

**SUMMARY OF RESPONSES TO CARRIER SURVEY/INTERVIEWS  
APRIL 1, 2002 LOSS COST FILING  
PENNSYLVANIA WORKERS COMPENSATION EXPERIENCE, FINANCIAL DATA AND  
PENNSYLVANIA SPECIAL SCHEDULE "W"**

In preparation for the April 1, 2002 Loss Cost Filing, the Pennsylvania Compensation Rating Bureau prepared and distributed a survey to the 26 largest carrier group writers of workers compensation business in Pennsylvania. This survey was intended to solicit information and insights about recent, current and likely future features of workers compensation business in the Commonwealth toward the objective of assisting staff in understanding and interpreting observed features of available experience data.

Carrier groups were given the option of responding in writing or by way of telephone interviews conducted by PCRB staff. In all, 15 carrier groups provided responses to the survey.

The following is a summary of the survey responses received, provided with the survey questions for ease of reference.

### **1. DATA ORGANIZATION AND AVAILABILITY**

*Do your group's companies perform loss reserving and/or pricing analyses that are specific and limited to Pennsylvania workers compensation business?*

Nine groups indicated that they did perform such analyses; five groups indicated that they did not and one group responded that they performed such work for purposes of pricing but not reserving.

*If so, have you seen any noteworthy changes in loss development and/or ultimate loss ratio estimates for Pennsylvania workers compensation in the last three years? What were they, and to what factor(s) do you attribute the changes that you have observed?*

Seven groups identified changes that they had seen in loss development and/or loss ratios for the business cited. Three groups commented that they had not seen any noteworthy changes, and the remaining five groups did not respond to this question.

For groups noting observed changes there was no pattern or predominant theme to the changes seen, which in some instances were conflicting between separate respondents.

### **2. SETTLEMENT PATTERNS**

For purposes of this question the term "settlement" is intended to mean "claim closure." It is NOT intended to be limited to instances where some formal or informal accommodation is reached between the claimant and your company as a means of resolving or avoiding points of disagreement. When such arrangements are used in the course of claims management and to the extent that those measures are successful, they would, of course, be included as part of your company's overall settlement pattern.

*What notable changes, if any, has your company observed with respect to settlement patterns, as defined above, during the most recent three years?*

Five groups indicated that they believed that their settlement patterns had become at least somewhat faster. Eight groups indicated that they saw these patterns as being stable. One group stated that settlement rates had gotten slower, and the one remaining group did not comment.

*To what factor(s) do you attribute the changes in settlement patterns that you have observed?*

For those groups that saw faster settlements, the most common attribution of reasons was to Act 57 generally and to the authority for compromise and release settlements in particular, in combination with some other administrative features of the current system, such as forms required or authorized for certain case management purposes.

### **3. COMMUTATIONS, STRUCTURED SETTLEMENTS AND COMPROMISE AND RELEASE AGREEMENTS**

*Has your company's approach to the use of commutations, annuity purchases, compromise and release settlements, etc. changed over the last five calendar years?*

Eleven groups responded in the affirmative, while four groups either did not comment or stated that their practices had not changed.

*If so, how?*

Ten of the 11 groups seeing changes cited the increased, almost exclusive use of compromise and release settlements in lieu of commutations or annuities as a major consideration in this regard.

*When did these observed changes occur?*

The changes were placed in the period since 1997, after enactment of Act 57 in 1996.

*What effect(s) do you believe any changes that have occurred in your use of these procedures have had on your company's loss experience?*

While rather varied in content and perspective, the groups seeing changes in this area generally characterized the changes as being positive (i.e., reducing or helping to contain costs). Two respondents noted quicker closures of cases being accomplished but questioned the ultimate amount of actual reduced payments, if any.

*To what extent do you believe that your future loss experience may be different from your recent results by virtue of the continuing effects of changes in these areas? Why?*

Only a few respondents commented on this question, and responses were quite varied between those seeing improvement and others seeing deterioration. Three respondents mentioned Medicare Set Aside Trust issues as being potentially problematic, although another respondent expressed the opinion that concerns that were initially widespread in that regard had proven unfounded.

