

# ANNUAL REPORT



FISCAL YEAR 2010

MONTANA DEPARTMENT OF LABOR & INDUSTRY  
EMPLOYMENT RELATIONS DIVISION



# Annual Report

FISCAL YEAR 2010

Published by

Montana Department of Labor & Industry

Employment Relations Division

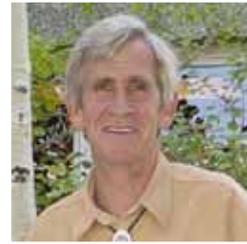
Workers' Compensation Claims Assistance Bureau

PO Box 8011, Helena, MT 59604

JULY 2011







Dear Colleagues and Fellow Montanans

I am pleased to present the Workers' Compensation Annual Report for Fiscal Year 2010 to the Governor, the Legislature and stakeholders in Montana's workers' compensation system. The report provides an overview of system activities and statistics.

In 2010 workers' compensation garnered a lot of attention. First the 2010 Oregon Workers' Compensation National Premium Rate Study ranked Montana as having the highest premium rate in the nation; in 2008, Montana had the second highest rate.

As a result of the ranking, the high costs for Montanan's employers and the desire to address benefit related issues; workers' compensation became a major focus of the 2011 Montana Legislature. Those issues led up to the Legislature passing and Governor Schweitzer signing, the largest workers' compensation reform in recent history. This legislation will have immediate and long-term implications to Montana's system, both in terms of cost reduction for employers and in benefit changes for injured workers. The National Council on Compensation Insurance, Inc. (NCCI) estimated immediate premium cost reductions of 22.4% due to the legislation.

The reform came about through the hard work and cooperative efforts of all workers' compensation stakeholders, with coordination and leadership provided by the Department, Labor Management Advisory Council, Legislature and Governor's Office. Details of the legislation are provided later in this report. Despite having the highest workers' costs in the nation, loss costs for Montana employers are still decreasing, following the national trend and due to the continued effort of stakeholders in reducing injuries and returning injured workers to work as soon as medically possible. Due to loss cost decreases and the 2011 legislative changes, NCCI recommended premium rate decreases of approximately 27% effective July 1, 2011.

I hope you find the information in this report useful in understanding what is happening in Montana's workers' compensation system. The Department of Labor and Industry will continue to monitor the system and the affects of these major reforms on employer costs and injured worker benefits.

Sincerely,

A handwritten signature in black ink that reads "Keith Kelly". The signature is written in a cursive, flowing style.

Keith Kelly, Commissioner  
Department of Labor & Industry



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## Summary

Listed below are highlights from the Montana Workers' Compensation Annual Report, Fiscal Year 2010. This report contains information about Montana's workers' compensation system, including injury statistics and characteristics, benefits paid by insurers, dispute resolution and miscellaneous regulatory programs and functions. Unless otherwise cited, all reported numbers, charts, and tables are derived from the Employment Relations Division workers' compensation database (WCAP).

## Claims Statistics

There were 26,132 claims reported in Fiscal Year 2010 (FY10) compared with 28,360 reported in FY09, a decrease of 7.9%. From FY09 to FY10, private carriers witnessed a 9% decrease in the number of claims reported. The number of claims reported by self-insured carriers increased by 2%. Claims reported by Montana State Fund decreased by 12.7%.

Health Care and Social Assistance accounted for 18% of claims, Public Administration for 12%, and Retail Trade for 11%. The most common nature of injury in FY10 was sprain/rupture, accounting for 44% of injuries. Strains, Falls, Slips, and Trips were the cause of injury for 57% of claims. Upper extremities (27% of injuries) were injured more often than other parts of the body. In FY10, 5,904 claims were denied by insurers. The most common reason for denials was no objective medical evidence to substantiate the injury.

## Benefits

Total indemnity (wage loss) and medical benefits paid in FY10 were \$251.4 million, compared to \$247.9 in FY09.

## Dispute Resolution

The Mediation Unit of the Employment Relations Division (ERD) is the front line in dispute resolution. The unit holds conferences between disputing parties and issues written recommendations. During FY10, the unit processed 1,516 petitions, with a resolution rate of 81%.

The Hearings Bureau received three new petitions for contested case hearings in FY10.

The Workers' Compensation Court (WCC) received 229 petitions, dismissed 46 petitions and issued 217 decisions in FY10.

## Workers' Compensation Assessments as Expended

The administration of the Workers' Compensation and Occupational Disease Acts and the various occupational safety laws is funded by an assessment on employers and insurers. The cost of the regulatory functions in FY09 was \$7.22 million. Each insurer is assessed up to 3% of benefits paid. For policies written by private insurers and the Montana State Fund, the assessment is collected as a premium surcharge paid by individual policy holders.

## Subsequent Injury Fund

The Subsequent Injury Fund (SIF) payments in FY10 for all dates of injury totaled \$341,062. There were 175 new SIF certifications during FY10 resulting in a total of 4,551 certified individuals in Montana.

### Uninsured Employers' Fund

The Uninsured Employers' Fund (UEF) provides benefits for injured employees when employers are without appropriate workers' compensation insurance. In FY10, UEF collections decreased 9.7% from FY09, from \$1.9 to \$1.7 million. Injured workers received \$854,741 in medical and indemnity benefits in FY10, compared to \$1,381,544 in FY09.

### Construction Contractor Registration

The Construction Contractor Registration program (CCR) facilitates the registration of construction contractors working in Montana. In FY10 there were 10,965 active Construction Contractor Registrations, with approximately 3,099 contractors registered as having employees.

### Independent Contractor Exemptions

Independent contractors who do not wish to be covered under workers' compensation insurance may file for an exemption with the Department of Labor and Industry (DLI). The number of independent contractor exemption applications received for FY10 totaled 9,385, of which 9,030 were approved. Fifty-three percent of independent contractors are in the construction industry.

### Professional Employer Organizations

To be licensed, a Professional Employer Organization (PEO) must submit an application and proof of workers' compensation coverage. Thirty-six PEOs were licensed in Montana at the end of FY10. These PEOs leased 2,696 employees to 529 client companies.

# 2011 Montana Legislative Session

- 2011 Montana Legislative Summary
- House Bills
- Senate Bills





Several bills relating to workers' compensation were introduced during the 2011 Montana Legislature. The bills passed into law are summarized below.

## House Bills

### **House Bill 43.** Clarifies employer's rights related to employee use of medical marijuana.

Clarifies employer rights related to workers' compensation, drug testing, and disciplinary action involving an employee's medical use of marijuana. Expands types of employees covered by the workforce drug and alcohol testing act. Employees won't be eligible for workers' compensation if marijuana is the major contributing cause of the injury or occupational disease. Effective on passage and approval – signed 5/6/2011.

### **House Bill 110.** Generally revise workers' compensation laws.

Department of Labor & Industry's bill addressing three issues: 1) Requires an insurer to obtain annually a written certification from a third-party agent that each medical bill reviewed and paid will be calculated using the Montana workers' compensation medical fee schedules that are in effect on the date of service. Managed care organizations (MCOs) and Preferred provider organizations (PPOs) are exempt from this requirement. Allows the Department to penalize an insurer if the agent neglects or fails to use the proper fee schedule; 2) Clarifies when the Department may revoke an independent contractor exemption; and 3) Clarifies that the interest on a security deposit posted by a plan No. 2 insurer accrues to the insurer. Effective July 1, 2011.

### **House Bill 118.** Require Montana State Fund board member with executive management insurance experience.

Criteria added to Board of Directors of State Compensation Insurance fund to include one person with executive management experience in an insurance company or executive experience in

insurance financial accounting. Effective on passage and approval – signed 3/25/2011.

### **House Bill 334.** Generally revise workers' compensation.

**State Agency/State Fund Premium** (Section 7-39-71-403–Page 18, Section 27–39-71-2361–Pages 45-46) Passage and approval:

- Any reduction in a state agency's premium compared to a previous year must also reduce the appropriation and the difference must be returned to the original funding source.
- Requires the insurance commissioner to perform an annual review of the State Fund's audit and rates and provide a report and recommendations.

**Course & Scope** (Section 8–39-71-407–Pages 20-21) 7/1/2011:

- Limits the employer's liability for injuries occurring off the employer's premises while performing personal business on a break or while engaged in a social or recreational activity paid by the employer.

### **Impairment Ratings & PPD Awards**

(Section 9–39-71-703–Pages 23-25 and Section 11-39-71-711–Pages 30-31):

- Requires doctors to use the 6th Edition of the AMA Guides to Evaluation of Permanent Impairment for determining an impairment rating. Retroactive to 1/1/2008.
- Awards a permanent partial disability (PPD) payment only to injured workers who suffer a whole person impairment rating greater than zero and a wage loss or to injured workers with a Class 2 or greater impairment rating converted to a whole person and no wage loss. Injuries/ODs on or after 7/1/2011.
- Increases the number of weeks included in the calculation of the award from 375 to 400 weeks. Injuries/ODs on or after 7/1/2011.

**House Bill 334.** *(continued)***Medical Benefits & Termination/**

**Reopening** (Section 10–39-71-704–Pages 25-30 and Section 29–New–Pages 46-48):

- Terminates medical benefits on permanent partial claims 60 months from the date of injury or occupational disease (OD) and provides for reopening of terminated medical benefits within 5 years of termination through a request to and recommendation from the Department’s Medical Director plus two other physicians chosen by the Department to review the request. Injuries/ODs on or after 7/1/2011.
- Payments for medical services are based on the fee schedule in effect on the date of service.
- From 7/1/2011 through 6/30/2013, medical fee schedules are frozen at the rates in effect on December 31, 2010.
- The Department must adopt Utilization and Treatment Guidelines that establish compensable medical treatment for injured workers and shall review the Guidelines each year in consultation with health care providers. Injuries/ODs on or after 7/1/2011.
- The Department must hire a Medical Director and may establish by rule an independent review of treatments denied by insurers. Injuries/ODs on or after 7/1/2011.

**Waiting Period** (Section 13–39-71-736–Page 32) 7/1/2011:

- Provides retroactive payment of the waiting period if disability exceeds 21 days. Injuries/ODs on or after 7/1/2011.

**Settlement of Medical Benefits** (Section 14–39-71-741–Pages 32-34):

- Allows for a mutual agreement to settle future medical benefits on an accepted claim if the claimant has reached maximum medical improvement and the settlement is in the best interest of the parties to the settlement. The parties must set out the rationale that is the basis for the settlement and the claimant must sign an acknowledgment of understanding of what benefits will be terminated by the settlement. Applies retroactively to claims for injuries and occupational diseases for which all benefits have not been settled.

**Stay-At-Work/Return-To-Work** (Sections 15-23 and 30–New and Amended Sections –Pages 34-42 and 48) 7/1/2012:

- Provides for early Stay-At-Work/Return-To-Work assistance from the Department or Insurer and provides an assessment to fund Department assistance. Injuries/ODs on or after 7/1/2012.

**Choice of Treating Physician** (Sections 24-26 and 28–39-71-1101, 39-71-1102, 39-71-1106–New–Pages 42-46) 7/1/2011, injuries/ODs on or after 7/1/2011:

- Allows injured worker to choose initial health care provider and allows insurer to approve workers’ choice as treating physician or designate a different treating physician to manage and coordinate medical treatment.
- Clarifies insurer referrals to MCOs or PPOs.
- Details treating physician requirements and explains fee schedule reimbursement rates for medical treatment.

**House Bill 359.** Revise workers' compensation law on settlements and lump-sum payments.

Allows for a mutual agreement to settle future medical benefits on an accepted claim if the claimant has reached maximum medical improvement and the settlement is in the best interest of the parties to the settlement. The parties must set out the rationale that is the basis for the settlement and the claimant must sign an acknowledgment of understanding of what benefits will be terminated by the settlement. Effective on passage and approval – signed 3/23/2011 and applies retroactively to claims for injuries and occupational diseases for which all benefits have not been settled.

**House Bill 552.** Provide workers' compensation to volunteer firefighters and EMS workers.

Allows for levies used to fund public safety volunteers' disability income insurance to be used alternatively for workers' compensation coverage. Provides coverage for volunteer EMS providers under certain conditions. Effective 7/1/2011.

**Senate Bills****Senate Bill 242.** Revising workers' compensation law on agricultural workers.

Amended the definitions of employee or worker to not include a person who is performing temporary agricultural work for an employer if the person performing the work is otherwise exempt from the requirement to obtain workers' compensation coverage. Effective 7/1/2011.

**Senate Bill 287.** Require certain managers of manager-managed LLC's to obtain workers' compensation insurance.

Requires certain managers of manager-managed limited liability companies working in the construction industry be covered by workers' compensation or obtain an independent contractor exemption certificate. Effective 7/1/2011.



# Montana Workers' Compensation System

- Declaration Of Public Policy
- Insurance Coverage Requirements
- Life Of A Claim
- Labor-Management Advisory Council
- WorksafeMT
- Workers' Compensation Market





It is an objective of the Montana workers' compensation system to provide, without regard to fault, wage-loss and medical benefits to a worker suffering from a work-related injury or disease. Wage-loss benefits are not intended to make an injured worker whole, but are intended to assist a worker at a reasonable cost to the employer. Within that limitation, the wage-loss benefit should bear a reasonable relationship to actual wages lost as a result of a work-related injury or disease.

It is the intent of the legislature to assert that a conclusive presumption exists that recognizes that a holder of a current, valid independent contractor exemption certificate issued by the department is an independent contractor if the person is working under the independent contractor exemption certificate. The holder of an independent contractor exemption certificate waives the rights, benefits, and obligations of workers' compensation unless the person has elected to be bound personally and individually by the provisions of compensation plan number 1, 2, or 3.

A worker's removal from the workforce because of a work-related injury or disease has a negative impact on the worker, the worker's family, the employer, and the general public. Therefore, an objective of the workers' compensation system is to return a worker to work as soon as possible after the worker has suffered a work-related injury or disease.

Montana's workers' compensation and occupational disease insurance systems are intended to be primarily self-administering. Claimants should be able to speedily obtain benefits, and employers should be able to provide coverage at reasonably constant rates. To meet these objectives, the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities.

Title 39, chapter 71, MCA must be construed according to its terms and not liberally in favor of any party.

The legislature's intent regarding stress claims, often referred to as mental-mental claims and mental-physical claims, is not to provide for compensation under Montana's workers' compensation and occupational disease laws. The legislature recognizes that these claims are difficult to objectively verify and that the claims have a potential to place an economic burden on the workers' compensation and occupational disease system. The legislature also recognizes that there are other states that do not provide compensation for various categories of stress claims and that stress claims have presented economic problems for certain other jurisdictions. In addition, not all injuries are compensable under the present system, and it is within the legislature's authority to define the limits of the workers' compensation and occupational disease system.

<sup>1</sup> §39-71-105, MCA (2009)

If you are an employer or an employee, the Workers' Compensation and Occupational Disease Acts apply. An employer who has an employee in service under any appointment or contract of hire, expressed or implied, oral or written, must elect to be bound by the provisions of compensation Plan 1 (self-insured), Plan 2 (private insurance companies) or Plan 3 (Montana State Fund).

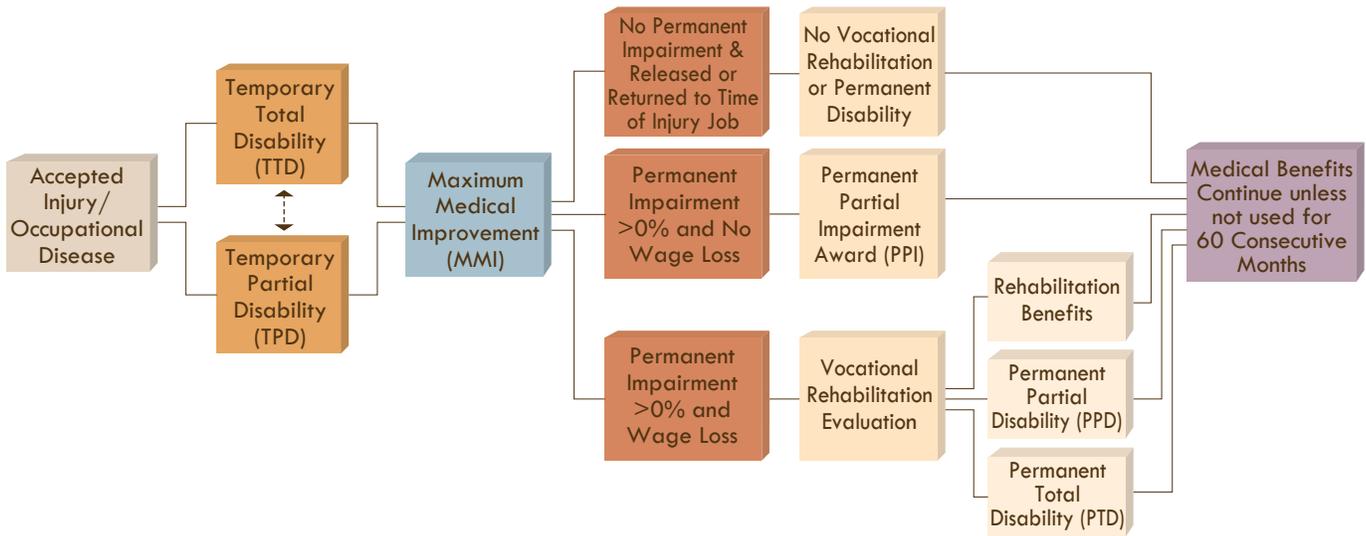
### Employment Exempted

The Workers' Compensation Act<sup>2</sup> may not apply to any of the following employments:

- Household or domestic employment
- Casual employment
- Dependent member of an employer's family for whom an exemption may be claimed by the employer under the Federal Internal Revenue Code
- Sole proprietors, working members of a partnership, working members of a limited liability partnership, or working members of a member managed limited liability company
- Real estate, securities or insurance salesperson paid solely by commission without a guarantee of minimum earnings
- A direct seller
- Employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States
- A person performing services in return for aid or sustenance only, except employment of search and rescue volunteers
- Employment with a railroad engaged in interstate commerce, except railroad construction work
- An official, including a timer, referee, umpire or judge, at a school amateur athletic event
- A person performing services as a newspaper carrier or freelance correspondent if acknowledged in writing that the services are not covered
- Cosmetologist's services and barber's services
- A person who is employed by an enrolled tribal member or an association, business, corporation, or other entity that is at least 51% owned by an enrolled tribal member or members, whose business is conducted solely within the reservation
- A jockey who is performing under a license issued by the Board of Horse Racing, from the time the jockey reports to the scale room prior to a race, through the time weighed out, and has acknowledged in writing that the jockey is not covered while performing services as a jockey
- Trainer, assistant trainer, exercise person or pony person who is providing services under the Board of Horse Racing while on the grounds of a licensed race meet
- An employer's spouse
- A petroleum land professional
- An officer of a quasi public or a private corporation or manager of a manager managed limited liability company
- A person who is an officer or a manager of a ditch company
- Service performed by an ordained, commissioned or licensed minister of a church
- Providers of companionship services or respite care, if a family member or legal guardian employs the person providing care
- A person performing services of an intrastate or interstate common or contract motor carrier when hired by an individual or entity who meet the definition of a broker or freight forwarder
- A person who is not an employee or worker in Montana
- Independent Contractors
- An athlete employed by or on a team or sports club engaged in a contact sport
- A musician performing under a written contract

<sup>2</sup> §39-71-401, MCA (2009)

Figure 2.1  
**Life of a Claim for FY10**  
 For date of loss prior to 7/1/2011



Workplace injuries and illnesses do happen and when a Montana employee files a workers' compensation claim, the life of that claim is dictated primarily by statute. Progress of a typical workers' compensation claim in Montana is determined by the following guidelines based on current statutes:

- Once the injury occurs, the injured worker or their authorized representative has 30 days from the date of injury to notify the employer or the insurer. [§39-71-603, MCA]
- The employer then has six days from the date of notification of an injury to report the injury to the insurer or the DLI. [§39-71-307, MCA, and ARM 24.29.801]
- The claimant or the claimant's representative has 12 months from the date of injury to file a claim. [§39-71-601(1), MCA] The claim filing time can be extended up to an additional 24 months if it can be proven that the worker was somehow prevented from filing the claim because of something the employer or the insurer said or did, or if the injury was latent or the worker lacked knowledge of disability. [§39-71-601(2), MCA]
- The signed claim form or First Report of Injury and Occupational Disease (FROI) (form ERD-991) can be submitted to the employer or sent directly to the insurer or the DLI. [§39-71-601(1), MCA]
- The insurer shall accept or deny a claim within 30 days of receipt of a signed claim for compensation by the claimant, the employer or the claimant's representative. If the claim is denied, the worker is notified in writing of the denial. [§39-71-606, MCA]
- If further investigation is needed before the insurer accepts liability and the 30 day limitation for a decision on compensability is due to expire, the insurer may pay wage loss and/or medical benefits without such payment being an indication of admission of liability or waiver of any right of defense. [§§39-71-608 and 39-71-615, MCA]
- The first 4 days or 32 hours (whichever is less) of total wage loss is not compensable, but a claimant may use sick leave during this time. A claimant cannot use sick leave and receive wage loss benefits at the same time. [§39-71-736, MCA]

## For date of loss prior to 7/1/2011

- In addition to using an emergency room or urgent care center, the claimant has the right to select the first treating physician (within the treating physician definition). The insurer must then approve changes of treating physicians. The insurer has the right to deny payment for any unauthorized medical referrals and treatments. [§39-71-1101, MCA, and ARM 24.29.1510]
- The physician bills the insurer directly. Payment is made according to a fee schedule. [§39-71-704(2) and (3), MCA]. Once the insurer has accepted a claim, the medical provider must accept the fee scheduled reimbursement as payment in full, and the claimant is not responsible for any balance.
- The claimant is responsible for payment of: (1) unauthorized treatment, (2) medical care not related to the injury, (3) medical services if treatment is not received for 60 months, (4) secondary medical services and palliative or maintenance care unless specifically covered, and (5) medical procedures specifically excluded. [ARM 24.29.1401 and §39-71-704, MCA]
- Temporary total disability (TTD) benefits are based on 66 2/3% of the claimant's average weekly gross wages, subject to a maximum of the state's average weekly wage, and are paid bi-weekly until the claimant returns to work or has reached maximum medical improvement (MMI). [§§39-71-701 and 39-71-740, MCA] If the claimant is classified as permanently totally disabled (PTD), benefits can continue until the claimant reaches retirement age. [§39-71-710, MCA]
- If prior to attaining maximum medical improvement (MMI) and due to medical restrictions, the claimant returns to work at less than the wages received at the time of injury, they may be entitled to temporary partial disability (TPD) benefits. Temporary partial disability is paid until the claimant returns to work without a wage-loss or reaches MMI. [§39-71-712, MCA]
- If after reaching MMI, the claimant has a residual impairment greater than zero, the insurer is required to pay out the permanent partial disability (PPD) liability bi-weekly, unless the claimant requests a lump sum payment. [§§39-71-703 and 39-71-741, MCA]
- Other permanent partial disability liability is based on age, education, wage-loss and work capacity restrictions. These criteria are determined based on the specifics of each individual case. [§39-71-703, MCA]
- If the worker is precluded from returning to the job they held at the time of injury and suffers an actual wage loss or has an impairment of 15% or greater, the worker is eligible for rehabilitation services. The insurer designates a rehabilitation provider and rehabilitation services are provided with the goal of returning the claimant to work as soon as possible. If a rehabilitation plan is established which indicates some type of retraining, the claimant may be eligible to receive monies for tuition, fees, books and other reasonable and necessary retraining expenses. The worker may also receive bi-weekly benefit payments based on the temporary total disability rate. [§39-71-1006, MCA] Financial assistance may also be available for reasonable travel and relocation for training and job-related expenses, subject to a maximum amount of \$4,000. [§39-71-1025, MCA]
- Medical benefits terminate when not used for a period of 60 consecutive months. The insurer may not be required to furnish palliative or maintenance care after the claimant has achieved MMI. [§39-71-704(1)(f,g), MCA]

The Labor-Management Advisory Council (LMAC) was re-commissioned by the Department of Labor and Industry in 2008 through June 30, 2011. The goal of the LMAC was to enhance business competitiveness through a safe and healthy workforce, while maintaining benefits to injured workers and reducing insurance costs. The LMAC was chaired by Lt. Governor John Bohlinger at the request of Governor Brian Schweitzer.

The LMAC had five employer representatives:

- Bill Dahlgren (Sun Mountain Sports)
- Annette Hoffman (St. Vincent's Healthcare)
- Riley Johnson (National Federation of Independent Business)
- Connie Welsh (State of Montana)
- Bob Worthington (Montana Self-Insurers Association)

And five labor representatives:

- Doug Buman (Laborers' International Union of North America)
- Jacquie Helt (AFL-CIO)
- Don Judge (Injured Workers Resource Council)
- Dan Lee (AFL-CIO)
- Jason Miller (Teamsters and Carpenters Unions)

In 2009 and 2010, the LMAC reviewed and used the work of professional consultants and researchers, in addition to staff, to study and address Montana's injury frequency and paid disability duration, the ongoing major areas of concern. In addition, the LMAC studied and discussed a broad range of policy issues such as medical costs and access to medical care, benefit structure, claim closure and claim settlement, course and scope, and fraud. The LMAC's efforts, which had the endorsement of management and labor alike, resulted in a proposed legislative package, which through the subsequent legislative process, influenced the final bill to reform Montana's workers' compensation system.

The LMAC members continue to support WorkSafeMT, the public/private partnership formed to direct and coordinate safety and return-to-work programs. LMAC members participate on the WorkSafeMT foundation board and committees.

Advisory Council meetings were open to the public and public comment was encouraged. For more information on the council, visit: <http://erd.dli.mt.gov/wcstudyproject/labormngmntadvisorycouncilonwc.asp>.

## Introduction

WorkSafeMT was created in 2007 by the Labor Management Advisory Council (LMAC) as a public/private collaborative effort to address workplace safety and stay at work/return to work. Its mission is to develop an expectation of workplace health and safety in Montana through proactive training, education, utilization of available resources and shared accountability. For injured workers, WorkSafeMT promotes a stay at work/return to work employment system that supports and values the physical and mental health and financial well-being of the employee and the needs of the employer.

WorkSafeMT is staffed by the Department of Labor & Industry and is governed by the WorkSafeMT Corporation Board of Directors. The Board of Directors consists of representatives of business, labor and state agency leaders, health care providers, injured workers, and worker's compensation insurers.

## Status Update

**Decoupling.** Early in 2011, WorkSafeMT was structurally reorganized through a 'decoupling' of functions from the Department of Labor and Industry to more closely reflect a public/private partnership. The private portion of the public-private collaborative effort is now the nonprofit WorkSafeMT Corporation, which is staffed by an Executive Director and managed by a Board of Directors. The public portion of the effort is the WorkSafeMT Program in the Department of Labor and Industry, which will provide supportive activities to the Corporation, along with presenting periodic SafetyFestMT events.

**Partnerships/Fundraising.** In 2010 WorkSafeMT received its first private donations. A total of \$45,000 was donated to the Corporation to be used to enhance the social marketing campaign funded by DLI with monies appropriated by the 2009 Montana Legislature. For the SafetyFestMT events a total 19 Montana businesses and/or organizations donated \$26,800 to support DLI's efforts to provide high quality safety training to Montana workers and businesses.

**Marketing and Public Awareness.** WorkSafeMT conducts periodic campaigns to raise safety awareness and to highlight companies that have made safety a priority in their business. Recent safety campaigns included two new 30-second commercials ("Injured Man" and "The Talk") and two new company profiles videos (Ravalli County Road Department and MillerCoors Elevator in Huntley). Other efforts during the year included billboards, a legislative education luncheon and a newsprint style handout.

**Safety Training.** Following the successful training conference (SafetyFestMT) in Helena in early 2010, additional SafetyFestMTs were held in Missoula (December 2010), Glasgow (February 2011) and Billings (May 2011). The total number of participants for the four events was over 1500, with total classroom seats over 8800. Each SafetyFestMT presents, at no cost to the attendee, many different training sessions, covering numerous industries and aspects of workplace safety, and ranging in length from two hours to multiple days. The next SafetyFestMT event is planned for December 2011 (Missoula).

