



Washington State Department of
Labor & Industries

Office of the Ombuds

For Self-Insured Injured Workers

2016 Annual Report to the Governor

September 2016

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Executive Summary

Introduction

The Department of Labor & Industries' (L&I's) Self-Insurance Program oversees and provides services to Washington employers that are certified to "self-insure." Self-insured employers pay workers' compensation benefits directly to employees who are injured or become ill on the job. More than 350 Washington companies are currently certified to self-insure. They employ about 26 percent of Washington workers.

Self-insured employers manage their own worker injury claims (usually through another company, called a third-party administrator (TPA)). Managing claims includes making decisions about benefits and access to care.

Office of the Ombuds

The Legislature established the Office of the Ombuds (Ombuds Office) for injured workers of self-insured employers in 2007, with the mission of advocating for injured workers. To accomplish this mission, the Ombuds Office coordinates with workers, employers, and providers, or their representatives, to:

- Inform injured workers about industrial insurance.
- Investigate and resolve complaints.
- Identify self-insurance program deficiencies.
- Recommend policy solutions.

Ombuds Office staff collaborates with multiple stakeholders and conducts community outreach to help ensure the success of the Ombuds program.

About this report

This report to the Governor is required annually by RCW 51.14.400 for the reporting period July 1 through June 30. It summarizes Ombuds Office events, including:

- Issues addressed during the past year, along with case scenarios.
- Ombuds monitoring activities.
- Deficiencies identified in the self-insured workers' compensation system, and recommendations for improvements.

The Ombuds Office is committed to L&I's mission to keep Washington safe and working. The Ombuds' initiatives described in this report are geared toward ensuring fair and equitable benefits for injured workers and continual process and system improvements.

Summary of activities and findings

The issues and activities addressed in this report are for July 1, 2015 through June 30, 2016.

The Ombuds Office received approximately 1,400 inquiries regarding workers' compensation claims of self-insured employers, concerning over 1,600 issues. General inquiries increased 37 percent due to enhanced community outreach. Of these inquiries, 443 resulted in an official investigation. Investigations involved 32 percent of self-insured employers. Reported issues remain similar to those of the prior reporting period, including concerns about:

- Delayed time loss and loss of earning power benefit payments.
- Independent medical exams (IMEs).
- Delays in medical treatment and medical bill payment.
- Claims status issues, such as claim allowance, denial, re-opening, and closure.
- Incorrect wage calculations.

The Ombuds Office attempts to resolve issues quickly by working with the self-insured employer or third-party administrator (TPA). If this is not possible, the Ombuds Office engages L&I's Self-Insurance section to help resolve the issue.

The Ombuds Office team has experienced a slight upward trend in the ability to resolve issues with the self-insured employer or TPA, which results in better outcomes for injured workers. This trend needs to continue, and a new Ombuds complaint tracking system will help identify opportunities for process improvements.

Major initiatives in 2015/2016

- The Ombuds continues as an active participant in the Self-Insurance Audit Reform project. The goal of the project is to build an effective, industry-leading audit model that combines performance-based, complaint-based, and issue-based audits. The Tier 1 pilot project is near completion, development of Tier 2 is in progress, and Tier 3 is forthcoming. Tier 1 addresses wage calculations, Tier 2 will focus on timeliness of benefit payments, and Tier 3 will be a comprehensive audit for those who do not pass Tier 1 and 2 audits.
- Due to an increase in IME inquiries and complaints during the prior reporting period, IME issues were a top priority for the Ombuds. The Ombuds and several stakeholders participated in a Senate Commerce and Labor work session in January 2016. Process improvement recommendations were identified, including better data tracking of injured worker concerns, new injured worker communications, development of tools and training for claims adjusters, and revised IME and attending provider communications, processes, and training. Several of these solutions are under development. This heightened awareness has resulted in a 20 percent decrease in complaints.

- A business case was completed to replace the antiquated Self-Insured Ombuds Database (SIOD). Implementation of a new system is scheduled for the fall of 2016.
- The Ombuds Office revised internal procedures to improve efficiency and investigation timeliness rates. Updates include eliminating multiple touchpoints by Ombuds staff, which will ensure an Ombuds Assistant handles an inquiry from initial intake to completion. The Ombuds team also implemented direct claim file requests and use of secured email.
- The Ombuds Office updated its informational brochure and related materials. The Ombuds website is scheduled for an upgrade by the end of 2016.
- Complaints from firefighters increased regarding claim allowance under the firefighter presumption standard (RCW 51.32.185). The L&I Self-Insurance section (Self-Insurance) is committed to managing these claims efficiently. Accordingly, Self-Insurance reviewed related claim adjudication processes and adjusted internal procedures so that presumption is given foremost consideration.

