

Montana Workers' Compensation

ANNUAL REPORT

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FISCAL YEAR 2011

Montana Department of Labor & Industry
Employment Relations Division

Annual Report

FISCAL YEAR 2011

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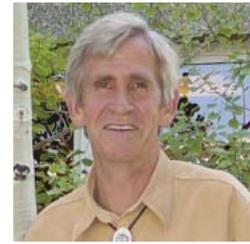
DECEMBER 2012



Montana Department of
LABOR & INDUSTRY

Governor Brian Schweitzer
Commissioner Keith Kelly

Commissioner's Office



Dear Colleagues and Fellow Montanans,

I am pleased to present the Workers' Compensation Annual Report for Fiscal Year 2011 to the Governor, the legislature, and stakeholders in Montana's workers' compensation system. The report provides an overview of system activities, workers' compensation statistics, and Departmental programs. With the 2013 legislative session on the horizon, I know many readers are interested in the comprehensive look that the Annual Report provides.

In summary, reported claims for Fiscal Year 2011 remained steady from 2010 and the overall incidence rate for Montana stayed the same at 6.4 per 100 employees. Montana's incidence rate has been identified as a key cost driver in Montana.

The Department has been busy developing and implementing programs and changes from the 2011 legislative session. I would like to highlight some of the items below.

The Department adopted rules for Medical Utilization and Treatment Guidelines on June 24, 2011. The guidelines are meant to ensure the most appropriate and best treatment is provided to injured workers to promote healing and early return to work. The Department has hired a full-time Medical Director, who in addition to annually reviewing and updating the Guidelines, will resolve disputes over medical care and administer Montana's medical fee schedules.

Administrative Rules were adopted and the new Stay at Work/Return to Work (SAW/RTW) Assistance Program was implemented in July 2012. Through this program, injured workers can request and receive assistance to help them stay at or return to work. Injured workers and their employers who participate in this voluntary program receive support with: 1) identifying work the employer can make available for transitional employment; 2) employer assistance for preparing and offering transitional employment; 3) understanding and working within the injured worker's work abilities as provided by the treating physician; and 4) professional vocational rehabilitation assistance for resolving barriers to SAW/RTW. The Department looks forward to seeing positive outcomes for employees and employers alike.

Beyond what I've highlighted here, you will find even more information about our Workers' Compensation system and the Department's programs in this report. I hope you find the information useful in understanding the changes in Montana's workers' compensation reform since the 2011 Legislative Session. The Department will continue to monitor Montana's workers' compensation system and the positive outcomes the policy changes have on employer costs and injured worker benefits.

Sincerely,

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 2011. 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 26,385 claims reported in Fiscal Year 2011 (FY11) compared to 26,295 reported in FY10, a slight increase. From FY10 to FY11, private carriers witnessed a 2% increase in the number of claims reported. The number of claims reported by self-insured carriers increased by 1%. Claims reported by Montana State Fund decreased by 1%.

Health Care and Social Assistance accounted for 17% of claims, Construction for 12%, Retail Trade for 12%, and Accommodation and Food Services for 12%. The most common nature of injury in FY11 was sprain/rupture, accounting for 44% of injuries. Strains, falls, slips, and trips were the cause of injury for 57% of claims. Upper extremities (31% of injuries) were injured more often than other parts of the body. In FY11, 6,325 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 FY11 totaled \$236.9 million, compared to \$251.4 million in FY10.

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 FY11, the unit processed 1,374 petitions, with a resolution rate of 78%.

The Hearings Bureau received 3 new petitions for contested case hearings in FY11.

The Workers' Compensation Court (WCC) received 233 petitions, dismissed 41 petitions and issued 167 decisions in FY11.

Workers' Compensation Assessments as Expended

The administrative costs to fund the regulation of the Workers' Compensation Act and the various occupational safety laws in Montana are collected through an assessment paid by employers enrolled in Plan 1 (self-insured), Plan 2 (private insured) and Plan 3 (Montana State Fund), pursuant to 39-71-201, MCA. Administration costs in FY11 were \$6.72 million.

The amount of the administrative assessment can be up to 3% of the prior calendar year's paid claims as reported by all carriers. The assessment for the self-insured employers is directly billed and paid. The assessment for all other insured employers is converted to a surcharge rate and collected through the carrier where they have obtained coverage.

Subsequent Injury Fund

The Subsequent Injury Fund (SIF) payments in FY11 for all dates of injury totaled \$415,352. There were 118 new SIF certifications during FY11, resulting in a total of 4,730 certified individuals in Montana.



Uninsured Employers' Fund

The Uninsured Employers' Fund (UEF) provides benefits for injured employees when employers are without required workers' compensation insurance. In FY11, UEF collections increased 10% from FY10, from \$1.7 to \$1.9 million. Injured workers received \$673,969 in medical and indemnity benefits in FY11, compared to \$854,741 in FY10.

Construction Contractor Registration

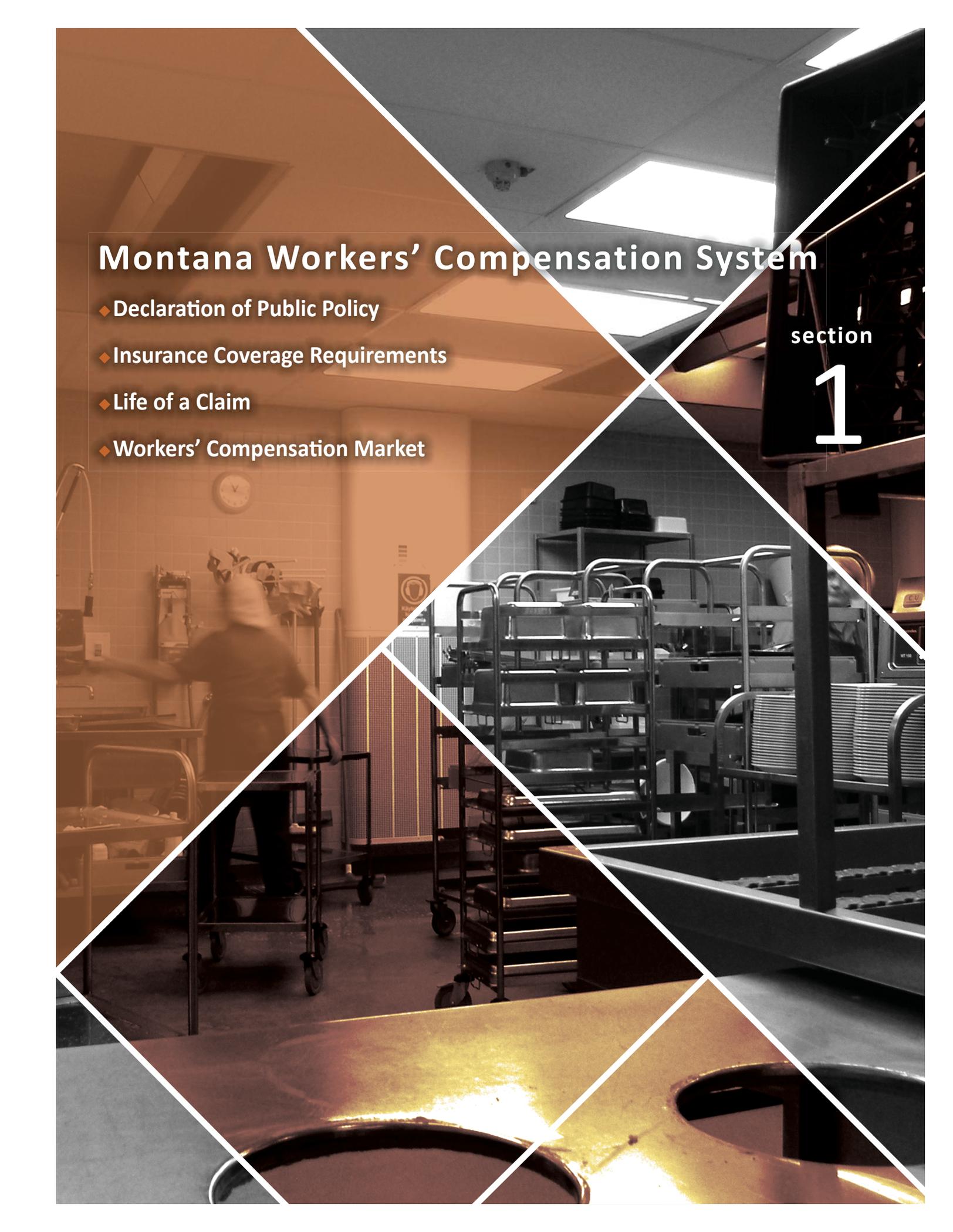
The Construction Contractor Registration program (CCR) facilitates the registration of construction contractors working in Montana. In FY11 there were 10,126 active Construction Contractor Registrations, with approximately 4,461 contractors registered as having employees.

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 FY11 totaled 8,658, of which 8,294 were approved. Fifty-two 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-three PEOs were licensed in Montana at the end of FY11. These PEOs leased 3,004 employees to 465 client companies.

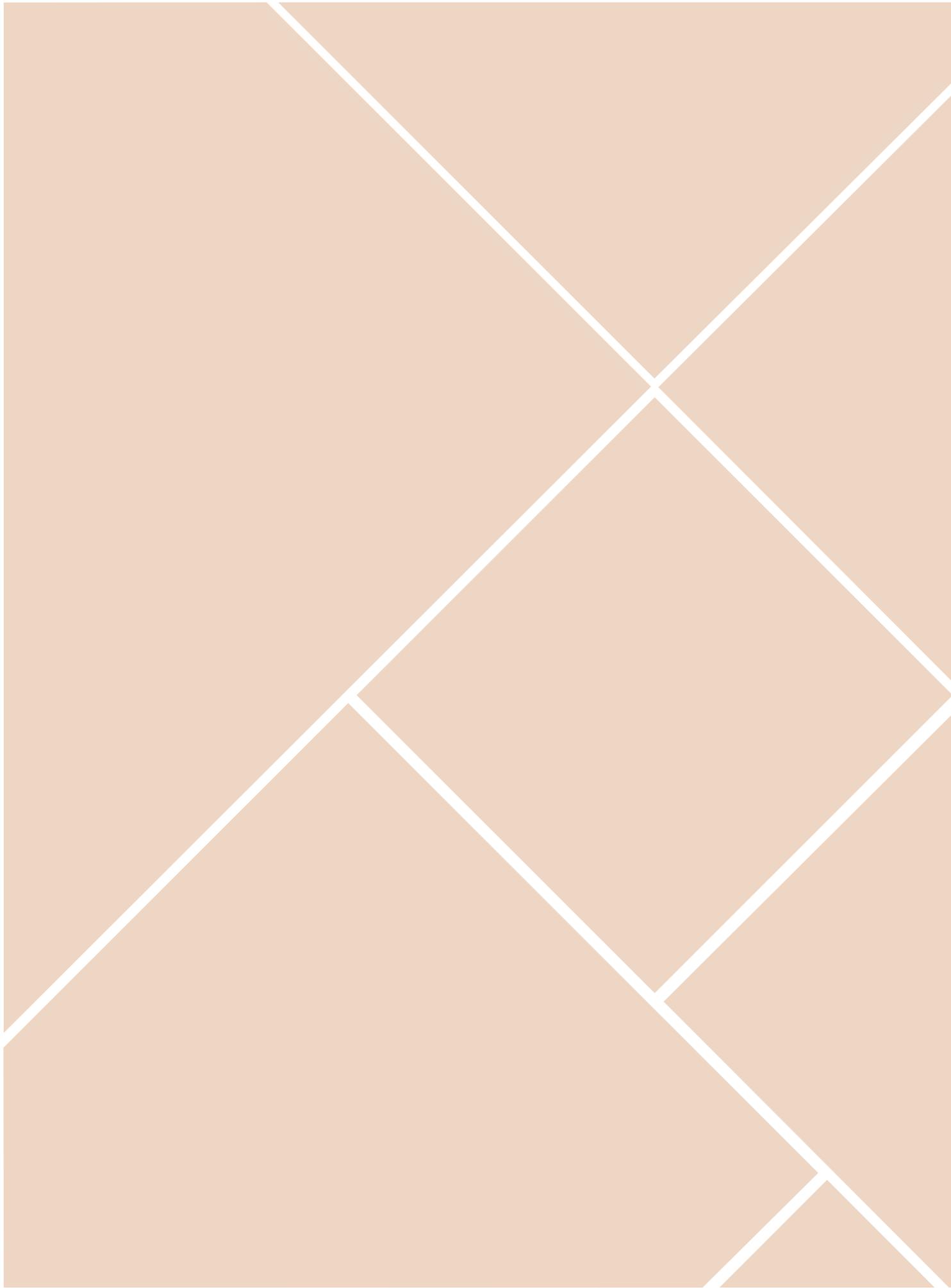


Montana Workers' Compensation System

- ◆ Declaration of Public Policy
- ◆ Insurance Coverage Requirements
- ◆ Life of a Claim
- ◆ Workers' Compensation Market

section

1



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 which 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 elects personal coverage under one of Montana's workers' compensation three options for insurance.

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.

¹§39-71-105, MCA (2011)

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).

This information is intended to be descriptive. It is not all inclusive, nor is it intended to be used for legal determination of the mandatory coverage requirements. Please contact The Employment Relations Division at 406-444-0564, or your workers' compensation insurer, concerning coverage requirements and/or excluded or exempted employments.

Exclusions

The Workers Compensation Act² may exclude from the definition of employee the services listed below:

- ◆ Volunteers
- ◆ Volunteers at recreational facilities receiving no compensation other than meals, lodging, or the use of the recreational facilities
- ◆ Licensed foster parents providing care for no more than 6 foster children without wage compensation
- ◆ Farm-owner occasionally assisting his or her neighboring farmers

Employments Exempted

The Workers' Compensation Act may not apply to the employments listed below:

- ◆ 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

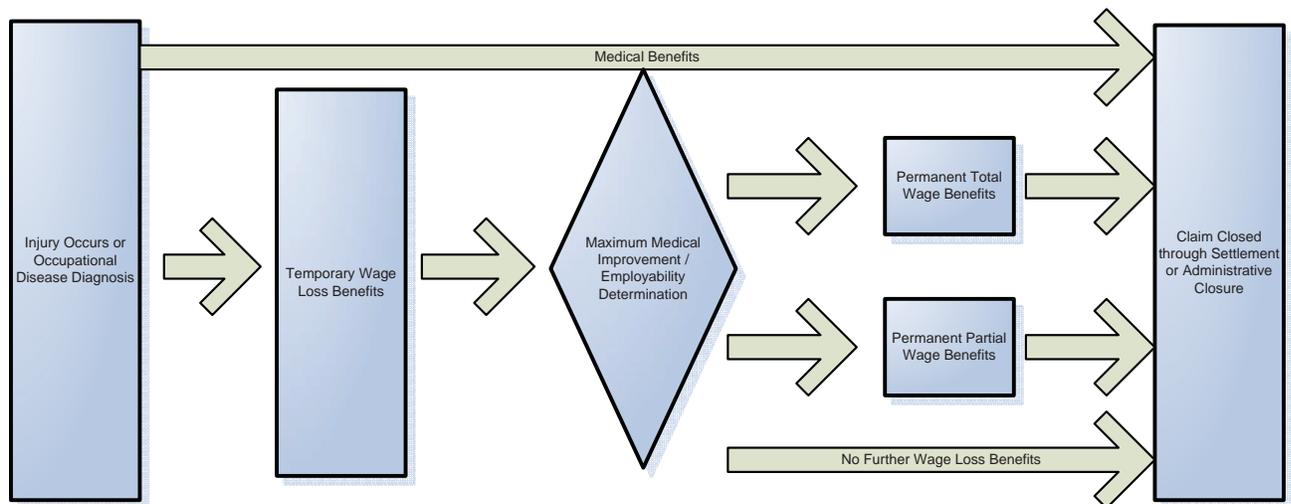
²§39-71-118, MCA (2011)

◆ INSURANCE COVERAGE REQUIREMENTS

- 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, who maintain a current, valid, independent contractor exemption certificate from the department
- ◆ An athlete employed by or on a team or sports club engaged in a contact sport
- ◆ A musician performing under a written contract

Exhibit 1.1

Life of a Compensable Wage Loss Claim



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. If the worker is totally disabled and unable to work in any capacity for 21 days or longer, compensation must be paid retroactively to the first day of total wage loss. A claimant cannot use sick leave and receive wage loss benefits at the same time. [§39-71-736, MCA]

- ◆ For dates of loss prior to July 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]
- ◆ For dates of loss July 1, 2011 and thereafter, the claimant may choose the treating physician for initial treatment. Any time after acceptance of liability the insurer may designate a different treating physician (within the treating physician definition) or approve claimant's choice of the treating physician. The designated treating physician agrees to be responsible for coordination of care, timely workability determinations, treatment under the Utilization and Treatment Guidelines or prior authorization from the insurer, and referral to other health care providers. [§39-71-1101, MCA]
- ◆ The medical provider 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.
- ◆ For dates of loss prior to July 1, 2011, 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]
- ◆ For dates of loss of July 1, 2011 and thereafter, the claimant is responsible for payment of: (1) unauthorized treatment, (2) medical care not related to the injury, (3) medical services provided 60 months or more after the date of injury or diagnosis of an OD unless medical benefits are reopened, or the claimant is deemed permanently totally disabled, (4) secondary medical services and palliative or maintenance care unless specifically covered, and (5) medical procedures specifically excluded. [§39-71-704, 39-71-717, MCA, 2011, and ARM 24.29.1401]
- ◆ 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 rating of class 2 or greater, and no wage loss, the insurer is required to pay the impairment rating only. [§39-71-703, MCA]
- ◆ Other permanent partial disability liability is based on extent of the impairment, age, education, wage-loss and work capacity restrictions, 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]

- ◆ For dates of loss prior to July 1, 2011, 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, MCA]

- ◆ For dates of loss July 1, 2011 and thereafter, medical benefits terminate 60 months after the date of injury or the date of diagnosis of an OD, unless the claimant is deemed permanently totally disabled, or the medical benefits are reopened. A worker may request reopening of terminated benefits within 5 years of termination or no earlier than 90 days prior to termination. The insurer may not be required to furnish palliative or maintenance care after the claimant has achieved MMI. [§39-71-704 and 39-71-717, MCA]

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, 2011, Montana had 27 individual self-insured employers, three private groups with 119 member employers and five public groups with 411 member employers. During calendar year 2011, there were 186 private carriers that reported premiums to the Department.

Since self-insured employers 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 self-insured employers has been generally trending upwards over the past several years, but dropped slightly in 2011, as can be seen in Exhibit 1.2.

The premium for private insureds and Montana State Fund is compared in Exhibits 1.3 and 1.4 below. The total premium reported for 2011 by both Plans is down 5.1% from the prior year and marks the fourth consecutive year total reported premiums have decreased; almost all of the decrease is attributed to Montana State Fund. Private insureds share of the reported premium has steadily increased from 30.7% in 2006 to 40.6% in 2011.

Exhibit 1.2

Gross Annual Payroll
Self-Insured – By Calendar Year

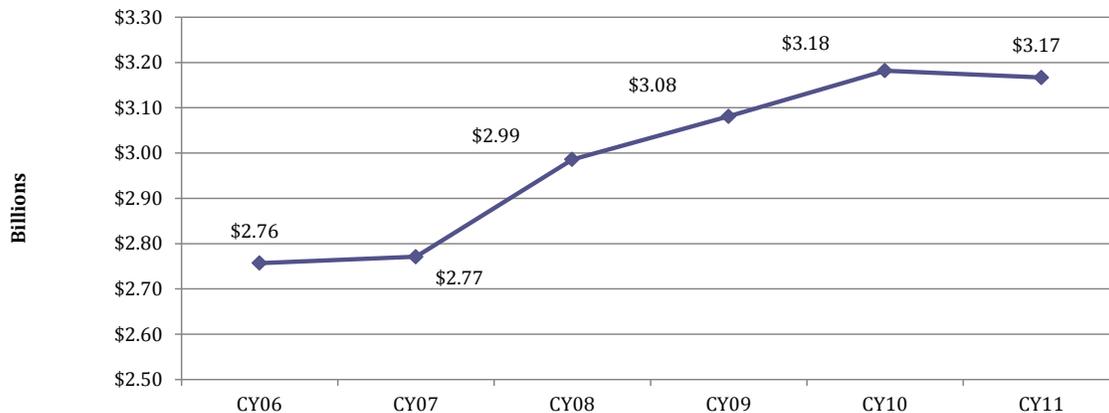
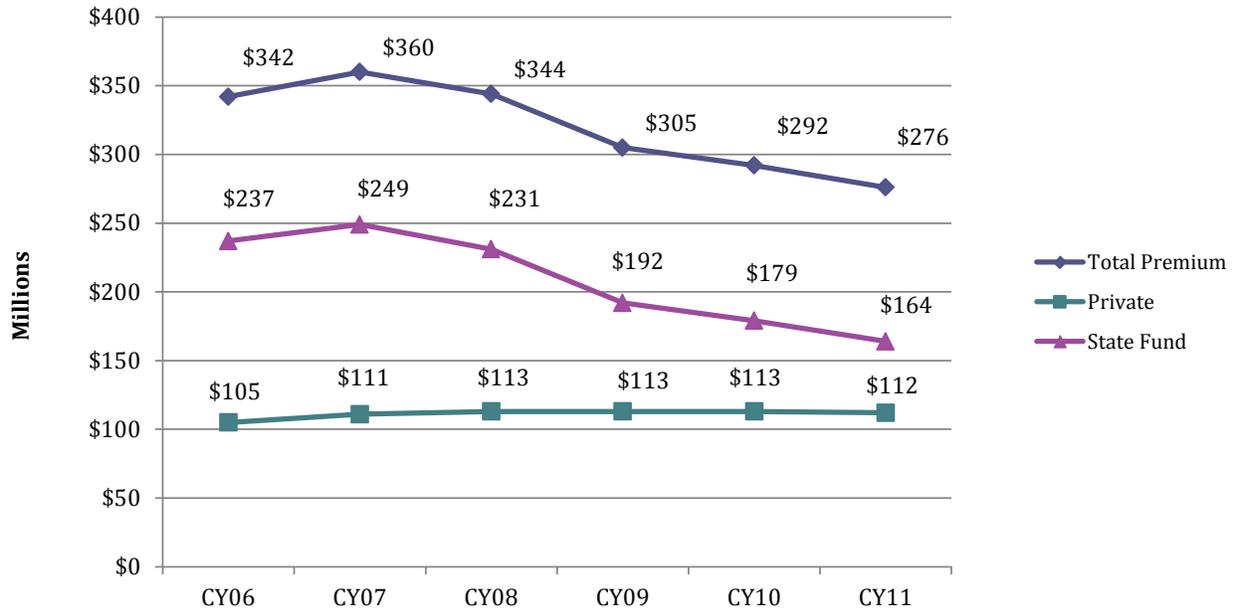


Exhibit 1.3

Premium Market Share

Plan 2 and 3³ – By Calendar Year and By Plan



³Plan Types: 2 – Private Insurance and Plan 3 – Montana State Fund

Exhibit 1.4

Premium Market Share

Plan 2 and 3⁴ – By Calendar Year and By Plan (millions)

	CY06		CY07		CY08		CY09		CY10		CY11	
	Amount	%										
Private	\$104.9	31%	\$110.6	31%	\$112.7	33%	\$112.6	37%	\$113.0	39%	\$112.3	41%
State Fund	\$237.1	69%	\$249.0	69%	\$231.2	67%	\$192.4	63%	\$178.6	61%	\$164.4	59%
Total Premium	\$342.0	100%	\$359.6	100%	\$343.9	100%	\$305.0	100%	\$291.6	100%	\$276.7	100%

