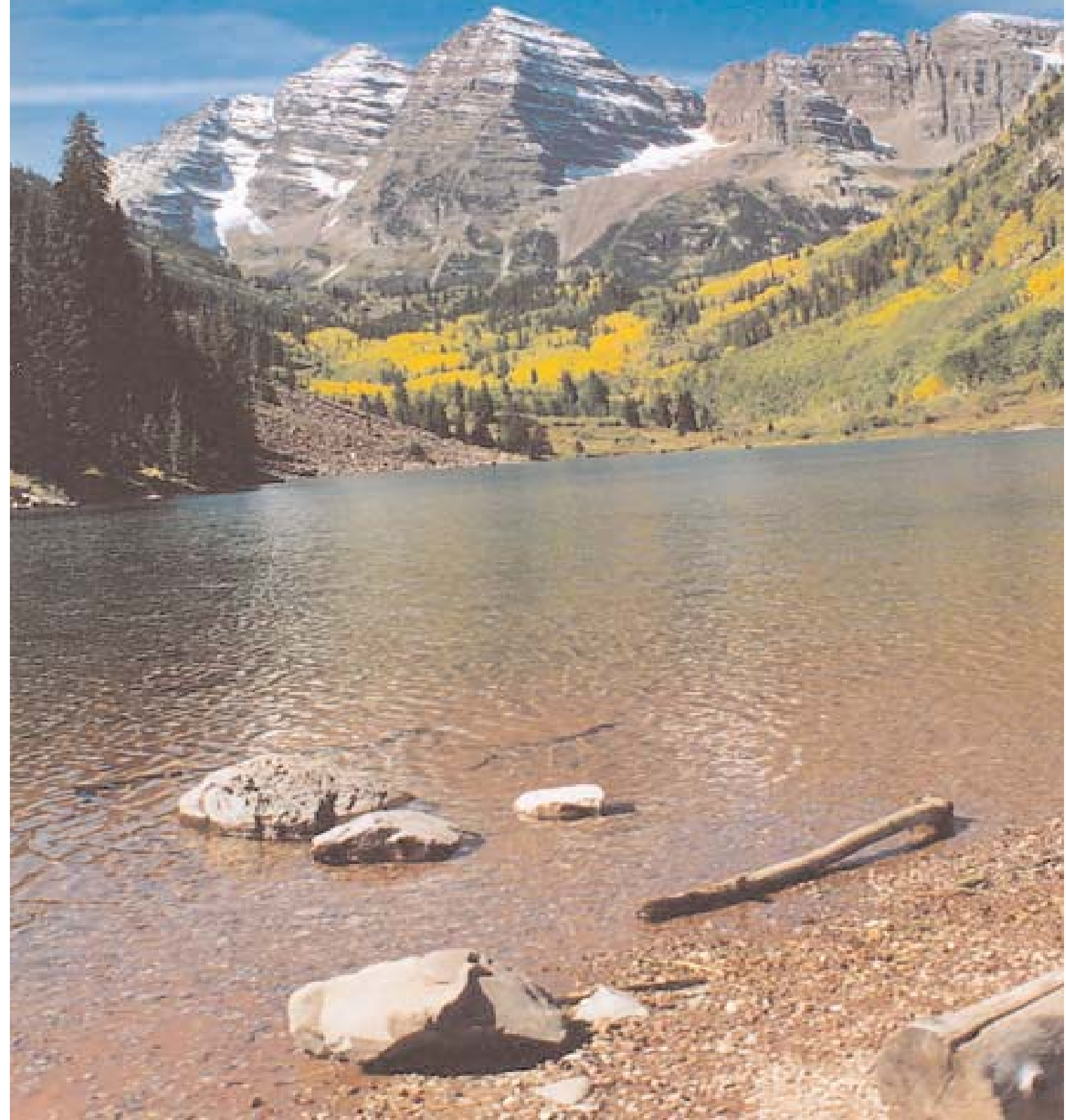


**Colorado Department of Labor and Employment**  
**Overview of the Division of Workers' Compensation**



# Legislative Declaration

It is the intent of the general assembly that the "Workers' Compensation Act of Colorado" be interpreted so as to assure the quick and efficient delivery of disability and medical benefits to injured workers at a reasonable cost to employers, without the necessity of any litigation, recognizing that the workers' compensation system in Colorado is based on a mutual renunciation of common law rights and defenses by employers and employees alike.

Department of Labor and Employment  
Division of Workers' Compensation

303.318.8700

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# Introduction

Workers' compensation is the oldest form of no-fault insurance. Before workers' compensation law was established, there was little recourse for workers injured on the job. A worker could sue in court, but had to prove negligence. The outcome was uncertain and could take years to resolve. This was costly both to the employer and the worker, often with little benefit to either party. The evolutionary move toward workers' compensation began during the Industrial Revolution as mechanization brought an increase in work-related injuries. It was a new legal concept, liability without regard to fault. First established in Germany in 1856 and adopted soon after by England and most of Western Europe, workers' compensation was enacted in Colorado in 1915. By 1920, all but eight states had workers' compensation laws. The last state mandated workers' compensation coverage in 1947.

The workers' compensation system in Colorado is administered by the Division of Workers' Compensation, which is under the Department of Labor and Employment. Responsibilities of the Division Director include administration of the workers' compensation statute, claims processing, records maintenance, insurance compliance, cost containment and first-level dispute resolution.

The Department of Personnel and Administration, Division of Administrative Hearings, is responsible for formal hearings and Division of Workers' Compensation is responsible for pre-hearings and settlement conferences. Cases may be appealed to the Industrial Claim Appeals Panel, to the Colorado Court of Appeals and by writ of certiorari to the Colorado Supreme Court.

Prior to July 1, 1991, the system was administered by the Division of Labor, a division of the Department of Labor and Employment. During the 1991 legislative session, SB 91-218 was passed. This was a comprehensive bill that created programs and modified benefits in an attempt to control rising costs and premiums. The intent of the bill was to implement a more administratively efficient system with less litigation. The Division of Workers' Compensation was created to administer the system. Staff of the Division of Labor whose principle duties were concerned with workers' compensation transferred to the new division.

In Colorado, employers are required to have workers' compensation insurance. There are some exceptions for specifically excluded occupations, individuals and certain independent contractors. Employers receive insurance coverage through insurance carriers or, if qualified, through self-insurance programs.

Workers' compensation insurance pays for all reasonable and necessary medical expenses related to the injury and partial wage replacement while the worker recovers from the effects of the injury or occupational disease. The employer initially has the right to designate the treating physician. However, the physician may be changed by mutual agreement or by order after a hearing before an administrative law judge.

If the injured worker loses more than three shifts or days of work due to the injury, the worker is eligible to receive wage loss benefits. The first three shifts or days of lost work are compensated if the disability lasts longer than two weeks. These benefits are based on two-thirds of the average weekly wage of the worker, up to a maximum amount set by statute. This compensation is called Temporary Total Disability (TTD) benefits. The maximum compensation rate is set by the Division every July based on 91% of the state average weekly wage.

