

Workers' Compensation Oversight Commission

OVERSIGHT COMMISSION

Agenda

Date: March 29, 2007
Time: 11:30 a.m.
Location: William Green Building, Second Floor, Room 3

Oversight Commission

William E. Sopko, Chairman
President,
STAMCO Industries
representing state-fund employers

William A. Burga
President
Ohio AFL-CIO
representing organized labor

Mary Beth Carroll
Vice President,
FirstEnergy
representing self-insured

Michael C. Koetters
Retired Chief Investment Officer,
WellPoint Inc.
representing the public

Denise M. Farkas, CFA
Chief Investment Officer
Sigma Investments
representing investments

Edwin McCausland, CFA
President,
Investment Perspectives, LLC
representing investments

Charles W. Kranstuber, LPA
President,
The Law Offices of Kranstuber
representing injured workers

The next WCO
Oversight Commission meeting is scheduled
for:

Date: April 26, 2007
Time: 11 a.m.
Location: William Green Building,
Second Floor, Room 3

Opening remarks

Chairman's comments..... William Sopko

Old business

Approval of January 25, 2007 meeting minutes William Sopko

Review schedule of projects..... William Sopko

New Business

Audit Committee (*update*)Denise Farkas

Investment Committee (*update*)..... Win McCausland

Operational (*update*) Tina Kielemeyer

CFO Financial Statement package Tracy Valentino

1. Passive Index Manager recommendation:

Large Cap U.S. Equity mandate, *first consideration, possible vote*
.....Bruce Dunn and Mark Brubaker

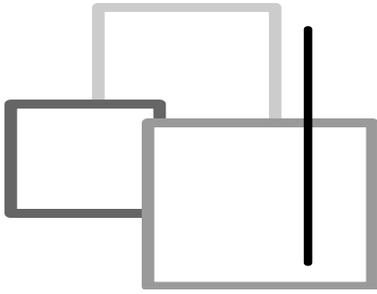
2. Intermediate Duration Bond Fund recommendation:

BWC ancillary portfolios, *first consideration, possible vote*
.....Bruce Dunn and Mark Brubaker

3. Investment Policy recommendations – Benchmark Index:

a. Intermediate Duration Fixed Income benchmark, *first consideration, possible vote*, Section V.A. of the BWC Investment Policy and GuidelinesBruce Dunn and Mark Brubaker

b. Customized Long Duration Fixed Income benchmark, *first consideration, possible vote*, Section V.A. of the BWC Investment Policy and GuidelinesBruce Dunn and Mark Brubaker



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4. Investment Policy recommendations – High Yield Bonds:

- a. Asset Allocation variances revisions, *first consideration, possible vote*, Appendix X.A, X.B, X.D of the BWC Investment Policy and GuidelinesBruce Dunn and Mark Brubaker
- b. Credit Quality and Sector Allocation revisions, *first consideration, possible vote*, Section IV.C.ii of BWC Investment Policy and GuidelinesBruce Dunn and Mark Brubaker

5. Actuarial Consultant recommendation, *first consideration, possible vote*,
..... Win McCausland

Rules

- 1. BWC Ethics five-year rule review (4123-15 OAC), *second consideration, possible vote* Tom Sico
- 2. BWC Ethics Standards of Conduct (4123-15-03 OAC), *second consideration, possible vote* Tom Sico
- 3. Advance compensation payments (4123-5-20 OAC), *first consideration, possible vote* Tom Sico
- 4. Long Term Care Loan program (4123-17-31 OAC), *first consideration, possible vote* Carol Morrison
- 5. Rule change for Child Support (4123-19-03 OAC), *first consideration, possible vote* Dave Boyd

Adjourn William Sopko

WORKERS' COMPENSATION OVERSIGHT COMMISSION

**THURSDAY JANUARY 25, 2006, 11:30 A.M.
WILLIAM GREEN BUILDING
THE NEIL SCHULTZ CONFERENCE CENTER
30 WEST SPRING ST., 2nd FLOOR (MEZZANINE)
COLUMBUS, OHIO 43215**

Members Present: Bill Sopko, Chairman
Michael Koettters
Mary Beth Carroll
Charles Kranstuber
William Burga
Denise Farkas
Edwin McCausland
Senator Steve Stivers

Members Absent: Senator Eric Kearney

ROLL CALL

Mr. Sopko called the meeting to order at 11:30 a.m. and the roll call was taken.

OPENING REMARKS

Mr. Sopko reported that the House of Representative had not yet appointed a chair or ranking minority member to its standing committee.

Mr. Sopko thanked Tina Kielmeyer for again serving as Acting Administrator.

OLD BUSINESS

MINUTES OF DECEMBER 14, 2006

Mr. Burga moved that the minutes of December 14, 2006, be approved. Mr. Kranstuber seconded and the minutes were approved by a roll call vote of five ayes and no nays.

SCHEDULE OF PROJECTS

Mr. Sopko reported that the Oversight Commission had received the requested white paper from Dr. Greg Jewell, Chief Medical Officer, on the Health Partnership Program.

Mr. Sopko also reported that the Oversight Commission had received a report from Tracy Valentino, Chief Financial Officer, on the number of employers and premium savings for participants in the Drug Free Workplace Program.

Mr. Burga reported that he had also requested information on the “fire-walls” between third-party administrators and their affiliated Managed Care Organizations. He indicated that he would put his specific request in writing and forward it to James Barnes, Chief Legal Officer. He has been informed that this information is not a public record, but that he will be given an opportunity to review appropriate records of BWC.

NEW BUSINESS

CFO FINANCIAL STATEMENT PACKAGE

Ms. Valentino reported on financial statements for December 2006. Net assets were calculated at \$2.2 billion. This is an increase over June 30, 2006, and is higher than projected.

Mr. McCausland asked why investment income was projected to be only \$40 million. Ms. Valentino replied that it was estimated on a conservative basis, assuming that there would be additional interest rate increases by the Federal Reserve Board.

Ms. Valentino further reported that variances in premium collection were higher because of greater participation by employers in safety programs. Expenditures for claims were \$39 million less than projected. Net investment income was \$804 million because of returns in the bond index fund. Total assets increased to \$19.7 billion and total liabilities are \$17.4 billion, for \$2.2 billion in net assets.

Mr. Koettters asked why cash expenditures were more than projected. Ms. Valentino replied the last quarter of the calendar year is the low point for the calendar year for receipts. There were also increased cash disbursements for the class of injured workers in the *Santos* case and increased participation by employers in safety incentive programs.

Ms. Valentino also reported that the projected net assets will be \$2.3 billion by June 30, 2007. The combined ratio is now down to 117% and the operating/trade ratio is now 82.13%.

Senator Stivers asked what the source of the Loss Adjusted Ratios was. Ms. Valentino replied that it is based on data available on claims.

Mr. McCausland inquired if the market value of the investments could be compared to the cost basis. He indicated that it was not necessary, but that he was curious. Ms. Valentino offered to look into it.

AUDIT COMMITTEE

Ms. Farkas reported that the Audit Committee had met this morning and heard several management reports. The committee reviewed its charter to determine whether the charter is providing adequate structure. Joe Bell, Chief Internal Audit, presented a report on internal auditing standards for government agencies.

Ms. Farkas stated that the public records laws exempt all investigatory processes except internal auditing. She believed this to be a legislative oversight and requested that the General Assembly consider amending the laws to exempt this process.

Ms. Farkas also reported that the Audit Committee had met with the external auditors of Schneider Downs & Co., Inc. They report that there is one outstanding issue to resolve and are consulting with the Government Accounting Standards Board on interpreting a reporting requirement. Schneider Downs expects to close the audit within several days.

INVESTMENT COMMITTEE: PASSIVE INDEX MANAGER RECOMMENDATION

Mr. Koettters reported that the Investment Committee had met in the morning and has two recommendations. First is selection of a second manager for the Long Duration Fixed Income (LDFI) portion of the investment portfolio.

Bruce Dunn, Chief Investment Officer, reported that the Oversight Commission had approved selection of State Street Global Advisors (SSGA) in December as one of the LDFI managers. BWC and Wilshire Consulting recommend selection of Barclays Global Investors (BGI) as the second manager. BGI is the largest LDFI in the world. BWC will be allocating \$2.5 billion to SSGA and \$1.5 billion to BGI of the State Insurance Fund under this mandate. In addition, SSGA will receive all funds targeted by the ancillary Funds toward the mandate and will receive BWC interim fixed income funds for management until active fixed income managers are contracted. The strategy is to get as much to SSGA as possible and as quickly as possible.

Mark Brubaker, Wilshire Consulting, reported that the responses of the Request for Proposals (RFP) underwent a rigorous review and that SSGA and BGI were ranked the highest. A second manager is needed because of the size of the mandate in the Investment Policy Statement and the need for organizational diversification.

Ms. Farkas moved that the Workers' Compensation Oversight Commission approve WCOC Resolution 07-01 accepting the recommendation of the Investment Committee to approve the selection of Barclays Global Investors to serve as a Long Duration Fixed Income

Passive Index Manager for BWC for an amount up to \$1.5 billion, upon such terms as are outlined in Barclays' response to the Request for Proposals issued September 18, 2006, and such other terms as are favorable to BWC. Mr. McCausland seconded and the motion was approved by a roll call vote of seven ayes and no nays.

INVESTMENT COMMITTEE: INVESTMENT POLICY RECOMMENDATIONS

Mr. Koettters recommended changes to the Investment Policy Statement regarding asset allocation variances, and credit quality and sector allocations. Changes regarding below investment grade bond ownership limits are tabled to a later meeting.

Mr. McCausland moved that the Workers' Compensation Oversight Commission approve WCOC Resolution 07-02 relating to the approval and adoption of certain revisions to the Statement of Investment Policy and Guidelines as submitted to the Oversight Commission by the Investment Committee. Upon adoption of the motion, the Statement of Investment Policy and Guidelines shall read as set forth in the Appendix to WCOC Resolution 07-02. Ms. Farkas seconded the motion.

Mr. Sopko reported that there was discussion at the morning Investment Committee meeting in order to cover four recommendations brought by BWC. In accordance with Senator Stivers earlier comments that the Oversight Commission expedite the investment transition process, two of the recommendations were approved.

Senator Stivers thanked the Oversight Commission and BWC staff for keeping the process moving. He urged them to think about manager selections in terms of risk-adjusted costs, i.e. costs will vary with quality, and to continue to monitor responses to RFPs for fees and costs of respondents.

The motion was approved by a roll call vote of seven ayes and no nays.

RULES/RESOLUTIONS FOR FIRST CONSIDERATION: NCCI RULE CHANGE, OHIO ADMINISTRATIVE CODE RULE 4123-17-04

Todd Spence, Manager, Employer Consultants, and Michael Glass, Director, Employer Compliance, recommended amendment of Ohio Administrative Code Rule 4123-17-04 regarding the classification of occupations by the National Council of Compensation Insurance (NCCI). Mr. Spence reported that the recommended changes were based on revisions of manual classifications by NCCI.

Mr. Glass stated that the amendment would effective July 1, 2007, and reflects changes in industry processes. The amendment changes a small number of manual numbers. For example, emergency medical transportation services are broken off from taxis and other public conveyances because the chief risk in EMS is medical, not in traffic accidents.

Mr. Kranstuber moved that the Workers' Compensation Oversight Commission approve WCOC Resolution 07-03 relating to rules on the classifications of industries under the NCCI classifications as required by Revised Code §4123.29. The resolution consents to the Administrator adopting Rule 4123-17-04 of the Administrative Code as presented today. Mr. Burga seconded and the rule was approved by a roll call vote of five ayes and no nays.

ADJOURNMENT

Mr. Sopko announced that the next meeting is February 22, 2007. The March 29 meeting will probably be cancelled because several members of the Oversight Commission may not be able to attend on the scheduled date.

Mr. Koettters moved to adjourn and Mr. Sopko adjourned the meeting.

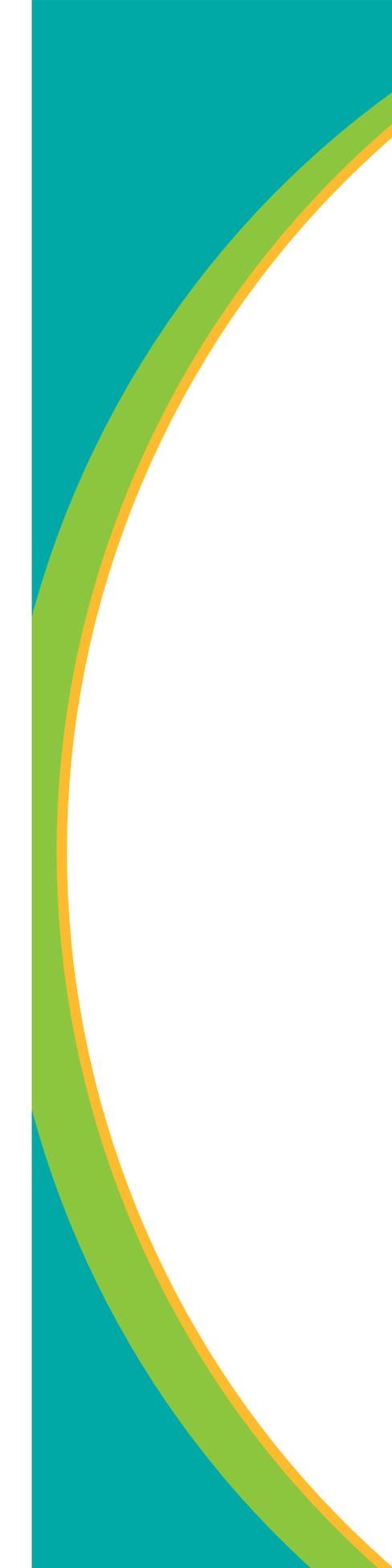
Prepared by: Larry Rhodebeck, BWC Attorney
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February 1, 2007



Straightforward **service.**
Simple **solutions.**

BWC's Operational Performance Report
March 2007

Printed within BWC



Governor Strickland's Turnaround Ohio initiative is an apt name for recent events at the Ohio Bureau of Workers' Compensation (BWC). During 2006, BWC initiated a turnaround of its own. The agency improved its investment operation, revised its asset allocation, and hired qualified investment staff to oversee its portfolio. It solidified the balance sheet through appropriately managing medical costs and enforcing collection efforts. Overall, "Agenda '06" enabled BWC to successfully reduce costs; now the agency spends 75 cents for every dollar it either collects or earns.

Because its balance sheet is stable, BWC is well-positioned to serve the needs of businesses and workers and can help to once again make Ohio a great place to live and work. The agency will expand its educational outreach efforts and work with businesses to improve safety and health within the workplace. BWC will also help to nurture small businesses by providing nationally competitive premiums and facilitate a safe and healthy return to work for Ohio's workforce.

To monitor this progress, BWC is pleased to introduce "Straightforward service, simple solutions." This quarterly operational report includes binding commitments to:

◆ **Prevent workplace injuries**

BWC's goal is to help keep Ohioans working by partnering closely with businesses and their employees to implement safety practices at the workplace. By offering a diverse set of educational seminars, providing risk and safety consulting services, and enlisting grassroots support through Safety Councils, the agency strives to continue reducing workplace injuries.

◆ **Restore health in Ohio communities**

Despite the best intentions of BWC, employers, and workers, accidents on the job still occur. Therefore, the agency is committed to providing timely treatment and appropriate benefits and helping injured Ohioans become healthy Ohioans.

◆ **Create value and stabilize costs for small businesses**

BWC recognizes its responsibility to provide competitive rates to spur economic development and create jobs. Therefore, by offering discount programs and grant monies, the agency has successfully devised incentives designed to, lower costs, and make base rates more competitive.

◆ **Improve quality in Ohio's workers' compensation system**

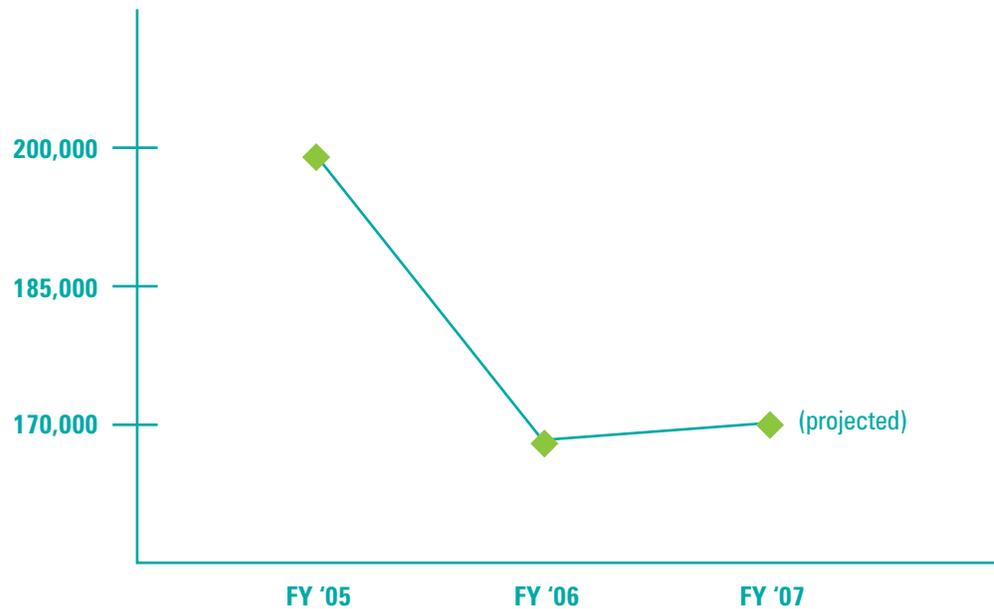
Above all else, BWC is committed to providing straightforward service and simple solutions. The agency wants customers to get the right information the first time and maintain a certified group of high quality providers to treat workers immediately and thoroughly. Moreover, the agency wants to make sure its service exceeds expectations from beginning to end.

Future editions will include goals for key indicators as well as benchmarks that are relative to the agency's commitment to making Ohio a national leader in providing workers' compensation.

Prevent workplace injuries

Through December 2006, approximately 88,000 Ohio workers were injured at work. This pace is relatively similar to the previous fiscal year, during which approximately 167,000 new claims were allowed.

All claims



Much of this success stems from BWC's efforts to promote workplace safety and to educate Ohio businesses and their employees on sound risk management strategies. In the first half of the fiscal year, nearly 13,000 employers and workers have attended either Workers' Compensation University seminars or classes offered by BWC's Division of Safety and Hygiene.

Additionally, BWC risk and safety personnel have visited approximately 16,166 worksites to offer counsel and assistance in helping to keep Ohioans working safely.

Restore health in Ohio communities

BWC continues to move swiftly to assist injured workers in getting high-quality treatment as part of facilitating a timely, appropriate return-to-work. Within 24 hours of receiving the claim, the agency successfully contacts 98 percent of injured workers and their employers to allay concerns and explain the claims process.

After conducting appropriate due diligence, BWC successfully issues an initial determination on a claim within 21 days more than 87 percent of the time. This is more than a week faster than required by law. The average time it takes to determine a claim is 8.89 days.

Determination times (fiscal year average)



Nearly 38,000 of the less severe claims, or 35 percent, are decided in less than two business days through auto adjudication. This represents a slight increase over last year.

When a claim is allowed, BWC moves to quickly and efficiently pay benefits. In nearly 78 percent of claims, BWC begins paying compensation to eligible injured workers within fourteen days of allowing a lost-time claims; in fiscal year 2006, only 73 percent of claimants received compensation in two weeks.

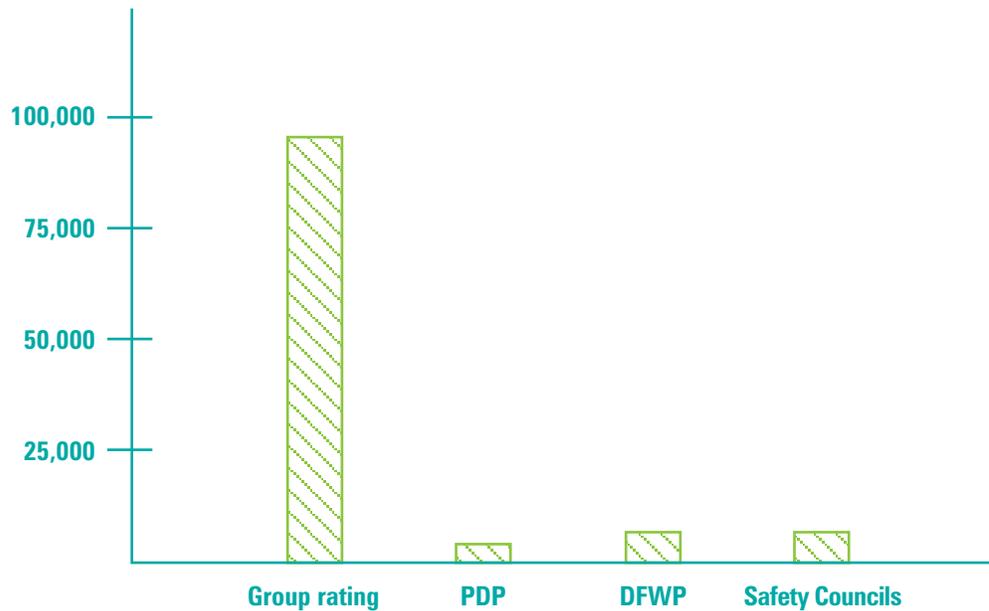
All of these activities culminate with a successful return to work. Nearly 87 percent of injured workers return to their jobs within one week, and fully 92 percent have safely gone back to work within sixty days of filing a claim.

Create value and stabilize costs for small businesses

As part of its commitment to control costs and improve the health and safety of Ohio's workplaces, BWC has actively attempted to engage employers in strengthening their risk management strategies by having them participate in various discount programs. Many of these programs provide a premium discount incentive in exchange for documented evidence of stronger workplace safety measures.

Of the 270,653 active policies, more than 103,000, or 38 percent, currently participate in one of these programs.

Discount program participation



Also, BWC has provided 1,364 SafetyGRANT\$ totaling more than \$1.6 million this fiscal year to employers seeking to purchase equipment that is proven to reduce the risk of injury.

BWC has also become more effective in controlling medial costs. Payments in fiscal year 2007 are down \$34 million, or eight percent, compared to the previous fiscal year.

