

Economic Affairs Committee Research Questions

--Ask expert consultant to review best practices in other states on return-to-work programs, safety and frequency of injuries, particularly states with similar levels of small businesses.

The expert will be looking at what the LMAC, 60 Summit, and WorkSafeMT has done to date in the area of reducing injuries and injury duration through prevention of injuries and return to work. She has also done some work on return to work best practices with the US Department of Labor that she will share and make any recommendations she feels necessary for us to maximize our prevention and return to work efforts. We will ask her to explore which of the comparator states have similar levels of small employers and what if anything they do to maximize prevention and return to work.

--Ask expert consultant for other states' best practices on medical fee schedules and medical utilization and treatment guidelines.

As a part of her contract, Ann Clayton will be preparing a report on what other states do for medical cost containment strategies and will review whatever available evidence there is on the effectiveness of those strategies. She will also be reporting what other states do for utilization and treatment guidelines and what (if any) studies of effectiveness have been completed.

--Ask expert consultant for review of course and scope definitions and related states' rates.

We have asked Ann to become familiar with Montana's statute and case law on the issue of what constitutes "course and scope" of compensability and have asked her to compare and contrast that to comparator states. She has indicated that it would take a special type of study to determine if any differences in the course and scope of compensable injuries would explain any differences in state premium rates, but she will not know what is specifically possible until we have claim cost data to look at. It will depend on the level of detail of the claim cost data received from other sources.

--Ask expert consultant to review exclusive fund states' pros and cons. (Also, there's a request for information on states that require only hazardous employment to have work comp -- what do other workers do in those states - sue? Someone at ERD may have this answer.)

We have asked our consultant to prepare a briefing and overview of workers compensation state funds and frame the public policy issues involved in the regulation of workers' compensation insurance in general. Although she does not consider herself an expert in insurance regulation, her 37 years in workers compensation and specifically her ten years as a state workers compensation administrator allowed her to be a part of many policy discussions on the regulatory issues and may be able to help frame the public policy discussions. (Note that according to her research, there are no states that require ONLY hazardous industries to carry workers' compensation coverage. But there are some states that do not allow any exclusions in hazardous industries...she can include that information in the work she will be doing in the area of exclusions. She advises us that only the state of Texas allows employers to "opt out" of workers' compensation, but then there are some requirements for those employers that take that option. Although the state of New Jersey has an "opt out" provision, the requirements are so strict, no employer has ever used it according to New Jersey officials.

--Ask expert consultant how other states handle fraud (by workers and misclassification by employers) - both from a preventive and an investigatory/enforcement standpoint.

The consultant will include an overview of workers' compensation fraud, methods states use to handle both worker and employer fraud and the results they have had to date for those states that have records of the number of prosecutions.

--Ask expert consultant to provide best practices elsewhere to determine why rate of incurred total & indemnity claim frequencies by NCCI class code is higher in Montana than in other states.

Ann will provide as much of this as is possible once we know how detailed and the quality of the data we are able to obtain from comparator states.