
SJR 30 Studies – Update

Labor-Management Advisory Council on
Workers' Compensation

September 29, 2009

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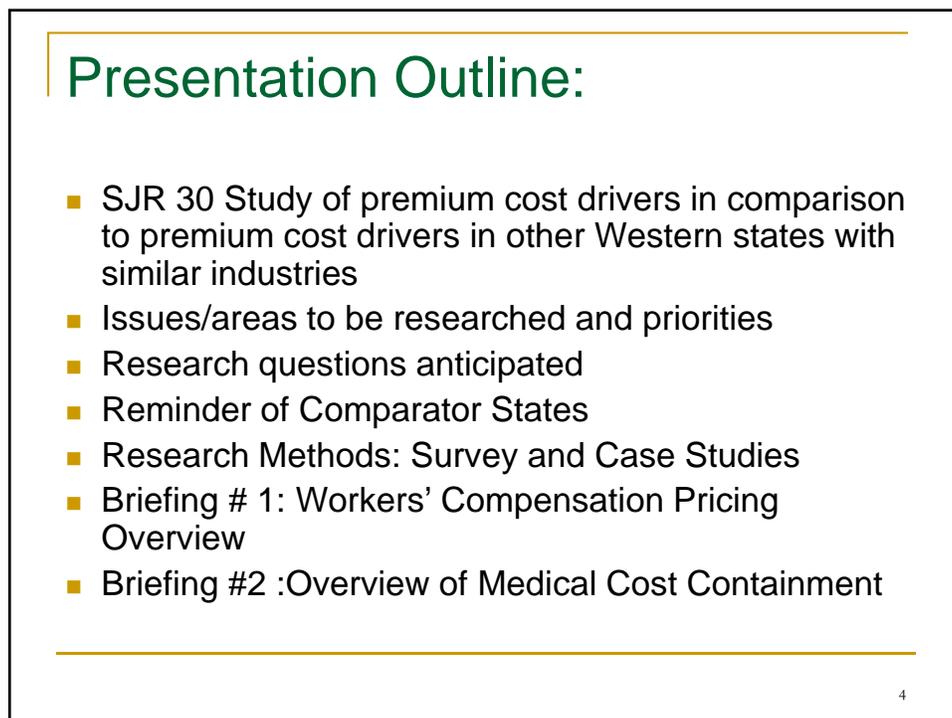
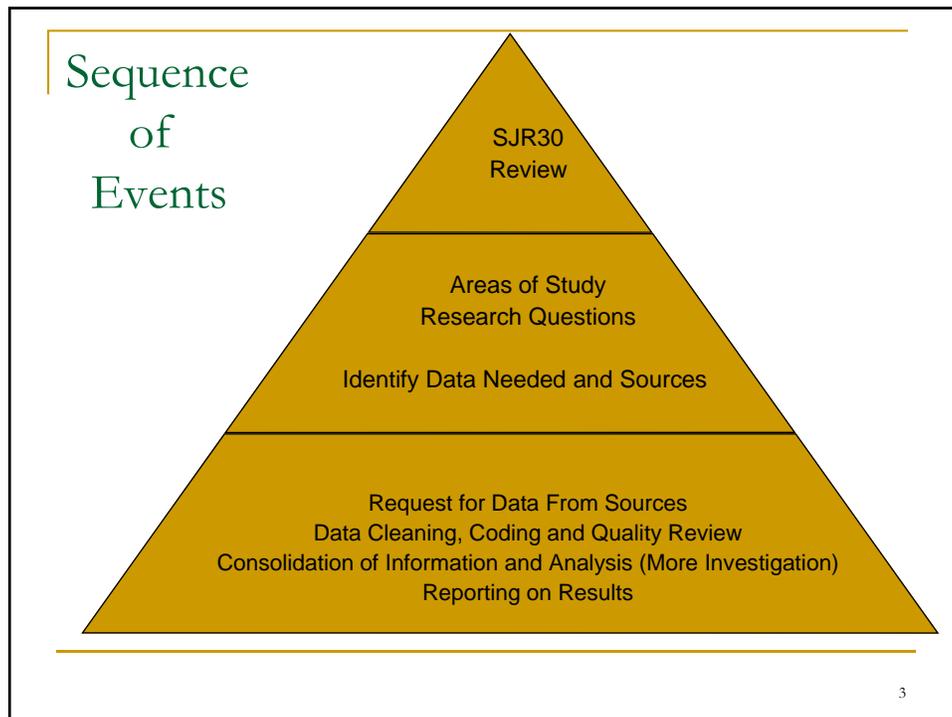
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Introduction:

Ann Clayton – Consultant to ERD

- 36 years in Workers' Compensation
- Claims manager for Travelers, US Insurance Group and Alexis
- Minnesota Assistant Commissioner for Workers' Compensation
- Florida Director of Workers' Compensation
- Deputy Director of the Workers Compensation Research Institute
- Instructor for the "Certified Workers' Compensation Professional" Course at Michigan State University
- Consultant to Montana, New York, North Dakota, Washington, the US Department of Labor, BDMP, e-Triage, UMASS Medical School, IAIABC and WCRI

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SJR 30 Review

- Review of frequency of claims
- Medical costs
- Duration, availability and access to medical treatment
- Use of U&T guidelines and their effectiveness in other jurisdictions
- Impact on cost containment and access resulting from implementation of medical fee schedule
- Research and analysis on whether Montana should include occupational disease presumptions for certain occupations

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SJR 30 Review

- Evaluation and recommendations on exemptions
- Three-tiered structural issues
- Identify additional areas that impact premium cost drivers
- Examine the operation and structure of the Montana State Fund...

