurance options designed to lower out-of-pocket costs for employers and to improve safety for workers.

BWC/IC will continue to work with internal and external customers to create new, responsive rating plans that promote employer/employment growth in Ohio, including implementing a split-experience rating plan and the development of a properly priced group-rating structure.

Paid medical costs for workers' compensation claims were almost $45 million, or 5.2 percent, lower than expected medical costs for fiscal year 2009. The reduced costs continue a positive trend by BWC/IC and other Ohio stakeholders to implement containment measures designed to curb increasing medical costs. Medical costs now account for approximately 50.3 percent of the total benefits for private employers and almost 58 percent for public taxing district employers, compared to approximately 48.7 percent for private employers and 50.6 percent for public taxing district employers for injuries occurring during 1997.

Injured worker access to high-quality medical care is accomplished by establishing appropriate benefit plans and terms of service with competitive fee schedules which, in turn, enhances the medical provider network. BWC/IC has begun to improve the medical, vocational rehabilitation and pharmaceutical benefits plans by revising the benefit plan and corresponding fee schedules. This includes instituting annual reviews, expanding prior authorization drug categories for those drugs not typically used to treat workers' compensation injuries, and limiting coverage of certain drugs to their FDA approved uses. Medical resources and research will be expanded through a partnership with The Ohio State University's College of Public Health.

The State Insurance Fund Investment Policy Statement (IPS) has been updated to provide further diversification within both fixed income and equity investments. The portfolio will remain passively managed and will be comprised of 70 percent fixed income and 30 percent equities. The IPS aims to reduce portfolio risk and lessen the impact of market volatility while ensuring there are sufficient assets to support the liabilities.

Continued

From time to time, BWC/IC is involved in judicial proceedings arising in the ordinary course of its business. BWC/IC will vigorously defend these suits and expects to prevail; however, there can be no assurance that we will be successful in our defense. During fiscal year 2008, BWC/IC settled a lawsuit with the Ohio Hospital Association disputing fee schedules that were not adopted through the Ohio Revised Code Chapter 119 rules process. A total of $63 million has been paid in settlement of this lawsuit with an approximately $10 million liability accrued and remaining to be paid as of June 30, 2009.

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INDEPENDENT AUDITORS' REPORT

Ohio Bureau of Workers' Compensation and Industrial Commission of Ohio
(A Department of the State of Ohio)
Columbus, Ohio

We have audited the accompanying statements of net assets of the Ohio Bureau of Workers' Compensation and Industrial Commission of Ohio (BWC/IC), a department of the State of Ohio (State), as of June 30, 2009 and 2008 and the related statements of revenues, expenses and changes in net assets and cash flows for the years then ended. These financial statements are the responsibility of the BWC/IC's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As discussed in Note 1, the financial statements of BWC/IC are intended to present the financial position and changes in financial position and cash flows of only that portion of the governmental activities, business-type activities, major funds and remaining fund information of the State that is attributable to the transactions of BWC/IC. They do not purport to, and do not, present fairly the financial position and changes in financial position and cash flows, where applicable, of the State in conformity with accounting principles generally accepted in the United States of America.

In our opinion, the financial statements referred to above present fairly, in all material aspects, the financial position of the BWC/IC as of June 30, 2009 and 2008 and the changes in its net assets and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated September 30, 2009 on our consideration of the BWC/IC's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of

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that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audits.

The Management's Discussion and Analysis and required supplemental revenue and reserve development information on Pages 1 through 5 and 30 through 31, respectively, are not a required part of the basic financial statements but are supplementary information required by accounting principles generally accepted in the United States of America. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was conducted for the purpose of forming an opinion on the financial statements that comprise BWC/IC's basic financial statements. The supplemental schedule of net assets and schedule of revenues, expenses, and changes in net assets included in Pages 32 through 34 are presented for purposes of additional analysis and are not a required part of the basic financial statements. This supplemental information has not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we express no opinion on it.

Schneider, Downs & Co., Inc.

Columbus, Ohio
September 30, 2009

OHIO BUREAU OF WORKERS' COMPENSATION
AND
INDUSTRIAL COMMISSION OF OHIO
(A DEPARTMENT OF THE STATE OF OHIO)

STATEMENTS OF NET ASSETS

June 30, 2009 and 2008

(000's omitted)

	2009	2008
ASSETS		
Current assets:		
Cash and cash equivalents (Note 2)	$ 504,313	$ 378,078
Collateral on loaned securities (Note 2)	6,076	2,933
Premiums in course of collection	812,831	858,949
Assessments in course of collection	186,906	212,562
Accounts receivable, net of allowance for uncollectibles of $988,162 in 2009; $882,730 in 2008	211,042	184,583
Investment trade receivables	346,239	81,315
Accrued investment income	186,206	200,414
Other current assets	7,180	2,686
Total current assets	2,260,793	1,921,520
Noncurrent assets:		
Fixed maturities, at fair value (Note 2)	13,050,126	13,723,521
Domestic equity securities:		
Common stocks, at fair value (Note 2)	3,512,366	3,158,589
Preferred stocks, at fair value (Note 2)	3,841	5,794
International securities, at fair value (Note 2)	-	78
Investments in limited partnerships, at fair value (Note 2)	161	15,427
Unbilled premiums receivable	3,205,975	3,157,579
Retrospective premiums receivable	282,372	283,720
Capital assets (Notes 3 and 5)	103,737	114,530
Restricted cash (Note 2)	978	1,216
Total noncurrent assets	20,159,556	20,460,454
Total assets	$ 22,420,349	$ 22,381,974

	2009	2008
LIABILITIES		
Current liabilities:		
Reserve for compensation (Note 4)	$ 1,823,493	$ 1,892,226
Reserve for compensation adjustment expenses (Note 4)	479,038	481,030
Warrants payable	32,371	37,164
Bonds payable (Notes 5 and 6)	15,930	16,005
Investment trade payables	401,074	129,896
Accounts payable	3,649	7,687
Obligations under securities lending (Note 2)	6,076	2,933
Other current liabilities (Note 6)	29,706	58,637
Total current liabilities	2,791,337	2,625,578
Noncurrent liabilities:		
Reserve for compensation (Note 4)	15,602,880	15,708,119
Reserve for compensation adjustment expenses (Note 4)	1,340,961	1,353,964
Premium payment security deposits (Note 6)	88,474	88,918
Bonds payable (Notes 5 and 6)	64,727	81,281
Other noncurrent liabilities (Note 6)	16,628	20,825
Total noncurrent liabilities	17,113,670	17,253,107
Total liabilities	$ 19,905,007	$ 19,878,685
Commitments and contingencies (Note 9)		
NET ASSETS		
Invested in capital assets, net of related debt	24,058	18,368
Unrestricted net assets	2,491,284	2,484,921
Total net assets (Note 10)	$ 2,515,342	$ 2,503,289

The accompanying notes are an integral part of the financial statements.

OHIO BUREAU OF WORKERS' COMPENSATION
AND
INDUSTRIAL COMMISSION OF OHIO
(A DEPARTMENT OF THE STATE OF OHIO)

STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN NET ASSETS

For the years ended June 30, 2009 and 2008

(000's omitted)

	2009	2008
Operating revenues:		
Premium income	$ 1,896,525	$ 1,851,763
Assessment income	573,025	383,329
Provision for uncollectibles	(108,620)	(96,690)
Other income	17,197	22,247
Total operating revenues	2,378,127	2,160,649
Operating expenses:		
Workers' compensation benefits (Note 4)	1,667,092	2,180,823
Compensation adjustment expenses (Note 4)	406,442	406,660
Personal services	44,284	50,564
Other administrative expenses	48,252	43,800
Total operating expenses	2,166,070	2,681,847
Net operating income (loss)	212,057	(521,198)
Non-operating (loss) revenues:		
Net investment (loss) income (Note 2)	(194,735)	719,160
Loss on disposal of capital assets	(220)	(219)
Total non-operating (loss) revenues	(194,955)	718,941
Net transfers out	(5,049)	-
Increase in net assets	12,053	197,743
Net assets, beginning of year	2,503,289	2,305,546
Net assets, end of year	$ 2,515,342	$ 2,503,289

The accompanying notes are an integral part of the financial statements.

OHIO BUREAU OF WORKERS' COMPENSATION
AND
INDUSTRIAL COMMISSION OF OHIO
(A DEPARTMENT OF THE STATE OF OHIO)

STATEMENTS OF CASH FLOWS

For the years ended June 30, 2009 and 2008

(000's omitted)

	2009	2008
Cash flows from operating activities:		
Cash receipts from premiums and assessments	$ 2,510,392	$ 2,538,165
Cash receipts - other	35,611	32,489
Cash disbursements for claims	(2,128,360)	(2,237,987)
Cash disbursements to employees for services	(246,428)	(244,568)
Cash disbursements for other operating expenses	(77,746)	(83,005)
Cash disbursements for employer refunds	(102,196)	(127,142)
Net cash used for operating activities	(8,727)	(122,048)
Cash flows from noncapital financing activities:		
Operating transfers in	3,289	3,179
Operating transfers out	(8,338)	(3,179)
Net cash used by noncapital financing activities	(5,049)	-
Cash flows from capital and related financing activities:		
Purchase of capital assets, net of retirements	(2,013)	(9,401)
Principal and interest payments on bonds	(20,601)	(20,346)
Net cash used in capital and related financing activities	(22,614)	(29,747)
Cash flows from investing activities:		
Investments sold	3,561,024	7,017,302
Investments matured	-	6,037
Investments purchased	(4,145,874)	(7,667,843)
Interest and dividends received	752,293	859,795
Investment expenses	(4,818)	(13,333)
Net cash provided by investing activities	162,625	201,958
Net increase in cash and cash equivalents	126,235	50,163
Cash and cash equivalents, beginning of year	378,078	327,915
Cash and cash equivalents, end of year	$ 504,313	$ 378,078

The accompanying notes are an integral part of the financial statements.

OHIO BUREAU OF WORKERS' COMPENSATION
AND
INDUSTRIAL COMMISSION OF OHIO
(A DEPARTMENT OF THE STATE OF OHIO)

STATEMENTS OF CASH FLOWS, Continued

For the years ended June 30, 2009 and 2008

(000's omitted)

	2009	2008
Reconciliation of net operating (loss) to net cash used for operating activities:		
Net operating income (loss)	$ 212,057	$ (521,198)
Adjustments to reconcile net operating income (loss) to net cash used for operating activities:		
Provision for uncollectible accounts	108,620	96,690
Depreciation	12,586	11,579
Amortization of discount and issuance costs on bonds payable	3,972	4,556
Unclaimed Intentional Tort Fund premiums	-	(5,687)
(Increases) decreases in assets and increases (decreases) in liabilities:		
Premiums and assessments in course of collection	71,774	1,448
Unbilled premiums receivable	(48,396)	203,197
Accounts receivable	(135,079)	(110,392)
Retrospective premiums receivable	1,348	6,330
Other assets	(4,494)	450
Restricted cash	238	348
Reserves for compensation and compensation adjustment expenses	(188,967)	164,145
Premium payment security deposits	(444)	1,110
Warrants payable	(4,793)	(8,375)
Accounts payable	(4,038)	(1,778)
Other liabilities	(33,111)	35,529
Net cash used for operating activities	$ (8,727)	$ (122,048)
Noncash investing, capital and financing activities		
Change in fair values of investments	$ (928,019)	$ (143,510)

The accompanying notes are an integral part of the financial statements.

1. Background and Summary of Significant Accounting Policies

Organization

The Ohio Bureau of Workers' Compensation (BWC) and the Industrial Commission of Ohio (IC) were created in 1912 and 1925, respectively, and are the exclusive providers of workers' compensation insurance to private and public employers in Ohio that have not been granted the privilege of paying compensation and medical benefits directly (self-insured employers). BWC and IC are collectively referred to herein as BWC/IC. BWC/IC was created and is operated pursuant to Chapters 4121, 4123, 4127, and 4131 of the Ohio Revised Code (the Code).

The Governor of the State of Ohio (the State) appoints the BWC Administrator and the three members of the IC. In June 2007, House Bill 100 created a new 11-member BWC Board of Directors (Board), which replaced the Workers' Compensation Oversight Commission. All members have full voting rights. On July 31, 2007, the Governor named the members to the Board, effectively abolishing the Workers' Compensation Oversight Commission. The BWC Administrator, with the advice and consent of the Board, is responsible for the operations of the workers' compensation system, while the IC is responsible for administering claim appeals.

BWC/IC is a department of the primary government of the State and is a proprietary operation for purposes of financial reporting. The accompanying financial statements include all accounts, activities and functions of BWC/IC and are not intended to present the financial position, results of operations or cash flows of the State taken as a whole. The financial information presented herein for BWC/IC will be incorporated within the State's financial statements.

Basis of Presentation

BWC/IC has prepared its financial statements in accordance with accounting principles generally accepted in the United States of America. Accordingly, these financial statements were prepared using the accrual basis of accounting and the economic resources measurement focus. For internal reporting purposes, BWC/IC maintains separate internal accounts as required by the Code. For external financial reporting purposes, BWC/IC has elected to report as a single column business-type activity, since the individual accounts do not have external financial reporting accountability requirements. All significant interaccount balances and transactions have been eliminated.

Continued

Pursuant to Governmental Accounting Standards Board (GASB) Statement No. 20, "Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities That Use Proprietary Fund Accounting," BWC/IC follows GASB guidance as applicable to proprietary funds and Financial Accounting Standards Board Statements and Interpretations, Accounting Principles Board Opinions, and Accounting Research Bulletins issued on or before November 30, 1989 that do not conflict with or contradict GASB pronouncements. As permitted by Generally Accepted Accounting Standards, BWC/IC has elected not to apply Financial Accounting Standards Board Statements and Interpretations issued after November 10, 1989.

