State of Washington
Joint Legislative Audit & Review Committee (JLARC)

Study Design for Evaluating Workers' Compensation Claims Management

Briefing Report

December 5, 2012

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Committee Members

Audit Authority

The Joint Legislative Audit and Review Committee (JLARC) works to make state government operations more efficient and effective. The Committee is comprised of an equal number of House members and Senators, Democrats and Republicans.

JLARC's non-partisan staff auditors, under the direction of the Legislative Auditor, conduct performance audits, program evaluations, sunset reviews, and other analyses assigned by the Legislature and the Committee.

The statutory authority for JLARC, established in Chapter 44.28 RCW, requires the Legislative Auditor to ensure that JLARC studies are conducted in accordance with Generally Accepted Government Auditing Standards, as applicable to the scope of the audit. This study was conducted in accordance with those applicable standards. Those standards require auditors to plan and perform audits to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the audit objectives. The evidence obtained for this JLARC report provides a reasonable basis for the enclosed findings and conclusions, and any exceptions to the application of audit standards have been explicitly disclosed in the body of this report.

JLARC Directed to Evaluate Workers' Compensation Claims Management

For over 100 years, Washington has had workers' compensation laws in place to protect workers and employers from financial and other hardships that result from work-related injuries and illnesses. Workers' compensation insurance pays for eligible medical expenses, a portion of lost wages, permanent disability awards, and vocational services when a worker becomes injured or ill on the job. It also pays ongoing benefits to a surviving spouse or dependents when a work-related injury or illness results in death. In exchange for these benefits, workers cannot sue their employers for work-related injuries and illnesses, and employers are protected from potentially costly lawsuits.

Claims management refers to a series of decisions the Department of Labor and Industries (L&I) and others make to help a worker recover from a work-related injury or illness, mitigate the economic impacts of that injury or illness, and assist in the worker's return to work.

As part of workers' compensation reform legislation passed in 2011, the Legislature directed JLARC to conduct a performance audit by 2015 of the state's workers' compensation claims management system. This report outlines JLARC's approach to conducting the audit.

Over 146,000 Workers' Compensation Claims Were Filed in Fiscal Year 2012

In Washington, workers' compensation is provided by a state-operated insurance program known as the "State Fund," or by self-insured employers. L&I is responsible for certifying eligible employers who want to self-insure, and the Department oversees the provision of benefits by self-insured employers to ensure compliance with the state's laws and rules.

Currently, over 3 million workers in Washington have workers' compensation insurance, with 170,000 employers. Over 146,000 new workers' compensation claims were filed by injured and ill workers in Fiscal Year 2012.

The table below summarizes coverage by the State Fund and self-insured employers for Fiscal Year 2012. Almost $2 billion in benefits was spent for medical bills, a portion of lost wages, permanent disability awards, and vocational retraining assistance.

In Fiscal Year 2012:	State Fund	Self-Insured
Number of workers	2.4 million (74%)	850,000 (26%)
Number of employers	167,000	2,300*
Number of new claims filed	101,500	45,000
Benefits paid	$1.5 billion	$419 million

Source: L&I. Figures have been rounded. *This number reflects all self-insured employer locations, including multiple locations of the same company or organization.

2015 Study Will Answer Claims Management Performance Questions in Six Key Areas

The Legislature asked JLARC to evaluate six specific aspects of claims management. Understanding how well L&I is performing in these six areas will help JLARC assess the overall promptness, fairness, and efficiency of claims management, and determine whether any changes are necessary to improve system results.

With its focus on claims management, this study will not evaluate employment outcomes for injured and ill workers, nor will it evaluate the state's workers' compensation benefits structure or rate setting practices.

In Fiscal Year 2012, L&I spent over $69 million and employed more than 400 FTEs to manage State Fund claims. L&I spent additional resources to oversee self-insured claims.

