State of Washington
Joint Legislative Audit and Review Committee (JLARC)

Follow-up: 1998 Workers' Compensation Performance Audit

Report 03-10

September 17, 2003

Upon request, this document is available in alternative formats for persons with disabilities.

JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE
506 16th Avenue SE
PO Box 40910
Olympia, WA 98501-2323
(360) 786-5171
(360) 786-5180 Fax
http://jlarc.leg.wa.gov

Committee Members

SENATORS
Darlene Fairley
Jim Horn, Chair
Jeanne Kohl-Welles
Bob Oke
Debbie Regala, Secretary
Val Stevens
Pat Thibaudeau
Joseph Zarelli

REPRESENTATIVES
Gary Alexander, Asst. Secretary
Brad Benson
Kathy Haigh
Ross Hunter
Fred Jarrett
Tom Mielke
Phil Rockefeller, Vice Chair
Deb Wallace

LEGISLATIVE AUDITOR
Tom Sykes

The Joint Legislative Audit and Review Committee (JLARC) carries out oversight, review, and evaluation of state-funded programs and activities on behalf of the Legislature and the citizens of Washington State. This joint, bipartisan committee consists of eight senators and eight representatives, equally divided between the two major political parties. Its statutory authority is established in RCW 44.28.

JLARC staff, under the direction of the Committee and the Legislative Auditor, conduct performance audits, program evaluations, sunset reviews, and other policy and fiscal studies. These studies assess the efficiency and effectiveness of agency operations, impacts and outcomes of state programs, and levels of compliance with legislative direction and intent. The Committee makes recommendations to improve state government performance and to correct problems it identifies. The Committee also follows up on these recommendations to determine how they have been implemented. JLARC has, in recent years, received national recognition for a number of its major studies.

FOLLOW-UP: 1998 WORKERS' COMPENSATION PERFORMANCE AUDIT

REPORT 03-10

REPORT DIGEST

SEPTEMBER 17, 2003

STATE OF WASHINGTON

JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

STUDY TEAM

Larry Brubaker

LEGISLATIVE AUDITOR

Tom Sykes

Copies of Final reports and Digests are available on the JLARC website at:

http://jlarc.leg.wa.gov

or contact

Joint Legislative Audit & Review Committee
506 16th Avenue SE
Olympia, WA 98501-2323
(360) 786-5171
(360) 786-5180 FAX

OVERVIEW

In 1998, JLARC conducted a performance audit of Washington's workers' compensation system, which is managed by the Department of Labor and Industries (L&I). While JLARC conducted follow-up activities to this audit in 1999 and 2000, the current trend towards substantially higher workers' compensation premiums motivated JLARC to revisit the recommendations of its 1998 audit. JLARC contracted with Edward M. Welch, a national workers' compensation expert from Michigan State University, to assist with the follow-up. Mr. Welch was the leader of the 1998 audit team.

OVERALL FINDINGS OF THE 1998 AUDIT

A major finding of the 1998 audit was that Washington's workers' compensation system was particularly efficient. Benefits provided to injured workers were high, while costs to employers were low. While the 1998 audit found Washington's system to be efficient, it also found many areas where improvements were needed, and made 32 recommendations for such improvements.

CONCLUSIONS OF THIS 2003 FOLLOW-UP

JLARC found that the Washington system continues to be efficient. Benefits provided to injured workers continue to be relatively high while costs continue to be relatively low. While L&I has recently raised its premiums, premiums are also growing around the country. We also found that L&I has made substantial efforts to address the 1998 recommendations, either directly or through other changes that were not specifically recommended. Nevertheless, many important recommendations of the 1998 audit have yet to be implemented. Some of those potential changes are standard practices, and could generate substantial improvements in how L&I manages the system, as well as potential cost savings. In addition to his observations about the 1998 recommendations, JLARC's consultant had three additional suggestions based on his current observations. Mr. Welch suggests L&I should:

- Put greater emphasis on return to work.
- Change how performance is measured to emphasize return to work.
- Continue to promote improved safety in the workplace.

I. BACKGROUND

In 1998, JLARC conducted a broad performance audit of Washington's workers' compensation system. Workers' compensation insurance covers workers who are injured on the job. Employers in Washington are required to provide this insurance to their workers, either through the state fund managed by the Department of Labor and Industries (L&I), or through self-insurance for larger employers. Prior to the audit, L&I had requested a substantial increase in its budget, primarily to hire additional claims managers. In addition, dissatisfaction was evident with L&I's management of the system, both from employers and from injured workers. In that context, the Legislature directed JLARC to contract for a performance audit of L&I's management of the system. The audit was conducted by a team of national workers' compensation experts led by Michigan State University Professor Edward M. Welch, under contract to JLARC. The final report was issued by JLARC in December 1998. As stated above, the audit found that while Washington's system was efficient, there were several areas where improvements could be made to improve the operation of the system, and 32 recommendations for such improvements were made.

Previous Follow-Up Activities

As is typical for its major performance audits, JLARC requested L&I to provide periodic reports on its activities to implement the recommendations of the 1998 audit. L&I provided quarterly written follow-up reports to JLARC throughout 1999 and 2000, as well as oral presentations to the Committee. The final L&I follow-up report was provided to JLARC in November 2000.

Context for this 2003 Follow-Up

In the late 1990s, when the JLARC performance audit was conducted, the environment in which the workers' compensation system operates was considerably more favorable than it is today. Premiums to employers for workers' compensation insurance were declining at that time in Washington and nationally. Due to increasing medical costs and lower returns on invested reserves, the financial status of workers' compensation systems is considerably different today. Premiums are increasing substantially in Washington and nationally. In light of the changing environment, JLARC decided to revisit the recommendations of its 1998 performance audit.

JLARC requested L&I to prepare an update of the current status of L&I's implementation of the recommendations of the 1998 audit. In light of the changed environment since 1998, JLARC asked L&I to focus on a subset of recommendations that were anticipated (in 1998) to generate cost savings for the system. JLARC also retained Edward M. Welch, the primary author of the 1998 audit, to provide a critical review of L&I's responses to the recommendations.

Elements of this Report

Appendix 1 is a matrix that discusses the recommendations and their implementation status more specifically than the general comments in this report. The matrix includes only the subset of the 1998 recommendations that were selected for emphasis in this follow-up.

Appendix 2 is the Executive Summary of Ed Welch's report to JLARC. The full text of Mr. Welch's report is not provided in this follow-up report, but is available upon request.

Appendix 3 is a follow-up report to JLARC from the Department of Labor and Industries.

This report summarizes some of the major findings and recommendations of the 1998 audit, the current status of L&I's implementation of the recommendations, and JLARC's comments on the current status. The summary of the status of L&I's implementation of the 1998 recommendations is based on L&I's report to JLARC. JLARC's comments on L&I's report are based on Ed Welch's report to JLARC. The full text of Mr. Welch's report is available upon request.

II. MAJOR AREAS OF THE AUDIT – 1998 FINDINGS, RECOMMENDATIONS AND 2003 FOLLOW-UP

Overall System Efficiency

1998 Findings

The 1998 audit concluded that Washington's workers' compensation system was efficient. It found that premiums in Washington were in the lowest 25 percent of all the states while benefits were in the highest 25 percent. Washington provided a relatively high level of benefits at a relatively low cost to employers. The audit attributed this, in part, to the fact that private workers' compensation insurance is not allowed in Washington. The audit pointed out several costs of private workers' compensation insurance (marketing costs, taxes, and profits to shareholders) that are not a factor in a public workers' compensation system.

2003 Follow-Up

The 2003 follow-up found that Washington's workers' compensation system continues to be relatively efficient. More recent premium and benefit comparisons indicate that Washington continues to provide a relatively high level of benefits at a relatively low cost.

Customer Satisfaction

1998 Findings

The 1998 audit found considerable dissatisfaction with L&I's handling of claims from the perspective of both employers and injured workers.

2003 Follow-Up

While JLARC's consultant did not measure customer satisfaction for this follow-up, we note that L&I recently released the results of a customer satisfaction survey, which shows substantial improvement in the satisfaction of injured workers, and continued satisfaction by employers with how L&I manages claims.

For example, 74 percent of workers who were injured severely enough to receive payments for lost wages (time-loss payments) were satisfied with L&I's management of their claim in 2003 compared with 56 percent in 1998. Among employers, 75 percent were satisfied with how L&I manages claims, which is consistent with the satisfaction level in 1998.

Employer Reporting of Claims

1998 Recommendations

A major theme of the 1998 audit was the timeliness with which claims are initiated and managed by L&I. The audit pointed out that delay in initiating and managing claims causes unnecessary costs in the system. Early intervention with injured workers and employers can improve return to work outcomes, as well as reduce costs. One way to promote early intervention in claims is through **employer reporting** of claims. This is a standard practice nationally, but not in Washington. The audit recommended that employer reporting be implemented in Washington.