**Stay at Work/Return to Work.** WorkSafeMT developed the 'work abilities' section of the Medical Status Form, which when completed, will be used by physicians, employers and injured workers to assist an injured worker to return to work as soon as it is medically appropriate after an injury. Early return to work, when medically appropriate, is a critical aspect in the healing of an injured worker and their return to productive employment.

WorkSafeMT's website address is: [www.worksafemt.com](http://www.worksafemt.com).

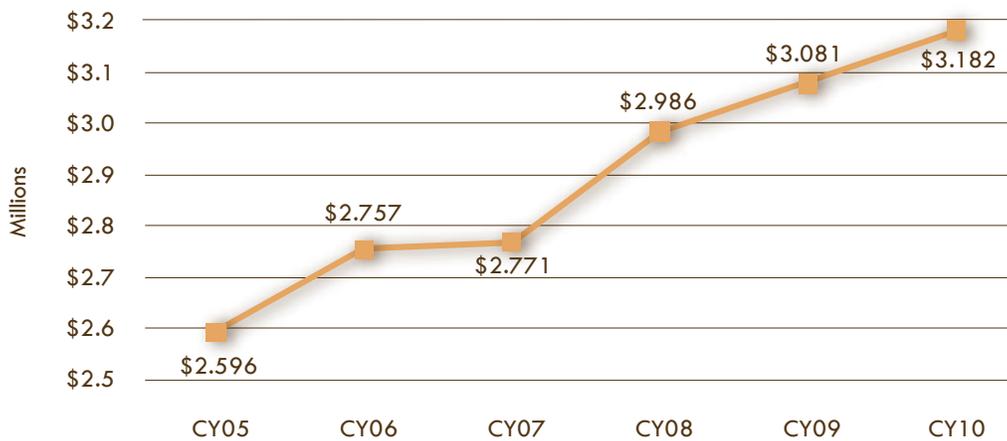


Montana employers have three options for securing workers' compensation coverage for their employees. Employers that meet the Department's financial requirements may opt to become self-insured (Plan 1), either individually or by joining with other employers in their industry to form a self-insured group. Employers may also obtain coverage with private insurance companies (Plan 2) in the voluntary market. And finally, employers can insure through Montana State Fund (Plan 3). Montana State Fund's role as the guaranteed market provides assurance that all Montana employers can provide workers' compensation insurance coverage for their employees.

As of December 31, 2010, Montana had 30 individual self-insured employers, three private groups with 118 member employers and five public groups with 408 member employers. During calendar year 2010, there were 169 private carriers that reported premiums to the Department.

Since employers insured under Plan 1 typically do not report premium, there is not an "apples to apples" means by which to compare all three Plans' share of the Montana workers' compensation market. The reported payroll for Plan 1 employers has been generally trending upwards over the past several years, as can be seen in Figure 2.2.

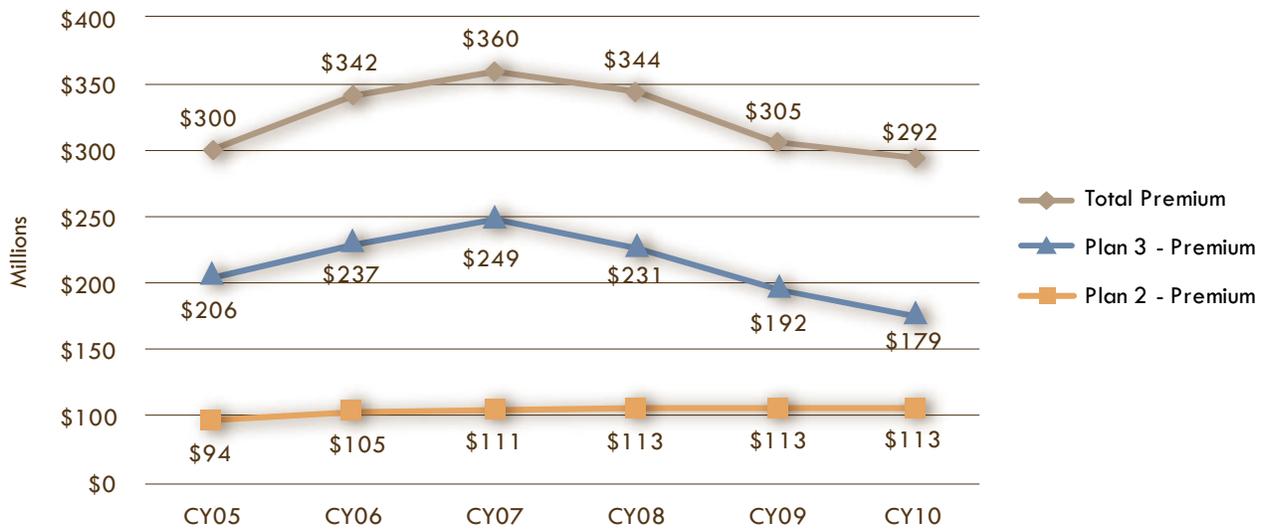
Figure 2.2  
**Gross Annual Payroll**  
 Plan 1 - By Calendar Year



The premium for Plan 2 and Plan 3 insurers is compared in figure 2.3 and table 2.3 below. The total premium reported for 2010 by both Plans is down 4.4% from the prior year and marks the third consecutive year

total reported premiums have decreased. Plan 2's share of the reported premium has steadily increased from 30.7% in 2006 to 38.8% in 2010 as a result of Plan 3's steady decrease in premiums.

Figure 2.3  
**Premium Market Share**  
 Plans 2 and 3<sup>3</sup> - By Calendar Year and By Plan



<sup>3</sup> Plan Types: Plan 2 - Private Insurance and Plan 3 - Montana State Fund.

Table 2.3  
**Premium Market Share**  
 Plans 2 and 3<sup>4</sup> - By Calendar Year and By Plan

	CY05		CY06		CY07		CY08		CY09		CY10	
	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Plan 2 Premium	\$93,774,300	31%	\$104,876,336	31%	\$110,601,722	31%	\$112,660,545	33%	\$112,560,759	37%	\$113,028,190	39%
Plan 3 Premium	\$206,425,227	69%	\$237,137,186	69%	\$248,995,521	69%	\$231,192,059	67%	\$192,443,055	63%	\$178,563,513	61%
Total Premium	\$300,199,527	100%	\$342,013,522	100%	\$359,597,243	100%	\$343,852,604	100%	\$305,003,814	100%	\$291,591,703	100%

<sup>4</sup> Plan Types: Plan 2 - Private Insurance and Plan 3 - Montana State Fund.

## Claim Statistics

- Claims Data Summary
- Claims By Plan Type
- Injury Incident Rates By County
- Injured Worker Characteristics
- Insurer Denial Of Claims





## Introduction

Workers' Compensation claims come to the Department from insurers, employers or claimants through a First Report of Injury (FROI). These reports contain important demographic and injury information. Tables and charts in this section provide a snapshot of reported data through fiscal year 2010 for both medical only and indemnity claims, as well as some historical trends. Federal agencies are not required to report claims data to ERD.

## Status Update

Fiscal Year 2010 saw a reduction in claims overall and most notably for Montana State Fund (Plan 3) claims (Figure 3.1). Montana has seen a general trend of decreasing injuries since FY06, which also is mirrored nationally.

Figure 3.2 illustrates the incidence rate by county per 100 workers. The statewide average was 6.4 claims per 100 workers.

The distribution of claims by age at the time of injury has remained relatively stable since FY05, with a slight upward trend for ages 55-64. The age group 45-54 has consistently had the largest percentage of claims.

The majority of the injuries in FY10 occurred in Health Care and Social Assistance, Retail, and Public Administration industries (Figure 3.4).

The natures of injury were primarily Sprain/Rupture, Cut/Abrasion, and Bruise/Swelling (Figure 3.6). The causes of injury were largely from Strain and Fall/Slip/Trip (Figure 3.5). The majority of injuries occurred in the Upper Extremities and Back of the body (Figure 3.8).

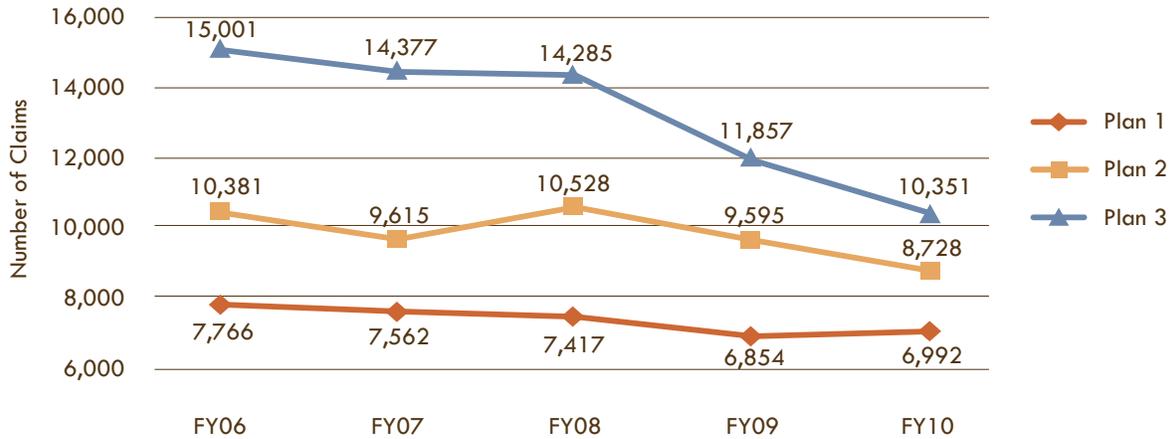
Denials of claims decreased (Table 3.9), but some of these claims may eventually become accepted. The most common reason for a denial is lack of objective medical evidence.

## Significance Statement

Claims have decreased significantly the past two years, but costs continue to concern employers and policy makers. The 2011 legislative session passed major workers' compensation reform to address Montana's high costs (see Section 1, 2011 Montana Legislative Session).

One of the best ways to reduce costs is reducing work-related injuries and disease. Creating a greater safety culture through safety programs, educating workers on workplace safety and promoting safe work environments are the best ways to reduce injuries and diseases. The causes of the majority of injuries are often preventable through such things as education, ergonomic assessment and modification, and on-site safety development.

Figure 3.1  
**Reported Claims<sup>1</sup>-Five Year Trend**  
 By Plan Type<sup>2</sup> and Fiscal Year of Injury



<sup>1</sup> Total reported claim counts may change over time due to the receipt of new injury reports or corrections to previous reporting.  
<sup>2</sup> Plan types: Plan 1 - Self Insured Employers, Plan 2 - Private Insurance, Plan 3 - Montana State Fund.

Table 3.1  
**Reported Claims<sup>3</sup>**  
 By Plan Type<sup>4</sup> and Fiscal Year of Injury

Plan Type	FY06		FY07		FY08		FY09		FY10	
	Count	%	Count	%	Count	%	Count	%	Count	%
Plan 1	7,766	23.3%	7,562	23.9%	7,417	23.0%	6,854	24.2%	6,992	26.8%
Plan 2	10,381	31.2%	9,615	30.4%	10,528	32.6%	9,595	33.8%	8,728	33.4%
Plan 3	15,001	45.1%	14,377	45.5%	14,285	44.2%	11,857	41.8%	10,351	39.6%
UEF	115	0.3%	65	0.2%	73	0.2%	54	0.2%	61	0.2%
<b>Total</b>	<b>33,263</b>	<b>100%</b>	<b>31,619</b>	<b>100%</b>	<b>32,303</b>	<b>100%</b>	<b>28,360</b>	<b>100%</b>	<b>26,132</b>	<b>100%</b>

<sup>3</sup> Total reported claim counts may change over time due to the receipt of new injury reports or corrections to previous reporting.  
<sup>4</sup> Plan types: Plan 1 - Self Insured Employers, Plan 2 - Private Insurance, Plan 3 - Montana State Fund, UEF - Uninsured Employers' Fund.

# INJURY INCIDENT RATES BY COUNTY

Injury incidence rates were calculated by dividing the number of reported claims in each county by the number of employees per county. The calculated state level rate in FY10 was 6.4 per 100 employees, compared to 6.8 per 100 employees in FY09. Thirty-four counties in the state improved their incidence rates from the previous fiscal year.

Claim counts were derived using the claimant's home address. This may not correspond with their work address or the location at which the injury occurred. For example, a resident of Jefferson County injured in Lewis

& Clark County still gets counted in Jefferson County. Therefore, due to the high volume of commuting workers, Jefferson County's incidence rate is artificially inflated. Further research will attempt to address or minimize these issues.

Employment data was obtained from the Quarterly Census of Employment and Wages, Bureau of Labor Statistics (BLS). BLS employment data does not include federal employees, military, self-employed individuals or farms with fewer than 11 employees.

Figure 3.2  
**Injury Incident Rates and Number of Employees<sup>5</sup> - FY10**  
 By County

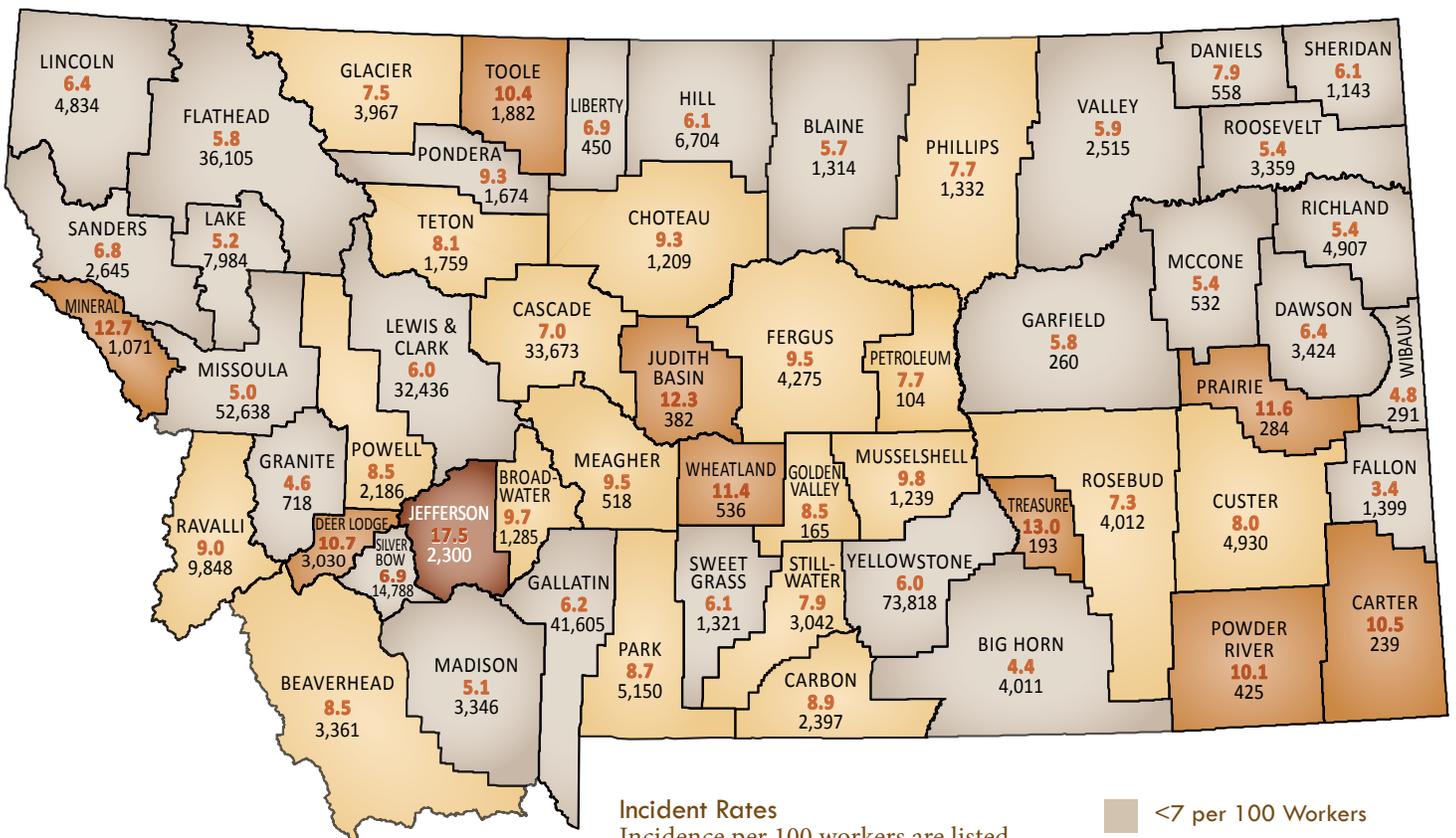


Figure 3.3  
**Reported Claims-Five Year Trend**  
 By Age at Time of Injury and Fiscal Year of Injury

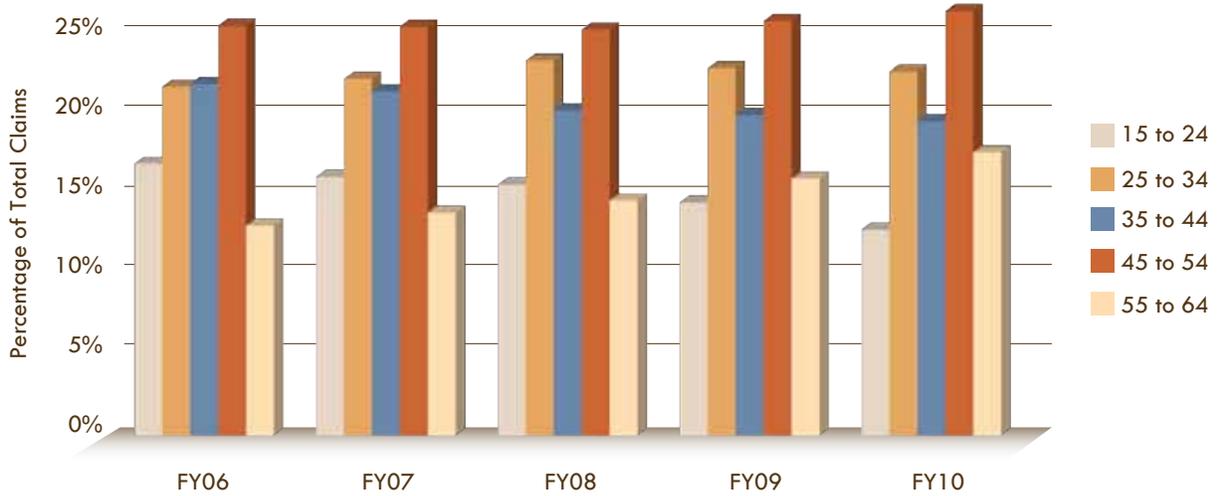
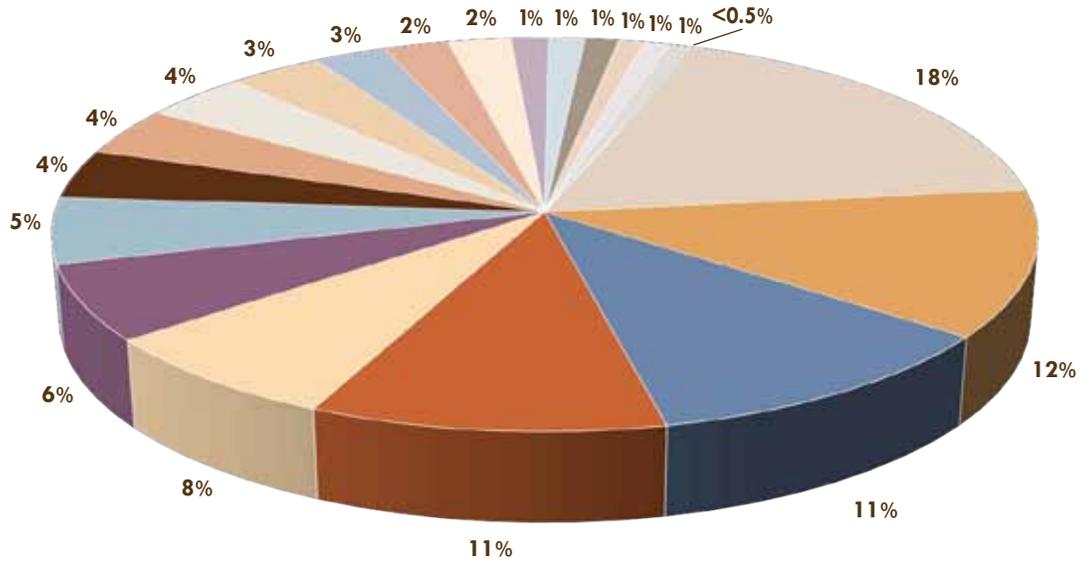


Table 3.3  
**Reported Claims**  
 By Age at Time of Injury and Fiscal Year of Injury

	FY06	FY07	FY08	FY09	FY10
Age group	Percent	Percent	Percent	Percent	Percent
15 to 24	17%	16%	16%	15%	13%
25 to 34	22%	22%	24%	23%	23%
35 to 44	22%	22%	20%	20%	20%
45 to 54	26%	26%	25%	26%	26%
55 to 64	13%	14%	15%	16%	18%
Total	100%	100%	100%	100%	100%

Figure 3.4  
**Reported Claims - FY10**  
 By North American Industry Classification System<sup>6</sup>



- Health Care & Social Assistance
- Public Administration
- Retail Trade
- Educational Services
- Construction
- Accommodation & Food Services
- Manufacturing
- NOC
- Agriculture, Forestry, Fishing & Hunting
- Wholesale Trade
- Other Services (except Public Administration)
- Administrative, Support, Waste Management, & Remediation Services
- Mining, Quarrying, & Oil & Gas Extraction
- Transportation & Warehousing
- Arts, Entertainment, & Recreation
- Finance & Insurance
- Real Estate, Rental, & Leasing
- Utilities
- Professional, Scientific, & Technical Services
- Information
- Management of Companies & Enterprises

<sup>6</sup> Source: [www.census.gov/eos/www/naics/](http://www.census.gov/eos/www/naics/)

# INJURED WORKER CHARACTERISTICS

Table 3.4

## Reported Claims<sup>7, 8</sup>

By North American Industry Classification System<sup>9</sup> and Fiscal Year of Injury

North American Industry Classification System	FY06		FY07		FY08		FY09		FY10	
	Count	%	Count	%	Count	%	Count	%	Count	%
Accommodation & Food Services	2,519	7.57%	2,416	7.64%	2,514	7.78%	2,075	7.32%	1,638	6.27%
Admin., Support, Waste Mgmt & Remediation	1,186	3.57%	1,117	3.53%	1,096	3.39%	867	3.06%	695	2.66%
Agriculture, Forestry, Fishing & Hunting	1,191	3.58%	1,068	3.38%	890	2.76%	875	3.09%	1,022	3.91%
Arts, Entertainment, & Recreation	479	1.44%	514	1.63%	536	1.66%	512	1.81%	359	1.37%
Construction	3,725	11.20%	3,642	11.52%	3,606	11.16%	2,741	9.67%	1,978	7.57%
Educational Services	2,318	6.97%	2,433	7.69%	2,637	8.16%	2,663	9.39%	2,741	10.49%
Finance & Insurance	432	1.30%	338	1.07%	358	1.11%	391	1.38%	346	1.32%
Health Care & Social Assistance	5,073	15.25%	4,924	15.57%	4,892	15.14%	4,742	16.72%	4,599	17.60%
Information	260	0.78%	240	0.76%	225	0.70%	231	0.81%	222	0.85%
Management of Companies & Enterprises	11	0.03%	13	0.04%	16	0.05%	20	0.07%	32	0.12%
Manufacturing	2,348	7.06%	2,182	6.90%	2,152	6.66%	1,575	5.55%	1,422	5.44%
Mining, Quarrying, & Oil & Gas Extraction	903	2.71%	923	2.92%	821	2.54%	759	2.68%	622	2.38%
Other Services (except Public Administration)	1,754	5.27%	1,356	4.29%	1,525	4.72%	1,192	4.20%	901	3.45%
Professional, Scientific, & Technical Services	238	0.72%	283	0.90%	360	1.11%	261	0.92%	245	0.94%
Public Administration	3,529	10.61%	3,049	9.64%	3,221	9.97%	3,120	11.00%	3,157	12.08%
Real Estate, Rental, & Leasing	586	1.76%	561	1.77%	623	1.93%	445	1.57%	320	1.23%
Retail Trade	3,543	10.65%	3,532	11.17%	3,794	11.75%	3,247	11.45%	2,930	11.21%
Transportation & Warehousing	1,029	3.09%	935	2.96%	921	2.85%	702	2.48%	600	2.30%
Utilities	298	0.90%	257	0.81%	283	0.88%	238	0.84%	249	0.95%
Wholesale Trade	1,352	4.06%	1,401	4.43%	1,368	4.23%	1,189	4.19%	1,010	3.86%
NOC	489	1.47%	435	1.38%	465	1.44%	515	1.82%	1,044	4.00%
<b>Total</b>	<b>33,263</b>	<b>100%</b>	<b>31,619</b>	<b>100%</b>	<b>32,303</b>	<b>100%</b>	<b>28,360</b>	<b>100%</b>	<b>26,132</b>	<b>100%</b>

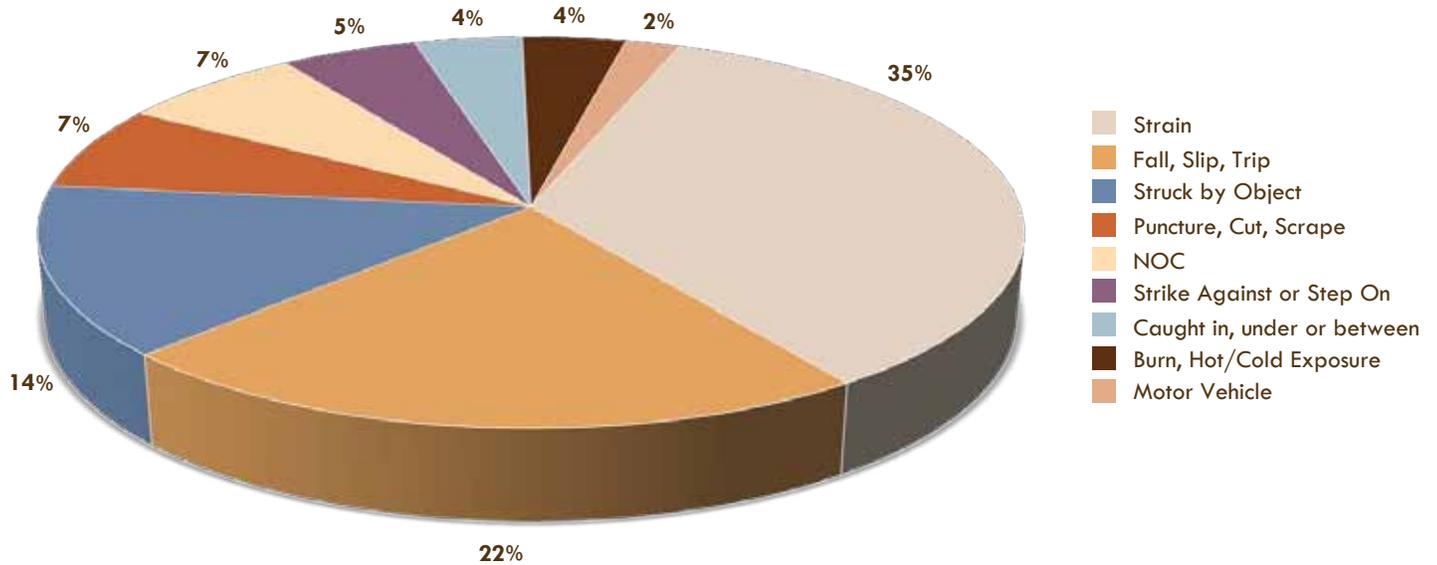
<sup>7</sup> Counts may vary slightly from previous reports due to corrections from insurers or ERD's data quality efforts.

<sup>8</sup> Data as accurate as reported to Employment Relations Division.