Conclude prior to September 15, 2010 and report to the 62nd Legislature

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Issues To Be Researched By ERD/LMAC and Priority

- 1. Workers' Compensation Medical Costs (And Quality)**
 - Cost Containment Strategies; Duration; Availability and Access (Study of cost drivers if feasible)
- 2. Montana's WC Benefit Structure**
 - Transitions from TTD to PPD and PTD
 - PPD options
 - Duration of lost time benefits
- 3. Payment of Attorney Fees in Medical Disputes**
- 4. Course and Scope Issues**

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Issues To Be Researched By Priority

- 5. Frequency and Severity of Montana Injuries**
 - How Montana differs; best practices by other states in prevention and return to work; review of WorkSafeMT to date
- 6. Occupational Disease Presumptions**
- 7. Workers' Compensation Insurance Structural Issues**
 - Overview of the growth and development of State Funds
 - Overview of WC Insurance Regulation
- 8. Fraud**

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Research Questions By Issue:

WC Medical Costs and Quality

- How much of the cost of medical in MT is due to prices and how much is due to utilization?
- If utilization is a cost driver, is it across all providers? Is it for all services? Is there a particular problem that the treatment guidelines need to address?
- How do price and utilization patterns differ from other states? Does MT have longer than average treatment duration?
- What is the impact of the most recent fee schedule changes? **How does this now compare to rates paid by Group health and Medicare for the same services?**
- **What is the % of benefit dollars for medical care in comparator states and how are those states ranked by the OR ranking? How does this change when we look at more mature or developed claims?**

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Research Questions By Issue:

WC Medical Costs and Quality

- What is the litigation rate for medical disputes (including U & T guideline disputes) in the comparative states?
- Does medical treatment for similar injuries last longer in MT? If so, how does the treatment differ?
- **What is the public policy in other states about how long treatment for work related injuries lasts and under what conditions can they be reopened? What are the options that trigger closure and reopening? Is the process easy, timely and fair? How much litigation and delay in treatment results?**
- Does MT have enough physicians to provide needed services to workers?
- **Can MT injured workers get the treatment they need when they need it?**

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Research Questions By Issue: WC Benefit Structure

- Is there a “best practice” for determining and paying future wage loss benefits? What are the options for paying PPD? How does MT differ from comparator states?
- Why does Montana have higher than average duration of lost time benefits? Are our PPD claims more frequent and costly? What can we learn from comparing the frequency, severity and demographics of our injuries to comparator states?
- How does the transition from TTD to PPD and/or PPD differ from comparator states?
- How does TTD termination differ from other states? Is it possible to look at indemnity costs by benefit paid rather than by claim type and what can we learn about the drivers of indemnity?
- What is the impact of moving from the use of the 5th to the 6th AMA guide, can it be quantified and what are potential options?

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Research Questions By Issue: Payment of Attorney Fees in Medical Disputes

- How do other states pay attorneys in cases where only medical treatment is in dispute?
- What would the cost implication be if Montana adopted one or more of the options used by other states?

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Research Questions By Issue: Course and Scope

- Does Montana let fewer or more claims into the WC system than do comparator states?
- How does the law differ on what is covered and what is not?
- What are the options and what may be the impact of Montana adopting any of these options on workers and system costs?

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Research Questions By Issue: Frequency of Work Related Injuries

- How do the frequency and lost day cases differ from comparator states?
- Which industries and injury types are driving the greater than average frequency rates?
- What are the most common causes of injuries within the high rate industries?
- Are there any additional strategies used by comparator states that WorkSafeMT may be able to adopt?

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Research Questions By Issue:

Occupational Disease Presumptions Associated with Specific Occupations

- What are the current presumptions for firefighters?
- What additional presumptions do they want?
- What evidence is there that these conditions are more than likely due to on the job exposures?
- What do other states currently do with these desired presumptions?
- What is the litigation rate regarding these presumptions in MT and comparator states?
- What would the impact to workers, employers and the public be if the legislature were to authorize these additional presumptions?

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Research Questions By Issue:

Workers' Compensation Insurance Structural Issues

- Overview of WC Insurance pricing and regulations
- Overview of the history and reasons states have created state funds for workers' compensation
- What are the public policy issues involved in the regulation of workers' compensation insurance?

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Research Questions By Issue: Fraud

- What is the legal definition of fraud and does Montana have more than comparator states?
- What is the process used to deter and prosecute fraud in comparator states?
- How many cases have actually been litigated and what were the results in MT and comparator states?

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Research Questions By Issue:

(Added after 9/9/09 EAIC meeting)

- What is the appropriate rate above Medicare or Group Health that the WC fee schedule should pay in recognition of the “hassle factor”?
- Is the MT limitation against third party recoveries (subrogation) unique? If so, how much might that add to workers’ compensation costs in MT each year?

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Methods To Gather Information With Which To Answer Research Questions:

Research using data from multiple states and multiple sources

- ❑ Research from the detailed medical data and claims data submitted to ERD from payers
- ❑ OSHA/BLS data
- ❑ Interviews with system stakeholders
- ❑ Review of current literature and research available
- ❑ Research requests to NCCI, WCRI and other organizations
- ❑ Review of statutes, available information and discussions with other state agency personnel as necessary
- ❑ Survey of other states
- ❑ Department of Health data on Montana Physicians
- ❑ Survey of injured workers from 2008 done by ERD
- ❑ Case studies to determine application of statute and case law in comparator states
- ❑ Possible review of course and scope statutory and case law interpretations for all comparator state by WC legal expert

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Reminder of Comparator States: Results Slide on % of Medical Costs

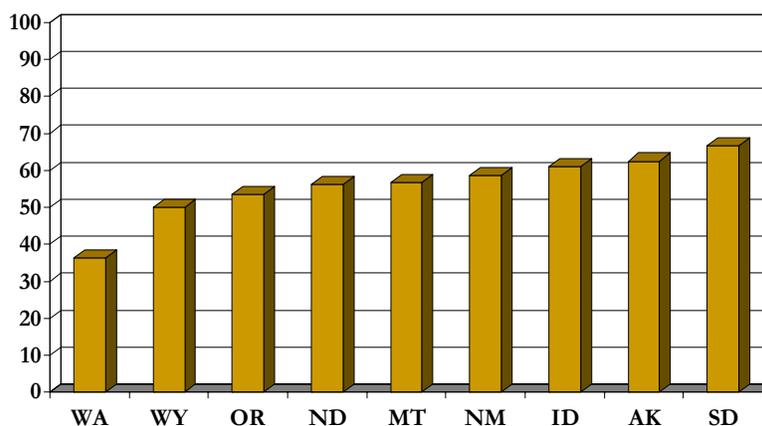
Percentage of Medical of Total Workers' Compensation Benefits				
State	2006 % Medical	2007 % Medical	Ranking of these states from highest to lowest	Oregon 2008 Premium Ranking*
Alaska	58.40%	62.50%	2	1
Idaho	62%	60.90%	3	34
Montana	57.60%	56.70%	5	2
New Mexico	57.40%	58.60%	4	32
North Dakota	55.60%	56.20%	6	51
Oregon	54%	53.50%	7	39
South Dakota	65%	66.60%	1	36
Washington	36%	36.30%	9	38
Wyoming	49.70%	50.40%	8	37
Nationally	49.80%	50.40%		

* This table does not imply any correlation between the % medical and the Oregon rankings.

