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## CHAPTER 2

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### **WSCD Delivers Benefits At Reasonable Cost, But Not Always Quickly**

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***WSCD operates its program efficiently, in terms of costs to revenues.***

Basic performance measures are mixed as to whether WSCD claims processing is quickly and efficiently delivering indemnity and medical benefits to injured workers at a reasonable cost to the employers. On one hand, WSCD operates its program efficiently, as measured in terms of costs to revenues and average employer premium levels among states. Over the years, the Division has focused on modifying its rate and reserve setting practices. These efforts have resulted in the program operating efficiently in terms of costs, and moved it closer to solvency, as statute requires by 2008.

***Few eligible injured workers receive lost wage payments within 14 days of their injury reports.***

WSCD does not do as well in comparison to industry standards for timely delivery of benefits. For just over half the injuries it ultimately determines are covered by Workers' Compensation, the Division meets the industry standard for timeliness. However, it cannot provide information on the time it takes to determine that injuries are not covered. A second industry standard deals with how quickly injured workers receive lost wage or indemnity benefits. WSCD information indicates that only a small percentage of workers injured severely enough to need these benefits receive them within 14 days of notice of lost time, which is both the industry standard and the Division's goal.

***Dissatisfaction stems from the minority of claimants with more complicated cases.***

Most injuries that WSCD determines covered by the Act are relatively uncomplicated and involve only payment for medical expenses. Division surveys reflect that most claimants are satisfied with the manner in which WSCD handles their claims. However, the Governor and legislators receive complaints from individuals about the disposition of their claims and their treatment by WSCD. While the dissatisfaction stems from a minority of WSCD claimants, it points to problems that can occur when the Division processes claims for more complicated injuries and cases of longer duration.

## WSCD Makes Affirmative Decisions on Injury Reports in 14 Days

In both FY '01 and FY '02, WSCD determined that approximately 89 percent of the injuries reported were compensable. For these affirmative decisions, WSCD provided FY '02 data showing that it met an important industry standard: workers' compensation programs should determine whether a reported injury is covered by the Act (is compensable) within 14 days of notice of the injury. For WSCD, a compensable injury is one that arises out of and in the course of employment.

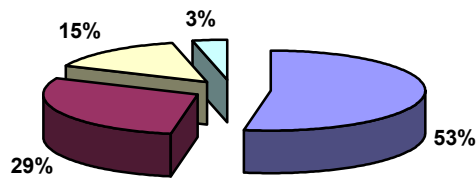
**Statute gives WSCD 60 days to make compensability decisions, but WSCD rarely takes that long.**

Wyoming statute calls for these decisions to be made in 15 days, unless more information is needed. If so, WSCD has another 45 days to request and receive the additional information, and make a decision. WSCD met the stricter industry standard of 14 days for 53 percent of the injuries reported that were subsequently determined compensable. Further, WSCD rarely takes the full 60 days statute allows it to determine that injuries are covered by the Act. According to WSCD data, analysts make 82 percent of their affirmative decisions within 30 days.

Figure 2.1

Determination Time for Compensable Injuries  
FY '02

**WSCD makes 53% of affirmative decisions on compensability within 14 days.**



■ 14 days or less ■ 15-30 days ■ 31-60 days ■ More than 60 days

Source: LSO analysis of WSCD data

### Decisions on injury compensability are critical

The initial decision on the compensability of an injury is the threshold determination upon which claimants' subsequent requests for benefits depend. If the initial determination is not

made promptly, subsequent decisions affecting the flow of benefits are also delayed. In other words, worker claims for lost wage benefits and health care provider claims for payment are on hold until the Division makes compensability decisions.

### **WSCD does not track decision-making time to deny**

However, WSCD cannot demonstrate that it meets this performance outcome for the injuries it determines are not compensable. The Division does not retain this information on the injury reports it denies, approximately 10 percent of the total reports received in both FY '01 and FY '02. Timeliness information on WSCD decisions to deny injury compensability is important because 42 percent of contested cases involve this issue. Having this information would be useful in analyzing where problems in the process occur.

***Information on denials would help determine where problems occur.***

**Recommendation: WSCD should improve the timeliness of its compensability decisions.**

At the least, WSCD should regularly track how long it takes to make initial decisions, both denials and approvals. Further, compared to a monopolistic workers' compensation program of similar size, North Dakota, WSCD can improve its performance on this timeliness measure. North Dakota reported meeting the 14-day standard in 73 percent of its injury compensability decisions in 2002.

