

WORKERS' COMPENSATION

ANNUAL REPORT

MONTANA DEPARTMENT OF LABOR & INDUSTRY

EMPLOYMENT RELATIONS DIVISION



Workers' Compensation Annual Report

Fiscal Year 2012

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Montana Department of
LABOR & INDUSTRY
Commissioner's Office

Governor Steve Bullock
Commissioner Pam Bucy



Dear Colleagues and Fellow Montanans,

It is my honor to present the Workers' Compensation Annual Report for Fiscal Year 2012 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.

I am proud to report Montana saw a decrease in reported claims for fiscal year 2012. The number of claims decreased 3.7% from fiscal year 2011 and the overall incidence rate went from 6.4 per 100 employees to 6.1. Nearly half (46%) of the counties throughout the state had a decrease in their incidence rate. As a state we are making great strides in preventing workplace accidents and I firmly believe the number of claims will continue to go down.

In the 2010 Oregon premium rate ranking study, Montana was ranked as the state with the highest workers' compensation premium rates in the nation. In 2012, Montana improved to the eighth position. Total premium paid by employers to private carriers and State Fund decreased by 3.5% from calendar year 2011 to 2012 while at the same time, total employment in Montana increased by 1.8%.

Now that some time has passed and we can see the positive effect workers' comp reform has had in Montana, we are reconvening the Labor Management Advisory Council (LMAC) to study the impact reform has on both labor and business. The Council will also look at Legislation passed and the role it plays in improving Montana's workers' comp system.

As we continue to improve the work comp system, it's just as important to focus on preventing workplace injuries. That's why at the Department we are committed to making Montana's workplaces safer by hosting SafetyFests across the state. These week long training sessions are free and cover a variety of topics from broad issues like creating a culture of safety in companies to OSHA-certified training on confined spaces, fall protection and much, much more.

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 system. The Department will continue to monitor the system and the positive outcomes the policy changes have on employer costs and injured worker benefits.

Sincerely,

Pam Bucy, Commissioner

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Highlights

This report contains information about Montana's workers' compensation system, including legislative and system updates, claims and benefits characteristics, dispute resolution, and department programs and their functions.

The data included is as accurate as reported to the Employment Relations Division and does not include reserves. Counts and totals may change over time due to updated injury reports and data resolving efforts.

Claims

The Department receives claim information about the injured worker, accident, employer, and insurer through a First Report of Injury (FROI). This section quantifies claims into different demographics such as age at the time of injury, industry, cause and nature of the injury, and body part injured. Claims for Federal workers are not included in this report since Federal agencies are not covered under the Montana Workers' Compensation Act.

From Fiscal Year 2011 (FY11) to Fiscal Year 2012 (FY12) reported claims decreased 3.7%. The number of claims has steadily decreased since FY08, except for a slight increase in FY11.

The claim incidence rate went from 6.4 per 100 employees to 6.1 in FY12. Almost half, 46%, of the counties in the state had a decrease in claims while 36% had no change and 18% had a slight increase from FY11.

Claims in the 45 to 54 year age range had the highest number of claims (25%) while the 25 to 34 age range had the second highest (22%), and the 35 to 44 age range was third highest (20%).

The majority of claims in FY12 occurred in the Health Care & Social Assistance industry (16%), followed by Construction (13%), Retail Trade (12%), Educational Services (11%), Accommodation & Food Services (7%), and Manufacturing (7%).

The top reported causes of injury in FY12 were Strains (33%), Falls, Slips, and Trips (20%), and Struck by Objects (15%). The leading natures of injury in FY12 were Sprains or Ruptures (42%), Cuts

or Abrasions (21%), and Bruises or Swelling (19%). Most claims pertained to the Upper Extremities (32%), Back (18%), Lower Extremities (11%), and Head (11%).

The number of claims that were denied decreased from FY11 to FY12 by 8.5%. Most claims were denied because they lacked objective medical evidence to prove an injury occurred.

Benefits

The Department receives indemnity and medical payment information from both Quarterly Expenditure Reports (all claims) and Subsequent Reports of Injury (wage loss claims).

In FY12, total benefits paid increased by about 1% from FY11. The total medical benefits paid increased by 3% and the total indemnity benefits paid decreased by 2%.

Medical benefits accounted for 64% of total benefits paid for injuries occurring in FY12, while indemnity benefits accounted for 36%. Most indemnity benefits were Temporary Total Disability (68%). Permanent Partial Disability (PPD) disability benefits appear to have decreased for injuries occurring in FY12, but the true impact won't be realized until the claims mature.

Temporary disability paid duration (1-year maturity) for self insureds, increased from 12.4 weeks in FY10 to 14.0 weeks in FY11. Overall, the duration increased slightly from 14.4 weeks to 14.7. At 3-year maturity, temporary disability paid duration increased from 20.4 weeks to 20.9 weeks from FY08 to FY09.



2013 MONTANA LEGISLATIVE SESSION

2013 Montana Legislative Session Summary •

House Bills •

Senate Bills •

Several bills relating to workers' compensation were introduced during the 2013 Montana Legislative session. The bills passed into law are summarized below.

House Bills

House Bill 82

Clarifies workers' compensation extraterritorial applicability and reciprocity of coverage.

If a worker employed in Montana works in another state for that employment and is injured in the course of that employment, then the workers' compensation provision will apply as if they were working and injured in Montana. The Department, with the approval of the governor, may enter into a reciprocal agreement with an authorized officer of the workers' compensation department or similar agency of another state to allow an employer from one state and its employees from that state to work in the other state without obtaining workers' compensation coverage from both states. The agreement may address construction reciprocity, how long work may continue, and whether limitations or exclusions apply to types of work covered under the agreement.

House Bill 232

Specifies a higher standard of proof for claims against an employer or fellow employee for intentional and deliberate acts.

If an employee is intentionally injured by their employer or by their fellow employee while performing the duties of employment, the employee has the right to receive workers' compensation and have a cause for damages against the person who intentionally caused the injury. The standard of proof for an act to be determined intentional is clear and convincing evidence.

House Joint Resolution 25

Interim study of workers' compensation.

A study will be conducted regarding subrogation, the workers' compensation court structure, the structure of the state compensation insurance fund, and various medical and safety components of the workers' compensation system. The final results and any findings and conclusions will be reported to the 64th Legislature.

Senate Bills

Senate Bill 323

Permitting a query of the prescription drug registry prior to prescribing a Schedule II or Schedule III drug for treatment of a workers' compensation injury or occupational disease.

A treating physician authorized to prescribe prescription drugs may query the prescription drug registry prior to the initial prescribing or refilling of Schedule II or Schedule III drugs and may decline to prescribe or refill one of those prescriptions, if in the treating physician's judgment, the drug should not be prescribed or refilled. The treating physician shall note in the patient's medical file each query conducted.

Senate Bill 386

Revise volunteer firefighter benefit laws.

This allows for certain local governmental fire agencies to provide workers' compensation coverage for volunteer firefighters, revise premium and benefit provisions for volunteer firefighters and certain volunteer emergency medical technicians.



SECTION 2



MONTANA WORKERS' COMPENSATION SYSTEM

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

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

It is the intent of the legislature to assert that a conclusive presumption exists 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.

(39-71-105, MCA)

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 insured), 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 Act 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

(39-71-118, MCA)

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 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

(39-71-401, MCA)

Exhibit 2.1

Highlights of a Compensable Wage Loss Claim



Workplace injuries and illnesses do happen and when a Montana employee files a workers' compensation claim, the life of that claim is dictated primarily by statute. Medical and indemnity (or wage loss) benefits due an injured worker are determined by the statutes in effect at the time of injury. The key requirements and benefits of a recent, typical Montana workers' compensation claim are generally described below. The benefits payable on a claim depend on the specific facts of each claim, and the statutes in effect on the date of injury.

Reporting Requirements

When an 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 6 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), or 12 months from the date the claimant knew or should have known of an occupational disease (39-71-601(3), 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).

Medical Benefits

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 (U&T Guidelines) or prior authorization from the insurer, and referral to other health care providers.

Medical providers bill the insurer directly. Payment is made according to a fee schedule (39-71-704(2) and (3), MCA). Once the insurer has accepted a claim, the medical provider must accept the fee scheduled reimbursement as payment in full, and the claimant is not responsible for any balance.

The insurer is responsible for reasonable primary medical services, for conditions that are a direct result of the compensable injury or Occupational Disease (OD). An insurer is not responsible for treatment or services outside the U&T Guidelines, unless the insurer authorized prior to the treatment or procedure (39-71-704(1) and (3), MCA).

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 (39-71-704, MCA and ARM 24.29.1401).

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, and ARM 24.29.1401).

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. 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).

Indemnity or Wage Loss Benefits

The first 4 days or 32 hours (whichever is less) of total wage loss is not compensable. For dates of injury after July 1, 2011, 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). 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 prior to attaining 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. TPD is paid until the claimant returns to work without a wage-loss or reaches MMI (39-71-712, MCA).

If after reaching MMI, the claimant has a residual impairment greater than zero and a wage loss, the insurer is required to pay out the Permanent Partial Disability (PPD) liability bi-weekly, unless the claimant requests a lump sum payment (39-71-703 and 39-71-741, MCA).

PPD benefits may be payable, based on extent of the impairment, the claimant's age, and education, wage-loss and work capacity restrictions. The benefit amount is determined by the specifics of each individual case, and the statutory language in effect on the date of injury (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 vocational rehabilitation services.

In these situations, the insurer designates a vocational rehabilitation provider and vocational rehabilitation services are provided with the claimant 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 TTD 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).

If the claimant is deemed to be Permanently Totally Disabled (PTD), benefits can continue until the claimant reaches retirement age (39-71-710, 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.

During calendar year 2012, Montana had 27 individual self-insured employers, 3 private groups with 114 member employers, and 5 public groups with 414 member employers. In 2012, 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 increased every year since 2008.

The premium for private insurers and Montana State Fund is compared in Exhibits 2.3 and 2.4 on the next page. The total premium reported for 2012 by both Plans is down 3.4% from the 2011. This is the fifth consecutive year total reported premiums have decreased. Private insured's share of the reported premium has steadily increased from 33% in 2008 to 43% in 2012.

Exhibit 2.2

Gross Annual Payroll

Self-Insured – By Calendar Year

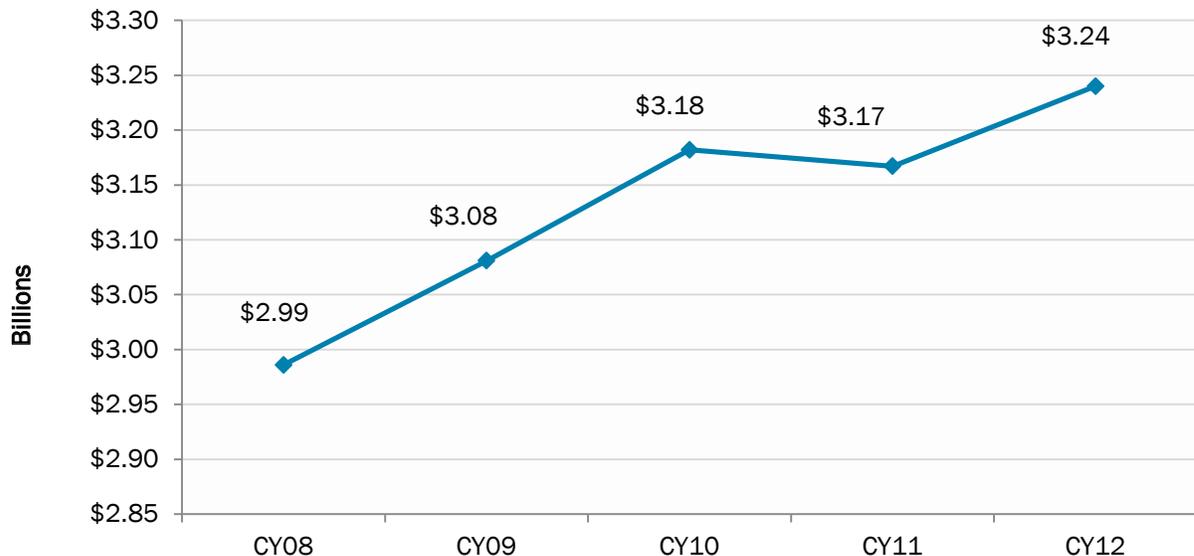


Exhibit 2.3

Premium Market Share

Private Insured and State Fund – By Calendar Year and By Plan

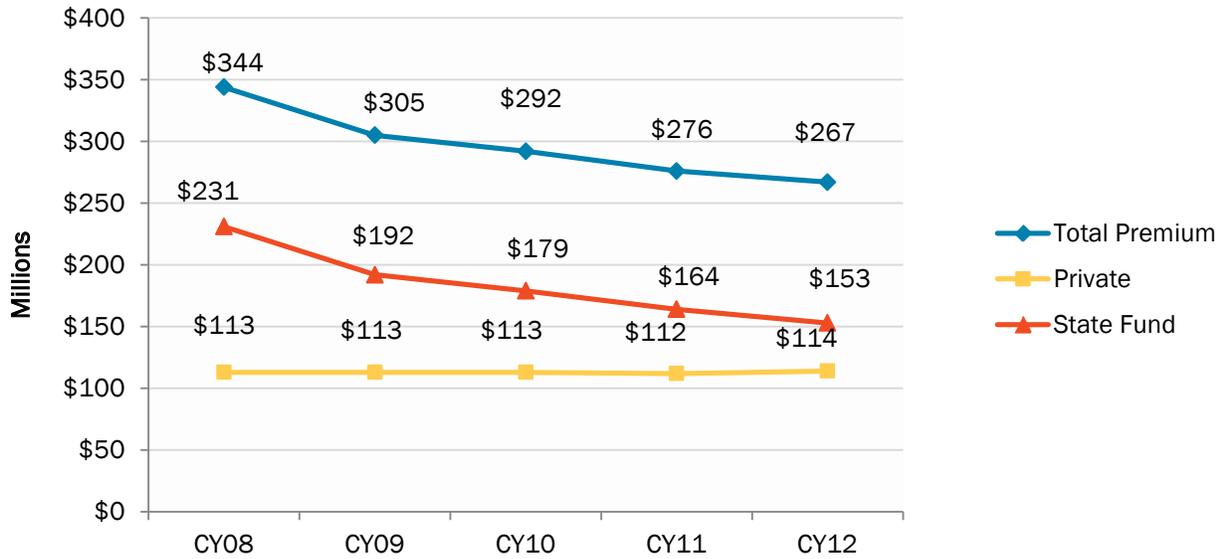


Exhibit 2.4

Premium Market Share

Private Insured and State Fund – By Calendar Year and By Plan

	CY08		CY09		CY10		CY11		CY12	
	AMOUNT	%								
PRIVATE	\$112.7	33%	\$112.6	37%	\$113.0	39%	\$112.3	41%	\$114.0	43%
STATE FUND	\$231.2	67%	\$192.4	63%	\$178.6	61%	\$164.4	59%	\$153.0	57%
TOTAL PREMIUM	\$343.9	100%	\$305.0	100%	\$291.6	100%	\$276.7	100%	\$267.0	100%

A blue, 3D-style graphic element consisting of a square rotated 45 degrees. The word "SECTION" is written vertically in white, uppercase letters on the left side of the square. A large white number "3" is centered on the right side of the square. The graphic has a slight shadow and a ribbon-like effect at the corners.

SECTION 3

A horizontal blue bar with a ribbon-like effect on the left side, containing the text "CLAIM STATISTICS" in white, uppercase letters.

CLAIM STATISTICS

- Claims By Plan Type •
- Claim Incident Rates by County •
- Injured Worker Characteristics •
- Insurer Denial of Claims •

Exhibit 3.1

Reported Claims by Plan Type

And Fiscal Year of Injury

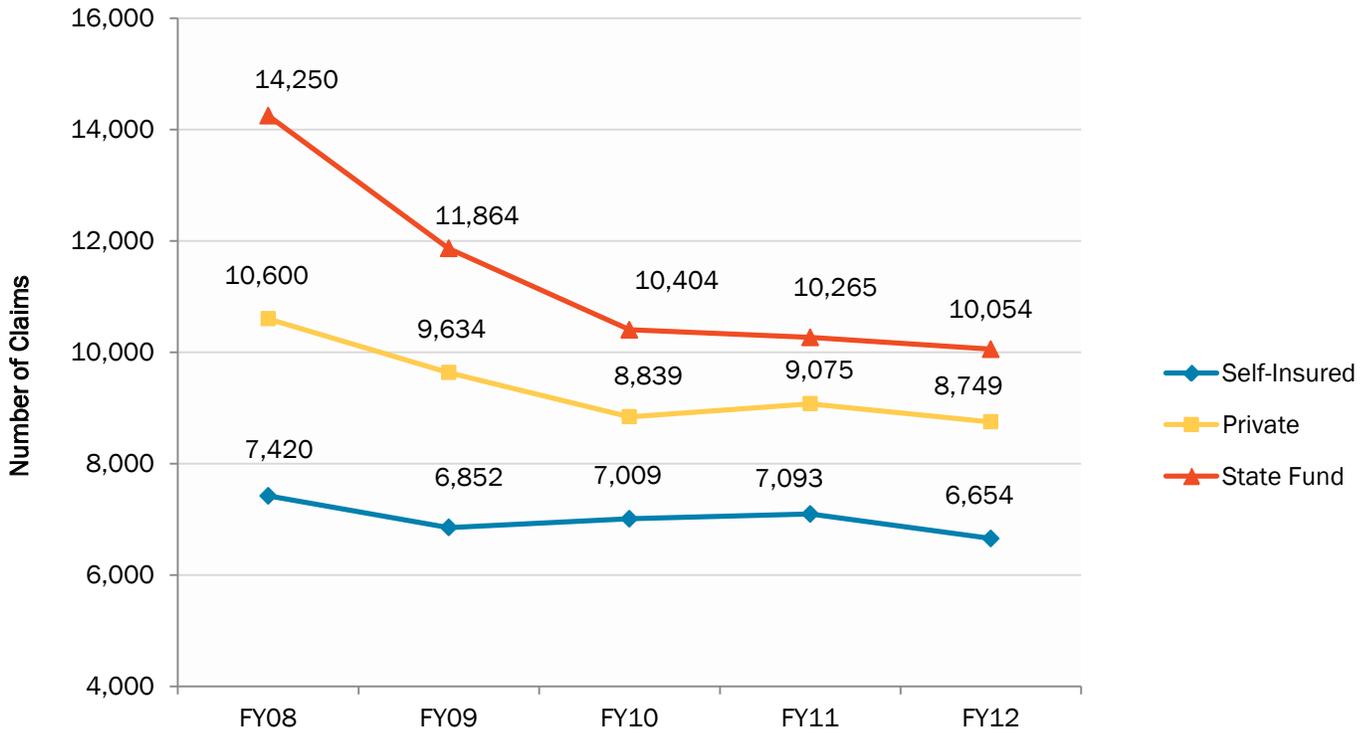


Exhibit 3.2

Reported Claims by Plan Type

And Fiscal Year of Injury

PLAN TYPE	FY08		FY09		FY10		FY11		FY12	
	COUNT	%								
SELF-INSURED	7,420	23%	6,852	24%	7,009	27%	7,093	27%	6,654	26%
PRIVATE	10,600	33%	9,634	34%	8,839	34%	9,075	34%	8,749	34%
STATE FUND	14,250	44%	11,864	42%	10,404	40%	10,265	39%	10,054	39%
UEF	71	0%	57	0%	64	0%	47	0%	53	0%
TOTAL	32,341	100%	28,407	100%	26,316	100%	26,480	100%	25,510	100%

*UEF-Uninsured Employers' Fund

CLAIM INCIDENT RATES BY COUNTY

Claim incidence rates were calculated by dividing the number of reported claims in each county by the number of employees per county.

