

Office of the Ombudsman for Self-Insured Workers

2010 Annual Report

Reporting Period:

July 1, 2009 – June 30, 2010



The Office of the Ombudsman advocates for the rights of injured workers of self-insured employers by providing information, investigating complaints, and taking action to ensure the worker receives the appropriate benefits under industrial insurance law.

Denise McKay, Ombudsman



State of Washington
Office of the Ombudsman for Self Insured Injured Workers
Department of Labor and Industries
PO Box 44001 Olympia WA 98504-4001 • (888) 317-0493 • fax (360)902-4202

September 30, 2010

The Honorable Chris O. Gregoire
Honorable Members of the Legislature

I am pleased to submit our report for the first full year of operations of the Office of the Ombudsman for Self-Insured Injured Workers (OSIIW). This report provides an accounting of our activities for the period July 1, 2009 through June 30, 2010.

Our marketing and outreach efforts resulted in a dramatic increase in the demand for our services. We are averaging over 700 incoming calls per month on our toll-free line. A new website was launched in December, offering information about our services and providing additional resources for the injured worker.

Over the past year we've received a number of thank you cards and letters from injured workers. Their letters also express appreciation to you and to the legislature for creating this office as a resource to help them through the claims process.

We appreciate the opportunity to serve as advocates for self-insured workers of Washington State.

Respectfully submitted,

Denise McKay
Ombudsman

Table of Contents

Executive Summary	1
Our Role: Advocate for the Self-Insured Injured Worker	1
Increasing Demand for Service	1
Staffing.....	1
Outreach.....	2
Responding to Worker Complaints.....	2
Recommendations to Improve the System.....	2
Protecting Worker Confidentiality	3
Office of the Ombudsman for Self-Insured Injured Workers	4
Authority.....	4
Key Features of the Law.....	4
Staffing.....	4
Self-Insurance in Washington	6
The Role of the Ombudsman	8
Goals and Objectives	8
Responding to Worker Issues	10
Referral Procedures for Complaints.....	10
Protecting Worker Confidentiality	11
Tracking Complaints	11
Referral Source	12
Commonly Reported Issues	13
What are the most commonly reported issues?.....	13
Delayed or denied payment of time-loss benefits.....	14
Delayed or denied medical treatment.....	14
Completed Investigations	16
Investigations By Employer.....	16
Resolution Profile.....	17
Success Stories	19
Working Together for Change	21
Recommendations for Change	22
How to Contact the Ombudsman’s Office	23

Executive Summary

The Office of the Ombudsman for Self-Insured Injured Workers (OSIIW) was established by the 2007 legislature to advocate for the rights of injured workers of self-insured employers. This Ombudsman was appointed by the Governor on January 12, 2009. This report represents the first full year of operations by this office and covers the time period July 1, 2009 through June 30, 2010.

Our Role: Advocate for the Self-Insured Injured Worker

This office provides self-insured workers access to claims assistance and information. Injured and ill workers have the support and assistance of knowledgeable and effective advocates who are able to work in partnership with self-insured employers, third party administrators and department adjudicators. We work to ensure the worker receives the appropriate benefits under the law.

Increasing Demand for Service

Our marketing efforts have resulted in a significant increase in the demand for our services. The number of incoming calls to our toll free line increased from 48 calls in May 2009, to over 780 calls in June 2010.

An important function of this office is to provide information on workers' compensation to injured workers. A significant number of the calls we receive are from workers seeking information or clarification on workers' compensation. We answer questions and explain the law, rules, and policies governing industrial insurance.

We conduct investigations into complaints as warranted. For the period July 1, 2009 through June 30, 2010, we received 360 complaints which required an investigation by this office. During this reporting period, 289 investigations were completed, with 71 cases pending resolution.

Staffing

The 2007 legislation provided for an ombudsman and three additional staff, and allowed for staffing adjustments based on workload demands. The demand for services has increased dramatically over the past year; however, due to the governor's hiring freeze the office was unable to fully staff the office.

Workers contact this office for help in securing medical and time-loss benefits. They rely on our ability to respond quickly. The increasing demand for service over the past year challenged our ability to respond to the needs of the worker in a timely manner.

Outreach

As a new program, we continually search for methods to increase awareness about our services. We actively partner with labor organizations by providing educational and training opportunities for their members and staff. We ask workers how they heard about our program and use this information to direct our marketing and outreach efforts.

A brochure outlining our services and providing contact information must be provided to the worker at the time an injury is reported. Our toll free number is printed on the required self-insurance posters, which must be displayed in an area accessible to all self-insured workers.

We launched a new website www.ombudsman.selfinsured.wa.gov in December 2009. The website provides information about the office and outlines our services. The site offers information about industrial insurance and links to other resources for the injured worker.