Ohio employers pay an average, or base, rate of \$3.13 per \$100 of payroll for private sector employers. The average collectible rate is \$1.85 per \$100 of payroll. However, BWC's efforts to control costs along with declining claims volume and a commitment to improving group rating should help that number to decrease significantly in the near future and make BWC more competitive on a national scale.

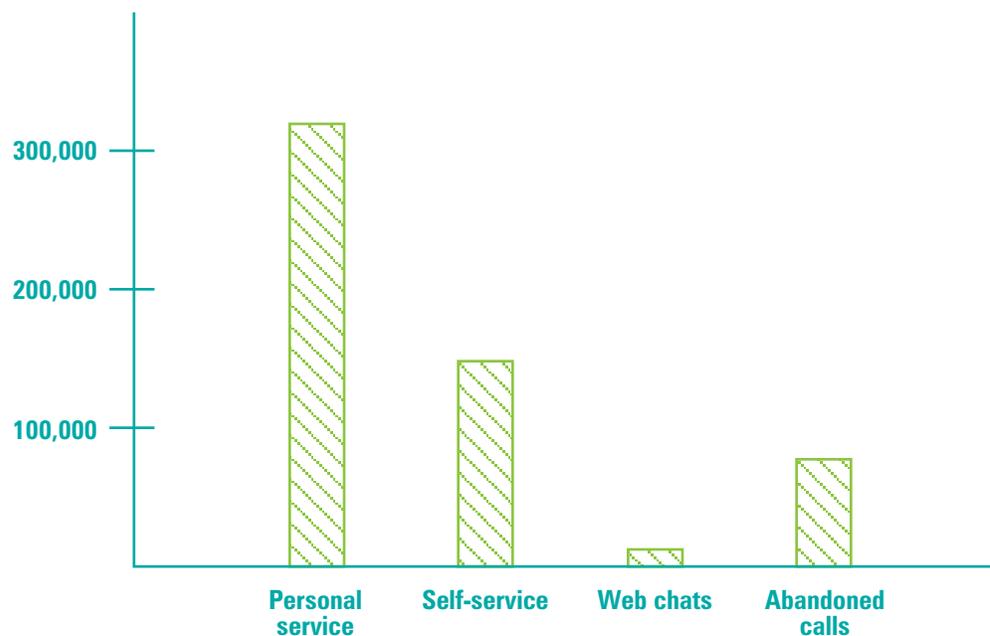
Improve quality within Ohio's workers' compensation system

To ensure BWC is providing high quality care to Ohioans, the agency must maintain a network of quality providers. Today, more than 27,000 providers are BWC-certified and committed to treating injured workers and helping to restore their health and wellbeing.

BWC also works to keep that network intact by processing payments to providers expeditiously. Currently, the agency makes payments to providers within twelve days of receiving billing notices.

The agency also handles a number of inquiries each month from employers and injured workers who have questions regarding various workers' compensation matters. Through December 2006, BWC has received more than 570,000 contacts from customers. Of those, approximately 319,000 required personal assistance from contact center personnel at an average duration of five minutes and twenty-one seconds. Approximately 150,000 customers received self-service through 1-800-OHIOBWC.

Contact center statistics



Finally, the agency seeks to measure overall service by progressively following up with injured workers, employers, and other strategic partners to gauge their level of customer satisfaction. Through December, BWC's customer service index, which measures feedback from injured workers, employers, and other strategic partners, was 82.13 percent.



Financial**Report**

March '07

Positive results are continuing to be generated by BWC's efforts to strengthen financial performance. Combined net assets have increased from a \$127 million deficit at June 30, 2006 to a \$766 million combined surplus at February 28, 2007.

Net investment income contributed \$1 billion to the growth of net assets. This growth is partially offset by an operating loss of \$143 million. While premium and assessment income increased and workers' compensation benefits decreased from the prior fiscal year these improvements alone are not enough to generate positive operating results.

The fiscal year 2007 results are being positively impacted by growth in the estimated collectible premium for private employers resulting from the 3.9 percent increase in private employer rates for the July 1, 2006 policy period.

Medical payments in fiscal year 2007 are \$39 million lower than in the same period of fiscal year 2006 and are approximately 15 percent lower than expected. Lump sum settlement payments have increased by \$38 million this fiscal year compared to last fiscal year due to the settlement pilot focusing on higher reserve PTD and death claim settlements.

Fiscal year-to-date results reflect January decreases of approximately \$146 million to the reserves for compensation and compensation adjustment expenses based on projections prepared by BWC's actuarial consultants reflecting payment trends through December 31, 2006.

The net investment income ratio is being impacted by higher interest earnings resulting from the transition of the investment portfolio to a bond index fund during the third quarter of fiscal year 2006. In January and February 2007, the State Insurance Fund's bond index fund units were liquidated and the holdings transferred to 2 transition managers. At the end of January, \$2.5 billion was transitioned to a passively managed S&P 500 index account and \$3 billion to a passively managed TIPS account. In March, approximately \$9 billion will be transitioned to 2 long-term duration fixed income managers.

The fiscal year-to-date 2007 operating results have generated over a 38 point improvement in the trade combined ratio. The trade combined ratio is 74.8 percent at February 28, 2007 compared to 113.4 percent at February 28, 2006.

Statement of Operations

➤➤ Fiscal year to date February 28, 2007

<i>(in millions)</i>	Actual	Projected	Variance	Prior Yr. Actual	Increase (Decrease)
Total Operating Revenues	\$ 1,649	\$ 1,685	\$ (36)	\$ 1,413	\$ 236
Total Operating Expenses	<u>1,792</u>	<u>2,029</u>	<u>(237)</u>	<u>2,002</u>	<u>(210)</u>
Net Operating Gain (Loss)	(143)	(344)	201	(589)	446
Net Investment Income	<u>1,036</u>	<u>149</u>	<u>887</u>	<u>932</u>	<u>104</u>
Increase (Decrease) in Net Assets	893	(195)	1,088	343	550
Net Assets Beginning of Period	<u>(127)</u>	<u>(127)</u>	<u>—</u>	<u>(990)</u>	<u>863</u>
Net Assets End of Period	\$ 766	\$ (322)	\$ 1,088	\$ (647)	\$ 1,413

Statement of Operations

➤➤ Fiscal year to date February 28, 2007

<i>(in millions)</i>	Actual	Projected	Variance	Prior Yr. Actual	Increase (Decrease)
Operating Revenues					
Premium & Assessment Income	\$ 1,670	\$ 1,711	\$ (41)	\$ 1,436	\$ 234
Provision for Uncollectibles	(28)	(31)	3	(29)	1
Other Income	<u>7</u>	<u>5</u>	<u>2</u>	<u>6</u>	<u>1</u>
Total Operating Revenue	1,649	1,685	(36)	1,413	236
Operating Expenses					
Benefits & Compensation Adj. Expense	1,730	1,960	(230)	1,923	(193)
Other Expenses	<u>62</u>	<u>69</u>	<u>(7)</u>	<u>79</u>	<u>(17)</u>
Total Operating Expenses	<u>1,792</u>	<u>2,029</u>	<u>(237)</u>	<u>2,002</u>	<u>(210)</u>
Net Operating Gain (Loss)	(143)	(344)	201	(589)	446
Investment Income					
Interest and dividend income	550	576	(26)	450	100
Realized & unrealized capital gains (losses)	493	(415)	908	559	(66)
Investment manager and operational fees	(7)	(12)	5	(77)	70
Gain (loss) on disposal of fixed assets	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
Net Investment Income	<u>1,036</u>	<u>149</u>	<u>887</u>	<u>932</u>	<u>104</u>
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Net Assets End of Period	\$ 766	\$ (322)	\$ 1,088	\$ (647)	\$ 1,413

Statement of Operations Combining Schedule

➤➤ Fiscal year to date February 28, 2007

<i>(in thousands)</i>	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	Totals
Operating Revenues								
Premium & Assessment Income	\$ 1,314,786	\$ 88,414	\$ 458	\$ 299	\$ 587	\$ 14,388	\$ 250,871	\$ 1,669,803
Provision for Uncollectibles	(24,235)	(2,101)	–	–	–	187	(2,096)	(28,245)
Other Income	4,859	–	–	–	–	–	2,526	7,385
Total Operating Revenue	1,295,410	86,313	458	299	587	14,575	251,301	1,648,943
Operating Expenses								
Benefits & Compensation Adj. Expense	1,391,841	72,598	980	342	164	14,088	249,814	1,729,827
Other Expenses	12,811	244	455	–	48	–	48,876	62,434
Total Operating Expenses	1,404,652	72,842	1,435	342	212	14,088	298,690	1,792,261
Net Operating Income (loss) before operating transfers out	(109,242)	13,471	(977)	(43)	375	487	(47,389)	(143,318)
Operating transfers out	(1,420)	–	–	–	–	–	1,420	–
Net operating income (loss)	(110,662)	13,471	(977)	(43)	375	487	(45,969)	(143,318)
Investment Income								
Investment income	497,839	39,190	8,242	767	548	1,312	2,131	550,029
Realized & unrealized capital gains (losses)	453,655	31,452	6,463	590	419	–	–	492,579
Investment manager and operational fees	(6,419)	(312)	(65)	(6)	(4)	–	–	(6,806)
Gain (loss) on disposal of fixed assets	–	–	–	–	–	–	(14)	(14)
Total non-operating revenues, net	945,075	70,330	14,640	1,351	963	1,312	2,117	1,035,788
Increase (decrease) in Net Assets (deficit)	834,413	83,801	13,663	1,308	1,338	1,799	(43,852)	892,470
Net Assets (deficit) Beginning of Period	1,278,844	(960,065)	160,138	16,146	12,158	3,472	(637,315)	(126,622)
Net Assets (deficit) End of Period	\$ 2,113,257	\$ (876,264)	\$ 173,801	\$ 17,454	\$ 13,496	\$ 5,271	\$ (681,167)	\$ 765,848

Statement of Net Assets

➤➤ As of February 28, 2007

<i>(in millions)</i>	Actual	Projected	Variance	Prior Yr. Actual	Increase (Decrease)
Assets					
Total Cash and Investments	\$ 18,778	\$ 16,464	\$ 2,314	\$ 16,999	\$ 1,779
Accrued Premiums	3,098	2,865	233	2,945	153
Other Accounts Receivable	209	284	(75)	179	30
Investment Receivables	1,267	135	1,132	123	1,144
Other Assets	<u>123</u>	<u>121</u>	<u>2</u>	<u>128</u>	<u>(5)</u>
Total Assets	\$ 23,475	\$ 19,869	\$ 3,606	\$ 20,374	\$ 3,101
Liabilities					
Reserve for Compensation and Compensation Adj. Expense	\$ 19,147	\$ 19,349	\$ (202)	\$ 19,731	\$ (584)
Accounts Payable	136	124	12	114	22
Investment Payable	2,765	–	2,765	460	2,305
Other Liabilities	<u>661</u>	<u>718</u>	<u>(57)</u>	<u>716</u>	<u>(55)</u>
Total Liabilities	<u>22,709</u>	<u>20,191</u>	<u>2,518</u>	<u>21,021</u>	<u>1,688</u>
Net Assets	\$ 766	\$ (322)	\$ 1,088	\$ (647)	\$ 1,413

Statement of Cash Flows

➤➤ Fiscal year to date February 28, 2007

<i>(in millions)</i>	Actual	Projected	Variance	Prior Yr. Actual	Increase (Decrease)
Cash flows from operating activities:					
Cash receipts from premiums	\$ 1,780	\$ 1,872	(\$ 92)	\$ 1,733	\$ 47
Cash receipts – other	19	7	12	17	2
Cash disbursements for claims	(1,389)	(1,367)	(22)	(1,392)	3
Cash disbursements for other	<u>(385)</u>	<u>(284)</u>	<u>(101)</u>	<u>(287)</u>	<u>(98)</u>
Net cash provided (used) by operating activities	25	228	(203)	71	(46)
Net cash flows from capital and related financing activities	(6)	(3)	(3)	(5)	(1)
Net cash provided (used) by investing activities	<u>2,357</u>	<u>15</u>	<u>2,342</u>	<u>1,489</u>	<u>868</u>
Net increase (decrease) in cash and cash equivalents	2,376	240	2,136	1,555	821
Cash and cash equivalents, beginning of period	<u>193</u>	<u>193</u>	<u>–</u>	<u>1,282</u>	<u>(1,089)</u>
Cash and cash equivalents, end of period	\$ 2,569	\$ 433	\$ 2,136	\$ 2,837	\$ (268)

Statement of Investment Income

➤➤ Fiscal year to date February 28, 2007

	Actual	Projected	Variance	Prior Yr. Actual	Increase (Decrease)
Interest Income					
Bond Interest	\$ 510,454,276	\$ 541,000,000	\$ (30,545,724)	\$ 276,117,802	\$ 234,336,474
Dividend Income (Dom & Int'l)	9,555,905	8,400,000	1,155,905	57,120,734	(47,564,829)
Money Market/ Commercial Paper Income	12,238,465	16,000,000	(3,761,535)	39,529,028	(27,290,563)
Misc. Income (Corp actions, etc.)	2,759,990	2,400,000	359,990	20,574,830	(17,814,840)
Private Equity	11,291,053	4,210,000	7,081,053	4,113,662	7,177,391
Net Securities Lending Income	<u>3,729,939</u>	<u>4,000,000</u>	<u>(270,061)</u>	<u>3,923,764</u>	<u>(193,825)</u>
Total Interest Income	<u>550,029,628</u>	<u>576,010,000</u>	<u>(25,980,372)</u>	<u>401,379,820</u>	<u>148,649,808</u>
Realized & Unrealized Capital Gains and (Losses)					
Net realized gain (loss) - Stocks (Dom & Int'l)	(4,598,480)	-	(4,598,480)	1,455,025,867	(1,459,624,347)
Net realized gain (loss) - Bonds	105,444,327	(220,000,000)	325,444,327	(101,061,512)	206,505,839
Net gain (loss) - PE	20,976,249	(7,290,000)	28,266,249	9,723,686	11,252,563
Unrealized gain (loss) - Stocks (Dom & Int'l)	(41,461,355)	32,669,000	(74,130,355)	(685,976,850)	644,515,495
Unrealized gain (loss) - Bonds	<u>412,217,662</u>	<u>(220,001,000)</u>	<u>632,218,662</u>	<u>(118,647,588)</u>	<u>530,865,250</u>
Change in Portfolio Value	<u>492,578,403</u>	<u>(414,622,000)</u>	<u>907,200,403</u>	<u>559,063,603</u>	<u>(66,485,200)</u>
Investment Expenses-Manager & Operational Fees	<u>(6,805,743)</u>	<u>(11,986,841)</u>	<u>5,181,098</u>	<u>(28,432,588)</u>	<u>21,626,845</u>
Total Investment Income	<u>\$1,035,802,288</u>	<u>\$ 149,401,159</u>	<u>\$ 886,401,129</u>	<u>\$ 932,010,835</u>	<u>\$ 103,791,453</u>

Projected Statement of Operations

➤➤ July 1, 2006 – February 28, 2007

<i>(in millions)</i>	Actual Quarter Sept. 30, 2006	Actual Quarter Dec. 31, 2006	Actual Jan. 31, 2007	Actual Feb. 28, 2007
Total Operating Revenues	\$ 596	\$ 649	\$ 199	\$ 205
Total Operating Expenses	<u>773</u>	<u>706</u>	<u>78</u>	<u>235</u>
Net Operating Gain (Loss)	(177)	(57)	121	(30)
Net Investment Income	<u>602</u>	<u>221</u>	<u>12</u>	<u>201</u>
Increase (Decrease) In Net Assets	425	164	133	171
Net Assets Beginning of Period	<u>(127)</u>	<u>298</u>	<u>462</u>	<u>595</u>
Net Assets End of Period	\$ 298	\$ 462	\$ 595	\$ 766

<i>(in millions)</i>	Projected March 31, 2007	Projected Quarter March 31, 2007	Projected Quarter June 30, 2007	Projected Fiscal Year June 30, 2007
Total Operating Revenues	\$ 208	\$ 612	\$ 600	\$ 2,457
Total Operating Expenses	<u>242</u>	<u>555</u>	<u>785</u>	<u>2,819</u>
Net Operating Gain (Loss)	(34)	57	(185)	(362)
Net Investment Income	<u>81</u>	<u>294</u>	<u>197</u>	<u>1,314</u>
Increase (Decrease) In Net Assets	47	351	12	952
Net Assets Beginning of Period	<u>766</u>	<u>462</u>	<u>813</u>	<u>(127)</u>
Net Assets End of Period	\$ 813	\$ 813	\$ 825	\$ 825

Projected Statement of Cash Flows

➤➤ July 1, 2006 – February 28, 2007

<i>(in millions)</i>	Actual Quarter Sept. 30, 2006	Actual Quarter Dec. 31, 2006	Actual Jan. 31, 2007	Actual Feb. 28, 2007
Cash flows from operating activities:				
Cash receipts from premiums	\$ 821	\$ 209	\$ 185	\$ 565
Cash receipts – other	9	6	2	2
Cash disbursements for claims	(509)	(526)	(177)	(178)
Cash disbursements for other	<u>(139)</u>	<u>(143)</u>	<u>(60)</u>	<u>(42)</u>
Net cash provided (used) by operating activities	182	(454)	(50)	347
Net cash flows from capital and related financing activities	(5)	–	–	(1)
Net cash provided (used) by investing activities	<u>9</u>	<u>278</u>	<u>75</u>	<u>1,994</u>
Net increase (decrease) in cash and cash equivalents	186	(176)	25	2,340
Cash and cash equivalents, beginning of period	<u>194</u>	<u>380</u>	<u>204</u>	<u>229</u>
Cash and cash equivalents, end of period	\$ 380	\$ 204	\$ 229	\$ 2,569

<i>(in millions)</i>	Projected Quarter March 31, 2007	Projected Quarter March 31, 2007	Projected Quarter June 30, 2007	Projected Fiscal Year June 30, 2007
Cash flows from operating activities:				
Cash receipts from premiums	\$ 198	\$ 948	\$ 482	\$ 2,460
Cash receipts – other	1	5	3	23
Cash disbursements for claims	(169)	(524)	(534)	(2,093)
Cash disbursements for other	<u>(27)</u>	<u>(129)</u>	<u>(103)</u>	<u>(514)</u>
Net cash provided (used) by operating activities	3	300	(152)	(124)
Net cash flows from capital and related financing activities	(17)	(18)	–	(23)
Net cash provided (used) by investing activities	<u>(4)</u>	<u>2,065</u>	<u>6</u>	<u>2,358</u>
Net increase (decrease) in cash and cash equivalents	(18)	2,347	(146)	2,211
Cash and cash equivalents, beginning of period	<u>2,569</u>	<u>204</u>	<u>2,551</u>	<u>194</u>
Cash and cash equivalents, end of period	\$ 2,551	\$ 2,551	\$ 2,405	\$ 2,405

Projected Statement of Investment Income

➤➤ July 1, 2006 – February 28, 2007

	Actual Quarter Sept. 30, 2006	Actual Quarter Dec. 31, 2006	Actual Quarter Jan. 31, 2007	Actual Quarter Feb. 28, 2007
Interest Income				
Bond Interest	\$ 210,425,631	\$ 211,533,891	\$ 63,056,784	\$ 25,437,969
Dividend Income (Dom & Int'l)	99,113	1,487,524	2,131,327	5,837,942
Money Market/ Commercial Paper Income	3,413,767	3,498,766	2,263,811	3,062,121
Misc. Income (Corp actions, etc.)	1,403,869	848,764	75,893	431,465
Private Equity	4,984,705	6,128,224	153,024	25,100
Net Securities Lending Income	1,541,324	1,111,616	1,076,999	–
Total Interest Income	221,868,409	224,608,785	68,757,838	34,794,597
Realized & Unrealized Capital Gains and (Losses)				
Net realized gain (loss) - Stocks (Dom & Int'l)	881,489	(133,284)	(5,402,679)	55,993
Net realized gain (loss) - Bonds	(75,423)	5,224,840	(7,485,832)	107,780,743
Net gain (loss) - PE	2,807,629	13,753,836	16,951	4,397,830
Unrealized gain (loss) - Stocks (Dom & Int'l)	(1,911,863)	(1,381,741)	15,423,355	(53,591,107)
Unrealized gain (loss) - Bonds	382,119,778	(18,178,216)	(59,345,980)	107,622,083
Change in Portfolio Value	383,821,610	(714,565)	(56,794,185)	166,265,542
Investment Expenses-Manager & Operational Fees	(3,411,150)	(2,471,937)	(419,841)	(502,815)
Total Investment Income	\$ 602,278,869	\$ 221,422,283	\$ 11,543,812	\$ 200,557,324
	Projected March 31, 2007	Projected Quarter March 31, 2007	Projected Quarter June 30, 2007	Projected Fiscal Year June 30, 2007
Interest Income				
Bond Interest	\$ 67,662,500	\$ 156,157,253	\$ 202,987,500	\$ 781,104,275
Dividend Income (Dom & Int'l)	2,512,500	10,481,769	7,537,500	19,605,906
Money Market/ Commercial Paper Income	2,456,250	7,782,182	7,368,750	22,063,465
Misc. Income (Corp actions, etc.)	300,000	807,358	900,000	3,959,991
Private Equity	–	178,124	–	11,291,053
Net Securities Lending Income	500,000	1,576,999	1,500,000	5,729,939
Total Interest Income	73,431,250	176,983,685	220,293,750	843,754,629
Realized & Unrealized Capital Gains and (Losses)				
Net realized gain (loss) - Stocks (Dom & Int'l)	21,000,000	15,653,314	–	16,401,519
Net realized gain (loss) - Bonds	–	100,294,911	(2,000,000)	103,444,328
Net gain (loss) - PE	–	4,414,781	–	20,976,246
Unrealized gain (loss) - Stocks (Dom & Int'l)	9,552,083	(28,615,669)	28,656,249	(3,253,024)
Unrealized gain (loss) - Bonds	(15,390,000)	32,886,103	(46,170,000)	350,657,665
Change in Portfolio Value	15,162,083	124,633,440	(19,513,751)	488,226,734
Investment Expenses-Manager & Operational Fees	(7,526,933)	(8,449,589)	(3,430,800)	(17,763,476)
Total Investment Income	\$ 81,066,400	\$ 293,167,536	\$ 197,349,199	\$ 1,314,217,887

Insurance Ratios

➤➤ July 1, 2006 – February 28, 2007

	Actual FY07	Projected FY07	Actual FY06
Loss Ratio	80.75%	89.53%	112.22%
LAE Ratio - MCO	7.87%	10.13%	9.76%
LAE Ratio - BWC	<u>14.97%</u>	<u>14.93%</u>	<u>11.93%</u>
Net Loss Ratio	103.59%	114.59%	133.91%
Expense Ratio	3.74%	4.04%	6.05%
Policyholder Dividend Ratio	<u>0.00%</u>	<u>0.00%</u>	<u>-0.57%</u>
Combined Ratio	107.33%	118.63%	139.39%
Net Investment Income Ratio	<u>32.53%</u>	<u>32.97%</u>	<u>25.97%</u>
Operating Ratio (Trade Ratio)	74.80%	85.66%	113.42%

	Actual FY07	Projected FY07	Actual FY06
Premiums to surplus	2.18	-5.31	-2.22
Assets to liabilities	1.03	0.98	0.97
Total reserves to surplus	25.00	-60.09	-30.50
Loss reserves to surplus	22.70	-54.68	-27.64
Investments to loss reserves	1.08	0.94	0.95
Cash + bonds to loss reserves	0.91	0.72	0.92
Cash % of total investments	14%	3%	17%
Bond % of total investments	71%	74%	81%
Equities % of total investments	13%	20%	0%
Equities as % of surplus	320%	-1023%	-5%

Projected Insurance Ratios

➤➤ Fiscal years 2002 – 2007

	Projected FY 07	FY06	FY05	FY04	FY03	FY02
Loss Ratio	85.9%	74.3%	106.7%	96.7%	128.9%	105.6%
LAE Ratio - MCO	8.3%	8.6%	7.1%	9.1%	8.8%	9.4%
LAE Ratio - BWC	<u>14.9%</u>	<u>6.4%</u>	<u>14.7%</u>	<u>8.3%</u>	<u>12.9%</u>	<u>9.2%</u>
Net Loss Ratio	109.1%	89.3%	128.5%	114.2%	150.6%	124.1%
Expense Ratio	3.8%	4.0%	4.0%	5.1%	4.1%	4.0%
Policyholder Dividend Ratio	<u>0.0%</u>	<u>-0.4%</u>	<u>10.3%</u>	<u>18.6%</u>	<u>28.7%</u>	<u>62.4%</u>
Combined Ratio	112.9%	92.9%	142.8%	137.9%	183.4%	190.5%
Net Investment Income Ratio	<u>33.1%</u>	<u>30.4%</u>	<u>22.1%</u>	<u>20.5%</u>	<u>23.9%</u>	<u>27.0%</u>
Operating Ratio (Trade Ratio)	79.8%	62.5%	120.7%	117.3%	159.5%	163.5%

Note: FY 06 ratios have been significantly impacted by improvements in medical payment trends due to reductions in the cost of pharmacy benefits and lower payments to hospitals. These trends contributed to an approximately \$1 billion reduction in loss expenses in FY 06.