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.

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.

In FY12 the calculated claim incident rate was 6.1 per 100 employees, a 5% decrease from FY11. Almost half (46%) of Montana counties had a decrease in their claim incident rate.

Exhibit 3.3

Claim Incident Rate and Number of Employees - FY12

By County

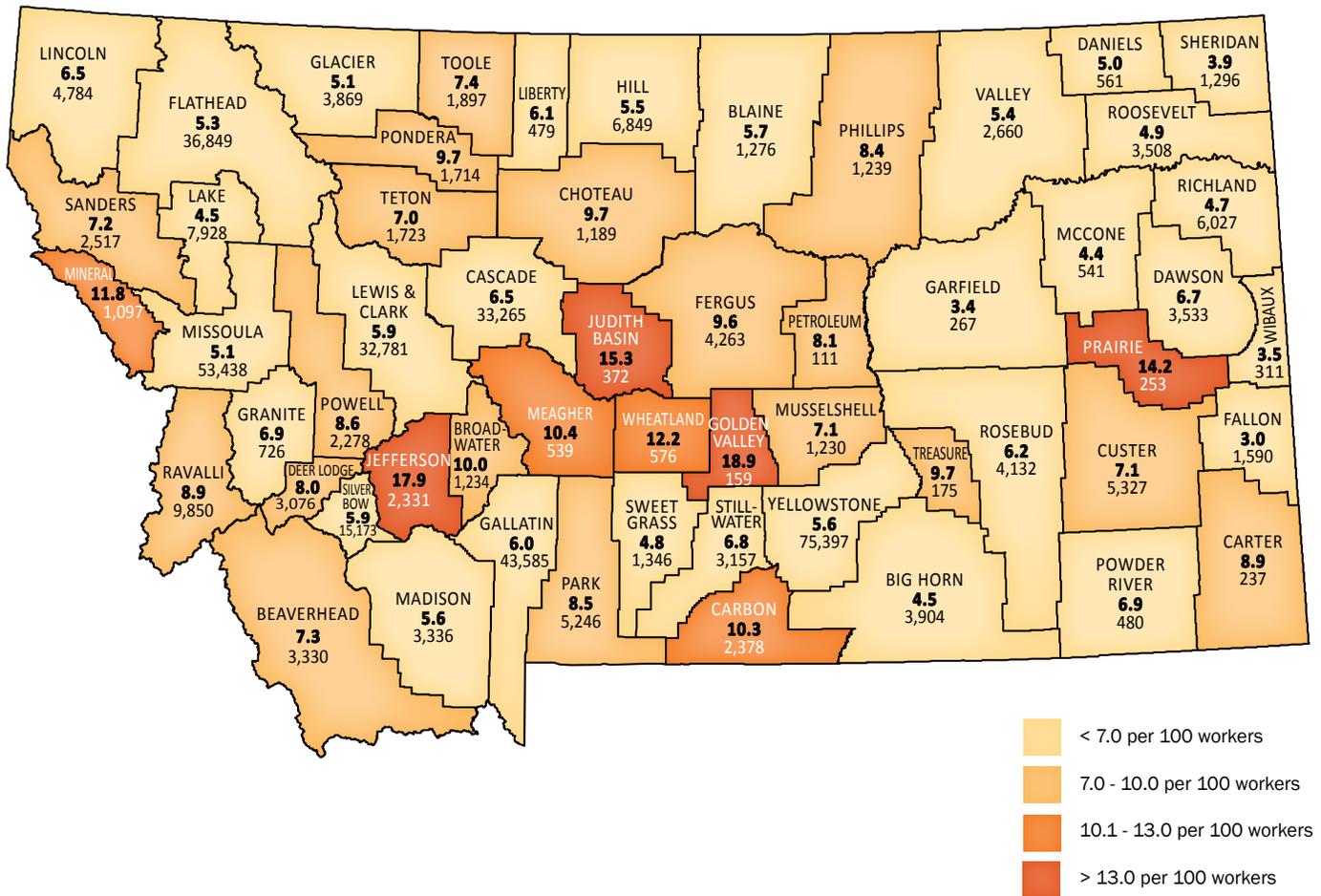


Exhibit 3.4

Reported Claims by Claimant Age at Time of Injury And Fiscal Year of Injury

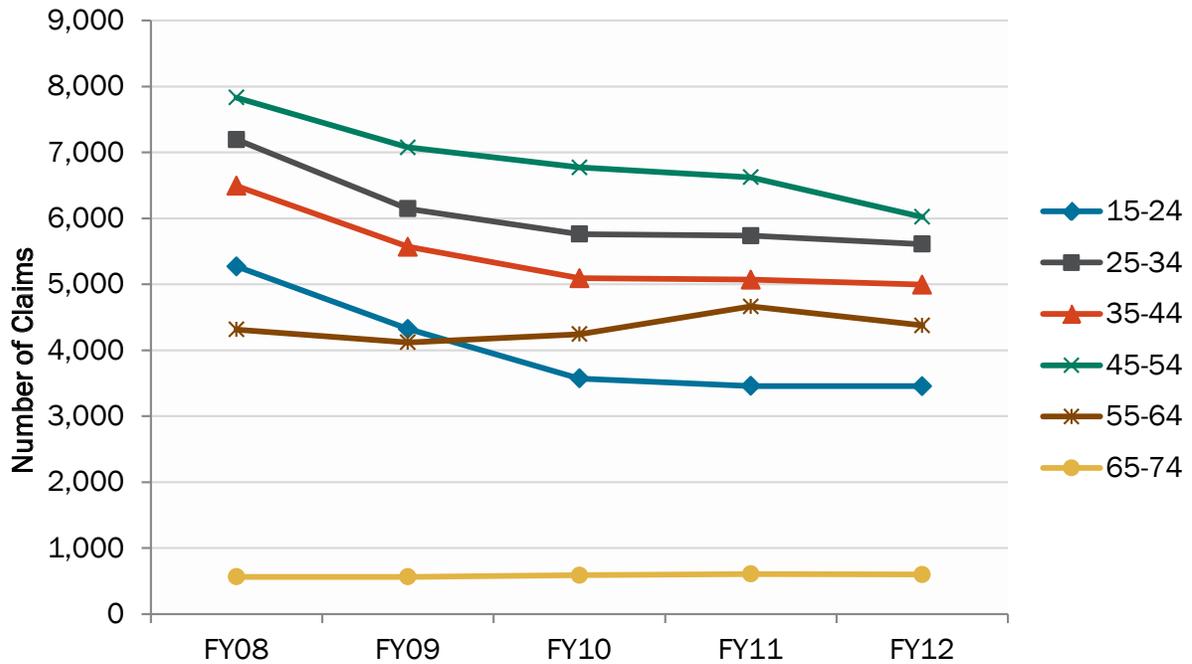


Exhibit 3.5

Reported Claims by Claimant Age at Time of Injury And Fiscal Year of Injury

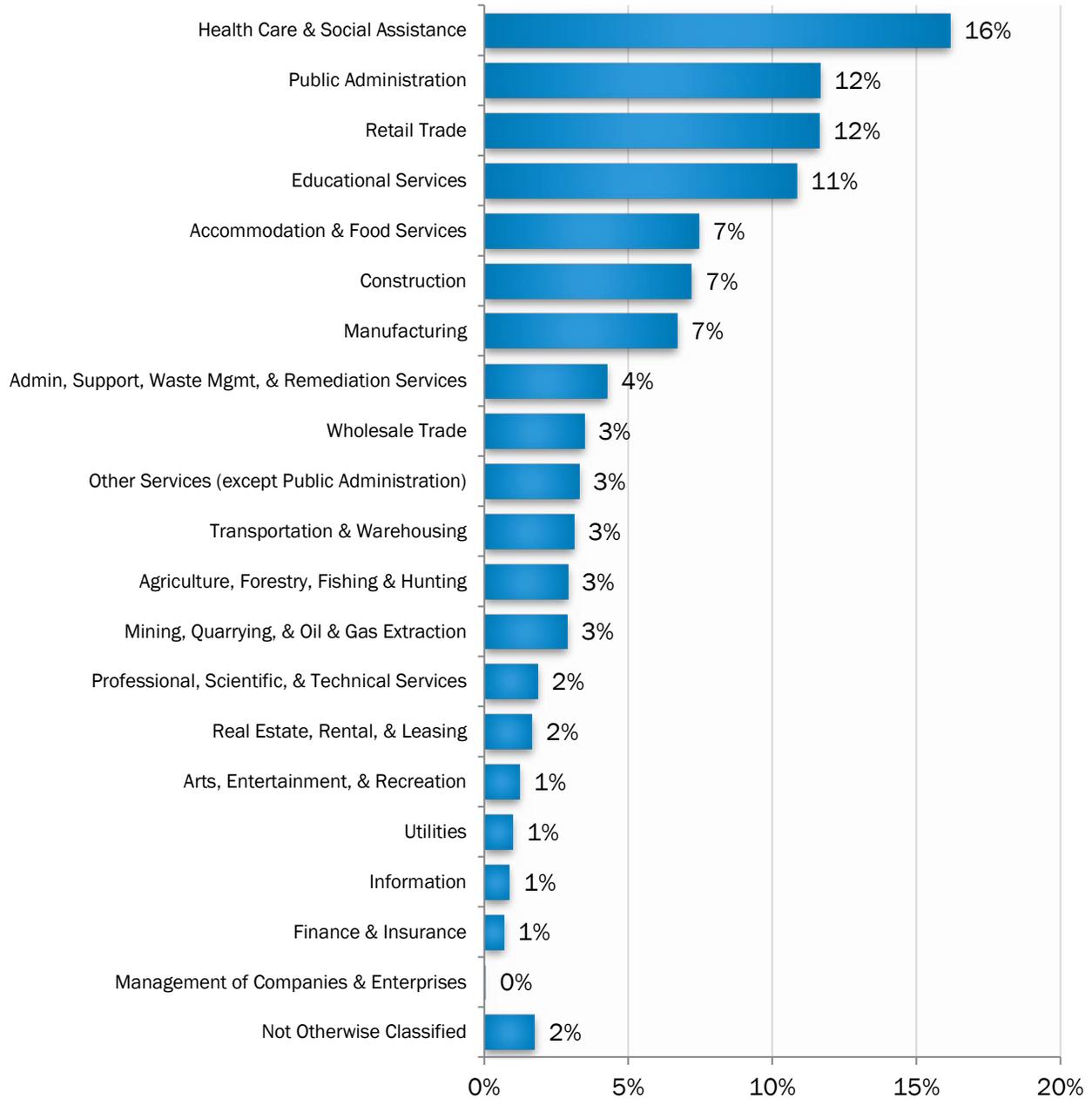
AGE GROUP	FY08		FY09		FY10		FY11		FY12	
	COUNT	%								
15 TO 24	5,270	16%	4,321	15%	3,571	14%	3,458	14%	3,456	14%
25 TO 34	7,195	22%	6,147	22%	5,760	22%	5,738	22%	5,610	22%
35 TO 44	6,494	20%	5,568	20%	5,091	19%	5,070	20%	4,999	20%
45 TO 54	7,833	24%	7,076	25%	6,772	26%	6,624	24%	6,025	25%
55 TO 64	4,315	13%	4,118	14%	4,244	16%	4,664	17%	4,378	16%
65 TO 74	562	2%	563	2%	588	2%	607	2%	602	2%
NOC ¹	672	2%	614	2%	290	1%	319	2%	440	2%
TOTAL	32,341	100%	28,407	100%	26,316	100%	26,480	100%	25,510	100%

NOC¹ – Not otherwise classified

Exhibit 3.6

Reported Claims by Industry - FY12

Using North American Industry Classification System



*Due to misclassification of claims by industry, Annual Report FY11 will not match this years report.

Exhibit 3.7

Reported Claims by Industry

Using North American Industry Classification System and by Fiscal Year of Injury

NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM	FY08		FY09		FY10		FY11		FY12	
	COUNT	%								
HEALTH CARE & SOCIAL ASSISTANCE	4,834	15%	4,612	16%	4,621	18%	4,455	17%	4,117	16%
PUBLIC ADMINISTRATION	3,161	10%	3,078	11%	3,087	12%	2,966	11%	2,966	12%
RETAIL TRADE	3,816	12%	3,336	12%	3,366	13%	3,215	12%	2,959	12%
EDUCATIONAL SERVICES	2,831	9%	2,876	10%	2,911	11%	3,152	12%	2,759	11%
ACCOMMODATION & FOOD SERVICES	2,774	9%	2,300	8%	1,969	7%	1,929	7%	1,890	7%
CONSTRUCTION	3,357	10%	2,519	9%	1,826	7%	1,763	7%	1,827	7%
MANUFACTURING	2,239	7%	1,784	6%	1,593	6%	1,572	6%	1,699	7%
ADMIN, SUPPORT, WASTE MGMT, & REMEDIATION SERVICES	1,432	4%	1,175	4%	1,031	4%	1,131	4%	1,080	4%
WHOLESALE TRADE	1,018	3%	865	3%	846	3%	913	3%	877	3%
OTHER SERVICES (EXCEPT PUBLIC ADMINISTRATION)	1,247	4%	1,002	4%	694	3%	773	3%	832	3%
TRANSPORTATION & WAREHOUSING	920	3%	723	3%	670	3%	797	3%	788	3%
AGRICULTURE, FORESTRY, FISHING & HUNTING	1,175	4%	980	3%	850	3%	739	3%	732	3%
MINING, QUARRYING, & OIL & GAS EXTRACTION	837	3%	785	3%	648	2%	708	3%	728	3%
PROFESSIONAL, SCIENTIFIC, & TECHNICAL SERVICES	547	2%	456	2%	414	2%	426	2%	466	2%
REAL ESTATE, RENTAL, & LEASING	401	1%	294	1%	195	1%	413	2%	416	2%
ARTS, ENTERTAINMENT, & RECREATION	470	1%	451	2%	415	2%	429	2%	305	1%
UTILITIES	344	1%	271	1%	282	1%	277	1%	243	1%
INFORMATION	236	1%	265	1%	263	1%	214	1%	215	1%
FINANCE & INSURANCE	241	1%	230	1%	217	1%	193	1%	165	1%
MANAGEMENT OF COMPANIES & ENTERPRISES	12	0%	4	0%	1	0%	7	0%	6	0%
NOT OTHERWISE CLASSIFIED	449	1%	401	1%	417	2%	408	2%	440	2%
TOTAL	32,341	100%	28,407	100%	26,316	100%	26,480	100%	25,510	100%

Exhibit 3.8

Reported Claims by Cause of Injury – FY12

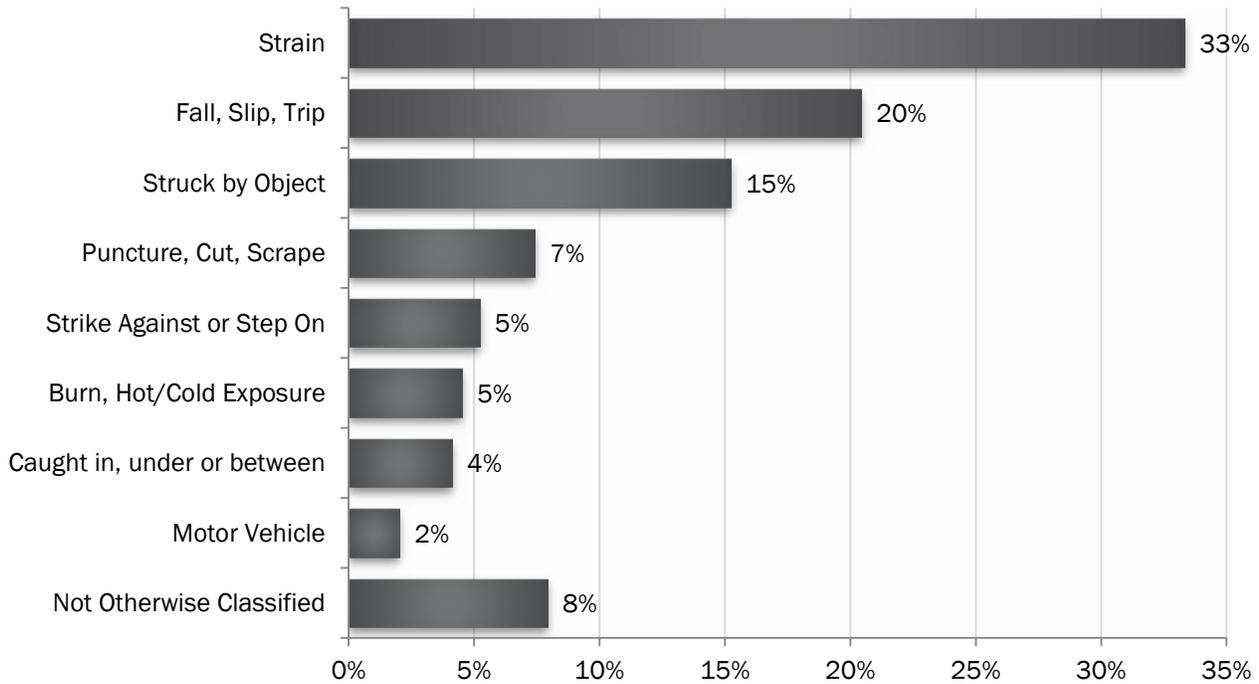


Exhibit 3.9

Reported Claims by Cause of Injury

And Fiscal Year of Injury

CAUSE OF INJURY	FY08		FY09		FY10		FY11		FY12	
	COUNT	%								
STRAIN	11,160	35%	9,482	33%	9,134	35%	8,553	32%	8,503	33%
FALL, SLIP, TRIP	6,876	21%	6,416	23%	5,914	22%	6,631	25%	5,203	20%
STRUCK BY OBJECT	4,454	14%	3,850	14%	3,682	14%	3,704	14%	3,890	15%
PUNCTURE, CUT, SCRAPE	2,447	8%	2,229	8%	1,821	7%	1,719	6%	1,878	7%
STRIKE AGAINST OR STEP ON	1,682	5%	1,435	5%	1,338	5%	1,343	5%	1,320	5%
BURN, HOT/COLD EXPOSURE	1,249	4%	1,100	4%	1,011	4%	1,088	4%	1,148	5%
CAUGHT IN, UNDER OR BETWEEN	1,346	4%	1,306	5%	1,048	4%	1,021	4%	1,047	4%
MOTOR VEHICLE	604	2%	517	2%	536	2%	527	2%	512	2%
NOT OTHERWISE CLASSIFIED	2,523	8%	2,072	7%	1,832	7%	1,894	7%	2,009	8%
TOTAL	32,341	100%	28,407	100%	26,316	100%	26,480	100%	25,510	100%