2003 Follow-Up

Employer reporting of claims has not been implemented in Washington. L&I supported legislation authorizing employer reporting in the 2000 and 2001 legislative sessions, but this legislation did not pass. Employer reporting has not been pursued since then, although L&I reports it is developing an internet-based system that allows for on-line access to claims by physicians and employers. JLARC's consultant comments that these proposed technological enhancements are a positive step, but will not achieve active early claims management to the extent of employer reporting. Employer reporting, as a recommended change, has not been implemented.

Claims Management

1998 Recommendations

The audit found several opportunities for improving how L&I manages claims. For example, the audit recommended a reorganization of L&I's claims units to reduce the span of supervisory control, to assign employers to individual claims adjusters, to change how the performance of claims management activities is measured, and to provide ongoing refresher training to claims managers.

2003 Follow-Up

Some of the recommendations in this area have been implemented, but many have not. The recommendations in this area were aimed at improving the effectiveness of L&I's claims management processes. JLARC's consultant maintains that many of these earlier recommendations are still valid and could be implemented.

Oversight of Self-Insured Employers

1998 Recommendations

The audit recommended a reduction in the amount of oversight L&I exercises over the activities of self-insured employers. This recommendation was contingent upon the implementation of certain other steps to allow for outside review of disputed actions taken by the self-insured employers in managing claims.

2003 Follow-Up

The recommendations in this area were not implemented. L&I's report provides examples of how their monitoring of self-insured employers has uncovered problems in certain areas. JLARC's consultant notes that the original recommendations were not intended to reduce the amount of monitoring of self-insured employers, but to allow self-insured employers to make certain decisions without prior approval by L&I.

Vocational Rehabilitation

1998 Recommendations

The audit recommended changing the emphasis of vocational rehabilitation from closing claims to returning injured workers to work, and also recommended specific elements that should be included in the methodology used to make referrals for vocational rehabilitation services to private providers of these services.

2003 Follow-Up

JLARC's consultant did not review whether L&I has placed greater emphasis for vocational rehabilitation services on return to work. We note that that L&I administration has recently issued memoranda to staff and vocational rehabilitation providers emphasizing that return to work is to be emphasized. However, we further note that the return to work rate for workers receiving vocational rehabilitation services is very low. Approximately 13 percent of injured workers referred for vocational rehabilitation return to work before the referral is closed.

Perspectives concerning the elements to be included in a performance-based referral system are the subject of a separate JLARC report issued at the same time as this report (September 2003). That report found L&I's performance-based referral system does not fully implement the statutory mandate to make referrals to private providers of vocational rehabilitation services on the basis of quality and effectiveness.

Efforts to Promote Workplace Safety

1998 Recommendations

The original audit suggested several areas in which L&I could assist employers to improve workplace safety.

2003 Follow-Up

L&I notes several actions they have taken since 1998 to promote safety in the workplace. JLARC's consultant observes that L&I appears to have made good progress in this area.

III. CONCLUSION AND FURTHER SUGGESTIONS FROM JLARC'S CONSULTANT

JLARC's consultant observed that progress has been made in Washington's workers' compensation system over the last five years. He also maintains there remains a great deal of room for improvement. In addition to his observations with respect to the 1998 recommendations, Mr. Welch made three additional suggestions based on his current observations of Washington's workers' compensation system.

1. Put greater emphasis on return to work. Washington's workers' compensation system has recently emphasized decreasing the amount of time injured workers receive payments for lost wages (time-loss payments). A more effective system could place greater emphasis on returning injured workers to work, thus improving its overall quality.
2. Changes in performance measurement. L&I's performance measures could place more emphasis on return to work, and also measure processing times from the date of a worker's injury, rather than the date L&I is notified of a claim.
3. Continue to emphasize safety in the workplace. Improving safety in the workplace remains one of the most cost-effective means to control workers' compensation costs.

Thomas M. Sykes

Legislative Auditor

On September 17, 2003, this follow-up report was presented to the Joint Legislative Audit and Review Committee.

Appendix 1 – Status of Selected Recommendations from the 1998 JLARC Workers' Compensation Performance Audit

Selected Recommendations from 1998 Audit	2003 Status per L&I	Comments from JLARC's Consultant
2. Employer reporting of injuries.	L&I submitted legislation, but it did not pass. L&I is working on alternatives (e.g., on-line claim access), which should improve the timeliness of claims reporting.	Standard practice nationally, which facilitates early reporting of claims, improved claims handling, and early return to work.
3. Reorganize L&I claims units to improve oversight over claims management.	Some of the recommended reorganizations have occurred, but resource limitations have prevented full implementation.	Department could explore whether further changes could be made by reallocating resources.
4. Assign employers to individual claims managers at L&I.	L&I has done this in a limited manner in certain specialized areas; and is exploring whether to designate assignment of "high premium accounts" to individual claims managers.	Standard practice nationally and could be done to a greater extent in Washington.
5. Change claims management duties: a) Improve early, three-party communication with employers, physicians, and injured workers; b) Review new claims by supervisor within three days; c) Claims managers set reserves on claims; d) Claims managers occasionally visit workplaces; e) Provide sufficient clerical support for claims managers.	a) Recommendation was implemented but was not well-received and early contacts were ended; further projects aimed at early contacts are underway; b) Not yet implemented; L&I is looking at ways to reallocate resources to provide additional supervisory resources; c) Tested but not implemented; L&I feels recommendation more appropriate for private insurers; d) Not implemented in a comprehensive way; industry information made available to claims managers; e) Not implemented due to insufficient resources.	a) This is standard practice nationally and could be done in Washington; b) This is of less importance than other recommendations; c) This is standard practice in the private sector; but L&I has taken steps in the right direction; d) Claims managers could do a better job if they spent a small amount of their time visiting workplaces; e) Not evaluated.

Selected Recommendations from 1998 Audit	2003 Status per L&I	Comments from JLARC's Consultant
6. Change measurement of claims management performance to emphasize prompt payment, three-party contact and successful return to work.	Prompt payment has always been a focus of performance measurement and additional measures have been developed; three-party contact was ended as discussed in response to Recommendation 5; L&I has developed measures of return to work but is still refining them.	Department has implemented recommendation to a significant extent.
7. Reduce reliance on the formal claims closure process.	Several actions have been taken to decrease the formality of the claims closure process.	Steps have been taken to reduce formality of claims closure, but the process still seems to be more formal and time consuming in Washington than elsewhere.
8. Create compliance unit to monitor the operation of L&I and self-insured employers.	A subcommittee of the Workers' Compensation Advisory Committee was unable to reach consensus on a compliance model. Instead, L&I has developed a quality assurance process.	Not evaluated.
9. Offer refresher training for claims managers.	Training programs have been reviewed and revised. L&I has provided several courses of training to claims managers.	Training focus has reflected changes to the system required by court decisions, rather than a review of basic ideas.
10. After the compliance unit and a system of ombudsmen is in place, end oversight over the claims processes of self-insured employers.	L&I did not concur with recommendation, but referred it to a subcommittee of the Workers' Compensation Advisory Committee. The subcommittee did not reach agreement so the recommendation was not pursued.	Monitoring of self-insured employers by L&I should continue, but there is room to allow self-insured employers to operate more independently, if the preconditions to the original recommendation were met.
15. Create a system of mediators and ombudsmen to provide assistance to workers and employers.	L&I did not concur with recommendation but referred it to a subcommittee of the Workers' Compensation Advisory Committee. Subcommittee did not reach consensus and the recommendation was not pursued. L&I provides some functions that are similar.	This approach works well in Oregon.

Selected Recommendations from 1998 Audit	2003 Status per L&I	Comments from JLARC's Consultant
16. Resolve protests and re-assumptions within 30 days.	Goal of 30 days was thought to be unrealistic by L&I and its major stakeholders. L&I has made, and continues to make, efforts to reduce delay.	L&I has made progress.
17. End the opportunity for Superior Court review of the decisions of the Board of Industrial Insurance Appeals.	L&I did not concur with the recommendation, and with the agreement of its stakeholders, has not pursued it.	JLARC's consultant acknowledges that nobody in Washington agrees with this recommendation, but notes that this is a standard practice in most other states.
22. Performance-based referral system for vocational rehabilitation should: ▪ Define standards of quality and effectiveness; ▪ Use measures of satisfaction of workers and employers; ▪ Include a minimally acceptable threshold for referrals; ▪ Consider the full range of a providers' activity in serving state-fund cases; ▪ Be used in making referrals.	L&I has developed a performance referral system and continues to refine it. The system does not incorporate satisfaction information because of the cost of obtaining such data.	L&I's system does not include all of the recommended elements and is not actually used to make referrals. The system may also create the wrong incentives. (Note: concurrent with this follow-up of the 1998 Performance Audit, JLARC has also conducted a separate Performance Measure Review of L&I's performance-based referral system. More detailed findings regarding the referral system are provided in that report.)
23. Improve activities related to promoting safety in the workplace.	L&I discusses those efforts it has made to further emphasize and improve workplace safety.	L&I has made progress in implementing this recommendation.

