

GOVERNOR HENRY'S WORKERS' COMPENSATION TASK FORCE

REPORT ON FINDINGS AND RECOMMENDATIONS

January 2005

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BACKGROUND

In April of 2004, Governor Brad Henry named a task force to study Oklahoma's workers' compensation system and make recommendations for any needed changes. Governor Henry asked the task force to compare Oklahoma to the highest and lowest cost and benefit states and determine "best practices" from other states that could be adopted in Oklahoma. He asked the task force to conduct a comprehensive review of all aspects of Oklahoma's workers' compensation system and make suggestions for improvements.

The Governor named a diverse group to serve on his task force. The task force is made up of representatives of manufacturing, service industries, labor, claimants' attorneys, respondents' attorneys, the Administrator of the Workers' Compensation Court, CompSource Oklahoma (the State Insurance Fund), the Oklahoma Self-Insurers Association, the state's largest Certified Workplace Medical Plan and the State Finance Director. The task force was assisted with research provided by the staff of the Workers' Compensation Court, the House of Representatives and the Senate. Additionally, the task force received input from many individuals and organizations including medical providers, private insurance companies and large, multi-state manufacturers. Members of the task force served on two different panels on workers' compensation reform—one at the Workers' Compensation Court's Educational Conference and the other at the Oklahoma Self-Insurers Association's Annual Meeting.

The task force was provided numerous studies, reports and data from multiple sources with respect to Oklahoma's workers' compensation system. The task force reviewed all data and statistical information and met over the course of nine months. The result is the most comprehensive review to date of Oklahoma's workers' compensation system.

Workers' compensation in Oklahoma is very important to all of the participants – injured workers, employers, health care providers, insurers and attorneys. Accordingly, there have been numerous reform efforts over the past 15 years that have met with varying degrees of success. Because of the political nature of any legislative reform effort, solid facts and research have often blended with claims that are more difficult to substantiate, leaving outside observers confused. For example, some contend Oklahoma's workers' compensation system has driven away potential businesses and investors; others point to the Oklahoma Department of Commerce which is unable to cite any existing or prospective employer who has left the state or declined to locate here because of the workers' compensation system issue.

The task force attempted to sort through this landscape and produce a report based entirely on hard facts and research. It found that while Oklahoma's workers' compensation system is much more functional than some other states, it still has a number of flaws that merit close scrutiny and reform. Particularly, Oklahoma's workers' compensation system seems to be very expensive for large, labor intensive manufacturers and firms in high injury frequency and severity industries relative to the systems in most states in Oklahoma's region. Governor Henry's Task Force on Workers' Compensation Reform has considered the positive and negative components of the state's workers' compensation system and makes the proposals set forth herein to maximize the benefits to injured workers in Oklahoma's system while minimizing the costs to employers.

OKLAHOMA WORKERS' COMPENSATION SYSTEM ISSUES

- How do Oklahoma's workers' compensation premium costs compare with those in other states?
- How do Oklahoma's workers' compensation benefits compare to those in other states?
- How can medical costs and medical utilization rates in Oklahoma be better managed?
- What can Oklahoma do to decrease the frequency and severity of injuries and disabilities?
- How can multiple injury issues involving a subsequent employer be addressed?
- What can Oklahoma do to encourage injured workers and employers to participate in restricted work programs?
- What changes can be made to reduce fraud and abuse in the workers' compensation system?
- What can be done about the perceived problem of sprains and strains?
- How do we change the perception of Oklahoma's workers' compensation system?
- What other changes can be made to improve Oklahoma's workers' compensation system?

