Improving Our Measures for Dispute Resolution

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GOVERNOR’S CONFERENCE ON WORKERS’ COMPENSATION
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Why do we care about dispute resolution metrics?

“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.” (§39-71-105(4) MCA)

Metrics historically found in the MT Annual Report:

- Mediation Counts
  - by Plan Type
  - by Benefit Issue
  - by Resolution Status
- Work Comp Court Statistics as reported by the WCC
- Dollar amounts for attorney fees, settlements, and insurer legal expenses
Claimant Attorney Involvement – Distribution of Claims, IY 2005-2017

<table>
<thead>
<tr>
<th>All Claims Filed</th>
<th>Wage-Loss Claims</th>
<th>Attorney Claims</th>
<th>Wage-Loss-Attorney Claims</th>
</tr>
</thead>
<tbody>
<tr>
<td>360,800</td>
<td>53,400</td>
<td>8,400</td>
<td>5,800</td>
</tr>
</tbody>
</table>

Source: Workers’ Compensation Administrative Network (WCAN), MT DLI ERD
Claimant Attorney Involvement – Distribution of Claims, IY 2005-2017

<table>
<thead>
<tr>
<th>Year</th>
<th>All Claims Filed</th>
<th>Wage-Loss Claims</th>
<th>Attorney Claims</th>
<th>Wage-Loss-Attorney Claims</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>360,800</td>
<td>53,400</td>
<td>8,400</td>
<td>5,800</td>
</tr>
</tbody>
</table>

Source: Workers’ Compensation Administrative Network (WCAN), MT DLI ERD
Claimant Attorney Involvement – Distribution of Claims, IY 2005-2017

- All Claims Filed: 360,800
- Wage-Loss Claims: 53,400
- Attorney Claims: 8,400
- Wage-Loss Attorney Claims: 5,800

Percent of Attorney Claims with Wage-Loss:
- 2005: 60%
- 2006: 60%
- 2007: 60%
- 2008: 60%
- 2009: 60%
- 2010: 60%
- 2011: 60%
- 2012: 60%
- 2013: 60%
- 2014: 60%
- 2015: 60%
- 2016: 60%
- 2017: 60%

Source: Workers’ Compensation Administrative Network (WCAN), MT DLI ERD

Source: Workers’ Compensation Administrative Network (WCAN), MT DLI ERD
Worker Attorney Involvement: A New Measure (WCRI, 2017)

Wide Variation In Worker Attorney Involvement Across Study States

% Of Claims With Worker Attorneys, 2013/16

Median State: 29%

2013/16 Claims With > 7 Days Of Lost Time, Adjusted For Injury/Industry Mix

Source: https://www.wcrinet.org/reports/wcri-flashreport-worker-attorney-involvement-a-new-measure
Average Temporary Benefits Increase by $11,900 when a Claimant Attorney is Involved

Source: Workers’ Compensation Administrative Network (WCAN), MT DLI ERD
Mediation – Petition Year vs. Injury Year

Source: Workers’ Compensation Administrative Network (WCAN), MT DLI ERD

<table>
<thead>
<tr>
<th>All Claims Filed</th>
<th>Wage-Loss Claims</th>
<th>Mediation Claims</th>
<th>Wage-Loss-Mediation Claims</th>
<th>Mediations Claims with Attorneys</th>
</tr>
</thead>
<tbody>
<tr>
<td>360,800</td>
<td>53,400</td>
<td>10,700</td>
<td>6,500</td>
<td>5,100</td>
</tr>
</tbody>
</table>

### Graphs:

- **Percent of Claims with Mediation Petition**
- **Percent of Wage-Loss Claims with Mediation Petition**
- **Percent of Mediation Claims with Wage-Loss**
- **Percent of Mediation Claims with Attorney**
- **Percent of Mediation Petitions with Attorney by Petition Year**

**Source:** Workers’ Compensation Administrative Network (WCAN), MT DLI ERD
Mediation – Timeframes

Number of Days from Petition for Mediation to Mediation Closure

<table>
<thead>
<tr>
<th>Percentile</th>
<th>Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>25th</td>
<td>28</td>
</tr>
<tr>
<td>Median</td>
<td>41</td>
</tr>
<tr>
<td>75th</td>
<td>77</td>
</tr>
</tbody>
</table>

