

## Colorado Model Office Project

# WORKERS' COMPENSATION ATTACHMENT

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# **WORKERS' COMPENSATION ATTACHMENT**

## **INTRODUCTION**

This report is concerned with the collection of monies for child support from workers' compensation benefits. The attachment of workers' compensation insurance through electronic automation is one of several computer-based interventions being developed for use by Child Support Enforcement divisions across the country. The assessment of workers' compensation attachments is part of the Colorado Model Office Project (MOP), a multi-faceted demonstration and evaluation project funded by the Federal Office of Child Support Enforcement aimed at improving child support performance.

This report considers the history of the intervention and the CSE collections under the new provisions. We also consider some of the reasons why these collections have failed to meet expectations. This report is based on interviews with staff from Colorado CSE, Massachusetts CSE, county child support agencies, insurance carriers, and the Division of Workers' Compensation, Colorado Department of Labor and Employment. Staff from the Colorado Comprehensive Insurance Authority, the major insurance carrier for workers compensation in Colorado, were especially helpful in providing data.

## **HISTORY OF THE INTERVENTION**

Attachment of workers' compensation insurance is a relatively new intervention for Child Support Enforcement in Colorado. The Child Support Enforcement (CSE) Division of the Colorado Department of Human Services received authority in 1994 to collect child support from workers' compensation benefits paid to absent parents, using "mass case processing" procedures. Senate Bill 94-141 authorized CSE to administratively attach workers' compensation benefits for the payment of child support, and to conduct on-line, instead of manual, processing of wage assignments and garnishments.

Bill 94-141 also established an administrative lien and attachment process. This law requires that insurance companies responsible for providing workers' compensation

benefits respond to a Notice of Administrative Lien and Attachment (ALA) generated by the Support Enforcement Unit (SEU) of CSE. Upon receipt of an ALA, the insurance company must withhold child support from benefits of an obligor and remit the funds to the Family Support Registry (FSR). The attachment provision is codified in Section 26-13-122 Colorado Revised Statutes.

State CSE personnel found that Senate Bill 94-141 had weaknesses which interfered considerably with the ability of the department to conduct a mass processing program with regard to compensation benefits. Most notably SB94-141 required a Verified Entry of Judgement before sending a Notice of Administrative Lien and Attachment (ALA). This slowed the process by several weeks. In addition, the stipulation that the ALA must be sent by certified mail undermined the cost benefits of the program (DeVargas Field and Sanchez 1995). In response to these concerns, the legislation was amended in 1996. The passage of Senate Bill 2, Section 23 removed the judgement requirement and the certified mail restriction.

## **REACTIONS TO THE INTERVENTION**

The introduction of mass case processing for obligors receiving workers' compensation benefits altered the work of county child support agencies. Prior to the Workers' Compensation Initiative, counties were responsible for issuing wage assignments to insurance companies. But, according to a Denver County CSE technician, "we only knew that someone was collecting workers' compensation benefits if the obligee called and told us. Then we would have to snoop around, to identify the insurance company." With the computerized interface between the state CSE and the Colorado Department of Labor and Employment, however, CSE learns immediately of benefits being granted, and makes the attachments. County CSE workers say they no longer are very involved with workers' compensation benefits. One technician stated that from her perspective, workers compensation is the least complex of the various new interventions being developed. "It may take five to ten minutes to review a case, but it is not difficult. It's straightforward."

Insurance carrier adjustors and staff who handle workers' compensation benefits have had to learn new regulations and computer programs, in order to comply with state law. Employees of some of the larger insurance companies have received training from Colorado CSE staff. In the case of smaller companies, usually all the adjustors are familiar with the regulations, and have learned how to process ALAs. Employees of insurance companies that were interviewed gave high marks to the automation process established by Colorado CSE, and expressed their belief in the importance of child support.

## **IMPACT OF THE INTERVENTION ON COLLECTIONS**

This is a relatively new intervention, so it is to be expected that it will take several years to iron out the interfacing and complications. Despite the newness of the program, the collections from workers' compensation benefits have already increased annually, as the data from the monthly reports of collection (AM-250 forms) demonstrate in Table 1 and Table 2 below. The monthly averages of 1995, which are slightly higher than the averages of 1996, represent an early phasing in and cleaning up of "backlog" cases (DeVargas Field and Sanchez 1995).

