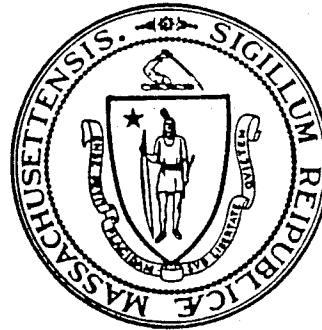


MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL



ASSESSMENT OF THE DEPARTMENT OF INDUSTRIAL ACCIDENTS AND WORKERS' COMPENSATION SYSTEM

Phase I
Final Report

June 28, 1989

Peat Marwick Main & Co.



Peat Marwick

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EXECUTIVE SUMMARY

In 1985 the Commonwealth of Massachusetts enacted c.572 of the Acts of 1985, the Massachusetts Workers' Compensation Reform Law (Reform Law), which amended M.G.L. c.152, to usher in a new era of comprehensive changes to the Workers' Compensation System (the System). The Reform Law mandated sweeping changes in the practice, scope and administration of workers' compensation in the Commonwealth. It enhanced the operations and responsibilities of the designated workers' compensation agency, the Department of Industrial Accidents (DIA) and authorized an oversight body in the Workers' Compensation Advisory Council (the Council).

The statute called for a review of the implementation of the Reform Law. Through a competitive bidding process, the Council selected KPMG Peat Marwick to assess the efficiency and effectiveness of the DIA and the System. The study has been funded by the DIA from revenues collected through assessments on law-abiding, private employers in the Commonwealth.

The Council divided the study into two distinct phases. The purpose of Phase I was to concentrate on post-reform cases in our review of DIA operations and to investigate certain significant issues concerning the System. Phase II, assuming it is commissioned, will entail a state-by-state comparison of certain aspects of the System and target Phase I results for further analysis.

This document presents the results of the Phase I work. The project goals and objectives are defined in Section I. Our approach to the study is outlined in Section II and relevant background material is summarized in Section III. The major departmental processes and workflows are described in Section IV. Section V presents an overview of the DIA's organizational structure.

To analyze the DIA and the System, we developed five analysis perspectives, each with several key review criteria and relevant questions. The analysis perspectives, which are described in Section VI of this document, are:

- Operations
- Statutory Compliance
- Financial Management
- Organization and Staffing
- Specific System Issues

As a result of our research and analysis, we have several findings which are presented in Section VII. Our assessment revealed strengths and shortcomings in both the DIA and the System. Significant strengths we observed as a result of the reforms include an:

- Improved process and services for injured workers, characterized by:
 - more timely receipt of benefits due to the payment without prejudice provision
 - more available vocational rehabilitation services
 - greater awareness of workers' rights and benefits under the law
 - assurance of coverage under the new Trust Funds in the event of uninsured employers
- Improved morale within the DIA, evidenced by:
 - improved opportunities and career path for DIA employees
 - a genuine concern on the part of DIA managers, staff and judges for improving System performance
- Improved framework for handling cases, especially:
 - vastly improved automation capabilities with a state-of-the-art computer system
 - a better aligned organization structure within DIA
 - regional offices to allow injured workers easier access to services

Overall, we observed many positive benefits since the Reform Law took effect. It is obvious that the DIA has made significant progress in improving the administration of the System. In addition, we found several areas where further improvements could be made. In many cases, progress has been constrained by the various statutes, regulations and other Commonwealth procedures under which the DIA must operate.

The more significant findings of this study are:

- Backlogs and Delays

Certain provisions of the Reform Law contain incentives or disincentives which have created a higher volume of cases than expected. This increased volume has caused a substantial new backlog to develop in several areas including:

- Claims Processing
- Conferences
- Hearings
- Issuance of Decisions
- Lump Sum Settlements

Procedural and staffing constraints have further compounded the backlogs and delays in:

- Conciliation
- Data entry
- Investigations
- Trust Funds payments

The effectiveness of the new on-line computer tracking system, which relies on timely input of data, is constrained by these backlogs. As a result, the DIA managers and staff, who must compensate for incomplete system information, are not as effective as they could be.

- DIA Budget Inadequacy

DIA performance has been hampered by the lack of an adequate budget. The DIA receives appropriations annually and participates in the budget process as required by all departments of the Commonwealth. However, the funding of the DIA is revenue neutral since all funds are reimbursed to the Commonwealth by assessments on private employers.

- Trust Fund Exposure

Staff shortages, backlogs, pending legal decisions, withdrawal of insurers from the Commonwealth, and current accounting practices are combining to create significant financial exposure for the Trust Fund. This issue could undermine DIA accomplishments and cripple the new System if left unaddressed.

- Staffing Shortages

Staffing in DIA needs further review to optimize allocation of resources across units. On the surface, it is clear that some units are understaffed, based upon the volume of activity and high priority of their function. Other units appear to be overstaffed based upon the value of the function to the DIA and the System.

- Lump Sum Settlements

Lump sum settlement procedures are often untimely and inconsistent. Workers are not given sufficient financial information upon which to base their decisions and cases are not being processed in a timely manner.

Major findings with respect to the System relate to the:

- Reform Law

Some of the original intentions of the Reform Law are not being achieved. The law built in certain disincentives and conflicting practices which do not adequately discourage litigation and lump sum settlements. Another statute, M.G.L. c.23E, hampers the DIA's ability to creatively respond to new challenges.

- Compensation for Service Providers

The current compensation structure established for various service providers in the System does not provide equal incentives to service providers and discourages efficient processing of cases. There is a perception that rates for insurers and medical professionals are inadequate, and there is concern that the structure of attorney fees tends to encourage more litigation.

This Phase I study includes a process for prioritizing recommendations according to five criteria:

- Impact on the DIA and the System
- Condition of Existing Methods
- Impact on Statutory Compliance
- Tangible Benefits
- Implementation Risks

During Phase II we will prioritize the recommendations in conjunction with the Council and the DIA. The priority scheme is described in Section VIII.

Recommendations

To address the significant findings, we developed preliminary recommendations and logically grouped them at a project level. These recommendations will be further refined as Phase II progresses and we incorporate the findings of the state-by-state comparison. The recommendations are presented in Section IX and include a project description, major activities to consider, expected benefits, and the estimated time needed for completion.

The preliminary recommendations have a primary common goal, to eliminate the backlog and prevent its recurrence. Solving this problem, however, has many dimensions and no quick fixes. Accordingly, we have suggested several actionable projects to approach this goal in a structured manner. We recognize there may be legislative and administrative barriers beyond the immediate control of the DIA and the Council. However, we believe these recommendations represent a reasonable starting point from which to address further System improvements.

The projects we are preliminarily recommending are:

1. Revise Legislation and Regulation
2. Modify the Lump Sum Approvals
3. Change Trust Funds' Financial and Administrative Procedures
4. Redirect Office of Safety

5. Automate Insurance Register
6. Upgrade Conciliation Process
7. Complete Detailed Staffing Analysis
8. Modify DIAMETER to Improve Claim Processing
9. Investigate Potential for System Abuse
10. Redesign Management Information Reports
11. Improve Internal Communications
12. Re-evaluate Attorney Compensation
13. Improve Medical Access
14. Expand Systemwide Educational Efforts
15. Enhance Legal Counsel's Support
16. Link Performance Criteria
17. Enhance Budget Planning Process
18. Audit Reimbursements and Assessments
19. Conduct "Housekeeping" Projects
20. Commence Phase II

In Section X, Preliminary Implementation Schedule, we suggest time frames for implementing the project recommendations. Due to the nature of the recommendations, the implementation should realistically take place over a three-year period. A more definitive implementation plan will be finalized during Phase II after the recommendations are prioritized based upon KPMG Peat Marwick's ranking of projects and the DIA and Council's assignment of importance to the different prioritization criteria.

* * * * *

Finally, we would like to acknowledge the courtesy and cooperation extended to us by the Council, Council staff, and the DIA staff during the course of the study.

Peat Marwick Main + Co.

I. PROJECT GOALS AND OBJECTIVES

I. PROJECT GOALS AND OBJECTIVES

The purpose of this study is to conduct a review and assessment of the implementation of the Workers' Compensation Reform Act of 1985, which was called for under c.572, Section 60 of the Acts of 1985. The Workers' Compensation Advisory Council (Council), which was created under the Act, was charged with the responsibility to select an independent consulting firm to perform this review. In January 1989, the Council selected Peat Marwick Main & Co. (KPMG Peat Marwick) to conduct Phase I of the study.

KPMG Peat Marwick was authorized to commence the study in April 1989. The principal objectives of Phase I were:

- To assess the effectiveness and efficiency of the Department of Industrial Accidents (DIA).
- To review and assess significant issues of the Workers' Compensation System (System).
- To develop preliminary recommendations for improvement.

KPMG Peat Marwick and the Council organized the study into focus areas affecting DIA and the System. These areas included:

Department of Industrial Accidents

Claims Processing
Conciliation
Dispute resolution
Lump sum settlements
Education and rehabilitation
Insurance registry and investigation

Safety
Finance
Case tracking system
Administration
Regional services

Massachusetts Workers' Compensation System

Accessibility of healthcare services
Vocational rehabilitation
Costs of the System
Self-insurance
Assigned risk pool

This Phase I report presents our initial assessment of the DIA and selected System issues and preliminary recommendations. If commissioned, Phase II of this study should address the following objectives:

- A comparison to workers' compensation systems in selected other states.
- Additional quantitative analyses of the DIA and of the System.
- A finalization of project recommendations along with a prioritized ranking.
- A detailed implementation plan for the selected project recommendations.

II. PROJECT APPROACH

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Our approach to the assessment consisted of the following activities:

Fact Finding

- Personal interviews with members of the Council, the DIA, other Commonwealth agencies, and representatives of the System. Appendix A contains a list of interviewees.
- Observations of various System processes.
- Review of documentation provided by the Council, the DIA, and interviewees. Appendix B contains a list of such documentation. Appendix C presents our summary analysis of the Reform Law.
- Requests for additional reports and data for analysis. Not all additional data could be provided because of data processing limitations and time constraints. Phase II should incorporate further analysis of this data, as necessary.
- Secondary research conducted through a search of insurance libraries and industry sources, such as NCCI.

Analysis

We developed an analysis framework which looked at the DIA and the System from five different perspectives:

- Operations
- Statutory Compliance
- Financial Management
- Organization and Staffing
- Specific Systems Issues

Each perspective included questions which allowed us to analyze our interview notes and quantitative data and assess the strengths and shortcomings of the DIA and the System. Due to the time restrictions of the evaluation process, we were not always able to validate the statements made by interviewees against other objective sources.

Recommendations

To present our recommendations, we grouped them at a project level and identified major activities. In addition, we have presented expected benefits from implementing each recommendation and an estimated time frame. In Phase II we will estimate costs for each project and conduct a definitive scoring and weighting process to prioritize all recommendations. Projects will be initially ranked by virtue of a raw score we will assign according to a variety of criteria. As Phase II progresses, we expect to help the Council and the DIA develop appropriate weightings for these different criteria. This process will result in a weighted ranking for the different project recommendations. We will then develop detailed implementation plans for the high priority projects.

III. BACKGROUND

III. BACKGROUND

Major changes have taken place in the System since the passage of the Reform Law in 1985. This legislation was the first to significantly alter the System. It was the result of a review of the previous System by a Governor's Task Force and strong participation and leadership by the AFL-CIO, AIM and the Joint Committee on Commerce and Labor to correct numerous problems that existed.

As a result of the Reform Law:

- The DIA expanded in terms of staffing and budget.
- Specific time frames were modified for responding to claims and complaints at several steps in the claim process.
- Mechanisms such as conciliation have been developed in an attempt to reduce the percentage of cases which reach dispute resolution.
- An automated case tracking computer application has been developed and implemented to facilitate and monitor the progress of claims through the System.
- The method of funding the DIA has been transferred from the Commonwealth to the primary System users.
- Major initiatives have been mandated to ensure injured workers are provided with needed advice and guidance, such as educational information and rehabilitation services.
- Major efforts have been undertaken to ensure all parties strive for timely case actions and, where appropriate, fees and penalties have been instituted.

Given the scope of the Reform Law, the DIA has undergone massive changes over the last three years. The legislation combined with growth of the DIA and the push for efficiency improvements have required a number of critical decisions be made over a relatively short time period.

The current ability of the DIA to adequately carry out its responsibilities must be considered in the context of the extensive changes in operational procedures and functions mandated by the Reform Law. Further changes are still being contemplated in the System. However, in many respects the DIA is constrained by the budget process and by other Commonwealth rules and procedures from operating at optimal effectiveness. These constraints hamper the DIA despite its best efforts and intentions. Much success has been achieved by the DIA in many areas. The DIA recognizes that further improvements are possible and necessary. Several improvements are being planned by the DIA as part of its continuing efforts to upgrade procedures and operations.

Our Phase I assessment of the DIA provides a benchmark in determining the extent to which the specific details of the Reform Law have been successfully operationalized and the intended benefits have been achieved. We have attempted to present a balanced report which assesses both strengths and weaknesses of the DIA and the System. However, our report is primarily designed to facilitate continued improvements and therefore focuses more on areas of weakness. This emphasis in our report should not be interpreted as diminishing the successes achieved to date in many areas of the DIA in carrying out its mandated responsibilities.

The System has experienced many stresses since the passage of the Reform Law. Problems have arisen in the areas of medical care access, adequacy of System funding, growth in the Assigned Risk Pool, use of vocational rehabilitation, and so forth. Specific System issues are also addressed in this report.

IV. PROCESS OVERVIEW

IV. PROCESS OVERVIEW

The two major System processes that the DIA performs are Claims Processing and Dispute Resolution. This section presents an overview and a flow diagram of the significant actions and events of each process.

Claims Processing

The Claims Processing unit is responsible for receiving, date-stamping, sorting and entering into the DIAMETER system 21 different types of forms or reports filed by employers, workers, insurance companies, attorneys and other third parties. The reports and forms are the initial input documents that require Departmental action and processing which in turn allow the process to progress to the next event, provide notification to parties, or update the system as to the current status of the case.

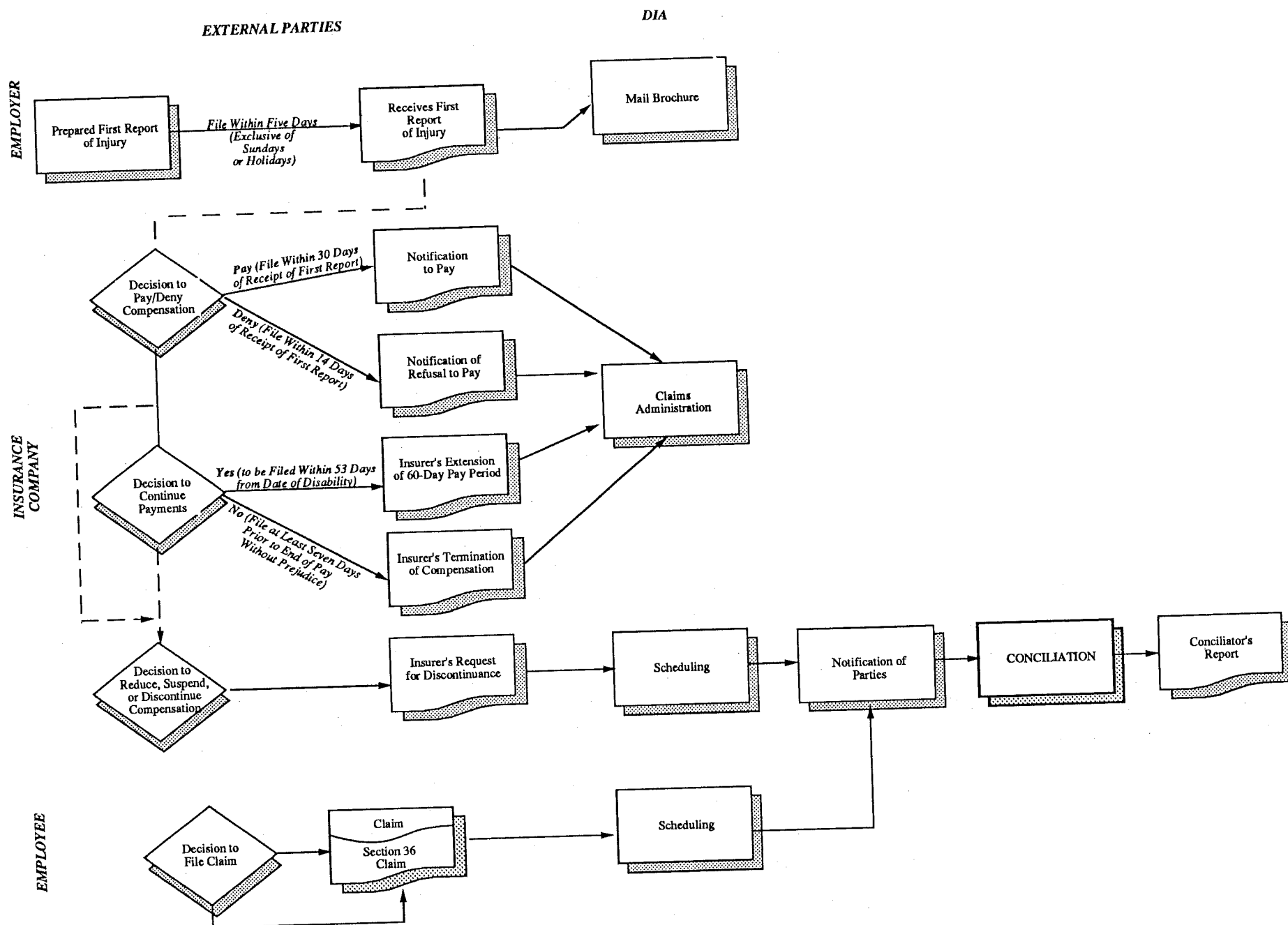
An overview of claim processing is presented in Exhibit IV-1. The process commences after a worker is injured at his place of employment and the employer completes and submits a "First Report of Injury" form. An injury that actually results in five or more calendar days (of disability) is compensable.