	Projected FY 07	FY06	FY05	FY04	FY03	FY02
Premiums to surplus	3.03	-17.10	-2.29	2.59	4.04	1.25
Assets to liabilities	1.04	0.99	0.96	1.04	1.03	1.09
Total reserves to surplus	23.48	-149.48	-19.50	18.90	28.93	7.88
Loss reserves to surplus	21.30	-136.24	-17.68	16.98	25.90	7.02
Investments to loss reserves	1.08	0.94	0.96	1.12	1.13	1.30
Cash + bonds to loss reserves	0.87	0.91	0.54	0.65	0.75	0.85
Cash % of total investments	2%	1%	8%	10%	13%	14%
Bond % of total investments	78%	96%	49%	48%	54%	52%
Equities % of total investments	20%	0%	38%	36%	30%	32%
Equities as % of surplus	461%	-9%	-641%	680%	869%	292%

Statement of Operations

➤➤ Fiscal year to date February 28, 2007

<i>(in millions)</i>	Actual	Projected	Variance	Prior Yr. Actual	Increase (Decrease)
Total Operating Revenues	\$ 1,649	\$ 1,685	\$ (36)	\$ 1,413	\$ 236
Total Operating Expenses	<u>1,792</u>	<u>2,029</u>	<u>(237)</u>	<u>2,002</u>	<u>(210)</u>
Net Operating Gain (Loss)	(143)	(344)	201	(589)	446
Net Investment Income	<u>1,036</u>	<u>149</u>	<u>887</u>	<u>932</u>	<u>104</u>
Increase (Decrease) in Net Assets	893	(195)	1,088	343	550
Net Assets Beginning of Period	<u>(127)</u>	<u>(127)</u>	<u>—</u>	<u>(990)</u>	<u>863</u>
Net Assets End of Period	\$ 766	\$ (322)	\$ 1,088	\$ (647)	\$ 1,413

This table reflects BWC's financial performance, including the amount of money we're earning (revenues), the amount of costs we are incurring (expenses), and our surplus position (net assets).

Actual – The amounts of revenue earned and expenses incurred for the given period

Projected – The estimated amount expected for the given period

Variance – The difference between the actual and projected amounts

Prior Year Actual – The amount of revenues earned and the expenses incurred for the given period

Increase (Decrease) – The difference between current year actual and prior year actual

Calendar of events

Second quarter

➤➤ March

31 Deadline for submitting applications for One Claim Program

April

Budget testimony to House and Senate committees on legislative proposals relating to equity and fairness in premium collection for Ohio employers.

26 Oversight Commission Meeting

Dollars&Sense

A comprehensive update on BWC operations as of February 28, 2007

Top news

On Monday, March 26, the Auditor of State released unqualified opinions for fiscal year 2005 and 2006 financial audits of the Ohio Bureau of Workers' Compensation (BWC).

First and foremost, BWC received an unqualified, or "clean," opinion for both fiscal years. This means the external auditors who conducted the audit were satisfied that BWC's financial information as provided meets a standard of overall material accuracy and completeness that is broader than what is required. Additionally, the agency remains more than capable of continuing its ongoing commitment to providing quality and timely benefits to Ohio's injured workers.

Total assets

As of Feb. 28, 2007

\$23.5 billion

Of additional significance is a change in accounting standards to the Disabled Workers' Relief Fund (DWRF) that will impact the agency's overall net assets. DWRF is an ancillary fund designed specifically for permanently and totally disabled workers.

Total liabilities

As of Feb. 28, 2007

\$22.7 billion

As part of BWC's commitment to embracing and adhering to modern accounting standards, the agency will now recognize future financial obligations in DWRF as a liability on its balance sheet. This liability will impact net assets by \$1.8 billion, leaving a balance of \$766 million. The State Insurance Fund maintains a balance of \$1.9 billion.

Net assets

As of Feb. 28, 2007

\$766 million

These changes will not impact our customers in any way. Injured workers receiving benefits from DWRF will continue to receive those benefits, and businesses will not see any increase in premiums.

The impact of this change may be mitigated by a proposed legislative change that will allow this liability to be offset by an appropriate receivable. Should this change be approved by the General Assembly, it will strengthen the agency's overall balance sheet and allow BWC to be consistent with modern accounting standards.

This clean audit gives confidence to our customers that we'll be there to take care of their needs and manage them responsibly.

Trade combined ratio

As of Feb. 28, 2007

74.8%

The trade combined ratio is an indicator of the potential profitability of BWC's business. The trade combined ratio includes the impact of BWC's operating and investment revenues, and all related expenses.

Currently, BWC incurs expenses of approximately \$.75 for every \$1 it earns.

Increasing Revenue

BWC's financial activity should remain consistent through the remainder of the 2007 fiscal year. Many factors are contributing to the strengthening of BWC's financial health and can be measured by analyzing several components of the financial statement.

Net Assets As of Feb. 28, actual net assets are \$766 million. This reflects the impact of adjustments made as a result of the recent audit.

Cash Flows The difference between operating revenues and operating expenses through February 2007 decreased \$46 million compared to the same period last year. Cash receipts from premiums were up \$46 million. Premiums increased \$47 million due to a 3.9 percent hike in the premium rates and a greater focus on collections.

Also, more money has been provided by investing activities that come as a result of the ongoing transition of the investment portfolio.

Collections The accounts receivable balance through Feb. 28 showed an increase to \$209 million from \$124 million for the same time period in FY2006. This was due to the timing of employer premium payment cycles and the participation in the BWC's 50-50 premium payment program.

Reducing Costs

Continuing decline of medical expenses

So far in FY2007, medical expenses have continued to decline. Through Oct. 31, medical costs were down \$36 million compared to the same period in FY 2006. The costs also were 15 percent lower than anticipated for the first seven months of the fiscal year. The continued reductions are a result of the changes in the reimbursement methodology for inpatient medical costs and lower pharmacy costs. This trend is expected to continue throughout the fiscal year. This trend should accelerate further as the reimbursement methodologies for outpatient medical costs are revised later this year and implemented in 2008.

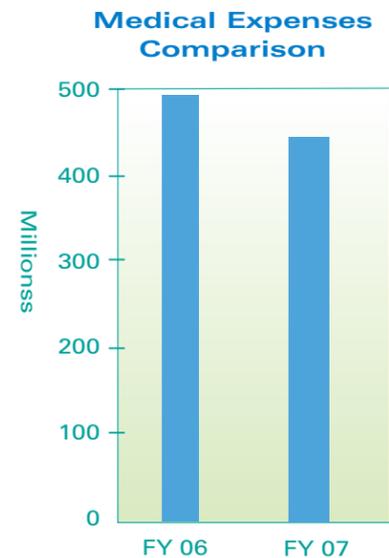


Chart reflects medical expenses for first seven months of respective fiscal years

Improving investments

Investment strategy

The goal is to transition BWC invested assets to target asset allocation – 80 percent fixed income; 20 percent equity. The result will preserve the ability to pay benefits and expenses when due. Meeting this objective necessitates prudent risk taking with the Funds' investments. Additionally, sufficient returns will grow the surplus over time and keep premiums as reasonable and predictable as possible for the benefit of injured workers and Ohio employers.

Transfer to the market

In January a portion of the State Insurance Fund's bond index fund units were liquidated and the holdings transferred to two new investment managers. A total of \$2.5 billion was transitioned to a passively managed S&P 500 index account and \$3 billion to a passively managed U.S. Treasury Inflation Protected Securities (TIPS) account. In the months ahead, the balance of the State Insurance Fund bond index fund units will be transitioned to two long duration fixed income managers. Requests for Proposals for active managers for high yield fixed income, long duration fixed income, non-U.S. equity and small/mid cap U.S. equity investments are slated for release throughout the remainder of 2007.

Status of private equity sale

UBS Investment Bank is BWC's agent for the potential sale of some or all of its private equity funds. The sale of the private equities will allow BWC to develop an investment portfolio that more closely matches its long-range need and determine an appropriate level of risk to maximize returns. UBS is obtaining signed consent agreements and confidentiality agreements from the general partner of each fund to permit the sale of the BWC partnership interest in each fund.

Performance Measures

Month ending December 29, 2006

	BWC Investment Returns Monthly (Gross of Fees)	Benchmark Returns Monthly	Benchmark Variance	BWC Investment Returns 3 Month Trailing (Gross of Fees)	Benchmark Returns 3 Month Trailing	Benchmark Variance	BWC Investment Returns 12 Month Trailing (Gross of Fees)
BWC Total SIF Investments	-0.38%	-0.58%	0.20%	1.30%	1.24%	0.06%	6.32%
Total SIF ex Alternatives	-0.47%	-0.58%	0.11%	1.34%	1.24%	0.10%	6.27%
Non-SIF Bonds	-0.51%	-0.58%	0.07%	1.24%	1.24%	0.00%	
SIF Bonds	-0.49%	-0.58%	0.09%	1.32%	1.24%	0.08%	
International Stocks	0.28%	N/A	N/A	-4.76%	N/A	N/A	
Alternative	3.25%	N/A	N/A	-0.14%	N/A	N/A	
Cash	2.24%	0.44%	1.80%	3.32%	1.26%	2.06%	
Tranche #3 – TM	-12.24%	-0.58%	-11.66%	2.17%	1.24%	0.93%	

BENCHMARK INFORMATION:
• Lehman Brothers Aggregate Index

Executive Summary
Five-Year Rule Review
Chapter 4123-15: Code of Ethics

Introduction

Chapter 4123-15 of the Administrative Code contains the rules relating to the Code of Ethics. The BWC rules are parallel to the IC rules of Chapter 4121-15 of the Administrative Code.

Five-Year Rule Review

Pursuant to H.B. 473, effective September 26, 1996, state agencies are required to review all agency rules every five years to determine whether to amend the rules, rescind the rules, or continue the rules without change. The legislation requires the agency to assign a rule review date for each of its rules so that approximately one-fifth of the rules are scheduled for review during each calendar year. The Code of Ethics rules of Chapter 4123-15 of the Administrative Code are scheduled for five year rule review on March 1, 2007. BWC last performed a five year rule review of these rules in 2002. BWC first enacted the Ethics rules on January 1, 1978.

Background Law

The Ethics rules are based upon Divisions (B) and (C) of R.C. 4121.122, enacted effective January 1, 1977, under S.B. 545, as part of a reform bill following ethical problems at the Industrial Commission and Bureau. Divisions (B) and (C) of R.C. 4121.122 provide:

... (B) The administrator and the commission shall jointly adopt, in the form of a rule, a code of ethics for all employees of the bureau and the commission and post copies of the rule in a conspicuous place in every bureau and commission office.

(C) The administrator and the commission shall jointly adopt rules setting forth procedures designed to eliminate outside influence on bureau and commission employees, produce an impartial workers' compensation claims handling process, and avoid favoritism in the claims handling process. Failure to adopt and enforce these rules constitutes grounds for removal of the administrator and the members of the commission. ...

Rule Changes

There are 9 rules in this Chapter, rules 4123-15-01 to 4123-15-09. BWC is proposing to keep most of the language in these rules as they current are worded, except for parts of rules 4123-15-01, 4123-15-03, 4123-15-07, and 4123-15-08. There have not been any changes in the underlying statutes upon which these rules are based, and the IC recently reviewed their parallel set of Ethics rules and proposed making similar changes to their rules. Thus, BWC and the IC will maintain uniformity and consistency in these ethics rules.

Executive Summary

Rule 4123-5-20: Advance compensation payments

Introduction

Chapter 4123-5 of the Administrative Code contains miscellaneous BWC rules relating to claims procedures. There are six rules remaining in this Chapter, and the rules date to the 1970s. Effective April 30, 2004, BWC reviewed these rules under the five year rule review requirements of R.C. 119.032. At that time, BWC did not request any changes in the Chapter 5 rules. The next rule review date for these rules is March 1, 2009.

Rule 4123-5-20

Rule 4123-5-20 addresses the payment of compensation when an employer makes advancements during a period of disability. BWC adopted this rule in 1967 and last amended the rule in 1986. The rule permits an employer to advance to an injured worker the compensation that the injured worker may be entitled to under a pending workers' compensation claim while the claim is being adjudicated. By written agreement with the employer, the injured worker accepts the advance payments from the employer and assigns to the employer the pending workers' compensation payment.

This rule was more widely used years ago when it took longer for BWC and the IC to make claims determinations. With the improvement in the time to process claims and the advent of salary continuation as an employer strategy, this rule is not as popular as in the past. BWC is requesting this update to the rule because BWC has seen wage agreements filed, not only weeks after the date of injury, but years after the date of injury. Recently, a "wage agreement" was filed eight years after date of injury. Since the purpose of the rule is to assist injured workers while waiting for the claim to be decided, these delays do not serve the purpose of the rule.

Rule Changes

Paragraph (A) of the rule is amended as to clarify that the period for which a wage agreement is applicable is twelve weeks following the date of injury. The key addition to the rule provides that "the bureau will not honor the agreement unless the written notice of the agreement is filed with the bureau within thirty days of the signing of the agreement by the employer and the claimant."

4123-15-01 Code of ethics, title and rules covering.

This rule provides that the rules constitute the code of ethics for employees of the IC and BWC. The rule adds that, “in addition to any civil or criminal penalties that may be provided by statute or rule, an employee who violates any of the provisions in the code of ethics shall be subject to discipline as provided in the employee handbook of the employee’s agency.”

4123-15-03 Standards of Conduct

The changes to Rule 4123-15-03 are to adopt the Model Ethics Policy for state agencies from the Ohio Ethics Commission. Most of the detailed provisions in the Model Code are based on the Ohio Ethics law and the Financial Disclosure sections, which are items that were lacking in the current BWC and IC Code of Ethics.

Paragraph (A) of the prior rule, on “confidential information,” is deleted, but moved in its entirety to new Paragraph (H). New Paragraph (A) states the purpose and scope of the revised ethics rule.

Paragraph (B), on “gifts and gratuities,” is deleted in favor of the language in the Model Ethics Policy in new Paragraph (B), which describe thirteen areas of “prohibited conduct.” IC, BWC, WCOC, and Ombudsperson employees shall not:

- Solicit or accept anything of value from anyone doing business with the IC or BWC;
- Solicit or accept employment from anyone doing business with the IC or BWC, except under certain conditions;
- Use the employee’s position to obtain benefits for the employee or related parties;
- Accept compensation for personal services rendered on a matter before, or sell goods or services to the IC or BWC;
- Accept compensation for personal services rendered on a matter before, or sell goods or services to any state agency other than the IC or BWC, except under certain conditions;
- Hold or benefit from a contract with the IC or BWC, except as provided in the rule;
- Use the employee’s position to secure approval of an IC or BWC contract in which the employee or related party has an interest;
- Accept honoraria except that employees who are not financial disclosure filers may receive an honorarium under certain conditions;
- During public service, and for one year after leaving public service, represent any person before any public agency on a matter in which the employee personally participated while serving with the IC or BWC;
- Use or disclose confidential information protected by law, unless authorized;
- Use the employee’s title, the name of the IC or BWC, or the agencies logos in a manner that suggests impropriety, favoritism, or bias;
- Accept any compensation, except as allowed by law, to perform official duties or any act or service in the employee’s official capacity;
- Sponsor parties or other entertainment for IC or BWC personnel, the costs of which are covered in whole or in part by donations or receipts from the sale of tickets to individuals or entities who are doing or seeking to do business with the IC or BWC.

Paragraphs (C) deletes an obsolete reference to the Regional Boards of Review.

Paragraphs (D) to (G) of the rule are unchanged.

New Paragraph (I) provides information on employees who must file a financial disclosure statement with the Ohio Ethics Commission by April 15 of each year.

4123-15-07 Representatives' responsibility relative to employees' code of ethics.

An amendment in this rule deletes an obsolete reference to the Regional Boards of Review.

4123-15-08 Remedial action against persons exercising improper influence and engaging in favoritism.

This rule contains a minor clarifying rule reference change.

Chapter 4123-15 Ethics Rules

4123-15-01 Code of ethics, title and rules covering.

This rule and rules 4123-15-02 to 4123-15-04 and 4121-15-01 to 4121-15-04 of the Administrative Code shall be titled, "Code of Ethics for Employees of the Bureau of Workers' Compensation and the Industrial Commission of Ohio" and shall contain the code of ethics for employees of these agencies.

In addition to any civil or criminal penalties that may be provided by statute or rule, an employee who violates any of the provisions in the code of ethics shall be subject to discipline as provided in the employee handbook of the employee's agency.

HISTORY: Eff 1-1-78

Rule promulgated under: RC Chapter 119.

Rule amplifies: RC 4121.122(B)

119.032 Review Date: 7-31-02; 3-1-07

4123-15-02 Policy.

(A) It is essential that the public has confidence in the administration of the industrial commission and the bureau of workers' compensation. This public confidence depends in a large degree on whether the public trusts that employees of these agencies are impartial, fair, and act only in the interest of the people, uninfluenced by any consideration of self-interest, except those inherent in the proper performance of their duties. Each employee, of whatever position, should, therefore, maintain the highest standards of personal integrity, since the public often judges the actions of an employee as reflecting the standards of the employing agency.

(B) The industrial commission and the bureau of workers' compensation are entrusted with the collection and distribution of a large fund. Their employees must respect this trust and should welcome public scrutiny of the way in which they perform their duties in connection with the administration of this fund. They should be willing to accept restrictions on their conduct that may not be necessary of public employees in other agencies, who are not in similar positions of trust. They must avoid not only impropriety, but the appearance of impropriety.

HISTORY: Eff 1-1-78

Rule promulgated under: RC Chapter 119.

Rule amplifies: RC 4121.122(B)

119.032 Review Date: 7-31-02; 3-1-07

4123-15-03 Standards of conduct.

~~(A) Confidential information.~~

~~The confidentiality of all information which comes into possession of commission and bureau employees shall be respected. In order to properly discharge this duty, all associates must acquaint themselves with those areas of information that are designated as confidential by statutes, by the courts and by the attorney general. Furthermore, they must become familiar with the circumstances under which and the persons to whom such information can be released.~~

~~(B) Gifts and gratuities.~~

- ~~(1) No gift, gratuity, money, service, hospitality, loan, promise or anything of economic value shall be sought, solicited or accepted from or on behalf of any individual or entity who is doing or seeking to do business of any kind with the commission or bureau under any circumstances from which the officer or employee could reasonably infer that the gift or benefit was intended to influence the employee in the performance of the employee's duties or was intended as a reward for any official action on the employee's part.~~
- ~~(2) Commission and/or bureau employees shall not sponsor parties or other entertainment for the personnel of their agencies, the costs of which are covered in whole or in part by donations or receipts from the sale of tickets to individuals or entities, who are doing or seeking to do business with the commission or bureau.~~
- ~~(3) The commission and bureau of workers' compensation hereby adopt the provisions of the Ohio Ethics law.~~

(A) Purpose

It is the policy of the industrial commission and the bureau of workers' compensation to carry out its mission in accordance with the strictest ethical guidelines and to ensure that commission and bureau employees conduct themselves in a manner that fosters public confidence in the integrity of the commission and the bureau, its processes, and its accomplishments.

The commission and the bureau hereby adopt the provisions of the Ohio ethics law, including but not limited to the provisions of Chapters 102. and 2921. of the Ohio Revised Code, and as interpreted by the Ohio ethics commission and Ohio courts.

