NEW YORK STATE OF OPPORTUNITY. Workers' Compensation Board

Assembled Workers' Compensation Claims Overview

Overview

The New York State Workers' Compensation Board (Board) protects the rights of employees and employers by ensuring the proper delivery of benefits and by promoting compliance with the law.

The Board strives to achieve the following goals for an improved workers' compensation system:

- Ensure Prompt Benefit Delivery
- Reinforce Dignified Customer Service
- Improve Access to Quality Medical Care
- Promote Compliance with Workers' Compensation Law

The Board administers workers' compensation, disability benefits and Paid Family Leave throughout the State in nine district offices. The Board) administers and regulates workers' compensation benefits, disability benefits, volunteer firefighters' benefits, volunteer ambulance workers' benefits, volunteer civil defense workers' benefits and Paid Family Leave. The Board processes and adjudicates claims for benefits; ensures employer compliance with the requirement to maintain appropriate insurance coverage; and regulates the various system stakeholders, including self-insured employers, medical providers, third party administrators, insurance carriers and legal representatives.

NYS Workers' compensation benefits provide weekly cash payments and the cost of medically necessary treatments for covered employees who become disabled as a result of a disease or injury connected with their employment. Benefits may also be paid to qualified dependents of workers who died as a result of a compensable injury or illness. Disability benefits are paid when covered employees become disabled as a result of a disease or injury that is not connected to their employment. Most payments are made directly to the injured workers by their employer's insurance company (Payer).

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Claims Overview

Generally, when certain injuries occur in the workplace the employer has an obligation to report those injuries to the Board and the carrier, if applicable. The injured worker may also submit an account of the incident and injury to the Board.

The injured worker is entitled to necessary medical care and treatment subject only to the Board rules that establish appropriate medical treatment for injured workers. Medical care is payable by the liable self-insured employer or insurance carrier.

If the injured worker is unable to work for more than 7 days, he or she becomes eligible for wage replacement benefits. Through the Board's adjudication process, an average weekly wage (AWW), existence of a workplace illness/injury, the appropriateness of medical care and treatment, and the degree of disability are established.

After a claim is established and the injured worker has healed to the maximum extent possible, the Board will make an award that determines the type of injury that the claimant has suffered, either permanent partial disability (schedule or non-schedule), permanent total disability, temporary total disability or death. Any award will account for all wage replacement/indemnity payments made up to the date of the award.

EDI (Electronic Data Interchange)

In 2013, the Board began conversion of administrative filings to the Electronic Data Interchange (EDI) format, adopting the data standard eClaims 3.0 promulgated by the International Association of Industrial Accident Boards and Commissions (IAIABC). Enabling regulations (12 NYCRR 300.22) set the mandatory electronic standard for all carriers and administrators as of April 23, 2014. Effective January 2022, the Board is implementing eClaims 3.1, which will enhance the data collected by the Board.

Claim Assembly

Assembly occurs when the Board learns of a workplace injury and assigns the claim a Board case number. The Board assembles a claim when an injured worker has lost more than one week of work, has a serious injury that may result in a permanent disability, is disputed by the carrier or employer, or receives a claim form from the injured worker (Form C-3) or a notice of claim action from the carrier.

Controverted Claims

In a controverted claim, the insurance carrier or self-insured employer challenges the injured worker's eligibility for workers' compensation benefits. When this happens, a pre-hearing conference is held.[i] The expedited hearing process sets a goal of holding a pre-hearing conference within 45 days and resolving controverted claims within 90 days.

Established Claims

Regulations require the Board to issue a decision determining employer liability in all claims involving more than one week of lost time, even if the carrier has accepted the claim and is making payment. The Board may also issue such determinations in certain claims that are assembled where there is no compensatory lost time. To find liability, the Board must determine that there was (1) an accident or occupational disease arising out of and in the course of employment, (2) timely notice given to the employer, and (3) a causal relationship between the work injury or illness and the resulting disability. This is known as ANCR[ii] or ODNCR[iii].

Claim Resolution

By statute, the Board resolves issues in workers' compensation claims formally and informally. Formal resolution refers to the formal hearing process, in which a workers' compensation law judge receives evidence, hears testimony, decides disputed legal and factual questions, and awards benefits. Informal resolutions do not involve hearings. Decisions are made based on information collected in the electronic case file of the injured worker. Informal resolutions, which include administrative determinations, conciliation, and desk determinations, memorialize certain events in a claim that require the Board to make or to propose a decision when there is no significant dispute between the parties.

Informal resolutions are proposed by the Board and are not finalized if either party objects within 30 days.