#### **4. ADMINISTRATIVE SYSTEM - TIMELINESS AND EFFECTIVENESS**

*How would your company characterize the administrative system (including both the Workers Compensation Bureau and various appellate court levels), as respects the time required in order for your company to receive decisions in contested matters?*

About half of the responding carrier groups characterized the current system's timeliness. Respondents generally saw the time required to obtain decisions from the Workers Compensation Bureau, Appeal Board or Commonwealth Court as problematic and longer than necessary. They were substantially more critical in this regard of the Appeal Board than of the judges themselves.

*Has your experience with and/or impressions about this system changed and, if so, how?*

Nine groups stated that they had seen improvement in the timeliness of decisions, despite the fact that they were collectively concerned about the time required to complete the petition processes. One group felt that there had been no perceptible change in this regard, and the remaining five groups did not comment.

*How would your company characterize the administrative system (including both the Workers Compensation Bureau and various appellate court levels) in terms of the success your company generally sees with respect to obtaining the desired result(s) from the workers compensation judges and/or court system?*

Most respondents felt that the petition process produced decisions predominantly favoring claimants. The view was often expressed that this was a long-standing orientation, with some comments about interpretations circumventing parts of recently enacted reforms such as the loss of earning power provisions of Act 57.

*Has your experience with and/or impressions about this system changed and, if so, how?*

Several respondents expressed the feeling that nominal improvements had occurred with regard to the overall tenor of decisions in contested cases. Some comments indicated that the process and its participants were increasingly disposed toward and directed to settlements in lieu of pursuing final decisions, although some were of the opinion that this emphasis was placed later in the overall process than might be most effective.

#### **5. ACT 44 EFFECTS ON EXPERIENCE**

Act 44, passed in 1993, implemented a broad complement of medical cost containment measures for workers compensation business in Pennsylvania.

*To what extent were your company's medical case reserves adjusted to reflect post-Act 44 medical prices as of December 31, 2000?*

All respondents indicated that their medical case reserves were fully or almost fully adjusted to the post-Act 44 environment by December 31, 2000.

*To what extent and, if so, how do you expect your company's medical case reserves to continue to evolve toward a new point of adequacy or stability after December 31, 2000 as a result of continued recognition of changes made in the medical cost containment system in 1993?*

None of the respondents expressed an expectation that case reserving practices or levels would mature in response to Act 44 after December 31, 2000.

## **6. ACT 57 EFFECTS ON EXPERIENCE**

Act 57, passed in 1996, included a variety of changes affecting indemnity benefits and the administrative processes applicable to workers compensation claims in Pennsylvania. These changes included the following notable provisions:

- A: Changes in computation of wages as a basis for establishing indemnity benefits
- B: Offsets against workers compensation benefits for parts or all of Social Security Old Age Benefits, employer-funded pension benefits and severance benefits
- C: Provision to use evaluations of total bodily impairment established in accordance with the American Medical Association's Guide To The Evaluation of Permanent Impairment as a means of determining total disability vs. partial disability status for long-term cases
- D: Compromise and release settlements of certain workers compensation claims
- E: Establishment of a process of informal conferences which may be used to attempt to resolve disputes prior to the invocation of hearings to address a formal petition filing(s)
- F: Requirements that workers provide periodic reports of changes in injury status and/or wages or other earnings to their employer or insurer
- G: Revision of the definition of loss of earning power

*Describe any observations or impressions you presently have regarding the effects of any of these specific law changes on losses and claims management processes in Pennsylvania?*

- A: Nine respondents commented about this provision. Six of those saw at least some meaningful benefit to this provision.

- B: Eight respondents commented about this provision, but only one of those saw significant benefit to this part of the law. That comment was provided in a broad endorsement of most provisions of Act 57, with specific comment reserved for one feature that the carrier group found wanting.
- C: Ten respondents commented about this provision. None of those saw significant value to this feature in and of itself; one carrier group felt that this part of the law had some value in the context of settlement discussions.
- D: Ten respondents commented about this provision. All but one saw this as a very significant and favorable part of the legislation.
- E: Respondents were rather evenly divided in their sentiments about this part of the law. Ten respondents commented about this provision. Six of those saw at least some meaningful benefit to this provision, while four saw little, if any, effect.
- F: Respondents were similarly divided in their comments about this part of the law. Ten respondents commented about this provision. Six of those saw at least some meaningful benefit to this provision, while four saw little, if any, effect.
- G: Respondents were also split in their answers to this item. Ten respondents commented about this provision. Four of those saw at least some meaningful benefit to this provision, while six saw little, if any, effect and felt that the administrative system was inexorably returning to the Kachinski decision as the controlling practice in this area.