<sup>9</sup> Source: [www.census.gov/eos/www/naics/](http://www.census.gov/eos/www/naics/)

## | INJURED WORKER CHARACTERISTICS

Figure 3.5  
**Reported Claims - FY10**  
 By Cause of Injury<sup>10</sup>



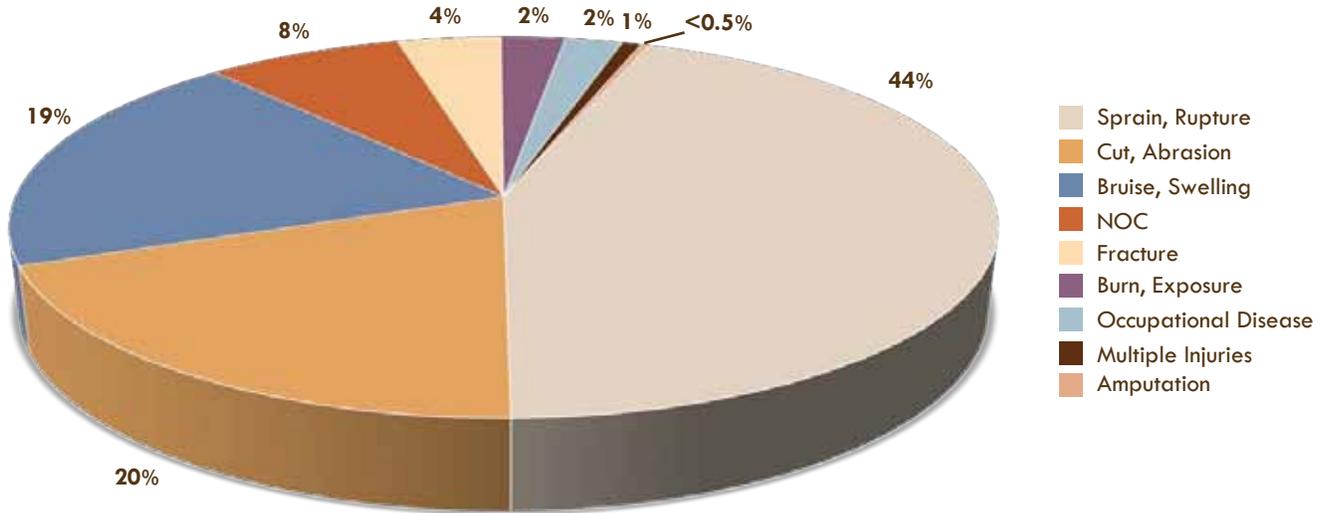
<sup>10</sup> Source: Workers' Compensation Insurance Organizations (WCIO).

Table 3.5  
**Reported Claims**  
 By Cause of Injury<sup>11</sup> and Fiscal Year of Injury

Cause of Injury	FY06		FY07		FY08		FY09		FY10	
	Count	%	Count	%	Count	%	Count	%	Count	%
Burn, Hot/Cold Exposure	1,405	4.2%	1,238	3.9%	1,247	3.9%	1,095	3.9%	1,004	3.8%
Caught in, under or between	1,533	4.6%	1,375	4.3%	1,343	4.2%	1,305	4.6%	1,046	4.0%
Fall, Slip, Trip	6,351	19.1%	6,501	20.6%	6,865	21.3%	6,403	22.6%	5,880	22.5%
Motor Vehicle	695	2.1%	803	2.5%	604	1.9%	517	1.8%	530	2.0%
Puncture, Cut, Scrape	2,844	8.6%	3,967	12.5%	2,444	7.6%	2,227	7.9%	1,815	7.0%
Strain	9,527	28.6%	8,250	26.1%	11,140	34.5%	9,450	33.3%	9,057	34.7%
Strike Against or Step On	1,896	5.7%	1,664	5.3%	1,682	5.2%	1,432	5.0%	1,327	5.1%
Struck by Object	4,629	13.9%	4,320	13.7%	4,448	13.8%	3,847	13.6%	3,667	14.0%
NOC	4,383	13.2%	3,501	11.1%	2,530	7.8%	2,084	7.3%	1,806	6.9%
<b>Total</b>	<b>33,263</b>	<b>100%</b>	<b>31,619</b>	<b>100%</b>	<b>32,303</b>	<b>100%</b>	<b>28,360</b>	<b>100%</b>	<b>26,132</b>	<b>100%</b>

<sup>11</sup> Source: Workers' Compensation Insurance Organizations (WCIO).

Figure 3.6  
**Reported Claims - FY10**  
 By Nature of Injury<sup>12</sup>



<sup>12</sup> Source: Workers' Compensation Insurance Organizations (WCIO).

Table 3.6  
**Reported Claims**  
 By Nature of Injury<sup>13</sup> and Fiscal Year of Injury

Nature of Injury	FY06		FY07		FY08		FY09		FY10	
	Count	%	Count	%	Count	%	Count	%	Count	%
Amputation	806	2.4%	553	1.7%	63	0.2%	65	0.2%	77	0.3%
Bruise, Swelling	5,950	17.9%	5,747	18.2%	6,020	18.6%	5,483	19.3%	5,018	19.2%
Burn, Exposure	862	2.6%	800	2.5%	844	2.6%	722	2.5%	637	2.4%
Cut, Abrasion	6,609	19.9%	6,587	20.8%	7,061	21.9%	5,977	21.1%	5,088	19.5%
Fracture	1,372	4.1%	1,295	4.1%	1,336	4.1%	1,103	3.9%	1,031	3.9%
Multiple Injuries	207	0.6%	165	0.5%	261	0.8%	264	0.9%	189	0.7%
Occupational Disease	1,518	4.6%	1,100	3.5%	722	2.2%	604	2.1%	574	2.2%
Sprain, Rupture	14,204	42.7%	13,605	43.0%	13,943	43.2%	12,240	43.2%	11,562	44.2%
All Other Claims, NOC	1,735	5.2%	1,767	5.6%	2,053	6.4%	1,902	6.7%	1,956	7.5%
<b>Total</b>	<b>33,263</b>	<b>100%</b>	<b>31,619</b>	<b>100%</b>	<b>32,303</b>	<b>100%</b>	<b>28,360</b>	<b>100%</b>	<b>26,132</b>	<b>100%</b>

<sup>13</sup> Source: Workers' Compensation Insurance Organizations (WCIO).

## INJURED WORKER CHARACTERISTICS

Table 3.7

### Reported Claims - FY10

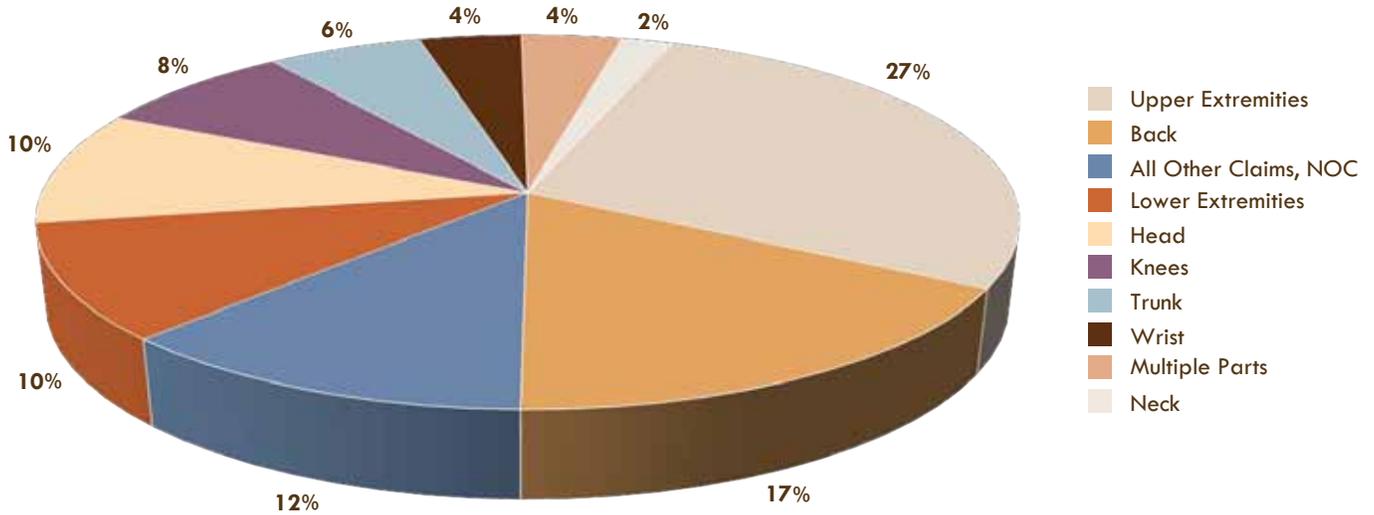
By North American Industry Classification System<sup>14</sup> and Nature of Injury<sup>15</sup>

North American Industry Classification System	Nature of Injury										
	Burn, Hot/Cold Exposure	Caught In, Under or Between	Fall, Slip, Trip	Motor Vehicle	Puncture, Cut, Scrape	Strain	Strike Against or Step On	Struck By Object	NOC	Other	Total
Accommodation & Food Services	113	47	415	17	266	454	97	128	7	94	1,638
Admin., Support, Waste Mgmt & Remediation Svcs	32	23	162	27	29	263	44	70	1	44	695
Agriculture, Forestry, Fishing & Hunting	28	77	208	38	21	286	62	217	3	82	1,022
Arts, Entertainment, & Recreation	16	17	88	3	15	132	23	52	0	13	359
Construction	64	96	321	39	145	754	101	278	3	177	1,978
Educational Services	75	85	945	25	205	655	99	520	0	132	2,741
Finance & Insurance	3	13	148	11	12	115	17	19	1	7	346
Health Care & Social Assistance	172	137	1,086	53	394	1,618	197	635	3	304	4,599
Information	4	8	59	15	19	72	12	19	0	14	222
Management of Companies & Enterprises	1	1	13	1	1	10	1	3	0	1	32
Manufacturing	50	115	204	9	87	551	66	193	2	145	1,422
Mining, Quarrying, & Oil & Gas Extraction	30	45	98	17	18	215	37	127	0	35	622
Other Services (except Public Administration)	29	32	163	20	40	348	53	128	9	79	901
Professional, Scientific, & Technical Services	11	4	48	5	13	89	10	49	1	15	245
Public Administration	189	98	705	101	132	1,105	176	417	1	233	3,157
Real Estate, Rental, & Leasing	18	7	77	15	10	109	18	53	1	12	320
Retail Trade	78	107	541	37	258	1,215	180	338	7	169	2,930
Transportation & Warehousing	25	27	153	39	18	212	33	64	2	27	600
Utilities	8	16	44	4	9	106	6	39	0	17	249
Wholesale Trade	24	55	167	34	50	395	50	149	0	86	1,010
NOC	34	36	235	20	73	353	45	169	6	73	1,044
<b>Total</b>	<b>1,004</b>	<b>1,046</b>	<b>5,880</b>	<b>530</b>	<b>1,815</b>	<b>9,057</b>	<b>1,327</b>	<b>3,667</b>	<b>47</b>	<b>1,759</b>	<b>26,132</b>

<sup>14</sup> Source: [www.census.gov/eos/www/naics/](http://www.census.gov/eos/www/naics/).

<sup>15</sup> Source: Workers Compensation Insurance Organizations (WCIO).

Figure 3.8  
**Reported Claims - FY10**  
 By Part of Body<sup>16</sup>



<sup>16</sup> Source: Workers' Compensation Insurance Organizations (WCIO).

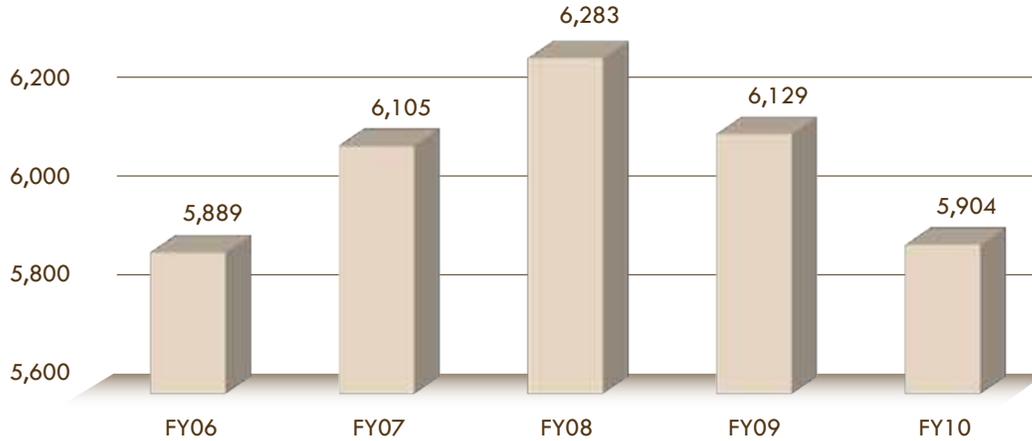
Table 3.8  
**Reported Claims**  
 By Part of Body<sup>17</sup> and Fiscal Year of Injury

Part of Body	FY06		FY07		FY08		FY09		FY10	
	Count	%	Count	%	Count	%	Count	%	Count	%
Back	6,663	20.0%	6,129	19.4%	5,974	18.5%	4,983	17.6%	4,472	17.1%
Head	3,825	11.5%	3,438	10.9%	3,589	11.1%	3,027	10.7%	2,557	9.8%
Knees	2,511	7.5%	2,477	7.8%	2,650	8.2%	2,251	7.9%	2,026	7.8%
Lower Extremities	3,637	10.9%	3,578	11.3%	3,670	11.4%	3,056	10.8%	2,619	10.0%
Multiple Parts	1,450	4.4%	1,372	4.3%	1,316	4.1%	1,327	4.7%	1,003	3.8%
Neck	765	2.3%	751	2.4%	740	2.3%	613	2.2%	511	2.0%
Trunk	2,099	6.3%	2,070	6.5%	2,028	6.3%	1,709	6.0%	1,544	5.9%
Upper Extremities	10,537	31.7%	10,081	31.9%	9,944	30.8%	8,407	29.6%	7,193	27.5%
Wrist	1,568	4.7%	1,462	4.6%	1,397	4.3%	1,176	4.1%	1,017	3.9%
All Other Claims, NOC <sup>18</sup>	208	0.6%	261	0.8%	995	3.1%	1,811	6.4%	3,190	12.2%
<b>Total</b>	<b>33,263</b>	<b>100%</b>	<b>31,619</b>	<b>100%</b>	<b>32,303</b>	<b>100%</b>	<b>28,360</b>	<b>100%</b>	<b>26,132</b>	<b>100%</b>

<sup>17</sup> Source: Workers' Compensation Insurance Organizations (WCIO).

<sup>18</sup> Due to reporting misclassifications, claims reported under All Other Claims, NOC are incorrectly reported. Data quality efforts will be initiated to correct.

Figure 3.9  
**Insurer Denial of Claims<sup>19</sup>**  
 By Fiscal Year of Injury



<sup>19</sup> The insurer may accept claims initially denied. Statistics on accepted injuries subsequent to a denial are not currently available.

Table 3.9  
**Insurer Denial of Claims<sup>20</sup>**  
 By Reason of Denial and Fiscal Year of Injury

Reason for Claim Denial		FY06	FY07	FY08	FY09	FY10
Coverage Issue	Corporate officer rejected	0	0	2	0	1
	Elects no coverage	3	1	0	0	1
	Independent Contractor issue	1	0	1	0	1
	Question which insurer liable	7	12	6	2	1
	No coverage	45	23	19	14	14
Definition of Injury	Heart attack - not caused by accident	4	3	8	5	8
	Does not meet definition of injury	315	287	322	256	216
	Does not meet definition of Occupational Disease	41	42	37	33	29
	Stress - not compensable	19	12	14	16	8
Insufficient Information	Incomplete or missing information necessary to accept liability	151	108	364	165	33
Late Claim Filing	Injury	124	221	65	53	117
	Occupational Disease	1	1	0	0	0
No Employer Notice	No 30-day notice to employer or insurer	173	111	199	162	128
Not in Course & Scope	Not in course and scope of employment	404	407	406	410	368
No Objective Medical	No objective medical findings to substantiate injury	4,142	4,458	4,300	4,504	4,298
Other	Other	459	419	540	509	681
Total		5,889	6,105	6,283	6,129	5,904

<sup>20</sup> The insurer may later accept claims initially denied. Statistics on accepted injuries subsequent to a denial are not currently available.



## Benefits

- Total Benefits
- Benefit Distribution
- Temporary Disability Paid Duration
- Settlement Dollars
- Injured Worker Attorney Fees
- Insurer Legal Expenses



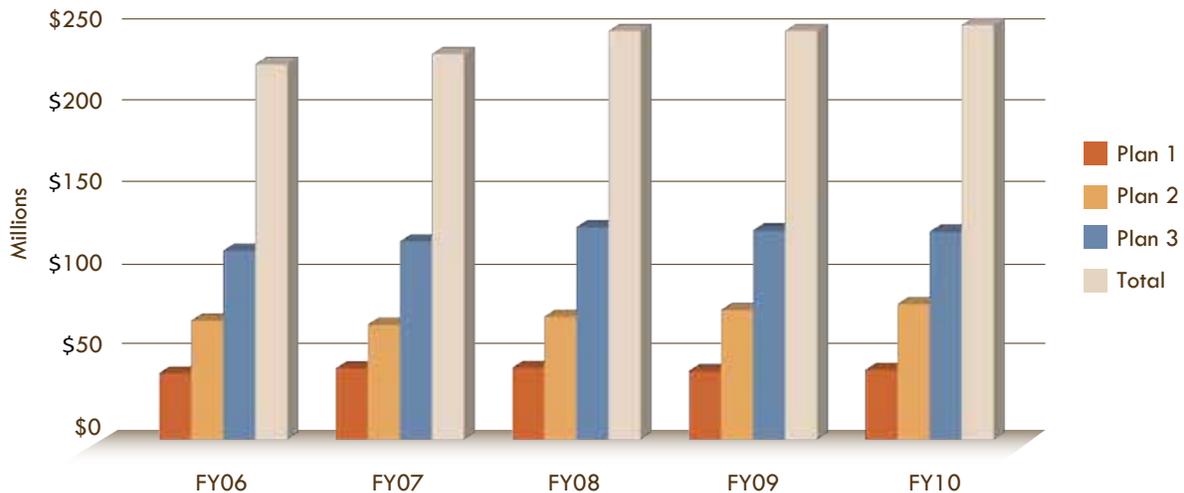


The total benefits paid for each fiscal year are compiled from the total dollars that insurers report paid in that year for medical and indemnity benefits, regardless of the original date of injury. This data was compiled from quarterly expenditure reports submitted to the Department by workers' compensation insurers or by claims administrators on the insurers' behalf.

There has been little change since FY08 of each Plan's share of total benefits paid, with overall benefits paid by all three Plans in FY10 up just 1.4% from FY09.

Please note that prior years' benefit totals may have been updated since the publication of previous annual reports due to the receipt of amended quarterly expenditure reports.

Figure 4.1  
**Total Benefits Paid<sup>1</sup>**  
 By Plan Type<sup>2</sup> and Fiscal Year of Payment



<sup>1</sup> Total benefits paid represent indemnity and medical (including medical in excess of \$200,000), from DLI quarterly expenditure reports as of March 29, 2011.

<sup>2</sup> Plan types: Plan 1 - Self-Insured Employers, Plan 2 - Private Insurance and Plan 3 - Montana State Fund.

Table 4.1  
**Total Benefits Paid<sup>3</sup>**  
 By Plan Type<sup>4</sup> and Fiscal Year of Payment

Plan Type	FY06		FY07		FY08		FY09		FY10	
	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Plan 1	\$40,473,575	18%	\$46,390,787	19%	\$43,812,928	18%	\$41,874,087	17%	\$42,527,828	17%
Plan 2	\$71,814,372	32%	\$70,094,651	30%	\$74,880,486	30%	\$78,798,463	32%	\$82,486,426	33%
Plan 3	\$114,818,303	50%	\$120,374,764	51%	\$129,105,522	52%	\$127,242,162	51%	\$126,405,068	50%
<b>Total</b>	<b>\$227,106,250</b>	<b>100%</b>	<b>\$236,860,202</b>	<b>100%</b>	<b>\$247,798,936</b>	<b>100%</b>	<b>\$247,914,712</b>	<b>100%</b>	<b>\$251,419,322</b>	<b>100%</b>

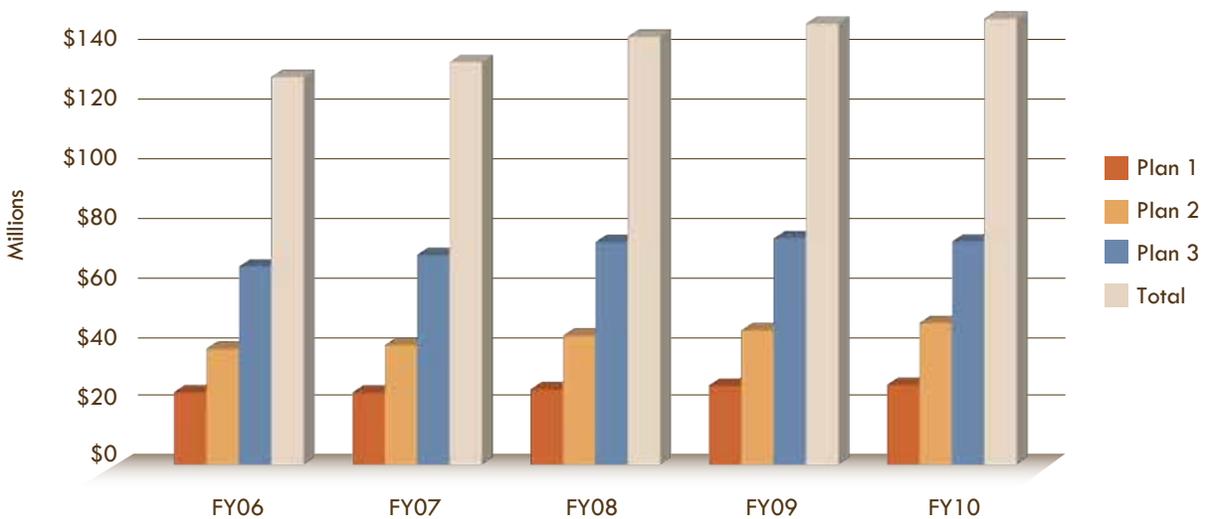
<sup>3</sup> Total benefits paid represent indemnity and medical (including medical in excess of \$200,000), from DLI quarterly expenditure reports as of March 29, 2011.

<sup>4</sup> Plan types: Plan 1 - Self-Insured Employers, Plan 2 - Private Insurance and Plan 3 - Montana State Fund.

The total medical payments for all three Plans, represented in figure 4.2 and table 4.2 below, increased by 1.1% from FY09. Each Plan's share of the total medical payments has been relatively stable over the past several years.

Please note that the prior years' medical payment totals may have been updated since the publication of previous annual reports due to the receipt of amended quarterly expenditure reports.

Figure 4.2  
**Medical Payments<sup>5</sup>**  
 By Plan Type<sup>6</sup> and Fiscal Year of Payment



<sup>5</sup> Total represents medical payments (including medical in excess of \$200,000), from DLI quarterly expenditure reports as of March 29, 2011.  
<sup>6</sup> Plan types: Plan 1 - Self-Insured Employers, Plan 2 - Private Insurance and Plan 3 - Montana State Fund.

Table 4.2  
**Medical Payments<sup>7</sup>**  
 By Plan Type<sup>8</sup> and Fiscal Year of Payment

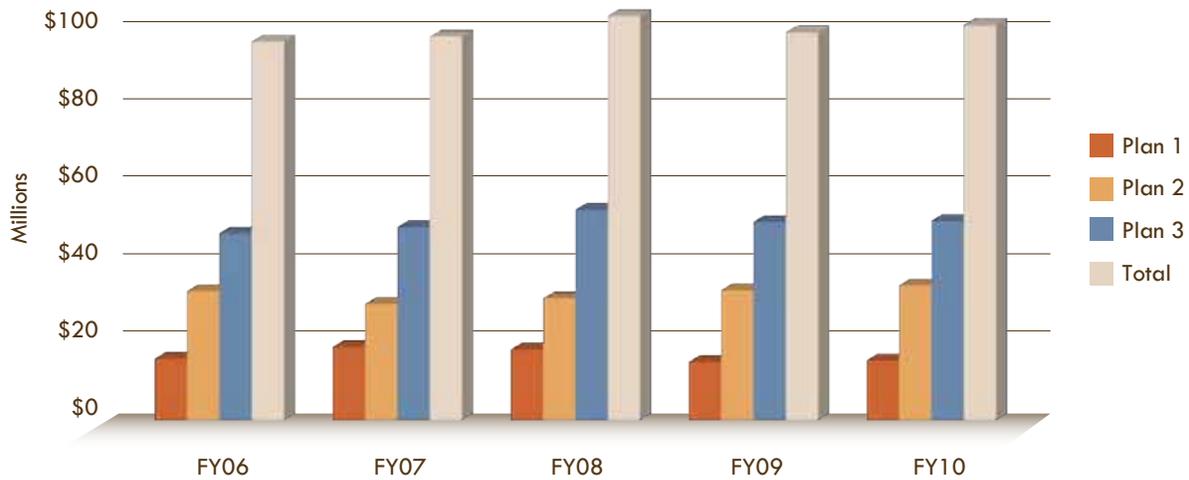
Plan Type	FY06		FY07		FY08		FY09		FY10	
	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Plan 1	\$24,400,250	19%	\$24,284,035	18%	\$25,334,628	18%	\$26,615,215	18%	\$26,849,482	18%
Plan 2	\$38,323,724	30%	\$40,051,853	30%	\$43,312,875	30%	\$45,122,485	31%	\$47,587,446	32%
Plan 3	\$66,422,372	51%	\$70,368,905	52%	\$74,622,827	52%	\$75,880,013	51%	\$74,791,306	50%
<b>Total</b>	<b>\$129,146,346</b>	<b>100%</b>	<b>\$134,704,793</b>	<b>100%</b>	<b>\$143,270,330</b>	<b>100%</b>	<b>\$147,617,713</b>	<b>100%</b>	<b>\$149,228,234</b>	<b>100%</b>

<sup>7</sup> Total represents medical payments (including medical in excess of \$200,000), from DLI quarterly expenditure reports as of March 29, 2011.  
<sup>8</sup> Plan types: Plan 1-Self-Insured Employers, Plan 2-Private Insurance and Plan 3-Montana State Fund.

Indemnity payments made by all Plans have generally trended upwards over the past several years. Each Plan's percentage share of the total for FY10 remains almost unchanged from the prior year.

Please note that the prior years' indemnity payment totals may have been updated since the publication of previous annual reports due to the receipt of amended quarterly expenditure reports.

Figure 4.3  
**Indemnity Payments<sup>9</sup>**  
 By Plan Type<sup>10</sup> and Fiscal Year of Payment



<sup>9</sup> Any payment made directly to the worker or the worker's beneficiaries, other than a medical benefit. The term includes payments made pursuant to a reservation of rights, or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for items such as meals, travel or lodging. ARM 24.29.4303(4)

<sup>10</sup> Plan types: Plan 1 - Self-Insured Employers, Plan 2 - Private Insurance and Plan 3 - Montana State Fund.

Table 4.3  
**Indemnity Payments<sup>11</sup>**  
 By Plan Type<sup>12</sup> and Fiscal Year of Payment

Plan Type	FY06		FY07		FY08		FY09		FY10	
	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Plan 1	\$16,073,325	16%	\$19,106,752	19%	\$18,478,300	18%	\$15,258,872	15%	\$15,678,345	15%
Plan 2	\$33,490,647	34%	\$30,042,798	30%	\$31,567,611	30%	\$33,675,918	34%	\$34,898,980	34%
Plan 3	\$48,395,931	50%	\$50,005,859	51%	\$54,482,695	52%	\$51,362,149	51%	\$51,613,762	51%
Total	\$97,959,903	100%	\$99,155,409	100%	\$104,528,606	100%	\$100,296,939	100%	\$102,191,087	100%

<sup>11</sup> Any payment made directly to the worker or the worker's beneficiaries, other than a medical benefit. The term includes payments made pursuant to a reservation of rights, or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for items such as meals, travel or lodging. ARM 24.29.4303(4)

<sup>12</sup> Plan types: Plan 1 - Self-Insured Employers, Plan 2 - Private Insurance and Plan 3 - Montana State Fund.

