

Office of the Ombuds for Injured Workers of Self- Insured Employers

Fiscal Year (FY) 2024 Annual Report to the Governor

September 2024

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A MESSAGE FROM THE OMBUDS

The Office of the Ombuds for Self-Insured Injured Workers (Ombuds Office) has completed another successful year. This year's report highlights progress toward the program's priorities and recommended improvements. In the Executive Summary and throughout the report, you will find information focused on three key areas:

- 1. Ongoing work:** The Ombuds team continues to process new referrals and resolved 1,942 inquiries during the 2024 fiscal year. The team continues to provide support and training for the self-insured community, including injured workers, employee representatives, medical providers, self-insured employers, and their representatives.
- 2. Impacts of new legislation and rules:** The legislature passed important legislation in 2023 to address Independent Medical Exams (SHB1068); ensure self-insurance good faith and fair dealings and related penalties for some self-insured employers (SHB1521); and expand approved mental health providers (HB1197). The Washington State Department of Labor & Industries (L&I) continues to adopt several related rules and processes. We will continue to monitor new rules and help identify opportunities for self-insured process improvements as the new rules and regulations evolve.
- 3. Deficiencies and recommendations:** This report identifies areas for improvement. In particular, we recommend: adopting new processes to allow for partial pensions for injured workers unable to return to their job of injury; simplifying the complex self-insured wage calculation process; implementing electronic claim reporting; allowing for routine testing for closed occupational disease cancer claims; and to begin using the Centers of Occupational Health and Education (COHE) for the self-insured community. Continued modernization of Self-Insurance compliance and audit processes is also important, ensuring evolution of L&I's regulatory and enforcement efforts, including comprehensive audits and consistent penalties, and decreasing readjudication of self-insured claims.

The Ombuds Office remains committed to supporting injured workers and community outreach. These activities are key to identifying issues and establishing priorities for workers' compensation program improvement recommendations. Ombuds Office initiatives and projects continue to focus on modernizing the Washington workers' compensation system.

Thank you for your continued support of the Ombuds Office. We look forward to another productive year supporting injured workers and monitoring new policies and procedures.

Donna Egeland
Ombuds for Injured Workers of Self-Insured Employers

Executive Summary

Introduction

The Department of Labor & Industries' (L&I) Self-Insurance Program oversees and provides services to certified self-insured employers (SIE) in Washington. SIEs pay workers' compensation benefits directly to employees who are injured or become ill due to their job. More than 340 Washington companies are certified to self-insure, employing about 25% of Washington's workforce.

Self-insured employers manage their own workers' compensation claims, usually through a third-party administrator (TPA). This includes making decisions about paying benefits and accessing medical care.

Office of the Ombuds

The legislature established the 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 medical providers, or their representatives, to:

- Inform injured workers about industrial insurance and their rights and responsibilities.
- 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 Ombuds program's awareness and success.

About this report

This report to the governor is an annual requirement under [RCW 51.14.400](#) for the fiscal year July 1, 2023, through June 30, 2024. It summarizes each year's Ombuds Office activities, including:

- Issues addressed during the past year, along with case scenarios.
- Activities, findings, and community outreach.
- Identifying deficiencies in the self-insured workers' compensation system, and providing recommendations for improvement.

The Ombuds Office is committed to L&I's mission to *keep Washington safe and working*. The initiatives described in this report aim to ensure fair and equitable benefits for injured workers, and continual process and systemic improvements.

Summary of Fiscal Year 2024 activities and findings

The issues and activities addressed in this report are for FY 2024 (July 1, 2023, through June 30, 2024). During this time, the Ombuds Office team resolved 1,942 inquiries regarding workers' compensation claims of SIEs. The office continues to receive new cases daily.

Of the 1,942 inquiries, 912 resulted in an official investigation, while the others were resolved by sharing information. Investigations involved 45% of SIEs. Reported issues remain similar to those of the previous reporting period, including concerns about:

- Delays in time-loss benefits, medical treatment, and medical bill payments.
- Claim status issues, such as claim allowance, closure, denial, and re-opening.
- Unresponsive SIEs and TPAs.
- Regulatory process delays, including incorrect use of L&I templates and forms.
- TPAs not sending independent medical examination (IME) reports to injured workers and medical providers.
- Incorrect wage and loss of earning power benefit calculations.

The Ombuds Office attempts to resolve each issue quickly by working directly with the self-insured employer or TPA. If this is not possible, the Ombuds Office engages L&I's Self-Insurance Program to help resolve the issue.

Ombuds Office: other priorities and changes

The Ombuds Office continues to ensure modernization of internal processes supporting a positive customer service experience, and timely resolution of issues and complaints, including protocols and awareness to better serve limited English proficiency customers. We also continue to meet with any party interested in learning more about how we can support injured workers, SIEs, or TPAs to help streamline claim management processes.

The Ombuds team has shifted to a hybrid work model allowing more flexibility for our team, and one of our ombuds assistants has relocated to the Kennewick office – expanding our presence and outreach to the region.

Self-Insurance Program

Self-Insurance is in the process of revamping the current tiered audit model. The Ombuds encourages strong engagement and collaboration with the Audit Governance Committee to ensure the transformation is implemented successfully. The Ombuds is committed to ensuring an effective and fair audit approach. Any audit model must ensure the delivery of timely and accurate benefits and compliant SIE internal claim reporting systems.