Future initiatives

- The Self-Insurance Audit Reform project remains a major project for the Ombuds. Wage calculations and timely benefit payments are a primary focus of the audit work group, and finalizing Tier 1 audits and starting the Tier 2 pilot project are top priorities.
- Implementation of the new Self-Insurance Ombuds Database (SIOD) is a high priority for the Ombuds Office in 2016. This new reliable tracking system will include improved reporting and trending capabilities, which will help identify program deficiencies and issues. The Ombuds team will align the new SIOD data elements with the new Self-Insurance Risk Analysis System (SIRAS) complaint module.
- The Ombuds Office will assist Self-Insurance with creating effective audit and oversight by seeking policy changes that shifts required work from an outdated model of inefficient re-adjudication to a modern system of focused and effective audit and regulation.
- The Ombuds Office continues to experience issues with the availability of out-of-state adjusters and their understanding of the complex Washington workers' compensation system. The Ombuds will improve tracking of the nature of these concerns with the new SIOD system and research options to address these issues.
- The Ombuds Office will continue to support Self-Insurance with the development of IME claims management tools and training for claims adjusters. We will research solutions to improve IME and attending provider communications, processes, and training.
- The Ombuds team will partner with Self-Insurance to develop procedures which prevent delays in the claims adjudication process due to language issues, including adequate communications in the injured worker's preferred language.

- The Ombuds Office will continue to identify solutions to improve medical provider understanding of self-insurance protocols and communication with the self-insured community.

Conclusion

The Ombuds Office is committed to a strong advocacy program for injured workers, including timely and efficient resolution of issues and complaints. This requires ensuring an efficient self-insured workers' compensation system, and cultivating collaborative relationships with multiple stakeholders. Claims management and investigation process improvements will remain a primary focus in 2016/2017, including implementation of a new SIOD system.

A MESSAGE FROM THE OMBUDS

It has been a privilege to complete my first full year serving as the Ombuds for injured workers of self-insured employers. The Office of the Ombuds has accomplished several projects this year, which are detailed in this year's report.

We remain committed to protecting the rights of injured workers and resolving issues and complaints quickly. Our primary focus and projects are geared toward this mission and improving processes. Community outreach continues to be a top priority and key to maintaining awareness of issues and establishing priorities in the self-insured community.

We will continue to build rapport with all stakeholders and identify positive solutions and recommendations to improve the Washington workers' compensation system. We look forward to another productive year.

Donna Egeland
Ombuds for Self-Insured Injured Workers

Introduction

The 2007 Legislature established the Office of the Ombuds for Self-Insured Injured Workers to advocate for injured workers of self-insured employers, identify program deficiencies and make recommendations for policy and procedural improvements.

The top priority of the Ombuds Office is to help injured workers and their representatives with questions and concerns about industrial insurance rules and regulations, and quickly resolve specific workers' compensation complaints. The Ombuds Office team aims to provide a high level of customer service as they help injured workers maneuver through the complexities of the workers' compensation system.

Another goal of the Ombuds Office is to ensure a smooth claim process for injured workers, which includes identifying areas for process improvement and related policy enhancements. Effective collaboration with multiple interested parties is critical, and the team strives to maintain objectivity and positive relationships with all stakeholders, including worker advocates, L&I staff, and the self-insured business community.

This report begins by describing the structure of the Ombuds Office and self-insurance in Washington. This is followed by a summary of inquiries and investigation results for July 1, 2015 through June 30, 2016, including statistical analysis of the issues addressed. Subsequent sections go into greater detail about process improvement recommendations and efforts to resolve primary issues.

Office of the Ombuds

The Ombuds program is funded by self-insured employers and governed by Revised Code of Washington (RCW) 51.14.300 through 51.14.400. All information is highly confidential, and injured workers are informed of their rights to confidentiality under RCW 51.14.370.

Governor Inslee appointed the current Ombuds for a six-year term effective March 2, 2015. The Ombuds reports to L&I Director Joel Sacks, but operates independently from the agency. The highly qualified Ombuds Office team consists of the official Ombuds position, two workers' compensation adjudicators, and a program specialist.

Ensuring fair and certain relief on behalf of injured workers is the primary mission of the Ombuds Office, and is in the best interest of all parties involved in the Washington self-insured workers' compensation system. Efficient systems and approaches are key to streamlining processes for injured workers, and are a common goal of the workers' compensation community.

PRIMARY RESPONSIBILITIES OF OMBUDS OFFICE

Investigate and resolve complaints

- We ensure injured workers receive the appropriate benefits under Washington industrial insurance rules and regulations. It is important for workers to understand their rights and responsibilities and the investigation process. The Ombuds Office's top priority is to resolve all complaints as efficiently and quickly as possible, and maintain contact with the worker throughout the investigation process. When a timely resolution is not feasible, the complaint is referred to L&I's Self-Insurance section for further action.

Provide information and training

- We address questions and concerns about the workers' compensation process. The Ombuds Office team strives to provide excellent customer service and empathy as we help workers understand the complexities of the workers' compensation system and maneuver through the claim process. The team provides training and education, from official training to simply directing an individual claims adjuster to the appropriate regulation, administrative procedure, or claims management tools and resources.

Track complaints and inquiries

- We maintain a comprehensive database of complaints and inquiries, document outcomes, and analyze trends. Ombuds staff uses data analytics to identify systemic issues, as well as potential policy and process improvements.

Recommend policy and process improvements

- We identify solutions and opportunities for potential self-insured program procedural improvements, and make recommendations. We coordinate with applicable L&I divisions, external stakeholders, and workgroups or committees.

Maintain collaborative relationships

- We collaborate with multiple interested parties and cultivate positive relationships with all stakeholders, including worker advocates, L&I staff, and the self-insured business community.