Responding to Worker Complaints

The preferred method of addressing worker complaints is through the self-insured employer (SIE) or third party administrator (TPA). Working to resolve issues at the lowest possible level, without need for action or intervention by the department, is the most efficient method of complaint resolution. I am pleased to report an increase in the number of complaints resolved with the SIE or TPA.

Pursuant to RCW 51.14.350, the office established referral procedures to refer the complaints to the Department of Labor and Industries for action. A referral is made if resolution cannot be achieved with the employer or TPA. The department has taken swift action on all referrals to date.

Recommendations to Improve the System

An important function of this office is to identify deficiencies in the workers' compensation system and to make recommendations for improvements. Over 7 percent of our investigations involve late payment or non-payment of medical bills. Based upon the number of complaints filed, we recommend the department consider rule changes to require the timely payment of injury related medical bills. We also recommend the department consider a rule requiring the worker be provided an explanation of benefits with each compensation payment. The explanation would state the purpose of the payment and dates covered for each time-loss compensation payment, permanent partial disability award, or other compensation. We recognize the great majority of self-insured employers already employ these practices as part of their claims management protocol. Our intent is to ensure all injured workers are informed.

Protecting Worker Confidentiality

The statute governing this program specifically protects the confidentiality of all files and records of the office. We do not release records without the worker's authorization. This ensures a worker can contact this office for help without fear of compromise or reprisal. An attorney for an out-of-state TPA is attempting to breach that confidentiality and obtain our files. We have declined to release any information, but the challenge continues.

Office of the Ombudsman for Self-Insured Injured Workers

Authority

SSB5053, passed by legislation in 2007, established the Office of the Ombudsman for Self-Insured Injured Workers (OSIIW). The Ombudsman was appointed by the Governor on January 12, 2009, and serves a six-year appointment.

Key Features of the Law

The following components of the law guide our actions, grant our authority to act, and protect the confidentiality of workers.

Independence

The Ombudsman reports to the Director of Labor and Industries, however the office operates independently from the agency.

Powers and Duties

The statute directs the Ombudsman to advocate for injured workers by:

- Providing information on industrial insurance
- Investigating complaints
- Facilitating resolution of complaints
- Referring complaints to the department when appropriate

Confidentiality

The legislature recognized the importance of worker confidentiality. Under the protection of this statute, workers contact our office for help with the understanding their information will not be disclosed without their consent.

RCW 51.14.370 All records and files of the ombudsman relating to any complaint or investigation made pursuant to carrying out its duties and the identities of complainants, witnesses, or injured workers shall remain confidential unless disclosure is authorized by the complainant or injured worker or his or her guardian or legal representative. No disclosures may be made outside the office of the ombudsman without the consent of any named witness or complainant unless the disclosure is made without the identity of any of these individuals being disclosed.

Staffing

The Ombudsman Program is funded by self-insured employers, as part of their annual administrative assessment. Through the Ombudsman, self-insured workers have targeted access to claims process assistance and information. Injured and ill workers will have the support and assistance of knowledgeable and effective advocates trained to work in partnership with self-insured employers, third party administrators and department adjudicators. We work to resolve claims issues promptly and appropriately.

The authorizing legislation provides for a staffing level of four persons, including the ombudsman and any administrative staff, during the first two years after the Office of the Ombudsman is created. Subsequently, staffing levels will be based upon the Office of the Ombudsman's workload. For the majority of this reporting period, the office was staffed by the Ombudsman and one Assistant.

Self-Insurance in Washington

Legislatively authorized in 1971, self-insurance is an alternative method of providing workers' compensation coverage for some of Washington's largest employers. Under this program, the employer provides appropriate benefits to the injured worker.

Self-insurance is a long-term obligation by the employer to be responsible for the payment of benefits during the time that a claim is open. The employer remains liable for benefits in the event a claim is later reopened as provided in Washington's industrial insurance law. This remains the employer's responsibility whether the self-insurance certification is continued or voluntarily surrendered.

Labor and Industries oversees the provision of benefits to ensure compliance with the law and regulations and reviews the financial strength of the self-insurer to ensure that workers' compensation obligations can be met.

What are the basic requirements to qualify for self-insurance?

- Firm must be in business for at least three years
- Firm must have total assets of at least \$25 million
- Firm must have a written accident prevention program that has been in place in Washington for six months prior to applying to self-insurance
- Current financial ratio (current Assets divided by current Liabilities) must be at least 1.3 to 1
- Debt to net worth ratio cannot be greater than four to one
- Firm must have positive earnings in two of the last three years (including current year being positive) and overall positive earnings for the three-year period

What types of businesses choose to self-insure?