Sources: National Academy of Social Insurance *Workers' Compensation: Benefits, Coverage, and Costs 2007 and 2008 Oregon Premium Rate Ranking Study*

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Comparison of Proposed Comparator States on Percentage of Medical in WC Cases



Source: NASI 2009: *Benefits, Coverage and Costs, 2007*

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Briefing #1: WC Insurance Pricing Overview

- How premiums are set (Insurance rate making)
- How individual employer premiums are calculated
- Alternative policy options
- Underwriting
- Market options in MT and comparator states
- Method of regulation in MT and comparator states

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Briefing #1: WC Insurance Pricing Manual Rates

CLASS CODE	DESCRIPTION	RATE
2812	Cabinet Mfg.	\$4.78
5183	Plumbing Instal. & Serv.	\$8.19
5190	Electrical Wiring	\$5.71
7380	Drivers NOC*	\$7.82
8742	Outside Sales	\$0.63
8810	Office Clerical	\$0.36

Job Classifications

Rate per \$100 of payroll

* Not Otherwise Classified

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Briefing #1: WC Insurance Pricing Manual Premium Calculation

Rates
by classification
by state

X

Payroll
by classification
by state

\$100

Example for Office Clerks:

$$\begin{array}{r}
 \$0.36 \\
 \text{(for class 8810)}
 \end{array}
 \times
 \begin{array}{r}
 \$1,000,000 \\
 \$ 100
 \end{array}
 = \$3,600$$

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Briefing #1: WC Insurance Pricing Experience Modification Factor

The calculation:

Actual Losses	=	Modification Factor
Expected Losses		

Timing

Years Included in the Calculations			Calculation Made	For Policy Period
2005	2006	2007	2008	2009

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Briefing #1: WC Insurance Pricing Pieces To The Pricing Puzzle

- Past premium history
- Incurred losses and IBNR
- Loss adjustment expenses
- Trend
- Reinsurance
- Taxes and assessments
- Marketing expenses
- Management expenses
- Profit
- The market (what is the competition charging?)
- Investment income (from reserves and surplus)

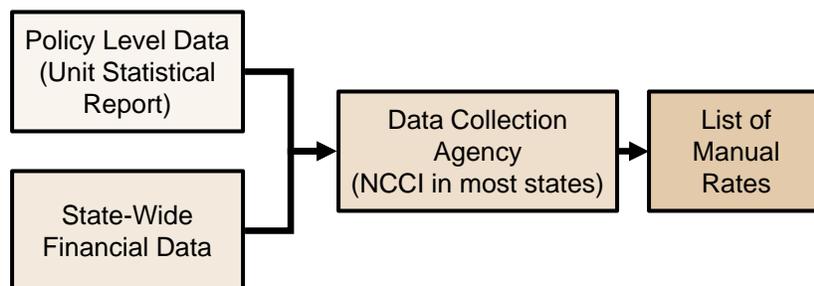
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Price Structure for a Specific State

- Varies by:
 - Degree of regulation
 - Underwriting decisions
 - The degree of competition
 - The assumptions accepted or used in the pricing model

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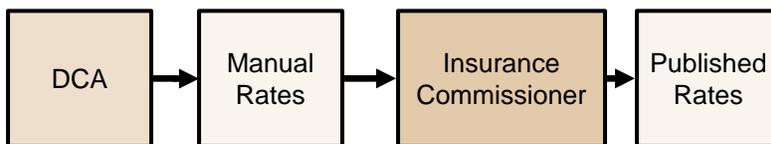
Data Collection (It's Legal)



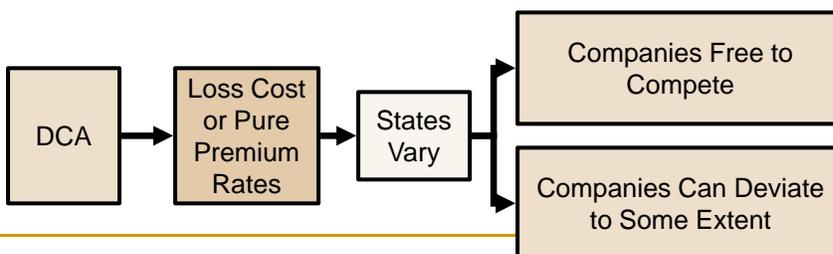
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Competition and Regulation

Administered Pricing



Competitive Pricing



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WC Insurance Pricing: A Guaranteed Policy Example

1. Obtain deviation of rates (if any)
2. Compute Manual Premium \$25,179
3. Adjust for Experience modification
 $(.80) \times \$25,179 =$
 Adjusted Manual Premium \$20,143

CC	2812	8742	8810
Est. Payroll	\$500,000	\$65,000	\$185,000
Divide by \$100	\$5,000	\$650	\$1,850
X Rates	\$4.78	\$.80	\$.41
	\$23,900	\$520	\$758.50
		Total MP	\$25,179
		X Mod	.80

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WC Insurance Pricing: A Guaranteed Policy Example