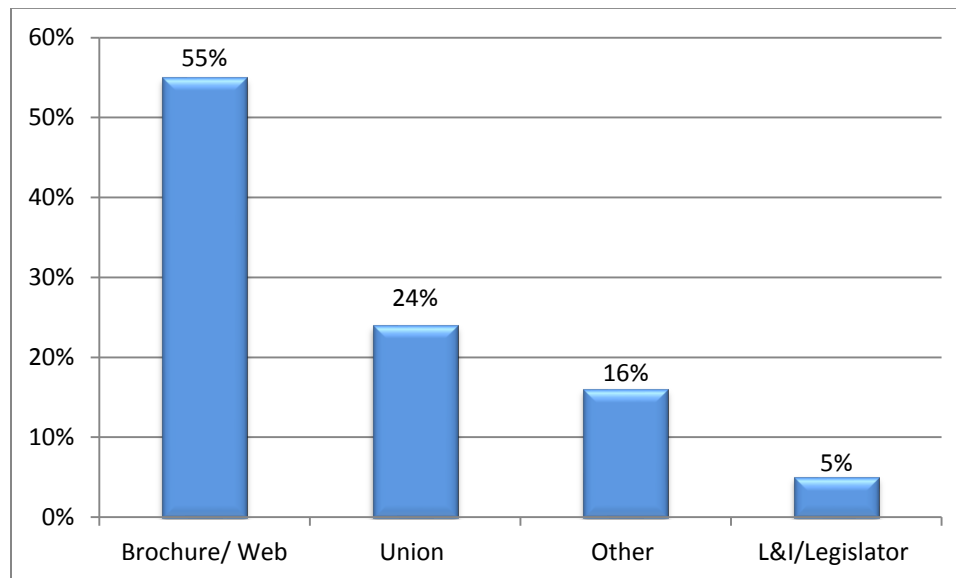
Conduct community outreach

- We participate in community events and provide training and education to constituents. The Ombuds Office team appreciates the opportunity to participate in conferences, meetings, and committees. These forums provide a meaningful way to share information about the Ombuds program, build relationships, gather information, and learn more about issues and concerns, and help identify solutions.

Referrals

As shown in Figure 1, the majority of referrals to the Ombuds Office are due to informational brochures or referrals from worker advocates. Other sources of referrals include friends of workers, legislators, L&I staff, treatment providers, attorneys, and employers and their representatives.

Figure 1: Referral Source



Source: Self-Insurance Ombuds Database (SIOD)

A MESSAGE FROM THE WASHINGTON STATE LABOR COUNCIL

The Washington State Labor Council, AFL-CIO, represents over 420,000 workers and their families in this state. We are committed to ensuring that injured workers of self-insured employers realize the same guarantee to sure and certain relief of their workplace injuries and illness as do workers of state-fund insured employers. The Office of the Self-Insured Ombuds shares that vision, and is a critical component in realizing that guarantee. The Ombuds has been a reliable resource for workers simply seeking clarification on an issue relating to their claim, as well as for those who have been abused by bad-actors in the system. We appreciate the collaborative approach the office has taken toward dispute resolution, and its ability to intervene on behalf of injured workers.

Jeffrey G. Johnson
President, Washington State
Labor Council, AFL-CIO

Injured workers receive *A Guide to Workers' Compensation Benefits for Employees of Self-Insured Businesses*, which includes a reference to the Ombuds program. The Ombuds program brochure is also widely distributed by the Ombuds Office and within the labor community. This brochure was updated in 2016. The Ombuds Office website provides additional information and is scheduled for an upgrade during the upcoming year.

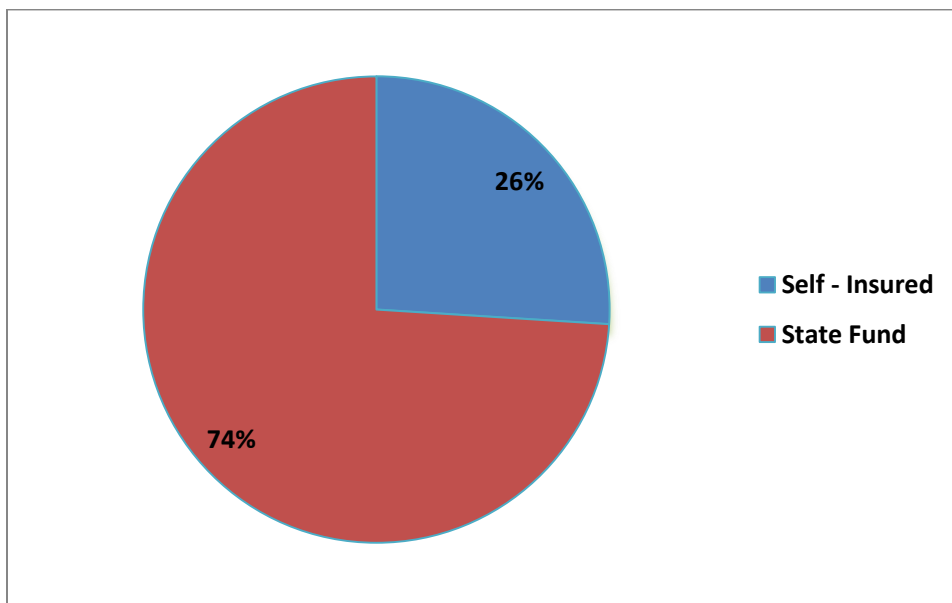
SELF-INSURANCE IN WASHINGTON

Self-insurance is an alternative method of providing workers' compensation coverage for Washington's largest employers. Self-insured employers may choose to self-administer their workers' compensation program or contract with a third-party administrator (TPA) to manage their claims process. L&I has regulatory authority over industrial insurance rules and regulations, and the L&I's Self-Insurance section enforces these regulations for self-insured employers. This includes providing certification services, audits, education and training, and assessing penalties if indicated.