Insurance companies are responsible for submitting various forms to document their actions with respect to individual cases. These forms include:

- Notification of Payment (of compensation)
- Notification of Denial (of compensation)
- Request for Extension of 60-Day Pay Period
- Notification of Termination of Weekly Compensation
- Notification of Modification of Weekly Compensation
- Agreement to Compensation (when applicable)

Workers who have a compensable injury and who have not reached an accord with their employer's insurance company may file a "Claim" form 30 days after the injury. The claim form triggers the scheduling of a conciliation meeting. Similarly, the insurance companies can file a "Request for Reduction or Discontinuance of Compensation" which will schedule a conciliation. The purpose of conciliation is to provide an opportunity for the DIA mediator to facilitate discussion of the facts and resolve or narrow the issues between the two parties at a very early point rather than immediately referring the case to formal adjudication and dispute resolution.

CLAIMS PROCESSING OVERVIEW



Dispute Resolution

An overview of the dispute resolution process is presented in Exhibit IV-2. The process commences if a worker's case is not settled at the conciliation phase. It is then referred for formal adjudication to the Division of Dispute Resolution.

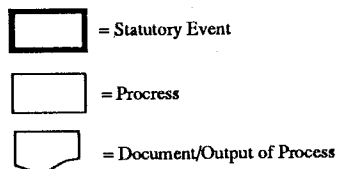
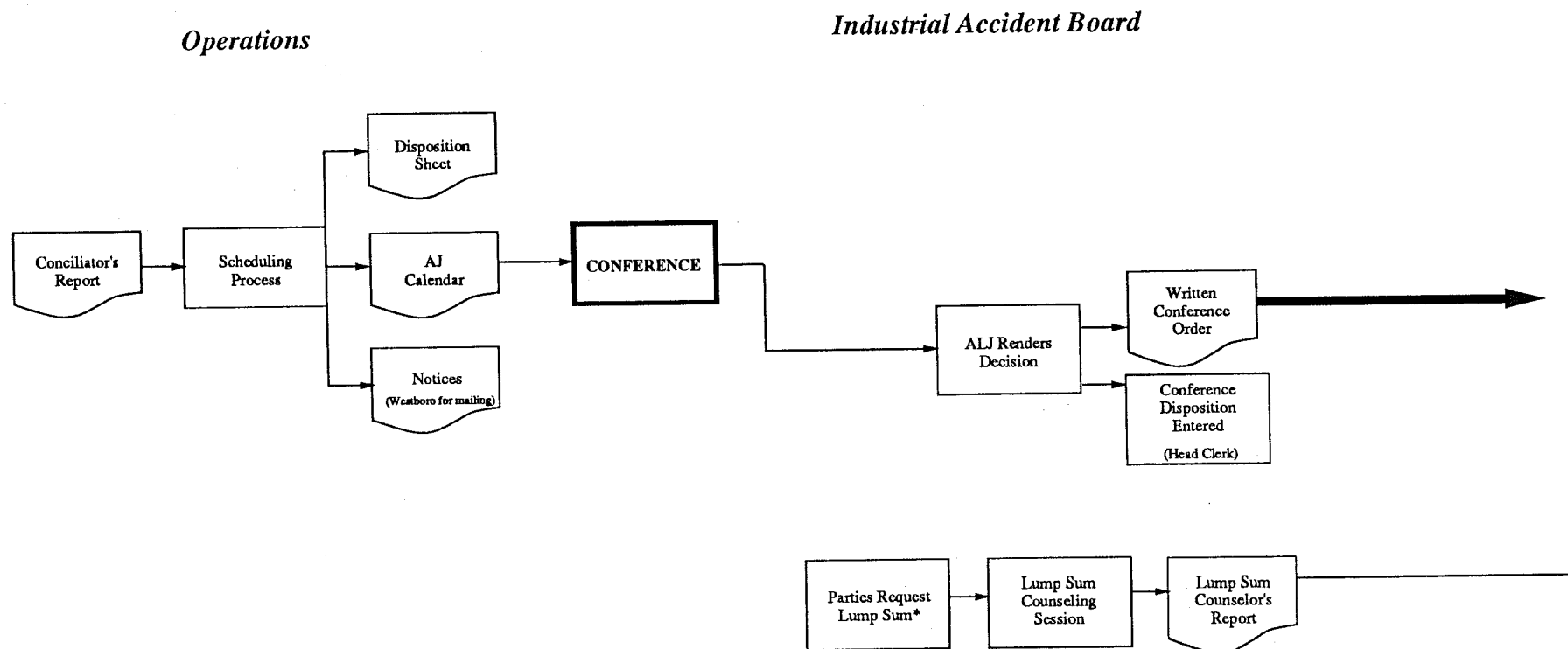
Once a case is referred to Dispute Resolution, it enters a queue of cases to be scheduled for conference. The automated scheduling process places the case on an administrative judge's (AJ) calendar in an unbiased fashion and produces notices of the conference which are sent to all parties. At the conference, an AJ hears the dispute of the worker or insurer and then issues a written order requiring, modifying or denying that compensation benefits be paid. By statute, conferences are supposed to be held within 28 days after referral to Dispute Resolution and orders are supposed to be issued within seven days of the conference. The conference disposition is entered into DIAMETER. If neither party files an appeal, the process is complete.

If either party appeals the conference order, the request is reviewed for timeliness and a hearing is scheduled through DIAMETER. The system then updates the AJ's calendar, indicates the case disposition and produces notices for all parties. The hearing is conducted by an AJ, who makes inquiries and receives additional documentation or oral evidence to resolve the case. The AJ has the authority to issue continuances as necessary to obtain all the facts regarding the case. After the hearing is complete, the AJ must issue a formal written decision which sets forth the issues in controversy, the decision on each issue, and the rationale for each decision. The Reform Law stipulates that the hearing be held within 28 days of receipt of the appeal and that the AJ issue a decision within 28 days of the close of the hearing. At this point, the disposition of the case is entered into DIAMETER.

If either party appeals the AJ's decision, the request is entered into DIAMETER to record the current disposition of the case. The appeals are reviewed by a Reviewing Board (the Board) of administrative law judges (ALJ). This process entails a review of the AJ's written decision and the written transcript of the hearing without additional required oral argument. After review, the Board renders a written decision.

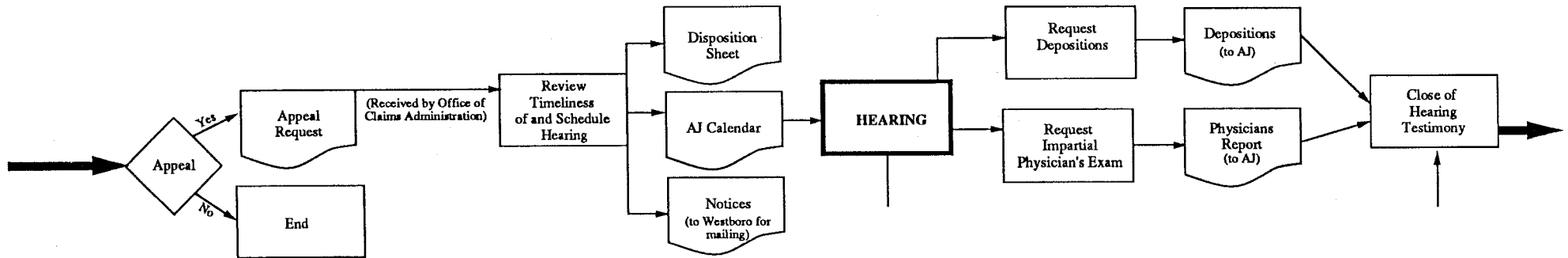
At any point in the process, the parties may decide to settle the case through a lump sum payment agreement. The process commences when both parties file a "Request for Lump Sum Proceeding." DIAMETER schedules a lump sum counseling session with a disability analyst. The purpose of this session is to help the worker understand whether the settlement is suitable. If the parties still desire to settle, a lump sum hearing is scheduled through DIAMETER. The lump sum hearing is conducted by an ALJ to review that the settlement is in the best interest of the worker.

DISPUTE RESOLUTION OVERVIEW



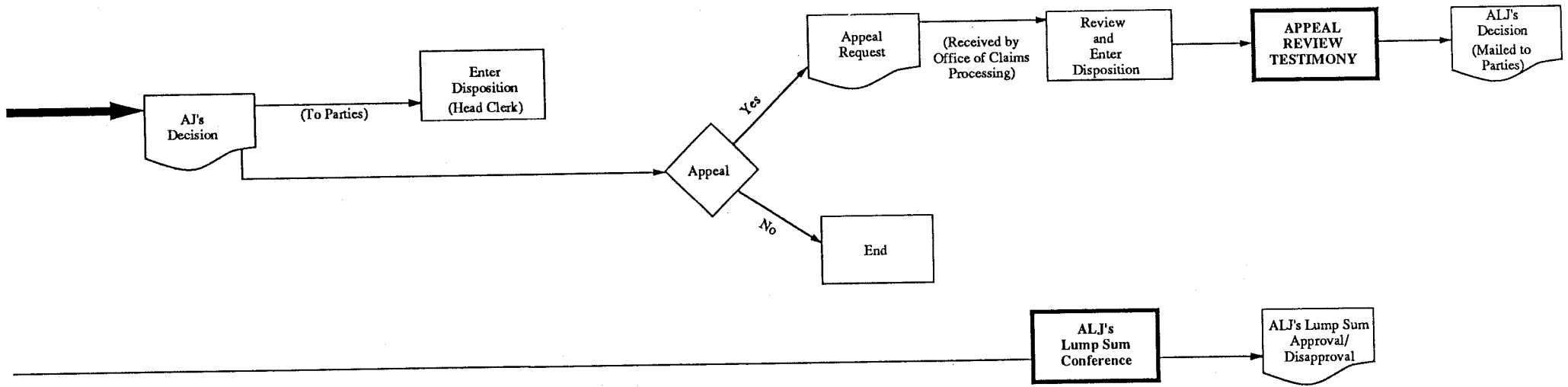
* Request for lump sum settlement can occur at any point in the process.

DISPUTE RESOLUTION OVERVIEW



DISPUTE RESOLUTION OVERVIEW

Reviewing Board



V. DEPARTMENTAL OVERVIEW

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This section of the report presents an overview of the various organizational units within the DIA. Exhibit V-1 depicts the current organizational structure of the Department and Exhibit V-2 shows a staffing summary by unit.

COMMISSIONER'S OFFICE

The DIA is managed by a Commissioner who is appointed by the Governor. The Commissioner is supported by the three staff functions described below:

Legal Counsel

The Legal Counsel defends the Section 65 Workers' Compensation Trust Funds, attempts to recoup losses from uninsured employers, reviews all legal issues, including Section 37 and 37A claims, reviews contracts, and represents the DIA in legal proceedings.

Affirmative Action

The Affirmative Action function conducts centralized outreach and recruiting efforts targeted towards minority, handicapped and Vietnam veterans. It prepares and monitors compliance with goals of the DIA's affirmative action plan, reviews and approves all hiring actions, counsels minority employees and monitors compliance with MBE/WBE contract goals.

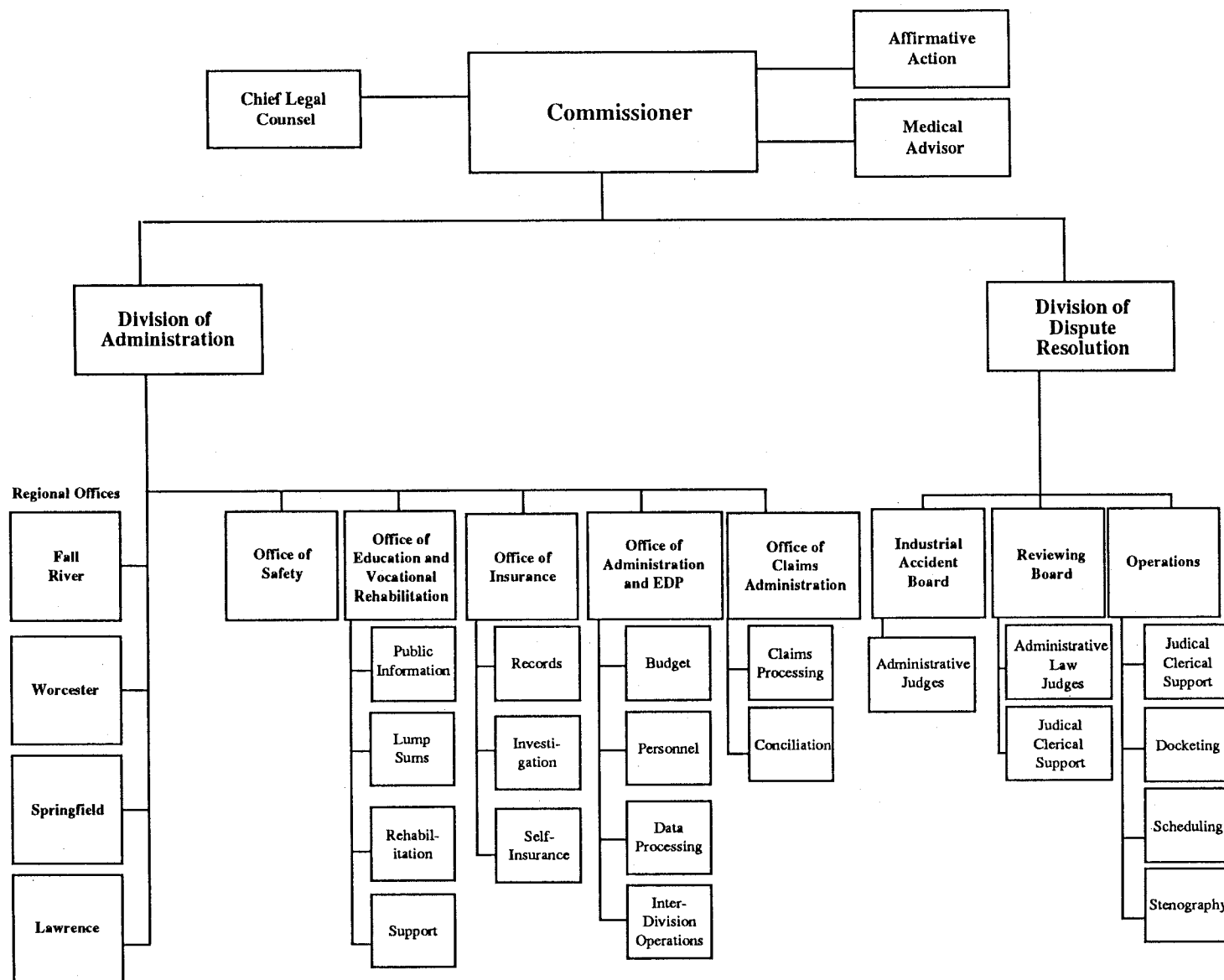
Medical Advisor

The Medical Advisor function advises the Commissioner on medical issues and reviews and monitors the provision of medical care within the System. The function is currently performed on a part-time basis by a physician under contract.

* * * * *

The DIA is divided organizationally into two major divisions: the Division of Administration and the Division of Dispute Resolution which are described on the following pages.

DEPARTMENT OF INDUSTRIAL ACCIDENTS ORGANIZATIONAL STRUCTURE



Source: DIA Organization Chart dated May 1989

STAFFING SUMMARY

Organizational Unit	Positions Filled	Positions Vacant	Authorized Positions	FY 89/90 for Additional Positions Request***	Comment
COMMISSIONER	3	0	3	1	
Affirmative Action	1	0	1	0	
Legal Counsel	6	0	6	2	The need for enhanced staff appears justified.
Medical Advisor	0	0	0	0	Contractual position.
DIVISION OF ADMINISTRATION					
Director Level Staff	3	0	3	0	
Office of Safety	3	0	3	0	
Office of Education and Vocational Rehabilitation	22	2	24	5	Reallocation could be explored here, subject to further study
Office of Administration and EDP	23	3	26	4	These positions are probably the most critically needed in the DIA.
Office of Claims Administration	55	5	60	3	These requested positions appear to be critically needed.
Office of Insurance	18	3	21	4	Receipt of data for the register in electronic form could eliminate some of the need for new positions
DIVISION OF DISPUTE RESOLUTION					
Director Level Staff	3	0	3	0	
Operations	46	11	57	5	Reallocation could be explored here, subject to further study
Industrial Accident Board	18	2	20	0	
Reviewing Board	8 *	2	10	0	
REGIONAL OFFICES	55	5	60	0	
ADVISORY COUNCIL	3	1	4	0	
TOTAL	267	34 **	301	24	

* includes clerical support

** vacancy rate = 11.3%

*** staffing includes additional staffing for backlog elimination

Period: 1989

Source: DIA Documents

DIVISION OF ADMINISTRATION

The Division of Administration is the principal "staff" organization of the DIA. It is organized according to five offices which carry out specific preadjudication and support functions mandated by law.

Office of Administration and Electronic Data Processing (EDP)

The Office of Administration and EDP consists of the following units:

Budget

The Budget Unit is organized under a Budget Manager and is responsible for the developing, monitoring and administering the DIA budget throughout the budget cycle. The Unit maintains the Section 65 Trust Funds accounts and records, reviews and processes all contracts and vendor payments, and enters data into the MMARS system.

Data Processing

The Data Processing Unit is responsible for the maintenance and operation of the DIA's two automated systems: DIAMETER, the case management and tracking system, and Officepower, the word processing system. EDP staff are responsible for system software, developing custom programs, assisting users, and overseeing production of daily and weekly DIAMETER notices, forms and reports.

Personnel

The Personnel Unit provides centralized personnel administrative functions, exclusive of affirmative action, for the DIA. The principal activities include assisting managers in recruitment efforts, posting vacancy announcements and job advertisements, coordinating civil service list requests, overseeing payroll administration, maintaining grievance records, and serving as general liaison with the Commonwealth Department of Personnel Administration.

Interdivision Operations

The Interdivision Operations Unit provides administrative and clerical support services for the line units of the office.