***Waiting for an initial compensability decision adds to the uncertainty stemming from a workplace injury.***

Just a slim majority of the injured Wyoming workers reporting compensable injuries received their determinations within two weeks in FY '02. Still, workers who made 2,847 injury reports waited for a month or longer for affirmative decisions. The Division also may have taken longer than 14 days to reach determinations on the almost 1,700 reports it denied, but without data we cannot conclusively comment. Waiting for an initial compensability decision adds to the uncertainty stemming from a workplace injury, and thus creates stress on those involved, as well as possible hardship and dissatisfaction.

## **WSCD Does Not Track Its Own Performance Measure on Lost Wage Payment Timeliness**

***WSCD goal is also the industry standard.***

WSCD has set an objective of providing timely and appropriate benefits for all injured workers, and an outcome measure of scheduling 75 percent of lost wage payments within 14 days of notice of lost time. This is also the industry standard. However, WSCD did not track its performance on this measure for the FY '01 – '02 period, although it plans to do so by FY '03 – '04.

***20% of compensable injuries are severe enough to qualify workers for lost wage payments.***

### **TTD benefits are the most used indemnity benefit**

Temporary Total Disability (TTD) payments are the lost wage benefits that workers receive from WSCD when their injuries have left them temporarily unable to work at all. TTD is the most commonly provided indemnity benefit in the Wyoming Workers' Compensation program. To put these benefits in perspective, of the injuries WSCD determines compensable in a year, 20 percent will be severe enough that employees receive TTD benefits for some period of time.

Once WSCD certifies workers as eligible for TTD, they can receive these benefits for the duration of their temporary disabilities. To receive TTD benefits, injured workers must formally apply for them, and produce periodic physician certification of their disabilities.

***WSCD could not provide us with requested data on TTD payment timeliness.***

### **We used a substitute to measure WSCD performance**

WSCD could not provide us with performance information for its measure, the time lag between notice of lost time and its authorization of the initial TTD payment. At our request, however, the Division compiled data on the time lag between injury report and first payment authorization, as a substitute for that information. This substitute time lag could be longer because applications for TTD payments, signifying notice of lost time, may occur after injury reports. Using this measure, WSCD data indicated that in FY '02, the Division authorized 13 percent of initial TTD payments within 14 days of injury reports.

**Statute limits WSCD to monthly payment of lost wages.**

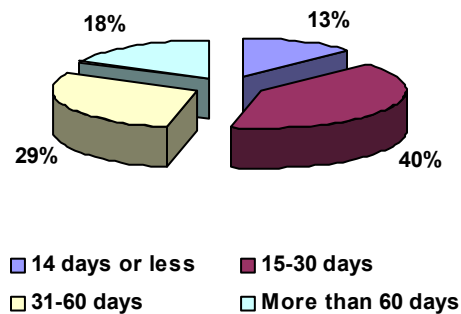
**WSCD should pay TTD to workers in the months in which they are injured, or at least, in 30 days**

Statute (W.S. 27-14-403 (c)) provides that injured workers receive indemnity payments monthly, so the Division cannot replicate regular pay periods that are less than a month long. Therefore, the 14-day standard and Division goal may not be appropriate for WSCD. Rather, the optimal outcome may be for WSCD to authorize TTD payments for all eligible workers in the months of their injury reports, or at the most, within 30 days of those reports. In FY '02, WSCD accomplished this for a slight majority (53 percent) of workers certified for TTD. However, this left 47 percent waiting more than 30 days for initial replacement wages, including 18 percent waiting more than 60 days.

Figure 2.2

Authorization Time for Initial TTD Payment  
FY '02

**WSCD authorized lost wage payments for 53% of eligible workers within a month of their injury reports.**



Source: LSO analysis of WSCD data

**WSCD improved medical bill payment timeliness in response to provider complaints.**

**WSCD makes timely payment to health care providers**

Medical providers bill WSCD directly for services provided. By law, providers cannot bill injured workers for fees or portions of fees for injury-related services. Data from WSCD on the timeliness of medical bill payment shows that in FY '02, WSCD paid 79 percent of medical bills within 30 days of date of billing, up from 43 percent in FY '01. Former program officials said they requested an internal review to improve performance in this area because providers had voiced their displeasure.

## **Recommendation: WSCD should improve the timeliness of initial TTD payment.**

***Injured workers may not be prepared to wait beyond normal pay days for lost wage payments.***

One of the motivations for implementing workers' compensation was that people who were hurt at work would not be financially ruined. WSCD information shows that the average worker receiving TTD benefits in FY '02 earned an annual income of just over \$28,000. Injured workers at this income level may not be prepared to wait for lost wage payments. WSCD should focus on its goal of providing timely and appropriate benefits: it needs to develop policies and procedures that will deliver TTD payments as early as possible, and should track its progress.