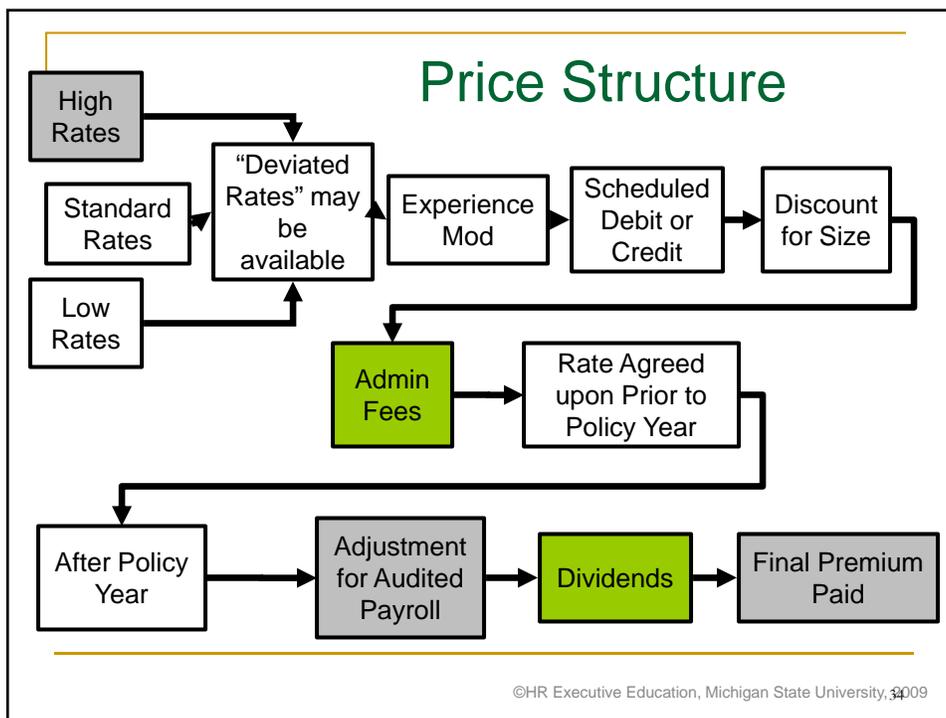
5. Apply Scheduled Credit or Debit (if available)
6. Reduce by Premium Discount
7. Add Expense Constant

Result is ESTIMATED
annual premium

\$18,579

Adjusted Manual Prem.	\$ 20,143
Apply schedule debit or credit	X .95
Adjusted Manual Prem.	\$19,136
Premium Discount	(\$5000) X .95 + \$5000
Adjusted Manual Prem.	\$18,429
Expense Constant	+ 150

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WC Insurance Pricing:

A Guaranteed Policy Example

- Final ACTUAL premium will be calculated *AFTER* the policy period when actual payroll is reported and/or audited
- Final ACTUAL premium may also be reduced if carrier issues a “dividend” or refund

Hence an employer’s actual premium will be based on many factors some of which they have control over (prevention, return to work, labor management relations, communication with workers, quality of medical care, etc.) and some of which they do not (market competition, interest rates, quality of claims management, cost of medical care, statutory benefits required to be paid, etc.)

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WC Insurance Overview:

Alternative Policy Options

- Guaranteed cost insurance policies
- Small deductibles
- Retrospectively rated insurance policies
- Large deductibles
- Captives
- Self Insurance
 - Individual
 - Group

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WC Insurance Overview:

Underwriting

- Underwriting is the process of evaluating the profit or loss potential associated with the risks of an individual employer *
- Underwriters are charged with making a decision on each employer:
 - Do we want to assume this risk or decline it?
 - If we want to assume it, what price should we charge in order to make an underwriting profit for the company

*Edward Welch, *Insurance and Self-Insurance*, Michigan State University CWCP

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Market Options in Comparator States

	State Fund	Private Ins.	Ind. SI	Group SI
AK	No	Yes	Yes	No
ID	Yes	Yes	Yes	No
MT	Yes	Yes	Yes	Yes
NM	Yes	Yes	Yes	Yes
ND	Yes	No	No	No
OR	Yes	Yes	Yes	Yes
SD	No	Yes	Yes	No
WA	Yes	No	Yes	No
WY	Yes	No	Non-haz	Non-haz

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WC Insurance Overview: Markets of Last Resort

- What happens if no insurer wants to write a wc policy for an employer?
- In Montana, the Montana State Fund *Must* provide coverage
- In other states, they use:
 - Assigned risk plans
 - Joint underwriting authority
 - Assigned risk “pools”And they may be required to be self-funded or they may be subsidized by the rest of the insurers and employers

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History of State Funds

- Been around since Washington state enacted their fund (monopolistic) in 1911
- Today only the states of North Dakota, Ohio, Washington and Wyoming still have monopolistic state funds
- All other state funds (22) exist as the market of last resort or to ensure a competitive market or to do both.

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State Funds – Rapidly Changing

- Nevada and West Virginia have gone from monopolistic state funds to competitive markets
- The wc state fund in MI became a private insurer and discussions continue about the same happening in CO and OK
- Many wc state funds are seeking authority to write policies in other states (ME, CO, OK are a few)

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Public Policy Issues In WC Regulation

- WC insurance is regulated to protect the public (both employers and workers)
- Employers need protection from excess profits of insurers; they must be able to get wc coverage; and they want fair competition and rates
- Workers need to be paid the benefits to which they are entitled under law and the public may trust the government they elected to do that better than private insurance companies

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Overview of Medical Cost Containment

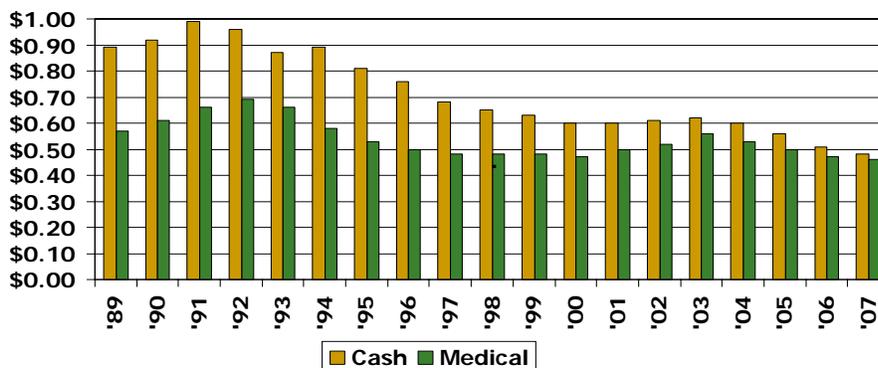
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Studies Used In This Presentation