⁴Plan Types: 2 – Private Insurance and Plan 3 – Montana State Fund

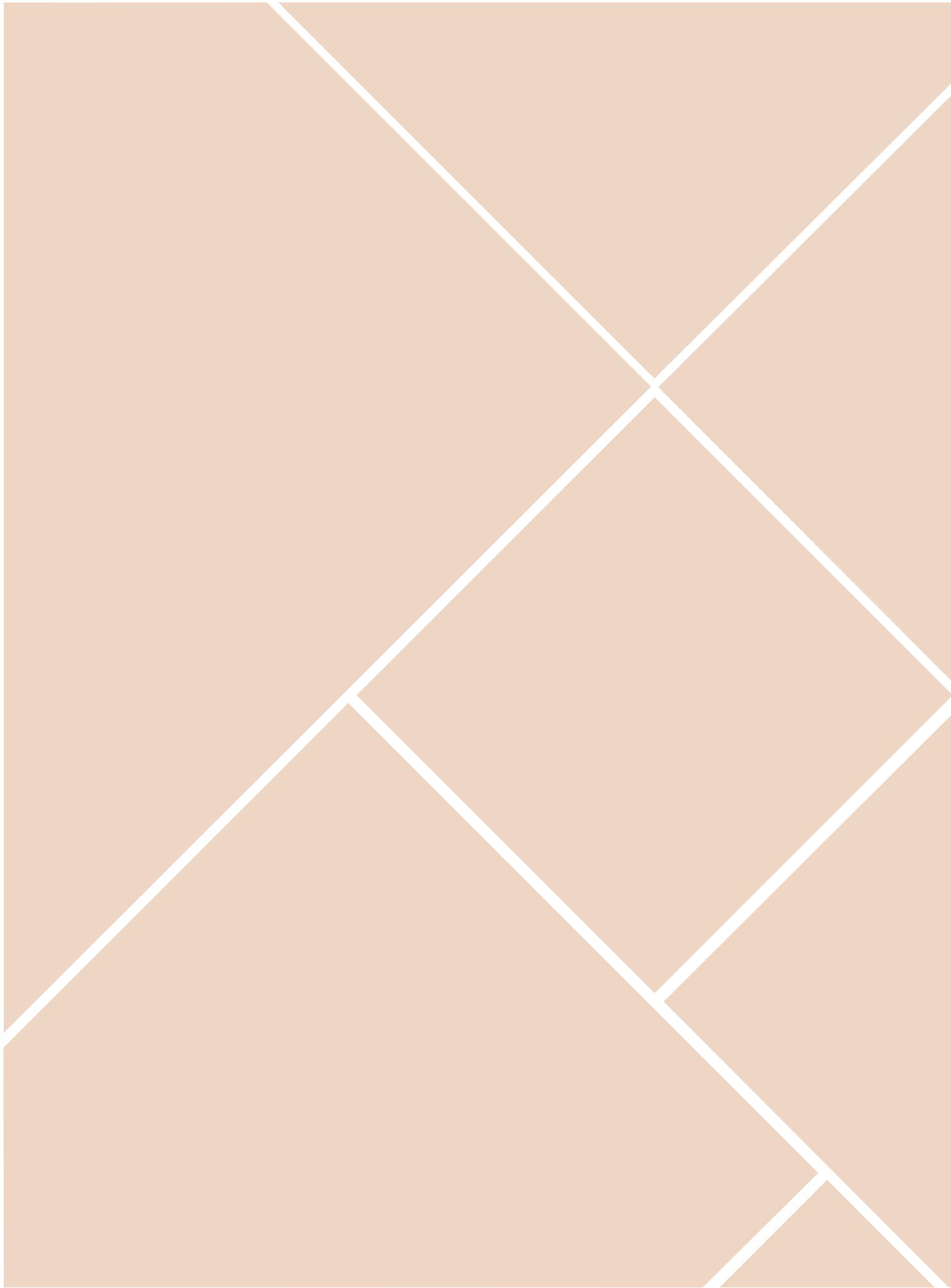


Claim Statistics

- ◆ Claims Data Summary
- ◆ Claims by Plan Type
- ◆ Injury Incident Rates by County
- ◆ Injured Worker Characteristics
- ◆ Insurer Denial of Claims

section

2



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 2011 for both medical only and indemnity claims, as well as some historical trends. Federal agencies are not covered under the Montana Workers' Compensation Act, so are not required to report claims data to ERD.

Status Update

Fiscal Year 2011 saw a slight increase in claims overall (Exhibit 2.1). Montana has seen a general trend of decreasing injuries since FY08, which is reported nationally.

Exhibit 2.3 illustrates the incidence rate by county per 100 workers. The fiscal year 2011 statewide average remained at 6.4 claims per 100 workers, the same as fiscal year 2010.

The distribution of claims by age at the time of injury (Exhibit 2.4) has remained relatively stable since FY05, with a slight upward trend for ages 55-64. The number of claims was used this year rather than percentages to

clarify both the overall downward trend of claims, while illustrating the clear upward trend for ages 55-64.

The majority of the injuries in FY11 occurred in Health Care and Social Assistance, Construction, Retail, and Educational Services industries (Exhibit 2.7).

The natures of injury were primarily Sprain/Rupture, Bruise/Swelling, and Cut/Abrasion (Exhibit 2.10). The causes of injury were largely from Strain and Fall/Slip/Trip (Exhibit 2.8). The majority of injuries occurred in the Upper Extremities and the Back of the body (Exhibit 2.13).

Denials of claims increased in FY11 (Exhibit 2.16) and the most common reason for a denial was lack of objective medical evidence.

Significance Statement

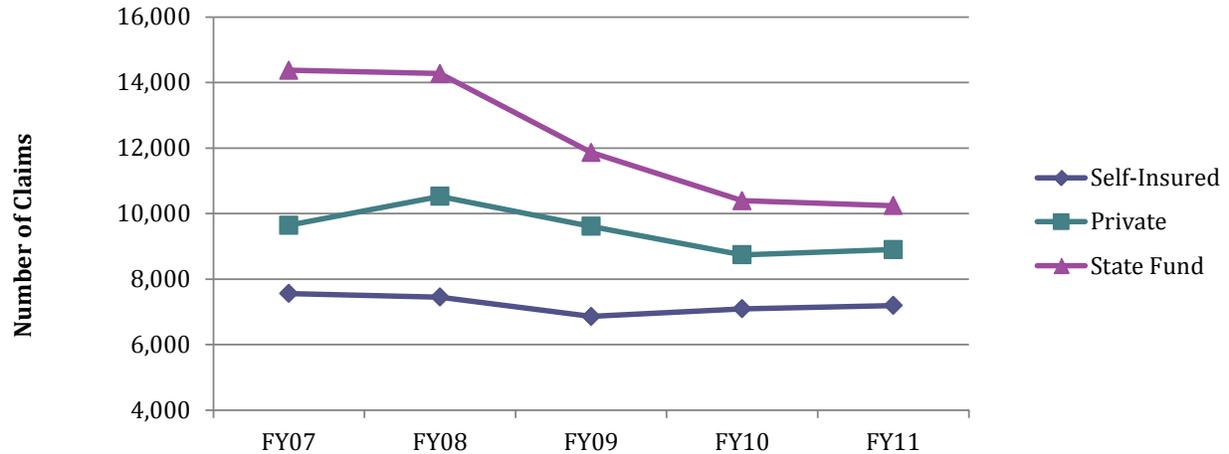
Claims decreased significantly from FY08 to FY10, mirroring the national trend. However, costs continue to concern employers and policy makers, resulting in the 2011 legislative session major workers' compensation reform to address Montana's high costs. Many hope that the downward trend in claims, in addition to the reforms, will reduce costs to employers and unmeasured costs to workers.

CLAIMS BY PLAN TYPE ◆

Exhibit 2.1

Reported Claims¹ – Five Year Trend

By Plan Type and Fiscal Year of Injury



¹Total reported claim counts may change over time due to the receipt of new injury reports or corrections to previous reporting.

Exhibit 2.2

Reported Claims²

By Plan Type and Fiscal Year of Injury

Plan Type	FY07		FY08		FY09		FY10		FY11	
	Count	%	Count	%	Count	%	Count	%	Count	%
Self-Insured	7,562	23.9%	7,449	23.0%	6,861	24.2%	7,095	27.0%	7,193	27.3%
Private	9,641	30.5%	10,526	32.6%	9,611	33.8%	8,741	33.2%	8,903	33.7%
State Fund	14,375	45.4%	14,273	44.2%	11,867	41.8%	10,395	39.5%	10,243	38.8%
UEF ³	64	0.2%	74	0.2%	55	0.2%	64	0.2%	46	0.2%
Total	31,578	100.0%	32,322	100%	28,394	100%	26,295	100%	26,385	100%

²Total reported claim counts may change over time due to the receipt of new injury reports or corrections to previous reporting.

³ 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 remained the same in FY11 as it was in FY10 at 6.4 per 100 employees. Eighteen counties in the state slightly decreased in their incidence rates while sixteen counties increased from the previous fiscal year.

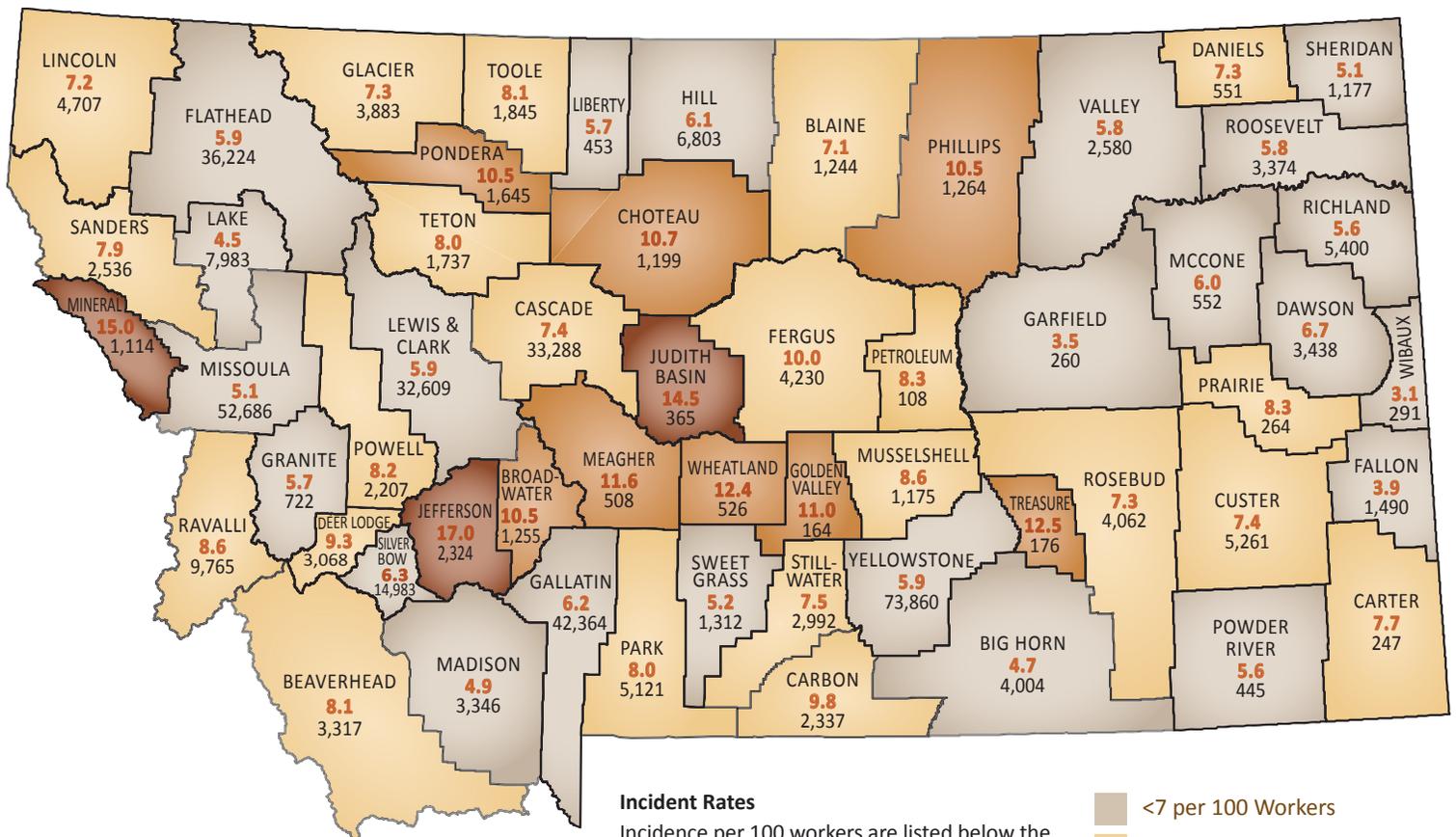
Claim counts were derived using the claimant's home address. This may not correspond with their work address or the location at which the injury occurred. For example, a resident of Jefferson County injured in Lewis

& Clark County still gets counted in Jefferson County. Therefore, due to the high volume of commuting workers, Jefferson County's incidence rate may be artificially inflated. Further research and improvements to injury reporting 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.

Exhibit 2.3

Injury Incident Rates and Number of Employees⁴ - FY11 By County



⁴Source: Quarterly Census of Employment and Wages, Bureau of Labor Statistics, U.S. Dept. of Labor

Incident Rates

Incidence per 100 workers are listed below the county name in **ORANGE**.

Number of Employees

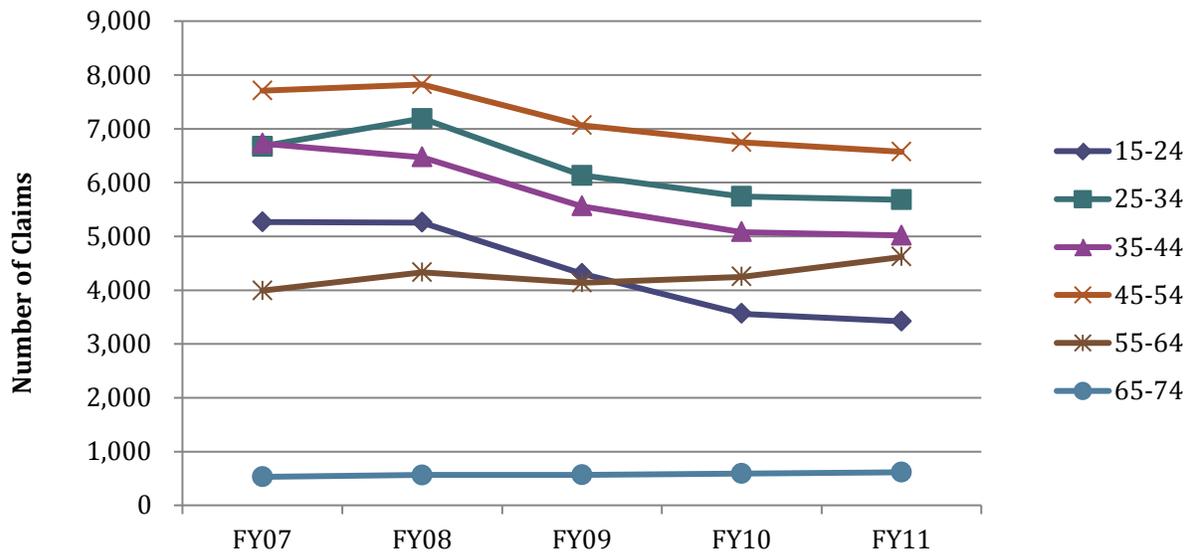
The number of employees per county are listed below the name of the county in **BLACK**.

- <7 per 100 Workers
- 7.0-10.0 per 100 Workers
- 10.1-13.0 per 100 Workers
- >13.0 per 100 Workers

INJURED WORKER CHARACTERISTICS ◆

Exhibit 2.4

Reported Claims⁵ – Five Year Trend By Age at Time of Injury and Fiscal Year of Injury



⁵Claims counts instead of percentages are represented in this year's report; may not be comparable to previous reports.

Exhibit 2.5

Reported Claims By Age at Time of Injury and Fiscal Year of Injury

Age Group	FY07		FY08		FY09		FY10		FY11	
	Count	%								
15 to 24	5,264	17%	5,255	16%	4,307	15%	3,561	14%	3,420	13%
25 to 34	6,673	21%	7,190	22%	6,135	22%	5,743	22%	5,681	22%
35 to 44	6,727	21%	6,470	20%	5,559	20%	5,081	19%	5,017	19%
45 to 54	7,707	24%	7,821	24%	7,063	25%	6,747	26%	6,571	25%
55 to 64	3,990	13%	4,330	13%	4,135	15%	4,247	16%	4,617	17%
65 to 74	531	2%	564	2%	569	2%	591	2%	615	2%
NOC ⁶	750	2%	692	2%	626	2%	325	1%	464	2%
Total	31,642	100%	32,322	100%	28,394	100%	26,295	100%	26,385	100%

⁶NOC – Not otherwise classified

Exhibit 2.6

Reported Claims – FY11

By North American Industry Classification System⁷



⁷Source: www.census.gov/eos/www/naics/

INJURED WORKER CHARACTERISTICS

Exhibit 2.7

Reported Claims^{8, 9}

By North American Industry Classification System¹⁰ and Fiscal Year of Injury

North American Industry Classification System	FY07		FY08		FY09		FY10		FY11	
	Count	%								
Health Care & Social Assistance	4,870	15.4%	4,860	15.0%	4,612	16.2%	4,622	17.6%	4,448	16.9%
Construction	4,890	15.5%	5,003	15.5%	4,111	14.5%	3,333	12.7%	3,210	12.2%
Retail Trade	3,915	12.4%	3,808	11.8%	3,335	11.7%	3,367	12.8%	3,206	12.2%
Educational Services	2,575	8.1%	2,831	8.8%	2,876	10.1%	2,906	11.1%	3,145	11.9%
Accommodation & Food Services	2,599	8.2%	2,770	8.6%	2,296	8.1%	1,969	7.5%	1,914	7.3%
Manufacturing	2,267	7.2%	2,263	7.0%	1,789	6.3%	1,594	6.1%	1,573	6.0%
Public Administration	1,434	4.5%	1,507	4.7%	1,482	5.2%	1,554	5.9%	1,508	5.7%
Admin., Support, Waste Mgmt & Remediation Services	1,418	4.5%	1,415	4.4%	1,174	4.1%	1,029	3.9%	1,126	4.3%
Wholesale Trade	996	3.1%	1,027	3.2%	868	3.1%	844	3.2%	908	3.4%
Other Services (except Public Administration)	1,136	3.6%	1,245	3.9%	1,007	3.5%	698	2.7%	778	2.9%
Transportation & Warehousing	991	3.1%	919	2.8%	720	2.5%	669	2.5%	778	2.9%
Agriculture, Forestry, Fishing & Hunting	940	3.0%	1,170	3.6%	978	3.4%	853	3.2%	730	2.8%
Mining, Quarrying, & Oil & Gas Extraction	937	3.0%	838	2.6%	791	2.8%	659	2.5%	707	2.7%
Professional, Scientific, & Technical Services	564	1.8%	547	1.7%	456	1.6%	411	1.6%	430	1.6%
Arts, Entertainment, & Recreation	458	1.4%	470	1.5%	451	1.6%	418	1.6%	425	1.6%
Real Estate, Rental, & Leasing	387	1.2%	402	1.2%	294	1.0%	191	0.7%	408	1.5%
Utilities	342	1.1%	346	1.1%	273	1.0%	296	1.1%	291	1.1%
Information	256	0.8%	234	0.7%	265	0.9%	276	1.0%	227	0.9%
Finance & Insurance	257	0.8%	231	0.7%	230	0.8%	215	0.8%	195	0.7%
Management of Companies & Enterprises	7	0.0%	12	0.0%	4	0.0%	1	0.0%	6	0.0%
Not Otherwise Classified	403	1.3%	424	1.3%	382	1.3%	390	1.5%	372	1.4%
Total	31,642	100%	32,322	100%	28,394	100%	26,295	100%	26,385	100%

⁸Counts may vary slightly from previous reports due to corrections from insurers or ERD's data quality efforts.

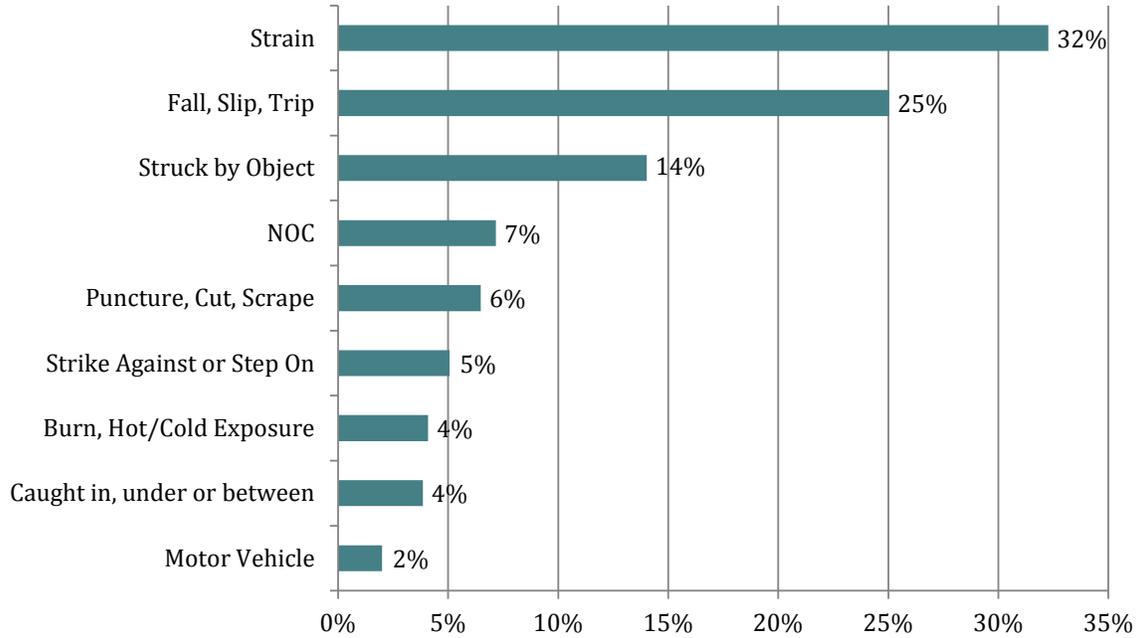
⁹Data as accurate as reported to Employment Relations Division.

¹⁰Source: www.census.gov/eos/www/naics/

◆ INJURED WORKER CHARACTERISTICS

Exhibit 2.8

Reported Claims – FY11 By Cause of Injury¹¹



¹¹Source: Workers' Compensation Insurance Organizations (WCIO).