ERD compiles information on wage loss, medical, and vocational rehabilitation benefits paid to injured workers or their beneficiaries. This section is intended to display data regarding the number of claims and costs of developing wage loss claims. Payment data on medical only claims is not included in this section.

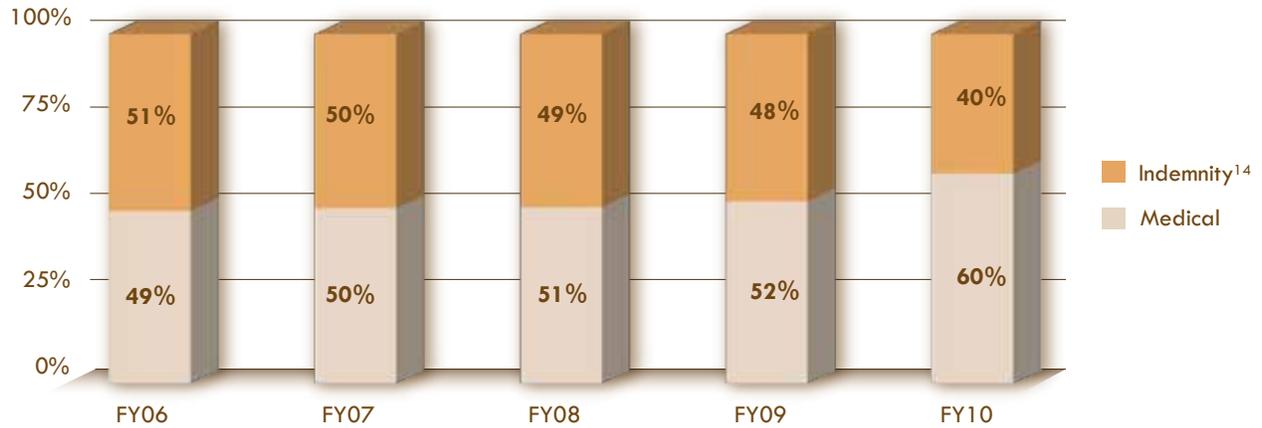
Tables 4.8 through 4.18 (benefit triangles) display the claim counts, average yearly benefits, average total benefits, and percentages of claims receiving benefits for the specified fiscal year of injury, starting in FY03. Year one shows statistics for claims with benefits paid during their first year after the date of injury, while years two through eight provide statistics for claims as they move beyond their injury years or as new claims come in over time for that year of injury.

Depending on the type of claim and benefit or reporting issues, a claim may not be reported or receive benefits until two or more years after the date of injury or illness. These charts, then, should not be construed to represent the duration of claims. Each table consists of eight rows of data; each row holds information pertaining only to injuries sustained during the fiscal year shown in the “Injury Year” column. Each row may have up to eight (8) years of data illustrating how claims open and close and how benefits develop and change over time for each fiscal year.

- Tables 4.4 and 4.5 report total benefits paid and total indemnity benefits paid.
- Tables 4.6 and 4.7 show where medical dollars go in terms of claim type and provider payment type.
- Tables 4.8 through 4.14 contain the benefit triangles for total benefits, total wage-loss benefits, total medical benefits, and indemnity benefits individually by the four primary categories: temporary total disability (TTD), temporary partial disability (TPD), permanent partial disability (PPD), and permanent total disability (PTD).
- Tables 4.15 through 4.17 report medical benefits individually by the three primary categories (excluding lump sum payments): payments to physicians, hospital costs, and other medical provider costs.
- Table 4.18 reports vocational rehabilitation benefits paid.

A detailed explanation, including an example of the development and use of these benefit statistics, is provided in the methodology section of the appendices. Readers should be aware that due to enhancements in the reporting and methodology, comparisons to annual reports prior to 2008 may not be valid.

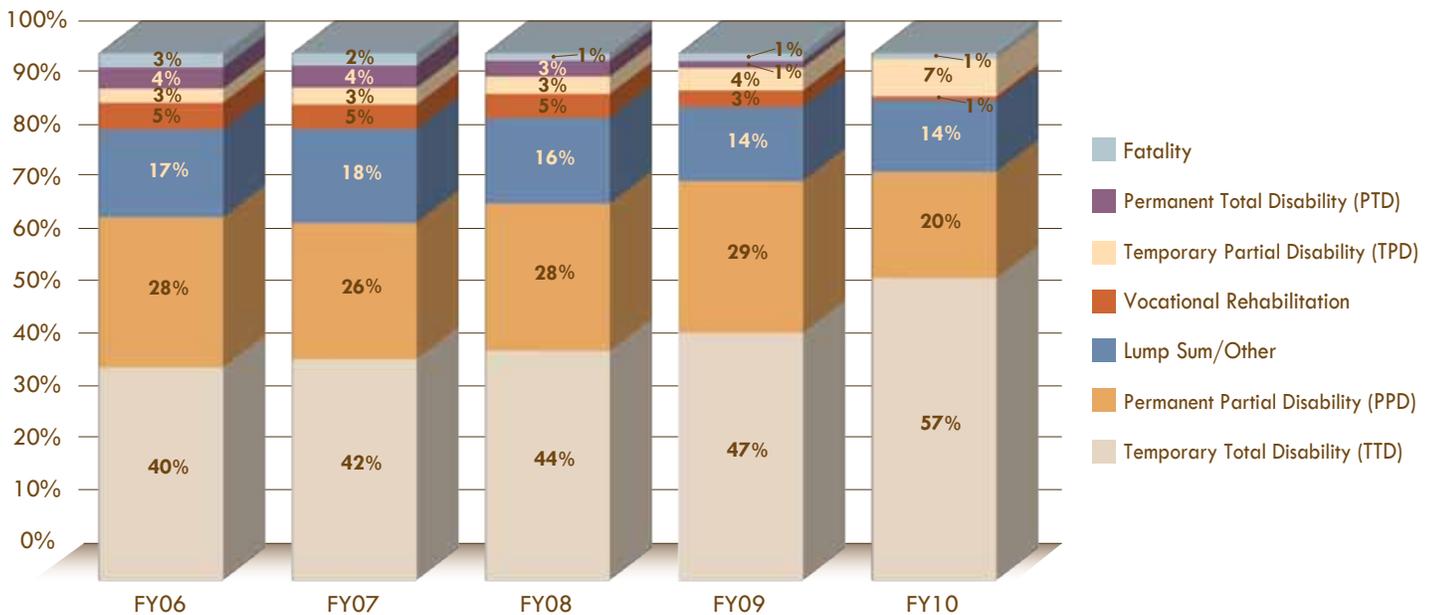
Figure 4.4  
**Total Benefits Paid**  
 By Benefit Type and Fiscal Year of Injury<sup>13</sup>



<sup>13</sup> Data as accurate as reported to Employment Relations Division and does not include reserves.

<sup>14</sup> Any payment made directly to the worker or the worker's beneficiaries, other than a medical benefit. The term includes payments made pursuant to a reservation of rights, or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for items such as meals, travel or lodging. ARM 24.29.4303(4)

Figure 4.5  
**Indemnity Benefits Paid<sup>15, 16</sup>**  
 By Benefit Type and Fiscal Year of Injury<sup>17</sup>

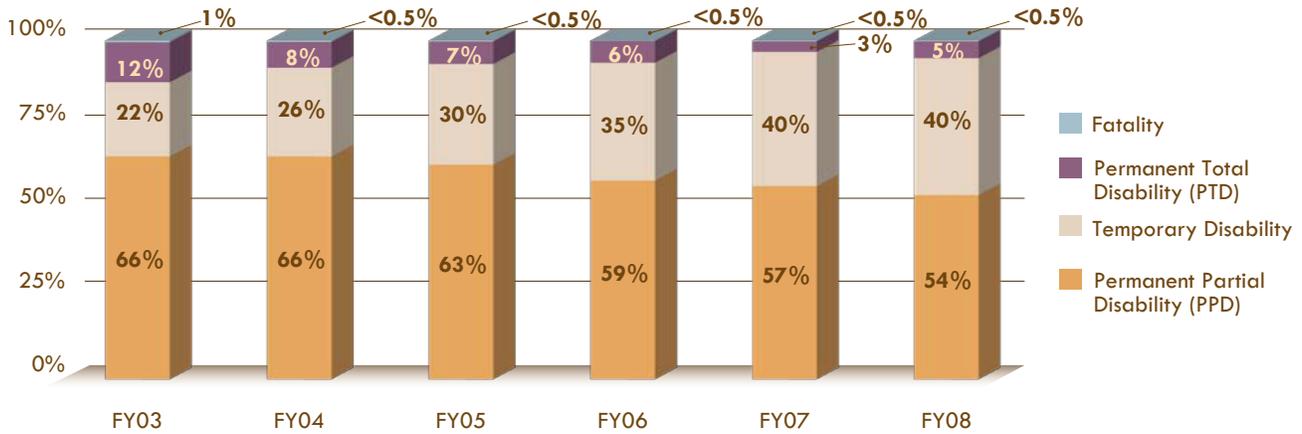


<sup>15</sup> Any payment made directly to the worker or the worker's beneficiaries, other than a medical benefit. The term includes payments made pursuant to a reservation of rights, or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for items such as meals, travel or lodging. ARM 24.29.4303(4)

<sup>16</sup> Totals may not sum exactly to 100% due to rounding.

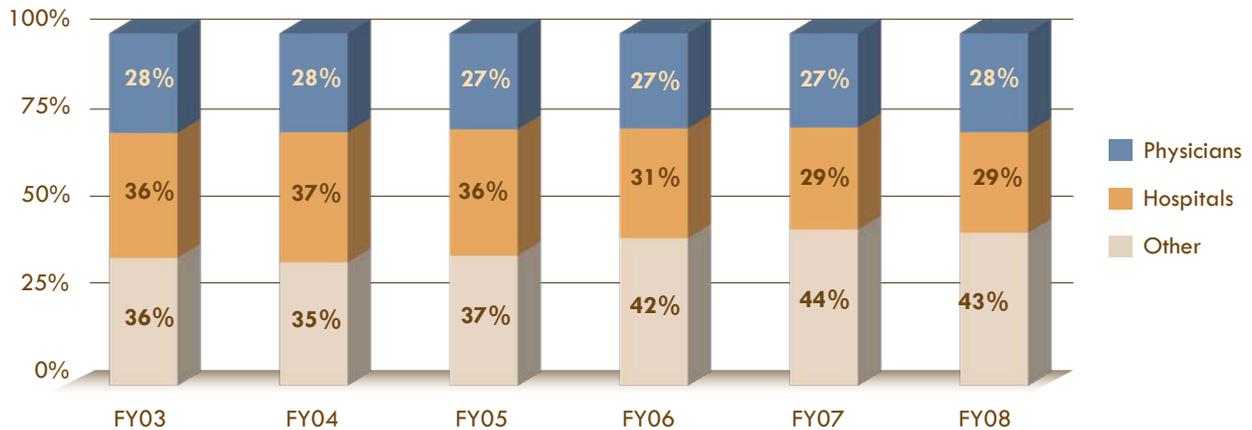
<sup>17</sup> Data as accurate as reported to Employment Relations Division and does not include reserves.

Figure 4.6  
**Medical Dollars by Claim Type<sup>18, 19</sup>**  
 and Fiscal Year of Injury



<sup>18</sup> The type of claim may change as it develops (i.e. a temporary disability may become a permanent disability).  
<sup>19</sup> Data as accurate as reported to Employment Relations Division and does not include reserves.

Figure 4.7  
**Medical Dollars by Type of Medical Provider<sup>20</sup>**  
 and Fiscal Year of Injury<sup>17</sup>



<sup>20</sup> Data as accurate as reported to Employment Relations Division and does not include reserves.

Table 4.8  
**Total Wage Loss Benefits and Medical Benefits,<sup>21</sup> including Lump Sums**

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 5	Year 7	Year 8
2003	Claims	4,761	2,979	1,822	1,160	982	683	572	445
	Average Yearly Benefits	\$13,400	\$17,491	\$14,912	\$12,817	\$15,669	\$12,476	\$12,733	\$10,166
	Average Total Benefits	\$13,400	\$34,025	\$53,757	\$72,840	\$89,305	\$111,697	\$129,016	\$146,591
	Percent	93%	58%	35%	23%	19%	13%	11%	9%
2004	Claims	4,998	2,937	1,500	1,162	738	626	466	
	Average Yearly Benefits	\$13,627	\$14,779	\$14,217	\$17,525	\$13,493	\$12,048	\$8,892	
	Average Total Benefits	\$13,627	\$32,508	\$54,245	\$70,888	\$94,831	\$104,707	\$122,848	
	Percent	94%	55%	28%	22%	14%	12%	9%	
2005	Claims	4,756	2,557	1,731	991	756	542		
	Average Yearly Benefits	\$17,717	\$15,479	\$16,500	\$15,829	\$18,008	\$19,367		
	Average Total Benefits	\$17,717	\$41,427	\$64,299	\$86,941	\$101,729	\$138,038		
	Percent	94%	51%	34%	20%	15%	11%		
2006	Claims	4,758	3,369	1,666	1,146	766			
	Average Yearly Benefits	\$13,023	\$16,857	\$16,902	\$15,995	\$11,563			
	Average Total Benefits	\$13,023	\$31,840	\$59,061	\$79,415	\$97,513			
	Percent	92%	65%	32%	22%	15%			
2007	Claims	4,720	2,943	1,721	987				
	Average Yearly Benefits	\$16,216	\$15,738	\$18,327	\$15,109				
	Average Total Benefits	\$16,216	\$36,168	\$59,974	\$85,728				
	Percent	93%	58%	34%	19%				
2008	Claims	4,956	2,927	1,443					
	Average Yearly Benefits	\$15,481	\$18,403	\$15,929					
	Average Total Benefits	\$15,481	\$38,639	\$65,173					
	Percent	88%	55%	27%					
2009	Claims	4,301	2,486						
	Average Yearly Benefits	\$16,808	\$16,659						
	Average Total Benefits	\$16,808	\$38,691						
	Percent	95%	55%						
2010	Claims	3,745							
	Average Yearly Benefits	\$15,468							
	Average Total Benefits	\$15,468							
	Percent	100%							

<sup>21</sup> Dollars adjusted for inflation to 2010 dollars.

# BENEFIT DISTRIBUTION |

Table 4.9  
**Total Wage Loss:<sup>22</sup> TTD, TPD, PTD, PPD, including Lump Sums**

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 5	Year 7	Year 8
2003	Claims	4,729	1,942	918	489	288	186	125	87
	Average Yearly Benefits	\$6,407	\$12,668	\$14,362	\$13,715	\$14,157	\$13,971	\$13,108	\$8,761
	Average Total Benefits	\$6,407	\$22,551	\$39,750	\$56,317	\$71,928	\$83,363	\$94,306	\$96,162
	Percent	93%	38%	18%	10%	6%	4%	2%	2%
2004	Claims	4,955	1,816	751	417	227	141	103	
	Average Yearly Benefits	\$6,017	\$11,669	\$13,298	\$13,742	\$13,587	\$14,798	\$10,040	
	Average Total Benefits	\$6,017	\$20,560	\$37,600	\$54,552	\$66,568	\$83,188	\$92,611	
	Percent	94%	35%	14%	8%	4%	3%	2%	
2005	Claims	4,706	1,599	737	432	216	116		
	Average Yearly Benefits	\$8,994	\$12,570	\$15,098	\$13,667	\$14,766	\$48,881		
	Average Total Benefits	\$8,994	\$30,926	\$44,077	\$62,008	\$61,161	\$141,939		
	Percent	95%	32%	15%	9%	4%	2%		
2006	Claims	4,633	1,584	781	376	195			
	Average Yearly Benefits	\$6,081	\$12,942	\$14,578	\$13,985	\$12,591			
	Average Total Benefits	\$6,081	\$23,191	\$37,613	\$50,463	\$56,227			
	Percent	93%	32%	16%	8%	4%			
2007	Claims	4,410	1,576	765	358				
	Average Yearly Benefits	\$6,249	\$11,728	\$15,706	\$13,441				
	Average Total Benefits	\$6,249	\$21,390	\$37,395	\$50,712				
	Percent	92%	33%	16%	7%				
2008	Claims	4,628	1,631	668					
	Average Yearly Benefits	\$5,845	\$13,442	\$12,279					
	Average Total Benefits	\$5,845	\$22,877	\$34,292					
	Percent	93%	33%	13%					
2009	Claims	4,051	1,462						
	Average Yearly Benefits	\$6,493	\$11,306						
	Average Total Benefits	\$6,493	\$20,865						
	Percent	94%	34%						
2010	Claims	3,662							
	Average Yearly Benefits	\$5,055							
	Average Total Benefits	\$5,055							
	Percent	100%							

<sup>22</sup> Dollars adjusted for inflation to 2010 dollars.

Table 4.10  
**Total Medical Benefits,<sup>23, 24</sup> including Lump Sums**

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 5	Year 7	Year 8
2003	Claims	3,767	2,709	1,637	1,038	939	644	556	429
	Average Yearly Benefits	\$8,463	\$8,332	\$6,649	\$5,194	\$9,577	\$8,200	\$8,880	\$8,591
	Average Total Benefits	\$8,463	\$17,017	\$25,389	\$32,823	\$41,392	\$55,628	\$64,257	\$75,109
	Percent	73%	53%	32%	20%	18%	13%	11%	8%
2004	Claims	4,502	2,666	1,317	1,099	692	607	452	
	Average Yearly Benefits	\$8,184	\$6,690	\$6,546	\$9,049	\$8,410	\$8,225	\$6,472	
	Average Total Benefits	\$8,184	\$16,952	\$26,514	\$33,746	\$46,623	\$52,693	\$63,474	
	Percent	84%	50%	25%	21%	13%	11%	8%	
2005	Claims	4,442	2,346	1,613	901	730	524		
	Average Yearly Benefits	\$9,105	\$6,352	\$8,370	\$8,562	\$12,270	\$8,757		
	Average Total Benefits	\$9,105	\$18,768	\$28,346	\$41,684	\$53,569	\$68,619		
	Percent	88%	46%	32%	18%	14%	10%		
2006	Claims	4,197	3,162	1,551	1,089	740			
	Average Yearly Benefits	\$7,326	\$9,754	\$8,090	\$9,002	\$7,653			
	Average Total Benefits	\$7,326	\$17,297	\$29,926	\$39,178	\$49,261			
	Percent	81%	61%	30%	21%	14%			
2007	Claims	4,277	2,774	1,638	949				
	Average Yearly Benefits	\$10,680	\$7,938	\$9,085	\$7,928				
	Average Total Benefits	\$10,680	\$20,441	\$31,044	\$43,704				
	Percent	84%	54%	32%	19%				
2008	Claims	4,722	2,825	1,391					
	Average Yearly Benefits	\$9,819	\$8,765	\$8,555					
	Average Total Benefits	\$9,819	\$20,889	\$34,489					
	Percent	89%	53%	26%					
2009	Claims	4,133	2,443						
	Average Yearly Benefits	\$10,483	\$8,468						
	Average Total Benefits	\$10,483	\$21,630						
	Percent	91%	54%						
2010	Claims	3,723							
	Average Yearly Benefits	\$10,094							
	Average Total Benefits	\$10,094							
	Percent	99%							

<sup>23</sup> Includes payments to physicians, hospitals, and other medical providers and payments to claimants as settlement of medical liability.

<sup>24</sup> Dollars adjusted for inflation to 2010 dollars.

Table 4.11  
 Wage Loss Benefits:<sup>25</sup> Temporary Total Disability, including Lump Sums

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 5	Year 7	Year 8
2003	Claims	4,266	1,170	536	289	166	88	51	32
	Average Yearly Benefits	\$5,202	\$8,392	\$7,874	\$7,452	\$7,655	\$7,596	\$10,106	\$5,399
	Average Total Benefits	\$5,202	\$18,565	\$26,746	\$33,439	\$39,433	\$48,516	\$54,136	\$48,137
	Percent	84%	23%	11%	6%	3%	2%	1%	1%
2004	Claims	4,427	1,035	431	217	126	70	45	
	Average Yearly Benefits	\$4,594	\$7,694	\$7,437	\$7,682	\$7,357	\$8,253	\$6,964	
	Average Total Benefits	\$4,594	\$16,473	\$25,367	\$32,773	\$40,205	\$48,531	\$47,650	
	Percent	84%	20%	8%	4%	2%	1%	1%	
2005	Claims	4,253	967	404	211	111	56		
	Average Yearly Benefits	\$7,238	\$7,772	\$8,396	\$8,406	\$7,639	\$6,861		
	Average Total Benefits	\$7,238	\$29,063	\$26,543	\$34,872	\$45,901	\$45,354		
	Percent	86%	19%	8%	4%	2%	1%		
2006	Claims	4,271	1,027	449	196	98			
	Average Yearly Benefits	\$4,812	\$8,350	\$8,334	\$8,715	\$7,210			
	Average Total Benefits	\$4,812	\$18,012	\$28,013	\$36,334	\$40,223			
	Percent	86%	21%	9%	4%	2%			
2007	Claims	4,117	1,008	439	190				
	Average Yearly Benefits	\$5,031	\$8,121	\$8,644	\$7,926				
	Average Total Benefits	\$5,031	\$17,974	\$28,142	\$35,934				
	Percent	86%	21%	9%	4%				
2008	Claims	4,254	994	352					
	Average Yearly Benefits	\$4,784	\$8,340	\$7,714					
	Average Total Benefits	\$4,784	\$18,389	\$27,131					
	Percent	86%	20%	7%					
2009	Claims	3,610	760						
	Average Yearly Benefits	\$5,134	\$8,352						
	Average Total Benefits	\$5,134	\$19,321						
	Percent	84%	18%						
2010	Claims	3,173							
	Average Yearly Benefits	\$4,140							
	Average Total Benefits	\$4,140							
	Percent	87%							

<sup>25</sup> Dollars adjusted for inflation to 2010 dollars.

Table 4.12  
 Wage Loss Benefits:<sup>26</sup> Temporary Partial Disability, including Lump Sums

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 5	Year 7	Year 8
2003	Claims	869	198	67	30	15	11	9	6
	Average Yearly Benefits	\$1,940	\$3,674	\$2,687	\$2,637	\$3,059	\$1,639	\$3,179	\$1,026
	Average Total Benefits	\$1,940	\$6,461	\$7,476	\$7,125	\$7,899	\$6,280	\$5,181	\$3,404
	Percent	92%	21%	7%	3%	2%	1%	1%	1%
2004	Claims	910	167	54	27	16	11	3	
	Average Yearly Benefits	\$1,876	\$2,911	\$2,718	\$2,450	\$3,427	\$1,575	\$758	
	Average Total Benefits	\$1,876	\$5,304	\$8,721	\$11,386	\$9,772	\$9,048	\$13,749	
	Percent	94%	17%	6%	3%	2%	1%	0%	
2005	Claims	850	180	53	23	15	7		
	Average Yearly Benefits	\$2,270	\$2,902	\$2,361	\$7,265	\$2,029	\$3,240		
	Average Total Benefits	\$2,270	\$7,495	\$15,544	\$35,060	\$9,329	\$15,884		
	Percent	91%	19%	6%	2%	2%	1%		
2006	Claims	910	195	58	26	11			
	Average Yearly Benefits	\$1,877	\$2,248	\$2,159	\$1,728	\$1,975			
	Average Total Benefits	\$1,877	\$4,953	\$4,901	\$6,295	\$6,126			
	Percent	91%	19%	6%	3%	1%			
2007	Claims	910	198	60	19				
	Average Yearly Benefits	\$2,053	\$2,737	\$2,647	\$3,534				
	Average Total Benefits	\$2,053	\$5,259	\$6,627	\$8,536				
	Percent	90%	20%	6%	2%				
2008	Claims	953	178	44					
	Average Yearly Benefits	\$1,934	\$2,285	\$2,655					
	Average Total Benefits	\$1,934	\$5,094	\$5,986					
	Percent	93%	17%	4%					
2009	Claims	852	163						
	Average Yearly Benefits	\$2,070	\$3,033						
	Average Total Benefits	\$2,070	\$6,660						
	Percent	94%	18%						
2010	Claims	801							
	Average Yearly Benefits	\$2,078							
	Average Total Benefits	\$2,078							
	Percent	97%							

<sup>26</sup> Dollars adjusted for inflation to 2010 dollars.

Table 4.13  
 Wage Loss Benefits:<sup>27</sup> Permanent Partial Disability, including Lump Sums

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 5	Year 7	Year 8
2003	Claims	1,230	1,364	633	296	165	108	64	35
	Average Yearly Benefits	\$5,009	\$9,900	\$11,475	\$10,253	\$9,955	\$8,354	\$6,054	\$6,715
	Average Total Benefits	\$5,009	\$11,795	\$20,749	\$30,246	\$35,687	\$33,281	\$35,953	\$41,950
	Percent	52%	58%	27%	13%	7%	5%	3%	1%
2004	Claims	1,289	1,245	490	271	131	72	41	
	Average Yearly Benefits	\$5,996	\$9,832	\$10,724	\$12,291	\$10,415	\$10,248	\$7,939	
	Average Total Benefits	\$5,996	\$11,991	\$21,218	\$32,750	\$32,581	\$35,076	\$35,659	
	Percent	57%	55%	22%	12%	6%	3%	2%	
2005	Claims	1,213	1,026	500	292	132	63		
	Average Yearly Benefits	\$7,819	\$11,429	\$13,699	\$10,538	\$8,662	\$74,342		
	Average Total Benefits	\$7,819	\$15,831	\$30,133	\$41,422	\$26,580	\$161,583		
	Percent	60%	51%	25%	14%	7%	3%		
2006	Claims	867	932	547	258	119			
	Average Yearly Benefits	\$6,675	\$11,879	\$12,058	\$9,996	\$7,760			
	Average Total Benefits	\$6,675	\$14,444	\$19,696	\$23,377	\$22,554			
	Percent	49%	53%	31%	15%	7%			
2007	Claims	730	964	527	226				
	Average Yearly Benefits	\$6,729	\$9,968	\$11,584	\$9,775				
	Average Total Benefits	\$6,729	\$11,660	\$17,528	\$19,560				
	Percent	43%	55%	31%	13%				
2008	Claims	835	1,115	465					
	Average Yearly Benefits	\$5,787	\$10,820	\$9,731					
	Average Total Benefits	\$5,787	\$12,353	\$16,248					
	Percent	46%	61%	26%					
2009	Claims	1,040	1,061						
	Average Yearly Benefits	\$5,599	\$8,742						
	Average Total Benefits	\$5,599	\$10,248						
	Percent	59%	61%						
2010	Claims	926							
	Average Yearly Benefits	\$4,069							
	Average Total Benefits	\$4,069							
	Percent	89%							

<sup>27</sup> Dollars adjusted for inflation to 2010 dollars.