If the worker can return to part-time work during the disability, compensation benefits are calculated at two-thirds of the difference between the worker's pre-injury average weekly wage and the worker's current earnings. These are called Temporary Partial Disability benefits (TPD). Benefits can be reduced for willful safety violations by the worker. All temporary benefits terminate when the worker is released to return, or returns, to regular employment, or reaches "Maximum Medical Improvement" (MMI), which means that the injury or disease causing the disability has become stable and no further medical treatment will improve the condition.

An injured worker is eligible to receive Permanent Partial Disability (PPD) benefits if the worker sustains permanent impairment as determined by the authorized treating physician and rated in accordance with the *AMA Guides to Permanent Impairment, Third Edition, Revised*. The PPD award will either be calculated in accordance with a *schedule* for loss of function affecting certain body parts, such as arms, legs, vision and deafness, or as a *whole person* for those functional losses that are not included in the schedule.

*Scheduled impairment* is calculated by using a scheduled number of weeks assigned to the total loss of a body part or function (such as vision or hearing), multiplied by the percentage of the impairment. This amount is then multiplied by a rate that is set by the Division every July.

*Whole person impairment* is calculated by multiplying the impairment rating by an age factor established by statute, multiplied by 400 weeks, and multiplying the product by the TTD rate.

Permanent Total Disability (PTD) benefits are generally paid for the lifetime of the claimant except for injuries occurring between July 1, 1991, and July 1, 1994. Death benefits are paid to eligible dependents. Offsets may be taken for social security or employer-financed disability benefits.

By law, all cases involving lost time of more than three days and/or cases with permanent disability and fatalities must be reported to the Division. In FY 2001, employers, insurance carriers and claimants filed 40,618 injury reports with the Division. This does not include all workers' compensation claims, since many claims involve no time lost from work (medical only) or less than three days of time lost from work.

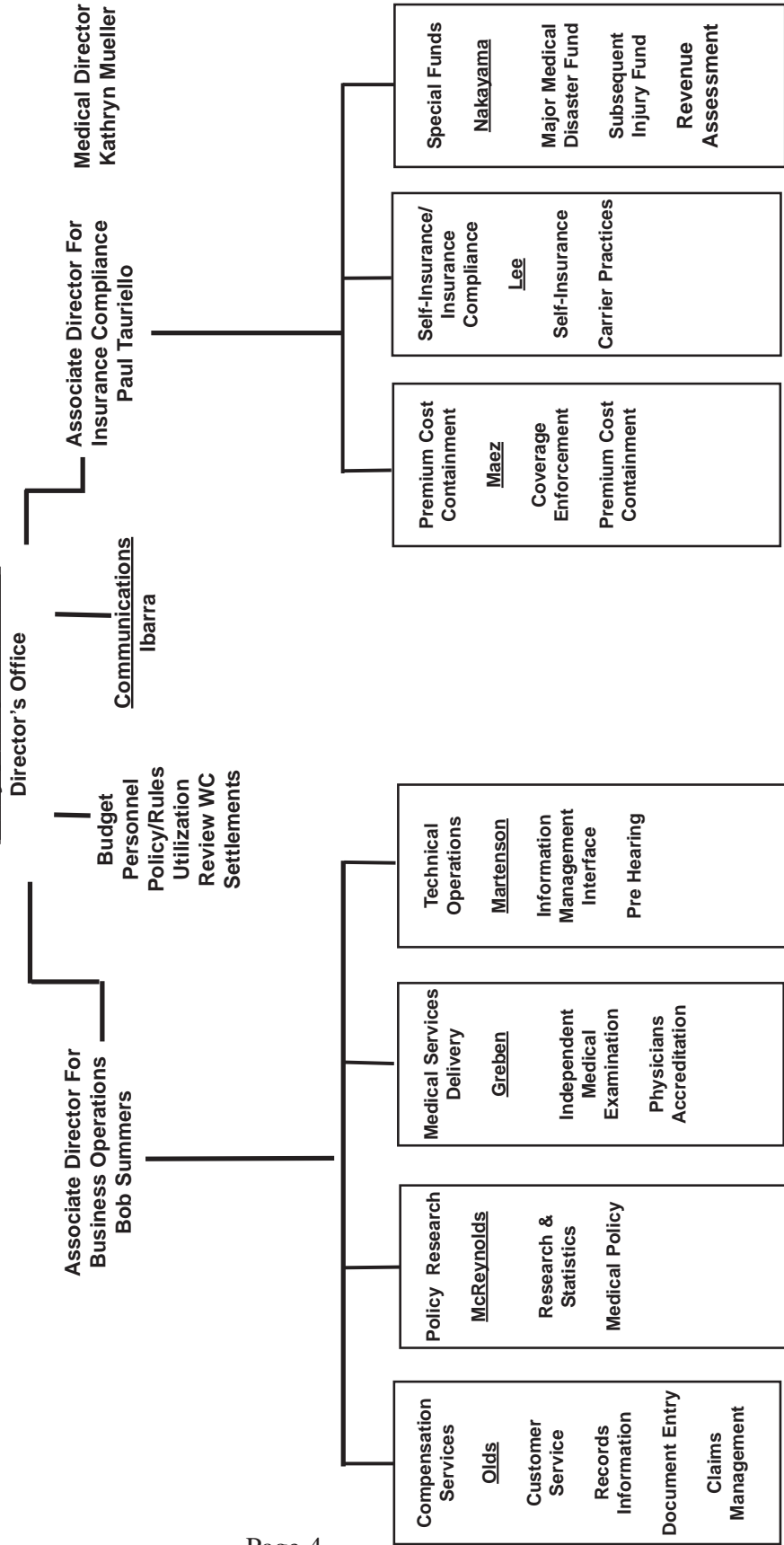
# Balancing Interests in Workers' Compensation



# DIVISION OF WORKERS' COMPENSATION ORGANIZATIONAL CHART

## GOVERNOR EXECUTIVE DIRECTOR DIRECTOR

Mary Ann Whiteside  
Director's Office



## **Director's Office**

There are many functions within the Division of Workers' Compensation that require coordination internally, with the Department of Labor and Employment, and with other state and national administrative agencies. Apart from policy making and adjudication of specific statutory issues reserved for the Director, the Director's Office assures the Division is kept current on issues impacting the workers' compensation system and the Department is represented appropriately.

The Director's Office is also responsible for coordinating and implementing Division strategic, personnel and fiscal planning, within the Department, and with other state agencies. It provides support for the Director, Division staff and managers by maintaining staffing levels, facilitating audit and budget functions, coordinating internal computer systems, data collection and assuring non-duplication of services.