(B) Prohibited Conduct

- (1) No industrial commission member, the administrator of workers' compensation, oversight commission member, commission employee, bureau employee, ombudsperson, or employee of the office of ombudsperson shall do any of the following acts:

- (a) Solicit or accept anything of value from anyone doing business with the commission or the bureau;
- (b) Solicit or accept employment from anyone doing business with the commission or the bureau, unless the member or employee completely withdraws from any commission or bureau discretionary or decision-making activity regarding the party offering employment, and the commission or the bureau approves the withdrawal;
- (c) Use his or her public position to obtain benefits for the member or employee, a family member, or anyone with whom the member or employee has a business or employment relationship;
- (d) Be paid or accept any form of compensation for personal services rendered on a matter before, or sell goods or services to the commission or the bureau;
- (e) Be paid or accept any form of compensation for personal services rendered on a matter before, or sell (except by competitive bid) goods or services to, any state agency other than the commission or the bureau, as applicable, unless the member or employee first discloses the services or sales and withdraws from matters before the commission or the bureau that directly affect officials and employees of the other state agency, as directed in section 102.04 of the Revised Code;
- (f) Hold or benefit from a contract with, authorized by, or approved by the commission or the bureau, (the ethics law does accept some limited stockholdings, and some contracts objectively shown as the lowest cost services, where all criteria under section 2921.42 of the Revised Code are met);
- (g) Vote, authorize, recommend, or in any other way use his or her position to secure approval of a commission or bureau contract (including employment or personal services) in which the member or employee, a family member, or anyone with whom the member or employee has a business or employment relationship, has an interest;
- (h) Solicit or accept honoraria (see division (H) of section 102.01 and division (H) of section 202.03 of the Revised Code) except that employees who are not financial disclosure filers may receive an honorarium only if the honorarium is paid in recognition of a demonstrable business, profession, or esthetic interest of the employee that exists apart from public office or employment, and is not paid by any person or other entity, or by a representative or association of those persons or entities, doing business with the commission or the bureau, as applicable;

- (i) During public service, and for one year after leaving public service, represent any person, in any fashion, before any public agency, with respect to a matter in which the member or employee personally participated while serving with the commission or the bureau, as applicable;
- (j) Use or disclose confidential information protected by law, unless appropriately authorized;
- (k) Use, or authorize the use of, his or her title, the name of the commission or the bureau, or the agencies logos in a manner that suggests impropriety, favoritism, or bias by the commission or the bureau, or by a member or employee; and
- (l) Solicit or accept any compensation, except as allowed by law, to perform his or her official duties or any act or service in his or her official capacity;
- (m) Sponsor parties or other entertainment for the personnel of their agencies, the costs of which are covered in whole or in part by donations or receipts from the sale of tickets to individuals or entities, who are doing or seeking to do business with the commission or bureau.

(2) For purposes of this rule, these phrases have the following meanings:

- (a) “Anything of value” includes anything of monetary value, including, but not limited to, money, loans, gifts, food or beverages, social event tickets and expenses, travel expenses, golf outings, consulting fees, compensation, or employment. “Value” means worth greater than de minimis or nominal.
- (b) “Anyone doing business with the commission or the bureau” includes, but is not limited to, any person, corporation, or other party that is doing or seeking to do business with, regulated by, or has interests before the commission or the bureau, including anyone who is known or should be known to be an agent or acting on behalf of such party, including any person or entity marketing or otherwise attempting to secure business with the commission or the bureau.

(C) Conflict of interest.

No employee of these agencies shall engage in outside employment that results in a conflict or apparent conflict with the employee’s official duties and responsibilities.

- (1) Outside employment or activity in which an employee with or without pay represents a claimant or employer in any matter before the industrial commission, ~~a regional board of review~~ or the bureau of workers’ compensation is prohibited.

- (2) Outside employment with an attorney, representative or entity that involves work concerning industrial claims, whether filed or to be filed, or which is in any way related to workers' compensation matters is prohibited.

(D) Professional code of ethics.

In the event there is any conflict between a professional code of ethics governing any employee of these agencies and this code of ethics for employees, the professional code of ethics shall take precedence over the code of ethics for employees but the conflict shall be promptly reported to the employing agency. In such case the agency shall promptly determine the degree of conflict and take such further action as may be indicated.

- (E) An employee shall not use state property of any kind for other than approved activities. The employee shall not misuse or deface state property. The taking or use of state property for the private purposes of an employee is prohibited. The employee shall protect and conserve all state property, including equipment and supplies entrusted to or issued to the employee.

(F) Diligence and impartiality in work.

Employees are encouraged to avoid absenteeism and tardiness, to not use sick leave unless necessary and to abide by rules of the Ohio civil service. Recognizing that the industrial commission and bureau of workers' compensation serve many people whose interests are divergent, employees should work in a speedy and efficient manner, strive to be courteous, fair and impartial to the people they serve, and responsive to the problems that come before them. All segments of the public are to be treated equally, without regard to age, race, sex, religion, country of origin, or handicap.

- (G) It is understood that standards of ethical conduct may involve a myriad of situations. The good conscience of individual employees shall remain the best guarantee of the moral quality of their activities. The overall intent of this code of ethics is that employees avoid any action, whether or not prohibited by the preceding provisions, which result in, or create the appearance of:

- (1) Using public office for private gain, or
- (2) Giving preferential treatment to any person, entity, or group.

(H) Confidential information

The confidentiality of all information which comes into possession of commission and bureau employees shall be respected. In order to properly discharge this duty, all employees must acquaint themselves with those areas of information that are designated as confidential by statutes, by the courts and by the attorney general.

Furthermore, they must become familiar with the circumstances under which and the persons to whom such information can be released.

(I) Every member or employee required to file a financial disclosure statement must file a complete and accurate statement with the Ohio Ethics Commission by April 15 of each year. Any member or employee appointed, or employed in a filing position after February 15 and required to file a financial disclosure statement must file a statement within 90 days of appointment or employment.

HISTORY: Eff 1-1-78
Rule promulgated under: RC Chapter 119.
Rule amplifies: RC 4121.122(B)
119.032 Review Date: 7-31-02; 3-1-07

4123-15-04 Posting, distribution and employee acknowledgement and receipt.

(A) The code of ethics for employees of the bureau of workers' compensation and industrial commission shall be posted in a conspicuous place in every office of the bureau and commission.

(B) A copy of this code of ethics shall be distributed to each employee. After two weeks from such receipt each employee will certify that the employee has received and read this code. The certification shall be placed in the employee's personnel file.

HISTORY: Eff 1-1-78
Rule promulgated under: RC Chapter 119.
Rule amplifies: RC 4121.122(B)
119.032 Review Date: 7-31-02; 3-1-07

4123-15-05 Purpose: eliminating outside influence; producing impartiality in handling of claims and employer risk accounts and avoiding favoritism.

In accordance with division (C) of section 4121.122 of the Revised Code and division (M) of section 4121.121 of the Revised Code, the rules 4123-15-05 to 4123-15-09 and 4121-15-05 to 4121-15-09 of the Administrative Code are for the purpose of eliminating improper outside influence on employees of the bureau of workers' compensation and the industrial commission, producing an impartial workers' compensation claims and employer risk account handling process and avoiding favoritism in that process.

HISTORY: Eff 1-1-78
Rule promulgated under: RC Chapter 119.
Rule amplifies: RC 4121.122(C), 4121.121(M)
119.032 Review Date: 7-31-02; 3-1-07

4123-15-06 Furnishing employees’ code of ethics and rules on improper influence to representatives.

To the extent possible, all those who represent claimants or employers shall be furnished without charge with a copy of the “Code of Ethics for Employees of the Bureau of Workers’ Compensation and the Industrial Commission of Ohio” and with a copy of the rules concerning the elimination of outside influence, producing impartial claims and risk account handling, and avoiding favoritism in this process. These rules shall also, to the extent possible, be furnished to employees or agents of those who represent claimants or employers and who may be permitted to inspect claims and employer risk files, or whose work requires personal contact with employees of the bureau or commission.

HISTORY: Eff 1-1-78
Rule promulgated under: RC Chapter 119.
Rule amplifies: RC 4121.122(C), 4121.121(M)
119.032 Review Date: 7-31-02; 3-1-07

4123-15-07 Representatives’ responsibility relative to employees’ code of ethics.

Representatives of claimants and employers as well as their employees and agents shall conduct their business with the employees of the bureau of workers’ compensation, ~~the regional boards of review~~ and the industrial commission in accordance with the highest moral principles and are expected to support the “Code of Ethics for Employees of the Bureau of Workers’ Compensation and the Industrial Commission of Ohio” by conduct that will not tempt employees of the bureau and commission to violate that code but will encourage them to fully observe it. Employees of the bureau and commission shall report to their immediate superior any activity which is, or appears to be, in violation of this rule, for further action by the administrator or by the industrial commission, as the case may be.

HISTORY: Eff 1-1-78
Rule promulgated under: RC Chapter 119.
Rule amplifies: RC 4121.122(C), 4121.121(M)
119.032 Review Date: 7-31-02; 3-1-07

4123-15-08 Remedial action against persons exercising improper influence and engaging in favoritism.

Upon receipt of information indicating a violation of ~~the preceding rule 4123-15-07 of the Administrative Code~~, the industrial commission or the administrator, as the case may be, shall refer the matter, provided the circumstances warrant it, to the internal security committee for investigation or to the attorney general for whatever steps are necessary, to ensure proper corrective action.

HISTORY: Eff 1-1-78
Rule promulgated under: RC Chapter 119.

Rule amplifies: RC 4121.122(C), 4121.121(M)
119.032 Review Date: 7-31-02; 3-1-07

4123-15-09 Prohibition against unnecessary claim file possession.

No employee shall have possession of a workers' compensation claim file unless the file is necessary to the performance of the employee's duties. In case of violation or apparent violation of this rule, the section director, office director or the state coordinator shall refer the matter to the internal security committee for investigation, or to the administrator or the industrial commission for action consistent with division (A) of section 4121.122 of the Revised Code. A copy of this rule shall be distributed to each employee for certification that he has received and read this rule. This certification shall be placed in the employee's personnel file.

HISTORY: Eff 1-1-78
Rule promulgated under: RC Chapter 119.
Rule amplifies: RC 4121.31(B)
119.032 Review Date: 7-31-02; 3-1-07

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Payment of compensation when advancements are made during period of disability.

- (A) Except for payments made to claimants under a contract of hire or under a collective bargaining agreement by an employer that is a professional sports franchise domiciled in Ohio, whenever a claimant and the employer advise the bureau in writing that the wages were paid or the advancements were made solely for the purpose of assisting the claimants in obtaining necessary maintenance and care during a ~~short~~ period not to exceed twelve weeks following an injury sustained or occupational disease contracted by the claimant in the course of and arising out of employment, particularly while a claim for compensation is being acted upon by the bureau, and the claimant and employer had mutually agreed that the employer is to be reimbursed, at least to the extent of any compensation paid to the claimant over the same period in which the wages were paid or the advancements made, the bureau shall issue warrants in payment of compensation awarded ~~over a short period closely following~~ for a period not to exceed twelve weeks commencing from the date of such an injury or beginning of disability, which warrants are to be mailed to the claimant in care of the employer with instructions that the warrants are to be endorsed personally by the claimant. The bureau will not honor the agreement unless the written notice of the agreement is filed with the bureau within thirty days of the signing of the agreement by the employer and the claimant.

The warrants to be sent in care of the employer are not to be in payment of compensation for disability in excess of a period of twelve weeks closely following the date of injury or beginning of disability, unless under special circumstances the bureau authorizes the sending of warrants in payment of compensation for disability beyond the twelve weeks in care of the employer.

- (B) Whenever an employer that is a professional sports franchise domiciled in Ohio makes payment pursuant to the terms of a contract of hire or a collective bargaining agreement during a period of disability resulting from the injury or occupational disease, the aggregate amount of such payments shall be deemed an advanced payment. Upon the filing of proof of such payments, compensation payments under sections 4123.56 to 4123.58 of the Revised Code shall be reimbursed by the bureau directly to the employer if it is a state fund employer unless payment has been made to the claimant prior to the bureau's receipt of the employer's proof of an advanced payment. Self-insured employers shall apply the aggregate amount of advanced payments to a claimant to offset that claimant's future payments of compensation under section 4123.56 to 4123.58 of the Revised Code. Employer reimbursements and offsets shall apply only where the employee's application for compensation is pending on or after August 22, 1986.
- (C) Where a claimant is entitled to vacation with pay, payment of wages for a vacation period during the period of temporary disability resulting from injury or occupational

Payment of compensation when advancements are made during period of disability.

- (A) Except for payments made to claimants under a contract of hire or under a collective bargaining agreement by an employer that is a professional sports franchise domiciled in Ohio, whenever a claimant and the employer advise the bureau in writing that the wages were paid or the advancements were made solely for the purpose of assisting the claimants in obtaining necessary maintenance and care during a ~~short~~ period not to exceed twelve weeks following an injury sustained or occupational disease contracted by the claimant in the course of and arising out of employment, particularly while a claim for compensation is being acted upon by the bureau, and the claimant and employer had mutually agreed that the employer is to be reimbursed, at least to the extent of any compensation paid to the claimant over the same period in which the wages were paid or the advancements made, the bureau shall issue warrants in payment of compensation awarded ~~over a short period closely following~~ for a period not to exceed twelve weeks commencing from the date of such an injury or beginning of disability, which warrants are to be mailed to the claimant in care of the employer with instructions that the warrants are to be endorsed personally by the claimant. The bureau will not honor the agreement unless the written notice of the agreement is filed with the bureau within thirty days of the signing of the agreement by the employer and the claimant.

The warrants to be sent in care of the employer are not to be in payment of compensation for disability in excess of a period of twelve weeks closely following the date of injury or beginning of disability, unless under special circumstances the bureau authorizes the sending of warrants in payment of compensation for disability beyond the twelve weeks in care of the employer.

- (B) Whenever an employer that is a professional sports franchise domiciled in Ohio makes payment pursuant to the terms of a contract of hire or a collective bargaining agreement during a period of disability resulting from the injury or occupational disease, the aggregate amount of such payments shall be deemed an advanced payment. Upon the filing of proof of such payments, compensation payments under sections 4123.56 to 4123.58 of the Revised Code shall be reimbursed by the bureau directly to the employer if it is a state fund employer unless payment has been made to the claimant prior to the bureau's receipt of the employer's proof of an advanced payment. Self-insured employers shall apply the aggregate amount of advanced payments to a claimant to offset that claimant's future payments of compensation under section 4123.56 to 4123.58 of the Revised Code. Employer reimbursements and offsets shall apply only where the employee's application for compensation is pending on or after August 22, 1986.
- (C) Where a claimant is entitled to vacation with pay, payment of wages for a vacation period during the period of temporary disability resulting from injury or occupational

disease shall not be deemed an advancement nor shall such payment be applied to offset any compensation that is payable for that period of time.

Where claimants are paid a regular salary during the period of disability on any other basis, for example, sick leave, payment of compensation for temporary disability, compensation cannot be paid so long as such regular salary or wages are paid, unless the claimant and the employer notify the bureau in writing that such salary or sick leave was paid as an advancement.

disease shall not be deemed an advancement nor shall such payment be applied to offset any compensation that is payable for that period of time.

Where claimants are paid a regular salary during the period of disability on any other basis, for example, sick leave, payment of compensation for temporary disability, compensation cannot be paid so long as such regular salary or wages are paid, unless the claimant and the employer notify the bureau in writing that such salary or sick leave was paid as an advancement.

Executive Summary

Long Term Care Loan Program

Background History

Since July 1999, the BWC SafetyGRANT\$ program has provided grant funds to Ohio employers to assist with the reduction or elimination of workplace injuries and illnesses through the purchase of intervention equipment. Preliminary results of the grant program have determined that the use of floor-based patient lifting devices in nursing homes resulted in a return on investment realized in 2.5 months and a marked improvement in the incidence of cumulative trauma disorder (44% improvement), lost days (38% improvement), restricted days (10% improvement), and employee turnover (25% improvement). The use of ceiling mounted patient-lifting devices resulted in improvements in restricted days and employee turnover.

Preliminary results also indicate that the use of electric beds can greatly reduce upper extremity cumulative trauma disorder as well as trunk flexion leading to back injuries. The use of electric beds resulted in a return on investment realized in only 8.5 months and an improvement in the incidence of cumulative trauma disorder (29% improvement), lost days (72% improvement), restricted days (31% improvement), and employee turnover (9% improvement).

To further assist Ohio nursing homes in eliminating the risk of injury resulting from patient lifting, BWC has instituted the Long-Term Care Loan program.

BWC issued several Request for Proposals in 2006 to contract with a financial loan institution to provide the loans. BWC would pay the interest directly to the financial loan institution. The bureau was unsuccessful in contracting for these services. As a result, a recommendation for a new approach to implementing the loan program is summarized below.

Rule Summary

The Long-Term Care Loan program will reimburse Ohio nursing home employers for the interest they pay on loans received for the purpose of purchasing, improving, installing or erecting sit-to-stand floor lifts, ceiling lifts, other lifts and fast electric beds, and to pay for the education and training of personnel to implement a facility policy of no manual lifting of residents by employees.

BWC will reimburse interest on loans up to \$100,000 with the interest owed not to exceed prime +2.5%. Employers who are nursing homes as defined in section 3721.01 of the Revised Code are eligible to apply. Those applying must be current on balances due to any fund administered by the Ohio bureau of workers' compensation and cannot have cumulative lapses of more than 15 days in the preceding eighteen months.

An appeal process will be established for reconsideration of an ineligible determination by BWC. The employer may request reconsideration in writing to the superintendent of the Division of Safety & Hygiene. Reconsideration of the superintendent's decision may be submitted to the Adjudicating Committee pursuant to R. C. 4123.291.

4123-17-31 Long-term care loan fund program.

(A) Pursuant to Ohio Revised Code, section 4121.48, the administrator of workers' compensation shall use the long-term care loan fund program to ~~make interest free loans to~~ reimburse nursing home employers for the interest they pay on loans received for the purpose of allowing the employer to purchase, improve, installing, or erecting sit-to-stand floor lifts, ceiling lifts, other lifts, and fast electric beds, and to pay for the education and training of personnel to implement a facility policy of no manual lifting of residents by employees. The employer shall submit invoices and such other documentation as required by the administrator to verify that the loan ~~program funds were~~ was used solely for these purposes.

(B) ~~Loan Limitations.~~—The administrator of workers' compensation shall reimburse the nursing home for the interest paid on loans made to the nursing home by a lending institution.

~~(1) The outstanding balance owed by an employer for all loans received under this program shall not exceed one hundred thousand dollars.~~

~~(2) The amount loaned to an employer shall not exceed ninety percent of the purchase price of the equipment.~~

~~(3) Loans shall not be made for the rental of equipment.~~ The bureau will not reimburse an employer for the interest paid on a loan made to the employer for the purpose of renting equipment.

(2) The maximum amount of reimbursement a nursing home may receive may not exceed the amount of interest that would be owed on a loan of one hundred thousand dollars (\$100,000.00) at the rate of prime +2.5.

~~(4) Loan proceeds shall be forwarded directly to the vendor(s) of the equipment to be purchased.~~

(3) The interest rate must be fixed for the loan period.

(4) The loan period cannot exceed 5 years.

(5) Reimbursements will be made every 6 months.

(6) Employers who operate more than one nursing home facility may participate in the program in respect to only one facility at a time.

(7) The lending institution must be an FDIC insured institution.

(C) Eligibility, applications and restrictions.

(1) In order to participate in the long-term care loan fund an employer shall meet the following criteria:

(a) The employer must be a nursing home as defined in section 3721.01 of the Revised Code.

(b) The employer must be in compliance with section 4123.35 of the Revised Code.

(c) The employer must be current on any and all undisputed premiums, administrative costs, assessments, fines or moneys otherwise due to any fund administered by the Ohio bureau of workers' compensation.

(d) The employer cannot have cumulative lapses in workers' compensation coverage in excess of fifteen days within the eighteen months preceding the application.

(2) The employer shall apply ~~for a loan~~ to participate in the long-term care loan program on the forms provided by the bureau on which the employer shall:

- (a) Specify the equipment that is to be purchased, improved, installed, or erected and the cost;
- (b) Provide a price quote from the vendor;
- (c) Provide the signature of the person duly authorized to sign for the nursing home administrator;
- (d) Answer all questions on the application;
- (e) Obtain the signature of the BWC consultant;
- (f) Submit the completed application to the BWC.

(3) The employer shall commence the purchase, improvement, installation, or erection of equipment within thirty days of receiving the loan approval and shall complete the same within ninety days of ~~the loan approval~~ its receipt, unless expressly approved by the bureau. The bureau shall verify that the loan proceeds are being used for the purpose approved in the ~~loan~~ application and shall have the right to inspect the employer's workplace for this purpose. The bureau may use the technical assistance of the division of safety and hygiene for such an assessment.

(a) The employer shall provide the bureau of workers' compensation documentation of the loan including the interest rate and a loan amortization table from the lending institution upon receipt of the loan.

(4) The administrator will ~~forward the applications~~ notify applicants who have been approved to participate in the program meeting the eligibility requirements contained in paragraph (C)(1) of this rule to the financial institution designated in paragraph (E) of this rule within two weeks of receipt of the application.

(a) Applications will be processed in the order of receipt. If the ~~aggregate value of loan applications is greater than the assets available from the fund are insufficient to satisfy the amount of reimbursement requested by the applicants, then~~ the administrator shall take into account the following factors to determine whether an employer will be ~~granted a loan~~ allowed to participate in the program:

- (i) Employers ~~with no prior loan applications~~ who have not previously applied to the program shall have priority over employers who have ~~previously received a loan~~ participated in the program.
- (ii) No ~~loans~~ applications shall be ~~made~~ approved which will cause the fund to operate at a deficit.

(5) If an employer's coverage lapses during the period the employer is participating in the program, BWC will not make any reimbursements to the employer until its coverage has been reinstated. If an employer's coverage lapses for more than 59 days during the period the employer is participating in the program, the bureau may terminate making reimbursements under the program.

(D) Reconsideration of determination of eligibility.

