



State of New Mexico
Advisory Council on Workers' Compensation
and
Occupational Disease Disablement
Annual Report For 2011

Presented to:

The Honorable Susana Martínez

Governor

The Honorable John G. Franchini

Superintendent of Insurance

and

Senate President Pro – Tempore

Speaker of the House

Senate Majority Floor Leader

House Majority Floor Leader

Senate Minority Floor Leader

House Minority Floor Leader

Chair, Senate Finance Committee

Chair, Senate Corporations and
Transportation Committee

Chair, House Appropriations and
Finance Committee

Chair, House Business and
Industry Committee

Chair, House Labor and Human
Resources Committee

Submitted by:

Nick Kapnison, Chair

Jude McMullan, Vice Chair

Mark G. Henderson, Member

Kevin J. McGinley, Member

Fidel A. Munoz, Member

Melinda Joy Pattison, Member

Ned S. Fuller, Ex Officio

Annual Report of the Advisory Council on Workers' Compensation and Occupational Disease Disablement - 2011

The Advisory Council on Workers' Compensation and Occupational Disease Disablement is a statutory body created by the Workers' Compensation Law of New Mexico, whose members are appointed by the Governor to represent employers and workers. Our duty is to report annually to the Governor and Legislature concerning the state of the workers' compensation system and to make recommendations regarding rules and legislation.

Mission

The mission of the Advisory Council on Workers' Compensation and Occupational Disease Disablement is:

- *to monitor the performance of the workers' compensation and occupational disease disablement system; and*
 - *to make recommendations to the Governor, Legislature, regulatory agencies and participating industries, related to the adoption of rules and legislation and the method and form of statistical data collections;*
- in order to assure the quick and efficient delivery of indemnity and medical benefits to injured and disabled workers at a reasonable cost to employers.*

A part of the major legislative reform of the workers' compensation system was to create the Advisory Council to review potential amendments to the Act. The Council listens to all parties, obtains available data, and seeks to determine the cost and benefit to the system that may occur by any amendment. The Council endeavors to build a consensus among business and labor, and any other affected stakeholders, on any change to the Act before making any recommendation to the Governor and Legislature.

The success of our system is based on the law itself. The challenge is to sustain a system that balances the needs of workers and employers fairly. The Advisory Council is one of the mechanisms created by the Legislature to accomplish this objective.

The Council reports that we have no major recommendations for the 2012 legislative session. The Council has been in a state of transition with the change of administrations and the ending of three member's terms of appointment in September. In early November the Council membership was finalized with the retention of four members and the appointment of two new members.

Premiums

Filing requests approved in recent years by the Department of Insurance saw overall rate reductions approved for the voluntary market and the assigned risk pool so that New Mexico had been able to enact rate reductions for workers' compensation premiums for four consecutive years in a row.

In 2010, a filing increase of 4.2 percent was approved for the voluntary market that went into effect January 1, 2011. The increase was based on the increase in benefits of the State Average Weekly Wage from \$666.02 to \$699.01, increases in certain procedures under the Health Care Provider Fee schedule, increased loss development, longer duration of claims, and return to work challenges.

For the second year in a row, a filing increase of lost cost levels for the voluntary market has been approved of 7.4 percent that is effective January 1, 2012. The increase is due in large part to experience and trends over the last few years and an increase in benefits. The annual filing adjustment is the base rate insurance carriers' use in their formulas to determine premiums.

There was a filing decrease for the assigned risk pool this year of 5 percent from the 2010 level, effective January 1, 2012. . The decrease is based on an overall improvement in the pool risk factor. More businesses are moving out of the assigned risk pool into the commercial market and the new pool members are newer businesses without an experience modifier that are exhibiting generally lower risk. The AR Pool Rates are actual or "pure premium" rates. These are rates that have all "items included for expenses."