Office of Claims Administration

The Office of Claims Administration is organized into two units as follows:

Claims Processing

The Claims Processing Unit provides central processing of all system forms and reports from insurers, workers and employers. It is responsible for:

- Receiving and sorting incoming mail
- Reviewing and date-stamping forms
- Returning rejected forms
- Researching and forwarding of forms to other units
- Entering data into DIAMETER
- Filing and retrieving cases and forms

Conciliation

The Conciliation Unit is responsible for:

- Conducting mediation meetings between parties to resolve or narrow differences prior to dispute resolution.
- Reviewing and approving agreements between parties submitted to the DIA.

Office of Education and Vocational Rehabilitation

The Office of Education and Vocational Rehabilitation was formed under M.G.L. c.572 of the Acts of 1985 and is charged with administering Sections 6A, 30E through I, and 48 of M.G.L. c.152. The office is organized to support four major activities:

Public Information Unit which responds to telephone inquiries from injured workers and the public, and prepares and distributes informational materials.

Lump Sum Unit which conducts lump sum counseling sessions.

Rehabilitation Unit which provides outreach and counseling for injured workers regarding rehabilitation services and oversees rehabilitation services provided by vendors.

Support Unit which provides secretarial and administrative services.

Office of Insurance

The Office of Insurance was formed under c.572 of the Acts of 1985 and is charged with administering Sections 25a, b, d and 65a-65o of M.G.L. c.152. The Office is organized into three sections:

Self-Insurance Unit which monitors companies who are licensed to self-insure themselves for workers compensation.

Records Unit which regulates and monitors compensation insurance carriers doing business in the Commonwealth. This unit maintains an insurance register which compiles data on insurance coverage of employers in the Commonwealth.

Investigation Unit which investigates companies suspected of operating without mandatory workers compensation insurance coverage. It is empowered to carry out the Commissioner's orders to shut down businesses which fail to obtain coverage after receipt of warnings. In addition, it represents the DIA in conciliation proceedings involving claims against the Trust Fund.

Office of Safety

The Office of Safety was created as a result of the Reform Law. It is charged with dissemination of information on safety in the workplace and establishment of education and training programs to prevent unsafe or unhealthy working conditions, pursuant to M.G.L. c.152. To achieve this, the Office:

- Awards grants to nonprofit entities to perform on-site education and training programs for workers, supervisors and employers.
- Awards grants to nonprofit entities to create original safety exhibits.
- Performs research on health and safety issues.

Regional Offices

The DIA provides a full range of services to injured workers through four regional offices in addition to its headquarters office in Boston. The current regional office structure was created pursuant to the Reform Law. These offices are located in Fall River, Lawrence, Worcester and Springfield. Each regional office is organized under the direction of a manager to provide the same services a worker would receive in Boston. Each office is staffed to provide:

- Conciliations
- Conferences
- Hearings
- Lump Sum Counseling Sessions
- Lump Sum Conferences
- Vocational Rehabilitation Services

DIVISION OF DISPUTE RESOLUTION

The Division of Dispute Resolution is the "line" division responsible for adjudicating and resolving of workers' compensation cases. The Division is organized into three units:

Industrial Accident Board

The Industrial Accident Board is comprised of AJs who review and adjudicate all cases which are not resolved between the parties during conciliation. The AJs conduct conferences, issue written orders upon completion of conferences, conduct hearings of all appealed cases, and issue written decisions at the close of hearings.

Reviewing Board

The Reviewing Board is comprised of ALJs. The primary function of the Reviewing Board is to review all appealed cases after hearing and issue final decisions. The second function is to conduct lump sum settlement hearings and approve or disapprove lump sum settlements.

Operations

The Operations Unit serves a support and service function. Activities include:

- Stenographic and transcription services.
- Clerical and secretarial support to the AJs.
- Scheduling of cases.
- Rescheduling of events.
- Coordination and distribution of case records.

VI. ANALYSIS PERSPECTIVES

VI. ANALYSIS PERSPECTIVES

KPMG Peat Marwick studied DIA and the System according to five analysis perspectives over the course of Phase I. These perspectives form a framework for identifying and analyzing the major issues identified at the outset of our assessment. For each perspective, we utilized key criteria to assess the performance of DIA and the status of the System. The five analysis perspectives are:

- Operations
- Statutory compliance
- Financial management
- Organization and staffing
- Specific system issues

The key criteria and questions relevant to each perspective are presented on the following pages.

A. OPERATIONS

Key Criteria	Questions
Methods and Procedures	<ul style="list-style-type: none">• Are methods and procedures documented, standardized, formalized and utilized?• Are methods and procedures effective and efficient?• Are proper operational controls in place?• Are quality control procedures understood and applied?
Quality	
Data Processing	
Productivity	
	<ul style="list-style-type: none">• Is the work product timely and accurate?• Are computer systems in place and effectively utilized?• Are appropriate productivity measures in place and required information disseminated?

B. STATUTORY COMPLIANCE

Key Criteria	Questions
Effectiveness	<ul style="list-style-type: none">• Are there artificial barriers or disincentives in the law?• Are the reforms meeting their objectives to enhance the System?
Consistency	<ul style="list-style-type: none">• Are the DIA's actions consistent with the intent of the law?• Are regulations consistent with the statute?
Monitoring	<ul style="list-style-type: none">• Does the DIA monitor compliance?• Does the DIA meet statutory timelines?• Is noncompliance reported and followed up on?

C. FINANCIAL MANAGEMENT

Key Criteria	Questions
Budget	<ul style="list-style-type: none">• Is the budgeting process in place and effective?
Controls	<ul style="list-style-type: none">• Are financial operations performed in a controlled environment and in a timely and accurate fashion?
Solvency	<ul style="list-style-type: none">• Are the Trust Funds solvent based on the latest government accounting or GAAP standards?
Actuarial	<ul style="list-style-type: none">• Are Trust Fund calculations based on sound actuarial principles and practices?

D. ORGANIZATION AND STAFFING

Key Criteria	Questions
Alignment	<ul style="list-style-type: none"> • Are the divisions and offices organized to support achievement of the DIA's objectives? • Are the assigned roles and accountabilities appropriately positioned throughout the organization?
Span of Control	<ul style="list-style-type: none"> • Do managers have an appropriate number of people reporting to them?
Resources/Support	<ul style="list-style-type: none"> • Do managers, staff and judges receive the resources and support needed to succeed?
Information	<ul style="list-style-type: none"> • Are management/staff/judges kept regularly apprised of their progress toward goals? • Is communication effective within and across units?
Adequacy	<ul style="list-style-type: none"> • Are there adequate numbers of personnel with appropriate skill levels?
Utilization	<ul style="list-style-type: none"> • Are personnel utilized in the most optimal manner and allocated to priority functions? • Are there activities that are better suited to contracting out?
Training	<ul style="list-style-type: none"> • Are there adequate management and technical training opportunities?
Morale	<ul style="list-style-type: none"> • Is there a sound level of optimism and a general positive attitude among staff, managers and judges?

E. SPECIFIC SYSTEM ISSUES

Key Criteria	Questions
Costs	<ul style="list-style-type: none">• How is the worker's compensation dollar being spent?
Medical Care	<ul style="list-style-type: none">• How accessible is quality medical care to injured workers?
Vocational Rehabilitation	<ul style="list-style-type: none">• Does the new law encourage vocational rehabilitation?• Is it effective in returning injured workers to work?
Self Insurance	<ul style="list-style-type: none">• Does the new law encourage self-insurance?
Assigned Risk Pool	<ul style="list-style-type: none">• What is the percentage of employers in the pool and how has this percentage changed over time?

VII. FINDINGS

VII. FINDINGS

Our interview notes were reviewed against our analysis criteria. Where available, quantitative data was analyzed for specific issues. The following observations represent a consensus of the KPMG Peat Marwick consultants who conducted the study.

A. OPERATIONS

Strengths and Shortcomings

- Methods and Procedures

- The DIA has many useful informational bulletins, but has not integrated them into a comprehensive policy and procedures manual.
- Backlogs in processing exist in claims administration, scheduling of conferences, and elsewhere in the flow of work throughout the DIA.
- Delays occur in conciliations due to frequent rescheduling. Rescheduling is often at the request of the parties to give them additional time to prepare for the conciliation session, or the result of the parties not appearing at the scheduled conciliation session. An alternative to rescheduling would be for the conciliator to forward the case to dispute resolution which would increase the backlog.
- Effective controls are in place to prioritize tasks required by the insufficient staff. For example, Claims Administration batches jobs for input to DIAMETER and tracks the backlogs of work. Similarly, Trust Funds Administration has controls to adequately prioritize work and track backlogs resulting from inadequate staff.
- Many methods and procedures were appropriate for the functions. Others that need strengthening are noted below by major area.

Claims Administration and Forms Processing

- The Claims Processing Unit has sound, well documented policies and procedures for its activities.

- There are significant backlogs in processing various forms in the Claims Processing Unit which impedes the efficiency of the System and the timeliness of case management information. The appropriate backlogs by form or report is presented in Exhibit VII-1.
- Insurers and employers are confused about the use of the First Report of Injury form for injuries resulting in less than five days of lost work and five or more disability days. This confusion causes forms to be rejected which creates additional processing and ineffective use of staff.

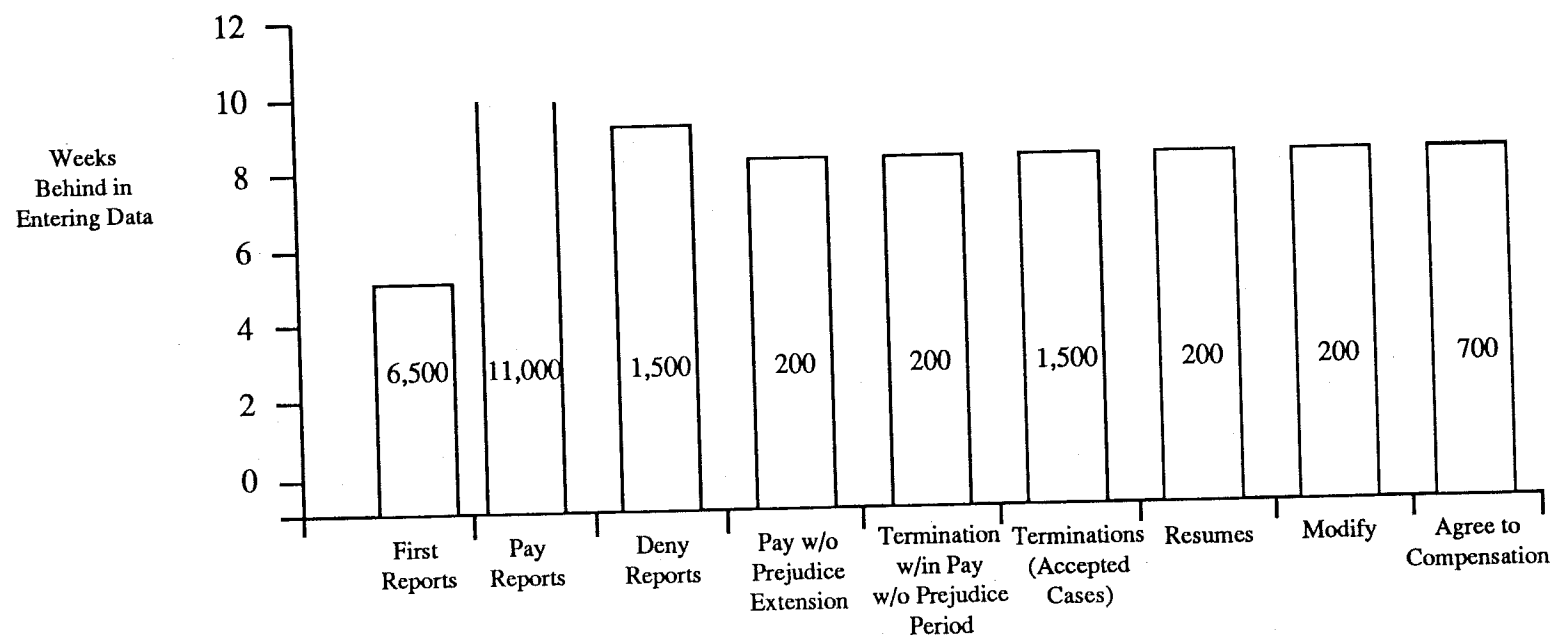
Scheduling

- All conciliation sessions are scheduled for the same amount of time. The concern was expressed that not enough time is allowed for Section 36 conciliations which throws off the remaining appointments for the day.
- Scheduling of hearings in regions is delayed when conferences are done by "rotating" AJs. The hearings must wait until the AJs next rotation.

Conciliation

- Conciliations observed were conducted in a competent and professional manner, with an objective attempt to discuss and resolve the parties' issues.
- Conciliations which are not "successful" still appear to facilitate the process. They allow both parties to prepare, to put facts on the table, and improve the readiness of the parties at conference.
- Insurance company representatives at conciliation do not always have the authority to agree when they recognize that they are unlikely to prevail in their case. The perception is that some insurers are not sending staff authorized to make these decisions.
- Conciliations are frequently rescheduled. This action delays claims from entering the dispute resolution process.

OFFICE OF CLAIMS ADMINISTRATION - PROCESSING BACKLOG



number
 = estimated number of backlogged forms based on weeks of delay

Periods Observed: August 1988 to April 1989
 Source: Office of Claims Administration Week Reports

Dispute Resolution

- The procedure to assign cases to a single AJ from conference through the hearing decision is sound and facilitates reaching decisions on cases.
- Some AJs do not consistently follow the already developed, standardized procedures (e.g., use of computer formatted orders).
- The DIA has failed to index and publish Reviewing Board decisions which can significantly aid AJs in rendering consistent decisions. Steps have been taken to retain outside help in performing this task, but without success to date.

Medical Information

- AJs frequently have to review conflicting medical reports. Additional delays occur when an impartial physician's medical report is requested.
- Significant delays exist in receiving medical reports from physicians for conferences.

Lump Sums

- Lump sums must be mutually agreed upon by both the worker and the insurer.
- The addition of the lump sum counseling function, which was intended to educate workers and was expected to reduce the number of lump sum settlements, has not achieved this objective. The function appears to be of limited value because:
 - Disability analysts do not have any authority to advise the workers. Neither do they have the authority due to statute to determine or advise relative to liability.
 - Disability analysts generally discuss the worker's financial situation but do not compare the present value of the settlement against the periodic payout of compensation.

- Disability analysts present the purpose of the counseling meeting as "an opportunity to get more information for the ALJ to review your case," as though it was accepted that the case would go forward to the ALJ. This advice is not conducive to the worker fully understanding the agreement.
- There are powerful incentives for an attorney to counsel the worker to accept a lump sum.
- For the most part, the ALJs do not review or even refer to the disability analysts' reports.
- About 98 percent of all lump sum counseling sessions are eventually referred to ALJs. The remaining two percent of the cases decide not to pursue a lump sum settlement.
- The ALJ review of the lump sum settlement does not allow sufficient opportunity for a worker to consider his rights and his options and to make an informed decision. Some of these proceedings take only a few minutes to conclude.
- Data Processing
 - The automated case tracking system, DIAMETER, is a major improvement from former DIA case management methods. DIAMETER is much more accessible and useful than the prior system.
 - System users are generally satisfied with DIAMETER, however, much of the pre-Reform Law data in DIAMETER is not considered reliable, and had fewer data elements.
 - The effectiveness of DIAMETER as a tracking mechanism is totally dependent on the timely entry of data from forms such as: First Reports of Injury, Agreements to Pay, or of key decisions and dispositions.
 - The current configuration of tables within DIAMETER does not facilitate the review of cases through reports showing multiple locations. Specifically, there are redundancies in employer tables and worker addresses.
 - The response time of the system has met EDP testing standards, however, data entry staff perceive significant variations in system response time.
 - The insurance register uses manual data entry to input 300,000 to 400,000 notices annually from insurers, resulting in significant data entry backlogs. The DIA is aware of this problem and is preparing to address it.

- Quality

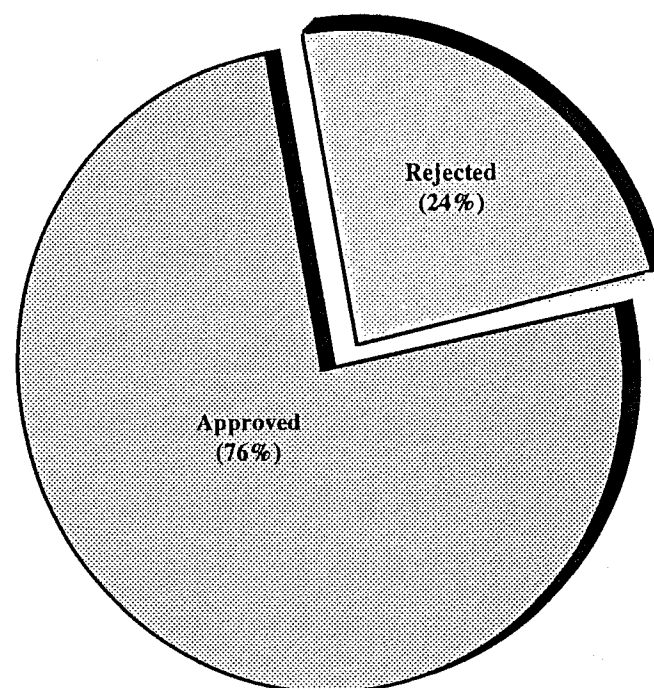
- Management and staff are genuinely concerned about the need to solve problems, properly manage the flow of work and conduct operations with quality results. When basic work product tasks require a large volume of processing such as claims administration, forms control and data entry procedures, quality control and error correction procedures are generally in place and effective. Except for timeliness, the quality of the work product appears to be at a generally appropriate level for the type of work produced, with specific comments noted below.
- For some forms and dispositions, unnecessary searching for information into the status of a case is caused by the late entry of case dispositions into DIAMETER. If the information is not in DIAMETER, manual searching is required to determine the true disposition of a case which can cause major problems for the affected parties.
- Vocational Rehabilitation has difficulty screening potential candidates from the total volume of referred cases due to the lack of timely information in DIAMETER and the reliance on First Reports of Injury which may contain inaccurate information. This backlog prevents vocational rehabilitation from targeting its services to the most appropriate candidates in a timely fashion. Statistics about the high volume of cases are presented in Exhibit VII-2.
- The volume of first reports received has increased but data entry into DIAMETER has not kept pace. Claims processing rejects an average of 24 percent of the first notice forms it receives. The DIA incurred over \$10,000 in postage alone plus the expense to bring in temporary help to mail out rejected forms. This problem is largely due to the inaccurate or incomplete form filing by employers. See Exhibit VII-3.
- Delays in investigating potentially uninsured employers are caused by data entry backlogs in the insurance register which tracks insurance company confirmation of insurance for employers.
- Cards received from insurers to indicate discontinuance of coverage for the insurance register are frequently not date-stamped immediately upon receipt which prevents monitoring of the ten-day cancellation notice period. This omission makes it difficult to determine whether the insurer or the Trust Fund is responsible for injuries, subsequent to cancellation notice, from an uninsured employer.
- The lack of quiet, private areas for proceedings detracts from the quality of conciliation sessions.
- The Office of Safety lacks quality review and quality control procedures in managing the safety projects it awards.