## **Communications Unit**

The legislature mandated that the Division inform, educate and assist the public in the workers' compensation system. The Division's Communications Unit provides the public with a variety of informational publications, materials, and public and electronic forums to exchange information on the workers' compensation system. The Communications Unit is also charged with making information more accessible through the Division website. Division publications, forms, notices, and rules as well as "how to" information are available on the Internet. On the last page of this publication, you will find a list of current Division publications available on our website and in hard copy.

In addition to the Level I and Level II Physicians Accreditation Program seminars, the Division sponsors periodic educational seminars including Medical Treatment Guidelines, Impairment Ratings for Non-Physicians, and regional presentations on a variety of subjects throughout the state. Division staff make public presentations and provide training to a variety of groups including employers, human resource managers, contractors, insurance carriers, underwriters, accountants, professional societies, national workers' compensation organizations, attorneys, physicians and other medical providers.

### **DOWC EDUCATIONAL PRESENTATIONS**

**FY 2004**

Division staff members gave presentations at 75 Division and non-Division events  
Approximately 2,117 people received training



## **Medical Utilization Review**

The Medical Utilization Review Program is an appeals program that determines whether services provided were reasonable and/or necessary. It is a peer review program designed to evaluate health care services provided to injured workers and to resolve disputes about such services. Utilization review proceedings may result in a change of provider, a retroactive denial of fees charged by the provider, and/or a revocation of the provider's accreditation from the Division.

### Medical Utilization Review FY 2004

Number of cases filed: 11

# Compensation Services

Compensation Services encompasses Customer Service, Records Information, Document Entry, and Claims Management. The overall goal of the section is to provide information to the public, provide administrative oversight of claims, and help resolve disputes between parties. Customers typically are injured workers, insurance adjusters, attorneys, employers, and medical professionals.

## Customer Service

The Division of Workers' Compensation is committed to promoting excellent customer service to the community. In a system as complex as workers' compensation, complete information and efficient service are the keys to early resolution of disputes and reduction of costs.

The Customer Service Unit is a centralized source for inquiries and distribution of workers' compensation information, forms, and publications to the public. Some of the services include:

- ◆ Injured workers receive help in filing a claim and information about their rights and obligations throughout their claim.
- ◆ Employers receive information on Colorado law requiring workers' compensation insurance, where to purchase insurance, how to file a claim when an employee is injured, and their responsibilities as employers.
- ◆ Insurance companies receive information on claims handling practices and correct reporting procedures.
- ◆ Medical professionals receive information on their responsibilities under the workers' compensation system, medical fee schedules, and billing requirements.

### Customer Service FY 2004

Number of phone calls answered by unit	59,708
Number of walk-in customers	5,567
Total contacts	65,275

## **Records Information**

The Records Information Unit maintains a file for each workers' compensation claim that is filed with the Division. As the main location where all files are physically kept, the unit is able to promptly provide access to essential information needed by a variety of units within the Division.

After a document is received and processed within the DOWC, it is forwarded to the Records Information Unit to be filed with the corresponding worker's claim. Hundreds of documents are filed daily in order to provide the Division the most accurate accounting of a claimant's status in regards to documents that have been received.

Once a claim is closed and no longer active, it is electronically scanned into a database, and the physical file is destroyed. The electronic record is kept and accessible until DOWC guidelines permit destruction of the file. Electronic scanning enables the Records Information Unit to maintain a large amount of information that is easily retrievable. In addition, physical space to store files is greatly reduced.

## **Document Entry**

Workers' Compensation forms are generated from the carrier's computers or completed manually and submitted to the Division for processing. The forms are entered into a mainframe computer system by the Document Entry Unit. With the national focus on cost reduction, the Division has developed and implemented an Electronic Data Interchange (EDI) system, where information is provided to the Division electronically. This has reduced the human error element, adding integrity to the database of the workers' compensation system. To assist carriers with the information necessary to implement EDI, the unit developed a Quality Assurance Program. This program is designed to track errors and train carriers on the proper submission of documents to allow easy transition to EDI.

# Claims Management

## C.R.S. Section 8-43-217

“The general assembly hereby finds, determines, and declares that active management of workers’ compensation claims should be practiced in order to expedite and simplify the processing of claims, reduce litigation, and better serve the public.”

## C.R.S. Section 8-43-218(1)

“The director shall have authority to appoint claims managers to review, audit, and close cases, to educate, inform, and assist the public as to the workers’ compensation system, to promote speedy and uncomplicated problem resolution of workers’ compensation matters, and to otherwise manage claims.”

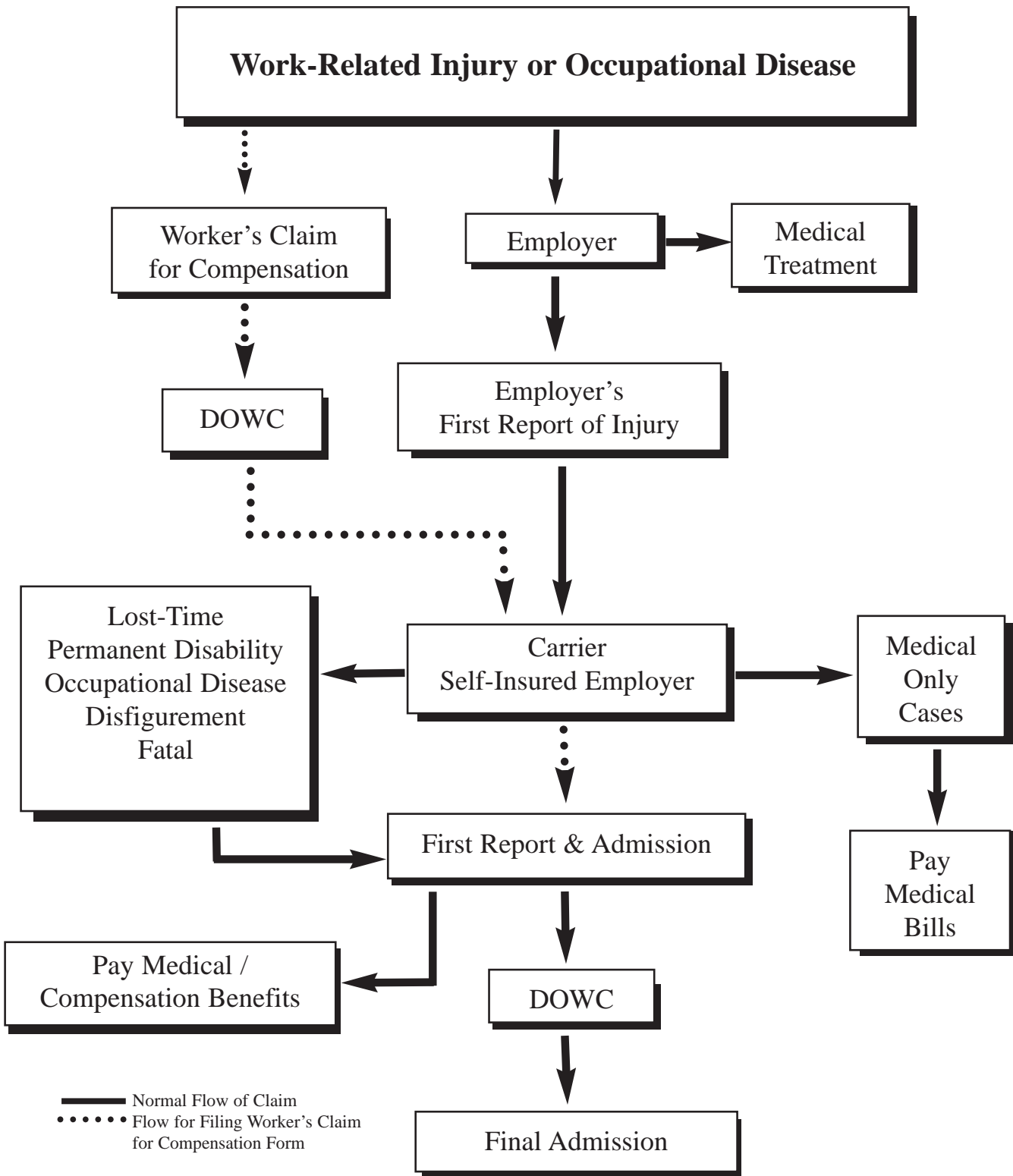
The primary objective of the Claims Management Unit is to provide administrative oversight and dispute resolution based on the legislative mandate that active management of workers’ compensation claims should be practiced to expedite and simplify the processing of claims, reduce litigation, and better serve the public.

