

EXECUTIVE SUMMARY

This year the National Council on Compensation Insurance, Inc. (NCCI) filed assigned risk rates and rating values, and loss cost to cover indemnity and medical benefits and rating values for approval by the New Mexico Insurance Division. The rates were all approved as filed, and will put in place changes beyond 2010-11 that will be effective on January 1, 2012 for new and renewal policies. The impact of these changes will be threefold: a) overall assigned risk rate level will decrease by 5 percent for industrial classes; b) overall rate level will decrease by 19.6 percent for F-Classes; and c) there will be an overall average increase of 7.4 percent of the current loss cost level. The assigned risk rate change is due to four factors: i) increased benefits and trends and deterioration of statewide experience, ii) proposed decrease in the uncollectible premium provision, iii) a decrease in assigned risk expenses mainly driven by the use of a longer-term average administrative expenses and a shift toward smaller risks, and iv) a decrease in the assigned risk differential (Karpuk and Chadarevian, 2011). As of January 1, 2012, therefore, the average premium rate for employers in the six key industries in New Mexico (contracting; manufacturing, goods and services, miscellaneous, and office and clerical) will increase by 4.2 percent.

Self-insured Coverage Declines

Self-insured coverage of workers continues to decline from the 2006 high levels, and has held steady at a lower average of 30 percent of the total New Mexico workforce for the past three years. Compared to the 2001-07 average coverage of 38.53 percent, this is a substantial decline in market share over a reasonably short time. The lost market share has been picked up mostly by private insurance carriers. In 2010 the voluntary and assigned-risk insurance markets covered 69.78 percent, or 524,867 out of the 752,216 of total covered workforce in New Mexico. This represented an increase of 7.72 percent of the total covered workforce from 2009, and an increase of 11.91 percent of the voluntary and assigned-risk coverage for the same period.

Medical and Indemnity Costs Rise; Direct Earned Premiums Fall

In 2010, an estimated \$283.59 million was paid for workers' compensation medical services and indemnity payments (a 10.56 percent increase) compared to \$256.51 million in 2009. The largest three physician services categories were physical medicine (29.3 percent), surgery (26 percent), and evaluation and management (23 percent). Insurance carriers experienced 17.78 percent increase in paid losses while self-insurers saw a decrease in paid losses of 2.61 percent during the one-year period. Total number of claims (medical plus indemnity) fell

by 11.95 percent between 2009 and 2010. During this one-year period insurers' direct earned premiums fell by 7.84 percent while insurers' paid losses increased by 10.02 percent. At the same time estimated payroll costs per \$100 of payroll also fell by 25.85 percent, a situation made worse by the increased and extended unemployment. The estimated paid losses per \$100 of payroll increased by 7.62 percent. Also the average inpatient billed cost fell by 4.57 percent from \$18,309 in 2009 to \$17,473 in 2010, while the average length of stay (days) in treatment facilities increased by 38.10 percent from 4.2 days in 2009 to 5.8 days in 2010. The average room rate for inpatients also increased by 9.98 percent from \$1,222 in 2009 to \$1,344 in 2010. During the same one-year period the number of inpatient claims more than doubled, reaching 111.72 percent higher than the 2009 number of inpatient claims.

Unemployment and Workers' Compensation

New Mexico employment continued to decline in 2010 from the 2008 levels. In 2010 employment was 1.52 percent lower than 2009. This, in part, explains the 11.95 percent decrease in the total workers' compensation claims during the period. First Report of Injury or Illness (FROI) decreased by 2.78 percent from 2009 to 2010. The FROI per 100 workers also fell by 1.32 percent. Indemnity claims, on the other hand, increased by 14.91 percent from 2009 through 2010. Indemnity claims per 100 workers increased by 15.63 percent from 0.64 to 0.74 for the period. Medical-only claims increased by 2.61 percent while total compensable fatalities declined by 35 percent from 20 in 2009 to 13 in 2010. Compensable fatalities per 100,000 workers also decreased by 33.97 percent from 2.62 in 2009 to 1.73 in 2010.

The top 10 indemnity claims in the state in 2010 totaled 945. These claims came from three main sources: local government (444 or 46.98 percent), state government (98 or 10.37 percent) and the private sector (403 or 42.65 percent).

