



Washington State Department of
Labor & Industries

Office of the Ombuds for Injured Workers of Self- Insured Employers

2017 Annual Report to the Governor

September 2017

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Executive Summary

Introduction

The Department of Labor & Industries' (L&I's) Self-Insurance Program oversees and provides services to Washington employers that are certified to "self-insure". Self-insured employers pay workers' compensation benefits directly to employees who are injured or become ill on the job. More than 350 Washington companies are currently certified to self-insure. They employ about 25 percent of Washington workers.

Self-insured employers manage their own worker injury claims (usually through another company, called a third-party administrator (TPA)). Managing claims includes making decisions about paying benefits and accessing medical care.

Office of the Ombuds

The Legislature established the Office of the Ombuds (Ombuds Office) for injured workers of self-insured employers in 2007, with the mission of advocating for injured workers. To accomplish this mission, the Ombuds Office coordinates with workers, employers, and providers, or their representatives, to:

- Inform injured workers about industrial insurance and their rights and responsibilities.
- Investigate and resolve complaints.
- Identify self-insurance program deficiencies.
- Recommend policy solutions.

Ombuds Office staff collaborates with multiple stakeholders and conducts community outreach to help ensure the success of the Ombuds program.

About this report

This report to the Governor is required annually by RCW 51.14.400 for the reporting period July 1 through June 30. It summarizes Ombuds Office events, including:

- Issues addressed during the past year, along with case scenarios.
- Ombuds monitoring activities.
- Deficiencies identified by the Ombuds Office in the self-insured workers' compensation system, and recommendations for improvements.

The Ombuds Office is committed to L&I's mission to keep Washington safe and working. The Ombuds' initiatives described in this report are geared toward ensuring fair and equitable benefits for injured workers and continual process and system improvements.

Summary of activities and findings

The issues and activities addressed in this report are for July 1, 2016 through June 30, 2017.

The Ombuds Office received over 1,600 inquiries regarding workers' compensation claims of self-insured employers, concerning approximately 1,725 issues. General inquiries increased 17 percent due to enhanced community outreach. Of these inquiries, 629 resulted in an official investigation, while others were resolved by sharing information. Investigations involved 39 percent of self-insured employers. Reported issues remain similar to those of the prior reporting period, including concerns about:

- Delays in time loss and loss of earning power benefit payments, as well as medical treatment and medical bill payments.
- Independent medical exams (IMEs).
- Claims status issues, such as claim closure, denial, allowance, and re-opening.
- Incorrect wage calculations.

The Ombuds Office attempts to resolve issues quickly by working with the self-insured employer or TPA. If this is not possible, the Ombuds Office engages L&I's Self-Insurance section to help resolve the issue.

The Ombuds Office team has experienced a significant upward trend in the ability to resolve issues with the self-insured employer or TPA, which results in faster resolution and better outcomes for injured workers. We continue to assist workers with unresponsive TPAs, and we are developing an outreach action plan to address this issue.

Major initiatives in 2016/2017

- The Ombuds Office is grateful to the Legislature, labor community, and business community for their continued support and for approving the new Ombuds Operations and Outreach Liaison position effective July 2017. This position will focus on quality assurance, continued development of the new Self-Insured Ombuds Database (SIOD) system, and expanding community outreach.
- The Ombuds continues as an active participant in the Self-Insurance Audit Reform project. The goal of the project is to build an effective, industry-leading audit model that combines performance-based, complaint-based, and issue-based audits. The Tier 1 pilot project ended in early 2017, resulting in an increased awareness of the most complex wage calculations and providing an opportunity for education and training. The Tier 2 pilot project is in progress and addresses timeliness of time loss and permanent partial disability benefit payments. Tier 3 is the most in-depth audit approach, involving benefit entitlement. Tier 3 will be based on outcomes of Tier 2.

- IME inquiries decreased again this reporting cycle (37 percent). We believe this is primarily due to heightened awareness and new Self-Insurance IME Tool-kit training that emphasizes the importance of communication with injured workers and the appropriate time to schedule an IME. However, because IME concerns remain a top source of inquiries in the Ombuds Office, IMEs will remain a priority.
- Implementation of the new SIOD system was a significant project for the Ombuds team this year, and the new system went live in May 2017. We look forward to the system's increased functionality and developing improved tracking and reporting processes.
- The Ombuds Office continues to improve operational efficiency and investigation timeliness. This year's updates include new quality assurance standards and processes, and a new extensive claims review procedure.
- The Ombuds Office updated its website, informational brochure and related materials, and created a new confidential, secured email reporting system.
- The Ombuds Office continues to collaborate with L&I's Self-Insurance program to improve processes and ensure worker concerns are resolved efficiently, including improving language access communications and chemically-related illness claim processing.

Future initiatives

- The Self-Insurance Audit Reform project remains a major project for the Ombuds until finalization of Tier 3 pilot audits. The Audit Reform Advisory Committee will shift to an official governance committee in late 2017, and new Self-Insurance Risk Analysis System (SIRAS) and SIOD complaint systems will be developed to help identify new audit issues and concepts.
- The Ombuds will continue to monitor issues regarding the frequency and use of IMEs. The new SIOD system, and SIRAS medical bill payment electronic data reporting system and complaint module will provide useful data analytics, which will help identify process improvements.
- The Ombuds team will continue to implement the new SIOD system and develop new, reliable data analytics. This improved functionality will improve our ability to identify trends and program deficiencies, and help develop solutions.
- The Ombuds Office will continue to assist the Self-Insurance program with creating effective audit and regulatory oversight by collaborating with the self-insured community, labor community, and L&I to identify policy changes that shifts required work from an outdated model of inefficient re-adjudication to a modern system of focused and effective audit and regulation.
- The Ombuds Office continues to have concerns with the use of out-of-state adjusters and their understanding of the unique characteristics of Washington's workers' compensation

system. Recent experience with complaint-based audits suggest Washington should join surrounding states (AK, CA, ID, OR, MT), in requiring in-state adjudication. The new Ombuds SIOD and Self-Insurance SIRAS complaint systems will improve tracking of the nature of issues related to out-of-state TPAs and claims adjudication.