Appendix 2 – Executive Summary Of Edward M. Welch's 2003 Report To JLARC

Executive Summary

In 1998, at the request of the Joint Legislative Audit and Review Committee, this author led an extensive performance audit of the Washington State workers' compensation system and the Department of Labor and Industries. In the spring of 2003, JLARC asked me to conduct a brief update of the previous audit. More specifically, I was asked to update the findings concerning overall benefits and costs and to review the implementation of 14 of the recommendations from the previous audit.

Washington continues to be in the enviable position of having benefits for workers that are above average and premium costs to employers that are below average. Washington ranks fourth in the nation in benefits to workers and 45 in premium rates. This is possible, in part, because the exclusive state fund in Washington does not pay commissions to agents, does not have other marketing expenses, does not pay taxes, and does not take a profit out of the premiums. In the last few years costs have been going up in Washington, but they have been going up elsewhere as well.

The early audit appears to have had dramatic consequences for the department. Committees and subcommittees were appointed, and pilots and projects were undertaken. Labor and business groups were consulted, and amendments were proposed to the Legislature. At the end of the day, however, very few, if any, of the recommendations were fully implemented as suggested in the audit. In many cases, other measures have been taken that have achieved some of the objectives of the recommendations, but they have rarely gone as far as recommended. It is especially discouraging that Washington seems unable to implement several things that are seen as best practices in the rest of the country. These include:

- Employer reporting of injuries,
- Assigning employers to a single claims manager, and
- Prompt contact with the parties involved in an injury.

In addition, I found that Washington seems to put less emphasis on return to work than other states do.

While the department must take some responsibility for the lack of change in the system following the audit, much of the responsibility lies with business and labor. While they did not oppose the recommendations, neither did they actively advocate for them.

There remains much room for improvement in the Washington workers' compensation system. There is new leadership in several important positions within the department. Perhaps this will present an opportunity for change. In addition to the recommendations made in the previous audit, I would suggest that the department:

- Put more emphasis on return to work throughout the system, and
- Learn more about how workers' compensation is handled outside Washington.

There has been considerable progress in many areas in the department during the last five years, but, as always, there remains room for further improvement.

Department of LABOR AND INDUSTRIES

Joint Legislative Audit and Review Committee
Workers' Compensation Performance Audit

Update Report
September 2, 2003

Table of Contents

{ TOC \f \h \z \t "Heading 8,1" **}**

Introduction

Background

The Department of Labor and Industries (L&I) received the final report from the Joint Legislative Audit and Review Committee (JLARC) in December 1998. The overall findings confirmed the State Fund was paying benefits that were higher than average at a cost that is lower than average – nationally at the 75th percentile and 25th percentile respectively. The audit report concluded that Washington was doing many things well – but could still make improvements.

The department benefited from this impartial review of the system by receiving 32 recommendations, representing 58 proposed changes. Those recommendations provided opportunities to engage in discussions with key stakeholders to improve the Washington workers' compensation system and to enhance services.

The department reported its progress to the committee quarterly and presented a Final Report in September 2000. At that point, much progress had already been made in following though on the audit. Of 58 proposed changes, 33 had been implemented or were being tested and another 14 were in progress. Further action was not taken on the remaining 11 recommendations because they were incompatible with the department's priorities or we were unable to obtain consensus from stakeholders. The department continues to refer to the audit report as organizational and process changes are considered.

Report Format

The activities that have taken place since September 2000 must be reviewed within the context of new and serious challenges that have arisen in the world of workers' compensation. Toward that end, this report includes the following information:

- L&I's ranking in benefits, premiums and customer satisfaction.
- Major changes in Washington workers' compensation since the September 2000 final report to JLARC.
- L&I's strategy for moving forward.
- Observations.
- The status on all the recommendations in the original report.
  - More detailed responses for recommendations 2 through 10, 15 through 17, 22 and 23 as requested by JLARC.
  - Actions taken through September 2000.
  - Updates on subsequent activities.

Benefits, Premiums and Customer Satisfaction

All workers' compensation systems, private and public, are facing very difficult challenges. The Insurance Information Institute reported that 15 private workers' compensation insurance companies failed in 2002. Many were forced to raise rates substantially – an average of 50 percent increases in the past two years nationally.

Through much of the 1990s and through 2002, the Washington state workers' compensation system was able to charge premiums that did not cover costs because of extraordinary investment earnings. These earnings were used to offset $1.8 billion in insurance costs. Of this offset, $400 million was returned to employers as dividends - $200 million in both 1999 and 2000. $1.4 billion was used to allow rates to be set well below the cost of providing benefits

The market decline, coupled with the need to bring rates back to break-even, has had a substantial impact on the financial condition of the State Fund. After eight years of low, stable rates, employers and workers will be presented with a second rate increase in two years. An overall general rate increase of slightly less than 20% is currently being discussed with customers and stakeholders.

Nevertheless, the Washington State workers' compensation system continues to provide good value to its customers, employers and injured workers. Washington provides a high level of benefits to workers – among the top third in the nation. The current maximum time-loss rate is $3,794.00 per month. This level of benefits is accomplished while maintaining rates among the lowest one-third in the nation despite the 2003 rate increase and pending 2004 rate increase.

Three charts at the end of this report that help illustrate the situation in Washington are:

- Chart #1 compares workers' compensation rates nationally since 1987 with Washington's rates.
- Chart #2 shows Washington's rates since 1994 compared to wage inflation, the consumer price index and medical inflation costs.
- Chart #3 shows the average hourly premium rates paid by Washington employers since 1994. Our state's employers are paying only an average of 7 cents an hour more than they did in 1994.

Equally important, though, is the customers' perception of service. Customer service in recent years has become one of L&I's top four priorities. We are seeing the results.

A recent independent survey of employers and injured workers demonstrated a dramatic increase in the level of satisfaction in the way the Department of Labor and Industries handles workers' compensation claims.

Among workers receiving time-loss compensation, 74 percent were satisfied with their claims experience – a significant improvement over the 61 percent satisfied in 2000 and 56 percent satisfied in 1998. Of the workers receiving medical treatment only, 87 percent gave positive ratings compared to 77 percent in 2000. In addition, 59 percent said they were "very satisfied" with the claims experience. Specific areas addressed by workers indicated:

- Decisions were fair – 82 percent
- Staff were courteous and professional – 85 percent
- The claim was handled in a reasonable time - 80 percent

Employers, too, were satisfied with handling of claims. In general, three-fourths or more of the employers interviewed in this survey said they had a positive experience. Asked why, employers most commonly referred to the speed and diligence in which claims were settled.

- Staff were courteous and professional – 93 percent
- Questions were answered in a way they could understand – 93 percent
- Claims were handled in a reasonable time – 87 percent
- Phone calls were returned within 48 hours – 81 percent

(Survey conducted in June 2003 by Gilmore Research Group, Seattle.)

Major Changes in Washington Workers' Compensation

Despite Washington's positive position among national workers' compensation insurers, L&I is facing a number of challenges not present at the time of the audit.

- The necessity to approve steep rate increases.
- The weak economy and job market.
- Washington state court decisions have expanded the definition of benefits, increasing costs.
- Medical costs are increasing (by an estimated seven percent in 2004).

At the time of the audit in 1998, the department had embarked on a major initiative to improve timeliness, fairness of service and communication with employers and injured workers. The department had made a commitment to the Legislature to significantly reduce time-loss duration, a complex measurement that tracks the overall costs of claims.

We developed a number of proxy measures that, if met, should have contributed to the reduction of time-loss duration. Claims staff met the proxy targets. Nevertheless, time-loss duration continued to climb. Economic factors outside the claim managers' control were significantly impacting claim outcomes. This experience demonstrated that increased time-loss duration is effected not only by the quality of claims management, but also by other factors outside of the department's control.

Now that we understand the problem better, we are conducting a multi-variate analysis of approximately 30 factors to determine how they contribute to time-loss duration. Some factors are within the control of claim managers. Many are not. The results will give us a baseline for how to proceed.

As noted, another factor that increasingly contributes to the systemic problem is workers' compensation case law. One example is the Washington State Supreme Court ruling (*Cockle vs. L&I*) that changes a longstanding definition of wages for purposes of calculating time-loss benefits. The decision requires that the value of employer-provided health insurance be factored into calculations of wages when determining time-loss payments to workers. This significantly increases the costs of the system, both in benefits and administration.

Other cases currently at the appellate court level could further increase benefits by expanding the definition of a workers' wage to include other employer-paid fringe benefits.

L&I's Strategy

L&I's strategy for dealing with these issues is two-fold:

- Clear, reasoned legislation is necessary to resolve the increasing cost and ambiguity of the system, complex laws and unfolding court interpretations.
- L&I must do its part through more efficient administration.

Legislative reform

L&I is working with stakeholders and others to develop legislation that is:

- Fair to workers.
- Promotes fiscal integrity.
- Provides administrative efficiency and clarity.