FACTUAL FINDINGS

- Premiums are a function of several factors including payroll, classification code rate, discounts, experience modifiers, dividends earned, and expense ratios. Therefore, differences in any of these factors may cause differences in the level of premiums.
- The Oregon study shows the relative classification code rates between the states. According to the 2004 Oregon study, Oklahoma moved from 19th most expensive to 15th most expensive from 2002 to 2004. During the same period, Texas was 5th most expensive in 2002 and moved to 14th most expensive in 2004. Conversely, Arkansas moved from 47th to 48th most expensive during the same period.
- If the Oregon study results are converted to actual premium costs factoring in average wage rates between the states, the actual premiums paid by Oklahoma companies is lower than a rate comparison study like the Oregon study indicates because wage rates in Oklahoma are relatively lower.
- The Oregon study is a composite of Oregon classifications. The ranking of Oklahoma, as well as other states, varies dramatically between classifications.
- The Work Loss Data Institute (WLDI) is a private company that produces and sells guidelines for disability duration and medical treatment. WLDI also produces annual state report cards for workers' compensation, the most recent of which was dated 2004 and was based on OSHA data from 2000 to 2002. The 2004 State Report Card was based on relative rankings between the states on injury incidence rates, percent of injuries involving missed work, median disability durations, percentage of cases involving over 30 days of missed work, median disability duration of lower back strains and median disability duration for carpal tunnel syndrome.
- According to the 2004 WLDI State Report Card for Workers' Compensation, Oklahoma received an "F". Grades were assigned based on, first, ranking each state in each of the categories listed above and, then, averaging the rankings. Finally, the composite average ranking was compared to the composite averages of a composite of the other 45 states that participate in the OSHA reporting database. The assigned grade was based on how the composite average compared to that of other states. Oklahoma had relatively higher duration, percentage of cases with over 30 days missed work, duration of lower back strains and duration of carpal tunnel syndrome. Oklahoma had slightly above average injury rates and very favorable percentage of cases missing work. When all of these factors were averaged, Oklahoma ranked around 32nd out of the 40 states and, therefore, received an "F." From this study it can be concluded that from the 2000 to 2002 time period, Oklahoma had a greater than average number of OSHA reportable injuries and had significantly higher median disability duration and disabilities lasting over 30 days. However, Oklahoma is doing a better job than a majority of the states in avoiding lost work time when an injury occurs.

- Texas received a D- in 2002 and Fs in 2000 and 2001 under the 2004 WLDI State Report Card.
- Kansas received a B in 2002, an A- in 2001 and a B in 2000 under the 2004 WLDI State Report Card. WLDI attributes Kansas' score to the utilization of a full range of managed care techniques, including limited provider choice, limited provider change, a medical fee schedule and hospital payment regulation. Arkansas received a C in 2002, down from a C+ in 2001 and an A- in 2000.
- According to the WLDI, there are two major drivers of workers' compensation costs. The first is outcomes – numbers of injuries, length of absence from work and medical costs. The second is the administrative burden inherent in a state's workers' compensation system.
- The State Labor Department reported in December 2004 that workplace injuries in Oklahoma have declined to their lowest level in more than 20 years. With just five incidents per 100 employees, the 2003 injury and illness rate is the lowest since the department began tracking the data in 1983. In 2002, the rate was 6.1 per 100 employees. Oklahoma employers recorded 48,400 injuries and illnesses in 2003, a 20% decline from the 60,600 recorded in 2002.
- The rate of claims filed per 100 workers has dropped in Oklahoma from a high of 1.77 in 1988 to a low of 1.24 in 2003, well below the peak of 2.26 in 1994. (Oklahoma Workers' Compensation Court)
- Average medical costs for lost-time claims in Oklahoma have increased from \$7,800 in policy year 1995 to \$16,700 in policy year 2002. Average medical costs for lost-time claims have increased 10% per year more than the growth rate of wages over the past 5 years (PY-1998 to PY-2002). Medical costs are currently growing faster than indemnity costs in Oklahoma. (National Council on Compensation Insurance, Inc., 2004 State Advisory Forum)
- Average indemnity costs per case in Oklahoma have dropped from approximately \$19,000 in 1994 to around \$16,000 in 2001. Average indemnity costs have increased 2.8% per year more than the growth rate of wages over the last 5 years. (National Council on Compensation Insurance, Inc.)
- According to the Workers' Compensation Court's Annual Report for 2002, the total number of orders issued is close to its lowest point since 1990. However, the average overall award has increased to \$13,050 per order, the highest since 1990.
- Medical costs in the workers' compensation system are a function of price (cost per service), utilization (number of services) and mix (character of the service provided – e.g. x-ray v. MRI). (National Council on Compensation Insurance)
- Maximum medical reimbursement rates for providers in Oklahoma are set by the Administrator of the Workers' Compensation Court. In general, these rates are higher than preferred provider organization rates in private health insurance, Medicare or Medicaid.