Exhibit 3.10

Reported Claims by Industry and Cause of Injury – FY12

Using North American Industry Classification System

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	TOTAL
HEALTH CARE & SOCIAL ASSISTANCE	233	85	765	41	399	1,510	168	620	296	4,117
PUBLIC ADMINISTRATION	157	100	641	91	105	978	165	488	241	2,966
RETAIL TRADE	74	136	465	35	263	1,137	185	377	287	2,959
EDUCATIONAL SERVICES	83	80	902	21	221	669	112	552	119	2,759
ACCOMMODATION & FOOD SERVICES	180	55	394	18	316	534	112	164	117	1,890
CONSTRUCTION	62	89	308	40	106	644	104	312	162	1,827
MANUFACTURING	65	122	239	21	116	593	90	261	192	1,699
ADMIN, SUPPORT, WASTE MGMT, & REMEDIATION SERVICES	58	38	256	26	29	411	71	129	62	1,080
WHOLESALE TRADE	30	50	162	22	85	290	40	114	84	877
OTHER SERVICES (EXCEPT PUBLIC ADMINISTRATION)	37	35	145	16	62	293	43	115	86	832
TRANSPORTATION & WAREHOUSING	27	42	146	59	29	291	46	93	55	788
AGRICULTURE, FORESTRY, FISHING & HUNTING	31	56	184	35	8	165	55	152	46	732
MINING, QUARRYING, & OIL & GAS EXTRACTION	37	60	87	32	15	247	26	129	95	728
PROFESSIONAL, SCIENTIFIC, & TECHNICAL SERVICES	19	22	79	15	7	148	19	126	31	466
REAL ESTATE, RENTAL, & LEASING	8	13	90	1	16	167	23	74	24	416
ARTS, ENTERTAINMENT, & RECREATION	14	19	87	4	21	94	29	29	8	305
UTILITIES	16	18	36	4	19	87	7	37	19	243
INFORMATION	2	5	60	15	13	64	5	27	24	215
FINANCE & INSURANCE	2	4	60	4	12	49	7	11	16	165
MANAGEMENT OF COMPANIES & ENTERPRISES	0	0	1	2	0	3	0	0	0	6
NOT OTHERWISE CLASSIFIED	13	18	96	10	36	129	13	80	45	440
GRAND TOTAL	1,148	1,047	5,203	512	1,878	8,503	1,320	3,890	2,009	25,510

Exhibit 3.11

Reported Claims by Nature of Injury- FY12

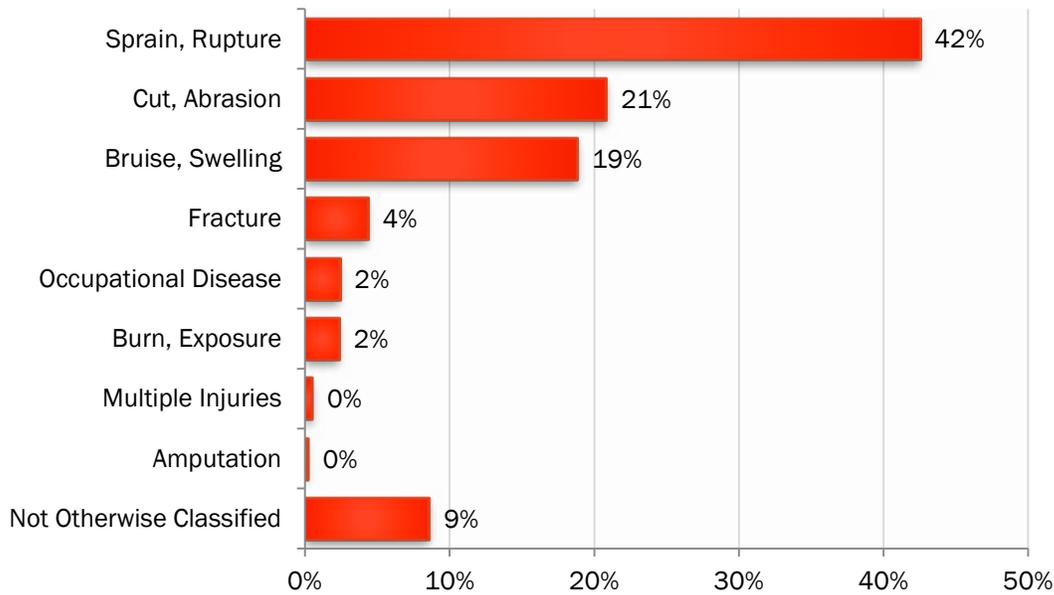


Exhibit 3.12

Reported Claims by Nature of Injury

And Fiscal Year of Injury

NATURE OF INJURY	FY08		FY09		FY10		FY11		FY12	
	COUNT	%								
SPRAIN, RUPTURE	13,966	43%	12,275	43%	11,651	44%	11,652	44%	10,829	42%
CUT, ABRASION	7,066	22%	5,983	21%	5,103	19%	4,942	19%	5,301	21%
BRUISE, SWELLING	6,029	19%	5,492	19%	5,046	19%	5,082	19%	4,785	19%
FRACTURE	1,337	4%	1,104	4%	1,040	4%	1,104	4%	1,090	4%
OCCUPATIONAL DISEASE	726	2%	612	2%	599	2%	733	3%	597	2%
BURN, EXPOSURE	844	3%	723	3%	640	2%	601	2%	583	2%
MULTIPLE INJURIES	261	1%	265	1%	192	1%	148	1%	113	0%
AMPUTATION	63	0%	65	0%	77	0%	53	0%	40	0%
NOT OTHERWISE CLASSIFIED	2,049	6%	1,888	7%	1,968	7%	2,165	8%	2,172	9%
TOTAL	32,341	100%	28,407	100%	26,316	100%	26,480	100%	25,510	100%

Exhibit 3.13

Reported Claims by Part of Body – FY12

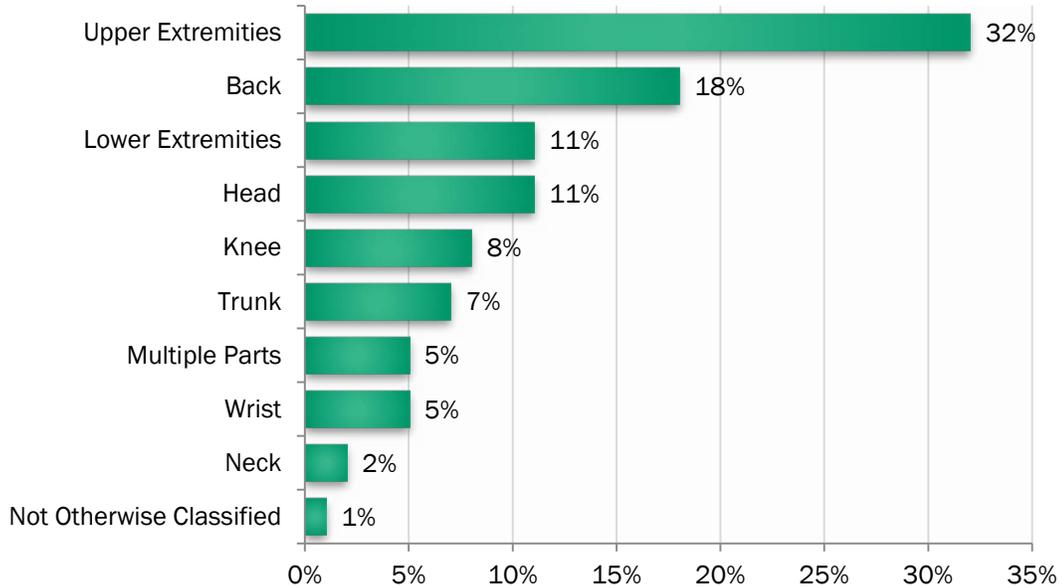


Exhibit 3.14

Reported Claims by Part of Body

And Fiscal Year of Injury

PART OF BODY	FY08		FY09		FY10		FY11		FY12	
	COUNT	%								
UPPER EXTREMITIES	10,199	32%	8,950	32%	8,087	31%	8,120	31%	8,145	32%
BACK	6,109	19%	5,230	18%	4,932	19%	4,804	18%	4,560	18%
LOWER EXTREMITIES	3,759	12%	3,208	11%	2,963	11%	3,007	11%	2,920	11%
HEAD	3,653	11%	3,188	11%	2,847	11%	2,875	11%	2,819	11%
KNEE	2,699	8%	2,388	8%	2,260	9%	2,275	9%	2,086	8%
TRUNK	2,065	6%	1,803	6%	1,706	6%	1,720	6%	1,704	7%
MULTIPLE PARTS	1,402	4%	1,487	5%	1,516	6%	1,655	6%	1,237	5%
WRIST	1,440	4%	1,256	4%	1,149	4%	1,132	4%	1,165	5%
NECK	748	2%	636	2%	553	2%	611	2%	574	2%
NOT OTHERWISE CLASSIFIED	267	1%	261	1%	303	1%	281	1%	300	1%
TOTAL	32,341	100%	28,407	100%	26,316	100%	26,480	100%	25,510	100%

Exhibit 3.15

Insurer Denial of Claims

By Fiscal Year of Injury

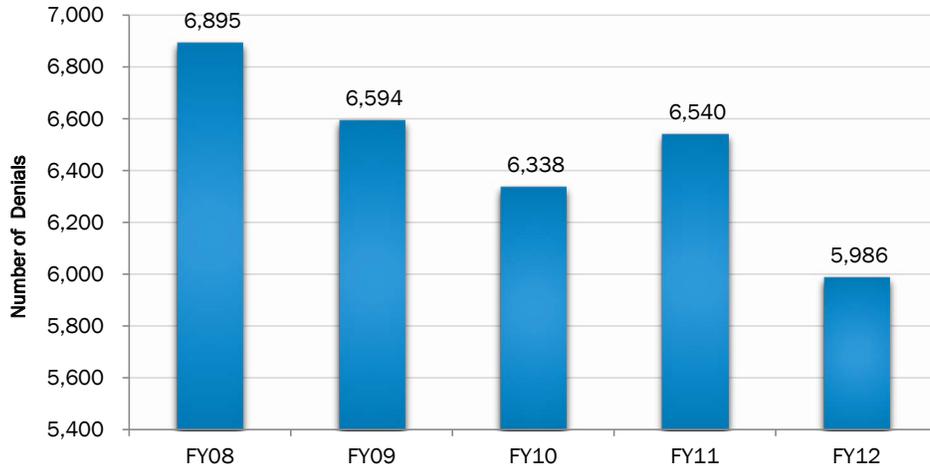


Exhibit 3.16

Insurer Denial of Claims²

By Reason of Denial and Fiscal Year of Injury

REASON FOR CLAIM DENIAL		FY08	FY09	FY10	FY11	FY12
COVERAGE ISSUE	CORPORATE OFFICER REJECTED	2	0	1	0	1
	ELECTS NO COVERAGE	0	0	3	1	1
	INDEPENDENT CONTRACTOR ISSUE	1	0	0	1	1
	QUESTION WHICH INSURER LIABLE	6	2	3	4	5
	NO COVERAGE	21	18	29	25	33
DEFINITION OF INJURY	HEART ATTACK - NOT CAUSED BY ACCIDENT	8	5	8	2	2
	DOES NOT MEET DEFINITION OF INJURY	345	268	335	248	197
	DOES NOT MEET DEFINITION OF OCCUPATIONAL DISEASE	41	35	49	50	38
	STRESS - NOT COMPENSABLE	14	16	11	17	6
INSUFFICIENT INFORMATION	INCOMPLETE OR MISSING INFORMATION NECESSARY TO ACCEPT LIABILITY	371	171	39	91	114
LATE CLAIM FILING	INJURY	70	61	150	225	130
	OCCUPATIONAL DISEASE	0	1	0	0	0
NO EMPLOYER NOTICE	NO 30-DAY NOTICE TO EMPLOYER OR INSURER	208	166	147	109	107
NOT IN COURSE & SCOPE	NOT IN COURSE AND SCOPE OF EMPLOYMENT	436	435	454	509	489
NO OBJECTIVE MEDICAL	NO OBJECTIVE MEDICAL FINDINGS TO SUBSTANTIATE INJURY	4,863	4,875	4,809	4,861	4,689
OTHER/NOT OTHERWISE CLASSIFIED		509	541	300	397	173
TOTAL		6,895	6,594	6,338	6,540	5,986

² The insurer may later accept claims initially denied. Statistics on accepted injuries subsequent to a denial are not currently available.

A blue, 3D-style graphic element resembling a folded ribbon or banner. It is tilted and contains the text "SECTION 4" in white, bold, sans-serif font. The word "SECTION" is written vertically, and the number "4" is large and centered to the right of it.

SECTION 4

A horizontal blue bar with a folded ribbon effect on the left side. It contains the word "BENEFITS" in white, bold, sans-serif font.

BENEFITS

- Total Benefits •
- Benefit Distribution •
- Temporary Disability Paid Duration •
- Settlement Dollars •
- Settlement of Medical Benefits for Best Interest •
- Injured Worker Attorney Fees •
- Insurer Legal Expenses •

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

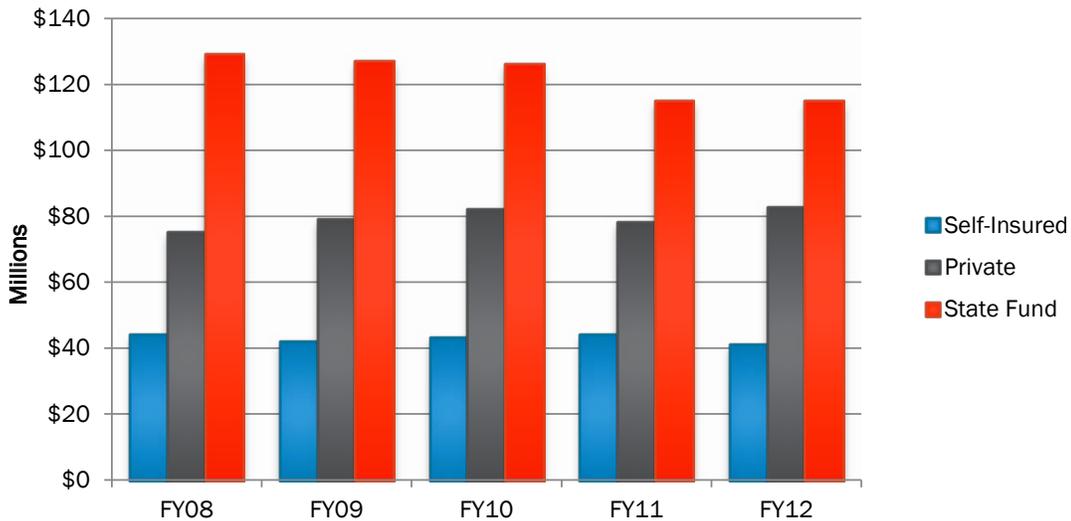
In FY12, self-insureds' and Montana State Fund's share of total benefits decreased while private insureds' increased. All three plans had an overall increase of about 1% from FY11. This is shown in Exhibits 4.1 and 4.2. The total medical payments for all three Plans, represented in Exhibits 4.3 and 4.4, increased in FY12 by 3% from FY11. The total indemnity payments made by all Plans, represented in Exhibits 4.5 and 4.6, decreased by 2% from FY11.

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 4.1

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, 2012.

Exhibit 4.2

Total Benefits Paid

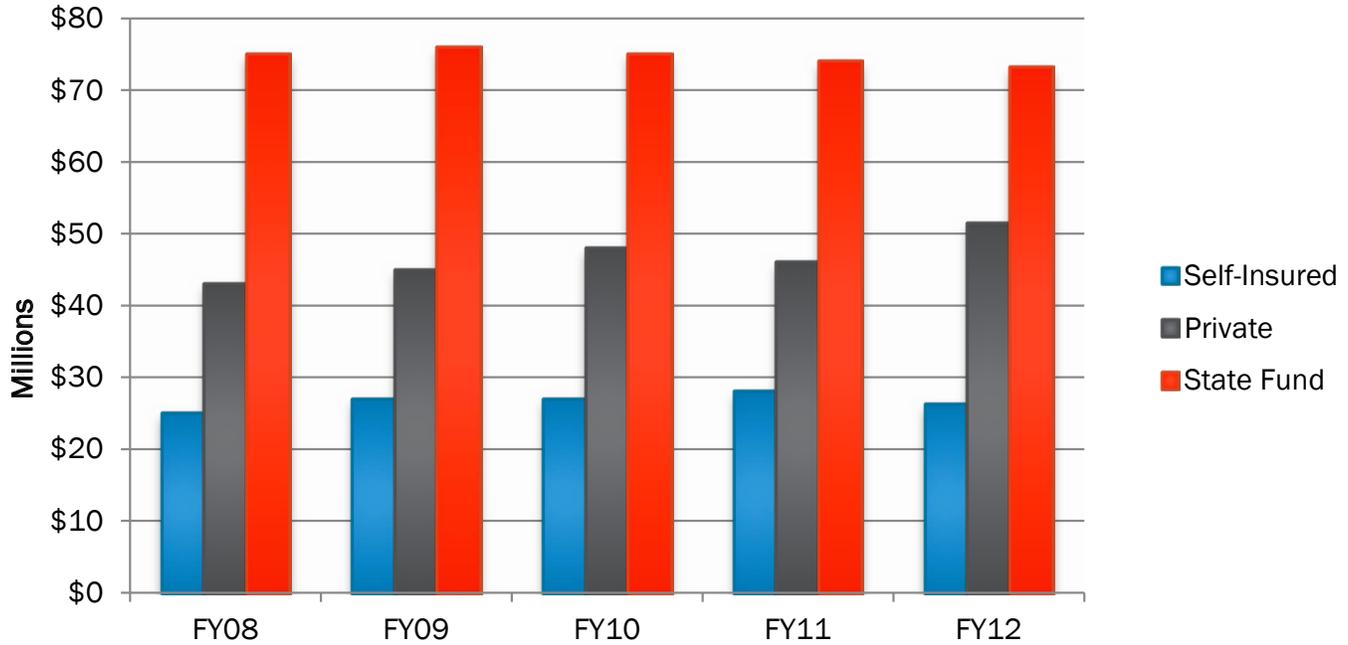
By Plan Type and Fiscal Year of Payment

PLAN TYPE	FY08		FY09		FY10		FY11		FY12	
	AMOUNT	%								
SELF-INSURED	\$43,812,928	18%	\$41,874,087	17%	\$42,527,828	17%	\$43,680,404	18%	\$40,938,796	17%
PRIVATE	\$74,880,486	30%	\$78,798,463	32%	\$82,486,426	33%	\$77,955,422	33%	\$82,752,416	35%
STATE FUND	\$129,105,522	52%	\$127,242,162	51%	\$126,405,068	50%	\$115,345,118	49%	\$115,037,148	48%
TOTAL	\$247,798,936	100%	\$247,914,712	100%	\$251,419,322	100%	\$236,980,944	100%	\$238,728,361	100%

Exhibit 4.3

Medical Payments²

By Plan Type and Fiscal Year of Payment



²Total represents medical payments including medical in excess of \$200,000, from DLI quarterly expenditure reports as of June 30, 2012.

