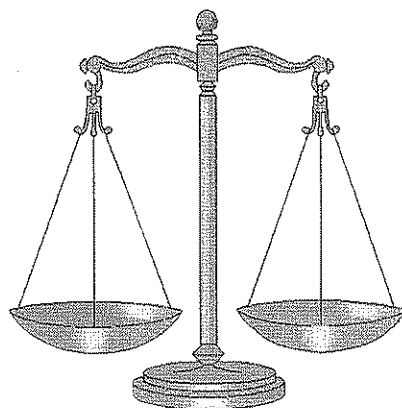


# **FY2008 ANNUAL REPORT**

## **ILLINOIS WORKERS' COMPENSATION COMMISSION**



**PAT QUINN  
GOVERNOR**

**AMY J. MASTERS  
ACTING CHAIRMAN**

## Table of Contents

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LETTER .....	1
HIGHLIGHTS .....	2
MISSION STATEMENT .....	2
BOARD MEMBERS .....	3
OVERVIEW OF WORKERS' COMPENSATION .....	4
FLOW CHART OF DISPUTE RESOLUTION PROCESS .....	5
FINANCES .....	6
INSURANCE .....	8
ADMINISTRATION .....	10
STATISTICS .....	13
INTERSTATE COMPARISONS .....	23

## Commission Offices

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100 W. Randolph #8-200  
Chicago, IL 60601  
312/814-6611

202 N.E. Madison Ave. #201  
Peoria, IL 61602  
309/671-3019

*Note new address!*  
4500 S. Sixth St.  
Springfield, IL 62703  
217/785-7087

1014 Eastport Plaza Drive  
Collinsville, IL 62234  
618/346-3450

200 S. Wyman  
Rockford, IL 61101  
815/987-7292

Toll-free:	866/352-3033 (within Illinois only)
TDD:	312/814-2959
Web site:	<a href="http://www.iwcc.il.gov">www.iwcc.il.gov</a>
E-Mail:	<a href="mailto:infoquestions.wcc@illinois.gov">infoquestions.wcc@illinois.gov</a>

Note: On January 1, 2005, the Illinois Industrial Commission changed its name to the Illinois Workers' Compensation Commission.  
This report was printed in June 2009 by the authority of the State of Illinois: 250 copies were printed with soy ink on recycled paper at a per-copy cost of \$2.30.  
No printing order number was used.



ILLINOIS WORKERS' COMPENSATION COMMISSION

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PAT QUINN  
GOVERNOR

AMY J. MASTERS  
ACTING CHAIRMAN

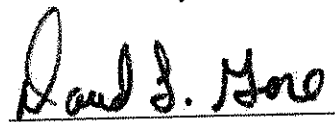
Dear Governor Quinn,  
Members of the General Assembly,  
and Citizens of Illinois:

In FY08, the Commission continued to implement the legislative changes enacted in 2005. For the first time, thanks to the creation of the Injured Workers' Benefit Fund, fines collected from uninsured employers were used to pay workers' compensation benefits to injured workers who would otherwise have received nothing.

We are committed to work together to serve the employers and employees of Illinois. We ask for your support and participation in this effort.

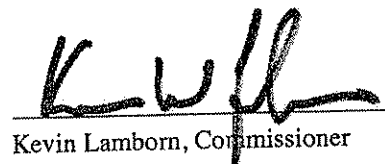
  
Amy J. Masters, Acting Chairman

  
Mario Basurto, Commissioner

  
David L. Gore, Commissioner

  
Molly Mason, Commissioner

  
Colaine Dauphin, Commissioner

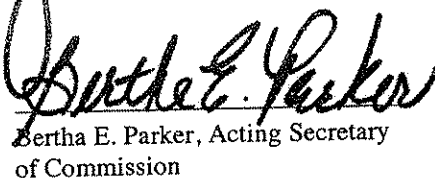
  
Kevin Lamborn, Commissioner


  
Paul W. Rink, Commissioner

  
James F. DeMunno, Commissioner

  
Nancy Lindsay, Commissioner

  
Barbara A. Sherman, Commissioner

  
Bertha E. Parker, Acting Secretary  
of Commission

  
Carolyn L. Marks, Executive Director  
and Judicial Manager

## Highlights

- The perception of Illinois workers' compensation costs is often different than the reality. Illinois is a high-wage state with a low injury rate. On most cost measures, Illinois falls in the middle of the pack. Using NCCI advisory rates, a 1990 premium of \$100 would cost only \$112 in 2009, a 12% increase; in comparison, the statewide average weekly wage on 1/1/90 was \$453.55, compared to the 1/1/09 wage of \$912.56, a 101% increase.
- More insurance companies sell workers' compensation policies in Illinois than in any other state.
- In FY08, the Insurance Compliance Unit collected \$1.8 million in fines from 66 uninsured employers with 900 workers that were found to be operating without workers' compensation insurance. The fines are used to pay benefits due to injured workers whose uninsured employers failed to pay them. Without this fund, these workers would not have received the benefits they were due.
- In FY08, our website received over 7 million hits, representing a 70% increase since FY06. We continue to expand the information that is available online: in FY08, we added the terms of settlements and decisions to our web page that reports on the status of workers' compensation cases.
- The number of cases pending at the Commission has declined from a peak of 119,000 cases at the end of FY95 to 97,300 cases at the end of FY08.
- Accident rates have fallen dramatically. Illinois' 2005 workers' compensation total injury rate was 58% lower than in 1990. Everyone wins when injuries are avoided.

## Mission Statement

The Illinois Workers' Compensation Commission resolves disputes that occur between injured workers and their employers regarding workers' compensation. The Commission strives to assure financial protection to injured workers and their dependents at a reasonable cost to employers.

The Commission performs four main functions:

- 1) *Resolve disputes.* The Commission strives to provide a fair, timely process by which disputed claims may be resolved.
- 2) *Ensure compliance with the law.* The Commission protects the rights of employees and employers under the Illinois Workers' Compensation and Occupational Diseases Acts.
- 3) *Administer self-insurance.* The Commission evaluates and approves eligible employers that wish to insure themselves for their workers' compensation liabilities.
- 4) *Collect statistics.* The Commission compiles information on work-related injuries and diseases.

The Commission intends to accomplish these goals while looking constantly for ways to improve the quality of service and treating the public and co-workers with respect. The success of this organization depends on the commitment and full participation of every member.

## Board Members

We are grateful to the individuals who serve on our boards. All serve without compensation.

### COMMISSION REVIEW BOARD

The board investigates complaints made against arbitrators and commissioners. The governor appoints two public members, the senior labor and business commissioners serve by statute, and the arbitrators elect one Chicago and one Downstate arbitrator.

Robert Hanaford Attorney, Robert H. Hanaford	Mario Basurto Senior Business Commissioner	Edward Lee Chicago Arbitrator
Ann Marie Walsh Attorney, Lord, Bissell & Brook	Barbara A. Sherman Senior Labor Commissioner	Ruth White Downstate Arbitrator

### SELF-INSURERS ADVISORY BOARD

The board reviews applications from private companies for the self-insurance privilege and makes recommendations to the chairman. The board also ensures the continued payment of benefits to workers of bankrupt self-insurers.

Alex G. Alexandrou City of Aurora	Margaret Blackshere (Public member) Illinois State AFL-CIO (retired Pres.)	Paul M. McCloskey Amalgamated Bank of Chicago
Curtis C. Beam Archer Daniels Midland Co.	Gerald F. Cooper Scopelitis, Garvin, Light & Hanson	David Taylor Int'l. Truck & Engine Corp.

### WORKERS' COMPENSATION ADVISORY BOARD

The board assists the Commission in formulating policies, setting priorities, and developing administrative goals. The board also makes recommendations to the governor regarding Commission appointments.

<u>EMPLOYEES</u>		<u>EMPLOYERS</u>	
Michael Carrigan Illinois AFL-CIO	David Menchetti Cullen, Haskins, Nicholson and Menchetti	David Buckman CORE Construction Group	Gerald Roper Chgo. Chamber of Comm.
Frank Cavarretta United Steel Workers	Kim Presbrey Presbrey & Assoc.	Mark Flannery Caterpillar, Inc.	David Vite IL Retail Merchants Assoc.
Philip Gruber Int'l. Assoc. of Machinists and Aerospace Workers	One vacancy	Kim Maisch Natl. Fed. of Ind. Business	One vacancy

### WORKERS' COMPENSATION MEDICAL FEE ADVISORY BOARD

The board advises the IWCC on the establishment of medical fees and the accessibility of treatment.

<u>EMPLOYEES</u>	<u>EMPLOYERS</u>	<u>MEDICAL PROVIDERS</u>
Eric Dean Int'l. Assoc. of Ironworkers	Maddy Bowling Maddy Bowling & Associates	Elena Butkus Illinois Hospital Assoc.
Roger Poole Int'l. Assoc. of Machinists and Aerospace Workers	Kim Moreland Rising Medical Solutions	Jesse Butler, MD Illinois Bone and Joint Institute
Ronald Powell United Food & Commercial Workers	John Smolk United Airlines	Edward Sciamberg, MD Illinois Bone and Joint Institute

## **Overview of Workers' Compensation**

Workers' compensation laws were the first acts of social legislation passed in the United States, and they have always been controversial. At the beginning of the 20th century, employers feared the assumption of liability for work-related injuries would destroy their businesses, while workers feared financial ruin from disabling injuries.

Before the laws took effect, an injured worker seeking compensation had to file a lawsuit against his or her employer in court. At the time, the common law held that the employer had a duty to provide a safe place to work and safe tools; to give warnings of dangers; and to provide a sufficient number of appropriate fellow servants to perform the tasks.

In court, the employee had to prove negligence. The employer could present a defense that blamed the injured worker's contributory negligence, or attributed the injury to the negligence of a fellow servant, or argued that the employee assumed certain risks in accepting the job. The process was prolonged and uncertain, with large risks to both employee and employer.

The high injury and death rates throughout the Industrial Revolution and growing dissatisfaction with the common law gradually led to the enactment of employer liability acts. Employers were held more responsible for negligence, but employees still had to file lawsuits for damages.

The first workers' compensation laws originated in Germany in 1884 with a compulsory system of accident insurance covering all employees in manufacturing, mining, and transportation. Similar laws passed in other European countries.

In the U.S., laws were passed on a state-by-state basis. Most of the early laws covered only hazardous occupations and were frequently challenged as unconstitutional. Maryland passed the first act in 1902, which was restricted to fatal cases. The first law of general application that withstood legal challenges was Wisconsin's act of 1911. Illinois passed its law in 1911, effective May 1, 1912. It took until 1948 for all states to establish a workers' compensation law.

Workers' compensation laws contain two tradeoffs:

1. Employees gave up their right to sue and potentially win large awards in court in exchange for more modest but prompt compensation;
2. Employers gave up their common law defenses in exchange for limits on their liabilities.

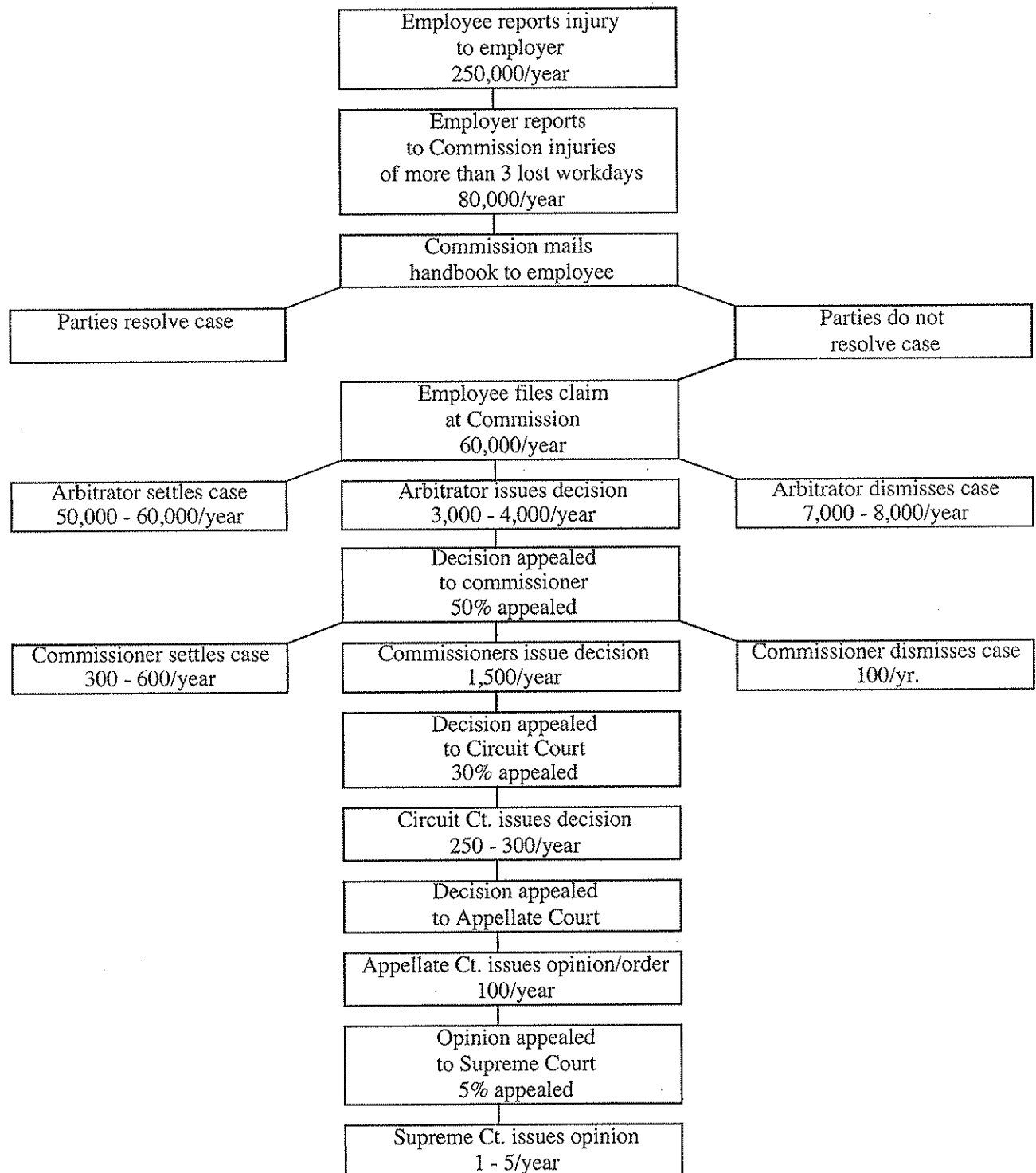
Workers' compensation was established as a no-fault system. The theory behind the law is that the cost of work-related injuries or illnesses should be part of the cost of the product or service.