- Indemnity costs and medical costs in Oklahoma are increasing at a faster rate than the rate of increase in wages with medical costs increasing at the fastest rate. (National Council on Compensation Insurance, Inc.)
- Nearly one in five Oklahomans are without health insurance. Lack of health insurance leads to personal medical conditions being transferred into the workers' compensation system.
- Loss costs have declined in Oklahoma by approximately 20% since 1998. (National Council on Compensation Insurance, Inc.)
- Permanency payments in Oklahoma are similar to other states in the region. However, the average cost per claim in Oklahoma is significantly higher than other states. The difference can be attributed to higher medical utilization, higher than average temporary total disability payments and higher frequency of permanent partial disability claims.
- Oklahoma has a higher frequency of permanent partial disability claims than anyone in its region except Missouri and its frequency is 62% higher than the national average. (National Council on Compensation Insurance, Inc.)
- Injured worker benefits have declined 32% in Oklahoma between 1997 and 2002 from \$1.86 per \$100 in covered wages to \$1.26. However, Oklahoma remains second highest in the region behind Missouri in benefits per \$100 in covered wages and well above the regional average of \$1.05. (National Academy of Social Insurance).
- Oklahoma ranks 39th of 45 OSHA database states on duration of disability and 37th in frequency of long term injuries. (Work Loss Data Institute State Report Card 2004).
- Self-insured manufacturer's average loss per \$100 of payroll in Oklahoma has decreased from \$3.22 in 1994 to \$1.75 in 2003. (Oklahoma Workers' Compensation Court).
- Claimant attorney involvement for lost time claims dropped from 58.7% in accident year 1994 to 29.3% in accident year 2001. According to National Council on Compensation Insurance data, Oklahoma's claimant attorney involvement is about 2 times higher than all of the states surveyed. The states surveyed include those with judicial systems, such as Oklahoma, and those with varying levels of administrative systems with much less attorney involvement. Over the past eight accident years, the percentage of attorney involvement in Oklahoma has dropped 50.1%, compared to a 9.8% drop for all states surveyed. (National Council on Compensation Insurance).
- There is currently a split of authority in the Oklahoma Workers' Compensation Court with respect to "3E claims". Some judges are only awarding material increase when the material increase resulting from combined disabilities constitutes permanent total disability while others are entering awards for any resulting material increase. Exposure to "3E claims" will lead to higher loss reserves and higher premiums.
- The Multiple Injury Trust Fund protects employers from liability for the combination of old and new disabilities. As of December 31, 2003, the fund had a deficit of \$214,673,000 which represented an \$18.8 million decrease from the previous year end. (Multiple Injury Trust Fund Audited Financial Statements, 12/31/03).

WORKERS' COMPENSATION REFORM PROPOSALS

- I. Workplace Safety: One of the keys to lower costs in a workers' compensation system is lowering the number of claims. The best way to lower the number of claims is to lower the number of injuries. By adopting effective workplace safety programs, Oklahoma employers can reduce the frequency and severity of injuries thereby lowering overall costs.

--Solutions:

A. Increase funding for both the Oklahoma Department of Labor and Career Tech Safety and Health Training Programs.

B. Make the Special Occupational Health and Safety Fund a revolving fund not subject to appropriation.

C. Recommend the Governor appoint a task force comprised of representatives of insurance companies, CompSource Oklahoma and businesses to explore the further coordination of safety programs with insurance and the utilization of premium rebates to provide incentives to businesses to adopt safety programs.

- II. Limitation on Solicitation: Employers are required to file a Form 2 (Employer's First Report of Injury) with the Workers' Compensation Court when a workplace injury occurs that causes lost time from work beyond the shift of injury or the seeking of medical treatment outside the workplace. The Form 2's are not confidential and are available to the public. In the past, certain individuals have requested copies of these filings and then used them to solicit injured workers to employ them or their associates as legal counsel to file suit against the employer.

--Solution: Form 2 should be confidential with only the injured worker, the employer or the employer's insurance carrier having access to the Form 2. Attorneys for any of these parties shall also have access with a properly executed power of attorney.

- III. Certified Workplace Management Plans: It appears that Oklahoma CWMPs have been fairly effective at managing care for injured workers and providing cost effective medical care. There are certain impediments in Oklahoma statutes that may decrease the number of employers willing to utilize CWMPs. Some have suggested that CWMPs should be mandated for all workers' compensation cases. However, the experience in other state's that have attempted to mandate CWMPs for all cases has not been positive.

--Solutions:

A. Allow the employer to choose for the injured employee a treating physician from the physicians listed within the network of the CWMP. The injured worker may apply for a one time change to another physician within the network. Any subsequent change would be as provided under existing law.