In the meantime, Self-Insurance is performing interim audits of the following items:

- Timeliness of SIE and TPA communications.
- Mandatory document date-stamping.
- Correct use of L&I forms and communications.
- Worker rights and obligation notifications and SIE injury logs.

The Ombuds self-insured audit priorities continue to include:

- Timeliness of benefits; correct use of new rules and processes; timeliness and efficiency of claim allowance, closure and denial; timeliness of initial claim reporting; efficiency of claim reserve practices; accuracy of self-insured employer quarterly assessment reporting; and efficient use of electronic data reporting.
- Ensuring audit volume is commensurate with employer size.
- Ensuring adequate allocation of audit resources, including issue- and complaint-based audits.
- Monitoring audit trends and the impact on benefit delays and accuracy.
- Monitoring the impact and increasing enforcement efforts on self-insured employers and TPAs that repeatedly do not pass audits.

Ombuds Office recommendations

The Ombuds serves on several committees and workgroups and collaborates with multiple stakeholders to identify Washington self-insured workers' compensation system improvements.

Current Ombuds Recommendations:

- The system for filing self-insured claims is complex for workers, medical providers, and employers. L&I must implement a solution to expedite claim filing and reporting, such as an electronic, centralized single pathway to reporting similar to that of the State Fund accident reporting system. This electronic system should allow a claim to be initiated by the injured worker, medical provider, or SIE or its representative TPA.

The Ombuds suggests that the self-insured business community and L&I consider agreeing to a special allotment of funds to address this issue pursuant to RCW 51.44.145. These funds could also be used to fix other IT issues, such as issues with the Self-Insurance Electronic Data Reporting System (SIEDRS) and evolution of electronic data interchange (EDI). Any use of special funds projects must be carefully monitored to ensure timely, efficient use of these funds.

- Shift the focus of the Self-Insurance Program from claim readjudication to audits, enforcement, dispute resolution, claim management improvements, education, and electronic data reporting. This concept aligns with L&I’s goals of making it easier to do business with L&I and focusing efforts on bad actors. Expanded authority must be accompanied by strong L&I regulation and penalties for failure to deliver timely and accurate benefits, including automatic self-enforcement penalties.
- Enable self-enforcement by self-insured employers and TPAs, including mandatory automatic penalties for late payment of time-loss disability benefits. Automatic late time-loss payment penalties should decrease benefit payment delays — one of the top sources of complaints to the Ombuds Office.
- Solve delays related to medical-only claim issues, including requiring allowance orders on medical-only claims. The current statute (RCW 51.14.130) requiring timely claim allowance or denial does not provide an exception for medical-only claims. Self-Insurance rules, however, do not require these orders due to limited resources.
- The Washington complex wage calculation continues to be an issue in the self-insured claim process, including causing time-loss benefit underpayments and repayment of overpayments. There is a way to maintain fairness and equity for injured workers and streamline administrative processes for self-insured employers, including an acceptable, consistent entitlement for all injured workers.

In the meantime, the Ombuds appreciates the Self-Insurance Program’s efforts to streamline wage calculation processes to help with consistency of these complex wage calculations.

Other initiatives supported by this Office

- Independent medical examinations (IMEs) continue to be a source of complaints to the Ombuds Office. IME investigations decreased slightly (7% from 8% last year), with a majority of issues due to failure to send the IME report to the injured worker or medical provider.

The Ombuds Office’s current, primary concerns with the IME process are IME reports that are not sent to the injured worker or attending medical provider, and inquiries about new rules related to SHB 1068 concerning injured worker rights during an IME, specifically the recording of the exam. The new rules have caused confusion and delays with IMEs and claim management processes. L&I is aware of this issue and has completed stakeholder listening sessions. Consequently, L&I is exploring options such as a potential L&I contract with a recording vendor, chain of custody options, and allowing IME firms or doctors to co-record an exam with defined criteria.

- The Ombuds continues to recommend self-insured employers use services offered by the Centers of Occupational Health and Education (COHE). COHE’s health services coordinators (HSCs) manage care and care transitions, helping injured workers heal and

return to work faster.

L&I launched a project in January 2024 to evaluate whether or not and how the self-insured community can be directly involved in L&I's COHE program. We look forward to the results and recommendations.

- In July 2025, qualified psychologists may become attending providers for mental-health-only claims. L&I continues to promote access to mental health care by doing targeted outreach to mental health providers, including providing additional guidance to providers who treat workers with post-traumatic stress disorder (PTSD).

Additional recommendations

- Injured workers should be allowed to return to some form of gainful employment when they are unable to return to their job of injury. L&I should identify a solution to help injured workers return to a lighter job without jeopardizing their entire workers' compensation pension, such as a partial pension.

L&I reports an increase in pension costs related to PTSD claims. Partial pensions should help reduce these rising costs while ensuring positive outcomes for injured workers.

- Injured workers who have a closed occupational disease claim related to cancer must officially apply to reopen their claim to undergo routine follow-up testing to ensure they remain cancer-free. This is not required for some claims, such as some pensions and asbestosis-related claims. We recommend a change that allows for follow-up testing on closed cancer related occupational disease claims.