Exhibit 4.4

Medical Payments

By Plan Type and Fiscal Year of Payment

PLAN TYPE	FY08		FY09		FY10		FY11		FY12	
	AMOUNT	%								
SELF-INSURED	\$25,334,628	18%	\$26,615,215	18%	\$26,849,482	18%	\$27,627,722	19%	\$26,383,615	17%
PRIVATE	\$43,312,875	30%	\$45,122,485	31%	\$47,587,446	32%	\$45,653,623	31%	\$51,530,256	34%
STATE FUND	\$74,622,827	52%	\$75,880,013	51%	\$74,791,306	50%	\$73,910,420	50%	\$73,234,300	48%
TOTAL	\$143,270,330	100%	\$147,617,713	100%	\$149,228,234	100%	\$147,191,765	100%	\$151,148,171	100%

Exhibit 4.5

Indemnity Payments

By Plan Type and Fiscal Year of Payment

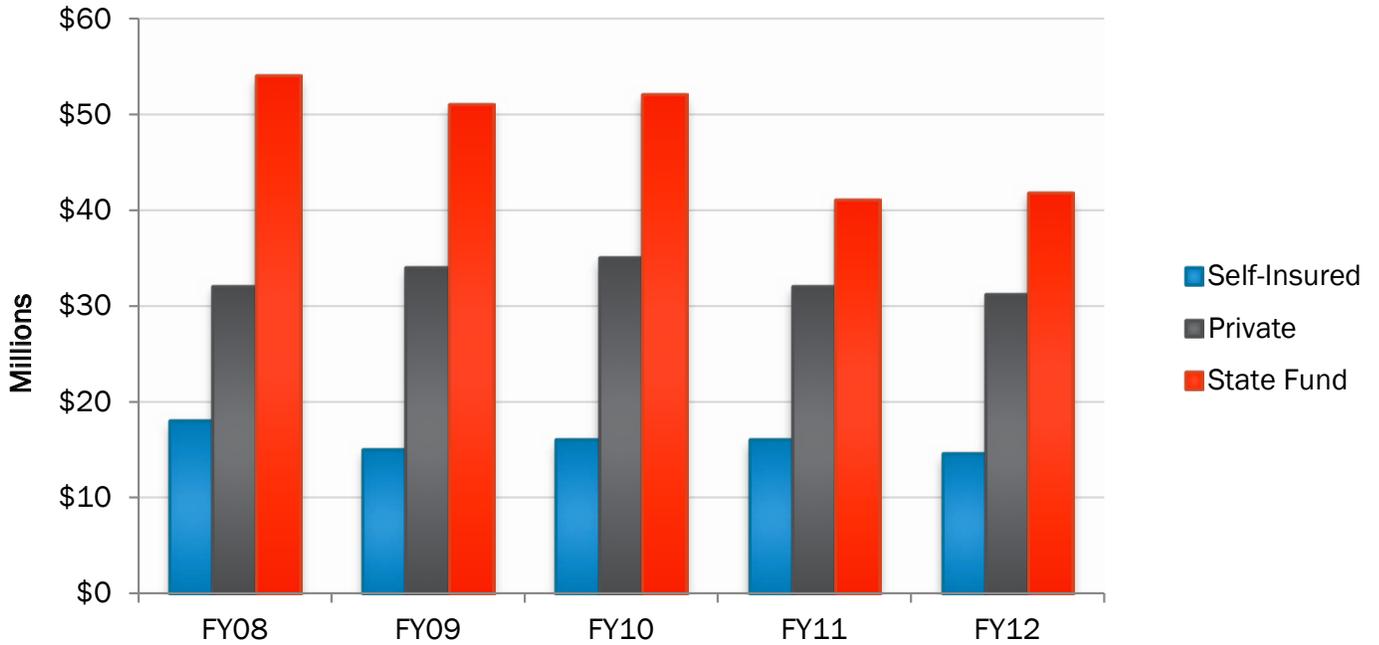


Exhibit 4.6

Indemnity Payments

By Plan Type and Fiscal Year of Payment

PLAN TYPE	FY08		FY09		FY10		FY11		FY12	
	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%
SELF-INSURED	\$18,478,300	18%	\$15,258,872	15%	\$15,678,345	15%	\$16,052,682	18%	\$14,555,182	17%
PRIVATE	\$31,567,611	30%	\$33,675,918	34%	\$34,898,980	34%	\$32,301,799	36%	\$31,222,160	36%
STATE FUND	\$54,482,695	52%	\$51,362,149	51%	\$51,613,762	51%	\$41,434,698	46%	\$41,802,848	48%
TOTAL	\$104,528,606	100%	\$100,296,939	100%	\$102,191,087	100%	\$89,789,179	100%	\$87,580,190	100%

Exhibits 4.7, 4.8, and 4.9 show various breakdowns by the type of benefits paid, such as medical and indemnity, using Subsequent Reports of Injury (SROIs) collected by the Department.

HB334 in the 2011 legislative session. Future reports will indicate whether this is an anomaly or if PPD benefits will show continued decrease.

In Exhibit 4.9, PPD benefits decreased from about 20%, in previous years, to 12% for injuries occurring in FY12. This could be related to the passage of

Exhibit 4.7

Total Benefits Paid

By Benefit Type and Fiscal Year of Injury

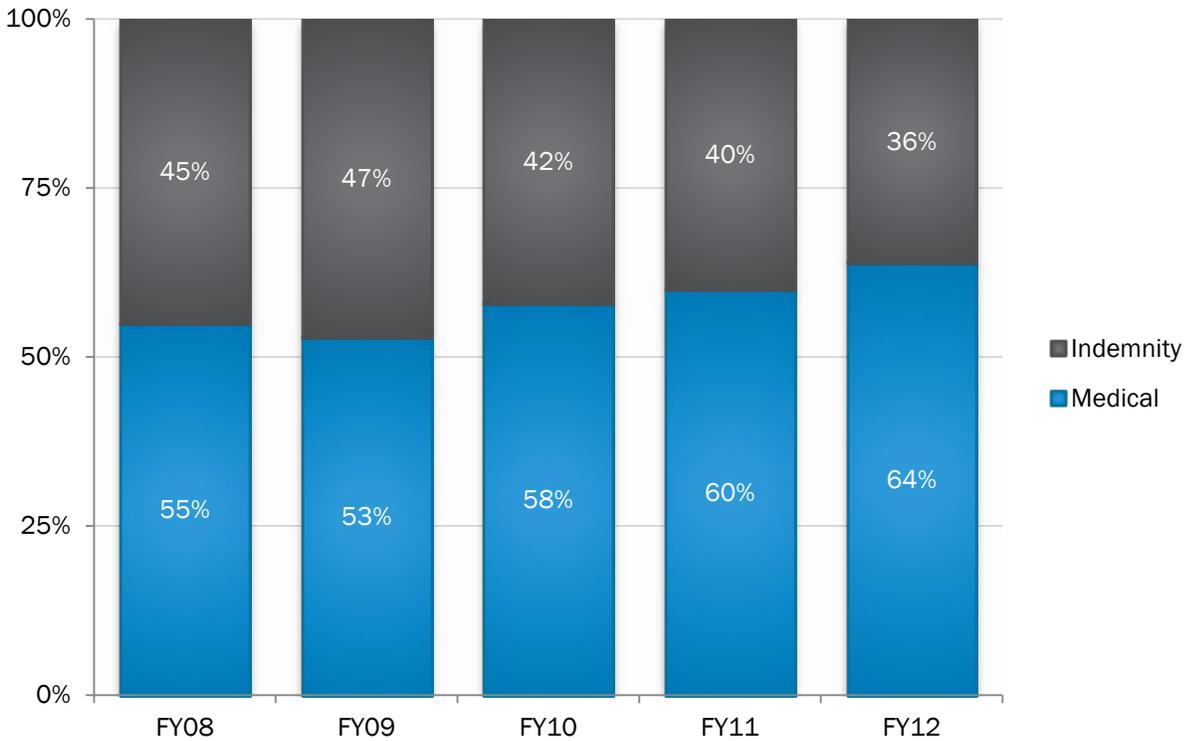


Exhibit 4.8

Indemnity Benefits Paid

By Benefit Type and Fiscal Year of Injury³

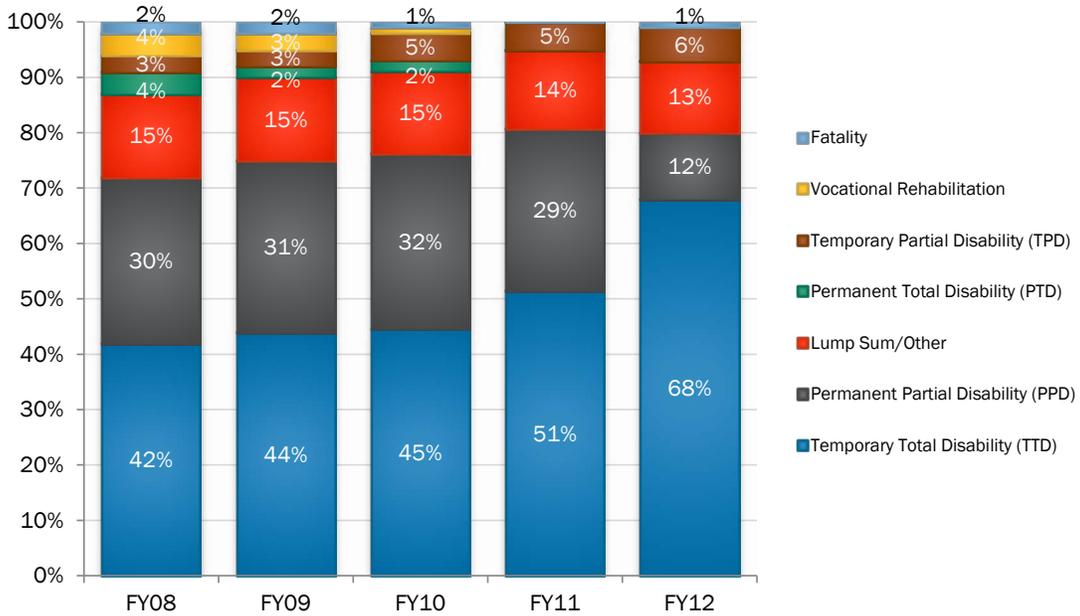
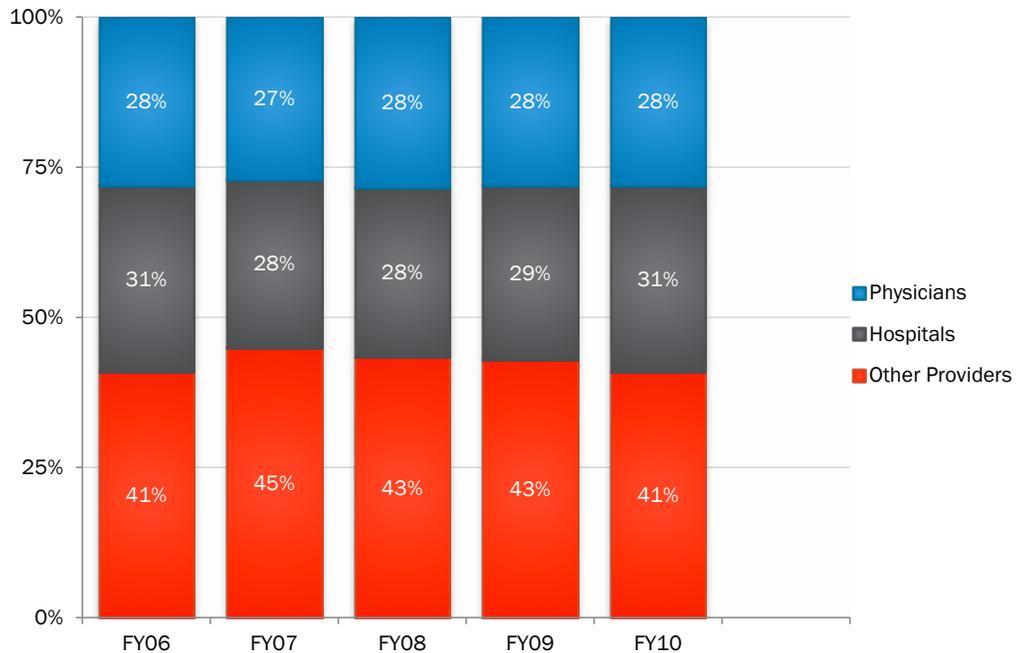


Exhibit 4.9

Medical Dollars by Type of Medical Provider

And Fiscal Year of Injury



BENEFIT DISTRIBUTION

The benefit distributions displayed in Exhibits 4.10 and 4.11 represent the proportion of claims that fall into different benefit dollar ranges.

years was \$12,951. Most medical benefits (77%) were \$20,000 or less and the average medical benefit was \$16,919.

For wage loss claims with dates of injury in FY07 to FY09, most wage loss benefits (82%) were \$20,000 or less. The average wage loss benefit, during those

Exhibit 4.10

Distribution of Wage Loss Benefits Paid - FY07 to FY09

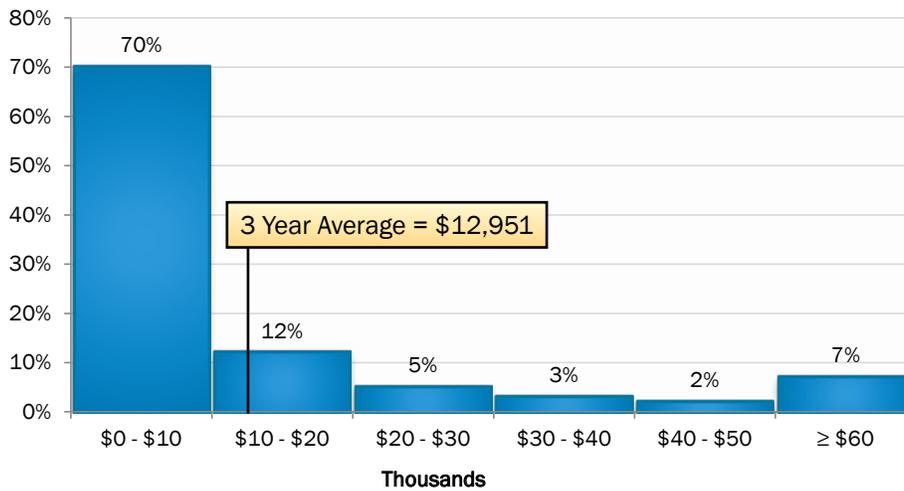
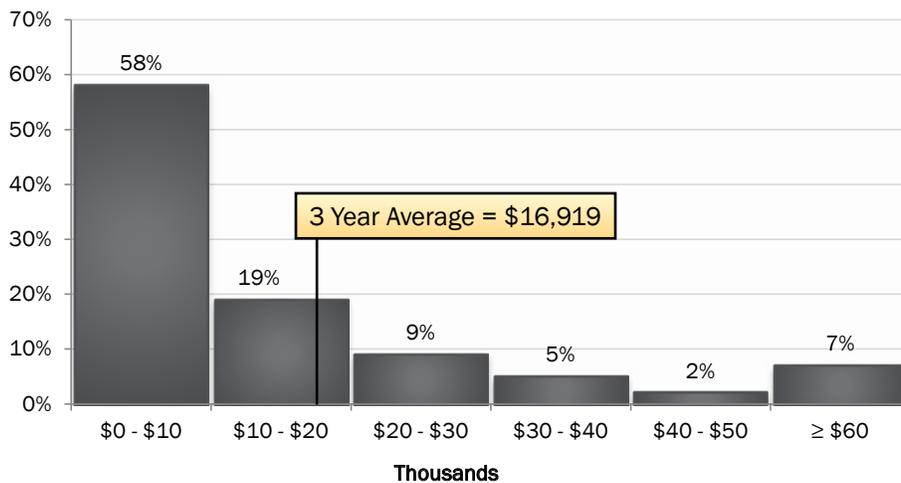


Exhibit 4.11

Distribution of Medical Benefits Paid- FY07 to FY09



Disability duration is an important measure of how quickly injured workers return to work. 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 FY05 to FY11.

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 (<\$60) weekly benefit rate 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 4.12

Temporary Disability Paid Duration – 1 Year Maturity

By Plan Type and Fiscal Year of Injury

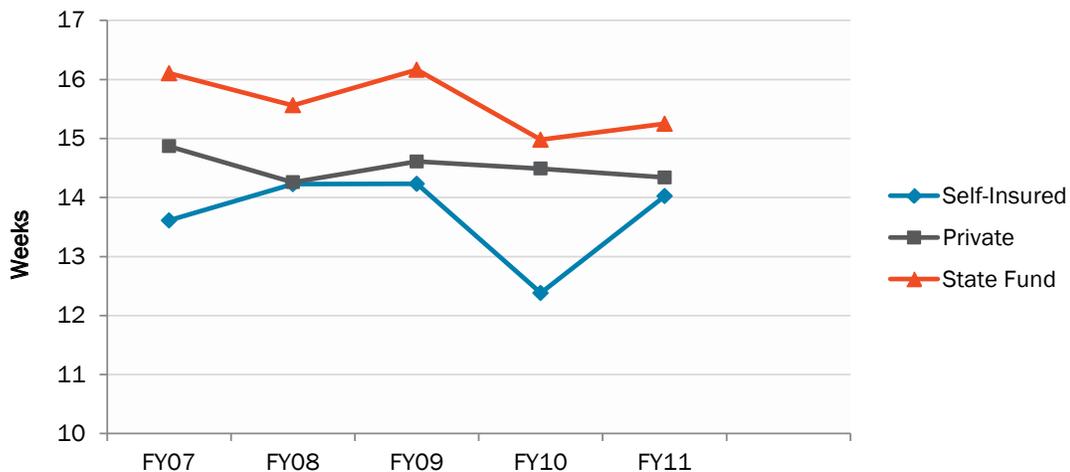


Exhibit 4.13

Temporary Disability Paid Duration (weeks) – 1 Year Maturity

By Plan Type and Fiscal Year of Injury

PLAN TYPE	FY07	FY08	FY09	FY10	FY11
SELF-INSURED	13.6	14.2	14.2	12.4	14.0
PRIVATE	14.9	14.3	14.6	14.5	14.3
STATE FUND	16.1	15.6	16.2	15.0	15.2
ALL PLANS	15.3	14.9	15.3	14.4	14.7

Exhibit 4.14

Temporary Disability Paid Duration – 3 Year Maturity

By Plan Type and Fiscal Year of Injury

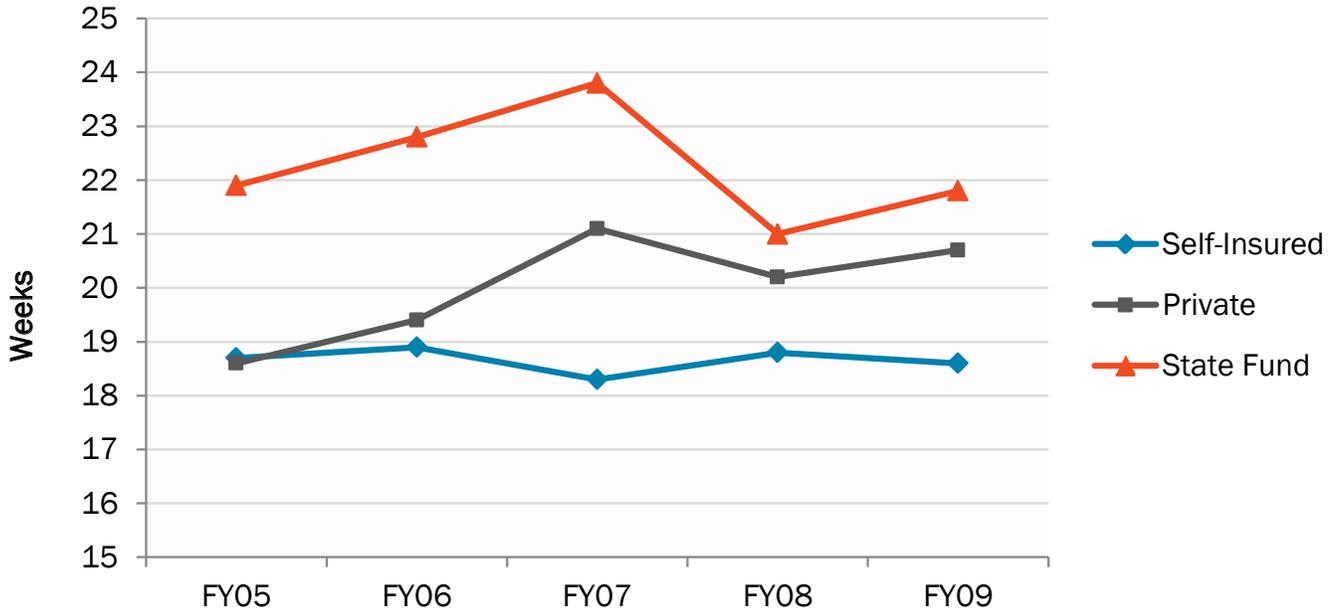


Exhibit 4.15

Temporary Disability Paid Duration (weeks) – 3 Year Maturity

By Plan Type and Fiscal Year of Injury

PLAN TYPE	FY05	FY06	FY07	FY08	FY09
SELF-INSURED	18.7	18.9	18.3	18.8	18.6
PRIVATE	18.6	19.4	21.1	20.2	20.7
STATE FUND	21.9	22.8	23.8	21.0	21.8
ALL PLANS	20.5	21.1	22.0	20.4	20.9

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.

