

Executive Summary

California's Workers' Compensation system was designed to support injured workers, yet much of the program's \$11 billion annual cost ends up in the pockets of attorneys, physicians, insurers and rehabilitation specialists. This has resulted in powerful interest groups that have been more concerned with preserving the present system than in pursuing reforms that would result in lower costs for businesses and higher benefits for employees.

In times of booming economic growth, the ever-spiraling cost of Workers' Compensation was absorbed by businesses. But the cumulative, devastating effect of runaway costs in the program now can be seen in businesses fleeing to other states and small firms closing their doors. Experts agree that Workers' Compensation has played no small role in pushing the State's unemployment rate above 10 percent and in the elimination of some 600,000 jobs in the past two years.

Faced with a program that has the highest costs and lowest benefits in the nation, California needs to focus on the driving forces behind those high costs and the disincentives for economic and efficient operation of the program. Areas of concern include medical care, rehabilitation services, fraud prevention, medical/legal reports and stress claims.

*High
Costs,
Low
Benefits*

High Workers' Compensation costs are choking business but at the same time are producing little in the way of benefits for injured workers.

Escalating Workers' Compensation costs significantly affect business owners and their employees. While the system cost more than \$10 billion in 1990, only \$3 billion was paid out in benefits, while another \$3 billion covered medical care costs. That left approximately \$4 billion for the "middle men" of the system: insurers, consulting doctors and lawyers.

High Workers' Compensation costs prevent businesses from expanding, drive some employers out of business entirely, and encourage other California businesses to relocate out of state. While employers have borne the brunt of the rising cost, employees have failed to see comparable increases in their benefits.

The Workers' Compensation system is failing to meet the original goals set forth when the program was created. The cost to companies -- which was meant to be limited and finite -- is spiraling. The benefits for injured workers -- which were supposed to be enough to compensate them for their impairment -- are too low and slow in coming.

Recommendation:

1. **The Governor and the Legislature should convene a special session to focus on the Workers' Compensation system and facilitate the rapid implementation of reforms.**

Medical Costs

Medical costs have increased because of inefficiency, price-gouging and unnecessary treatments.

Employers are responsible for providing the necessary medical care for workers injured on the job. The costs for such care have rapidly increased, with physician's services rising from \$90 million in 1971 to \$2.7 billion in 1991. During the same period, hospital costs rose from \$100 million to \$1.2 billion.

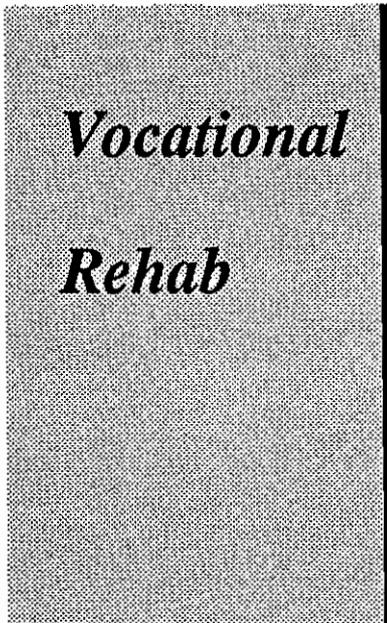
Several factors make up the mix of escalating costs:

- * The Workers' Compensation system is "liberally constructed;" that is, the injured worker is to be provided any and all treatment that is suggested by his or her condition.
- * There are insufficient incentives to hold costs down. Physicians are charging for more intensive and more costly procedures. Follow-up visits have become more common and physical therapy is prescribed more often.
- * Medical fees are regulated by a periodically adjusted state fee schedule, but many expensive procedures are not covered by the schedule.
- * Costs have shifted from other medical programs to Workers' Compensation, and there is a lack of coordination between Workers' Compensation and other forms of health coverage.
- * There is evidence of abuse and overutilization of medical services.

Recommendations:

2. **The Governor and the Legislature should enact legislation to establish managed care as the mode of delivery of medical services under the Workers' Compensation system.**

3. **The Governor and the Legislature should enact legislation that would establish system-wide limits for medical care under the Workers' Compensation system.**



The Vocational Rehabilitation Program lacks sufficient incentives to return employees to work quickly and to control cost.