Table 4.14  
**Wage Loss Benefits:<sup>28</sup> Permanent Total Disability, including Lump Sums**

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 5	Year 7	Year 8
2003	Claims	10	21	33	40	33	41	39	27
	Average Yearly Benefits	\$22,618	\$25,924	\$44,964	\$35,630	\$33,471	\$24,319	\$17,799	\$12,428
	Average Total Benefits	\$22,618	\$33,628	\$56,749	\$60,215	\$71,846	\$58,156	\$55,777	\$64,447
	Percent	12%	25%	40%	48%	40%	49%	47%	33%
2004	Claims	3	14	24	26	29	28	25	
	Average Yearly Benefits	\$13,239	\$35,705	\$56,327	\$25,630	\$25,454	\$26,128	\$15,717	
	Average Total Benefits	\$13,239	\$37,981	\$59,868	\$46,069	\$59,533	\$73,663	\$82,924	
	Percent	3%	15%	26%	28%	31%	30%	27%	
2005	Claims	3	15	20	30	26	21		
	Average Yearly Benefits	\$42,013	\$22,372	\$38,043	\$29,543	\$44,916	\$27,960		
	Average Total Benefits	\$42,013	\$27,850	\$49,202	\$56,442	\$62,822	\$50,538		
	Percent	6%	29%	38%	58%	50%	40%		
2006	Claims	6	14	20	22	21			
	Average Yearly Benefits	\$20,855	\$31,844	\$46,464	\$42,158	\$38,851			
	Average Total Benefits	\$20,855	\$33,672	\$50,226	\$49,302	\$56,404			
	Percent	11%	25%	36%	40%	38%			
2007	Claims	3	15	26	28				
	Average Yearly Benefits	\$21,116	\$9,717	\$75,113	\$37,050				
	Average Total Benefits	\$21,116	\$10,779	\$79,805	\$47,455				
	Percent	6%	29%	50%	54%				
2008	Claims	4	27	20					
	Average Yearly Benefits	\$6,691	\$43,097	\$42,309					
	Average Total Benefits	\$6,691	\$43,751	\$50,077					
	Percent	11%	75%	56%					
2009	Claims	4	7						
	Average Yearly Benefits	\$45,363	\$65,074						
	Average Total Benefits	\$45,363	\$65,975						
	Percent	50%	88%						
2010	Claims	2							
	Average Yearly Benefits	\$4,221							
	Average Total Benefits	\$4,221							
	Percent	100%							

<sup>28</sup> Dollars adjusted for inflation to 2010 dollars.

Table 4.15  
**Medical Benefits:<sup>29</sup> Payments to Physicians**

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 5	Year 7	Year 8
2003	Claims	3,597	2,543	1,449	914	831	564	472	347
	Average Yearly Benefits	\$3,120	\$2,754	\$2,084	\$1,546	\$2,515	\$2,373	\$2,460	\$1,979
	Average Total Benefits	\$3,120	\$5,719	\$8,024	\$9,985	\$11,664	\$15,211	\$17,352	\$18,928
	Percent	74%	53%	30%	19%	17%	12%	10%	7%
2004	Claims	4,190	2,474	1,192	966	586	504	369	
	Average Yearly Benefits	\$2,825	\$2,217	\$2,040	\$2,409	\$2,342	\$2,626	\$1,701	
	Average Total Benefits	\$2,825	\$5,596	\$8,088	\$9,658	\$12,972	\$15,288	\$17,533	
	Percent	97%	50%	24%	20%	12%	10%	7%	
2005	Claims	4,170	2,218	1,458	767	629	443		
	Average Yearly Benefits	\$2,962	\$2,121	\$2,507	\$2,161	\$2,611	\$1,701		
	Average Total Benefits	\$2,962	\$5,953	\$8,457	\$11,888	\$13,698	\$16,363		
	Percent	88%	47%	31%	16%	13%	9%		
2006	Claims	4,053	3,010	1,351	903	616			
	Average Yearly Benefits	\$2,493	\$2,993	\$2,098	\$2,398	\$1,951			
	Average Total Benefits	\$2,493	\$5,475	\$8,845	\$10,784	\$12,922			
	Percent	82%	61%	27%	18%	12%			
2007	Claims	4,209	2,563	1,415	799				
	Average Yearly Benefits	\$3,146	\$2,254	\$2,524	\$2,150				
	Average Total Benefits	\$3,146	\$5,961	\$8,526	\$11,569				
	Percent	87%	53%	29%	17%				
2008	Claims	4,518	2,625	1,244					
	Average Yearly Benefits	\$2,964	\$2,640	\$2,440					
	Average Total Benefits	\$2,964	\$6,239	\$10,034					
	Percent	90%	52%	25%					
2009	Claims	4,010	2,321						
	Average Yearly Benefits	\$3,150	\$2,490						
	Average Total Benefits	\$3,150	\$6,384						
	Percent	93%	54%						
2010	Claims	3,595							
	Average Yearly Benefits	\$3,107							
	Average Total Benefits	\$3,107							
	Percent	100%							

<sup>29</sup> Dollars adjusted for inflation to 2010 dollars.

Table 4.16  
**Medical Benefits:<sup>30</sup> Payments to Hospitals**

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 5	Year 7	Year 8
2003	Claims	2,845	1,902	967	474	409	209	164	115
	Average Yearly Benefits	\$4,940	\$4,609	\$4,032	\$3,530	\$6,078	\$7,078	\$4,366	\$5,260
	Average Total Benefits	\$4,940	\$9,193	\$14,425	\$19,709	\$23,376	\$28,300	\$29,661	\$36,999
	Percent	72%	48%	24%	12%	10%	5%	4%	3%
2004	Claims	3,411	1,795	645	464	231	167	103	
	Average Yearly Benefits	\$4,830	\$3,818	\$4,884	\$5,840	\$6,260	\$5,321	\$5,233	
	Average Total Benefits	\$4,830	\$9,463	\$16,123	\$20,388	\$24,193	\$29,999	\$43,450	
	Percent	84%	44%	16%	11%	6%	4%	3%	
2005	Claims	3,409	1,493	764	320	256	146		
	Average Yearly Benefits	\$5,645	\$3,612	\$5,104	\$5,502	\$7,029	\$7,581		
	Average Total Benefits	\$5,645	\$10,744	\$16,322	\$20,617	\$24,711	\$38,763		
	Percent	86%	38%	19%	8%	6%	4%		
2006	Claims	2,863	1,778	596	381	213			
	Average Yearly Benefits	\$4,085	\$5,399	\$5,687	\$5,226	\$5,840			
	Average Total Benefits	\$4,085	\$9,269	\$14,331	\$16,571	\$19,654			
	Percent	80%	50%	17%	11%	6%			
2007	Claims	2,151	1,222	585	294				
	Average Yearly Benefits	\$6,915	\$5,014	\$5,388	\$6,471				
	Average Total Benefits	\$6,915	\$11,434	\$15,692	\$19,605				
	Percent	79%	45%	22%	11%				
2008	Claims	2,323	1,267	475					
	Average Yearly Benefits	\$6,113	\$5,174	\$6,457					
	Average Total Benefits	\$6,113	\$10,826	\$19,459					
	Percent	85%	46%	17%					
2009	Claims	2,115	1,141						
	Average Yearly Benefits	\$6,299	\$4,647						
	Average Total Benefits	\$6,299	\$11,022						
	Percent	90%	48%						
2010	Claims	1,904							
	Average Yearly Benefits	\$5,964							
	Average Total Benefits	\$5,964							
	Percent	98%							

<sup>30</sup> Dollars adjusted for inflation to 2010 dollars.

Table 4.17  
**Medical Benefits:<sup>31</sup> Payments to Other Medical Providers**

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 5	Year 7	Year 8
2003	Claims	3,346	2,377	1,380	835	751	530	478	373
	Average Yearly Benefits	\$1,991	\$2,858	\$2,884	\$2,751	\$5,892	\$4,633	\$6,185	\$5,716
	Average Total Benefits	\$1,991	\$4,821	\$8,087	\$11,311	\$16,324	\$22,429	\$27,811	\$35,126
	Percent	72%	51%	30%	18%	16%	11%	10%	8%
2004	Claims	4,116	2,313	1,092	929	599	536	411	
	Average Yearly Benefits	\$2,087	\$2,341	\$2,798	\$5,036	\$4,796	\$5,100	\$4,352	
	Average Total Benefits	\$2,087	\$4,930	\$8,483	\$12,535	\$17,863	\$21,045	\$26,982	
	Percent	84%	47%	22%	19%	12%	11%	8%	
2005	Claims	4,114	2,035	1,418	829	646	473		
	Average Yearly Benefits	\$2,178	\$2,351	\$4,196	\$4,992	\$7,747	\$5,105		
	Average Total Benefits	\$2,178	\$5,164	\$9,693	\$15,819	\$22,595	\$28,186		
	Percent	88%	43%	30%	18%	14%	10%		
2006	Claims	3,935	2,939	1,417	981	646			
	Average Yearly Benefits	\$2,281	\$4,139	\$4,376	\$5,205	\$5,025			
	Average Total Benefits	\$2,281	\$6,525	\$12,289	\$17,456	\$23,582			
	Percent	82%	61%	29%	20%	13%			
2007	Claims	4,009	2,594	1,516	855				
	Average Yearly Benefits	\$4,398	\$3,813	\$4,977	\$4,432				
	Average Total Benefits	\$4,398	\$8,643	\$14,010	\$20,152				
	Percent	84%	54%	32%	18%				
2008	Claims	4,418	2,601	1,274					
	Average Yearly Benefits	\$4,215	\$4,239	\$4,179					
	Average Total Benefits	\$4,215	\$9,171	\$14,830					
	Percent	89%	52%	26%					
2009	Claims	3,955	2,229						
	Average Yearly Benefits	\$4,476	\$4,179						
	Average Total Benefits	\$4,476	\$9,561						
	Percent	92%	52%						
2010	Claims	3,496							
	Average Yearly Benefits	\$4,379							
	Average Total Benefits	\$4,379							
	Percent	98%							

<sup>31</sup> Dollars adjusted for inflation to 2010 dollars.

Table 4.18  
**Vocational Rehabilitation Benefits,<sup>32, 33</sup> including Lump Sums**

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 5	Year 7	Year 8
2003	Claims	78	209	116	86	61	44	19	3
	Average Yearly Benefits	\$2,681	\$4,208	\$6,451	\$7,664	\$5,420	\$5,467	\$3,222	\$4,138
	Average Total Benefits	\$2,681	\$4,873	\$10,268	\$14,906	\$12,193	\$11,053	\$6,585	\$8,100
	Percent	21%	57%	32%	23%	17%	12%	5%	1%
2004	Claims	70	161	143	99	38	17	10	
	Average Yearly Benefits	\$2,279	\$3,920	\$4,474	\$6,598	\$4,645	\$6,536	\$4,122	
	Average Total Benefits	\$2,279	\$4,351	\$6,227	\$11,992	\$12,206	\$12,453	\$12,839	
	Percent	22%	50%	45%	31%	12%	5%	3%	
2005	Claims	105	413	254	103	50	15		
	Average Yearly Benefits	\$2,225	\$4,704	\$5,672	\$5,278	\$7,223	\$4,771		
	Average Total Benefits	\$2,225	\$4,920	\$8,581	\$11,341	\$16,697	\$19,246		
	Percent	22%	86%	53%	22%	10%	3%		
2006	Claims	480	571	217	86	20			
	Average Yearly Benefits	\$2,909	\$4,101	\$5,324	\$4,682	\$5,009			
	Average Total Benefits	\$2,909	\$5,160	\$7,868	\$9,163	\$13,397			
	Percent	56%	67%	32%	10%	2%			
2007	Claims	540	572	221	47				
	Average Yearly Benefits	\$2,973	\$3,490	\$4,292	\$5,056				
	Average Total Benefits	\$2,973	\$4,252	\$6,663	\$11,992				
	Percent	51%	65%	25%	5%				
2008	Claims	621	599	113					
	Average Yearly Benefits	\$2,485	\$3,772	\$4,550					
	Average Total Benefits	\$2,485	\$4,521	\$7,317					
	Percent	36%	68%	13%					
2009	Claims	462	226						
	Average Yearly Benefits	\$2,721	\$3,682						
	Average Total Benefits	\$2,721	\$4,785						
	Percent	99%	48%						
2010	Claims	72							
	Average Yearly Benefits	\$2,256							
	Average Total Benefits	\$2,256							
	Percent	85%							

<sup>32</sup> Includes payments to claimants for vocational rehabilitation benefits.

<sup>33</sup> Dollars adjusted for inflation to 2010 dollars.

## TEMPORARY DISABILITY PAID DURATION |

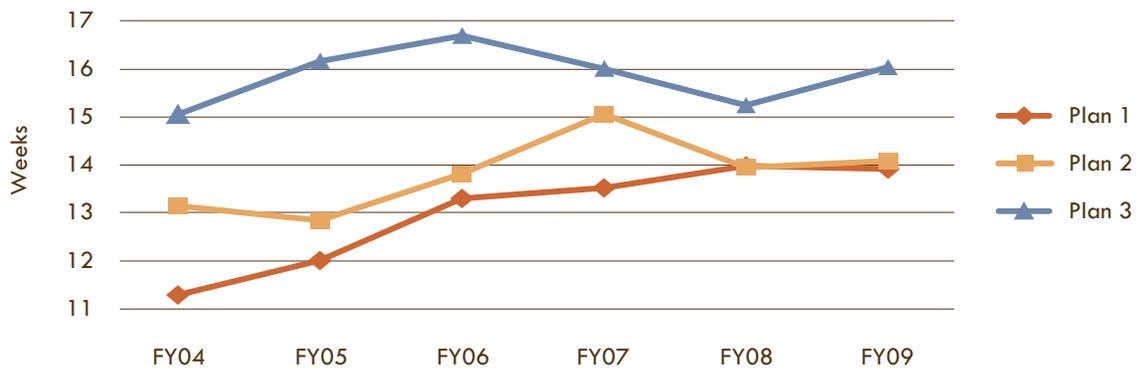
Disability duration is an important measure of how quickly injured workers heal. Here we highlight trends for fiscal years 2004–2009. Claims with Temporary Total Disability (TTD) or Temporary Partial Disability (TPD) or both were considered to calculate the average paid disability duration of injured workers in Montana from 2004 to 2009. We calculated the paid disability duration as the total TTD payments plus TPD payments on each claim divided by the reported weekly benefit rate for each claim. The weekly benefit rate value was chosen by the following rules:

- If TTD WBR(weekly benefit rate) is available, TTD WBR is used for both TTD and TPD;
- If TTD WBR is not available, TPD WBR is used for both TTD and TPD;
- If neither TTD WBR nor TPD WBR is available, cases are excluded.

Extremely high (>\$626) or low weekly benefit rate (<\$60) values were excluded from the analysis due to data quality concerns. For 1-year maturity, the longest maturity cannot be beyond 52 weeks and the longest 3-year maturity was capped at 157 weeks.

Figure 4.19

### Temporary Disability Paid Duration - 1 Year Maturity By Plan Type<sup>34</sup> and Fiscal Year of Injury



<sup>34</sup> Plan types: Plan 1 - Self-Insured Employers, Plan 2 - Private Insurance and Plan 3 - Montana State Fund.

Table 4.19

### Temporary Disability Paid Duration (weeks) - 1 Year Maturity By Plan Type<sup>35</sup> and Fiscal Year of Injury

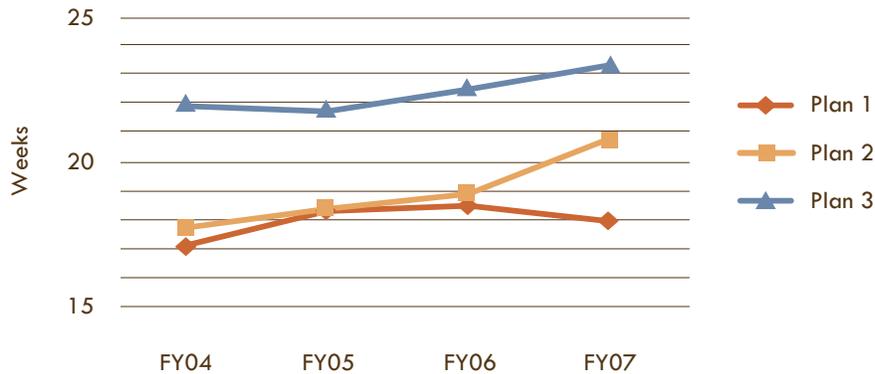
Plan Type	FY04	FY05	FY06	FY07	FY08	FY09
Plan 1	11.3	12.0	13.3	13.5	14.0	13.9
Plan 2	13.2	12.8	13.8	15.1	14.0	14.1
Plan 3	15.1	16.2	16.7	16.0	15.2	16.0
All Plans	14.0	14.6	15.3	15.3	14.6	15.0

<sup>35</sup> Plan types: Plan 1 - Self-Insured Employers, Plan 2 - Private Insurance and Plan 3 - Montana State Fund.

## TEMPORARY DISABILITY PAID DURATION

Figure 4.20

**Temporary Disability Paid Duration - 3 Year Maturity**  
By Plan Type<sup>36</sup> and Fiscal Year of Injury



<sup>36</sup> Plan types: Plan 1 - Self-Insured Employers, Plan 2 - Private Insurance and Plan 3 - Montana State Fund.

Table 4.20

**Temporary Disability Paid Duration (weeks) - 3 Year Maturity**  
By Plan Type<sup>37</sup> and Fiscal Year of Injury

Plan Type	FY04	FY05	FY06	FY07
Plan 1	17.3	18.5	18.7	18.1
Plan 2	17.9	18.6	19.1	20.9
Plan 3	22.0	21.8	22.6	23.4
All Plans	19.8	20.3	20.8	21.8

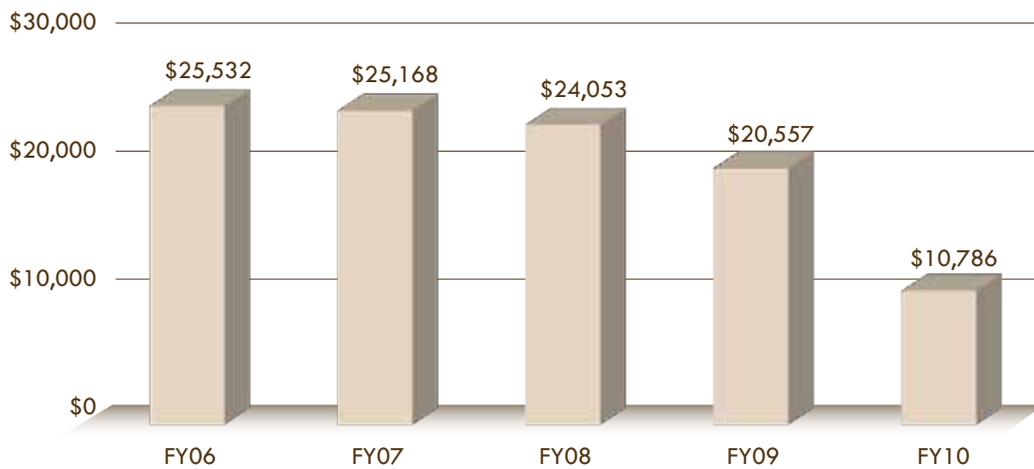
<sup>37</sup> Plan types: Plan 1 - Self-Insured Employers, Plan 2 - Private Insurance and Plan 3 - Montana State Fund.

Settlements are lump sum payments of the claimant’s workers’ compensation indemnity and/or medical benefits. Benefits are usually paid in periodic payments designed to sustain an injured worker over an extended period of time. Settlements can occur when the claimant and the insurer agree that benefits will be converted to a lump sum payment. If the claimant has

more than one claim, a settlement may settle more than one of those claims. Settlements are subject to approval by ERD.

Figure 4.21 displays average settlement amounts, by fiscal year of injury. This information includes both injury and occupational disease settlements.

Figure 4.21  
**Average Settlement<sup>38</sup>**  
 By Fiscal Year of Injury



<sup>38</sup> These charts do not include settlements ordered by the Workers’ Compensation Court.

Table 4.21  
**Settlement Amounts for Claims Settled<sup>39</sup>**  
 By Plan Type<sup>40</sup> and Fiscal Year of Injury<sup>41</sup>

Plan Type	FY06		FY07		FY08		FY09		FY10	
	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Plan 1	\$4,083,809	176	\$2,652,216	121	\$2,422,579	118	\$1,243,679	53	\$102,635	10
Plan 2	\$8,199,068	364	\$8,153,201	331	\$7,717,712	329	\$4,495,653	225	\$811,313	63
Plan 3	\$12,692,659	438	\$12,252,580	463	\$9,883,287	386	\$5,889,270	289	\$836,649	89
UEF	\$46,265	2	\$96,325	5	\$108,964	4	\$109,644	4	\$7,507	1
<b>Total</b>	<b>\$25,021,801</b>	<b>980</b>	<b>\$23,154,322</b>	<b>920</b>	<b>\$20,132,542</b>	<b>837</b>	<b>\$11,738,246</b>	<b>571</b>	<b>\$1,758,104</b>	<b>163</b>

<sup>39</sup> These charts do not include settlements ordered by the Workers’ Compensation Court.

<sup>40</sup> Plan types: Plan 1 - Self-Insured, Plan 2 - Private Insurance, Plan 3 - Montana State Fund, and UEF - Uninsured Employers’ Fund.

<sup>41</sup> Previous fiscal year information has been updated.

## INJURED WORKER ATTORNEY FEES

ERD requires claimants' attorneys to submit a Legal Fee Report at regular intervals throughout the life of a claim. The Legal Fee Report provides the amount of attorney fees received by attorneys. Maximum legal fees are set by rule and regulated<sup>42</sup> by ERD.

The data in figure 4.22 and table 4.22 present attorney legal fee information by plan type and fiscal year of injury.

<sup>42</sup> §39-71-613, MCA (2009).

Figure 4.22  
**Average Attorney Legal Fees**  
By Fiscal Year of Injury

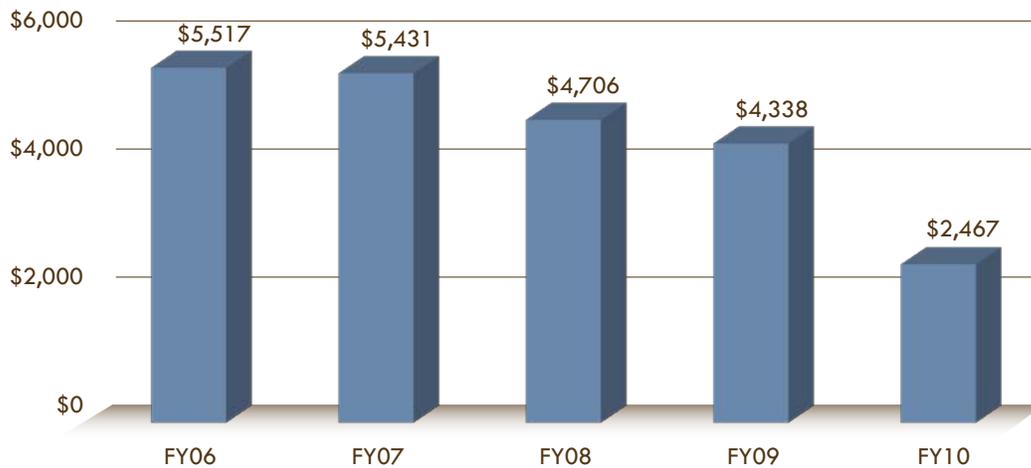


Table 4.22  
**Total Attorney Legal Fees**  
By Plan Type<sup>43</sup> and Fiscal Year of Injury

Plan Type	FY06		FY07		FY08		FY09		FY10	
	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Plan 1	\$507,778	113	\$290,455	58	\$322,983	68	\$192,022	50	\$45,072	22
Plan 2	\$1,000,647	197	\$1,008,201	210	\$824,646	193	\$521,667	134	\$163,879	77
Plan 3	1,744,172	278	\$1,680,023	280	\$1,210,989	238	\$856,672	178	\$252,388	88
Other	\$46,753	10	\$13,957	3	\$8,656	4	\$4,375	1	0	0
<b>Total</b>	<b>\$3,299,350</b>	<b>598</b>	<b>\$2,992,637</b>	<b>551</b>	<b>\$2,367,274</b>	<b>503</b>	<b>\$1,574,735</b>	<b>363</b>	<b>\$461,339</b>	<b>187</b>

<sup>43</sup> Plan types: Plan 1 - Self-Insured, Plan 2 - Private Insurance, Plan 3 - Montana State Fund, and UEF - Uninsured Employers' Fund.

ERD also collects legal fee information on approved workers' compensation settlements. The table below represents fees claimed in the fiscal year of the approved settlement regardless of the

fiscal year in which the injury or occupational disease occurred. Data shows that approximately 57% of all settlements in FY10 involved attorneys.

Table 4.23

**Attorney Fees from Claimant Settlements<sup>44</sup>**  
 By Fiscal Year of Settlement

	FY06	FY07	FY08	FY09	FY10
Number of Settlement Petitions Processed	1,459	1,405	1,410	1,465	1,504
Claims Settled with Attorney Representation	796	775	786	785	861
Percent Claimants Represented by Attorney	55%	55%	56%	54%	57%
Total Settlement Amount with Attorney Involvement	\$26,086,926	\$24,538,844	\$29,304,566	\$27,144,323	\$35,371,470
Total Attorney Fees	\$4,729,148	\$4,424,590	\$5,365,189	\$4,973,372	\$5,735,403
Average Fee/Settlement Percentage	18%	18%	18%	18%	16%

<sup>44</sup> Similar to reports issued in previous years, there are a small percentage of records for which no attorney fees were listed due to entry errors and/or reporting limitations.

ERD requires insurance companies to report legal fees and costs associated with each indemnity claim.<sup>45</sup> These costs are reported to ERD on the subsequent report of injury at regular intervals throughout the life of a claim.

The data in figure 4.24 and table 4.24 present insurer legal expenses by plan type and fiscal year of injury.

<sup>45</sup> ARM 24.29.4335 and 24.29.4336 (2008).

Figure 4.24  
**Average Insurer Legal Expenses per Claim**  
 By Fiscal Year of Injury

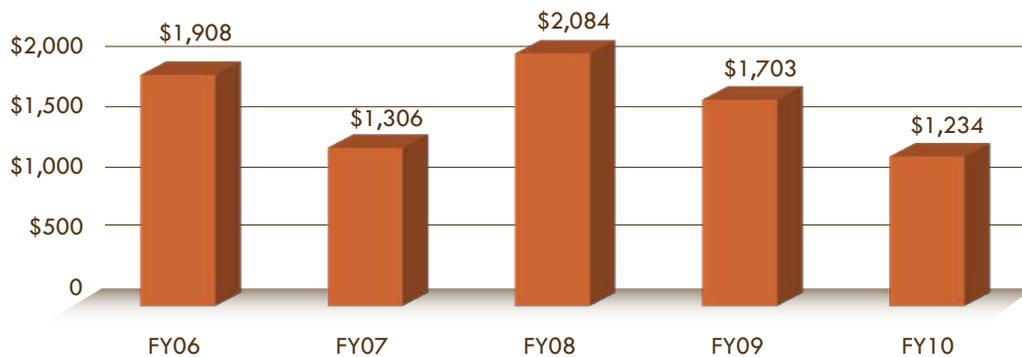


Table 4.24  
**Total Insurer Legal Expenses**  
 By Plan Type<sup>46</sup> and Fiscal Year of Injury

Plan Type	FY06		FY07		FY08		FY09		FY10	
	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Plan 1	\$28,042	25	\$24,473	36	\$73,599	32	\$44,406	22	\$16,778	13
Plan 2	\$275,281	97	\$101,938	80	\$191,277	98	\$75,992	76	\$46,889	71
Plan 3	\$513,031	291	\$534,323	272	\$474,380	237	\$451,690	216	\$258,999	148
<b>Total</b>	<b>\$816,354</b>	<b>413</b>	<b>\$660,734</b>	<b>388</b>	<b>\$739,256</b>	<b>367</b>	<b>\$572,088</b>	<b>314</b>	<b>\$322,667</b>	<b>232</b>

<sup>46</sup> Plan types: Plan 1 - Self-Insured Employers, Plan 2 - Private Insurance and Plan 3 - Montana State Fund.