Conclusion

The Ombuds Office is committed to a strong advocacy program for injured workers, including timely and efficient resolution of issues and complaints. The Ombuds Office continues to advocate for new rules and procedures to further the goal of continual process improvement.

Introduction

The Office of the Ombuds for Self-Insured Injured Workers advocates for injured workers of self-insured employers, identifies program deficiencies, and makes recommendations for policy and process improvements.

The Ombuds Office helps injured workers and their representatives with questions and concerns about industrial insurance rules and regulations, and quickly resolves complaints. The Ombuds Office team offers a high level of customer service to help injured workers navigate the complex workers' compensation system.

The Ombuds Office works to ensure a smooth claim process for injured workers by identifying process improvements and related policy enhancements. Effective collaboration is crucial; 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 describes the structure of the Ombuds Office and Self-Insurance in Washington. This is followed by a summary of inquiries and investigation results for FY 2024, including statistical analysis of the issues addressed. Each section then details work to resolve issues as well as process improvement recommendations.

Office of the Ombuds

SIEs fund the Ombuds program. Revised Code of Washington (RCW) 51.14.300 through 51.14.400 governs the program. All information is strictly confidential, and injured workers are informed of their rights to confidentiality under RCW 51.14.370.

Gov. Jay Inslee appointed the current Ombuds for a second six-year term effective March 2021. The Ombuds reports to L&I Director Joel Sacks, yet operates independently from the agency. The Ombuds Office team consists of the official Ombuds, one operations and outreach supervisor, 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. The Ombuds operates in the best interest of all parties involved in the Washington self-insured employer workers' compensation system.

PRIMARY RESPONSIBILITIES

Investigate and resolve complaints

- We ensure injured workers receive 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 top priority of the Ombuds Office is to resolve all complaints as efficiently and quickly as possible, maintaining contact with the worker throughout the investigation process. When a timely resolution is not feasible, we refer the complaint to L&I's Self-Insurance Program for further action.

Provide information and training

- We address questions and concerns about the workers' compensation process. The Ombuds Office team strives for excellent customer service and empathy — helping workers understand and navigate the often-complex workers' compensation claim process. The team provides a range of training and education on appropriate regulations, administrative procedures, and claim management tools and resources.

Track complaints and inquiries

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

Recommend policy and process improvements

- We identify solutions and opportunities for potential self-insured program improvements. To prepare our recommendations, we coordinate with relative L&I divisions, external stakeholders, workgroups, committees, and other groups.

Maintain collaborative relationships

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

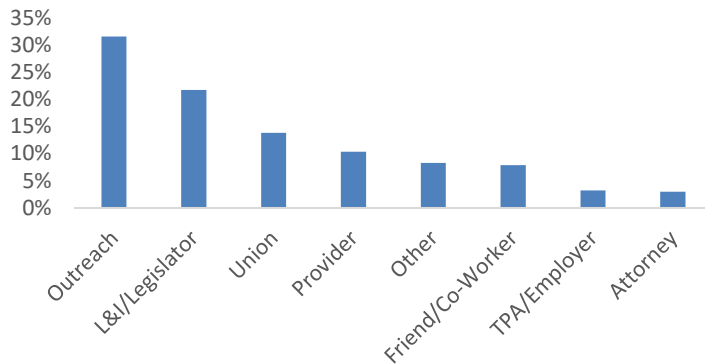
Conduct community outreach

- We participate in community events to provide constituents with training and education. Participating in conferences, meetings, and committees offers meaningful ways to share information, build relationships, and identify issues and solutions.

Referrals

As shown in Figure 1, community outreach and worker advocates are the major source of referrals to the Ombuds Office. Other sources include friends, medical providers, legislators, L&I staff, attorneys, and employers and their representatives.

Figure 1: Referral sources



Source: Self-Insurance Ombuds Database (SIOD)

SELF-INSURANCE IN WASHINGTON

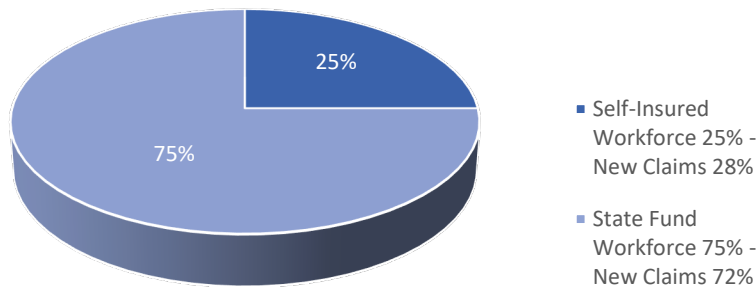
SIEs typically represent the state’s largest companies. They choose to self-administer their workers’ compensation program or to contract with a TPA to manage their claim process. L&I has regulatory authority over all industrial insurance rules and regulations, and enforces these regulations for SIEs. This includes providing certification services, audits, education and training, and assessing penalties, if needed.

Self-Insured Employer Facts:

- There are 343 active self-insured employers in Washington, employing more than 930,000 workers.
- Self-insured workers comprise about 25% of Washington’s workforce.
- SIEs reported about 39,900 new claims, compared to 101,100 new State Fund claims (28% of new claims) during FY 2023.
- More than 95% of SIEs currently contract with a TPA. There are 20 licensed TPAs, half of which are based out of state.

