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WORKERS' COMPENSATION
BOARD

GOVERNMENT EVALUATION ACT
PROGRAM EVALUATION REPORT

November 1, 2001



STATE OF MAINE
 WORKERS' COMPENSATION BOARD
 DEERING BUILDING AMHI COMPLEX
 27 STATE HOUSE STATION
 AUGUSTA, MAINE
 04333-0027

ANGUS S. KING, JR.
 GOVERNOR

November 1, 2001

PAUL R. DIONNE
 EXECUTIVE DIRECTOR

The Honorable Betheda G. Edmonds, Chair
 The Honorable George H. Bunker, Jr., Chair
 Members, Joint Standing Committee on Labor
 115 State House Station
 Augusta, Maine 04333-0115

Dear Senator Edmonds and Representative Bunker:

As required under the Government Evaluation Act, 3 M.R.S.A. §951 et seq. (the "Act"), enclosed please find the Program Evaluation Report for the Workers' Compensation Board. As you know, the Act provides a mechanism for the orderly review of our department to ensure that its future existence, based on past performance, is justified.

The Report gives a broad overview of our mission and programs. Consistent with the Act, the Report provides a retrospective view of the Board over the past nine years, including information on our funding sources and expenses. The Board has witnessed changes in both form and substance during this period as it has taken on new programs and has implemented changes resulting from new State laws. We have designed the Report to highlight the primary areas in which you may have an interest.

A Resolve Authorizing a Study of the Governance and Administrative Structure of the Workers Compensation System was approved by the Legislature on June 8, 2001. The Resolve directs the Department of Administrative and Financial Services to report its findings to the Legislature and the Workers' Compensation Board by December 15, 2001. The contract for the study was awarded to the firm of Berry, Dunn, McNeil & Parker. The Berry, Dunn, McNeil & Parker Report, taken in tandem with the Government Evaluation Act Report, should provide the policymakers with the necessary information to direct the future of workers' compensation in Maine.

We stand ready to provide the Labor Committee with any additional information it may require and look forward to presenting the Report to the Labor Committee at the assigned date.

Sincerely,

Paul R. Dionne
 Executive Director

PRD/amp

cc: The Honorable Angus S. King, Jr., Governor



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WORKERS' COMPENSATION BOARD

GOVERNMENT EVALUATION ACT PROGRAM EVALUATION REPORT

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1. Executive Summary

Introduction

The State Government Evaluation Act “provides for a system of periodic review of agencies and independent agencies of State Government in order to evaluate their efficiency and performance. The financial and programmatic review must include, but is not limited to, a review of agency management and organization, program delivery, agency goals and objectives, statutory mandates and fiscal accountability.”

Section 1: Executive Summary

Section 2-A: Enabling Legislation and History of Maine Workers’ Compensation

This section includes the history of workers’ compensation and the statutory citations to enabling legislation for the Maine Workers’ Compensation Board.

Section 2-B: Regulatory Agenda and Summary of Rules

This section sets forth the Board’s regulatory agenda filed on October 1, 2001 and a summary of the Board’s rules as well as a copy of the Board’s rules.

Section 2-C: Organizational Structure, Position Count, Job Classification

The Board has 118½ authorized positions as reflected in the Table of Organization. The Board is an independent state agency, directed by an eight-member board with four employee and four employer representatives. The agency is administered by its Executive Director. The job classifications cover a wide spectrum from clerks to hearing officers as reflected on the job classification chart.

Sections 3-7: Description of Programs

The Board is charged with “serving the employees and employers of the state fairly and expeditiously by ensuring compliance with the workers’ compensation laws, ensuring the prompt delivery of benefits legally due, promoting the prevention of disputes, utilizing dispute resolution to reduce litigation and facilitating labor-management cooperation.” The major programs of the Board fall into five categories: (1) Dispute Resolution; (2) Compliance – Monitoring, Auditing, and Enforcement (MAE) Program; (3) Worker Advocate Program; (4) Independent Medical Examinations/Medical Fee Schedule; and (5) Technology. A specific description of each program is provided in this section of the report. The Board’s Long Term Business Plan assigns priorities, goals, objectives, and performance criteria (Appendix A). The *Annual Report on the Status of the Maine Workers’ Compensation System* (delivered to the Governor and the Legislature at the beginning of each year) provides a description of the Board’s programs and

progress. The Board's Annual Compliance Report provides a status report on the improved compliance of carriers, self-insureds, and third-party administrators (delivered to the Governor and the Legislature at the end of each year).

Section 8: Ten-year Financial Summary

The Board received an appropriation from the General Fund for Fiscal Year ("FY") 93. However, the Legislature and the Governor decided that the Board should have an independent source of funding. Thus, the Board is considered an independent agency and receives no General Fund money. Instead, the Legislature and the Governor created an assessment on Maine's employers that is used to fund the Board's operations. The Board receives virtually all its revenue from this assessment. The maximum amount that the Board can assess each year is set by statute. In 1993, the maximum assessment was set at \$6,000,000. The maximum assessment has been increased twice: by \$600,000 beginning in FY97 and by an additional \$135,000 in FY00.

The Board's assessment cap was adequate to fund the Board's operations until FY97. In 1997, the Legislature enacted, and the Board implemented, legislation that expanded the Worker Advocate program and created the MAE Program. The Board's assessment was increased by \$600,000 in FY97 and again by \$135,000 in FY00 to pay for these programs. The cost to the Board has been far in excess of the \$735,000 allocated for the task. These two programs cost the Board approximately \$1,500,000 in FY01, more than twice as much as was allocated. The cost of these programs, in addition to increases in employee salaries, the cost of benefits, and general inflation created, in light of the maximum assessment set by law, major budgetary problems for the Board. (Accompanying charts in Section 8 track the Board's allocations and expenditures over the past ten years; they include: Actual and Projected Expenditures; Personnel Changes; and Administrative Fund.)

The Legislature recognized the urgency of the Board's situation. It took two steps: first, the Legislature authorized the use of \$700,000 from the Board's reserve account in FY02, and second, the Legislature authorized a one-time increase in the maximum assessment of \$300,000 to provide temporary assistance to the Worker Advocate Program.

These efforts solved the Board's funding problem for FY02 but the Board, in FY03 and beyond, is facing further budgetary problems stemming from the assessment cap. Possible solutions to the problem include: indexing, which would provide automatic increases in the assessment cap; raising the assessment cap; or a funding scheme requiring an allocation from the Legislature followed by an assessment to raise the approved funding, to include a separate funding mechanism for the Worker Advocate Program and a self-sustaining MAE Program.

If no changes are made to the Board's funding formula, the Board will be forced to make deep cuts in FY03. These cuts will total approximately \$1,100,000. The major part of these cuts will come from the Personal Services budget.

Section 9-A: Constituency Served by Agency

The Board's Mission Statement clearly identifies the constituency of the Board as the "employees" and "employers" of the State.

The projected changes to enhance its service to these constituents rest largely in the expansion of the MAE Program which has led to greater compliance by insurers, self-insureds, and third-party administrators and which will ultimately lead to fewer disputes, providing greater benefits to both employees and employers of the State. This section references the Board's Annual Compliance Report reflecting the improvement of compliance due to the efforts of the MAE Program.

Section 9-B: Compliance with Federal and State Safety and Health Laws Including the American with Disabilities Act

The Board has established a Safety and Health Committee and has developed many policies designed to ensure compliance with health and safety laws and the Americans with Disabilities Act.

Section 10-A: Areas Where Efforts Have Been Coordinated with Other Agencies

The Board has had varying degrees of success in its efforts to coordinate its work with other state and federal agencies. This section sets forth information on the Board's successes and failures in these areas.

Section 10-B: Efforts at Alternative Delivery Systems Including Privatization

The Board is committed to increasing the electronic transfer of information which would lead to greater efficiencies and more reliable data. The Board is cooperating with the International Association of Industrial Accident Boards and Commissions (IAIABC) to implement its most recent program referred to as Combined Claims Product. The Board might privatize some functions in this endeavor.

Section 11: Emerging Issues for the Board

The Board's budget is an issue of paramount importance. Without a change in its funding mechanism, the Board will be forced to make drastic cuts to its Personal Services budget. This will undo virtually all of the progress that the Board has made in recent years in terms of the dispute resolution process, the Worker Advocate Program, and the MAE Program.

An effective MAE Program is a key component of the Board's effort to reduce the number of claims that must be resolved by the Board. Additional resources **must** be shifted to this program.

The Board has a number of technology and programming initiatives which must be completed. Resources must be found to devote to this effort.

Section 12-A: Summary of Coopers & Lybrand Report

This section provides a status report on the recommendations submitted to the Board by Coopers & Lybrand on December 15, 1997. Attached to this section are “Scorecards” marking the Board’s progress in these areas.

Section 12-B: Berry, Dunn, McNeil & Parker Study

This study was commissioned by the Legislature and is being conducted by the firm of Berry, Dunn, McNeil & Parker. The final report is due on December 15, 2001, with a presentation scheduled for the Advisory Committee on December 3, 2001. **The Berry, Dunn, McNeil & Parker Report, taken in tandem with this Government Evaluation Act Report, should provide policymakers with the necessary information required to determine the efficiency of both the governance and administrative structure of the Workers’ Compensation Board.**

2-A. Enabling Legislation and History of Maine Workers' Compensation

1. Enabling Legislation Maine Workers' Compensation Board.

39 M.R.S.A. §101, et. seq. (Maine Workers' Compensation Act of 1992)

On January 1, 1993, Title 39, which contained the Workers' Compensation Act of 1991 and all prior workers' compensation acts, was repealed and replaced with Title 39-A, the Workers' Compensation Act of 1992.

2. State Agency History.

State Agency History

I. State Agency History.

The original agency, the Industrial Accident Board, began operations on January 1, 1916. In 1978, it became the Workers' Compensation Commission. In 1993, it became the Workers' Compensation Board.

II. The Early Years of Workers' Compensation.

A transition from common law into the statutory system we know today occurred during the late teens and early 1920's. Earlier, an injured worker had to sue his employer and prove fault to obtain compensation.

Workers' compensation was conceived as an alternative to tort. Instead of litigating fault, injured workers would receive a statutorily determined compensation for lost wages and medical treatment.

Employers gave up legal defenses such as assumption of risk or contributory negligence. Injured workers gave up the possibility of damages, beyond lost wages and medical treatment, such as pain and suffering and punitive damages.

This historic bargain, as it is sometimes called, remains a fundamental feature of workers' compensation. Perhaps because of the time period, financing and administration of benefit payments remained in the private sector, either through insurance policies or self-insurance.

Although the law sets the benefit levels, disputes about entitlement to benefits are between the employer or its insurance carrier and the injured worker.

Workers' compensation disputes still occur in a no fault system. For example, disputes arise as to whether the disability is related to work; how much money is due the injured worker; and, how much earning capacity has been permanently lost. Maine, like other states, established an agency to process these disputes and perform other administrative duties.

Early law required that hearings be held in the town where the worker resided. Early Commissioners, insurance company lawyers, and agency clerical staff, traveled in a caravan of cars from town to town, holding hearings in whatever meeting rooms could be secured, including fire stations and other informal locations.

Disputes were simpler. Injured workers rarely had lawyers. Expensive, long term, medically complicated claims, such as carpal tunnel syndrome or back strain, were decades away.

III. Adjudicators as Fact Finders.

In 1929, the Maine Federation of Labor and an early employer group listed as "Associated Industries" opposed Commissioner William Hall's re-nomination. Testimony from both groups referred to reversals of his decisions by the Maine Supreme Court.

This early feature of Maine's system, direct review of decisions by the Supreme Court, still exists today. The Supreme Court decides issues regarding legal interpretation, and does not conduct a whole new trial. In Maine, the state agency adjudicator has historically been the final factfinder.

A review of the U.S. Chamber of Commerce Publication, *2000 Analysis of Workers' Compensation Laws*, indicates that in 35 states the decision of the first fact finder is subject to an appeal of factual findings. Sixteen states have an appeal to district or circuit court.

This diversity complicates state to state comparisons because significant elements of the litigation process may occur outside the state agency.

Except for appeals to the Law Court, Maine's workers' compensation litigation takes place entirely within the state agency. This is a significant historical and contemporary feature.

Until 1993, Commissioners were gubernatorial appointments, subject to confirmation by the legislative committee on judiciary. The need for independence of its quasi-judicial function was one of the reasons why it was established as an independent agency, rather than as a part of a larger administrative department within the executive branch. The smaller scale of state government in 1916 no doubt also played a role.

IV. Transition to the Modern Era.

In 1965, an article appeared in the *Bangor Daily News*. It foreshadowed the contentious, political issue that workers' compensation became in the 1980's.

The lead paragraph contained the following statement: "There is an agency housed in the State Office Building that was responsible for paying Maine workers an easy \$10 million last year, but you couldn't guess its name if you tried all day . . . It's the Industrial Accident Board headed by Chairman Harold Towle"

The article described the hearing process and expanding workload. Towle cited the need for more staff and Commissioners. Also, Towle was quoted as describing recent changes to the statute as "radical . . . they're a lot more liberal than they ever were." He cited such things as employee rather than employer choice of treating physician and benefits for total incapacity being increased from \$42 a week to \$57 a week with a limit of 500 weeks.

In 1974, workers' compensation coverage became mandatory. This and other significant changes to the statute were passed without an appropriation for the Industrial Accident Commission. In 1974, the agency had approximately the same staff and budget as in 1964.

In 1964 insurance carriers reported about \$3 million in direct losses paid. By 1974 that had grown to about \$14 million of direct losses paid. By 1979, direct losses paid by carriers totaled a little over \$55 million. By 1984, it had grown to almost 128 million. These figures don't reflect benefits paid through self-insurance.

This exponential growth of the system reflected legislative changes during the 1970's and set the stage for a series of workers compensation crises that occurred throughout the 1980's and into the early 1990's.

V. The 1970's.

During the early 1970's time limits were removed for both total and partial wage loss benefits. Inflation adjustments were added. The maximum benefit was set at 200% of the state average weekly wage.

Also, laws were passed making it easier for injured workers to secure the services of an attorney. The availability of legal representation greatly enhanced an injured worker's likelihood of receiving benefits, especially in a complex case.

Lastly, statutory changes and evolving medical knowledge brought a new type of claim into the system. The law no longer required a specific accident. Doctors began to connect injuries such as carpal tunnel syndrome and back problems to work and thus brought these injuries within the coverage of workers' compensation.

Such injuries required benefit payments for longer periods than most accidental injuries. These claims were more likely to involve litigation.

The recommendations of a national study of workers' compensation, known as The Report of the National Commission on State Workers' Compensation Laws, were issued in 1972. The report recommended benefit increases and had bipartisan support. The report made an effort to estimate the cost effect of the proposed changes, but it was dramatically underestimated.

Over the course of a decade, rising costs quickly transformed workers compensation into a difficult political issue that would come close to paralyzing state government in the late 1980's and early 1990's.

This larger political environment was, of course, reflected in the circumstances facing the state agency.

VI. The 1980's.

In 1978, the name of the agency was changed to the Workers' Compensation Commission. In 1980, Commissioners became full-time. In the early 1980's, an informal conference process was added to attempt to resolve disputes early in the claim cycle, before a formal hearing.

Additionally, regional offices were established in Portland, Lewiston, Bangor, and Caribou. In 1988, a regional office was established in Augusta, separate from the central administrative office. According to the Maine State Government Annual Report, the agency had 36 employees in 1983. The same report in 1986 shows 68 employees and in 1990 100 employees.

During the 1980's the agency made a transition into the format the public recognizes today: a multipurpose agency with a mixture of dispute resolution, record keeping, and regulatory operations. In Fiscal Year 2002, the agency has 118.5 employees. The additional positions primarily reflect the establishment of a Worker Advocate program in 1997.

In the early 1980's, long delays in the formal hearing process were a chronic source of legislative concern. In 1986, the state agency issued a study of delay. It chronicled the growth in litigation and recommended more Commissioners.

In 1987, three full-time Commissioners were added, bringing the total to 11, not including the Chair. Today, in 2002, the Board has eight Hearing Officers, not including the Chief Hearing Officer.

Parallel to controversy about delay at formal hearings was a second controversy concerning private adjustment, particularly cases in the assigned risk pool. At its heart this issue was about escalating claim costs more than adjustment. However, statutory changes began to call for increased monitoring of adjustment activity by the state agency.

During the mid 1980's, the state agency began to computerize. Its first system was installed in mid-1985. However, the early technology was not really adequate for the task at hand. It was not until approximately 1997, with the installation of a relational database, that the agency began to begin executing the operations envisioned nearly a decade earlier.

The workers' compensation environment of the 1980's and early 1990's was an extraordinary time in Maine's political history. Contentious legislative sessions regarding workers' compensation occurred in 1982, 1985, 1987, 1991, and 1992. In 1991, then Governor John McKernan tied his veto of the State Budget to changes in the workers' compensation statute. State Government was shut down for about three weeks.

This and other state budget problems, related to a national recession, made the late 1980's and early 1990's a challenging period to be either an elected official or a public administrator.

VII. The 1990's.

Finally, in 1992, a Blue Ribbon Commission made a series of recommendations which were ultimately enacted.

Inflation adjustments for both partial and total benefits were eliminated. The maximum benefit was set at 90% of state average weekly wage. A limit of 260 weeks of benefits was established for partial disability.

These changes represented substantial reductions in benefits for injured workers, particularly those with long term disabilities. To a significant degree, the comp issue was addressed by rolling benefits back to the levels of the late 1960's.

Additionally, the section of the statute concerning access to legal representation was changed in a way that made it more difficult for injured workers to secure the services of private attorneys.

Maine Employers' Mutual Insurance Company was established. It replaced the assigned risk pool and offered a permanent source of coverage. Despite differing views on the nature of the problems within the preceding and current system, virtually all observers agree that MEMIC has played a critical role in stabilizing the workers' compensation environment in Maine.

VIII. The Workers' Compensation Board.

Lastly, the state agency was renamed and significantly reorganized. At about this time, a labor-management group provided a successful forum for discussing comp issues.

Based on the recommendation of the Blue Ribbon Commission, the current Board was proposed as an experiment to help move the workers' compensation issue out of the political process by directly involving labor and management in the administration of the State agency.

The new agency was to be directed by a board of directors consisting of four members of labor and four members of management, appointed by the Governor based on nomination lists submitted by the Maine AFL-CIO and Maine Chamber of Commerce.

The Board would hire an executive director to run the agency. The Board, not the Governor, would appoint Hearing Officers to adjudicate Formal Hearings. A two step process replaced informal conferences: troubleshooting and then mediation.

In 1997, legislation was enacted which provided more structure to case monitoring operations of the Board. Also in 1997, a worker advocate program, begun by the Board, was expanded by the Legislature.

Few would argue that the Board's structure moved workers' compensation out of the political process. Bills concerning workers' compensation still appear regularly on the calendar of the Labor Committee.

In terms of both regulatory and dispute resolution operations the Board has experienced significant accomplishments. In terms of its traditional operation, dispute resolution, the Board can show an efficient informal process. Between troubleshooting and mediation, approximately 75% of initial disputes are resolved within 80 days from the date a denial is filed.

Remaining cases usually present difficult questions about facts and the law, the types of disputes that lend themselves to litigation as a mode of dispute resolution.

The no fault system works better than many people realize for routine injuries. Simple claims where there is a specific accident, a defined healing period, and a short period of missed work are paid and processed without incident.

Litigated cases tend to involve long-term disabilities involving back problems and other soft tissue injuries where there is substantial wage loss and expensive medical treatment at issue. The connection to employment is rarely crystal clear.

In an apples to apples comparison, matching the complexity of the dispute and the type of litigation, the Board's average time frame of seven to eight months for formal hearings is rapid, compared to other states, and especially if compared to court systems for comparable personal injury cases.

The agency was criticized for not doing more with its data gathering and regulatory operations during the late 1980's and early 1990's. Internally, the agency saw itself as doing its best in an environment of national recession, state budget problems, yearly contentious legislative sessions, and statutory revisions. However, minimal development of these operations occurred until approximately 1998.

With the benefit of a relational database installed in mid-1996 and 1997, and a modern programming language, the agency is making progress. Filings of first reports and first payment documents are systematically tracked. Significant administrative penalties have been pursued in several cases. The computer applications and the abuse unit are doing a better job of identifying employers, typically small employers, with no coverage. No coverage hearings are regularly scheduled.

2-B. Regulatory Agenda and Summary of Rules Adopted

Attachment A: Summary of Rules Adopted
Attachment B: Regulatory Agenda

The Government Evaluation Act requires submission of an agency's regulatory agenda, and a summary of the rules it has adopted. 5 M.R.S.A. §956(2)(F). A copy of the Board's most recent regulatory agenda (filed on October 1, 2001) is attached. For the sake of completeness, a copy of the Board's rules is enclosed; for the sake of ease, a summary of the rules follows.

Chapter 1 regulates the payment of benefits, and includes some form filing requirements. It also defines fringe benefits and requires that the Board be notified within 14 days after issuance, renewal, or endorsement of a workers' compensation policy.

Chapter 2 contains the threshold adjustment and 52-week extensions; it regulates the collection of permanent impairment data and establishes a procedure for seeking extended benefits due to financial hardship.

Chapter 3 regulates form filing.

Chapter 4 establishes the Independent Medical Examiner process.

Chapter 5 contains the Medical Fee Schedule which establishes maximum levels of reimbursement for medical services.

Chapter 6 defines the process for resolving disputes over entitlement to vocational rehabilitation.

Chapter 7 regulates the utilization review process, includes certain treatment guidelines and defines the method of determining permanent impairment.

Chapter 8 sets forth procedures for mailing payments (including some form filing requirements), establishes a table for calculating interest, and creates a Consent Between Employer and Employee form and procedure.

Chapter 9 requires insurers to report deductions in workers' compensation payments that result from a coordination of benefits.

Chapter 10 establishes the parameters for payment of attorney's fees.

Chapter 11 deals with the mediation process and provides for the confidentiality of mediation.

Chapter 12 governs the procedures involved in formal hearings. This chapter is a linchpin in the Board's effort to streamline dispute resolution.

Chapter 14 establishes the procedure for Board Review of Hearing Officer Decisions pursuant to 39-A M.R.S.A. §320.

Chapter 15 delegates authority to the Abuse Investigation Unit to assess certain penalties. It also sets forth the procedure to be used in penalty cases.

Chapter 16 provides for the confidentiality of Board files.

Chapter 13 and 17 are reserved for future use.

MAINE
WORKERS' COMPENSATION BOARD
RULES AND REGULATIONS



Rules in Effect as of NOVEMBER 1, 2001

NOTICE: While care has been taken care with the accuracy of the chapters accessible here, they are not "official" state rules in the sense that they can be used before a court. Anyone who needs a **certified copy** of a rule chapter should contact the Administrative Procedures Act Officer at the Secretary of State's Office.

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RULES AND REGULATIONS

90-351 WORKERS' COMPENSATION BOARD

The Workers' Compensation Board promulgates these rules pursuant to 39-A M.R.S.A. Sec. 152(2).

CHAPTER 1 PAYMENT OF BENEFITS

SECTION 1. Claims for Incapacity and Death Benefits

1. Within 14 days of notice or knowledge of a claim for incapacity or death benefits for a work-related injury, the employer or insurer will:
 - A. Accept the claim and file a Memorandum of Payment checking "Accepted" in Box 18; or
 - B. Pay without prejudice and file a Memorandum of Payment checking "Voluntary Payment Pending Investigation" in Box 18; or
 - C. Deny the claim and file a Notice of Controversy.
2. If the employer fails to comply with the provisions of Rule 1.1, the employee must be paid total benefits, with credit for earnings and other statutory offsets, from the date of incapacity in accordance with 39-A M.R.S.A. Sec. 205(2) and in compliance with 39-A M.R.S.A. Sec. 204. The requirement for payment of benefits under this subsection automatically ceases upon the filing of a Notice of Controversy and the payment of any accrued benefits.
3. Payment under Section 1.2 requires the filing of a Memorandum of Payment.
4. Benefits paid under this section are indemnity payments and are credited toward future benefits in the event that benefits are ordered or paid.
5. Failure to comply with the provisions of Rule 1.1 may also result in the imposition of penalties pursuant to 39-A M.R.S.A. Secs. 205(3), 359, and 360.

SECTION 2. Payment without prejudice

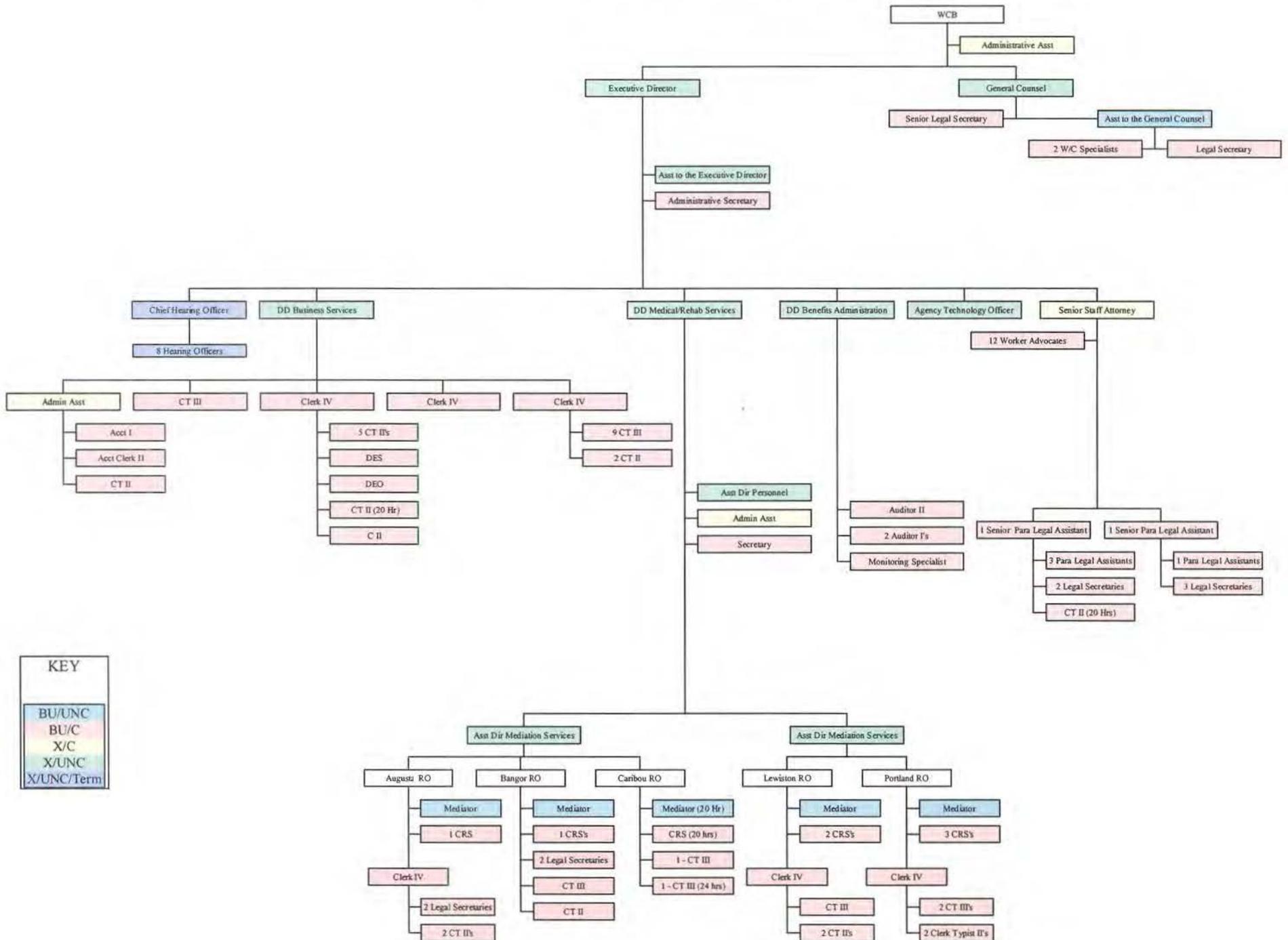
1. Payment without prejudice does not constitute a payment scheme.
2. If no payment scheme exists, the employer may reduce or suspend the payment of benefits pursuant to 39-A M.R.S.A. Sec. 205(9)(B)(1). The provisions of 39-A M.R.S.A. Sec. 214 do not apply to compensation payments that are made without prejudice.

2-C. Organizational Structure, Position Count, Job Classification

Attachment A: Organizational Chart

Attachment B: Employee Information Chart

Workers' Compensation Board - Organizational Chart (August 2001)



KEY

- BU/UNC
- BU/C
- X/C
- X/UNC
- X/UNC/Term

WORKERS' COMPENSATION BOARD EE Information

10/29/

POSITION NO	Title	Location
029000383	ACCOUNT CLERK II	1001
029000111	ACCOUNTANT I	1001
029000334	ADMIN ASST	1001
029000420	ADMIN ASST	1001
029000362	ADMIN ASST	1001
029000276	ADMIN SECRETARY	1001
029000401	ASST DIR DATA PROCESSING WCB	1001
029000347	ASST DIR MEDIATION SERVICES	1007
029000348	ASST DIR MEDIATION SERVICES	1004
029000361	ASST DIR PERSONNEL	1001
029000309	ASST TO THE EX DIR W/C BOARD	1001
029000423	ASST TO THE GEN COUNSEL WCB	1001
029000046	AUDITOR I	1011
029000063	AUDITOR I	1011
029000045	AUDITOR II	1011
029000328	CLAIMS RESOLUTION SPECIALIST	1010
029000368	CLAIMS RESOLUTION SPECIALIST	1007
029000403	CLAIMS RESOLUTION SPECIALIST	1007
029000406	CLAIMS RESOLUTION SPECIALIST	1006
029000409	CLAIMS RESOLUTION SPECIALIST	1003
	CLAIMS RESOLUTION SPECIALIST	1005
029000421	CLAIMS RESOLUTION SPECIALIST	1006
029000407	CLAIMS RESOLUTION SPECIALIST	1004
029000404	CLAIMS RESOLUTION SPECIALIST	1007
029000402A	CLAIMS RESOLUTION SPECIALIST	1005
029000201	CLERK II	1001
029000366	CLERK III	1001
029000277	CLERK IV	1007
029000315	CLERK IV	1001
	CLERK IV	1001
029000381	CLERK IV	1001
029000375	CLERK IV	1003
029000373	CLERK IV	1006
029000041	CLERK TYPIST II	1001
029000255	CLERK TYPIST II	1001
029000275A	CLERK TYPIST II	1010
029000389	CLERK TYPIST II	1001
029000392	CLERK TYPIST II	1001
	CLERK TYPIST II	1003
	CLERK TYPIST II	1001
	CLERK TYPIST II	1007
029000399	CLERK TYPIST II	1006
029000395	CLERK TYPIST II	1003
029000393	CLERK TYPIST II	1007

EE Information

10/29/

POSITION NO	Title	Location
029000390	CLERK TYPIST II	1001
029000385	CLERK TYPIST II	1006
029000319	CLERK TYPIST II	1001
029000320	CLERK TYPIST II	1001
029000317	CLERK TYPIST II	1004
029000275B	CLERK TYPIST II	1001
029000101	CLERK TYPIST III	1001
029000256	CLERK TYPIST III	1001
029000442	CLERK TYPIST III	1005
029000440	CLERK TYPIST III	1001
029000384	CLERK TYPIST III	1001
029000380	CLERK TYPIST III	1007
029000367	CLERK TYPIST III	1001
029000358	CLERK TYPIST III	1004
029000351	CLERK TYPIST III	1006
029000318	CLERK TYPIST III	1001
029000312	CLERK TYPIST III	1007
029000311	CLERK TYPIST III	1001
029000280	CLERK TYPIST III	1005
029000268	CLERK TYPIST III	1001
029000161	CLERK TYPIST III	1001
029000365	DATA ENTRY OPERATOR	1001
029000371	DATA ENTRY SPECIALIST	1001
029000363	DEP DIR BENEFITS ADMIN WCB	1011
029000011	DEP DIR BUSINESS SVCS WCB	1001
029000398	DEP DIR MED & REHAB WCB	1001
029000422	EX DIR W/C BOARD	1001
029000417	GENERAL COUNSEL WCB	1001
029000001	HEARINGS OFFICER WCB	1004
029000291	HEARINGS OFFICER WCB	1007
029000260	HEARINGS OFFICER WCB	1003
029000262	HEARINGS OFFICER WCB	1007
029000357	HEARINGS OFFICER WCB	1004
029000355	HEARINGS OFFICER WCB	1007
029000003	HEARINGS OFFICER WCB	1003
029000004	HEARINGS OFFICER WCB	1006
029000006	HEARINGS OFFICER WCB	1007
029000047	LEGAL SECRETARY	1010
029000397	LEGAL SECRETARY	1010
029000388	LEGAL SECRETARY	1010
029000352	LEGAL SECRETARY	1007
029000343	LEGAL SECRETARY	1010
029000340	LEGAL SECRETARY	1004
029000336	LEGAL SECRETARY	1003

EE Information

10/29/

POSITION NO	Title	Location
029000329	LEGAL SECRETARY	1003
029000313	LEGAL SECRETARY	1007
029000279	LEGAL SECRETARY	1004
029000278	LEGAL SECRETARY	1007
029000265	LEGAL SECRETARY	1001
029000048	LEGAL SECRETARY	1010
029000411	MEDIATOR WCB	1003
029000415	MEDIATOR WCB	1005
029000414	MEDIATOR WCB	1006
029000412	MEDIATOR WCB	1004
029000413	MEDIATOR WCB	1007
029000061	PARA LEGAL ASSIST	1010
029000062	PARA LEGAL ASSIST	1010
029000274	PARA LEGAL ASSIST	1010
029000418	PARA LEGAL ASSIST	1010
029000335	PARA LEGAL ASSIST	1010
029000410	PLANNING & RESEARCH ASSOC I	1011
029000419	SECRETARY	1001
029000353	SENIOR LEGAL SECRETARY	1001
029000044	SENIOR STAFF ATTORNEY	1010
029000330	WORKERS COMP SPECIALIST	1001
029000425	WORKERS COMP SPECIALIST	1001
029000049	WORKERS' COMP ADVOCATE	1010
029000050	WORKERS' COMP ADVOCATE	1010
029000051	WORKERS' COMP ADVOCATE	1010
029000405	WORKERS' COMP ADVOCATE	1010
029000408	WORKERS' COMP ADVOCATE	1010
029000396	WORKERS' COMP ADVOCATE	1010
029000332	WORKERS' COMP ADVOCATE	1010
029000327	WORKERS' COMP ADVOCATE	1010
029000316	WORKERS' COMP ADVOCATE	1010
029000307	WORKERS' COMP ADVOCATE	1010
029000052	WORKERS' COMP ADVOCATE	1010
029000053	WORKERS' COMP ADVOCATE	1010

3-7. Description of Each Program Including Priorities, Goals, and Objectives, Performance Criteria, Timetables, or Other Benchmarks and Success in Meeting Goals, Reasons for Failure, Corrective Measures Taken

Section 3: Dispute Resolution

Section 4: Monitoring, Audit, and Enforcement (MAE) Program

Section 5: Worker Advocate Program

Section 6: Independent Medical Examinations (IME's)/Medical Fee Schedule

Section 7: Technology

3. Dispute Resolution.

I. Introduction.

In 1998 and 1999, the Workers' Compensation Board adopted standard operating procedures (SOP's) for all three levels of dispute resolution: troubleshooting, mediation and formal hearing. These SOPs have greatly reduced the amount of time it takes for a case to proceed through the dispute resolution process. A detailed description of the dispute resolution process and the beneficial effect of the SOPs follows.

