
Problems Facing Florida's Workers' Compensation Program

Florida workers injured on-the-job receive assistance to pay for medical costs and benefits to aid in their re-employment through Workers' Compensation. Workers' Compensation is a partnership between employers, insurance carriers and the state's Division of Workers' Compensation (the "Division"). The Division's mission is "to ensure prompt, accurate benefit payments and appropriate and timely services to injured workers to facilitate their gainful re-employment at a reasonable cost to employers."

To carry out its mission, the Division must operate in the most efficient and effective manner possible. In addition, it must have sufficient revenues to accomplish this. At the request of the legislative leadership, Florida TaxWatch undertook this *Briefing*, which reviews (1) the Division's goals and funding sources, and (2) analyzes two specific issues that affect those sources (and possibly hinder the attainment of the Division's mission and goals). Due to the short time line of this study, it was not possible to do an in-depth analysis of these issues, or review them directly with the Division. The purpose of this report is to enhance the equitable partnership of the workers compensation program between employees, employers, insurers and the state.

The Division's goals are:

- Accessibility to customers, suppliers, and process partners to inform and to remove barriers that inhibit the self-execution of the system.
- Efficient and effective operations.
- Return of injured workers to gainful employment.
- Accurate benefit payments and appropriate and timely services to injured workers.
- Equitable distribution of cost to employers to ensure a viable workers' compensation marketplace.

A key component of the Division's goals is the "self-executing system." This means that employers' and / or their insurance carriers are responsible for the costs of the program,

including the cost of its administration by the state's Division of Workers' Compensation in the Department of Labor and Employment Security.

To fund the "self-executing system," of the Division of Workers' Compensation, the state assesses workers' compensation carriers (in addition to commercial self-insurers and others) doing business in the state to support two trust funds: (1) the Special Disability Trust Fund (SDTF - to reimburse insurers for specific types of claims related to accidents that occurred prior to January 1, 1998) and, (2) the Workers' Compensation Administrative Trust Fund (WCATF). The SDTF is a fund created to encourage employers to hire individuals with preexisting physical impairments by spreading the increased risk of workers's compensation losses and costs associated with such employment. The WCATF covers the costs of administering Florida's workers compensation program.

In recent years, the revenues derived from premium assessments to fund the operations of the Division have been declining. The following tables show this downward trend:

Workers' Compensation Administrative Trust Fund

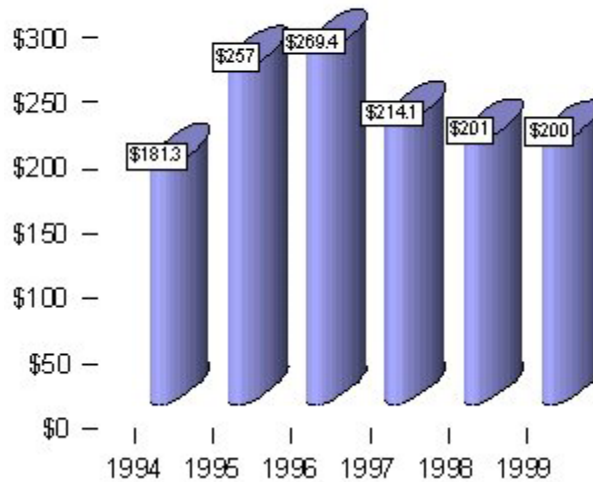
Year	Reported Premium	Rate	Assessments
1994	\$3,610,969,180	1.66%	\$59,942,088
1995	\$3,320,858,476	3.22%	\$106,931,643
1996	\$3,372,568,649	3.15%	\$106,235,913
1997	\$3,242,084,296	2.50%	\$81,052,107
1998	\$2,963,476,153	2.40%	\$71,123,428
1999	\$2,733,223,236	2.75%	\$75,163,640

Special Disability Trust Fund

Year	Rate	Assessments
1994	3.36%	\$121,328,564
1995	4.52%	\$150,102,803
1996	4.52%	\$163,184,748
1997	4.52%	\$133,050,920
1998	4.52%	\$129,826,348
1999	4.52%	\$124,696,512

The combined total assessment is reported in the following chart:

Total Assessment (dollars in millions)



Declining assessment revenues affects the Division's ability to carry-out its duties in the face of constant (or increasing) need for services. The decline in assessment revenues (that fund the SDTF and the WCATF) has, in large measure, two causes: (1) **Large Deductible Premium policies**, and (2) **Ceded Premiums**.