There are currently 355 active self-insured employers in Washington. During fiscal year (FY) 2016, they employed over 902,000 workers. Self-insured employers reported 43,276 claims during this same period. More than 92 percent of self-insured employers currently contract with a TPA. There are 65 TPA locations, and 52 percent are located outside of Washington.

Figure 2 shows the proportion of workers covered by self-insured employers compared to workers covered by State Fund employers in Washington.

Figure 2: Washington's Workforce



Source: L&I Self-Insurance Section

Self-insurance basic requirements

To qualify for self-insurance, businesses must meet certain requirements, including:

- Be in business for at least three years.
- Meet mandatory financial standards and obligations.
- Demonstrate the existence of an established safety program, including an effective accident prevention program.
- Submit a description of an acceptable industrial insurance administration process to the department.

Standard Workers' Compensation benefits

All workers are entitled to the same level of benefits provided by Washington industrial regulations, including but not limited to:

- Medical benefits for approved treatment related to a work-related injury or illness.
- Partial wage replacement for lost wages due to a work-related injury or illness.
- Vocational assistance if the worker qualifies for retraining.
- Permanent partial disability benefits to compensate for a permanent loss of bodily function.
- A disability pension if the worker is permanently disabled from any gainful employment.
- Death benefits for survivors if a worker dies as the result of a work-related injury or illness.

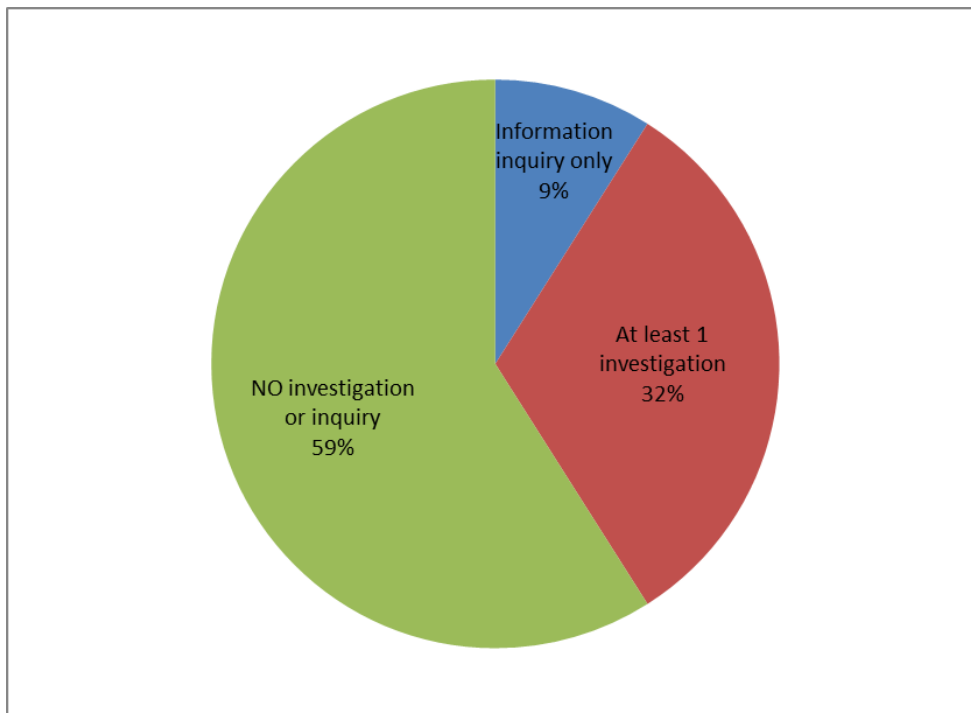
Summary of Activities and Findings

The first priority of the Ombuds Office is to act as an advocate for injured workers of self-insured employers. This involves providing information on industrial insurance and identifying, investigating, and facilitating resolution of issues and complaints from workers and their representatives.¹ The following information is a summary of investigation activities and findings for FY 2016.

INQUIRIES

The Ombuds Office received approximately 1,400 inquiries regarding workers' compensation claims of self-insured employers, involving over 1,600 different issues. General inquiries increased 37 percent due to enhanced community outreach. Most inquiries were informational in nature and did not warrant an official investigation (443 investigations performed during 2016 fiscal period). Investigations involved 32 percent of self-insured employers, and 59 percent of employers did not encounter any type of inquiry in the Ombuds Office.