Appeals

A party of interest (an injured worker, an employer or an employer's workers' compensation insurance carrier) may file an appeal and request administrative review of a judge's decision. Unless a party files an appeal, the judge's decision is final. Appeals must be filed within 30 days of the filing date of the judge's decision [Workers' Compensation Law § 23]. A Board panel consisting of three Board members, reviews appealed cases, as well as applications for reopening or rehearing. The panel may agree with an underlying decision, modify a portion of that decision, or reverse the decision; it may also return the case for more hearings. The procedures and rules governing appeals, known as administrative review, are set forth in 12 NYCRR 300.13 and can be accessed on Westlaw.

Average Weekly Wage

Indemnity benefits are based on the injured worker's AWW in the year prior to the accident, subject to statutory maximum benefit rates. Since July 1, 2010, the maximum benefit rate has been 2/3 of the prior year's statewide average weekly wage (SAWW), as determined by the Department of Labor. Additional information on AWW may be found on the Board's website: http://www.wcb.ny.gov/content/main/Workers/LostWageBenefits.jsp

Descriptions of Filtered Views associated with the dataset

In addition to the main tabular dataset, three filtered views and three summary datasets were created as examples of the type of analytics that is possible with the raw data:

- Workers' Compensation Assembled Claims Filtered View - The Board "assembles" a claim in which an injured worker has lost more than one week of work, has a serious injury that may result in a permanent disability, is disputed by the carrier or employer, or receives a claim form from the injured worker (Form C-3). The Assembled Claims filtered view contains information to answer commonly asked questions about claims assembled by the Board, such as: How many claims filed with the Board in a given year were the liability of a certain type of carrier? What is the average age of injured workers injured in a certain county?
- Workers' Compensation Injury/Exposure Filtered View - This filtered view provides insight into the nature and cause of injury to employees in New York State. Claims from past years are manually reviewed and coded for injury and exposure. More recent claims are coded electronically. This filtered view contains information to answer commonly asked questions about worker injuries, such as: How many injuries of a certain type occurred in a given year? How often are injuries resulting from certain

causes controverted by carriers?

- Workers' Compensation Claim Process/Resolution Filtered View- This filtered view provides insights into the function of theadjudication process of the Board. This filtered view contains information to answer commonly asked questions about worker injuries, such as: How many hearings were held for claims of a certain case type in a given year? How often are decisionsinvolving carriers appealed?
- Assembled Claims by OIICS Event Exposure Type with Average Weekly Wage – This is a dataset that summarizes the number of claims with Average Weekly Wage by the OIICS Event Exposure Type. This dataset has 4 columns: Claim Identifier (Number of Claims); Average Weekly Wage; OIICS Event Exposure Code and OIICS Event Exposure Description.
- Assembled Claims by OIICS Part of Body – This is a dataset that summarizes the number of claims with AWW by the OIICS Part of Body Code. This dataset has 4 columns: Claim Identifier (Number of Claims); AWW; OIICS Part of Body Code and OIICS Part of Body Code Description.
- Assembled Claims by OIICS Codes for Incident – This is a dataset that summarizes the number of claims by Incident type – given the Part of Body, Nature of Injury, Injury Source and Event Exposure. This dataset has 6 columns: Claim Identifier (Number of Claims); AWW; OIICS Part of Body Description; OIICS Nature of Injury Description; OIICS Injury Source Description; and OIICS Event Exposure Description.

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Data Collection Methodology

Most of the data is derived from the Board's enterprise data warehouse (EDW), which houses certain key operational data after it has been cleansed and transformed to increase its reliability.

This data set provides information that is useful in understanding the volume of workers' compensation claims in New York State and their various dispositions.

This data set provides a number of data points that are useful in evaluating workplace injuries in New York and the administration of the workers' compensation system.

There are 3 main types of data in this dataset:

- First there is demographic data for injured workers, such as age at injury, AWW, and the injured worker's industry.
- Second, there is information about the nature of the injury, such as accident date, nature of theinjury, and cause of the injury.
- Finally, there is information about the results of the claim resolution process, including the district where the claim was adjudicated and the claim injury type, which represents the type of injury based on the benefit awarded to the injured worker.