Originally, the courts administered the Illinois act. The volume overwhelmed the courts, however, and on July 1, 1913, a three-member Industrial Board was created. In 1917, a five-member Industrial Commission was created within the Illinois Department of Labor. In 1957, the Commission separated from the Department of Labor and became a self-standing agency. On January 1, 2005, the agency officially became the Illinois Workers' Compensation Commission.

Almost every employee who is hired, injured, or whose employment is localized in Illinois is covered by workers' compensation. For the most part, benefits are paid for accidental injuries that are caused, in whole or in part, by the employee's work. This includes the aggravation of a pre-existing condition and injuries brought on by the repetitive use of a part of the body.

Illinois employers pay for workers' compensation benefits through insurance policies or by self-insurance. Benefits are based on the worker's earnings, subject to certain limits. Cases are first heard by arbitrators, whose decisions may be appealed to commissioners. Cases may proceed on to the circuit court, Illinois Appellate Court, and the Illinois Supreme Court. Most cases, however, are settled between the parties.

## Flow Chart of Dispute Resolution Process



## Finances

The Commission operates eight funds that are independent of the General Revenue Fund.

	SPECIAL FUNDS				
	6/30/07 Balance	plus Income	minus Expenditures	plus/minus Adjustments	6/30/08 Balance
IWCC Operations Fund	\$24,096,807	\$20,286,481	\$18,919,626	\$106,508	\$25,570,170
Injured Workers' Benefit Fund	\$1,205,767	\$1,802,910	\$305,072	\$0	\$2,703,605
Rate Adjustment Fund	(\$9,929,120)	\$18,665,126	\$14,781,174	\$5,423	(\$6,039,745)
Second Injury Fund	\$618,531	\$955,900	\$1,132,565	\$293	\$442,159
Self-Insurers Administration Fund	\$451,913	\$377,903	\$480,237	\$35,000	\$384,579
Self-Insurers Security Fund	\$17,701,374	\$5,227,815	\$4,528,338	\$2,611,279	\$21,012,130
Transcript Deposit Fund	\$37,850	\$16,645	\$10,120	\$0	\$44,375
Workers' Compensation Benefit Trust Fund	\$1,471	\$67	\$0	\$0	\$1,538

### ILLINOIS WORKERS' COMPENSATION COMMISSION OPERATIONS FUND

*Illinois Compiled Statutes, Ch. 820, Para. 305, Sec. 4d; Ch. 215, Para. 5, Sec. 416*

The IWCC Operations Fund was created in 2003 to pay for the administrative costs of the agency, making Illinois the 46<sup>th</sup> state in the country to pay for its workers' compensation agency through an independent source of funds. Each year, employers pay a 1.01% surcharge on workers' compensation insurance premiums, while self-insured employers pay an assessment of 0.0075% of payroll.

### INJURED WORKERS' BENEFIT FUND

*Illinois Compiled Statutes, Chapter 820, Section 4(d)*

In 2005, the legislature created the IWBF to collect fines paid by uninsured employers and then pay w.c. benefits to the injured employees of uninsured employers whose employers fail to pay. During FY08, for the first time, the IWCC paid w.c. benefits to eight injured workers whose uninsured employers failed to pay them. Without this fund, these workers would not have received the benefits they were due.

### RATE ADJUSTMENT FUND

*Illinois Compiled Statutes, Chapter 820, Paragraph 305, Sections 7-8*

The RAF was created in 1975 to pay cost-of-living increases to individuals who are either permanently and totally disabled or the survivors of fatally-injured workers.

Benefits are paid each month, beginning on July 15 of the second year after the award or settlement is entered by the Commission. Recipients are given an amount equal to the percentage increase in the statewide average weekly wage, as calculated by the Department of Employment Security. If there is a decrease in the statewide average weekly wage, there is no change in the compensation rate.



Every six months, self-insured employers and insurance companies pay an assessment of 1.25% of all indemnity benefits paid in the preceding six-month period. The RAF fund has run a deficit for years.

During FY08, the Commission conducted extensive analysis and took a number of steps to improve the way this fund is managed.

#### SECOND INJURY FUND

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*Illinois Compiled Statutes, Chapter 820, Paragraph 305, Sections 7-8*

The SIF provides an incentive to employers to hire disabled workers. Illinois' SIF is more narrowly constructed than most other states. If a worker who had previously incurred the complete loss of a member or the use of a member (one hand, arm, foot, leg, or eye) is injured on the job and suffers the complete loss of another member so that he or she is permanently and totally disabled (PTD), the employer is liable only for the injury due to the second accident. The fund pays the amount necessary to provide the worker with a PTD indemnity benefit.

Approximately 100 individuals receive SIF benefits. In January and July each year, insurers and self-insured employers pay assessments up to 1/8 of 1% of compensation payments made during the previous six months.

#### SELF-INSURERS ADMINISTRATION FUND

---

*Illinois Compiled Statutes, Chapter 820, Paragraph 305, Section 4a-6.1*

The SIAF was created in 1988 to pay the administrative costs of the Commission's self-insurance program. Private self-insured employers pay a fee of \$500 per entity when applying for or renewing the self-insurance privilege.

#### SELF-INSURERS SECURITY FUND

---

*Illinois Compiled Statutes, Chapter 820, Paragraph 305, Sections 4a-5, 7*

The SISF was created in 1986 to pay benefits to employees of private self-insurers that became insolvent after 1986. Self-insured employers pay assessments based on their indemnity payments, up to a maximum of 1.2% of indemnity benefits paid during the preceding year. The "income received" column also reflects the collection of bonds and escrows from self-insured employers during the year. The "adjustments" column reflects changes in the unpaid liability of the fund. This fund has always paid the benefits in full.

#### TRANSCRIPT DEPOSIT FUND

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*Illinois Compiled Statutes, Chapter 30, Paragraph 105*

When a case is appealed to the circuit court, the appealing party pays a \$35 fee for the preparation of the file.

#### WORKERS' COMPENSATION BENEFIT TRUST FUND

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*Illinois Compiled Statutes, Chapter 30, Paragraph 105*

The WCBTF pays benefits to employees of private self-insurers that became insolvent before 1986. Benefits are paid from securities posted by the self-insurers; any unused funds are then returned to the insolvent estate.

## Insurance

Employers are responsible for the payment of benefits to injured workers; they must either purchase insurance or obtain permission to self-insure.

### INSURANCE

The workers' compensation insurance business in Illinois is profitable and highly competitive. More insurance companies sell workers' compensation policies in Illinois than in any other state.<sup>1</sup>

The National Council on Compensation Insurance, a private organization, issues advisory insurance rates. Illinois carriers use the advisory rate in their calculations but are free to set their own premium rates. A premium of \$100 in 1990 would cost \$112 in 2009, a 12% increase; in comparison, the statewide average weekly wage in Illinois on 1/1/90 was \$453.55, compared to the 1/1/09 wage of \$912.56, a 101% increase.<sup>2</sup> Additional information on workers' compensation insurance costs is available in the chapter on Interstate Comparisons.

### INSURANCE COMPLIANCE PROGRAM

In FY08, the unit collected \$1.8 million in fines from 66 uninsured employers with 900 workers that were found to be operating without workers' compensation insurance.

Illinois law requires employers to insure themselves for their workers' compensation liabilities, but some employers fail to comply. These employers enjoy an unfair competitive advantage over law-abiding companies, while leaving their employees vulnerable if accidents should occur.

If the Commission finds an employer knowingly and willfully failed to obtain insurance, it may be fined up to \$500 for every day of noncompliance, with a minimum fine of \$10,000. Corporate officers may be held personally liable if the company fails to pay the fine. Under legislation that took effect July 20, 2005, an employer may also face criminal charges and/or a work-stop order for failing to obtain workers' compensation insurance.

Fines are deposited into the newly created Injured Workers' Benefit Fund, which then pays benefits to injured workers whose uninsured employers fail to pay.

### INSURANCE FRAUD

The Illinois Division of Insurance investigates workers' compensation fraud. The IWCC funds the unit, but the IDOI administers the fraud program.

It is illegal for anyone—a worker, employer, insurance carrier, medical provider, etc.—to intentionally make a false statement in order to obtain or deny w.c. benefits, obtain w.c. insurance at less than the proper rate, obtain approval to self-insure, etc. A “statement” includes any writing, notice, proof of injury, or any medical bill, record, report, or test result.

#### NCCI ADVISORY RATES

Effective Date	% Change	Scale
1/1/90		100.00
1/1/91	8.5%	108.50
1/1/92	9.1%	118.37
1/1/93	5.7%	125.12
1/1/94	9.6%	137.13
1/1/95	-6.8%	127.81
1/1/96	-13.6%	110.43
1/1/97	-10.1%	99.27
1/1/98	-7.9%	91.43
1/1/99	-0.2%	91.25
1/1/00	1.2%	92.34
1/1/01	0.0%	92.34
1/1/02	-0.2%	92.16
1/1/03	6.7%	98.33
1/1/04	-0.3%	98.04
1/1/05	0.1%	98.14
1/1/06	6.3%	104.32
1/1/07	0.0%	104.32
1/1/08	4.0%	108.49
1/1/09	3.5%	112.29

Anyone found guilty of any of these actions is guilty of a Class 4 felony, punishable by 1-3 years imprisonment and a \$25,000 fine. The guilty party shall be required to pay complete restitution, and may be found civilly liable for up to three times the value of benefits or coverage that was wrongfully attained.

Since the fraud unit was created in 2006, several convictions have been attained. The IDOI annual reports on the fraud unit are available at <http://www.iwcc.il.gov/fraud.htm/>.

#### MEDICAL BILLS AND BALANCE BILLING

By law, employers are responsible for the payment of all medical services reasonably necessary to cure or relieve the injured worker from the effects of the injury.

The legislation that took effect July 20, 2005 contains a balance billing provision. If an employee informs the medical provider that a claim is on file at the Commission, the provider must cease all efforts to collect payment from the employee. Any statute of limitations applicable to the provider's efforts to collect from the employee is tolled from the date that the employee files the application with the Commission until the date that the provider is permitted to resume collection.

When an employee notifies a medical provider that the treatment or service is for a work-related injury, the provider shall bill the employer directly. If the employer does not dispute payment of first aid, medical, surgical, or hospital services, Section 8(a) provides that the employer shall make payment directly to the provider on behalf of the employee. The employer shall pay the bill within 60 days of receipt of the bill as long as the claim contains substantially all the required data elements necessary to adjudicate the bills. Unpaid bills incur interest at a rate of 1% per month, payable to the provider. A provider cannot hold an employee liable for costs related to non-disputed services for a compensable injury and shall not bill or attempt to recover from the employee the difference between the provider's charge and the amount paid by the employer or insurer on a compensable injury.

While the claim at the Commission is pending, the provider may mail the employee reminders that the employee will be responsible for payment of the bill when the provider is able to resume collection efforts. The provider may request information about the Commission claim and if the employee fails to respond or provide the information within 90 days, the provider is entitled to resume collection efforts and the employee is responsible for payment of the bills. The reminders shall not be provided to any credit agency.

#### SELF-INSURANCE

Private employers may obtain approval to insure themselves for their workers' compensation liabilities, or they may join a pool of other employers. The Commission evaluates individual self-insurers, while the Illinois Division of Insurance evaluates pools. Public employers may self-insure without obtaining approval.

Less than 1% of employers self-insure, but they are among the largest organizations in the state, and employ roughly 10% of the employees in Illinois.

As the cost of traditional insurance has decreased, many employers have stopped self-insuring and returned to conventional insurance arrangements.

#### PARENT COMPANIES PARTICIPATING IN THE COMMISSION'S SELF-INSURANCE PROGRAM

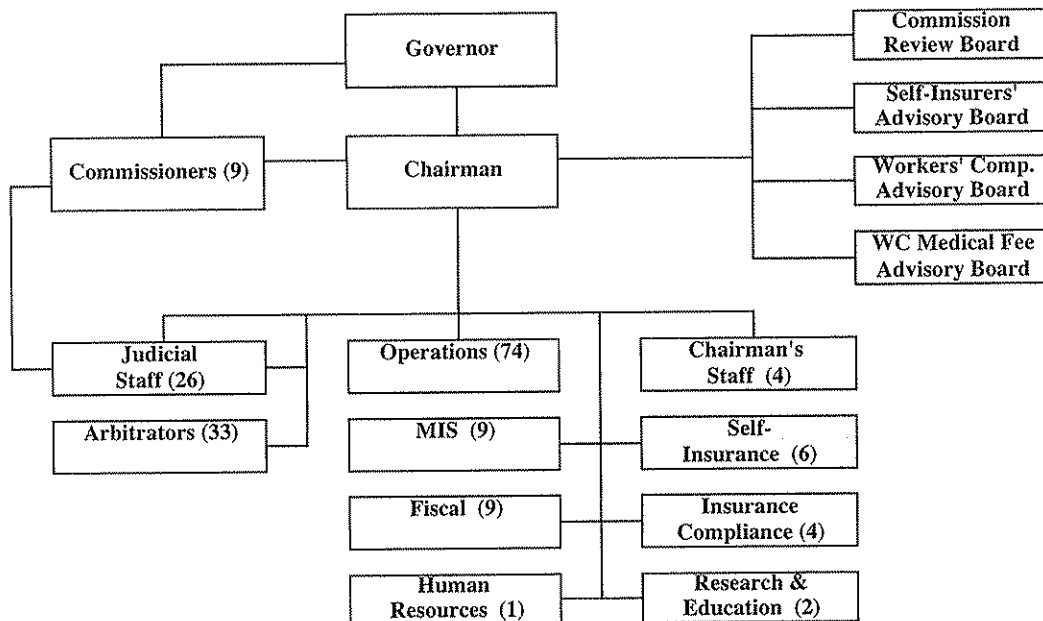
Date	# Parent Companies
6/30/00	361
6/30/05	319
6/30/06	311
6/30/07	297
6/30/08	290

# Administration

## ORGANIZATIONAL STRUCTURE

At the end of FY08, the Workers' Compensation Commission consisted of the chairman, nine commissioners, 162 employees, and six employees in the separately funded Self-Insurance Division, for a total of 178 people.<sup>3</sup>

ILLINOIS WORKERS' COMPENSATION COMMISSION  
ORGANIZATIONAL CHART



For the sake of clarity, we list the individual in a position at the time this report went to print.