Revamp the vocational rehabilitation system: The department is proposing a complete overhaul of the existing vocational rehabilitation system. The current system has not proven successful in helping workers get back to work. This proposal would replace the existing system with one that offers two alternatives for injured workers who qualified for vocational rehabilitation services.

- Workers could choose to accept an immediate one-time payment rather than use vocational rehabilitation. This would allow workers to choose their own retraining program or otherwise use the payment.
- Workers could also choose to enter the vocational rehabilitation system but the program would vary from the existing vocational system in the following ways:
  - The vocational provider must develop a plan within 60 days to train the worker in a demand occupation. (The current system takes an average of 215 days.)
  - Thirty-day progress reports would be required of the provider. If progress were not being made because of the worker's action, the claim could be suspended.
  - Time-loss payments are stopped once the plan is completed. However, the provider must furnish job-search services for 60 days following plan completion.
  - Local Work Force Development Councils would become authorized to provide these services. (Currently only certified vocational consultants are permitted.)

New program for injured workers who face substantial income reduction. The L&I proposal creates a new training opportunity for injured workers who are medically unable to return to their former jobs. This new program would finance training so these workers can qualify for jobs at wages closer to their pre-injury earnings.

Clarify statutory language to prevent court-imposed increases in benefits: L&I is seeking to clarify statutory language to ensure that other fringe benefits will not be included in the wage calculation.

Enhance medical care provided to injured workers:

- The L&I proposal would set requirements for Independent Medical Examinations (IME) and allow information gathered about the quality of IMEs to remain confidential.

- L&I also would obtain authority to seek the suspension of providers while disciplinary action is pending.

Improving management

L&I is also taking action administratively to improve the performance of the workers' compensation operations. Prompt reliable action can speed recovery from an injury and also lower the cost to the employer. The goal is to return workers to work at good wages as soon as medically possible.

Improved claims management:
Every step from the beginning of a claim to its resolution is being evaluated to identify opportunities to cut unnecessary delay.

- Claims managers are establishing case-management plans that estimate the normal time required to take actions in processing an average claim. When actions in a particular claim take an unusual amount of time, the new system will trigger automatic review and action on those claims.
- The independent medical examination process is being changed to improve scheduling timeliness, as well as the ultimate usefulness of the procedure.
- L&I has established a special unit for handling medical-only claims, (approximately 6,500 claims per month) freeing up more experienced claim managers to deal with more complicated time-loss claims.
- L&I is increasing the use of informal methods of communication to speed up decision-making such as using the Internet and related technologies.

Improved communications with injured workers, employers and medical providers*:*

- L&I is launching a campaign to stress the need for workers, employers and medical providers to work as a team to get workers back to work as quickly as possible.
- A communication program is also under way to educate employers on how using modified and/or light-duty jobs can lower the costs of workers' compensation claims.
- L&I is assigning its top executives to meet with a cross section of customers on a regular basis. The idea is to make sure that the top executives at L&I understand our customers' perspectives and needs.

Helping injured workers find appropriate employment: L&I also is making administrative changes to help ensure workers return to work as soon as medically appropriate in jobs that pay appropriate wages. This will be done by clarifying and encouraging light-duty opportunities, increasing the use of job-modification funds, and improving communication with employees and providers.

Payment to vocational providers: L&I is changing the way the agency evaluates and compensates vocational service providers to increase the emphasis on helping workers return to meaningful jobs. Pay-for-performance incentives are being developed to ensure that vocational providers help injured workers return to work rather than just prepare them for work.

Observations

The 1998 JLARC Report proposed many recommendations that have benefited customers in the long run. Some recommendations required the support of L&I customers' and their representatives. Some of the legislative changes that did not succeed (for example, employer reporting of claims) were needed to set the groundwork for other recommendations to be successfully implemented. Because of Washington's system, other recommendations didn't provide the impact they have in other venues including:

- Claim managers setting the reserves early in the claims.
- Less formal claim closure on complex claims.

On the other hand, many recommendations were implemented that provide benefits to workers and employers. A few examples include:

- Dividends were paid.
- Ongoing training for claims staff was improved and expanded.
- Less complex claims are closed more quickly and more easily.
- Appeals are processed faster.
- Private and department vocational rehabilitation services have been improved.
- Safety recommendations were aggressively pursued.

The past five years have brought a lot of change. A positive trend is the reduction in injuries, an indication that industry focus on prevention continues to pay off. However, claim and medical costs continue to escalate. L&I continues to seek ways to provide the most value for the dollar, and we again look forward to JLARC's review and suggestions for improvement.

Recommendation 1:

The department should consider the possibility of having a board that would oversee its activities that are related to insurance services.

The department did not concur with this recommendation. We believed the existing statutory Workers' Compensation Advisory Committee (WCAC) fulfilled the role of such a board. We agreed to work with business and labor to strengthen the effectiveness of the committee. Members of the WCAC agreed to address the intent of the recommendation by revisiting its charter. The WCAC Governance Sub-Committee was established to deal with recommendations 1, 8, 10 and 15. Business and Labor representatives agreed to work on the other three recommendations first. The Sub-Committee failed to reach agreement on recommendations 8, 10 and 15, and disbanded without revisiting the role of the WCAC.

Recommendation 2:

The department should adopt an alternative system for the reporting of injuries under which the worker would report to the employer and the employer would report to the department. An educational effort should be launched to promote this method of reporting.

Follow Up

A WCAC Claims Sub-Committee of external stakeholders was established to deal with all the claim-specific recommendations in the audit, including employer reporting. The department worked with the sub-committee for over a year in an attempt to reach consensus on request legislation. When business, labor and the Washington State Trial Lawyers' Association (WSTLA) could not reach agreement, the department submitted legislation in both the 2000 and 2001 sessions. Neither bill made it out of committee.

Update

- As an alternative, the department also began exploring electronic options to expedite the reporting process for both employers and healthcare providers. The On-Line Reporting and Claim Access (ORCA) technology project will develop a method for employers to file their portion of the accident report on the web. This approach provides employers the opportunity to file a claim, releases the business from potential penalty, and preserves the worker's right to file the claim directly with L&I through the medical provider.

  Another feature will allow healthcare providers to directly fax the report of accident into the department's imaging system. These services will speed up the allowance process reducing delays in the period of time before claim managers have access to and can take action on claims.

  ORCA will provide other services that provide real opportunity for early employer involvement:
  - Web-based screens targeted toward the customers' needs are being designed with the participation of business, labor and provider representatives.
  - Web-transactions will be implemented to expedite the transfer of accurate claim information.

- A new Integrated Document Management (IDM) System (including imaging) will be implemented to set the framework for putting images out on the web next biennium. Employers, workers and their representatives, and providers will be able to view L&I claim documents to which they have access.

ORCA staff have already started working directly with employer, worker and provider representatives in preliminary design. We will continue this partnership throughout the project to ensure the products meet customers' needs. The ORCA project will market and promote faster methods to communicate and do business and show users how all participants can benefit.

- In 2002 the department developed the Center for Occupational Health and Education (COHE) with emphasis on early reporting by medical providers. The doctors in this project FAX the accident report to the department. Under the COHE project, the percent of claims received within two days of injury has increased from 7% to 57%. The project has enrolled 213 attending physicians in Spokane and King County and served approximately 7400 injured workers.

Recommendation 3:

The claims functions should be organized into units that include five to seven claims adjusters, clerical support, and a claims supervisor.

Follow Up

Although the department agreed with the concept of a smaller span of control in the claim units, the specific recommendation was not immediately implemented due to limited resources.

Update

- Since 2000, the department has established additional units, reducing the span of control from 17 to 21 employees to an average of 13 to 15 employees .

- In 2002 a clerical support standardization project was implemented to promote consistency of clerical duties in support of claim managers. This has improved the unit supervisor's ability to oversee unit staff responsibilities.

- The department is further reducing the size of the claim units by removing the clerical staff from the unit structure. This will enhance consistency and support to claim managers and permit the unit supervisor to focus on the needs of supervising and mentoring claim management staff. This management reform will further permit primary focus by supervisors on claim management-resolution activities.

Recommendation 4:

To the greatest extent possible, employers should be assigned to an individual claims adjuster.

Follow Up

Because of the number of employer accounts (160,000) the department postponed addressing this recommendation until system changeover for Y2K was completed. In addition, changes being made in claim managers' duties entailed significant shifting of claims among staff.

Update

The department assigns the majority of claims based on a complexity and geographical sort. Geographical assignment helps pinpoint the group of claim managers most employers deal with. The majority of State Fund employers have very few claims and the benefits gained for the employer by having specific claim managers assigned would not be realized because most employers experience a claim only every year or two.