Exhibit 2.9

Reported Claims By Cause of Injury¹² and Fiscal Year of Injury

Cause of Injury	FY07		FY08		FY09		FY10		FY11	
	Count	%								
Strain	8,265	26.1%	11,151	34.5%	9,477	33.4%	9,126	34.7%	8,515	32.3%
Fall, Slip, Trip	6,504	20.6%	6,867	21.2%	6,411	22.6%	5,913	22.5%	6,603	25.0%
Struck by Object	4,323	13.7%	4,451	13.8%	3,849	13.6%	3,682	14.0%	3,701	14.0%
NOC	3,500	11.1%	2,525	7.8%	2,074	7.3%	1,827	6.9%	1,893	7.2%
Puncture, Cut, Scrape	3,967	12.5%	2,447	7.6%	2,229	7.9%	1,821	6.9%	1,712	6.5%
Strike Against or Step On	1,664	5.3%	1,682	5.2%	1,434	5.1%	1,338	5.1%	1,336	5.1%
Burn, Hot/Cold Exposure	1,240	3.9%	1,251	3.9%	1,097	3.9%	1,007	3.8%	1,080	4.1%
Caught in, under or between	1,375	4.3%	1,344	4.2%	1,306	4.6%	1,047	4.0%	1,018	3.9%
Motor Vehicle	804	2.5%	604	1.9%	517	1.8%	534	2.0%	527	2.0%
Total	31,642	100.0%	32,322	100.0%	28,394	100.0%	26,295	100.0%	26,385	100.0%

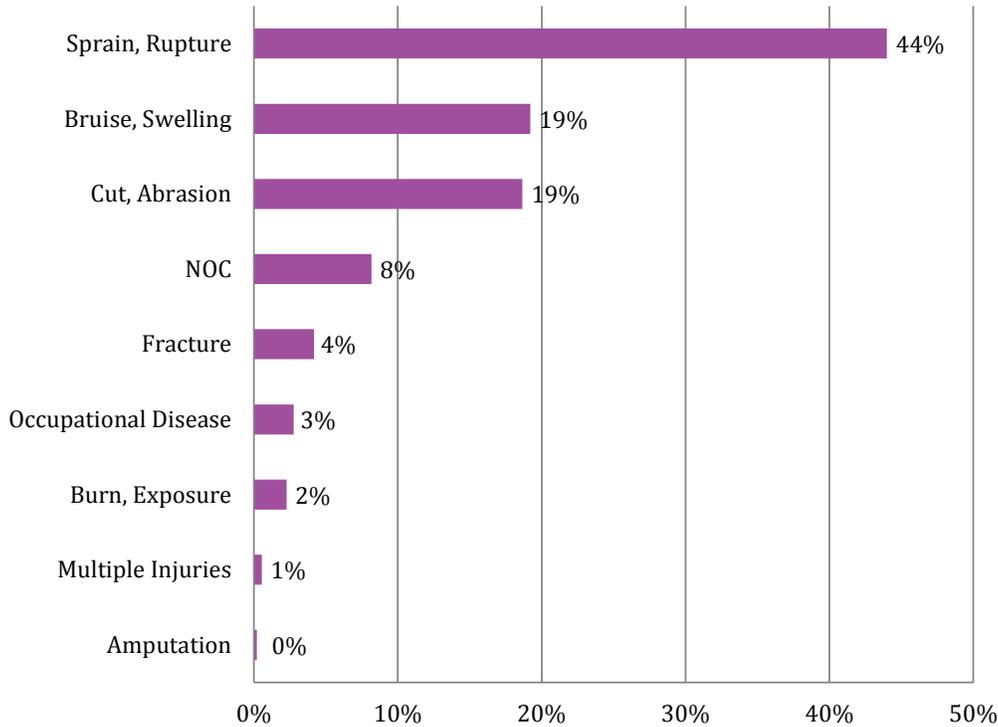
¹²Source: Workers' Compensation Insurance Organizations (WCIO).

INJURED WORKER CHARACTERISTICS ◆

Exhibit 2.10

Reported Claims – FY11

By Nature of Injury¹³



¹³Source: Workers' Compensation Insurance Organizations (WCIO).

Exhibit 2.11

Reported Claims

By Nature of Injury¹⁴ and Fiscal Year of Injury

Nature of Injury	FY07		FY08		FY09		FY10		FY11	
	Count	%								
Sprain, Rupture	13,615	43.0%	13,955	43.2%	12,272	43.2%	11,647	44.3%	11,609	44.0%
Bruise, Swelling	5,751	18.2%	6,026	18.6%	5,489	19.3%	5,045	19.2%	5,068	19.2%
Cut, Abrasion	6,587	20.8%	7,063	21.9%	5,980	21.1%	5,100	19.4%	4,924	18.7%
NOC	1,771	5.6%	2,047	6.3%	1,886	6.6%	1,965	7.5%	2,155	8.2%
Fracture	1,296	4.1%	1,336	4.1%	1,103	3.9%	1,038	3.9%	1,102	4.2%
Occupational Disease	1,103	3.5%	726	2.2%	610	2.1%	591	2.2%	729	2.8%
Burn, Exposure	801	2.5%	845	2.6%	723	2.5%	640	2.4%	598	2.3%
Multiple Injuries	165	0.5%	261	0.8%	266	0.9%	192	0.7%	146	0.6%
Amputation	553	1.7%	63	0.2%	65	0.2%	77	0.3%	54	0.2%
Total	31,642	100.0%	32,322	100.0%	28,394	100.0%	26,295	100.0%	26,385	100.0%

¹⁴Source: Workers' Compensation Insurance Organizations (WCIO).

¹⁵Fiscal Year 2007 Amputation number is overstated due to miscoding. The estimated number, although not verified, is 65.

◆ INJURED WORKER CHARACTERISTICS

Exhibit 2.12

Reported Claims – FY11

By North American Industry Classification System¹⁶ and Nature of Injury¹⁷

North American Industry Classification System	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
Health Care & Social Assistance	195	120	1,042	52	374	1,501	179	644	3	338	4,448
Construction	133	111	768	74	122	1,129	166	530	7	170	3,210
Retail Trade	101	143	628	44	208	1,265	180	360	3	274	3,206
Educational Services	69	101	1,216	31	188	667	135	571	0	167	3,145
Accommodation & Food Services	156	47	477	11	269	553	123	166	7	105	1,914
Manufacturing	64	90	239	15	98	583	116	212	5	151	1,573
Public Administration	84	47	369	63	116	444	58	149	0	178	1,508
Admin., Support, Waste Mgmt & Remediation Services	54	45	305	25	42	419	64	118	0	54	1,126
Wholesale Trade	29	55	197	18	59	321	47	113	1	68	908
Other Services (except Public Administration)	21	25	198	14	56	248	55	111	5	45	778
Transportation & Warehousing	22	33	202	40	30	275	32	87	7	50	778
Agriculture, Forestry, Fishing & Hunting	30	52	178	41	5	172	54	170	5	23	730
Mining, Quarrying, & Oil & Gas Extraction	42	47	128	35	20	216	38	116	2	63	707
Professional, Scientific, & Technical Services	14	18	97	11	10	133	14	110	2	21	430
Arts, Entertainment, & Recreation	11	15	143	14	15	144	17	53	0	13	425
Real Estate, Rental, & Leasing	27	14	114	4	24	128	20	61	2	14	408
Not Otherwise Classified (NOC)	12	20	94	5	33	110	14	53	6	25	372
Utilities	9	17	57	10	22	86	10	41	0	39	291
Information	5	8	68	13	12	63	8	27	2	21	227
Finance & Insurance	2	10	81	7	9	54	6	9	2	15	195
Management of Companies & Enterprises	0	0	2	0	0	4	0	0	0	0	6
Grand Total	1,080	1,018	6,603	527	1,712	8,515	1,336	3,701	59	1,834	26,385

¹⁶Source: www.census.gov/eos/www/naics/

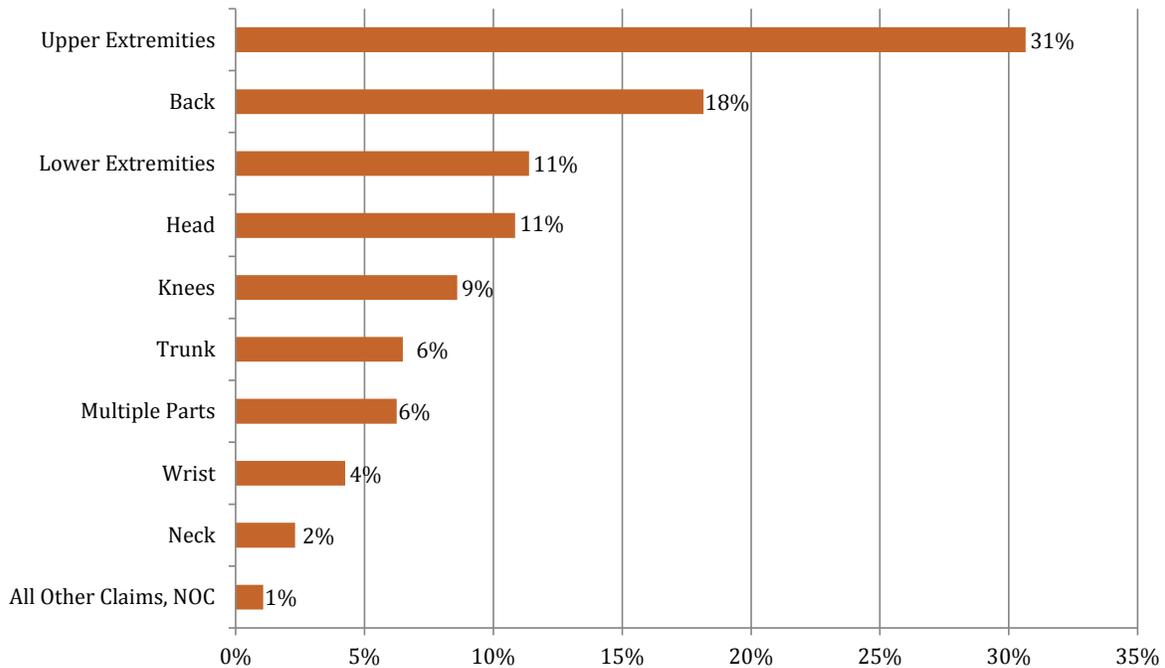
¹⁷Source: Workers' Compensation Insurance Organizations (WCIO)

INJURED WORKER CHARACTERISTICS ◆

Exhibit 2.13

Reported Claims – FY11

By Part of Body¹⁸



¹⁸Source: Workers' Compensation Insurance Organizations (WCIO).

Exhibit 2.14

Reported Claims¹⁹

By Part of Body²⁰ and Fiscal Year of Injury

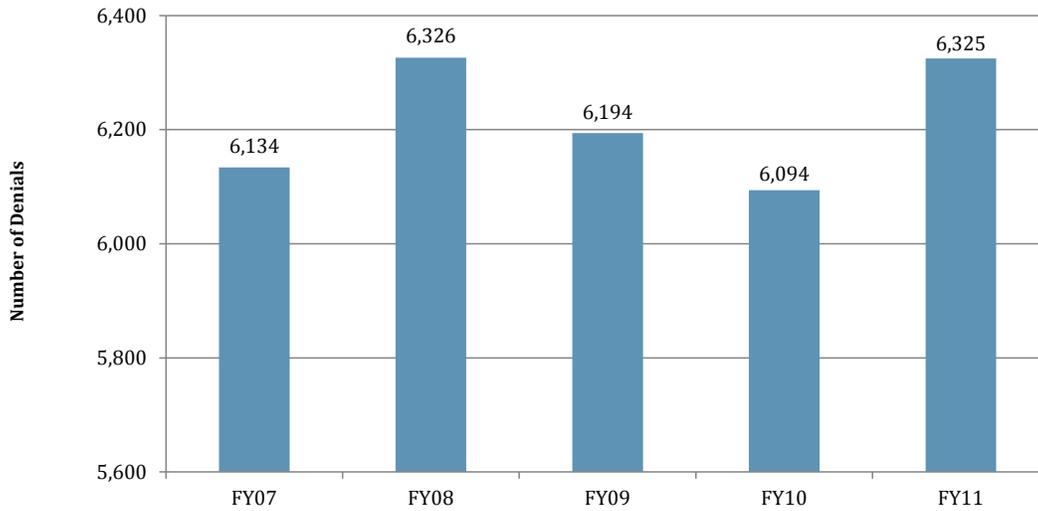
Part of Body	FY07		FY08		FY09		FY10		FY11	
	Count	%								
Upper Extremities	10,089	31.9%	10,193	31.5%	8,944	31.5%	8,091	30.8%	8,088	30.7%
Back	6,133	19.4%	6,102	18.9%	5,229	18.4%	4,927	18.7%	4,789	18.2%
Lower Extremities	3,583	11.3%	3,759	11.6%	3,204	11.3%	2,961	11.3%	3,003	11.4%
Head	3,444	10.9%	3,650	11.3%	3,185	11.2%	2,843	10.8%	2,862	10.8%
Knees	2,480	7.8%	2,699	8.4%	2,388	8.4%	2,260	8.6%	2,269	8.6%
Trunk	2,077	6.6%	2,064	6.4%	1,799	6.3%	1,694	6.4%	1,712	6.5%
Multiple Parts	1,379	4.4%	1,403	4.3%	1,491	5.3%	1,517	5.8%	1,649	6.2%
Wrist	1,465	4.6%	1,438	4.4%	1,256	4.4%	1,147	4.4%	1,121	4.2%
Neck	752	2.4%	747	2.3%	636	2.2%	553	2.1%	609	2.3%
All Other Claims, NOC ¹⁹	240	0.8%	267	0.8%	262	0.9%	302	1.1%	283	1.1%
Total	31,642	100.0%	32,322	100.0%	28,394	100.0%	26,295	100.0%	26,385	100.0%

¹⁹Due to reporting misclassifications, claims reported under "All Other Claims, NOC" are incorrectly reported. Data quality efforts will be initiated to correct.

²⁰Source: Workers' Compensation Insurance Organizations (WCIO).

Exhibit 2.15

Insurer Denial of Claims²¹
By Fiscal Year of Injury



²¹The insurer may accept claims initially denied. Statistics on accepted injuries subsequent to a denial are not currently available.

Exhibit 2.16

Insurer Denial of Claims²²
By Reason of Denial and Fiscal Year of Injury

Reason for Claim Denial		FY07	FY08	FY09	FY10	FY11
Coverage Issue	Corporate officer rejected	0	2	0	1	0
	Elects no coverage	1	0	0	1	1
	Independent Contractor issue	0	1	0	0	0
	Question which insurer liable	12	6	2	1	3
	No coverage	23	19	16	14	15
Definition of Injury	Heart attack - not caused by accident	3	8	5	8	2
	Does not meet definition of injury	287	326	259	224	220
	Does not meet definition of Occupational Disease	42	38	34	31	47
	Stress - not compensable	12	14	16	8	17
Insufficient Information	Incomplete or missing information necessary to accept liability	108	364	166	37	88
Late Claim Filing	Injury	224	65	58	123	208
	Occupational Disease	1	0	1	0	0
No Employer Notice	No 30-day notice to employer or insurer	111	200	162	136	102
Not in Course & Scope	Not in course and scope of employment	409	412	418	394	472
No Objective Medical	No objective medical findings to substantiate injury	4,466	4,308	4,513	4,345	4,659
Other	Other	435	563	544	771	446
Total		6,134	6,326	6,194	6,094	6,280

²²The insurer may accept claims initially denied. Statistics on accepted injuries subsequent to a denial are not currently available.

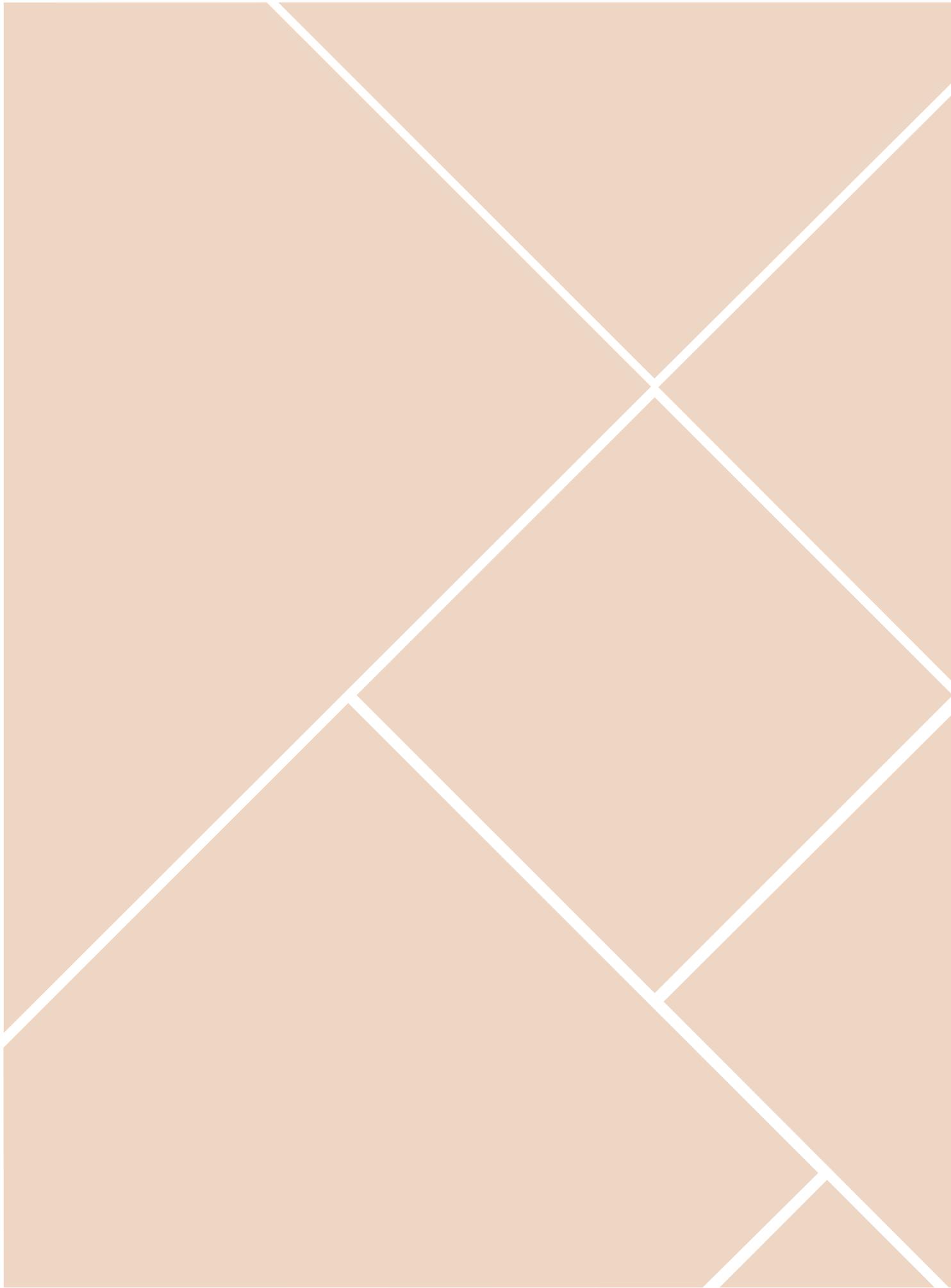
Benefits

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

section

3





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.

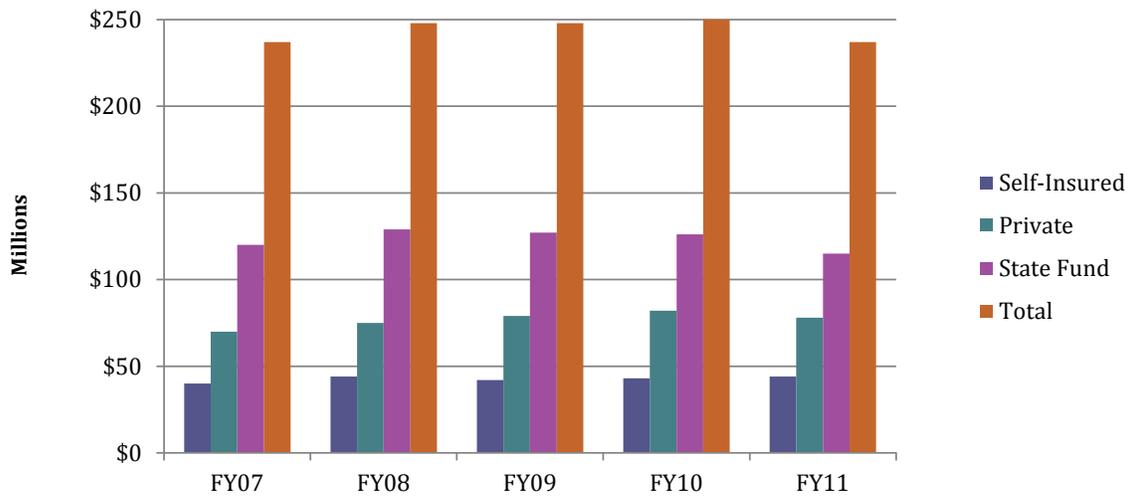
In FY11, self-insured's share of total benefits increased while private insured and Montana State Fund's share decreased. All three plans had an overall decrease of 5.7% from FY10.

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.

Exhibit 3.1

Total Benefits Paid¹

By Plan Type and Fiscal Year of Payment



¹Total benefits paid represent indemnity and medical (including medical in excess of \$200,000), from DLI quarterly expenditure reports as of June 30, 2011.

Exhibit 3.2

Total Benefits Paid²

By Plan Type and Fiscal Year of Payment

Plan Type	FY07		FY08		FY09		FY10		FY11	
	Amount	%								
Self-Insured	\$46,390,787	19%	\$43,812,928	18%	\$41,874,087	17%	\$42,527,828	17%	\$43,680,404	18%
Private	\$70,094,651	30%	\$74,880,486	30%	\$78,798,463	32%	\$82,486,426	33%	\$77,955,422	33%
State Fund	\$120,374,764	51%	\$129,105,522	52%	\$127,242,162	51%	\$126,405,068	50%	\$115,345,118	49%
Total	\$236,860,202	100%	\$247,798,936	100%	\$247,914,712	100%	\$251,419,322	100%	\$236,980,944	100%

²Total benefits paid represent indemnity and medical (including medical in excess of \$200,000), from DLI quarterly expenditure reports as of June 30, 2011.

TOTAL BENEFITS ◆

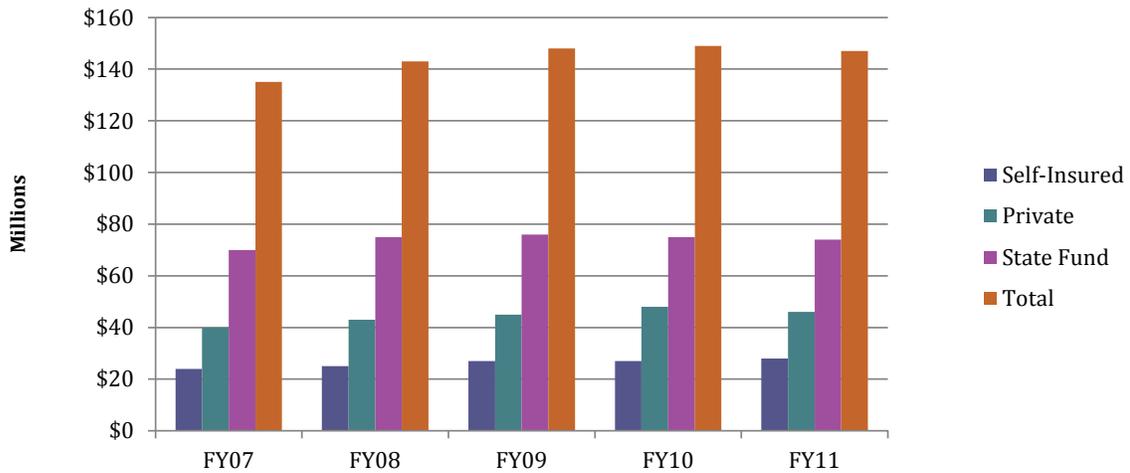
The total medical payments for all three Plans, represented in exhibits 3.3 and 3.4 below, decreased in FY11 by 1.4% from FY10. Each Plan's share of the total medical payments has been relatively stable over the past several years.