## Dispute Resolution

- Mediation
- Contested Case Hearings
- Workers' Compensation Court
- Significant Workers' Compensation Cases
- Supreme Court Decisions on Workers' Compensation And Occupational Disease

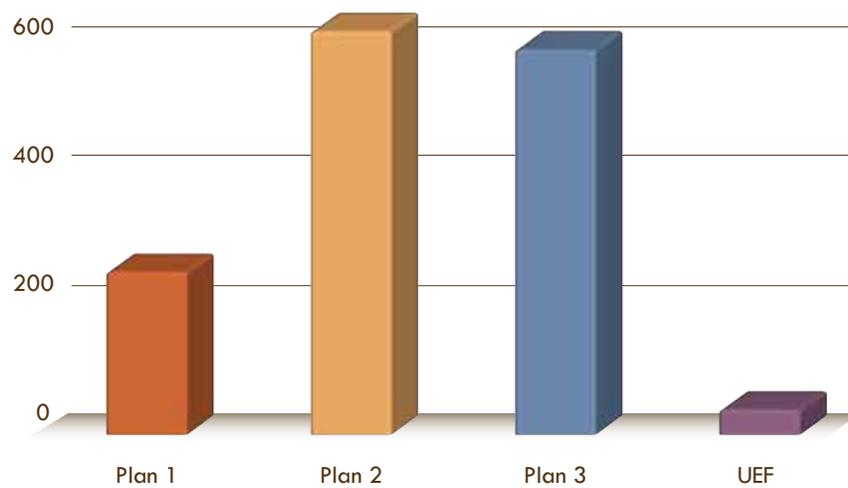




The Workers' Compensation Mediation Unit of ERD administers a mandatory process for resolving disputes dealing with benefits for both occupational injury and disease claims. The mediation process is confidential, non-binding and informal. The mediator facilitates the exchange of information between the parties and assists with solutions aimed at resolving the dispute.

Conferences are usually by telephone but can be held in person in Helena upon request. Often more than one conference is held in order to resolve the disputes on a claim. In FY10, the Mediation Unit received and processed 1,379 petitions, which involved 1,516 claims. A petition is a request for mediation and may include multiple claims.

Figure 5.1  
**Claims in Mediation - FY10**  
 By Plan Type<sup>1</sup>



<sup>1</sup> Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund and UEF – Uninsured Employers' Fund.

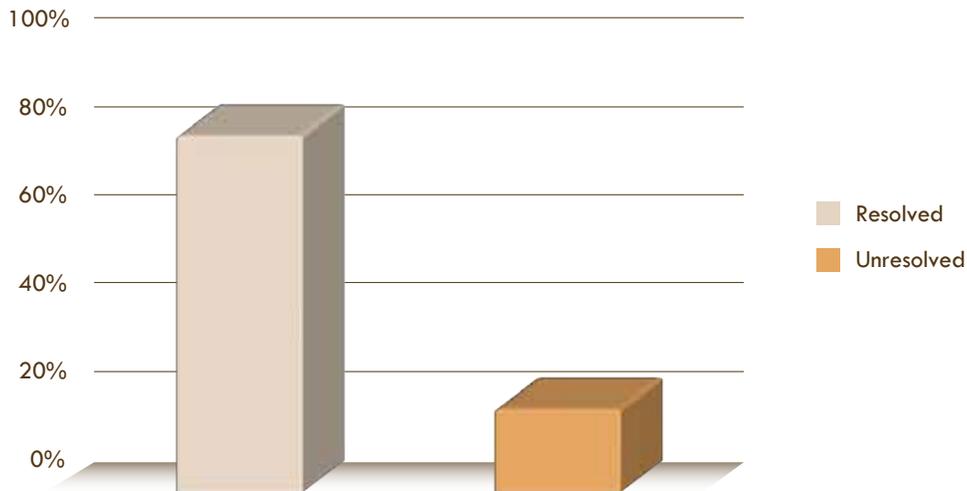
Table 5.1  
**Claims in Mediation**  
 By Plan Type<sup>2</sup> and Fiscal Year of Receipt

Plan Type	FY06		FY07		FY08		FY09		FY10	
	Count	%	Count	%	Count	%	Count	%	Count	%
Plan 1	268	17%	246	17%	273	18%	261	19%	253	17%
Plan 2	586	38%	563	38%	593	40%	544	39%	626	41%
Plan 3	675	43%	644	43%	578	39%	554	40%	598	39%
UEF	28	2%	35	2%	43	3%	27	2%	39	3%
<b>Total<sup>3</sup></b>	<b>1,557</b>	<b>100%</b>	<b>1,488</b>	<b>100%</b>	<b>1,487</b>	<b>100%</b>	<b>1,386</b>	<b>100%</b>	<b>1,516</b>	<b>100%</b>

<sup>2</sup> Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund and UEF – Uninsured Employers' Fund.

<sup>3</sup> Total count represents the number of claims, not the number of petitions. Due to coverage and claim updates to our database following mediation, the claim counts may be changed slightly over prior years.

Figure 5.2  
Percent of Mediation Petitions Resolved - FY10



Over the past five years, the mediation process has had an average resolution rate of 82%. From the date of the petition receipt to issuing a written recommendation,

the average completion time for mediation was 40 days in FY10.

Table 5.2  
Mediation Petitions<sup>4</sup>  
By Fiscal Year of Receipt

Petitions	FY06		FY07		FY08		FY09		FY10	
	Count	%	Count	%	Count	%	Count	%	Count	%
Pending <sup>5</sup>	2	1%	0	0%	1	1%	2	1%	97	7%
Closed	1,408	99%	1,312	100%	1,343	99%	1,247	99%	1,282	93%
Total Rec'd	1,410	100%	1,312	100%	1,344	100%	1,249	100%	1,379	100%
Resolved	1,146	81%	1,085	83%	1,130	84%	1,016	81%	1,043	81%
Unresolved	262	19%	227	17%	213	16%	231	19%	239	19%
Total Closed	1,408	100%	1,312	100%	1,343	100%	1,247	100%	1,282	100%

<sup>4</sup> A single petition may include multiple claims and/or multiple insurers.

<sup>5</sup> Eventual outcome of pending petitions will affect percent resolved.

The DLI Hearings Bureau holds contested case hearings. Disputes heard at contested case hearings include appeals from orders and determinations issued by ERD

and assessments of penalties for uninsured employers. In FY10, the Hearings Bureau received three new requests for contested case hearings.

Table 5.3

**Petitions Received by the Hearings Bureau**  
By Plan Type<sup>6</sup> and Fiscal Year

Plan Type	FY06		FY07		FY08		FY09		FY10	
	Count	%	Count	%	Count	%	Count	%	Count	%
Plan 1	1	10%	1	7%	0	0%	0	0%	0	0%
Plan 2	0	0%	10	67%	1	11%	0	0%	0	0%
Plan 3	7	70%	1	7%	2	22%	0	0%	1	34%
UEF	2	20%	2	13%	6	67%	3	75%	1	33%
Other	--	--	1	6%	--	--	1	25%	1	33%
<b>Total</b>	<b>10</b>	<b>100%</b>	<b>15</b>	<b>100%</b>	<b>9</b>	<b>100%</b>	<b>4</b>	<b>100%</b>	<b>3</b>	<b>100%</b>

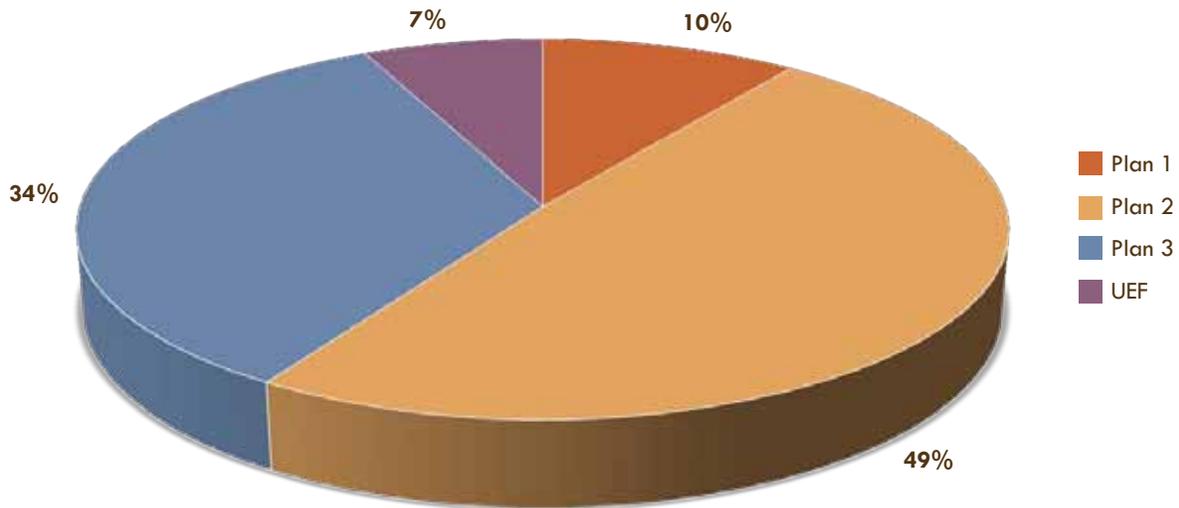
<sup>6</sup> Plan types: Plan 1 - Self-insured Employers, Plan 2 - Private Insurance, Plan 3 - Montana State Fund, UEF - Uninsured Employers' Fund and Other.

The Workers' Compensation Court resolves disputes between workers injured as a result of occupational injuries or diseases and insurers or employers. The court has original jurisdiction over benefit issues arising under the Workers' Compensation Act. For an injury occurring after July 1, 1987, disputes must first be mediated through the ERD Mediation Unit. The court's exclusive jurisdiction also extends to disputes involv-

ing independent contractor exemptions under both the Workers' Compensation and Unemployment Insurance Acts, civil penalties for theft of workers' compensation benefits, and the two-year return to work preference specified in section 39-71-317(2), MCA.

**Data Source:** The Workers' Compensation Court website: <http://www.wcc.dli.mt.gov>

Figure 5.4  
**Percent of Petitions Received by the WCC - FY10**  
 By Case Type<sup>7</sup>



<sup>7</sup> The Workers' Compensation Act provides for three separate "plans", i.e., Plan 1 – Self-Insureds, Plan 2 – Private Insurers, and Plan 3 – Montana State Fund. The court breaks down its case types further for statistical purposes, i.e., Self-Insureds, Private Insurers, Montana State Fund, Subsequent Injury Fund, Uninsured Employers' Fund, ICCU (Independent Contractor Compensation Unit), and DLI (Department of Labor and Industry). The court's statistics can be located on the web at: <http://www.wcc.dli.mt.gov/stats.asp>.

Table 5.4

**Petitions Received by the WCC**  
By Case Type<sup>8</sup> and Fiscal Year of Receipt

Case Type	FY06		FY07		FY08		FY09		FY10	
	Count	%	Count	%	Count	%	Count	%	Count	%
Plan 1	34	11%	18	7%	8	4%	25	12%	22	10%
Plan 2	150	46%	122	49%	115	55%	90	43%	112	49%
Plan 3	108	33%	81	33%	66	31%	83	40%	78	34%
UEF and others	32	10%	26	11%	21	10%	10	5%	17	7%
Total <sup>9</sup>	324	100%	247	100%	210	100%	208	100%	229	100%

<sup>8</sup> See footnote 7 on previous page.

<sup>9</sup> Petitions may involve more than one plan type.

Table 5.5

**Decisions by the WCC**  
By Fiscal Year of Receipt

Decisions	FY06	FY07	FY08	FY09	FY10
Telephone Conference Resulting in Disposition	0	0	0	0	0
Bench Rulings without Written Decisions	1	0	0	2	0
Decisions	182	166	170	143	181
Orders on Appeal	1	0	0	0	1
Substantive Orders	27	19	68	43	26
Attorney Fee Orders	2	2	2	0	3
Orders on Cost	2	5	6	3	6
Subtotals	215	192	246	191	217
Petitions Dismissed by Agreement	96	80	46	51	46
Totals	311	272	292	242	263

Table 5.6

**Full and Final Compromise Settlements by the WCC**  
By Case Type<sup>10</sup> and Fiscal Year of Receipt

Case Type	FY06	FY07	FY08	FY09	FY10
Plan 1 - Self-Insured	1	7	2	2	5
Plan 2 - Private Insurers	6	8	6	5	9
Plan 3 - Montana State Fund	15	7	12	12	8
Uninsured Employers' Fund	0	0	0	0	0
Total	22	22	20	19	22

<sup>10</sup> See footnote 7 on previous page.

## SIGNIFICANT WORKERS' COMPENSATION CASES

Case summaries are taken from the WCC Website:  
<http://wcc.dli.mt.gov/>

### In The Workers' Compensation Court of the State of Montana

#### **BROCK HOPKINS vs. UNINSURED EMPLOYERS' FUND and UNINSURED EMPLOYERS' FUND vs. RUSSELL A. KILPATRICK**

**2010 MTWCC 9**

#### **APPEALED TO MONTANA SUPREME COURT 08/23/10**

**Summary:** Petitioner was injured in a grizzly bear attack at a private bear park in West Glacier, Montana. Petitioner petitioned the Court for a determination that he was an employee of the alleged employer, Russell Kilpatrick, at the time of the attack. Petitioner contended that he was performing duties in the course and scope of his employment. Kilpatrick responded that Petitioner worked as a volunteer at the bear park. Kilpatrick and the Uninsured Employers' Fund contended that Petitioner was not acting in the course and scope of his employment. Kilpatrick and the UEF further argued that Petitioner's use of marijuana was the major contributing cause of the accident.

**Held:** Kilpatrick employed Petitioner at the bear park. Kilpatrick controlled the details of Petitioner's work and paid him cash daily for the services he performed. Petitioner acted in the course and scope of his employment when he was attacked as he entered the bear pen to feed the bears. Petitioner fed the bears at Kilpatrick's request and Kilpatrick benefitted from services Petitioner performed at the bear park. Petitioner's marijuana use was not the major contributing cause of the accident. No evidence was presented regarding Hopkins' level of impairment on the day of the attack. Although Petitioner admitted to smoking marijuana before arriving at work on the morning of the attack, it is difficult for the Court to conclude that the major contributing cause of the grizzly bear attack was

anything other than the grizzly. Petitioner was not attacked when he inexplicably wandered into the grizzly pen. Petitioner was attacked while performing a job Kilpatrick had paid him to do – feeding grizzly bears.

#### **HAROLD CALDWELL vs. MACo WORKERS' COMPENSATION TRUST**

**2010 MTWCC 24**

#### **APPEALED TO MONTANA SUPREME COURT SEPTEMBER 3, 2010**

**Summary:** Pursuant to § 39-71-710, MCA, the insurer's liability for payment of permanent partial disability benefits, permanent total disability benefits, and rehabilitation benefits terminates when a claimant is considered retired. Petitioner argues that, as it relates to vocational rehabilitation benefits, § 39-71-710, MCA (2005), violates his right to equal protection as guaranteed by Article II, Section 4, of the Montana Constitution.

**Held:** Section 39-71-105(3), MCA, sets forth the public policy for rehabilitation benefits. It provides that an objective of the workers' compensation system is to return a worker to work as soon as possible after the worker has suffered a work-related injury or disease. Before an injured worker can qualify for rehabilitation benefits, § 39-71-1006, MCA, requires that a rehabilitation provider certify that the worker has reasonable vocational goals and reasonable reemployment opportunity. The rehabilitation plan must take into consideration a worker's age, education, training, work history, residual physical capacities, and vocational interests. Since the statute already considers the worker's age, the Court sees no rational basis for automatically terminating rehabilitation benefits upon an injured worker's eligibility for retirement. Therefore, the Court concludes that as it relates to rehabilitation benefits, § 39-71-710, MCA, violates Petitioner's right to equal protection.

**GILBERT LEIGH vs. MONTANA STATE FUND**

**2010 MTWCC 37**

**APPEALED TO MONTANA SUPREME COURT**

**01/21/11**

**Summary:** Petitioner moved for summary judgment, alleging that the insurer incorrectly calculated his average weekly wage by using a twelve-month period under § 39-71-123(3)(b), MCA, which included weeks during which he was laid off from his job as part of the period used for calculating his average weekly wage. Respondent cross-motivated for summary judgment, arguing that it properly calculated Petitioner's average weekly wage under the Workers' Compensation Act and in accordance with applicable case law regarding seasonal employment.

**Held:** Given the seasonal nature of Petitioner's work and his employment history with his employer and the reasonable relationship requirement of § 39-71-105(1), MCA. Respondent correctly calculated Petitioner's average weekly wage by using a one-year period as permitted under § 39-71-123(3)(b), MCA.

**MONTANA STATE FUND vs. RANDALL SIMMS**

**2010 MTWCC 41**

**Summary:** Respondent moves to exclude an opinion letter of his treating physician which was elicited by Petitioner. Respondent argues that the letter was based on surveillance videos which were confidential criminal justice information which Petitioner disclosed in violation of the Criminal Justice Information Act. Respondent also moves to preclude the use or further publication or dissemination of the surveillance videos in these proceedings because of Petitioner's alleged violations of the Criminal Justice Information Act. Petitioner argues that the surveillance was properly disclosed. Although Petitioner concedes the surveillance is now confidential criminal justice information, Petitioner argues it did not become confidential criminal justice information until after Respondent's treating physician reviewed the surveillance.

**Held:** The surveillance constituted confidential criminal justice information before it was disclosed to Respondent's treating physician and was disseminated in violation of the Criminal Justice Information Act. The opinions elicited from Respondent's treating physician and any other physicians to whom the surveillance was improperly disseminated are excluded. Respondent's motion to prospectively preclude the use of the surveillance "for all time" and "for any purpose," even if the surveillance is disseminated in compliance with the Criminal Justice Information Act, is overbroad and is denied.

**JEFF DRAKE vs. MONTANA STATE FUND and**

**LORI HILBERT vs. MONTANA STATE FUND**

**2011 MTWCC 2**

**Summary:** Petitioners suffered industrial injuries while the 5th Edition of the AMA Guides was in effect but reached MMI after the 6th Edition came into effect. They challenge Respondent's decision to award them impairment ratings as determined under the 6th Edition. Petitioners argue that impairment ratings should be calculated under the Guides in effect on the date of their industrial injury. Respondent argues that impairment ratings should be calculated under the Guides in effect on the date an injured worker reaches MMI.

**Held:** Section 39-71-703, MCA, provides that an injured worker's impairment rating is to be determined by the "latest" edition of the Guides. Section 39-71-711, MCA, provides that an impairment rating is a purely medical determination which must be determined by an impairment evaluator after a claimant has reached maximum healing and must be based on the "current" edition of the Guides. The "latest or "current" edition of the Guides is the most recent edition in existence on the date an injured worker reaches MMI. In Petitioners' cases, the 6th Edition existed on the date they each reached MMI. Petitioners' motions for summary judgment are denied and Respondent's cross-motions for summary judgment are granted.

## SUPREME COURT DECISIONS ON WORKERS' COMPENSATION AND OCCUPATIONAL DISEASE

This decision can be found at <http://searchcourts.mt.gov/>

### **KIMBERLY M. KELLER vs. LIBERTY NORTHWEST, INC.**

**2010 MT 279**

#### **APPEAL FROM WCC. REVERSED AND REMANDED FOR FURTHER PROCEEDINGS.**

Kimberly Keller worked as an in-home care provider. She injured her back when attempting to break a client's fall. She sought treatment from multiple providers, a few of whom referred to scapular winging. However, she was diagnosed with chronic thoracic region myofascial pain, chronic mid-back pain, and complex pain syndrome. Keller settled her indemnity benefits in January 2007 and her medical benefits in August 2007. In August 2008 electro diagnostic testing revealed chronic right long thoracic neuropathy, which caused profound serratus anterior weakness and scapular winging. Medical opinion was that the nerve injury was present from the date of the initial injury, and had simply been ignored or missed by other treating

physicians. Keller petitioned for reinstatement of her medical benefits and rescission of the two settlement agreements. Keller argued that because the settlement negotiations were premised on mistaken diagnoses, the settlements were entered into on the basis of a mutual mistake of fact. WCC denied, concluding that Keller had to show Liberty had no knowledge of Keller's actual injuries (scapular winging and long thoracic neuropathy) at the time of settlement. The Court held that parties to a contract can make a mutual mistake if they are "unconsciously ignorant" or "forgetful" of a fact material to the contract. A fact is material when it is a "vital fact upon which the parties based their bargain" under 28-2-409, MCA. The Supreme Court held that "both statutory and case law confirm that mutual mistake may still exist when parties know about a theory of injury, if that theory is disregarded, forgotten, or not considered even though raised as a possibility." It is remanded to WC Court for factual determination as to the vital facts on which the parties based their settlement, and whether the incorrectly diagnosed injuries rise to the level of material fact.

## Department Administered Programs

- Workers' Compensation System Administration
- Organizational Charts
- Workers' Compensation Assessments as Expended
- Subsequent Injury Fund
- Uninsured Employers' Fund
- Construction Contractor Registration
- Independent Contractor Exemption Certificates
- Professional Employer Organizations
- Safety & Health
- Claims Examiner Certification





Employment Relations Division (ERD) provides a wide variety of services and regulation related to workers' compensation and occupational safety and health.

### Workers' Compensation Regulation Bureau

The **Carrier Compliance Unit** monitors compliance of private workers' compensation carriers (Plan 2). The unit also licenses professional employer organizations and processes extraterritorial agreements.

The **Construction Contractor Registration Unit** ensures construction businesses with employees register and are in compliance with workers' compensation requirements. The law provides protection from liability for workers' compensation claims for contractors who use the service of other registered construction contractors.

The **Independent Contractor Central Unit** issues decisions on employment relationships for the Department of Revenue, Labor Standards, Unemployment Insurance, Human Rights and Workers' Compensation. The unit also issues Independent Contractor Exemptions Certificates (ICEC).

The **Self-Insurance Unit** administers the program for employers who elect to be self-insured for workers' compensation (Plan 1).

The **Subsequent Injury Fund Unit** certifies workers with permanent impairments or that have a substantial obstacle to obtaining employment. The unit administers the funds that are used to offset claim costs associated with subsequent injuries to these workers.

The **Uninsured Employers' Fund Unit** makes sure employers and employees are protected under the Workers' Compensation Act. The unit enforces coverage requirements for all employers, pays benefits to injured workers whose employers did not have workers' compensation coverage, and manages the fund from which benefits are paid.

### Workers' Compensation Claims Assistance Bureau

The **Claims Unit** ensures compliance with the Workers' Compensation Act relating to benefits and claims. The unit also regulates attorney fees, administers the claims examiner certification process, and provides assistance to insurers, attorneys and injured workers.

The **Data Management Unit** ensures compliance with claims reporting standards, maintains the workers' compensation database system and provides a comprehensive annual report on workers' compensation to the governor and the legislature. In addition, the unit performs research on various workers' compensation topics.

The **Mediation Unit** provides an alternative method of resolving workers' compensation benefit disputes before the dispute goes to the Workers' Compensation Court. This is a mandatory, non-binding process.

The **Medical Regulations Unit** develops fee schedules and medical service rules to provide an effective and equitable method of health care cost containment. Medical fee schedules are established by the unit and utilized by insurers to reimburse medical providers. Utilization and treatment guidelines are established and administered to determine best practices for medical treatment of workers' compensation patients.

### Safety & Health Bureau

The **Safety & Health Unit** conducts inspections of public employers and performs on-site consultations for private employers throughout the state. The Unit provides safety and occupational health training for both public and private employers.

The **Mining Unit** is responsible for workplace safety and health compliance in underground and surface coal mines. They conduct mine safety inspections and assist mine operators in safety training plan development. The Unit also inspects sand and gravel operations.

Figure 6.1  
 Montana Department of Labor & Industry

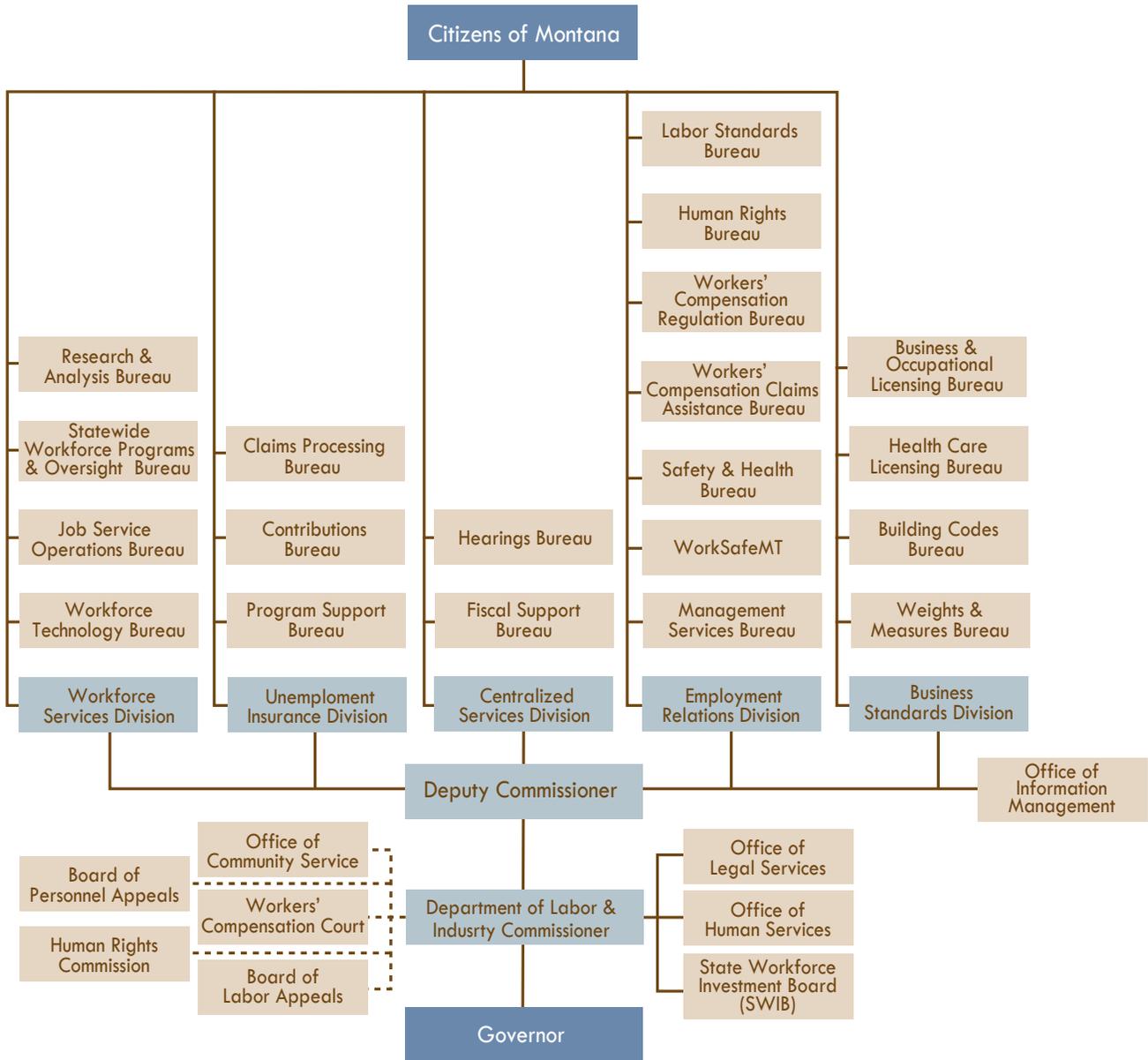
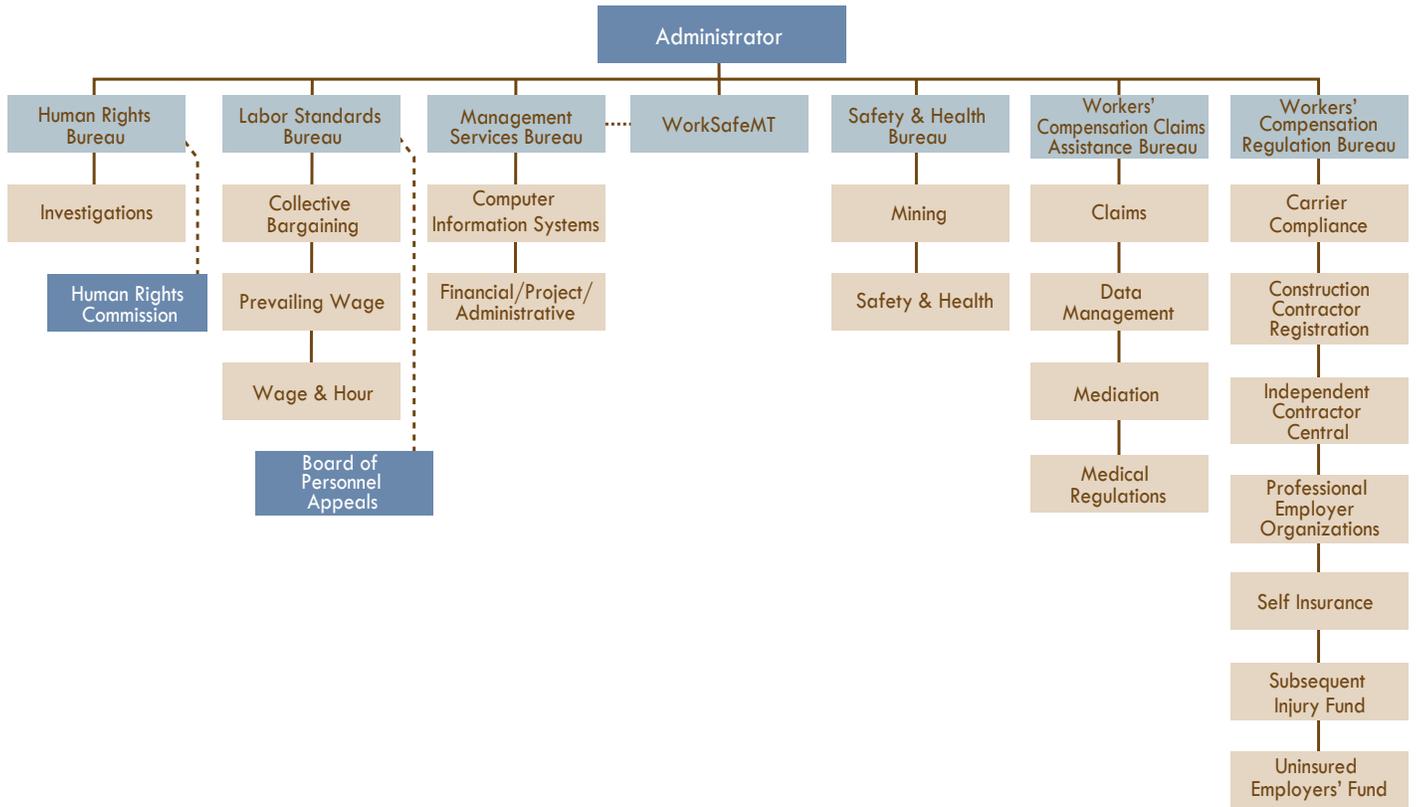


