

MASSACHUSETTS WORKERS' COMPENSATION
ADVISORY COUNCIL

A N N U A L R E P O R T

1987

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Chairman

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Vice Chair

**MASSACHUSETTS WORKERS' COMPENSATION
ADVISORY COUNCIL**

ANNUAL REPORT

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WORKERS' COMPENSATION ADVISORY COUNCIL

REPORT OF THE STATE OF THE WORKERS' COMPENSATION SYSTEM

INTRODUCTION

Provisions in the Massachusetts Workers' Compensation Reform Act of 1985 require the Advisory Council to report at least annually to the Executive Secretary of Labor on the state of the workers' compensation system. This represents the first such report. Several clarifying remarks concerning the period with which the report is concerned are necessary at the outset. The Advisory Council was established by Section 4 of Chapter 572 of the Acts of 1985. The enabling legislation and responsibilities of the Council are established in Sections 15 through 17 of Massachusetts General Law 23E, which took effect on April 1, 1986. It was not until early August, 1986 that the Advisory Council was sworn in by the Governor. Some of the period covered in this report therefore predates the active operation of the Advisory Council. In addition, staffing of the Advisory Council was not completed until mid-March of 1987, and it was not until this time that work on the legislatively-mandated reports was able to begin.

BACKGROUND

The workers' compensation system in Massachusetts is the second oldest in the country. Its origins go back to 1887, when the Commonwealth passed the Employers' Liability Act. This Act modified the existing common law system by providing an employee with the same rights for legal action against an employer as those held by any other person and by restricting legal defenses available to an employer. These provisions nevertheless did nothing to resolve the problems of

delay, expense, and hardship faced by an injured employee. A special commission on Compensation for Industrial Accidents was formed in 1910 in order to determine how the provision of compensation for injured workers might be improved. Its analysis and recommendations provided the impetus for a "no fault" workers' compensation program. The Workmens' Compensation Act was subsequently passed in 1911 and took effect on July 1, 1912.

The Massachusetts Workers' Compensation Reform Act of 1985 was the first legislation to alter the entire workers' compensation system since the Workmens' Compensation Act. Changes introduced by the reform sought to resolve a number of problems which plagued the compensation system. Lengthy delays in scheduling hearings under the old system often created serious hardships for workers who required its assistance. Injured workers and insurers alike were constrained by delays experienced in having their cases adjudicated by the Industrial Accident Board (IAB). Benefit levels were not always logical and occasionally created severe hardships for claimants, while lump sum settlements frequently left the injured worker with little compensation after the payment of attorney fees and medical expenses. Costs were rising, but employers found that claims were taking longer to be resolved and that an inadequate level of expenditures was going to claimants. They were also concerned that the compensation system lacked sufficient incentives for rehabilitation. Finally, the budgetary process was producing continued shortages in IAB personnel at a time when the number of claims was growing. In

order to address this complex array of problems, it was widely felt that comprehensive reform was necessary.

Before the legislative reform was enacted, a Governor's Task Force conducted two years of study of the workers' compensation system. This task force was comprised of representatives from labor, business, the bar, the insurance industry, government, and academia. Hearings were held throughout the state in order to allow individuals and organizations that were affected by the system to directly express their concerns and experiences with the provision of workers' compensation. Many of the ideas and suggestions which were generated in the course of these hearings played an influential role in shaping the subsequent reform.

As part of the final bill, the legislature approved the creation of an Advisory Council. This body is not new to workers' compensation systems. At least thirty-one other states have similar bodies which provide their states with continuing oversight and research into the substantive and procedural aspects of their laws. In large part, the creation of the Advisory Council was a natural outgrowth of the consensus approach to reform which underlay the task force. It was also intended to provide a mechanism for monitoring and reporting upon all aspects of the workers' compensation system, thereby ensuring that any additional changes or amendments could be initially reviewed and analyzed by the representatives of the Council. If agreement was reached by council members, these changes could then be proposed to the legislature for enactment.

THE COUNCIL ITSELF

The Advisory Council is appointed by the Governor and comprised of sixteen members, ten of whom are voting members. Of the voting members, five represent employees and five represent employers. All employee representatives are to be members of a duly recognized employee organization, one of whom is to be a disabled worker. Employer representatives include one representative each from manufacturing, small business, the construction industry, and self-insurers. At least one of the voting members is to be selected from a slate of nominees submitted by the Massachusetts AFL-CIO and at least one from a list submitted by the Associated Industries of Massachusetts. An affirmative vote from seven voting members is required for the Council to take any action.

The four non-voting members of the Council are selected to represent the claimants bar, the medical community, the insurance industry, and the rehabilitation community. In addition, the Commonwealth's Secretaries of Labor and Economic Affairs are ex-officio members of the Council.

Council members are appointed for five year terms which are staggered in order to provide continuous representation from the various interest groups. The Chair and Vice-Chair are appointed for two year terms, one each from the employee and employer representatives, and cannot succeed themselves. A list of the membership is provided in Appendix A.

THE ROLE OF THE COUNCIL

The Council's primary role is to monitor, recommend, give testimony, and report upon all aspects of the workers' compensation system. The Council is an outside overseer of the system and the Department of Industrial Accidents and has no authority in the adjudication of any particular claims. Its role is to research all aspects of the workers' compensation system. It has been granted an active authority to continue the review of the system and to make recommendations for its further improvement.