The department has identified particular types of claims or employers that have unique needs and has centralized claim assignment. Specific examples include:

- Specific claim managers in the Seattle office handle claims for a major State Fund employer, the University of Washington.
- A bilingual claims unit in Yakima handles claims for a group of agricultural employers located in Eastern Washington with a high number of bilingual speaking employees.
- Specialty claim units are in place to increase efficiency and provide added expertise in complex areas:
  - Asbestos
  - Out-of-state
  - Wage Determination
  - Hearing-loss
  - Bilingual worker
  - Medical-only
  - Chemically-related Illness
  - Pension treatment order

The department is currently assessing the benefit of designating assignment of claims for high premium accounts.

Recommendation 5:

Claims management duties should be changed as follows:

- **There should be a personal contact with the three key parties involved in a claim as soon as possible and no later than 48 hours after a report is received.**

Follow Up

Three-party contact in 48 hours had been coupled with Recommendation 2 that provided for employer reporting of claims. Since legislation on employer reporting did not pass, the full and intended impact of three-party contact in 48 hours was not realized. By the time the claim managers made the calls, most of the workers had already returned to work. When the worker had not already returned to work, it was too early in the claim for the needed information to be available.

The recommendation was implemented but discontinued based on results of two independent telephone surveys conducted by Gilmore Research.

Update

- With the implementation of The Wage Unit (January 2002) was set up in response to the Cockle Decision. This unit calls employers on every claim where time-loss benefits are certified to obtain and validate wage information. Staff also call workers when information is needed. These calls are made within two days of the claim manager receiving the claim. They provide an opportunity to discuss other issues relevant to the initial filing of the claim and ask clarifying questions about

the validity of the injury. They ask about return to work opportunities. The information is valuable to claim managers in determining the allowance decision, setting up the action plan and lining up appropriate resources, such as claims investigators.

- Currently, Two management reform projects are underway that attempt to quickly return the worker to work. These projects include making early contacts and providing return-to-work information to injured workers, providers and employers. Best practices for accommodating medical restrictions will also be shared in these contacts.

- **All new claims should be reviewed by a claims supervisor within three days after the report is received.**

Follow Up

At the time of the 1998 audit, L&I was using a sophisticated, automated tool to sort claims by complexity before assignment to the claim manager. In addition, a new in-training program was being implemented where coaches were reviewing new claims in conjunction with supervisors checking work. Additional supervisor review of new claims would have been duplicative. Instead, this recommendation was addressed by conducting a "triage" pilot on time-loss claims in a large geographic region. An experienced adjudicator reviewed several categories of compensable claims before they were assigned to a claim manager. When assigned, the claim had already been allowed, the initial action plan set up, and important issues identified. After almost one year, there was no significant change in per claim time-loss or medical costs when compared to claims in other regions. Given the lack of results and our need to focus resources on other priorities, the pilot was discontinued.

Update

The department is currently evaluating options to address the intent of this recommendation and is looking at ways of reallocating resources to:

- Further free up supervisors' time (beyond the reduced span of control already referenced) to focus on supervisory activities.
- Provide an experienced ongoing work check and claim review resource in every unit—in addition to external quality review.

- **The people handling claims should set reserves on those claims.**

Follow Up

This recommendation speaks to best practices in the competitive sector. The actuarial implications of early reserving do not apply to the State Fund. The current centralized reserving practices meet the data and accuracy requirements of the department's actuarial staff.

To test the claim management implications, in September 1999 the department assigned claim managers in one unit to reserve their claims. We discovered in the pilot that claim managers gave this reserving work low priority and that there were no changes in medical or time-loss costs.

Update
The department has created a system for a claim manager to project the anticipated resolution (closure) date of claims. Additional effort is being made to find ways for claim managers to effectively manage toward the anticipated maximum medical improvement date. We believe this approach has a similar effect to the private sector approach of managing to the case reserve.

Unusual circumstances in cases now trigger reviews by supervisors.

- **The people handling claims should be required occasionally to visit the workplaces involved.**

Follow Up
The department agreed that knowledge about specific occupations and hazards enhances a claim manager's ability to manage claims but the time required had to be balanced with the time spent away from caseloads. To move closer to the intent of this recommendation, the department developed a strategy and schedule to increase claim managers' knowledge about specific industries, related jobs and return-to-work opportunities. Guest speakers from industries were invited to come to the department to provide information and direct communication with claim managers. These sessions were later discontinued due to resource requirements, lack of speaker availability, and other program priorities.

Update
Tumwater claim managers occasionally do visit workplaces, and claim managers in the field regularly do so. An index of industry-related videotapes and literature developed in response to JLARC continues to be maintained in the State Library's annex at L&I and made available to claim managers.

Claim managers assigned to high premium accounts would be expected to occasionally visit accounts.

- **Claims adjusters should have sufficient support for clerical and investigative tasks.**

Follow Up
The discussion around this recommendation indicated the intent was for claim managers to conduct off-site validity checks. Claim managers investigate claims to the extent possible on the phone. If further investigation is need, they have access to investigative staff located throughout the state who conduct personal visits and provide an investigative report. No direct action was taken on the recommendation because funding was unavailable to support the additional staff required to perform these duties.

Update
- Most claim validity inquiries are conducted by the claim managers while more complex matters are conducted by professional investigators in the field offices. In 1999, all formal training materials on investigations were updated and included the following:

- Descriptions of situations where one would initiate an investigation.
- A list of equipment available to the investigator.
- Reports or information that could be obtained to assist in the adjudication, for example, motor vehicle or police report.
- How to interpret and follow up on returned investigation report

➢ In 2002, claims administration re-evaluated the clerical resources available to claim managers and how they should be used. This project resulted in more clearly-defined and consistent clerical support duties and specialized training to support staff so they can better support claim managers and customers.

➢ As mentioned previously (Recommendation 5) the clerical staff in the wage unit provide investigative support to claim managers on all wage loss claims.

Recommendation 6:

The measurement of claims management performance should be changed to emphasize prompt payment, three-party contact, and successful return to work.

Follow Up

➢ Prompt payment has been a standard measure of claims management performance and tracked by the department for many years.
➢ Three-party contact was measured in response to audit Recommendation 5 for the duration of the pilot.
➢ The department developed the model for collecting and analyzing return-to-work data. Agreement was reached with Employment Security to assure the security and confidentiality of its employment data, and the department began developing the model for analysis.

Update

➢ Prompt payment has always been and will continue to be a focus of performance measurement. In fiscal year 2003, the department made first payment of time loss on new claims within 14 days in 91.2% of the claims. Timeliness for ongoing time-loss payments is 92.8%.

➢ Three-party contact was discontinued for reasons discussed under Recommendation 5. As indicated previously, the Wage Unit staff calls employers on every claim where time loss benefits are certified to obtain and validate wage information. They also call workers when information is needed. These calls are made within two days of the claim manager receiving the claim. They provide an opportunity to discuss other issues relevant to the initial filing of the claim and ask clarifying questions about the validity of the injury. They ask about return to work opportunities. The information is valuable to claim managers in determining the allowance decision, setting up the action plan and lining up appropriate resources, such as claims investigators.

➢ The Department worked with the WCAC to develop an appropriate measure for successful return to work. A report on return-to-work data was provided to the committee in December 2002. Committee members raised additional questions

regarding the definitions of and factors responsible for successful return to work. Further analysis of the available data is underway. A second return-to-work report is being developed to improve data matching methods and assist and analyze the differences between successful and unsuccessful return-to-work outcomes. This report is scheduled for completion in 2004. These methods will build a much-improved foundation for program evaluation in the future.

- The department has many time-to-action measurements. For example, percent of timely returned phone calls, timely first pays, and response to protests are measured. In 2001 an accountability system was developed to monitor claim handling performance on items such as closure resolution rates, response to reopening applications, the length of time to take the action and the quality of the decision. Reports are available at the program, service area, work unit and individual level. The system will be expanded this fall to include appropriate use of independent medical examinations and return to work data.

- The department has included three new measures on the agency's FY04 Scorecard: decrease the length of time for an allowance or rejection decision, resolve 75% of all protests received on or after July 1 within 90 days, and increase the percent of workers released to early intervention who actually return-to-work with the original employer.

Recommendation 7:

There should be less reliance on the formal claim closure process.

Follow Up

The department implemented a number of initiatives to decrease the formality of the closure process:

- Orders and Notices, including those related to closure, were revised to make them clearer and more understandable to recipients.
- A policy that generated unnecessary formality in closing less serious claims was discontinued, and a training aid was developed to assist claim managers in closing those claims.
- Claim manager training on the closure process was appropriately revised and implemented August 1999.
- Attending physicians are encouraged to rate disabilities, eliminating time delays and reducing the formality of the closure process.

Update

Continuing education and communication for providers continues to generate an increase in number of attending physicians performing the ratings.

Recommendation 8:

There should be a compliance unit within the department, which monitors the operation of the insurance services division and self-insured employers.

Follow Up

- The WCAC Governance Sub-Committee was created to work on Recommendations 1, 8, 10, and 15 in October 1999. The committee looked at how compliance is achieved in other workers' compensation systems, insurance organizations and regulators but did not succeed in getting agreement for or designing a proposed compliance model for the State Fund and self-insured employers.
- A formal Quality Assurance (QA) process was implemented for claims in 2000 and performed through mid-2001, when it was refocused on other priorities.