The Claims Management Unit is dedicated to cost containment based on the following objectives:

- ◆ Quick, no cost claim resolution
- ◆ Oversight and enforcement of the statute through claims review
- ◆ Information and technical assistance about workers' compensation benefits and access to dispute resolution services

The Claims Management Unit is responsible for monitoring the administration of claims filed with the Division. They provide information and technical assistance about workers' compensation benefits and access to dispute resolution services. Claims Managers review claims to ensure compliance with benefit and reporting requirements including the payment of medical, temporary, disfigurement, and permanent benefits. In addition, they track behaviors of individual claim administrator accounts to identify training needs and other forms of intervention. Training is provided by request for adjusters or to a carrier new to Colorado claims.

# The Flow Of An Undisputed Workers' Compensation Claim



# Insurance Compliance

The Compliance Section consolidates the Carrier Practices and Coverage Enforcement Units. The goal of the Compliance Section is to provide consistent enforcement efforts and better oversight of employers and carriers.

## Carrier Practices

The Carrier Practices Unit conducts compliance audits of insurance carriers' claims handling practices. The objective of the audits is to identify deficiencies and patterns and measure compliance levels. The audits measure compliance with the Act and Rules in areas critical to claims management. Causes for the deficiencies are identified and recommendations made to correct adjusting practices. Auditors have provided audit-specific training for adjusters. Sanctions may be recommended based on patterns and practice until compliance meets acceptable levels. The Carrier Practices and Self-Insurance Units are collaborating in re-engineering the audit program to increase automation of data gathering functions and analyses of data, and improve consistency in reporting and coordination of schedules.

The Carrier Practices Unit also resolves disputes regarding payment of medical bills and prior authorization for treatment.

### Carrier Practices FY 04

Number of on-site audits	59
Number of training sessions and presentations	19
Number of medical bill disputes resolved	66

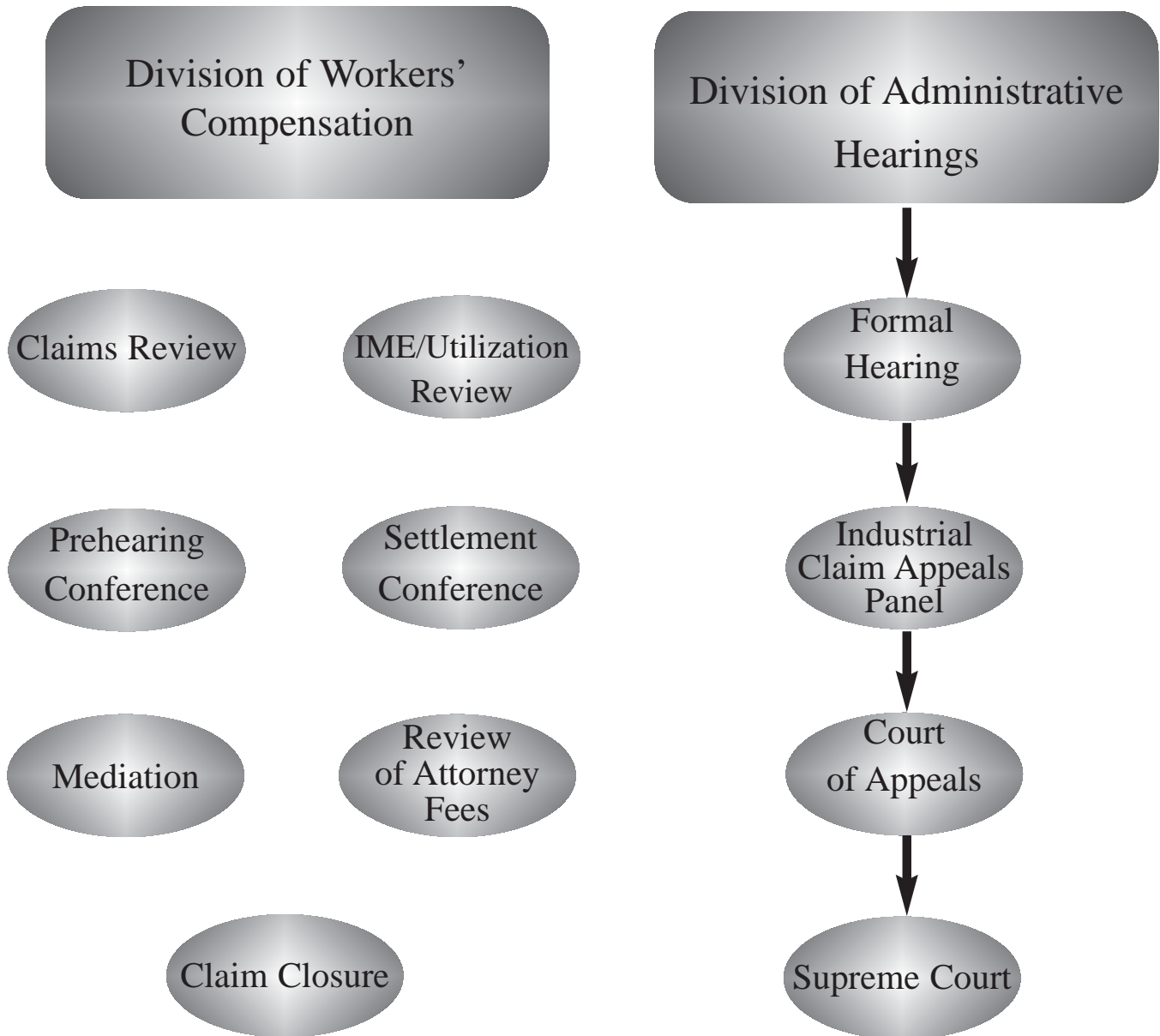
## Coverage Enforcement

To ensure the health and safety of all workers in Colorado, workers' compensation insurance is mandatory for most employers, with limited exceptions. An employer's failure to carry workers' compensation insurance leaves workers unprotected and unfairly burdens other employers who meet their obligations.