The average settlement amounts, by fiscal year of injury, are displayed below in Exhibits 4.16 and 4.17, including both injury and occupational disease settlements.

Exhibit 4.16

Average Settlement

By Fiscal Year of Injury



Exhibit 4.17

Settlement Amounts for Claims Settled

By Plan Type and Fiscal Year of Injury

PLAN TYPE	FY08		FY09		FY10		FY11		FY12	
	AMOUNT	COUNT	AMOUNT	COUNT	AMOUNT	COUNT	AMOUNT	COUNT	AMOUNT	COUNT
SELF-INSURED	\$3,641,908	159	\$3,984,168	138	\$3,143,157	121	\$1,640,505	70	\$658,031	39
PRIVATE	\$13,738,037	475	\$11,816,274	444	\$8,746,983	394	\$7,708,933	330	\$2,606,597	172
STATE FUND	\$14,446,638	519	\$13,862,473	489	\$10,624,356	440	\$8,834,178	437	\$4,277,831	223
UEF	\$283,543	10	\$177,194	7	\$335,007	9	\$23,469	3	\$40,493	2
TOTAL	\$32,110,126	1,163	\$29,840,109	1,078	\$22,849,503	964	\$18,207,085	840	\$7,582,952	436

SETTLEMENT OF MEDICAL BENEFITS FOR BEST INTEREST

In March of 2011, the Montana Legislature passed a 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 went into effect in April of 2011 to January 2013, for all dates of injury.

Exhibit 4.18 shows the number of settlements approved for each payer type. Exhibit 4.19 illustrates the total medical dollars settled by payer, for those petitions (84%) that we could determine the settlement amount allocated for medical. Exhibit 4.20 shows the dollar amounts in ranges of \$10,000 settled by all payers. Most Petitions (78%) settled for \$30,000 or less.

Exhibit 4.18

Number of Settlements for Best Interest

By Plan Type - April 2011 to January 2013

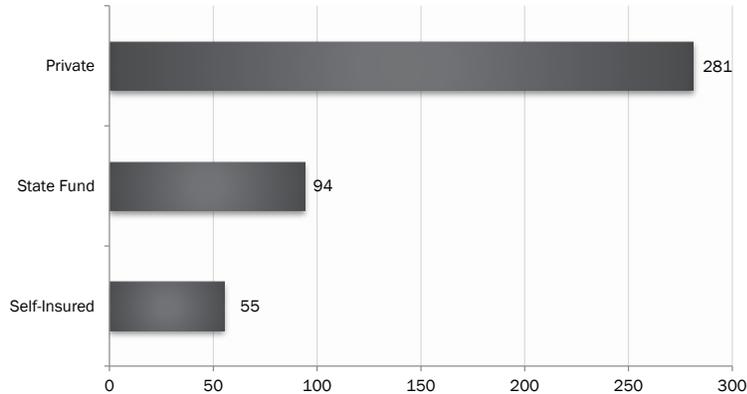


Exhibit 4.19

Total Settlement Amounts for Claims Settled for Best Interest

By Plan Type - April 2011 to January 2013

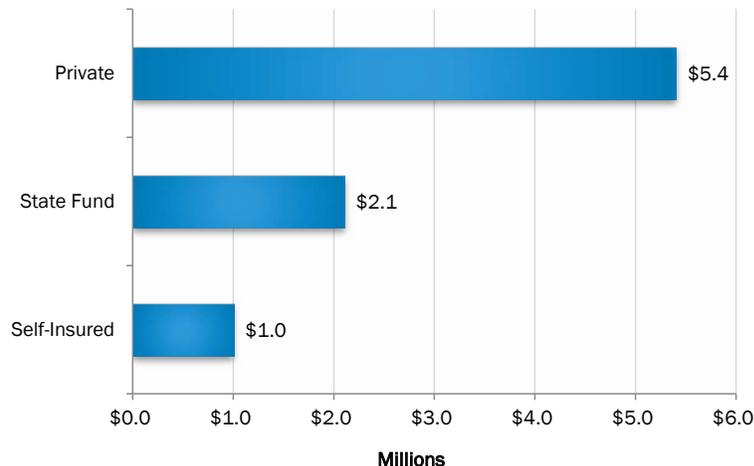
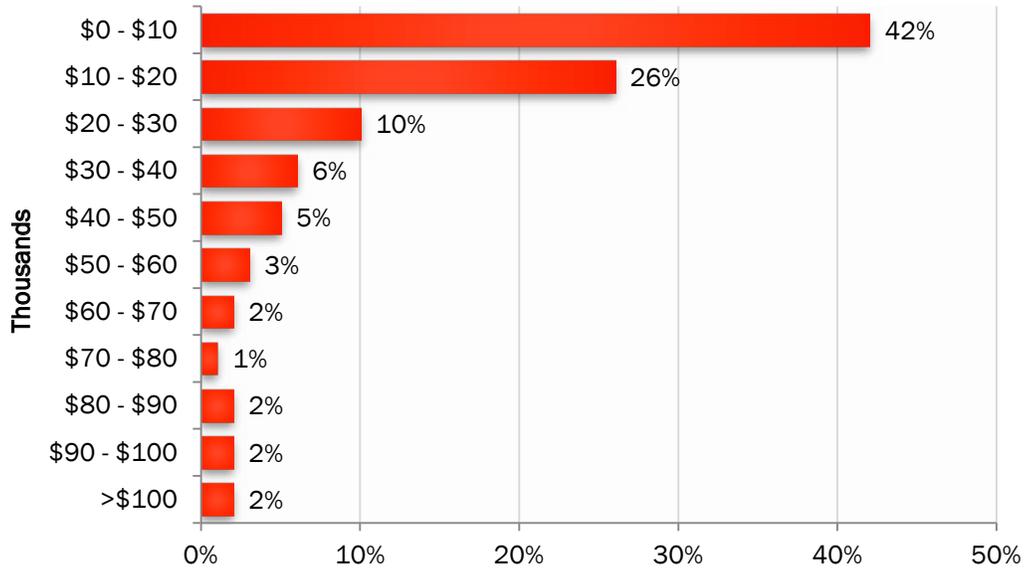


Exhibit 4.20

Settlement Distribution for Claims Settled for Best Interest

April 2011 to January 2013



INJURED WORKER ATTORNEY FEES

ERD requires claimants' attorneys to submit a Legal Fee Report at regular intervals throughout the life of a claim (39-71-613, MCA). The Legal Fee Report provides the amount of attorney fees received by attorneys. Maximum legal fees are set by rule and regulated by ERD (ARM 24.29.3802).

Average attorney legal fees are represented in Exhibits 4.21 and 4.22, by plan type and fiscal year of injury.

Exhibit 4.21

Average Attorney Legal Fees

By Fiscal Year of Injury



Exhibit 4.22

Total Attorney Legal Fees

By Plan Type and Fiscal Year of Injury

PLAN TYPE	FY08		FY09		FY10		FY11		FY12	
	AMOUNT	COUNT	AMOUNT	COUNT	AMOUNT	COUNT	AMOUNT	COUNT	AMOUNT	COUNT
SELF-INSURED	\$454,538	85	\$410,284	78	\$277,585	63	\$193,018	46	\$71,504	26
PRIVATE	\$1,481,438	244	\$1,222,663	202	\$974,093	215	\$756,300	178	\$222,272	82
STATE FUND	\$1,771,365	282	\$1,564,632	243	\$964,192	201	\$811,398	185	\$275,619	85
UEF	\$29,325	4	\$4,375	1	\$8,412	4	\$47,405	4	\$568	1
TOTAL	\$3,736,665	615	\$3,201,954	524	\$2,224,282	483	\$1,808,121	413	\$569,963	194

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.

Exhibit 4.23 shows that approximately 61% of all settlements in FY12 involved attorneys, and the average fee in proportion to the settlement amount was 13%.

Exhibit 4.23

Attorney Fees from Claimant Settlements⁴

By Fiscal Year of Settlement

	FY08	FY09	FY10	FY11	FY12
NUMBER OF SETTLEMENT PETITIONS PROCESSED	1,413	1,467	1,502	1,553	1,324
CLAIMS SETTLED WITH ATTORNEY REPRESENTATION	789	786	860	891	802
PERCENT CLAIMANTS REPRESENTED BY ATTORNEY	56%	54%	57%	57%	61%
TOTAL SETTLEMENT AMOUNT WITH ATTORNEY INVOLVEMENT	\$29,427,666	\$27,164,323	\$35,516,545	\$34,127,418	\$35,374,026
TOTAL ATTORNEY FEES	\$5,365,189	\$4,969,772	\$5,729,453	\$4,379,208	\$4,550,963
AVERAGE FEE/SETTLEMENT PERCENTAGE	18%	18%	16%	13%	13%

⁴ 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.

INSURER LEGAL EXPENSES

ERD requires insurance companies to report legal fees and costs (ARM 24.29.4335; 24.29.4336). These costs are reported to ERD on the subsequent report of injury at regular intervals throughout the life of a claim.

Average insurer legal expenses are represented in exhibits 4.24 and 4.25, by plan type and fiscal year of injury.

Exhibit 4.24

Average Insurer Legal Expenses per Claim

By Fiscal Year of Injury

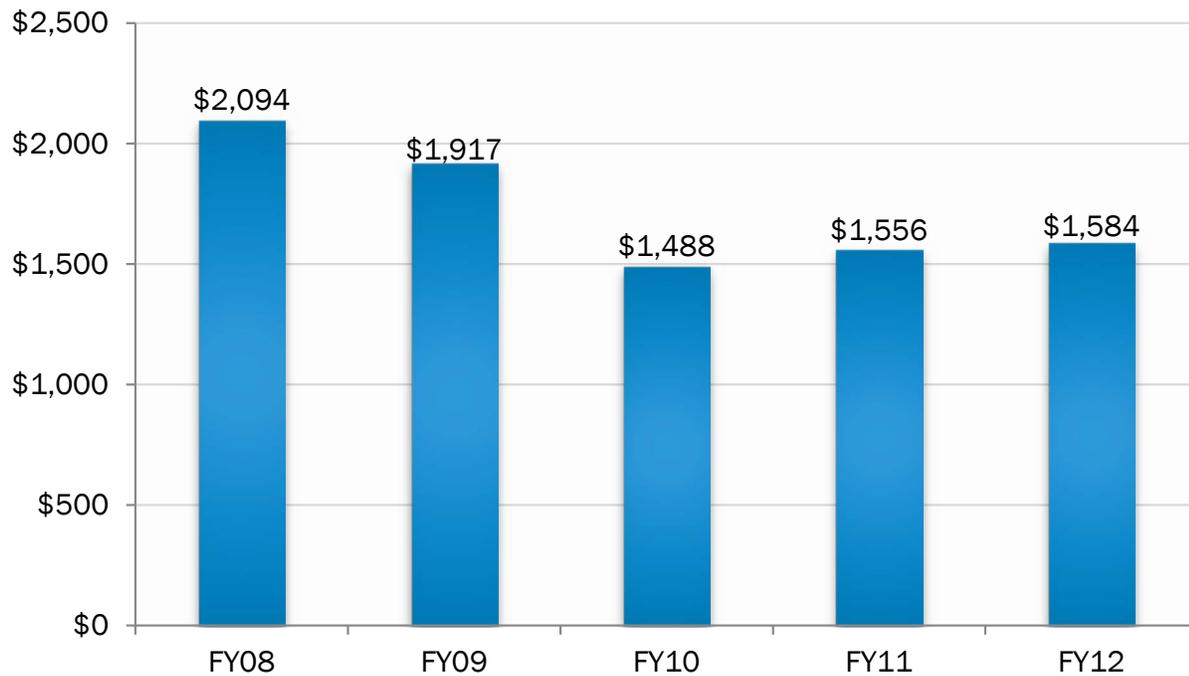


Exhibit 4.25

Total Insurer Legal Expenses

By Plan Type and Fiscal Year of Injury

PLAN TYPE	FY08		FY09		FY10		FY11		FY12	
	AMOUNT	COUNT								
SELF-INSURED	\$78,370	33	\$51,719	23	\$27,870	21	\$10,350	9	\$6,591	2
PRIVATE	\$207,856	106	\$93,560	89	\$86,371	109	\$56,292	77	\$23,093	27
STATE FUND	\$536,667	253	\$511,922	230	\$352,856	184	\$348,846	180	\$133,436	73
UEF	\$32	1	\$2,383	2	\$0	0	\$65	1	\$33	1
TOTAL	\$822,925	393	\$659,585	344	\$467,097	314	\$415,553	267	\$163,153	103

A graphic consisting of two overlapping blue squares. The top square is slightly offset to the right and up from the bottom square. The word "SECTION" is written vertically in white, uppercase letters on the left side of the top square. The number "5" is written in large, white, bold digits on the right side of the top square.

SECTION 5

A horizontal blue banner with a white, ribbon-like shape on the left side. The text "DISPUTE RESOLUTION" is written in white, uppercase letters on the right side of the banner.

DISPUTE RESOLUTION

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

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

Conferences are usually by telephone but can be held in person in Helena upon request. Often more than one conference is held in order to resolve the disputes on a claim. In FY12, the Mediation Unit received and processed 1,375 petitions, which involved 1,529 claims. A petition is a request for mediation and may include multiple claims and/or multiple insurers.

Exhibit 5.1

Claims in Mediation - FY12

By Plan Type

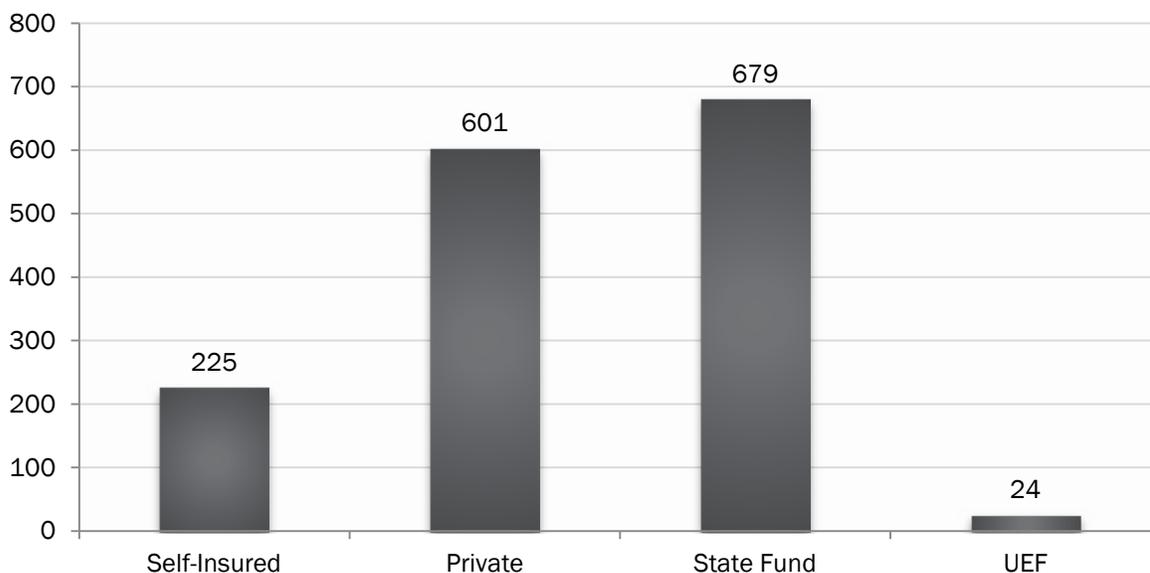


Exhibit 5.2

Claims in Mediation - FY12

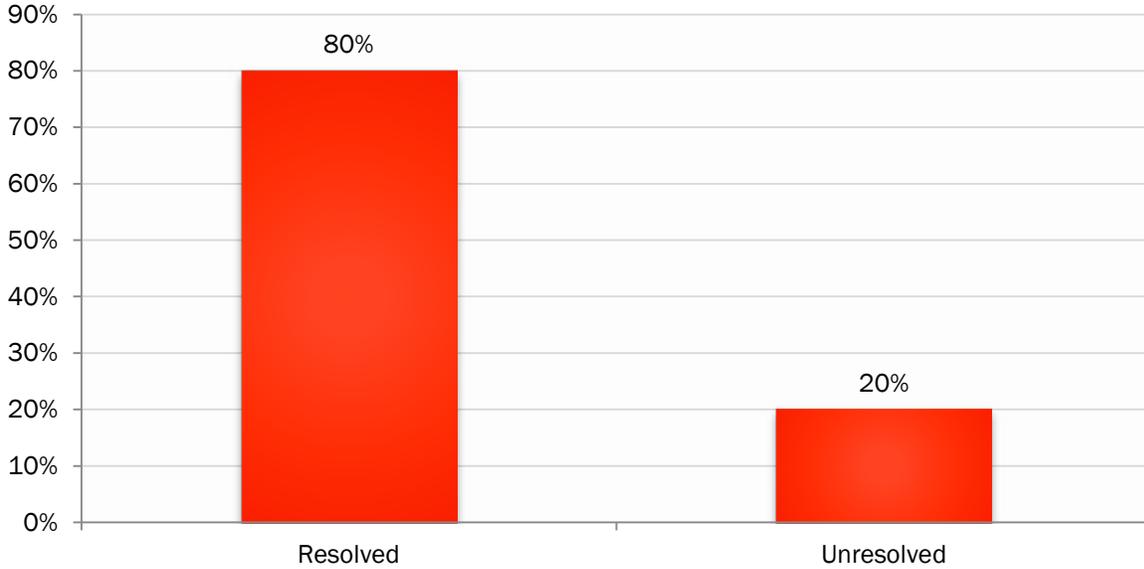
By Plan Type and Fiscal Year of Receipt

PLAN TYPE	FY08		FY09		FY10		FY11		FY12	
	COUNT	%								
SELF-INSURED	273	18%	262	19%	253	17%	245	16%	225	15%
PRIVATE	592	40%	542	39%	624	41%	600	39%	601	39%
STATE FUND	578	39%	554	40%	597	39%	665	43%	679	44%
UEF	43	3%	27	2%	39	3%	34	2%	24	2%
TOTAL¹	1,486	100%	1,385	100%	1,513	100%	1,544	100%	1,529	100%

¹ Total counts represent the number of claims, not the number of petitions.

Exhibit 5.3

Percent of Mediation Petitions Resolved - FY12



Over the past five years, the mediation process has had an average resolution rate of 81%. From the date of the petition receipt to issuing a written

recommendation, the average completion time for mediation was 38 days in FY12.