VOCATIONAL REHABILITATION NEEDS TO TARGETING ITS SERVICES

	<u>Number</u>	<u>Percent of Total</u>
• Reviewed First Reports	31,889	100%
• Contacted	11,797	37
• Mandatory Meetings	2,307	7
• Referred to Providers	1,179	4
• Agreed Upon Individual Rehabilitation Plans	513	2
• Successful Rehabilitations	197	1

Period observed: July 1, 1988 to March 31, 1989
Source: DIA Vocational Rehabilitation Documents

REJECTED FIRST REPORT FORMS ARE DRAINING DIA RESOURCES



Period observed: July 1, 1988 to April 28, 1989
Source: Office of Claims Administration Weekly Reports

- Productivity

- Productivity measures are not used in performance evaluations due to the constraints of collective bargaining agreements.
- It is not clear how each subunit is accountable for its actions given the lack of performance objectives throughout the DIA.
- Performance objectives do exist for DIA managers. For other individuals, performance objectives are not well linked to departmentwide objectives.

B. STATUTORY COMPLIANCE

Strengths and Shortcomings

- Effectiveness

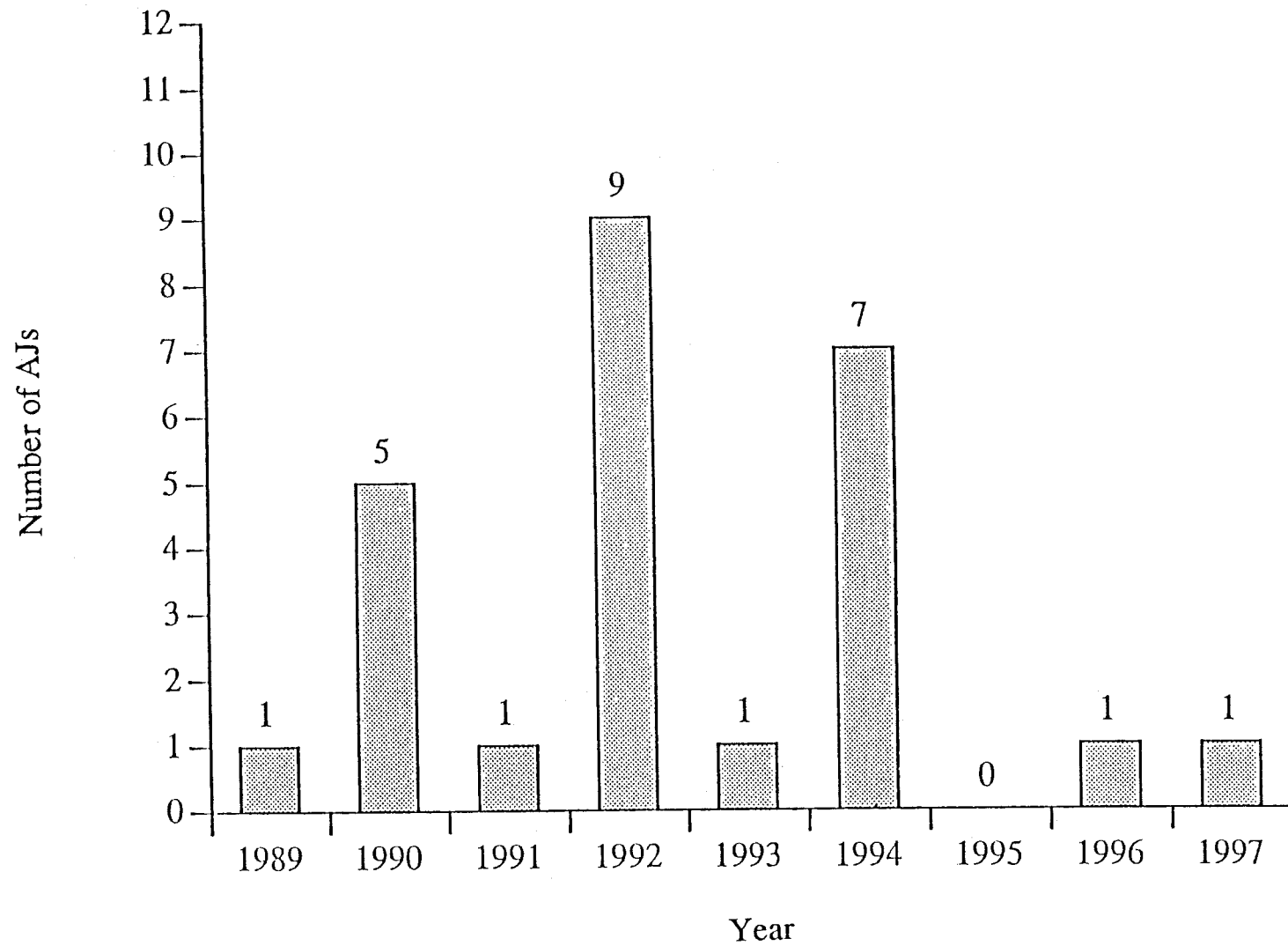
The DIA is responsible for implementing the Reform Law. Our review sought to identify those factors in the law that limit the DIA's ability to effectively administer the System.

- M.G.L. c.23E Section 4 sets the number of AJs which limits the judicial capacity to address the current volume of cases. There are not enough AJs to manage the current and projected caseloads.
- M.G.L. c.23E mandates the organization structure for the Department. This takes away the Commissioner's flexibility to reorganize functions to meet changing needs.
- The appointment process for AJs has historically proceeded slowly. Vacancies have persisted which have caused the case backlog to increase. Exhibit VII-4 shows the number of AJs due for appointment through 1997. Several years require multiple appointments. If the current appointment process is not streamlined, the number of projected lost resolved cases and decisions due to AJ vacancies will grow drastically. See Exhibit VII-5.
- The process of pairing/assigning conferences and hearings to the same administrative judge appears positive. Accountability rests with one AJ which appears to facilitate resolution of cases.

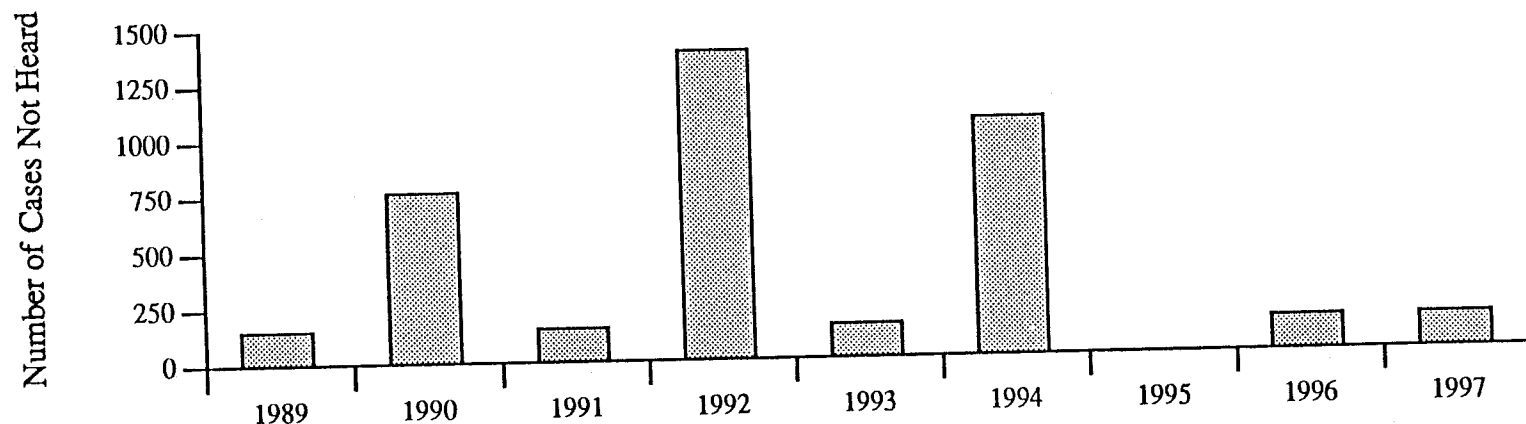
- Artificial Barriers

- The lump sum settlement process is time consuming. The counseling session and subsequent hearing do not complement each other as they should.
- The statutory fee structure may tend to encourage litigation. Specifically the structure compensates the attorney at conference and again at lump sum settlement. Exhibit VII-6 summarizes of the attorneys' fee structure. Exhibit VII-7 shows the growth of events.
- Relating attorneys' fees to the average weekly wage permits generous fee enhancements when the average weekly wage increases significantly. See Exhibit VII-6.

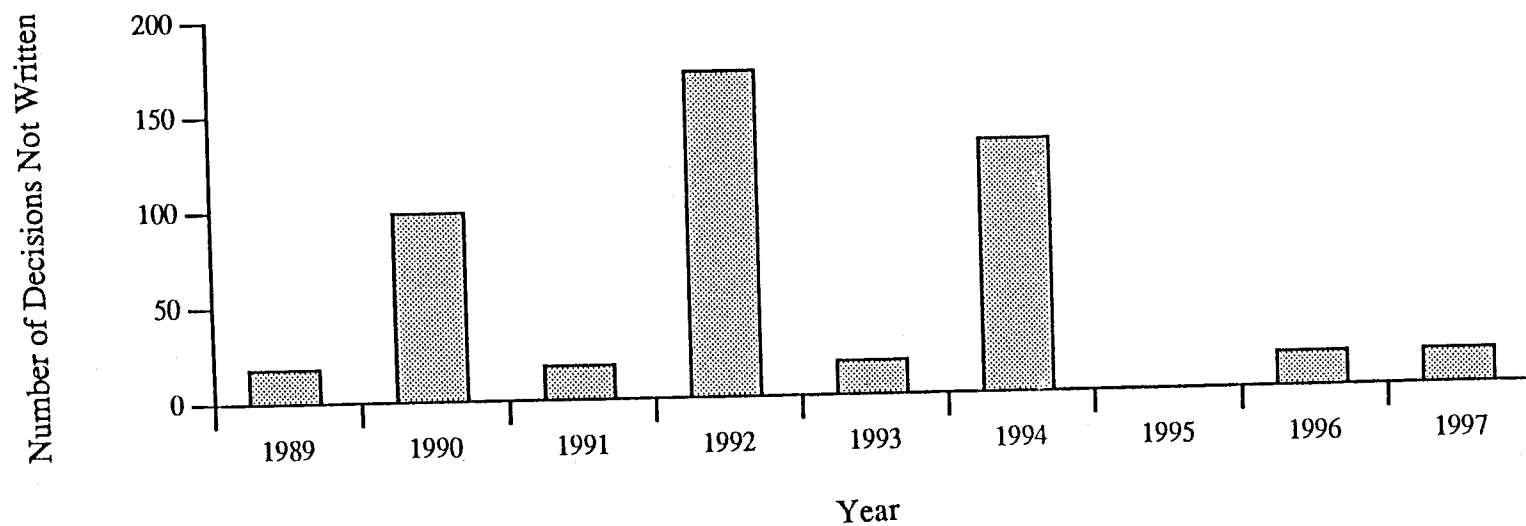
THE TIMELY APPOINTMENT OF AJS MUST BE PLANNED



THE BACKLOG WILL GROW DRAMATICALLY IF AJS ARE NOT REAPPOINTED ON TIME



Decisions Rendered Which Will Not Be Written

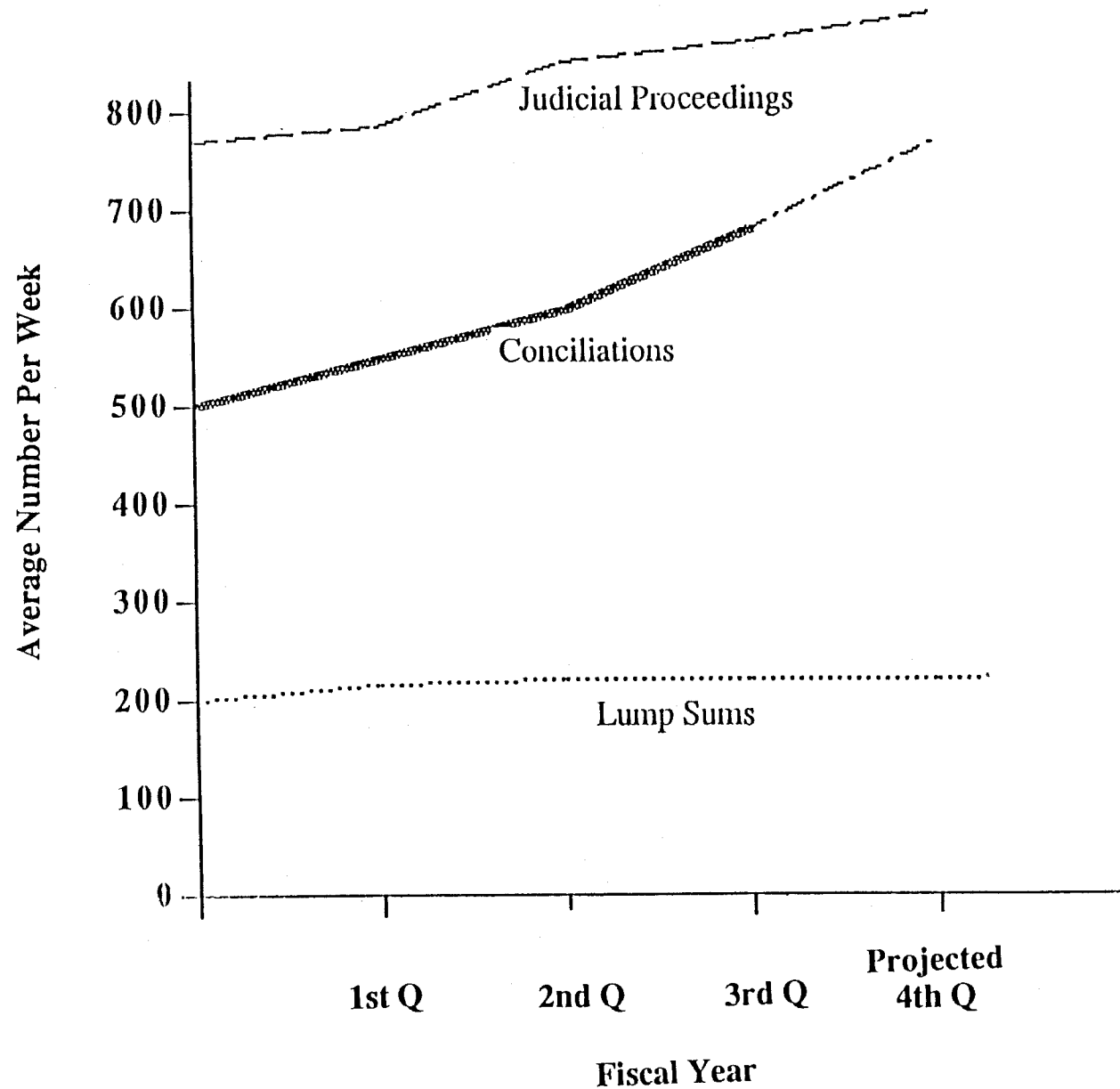


Attorney's Compensation Under M.G.L. c.152

Sec 13A Event	Attorney's Fee	Attorney Compensation Sum Established Pay Law			Status	Comments
		FY 1987	FY 1988	FY 1989		
Insurer contests claim, up to 5 days prior to hearing. Events possible: Conciliation Conference*	2 times Average weekly wage	\$ 0 \$ 1,151	\$ 0 \$ 1,233	\$ 888 \$ 888	Increasing	Effects of attorney fees on the System should be studied further.
Insurer files to reduce payment for discontinuance, up to 5 days prior to hearing. Events possible: Conciliation Conference*	2 times Average weekly wage	\$ 0 \$ 1,151	\$ 0 \$ 1,233	\$ 888 \$ 888	Increasing	Effects of attorney fees on the System should be studied further.
Insurer contests or files and proceedings continue to within 5 days of hearing or to a hearing. Employee prevails. Events possible: Hearing	7 times Average weekly wage	\$ 2,685	\$ 2,877	\$ 3,109	Increasing	Effects of attorney fees on the System should be studied further.
Insurer appeals AJ decision to review board and employee prevails. Events possible: Appeal	3 times Average weekly wage	\$ 1,151	\$ 1,233	\$ 1,333	Increasing	Effects of attorney fees on the System should be studied further.
Employee appeals decision to review board and prevails. Events possible: Appeal	Employee and Attorney agree on fee	Varies with case			Increasing	
Lump Sum prior to Insurer acceptance of liability.	Up to 15% of settlement	Varies with case, maximum is common			Increasing	Prior fees paid are in addition to the Lump Sum fee.
Lump Sum subsequent to Insurer acceptance of liability.	Up to 20% of settlement	Varies with case, maximum is common			Increasing	Prior fees paid are in addition to the Lump Sum fee.

NOTE: The average weekly wage rose 7 percent from 1987 to 1988 and another 8 percent from 1988 to 1989. In 1989, there was no compensation at a conciliation and conferences were compensated at three times the average weekly wage.