Figure 2 shows the proportion of workers covered by SIEs vs. 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 L&I.

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 temporary disability resulting from a work-related injury or illness.
- Vocational assistance if the worker qualifies for retraining.
- Permanent partial disability award to compensate for a permanent loss of bodily function.

- Disability pension if the worker is totally, permanently disabled from any gainful employment.
- Death benefits for survivors if a worker dies as the result of a work-related injury or illness.

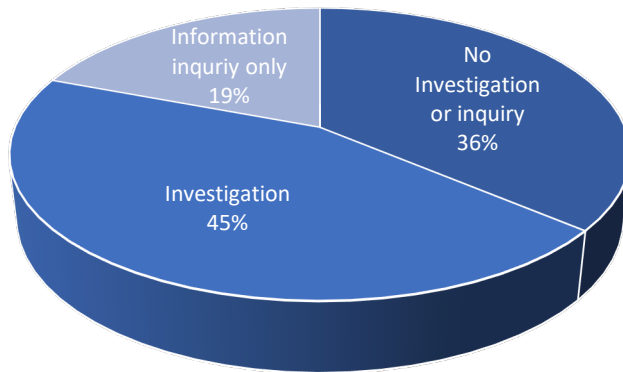
Summary of Activities and Findings

The Ombuds Office’s highest priority is to advocate for injured workers of SIEs. This involves providing information about industrial insurance and identifying, investigating, and resolving issues and complaints from workers and their representatives.¹ Here is a summary of investigation activities and findings for FY 2024.

INQUIRIES

The Ombuds Office resolved 1,942 inquiries regarding workers’ compensation claims of SIEs for the 2024 reporting period as of June 30, 2024. We received information-only inquiries on about 19% of SIEs. Investigations were necessary for 45% of employers. About 36% of self-insured employers needed no investigation or inquiry.

Figure 3: Inquiries proportion by self-insured employers



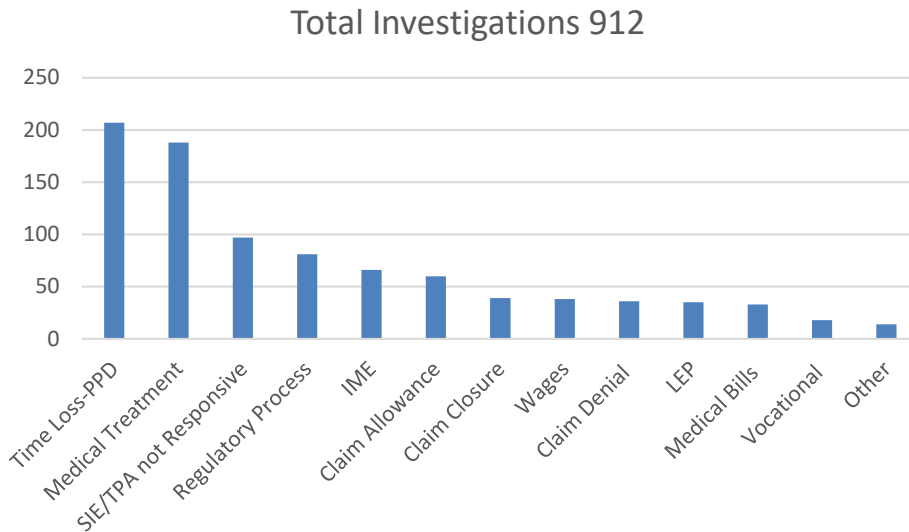
Source: SIOD

¹RCW 51.14.340

INVESTIGATIONS

During FY 2024, the Ombuds Office conducted 912 investigations in the following categories.

Figure 4: Reported investigation issues



Source: SIOD

The categories remain fairly consistent with the prior reporting period. The Ombuds Office's tracking and reporting system continues to evolve.

Points of interest:

- Concerns regarding timeliness and accuracy of time-loss benefits remain a top source of complaints. We believe that strong enforcement with self-enforced late benefit payments would be beneficial as seen in some other states (Alaska, California, Oregon). Self-Insurance should continue to prioritize timely and accurate benefit payments and monitor trends established by audits with increased enforcement on those who do not pass.
- Delays and issues with medical treatment also continue to be a top source of complaints. Our office works with the involved parties to assist with communication or documentation concerns that may be causing delays. We review each issue to confirm that treatment decisions are supported and communicated in writing, and that workers and medical providers know their rights to dispute decisions to L&I.
- The Regulatory Process category has increased from last year (9% from 5%). This category tracks inquiries about a regulatory process that is not otherwise captured in a different category (e.g., not using L&I templates and forms, failure to respond to our claim file requests, initial claim reporting via the Self-Insurance Electronic Data Reporting System [SIEDRS]). We believe that stronger enforcement will help improve these processes and look

forward to the results of the Self-Insurance interim audits that are focusing on use of L&I forms and templates and timeliness of SIE/TPA communications.