Electronic Filing

Electronic filing of claims and benefits payments is nearing maturity according to the average of the data available for the last four years (2007 to 2010). The agency is working toward full electronic filing, and both insurer groups and third party administrators have contributed to the success of this effort that has matched annual expectations through the years. In 2010, 92 percent of all FROI were filed electronically (electronic data interchange (EDI) and Web-based filing), completing the four-year average at 92.8 percent. An average of 7.1 percent of FROI was filed on paper during the four-year period. During the same four-year period an average of 85 percent of notice of benefit payments was filed elec-

tronically. The 2010 electronic filing of benefit payments was 84.8 percent of all filings. Insurance carriers filed more of their reports (90.8 percent) electronically than self-insurers (88.2 percent). These numbers suggest that electronic filing has taken root a decade after the decision was made to introduce EDI and web-based filing.

Injuries and Industries

Back injuries dominated claims for both male workers (10 percent of all claims) and female workers (7.4 percent of all claims) in 2010. For male workers knee injuries were a close second (8.9 percent of all claims) while for female workers "multiple-other body parts injury claims" were second (6.6 percent of all claims). Sprains, strains and tears dominated newly reported indemnity claims for both male (1,835 count = 32.90 percent of all claims) and female (1,352 count=24.20 percent of all claims) workers. This category of the "nature of injury or illness" was followed by contusions (males = 7.20 percent; and females = 6.4 percent) and then fractures (males = 6 percent and females = 3.4 percent of all indemnity claims). Bernalillo County had the largest number of indemnity claims (1,798 count = 32 percent of all claims), followed by Dona Ana County (495 count = 8.9 percent of all claims) and Santa Fe County (442 count = 7.9 percent of all indemnity claims).

The top three occupations in newly reported claims for male workers in 2010 were (1) construction trade workers (9.8 percent of all claims); (2) motor vehicle operators (7.7 percent); and (3) material moving workers (4.8 percent of all claims). For female workers, the top three occupations in newly reported claims in 2010 were (1) building cleaning and pest control workers (3.2 percent); (2) nursing, psychiatric and home health aides (3.2 percent); and (3) retail sales workers (3.2 percent of all claims). Irrespective of the type of injury or the body part injured, males in the age group 40-49 years old (15.4 percent of all claims) reported more indemnity claims than any other age group. The age groups 30-39 years old (13.3 percent) and 50-59 years old (13.3 percent) tied for second place among male workers reporting indemnity claims. For female workers most claims were for the age group 50-59 years old (11.1 percent) with the age group 40-49 years old (10.8 percent) coming in a very close second.

Inside the Workers' Compensation Administration

The Clerk of the Court Bureau documented 2,111 regular complaints filed with the New Mexico Workers' Compensation Administration in 2010, an increase of 4.87 percent compared to the 2,013 regular complaints filed in 2009. Lump sum petitions, however, fell by 29.30 percent from 1,116 petitions in 2009 to 789 petitions in 2010.

The ombudsman program continues to be effective in its traditional role to inform, educate and assist injured workers or family members, employers, insurance providers, health care providers, attorneys and others about their rights and responsibilities under the New Mexico Workers Compensation Act. In 2010 the ombudsman program had 10,065 contacts. Out of the total contacts 3,490 (or 34.67 percent) were submitted disputes or resolvable cases. The ombudsman program worked to resolve 1,134 or 32.49 percent the submitted disputes.

The Office of the General Counsel handled 159 actions in 2010 (compared to 109 in 2009) to bring employers into compliance with the mandatory insurance provisions of the New Mexico workers' compensation Act. There were four penalty prosecutions in 2010 (compared to 12 in 2009), and 39 insurance coverage injunctions (compared to 36 in 2009).

The legal process for contested claims had a better than average performance in 2010. Recommended resolutions accepted prior to trial were 78 percent of claims, 12 percentage points lower than the 90 percent accepted prior to trial in 2009, which was the highest percent acceptance since 2005. There were 1,994 cases resolved at mediation. Thus, 80 percent of all the contested claims accepted and recommended for resolution were resolved in the pre-trial resolution process (without going to trial, and therefore, saving time and avoiding costly litigation).