BWC/IC administers the following accounts:

State Insurance Fund (SIF)
Disabled Workers' Relief Fund (DWRF)
Coal-Workers Pneumoconiosis Fund (CWPF)
Public Work-Relief Employees' Fund (PWREF)
Marine Industry Fund (MIF)
Self-Insuring Employers' Guaranty Fund (SIEGF)
Administrative Cost Fund (ACF)

Description of the Accounts

SIF, CWPF, PWREF and MIF provide workers' compensation benefits to qualifying employees sustaining work-related injuries or diseases.

DWRF provides supplemental cost-of-living benefits to persons who are permanently and totally disabled and are receiving benefits from SIF or PWREF. The maximum benefit levels are changed annually based on the United States Department of Labor National Consumer Price Index.

SIEGF provides for the payment of compensation and medical benefits to employees of self-insured employers that are bankrupt or in default.

ACF provides for the payment of administrative and operating costs of all accounts except DWRF, CWPF and MIF, which pay such costs directly. ACF also includes the portion of premiums paid by employers earmarked for the safety and loss prevention activities performed by the Safety & Hygiene Division.

Operating revenues and expenses generally result from providing services in connection with ongoing operations. Operating revenues are primarily derived from premiums and assessments. Operating expenses include the costs of claims and related administrative expenses. All revenues and expenses not meeting this definition are reported as non-operating revenues and expenses.

Continued

The GASB has recently issued the following new accounting pronouncements that will be effective in future years and may be relevant to BWC/IC:

- GASB No. 51, "Accounting and Financial Reporting for Intangible Assets"
- GASB No. 54, "Fund Balance Reporting"

Management has not yet determined the impact that these new GASB Pronouncements will have on BWC/IC's financial statements.

Cash and Cash Equivalents

Cash and cash equivalents in the accompanying statements of net assets and for the purposes of the statements of cash flows include cash and all highly liquid debt instruments purchased with a maturity of three months or less. Cash equivalents are stated at amortized cost, which approximates fair value.

Investments

BWC/IC's investments consist of fixed maturities, domestic equity securities, international securities, collateral on securities lending, investments in limited partnerships, investments in a commingled bond index fund, and investments in a commingled equity index fund.

Investments in fixed maturities, domestic equity securities, commingled equity funds, and commingled bond index funds are stated at fair value. Fair values of fixed maturities are based on quotations from national security exchanges. Fair values of domestic and international equity securities are based on quotations from national or international exchanges and are valued at the last reported sales price at current exchange rates. The fair value of the commingled bond index funds and commingled equity funds are based on the value of the underlying net assets of the fund. Dividends, interest earnings, the net increase (decrease) in the fair value of investments (which includes both the change in fair value and realized gains and losses), and investment expenses are aggregated and reported as net investment income in the statements of revenues, expenses and changes in net assets. The cost of securities sold is determined using the average cost method. Purchases and sales of investments are recorded as of the trade date.

Prior to fiscal year 2008, BWC/IC, through the use of 68 outside money managers, participated as a limited partner in partnerships investing in equities, bonds, notes and other assets. Investments in limited partnerships were stated at fair value. Limited partnerships are generally valued-based on March 31 net asset values plus or minus purchases, sales and cash flows from April 1 through June 30 of the reporting year. During fiscal year 2009, one limited partnership was sold and a $752 thousand loss was recognized. During fiscal year 2008, 66 of the 68 private equity partnerships were sold. Net losses of $51.2 million from the private equity partnerships were recognized during fiscal year 2008. BWC/IC had no unfunded commitments to the limited partnerships at June 30, 2009 or 2008.

Continued

Restricted Cash

Restricted cash balances are maintained in accordance with the 2003 bond agreement for special obligation bonds issued through the Ohio Building Authority.

Premium Income

SIF, CWPF, PWREF and MIF premium income is recognized over the coverage period and is collected in subsequent periods for all accounts except MIF, which collects premiums in advance of the coverage period. Premiums earned but not yet invoiced are reflected as premiums in course of collection in the statements of net assets. Premiums are based on rates that are approved by the Board and on the employers' payroll, except self-insured employer assessments, which are based on paid compensation. SIF rates for private and public taxing district employers meeting certain size criteria are adjusted automatically based on their own claims experience.

Retrospective rating plans and group rating plans are offered to qualified employers. SIF recognizes estimated ultimate premium income on retrospectively rated businesses during the coverage period. Retrospective rating adjustments related to the coverage period are collected in subsequent periods, as experience develops on injuries incurred during the coverage period. The estimated future retrospective rating adjustments are reflected in the statements of net assets as retrospective premiums receivable.

The Code permits State employers to pay into SIF on a terminal funding (pay-as-you-go) basis. Additionally, certain benefits are paid from the SIF Surplus Fund (see Note 10) for self-insured employers. Because BWC/IC has the statutory authority to assess premiums against the State and self-insured employers in future periods, an unbilled premiums receivable equal to their share of the discounted reserve for compensation and compensation adjustment expenses, less BWC/IC's portion of the discounted reserve, is reflected in the statements of net assets.

Assessment Income

DWRF I (DWRF benefits awarded for injuries incurred prior to January 1, 1987) and ACF assessment income is recognized over the period for which the assessment applies and is collected in subsequent periods. These amounts are reflected as assessments in course of collection in the statements of net assets. DWRF II (DWRF benefits awarded for injuries incurred on or after January 1, 1987) and SIEGF assessments received or in the course of collection, but not yet recognized, are reflected as a reduction to unbilled premiums receivable.

The Code permits employers to pay into DWRF and SIEGF on a terminal funding (pay-as-you-go) basis. Because BWC has the statutory authority to assess employers in future periods, an unbilled premiums receivable equal to the discounted reserve for compensation and compensation adjustment expenses for DWRF and SIEGF, less BWC/IC's portion of the discounted reserve, is reflected in the statements of net assets.

DWRF I assessments are based on employers' payroll and a statutorily determined rate. DWRF II and ACF assessments are based on rates that are approved by the Board and on

Continued

employers' payroll, except for ACF assessments of self-insured employers, which are based on paid workers' compensation benefits. SIEGF assessments are based on the financial strength of self-insured employers and paid workers' compensation benefits with the exception of new self-insured employers, which are based on a percentage of base-rated premium.

Premium Payment Security Deposits

Premium payment security deposits are collected in advance from private employers to reduce credit risk for premiums collected in subsequent periods. A deposit is submitted upon application for coverage and generally represents 30% of an estimated eight-month premium, with a maximum deposit of $1 thousand. The deposit is applied to outstanding premiums or refunded to the employer upon cancellation of coverage.

Allowance for Uncollectible Accounts

BWC/IC provides an allowance for uncollectible accounts by charging operations for estimated receivables that will not be collected. The adequacy of the allowance is determined by management based on a review of aged receivable balances and historical loss experience.

Capital Assets

Capital assets are carried at cost, net of accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful lives of the assets as follows:

Description	Estimated Useful Lives (Years)
Buildings	30
Furniture and fixtures	10
Vehicles and equipment	5

When assets are disposed of, the cost and related accumulated depreciation are removed from the accounts, and any resulting gain or loss is recognized in the statements of revenues, expenses and changes in net assets. The cost of maintenance and repairs is charged to operations as incurred; significant renewals and betterments are capitalized.

Reserves for Compensation and Compensation Adjustment Expenses

The reserve for compensation includes actuarial estimates for both reported claims and claims incurred but not reported (IBNR). The reserve for compensation adjustment expenses is determined by estimating future expenses to be incurred in settlement of the claims. The reserve for compensation is based on the estimated ultimate cost of settling the claims, including the effects of inflation and other societal and economic factors and projections as to future events, including claims frequency, severity, persistency and inflationary trends for medical claim reserves. The reserve for compensation adjustment expenses is based on

Continued

projected claim-related expenses, estimated costs of the managed care Health Partnership Program, and the reserve for compensation. The methods of making such estimates and for establishing the resulting liabilities are reviewed quarterly and updated based on current circumstances. Any adjustments resulting from changes in estimates are recognized in the current period. The reserves for compensation and compensation adjustment expenses are discounted at 4.5% at June 30, 2009 and 5.0% at June 30, 2008 to reflect the present value of future benefit payments. The selected discount rate approximates an average yield on United States government securities with a duration similar to the expected claims underlying BWC/IC's reserves.

Management believes that the recorded reserves for compensation and compensation adjustment expenses make for a reasonable and appropriate provision for expected future losses. While management uses available information to estimate the reserves for compensation and compensation adjustment expenses, future changes to the reserves for compensation and compensation adjustment expenses may be necessary based on claims experience and changing claims frequency and severity conditions.

Income Taxes

As a department of the State, the income of BWC/IC is not subject to federal or state income tax.

Use of Estimates

In preparing the financial statements, management is required to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities as of the date of the financial statements and the reported amounts of revenues and expenses for the reporting period. Actual results could differ from those estimates.

Reclassification

Certain 2008 financial statement amounts have been reclassified in order to conform to their 2009 presentation.

Continued

2. Cash and Investments

BWC/IC is authorized by Section 4123.44 of the Code to invest using an investment policy established by the Board, which uses the prudent person standard. The prudent person standard requires investments be made with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and by diversifying the investments of the assets so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

Custodial Credit Risk – Deposits

The custodial credit risk for deposits is the risk that in the event of a bank failure, BWC/IC's deposits may not be recovered. Banks must provide security for all public funds on deposit. These institutions may either specifically collateralize individual accounts in addition to amounts insured by the Federal Deposit Insurance Corporation (FDIC), or may pledge a pool of government securities valued at least 105% of the total value of public monies on deposit at the institution. At June 30, 2009 and 2008, the carrying amount of BWC/IC's cash deposits were $15.133 million and $13.263 million, respectively, and the bank balances were $12.213 million and $12.085 million, respectively. The entire bank balance is insured through December 31, 2009 by FDIC as BWC's financial institution is participating in the Temporary Liquidity Guarantee Program. Additionally, the bank deposits are covered by collateral held in the name of BWC/IC's pledging financial institution, as required by state statute. BWC/IC is not exposed to custodial credit risk for these bank deposits.

Custodial Credit Risk – Investments

Custodial credit risk for investments is the risk that, in the event of a failure of a counter party to a transaction, BWC/IC will not be able to recover the value of the investment or collateral securities that are in the possession of an outside party. At June 30, 2009, BWC/IC has $304 million held by the investments' counterparty and thus exposed to custodial credit risk. The Board approved the use of commingled passively managed equity and bond index funds for portions of the specialty account investment portfolios. These commingled funds are held in BWC's name at the respective counterparty. At June 30, 2008, BWC/IC's investments were not exposed to custodial credit risk, as all investments were held in the name of BWC/IC by the Treasurer of the State of Ohio as custodian.

Continued

The composition of investments held at June 30, 2009 and 2008 is presented below.

	2009 Fair Value	2008 Fair Value
Fixed maturities:		
Corporate bonds	$ 4,136,273	$ 4,406,190
U.S. government agency obligations	545,146	777,250
Corporate mortgage backed securities	-	246
U.S. government obligations	3,968,766	4,061,015
U.S. state and local government agency	283,375	226,004
Treasury inflationary index notes	3,455,575	3,663,090
Yankee bonds	238,765	207,874
Sovereign bonds	347,744	340,162
Supranational issues	34,288	41,690
Commingled bond index	40,194	-
Total fixed maturities	13,050,126	13,723,521
Domestic equity securities:		
Common stocks	3,512,366	3,158,589
Preferred stocks	3,841	5,794
International securities:	-	78
Securities lending short-term collateral	6,076	2,933
Investments in limited partnerships	161	15,427
Cash and cash equivalents:		
Cash	15,133	13,263
Short-term money market fund	489,180	364,815
Total cash and cash equivalents	504,313	378,078
	$ 17,076,883	$ 17,284,420

Net investment (loss) income for the years ended June 30, 2009 and 2008 is summarized as follows (000's omitted):

	2009	2008
Fixed maturities	$ 648,265	$ 779,549
Commingled bond index fund	382	11,603
Equity securities	84,060	63,525
Investments in limited partnerships	-	4,621
Cash equivalents	5,378	17,493
Total interest and dividends	738,085	876,791
Decrease in fair value of investments	(928,019)	(143,510)
Investment expenses	(4,801)	(14,121)
	$ (194,735)	$ 719,160

Continued

Short-Term Money Market Fund

The underlying securities in the short-term money market fund are high-quality, short-term debt securities issued or guaranteed by the U.S. government or by U.S. government agencies or instrumentalities and repurchase agreements fully collateralized by U.S. Treasury and U.S. government securities. This U.S. Government Money Market Fund carries a AAA credit rating. Although the Fund is generally less sensitive to interest rate changes than are funds that invest in longer-term securities, changes in short-term interest rates will cause changes to the Fund's yield resulting in some interest rate risk.

Interest Rate Risk – Fixed-Income Securities

Interest rate risk is the risk that changes in interest rates of debt investments will adversely affect the fair value of an investment. Generally, the longer the maturity of an investment, the greater the sensitivity of its fair value to changes in market interest rates. BWC/IC manages the exposure to fair value loss arising from increasing interest rates by requiring that each fixed-income portfolio be invested with duration characteristics that are within a range from a maximum duration equal to the Barclays Capital Long U.S. Government/Credit Index to a minimum duration equal to the Barclays Capital Intermediate U.S. Government/Credit Index.

Duration is a measure of a debt investment's exposure to fair value changes arising from changing interest rates. It uses the present value of cash flow, weighted for those cash flows as a percentage of the investment's full price. Effective duration makes assumptions regarding the most likely timing and amounts of variable cash flows arising from such investments such as callable bonds, prepayments, and variable-rate debt. The effective duration measures the sensitivity of the market price to parallel shifts in the yield curve.

