

OLIVER WYMAN

Understanding Workers Compensation in New York

November 2015

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MARSH & MCLENNAN COMPANIES

About Me

- Oliver Wyman Actuarial Consulting – Melville, NY Office
- FCAS, MAAA, FCA with 28 Years in Actuarial Field
- Experienced with Workers Compensation Exposures
- 20+ Clients in New York
 - Self-Insured Employers and Groups
 - Health Care Systems and organizations
 - Telecommunications
 - Industrial
 - Schools, Public Entities, etc.
- Monitoring NY WC since before the 2007 legislation

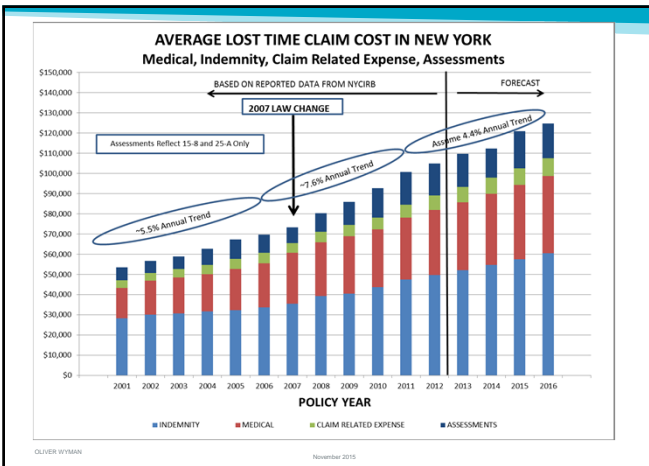
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Where is Melville?

About 35 miles from mid-town Manhattan

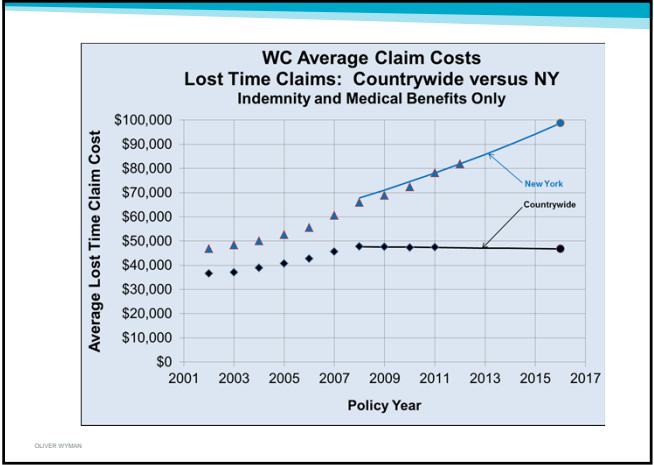
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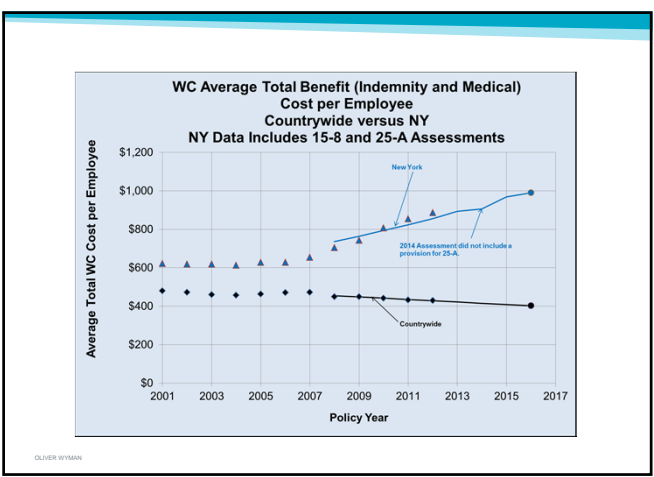
What Are We Going to Discuss?