The Coverage Enforcement Unit's mission is to enforce coverage requirements with all employers and insurance carriers. This mission has a long history of development beginning in 1991 when the Colorado legislature provided funding for an employer compliance program in the Division of Workers' Compensation to ensure that employers carry workers' compensation insurance. The legislature mandated the development and implementation of an employer crosscheck system. Employer wage records are crosschecked with employer insurance policy data. Insurance carriers are required by rule to report insurance policy information to the National Council on Compensation Insurance (NCCI). Employers who do not appear to have workers' compensation insurance coverage are notified of statutory insurance requirements and subsequent penalties for failure to comply. Formal investigations are conducted as necessary.

Staff investigators provide informational presentations at no cost to businesses and groups around the state regarding workers' compensation insurance coverage requirements and various exemptions.

# Options For Dispute Resolution Under the Workers' Compensation System





# Prehearing

The Division offers several types of services to help people in resolving disputes that arise in the workers' compensation system and to further the agency's mission to reduce litigation through intervention by a neutral mediator or administrative law judge.

## Prehearing Conferences

Prehearing Conferences provide the parties to a claim a forum for informal meetings with an administrative law judge. Conferences are set at the request of a party, and the judge may order the opposing parties to attend and participate. Parties set prehearing conferences to resolve disputes about legal procedures, to get a judge's perspective about the strengths and weaknesses of each party's evidence and legal arguments, and to resolve or narrow disputed issues through consensus or by order of the judge. Many prehearing conferences result in full and final settlement of the case.

The Division judges also rule on motions filed outside the context of a prehearing conference. Resolving matters through prehearing conferences and written motions reduces the number of issues that proceed to litigation.

## Settlement Conferences

Settlement Conferences provide the parties to a claim a forum to discuss settlement and to obtain an independent evaluation of the merits by a judge. These conferences are voluntary, and are scheduled only when all parties agree to participate. Participants typically include injured workers, attorneys and insurance adjusters. Settlement discussions are confidential and cannot be used as evidence in a hearing. The judge facilitates an exchange of information and helps the parties examine the merits and weaknesses of the respective positions. The judge helps the parties weigh the risks and costs of litigating issues and encourages resolution of the claim through consensus and settlement. Settlement documents in which all parties are represented by counsel, unless settlement was finalized before an administrative law judge, are filed with the Division of Workers' Compensation.<sup>2</sup>

### Prehearing And Settlement Conferences FY 04

Total number of prehearing or settlement conferences held <sup>1</sup>	3,925
Number of written motions decided	8,260
Number of stipulations for settlement approved <sup>2</sup>	6,937
Number of WC cases with both hearing and prehearing conferences held	417
Percent of prehearings where no hearing was held	85%

<sup>1</sup> This number does not include those instances where a prehearing conference turns into a settlement conference

<sup>2</sup> This function is performed by the Director's Office

# Office of Administrative Courts

A person involved in a dispute may apply for a formal hearing before an administrative law judge in the Office of Administrative Courts (OAC). Trial-type “merit” hearings are held and docket functions for hearings are performed by OAC staff under the Department of Personnel and Administration. This information is presented for reference purposes only. The statistics are generated by the DOWC computer system, which is used by the OAC workers’ compensation docket.

## Formal Hearings FY 04

Number of applications for hearings	10,662
Number of merit hearings	1,579

# Medical Services Delivery

The Medical Services Delivery Unit consists of two programs, Independent Medical Examination, and Physicians' Accreditation.

## Independent Medical Examination Program (IME)

The Independent Medical Examination (IME) Program provides an independent evaluation of medical issues, relating to Maximum Medical Improvement, Permanent Impairment and apportionment in workers' compensation cases. If the parties to a case are unable to agree on an independent medical examiner, the Division presents a panel of three physicians to the parties, selected from a revolving list maintained by the Division. Each party strikes one physician; the physician remaining performs the IME. The findings of the IME physician can be overcome only by clear and convincing evidence. There are strict time frames applied to the IME process to increase efficiency.

### IME Program FY 2004

Number of applications	3,757
Number of IMEs held	2,835

## Physicians' Accreditation Program

The Physicians' Accreditation Program strives to reduce the escalating costs of health care and decrease costly litigation in the workers' compensation system by assuring that treating physicians are adequately educated in the administrative, legal, and medical aspects of workers' compensation. The program teaches physicians how to formulate impairment ratings and informs physicians about revisions and additions to the medical treatment guidelines, as well as changes to rules and procedures which affect the Division's medical programs and their participants.

### Physicians' Accreditation FY 04

Number of Level I physicians newly accredited or reaccredited by the Division of Workers' Compensation	571
Number of Level II physicians newly accredited or reaccredited by the Division of Workers' Compensation	682
The current total number of both Level I and Level II accredited physicians as of July 1, 2004	1,253

## **Policy Research**

The primary goal of the Policy Research Section is to provide data and information for informed policy decision making within the Division of Workers' Compensation and the Workers' Compensation community. The section consists of two units, the Medical Policy Unit and the Research and Statistics Unit.

As part of our effort to increase our information sources, the Division and the Policy Research Section are participating in the application of electronic data interchange (EDI) to the workers' compensation system. This has included extensive work in the development of national standards, including work with the International Association of Industrial Accident Boards and Commissions (IAIABC), and with the American National Standards Institute (ANSI), Accredited Standards Committee on Electronic Data Interchange (ASCX12). These efforts focus particularly on developing methods and standards to report medical data. The ultimate objectives are to lower costs and improve claim services, health care delivery, and efficiency.

### **Medical Policy**

The cost of health care is an important issue facing our nation today, especially in workers' compensation. A balance is required between access to quality health care and controls on the cost and utilization of these services. Creating policies to maintain this balance is a challenge in light of the constantly changing health delivery and financing environments.

The aim of the Medical Policy Unit programs is to ensure that injured workers have access to quality care at a reasonable cost to employers. The programs include the Medical Fee Schedule, Medical Treatment Guidelines, Impairment Rating Guidelines, and Utilization Standards.

### **Medical Fee Schedule**

The Director is mandated by the Legislature to create a Medical Fee Schedule. The Medical Fee Schedule is established in The Workers' Compensation Rules of Procedure and is reviewed annually for potential revisions.