There are 366 active self-insured employers in Washington. They include the largest public and private employers who opted to self-insure their workers' compensation obligations. These employers do business in approximately 15,000 locations throughout Washington, and they employ about 30% of Washington's workforce. L&I certifies these companies and monitors their performance to ensure their 820,000 workers receive the same level of injured worker benefits as workers covered by the state fund. L&I's self-insurance staff assists and trains self-insured employers on the application of Washington's workers' compensation laws. They provide policy and audit self-insured employers to determine if they are managing claims properly and complying with Title 51.

Are there unique characteristics of self-insured employers?

Self-insured employers represent all major industry groups and types. These companies tend to be large, operating in multiple locations, sometimes national, and are more likely to be unionized. Self-insured companies are also more likely to devote significant resources to formal safety programs and incentives. Their return-to-work programs are often more effective than smaller state fund employers, largely due to the number and diversity of available job options and light-duty assignments.

Who manages the self-insured claims?

Roughly 90% of self-insured employers contract with third party administrators for the day-to-day management of claims. The claims for approximately half of the self-insured employers are managed by out-of-state third party administrators.

What percentage of all industrial insurance claims is attributed to self-insurance?

Claims filed by self-insured workers total approximately 30% of all industrial insurance claims. During calendar year 2009, approximately 45,000 self-insured claims were filed. One-third of these claims were for both medical and indemnity benefits (wage replacement and other

disability payments). The remaining two-thirds were claims for medical treatment only.

What benefits are provided to injured workers?

Whether a company is self-insured or covered through the state fund, all Washington workers are entitled to the same level of workers' compensation benefits.

Those benefits may include:

- Treatment for a work-related injury or illness paid for by the workers' compensation system.
- Benefits to partially replace lost wages if the injury or occupational disease prevents the worker from working.
- Vocational assistance if the worker qualifies to be retrained in order to be employable.
- Partial disability benefits to compensate for the permanent loss of bodily function.
- A disability pension if the worker is permanently disabled from any gainful employment.
- Death benefits for survivors if the worker dies as the result of an industrial injury or disease.

The Role of the Ombudsman

The Office of the Ombudsman is an advocate for the rights of injured workers of self-insured employers. We provide information, investigate complaints, and take action to ensure workers receive the appropriate benefits under Washington industrial insurance law.

We track complaints received, document outcomes, and analyze the data from a trending perspective. Our findings are used make recommendations for changes and improvements to the system.

Goals and Objectives

During the first year of operations, attention was directed to the following key activities: building relationships with stakeholders; implementing a comprehensive marketing and outreach plan; responding to the needs of the injured worker; and the development of a tracking system to gather and analyze data.

Building Relationships

Establishing positive working relationships with stakeholders is essential to resolving worker issues as quickly as possible. Labor organizations, employers, and third party administrators (TPA) all play a critical role in the claims process. A stakeholder group was formed to enhance the relationships and include members from labor and the self-insured community.

Implementing a comprehensive marketing, and outreach plan

As a new program, our challenge is to ensure workers are aware of the service we provide. We are using a variety of methods to distribute information about our services.

Website

In December, we launched our new website. The address is: Ombudsman.SelfInsured.wa.gov. This website contains general information about the program and provides contact information as well as links to the other resources and information for workers.

Brochures and Publications

Information about this program is included in the worker's *Guide to Industrial Insurance Benefits*, and our contact information appears on work site posters. An informational brochure was developed and distributed to employers and labor organizations. We are receiving an increasing number of requests from doctors and other providers for copies of our brochures.

Outreach

Labor organizations continue their support of the Ombudsman office, and are key players in our marketing and outreach efforts. We attended a number of labor conventions including the Washington State Labor Council Convention and the Washington State Firefighters Convention. We offer educational opportunities to workers and frequently receive requests from labor organizations to meet with their staff to provide an overview of our program and workers' compensation.

Responding to Worker Issues

Workers contact this office for information and/or help with specific problems with their claims. Referrals to the program come from a variety of sources, including legislative offices, attorneys, unions, and by word-of-mouth.

Injured workers rely on industrial insurance benefits for medical treatment and wage replacement. The laws and rules governing industrial insurance are complicated and often confusing for the average worker. As advocates, one of our roles is to provide information and respond to worker questions about industrial insurance. An important function of this office is explaining the claims process and ensuring the worker understands their rights and responsibilities under the law.

We make every effort to respond to the initial worker inquiry within two business days. An intake evaluation is done to identify the issues and determine the best course of action. Our goal is to resolve their complaint as quickly as possible. If the issues require further investigation, we notify the worker and tell them what to expect. We maintain contact with the worker and involve them in the resolution process.