## **WSCD Has Operated at a Reasonable Cost**

Statute calls for WSCD to deliver benefits at a reasonable cost to employers. In comparison to other states and a basic insurance industry performance measure, WSCD performed well in the two years for which we made comparisons, FY '01 and FY '02. Also, Wyoming Workers' Compensation average premium rates compare favorably to those in other states.

### **A combined ratio measures performance**

***Combined ratios measure costs to revenues.***

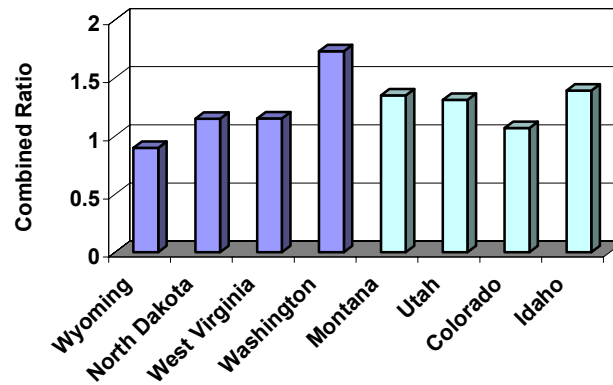
An insurance company's combined ratio is the comparison of costs and revenues. These costs include claims costs, administrative expenses to adjust the claims and collect premiums, and dividends. This ratio is commonly used to measure an insurer's performance. A combined ratio of 100 is considered the industry standard; the lower the combined ratio, the more profitable for an insurance company.

***WSCD had "profitable" ratios in FY '01 and FY '02.***

WSCD combined ratios were in the "profitable" category for the two fiscal years we reviewed: .90 in FY '01, and .87 in FY '02. This means that for every \$1.00 of premium, there were 90 cents and 87 cents in total costs for the two years, respectively. The WSCD ratio compares favorably to the other monopolistic state funds, as well as to competitive state funds in neighboring states.

Figure 2.3

**Combined Ratios of Wyoming and Other States  
FY '01 or Most Recent Available Data**



***WSCD's combined ratio is below that of comparator states.***

Source: LSO analysis of WSCD and American Association of State Compensation Insurance Funds (AASCIF) data. Colorado and Idaho data is from FY '00. Lighter-shaded bars indicate competitive state funds; darker are monopolistic programs. Information was not available for Ohio.

### **Wyoming's premium rates are comparatively low**

***The average base tax rate over the last decade is 2.91 percent of payroll.***

Comparing WSCD employer premium rates to those in other states also indicates that the program is operating at a reasonable cost. In a 1998 ranking of states' average workers' compensation premium costs, Wyoming ranked 42<sup>nd</sup> out of 50 states and the District of Columbia. The average Wyoming Workers' Compensation base tax rate over the last decade is 2.91 percent of payroll, the rate having ranged from a high of 3.50 to a low of 2.48. The average cost to employers decreased from FY '97 through FY '01, but increased in FY '02.

### **The Legislature and WSCD Made Covering the Unfunded Liability a Program Priority**

***The Legislature and WSCD have taken steps to make the fund solvent.***

In the late 1980's, the Wyoming Workers' Compensation Fund was unable to pay claims costs and had to borrow from the state to maintain operations. Today, the fund is operating at a profitable combined ratio and is gradually accumulating the reserves needed to cover its liabilities. To get to this point, the Legislature and WSCD have taken steps meant to make the fund solvent, which statute requires it to be by 2008.

***The Legislature has modified the experience-based premium rate system over the years.***

**Experience-based premiums have been critical in establishing adequate program revenues**

Since the early 1990's, Wyoming Workers' Compensation premiums have been experience-based. WSCD contracts with independent actuaries to assign industry classification base rates that they mathematically determine from actual claims costs to the system. Since the experience-based premium rate system was implemented, WSCD has worked through the Legislature to modify it. Notable among the changes was the elimination of a cap on the maximum rate that can be charged to employers. Legislation established a cap at 5.5 percent of payroll in 1986; it was gradually increased and finally eliminated in 1998.

**Legislature authorized a temporary rate surcharge**

In 1989, the Legislature gave Workers' Compensation authority to impose a 12 percent surcharge on employers rates if the revenues generated from premiums and interest were not adequate to pay benefits and repay state loans. This surcharge was in effect from 1989 through 1997.