(1) An employer may request reconsideration from a decision finding the employer did not meet the requirements provided in paragraph (C)(1) of this rule. The request must be in writing and filed with the superintendent of the division of safety and hygiene within thirty days of the notification of the decision.

(2) The employer may submit a request for reconsideration of the superintendent's decision to the adjudicating committee pursuant to R.C. 4123.291.

~~(3) The adjudicating committee shall consider the request and make a recommendation on the employer's eligibility to the administrator.~~

~~(4) The decision of the administrator shall be final.~~

~~(E) The administrator shall enter into a contract with a financial institution for the purpose of issuing and servicing loans to eligible employers. The determinations made by the financial institution in respect to whether or not to make a loan to an employer and the amount of such loan are final.~~

Executive Summary
Self-Insuring Employer Rule Changes
4123-19-03(K)(5)

Recently enacted Senate Bill 7 includes language under the child support statute (ORC 3121.0311) that provides injured worker attorneys an opportunity to file a fee request to BWC, or a self insured employer, for clients that are subject to child support withholding. The revised language requires BWC, or the self insuring employer, to hold any lump sum payment of workers' compensation benefits for a period of thirty days after notifying the injured worker's attorney that the injured worker is subject to a child support order. The statute requires that the injured worker's attorney shall file a fee agreement and attorney affidavit within the thirty days to BWC or the self insuring employer. Upon receipt of the fee agreement and attorney affidavit, the self insuring employer shall deduct from the lump sum payment the amount of the attorney's fee and necessary expenses and pay that amount directly to and solely in the name of the attorney within fourteen days after the fee agreement and attorney affidavit have been filed with BWC or the self insured employer.

Rule 4123-19-03(K)(5) requires a self insured employer to pay compensation no later than 21 days from acquiring knowledge of the claim or the claimant's filing of a C-84 form. The new child support statute language requiring the thirty day hold period conflicts with the twenty one day payment requirement and BWC wishes to amend this rule to accommodate the child support withholding timeframe.

Additionally, the rule is being amended to include a specific timeframe for self insuring employers to pay compensation following the receipt of an Industrial Commission hearing order. Currently, the rule is silent on that payment timeframe and this amendment will clearly state the timeframe payment must be made following the receipt of an Industrial Commission hearing order.

Where an employer desires to secure the privilege to pay compensation, etc., directly.

- (A) All employers granted the privilege to pay compensation directly shall demonstrate sufficient financial strength and administrative ability to assure that all obligations under section 4123.35 of the Revised Code will be met promptly. The administrator of workers' compensation shall deny the privilege to pay compensation, etc., directly, where the employer is unable to demonstrate its ability to promptly meet all the obligations under the rules of the commission and bureau and section 4123.35 of the Revised Code. The administrator shall consider, but shall not be limited to the factors in divisions (B)(1) and (B)(2) of section 4123.35 of the Revised Code where they are applicable in determining the employer's ability to meet all obligations under section 4123.35 of the Revised Code.

The administrator shall review all financial records, documents, and data necessary to provide a full financial disclosure of the employer, certified by a certified public accountant, including but not limited to, the balance sheets and a profit and loss history for the current year and the previous four years. For purposes of this rule, certified financial statements shall be construed by the administrator as audited by a certified public accountant, in accordance with generally accepted accounting principles, and shall include the certified public accountant's audit opinion.

- (1) In determining whether to grant a waiver of the requirement of division (B)(1)(e) of section 4123.35 of the Revised Code for certified financial records, the administrator shall consider the following criteria and conditions.
- (a) The administrator shall require reviewed financial statements, including full footnote disclosure, to be prepared and submitted in accordance with generally accepted accounting principles. For the purposes of this rule, "reviewed financial statements" shall mean financial statements that have been subject to procedures performed by a certified public accountant in accordance with AICPA Professional Standards, specifically, Statements on Standards for Accounting and Review Services, Section 100, Paragraph .24 through .38, December 1978.
 - (b) The administrator may utilize the services of a commercial credit reporting bureau to assist in the evaluation of an applicant's ability to meet its workers' compensation obligations. The cost of this commercial reporting service shall be assumed by the applicant employer.
 - (c) Notwithstanding the above criteria, the administrator may deem it necessary for an applicant employer to provide additional security to ensure meeting its workers' compensation obligations. The amount of such additional security shall be in the form and amount as determined by the administrator and paid prior to the granting of self-insurance. Pursuant to paragraph (F) of

this rule, in the event of the default of the self-insuring employer, the bureau shall first seek reimbursement from the additional security, which shall be first liable and exhausted, before payment is made from the self-insuring employers' guaranty fund under section 4123.351 of the Revised Code.

- (2) The administrator shall not grant the status of self-insuring employer to the state, except that the administrator may grant the status of self-insuring employer to a state institution of higher education, excluding its hospitals.
- (B) The employer shall secure from the bureau of workers' compensation proper application form(s) for completion. The completed application shall be filed with the bureau at least ninety days prior to the effective date of the employer's requested status as a self-insurer. The administrator may require that the application be accompanied by an application fee as established by bureau resolution to cover the cost of processing the application in accordance with section 4123.35 of the Revised Code. The application shall not be deemed complete until all required information is attached thereto. Prior to presentation to the administrator, applicable items listed in divisions (B)(1) and (B)(2) of section 4123.35 of the Revised Code shall be made available to the bureau and shall be reviewed by the bureau of workers' compensation. The bureau shall only accept applications which contain the required information.
- (C) The bureau shall recognize only such application forms which provide answers to all questions asked and furnish such information as may be required.
- (D) Return of the completed forms required by this rule and any additional information required by the bureau to process the employer's application should be submitted at least ninety days prior to the effective date of the employer's requested status as a self-insurer.
 - (1) If the administrator determines to grant the privilege of self-insurance, the bureau shall issue a "Finding of Facts" statement which has been prepared by the bureau, signed by the administrator, subject to all conditions outlined in paragraph (L)(3) of this rule.
 - (2) If the administrator determines not to grant the privilege of self-insurance, the bureau shall so notify the employer, whereupon the employer shall be required to continue to pay its full premium into the state insurance fund.
- (E) All employers that have secured the privilege to pay compensation, etc., directly, will be required to make contributions as determined by the administrator to the self-insuring employers' guaranty fund established under section 4123.351 of the Revised Code, and, if an additional security is required by the bureau, in the amount or form that may be specified by the bureau. If the additional security is in the form of a surety bond, the bond shall be from a company approved by the bureau and authorized to do business in the state of Ohio by the Ohio department of insurance.

The surety bond shall be in the form prescribed by the bureau. The penal amount of such additional security is to be fixed by the administrator.

- (F) The surety bond or additional security furnished by the employer shall be for an amount and period as established by the bureau and may be periodically reviewed and reevaluated by the bureau. The surety bond or additional security shall provide on its face that the surety shall be responsible for the payment of all claims where the cause of action, as determined by the date of injury or date of occupational disease, arose during the liability of the surety bond or additional security. The liability under the surety bond or additional security and the rights and obligations of the surety shall be limited to reimbursement for the amounts paid from the surplus accounts of the state insurance fund by reason of the default of the self-insuring employer in accordance with division (B) of section 4123.82 of the Revised Code; however, in the event of such self-insuring employer's default, the bureau shall first seek reimbursement from the surety bond or additional security, which shall be first liable and exhausted, before payment is made from the self-insuring employers' guaranty fund established under section 4123.351 of the Revised Code. Upon default of the self-insuring employer, it shall be the responsibility of the administrator of the bureau of workers' compensation to represent the interests of the state insurance fund and the self-insuring employers' guaranty fund. The administrator, on behalf of the self-insuring employers' guaranty fund, has the rights of reimbursement and subrogation and shall collect from a defaulting self-insuring employer or other liable person all amounts the bureau has paid or reasonably expects to pay from the guaranty fund on account of the defaulting self-insuring employer.
- (G) The security herein required to be given by the employer shall be given to the state of Ohio, for the benefit of the disabled or the dependents of killed employees of the employer filing the same, and shall be conditioned for the payment by the employer of such compensation to disabled employees or the dependents of killed employees of such employer, and the furnishing to them of medical, surgical, nursing and hospital attention and services, medicines and funeral expenses equal to or greater than is provided by the Ohio workers' compensation law and for the full compliance with the rules and regulations of the commission and bureau and rules of procedure.
- (H) If another or parent corporation or entity owns more than fifty per cent of the stock of an employer, such employer must furnish a contract of guaranty executed by the ultimate domestic parent corporation or entity. If the employer establishes to the bureau that such contract of guaranty cannot be given by the ultimate domestic parent corporation, then the bureau may, in its discretion, waive the requirement of a contract of guaranty. The bureau may require an alternative form of security.
- (I) From the effective date of this rule, employees having one or more years of experience as a workers' compensation administrator for a self-insuring employer in Ohio shall be deemed sufficiently competent and knowledgeable to administer a program of self-insurance. Those self-insuring employers that employ workers' compensation

administrators who have less than one year of experience as a workers' compensation administrator in Ohio shall not have its status as a self-insuring employer affected pending notification by bureau of workers' compensation as to whether mandatory attendance of the administrator at a bureau of workers' compensation training program is required. If the bureau determines that the administrator is not able to administer a self-insuring program, the bureau may direct mandatory attendance of the administrator at a bureau of workers' compensation training program until such time as the bureau determines that the administrator is sufficiently competent and knowledgeable to run such a workers' compensation program. The cost of the bureau's training of the administrator(s) under this rule will be borne by the self-insuring employer or self-insuring employer applicant. By accepting the privilege of self-insurance, an employer acknowledges that the ultimate responsibility for the administration of workers' compensation claims in accordance with the law and rules of the bureau of workers' compensation and the commission rests with that employer. The self-insuring employer's records and compliance with the bureau of workers' compensation and commission rules shall be subject to periodic audit by the bureau of workers' compensation.

A self-insuring employer or applicant shall designate one of its Ohio employees who is knowledgeable and experienced with the requirements of the Ohio Workers' Compensation Act and rules and regulations therein, as administrator of its self-insuring program. The requirement for an Ohio administrator may be waived at the discretion of the bureau. The name and telephone number of the Ohio administrator, or non-Ohio administrator where the Ohio requisite has been waived, shall be posted by the employer in a prominent place at all the employer's locations. The administrator's duties shall include, but not be limited to:

- (1) Acting as liaison between the employer, the bureau of workers' compensation and the commission, and providing information to the agency upon request;
- (2) Providing assistance to claimants in the filing of claims and applications for benefits;
- (3) Providing information to claimants regarding the processing of claims and the benefits to which claimants may be entitled;
- (4) Providing the various forms to be used in seeking compensation or benefits;
- (5) Accepting or rejecting claims for benefits;
- (6) Approving the payment of compensation and benefits to, or on behalf of, claimants, pursuant to paragraph (K) of this rule.

This rule is not intended to prevent the hiring of an attorney or representative to assist the employer in the handling and processing of workers' compensation claims.

- (J) Employers that are granted the privilege of paying compensation, etc., directly, in accordance with these rules and regulations shall file with the bureau a report of paid compensation annually, shall keep a record of all injuries and occupational diseases resulting in more than seven days of temporary total disability or death occurring to its employees and report the same to the bureau upon forms to be furnished by it, and shall observe all the rules and regulations of the commission and bureau and their rules of procedure with reference to determining the amount of compensation, etc., due to the disabled employee or the dependents of killed employees, and payment of the same. All employers granted the privilege of paying compensation, etc., directly shall annually report paid compensation electronically via the bureau's website.

If a self-insured employer fails to timely file its annual report of paid compensation, the bureau may estimate the amount of paid compensation and assess the employer based on this estimate pursuant to rule 4123-17-32 of the Administrative Code. If the employer subsequently provides the bureau with actual paid compensation figures, the bureau shall adjust the paid compensation and any assessment accordingly. A self-insured employer that is no longer a self-insured employer in Ohio and has failed to timely file a report of paid compensation shall be subject to this rule.

- (K) Minimal level of performance as a criterion for granting and maintaining the privilege to pay compensation directly.
- (1) The employer must be able to furnish or make arrangements for reasonable medical services during all working hours. A written explanation of what arrangements have been made or will be made to provide medical treatment shall be supplied with the application for self-insurance.

For an employer desiring to be first granted the privilege of self-insured status on or after the effective date of this rule, the employer shall provide to the bureau for the bureau's approval the employer's plan for the following:

- (a) Criteria for the selective contracting of health care providers;
- (b) Plan structure and financial stability for the medical management of claims;
- (c) Procedures for the resolution of medical disputes between an employee and the employer, an employee and a provider, or the employer and a provider, prior to an appeal under section 4123.511 of the Revised Code;
- (d) Upon the request of the bureau, provide a timely and accurate method of reporting to the administrator necessary information regarding medical and health care service and supply costs, quality, and utilization; and,
- (e) Provide an employee the right to change health care providers.

- (2) The employer shall promptly pay the fees of outside medical specialists to whom the commission or bureau shall refer claimants for examination or where the commission or bureau refers the claim file for review and opinion by such specialist except as provided by law in cases where the claim was subsequently disallowed. Such fees shall be paid within the time limits provided for payment of medical bills under paragraph (K)(5) of this rule.
- (3) Every employer shall keep a record of all injuries and occupational diseases resulting in more than seven days of total disability or death as well as all contested or denied claims and shall report them to the bureau, and to the employee or the claimant's surviving dependents in accordance with rule 4123-3-03 of the Administrative Code.
- (4) The employer shall provide to the claimant and upon request, shall file with the bureau or the commission, medical reports relating thereto and received by it from the treating physician and physicians who have seen the claimant in consultation for the allowed injury or occupational disease, or any injury or occupational disease for which a claim has been filed. The claimant shall provide to the employer and, upon request, shall file with the bureau or the commission, medical reports relating thereto and received from the treating physician and physicians who have seen the claimant in consultation for the allowed injury or occupational disease or any injury or occupational disease for which a claim has been filed. The claimant shall honor the employer's request for appropriate written authorization to obtain medical reports to the extent that such reports pertain to the claim.
- (5) Within thirty days after receipt of a hospital, medical, nursing or medication bill duly incurred by the claimant, the employer shall either pay such bill, or if the employer contests any of such matters, shall notify the provider, the employee, and, only upon request, the bureau or commission in writing. Such written notice shall specifically state the reason for nonpayment. The employer's notification to the employee shall indicate that the employee has the right to request a hearing before the industrial commission. ~~If the matter is heard by the industrial commission, the employer shall pay compensation and benefits due and payable under an order as provided by section 4123.511 of the Revised Code.~~ If the self-insuring employer allows a claim for benefits or compensation without a hearing or if the matter is heard by the industrial commission, the employer shall pay such benefits or compensation no later than twenty-one days from acquiring knowledge of the claim or the claimant's filing of the C-84 form or from the employer's receipt of the industrial commission order as provided by section 4123.511 of the Revised Code, whichever is later; provided that where the claimant is subject to a withholding order for support and the self-insuring employer is required to provide notice to the claimant's attorney pursuant to section 3121.0311 of the Revised Code, the time for the employer to pay such compensation is extended pursuant to section 3121.0311 of the Revised Code.

The employer shall approve a written request for a change of physicians within seven days of receipt of such request that includes the name of the physician and proposed treatment. The employer shall approve or deny a written request for treatment within ten days of the receipt of the request. If the employer fails to respond to the request, the authorization for treatment shall be deemed granted and payment shall be made within thirty days of receipt of the bill.

- (6) The employer shall make its records and facilities available to the employees of the bureau at all reasonable times during regular business hours. A public employer shall make the reports required by section 4123.353 of the Revised Code available for inspection by the administrator of workers' compensation and any other person at all reasonable times during regular business hours.
- (7) The employer shall pay all compensation as required by the workers' compensation laws of the state of Ohio. By becoming self-insuring, the employer agrees to abide by the rules and regulations of the bureau and commission and further agrees to pay compensation and benefits subject to the provisions of these rules. The self-insuring employer shall proceed to make payment of compensation or medical benefits without any previous order from the bureau or commission and shall start such payments as required under the Workers' Compensation Act, unless it contests the claim.
- (8) The employer may notify the medical section and the claimant at least sixty days prior to the completion of the payment of two hundred weeks of compensation for temporary total disability with the request that the claimant be scheduled for examination by the medical section. Payment of temporary total disability compensation after two hundred weeks shall continue uninterrupted until further order of the commission up to the maximum required by law, unless the claimant has returned to work, or the treating physician has made a written statement that the claimant is capable of returning to his former position of employment or has reached maximum medical improvement or that the disability has become permanent, or, after hearing, an order is issued approving the termination of temporary total disability compensation.
- (9) Upon written request by the claimant or claimant's representative, the employer shall make available for review all the employer's records pertaining to the claim. Such review is to be made at a reasonable time (not to exceed seventy-two hours) and place. The claimant, upon written request, shall provide the employer or its representative with an appropriate written authorization to obtain medical reports and records pertaining to the claim.

Except as provided for in this rule, an employer may not assess a fee or charge the claimant or the claimant's representative for the cost of providing a copy of the employer's records pertaining to the claim. Where the employer has previously provided a copy of the record or records pertaining to the claim to the claimant or the claimant's representative, the employer may charge a fee for the

copies. The employer's fee shall be based upon the actual cost of furnishing such copies, not to exceed twenty-five cents per page.

- (10) The employer shall inform a claimant, and the bureau of workers' compensation, in writing, within thirty days from the filing of the claim, as to what conditions it has recognized as related to the injury or occupational disease and what, if any, it has denied. The same timeframe shall apply when the employer rejects a medical only claim.
 - (11) The employer shall post notices of its self-insuring status indicating the location in the plant(s) for the filing of a claim and the job title and department of the employees designated by the employer to be the person or persons responsible for the processing of workers' compensation claims.
 - (12) A public employer, except for a board of county commissioners described in division (G) of section 4123.01 of the Revised Code, a board of a county hospital, or a publicly owned utility, who is granted the status of self-insuring employer pursuant to section 4123.35 of the Revised Code shall comply with the section 4123.353 of the Revised Code.
- (L) If a state insurance fund employer or a succeeding employer, as described in rule 4123-17-02 of the Administrative Code, applies for the privilege of paying compensation, etc., directly, by transferring from state fund to self-insurance, the actuary of the bureau shall determine the amount of the liability of such employer to the bureau for its proportionate share of any deficit in the fund. To determine an employer's liability under this rule, the actuary of the bureau shall develop a set of factors to be applied to the pure premium paid by an employer on payroll for a seven year period, as described below. The factors shall be based on the full past experience of the commission and bureau as reflected in the most recent calendar year end audited combined financial statement of the commission and bureau, and shall also accommodate any projected change in the financial condition of the fund for the current calendar year, or any additional period for which an audited combined financial statement is unavailable. The factors shall be revised annually effective July first based on the most recent calendar year audited combined financial statement and the projected change in the financial condition of the fund in the current calendar year or any additional period for which an audited combined financial statement is unavailable. The annually revised factors shall be adopted by rule 4123-17-40 of the Administrative Code, and filed with the secretary of state and the legislative service commission at least ten days prior to July first of each year. Factors effective July first of each year shall apply to all applications for self-insurance filed on or after July first of that year through June thirtieth of the following year. The revised factors shall be applied to the pure premium paid by the employer on payroll for the seven calendar accident years ending December thirty-first of the year preceding the year in which the factors are adopted under rule 4123-17-40 of the Administrative Code. In the event the audited combined financial statement of the commission and bureau reveals that no deficit exists, or in the event

the application of the factors adopted by rule 4123-17-40 of the Administrative Code yields a negative number, the employer will incur no liability under this paragraph, but will not receive any refund for prior premiums paid except for those matters specifically addressed in paragraph (L)(2) of this rule. As used in this rule, "pure premium paid" means premiums actually paid under a base rating plan or an experience rating plan and minimum premium paid under a retrospective rating plan. It does not include premiums billed for actual claims costs, including reserves at the end of ten years, under a retrospective rating plan. Obligations under a retrospective rating plan remain the responsibility of the employer regardless of the employer's status. The same principles shall apply to cases of a merger by a self-insuring employer and a state fund employer under the self-insurer's status. In addition, the provisions listed below shall apply:

- (1) Within thirty days of the receipt from the employer of the necessary forms and of a separate statement of assets and liabilities, the bureau will forward to the employer a letter stating the amount of liability (if any) due the state fund as outlined above and a copy of the computation of such liability (if any).
- (2) Within thirty days of the date of mailing of the letter by the bureau as outlined in paragraph (L)(1) of this rule, the employer shall reply by a letter, signed in handwriting, acknowledging that the employer agrees with the amount of liability specified in the letter and that there are no protests or claims hearings pending which could affect the amount of the liability. If any such matters are pending and would affect the liability, they must be detailed and set forth in the letter from the employer. This letter must also acknowledge that any protest letters, applications for handicap reimbursement or other requests affecting the risk's state fund experience filed subsequent to the date of this letter shall be considered invalid for both rebate of premium on state fund experience and the calculation of liability cited above. This letter must also specify the suggested effective date of the transfer to self-insurance which the employer requests, subject to paragraph (B) of this rule which requires that the effective date must be at least ninety days after the date the application forms are received by the bureau. Failure to comply with the requirements set forth herein shall terminate further consideration of the application.
- (3) Subsequent to the approval of the employer's self-insurance status and the effective date thereof by the administrator, the bureau shall issue a settlement sheet statement containing the adjustment required above and billing for an advance deposit as required by other rules of the commission. The employer shall pay the amounts required by this paragraph, pay the contribution to the self-insuring employers' guaranty fund under section 4123.351 of the Revised Code, submit a performance surety bond or additional security, if required by the bureau, and estimated final payroll report as a state fund risk, all within thirty days of the date of the mailing of the self-insured certificate.

- (4) The final adjustments of all premiums due the state fund for the final payroll reports and final bureau audit (if any), as well as the pending protests, etc., as specified in paragraph (L)(2) of this rule, shall all be settled and paid within six months from the date of transfer from state fund to self-insuring status. Employer's records must be made available promptly for final audit which must also be completed within six months from the date of the transfer from state risk to self-insurance.
- (M) If there is any change involving additions, mergers, or deletions of entities or ownership changes of a self-insuring employer, which would materially affect the administration of the employer's self-insuring employer program or the number of employees included in such program, the employer shall notify the bureau self-insuring employer's section within thirty days after the change occurs. Based upon the information provided or additional information requested by the bureau, the bureau will determine the effect of the change on the employer's self-insuring employer status, the adequacy of the employer's contribution to the self-insuring employers' guaranty fund, and the need for additional security.
- (N) Public employers granted the privilege of self-insurance shall include volunteers and probationers performing services for the political subdivision as employees to be covered under the self-insurance policy.