- *Workers' Compensation Benefits, Coverage and Costs – 2007* (National Academy of Social Ins. 2009)
- *CompScope Medical Benchmarks, 9th Edition* (WCRI-2009)
- *WC Medical Cost Containment National Inventory* (WCRI-Awaiting general publication)
- *Access and Worker Outcomes, 5th Edition* (WCRI–2008)

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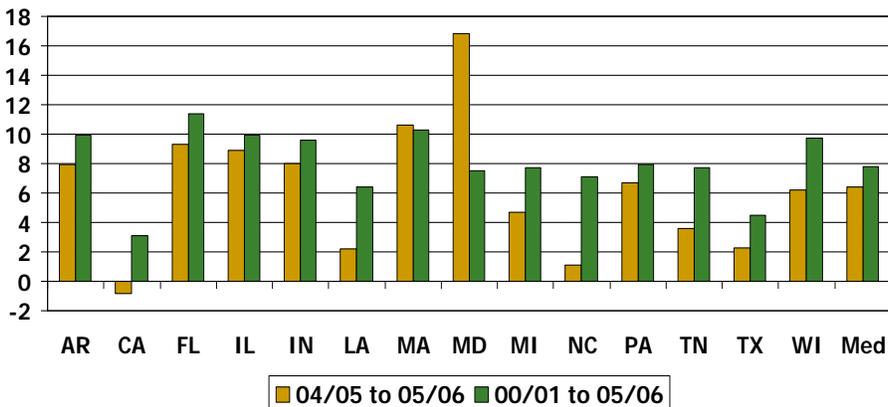
National Trend In WC Cash And Medical Benefits Per \$100 Of Covered Wages



Source: NASI – 2009

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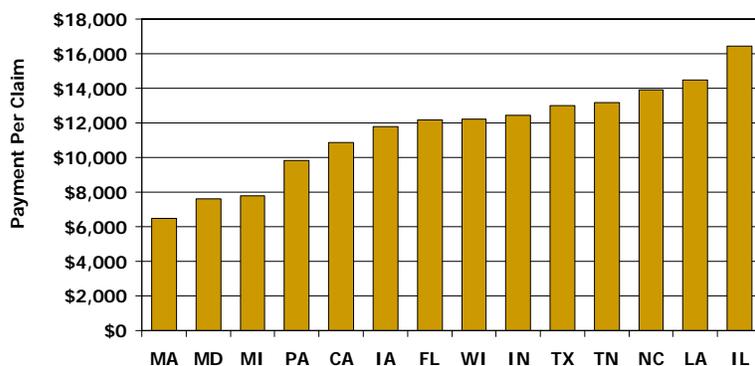
WC Medical Cost Trend For Selected States



Average Annual Percentage Change For Claims
>7 Days LT And 12 Months Maturity

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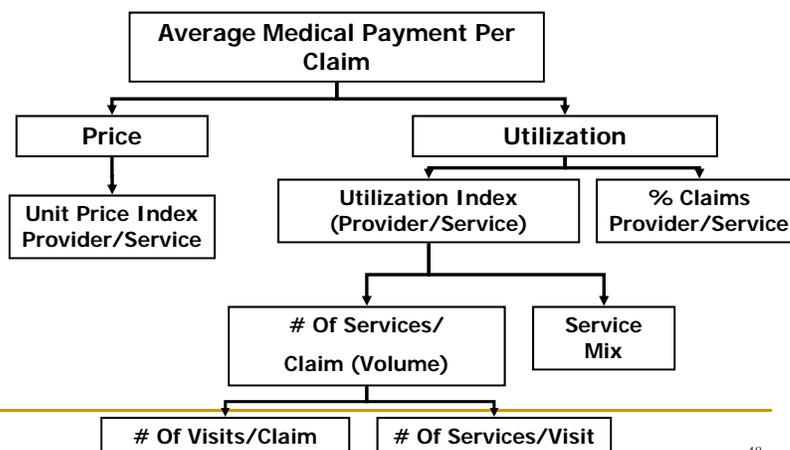
Medical Payments Per Claim 2004 Claims At 36 Months' Maturity



2004/07 Claims With More Than 7 Days Of
Lost Time, Adjusted For Injury/Industry Mix

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Regulatory Cost Containment Strategies: Price And Utilization



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State Strategies to Contain Medical Prices