The Problem

Large Deductible Premiums

In worker's compensation insurance there is not a "true" deductible. That is, the insurer is responsible to cover all the workers' compensation benefits owed to employees as a result of accidents occurring while working for insured employers. The "deductible" is, in fact, a large loss reimbursement by the employer to the insurer, up to an agreed upon limit. This is an important distinction because the insurer is responsible for the full amount of the workers compensation benefits, regardless of whether or not the employer reimburses the insurer. This is in contrast to a standard insurance policy with a deductible amount that is the responsibility of the insured, with the excess loss being covered by the insurer. The following are implications resulting from large deductible (loss reimbursement) policies:

1. Insurers offer substantial premium credits to employers that purchase large deductible policies, thus the premium actually paid to the insurer is reduced, thus, reducing the premium base upon which the SDTF and WCATF are assessed to the insurer. Because the assessment to the insurer is reduced, a portion of the "savings" is remitted back to the insured employer.

2. It is estimated that large deductible premium policies have reduced assessment revenues to the SDTF and the WCATF by approximately \$36.0 million in 1999. Had these revenues been received, the effective rate of assessment for all required to be paid into the WCATF could have been reduced from 2.75% to 2.13% (to maintain the same level of revenue).

3. The services required of the Division are neither increased nor decreased by large deductible premium policies. However, the resources available to meet the required services are reduced, and thus, must be borne by higher assessments on other participants in the SDTF and WCATF.

Ceded Premium

Ceded premium, in its most basic definition, is the amount of premium an insurer (direct insurer) pays to another insurer. The insurer accepting the ceded premium is called a "reinsurer." In return for receiving the ceded premium, the reinsurer agrees to reimburse the insurer for a portion of the losses (to the extent of the contract) incurred by the insurer who wrote the direct premium. This is a very basic explanation of an extremely complex insurance transaction. However, the important concept is the premium payment from the direct insurer to the reinsurer (the ceded premium). How this ceded premium is recognized in the determination of the SDTF and WCATF premium base of the direct insurer has a significant affect on the Division's revenues.

In reporting premiums subject to SDTF and WCATF assessment, insurers are required to report "net premiums written" (s. 440.49, Florida Statutes). The definition of "net premiums written" has different interpretations, dependent upon the specific usage. However, it is assumed that it is some lesser amount than "gross premiums." In the context of ceded premiums, some direct insurers were reducing from the total (net premiums written) the amount of the premium paid to the reinsurer. This had the effect of reducing the direct insurer's premium base on which the SDTF and WCATF were assessed. The implications of this are similar to those described for Large Deductible premiums:

1. The services required of the Division are neither increased nor decreased by ceded premiums policies. However, the resources available to meet the required services are reduced, and thus, must be borne by higher assessments on other participants in the SDTF and WCATF.

2. A recent study calculates that ceded premiums policies have reduced assessment revenues to the SDTF and the WCATF by approximately \$14.7 million in 1999.

3. Direct insurers that paid premiums to a reinsurer and did not reduce their premium base reported for SDTF and WCATF assessment by the ceded premium amount may request refunds from the Division for the overpayment (potentially in excess of \$75.0 million).

The Department issued Bulletin # 209 on September 22, 1999 which added additional ambiguity to the definition debate over the assessment premium base by stating:

"Net premiums collected is being interpreted by the Division to mean all premiums, including those ceded to reinsurers, minus applicable discounts provided by law."

[note: s.440.49, Florida Statutes uses the term "net premiums written," not net premiums collected, and is silent on the treatment of ceded premiums to reinsurers.]

Division Operations

In addition to the declining revenue issues discussed previously, the Division has the opportunity to re-engineer its operations to become more efficient. As currently organized, the Division has eight functional units. These are:

1. Administrative Direction (Offices of the Division Director and Assistant Director)
2. Operations Support
3. Monitoring and Audit
4. Rehabilitation & Medical Services
5. Compliance
6. Employee Assistance
7. Information Management
8. Research & Education

The Division must first look internally for cost savings to cover any shortfall in operating revenue before increasing the assessments on employers and insurers. As an example, over the last five years, the Division's fixed positions have remained relatively constant at 786 (includes approximately 176 positions from the Division of Safety which was merged into the Division in 1998). With the recent advancement in technology and other systems and process improvements, the Division should be able to accomplish its mission in a more cost-efficient manner. The Division must first look internally for cost savings before increasing the assessments on employers and insurers.

The purpose of this Briefing was to discuss issues that affect the efficient operation of the Division of Workers' Compensation. The issues are complex and can not be resolved by simple "fixes." Florida TaxWatch recommends that a full and complete study be undertaken to determine the most efficient and effective way to provide worker's compensation service to the working men and women in Florida. The goal of the study would be to make the workers' compensation program an efficient and equitable partnership between employees, employers, insurers and the state to enhance Florida's competitiveness in the national and world economy of the 21st century.

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