<b>Table 1 Annual CSE Collections From Workers' Compensation*</b>			
	<b>1995 (8 months)</b>	<b>1996</b>	<b>1997 (11 months)</b>
Wage withholding	\$268,525	\$184,325	\$182,915
Admin. Lien and Attachment	\$144,916	\$420,767	\$451,559
<b>Total collections</b>	<b>\$413,441</b>	<b>\$605,092</b>	<b>\$634,474</b>
<small>* Total collections for 1995 (May through December), 1996, and 1997 (January through November), of Workers' Compensation Wage Withholding and Workers' Compensation Attachment, Colorado Department of Social Services.</small>			

<b>Table 2</b>			
<b>Comparison of Monthly CSE Collection Averages by Category</b>			
	<b>1995</b>	<b>1996</b>	<b>1997</b>
Wage withholding monthly average	\$33,566	\$15,360	\$16,629
Admin. Lien and Attachment monthly average	\$18,114	\$35,064	\$41,050
Total monthly average	\$51,580	\$50,424	\$57,679

Despite the increase, CSE administrative staff question why the workers' compensation intervention does not seem to be meeting the initial collection expectations. The evaluation explored several elements of the program which may explain or contribute to the shortfall. First, the premises upon which the collection projections were developed are examined, to see whether these were unrealistic or erroneous. Second, the automation system and the coding processes built around that system are assessed for their efficacy.

## **PREMISES FOR PROJECTIONS**

When drafting and developing the workers' compensation initiative, the Colorado CSE Division looked to the Massachusetts Child Support Enforcement program as a model. The state of Massachusetts began collecting child support from workers' compensation benefits in the mid-1980s. There are several minor structural differences between the systems of the two states. In Massachusetts the system is centralized, while in Colorado, the system is administered at both the state level and the county level. The Massachusetts Child Support program is part of the state Department of Revenue; in Colorado it is part of the Department of Human Services.

Using a formula designed to accommodate the demographic and economic differences between the two states (Massachusetts has a population almost twice that of Colorado), Colorado CSE projected that \$800,00 could be collected annually from workers' compensation wage withholdings and attachments. Collections began in April, 1995. When collections remained close to \$600,000 in 1996, questions were raised regarding the

comparison between Colorado and Massachusetts. Are there variables which had not been taken into account when establishing the projections?<sup>1</sup>

One variable which can be eliminated as representing a significant difference is the workers' compensation benefits structure utilized by each state. As Charts A and B in the Appendix demonstrate, the benefit provisions for workers in Colorado and Massachusetts are similar.

Another variable to be considered is the system designed to identify obligors collecting workers' compensation benefits and the insurance companies paying those benefits. The automation system designed by Colorado CSE relies on a daily match between the obligors entered into ACSES, and a Workers' Compensation database created and maintained by Colorado Department of Labor and Employment (CDLE), Workers' Compensation Division. When CSE identifies an obligor who has been granted workers' compensation benefits, a Notice of Administrative Lien and Attachment (ALA) is sent to the insurance carrier. This notice instructs the carrier to deduct a certain amount of the obligor's disposable earnings each month, and send it to the Family Support Registry. The Massachusetts Child Support Division has a similar process, in which the agency sends a tape of obligors to the Department of Industrial Accidents (DIA) every two weeks. Thus, the Colorado mass case processing system is similar in design to the Massachusetts system.

A third area of comparison is relevant state laws, which define and limit the extent to which child support can be collected from workers' compensation benefits. Both states passed legislation authorizing collection of child support from workers' compensation benefits by CSE agencies (Massachusetts laws are codified in Massachusetts General Laws, chapters 152, Section 46A and 47, and chapter 119A, Section 6). But there is a stipulation found

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<sup>1</sup> It is not possible to accurately compare the collections of the two programs, because both have had problems with accurate coding of payments (personal communications with CSE staff in Colorado and Massachusetts, September, 1997 and December, 1997).

in the Colorado law, which could largely explain the difference between what was projected and what has been collected to date.

Massachusetts law allows child support to be collected from all disabilities which qualify workers for compensation benefits. Colorado law, however, distinguishes between permanent total disability (PTD) and permanent partial disability (PPD), and exempts the latter category from child support payments. This exemption probably reflects a compromise in which legislators made it exceedingly difficult to qualify for total disability, but agreed to exclude those with partial disabilities from child support requirements.