At June 30, 2009 and 2008, the effective duration of BWC's fixed-income portfolio is as follows ($ in thousands):

	June 30, 2009		June 30, 2008	
Investment Type	Fair Value	Effective Duration	Fair Value	Effective Duration
Corporate bonds	$ 4,136,273	11.22	$ 4,406,190	11.33
Yankee bonds	238,765	11.04	207,874	11.00
U.S. government agency obligations	545,146	8.77	777,250	8.59
Corporate mortgage backed securities	-	-	246	4.14
U.S. government obligations	3,968,766	11.32	4,061,015	10.58
Sovereign bonds	347,744	7.75	340,162	8.24
Supranational issues	34,288	11.51	41,690	11.64
Commingled bond index	40,194	3.86	-	-
U.S. state and local government agencies	283,375	11.57	226,004	12.05
Treasury inflationary index notes	3,455,575	4.00	3,663,090	7.33
Total Fixed Maturities	$ 13,050,126		$ 13,723,521	

Continued

Credit Risk – Fixed-Income Securities

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligation to the holder of the investment. BWC/IC manages the exposure to investment credit risk by requiring an average credit quality no lower than an A rating. Government agency obligations have an implied AAA rating. Obligations of the U.S. government are explicitly guaranteed by the U.S. government and are not considered to have credit risk.

BWC/IC's fixed-income securities were rated by Standard and Poor's (S&P) and/or an equivalent national rating organization and the ratings are presented below using the S&P rating scale (000's omitted). In fiscal year 2009, $40 million in fixed maturities is held in a commingled bond index fund in the custody of counterparty, while the remaining balance presented as of June 30, 2009 was held by the custodian on behalf of BWC/IC. In fiscal year 2008, all fixed maturity holdings were held by the custodian on behalf of BWC/IC.

Quality Rating	2009 Fair Value	2008 Fair Value
AAA	$ 193,956	$ 311,321
AA	619,068	545,132
A	2,188,753	2,306,172
BBB	2,001,417	2,000,690
BB	74,812	58,851
Not rated	2,633	-
Total credit risk debt securities	5,080,639	5,222,166
Government agency obligations	545,146	777,250
U.S. government obligations	3,968,766	4,061,015
Treasury inflationary index notes	3,455,575	3,663,090
Total fixed maturities	$ 13,050,126	$ 13,723,521

Concentration of Credit Risk

Concentration of credit risk is the risk of loss that may be attributed to the magnitude of a government's investment in a single issuer. In 2009 and 2008, there is no single issuer that comprises 5% or more of the overall portfolio.

Foreign Currency Risk – Investments

Foreign currency risk is the risk that changes in exchange rates will adversely affect the fair value of an investment. BWC's exposure to foreign currency risk as of June 30, 2009 and 2008 is as follows (000's omitted):

Currency	2009 Fair Value	2008 Fair Value
Euro	-	$ 78

Continued

Securities Lending

At June 30, 2009 and 2008, BWC/IC had no securities out on loan. BWC/IC has been allocated with cash collateral of $6 million in 2009 and $3 million in 2008 from the securities lending program administered through the Treasurer of State's Office based on the amount of cash equity the State's common cash and investment account.

3. Capital Assets

Capital asset activity and balances as of and for the years ended June 30, 2009 and 2008 are summarized as follows (000's omitted):

	Balance at 6/30/2007	Increases	Decreases	Balance at 6/30/2008	Increases	Decreases	Balance at 6/30/2009
Capital assets not being depreciated							
Land	$ 11,994	-	-	$ 11,994	-	-	$ 11,994
Capital assets being depreciated							
Buildings	205,189	$ 373	-	205,562	$ 209	-	205,771
Furniture and equipment	54,686	9,148	$ (18,680)	45,154	1,829	$ (12,258)	34,725
Land improvements	66	-	-	66	-	-	66
Subtotal	259,941	9,521	(18,680)	250,782	2,038	(12,258)	240,562
Accumulated depreciation							
Buildings	(111,450)	(6,787)	-	(118,237)	(6,787)	-	(125,024)
Furniture and equipment	(43,506)	(4,791)	18,341	(29,956)	(5,798)	12,013	(23,741)
Land improvements	(52)	(1)	-	(53)	(1)	-	(54)
Subtotal	(155,008)	(11,579)	18,341	(148,246)	(12,586)	12,013	(148,819)
Net capital assets	$ 116,927	$ (2,058)	$ (339)	$ 114,530	$ (10,548)	$ (245)	$ 103,737

4. Reserves for Compensation and Compensation Adjustment Expenses

The reserve for compensation consists of reserves for indemnity and medical claims resulting from work-related injuries or illnesses. The recorded liability for compensation and compensation adjustment expenses is based on an estimate by BWC/IC's independent consulting actuary. Management believes that the recorded liability makes for a reasonable and appropriate provision for expected future losses; however, the ultimate liability may vary from the amounts provided.

All reserves have been discounted at 4.5% at June 30, 2009 and 5.0% at June 30, 2008. A decrease in the discount rate to 3.5% would result in the reserves for compensation and compensation adjustment expenses increasing to $21.2 billion at June 30, 2009, while an increase in the rate to 5.5% would result in the reserves for compensation and compensation adjustment expenses decreasing to $17.6 billion. A decrease in the discount rate to 4.0% would result in the reserves for compensation and compensation adjustment expenses increasing to $21.4 billion at June 30, 2008, while an increase in the rate to 6.0% would result in the reserves for compensation and compensation adjustment expenses decreasing to $17.8 billion. The undiscounted reserves for compensation and compensation adjustment expenses were $33.7 billion at June 30, 2009 and $36.4 billion at June 30, 2008. The net operating income would have been $190 million lower in fiscal year 2009 and $697 million

Continued

lower in fiscal year 2008, if the reserves for compensation and compensation adjustment expenses were not discounted.

The changes in the reserves for compensation and compensation adjustment expenses for the years ended June 30, 2009 and 2008 are summarized as follows (in millions):

	2009	2008
Reserves for compensation and compensation adjustment expenses, beginning of period	$ 19,435	$ 19,271
Incurred:		
Provision for insured events of current period	2,064	2,219
Net (decrease) increase in provision for insured events of prior periods net of discount accretion of $875 in 2009 and $964 in 2008	(790)	368
Decrease in discount rate	859	-
Total incurred	2,133	2,587
Payments:		
Compensation and compensation adjustment expenses attributable to insured events of current period	458	415
Compensation and compensation adjustment expenses attributable to insured events of prior periods	1,864	2,008
Total payments	2,322	2,423
Reserves for compensation and compensation adjustment expenses, end of period	$ 19,246	$ 19,435

Continued

5. Bonds Payable

On April 22, 2003, BWC/IC issued special obligation bonds through the Ohio Building Authority (OBA) to refund the 1993 William Green Building Series A bonds. The 2003 bonds bear predetermined interest rates ranging from 1.61% to 3.95%, compared to interest rates ranging from 3.25% to 5.125% on the 1993 bonds. The reacquisition price exceeded the net carrying amount of the old debt by $5.1 million. This amount is netted against the new debt and amortized over the life of the new debt. As a result of the refunding, BWC/IC reduced its total debt service requirements by $9.8 million, which resulted in an economic gain of $8.9 million.

The bonds are collateralized by lease rental payments pledged by BWC/IC to OBA. The lease period coincides with the State's biennial budget and is renewable for successive two-year periods until the bonds are retired. Lease payments are based on the estimated debt service of the bonds, but are limited to an amount appropriated by the Ohio General Assembly in BWC/IC's biennial budget. Lease rental payments totaled $20.6 million and $20.4 million for the years ended June 30, 2009 and 2008, respectively. These payments included interest of $4.6 million and $5.3 million for the years ended June 30, 2009 and 2008, respectively.

The building continues to be reflected in capital assets and the related obligation has been reflected as bonds payable in the statements of net assets. Future principal and interest payments are as follows (000's omitted):

Fiscal Year	Principal	Interest	Total
2010	$ 15,930	$ 3,867	$ 19,797
2011	15,865	3,109	18,974
2012	15,890	2,326	18,216
2013	15,915	1,543	17,458
2014	15,200	751	15,951
Deferred loss on refunding	(875)	-	(875)
Unamortized bond premium and issuance costs	2,732	-	2,732
Total	$ 80,657	$ 11,596	$ 92,253

Continued

6. Long-Term Obligations

Activity for long-term obligations (excluding the reserves for compensation and compensation adjustment expenses – see Note 4) for the years ended June 30, 2009 and 2008, is summarized as follows (000's omitted):

	Balance at 6/30/2007	Increases	Decreases	Balance at 6/30/2008	Due Within One Year
Premium payment security deposits	$ 87,808	$ 4,007	$ (2,897)	$ 88,918	-
Bonds payable	113,076	5,848	(21,638)	97,286	$ 16,005
Other liabilities	48,832	113,937	(83,307)	79,462	58,637
	$ 249,716	$ 123,792	$ (107,842)	$ 265,666	$ 74,642

	Balance at 6/30/2008	Increases	Decreases	Balance at 6/30/2009	Due Within One Year
Premium payment security deposits	$ 88,918	$ 1,826	$ (2,270)	$ 88,474	-
Bonds payable	97,286	4,994	(21,623)	80,657	$ 15,930
Other liabilities	79,462	44,571	(77,699)	46,334	29,706
	$ 265,666	$ 51,391	$ (101,592)	$ 215,465	$ 45,636

7. Benefit Plans

Pension Plans

BWC/IC contributes to the Ohio Public Employees Retirement System of Ohio (OPERS). OPERS administers three separate pension plans:

- The Traditional Plan - a cost-sharing, multiple-employer defined benefit pension plan.
- The Member-Directed Plan – a defined contribution plan in which the member invests both member and employer contributions (employer contributions vest over five years at 20% per year). Under this plan, members accumulate retirement assets equal to the value of member and vested employer contributions plus any investment earnings thereon.
- The Combined Plan – a cost-sharing, multiple-employer defined benefit pension plan. Under the Combined Plan, employer contributions are invested by the retirement system to provide a formula retirement benefit similar in nature to the Traditional Plan benefit. Member contributions, the investment of which is self-directed by the members, accumulate retirement assets in a manner similar to the Member-Directed Plan.

OPERS provides retirement, disability, survivor and death benefits, and annual cost-of-living adjustments to members of the Traditional Plan and Combined Plans. Members of the

Continued

Member-Directed Plan do not qualify for ancillary benefits. Benefits are established and may be amended by State statute. OPERS issues a publicly available financial report that includes financial statements and required supplementary information. That report may be obtained by writing to Ohio Public Employees Retirement System, 277 East Town Street, Columbus, Ohio 43215-4642. As of June 30, 2009, the most recent report issued by OPERS is as of December 31, 2008.

Chapter 145 of the Ohio Revised Code provides OPERS statutory authority for employee and employer contributions. For the year ended December 31, 2008, the employee contribution rate was 10%, and the employer contribution rate was 14% of covered payroll. For the year ended December 31, 2007, the employee contribution rate was 9.5%, and the employer contribution rate was 13.77% of covered payroll. BWC/IC's contributions, representing 100% of the dollar amount billed, are as follows (000's omitted):

Twelve months ended June 30, 2009	$24,113
Twelve months ended June 30, 2008	$23,606
Twelve months ended June 30, 2007	$23,179

Post-Retirement Health Care

OPERS provides retirement, disability, survivor and post-retirement health care benefits, which include a medical plan, prescription drug program and Medicare Part B premium reimbursement, to qualifying members of both the Traditional and the Combined Plans; however, health care benefits are not statutorily guaranteed. Members of the Member-Directed Plan do not qualify for ancillary benefits, including post-employment health care coverage. To qualify for post-retirement health care coverage, age and service retirees must have 10 or more years of qualifying Ohio service credit. Health care coverage for disabled recipients and primary survivor recipients is available. The Code provides statutory authority for employer contributions and requires public employers to fund post-retirement health care through their contributions to OPERS.

The health care coverage provided by the retirement system is considered an Other Post-Employment Benefit (OPEB) as described in GASB Statement No. 45, "Accounting and Financial Reporting by Employers for Post-Employment Benefits Other than Pension." The Code provides statutory authority for employer contributions and requires public employers to fund post-retirement health care through their contributions to OPERS.

OPERS's Post-Employment Health Care plan was established under, and is administered in accordance with, Internal Revenue Code 401(h). Each year, the OPERS Retirement Board determines the portion of the employer contribution rate that will be set aside for funding of post employment health care benefits. The portion of the employer's contribution to OPERS set aside for the funding of OPEB was 7.0% for calendar year 2008, compared to 5.0% from January 1 through June 30, 2007, and 6.0% from July 1 through December 31, 2007. Active members do not make contributions to the OPEB Plan. The OPERS Retirement Board is also authorized to establish rules for the payment of a portion of the health care benefits provided, by the retiree or their surviving beneficiaries. Payment amounts vary depending on the number of covered dependents and the coverage selected.

Continued

Based upon the portion of each employer's contribution to OPERS set aside for funding OPEB as described above, BWC/IC's contribution for the 12 months ended June 30, 2009 allocated to OPEB was approximately $12.1 million and $10.3 million for the 12 months ended June 30, 2008.

The Health Care Preservation Plan (HCPP) adopted by the OPERS Retirement Board on September 9, 2004, was effective January 1, 2007. Member and employer contribution rates increased as of January 1, 2006, 2007 and 2008, which allowed additional funds to be allocated to the health care plan.

8. Risk Management

BWC/IC is exposed to various risks of loss related to torts; theft of, damage to and destruction of assets; errors and omissions; injuries to employees; and natural disasters. To cover these risks, BWC/IC maintains commercial insurance and property insurance. There were no reductions in coverage in either fiscal year 2009 or 2008. Claims experience over the past three years indicates there were no instances of losses exceeding insurance coverage. Additionally, BWC/IC provides medical benefits for its employees on a fully insured basis with independent insurance companies or the State's self-insured benefit plan.

9. Contingent Liabilities

BWC/IC is a party in various legal proceedings, which normally occur as part of BWC/IC's operations.

A class action complaint pending in the 8th District Court of Appeals contends that subrogation allowed under Ohio Revised Code 4123.931 is unconstitutional. The Ohio Supreme Court in Holeton v. Crouse Cartage declared the subrogation statute unconstitutional. The trial court certified the class, granted summary judgment to the plaintiffs, and awarded attorney fees. A liability of $50 million was accrued as of June 30, 2005. This case was settled in July 2006, with payments of $46.9 million being made during fiscal year 2007, $1.9 million during fiscal year 2008 and $1.1 million during fiscal year 2009. Management does not expect the ultimate payments to be materially different than the amount accrued.