*To what extent do you believe that your company's indemnity case reserves reflected the statutory changes of Act 57 of 1996 as of December 31, 1998, December 31, 1999 and December 31, 2000, respectively? (For example, as of each of the dates of interest, did your case reserves reflect no change due to the new law, were they halfway (50 percent) between the prior law level and the new law, were they fully adjusted (100 percent) to the new law, etc.?)*

December 31, 1998: Twelve respondents commented in this area, with eight feeling that their case reserves were substantially to fully adjusted to the post-law level. Four other respondents noted adjustments ranging from unknown to 50 percent.

December 31, 1999: Thirteen responses were gathered for this item, with 11 indicating that case reserves were substantially to fully adjusted. Two carrier groups said that the law change had no effect on their case reserves.

December 31, 2000: Thirteen responses were gathered for this item, with 11 indicating that case reserves were fully adjusted. Two carrier groups said that the law change had no effect on their case reserves.

*To what extent and if so, how do you expect your company's indemnity case reserves to continue to evolve toward a new point of adequacy or stability after December 31, 2000 as a result of continued recognition of changes made in statutory and/or administrative systems pertaining to indemnity benefits in 1996?*

None of the respondents expected further changes in case reserves as a result of Act 57.

*If your company has applied the statutory provisions noted in C: above to any cases to date, please fill in the following chart for the evaluations you have received via that process to date:*

+Claim Evaluations Made Using AMA Guides to the Evaluation of Permanent Impairment -  
 June 1998 to \_\_\_\_\_  
 (latest date for which data is available)

<u>Total Bodily Impairment Rating(s):</u>	<u>Number of Claims</u>
0 to 10	_____
11 to 20	_____
21 to 30	_____
31 to 40	_____
41 to 50	_____
51 to 55	_____
56 to 60	_____
61 to 65	_____
66 to 70	_____
71 to 75	_____
76 to 80	_____
81 to 90	_____
91 to 100	_____
 Total Number of Ratings:	 _____

Only three respondents had specific records of evaluations to share with us. Many carrier groups indicated that, although no actual records were available, they were confident that very few such evaluations had been undertaken, and no ratings above 50 percent had resulted. For the respondents having data slightly more than 100 total evaluations had been done and approximately 90 percent of those fell below 50 percent total bodily impairment.

## 7. CLAIM FREQUENCY

*Over a substantial period of time, workers compensation loss experience in Pennsylvania was substantially improved by virtue of a continuing decline in claim frequency. What information does your company have regarding claim frequency (i.e., numbers of claims incurred per unit of payroll, per amount of expected loss or premium at a specified loss cost or rate level, etc.) in recent years, particularly 1999, 2000 and 2001 to date?*

Ten carrier groups reported some type of frequency data, with information kept in a number of forms.

For 1999, nine groups offered measures of claim frequency, with three showing increases, four showing declines, one showing frequency as being flat and one response not able to determine changes for 1999.

For 2000, ten groups offered measures of claim frequency, with three showing increases and seven showing declines.

For 2001 to date, ten groups offered measures of claim frequency, with two showing increases, seven showing declines and one measuring claim frequency as being flat.

*What does your company expect will happen with respect to claim frequencies over the next two years? What information and/or observations lead you to those expectations?*

Nine groups offered prognoses for claim frequency. Four thought that claim frequency would be increasing, three opined that frequencies would be flat or were uncertain about future trends, and two anticipated additional declines in claim frequency.

#### **8. ADDITIONAL FACTORS PERTINENT TO FUTURE PENNSYLVANIA WORKERS COMPENSATION LOSS EXPERIENCE**

*As your companies consider the prospects for Pennsylvania workers compensation business over the next two years, are there any factors which you believe will be or think may potentially be either notably positive or notably negative influences on your results and/or the system at large? If so, please comment on what those factors are and why you believe that they will be important.*

The most commonly cited factors in response to this item were Medicare Set Aside Trusts and the state of the economy. Also included in overall comments were continuing effects of wage loss-related case law precedents and the potential for future catastrophic losses of extraordinary proportions.