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.

Exhibit 3.3

Medical Payments³

By Plan Type and Fiscal Year of Payment



³Total represents medical payments including medical in excess of \$200,000, from DLI quarterly expenditure reports as of June 30, 2011.

Exhibit 3.4

Medical Payments⁴

By Plan Type and Fiscal Year of Payment

Plan Type	FY07		FY08		FY09		FY10		FY11	
	Amount	%								
Self-Insured	\$24,284,035	18%	\$25,334,628	18%	\$26,615,215	18%	\$26,849,482	18%	\$27,627,722	19%
Private	\$40,051,853	30%	\$43,312,875	30%	\$45,122,485	31%	\$47,587,446	32%	\$45,653,623	31%
State Fund	\$70,368,905	52%	\$74,622,827	52%	\$75,880,013	51%	\$74,791,306	50%	\$73,910,420	50%
Total	\$134,704,793	100%	\$143,270,330	100%	\$147,617,713	100%	\$149,228,234	100%	\$147,191,765	100%

⁴Total represents medical payments including medical in excess of \$200,000, from DLI quarterly expenditure reports as of June 30, 2011.

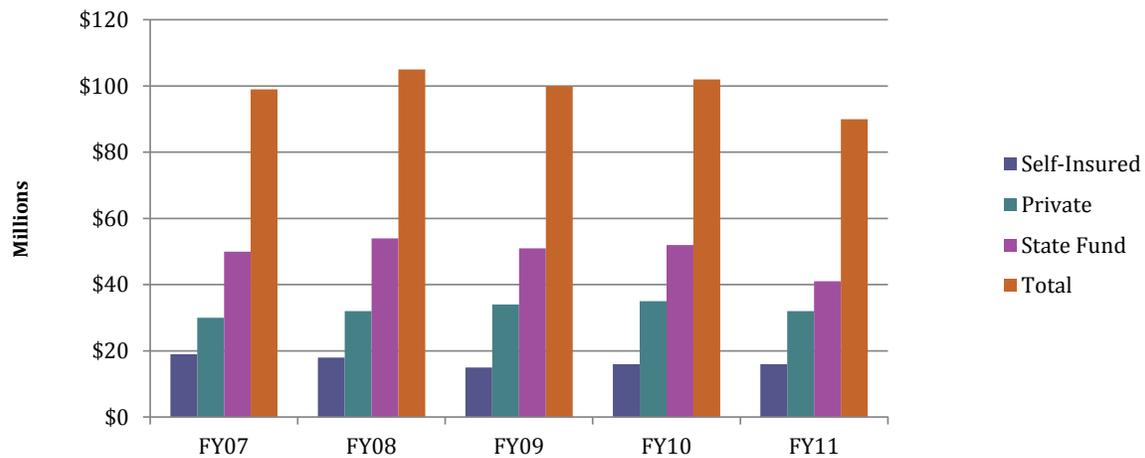
Indemnity payments made by all Plans have decreased from just over \$102 million in FY10, to just under \$90 million in FY11, a 12% decrease. The self-insured and private insured percent share of the total for FY11 increased while State Fund's share decreased.

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.

Exhibit 3.5

Indemnity Payments⁵

By Plan Type and Fiscal Year of Payment



⁵Any 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)

Exhibit 3.6

Indemnity Payments⁶

By Plan Type and Fiscal Year of Payment

Plan Type	FY07		FY08		FY09		FY10		FY11	
	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Self-Insured	\$19,106,752	19%	\$18,478,300	18%	\$15,258,872	15%	\$15,678,345	15%	\$16,052,682	18%
Private	\$30,042,798	30%	\$31,567,611	30%	\$33,675,918	34%	\$34,898,980	34%	\$32,301,799	36%
State Fund	\$50,005,859	51%	\$54,482,695	52%	\$51,362,149	51%	\$51,613,762	51%	\$41,434,698	46%
Total	\$99,155,409	100%	\$104,528,606	100%	\$100,296,939	100%	\$102,191,087	100%	\$89,789,179	100%

⁶Any 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)

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. Medical payment data represents wage-loss claims only.

Exhibit 3.7 portrays the distribution of benefits paid between wage-loss benefits and medical benefits by fiscal year of injury. Exhibit 3.8 divides the wage-loss benefits paid to claimants by fiscal year of injury. Exhibit 3.9 segments medical dollars by claim type. Claim type was determined by a hierarchical analysis of wage-loss benefits paid: Fatality, PTD, PPD, and Temporary Disability, respectively. Exhibit 3.10 illustrates where medical dollars go in terms of provider payment type.

Exhibits 3.11 through 3.19 (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 FY04. 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.

This year’s Annual Report does not include exhibits for Total Benefits or Total Medical Benefits due to a programming error that was not corrected in time for publication. We will continue to investigate and when the problem is identified and corrected, update the online version of the Annual Report. We hope that the exhibits available will provide adequate information for our readers until we are able to present the exhibits in future reports.

Exhibits 3.11 through 3.15 contain the benefit triangles for total wage-loss benefits, and total 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).

Exhibits 3.16 through 3.18 report medical benefits individually by the three primary categories (excluding lump sum payments): payments to physicians, hospital costs, and other medical provider costs.

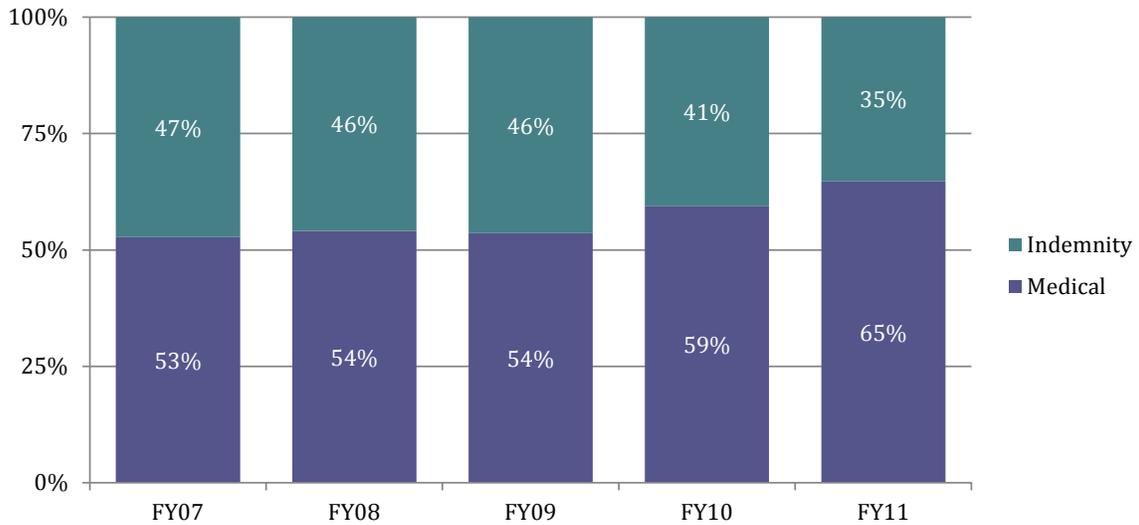
Exhibit 3.19 reports vocational rehabilitation benefits paid.

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.

Exhibit 3.7

Total Benefits Paid

By Benefit Type and Fiscal Year of Injury⁷



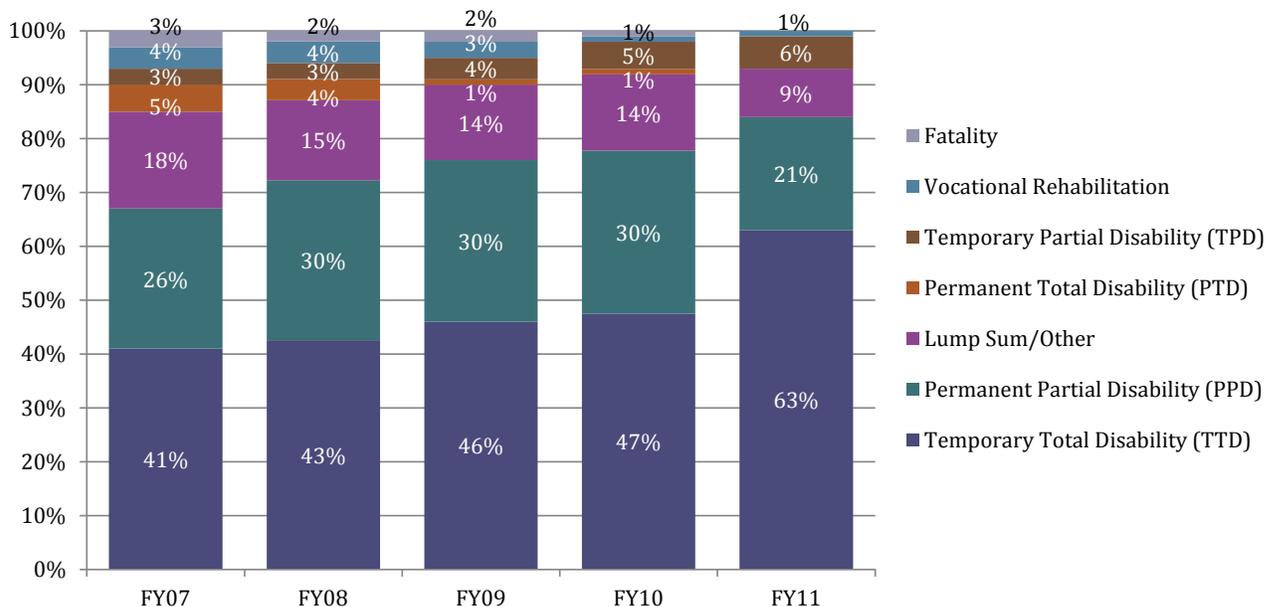
⁷ Data as accurate as reported to Employment Relations Division and does not include reserves.

⁸ 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)

Exhibit 3.8

Indemnity Benefits Paid^{9, 10}

By Benefit Type and Fiscal Year of Injury¹¹



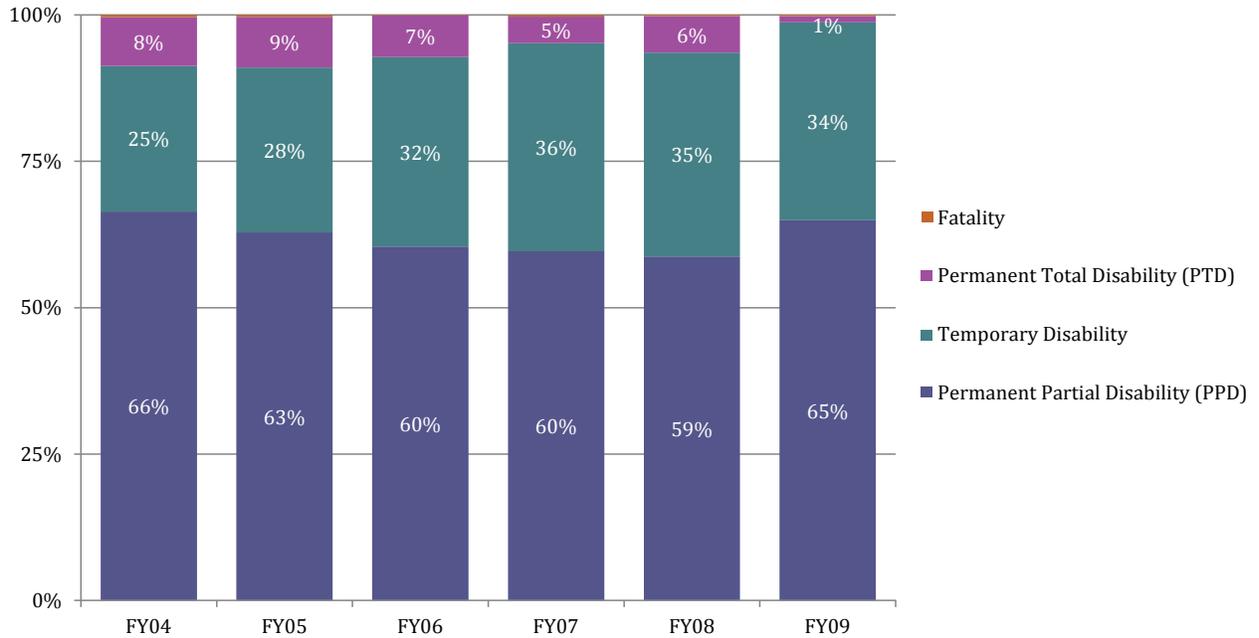
⁹ Any payment made directly to the worker or the worker’s beneficiaries, other than a medical benefit. The term includes payments made pursuant to a reservation of rights, or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for items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

¹⁰ Totals may not sum exactly to 100% due to rounding.

¹¹ Data as accurate as reported to Employment Relations Division and does not include reserves.

Exhibit 3.9

Medical Dollars by Claim Type^{12, 13}
and Fiscal Year of Injury



¹² The type of claim may change as it develops (i.e. temporary disability may become a permanent disability).

¹³ Data as accurate as reported to Employment Relations Division and does not include reserves.

Exhibit 3.10

Medical Dollars by Type of Medical Provider¹⁴
and Fiscal Year of Injury



¹⁴ Data as accurate as reported to Employment Relations Division and does not include reserves.

Exhibit 3.11

Total Wage Loss:¹⁶ TTD, TPD, PTD, PPD, including Lump Sums

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2004	Claims	4,961	1,841	772	443	251	167	119	74
	Average Yearly Benefits	\$6,194	\$12,141	\$14,097	\$13,526	\$12,906	\$12,944	\$11,417	\$12,713
	Average Total Benefits	\$6,194	\$21,316	\$39,243	\$55,027	\$62,189	\$70,590	\$85,265	\$110,694
	Percent	92%	34%	14%	8%	5%	3%	2%	1%
2005	Claims	4,718	1,619	746	447	238	145	90	
	Average Yearly Benefits	\$9,252	\$13,096	\$16,298	\$14,442	\$15,775	\$14,401	\$40,428	
	Average Total Benefits	\$9,252	\$31,819	\$45,963	\$63,247	\$80,366	\$99,407	\$147,096	
	Percent	92%	31%	14%	9%	5%	3%	2%	
2006	Claims	4,665	1,617	826	422	237	133		
	Average Yearly Benefits	\$6,316	\$13,424	\$15,157	\$14,386	\$14,107	\$16,502		
	Average Total Benefits	\$6,316	\$24,000	\$38,582	\$51,331	\$56,781	\$72,831		
	Percent	88%	31%	16%	8%	4%	3%		
2007	Claims	4,426	1,601	796	396	220			
	Average Yearly Benefits	\$6,489	\$12,171	\$16,295	\$15,242	\$17,513			
	Average Total Benefits	\$6,489	\$22,187	\$38,768	\$53,027	\$63,538			
	Percent	85%	31%	15%	8%	4%			
2008	Claims	4,664	1,678	745	362				
	Average Yearly Benefits	\$6,062	\$14,035	\$15,350	\$15,104				
	Average Total Benefits	\$6,062	\$23,711	\$37,075	\$50,660				
	Percent	86%	31%	14%	7%				
2009	Claims	4,116	1,612	623					
	Average Yearly Benefits	\$7,115	\$13,637	\$14,963					
	Average Total Benefits	\$7,115	\$23,915	\$37,976					
	Percent	86%	34%	13%					
2010	Claims	3,972	1,417						
	Average Yearly Benefits	\$6,172	\$11,062						
	Average Total Benefits	\$6,172	\$20,163						
	Percent	90%	32%						
2011	Claims	3,811							
	Average Yearly Benefits	\$5,987							
	Average Total Benefits	\$5,987							
	Percent	100%							

¹⁶Dollars adjusted for inflation to 2011 dollars.

Exhibit 3.12

Wage Loss Benefits:¹⁷ Temporary Total Disability, including Lump Sums

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2004	Claims	4,433	1,053	449	234	145	86	50	33
	Average Yearly Benefits	\$4,746	\$7,956	\$7,602	\$7,693	\$6,964	\$7,256	\$7,151	\$9,779
	Average Total Benefits	\$4,746	\$17,017	\$26,187	\$33,196	\$37,870	\$43,433	\$43,398	\$55,521
	Percent	97%	23%	10%	5%	3%	2%	1%	1%
2005	Claims	4,264	978	416	229	129	76	44	
	Average Yearly Benefits	\$7,445	\$7,963	\$8,676	\$8,729	\$8,344	\$7,953	\$10,034	
	Average Total Benefits	\$7,445	\$29,688	\$27,148	\$35,523	\$45,973	\$46,268	\$53,605	
	Percent	96%	22%	9%	5%	3%	2%	1%	
2006	Claims	4,298	1,050	483	225	125	75		
	Average Yearly Benefits	\$4,948	\$8,487	\$8,290	\$8,323	\$7,302	\$9,271		
	Average Total Benefits	\$4,948	\$18,360	\$27,564	\$35,231	\$38,413	\$44,154		
	Percent	96%	23%	11%	5%	3%	2%		
2007	Claims	4,126	1,023	460	213	115			
	Average Yearly Benefits	\$5,185	\$8,341	\$8,702	\$8,447	\$9,689			
	Average Total Benefits	\$5,185	\$18,458	\$28,587	\$36,178	\$44,764			
	Percent	95%	24%	11%	5%	3%			
2008	Claims	4,280	1,043	410	197				
	Average Yearly Benefits	\$4,944	\$8,380	\$8,593	\$8,264				
	Average Total Benefits	\$4,944	\$18,520	\$27,088	\$36,646				
	Percent	96%	23%	9%	4%				
2009	Claims	3,659	857	336					
	Average Yearly Benefits	\$5,684	\$9,848	\$10,153					
	Average Total Benefits	\$5,684	\$21,992	\$33,362					
	Percent	97%	23%	9%					
2010	Claims	3,402	712						
	Average Yearly Benefits	\$4,909	\$8,168						
	Average Total Benefits	\$4,909	\$18,327						
	Percent	97%	20%						
2011	Claims	3,298							
	Average Yearly Benefits	\$5,031							
	Average Total Benefits	\$5,031							
	Percent	100%							

¹⁷Dollars adjusted for inflation to 2011 dollars.

Exhibit 3.13

Wage Loss Benefits:¹⁸ Temporary Partial Disability, including Lump Sums

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2004	Claims	911	168	56	29	18	12	4	4
	Average Yearly Benefits	\$1,929	\$2,985	\$2,755	\$2,550	\$3,285	\$1,605	\$915	\$516
	Average Total Benefits	\$1,929	\$5,432	\$9,100	\$11,889	\$10,673	\$10,805	\$17,404	\$1,564
	Percent	94%	17%	6%	3%	2%	1%	0%	0%
2005	Claims	852	180	55	25	16	9	5	
	Average Yearly Benefits	\$2,331	\$2,990	\$2,434	\$6,969	\$2,039	\$4,752	\$4,970	
	Average Total Benefits	\$2,331	\$7,687	\$15,538	\$33,381	\$9,276	\$14,869	\$28,923	
	Percent	91%	19%	6%	3%	2%	1%	1%	
2006	Claims	915	199	64	29	12	5	0	
	Average Yearly Benefits	\$1,931	\$2,308	\$2,279	\$1,623	\$1,893	\$1,059	\$0	
	Average Total Benefits	\$1,931	\$5,055	\$4,912	\$5,933	\$5,906	\$1,427	0	
	Percent	90%	20%	6%	3%	1%	0%		
2007	Claims	915	201	62	24	16			
	Average Yearly Benefits	\$2,104	\$2,790	\$2,646	\$3,020	\$3,041			
	Average Total Benefits	\$2,104	\$5,415	\$6,844	\$7,807	\$12,630			
	Percent	90%	20%	6%	2%	2%			
2008	Claims	966	185	48	19				
	Average Yearly Benefits	\$1,986	\$2,299	\$2,868	\$3,998				
	Average Total Benefits	\$1,986	\$5,104	\$6,190	\$9,604				
	Percent	93%	18%	5%	2%				
2009	Claims	872	178	55					
	Average Yearly Benefits	\$2,106	\$3,286	\$2,986					
	Average Total Benefits	\$2,106	\$6,763	\$8,760					
	Percent	93%	19%	6%					
2010	Claims	875	168						
	Average Yearly Benefits	\$2,286	\$2,810						
	Average Total Benefits	\$2,286	\$6,067						
	Percent	94%	18%						
2011	Claims	814							
	Average Yearly Benefits	\$2,104							
	Average Total Benefits	\$2,104							
	Percent	100%							

¹⁸Dollars adjusted for inflation to 2011 dollars.

Exhibit 3.14

Wage Loss Benefits:¹⁹ Permanent Partial Disability, including Lump Sums

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2004	Claims	1,286	1,260	505	284	139	89	58	24
	Average Yearly Benefits	\$6,135	\$10,283	\$11,218	\$12,574	\$11,157	\$8,644	\$8,391	\$14,603
	Average Total Benefits	\$6,135	\$12,656	\$22,342	\$33,534	\$32,149	\$27,803	\$28,839	\$42,287
	Percent	56%	55%	22%	12%	6%	4%	3%	1%
2005	Claims	1,214	1,040	509	298	143	81	40	
	Average Yearly Benefits	\$8,064	\$12,049	\$15,004	\$11,352	\$9,594	\$9,851	\$74,658	
	Average Total Benefits	\$8,064	\$16,552	\$31,776	\$42,454	\$57,682	\$30,265	\$198,717	
	Percent	59%	50%	25%	14%	7%	4%	2%	
2006	Claims	877	953	568	285	150	66		
	Average Yearly Benefits	\$6,984	\$12,275	\$13,003	\$10,807	\$9,498	\$12,114		
	Average Total Benefits	\$6,984	\$14,931	\$20,661	\$24,131	\$24,026	\$31,077		
	Percent	48%	52%	31%	15%	8%	4%		
2007	Claims	743	987	555	268	134			
	Average Yearly Benefits	\$7,117	\$10,377	\$12,244	\$11,431	\$10,229			
	Average Total Benefits	\$7,117	\$12,249	\$18,714	\$22,093	\$23,426			
	Percent	41%	55%	31%	15%	7%			
2008	Claims	861	1,152	546	235				
	Average Yearly Benefits	\$5,998	\$11,469	\$12,339	\$13,474				
	Average Total Benefits	\$5,998	\$13,008	\$18,746	\$26,644				
	Percent	44%	58%	28%	12%				
2009	Claims	1,068	1,198	450					
	Average Yearly Benefits	\$6,052	\$10,408	\$12,242					
	Average Total Benefits	\$6,052	\$12,032	\$17,915					
	Percent	51%	57%	21%					
2010	Claims	1,227	1,032						
	Average Yearly Benefits	\$4,733	\$8,779						
	Average Total Benefits	\$4,733	\$10,178						
	Percent	63%	53%						
2011	Claims	1,053							
	Average Yearly Benefits	\$4,285							
	Average Total Benefits	\$4,285							
	Percent	100%							

¹⁹Dollars adjusted for inflation to 2011 dollars.