LOST TIME CLAIM FREQUENCY PER 100,000 WORKERS			
Policy Year	New York Total Lost Time	Countrywide Total Lost Time	New York to Countrywide Relativity
2001	1,219	1,232	0.989
2002	1,142	1,204	0.949
2003	1,106	1,155	0.958
2004	1,027	1,094	0.939
2005	985	1,057	0.932
2006	947	1,025	0.924
2007	930	966	0.963
2008	913	881	1.036
2009	903	880	1.026
2010	907	870	1.043
2011	885	846	1.047
2012	884	*840	1.053
NY LT Claim Frequency Change 2006 to 2012:			-6.6%
Countrywide LT Claim Frequency Change 2006 to 2012:			-18.1%
*2012 Countrywide value is a forecast			

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Average WC Premium Cost
Oregon Department of Business and Consumer Services
2014 Biennial Study

RANK	STATE	Average Cost per \$100 payroll
1	CA	3.48
2	CT	2.87
3	NJ	2.82
4	NY	2.75
5	AK	2.68
6	OK	2.55
7	IL	2.35
8	VT	2.33
9	DE	2.31
10	LA	2.23

Average Cost of Indemnity Benefits, Medical Benefits, and Claim Related Expense per \$100 Payroll
Oliver Wyman Quarter 4 2015 Study

RANK	STATE	Average Cost per \$100 payroll
1	CA	2.47
2	NY	2.36
3	NJ	2.24
4	DE	1.97
5	CT	1.97
6	AK	1.68
7	MT	1.65
8	IL	1.57
9	LA	1.43
10	VT	1.43

Claim related assessment/tax costs (e.g., second injury fund costs) included in all measurements.
 NY reflects actuarial indicated loss cost change effective 10/1/15 of 15.8%,
 NOT the approved loss cost change effective 10/1/15 of 5.9% (6.9% was filed).

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CONSIDERATIONS

- Data is from the NYCIRB and NCCI
- NCCI Countrywide Measurements are for NCCI Jurisdictions only.
 - CA, NY, NJ, MA, PA, DE, MI, MN, WI are excluded.
 - OH, WA, WY, ND are excluded.
- NY published severity data required development to ultimate value.
- Metrics presented subsequent to PY 2012 in NY and PY 2011 Countrywide are forecasts.
- Numerous judgments and assumptions were made preparing the presentation, which, while reasonable, are not absolute.
- However, it is highly unlikely that a different set of reasonable judgments and assumptions will change the key points of this presentation.

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Outline of Discussion

- Assessments
- Conditions Prior to 2007
- 2007 Law
 - The Changes
 - What Actually Happened
- Where We Are Today

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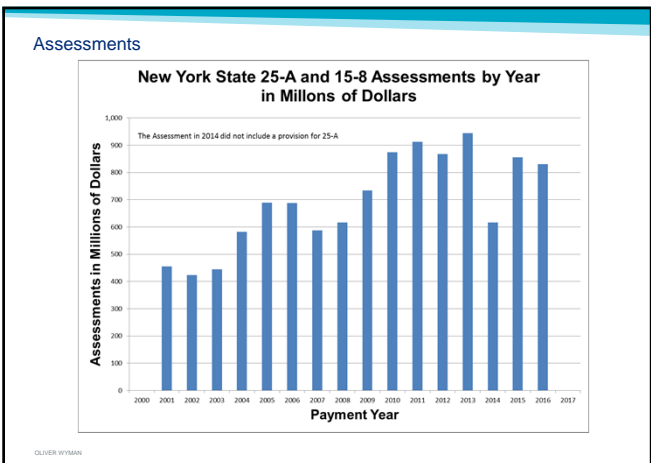
Assessments

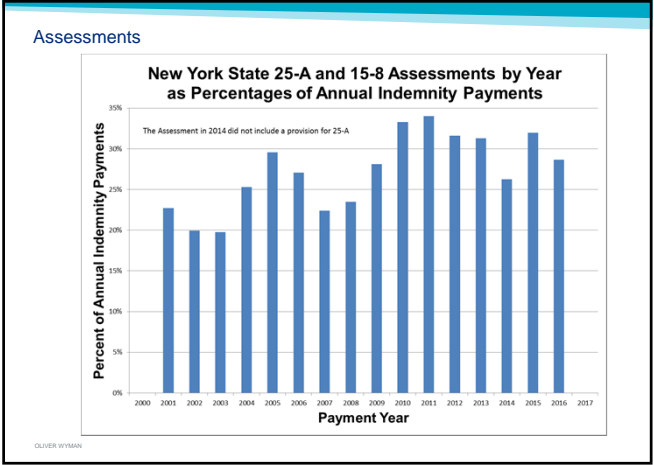
- 15-8 → Special Disability Fund
 - 2007 law change closed 15-8 to claims with date of loss after 6/30/2007
- 25-A → Re-opened Claim Fund
 - 2013 law change closed 25-A to ALL CLAIMS effective 1/1/2014
- 50-5 → Self-Insurers Assessment