Figure 3: Inquiries Proportion by Self-Insured Employers



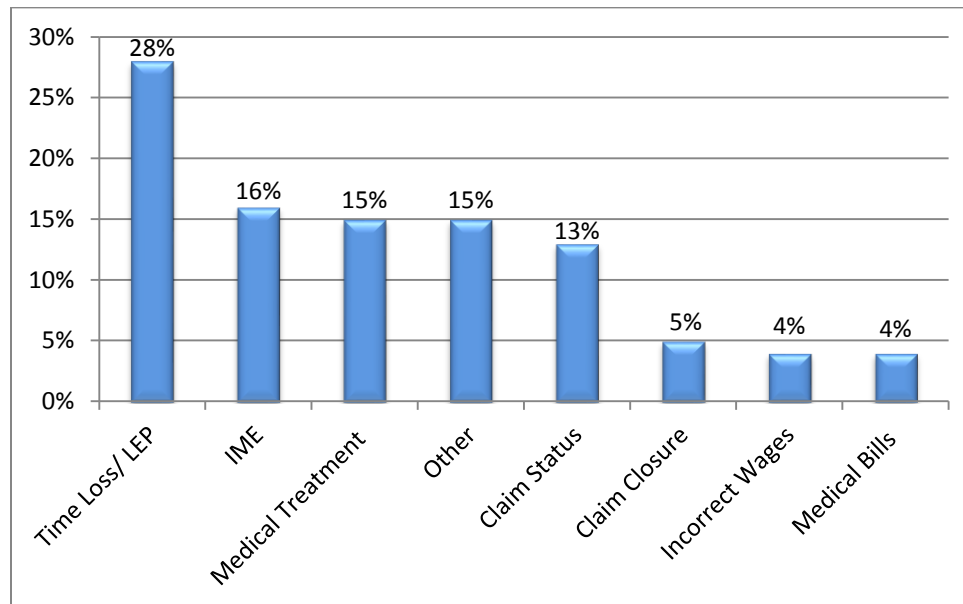
¹RCW 51.14.340

Source: SIOD

INVESTIGATIONS

The Ombuds Office completed 443 investigations during the FY 2016 reporting period. Figure 4 compares the issues involved in these investigations.

Figure 4: Reported Investigation Issues



Source: SIOD

Many investigations involve more than one issue about a claim. The categories remain fairly consistent with the prior reporting period. The Ombuds Office is implementing a new tracking system in 2016, which will improve reporting functionality and include an expanded data hierarchy describing the nature of inquiries.

Points of interest:

- Delayed or denied time loss or loss of earning power (LEP) benefits remain the primary source of complaints. Resolution of these benefit delays are a top priority for the Ombuds Office, and are also a priority for the Audit Reform Committee. The Tier 2 pilot audit scheduled to begin in 2016 will address timeliness of benefit payments.
- Independent medical exam (IME) complaints decreased 20 percent (122 investigations in 2015 compared to 98 in 2016). We believe the heightened awareness regarding IME concerns has improved communication to injured workers.
- Incorrect wage calculation inquiries decreased from 40 investigations in 2015 to 30 investigations in 2016 (25 percent). The Tier 1 audit pilot project continues to provide

education and training regarding accurate wage calculations. This is also an opportunity for Self-Insurance to collect information from self-insured employers regarding the complexity of individual wages. The Benefits Accuracy Work Group established in 2015 is also addressing wage calculations, and is expected to release their findings and recommendations to the Legislature in the near future. Consequently, the Ombuds Office expects to experience a decrease in complaints and will continue to closely monitor outcomes of the new tiered audit approach and the Benefit Accuracy Workgroup.

- Concerns regarding claim status (claim allowance, denial, re-openings, closures) continue to be an issue. The Ombuds Office continues to focus on potential solutions to reduce delays in the current claim process, including potential changes to L&I Self-Insurance claims management procedures and related penalties. The Ombuds believes there are opportunities to strengthen Self-Insurance regulatory oversight and dispute resolution processes, consistent with L&I’s goals to make it easier to do business with L&I and hold stakeholders accountable.

RESOLUTION PROFILE

The following describes the methods used to resolve self-insured workers’ compensation investigations. Some investigations involve more than one issue.

Figure 5 provides data on self-insured workers’ compensation claim investigations completed by the Ombuds Office over the last several years.

Figure 5: Resolution Profile

	FY 2016	FY 2015	FY 2014	FY 2013
Total Number of Investigations	443	440	486	505
Claims Adjudicated Correctly	158	155	183	146
Resolved with SIE / TPA	92	95	65	111
Resolved: L&I Assistance	137	143	190	162
Unable to Resolve - Not in Jurisdiction	56	47	48	86

Source: SIOD

In the spirit of quick resolution, the Ombuds Office team attempts to resolve issues directly with the injured worker’s employer or a third-party administrator (TPA).

If the Ombuds Office team is unable to resolve the issue with the employer or TPA, the team engages L&I’s Self-Insurance section for assistance to help resolve the issue. If necessary, the complaint is referred to Self-Insurance for further review and action (RCW 51.14.350). Self-Insurance staff conducts a thorough review, makes an independent claim determination, and provides the Ombuds

Office with a summary of the action taken. The Ombuds referral procedure to Self-Insurance was revamped in 2016 to streamline and expedite this process.

The Ombuds Office has experienced a slight upward trend in the ability to resolve issues with the self-insured employer or TPA. However, this trend needs to continue. The new SIOD system will include enhanced data analytics, which will help identify opportunities for process improvement and improved investigation completion rates.