CASE VOLUMES ARE STEADILY INCREASING



Period: July 1988 to March 1989
Source: DIA Documents

- The Reform Law does not provide adequate disincentive at the conciliation stage to discourage insurance companies from moving cases forward to adjudication. See Exhibit VII-7.
- The inherent nature of the wage-loss system, compared to other workers' compensation systems, does not facilitate "trading" or negotiation at the conciliation stage.
- Insurance companies are unable to easily recover early payments to workers after a conference if the compensation award is subsequently overturned by the AJ.
- Consistency
 - The Reform Law is silent regarding the maximum number of days required before an approval or disapproval must be reached on a lump sum settlement.
 - The definition of "disability days" and "scheduled workdays" are different and result in confusion. This confusion affects all (i.e., employers and insurance companies) and increases the form/report rejection rate which complicates the Office of Claims Administration processing and wastes staff time.
 - The Reform Law is unclear with respect to the creation of either one or two trust funds. The DIA accounts for funds for private employers and public employers separately in order to recognize different assessment procedures required by statute.
- Monitoring

The DIA complies with mandated time frames to issue written orders after conferences but is not in compliance with mandated time frames for events including conciliations, conferences, hearings, counseling sessions and lump sum hearings. Exhibit VII-8 shows the difference between legislatively mandated time frames and actual average time frames.

 - There are several areas where compliance with the Reform Law is not monitored due to limitations within the tracking system. For example, the DIA does not monitor compliance with all statutory time frames for lump sum process, e.g., disability analysts' reports.

BACKLOGS BEGIN TO INCREASE AFTER CONCILIATION

Event	Number of Days		
	Statute	Actual Average	Deviation
Claim Receipt to Conciliation	15*	23	+1
Section 36 Claim Receipt to Conciliation	15*	23	+1
Discontinuance Receipt to Conciliation	15*	22	+0
Conciliation Session to Conference	28	103	+75
Conference Close to Issuance of Order	7	5	-2
Appeal Receipt to Hearing	28	50	+22
Hearing Close to Issuance of Decision	28	59	+31
Receipt of Lump Sum Request Sent to ALJ	28	71	+43

*Note: • Actual averages are calculated only for completed events and do not reflect items in process.
 • Conciliation time frames are based on 15 workdays, which is the equivalent of 22 calendar days.

Period Observed: July 1, 1988 to March 31, 1989
 Source: DIA Documents

- A significant number of employers do not submit the Employer's Quarterly Report which shows the number of injuries an employer has incurred during a quarter. Due to limited staffing and higher priorities, the DIA does not process the reports nor enforce penalties.
- The extensive reporting and monitoring requirements place significant demands on DIA staff. A number of these requirements, such as Employers' Quarterly Report and First Reports of Injury, do not directly relate to the DIA's primary purpose of moving claims through the resolution process.
- The "new" backlog (since the Reform Law) is developing at the point when cases are referred from conciliation to Dispute Resolution - Conference. The queue of cases waiting to be scheduled includes over 4,700 cases representing a 16 to 17 week delay prior to scheduling of a conference.
- The DIA monitors compliance to time frames based on median and mean calendar days for closed events. Compliance is not monitored on a case-by-case basis.
- Employers perceive that Section 8(2) and (3) and Section 35D of the Reform Law which allow AJs to reduce benefits to workers who are capable of light work in an effort to induce them to return to work, is not being carried out by the AJs.
- Employers perceive that Section 45 which stipulates suspension of compensation if a worker does not attend his or her medical exam, is not being enforced by the AJs. Presently no administrative procedure exists to provide for suspension of compensation.
- Various sections of the Reform Law require reports to the legislature and the Council which the DIA has not yet presented. However, some of this data is not reported to the DIA and no penalties exist for failing to report (e.g., notice of insurer's timely payment of benefits to workers). In addition, DIAMETER would require modifications to produce the necessary monitoring reports.

C. FINANCIAL MANAGEMENT

Strengths and Shortcomings

- Budget
 - Budget input and priority considerations are solicited from all DIA managers.
 - The DIA is quite capable of developing a budget. Budgeting is done according to state subsidiary accounts (01, 02, 03, etc.) consistent with Commonwealth standards, however, this method does not facilitate program/function budgeting and monitoring.
 - The DIA, though funded through an assessment process, is subject to the Commonwealth's standard executive and legislative budget review processes. Conformance with budget appropriation review policies for nongeneral fund operations is a common and sound government practice.
 - The DIA budget requests have been cut back at each step of the review process in recent years. Currently, funds for necessary staff enhancements have been reduced by the Executive branch review and virtually eliminated by the Legislature from the FY 1989-90 budget request even though revenue neutral.
 - The current budgetary review and appropriation process has restricted the DIA in its ability to creatively respond to challenges in its changing environment and to meet statutory mandates.
- Control
 - Errors in data entry and in DIAMETER tables have been cited as findings in some employers' appeals of fines levied and have resulted in some appeals being upheld.
 - A significant amount (\$160,000) in collections of fines have been referred to the chief legal counsel. Due to inadequate staff, the office may not be able to pursue collections vigorously.
 - The DIA has not aggressively pursued fine revenues in the past. The DIA has increased its activities to help address this area recently.

- Due to staffing shortages, checks are not deposited in interest-bearing accounts as quickly as possible and there is insufficient monitoring to ensure assessments are received on time.
 - Insufficient personnel are assigned to conduct daily operations which means monitoring duties associated with the Trust Funds are not performed.
 - The DIA has performed few audits of COLA reimbursement requests from cities and towns.
 - Due to staffing limitations, the DIA does not audit assessment employer payments made through insurance companies.
 - Insured companies are backed by guaranty funds to ensure solvency against worker claims. However, there is no guaranty fund for self-insured employers. Limited staff and data result in the Office of Insurance relying on conservative bond amounts.
 - Because of the prioritization of payments to claimants, the DIA is behind in payments to claimants' vendors from its Trust Funds.
 - The DIA does not verify or deny validity in its Trust Funds payments since there is no in-house internal audit function.
 - The DIA does not verify the amount or timeliness of first payments made by insurers to workers, chiefly because there are no penalties for failing to supply this information to DIA.
- Solvency
 - Three funds are maintained by the Department, the public fund, the private fund and the special fund. These funds are maintained separately from the general fund of the Commonwealth and any amounts left over at the end of the fiscal year are carried forward and retained by the funds. The funds cover the operating costs of the DIA and legislated benefits such as for workers employed by an uninsured employer and certain COLAs as required by statute.
 - Trust Funds surpluses have been used to reduce the next year's assessment on employers in accordance with Section 65 of M.G.L. c.152. This practice, which is required by statute, has resulted in an artificially low assessment on employers. The long-term potential for shortfalls and the need for ever-increasing assessments will be significant issues as the Funds mature.

- No plan exists to address the long-term liabilities of the Fund.
 - No plans exist for the DIA to disburse lump sum settlements over several years, to purchase annuities or use other financial strategies which may lower exposure of the Funds.
 - It is estimated that in excess of \$2 million in approved and/or ordered old second injury fund claims exist which may be filed against the new funds. A law suit is pending which will impact this interpretation. The potential impact of new claims being filed by persons injured prior to the new law also exists. The dollar impact of this additional potential claim on the second injury funds cannot be accurately determined at this time.
 - The backlog in investigatory actions and the lack of date stamping of received insurance register cards increases the financial exposure of the Funds.
- Actuarial
 - The Trust Funds are funded on a cash accounting basis which is contrary to traditionally accepted GAAP financial practices which require accrual of liabilities. This practice is consistent with current government accounting standards.
 - Operating on a cash instead of an accrual basis complies with Commonwealth accounting procedures, but transfers the cost of current claims to future employers since these claims will be funded by future assessments.
 - A projection of future assessments based on the accrual of current known claims and on future anticipated claims is not currently performed.

D. ORGANIZATION AND STAFFING

Strengths and Shortcomings

- Alignment

- The organization structure of the DIA is generally sound. Adjudicatory "line" functions are centralized in Division of Dispute Resolution and pre-adjudicatory and ancillary functions are managed by the Division of Administration.
- The organization structure facilitates processing of claims and promotes accountability.
- Certain units in the DIA have little or no interaction with each other although they perform complementary tasks. For example, often the conciliators do not interact with the AJs and the disability analysts do not interact with the ALJs.
- There is an appropriate functional grouping of activities, but there is a need for improved communication and processing across functional units. Examples include the need for timely data entry of forms in the Claims Processing Unit to assist Vocational Rehabilitation and improved communication between conciliators and AJs.

- Span of Control

- Reporting relationships are well defined and understood throughout the organization. Managers generally have appropriate numbers of people reporting to them.
- The DIA does not have redundant layers of management which provides for an efficient flat structure. The limited exceptions include the lack of apparent need for a
 - Deputy Director of Dispute Resolution, a high "staff" level position, especially in light of a strong Operations Manager.
 - Deputy Director of Administration.

Eliminating these positions would require statutory change.

- Resources/Support

- DIAMETER terminals and system access, while available to two thirds of DIA staff, are not available to all staff who desire them, such as some judicial staff. The one CPU utilized by both DIAMETER and in-house word processing limits the capacity of the system to expand. The DIA planned to obtain a second CPU and attempted to secure funding. Without this additional capacity, expansion is not possible.
- Inadequate space exists to service the needs of the records room.
- The DIA telephone system is not perceived as adequate to support the large utilization required by some functions. Complaints were made by many interviewees about the existing telephone system.

- Information

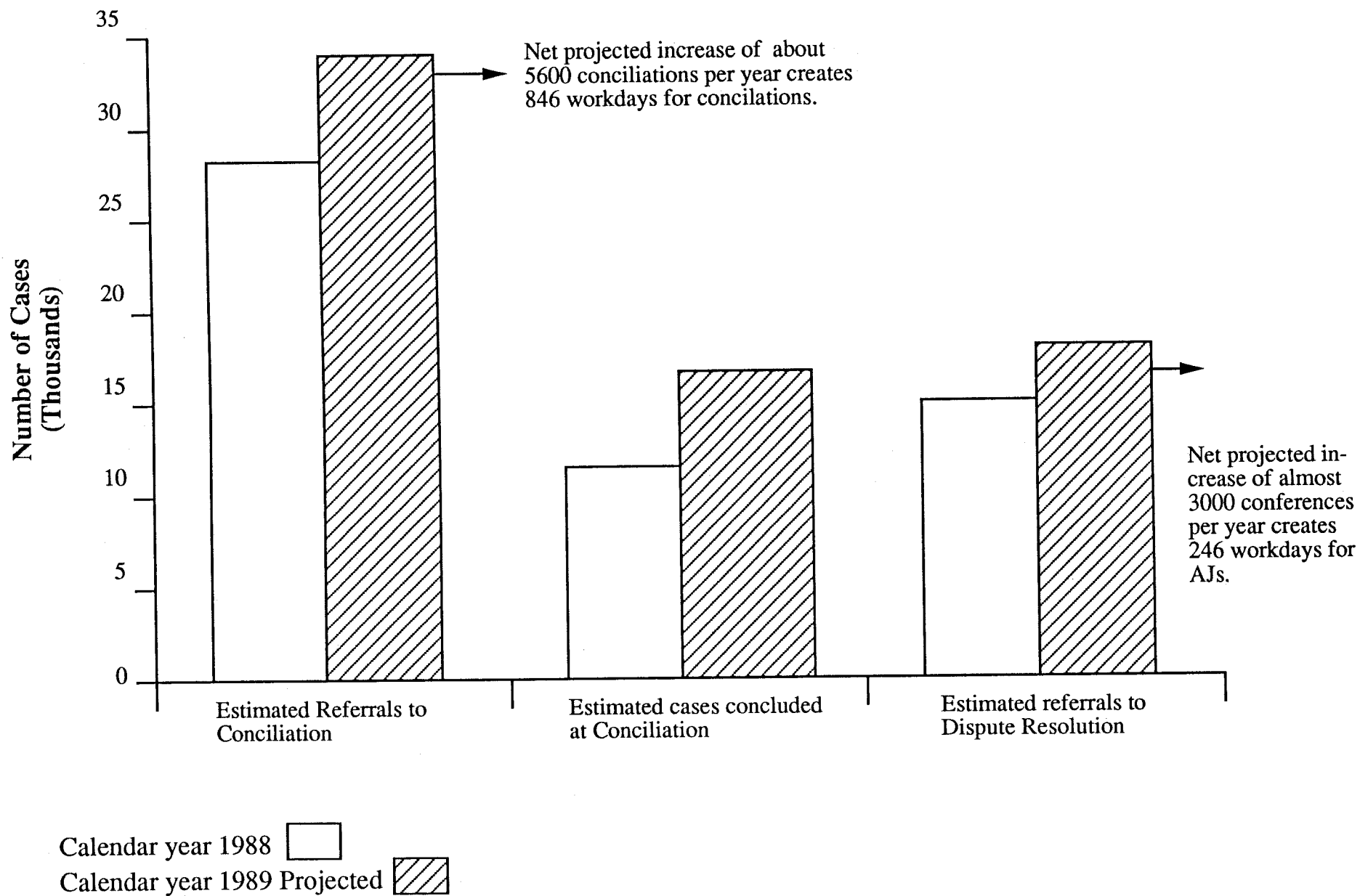
- DIAMETER does not readily produce some summary-level reports which track the progress of a case from First Report to resolution. Individual cases can be tracked on-line.
- Management receives numerous weekly reports, however, additional reports appear to be needed.
- No formal process exists to solicit employee suggestions to improve DIA efficiency.
- Regular meetings of managers with their employees do not occur in all units, although information seems to be readily communicated throughout DIA on an informal network.

Adequacy

- Several unit managers perceive they are short of staff.
- The Trust Funds Administration function is understaffed which results in delays in depositing checks, authorizing payments, monitoring receipt of assessments and validating reimbursements.
- A computer operator position is currently vacant which results in overtime for other staff to provide basic support services. The ability to respond to user needs in a timely manner is restricted due to the lack of an operator.

- The number of data-entry personnel in the Claims Processing Unit cannot keep up with the increasing volume of forms and reports.
- The DIA currently has an 11 percent vacancy rate due to hiring constraints. Reducing this vacancy rate to 5 percent could have a substantial positive impact on the DIA's operations.
- The current number of AJs and conciliators is not sufficient to address the current backlog of cases or the potential backlog for conciliation. Exhibit VII-9 projects the number of conciliations and referrals to DDR for 1989. This additional volume will increase the backlog unless staffing shortages are addressed. The Conciliation Unit has only recently filled vacancies to reach its authorized capacity of 4,700 workdays annually. The AJs have authorized capacity of 4,465 workdays annually which is reduced by vacancies to 4,230 days.
- The small number of ALJs (four) results in delays in lump sums and case reviews when any ALJs are absent due to illness or for other reasons.
- The DIA has had difficulty recruiting positions through the Commonwealth's civil service process which has resulted in extended periods of vacancies for both professional and clerical positions and has contributed to the backlog.
- The one contractor assigned to the medical advisory function is not sufficient to meet the legislative mandate.
- Utilization
 - No contract officer position exists in Administration which impedes contract review, whereas the contract officer position in Safety appears underutilized.
 - EDP management staff have had to work overtime to cover chronic vacancies.
 - The assignment of head clerks to specific AJs does not appear to be the most efficient allocation of resources.
 - Inappropriate utilization of staff exists in Vocational Rehabilitation (e.g., rehab workers perform clerical duties, while secretaries are used to call employers).

CONCILIATION AND CONFERENCE PROJECTIONS FOR 1989



- Current staffing is insufficient to meet all legal requirements such as fine enforcement and collections, particularly as the number of second injury defense claims is an unknown. From July 1, 1988 to March 31, 1989 the Legal Counsel's staff has handled 320 cases, of which 185 have reached a disposition. The Attorney General's Office has the responsibility to perform this defense duty, however, due to budget constraints, its ability to perform this task is limited.
- Eight conciliators in the Conciliation Unit are classified as Review Examiners I, yet they perform the same duties and are responsible for the same activities as Review Examiners II.
- Training
 - Training manuals for computer systems appear thorough and adequate. Training provided in the use of the DIAMETER and Officepower systems appears appropriate and readily available.
 - Many units have initial training procedures for employees, but lack sufficient follow-up training (e.g., conciliation).
 - There is the perception that there are inadequate training opportunities or programs for the AJs.
 - The reduction in statewide training resources have negatively affected some DIA employees in the areas of conciliation and rehabilitation (bilingual education).
 - Some cross-unit training has been initiated (e.g., medical seminars for the judges) but more of this activity should be encouraged, specifically in the area of dispute resolution.
- Morale
 - Managers, staff and judges appear motivated to perform their assigned tasks.
 - Employees feel that the Commissioner is both fair and accessible.
 - Overall employee morale appears better than reported from previous years.
 - Employees have noted concerns about the Commonwealth's fiscal position and implications for job security.

- Employees recognize and appreciate the career opportunities which have arisen with DIA expansion.
- Employees want more of a chance to provide input to their supervisors.
- Some employees believe they are not formally recognized in the DIA for superior job performance, though Commonwealthwide recognition awards exist.
- Increasing workloads are negatively impacting the morale of some groups of employees (e.g., data entry personnel, disability analysts).
- Few formal grievances have been filed by DIA employees. The limited number of employee grievances are resolved satisfactorily within DIA at step 1 or 2 of the process.
- Management pay scales were last increased in July 1986. Managers at the top step have not received a pay increase, which may be a negative factor on morale (e.g., judges, managers).

E. SPECIFIC SYSTEM ISSUES

- Costs
 - Workers' compensation losses are displayed on Exhibit VII-10 for various types of injury as defined by the Workers' Compensation Rating and Inspection Bureau of Massachusetts (WCRIB). The losses are for the composite policy year 1984/85 and provide a sense of the relative magnitude of the type of loss.
 - Workers' compensation costs, as summarized by WCRIB are displayed on Exhibit VII-11. These costs are displayed as percentages of an adequate insurance premium and are indicative of friction costs in the Workers' Compensation System.
 - In some cases, friction costs are based on countrywide insurance industry data since cost data is not available for Massachusetts alone.
 - Funds to pay for workers' compensation systemwide losses and expenses are generated by premiums paid by employers to insurance companies and the insurer's investment income.
 - Total legal costs are not captured in the DIA monitoring system. In particular, the legal costs associated with lump sums is not recorded.
- Accessibility of Healthcare Services
 - The Health Services Board created in the Reform Law has been inactive. The Board has only met once since its formation.
 - There is significant concern that some physicians refuse to accept additional workers' compensation cases because of the low reimbursement rate. In addition, physicians have complained of slow payments.
 - Some hospitals have been reported to provide emergency care only and will not admit workers' compensation cases due to the reimbursement rate.