The Medical Fee Schedule is a medical cost containment program that addresses the cost of individual services. The Medical Fee Schedule controls cost by creating, for all workers' compensation claims, a maximum dollar allowance for all health care services and procedures provided by physicians, non-physician providers, hospitals, and dentists. Beginning in 2003, the analysis needed to update the Medical Treatment Guidelines has been performed in-house.

#### **Medical Fee Schedule FY 2004**

Number of contacts including telephone calls made or received, and letters or faxes sent	2,234
Estimated percentage of medical costs saved through application of Fee Schedule	25%

## **Medical Treatment Guidelines**

The Director is mandated by the Legislature to create Medical Treatment Guidelines for the most frequent and high cost injuries and diseases occurring in workers' compensation. The Medical Treatment Guidelines have been established as exhibits in the Workers' Compensation Rules of Procedure and are reviewed regularly for potential revisions.

This program addresses appropriate utilization of health care services for different injuries. The guidelines are based on the evaluation of medical literature by the Division and a task force of experts from the Colorado workers' compensation health care community. Using this information, medical treatment guidelines are developed to identify the indications and contraindications of diagnostic tests and treatments, as well as, if applicable, an expected number of services for a given diagnosis.

Each Medical Treatment Guideline is written to assist both physicians and non-health care professionals. By providing these guidelines, the unnecessary cost of litigation may be avoided. Additionally, the cost of unnecessary diagnostic testing or treatment may be reduced.

The Division fully implemented and published 10 Medical Treatment Guidelines. The guidelines developed for different diagnoses include: Low Back Pain, Lower Extremities, Reflex Sympathetic Dystrophy/Complex Regional Pain Syndrome, Traumatic Brain Injury, Cervical Injury, Chronic Pain Disorder and Upper Extremities. The Upper Extremities Guidelines include sections covering Occupational Carpal Tunnel Syndrome, Thoracic Outlet Syndrome, Cumulative Trauma Disorder, and Shoulder Injury. The Division also developed a Guideline for Functional Capacity Evaluations.

## **Impairment Rating Guidelines**

These are set in rule, and work in conjunction with the Physician's Level II Accreditation Curriculum to direct Level II Accredited physicians on how to determine and report an injured worker's percentage of permanent physical impairment based upon the American Medical Association's *Guides to the Evaluation of Permanent Impairment, Third Edition, Revised*. The percentage rating is part of a formula that determines the dollar amount paid to the injured worker for his/her work-related permanent physical impairment. The goal of this program is to ensure that "injured workers who have like injuries also receive like impairment ratings."

## **Utilization Standards**

Utilization Standards, also contained in the rules of procedure, establish reporting and billing standards to ensure claims adjusters have the information they need to make timely decisions when adjudicating workers' compensation claims. Throughout the Medical Fee Schedule and Medical Treatment Guidelines, prior authorization may be required when certain conditions are met. The Utilization Standards create dispute resolution procedures for prior authorization and medical bill disputes. These procedures require all parties to justify their positions regarding the requested treatment both timely and medically. These procedures were designed to allow quick and efficient payment for most services, and at the same time allow for review of services that may be excessive or questionable. These rules are key in maintaining the necessary balance between access to quality health care and cost control within the workers' compensation system.

## Research And Statistics

The Research and Statistics Unit provides information about workers' compensation upon request from customers. The unit assures that accurate, reliable information is available, creates research reports about workers' compensation, and provides professional assistance to other Division units in the development and implementation of program evaluation measures. Research and Statistics produces reports for external customers, including businesses, researchers, local and national news organizations, legislators, teachers and private citizens. Research and Statistics produces an annual publication of statistical information titled *Work-Related Injuries in Colorado*.

Research and Statistics promotes the use of data quality procedures aimed at ensuring the accuracy, reliability and validity of the workers' compensation database. These procedures have improved the Division's ability to track different types of claims. One result has been a better understanding of the way lost-time claims for injuries are filed in a particular year. For example, the analysis of data for several years revealed that approximately 82% of lost-time claims are filed in the year in which the injury occurs. The remaining 18% of lost-time claims are filed over the next several years. Most of these are filed in the year immediately following the year of injury. Knowledge of this lag phenomenon has made possible a more accurate reporting of the total number of injuries occurring in any given year.

During FY 03, over 500 reports and publications regarding statistical information on workers' compensation were provided to customers inside and outside the Division. The Unit's *Work-Related Injuries in Colorado* from the 1995 to the current edition, can be accessed on the Division's Web Page or supplied free of charge in hard copy. The *AMA Guides* studies are also available on the Division's Web Page.

# Premium Cost Containment Certification

Loss prevention and loss control are the best ways to avoid the high cost of injuries. A well-planned safety and health program can mean fewer accidents, increased efficiency and production, better employee morale, and lower workers' compensation costs. Employers who are certified in the Premium Cost Containment Program have reduced the number of injuries that occur on the job and dramatically reduced their costs.

The Premium Cost Containment Program is based on basic loss prevention and control measures that all employers can easily implement without interfering with their company's normal business activities. The program offers Colorado employers the opportunity to receive a premium reduction of up to 10%, if the Premium Cost Containment Board grants them certification.

To qualify for certification, an employer must be able to document that they have had a program that meets minimum requirements in place for one full year. The employer's program should be able to demonstrate success in preventing and controlling losses. The six minimum requirements for certification in the program are:

1. Formal declaration of an organization-wide loss prevention and loss control policy that is endorsed by top management, and ensures that safety of all employees is top priority.
2. Formal creation of a safety committee or coordinator.
3. Clearly defined and conspicuously posted safety/loss prevention rules.
4. All employees undergo ongoing safety awareness and loss prevention training on a general and task-specific basis.
5. Written designation of a medical provider. The designated medical provider should be knowledgeable of fee schedules, and should communicate with the employer on issues such as case management and modified duty.
6. Written policies and procedures on claims management with emphasis on accident investigation, follow-up with injured workers, and modified duty in coordination with the treating physician.

The Division provides technical assistance at no cost to employers who express an interest in participating in the program. Technical support personnel conduct presentations, monitor programs, and make reports to the Premium Cost Containment Board.

This program has helped prevent thousands of injuries, reduced costs by millions of dollars, and has had a favorable impact on the workers' compensation rate structure in Colorado.

## Premium Cost Containment Certification FY 2004

Cumulative employers certified	3,721
Cumulative accident cost reduction	\$137,335,922
Cumulative accident frequency reduction	14,202
Cost reduction (savings) for FY 2004	\$16,793,562

# Self-Insurance

The Colorado workers' compensation statute allows employers who meet rigid financial and loss control standards to become self-insured (self-funded). Self-insurance is not actually insurance, but rather an alternate means by which an employer may fund their workers' compensation risk. In all but two of the fifty states, employers meeting certain standards may self-insure workers' compensation instead of purchasing commercial insurance. In Colorado, self-insurance started with the enactment of the first workers' compensation law. This statute, C.R.S. Section 8-44-201 allows any employer who has accepted the provisions of the law permission to self-insure for payment of compensation and benefits, if approved by the Executive Director.