### CHAIRMAN'S OFFICE

Headcount: 4

Amy J. Masters, Acting Chairman

The Chairman's Office consists of Katherine Devereaux, purchasing officer, Kathryn Kelley, legal counsel, Rebecca Marble, chairman's secretary, and Michael Pendola, staff attorney.

### FISCAL OFFICE

Headcount: 9

Carol Reckamp, Manager

This unit pays the bills, handles payroll and purchasing, manages the appropriations process, and administers the Commission's special funds.

### HUMAN RESOURCES

Headcount: 1

Kelly Culpepper, Manager

This office handles personnel transactions and benefit programs.

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**INSURANCE COMPLIANCE****Headcount: 4**

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Jannis Eisbart, Manager

This unit enforces the law that requires employers to have workers' compensation insurance.

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**JUDICIAL DIVISION****Headcount: 59**

---

Carolyn Parks, Executive Director/Judicial Manager

*Arbitration*

Bertha Parker, Coordinator

Arbitrators conduct hearings, issue decisions, and approve settlements of cases. At the end of FY08, 15 arbitrators worked in the Chicago office and 18 arbitrators traveled to 31 downstate hearing sites. Two support staff set schedules and provide clerical support.

*Commission*

Dora Shabazz, Coordinator

Three panels of three commissioners conduct hearings, issue decisions, and approve settlements of cases that have been appealed from the arbitration level. On each panel, one member represents business, one represents labor, and one is a public member.

Each commissioner has two staff attorneys who analyze and summarize cases, and draft decisions and orders; each commissioner also has an administrative assistant who manages the caseload and provides clerical support.

---

**MANAGEMENT INFORMATION SYSTEMS****Headcount: 9**

---

Tim Grieb, Manager

MIS maintains the computer systems, and produces notices, call sheets, and other documents.

---

**OPERATIONS DIVISION****Headcount: 74**

---

Bertha Parker, Acting Secretary of the Commission

*Central Files*

Employees maintain the case files, coordinate correspondence with the downstate arbitrators, and provide copies of case records to the public.

*Court Reporting*

Court reporters record hearings and produce typewritten transcripts of hearings. One staff person tracks transcripts throughout the hearing process.

*Data Entry*

This unit enters case information into the mainframe computer system.

*Docket*

Employees process all incoming claims, motions, and other case documents.

*Information*

Employees in four locations handle roughly 100,000 telephone calls each year. They explain procedures, distribute informational materials, and prepare summons for the circuit courts.

### *Mail Room*

The Mail Room handles nearly one-half million pieces of mail each year.

### *Reception*

The receptionist directs visitors and telephone calls.

### *Review and Emergency Hearings (19(b) and 19(b-1))*

The unit maintains files for cases on review and schedules oral arguments. It also manages cases filed under Sections 19(b) and 19(b-1) of the Act, which outlines the process by which emergency cases are to be handled.

---

## RESEARCH AND EDUCATION

Headcount: 2

Susan Piha, Manager

This unit conducts operations research, handles communications, and manages training programs.

---

## SELF-INSURANCE DIVISION

Headcount: 6

Maria Sarli-Dehlin, Manager

This division administers the self-insurance privilege and handles insolvencies of individual bankrupt self-insurers.

## Statistics

Each year in Illinois, roughly 250,000 work-related accidents occur. In most of these cases, the worker does not lose time from work. Roughly 60,000 claims are filed with the Commission; the statistics in this section refer only to those cases that are filed with the Commission.

### ACCIDENT

*Location of accident.* Cases are assigned to the hearing site nearest the site of the accident. If the accident occurred outside of Illinois, the case is assigned to the hearing site closest to the petitioner's home; if the petitioner lives outside of Illinois, the case is set at the site most convenient to the parties.

The following table groups the 1,200 cities and towns in Illinois by the 32 hearing sites to which the claims were assigned, and indicates where accidents occur.

#### NEW CASES FILED BY HEARING SITE

Hearing Site	FY08	FY07	FY06	FY05	FY04
1. Belleville	1,270	1,291	1,277	1,365	1,459
2. Bloomington	1,391	1,384	1,396	1,682	1,940
3. Carlinville	476	404	319	309	322
4. Carlyle	549	505	522	619	652
5. Chicago	22,818	22,634	22,575	23,096	24,712
6. Clinton	194	189	211	175	2,550
7. Collinsville	1,744	1,778	1,918	1,904	2,095
8. Danville	446	447	504	541	541
9. Decatur	861	799	816	853	851
10. De Kalb	434	431	410	458	483
11. Galesburg	481	532	570	710	664
12. Geneva	2,651	2,541	2,464	2,558	2,704
13/14. Herrin/Whittington	2,326	2,233	2,276	2,577	2,487
15. Jacksonville	484	485	491	535	533
16. Joliet	2,835	2,654	2,548	2,431	2,543
17. Kankakee	591	646	615	686	728
18. Lawrenceville	414	437	375	416	357
19. Mattoon	802	806	910	1,114	1,090
20. Mt. Vernon	530	567	561	527	492
21. Ottawa	912	903	925	898	983
22. Peoria	2,603	2,603	2,671	2,644	2,845
23. Quincy	536	469	492	478	525
24. Rock Falls	452	440	492	427	555
25. Rock Island	769	639	747	814	795
26. Rockford	2,515	2,482	2,320	2,314	2,612
27. Springfield	1,409	1,385	1,424	1,298	1,435
28. Taylorville	126	126	143	137	150
29. Urbana	877	767	820	892	934
30. Waukegan	2,083	2,122	2,066	2,178	2,272
31. Wheaton	3,055	3,127	3,107	3,135	3,219
32. Woodstock	881	859	946	944	1,034
Total new cases filed	57,515	56,685	56,911	58,715	62,267

Note: Since FY08, the Carlyle and Taylorville hearing sites have been eliminated and cases were reassigned to nearby sites. Also, the Jacksonville call moved to Winchester.

## ACCIDENT

*Part of body injured.* If a case involved more than one body part, each part was counted separately.

PART OF BODY INJURED BY FISCAL YEAR OF ACCIDENT					
	FY08	FY07	FY06	FY05	FY04
Head and neck					
Eyes	1%	1%	<1%	<1%	1%
Head--other parts	2%	3%	2%	3%	3%
Neck	4%	4%	4%	4%	4%
Trunk					
Back	16%	16%	17%	18%	18%
Shoulder	7%	7%	7%	6%	6%
Not specified	3%	3%	2%	2%	2%
Upper extremities					
Arm	10%	10%	10%	10%	10%
Hand	11%	12%	13%	13%	13%
Finger	5%	5%	5%	5%	5%
Not specified	3%	3%	3%	3%	3%
Lower extremities					
Foot	5%	5%	5%	5%	5%
Knee	6%	6%	6%	6%	6%
Leg	7%	7%	7%	7%	7%
Toe	<1%	<1%	<1%	<1%	<1%
Not specified	2%	2%	2%	2%	1%
Body systems	<1%	<1%	<1%	<1%	<1%
Multiple parts	18%	16%	15%	16%	16%
Total	100%	100%	100%	100%	100%

## AVERAGE WEEKLY WAGE

Claimants' wages generally lag behind the statewide average weekly wage. The wages of workers who experienced accidents in FY08 averaged 15% lower than the statewide average.

AVERAGE WEEKLY WAGE BY YEAR OF ACCIDENT					
	FY08	FY07	FY06	FY05	FY04
Claimants' Average Weekly Wage	\$754.15	\$739.89	\$716.48	\$690.49	\$677.14
Statewide Average Weekly Wage as of 6/30	\$883.86	\$861.38	\$822.20	\$788.99	\$764.80



## BENEFIT RATES

Unless otherwise noted, benefits are paid at 66 2/3% of the injured worker's gross average weekly wage (AWW) during the year preceding the accident or last exposure. Benefits are limited to a percentage of the statewide average weekly wage (SAWW) in effect at the time of the injury or exposure. The Illinois Department of Employment Security publishes the SAWW every six months.

### WEEKLY BENEFIT LIMITS AS OF JUNE 30, 2008

TEMPORARY TOTAL DISABILITY		MINIMUM	MAXIMUM
	0	\$200.00	\$1,178.48
Number of	1	\$230.00	
children	2	\$260.00	
and/or spouse:	3	\$290.00	
	4+	\$300.00	

For injuries occurring on or after February 1, 2006, the minimum rates for TTD are 66 2/3% of the federal or state minimum wage, whichever is higher, multiplied by 40 hours. The percentage increases by 10% for each spouse and child, not to exceed 100% of the total wage calculation. The benefit shall not exceed the worker's average weekly wage.

### TEMPORARY PARTIAL DISABILITY

For injuries occurring on or after February 1, 2006, an employee who works light-duty and earns less than he or she would be earning at full capacity is entitled to TPD. TPD shall be paid at two-thirds of the difference between 1) the average amount the employee would be able to earn in the full performance of his or her duties in the occupation in which he or she was engaged at the time of the accident, and 2) the net amount that he or she is earning in the modified job.

PERMANENT PARTIAL DISABILITY		MINIMUM	MAXIMUM
	0	\$200.00	\$636.15
Number of	1	\$230.00	
children	2	\$260.00	
and/or spouse:	3	\$290.00	
	4+	\$300.00	

For injuries occurring on or after February 1, 2006, the minimum rates for PPD are 66 2/3% of the federal or state minimum wage, whichever is higher, multiplied by 40 hours. The percentage increases by 10% for each spouse and child, not to exceed 100% of the total wage calculation. The benefit shall not exceed the worker's average weekly wage.

Amputations and enucleations are compensated at a higher rate: the minimum is 50% of the statewide average weekly wage, and the maximum is the maximum TTD rate.

The maximum benefit under Section 8(d)(1) is 100% of the statewide average weekly wage (\$883.86).

PERMANENT TOTAL DISABILITY		MINIMUM	MAXIMUM
		\$441.93	\$1,178.48

The minimum PTD benefit cannot be less than 50% of the SAWW. The maximum benefit can be no more than 133 1/3% of the SAWW.

FATALITY		MINIMUM	MAXIMUM
		\$441.93	\$1,178.48

The minimum death benefit cannot be less than 50% of the SAWW. The maximum benefit can be no more than 133 1/3% of the SAWW.

## CASES CLOSED

As in other court systems, most cases at the Commission are settled. Please note that these figures report only the final action on a case. If a case had more than one action (e.g., a case was decided at arbitration, then decided by the Commission, then settled), only the final action is reported here. An arbitration case is counted as closed if it was dismissed, settled, or if a decision was issued and no appeal was filed.

### TOTAL CASES CLOSED

FINAL ACTION	FY08	%	FY07	%	FY06	%	FY05	%	FY04	%
Dismissals	5,434	9%	5,747	9%	7,831	12%	7,173	11%	6,785	10%
Settlements	51,549	87%	52,521	87%	54,468	85%	56,327	86%	57,482	87%
Decisions	<u>2,550</u>	4%	<u>2,413</u>	4%	<u>2,160</u>	3%	<u>1,977</u>	3%	<u>2,108</u>	3%
Total	59,533		60,681		64,459		65,477		66,3756	

### CASES CLOSED BY ARBITRATORS

FINAL ACTION	FY08	%	FY07	%	FY06	%	FY05	%	FY04	%
Voluntary dismissals	604		589		673		712		590	
DWP	<u>4,724</u>		<u>5,053</u>		<u>7,043</u>		<u>6,352</u>		<u>6,069</u>	
Total dismissals	5,328	9%	5,642	10%	7,716	12%	7,064	11%	6,659	10%
Original settlements	9,041		9,168		9,551		9,876		10,480	
SC before arb. dec.	41,005		41,958		43,605		45,223		45,922	
SC after arb. decision	<u>843</u>		<u>777</u>		<u>742</u>		<u>713</u>		<u>668</u>	
Total settlements	50,889	88%	51,903	88%	53,898	85%	55,812	87%	57,070	88%
Decisions	1,355	2%	1,363	2%	1,466	2%	1,303	2%	1,379	2%
Total closed	57,572		58,908		63,080		64,179		65,108	

DWP = Dismissed for Want of Prosecution

Original settlement = Settlement filed without an application

SC= Settlement Contract

### CASES CLOSED BY COMMISSIONERS

FINAL ACTION	FY08	%	FY07	%	FY06	%	FY05	%	FY04	%
Dismissals at review	106	5%	105	6%	115	8%	109	8%	126	10%
Before arb. decision	174		126		129		75		45	
SC after arb. decision	328		354		323		321		252	
SC after review decision	<u>158</u>		<u>138</u>		<u>118</u>		<u>119</u>		<u>115</u>	
Total settlements	660	34%	618	35%	570	41%	515	40%	412	33%
Review decisions	1,195	61%	1,050	59%	694	50%	674	52%	729	58%
Total cases closed	1,961		1,773		1,379		1,298		1,267	

Because of rounding, percentages do not always add up to 100%.