In addition, the Council has been legislatively mandated to conduct a number of studies pertaining to various aspects of workers' compensation. These include: an investigation of the potential benefits of competitive rating among insurance carriers, a study of workers' compensation system issues concerning public employees, a study of occupational diseases, an assessment of the practicability of using a mark-up or similar system for hearing cases, and a study of the use of credits against insurance premiums and assessments levied for the encouragement of rehabilitation and rehiring of injured workers. This work is above and beyond the day-to-day monitoring of the new law.

The Council is also authorized to contract for a comprehensive evaluation of the workers' compensation system during calendar year 1989. If this study is done, it will provide a complete analysis of the new system's first two years of operation.

THE WORK OF THE COUNCIL TO DATE

The Council meets approximately once a month to discuss issues and review the ongoing administration of the amendments of the law. It has met thirteen times during the first ten months of its existence. One of the first activities of the Council concerned the adoption of rules under the new law, and it provided verbal testimony at public hearings concerned with the promulgation of the new law's rules and regulations. Since then, the Council has been focusing on a number of issues which are briefly outlined below.

1. Rate Hearings

As part of the reform legislation, the Council was granted a limited role in the adjudication of workers' compensation premiums set by the Division of Insurance. While the Council does not have the authority to cross-examine witnesses or to appeal any determination made by the Commissioner of Insurance, it is permitted to present a written statement or oral testimony relating to any issue which may arise during a rate filing.

This right was recently exercised by the Council in response to a filing by the Workers' Compensation Rating and Inspection Bureau. Submitted in January, the filing seeks a 31.5% increase in the amount which insurance carriers in Massachusetts can charge insured employers for premiums. This increase is in addition to the de facto yearly multiplier which increases premiums as a result of the growth in total payroll.

Under the current format, the Commissioner of Insurance has six months from the time of the filing to approve or deny the proposed premium rates. To assist this decision, the Council authorized the expenditure of a portion of its budget for hiring experts to undertake a neutral analysis and assessment of the filing. This information will be available to the State Rating Bureau.

The Rating and Inspection Bureau filing is over 600 pages long and includes a detailed analysis of numerous variables which justify the proposed increase. Much of the filing entails complex investment projections and analysis of the changes in the new federal tax law. It is a complicated economic study of cost impacts and rating values which requires a great deal of expertise to understand. The projections it makes take into account a number of factors such as cash flow discount rates, capital market rates, and federal tax rates. Its statistical procedures include regression analysis and utilization of the Myers-Cohn model to project the impact of underwriting profit and surplus flow.

In accordance with its responsibility for monitoring the workers' compensation system, the Council felt an impartial analysis of the filing was needed in order to calculate the potential impact of such a dramatic increase in premium rates. Because this process will continue through the summer, no information is presently available on the outcome of the rate hearing as of the date of this report.

2. Case Backlog

A second issue with which the Council is currently concerned is the

number of cases which constitute the Department's backlog. For procedural purposes, the Department has defined the backlog as all cases with a filing date prior to November 1, 1986. Since the new statute sets a specific time-frame for deciding claims, there exists an obvious tension between maintaining the mandated time-frame for all new cases and expeditiously deciding old claims. The Council has been exploring various ways of addressing this serious problem.

3. Claims Adjustment

The initial reports on claims and complaints for the first five months of this calendar year are averaging nearly twice the number previously filed (see Appendix B). Since the beginning of the calendar year, there has been a steady increase in the percentage of incoming claims and complaints that involve actions which are predicated on the new law (see Appendix C). The Council has been working with the Department in attempting to discover the cause for such a dramatic increase in cases in order to determine what actions may be appropriate.

4. Statutory Amendment

The process of guarding the existing law from change before its impact is fully understood is an ongoing concern of the Advisory Council. As an example, legislation was recently filed to include certain school children under workers' compensation for injuries suffered in school athletic programs. With the Department of Industrial Accidents currently struggling to keep up with claims for workers,

permitting school children to become eligible for compensation would exacerbate the existing administrative logjam. The Advisory Council is accordingly taking an active role in expressing its concerns with this and other potentially harmful legislation by establishing a liaison in the appropriate House and Senate committees.

5. Department Activities

The Council has been monitoring the ongoing effects of Chapter 152 as new rules have been promulgated and various other policies have been established. The Council has acted as a sounding board for various groups, and has cooperated with the Department in establishing a mutual working relationship. In light of the fact that the law is still very new, the ultimate prognosis is still to be decided. However, the Advisory Council is confident that it can provide a positive contribution to the workers' compensation system.

During the course of the fiscal year, the Council has addressed a range of issues in its meetings. A number of key department administrators have been invited to Council meetings in order to bring the Council up to date on the administration of the new law. Most of the Department's administrators have met with the Council to review and explain the functions and concerns of their respective sections. The Council has also met with representatives of the Administrative Judges and Administrative Law Judges in order to obtain feedback on the litigation aspects of the new statute. Copies of the Council's agendas are attached as Appendix D.

The Council has received periodic statistical reports from the Department on its operations under the new law. Drafts of informational brochures and potential regulations have been submitted to the Council for comment. Because the Council was not fully operational until after the Department's budget was submitted for the current fiscal year, it was unable to undertake an in-depth budgetary analysis. Of the monies budgeted for Council research during its initial year of operation (\$50,000), the Council reverted at least 20% of its allotment back to the Department. The Council will do a complete review of the budget for fiscal year 1989.