I. Three Tiers of Dispute Resolution.

On January 1, 1993, Title 39, which contained the Workers' Compensation Act of 1991 and all prior workers' compensation acts, was repealed and replaced with Title 39-A, the Workers' Compensation Act of 1992. The new Title 39-A created a three-tiered dispute resolution process.

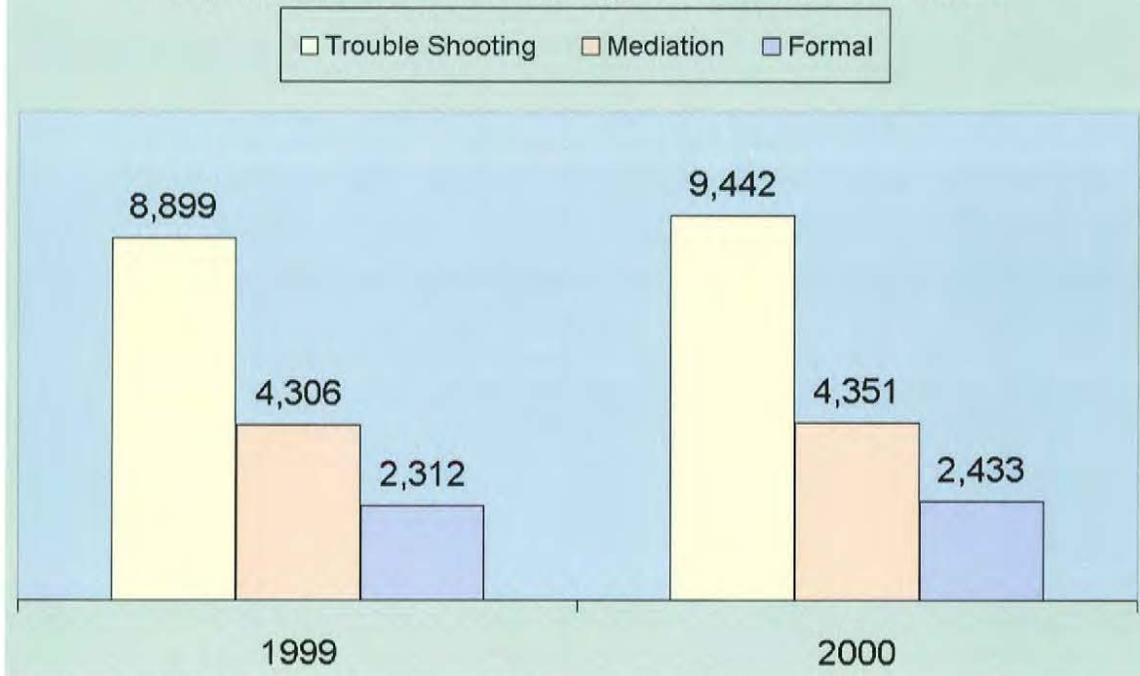
First, at the troubleshooting stage, one of the Board's troubleshooters, also known as claims resolutions specialists, informally attempts to resolve a dispute by contacting the employer and the employee and identifying the issues. Many times, additional information, often medical reports, must be obtained in order to discuss possible resolutions. If a resolution of the dispute is not reached after reviewing any necessary information, the claim is referred to mediation.

At the second stage of dispute resolution, mediation, the case is scheduled before one of the Board's mediators. The parties usually attend the mediation in one of the Board's regional offices although some mediations are conducted by telephone. At mediation, the employee, the employer, the insurance adjuster and any employee or employer representatives such as attorneys or advocates sit down with the mediator in an attempt to reach a voluntary resolution of the claim. The mediator asks each party to state its position and tries to find common ground. At times, the mediator meets with each side separately to sort out the issues. If the case is resolved at mediation, the mediator writes out the terms of the agreement and the parties sign it. If the case is not resolved at mediation, it is referred on for a formal hearing.

When the case reaches the formal hearing stage, the parties are required to exchange information and medical reports and answer specific questions that pertain to the claim. After all information has been exchanged, the parties send to the Board a "joint scheduling memo" that lists the witnesses who will testify and the amount of time needed for hearing. The hearing is much like a mini-trial. Witnesses for both sides testify and written evidence is submitted. Most parties at the hearing phase are represented either by an attorney or by a worker advocate. After all relevant evidence has been submitted, the hearing officer issues a decision, usually within 60 days.

Each level of dispute resolution serves as a funnel, with about twice as many cases coming in as going out. The numbers of cases resolved at each phase for the years 1999 and 2000 is illustrated in the chart below:

Workers' Compensation Board *Disputes to Trouble Shooting, Mediation, and Formal*



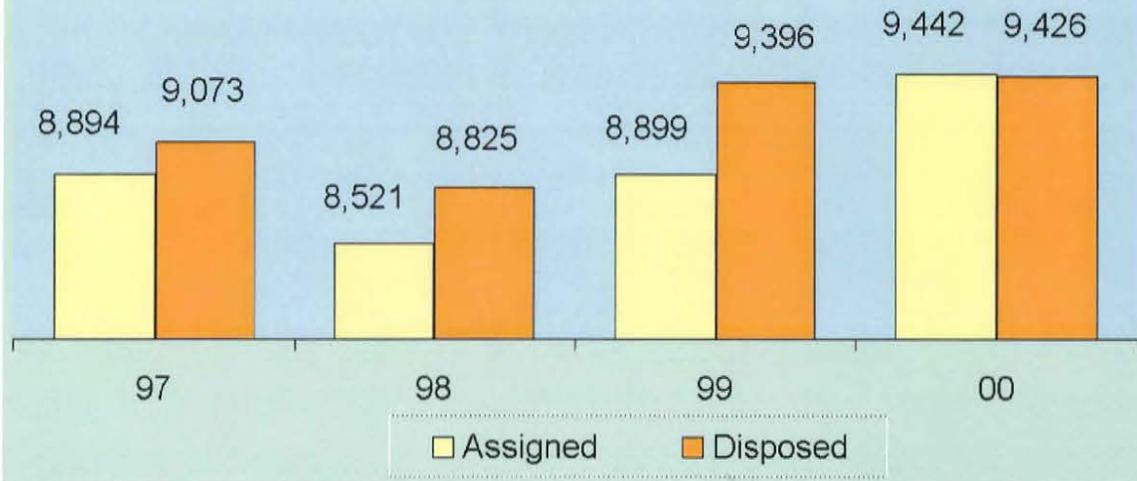
Thus, if the parties are unable to resolve the claim voluntarily with the assistance of a troubleshooter or a mediator, the case will be decided by a hearing officer. It is worth noting that approximately half of the cases that get to troubleshooting are resolved there and half of the remaining cases are resolved at mediation.

III. Troubleshooting.

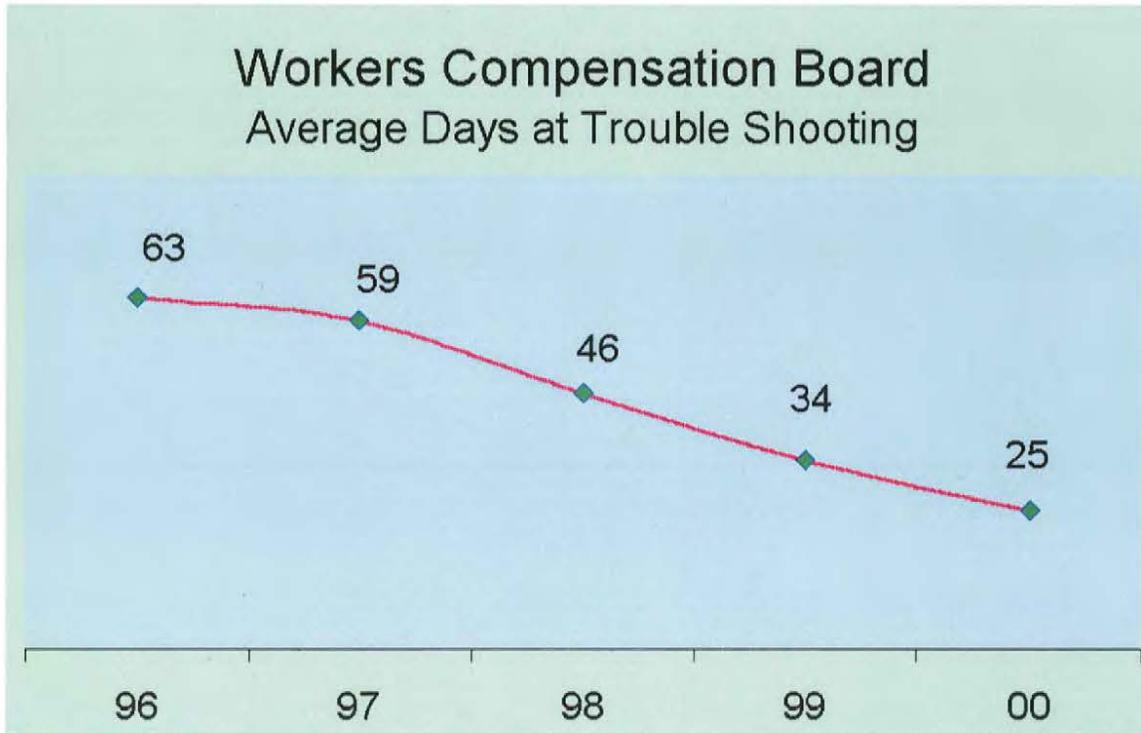
(For complete text of the Standard Operating Procedures, see Appendix 1.)

With the introduction of Standard Operating Procedures (SOP's) in July 1999, the number of cases assigned to and disposed by troubleshooters increased as shown below.

Workers Compensation Board
Filings and Dispositions at Trouble Shooting



In addition, the troubleshooters have greatly reduced the number of days a case remains at the troubleshooting level.

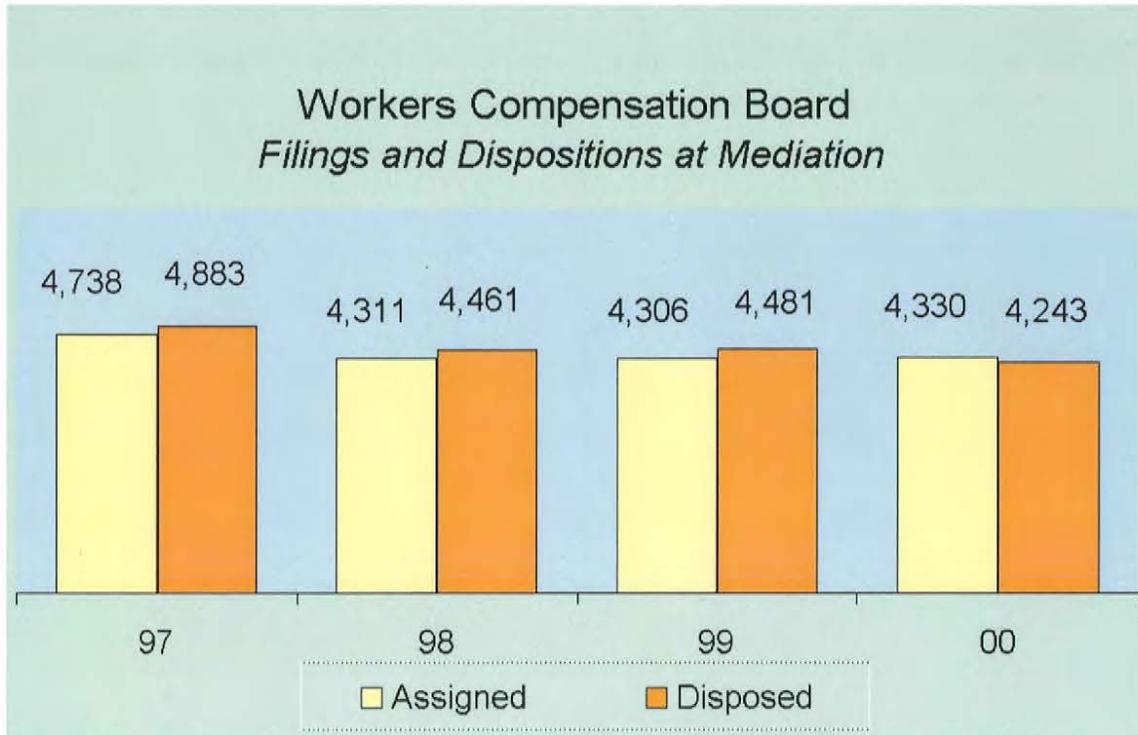


The troubleshooters have accomplished this goal despite having lost 2½ positions. These positions were transferred to the Worker Advocate and MAE Programs to help ensure the viability of these programs.

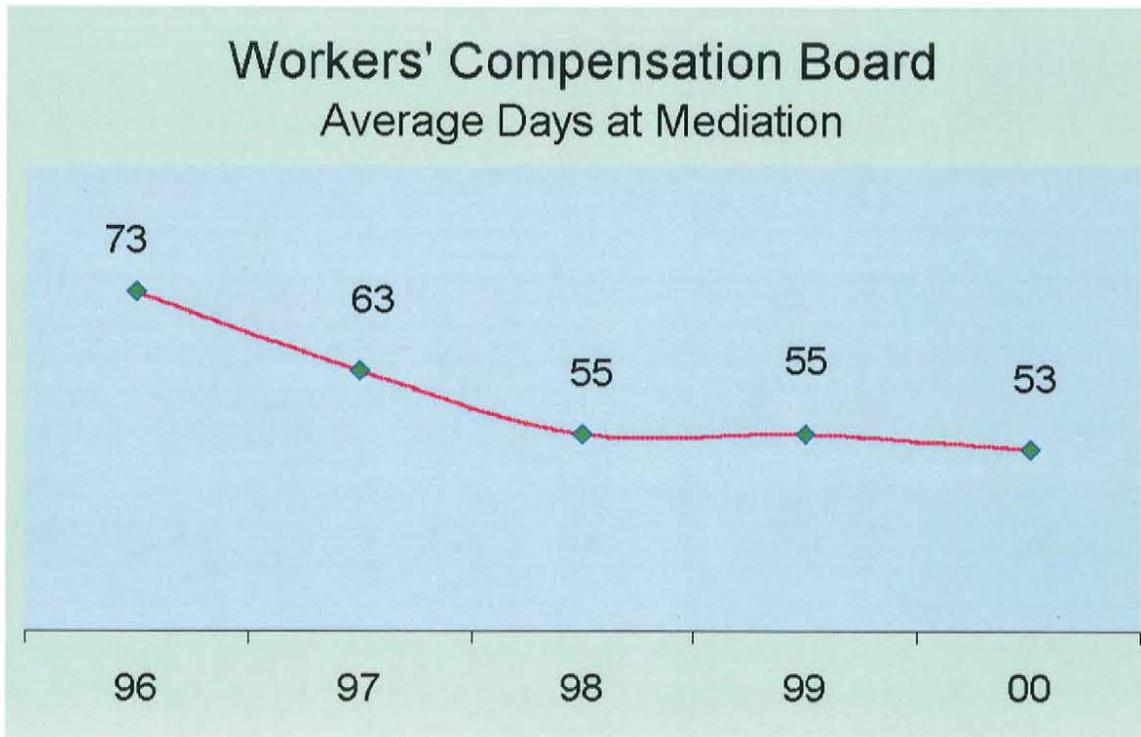
IV. Mediation.

(For complete text of the Standard Operating Procedures, see Appendix 2.)

Since 1997, the mediation staff has been able to dispose of as many cases as were assigned.

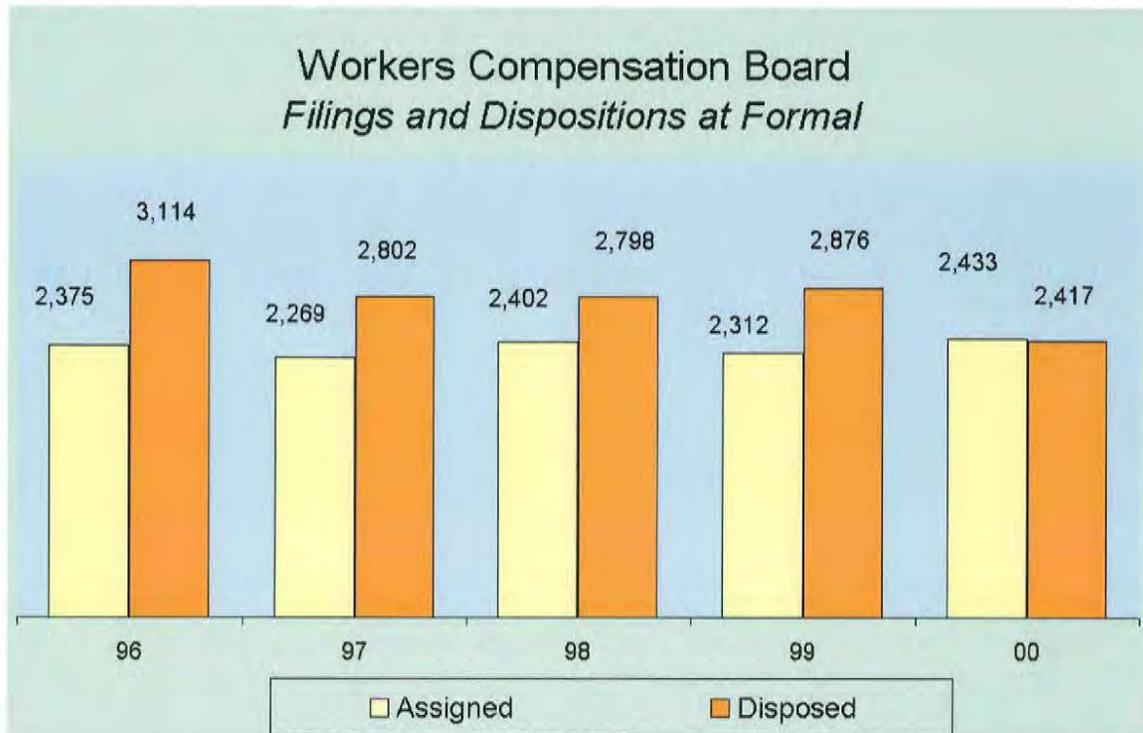


The number of days a case is pending has also improved.



V. Formal Hearing.

When the current group of hearing officers came on board in 1994, there was a large backlog to contend with. Over time, however, the hearing officers consistently decided cases at a faster rate than they were assigned as is shown below:

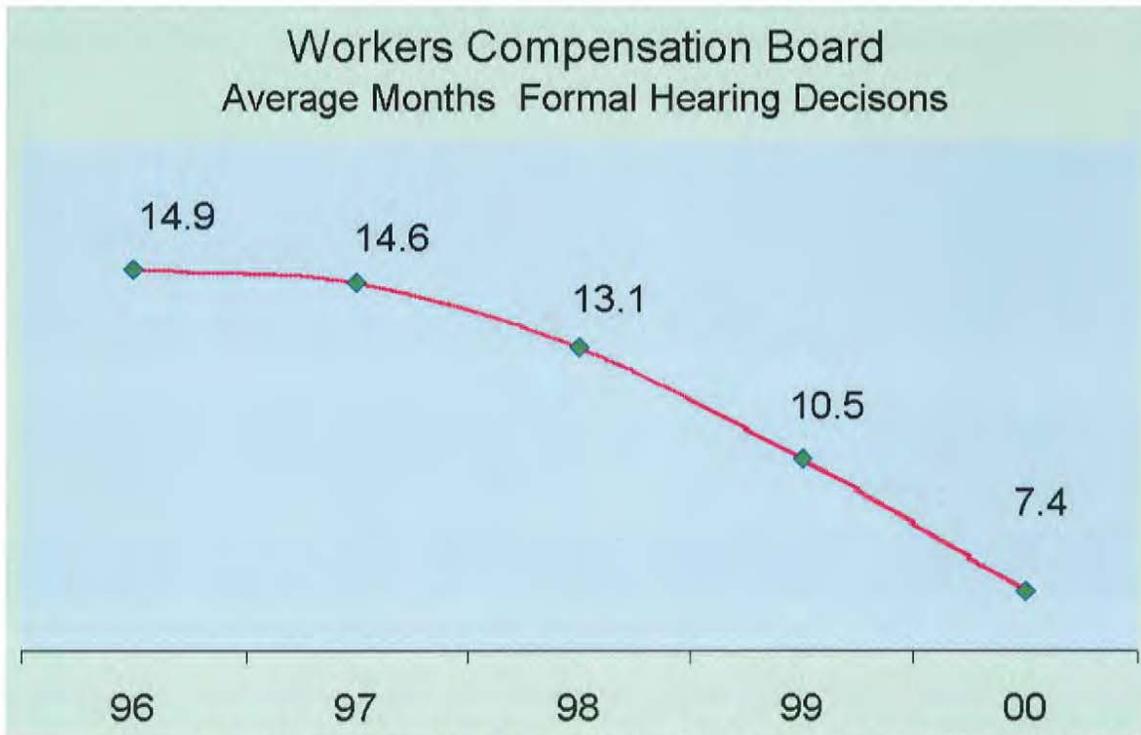


This phenomenon, together with the SOPs, resulted in a gradual decline and eventual elimination of the backlog. It is important to note that the elimination of the backlog occurred even though the number of assignments, that is the number of disputes that go to formal hearing, has remained relatively constant over the past five years as the chart above clearly illustrates. In fact, the most recent numbers seem to indicate that disputes are on the rise.

The SOPs for formal hearing are twofold: (1) 90% of decisions must be rendered within 60 days of the date the evidence closes, and (2) the length of time a case is pending at formal hearing (averaged statewide) was to be ten months by January 1, 2000, eight months by July 1, 2000 and six months by January 1, 2001.

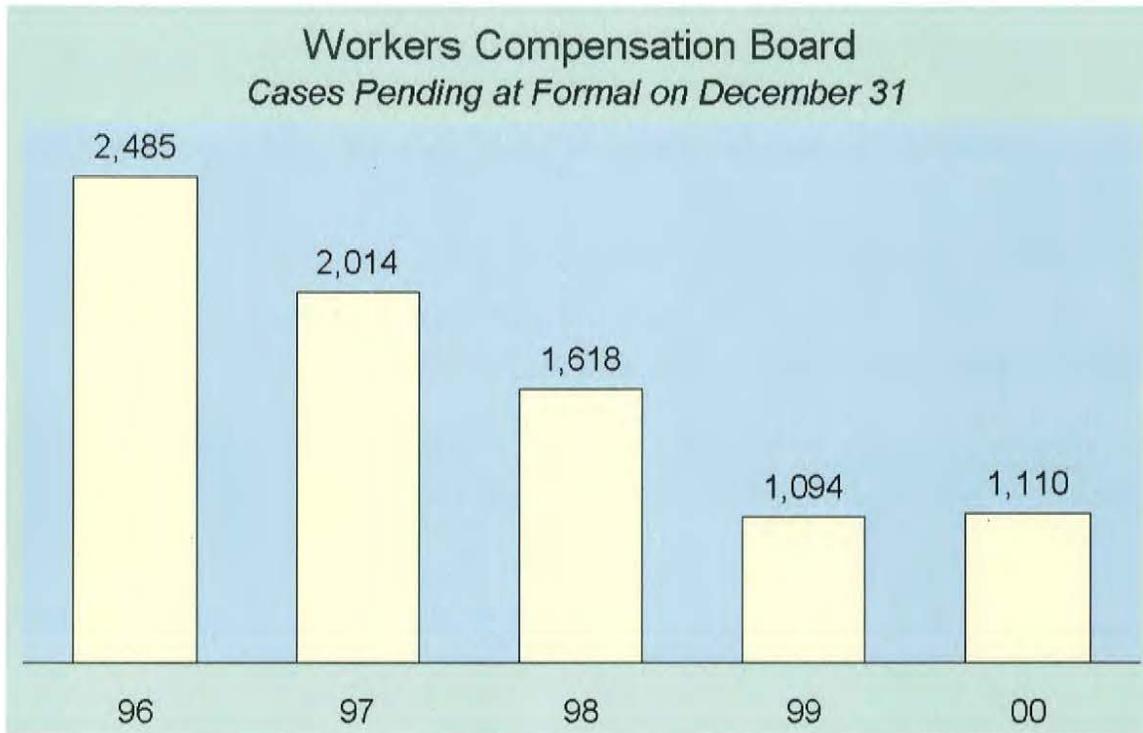
The SOPs for formal hearing were met immediately. Cases have been consistently decided within 60 days since the inception of the SOPs. Not only have 90% of cases been decided within 60 days, 70% have been decided within 30 days.

The second SOP was also met immediately. In July of 1999, the statewide average was about 12 months, on January 1, 2000, it was ten months and presently, as of March 2001, the statewide average is seven months. The six-month goal for January 1, 2001 is probably not attainable if the Board is going to provide a fair opportunity to litigate disputed claims, but we have gotten closer to six months than many ever thought possible. It is important to keep in mind that five or six years ago, the formal hearing process took an average of 18 months. Our progress has thus been considerable and we are working hard to continue in the same vein. The drastic reduction in the time at formal hearing is demonstrated in this chart:



The backlog of years past has thus been eliminated with the successful implementation of the SOPs and the hard work of the hearing officers. Cases are scheduled as soon as they come in (we give parties 30-days' notice) and are decided shortly after they become ready.

The next chart shows the number of cases pending statewide from 1996 to 2000. The reduction in pending cases represents the elimination of the backlog. Between January of 2000 and July of 2001, the total caseload figure leveled off at 1100 to 1300 cases pending statewide. With a goal of 140-150 cases per hearing officer, the current staffing level (nine hearing officers, down from ten in 1999) is appropriate to handle the workload at formal hearing.



VI. Conclusions.

The implementation of the SOPs and the elimination of the backlog at all levels of dispute resolution has resulted in a faster, more efficient and streamlined system. Caseloads and staffing are now at optimal levels. Absent any major changes to the system, these trends should continue into the future.

The goals and objectives, performance criteria, and timetables are enumerated in Appendices 1, 2, and 3. Troubleshooters, Mediators, and Hearing Officers have all met their goals and objectives, resulting in the most efficient dispute resolution system in recent history.

APPENDIX 1

Troubleshooting Standard Operating Procedures

1. Reviews files and contacts parties to determine exact nature of controversy. Assists parties in defining issues. Explains process of mediation and provides information to parties on how to proceed.
 - Reviews First Report, Notice of Controversy, and related documents within five days of receipt of file.
 - Contacts insurer to determine reason for dispute and likelihood of resolution.
 - Contacts injured worker, by phone or letter, to discuss controversy.
 - Explains role of Claims Resolution Specialist to interested parties as well as the mediation process and advocate program.
 - Gives immediate attention to hardship cases or expedited cases by contacting parties by phone or letter within two (2) days.
 - Within one week of receiving file, Claims Resolution Specialist forwards contact letter or contacts injured worker by phone.
 - If injured worker is represented by counsel, sends attorney letter to determine issues and whether or not parties are prepared for mediation.

2. Assists parties in obtaining and exchanging necessary documents, such as medical records, wage statements, etc. needed for resolving claim.
 - Contacts insurers, physicians, and hospitals to obtain medical records.
 - Contacts employers to obtain wage statements.
 - Provides copies of documents to parties, as needed.
 - Obtains copies of First Reports, when necessary.
 - Confers with employees, employers, and/or their representatives to determine likelihood of resolution and any additional information required.

3. Attempts resolution of dispute claims prior to mediation.
 - After discussing the issues in dispute, the Claims Resolution Specialist contacts interested parties to determine if resolution is possible.
 - Calendars the case as necessary for follow-up.
 - Forwards files to mediation within 35 days if resolution is not possible, excepting cases that the Claims Resolution Specialist reasonably believes may be resolved within one week.
 - If the case is resolved, the Claims Resolution Specialist documents the issues resolved on Record of Troubleshooting, ensures that data entry is completed, and forwards the file to Central Office within three days of resolution.
 - If the case is unresolved, the Claims Resolution Specialist documents the unresolved issues on the Record of Troubleshooting. After explaining the mediation process to the injured worker, the Claims Resolution Specialist determines whether or not the injured worker wants an Advocate to attend

- mediation. If the injured worker chooses to have an Advocate, the Claims Resolution Specialist fills out the Advocate Request form. In addition, the Claims Resolution Specialist hands out the Exchange of Information form at the end of Troubleshooting and explains the form to the parties. The file is then forwarded to mediation.
- Claims Resolution Specialist forwards appropriate form letter to interested parties. Advises all parties of the status of pending cases.
4. Expedites Motions for Provisional Order to Hearing Officer.
- Claims Resolution Specialist informs injured worker of right to Advocate.
 - Forwards Motion with attachments directly to Hearing Officer.
5. Refers violations to Abuse Unit or Compliance Unit.
- The Claims Resolution Specialist may refer violations of the statute to the Abuse Unit.
 - Questionable practices may be referred to the Compliance Unit.
6. Compiles statistical information as requested by supervisor.
- Intermittently audits files and ensures that case summary list is accurate.
 - Provides any and all statistical information requested concerning backlog.
 - Maintains tracking system to follow-up on oldest cases.