- The new Self-Insurance Rules Review Advisory Committee consists of representatives from L&I, the labor community, the business community, and the Ombuds. This committee provides a collaborative opportunity to streamline and modernize the self-insured system, including out-of-state claims management, effective self-insurance regulatory oversight, and self-insured adjudicator training and certification.
- The Ombuds Office will continue to work with stakeholders to identify solutions that improve provider understanding of self-insurance processes, increase provider support in rural areas, and expand self-insured employers' use of Centers of Occupational Health and Education (COHE) resources.

Conclusion

The Ombuds Office is committed to a strong advocacy program for injured workers, including timely and efficient resolution of issues and complaints. This requires ensuring an efficient self-insured workers' compensation system, and cultivating collaborative relationships with multiple stakeholders. Claims management and investigation process improvements will remain a primary focus in 2017/2018.

A MESSAGE FROM THE OMBUDS

I am pleased to report the Office of the Ombuds has accomplished several goals and projects this year, which are detailed in this year's report.

I want to thank the Legislature, labor community and business community for their ongoing support of the Ombuds Office, including approval to add a new Operations and Outreach Liaison position. This position will focus on quality assurance, continued development of the new Self Insured Ombuds Database (SIOD), and expanding community outreach. The increased functionality of the new SIOD system improves our ability to track and trend the nature of issues received in the Ombuds Office. This enhanced data will help identify systemic solutions for the Washington self-insured workers' compensation system.

Our primary mission is to advocate for injured workers, including protecting their rights and benefits under Washington industrial insurance and resolving issues and complaints quickly. Key initiatives and projects will continue to concentrate on this mission and improving processes. Expanding community outreach continues to be a top priority and is key to maintaining awareness of issues and establishing priorities for the self-insured community.

We remain committed to building relationships and trust with all stakeholders and identifying positive solutions and recommendations to improve the Washington workers' compensation system. We look forward to another productive year.

Donna Egeland
Ombuds for Injured Workers of Self-Insured Employers

Introduction

The 2007 Legislature established the Office of the Ombuds for Self-Insured Injured Workers to advocate for injured workers of self-insured employers, identify program deficiencies and make recommendations for policy and process improvements.

The top priority of the Ombuds Office is to help injured workers and their representatives with questions and concerns about industrial insurance rules and regulations, and quickly resolve specific workers' compensation complaints. The Ombuds Office team aims to provide a high level of customer service as they help injured workers maneuver through the complexities of the workers' compensation system.

Another goal of the Ombuds Office is to ensure a smooth claim process for injured workers, which includes identifying areas for process improvement and related policy enhancements. Effective collaboration with multiple interested parties is critical, and the team strives to maintain objectivity and positive relationships with all stakeholders, including worker advocates, L&I staff, and the self-insured business community.

This report begins by describing the structure of the Ombuds Office and self-insurance in Washington. This is followed by a summary of inquiries and investigation results for July 1, 2016 through June 30, 2017, including statistical analysis of the issues addressed. Subsequent sections go into greater detail about process improvement recommendations and efforts to resolve primary issues.

Office of the Ombuds

The Ombuds program is funded by self-insured employers and governed by Revised Code of Washington (RCW) 51.14.300 through 51.14.400. All information is highly confidential, and injured workers are informed of their rights to confidentiality under RCW 51.14.370.

Governor Inslee appointed the current Ombuds for a six-year term effective March 2, 2015. The Ombuds reports to L&I Director Joel Sacks, but operates independently from the agency. The highly qualified Ombuds Office team consists of the official Ombuds position, operations and outreach liaison, two workers' compensation adjudicators, and a program specialist.

Ensuring fair and certain relief on behalf of injured workers is the primary mission of the Ombuds Office, and is in the best interest of all parties involved in the Washington self-insured workers' compensation system. Efficient systems and approaches are key to streamlining processes for injured workers, and are a common goal of the workers' compensation community.

PRIMARY RESPONSIBILITIES OF OMBUDS OFFICE

Investigate and resolve complaints

- We ensure injured workers receive the appropriate benefits under Washington industrial insurance rules and regulations. It is important for workers to understand their rights and responsibilities and the investigation process. The Ombuds Office's top priority is to resolve all complaints as efficiently and quickly as possible, and maintain contact with the worker throughout the investigation process. When a timely resolution is not feasible, the complaint is referred to L&I's Self-Insurance section for further action.

Provide information and training

- We address questions and concerns about the workers' compensation process. The Ombuds Office team strives to provide excellent customer service and empathy as we help workers understand the complexities of the workers' compensation system and maneuver through the claim process. The team provides training and education, from official training to simply directing an individual claims adjuster to the appropriate regulation, administrative procedure, or claims management tools and resources.

Track complaints and inquiries

- We maintain a comprehensive database of complaints and inquiries, document outcomes, and analyze trends. Ombuds staff uses data analytics to identify systemic issues, as well as potential policy and process improvements.