A class action case was filed alleging that BWC/IC identifies PTD recipients not represented by counsel and encourages them to settle their PTD claims for substantially less than their actuarial present value. The plaintiffs contend that BWC/IC refuses to conduct good-faith settlement negotiations with PTD recipients represented by counsel. The trial court denied BWC/IC's motion to dismiss and/or change of venue, and granted class certification. The 8th District Court of Appeals issued a ruling affirming the trial court's rulings. BWC/IC appealed to the Ohio Supreme Court. In May 2008, the Ohio Supreme Court reversed the Court of Appeals' decision and held that, because this matter is a claim against the state for money due under a contract, and not a claim of equitable restitution, it must be brought before the Ohio Court of Claims. To date, plaintiffs have not filed action in the Court of Claims. Accordingly, no provision for any liability has been reported in the financial statements for this matter.

Continued

BWC/IC was also involved in litigation in which the plaintiff argued that BWC/IC can only change reimbursement rates by promulgating a rule under ORC Chapter 119. The trial court issued a declaration that BWC/IC improperly reduced reimbursement fees to the hospitals. BWC appealed to the 10th District Court of Appeals. A decision was issued in March 2007 affirming the decision of the trial court. BWC/IC did not appeal the decision to the Ohio Supreme Court. BWC/IC has offered to settle with hospitals that may be impacted by this case. In February 2008, BWC/IC sent settlement release agreements to 274 affected hospitals. An estimated liability of $73.7 million was accrued with payments of $33.1 million made during fiscal year 2008 and $30.3 million during fiscal year 2009.

BWC/IC is involved in litigation challenging policies related to lump-sum advancements made to PTD recipients. This action alleges that BWC/IC has improperly recouped monies from PTD recipients by continuing to deduct monies from the plaintiff's benefits in an amount greater than the advance plus interest. The ultimate outcome of the litigation cannot presently be determined. Accordingly, no provision for any liability has been reported in the financial statements for this matter. Management is vigorously defending this case.

A class action case was filed against BWC/IC alleging that non-group-rated employers subsidize group-rated employers, and that this bias in premiums violates various provisions of the Ohio Constitution. Plaintiffs have asked the court to declare the group rating plan unconstitutional and require BWC/IC to repay to the class members all excessive premiums collected by BWC/IC, with interest and attorney fees. In April 2008, plaintiffs filed a motion for a preliminary injunction enjoining BWC/IC from enforcing the group rating statutes during pendency of the action (beginning July 1, 2008). A hearing was held on the injunction request in August 2008. In December 2008 the court issued the requested preliminary injunction restraining BWC from continuing its current group rating plan for the policy year beginning July 1, 2009. At the same time, they ordered that BWC enact a group retrospective rating plan for the policy year beginning July 1, 2009. BWC filed an appeal and a motion for stay with the common pleas court. On December 17, 2008, the General Assembly passed House Bill 79 clarifying that Ohio's group rating program was not intended to be retrospective only. On January 6, 2009 the Governor signed the bill making it effective immediately. On January 7, 2009 BWC filed a motion to dissolve the preliminary injunction and in March 2009 the court issued an order vacating the preliminary injunction. Plaintiff has filed a motion for class certification and BWC filed a response in opposition. The ultimate outcome of the litigation cannot presently be determined. Accordingly, no provision for any liability has been reported in the financial statements for this matter. Management is vigorously defending this case.

Although the outcome of these cases is not quantifiable or determinable at this time, an unfavorable outcome in any one of them could have a material effect of the financial position of BWC/IC.

BWC/IC is also involved in other claims and legal actions arising in the ordinary course of business. In the opinion of management, after consultation with the Attorney General, the ultimate disposition of these matters is not likely to have a material adverse effect on BWC/IC's financial position.

Continued

10. Net Assets

Individual fund net asset (deficit) balances at June 30, 2009 and 2008 were as follows (000's omitted):

	2009	2008
SIF	$ 3,986,476	$ 3,799,897
SIF Surplus Fund	(1,918,671)	(1,708,959)
SIF Premium Payment Security Fund	124,083	115,984
Total SIF Net Assets	2,191,888	2,206,922
DWRF	835,859	848,727
CWPF	166,383	179,339
PWREF	19,406	19,350
MIF	15,570	13,431
SIEGF	6,935	8,919
ACF	(720,699)	(773,399)
Total Net Assets (Deficit)	$ 2,515,342	$ 2,503,289

As mandated by the Code, SIF net assets are separated into three separate funds; the main fund, the Surplus Fund, and the Premium Payment Security Fund (PPSF).

The SIF Surplus Fund is established by the Code and is financed by a percentage of all SIF premiums paid by private, self-insured and public employers (excluding State employers). The SIF Surplus Fund has been appropriated for specific charges, including compensation related to claims of handicapped persons or employees of noncomplying employers, and the expense of providing rehabilitation services, counseling, training, living maintenance payments and other related charges to injured workers. The SIF Surplus Fund may also be charged on a discretionary basis as ordered by BWC/IC, as permitted by the Code. The Code limits contributions to the SIF Surplus Fund to 5% of premiums. This allocation of premiums is insufficient to fund the charges to the SIF Surplus Fund.

The SIF PPSF is established by the Code and is financed by a percentage of all premiums paid by private employers. Amounts are charged to the PPSF when the employer's premium due for a payroll period is determined to be uncollectible by the Attorney General of Ohio and the employer's premium payment security deposit is not sufficient to cover the premiums due for the payroll period.

The ACF fund deficit is a result of recognizing the actuarially estimated liabilities in accordance with accounting principles generally accepted in the United States of America, even though the funding for ACF is on a terminal funding basis in accordance with the Code. Consequently, the incurred expenses are not fully funded.

OHIO BUREAU OF WORKERS' COMPENSATION
AND
INDUSTRIAL COMMISSION OF OHIO

(A DEPARTMENT OF THE STATE OF OHIO)

REQUIRED SUPPLEMENTAL REVENUE AND RESERVE DEVELOPMENT INFORMATION, UNAUDITED

(See Accompanying Independent Auditors' Report)

June 30, 2009 and 2008

GASB Statement No. 30, "Risk Financing Omnibus," requires the presentation of ten years of supplemental revenue and reserve development information, if available.

The table on the following page illustrates how BWC/IC's gross premium revenues and investment income compare to related costs of workers' compensation benefits (compensation) and other expenses incurred by BWC/IC as of the end of each of the last ten and one-half reporting periods. The rows of the table are defined as follows: (1) This line shows the total of each period's gross premium revenues and investment income. (2) This line shows each period's operating expenses, including overhead and compensation adjustment expenses not allocable to individual claims. (3) This line shows incurred compensation and allocated compensation adjustment expenses (both paid and accrued) as originally reported at the end of the first period in which the injury occurred. (4) This section of ten rows shows the cumulative amounts paid as of the end of successive periods for each period. (5) This section of ten rows shows how each period's incurred compensation increased or decreased as of the end of successive periods. (6) This line compares the latest re-estimated incurred compensation amount to the amount originally established (line 3) and shows whether this latest estimate of compensation cost is greater or less than originally estimated. As data for individual periods mature, the correlation between original estimates and re-estimated amounts is commonly used to evaluate the accuracy of incurred compensation currently recognized in less mature periods. The columns of the table show data for successive periods on an undiscounted basis for the fiscal years ended June 30, 1999 through 2009.

Continued

OHIO BUREAU OF WORKERS' COMPENSATION
AND
INDUSTRIAL COMMISSION OF OHIO
(A DEPARTMENT OF THE STATE OF OHIO)

REQUIRED SUPPLEMENTAL REVENUE AND RESERVE
DEVELOPMENT INFORMATION, UNAUDITED, Continued
(See Accompanying Independent Auditors' Report)
(In Millions of Dollars)

	Fiscal Years Ended June 30										
	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999
1. Gross premiums, assessments, and investment income	$ 2,296	$ 2,968	$ 5,251	$ 3,015	$ 3,272	$ 3,558	$ 2,886	$ 2,032	$ 2,535	$ 4,344	$ 3,609
2. Unallocated expenses	97	108	109	170	179	188	169	194	292	258	273
3. Estimated incurred compensation and compensation adjustment expense, end of period	2,139	2,219	2,327	2,270	2,392	2,335	2,405	2,233	2,109	2,052	1,891
Discount	1,472	1,892	2,099	2,147	2,227	2,447	2,544	2,374	2,443	2,274	2,576
Gross liability as originally estimated	3,611	4,111	4,426	4,417	4,619	4,782	4,949	4,607	4,552	4,326	4,467
4. Paid (cumulative) as of :											
End of period	458	415	423	417	449	449	485	456	434	404	422
One year later		755	747	743	795	843	872	853	821	757	809
Two years later			926	927	979	1,037	1,096	1,063	1,038	967	984
Three years later				1,066	1,121	1,181	1,248	1,230	1,194	1,122	1,122
Four years later					1,238	1,302	1,371	1,351	1,325	1,245	1,232
Five years later						1,408	1,485	1,459	1,423	1,355	1,325
Six years later							1,570	1,559	1,518	1,439	1,411
Seven years later								1,645	1,605	1,519	1,479
Eight years later									1,680	1,597	1,542
Nine years later										1,665	1,605
Ten years later											1,699
5. Re-estimated incurred compensation and compensation adjustment expenses (gross):											
One year later		3,192	3,523	3,670	4,007	4,155	4,183	4,028	4,022	3,953	3,612
Two years later			3,037	3,462	3,636	3,920	4,027	3,943	4,007	3,818	3,695
Three years later				2,993	3,480	3,689	3,827	3,787	3,856	3,880	3,534
Four years later					3,053	3,393	3,638	3,639	3,617	3,680	3,453
Five years later						3,040	3,302	3,376	3,441	3,448	3,183
Six years later							3,009	3,124	3,119	3,222	3,001
Seven years later								2,899	2,982	2,936	2,807
Eight years later									2,781	2,854	2,584
Nine years later										2,659	2,495
Ten years later											2,399
6. Decrease in gross estimated incurred compensation and compensation adjustment expenses from end of period		(919)	(1,389)	(1,424)	(1,566)	(1,742)	(1,940)	(1,708)	(1,771)	(1,667)	(2,068)

OHIO BUREAU OF WORKERS' COMPENSATION
AND
INDUSTRIAL COMMISSION OF OHIO
(A DEPARTMENT OF THE STATE OF OHIO)
SUPPLEMENTAL SCHEDULE OF NET ASSETS
(See Accompanying Independent Auditors' Report)
June 30, 2009
(000's omitted)

	State Insurance Fund Account	Disabled Workers' Relief Fund Account	Coal-Workers Pneumoconiosis Fund Account	Public Work-Relief Employees' Fund Account	Marine Industry Fund Account	Self-Insuring Employers' Guaranty Fund Account	Administrative Cost Fund Account	Eliminations	Totals
ASSETS									
Current assets:									
Cash and cash equivalents	$ 429,350	$ 6,913	$ 1,846	$ 132	$ 200	$ 54,570	$ 11,302	$ -	$ 504,313
Collateral on loaned securities	-	-	-	-	-	-	6,076	-	6,076
Premiums in course of collection	812,718	-	-	113	-	-	-	-	812,831
Assessments in course of collection	-	41,570	-	-	-	-	145,336	-	186,906
Accounts receivable, net of allowance for uncollectibles	181,777	20,173	-	29	5	(1,235)	10,293	-	211,042
Interfund receivables	13,941	56,115	1	145	27	811	120,473	(191,513)	-
Investment trade receivables	80,500	219,551	46,188	-	-	-	-	-	346,239
Accrued investment income	171,187	12,370	2,636	-	-	13	-	-	186,206
Other current assets	2,972	-	-	-	-	-	4,208	-	7,180
Total current assets	1,692,445	356,692	50,671	419	232	54,159	297,688	(191,513)	2,260,793
Non-current assets:									
Fixed maturities	11,948,193	875,403	186,336	23,006	17,188	-	-	-	13,050,126
Domestic equity securities:									
Common stocks	3,248,145	218,289	45,932	-	-	-	-	-	3,512,366
Preferred stocks	3,841	-	-	-	-	-	-	-	3,841
International securities	-	-	-	-	-	-	-	-	-
Investments in limited partnerships	161	-	-	-	-	-	-	-	161
Unbilled premiums receivable	829,789	1,548,993	-	-	-	721,584	105,609	-	3,205,975
Retrospective premiums receivable	282,372	-	-	-	-	-	-	-	282,372
Capital assets	22,368	22	-	-	-	-	81,347	-	103,737
Restricted cash	-	-	-	-	-	-	978	-	978
Total noncurrent assets	16,334,869	2,642,707	232,268	23,006	17,188	721,584	187,934	-	20,159,556
Total assets	$ 18,027,314	$ 2,999,399	$ 282,939	$ 23,425	$ 17,420	$ 775,743	$ 485,622	$ (191,513)	$ 22,420,349

OHIO BUREAU OF WORKERS' COMPENSATION
AND
INDUSTRIAL COMMISSION OF OHIO
(A DEPARTMENT OF THE STATE OF OHIO)
SUPPLEMENTAL SCHEDULE OF NET ASSETS, Continued
(See Accompanying Independent Auditors' Report)
June 30, 2009
(000's omitted)