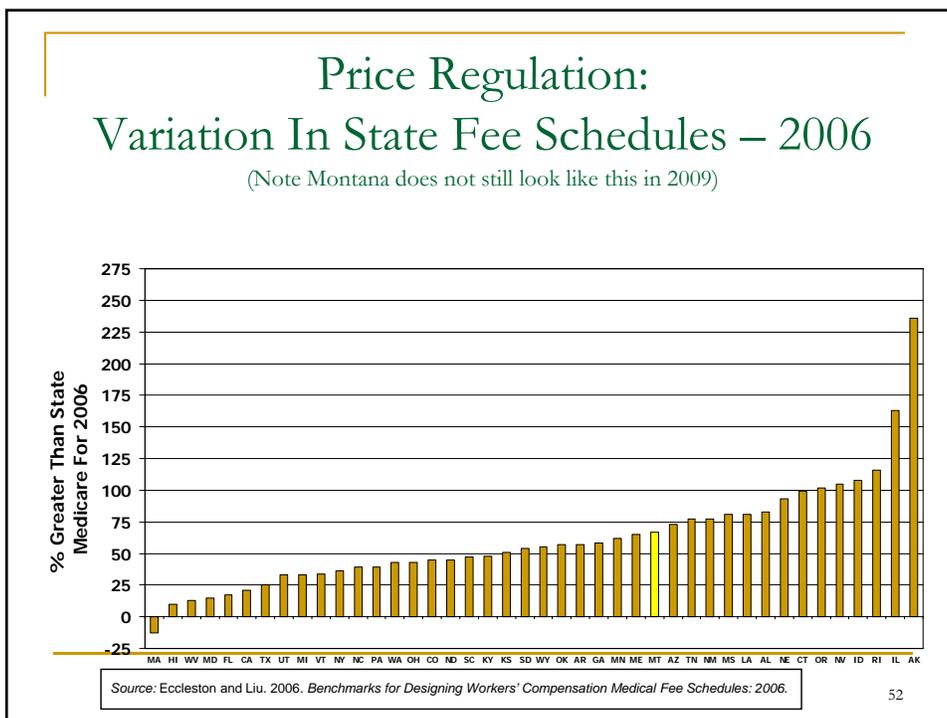
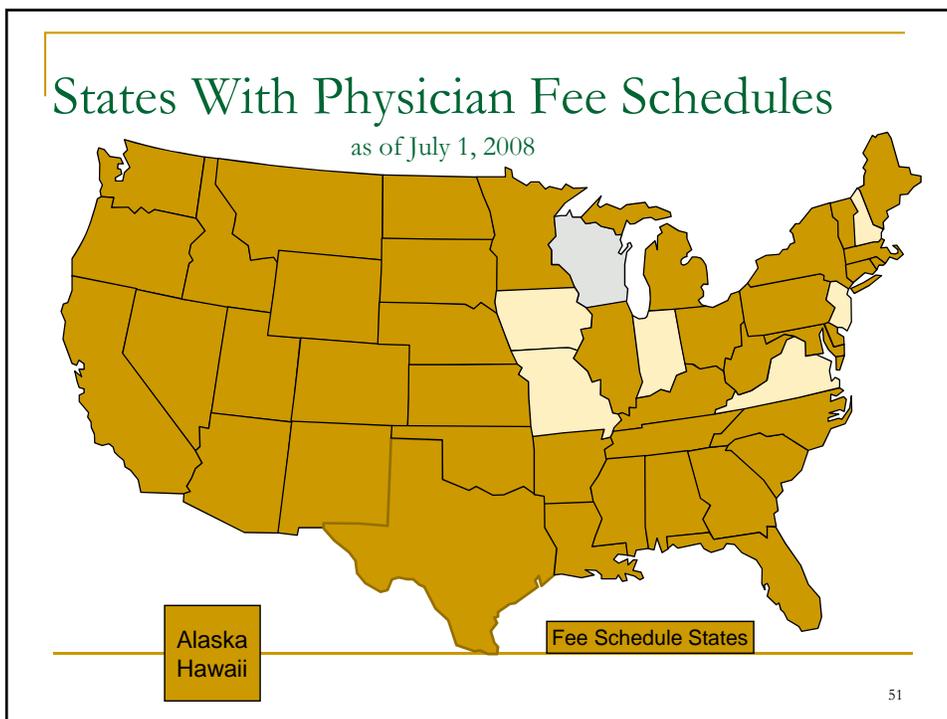
- Fee schedules
- Permissive use of managed care
- Permissive use of negotiations below or above fee schedule levels

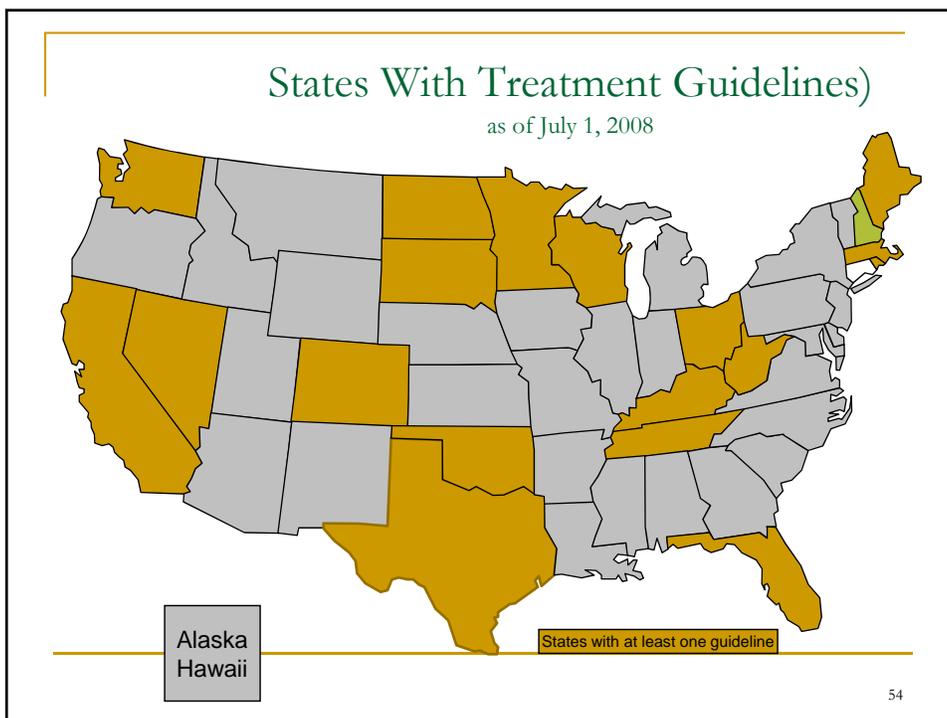
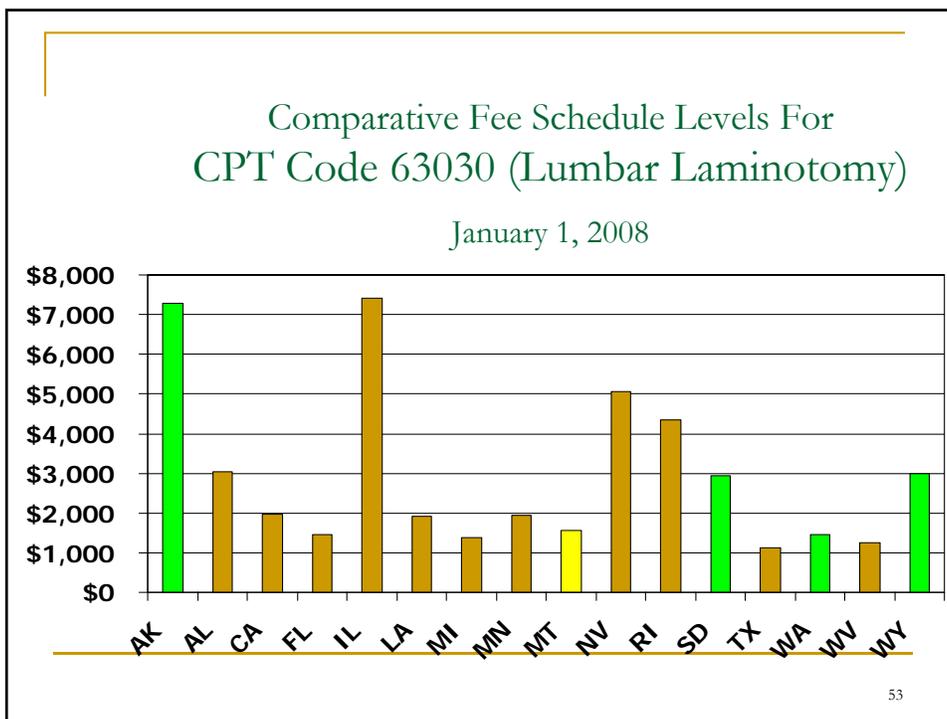
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State Strategies To Limit Over-Utilization