SC= Settlement Contract

## CASES OPENED

	CASES OPENED				
	FY08	FY07	FY06	FY05	FY04
New claims filed	48,193	47,461	47,135	48,711	51,752
Original settlements filed	<u>9,322</u>	<u>9,231</u>	<u>9,796</u>	<u>10,004</u>	<u>10,515</u>
Total new cases filed	57,515	56,692	56,931	58,715	62,267
Returned for further action*		0	39	222	42
Reinstated	1,657	1,609	2,195	1,992	1,914
Remanded to arbitrator	49	54	53	52	54
Remanded to commissioner	<u>87</u>	<u>81</u>	<u>40</u>	<u>65</u>	<u>73</u>
Total cases returned to caseload	1,793	1,744	2,327	2,331	2,083
Total additions to the caseload	59,308	58,436	59,258	61,046	64,350

\* This category was created to make the caseload numbers balance, accounting for those cases that were counted closed more than once (e.g., a case was decided in one fiscal year, and counted as closed, but then a settlement was approved in the next fiscal year).

A new claim is opened when a worker files an application with the Commission; in 83% of those cases, the worker has an attorney. When a settlement contract is filed without a prior application, it is referred to as an original settlement; in 95% of those cases, the worker *does not* have an attorney.

## CASES PENDING

*Arbitration.* At the end of FY08, there were roughly 95,000 cases pending at arbitration. In most cases, the parties to these pending cases are *not waiting* for the Commission to act. Roughly 90% of these cases have the status, "continued at arbitration," which means the case is being automatically continued, waiting for the parties to act. The majority of cases at arbitration are settled, and parties are free to settle at any time.

In May 2005, after the Commission hired more arbitrators, the chairman directed arbitrators to give special attention to the oldest cases, and make efforts to resolve these cases. By the end of FY08, the number of red-line cases—those three years old or older—had decreased by 13%.

*Review.* At the end of FY08, there were roughly 2,100 cases pending before commissioners.

## DECISIONS ISSUED

Most of the cases filed with the Commission are settled. When cases are decided, fewer and fewer cases proceed on to the next level, as shown below. Cases involving state employees cannot proceed past the Commission.

	DECISIONS AND APPEALS						
	Arbitration Decisions Issued	% Appealed	Commission Decisions Issued	% Appealed	Circuit Ct. Decisions Issued	Appellate Ct. Opinions/Orders Issued	Supreme Ct. Opinions Issued
2000	2,606	49%	1,162	31%	250-300	138	1-5
2004	3,759	51%	1,025	31%	250-300	123	1-5
2005	3,578	52%	1,054	28%	250-300	106	1-5
2006	3,899	50%	1,090	28%	250-300	108	1-5
2007	3,644	49%	1,613	25%	250-300	108	1-5
2008	3,594	48%	1,777	25%	250-300	120	1-5

Note: Commission figures are for the fiscal year; court figures are for the calendar year.

*Appeal rates.* The petitioner appeals an arbitration decision hoping for an increase in benefits, but of those cases appealed by the petitioner, the commissioners did not increase benefits in 76% of these cases. Similarly, the respondent appeals with the hope of a decreased benefit, but of the cases appealed by the respondent, the commissioners did not decrease benefits 73% of the time.

OUTCOME OF APPEALS  
REVIEW DECISIONS ISSUED IN FY08

Arbitration decision was appealed by:	Petitioner (Employee)	Respondent (Employer)	Both	Total
Affirmed	72%	66%	38%	65%
Reversed	9%	6%	4%	7%
Modified, no change in benefits	0%	1%	1%	1%
Benefits increased	15%	6%	33%	13%
Benefits decreased	4%	21%	25%	14%

*Turnaround times.* The times shown below should be considered together. A regular case that is decided at both the arbitration and Commission levels, for example, would take about 50 months, or 4.2 years.

DECISIONS ISSUED DURING FY08

	Regular Cases	19(b) Cases	19(b-1) Cases
Arbitration decisions*	2,670	914	10
# Months to issue	34	7	2
Commission decisions**	1,150	531	6
# Months to issue	16	11	4

\* For regular arbitration cases, the turnaround time is calculated from the date a claim is filed until the date the decision is filed; for expedited cases (filed under Sections 19(b) or 19(b-1)), the time is calculated from the date a petition is filed until the decision is filed.

\*\* For Commission decisions, the turnaround time is calculated from the date a *Petition for Review* is filed until the decision is filed.

Note: Some decisions—those involving only attorney fees or penalties, for example—are not included in the three categories above.

*Trends.* Under Section 19(b-1) of the Act, an injured worker who is not receiving temporary total disability benefits or medical benefits may petition for an emergency hearing. Alternately, the worker may choose to file under 19(b) of the Act if he or she is not receiving temporary total disability benefits. Over the years, there has been a clear shift from 19(b-1) petitions, which involve statutorily set deadlines, to 19(b) petitions, where the deadlines are not defined but expedited hearings are set.

EXPEDITED DECISIONS ISSUED BY ARBITRATORS

	19(b)/8(a)	19(b-1)	Total
FY90	170	342	512
FY00	347	20	367
FY05	825	10	835
FY06	895	17	912
FY07	912	9	921
FY08	914	10	924

## GENDER

Women constitute 46% of the workers in Illinois,<sup>4</sup> but they file a smaller share of workers' compensation claims. The most dangerous industries—construction, agriculture, transportation, etc.—are still male-dominated. Over the years, the proportion of female claimants has increased, however, from 22% of claimants in FY85 to 33% in FY08.

## INJURY RATES

The statistics in this section come from the National Council on Compensation Insurance and the U.S. Bureau of Labor Statistics, which use different methods to derive their data. There are limitations to both methods—e.g., NCCI excludes self-insurers, the BLS nonfatal survey is prone to sampling error—but they produce the best data now available.

In rough terms, both data sets indicate that fewer than 5% of Illinois workers experience an injury each year; the overall injury rate in Illinois is lower than most other states (see “Interstate Comparisons”); and the injury rate has declined dramatically over the years: Illinois' 2005 total injury rate is 58% *lower* than in 1991.

Each section contains the most recent data available.

### PERCENTAGE OF WORKERS EXPERIENCING WORK-RELATED INJURIES IN ILLINOIS EACH YEAR BY INJURY TYPE<sup>5</sup>

#### NCCI DATA

Policy Year	Medical Only	Temporary Total	Permanent Partial	Permanent Total	Fatal	Total
1991	6.3%	1.49%	1.04%	.004%	.004%	8.9%
1995	4.9%	1.23%	0.68%	.004%	.004%	6.8%
2000	3.9%	0.84%	0.69%	.007%	.005%	5.4%
2005	2.6%	0.60%	0.54%	.013%	.002%	3.7%

### RATE OF NON-FATAL WORK-RELATED INJURIES AND ILLNESSES IN ILLINOIS, 2005<sup>6</sup>

#### BLS DATA

Workers' Nonfatal Injury and Illness Rate by Industry		Distribution of Injuries In Private Sector by Event	
Agriculture	7.6%	Overexertion	27%
Transportation	7.2%	Contact w. objects/equip.	27%
Mining	7.1%	Fall	20%
Government	6.9%	Transportation accident	4%
Manufacturing	6.3%	Repetitive motion	4%
Construction	6.0%	Exposure to harmful substances	3%
Services	3.5%	Slip or trip (no fall)	3%
Finance	1.2%	Assault or violent act	1%
		Fire or explosion	<1%
Average for all workers	4.4%	Data not available	11%

### DISTRIBUTION OF THE 207 FATAL WORK-RELATED INJURIES IN ILLINOIS, 2006<sup>7</sup>

#### BLS DATA

Workers' Fatal Injury Rate by Industry		Distribution of Fatalities by Event	
Transportation	18%	Transportation accident	42%
Construction	16%	Assault or violent act	17%
Manufacturing	10%	Fall	16%
Agriculture	9%	Exposure to harmful substances	13%
Trade, wholesale and retail	7%	Contact with objects/equip.	12%
Government	4%		
Other	36%		

## MEDICAL CARE

By law, the employer is required to pay for medical care that is reasonably required to cure or relieve the employee from the effects of a work-related injury or disease. The employer shall pay for all necessary first aid and emergency services, two treating physicians, surgeons, or hospitals of the employee's choice, and any additional medical care providers to whom the employee is referred by the two physicians, surgeons, or hospitals. The employer shall also pay for necessary physical, mental, and vocational rehabilitation. The employee must cooperate in reasonable programs to assist in his or her recovery and return to work.

By law, Illinois' first medical fee schedule for workers' compensation took effect for services on or after February 1, 2006. Illinois was the first state in the country to publish its fee schedule and accompanying documents online at no charge.

Fees for each procedure were set at 90% of the 80<sup>th</sup> percentile of actual bills in each geographic area. Each year, fees rise by the percentage change in the Consumer Price Index. Since medical costs are rising more rapidly than general inflation, this measure is expected to produce significant savings as the years go on.

The 2005 legislation also created a Medical Fee Advisory Board, composed of employee, employer, and medical provider representatives, which has been reviewing and commenting on the process.

## PENALTIES

Under Section 16 of the Act, the Commission may order the respondent to pay the petitioner's attorneys' fees if the respondent or its agent has unreasonably delayed benefits to an employee, intentionally underpaid an employee, engaged in frivolous defenses, or has otherwise treated an employee unfairly.

Under Section 19(k), the Commission may award the petitioner additional compensation equal to 50% of the amount of compensation payable at the time of the award if there was an unreasonable or vexatious delay of payment, or an intentional underpayment of compensation. Based on case law, medical expenses are considered compensation under Section 19(k). When awarding 19(k) penalties, the Commission shall consider whether an arbitrator has determined that the claim is not compensable or whether the employer has made payments under a group health plan (§8(j)).

Under Section 19(l), the Commission may award the petitioner additional compensation of \$30 per day for every day that a cash or medical benefit has been withheld without good and just cause, up to \$10,000.

The law also provides that, if the employee has made written demand for payment of benefits under Sections 8(a) or 8(b), the employer shall have 14 days after receipt of the demand to provide a written reason for the delay. If the demand is for medical benefits, the time for the employer to respond does not begin until the expiration of the 60-day period allotted the employer to pay medical bills under Section 8.2.

To put the following figures in perspective, the 225 cases in which penalties were awarded in FY08 represent 4% of the decisions issued, and less than ½ of 1% of the cases closed.

### PERCENTAGE OF DECISIONS AWARDING PENALTIES BY YEAR AWARDED

	ARBITRATION DECISIONS		COMMISSION DECISIONS	
	Expedited	Regular	Expedited	Regular
FY00	9%	2%	9%	2%
FY05	14%	3%	10%	4%
FY06	9%	3%	6%	4%
FY07	10%	2%	3%	2%
FY08	10%	2%	5%	2%

## POST-AWARD PETITIONS

Cases that were closed by decisions or some settlements may return to the Commission for additional hearings. Under Section 8(a) of the Act, an injured worker may petition the Commission to order payment for additional medical treatment. Under Section 19(h), either party may petition if the injured worker's physical condition changes significantly within 30-60 months of the decision or settlement.

### CASES WITH POST-AWARD PETITIONS FILED BY YEAR PETITION FILED

Section	FY08	FY07	FY06	FY05	FY04
8(a)	262	210	146	169	201
19(h)	21	15	11	10	16
8(a) and 19(h)	<u>97</u>	<u>60</u>	<u>52</u>	<u>55</u>	<u>47</u>
Total	380	285	209	234	264

### DISPOSITION OF POST-AWARD PETITIONS THROUGH DECISIONS AND ORDERS

By Year Decision/Order Issued	FY08	FY07	FY06	FY05	FY04
8(a)					
Granted	6%	11%	10%	14%	25%
Denied	6%	5%	2%	1%	4%
Dismissed	25%	24%	18%	27%	46%
Withdrawn	63%	60%	70%	58%	25%
19(h)					
Granted	25%	24%	24%	19%	26%
Denied	22%	29%	0%	8%	21%
Dismissed	36%	29%	35%	54%	35%
Withdrawn	17%	19%	41%	19%	18%

If a decision covered both 8(a) and 19(h) petitions, each outcome is counted separately. Because of rounding, percentages may not total 100%.

## REHABILITATION

Section 8(a) of the Act requires an employer to pay for treatment, instruction, and training necessary for the physical, mental, and vocational rehabilitation of an injured worker, including maintenance and incidental expenses. Section 6(d) requires an employer to notify an injured worker of the right to rehabilitation services and the location of public rehabilitation centers. Finally, Section 7110.70 of the Commission's rules requires an employer to prepare an assessment of an employee's rehabilitation needs, both medical and vocational, when it becomes apparent the work injuries will prevent his or her return to the pre-accident job, or when the employee is off work for more than 120 days.

As with other employer obligations, where there is a dispute between the parties, the injured worker has the burden of proving entitlement to vocational rehabilitation benefits. In resolving these disputes, the Commission looks to the guidelines established by the Illinois Supreme Court in National Tea Company v. Industrial Commission, 97 Ill.2d 424 (1983).

## Interstate Comparisons

The perception of Illinois workers' compensation costs is often different than the reality. Illinois is a high-wage state with a low injury rate. On most cost measures, Illinois falls in the middle of the pack.