HIGHLIGHTS OF THE REFORM ACT

The Workers' Compensation Reform Act of 1985 introduced a number of important changes into the workers' compensation system, both in the statutory operation of the law and the organizational structure of the Department of Industrial Accidents. These changes were intended to correct perceived weaknesses in the workers' compensation system and to increase the effectiveness of the Department of Industrial Accidents. Some of the highlights of the reform and a status report of their operation to date will be briefly reviewed here.

1. One of the most important outcomes of the reform is a change in the source of funding for the Department of Industrial Accidents and an increase in its budget. The old Industrial Accident Board received its budget from the state and required an annual appropriation from

the state legislature. Under the new law, the budget is funded through assessments on employers. Funding has been increased as a result and should also be more stable in being freed from political considerations.

For the 1987 fiscal year, the total Department budget was \$9,686,672.85. This initial budget under the new law compared with the 1986 fiscal year's total budget of \$5,875,727. The actual 1987 fiscal year appropriation was \$7,000,000, with the remaining \$2,686,672.85 in the total budget carried over from the IAB's 1986 budget. The final 1987 budget included an additional \$227,827 transferred by the Budget Bureau to cover cost of living increases for personnel, bringing the 1987 revised spending plan for the department to \$9,914,499.85. Department budgets for 1986 and 1987 appear in Appendix E.

The new funding process has facilitated the expansion and reorganization of the Department. Because inadequate staffing levels were widely blamed for delays and inefficiency in the old IAB, the number of department personnel has been nearly doubled during the first year of the new law in order to improve services. A strict comparison between pre-reform and post-reform personnel cannot be made because a number of current positions didn't exist under the previous system. Nevertheless, the impact of expansion is evident in making general comparisons between personnel levels in the Department in 1986 and 1987.

Total employment in the Department as of June, 1987 stands at 213, compared to the 1986 IAB's peak of 113. Positions experiencing the

greatest percentage increases included Judges and management personnel. The number of Judges (previously known as Commissioners) has been increased from 11 to 20, while management positions have increased from 6 to 20. The highest numerical increase came in positions which are in various administrative areas, with these rising from 74 to 151. A comparative breakdown of 1986 and 1987 Department positions and a distribution of current Department totals by unit is provided in Appendix F.

The statute requires an analysis of the Workers' Compensation Trust Fund under Section 65 of the law. This process is being completed and is unavailable for comment at the time that this report is filed. A report done for 6/30/86--before the Advisory Council was operative--produced the assessments for this year. Preparers of the report explicitly noted difficulties in calculating assessments due to an absence of primary data and noted that their confidence level was impaired as a result. (1)

2. Another important provision in the new law mandates the establishment of four regional offices. Although the old law allowed for the creation of regional offices, funding was never made available for this purpose. The creation of regional offices was accordingly intended to expedite and equalize services to employees throughout the state. The mandated offices are currently operating and are located in Springfield, Worcester, Lawrence, and Fall River.

Each office is supervised by a manager and has a full time staff.

Full time staff for the Fall River office include two hearing stenographers, an EDP operator, one head clerk, one conciliator, and one vocational rehabilitation counselor. The Springfield staff includes one hearing stenographer, one EDP operator, two head clerks, two conciliators, one vocational rehabilitation counselor, and one Administrative Judge. The Lawrence office has one EDP operator, one head clerk, one conciliator, and one vocational rehabilitation counselor. The Worcester full time staff includes one EDP operator, two head clerks, one vocational rehabilitation counselor, and one Administrative Judge. A stenographer position is vacant. (2)

Each regional office always has two conciliators, two Administrative Judges, and usually two stenographers in the office. For those positions for which there are no permanent assignments, the conciliators, stenographers, or Administrative Judges are rotated out from the central office.

In order to enhance services, each regional offices maintains files on employees in their area and will be technologically linked to the central office in Boston through a new computer system. Records indicate that offices are conducting a busy schedule of conciliations, conferences, and hearings. A breakdown on scheduled cases for the regional offices from January 1 to May 29, 1987, is included in Appendix 6.

3. A number of new procedures instituted under the reform are aimed at reducing the amount of time required to process workers' compen-

sation claims. Previously, employees filed claims with the IAB when insurers refused to pay compensation, and long delays generally occurred before the case would be heard by an IAB Commissioner at an informal conference. This would be followed by another long delay if either party requested a hearing.

While the old law employed a series of deadlines in an effort to expedite the processing of claims, the new law provides greater resources to ensure that the appropriate time-frames are met. This process begins when the employee files a claim with the Department if the insurer refuses to pay compensation within 14 days of the notice of disability. At this point, a new conciliation procedure attempts to resolve the claim through informal means within a 10 day period. Through the first five months of calendar year 1987, 13,566 cases-- claims and discontinuances--have been referred to the conciliation unit for resolution. (3)

Claims which aren't resolved in conciliation are transferred to the Division of Dispute Resolution and assigned to an Administrative Judge. A conference must then be held within 28 days and, if the Judge orders that compensation be paid, payments must begin within 14 days of the conference. Unless both parties are satisfied with the conference order, the case is automatically scheduled for a hearing, which must fall within 49 days from the date that the case was sent to the Division of Dispute Resolution. Hearing decisions may be appealed to the Industrial Accident Review Board, which is comprised of four Administrative Law Judges. A decision must be issued by the

Reviewing Board within 30 days of the appeal. To date, it appears that the resolution of post-November 1, 1986 claims is meeting the intent and the statutory guidelines set by the legislation. A composite list of decisions mailed out from November 1, 1986 through May 31, 1987 for the Department's Administrative Judges is included in Appendix H.