Exhibit 3.15

Wage Loss Benefits:²⁰ Permanent Total Disability, Including Lump Sums

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2004	Claims	3	14	24	28	30	29	27	25
	Average Yearly Benefits	\$13,513	\$36,730	\$68,767	\$19,531	\$20,656	\$25,829	\$18,916	\$10,621
	Average Total Benefits	\$13,513	\$39,048	\$72,397	\$49,459	\$46,682	\$60,091	\$70,502	\$77,991
	Percent	5%	25%	44%	51%	55%	53%	49%	45%
2005	Claims	3	15	20	30	28	24	21	
	Average Yearly Benefits	\$43,219	\$23,014	\$38,902	\$29,986	\$45,488	\$26,790	\$8,853	
	Average Total Benefits	\$43,219	\$28,650	\$50,381	\$57,502	\$63,565	\$51,590	\$40,760	
	Percent	5%	23%	31%	47%	44%	38%	33%	
2006	Claims	7	15	22	25	23	20		
	Average Yearly Benefits	\$44,407	\$42,630	\$44,744	\$42,855	\$42,754	\$34,730		
	Average Total Benefits	\$44,407	\$56,527	\$64,761	\$49,726	\$62,360	\$66,180		
	Percent	12%	26%	38%	43%	40%	34%		
2007	Claims	3	15	26	28	28			
	Average Yearly Benefits	\$37,981	\$9,996	\$77,269	\$39,316	\$47,120			
	Average Total Benefits	\$37,981	\$11,089	\$82,096	\$50,019	\$66,118			
	Percent	6%	29%	51%	55%	55%			
2008	Claims	5	28	24	23				
	Average Yearly Benefits	\$6,266	\$41,856	\$43,265	\$25,969				
	Average Total Benefits	\$6,266	\$42,641	\$50,373	\$42,687				
	Percent	11%	62%	53%	51%				
2009	Claims	5	9	14					
	Average Yearly Benefits	\$37,464	\$54,454	\$16,958					
	Average Total Benefits	\$37,464	\$55,248	\$20,800					
	Percent	24%	43%	67%					
2010	Claims	3	11						
	Average Yearly Benefits	\$3,519	\$29,688						
	Average Total Benefits	\$3,519	\$30,094						
	Percent	25%	92%						
2011	Claims	1							
	Average Yearly Benefits	\$1,293							
	Average Total Benefits	\$1,293							
	Percent	100%							

²⁰Dollars adjusted for inflation to 2011 dollars.

Exhibit 3.16

Medical Benefits:²¹ Payments to Physicians

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2004	Claims	4,190	2,474	1,192	968	597	519	410	357
	Average Yearly Benefits	\$2,906	\$2,282	\$2,099	\$2,498	\$2,452	\$2,706	\$1,810	\$1,875
	Average Total Benefits	\$2,906	\$5,758	\$8,320	\$9,950	\$13,256	\$15,552	\$16,929	\$18,176
	Percent	84%	50%	24%	19%	12%	10%	8%	7%
2005	Claims	4,172	2,218	1,459	783	646	489	388	
	Average Yearly Benefits	\$3,052	\$2,182	\$2,577	\$2,242	\$2,732	\$1,942	\$1,644	
	Average Total Benefits	\$3,052	\$6,124	\$8,699	\$12,082	\$13,892	\$16,209	\$19,111	
	Percent	87%	46%	30%	16%	13%	10%	8%	
2006	Claims	4,053	3,010	1,360	921	675	517		
	Average Yearly Benefits	\$2,565	\$3,080	\$2,170	\$2,498	\$2,154	\$2,074		
	Average Total Benefits	\$2,565	\$5,633	\$9,065	\$10,996	\$12,722	\$15,007		
	Percent	81%	60%	27%	18%	14%	10%		
2007	Claims	4,212	2,565	1,418	838	573			
	Average Yearly Benefits	\$3,235	\$2,322	\$2,603	\$2,240	\$1,782			
	Average Total Benefits	\$3,235	\$6,134	\$8,768	\$11,740	\$14,294			
	Percent	86%	53%	29%	17%	12%			
2008	Claims	4,524	2,628	1,289	806				
	Average Yearly Benefits	\$3,049	\$2,720	\$2,657	\$2,216				
	Average Total Benefits	\$3,049	\$6,422	\$10,259	\$13,829				
	Percent	89%	52%	25%	16%				
2009	Claims	4,024	2,424	1,202					
	Average Yearly Benefits	\$3,240	\$2,708	\$2,194					
	Average Total Benefits	\$3,240	\$6,585	\$10,013					
	Percent	90%	54%	27%					
2010	Claims	3,853	2,310						
	Average Yearly Benefits	\$3,375	\$2,500						
	Average Total Benefits	\$3,375	\$6,669						
	Percent	94%	56%						
2011	Claims	3,738							
	Average Yearly Benefits	\$3,380							
	Average Total Benefits	\$3,380							
	Percent	100%							

²¹Dollars adjusted for inflation to 2011 dollars.

Exhibit 3.17

Medical Benefits:²² Payments to Hospitals

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2004	Claims	3,412	1,796	645	465	239	174	114	87
	Average Yearly Benefits	\$4,967	\$3,927	\$5,024	\$6,000	\$6,452	\$5,450	\$5,089	\$5,415
	Average Total Benefits	\$4,967	\$9,731	\$16,586	\$20,933	\$24,504	\$29,957	\$41,320	\$55,481
	Percent	83%	44%	16%	11%	6%	4%	3%	2%
2005	Claims	3,411	1,494	764	330	267	180	123	
	Average Yearly Benefits	\$5,829	\$3,753	\$5,251	\$5,730	\$7,406	\$7,147	\$4,364	
	Average Total Benefits	\$5,829	\$11,085	\$16,791	\$20,847	\$24,937	\$35,303	\$37,483	
	Percent	85%	37%	19%	8%	7%	4%	3%	
2006	Claims	2,863	1,778	602	389	243	183		
	Average Yearly Benefits	\$4,203	\$5,554	\$5,831	\$5,515	\$6,521	\$7,042		
	Average Total Benefits	\$4,203	\$9,536	\$14,634	\$16,975	\$19,894	\$26,470		
	Percent	79%	49%	17%	11%	7%	5%		
2007	Claims	2,152	1,224	586	317	193			
	Average Yearly Benefits	\$7,112	\$5,157	\$5,540	\$6,306	\$5,179			
	Average Total Benefits	\$7,112	\$11,753	\$16,122	\$19,408	\$24,938			
	Percent	78%	44%	21%	12%	7%			
2008	Claims	2,326	1,268	510	288				
	Average Yearly Benefits	\$6,286	\$5,340	\$6,701	\$4,859				
	Average Total Benefits	\$6,286	\$11,149	\$19,289	\$23,328				
	Percent	83%	45%	18%	10%				
2009	Claims	2,119	1,206	472					
	Average Yearly Benefits	\$6,479	\$4,962	\$5,077					
	Average Total Benefits	\$6,479	\$11,284	\$18,507					
	Percent	86%	49%	19%					
2010	Claims	2,096	1,131						
	Average Yearly Benefits	\$6,215	\$5,619						
	Average Total Benefits	\$6,215	\$12,415						
	Percent	90%	49%						
2011	Claims	2,083							
	Average Yearly Benefits	\$7,588							
	Average Total Benefits	\$7,588							
	Percent	100%							

²²Dollars adjusted for inflation to 2011 dollars.

Exhibit 3.18

Medical Benefits:²³ Payments to Other Medical Providers

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2004	Claims	4,116	2,313	1,092	931	610	552	450	358
	Average Yearly Benefits	\$2,147	\$2,408	\$2,878	\$5,188	\$5,096	\$5,247	\$4,878	\$4,716
	Average Total Benefits	\$2,147	\$5,071	\$8,727	\$12,892	\$18,348	\$21,515	\$26,394	\$33,052
	Percent	84%	47%	22%	19%	12%	11%	9%	7%
2005	Claims	4,116	2,035	1,420	845	662	524	408	
	Average Yearly Benefits	\$2,279	\$2,418	\$4,307	\$5,133	\$7,956	\$5,574	\$4,857	
	Average Total Benefits	\$2,279	\$5,312	\$9,961	\$16,081	\$22,962	\$27,552	\$34,746	
	Percent	87%	43%	30%	18%	14%	11%	9%	
2006	Claims	3,935	2,939	1,426	999	709	523		
	Average Yearly Benefits	\$2,347	\$4,254	\$4,462	\$5,479	\$5,305	\$5,011		
	Average Total Benefits	\$2,347	\$6,707	\$12,540	\$17,930	\$23,221	\$27,636		
	Percent	81%	60%	29%	20%	15%	11%		
2007	Claims	4,011	2,596	1,519	896	593			
	Average Yearly Benefits	\$4,531	\$3,928	\$5,111	\$4,812	\$4,869			
	Average Total Benefits	\$4,531	\$8,896	\$14,393	\$20,550	\$26,127			
	Percent	83%	54%	32%	19%	12%			
2008	Claims	4,424	2,605	1,332	815				
	Average Yearly Benefits	\$4,341	\$4,381	\$4,526	\$4,316				
	Average Total Benefits	\$4,341	\$9,462	\$15,123	\$20,652				
	Percent	87%	51%	26%	16%				
2009	Claims	3,968	2,335	1,185					
	Average Yearly Benefits	\$4,661	\$4,536	\$4,183					
	Average Total Benefits	\$4,661	\$9,909	\$15,645					
	Percent	88%	52%	26%					
2010	Claims	3,776	2,191						
	Average Yearly Benefits	\$4,753	\$4,410						
	Average Total Benefits	\$4,753	\$10,331						
	Percent	93%	54%						
2011	Claims	3,729							
	Average Yearly Benefits	\$4,690							
	Average Total Benefits	\$4,690							
	Percent	100%							

²³Dollars adjusted for inflation to 2011 dollars.

Exhibit 3.19

Vocational Rehabilitation Benefits,^{24, 25} including Lump Sums

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2004	Claims	71	162	142	99	41	28	13	2
	Average Yearly Benefits	\$2,587	\$4,182	\$4,578	\$6,281	\$4,329	\$5,143	\$5,474	\$3,670
	Average Total Benefits	\$2,587	\$4,742	\$6,424	\$11,864	\$11,211	\$9,824	\$12,911	\$4,802
	Percent	23%	52%	45%	32%	13%	9%	4%	1%
2005	Claims	104	403	244	105	54	16	5	
	Average Yearly Benefits	\$2,292	\$4,706	\$5,683	\$5,691	\$6,627	\$8,000	\$10,299	
	Average Total Benefits	\$2,292	\$4,929	\$8,579	\$11,746	\$15,146	\$21,833	\$33,262	
	Percent	22%	87%	53%	23%	12%	3%	1%	
2006	Claims	474	567	215	91	24	19		
	Average Yearly Benefits	\$3,018	\$4,164	\$5,618	\$5,198	\$7,511	\$6,019		
	Average Total Benefits	\$3,018	\$5,242	\$8,185	\$9,487	\$13,530	\$11,090		
	Percent	56%	68%	26%	11%	3%	2%		
2007	Claims	534	552	208	49	20			
	Average Yearly Benefits	\$3,071	\$3,551	\$4,439	\$6,364	\$6,870			
	Average Total Benefits	\$3,071	\$4,351	\$6,869	\$13,167	\$14,731			
	Percent	61%	64%	24%	6%	2%			
2008	Claims	610	586	116	38				
	Average Yearly Benefits	\$2,552	\$3,951	\$4,712	\$6,181				
	Average Total Benefits	\$2,552	\$4,684	\$7,294	\$11,887				
	Percent	70%	67%	13%	4%				
2009	Claims	462	232	64					
	Average Yearly Benefits	\$2,804	\$4,236	\$7,532					
	Average Total Benefits	\$2,804	\$5,319	\$9,808					
	Percent	92%	46%	13%					
2010	Claims	82	87						
	Average Yearly Benefits	\$2,473	\$5,310						
	Average Total Benefits	\$2,473	\$5,730						
	Percent	55%	58%						
2011	Claims	27							
	Average Yearly Benefits	\$4,428							
	Average Total Benefits	\$4,428							
	Percent	100%							

²⁴Includes payments to claimants for vocational rehabilitation benefits.

²⁵Dollars adjusted for inflation to 2011 dollars.

TEMPORARY DISABILITY PAID DURATION ◆

Disability duration is an important measure of how quickly injured workers return to work. Here we highlight trends for fiscal years 2005–2010. 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 2005 to 2010. 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.

Exhibit 3.20

Temporary Disability Paid Duration – 1 Year Maturity By Plan Type and Fiscal Year of Injury

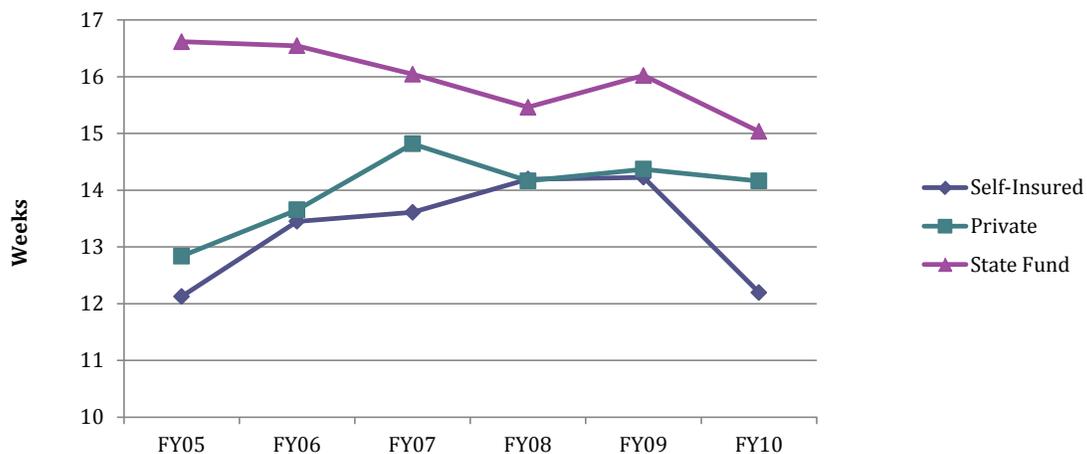


Exhibit 3.21

Temporary Disability Paid Duration (weeks) – 1 Year Maturity By Plan Type and Fiscal Year of Injury

Plan Type	FY05	FY06	FY07	FY08	FY09	FY10
Self-Insured	12.1	13.5	13.6	14.2	14.2	12.2
Private	12.8	13.7	14.8	14.2	14.4	14.2
State Fund	16.6	16.5	16.0	15.5	16.0	15.0
All Plans	14.7	15.1	15.3	14.8	15.1	14.3

◆ TEMPORARY DISABILITY PAID DURATION

Exhibit 3.22

Temporary Disability Paid Duration – 3 Year Maturity By Plan Type and Fiscal Year of Injury

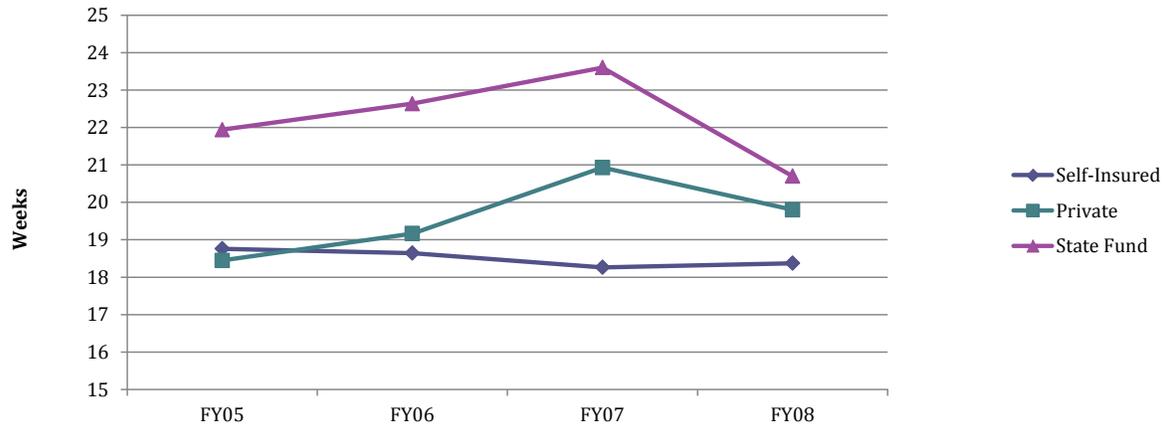


Exhibit 3.23

Temporary Disability Paid Duration (weeks) – 3 Year Maturity By Plan Type and Fiscal Year of Injury

Plan Type	FY05	FY06	FY07	FY08
Self-Insured	18.8	18.6	18.3	18.4
Private	18.4	19.2	20.9	19.8
State Fund	21.9	22.6	23.6	20.7
All Plans	20.3	20.9	21.9	20.1

SETTLEMENT DOLLARS ◆

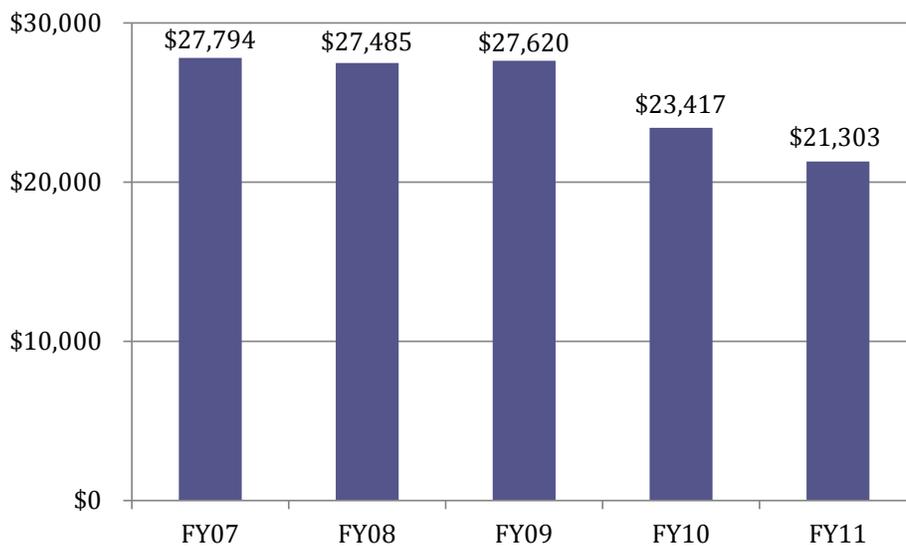
Settlements are lump sum payments of the claimant's workers' compensation indemnity and/or medical benefits. Benefits are usually paid in periodic payments designed to sustain an injured worker over an extended period of time. Settlements can occur when the claimant and the insurer agree that benefits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

Exhibit 3.24 displays average settlement amounts, by fiscal year of injury. This information includes both injury and occupational disease settlements.

Exhibit 3.24

Average Settlement By Fiscal Year of Injury²⁶



²⁶Previous fiscal year information has been updated.

Exhibit 3.25

Settlement Amounts for Claims Settled By Plan Type and Fiscal Year of Injury²⁷

Plan Type	FY07		FY08		FY09		FY10		FY11	
	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Self-Insured	\$3,905,665	151	\$3,641,908	159	\$3,904,168	136	\$3,143,157	121	\$1,533,956	67
Private	\$11,166,810	411	\$13,699,037	472	\$11,624,774	439	\$8,682,083	391	\$7,421,298	324
State Fund	\$16,220,777	561	\$14,148,643	515	\$13,847,473	488	\$10,250,106	436	\$8,617,299	432
UEF	\$58,844	5	\$283,543	10	\$177,194	7	\$335,007	9	\$23,469	3
Total	\$31,352,096	1,128	\$31,773,131	1,156	\$29,553,609	1,070	\$22,410,353	957	\$17,596,022	826

²⁷Previous fiscal year information has been updated.

◆ SETTLEMENT OF MEDICAL BENEFITS FOR BEST INTEREST ²⁸

In March of 2011, the Montana Legislature passed a new law that allowed for undisputed future medical benefits to be settled on an accepted claim. These Petitions for Best Interest require a rationale for the settlement, a statement of why it's in the best interest of the parties to settle the medical benefits, and a signed acknowledgment of the worker. Petitions for Best Interest can be approved for all open claims, for which medical has not been settled, regardless of the date of injury. The following exhibits represent all

petitions for best interest settlements since the law was in effect in April of 2011 to April of 2012, for all dates of injury. Exhibit 3.26 shows the number of settlements approved for each payer type. Exhibit 3.27 illustrates the total medical dollars settled by payer, for those petitions (80%) that we could determine the settlement amount allocated for medical. Exhibit 3.28 shows the dollar amounts in ranges of \$10,000 settled by all payers. Most Petitions (74%) settled for \$30,000 or less.

Exhibit 3.26

Number of Settlements for Best Interest (April 2011 to April 2012) By Plan Type

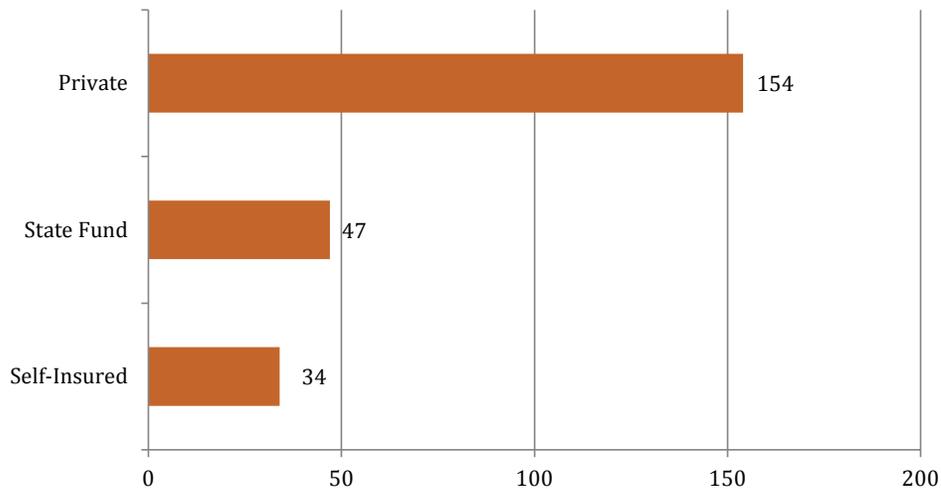


Exhibit 3.27

Total Settlement Amounts for Claims Settled for Best Interest (April 2011 to April 2012) By Plan Type

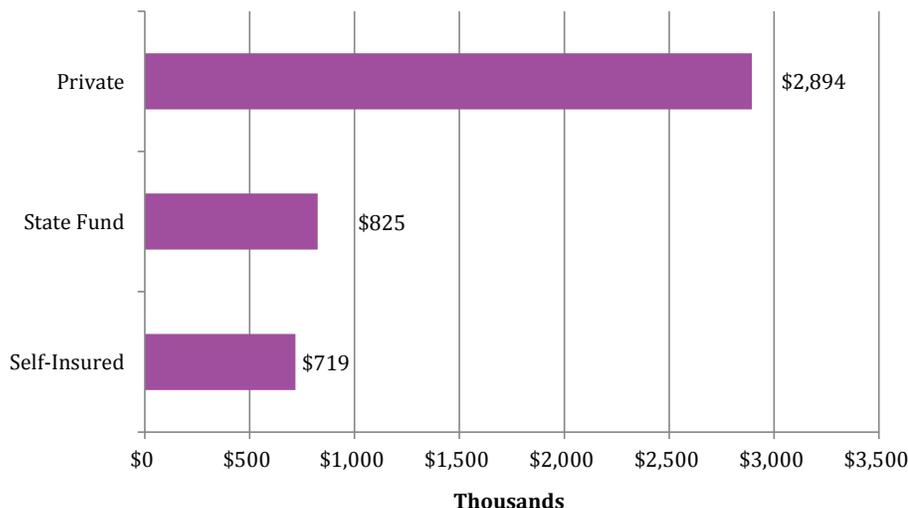
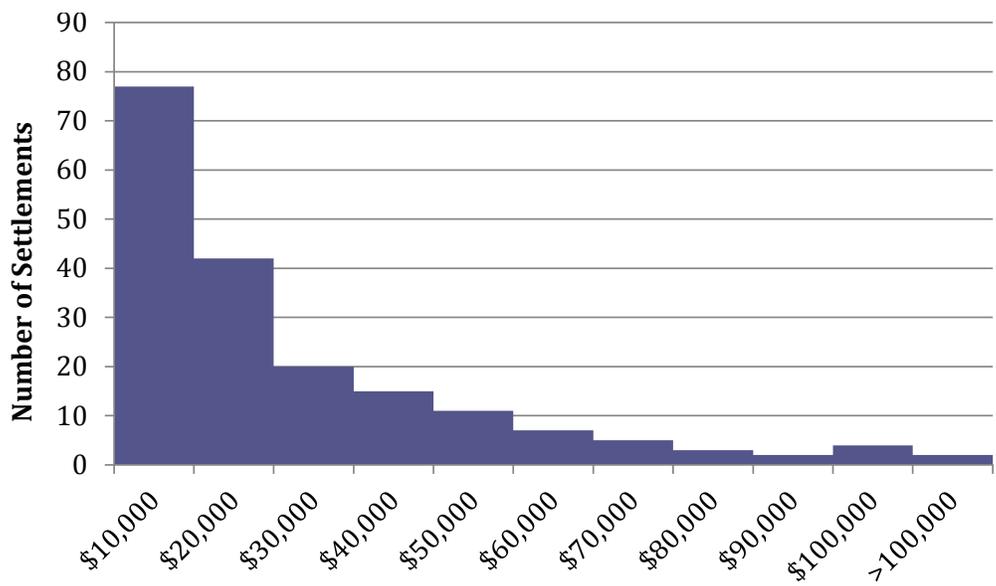


Exhibit 3.28

**Settlement Distribution for Claims Settled for Best Interest
(April 2011 to April 2012)**



²⁸Corrections have been made to Exhibits 3.26, 3.27, and 3.28 since the publishing of this report in October 2012.