Update

The formal QA process for claims is currently being refined and reinstated.

Recommendation 9:

The department should offer some form of ongoing refresher training for all individuals who are managing claims.

Follow Up

- The department reviewed and revised training for both new employees and experienced claim managers.

- The new employee-training schedule and curricula were changed to provide the skill levels required for the in-training series, as well as to integrate process changes resulting from the audit.

- To determine refresher training needed, skill assessments were administered to all levels of claim managers. Level 1 and 2 claim managers received refresher training to address the skill gaps identified in their assessments. For level 3 claim managers, assessments were conducted and refresher training was developed.

Update

During the past three years, the department has provided refresher training for the claim adjudicators at the Workers' Compensation Adjudicator (WCA) 2, 3, 4, and 5 levels on the following subjects:

- Wage calculation training was provided to all levels of claim managers – 2,320 training hours.
- IME training was provided to 295 claim staff – 1,180 training hours.
- Adjudicating workers' applications for reopening benefits was provided to 13 level 3 claims managers – 84.5 training hours.
- Processing orders returned from the Board of Industrial Insurance Appeals and higher courts training was provided to approximately 81 level 3, 4 and 5 claim managers – 526.5 training hours.
- Medical management of claims with psychiatric conditions was mandatory training for supervisors, nurse consultants and all level 2, 3, and 4 claim managers – 804 training hours.

Individual refresher training on various technical areas of claim management is provided on an as needed basis. Findings generated by the previously mentioned Accountability System, provide the basis for supervisors, coaches and trainers to

target the courses and hours spent in training subjects that address current performance needs.

Recommendation 10:

Once the department has in place a compliance unit and a system of ombudsmen or mediators, the current oversight of the claims processes of self-insured employers should end.

Follow Up

The department did not concur with this recommendation. Nevertheless, the oversight issue was referred to the WCAC Governance Sub-Committee. Since the committee was unable to reach agreement on the ombudsman and compliance models, eliminating self-insurance oversight did not proceed.

Update

The department is currently working with the Washington Self Insurance Association (WSIA) to identify opportunities for using technology to support standard data collection and reporting for self-insured employers and third-party representatives.

Recommendation 11:

When the department begins sending monthly checks through an attorney or when it sends any lump-sum payment through an attorney, it should notify the claimant of the rate or the amount of the payment or payments sent to the attorney and the statutory limit on attorney fees.

Follow Up

Implemented December 1999.

Recommendation 12:

When the department sends dividends to a retro group, it should notify the member employers of the amount of the dividend and the basis for its calculation.

Follow Up

Refund information was made available on the retro web site lni.wa.gov/retro. This information is updated quarterly and can be accessed 24 hours a day.

Recommendation 13:

The department should collect and publish information about the performance of third party administrators to the extent it becomes available through audits and otherwise.

Follow Up

The agency has no regulatory authority to oversee third party administrators, so no action was taken on this recommendation. Where the third party administrator is managing a self insurer's account, however, the department has significant authority to oversee handling of claim, conduct audits and take corrective action, as appropriate.

Recommendation 14:

Develop a system of allocating indirect costs among funding sources and publish financial statements that clearly indicate where its funds come from and how they are spent.

Follow Up

The department hired an external consultant to develop financial statements describing indirect costs. The draft reports were shared with the WCAC and revised based on members' suggestions. The reports were produced through the 1999-2001 biennium. Because of continuing questions concerning the methodology, the reports were discontinued.

Update

The department is currently in the process of developing a revised indirect cost allocation method in response to the State Auditor. An independent consultant has been hired, work is underway and the report should be completed by October 2003. This report will determine if cost reallocations are warranted.

Recommendation 15:

The department should create a system of mediators or ombudsmen to provide assistance to workers and employers.

Follow-Up

The department did not concur with this recommendation but supported discussion by facilitating and staffing the WCAC Governance Sub-Committee. The committee spent several meetings researching and developing an ombudsman model. The department provided a review of what other states were doing. Guests that provided information about how their organizations provide the service included Maria Carraher, the Chief Ombudsman and Assistant Chief for injured workers in Oregon, and Pam Martin from the Insurance Commissioner's Office. Some progress was made toward developing a model but agreement was not reached between business and labor representatives. The committee disbanded without resolution.

Update

A number of ombudsman-like services shared with the Governance Sub-Committee in those meetings continue to be provided in the current system:

- The Director's Office provides two experienced claim managers to assist customers and stakeholders in resolving complex issues and problems.
- Project HELP funded by L&I and managed by the Washington State Labor Council provides claim assistance to workers.
- L&I's Office of Information and Assistance (OIA) provides information and assistance to claim customers needing information and assistance. When complex questions or issues arise, an automated referral is generated and sent to the appropriate claim manager or other staff member to resolve. Response time for referrals for external claim customers is 24 hours, and performance is monitored at the unit and claim manager level.

Recommendation 16:

The department should adopt a policy that all protests and reassumptions are resolved within 30 days.

Follow Up

The department partially concurred with this recommendation. Business, labor, and attorney representatives agreed a 30-day response time is not a realistic expectation for most protests and appeals and that a 90-day response as provided by statute is more realistic, with up to 180 days for exceptionally complex cases.

The department implemented a prototype procedure for resolving protests in one unit in September 1999. The resolution rate was improved but not sustained.

For appeals, a pilot was implemented to reduce the number of protested claims over 90 days by 25%. The pilot successfully reduced delays for all levels of claims, not just those over 90 days. The process was subsequently implemented for all appeals.

Update

The department recognizes the merit of further improvements and continues to focus on protests in its management reforms. Protests are part of the comprehensive cycle-time reduction effort undertaken this year. The department has made protest resolution within 90 days a goal on its FY04 Scorecard.

Recommendation 17:

Superior court review of decisions by the Board of Industrial Insurance Appeals should be eliminated.

Follow Up

The department did not concur with this recommendation, and with the agreement of all interested parties, no action was taken.

Recommendations 18 & 19:

The primary goal of vocational rehabilitation as formally stated and as observed in practice should be successful return to work of the injured worker.

The standard for employability should be wages at the time of injury, not the federal minimum wage.

Follow Up

The WCAC Sub-Committee on Vocational Services, in place prior to the audit, was already working on these issues. Business and labor, and their representatives, as well as providers, attempted to reach agreement on proposed legislation for the 2000 session, but the salient issues were not resolved to the satisfaction of all the stakeholders. The department followed through on its commitment to draft legislation that best met its customers' need, but the bill did not advance out of committee.

Update

- In June 2001, a new rule created the early intervention category for vocational services. This service is geared toward quickly returning the employee to work with the employer of injury.

- In November 2002 a project was started to identify and develop early intervention guidelines for claim managers to use in determining the appropriate referral time and type. Full implementation occurred in January 2003 resulting in an increase in return to work from this service.

- The Preferred Worker Program (PWP) is undergoing significant review and revision to provide more incentive for employers to hire previously injured workers unable to return to work at the job of injury.

Recommendation 20:

Increase the current monetary and time limitations on retraining.

Follow Up

During the 1999 session, legislation passed increasing retraining expenses from $3,000 per year to $4,000 per year and excluding the cost of items like travel from the retraining limits.

Update

In subsequent sessions, the department has worked with stakeholders to develop legislation that provided a broader range of options for vocational services and alternative ways for workers to direct their vocational services. During 2003, the department expended considerable time and effort working with the stakeholders to reach agreement on vocational legislation. Efforts to date have not been successful. As described earlier, vocational services will be a focus of the department's legislative reform proposal for 2004.

Recommendation 21:

There should be an increased professionalism with regard to vocational rehabilitation within the department, specifically:

- **The department should move towards requiring higher standards of private sector rehabilitation providers.**
- **There should be better availability of qualified, professional rehabilitation counselors to assist and advise claims managers within the department.**
- **There should be more effective training of claims managers and vocational rehabilitation providers concerning best practice methods for achieving the department's hierarchy of return to work objectives, including the appropriate goals for and effective use of vocational rehabilitation services.**
- **The sections within the department charged with evaluating, contracting and managing, and setting policy for vocational rehabilitation should include managerial leadership by individuals who are qualified and experienced vocational rehabilitation professionals.**

Follow Up

- With extensive external participation including representatives of professional vocational associations, the department developed minimum qualifications for private sector vocational providers that require one of three national credentials. The minimum qualifications were written into WAC and became effective December 1, 2000.
- The department hired five additional vocational counselors to assist and advise claim managers.
- Refresher training on vocational best practices was provided to claim managers and vocational consultants in 1999. Training modules were revised to reflect changes in the referral process necessitated by the new WACs.
- The department recruited and hired a vocational professional to manage the Private Sector Rehabilitation Services Program. In addition, a vocational professional was hired to act as a consultant and liaison for department staff providing vocational services in field offices.