LOSSES BY TYPE OF INJURY

Rate Setting Codes	Injury Kind	<u>Incurred Losses (000's)</u>		<u>Claim Counts</u>
		<u>Indemnity</u>	<u>Medical</u>	
1	Death	\$ 14,566	\$ 674	82
2	Permanent Total Disability	7,144	2,299	56
3 and 4	Permanent Partial Disability	259,537	60,737	11,150
5	Temporary Disability	226,918	57,566	48,258
6	Medical Only	-	17,443	133,269

Source: WCIRB
Date: November 23, 1988

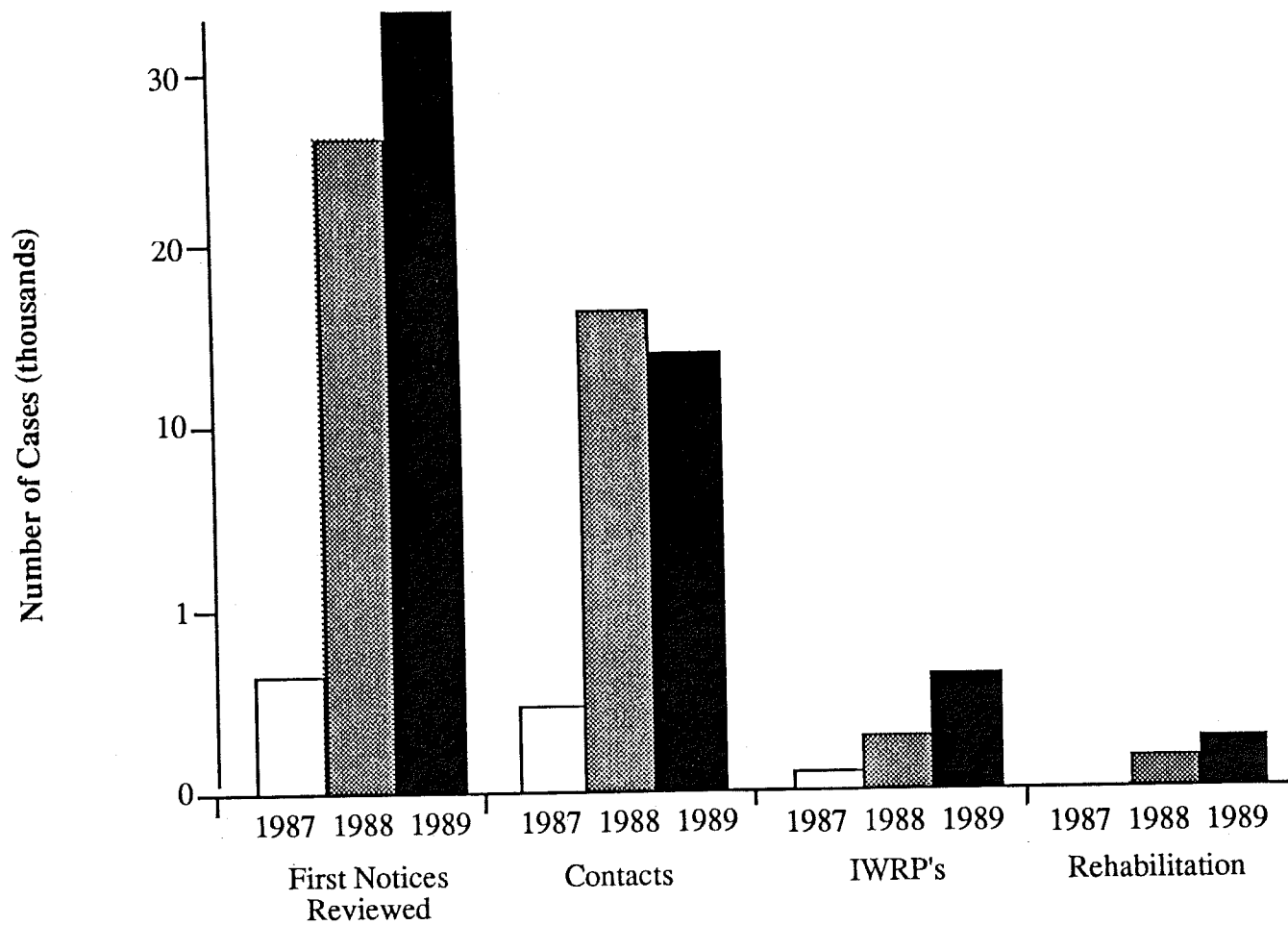
WORKERS' COMPENSATION SYSTEM COSTS

Losses	81.7%
Loss adjustment expense (including legal expense)	9.0
Insurer expenses:	
Fixed	4.3
Variable	19.6
Investment Income Offset	<u>-14.6</u>
Total	<u>100.0%</u>

Source: WCIRB
Date: November 23, 1988

- There appears to be widespread perception in the medical community that workers compensation reimbursement rates are inadequate. Physicians are upset that they have to treat injured employees for what they feel are indigent rates.
- Reporting and paperwork associated with workers' compensation cases is reported to be higher than what average cases demand of the medical community.
- The DIA does not have sufficient staff nor funding to perform a quality control function for medical care provided to injured employees.
- Insurance carriers indicate that the actual percentage of the workers' compensation dollar going for medical care is similar to many other states. There is a perception that overutilization of medical treatment may exist.
- Vocational Rehabilitation
 - Once the Office of Education and Vocational Rehabilitation (OEVR) successfully targets individuals that require and desire services, it appears to be reasonably successful in securing favorable outcomes.
 - The number of injured workers reviewed by OEVR has increased significantly. See Exhibit VII-12.
 - OEVR does not receive information (First Report entries) in a timely fashion and must screen thousands of workers who neither need nor desire services before it can concentrate on the appropriate candidates. See Exhibit VII-2.
 - Workers must weigh the benefits of vocational rehabilitation against the threat of loss of compensation. This trade-off discourages workers from seeking rehabilitation services.
 - Limited incentives currently exist for attorneys and insurers to refer workers to rehabilitation which places an additional burden on the DIA to accomplish this objective.
 - Some insurers have attempted simultaneously to assign a worker to rehabilitation and to begin discontinuance proceedings. This maneuver undermines the purpose of rehabilitation and creates a mistrust of rehabilitation.
 - OEVR maintains records on authorized procedures and follows up on complaints against providers.
 - Due to an inadequate inventory of informational brochures, OEVR failed to mail brochures to all injured workers.

THE DEMAND FOR VOCATIONAL REHABILITATION SERVICES IS INCREASING



- Self Insurance
 - The Office of Insurance does not have adequate actuarial or audit staff to review the records it receives.
 - No guaranty fund exists for self-insurers and the Office of Insurance is conservative in establishing bonds required by self-insurers.
 - There is a perception that employers that would like to self-insure are discouraged by the high bonds required and other perceived obstacles.
- Assigned Risk Pool
 - The percentage of workers' compensation business written in the Assigned Risk Pool has increased from 10% in 1984 to 25% in 1987, according to the WCRIB.
 - The Assigned Risk Pool has recently become the largest writer of workers' compensation insurance in Massachusetts. The second largest writer is Liberty Mutual with 22% market share in 1987, according to direct premium statistics published by A. M. Best Company.
 - The residual market share tends to vary inversely with the profitability of the workers' compensation line. The three states with the largest residual markets are Maine, Rhode Island and Louisiana where over 30% of premium is written in the residual market (over 50% for Maine and Rhode Island). The 1987 loss ratios for these states are the highest in the country, 152.2, 125.1, and 131.9, respectively, according to A. M. Best Company. Massachusetts' 1987 loss ratio is the sixth highest in the country at 110.3.
 - WCRIB filed for a +23.5% rate increase on November 23, 1988. According to the filing, this rate request is viewed as inadequate by several member companies.
 - It is likely that the Assigned Risk Pool will continue to grow in Massachusetts given the perception of inadequate insurance rates.
 - A study published by the NCCI Digest indicates that as rates become unprofitable, Assigned Risk Pools grow quickly. However, as rates return to profitability, the pools tend to depopulate slowly. This trend suggests it will be difficult to depopulate the Assigned Risk Pool in Massachusetts quickly, even if rates increase.

VIII. PRIORITY SCHEME



VIII. PRIORITY SCHEME

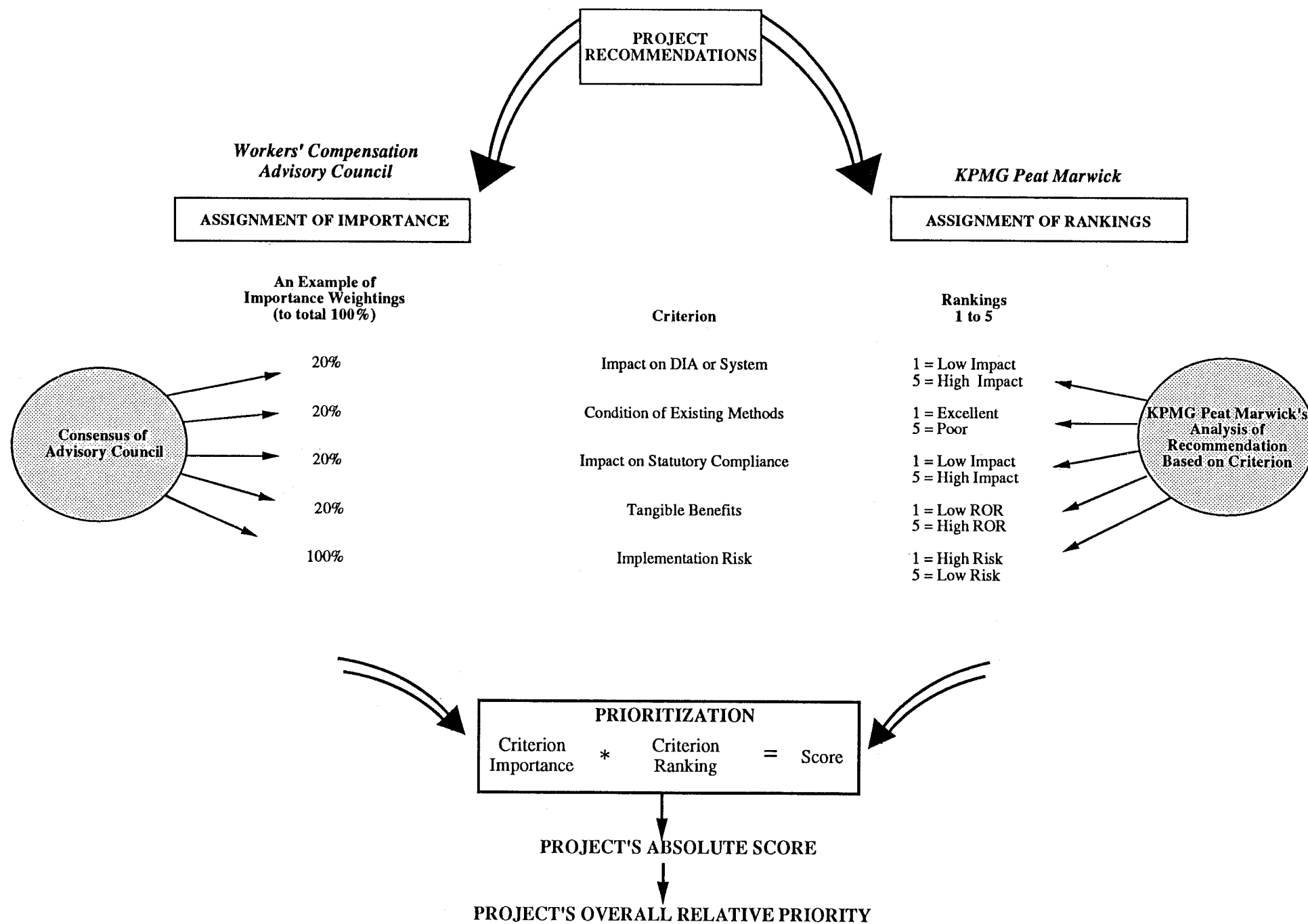
KPMG Peat Marwick plans to apply a cost benefit analysis to the project-level recommendations presented in this study during Phase II. We have developed a methodology to rank each project recommendation according to several criteria on a scale of 1 to 5. A ranking of "5" is the best ranking vis-a-vis a specific criterion.

The KPMG Peat Marwick ranking will represent our objective scoring. Each assessment criterion, however, may not hold the same degree of importance to the Council and the DIA. The overall prioritization process will allow the Council to weigh the relative importance of each criterion. Weightings will be assigned within a range of 0 to 1.00, such that the total weights will equal 1.00. The process will result in a prioritization of the project's recommendations based on the combination of KPMG Peat Marwick's objective rankings and the Council's independent assignment of weights. See Exhibit VIII-1.

The criteria are defined as follows:

Criterion	
Impact on DIA or System	Relationship to Departmental and Council objectives.
Condition of Existing Methods	Ability of existing methods to perform function efficiently and effectively.
Impact on Statutory Compliance	Effect initiative will have on increasing compliance with workers compensation statutes.
Tangible Benefits	Expected financial return to the level of investment required (i.e., cost to implement).
Implementation Risk	The likelihood the initiative will fail to achieve the intended objectives.

PRIORITIZATION PROCESS FOR PROJECT RECOMMENDATIONS



IX. PRELIMINARY RECOMMENDATIONS

IX. PRELIMINARY RECOMMENDATIONS

Due to the scope and breadth of our recommended courses of action, we have grouped our recommendations at a project level. Completion of the recommended projects should enable the DIA and the System to realize the expected benefits presented herein. The projects we are suggesting have not been prioritized. Therefore, no sense of priority should be construed by the sequence of the projects listed. The primary goal of our preliminary recommendations, in the aggregate, is the reduction and eventual elimination of backlogs in Dispute Resolution and other areas of the DIA.

Each project recommendation includes:

- Project description
- Activities to consider
- Expected benefits
- Expected time to complete

PROJECT 1: REVISE LEGISLATION AND REGULATIONS

Project Description

The Council should consider initiating discussion with the legislature for revision of c.152 and c.23E M.G.L. The Council should consider developing a legislative action plan to review, draft and educate legislators on desirable changes.

Activities to Consider

- Complete a legislative action plan incorporating all desirable changes and strategies to promote enactment.
- Review all changes which may be needed to statutes and regulations to implement prioritized projects.
- Draft language for desirable changes in the statutes and regulations.
- Revise c.23E M.G.L. to eliminate limit on number of judges DIA may employ and limitations on DIA organization.
- Review requirement to submit certain reports, such as the Employers Quarterly Report.

Expected Benefits

- Permits complete implementation of prioritized projects.
- Removes ambiguities and inconsistencies from the law.
- Allows modification to present System.
- Removes conflicts and disincentives from the law.
- Clarifies DIA mission consistent with its actual resources.

Estimated Time to Complete

- After completion of Phase II study. Requires ability to promote and advance legislative action.

PROJECT 2: MODIFY LUMP SUM APPROVALS

Project Description

The DIA should consider revising its current lump sum approval process to better educate injured workers about their rights under the law and potential lost benefits.

Activities to Consider

- Eliminate the disability analyst role, in its present form, from the lump sum process.
- Standardize the information given to workers about their rights prior to the lump sum hearing.
- Provide information to the worker about his or her estimated financial situation with or without a lump sum.
- Develop a computer spreadsheet program to facilitate providing individualized data for each worker.
- Formalize a procedure for the ALJ to review rights with the workers, prior to the lump sum hearing.
- Determine whether the lump sum approval or disapproval responsibility should be reassigned.

Expected Benefits

- Reduces delays in decisions for workers who want to settle.
- Enables workers to make better decisions.

Expected Time to Complete

- One year and required legislative action.

PROJECT 3: CHANGE TRUST FUNDS' FINANCIAL AND ADMINISTRATIVE PROCEDURES

Project Description

The DIA should consider adopting comprehensive changes in the administration of and in the basis of accounting under which the Trust Funds are managed.

Activities to Consider

- Review procedures in other states.
- Assess the net effect of changing Trust Fund accounting from a cash basis to an accrual or modified accrual basis.
- Structure and disburse award payments over several years on lump sum settlements.
- Revise procedures to better monitor and vigorously collect all fines and penalties.
- Determine necessary revisions to the assessment process.
- Increase staffing of the Trust Funds administrative unit.
- Institute procedures to control receipts and deposit checks faster.
- Work with Comptroller's Office to modify and expedite vendor submissions.
- Relieve Investigation Unit from its duty to represent the DIA at conciliations in person. Allow another party to present a statement from the Investigation Unit and consult with legal counsel.

Expected Benefits

- Helps ensure solvency of the Trust Funds over the long-term.
- Establishes better control over Trust Funds.
- Makes better use of staff.
- Increases interest earnings and recovery of lost revenue.
- Improves communications with other Commonwealth agencies.

Expected Time to Complete

- One to two years and required legislative action.

PROJECT 4: REDIRECT OFFICE OF SAFETY

Project Description

The DIA's safety function is at an impasse regarding its effectiveness. A policy decision should be considered to either significantly empower the function and target funding or to remove the "office" status of the function and provide only limited safety program assistance. The DIA should consider redirecting the Office of Safety so it may better define and execute its mission.

Activities to Consider

- Conduct a study to determine what types of programs, aimed at specific targeted industries/firms, would optimize effective use of grant funds.
- Use DIAMETER to help target:
 - geographic areas with highest number of claims
 - industries with highest numbers of claims
 - most frequently reported injuries
- Fund grantees with programs which target DIAMETER analyzed issues and study recommendations.
- Consider targeting broad-based efforts through media awareness campaigns which reach large audiences.
- Explore the possibility of locating this function in another unit, such as OEVR or the Department of Employment and Training.