***WSCD uses a computer program to help estimate future costs of injuries, or reserves.***

**WSCD sets aside funds for the future costs of injuries**

WSCD has made it a priority to accurately estimate future costs that will result from injuries, to ensure that premiums cover those as well as incurred costs. A large portion of the total cost of each year's workers' compensation injuries is paid out in subsequent years. Claims analysts estimate these future costs, or case reserves, using computer software that incorporates specific case characteristics and historical claims data. WSCD recently had the system audited to ensure its accuracy. Employer premiums reflect both the incurred costs and the reserves.

***Employer premiums cover full estimated future costs.***

**WSCD has not discounted its reserves**

WSCD has managed to cover expenses and build reserves for future costs in part because it has not discounted reserves. This means it has not reduced the estimated amount needed for future costs to reflect the investment income that can be earned on funds held until claim payments come due. Thus, WSCD employer premium rates are set to cover the full amount of expected future claims costs.



***Investment income has averaged 16% of total revenues in recent years.***

### **All investment income goes into the program reserve**

WSCD has used these returns to augment reserves to cover the program's unfunded liability. Investment income has increased annually since the reserve first had a balance in 1993, accounting for an average of 16 percent of total program revenues FY '99 - '02. Statute gives WSCD authority to grant premium discounts, up to 50 percent of the investment earnings after inflation on reserves. However, WSCD has not done so, and officials are not considering this discount until the program is fully funded.

***WSCD analysts critically review every claim submitted on a compensable injury.***

### **WSCD reviews all claims for merit**

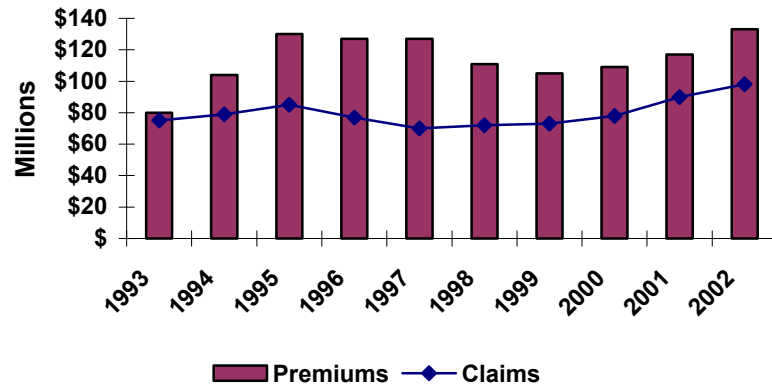
Over the years, WSCD has increased its scrutiny over Workers' Compensation claims, to ensure that it is appropriate to pay them. The Legislature has amended statutes, and the Division has in turn promulgated rules to specify what claimants must do or exhibit to obtain benefits. In 1994, the Legislature added a statement of intent with regard to Workers' Compensation: "It is the specific intent of the Legislature that benefit claims be decided on their merits and that the common law rule of 'liberal construction' based on the supposed 'remedial' basis of workers' benefits legislation shall not apply in these cases."

In practical terms, this means WSCD claims analysts must carefully review every claim submitted on a compensable injury to ensure that it is related to the injury and appropriate. The Legislature aided WSCD in doing this by authorizing the Division to contract for programs in medical bill review, medical case management, and utilization review. WSCD loss ratios (total claims to premiums) have been lower than 0.77 since FY '94.

Figure 2.4

**WSCD Claims and Premiums  
FY '93 - '02**

***Workers' Compensation claims have been 77% or less of premium income since 1994.***



Source: LSO analysis of WSCD data

**Recommendation: WSCD should consider contracting for a comprehensive assessment of its financial practices and condition.**

The scope of our report was claims processing, and we did not evaluate the Division's financial practices. Therefore, our comments in this area reflect only very basic outcome measures: WSCD operating costs and claims costs are below its income, and it is coming closer to fully funding its liabilities.

***An independent review is needed to evaluate WSCD financial practices.***

We did not attempt to determine whether the Division is reaching those outcomes in the most advantageous manner. That type of assessment calls for financial expertise and familiarity with best practices in workers' compensation programs nationwide. We believe WSCD should consider contracting with an independent firm that has this experience. A basic principle of fiscal transparency is that government sector fiscal information should be subjected to independent scrutiny, and other monopolistic state funds routinely do this. As we discuss in Chapter 6, we do not believe that WSCD annual reports to the Legislature allow for the necessary level of scrutiny.

***Reassessing financial practices may be prudent as the Fund approaches solvency.***

Moreover, as the Division nears the point of fully funding its liability, it may be prudent to objectively and expertly assess its financial practices. For example, should it continue to estimate its reserves on an undiscounted basis? What should the program do with any surplus that might accrue? Will WSCD grant premium discounts as statute allows, or should it first assess its services, benefits and medical fees for adequacy? Should it establish more than one reserve, as is anticipated in statute (W.S. 27-14-201 (e))?

