

As the end of 2009 approaches, the cost of workers' compensation continues to be an economic concern for employers. The National Council on Compensation Insurance (NCCI) reported that in 2008 the workers' compensation market remained steady despite the economy. NCCI, however, changed its short-term view on the market from optimistic to guarded, and its long-term outlook to cautionary due to such things as higher indemnity claim costs, rising medical costs, and potential political changes. Inflation, according to NCCI, also played a key role in pushing the medical costs of workers' compensation to nearly 60 percent of total losses. Unfortunately, these statistics fall on top of the fact that most employers' costs have been rising for several years.

At Integro, we believe the best defense in this market is to continue to empower our clients with knowledge and tools, programs and practices that help preserve and protect their invaluable business assets against any workers' compensation risk or issue – from financial to operations and people. We track and analyze federal and state legislative updates that affect workers' compensation programs, and follow current workers' compensation topics such as medical and prescription costs, claims frequency and severity, reductions in force, and the aging workforce. Through our monthly newsletters, we will provide our clients with information and solutions to help confront and resolve their toughest workers' compensation issues and concerns.

Market Outlook

NCCI's latest review of claim frequency shows that although frequency continued to decline in 2008, indemnity and medical severities continued to rise. Over the last five years, there were significant declines in total lost-time claims frequency for all industries, employer sizes, and geographic regions. Medical severity, however, continues to grow faster than the medical component of the U.S. Consumer Price Index.

The number and frequency of permanent total claims has increased significantly over the last four years. The rise in permanent total claims appears to be driven primarily by workers age 50 or under. According to NCCI, workers' compensation medical losses constituted more than half of total losses at 58 percent in 2008, compared with 42 percent for lost income payments. In 1989, medical losses represented 46 percent of all costs. The medical portion is expected to continue to grow; the Insurance Information Institute projects that in 2017 the medical loss portion will be 70 percent.

NCCI also noted that the decline in frequency of injuries has progressed at the same pace as the rise in severity. The decline in employment in 2009 suggests downward pressure on exposure and claim frequency, and slowing wage gains may dampen increases in indemnity severity. The estimated increasing medical care prices in 2010, however, suggest further upward pressure on medical severity. Adding to that factor, even though claims frequency has declined every year since 1991, we see that workers' compensation costs are still rising.

Continued Job Losses

The current state of the economy continues to produce corporate layoffs and closures at an alarming rate. The Bureau of Labor Statistics (BLS) reported that in August 2009, employers laid off 259,307 workers. The total for September jumped and totaled 263,000. Since the start of the current economic recession in December 2007 (as designated by the National Bureau of Economic Research), the number of unemployed workers increased from 7.6 million to 15.1 million. And, for all of 2008, eleven states experienced record high mass layoff totals.

A study conducted in 1992 by the Workers Compensation Research Institute (WCRI) discovered that recessions do impact workers' compensation claims severity. WCRI found that the longer the duration of the claim, the larger and more frequent the lump sum settlements. With the national unemployment rate hitting 9.8 percent in September 2009, double from when the recession started, it is crucial that employers who are planning layoffs or closures take the time to re-evaluate their workers' compensation program in order to avoid the possibility of rapidly increasing claims costs from those left behind.

In addition to costs, an employer must also consider the Worker Adjustment and Retaining Notification (WARN) Act, which is a federal law that requires certain employers to give their employees a 60 day notice before a mass layoff or plant closing. The purpose of the WARN Act is to provide workers with time to seek retraining opportunities or new employment. Each state may have a different WARN Act that could be more or less strict than the federal act. (The New York State WARN Act is currently the strictest in the United States). Other federal acts employers need to be aware of during layoffs and closures are the Older Workers Benefit Protection Act and the Age Discrimination in Employment Act.

For more information and a copy of the WARN Act Guide to Advance Notice of Closings and Layoffs, go here: www.doleta.gov. For more information on the Older Workers Benefit Protection Act and/or the Age Discrimination in Employment Act, visit: www.eeoc.gov.

Illegal Immigrants

As court decisions continue to narrow the scope of benefits allowed for illegal immigrant workers, the Independent Insurance Agents and Brokers of America (IIABA) has created a chart that outlines rights and benefits by state. It provides each state's current position on the issue, and supplies additional web sites for more information. Currently, Wyoming is the only state that has a statute prohibiting illegal immigrants from receiving workers' compensation benefits. The IIABA chart also references recent court decisions in states that are narrowing the scope of benefits allowed. For the chart and additional information, visit: www.iiaba.net.

About Integro

Integro is an insurance brokerage and risk management firm dedicated to serving the insurance and risk management needs of complex institutional risks. Integro has offices across North America, as well as in Bermuda and London. Its headquarter office is located at 1 State Street, 9th Floor, New York NY 10004. 1-877-688-8701. www.integrogroupp.com. Copyright 2009, Integro USA Inc.