- Permissive use of managed care plans
- Limited provider choice and change
- Limitations on the amount of treatment certain providers can provide without additional payer authorization
- Co-insurance for ER services or palliative care
- Pre-authorizations for non-emergency care
- Use of treatment guidelines and protocols
- Limitations on use of narcotics

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Who Uses Which Guidelines?

Occupational Medicine Practice Guidelines published by ACOEM	Developed through a consensus based process by jurisdiction	Uses a mix of their own and/or ACOEM and/or ODG	ODG Guidelines published by Work Loss Data Institute	US Agency for Healthcare Research and Quality
Nevada	Maine Minnesota Rhode Island Washington Wisconsin	California Colorado Connecticut New York Tennessee Utah West Virginia	Kansas North Dakota Ohio Texas Vermont	Florida

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Limitations On Medical Treatment

As of July 1, 2008

Chiropractic Treatment Is Limited	Use of Treatment Guidelines Mandatory	Physical Therapy Treatment Is Limited	OT Is Limited	Palliative Tx After Medical Stability Is Limited	Other
AK, CA, FL, GA, HI, KS, KY, MA, MN, MS, NC, ND, OR, SD, TN, UT, WA, WV	CA, CO, FL, KS, KY, ME, MA, MN, NV, NH (mc), ND, OH, OK, RI, SD, TN, TX, WA, WV, WI	AK, CA, CO, FL, GA, HI, KS, KY, MA, MN, MS, NC, ND, NY, RI, SD, TN, UT, WA, WV	AK, CA, CO, GA, HI, KS, MA, MN, MS, ND, NY, RI, TN, UT, WA	CT, FL, MT, RI, OR	AR

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Tremendous Growth in Regulation of Pharmaceuticals

- 33 states had some regulations on the cost of prescriptions as of 1/1/08
- 9 states had some limitations on the length, use or dosage of narcotics in workers' compensation

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How Do You Know If Your Problem is Costs or Utilization?

- It's all in the detailed medical claims data...

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Hospital Fee Regulation

- Methods used:
 - Diagnostic related groupings (DRG)
 - Follow Medicare methods
 - Per diem or service (Outpatient often follows phys. Schedule)
 - Cost based
 - Discount from charges
- Application of Schedules Sometimes Vary
 - By size of hospital
 - By location of hospital
- Is Often A Very Political Decision

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Examples of State Methods for Hospital Regulation

as of 1/1/08

State	DRG	Per Diem	Cost Based	Discounted Charges	Other
Alaska		S			
Idaho				S	
Montana	S (now)			S (until 12/08)	
New Mexico			S		
North Dakota	x				
Oregon			S		
South Dakota				?	
Washington	x		x		
Wyoming					x (annual survey)

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State Medical Cost Containment Strategies:



Touchy Regulatory Balance:

Containing Costs
without
Negatively Affecting
Access or Quality

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Measuring Access To Medical Care

- No current efficient measure for all states
- Anecdotal
- Very political
- Massachusetts has found a market solution to the challenge (unlikely to work elsewhere)

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What About The Outcomes Of Care?

- Disability duration
- Physical health and recovery
- Speed and sustenance of return to work
- Satisfaction with care

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WCRI - Key Value Proposition For Workers' Compensation Systems

- Costs to employers should be directly related to the outcomes received by injured workers
 - States with higher costs should deliver better outcomes to workers
 - Increases in employers' costs should produce improved outcomes for workers

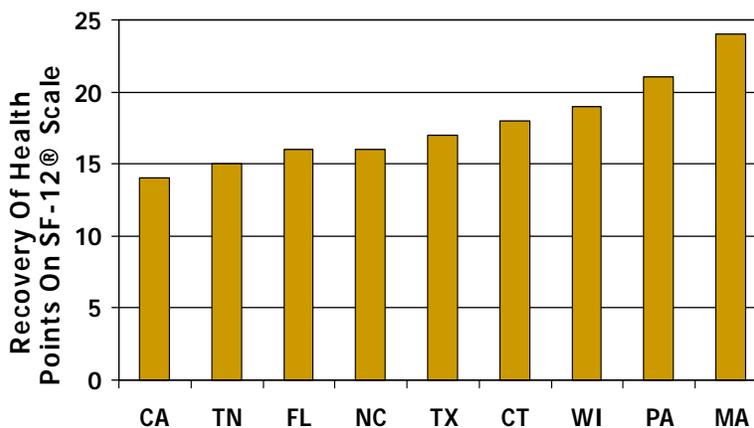
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Specific Measures For Key Value Proposition

- Medical costs and utilization
- Recovery of health and functioning
 - Return to work
 - Rates of return to work
 - Speed of initial return to work
- Access to health care
 - Dissatisfaction with time to first treatment
 - Problems accessing desired services
- Satisfaction with health care