Update

- Since the WAC changes, L&I has underwritten the expense of upgrading current department vocational staff to meet the same requirements as the private providers. This expense includes tuition for college coursework, specified paid time for study, the hiring of a certified supervisor to plan and supervise the experience portion of the upgraded qualifications, and provision of sufficient certified educational units (CEUs) for certified staff to remain credentialed.
- Two additional vocational consultants will be hired this fall to support the Preferred Worker Program.
- A project is currently being developed to ensure consistency and accountability in the job duties of vocational consultants.

Recommendation 22:

With regard to a performance-based referral system:

- **Performance standards of quality and effectiveness in vocational rehabilitation practice should be adequately defined to determine the appropriate indicators to be used and how best to measure them.**
- **Measures of satisfaction should include and focus primarily on injured workers and employers.**
- **The evaluation mechanism should include a minimally acceptable threshold for referral.**
- **The full range of the provider's activity in serving State Fund cases should be considered in evaluating performance.**
- **All of the parties involved should be assured that once the evaluation is established, it would be used in making referrals. This assurance should be accomplished by formalizing and announcing the procedures that will be used to accomplish it.**

Follow Up

- The department included specific indicators of quality and effectiveness in new WACs and designated its performance-rating tool as the method for ensuring quality and effectiveness of vocational services. Performance measures now

include vocational outcome, referral duration and costs, which are adjusted for case complexity.

- The department implemented a minimum threshold for referrals and provided training to claims staff.
- The department implemented changes to the current performance measurement system. Measures included the full range of a specific provider's activity in State Fund cases.
- Claim manager training was developed and computer system changes made to automate the performance measurement and referral process.

Update

- The performance report providing information about each counselor's performance is available on the Internet. It has been expanded to include the individual rehabilitation counselor's return-to-work rate and the counselor's national credential status.

- The department's attempt to include customer satisfaction measures into the performance rating was abandoned because of the expense of ongoing quarterly surveys of workers and employers. Instead, the department conducted a satisfaction survey to assess worker and employer satisfaction with vocational services. The two surveys conducted in 2001 showed approximately 60% of workers and employers were satisfied with the vocational counselor.

- Actions are currently underway to increase claim manager emphasis on a counselor's return-to-work rate when making a referral. A consultant from the University Washington was hired to develop independent recommendations while at the same time an internal committee is looking at options to further improve the process. The consultant submitted a report this week that indicates the measurement system is conceptually sound and well designed. Enhancements to the system could further improve the management of vocational referrals and the efficiency and the effectiveness of services. The department's intent is to make referrals to counselors who have better results achieving return-to-work outcomes for their clients, and we will continue to move in this direction.

Recommendation 23:

We recommend a series of changes in the department's safety-related activities.

Follow Up

- **Expand emphasis on the prevention and control of musculoskeletal disorders.**
  - The Washington State ergonomics rule was adopted in May 2000.
  - Implementation activities include numerous demonstration projects, workshops, consultation site visits, employer awards, industry compliance guides, videos, and an ergonomics ideas bank on the Internet.
  - Field activities are supported by six regional ergonomics leads and nine central office ergonomists.

- **Develop methods for more closely integrating service involving hazard identification and control, with service aimed at controlling workers' compensation losses.**
  - Cross training for risk management specialists and safety and health consultants is now provided at WISHA's annual statewide safety and health symposium.
  - Employers receiving consultations now receive follow-up on identified hazards that go beyond code requirements.
  - Several regional workshops have been developed that address injury prevention, claims management and loss control in a comprehensive manner

- **Improve the customer-focused orientation of service content and delivery.**
  - Two surveys of employers who have received WISHA inspection or consultation visits have been completed. This customer feedback is being used by program managers to modify and improve service delivery.
  - An extensive effort has been undertaken to rewrite the agency's safety and health rules in plain language.

- **Improve service communications and record keeping.**
  - Policy and procedures were implemented to govern written communication between risk management staff and consultation customers.
  - Specific performance measures and reporting systems have been established for risk management staff.

- **Provide more detailed information to employers about the availability of specific services.**
  - The WISHA website has been enhanced and expanded with such features as the Ergonomics Ideas Bank and WISHA University.

- **Improve responsiveness and timeliness of service delivery.**
  - Several timeliness measures have been incorporated in WISHA's annual performance agreement that is monitored by the federal government.
-
- **Better coordinate services between various consulting entities and eliminate redundancy.**
  - As mentioned above, risk management training has been fully coordinated with safety and health training.
  - Regional coordination between risk management staff and safety staff has been significantly enhanced.

Update

The department implemented all components of the recommendation.

Recommendations 24 - 32:

24. We recommend that the department produce (either through its own actuaries or through an outside independent consulting company) a well-documented, exhaustive actuarial rate filing report detailing all assumptions and methods used. It should be similar to reports that are submitted to

regulatory authorities by a licensed insurance company in states that use a "prior approval" rate filing procedure.

25. **Adopt a plan by which excess premiums are returned as dividends to prior contributors–both employers and employees–that generated the excess premiums, rather than to future policy holders/contributors as reduced rates.**
26. **Adopt changes in the rate setting process that are discussed in detail in Appendices P and Q and which are designed to minimize cross subsidies.**
27. **As explained in Appendix R, the department should adopt adjustments to its retrospective rating plan which are designed to make its application more balanced actuarially.**
28. **The department should establish underwriting guidelines to avoid adverse selection by employers in retrospective rating plans.**
29. **As explained in Appendix R, the department should institute a dividend plan that applies to both retrospectively rated and non-retrospectively rated employers. A properly designed dividend plan would eliminate the need for the performance adjustment factor, or a loss conversion factor of less than 1.0, and would also provide an appropriate mechanism to release excess reserves equitably.**
30. **We recommend that the department produce (either through its own actuaries or through an outside independent consulting company) a well-documented exhaustive actuarial reserve report detailing the assumptions and methods used. Such a report should be similar to those that are submitted to regulatory authorities by private insurance companies.**
31. **Case reserves, particularly in lost-time claims, should be set as early as possible by the claims adjusters responsible for handling each individual claim.**
32. **As discussed in Appendix U, we recommend adjustments that are designed to more equitably distribute costs between retro and non-retro employers.**

Follow Up

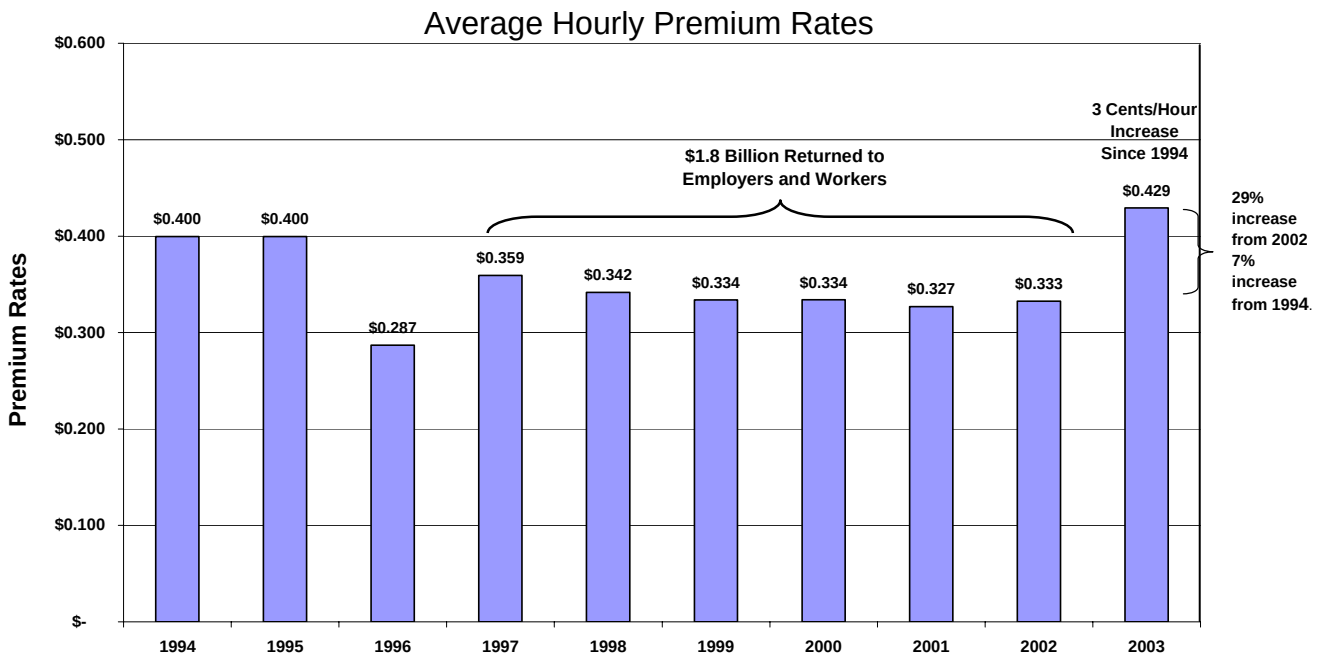
- Well-documented information on the development of rates was available and customized information was provided upon request.
- Accident Fund dividends of $200 million were distributed to employers in January 1999, and an additional $200 million was distributed in August 2000.
- In 2000 the department added an additional 10.9% of the Accident and Medical Aid rate to the Accident Fund rate to cover Retro refunds per class responding to the underlying issue raised by the audit.
- The department met with the Retro Advisory Committee and held five informal public meetings about the need for additional Retro Plans. Employers did not see the need for additional plans at that time. Should a need be identified the department will reevaluate.
- The department participated in the Washington Self Insurers Association (WSIA) committee established to evaluate options for the Second Injury Fund. The WSIA completed the analysis but made no recommendation. The department plans no further action unless requested by WSIA.
- The department adopted additional rules in 2000 that further eliminated adverse selection in the Retrospective Rating Program and provided more equitable cost distribution.