Placement of the self-insurance program with the Division of Workers' Compensation administrative body is consistent with the practices of other states and jurisdictions that allow self-insurance of this risk. Self-insurance can be a costly endeavor and not a "cure-all" for all companies, nor an advantage for every company. Each company must consider its own unique situation when considering self-insurance.

## CRITERIA FOR SELF-INSURANCE

- ◆ Applicant/employer must have 300 employees regularly employed in Colorado
- ◆ Applicant/employer must have been in business for at least five years
- ◆ Applicant/employer must show a solid financial position with strong financial ratios
- ◆ Applicant/employer must demonstrate a successful safety and loss control program
- ◆ Applicant/employer must maintain competent claims adjusting
- ◆ Self-insurance permits are reviewed no less than every year



# Incentives for Employers to Self-Insure Workers' Compensation

- ◆ Employers pay only their own loss
- ◆ Investment dollars do not go to prepay insurance
- ◆ Quicker admission and payment of disability
- ◆ Quicker return to modified duty
- ◆ More direct incentive for loss control

Permits are reviewed no less than every year. In addition to the review, self-insured employers are subject to on-site audits of their claims and reserving practices.

The Division implemented a new function for surcharge assessment and collection. Payroll records of self-insured employers are now audited to assure veracity. During FY 2001, thirty one self-insureds were audited for regulatory compliance. Under-reporting was discovered in a majority of the cases. Adjustments were made accordingly and audits are ongoing. The main factor in the auditing process is to establish a standardized system of auditing payroll, resulting in greater equity to all self-insured employers.

## Self-Insurance Program FY 2004

Number of cumulative employers were self-insured at the end of FY 04	104
Number of existing permits reviewed	104
Number of employers who defaulted in workers' compensation	3
Approximate percentage of the total workers' compensation insurance premiums in Colorado that were from self-insured employers as measured in terms of premium equivalency.	13%

## **Special Funds**

The Special Funds Unit administers several individual funds, with specific criteria and guidelines for admission to each fund. Each program's mission is to provide medical care and/or compensation payments to some of the most seriously injured workers in Colorado. These programs have their own funding sources.

### **Medical Disaster Fund**

The Medical Disaster Fund was established in 1965 to provide relief to employers and insurance companies who expended a certain dollar amount in medical expenses on industrial injury cases. There is a cap on the total dollars that can be spent by the fund on medical expenses on these cases. This fund closed to injuries occurring after June 30, 1971.

### **Major Medical Insurance Fund**

The Major Medical Insurance Fund was created to replace the Medical Disaster Fund for injuries occurring from July 1, 1971, through June 30, 1981. The intent was to provide a mechanism for funding medical expenses of catastrophically injured workers while not imposing an impossible burden on the employer or insurance carrier. There is no cap on the dollar amount that can be expended.

## Subsequent Injury Fund

The Subsequent Injury Fund (SIF) is similar to "Second Injury" Funds in other states. The initial intent of the Fund was to aid employers who hired amputees who sustained second amputations and were no longer able to work. The concept developed to include relief for employers hiring workers who had been partially permanently disabled from an industrial injury and then sustained another industrial injury that resulted in permanent total disability. The Subsequent Injury Fund pays the portion of the permanent disability that is attributable to all but the most recent injury. Thus, all of the claimants in Subsequent Injury Fund are permanently and totally disabled due to more than one industrial injury.

When a worker develops a specific occupational disease, listed in C.R.S. Section 8-41-304(2), and has documented exposure with more than one employer, the Subsequent Injury Fund may be responsible for medical and compensation expenses after \$10,000 has been spent by the last employer or insurance carrier.

This fund closed to trauma injuries occurring on or after July 1, 1993, and to occupational diseases occurring on or after April 1, 1994.

This unit also monitors penalties assessed against carriers and uninsured employers by an Administrative Law Judge for payment on amounts awarded to the Subsequent Injury Fund. Fatal claims are reviewed and those carriers with fatal claims falling under C.R.S. Section 8-46-102(1)(a) are contacted requesting payment of the statutory assessment of \$15,000.00.

For employers with uninsured claims, the unit monitors the employers held liable for such claims to make sure that post-hearing requirements are met, such as posting a trust deposit or surety bond as a condition of appeal.

# Revenue Assessment and Collection Program

The Revenue Assessment Program is responsible for assessing and collecting three separate, semi-annual surcharges against workers' compensation premiums written in Colorado and against premium equivalents of self-insured employers.

The primary verification methods for insurance carrier surcharges include reports made to the Division of Insurance and the information supplied on the surcharge report to the Division of Workers' Compensation. Self-insured surcharges are verified by reviewing wage rates, loss ratio discounts, experience modifications and percentage of surcharge applied. In addition, self-insured employers are subject to on-site premium audits.

The surcharges and their statutory authority are as follows:

## **Major Medical Insurance Fund Surcharge**

The Major Medical Insurance Fund was created in 1971 to pay workers' compensation medical benefits after a base amount of \$20,000 has been paid by the primary insurance carrier. In 1981, the statute was revised to limit these benefits to only those injured before July 1, 1981. C.R.S. Section 8-46-102 authorizes an assessment of 2.788%, of which a portion is used to support this fund, *in combination with* the Subsequent Injury Fund, until the balance exceeds the present value of future claim payments.

## **Subsequent Injury Fund Surcharge**

The Subsequent Injury Fund provides compensation for permanent total disabilities which result from injuries incurred during more than one employment. In such cases, the liability of the latest employer is limited to the cost of injuries attributable to that employer, any previous disability cost is provided for by the Subsequent Injury Fund. This surcharge, *in combination with* the Major Medical Fund, is 2.788 % effective July 1, 2005, and is authorized under C.R.S. Section 8-46-102. The Subsequent Injury Fund also receives \$15,000 from the employer or insurance company for each non-dependency death from a compensable injury in Colorado as authorized under C.R.S. 8-46-102.