	State Insurance Fund Account	Disabled Workers' Relief Fund Account	Coal-Workers Pneumoconiosis Fund Account	Public Work-Relief Employees' Fund Account	Marine Industry Fund Account	Self-Insuring Employers' Guaranty Fund Account	Administrative Cost Fund Account	Eliminations	Totals
LIABILITIES									
Current liabilities:									
Reserve for compensation	$ 1,693,638	$ 105,738	$ 1,258	$ 182	$ 390	$ 22,287	$ -	$ -	$ 1,823,493
Reserve for compensation adjustment expenses	166,605	404	75	-	44	990	310,920	-	479,038
Warrants payable	32,371	-	-	-	-	-	-	-	32,371
Bonds payable	-	-	-	-	-	-	15,930	-	15,930
Investment trade payables	131,332	222,625	47,117	-	-	-	-	-	401,074
Accounts payable	126	-	-	-	-	-	3,523	-	3,649
Interfund payables	175,813	12,532	86	17	29	3,036	-	(191,513)	-
Obligations under securities lending	-	-	-	-	-	-	6,076	-	6,076
Other current liabilities	11,020	83	43	2	121	-	18,437	-	29,706
Total current liabilities	2,210,905	341,382	48,579	201	584	26,313	354,886	(191,513)	2,791,337
Noncurrent liabilities:									
Reserve for compensation	13,037,362	1,766,362	62,842	3,818	1,191	731,305	-	-	15,602,880
Reserve for compensation adjustment expenses	499,395	55,796	4,425	-	75	11,190	770,080	-	1,340,961
Premium payment security deposits	87,764	-	710	-	-	-	-	-	88,474
Bonds payable	-	-	-	-	-	-	64,727	-	64,727
Other noncurrent liabilities	-	-	-	-	-	-	16,628	-	16,628
Total noncurrent liabilities	13,624,521	1,822,158	67,977	3,818	1,266	742,495	851,435	-	17,113,670
Total liabilities	15,835,426	2,163,540	116,556	4,019	1,850	768,808	1,206,321	(191,513)	19,905,007
NET ASSETS (DEFICIT)									
Invested in capital assets, net of related debt	22,369	22	-	-	-	-	1,667	-	24,058
Restricted for Surplus Fund	(1,918,671)	-	-	-	-	-	-	-	(1,918,671)
Restricted for Premium Payment Security Fund	124,083	-	-	-	-	-	-	-	124,083
Unrestricted net assets (deficit)	3,964,107	835,837	166,383	19,406	15,570	6,935	(722,366)	-	4,285,872
Total net assets (deficit)	$ 2,191,888	$ 835,859	$ 166,383	$ 19,406	$ 15,570	$ 6,935	$ (720,699)	$ -	$ 2,515,342

OHIO BUREAU OF WORKERS' COMPENSATION
AND
INDUSTRIAL COMMISSION OF OHIO
(A DEPARTMENT OF THE STATE OF OHIO)
SUPPLEMENTAL SCHEDULE OF REVENUES, EXPENSES AND CHANGES IN NET ASSETS
(See Accompanying Independent Auditors' Report)
For the year ended June 30, 2009
(000's omitted)

	State Insurance Fund Account	Disabled Workers' Relief Fund Account	Coal-Workers Pneumoconiosis Fund Account	Public Work-Relief Employees' Fund Account	Marine Industry Fund Account	Self-Insuring Employers' Guaranty Fund Account	Administrative Cost Fund Account	Eliminations	Totals
Operating revenues:									
Premium income	$ 1,893,936	$ -	$ 1,678	$ 150	$ 761	$ -	$ -	$ -	$ 1,896,525
Assessment income	-	143,074	-	-	-	67,994	361,957	-	573,025
Provision for uncollectibles	(96,223)	(3,055)	-	-	-	(133)	(9,209)	-	(108,620)
Other income	10,185	-	-	-	-	-	7,012	-	17,197
Total operating revenues	1,807,898	140,019	1,678	150	761	67,861	359,760	-	2,378,127
Operating expenses:									
Workers' compensation benefits	1,453,028	141,083	6,370	673	(973)	66,911	-	-	1,667,092
Compensation adjustment expenses	155,911	1,269	470	-	(50)	3,599	245,243	-	406,442
Personal services	-	48	15	-	8	-	44,213	-	44,284
Other administrative expenses	23,215	12	4	1	71	1	24,948	-	48,252
Total operating expenses	1,632,154	142,412	6,859	674	(944)	70,511	314,404	-	2,166,070
Net operating income (loss)	175,744	(2,393)	(5,181)	(524)	1,705	(2,650)	45,356	-	212,057
Non-operating revenues:									
Net investment income	(187,489)	(10,475)	(3,235)	580	434	666	4,784	-	(194,735)
Loss on disposal of capital assets	-	-	-	-	-	-	(220)	-	(220)
Total non-operating revenues	(187,489)	(10,475)	(3,235)	580	434	666	4,564	-	(194,955)
Net transfers out	(3,289)	-	(4,540)	-	-	-	2,780	-	(5,049)
Increase (decrease) in net assets (deficit)	(15,034)	(12,868)	(12,956)	56	2,139	(1,984)	52,700	-	12,053
Net assets (deficit), beginning of year	2,206,922	848,727	179,339	19,350	13,431	8,919	(773,399)	-	2,503,289
Net assets (deficit), end of year	$ 2,191,888	$ 835,859	$ 166,383	$ 19,406	$ 15,570	$ 6,935	$ (720,699)	$ -	$ 2,515,342

BWC Medical Services Division

An Evaluation of MCO Referral Patterns

December 15, 2009

Overview

BWC offers vocational rehabilitation (“voc rehab”) to qualifying injured workers in order to assist the worker to return to work and reduce lost time claim costs. Injured workers who are medically stable are referred to a provider, a vocational rehabilitation case manager (VRCM), for vocational rehabilitation plan development and associated voc rehab services. VRCMs receive vocational case assignments from an MCO who is managing the injured workers claim.

There has been an expressed perception among independent vocational rehabilitation providers and some professional associations that MCOs are referring a disproportionate number of cases to their affiliated vocational rehabilitation or “sister” companies that is both harmful to independent providers and the system as a whole. They further argue that there is no associated benefit or appropriate rationale for the case disparity. It is also perceived that, inequitably, the VRCMs from the sister company then refer only to the other voc rehab service providers employed by that sister company for plan services, i.e. vocational evaluation, Jobs Seeking Skills Training (JSST), job placement, etc.

Self-referral is thought to be taking potential referrals away from smaller independent provider businesses which may force the smaller business to further downsize or go out of business. It is argued that this, then, leads to decreased competition and corresponding service pricing pressures. It is also asserted that services provided by sister rehabilitation companies may be unnecessary resulting in increased cost to BWC.

An October 2007 internal BWC Audit finding also addressed this issue. The audit finding stated that as a result of no current prohibition against MCO referral of cases to related companies, the potential that claims are referred for rehabilitation unnecessarily increases. Further, the recent released Deloitte report stated that “[t]he structure of the voc rehab program potentially creates a conflict of interest from MCOs, due to the fact that there is no restriction against MCOs referring cases to affiliated companies.” The Deloitte report further identified the current structure as an identified weakness.

Purpose of this Evaluation

BWC’s Medical Services Division, in response to the issues and concerns presented, is evaluating the pattern of referrals made by MCOs to affiliated and non-affiliated service providers. A goal of this evaluation is to determine if the current unconstrained referral protocol results in adverse system consequences. More particularly, the goals of this study are to: 1) determine if the current system results in a pattern of service referral which materially limits competition among vocational rehab providers, 2) identify the impacts of self-referrals and other referrals across cost and service outcomes, and 3) develop strategies for addressing identified challenges within the current system.

Evaluation Parameters and Methodology

A query from BWC’s Data Warehouse was developed to retrieve lost time claims with voc rehab plans which were closed during fiscal years 2008 through 2009 (7/1/07 – 6/30/09). Other data elements retrieved included voc rehab procedure codes, service dollars paid, case closure codes, and return-to-work (RTW) hierarchy data. We associated these data elements with their respective MCO and their affiliated and, conversely, non-affiliated voc rehab providers.

For the purpose of this evaluation, an Affiliated Company is defined as a voc rehab company in which an MCO has a financial interest. An Affiliated MCO is one that has a financial interest in an Affiliated Company. An Unaffiliated MCO is one that does not have an interest in an Affiliated Company. Affiliated Providers are those providers who work for Affiliated Companies. Non-Affiliated Providers are those companies and/or individuals who do not work for Affiliated Companies.

BWC had 18 certified MCOs in our system during the study period. Of the 18 MCOs, 9 MCOs had an affiliated voc rehab services company.

Analysis

The following analysis is divided into three discussion sections: Referrals, Costs, and Outcome.

Referrals

Table 1 shows that a total of 9,858 claims were referred by MCOs for voc rehab during the last two fiscal years. Further, the data shows that Affiliated MCOs managed 69% or 6,804 of the claims referred. A further look at the Affiliated MCOs demonstrates that 3,570 (52%) of the 6,804 claims handled by Affiliated MCOs were referred to Affiliated Providers as compared to 48% or 3,234 claims referred to Non-Affiliated Providers.

Table 1 Aggregated Data for Vocational Rehabilitation Claims: 7/1/07 – 6/30/09

	Claims Volume	**Claims Cost**	**Average Cost per Claim**
Affiliated MCOs	6,804 (69%)	$52,844,518.22	$7,766.68
Unaffiliated MCOs	3,054 (31%)	$25,300,190.90	$8,284.28
Total Population of Study	**9,858**	**$78,144,709.12**	**$7,927.03**
Affiliated MCOs Detail			
Affiliated Providers	3,570 (52%)	$24,687,403.52	$6,915.24
Non-Affiliated Providers	3,234 (48%)	$28,157,114.70	$8,706.59
Total Affiliated MCOs	**6,804**	**$52,844,518.22**	**$7,766.68**

On its face, a VRCM referral rate of 52% in comparison to 48% is not noteworthy. However, when considering the number of vocational rehab providers receiving reimbursement in 2008 and 2009, the disparity in referrals is more apparent. In 2008, based on reimbursement data, there were approximately 799 “pay-to” providers, i.e. providers who performed either VRCM or other services, and in 2009, there were 761 “pay-to” providers. These providers were further segmented to identify those who were paid for VRCM and those who were paid for other voc rehab services. In 2008, there were 207 “pay-to” providers that performed case management services and 194 providers in 2009. When considering the number of potentially available non-affiliated providers, the case disparity is apparent, i.e. there were 9 affiliated companies receiving 52% of the VRCM referrals in this study versus 200+ potentially available VRCMs receiving the other 48%. It should be noted that the data, at this time, does not take into consideration the individual number of providers which are employed or contracted by an affiliated or non-affiliated company – for example, 1 rehab company employs 53 VRCM providers.

Costs

Table 1 also reflects the total and average voc rehab claim costs for the study claims. On its face, the chart indicates that Affiliated MCOs have a lower average claim cost than Unaffiliated MCOs. Further, the Affiliated MCO detail shows that affiliated providers' average claims costs are lower than non-affiliated providers' average costs. However, to appropriately evaluate affiliates and non-affiliates relative to their service costs, it is necessary to further break down these voc rehab services into their component services, VRCM services and other voc rehab services.

This break down is especially necessary as there is a different concentration of services provided by and between the affiliated and non-affiliated companies. Affiliated providers' core businesses are generally that of providing VRCM services. VRCM services include coordination and management services such as face-to-face meetings, counseling, and assessments. These services can be frequent and on-going during the course of the rehab plan. Non-affiliated providers generally provide not only VRCM, but other types of vocational services such as job placement, work conditioning, work hardening, and training. Thus, often times, affiliated providers authorize non-VRCM services which are then usually provided by non-affiliated providers. Tables 2 and 3 below depict these components in terms of the dollars reimbursed to affiliated and non-affiliated providers.

Table 2 shows the total and average cost for VRCM services as well as the number of times an injured worker received these services. As this table shows, affiliated providers were the primary VRCM service providers as reflected in both the dollars reimbursed and the count of services rendered. One can see that there is no appreciable difference in the average VRCM cost per service between the affiliated and non-affiliated providers and between the affiliated and unaffiliated MCOs.

Table 2 Vocational Rehab Case Management Services (VRCM)

		Total Cost	**Count of VRCM Services**	**Avg Cost per Claim Service**
Affiliated MCOs	Affiliated Providers	$13,551,268	59,755	$226.78
	Non-Affiliated Providers	$8,548,079	38,184	$223.87
Unaffiliated MCOs		$8,964,541	39,169	$228.87

Table 3 depicts cost and service data for "Other" services. As noted earlier, these are clinical and training services. As mentioned, while it is not generally their core business, some affiliated providers do provide some of these other services including comprehensive vocational evaluation, vocational screening, ergonomic study, or job analysis. As shown in Table 3, when the specific types and the volume of services are evaluated, there is not a significant difference among the three groups in average claim costs.

Table 3 "Other" Non-VRCM Services[1] (provided by both affiliates & non-affiliates)

		Total Cost	Count of Selected Other Services	Avg Cost per Claim Service
Affiliated MCOs	Affiliated Providers	$4,578,947.42	3,929	$1,165.42
	Non-Affiliated Providers	$6,134,005.12	4,912	$1,248.78
Unaffiliated MCOs		$5,409,481.09	3,924	$1,378.56

[1]"Other" Non-VRCM services depicted include Comprehensive Vocational Evaluations, Vocation Screening, Transitional Work Services, Job Club, Ergonomic Study, Job Analysis, Job Seeking Skills Training , Job Placement & Development, and Job Coach.

Outcomes

Thus far in this study, service outcomes were evaluated for VRCMs on two data points. The first is the success of injured worker return to work (RTW) for those who participated in a vocational rehab plan. The second data point is the success of achieving RTW as measured against the BWC RTW Hierarchy.

Table 4 below reflects the RTW results for voc rehab plans and cases closed during the study period. The data indicates that across all of the groups, RTW outcomes were equally unimpressive. All of the providers experienced a 2 to 1 ratio of non-RTW to RTW for the cases closed during the study period.

Table 4

RTW Outcomes	Affiliated MCOs		Unaffiliated MCOs
	Affiliated Providers	Non-Affiliated Providers	
RTW	1,638 (32%)	994 (28%)	997 (29%)
No RTW	3,554 (68%)	2,555 (72%)	2,406 (71%)

The BWC RTW hierarchy outcomes are depicted in Table 5 below. The desired RTW outcome in the hierarchy is listed from most to least favorable and represents BWC RTW priority. If one RTW outcome is not achieved because, for example, it may not be available or not conducive to the injured worker's safe RTW, the next RTW outcome is considered until all have been exhausted.