Injury rate (percentage of workers injured in PY2004) <sup>8</sup>

Illinois 4.0%

National median 5.4%

*Illinois' injury rate is 26% lower than the national median.*

Benefit cost rates (2005 w.c. benefits paid/payroll) <sup>9</sup>

Illinois 0.98%

National median 1.01%

*Illinois' benefit cost rate is 3% lower than the national median.*

Growth of benefit payments (1996-2005) <sup>10</sup>

Illinois 36.4%

National median 33.3%

*Illinois' benefit growth rate is 2% higher than the national median.*

Insurance premium rates (2004-2006 rate per \$100 of payroll) <sup>11</sup>

Illinois \$2.69

National median \$2.48

*Illinois' w.c. insurance rates are 8% higher than the national median.*

Medical costs per claim (PY2004) <sup>12</sup>

Illinois \$6,695

National median \$5,829

*Illinois' medical costs are 15% higher than the national median.*

Wages (CY2005) <sup>13</sup>

Illinois \$43,732

National median \$36,348

*Illinois' wages are 20% higher than the national median.*

Indemnity costs per claim (PY2004) <sup>14</sup>

Illinois \$22,431

National median \$18,183

*Illinois' indemnity costs are 23% higher than the national median.*



## OTHER INTERSTATE COMPARISONS: BENEFIT PAYMENTS

### TOTAL WORKERS' COMPENSATION BENEFIT PAYMENTS<sup>15</sup>

In \$billions	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996
Illinois	\$2.4	\$2.2	\$2.1	\$2.1	\$2.1	\$1.9	\$1.7	\$1.7	\$1.7	\$1.8
% Change	7%	5%	(<1%)	2%	9%	12%	5%	(5%)	(2%)	14%
U.S.	\$52.0	\$52.8	\$51.9	\$49.3	\$47.8	\$44.7	\$43.5	\$41.1	\$39.2	\$38.9
% Change	(1%)	2%	5%	3%	7%	3%	6%	5%	1%	(<1%)

### CHANGE IN TOTAL BENEFIT PAYMENTS, 1978 - 2005

	2004-2005	1996-2005	1987-1996	1978-1987
Illinois	7%	36%	65%	118%
Neighboring states average	1%	39%	80%	125%
Large industrial states average	(7%)	30%	56%	226%
National average	(1%)	34%	58%	203%

## COMPLIANCE WITH 1972 RECOMMENDATIONS

In 1972, the National Commission on State Workmen's Compensation Laws, appointed by President Nixon, unanimously listed 19 items as essential to an adequate system. Over 35 years later, no state in the country meets all the requirements; Illinois meets more than most states.<sup>16</sup>

### NUMBER OF 19 ESSENTIAL RECOMMENDATIONS MET

NEIGHBORING STATES		National average	12.85	LARGE INDUSTRIAL STATES	
Iowa	15.50	Illinois	15.00	Ohio	15.50
Wisconsin	15.00			Pennsylvania	13.75
Kentucky	14.25			Texas	12.50
Missouri	13.75			California	12.00
Indiana	11.50			New York	10.75
Michigan	9.75			Florida	9.75
Median	14.00			Median	12.25

## COVERAGE OF EMPLOYEES

Even though Illinois does not meet four of the National Commission's recommendations concerning the coverage of employees, more workers are covered in Illinois than in most other states.<sup>17</sup>

### PERCENTAGE OF EMPLOYEES COVERED

NEIGHBORING STATES		National average	88%	LARGE INDUSTRIAL STATES	
Indiana	90%	Illinois	91%	Ohio	91%
Michigan	89%			New York	90%
Kentucky	87%			Pennsylvania	90%
Iowa	86%			California	89%
Wisconsin	86%			Florida	88%
Missouri	85%			Texas	74%
Median	87%			Median	90%

## OTHER INTERSTATE COMPARISONS: BENEFIT PAYMENTS

### TOTAL WORKERS' COMPENSATION BENEFIT PAYMENTS<sup>15</sup>

In \$billions	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996
Illinois	\$2.4	\$2.2	\$2.1	\$2.1	\$2.1	\$1.9	\$1.7	\$1.7	\$1.7	\$1.8
% Change	7%	5%	(<1%)	2%	9%	12%	5%	(5%)	(2%)	14%
U.S.	\$52.0	\$52.8	\$51.9	\$49.3	\$47.8	\$44.7	\$43.5	\$41.1	\$39.2	\$38.9
% Change	(1%)	2%	5%	3%	7%	3%	6%	5%	1%	(<1%)

### CHANGE IN TOTAL BENEFIT PAYMENTS, 1978 - 2005

	2004-2005	1996-2005	1987-1996	1978-1987
Illinois	7%	36%	65%	118%
Neighboring states average	1%	39%	80%	125%
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### NUMBER OF 19 ESSENTIAL RECOMMENDATIONS MET

NEIGHBORING STATES	National average	12.85	LARGE INDUSTRIAL STATES
Iowa 15.50	Illinois	15.00	Ohio 15.50
Wisconsin 15.00			Pennsylvania 13.75
Kentucky 14.25			Texas 12.50
Missouri 13.75			California 12.00
Indiana 11.50			New York 10.75
Michigan 9.75			Florida 9.75
Median 14.00			Median 12.25

## COVERAGE OF EMPLOYEES

Even though Illinois does not meet four of the National Commission's recommendations concerning the coverage of employees, more workers are covered in Illinois than in most other states.<sup>17</sup>

### PERCENTAGE OF EMPLOYEES COVERED

NEIGHBORING STATES	National average	88%	LARGE INDUSTRIAL STATES
Indiana 90%	Illinois	91%	Ohio 91%
Michigan 89%			New York 90%
Kentucky 87%			Pennsylvania 90%
Iowa 86%			California 89%
Wisconsin 86%			Florida 88%
Missouri 85%			Texas 74%
Median 87%			Median 90%

<sup>1</sup> "Workers' Compensation, Top Writers by State—2007 Direct Written Premium," A.M. Best, 2008.

<sup>2</sup> National Council on Compensation Insurance filings with the Illinois Division of Insurance (217/524-8361).

<sup>3</sup> Temporary employees, student workers, and people on leave were not included. We report the headcount as of 6/30/08 but we list the person in a position as of the time this report went to print.

<sup>4</sup> "Employment status of the civilian noninstitutional population by sex, race...2007 annual averages," Illinois table, U.S. Bureau of Labor Statistics (<http://www.bls.gov/lau>), found under: Tables & Maps Created by BLS/Annual Averages (ptable14full2007.pdf).

<sup>5</sup> *Annual Statistical Bulletin*, National Council on Compensation Insurance, 1994 – 2008 editions, Exhibit XII, First Report. The statistic for the overall reduction in injury rate was calculated as follows: for Policy Year 1991, the NCCI reported 8,874 total injuries per 100,000 workers; for Policy Year 2005, the NCCI reported 3,741 total injuries per 100,000 workers, a 58% reduction. The figures for fatalities and PTDs come from a small number of cases and should be viewed with caution. This information refers only to the experience of employers with insurance, not self-insurers. Information is not available for the five states with exclusive state insurance funds (ND, OH, WA, WV, WY). The NCCI updated figures from those published in earlier reports.

<sup>6</sup> *Nonfatal Workplace Injuries and Illnesses: Illinois, 2005*, Illinois Department of Public Health, Tables 3, 6, April 2008. This is the most recent data available. Because of changes in methodology, data since 2002 are not comparable to prior years. Since 1998, IDPH has participated in the U.S. Bureau of Labor Statistics' federal/state Survey of Occupational Injuries and Illnesses. Each year, they survey a sample of employers in the private and nonfederal public sectors. Federal employees and farms with fewer than 11 employees are excluded from the survey. Reports are available at <http://www.idph.state.il.us/about/epi/cfoirpt.htm>. For more information, contact the IDPH Division of Epidemiologic Studies at 217/785-1873.

<sup>7</sup> *Census of Fatal Occupational Injuries and Illnesses in Illinois, 2006*, Illinois Department of Public Health, Tables 3, 5, February 2008. The IWCC provides information on fatal workers' compensation claims to IDPH, which has participated in the U.S. Bureau of Labor Statistics Census of Fatal Occupational Injuries since 1992. The CFOI methodology does not correspond exactly to workers' compensation criteria, but the program provides a standard measure of fatal occupational injuries for the country.

<sup>8</sup> *Annual Statistical Bulletin*, Exhibit XII, Policy Year 2004, First Report.

<sup>9</sup> Fiscal Data for State Workers' Compensation Systems, 1996-2005," *Research Bulletin*, National Foundation for Unemployment Compensation and Workers' Compensation, September 2007, Table 2. The 2005 figures are the most recent available. Figures for previous years were revised in the 2007 report. These figures represent the change in w.c. benefit payments from 1996-2005.

<sup>10</sup> "Fiscal Data," Table 16.

<sup>11</sup> "2006 Oregon Workers' Compensation Premium Rate Ranking Summary," Oregon Department of Consumer and Business Services, October 2006, Table 2. Available at <http://www4.cbs.state.or.us>. Indices are based on rates as of from 2004 – 2006; Illinois' rates are as of 1/1/06. This report is produced every two years. The 2006 report was used because it most closely matches the other data used in this chapter. The report compares employers' w.c. insurance costs in 50 different class codes. Employers in Illinois buy w.c. insurance in an open market, the way drivers buy car insurance, and costs are heavily dependent on accident history and market environment. The employer's ability to shop for the best deal comes into play, too. A review of the results over the years is instructive. The estimated premiums are per \$100 of payroll.

Workers' Compensation Premium Rate Rankings								
Report year	1994	1996	1998	2000	2002	2004	2006	2008
IL est. premium	\$5.48	\$3.77	\$2.96	\$2.74	\$2.65	\$2.65	\$2.69	\$2.79
Median est. premium	\$4.35	\$3.54	\$2.69	\$2.26	\$2.42	\$2.58	\$2.48	\$2.26
IL as % over median	26%	7%	10%	21%	10%	3%	8%	23%
IL rank (50 states + DC)	9	19	18	15	20	23	20	11

<sup>12</sup> *Annual Statistical Bulletin*, Exhibit XI, Policy Year 2004, First Report.

<sup>13</sup> "Total coverage (UI and UCFE) by State, 2005 annual averages," US Bureau of Labor Statistics, BLS website (ew05table5.pdf) (<http://www.bls.gov/cew/cewbultn05.htm>).

<sup>14</sup> *Annual Statistical Bulletin*, Exhibit XI, Policy Year 2004, First Report.

<sup>15</sup> "Fiscal Data:" 1996 and 2006 data came from September 2007 report, Table 15; 1987 data came from August 1999 report, Table 1; 1978 data came from May 1990 report, Table 1.

<sup>16</sup> "State Workers' Compensation Laws in Effect January 1, 2004 Compared with the 19 Essential Recommendations of the National Commission on State Workmen's Compensation Laws," [www.workerscompresources.com](http://www.workerscompresources.com), John F. Burton, Jr. (former chairman of the Nat'l Commission), Table 1. In 1972, the Nat'l Commission issued 84 recommendations concerning the coverage of employees and diseases, income protection, medical care, worker safety, and program administration, and identified 19 as essential to ensuring a minimum level of protection. As of January 1, 2004, compliance levels range from 7.25 in Mississippi to 17.00 in Nebraska. Illinois does not comply with recommendations 2.4 (Illinois exempts farm workers below a certain number of hours), 2.5 (Illinois exempts household workers and casual workers below a certain number of days), 2.6 (Illinois exempts some governmental employees (Chicago police and fire fighters)) and 2.7 (Illinois exempts certain classes of employees, such as those already noted).

<sup>17</sup> "Workers' Compensation Coverage by State," *Workers' Compensation Data Fact Sheet, No. 1*, National Academy of Social Insurance, October 2002, Table 1, column 5. This is the most recent year for which figures are available.

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Illinois Department of Financial and Professional Regulation  
Division of Insurance  
Workers' Compensation Fraud Unit

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## 2008 Annual Report to the Workers' Compensation Advisory Board



Rod R. Blagojevich, Governor

Dean Martinez, Secretary  
Michael T. McRaith, Director of Insurance

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**Illinois Department of Financial and Professional Regulation**  
**Division of Insurance**

**ROD R. BLAGOJEVICH**  
Governor

**DEAN MARTINEZ**  
Secretary

**MICHAEL T. McRAITH**  
Director  
Division of Insurance

July 22, 2008

Dennis Ruth  
Chairman  
Illinois Workers' Compensation Commission  
100 W. Randolph St., Suite 8-200  
Chicago, IL 60601

Dear Chairman Ruth:

On behalf of the Division of Insurance and pursuant to Section 25.5(h) of the Workers' Compensation Act, I hereby submit the Workers' Compensation Fraud Unit's 2008 Annual Report to the Workers' Compensation Advisory Board.

Respectfully Submitted,

Illinois Division of Insurance

A handwritten signature in black ink, appearing to read "Michael T. McRaith".

Michael T. McRaith  
Director

## **I. Introduction**

In 1911, Illinois became one of the first states in the nation to pass comprehensive workers' compensation laws. While state law changed over the years along with the problems facing Illinois employees and employers, the basic principle guiding the state workers' compensation system is unchanged – employees and employers deserve a reliable and affordable system of insurance which protects injured workers and their families from financial catastrophe.

Today, almost every working resident of Illinois must be covered by workers' compensation insurance. State law requires employers to pay for workers' compensation benefits through insurance policies or self-insurance. Employers and employees benefit from the State's mandatory no-fault system: employers avoid costly litigation and employees receive fair compensation for work-related injuries.

Illinois enjoys a favorable business environment in part due to the continued availability of cost-effective insurance to guard against employment-related injuries. The Illinois market is highly competitive – in 2007, more company groups wrote direct workers' compensation premium in Illinois than in any other state.<sup>1</sup> This competition

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<sup>1</sup> A.M. Best, Workers' Compensation Top Writers by State (2007 Direct Written Premium), 2008.

helped Illinois reduce its inflation-adjusted advisory rate for workers' compensation insurance by 33% from 1990 to 2008.<sup>2</sup>

In 2005, Governor Blagojevich's administration led a group of business, labor, and government leaders seeking to further reduce costs by addressing the problem of fraud and non-compliance in the Illinois workers' compensation system. Later that year, on July 20, 2005, Governor Blagojevich signed into law HB 2137 (Public Act 94-0277), which amended the Illinois Workers' Compensation Act. This historic legislation established in Illinois, for the first time, a statute devoted specifically to criminalizing and authorizing investigation of workers' compensation insurance fraud.