- Concerns regarding claim status (Claim Allowance, Closure, and Denial) continue to be a source of inquiries. Our office works to educate all parties on claim processes, including rules related to claim validity and claim closures. We believe Self-Insurance should address ongoing claim status issues, including medical-only claim delays and related orders. Streamlining the claim process, including reducing Self-Insurance claim readjudication, may require legislation.
- There has been an increase in the category SIE/TPA not Responsive (11% vs. 6% last year). The Ombuds team continues to provide information regarding WAC 296-15-550, which requires prompt response to inquiries from workers, L&I, the Ombuds Office, and medical providers. We have seen penalties being assessed for this violation and hope that continued enforcement will decrease future violations. This is a focus of Self-Insurance interim audits, and we look forward to those audit outcomes.
- Independent medical examination (IME) investigations decreased slightly (7% from 8% last year). Sixty-eight percent of IME investigations were about new rules related to RCW 51.36.070; of those, 82% were due to failure to send the IME report to the injured worker or attending medical provider. We have also seen an increase in inquiries regarding the new recording rules. L&I is exploring options to address concerns with the new rules. We continue to monitor complaints related to IMEs and provide training on new rules as necessary.
- The Washington complex wage calculation continues to be an issue in the self-insured claim process (e.g., time-loss benefit underpayments and repayment of overpayments). We believe there is a way to maintain fairness and equity for injured workers and streamline administrative processes for SIEs, including an acceptable, consistent entitlement for all injured workers. Legislation to address this ongoing issue is likely necessary.

RESOLUTION PROFILE

The following describes how investigations were resolved.

Figure 5: Resolution profile

	FY2024	FY2023	FY2022	FY2021
Total Number of Investigations	912	978	1,007	1,166
Claim Adjudicated Correctly	307	389	306	283
Resolved – SIE / TPA	307	249	364	588
Resolved – L&I Assistance	151	185	177	155
Not in Jurisdiction	75	86	108	100
No worker follow-up	72	69	52	40

Source: SIOD

The team first works directly with the injured worker’s employer or TPA to resolve issues. We are grateful that the majority of issues are resolved as claims adjudicated correctly or resolved with the SIE/TPA. If we cannot resolve the issue with the SIE or TPA, we engage L&I’s Self-Insurance Program, and the complaint may be referred for further review and action (RCW 51.14.350). If that happens, L&I conducts an independent claim review and determination, and provides our team with a thorough summary.

CASE SCENARIOS

This report includes case scenarios on a wide range of issues summarizing Ombuds Office activities (RCW 51.14.400). These scenarios describe some of the cases closed during FY 2024.

Time-loss benefit delays

A worker contacted our office because they did not agree with their time-loss rate. We reviewed the claim file and determined the employer stopped contributing health care benefits but did not increase the time-loss rate accordingly. We reached out to the TPA claim manager (CM) to discuss the matter, and they agreed to review the file. After their review, the CM issued an underpayment of over \$19,000 to the worker.

A worker reached out to our office to seek clarification as to why they were denied time-loss benefits. They shared that they had permanent work restrictions and a vocational counselor was assigned to their case. Our office reviewed the claim file and found support for time-loss benefits. Attempts to resolve the issue directly with the TPA CM were unsuccessful, so the worker disputed the issue with L&I. L&I notified the TPA CM. In response, the CM paid the time-loss benefits owed.

Permanent Partial Disability (PPD)

A worker contacted our office because they disagreed with their PPD rating. After review, we learned the treating provider medically supported the rating and the CM authorized a consultation, which also supported the rating. Our office explained the medical documentation used to support the rating and provided the injured worker with their protest and appeal rights.

Medical treatment

A worker reached out to our office after receiving a notice that denied their knee replacement surgery. We reviewed the claim file and found a Utilization Review report denying the requested surgery because an MRI had not been done. Our office shared information with the CM that, per the Medical Treatment Guidelines, an MRI is not required. Also, an Independent Medical Exam (IME) was scheduled at the request of the worker, and the worker disputed the surgery denial to L&I. The IME supported the surgery, and L&I issued an official order accepting the condition and directing authorization of the surgery.

Claim allowance

A worker contacted our office regarding the status of their claim allowance, as the investigation period had expired. Our office reviewed the claim file and felt the allowance met the criteria. In the meantime, the TPA requested additional time. Since the TPA had the claim for over 150 days, and documentation in the claim file supported allowance, our office advocated for an Allowance Order. The L&I adjudicator reviewed the file and issued the order.

IME concerns

A worker reached out to our office because an IME was scheduled in Renton, but they typically commute to Everett for medical care. We explained how to request rescheduling the IME closer to their home. Additionally, we reviewed the claim file and found medical documentation from an approved IME examiner that supported claim allowance. We discussed this with the TPA, who reviewed the file, agreed the IME was not necessary, and canceled the exam. The TPA then requested L&I to allow the claim.

Communication

A worker contacted our office because their CM was not responding. We reached out to the CM to discuss the requirements of WAC 296-15-550 to respond to the injured worker. The CM shared that an issue with the alerts in their messaging system was identified and it would be fixed immediately to ensure timely communication. We confirmed the worker had been contacted.

A worker and medical provider reached out to our office, as they were not getting responses from the CM assigned to the claim. Our office tried to contact the CM several times and did not get a response. We reached out in writing and requested a response per WAC 296-15-550. The CM called, and we were able to discuss repeated concerns regarding communication. The CM responded to the worker and provider's office with the requested information.