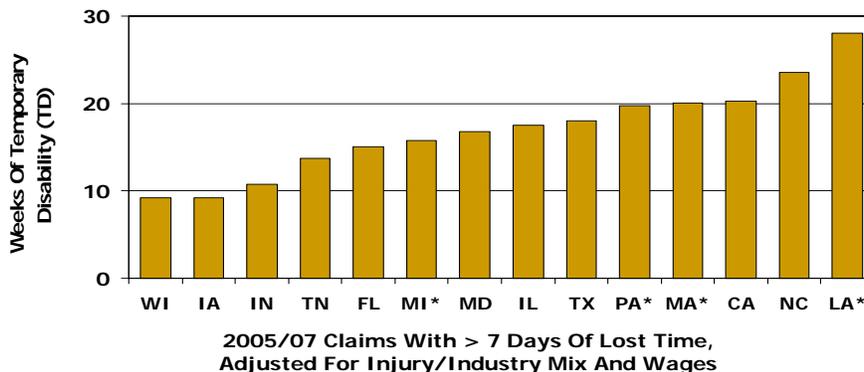
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Workers' Self Reported Recoveries



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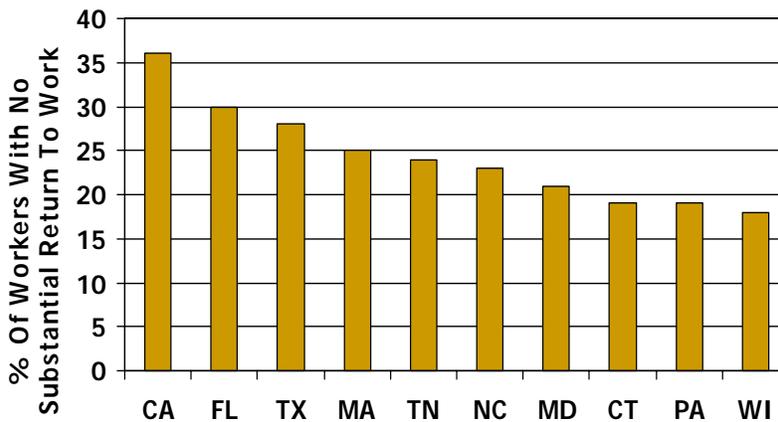
Duration of Disability – How Soon Do Workers Return to Work?



*Wage-Loss Benefit System

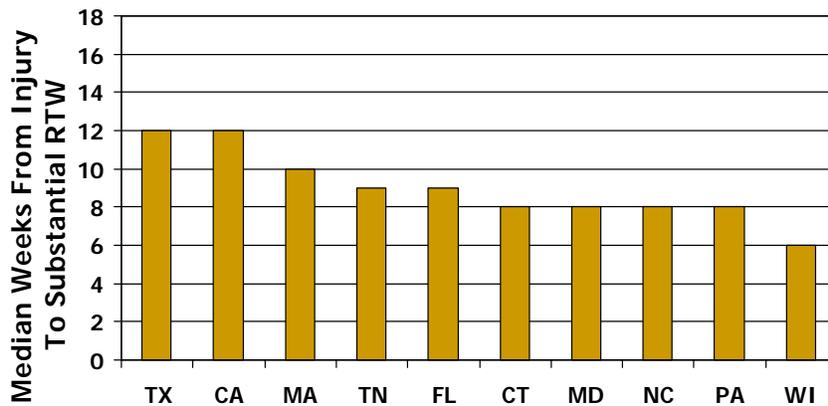
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Workers Never Having A Substantial RTW (1 Yr Post Injury)



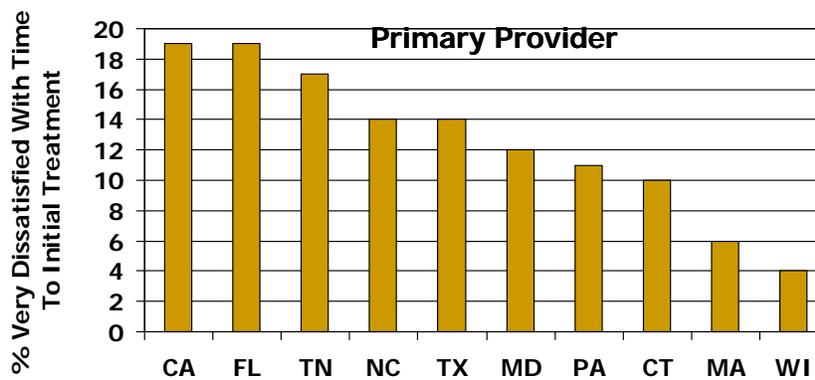
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Speed Of Substantial RTW In Worker Outcome States



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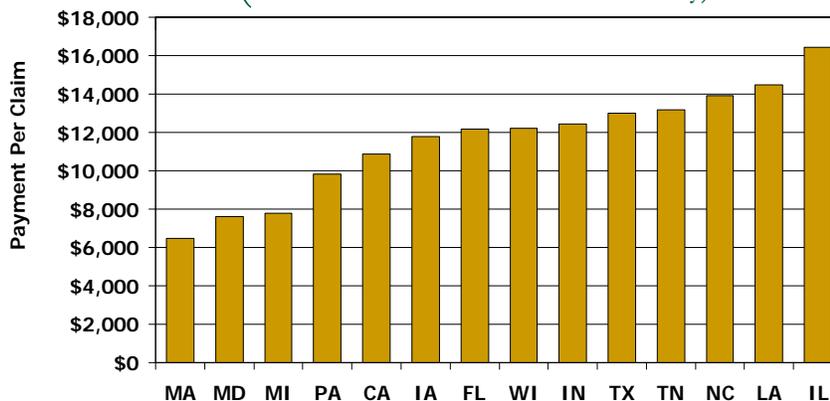
Reported Dissatisfaction With Time To 1st Treatment



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Medical Payments Per Claim in CompScope States

(2004 Claims At 36 Months' Maturity)



Source: WCRI

2004/07 Claims With More Than 7 Days Of Lost
Time, Adjusted For Injury/Industry Mix

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Medical Cost Containment Summary

Significant variations exist in the use and effectiveness of medical cost containment strategies across the states

Baseline and monitoring should produce the best indication of success within a given state

Cross state comparisons are necessary to determine how MT is changing *relative* to other states and how MT is doing on the “*key value proposition*”

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Questions?

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