APPENDIX 2

Mediation Standard Operating Procedures

1. Reviews and analyzes files, records, and case materials; confers and discusses information with all parties to a dispute in order to determine the exact nature of the unresolved issues.
 - Prior to conference, Mediator reviews the records and determines the issues needing mediation.
2. Schedules mediation conferences for all parties.
 - Ensures that within one week of receiving file, mediation conference is scheduled.
 - Ensures that notices are forwarded to interested parties, with at least 30 days notice of conference.
3. Conducts mediation conferences with all parties.
 - Introduces the parties and explains the neutral role of the Mediator as well as the mediation process.
 - Organizes and assesses all interview information, records, files, and related materials in order to identify the most pertinent and significant documents, records, and forms.
 - Identifies and communicates issues and information pertaining to the dispute in order to resolve and/or attempt to resolve disputes.
 - Meets with parties in caucus during conference to facilitate mediation.
 - Conducts telephone mediation conferences, when appropriate, by considering geographical considerations, likelihood of resolution and economic effect on parties. The final decision on telephone mediation requests shall be at the discretion of the mediator.
 - Grants continuances as outlined in continuance policy and ensures that appropriate parties are notified.
 - At the discretion of the Mediator, parties may be referred for penalties for failure to show failure to cooperate, lack of authority or failure to be prepared.
4. Prepares and distributes mediation conference record.
 - After the conference, the mediator prepares the mediation record, summarizes the outcome, acquires signatures, and distributes it to interested parties.
 - On the mediation record, the Mediator identifies areas of agreement, areas in dispute, names of parties attending mediation, and whether or not the case should proceed to formal hearing.

- If the mediation is unsuccessful, distributes and explains the Scheduling Memo to the parties.
 - Reschedules mediation conference only when a likelihood exists that the issues may be resolved.
 - Ensures that the mediation process is completed within 45 days of referral.
 - Maintains confidentiality.
 - Joint Scheduling Memo distributed.
5. Compiles statistical information as requested by supervisor.
- Intermittently audits files and ensures that case summary list is accurate.
 - Provides any and all statistical information requested concerning backlog, caseload, number of cases scheduled, resolved, continued, or held.
 - Maintains tracking system to follow-up on oldest cases.
6. Ensures that outcomes of conferences are entered in the computer.
- Records appropriate outcome of conference on mediation record and ensures that data entry is completed within three days.
 - Follows up on cases needing rescheduling or diarying.
 - Gives instructions clarifying file destination, i.e. to Central Office, formal level, or regional office.

APPENDIX 3

Formal Hearing Standard Operating Procedures

1. **Discovery**. Review file and require discovery to be exchanged within 30 days after mediation. At the close of troubleshooting, the Claims Resolution Specialist will distribute the exchange of information questions and inform the parties that the information must be exchanged and the questions answered before or within 30 days after mediation. The Claims Resolution Specialist will also remind the parties of requirements already in the statute regarding the prompt exchange of medical reports and the continuing obligation to exchange information.
2. **Joint Scheduling Memorandum**. Require the parties to file the Joint Scheduling Memorandum within 45 days of mediation or the filing of the Petition. The Mediators will be given the responsibility to give the parties a Joint Scheduling Memorandum form following mediation.
3. **Hearing Lists**. Hearing lists to be mailed out from all Regional Offices 30 days in advance of hearing.
4. **Pre-hearing Motions**. Review all pre-hearing motions and decide promptly.
5. **Provisional Orders**. Review all requests for provisional orders and submissions of parties and decide within 21 days.
6. **Continuances**. Continuances must be requested in writing at least 14 days before the date of the scheduled hearing or conference. Shorter notice will be allowed only for sudden emergencies or other exceptional circumstances, but in all cases a request for a continuance shall be filed as soon as reasonably possible. In granting or denying a continuance, the Hearing Officer shall consider whether the employee is working and whether weekly benefits are being paid.
7. **Doctor's Depositions**. Hearing Officer shall require all depositions to be completed within 45 days after the hearing. Any exception shall be by motion approved by Hearing Officer.
8. **Position Papers**. Oral arguments in lieu of position papers are encouraged at the close of the hearing. If position papers are necessary, they must be submitted within two weeks of hearing or the close of evidence, whichever is later, absent exceptional circumstances. The Hearing Officers to have the discretion to allow more time if exceptional circumstances are established.
9. **Bench Decisions**. Hearing Officers shall issue bench decisions in those cases in which such decision making is appropriate.

10. **Length of Time in Decision Making.** Ninety percent (90%) of decisions to be issued within 60 days of the date the case was ready for decision and that the length of time at formal hearing average eight months by January 1, 2001. A graduated approach to be initiated whereby the time frames be reduced to 10 months by January 1, 2000; eight months by July 1, 2000; and six months by January 1, 2001. The Workers' Compensation Board to receive data showing how many cases decided within 30 days and how many within 60 days.
11. **Post-hearing Motions.** Review all post-hearing motions and decide promptly.
12. **Destruction of Evidence.** If no appeal filed, evidence will be destroyed 80 days after expiration of time for appeal.

4. MAE Program.

In 1997, the Maine Legislature, with the support of Governor Angus S. King, Jr., enacted Public Law 1997, Chapter 486 to establish a Monitoring, Audit, and Enforcement (“MAE”) Program. The basic goals of this program are to (1) provide timely and reliable data to policymakers; (2) monitor and audit payments and filings; and (3) identify insurers, self-insurers, and third-party administrators (collectively “insurers”) that are not complying with minimum standards.

As part of the monitoring program, the Board, among other things, identifies employers that do not have required coverage and identifies First Reports of Injury that are filed late. Audits are being conducted pursuant to a yearly schedule. The Board’s Abuse Investigation Unit provides an enforcement mechanism when violations of the Workers’ Compensation Act are identified.

MONITORING

A key component of the monitoring program is to produce Quarterly Compliance Reports. These reports measure, on a system-wide and individual basis, the timeliness of initial indemnity payments, the filing of Memoranda of Payment, and the timeliness of First Report of Injury filings.

To ensure that the Quarterly Compliance Reports would be as accurate as possible, a Pilot Project was undertaken. The goal of the Pilot Project was to (1) measure the Board’s data collection and reporting capabilities, (2) report on the performance of insurers, and (3) let people know what to expect from Quarterly Compliance Reports.

To achieve these goals several insurers were randomly selected for audit. Four hundred and eleven (411) files from 48 entities were audited. The audited entities were very cooperative and accommodating. The report, which was unanimously accepted by the Workers’ Compensation Board on January 26, 1999, revealed a need for improvement in the performance of insurers and the Workers’ Compensation Board.

To improve on the results of the Pilot Project, a reconciliation process was implemented as part of the quarterly compliance process. The reconciliation process allows insurers to check the Board’s data against their own so that errors can be corrected prior to the publication of a Quarterly Compliance Report. It has also been used by insurers as a case management tool.

The 2000 Annual Compliance Report was unanimously accepted by the Workers’ Compensation Board. (An overview of this report follows.) This report shows a dramatic improvement in the performance of insurers since the Pilot Project (see Charts 1 and 2 attached). This improvement will help the Board reduce the number of claims that are litigated and result in faster and more accurate payment of lost time benefits.

I. 2000 Annual Compliance Report Overview.

A. Lost Time First Reports.

- (1) 18,419 Lost Time First Reports were received by the Board in 2000.

- (2) 78.33% were filed within seven days (as prescribed by law). 84.3% were filed within 10 days. The 78.33% represents a 13.19% increase in compliance over 1999 and a 113.20% increase in compliance since the Pilot Project of 1997. (See Tables 1 and 2; Charts 1, 2, and 3, attached.)

B. Payments of Initial Indemnity Benefits.

80.26% of initial indemnity payments were paid within 14 days. The Board Benchmark is 80%. The compliance for 1999 was 79.35%. The 80.26% represents a 1.15% increase in compliance from 1999 and 35.14% increase in compliance since the Pilot Project of 1997. Although 80.26% of injured employees were paid within 14 days, 1,171 men and women waited up to a month or longer for their first check even though there was no dispute. (See Tables 1 and 2; Charts 4 and 5, attached.)

C. MOP Filed Within 17 Days.

74.62% were filed within 17 days. The Benchmark is 75%. The compliance for 1999 was 75.14%. The 74.62% represents a decrease in compliance of .69% from 1999 and 31.42% increase in compliance since the Pilot Project of 1997. (See Tables 1 and 2; Charts 6 and 7, attached.)

D. Adjusting Entity Compliance Comparisons.

- (1) Initial Indemnity Benefit Payment. (See Chart 8, attached.)

Overall Compliance	80%
Standard Insurers	73%
MEMIC	87%
Self-Insured/Self-Admin	87%
Self-Insured/TPA Admin	82%
TPA	62%

- (2) MOP Filing. (Chart 9)

Overall Compliance	74%
Standard Insurers	61%
MEMIC	85
Self-Insured/Self Admin	88%
Self-Insured/TPA Admin	78%
TPA	47%

- (3) Percentages of MOPs filed with Workers' Compensation Board. (See Chart 10, attached.)

Standard Insurers	39%
MEMIC	26%

Self-Insured/Self-Admin	16%
Self-Insured/TPA Admin	18%
TPA	1%

E. Insurance Group Analysis.

Initial Indemnity Payment – Groups Above and Below Benchmark. (See Chart 11, attached.)

Above – 41%
Below – 59%

F. MOP Filing – Groups Above and Below Benchmark. (See Chart 12, attached.)

Above – 44%
Below – 56%

G. Initial Indemnity Payment – Groups In-State vs. Out of State.¹ (See Chart 13, attached.)

Compliance for In-State Groups – 86%
Compliance for Out-of-State Groups – 63%

H. MOP Filing – Groups In-State vs. Out of State. (See Chart 14, attached.)

Compliance for In-State Groups – 84%
Compliance for Out-of-State Groups – 45%

I. Percentage MOPs filed – Groups In-State vs. Out of State. (See Chart 15, attached.)

In-state Groups – 76%
Out-of-state Groups – 24%

II. New Annual Compliance Report Elements.

The Board substantially revamped the Quarterly Compliance Report in 2000. Some of the improvements are noted below.

- A. Adjusting Entity Analysis. The MAE staff has generated bar and pie charts that indicate first indemnity payments and Memoranda of Payment (MOP) filing compliance for insurers, self-insureds and third party administrators. A pie chart has been added that indicates the percentage of all MOPs filed by each type of entity.

¹ An out-of-state insurance group has its main indemnity claims processing location outside of Maine and provides a mailing address for the reconciliation report that is outside of Maine. An in-state insurance group has its main indemnity claims processing location in Maine and provides a mailing address for the reconciliation report that is in Maine.

- B. Insurance Group Benchmark Performance. Pie charts have been added that display the percentage of insurance groups that are meeting the benchmarks for initial indemnity payments and MOP filing as set by the Maine Workers' Compensation Board (MWCB).
- C. In-State vs. Out-of-State Compliance Comparisons. These bar charts compare the compliance performance of in-state insurance groups against out-of-state insurance groups. The final pie chart indicates the percentage of MOPs filed by out-of-state and in-state entities and reflect the better performance of in-state entities.
- D. Insurance Group Compliance Charts. These charts indicate the quarterly and annual compliance figures for every insurance group that filed a MOP with the MWCB during the year 2000.
- E. Insurance Group Compliance Spreadsheet. This spreadsheet contains the actual compliance data for each insurance group listed in the charts noted above.
- F. Adjusting Entity Compliance Spreadsheet. This spreadsheet contains the data from which the adjusting entity comparisons were generated.
- G. In-State Insurance Group Compliance Spreadsheet. This spreadsheet contains the data from which the in-state insurance group compliance performance was determined.
- H. Out-of-State Insurance Group Compliance Spreadsheet. This spreadsheet contains the data from which the out-of-state insurance group compliance performance was determined.
- I. Compliance Data. This is the core compliance element of both the Annual and Quarterly Compliance Reports. The compliance information from this appendix was used in the creation of all spreadsheets, charts, and graphs.

III. Corrective Action Plans.

Because of the Monitoring Program, the Board can identify insurers with chronic poor compliance and filing procedures. To correct these problems, the Board has worked with these insurers to implement Corrective Action Plans. These plans have improved the performance of some insurers. The following insurers are under Corrective Action Plans: Liberty Mutual Insurance (Bala Cynwyd, PA and Tarrytown, NY offices); Zurich Insurance; Royal Sunalliance/EBI Insurance; Guard Insurance; Hanover Insurance; Chubb & Son Insurance; York Claims Service; and Travelers.

Compliance information on individual insurance carriers, third-party administrators, and self-administered employers is listed on the Board's website: www.state.me.us/wcb/

AUDITS

The Board also audits insurers. Audits are conducted by using a combination of desk audits and on-site audits. Auditors review case files to determine if the insurer is accurately reporting information to the Board and is complying with the mandates of the Workers' Compensation Act. A second audit may be conducted to determine if deficiencies identified during a previous audit have been corrected.

After a preliminary report is drafted, the audited insurer is provided a 30-day period to review and comment on the draft report. Staff will also meet with the audited insurer to discuss their comments. Changes to the audit report will be made if warranted. A letter is sent to the audited insurer within 30 days of the review meeting explaining, if necessary, why requested changes were not made.

STATUS OF THE THREE-YEAR AUDIT CYCLE

A. Ongoing/Completed Audits.

- | | | |
|----|---|------------------------------|
| 1. | Seaco Insurance
Lumber Mutual Insurance | Completed September 15, 1999 |
| 2. | SAPPI | Completed December 9, 1999 |
| 3. | Liberty Mutual Insurance Companies
Liberty Mutual Fire Insurance Co.
Liberty Insurance Corporation
LM Insurance Corporation
First Liberty Insurance Corp.
Third-party Administrator
Helmsman Management Service | Completed April 12, 2000 |
| 4. | Travelers Insurance Company
Travelers Indemnity Company of Illinois
Travelers, Aetna, C & S Company

Third-party Administrator
James River Corporation
Constitution State Service | Completed April 12, 2000 |
| 5. | Arrow Hart | Completed April 4, 2000 |
| 6. | York Claims Services
AIG Claims Services | Completed March 30, 2000 |
| 7. | Hanover Insurance Company
Massachusetts Bay Insurance Company | Completed April 10, 2001 |

Citizens Insurance Company of America

Third-party Administrator
Sterling Risk Management Services

- | | | |
|-----|---|------------------------------|
| 8. | Cianbro Corporation | Completed May 11, 2000 |
| 9. | The Bill Johnson Agency | Completed May 1, 2000 |
| 10. | Central Maine Power Company | Complete October 6, 2000 |
| 11. | RSKCO | Completed July 2, 2001 |
| 12. | Chubb Insurance Company
Vigilant Insurance Company
Federal Insurance Company
Great Northern Insurance Company
Pacific Insurance Company | Completed September 26, 2000 |
| | Third-party Administrator
Federal Insurance Company | |
| 13. | Mead Publishing Paper Company | Completed September 28, 2000 |
| 14. | City of Bangor | Completed August 15, 2000 |
| 15. | Public Service Mutual | Completed January 9, 2001 |
| 16. | Yasuda Insurance | Completed June 15, 2001 |
| 17. | Clarendon Insurance | Completed April 24, 2001 |
| 18. | East-West Insurance | Pending Rebuttal |
| 19. | Trans-Pacific Insurance | Completed January 9, 2001 |
| 20. | Sedgwick of Maine | Completed April 4, 2001 |
| 21. | Synernet | Completed December 13, 2000 |
| 22. | Maine Municipal Association | Completed June 20, 2001 |
| 23. | State of Maine Workers' Compensation Div. | Completed July 5, 2001 |
| 24. | Maine School Management Association | Pending Rebuttal |

B. Consent Decrees.

		Penalty Agreement Amounts	
		<u>Paid to Employees</u>	<u>Paid to WCB</u>
1.	Lumber Insurance Companies	6,750.00	17,300.00
2.	Travelers Insurance Companies	15,800.00	13,500.00
3.	Liberty Mutual Insurance Companies		3,500.00
4.	Arrow Hart		800.00
5.	The Bill Johnson Agency		200.00
6.	York Claims	15,000.00	1,200.00
7.	Public Service Mutual		200.00
8.	CMP		400.00
9.	Chubb Group	3,000.00	2,900.00
10.	Hanover	8,850.00	12,300.00
11.	Synernet		400.00
12.	Sedgewick	400.00	500.00
13.	Clarendon	1,350.00	400.00
14.	Yasuda	1,500.00	800.00
15.	MMA	1,500.00	500.00
16.	RSKCO		800.00
17.	State of Maine WCD	<u>1,500.00</u>	<u>900.00</u>
	Subtotal	55,650.00	56,600.00
Total Penalties Paid			<u>\$112,250.00</u>

ENFORCEMENT

The Abuse Investigation Unit (the "AIU") is charged with assessing penalties under several sections of the Act. Section 205(3) requires payment of weekly compensation benefits within 30 days of becoming due and payable when there is no ongoing dispute. Section 205(4) requires payment of medical bills within 30 days of becoming due and payable when there is no ongoing dispute. If these sections are violated, a \$50.00 per day penalty, up to a maximum of \$1,500.00 must be imposed. Penalties under section 205(3) must be paid to the employee, while section 205(4) penalties are paid to the Board's Administrative Fund.

Section 324(2) mandates that payments be made within 10 days of any board order or approved agreement. A violation of this section can be penalized by a forfeiture of up to \$200.00 per day. The first \$50.00 per day is due to the aggrieved employee, the remainder is paid to the Board's Administrative Fund.

Section 324(3) provides penalties for failure to secure required workers' compensation coverage. The maximum penalty is \$10,000.00. Other potential sanctions include loss of corporate status and referral to the Attorney General for criminal prosecution. Penalties assessed under this section are paid to the Board's Employment Rehabilitation Fund.

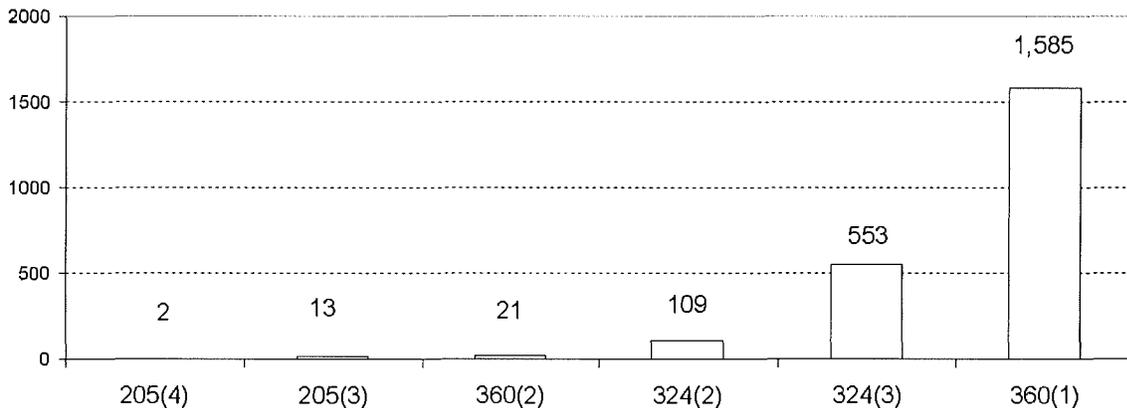
Section 359 provides penalties for engaging in a pattern of questionable claims-handling techniques or repeated unreasonably contested claims. The maximum penalty for a violation of this section is \$10,000 and the Board certify its findings to the Superintendent of Insurance for possible further action.

Section 360(1) provides for penalties when a form is not filed within time frames set by rule or statute. Violations of this section carry a maximum penalty of \$100.00, payable to the General Fund.

Finally, section 360(2) provides for penalties in cases where a willful violation of the Act, intentional misrepresentation and/or fraud has occurred. The maximum penalty that may be imposed, after hearing, is \$1,000.00 for an individual, and \$10,000.00 for a corporation, partnership or other legal entity. Repayment of compensation received, or of compensation wrongfully withheld, through a violation of the Act may also be ordered. If a penalty is ordered, it is paid to the General Fund.

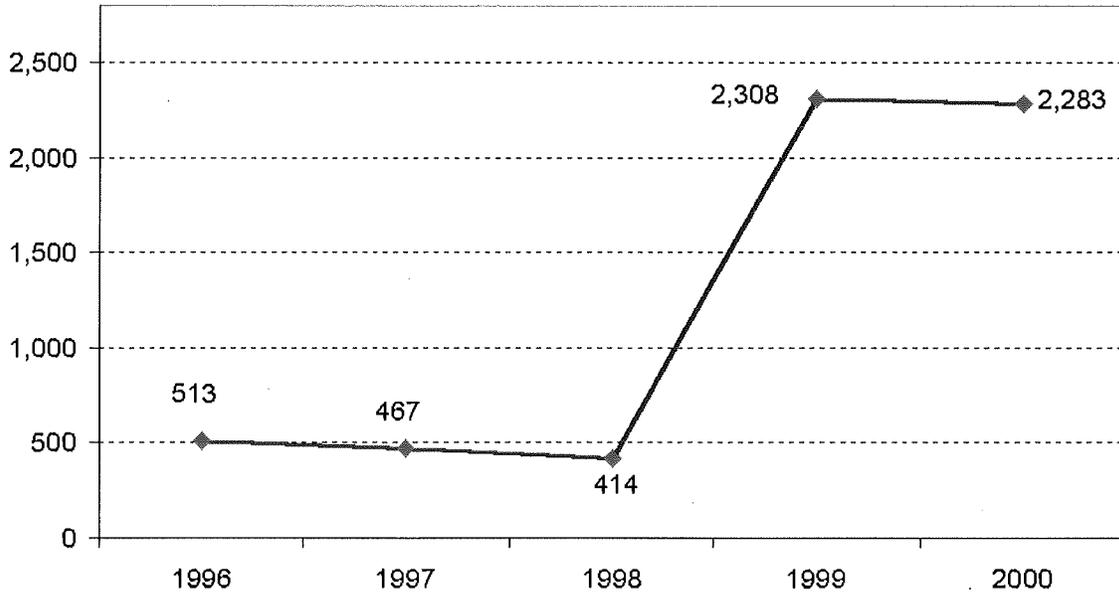
The majority of cases that are filed with the Abuse Investigation Unit are brought under sections 360(1) and 324(3), late reports and no-coverage. This distribution of cases filed has existed for several years now and is expected to remain similar in 2001.

Filings by Section of Statute (39-A)
January to November 2000



The total number of cases filed with the Abuse Investigation Unit, which increased sharply in 1999, remained quite high in 2000. It appears that the total number of cases filed will remain in this vicinity in 2001.

Filings to Abuse Investigation Unit January 1996 thru November 2000

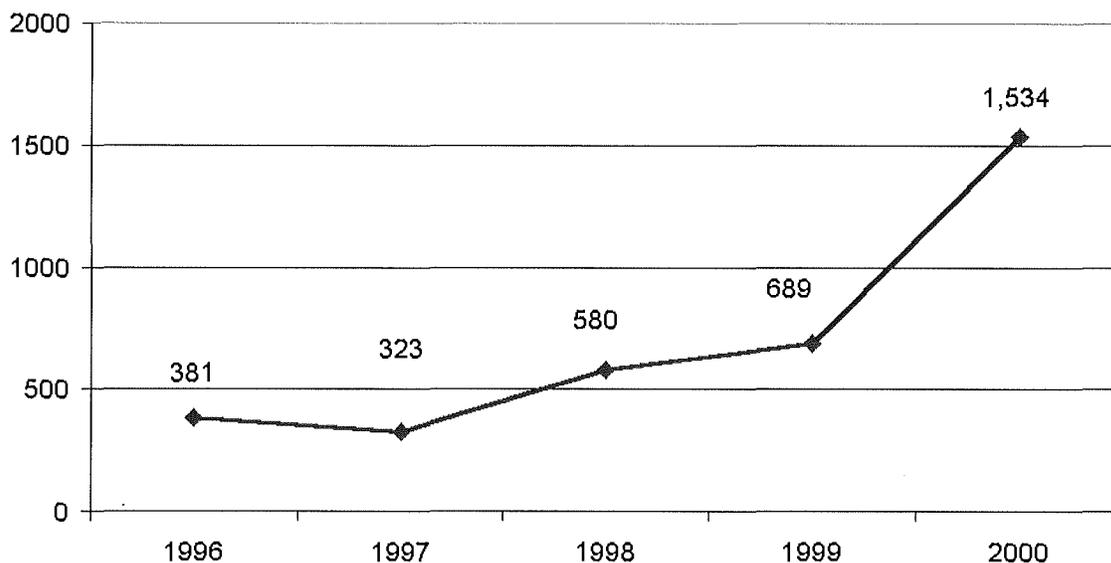


This increase is the result of some new systems implemented by the Board within the last several years. First, the Board is identifying more employers who are operating without required workers' compensation coverage. The Board is able to do this by using a computer program that compares the Department of Labor's unemployment database with the Board's coverage database.

Second, in February of 1999, the Board implemented a program to identify First Reports of Injury that are not filed in a timely manner. This program, on its own, has significantly increased the number of complaints filed with the Abuse Investigation Unit.

In 2000 the Abuse Investigation Unit greatly increased the number of cases that it closed. The number of closed cases, which had been rising since 1997, more than doubled in 2000. That figure is expected to rise yet again in 2001.

Abuse Unit Cases Closed January 1996 thru November 2000



As would be expected from the case filing distribution, sections 360(1) and 324(3) account for the greatest number of cases that are closed.

The Abuse Unit also receives referrals from the Board's auditors. For example, if an audit reveals a failure to file forms on time, these violations can be referred to the AIU for hearing and, if warranted, imposition of a penalty. Other areas that are examined for compliance include whether indemnity payments are made on time and accurately, and whether an insurer has engaged in questionable claims-handling techniques, repeatedly unreasonably contested claims, and/or willfully violated the Act.

As mentioned above, the Abuse Investigation Unit has authority to impose penalties pursuant to several sections of the Act. The basis for penalties pursuant to each section is spelled out above. The Abuse Investigation Unit, through November of 2000, disposed of cases as follows: Section 360(1): 206 granted, 78 denied, 40 dismissed, and 405 paid voluntarily prior to order; Section 324(3): 302 granted, and 410 dismissed; Section 324(2): 5 granted, 4 denied and 47 dismissed; Section 205(3): 3 denied and 11 dismissed; Section 205(4): 1 dismissed.

In 2000, the Abuse Investigation Unit assessed \$15,475 in penalties pursuant to Section 324(2); \$380,581 in penalties pursuant to Section 324(3); and \$61,100 pursuant to Section 360(1) for a total of \$457,156.

The Unit received its first referral for complaint under Section 359 in 2001. As this document is written that matter remains pending and is being processed by the Unit. It seems reasonable to expect additional referrals under this Section in future years, so the Unit's workload under this provision of the Act will likely be expanding.

Complaints filed pursuant to section 360(2) are also investigated by the Abuse Investigation Unit. The Abuse Investigation Unit determines whether the allegations, if true, constitute a violation of section 360(2). If they do, the case is referred to a Hearing Officer. Through the end of November of 2000, 21 complaints pursuant to section 360(2) had been received. Also through the end of November of 2000, 4 section 360(2) complaints had been referred for hearing and another 18 had been closed.

In terms of performance measures, the Abuse Investigation Unit has exceeded its goals. For Fiscal Year 2000, the Unit had a goal of closing 850 cases and in fact closed 1,519. For Fiscal Year 2001, the goal was 1,000 cases closed and the Unit closed 2,350 cases.

It is clear from these statistics that the Abuse Investigation Unit has in recent years begun handling significantly more work in the area of enforcement. There have been over time more cases filed, more matters resolved, and more penalties imposed. Yet the staffing level of the Abuse Investigation Unit has remained constant throughout this large increase in workload. The Unit consists of one legal secretary and two investigators, supervised by the Board's Assistant General Counsel. Section 153(5) of the Act authorizes the Abuse Investigation Unit and sets forth its authority and responsibilities, and that section mandates "at least 2 abuse investigators." The caseload increases in recent years have simply required the Unit to stretch in order to do more with the existing personnel, and that trend appears unlikely to turn around in the foreseeable future.

OPINION

With current resources, the Audit Division will not meet the three-year audit cycle recommended by Coopers & Lybrand in its December 15, 1997 Report (Phase II, Process Recommendation, page 18). This is especially true in light of the high turnover the Division has seen. It is more realistic to assume that the audit cycle will be completed in five years, rather than three.

RECOMENDATIONS

A. Monitoring.

1. Create two additional Planning and Research Associate I positions in order to expand the Reconciliation and Compliance Reports. Expanded monitoring will improve compliance and will reduce the on-site audit time schedule.
2. Create an Administrative Assistant for staff support. This will increase more time to establish Corrective Action Plans (CAPs) and reduce time spent on clerical duties (processing requested forms, typing reports, etc.). This position would be shared with the Audit Division.

3. Increase computer support to expand the Reconciliation and Compliance Reports.
4. Expand Reconciliation and Compliance Reports as follows:
 - a. Monitor the timely filing of First Reports of Injury to identify trends and patterns through the Reconciliation Report.
 - b. Monitor the timely filing of Notice of Workers' Compensation Insurance (WCB-1A) forms by the insurance underwriting division.
 - c. Monitor the timely filing of Wage Statements (action plan similar to 4b) to ensure accurate indemnity benefits. Approximately 50% of the wage forms are missing for ongoing indemnity payments.
 - d. Monitor the timely filing of Notices of Controversy and enforce mandatory payments.
 - e. Measure the percentage of indemnity MOPs and NOCs to the total of lost-time claims (a NOC Pilot Project is in development).
 - f. Increase the current Benchmarks of 75% and 80%.

B. Audit.

1. Create a third Auditor I position.
2. Establish a five-year audit cycle until the MAE Program is sufficiently staffed and equipped. The goal should be a three-year audit cycle.
3. Schedule a second audit for entities during the five year audit cycle when:
 - a. Complaints for Audit are on file (number, severity, and entity response to be considered by the Deputy Director).
 - b. Corrective Actions Plans remain in significant non-compliance (severity and entity response to be considered by the Deputy Director).
4. Expand audits to include employers with no recorded coverage to ensure compliance with the Act.
5. Schedule education and training workshops on claims administration, workers' compensation law, rules, and regulations.

C. Monitoring and Audit Enforcement.

1. Request more Corrective Action Plans and Consent Decrees for agreed upon non-compliance (similar to Audit Consent Decrees) for entities below the benchmarks listed in the Compliance Reports. The consequences for non-compliance need to be sure and swift.
2. File Complaints for Penalties with the Abuse Investigation Unit for ongoing non-compliance based on the Compliance Reports and the Audits Reports.
3. Certify questionable claims handling techniques or unreasonably contested claims to the Superintendent of Insurance pursuant to the Board Rules and Regulations, Chapter 15 (8) (9).

D. General Recommendations.

Upgrade laptops, replace computers, purchase a color Audit Division printer, schedule CorVu training, etc. On September 21, 2001, L.D. 670 authorizes the use of \$40,000 from the Board's reserve account to pay for these technological improvements for the MAE Program.

Even though the Board's Monitoring, Audit, and Enforcement Program is new, it is generating concrete results. The Quarterly Compliance Reports provide an excellent means of assessing the performance of individual insurers and insurers as a group (see attached *Sun Journal* July 26, 2001 article). Together the monitoring and enforcement programs help ensure that the Workers' Compensation Act is complied with.

CONCLUSION

The Benchmarks of the Monitoring part of the MAE Program have all been met:

- (1) Lost Time First Reports: MET.
- (2) Payment of Initial Indemnity Benefits: MET.
- (3) MOP Filed Within Seven Day: MET.

The Benchmark of issuing four Quarterly Compliance Reports and one Annual Compliance Report: MET

The Benchmark of a three-year audit cycle: NOT MET. The Board has recently revised the three-year cycle to a five-year cycle. Reason: Lack of resources.

Annual Compliance Report

01/01/00-12/31/00

2000 Quarterly Compliance Reports¹

Table 1

	First Quarter		Second Quarter		Third Quarter		Fourth Quarter	
	<u>7 Days</u>	<u>10 Days</u>	<u>7 Days</u>	<u>10 Days</u>	<u>7 Days</u>	<u>10 Days</u>	<u>7 Days</u>	<u>10 Days</u>
First Report Of Injury Received within:	74.56%	81.73%	80.61%	86.46%	77.12%	83.42%	76.62%	82.98%
Initial Indemnity Payment Made Within 14 Days	80.03%		80.42%		80.53%		80.18%	
Memoranda of Payment Received Within 17 Days	75.86%		73.85%		74.26%		75.02%	

Table 2

Compliance Comparison

	Pilot Project 1997	Annual Compliance ² 1999	Annual Compliance ³ 2000	Percent of Change	
First Report Of Injury Received within 7 Days	36.74%	69.20%	78.33%	Since Pilot 113.20%	Since 1999 13.19%
Initial Indemnity Payment Made Within 14 Days	59.39%	79.35%	80.26%	Since Pilot 35.14%	Since 1999 1.15%
Memoranda of Payment Received Within 17 Days	56.78%	75.14%	74.62%	Since Pilot 31.42%	Since 1999 -.69%

¹ Static results based upon data received by the deadline for each quarter.