Claim closure

A worker contacted our office with concerns about unpaid time-loss benefits. We contacted the TPA CM, who paid the additional time-loss and then issued claim closure. However, there was no medical documentation in the claim file to support the claim closure, so the worker protested the decision. After review, L&I reversed the claim closure and directed the TPA CM to address outstanding issues prior to the closure.

Wage concerns

A worker reached out to our office because they did not agree with the wage calculation used to determine their time-loss benefits. After review, we determined that one of the hourly rates listed was not included in the overall calculation, which resulted in a significant underpayment. We contacted the TPA CM, who then conducted an audit of the wages, resulting in underpayment of approximately \$14,000.

Regulatory process

A worker contacted our office due to a delay in authorization for an injection. After reviewing the file, we determined that the worker had been receiving time-loss benefits for six months, the claim was not reported correctly, and no Claim Allowance Request form was submitted to L&I as required. We contacted the TPA, who promptly submitted the proper form and addressed the pending request for the injection authorization.

Major Initiatives

The Ombuds Office was involved in several important projects that impact the self-insurance system. This section highlights significant projects and future recommendations.

OMBUDS OFFICE BUSINESS TRANSFORMATION

The Ombuds Office continues to focus on modernizing our internal processes that support excellent customer service and timely resolution of issues and complaints. We also continue to monitor processes and awareness to serve limited English proficiency customers better, and make amendments as necessary.

The Ombuds team has shifted to a hybrid work model, allowing more flexibility for our team. For instance, one of our ombuds assistants has relocated to the Kennewick office – expanding our presence and outreach to the region. We also continue to meet with any party interested in learning more about how our team can support injured workers or TPAs to help streamline claim management processes. Please feel free to contact us if you are interested in meeting to discuss how our office can support your team. (No confidential claimant information will be shared.)

Mission statement

The Ombuds Office has adopted an official mission statement and core values:

Mission statement:

The primary mission of the Office of the Ombuds for Self-Insured Injured Workers is to provide a confidential dispute-resolution process that advocates for fair and equitable outcomes for injured workers of self-insured employers. We provide an informed annual report to the governor and legislature containing a summary of our activities, findings, and recommendations for systemic improvements to the Washington Self-Insured Workers' Compensation system.

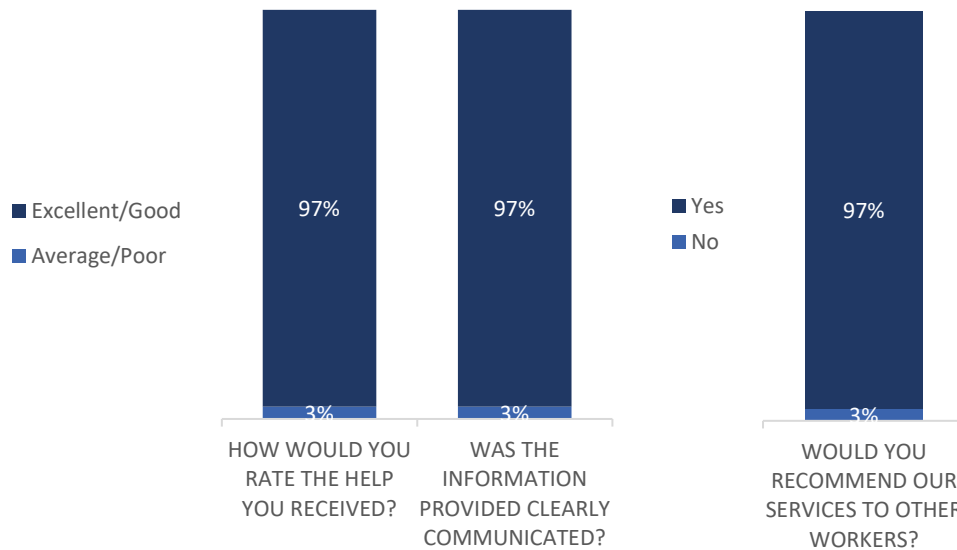
Core values:

- **Independence:** We are independent and collaborate with multiple stakeholders (injured workers of self-insured employers and their representatives, self-insured employers and their representatives, medical providers, and L&I).
- **Integrity:** We take pride in our work and are committed to ethical, honest, and fair outcomes.

- Professionalism: We maintain the highest level of professionalism at all times.
- Empathy: We are committed to kindness and understanding the needs of our customers and the impact of our actions.
- Confidentiality: We are committed to the highest level of confidentiality at all times, and protect the information given to us.

Injured worker customer service surveys

The Ombuds Office sends surveys to injured workers after resolving their issue(s). The current response rate is 24%, and overall, survey results are positive. Ninety-seven percent of customers said they would recommend our services to other injured workers.



INDEPENDENT MEDICAL EXAMINATIONS

Independent Medical Examination (IME) investigative issues decreased slightly from self-insured injured workers (66 vs. 82 in prior year). However, we have seen a notable increase in informational inquiries related to IME recording rules/processes.

Primary self-insured complaints are related to claim management, and well over half of these issues are related to the IME report not sent to the injured worker or attending medical provider.