## **II. General Summary of Reform**

Public Act 94-0277, later codified as Section 25.5 of the Workers' Compensation Act ("Act"), introduced two major anti-fraud reforms. First, the Act calls for the Illinois Department of Financial and Professional Regulation, Division of Insurance ("Division"), to create an investigative unit, hereafter referred to as the Workers' Compensation Fraud Unit ("WCFU"), to examine reports of workers' compensation fraud and insurance non-compliance. Section 25.5(c) provides that it "shall be the duty of the [WCFU] to determine the identity of insurance carriers, employers, employees, or other persons or entities who have violated the fraud and insurance non-compliance provisions."

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<sup>2</sup> The reduction in the advisory rate was calculated using advisory rates filed annually by the National Council on Compensation Insurance ("NCCI"), a rating organization authorized to file rates on behalf of companies pursuant to Section 459 of the Insurance Code (215 ILCS 5/459). Pursuant to state law, every insurance company offering workers' compensation insurance in Illinois must file rates with the Division (215 ILCS 5/457 and 50 Ill. Admin. Code 2902). Most companies satisfy this requirement by adopting the annual rate filed with the Division by NCCI.



The Act's fraud and insurance non-compliance provisions – provisions which define the WCFU's investigative mission – constitute the second major anti-fraud reform. Prior to the passage of P.A. 94-0277, the Workers' Compensation Act did not specifically define as unlawful the fraudulent receipt, denial, or application for workers' compensation benefits. The Act now outlaws eight specific fraudulent acts, namely:

- 1) Intentionally presenting or causing to be presented any false or fraudulent claim for the payment of any workers' compensation benefit;
- 2) Intentionally making or causing to be made any false or fraudulent material statement or material representation for the purpose of obtaining or denying any workers' compensation benefit;
- 3) Intentionally making or causing to be made any false or fraudulent statements with regard to entitlement to workers' compensation benefits with the intent to prevent an injured worker from making a legitimate claim for workers' compensation benefits;
- 4) Intentionally preparing or providing an invalid, false, or counterfeit certificate of insurance as proof of workers' compensation insurance;
- 5) Intentionally making or causing to be made any false or fraudulent material statement or material representation for the purpose of obtaining workers' compensation insurance at less than the proper rate for that insurance;
- 6) Intentionally making or causing to be made any false or fraudulent material statement or material representation on an initial or renewal self-insurance application or accompanying financial statement for the purpose of obtaining self-insurance status or reducing the amount of security that may be required to be furnished;
- 7) Intentionally making or causing to be made any false or fraudulent material statement to the WCFU in the course of an investigation of fraud or insurance non-compliance; and
- 8) Intentionally assisting, abetting, soliciting, or conspiring with any person, company or other entity to commit any of the acts listed above.

These eight prohibitions define the nature and scope of WCFU investigations.

WCFU responsibilities under the Act involve investigation and referral for prosecution. Violations must be reported to the Attorney General or to the appropriate county State's Attorney for prosecution. Penalties vary based upon the offense. For example, persons who make a false report of fraud are guilty of a Class A misdemeanor while those who violate any of the Act's fraud provisions are guilty of a Class 4 felony and must pay restitution in addition to any fine.

### **III. Creating and Overseeing the WCFU**

Section 25.5(c) of the Illinois Workers' Compensation Act charged the Division with responsibility for establishing the WCFU. The Division established the WCFU in 2006 and now oversees and guides its operations.

#### **A. Best Practices**

As a result of a nationwide survey of best practices and careful Illinois-specific planning, clear and efficient systems govern WCFU operations from the report of fraud to closure or referral for prosecution.

##### **1. Reports**

The WCFU reporting system solicits, records, and tracks reports of insurance fraud. Complainants are required by statute to identify themselves and can report fraud by regular mail, electronic mail, or by calling the Unit's toll-free telephone number (1-877-923-8468). After receiving a report, a WCFU investigator contacts the complainant and, if necessary, requests additional information. The investigator may refer the complainant to the Division of Insurance website, which prominently displays detailed information about the complaint process, including the minimum information necessary

to initiate an investigation. (See <http://www.idfpr.com/DOI/General/WorkCompFraudCheckList.asp>).

## **2. Investigations**

An investigation begins after the WCFU receives all necessary information. The Supervisor first reviews the report of alleged workers' compensation fraud. If the report is frivolous or unsubstantiated, the investigation ceases and the report is closed. If the Supervisor finds evidence sufficient to justify further inquiry, the report information is entered into a central computer database and a case number and investigator are assigned.

While structurally similar, each investigation differs based upon a host of factors, including the nature and quality of the initial report. Most investigations involve: 1) review of documentary and physical evidence; 2) interview of persons related to the case (*e.g.*, complainants, witnesses, insurance company personnel, and physicians); 3) analysis of physical and geographic circumstances; and 4) detailed background checks of persons related to the case (*e.g.*, investigative targets and witnesses). The WCFU also issues subpoenas and engages in undercover surveillance to ensure complete and meaningful investigations.

## **3. Referrals for Prosecution**

At the conclusion of each investigation, the WCFU either closes the case or refers it for prosecution. If the inquiry does not produce evidence sufficient to find probable cause to believe an individual or entity committed a Class 4 felony under the Act, the case is closed.<sup>3</sup> Investigations that produce evidence sufficient to meet the probable

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<sup>3</sup> Some of the closed cases involve employees who have been falsely accused of committing workers' compensation fraud by an insurance company or employer.

cause standard are referred to the Attorney General or the State's Attorney of the county in which the offense allegedly occurred.

The WCFU has built strong working relationships with relevant prosecuting authorities. Investigators regularly work with and refer cases to the Attorney General. In 2007, the WCFU referred cases to and worked with State's Attorneys representing 25 counties: Cass, Champaign, Cook, DeKalb, DuPage, Edgar, Franklin, Gallatin, Jasper, Jefferson, Kane, Kankakee, Lake, Macoupin, Madison, McHenry, Morgan, Ogle, Peoria, Perry, Sangamon, Santa Fe, Vermillion, Will, and Winnebago.

#### **4. Confidentiality**

The confidentiality of all fraud reports and associated medical records is strictly maintained. The Act makes two exceptions to this general rule. First, WCFU referrals to prosecuting authorities include case-related confidential information. Second, in limited circumstances, the Act requires disclosure of limited information about the report. For example, upon initiation of an investigation, the Unit must immediately notify the respondent of the reported conduct, including the verified name and address of the complainant if the complainant is connected to the case.

#### **5. State Agency Coordination**

To promote efficient administration of state government, the WCFU takes reports from and shares expertise with existing state agencies, including the Illinois' Workers' Compensation Commission and the Department of Employment Security. The Unit also benefits from expertise provided by the Attorney General and various county State's Attorneys.

## **B. Outreach**

To promote awareness of the WCFU, Director McRaith and WCFU members reach out to individuals and entities most likely to be affected by workers' compensation fraud. The primary targets of the outreach include elected officials and their constituents, local chambers of commerce, insurance companies, and insurance-related associations. WCFU investigators are also in regular contact with appropriate law enforcement and prosecutorial authorities.

In 2006 and 2007, the WCFU initiated 140 case investigations. These investigations bring the WCFU into direct contact with thousands of employers, witnesses, local and state police officers, federal agents, prosecutors, and insurance company employees. This on-the-ground reputation is critical to the future success of the WCFU.

## **IV. Lessons Learned**

WCFU investigators report learning valuable lessons during the Unit's first two years of operation, including the importance of building working relationships with prosecutorial authorities. Hard-working state and county prosecutors possess broad discretion but limited resources. WCFU investigators, therefore, work to aid prosecutors in the exercise of their discretion. For example, cases referred for prosecution are presented clearly and succinctly and investigators assist the Attorney General or State's Attorney throughout any criminal case. This communication and assistance builds understanding and trust, which improves future referrals and prosecutions.

Clear communication of the WCFU's investigative authority has also improved results. Some complainants (e.g., employers, insurers, employees) were, at first, confused about what kind of evidence the WCFU needed to successfully investigate an allegation of fraud. For example, insurance company special investigation units were copying and sending entire employee personnel files rather than just those parts relevant to the alleged fraud. WCFU investigators contacted the companies and detailed the evidence needed to prove workers' compensation fraud.

As the size and complexity of WCFU cases has grown, so too has the WCFU's cooperation and coordination with other investigative and law enforcement agencies. WCFU investigators work with the Federal Bureau of Investigation, the Postal Inspector's Office, the Internal Revenue Service, state medical investigators, local police departments, Illinois state police, and county State's Attorney investigators. Investigators also share non-confidential information with organizations dedicated to identifying and stopping fraud conspiracies, including the National Insurance Crime Bureau and the Health Care Fraud Working Group assembled by the U.S. Department of Justice.

The WCFU has increased the number of investigations referred for prosecution. Compared to 2006, the number of investigations initiated by the WCFU increased 168%, while referrals for prosecution increased 346%. (Exhibits A-C). Total fraud dollar amounts increased 949%: referred cases from 2006 involved an approximate total fraud amount of \$618,391; in 2007, referred cases involved an approximate total fraud amount of \$6,486,771. (Exhibit D). Progress was made from 2006 to 2007 with respect to employer-based fraud referrals, with referrals increasing from 1 to 7 and with total fraud amounts increasing from \$24,000 to \$4,333,405. (Exhibits B, E).

## **V. Investigations and Referrals – 2007**

The WCFU received reports of workers' compensation fraud in 2007 that did not warrant further investigation because of insufficient evidence or because the statute of limitations expired. Sufficient evidence did exist, however, to initiate 102 investigations. To complete open investigations, the WCFU: 1) spent over 2,000 hours conducting field investigations; 2) reviewed approximately 293 hours of surveillance footage; 3) issued 272 subpoenas seeking insurance, payroll, medical, and other records; and 4) reviewed approximately 406,000 emails and hard-copy documents.

Many WCFU investigations produced evidence sufficient to meet the probable cause standard required for referral to prosecuting authorities. The following are referral results for 2007, which include referrals resulting from investigations begun in 2006:

- 58 cases were referred for prosecution, with an approximate total fraud amount of \$6,486,771. (Exhibits B, F-G)
  - 47 referrals involved allegations of workers' compensation fraud committed by an employee, with an approximate total fraud amount of \$2,001,746.
  - 7 referrals involved employer-based workers' compensation fraud, with an approximate total fraud amount of \$4,333,405.
  - 3 referrals involved healthcare provider fraud, with an approximate total fraud amount of \$151,620.
  - 1 referral involved insurance producer fraud. No dollar value was associated with the producer's preparation of a fraudulent certificate of insurance.
- 36 cases were investigated and closed without referral for prosecution due to insufficient evidence or lack of probable cause.
- 29 cases remained active at the close of calendar year 2007.

The investigated cases involve a variety of fraudulent actors (*e.g.*, employees, employers, insurers, insurance producers, medical providers) and a range of ill-gotten gains. In some cases the fraud did not involve paid benefits (*e.g.*, one employer submitted a fraudulent certificate of insurance as part of a bid for a municipal construction contract) or was detected before the payment of benefits; other cases involved total payments ranging from \$2,425 to \$2,895,082. Examples of cases referred for prosecution include:

- Employee or Claimant Fraud (Exhibit H)
  - An employee claimed he suffered a work-related back injury and collected a total of \$288,952 in payments. Evidence uncovered by the WCFU indicates he sustained the injury riding his lawn mower at home. The employee told his wife and house guests that he planned to fabricate a work-related injury in order to file a workers' compensation claim.
  - An employee fractured his foot in a work-related injury and subsequently collected more than \$40,000 in temporary total disability payments and medical benefits. Based on the employee's reports of continued foot pain without improvement, doctors even considered a below-the-knee amputation. WCFU investigators concluded the employee greatly exaggerated the extent and duration of his injury. While collecting benefits and reporting unimproved foot pain, the employee participated in five different bowling leagues, bowling three nights per week and setting several league records. He was also observed playing softball without any difficulties.



- Employer Fraud (Exhibit H)
  - An employee suffered a severe injury after his hand was grabbed by a mechanical cheese shredder, requiring extensive reconstructive surgery and months of physical therapy. The employer denied the claimant ever worked for him. The employer eventually admitted to WCFU investigators that the claimant was, in fact, working as an employee at the time of injury. As a result of the investigation, the employee was able to collect over \$50,000 in workers' compensation claims.
  - A businessman seeking a contract with a municipality forged the required certificate of workers' compensation insurance. The municipality discovered the fraudulent certificate and entered into a contract with another bidder, but only after incurring over \$5,000 in expenses as a result of the fraud.
- Healthcare Provider Fraud (Exhibit H)
  - A doctor was reported to the WCFU for improper billing. The doctor would perform a procedure known as "Manipulation under Anesthesia" in order to treat an injured body part, and then bill the insurance company for performing the same procedure to 12-13 other body parts without connection to the actual injury. Evidence indicates the billing fraud totaled over \$250,000. The WCFU referred this case to law enforcement authorities, who continue to investigate.

- Insurance Producer Fraud (Exhibit H)
  - An insurance producer admitted to providing a fraudulent certificate of workers' compensation insurance to the owners of a towing company.

The company was required to produce evidence of coverage in order to maintain its state transportation license.

## **VI. Prosecutions**

The WCFU investigates workers' compensation fraud but does not prosecute. The power to decide whether to press criminal charges rests solely with the prosecutor who receives the WCFU referral – the Attorney General or relevant county State's Attorney.

The number of WCFU referrals resulting in felony indictments and convictions continues to increase.

- In 2007, as a result of WCFU referrals, county State's Attorneys from Cook, DeKalb, DuPage, Lake and Peoria Counties secured felony indictments against a total of 7 individuals.
  - Two 2007 Cook County felony indictments resulted in 2008 convictions – one defendant was convicted of Class 4 Felony Forgery and sentenced to 2 years in state prison, and another defendant was convicted of a misdemeanor.
- In the first five months of 2008, as a result of WCFU referrals, the Attorney General and county State's Attorneys from DeKalb, Lake, and Kankakee Counties secured felony indictments against a total of 4 individuals.