Recommend policy and process improvements

- We identify solutions and opportunities for potential self-insured program procedural improvements, and provide recommendations. We coordinate with applicable L&I divisions, external stakeholders, workgroups and committees.

Maintain collaborative relationships

- We collaborate with multiple interested parties and cultivate positive relationships with all stakeholders, including worker advocates, L&I staff, and the self-insured business community.

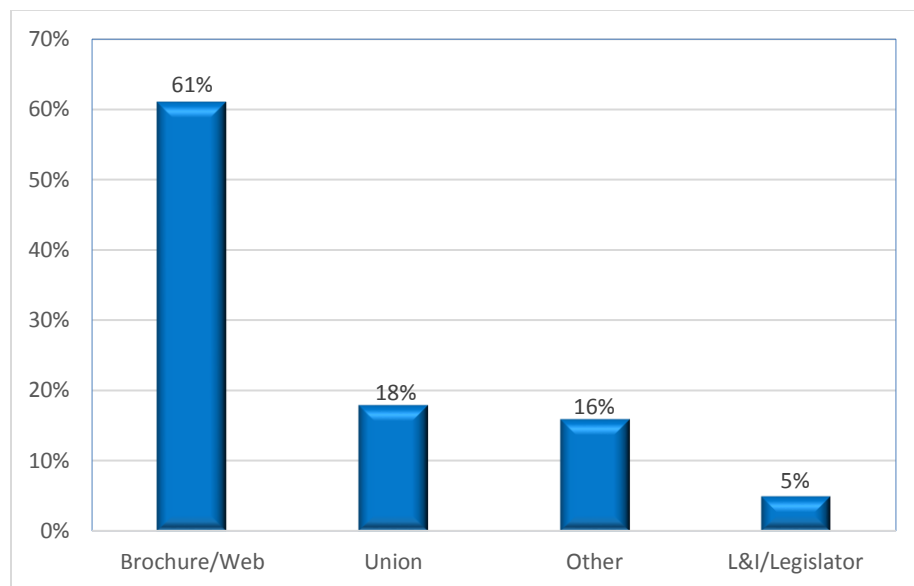
Conduct community outreach

- We participate in community events and provide training and education to constituents. The Ombuds Office team appreciates the opportunity to participate in conferences, meetings, and committees. These forums provide a meaningful way to share information about the Ombuds program, build relationships, gather information, learn more about issues and concerns, and help identify solutions.

Referrals

As shown in Figure 1, informational brochures or referrals from worker advocates are the major source of referrals to the Ombuds Office. Other sources of referrals include friends of workers, legislators, L&I staff, treatment providers, attorneys, and employers and their representatives.

Figure 1: Referral Source



Source: Self-Insurance Ombuds Database (SIOD)

A MESSAGE FROM THE WASHINGTON STATE LABOR COUNCIL

The Washington State Labor Council, AFL-CIO, represents over 420,000 workers and their families in this state. We are committed to ensuring that injured workers of self-insured employers realize the same guarantee to sure and certain relief of their workplace injuries and illness as do workers of state-fund insured employers. The Office of the Self-Insured Ombuds shares that vision, and is a critical component in realizing that guarantee. The Ombuds has been a reliable resource for workers simply seeking clarification on an issue relating to their claim, as well as for those who have been abused by bad-actors in the system. We appreciate the collaborative approach the office has taken toward dispute resolution, and its ability to intervene on behalf of injured workers.

Jeffrey G. Johnson
President, Washington State
Labor Council, AFL-CIO

Injured workers receive *A Guide to Workers' Compensation Benefits for Employees of Self-Insured Businesses*, which includes a reference to the Ombuds program. The Ombuds program brochure is also widely distributed by the Ombuds Office and within the labor community. The Ombuds Office website at www.Lni.wa.gov/Ombuds provides additional information and will undergo a full upgrade in 2017.

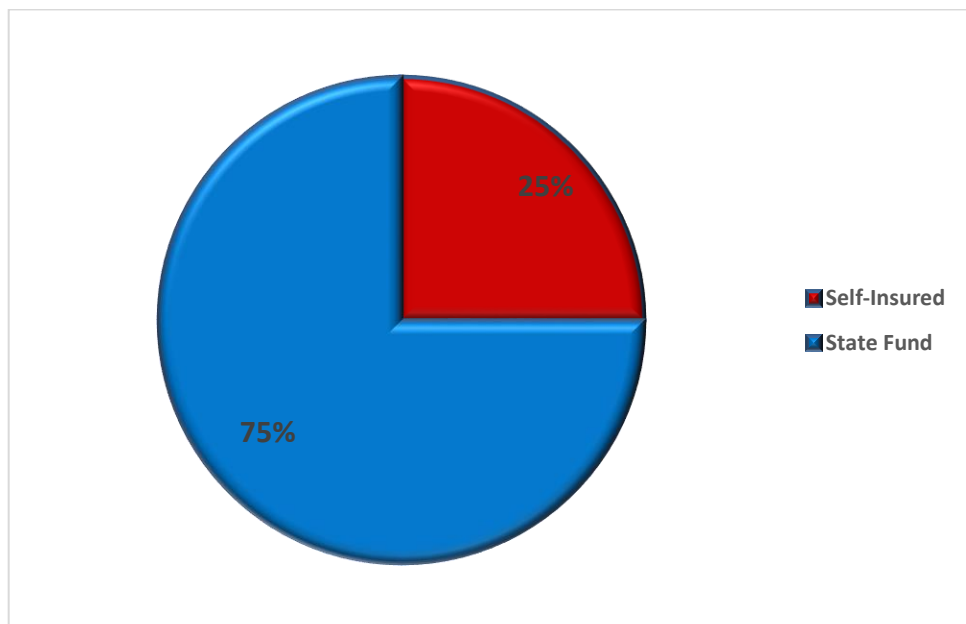
SELF-INSURANCE IN WASHINGTON

Self-insurance is an alternative method of providing workers' compensation coverage for Washington's largest employers. Self-insured employers may choose to self-administer their workers' compensation program or contract with a third-party administrator (TPA) to manage their claims process. L&I has regulatory authority over industrial insurance rules and regulations, and the L&I's Self-Insurance section enforces these regulations for self-insured employers. This includes providing certification services, audits, education, and training, and assessing penalties if indicated.