OMBUDSPERSON OFFICE

2006
ANNUAL REPORT



A SERVICE OF OHIO'S WORKERS' COMP SYSTEM

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Industrial Commission
Nominating Council

Council Members:

The Ombudsperson (Ombuds) Office for the Ohio workers' compensation system is pleased to present their 2006 annual report. In accordance with section 4121.45 of the Ohio Revised Code, the report provides statistical information on the office's activities for the year and makes recommendations for improving Ohio's workers' compensation system.

In 2006 the Ombuds staff fielded 11,944 inquiries from customers of the workers' compensation system. Approximately 2,400 of these inquiries were classified as complaints due to the customer expressing dissatisfaction with either the Bureau of Workers' Compensation (BWC) or the Industrial Commission (IC). The Ombuds Office analyzes these complaints to assist in making recommendations for improving the system.

This office remains seriously concerned about the accuracy of some of the private state fund premium base rates at the NCCI manual classification level as noted in the 2005 annual report. BWC continues to code claims at an accuracy level less than this office considers acceptable. Additionally, as noted in this year's annual report, this office feels the BWC is lacking in their efforts to identify non-complying employers to bring them into compliance and keeping the employers BWC has a record of in compliance. This not only puts an unfair financial burden on those employers that are in compliance, but also creates an unfair economic advantage for those employers not in compliance with the law.

Sincerely,



David M. Bush
Chief Ombudsperson

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Executive Summary

Background

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

2006 Statistical Information

Total inquiries received in 2006 totaled 11,944. The table below segregates these inquiries between general inquiries and complaints, and compares the statistics to the prior year. Inquiries are classified as complaints when dissatisfaction is expressed with the Ohio workers' compensation system.

The office incurred an 18 percent decrease in the number of complaints over the prior year. The office incurred a 42 percent increase in the number of inquiries over the prior year. This is directly related to the staff assisting BWC with inquiries related to the "Santos" class action lawsuit settlement which involved the repayment of funds to IWs previously subrogated against.

	2005	2006	% Change
Complaints	2,924	2,395	-18% Decrease
General Inquiries	6,746	9,549	42% Increase
Total	9,670	11,944	24% Increase

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

Opportunities for Improvement (See pages 18-30 for details)

- BWC Administration needs to declare employer compliance a permanent priority, developing proactive processes to identify employers subject to workers' compensation law that are not in compliance, bring them into compliance and develop additional processes to keep employers in compliance.
- BWC needs to develop and implement a permanent operational quality control/review process.

- Out of state employers commencing new operations in Ohio can request their out of state experience modification apply in Ohio. BWC should make them aware of this.
- The C-86 motion form, which is a widely used claim form, should be revised to include explicit instructions.
- Better customer service could be provided to IWs if objections/appeals to permanent partial tentative orders were filed with the IC only.
- BWC should implement a control to assure that permanent partial awards are processed in a more timely fashion.
- IC needs to develop and implement a permanent operational quality control/review process.
- IC could provide better customer service and improve transparency by recording hearings.

Status of recommendations from prior years worth noting

- BWC could improve the accuracy of the premium rate calculations at the NCCI manual classification level if they would assign the correct NCCI to claims more precisely.
 - The Ombuds Office has seen no improvement in this area. At the urging of the Ombuds Office BWC is again revisiting how they perform this basic insurance function in order to identify a way to improve it. Accuracy in this process is instrumental in developing the correct premium rates/premium equity. The Ombuds Office will continue to monitor this concern and urge BWC to take corrective action.
- BWC could provide better customer service by monitoring the service provided by claims representatives and holding them accountable for providing timely, accurate service.
 - While the Ombuds Office has seen improvement in this area, 31.8 percent of the complaints in 2006 were related to claims representatives. The Ombuds Office will continue to monitor this concern and keep urging BWC to take corrective action.
- BWC could have a fairer employer appeals process by not having those individuals responsible for the employer programs making the adjudicatory decisions.
 - BWC took corrective action and properly addressed this issue.
- BWC could provide better customer service to employers if they let all of them use the 50/50 payment program, not just those who file payroll and pay through BWC's Web site.
 - While BWC did not agree in whole with the Ombuds Office, they did take steps to successfully alleviate this concern by allowing employers to also enter this program via the telephone.
- The IC could provide better customer service to IWs if they took a more broad-minded approach to "telephone hearings" especially for those residing out of state.
 - Due to lack of complaints in 2006 the Ombuds Office no longer considers this an issue.

- BWC could provide better customer service to IWs receiving non-working wage loss if they were clearer on the expectations of a job search and better monitor the results.
 - Due to lack of complaints in 2006 the Ombuds Office no longer considers this an issue.
- In the area of BWC's erroneous allowance of claims on certain business owners whose claims are not compensable because they have not elected supplemental coverage on themselves:
 - While some improvement has been seen, this practice continues. The Ombuds Office will continue to monitor this concern and keep urging BWC to take corrective action.
- In the area of BWC inappropriately disallowing IW's claims when a policy number could not be identified:
 - While some improvement has been seen this practice continues. The BWC inappropriately places the burden of employer compliance upon an IW. The Ombuds Office will continue to monitor this concern and keep urging BWC to take corrective action.
- BWC could improve on the accuracy of claims determination wherein the question of interstate jurisdiction arises.
 - In 2006 BWC had a work group review this issue and make recommendations to BWC Administration. BWC had advised that the majority of the recommendations have been approved and BWC will move forward with implementation in 2007. Confusion remains with customers when the questions of interstate jurisdiction comes into play. The Ombuds Office will continue to monitor this concern.

2006 Initiatives

The Ombuds Office began publishing annual reports on the internet at both BWC's and IC's Web sites.

In a continued attempt to market the Ombuds Office services to employers, the Ohio National Federation of Independent Business placed a link to our Web page on their Web site.

Administrative update

Expenditures to operate the Ombuds Office in calendar year 2006 totaled \$606,859. An increase in expenses of approximately \$81,456 or 15.5 percent over calendar year 2005 was realized. The increase in expenditures is directly related to building rent. This item increased \$87,031 in 2006. The increase is directly related to the methodology BWC uses to finance the William Green building.

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

	FY 2006	FY 2005	FY 2004
State Fund Claims Filed			
Lost Time	20,363	21,248	24,042
Medical Only	144,828	154,419	162,105
Occupational Disease	1,666	2,125	2,602
Death	196	223	297
Disallowed or Dismissed	18,179	19,068	18,801
Total	<u>185,232</u>	<u>197,083</u>	<u>207,847</u>
Net Allowed Injuries	167,053	178,015	189,046

Note: Every claim is evaluated at 60 days after filing for purposes of claim type, State Fund versus Self-Insured, combine status, and allowance status. Values exclude combined and Self-Insured claims.

Open Claims (Per statute)

Lost Time	571,532	613,699	654,115
Medical Only	<u>1,092,836</u>	<u>1,179,245</u>	<u>1,276,435</u>
Total	<u>1,664,368</u>	<u>1,792,944</u>	<u>1,930,550</u>

Benefits Paid

Medical Benefits Paid	\$ 848,717,070	\$ 898,350,192	\$ 870,409,716
Compensation Paid			
Wage Loss	\$ 21,690,232	\$ 21,639,172	\$ 20,099,703
Temporary Total	271,084,602	286,371,403	283,359,716
Temporary Partial	123,555	143,363	245,318
Permanent Partial	26,643,923	25,560,913	23,082,194
% Permanent Partial	88,319,097	79,299,435	76,011,098
Lump Sum Settlement	162,274,435	140,628,262	125,451,296
Lump Sum Advancement	15,006,552	16,259,985	12,132,828
Permanent Total & DWRF	379,433,788	392,374,540	379,478,849
Death	79,317,019	81,586,662	87,785,803
Rehabilitation	37,817,759	36,080,038	37,313,221
Other	<u>4,372,939</u>	<u>4,213,041</u>	<u>4,382,817</u>
Total Compensation Paid	\$ 1,086,083,901	\$ 1,084,156,814	\$ 1,049,342,843
Total Benefits Paid	<u>\$ 1,934,800,971</u>	<u>\$ 1,982,507,006</u>	<u>\$ 1,919,752,559</u>

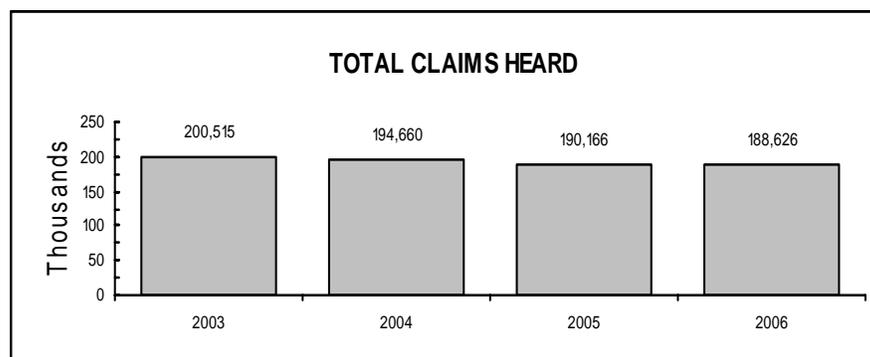
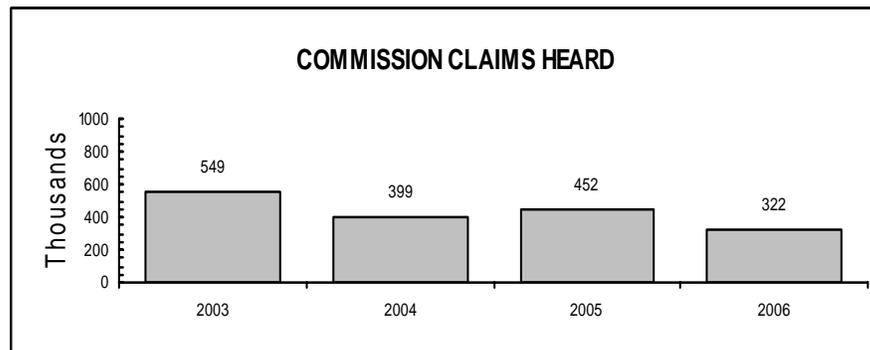
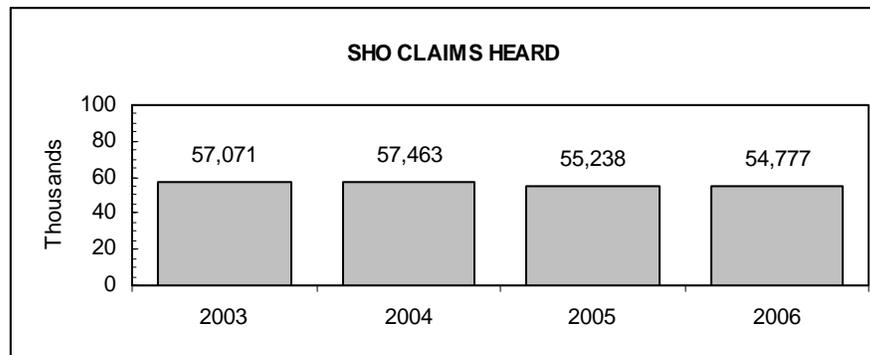
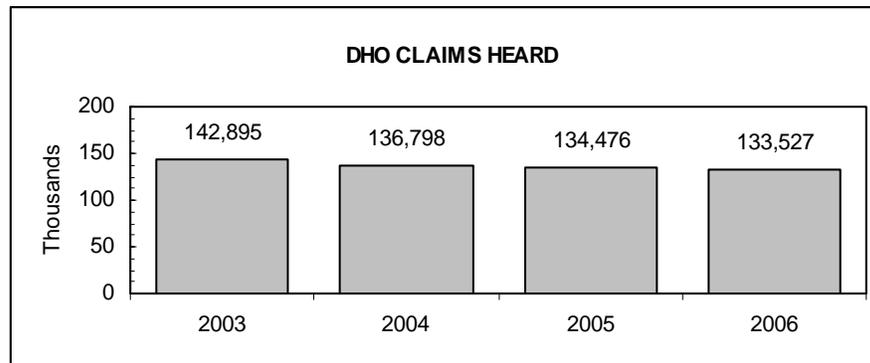
NOTE: Due to improvements in BWC data capture and reporting systems, prior year data may not agree with amounts previously reported.

	FY 2006	FY 2005	FY 2004
Fraud Statistics			
Fraud Dollars Identified	\$ 90,654,585	\$ 135,742,896	\$ 126,247,450
\$\$\$ Spent to \$\$\$ saved Ratio	1 to 7.80	1 to 12.41	1 to 11.86
Active Employers By Type			
Private	283,038	283,733	283,620
Public (Local)	3,771	3,765	3,733
Public (State)	126	129	126
Self-Insured	1,136	1,127	1,104
Black Lung	36	37	36
Marine Fund	91	82	90
Total	<u>288,198</u>	<u>288,873</u>	<u>288,709</u>
BWC Personnel	2,578	2,659	2,663
MCO Fees Paid	\$ 172,822,429	\$ 170,988,713	\$ 173,699,428
FINANCIAL DATA (000s omitted)			
	FY 2006	FY 2005	FY 2004
Operating Revenues			
Net Premium & Assessment Income	\$ 2,128,845	\$ 2,126,503	\$ 2,126,782
Other Income	15,325	11,987	11,852
Total Operating Revenues	<u>\$ 2,144,170</u>	<u>\$ 2,138,490</u>	<u>\$ 2,138,634</u>
Non-Operating Revenues			
Net Investment Earnings	\$ 658,867	\$ 500,327	\$ 458,584
Increase (Decrease) in Fair Value	124,163	488,113	791,305
Net Investment Income (Loss)	<u>\$ 783,030</u>	<u>\$ 988,440</u>	<u>\$ 1,249,889</u>
Dividends, Rebates and Credits			
Dividends & Credits	\$ (8,229)	\$ 232,836	\$ 415,523
Total BWC Assets	\$ 18,853,454	\$ 21,969,117	\$ 21,331,936

NOTE: Financial data for FY 2004 has been audited. Fiscal year 2006 and 2005 data is unaudited.

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

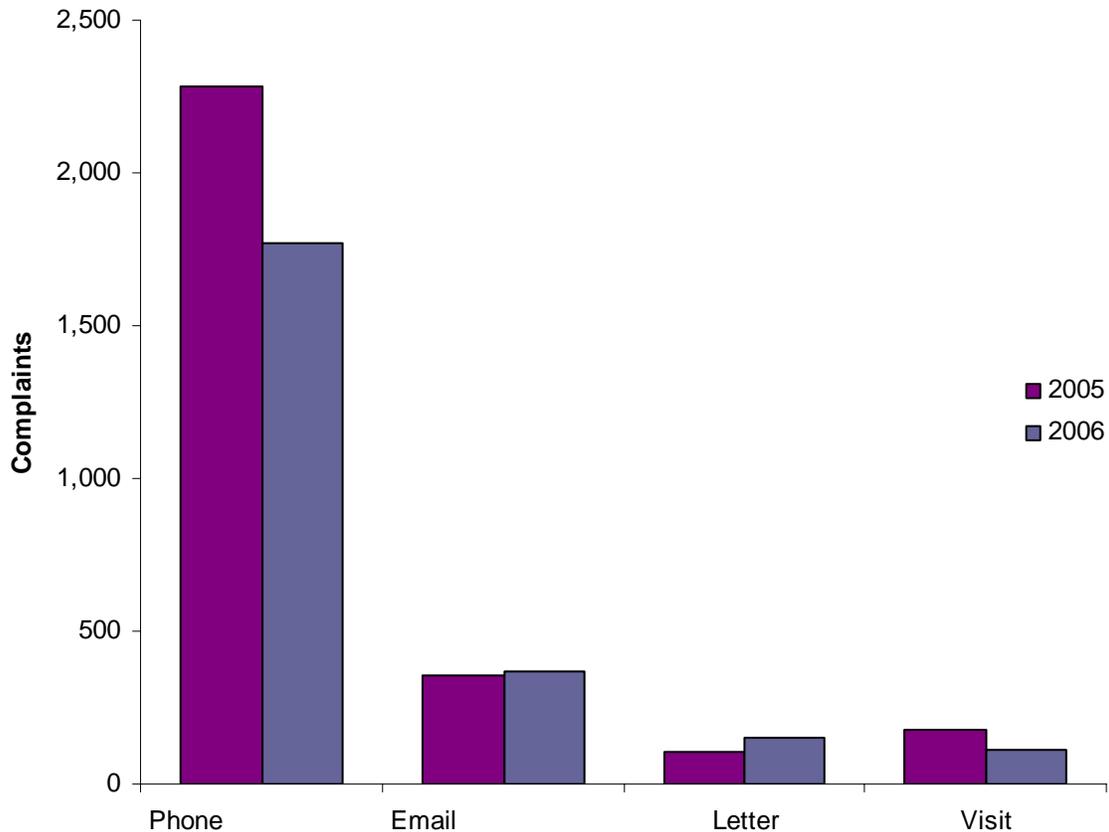
Industrial Commission 2006 Year End Statistics



Statistical Information

Inquiry Type

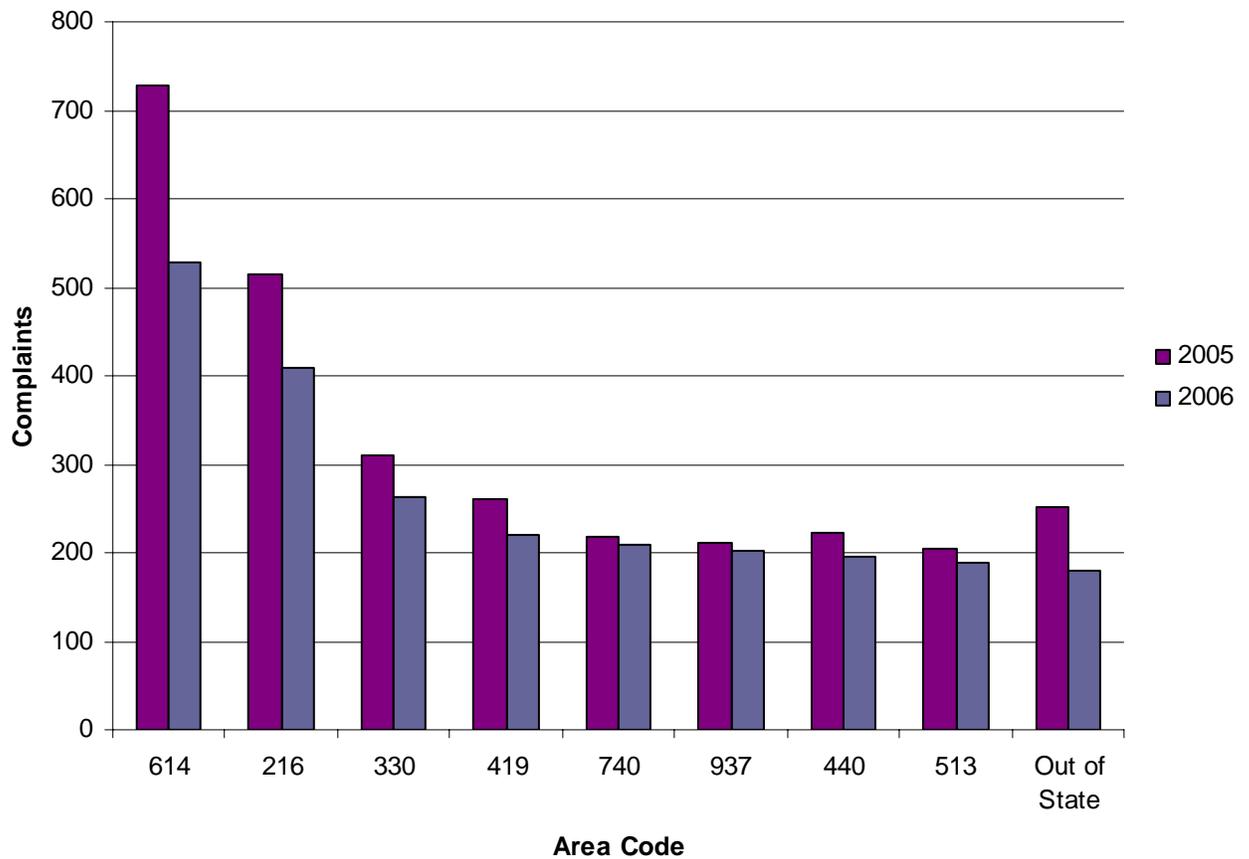
The Ombuds Office resolved 2,395 complaints during 2006. The complaints were received by the following methods:



	2005	2006
Phone	2,284 / 78.11%	1,770 / 73.90%
Email	354 / 12.11%	366 / 15.28%
Letter	106 / 3.63%	150 / 6.26%
Visit	180 / 6.16%	109 / 4.55%
Total	2,924 / 100%	2,395 / 100%

Geographic Report

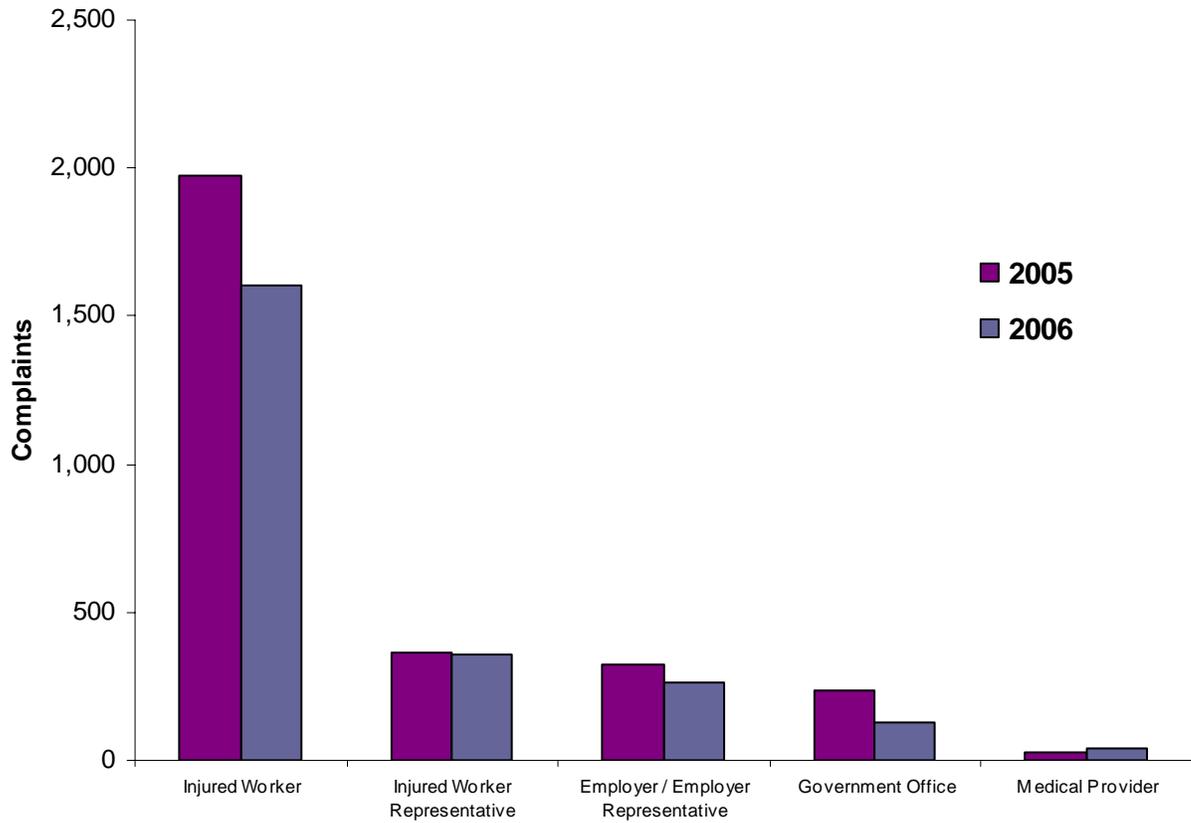
Complaints by area code:



Area Code	2005	2006
614 - Franklin County	729 / 24.93%	527 / 22.00%
216 - Cuyahoga County	515 / 17.61%	409 / 17.08%
330 - Akron, Canton, Youngstown & Vicinity	309 / 10.57%	264 / 11.02%
419 - Northwestern Ohio	260 / 8.89%	220 / 9.19%
740 - Southeastern & South-Central Ohio	219 / 7.49%	210 / 8.77%
937 - Dayton, Springfield & Vicinity	212 / 7.25%	202 / 8.43%
440 - Northeastern Ohio	223 / 7.63%	196 / 8.18%
513 - Hamilton County & Vicinity	205 / 7.01%	188 / 7.85%
Out of State	252 / 8.62%	179 / 7.47%
Total	2,924 / 100%	2,395 / 100%

Originator Report

Complaints are also recorded for the purpose of identifying which group of individuals use the Ombuds Office services. Injured workers and injured worker representatives were accountable for more than 80 percent of our business in 2006.