◆ 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 regulated²⁸ by ERD.

The data in Exhibit 3.29 and Exhibit 3.30 present attorney legal fee information by plan type and fiscal year of injury.

²⁹ §39-71-613, MCA (2011)

Exhibit 3.29

Average Attorney Legal Fees

By Fiscal Year of Injury

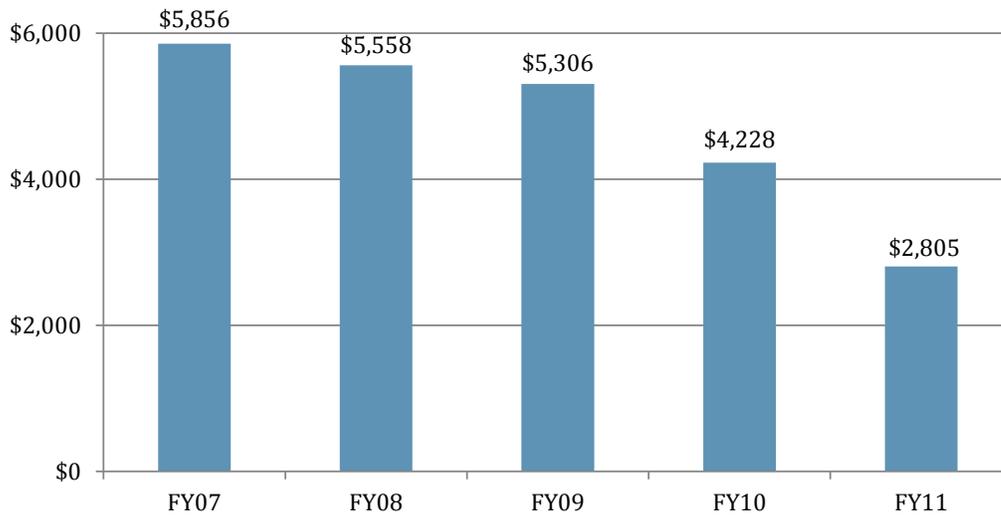


Exhibit 3.30

Total Attorney Legal Fees

By Plan Type and Fiscal Year of Injury

Plan Type	FY07		FY08		FY09		FY10		FY11	
	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Self-Insured	\$317,970	64	\$429,220	82	\$297,013	65	\$190,046	49	\$44,710	22
Private	\$1,200,916	223	\$1,210,507	230	\$975,626	182	\$689,574	170	\$273,144	105
State Fund	\$1,898,591	296	\$1,554,471	262	\$1,190,101	217	\$766,504	169	\$351,591	111
UEF ²⁹	\$13,957	3	\$18,243	4	\$4,375	1	\$2,704	2	\$977	1
Total	\$3,431,434	586	\$3,212,442	578	\$2,467,116	465	\$1,648,828	390	\$670,421	239

²⁹ UEF – Uninsured Employers’ Fund

INJURED WORKER ATTORNEY FEES ◆

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 FY11 involved attorneys.

Exhibit 3.31

Attorney Fees from Claimant Settlements³⁰

By Fiscal Year of Settlement

	FY07	FY08	FY09	FY10	FY11
Number of Settlement Petitions Processed	1,405	1,410	1,465	1,502	1,551
Claims Settled with Attorney Representation	775	786	785	860	889
Percent Claimants Represented by Attorney	55%	56%	54%	57%	57%
Total Settlement Amount with Attorney Involvement	\$24,538,844	\$29,304,566	\$27,144,323	\$35,516,545	\$33,891,418
Total Attorney Fees	\$4,424,590	\$5,365,189	\$4,969,772	\$5,729,453	\$4,433,307
Average Fee/Settlement Percentage	18%	18%	18%	16%	13%

³⁰ 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 claim³⁰. These costs are reported to ERD on the subsequent report of injury at regular intervals throughout the life of a claim.

The data in Exhibit 3.32 and Exhibit 3.33 present insurer legal expenses by plan type and fiscal year of injury.

ARM 24.29.4335 and 24.29.4336 (2011)

Exhibit 3.32

Average Insurer Legal Expenses per Claim

By Fiscal Year of Injury

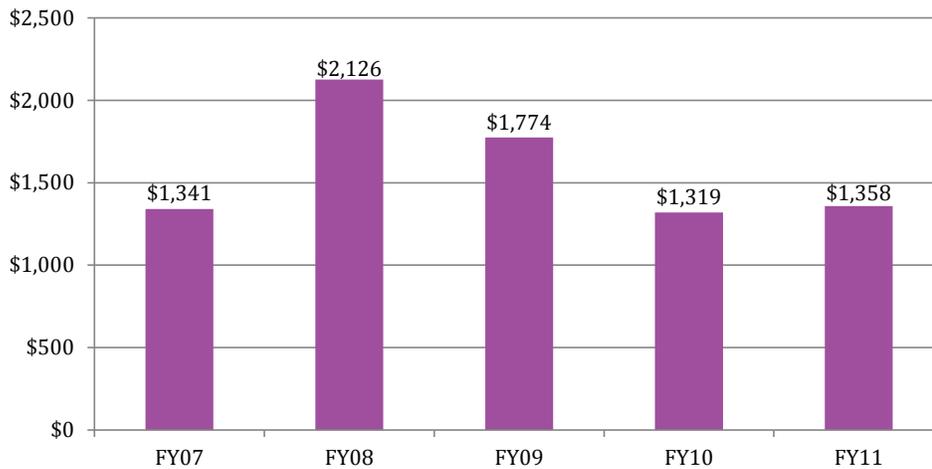


Exhibit 3.33

Total Insurer Legal Expenses

By Plan Type and Fiscal Year of Injury

Plan Type	FY07		FY08		FY09		FY10		FY11	
	Amount	Claims								
Self-Insured	\$24,473	36	\$78,370	33	\$47,647	22	\$27,419	19	\$10,092	7
Private	\$108,234	82	\$206,033	105	\$84,425	85	\$68,014	99	\$40,824	50
State Fund	\$556,737	275	\$495,639	243	\$486,914	225	\$319,659	175	\$277,952	153
Grand Total	\$689,444	393	\$780,042	381	\$618,986	332	\$415,092	293	\$328,868	210

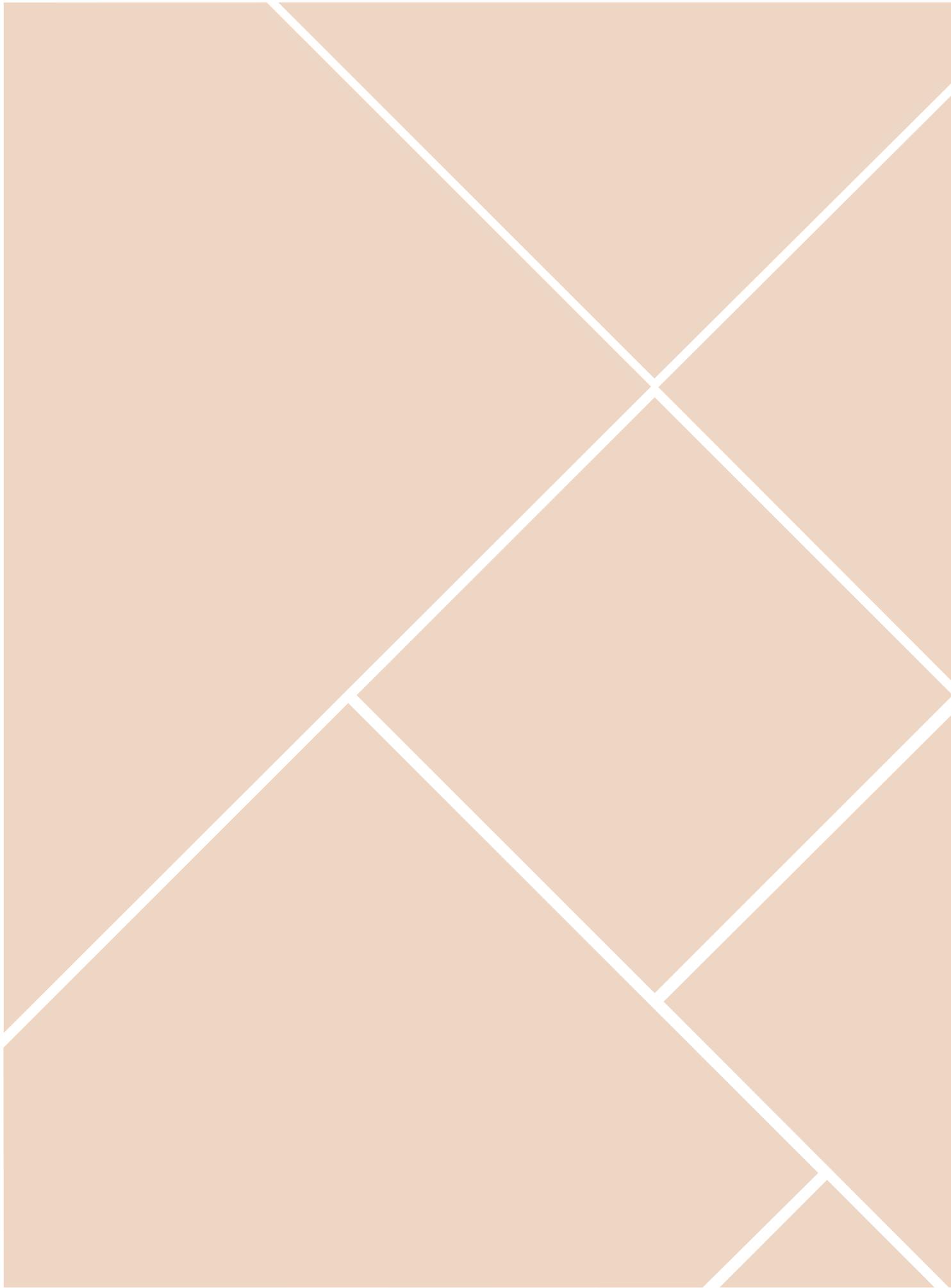


Dispute Resolution

- ◆ Mediation
- ◆ Contested Case Hearings
- ◆ Workers' Compensation Court
- ◆ Significant Workers' Compensation Cases
- ◆ Supreme Court Decision on Workers' Compensation and Occupational Disease

section

4



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 FY11, the Mediation Unit received and processed 1,374 petitions, which involved 1,539 claims. A petition is a request for mediation and may include multiple claims.

Exhibit 4.1

Claims in Mediation - FY11

By Plan Type



Exhibit 4.2

Claims in Mediation - FY11

By Plan Type and Fiscal Year of Receipt

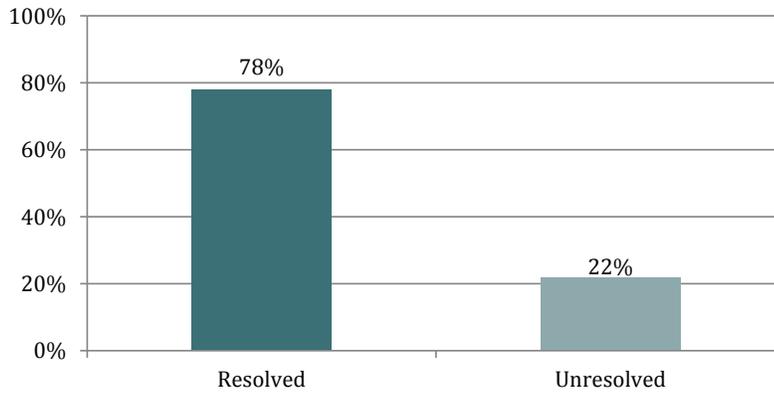
Plan Type	FY07		FY08		FY09		FY10		FY11	
	Count	%								
Self-Insured	247	17%	273	18%	262	19%	253	17%	245	16%
Private	563	38%	594	40%	543	39%	624	41%	596	39%
State Fund	644	43%	578	39%	554	40%	597	39%	664	43%
UEF ¹	35	2%	43	3%	27	2%	39	3%	34	2%
Total ²	1,489	100%	1,488	100%	1,386	100%	1,513	100%	1,539	100%

¹ UEF – Uninsured Employers' Fund

² Total counts represent 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.

Exhibit 4.3

Percent of Mediation Petitions Resolved - FY11



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 38 days in FY11.

Exhibit 4.4

Mediation Petitions³

By Fiscal Year of Receipt

Petitions	FY07		FY08		FY09		FY10		FY11	
	Count	%								
Pending ⁴	0	0%	1	1%	2	1%	9	1%	79	5%
Closed	1,312	100%	1,343	99%	1,247	99%	1,370	99%	1,295	95%
Total Rec'd	1,312	100%	1,344	100%	1,249	100%	1,379	100%	1,374	100%
Resolved	1,085	83%	1,130	84%	1,016	81%	1,126	82%	1,010	78%
Unresolved	227	17%	213	16%	231	19%	244	18%	285	22%
Total Closed	1,312	100%	1,343	100%	1,247	100%	1,370	100%	1,295	100%

³ A single petition may include multiple claims and/or multiple insurers.

⁴ Eventual outcome of pending petitions will affect percent resolved.

◆ CONTESTED CASE HEARINGS

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 FY11, the Hearings Bureau received 3 new requests for contested case hearings.

Exhibit 4.5

Petitions Received by the Hearings Bureau By Plan Type and Fiscal Year

Plan Type	FY07		FY08		FY09		FY10		FY11	
	Count	%	Count	%	Count	%	Count	%	Count	%
Self-Insured	1	7%	0	0%	0	0%	0	0%	0	0%
Private	10	67%	1	11%	0	0%	0	0%	0	0%
State Fund	1	7%	2	22%	0	0%	1	34%	1	33%
UEF ⁵	2	13%	3	67%	3	75%	1	33%	2	67%
Other	1	6%	-	-	1	25%	1	33%	0	0%
Total	15	100%	9	100%	4	100%	3	100%	3	100%

⁵ UEF – Uninsured Employers' Fund

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 involving independent contractor exemptions under both the

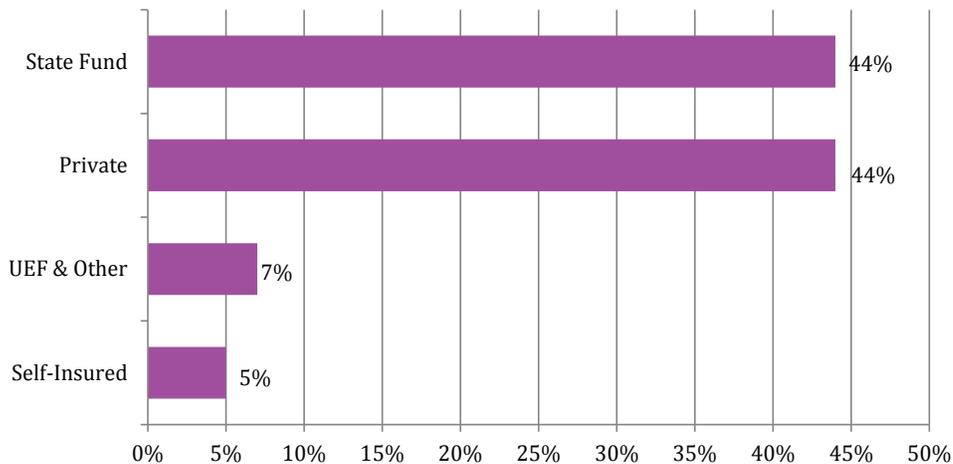
Workers' Compensation and Unemployment Insurance Acts, civil penalties for theft of workers' compensation benefits, and the two-year return to work preference specified in section 39-71-317(2), MCA.

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

Exhibit 4.6

Percent of Petitions Received by the WCC – FY11

By Case Type⁶



⁶ The Workers' Compensation Act provides for three separate "plans" i.e. Self Insured, Private Insured, and Montana State Fund. The court breaks down its case types further for statistical purposes i.e. Self Insured, Private Insured, Montana State Fund, Subsequent Injury Fund, Uninsured Employers' Fund, Independent Contractor Compensation Unit (ICCU), and Department of Labor and Industry (DLI). The court's statistics can be located on the web <http://www.wcc.dli.mt.gov/stats.asp>.

Exhibit 4.7

Petitions Received by the WCC

By Case Type⁷ and Fiscal Year of Receipt

	FY07		FY08		FY09		FY10		FY11	
Case Type	Count	%								
Self-Insured	18	7%	8	4%	25	12%	22	10%	12	5%
Private	122	49%	115	55%	90	43%	112	49%	103	44%
State Fund	81	33%	66	31%	83	40%	78	34%	103	44%
UEF & Other	26	11%	21	10%	10	5%	17	7%	15	7%
Total	247	100%	210	100%	208	100%	229	100%	233	100%

⁷ See footnote from 6 on previous page.

⁸ Petitions may involve more than one plan type.

Exhibit 4.8

Decisions by the WCC

By Fiscal Year of Receipt

Decisions	FY07	FY08	FY09	FY10	FY11
Decisions	166	170	143	181	167
Substantive Orders	19	68	43	26	28
Orders on Cost	5	6	3	6	3
Bench Rulings without Written Decisions	0	0	2	0	1
Attorney Fee Orders	2	2	0	3	1
Phone Conference Resulting in Disposition	0	0	0	0	0
Orders on Appeal	0	0	0	1	0
Subtotals	192	246	191	217	200
Petitions Dismissed by Agreement	80	46	51	46	41
Totals	272	292	242	263	241

Exhibit 4.9

Full and Final Compromise Settlements by the WCC

By Case Type⁹ and Fiscal Year of Receipt

Case Type	FY07	FY08	FY09	FY10	FY11
Self-Insured	7	2	2	5	2
Private	8	6	5	9	4
State Fund	7	12	12	8	2
UEF	0	0	0	0	0
Total	22	20	19	22	8

⁹ See footnote from 6 on previous page.

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

In the Workers' Compensation Court of
 the State of Montana

**EDNA BANCO vs. LIBERTY NORTHWEST INS.
 CORP.**

2011 MTWCC 13

**APPEALED TO MONTANA SUPREME COURT -
 06/20/11
 AFFIRMED – 01/10/12**

Summary: Petitioner worked part-time as a food server for Respondent's insured and concurrently worked full-time as a cook for an employer insured under the federal workers' compensation system. Petitioner left her employment at Respondent's insured while continuing to work at her other job. Petitioner filed a workers' compensation claim, alleging that she developed an occupational disease in her right shoulder. Respondent denied liability.

Held: Under the "last injurious exposure" rule as set forth in *In re Mitchell*, the employer who is liable for an occupational disease is the employer at which the claimant was last exposed to the working conditions of the same type and kind which gave rise to the occupational disease. In this case, Petitioner continued to be exposed to those working conditions at her other employment after she quit her job at Respondent's insured. Therefore, Respondent is not liable for Petitioner's occupational disease.

**BRADLEY BELL vs. MONTANA STATE FUND
 and MONTANA CONTRACTOR COMP FUND**

2011 MTWCC 23

Summary: Respondent Montana Contractor Compensation Fund (MCCF) moved for summary judgment, alleging Petitioner's Petition for Trial was untimely under § 39-71-2905(2), MCA. MCCF contends that Petitioner's petition was not filed within two years of MCCF's denial of benefits. Petitioner argues that MCCF had accepted liability for his claim and that MCCF's letter which MCCF argues constitutes a denial of benefits, denied only one specific medical bill. Respondent Montana State Fund (State Fund) also opposed Respondent MCCF's motion for summary judgment. Respondent MCCF moved to strike State Fund's brief, arguing that State Fund lacks the standing to oppose MCCF's motion because State Fund is not an adverse party.

Held: MCCF's motion to strike is denied. State Fund has opposed MCCF's motion for summary judgment. As it pertains to MCCF's motion, therefore, State Fund is adverse. MCCF's motion for summary judgment is denied. Section 39-71-2905(2), MCA, provides: "A petition for hearing before the workers' compensation judge must be filed within 2 years after benefits are denied." MCCF accepted liability for Petitioner's claim, but denied treatment for one specific medical bill. MCCF's denial cannot be construed as a denial of benefits and a dispute over liability as to Bell's claim in general.

Regarding the limited issue of whether the statute of limitations has run on Bell's claim exclusive of the

treatment for which MCCF specifically denied liability, the Court sees no disputed facts which would preclude summary judgment in Petitioner's favor. Since neither Petitioner nor State Fund have moved for summary judgment on this issue, MCCF will have 10 days to file a supplemental brief as to why summary judgment in favor of Petitioner should not be granted on this issue. Petitioner and State Fund may file reply briefs within 5 days after MCCF's brief.

MACo WORKERS' COMPENSATION TRUST vs. MARY BETH KLINKAM

2011 MTWCC 26

Summary: Petitioner claims it is entitled to an offset pursuant to § 39-71-701(5), MCA, which provides that an insurer is entitled to an offset if the claimant collects social security disability payments "because of the injury" for which the claimant also receives workers' compensation benefits.

Held: Respondent receives social security disability benefits for a multitude of reasons in addition to the knee injury for which she receives workers' compensation benefits. Respondent's knee injury was only one of eleven conditions considered severe by the Social Security Administration's Administrative Law Judge in his determination that Respondent was entitled to benefits. Petitioner is not entitled to an offset.

