



Workers' Compensation Reform

Problem:

Washington's competitive economy is hampered by a workers' compensation system that is rich in benefits but high in cost and administrative complexity. *Examples of costs drivers that need to be addressed include:*

1. **An outmoded model of wage calculation.** The manner in which wages are calculated for full-time, part-time, and seasonal workers is convoluted and thwarts the goal of swift and certain benefits for injured workers. The landmark cases of *Cockle* and *Avundes* added further expense and uncertainty to the process by expanding the traditional definition of "wages" and complicating wage calculations for seasonal workers.
2. **Unsustainable pension trends.** Washington has historically had one of the highest pension rates in the nation and, despite a 1/3 drop in the total number of claims since 1990, pension awards have increased over 150%. This trend is not sustainable over the long term, and is caused by internal claims management issues as well as a lax statutory framework surrounding vocational rehabilitation, occupational disease, and the inability to voluntarily settle all or some aspects of claims.
3. **Time loss duration.** Despite a 30% reduction in the claims load for claims managers at the State Fund since 1994, average time loss duration has increased by 25%. This trend has increased employer costs by almost \$200 million per year, and hurts workers by delaying return-to-work and contributing to long-term disabilities.
4. **Diversion of Workers' Comp Trust Funds.** All too frequently, the Legislature and L&I have viewed the workers' comp trust funds as readily available sources of money for agency programs completely unrelated to workers' comp. Examples include specialty compliance, wage and hour enforcement, and paid family leave.

Background:

For the last several years, job providers have called for reforms to Washington's workers' compensation system. However, despite hopeful amendment to the vocational rehabilitation system in 2007 and needed revision to rules governing out of state work by Washington employers, the status quo has changed very little.

Solution:

1. Address the *Cockle & Avundes* decisions by bringing certainty and predictability to the definition of "wage" and by implementing 52-week averaging with a single flat rate of compensation.
2. Redefine Washington's extremely broad definition of "occupational disease".
3. Allow for greater employer assistance in controlling health care costs, e.g., through medical provider networks.
4. Defend the successful retrospective ratings program against proposals that would limit its effectiveness.
5. Eliminate duplication and unnecessary delays by allowing self-insured employers to manage their claims.
6. Allow employers, employees and L&I to use final settlement agreements to settle claims.
7. Prohibit the use of workers' comp funds for non-comp programs.
8. Protect the integrity of the IME process while guarding against proposals to insert cost, unnecessary hurdles, and adversarial practices in the independent evaluation of medical claims.