## **DOWC Cash Fund Surcharge**

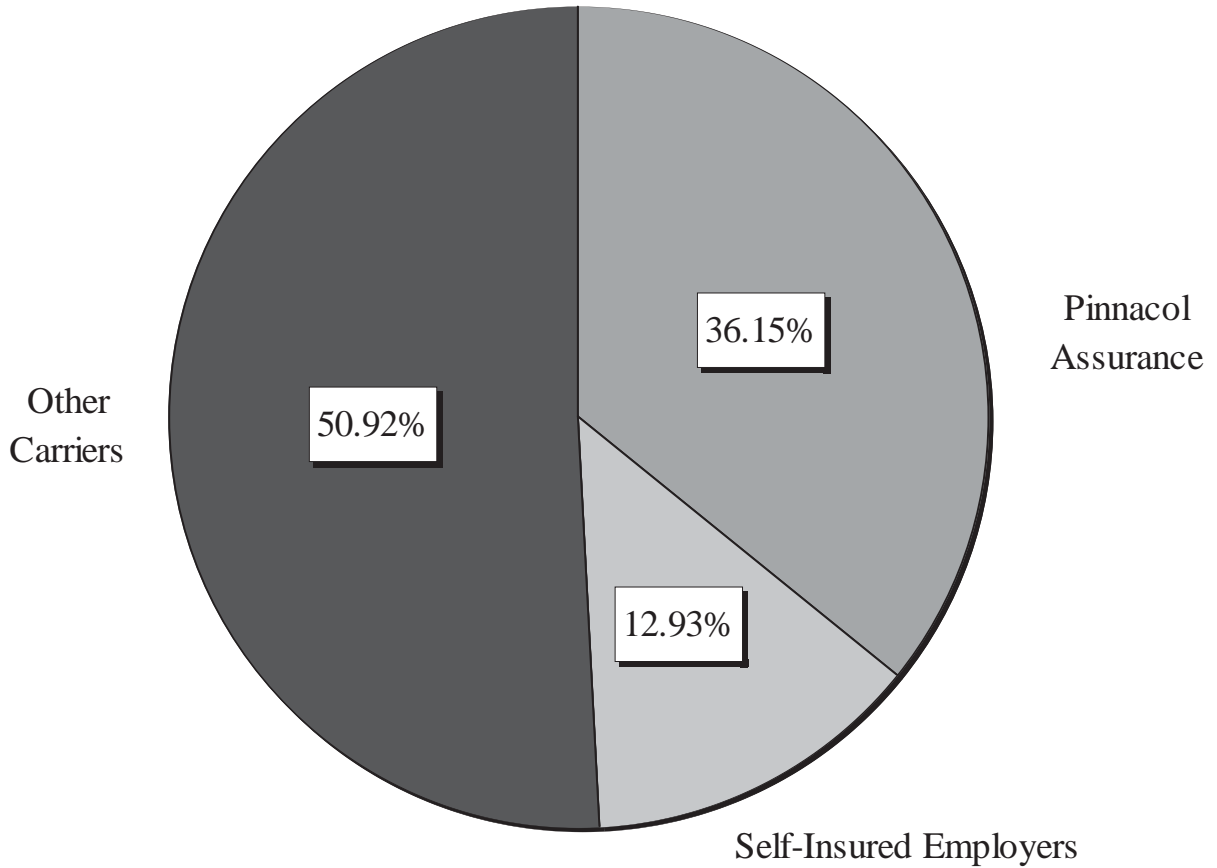
This assessment provides funding for the administrative costs of the Colorado Division of Workers' Compensation. The level of assessment adjusted annually, based on appropriations set by the Colorado legislature is 1.0 % effective July 1, 2005, and is authorized by C.R.S. Section 8-44-112 and the Workers' Compensation Rules of Procedure, Rule 2-5(A).

## **Premium Cost Containment Fund Surcharge**

This assessment provides for the funding of certain staff within the Division of Workers' Compensation to assist employers in reducing the costs associated with injuries subject to coverage under the Workers' Compensation Act of Colorado. The surcharge became effective July 1, 1989, and is adjusted annually, based on appropriations by the Colorado legislature. The assessment level is 0.03% and is authorized by C.R.S. Section 8-44-112 and Rule 2-5(B).

# Colorado Workers' Compensation Premiums

**Colorado Workers' Compensation Premiums Calendar Year 2003**



## **MARKET SHARE FIGURES FOR CALENDAR YEAR 2003**

Based on reported premiums for carriers and premium equivalents for self-insured employers.

# Technical Operations

The Division has a strong administrative oversight function that is dependent on reporting and monitoring activities within the workers' compensation system. It is the responsibility of Technical Operations to obtain the electronic, technical and physical resources needed to operate this complex system. This includes coordination with national, state and department resources for interface of data collection, security, and programming and computer equipment.

The Division of Workers' Compensation is in various implementation stages on five major automation projects. The purpose of these automation tools is to create system-wide information products and to free Division staff from a time-consuming, inefficient paper system so they can better respond to customers in a timely fashion with current information.

**Medical Data Reporting System (MDR)** - This system is designed to collect detailed medical data, including treatment, cost and case outcome data, using the International Association of Industrial Accident Boards and Commissions (IAIABC) medical bill payment reporting format. One primary use will be for Fee Schedule analysis and formulation. It also includes medical data elements to track the performance of Division programs such as the Medical Treatment Guidelines.

**Website** - The Division website includes copies of forms, rules for DOWC, publications, medical topics, notices, bulletins, and information on training and events. It also includes information on how to file a claim; injured workers' rights, obligations and follow-up of a claim; employers' obligations under the law regarding insurance, where to purchase insurance, filing claims for injured employees, and responsibilities as employers; procedures for insurance companies for handling claims; responsibilities of medical professionals, medical fee schedules and billing requirements; and information for employers seeking to self-insure or implement safety and loss control programs that lead to a certification for reduced premiums.

**Electronic Data Interchange (EDI)** - Insurance carriers are now able to electronically transmit data from the FROI (First Report of Injury), and Subsequent Report of Injury (SROI) with automated receipt and acknowledgment of data. This has substantially reduced the paperwork and provided a mechanism to validate data before it is entered in the system. Currently there are fourteen reporting entities, representing approximately one-half of all FROIs and one-third of all SROI's that are transmitting electronically.

**Case Tracking System (CT)** - This system is designed to identify and track disputed issues through the Division to determine the type of resolutions and Division services provided. Case Tracking allows units to produce reports to measure effectiveness in containing costs and reducing litigation. This will assist the Division's administrative oversight and response to inquiries regarding case trends and program performance.

**Scanning Files** - The Division has converted closed Workers' Compensation files to digitized images. Scanning closed files is an ongoing process. Storing the information electronically decreases the amount of storage space needed to maintain files and results in better access to the files, i.e. more than one authorized person can view a file at the same time.

# **PUBLICATIONS**

*Workers' Compensation Guide for Employees*  
*Workers' Compensation Guide for Employers*  
*Workers' Compensation Guide for Adjusters*  
*Essentials of the Premium Cost Containment Program*  
*Workers' Compensation Loss Prevention & Loss Control Program Manual*  
*Self-Insurance Information and Application*  
*Workers' Compensation Act*  
*Introduction to Workers' Compensation Video*

## *Brochures*

*Workers' Compensation Insurance Requirements for Employers*  
*Customer Service*  
*Independent Medical Examination*  
*Special Funds*  
*Subsequent Injury Fund*  
*Major Medical Insurance Fund*  
*Electronic Data Interchange*  
*Medical Policy and Research*

*Publications are available on the Division's Web Page or can be ordered by calling the Customer Service Unit at 303.318.8700.*

**Please visit our Internet website at  
<http://www.coworkforce.com/DWC/>**

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