2009	2010	2011	2012	2013	2014
\$14.2 M	\$19.0 M	\$25.6 M	\$27.3 M	\$27.2 M	\$15.3 M

↳ "my assessment bill is higher than my excess premium"
- IDP → Interdepartmental Expense ~\$60 M and stable
- 151 → WCB Administration ~\$200 M and stable

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Conditions Prior to 2007

Benefit Levels had been unchanged since 1992

- Maximum weekly benefit at \$400 per week since July 1, 1992
- Minimum weekly benefit at \$40 per week since July 1, 1992

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Conditions Prior to 2007

New York State Special Disability Fund –15-8

- Five Year Waiting Period
 - Five year delay to realization of increased utilization
 - Assessment increases in 2006 reflects new claims with dates of loss in 2001 and prior due to waiting period
 - Concern over future
- If accepted, fund will pay a portion or 100% of all benefit costs
- Claim is still responsibility of insurer or self-insured employer
- Once accepted, annual request for reimbursements required
- Funded by assessment process

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Conditions Prior to 2007

Aggregate Trust Fund

- Applied only to death and permanent total disability claims
- Applied only to private carriers
 - Not to self-insureds
 - Not to State Insurance Fund
- Present value of benefits deposited into ATF
 - ATF pays claim or settles
- Impacted small portion (5%) of system costs
 - Death and permanent total disability claims are expensive, but they are only a very small portion of total lost time claims and overall system costs

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Conditions Prior to 2007

Other Cost Drivers

- High litigation rate
- Antiquated, complex, inefficient system
- Low settlement rates

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2007 Law: The Changes

- Increase to maximum and minimum weekly benefits
 - Minimum increased from \$40 to \$100 effective July 1, 2007
 - 2013 law change increased minimum to \$150 effective May 1, 2013
 - Maximum increased as follows:

- 06/30/2007	\$400
- 07/01/2007	\$500
- 07/01/2008	\$550
- 07/01/2009	\$600
- 07/01/2010	\$739.83 = 2/3 SAWW
- 07/01/2015	\$844.29

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2007 Law: The Changes

- Duration limits on non-scheduled permanent partial claims
 - Eliminates lifetime awards for all but most serious claims
 - 225 weeks to 525 weeks
 - Effective March 13, 2007

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2007 Law: The Changes

- Close the Special Disability Fund (15-8)
 - Theoretically, cost neutral
 - Insurers and Self-Insured Entities responsible for all costs, but assessments will decrease
 - In theory, more efficient.
 - Only problem is runoff must be funded.

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2007 Law: The Changes

- Expand Aggregate Trust Fund to permanent partial disability claims
 - Material change in that now ATF includes most claims
 - Still applies only to private carriers

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2007 Law: The Changes

- Medical Treatment Guidelines
 - Expected savings
 - Not implemented until 2010
 - Other elements of medical benefits implemented at time of law change

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2007 Law: The Changes

- Official Pricing Approved by New York Department of Financial Regulation
 - Overall impact of law change was a 17.1% cost decrease
 - Key Assumption: The cost of permanent partial claims would DECREASE by approximately 33%
 - Decrease to permanent partial claim costs would more than offset benefit increases

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2007 Law: What Actually Happened

2007 Law: What Actually Happened

Effective Date	Approved Change	Cumulative Change	
10/1/2007	-18.4%	-18.4%	
10/1/2008	-6.4%	-23.5%	
10/1/2009	4.5%	-20.2%	
10/1/2010	7.7%	-14.0%	
10/1/2011	9.1%	-6.2%	
10/1/2012	0.0%	-6.2%	Filed Increase was +11.5%
10/1/2013	9.5%	2.7%	Filed Increase was +16.9%
10/1/2014	0.0%	2.7%	Filed Increase was +6.8% Actuarial Indication was +17.4%
10/1/2015	5.9%	8.6%	Filed Increase was +6.9% Actuarial Indication was +15.8%
10/1/2007 to 10/1/2015		18.9%	← Cumulative Change from 10/1/07 Based on 10/1/15 Actuarial Indication
10/1/2008 to 10/1/2015		45.7%	← Cumulative Change from 10/1/08 Based on 10/1/15 Actuarial Indication