B. Eliminate the annual re-enrollment process and replace with a requirement that the employer provide the employee with annual notice of their rights under the CWMP.

C. Require the State Health Department to conduct annual site visits to each CWMP to ensure adequate and timely medical treatment is provided to plan participants, that the plan is operating in accordance with its latest application to the Department and that it is in compliance with all applicable laws and regulations.

IV. Competition Among Insurers: Oklahoma employs a cumbersome and inefficient method for determining rates for workers' compensation insurers. A very political filing is made by NCCI with the State Board for Property and Casualty Rates to determine the loss cost multiplier. Then, each individual company must file for rate approval with the State Insurance Commissioner. Studies indicate that deregulation of workers' compensation rates results in a significantly more efficient delivery system and a reduction in overall comp rates.

--Solution: Change to a "file and use" system for workers' compensation rate setting in Oklahoma.

V. Medical Cost Containment: The average annual increase in workers' compensation medical costs nationwide from 1996 to 2002 was 8.1% compared to a 3.8% increase in the medical consumer price index during the same period. In Oklahoma, the average medical cost per claim has increased an average of 10% more than the rate of growth in wages over the past 5 years. This increase has been attributed to the rising costs of prescription drugs and a significant increase in medical care utilization. Oklahoma lacks effective medical cost management mechanisms. The state has a medical fee schedule that is not tied to any objective criteria. The only other medical cost containment mechanism the state has is treatment guidelines adopted by the Physician Advisory Committee that are neither statutorily mandatory nor binding on any of the participants in the system. Studies show that the use of managed care techniques in a workers' compensation system lowers costs an average of 21.5%

--Solutions:

A. Utilization Standards/Treatment Guidelines. The existing membership of the Physician Advisory Committee should be reworked to include representation by an occupational physician. The guidelines should be based upon nationally accepted practice standards. Guidelines should be included on all major cost areas including treatment of back, knee, neck and shoulder injuries and utilization of x-ray and imaging technology for diagnostic purposes. Additionally, the guidelines should address when surgery is indicated as well as the appropriate surgical procedure for the underlying condition. Compliance with the guidelines should be mandatory and a precondition to reimbursement. A procedure to override the guidelines upon prior authorization by the Court also needs to be developed.

B. Fee Schedule. The fee schedule for provider charges should be based on a percentage of Medicare with a higher percentage paid to surgeons similar to the approach adopted by the State of Florida to provide more objective reimbursement and

lessen the incentive for higher utilization of “over reimbursed” procedures. The fee schedule should specifically set limits for MRI’s and physical therapy that are at Medicare rates with no premium.

C. Preauthorization. Preauthorization should be required as a precondition to any obligation to pay for medical services if the proposed treatment exceeds the amount set forth in the guidelines, exceeds the amount set forth in the fee schedule or is designated as requiring prior authorization in the fee schedule or the medical treatment guidelines. The IME panel shall be responsible for making decisions on preauthorizations with the IME’s to serve on a rotating basis as the preauthorization IME. All IME’s shall be required to serve on preauthorization panel as requirement for being an IME. The Administrator of the Court shall establish appropriate rules regarding the rotation of IME’s, the procedure for parties seeking preauthorization and the fee for such preauthorization which shall be remitted to the IME. The fee shall be assessed against the party seeking the preauthorization if it is denied and against the adverse party if it is granted. The parties may mutually agree to treatment in excess of the guidelines or fees in excess of the amount set forth in the fee schedule.

D. Prescription Drugs. The price for prescription drugs shall be set at 90% of average wholesale price (AWP) plus a \$5 dispensing fee. Physicians shall be required to prescribe and pharmacies dispense generic drugs when they are available. If a physician wishes to prescribe a “dispense as written” drug when a generic equivalent is available, the physician must get prior authorization and such prior authorization must be communicated to the dispensing pharmacy before the pharmacy may dispense such drug. The Physician Advisory Committee shall adopt stringent guidelines for the prescription and dispensing of Oxycontin which shall limit such drug’s utilization and the duration of treatment.

E. Case Management. Eliminate requirement that employee lose 3 consecutive days of work before a case manager may be appointed. Allow employer to appoint case manager at employer’s discretion and communicate with case manager. Eliminate ability of employee to have case manager replaced at will but provide complaint process or, if none, allow employee to petition court for replacement of case manager. Case manager provisions in relation to CWMPs should not be disturbed.