² Dynamic results based upon data received by March 30, 2000.

³ Dynamic results based upon data received by March 30, 2001.

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01/01/00-12/31/00

FIRST REPORTS OF OCCUPATIONAL INJURY OR DISEASE

Chart 1

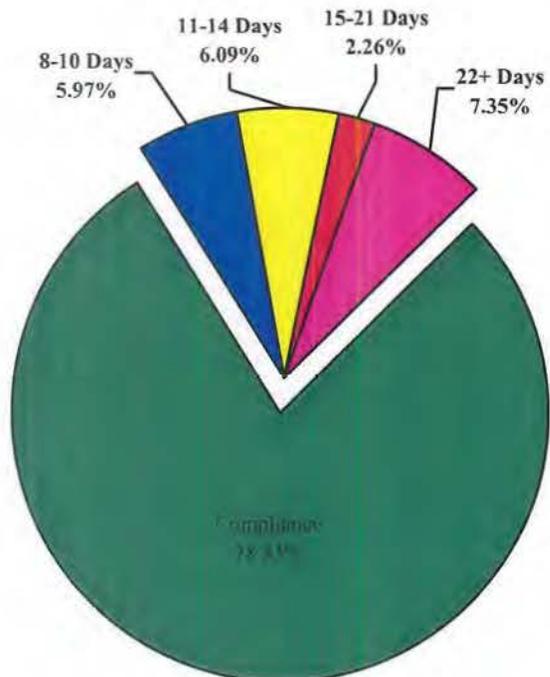


Table 3

First Reports Received Within:

0-7	Days	14,428	78.33 %
8-10	Days	1,099	5.97 %
11-14	Days	1,121	6.09 %
15-21	Days	416	2.26 %
22+	Days	373	7.35 %
Total		18,419	100 %

Chart 2

Quarterly Compliance

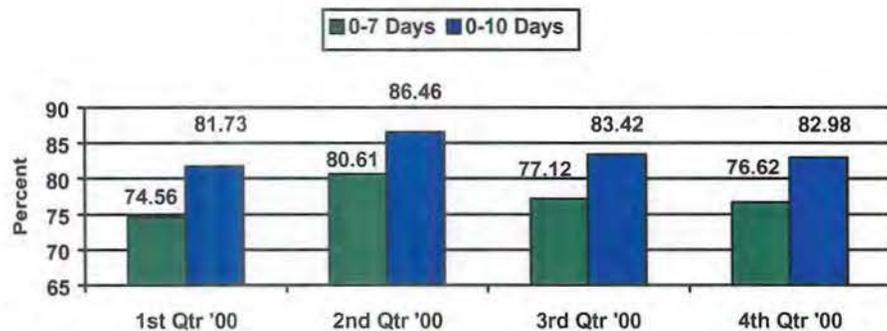
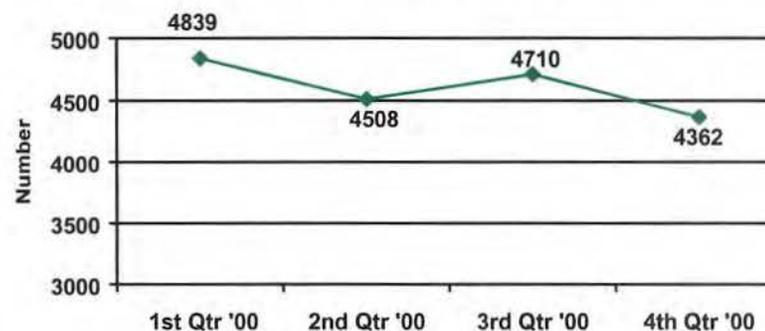


Chart 3

Lost Time First Reports



Annual Compliance Report

01/01/00 -12/31/00

PAYMENT OF INITIAL INDEMNITY BENEFITS

Chart 4

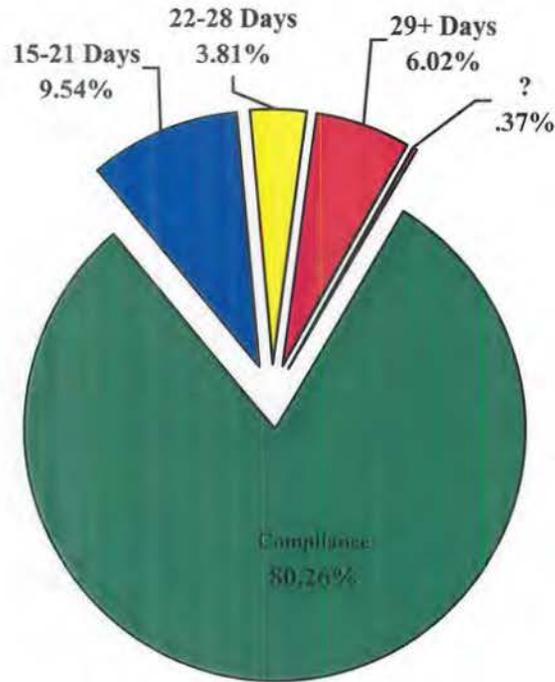


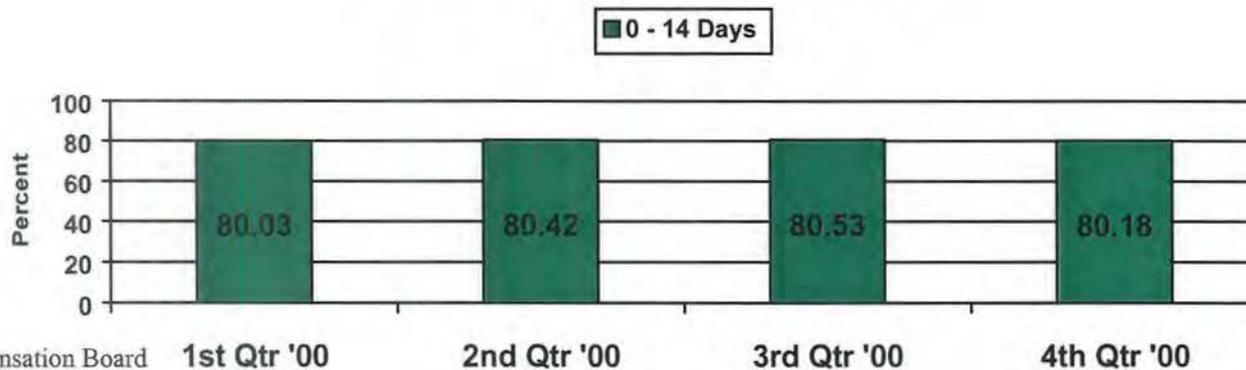
Table 4

Initial Indemnity Payments Made Within:

0 - 14	Days	4762	80.26 %
15 - 21	Days	566	9.54 %
22 - 28	Days	226	3.81 %
29 +	Days	357	6.02 %
?	Days	22	.37 %
Total		5933	100 %

Chart 5

Quarterly Compliance Comparison



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MEMORANDA OF PAYMENT

Chart 6

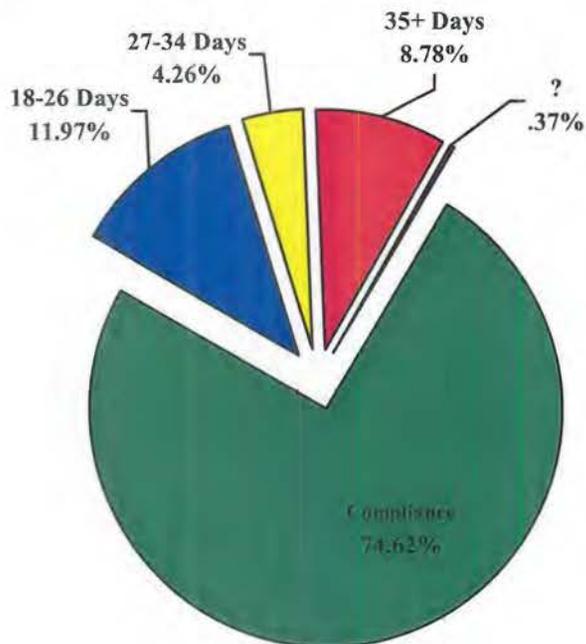


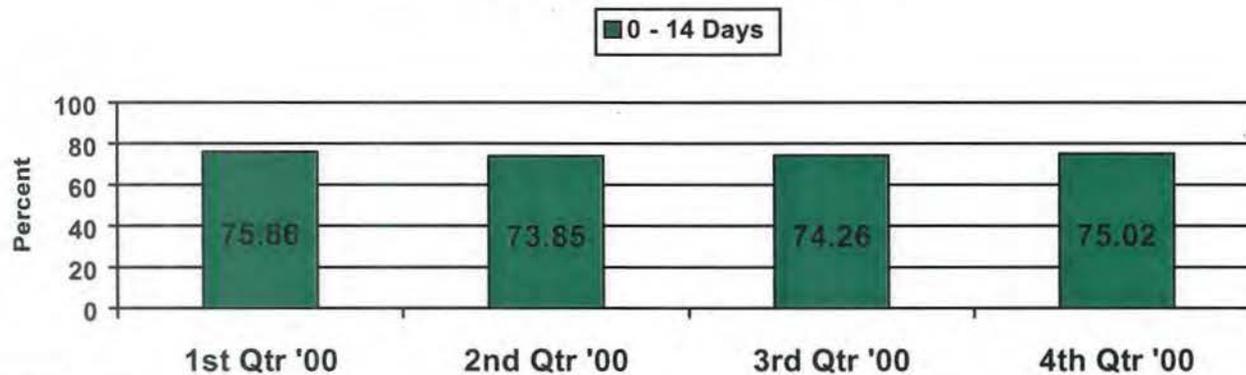
Table 5

Memoranda of Payment Received Within:

0 – 17	Days	4427	74.62 %
18-26	Days	710	11.97 %
27-34	Days	253	4.26 %
35+	Days	521	8.78 %
?	Days	22	.37 %
Total		5933	100 %

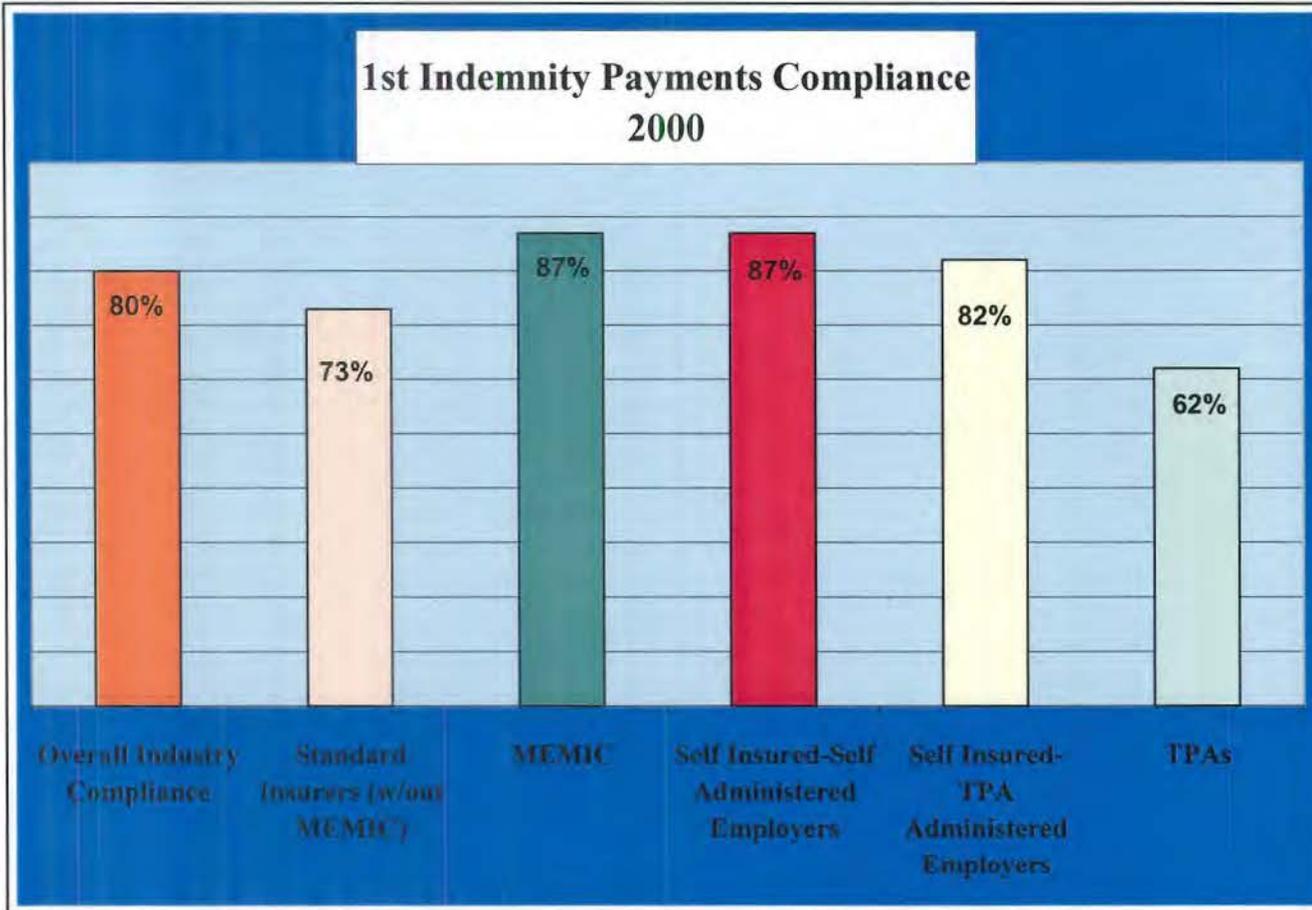
Chart 7

Quarterly Compliance Comparison



**Annual Compliance Report
01/01/00-12/31/00**

Chart 8



Workers' compensation insurance claims can be administered by many different types of adjusting entities in Maine.

There are the customary or "standard" insurance companies like Kemper or Hanover.

There is Maine Employers Mutual (MEMIC) which was created by the Legislature.

Employers like Bath Iron Works can also choose to "self-insure". These self-insureds can choose to adjust their own claims. This is known as "self-administering".

Self-insureds can also choose to hire a third party administrator (TPA) like Sedgewick to administer their claims.

Some insurance companies choose to outsource some of their adjusting work to TPAs.

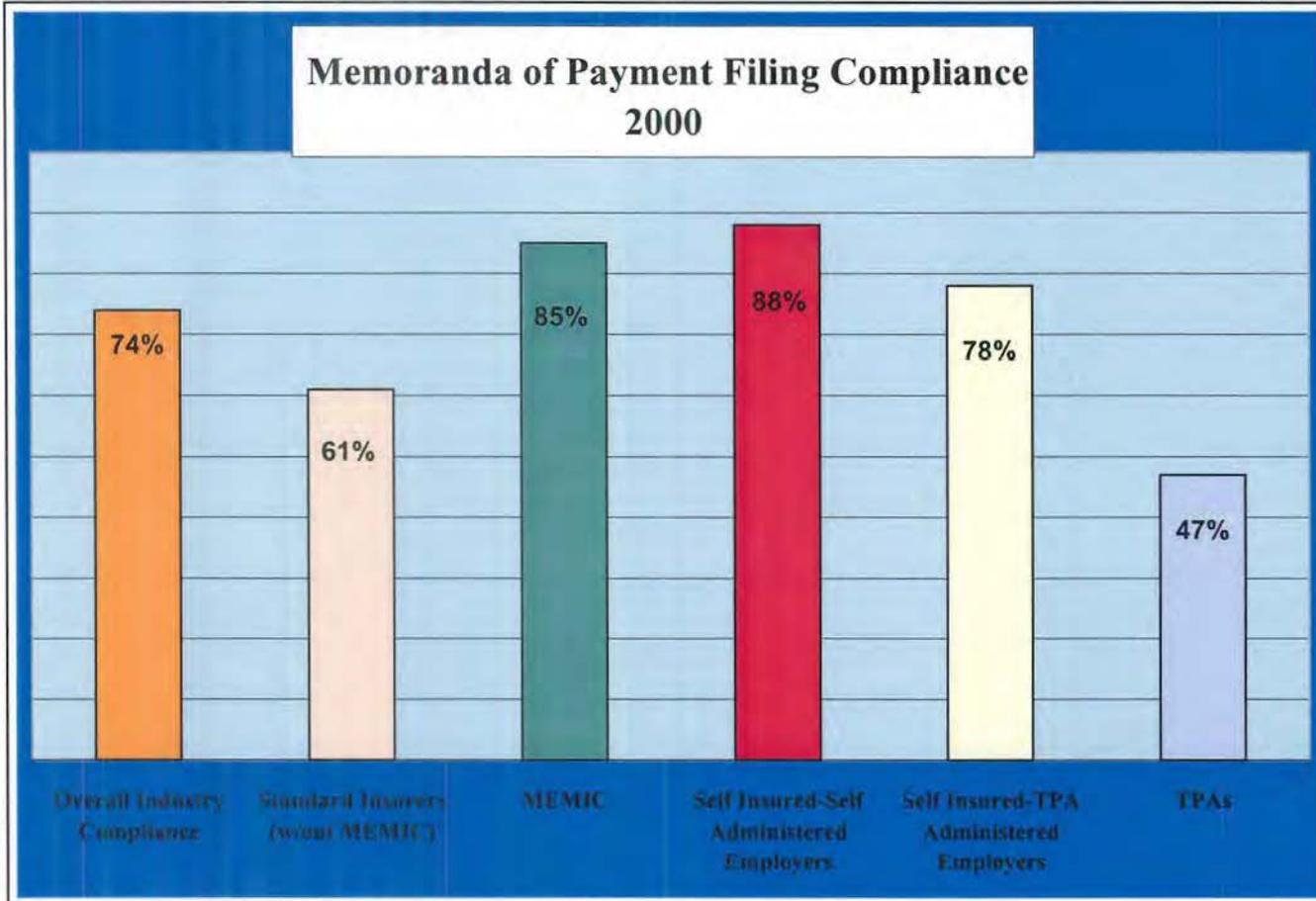
Payment of Initial Indemnity Benefits Comparison for Different Types of Workers' Compensation Claims Entities/Adjusters

This chart displays the percentage of compliance for each type of adjusting entity achieved in the Payment of Initial Indemnity Benefits within 0-14 days category. The Maine Workers' Compensation Board's Benchmark for this is 80%.

Data generated from Adjusting Entity Spreadsheet (Appendix - A).

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Chart 9



The Maine Workers' Compensation Board (MWCBC) measures whether the "Lost Time" First Reports of Occupational Injury or Disease and Memoranda of Payment (MOP) are filed in a timely manner.

A "Lost Time" First Report of Occupational Injury or Disease is required to be filed with the MWCBC within 7 days of an employer's notice or knowledge that an employee has missed a day or more of work because of their injury.

When an insurer pays workers' compensation benefits, a Memorandum of Payment must be filed with the MWCBC.

The MWCBC measures when the payment was made and when the MOP was filed.

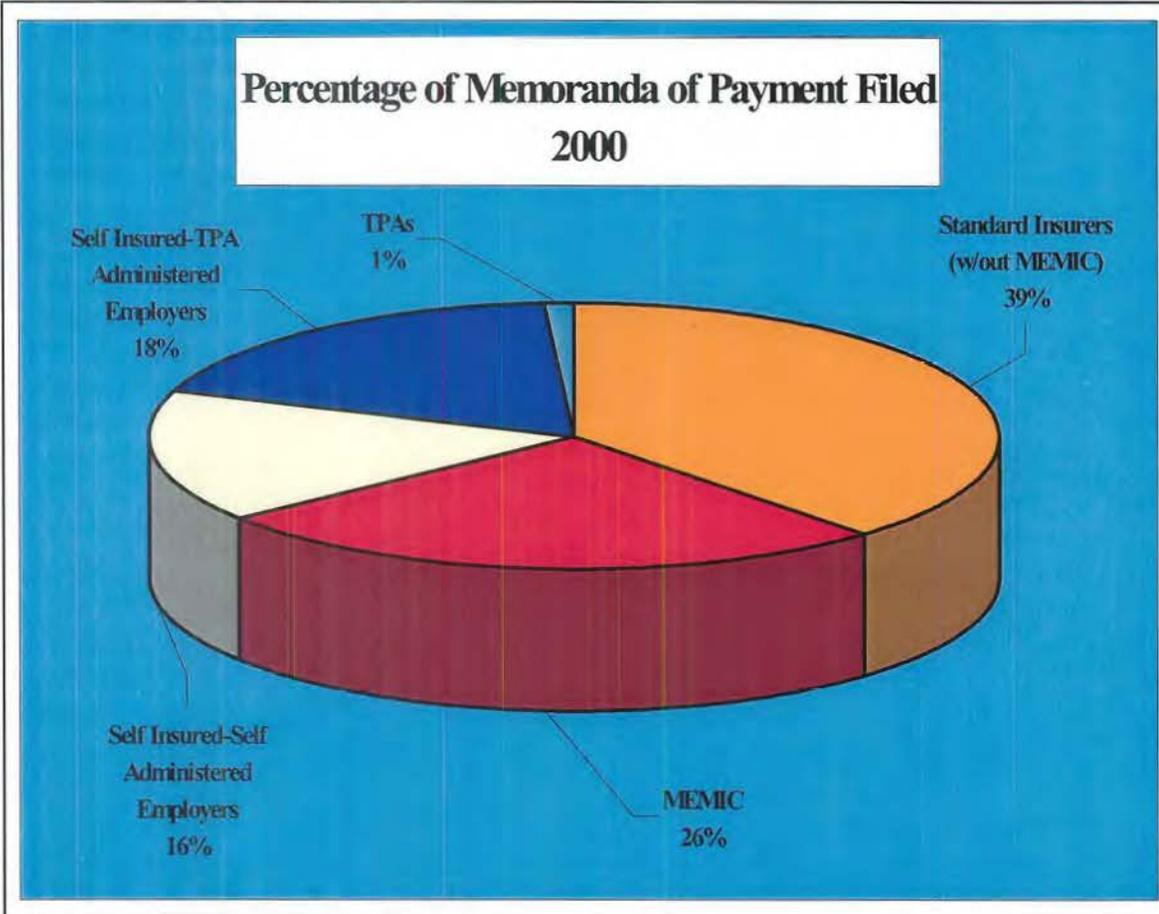
Filing of Initial MOP Comparison for Different Types of Workers' Compensation Claims Entities/Adjusters

This chart displays the percentage of compliance for each type of adjusting entity achieved in the filing of Memoranda of Payment within 0-17 days category. The Maine Workers' Compensation Board's Benchmark for this is 75%.

Data generated from Adjusting Entity Spreadsheet (Appendix - A).

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Chart 10



Most Memoranda of Payment (MOPs) that are filed with the Maine Workers' Compensation Board (MWCB) are filed by standard insurers.

Self-Insureds filed the second most MOPs. This includes employers who choose to Self-Insure-TPA Administer.

MEMIC accounted for 26% of all MOPs filed.

TPAs working for other insurance companies filed only 1% of all MOPs.

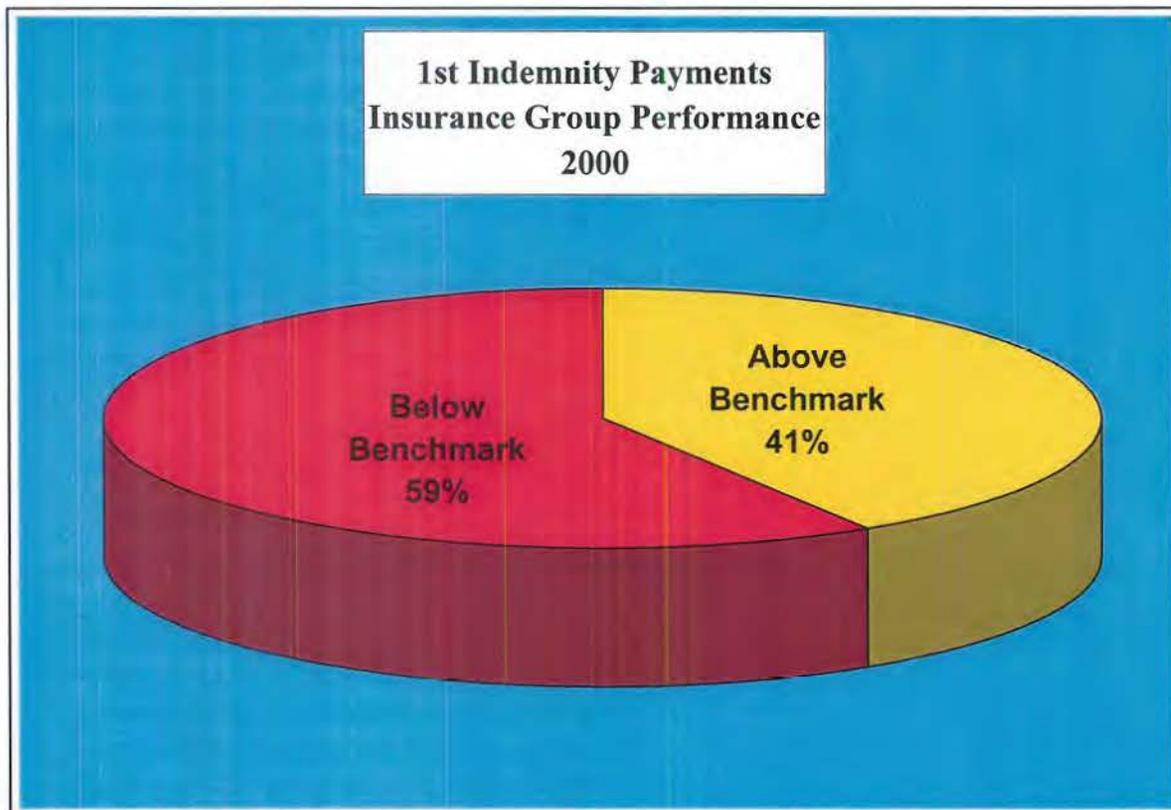
Percentage of MOPs Filed by Adjuster Type

This chart displays the percentage of MOPs that each type of adjusting entity filed with the Maine Workers' Compensation Board.

Data generated from Adjusting Entity Spreadsheet (Appendix - A).

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Chart 11



As Chart 4 on page 5 indicated, overall, the insurance community met the benchmarks for compliance as set by the Maine Workers' Compensation Board.

Initial Indemnity Payments made within 0-14 days.

MWCB Benchmark = 80%
Overall Compliance = 80.26%

An "Insurance Group" is defined in this analysis as the parent company of a number of individual insurance entities. A total of 63 insurance groups filed MOPs with the MWCB in 2000.

Insurance groups can consist of many different insurance entities. For example, Liberty Mutual Group accounts for 8 different insurance entities. Most insurance groups filed only a small number of MOPs.

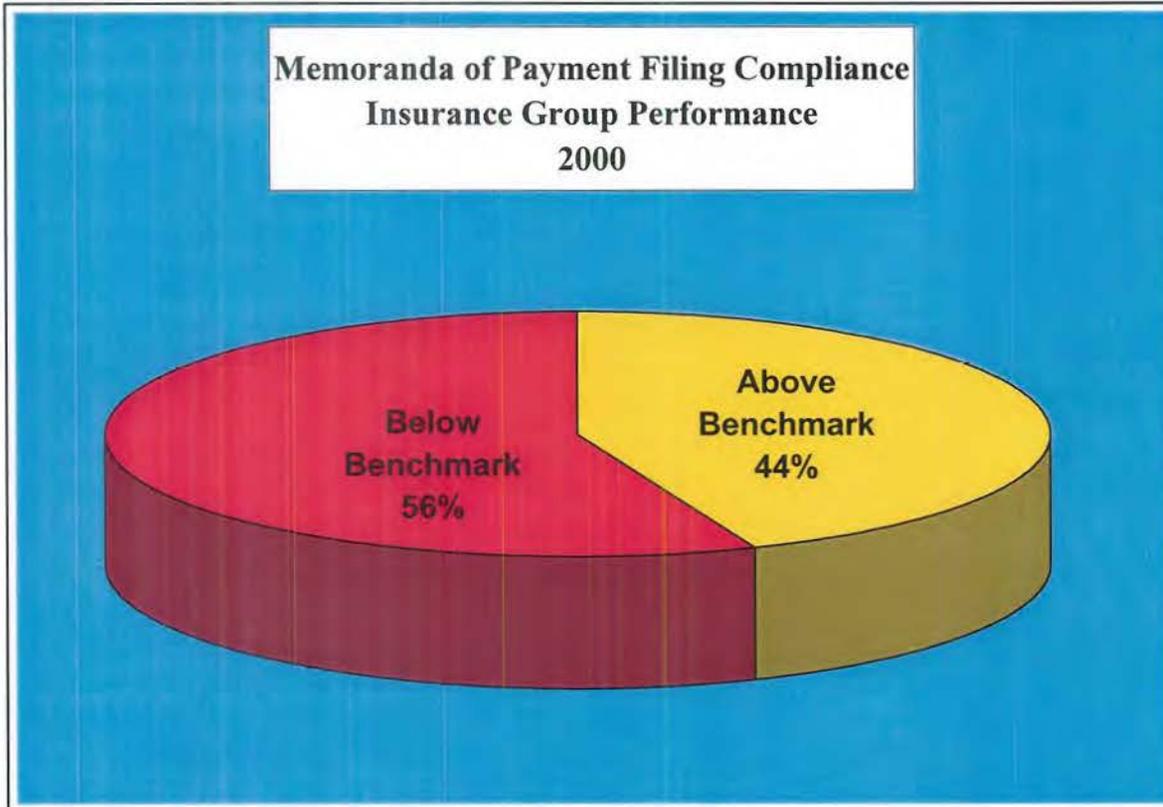
See Insurance Group Compliance

Insurance Group Benchmark Comparisons for Initial Indemnity Benefit Payments

The majority of initial indemnity payments and MOPs are filed by a small number of insurance entities that have generally high compliance (i.e. MEMIC, Sedgewick and Acadia). The data from these companies with high compliance made up the majority of the MOPs that were measured. As a result, the overall industry compliance was close to the MWCB's benchmarks. However, the insurance group charts and spreadsheets indicate that the majority of insurance groups did not meet the MWCB's benchmarks. Only 26 of 63 insurance groups that filed MOPs met benchmarks for the payment of initial indemnity benefits.

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Chart 12



As Chart 6 on page 5 indicated, the insurance community met the benchmarks for compliance as set by the Maine Workers' Compensation Board.

Memoranda of Payment filed within 0-17 days.

MWCB Benchmark = 75%
Overall Compliance = 74.26%

Some of the insurance groups that have displayed consistently poor compliance are placed on corrective action plans (CAPs) by the Monitoring, Audit and Enforcement Division (MAE) of the MWCB.

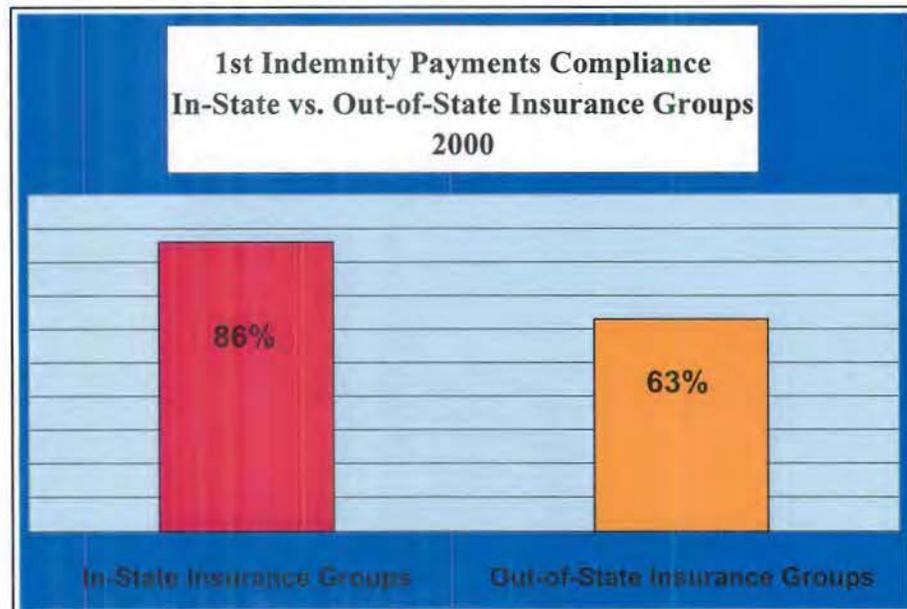
The purpose of the CAP is to improve insurance group compliance performance.