Loss Cost: Indemnity + Medical + Loss Adjustment Expense

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2007 Law: What Actually Happened

- What went wrong?
 - Utilization and Healing Period
 - Utilization reflects the willingness to utilize the system either by filing a claim or increasing duration of disability
 - Healing period is the time spent on disability prior to receiving an impairment rating

Consensus view from Oliver Wyman clients:
 "More employees using the system for a much longer period of time at a much higher weekly benefit cost"

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2007 Law: What Actually Happened

- Evidence: Frequency – "More employees using the system"
 - Permanent partial percentage of lost time claims increases

Policy Year	F+PTD	PPD	TTD	Total LT	PPD %
2002	7	456	679	1,142	40%
2003	7	440	661	1,108	40%
2004	5	419	606	1,030	41%
2005	5	416	567	988	42%
2006	5	425	523	953	45%
2007	4	451	484	939	48%
2008	5	489	433	927	53%
2009	4	509	413	926	55%
2010	3	537	403	943	57%
2011	3	552	386	941	59%

Policy Year	F+PTD	PPD	TTD	Total LT	PPD %
2003	7	439	660	1,106	40%
2004	6	415	607	1,028	40%
2005	5	411	569	985	42%
2006	5	413	529	947	44%
2007	4	431	484	929	46%
2008	5	461	447	913	50%
2009	5	463	436	904	51%
2010	4	465	439	908	51%
2011	3	441	441	885	50%
2012	3	360	522	885	41%

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2007 Law: What Actually Happened

- Evidence: Frequency – "More employees using the system"

Policy Year	Total Lost Time	All PPD and TTD>52 Weeks	All PPD and TTD>52 Weeks Percentage
2001	1,219	494	41%
2002	1,142	456	40%
2003	1,108	440	40%
2004	1,030	419	41%
2005	988	416	42%
2006	953	425	45%
2007	939	451	48%
2008	927	489	53%
2009	926	509	55%
2010	943	537	57%
2011	941	552	59%

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2007 Law: What Actually Happened

- Evidence: Longer Healing Period – “for a much longer period of time”
 - NYWCB: Prior to 2007 → 4.8 years
Post 2007 → 6.4 years (2013 measurement)
 - At \$600 per week, this adds \$50,000 to a claim
- Why?
 - Economically feasible for claimant to remain out on TTD due to high maximum benefit
 - Claimant attorneys acting to delay impairment rating
 - PP duration limit clock starts at impairment rating
 - Does not include healing period
- Insurers may be acting to delay impairment rating to avoid ATF deposit
- The lack of a duration limit on TTD is a fundamental defect in NYS Law

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2007 Law: What Actually Happened

Average Lost Time Claim Costs by Component
Policy Years 2001 through 2012
New York

Policy Year	IND LT	MED LT	Claim Expense	Assess.	COMB LT
2001	28,193	15,099	3,701	6,401	53,395
2002	30,091	16,711	3,806	6,006	56,614
2003	30,574	17,839	4,340	6,037	58,790
2004	31,633	18,458	4,543	8,002	62,637
2005	32,182	20,517	5,050	9,515	67,263
2006	33,694	21,801	5,153	9,123	69,771
2007	35,546	25,044	4,810	7,962	73,362
2008	39,334	26,641	5,025	9,243	80,243
2009	40,448	28,477	5,596	11,366	85,886
2010	43,701	28,660	5,806	14,553	92,720
2011	47,493	30,641	6,357	16,148	100,639
2012	49,682	32,189	7,266	15,699	104,836

Change from 2006 through 2012: 47% 48% 41% 72% 50%

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2007 Law: What Actually Happened