Exhibit 5.4

Mediation Petitions

By Fiscal Year of Receipt

	FY08		FY09		FY10		FY11		FY12	
PETITIONS	COUNT	%								
PENDING ²	1	1%	2	1%	3	1%	8	1%	165	12%
CLOSED	1,343	99%	1,247	99%	1,376	99%	1,366	99%	1,210	88%
TOTAL REC'D	1,344	100%	1,249	100%	1,379	100%	1,374	100%	1,375	100%
RESOLVED	1,130	84%	1,016	81%	1,129	82%	1,079	79%	971	80%
UNRESOLVED	213	16%	231	19%	247	18%	287	21%	239	20%
TOTAL CLOSED	1,343	100%	1,247	100%	1,376	100%	1,366	100%	1,210	100%

²Eventual outcome of pending petitions will affect percent resolved.

The DLI Hearings Bureau holds contested case hearings, including appeals from orders and determinations issued by ERD and assessments

of penalties for uninsured employers. In FY12, the Hearings Bureau received no new requests for contested case hearings.

Exhibit 5.5

Petitions Received by the Hearings Bureau

By Plan Type and Fiscal Year

PLAN TYPE	FY08		FY09		FY10		FY11		FY12	
	COUNT	%								
SELF-INSURED	0	0%	0	0%	0	0%	0	0%	0	0%
PRIVATE	1	11%	0	0%	0	0%	0	0%	0	0%
STATE FUND	2	22%	0	0%	1	34%	1	33%	0	0%
UEF	3	67%	3	75%	1	33%	2	67%	0	0%
OTHER	0	0%	1	25%	1	33%	0	0%	0	0%
TOTAL	9	100%	4	100%	3	100%	3	100%	0	100%

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

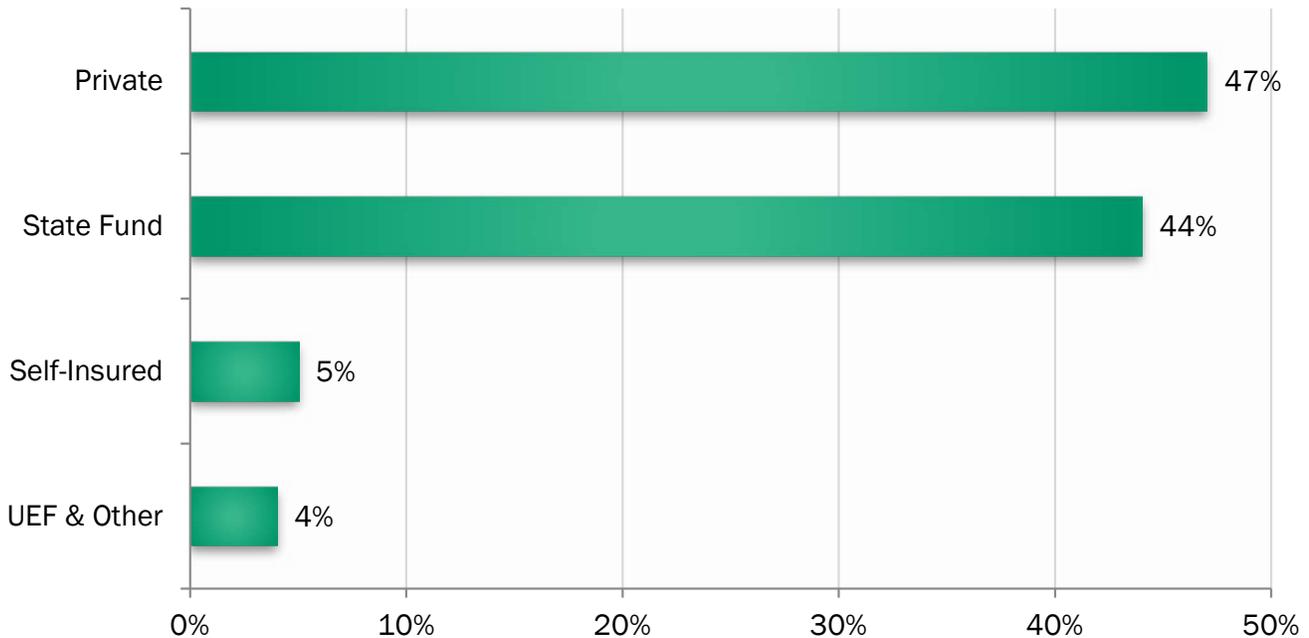
exemptions under both the Workers' Compensation and Unemployment Insurance Acts, civil penalties for theft of workers' compensation benefits, and the two-year return to work preference specified in section 39-71-317(2), MCA.

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

Exhibit 5.6

Percent of Petitions Received by the WCC – FY12

By Case Type³



³The 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 5.7

Petitions Received by the WCC

By Case Type⁴ and Fiscal Year of Receipt

CASE TYPE	FY08		FY09		FY10		FY11		FY12	
	COUNT	%								
SELF-INSURED	8	4%	25	12%	22	10%	12	5%	8	5%
PRIVATE	115	55%	90	43%	112	49%	103	44%	97	47%
STATE FUND	66	31%	83	40%	78	34%	103	44%	92	44%
UEF & OTHER	21	10%	10	5%	17	7%	15	7%	10	4%
TOTAL	210	100%	208	100%	229	100%	233	100%	207	100%

⁴Petitions may involve more than one plan type.

Exhibit 5.8

Decisions by the WCC

By Fiscal Year of Receipt

DECISIONS	FY08	FY09	FY10	FY11	FY12
DECISIONS	170	143	181	167	170
SUBSTANTIVE ORDERS	68	43	26	28	13
ORDERS ON COST	6	3	6	3	4
BENCH RULINGS WITHOUT WRITTEN DECISIONS	0	2	0	1	0
ATTORNEY FEE ORDERS	2	0	3	1	0
PHONE CONFERENCE RESULTING IN DISPOSITION	0	0	0	0	0
ORDERS ON APPEAL	0	0	1	0	0
SUBTOTALS	246	191	217	200	187
PETITIONS DISMISSED BY AGREEMENT	46	51	46	41	42
TOTALS	292	242	263	241	229

Exhibit 5.9

Full and Final Compromise Settlements by the WCC

By Case Type and Fiscal Year of Receipt

CASE TYPE	FY08	FY09	FY10	FY11	FY12
SELF-INSURED	2	2	5	2	4
PRIVATE	6	5	9	4	4
STATE FUND	12	12	8	2	5
UEF	0	0	0	0	0
TOTAL	20	19	22	8	13

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

In the Workers' Compensation Court of the State
of Montana

TROY BAKER vs. FIREMAN'S FUND INS. CO.

2012 MTWCC 9

Summary: Petitioner attempts to reopen a settlement agreement based on a mutual mistake of fact. Petitioner's counsel entered into settlement discussions with Respondent. Respondent contends that the parties reached a binding settlement agreement closing all benefits. Petitioner argues that his counsel did not have authority to settle his claim and maintains he has always intended to reopen the settlement.

Held: Petitioner entered into a binding settlement agreement. Petitioner authorized his counsel to negotiate and settle his claim. The parties reached an agreement after several offers and counter offers. Petitioner's unvoiced intention to not be bound to the terms of the agreement until reviewed in writing does not prevent the formation of a binding agreement.

ANN SCHELLINGER f/n/a ANN UFFALUSSY vs. ST. PATRICK HOSPITAL AND HEALTH SCIENCES CENTER

2012 MTWCC 10

Summary: Respondent moved for summary judgment regarding Petitioner's request for medical benefits, arguing that because Petitioner had not "used" her benefits for 60 consecutive months, such benefits terminated pursuant to § 39-71-704(1)(e), MCA. Petitioner objected to Respondent's motion and cross-motivated for summary judgment, arguing that Respondent was on notice that medical bills existed for which Petitioner believed Respondent was liable.

Held: The statute of repose has not run in this matter, and Petitioner's claims for unpaid medical bills are not barred by § 39-71-704(1) (e), MCA.

CHRISTIAN CORNELIUS vs. LUMBERMEN'S UNDERWRITING ALLIANCE and EMPLOYERS INSURANCE COMPANY

2012 MTWCC 13

Summary: Petitioner reached MMI for an industrial injury to her back and settled her claim with medical benefits reserved. After changing employers, she began to suffer increased back problems approximately a year and a half later – which was also approximately two months after she switched to a workstation which she did not find ergonomically suitable. After the insurer liable for her industrial injury denied further payment of medical benefits, she filed an occupational disease claim against her new employer. The new employer's insurer denied liability and did not pay benefits. Petitioner alleges that she is suffering from an occupational disease for which the second insurer is liable. Petitioner contends that she is entitled to total disability benefits because a doctor has opined she is unable to work. Petitioner contends that the insurer unreasonably refused to pay her benefits under § 39-71-407(5), MCA, since the liability dispute was between insurers.

Held: Petitioner suffers from an occupational disease. She reached MMI for her previous industrial injury and suffered a permanent aggravation while working for her post-injury employer. Petitioner presented the undisputed medical opinion that she is unable to work and she is therefore entitled to indemnity benefits. Since the liability dispute was between two insurers, the insurer for her then-current employer was unreasonable in refusing to pay her benefits as required by § 39-71-407(5), MCA. She is therefore entitled to her attorney fees and a penalty.

JODY GUNDERMANN vs. MONTANA STATE FUND**2012 MTWCC 18**

Summary: Petitioner suffered an injury as a seasonal farm worker. He contends that, since he did not work for four pay periods, his average weekly wage should be based on his hourly rate of pay times the number of hours in a week for which he was hired to work under § 39-71-123(3)(a), MCA. Respondent calculated Petitioner's average weekly wage based on Petitioner's four prior pay periods going back more than one year from the date of injury, given Petitioner's long history of seasonal employment with the same employer. The parties request the Court identify the proper method of calculating Petitioner's average weekly wage.

Held: As a seasonal farm worker with a long history working for the same employer and the reasonable relationship requirement of § 39-71-105(1), MCA, Petitioner's average weekly wage should be calculated pursuant to § 39-71-123(3)(b), MCA, by compiling his wages earned while working for his time-of-injury employer for a period of one year prior to the date of injury. For purposes of this calculation, Petitioner's wages would include the value of his room and board as well as the value of a truck that his employer gave him as compensation for his labor. Petitioner's wages should then be divided by the number of weeks in the year prior to his injury that Petitioner worked for his time-of-injury employer and periods of idleness during that year. Excluded from the calculation are periods during which Petitioner worked for another employer since those periods do not constitute "periods of idleness."

MARK DAUENHAUER vs. MONTANA STATE FUND**2012 MTWCC 22**

Summary: Within the 60-consecutive month period under the statute of repose, § 39-71-704(1) (e), MCA, Petitioner's wife contacted Respondent for authorization for her husband to see his surgeon for a follow-up visit. Respondent's claims examiner denied authorization, believing the request was based solely on Petitioner's desire to keep his medical benefits open. Without Respondent's authorization to see a physician, Petitioner had difficulty setting a medical appointment.

Petitioner's family physician eventually faxed a request to Respondent to have Petitioner seen by a neurosurgeon, two days after the statute of repose had run. Respondent continued to deny further medical care on the basis that Petitioner had failed to use his medical benefits for over 60 consecutive months.

Held: Seeking authorization for legitimate, reasonably necessary medical treatment causally related to an accepted injury claim within 60 consecutive months of the last treatment constitutes "use" under § 39-71-704(1)(e), MCA. Because Respondent's claims examiner believed the sole reason Petitioner was requesting authorization for treatment was to extend the 60-month deadline, Respondent acted reasonably in denying and maintaining the denial of medical benefits.

DENNIS MARJAMAA vs. LIBERTY NORTHWEST INSURANCE CORP.**2012 MTWCC 23**

Summary: Petitioner and Respondent disagree regarding the appropriate time period to use for determining Petitioner's average weekly wage. Respondent argues that Petitioner's average weekly wage is appropriately calculated using his previous year of employment, including approximately four months in which he was off work due to a previous industrial injury. Petitioner admits that his employment typically included some periods of idleness, but argues that the time in which he was off work due to his previous injury should be excluded from the average weekly wage calculation.

Held: Under § 39-71-105(1), MCA, an injured worker's wage-loss benefits must bear a reasonable relationship to his actual wages lost. Being off work for four months due to an industrial injury is an extraordinary event and does not reflect Petitioner's typical work history with his employer. Petitioner's average weekly wage shall be calculated using the time period he suggests, which Respondent does not dispute includes work hours and periods of idleness which is typical of Petitioner's work history with his employer.

JOHN ERHARD vs. LIBERTY NORTHWEST INSURANCE CORP.**2012 MTWCC 26**

Summary: Petitioner broke his leg while moving into housing provided by his employer prior to beginning his first work shift. Respondent denied Petitioner's claim for workers' compensation benefits, alleging that Petitioner was not within the course and scope of his employment at the time of his accident and injury.

Held: Petitioner was not an employee of Respondent's insured at the time his accident and injury occurred. He was not within the course and scope of employment because no employment existed. Therefore, Respondent is not liable for Petitioner's claim.

MARLON CLAPHAM vs. TWIN CITY FIRE INSURANCE COMPANY**2012 MTWCC 27**

Summary: Petitioner moved for summary judgment, arguing that Respondent violated the provisions of § 39-71-608, MCA, when it agreed to pay his claim under a reservation of rights and then refused to pay medical expenses and failed to accept or deny his claim, or request authorization to continue paying his claim under the statute, after the 90-day time period had expired. Petitioner contends he is entitled to acceptance of his claim, attorney fees, and a penalty. Respondent admits it did not pay Petitioner's medical expenses and that it did not accept or deny his claim within 90 days as required by the statute. However, Respondent argues that it was not obligated to pay any benefits under § 39-71-608, MCA, and that the only consequence it may face for failing to comply with the 90-day deadline is attorney fees and a penalty if the claim is later adjudged compensable.

Held: Petitioner is not entitled to acceptance of his claim for Respondent's failure to obtain written consent to make compensation payments for more than 90 days under a reservation of rights. However, Petitioner is entitled to a penalty if his claim is found to be compensable. Respondent is obligated to pay certain medical expenses incurred during the time

period it placed Petitioner's claim under § 39-71-608, MCA.

RUSSELL ROMINE vs. NORTHWESTERN ENERGY**2012 MTWCC 35**

Summary: Respondent moved for summary judgment, arguing that Petitioner's occupational disease claim is untimely under § 39-71-601(3), MCA, because he knew or should have known that he was suffering from an occupational disease more than one year prior to the filing of his workers' compensation claim.

Held: The undisputed facts demonstrate that Petitioner received a diagnosis and was treated for shoulder and back complaints, in August 2009, and therefore he should have known he was suffering from an occupational disease at that time. His December 2010 claim was untimely filed for these conditions. However, Petitioner did not receive a diagnosis or treatment for his cervical condition until July 2010; therefore, his occupational disease claim for his cervical condition was timely filed. The Court granted Respondent's motion for summary judgment regarding Petitioner's occupational disease claim for his shoulder and low back, and denied the motion regarding Petitioner's cervical condition.

WENDY TUTTLE vs. FIRST LIBERTY INSURANCE CORP.

2012 MTWCC 37

APPEALED TO MONTANA SUPREME COURT - 11/19/12

JUDGMENT VACATED AND WITHDRAWN PURSUANT TO STIPULATION OF PARTIES

Summary: Petitioner alleges her current disability is a result of her September 2008 industrial accident, entitling her to reinstatement of disability benefits retroactive to the time her benefits were terminated in December 2008 and payment of medical expenses. Respondent counters that Petitioner was placed at MMI with a 0% impairment rating three and a half months post-injury, and that a temporal relationship between Petitioner's industrial accident and the herniated disks discovered over two years post-MMI is insufficient proof of causation.

Held: Respondent is correct that a temporal relationship between Petitioner's current disability and her industrial accident, without more, is insufficient to meet her burden of proof. However, there is ample factual and historical evidence in this case that correlate the objective medical findings of the two herniated disks to Petitioner's work-related injury. Petitioner has therefore met her burden of proof in establishing on a more probable than not basis that the herniated disks in her thoracic and lumbar spine, and her current disability for which she seeks benefits, are causally related to her September 2008 industrial accident. Petitioner has not demonstrated an entitlement to benefits retroactive to the time her benefits were terminated in December 2008. Petitioner is entitled to temporary total disability benefits as of April 27, 2011, the date on which her doctor issued a report stating she could no longer perform her duties.

AMERICAN ZURICH INSURANCE CO vs. MONTANA THIRTEENTH JUDICIAL DISTRICT COURT

2007 MTWCC 1812

APPEALED TO MONTANA SUPREME COURT - 3/13/2012

Summary: In January 1999 Phillip Peters suffered a serious injury while working for Roscoe Steel & Culvert Co (Roscoe). Zurich accepted liability, and Employee Benefit Management Solutions (EBMS) provided claims' adjusting services. Joe Maynard, of the Crowley Law firm, represented Zurich. He prepared an opinion and evaluation letter regarding Peters case in October 2003 (Maynard Letter). Unbeknownst to the other parties, an employee of EBMS provided a copy of that letter to Roscoe. The underlying disability benefit claim was resolved, but Peters filed an unfair claims settlement practices action. Peters served a subpoena on Roscoe to produce the entire file and all documentation relating to his employment and his workers' compensation claim and any and all correspondence either written or electronic with Zurich, EBMS, and the Crowley Law Firm. Roscoe objected but the District Court denied Roscoe's motion. The District Court held the letter was not protected by attorney-client privilege. Zurich filed a motion of relief which the lower court denied.

Held: The Supreme Court found the employer's role in workers' compensation cases is limited, with extremely narrow exceptions. The employer is statutorily immune from suit for common law injury claims. The insurer's duty to compensate the employee cannot be delegated to the employer, nor can the employer veto or influence any settlement between the insurer and the employee. It is thus improper for an insurer and an employer to collaborate on settlement of a worker's claim for benefits. Roscoe was neither a party to the action nor shared a common interest with Zurich in the adjustment of Peters claim. The attorney-client privilege did not allow Roscoe to withhold the Maynard Letter. Zurich's disclosure of the letter via EBMS to Roscoe constituted a waiver of its attorney-client privilege.



SECTION 6



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 •
- Independent Medical Reviews •

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

Workers' Compensation Regulations 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 Exemption Certificates (ICEC).