Additional indictments and convictions are expected during the summer of 2008.

# NUMBER OF INVESTIGATIONS

## 2006 v. 2007

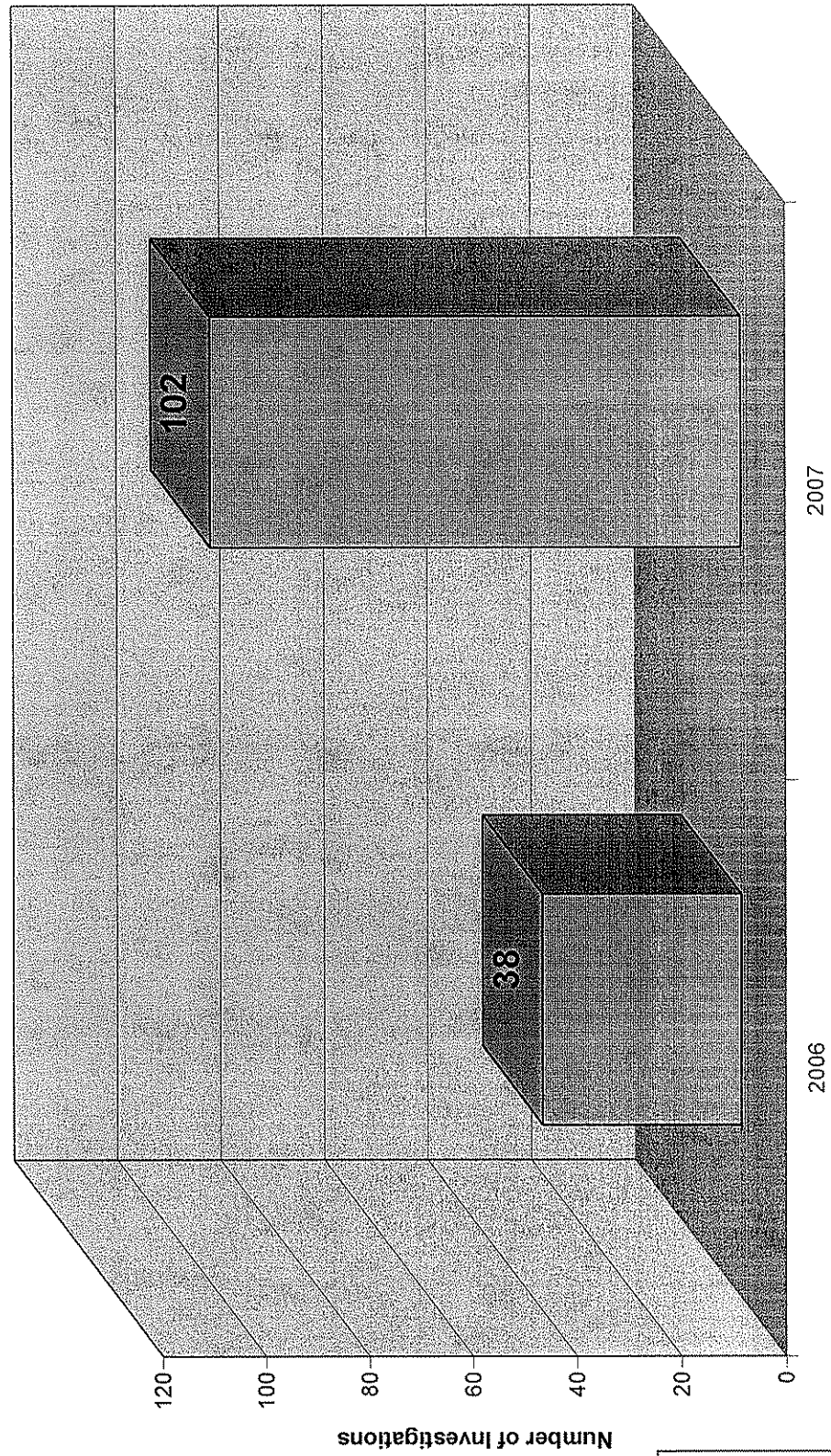


Exhibit A

# REFERRED CASE COMPARISON

## 2006 v. 2007

	<u>2006</u>		<u>2007</u>
	Referred Cases	Fraud Amount	Referred Cases Fraud Amount
Employee / Claimant	12	\$594,391	47 \$2,001,746
Employer	1	\$24,000	7 \$4,333,405
Healthcare Provider	0	\$0	3 \$151,620
Insurance Producer	0	\$0	1 \$0
<b><u>TOTAL</u></b>	<b>13</b>	<b>\$618,391</b>	<b>58 \$6,486,771</b>

Exhibit B

# CASES REFERRED FOR PROSECUTION

(BY CATEGORY)