The Colorado Department of Labor and Employment, Workers' Compensation Division, does not keep track of benefit payments by TPDs, TTDs, PPDs, and PTDs. Thus, it is impossible to present a comprehensive picture of how many workers have a permanent partial disability and the total amount of benefits being paid annually to them. However, there are two indicators which are helpful in grasping the magnitude of the PPD exemption. Table 3 shows that in Colorado, from 1990 to 1994, the number of injured workers receiving permanent partial disability benefits (PPD) was more than double those in Massachusetts.

<b>Table 3</b> <b>Frequency By Injury Type in Colorado and Massachusetts*</b> <b>(per 100,00 workers)</b>		
	<b>PTD</b>	<b>PPD</b>
Colorado (3.90-2.91)	30	923
Massachusetts (7.91-6.92)	2	362
Colorado (3.93-2.94)	11	745
Massachusetts (7.92-6.93)	1	360

\*Source: National Council on Compensation Insurance Annual Statistical Bulletin, 1995, 1997.

Table 4 shows the amounts of money paid in the categories of benefits for permanent, total, and partial disabilities by the Colorado Comprehensive Insurance Authority (CCIA) in 1994, 1995 and 1996.

<b>Table 4</b> <b>Total Payments by Colorado Comprehensive Insurance Authority (CCIA)</b> <b>by Disability Type, 1994 - 1996.</b>			
<b>Disability Type</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>
PTD	\$24,211,446	\$27,413,363	\$34,744,525
PPD	\$83,226,604	\$90,855,591	\$104,103,907

CCIA is a large, semi-public insurance carrier that handles approximately 45% of the workers' compensation cases annually in this state. The rest of the cases are spread among more than one hundred smaller companies. Although there are no statistics available to show how many claims or cases these payout figures represent, it is clear that benefits received by injured workers with PPDs represent a substantial pool of potential child support payments.

### **AUTOMATION SYSTEM OF COLLECTIONS FROM WORKERS' COMPENSATION BENEFITS**

The move to mass case processing by child support agencies requires sophisticated and complex programming of computer systems. As with any new system, mass case processing has encountered multiple and unexpected problems with regard to programming and coding of information. These problems may have resulted in an underestimation of the true effects of workers' compensation wage withholding. They may also have contributed to an under collection problem. Although these problems or "glitches" can be extremely frustrating and costly, they are solvable, as the CSE staff have discovered.

Colorado CSE staff have been concerned that revenues from workers' compensation benefits may not have been appropriately credited to this intervention. In 1996, there was



evidence that monies being collected from *workers' compensation wage withholdings* were being reported as part of *general wage withholdings*. This coding error was contributing to the notion that collections from workers' compensation benefits were not living up to projections. However, CSE programmers have worked diligently to correct this coding problem, and believe that monies are now being reported accurately.

The Workers' Compensation Initiative draws together databases and computerized information from insurance carriers, state government agencies, and county social services agencies. The interfacing between these systems is often equivalent to diplomats from various countries negotiating, with language barriers contributing to major misunderstandings. CSE staff recently learned that insurance carriers sometimes sell their workers' compensation coverage to underwriters. When entered into the computer system, these underwriters have been coded differently than the insurance carriers, and the coding has been illegible to ACSES, the child support computer program that "reads" and interprets data. This situation has created confusion for the section of the computer program which identifies the insurance carriers that are to be sent Notices of Administrative Lien and Attachment. Now that the complication has been identified, CSE programmers will be able to reprogram their systems to incorporate another kind of carrier. This step should also increase the collection of child support payments from workers' compensation benefits.

## **CONCLUSIONS**

As part of the Model Office Project, this assessment examined the basis for the Workers' Compensation Initiative, and explored several factors which may explain the levels of child support collection to date, which have not met expectations. While it appears that unforeseen complications in computer programming may have contributed to a shortfall in 1996, Colorado CSE staff are confident that these "glitches" have been addressed. What seems to be a more fundamental problem however, is the state legislation itself. By exempting partial permanent disability benefits from child support, Senate Bill 94-141

significantly limits what can be collected. Thus, the predictions for CSE performance based upon comparison with a state that does not make this distinction are problematic. Despite this limitation, however, the collection of child support from workers' compensation benefits appear to be rising each year, and may yet match predictions.

## REFERENCES

Field, Anita DeVargas and David Sanchez, "A Study to Evaluate the Current Structure and Efficiency of the Workers' Compensation Project of the State Department of Human Services, Child support Enforcement Division," presented to the Workers' Compensation Task Force Committee, November 16, 1995.

Benefit Provisions:  
Colorado and  
Massachusetts

Appendix A