The **Self-Insurance Unit** administers the program for employers are approved 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 Stay at Work/Return to Work (SAW/RTW) program that went into 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. 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 SafetyFest events 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 6.1

Montana Department of Labor & Industry

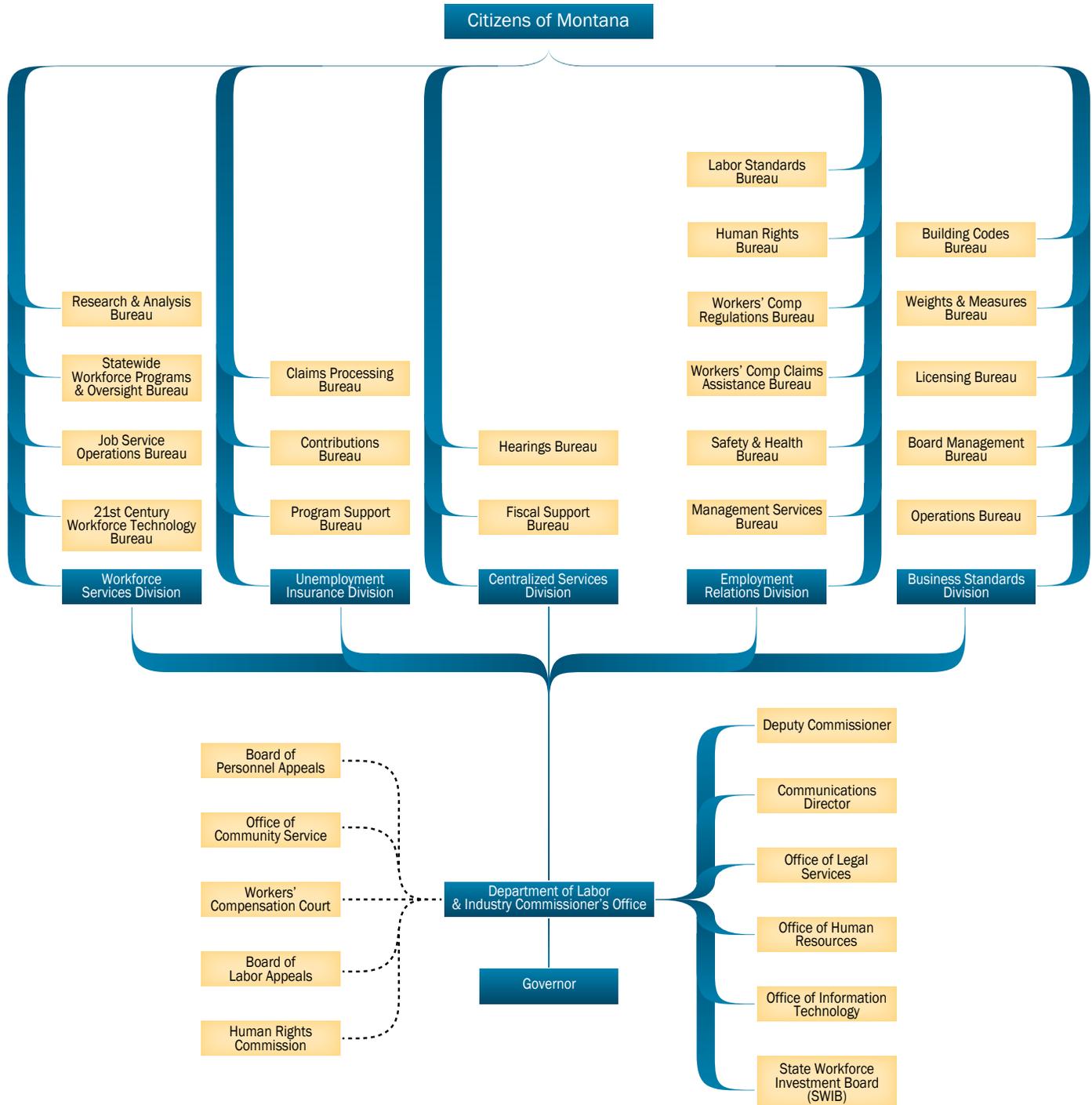
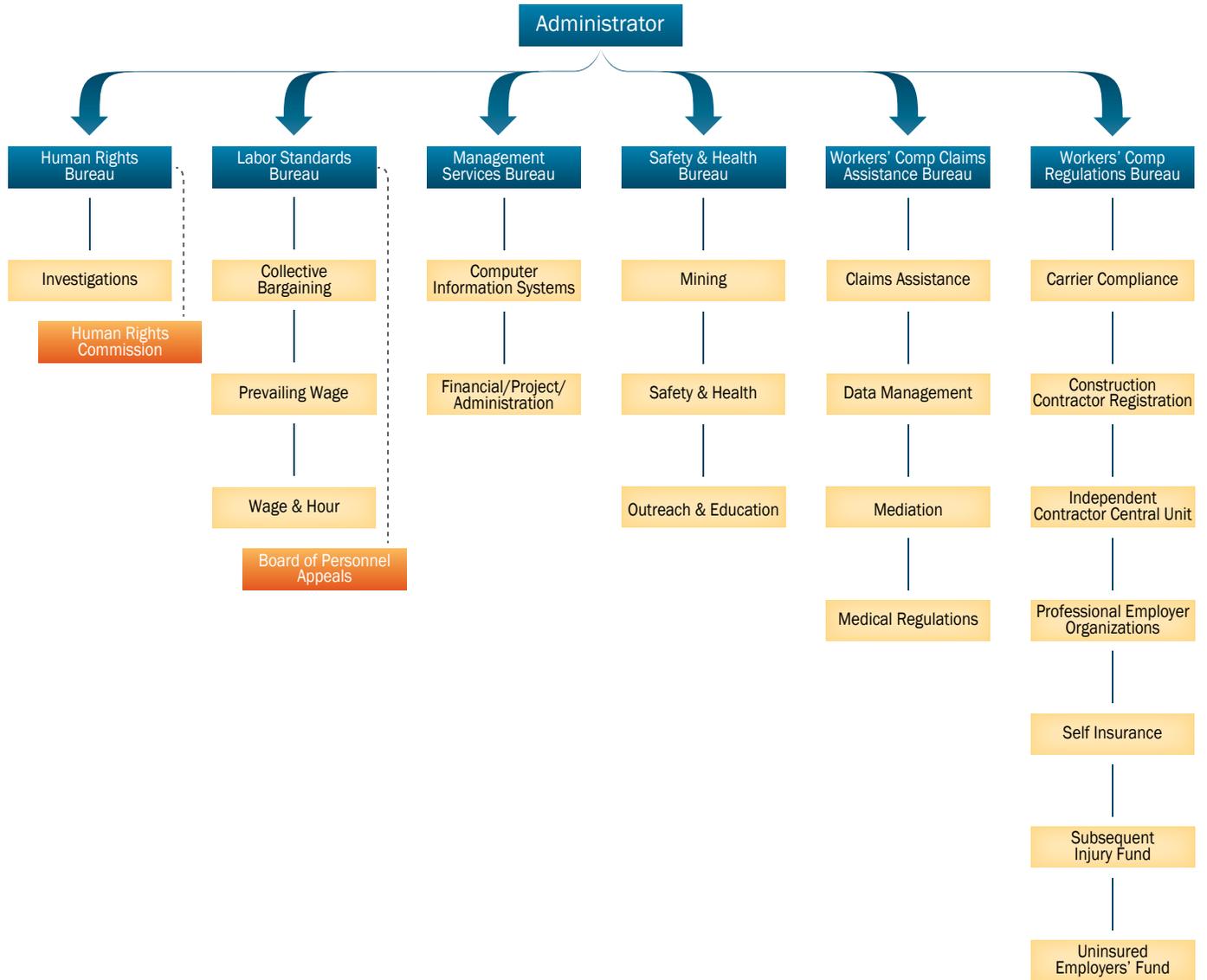


Exhibit 6.2

Employment Relations Division



The administration of the Workers' Compensation Act and the various occupational safety laws is funded by an assessment to employers with self insurance, private insurance, or 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).

- Claims management, data analysis, mediation, medical regulations, and administration functions of the Claims Assistance Bureau;
- Self-insurance, carrier compliance, Professional Employer Organizations (PEO's), Managed Care Organizations and administration functions of the Workers' Compensation Regulations Bureau; and
- Occupational safety statistics, public facility inspections, OSHA on-site consultation grant match, mining inspection, MSHA mine training grant match and safety culture functions of the Safety & Health Bureau.

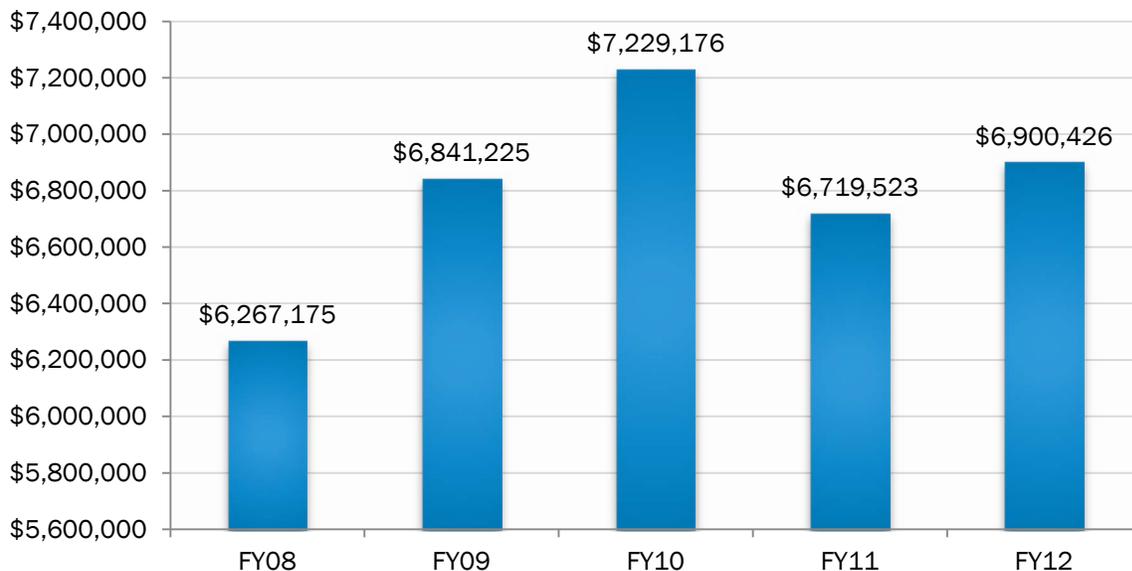
DLI Functions funded by the administration assessments:

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

Exhibit 6.3

Workers' Compensation Assessments as Expended

By Fiscal Year of Expenditure



Introduction

The purpose of the Subsequent Injury Fund (SIF) is to assist individuals with a permanent impairment that creates 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

Insurers’ use of the Fund to recoup claim payments increased annually in FY08 and FY09, but decreased significantly in FY10, from a high of \$817,130 in FY09 to \$341,062 in FY10. Reimbursement payments increased again in FY11 to \$415,352, with a significant increase in FY12 to \$713,114. Applications from individuals seeking certification under the program have remained fairly constant each year with 82 new certifications approved in FY12. The total number of individuals currently certified under the program is 4,812.

Exhibit 6.4

SIF Payments and Dollars Assessed

By Plan Type and Fiscal Year

PLAN TYPE	FY08		FY09		FY10		FY11		FY12	
	PAYMENTS	ASSESSMENT								
SELF-INSURED	\$405,627	\$89,001	\$244,436	\$107,095	\$77,273	\$121,149	\$116,514	\$173,129	\$119,568	\$59,752
PRIVATE	\$103,636	\$149,929	\$137,534	\$156,197	\$175,272	\$200,701	\$108,829	\$357,840	\$143,678	\$147,559
STATE FUND	\$118,420	\$213,388	\$435,160	\$269,964	\$88,517	\$313,037	\$190,009	\$464,689	\$449,868	\$283,554
TOTAL	\$627,683	\$452,318	\$817,130	\$533,256	\$341,062	\$634,887	\$415,352	\$995,658	\$713,114	\$490,865

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.

The UEF is self-funded. Two forms of revenue are collected from uninsured employers:

- 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, 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 achieved a 15% increase in efficiencies as a ratio of administrative costs to dollars collected in FY12, as compared to FY11. UEF's revenues increased 16.2% and the number of penalties assessed for non-compliance decreased by 13% from FY11 to FY12.

Revenues collected in a fiscal year do not necessarily reflect the penalties or claims costs being collected for that fiscal year. Revenue will include payments for debts incurred for recent debts as well as debts incurred in prior years and were successfully collected during this fiscal year.

The average dollar value of each penalty continues to fluctuate depending on the industry codes of the companies receiving penalties.

The construction industry has relatively high-cost premiums. These high premium costs have traditionally driven high UEF penalties for companies that are out of compliance.

The increase in penalty numbers is due in part to an increase in the number of non-construction businesses that are found to be out of compliance with Montana's Workers' Compensation laws. These businesses tend to have lower-cost industry code premiums, which result in smaller penalty amounts.

Indemnity benefit expenses paid by the UEF to injured employees who worked for uninsured employers dropped approximately 4% from FY11, while medical expenses paid to these claimants increased by 33% due to two claims that hit the \$100,000 cap set by the legislature.

The UEF processed 52 claims in FY12, up 13% from FY11.

Exhibit 6.5

Uninsured Employers' Fund

Financial Activity by Fiscal Year of Payment

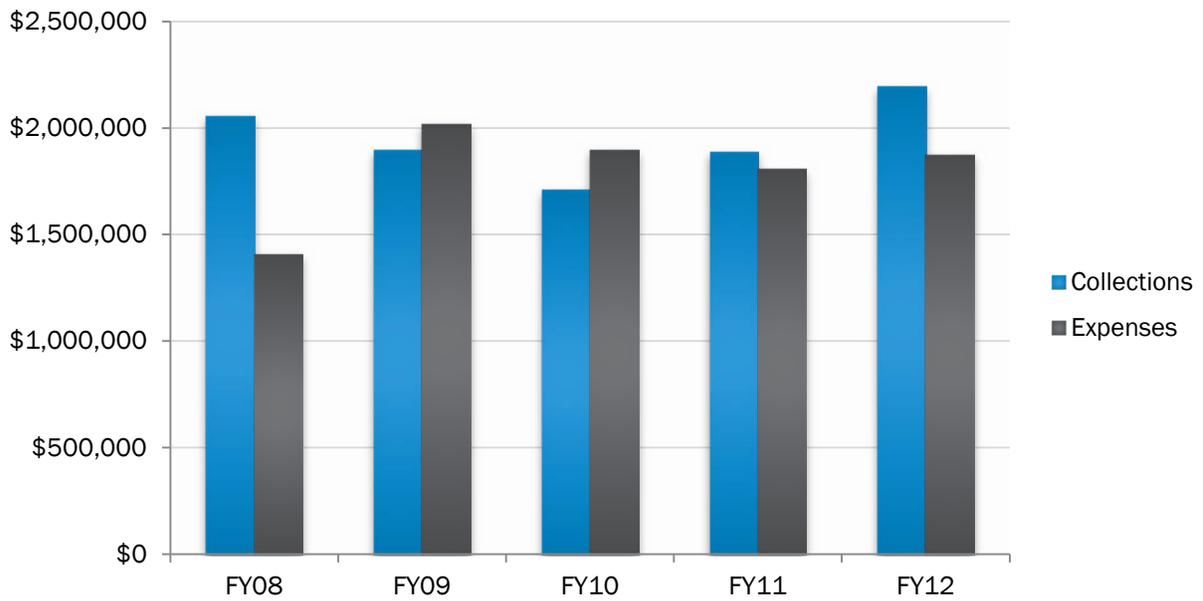


Exhibit 6.6

Uninsured Employers' Fund

Financial Activity by Fiscal Year of Payment

	FY08	FY09	FY10	FY11	FY12
COLLECTIONS	\$2,056,374	\$1,896,480	\$1,710,987	\$1,888,138	\$2,193,687
EXPENSES	\$1,406,550	\$2,018,128	\$1,897,882	\$1,805,804	\$1,873,743

Exhibit 6.7

UEF Medical and Indemnity Payments

By Fiscal Year of Payment

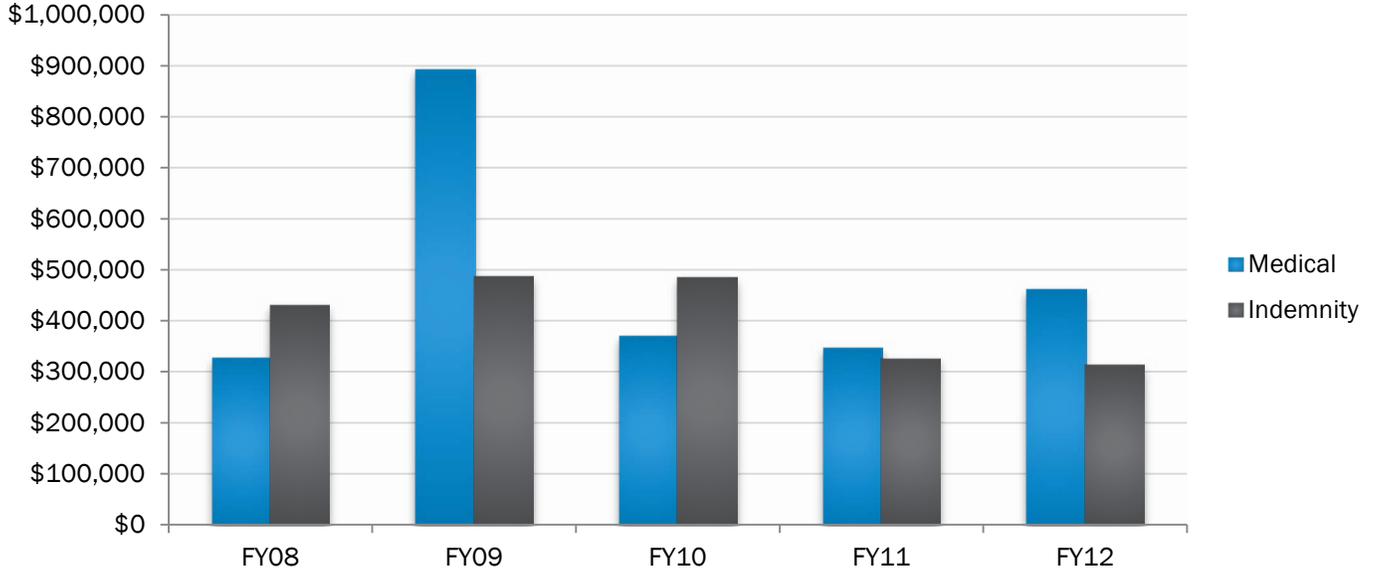


Exhibit 6.8

UEF Medical and Indemnity Payments

By Fiscal Year of Payment

	FY08	FY09	FY10	FY11	FY12
MEDICAL	\$327,124	\$893,731	\$369,617	\$347,370	\$461,800
INDEMNITY	\$430,178	\$487,813	\$485,124	\$326,599	\$313,826

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:

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

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 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.

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. There were 693 "Bid Only" contractors in FY12, compared to 491 in FY11. 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 6,019 CR applications in FY12 and 6,154 registered contractors had employees. The remaining 3,392 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 certificates are valid for two years under 39-9-204, MCA.

One penalty, up to a maximum of \$500, was issued in FY12. 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.

Exhibit 6.9

Registered Construction Contractor Applications

By Fiscal Year of Payment

	FY08	FY09	FY10	FY11	FY12
APPLICATIONS RECEIVED	6,773	5,265	6,295	5,155	6,019
ACTIVE CR'S	11,227	11,107	11,087	10,126	9,546
BID ONLY CR'S	200	178	314	491	693
CR'S WITH EMPLOYEES²	5,053	5,665	4,789	4,461	6,154

²In annual reports prior to FY11 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.

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, a working member of a member-managed limited liability company (LLC), or a working manager of a manager-managed LLC (in the construction industry) 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 (not in the construction industry) 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.

ICEC's 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 will 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.

Status Update

During FY12, 376 investigations took place across the state either affirming independent contractor relationships or requiring workers' compensation policies. The department revoked 14 exemption certificates in FY12, compared to 69 in FY11, 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.

No penalties were issued in FY12. Both the worker and those that hire them may be penalized.

The number of active ICEC's for FY12 was 17,689. The department received 9,587 applications during FY12, of which 9,082 were approved, 370 denied, 116 pending, 5 canceled, and 14 revoked. Failure to provide a complete application was the primary reason for the denials and pending applications. Over half (51%) of the total applications received in FY12 were from the Construction industry. Transportation and Warehousing accounted for 12%, Administrative and Support and Waste Management and Remediation Services 11%, Miscellaneous Industries (1% or less) 8%, Professional, Scientific and Technical Services 7%, Other Services 5%, Agricultural & Forestry 4%, and Health Care and Social Assistance 2%.