2006 v. 2007

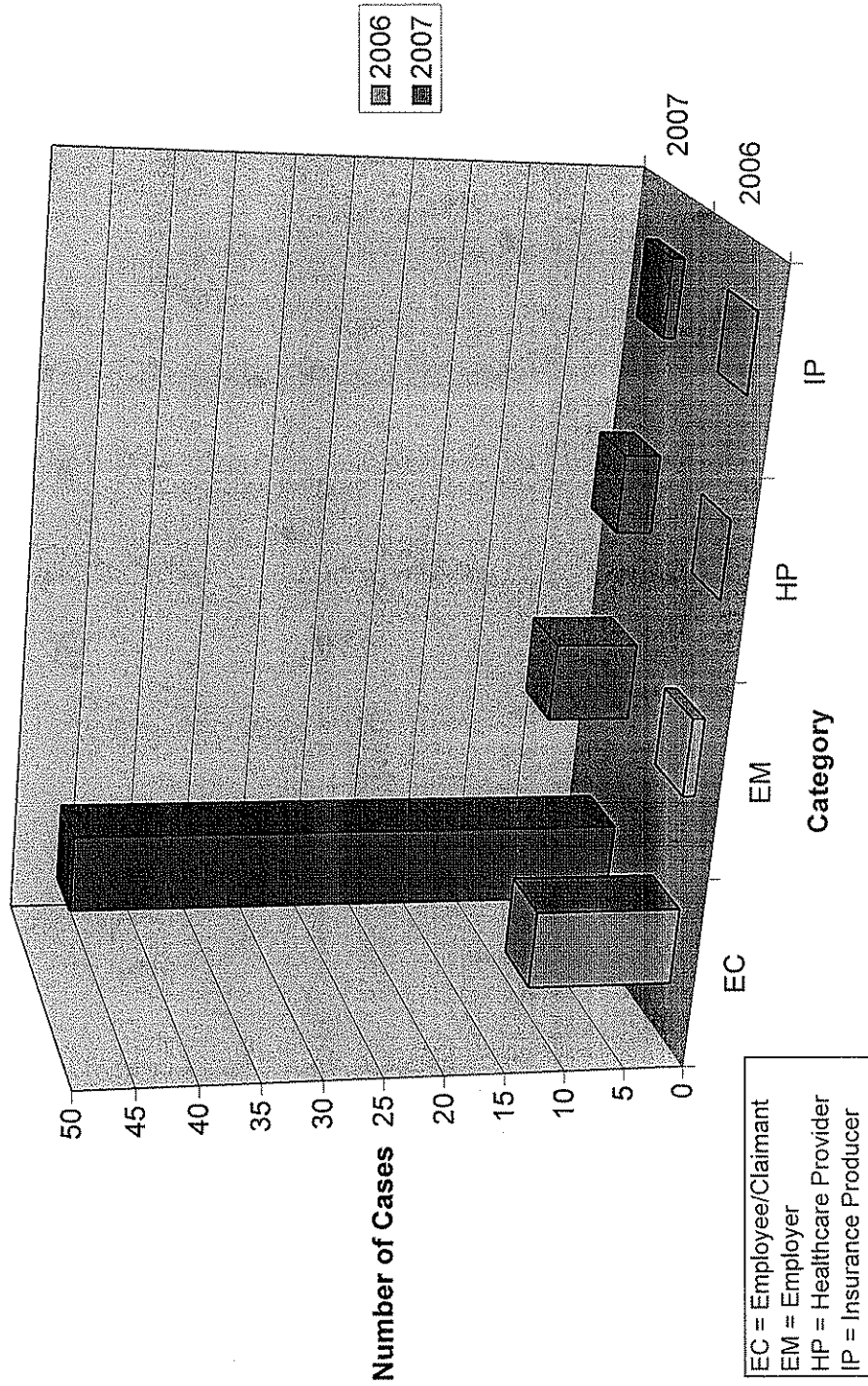


Exhibit C

# TOTAL REFERRED CASE FRAUD AMOUNTS

## 2006 v. 2007

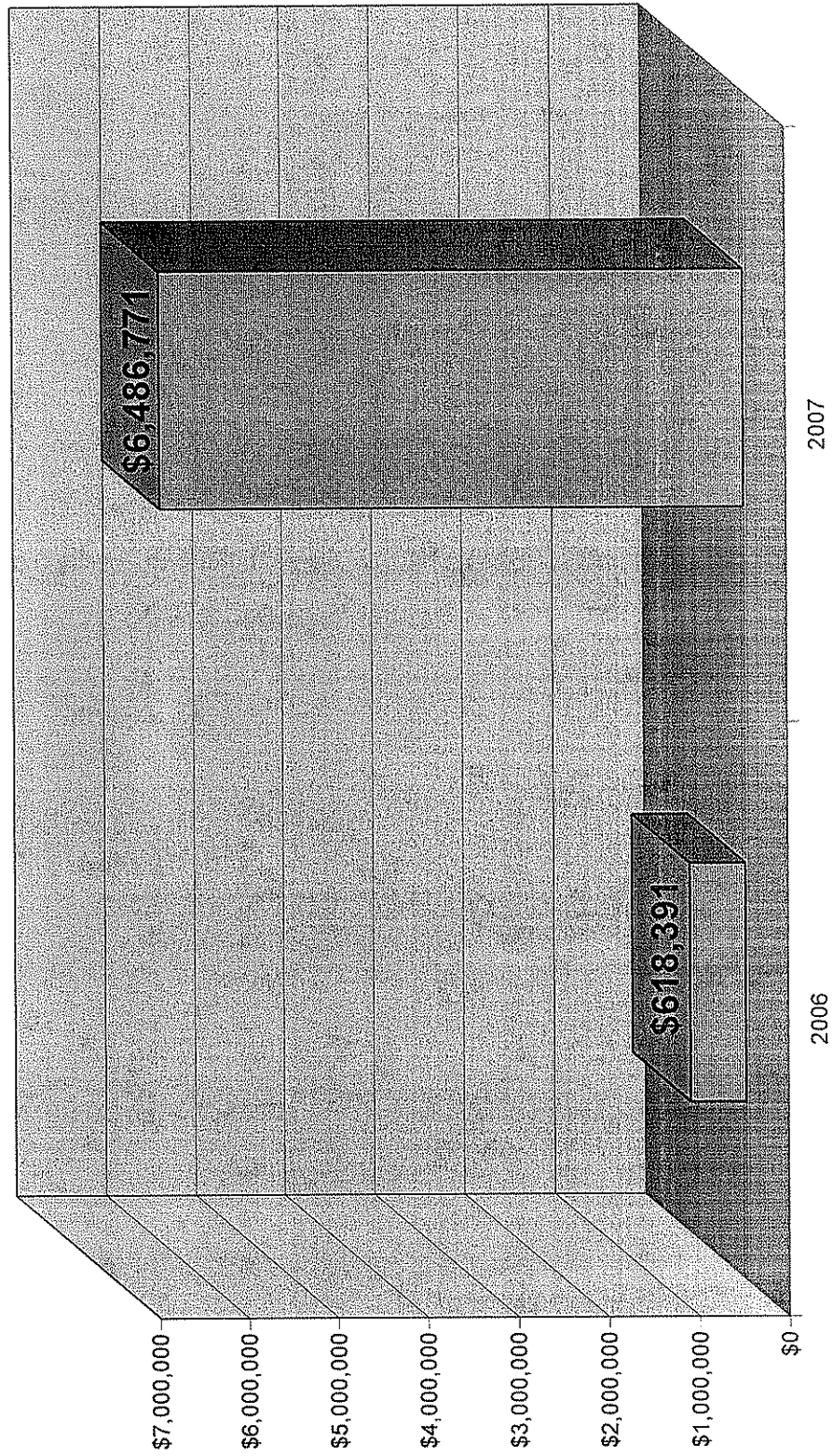


Exhibit D



# REFERRED CASE FRAUD AMOUNTS (BY CATEGORY)

2006 v. 2007

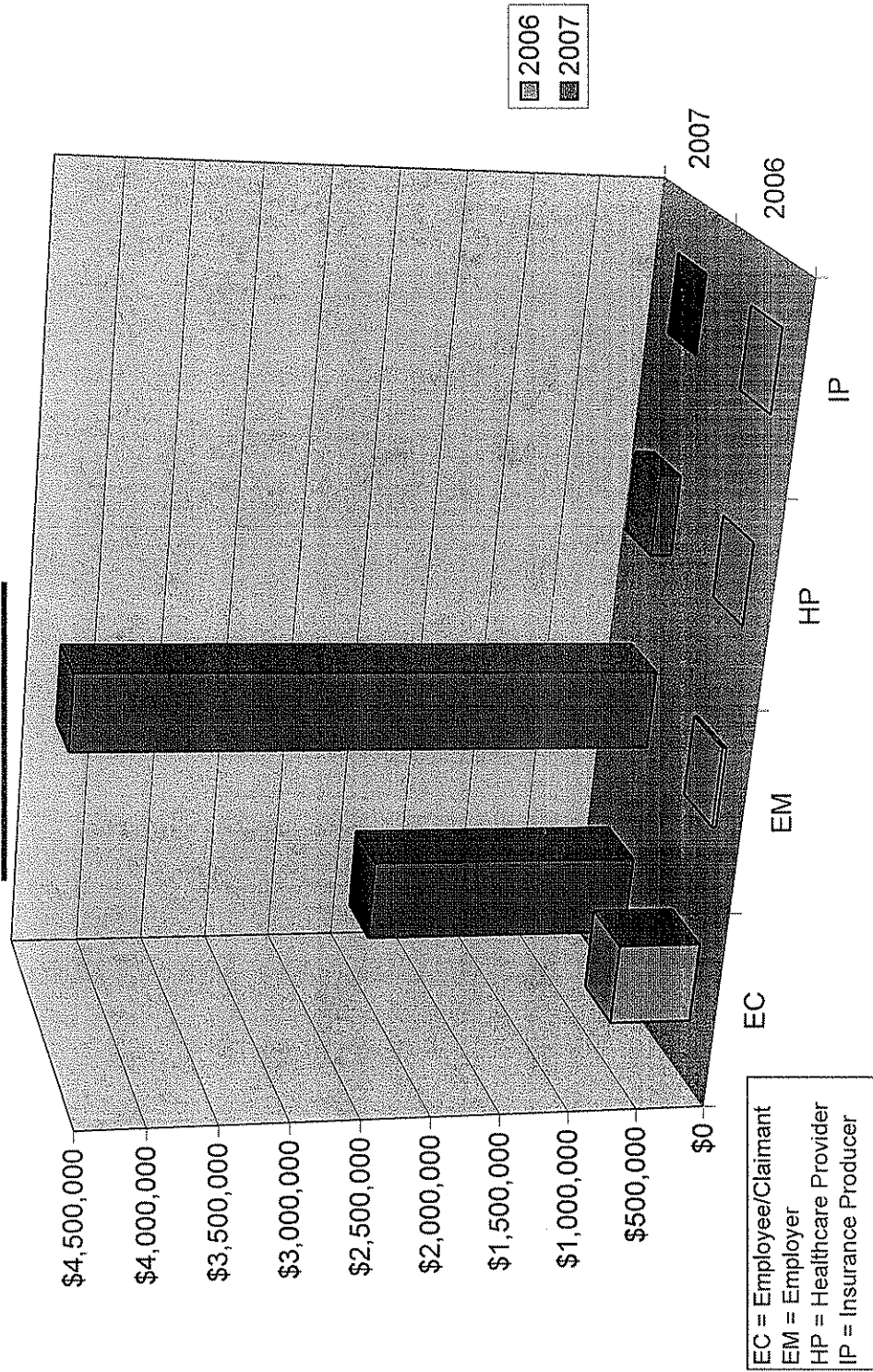


Exhibit E

# 2007 REFERRED CASE FRAUD AMOUNTS BY CATEGORY

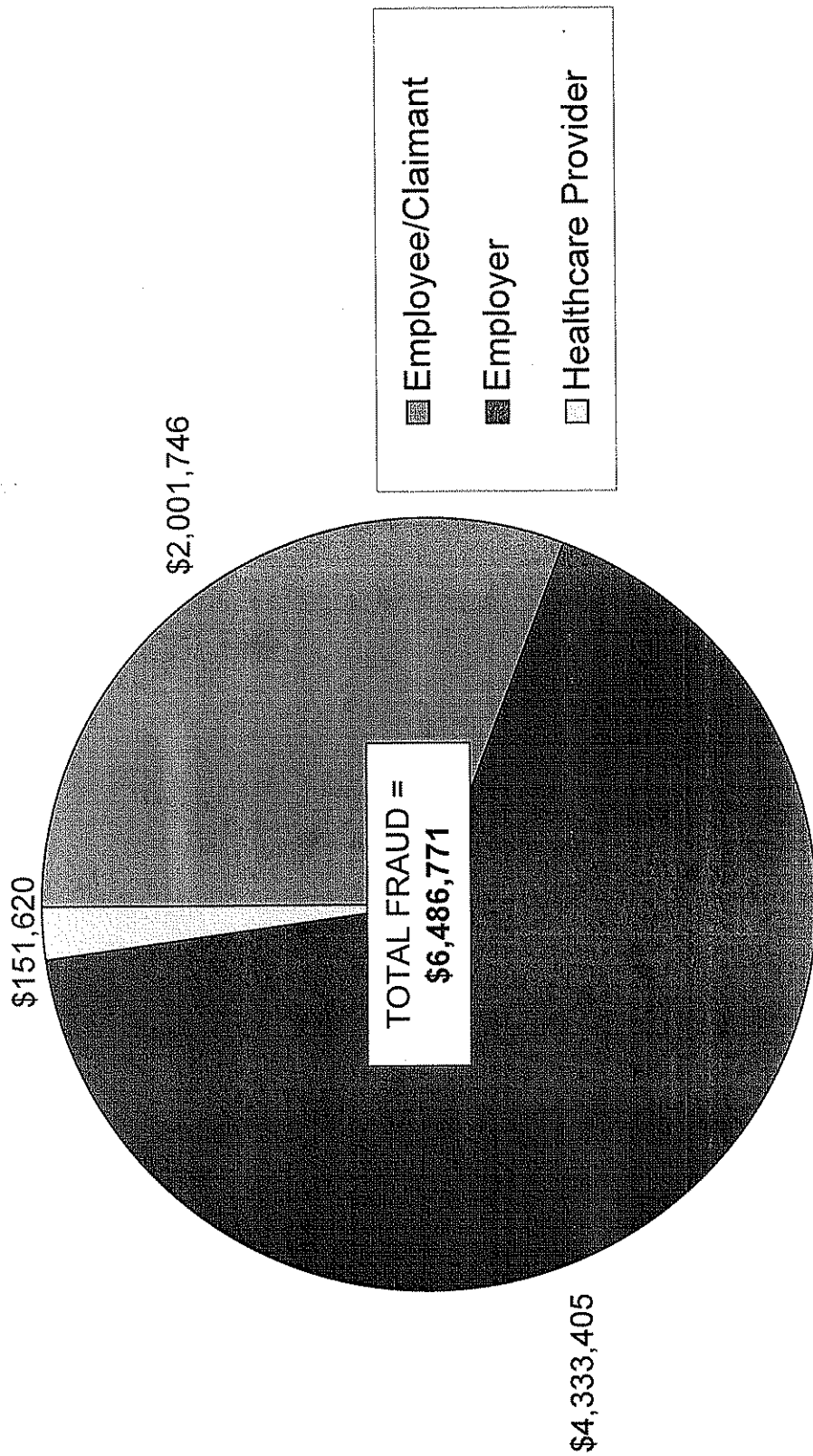
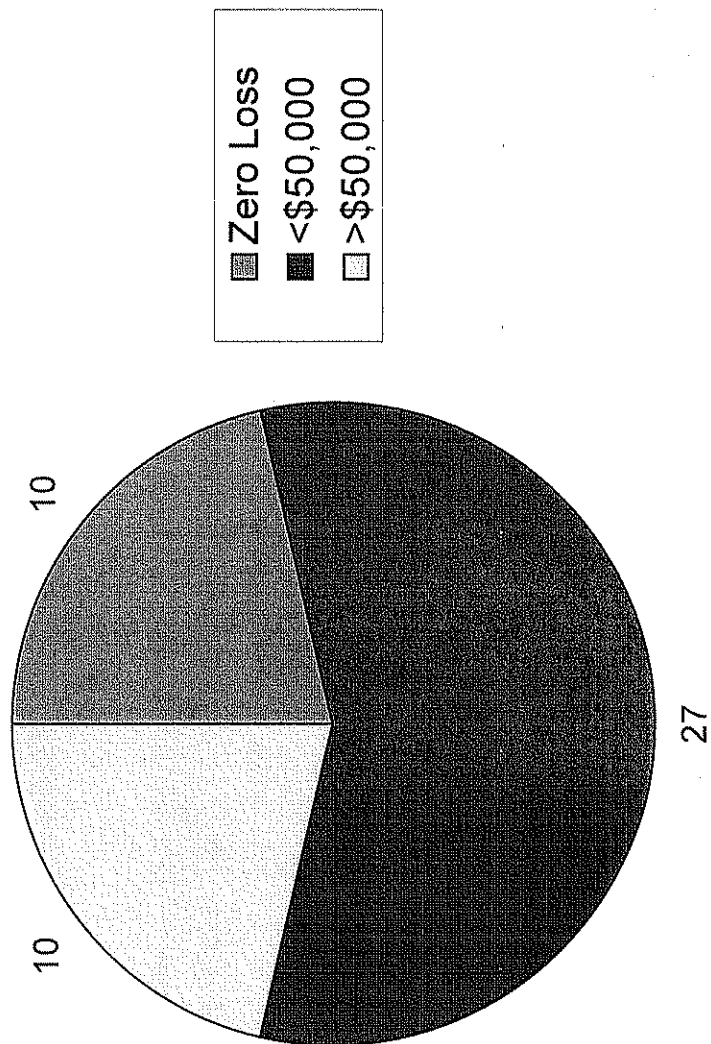


Exhibit F



# 2007 REFERRED CASES BY FRAUD AMOUNT

(Employee/Claimant Cases Only)



# 2007 WCFU Referrals for Prosecution

## Employee/Claimant Fraud

FRAUD AMOUNT	CASE DESCRIPTION
\$285,952	Eyewitness accounts indicate injury occurred while riding lawn mower at home
\$228,222	Claimant owns and operates a bar that requires work in conflict with medical restrictions
\$193,576	Claimant exaggerates extent of injuries to increase benefits
\$145,511	Injury from playing basketball, not work
\$137,638	Self-employed claimant works construction while collecting TTD
\$133,709	Medical records show wrist was broken while roller skating, 2 days after alleged workplace injury
\$114,000	Gives conflicting accounts of workplace injury; uses fraudulent Social Security number
\$95,413	Witnesses dispute claimant's account of work-related back injury
\$63,412	Witnesses indicate claimant was injured playing softball
\$54,139	In conflict with medical restrictions, works for airline unloading bags while collecting TTD
\$47,393	Diagnosed with herniated disc 7 months prior to alleged workplace injury
\$46,098	Performs heavy lifting despite medical restrictions while collecting TTD
\$42,530	Work as a security guard directly conflicts with sitting and standing restrictions
\$36,089	Fails to report TTD benefits to new employer; new work conflicts with medical restrictions
\$34,709	Completes roofing and other home projects despite shoulder injury
\$33,002	Videotape shows claimant performing activities outside medical restrictions
\$28,063	Multiple witnesses dispute account of work-related neck injury
\$27,519	Friend reveals back injury was fabricated
\$27,113	Sells and repairs RVs despite injuries to back and leg
\$25,602	Works as contractor while collecting TTD for a back injury
\$25,503	Performs work in conflict with medical restrictions; receives unnecessary medical treatment
\$22,800	Work and personal activity are inconsistent with hand injury
\$21,898	Witness verifies injury occurred during fall down stairs at home, not work
\$16,000	Exaggerates extent of injury to collect benefits
\$15,061	Claimant dies in 2001 but checks are cashed until 2006
\$14,292	Works construction job despite injury to right shoulder
\$13,746	Installs auto glass while collecting TTD
\$11,354	Video shows claimant walking without impairment despite severe ankle injury
\$10,308	Works for construction company while collecting TTD
\$9,315	Pushes watercraft and carries boat motor despite back injury
\$8,571	Claimant exaggerates his work-related back injury to receive benefits
\$7,747	Works in landscaping despite repetitive motion injury
\$7,578	Operates auction business despite standing and walking restrictions
\$4,711	Reports inability to work due to PTSD suffered during bank heist, but is found working another job
\$4,277	Medical records show claimant experienced pain for 2 months prior to alleged workplace injury
\$3,306	Alters medical records to increase claim benefits
\$2,588	Works for another employer while collecting TTD, despite claiming intractable back pain
\$0*	Claims old rotator-cuff injury occurred while lifting boxes at work
\$0	Video shows claimant already injured before alleged incident
\$0	Fired employee reports injury date of 2 days after termination
\$0	Medical records indicate back injury occurred while moving furniture at home
\$0	Medical records indicate back injury could not have occurred at work
\$0	Witnesses and co-workers refute claimant's account of neck and shoulder injury
\$0	Back injury from slipping occurred not at work, but while fishing
\$0	Uses fraudulent Social Security number in attempt to obtain benefits
\$0	Claims benefits for injury sustained at previous job
\$0	Witnesses dispute account of workplace injury
<b>\$2,001,746</b>	<b>TOTAL CASES = 47</b>

(\* Generally, loss amounts of \$0 indicate cases where fraud was discovered prior to payment of benefits)

**Exhibit H**

# 2007 WCFU Referrals for Prosecution

## Employer Fraud

FRAUD AMOUNT	CASE DESCRIPTION
\$2,927,008	Owner of an employee leasing company provides fraudulent certificates of WC insurance
\$1,167,609	Deliberately misclassifies employees in order to lower premiums
\$220,000	Deliberately misclassifies employees in order to lower premiums
\$15,000	Provides fraudulent certificate of WC insurance to general contractor
\$3,788	Provides fraudulent certificate of WC insurance to secure a contract with a municipality
\$0	Sends fraudulent certificate of WC insurance to prospective client
\$0	Fails to report income for several employees; fabricates information regarding WC claim
<b>\$4,333,405</b>	<b><i>TOTAL CASES = 7</i></b>

## Healthcare Provider Fraud

FRAUD AMOUNT	CASE DESCRIPTION
\$150,000	Physician receives payment for services unrelated to work injury; submits conflicting versions of medical report
\$47,393	Physician fraudulently alters medical records to increase patient's WC benefits
\$0	Physician bills for services not rendered
<b>\$151,620</b>	<b><i>TOTAL CASES = 3</i></b>

## Insurance Producer Fraud

FRAUD AMOUNT	CASE DESCRIPTION
\$0	Insurance producer provides fraudulent certificate of WC insurance to towing company seeking to keep its transportation license
<b>\$0</b>	<b><i>TOTAL CASES = 1</i></b>