4. The new law also contains procedures which seek to encourage insurers to begin earlier payments on claims. One procedure known as the "direct pay system" encourages insurers to accept claims more readily by allowing them to pay compensation for up to sixty calendar days from the date of disability without committing themselves to future payments. This contrasts with the old system where payments, once begun, had to continue unless the employee returned to work or unless the IAB gave the insurer permission to break the agreement. Currently, insurers are permitted to stop payments within the sixty day period without Department permission provided they give the employee seven days written notice of intent to stop payments. Such notice must outline the reason for contesting the claim and state the necessary procedures for the employee to seek reinstatement of benefits.

Another procedure aimed at encouraging prompt payment of compensation is the levy of a penalty against insurers who begin payments after the fourteen day limit following notice of disability. If the insurer does not begin payments or deny the claim by written notice to the employee within a fourteen day period, it shall pay the employee a penalty of two times the prevailing average weekly wage

in effect in the commonwealth.

5. The reform also seeks to make improvements in outreach, education, and rehabilitation services to claimants. The Office of Education and Vocational Rehabilitation was established as one of the key vehicles for achieving these goals. There are three distinct units within the office which specialize in vocational rehabilitation, lump sum counseling, and public information.

An important statutory provision in the reform is an enforceable right for workers to receive vocational rehabilitation. Changes in the system seek to ensure the earliest possible identification of candidates for vocational rehabilitation and compel insurers to pay for rehabilitation programs. Criticisms of the old system often cited delays in advising employees about rehabilitation programs, an absence of procedures for identifying those in need of rehabilitation, and a disinterest among some insurance companies and employers in paying for rehabilitation.

Under the new system, employees can submit proposals for rehabilitation to the Department's Office of Education and Vocational Rehabilitation. If the office approves the program, the insurer is instructed to pay for it, and no hearings are necessary. The focus of the office is on providing early identification and referral for vocational rehabilitation, and the priority is on returning the worker to the original employer. Services provided by the office include job modification, job analysis, vocational assessment of transferrable skills, and technical training placement.

Telephone contact is normally established with the worker to determine if a mandatory interview is necessary. Since January 1, 1987, the office has conducted 185 mandatory interviews, representing 6 percent of those contacted. Seventy-three of these people were immediately referred to vocational rehabilitation with the support of insurers. Another 10 percent of this group has been diaried pending further medical progress. Twenty-two people have had rehabilitation programs developed and approved by all parties (client, insurer, attorney, rehabilitation provider, and the Office of Education and Vocational Rehabilitation). Nine people have been placed back on jobs following rehabilitation services. Between September 1, 1986 and June 5, 1987, the office has had 6,697 referrals and has made 4,001 contacts. A summary of office statistics is provided in Appendix I.

Due to the fact that this area of the statute has been in effect for only a few months, the office has not yet had experience with some of the statute's provisions. To date there have been no instances where the Department has funded a rehabilitation program due to an insurer's refusal to approve the program. There also have been no cases in which an injured employee has refused to meet with the office and thereby become ineligible for compensation.

In the lump sum section of the office, disability analysts work with disabled workers who are seeking a lump sum settlement. Disability analysts familiarize themselves with cases by reviewing client records and holding individual meetings with clients. They then pre-

sent their findings to Administrative Law Judges, who make final decisions on lump sum cases. A complete evaluation of the new lump sum procedures is preliminary at this point because lump sum cases have only recently begun to be received in relatively large numbers.

The public education section of the office is responsible for disseminating information about the workers' compensation law. It operates a public information desk and a toll free telephone number and has distributed an informational booklet to accomplish this task. Five clerks staff the information desk to field public inquiries and answer the phones. A disability analyst and administrative assistant currently are on duty at the desk to provide backup support for the clerks.

6. The Office of Insurance is responsible for monitoring individual insurance companies and self-insurers to ensure compliance with Chapter 152. It is statutorily obligated to examine case files on a regular basis and to report any pattern of unreasonable practices to the Commissioner of Insurance. It is also obliged to publish an annual report indicating promptness of first payment of compensation by insurers and self-insurers.

One section of the office compiles loss and manual premium information for each self-insured company. This information is generated into assessments that are then used for some of the operating costs of the department and are applied towards the Workers' Compensa-

tion Trust Fund under Section 65. The Insurance Register Section of the office keeps track of every employer in the state and monitors them for insurance coverage. Notices of terminated insurance policies are turned over to the office's investigators for investigation.

During the period in which the new law has been in effect, no insurance carriers have had their licences revoked and no questionable claims handling practices have been identified. It does appear, however, that the office's ability to perform its monitoring function is hampered by restrictions in its human and technological resources. Two people currently perform work previously done by fifteen people in the Insurance Register. They identify terminated policies by manually cross-referencing as many as 500 to 1000 incoming notices a day which indicate issuances, terminations, and reinstatements of coverage. Further, the office's ability to document questionable claims handling practices presently depends upon establishing a pattern of questionable practices on the basis of written or oral complaints. This important responsibility would be enhanced with the addition of an automatic tracking system.