The time to complete an investigation can vary from a few days to several months depending on the complexity of the issues and the time it takes to obtain and review the necessary information. Claim files are maintained by the self-insured employer or third party administrator. By law, they have ten working days from the date they receive a written request to provide a copy of the claim file.

The best method to resolve a worker inquiry or complaint is directly with the SIE or TPA. Issues are resolved much faster as they have the authority to pay time-loss benefits and authorize medical treatment. We encourage the worker to communicate with the SIE or TPA throughout the claims process.

Referral Procedures for Complaints

RCW 51.14.350 requires this office to develop referral procedures for complaints reported by injured workers. In the event this office is unable to resolve the complaint with the SIE or TPA, a referral is made to the department for review and action. The department conducts a thorough review of the claim information and makes an independent adjudicative decision based upon their analysis of the claim. A summary of the action taken on the referral is provided to the Ombudsman office. The department has responded quickly to all referrals to date.

Protecting Worker Confidentiality

An important feature of the law governing this office concerns the confidentiality of our files. RCW 51.14.370 protects the confidentiality of Ombudsman records and files. It states that all records and files of the Ombudsman relating to any complaint or investigation made pursuant to carrying out its duties and the identities of complainants, witnesses, or injured workers shall remain confidential unless disclosure is authorized by the complainant or injured worker or his or her guardian or legal representative. No disclosures may be made outside the office of the Ombudsman without the consent of any named witness or complainant unless the disclosure is made without the identity of any of these individuals being disclosed. Workers rely on the confidentiality. We are currently facing a challenge from an out-of-state attorney seeking to breach that confidentiality.

Tracking Complaints

A data tracking system was developed to capture and report information on investigations by the Ombudsman office.

The Self-Insured Ombudsman Data system (SIOD) tracks investigations by:

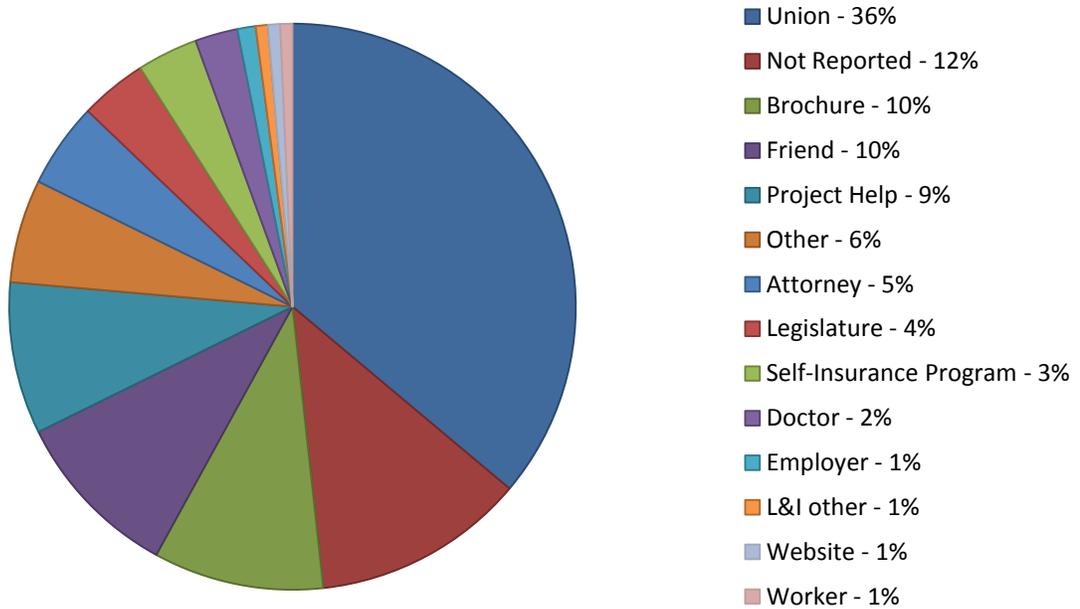
- Employer
- TPA (if applicable)
- Referral source
- Issues
- Resolution

This information is used to identify trends or patterns in complaints filed by injured workers.

Referral Source

When we receive in inquiry, we ask workers how they learned of this office. This information is used to direct our marketing and outreach efforts.

As evident from this chart, referrals from labor unions account for over one-third of our calls, followed by friends, our brochure and Project Help.