The Division acquired an outside audit of its reserving system, and starting in 2003, will have an actuarial analysis twice a year to guide its premium rate adjustments. Similarly, as it moves towards fund solvency, the Division stands to benefit from a comprehensive review of its financial goals and practices.

### **WSCD Has Not Focused on Improving Claims Processing to the Extent It Has Focused on Improving Its Funding Situation**

***WSCD has not reported on improving claims processing, as statute requires.***

WSCD has a two-part goal to ensure prompt and accurate payment of benefits and to maintain solvency in the Workers' Compensation Fund. However, program outcomes indicate that the Division has not given both parts of the goal equal attention. WSCD officials told us the Division is dedicated to continuous improvement. Statute calls for an annual report on the effectiveness of the process and for recommendations to improve the initial claims processing and determination process (W.S. 27-14-804 (a)(iv)). The Division has not produced the report, nor analyzed the aggregate data available on claims processing that would help it develop recommendations for improvement.

### **Claimant Satisfaction Depends on Experience with Claims Processing**

In order to evaluate injured workers' satisfaction, WSCD mails a survey to 300 randomly-selected claimants each month. During FY '02, 90 percent of those claimants responding reported they

were satisfied with WSCD service in processing their claims. We reviewed these surveys, and determined that most respondents appeared to have had injuries requiring only medical services, not lost wage payments.

***For the majority of claimants with medical-only injuries, making a claim is relatively simple.***

This is consistent with overall program statistics for FY '02 that show most (78 percent) compensable injuries are medical-only, and most (91 percent) medical bills are paid in full. For claimants with medical-only injuries, making a Workers' Compensation claim can be a relatively simple process, since WSCD pays their health care providers directly.

***Complaints to the Governor's Office reveal a host of issues related to more complicated cases.***

We sought information from another indicator of WSCD claims processing performance, records of complaints coming through the Governor's Office. These are the only complaints to which WSCD has formally responded. During the period January 2001 through November 2002, the Governor's Office received 91 complaints, most coming from injured workers and a few from health care providers. Most of the complaints concerned the following issues:

- Missing or late benefit payments
- Confusion regarding impairment versus disability
- Dissatisfaction with hearings outcomes
- Objections to WSCD denial of specific benefits
- Disagreements with WSCD refusal to address new claims on old injuries
- Aggravation that claims analysts had not returned telephone calls or responded to correspondence

***WSCD responses have been legalistic and sometimes condescending.***

WSCD officials responded to these complaints with letters citing the statutes and rules that guided the Division's initial decision. In a few instances, officials acknowledged that WSCD had erred, made apologies, and took immediate steps to rectify problems. However, many WSCD responses were legalistic and sometimes condescending in tone. Our sense was that many Division responses would not have done much to alleviate the frustration and desperation that seemed to underlie the complaints.

***Making a claim is not a neutral experience for many.***

### **Polarized views of workers' compensation are typical**

Workers' compensation experts hired to evaluate the State of Washington program, another monopolistic state fund, noted that claimant surveys tend to have these results; making a claim is not a neutral experience for many. When claims are straightforward, only involving medical payments that are obviously related to the injury, they are easier for analysts to dispatch. However, for the minority of injured workers with more serious injuries that involve lost wage benefits and multiple claims for medical services, claims processing becomes more complicated. These are the claimants most likely to be dissatisfied.

***Improving claims processing could benefit most Wyoming workers.***

Even though most injured workers may be satisfied, the Washington experts said that negative survey results should be used to identify problem areas in claims processing. Similarly, in order to increase overall satisfaction with services, WSCD needs to focus on the causes of complaints from more complicated cases. Improvements may directly affect only a small portion of claimants, but they will enhance WSCD services for the 83 percent of Wyoming workers estimated to be covered by Workers' Compensation who potentially could be injured.

### **We Offer Recommendations for Claims Processing Improvements**

***Recommendations are in the areas of staffing, communications, and handling of contested cases.***

The mixed results for basic timeliness measures of claims processing in two key areas indicate there is opportunity for WSCD to more quickly and efficiently deliver benefits to injured workers. In this chapter, we recommend that WSCD seek improvement in the time it takes both for making initial injury compensability decisions and for scheduling lost wage benefits. In the following chapters, we discuss specific areas in which changes could be made to improve these comprehensive measures.

These areas are staffing, communications, and handling of contested cases. These are not the only aspects of a complex claims processing system that, if not done well, could undermine the overall Division responsibility to quickly and efficiently deliver benefits at a reasonable cost. However, we believe they are areas WSCD could reasonably address, and thereby move toward improving overall claims processing.

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