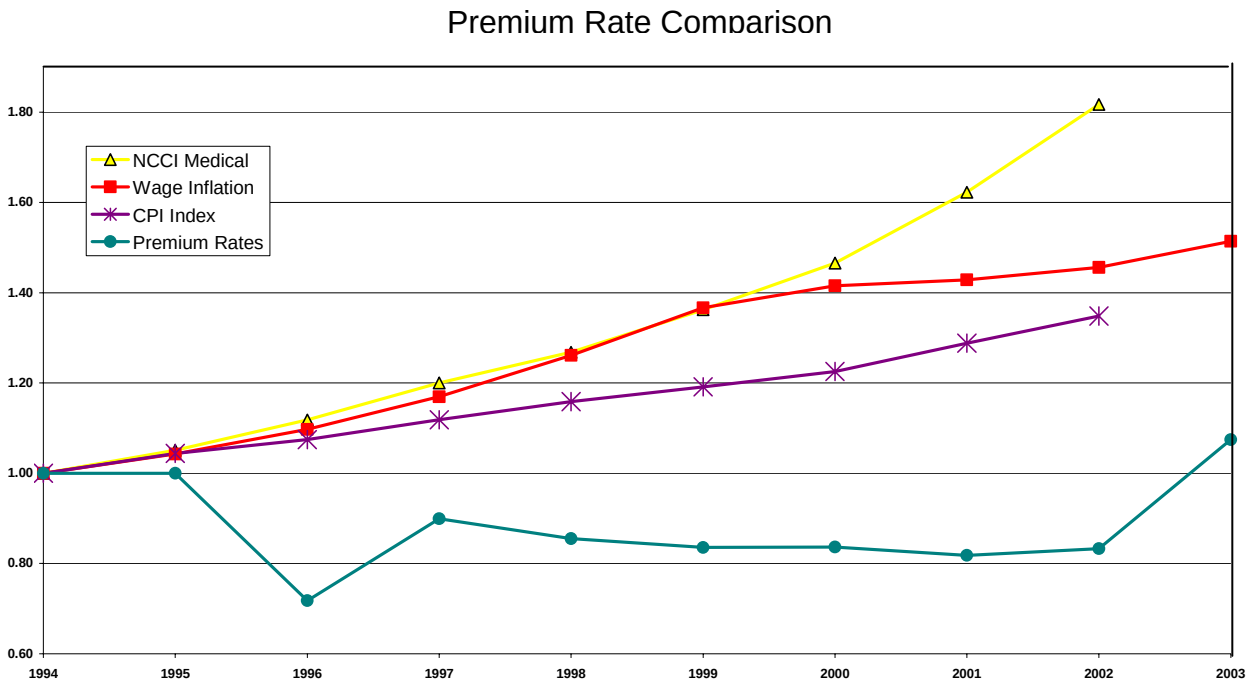
- An extensive actuarial review of the agency continues to be performed annually by independent actuarial consultants.

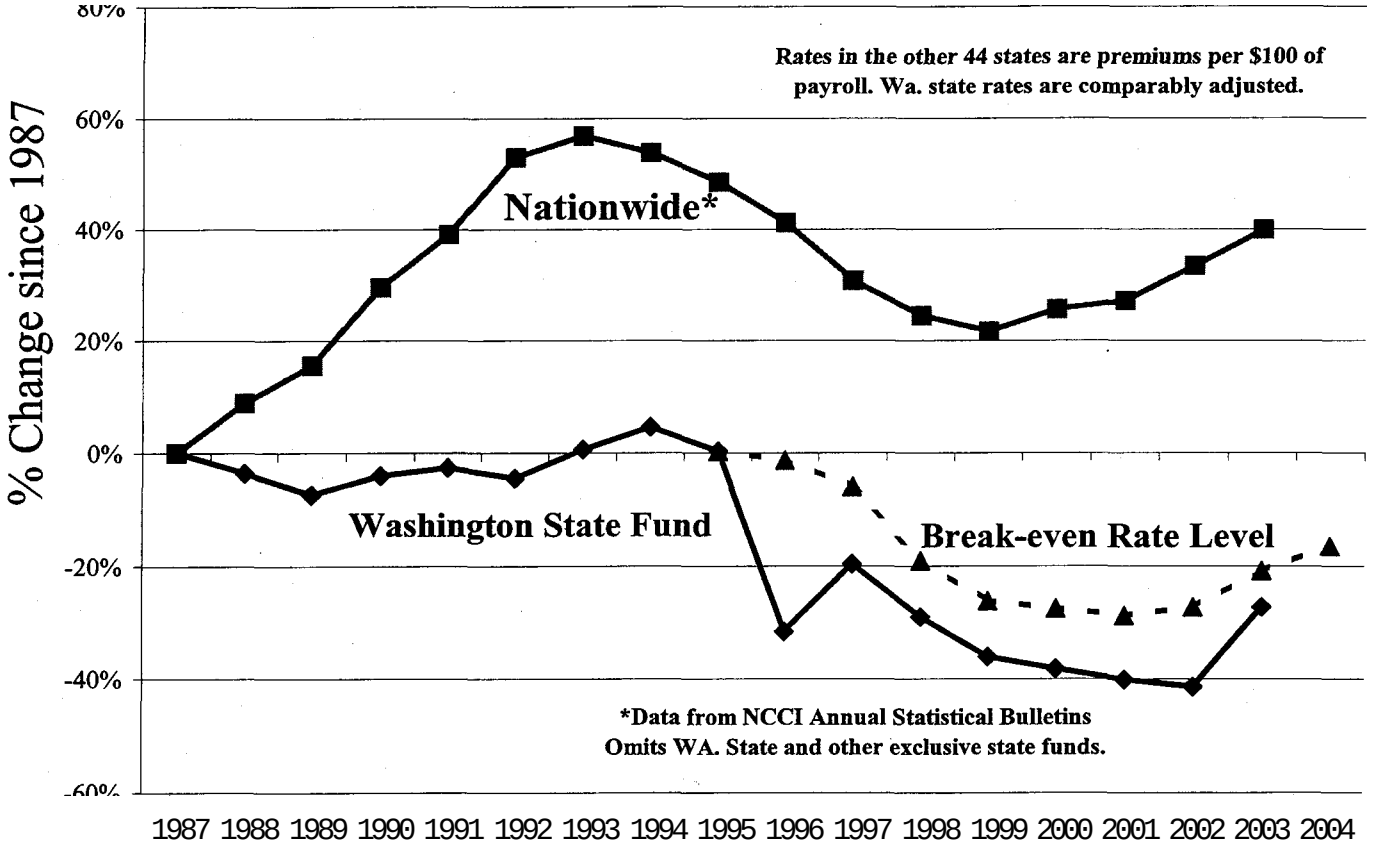
Update

The JLARC actuarial recommendations fell into three main categories: dividends, ratemaking, and retrospective rating. Many of the recommended changes were made with the understanding that subsequent study would be needed. A database was created and the necessary data is being collected to determine the appropriate changes for the future. These could include:

- Loss development by type of claim
- Updated table of insurance charges underlying the retro calculations
- Study the 2nd injury fund and revise the relationship of credibility by size of firm underlying the experience rating plan
- Study of actuarial support for expanding accident free discount program from 3 years to 4 or more years with progressive discounts for the additional years.


Average Hourly Premium Rates
Premium Rates
$0.600
$0.500
$0.400
$0.300
$0.200
$0.100
$-
$0.400
$0.400
$0.287
$0.359
$0.342
$0.334
$0.334
$0.327
$0.333
$0.429
1994
1995
1996
1997
1998
1999
2000
2001
2002
2003
$1.8 Billion Returned to Employers and Workers
3 Cents/Hour Increase Since 1994
29% increase from 2002
7% increase from 1994.


Premium Rate Comparison
NCCI Medical
Wage Inflation
CPI Index
Premium Rates
1.80
1.60
1.40
1.20
1.00
0.80
0.60
1994
1995
1996
1997
1998
1999
2000
2001
2002
2003

Cumulative Premium Rate Change

Washington vs. Nationwide