See Insurance Group Compliance Charts and Spreadsheet for data.

Insurance Group Benchmark Comparisons for Memoranda of Payment Received by the MWCB.

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Chart 13



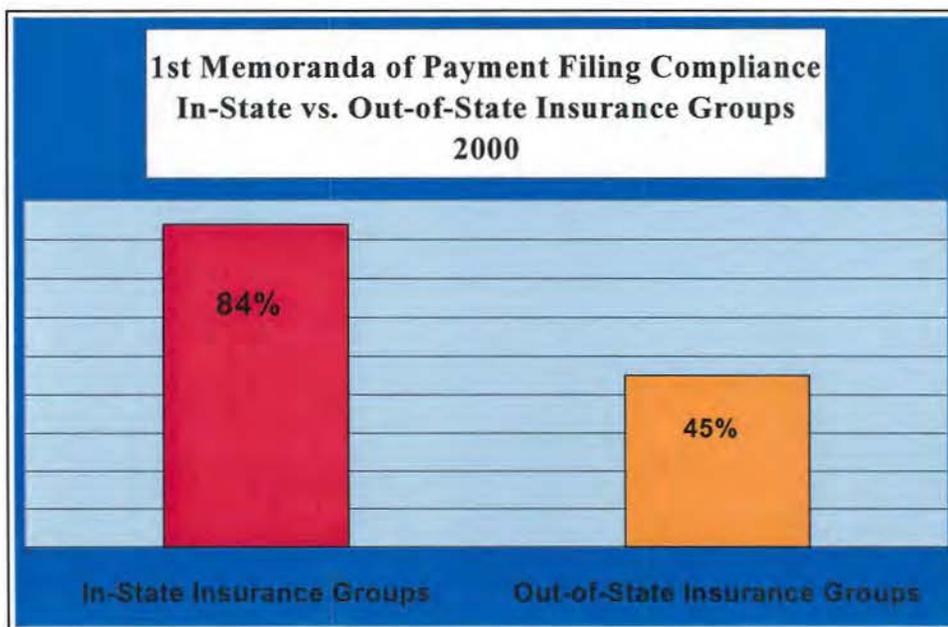
Through the Reconciliation Report and the Reconciliation Process, the MWCBC can identify those insurance groups processing “In-State” and those processing “Out-of-State”.

An out-of-state insurance group has its main indemnity claims processing location outside of Maine and provides a mailing address for the Reconciliation Report that is outside of Maine.

An in-state insurance group has its main indemnity claims processing location in Maine and provides a mailing address for the Reconciliation Report that is in Maine.

See In-State and Out-of-State Insurance Group Data
(Appendices B & C)

Chart 14

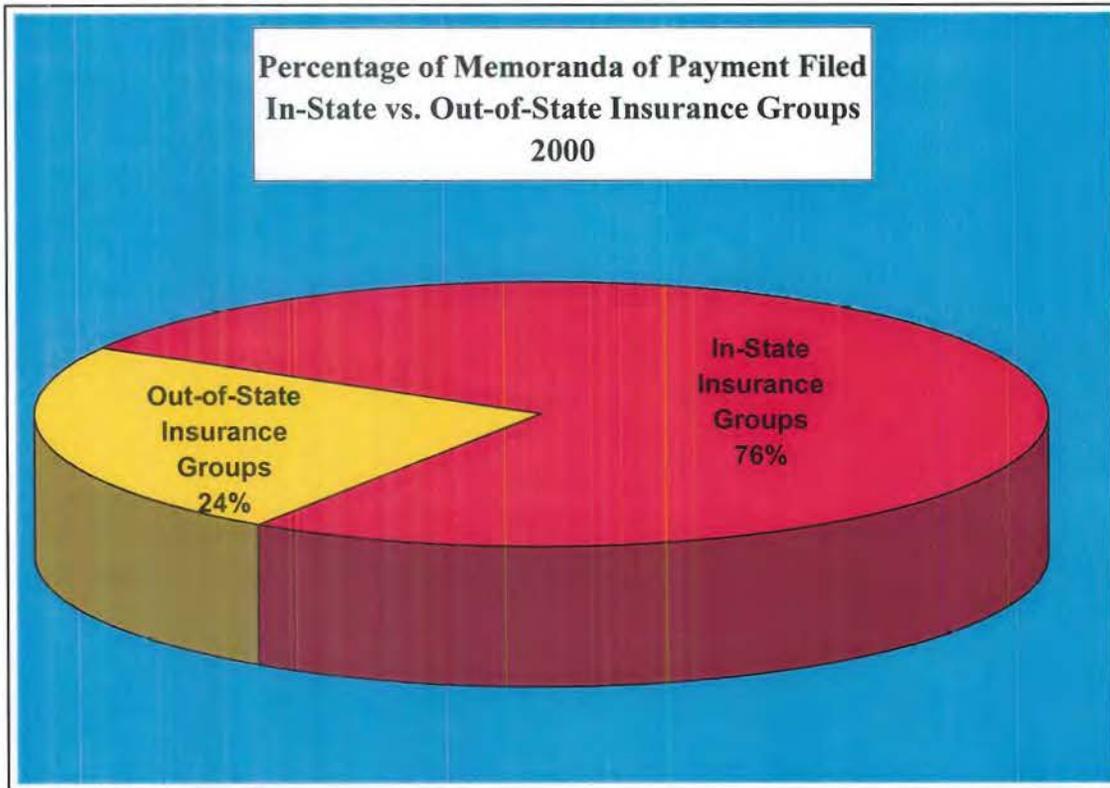


MOP filing compliance of In-State Insurance Groups vs. Out-of-State Insurance Groups

See In-State and Out-of-State Insurance Group Data
(Appendices B & C)

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Chart 15



Although most out-of-state insurance groups display generally lower compliance than many of their in-state counterparts, they do not affect overall compliance to the same degree as in-state insurance groups. As is displayed here, out-of-state insurance groups file only 1 in 4 MOPs.

Percentage of MOPs filed by In-State and Out-of-State Insurance Groups.

See In-State and Out-of-State Insurance Group Data
(Appendices B & C)

Grading performance

Workers comp board issues report on compliance

The Annual Compliance report tracks the job done by Maine Workers Compensation insurance carriers.

BY KATHRYN SKELTON
Business Writer

AUGUSTA – Eighty percent of Maine's injured and ill workers got their first compensation check within 14 days of reporting their problem last year, a requirement under state law.

It's a 35 percent improvement over the compliance rate three years ago, but still left 1,171 men and women waiting up to month or longer with little or no penalties levied against the insurer for being late.

That's out of a draft report approved and released this week by the Maine Workers Compensation Board. It examined the compliance rates of more than 165 insurance carriers during 2000.

Collectively, the companies met the benchmark for mailing out initial indemnity payments. Individually, the picture was not as pretty. Only 41 percent of the carriers had records of 80 percent or better, said Steven Minkowsky, deputy director of benefits administration, but whose caseloads were large enough to buoy the number that did not.

Compliance rates ranged from 100 percent to zero. In-state carriers, those with a central processing site in Maine, carried more of the load and had a better overall rate than out-of-state carriers – 86 percent vs. 63 percent.

Maine employers are required to carry workers compensation insurance, the premiums of which vary widely by profession. An employer could pay \$16 for every \$100 of payroll for a welder and just \$2.03 cents per \$100 for a hotel employee.

The Annual Compliance report also tracked the number of first injury reports mailed to the board within the mandated

How does your insurer rate?

Compliance rate for first indemnity payments, required within 14 days of work-related injury or illness.

Insurer	Total payments	On-time payments	% on-time
Acadia*	319	274	87%
Arrow Hart	6	6	100%
American Interplate*	44	26	59%
Atlantic Mutual	21	13	62%
City of Bangor	19	14	74%
Truckler, Irwin & Graf	1	0	0%
Bill Johnson Agency	3	2	67%
Bath Iron Works	59	57	97%
Chubb Insurance Group*	16	8	50%
Cunningham & Lindsey*	14	5	36%
Dunlap Claims Management*	134	114	87%
Guard Group*	54	24	44%
East Group*	52	33	63%
Firmana Fund*	49	38	78%
Frontier Insurance Co.	1	0	0%
Fairfield Insurance Co.	1	1	100%
Bob Robbins*	14	8	57%
Great American*	3	2	67%
Gates*	31	14	45%
Gallagher Bassett*	23	11	48%
General Accidents Ins.	4	3	75%
Georgia Pacific	10	10	100%
Great West Casualty	1	1	100%
Hanover Insurance Group*	356	293	83%
The Hartford Group*	47	34	72%
Hannaford Brothers	54	67	80%
Kemper Group*	72	51	70%
Liberty Medical Group*	253	188	74%
Lumber Insurance Co.*	23	6	26%
Maine Automobile Dealers*	54	53	98%
Managed Comp	1	1	100%
Mead*	7	7	100%
MEMIC	1562	1342	87%
MECA/AMTA*	120	114	95%
MMA*	258	198	77%
MSMA	106	100	94%
Morse, Payson & Noyes*	68	66	97%
New England Telephone*	18	17	94%
Northern General Services*	125	105	84%
National Grange Mutual Insurance	2	0	0%
Old Republic Insurance Co.	6	3	50%
Peerless Insurance Group	98	88	90%
Pratt & Whitney/AIG*	2	2	100%
Public Service Mutual Ins. Co.	2	0	0%
Reliance Insurance Group*	38	19	50%
Royal Sun Alliance/EBI Ins. Group* 248	123	60%	
RSK/C.N.A.*	110	66	78%
Savers	8	5	63%
Sedgwick Insurance Group*	537	460	86%
Security Insurance Co.	7	3	43%
St. Paul Insurance Group*	40	21	53%
Syneract*	57	54	95%
Travelers Insurance Group*	241	183	76%
State of Maine	148	126	85%
Worcester Insurance Co.	5	3	60%
Yasuda	2	0	0%
Zurich Insurance Group*	133	83	63%

NOTE: * indicates subsidiaries, whose results are included in the total

SOURCE: 2000 Annual Compliance Report, State of Maine Workers' Compensation Board

seven days that the employer or insurer learns of the injury or illness. That figure improved from 36 percent in 1997 to 78 percent in 2000, likely aided by the \$100 fine for late reports instituted in 1999.

While the improvements are "very, very noteworthy," Minkowsky said that there's only been marginal improvement since 1999.

Maine is unique in publishing the names and compliance rates of specific companies, something it's done for two years now. The only other states that track and release similar information, to his knowledge, are Wisconsin and

Florida. Their compliance rates for 14-day payments are 80 percent and 90 percent, respectively.

Minkowsky said he hoped businesses would use the information when seeking workers compensation coverage, rewarding the well performing companies.

The data should be available later on the Internet.

"I think that we're really on the cutting edge," said Paul Dionne, the WCB's executive director. He said the goal now is to raise the issues of compliance and give the information to policy leaders to shape discussion.

The final report will be sent to the governor, House and Senate leadership and the labor committee.

Minkowsky said he thought there ought to be penalties associated with being late and also suggested a new 90 percent benchmark.

As it stands, noncompliance could move a company closer toward the top in the three-year cycle of audits.

"It certainly seems to me the board is going to entertain the possibility of sanctions against companies that don't meet benchmarks or aren't in compliance," Dionne said.

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5. Worker Advocate Program.

I. Introduction.

The Worker Advocate Program was established by the Legislature to assist injured workers in processing their disputed workers' compensation claims. The Legislature allocated \$500,000 in FY97 and an additional \$85,000 in FY00 to fund this program. The actual cost to the Board in FY01 was approximately \$1,200,000. An additional \$300,000 was approved by the Legislature to provide temporary help for the Worker Advocate Program in FY02. Initially, ten advocates were hired and placed in the five regional offices of the Workers' Compensation Board. Each advocate was assigned to a specific hearing officer. In order to ensure that there was a separation between the Board and the Advocate Program, the Board has provided the advocates with their own staff and office space in each regional office.

The Board recognized, at the very beginning, that proper equipment and data processing tools were necessary for the successful operation of the program. Accordingly, the Board has placed "state of the art" computers in every advocate office. In addition, the Advocate Division has a computerized case management system that permits scheduling, docketing, reporting and updating of information on all case files. This system permits the advocates to have access to case materials right at their desktop. The Board plans to update and improve this system by using some of the \$300,000 allocated by the Legislature for FY02.

II. Duties.

An injured worker must request the services of an advocate. This request can be made only if the claim has been through the troubleshooting process, is still unresolved, and does not fall into one of the exceptions enumerated in 39-A M.R.S.A. §153-A(6) (discussed below). Once the worker is assigned an advocate, a file is created and the advocate prepares the case for mediation. The mediation process is a mandatory attempt to voluntarily resolve disputed claims. The advocate attends the mediation with the injured worker and has the authority to negotiate an agreement with the employer/insurer on behalf of the employee.

If the claim is not resolved in mediation, the next step is filing petitions and proceeding to Formal Hearing. The advocates provide representation and litigate disputed claims through the Formal Hearing process. This includes compiling medical reports, preparing the worker for hearing, the taking of direct and cross-examination testimony, and the filing of position letters at the conclusion of the testimony. The advocates also, when necessary, attend depositions of medical providers, private investigators and labor market experts. Essentially, the advocates have the same duties as any other person who represents injured workers.

From the beginning of the program, it was believed that the advocates were spending a great deal of time on cases that had no merit and that this time could be more effectively spent on more fruitful cases. The Legislature agreed. Effective September 19, 1999, P.L. 1999, Chapter 410 provides for a framework for advocates to decline and/or withdraw from cases without merit. An advocate may choose not to represent a person under the following statutory criteria of Chapter 410 (codified at 39-A M.R.S.A. §153-A(6)):

- (1) Timely notice of the injury was not given by the employee to the employer, pursuant to this Act;

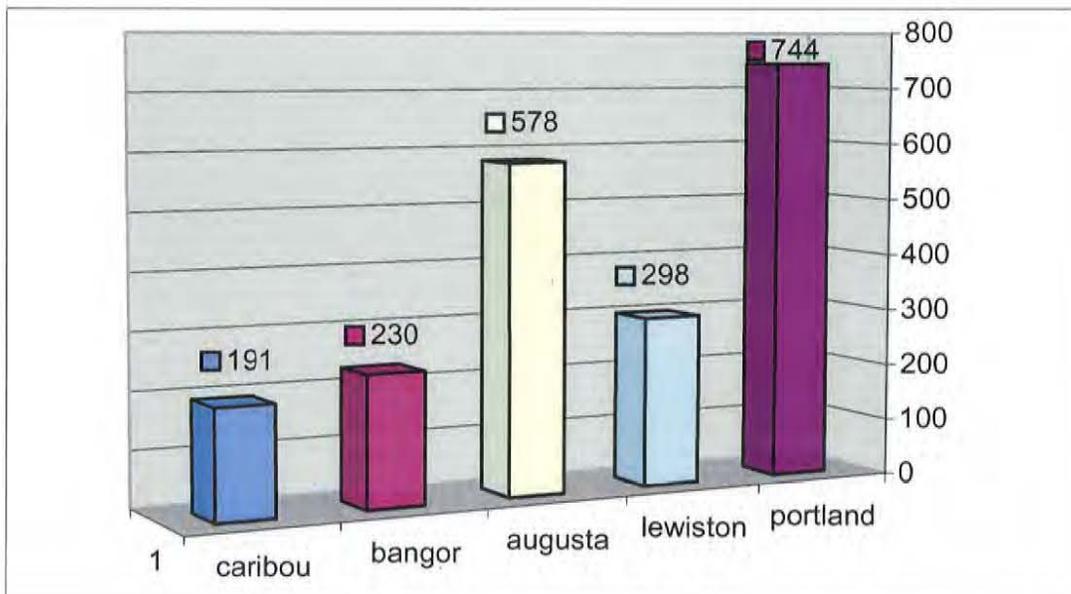
- (2) The statute of limitations has expired;
- (3) The employee's case is based on an argument or issue adversely determined by the Supreme Judicial Court;
- (4) The employee's case is based on a claim of discrimination governed by section 353;
- (5) There is no record of medical assessment stating that the employee's injury was either caused by, aggravated by or precipitated by the employee's work or, when the issue is aggravation, there is no record of medical assessment stating that the employee's work aggravated a pre-existing condition in a significant manner; or
- (6) The employee has admitted to a fraudulent act, has been convicted of a fraudulent act by a court of competent jurisdiction or has been found to have committed a fraudulent act by the abuse investigation unit of the Board.

The Legislature provided for specific safeguards in the application of this section. The advocate, after a thorough investigation must request, in writing to the staff attorney, permission to drop the case. The staff attorney must approve the request in writing. Finally, the employee has the right to appeal to the Executive Director of the Board the decision of the staff attorney.

Unfortunately, Chapter 410 has not had a significant impact on those claims that should not be in the system. The Advocates have seen only about a 1% reduction in their caseload. Further study of this issue is ongoing and recommendations will be submitted to the Board.

III. Workload.

Injured workers have flocked to the Worker Advocate Program in overwhelming numbers. The need for competent representation, where private attorneys are not an option, has been clearly proven by the number of cases that the advocates have handled for the time period from December 1, 1997 through July 30, 2001. A substantial majority of the active caseload is in the Portland and Augusta offices. As you can see, the Portland and Augusta regional offices account for 65% of all open files with the remaining 35% distributed among the other three regional offices. Fully 80% of all files are found from the Kennebec Valley to York County. The following chart highlights this situation.



Through the month of July 2001, the Advocate program had 2,041 open files. The Advocates, from December 1997 through July 2001, have represented injured workers in over 8,400 Mediations and 1,750 formal hearings.

The percentage of unrepresented employees has dropped significantly since the inception of the Worker Advocate Program. Advocates now participate in approximately 50% of the total number of mediations and 30% of formal hearings. These numbers are indicative of the popularity of and need for the program. However, these numbers also are very overwhelming for the advocates and staff.

IV. Staffing.

Adequate support staff has been a problem since the beginning of the program. The enabling legislation provided for only two support staff positions statewide. The Board provided for an

additional four positions before the advocates were placed in the regional offices. However, the huge caseload, particularly in the southern part of the state, has made the delivery of services very difficult. The Board recognized this problem and hired an additional advocate for the Portland office as well as a Paralegal Assistant in Portland and Senior Paralegal Assistant in Lewiston. Recently, the Board added another Advocate and a Senior Paralegal Assistant in the Bangor office.

The Legislature also provided funding for two additional paralegal assistants in the Augusta and Bangor offices. Because of a pressing need for additional staff in the Portland and Augusta offices, the Legislature has now provided for an additional \$300,000 for the Advocate Program, effective September 2001.

The Board will allocate these additional funds to the following functions:

- (1) advocate overtime;
- (2) additional staff in the Portland and Augusta offices;
- (3) upgrading the Advocate computerized case management system.

An article in the *Lewiston Sun Journal*, dated August 8, 2001, recognized the overwhelming workload confronting the Worker Advocate Program. The article also correctly states that the additional funding is only temporary and is not a long-term solution for the Program.

The staffing issue directly affects the quality of the services the advocates can deliver to the injured workers they represent. Without adequate support staff, the advocates cannot be as efficient in the representation of injured workers as they could be. The program is very fortunate to have a dedicated group of advocates, who take their jobs seriously. The future success of the Advocate Program is tied directly to this staffing issue.

V. Conclusion.

The Worker Advocate Program has been quite successful. The response by injured workers has been overwhelming. The advocates are performing their duties in a caring and professional manner. This program is really making a difference. Injured workers now have access to representation and assistance that enables them to receive all benefits to which they are entitled. The issues of funding, caseload, and staffing, however, must be addressed in a long-term way to ensure the viability of the program.

The Benchmarks of the Worker Advocate Program have been met.

- (1) Represent 50% of the employees at the mediation phase: MET.
- (2) Represent 30% of the employees at the formal hearing phase: MET.

**6. Independent Medical Examinations
and Medical Fee Schedule.**

I. Independent Medical Examinations.

Draft regulations for the implementation of Section 312 of the Workers' Compensation Act of 1992 were first presented to the Board of Directors April 7, 1994, with final approval dated January 3, 1996. Section 312 provides, in part, as follows:

Examiner system. The board shall develop and implement an independent medical examiner system consistent with the requirements of this section. As part of this system, the board shall, in the exercise of its discretion, create, maintain and periodically validate a list of not more than 50 health care providers that it finds to be the most qualified and to be highly experienced and competent in their specific fields of expertise and in the treatment of work-related injuries to serve as independent medical examiners from each of the health care specialties that the board finds most commonly used by injured employees. The board shall establish a fee schedule for services rendered by independent medical examiners and adopt any rules considered necessary to effectuate the purposes of this section.

Duties. An independent medical examiner shall render medical findings on the medical condition of an employee and related issues as specified under this section. The independent medical examiner in a case may not be the employee's treating health care provider and may not have treated the employee with respect to the injury for which the claim is being made or the benefits are being paid. Nothing in this subsection precludes the selection of a provider authorized to receive reimbursement under section 206 to serve in the capacity of an independent medical examiner. A physician who has examined an employee at the request of an insurance company, employer or employee in accordance with section 207 during the previous 52 weeks is not eligible to serve as an independent medical examiner.

Appointment. If the parties to a dispute can not agree on an independent medical examiner of their own choosing, the board shall assign an independent medical examiner from the list of qualified examiners to render medical findings in any dispute relating to the medical condition of a claimant, including but not limited to disputes that involve the employee's medical condition, improvement or treatment, degree of impairment or ability to return to work.

Rules. The board may adopt rules pertaining to the procedures before the independent medical examiner, including the parties' ability to propound questions relating to the medical condition of the employee to be submitted to the independent medical examiner. The parties shall submit any medical records or other pertinent information to the independent medical examiner. In addition to the review of records and information submitted by the parties,

the independent medical examiner may examine the employee as often as the examiner determines necessary to render medical findings on the questions propounded by the parties.

Medical findings; fees. The independent medical examiner shall submit a written report to the board, the employer and the employee stating the examiner's medical findings on the issues raised by that case and providing a description of findings sufficient to explain the basis of those findings. It is presumed that the employer and employee received the report 3 working days after mailing. The fee for the examination and report must be paid by the employer.

Weight. If the parties agree to a medical examiner, the examiner's findings are binding. If the board assigns an independent medical examiner, the board shall adopt the medical findings of the independent medical examiner unless there is clear and convincing evidence to the contrary in the record that does not support the medical findings. Contrary evidence does not include medical evidence not considered by the independent medical examiner. The board shall state in writing the reasons for not accepting the medical findings of the independent medical examiner.

Annual review. The board shall create a review process to oversee on an annual basis the quality of performance and the timeliness of the submission of medical findings by the independent medical examiners.

Presently, there are 25 Independent Medical Examiners in ten specialties, as shown in the following list:

Chiropractic	David M. Ballew, D.C.
Family/General/Internal	Geoffrey Gratwick, M.D. Peter Shaw, M.D. Douglas Trenkle, M.D.
Hand Surgery	S. Craige Williamson, M.D.
Neurosurgery	Julius Ciembroniewicz, M.D.
Neurology	Peter A. Bridgman, M.D. Seth Kolkin, M.D.
Occupational Medicine	Alexander L. Mesrobian, M.D. William Newkirk, M.D. David L. Phillips II, M.D.

Orthopedic Surgery

James F. Findlay, D.O.
Peter E. Guay, D.O.
Jordan Shubert, M.D.
Michael J. Totta, M.D.

Physiatry

G. Thompson Caldwell, M.D.
Stephan Bamberger, M.D.
Peter Esponnette, M.D.
Peter R. Geobel, M.D.

Psychiatry

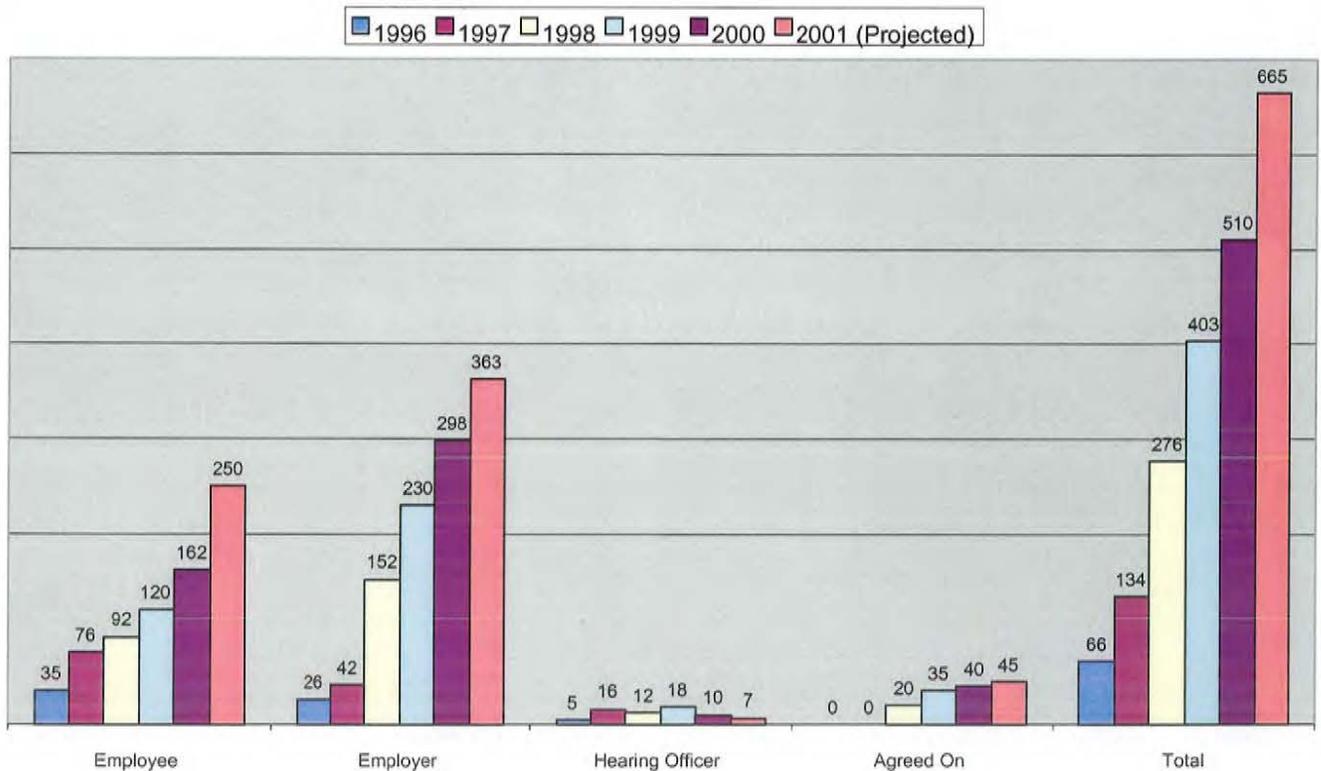
Carylyle Voss, M.D.

Psychology

Roger Ginn, Ph.D.
Jeff Matranga, Ph.D.

Requests for IMEs, from all sources, have increased every year since 1996.

**Independent Medical Examinations
Maine, 1995 - 2000**



II. Medical Fee Schedule.

The Board first published a Medical Fee Schedule on April 4, 1994. In order to ensure appropriate limitations on the costs of health care services, the board is compelled pursuant to Section 209 to adopt rules that establish “standards, schedules, or scales of maximum charges for individual services, procedures or courses of treatment.” The standards to be adjusted annually to reflect any appropriate changes in levels of reimbursement.

In August, 1997, the Board adopted the Resource Based Relative Value System (RBRVS) as the most efficient method to administer a fee schedule. The RBRVS has proven to be very successful. The fee schedule was revised and updated in 1999 and 2001.

III. Reduction in Staff.

With reorganization and changes in responsibilities of the Office of Medical/Rehabilitation Services, it was decided that the two full-time RN positions originally allocated to the Office were no longer necessary at this level and thus were eliminated.

IV. Conclusion.

The goals and objectives for the Independent Medical Examiner Program and the Medical Fee Schedule have both been met:

- A. To maintain a minimum of 25 Independent Medical Examiners in pertinent specialties: MET.
- B. Publish and revise Medical Fee Schedule bi-annually: MET.

7. Technology.

The Board first implemented an information system in the early to mid-1980's. The system was primarily used by the Central Office to collect First Reports with little or no functional use beyond the simple collection of the data. In the later part of the 1980's, programs were written to use the information collected to perform rudimentary scheduling of cases for the dispute resolution process. The only other use of the system at the time was some basic word processing.

There were numerous problems with hardware reliability and securing technical support for the proprietary hardware and software applications. The staffing complement at the time, three Information Technology ("IT") professionals, did not have the time or resources to maintain the system adequately. Additionally, there were no off-the-shelf applications available due to the proprietary nature of the hardware and operating system software.

In the early 1990's, the original system was replaced by a system provided by Bull, a more maintainable system for the dispute resolution process. While this was a more mainstream product, the business application was written in an older, more rigid programming language. This made it difficult and time-consuming to utilize data, even though the staff had increased to five IT professionals.

The increasing need for staff, the Board, other state entities, and the private sector to access data led the Board to begin a migration effort to a relational database structure (Progress). Unfortunately, the database structure that had been developed had major design flaws that allowed corruption and data integrity problems to exist. The integrity and accuracy of any data or reports generated using the database could easily be called into question. In addition, Central and Regional office staff were not involved in the design effort resulting in a system with no functional modifications and/or enhancements.

In addition, the new Progress database was put into production without first running it in a parallel mode with the then current system to assure no problems existed prior to the switchover. As it turned out, there were significant problems that took almost a year to correct. By September 1997, the entire technical staff had resigned to accept other jobs, leaving the agency no IT staff. To compound the problem, the Chief Information Officer (CIO) would not allow the Board to replace its IT staff. The mindset at the time was to centralize all IT positions within the Bureau of Information Services. During the fall of 1997, as a result of the Board's reorganization effort, the WCB hired an Agency Technology Officer.

From November 1997 through July 1998, a major effort was made to upgrade the Board's seriously outdated systems, desktop software, networking hardware/software, and communication infrastructure. All 120 desktop systems were replaced; Microsoft Office was installed, e-mail was added to each system, all six office servers were replaced, networking software was upgraded, and all communication lines were upgraded from 56k to T1.

Having completed this project, the ATO then studied the ability of the computer system to provide the data on the compliance of employers and insurance carriers with the Workers' Compensation Board's laws and regulations. This was undertaken on behalf of the MAE program. It quickly became clear that the system would not provide the quality assurance and data integrity required for the MAE program. Utilizing the one programmer from the Department of Labor that

the ATO had at his disposal, work began to rewrite the business application. Normally an effort this size would take a team of four approximately a year and a half to complete. Work began in the Claims area due to the need to capture First Report data immediately. The first compliance report was produced during June 1999. There was no system enhancements or workflow analysis of the Claims section provided during this initial phase. The focus was to get something up fast to comply with legislation.

Work then shifted to the Coverage Unit for functional analysis and system design. Migration of the Coverage Unit to the new system was accomplished in December 2000. One of the highlights was the shift to a common employer database with the Department of Labor's Bureau of Labor Standards (BLS). This change saved considerable time during the analysis phase as well as providing a method to automatically keep our employer information up-to-date. There were other system changes and workflow enhancements added to Coverage programs that increased the functionality of the system. System edits and checks were also added to help identify data quality issues. The programming effort is now focused on the Regional Offices, with Abuse, Advocate, Rehabilitation, and a revisit to Claims for a more thorough analysis of the Claims division still to occur.

Other work includes expansion of the current electronic data submission process and enhanced system capabilities for data distribution to supervisors, managers, and other entities requesting WCB data. There are also increasing requests from the BLS for data and additional elements BLS requests the Board to gather, verify and cleanse. These efforts directly affect the workload of an already over-burdened Claims and Coverage staff.

There have been a number of system migrations over time, most brought on by the need for information due to changing legislation and increased staff functionality. The common element in all these migrations is that they are neither funded adequately nor given a reasonable timeframe to be properly implemented. The situation has grown more critical over the past couple of years due to staff's increased reliance on the system and the lack of adequate funding for current operations. If the database system is down for any reason, all work stops. At the heart of our system is a seven-year-old piece of hardware that does not have a maintenance contract or back-up system (hot or cold) to resume operations in the event of serious malfunction. Additionally, there are no upgrade programs or support/maintenance contracts for any desktop/networking equipment or software. The one IT position (ATO) and one contract programmer provide all system support, development, training, and planning for the entire agency. This includes the desktop suite of products, business application, e-mail, operating system, networking, file restorations, the Advocates' current proprietary application, web-based services, electronic data transfers, etc. There are basically no funds available to contract for additional help in any area. My fear is that it will take a catastrophic system failure before these issues are properly addressed.

