

UCA Annual Dinner
Educational Seminar:

Illinois Work Comp Reform
Insurance Industry Perspective

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Let's look at what has been going on in WC insurance from a national perspective. Then we can look at what has been happening in Illinois from a statewide perspective. And finally, we will evaluate how specific aspects of WC reform are expected to impact:

- National & State Trends
- WC Premium Issues
- Reforms & Claims

National Trends in WC

NCCI is the National Council on Compensation Insurance. They are THE Insurance Industry's leading resource regarding WC insurance issues. Not only do they help establish WC premium rates that the insurance industry charges. They also issue WC Experience Rating reports to buyers of WC insurance showing the company's the Mod Rate.

PREMIUMS DECLINED SHARPLY IN 5 YEAR PERIOD

According to NCCI's 2011 "State of the Line" Report, WC premiums have declined on average by about 30% between 2005 and 2010.

Why did rates go down so significantly? The answer is obviously due to the economy but it was particularly true in manufacturing and construction. The collapse in private sector wages and salaries accounted for a significant portion of the decline in WC premium.

This decline was magnified by the manufacturing and construction industries since 40% of all WC premiums generated nationally comes from these two industries that only employ 20% of the total US workforce.

Note however that the 5-year decline in premium has slowed down considerably. Since 2009, the declines in WC premium rates have dropped only about 3% nationally.

WHILE PREMIUM RATES HAVE DECLINED SO HAS U/W PROFITABILITY

Nationally, the WC Combined Ratio has climbed from 93% in 2005 to 115% in 2010. The increase rose sharply in 2008 and 2009 when it went from 101% to 115%.

In more hazardous industries such as construction the combined ratios for some insurance companies are as high as 130-140%.

SUMMARY

- Since 2005 WC premiums have declined by 30% but the decline has slowed down to less than 3% in the past two years.
- With WC premiums dropping there is much less “premium base” to cover losses which partially explains why the WC Combined Loss Ratio keeps jumping and now stands at around 115% nationally for all classes of risk.
- National outlook also shows that claim frequency has actually increased.
- Overall bottom line from an Insurance perspective is that the U/W results have deteriorated over the last 5 years.

Statewide Trends in WC

MARKET AVAILABILITY IS KEY

In Illinois, WC premiums have dropped similar to the national figures. But perhaps more significant is that fewer large commercial insurance companies are writing WC in Illinois than 10 years ago. Based Illinois Dept. of Insurance statistics about 50% of insurance companies that were writing WC insurance in Illinois no longer do.

And of the large insurance companies that do still write WC in Illinois, all of them have a smaller market share except for AIG/Chartis. In that case of AIG they have written more WC in Illinois in the past 10 years the big problem with that is that their Combined Loss Ratio is around 140% or higher.

The only other carrier that was going after Illinois WC business in a big way was American Interstate – who were actually writing Mono-line WC. Unfortunately, they decided in the past year or so to pull out of the construction market entirely.

Market Availability

An important question to ask regarding the impact of WC reform in Illinois from an insurance perspective is; will it encourage more carriers to write business in Illinois? This in turn will lead to greater competition and ultimately more

competitive premiums. On the premium side of the equation rates still need to be able to support the losses and develop into a Combined Loss Ratio that allows for measured U/W profitability. Finding this balance will offer Illinois businesses more choices over the long run.

This issue is extremely important to small to midsize construction contractors many of whom are members of this association. Why? Larger contractors such as GC's tend to be self-insured or buy WC policies with large deductibles which gives them much greater market access than smaller specialty subcontractors.

A survey of UCA member agents shows that it becoming more difficult to get multiple quotes from different Insurance Carriers who are willing to write WC coverage.

It is becoming more common to get only one and maybe two quotes for WC coverage. There are few willing to write WC monoline, meaning the carrier is looking to "bundle" the WC with other lines of coverage.

The fact is that the market landscape for Insurance Carriers willing to write contractors is becoming smaller not bigger.

There are currently 3-tiers of companies writing WC in Illinois:

Big National Carriers:

AIG/Chartis – 10% market share
Zurich - 8% market share
Travelers - 6% market share
Liberty - 4% market share
Hartford - 1% market share

Small Regional Carriers:

United Wisconsin
Pekin
Cincinnati

Small Mutuals:

Country Mutual
Acuity Mutual
West Bend Mutual

PREMIUMS

In terms of the total premium pie; WC premiums in Illinois represent about 12% of all insurance premiums collected in the state based on IL DOI figures from 2010. Auto Liab/Phys Dam is 17/13% = 30% followed by Homeowners at 14%. WC is third overall at 12%.

As a direct result of the recently passed WC reform, NCCI has recently published revised “advisory” rates to the Illinois Dept. of Insurance indicating that a rate reduction of 8.8% is justified based on their analysis of the impact of the recently passed reform legislation.

The breakdown of the NCCI findings and recommendations is as follows:

1) Medical Fee Schedule	-	-7.4%
2) Wage Differential	-	-0.8%
3) PPD – Carpal Tunnel	-	-0.6%

Total		-8.8%
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So an important question regarding the impact of WC Reform in Illinois is: will it attract more insurance companies to write business here?

Answer: **Not likely.**

Why? – It is going against the trend of declining premiums. Current market leaders are all losing money writing WC and losses have increased in the past couple of years not stabilized.

The best guess right now is that there will remain the same players in the market for the next 12-24 months but they will still be looking at flat rates or even for slight premium increases if market conditions permit.

If market choices worsen and the market bottoms out, then WC rates increases are actually more likely and certainly not huge decreases as suggested by some state politicians.

REFORMS & CLAIMS

The overall assessment of the much-awaited WC Reform is that the business community and the insurance industry has been “underwhelmed” by the whole affair.

MEDICAL FEE REDUCTION

The most significant piece of the reform was the 30% Medical Fee Reduction but it is important to point out that before WC Reform Illinois Ranked 2nd in the nation in having the highest Medical Fee Schedule for WC. After the reform, Illinois Ranked 2nd in the nation in having the highest Medical Fee Schedule. So some people ask - what really changed? If anything it is a reminder that the reform fell short and is not the “game changer” that the business community was looking for.

The Medical Fee Reduction is real and significant and really represents the only major change reflected in the reform bill signed into law.

WAGE DIFFERENTIAL AWARD LIMIT

Unfortunately, Wage Differential claims are now extremely popular. Plaintiff attorneys used to rarely demand wage differential unless they were substantial because the attorneys fees to be earned from a wage differential award can be more limited than other elements of the claim. However that has all changed. Now many attorneys look to create Wage Differential claims any time a claimant is given permanent restrictions. If the attorney can argue that the claimant can't return to regular work, he urges his client to go find a low paying job in order to be able to make a Wage Differential Claim.

Unfortunately a recent string of appellate court decisions have not favored employers on the issue of Wage Differential claims. Because of these trends, both the appellate courts and the Industrial Commission appear to be extremely sympathetic to Wage Differential claims and as a result it is expected that there will be more Wage Differential awards not fewer.

If we are to find hope in defending Wage Differential claims it must come from legislative reform since it is not going to come from the appellate courts or the Industrial Commission.