Our study design includes an extensive list of research questions on claims management to ensure a rigorous evaluation of the system. Below is a limited sample of the questions we will ask:

Examples of Claims Management Research Questions in Six Key Areas
1. Decision-making: - Are claims decisions made consistent with statute, rules, and Department policies?   - Are there differences in the timeliness of decision-making across different types of claims (i.e., State Fund and self-insured claims)?   - Do injured workers and employers perceive the claims process and decisions made on claims as fair?   - How long does it take for payments to be made to injured workers and medical providers?   - How long are workers disabled before being referred for vocational rehabilitation?   - How long are claims typically open?
2. Complaint and Dispute Resolution: - How long does it take for the Department to respond to a protest on a claim decision?   - Are the complaint and dispute resolutions processes applied consistently for State Fund and self-insured claims?   - Are decisions made consistently across claims with similar issues in dispute (i.e., State Fund and self-insured claims)?   - Do workers and employers believe the complaint and dispute resolution process and resulting decisions are fair? Are there differences in responses between State Fund and self-insured workers and employers?

3. Communications:

- Is the information provided on claims forms, publications, and the website consistent with current statutes, rules, and Department policies?
- Is the content of L&I's claims forms, publications, and website usable and easy to understand? Does L&I follow state guidelines on the use of plain language?
- Do workers and employers believe they receive important information (e.g., information about appealing a decision) in a timely manner?
- Do workers and employers feel there are sufficient opportunities for face-to-face meetings with claims management staff?

4. Organizational Structure and Service Delivery Models:

- What is L&I's current claims management organizational structure, and how does it compare to other workers' compensation insurance programs?
- What service delivery models does L&I use, and how do they compare to other workers' compensation insurance programs?
- Do L&I's organizational structure and delivery systems support prompt payments to workers? Are they focused on encouraging rapid and sufficient physical recovery and returning workers to work?

5. Service Delivery for State Fund Retrospective Rating Plan and Non-Retrospective Rating Plan Participants:

- Is the Department organized differently for the handling of claims from participants in the retrospective rating plan from those who are not part of the retrospective rating plan?
- If there are differences in organization and delivery of services, can one determine whether those differences impact rating plan refunds for retrospective rating participants?
- Do participants in the retrospective rating plan perceive the timeliness or fairness of L&I's decisions differently than those who are not participants in the plan?

> *What is the retrospective rating plan?*
>
> A voluntary program for State Fund employers that promotes safe workplaces and returning injured workers to work by providing partial refunds of insurance premiums to employers who reduce injuries and lower their claim costs below what is expected. If claims costs are higher than expected, employers are assessed additional premiums.

6. Current Department Initiatives:

- Do current Department initiatives, such as an L&I pilot unit allowing web and phone reporting of accidents, improve service delivery and provide new opportunities for educating workers and employers about how best to return workers to work?
- Is the Department measuring the impact of such initiatives and comparing results to the performance of its traditional service delivery model?

Study Design: How JLARC Will Answer Research Questions

The size and complexity of claims management requires the use of a number of evaluation tools. JLARC has already worked closely with a national workers' compensation expert and a technical advisor to identify specific research questions and the best tools for answering those questions.

The 2015 study will use multiple evaluation tools to answer questions about claims management, including:

- **Statistical analysis of claims data** – L&I maintains databases with information on State Fund and self-insured claims. JLARC plans to collect and analyze relevant data elements from these databases for approximately three years' worth of claims. We will use this data to determine if there are differences in the timeliness of decision-making and duration of benefits across claims from the retrospective rating plan, non-retrospective rating plan, and the self-insured. For example, we will identify when disability determinations and payments are made, when referrals are made for vocational rehabilitation, and how long it takes for the Department to respond to a request for a claim reopening, or a protest on a decision.

- **Claim file reviews** – L&I's databases do not currently contain all of the detailed data necessary to answer some of our research questions. For example, the databases do not include some dates needed to assess the overall timeliness of decision-making for State Fund and self-insured claims. The databases also do not include information needed to determine if Department decisions are free of bias and consistent across claims. The only method for obtaining such data is to review individual claim files. File reviews are time and resource-intensive due to the quantity and diversity of paperwork within each file, and specialized expertise is needed to identify and analyze the relevant information. Our study design anticipates conducting over 1,500 file reviews to ensure that a representative sample of claims is analyzed.

- **Interviews** – Numerous stakeholder groups are involved in claims management. To understand the various perspectives held by these groups, we plan to speak with representatives from L&I, the State Fund's retrospective rating plan, business, labor, and the self-insured community.