There are currently 353 active self-insured employers in Washington. During fiscal year (FY) 2017, they employed over 906,000 workers. Self-insured employers reported 43,448 new claims during this same period. More than 92 percent of self-insured employers currently contract with a TPA. There are 65 TPA locations, and 52 percent are located outside of Washington.

Figure 2 shows the proportion of workers covered by self-insured employers compared to workers covered by State Fund employers in Washington.

Figure 2: Washington's Workforce



Source: L&I Self-Insurance Section

Self-insurance basic requirements

To qualify for self-insurance, businesses must meet certain requirements, including:

- Be in business for at least three years.
- Meet mandatory financial standards and obligations.
- Demonstrate the existence of an established safety program, including an effective accident prevention program.
- Submit a description of an acceptable industrial insurance administration process to L&I.

Standard workers' compensation benefits

All workers are entitled to the same level of benefits provided by Washington industrial regulations, including but not limited to:

- Medical benefits for approved treatment related to a work-related injury or illness.
- Partial wage replacement for lost wages due to a work-related injury or illness.
- Vocational assistance if the worker qualifies for retraining.
- Permanent partial disability benefits to compensate for a permanent loss of bodily function.
- Disability pension if the worker is totally, permanently disabled from any gainful employment.
- Death benefits for survivors if a worker dies as the result of a work-related injury or illness.

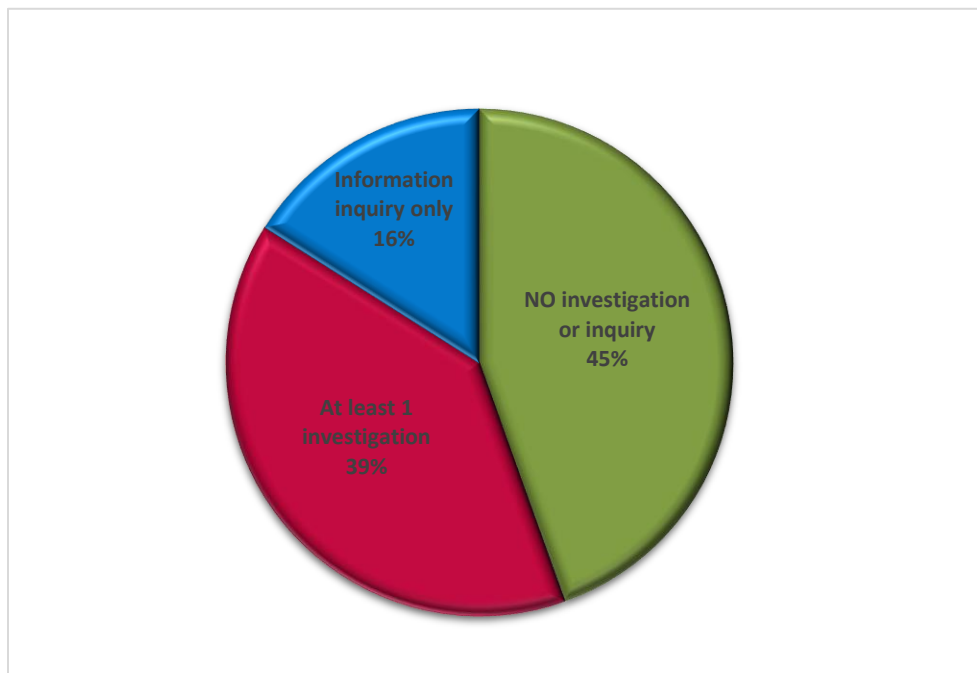
Summary of Activities and Findings

The first priority of the Ombuds Office is to act as an advocate for injured workers of self-insured employers. This involves providing information on industrial insurance and identifying, investigating, and facilitating resolution of issues and complaints from workers and their representatives.¹ The following information is a summary of investigation activities and findings for FY 2017.

INQUIRIES

The Ombuds Office received 1,611 inquiries regarding workers' compensation claims of self-insured employers, involving 1,725 different issues. General inquiries increased 17 percent primarily due to enhanced community outreach. Many inquiries were informational in nature and did not warrant an official investigation; however, 629 investigations were required during the 2017 fiscal period. Investigations involved 39 percent of self-insured employers, and 45 percent of employers did not encounter any type of inquiry in the Ombuds Office.