Originator Type	2005	2006
Injured Worker	1,973 / 67.48%	1,601 / 66.85%
Injured Worker Representative	365 / 12.48%	360 / 15.03%
Employer / Employer Representative	325 / 11.11%	266 / 11.11%
Government Office	237 / 8.11%	130 / 5.43%
Medical Provider	24 / 0.82%	38 / 1.59%
Total	2,924 / 100%	2,395 / 100%

Initial Complaint Report

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

Complaint Type	2005	2006
Compensation	712 / 24.35%	621 / 25.93%
Processing Delay	414 / 14.16%	364 / 15.20%
Industrial Commission—Hearing Issues	285 / 9.75%	218 / 9.10%
Employer Policy Issues	221 / 7.56%	181 / 7.56%
General Status of Claim	215 / 7.35%	180 / 7.52%
Bureau of Workers' Compensation	246 / 8.41%	160 / 6.68%
Employer Delay of Claim Processing	132 / 4.51%	117 / 4.89%
Santos - Subrogation Refund	NA / NA	99 / 3.84%
Authorization of Medical Treatment	123 / 4.21%	92 / 3.84%
Forms Required	163 / 5.57%	85 / 3.55%
Medical Bills	130 / 4.45%	71 / 2.96%
Injured Worker	120 / 4.10%	68 / 2.84%
Attorney Delay	61 / 2.09%	42 / 1.75%
Managed Care Organization	29 / 0.99%	34 / 1.42%
Medical Provider	35 / 1.20%	30 / 1.25%
Pharmacy Benefits Manager	29 / 0.99%	30 / 1.25%
Lost file / Cannot Locate	7 / 0.24%	2 / 0.08%
Claim Destroyed in Error	2 / 0.07%	1 / 0.04%
Total	2,924 / 100%	2,395 / 100%

*Class action lawsuit settled in 2006

Accountability Report

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

Accountability	2005	2006
Injured Worker	1089 / 37.24%	937 / 39.12%
Bureau of Workers' Compensation	697 / 23.84%	596 / 24.89%
Employer	495 / 16.93%	348 / 14.53%
Industrial Commission	195 / 6.67%	164 / 6.85%
Medical Provider	181 / 6.19%	135 / 5.64%
Injured Worker Representative	85 / 2.91%	78 / 3.26%
Employer Representative	34 / 1.16%	43 / 1.80%
Managed Care Organization	62 / 2.12%	42 / 1.75%
U. S. Post Office	19 / 0.65%	30 / 1.25%
Government Office	18 / 0.62%	11 / 0.46%
Financial Institution	23 / 0.79%	5 / 0.21%
Pharmacy Benefits Manager	21 / 0.72%	3 / 0.13%
Fraud	5 / 0.17%	3 / 0.13%
Total	2,924 / 100%	2,395 / 100%

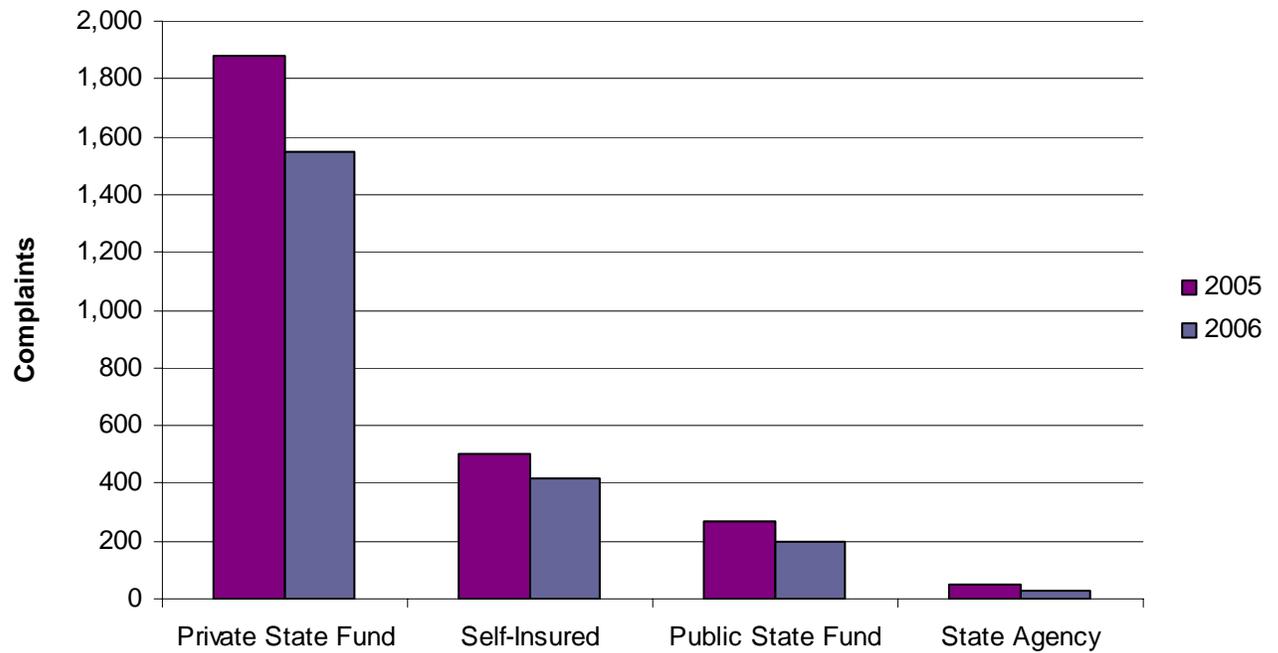
Complaint Resolution Report

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

Resolution	2005	2006
Claims Representative / Information	635 / 21.72%	438 / 18.29%
Claims Representative / Clerical Error	518 / 17.72%	326 / 13.61%
Requires Hearing	317 / 10.84%	262 / 10.94%
Information Missing	215 / 7.35%	199 / 8.31%
Unjustified Complaint	79 / 2.70%	186 / 7.77%
Employer Error	133 / 4.55%	148 / 6.18%
Injured Worker	172 / 5.88%	140 / 5.85%
Wanted Claim Expedited	152 / 5.20%	105 / 4.38%
Coding Error	85 / 2.91%	100 / 4.18%
Denied	270 / 9.23%	93 / 3.88%
Appeals	77 / 2.63%	85 / 3.55%
Processing Delay	47 / 1.61%	79 / 3.30%
Medical Exam / Review Required	65 / 2.22%	66 / 2.76%
Claim Disallowed	48 / 1.64%	38 / 1.59%
Warrant Returned / Reissued	18 / 0.62%	25 / 1.04%
Employer Representative Error	3 / 0.10%	22 / 0.92%
Warrant Lost or Stolen	9 / 0.31%	19 / 0.79%
Hearing Problems	22 / 0.75%	18 / 0.75%
Claim Inactive	8 / 0.27%	10 / 0.42%
Error - Policy Services	NA* / NA	8 / 0.33%
Overpaid	6 / 0.21%	8 / 0.33%
New Claim Status	5 / 0.17%	5 / 0.21%
Not Covered	3 / 0.10%	5 / 0.21%
Statute of Limitations	5 / 0.17%	4 / 0.17%
Claim Settled	11 / 0.38%	3 / 0.13%
Prior Authorization Required	12 / 0.41%	3 / 0.13%
Possible Fraud	9 / 0.31%	0 / 0.00%
Total	2,924 / 100%	2,395 / 100%

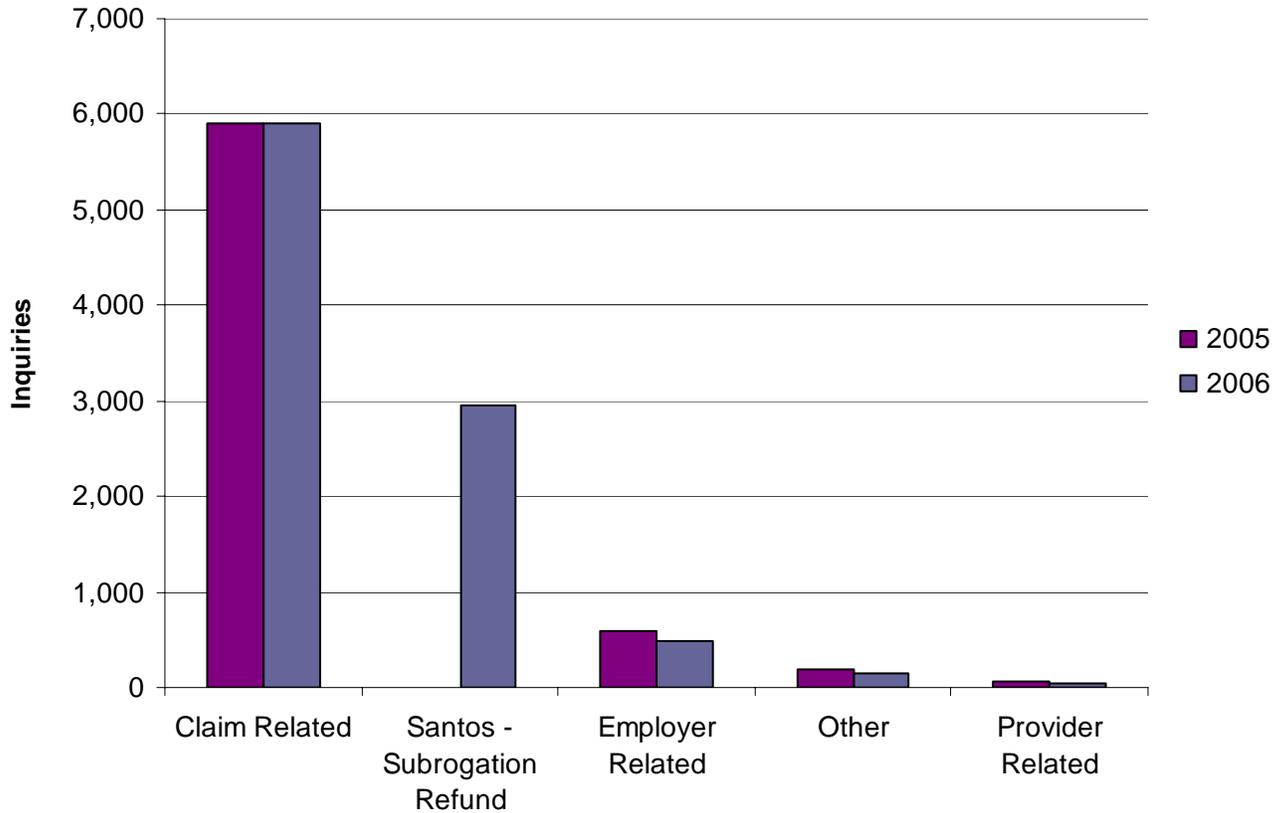
*NA - New Category in 2006

Complaint by Claim Type



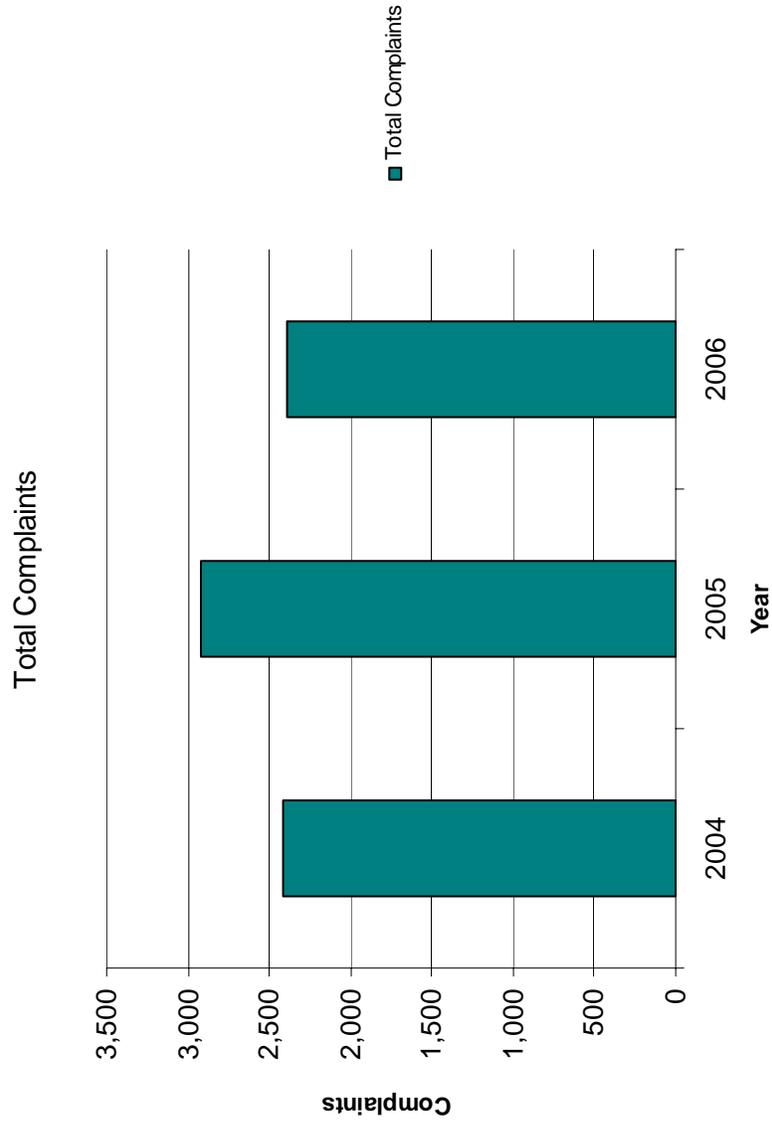
Claim Type	2005	2006
Private State-Fund		
Lost Time	1,448	1,272
Medical Only	431	277
Total	1,879	1,549
Self-Insured		
Lost Time	354	268
Medical Only	149	146
Total	503	414
Public State-Fund		
Lost Time	182	135
Medical Only	85	62
Total	267	197
State Agency		
Lost Time	38	21
Medical Only	8	4
Total	46	25
Grand Total	2,695	2,185

General Inquiries



General Inquiries	2005	2006
Claim Related	5,907 / 87.56%	5,913 / 61.92%
Santos - Subrogation Refund	NA / NA	2,957 / 30.97%
Employer Related	595 / 8.82%	486 / 5.09%
Other	186 / 2.76%	145 / 1.52%
Provider Related	58 / .086%	48 / 0.50%
Total	6,746 / 100%	9,549 / 100%

Ombudsperson Office 3 Year Complaint History



	<u>2004</u>	<u>2005</u>	<u>2006</u>
Total Complaints	2,419	2,924	2,395

Opportunities for Improvement

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

1.

Employers in the state of Ohio need to pay their fair share of premium.

Overview: It is BWC's responsibility to ensure that all employers with one or more full or part-time employees have active workers' compensation insurance in accordance with the Ohio Revised Code. The function is referred to as employer compliance and can be segregated into two subsets. The first is identifying employers that BWC does not have a record of and bringing them into compliance by establishing coverage. The second is keeping the BWC recognized employers in compliance. In both cases compliance is ultimately tied to the collection of premium, both by BWC and/or their legislated collection agent, the Ohio Attorney General.

Concern: BWC takes little proactive action to identify employers who have not applied for Ohio workers' compensation coverage to bring them into compliance with the law. The basic insurance principle of shared liability assumes shared premium responsibility. It is not fair for businesses that pay BWC premium to compete in a business environment with those that do not. In a revenue neutral system, when employers do not pay their fair share or nothing at all, they are subsidized by the remaining employers. This situation is not equitable for those employers paying into the system and hardly creates an environment for economic growth.

Regarding employers without coverage, in 2006 the Ombuds Office received complaints from employers in several industries regarding competitors not having BWC coverage and their inability to compete with them due to their non-payment of BWC premium. A review of 69 businesses for coverage listed in the Columbus, Ohio yellow pages under limousine, tree service, and painting contractors indicated 43 or 62 percent did not have an active BWC policy. Some of the employers reviewed may not need coverage due to not having employees or possibly having coverage under a different name. However, as BWC does not investigate, this will remain undetermined.

BWC information as of Feb 6, 2007, indicates there are approximately 6,000 policies in a "no coverage due to claim" coverage status with an associated total accounts receivable balance of \$33.7 million. This status occurs when BWC creates a policy so they can process a claim when no policy number exists. Clearly these IWs were employed by someone. In a review of 20 of

these policies with \$3.7 million in incurred claims costs it was found that only one of them reimbursed BWC any monies for the costs of the claim as required by law. (BWC accepted \$7,500 for a claim with incurred costs to date of \$394,000.) In three instances BWC assessed premium but nothing was paid.

In regards to employers that BWC does have a record of, BWC information as of Feb 6, 2007, indicates there are approximately 71,000 policies in a "lapse" coverage status with an associated total accounts receivable balance of almost \$230 million. While many of the employers are out of business and failed to notify BWC, many are still operating as evidenced by recent claims on employees. While BWC has greatly increased their contacts with employers who have recently become non-compliant, there remain active employers that are not forced to come into compliance. Also, after a policy is certified to the Attorney General for collection, they become less of a priority for BWC. In a review of 20 of the above mentioned policies, 9 of them appear to still be in operation as evidenced by recent claims.

Recommendation: The Ombuds Office recommends that BWC Administration declare employer compliance a permanent priority and that they create and implement strategies for the different subsets listed above. Additionally, it is recommended that monthly management reporting be implemented to monitor this item.

Proactive processes need to be developed to identify employers subject to workers' compensation laws who are without a policy. This process could range from electronic cross-mapping with other agency data to manual look-ups out of the phone book. (Example: corporate charter numbers associated with BWC policies could be cross-mapped with the Ohio Secretary of State's data, tax data, etc.)

Currently when a policy is created to process a claim there is a requirement for a referral to compliance staff. However, this reactive process is not being performed as evidenced by the lack of premium assessments against the employers reviewed.

Existing tools need to be used that can assist in persuading an employer to come into and stay in compliance. (Example: ORC 4123.79 allows an interested party to enjoin the further operation of a non-complying employer. As used in this section BWC and the Attorney General are listed among the interested parties. The Ombuds Office is unaware of any instances of this statute being used.)

New tools need to be identified or created that can assist in persuading an employer to come into and stay in compliance. (Example: In order to have an Ohio liquor license the license holder must be in compliance with all state laws. BWC has had some success in bringing these types of employers into compliance by working with the Department of Liquor to revoke the licenses of non-complying employers. Possibly there are other types of licenses which are subject to the same requirements.)

The Ombuds Office acknowledges that a successful initiative in employer compliance will take additional staff, new processes, systems changes, etc. However, a successful program would pay for itself in the recouping of monies legally due to Ohio's workers' compensation system.

BWC Response: BWC acknowledges its role in assuring employer compliance with workers' compensation laws.

Accomplishments to date

BWC has established processes designed to address employer compliance issues (e.g., Special Investigation periodic reviews, improved collection activity, Liquor cross-match, cross-match projects with Department of Taxation and Department of Job and Family Services); other new initiatives are in committee to discuss systemic changes (e.g., interagency data collaboration with Department of Taxation and the Department of Job and Family Services). In the past year, BWC made concerted efforts to take more proactive steps in addressing outstanding accounts. It should be noted that once an account is certified to the Attorney General, BWC is limited in its ability to aggressively continue action as a possible violation of laws surrounding collection of debt.