- **Surveys of injured and ill workers and employers** – Our study design includes surveys of both State Fund and self-insured workers and employers to understand their views on the dispute resolution process, L&I's communications, and recent Department initiatives to improve claims management performance. Some examples of the types of questions we will ask via survey include:

  ➢ Do workers and employers believe the complaint and dispute resolution process and resulting decisions are fair?

  ➢ Do workers and employers use the Department's webpage and claims account center, and if so, do they find them easy to navigate and find what they need?

  ➢ Do workers and employers feel there are sufficient opportunities for face-to-face meetings with claims management staff?

  ➢ Do recent Department initiatives provide improved service to workers and employers?

Study will compare performance across different programs within and outside Washington

JLARC will review the performance of both State Fund and self-insured claims. Within the State Fund, we will look separately at the performance of claims from employers in the retrospective rating plan and claims from employers that are not part of this plan. About 7 percent of State Fund employers participate in the retrospective rating plan and over 40 percent of State Fund premiums are paid by these participants.

When possible, JLARC will include comparison information on workers' compensation programs in other jurisdictions. Making comparisons across jurisdictions is always challenging due to differing laws, practices, industry and injury mixes, and data availability. We will attempt to obtain comparison data from four other jurisdictions with exclusive state-fund systems (North Dakota, Ohio, Wyoming, and British Columbia), data on self-insurance claims in other states, and relevant data that is regularly collected and presented by national research institutions.

Interdisciplinary team of experts will assist JLARC in evaluation

Given the technical nature of workers' compensation claims management, this study requires an interdisciplinary team of consultant experts. Experts in the following areas will be used:

- **Claims management** – JLARC plans to use workers' compensation claims experts to conduct individual file reviews. Since individual records can include extensive and complex documentation, the review process requires experts familiar with claims records to find, log, and evaluate the relevant data needed from those files. We will also use claims management experts who have experience with systems outside of Washington to provide perspective and insight on L&I's claims management practices and service delivery models.

- **Workers' compensation law** – This study requires a thorough understanding of workers' compensation law in order to assess whether L&I's decisions and its complaint and dispute resolution procedures are consistent across claims and free of bias.

- **Labor economics and/or statistics** – We plan to use the expertise of a labor economist or statistician to assist with developing appropriate sampling methodologies for our data collection and analysis efforts, for the selection of individual claim files to review, and for the selection of workers and employers to survey. This will ensure that each of our sampling efforts results in a representative sample of the universe of workers' compensation claims being evaluated.

- **Data programming** – Relevant programming expertise will be needed to assist in creating a large dataset of information from multiple sources. We anticipate gathering data on approximately 90,000 time loss claims over a three year period. Time loss claims are for injured or ill individuals who cannot return to their regular job or work schedule for at least some portion of their recovery.

- **Survey Implementation** – We plan to hire survey consultants to conduct approximately 1,500 phone interviews with workers and employers.

In addition to the consulting assistance mentioned above, JLARC staff will be involved in all aspects of the study and will serve as the primary project managers. For efficiency, the study design includes a specific focus within several key areas:

First, most of our data analysis and file reviews will only include time loss claims which typically make up less than 30 percent of total claims filed each year, but over 90 percent of total claim costs. We plan to include both medical-only and time loss claims when we review the dispute resolution process.

Second, we will focus on evaluating L&I's role in the dispute resolution process, not the Board of Industrial Insurance Appeals (BIIA), which is also involved in dispute resolution when a worker or employer appeals a decision made by L&I.

Third, existing research and publicly available data on workers' compensation programs in other jurisdictions will be used to compare to Washington.

Study timeline and costs

Expert consultants will be hired before the end of 2013 and their work will be completed by 2015. The statute directing this evaluation requires a progress report to the Legislature in December 2013 and a report on the results of the audit by June 2015.

The estimated cost for expert consultants is $664,000. This cost estimate was developed in consultation with our workers' compensation expert and reviewed by four independent professionals who have experience performing similar projects. An appropriation in the 2013-15 Biennial Budget would be necessary to fund this cost.