Figure 3: Inquiries Proportion by Self-Insured Employers



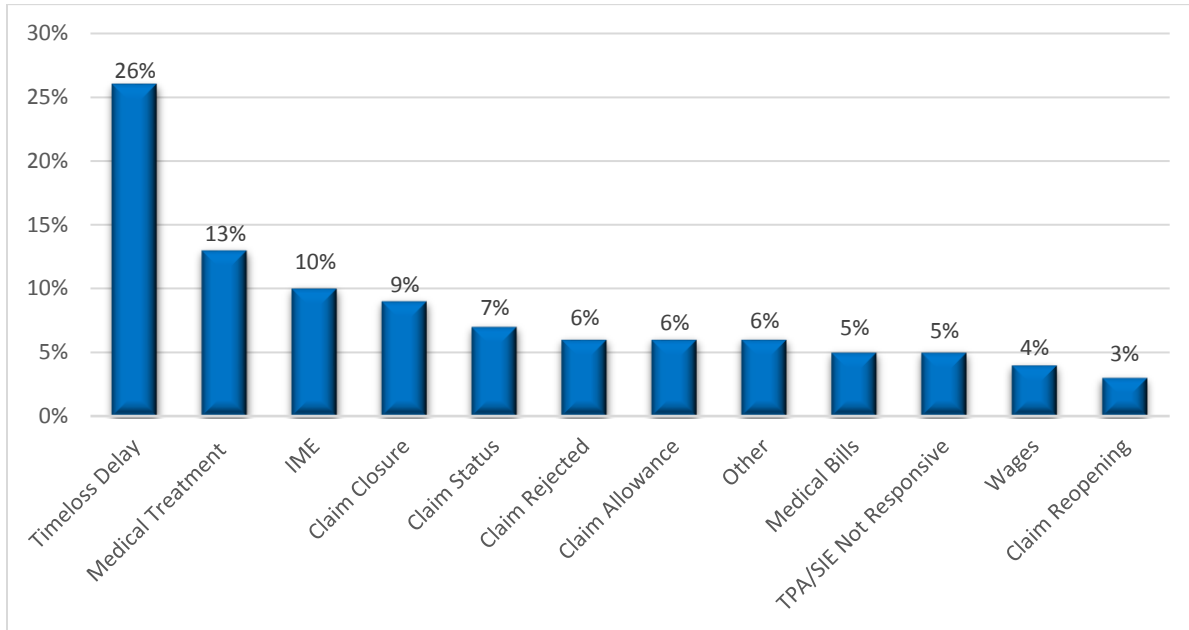
Source: SIOD

¹RCW 51.14.340

INVESTIGATIONS

The Ombuds Office completed 629 investigations during the FY 2017 reporting period. Figure 4 compares the issues involved in these investigations.

Figure 4: Reported Investigation Issues



Source: SIOD

Some investigations involve more than one issue about a claim. The categories remain fairly consistent with the prior reporting period. The Ombuds Office implemented a new tracking system in 2017, which will improve reporting functionality and includes an expanded data hierarchy describing the nature of inquiries.

Points of interest:

- Delayed or denied time loss and loss of earning power (LEP) benefits remain the primary source of complaints. Resolution of these benefit delays continue to be a top priority for the Ombuds Office, as well as for the Audit Reform Committee. The Tier 2 pilot audit is well underway and addresses the timeliness of time loss and permanent partial disability benefit payments.
- The second most common source of inquiries is medical treatment issues. Medical bill payment delays remain a top issue as well. The new Ombuds SIOD database will help identify the nature of medical treatment issues and delays, and future audit concepts will address the timeliness of medical bill payments.
- Independent medical exam (IME) investigations decreased 37 percent (62 investigations in 2017 compared to 98 in 2016). We believe the L&I Self-Insurance Section's new IME Tool-

kit training module, which emphasizes proactive communication with injured workers and knowing when it is appropriate to schedule an IME, has made a positive impact.

- Concerns regarding claim status (claim closure, denial, allowance, re-openings,) continue to be an issue. The Ombuds Office continues to focus on potential solutions to reduce delays in claim processes, including potential changes to L&I Self-Insurance claims management oversight protocols and related penalties. The Ombuds believes there are opportunities to strengthen self-insurance regulatory oversight and dispute resolution processes, consistent with L&I’s goals to make it easier to do business with L&I and hold stakeholders accountable.
- The Ombuds Office team provides assistance when a TPA does not respond to an injured worker. These investigations made up five percent of investigations during this reporting period. Consequently, an outreach strategy with these TPAs is under development.
- Incorrect wage calculation investigations have continued to decrease slightly, to 27 investigations this reporting cycle (10 percent decrease). The Tier 1 audit pilot project addressed some of the more complex elements of Washington’s wage calculations, and ended in early 2017. The Self-Insurance audit team approached these audits with an “education before sanction” concept, and stakeholders agree there were several lessons learned. The Self-Insurance section will use this information as they move forward with wage calculation issues and future audit concepts. The goal is to promote voluntary compliance and provide strong regulatory enforcement.

RESOLUTION PROFILE

The following describes the methods used to resolve self-insured workers’ compensation investigations. Some investigations involve more than one issue.

Figure 5: Resolution Profile

| | FY 2017 | FY 2016 | FY 2015 | FY 2014 |
|---|---------|---------|---------|---------|
| Total Number of Investigations | 629 | 443 | 440 | 486 |
| Claim Adjudicated Correctly | 173 | 158 | 155 | 183 |
| Resolved - SIE/TPA | 197 | 92 | 95 | 65 |
| Resolved - L&I Assistance | 176 | 137 | 143 | 190 |
| Unable to Resolve - Not in Jurisdiction | 83 | 56 | 47 | 48 |

Source: SIOD

In the spirit of quick resolution, the Ombuds Office team attempts to resolve issues directly with the injured worker's employer or a third-party administrator (TPA).