The Ombuds is also concerned with the new rules related to SHB 1068 concerning injured worker rights during an IME, specifically the recording of the examination. The new rules have caused concerns and delays with IMEs and claim management processes. L&I is aware of this issue and completed stakeholder listening sessions. Consequently, L&I is exploring options, such as a potential L&I contract with a recording vendor, chain-of-custody options, and allowing IME firms or doctors to co-record an exam with defined criteria.

The Ombuds team will continue to monitor new rules and processes and their impact on IME inquiries/complaints to the Ombuds Office, and recommend policy and process improvement recommendations as necessary for the self-insured community.

SELF-INSURANCE AUDITS

Self-Insurance is in the process of revamping the current tiered audit model. The Ombuds encourages strong engagement and collaboration with the Audit Governance Committee to ensure this transformation is implemented successfully. The Ombuds remains committed to ensuring an effective and fair audit approach.

Any audit model must ensure delivery of timely and accurate benefits and compliant SIE internal claim-reporting systems.

In the meantime, while Self-Insurance is revising its audit processes, auditors are performing interim audits of the following items, which align with new Good Faith and Fair Dealing rules (per SHB 1521):

- Timeliness of SIE and TPA communications.
- Mandatory document date stamping.
- Correct use of L&I forms and communications.
- Worker rights and obligation notifications.

- SIE injury logs.

Self-Insurance plans to complete interim audits and implement audit program enhancements by July 1, 2025.

Ombuds audit priorities

The Ombuds will continue to serve on the Self-Insurance Audit Governance Committee, which is led by L&I. This advisory committee consists of representatives from the labor community, the SIE community, and the Ombuds.

The Ombuds continues to recommend that audits include these priorities:

- Correct use of new rules and processes, with a focus on new TPA claim administration and IME legislation, including the use of several mandatory Self-Insurance forms and templates. Current interim audits are addressing some of these issues.
- Timeliness and accuracy of all indemnity benefits (time-loss, permanent partial disability).
- Timeliness and efficiency of time-loss claim allowance, closure, and denial.
- Timeliness and efficiency of medical-only claim allowance and claim closure.
- Timeliness of initial claim reporting by the self-insured employer, including the employer's internal claim reporting system (e.g., date stamping, posting notices, claim packets). The current interim audits are addressing some of these issues.
- Efficiency of claim reserve practices.
- Accuracy of SIE's quarterly assessment reporting, including payroll data. The accuracy of this reporting impacts the administrative assessments paid by SIEs to support the operation of the Self-Insurance Program.
- Efficient use of medical electronic data reporting and the Self-Insurance Data Reporting System (SIEDRS), and implementing new claim management electronic data reporting via the electronic data interchange (EDI) to help identify future issue-based audit concepts.

Self-Insurance's regulatory enforcement standards and processes must continue to evolve and include the following:

- Ensuring audit volume is commensurate with the size of the employer. The Ombuds continues to question the number of claims audited for large employers, as the current number of claims audited for large employers seems low (10 claims).
- Ensuring adequate allocation of audit resources, including resources for issue-based and complaint-based audits, and expanding the focus of audits.

- Monitoring audit trends and the impact on benefit delays and accuracy based on L&I audit results and complaint-based data contained in the Self-Insured Ombuds Database (SIOD). If audits are effective, benefit complaints and issues should decrease.
- Monitoring the impact on SIEs that repeatedly do not pass at any level of the audit process. We expect to see stronger regulatory enforcement and corrective action for those that continue to fail audits.

The Ombuds will continue to monitor the current audit process transformation and looks forward to the Self-Insurance audit recommendations, which are vital to ensuring compliance and identifying self-insured noncompliance and systemic issues.

SELF-INSURANCE PROGRAM

The Ombuds team meets regularly with L&I's Self-Insurance Program staff and stakeholders to resolve injured worker concerns in a timely manner and identify opportunities for process improvement.

Current Ombuds Recommendations:

- The system for filing self-insured claims is complex for workers, medical providers, and employers. L&I must implement a solution to expedite claim filing and reporting, such as an electronic, centralized single pathway to reporting similar to that of the State Fund accident reporting system. This electronic system should allow a claim to be initiated by the injured worker, medical provider, or SIE or its representative TPA.

The Ombuds suggests the self-insured business community and L&I consider agreeing to a special allotment of funds per RCW 51.44.145. These funds could also be used to fix other IT issues, such as the SIEDRS reporting system and evolution of EDI data. Any use of special funds projects must be carefully monitored to ensure timely, efficient use of these funds.

- Shift the focus of the Self-Insurance Program from claim readjudication to audits, enforcement, dispute resolution, claim management improvements, education, and electronic data reporting. This concept aligns with L&I's goals of making it easier to do business with L&I and focusing efforts on bad actors, which is consistent with protocols in other states. Expanded authority must be accompanied by strong L&I regulation and penalties for failing to deliver timely and accurate benefits, including automatic self-enforcement penalties.