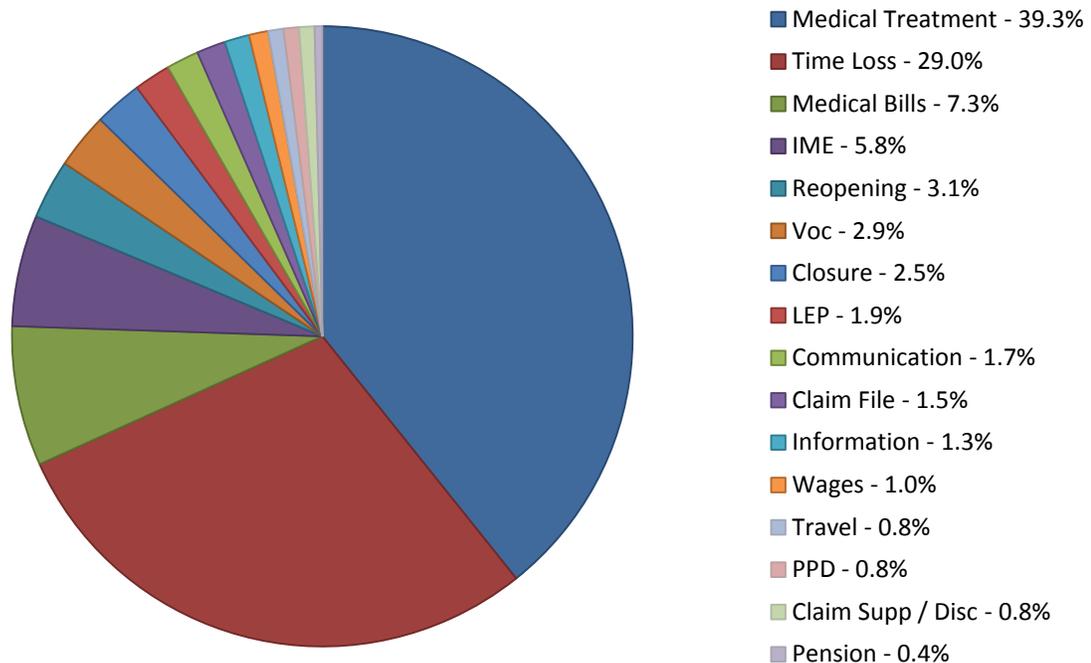
Commonly Reported Issues

What are the most commonly reported issues?

The following are the most frequently reported complaints:

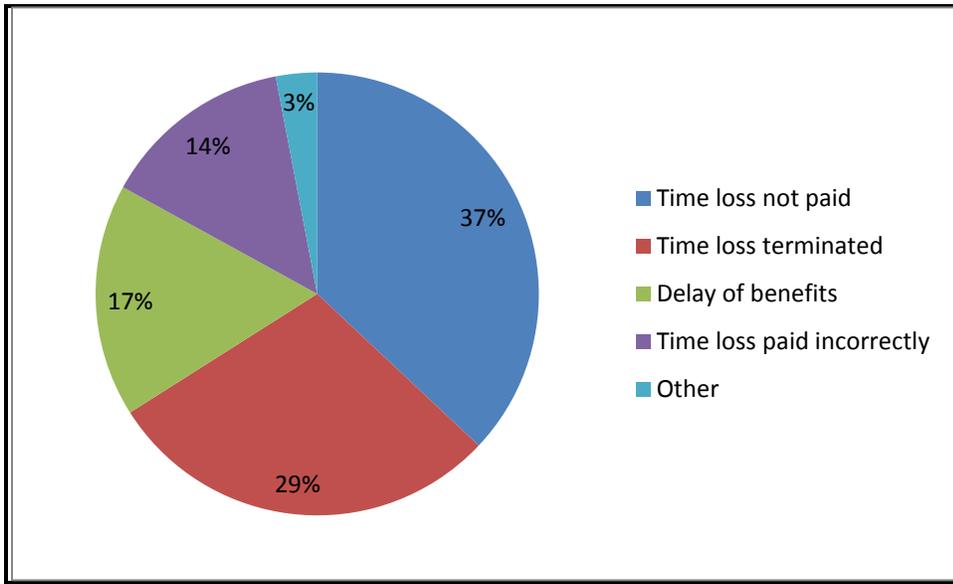
- Delayed or denied payment of time-loss benefits (29%)
- Delayed or denied medical treatment (39.3%)
- Issues related to Independent Medical Exams (IME's) (5.8%)
- Non-payment of medical bills (7.3%)

Many of the workers who contact our office report multiple issues with their claim. Complaints relating to a delay or denial of medical treatment and/or payment of time-loss benefits account for 68% of all issues reported.