If the Ombuds Office team is unable to resolve the issue with the self-insured employer or TPA, the team engages L&I's Self-Insurance section for assistance in resolving the issue. If necessary, the complaint is referred to Self-Insurance for further review and action (RCW 51.14.350). Self-Insurance staff conducts a thorough review, makes an independent claim determination, and provides the Ombuds Office with a summary of the action taken. The Ombuds Office referral procedure to Self-Insurance was revamped in 2016 to streamline and expedite this process.

The Ombuds Office team increased efforts to resolve issues with the SIE or TPA directly. We are happy to report we experienced a significant upward trend in the ability to resolve issues with the self-insured employer or TPA, resulting in faster resolution and better outcomes for injured workers.

CASE SCENARIOS

Time loss benefit delays

An injured worker contacted the Ombuds Office because he thought his time loss compensation rate was inaccurate. He used banked hours for healthcare insurance; however, his employer stopped contributing to his healthcare benefits on the date of injury. The Ombuds team contacted the TPA and learned the value of healthcare benefits was not included in the wage calculation. The Ombuds Office provided information regarding Supreme Court Decision Department of L&I v. Granger, which requires that banked hour systems include healthcare in the wage calculation, even if the worker did not lose healthcare coverage. The TPA promptly adjusted the time loss rate back to the date of injury and paid benefits appropriately.

Another worker contacted the Ombuds Office because her time loss benefits stopped. She explained she was undergoing treatment and was restricted from her job after sustaining an unrelated medical condition that prevented her from participating in ongoing care. However, her work-related injury also prevented her from working. The Ombuds Office contacted the TPA and determined time loss benefits were suspended without obtaining approval from L&I (RCW 51.32.110). The Ombuds Office was unable to resolve the issue with the TPA and asked L&I to intervene. L&I issued an order directing the self-insured employer to pay time loss benefits.

Medical treatment

An injured worker contacted the Ombuds Office because a surgical consultation was not authorized. The worker attended an IME, which recommended further orthopedic evaluation for possible knee replacement. The IME report was not sent to the attending physician (AP), so the Ombuds Office faxed the report to the AP. The consultation was authorized and a surgery request was sent to the TPA. After several attempts by the Ombuds Office, surgery was authorized.

IME concerns

An injured worker contacted the Ombuds Office because his IME report, which recommended further treatment, was not sent to his attending physician (AP). The Ombuds Office contacted the TPA and asked them to send the IME report to the AP. The IME report was sent to the AP within two days, preventing further delay in treatment.

Another injured worker contacted the Ombuds Office regarding a TPA's denial of physical therapy treatment pending the results of an IME. The Ombuds Office contacted the TPA and learned that the purpose for the IME was to address causal relationship of newly contended conditions. The Ombuds Office staff explained the reason for the exam to the worker and asked the TPA to authorize additional physical therapy pending the IME report. The TPA authorized physical therapy.

Claim closure

An injured worker contacted the Ombuds Office regarding an IME examiner recommendation for termination of time loss benefits and claim closure. The worker continued to experience symptoms, but had not seen his attending physician (AP) since prior to the IME. The Ombuds Office team contacted the TPA, explained the need for clarification, and recommended authorization for follow-up with the AP to discuss the IME findings and objective medical changes. The TPA authorized an appointment with the AP, which resulted in a second opinion and further diagnostic studies, in which an MRI identified a disc herniation. The Ombuds Office worked closely with the TPA to get time loss reinstated and closure postponed, pending further medical opinion.

Claim denial

An injured worker contacted the Ombuds Office in February 2017 concerning claim denial. The worker reported that her TPA suggested she reopen a prior claim from 2004, even though she sustained a new specific injury in December 2016. The Ombuds Office team contacted the TPA and learned that the new claim was rejected because the TPA believed the new injury was an aggravation of a prior claim. The Ombuds Office assisted the worker with protesting claim denial and obtaining new medical information to support a new claim. The Ombuds Office staff requested L&I intervention, which resulted in reversal of the claim denial and allowance of the new claim.

Claim allowance

An injured worker contacted the Ombuds Office concerning claim allowance and delay of benefits. The worker reported she suffered a traumatic brain injury, which resulted in a secondary diagnosis of vertigo and prevented her from working. The Ombuds Office learned that the claim had not been reported to L&I. The Ombuds Office contacted the TPA and asked them to send the required forms and claim allowance request to L&I. The TPA submitted the paperwork and claim allowance request to L&I within two weeks, and L&I issued an order allowing the claim.

Major Initiatives

The Ombuds Office has been involved in several important projects this past year, including Self-Insurance program improvements. Significant projects are highlighted in this section.

SELF-INSURANCE AUDIT REFORM

The Self-Insurance Audit Reform project began in 2013 and remains a top priority for the Ombuds Office. The Audit Reform workgroup, consisting of representatives from the labor community, self-insured employer community, and the Ombuds Office, advises L&I's Self-Insurance program on changes and initiatives so that the end result is successful from the perspectives of both the worker and employer communities.

The purpose of the Self-Insurance Audit Reform project is to:

- Build an effective, industry-leading audit model that combines performance-based, complaint-based and issue-based audits.
- Ensure program compliance by self-insurers, including delivery of accurate and timely benefits.
- Detect non-compliers using reliable data, and apply a tiered audit approach as necessary to bring them into compliance.
- Communicate clear expectations to self-insurers and provide effective claims management tools, consultation and training.