F. Utilization Review. Create an independent panel of providers, business representatives and labor representatives to review utilization when requested by any employer, injured employee or insurer. The panel should be authorized to issue a public or private censure, remove a provider from a case or order treatment within the treatment guidelines. An aggrieved party may appeal to the Court.

VI. Return to Work: Both employers and employees should be encouraged to participate in light duty employment to allow injured employees to return to work for light duty or restricted duty work as soon as possible. Employers often are not willing or able to offer light duty return to work opportunities for injured employees. Additionally, Oklahoma law appears to provide little incentive for injured workers to accept bona fide offers of light duty work.

--Solution: The state should offer employers a tax credit of 10% of an injured worker's actual wages for up to three months if the employer puts an injured employee back to work with work that meets the work restrictions established by the treating physician. Additionally, the employer shall be entitled to a tax credit of up to \$1,000 each for work place modifications necessary to allow the employee to return to work, job retraining costs and tools/equipment that may be required to enable the employee to perform the restricted duty employment. Temporary benefits shall end upon the treating physician making a determination that the employee may return to work with restrictions (total body whether all body parts are admitted or denied) and the employer making a bona fide offer of employment that accommodates such restrictions. The employee may file a motion challenging such cessation of temporary benefits which shall be subject to preliminary hearing by the Court within five business days of filing. At such temporary hearing the Court may order such temporary benefits continued pending a final hearing if it finds probable merit in the employee's motion and that substantial harm will result to the employee if such temporary benefits are not continued. Additionally, all temporary benefits shall cease automatically upon a full release of the injured employee by their treating doctor (add to existing statute as additional event of termination of payments).

- VII. Fraud: All participants in the workers' compensation system complain of fraud by all other participants in the comp system. Workers' compensation fraud costs the insurance industry \$5 billion dollars each year and is partially responsible for the rising trend in workers' compensation premiums.

--Solutions:

A. Increase funding for the Attorney General's anti-fraud unit \$300,000 per year to allow the addition of 5 more staff members.

B. Enhance penalties for fraud by all participants in the workers' compensation system (claimants, employers, providers and attorneys). Adopt a definition of "work" in relation to employee's temporary total disability fraud.

C. Eliminate benefits obtained by fraud in a workers' compensation case.

D. The Governor should create a Premium Fraud Task Force, which would be comprised of representatives from the private workers' compensation insurers, CompSource Oklahoma, employers, injured workers, the Attorney General's office, health care providers and the Oklahoma Workers' Compensation Court Administrator. The task force would allow for a cooperative effort between all participants in the workers' compensation system impacted by fraud and enhance communications to the Attorney General for the prosecution of fraud.

- VIII. Multiple Injury Trust Fund/Form 3E Cases: Under current law, last employers are subject to potential liability for material increase in impairment resulting from a combination of prior injuries. This subjects the employer to excess liability when the employer hires an employee with a prior injury and, therefore, makes it difficult for

previously injured employees to obtain employment. Under prior law the Multiple Injury Trust Fund paid for such a combination.

--Solution: Reinstate the Multiple Injury Trust Fund for Permanent Total Disability awards only. The statutes should be clarified to eliminate any material increase liability for employers in multiple injury situations. The fund shall be funded by the current assessment on premiums or premium-equivalents at an amount determined by the Court Administrator to fund the Multiple Injury Trust Fund but not more than 6% as currently set forth in statute. The Multiple Injury Trust Fund should be given standing in any case where the Court is considering an award against the fund.

- IX. Independent Contractors/Non-coverage Cards: The State Labor Commission issues non-coverage cards for independent contractors that work for a prime contractor. These have been abused in some industries, particularly the roofing industry. When individuals who hold non-coverage cards are hurt on the job and they are really employees, they file workers' compensation claims under their "employer's" workers' compensation policy. This risk for insurers causes the premiums of all contractors to be increased.

--Solution: Abolish non-coverage cards.

- X. Injured Worker Benefits: Several areas of benefits to injured workers have not been addressed for a number of years and are very inadequate. These include burial benefits, disfigurement awards and certain permanent total disability benefits payable to a surviving spouse.