The data in Table 5 demonstrates no appreciable difference among each of the compared group outcomes. Further, all groups demonstrated a majority RTW in the DJDE level.

Table 5

RTW Hierarchy - VRCM Services	Affiliated MCOs: Affiliated Providers	Affiliated MCOs: Non-Affiliated Providers	Unaffiliated MCOs
SJSE (same job/same employer)	353 (22%)	200 (20%)	213 (21%)
DJSE (different job/same employer)	56 (3%)	42 (4%)	50 (5%)
SJDE (same job/different employer)	129 (8%)	71 (7%)	56 (6%)
DJDE (different job/different employer)	789 (48%)	525 (53%)	514 (52%)

Current Finding/Conclusions

The analysis of the data demonstrates that there is a disproportionate number of case referrals by affiliate MCO to affiliated Providers. In the absence of any appreciable differences between affiliated and non-affiliated providers in costs per case or case outcomes, we must continue to gather data and perform analysis to get at the reasons for the case dispersals. Is it due to MCO case referral processes? Other mechanisms?

As mentioned, the data analysis does not indicate an appreciable cost improvement by affiliated providers which one might expect given the referral pattern. Nevertheless, case complexity is a major cost driver and could further inform the cost data. We must continue to mine the data to rule in, or out, this variable as an explanation for the average cost similarity between the MCOs and between providers.

When evaluating the data to test the assertion that the apparent referral preference by Affiliated MCOs to affiliated providers was the result of better outcomes, it was not supported. There was no appreciable difference in RTW and RTW hierarchy outcomes for each of the comparison groups.

Next Steps and Recommendations

At this time, there are a number of parallel activities underway to improve vocational rehabilitation services. BWC is in the final stages of implementing the Vocational Rehabilitation Redesign strategy, which is designed to improve the oversight of the voc rehab services by BWC Disability Management Coordinators. BWC is also finalizing the strategy to address both the internal BWC Audit finding and the Deloitte recommendation which would substantially mitigate, if not eliminate, the referral disparity if driven by the conflict of interest. The Labor Management and Government advisory committee, BWC's advisory group on vocational rehab matters, has a sub-team running parallel to this review on this very subject.

We will continue to work with the LMG committee to further develop this analysis. Although there has been some validation of the hypothesis and assertions which were the impetus for this study, additional evaluation, especially of the impact of case complexity, is warranted. We plan to meet with the MCOs, Vocational Service providers, and other interested parties to share our initial findings, identify additional data elements to capture and review, and create subsequent recommendations to the Medical and Safety Services Committee and ultimately the entire Board.

Ohio | Bureau of Workers' Compensation
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Governor **Ted Strickland**
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August 28, 2009

Charles Cataline, Senior Director, Health Policy
155 E. Broad St
Floor 15
Columbus, Ohio 43215

Dear Charles:

Thank you for your comments in regard to the Bureau of Workers' Compensation's (BWC's) proposed 2010 Hospital Outpatient Reimbursement Methodology. BWC has carefully reviewed your comments and is presenting in this letter a response to the points raised.

Medicare OPPS

The Outpatient Prospective Payment System (OPPS) was implemented by the Centers for Medicare and Medicaid Services (CMS) on August 1, 2000. The OPPS is "partially packaged" prospective payment system. A partially packaged system allows for varying treatment pathways that occur in the hospital outpatient setting. The partially packaged concept was a major factor in the adoption of this particular system for Medicare because it is critical that encounters with a variety of treatment pathways, such as emergency room encounters, are adequately reimbursed.

OHA stated that it is opposed to this system because it is complex. BWC agrees that this payment methodology is not simple. However, as our consultant has evaluated prospective payment systems, the one constant is that virtually any prospective payment system is naturally more complex than a retrospective payment system. This characteristic notwithstanding, the benefits of a prospective payment system outweigh the complexity of the system.

Moving to a prospective payment system better allows BWC to set reimbursement rates in advance of the effective period; thus, supporting periods of reimbursement level stability and predictability. Currently, under the retrospective payment system, BWC does not know the cost of a service until after the service is provided and the provider submits the bill. The current methodology leads to inconsistencies and unpredictability in the pricing and costs of like services. Under the new payment methodology, BWC will know prior to service delivery how much each service provided will cost. The predictability and consistency of payments will assist BWC in the budgeting for medical services administration, rate setting for employers, and management of the fund. Additionally, a prospective payment methodology promotes equity of the payments, eliminating the current disparity in payments between Ohio providers.

Another major benefit of utilizing the OPPS is that the system is a well designed and maintained payment system that is available for public use. By law, the structure and rates of the OPPS are reviewed annually by CMS. As part of this update process, the hospital community is able to provide feedback on a proposal during an established comment period. Further, The Medicare Payment Advisory Commission (MedPAC) and the APC Advisory Panel provide constructive criticism and recommendations for improvement to the system. Thus, the OPPS is probably one of the most scrutinized and reviewed payment systems available for implementation in the United States. The only other publically available outpatient prospective payment system is the Ambulatory Patient Groups (APGs) designed under Medicare contract by 3M Health Information Systems which is no longer maintained. Other prospective payment systems that may be utilized by third party payers are proprietary to that payer or payer system. Even if BWC determined it was prudent to develop an Ohio proprietary payment system, BWC does not currently have the staff to take on such an endeavor. Further, if BWC were to outsource such a development then the costs of developing a system would have to be passed on to the provider community and employers.

Implementing the OPPS benefits not only BWC but also the provider community. The foundation for rates in the OPPS is the valuation of resources required to provide a service or supply to the patient. Since OPPS is a dynamic system and is maintained yearly, as the resource consumption patterns change, so too do the rates for the services and supplies. Therefore, changes in technology or treatment protocols are taken into consideration which allows the OPPS to be an accurate and up-to-date system, rather than a stagnant system which may not adjust rates according to resource consumption changes. Additionally, the OPPS is updated on a quarterly basis to allow for changes such as fluctuations in drug prices, as well as the additions, deletions and modifications to the coding systems. For example, the October 2009 quarterly update added codes for the H1N1 vaccine. Without the quarterly update structure there would not be a dedicated code for billing and tracking of this vaccine. Although the OPPS was modified by CMS quite often during the implementation phase, CMS now provides changes on a quarterly basis in a uniform fashion. Updates are published via a Medicare transmittal, a Medicare Learning network article, and files are posted to the Hospital Outpatient PPS web site located at: http://www.cms.hhs.gov/HospitalOutpatientPPS/.

Additionally, most Ohio hospitals participate in the Medicare Program. As such, Ohio hospitals are experienced with the OPPS since it has been administered by Medicare since 2000. Therefore, by BWC utilizing a payment system that has been adopted and is in use throughout the United States, BWC is not imposing administrative burden that would result from a proprietary reimbursement system.

In your letter OHA states that "very few third-party payers have attempted to replicate the Medicare OPPS, and all that did underestimated the difficulty of keeping it running and up-to-date". However, seven other workers compensation jurisdictions have adopted the OPPS as is, or a modified version of the OPPS (CA, ND, SC, TN, TX, WA, and WV). Furthermore, third party payers such as BCBS of Michigan and BCBS of Mississippi have adopted the OPPS. Vermont and Michigan state Medicaid agencies have also adopted OPPS. This is just a few of the payers who have adopted OPPS. Further, there is no evidence that any payers have abandoned the system because of its complexity, or an inability to maintain the system. Additionally, BWC implemented CMS' Inpatient Prospective Payment System for Hospital Inpatient Services in January 2007. BWC has learned many lessons in the implementation of the IPPS, and therefore the BWC is fully aware of the resources required for the adoption of the OPPS.

HPP State Outpatient Payment Rate

OHA states that "*BWC is establishing the OPPS as the de-facto HPP hospital payment methodology and MCOs and self-insured (SI) employers are adopting it with little or no opportunity for providers to oppose it or negotiate something more appropriate."* It is well settled that under the ORC and related OAC rules, BWC has the responsibility for establishing a fee schedule for the provision of medical services under HPP. The ORC further provides that MCOs under appropriate guidelines can enter into agreements and arrangements with providers notwithstanding the BWC fee schedule. The actions of BWC in proposing the adoption of the OPPS is in keeping with Ohio statutory laws and rules.

OHA further states that *"there is no way the average Ohio SI employer will comprehend or be able to manage provider payments under the complex Medicare OPPS."* There is no evidence to support such a blanket statement. Nevertheless, Ohio SI employers are not obligated to reimburse providers using the BWC adopted system. Ohio SI employers can select their own payment system, provided they reimburse at not less than the BWC base fees for provider services. Additionally, given that BWC's bill payment vendor is undertaking the necessary programming for implementing the OPPS, it is highly probable SI employers could contract with the vendor as well, thus, taking advantage of fully developed programming.

Medicare Payment versus Hospital Cost

OHA indicates a continued exception to any implicit claim that Medicare or Medicaid is the gold-standard payment plan. BWC, as acknowledged by OHA, is recommending payment adjustment to the Medicare rate to address the issues raised by OHA. This would not be the first time BWC has made such an adjustment to a Medicare based formula, as reflected in the implementation of Medicare's Inpatient Prospective Payment System in 2007 where BWC made relevant modifications to the system and rates. The recommended modifications to the OPPS, do not change BWC's perspective that the OPPS is a well designed prospective payment system with a solid foundation based on empirical research.

Redistributive Effect on HPP Payments among Hospitals

OHA also states that it ***"is concerned by the plan's redistributive effect on payments across hospitals"***. The OPPS methodology is not a redistributive methodology. BWC has not pre-determined or allocated a set amount of funds to be provided in the hospital outpatient setting. BWC reimburses for hospital outpatient services as they are provided even if the total expenditures exceed the expenditures of a previous year or effective period. The OPPS is a prospective payment system, establishing rates in advance by the payer. Providers incur either profit or loss based on their own facility cost structure. Therefore, facilities that have lower cost will have greater profit margins than those facilities that have a higher cost structure. As facilities practice cost containment, efficiency efforts, and quality initiatives and improve their cost position, they increase their probability of experiencing greater profits under a prospective payment system. BWC believes that when the system is fully implemented and costs are monitored and closely managed, all facilities will be appropriately reimbursed for services provided. However, some facilities will initially experience some increase in profitability, versus other facilities experiencing decreases in profitability based on the facilities' current cost structures.

Finally, OHA provides "If BWC insists on proceeding with the Medicare OPPS, OHA then strongly recommends BWC incorporate an extended transition period."

BWC for the reason stated above believes that the recommendation to adopt and implement the CMS OPPS system is necessary and appropriate. Adopting the prospective payment system for hospital outpatient services completes the adoption of a prospective payment system for all of BWC's fee schedules. Nevertheless, BWC recognizes the projected financial impact on some hospitals as a result of an implementation of the proposed plan. BWC is in agreement that a transition or phase-in period is appropriate to lessen the impact of the implementation on providers, and reduce a potential negative impact on access to quality care. Therefore BWC is recommending a 2 year phase in of the OPPS system. The two year transition would be as follows:

1. 2010 – Adopt the 2010 OPPS system rates with the following payment adjustment factors:
    a. *Children's Hospitals at 253% of OPPS rate
    b. All Other facilities at 189% of OPPS rate
2. 2011 – Adopt the 2011 OPPS system rates with the following payment adjustment factors:
    a. All Other facilities at 166% of OPPS rate

**In both of the years BWC would appropriately address the Children's Hospital rates given the acknowledged disparate impact on Children Hospitals.*

Again, we thank you for your comments. BWC appreciates your comments and concerns, and hopes that each has been addressed in our comments above. While there are some differences, we look forward to continuing our partnership to make the Ohio workers' compensation system as effective as possible to address Ohio's injured workers' needs. Please feel free contact me if you have any questions.

Sincerely,

Freddie L. Johnson, JD, MPA
Director Managed Care Services

Cc: Robert Coury, Chief Medical Services and Compliance
Anne Casto, President Casto Consulting
Lisa Landon, Project Manager

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Governor **Ted Strickland**
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December 8, 2009

Randy Leffler
Ohio Association of Ambulatory Surgery Centers
17 South High Street
Suite 1000
Columbus, Ohio 43215

Dear Randy:

Thank you for your comments in regard to the Bureau of Workers' Compensation's (BWC's) proposed 2010 Ambulatory Surgical Center Fee Schedule. BWC has carefully reviewed your comments and are presenting in this letter a response to the points raised.

We were appreciative of your support last year when BWC modified the ASC fee schedule structure to be in alignment with the Center for Medicare and Medicaid's (CMS) Ambulatory Surgical Center Prospective Payment System (ASC PPS). As CMS continues to move through their four-year transition period, BWC also moves along with the transitional rates. As you are well aware, the rate movement and degree of rate movement vary greatly through this transition period by specialty or clinical service line (i.e. GI Services, Pain Management, and Orthopedic Services). Therefore, we continue to see significant changes in reimbursement rates for services that are most frequently utilized by injured workers such as orthopedic services and surgery and pain management services.

Based on the mix of services provided to injured workers during the April-June 2009 there is a projected rate increase of 20 percent for orthopedic services and a 10 percent increase for other services under the 2010 ASC PPS rates. This is a significant increase in reimbursement rates. As CMS continues to move through and end the transition period in 2011 the BWC again expects to see a significant increase in orthopedic services and surgery rates and moderate increases for other services for 2011. Therefore, the BWC is hesitant to establish a payment adjustment factor greater than 100 percent for orthopedic and other services until CMS has completed the transition period and final rates are established.

BWC in evaluating the CMS adjustment for pain management services did recognize the resulting decrease. Further, using the sample of cost data OAASC provided, BWC recognized the potential impact that the CMS adjustment might have on Ohio's providers of pain management services. Therefore we have proposed to apply the payment adjustment factor of 110 percent for pain management designated services. This payment adjustment factor provides for an estimated 8 percent increase for pain management procedures rather than a 2 percent decrease as projected by CMS.