Tier 1 audits

- L&I's Self-Insurance audit team began the Tier 1 pilot project in January 2015, and finalized the pilot early in 2017. This project was limited in scope and involved wage calculations only. All self-insured employers experienced a pilot audit in 2015 - 2016. L&I's primary goal was to spend a sufficient amount of time with each self-insured employer and their representative TPA, if applicable, to provide clear expectations of the new audit process and training on wage calculations.
- It was important for the pilot project to result in best-in-class audit solutions. Stakeholders agree this was a successful pilot project with many lessons learned resulting in positive changes for workers and the business community. These lessons learned will be used to develop future audit concepts and best practices related to wage calculations, and inform areas of training emphasis.

Development of Tiers 2 and 3

- The Tier 2 pilot audit is well underway. It addresses timeliness of time loss and permanent partial disability benefit payments. This pilot is scheduled for completion in late 2017. Lessons learned will be analyzed carefully, as delayed time loss benefits is the top source of complaints for the Ombuds Office.
- Tier 3 audit protocols will be based on the results of the Tier 2 audit, and will be the most in-depth audit approach. This performance-based tier audit approach is a progressive audit concept, with each audit tier increasing in depth based on prior audit findings. For example, negative findings in Tier 1 will lead to a Tier 2 audit; additional findings in a Tier 2 audit will lead to a comprehensive Tier 3 audit.

Next steps

- L&I's goal is to convert the Audit Reform advisory committee to an official governance committee consistent with the international standards of professional audit practices by the end of 2017. The governance committee's main functions will be to advise and closely monitor the new tiered audit system and ensure adequate focus on issue-based audits. The Ombuds Office will help develop issue-based audit concepts and continue complaint-based audit referrals to the Self-Insurance section.

The new Self-Insurance Risk Analysis System (SIRAS) was implemented in 2017. This system supports L&I's new audit model, helps identify specific non-compliance risks and audit priorities, and ensures attention is focused on problem areas. The system will provide electronic data reporting using a national standard developed by the International Association of Industrial Accident Boards and Commissions (IAIABC), and will allow multi-state employers to compare their performance in the state of Washington against performance in other states.

SIRAS also includes a new web-based portal for injured workers to report problems about their claim to Self-Insurance, which then creates a work-item for L&I resolution. Complaint data from the new SIRAS and SIOD systems will be used to help identify new audit concepts.

Phase 1 of the SIRAS project addresses medical bill payment electronic data reporting. Phase 2 is expected to include claims management data reporting, which will be considered in conjunction with the rules modernization and business transformation initiatives of L&I.

INDEPENDENT MEDICAL EXAMS

Although independent medical exams (IMEs) continue to be a top source of injured worker concerns (10 percent), these issues decreased again this year from 98 investigations in 2016 to 62 in 2017 (a 37 percent decrease). We believe the heightened awareness around this issue has improved the IME

process and communication to injured workers. Enhancements to the IME process and data collection include:

- New Self-Insurance IME Tool-kit training, which addresses when it is appropriate to schedule an IME and improved communication with injured workers.
- New Self-Insured SIRAS medical Electronic Data Interchange (EDI) reporting system will collect data for the self-insured employer community regarding cost, frequency, and use of IMEs.
- The new SIRAS complaint module and enhanced Ombuds SIOD system will provide additional data analytics and insight into the nature of IME complaints and concerns.

IME solutions remain a priority, including opportunities to combine self-insurance and L&I State Fund data to help identify process trends, issues and key offenders. The Ombuds will continue to attend the L&I business and labor IME Committee and IME Roundtable discussions.

INTERNAL PROCESS CHANGES

The Ombuds Office continually reviews internal processes to ensure that excellent customer service is provided and that complaints and issues are resolved as quickly as possible. The following process improvements have increased efficiency and timeliness of investigations.

Community outreach expansion

Thanks to the Legislature, labor community, and business community for supporting the addition of a new Operations and Outreach Liaison position, which will focus on quality assurance processes, continued development of the new SIOD system, and community outreach. One of this position's first priorities will be to expand community outreach to all stakeholders, including the labor and business communities. We will use new data analytics to identify opportunities for improvement.

Self-Insured Ombuds Database (SIOD) replacement

Implementation of the new SIOD system, which went live in May 2017, was a significant project for the Ombuds team in 2017. This new system increases functionality and data analytics, which will improve our ability to identify trends and help develop solutions to improve the self-insured workers' compensation system.

Investigation procedures enhancement

The Ombuds team continues to identify opportunities to improve investigation processes, including implementing a new extensive claims review procedure in 2017. We also implemented new quality assurance standards and processes, which will be a function of the new Operations and Outreach Liaison position.

Injured worker communication improvements

The Ombuds team revised the Ombuds Office informational brochure and related materials, and will upgrade the Ombuds website in 2017. The team also established a new confidential, secured email complaint reporting system.

Regular meetings with L&I Self-Insurance section

We continue to collaborate with L&I's Self-Insurance team to improve processes and ensure injured worker concerns are addressed and claims are resolved efficiently. Recent claims management process improvements include amendments to language access, interlocutory, and chemical-related illness order processes.

Future Initiatives

The Ombuds Office continues to search for opportunities to improve internal Self-Insurance program processes and identify enhancements to self-insured systems. The Ombuds Office is confident these initiatives will lead to further positive solutions.

CONTINUE DEVELOPMENT OF AUDIT REFORM

The Ombuds will continue to participate on the Self-Insurance Audit Reform project (see Audit Reform section for further detail) and will continue as a representative member on the audit governance committee. The audit process is vital to ensuring compliance and identifying self-insured systemic issues, such as wage consistency and benefit timeliness and accuracy.