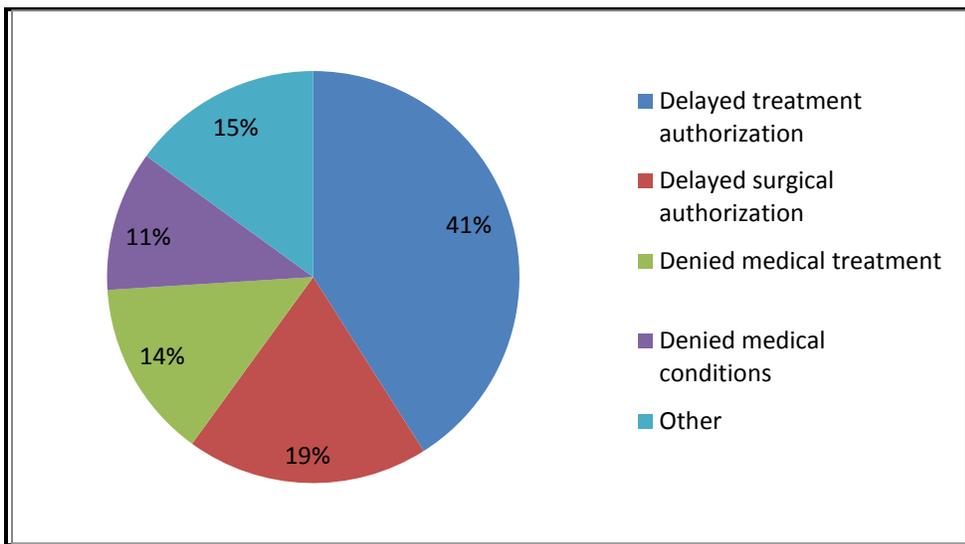


The types of issues most frequently reported by injured workers concern the payment of time-loss compensation and medical treatment. The following charts illustrate a breakdown of reported issues in each of the categories.

Delayed or denied payment of time-loss benefits



Delayed or denied medical treatment



We recognize that the majority of claims are adjudicated appropriately without delays or issues. Workers contact this office when problems or issues arise in the claims process.

An increasingly reported issue is the lack of communication by the employer or third party claims administrator. We began to track this issue mid-year. Workers report their calls go unanswered, and requests for assistance or explanation are ignored. This is frustrating to the worker and this frustration results in anger and a call to our office. Many of these calls could be avoided and the worker complaints resolved directly with the worker if the SIE or TPA would respond to the worker. The SIE or TPA's reported by workers as non-responsive are the same entities that do not return calls from this office.

Non-payment or late payment of medical bills by the self-insured employer or third party administrator continues to be a major source of complaints. We receive a number of reports from injured workers who were sent to collections because the self-insurer did not pay the medical bills. This can be devastating to anyone, but especially to those on an already reduced income. We work with the injured worker, provider, and employer to secure payment for the overdue bills.

Medical treatment is not considered a "benefit" under the law. The department does not monitor or regulate payment of medical bills. There is no penalty for non-payment or late payment of medical bills. The non-payment of medical bills is a significant source of complaints from both providers and workers.

Completed Investigations

There are 366 active self-insured employers in Washington. During this reporting period we completed 289 investigations filed by workers of 123 self-insured employers.

The table below illustrates the distribution of completed investigations by employer.

Completed Investigations by Employer

Number of Employers	Number of Investigations
243	0
98	1-2
9	3
7	4-5
4	6-8
2	10
1	14
1	23
1	25

Resolution Profile

In Washington, a self-insured employer may elect to self administer their industrial insurance claims or contract with a third party (TPA) to manage their industrial insurance claims. In either case, it is the self-insured employer that holds the self-insured certificate and is held responsible to ensure claims are managed in accordance with Washington industrial insurance law.

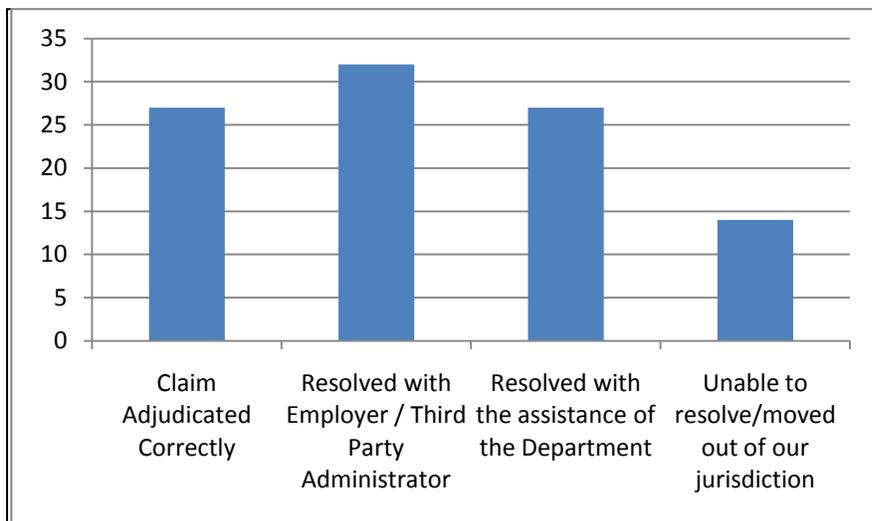
The overwhelming majority of self-insured employers, approximately 90 percent, contract with a third party administrator to manage their worker' compensation claims. The Department of Labor and Industries is not authorized to regulate third party administrators. Self-insured employers are held responsible for the management of their claims.