Figure 6.2  
Employment Relations Division



## WORKERS' COMPENSATION ASSESSMENTS AS EXPENDED

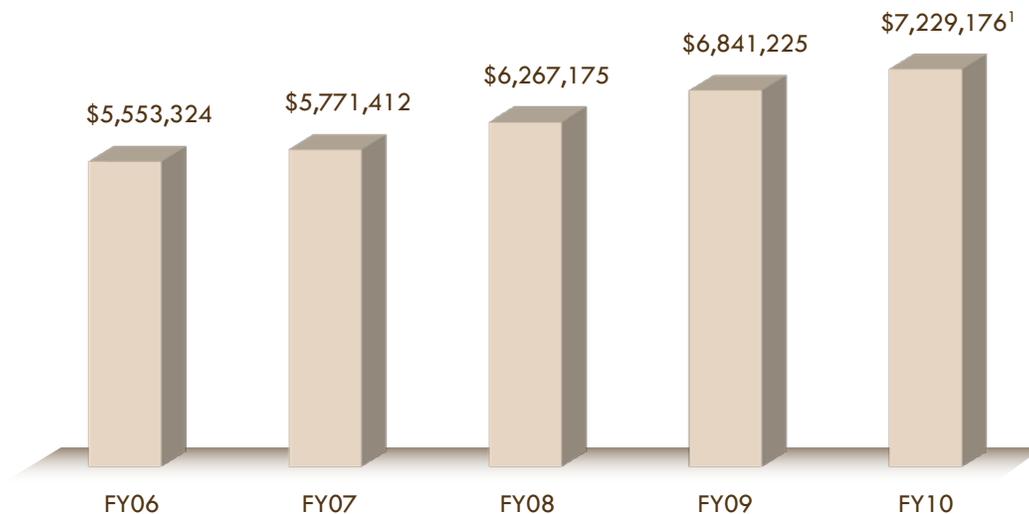
The administration of the Workers' Compensation Act and the various occupational safety laws is funded by an assessment to Plan 1 (self-insured employers), Plan 2 (private insurance carriers), and Plan 3 (Montana State Fund). Section 39-71-201, MCA, requires the administrative assessment to be up to three percent of benefits paid during the preceding calendar year for injuries and occupational diseases covered under the Workers' Compensation Act, without regard to the application of any deductible, whether the employer or the insurer pays the losses. Benefits included in the calculation are: (1) compensation benefits paid and (2) medical benefits paid (except payments in excess of \$200,000 per occurrence, which are exempt from the assessment).

### DLI Functions funded by the administrative assessments:

- Legal functions of the Workers' Compensation Court and the Hearings and Legal Bureaus;
- Administration of the Employment Relations Division, including the Workers' Compensation Database;

- Claims management, data analysis, mediation, medical regulations, and administration functions of the Claims Assistance Bureau;
- Self-insurance, carrier compliance, Professional Employer Organizations (PEOs), Managed Care Organizations and administration functions of the Workers' Compensation Regulation Bureau; and
- Occupational safety statistics, public facility inspections, OSHA on-site consultation grant match, mining inspection, MSHA mine training grant match and safety culture functions of the Safety & Health Bureau.
- A one time only, two year allocation of \$1,000,000 was given to the WorkSafeMT Program beginning in FY10 – an educational, outreach program to help businesses around the state improve safety awareness, safety programs, and safety culture. Approximately \$450,000 was expended in FY10.

Figure 6.3  
**Workers' Compensation Assessments as Expended**  
 By Fiscal Year of Expenditure



<sup>1</sup> Does not include one time only allocation for start up costs of WorkSafeMT.

### Introduction

The purpose of the Subsequent Injury Fund (SIF) is to assist individuals with a permanent disability that is a hindrance to obtaining employment, by offering a financial incentive to employers to hire SIF-certified individuals. Many states have similar funds called either subsequent or second injury funds. Montana’s program is funded through an annual assessment on Montana Plan 1 workers’ compensation employers and a surcharge on premium for Plan 2 and Plan 3 policyholders.

The assessment is based on a percentage of the compensation and medical benefits paid in Montana by each insurer in the preceding calendar year. The rate is set by the Employment Relations Division based on the total amount of paid losses reimbursed by the fund in the preceding calendar year and the expenses of administration less other income.

The SIF program reduces the liability of the employer by placing a limit (104 weeks of wage loss benefits or

104 weeks following the injury for medical benefits) on the amount an employer, or the employer’s insurer, will have to pay if the worker becomes injured or re-injured on the job. When that limit is reached, SIF assumes liability for the claim. This helps keep the modification factor low for an insured employer and is a direct recovery of expense for a self-insured employer. If a certified worker does become injured on the job, the worker remains entitled to all benefits due under the Workers’ Compensation Act.

### Status Update

Use of the Fund by insurers to recoup claim payments has increased over the last 5 year period from a low of \$425,783 in FY06 to a high of \$817,130 in FY09. Applications from individuals seeking certification under the program have remained fairly constant each year with 175 new certifications approved in FY10. The total number of individuals currently certified under the program is 4,551.

Table 6.4  
**SIF Payments and Dollars Assessed**  
 By Plan Type<sup>2</sup> and Fiscal Year

Plan Type	FY06		FY07		FY08		FY09		FY10	
	Payments	Assessment	Payments	Assessment	Payments	Assessment	Payments	Assessment	Payments	Assessment
Plan 1	\$184,279	0	\$340,568	0	\$405,627	\$89,001	\$244,436	\$107,095	\$77,273	\$121,149
Plan 2	\$17,545	0	\$250,886	0	\$103,636	\$149,929	\$137,534	\$156,197	\$175,272	\$200,701
Plan 3	\$223,959	0	\$1,183	0	\$118,420	\$213,388	\$435,160	\$269,964	\$88,517	\$313,037
<b>Total</b>	<b>\$425,783</b>	<b>\$0</b>	<b>\$592,637</b>	<b>\$0</b>	<b>\$627,683</b>	<b>\$452,318</b>	<b>\$817,130</b>	<b>\$533,256</b>	<b>\$341,062</b>	<b>\$634,887</b>

<sup>2</sup> Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund.

## Introduction

The primary roles of the Uninsured Employers' Fund (UEF) are to provide medical and indemnity benefits to employees injured on the job while working for an uninsured employer and to ensure that employers comply with Montana's workers' compensation laws so that employees are properly covered.

The UEF is self-funded. Revenues are collected from uninsured employers from two sources:

1. Penalties. UEF levies and collects penalties for the time that the employer was legally required to have a workers' compensation policy until they are in compliance. Penalties can be double the insurance premium that would have been paid by the employer, or \$200.00, whichever is greater. Penalties levied by UEF are based on the cost of the policy that should have been in place during the uninsured period, based on the company's industry code.
2. Recoupment of benefits paid. UEF collects from uninsured employers all medical and indemnity benefits paid by UEF on behalf of injured employees. UEF has the statutory authority to charge late fees and interest and can file liens on real property while trying to collect the debt owed.

## Status Update

UEF's revenues from penalties have declined since 2007 due to, but not limited to, the following factors:

- Effect of the economy on small businesses' hiring practices in that businesses are not hiring as many employees or are using independent contractors in more instances, which are not subject to workers' compensation coverage requirements.
- Increased efforts and successes by both the UEF and the Independent Contractor Central Unit (ICCU) to market and educate employers on workers' compensation coverage requirements and conduct timely enforcement activities.

- Revisions to various statutes, including the Independent Contractor changes in 2005 and 39-71-401(2)(r)ii that allowed exemption from workers' compensation coverage for certain types of corporations, have reduced the number of businesses requiring coverage.
- UEF's ability to act more quickly to bring employers in compliance has significantly reduced the period of time the penalty is based on, which reduces the penalty amounts. Increased coordination and improved relationships between UEF, ICCU and Unemployment Insurance has been a major factor in its ability to act more quickly.

The number of penalties levied by UEF is increasing, while the average dollar value of each penalty is decreasing. The increase in penalty numbers is due in part to a greater level of non-compliance in non-construction based businesses. These businesses tend to have lower cost industry code premiums, and coupled with the trend of increased compliance in the construction industry, has led to lower overall penalty assessments. The construction industry, which by its nature has relatively high-cost policies and resulting large dollar penalties, historically made up a large percentage of UEF revenues.

Indemnity benefit expenses trended upward from FY06 to FY09, before leveling off in FY10. Medical expenses peaked in FY09 at close to \$900,000, but decreased almost 59% in FY10. This decrease reflects the impact of reduction in construction-related injuries corresponding to the reduced construction activity in the state.

After a high of 115 accepted injuries covered by UEF in FY06, the number of injuries averaged about 63 per year from FY07 to FY10. Sixty-one injuries were accepted in FY10.

Figure 6.5  
**Uninsured Employers' Fund**  
 Financial Activity by Fiscal Year of Payment

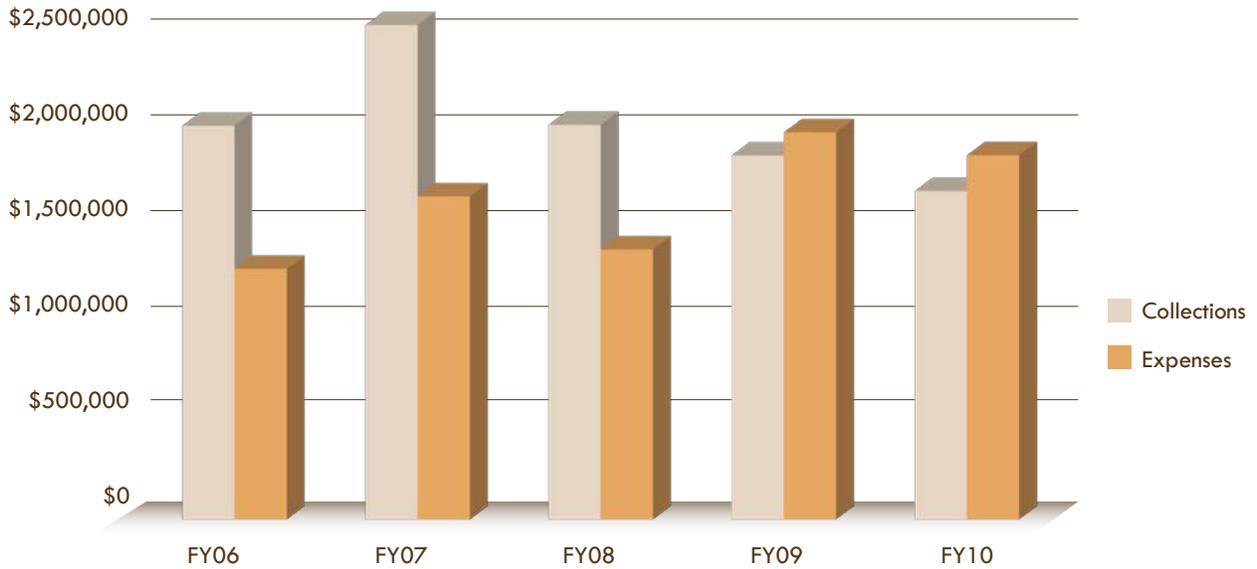


Table 6.5  
**Uninsured Employers' Fund**  
 Financial Activity by Fiscal Year of Payment

	FY06	FY07	FY08	FY09	FY10
Collections	\$2,051,992	\$2,574,227	\$2,056,374	\$1,896,480	\$1,710,987
Expenses	\$1,304,891	\$1,682,811	\$1,406,550	\$2,018,128	\$1,897,882

Figure 6.6  
**UEF Medical and Indemnity Payments**  
 By Fiscal Year of Payment

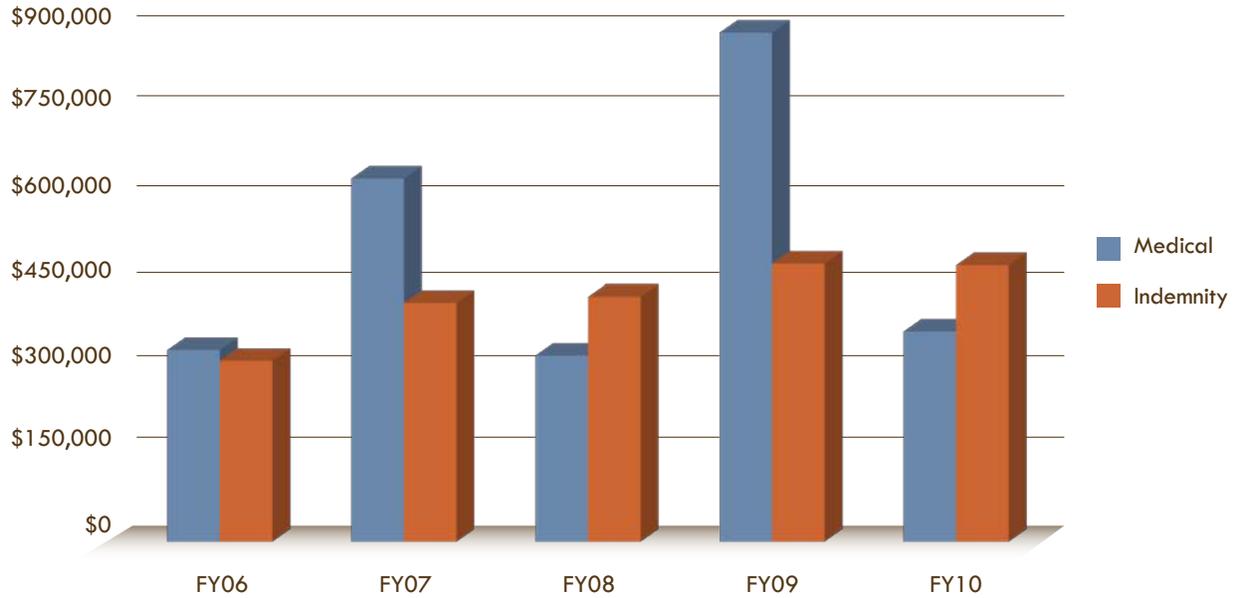


Table 6.6  
**UEF Medical and Indemnity Payments**  
 By Fiscal Year of Payment

	FY06	FY07	FY08	FY09	FY10
Medical	\$336,953	\$637,303	\$327,124	\$893,731	\$369,617
Indemnity	\$317,805	\$419,541	\$430,178	\$487,813	\$485,124

**Introduction**

The Construction Contractor Registration (CR) program facilitates the registration of construction contractors working in Montana. All construction contractors working in Montana that have employees, are a corporation, or are a manager-managed limited liability company doing construction work in Montana, are required by law to register. Hiring a registered construction contractor does not guarantee quality assurance, nor does it mean that they are licensed, bonded or tested.

The program serves three primary purposes:

1. Verify the contractor has complied with the workers’ compensation insurance laws;
2. Prevent the liability of a workplace injury from moving upward from one contractor to another; and
3. Level the playing field by assuring all construction contractors with employees have a Montana workers’ compensation insurance policy.

**Status Update**

Montana’s workers’ compensation law does not allow coverage from other state’s workers’ compensation plans in the construction industry. An out-of-state company only bidding jobs in Montana, may ask for

a “Bid Only” registration. “Bid Only” contractors numbered 268 in FY10. Out-of-state construction contractors working in Montana must have a workers’ compensation policy specific to Montana. Construction companies with “Bid Only” certificates must modify their registration before they can start working in Montana

There were 6,295 CR applications in FY10. Approximately 3,099 registered contractors had employees. The remaining 3,196 contractors did not have employees and would not be required to have a workers’ compensation policy.

The number of CR applications will generally be higher in even years because of the CR statute that was implemented. Trends are best analyzed using even year data. Using the even years, a downward trend in applications is evident, from 6,820 in FY04 to 6,295 in FY10. This could be due to the recent economic conditions nationally and on the state level.

The number of active CRs was 10,965 in FY10, which is down slightly from the FY08 high of 11,227, but up over the average number of active CRs during the even years of 10,645.

The website [www.mtcontractor.com](http://www.mtcontractor.com) provides more information on construction contractor registration in Montana.

Table 6.7  
**Registered Construction Contractors**  
By Fiscal Year

	FY04	FY05	FY06	FY07	FY08	FY09	FY10
Applications Received	6,820	4,946	6,746	5,478	6,773	5,265	6,295
Active CRs	10,601	10,304	10,108	10,736	11,227	11,107	10,965
Bid Only	223	278	159	165	200	178	268
With Employees	2,918	3,573	3,115	2,601	3,607	2,652	3,099

## INDEPENDENT CONTRACTOR EXEMPTION CERTIFICATES

An Independent Contractor Exemption Certificate (ICEC) allows the owner of a business, sole proprietor, working partner of a partnership, working partner of a limited liability partnership, or a working member of a member-managed limited liability company (LLC) to exempt themselves from workers' compensation coverage by applying for and receiving an ICEC for the specific occupation they want to work as an independent contractor. A manager of a manager-managed LLC and a corporate officer of a corporation with more than 20% of the shares in the corporation or 20% ownership in the LLC may apply for an ICEC.

ICECs are issued through the Independent Contractor Central Unit. It is the intent of the program to assure only those individuals who are truly established in a business receive an ICEC and those who hire them can rely on the certificate as conclusive proof the worker is an independent contractor. The ICEC is valid for two years unless it is revoked, denied or suspended.

Certificates may be suspended if control is exerted over the worker by the hiring agent enough to destroy the independent contractor relationship. They may also be revoked if a certificate holder fails to cooperate with the department. During FY10, 575 investigations took place across the state either affirming independent contractor relationships or requiring workers' compensation policies. The department revoked 27 exemption certificates for failure to cooperate with the department's investigation.

One goal of the program is to educate the public of the rights and responsibilities of being an indepen-

dent contractor or hiring one. This is accomplished through seminars, presentations, home show participation, county fairs, news articles, a multi-media campaign, and as a last resort, penalty enforcement. Both the worker and those that hire them may be penalized. No penalties were issued in FY10.

During FY10 the ICCU implemented a simplified renewal process, which had been scheduled to begin in FY11. Since the implementation of the simplified renewal process, correspondence has been reduced by 53% and over 40 file cabinets of file storage were eliminated.

The number of active ICECs in FY10 was 17,120. The department received 9,385 applications during FY10, of which 9,030 were approved, 118 were denied for failure to provide the required business documentation, 183 are pending, and 54 were canceled because they no longer wanted the ICEC.

With 53% of the total applications received in FY10, the Construction industry is clearly the industry with the largest number of applicants. Administrative and Support and Waste Management and Remediation Services had 12% of the applications, followed by Transportation and Warehousing (10%) and Professional, Scientific and Technical Services (6%). Figure 6.9 categorizes all exemption applications received by the different industries.

The website [www.mtcontractor.com](http://www.mtcontractor.com) provides more information on construction contractor registration in Montana.

Table 6.8

### Independent Contractor Exemption Certificates

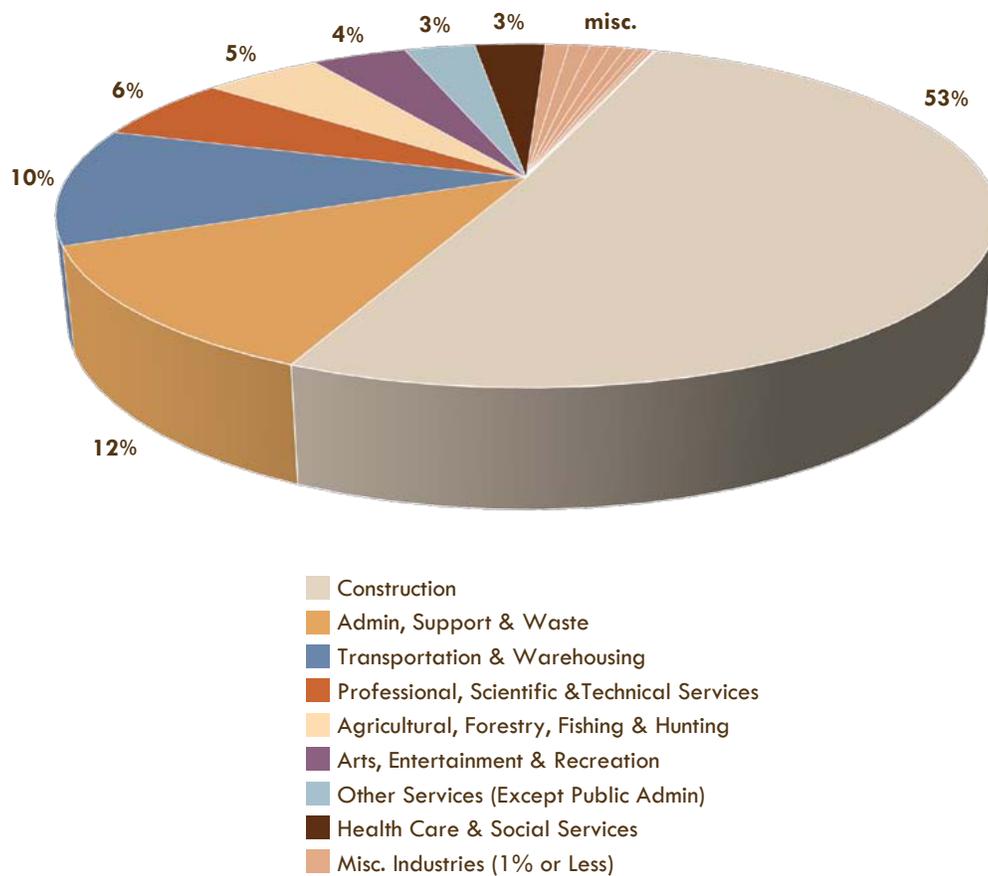
Active ICEC's and Applications Received by Fiscal Year

	FY05	FY06	FY07	FY08	FY09	FY10
Applications Rcvd	7,578	10,254	8,271	9,761	7,998	9,385
Active ICEC's	26,458	14,254	16,890	17,336	17,437	17,120

Figure 6.9

### Independent Contractor Exemptions Applications

By Industry - FY10



**Introduction**

A Professional Employer Organization (PEO) is a business which contracts its services to other businesses, called clients or members of the PEO. The PEO establishes a contractual relationship with its clients whereby the PEO pays wages, employment taxes, workers compensation premiums and employee benefits from the PEO’s account. PEOs are required to be licensed by the Department of Labor and Industry.

**Status Update**

In FY10, Employment Relations Division (ERD) licensed 36 PEOs. The number of PEO’s has remained fairly stable since FY2007.

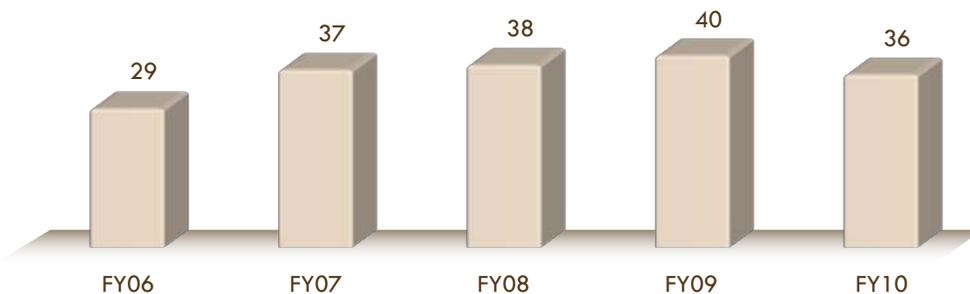
The number of client companies increased from 517 in FY09 to 529 in FY10, a 2% increase.

The number of leased employees decreased from 2,917 in FY09 to 2,696 in FY10, an 8% decrease. The average number of leased employees per client company decreased from 5.6 employees to 5.1. The decrease in leased employees could be partially affected by the recent national recession (December 2007-June 2009); Montana’s unemployment rate reached a high of 7.4% in August and September 2010.

**Significance Statement**

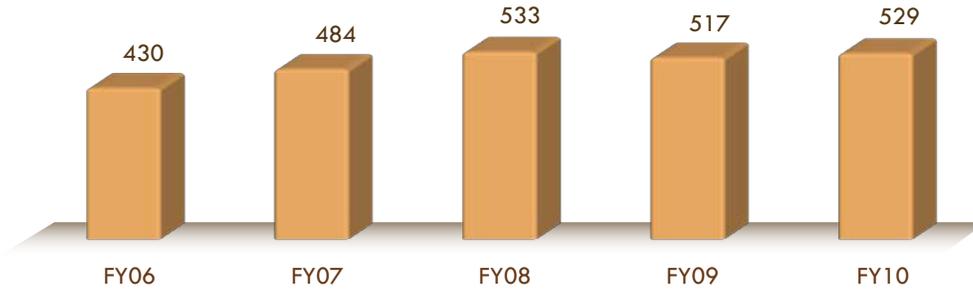
The legislature recognizes that there is a public need for professional employer services and finds it necessary in the interest of public health, safety, and welfare to establish standards for the operation, regulation, and licensing of professional employer organizations and groups in this state.

Figure 6.10  
**Licensed Professional Employer Organizations<sup>3</sup>**  
 By Fiscal Year



<sup>3</sup> Source: WC Regulation Bureau (licensed PEO’s)

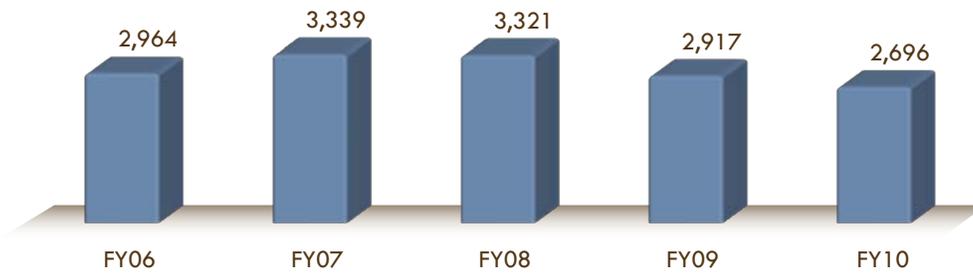
Figure 6.11  
**Number of Professional Employer Organization Clients<sup>4</sup>**  
 By Fiscal Year<sup>5</sup>



<sup>4</sup> Source: WC Regulation Bureau (Client list)

<sup>5</sup> In FY09 a more accurate and standardized computation method was devised to calculate the number of clients in our database.