Wage consistency

- The Tier 1 pilot audit is complete and Self-Insurance will carry forward lessons learned. The Benefit Accuracy Workgroup is also an important project to address the ongoing issue of consistent wage calculations. The Ombuds Office will provide any necessary data and support to these workgroups as needed, as wage calculations continue to be an administrative challenge.
- Maintaining fair and equitable benefits will remain a top priority.

Timeliness of time loss benefits

- Delay of time loss benefits is a continued concern (26 percent of complaints received by the Ombuds Office), and remains a high priority. The Tier 2 audit process is well underway and addresses timeliness of benefit payments. Lessons learned will be analyzed carefully and will be used to identify opportunities for process improvement.

Benefit accuracy

- Tier 3 is under development, and results of Tier 2 will drive the final audit processes. This in-depth audit will address a workers' entitlement to benefits to ensure a worker is not only paid on time, but is paid in full.

SELF-INSURANCE PROGRAM

The Ombuds continues to meet regularly with L&I's Self-Insurance section staff and stakeholders to ensure injured worker concerns are resolved in a timely manner and to identify opportunities for process improvement:

Self-Insurance Reporting Analytic System (SIRAS)

The Ombuds team will implement a routine process to review complaint data from the new SIRAS complaint module and new SIOD system and identify opportunities for education and training, as well as issue-based, reasonable inquiry or complaint-based audits. The Ombuds and Self-Insurance program manager will continue to hold regular meetings to discuss concerns, develop plans, and take appropriate action.

The Ombuds team will also monitor new SIRAS medical bill payment electronic data reporting and identify opportunities for use of the data to develop systemic solutions (e.g., medical bill payment timeliness, IME use), and support future development of new claims management data.

Create effective Self-Insurance section oversight and audit

A successful regulatory oversight program includes effective education and enforcement standards. The Ombuds Office recommends the following actions:

- The Self-Insurance section needs to continue to work toward building a stronger regulatory oversight program, including compelling audit, enforcement, education, and dispute resolution standards. While work is underway through Audit Reform and the new Self-Insurance Rules Review Advisory Committee efforts and process improvements, ultimately changes may also be identified for agency rules and Title 51.
- Washington's self-insurance system should shift away from re-adjudication and focus resources on the new audit model and training. This system needs to be objective and hold all parties accountable. It should also align with L&I's goals of making it easier to do business with L&I and focusing enforcement efforts on the bad actors and not the good ones.
- The Ombuds recommends a collaborative workgroup of L&I, labor and business representatives to identify opportunities to improve the complex self-insured claims management system. Potential actions could include establishing a process to allow self-insured employers to issue certain decisions with strong oversight and final approval by the Self-Insurance section. This process could begin as a pilot project to include a sunset date to help determine if it is fair and effective.

The Ombuds looks forward to helping identify process improvements in this area and ensure concerns of all stakeholders are addressed. It is critical that the rights of injured workers are protected during this process.

Out-of-state claims management

The Ombuds Office continues to have concerns about the availability of out-of-state adjusters and their understanding of the unique characteristics of Washington's workers' compensation system. Recent experiences with complaint-based audits suggest that Washington should join the surrounding

region (AK, CA, ID, OR, MT), in requiring in-state adjudication. The new Ombuds SIOD and SIRAS complaint systems will continue to track the nature of these concerns.

IME procedures

Despite the decrease in IME concerns, IME inquiries remain a top issue for the Ombuds Office. Consequently, the Ombuds will continue to monitor the frequency and use of IMEs. The new SIOD and SIRAS complaint modules will be valuable data resources, as well as the new SIRAS medical bill payment electronic data system.

New Self-Insurance Rules Review Advisory Committee

The new Self-Insurance Rules Review Advisory Committee was established at the beginning of 2017. The committee is sponsored by L&I, and consists of representatives from the labor community, the business community, and the Ombuds Office. This committee's guiding principles ensure self-insurance rules are protective of workers and effective for employers, and consistent with L&I's business and operational practices.

Opportunities to streamline and modernize the self-insured system include addressing out-of-state claims management, reducing unnecessary administrative processes, decreasing delays in delivery of benefits, enhancing effective self-insurance regulatory oversight, and improving self-insured adjudicator training and certification.

OTHER INITIATIVES

The Ombuds will continue to work with stakeholders to identify solutions that improve medical provider understanding of self-insurance protocols and communication with the self-insured community, as well as increase provider support in rural areas.

The Ombuds supports expanding self-insured employers' use of Centers of Occupational Health and Education (COHE), and is researching opportunities to do this. COHE health services coordinators (HSC) have developed sophisticated protocols that help injured workers heal and return to work and support providers with claim processing.

Conclusion

The Ombuds Office is available to help injured workers of self-insured employers. Strong employee advocacy and customer service involves assuring an effective, reliable self-insured workers' compensation system. The Ombuds Office team is dedicated to efficient resolution of issues and complaints. This involves clear, concise communication, documentation and data tracking. The new, modernized SIOD system and new Operations and Outreach Liaison will allow us to develop improved data analytics, which will help identify systemic program and process improvements.

How to get help

For assistance with a self-insured workers' compensation issue, please call:

- Ombuds Confidential Hotline: 888-317-0493
- Ombuds Confidential Secured Email: SIombuds@Lni.wa.gov

Let us know your thoughts

The Ombuds Office welcomes feedback and suggestions about this report, as well as any suggestions for improving the self-insured workers' compensation system. Additional information about the Ombuds program can be found at:

- Ombuds Office website: www.ombudsman.selfinsured.wa.gov/

Contact information

For more information about this report or self-insurance in Washington, please contact:

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