--Solutions:

A. Increase burial benefit from \$5,000 to \$8,000.

B. Increase disfigurement awards from \$20,000 to \$30,000.

C. For cases where the claimant has been adjudged permanently totally disabled and dies from causes other than the accident or occupational disease causing such permanent total disability, increase the benefit payable to a surviving spouse from \$50 per week to ½ of workers' permanent total disability benefit with such benefits to terminate on the remarriage or death of the surviving spouse.

- XI. Sprains and Strains: Much debate and effort in workers' compensation has centered on attempting to define compensable soft tissue injuries commonly referred to as "sprains and strains." These efforts have met with great difficulty in even defining sprains and strains much less determining criteria for compensability.

--Solution: In general, only temporary benefits should be paid for a sprain and strain. However, certain soft tissue injuries may cause permanent damage. The state should adopt a requirement of objective evidence showing that a soft tissue injury result in either a permanent abnormality or be supported by evidence that the injured employee's ability to earn wages at the same level as the date of injury is permanently adversely impaired as a precondition to a permanent disability award. This requirement should not

apply to cases involving corrective surgery or closed head injuries. The definition of permanent partial disability should be amended to include the requirement.

- XII. Miscellaneous Provisions: Several miscellaneous issues should be addressed as part of a comprehensive workers' compensation reform bill.

--Solutions:

A. Create a presumption of no lost income for people who are retired, not working and can not establish a loss of income with respect to temporary total disability payments during a healing period. Termination of an employee's employment for the purpose of avoiding temporary total disability payments shall constitute wrongful termination.

B. Allow a Court appointed treating IME to rate permanent partial disability at the end of treatment.

C. Require physicians who are on the Court IME list to provide "examination only" exams in a certain number of cases each year as determined by the Administrator of the Court in order to maintain their name on the Court IME list.

D. Codify the requirement that it is the Claimant's burden and cost to obtain, as an element of a permanent total disability claim, a vocational rehabilitation evaluation.

E. Adopt changes to 85 Okla. Stat. §43(A) to clarify statute of limitations period.

F. Define length of time to get temporary benefits (not to exceed 300 weeks).

G. Amend 85 O.S. § 2.6 as follows: An employer with five or less total employees, all of whom are the employer's spouse, father, mother, child or step-child, grandchild or a spouse thereof will be exempt from the Workers' Compensation Act.

H. An employee may only change physicians as a matter of right where the employer has chosen the physician.

I. Clarify law that there is no employer liability for non-work related pre-existing condition.

J. Limit jurisdiction of Court to reopen case for change in condition to 208 weeks.

- XIII. 24 Hour Care Study: It is recommended that a study be conducted of the feasibility of allowing certain employers to opt out of the workers' compensation system if they provide all of their workforce with 24 hour medical insurance that would cover both work and non-work related injuries and illnesses with low deductibles and co-pays. Such employers would also be required to provide certain death benefits and disability benefits to their employees.

- XIV. Mediation: Many people argue that too much money is spent on adjudicating disputes in Oklahoma's workers' compensation system. Statistics show that while attorney

involvement is dropping significantly in Oklahoma, contested cases tend to cost relatively more. Since Claimant's attorneys fees are paid out of Claimant awards, they do not affect system cost. Therefore, the additional costs would have to be attributable to Respondent's attorney's fees and, more likely, other litigation costs, such as expert witness fees, etc.

--Solution: The best way to avoid litigation cost is to avoid litigation. The best way to avoid litigation is to have dispute resolution systems in place to encourage more efficient resolutions of disputes. Some argue that every claim should go to mediation. However, this would increase costs beyond the benefits realized because many cases that would not benefit from mediation would be forced into mediation. The current system for mediation is too weak. It requires both parties agree to mediation before it occurs. This causes too few cases to be mediated. It is, therefore, suggested that mediation occur upon agreement of the parties or by order of the Court upon motion by either party.

- XV. Dueling Doctors: "Dueling Doctors" are perceived to be a major cost driver in Oklahoma's workers' compensation system. It is commonly believed the Court typically splits the difference between a high claimant's disability rating and a low respondent's rating. IME's are independent and give the Court an independent view to disability ratings.

--Solution: Adopt a statutory preference for disability ratings by IME's. Adopt an expedited hearing process for compensability.

- XVI. Guaranty Fund: The solvency of the Property and Casualty Insurance Guaranty Association Fund should be assured. The State Auditor should conduct an audit of the Guaranty Fund and report on its financial soundness.

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