Workers' Compensation rate history over the last six years:

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Voluntary Market:	- 4.2	- 4.9	- 6.7	- 4.5	+ 4.2	+ 7.4
Assigned Risk Pool	- 1.3	- 11.1	- 1.3	- 0.9	0.0	- 5.0

The State Average Weekly Wage (SAWW) for benefits increased 5 percent from \$699.01 in 2011 to \$733.16, effective January 1, 2012. This the second significant increase in two years. The SAWW that was effective January 1, 2011, increased 5 percent from \$666.02 in 2010, to \$699.01.

Status of the Workers' Compensation Administration

The New Mexico Workers' Compensation Administration (WCA) has been fully engaged to achieve its primary goal: a better workplace for New Mexicans through responsive and effective services. The mission of the WCA is:

"To assure the quick and efficient delivery of indemnity and medical benefits to injured and disabled workers at a reasonable cost to employers."

Budgetary Consequences on the Agency:

Although a Special Funded agency through the Workers' Compensation Administration Fund, as a result of budget decisions over this past year, the WCA has maintained a flat operational budget in line with General Fund state agencies.

For the last few years the WCA has been transferring \$691.5 thousand dollars to the Department of Workforce Solutions (DWFS). In the WCA appropriations hearing, the Legislative Finance Council recommended an increase in the WCA annual transfer to the DWFS

to \$1 million dollars for FY 2012. This was approved and was taken from the WCA operational budget. This created an unanticipated reduction in the WCA's operational budget of about \$308 thousand.

To respond to this the agency instituted organizational changes to create a more efficient and streamlined chain of command and align agency functional areas to improve performance and accountability.

While transparent to those outside of the WCA the agency organized into three reporting tiers consisting of Support Services, Operations and General Counsel. The effect of this reorganization created a cost savings of about \$330 thousand and identified vacant positions to delay hiring and thereby created the opportunity to add a fifth workers' compensation judge position to reduce delays in the WCA dispute resolution process.

Some of the major initiatives the WCA is currently working on are:

Electronic Filing

Creating the software and computer capability to send claims data, medical records and all legal documents associated with a claim electronically to the Clerk of the Court, Dispute Resolution and have available for concerned parties. District Courts are already requiring electronic filing and the agency is looking at how we can adapt software and processes to meet the needs of the workers' compensation courts.

Mediation Self-Calendaring

The agency has changed the process to schedule mediation hearings. Mediations are now scheduled for rooms and not for individual mediators. Again, this reduces delays in the scheduling process. The next phase is a pilot program to provide the capability for parties to schedule changes or resets through the WCA web site.

Electronic Records

The agency is coordinating with the New Mexico Health Information Collaborative to allow access to state consolidated databases to have medical records available to parties electronically. The goal of this effort is to reduce the administrative overhead for health care providers and speed the process of records sharing not only between parties but also improving availability for the dispute resolution process.


Rule changes enacted:

The following changes are effective on December 31, 2011. Amendments have been made to Part 2 of the Rules to clarify definitions and outline changes to the Annual Safety Inspection Program and Risk Reduction Program; updates and amendments to Part 7, Health Care Provider Fee Schedule; amendments to the Uninsured Employer's Fund Rules at Part 12; and, the standardization of the Complaint form, Application to Workers' Compensation Judge form, and the Joint Petition for Lump Sum Settlement.

Conclusion: The New Mexico Workers' Compensation Administration is stable and is working on initiatives to remain responsive to the dynamic challenges of the overall system and the current economic environment.

NOTE: The newest members of the Advisory Council were appointed in 2011, in October, Melinda Joy Pattison; and in November, Kevin J. McGinley, and have not participated as active members during the period of this report. As such, having not participated they have elected that it is more appropriate to abstain from signing the report for this year.

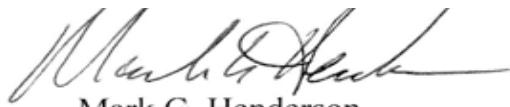
Respectfully submitted,



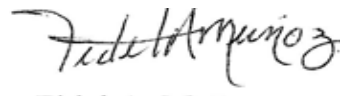
Nick Kapnison,
Chair



Jude McMullan,
Vice Chair



Mark G. Henderson,
Member



Fidel A. Muñoz,
Member

Kevin J. McGinley,
Member

Melinda Joy Pattison,
Member