The Goals and Objectives of the Board's technology effort have had varying degrees of success as noted below:

- (1) Upgrade Board's personal computers, desktop software, networking hardware/software, and communications infrastructure: MET.

- (2) Establish a common employer database with the Department of Labor's Bureau of Labor Standards (BLS): MET.
- (3) Rewrite business applications: WORK IN PROGRESS. Should be completed by March, 2002. Reason for delays is that only one programmer is available to the Board for this effort. The Board has requested the use of funds from its Reserve Account to hire additional programmers but was denied the use of these funds by the Bureau of the Budget.
- (4) Expand the use of electronic transfer of data: NOT MET.

A law became effective in September of 1999 requiring all State agencies to have an on-line inventory of all forms used by individuals and businesses to do business in the State. The law also requires State agencies to allow for electronic submission of those forms. To that end, the Board has listed all of their forms on line and currently accepts the filing of First Reports electronically.

The Board has provided for the electronic transmission of data since 1993. It is done on a voluntary basis and a number of carriers participate. The Board has encouraged others to voluntarily file their reports electronically, but has met with limited success. During the next 12 to 18 months, the Board will work to increase the number of entities that submit claims electronically as well as include two additional forms for electronic transmission (Notice of Controversy and Memorandum of Payment). The Board will continue to work with the International Association of Industrial Accident Boards and Commissions (IAIABC) to implement its recently developed Combined Claims Product. The Board is also considering mandating electronic transmission.

8. Ten-year Financial Summary

The Workers' Compensation Board has two accounts: The Administrative Fund and the Employment Rehabilitation Fund. The Administrative Fund is the account from which the Board pays its expenses. It will be discussed more extensively than the Employment Rehabilitation Fund which, as a result of a recent legislative change, does not figure as prominently in the Board's operations.

I. ADMINISTRATIVE FUND.

A. BACKGROUND.

As a result of sweeping changes enacted in 1992, the Workers' Compensation Board replaced the Workers' Compensation Commission. As the Legislature and Governor debated the proposed changes to the workers' compensation laws, they also considered how to fund the new agency (i.e. the Board) that was being created.

The Board received an appropriation from the General Fund for fiscal year ("FY") 93. However, the Legislature and the Governor decided, in the context of the economic slowdown in the late 1980's and early 1990's, that the Board should have an independent source of funding. Thus, the Board is considered an independent agency and receives no General Fund money. Instead, the Legislature and the Governor created an assessment on Maine's employers that is used to fund the Board's operations.

The Workers' Compensation Board receives virtually all of its revenue from this assessment. The maximum amount that the Board can assess each year is set by statute. 39-A M.R.S.A. §154(6). In 1993, when the Board was created, the maximum assessment was set at \$6,000,000. Between FY 1994-1995 and FY 2000-2001, the maximum assessment increased twice: By \$600,000 beginning in FY 97, and by an additional \$135,000 in FY 00².

The process for issuing and collecting the annual assessment is set forth in the Workers' Compensation Act. 39-A M.R.S.A. §154. The statute requires the Board to divide the assessment between self-insured employers and insured employers. The division is based on the pro rata share of disabling cases³ each category of employer is responsible for. 39-A M.R.S.A. §154(5). As an example, in calendar year 2000 insured employers were responsible for 61% of disabling cases,

² The assessment increases were enacted to fund two new programs; the Worker Advocate and Monitoring, Audit, and Enforcement Programs. As will be discussed below, these programs were underfunded and have severely strained the Board's budget.

³ A disabling case is defined as a case that results in a day or more of lost time from work.

while self-insured employers were responsible for 39% of such cases. Consequently, insured employers paid 61% of the FY 02 assessment and self-insured employers the remaining 39%.

Once the distribution of disabling cases is determined, the Board must determine how much to assess. In calculating the amount to be assessed, the Board first projects its expenditures. The Board then projects the amount, if any, of its surplus. The surplus is defined as the money in the Administrative Fund account that exceeds the allowed reserve.⁴ The surplus must be returned to Maine's employers in the form of a reduced assessment. As shown in Chart 1, the Board has reduced its annual assessment five times in the last eight years. These reductions total \$5,870,000.

Chart 1

08/02/01

**Workers' Compensation Board
Allowed Assessment vs. Amounts Assessed**

Fiscal Year*	Maximum Assessment	Actual Amount Assessed	Amount of Cut	Assessment Rate
1995	6,000,000	5,750,000	250,000	1.4%
1996	6,000,000	6,000,000	0	1.93%
1997	6,000,000	6,000,000	0	2.65%
1998**	6,600,000	6,600,000	0	2.78% and 3.15%
1999	6,600,000	6,350,000	250,000	2.79%
2000***	6,735,000	5,100,000	1,635,000	2.26%
2001	6,735,000	5,000,000	1,735,000	1.99%
2002	6,735,000	4,735,000	2,000,000	1.47%
	51,405,000	45,535,000	5,870,000	

* Fiscal Year 1994 does not appear because the Board assessed a specific dollar amount, as opposed to using a rate in that year.

** PL 97 Ch 486 increased the assessment cap by \$600,000 which resulted in the need for two rates

*** PL 99 Ch 359 increased the assessment cap by \$135,000 but the Board did not issue a supplemental assessment.

The procedure for assessing self-insured employers is straightforward. Each self-insured employer is assessed a specific dollar amount based on the aggregate benefits paid by each self-insurer during the previous calendar year. If, for example, a self-insured employer paid 10% of the

⁴ The Board is required to have a reserve equal to one-quarter of its annual budget. 39-A M.R.S.A. §154(6). Currently, the Board's reserve account can be funded to a maximum of \$1,700,000. The reserve account is discussed more fully below.

total aggregate benefits paid by self-insured employers in the previous calendar year, that self-insured employer would pay 10% of the total self-insured assessment. Each self-insured employer must pay its assessment for the upcoming fiscal year on or before each June 1.

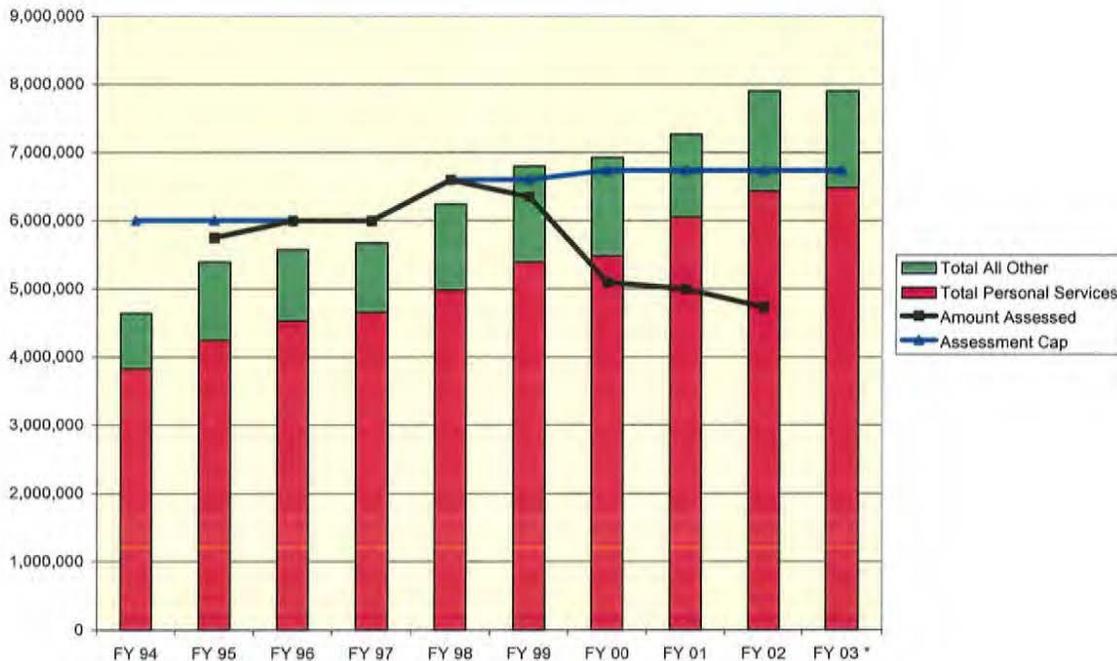
The procedure for calculating and collecting the assessment from insured employers is more complicated. Insured employers do not pay a specific dollar amount. Instead, a rate, calculated by the Board with assistance from the Bureau of Insurance and industry experts, is applied to each workers' compensation policy. Insurers collect the money from their insured employers and then remit payment to the Board on a quarterly basis. Due to audits, reconciliations, and the method of collection, the Board's books for a fiscal year do not close at the end of the fiscal year. The Board is still, for example, receiving payments based on assessments that were, technically, due in FY 96.

B. BUDGETARY PRESSURES DUE TO THE MAXIMUM ASSESSMENT.

As can be seen in Chart 2, the Board's assessment cap was adequate to fund the agency's operations until FY 97. In FY 97, the Legislature enacted, and the Board implemented, legislation that expanded the Worker Advocate Program and created the MAE Program. The Board's assessment cap was increased by \$600,000 in FY 97 (and again by \$135,000 in FY 00) to pay for those programs. The cost to the Board has been far in excess of the \$735,000 allocated for the task. These two programs cost the Board approximately \$1,500,000 in FY 01; more than twice as much as was allocated. The cost of these programs, in addition to increases in employee salaries, the cost of benefits, and general inflation, created, in light of the maximum assessment set by law, budgetary problems for the Board.

Chart 2

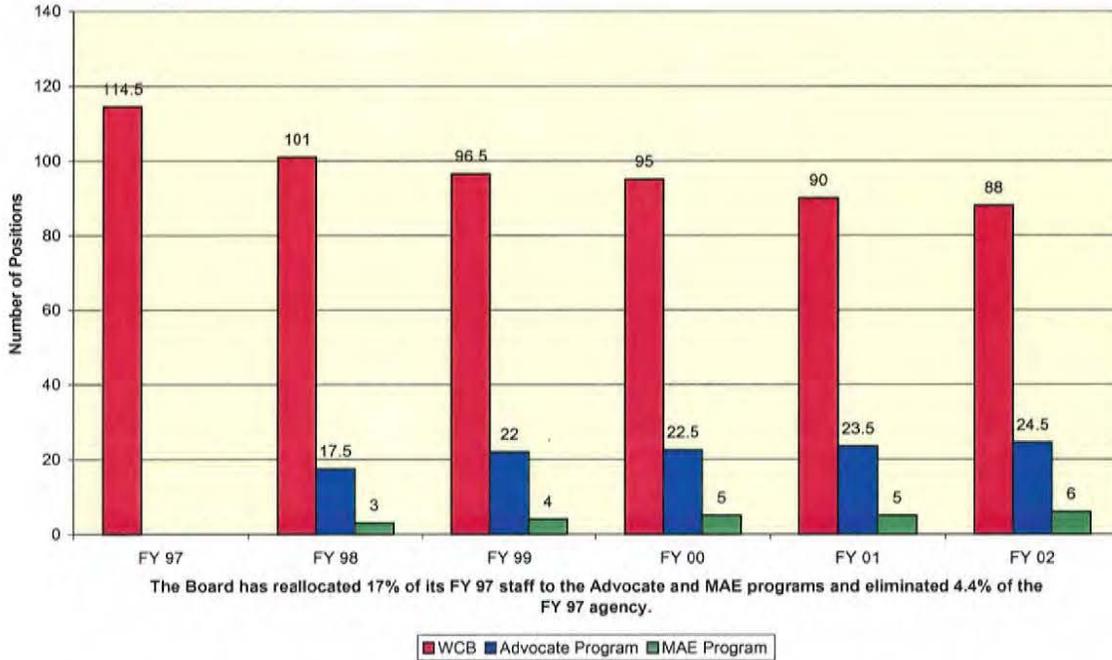
WCB - 10 Year Schedule of Actual and Projected Expenditures



The Board, in an effort to resolve its budget problems and shore up these programs, especially the Worker Advocate Program, transferred significant resources from the dispute resolution section of the agency, to these programs. Chart 3 details the shift of personnel that has occurred since FY 97. The Board has, in order to ensure that the Worker Advocate and MAE Programs are as effective as possible, reassigned or eliminated 21% of the positions that were allocated to dispute resolution.

Chart 3

WCB - Personnel Changes Since FY97



In addition to absorbing more than 50% of the costs of the Worker Advocate and MAE Programs, the Board has also had to find money to pay for salary and benefit increases, and for increased costs of doing business as a result of inflation. Chart 4 shows the dramatic increase in salary and benefit costs that the Board has absorbed since FY 94.

Chart 4

WORKERS' COMPENSATION BOARD ADMINISTRATIVE FUND 10 Year Schedule of Actual and Projected Expenditures

	Actual Expenditures							FY 2001	Percentage Increase	Work Program FY 2002	Percentage Increase
	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000				
Salaries	2,976,114	3,266,743	3,307,311	3,361,673	3,636,313	3,925,732	4,004,852	4,177,868	40.38%	4,563,756	53.35%
Health Insurance	314,702	393,820	459,807	451,922	463,465	493,091	533,905	672,432	113.67%	776,722	146.81%
Dental Insurance	19,163	21,799	22,152	21,390	22,618	24,043	25,019	26,709	39.39%	30,442	58.86%
Workers' Comp Insurance*			59,340	59,211	31,951	22,552	35,871	36,504	-38.45%	78,120	31.65%
Retirement Costs	476,735	519,656	632,769	717,250	775,280	869,550	819,487	913,117	91.54%	925,534	94.14%
Employer Life Insurance	15,230	10,582	11,052	10,803	12,502	13,570	13,660	14,206	-6.72%	15,306	0.50%
Employer Medicare	23,591	33,676	39,812	36,076	39,763	43,743	44,600	46,668	97.82%	48,528	105.70%
Child Care	4,400	2,150	2,800	2,800	5,050	5,850	6,087	4,441	0.93%	5,000	13.64%
Total Personal Services	5,829,934	4,248,427	4,529,042	4,661,115	4,986,841	5,398,131	5,483,582	5,891,945	53.84%	6,443,408	68.24%
Total All Other	808,858	1,143,779	1,045,632	1,014,033	1,257,820	1,401,035	1,442,812	1,225,183	51.47%	1,390,881	71.96%
Total Capital	2,832	37,621	0	0	0	0	0	0		15,000	
Total Expended	4,641,624	5,429,827	5,574,674	5,675,148	6,244,661	6,799,166	6,926,393	7,117,128	53.33%	7,849,289	69.11%
Assessment Cap	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,735,000	6,735,000	12.25%	7,135,000	18.92%
										** Temporary increase in assets	
Annual Allocation	5,798,725	5,591,905	5,732,109	5,988,715	6,532,764	6,855,515	7,070,709	6,956,932		7,849,289	

For example, in FY 94 the Board paid \$2,976,114 to cover employee salaries. In FY 02, the Board will pay \$4,563,756 to cover its employees' salaries. This represents an increase of \$1,587,642. Also, health insurance for the Board's employees' cost \$314,702 in FY 94, and will cost the agency \$776,722 in FY 02 – an increase of \$462,020. Unlike other state agencies, the Board cannot tap into the State's Salary Plan to fund contract and benefit increases. The Board must find a way to absorb these increases within the limits set by the maximum assessment.

The Board's All Other⁵ expenditures have also risen sharply since FY 94. In FY 94, the total All Other expenditures were \$808,858. In FY 02, even after paring down this portion of the Board's budget, the Board will spend \$1,390,881, \$582,023 more than was spent in FY 94. Again, the Board cannot simply increase its annual assessment to meet these rising costs.

By conservatively managing its budget, the Board, from FY 97 to FY 01, was able to absorb the various increases and establish effective Worker Advocate and MAE Programs. The problem, however, reached a crisis point in FY 02. The assessment cap for FY 02 was simply inadequate to fund the Board's operations. As a result, the Board was required to dip into its reserve account (in the amount of \$700,000) in order to fully fund its operations.

Without the use of its reserve account, the Board would have been forced to institute deep cuts in its personnel. These cuts would have had a devastating impact on the Board's ability to meet its mission statement. The impact would almost certainly have crippled the Worker Advocate Program and undone the Board's effort to streamline its dispute resolution process. The Legislature recognized the urgency of the Board's situation. It took two steps: First, the Legislature authorized the use of \$700,000 from the Board's reserve account; and, second, the Legislature authorized a one-time increase in the maximum assessment to provide temporary assistance to the Worker Advocate Program.

⁵ All Other expenditures include non-personnel expenditures such as rent, electricity, etc.

These efforts solved the Board's funding problem for FY02, but the Board, in FY03 and beyond, is facing further budgetary problems stemming from the assessment cap. Possible solutions to this problem are discussed in Section D below.

C. THE RESERVE ACCOUNT.

The Board is required to have a reserve account equivalent to one-quarter of its annual budget. 39-A M.R.S.A. §154(6). The Board has had a fully funded reserve account for several years. However, due to a long-running debate between the Bureau of the Budget and the Board, the Board has been unable to make effective use of its reserve account.

The debate centers around how the Board should be able to use money in the reserve account and, perhaps more importantly, the manner in which the Board may request use of its reserve fund.

As to its use, the Board believes that the statute gives it the authority to spend the reserve account in the manner best suited to meet the agency's needs. The Board's position is clearly supported by the Workers' Compensation Act which states:

All money credited to the Workers' Compensation Board Administrative Fund must be used to support the activities of the board and for no other purpose. Any balance remaining continues from year to year as a fund available for the purposes set out in this section and for no other purpose.

39-A M.R.S.A. §154(1).

The Bureau of the Budget, however, has consistently refused to allow the Board to request an allocation of the money in its reserve account.

The current fiscal year provides an excellent example. In preparing its budget request for FY 02 and FY 03, the Board realized that its revenue from the assessment (along with interest and other miscellaneous income) would not be enough to meet its spending needs. The Board, therefore, proposed the use of some of its reserve account to meet the anticipated gap between revenues and expenditures. The Bureau of the Budget objected to the Board's attempt to use its reserve account and refused to submit the Board's budget, as written, to the Legislature. Instead, the Bureau of the Budget removed the reserve account money and forwarded, to the Legislature, a budget reflecting a \$600,000 shortfall in FY 02 and an \$800,000 shortfall in FY 03.

The Bureau's actions are problematic for two main reasons. First, the Bureau of the Budget has, in effect, taken over the administration of the Board's budget by substituting its judgment on how to meet the Board's expenditure needs for that of the Board. This runs directly counter to the statutory mandate that the Board "administer its budget with the assistance of the Executive Director." 39-A M.R.S.A. §152(13).

Second, the Workers' Compensation Act specifies that "[e]xpenditures from the Workers' Compensation Board Administrative Fund are subject to legislative allocation and approval..." By refusing to submit the Board's budget, as initially drafted, to the Legislature, the Bureau of the

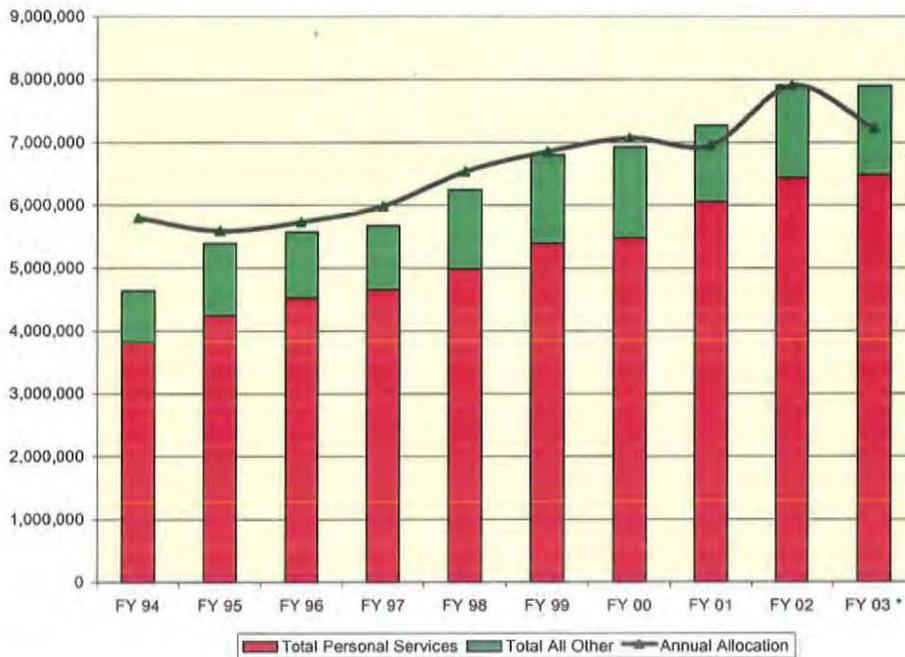
Budget is preventing the Legislature from considering whether, and under what circumstances, the Board should use its reserve funds.

As mentioned previously, the budget proposal submitted by the Bureau of the Budget did not include any use of reserve funds. Because of the Board's budget problems, however, the issue of the Board's reserve account came before the Labor Committee. After considering the issue, the Labor Committee, and, ultimately, the entire Legislature, approved the use of \$700,000 from the reserve account to make ends meet in FY 02.

If the Bureau of the Budget had its way, the Legislature would never be given an opportunity to consider the reserve account in the context of funding the Board's operations. The allocation, from the Board's reserve account, of \$700,000 in FY 02 will help the Board meet its budgetary needs for this fiscal year. The Board will again, however, be short funds in FY 03 and succeeding fiscal years absent a long-term solution to the Board's funding mechanism. (See Chart 5.)

Chart 5

WCB - 10 Year Schedule of Actual and Projected Expenditures and Allocations



D. POSSIBLE SOLUTIONS

One solution to this problem would be to amend the Board's funding formula to permit automatic increases in the Board's assessment cap by amounts equivalent to the actual and projected increases in employee benefits, employee salaries, and inflation. This would help the Board keep pace with rising costs that are beyond its control. It would also allow the Board to continue to provide the same quality service that it is presently providing. While it would increase the Board's maximum assessment, it would not necessarily result in an increase in the actual assessment issued each year. As the Board has demonstrated over the years, it makes every effort to keep the actual assessment as low as possible.

Another alternative would be to simply raise the maximum assessment. This would give the Board additional revenue from which to pay its expenses. The drawback is that, as with the current assessment cap, an increased cap will, at some future date, still prove to be inadequate and will need to be adjusted.

A third alternative is to adopt a funding scheme similar to that employed by the Public Utilities Commission and the Office of the Public Advocate. Under this scenario, the funding mechanism for the Board would remain unchanged with the exception of the Worker Advocate Office. A separate budget and budget process (including review and approved by the joint standing committee with jurisdiction over labor and the joint standing committee with jurisdiction over appropriations) would be created for the Worker Advocate Office. (See 35-A M.R.S.A. §116.)

If no changes are made to the Board's funding formula, the Board will be forced to make deep cuts in FY 03. These cuts will total approximately \$1,100,000. The All Other budget has already been reduced as much as is possible. These cuts will have to come, therefore, from the personal services budget.

It is conservatively estimated that approximately 17% of the WCB's staff of 118.5 employees will have to be laid off if a means of adequate funding is not provided to the agency. This amounts to approximately 20 positions before allowing for bumping required by seniority and also before calculating any amount(s) for unemployment compensation for laid off employees. Several additional positions may need to be targeted in order to allow for seniority and unemployment. It is not inconceivable to predict losing close to a quarter of the Board's staff if adequate funding is not provided. This would decimate the Board and make it impossible for the Board to provide an effective Worker Advocate Program, continue to swiftly resolve disputes, and have an effective Monitoring, Audit, and Enforcement Program.

II. EMPLOYMENT REHABILITATION FUND.

The Board has a second account known as the Employment Rehabilitation Fund (the "ERF"). Funding for the ERF comes primarily from penalties issued against employers that have failed to secure required workers' compensation coverage and from interest on investments. The ERF also receives money in the case of a death of a worker who has no dependents.

A major drain on the ERF came from reimbursements to employers/insurers for certain benefits paid in excess of 260 weeks. However, the responsibility for handling reimbursement requests was transferred, as of September 21, 2001, to a new Supplemental Benefits Oversight Committee ("SBOC"). The SBOC, and not the Board, will now issue reimbursements and raise funds (through an assessment) to pay for reimbursements.

The ERF, in the absence of reimbursements, will primarily be used to pay for vocational rehabilitation assessments, and for implementation of plans when employers/insurers refuse to voluntarily pay the costs of a plan.⁶

III. PERFORMANCE BUDGETING.

Attached is a copy of the Board's performance budget. Performance measures, baselines, and goals, for Accounts 0183 (the Administrative Fund), 0751 (the Board of Directors' account), and 0195 (The Employment Rehabilitation Fund), for Fiscal Years 00, 01, 02, and 03 are included. Results from FY 00 and 01 are provided for Accounts 0183 and 0751. Results for 0195 are not included because, pursuant to P.L. 2001, Ch. 448, the Board is no longer responsible for reimbursing insurers.

⁶ The ERF can recoup up to 180% of the costs of a successful vocational rehabilitation plan from an employer/insurer that refused to voluntarily implement a plan.

<u>Performance Measures</u>	<u>Baseline</u>	<u>FY 00</u>		<u>FY 01</u>	
		<u>Goal</u>	<u>Achieved</u>	<u>Goal</u>	<u>Achieved</u>
1. Percentage of claims through Troubleshooting in 45 days	61%	70%	87%	80%	86%
2. Percentage of claims through Mediation in 45 days	31%	40%	50%	50%	45% ⁷
3. Percentage of claims at Formal Hearing under 10 months	85%	87.5%	90%	90%	91%
4. # of Quarterly Compliance Reports issued within 60 days of the close of the quarter	2	3	0	4	0 ⁸
5. Number of cases closed by the Abuse Unit	700	850	1,519	1,000	2,350
6. % of dispute resolution cases with Advocates at Mediation & Formal Hearing Level	30%	35%	37%	40%	34% ⁹

⁷ Goal was not reached in FY 01 because two of the Mediators had health problems, a third was out for a while on child leave, and a fourth Mediator resigned.

⁸ The goals were not reached due to insurance coverage database migration issues that existed, but are now substantially corrected, and also because of the need for more personnel to handle the workload.

⁹ 44% of cases were with Advocates at the mediation level and 28% were with Advocates at formal. It may not be practical to mix mediation and formal levels for purposes of this performance measure.

9-A. Constituency Served by the Board, Changes or Projected Changes

The constituencies served by the Board are clearly identified in its Mission Statement found at 39-A M.R.S.A. §151-A, which reads as follows:

The board's mission is to serve the **employees** and the **employers** of the State fairly and expeditiously by ensuring compliance with the workers' compensation laws, ensuring the prompt delivery of benefits legally due, promoting the prevention of disputes, utilizing dispute resolution to reduce litigation and facilitating labor-management cooperation.

There are no anticipated or projected changes leaving the constituencies served by the Board as the "employees" and "employers" of the State.

EEO/AA

Provide annual training and/or distribution of state policies, most recent 5/01/2001.

ADA

Publish Civil service Bulletin 8.19 with annual EEO/AA Policy.

Provide supervisory training on periodic and as-needed basis.

Comply with state and federal requirements for ADA request and determination.

Safety and Health

Labor-Management Safety and Health committees meet quarterly.

Conduct on-going ergonomic evaluations.

Provide training on topics such as: Violence in the Workplace; Driving Dynamics; Nutrition and Health.

Conduct annual inspections of all offices.

Fair Labor Standards Act

Provide training for all supervisors of non-exempt employees.

Require employees to accurately reflect work hours.

Interpreter Services for Deaf and Foreign Language

Have TYY phone line available.

Use registered interpreters.

From its inception in the mid-1990s, the Workers' Compensation Board's Health & Safety Committee has focused its energy and resources toward three major areas:

1. Workplace Violence Prevention
2. Employee Wellness
3. Reduction of Specific Work Injuries

For each of these areas to hold significance in the minds of the Board and its employees, it was important to maintain a broad cross-section of representation from within the Board. Each regional office and central office sent representatives to this committee and each representative participated in discussions and planning.

The mission of the Committee was to raise awareness of health and safety issues within the Board and lend both credence and support to the importance of personal as well as corporate health and safety. Once the mission was articulated, the goal of the Committee was to generate additional financial resources through grant applications and funds within the Board so that our mission could be realized. The Committee received additional encouragement and guidance from the State's own "Safety Works" program and William McPeck, Coordinator, Employee Health and Benefits. Members participated in various conferences and seminars, particularly the annual Maine Safety Council's conference held in Portland every September.

Moreover, for the past four years, the Board has applied for and been granted \$3,500.00 annually from the State's Employee Health and Benefits Office. The grant application was reviewed for specificity and compliance with grant standards. We were encouraged to be as innovative as possible as long as we maintained a focus on wellness initiatives and general health and safety. Funds could not be used for capital goods or equipment like ergonomically correct workstations, but could be used for training and installation of emergency warning systems like those now installed in every regional office.

Workplace Violence Prevention

The three areas of emphasis by the Committee have achieved varying success. Clearly, the Board has taken the initiative to establish procedures and safeguards against workplace violence. Warning buttons, commonly called "panic" buttons, have been installed in all hearing and mediation rooms and at reception desks with direct lines to local police stations. Attention has also been paid to maintaining escape routes for mediators and hearing officers in case there is a threat of violence during hearings or mediations. In addition, office space has incorporated safer designs that separate the general public from office staff. The most secure location is the Lewiston Regional Office where this emphasis was articulated first and foremost in the design of that new building. Other regional offices and the central office building are not as secure because they are older buildings. Still, each has been upgraded with the warning buttons and staff has been trained in threat assessment and violence prevention.

Employee Wellness

Whether it is smoking cessation, driver safety, cholesterol screening, weight loss planning or general fitness, the Committee has encouraged each person within the board to take responsibility for his/her health. Pilot projects in Bangor and Augusta have seen employees focus specifically on diet and exercise to encourage a healthier lifestyle, making for happier and more productive employees. However, the Committee has seen varying rates of success and participation. Each employee should first be examined by his/her primary care physician and then develop relevant lifestyle changes. Some employees have not followed through. There appears to be no substitute for individual commitment.

Reduction of Workplace Injuries

Very early into the establishment of the Health & Safety Committee, members of the Committee wanted to see the Board succeed in reducing the numbers and the severity of workplace injuries. The Committee agreed that a two-pronged approach was necessary. We needed ergonomically correct workstations and training of supervisors in ergonomic design and modifications and we needed early reporting of physical symptoms due to work tasks. We stressed the importance to employees that early treatment was necessary for acute conditions to avoid the development of chronic conditions and that early reporting of symptoms was necessary.

The Board has thus far been successful in the early reporting but not the reduction of reported injuries. However, by so doing, the Board is seeing a trend of fewer serious lost time injuries. Granted, the medical side of the equation has risen, but lost time has declined. This appears to be a reflection of a national trend as well with more and more money being spent to treat employee so they can stay on the job.

In summary, the Committee remains committed to its mission. This fiscal year it will be focusing more clearly on workplace injury prevention through ergonomics and wellness initiatives. Also, in the context of the recent terrorism that is affecting our nation, the Committee will begin preliminary discussions about how to coordinate information and initiatives with the various state agencies and committees like the Governor's Terrorism Taskforce, the Department of Public Safety, Civil Preparedness and Employee Health and Benefits. We are not yet prepared to say how that coordination will affect this agency's overall mission and goals. We would assume that it would only have a positive impact, nonetheless.

Also, a level of vigilance and awareness is necessary to maintain our health and safety initiatives. Like so many things in life, we tend to take our health and safety for granted until it is too late. Therefore, the Committee will maintain a presence and a voice for the very purpose of continuous education and training in these areas.

**9-B. Compliance with Federal and State Safety and Health Laws Including the
Americans with Disabilities Act**

Attachment A: Summary of Compliance with Federal and State Safety and Health Laws
Attachment B: Health and Safety Committee Report

10-A. Areas Where Efforts Have Been Coordinated with Other Agencies or Where They Could Be

The Board has had varying degrees of success in its effort to coordinate its work with other state and federal agencies.

