

SJR 30: The BIGGER Picture

Work comp is insurance/risk retention.

For Insurance (or Risk Retention) in General:

- ❑ Premiums are based on an estimated risk for specific jobs.
- ❑ Risk is based on the group classification – not necessarily for the company.

What is the Economic Affairs Committee's Role?

- ❑ Determine Goals
- ❑ Find areas where tweaks to statutes or structures may improve rate payments and benefits for both employers and workers.



SJR 30 Goals



As proposed earlier:

Reduce premium rates

Increase benefits 

Increase competition 

Anything else?

How to Impact Premiums?

- Stabilize medical costs (medical = 70% of costs).
- Provide/revise incentives for early return-to-work.
- Implement effective transition-to-work program.
- Encourage workplace safety.
- Review rate structure differences for Montana State Fund compared with other insurers' rate structure.
- Determine benefits of claim closure.



✓ Address Medical Costs

- Determine if new fee schedule is providing perverse incentives for certain treatments or curing a previous perception of perverse incentives.
- Consider impacts of treatment guidelines.
- Consider impacts of medical review board.
- Evaluate whether cost-shifting is worse for employers that do not self-fund work comp or health insurance.

✓ Incentives for Return-to-Work

- Review SB 192 implementation of RTW programs (Chamber of Commerce, others)
- Review use of mandated RTW programs
- Consider job sharing options for RTW (a pool?)
- Tie vocational rehabilitation to RTW?
- Seek to decouple the revolving door injury in which an employee hurt on the job at one employer returns to work but with another employer.

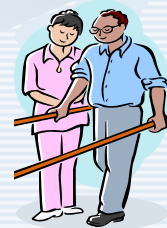
✓ Incentives for Transition to Work

- ❑ Examine barriers in large businesses (union contracts, options for taking various leave)
- ❑ Examine barriers in small businesses (few light-duty jobs in certain operations)
- ❑ Examine the temporary total disability (TTD) benefits versus partial total disability (PTD) benefits and the 4 points of the “Coles” criteria.

Other Barriers to Getting Back to Work

For an injured worker:

- ❑ Is there inertia from not working or fear of getting back to work?
- ❑ Is the injured worker unable to get back to work – who determines the line?
- ❑ What is the role of the vocational rehabilitation specialist?



✓ Encourage Workplace Safety

- ❑ Actions being taken for writing safety plans.
- ❑ What are the next steps for safety training?
- ❑ What are the roles for insurers and for the state?



✓ Review Rate Structures at State Fund/ Private Insurers

- ❑ What are the differences that affect rates?
 - o State Fund has a 67% share of the non-self-insured market. The next biggest share is Liberty Northwest.
 - o State Fund has greater flexibility in setting rates than insurers subject to State Auditor's limits on 40% increase/decrease.
 - o State Fund required to serve as insurer of last resort.
 - o State Fund has a guaranteed base: Insuring the State of Montana is roughly a \$20 million book of business.

✓ Review Rate Structure(s)

Rates a combination of many factors.

- o Losses (paid out for wages and medical claims)
- o Frequency of Claims/Experience Factors/Modification Factors
- o Administrative Costs
- o Reserves
- o Size of Employer (vis-a-vis Volume Discounts/Tiers)

✓ Determine Benefits of Claim Closure

What are the differences/impacts of indemnity claim closures and medical claim closures?

What is the difference between Montana and states with high claim closure data?



Claim Closure Philosophies

- ❑ Settlement “makes whole” an injured worker. (Constitutional requirement for redress.)
- ❑ Current law uses language that appears to limit settlements to those “in part” less than \$20,000 (in permanent total disability)
- ❑ There is a rationale that, unless needed for life’s necessities, payouts should be over time to make certain that the money is spent as a substitute for a salary or to meet future medical expenses.
- ❑ “Disputed” claims may be settled – as a way for closure for both parties.

Issues for claim closure

- ❑ Perm partial settlements negotiated. MT definitely different. Indemnity (wage payments) closed, but medical stays open. Annuities?
- ❑ A determination that a worker has reached maximum medical improvement (MMI) doesn’t close access to medical claims. Oregon puts medical claims into other claim processes.
- ❑ Open claims impact reserve requirements.
- ❑ There is a concern that there are incentives not to close a case if a pending court decision (such as Satterlee) might be applied retroactively to all open claims.

Barriers for medical claim closures

- Philosophical question of whose responsibility to pay if medical claims are closed and money used up?
- Questions as to unknown increases in medical costs.
- Medicare needs to sign off on settlements.

✓ Improve Benefits to Injured Workers

- Determine at which points in system the injured worker's benefits not as high for individual injured worker in Montana as in other states.
- Improve system for approving medical treatment so that injured worker treated sooner rather than later. (E.g. Using medical utilization and treatment guidelines or outside medical reviews.)
- Review whether look-back period is needed for initial 4-day delay before benefits made available.

✓ Increase Competition

- Among insurers.
 - o What changes are necessary to increase competition and reduce market dominance?
 - o Would a private-insurer-only system work in Montana?
- Among treating physicians.
 - o Are incentives needed to treat work comp cases?
 - o What is needed to discourage tests ordered to avoid lawsuits?

Other issues?

- Exemptions
- Presumptive illnesses
- Attorney access/fees
 - Physician access
 - Other?