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Frequently Asked Questions

Question	Answer
1. What is the Assembled Workers' Compensation Claims: Beginning 2000 dataset?	This dataset comprises claims data relating to claims assembled since the year 2000. Claim assembly occurs when the Board learns of a workplace injury and assigns the claim a Board case number. The Board "assembles" a claim in which an injured worker has lost more than one week of work, has a serious injury that may result in a permanent disability, is disputed by the carrier or employer, or receives a claim form from the injured worker (Form C-3). A reopened claim is one that has been reactivated to resolve new issues following a finding that no further action was necessary. The current dataset has 54 columns. The dataset is comprised of three types of data: demographic information; incident information relating to nature of injury and cause of injury, and data relating to the claims adjudication process.
2. What is the frequency of this dataset	Quarterly
3. Where can I find the data dictionary for this dataset.	The data dictionary is found as an attachment .pdf file in the Open Data NY link- https://data.ny.gov/Government-Finance/Assembled-Workers-Compensation-Claims-Beginning-20/jshw-gkgu
4. How is it possible that among some of the "Claim Injury Type" claims with value of "NON-COMP", there are claims which have "Highest Process" values related to "4A. Hearing-Judge/ 4B. Hearing-Appeal or 4C. Hearing-Settlement"?	A "NON-COMP" claim means that an award for lost time has not yet been made. The Claim Injury Type reflects the status on the date the data was queried. The status of a case can change frequently. Hearings with a WC Law judge may occur for a hearing, appeal, or settlement.
5. How is "Accident Date" defined for occupational diseases – for example repetitive injuries or chronic exposures?	In occupational disease claims, the "Accident Date" is not always known when the case is assembled or known only in part (year/year and month, etc.). For older claims prior to electronic filing (EDI), data was manually input with information from the date that the form C-3 (Employee Claim) was received at the Board.

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6. There are claims with injury dates showing a value of "0" or below "10" years. Is this possible?	Yes, there are claims where "Age of Injury" is "0". This is the case when there is no information for the "Accident Date" – "blank values". In these instances, the value for the "Age of Injury" will be "0". There are also cases where the "Age of Injury" maybe less than "10". These may be cases involving child actors or newspaper carriers, for example.
7. The OIICS and WCIO codes can be found in claims with different Accident Dates. Some claims will have both code types and some will have only one type of code. How is this possible?	There was a concerted effort to switch over from the OIICS code to the WCIO code set sometime in 2015. Prior to 2015, the OIICS codes were manually gathered from injury characteristics reported by injured workers on the Board's paper claim forms. This manual input was phased out with the implementation of "eClaims" which is the IAIABC's standard for First Report and Subsequent Reports of Injury (FROI/SROI), which includes the WCIO codes. Both initiatives (manual and eClaims) occurred in overlapping phases, so there are gaps in the data. There are also differences between the two coding systems since the manual input methodology captured cases that reached "ANCR" (where a WCLJ finds that an Accident occurred, Notice of the accident was given, and the accident had a Causal Relationship to the injured workers' job). WCIO codes are not restricted to claims that reach ANCR.
8. Claim Type – explanations for values	Workers' compensation benefits are different for certain classifications of volunteer worker. This field indicates the category for the worker in each claim. Claim types: • Non-WC = World Trade Center volunteer claims. The World Trade Center (WTC) Volunteer Fund was established in 2002 to provide benefits to volunteers who incurred lost wages and health related problems due to their volunteer work in the WTC rescue, recovery and clean-up efforts. Normally, unpaid volunteers are ineligible for workers' compensation benefits, however, the NY Workers' Compensation Law was amended to provide a unique exception for WTC volunteers. The WTC Volunteer Fund is administered by the Board and is now funded by New York State. • PFL Discrimination – Paid Family Leave claims in which the claimant was discriminated/retaliated against for requesting or taking Paid Family Leave • PFL No Insurance -Paid Family Leave claims that do not agree with their insurance carrier's benefits decision (e.g., denial, partial denial, amount or duration of benefits, timely decision)

	• VOL Ambulance Worker WC Claim see http://www.wcb.ny.gov/content/main/vf-vaw/volunteer-ambulance-workers.jsp • VOL Fireman WC Claim – see http://www.wcb.ny.gov/content/main/vf-vaw/volunteer-firefighters.jsp • Workers Compensation Claim
9. Current Claim Status – explanations for values	Present status of the claim: • Administratively Closed = Case is closed manually by Claims staff • Argument Set = Commissioner's hearing date is set • Board Restoral = ARD (Administration Review Division) reopens a case • Case Cancelled = Duplicate case has been cancelled and combined into another case • Hearing Set = Judge's hearing date is set • Hearing Unset = Judge's hearing is waiting for a date • Motion Set = Administrative Decision (AD) has not been issued • Newly Assembled = Case has been indexed/Examiner processing for resolution • No Further Action = Case does not require action at this time • Re-Opened Administratively = Case re-opened by Claims Examiner • Referee - Reserved Decision = Judge (Referee) will review the case (off calendar) and make a decision • Returned To Examining = Hearing has been deleted/cancelled and case is returned to the Examiner for further action
10. Highest Process – explanations for values	The highest claims resolution process. • 1. NO RESOLUTIONS = No decisions filed to date. • 2. ADMINISTRATIVE DETERMINATION = An Administrative Determination (AD) is a decision concerning the workers' compensation claim rendered by the Board. All the evidence in the workers' compensation claim file is examined prior to an AD being issued. Once an AD is sent to the parties, any party may object to the determination within 30 days. If there is no objection, the determination becomes final. Appearance at the Board is not necessary because acceptance of an AD indicates that all parties are satisfied with the resolution of the issue(s).