Resolving the worker complaints directly with the SIE or TPA provides the best outcome for everyone. Working directly with the claims administrator allows for a quick resolution. Changes to worker benefits or treatment authorizations can be immediately implemented.

The following chart represents the outcome and method of resolution for all investigations completed during this reporting period. I am pleased to report that the most common method of resolution was achieved by working directly with the SIE or TPA. We hope the number of claims successfully resolved at SIE/TPA level will increase during the next reporting period.

Resolution	Number	Percentage
Claim Adjudicated Correctly	77	27%
Resolved with Employer / Third Party Administrator	92	32%
Resolved with the assistance of the Department	78	27%
Unable to resolve / out of our jurisdiction	42	14%

Method of Resolution



This chart illustrates the comparative method of resolution expressed as a percentage of completed investigations.

Claim Adjudicated Correctly

Based upon the results of the investigation, it was determined to be adjudicated correctly. The percentage of complaints this office determined to be adjudicated correctly is based upon the number of complaints we investigated. This data should not be used to make general assumptions or interpretations as to the accuracy of self-insured claims adjudication as a whole.

Unable to resolve/out of our jurisdiction

This represents the percentage of complaints we are unable to successfully resolve. This category also includes claims in which a final order was issued or an appeal filed with the Board of Industrial Insurance Appeals (BIIA). If a final order has been issued or an appeal filed at the BIIA or through the court system, the department no longer has jurisdiction.

Success Stories

Delay of treatment, unpaid medical bills

This worker filed a claim on January 12, 2010. The worker called our office in late June. The out-of-state TPA managing her claim refused to authorize treatment or pay any medical bills. We contacted the TPA and within two days the worker was authorized medical care. This is the note from the injured worker:

*It was quite miraculous in forty-eight hours you have performed a miracle. I received the good news late Wednesday afternoon. Your intervention on my behalf was performed with excellence and grace.
Thank you so much*

Delay of time-loss benefits

This worker experienced a significant delay in the payment of time-loss and medical benefits. He stated he was close to losing his family home. Through our intervention, he received a substantial payment of back time-loss.

*I am sending this to commend your employee Kelli Zimmerman. She was a Godsend to me. She is efficient, very knowledgeable, and a wonderful person. She follows through, has great communication and is very efficient.
If not for her help and perseverance, I do not know what I would have done. She is a great asset to the State of Washington.*

Unpaid medical bills, delay of time-loss payments, incorrect wage calculations, refusal to authorize treatment

This worker filed a claim for injuries resulting from a motor vehicle accident caused by a third party. Over an eight month time period, he contacted our office on numerous occasions for help to secure medical treatment or time loss benefits. We were unable to resolve any of his issues with the TPA. Each time, a referral to the department was necessary to address the worker's issues. These referrals resulted in department orders directing the TPA to correct the time-loss compensation rate, pay time-loss for a four month time period, pay two additional time-loss periods, and to authorize and pay for prescribed medical treatment. Although he ultimately received the time-loss benefits, the payment was late and he was without an income to support his family. A penalty order was issued to the employer for a delay of benefits.

Refusal to include the value of health care benefits in the time-loss calculations

This worker was receiving health care benefits at the time he was injured. The law states that if the employer does not continue ongoing and current payment or contributions for these

benefits at the same level as provided at the time of injury, the value of the health care benefits should be added to the time-loss compensation rate. The employer did not continue contributions but failed to adjust the time-loss rate accordingly. This investigation was resolved with the assistance of the department. An order was issued directing the TPA to correct the rate and pay back benefits. The employer appealed, but dropped the appeal at the BIIA.

Threat of claim suspension

An injured worker received a letter from an out-of-state third party administrator stating that if he did not submit to a taped statement immediately his claim would be suspended. Washington law requires injured workers to cooperate with a claims investigation and provide statements regarding their injury or illness however there is no requirement to submit to a taped statement. The manager of TPA was contacted and the issue was resolved.

Delay in medical treatment

We intervened to help the worker obtain authorization for medical treatment.

I don't know how to express the word to thank enough for all the work that you and your service have done for me and others. My English is so limited and we don't know much about the laws and the benefits we suppose to have while we are under the treatment. I heartfelt send you and your service a deeply grateful message from the bottom of my heart and wish that your service always remain for people like us.