PAUL SCOTT PEARSON vs. MONTANA INSURANCE GUARANTY ASSOCIATION

2012 MTWCC 1

Summary: Petitioner suffered an industrial injury, including a traumatic brain injury, in 1995. In 1997, he settled his claim. Petitioner contends that his

settlement agreement with Respondent is void, invalid, or unenforceable and that this Court should order his claim reopened. Petitioner further argues that the insurer unreasonably adjusted his claim and that he should be entitled to reasonable attorney fees and a penalty. Respondent contends that: Petitioner's claim is barred by a statute of limitations; no grounds exist to order reopening of Petitioner's settlement; and statutorily, it cannot be held liable for attorney fees or a penalty.

Held: Petitioner was not competent to enter into the settlement agreement and it is therefore void. Respondent is not an insurer within the meaning of that term under the Workers' Compensation Act. Therefore, it cannot be subject to attorney fees or a penalty under §§ 39-71-611, -2907, MCA.

SHAWNA HARDIE vs. MONTANA STATE FUND

2012 MTWCC 2

Summary: Respondent moved for summary judgment, arguing that Petitioner's claim was untimely. Petitioner opposed Respondent's motion, arguing that she filed her claim within the statute of limitations when the tolling during the pendency of mediation is taken into account.

Held: Under § 39-71-2905(2), MCA, a claimant must file her petition for hearing within two years after benefits are denied. However, the statute of limitations is tolled during the pendency of mediation. In the present case, Petitioner filed her petition within 25 days of the issuance of the mediator's report pursuant to § 39-71-2411, MCA, and it is therefore timely filed. Respondent's motion for summary judgment is denied.

Supreme Court Decisions on Workers' Compensation and Occupational Disease

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

HAROLD CALDWELL vs. MACo WORKERS' COMPENSATION TRUST

2011 MT 162

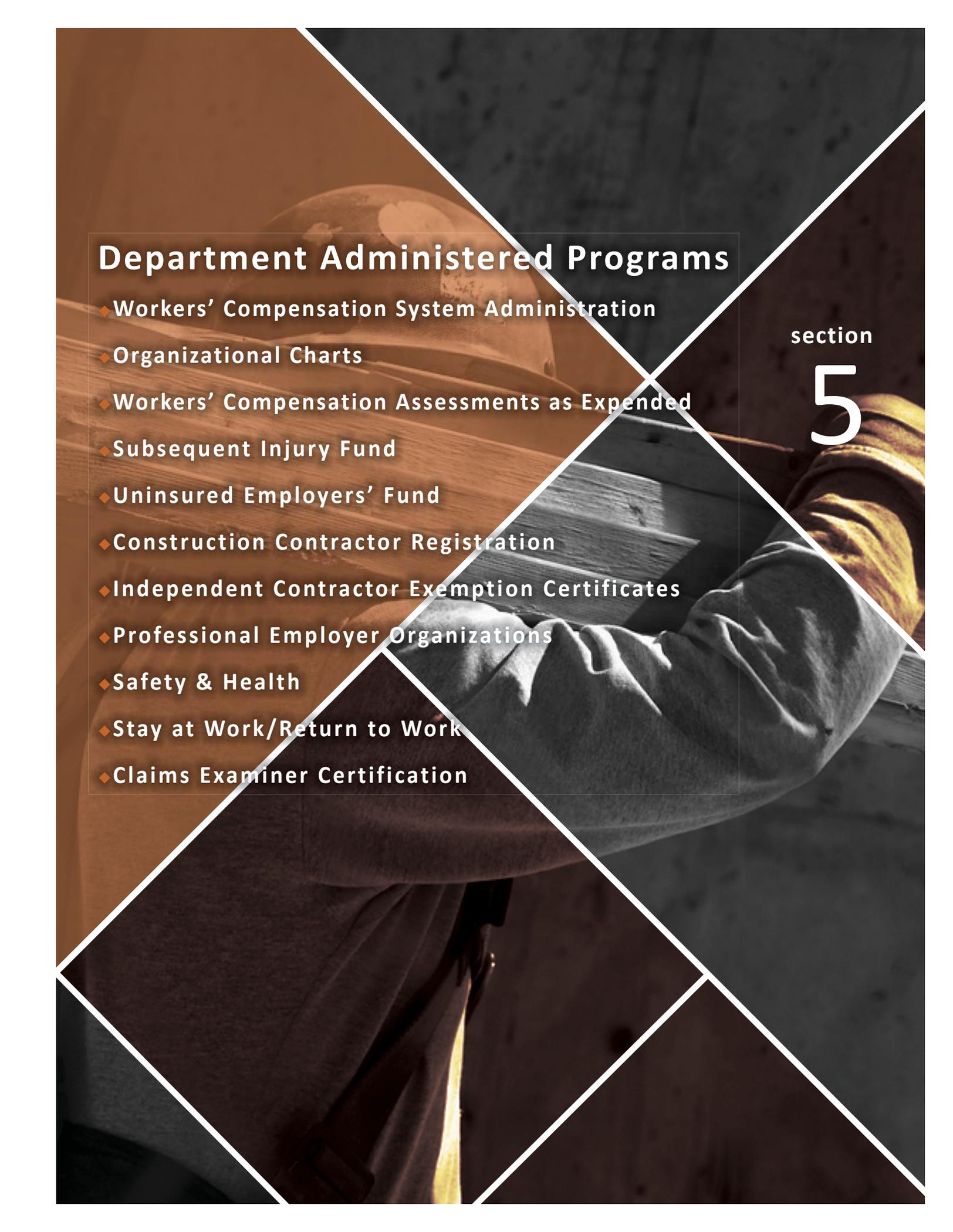
Harold Caldwell (Caldwell) worked as the Ravalli County airport manager. On November 25, 2005, he slipped on an icy airport taxiway, fell, and suffered traumatic head injuries. Caldwell was 77 years old at the time of his accident. MACo accepted Caldwell's claim and paid his medical and wage-loss benefits. Caldwell began drawing social security retirement benefits at age 62. Caldwell continued working as a mining supervisor until age 74, when he began full-time employment as the Ravalli County airport manager.

Caldwell reached medical stability from his head injuries on February 11, 2008. He asked MACo at that point to initiate rehabilitation services under § 39-71-1006, MCA. Caldwell sought to gain training that would enable him to re-enter the workforce. MACo denied Caldwell rehabilitation benefits based on § 39-71-710, MCA. Caldwell challenged the constitutionality of § 39-71-

710, MCA, on the basis that the statute's categorical termination of benefits based on a claimant's eligibility for social security violated equal protection principles. The WCC agreed. The WCC concluded that § 39-71-710, MCA, created two similarly situated classes and treated them disparately without being reasonably related to a legitimate government interest.

The WCC concluded that the automatic termination of rehabilitation benefits in § 39-71-710, MCA, did not rationally relate to any legitimate governmental interest. We agree that categorical elimination of rehabilitation benefits in § 39-71-710, MCA, based solely on age-defined eligibility for social security, does not rationally relate to any legitimate governmental interest. *Reesor*, ¶¶ 19, 23. Eligibility for social security benefits bears no rational relationship to a worker's ability or willingness to return to work. *Id.* at ¶ 12. Social security eligibility turns solely on a person's age and whether he or she has accrued enough social security earnings. 20 C.F.R. § 404.310 (2011).

A rational basis does not support the categorical elimination of rehabilitation benefits in § 39-71-710, MCA. Section 39-71-710, MCA, violates the Equal Protection Clause of the Montana Constitution insofar as it deems disabled workers ineligible to receive rehabilitation benefits based on their eligibility for social security benefits.

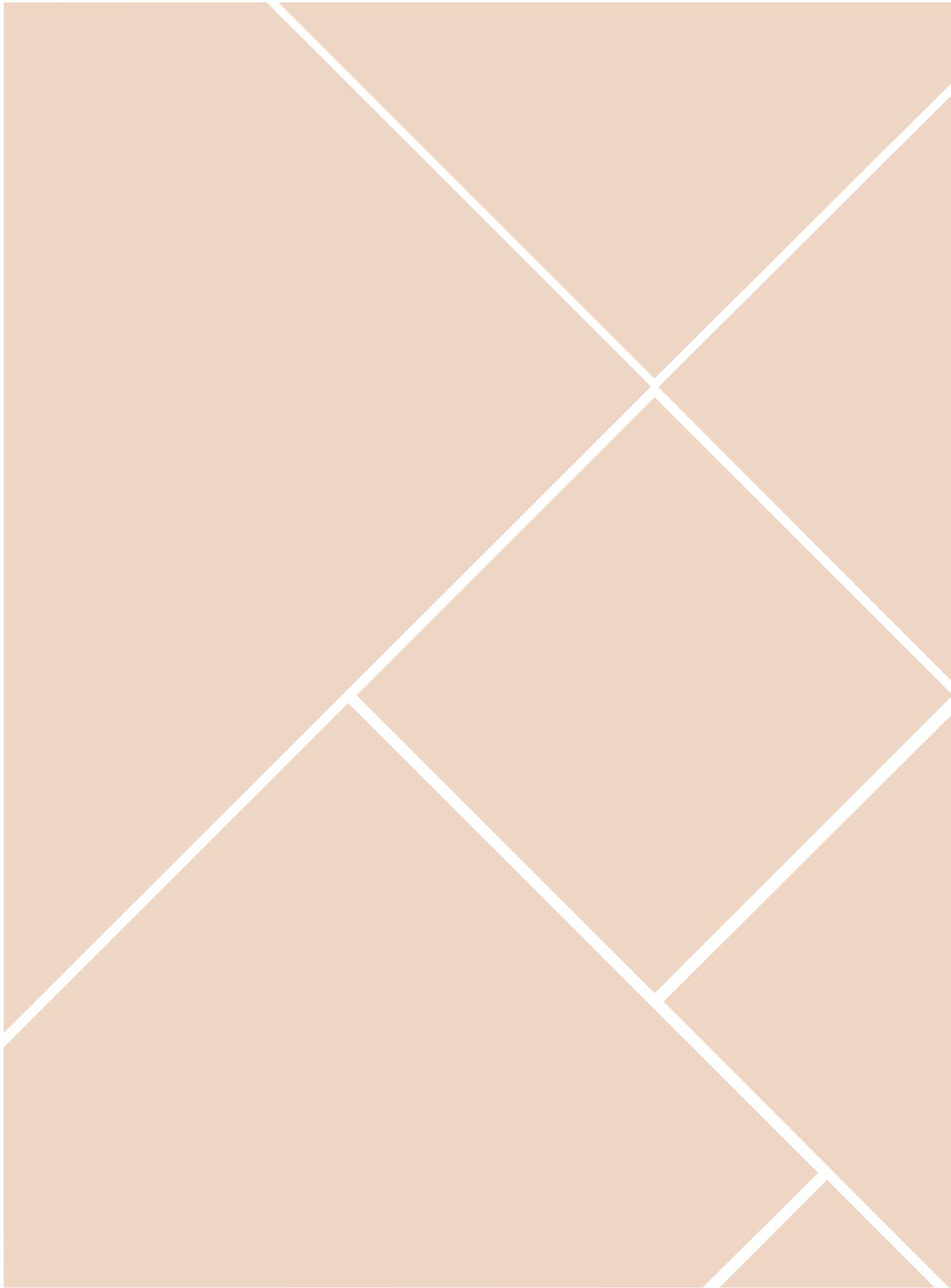


Department Administered Programs

- ◆ 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
- ◆ Stay at Work/Return to Work
- ◆ Claims Examiner Certification

section

5



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 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 Assistance Unit** ensures compliance with the Worker's 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 claims unit is also responsible for administering the new Stay at Work/Return to Work (SAW/RTW) program that went effect for injuries occurring on or after July 1, 2012.

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 Unit partners with WorkSafeMT, providing safety training through SafetyFests throughout the state.

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.

Exhibit 5.1

Montana Department of Labor & Industry

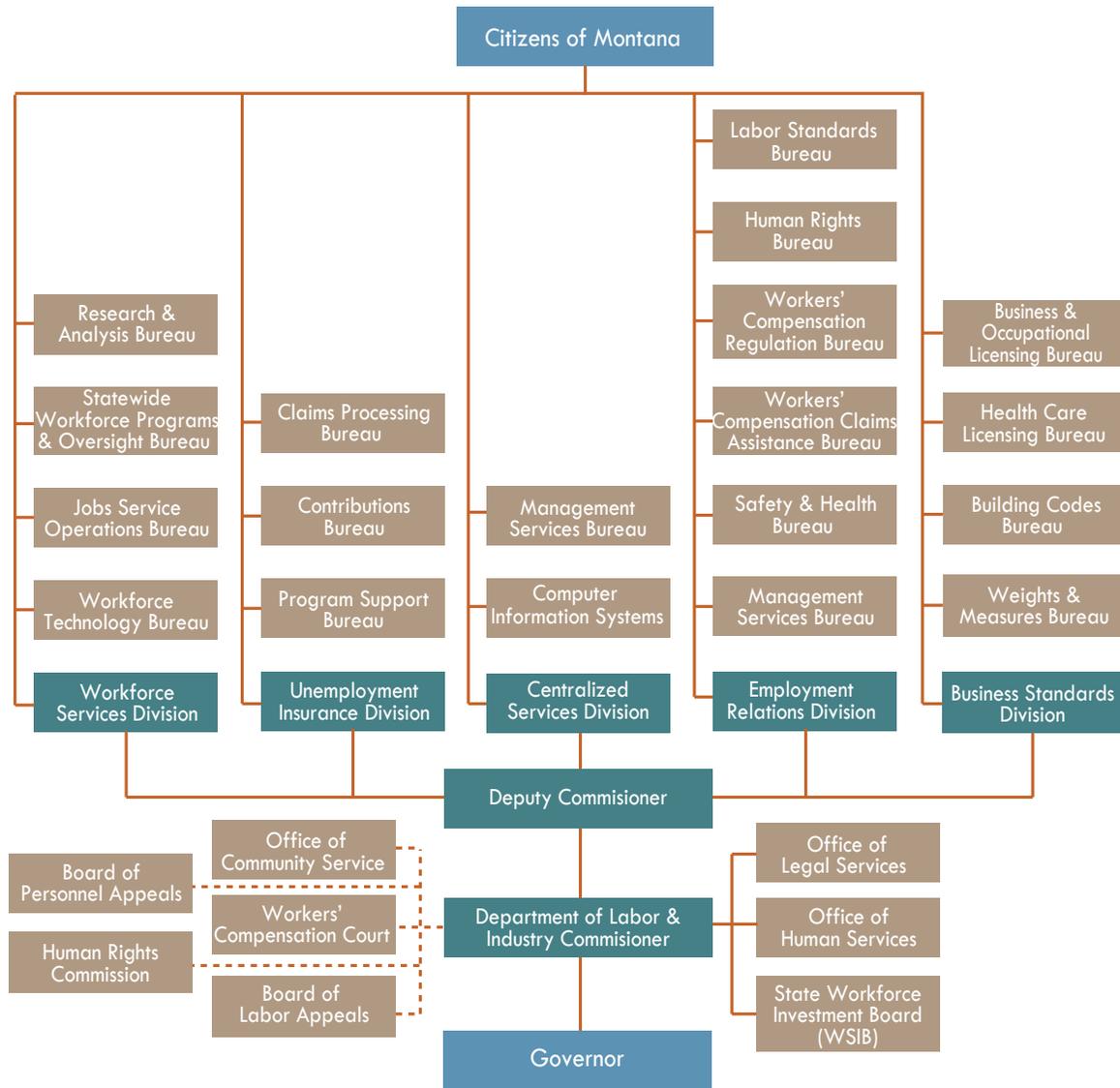
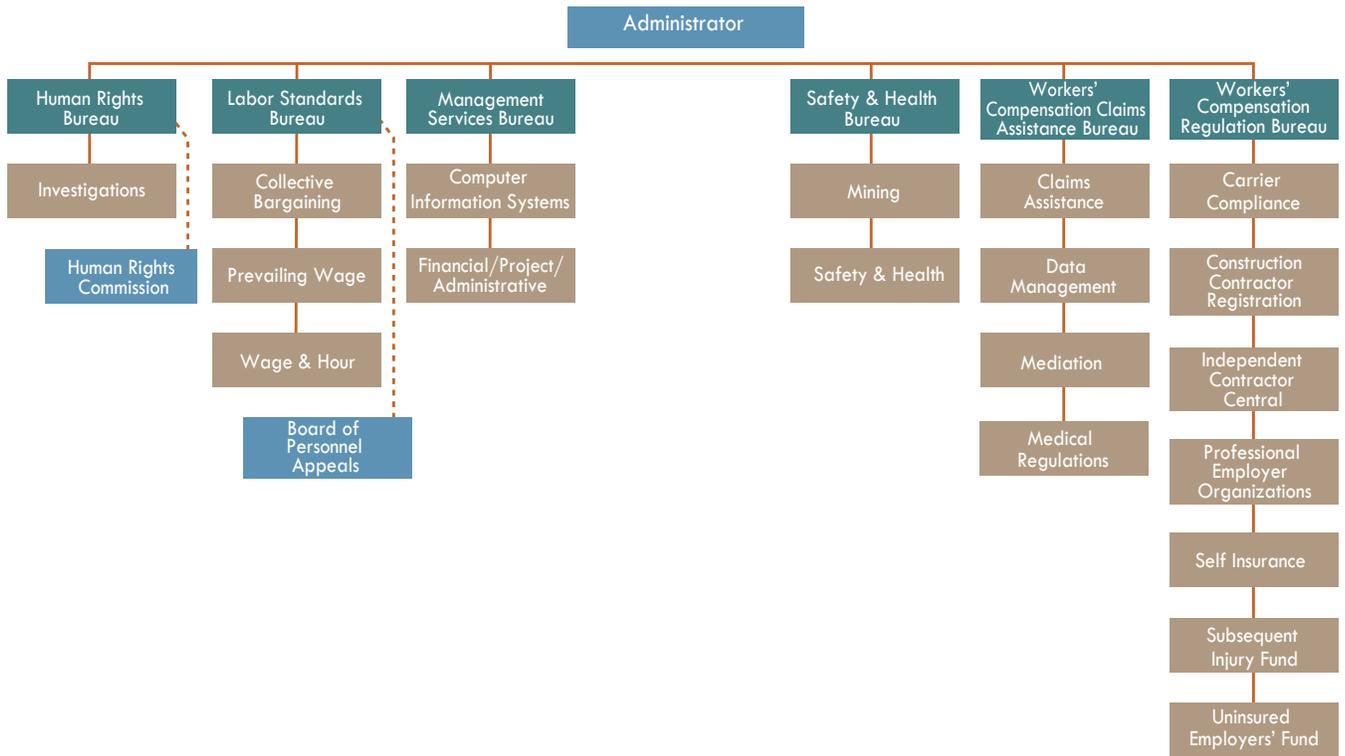


Exhibit 5.2

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 self-insured employers, private insurance carriers, and Montana State Fund. Section 39-71-201, MCA, requires the administration 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).

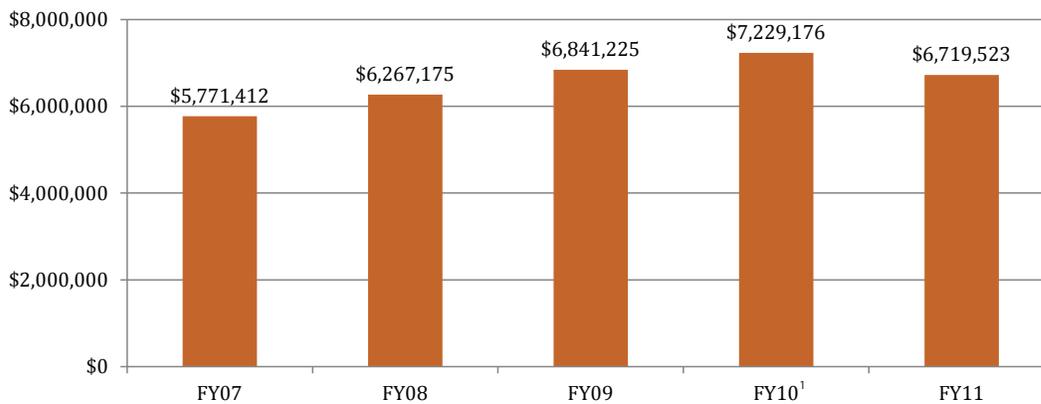
DLI Functions funded by the administration assessments:

- ◆ 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;
- ◆ 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.
- ◆ The remaining \$550,000 one-time only (two-year allocation of \$1,000,000) that was given to the WorkSafeMT program at the beginning in FY10, was expended in FY11. The funds were utilized to fulfill the original intent to educate and inform businesses and employees around the State and improve safety awareness, safety programs, and safety culture.

Exhibit 5.3

Workers' Compensation Assessments as Expended By Fiscal Year of Expenditure



¹ 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 impairment that is an obstacle to 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 self-insured workers’ compensation employers and a surcharge on premium for private insured and State Fund 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 and

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 increased annually from FY07 to FY09, but decreased significantly in FY10, from a high of \$817,130 in FY09 to \$341,062 in FY10. Payments increased again in FY11 to \$415,352. Applications from individuals seeking certification under the program have remained fairly constant each year with 118 new certifications approved in FY11. The total number of individuals currently certified under the program is 4,730.

Exhibit 5.4

SIF Payments and Dollars Assessed By Plan Type and Fiscal Year

Plan Type	FY07		FY08		FY09		FY10		FY11	
	Payments	Assessment	Payments	Assessment	Payments	Assessment	Payments	Assessment	Payments	Assessment
Self-Insured	\$340,568	\$0	\$405,627	\$89,001	\$244,436	\$107,095	\$77,273	\$121,149	\$116,514	\$173,129
Private	\$250,886	\$0	\$103,636	\$149,929	\$137,534	\$156,197	\$175,272	\$200,701	\$108,829	\$357,840
State Fund	\$1,183	\$0	\$118,420	\$213,388	\$435,160	\$269,964	\$88,517	\$313,037	\$190,009	\$464,689
Total	\$592,637	\$0	\$627,683	\$452,318	\$817,130	\$533,256	\$341,062	\$634,887	\$415,352	\$995,658

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. Coupled with the trend of increased compliance in the construction industry, there was a decrease in 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 FY07 to FY09, before leveling off in FY10. In FY11 there was a 33% decrease from FY10. Medical expenses peaked in FY09 at close to \$900,000, but decreased almost 59% in FY10. FY11 also saw a slight decrease in medical expenses of 6%. This decrease reflects the impact of reduction in construction-related injuries corresponding to the reduced construction activity in the state.

Forty-six claims were reported to UEF in FY11, down from sixty-three submitted in FY10. UEF accepted eighteen claims, twenty-one were denied, and coverage was found for seven.