The technology field is an area where the Board has seen both success and failure. An example of success is the Board's recent migration of its employer database to the Department of Labor's ("DOL") database. For years, in its effort to identify employers that were operating without required workers' compensation coverage, the Board would compare its coverage information to DOL's unemployment database. A great deal of unnecessary paperwork for the Board and for Maine's employers was generated due to the inconsistencies between the two databases. Information that was updated on one system, for example, would not always be updated on the other system. Now, with the two databases combined, the Board has been able to more accurately identify employers that do not have required coverage.

The Board also collects a significant amount of data on its forms to assist the Bureau of Labor Standards ("BLS") in its task of producing statistical reports. An example of the Board's responsiveness in this area involves a form titled "Statement of Compensation Paid." The Board proposed a rule that would have reduced both the frequency with which this report had to be filed, and the information contained in it. In response to comments received from BLS, which wanted the more detailed information, the Board reconsidered its proposal, and incorporated the changes requested by BLS.

The same holds true for the Occupational Safety and Health Administration ("OSHA"). Maine is currently the only state in the nation that captures OSHA required data on its First Report of Injury form. This means that Maine's employers, in the event of an accident in the workplace, only have to fill out one form to meet both state and federal requirements as opposed to two. This has, obviously, substantially reduced the paperwork burden on Maine's employers.

The Board also works with the Bureau of Insurance ("BOI") with respect to its annual assessment. BOI provides information on premiums written, predictions on market trends, and paid losses information for self-insured employers. The Board uses this information when it calculates the annual assessment.

In the technology arena, efforts to centralize functions in the Bureau of Information Services ("BIS") have been a failure. The Board's information technology ("IT") staff was, as a result of changes mandated by the Administration, reduced to one individual from five. The funding for two IT positions was transferred to the Department of Labor. The Board was told that, if it needed programming services, it would have to enter into contracts with DOL. The Board has required

extensive programming since the transfer, but has only been able to use the services of one DOL programmer. This has significantly hampered the Board's attempts to increase its technological efficiency. The Board has attempted to use its Reserve Account to hire an additional programmer for a fixed period of time. This was a one-time non-recurring expense that was denied by the Bureau of the Budget.

10-B. Efforts at Alternative Delivery Systems Including Privatization

The Board is considering mandating the electronic submission of First Reports, Memorandums of Payment (MOP's), and Notices of Controversy (NOC's). This would be accomplished through the Board's proprietary system, which is presently in place and the International Association of Industrial Accident Boards and Commissions (IAIABC) Combined Claims Product, which is presently under development and will not be ready for another 18 to 24 months. Should the Board mandate electronic submission of these forms, it will have options to either (1) implement the entire Electronic Data Interchange (EDI) Program; or (2) to continue to manage its proprietary program and privatize the IAIABC Program. The Board is presently considering both options.

11. Emerging Issues for the Board

The Board's budget is an issue that is of paramount importance. The Board is at a crossroads. Its maximum assessment is no longer adequate to fund its current level of operations. Without a change in its funding mechanism, the Board will be forced to make drastic cuts to its personal services budget. This will undo virtually all of the progress that the Board has made in recent years in terms of streamlining its dispute resolution process and implementing the Worker Advocate and Monitoring, Audit and Enforcement programs. It will also mean that the Board will not be able to modernize its technological resources resulting, ultimately, in an outdated system that is inadequate to meet the agency's, and by extension, the public's needs.

While it is important for the Board to be able to, at least, maintain its current level of services, as can be seen from the departmental reports contained in this Government Evaluation Act Report, several of the Board's departments need additional funding if they are to meet the expectations set by the Legislature.

The Worker Advocate Program needs additional support. The Board, as detailed earlier in this report, has already shifted significant resources to the Worker Advocate Program. The Board has reached the point, however, where it cannot meet the resource demands of the Advocate program by shifting resources. The temporary infusion of an \$300,000.00 for FY 02 will be a tremendous help. But it is only temporary help. A long-term solution to the funding/staffing needs of the Advocate program must be found.

Similarly, an effective MAE program is a key component of the Board's effort to reduce the number of claims that must be resolved by the Board. To do this, the MAE program needs more resources to ensure, among other things, that it can meet a three-year audit cycle. The Board has shifted some resources internally, but, due largely to the demands placed on the Board by the Advocate program, there has not been much left over to dedicate to the MAE program.

Due to an active MAE program and, to a larger degree, some programming changes, the volume of work flowing into the Abuse Investigation Unit (the "AIU") has increased exponentially. Staffing of the AIU has not. It is no surprise then, that the AIU is falling behind in its effort to keep pace with penalty requests.

The Board's programming and technology goals continue to be set back due to a lack of adequate funding. In order to keep personnel in key areas, the Board has virtually eliminated spending on technology. The Board has a number of programming initiatives that need to be completed. It has been unable to fulfill these initiatives because it does not have access to adequate resources to devote to this effort.

A final trend worth noting, even though a solution is not within the Board's authority, involves safety. There has been an increase in the number of First Reports of Injury filed with the

Board over the last few years. This is due in part to a program the Board implemented that automatically identifies late filed First Reports and in part to increased employment and a lack of attention to safety.

With the advent of the changes to the Workers' Compensation Act instituted in 1993, there was an increased emphasis in the State on safety. Responsibility for safety programs was with the DOL, with the proviso that the Board and DOL discuss transferring oversight of this effort to the Board. The Board expressed an interest in having control over these programs, but DOL wanted to, and ultimately did, keep safety issues under its ambit.

Since then, not necessarily due to anything DOL did or did not do, safety programs have been de-emphasized. This has, as just mentioned, been a factor in the increased number of First Reports of Injury that the Board has received. In its effort to reduce the cost of workers' compensation insurance in Maine, it is important that safety efforts be encouraged.

12-A. Summary of Coopers & Lybrand Report

Coopers & Lybrand was engaged to conduct an assessment of the business operations of the Workers' Compensation Board to identify opportunities for improvement and to align the activities of the workers' compensation system with the mission of the agency. It delivered its final report and recommendations to the Board on December 15, 1997.

The majority of the Coopers & Lybrand recommendations have been implemented by the Board resulting in significant improvement in the operations of the agency. The Scorecards and Employee Performance Measures Report was the final report approved by the Board on September 20, 2000. The Scorecards serve as a means to grade and evaluate the projects which were recommended in the Coopers & Lybrand Report.

Two other projects outside the Coopers & Lybrand study are also being graded: the Worker Advocate Program and the Monitoring, Audit, and Enforcement (MAE) Program. The projects which resulted from the Coopers & Lybrand study include: Board and Executive Director Roles; Long Term Business Plan; Agency Technology Officer; Data Cleansing; Technical Environment; Electronic Data Interchange (EDI); Streamline Dispute Resolution Process; Customer Service Representative Model; Redistribution of Hearing Officer Workload; Compliance (MAE) Program; Dispute Prevention; WCB Website; and Scorecards & Performance Measures. The most recent set of Scorecards is appended to this section.

OBJECTIVES

By the end of the workshop we will have:

- clarified the roles and responsibilities of the WCB, ED and General Counsel IN ORDER TO:
 - support the WCB mission
 - allow employees to have one boss
 - increase the speed and flexibility of the ED and General Counsel
 - increased time available for the WCB

RESOURCE ASSIGNMENT MATRIX

R	RESPONSIBLE	HAS THE AUTHORITY
		IS ACCOUNTABLE FOR
A	APPROVE	CAN VETO
I	INFORMED	IS TOLD OF DETAILS
S	SUPPORT	

TASK	WC BOARD	EXEC. DIRECTOR	LEGAL COUNSEL	COMMENTS
dispute resolution	I	R	S	
dispute resolution, Board review cases	R		S	
record keeping	I	R		
case processing	I	R	S	
advocates	I	R	S	
business admin: office		R		
plant operation	I	R		
payroll		R		
leases	A	R		
technology: EDI policy	A	R		
format/major expenditures	A	R		
public impact implementation	A	R	S	
day-to-day e. g. web	I	R		
medical & vocational rehab	I	R	S	
relationship with legislators		R	S	
advertising: posters, videos	A	R	S	
compliance	I	R	S	
supervise staff: admin. secretaries	R			
legal counsel	R			
executive director	R			
legal staff			R	
WCB staff		R		
annual report to legislature	A	R	S	
public outreach: forums	R	S	S	
public meetings	R	S	S	
subcommittee meetings	R	S	S	
annual regional	R	S	S	
rule making	R	S	S	
policy making	R	S	S	
enforcement: >\$5000 penalty	A		R	
<\$5000 penalty			R	

RESOURCE ASSIGNMENT MATRIX

R	RESPONSIBLE	HAS THE AUTHORITY
		IS ACCOUNTABLE FOR
A	APPROVE	CAN VETO
I	INFORMED	IS TOLD OF DETAILS
S	SUPPORT	

TASK	WC	EXEC.	LEGAL	COMMENTS
	BOARD	DIRECTOR	COUNSEL	
hire/fire : IME	A	R		
general counsel	A/R			
executive director	A/R			
hearing officers	A/R	S		
assistant directors	A	R		
deputies	A	R		
mediators	A	R		
contract employees	A	R		
advocates	I	R		
senior staff attorney	A	I	R	
ATO	A	R		
approve new position .. ATO	A	R		
plaintiff case	A	I	R	
litigation	A	I	R	
relations prof. organizations: IAIABC	I	R		
AFL-CIO & Chamber	R			
business plan	R	S	S	
benchmarking	A	R	S	
auditing	A	R	S	
budget: day-to-day	I	R		
annual	A	R	S	
assessment	A	R	S	
implement forms (includes changes)	A	R	S	
relationship with legislature	R	S	S	
legislature, appropriations	R	S	S	
legislative proposals	R	S	S	
WCB proactive	R	S	S	*see note #1
day-to-day	I	R	R	
legislation monitoring process:				
1. review		S	R	
2. outline			R	
3. sends Board objective briefs			R	
4. present to committee		R	S	*see note #2

NOTES:

1. In the future WCB will recommend legislation.
2. The ED will report the WCB position, lack of one, or the points about which the WCB does not agree. The WCB will provide input and be involved in the process.

GENERAL ROLE DESCRIPTIONS

WORKERS' COMPENSATION BOARD

WCB authority is at the group level, not the individual level

- policy (written, voted on, and approved by the WCB)
- organizational structure
- business plan
- long range plans
- rules
- interpret laws

EXECUTIVE DIRECTOR

While these guidelines are general, the WCB expects the executive director to seek their approval when in doubt. The WCB also desires the executive director to be proactive.

- move resources (on a temporary or permanent basis if there is NO impact to budget, policy, or business plan)
- change structure (same constraints as above)
- align processes
- day-to-day changes

MEMORANDUM

WORKERS' COMPENSATION BOARD

27 STATE HOUSE STATION
AUGUSTA ME 04333-0027
TEL: 207-287-7083
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To: Paul R. Dionne, Executive Director
From: John J. Jolicoeur, Deputy Director Business Services
Date: November 15, 2000
Subject: Resources for MAE Program 1999-2000

The Long-Term Business Plan addresses the reallocation of resources in Section III, sub-section C(1) and (2), which speak in part as follows: "...To shift financial and personnel resources by 10% annually until an appropriate balance, as determined by the Workers' Compensation Board, is achieved in areas of resolution, prevention, and compliance. Board to review and adopt appropriate recommendations of the Streamline Dispute Resolution Group." This report and the C&L Report do not provide specific amounts or numbers with which to target, except for the 10% listed in the Long-Term Business Plan. The major question then is simply 10% of what? This seems to be left to the discretion of the agency's administrators who would eventually present a report to the Board for its consideration.

The most appropriate approach seems to be one that is conservative at this time since the improvements in technology, programs, and processes in many areas are still not finalized and will not be for some time to come. This is due to the complexity and size of the various projects, including convincing many of the outside stakeholders to embark upon the EDI wagon.

This analysis is based on FY98's \$6,000,000 budget because this was the Board's budget at the time of the C&L recommendation. It uses the actual cost of dispute resolution as a percentage of FY98's \$6,000,000 budget. Under this analysis, the shift in resources is, as Coopers & Lybrand recommended, from dispute resolution to compliance and prevention.

The cost of dispute resolution in FY 98, including advocate units, was \$3,657,082 or 61% of the \$6,000,000 budget. Using this cost and the 61% results in the following:

61% of \$6,000,000 = \$3,660,000

yr 1: \$3,660,000 X 10% = 366,000

\$366,000 is the amount of the first 10% shift due by 12/31/99

yr 2: \$3,294,000 X 10% = 329,400
\$329,400 is the amount of the second 10% shift due by 12/31/00

yr 3: \$2,964,600 X 10% = 296,460
\$296,460 is the amount of the third 10% shift due by 12/31/01

The total shift of resources under this option amounts to \$991,860.

There are numerous resources that are new or which have been shifted to assist functions of the MAE program since it was enacted into law on July 1, 1998. These are as follows:

1.	Michael Nadeau salary & fringe	\$ 38,311.00
2.	Marlene Swift salary & fringe	40,602.00
3.	Anne Morin salary	4,000.00
4.	Office space - auditors	7,300.00
5.	Travel expenses	6,736.00
6.	Personal computers - auditors	9,000.00
7.	Costs of reconciliation/compliance/forms	2,991.00
8.	New Auditor	8,732.00
9.	Paul Fortier salary & fringe (60%)	45,731.00
10.	Frank Richards salary & fringe (25%)	14,790.00
11.	Department of Labor programming	89,215.00
12.	Abuse Investigation Unit personnel cost (50%)	69,661.00
13.	Claims Management Unit (50% of their work)	175,103.00
14.	Coverage Unit (50% of their work)	120,789.00
15.	Anne Poulin's assistance (20%)	7,528.00
16.	General Counsel (10%)	7,896.00
17.	Assistant General Counsel (33%)	21,899.00
	Total Resources	\$670,284.00

The total of the first two 10% shifts amounts to \$695,400 as of December 31, 2000. The Board has exceeded the total, as follows:

Total Resources as of 12/31/99	\$670,284.00
Added During Calendar Year 2000	
Monitoring Specialist	32,000.00
Auditor I	33,750.00
All Other Funds Expended	34,424.00
Total Resources as of 12/31/00	\$770,458.00

JJJ/amp

	Performance Measures	Baseline	1999-2000	2000-01	2001-02	2002-03	2001-02	2002-03
1	Number of requests for reimbursements	30	30	80	90	100	90	100
2	Number of vocational rehabilitation hearings	30	30	30	30	30	30	30
3								
4								
5								
6								

Program Summa All Funds
All Other

	100,000	100,000	2,500,000	3,500,000	2,500,000	3,500,000
Total	100,000	100,000	2,500,000	3,500,000	2,500,000	3,500,000

Program Summa Other Special Revenue Funds
All Other

	100,000	100,000	2,500,000	3,500,000	2,500,000	3,500,000
Total	100,000	100,000	2,500,000	3,500,000	2,500,000	3,500,000

Goal C	Maine employers and employees are treated fairly and expeditiously in disputes over work-related injuries.
Objective C - 1	Process cases in a more timely manner and ensure compliance with the Workers' Compensation Act.

Worker's Compensation Board - 0751

Administer a statewide workers' compensation program to serve the employers and employees of Maine

	Performance Measures	Baseline	1999-2000	2000-01	2001-02	2002-03	2001-02	2002-03
1	Percentage of claims through Troubleshooting in 45 days	61%	70%	80	82%	85%	82%	85%
2	Percentage of claims through Mediation in 45 days	31%	40%	50%	52%	55%	52%	55%
3	Percentage of claims at Formal Hearing under 10 months	85%	87.5%	90%	90%	90%	90%	90%
4	# of Quarterly Compliance Reports issued within 60 days of the close of the quarter	2	3	4	4	4	4	4
5	Number of cases closed by the Abuse Unit	700	850	1,000	1,100	1,200	1,100	1,200
6	% of dispute resolution cases with Advocates at Mediation and Formal Level	30%	35%	40%	42%	45%	42%	45%

Program Summa All Funds
Personal Services
All Other

	30,000	30,000	40,000	40,000	40,000	40,000
	24,267	24,267	24,906	24,906	24,906	24,906
Total	54,267	54,267	64,906	64,906	64,906	64,906

Program Summa Other Special Revenue Funds
Personal Services
All Other

	30,000	30,000	40,000	40,000	40,000	40,000
	24,267	24,267	24,906	24,906	24,906	24,906
Total	54,267	54,267	64,906	64,906	64,906	64,906

PART I

WORKERS' COMPENSATION BOARD

Department Summar - All Funds	2000					
	2000	2001	2002	2003	2002	2003
			Budget	Budget	Dept	Dept
Positions - Legislative Count	122,500	122,500	118,500	118,500	118,500	118,500
Personal Services	5,704,846	5,867,276	6,269,042	6,490,365	6,269,042	6,490,365
All Other	1,606,339	1,627,701	3,915,787	4,938,368	3,915,787	4,938,368
Capital Expenditures			15,000	15,000	15,000	15,000
Unallocated		(384,570)				
Total	7,311,185	7,110,407	10,199,829	11,443,733	10,199,829	11,443,733

Department Summar - Other Special Revenue Fund	2000					
	2000	2001	2002	2003	2002	2003
			Budget	Budget	Dept	Dept
Positions - Legislative Count	122,500	122,500	118,500	118,500	118,500	118,500
Personal Services	5,704,846	5,867,276	6,269,042	6,490,365	6,269,042	6,490,365
All Other	1,606,339	1,627,701	3,915,787	4,938,368	3,915,787	4,938,368
Capital Expenditures			15,000	15,000	15,000	15,000
Unallocated		(384,570)				
Total	7,311,185	7,110,407	10,199,829	11,443,733	10,199,829	11,443,733

Goal A	Maine employers and employees are treated fairly and expeditiously in disputes over work-related injuries.
Objective A-1	Process cases in a more timely manner and ensure compliance with the Workers' Compensation Act.

Administration - Workers' Compensation Board - 0183

Administer a statewide workers' compensation program to serve the employers and employees of Maine

Performance Measures	Baseline	1999-2000	2000-01	2001-02	2002-03	2001-02	2002-03
1 Percentage of claims through Troubleshooting in 45 days	61%	70%	80%	82%	85%	82%	85%
2 Percentage of claims through Mediation in 45 days	31%	40%	50%	52%	55%	52%	55%
3 Percentage of claims at Formal Hearing under 10 months	85%	87.5%	90%	90%	90%	90%	90%
4 # of Quarterly Compliance Reports issued within 60 days of the close of the quarter	2	3	4	4	4	4	4
5 Number of cases closed by the Abuse Unit	700	850	1,000	1,100	1,200	1,100	1,200
6 % of dispute resolution cases with Advocates at Mediation and Formal Hearing Level	30%	35%	40%	42%	45%	42%	45%

Program Summa - All Funds	2000					
	2000	2001	2002	2003	2002	2003
Positions - Legislative Count	122,500	122,500	118,500	118,500	118,500	118,500
Personal Services	5,704,846	5,867,276	6,269,042	6,490,365	6,269,042	6,490,365
All Other	1,482,072	1,503,434	1,390,881	1,413,462	1,390,881	1,413,462
Capital Expenditures			15,000	15,000	15,000	15,000
Unallocated		(384,570)				
Total	7,186,918	6,986,140	7,674,923	7,918,827	7,674,923	7,918,827

Program Summa - Other Special Revenue Funds	2000					
	2000	2001	2002	2003	2002	2003
Positions - Legislative Count	122,500	122,500	118,500	118,500	118,500	118,500
Personal Services	5,704,846	5,867,276	6,269,042	6,490,365	6,269,042	6,490,365
All Other	1,482,072	1,503,434	1,390,881	1,413,462	1,390,881	1,413,462
Capital Expenditures			15,000	15,000	15,000	15,000
Unallocated		(384,570)				
Total	7,186,918	6,986,140	7,674,923	7,918,827	7,674,923	7,918,827

Goal B	Return injured workers to suitable employment and administer reimbursement requests
Objective B - 1	Oversee and promote successful vocational rehabilitation plans and administer reimbursement requests

Employment Rehabilitation Program - 0195

The Board will administer a statewide vocational rehabilitation program by overseeing, approving and ordering vocational rehabilitation plans when appropriate and will reimburse employers for certain benefits paid in excess of 260 weeks.

WORKERS' COMPENSATION BOARD

Goal: C	Maine employers and employees are treated fairly and expeditiously in disputes over work-related injuries.
Objective: C - 1	Process cases in a more timely manner and ensure compliance with the Workers' Compensation Act.

Worker's Compensation Board - 0751

Appropriation/Allocation 014 90C 0751 01

Administer a statewide workers' compensation program to serve the employers and employees of Maine

Description of Program Activities:

Processing and oversight of the workers' compensation system

Funding	FY 00	FY 01	FY 02	FY 03	FY 02	FY 03
	Approp/Alloc	Approp/Alloc	Dept	Dept	Budget	Budget
Other Special Revenue Funds	54,267	54,267	64,906	64,906	64,906	64,906
TOTAL	54,267	54,267	64,906	64,906	64,906	64,906

Performance Measures		Baseline	FY 00	FY 01	FY 02	FY 03	FY 02	FY 03
1	Percentage of claims through Troubleshooting in 45 days	61%	70%	80	82%	85%	82%	85%
2	Percentage of claims through Mediation in 45 days	31%	40%	50%	52%	55%	52%	55%
3	Percentage of claims at Formal Hearing under 10 months	85%	87.5%	80%	90%	90%	90%	90%
4	# of Quarterly Compliance Reports issued within 60 days of the close of the quarter	2	3	4	4	4	4	4
5	Number of cases closed by the Abuse Unit	700	850	1,000	1,100	1,200	1,100	1,200
6	% of dispute resolution cases with Advocates at Mediation and Formal Level	30%	35%	40%	42%	45%	42%	45%

Explanatory Information:

- 1 9,725 claims received at Troubleshooting during FY 2000
- 2 3,673 claims received at Mediation during FY 2000
- 3 1,021 claims received at Formal Hearing during FY 2000
- 4 The Board issued four quarterly compliance reports annually
- 5 3,836 complaints were received by the Abuse Unit during FY 2000
- 6 1,745 were at Mediation and Formal Hearing levels during FY 2000

WORKERS' COMPENSATION BOARD

Goal B	
Objective: B - 1	Oversee and promote successful vocational rehabilitation plans and administer reimbursement requests

Employment Rehabilitation Program - 0195

Appropriation/Allocation 014 90C 0195 01

The Board will administer a statewide vocational rehabilitation program by overseeing, approving and ordering vocational rehabilitation plans when appropriate and will reimburse employers for certain benefits paid in excess of 260 weeks.

Description of Program Activities:

Reimburse employers for certain benefits paid in excess of 260 weeks and assist injured workers to return to gainful employment.

Funding	FY 00	FY 01	FY 02	FY 03	FY 02	FY 03
	Approp/Alloc	Approp/Alloc	Dept	Dept	Budget	Budget
Other Special Revenue Funds	100,000	100,000	2,500,000	3,500,000	2,500,000	3,500,000
TOTAL	100,000	100,000	2,500,000	3,500,000	2,500,000	3,500,000

Performance Measures		Baseline	FY 00	FY 01	FY 02	FY 03	FY 02	FY 03
1	Number of requests for reimbursements	30	30	80	90	100	90	100
2	Number of vocational rehabilitation hearings	30	30	30	30	30	30	30
3								
4								
5								
6								

Explanatory Information:

- 30 requests for reimbursement were received during FY 2000. The number of requests received is beyond the control of the Board.
- Approximately 30 vocational rehabilitation hearings were done in FY 2000. This number is expected to remain static, although the number of hearings requested is beyond the control of the Board.

3
4
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WORKERS' COMPENSATION BOARD

Goal: A	Maine employers and employees are treated fairly and expeditiously in disputes over work-related injuries.
Objective: A-1	Process cases in a more timely manner and ensure compliance with the Workers' Compensation Act.

Administration – Workers' Compensation Board – 0183 Appropriation/Allocation 014 90C 0183 01
 Administer a statewide workers' compensation program to serve the employers and employees of Maine

Description of Program Activities:
 Processing and oversight of the workers' compensation system

Funding	FY 00	FY 01	FY 02	FY 03	FY 02	FY 03
	Approp/Alloc	Approp/Alloc	Dept	Dept	Budget	Budget
Other Special Revenue Funds	7,186,918	6,986,140	7,674,923	7,918,827	7,674,923	7,918,827
TOTAL	7,186,918	6,986,140	7,674,923	7,918,827	7,674,923	7,918,827

Positions	FY 00	FY 01	FY 02	FY 03	FY 02	FY 03
Other Special Revenue Funds	122,500	122,500	118,500	118,500	118,500	118,500
TOTAL	122,500	122,500	118,500	118,500	118,500	118,500

Performance Measures		Baseline	FY 00	FY 01	FY 02	FY 03	FY 02	FY 03
1	Percentage of claims through Troubleshooting in 45 days	61%	70%	80%	82%	85%	82%	85%
2	Percentage of claims through Mediation in 45 days	31%	40%	50%	52%	55%	52%	55%
3	Percentage of claims at Formal Hearing under 10 months	85%	87.5%	90%	90%	90%	90%	90%
4	# of Quarterly Compliance Reports issued within 60 days of the close of the quarter	2	3	4	4	4	4	4
5	Number of cases closed by the Abuse Unit	700	850	1,000	1,100	1,200	1,100	1,200
6	% of dispute resolution cases with Advocates at Mediation and Formal Hearing Level	30%	35%	40%	42%	45%	42%	45%

Explanatory Information:

- 9,725 claims received at Troubleshooting during FY 2000
- 3,673 claims received at Mediation during FY 2000
- 1,021 claims received at Formal Hearing level during FY 2000
- The Board issues four quarterly compliance reports annually
- 3,836 complaints were received by the Abuse Unit during FY 2000
- 1,745 claims were at Mediation and Formal Hearing levels during FY 2000

WORKERS' COMPENSATION BOARD

Mission: To serve the employees and employers of the state fairly and expeditiously by ensuring compliance with the workers' compensation laws, ensuring the prompt delivery of benefits legally due, promoting the prevention of disputes.

	FY 00	FY 01	FY 02	FY 03	FY 02	FY 03
	Approp/Alloc	Approp/Alloc	Dept	Dept	Budget	Budget
	All funds	All funds	All Funds	All Funds	All Funds	All Funds

Goal: A Maine employers and employees are treated fairly and expeditiously in disputes over work-related injuries.

Objective: Process cases in a more timely manner and ensure compliance with the Workers' Compensation Act.

A-1

Administration - Workers' Compensation Board - 0

Positions - Legislative Count - All Funds	122,500	122,500	118,500	118,500	118,500	118,500
Total Appropriations and Allocations - All Funds	7,188,918	6,986,140	7,674,923	7,918,827	7,674,923	7,918,827

Goal: B Return injured workers to suitable employment and administer reimbursement requests

Objective: Oversee and promote successful vocational rehabilitation plans and administer reimbursement requests

B - 1

Employment Rehabilitation Program - 0195

Total Appropriations and Allocations - All Funds	100,000	100,000	2,500,000	3,500,000	2,500,000	3,500,000
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Goal: C Maine employers and employees are treated fairly and expeditiously in disputes over work-related injuries.

Objective: Process cases in a more timely manner and ensure compliance with the Workers' Compensation Act.

C - 1

Worker's Compensation Board - 0751

Total Appropriations and Allocations - All Funds	54,267	54,267	64,906	64,906	64,906	64,906
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Department Summary -

All Funds

Positions - Legislative Count	122,500	122,500	118,500	118,500	118,500	118,500
Total Appropriations and Allocations	7,311,185	7,110,407	10,199,829	11,443,733	10,199,829	11,443,733

Other Special Revenue Funds

Positions - Legislative Count	122,500	122,500	118,500	118,500	118,500	118,500
Total Appropriations and Allocations	7,311,185	7,110,407	10,199,829	11,443,733	10,199,829	11,443,733

WORKERS' COMPENSATION BOARD

Mission: To serve the employees and employers of the state fairly and expeditiously by ensuring compliance with the workers' compensation laws, ensuring the prompt delivery of benefits legally due, promoting the prevention of disputes.

	FY 00	FY 01	FY 02	FY 03	FY 02	FY 03
	Approp/Alloc	Approp/Alloc	Dept	Dept	Budget	Budget
	All funds	All funds	All Funds	All Funds	All Funds	All Funds
Goal: A	Maine employers and employees are treated fairly and expeditiously in disputes over work-related injuries.					
Objective:	Process cases in a more timely manner and ensure compliance with the Workers' Compensation Act.					
A-1						
<u>Administration - Workers' Compensation Board - 0</u>						
Positions - Legislative Count - All Funds	122,500	122,500	118,500	118,500	118,500	118,500
Total Appropriations and Allocations - All Funds	7,186,918	6,986,140	7,674,923	7,918,827	7,674,923	7,918,827
Goal: B	Return Injured workers to suitable employment and administer reimbursement requests					
Objective:	Oversee and promote successful vocational rehabilitation plans and administer reimbursement requests					
B - 1						
<u>Employment Rehabilitation Program - 0195</u>						
Total Appropriations and Allocations - All Funds	100,000	100,000	2,500,000	3,500,000	2,500,000	3,500,000
Goal: C	Maine employers and employees are treated fairly and expeditiously in disputes over work-related injuries.					
Objective:	Process cases in a more timely manner and ensure compliance with the Workers' Compensation Act.					
C - 1						
<u>Worker's Compensation Board - 0751</u>						
Total Appropriations and Allocations - All Funds	54,267	54,267	64,906	64,906	64,906	64,906
Department Summary -						
All Funds						
Positions - Legislative Count	122,500	122,500	118,500	118,500	118,500	118,500
Total Appropriations and Allocations	7,311,185	7,110,407	10,199,829	11,443,733	10,199,829	11,443,733
Other Special Revenue Funds						
Positions - Legislative Count	122,500	122,500	118,500	118,500	118,500	118,500
Total Appropriations and Allocations	7,311,185	7,110,407	10,199,829	11,443,733	10,199,829	11,443,733

Paul R. Dionne

Paul R. Dionne
Executive Director

**WORKERS' COMPENSATION BOARD
SCORE CARD/PERFORMANCE BUDGETING
ADMINISTRATION**

Dept. Change Management/Communication Program

Objectives	Measures	Targets	Performance
To improve public perception of the Workers' Compensation Board	1. Web page	Continuing (Technology Officer)	<input type="checkbox"/> Exceeded <input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met
	2. Regional Office meeting with Central staff	Continuing (Deputy Director)	<input type="checkbox"/> Exceeded <input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met
	3. Organizational chart	12/31/99 (Executive Director)	Completed
	4. Annual forum dispute resolution	12/31/00 (Chief Hearing Officer and Deputy Director)	<input type="checkbox"/> Exceeded <input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met
	5. Process constituent complaints	12/31/99 (Executive Director)	<input type="checkbox"/> Exceeded <input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met
	6. 800 number	12/31/00 (Deputy Director)	<input type="checkbox"/> Exceeded <input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met

Change Management/Communication Program

Page 2

Objectives	Measures	Targets	Performance
To improve public perception of the Workers' Compensation Board	7. Review Employee Pamphlet	12/31/00 General Counsel	<input type="checkbox"/> Exceeded <input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met
	8. Comp Quarterly	03/31/01 (Executive Director)	<input type="checkbox"/> Exceeded <input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met
	9. Troika meetings	12/31/00 (Executive Director)	<input type="checkbox"/> Exceeded <input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met

Overall Rating:

- Exceeded
- Met
- Not Met

**WORKERS' COMPENSATION BOARD
SCORE CARD/PERFORMANCE BUDGETING
ADMINISTRATION**

Dept. Abuse Investigation Unit

Objectives	Measures	Targets	Performance
1. Coordinate enforcement with Monitoring and Audit Units as part of the MAE Program	Close 10% more cases than in 2000	03/31/01	<input type="checkbox"/> Exceeded <input type="checkbox"/> Met <input checked="" type="checkbox"/> Not Met
2. Computerized tracing of AIU cases, assignments, and outcomes	Program with Agency Technology Officer	12/31/00	<input type="checkbox"/> Exceeded <input type="checkbox"/> Met <input checked="" type="checkbox"/> Not Met
3. Increase number of cases disposed by AIU by 10% annually	Assign Assistant General Counsel, two investigators, and two hearing specialists to process cases	06/30/01	<input type="checkbox"/> Exceeded <input type="checkbox"/> Met <input type="checkbox"/> Not Met
<p><i>Action Plan: Programming effort to be accelerated during second quarter for both objectives #1 and #2. This will enable the AIU to meet its objectives by the end of the third quarter of 2001.</i></p>			

Overall Rating: Exceeded
 Met
 Not Met

Programming of Unit has led to scheduling problems

**WORKERS' COMPENSATION BOARD
SCORE CARD/PERFORMANCE BUDGETING
DISPUTE PREVENTION/COMPLIANCE**

Dept. MAE Program

Objectives	Measures	Targets	Performance
1. Timely issue of Quarterly Compliance Report and Annual Compliance Report	Issue report quarterly. Issue final report annually. Hire monitoring specialist. Hire auditor. Purchase new equipment	100% within 60 days after close of each quarter	<input type="checkbox"/> Exceeded <input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met
2. Review and revise Protocols and Benchmarks.	Meet regularly with Benchmarking Committee. Report to Executive Director and Board	12/31/01	<input type="checkbox"/> Exceeded <input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met
3. Adopt and implement a three-year audit cycle (attached)	Complete one-third of audits annually. Hire third auditor	12/31/00 (Board) 06/30/01 (Performance Budgeting)	<input type="checkbox"/> Exceeded <input type="checkbox"/> Met <input checked="" type="checkbox"/> Not Met
4. Complete Forms Manual	Continuing	12/31/00	<input type="checkbox"/> Exceeded <input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met
5. Reports on web-site	Quarterly Reports; Annual Reports; Forms Manual	12/31/00	<input type="checkbox"/> Exceeded <input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met
6. Report continued positive trends to Executive Director and Board	Attend senior staff and Board meetings as scheduled	12/31/01	<input type="checkbox"/> Exceeded <input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met

Overall Rating: Exceeded
 Met
 Not Met

Three-year audit cycle will require additional resources

(See reverse side for action plan.)