Lost Time Claim Severity
New York Compared to NCCI Countrywide Values

Policy Year	New York State			NCCI Countrywide		
	Indemnity	Medical	Total	Indemnity	Medical	Total
2001	28,193	15,099	43,293	17,263	19,237	36,500
2002	30,091	16,711	46,802	17,886	18,773	36,659
2003	30,574	17,839	48,414	17,589	19,452	37,041
2004	31,633	18,458	50,091	17,886	20,939	38,825
2005	32,182	20,517	52,698	18,699	22,052	40,751
2006	33,694	21,801	55,495	19,759	23,017	42,776
2007	35,546	25,044	60,590	21,259	24,432	45,691
2008	39,334	26,641	65,975	22,358	25,386	47,744
2009	40,448	28,477	68,925	21,645	25,963	47,608
2010	43,701	28,660	72,362	21,561	25,749	47,310
2011	47,493	30,641	78,134	21,185	26,285	47,450
2012	49,682	32,189	81,871	21,403	26,903	48,306

2001 to 2006: 20% 44% 28% 14% 20% 16%
2006 to 2012: 47% 48% 48% 8% 17% 13%

*NCCI 2012 values are forecasts because 2012 data is not yet available.

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2007 Law: What Actually Happened

- Hardship clause untested
 - The law allows for claimants with an 80% or more loss of earnings capacity to apply for hardship permanent total disability.
 - Concern is that a large proportion of claimants will, near the end of their claim, apply and receive hardship status.
 - If this occurs, the impact on long term costs could be significant:
 - Permanent Partial disability claims with limited duration will transform into lifetime permanent total disability claims.
 - Data to date shows this is potentially NOT a material concern.
 - Very low number of claims with ratings at 80% level.
 - BUT: Risk still exists because many claims are on extended TTD durations with ratings yet to be determined.

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2007 Law: What Actually Happened

- Aggregate Trust Fund
 - Expanded to include permanent partial disability claims
 - Insurers want to avoid ATF deposit
 - May be acting to extend healing period as well
 - Gives claimant attorneys greater leverage
 - Claimants want to avoid ATF deposit
 - ATF will settle claims at amounts lower than insurer might have settled, and keep the difference
 - Oliver Wyman clients assert leverage generally favors claimants
 - Result is higher costs that are difficult to quantify
 - Original pricing gave no net impact : 0%

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2007 Law: What Actually Happened

- Medical Treatment Guidelines
 - Implemented in 2010
 - Favorably received
 - Consensus is they are acting to control costs

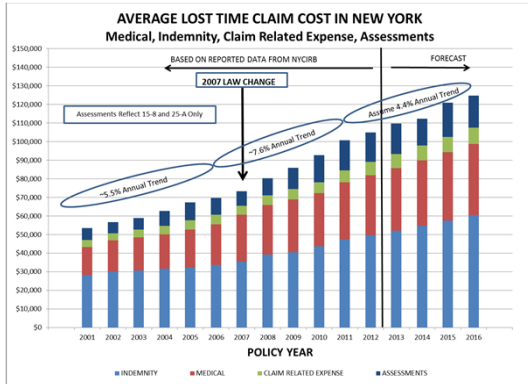
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2007 Law: What Actually Happened

- Summary
 - Greater number of more expensive claims
 - Maximum weekly benefit materially increased utilization
 - Permanent partial percentage is growing
 - Healing Period extended 1 to 2 years
 - Medical Costs are higher, possibly as part of cost to justify longer healing periods
 - Legal and other claim related expenses are higher, possibly as part of cost to justify longer healing period
- ATF increases claimant leverage
- Hardship clause on duration caps is still a risk
- Medical Treatment Guidelines Favorably Received

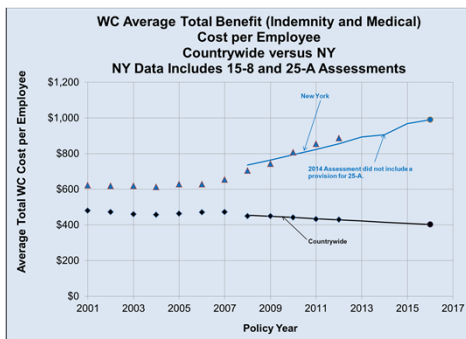
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So Here We Are Now



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So Here We Are Now



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So Here We Are Now

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and Claim Related Expense per \$100 Payroll
Oliver Wyman Quarter 4 2015 Study

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