Exhibit 5.5

Uninsured Employers' Fund

Financial Activity by Fiscal Year of Payment

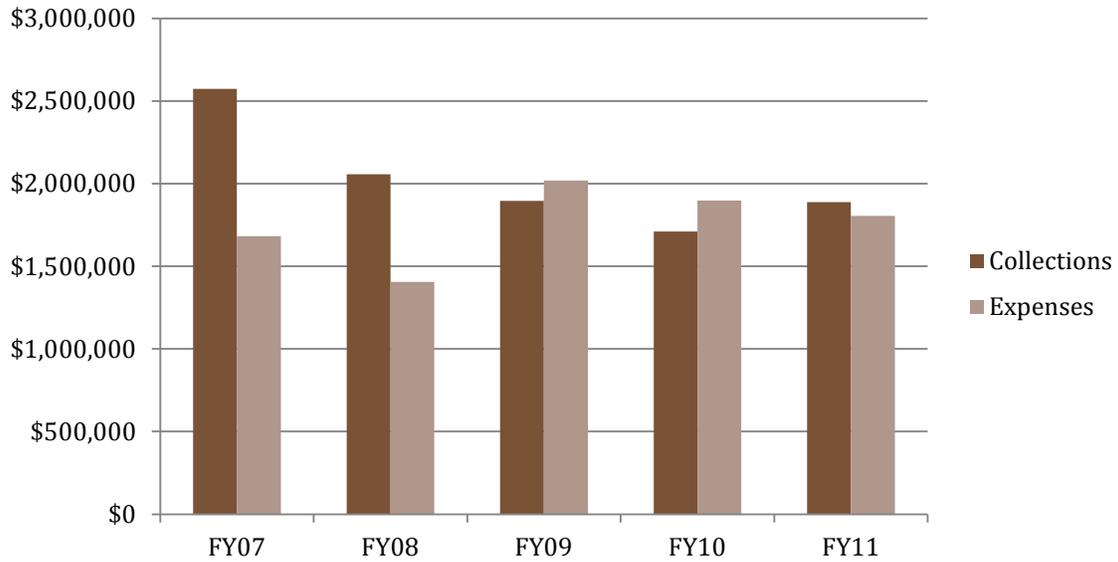


Exhibit 5.6

Uninsured Employers' Fund

Financial Activity by Fiscal Year of Payment

	FY07	FY08	FY09	FY10	FY11
Collections	\$2,574,227	\$2,056,374	\$1,896,480	\$1,710,987	\$1,888,138
Expenses	\$1,682,811	\$1,406,550	\$2,018,128	\$1,897,882	\$1,805,804

Exhibit 5.7

UEF Medical and Indemnity Payments

By Fiscal Year of Payment

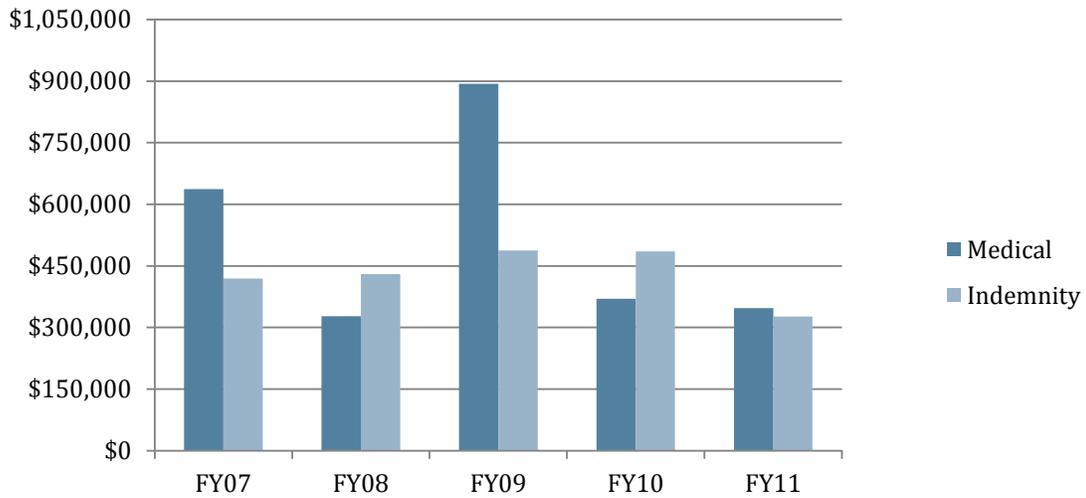


Exhibit 5.8

UEF Medical and Indemnity Payments

By Fiscal Year of Payment

	FY07	FY08	FY09	FY10	FY11
Medical	\$637,303	\$327,124	\$893,731	\$369,617	\$347,370
Indemnity	\$419,541	\$430,178	\$487,813	\$485,124	\$326,599

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, or are a corporation or 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 they are licensed, bonded, or tested.

The program serves three primary purposes:

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

The CR program works cooperatively with representatives of the building industry and the public to provide education about the registration program and the hiring of building construction contractors. The program is funded with 15% of CR fees. The education program is accomplished through seminars, presentations, news articles, multi-media campaigns, conferences, and community fairs and shows. During outreach, contact has been made with over 120,000 people throughout the state.

Exhibit 5.9

Number of Registered Construction Contractor Applications

By Fiscal Year

	FY07	FY08	FY09	FY10	FY11
Applications Received	5,478	6,773	5,265	6,295	5,155
Active CR's	10,736	11,227	11,107	11,087	10,126
Bid Only CR's	165	200	178	314	491
CR's with Employees ²	4,831	5,053	5,665	4,789	4,461

² In previous annual reports the number of CR's with employees was determined using the total number of applications received. This undercounted the number of CR's with employees because it included the applications that have been denied, canceled, or suspended. This year's report uses the total number of approved or active CR's to determine the number of CR's with employees.

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 491 in FY11, compared to 314 in FY10. Out-of-state construction contractors 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 5,155 CR applications in FY11 and 4,461 registered contractors had employees. The remaining 5,665 registered 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 fiscal years because of the CR statute that was implemented.

Five penalties, up to a maximum of \$500, were issued in FY11. Examples of violations include: performing work as a construction contractor without being registered; performing work as a construction contractor when the construction contractor’s registration is suspended; transferring a valid registration to an unregistered construction contractor; or allowing an unregistered construction contractor to work under a registration issued to another construction contractor.

The website www.mtcontractor.com provides more information on construction contractor registration in Montana.

Introduction

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 in which 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 FY11, 340 investigations took place across the state either affirming independent contractor relationships or requiring workers' compensation policies. The department revoked 69 exemption

certificates in FY11, compared to 27 in FY10, 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 independent contractor or hiring one. This is accomplished through seminars, presentations, home show participation, news articles, multi-media campaigns, conferences, county fairs, and as a last resort, penalty enforcement. During outreach, contact has been made with over 120,000 people throughout the state. Both the worker and those that hire them may be penalized. One penalty was issued in FY11.

The number of active ICECs for FY11 was 17,505. The department received 8,658 applications during FY11, of which 8,294 were approved, 113 denied, 173 pending, 52 canceled, and 26 revoked. Failure to provide a complete application was the primary reason for the denials and pending applications. Over half (52%) of the total applications received in FY11 were from the Construction industry. Administrative and Support and Waste Management and Remediation Services accounted for 12% of applications, Transportation and Warehousing applications 10%, followed by Professional, Scientific and Technical Services at 6%. Exhibit 5.10 below categorizes all exemption applications received by the different industries.

The website www.mtcontractor.com provides more information on independent contractors in Montana.

◆ INDEPENDENT CONTRACTOR EXEMPTION CERTIFICATES

Exhibit 5.10

Independent Contractor Exemptions

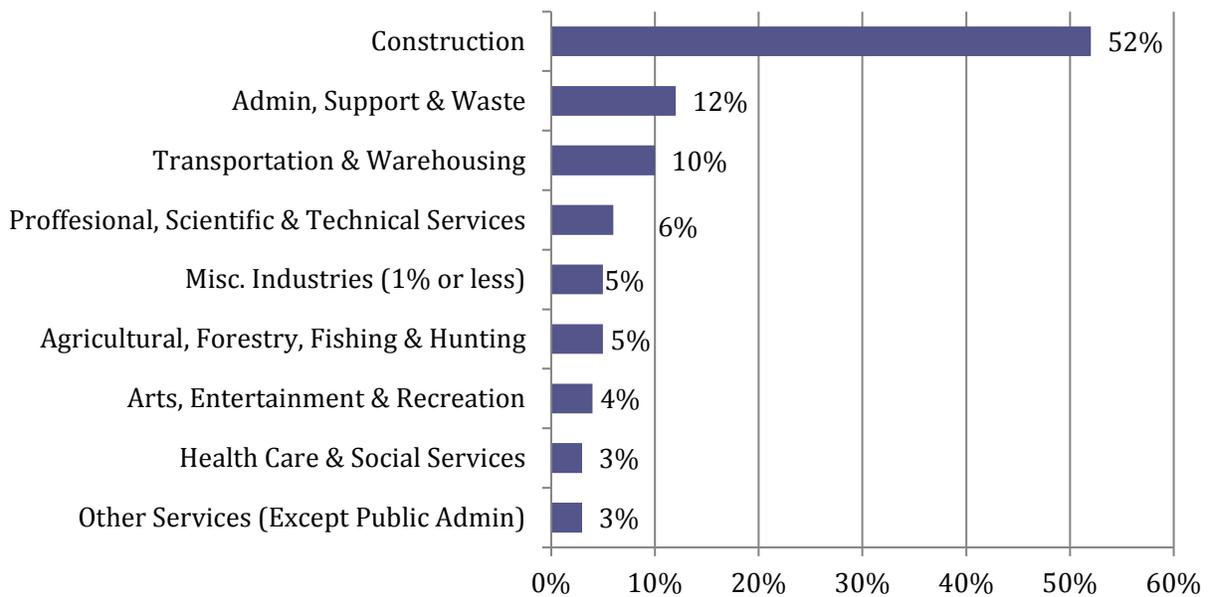
By Fiscal Year

	FY07	FY08	FY09	FY10	FY11
Applications Received	8,271	9,761	7,998	9,385	8,658
Active ICEC's	16,890	17,336	17,437	17,120	17,505

Exhibit 5.11

Independent Contractor Exemptions Applications

By Industry – FY11



Introduction

A Professional Employer Organization (PEO) is a business which contracts its employment 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 PEOs account. PEOs are required to be licensed by the Department of Labor and Industry.

Status Update

In FY11, Employment Relations Division (ERD) licensed 33 PEOs. The number of PEOs has fluctuated within 10 (up or down) over the past 10 years.

The number of client companies decreased from 529 in FY10 to 465 in FY11, a 12% decrease. The number of

leased employees increased from 2,696 in FY10 to 3,004 in FY11, an 11% increase. The average number of leased employees per client company increased from 5.1 to 6.5 employees. The increase in leased employees per client company is due to fewer client companies and more employees.

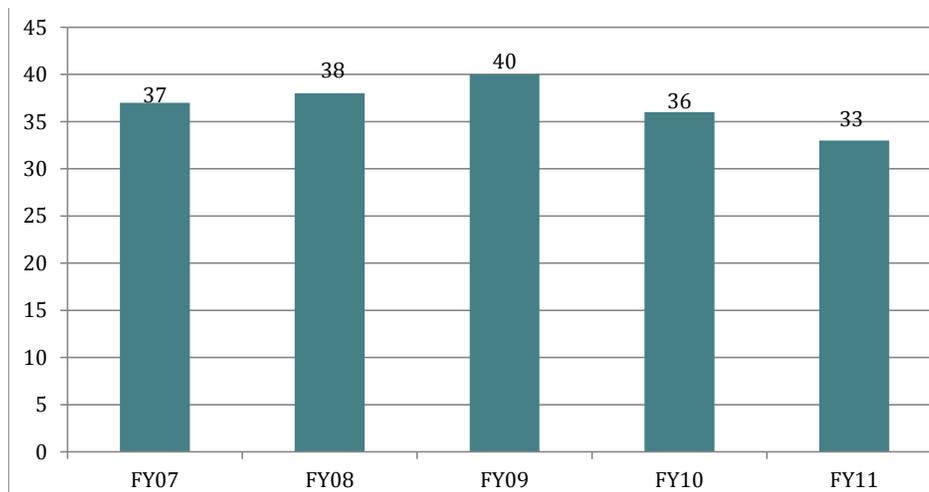
Significance Statement

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.

Exhibit 5.12

Licensed Professional Employer Organizations³

By Fiscal Year

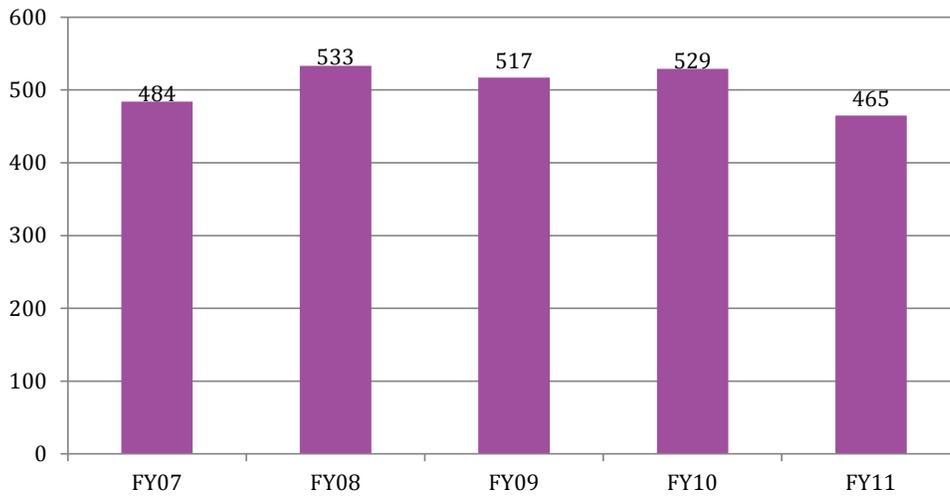


³Source: WC Regulation Bureau (licensed PEOs)

Exhibit 5.13

Number of Professional Employer Organization Clients⁴

By Fiscal Year⁵



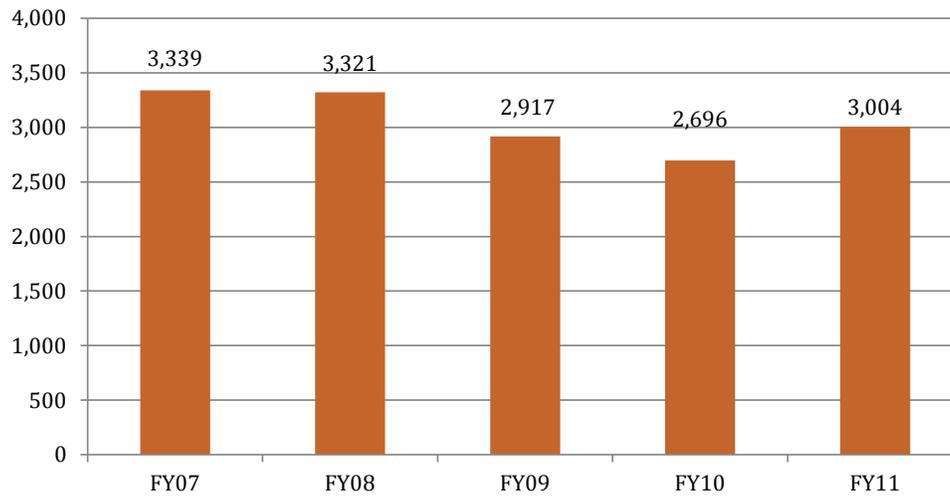
⁴Source: WC Regulation Bureau (Client list)

⁵Source: In FY09 a more accurate and standardized computation method was devised to calculate the number of clients in our database.

Exhibit 5.14

Leased Employees⁶

Average Monthly Count by Fiscal Year



⁶Source: Unemployment Insurance Tax System (UI)

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 2011, SHB conducted:

- ◆ 109 onsite visits to public employers
- ◆ 189 onsite consultations with private employers
- ◆ 534 technical assistance
- ◆ SafetyFestMT training
 - In Glasgow, February 14-17, 2011
 - 80 participants
 - 31 classes
 - 12 instructors
 - In Billings, May 16-20, 2011
 - 519 participants
 - 74 classes
 - 50 instructors
 - In Missoula, December 5-9, 2011
 - 737 participants
 - 75 classes
 - 53 instructors
 - First-aid, CPR, AED training at 3 SafetyFestMTs
 - 185 participants
 - 10 classes

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 2011, SHB conducted:

- ◆ 50 inspections of metal/non-metal mining operations
- ◆ 33 inspections of coal mines
- ◆ Mandatory training for miners
 - 2,881 participants
 - 170 courses

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.

The 2011 Legislature established, by statute⁷, stay at work/return to work (SAW/RTW) assistance to be made available upon request for injured workers. The goal of the assistance is to minimize disruption caused by a work-related injury or disease by assisting the worker to return to the same position with the same employer or a modified position with the same employer as soon as possible after an injury or occupational disease occurs.

The goal of SAW/RTW assistance is to help reduce Montana's duration of days away from work after a workplace injury or occupational disease. In addition

to returning injured employees to work as soon as possible, there is a potential for cost savings to the workers' compensation system by reducing the duration of days to return to work.

The Department has assembled a project team with representation from different stakeholder groups, including vocational rehabilitation counselors, self-insured representatives, Montana State Fund, and others to develop rules for implementation for dates of injury on or after July 1, 2012.

⁷§39-71-1041, MCA



Introduction

The 2009 Legislative Session passed the voluntary Claims Examiner Certification⁸ process. The purpose of this legislation was to establish standards for the voluntary certification of workers' compensation claims

examiners handling workers' 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.

⁸§39-71-320, MCA (2011)

Exhibit 5.15

Total Examiner Certification Activities By Fiscal Year

	FY10	FY11
Examiners Certified	136	91
Examiners that took the examination	23	25
Examiners that met the waiver requirements	113	66
Courses Approved	9	15

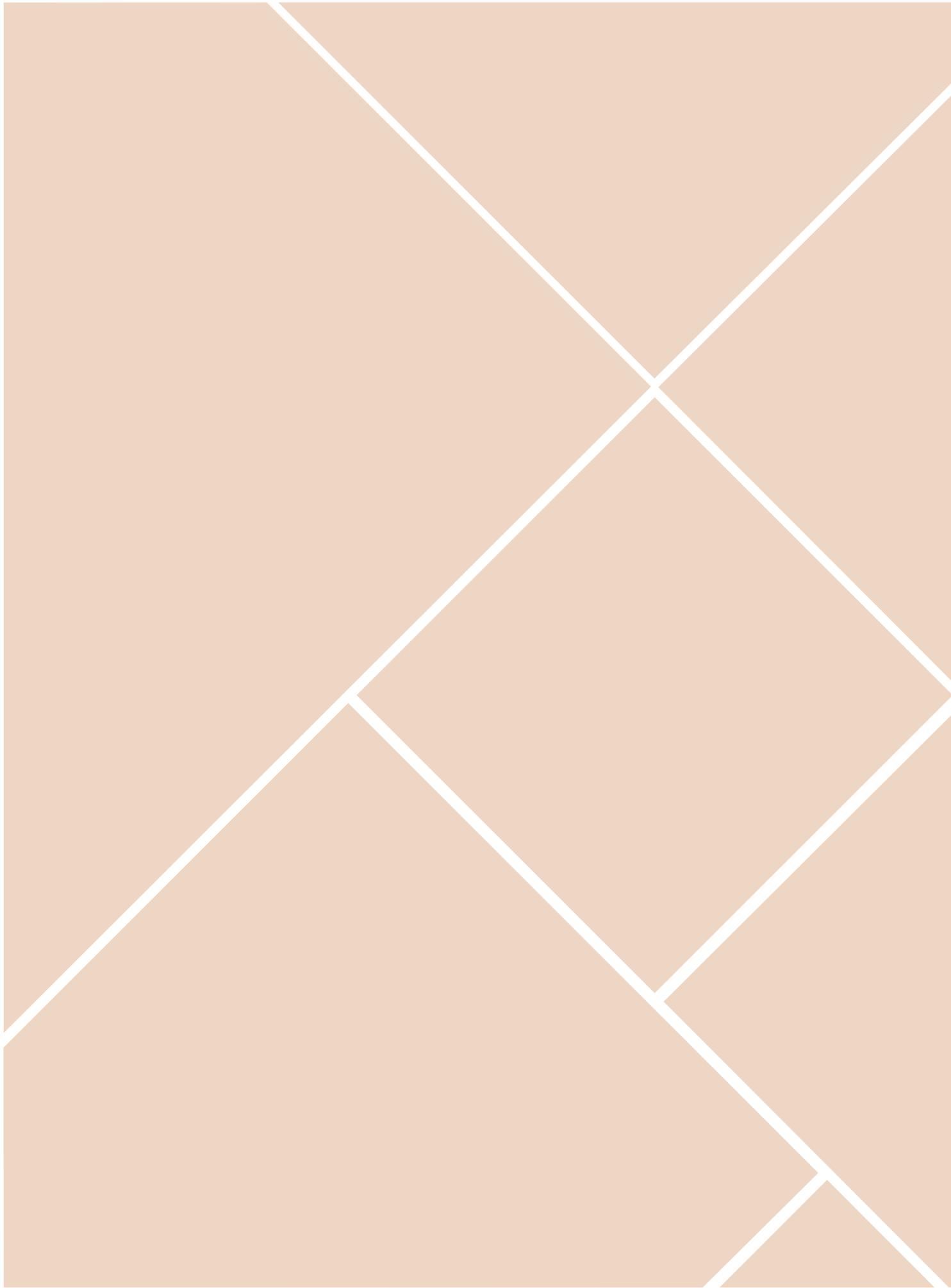


Appendices

- ◆ Definitions
- ◆ Methodology
- ◆ Data Sources
- ◆ Further Information

section

6



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, welding 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 Act.

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: 07/01/10 - 06/30/11 = FY11)

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.

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:

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.

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.

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.

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.

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.

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.

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.

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.

Information: This sector comprises establishments engaged in the following processes: (1) producing and distributing information and cultural products, (2) providing the means to transmit or distribute these products as well as data or communications, and (3) processing data.

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.

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.

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.

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, grant making, advocacy, and providing dry-cleaning and laundry services, personal care services, death care services, pet care services, photofinishing services, temporary parking services, and dating services.

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.

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.

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.

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.

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.

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.

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: Internal or external physical harm to the body that is established by objective medical findings, caused by a specific 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 2/3% of the wages received at the time of injury, not to exceed one-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 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.

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 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 data does not include information on those exempt from workers’ compensation insurance coverage.

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 2011 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 2011 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: Self Insured (Plan 1) Gross Annual Payroll, Private Insured (Plan 2) and Montana State Fund (Plan 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:

- ◆ David Elenbaas, DMU Supervisor
Department of Labor and Industry
Employment Relations Division
PO Box 8011
Helena, MT 59604-8011
Phone: 406-444-6527
Fax: 406-444-4140
Email: daelenbaas@mt.gov

Special Studies

- ◆ The Attorney Fee Supplement
- ◆ Occupational Health Indicators for Montana, A baseline occupational health assessment for calendar years 2004-2008, December 2011
- ◆ The Effects of Aging on Worker's Compensation, April 2012
- ◆ Research and survey studies on various topics related to workers' compensation

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

- ◆ Workers' Compensation Claims Assistance Bureau
Department of Labor and Industry
Employment Relations Division
Attn: Kristine Shields
PO Box 8011
Helena, MT 59604-8011
Phone: 406-444-1675
Fax: 406-444-4140
Email: kshields@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:

- ◆ Barb Gullickson, Supervisor,
Claims Unit
- ◆ David Elenbaas, Acting Bureau Chief,
Workers' Compensation Assistance Bureau
- ◆ Bill Wheeler, Bureau Chief,
Workers' Compensation Regulation Bureau
- ◆ Ryan Morton, Workers' Compensation Analyst,
Data Management Unit
- ◆ Kristine Shields, Workers' Compensation Analyst,
Data Management Unit
- ◆ Bryan Korth, Insurance Claims Technician,
Data Management Unit
- ◆ Debra Blossom, Mediator,
Mediation Unit



NO COST DISCLOSURE IS REQUIRED

BECAUSE THE FY11 ANNUAL REPORT WAS PRINTED

INTERNALLY AT THE

EMPLOYMENT RELATIONS DIVISION.