Action Plan: The three-year cycle was too optimistic based on limited resources of MAE Program. The cycle should be changed to a four-year cycle. One staff person will be added to the MAE Program within the next 60 days. Auditor I position should be changed to Auditor II position to provide more qualified staff. New technology is now being added to Program. WCB should hire one more auditor within the next 12 months. With the additional changes, the MAE Program would be on track to meet the four-year audit cycle.

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**WORKERS'
COMPENSATION
BOARD**

Memo

To: Paul R. Dionne, Executive Director
From: Steven P. Minkowsky, Deputy Director *Steve*
Date: May 11, 2001
Re: Administration Progress of the MAE Program

This memorandum is in response to your request for an updated audit schedule for the Board retreat.

STATUS OF THE THREE-YEAR AUDIT CYCLE

A. Ongoing/Completed Audits.

- | | | |
|----|---|------------------------------|
| 1. | Seaco Insurance
Lumber Mutual Insurance | Completed September 15, 1999 |
| 2. | SAPPI | Completed December 9, 1999 |
| 3. | Liberty Mutual Insurance Companies
Liberty Mutual Fire Insurance Co.
Liberty Insurance Corporation
LM Insurance Corporation
First Liberty Insurance Corp.
Third-party Administrator
Helmsman Management Service | Completed April 12, 2000 |
| 4. | Travelers Insurance Company
Travelers Indemnity Company of Illinois
Travelers, Aetna, C & S Company

Third-party Administrator
James River Corporation
Constitution State Service | Completed April 12, 2000 |
| 5. | Arrow Hart | Completed April 4, 2000 |

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6.	York Claims Services AIG Claims Services	Completed March 30, 2000
7.	Hanover Insurance Company Massachusetts Bay Insurance Company Citizens Insurance Company of America Third-party Administrator Sterling Risk Management Services	Completed April 10, 2001
8.	Cianbro Corporation	Completed May 11, 2000
9.	The Bill Johnson Agency	Completed May 1, 2000
10.	Central Maine Power Company	Complete October 6, 2000
11.	RSKO	Pending Rebuttal
12.	Chubb Insurance Company Vigilant Insurance Company Federal Insurance Company Great Northern Insurance Company Pacific Insurance Company Third-party Administrator Federal Insurance Company	Completed September 26, 2000
13.	Mead Publishing Paper Company	Completed September 28, 2000
14.	City of Bangor	Completed August 15, 2000
15.	Public Service Mutual	Completed January 9, 2001
16.	Yasuda Insurance	Pending Rebuttal
17.	Clarendon Insurance	Pending Rebuttal
18.	East-West Insurance	Ongoing Audit
19.	Trans-Pacific Insurance	Pending Rebuttal
20.	Sedgwick of Maine	Pending Rebuttal
21.	Synernet	Completed December 13, 2000
22.	Maine Municipal Association	Pending Rebuttal
23.	State of Maine Workers' Compensation Division	Ongoing Audit

CONFIDENTIAL

24. Maine School Management Association Ongoing Audit

B. Audits To Be Scheduled From May 1, 2001 through April 30, 2002.

1. Old Republic Insurance Co.
2. GAB
3. General Adjustment Bureau
4. National Loss Control
5. Reliance Insurance Co.
6. Reliance National Indemnity Insurance Co.
7. Reliance National Insurance Co.
8. United Pacific Insurance Co.
9. Frontier Insurance
10. Legion Insurance
11. Lindsey Morden Cunningham/Lindsey
12. Royal & Sunalliance
13. Safeguard Insurance Co.
14. American & Foreign Insurance
15. Gallagher Bassett Insurance SE
16. North American Insurance
17. Filene's
18. Georgia-Pacific Corporation
19. Wausau Underwriter's Insurance Co.
20. Otis Specialty Papers
21. Employers Insurance of Wausau
22. Worcester Insurance Co.
23. Commercial Union York Insurance Co.
24. American Employers Insurance Co.
25. Employers Fire Insurance Co.
26. Northern Association Co. of America
27. Atlantic International Association c/o CGU
28. Granite State Insurance Co.
29. Pennsylvania General Insurance
30. Great American Insurance
31. Seven Hills Insurance Co.
32. Arrow Mutual
33. ~~Morse, Payson & Noyes~~
34. National Grange Mutual
35. Crum & Forster
36. North River Insurance
37. United States Insurance
38. Pratt & Whitney
39. Ryder Claims Service Co.
40. Providence Washington
41. Crawford & Co.
42. Argonaut Insurance
43. Truck Insurance Exchange
44. ESIS, Inc.
45. Ace USA

CONFIDENTIAL

46. Cigna Fire Underwriters
47. Pacific Employers Insurance Co.
48. White Mountain Insurance Co./Mountain Valley Indemnity
49. Lumbermen's Mutual Casualty
50. American Motorists
51. American Projection Insurance
52. American Manufacturers Mutual Insurance
53. Maine Health Care Association
54. Maine Motor Transport
55. Buckler Irvin
56. Acadia Insurance
57. Cadillac Mountain Insurance Co.

C. Audits To Be Scheduled From May 1, 2002 through April 30, 2003.

1. Gates MacDonald
2. Sterling Risk Management Services
3. The Hartford
4. Twin City Fire Insurance
5. New York Underwriters Insurance
6. Specialty Risk Services
7. St. Paul Guardian Insurance Co.
8. Fidelity & Guarantee Insurance
9. St. Paul Fire and Marine Insurance Co.
10. New England Telephone and Telegraph/Bell Atlantic
11. NYNEX Corp.
12. Atlantic Mutual Insurance
13. Centennial Insurance
14. General Accident Insurance
15. Virginia Surety
16. Zurich American Insurance
17. American Casualty
18. Assurance Casualty
19. Claims Management
20. Maine Bonding & Casualty
21. Maryland Casualty Co.
22. Northern Insurance Co. of New York
23. Valiant Insurance
24. Fireman's Fund American Insurance
25. Associated Indemnity Corp.
26. American Insurance
27. American Automobile Insurance
28. Lumbermen's Underwriting Alliance c/o Crawford
29. Peerless Insurance Co.
30. Netherlands Insurance Co.
31. Excelsior Insurance Co.
32. MEMIC
33. Northern General Services
34. Sentry Insurance

- 35. EBI Insurance
- 36. Connecticut Indemnity
- 37. Fire & Casualty Insurance Co. of Connecticut
- 38. Security Insurance of Hartford
- 39. Fairfield Insurance Co.
- 40. Maine Automobile Dealers
- 41. American Interstate Insurance
- 42. Maine Adjustment Services
- 43. Hannaford Bros.
- 44. Bath Iron Works
- 45. John Deere Insurance
- 46. Allied Adjustment Service
- 47. Freemont Industrial Indemnity Co. c/o Crawford
- 48. James River
- 49. National Grange Mutual Insurance
- 50. Yellow Freight

D. Consent Decrees.

		Penalty Agreement Amounts	
		<u>Paid to Employee</u>	<u>Paid to WCB</u>
1.	Lumber Insurance Companies	6,750.00	17,300.00
2.	Travelers Insurance Companies	15,800.00	13,500.00
3.	Liberty Mutual Insurance Companies		3,500.00
4.	Arrow Hart		800.00
5.	The Bill Johnson Agency		200.00
6.	York Claims	15,000.00	1,200.00
7.	Public Service Mutual		200.00
8.	CMP		400.00
9.	Chubb Group	3,000.00	2,900.00
10.	Hanover	8,850.00	12,300.00
11.	Synernet	<u> </u>	<u>400.00</u>
	Subtotal	49,400.00	52,700.00
Total Penalties Paid			<u>\$102,100.00</u>

E. Opinion.

With current resources, the Audit Division will not meet the three-year audit cycle. The three year audit cycle presumed the reallocation of resources based on the December 15, 1997 Coopers and Lybrand Report. The second Auditor I position (created and funded by the legislature) was hired in January 2000. The monitoring specialist position was reallocated (formerly a troubleshooter position) and hired in June 2000. Since Mike Nadeau transferred to the Bureau of Insurance in November, 2000, there has been only one fully trained auditor in the Audit Division. Shel McAfee's training should be completed within the next three to four months.

F. Recommendations.

1. Hire an Auditor I (Noreen Lyon's replacement) as soon as possible.
2. Hire a third Auditor I.
3. Hire a second Monitoring Specialist in order to expand the Reconciliation and Compliance Reports. Expanded monitoring will improve compliance and will reduce the on-site audit time schedule.
4. Hire an Administrative Assistant for staff support. This will increase more time on actual audits and reduce time spent on clerical duties (processing requested forms, typing reports, etc.).
5. Increase computer support to expand the Reconciliation and Compliance Reports.
6. Expand Reconciliation and Compliance Reports as follows:
 - a. Monitor insurance underwriting divisions that do not provide proof of coverage.
 - b. Monitor and penalize late Wage Statements (similar to late First Reports).
 - c. Monitor 21-day Certificates to ensure full 21-day compliance.
 - d. Monitor timely filing of Notices of Controversy.
 - e. Generate a MOP/NOC ratio.
7. Request more Corrective Action Plans.
8. File complaints for Audit for ongoing non-compliance.
9. Establish a goal of a four-year audit cycle until the MAE Program is sufficiently administered.
10. Upgrade laptops, computers, purchase Audit Division printer, etc.

SPM/amp

12-B. Berry, Dunn, McNeil & Parker Study

A Resolve, Authorizing a Study of the Governance and Administrative Structure of the Workers' Compensation System and Authorizing One-time Uses of the Workers' Compensation Board Reserve Account was approved on June 8, 2001. The Resolve provided, in part, that "whereas, the workers' compensation system in Maine is facing a number of budgetary and administrative issues a study should be conducted to review the governance and administrative structure of the State's workers' compensation system to determine if greater efficiencies may be gained in the operational structure and processes of the Workers' Compensation Board and the advantages and disadvantages, if any, of a closer alignment of the Workers' Compensation Board with other agencies in State Government." (Appendix B).

The Resolve lists nine factors to be considered, directs the Department of Administrative and Financial Services to administer the study, and establishes an Advisory Committee. The Resolve further directs the Department of Administrative and Financial Services to "report its findings, including any proposed implementation plan or legislation, to the Legislature and the Workers' Compensation Board by December 15, 2001" and that "the Joint Standing Committee on Labor may report out any recommended legislation relating to the Department's report to the Second Regular Session of the 120th Legislature."

The Department of Administrative and Financial Services contracted with the firm of Berry, Dunn, McNeil and Parker to conduct the study. The firm held its first meeting with the Advisory Committee on July 30, 2001 to outline its plan, present its timetable, and receive suggestions. The work has been moving along steadily since then.

Berry, Dunn, McNeil and Parker will submit its final report to the Advisory Committee on December 3, 2001 and deliver its Report to the Legislature on December 17, 2001. **The Berry, Dunn, McNeil and Parker Report taken in tandem with the Government Evaluation Act Report should provide the policymakers with the necessary information to direct the future of workers' compensation in Maine.**

APPENDICES

LONG TERM BUSINESS PLAN 2000

I. MISSION STATEMENT.

The board's mission is to serve the employees and employers of the State fairly and expeditiously by ensuring compliance with the workers' compensation laws, ensuring the prompt delivery of benefits legally due, promoting the prevention of disputes, utilizing dispute resolution to reduce litigation and facilitating labor-management cooperation.

II. GOALS.

- A. Organizational. The Board to set policy and propose legislation. The Executive Director to manage the day-to-day activities of the agency.
- B. Culture. To enhance communications with injured workers, employers, insurers, self-insureds, the Governor, legislators, and the public
- C. Process. To shift focus and resources incrementally from dispute resolution to dispute prevention and compliance. To streamline dispute resolution process.
- D. Technology. To install and program a state of the art business information system. To expand the use of electronic transfer for First Reports, Notices of Controversy, and Memorandums of payment.

III. OBJECTIVES, STRATEGY, AND PERFORMANCE MEASURESE.

A. Organizational Objectives.

By 1999, to implement the roles of the Workers' Compensation Board, the Executive Director, and the General Counsel pursuant to a Group Report. **Approved by the Board on September 16, 1998. Review roles to ensure proper implementation. Revise, if necessary. (Attachment A)**

Strategy. The Board, Executive Director, and General Counsel to adhere to the plan outlined in the Group Report entitled "Role of Workers' Compensation Board and Executive Director." **Review and revise, if necessary. (Attachment A)**

Performance Measures. The Workers' Compensation Board to implement a Score Card/Employee Performance Measures System that highlights organization goals and progress. **Review Score Cards and Performance Measures. (Attachment B)**

- B. Culture Objectives. By 2000, to enhance communication through public meetings, web-site, e-mail, news media, quarterly publications, annual reports, and quarterly compliance reports.

Strategy. To implement the recommendations from the Customer Service Representative Model Group. Establish e-mail and a web-site. Schedule regular public meetings. Publish quarterly reports, annual report, and quarterly publications. **The Customer Service Representative model was accepted by the Workers' Compensation Board and distributed to all offices. Review of its effectiveness will take place during 2001. E-mail and web-site were established and both are contributing to efficiency of Board. Regular public meetings have been scheduled and public comments received. Comp Quarterly published quarterly and distributed nationally. Annual Report published and distributed to Governor and Legislature. Quarterly Compliance Report published quarterly and distributed to Governor, Legislature, and public.**

Performance Measures. The Workers' Compensation Board to implement a Score Card/Employee Performance Measures System that highlights cultural goals and progress. Review and adopt appropriate recommendations from the Customer Service Representative Model Group. Quantify achievement of these objectives through customer satisfaction surveys. **Review Score Cards and Performance Measures. (Attachment B)**

- C. Process Objectives.

- (1) By 2000, shift focus and personnel/financial resources from dispute resolution to dispute prevention and compliance, as per the following schedule:

10% by December 31, 1999.

20% by December 31, 2000.

30% by December 31, 2001.

The 1999 shift occurred on schedule. Board to review shift of resources for 2000 at Board Retreat. (Attachment C)

- (2) Streamline the Dispute Resolution Process pursuant to recommendations of Streamlining Group.

Strategy. Review and adopt appropriate recommendations from Compliance Program Group, Dispute Prevention Group, Enforce Compliance Group, and Streamlining Group. **Standard Operating**

**Procedures accepted, implemented, and functioning efficiently.
Review Standard Operating Procedures. (Attachment D)**

Performance Measures. The Workers' Compensation Board to implement a Score Card/Employee Performance Measures System that highlights process goals and progress. To shift financial and personnel resources by 10% annually until an appropriate balance, as determined by the Workers' Compensation Board, is achieved in areas of resolution, prevention, and compliance. Board to review and adopt appropriate recommendations of the Streamline Dispute Resolution Group. **Board to review performance of Troubleshooting, Mediation, and Formal Hearing for 2000. Review Score Cards and Performance Measures. (Attachment B) Board to review shift in resources. (Attachment C)**

- D. Technology Objectives. By December 31, 1999, acquire and program a new business and information system; monitor and audit the system for fairness and efficiency; expand the use of electronic transfer for First Reports, Notices of Controversy, and Memorandums of Payment; and outsource to other State agencies, or otherwise, those technology matters which can be accomplished more efficiently and at a cost savings.

Strategies. Review and adopt appropriate programming recommendations for Phases I and II of technology development from the Agency Technology Officer. Consider and adopt appropriate recommendations from Executive Director and Agency Technology Officer. Consider and adopt appropriate recommendations from Technology Groups.

Programming for year 2000 has proceeded methodically but more slowly than expected, due to unforeseen problems. Progress has been satisfactory. The Board will need to adopt an EDI policy to make progress in this area. Efforts to get carriers to file through EDI on a voluntary basis have failed.

Performance Measures. The Workers' Compensation Board to implement a Score Card/Employee Performance Measures System that highlights Technology goals and progress. To complete transition from old system to new system and install the appropriate programming. **Review Score Cards and Performance Measures. (Attachment B)**

IV. GROUP PROJECTS.

The Board to review and approve appropriate recommendations from the Project Groups. The status of the Workers' Compensation Board action on group projects is as follows:

A. Organizational Projects.

- (1) Board and Executive Director Role Definition. Approved by Board.

- (2) Workers' Compensation Board Score Card. Score Card to be developed. Employee Performance Standards to be developed. To be approved by Board. **Approved by Board in September, 1998. Score Cards to be presented to Board by Executive Director quarterly.**
- (3) Contract Hearing Officers. Recommendation not to hire contract hearing officers to clear up backlog approved by Board. **Rejected by Board. No action required.**

B. Culture Projects.

- (1) Long Term Business Plan. Final Report being drafted. To be reviewed by Board December 1, 1998 and subsequent meetings as required. **Approved by Board in November, 1999. To be reviewed by Board annually and revised, if necessary.**
- (2) Change Management/Communication Program. Final Report has been submitted. To be reviewed by Board. **Approved by Board. To be reviewed by Board annually.**
- (3) Employee Performance Measures. This project was incorporated in the Workers' Compensation Board Score Card Group. **Approved by Board.**

C. Process Projects.

- (1) Streamline Dispute Resolution Process. Final report to be submitted. To be reviewed by Board in January. **Approved by Board. SOP's implemented.**
- (2) Customer Service Representative Model. Final Report has been submitted. To be reviewed by Board. **Approved by Board. Implemented at Regional Office.**
- (3) Dispute Prevention Program. Final Report approved by Board November 3, 1998. **MAE Program implemented. Board to review Quarterly Reports, Annual Reports, and Audits.**
- (4) Compliance Program. Final Report approved by Board November 3, 1998. **MAE Program implemented. Work in progress.**
- (5) External Auditors. Group has prepared Final Report. To be reviewed by Board. **Rejected by Board. No action necessary.**
- (6) Enforce Compliance. Final Report to be reviewed by Board. **Approved by Board. MAE Program implemented. Board to review progress on Monitoring, Audit and Enforcement Divisions annually.**

- (7) Redistribute Hearing Officer Workload. Recommendation to redistribute workloads has been approved by Board. Staff has implemented a partial redistribution plan. **Plan completed. Work in progress.**

D. Technology Projects.

- (1) Agency Technology Officer. Recommendation to hire Agency Technology Officer. Approved by Board. Agency Technology Officer hired by Board on February 27, 1998. **Completed. Board to review progress periodically.**
- (2) Technical Infrastructure Insourcing. Agency Technology Officer and Executive Director have recommended change to a new system. Board has approved change to a new system to include servers, personal computers, networking, desktop suite, e-mail, and other development tools. This project has been completed. Agency Technology Officer is presently engaged in programming. **Approved by Board on April 1, 1998. Programming presently being implemented. Board to review progress periodically.**
- (3) Business Application Insourcing. Executive Director and Agency Technology Officer recommendations to be reviewed by the Board.
- (4) Interim Data Cleansing and Analysis. Agency Technology Officer presently working on data cleansing and analysis needs. To be done prospectively so as not to commit significant resources to validating pre-01-01-99 data. To be reviewed by Board. **Cleansing and analysis part of ongoing programming effort.**
- (5) EDI Standard Implementation. Agency Technology Officer has recommended approval of electronic transfer plan which includes IAIABC standard. Plan approved by Board on October 20, 1998. **Voluntary plan has not produced positive results. Board to consider mandating EDI.**
- (6) Future Technical Environment. Agency Technology Officer in conjunction with Department of Labor is presently developing a new business application plan to support the Workers' Compensation Central Office and Regional Office functions along with the integration of this application with the Department of Labor, Bureau of Labor Standards and the Bureau of Insurance. To be reviewed by Board. **Approved by Board. Plan being implemented. Transfer of employer database to occur in November or December, 2000.**

- (7) Web-site. Group Final Report approved by Board. Web-site presently on line. Workers' Compensation Board forms can be downloaded. Web-site is mainly informational at the present time. **Approved by Board. Plan is work in progress.**

V. WORKER ADVCOATE PROGRAM.

- A. Develop procedures manual for advocates. **Not completed.**
- B. Handle selected Law Court appeals. **Implemented.**
- C. Monitor performance of advocates at hearings and mediations. **Minimum monitoring due to vacancies.**
- D. Refine litigation strategy of advocates. **Work in progress.**
- E. Prepare memorandums regarding statutory interpretation. **Not completed.**
- F. Prepare memorandums regarding new legal issues. **Not completed. Work in progress.**

VI. BUDGET AND ASSESSMENT.

- A. FY1999. Budget \$6,910,806; assessment \$6,600,000.
- B. FY2000. Budget \$7,236,830; assessment \$6,600,000.
- C. FY2001. Budget \$7,380,830; assessment \$6,600,000.

Budget for FY2000 and FY2001 have been approved by Board and forwarded to State Budget Office for review. On October 29, 1998, Charles Weeks, Frederick Hayes, Paul Dionne, Julia Finn, and John Jolicoeur met with the Bureau of the Budget Committee which included Bureau of the Budget personnel along with Commissioner Longley, Greg Nadeau, and Kay Rand. The suggestion was made that the Workers' Compensation Board include in its Long Term Business Plan a Budget Plan to deal with FY2002-FY2003 to minimize any increase in the assessment for those years. **Budget Plan for FY2002-FY2003 presently being reviewed by Board. Budget Plan for FY2002-2003 approved by Board and submitted to Bureau of the Budget.**

VII. MONITORING, AUDIT, AND ENFORCEMENT PROGRAM.

- A. Generate results of "Pilot Project." **Completed.**
- B. Generate four Quarterly Compliance Reports annually. **Completed. Work in progress.**

- C. Collaborate with Compliance and Benchmarking Group to expand protocols. **Implemented. Work in progress.**

VIII. LEGISLATIVE PROPOSALS.

- A. Provisional Order Process. This proposal eliminates the requirement that a case be referred to mediation after a request for provisional order is ruled upon. Instead of being referred to mediation, the case will remain with the Hearing Officer for an expedited decision. **Implemented.**
-
- B. No Coverage Penalties. This proposal increases the fine for not securing required workers' compensation coverage. It ensures that it will be more expensive to be fined for not having coverage than it will be to secure coverage. **Completed.**
- C. Statute of Limitations. This proposal simplifies and clarifies the statute of limitations. **Completed.**
- D. Confidentiality of Audit Working Papers. This proposal provides that audit working papers are confidential, as they are in other agencies that conduct audits. **Completed.**
- E. Change in Definition of Dependent. This proposal eliminates the provision that aliens residing outside of the United States and Canada receive only half of the benefits otherwise due in the case of the death of an employee. **Completed.**
- F. Reimbursement from Rehabilitation Fund. This proposal removes the requirement that the Employment Rehabilitation Fund reimburse employers/insurers for benefits paid pursuant to the benefits adjustments found in §213(3) (extension of benefits where permanent impairment is between 11.8% and 15%) and §213(4) (extension of the 260-week cap). **Completed in part.**
- G. Apportionment. This proposal eliminates Bureau of Insurance arbitration and gives jurisdiction over apportionment claims to the Board's Hearing Officers. **Completed.**
- H. Wage Statements. This proposal requires the filing of a wage statement within 30 days after an employer has notice or knowledge of a claim for incapacity benefits pursuant to §212, §213, or §215, unless a wage statement has previously been filed. **Completed.**

Legislative proposals for Legislative Session 2001. Refer to Tab #7.

IX. STAFF GOALS AND OBJECTIVES FOR 1999 and 2000.

- A. Executive Director.

- B. Abuse Investigation Unit.
 - C. Agency Technology Officer
 - D. Central Office/Budget (Deputy Director).
 - E. Regional Office/Medical and Vocational Rehabilitation (Deputy Director).
 - F. MAE Program (Deputy Director).
-
- G. Worker Advocate (Senior Staff Attorney).

Staff Goals and Objectives for 2001 attached as Attachment D.

X. CONCLUSION.

The Long Term business Plan will incorporate the goals of the Workers' Compensation Board and will be reviewed annually and revised as necessary. The Business Plan will be used to develop agendas and focus on activities with the regular measuring of progress against the plan. The purpose of the plan will include the setting of measurable goals for the three major areas of responsibility: dispute prevention, compliance, and dispute resolution.

The Business Plan will focus on activities which will have the anticipated results of: improving the efficiency of the organization; improving timeliness and accuracy of payments to injured employers, preventing disputes and reducing the number of disputes entering the system; improving compliance; improving the working relationship with the Department of Labor, Bureau of Labor Standards and Bureau of Insurance; and assisting the policymakers, to wit, the Legislature and the Governor.

Revised 11/15/00

APPROVED

CHAPTER

JUN 8'01

49

BY GOVERNOR

RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND ONE

S.P. 77 - L.D. 297

**Resolve, Authorizing a Study of the Governance and
Administrative Structure of the Workers' Compensation System
and Authorizing One-time Uses of the Workers' Compensation
Board Reserve Account**

Emergency preamble. Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the workers' compensation system in Maine is facing a number of budgetary and administrative issues; and

Whereas, this legislation seeks to provide one-time allocations from the Workers' Compensation Board reserve account and to direct the Department of Administrative and Financial Services to administer a study of the governance and administrative structure of the State's workers' compensation system; and

Whereas, this legislation requires the results of that study to be reported to the Legislature and to the Workers' Compensation Board by December 15, 2001; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Authorization of study of the governance and administrative structure of the State's workers' compensation system. Resolved: That the Department of Administrative and Financial Services shall administer a feasibility study, in consultation with the advisory committee established in this resolve, of the governance and administrative structure of the State's workers' compensation system to determine if greater efficiencies may be gained in the operational structure and processes of the Workers' Compensation Board and the advantages and disadvantages, if any, of a closer alignment of the Workers' Compensation Board with other agencies in State Government; and be it further

Sec. 2. Factors to be considered. Resolved: That the study must include consideration of the following factors:

1. Underlying policy considerations in the Maine Workers' Compensation Act of 1992 that led to the creation of the current governance structure;

2. The need for independence in the quasi-judicial functions of the workers' compensation system;

3. The 1997 Coopers and Lybrand business assessment and the progress made in implementing its recommendations;

4. The effect of the existing governance system and its progress to date on the operation of the workers' compensation system and alternative models for structuring the governance system;

5. The forms of governance and administration used by other states;

6. The existence of resources and programs in other areas of State Government that could be more closely aligned with the workers' compensation system to achieve greater capacity and to facilitate continued progress;

7. Whether overall safety efforts can be improved through affiliation of workers' compensation safety initiatives with other state safety-related programs;

8. The effectiveness and adequacy of the current assessment and budgeting mechanisms, with particular attention to the adequacy of the monitoring and enforcement function; and

9. Methods to improve short- and long-range fiscal stability and predictability of the revenue stream; and be it further

Sec. 3. Authority to contract. Resolved: That the Department of Administrative and Financial Services may administer the study established in this resolve and may enter into contracts with consultants for the performance of that study. After consultation with the advisory committee established in this resolve, the Department of Administrative and Financial Services shall determine the nature and extent of the contractual services necessary for the completion of the study in accordance with this resolve and shall prepare and administer all contracts pursuant to those determinations in accordance with the Maine Revised Statutes, Title 5, chapter 155; and be it further

Sec. 4. Advisory committee established. Resolved: That the study established in this resolve must be administered in consultation with an advisory committee, consisting of 10 members, as follows:

1. Four members of the Joint Standing Committee on Labor, appointed jointly by the Senate Chair and the House Chair, with the membership reflecting an equal balance with respect to political party affiliation;

2. The Executive Director of the Workers' Compensation Board or the executive director's designee;

3. One labor representative from the Workers' Compensation Board, appointed by the Workers' Compensation Board;

4. One management representative from the Workers' Compensation Board, appointed by the Workers' Compensation Board;

5. The Commissioner of Labor or the commissioner's designee;

6. The Commissioner of Professional and Financial Regulation or the commissioner's designee; and

7. One representative from the Office of the Governor, appointed by the Governor; and be it further

Sec. 5. Reporting. Resolved: That the Department of Administrative and Financial Services shall report its findings, including any proposed implementation plan or legislation, to the Legislature and the Workers' Compensation Board by December 15, 2001. The Joint Standing Committee on Labor may report out any recommended legislation relating to the department's report to the Second Regular Session of the 120th Legislature; and be it further

Sec. 6. Authorization to use reserve account to fund study. Resolved: That the Workers' Compensation Board shall transfer \$125,000 from the reserve account created pursuant to the Maine Revised Statutes, Title 39-A, section 154, subsection 6 to the Department of Administrative and Financial Services to fund the study provided for in this resolve. The Department of Administrative and Financial Services shall transfer funds from the authorized amount to the Legislature to reimburse the Legislature for its payment of per diem and expenses for Legislators who serve on the advisory committee created in section 4 of this resolve. The Department of Administrative and Financial Services shall transfer all funds not spent or encumbered for the study by January 1, 2002 to the Workers' Compensation Board for deposit in the reserve account. This is a one-time authorization and does not apply to any ongoing use of the reserve account for these purposes; and be it further

Sec. 7. Authorization to use reserve account for fiscal year 2001-2002 expenses. Resolved: That the Workers' Compensation Board is authorized to spend up to \$700,000 from its reserve account created pursuant to the Maine Revised Statutes, Title 39-A, section 154, subsection 6 for current services expenses in fiscal year 2001-2002, including reclassification of 4 positions approved by the Department of Administrative and Financial Services, Bureau of Human Resources. This is a one-time authorization and does not apply to any ongoing use of the reserve account for these purposes; and be it further

Sec. 8. Allocation. Resolved: That the following funds are allocated from Other Special Revenue funds to carry out the purposes of this resolve.

2001-02

WORKERS' COMPENSATION BOARD

**Administration - Workers'
Compensation Board**

Personal Services	\$451,034
All Other	230,483
TOTAL	<u>\$681,517</u>

Provides funds from the workers' compensation reserve account for current services expenses.

**Administration - Workers'
Compensation Board**

Personal Services \$18,483

Provides funds from the workers' compensation reserve account for the approved position reclassifications of 2 Clerk Typist III (pay range 12) to Legal Secretary (pay range 13), one Legal Secretary to Clerk IV (pay range 15) and one Administrative Secretary (pay range 16) to Administrative Assistant (pay range 20).

**WORKERS' COMPENSATION BOARD
TOTAL**

\$700,000

**ADMINISTRATIVE AND FINANCIAL
SERVICES, DEPARTMENT OF**

Miscellaneous Acts and Resolves

All Other \$122,480

Provides funds via a transfer from the workers' compensation reserve account to pay for a study of the governance and organizational structure of the State's workers' compensation system.

**ADMINISTRATIVE AND FINANCIAL
SERVICES, DEPARTMENT OF
TOTAL**

\$122,480

LEGISLATURE

Study Commissions - Funding

Personal Services \$1,320
All Other 1,200

Provides funds via a transfer from the Department of Administrative and Financial Services from funds received from the workers' compensation reserve account for the per diem and expenses of legislative members of the advisory committee for the feasibility study related to the State's workers' compensation system.

LEGISLATURE
TOTAL

\$2,520

Emergency clause. In view of the emergency cited in the preamble, this resolve takes effect when approved.