Figure 6.12  
**Leased Employees<sup>6</sup>**  
 Average Monthly Count by Fiscal Year



<sup>6</sup> Source: Unemployment Insurance Tax System (UIT)

## Safety & Health

The purpose of the Safety and Health Bureau (SHB) is to raise the level of awareness of Montana employers and employees about workplace safety and health through inspection, consultation, technical assistance and training.

The SHB helps identify workplace safety and health hazards before they become accidents by offering safety consultations and providing industrial hygiene services. They train employers and employees in safe work practices and help set up effective safety and health programs.

In 2010, SHB conducted:

- 263 onsite visits to public employers
- 149 onsite consultations with private employers
- 965 technical assistance
- SafetyFestMT training
  - In Helena, March 30- April 2, 2010
    - 465 participants
    - 36 classes
    - 12 instructors
  - In Missoula, December 6-10, 2010
    - 516 participants
    - 55 classes
    - 14 instructors

## Mine Safety

The SHB, under The Montana Coal Mine Safety Act (Montana Public Law 50-73-101 MCA), is responsible for workplace safety and health compliance in underground and surface coal mines. They conduct mine safety inspections and assist mine operators in safety training plan development. The SHB also inspects sand and gravel operations, under Montana Public Law 50-72-101, MCA.

The SHB partners with contractors to ensure Mine Safety and Health Administration (MSHA) compliance and works with multiple county, state and federal agencies to assist in accident investigations and safety. Under a grant from MSHA, the Bureau provides CPR training and certification, new miner training, annual refresher courses, as well as mine foreman training and certification at the employer's request.

In 2010, SHB conducted:

- 103 inspections of metal/non-metal mining operations
- 29 inspections of coal mines
- Mandatory training for miners
  - 2,692 participants
  - 150 courses
- First-aid, CPR, AED training at two SafetyFestMTs
  - 228 participants
  - 6 classes

## Montana Safety Culture Act

The Montana Safety Culture Act enacted by the 1993 Montana State Legislature encourages workers and employers to come together to create and implement a workplace safety philosophy. It is the intent of the act to raise workplace safety to a preeminent position in the minds of all Montana's workers and employers. It is the responsibility of employers to participate in the development and implementation of safety programs that will meet the specific needs of their workplace.

The SHB helps employers establish or strengthen a safety program appropriate to their business and employees' needs by incorporating the Montana Safety Culture Act.

**Introduction**

The 2009 Legislative Session passed the new voluntary Claims Examiner Certification<sup>7</sup> process. The purpose of this legislation was to establish standards for the voluntary certification of workers’ compensation

claims examiners handling worker’s compensation claims in the State of Montana. It provides minimum qualifications, an examination, a two-year certification and renewal process, continuing education requirements, and standards for the qualifications of instructors.

<sup>7</sup> §39-71-320, MCA (2009)

Figure 6.13  
**Examiner Certification Activities**  
 FY10

Examiners Certified	136
Examiners that took the examination	23
Examiners that met the waiver requirements	113
Courses approved	9



## Appendices

- Definitions
- Methodology
- Data Sources
- Further Information





**Calendar Year:** The year beginning January 1st and ending December 31st.

**Cause of Injury Code:** The code that corresponds to the cause of injury or occupational disease. Maintained by the Workers' Compensation Insurance Organizations, the codes for cause of injury are grouped into ten categories. (<http://www.wcio.org/Document%20Library/InjuryDescriptionTablePage.aspx>)

**Burn, Hot/Cold exposures – Contact With:**

Chemicals, hot objects or substances, temperature extremes, fire or flame, steam or hot fluid, dust, gases, fumes or vapors, welding operation, radiation, contact with, not otherwise classified (NOC), cold objects or substances, abnormal air pressure, electrical current

**Caught In, Under or Between:** Machine or machinery, object handled, caught in, under or between, NOC, collapsing materials (slides of earth).

**Fall, Slip, Trip:** From different level (elevation), from ladder or scaffolding, from liquid or grease spills, into openings, on same level, slip or trip did not fall, fall slip or trip NOC, on ice or snow, on stairs.

**Motor Vehicle:** Crash of water vehicle, crash of rail vehicle, collision or sideswipe with another vehicle, collision with a fixed object, crash of airplane, vehicle upset, motor vehicle, NOC.

**Puncture, Cut, Scrape:** Broken glass, hand tool, utensil; not powered, object being lifted or handled, powered hand tool, appliance, cut, puncture, scrape, NOC.

**Strain:** Continual noise, twisting, jumping or leaping, holding or carrying, lifting, pushing or pulling, reaching, using tool or machinery, strain or injury by NOC, wielding or throwing, repetitive motion.

**Striking Against or Step On:** Moving part of machine, object being lifted or handled, sanding, scraping, cleaning operation, stationary object, stepping on sharp object striking against or stepping on NOC.

**Struck By Object:** Fellow worker, patient or other person, falling or flying object, hand tool or machine in use, motor vehicle, moving parts of machine, object being lifted or handled, object handled by others, struck or injured NOC, animal or insect, explosion or flare back.

**Miscellaneous Causes:** Absorption, ingestion, or inhalation NOC, foreign matter (body) in eye (s), natural disasters, person in act of a crime, other than physical cause of injury, mold, terrorism, cumulative NOC, other – miscellaneous, NOC.

**Compensation Benefits:** Wage loss, medical, rehabilitation and all other benefits that are payable under the Montana Workers' Compensation and Occupational Disease Acts.

**Employment Relations Division (ERD):** The State of Montana's regulatory agency for workers' compensation. This division is part of Department of Labor & Industry.

**Fiscal Year:** The State of Montana's fiscal year begins July 1st and ends June 30th of the following year. (Example: 07/01/09 - 06/30/10 = FY10)

**First Report of Injury and Occupational Disease (FROI):** The initial report designed to notify parties of the occurrence of an injury or occupational disease. The FROI contains basic claim information about the worker, accident, employer and insurer.

**Indemnity Benefits:** Any payment made directly to the worker (or the worker's beneficiaries), other than a medical benefit. The term includes payments made pursuant to a reservation of rights, or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for items such as meals, travel or lodging. ARM 24.29.4303(4)

**International Association of Industrial Accident Boards and Commissions (IAIABC):** An organization of workers' compensation specialists including government officials and regulators, business and labor leaders, medical providers, law firms, insurance carriers, and rehabilitation and safety experts. Working groups work jointly to standardize reporting of workers' compensation data. Standards have been developed for communicating data electronically through Electronic Data Interchange (EDI). [www.iaiaabc.org](http://www.iaiaabc.org).

**Montana Code Annotated (MCA):** The definitive guide to Montana laws, consisting of the Constitution, codes and statutes. The MCA is normally published each odd numbered year incorporating changes made by the Legislative session of that year.

**Nature of Injury Code:** The code that corresponds to the nature of the injury or occupational disease. Maintained by the Workers' Compensation Insurance Organizations, the codes for nature are grouped into eight categories. A ninth category "All Other Claims, NOC", was created to account for the records that did not have a nature code entered. (<http://www.wcio.org/Document%20Library/InjuryDescriptionTablePage.aspx>)

**All Other Claims, NOC:** Includes asphyxiation, loss of circulation, infection, concussion, heart problems, vision loss, hearing loss, poisoning, fainting, no physical or psychological injuries; includes all records where nature code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.

**Amputation:** Includes loss of a limb that involves bone, loss of part of an organ, enucleation or severance of a body part.

**Bruise or Swelling:** Includes contusions, broken blood vessels and inflammation.

**Burn or Exposure:** Includes electrical shocks, chemical burns, temperature extremes, freezing, sunburns, heat stroke and lightning.

**Cut or Abrasion:** Includes slivers, lodged small objects, open wounds, scrapes and needle sticks.

**Fracture:** Includes any breaking of a bone.

**Gunshot:** Includes instances where injury arises from being struck by the fired projectile, burned by muzzle blast, or deafened by report of gunshot.

**Multiple Injuries:** Involves more than one Nature of Injury Code.

**Occupational Disease:** Includes repetitive motion, loss of hearing or sight, respiratory conditions, poisoning, mental disorders, radiation, heart disease, cancer, AIDS, carpal tunnel and any disease resulting from work related experiences.

**Sprain or Rupture:** Includes strains, dislocations, hernias, organ ruptures and trauma to joints or muscles.

**North American Industry Classification System (NAICS) Codes:** The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS codes are grouped into 20 different industrial divisions, as listed below with examples of each division:

**Agriculture, Forestry, Fishing and Hunting:** This sector comprises establishments primarily engaged in growing crops, raising animals, harvesting timber, and harvesting fish and other animals from a farm, ranch, or their natural habitats.

**Mining, Quarrying, and Oil and Gas Extraction:** This sector comprises establishments that extract naturally occurring mineral solids, such as coal and ores; liquid minerals, such as crude petroleum; and gases, such as natural gas. The term mining is used in the broad sense to include quarrying, well operations, beneficiating (e.g., crushing, screening, washing, and flotation), and other preparation customarily performed at the mine site, or as a part of mining activity.

**Utilities:** This sector comprises establishments engaged in the provision of the following utility services: electric power, natural gas, steam supply, water supply, and sewage removal. Within this sector, the specific activities associated with the utility services provided vary by utility: electric power includes generation, transmission, and distribution; natural gas includes distribution; steam supply includes provision and/or distribution; water supply includes treatment and distribution; and sewage removal includes collection, treatment, and disposal of waste through sewer systems and sewage treatment facilities.

**Construction:** This sector comprises establishments primarily engaged in the construction of buildings or engineering projects (e.g., highways and utility systems). Establishments primarily engaged in the preparation of sites for new construction and establishments primarily engaged in subdividing land for sale as building sites also are included in this sector.

**Manufacturing:** This sector comprises establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products. The assembling of component parts of manufactured products is considered manufacturing, except in cases where the activity is appropriately classified Construction.

**Wholesale Trade:** This sector comprises establishments engaged in wholesaling merchandise, generally without transformation, and rendering services incidental to the sale of merchandise. The merchandise described in this sector includes the outputs of agriculture, mining, manufacturing, and certain information industries, such as publishing.

**Retail Trade:** This sector comprises establishments engaged in retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise.

**Transportation and Warehousing:** This sector includes industries providing transportation of passengers and cargo, warehousing and storage for goods, scenic and sightseeing transportation, and support activities related to modes of transportation. Establishments in these industries use transportation equipment or transportation related facilities as a productive asset. The type of equipment depends on the mode of transportation. The modes of transportation are air, rail, water, road, and pipeline.

**Information:** This sector comprises establishments engaged in the following processes: (a) producing and distributing information and cultural products, (b) providing the means to transmit or distribute these products as well as data or communications, and (c) processing data.

**Finance and Insurance** This sector comprises establishments primarily engaged in financial transactions (transactions involving the creation, liquidation, or change in ownership of financial assets) and/or in facilitating financial transactions.

**Real Estate and Rental and Leasing:** This sector comprises establishments primarily engaged in renting, leasing, or otherwise allowing the use of tangible or intangible assets, and establishments providing related services. The major portion of this sector comprises establishments that rent, lease, or otherwise allow the use of their own assets by others. The assets may be tangible, as is the case of real estate and equipment, or intangible, as is the case with patents and trademarks.

**Professional, Scientific, and Technical Services:**

This sector comprises establishments that specialize in performing professional, scientific, and technical activities for others. These activities require a high degree of expertise and training. The establishments in this sector specialize according to expertise and provide these services to clients in a variety of industries and, in some cases, to households. Activities performed include: legal advice and representation; accounting, bookkeeping, and payroll services; architectural, engineering, and specialized design services; computer services; consulting services; research services; advertising services; photographic services; translation and interpretation services; veterinary services; and other professional, scientific, and technical services.

**Management of Companies and Enterprises:** This sector comprises (1) establishments that hold the securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest or influencing management decisions or (2) establishments (except government establishments) that administer, oversee, and manage establishments of the company or enterprise and that normally undertake the strategic or organizational planning and decision making role of the company or enterprise. Establishments that administer, oversee, and manage may hold the securities of the company or enterprise.

**Administrative and Support and Waste**

**Management and Remediation Services:** This sector comprises establishments performing routine support activities for the day-to-day operations of other organizations. These essential activities are often undertaken in-house by establishments in many sectors of the economy. The establishments in this sector specialize in one or more of these support activities and provide these services to clients in a variety of industries and, in some cases, to households. Activities performed include: office administration, hiring and placing of personnel, document preparation and similar clerical services, solicitation, collection, security and surveillance services, cleaning, and waste disposal services.

**Educational Services:** This sector comprises establishments that provide instruction and training in a wide variety of subjects. This instruction and training is provided by specialized establishments, such as schools, colleges, universities, and training centers. These establishments may be privately owned and operated for profit or not for profit, or they may be publicly owned and operated. They may also offer food and/or accommodation services to their students.

**Health Care and Social Assistance:** This sector comprises establishments providing health care and social assistance for individuals. The sector includes both health care and social assistance because it is sometimes difficult to distinguish between the boundaries of these two activities. The industries in this sector are arranged on a continuum starting with those establishments providing medical care exclusively, continuing with those providing health care and social assistance, and finally finishing with those providing only social assistance. The services provided by establishments in this sector are delivered by trained professionals. All industries in the sector share this commonality of process, namely, labor inputs of health practitioners or social workers with the requisite expertise. Many of the industries in the sector are defined based on the educational degree held by the practitioners included in the industry.

**Arts, Entertainment, and Recreation:** This sector includes a wide range of establishments that operate facilities or provide services to meet varied cultural, entertainment, and recreational interests of their patrons. This sector comprises (1) establishments that are involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing; (2) establishments that preserve and exhibit objects and sites of historical, cultural, or educational interest; and (3) establishments that operate facilities or provide services that enable patrons to participate in recreational activities or pursue amusement, hobby, and leisure-time interests.

**Accommodation and Food Services:** This sector comprises establishments providing customers with lodging and/or preparing meals, snacks, and beverages for immediate consumption. The sector includes both accommodation and food services establishments because the two activities are often combined at the same establishment.

**Other Services (except Public Administration):** This sector comprises establishments engaged in providing services not specifically provided for elsewhere in the classification system. Establishments in this sector are primarily engaged in activities, such as equipment and machinery repairing, promoting or administering religious activities, grantmaking, advocacy, and providing drycleaning and laundry services, personal care services, death care services, pet care services, photofinishing services, temporary parking services, and dating services.

**Public Administration:** This sector consists of establishments of federal, state, and local government agencies that administer, oversee, and manage public programs and have executive, legislative, or judicial authority over other institutions within a given area. These agencies also set policy, create laws, adjudicate civil and criminal legal cases, provide for public safety and for national defense. In general, government establishments in the Public Administration sector oversee governmental programs and activities that are not performed by private establishments. Establishments in this sector typically are engaged in the organization and financing of the production of public goods and services, most of which are provided for free or at prices that are not economically significant.

**Other Benefit Codes:** Codes that identify the type of other benefits paid to date or recovered for an injury or occupational disease. The following are IAIABC definitions for the Paid to Date/Recoveries codes:

**Consultant/Expert Witness Fees Paid to Date by Insurer:** Sum of fees paid to expert witnesses (in a legal proceeding for expert testimony or opinion) for this claim.

**Employer’s Deductibles Recovery:** Sum of monies recovered through Insured reimbursement of deductible amounts for this claim.

**Funeral Expenses Paid to Date:** Sum of the funeral expenses for this claim.

**Hospital Costs Paid to Date:** Sum of costs of both inpatient and outpatient services which the injured employee received because of the work related injury.

**Employer’s Legal Expense Paid to Date:** Sum of the employer’s legal expenses paid for this claim.

**Other Medical Paid to Date:** Sum of medical costs not included in payments to physicians or hospital costs, i.e. laboratory tests, prescriptions.

**Other Vocational Rehabilitation Education Paid to Date:** Sum of vocational rehabilitation services not otherwise reported for this claim.

**Pharmaceutical Paid to Date:** Sum of medication payments for this claim.

**Overpayment Recovery:** Sum of monies recovered due to overpayment of indemnity, medical or expenses for a claim.

**Subrogation Recovery:** Sum of monies recovered through subrogation for this claim.

**Total Payments to Physicians Paid to Date:** Sum of services paid to physicians for this claim.

**Unspecified Recovery:** Sum of monies recovered through salvage, apportionment/contribution, and all others not otherwise defined for a claim.

**Vocational Rehabilitation Education Paid to Date:** Sum of vocational rehabilitation education payments (including tuition, books, tools, transportation and additional living expenses) for this claim.

**Vocational Rehabilitation Evaluation Expense Paid to Date:** Sum of vocational rehabilitation evaluation services (testing and evaluating the claimant’s ability, aptitude, or attitude in determining suitability for vocational rehabilitation or placement) for this claim.

**Part of Body Code:** The code which corresponds to the part of body to which the employee sustained injury or occupational disease. Maintained by the Workers' Compensation Insurance Organizations, the code definitions for part of body are divided into six categories. The additional categories of "Wrist", "Back" and "Knee" are reported to provide greater detail. A tenth category, "All Other Claims, NOC", was created to account for the records that did not have a part of body code entered. (<http://www.wcio.org/Document%20Library/InjuryDescriptionTablePage.aspx>)

**All Other Claims, NOC:** Includes all records where the part of body code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.

**Back:** Includes the upper and lower back, disc, or lumbar and sacral vertebrae.

**Head:** Includes multiple head injuries, skull, brain, ears, eyes, nose, teeth, mouth, soft tissue or facial bones.

**Knee:** Includes the patella (kneecap) and supporting ligaments.

**Lower Extremities:** Includes multiple lower extremities, hip, upper leg, lower leg, ankle, foot and toe.

**Multiple Body Parts:** Includes artificial appliances, multiple body parts or body systems.

**Neck:** Includes multiple neck injuries, vertebrae, disc, spinal cord, larynx, soft tissue or trachea.

**Trunk:** Includes multiple trunk injuries, disc, chest, sacrum and coccyx, pelvis, spinal cord, internal organs, heart, lungs, abdomen (including groin) and buttocks.

**Upper Extremities:** Includes multiple upper extremities, upper arm, elbow, lower arm, fingers, thumb and shoulders.

**Wrist:** Includes hand and wrist or just wrist injuries.

**Occupational Disease:** Harm or damage caused by work-related events that occur on more than a single day or work shift. It includes acute chronic illnesses or diseases caused by inhalation, absorption, ingestion or overuse syndrome.

**Occupational Injury:** A cut, fracture, sprain, amputation, or other physical harm, which results from a work accident on a single day or during a single work shift.

**Permanent Partial Disability (PPD):** Permanent impairment resulting from an injury or occupational disease, after achieving maximum medical improvement that impairs the worker's ability to work and causes an actual wage loss. PPD benefits are calculated using  $66\frac{2}{3}\%$  of the wages received at the time of injury, not to exceed half the state's average weekly wage at the time of injury. Maximum length for PPD benefits is determined by the date of injury.

**Permanent Total Disability (PTD):** A physical condition resulting from an injury or occupational disease, after achieving maximum medical improvement, in which the worker has no reasonable prospect of physically performing regular employment. PTD benefits are calculated using  $66\frac{2}{3}\%$  of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury. The injured worker may receive cost of living increases.

**Plan Type:** The type of workers' compensation insurance coverage chosen by an employer. There are three different types of insurance plans:

**Plan 1:** Self-insurance provided by employers who have sufficient financial strength to cover potential workers' compensation claims. If an injury occurs, a self-insured employer will pay the expenses and benefits.

**Plan 2:** Insurance coverage provided by a private insurance company.

**Plan 3:** Insurance coverage provided by the Montana State Compensation Insurance Fund (Montana State Fund).

**UEF:** Uninsured Employers' Fund (UEF).

**Professional Employer Organizations (PEO):** Professional Employer Organizations provide human resource services for small to medium size businesses. Examples of services provided by PEOs are staffing, securing unemployment and workers' compensation insurance, and handling payroll taxes and medical benefits. PEOs must be licensed by ERD prior to contracting with any client companies.

**Subsequent Report of Injury (SROI):** A report that gives indemnity and medical payment information on an injured worker's claim. The report includes the date benefit payments begin and amounts paid by benefit type.

**Temporary Partial Disability (TPD):** A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement that causes a partial loss of wages. TPD benefits are the difference between the injured worker's actual weekly wage and the actual weekly wage earned during the injured worker's temporary partial disability. They are subject to a maximum of 40 hours per week and capped at the injured worker's Temporary Total Disability rate.

**Temporary Total Disability (TTD):** A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement that causes a total loss of wages. TTD benefits are calculated using  $66\frac{2}{3}\%$  of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury.

**Vocational Rehabilitation Benefits:** Benefits paid to the injured worker at the worker's TTD rate. The benefits are paid for the period specified in the job placement or retraining plan, not to exceed 104 weeks. The plan is prepared by the rehabilitation provider and agreed to by the insurer and injured worker.

## Injury and Occupational Disease Data

The First Report of Injury and Occupational Disease (FROI) is used to gather injury and occupational disease data. FROIs consist of four sections that provide information on the worker, accident, employer and insurer. It is completed and submitted to ERD by employees, employers or insurers. The injury or occupational disease may be reported under “NOC-Not Otherwise Classified”, due to lack of data or the inability to categorize the data.

The FROIs in this study include all injuries and occupational diseases reported to ERD; however, all injuries and occupational diseases that occurred in Montana may not have been reported.

## Subsequent Report Data

The Subsequent Report (SROI) is completed for each individual claim with indemnity benefits and is submitted to ERD by adjusters or insurers on every six-month anniversary of the date of injury, until the claim is closed or additional compensation or medical payments are not anticipated. The form includes claimant identification information, status of the claim, type of benefits paid and benefit payment amounts.

The study includes data reported to ERD on injury and occupational disease indemnity claims. Subsequent Reports may not have been submitted to ERD for all indemnity claims.

## Benefits Section Report Methodology

The benefit information used to determine the amounts and dates of paid benefits is extracted from Subsequent Reports of Injury (SROIs). SROIs are reports that the DLI requires insurance companies to submit at six month intervals from the date of injury throughout the life of a claim with indemnity benefits.

The reports provide updates as to the status of an indemnity claim, including information on the wage loss and medical benefits paid.

For wage loss benefits, the SROI contains the amount paid for each type of wage loss benefit and specifies both the date benefits began and the date through which the stated benefit amount was paid.

For medical benefits, the payment start and end dates are not explicitly stated. The medical benefit information is required to be up-to-date when the SROI is submitted; therefore, the SROI submission date is used as the date through which medical benefit payment information is current. A SROI must be submitted within six months of the payment of medical benefits; accordingly, the most recent of the date of injury or the date six months previous to the SROI submission date or the date immediately after the previous SROI submission date is used as the benefit payment start date.

For example, the injury date for a claim is 8/1/1999. The first SROI with medical benefit paid to physicians (\$500) was submitted on 12/25/1999. Therefore the payment (\$500) start date was 8/1/1999 and the end date was 12/25/1999. The second SROI was submitted on 7/3/2000. The total payment to physicians paid to date was \$1000. The benefit difference between the two submitted SROI was \$500, paid from 1/3/2000 to 7/3/2000.

For each type of benefit, the paid amount was distributed proportionally over the months between the payment start and end dates. The monthly benefit amounts were inflation adjusted to December 2009 dollars using CPI-U provided by the U. S. Department of Labor Bureau of Labor Statistics. Next, the monthly benefit amounts were aggregated by year from date of injury.

To illustrate this methodology, assume a benefit is paid from 2/1/2000 to 4/1/2001 for an injury that occurred on 8/1/1999. The benefits (post inflation adjustment) paid from 2/1/2000 to 8/1/2000 are reported in year one, and benefits paid from 8/2/2000 to 4/1/2001 are reported in year two.

For each claim and type of benefit an amount was identified in this manner for each year from the date of injury. The yearly amounts from all of the individual claims and relative benefit types were compiled and grouped by year, post the date of injury. All benefit amounts were adjusted for inflation and are stated in 2010 dollars.

**Department of Labor and Industry, Mediation Unit**

The Mediation Unit of ERD provided mediation section data.

**Department of Labor and Industry, Safety and Health Bureau**

The Safety and Health Bureau of ERD provided safety section data.

**Department of Labor and Industry, Workers' Compensation Regulation Bureau**

The Workers' Compensation Regulation Bureau provided data for the following sections of the report: Plan 1 Gross Annual Payroll, Plan 2 and 3 premium dollars, PEOs, Indemnity and Medical Benefits, SIF, Managed Care Organizations (MCOs), UEF, Construction Contractor Registration, and Independent Contractor Exemption Certificates.

**Department of Labor and Industry Hearings Bureau**

The Hearings Bureau provided Contested Case Hearings data.

**Quarterly Expenditure Reports**

Quarterly Expenditure Reports are reported to the DLI by carriers. Totals are data entered into WCAP in three categories: compensation, medical and miscellaneous.

**Regulatory Costs and Industrial Accident Rehabilitation Trust Fund Expenses**

These costs were obtained from the State's Accounting, Budgeting and Human Resource System (SABHRS).

**Workers' Compensation Court**

WCC data were provided by the court, which is administratively attached to the DLI.

**Workers' Compensation Database (WCAP)**

The database system was built at the request of the legislature to provide management information. Employers, insurers, claimants, attorneys, medical providers and other parties of the workers' compensation community in Montana provide data for the system. ERD maintains the database.

### Future Annual Reports

If you have suggestions or comments about this annual report, please share them with us. We are most interested in any comments or suggestions that will make this report more useful to Montanans in general and the workers' compensation system in particular. You may direct your comments to:

- Diana Ferriter, Bureau Chief  
Department of Labor and Industry  
Employment Relations Division  
Workers' Compensation Claims Assistance  
PO Box 8011  
Helena, MT 59604-8011  
Phone: (406) 444-1574  
Fax: (406) 444-4140  
Email: diferriter@mt.gov

### Forthcoming Special Studies

- The Attorney Fee Supplement
- First Look, key indicators from the upcoming Montana Workers' Compensation Annual Report, April 2011
- Occupational Health Indicators for Montana, A baseline occupational health assessment for calendar years 2004–2008, May 2011
- Research and survey studies on various topics related to workers' compensation

To request a copy of an Annual Report, Attorney Fee Supplement or special study please contact:

- Workers' Compensation Claims Assistance Bureau  
Department of Labor and Industry  
Employment Relations Division  
Attn: Kelli Street  
PO Box 8011  
Helena, MT 59604-8011  
Phone: (406) 444-1600  
Fax: (406) 444-4140  
Email: kstreet@mt.gov

### Internet Site

This report, previous reports and special reports are available on the Internet at the following web site:  
<http://erd.dli.mt.gov/workers-comp-claims-assistance/data-management-unit/publications.html>

### Planning Team

The Annual Report planning team consisted of the following staff:

- Diana Ferriter, Bureau Chief,  
Workers' Compensation Claims Assistance Bureau
- David Elenbaas, Supervisor,  
Data Management Unit
- Barb Gullickson, Supervisor,  
Claims Unit
- Debbie Blossom, Mediator,  
Mediation Unit
- Ryan Morton, Workers' Compensation Analyst,  
Data Management Unit
- Kristine Shields, Workers' Compensation Analyst,  
Data Management Unit
- Kelli Street, Graphic Designer,  
Data Management Unit





NO COST DISCLOSURE IS REQUIRED BECAUSE THE FY10 ANNUAL REPORT WAS PRINTED INTERNALLY AT THE EMPLOYMENT RELATIONS DIVISION.