We are not always successful

Refusal to comply with a department order

A worker asked for assistance with obtaining medical treatment. The TPA was refusing to authorize or pay for treatment on an allowed claim. We made a referral to the department. The department issued an order directing the TPA to pay for medical treatment. The employer did not protest the order and the order is final. The TPA refuses to comply with order directing payment of medical care. The worker is having difficulty finding a provider who will treat them as the TPA is not paying the bills. Unfortunately, there is no provision to issue a penalty to the SIE or TPA for non-payment or late payment of medical bills.

Working Together for Change

Self-Insured Ombudsman Workgroup

In December 2009, an Ombudsman workgroup was formed to share information and foster communication between stakeholder groups. The work group meets on a quarterly basis to discuss current issues and potential solutions. The membership consists of two representatives from the labor community, two representatives from the self-insured employer community, the program manager for the department self-insurance program, and the ombudsman.

Current members:

Owen Linch	Joint Council of Teamsters #28
Rebecca Johnson	Governmental Affairs Director - Washington State Labor Council
Kelly Early	Manager of Claims - ESD 113
Rebecca Forrester	Risk Manager Group Health Cooperative
AnnaLisa Gellermann	Dept of Labor and Industries - Program Manager - Self-Insurance
Denise McKay	Ombudsman for Self-Insurance Injured Workers

Timely Notice of Issues

Periodically, the Ombudsman's office will note an increase in a specific issue or concern reported by workers. The workgroup recognized the importance of alerting the self-insured community to those issues or concerns as they emerge. This idea translated into a joint effort between the Ombudsman office and the Self-Insurance program to issue a periodic e-news alert via the self-insured list serve. The news alert titled "Observations from the Ombudsman" and "Tips from Self-Insurance" couples the reported issues/concerns with regulatory and policy guidelines from the Self-Insurance program. This is intended as an educational opportunity for the employer to review current claims practices and implement changes as appropriate.

The first issue of "Observations & Tips" covered the topic of "pay during appeal". Our office received a number of reports from self-insured and third party claims adjudicators indicating they were unsure when they were required to pay benefits under RCW 51.52.050, the "pay during appeal" statute. The department has guidelines listing each benefit type and when those benefits should be paid under the statute. To clarify any questions, those guidelines were published on the self-insured program website and linked to the first issue of the news alert.

Recommendations for Change

In making these recommendations we acknowledge that the vast majority self-insured claims are managed appropriately, with the workers receiving medical and time loss benefits as provided by law. The following recommendations for change are based upon complaints received by this office.

Establish Rules Requiring Timely Payment of Medical Bills

RCW 51.36.085 requires all fees and medical charges shall be paid within sixty days of receipt by the self-insured of a proper billing or sixty days after the claim is allowed by final order or judgment. Interest at the rate of one percent per month can be assessed whenever the payment period exceeds the applicable sixty-day period on all proper fees and medical charges.

Over seven percent of the complaints received during this reporting year concerned the non-payment of medical bills for treatment of accepted medical conditions. This can negatively affect the worker's ability to obtain treatment for their injuries. A number of workers were sent to collections or forced to pay using their personal resources or private medical insurance. Our current remedy is to make a referral to the department to issue an order directing payment, but there are no provisions to enforce compliance or penalize an employer for non-payment or late payment of medical bills.

Recommendation:

Recommend the Department of Labor and Industries begin the process of researching the frequency and severity of this issue, and assess the need for rule changes or statutory amendments to ensure timely payment of medical bills.

Require the SIE or TPA to Provide Notice to the Worker with Time-loss Payments

With each payment of time-loss compensation or loss of earning power, the majority of SIE's and TPA's provide the worker with an explanation of benefits stating the time period covered by the payment and the purpose of the payment. State fund workers are always provided an explanation of benefits with each payment.

We received complaints from seven workers whose TPA refused to provide a verbal explanation or written documentation with their compensation payments. Without this documentation, the worker cannot determine the purpose or assess the accuracy of the payment. The TPA refused to provide any explanation or documentation stating there was no rule requiring the worker be given any information.

Recommendation:

Recommend the Department of Labor and Industries consider developing a rule requiring the worker be provided with an explanation of benefits associated with each payment.

How to Contact the Ombudsman's Office

If you or someone you know works for a self-insured employer and needs help with a workers' compensation issue, we are available to help.

Office of the Self-Insured Ombudsman
Department of Labor and Industries
7273 Linderson Way SW
PO Box 44001
Olympia WA 98504-4001
Phone: 1-888-317-0492
Fax: 360-902-4202

Website:

www.ombudsman.selfinsured.wa.gov

For more information on this report, please contact:

Denise McKay
Ombudsman
360-902-4818
hoos235@Lni.wa.gov