The office's annual report on first payment of compensation will be forthcoming at the end of the current calendar year. Hearings have been scheduled for the end of June on the proposed rules and regulations for the Office of Insurance.

7. Another new office established under the reform is the Office of Safety. Operating within the Division of Administration, this office

seeks to promote safe and healthful conditions in the workplace by awarding funds to eligible grantees who submit proposals designed to provide training, education, and other preventive programs in occupational safety and health.

The office is currently preparing to solicit competitive grant proposals for its Safety and Health Education and Training Grant Program for the 1988 fiscal year. Eligible grantees are: 1) management/employer organizations, 2) labor/employee organizations, and 3) other organizations offering health and safety education programs, such as educational institutions, labor-management committees, and so on. Final selection of grantees will be made by a Review Committee consisting of a business representative, a labor representative, two health and safety professions, and the director of the Office of Safety. RFPs are expected to go out sometime in July 1987 and the deadline for proposals will be six to eight weeks later.

FURTHER UPDATES

1. The Department has worked diligently in order to provide information to key parties in the workers' compensation system. The new law mandates that information be made available to claimants in clear and understandable language and that it outline the person's rights and responsibilities under the law. This information is mailed immediately to an injured worker upon the filing of first report of injury. The Department has also provided information to employers in the state. Despite administrative difficulties in obtaining a comprehensive list of Massachusetts employers, the Department was eventually able to

secure an informational base from which to work and a booklet has been prepared and disseminated to employers in the state. While the Department has worked long hours in carrying out this task in a cost effective manner, at least one trade association has augmented this information in order to clarify certain issues to its members.

2. The Department has exercised its authority to recall two former Judges (Commissioners). Recall procedures under Chapter 152 provide for an initial six month appointment and a permissible three month extension. During their appointments, recalled Judges were able to dispose of 1,112 cases. (4) Dispositions were composed of decisions, lump sums, withdrawals, and adjustments.

3. The establishment of the Health Care Services Board was delayed because of difficulties in finding a medical consultant who would not have a conflict of interest in providing such services to the Department. After an extensive search over the last year, a consultant has been found, largely through the efforts of the medical member of the Advisory Council. Because the consultant has just recently begun employment, no data on the Health Care Services Board is presently available.

CONCLUSIONS AND RECOMMENDATIONS

The administration and staff of the Department of Industrial Accidents have extended themselves to implement and enforce the new law. This has not been an easy task, since the new law was implemented at the same time that the Department was moving its base of operations. In addition, the Department was faced with hiring and training a number of new employees in order to handle the demands of the new statute. Throughout this period, the administration and employees have worked with diligence and commitment.

There are, however, areas that the Council feels require improvement. Data collection for both reporting and analytical purposes is not yet adequate and this has constrained the ability of the Department to fully assess the impact of the new law. Improvements should be made in this area as the new computer system becomes operational.

The establishment of a firm data base is critical if both the Department and Council are to operate effectively. The Advisory Council is confident that the long hours in negotiation for the computer system and the dedication of the Department employees will bring about improvements in this area. A full evaluation of the new statute's performance must nevertheless await a reliable pool of data on its actual operation. The Council is accordingly concerned that the data available for the statutory reports in February, 1988 will be inadequate to formulate any sort of meaningful recommendations. In addition, insufficient data could present problems for the comprehensive analysis of the system to be completed in two years. Without

a sound data base, it will be difficult to undertake a full study of the effectiveness of the process.

In reviewing the application and administration of the new statute to date, and with the backlog still to be eliminated, concerns have been raised by various members of the Department with respect to staffing levels. In light of the steady increase in claims, strict statutory deadlines, and the importance of enforcing various fines and penalties, this could be a crucial factor in departmental effectiveness. Since revenues are now generated through assessments on employers, there is an additional concern that the level of staffing permit the production of accurate and timely data.

The Administrative Judges and Administrative Law Judges have expressed concerns about meeting statutory deadlines with the current level of administrative and paralegal assistance.

The enforcement of fines and penalties and the defense of the trust fund, pursuant to Section 65 of the statute, is now handled by two individuals in the Office of the General Counsel. In light of the potential for claims against the fund and enforcement of the various statutory provisions, this is another area where additional staff may be needed.

The length of time for resolution of pre-November 1, 1986 claims appears not to have made a marked improvement to date. The rapid

increase in new claims has created a situation where more resources have been used than were originally anticipated. It is here as well that the need for continued communications is imperative in order to try to anticipate and resolve any situations which can further delay cases. At the request of the Council, the Department has developed suggestions that have been formulated to address these issues. These areas are still being discussed and investigated in order to ascertain their feasibility. The Council is hopeful that plans to resolve this problem will produce significant improvements in the claims process.

The initial months of existence for both the Department and the Council have been productive. The Department and the Executive Office of Labor have been cooperative and helpful in their work with the Advisory Council.