The BWC Chief Information Officer (CIO) leads the statewide subcommittee on Enterprise Data Collaboration for which the primary goal is to enable additional data sharing among State of Ohio agencies through the development of:

- Adoption of standard industry data models where applicable to enable future cross matching without the need for additional design.
- Enable Point to point and multi-point cross match facilitation among State of Ohio agencies, through standardized agreements and/or boiler-plate memorandums of understanding.
- Legislative/legal barrier removal to data sharing and identification of applicable data as a statewide, Ohio enterprise asset rather than a particular agency asset. (where possible)

Organizational Improvements

BWC recognizes the disciplines of coverage compliance and premium audit as fundamentally different. Workers' compensation coverage compliance is a regulatory matter handled in most states by a separate state insurance department. Premium audit is an insurance function conducted by an insurance company or state fund. In Ohio, BWC has responsibility for both and organizationally places responsibility for both within the same division and department. A committee will be convened to assess how best to organize these disparate functions. A report with specific recommendations is expected to be made to executive management. Target date: May 1, 2007.

Monitoring-Report Enhancements

BWC agrees a reporting format and schedule is necessary to assess progress and make changes to compliance projects, where indicated. Much of the information is currently available within BWC systems. New management reporting of compliance results will be formalized and in place. Target date: April 1, 2007.

NC-27 Referral Process

BWC will re-examine its NC-27 procedures. BWC agrees these policies, which are created to contain claims when current or historical coverage cannot be located for the employer, present unique compliance challenges. Several areas within BWC become involved in the creation, processing, and eventual follow up on these policies. The Employer Management (EM) Compliance Department, EM Policy, Claims Policy and Field Operations will work together to make recommendations for improvement of the entire process, with an emphasis on earlier intervention by compliance staff. Target start date: June 1, 2007.

Interagency Workgroup

BWC agrees more can be done to increase the level of employer compliance. The Ombuds Office recommendations point out that a greater reach is needed, that is to active employers who have not made contact with our agency. This concern reaches beyond compliance with workers' compensation laws. With approval from the Governor's office, BWC would like to explore the possibility of forming an interagency committee to work on common compliance issues with this single population base for the State of Ohio. We will relay more about this in our intermediate status reports.

2.

BWC could provide a better product to their customers if they implement a proactive permanent operational quality assurance process.

Overview: To assure that processes are completed according to policy and procedures, most organizations have an independent quality control process in place.

Concern: BWC has no independent operational quality control process in place to determine if their product (management/payment of claims benefits and managing employer policies) meets specifications as determined by the Ohio Revised/Administrative Codes and BWC policy. Many times they only become aware of processing issues when advised by a third party, such as the Ombuds Office. While BWC performs limited supervisory reviews such as payment of lost time benefits and lump sum settlements, it is not an independent review. It is performed by staff with a vested interest. Most other processes have no quality review.

Recommendation: It is recommended that BWC create and adequately staff an independent proactive permanent quality control area that reviews for accuracy random samples of all items processed by BWC. As this would be a large and complicated endeavor it is suggested that BWC take advantage of the expertise of their internal audit department and obtain a recommendation regarding the composition of such an area that could include but not necessarily be limited to, appropriate sample sizes to be reviewed, acceptable error ratios, staffing levels of such an area, tracking results, etc. Implementing this type of quality control will assist BWC identify processing errors and take corrective action prior to them becoming major data integrity issues and requiring extensive clean up efforts. It would also be helpful in identifying training needs.

BWC Response: BWC agrees that an independent and continuous monitoring function is needed within the Operations Division with the strategic objective to improve the quality of services through improved operational performance. In late January 2007, we began the first steps to create an Operations Monitoring and Compliance Unit (OMCU) by assigning a full-time manager to lead the organizational efforts. These efforts will take time to develop. In the meanwhile, ad hoc requests will be completed to test process definitions, determine job duties, and create communication protocols.

The goal of the OMCU is to provide and support the management of the Operations Division with an independent and continuous monitoring function and objective analysis of operational processes, performance, outcomes, and policy compliance in order to identify and manage risk, exposure, shifting priorities, process improvement, and employee performance needs. Leveraging Six Sigma methodologies, all compliance activities will be governed by documented quality assurance measures, processes and standards; and, will provide reliable information to facilitate decision-making by parties with the responsibility to oversee or initiate corrective and responsive action. The organization structure would fit the COSO (Committee of Sponsoring Organizations of the Treadway Committee regarding Sarbanes-Oxley) Framework model. Three encompassing

areas will be created for (1) controls - documentation and scheduling, (2) operations - execution, extraction and reporting; and, (3) assessment - integrity, analysis and risk identification.

These efforts will take time to develop and mature. Barriers, such as hiring controls, will need to be negotiated. In the meanwhile, ad hoc requests will be completed to test process definitions, determine job duties, and create communication protocols. We will relay more about this in our intermediate status reports.

3.

BWC could supply better customer service by communicating to new employers based outside of Ohio that they can request their out of state experience modification be applied to their new Ohio BWC policy.

Overview: Section 4123-17-03.1 of the Ohio Administrative Code allows for an out of state employer commencing new operations in Ohio to request their out of state experience modification be applied to their Ohio policy. This rule was effective January 1, 2004. An experience modification, simply stated, is a percentage factor applied against a specific employer's premium to either decrease or increase their premium based on their past history of claims losses.

Concern: BWC does not communicate this rule to the public in any manner let alone to those employers who could financially benefit from it. Workers' compensation premium can be a deciding factor as to whether an out of state employer relocates to or opens a new facility in Ohio. Failure to advise them of the "discounts" they are entitled to does not encourage economic growth.

Recommendation: The Ombuds Office recommends that BWC "market" this item on their Web site and through correspondence sent to new employers based outside of Ohio as they market their employer discount programs.

BWC Response: BWC rule 4123-17-03.1 of the Ohio Administrative Code permits, in specified situations, the use of out of state experience modifiers for new employers coming into Ohio when requested by the employer. These out of state experience modifiers can have an immediate impact (positive or negative) on these new Ohio employers' premium as opposed to requiring them to wait a period of time before their new Ohio claims and payroll experience begins to be included in their premium rate calculations. The intent of the rule is to act as an economic development incentive for Ohio and to encourage out of state employers to establish new operations in Ohio. Previous marketing of this tool/option has been limited. Per this recent review, BWC does agree that this rule can be communicated more effectively and actively through appropriate channels. The following efforts are scheduled to be completed in 2007:

- Create a Fact Sheet regarding the out of state experience option for mass communication. Target Date: March 30, 2007.
- Include new Fact Sheet in the New Employer Kit that is provided to employers that open new BWC policies. Provide a copy of the new Fact Sheet and instructions for use to BWC EM field staff that have daily contact with individual employers and employer organizations including adding to their internal employer information Web site, EM Resources. Provide a copy of the Fact Sheet with additional usage information to the Ohio Department of Development regional economic representatives. Target Date: April 16, 2007.
- The Fact Sheet will be added to the Employer Publications page in the Library section on BWC's Web site, ohiobwc.com. Target Date: April 2007 Release date.

4.

BWC could supply better customer service by revising the C-86 Motion form to be more user friendly.

Overview: The C-86 Motion (Motion) is a multi-purpose form widely used by IW's, employers, and their representatives, to request a decision by BWC or the IC that can not be accomplished through the use of other forms.

Concern: The Motion, while being one of the most widely used forms in the Ohio workers' compensation system, has little specific instruction. The current instructions read:

- This form is to be used by the IW or employer and/or their authorized representatives to request a decision by the Bureau of Workers' Compensation or the Industrial Commission that cannot be accomplished through any other form or application.
- This form is NOT TO BE USED BY HEALTH CARE PROVIDERS OR MANAGED CARE ORGANIZATIONS. Health Care Providers or Managed Care Organizations must use form C-9, Physicians Request for Medical Service or Recommendation for Additional Conditions for Industrial Injury or Occupational Disease.
- Proof must be submitted with this form.
- The applicant must mail a copy of the Motion to the opposite party and/or their authorized representative and shall indicate that a copy has been mailed by signing Certificate of Service below.

When requesting an additional allowance for example, the IW or their legal representative must file the Motion with the necessary medical documentation concluding that the IW has said condition and explains the causal relationship between the condition and the industrial injury. However, the Motion does not clearly explain what issues the medical documentation needs to address, i.e., define what "proof" is as stated in the current instructions. This can cause unnecessary delays in medical treatment/return to work because many times the issue is referred to the IC for hearing due to lack of documented proof.

Recommendations: A detailed instruction sheet should be provided with the Motion form. We recommend check off boxes including, but not limited to, requests for an additional allowance (s), changes to the average weekly wage or an employers request to declare an IW at maximum medical improvement. The instructions should clearly explain or make suggestions on the correct verbiage and what specific documentation has to be attached to the Motion form. These instructions could also include when a Motion is not appropriate and what the appropriate form would be. For example when an IW is initially requesting wages loss benefits they must complete a C-140, Initial Application for Wage Loss Compensation, and not a C-86 Motion form.

BWC Response: The C-86 form is primarily used by the authorized representatives for IWs and employers to request actions for which no other form exists. Before changes are planned or implemented, BWC managers recommend that we canvass the authorized representative community to identify specific updates to the form that would make it more user friendly and be helpful in their processes.

BWC will take the following actions to address the concerns:

- Solicit feedback and input from the Ohio Academy of Trial Attorneys, OSBA WC Committee and TPA Association. Target date: March 30, 2007.
- Review all feedback and present recommendations back to groups. Target date: April 30, 2007.
- Make revisions to the C-86 form as recommended. Target date: June 2007 Release.

5.

BWC Percentage of Permanent Partial (C92) Tentative Orders should give specific directions on how and where to file an objection.

Overview: BWC C92 tentative orders simply state “Objection forms may be obtained from any BWC office.” This can cause serious confusion. Other BWC orders state “An appeal may be filed online at www.ohioic.com or the Appeal (IC12) may be sent to the Industrial Commission of Ohio,” and then lists the address of the specific IC district office involved.

Concern: Objections to BWC C92 tentative orders are currently filed via BWC form C167T or IC form IC12 either in paper form or filed online at their respective Web sites. The Ombuds Office received many complaints regarding delays in scheduling the hearing when the C167T objection form was filed online at the BWC Web site. The online C167T objection appears as an imaged document in the BWC computer system and are not always forwarded timely by the BWC to the IC to schedule the hearing. It is the responsibility of BWC personnel indexing imaged documents to print a copy of the C167T and forward it to the IC. This is not being done consistently and provides a disservice to the IW.

Recommendation: The Ombuds Office recommends that BWC discontinue using the C167T form and that the C92 tentative order should list specific directions similar to other types of BWC orders directing the appeal to be filed directly with the IC. This would streamline the process by avoiding the confusion of multiple “input” points.

BWC Response: BWC and the IC have been working the past several months on making the C-167T an IC form that can be submitted online via the IC’s Web site (ICON).

BWC will take the following actions to address the concerns:

- The C-167T form will be eliminated as a BWC form and will no longer be available on ohiobwc.com. It will be added to ICON as an IC appeal form. Target date: June 2007 Release.
- BWC will update the BWC tentative orders with the appropriate appeal language. Target date: July 2007 Release.

6.

BWC Percentage of Permanent Partial Disability (C92) awards could be processed in a more timely manner.

Overview: BWC tentative orders granting a C92 award are often disputed to the IC. Upon the issuance of an IC order it is BWC's responsibility to take the appropriate action.

Concern: The Ombuds Office received 93 complaints involving delays in C92 awards in 2006, of these, 41 or 44 percent were attributed to BWC error. Two predominate causes were identified. The first was that BWC failed to take action once the appeal period had expired. The second was when BWC attempted to pay the benefits they discovered that the IW's wages were not on file nor had they been requested. These deficiencies in the process caused a serious delay in payment of the C92 awards.

Recommendation: The Ombuds Office recommends that BWC review the current process for C92 applications and implement a control that prevents the IC order from being deleted from the CSS diary until the award is paid. Additionally, it is recommended that BWC put language in tentative orders for C92 awards requesting wages when wages have not previously been submitted.

BWC Response: Claims Policy is currently reviewing the C92 policy for potential revisions. BWC will take the following actions to address the concerns:

- The policy will be updated to add instructions for gathering wage information when the C92 application is submitted. This will allow time for request and submission of wage information by the IW and/or employer well in advance of the payment of the award. Target date: May 1, 2007.
- The V3 Customer Team, Claims Policy and IT will explore the suggestion for V3 diary updates to prevent deletion of the appeal period diary prior to payment of the award as well as a Data Warehouse exception report that shows V3 payment plans in allow/appeal for greater than a specified number of days. Recommendations will be submitted to management. Target date: May 1, 2007.

7.

All organizations producing a “product” should have a quality control process in place.

Overview: The IC is the adjudicatory arm of Ohio’s workers’ compensation system resolving disputes through a hearing process wherein parties to the claim present evidence to a hearing officer who makes a decision. The IC conducted 188,626 hearings in 2006.

Concern: The Ombuds Office has received complaints from stakeholders alleging inconsistency in orders between hearing officers and IC offices/regions. While the Ombuds Office can neither prove nor disprove these anecdotal allegations, Ombuds has determined that the IC has no independent quality assurance process to maintain as much consistency as possible. Only new hearing officers have their orders reviewed during their initial probation period. The fact that a party to the claim has the recourse of appealing a decision to the next level of the IC or the courts does not make up for the absence of any quality control. Appeals can cost employers legal fees and can cause delays in treatment, etc., for IWs.

Recommendation: It is recommended that the IC implement an independent quality assurance area that reports directly to IC Administration. In setting up this area it is recommended that the IC take advantage of the expertise of BWC’s internal audit department or an outside consultant to obtain an opinion regarding the composition of such an area that could include but not necessarily be limited to appropriate sample sizes to be reviewed, acceptable error ratios, staffing levels of such an area, and tracking results.

IC Response: The Industrial Commission appreciates and is always receptive to suggestions on how to improve its hearing processes. Suggested recommendations can certainly be entertained within the financial restraints of our budget. Additionally, the Commission is willing to present these suggestions to a group of key workers’ compensation stakeholders upon which it relies for suggestions to improve Agency operations.

The observation in this suggestion presupposes a “correct” answer to the resolution of disputes between the parties. The vast majority of decisions made by hearing officers involve the weighing of evidence and evaluating credibility. Thus, different hearing officers can reasonably reach different conclusions on the matters presented. It is recognized that the resolution of a contested matter may result in the dissatisfaction of at least one of the parties. The multi-level appeal process exists to ensure that a dissatisfied customer will have a second and sometimes third opportunity to seek review of the lower level decision. Additionally, the law allows additional evidence to be presented throughout the hearing process, thereby limiting the conclusions which may be drawn when a lower level decision is administratively overturned.

The IC, through its Hearing Officer Manual, multiple training sessions, and tracking of success when decisions are appealed to court, currently takes steps to ensure that hearing officers are as consistent as possible when evaluating issues. The IC's effectiveness in this endeavor is substantiated by the rate at which the IC's determinations are affirmed by the judiciary. Quite simply, the overwhelming majority of orders therefore comport with Ohio law.

8.

The IC could provide better customer service and improve transparency by recording hearings.

Overview: The IC is the adjudicatory arm of Ohio's workers' compensation system resolving disputes through a hearing process wherein parties to the claim present evidence to a hearing officer who makes a decision.

Concern: The Ombuds Office receives complaints that hearing officers do not take arguments into account, that hearing officers have been discourteous, etc. While these complaints are forwarded to the IC for a response there is really no way to prove or disprove the allegations.

Recommendation: The IC should implement technology to begin capturing a recording of hearings. These recordings could have multiple uses including but not limited to a resource for hearing officers to re-review the arguments presented at a hearing prior to finalizing their order, as a quality control and training resource, as a resource for IC Administration to investigate complaints and make determinations based on what actually occurred in the hearing, and to memorialize hearing testimony providing continual electronic access to searchable evidentiary material and recorded transcripts.

IC Response: The Industrial Commission appreciates and is always receptive to suggestions on how to improve its hearing processes. Suggested recommendations can certainly be entertained within the financial restraints of our budget. Additionally, the Commission is willing to present these suggestions to a group of key workers' compensation stakeholders upon which it relies for suggestions to improve Agency operations.

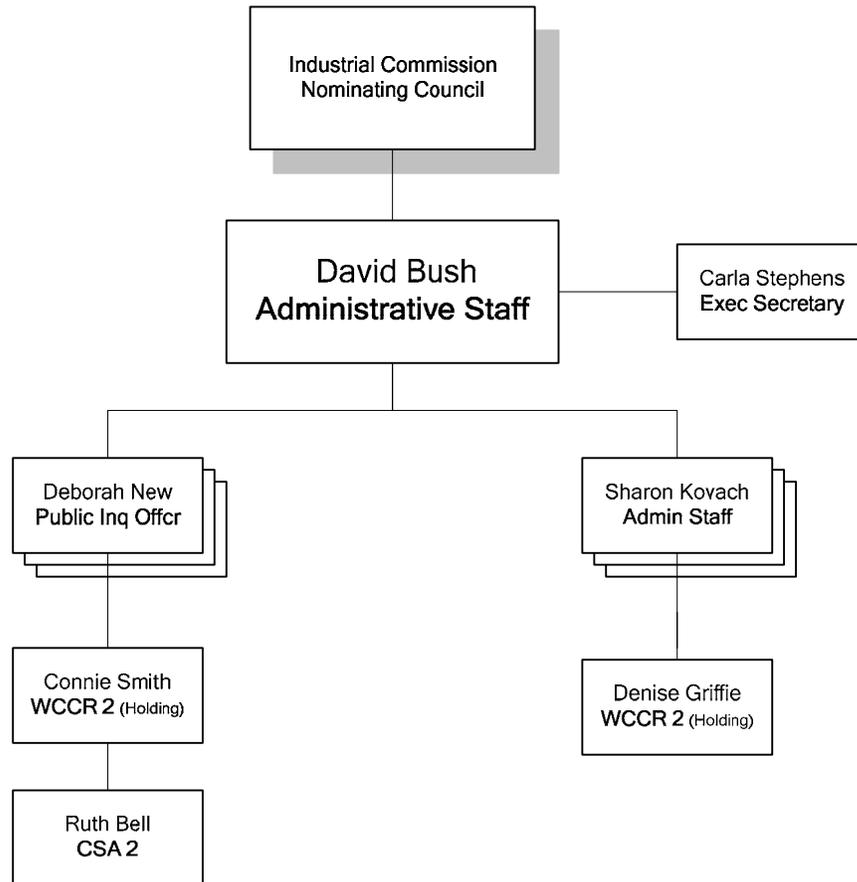
With respect to this suggestion, the system currently allows parties who wish to preserve the testimony adduced at hearing to bring a court reporter to hearing at that party's expense. While the practice is not uncommon, it occurs infrequently because it is not viewed as a necessary component of the process by most hearing participants. This "formalization" of the process runs counter to the objective of maintaining the current hearing atmosphere that was evidenced by the numerous amicus briefs filed in the *CompManagement* case.

BWC OMBUDSPERSON OFFICE EXPENDITURE REPORT - CALENDAR YEAR 2006

OBJECT CLASS	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.	TOTAL EXPENSES
10 Payroll	53,447	35,529	36,464	34,501	32,955	34,945	51,511	33,069	34,988	34,303	37,129	36,792	455,633
10 Overtime Paid	0	0	0	0	0	0	0	0	0	0	0	0	0
13 Personal Service	0	0	0	0	0	0	0	0	0	0	0	0	0
15 Other P.S.	0	0	0	0	0	0	0	0	0	0	0	0	0
Total 100	53,447	35,529	36,464	34,501	32,955	34,945	51,511	33,069	34,988	34,303	37,129	36,792	455,633
20 Edible Products	0	0	0	0	0	0	0	0	0	0	0	0	0
21 Supplies	0	0	0	0	0	29	(21)	0	0	0	0	0	8
211 INTRNL SUPPLIES	19	72	495	39	14	343	6	71	112	15	17	24	1,227
22 Vehicle Maintenance	0	0	0	12	0	(12)	0	0	0	0	0	0	0
221 INTRNL VEHICLE	0	0	0	0	0	0	0	75	0	0	0	117	192
23 Travel Fees	8	0	0	0	0	0	0	0	0	0	0	0	8
24 Communications	0	0	4	0	0	3	0	0	0	0	0	0	7
241 INTRNL COMM	798	329	1,042	482	140	725	884	464	355	374	416	1,161	7,170
25 Fuel/Utilities	0	0	3,840	0	0	738	0	0	2,127	0	0	1,743	8,448
26 Maintenance	0	0	3,418	0	0	3,515	0	0	2,357	191	185	3,047	12,713
27 Rentals	0	0	90,395	0	0	2,547	0	0	18,341	0	0	2,547	113,830
28 Printing/Advertising	0	0	0	0	0	0	0	0	0	0	0	0	0
281 INTRNL PRT/ADV	308	651	207	331	607	86	97	111	90	210	75	89	2,862
29 General/Other	333	663	600	394	356	324	332	269	415	77	685	313	4,761
291 GENERAL	0	0	0	0	0	0	0	0	0	0	0	0	0
Total 200	1,466	1,715	100,001	1,258	1,117	8,298	1,298	990	23,797	867	1,378	9,041	151,226
30 Food Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
31 Office Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
32 Motor Vehicles	0	0	0	0	0	0	0	0	0	0	0	0	0
33 Construction	0	0	0	0	0	0	0	0	0	0	0	0	0
34 Communications Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
35 Medical/Lab Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
36 Educational/Rec Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
37 Data Processing Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
371 INTRNL DP EQP	0	0	0	0	0	0	0	0	0	0	0	0	0
38 Copy/Print Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
39 Other Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
Total 300	0	0	0	0	0	0	0	0	0	0	0	0	0
Grand Total	54,913	37,244	136,465	35,759	34,072	43,243	52,809	34,059	58,785	35,170	38,507	45,833	606,859

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

OMBUDSPERSON OFFICE



Industrial Commission Nominating Council

Employer Representatives:

Eric Burkland *
Ohio Manufacturers Association

Andrew E. Doehrel
Ohio Chamber of Commerce

Catherine Duhigg
Eaton Corporation

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

Labor Representatives:

Larry Phillips
Ohio State Troopers Association

Gary DiCeglio **
Ohio AFL-CIO

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

David Prentice
United Steelworkers

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