CASE SCENARIOS

Time loss benefit delays

An injured worker contacted the Ombuds Office because his employer switched TPAs and he stopped getting his loss of earning (LEP) benefit payments. The Ombuds team contacted the TPA and informed the claims manager the worker was working light duty and reduced hours. The TPA issued the LEP benefit payment the next day.

Another worker contacted the Ombuds Office and explained that his claim was initially denied, but allowed several months later. During the time the claim was denied, he was off work due to the injury. Despite the delayed claim allowance, time loss benefits were not paid. The Ombuds Office contacted the TPA to discuss the situation. The TPA paid the time loss immediately.

IME concern

An injured worker contacted the Ombuds Office because it had been over three months since he underwent an IME, and neither he nor his attending provider (AP) had heard anything about the results. The Ombuds Office contacted the TPA and asked that the report be sent to the AP. The IME report, in which the examiner had recommended additional treatment, was sent to the AP. The AP concurred. Had the report been sent timely to the AP, the worker would not have experienced a three month delay in treatment.

Claim allowance

A worker was injured in early August 2015. He contacted the Ombuds Office toward the end of August because he needed surgery, but did not know the status of his claim. The injured worker had been unable to reach his claims manager at the TPA. The Ombuds Office contacted the TPA and learned the claims manager needed additional information from the worker and the attending provider regarding the injury and causal relationship to the worker's employment. The Ombuds Office assisted the worker, the required information was promptly provided to the TPA, and the claim was allowed.

Claim closure

An injured worker contacted the Ombuds office because she believed her claim was closed incorrectly. She thought she was entitled to a permanent partial disability (PPD) award. After

investigating the complaint, the Ombuds staff realized the TPA submitted a claim closure request to the Self-Insurance section several months prior, but did not include medical information to support a PPD. The Ombuds assistant contacted the TPA, who promptly submitted the missing documentation to the Self-Insurance section. Self-Insurance immediately closed the claim with a PPD award, and the injured worker received the PPD payment in short order.

Medical treatment

The Ombuds Office was consulted by an injured worker because his orthotics had not been authorized by the TPA. The provider's office had been calling the TPA for over a month without response. The Ombuds Office contacted the TPA, and determined additional information was needed before authorizing the orthotics. The Ombuds team worked with the provider's office and the TPA to gather the necessary information and the orthotics were authorized.

Firefighter presumption

A firefighter submitted a claim in January 2016 for non-Hodgkins Lymphoma, a covered condition under the firefighter presumption statute:

RCW 51.32.185: Presumption of occupational disease for firefighters, which states in part, "there shall exist a prima facie presumption that...cancer[non-Hodgkin's lymphoma]...are occupational diseases...This presumption of occupational disease may be rebutted by a preponderance of the evidence."

In February, the TPA requested an Interlocutory Order from Self-Insurance pending receipt of medical information, which was granted. In April, the TPA requested an extension of the Interlocutory Order because prior medical records had been requested but not received. No rebuttal evidence was submitted to Self-Insurance within the required 60-day period. Regardless, Self-Insurance granted the extension. In June, the TPA requested a second extension of the interlocutory period to request an IME, although no rebuttal evidence had been submitted to date. The Ombuds Office was asked to intervene and immediately coordinated an investigation, including Self-Insurance. The claim was ultimately allowed under the firefighter presumption standard.

Major Initiatives

The Ombuds Office has been involved in several important projects this past year, including Self-Insurance program improvements. Significant projects are highlighted in this section.

SELF-INSURANCE AUDIT REFORM

The Self-Insurance Audit Reform project began in 2013. The Audit Reform workgroup, consisting of representatives from labor, self-insured employers, and the Ombuds, advises L&I's Self-Insurance Program on changes and initiatives so that the end result is successful from the perspectives of both the worker and employer communities.

The purpose of the Self-Insurance Audit Reform project is to:

- Build an effective, industry-leading audit model that combines performance-based, complaint-based and issue-based audits.
- Ensure program compliance by self-insurers, including delivery of accurate and timely benefits.
- Detect non-compliers using reliable data, and apply a tiered audit approach as necessary to bring them into compliance.
- Communicate clear expectations to self-insurers and provide effective claims management tools, consultation and training.

Tier 1 audits

- L&I's self-insurance audit team began the Tier 1 pilot project in January 2015. This project is limited in scope and involves wage calculations only. All self-insured employers are scheduled for a pilot audit in 2015 - 2016. L&I's primary goal is to spend a sufficient amount of time with each self-insured employer and their representative TPA, if applicable, to provide clear expectations of the new audit process and training on wage calculations.
- It is important for the pilot project to result in best-in-class audit solutions. L&I publishes quarterly audit results, which are used to help identify necessary changes as the pilot project continues through 2016.
- Concerns have been raised about the Self-Insurance Program's capacity to timely complete Tier 1 audits. Consequently, L&I is redeploying staff from other responsibilities to finalize all Tier 1 audits no later than the end of 2016.

Development of Tiers 2 and 3

- The Tier 2 pilot audit is expected to address timeliness of indemnity benefit payments (time loss, loss of earning power, permanent partial disability). Tier 3 is in the early phase of development and will be the most in-depth audit approach. Testing of Tier 2 is scheduled to begin by the end of 2016, and Tier 3 testing shortly thereafter.
- This performance-based tier audit approach is a progressive audit concept, with each audit tier increasing in depth based on prior audit findings. For instance, negative findings in Tier 1 will lead to a Tier 2 audit; additional findings in a Tier 2 audit will lead to a Tier 3 audit.