FOOTNOTES

- (1) See "Division of Industrial Accidents: Analysis of Section 65 Trust Fund", June 1986. Tillinghast, Nelson, and Warren, Inc.**
- (2) Information provided by Division of Administration, Department of Industrial Accidents.**
- (3) Information provided by Office of Claims Administration, Department of Industrial Accidents.**
- (4) Information provided by Division of Administration, Department of Industrial Accidents.**

APPENDIX A

Massachusetts Workers' Compensation Advisory Council

<u>Voting Members:</u>	<u>Term Exp. Date</u>
Arthur Osborn, Chairman	06/25/91
Linda Ruthardt, Vice-Chair	06/25/91
James Farmer	06/25/90
Paul Meagher	06/25/90
Joseph Coffey	06/25/89
Sharon Coughlin	06/25/89
Samuel Berman	06/25/88
F. Bruce Ferin	06/25/88
Claude Lopez	06/25/87
Lillie Dias	06/25/87
<u>Non-Voting Members:</u>	
Evelyn Wedding (Rehabilitation)	06/25/90
Dr. Ruth Jordan (Medical)	06/25/89
Emily Novick, Esq. (Claims' Bar)	06/25/88
John Antonakes (Insurance)	06/25/87
Secretary Paul Eustace Executive Office of Labor	Ex-Officio
Secretary Joseph Alviani Executive Office of Economic Affairs	Ex-Officio

Date of Injury
Pre-11/1/86

Week ending	Total Filed	CLAIMS *			DISCS **			CLAIMS *			DISCS **		
		#	% of Total	#	% of Total	#	% of Total	#	% of Total	#	% of Total		
1/2	388	296	76	65	17	27	7	0	0				
1/9	681	522	77	98	14	61	9	0	0				
1/16	734	494	67	159	21	72	10	15	2				
1/23	741	450	61	180	24	111	15	0	0				
1/30	942	486	52	294	31	156	17	6					
2/6	696	441	63	122	18	133	19	0	0				
2/13	914	505	55	228	25	157	17	24	3				
2/20	887	434	49	231	26	198	22	24	3				
2/27	841	515	49	208	25	199	24	19	2				
3/6	699	408	58	105	15	165	24	21	3				
3/13	1144	552	48	315	18	251	22	26	2				

- **Claim: filing by a party seeking compensation**
- **Discontinuance: filing by insurer seeking modification or discontinuance of benefits**

(con't)

Date of Injury
Post-11/1/86

Date of Injury
Pre-11/1/86

CLAIMS

DISCS

DISCS

% of Total

week ending	Total Filed	0	% of Total	0	% of Total	0	% of Total	0	% of Total
3/20	556	255	46	147	26	148	27	6	1
3/27	1053	516	49	251	24	249	24	37	3
4/3	866	435	50	152	18	254	29	25	3
4/10	889	419	47	197	22	228	26	45	5
4/17	659	300	46	137	21	200	30	22	3
4/24	653	290	44	145	22	171	26	47	7
5/1	646	280	43	162	25	162	25	42	7
5/8	689	297	43	132	19	226	33	34	5
5/15	708	281	40	158	22	218	31	51	7
5/22	829	328	40	156	19	289	35	56	7
5/29	559	220	39	118	21	168	30	53	9

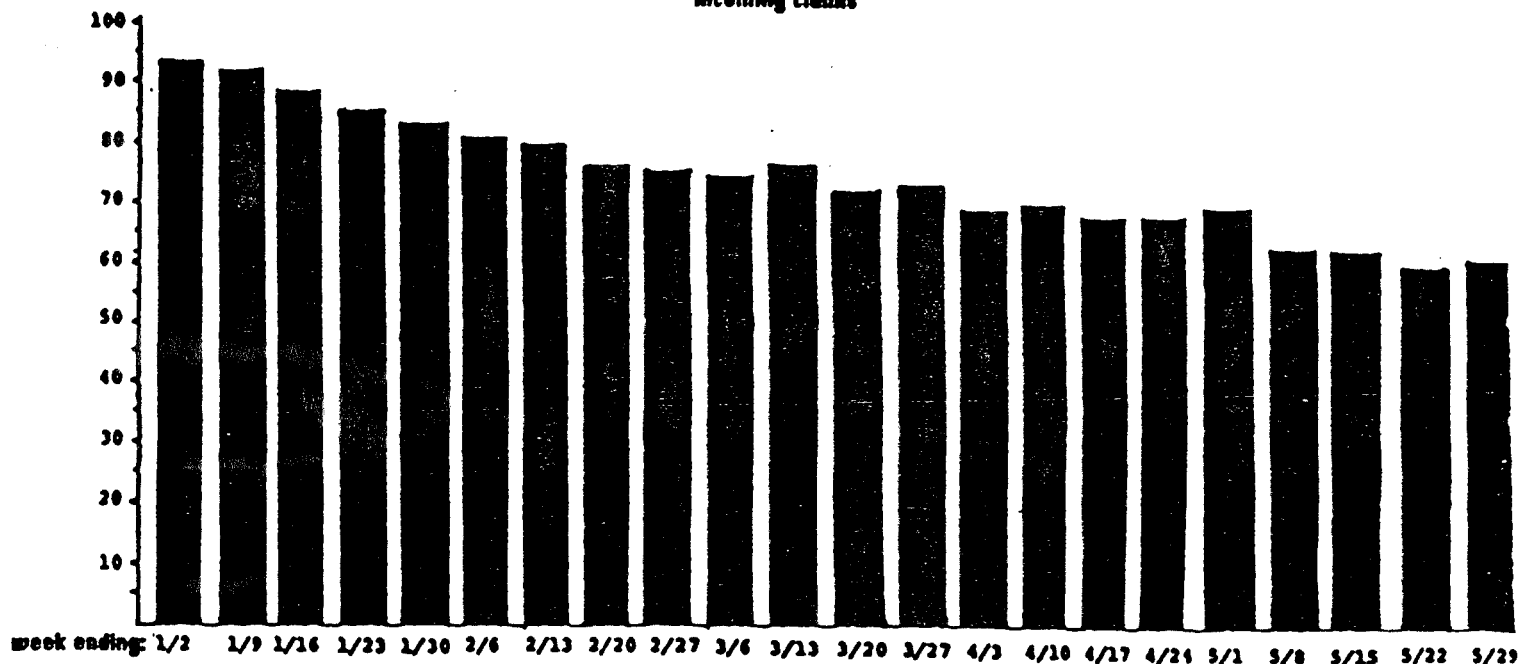
*Percentages rounded off to nearest decimal