Expected Benefits

- Facilitates targeting of DIA gran
- Provides improved safety education.
- Makes better use of staff resources.

Estimated Time to Complete

- Six months to one year.

PROJECT 5: AUTOMATE INSURANCE REGISTER

Project Description

A significant weakness in the DIA operations is the manual submission and data entry of high volumes of insurance register cards. This has created a backlog which hampers the investigatory process and increases exposure of the Trust Funds. The DIA should consider a project to automate insurance register procedures.

Activities to Consider

- Review other states' procedures.
- Contact major insurers to determine feasibility of electronic data submission.
- Allow insurers to submit notifications on electronic media.
- Investigate options of on-line data transmission.
- Modify DIA computer operations to facilitate electronic interfaces on a daily basis.
- Modify notification cards to permit electronic scanning and time stamping of submitted data and direct entry of scanned data into DIAMETER when insurers are incapable of submitting tape.

Expected Benefits

- Eliminates backlog of entering cards into the register.
- Improves investigatory efforts and scheduling.
- Makes better use of existing technology and staff.

- Reduces exposure of the Trust Funds.
- Reduces or eliminates need to add staff.

Estimated Time to Complete

- Six months to one year.

PROJECT 6: UPGRADE CONCILIATION PROCESS

Project Description

Upgrading the conciliation process could potentially reduce the number of cases which go forward to dispute resolution by a substantial number. The DIA should consider a comprehensive review of the conciliation process with the intention of enhancing the authority of conciliators and reducing the number of participants (other than the principals in the process).

Activities to Consider

- Review other states' procedures.
- Review and extend, if necessary, time periods before conducting conciliations.
- Provide continuing education and training for conciliators.
- Review possibility of using impartial medical reports at conciliation.
- Increase staffing of the Conciliation Unit.
- Provide a better work environment which is more conducive to the process than current accommodations in Boston.
- Analyze role for a conciliator in reviewing and approving/disapproving lump sums reached during conciliation and before a conference.
- Review need for use of legal counsel by both sides during conciliation to ascertain if it should be discouraged in cases without factual and/or medical complexities.
- Review the feasibility of increasing the filing fee for a conference to provide greater incentive for insurers to settle at conciliation.

Expected Benefits

- Reduces number of cases requiring dispute resolution and/or litigation.
- Reduces the time to be scheduled for a conference.
- Reduces rescheduling efforts.
- Facilitates quicker processing for those desiring lump sum settlements.
- Makes better use of existing resources.

Estimated Time to Complete

- One year and required legislative action.

PROJECT 7: COMPLETE DETAILED STAFFING ANALYSIS

Project Description

While it was not the intent of Phase I to determine definitive staffing requirements for the DIA, our initial conclusion is that there are several areas where the DIA could reallocate personnel and improve utilization. The DIA should consider a detailed staffing analysis which would permit a more thorough review of these issues.

Activities to Consider

- Increase computer programming staff to purge data tables and make other system enhancements.
- Increase computer operations staff to provide coverage on two separate shifts. Initiate collective bargaining negotiations, if necessary, to facilitate this.
- Increase financial administration staff to adequately perform tasks in a timely fashion.
- Reconsider current one-for-one assignments of clerks to AJs.
- Consider transfer and reallocation of disability analysts.
- Review increased use of flex time by staff to more effectively deal with the volume of data entry.

Expected Benefits

- Allocates staff to where they are most needed.
- Balances workloads.
- Makes better use of existing resources.
- Reduces overtime.
- Increase compliance with law and regulation.

Estimated Time to Complete

- Six months.

PROJECT 8: MODIFY DIAMETER IMPROVE CLAIM PROCESSING

Project Description

Several revisions are desirable to DIAMETER to permit better utilization of the system, especially to effect a withdrawal on a pending claim or discontinuance. A number of other enhancements are currently under consideration, such as a second CPU which would appreciably improve system operations. The DIA should consider implementing DIAMETER program changes to permit complex claim actions.

Activities to Consider

- Expand CPU capacity.
- Reprogram to permit processing and tracking of multiple claims per individual.
- Validate and edit data on existing tables and correct or purge inaccurate information.
- Thoroughly test changes prior to implementation.

Expected Benefits

- Improve access to and response time of the system.
- Eliminates manual recordkeeping on second claims.
- Improves knowledge of and access to second claim data.
- Promotes better management of these claims throughout the adjudicatory process.
- Eliminates potential System manipulation by workers.

Expected Time to Complete

- Six months to one year.

PROJECT 9: INVESTIGATE POTENTIAL FOR SYSTEM ABUSE

Project Description

Many suspect the System is vulnerable to abuse by workers, attorneys, insurers and others. Vulnerability varies from possible use of delaying tactics to force an outcome to allegations of fraud. The DIA should consider conducting intermittent investigations of System abuse.

Activities to Consider

- Review a sample of System utilization by attorneys and insurers.
- Review a sample of injured workers who file claims and whose case enters the dispute resolution process.
- Reconsider granting grace periods to uninsured employers.
- Review a sample of employers who appeal fines.
- Promulgate regulations to discourage System abuse.

Expected Benefits

- Reduces System abuse through knowledge of investigatory efforts.
- Facilitates identification of individuals and organizations who abuse the System.
- Identifies changes in the System to reduce the risk of abuse.

Estimated Time to Complete

- One to two years.

PROJECT 10: REDESIGN MANAGEMENT INFORMATION REPORTS

Project Description

The DIA currently does not monitor certain compliance time frames. Several could be monitored because the data is captured by DIAMETER. The DIA should consider adding or revising management information reports produced by DIAMETER to accomplish this objective. EDP may need to add staff or contract out the programming effort.

Activities to Consider

- Review which compliance time frames and reports are priorities.
- Review management planning needs for future allocation of resources.
- Determine report requirements and methodologies for identifying and projecting backlogs throughout the process.
- Reprogram for case-by-case tracking of compliance with the law.
- Track ALJ decisions on lump sums.
- Circulate a "deletion" list from EDP at regular quarterly time periods so that less useful reports may be purged.

Expected Benefits

- Allows better compliance monitoring.
- Provides better information to managers to plan and run their operation.

Estimated Time to Complete

- One year.

PROJECT 11: IMPROVE INTERNAL COMMUNICATIONS

Project Description

The DIA may benefit from increased communication efforts across organizational units. The DIA should consider a review of formal internal communications procedures as well as look for ways to introduce increased opportunities for informal communication.

Activities to Consider

- Review current formal communications procedures.
- Review distribution of memos and other written communications.
- Institute formal procedures to request new or changed reports from EDP.
- Conduct a survey of employees' telephone needs.
- Establish a DIA newsletter.
- Schedule meetings for all DIA units of management with employees on a regular basis.

Expected Benefits

- Improves staff productivity.
- Allows better cross-unit communications.
- Reduces interruption of staff with unnecessary communications.
- Allows more input from staff on DIA operations.
- Increases employee job satisfaction and morale.

Estimated Time to Complete

- Less than six months.

PROJECT 12: RE-EVALUATE ATTORNEY COMPENSATION

Project Description

The current compensation structure for attorneys may be a contributing factor to the increased number of conciliations and cases in the System. The increase in cases has added to the current and growing backlog in the dispute resolution process. The Council should consider undertaking a detailed study of attorney compensation and utilization in the System.

Activities to Consider

- Form a task force to study attorney compensation in the System.
- Review procedures and fee structures in other states.
- Review the current practice of basing attorney compensation on average weekly wage formulae.
- Review need to have counsel present at conciliations for either party.
- Review the option of reducing an attorney's fee for a lump sum settlement by the amount of compensation received for prior steps in the process.

Expected Benefits

- Increases benefits to workers.
- Reduces litigation.
- Reduces System costs.
- Reduces backlogs.
- Increases possibility of settlement at conciliation.

Estimated Time to Complete

- One year and required legislative action.

PROJECT 13: IMPROVE MEDICAL ACCESS

Project Description

The Council should consider working with the medical community, the Rate Setting Commission and the DIA to determine ways to improve medical access.

Activities to Consider

- Review other states' procedures.
- Review medical utilization.
- Investigate changing Massachusetts' reimbursement system.
- Explore the possibility of using DRG's or URC to eliminate the need for rates.
- Charge the Health Services Board with reviewing ways in which DIA can comply with Section 13 of c.152 M.G.L.

Expected Benefits

- Allows better access to medical care and impartial physicians.
- Encourages more timely responses from physicians on reports for conciliation and dispute resolution.

Estimated Time to Complete

- One year and required legislative action.

PROJECT 14: EXPAND SYSTEMWIDE EDUCATIONAL EFFORTS

Project Description

The Council and the DIA should consider an effort to better educate all individuals whose actions impact the operation of the System.

Activities to Consider

- Convene a task force to review Systemwide education needs.
- Keep the Governor and his Council (or their representatives) advised to show how delays in the appointment of judges impacts the backlog of cases.
- Develop a strategy to inform legislators on desirable law changes and DIA budget priorities.
- Consider media awareness campaign for employers and workers on their rights and responsibilities under the System.
- Continue efforts to publish Reviewing Board codification of decisions.
- Consider additional offers for educational sessions with insurance claim representatives.

Expected Benefits

- Provides better informed legislative and executive branches.
- Informs employers and insurers as to ways to control System costs.
- Reduces delays in AJs appointments.
- Enhances uniform legal knowledge.
- Improves consideration of DIA needs at the legislature.

Estimated Time to Complete

- One year.

PROJECT 15: ENHANCE LEGAL COUNSEL'S SUPPORT

Project Description

The current structure of staffing and funding the DIA's legal counsel's office is inadequate given its current mission to defend the Trust Funds and the need to adequately defend the funds against second injury claims. A comprehensive Trust Funds' defense plan should be considered to meet the present and future challenges of the counsel's office.

Activities to Consider

- Review other states' practices.
- Fund defense costs out from the Trust Funds instead of through the DIA operating budget (state general funds).
- Review option of using DIA contracted legal assistance instead of Attorney General's staff.

Expected Benefits

- Enhances the defense of the Trust Funds.
- Improves defense posture without incurring ongoing staff costs.
- Improves direction of legal staff.
- Directs funding towards major area of need.

Estimated Time to Complete

- One to two years.

PROJECT 16: ESTABLISH LINK PERFORMANCE

Project Description

The DIA should consider linking objective performance criteria for both units and staff involved in producing measurable outputs within the System. This effort should also identify where improved training may be needed to help DIA employees improve their skills and performance. Unit program goals by month or by quarter should be considered. Larger units may be grouped into "teams" to assign collective responsibility for achieving goals.

Activities to Consider

- Review other states' procedures as well as procedures in other Commonwealth agencies.
- Revise existing brief mission statement into a comprehensive mission statement.
- Develop detailed goals and objectives for each division, office and unit to provide a means to measure performance.
- Establish a formal quality review process directed towards ascertaining training needs for the following positions:
 - All managers
 - ALJs and AJs
 - Conciliators
 - Rehabilitation counselors
 - Claims processing staff
 - Investigators
 - Clerks
- Inform and work closely with union representatives during implementation and to solicit their comments and input into this process.
- Review training needs in other DIA units.

Expected Benefits

- Provides knowledge of training needs to improve employee skills.
- Establishes goals for employees to strive towards.
- Clarifies expected quality standards.

- Links individual performance goals to Departmentwide objectives.
- Allows performance to be measured when demands on the System exceed maximum performance of all staff.
- Provide justification for budget requests for additional staff.

Estimated Time to Complete

- One to two years.

PROJECT 17: ENHANCE BUDGET PLANNING PROCESS

Project Description

The DIA should consider undertaking an effort to enhance its current annual budget process with a program budget planning process to better define its approaches to meet current and longer-term priorities. This project would require communication with both the Executive and Legislative branches.

Activities to Consider

- Review other states' procedures.
- Establish interim goals to incrementally improve performance and compliance.
- Define program areas and allocate resources by program.
- Define fiscal requirements and responsibilities.
- Develop program measures.

Expected Benefits

- Focuses DIA efforts on long-term goals and priorities.
- Improves future compliance.
- Provides measurements to assess progress.
- Provides mechanisms to better justify new initiatives.

Estimated Time to Complete

- One to two years.

PROJECT 18: AUDIT REIMBURSEMENTS AND ASSESSMENTS

Project Description

The DIA should consider hiring an auditor to validate reimbursements made from and assessments made into the Trust Funds. This audit effort and scope could be as targeted and comprehensive as the DIA desires and as funding permits.

Activities to Consider

- Determine the scope of audit effort required.
- Determine the sample or target group of auditees.
- Select the audit firm.
- Schedule audits of:
 - cities and towns for reimbursements
 - firms for assessments

Expected Benefits

- Improves financial control.
- Validates reimbursements and assessments.
- Increases awareness and compliance.

Estimated Time to Complete

- Six months.

PROJECT 19: "HOUSEKEEPING" PROJECTS

Project Description

This project consists of a number of small-scale projects which the DIA can consider to undertake immediately to improve performance.

Activities to Consider

- Establish an employee suggestion box to solicit input from employees on ways to improve DIA performance.
- Establish a regular (monthly) DIA employee recognition award.
- Print the new informational booklet in one or two colors rather than by four-color process.
- Print small runs of summary information brochures in other languages such as Spanish and/or Portuguese.

Expected Benefits

- Provides small but important projects which can be performed immediately at low or no cost to enhance DIA performance.
- Potential cost saving or backlog reducing suggestions may result.

Estimated Time to Complete

- Immediate to six months, depending on task.

PROJECT 20: COMMENCE PHASE II

Project Description

The Council should consider initiating Phase II of the assessment of the DIA and the System, as soon as practicable. Phase II, assuming it is commissioned, will further develop and define the study issues identified in Phase I. It will allow the Council to select projects to implement, to have sufficient quantitative analysis to facilitate decision-making and to compare the System with other states.

Activities to Consider

- Compare workers' compensation systems in selected states with the Commonwealth's.
- Prepare additional quantitative analyses of the DIA and of the System.
- Refine recommendations as necessary.
- Develop cost-benefit analyses of project recommendations.
- Conduct criterion scoring and weighting of project recommendations.
- Prepare detailed implementation plans for selected project recommendations.

Expected Benefits

- Establishes comparative database through which to view the System.
- Selects projects for implementation based upon highest priority.
- Improves data on present System.
- Defines task plans for selected projects.

Expected Time to Complete

- By December 31, 1989.

X. PRELIMINARY IMPLEMENTATION SCHEDULE



X. PRELIMINARY IMPLEMENTATION SCHEDULE

Project	Fiscal Year											
	1989-90				1990-91				1991-92			
	1	2	3	4	1	2	3	4	1	2	3	4
1. Revise Legislation and Regulations												
2. Modify Lump Sum Approvals												
3. Change Trust Funds' Financial and Administrative Procedures												
4. Redirect Office of Safety												
5. Automate Insurance Register												
6. Upgrade Conciliation Process												
7. Complete Detailed Staffing Analysis												
8. Modify DIAMETER to Improve Claim Processing												
9. Investigate Potential for System Abuse												
10. Redesign Management Information Reports												
11. Improve Internal Communications												
12. Re-evaluate Attorney Compensation												
13. Improve Medical Access												
14. Expand Systemwide Educational Efforts												
15. Enhance Legal Counsel's Support												
16. Establish Quality Criteria												
17. Enhance Budget Planning Process												
18. Audit Reimbursements and Assessments												
19. Housekeeping Projects												
20. Commence Phase II												

Our implementation schedule is based upon a three-year cycle to review, approve, fund and implement our project level recommendations.

APPENDICES

- A. Interviewees
- B. Documents Reviewed
- C. Summary Analysis of M.G.L. c.152



APPENDIX A
LIST OF INTERVIEWEES

WORKERS' COMPENSATION ADVISORY COUNCIL

Linda Ruthardt, Chair
Arthur Osborn, Vice Chair
John Antonakes, Member
James Farmer, Member
Paul Meagher, Member

Emily Novick, Member
Joe Coffey, Member
Stevens Day, Executive Director
Richard Campbell, Research Analyst
Paul Eustace, Secretary of Labor

EXTERNAL PARTIES

Charles Aligero, Massachusetts Medical Society
Edward Giglio, Liberty Mutual - Claims Department
David Pomerantz, Massachusetts Medical Society

Note: Due to time restrictions and events beyond the control of the Advisory Council, the DIA, and KPMG Peat Marwick, interviews were not held with certain individuals as originally planned.