The BWC holds access to quality care as a major guiding principle. A review of visit distribution data for the past four years shows that even though the number of encounters has decreased in all areas (hospital outpatient, ASC, and hospital inpatient) the distribution of encounters among those settings has remained the same. Therefore, BWC has not experienced an access to care issue in the ASC areas with rates set at 100 percent of Medicare ASC PPS in 2009. BWC will continue to monitor encounter distribution for the remainder of the 2009 fee schedule effective period and will revisit this topic prior to rate setting for the 2011 effective period.

BWC appreciates your comments and concerns, and hope that each has been addressed in our comments above. While there are some differences, we look forward to continuing our partnership to make the Ohio workers' compensation system as effective as possible to address Ohio's injured workers' needs. BWC would like to continue to work with the OAASC to explore a larger cost data set that is comprised of data for a greater mix of services from a variety of ASC facilities. Such data will definitely be evaluated in BWC rate setting methodology, given ASC facilities do not participate in Medicare's cost reporting program.

Again we thank you for your comments. Please feel free contact me if you have any questions.

Sincerely,

Freddie L. Johnson, JD, MPA
Director Managed Care Services

Cc: Robert Coury, Chief Medical Services and Compliance
Anne Casto, President Casto Consulting
Jean Graff, Project Manager

The Ohio Manufacturers' Association
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Retooling OHIO

2009 Volume 6

A bulletin for leaders on policy issues critical to Ohio manufacturers

THE POLICY POINT: *Workers' Comp Rate Reform*

On October 30, 2009, the Ohio Bureau of Workers' Compensation (BWC) Board of Directors approved rate reforms for the 2010–11 plan year designed to continue progress toward increasing the fairness of premiums paid by Ohio's employers.

These most recent reforms include (a) lowering the maximum group-rating discount from 77 percent to 65 percent and (b) modifying the "break even" factor so it applies to group-rated employers on a graduated scale that better aligns each employer's premium with the risk the company brings to the system.

As important as these changes are to the restructuring of Ohio's workers' compensation rate structure, additional improvements are needed. The OMA both applauds the BWC for the significant progress that has been achieved in recent years and challenges Bureau leadership to stay the course with continued reforms needed to enhance benefits for all participants.

An Imperative to Restore Ohioans' Confidence in the BWC

When the Ohio General Assembly passed House Bill 100 in May 2007, with bipartisan support, the message from lawmakers was crystal clear: No longer would "business as usual" be tolerated at Ohio's Bureau of Workers' Compensation. It was a new day with new expectations for how the BWC would go about serving the needs of Ohio's injured workers and their employers.

Among the changes provided for by House Bill 100 were the following:

- Abolishing the Workers' Compensation Oversight Commission and replacing it with a newly created Workers' Compensation Board of Directors
- Directing the Board to "safeguard and maintain" the solvency of the State Insurance Fund
- Directing the Board and the BWC Administrator to "fix and maintain" the lowest possible rate and premium consistent with maintaining a solvent fund and a reasonable surplus

House Bill 100 also required a thorough examination of the Bureau's governance, processes, programs and rates. In response to that directive, Deloitte Consulting Inc. was engaged in January 2008 to conduct a comprehensive review of BWC operations.

The Deloitte study, which was released in April 2009, identified fairness, equity and solvency problems with the BWC's group-rating program as priorities for reform. In particular, the report noted the following:

- A significant disparity existed in workers' compensation rates paid by group-rated employers and non-group-rated employers.
- Non-group-rated employers were subsidizing a portion of group-rated employers' premiums.
- Group-rated employers' large premium discounts (up to a maximum of 95 percent) had no actuarial justification.

The findings—and recommendations that the Bureau take action to address inequities in its experience-rating methodology—were consistent with those in a report issued by the Office the Inspector General of Ohio in August 2007 (which noted, among other things that the "staggering" savings enjoyed by group-rated employers had long been "unfairly subsidized" by non-group-rated employers), as well as a number of other third-party studies. **At least nine actuarial analyses during the past 20 years concluded that group-rating discounts have not generated adequate premiums to cover claims costs for group-rated employers and that non-group-rated employers have been paying higher rates than warranted in order to close that shortfall.**

It was within this context that the BWC developed a master plan in June 2008 that outlined a number of significant reforms designed to bring fairness and equity to group-rated and non-group-rated employers alike. The Deloitte Report, along with comprehensive actuarial data, has served as the blueprint for these reforms.

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A Closer Look at the Rationale for Rate Reform

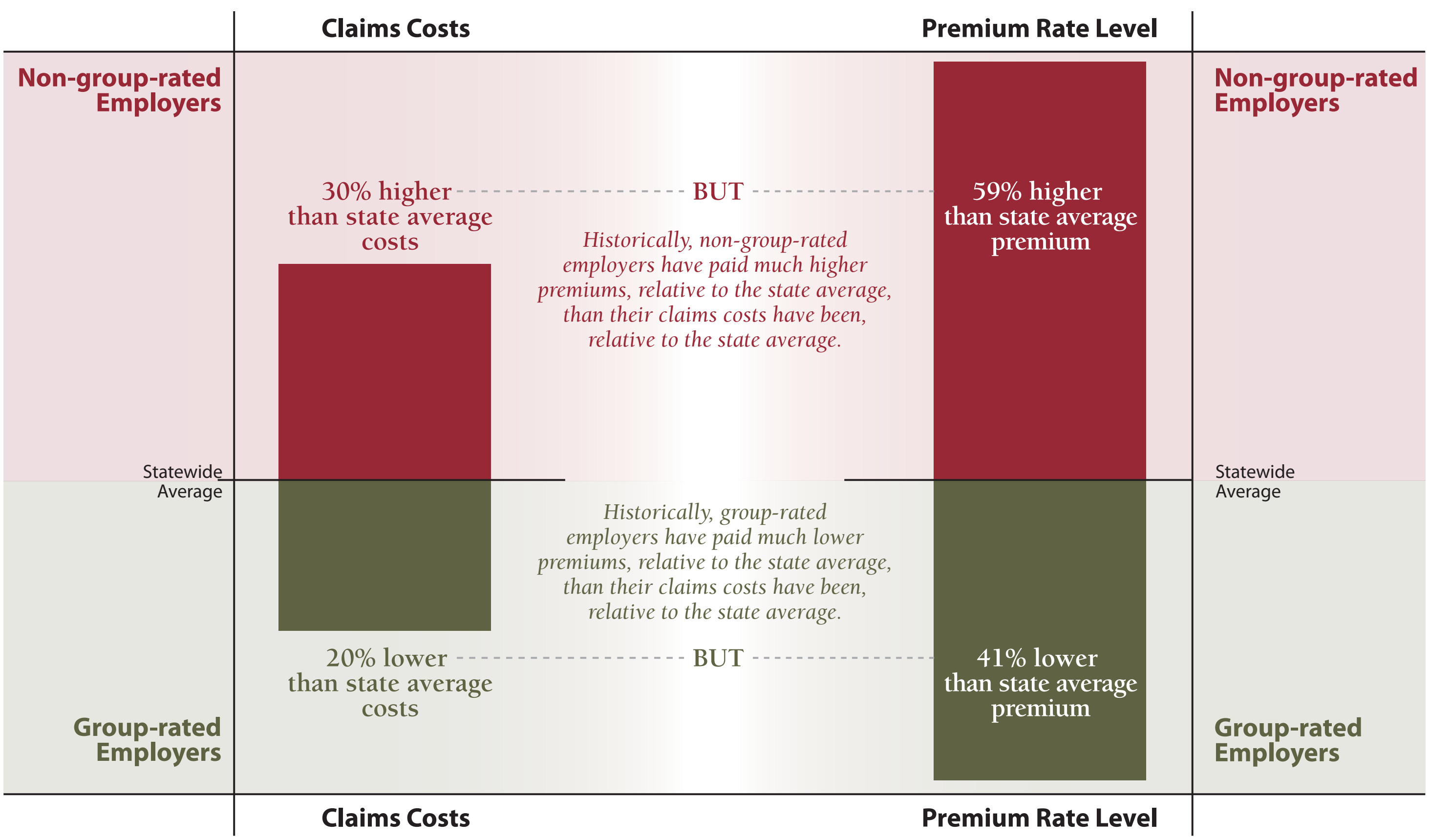
Group rating was introduced in 1991. It allows employers in similar industries to pool together for experience rating, a method of predicting an employer's potential for incurring claims losses, used to set its workers' compensation rates. Group rating has served a useful purpose in helping to improve workplace safety and in getting employers more actively involved in keeping their workers' compensation costs down. Currently, Ohio has about 90,000 group-rated employers and about 115,000 to 120,000 non-group-rated employers statewide.

The problem with group rating as it has functioned over the past 20 years is pretty straightforward: There has been a lack of alignment between the premiums individual employers pay for workers' compensation coverage and the cost of the claims they bring to the system. That problem has manifested itself in a number of ways, including a significant "gap" between the premiums paid by group-rated employers and the premiums paid by non-group-related employers. While it was never the intent or design of group rating to produce rate-making practices that would be unfair to any class of employers, that is exactly what evolved over time.

The disparity is clearly apparent, for example, when you look at loss ratio, which is a measure of the relationship between the cost of claims and the premium meant to cover those claims. Group-rated employers' loss ratios historically have been more than twice as high as those generated by non-group-rated employers. This tells us that group-rated employers have not been paying sufficient premium to cover the cost of their claims losses. And that has been due largely to the high discounts on premium the group-rating program historically has offered to employers—as high as 95 percent just four years ago before the BWC began to reduce the maximum allowable discount.

In the past, to offset the group-rating discounts, the BWC simply increased the base rate for all employers. Because the Bureau is a revenue neutral entity, the premium shortfall was made up by collecting additional premium from non-group-rated employers. The result was that group-rated employers' discounts essentially were being subsidized by non-group-rated employers—a subsidy that totaled nearly $300 million dollars in 2008.

Lack of Alignment of Claims Costs with Premium Rate Level



Historically, employers' workers' compensation premiums have not aligned with the risk and costs they bring to the system.

The solution was clear and simple: The BWC needed to collect its premium in an equitable manner. And the Bureau needed to set rates for both group-rated and non-group-rated employers at levels that are actuarially sound—i.e., at levels commensurate with the risk these employers present to the system.

The problem with group rating as it has functioned over the past 20 years is that there has been a lack of alignment between the premiums individual employers pay for workers' compensation coverage and the cost of the claims they bring to the system.

Phased-in Reductions in Group Rating's Maximum Discount

Plan Year	Maximum Group Discount
2005-06	95%
2006-07	93%
2007-08	90%
2008-09	85%
2009-10	77%
2010-11	65%

As a result of these reductions in the maximum group-rating discount—spread out over a number of years to soften the impact on group-rated employers—the historical cost shifting among employers has been reduced.

Saying goodbye to politically driven rate-setting

Unfortunately, politics have had a hand in workers' compensation rates. Despite clear actuarial evidence that reducing group-rating's maximum discount was needed to ensure fairness and equity, certain groups have been resisting these and other reforms. The historical group-rating methodology and experience-rating system have created substantial income and political influence for "third-party administrators" (TPAs) and group-rating sponsors. Not surprisingly, those constituencies have been reluctant to give up either in the interest of moving Ohio forward.

And yet, despite strong opposition and vigorous lobbying by some TPAs and group-rating sponsors, progress is being made.

Over the past two years, the BWC has approved and implemented a number of welcome reforms to the policies and formulas used to set employers' workers' compensation rates. The desired outcomes of these reforms have been to (a) treat all employers fairly and equitably by ensuring that every employer pays a premium based on the risk it brings to the system, (b) protect the stability and solvency of the State Insurance Fund to ensure that the needs of injured workers' are met, and (c) position Ohio with a competitively priced workers' compensation system that will support the state's continuing ability to attract economic development.

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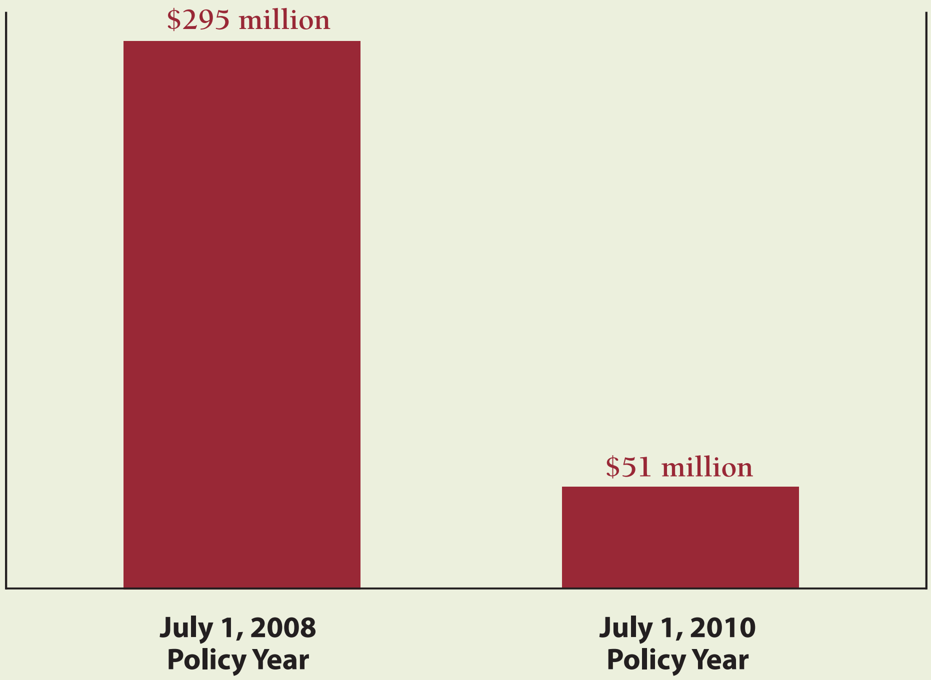
Two major focal points for the BWC's reform efforts have been (a) gradual reductions in the maximum group-rating discount and (b) closing the gap between what group-rated employers and non-group-rated employers pay for workers' compensation premiums.