Source: Bureau of Administration, Department of Industrial Accidents

Incoming Claims
January 2nd through May 29, 1987

WEEK ENDING	CLAIMS (11-01-86)	CLAIMS (11-01-86)	DISCS (11-01-86)	DISCS (11-01-86)	WEEKLY TOTAL	Percentage of Claims & Discs pre-11/1/86	Percentage of Claims & Discs post-11/1/86
01-02-87	295	27	65	9	369	53.04%	6.9%
01-09-87	522	61	96	0	618	91.04%	8.9%
01-16-87	494	72	153	15	734	82.15%	11.8%
01-23-87	450	111	180	0	741	85.02%	14.9%
01-30-87	486	156	294	6	942	82.87%	17.2%
02-06-87	441	133	122	0	655	80.89%	19.11%
02-13-87	505	157	228	24	914	80.20%	19.8%
02-20-87	434	198	231	24	887	74.97%	25.03%
02-27-87	415	199	208	19	841	74.06%	25.94%
03-06-87	408	165	105	21	699	73.35%	26.65%
03-13-87	552	251	315	26	1144	75.79%	24.21%
03-20-87	253	148	147	6	554	72.30%	27.7%
03-27-87	516	249	251	37	1053	72.84%	27.16%
04-03-87	435	254	152	25	866	67.76%	32.24%
04-10-87	419	228	197	45	889	69.29%	30.71%
04-17-87	300	200	137	22	659	66.31%	33.69%
04-24-87	290	171	142	47	650	66.62%	33.38%
05-01-87	280	162	162	42	646	68.42%	31.58%
05-08-87	297	226	132	34	689	62.26%	37.74%
05-15-87	281	218	158	51	708	62.01%	37.99%
05-22-87	328	289	156	56	829	58.38%	41.62%
05-29-87	220	168	118	53	559	60.47%	39.53%
TOTALS:	8624	3843	3754	553	16774		
TOTAL %	51.4%	22.9%	22.4%	3.3%			

**Pre-11/1/86 Claims
as percentage of total
incoming claims**



Source: Division of Administration, Department of Industrial Accidents

APPENDIX D

AGENDAS: COUNCIL MEETINGS

August 18, 1986

First Meeting of Council

Review of Rules Governing the Advisory Council

September 2, 1986

Progress report on participation in regulation hearings in August--

Arthur Osborn and Linda Ruthardt

Discussion of proposed regulations on vocational rehabilitation

Establishment of monthly meeting date

September 17, 1986

Continued discussion of proposed rules of vocational rehabilitation

**Report on Dispute Resolution--Martha Dunn, Director, Division of
Dispute Resolution**

**Conflicts of interest and ethics for the Council and Executive
Director--John Harbison, DIA Legal Counsel**

**Report on Budget for fiscal year 1988--Mary Piggott, Director of
Administration**

**Administrative Update--Paul Eustace, Secretary of Labor, and
Commissioner Pressman**

October 7, 1986

Discussion of rehabilitation rules

**Authorization to Chair and Vice-Chair to screen and recommend
selection of staff**

October 17, 1986

Subcommittee feedback

Speaker: Mary Piggott, Director of Administration

Discussion of staff hiring and budget

November 12, 1986

Guest Speaker: Walter Horn, Conciliation Manager

Speaker: Ed Giglio, Liberty Mutual Insurance

APPENDIX D
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December 10, 1986

Speaker: Mary Ann Langton, Director, Office of Education and Vocational Rehabilitation
Speaker: Martha Dunn, Director, Division of Dispute Resolution
Discussion of budget
Introduction of Steve Day, Executive Director

January 14, 1987

Speaker: Walter Horn, Conciliation Manager
Discussion of Workers' Compensation Rating and Inspection Bureau Filing
Discussion of Chapter 662 of the Acts of 1986 (amendments to Statute)
Discussion of SSDI
Discussion of rehabilitation
Administrative update

February 11, 1987

Speaker: Commissioner Pressman
Discussion: Section 6/Section 29, Illness and Accident Reports, Vocational Rehabilitation
Administrative update
Guest Speakers: Administrative Law Judges McCarthy and Pearson; Administrative Judges Romm and Heffernan

March 11, 1987

Advisory Council project prioritization
Discussion of employer assessment, self-insurers' audit
Discussion of workers' compensation rate hearing
Statistical update: conciliation
Discussion of legislative liaison
Discussion of employer's booklet

**APPENDIX D
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May 13, 1987

**Discussion of Backlog problem and proposed solution, discussion
of budget: Commissioner Joel Pressman
Status report on Office of Safety: William Russell, Director, Office of
Safety
Review of draft of Annual Report for 1987
Status report on workers' compensation rate filing proceedings:
Steve Day**