Next steps

- L&I's current goal is to convert the Audit Reform advisory committee to an official governance committee consistent with the international standards of professional audit practices by the spring of 2017. The governance committee's main functions will be to advise and closely monitor the new tiered audit system and ensure continued focus on issue-based and complaint-based audits. The Ombuds will help develop issue-based audit concepts and continue complaint-based audit referrals to the Self-Insurance section.
- Development of the Self-Insurance Risk Analysis System (SIRAS) began in July 2015, and is scheduled for completion by July 2017. This system will support L&I's new audit model, help identify specific non-compliance risks and audit priorities, and ensure attention on problem areas. The system will provide electronic data reporting using a national standard developed by the International Association of Industrial Accident Boards and Commissions (IAIABC), and will allow multi-state employers to compare their performance in the state of Washington against performance in other states. The system will also include a new web-based portal for injured workers to report problems about their claim to Self-Insurance, which will create a work-item for L&I resolution. The data from both systems will be used to inform a new analytics-based notification feature for areas at risk of non-compliance.

Self-insured employers are funding this one-time project. Phase one of this project will address medical bill payment reporting. Once this phase is complete, phase two is expected to include claims management electronic data reporting.

INDEPENDENT MEDICAL EXAMS

Independent medical exams (IMEs) continue to be a top source of injured worker complaints (15 percent). However, these complaints decreased from 122 investigations in 2015 to 98 in 2016 (20 percent). We believe the heightened awareness around this issue has improved the IME process, including communication to injured workers. Following is a synopsis of current events addressing this issue.

Senate Commerce and Labor Work Session

The Ombuds presented concerns and suggestions for improvements to the IME process during the Senate Commerce and Labor work session on January 18, 2016, followed by representatives from

labor, business, L&I and the IME provider community. Top process enhancement recommendations include:

- Improve tracking of concerns for self-insured employers and the State Fund. The tracking system should help identify trends and key issues, as well as key offenders of the process.
- Collect specific, reliable data for the self-insured employer community regarding cost, frequency, and use of exams. Use this data to identify potential process improvements.
- Consider a survey of injured workers immediately following an IME. This data will be useful to gain a better understanding of top concerns.
- Require training for self-insured adjusters, and create useful claims management tools and training to help understand when and how to properly prepare for an IME.
- Mandate improved communication with injured workers to help reduce confusion about an IME. Many complaints could be resolved with better communication regarding why the exam was scheduled, the medical record review process, and what to expect during the exam.
- Consider process changes to increase IME consultative reviews and improve training and communications with attending providers.

IME solutions remain a top priority. In an effort to research options, the Ombuds began attending the L&I IME Committee and IME Roundtable discussions. Improved data collection is in progress, and revised claims management communications, tools and training are under development for self-insured adjusters. Provider processes, communications and training will be addressed as well.

INTERNAL PROCESS CHANGES

The Ombuds Office continually reviews internal processes to ensure excellent customer service and ensure that complaints and issues are resolved as quickly as possible. The following process improvements have improved efficiency and decreased investigation timeliness rates.

Streamlined investigation procedures

- We revamped internal investigation procedures, eliminating multiple touchpoints by staff. For instance, the Ombuds Assistant handling a particular inquiry or investigation now completes the inquiry from initial intake to finality of the issue.
- We implemented new procedures to request claim files directly from the self-insured employer or TPA, and use of secured email.

Updated injured worker communications

- We revised the Ombuds Office informational brochure and related materials. The Ombuds website is scheduled for an upgrade by the end of 2016.

Replace Self-Insured Ombuds Database (SIOD)

- A business case was completed to replace the antiquated Self-Insured Ombuds database. Implementation of a new database is scheduled for the fall of 2016.

Meet regularly with L&I Self-Insurance section

- We continue to collaborate with the Self-Insurance team to improve processes and ensure injured worker concerns are addressed and resolved efficiently. Recent claim management process improvements include firefighter presumption cases, interlocutory orders, and chemical-related illness coordination.

FIREFIGHTER PRESUMPTION

The Ombuds Office experienced an increase in complaints regarding workers' compensation coverage issues from firefighters with medical conditions listed under the presumption standard, RCW 51.32.185. Covered conditions include certain respiratory conditions, heart problems, infectious diseases (Hepatitis, HIV/AIDS, Meningococcal Meningitis, Mycobacterium Tuberculosis), and cancers due to firefighting and related exposures to chemicals and asbestos. The primary concern relates to the delay in claim allowance for these listed conditions, especially when there is no rebuttal evidence contained in the claim file.

In an attempt to resolve these delays, the Ombuds requested review of the L&I Self-Insurance firefighter presumptive coverage adjudication process. The primary goal is to ensure claims are managed correctly and legal orders are issued in a timely manner, as well as proper use of the interlocutory, or temporary, order process. The Self-Insurance section reviewed related claim adjudication processes and adjusted internal procedures so that when a self-insurer or their TPA requests claim denial or an interlocutory order, the presumption is now considered upfront. Accordingly, the Ombuds Office expects these complaints will decrease and will continue to monitor related complaint data closely.