Distribution of Time from Petition for Mediation to Mediation Closed

<table>
<thead>
<tr>
<th>Timeframe</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 90 Days</td>
<td>78%</td>
</tr>
<tr>
<td>90-180 Days</td>
<td>12%</td>
</tr>
<tr>
<td>181-270 Days</td>
<td>5%</td>
</tr>
<tr>
<td>271-365 Days</td>
<td>2%</td>
</tr>
<tr>
<td>Greater than 1 Year</td>
<td>3%</td>
</tr>
<tr>
<td>Pending</td>
<td>1%</td>
</tr>
</tbody>
</table>

Time from Date of Injury to Petition for Mediation by Injury Year

Source: Workers’ Compensation Administrative Network (WCAN), MT DLI ERD
Mediation – Issues

Mediation Benefit Issues by Injury Year

Source: Workers’ Compensation Administrative Network (WCAN), MT DLI ERD
Mediation – Resolution

Resolved, 80%
Resolved Due to Mediation, 36%
Resolved Prior to Mediation, 25%
Resolved During Mediation, 17%
Unresolved, 19%
Unresolved, 5%
Dismissed, 3%
WCC, 15%

Resolution Status by Injury Year

Source: Workers’ Compensation Administrative Network (WCAN), MT DLI ERD
Mediation – Issues & Resolution

**Benefit Issue by Resolution**

- Overall
- Wage Loss Benefits
- Relatedness
- Rehab Benefits
- Other
- Notice/Filing Time
- Medical Benefits
- Injury/Occupational Requirement
- Employment/Insurance Coverage
- Course and Scope
- Calculation of Wages
- Access to Records

**Resolution by Benefit Issue**

- Overall
- WCC
- Unresolved
- Resolved Due to Mediation
- Resolved Prior to Mediation
- Resolved During Mediation
- Dismissed

Source: Workers’ Compensation Administrative Network (WCAN), MT DLI ERD
Workers’ Compensation Court

- Workers’ Compensation Court Statistics
  - Includes counts of petitions, trials, decisions, appeals, settlement conferences, and more (1993-Current)
  - ERD Dashboard for WCC Statistics
Settlements – Distribution of Claims, IY 2005-2017

<table>
<thead>
<tr>
<th>All Claims Filed</th>
<th>Wage-Loss Claims</th>
<th>Settlement Claims</th>
<th>Wage-Loss Sett. Claims</th>
<th>Settlement Claims with Attorneys</th>
</tr>
</thead>
<tbody>
<tr>
<td>360,800</td>
<td>53,400</td>
<td>20,900</td>
<td>12,700</td>
<td>13,100</td>
</tr>
</tbody>
</table>

Source: Workers’ Compensation Administrative Network (WCAN), MT DLI ERD
Settlement Types & Times, IY 2005-2017

Settlement Type Distribution

- Settlement - Medical Reserved: 33%
- Settlement for Best Interest: 25%
- Disputed Initial Compensability: 19%
- WCC Settlement: 7%
- All Other: 16%

Median Settlement Amount

- Settlement for Best Interest: $23,500
- Settlement - Medical Reserved: $25,000
- Disputed Initial Compensability: $5,000
- WCC Settlement: $50,000

Settlement Type Count by Decision Date

Source: Workers’ Compensation Administrative Network (WCAN), MT DLI ERD
Settlement Types & Times, IY 2005-2017

Time from Injury Date to Decision Date

- Less than 1 Year: 28%
- 1-2 Years: 29%
- 2-3 Years: 16%
- 3-4 Years: 9%
- 4-5 Years: 6%
- Greater than 5 Years: 12%

Settlement Type by Time from Injury Date to Decision Date

- Overall
- Settlement - Medical Reserved
- Settlement for Best Interest
- Disputed Initial Compensability
- WCC Settlement

Source: Workers’ Compensation Administrative Network (WCAN), MT DLI ERD
Wage-Loss Settlement Claims, IY 2005-2017

Time to Settlement vs. Injured Worker Wage

Overall

<$25,001

$25,001-$50,000

$50,001-$75,000

$75,001-$100,000

>$100,000

Source: Workers’ Compensation Administrative Network (WCAN), MT DLI ERD
Thank you!

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