May 18, 1987

**Continued discussion of proposed Department plan for resolving
backlog
Continued discussion of Annual Report**

June 10, 1987

**Tour of Department of Industrial Accidents
Guest Speakers:
Jack Runkal, Conciliator
Jerry Fleming, Investigator
Anne Marie Marano, Disability Analyst
Jack Townley, Vocational Rehabilitation Counselor
Discussion of Annual Report**

BUDGET
DEPARTMENT OF INDUSTRIAL ACCIDENTS

	FY 1986			FY 1987			FY'87
Subsidiary	Account 9440-0100	Account 9440-0200	Account 9440-0300	Account 9440-0400	FY'87 Appropriation	Total Budget	Revised Spending Plan
Personnel/ Permanent	01 2,496,989.	510,885.	87,879.	27,685.	4,465,279.	4,976,164.00	5,219,491.00
Personnel/ Temporary	02 117,156.	100,000.	- 0 -	- 0 -	- 0 -	100,000.00	83,000.00
Contracts	03 73,900.	333,000.	3,113.	- 0 -	368,400.	644,828.89	1,144,202.89
Electricity	08 - 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	54,000.00
Travel	10 85,000.	- 0 -	1,000.	4,613.	85,000.	85,000.00	80,072.00
Printing	11 14,450.	75,000.	1,512.	- 0 -	140,500.	209,749.12	200,712.12
Maintenance	12 26,939.	10,000.	300.	- 0 -	115,987.	125,987.00	96,174.00
Training, etc.	13 - 0 -	52,500.	200.	- 0 -	9,648.	62,148.00	79,146.00
Administration Expenses	14 122,944.	60,000.	812.	60.	401,150.	457,759.84	452,759.84
Equipment	15 6,184.	1,475,000.	- 0 -	174.	492,666.	1,967,666.00	1,536,188.00
Rental	16 52,432.	136,000.	- 0 -	- 0 -	921,370.	1,057,370.00	968,754.00
Totals	2,995,994.	2,752,385.	94,816.	32,532.	7,000,000.	9,686,672.85	9,914,499.85

*The increase in appropriation is the result of funds transferred by the Budget Bureau to cover cost of living increases for personnel.

APPENDIX F

EMPLOYMENT: DEPARTMENT OF INDUSTRIAL ACCIDENTS

1986 Fiscal Year

Judges	11
Upper Management	6
Stenographers	22
Administrative*	151

1987 Fiscal Year

Judges	20
Management	20
Stenographers	22
Administrative*	74

*Administrative positions as used here are extremely inclusive. These positions include a range of positions, such as head clerks, junior clerks, computer programmers, research analysts, data processors, conciliators, and so on.

Source: Division of Administration, Department of Industrial Accidents

APPENDIX 6**Scheduled Cases
January 1, 1987 - May 29, 1987**

<u>REGION</u>	<u>CONCILIATIONS</u>	<u>CONFERENCES</u>	<u>HEARINGS</u>
Boston	5608	1545	1177
Fall River	2551	525	439
Lawrence	2172	362	358
Springfield	1325	466	391
Worcester	<u>1882</u>	<u>408</u>	<u>468</u>
	13538	3306	2833

Source: Division of Administration, Department of Industrial Accidents

APPENDIX H**COMPOSITE LIST OF DECISIONS MAILED OUT FROM NOVEMBER 1, 1986
THROUGH MAY 31, 1987 FOR DIA ADMINISTRATIVE JUDGES**

<u>JUDGE</u>	<u>TOTAL</u>
BROOKER	28
CLEARY	57
DA DALT	15
DEMETER	39
FISCHEL	48
GALLO	65
HEFFERNAN	47
JACKSON	25
JENNINGS	46
MCGUINNESS	108
MCKINNON	63
PICKETT	38
ROGERS	77
ROMM	49
RYAN	63
ST. AMAND	41
SCANNELL	203
VERGADOS	<u>16</u>
	1,028 TOTAL

Source: Division of Administration, Department of Industrial Accidents

APPENDIX I

OFFICE OF EDUCATION AND VOCATIONAL REHABILITATION SUMMARY STATISTICS

1. PRE-11/1 INJURIES

	September, 1986-- <u>January, 1987</u>	January, 1987-- <u>May, 1987</u>	Total: Sept-- <u>May</u>
Referrals	872	334	1206
Contacts	658	471	1129
Interviews	396	338	734
Referred to U.A.*	238	185	423
IWRP**	14	11	25
Rehabilitations	3	2	5

2. POST-11/1 INJURIES

	January-- <u>April 1, 1987</u>	April 1-- <u>June 5, 1987</u>	Total: January-- <u>June 5</u>
Cases referred to be screened	671	4820	5491
Cases contacted	376	2496	2872
Mandatory interviews	49	136	185
Referred to U.A.	1	72	73
IWRP	5	17	22
Placements	1	8	9
Rehabilitations***	0	0	0

*For these cases, the Massachusetts Rehabilitation Commission is the prescribed vendor

**Individual Written Rehabilitation Program

***60 days after placement

APPENDIX I
(con't)

3. Combined Totals
Pre-11/1 + Post-11/1 Injuries

September, 1986--
June 5, 1987

Referrals	6697
Contacts	4001
Interviews	919
Referred to U.R.	496
IWRP	47
Placements	14
Rehabilitations	5

Source: Office of Education and Vocational Rehabilitation

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