	• 3B. CONCILIATION – MEETING = If a workers' compensation claim is not controverted (and thus proceeding directly to a hearing), the Board works with the parties and their representatives to secure all necessary documentation and resolve all outstanding issues in the claim. Once the file has been thoroughly reviewed, the Board will issue a Proposed Decision (PD) and send it to the parties, or will schedule a meeting at the Board with the parties, if a meeting is necessary. • 4A. HEARING – JUDGE = If the workers' compensation claim involves an issue that requires a hearing or may require testimony, a hearing before a Workers' Compensation Law Judge may be necessary for resolution. A formal hearing requires a personal or virtual appearance (through the Virtual Hearing Center) by all parties in the case at the Board hearing location most convenient to the claimant. The hearing will be recorded and an official record kept by the Board. While the WCL Judge will generally render a decision orally at the hearing, a written decision will be sent to all parties following the hearing. • 4B. HEARING – APPEAL = Parties may appeal the written decision to the Board's Administrative Review Division within 30 days of its filing. • 4C. HEARING – SETTLEMENT = Section 32 Waiver Agreements are a negotiated agreement (settlement) between the injured worker and the insurance carrier or self-insured employer to settle indemnity and/or medical benefits on a claim. A waiver agreement ends the right of an injured worker to ongoing and future benefits in exchange for a lump sum payment or an annuity. If agreed upon and approved by the Board, whatever is settled (indemnity and/or medical benefits) is closed forever. The insurance carrier will no longer be responsible for that part of the claim and it cannot be reopened. If indemnity benefits are settled, no further payments for lost wages will be made. If medical benefits are settled, the insurance carrier will no longer pay for medical care. A waiver agreement is not binding unless it is approved by the Board.
11. Carrier Type	Type of primary insurance provider whose coverage pertains to the injured worker (Private Carrier, State Insurance Fund, Self-insured, or Special Fund). • 1A. PRIVATE = Private Workers Compensation Insurance Carrier • 2A. SIF = New York State Insurance Fund • 2B. ATF = Aggregate Trust Fund - A trust fund established under Section 27 of the Workers' Compensation Law to assure the payment of workers' compensation in claims involving death, permanent total disability, and permanent partial disability resulting from

	the loss of major members*. In the case types above, a private carrier is required and, under certain circumstances, a self-insured employer is permitted to pay the actuarial value of a claimant's future compensation payments into the fund. Upon such payment, the Carrier and the Self-Insured Employer are discharged from future liability to the Claimant for compensation or death benefits. • 3A. SELF PUBLIC = Self-insured public entity – example: town or municipality • 4A. SELF PRIVATE = Self-insured private entity – example: private employer • 5A. SPECIAL FUND - CONS. COMM. (SECT. 25-A) = Special Funds Conservation Committee Sections 25A - direct payment to claimants and health providers for certain reopened cases and reimbursement to carriers for supplemental benefit cases. • 5B. SPECIAL FUND - CONS. COMM. (SECT. 15-8) = Special Funds Conservation Committee Section 15.8 — reimbursement to insurance carriers and self-insured employers/groups for claims involving second injuries, concurrent employment, and occupational disease. • 5C. SPECIAL FUND - POI CARRIER WCB MENANDS = SFCC administered by the Board • 5D. SPECIAL FUND – UNKNOWN = SFCC administered by the Board with carrier undetermined. *Loss of a major member is defined as: a loss of two hands; arms; feet; legs or eyes, or a combination of any two of these body parts, resulting in a permanent total disability or a loss of one of these body parts, resulting in a permanent partial disability, or death benefits covered by a stock or mutual insurance company.
12. How is the AWW computed?	Information on wages and benefits, including calculations on AWW can be found in this link: http://www.wcb.ny.gov/content/main/Workers/LostWageBenefits.jsp

[i] Carriers file a Notice That Right To Compensation Is Controverted (includes FROI-04 and SROI-04) to challenge a claim, but the Board's business rules do not treat a claim as controverted unless a qualifying medical form is filed by an authorized health care provider. In many claims, the carrier withdraws the FROI-04 and SROI-04 or the claimant does not pursue the claim.

[ii] Accident, Notice, and Causal Relationship.

[iii] Occupational Disease, Notice, and Causal Relationship.