Reducing group-rating's maximum discount

Multiple actuarial studies have shown that reducing group-rating's maximum discount would better align premium with claims costs of individual employers—and improve pricing equity among employers. The BWC began phasing in a reduction of group rating's maximum discount in the 2006-07 plan year, gradually cutting it from 95 percent to the current maximum of 77 percent (for plan year 2009–10). On October 30, 2009, the BWC Board approved an additional reduction, from 77 percent to 65 percent, effective in the 2010–11 plan year.

As a result of these reductions—spread out over a number of years to soften the impact on group-rated employers—the historical cost shifting among employers has been reduced (though not totally eliminated).

Estimated Subsidization of Group-Rated Employers by Non-Group-Rated Employers



Rate reforms implemented by the BWC have helped reduce, but not totally eliminate, the unfair subsidization of group-rated employers by non-group-rated employers.

Applying a "break-even factor" to further narrow the premium gap

Lowering group rating's maximum discount has helped to restore a large measure of balance and fairness to worker's compensation rates, but it has not been enough to completely close the gap between group-rated employers' premiums and non-group-rated employers' premiums. Nor has it produced premium rates that are completely aligned with the risk each employer brings to the system.

To better understand the gap, consider that historical claims costs for group-rated employers are about 20 percent lower than the statewide average, and claims costs for non-group-rated employers are about 30 percent higher than the statewide average. In a properly aligned and actuarially sound system, you would expect to see premium rates that reflect the two groups' respective impact on system costs.

However, that is not the case in Ohio. In 2008, group-rated employers' rate level was 41 percent lower than the statewide average rate level (compared to claims costs that were just 20 percent lower than average). Non-group-rated employers' rate level was 59 percent higher than the average statewide rate level (compared to claims costs that were just 30 percent higher than average). These discrepancies clearly illustrate the problem of group-rated employers being subsidized by non-group-related employers.

To help close this gap and achieve better alignment of premium with risk, the BWC created a so-called "break-even factor"—a mechanism for applying an assessment to every group-rated employer to ensure that adequate premium is collected from those employers and to further reduce the unfair subsidization of group-rated employers by non-group-rated employers.

For the 2009–10 plan year, the BWC applied a flat break-even factor across the board on premium rates for all group-rated employers. This, in combination with the reduction of the group-rating maximum discount from 85 percent to 77 percent and other adjustments to the rate-setting methodology, resulted in the following changes:

- Nearly a 25 percent reduction in premium for non-group-rated employers
- A 9.6 percent increase in premium for group-rated employers
- An overall, system-wide reduction in base rates of about 12 percent

For the 2010–11 plan year, the BWC Board approved an important modification to the break-even factor. Instead of a flat assessment applied evenly across the board to all group-related employers regardless of an individual employer's premium discounts or claims experience, in 2010 the break-even factor will be assessed in a graduated fashion. Employer groups with higher discounts (i.e., those contributing

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more to the off balance) will be assessed a higher break-even factor, and groups with lower discounts will be assessed a lower break-even factor.

Overall, the break-even factor for 2010 will be slightly lower, on average, than it is for 2009. More importantly, it will be applied more fairly and equitably. Some TPAs and group sponsors lobbied hard to have the break-even factor abolished, but actuarial analysis indicated that base rates likely would have increased for all employers under such a scenario.

While it's too early to know for certain the precise impact on rates that the BWC Board's October 2009 actions will have, overall the change will be revenue neutral.

Restoring fairness and equity to rate-setting

With these latest rate reforms, the BWC has achieved a number of important objectives:

- A rate structure in which premium costs are applied more fairly and equitably among all employers in the system
- A rate structure in which employers pay premiums more closely aligned with the risk and costs they bring to the system
- A system that fully pays for itself
- A system that is more stable and solvent
- Lower base rates that enhance Ohio's competitive position in the Midwest

Just as critically, Ohio now has a workers' compensation rate structure that will serve as a solid foundation for additional reforms that will further strengthen the system, better serve injured workers and employers, and make Ohio even more attractive for economic expansion and development.

Rate Reform Just One Dimension of Effort to Build Operational Excellence Into the BWC

The OMA has long believed that a professionally and efficiently operating Bureau of Workers' Compensation is critical to retaining and creating jobs in Ohio. That's why the OMA was an advocate for House Bill 100, legislation passed in 2007 establishing new models for governance, transparency and accountability at the BWC and also requiring the use of sound actuarial science in the Bureau's rate-setting. Among other things, HB 100 created a new Board of Directors to serve as the BWC's governing body and, along with the BWC Administrator, to share fiduciary responsibility for Ohio's workers' compensation system.

Under the leadership of the new Board and Administrator, rate reform has been a major focus of work at the Bureau during the last two-plus years, and the number-one accomplishment at the BWC during this time has been bringing greater parity to both group-rated and non-group-rated employer premium rates (the primary focus of this edition of *Retooling Ohio*). However, the BWC and the Industrial Commission of Ohio (the claims adjudication arm of Ohio's workers' compensation system) have been working on multiple additional reforms. Following are selected improvements since 2008.

Selected BWC Improvements

- Launching of MIRA II reserving system that provides more responsive, accurate claims reserves
- Back-to-back rate decreases for private employers (5 percent in 2008, 12 percent in 2009—the first average decreases since 2001)
- An average 25.3 percent rate decrease for non-group-rated private employers
- Two rate decreases for state agencies, universities and university hospitals (10 percent in 2008, 3.75 percent in 2009—their first average decreases since 1999)
- A 5 percent premium rate decrease for public employers
- A 100 percent cap option on premium increases due to an employer's claims history, to limit extreme cost swings for affected employers
- Beginning a transition to a multi-split experience-rating plan that will take into account the frequency as well as the severity of an employer's claims, thus improving experience rating accuracy
- Two new insurance options—deductible and group retrospective—designed to lower out-of-pocket costs for employers and improve safety for workers
- Updated inpatient hospital fee schedules for physicians and other medical professionals who provide care for injured workers
- Elimination of redundancies in the alternative dispute resolution process to ensure timely, quality care for injured workers
- Monthly Enterprise Report to provide a transparent record of agency-wide financial and operational performance metrics
- New investment policy statement to strengthen investment returns
- New implementation strategy for diversifying State Insurance Fund fixed-income and equity investments

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Selected Industrial Commission (IC) Improvements

- Continued IC's long history of minimal budget increases that have averaged just six-tenths of one percent annually
- Decreased IC workforce by more than 150 employees (over the last several years) while continuing to meet and exceed statutory requirements for timely service
  - o For example, from the date an appeal was filed to the date of the hearing, first-level hearings averaged 29.5 days, and second-level hearings averaged 27.5 days, both well within the statutorily mandated 45-day time frame.
- Implemented a variety of cost-saving measures that are expected to save IC more than $15 million over the next five years
  - o Consolidated several district offices (Springfield/Dayton, Canton/Akron, Bridgeport/Zanesville/Cambridge, Hamilton/Cincinnati)
  - o Consolidated office space in IC's Columbus office, which will save $800,000 annually
  - o Converted standard telephone service to Voice-Over Internet Protocol telephone service, which is expected to save $865,000 over five years
  - o Reduced employee overtime and overnight delivery, saving more than $58,000 annually
  - o Consolidated and streamlined IC's supply ordering process, which has reduced supply purchases by more than $60,000 annually
- Launched a new Web site that enhances and accelerates customer service
- Implemented technological advances that have made it easier to file appeals on the Web and to submit questions to IC's Customer Service Department
- Implemented a new automated tracking system for customer service
- Implemented new Customer Service and Word Processing Pools to provide a more flexible, efficient way of doing business and managing changing workloads

There is much more to be done, but these many improvements to Ohio's workers' compensation system are helping to ensure more equitable and accurate rates and improved services, which in turn will aid Ohio's efforts to retain existing jobs and attract new investment and additional jobs.

Why The OMA Supports Rate Reform

The OMA is a provider of workers' compensation group-rating services. Yet, unlike many other group-rating sponsors, we fully support the BWC's recent rate reforms. Many have asked why this is so.

The OMA's mission is to protect and grow manufacturing in Ohio, and we support public policy that improves Ohio's manufacturing competitiveness. We are fundamentally opposed to government policies in any area that pick winners and losers, or that punish one class of manufacturers to benefit another. Unfortunately, however unintentional, that has been the case with workers' compensation group rating in our state.

The OMA believes workers' compensation rates should be driven by actuarial data. And we agree with the many actuarial studies that have concluded that historical group-rating discounts are too high and cause non-group-rated employers to pay too much premium. That's why the OMA has supported the BWC's reengineering of its rate structure—in particular the continued, phased-in reduction of the maximum group-rating discount and the application of a graduated break-even factor to eliminate the continued subsidizing of group-rated employers by non-group-rated employers.

These changes will help ensure that each Ohio employer will pay the right premium for the risk the company brings to the system. They will lower base rates across the whole workers' compensation system and distribute them more fairly among employers based on actuarial experience. Employers with low claims will enjoy lower rates, while employers will higher claims (and thus greater costs to the system) will pay higher rates. This will bring not just fairness but also stability to the system.

Our bottom line? The OMA is committed to helping to ensure that all businesses pay fair workers' compensation rates commensurate with the risk they bring to the system, that injured workers receive fair and timely benefits and the support they need for getting back to productive work quickly and safely, and that the state's workers' compensation insurance fund remains actuarially sound. Those are good outcomes for Ohio manufacturers,—and good outcomes for Ohio's overall economy.

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Next Steps in Workers' Compensation Reform

Rate reform was the necessary prelude to additional structural reforms at the BWC that are needed to eliminate unnecessary costs within the system and provide enhanced benefits to all Ohio employers and injured workers. We know additional reforms are needed, and there is no reason to delay action on other critical fronts.

The OMA intends to work with its member companies, the BWC and the legislature to enact reforms that will improve processes for injured workers and employers and continue to drive system costs down.

The Deloitte study released in January 2009 included a large inventory of recommended system improvements, including a number that will require statutory changes that the Ohio General Assembly will need to take up. The OMA intends to work with its member companies, the BWC and the legislature to enact those reforms that will improve processes for injured workers and employers and continue to drive system costs down. Among the next-phase reform concepts for consideration are the following:

- **Rebuttable presumption drug statute:** Eliminate the "reasonable suspicion" standard and incorporate the Louisiana Pacific standard of "voluntary abandonment" for benefits.
- **Self-Insured Employers' Guaranty Fund:** Solve securitization, claims management and accountability problems.
- **Industrial Commission hearing inconsistencies:** Require hearings to be recorded for improved consistency in outcomes.
- **BWC claims management problems:** Improve consistency in delivery against claims management performance standards.
- **Rate-making transparency:** Develop data and reporting on component costs within premium rates.
- **Permanent total disability as retirement benefit:** Establish retirement benefit offsets and/or age or number-of-weeks capping.
- **Permanent total disability (PTD) multiple applications:** Require claimants to show new and changed circumstances when filing for PTD benefits more than once.
- **Permanent partial disability transaction costs:** Lower transaction costs by allowing telephonic hearings.
- **Permanent partial disability impairment standard:** Establish impairment standard (no consideration of non-medical factors).
- **Permanent partial disability (PPD) multiple applications:** Require claimants to show new and changed circumstances when filing for PPD benefits more than once.
- **Temporary total disability (TTD):** Terminate the compensation paid for TTD as of the date established by the medical evidence establishing maximum medical improvement.
- **Temporary total disability:** If a claim for workers' compensation is suspended due to a claimant's refusal to provide a signed medical release or attend the employer's medical examination, the claimant forfeits his or her right to benefits during the period of suspension.
- **Payment without prejudice:** Allow employers to pay compensation and medical bills without losing the right to contest a claim.
- **Actuarial integrity:** Eliminate BWC programs that have no actuarial foundation.
- **Managed Care Organization reforms:** Study the effectiveness of the Managed Care Organization system in Ohio, including possibly requiring MCOs to unbundle their services and compete on price.

The mission of The Ohio Manufacturers' Association is to protect and grow Ohio manufacturing. Through the OMA, manufacturers and manufacturing stakeholders work directly with the members of the Ohio General Assembly, state regulatory agencies, the judiciary community and statewide media with the sole focus of improving business conditions for manufacturers in Ohio.

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12 - Month Medical Services & Safety Calendar

Date	December 2009	Notes
12/15/09	1. Voc Rehab 4123-18-9 Revised (2nd read)	
	2. Ambulatory Surgical Center Fee Schedule (2nd read)	
	3. Definition of "safeguard" (1st read)	
	4. Outpatient Hospital Fee Schedule (1st read)	
	5. BWC/MCO Vocational Rehabilitation program – Including MCO Provider referral	
	6. PERRP adoption of federal OSHA rules (1st reading)	
Date	**January 2010**	
1/21/10	1. Medical & Service Provider Fee Schedule (1st read)	
	2. Definition of "safeguard" (2nd read)	
	3. Outpatient Hospital Fee Schedule (2nd read)	
	4. Drug-free workplace program (DFWP) update	
	5. PERRP adoption of federal OSHA rules (2nd reading)	
Date	**February 2010**	
2/25/10	1. Medical & Service Provider Fee Schedule (2nd read)	
	2. Outpatient Hospital Fee Schedule (2nd read)	
	3. Claim process education session	
Date	**March 2010**	
3/25/10	1. Claim process education session	
Date	**April 2010**	
4/29/10	1. Pharmacy overview	
Date	**May 2010**	
5/27/10		
Date	**June 2010**	
6/17/10		
Date	**July 2010**	
7/29/10	1. Vocational Rehab fee schedule (1st read)	
Date	**August 2010**	
8/26/10	1. Vocational Rehab fee schedule (2nd read)	
Date	**September 2010**	
9/23/10	1. Inpatient Hospital Fee Schedule (1st read)	
Date	**October 2010**	
10/21/10	1. Inpatient Hospital Fee Schedule (2nd read)	
	November 2010	
11/18/10		
	December 2010	
12/15/10	1. Outpatient Hospital Fee Schedule (1st read)	