Future Initiatives

The Ombuds Office continues to search for opportunities to improve internal self-insurance program processes and identify enhancements to self-insured systems. The Ombuds Office is confident these initiatives will lead to further positive solutions.

CONTINUE DEVELOPMENT OF AUDIT REFORM

The Ombuds will continue to participate on the Self-Insurance Audit Reform project (see Audit Reform section for further detail) and continue as a voting member on the audit advisory committee. The audit process is vital to ensuring compliance and identifying self-insured systemic issues, such as wage calculation consistency and benefit accuracy.

Wage consistency

- The Tier 1 pilot audit and the Benefit Accuracy Workgroup are important projects addressing the ongoing issue of correct wage calculations. The Ombuds Office will provide any necessary data and support to these workgroups, as wage calculations continue to be an administrative challenge.
- Maintaining fair and equitable benefits will remain a top priority.

Timeliness of time-loss benefits

- Delay of time-loss benefits is a continued concern (28 percent of complaints received by the Ombuds Office), and will remain a high priority. The Tier 2 audit process will review timeliness of benefit payments and help address this concern.

SELF-INSURANCE PROGRAM

The Ombuds continues to meet regularly with L&I's Self-Insurance section staff and stakeholders to ensure injured worker concerns are resolved in a timely manner and identify opportunities for process improvement:

Self-Insurance Reporting Analytic System (SIRAS)

- Partner with the SIRAS development team to align the new SIRAS complaint module with the new SIOD complaint system. This automation will improve merging of complaint data from both systems and will be used to identify issue- and complaint-based audit concepts, as well as opportunities for process improvement.
- Implement a routine process to review complaint data to identify opportunities for education and training, as well as reasonable inquiry or complaint-based audits. The Ombuds and Self-

Insurance Program Manager will continue to hold regular meetings to discuss concerns, develop plans, and take appropriate action.

- Full implementation of SIRAS is scheduled for completion by July 2017.

Create effective Self-Insurance section oversight and audit

- A successful regulatory oversight program includes effective education and enforcement standards. The Self-Insurance section should build a stronger regulatory oversight program, including compelling audit, enforcement, education, and dispute resolution standards. While work is underway through Audit Reform efforts and process improvements, ultimately changes may also be identified for agency rules and Title 51. Self-Insurance should shift away from re-adjudication and focus resources on the new audit model.
- The Self-Insurance section should strive for development of a stronger regulatory oversight program which builds trust with all stakeholders. This system needs to be objective and hold all parties accountable, and align with L&I's goal of making it easier to do business with L&I and focusing enforcement efforts on the bad actors and not the good ones.
- The Ombuds looks forward to helping identify process improvements in this area and ensure concerns of all stakeholders are identified and addressed. It is critical that the rights of injured workers are protected during this process.

Out-of-State claims management

- The Ombuds Office continues to experience issues with the availability of out-of-state adjusters and their understanding of the complex Washington workers' compensation system. The Ombuds will improve tracking of the nature of these concerns with the new SIOD system and research options to address these issues.

IME procedures

- The Ombuds will continue to support Self-Insurance with the development of IME claims management tools and training for claims adjusters. Improved communications between State Fund IME experts and the self-insured community are also necessary. The Ombuds will also research opportunities to improve IME and attending provider communication, processes, and training.

Language access issues

- The Ombuds will partner with Self-Insurance to develop procedures which prevent delays in the claims adjudication process due to language access issues. For instance, eliminate delays in the issuance of legal orders involving alternate languages, and work with self-insurers and TPAs to ensure adequate communications in the injured worker's preferred language.

IMPLEMENT NEW SELF-INSURED OMBUDS DATABASE (SIOD)

Implementation of a new SIOD system is a primary project for the Ombuds Office team in 2016 - 2017. The new system will include a reliable complaint tracking system with improved reporting and trending capabilities.

OTHER INITIATIVES

- The Ombuds will work with stakeholders to identify solutions which improve medical provider understanding of self-insurance protocols and communication with the self-insured community.
- The Ombuds supports expanded use of L&I's Utilization Review provider and the importance of the Office of the Medical Director's (OMD) Treatment Guidelines to avoid unnecessary medical interventions for injured workers. The Ombuds believes these proven solutions provide better outcomes for injured workers. The Ombuds will partner with the Self-Insurance section, OMD, and Health Service Analysis (HSA) to identify opportunities to expand the use and understanding of these programs.

Conclusion

The Ombuds Office is available to help injured workers of self-insured employers. Strong employee advocacy and customer service involves assuring an effective, reliable self-insured workers' compensation system. The Ombuds Office team is dedicated to efficient resolution of issues and complaints. This involves clear, concise communication, documentation and data tracking. Implementation of a new, sophisticated SIOD system is a top priority during the next reporting period, and improved data analytics will be developed to help identify systemic program and process improvements.

How to get help

For assistance with a self-insured workers' compensation issue, please call:

- Ombuds Confidential Hotline: 888-317-0493

Let us know your thoughts

The Ombuds Office welcomes feedback and suggestions about this report, as well as any suggestions for improving the self-insured workers' compensation system. Additional information about the Ombuds program can be found at:

- Ombuds Office website: www.ombudsman.selfinsured.wa.gov

Contact information

For more information about this report or self-insurance in Washington, please contact:

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