The Ombuds continues to recommend allowing SIEs to issue formal orders when accepting, closing, or denying a claim. The Joint Legislative Audit and Review Committee's (JLARC) 2015 audit report on workers' compensation claims management confirmed that the current readjudication process by Self-Insurance takes an average of 66 days, compared to an average of six days to make a decision on a State Fund claim. According to the JLARC

study, “L&I agrees with the [self-insured] employer for 99 percent of acceptance decisions and 98 percent of denials.”²

- Enable self-enforcement by SIEs and TPAs, including mandatory automatic penalties for late payment of time-loss disability benefits, which is a common practice in some surrounding states (Alaska, California, Oregon). Automatic late time-loss payment penalties should decrease benefit payment delays, one of the top sources of complaints to the Ombuds Office.
- Resolve the delays related to medical-only claim issues, including requiring allowance orders on medical-only claims. The current statute (RCW 51.14.130) requiring timely claim allowance or denial does not provide an exception for medical-only claims. Self-Insurance rules, however, do not require these orders due to limited resources.
- The Washington complex wage calculation continues to be an issue in the self-insured claim process (e.g., time-loss benefit underpayments and repayment of overpayments). There is a way to maintain fairness and equity for injured workers and streamline administrative processes for SIEs, including an acceptable, consistent entitlement for all injured workers.

In the meantime, the Ombuds appreciates the Self-Insurance Program’s efforts to streamline wage calculation processes to help with consistency of these complex wage calculations.

²JLARC Proposed Final Report: Workers’ Compensation Claim Management, Published January 2016

Other Initiatives

The Ombuds Office continues to search for opportunities to improve Self-Insurance Program processes and identify enhancements to self-insured systems. The Ombuds Office is confident these initiatives will lead to further positive outcomes for injured workers.

PARTIAL PENSIONS

The Ombuds believes a solution should be identified to help injured workers return to some form of gainful employment when they are unable to return to their job of injury, such as allowing for a partial pension. A partial pension allows an injured worker to return to a lighter job, often at reduced wages, without jeopardizing their entire workers' compensation pension (i.e., the pension is decreased based on the worker's wages at the new job). This solution works in other states, such as Arizona.

This matter seems especially important as L&I reports an increase in pensions related to new PTSD claims. Partial pensions should help reduce the related increase in costs while ensuring positive outcomes for injured workers.

CANCER CLAIMS

Under current rules and regulations, an injured worker who has a closed occupational disease claim related to cancer must officially apply to reopen their claim to undergo routine follow-up testing to ensure they remain cancer-free. This is not required for some claims, such as some pensions and asbestosis-related claims.

We recommend a change to allow for important, routine testing for closed cancer occupational disease claims without filing a reopening application, which can be a complex, timely process. This may require a statutory change.

CENTERS OF OCCUPATIONAL HEALTH AND EDUCATION

Some of the top issues in the Ombuds Office continue to address medical care and return-to-work coordination, which can affect time-loss benefits and medical treatment authorization. The Ombuds continues to recommend SIEs use services offered by the Centers of Occupational Health and Education (COHE). COHE's health services coordinators (HSCs) manage care and care transitions, helping injured workers heal and return to work faster.

Our efforts to find opportunities to allow SIEs to use COHE services, however, have not succeeded.

L&I launched a project in January 2024 to evaluate whether and how the self-insured community can be directly involved in L&I's COHE program. L&I's initial work entails a gap analysis that will inform decisions about next steps, and is expected to be done later this year. We look forward to these results and any recommendations to move forward with SIE's use of COHE services.

EXPAND AVAILABILITY OF APPROVED MENTAL HEALTH PROFESSIONALS

The Ombuds team continues to face challenges with helping injured workers find approved mental health treatment due to the low number of approved providers. Fortunately, the legislature passed legislation in 2023 allowing psychologists to act as the attending provider for mental health claims (HB1197). L&I continues to address this issue and is expanding the pool of mental health providers. Following is an update of its progress:

L&I concluded the master's level therapist pilot in December 2023, and transitioned the providers to a permanent payment policy in the Medical Aid Rules and Fee Schedules in January 2024. More than 220 master's level therapists billed L&I in 2023, and we will continue to monitor the number of providers in our system throughout the rest of 2024. Additionally, L&I continues to promote access to mental health care by doing targeted outreach to mental health providers at conferences, and providing presentations to healthcare organizations to remind providers of our services. L&I has initiated several projects focused on mental health care, including providing additional guidance to providers who treat workers with PTSD. As part of that same project, there will be additional targeted outreach and recruitment efforts. In July 2025, qualified psychologists may become attending providers for mental health-only claims.

Conclusion

The Ombuds Office continues to help injured workers of SIEs, worker advocates, medical providers, SIEs and their representatives, and any other party involved in the self-insured system. Our team has modernized several processes and is well-positioned to assist interested parties with many new self-insured rules and processes. Community outreach remains a top priority and is key to maintaining awareness of issues and establishing priorities for the self-insured community. The Ombuds Office team is dedicated to resolving issues and complaints efficiently, and identifying positive solutions and recommendations to improve the Washington workers' compensation system.

How to get help

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

- Ombuds Confidential Hotline: 1-888-317-0493
- Ombuds Confidential Secured Email: SIOmbuds@Lni.wa.gov

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 online.](http://www.lni.wa.gov/Ombuds) (www.lni.wa.gov/Ombuds)

Contact information

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This document is available in alternative formats to accommodate persons with disabilities. Copies of this document can be obtained in alternative formats by calling 1-888-317-0493.