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

Exhibit 6.10

Independent Contractor Exemptions

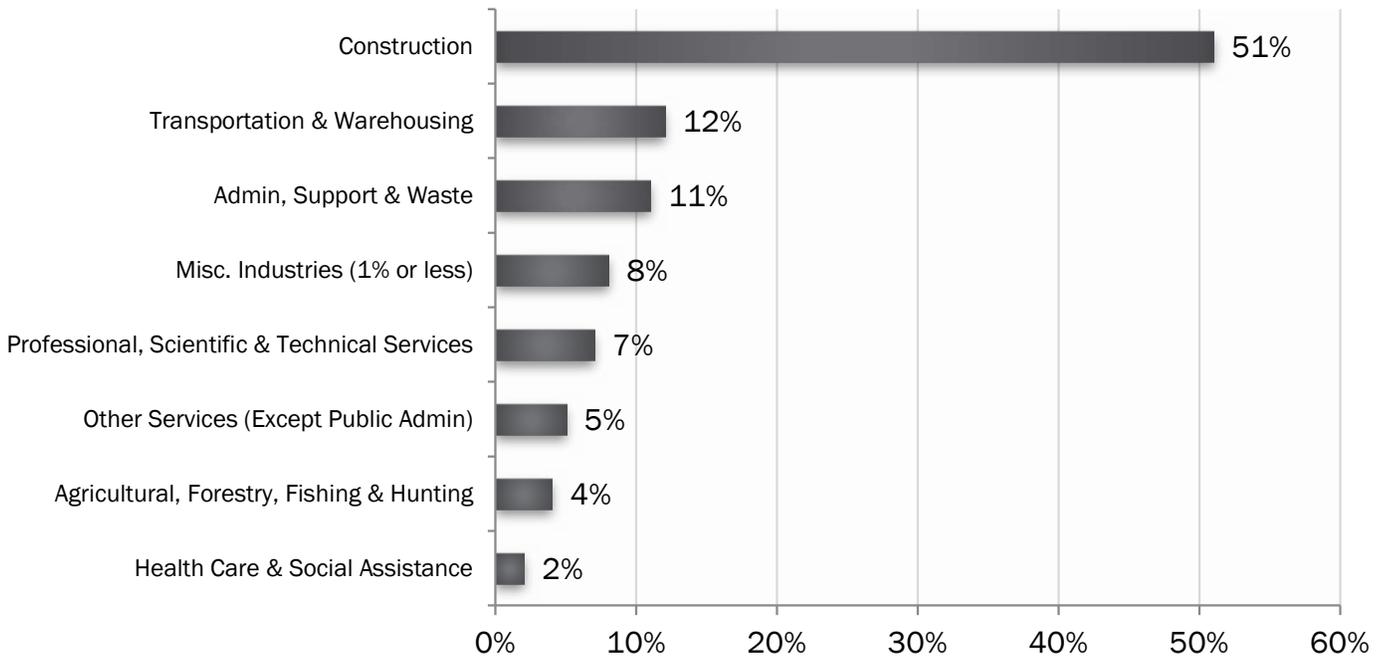
By Fiscal Year

	FY08	FY09	FY10	FY11	FY12
APPLICATIONS RECEIVED	9,761	7,998	9,385	8,658	9,587
ACTIVE ICEC'S	17,336	17,437	17,120	17,505	17,689

Exhibit 6.11

Independent Contractor Exemptions Applications

By Industry – FY12



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 PEO's account. PEO's are required to be licensed by the Department of Labor and Industry.

Status Update

In FY12 there were 42 licensed PEO's, a 27% increase from FY11. The number of client companies increased from 465 in FY11 to 500 in FY12, a 7.5% increase. The number of leased employees increased slightly from 3,004 in FY11 to 3,022 in FY12, less

than a 1% increase. The average number of leased employees per client company decreased from 6.5 to 6 employees, an 8% decrease. The decrease in leased employees per client company is due to an increase in the number of 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 6.12

Licensed Professional Employer Organizations

By Fiscal Year

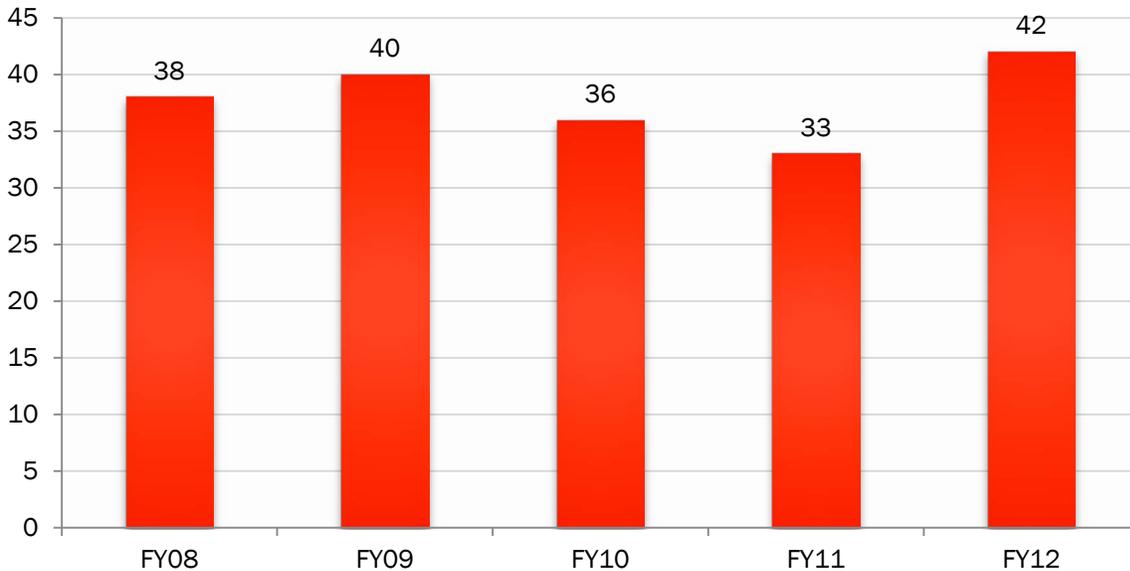
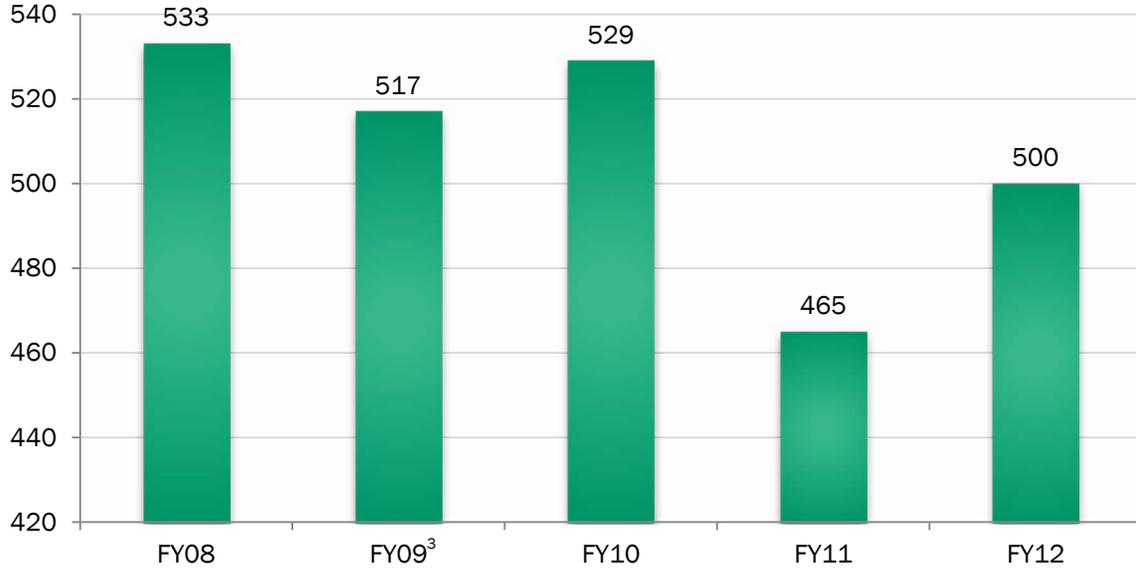


Exhibit 6.13

Number of Professional Employer Organization Clients

By Fiscal Year

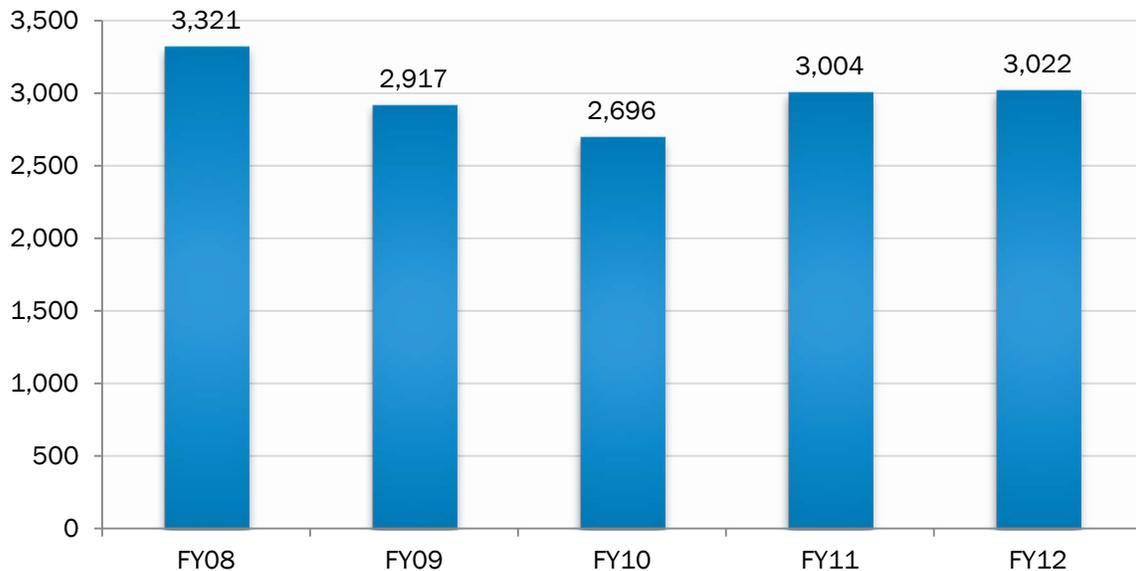


³In FY09 a more accurate and standardized computation method was devised to calculate the number of clients in our database.

Exhibit 6.14

Leased Employees

Average Monthly Count by Fiscal Year



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 2012, SHB conducted:

- 112 on-site visits to public employers
- 120 on-site consultations with private employers
- 358 technical assists

2012 SafetyFestMT Training

- In Billings, February 27th - March 2nd
 - 628 participants
 - 74 classes
 - 52 instructors
- In Great Falls, July 17th - 19th
 - 211 participants
 - 24 classes
 - 17 instructors
- In Billings, December 3rd - 7th
 - 457 participants
 - 57 classes
 - 46 instructors
- First-aid, CPR, AED training at SafetyFestMT
 - 172 participants
 - 9 classes

Mine Safety

The SHB, under the Montana Coal Mine Safety Act (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 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 2012, SHB conducted:

- 72 inspections of metal/non-metal mining operations
- 34 inspections of coal mines
- Mandatory training for miners
 - 3,404 participants
 - 183 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 Stay at Work/Return to Work (SAW/RTW) assistance to be made available upon request for injured workers (39-71-1041, MCA). 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.

Between July 1, 2012 and May 29, 2013 the Department notified each worker who reported a workplace injury about the availability of the SAW/

RTW assistance program. One hundred fifty-seven workers responded by contacting the Department or their workers' compensation insurer. Ninety-two workers made requests for assistance to return to work. Nineteen workers returned to work via the assistance. One worker decided not to go back to work, and nine employers determined that they could not provide transitional employment for their injured workers.

The 2009 Legislative Session passed the voluntary Claims Examiner Certification process (39-71-320, MCA). 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.

Exhibit 6.15

Total Examiner Certification Activities

By Fiscal Year

	FY10	FY11	FY12
EXAMINERS CERTIFIED	136	91	11
EXAMINERS THAT TOOK THE EXAMINATION	23	25	12
EXAMINERS THAT MET THE WAIVER REQUIREMENTS	113	66	0
COURSES APPROVED	9	15	32

An interested party or insurer may request an Independent Medical Review (IMR) from the Department's Medical Director when a medical service is denied for one of the following reasons:

- a) treatment was not specifically addressed or recommended by the Montana Guidelines;
- b) treatment was requested after Maximum Medical Improvement (MMI);
- c) treatment went beyond the duration and frequency limits set out in the guidelines; or
- d) the guidelines required prior authorization.

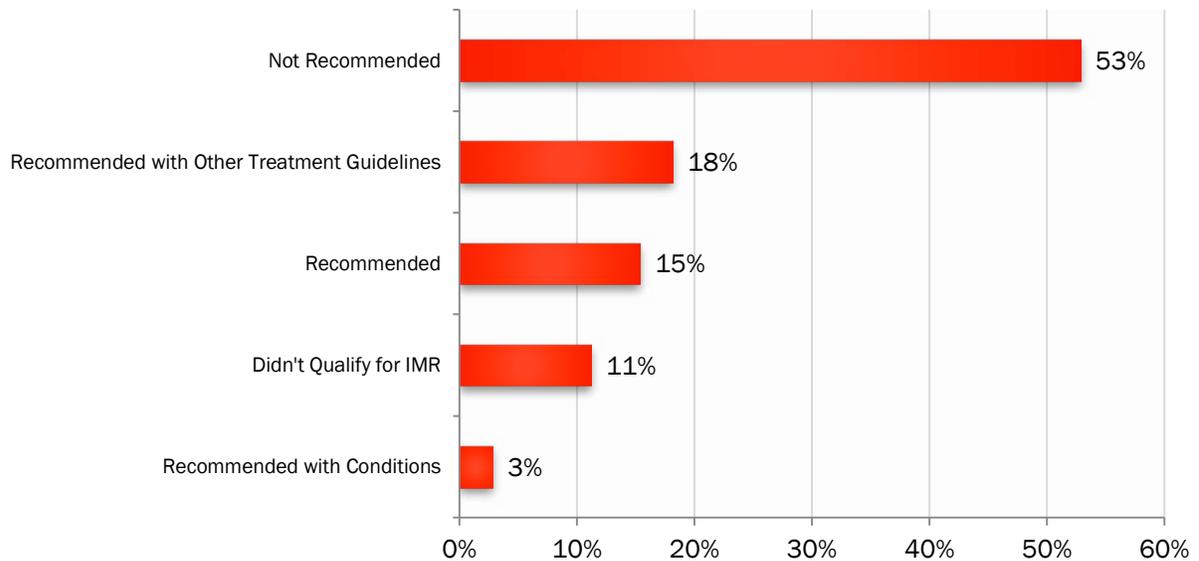
The Medical Director will review and issue a recommendation. Seventy two IMRs were performed from July 2011 to March 2013. Common recommendations are represented in Exhibit 6.17. An example of "Recommended with Conditions" is a claimant needs to complete smoking cessation prior to surgery. The numbers in the Exhibit are unique.

IMR's only apply to medical services provided on or after July 1, 2011. It is an informal alternative dispute resolution process, not binding on the parties.

Exhibit 6.16

Total Independent Medical Reviews

July 2011 to March 2013





SECTION 7



APPENDICES

- Definitions •
- Data Sources •

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 (WCIO), the cause of injury major groupings are:

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, cold objects or substances, abnormal air pressure, or electrical current.

Caught In, Under or Between: Machine or machinery, object handled, caught in, under or between, or 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, on ice or snow, or 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, or motor vehicle.

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

Strain: Continual noise, twisting, jumping or leaping, holding or carrying, lifting, pushing or pulling, reaching, using tool or machinery, strain or injury, wielding or throwing, or 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, or striking against or stepping on.

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, animal or insect, or explosion or flare back.

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

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: 07/01/11 - 06/30/12 = FY12)

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. It is completed and submitted to ERD by employees, employers or insurers. FROIs are not received from those exempt from workers' compensation insurance coverage. The Annual Report includes information on all injuries and occupational diseases reported to ERD; however, all injuries and occupational diseases that occurred in Montana may not have been reported.

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, regulators, business and labor leaders, medical providers, law firms, insurance carriers, rehabilitation, and safety experts. Working groups standardize reporting of workers' compensation data. Standards have been developed for communicating data electronically through Electronic Data Interchange (EDI).

Medical Benefits: Payments for hospitals, physicians, health care providers, prescriptions, and other medical care costs.

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 WCIO, the nature of injury major groupings are:

All Other Claims, Not Otherwise Classified (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.

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 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 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 and 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 is comprised of 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 codes used in this report:

Hospital Costs Paid to Date: Sum of costs of both inpatient and outpatient services.

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

Pharmaceutical Paid to Date: Sum of medication payments.

Total Payments to Physicians Paid to Date: Sum of services paid to physicians.

Part of Body Code: The code which corresponds to the part of body to which the employee sustained injury or occupational disease. Maintained by WCIO, the code definitions for part of body major groups are:

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 Montana State Fund.

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

Subsequent Report of Injury (SROI): The 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 benefits payment amounts. The Annual Report includes data reported to ERD on injury and occupational disease indemnity claims. SROIs may not have been submitted to ERD for all indemnity claims.

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.

Uninsured Employers' Fund (UEF): Enforces workers' compensation coverage requirements for all employers, and pays benefits to injured workers whose employers did not have coverage.

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.

Wage Loss Benefits: TTD, TPD, PTB, and PPD benefits paid to the injured worker.

Workers' Compensation Insurance Organizations (WCIO): A voluntary association of statutorily authorized or licensed rating, advisory or data service organizations that collect workers compensation insurance information in one or more states. The WCIO is composed of the managers of the various boards and jurisdictions. The purpose of the WCIO is to provide a forum for the exchange of information about workers' compensation insurance.

Data Sources

Department of Labor and Industry

Workers' Compensation Claims Assistance Bureau;
Workers' Compensation Regulations Bureau;
Safety and Health Bureau; and
Hearings Bureau

Quarterly Expenditure Reports

Totals of compensation, medical, and miscellaneous reported to the DLI by carriers.

Quarterly Census of Employment and Wages, Bureau of Labor Statistics, US Department of Labor

Regulatory Costs and Industrial Accident Rehabilitation Trust Fund Expenses

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

Unemployment Insurance Tax System for Leased Employees

Workers' Compensation Court

Workers' Compensation Database (WCAP)

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.

Website

This report, previous reports, and other 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>

To request a copy of the Annual Report, Attorney Fee Supplement, or special studies please contact Kristine Shields by Phone: 406-444-1675 or Email: kshields@mt.gov

Suggestions

If you have suggestions or comments about this annual report, please share them with us through the online survey or contact David Elenbaas by Phone: 406-444-6527 or Email: daelenbaas@mt.gov

Planning Team

The Annual Report planning team consisted of the following staff:

Debra Blossom, Mediator, Mediation Unit

David Elenbaas, Supervisor, Data Management Unit

Cody Earnest, Web/Graphic Designer, Management Services Bureau

Barb Gullickson, Supervisor, Claims Unit

Bob Schleicher, Analyst, Data Management Unit

Kristine Shields, Analyst, Data Management Unit

Jason Swant, Occupational Health and Safety Specialist, Claims Unit

Peter Van Nice, Bureau Chief, Workers' Compensation Regulation Bureau

Bill Wheeler, Bureau Chief, Workers' Compensation Claims Assistance Bureau

WORKERS' COMPENSATION
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REPORT**

MONTANA DEPARTMENT OF LABOR & INDUSTRY

EMPLOYMENT RELATIONS DIVISION