Vocational rehabilitation is designed to help injured workers with a disability get back to productive employment. The benefit is important because it serves the social goals of promoting personal dignity, family stability and tax-paying capacity through returning a person to the labor force. Of California's 12 million workers, more than 56,000 are identified each year as potential candidates for vocational rehabilitation.

Those who have examined vocational rehabilitation programs closely over a span of years have concluded that the least expensive, most expeditious methods are the most effective in returning workers to jobs -- but are also the least used options. Despite a hefty growth in dollars spent on vocational rehabilitation, these services have been only partially effective in returning workers to jobs.

Lacking in the operation of vocational rehabilitation services are controls that would result in employees receiving only the most effective and suitable form of retraining. To achieve the most benefit for the injured worker and the least cost for businesses, California should institute controls to direct rehabilitation efforts.

Recommendations:

4. **The Governor and the Legislature should enact legislation that focuses vocational rehabilitation services on effectiveness for returning injured workers to the labor force.**
5. **The Governor and the Legislature should enact legislation that would limit employer liability for vocational rehabilitation.**

*Fraud,
Evaluations
and Stress*

The high incidence of fraud, the multiplicity of expensive medical/legal reports and the subjectivity involved with stress claims all place an overwhelming burden on the Workers' Compensation system without benefitting the injured workers the program was designed to protect.

Some components of the Workers' Compensation system involve services provided directly to injured workers, such as medical care and vocational rehabilitation. In those areas, the State has an interest in balancing carefully any cost containment efforts against the goal of adequately and fairly redressing workers for injuries. Other aspects, however, that have become part of the Workers' Compensation system over time add tremendous costs to the system without directly benefitting the on-the-job injured employees who Workers' Compensation was designed to protect. Chief among those factors are:

- * **Fraud.** Some critics of the system contend that up to 30 percent of the cost of Workers' Compensation -- a potential \$3 billion -- is wasted through fraud. This provides no benefit to deserving workers and, in fact, deprives them of the higher benefits and employers of the lower premiums that could be possible if money were not siphoned away from the system illegally.
- * **Multiple medical/legal reports.** Both the employee and the employer may fall into the "dueling doctor" syndrome, with each side obtaining multiple medical opinions to bolster their viewpoint of the degree of injury and its job-relatedness. Such reports cost the system \$700 million in 1990 -- almost half the total cost of litigation. Once again, these are costs that deprive the system of resources that could otherwise be spent on increased benefits.
- * **Subjectivity of stress claims.** While these claims represent only a fraction of all Workers' Compensation claims, they are a difficult-to-prove and highly

contentious type of claim that serves to undermine the credibility and viability of the system. With the State requiring very little of the cause of stress to come from a job and with the rapid growth in stress claims, this area of Workers' Compensation threatens to divert more and more dollars away from the benefits from workers with more traditional or directly job-linked types of injuries.

Recommendations:

- 6. The Fraud Assessment Commission should report to the Governor and the Legislature on the effectiveness of the 1992 anti-fraud laws by July 1, 1993.**
- 7. The Governor and the Legislature should enact legislation that would require employers to pay for only one medical/legal evaluation, which would be performed by a professional chosen by the injured worker.**
- 8. The Governor and the Legislature should enact legislation to restrict stress claims to on-the-job sudden or extraordinary events.**
- 9. The Governor and the Legislature should enact legislation to prohibit stress claims for "good faith" personnel actions.**

Of the three major issues that require reform by California government -- education, health care and Workers' Compensation -- only Workers' Compensation can be reformed without the infusion of billions of dollars and has the potential of immediately affecting the State's economy. At a time when California's economy is scraping the bottom, businesses are being devastated by Workers' Compensation insurance premiums that have grown unchecked. If reform cannot be accomplished, Workers' Compensation may continue to burden California's economy, drive businesses from the State and fail to meet the needs of injured workers.