DEPARTMENT OF INDUSTRIAL ACCIDENTS

Joel M. Pressman, Commissioner
Mary Piggott, Director of Administration
Martha Dunn-Strohecker, Director of Dispute
Resolution
Bryan Maranhao, Director of Claims Administration
John Harbison, Chief Legal Counsel
Richard Lundregan, Commissioner of Insurance
Michael Simmons, Director of Administration
and E.D.P.
William Russell, Director of Safety
Maryanne Langton, Director of Education
and Rehabilitation
Dr. James Walker, Medical Advisor
Lotlene Forde, Director of Budget
Joseph Constantine, Data Processing Manager
Walter Horn, Conciliation Manager
Janine Senatore, Claims Processing Manager
Noreen Shea, Operations Manager

James Ryan, Administrative Judge
John Zimini, Chief Insurance Investigator
Alice Crotty, Personnel Manager
Corinne Collins, Assistant Manager Computer
Operations
Betty Oliver, Affirmative Action Officer
LaVonne Dent, Paralegal, Scheduling Unit
Ellen Mancino, Disability Analyst
Bill Harney, Vocational Rehabilitation Specialist
Charles Cassella, Conciliator
Kathryn Walsh, Conciliator
Joan Endres, Accountant
Susan Weinstein, Stenography Supervisor
Kathy Magnotta, Head Clerk
Gerry Fleming, Union Steward
Carolyn Brown, Union Steward
Leonard Gabrila, Regional Manager
William McCarthy, Administrative Law Judge

APPENDIX B
LIST OF DOCUMENTS REVIEWED

- Massachusetts Workers Compensation Advisory Council, Annual Reports, 1987 and 1988
- Massachusetts Workers Compensation Advisory Council, Minutes August 1987 to March 1989
- National Business Institute, "Workers Compensation in Massachusetts - Issues and Answers"
- Commonwealth Auditors Report on the Activities of the Division of Industrial Accidents (July 1, 1981-June 30, 1983) and (July 1, 1983-June 30, 1985)
- Commonwealth of Massachusetts Rate Setting Commission Public Hearing - Rates of Interim Period under Worker's Compensation Act
- Office of Management Information Systems (OMIS) Report, Division of Industrial Accidents - A Study of Administrative and Operational Practices, April 1984
- DIAMETER Manual
- Department of Industrial Accidents, Final Procedural Diagrams to Interface with New Computer System, June 24, 1988
- Massachusetts Medical Society, Practicing Medicine in Massachusetts: A Report to the State Legislature, July 1988
- Sager, Alan, The Sky is Falling: The Massachusetts Medical Society Reports on the "Physician Shortage", September 1988
- Strohecker, Martha, Memorandum: Conversion to the Eleven Week Scheduling Cycle, November 30, 1988
- NCCI Digest, Volume III Issue IV, December 1988
- Rate Setting Commission: Practitioner Survey Request and Survey Results, April and May 1989
- Budget Requests, DIA: SFY 1989-90, SFY 1988-89, SFY1987-88
- Workers' Compensation Forms 101-121

LIST OF DOCUMENTS REVIEWED, continued

- Printouts of all DIAMETER Reports
- Internal DIA Office Reports
 - Office of Education and Vocational Rehabilitation: Disability Analyst, Vocational Rehabilitation Counselors
 - Office of Insurance: Investigation
 - Office of Safety: Education
 - Division of Dispute Resolution: Conference Memorandum
- DIA Organization Charts
- Office of Education and Vocational Rehabilitation: "New Review" and "Your Workers' Compensation Law"
- Analysis of Section 65 Trust Funds, Tillinghast, 1987, 1988
- M.G.L., C.152
- M.G.L., C.7 Sec 30 Q-T
- M.G.L., C.18 Sec 5 G
- M.G.L., C.23 E
- M.G.L., C.30 A Sec 1, 14
- M.G.L., C.32 Sec 14
- M.G.L., C.111 Sec 119
- M.G.L., C.115 Sec 5
- M.G.L., C.119 A Sec12
- M.G.L., C.149 Sec 44C, 60-74, 86, 104
- M.G.L., C.151 A Sec 25
- M.G.L., C.208 Sec 36

LIST OF DOCUMENTS REVIEWED, continued

- M.G.L., C.209 Sec 32 E
- M.G.L., C.92 A
- M.G.L., C.231 Sec 606
- Interim Rule and Standing Order of Appeals Court
- 452 CMR 1-5 and Interim Rule for Vocational Rehabilitation
- Reform of the Massachusetts Workers' Compensation Systems, Babitskey, January 1, 1984
- Briefing Book for H5030 - Governor's Proposal for Workers' Compensation Reform
- A Proposal for Workers' Compensation Reform in Massachusetts, October 1981
- Massachusetts Workers' Compensation Reform Act of 1985, Locke, 1986
- Public Hearing - Rates for Interim Period under Workers' Compensation Act, May 24, 1988
- DIA "Circular Letters" 1984-89
- Massachusetts Practice, Workmens' Compensation, Locke, Second Edition
- Division of Industrial Accidents Annual Report 1976
- Various correspondence between Advisory Council Staff and people involved in the System

APPENDIX C

SUMMARY ANALYSIS OF MASSACHUSETTS WORKERS' COMPENSATION LAW (M.G.L. c.152, S1-86)

Section	Focus	Description	Statutory Time-line	Penalty
6	Filing First Report of Injury	Within 5 days of knowledge of an injury resulting in the loss of 5 or more days of work for a worker, the employer must file a notice with the Department of Administration (DOA), the worker and the insurer (First Report of Injury).	5 days	\$100 for each violation paid into the Special Revenue Fund
6A	Education/Information	Upon receipt of notice of injury from the employer, the DOA shall mail to the injured worker an informational brochure.		
7	Insurer's Notification of Decision	Within 14 days of receipt of employer's notice of injury, insurer shall either commence payment of weekly benefits or notify the DOA, the employer, and the worker by certified mail of its refusal and the grounds for this refusal.	14 days	Penalty payments to worker of twice state average weekly wage
7F	Record of Filing Fees	The DIA shall maintain a record of filing fees, penalties and attorneys' fees, and shall provide this information to the Council and the Commissioner of Insurance at least once each calendar year.		
8(1)	Payment Without Prejudice	An insurer who begins payments in a timely manner may make such payments for 60 calendar days without affecting its right to contest any issue. An insurer may terminate or modify payments within this 60-day period if change is based on actual income of worker or if the insurer notifies the DOA in writing of its intent at least 7 days in advance.	60 days	

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SUMMARY ANALYSIS OF MASSACHUSETTS WORKERS' COMPENSATION LAW, (Continued) (M.G.L. c.152, S1-86)

Section	Focus	Description	Statutory Time-line	Penalty
8(4)	Appointment of Impartial Physician	An insurer who pays benefits for 60 days or more may, no sooner than 90 days after filing a complaint, request the Division of Dispute Resolution (DDR) to appoint an impartial physician. The director of DDR shall, within 7 days of this request, appoint a physician from the roster to conduct an exam and make a report within 14 days.	7 days - Appoint Physician 14 days - Physician files report	
8(5)	Insurer's Termination of Compensation	If insurer terminates or reduces any payment, and additional compensation is later ordered, insurer shall pay worker a penalty.		20% of additional compensation due
10(1)	Acceptance of Claims	No claim shall be accepted by the DIA unless at least 30 days have passed since the onset of disability.	30 days from onset of disability	
10(1) 10(2)	Filing and Referral of Claim	10(1) - A claim may be filed by the worker, and the DOA shall notify all parties of its receipt.	15 days	
10(4)	Conciliator's Report	Following a conciliation, the conciliator shall forward a written report setting out the issues and recommendation with respect to conference.		
10(5)	Insurer's User's Fee	For any claim referred to the DDR, the insurer shall pay a users fee of 30% of the average weekly wage. If the insurer failed to appear at a scheduled conciliation, the referral fee shall be 130% of the average weekly wage.		30% users' fee to Special Revenue Fund 130% users' fee to Special Revenue Fund

APPENDIX C

SUMMARY ANALYSIS OF MASSACHUSETTS WORKERS' COMPENSATION LAW, (Continued) (M.G.L. c.152, S1-86)

Section	Focus	Description	Statutory Time-line	Penalty
10 A-1	Scheduling of Conference	A claim/complaint referred to the DDR shall be immediately assigned to an AJ. A conference will be scheduled within 28 days of referral to the Division.	28 days	
10 A-2	Filing of Written Order	Within 7 days of the conclusion of the conference, the AJ shall file a written order.	7 days	
10 A-3	Appeal for Hearing	Any party aggrieved by an order has 14 days from the filing of the order to file an appeal for a hearing. Failure to file a timely appeal shall be deemed to be acceptance of the order, EXCEPT a party who has "by mistake" ... failed to appear an order may within one year petition the Commissioner who may permit such hearing.	14 days (one year petition period)	
10 A-3	Conduct Hearing	Such hearing shall be held within 28 days of the DIA's receipt of the appeal.	28 days	
11	Hearing Decision	A decision shall be issued by the AJ within 28 days of the conclusion of the hearing. Failure of a party to appear shall not delay the decision.	28 days (from conclusion of hearing)	
11 B	Decision Extensions	While decisions shall be issued no more than 28 days after close of testimony, a further extension may be granted in writing by the director of DDR.	28 days	
11	Hearing Continuances	The member (AJ) conducting the hearing may grant a continuance only for reasons beyond the control of a party or attorney. Any continuance shall be set forth in writing, and shall be compiled quarterly by the DIA and submitted to the Council.		

APPENDIX C

SUMMARY ANALYSIS OF MASSACHUSETTS WORKERS' COMPENSATION LAW, (Continued) (M.G.L. c.152, S1-86)

Section	Focus	Description	Statutory Time-line	Penalty
11 C	Appeals Review Board	Any party aggrieved by a decision of an AJ has 30 days to file an appeal to the Review Board. (Again, appeals may be filed within one year of decision by petitioning the Commissioner.)	30 days	Users' fee of 30% average weekly wage must accompany appeal
11 C	Decisions of Appeal Board	Decisions of Review Board must be in writing and shall be issued no more than 30 days from the filing of the appeal, unless an extension is authorized in writing by the Director of DDR.	30 days	
13(2)	Review of Health Care Providers	The DIA shall review clinical health care providers who render services to injured employees. A quality control system shall be established, and the department may hire medical consultant(s).		
13(3)	Health Care Services Board	The DIA shall create a health care services board, with members appointed to 2-year terms.		
25 A-1	Mandatory Workers' Compensation Insurance	Every employer shall provide for compensation to workers either by insurance with an insurer, membership in a workers' compensation self-insurance group, or, subject to the rules of the DIA by obtaining annually a license as a self-insurer.		
25 A-2	Deposits of Self-Insurers	The self-insured employer must keep on deposit with the state treasurer in trust securities not less than \$20,000 in market value of securities. The DIA shall determine, at least semiannually, the liabilities of a self-insurer both incurred or to be incurred due to personal injuries to workers.		

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SUMMARY ANALYSIS OF MASSACHUSETTS WORKERS' COMPENSATION LAW, (Continued) (M.G.L. c.152, S1-86)

Section	Focus	Description	Statutory Time-line	Penalty
25 A- 2 c	Reinsurance of Self-Insurers	Every self-insurer shall make arrangements by reinsurance, to protect it from extraordinary losses caused by one disaster. Such amounts and form as approved by the DIA, provided the minimum amount shall not be less than \$500,000.		
25(C)	Stop Work Orders	Whenever the Commissioner determines that an employer has not provided coverage to his workers, a stop work order shall be served, which shall take effect 10 days after the date of service. Any employer aggrieved by a stop work order shall have 10 days to appeal such order.	10 days	Civil penalty into private employer trust fund of \$100 per day
25(C-5)	No Insurance	Any employer who fails to provide for insurance shall be punished by a fine of not more than \$1500 or by imprisonment for not more than one year, or both.		\$1500 and/or one year imprisonment
30(A)	Employee's Medical Reports	Medical reports shall be furnished by the physician to the worker, insurer and DIA within 14 days of completion of exam. Failure to comply shall result in a civil fine ranging from \$25-\$1000 as determined by the director of the DOA.	14 days	\$25-\$1000
30 (E&F)	Vocational Rehabilitation	The DIA shall encourage and assist in the development of voluntary agreements between employees and insurers to utilize Vocational Rehabilitation (VR) services. The DIA shall promulgate rules and regulations. The Commissioner shall promulgate rules for identifying cases in which VR services may be required.		

APPENDIX C
SUMMARY ANALYSIS OF MASSACHUSETTS WORKERS' COMPENSATION LAW,
(Continued)
(M.G.L. c.152, S1-86)

Section	Focus	Description	Statutory Time-line	Penalty
30(G)	Employee's Refusal of Rehabilitation	The Office of Education and Vocational Rehabilitation (OEVR) shall meet with each worker whom it believes may require VR services. Any worker who refuses to meet shall not be entitled to weekly compensation during the period of refusal.		Loss of compensation
30(H)	Insurer's Responsibility for Rehabilitation	If the insurer and worker fail to agree to a VR program, the worker may apply to the OEVR for VR services. The OEVR shall develop a program of not more than 52 weeks. The insurer has 10 days to review this program. If the insurer refuses to provide services, the office shall fund such services out of the Trust Fund. If, after completion the DIA determines that services were successful, the insurer shall be assessed twice the cost incurred.	10 days	2 times cost of VR services to trust fund
30(I)	Job Training	The DIA shall assist and cooperate with the Division of Employment and Training and other appropriate agencies in making available new jobs and training programs.		
34	Total Incapacity	Insurer shall pay $\frac{2}{3}$ average weekly up to the state average weekly wage. Total number of weeks due the worker shall not exceed 260.		

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SUMMARY ANALYSIS OF MASSACHUSETTS WORKERS' COMPENSATION LAW, (Continued) (M.G.L. c.152, S1-86)

Section	Focus	Description	Statutory Time-line	Penalty
34(A&B)	Permanent and Total Incapacity Supplemental Benefits	Any person receiving benefits under section 34(A) shall be paid a supplement to weekly compensation based on the percentage increase in the state average weekly wage (COLA). The director of the DOA shall determine the percent increase (not more than 10%/year) on October 1st of each year. Supplemental benefits shall be paid by the insurer, who shall be entitled to quarterly reimbursements from the Trust Fund for injuries occurring before 10/01/86. For cases after this date, reimbursements will be provided for years where supplemental benefits increased more than 5%.		
36(B)	No Compensation if Receiving Unemployment Benefits	No benefits shall be payable under sections 34 or 34(A) in which the worker has received unemployment benefits. Section 35 workers who may be entitled to unemployment benefits must apply for these. Failure to do so may result in suspension.		
46(A)	DPW Claims	If the Department of Public Welfare (DPW) has paid cash assistance, relief, or medical assistance to or on behalf of an injured worker, and a subsequent claim is filed which is deemed to be compensable, the DPW may file with the DIA a claim for reimbursement.		

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SUMMARY ANALYSIS OF MASSACHUSETTS WORKERS' COMPENSATION LAW, (Continued) (M.G.L. c.152, S1-86)

Section	Focus	Description	Statutory Time-line	Penalty
48(1) & (2)	Lump Sum Settlements	<p>The insurer and worker may reach an agreement to redeem liability by payment of a lump sum of an amount approved by the Review Board.</p> <p>When an agreement is reached subsequent to insurer establishment of liability or an AJ decision, said agreement shall not redeem insurer liability with respect to payment of medical benefits or VR benefits.</p>		
48 (3)	Lump Sum Review Requirement	<p>Prior to approval of any lump sum settlement, the OEVR shall review the following factors with the worker and attorney:</p> <ul style="list-style-type: none"> - The worker's rights and the effect of this settlement on those rights; - If settlement includes redemption of future medical benefits and the likelihood that worker may require such benefits; - Total income and financial prospects of worker; - The purpose for which the settlement is requested; - Worker's post-injury earnings and prospects; and - Any other information (age) which would bear upon whether the settlement is in the best interest of the claimant. 		

APPENDIX C

SUMMARY ANALYSIS OF MASSACHUSETTS WORKERS' COMPENSATION LAW, (Continued) (M.G.L. c.152, S1-86)

Section	Focus	Description	Statutory Time-line	Penalty
48(3)	Lump Sum Review Schedule	The review shall be initiated within 14 days of its receipt of a request by a worker. A report shall be sent to the Review Board within 5 days of the completion of the review. No more than 28 days shall transpire between the request and the Review Board's report.	14 days - initiate review 5 days - report to Review Board 28 days - total review period	
48(4)	Lump Sum in Worker's Interest	No lump sum agreement shall be approved by the Review Board unless members deem such settlement to be in the best interest of the worker.		
57 & 58	Insurer's Deposit Requirements	The Commissioner of Insurance may require a domestic insurer to deposit with the state treasurer the present value (assuming a rate of interest of not more than 4%) of all or any part of its outstanding claims.		
63	Insurance Reporting	Insurance companies insuring employers shall, at the DIA's request, furnish information as required, including statistics and names of employers insured. Notice of issuance of an insurance policy shall be given to the DIA within 5 days. Such insurance shall not be cancelled until 10 days after written notice is given to the DIA. No notice need be given if said insurance is renewed.	5 days -issuance 10 days - cancellation	

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SUMMARY ANALYSIS OF MASSACHUSETTS WORKERS' COMPENSATION LAW, (Continued) (M.G.L. c.152, §1-86)

Section	Focus	Description	Statutory Time-line	Penalty
65(1) & (2)	Trust Fund	<p>Establishes a Workers' Compensation (WC) Special Fund which may be expanded for the operational expenses of the DIA.</p> <p>Establishes a WC Trust Fund that may be used for the following:</p> <ul style="list-style-type: none"> - 34(B) adjustments to compensation; - 35(C) adjustments to compensation; - Second injury compensation; - VR compensation; - Claims against uninsured employers; and - Claims resulting from an injury caused by activities of a fellow worker. <p>Revenues for the Special Fund and the Trust Fund shall be raised by an assessment on all employers.</p>		
65(3)	Assessment Bank	<p>Each insurer, self-insurer, self-insurer group, and the Commonwealth shall report to the DIA before May 1st the assessment base amount for employers. The WC rating bureau shall report aggregate base amount data for employers insured by its members. The assessment base shall be the losses paid for the preceding 12 month period (1/1-12/31).</p>	Report due each year by May 1st	\$100 per month

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SUMMARY ANALYSIS OF MASSACHUSETTS WORKERS' COMPENSATION LAW, (Continued) (M.G.L. c.152, S1-86)

Section	Focus	Description	Statutory Time-line	Penalty
65(4)	Assessment Rates	<p>The DIA shall determine the Special Fund and Trust Fund assessment rates based on:</p> <ul style="list-style-type: none"> -Operating budget from the Special Fund; and -Compensation payable from the Trust Fund. <p>If the balance of the Special Fund at the end of the fiscal year exceeds 35% of previous year's disbursements, the budget for that fund shall be reduced by that part of the balance in excess of 35% of previous year's disbursement. Assessment rate determined by dividing the sum of the Special Fund and the private employer Trust Fund budget by the sum of the base amounts.</p>		
65(5)	Payment of Assessment	Insurers shall transmit assessments collected during each quarter, and self-insurers shall pay quarterly to the state treasurer no later than one month after the end of the quarter. Failure to pay the assessed will result in a fine of 10% of any unpaid amount every 30 days.	30 days	10% of unpaid balance each month
65(8)	Trust Fund Procedures	If an insurer is liable for a claim, all or part of which may be paid from the Trust Fund, it shall first pay the claimant, and then apply to the Trust Fund for reimbursement.		
65(9)	Treasurer's Report	The treasurer shall submit to the Council an annual report for the previous fiscal year.		