An “Other” Coast Look at Benefit Reform

Casualty Actuarial Society 2013 Spring Meeting
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Agenda –
A Perspective on Some Workers Compensation Reforms

- New York in 2007
- Historical perspective from the 1990s – Massachusetts and Maine
- Recent changes in Illinois and North Carolina in 2011
- On the horizon
- Observations

New York – The 2007 Reform

- Background
- Key Features of the 2007 Reform
- Projected Cost Impact
- Subsequent Developments

Background to the New York Reform

- Last benefit change – 1991
- Maximum indemnity benefit level $400 (except for police/fire); minimum benefit level $40
- Duration on benefit essentially unlimited
- Medical fee schedule in place
- Indemnity/medical split – approximately 70/30

Key Features of the 2007 New York Reform

- Significant benefit increases
- Limitations on permanent partial disability (PPD) duration
- Elimination of Special Disability Fund
- Increased incentive to settle claims
- Streamlined access to medical care while increasing carrier/employer control
- Multiple others, some of which could not be quantified

The Reform Significantly Increased the Maximum Weekly Benefit

• 7/1/2007	$500
• 7/1/2008	$550
• 7/1/2009	$600
• 7/1/2010 and subsequent	2/3 average weekly wage

- The minimum benefit increased from $40 to $100

The Reform had the Potential to Significantly Reduce PPD Duration

- Tied duration to loss of earnings capacity on a sliding scale
  - 225 weeks for less than 15% loss of earnings capacity
  - 525 weeks for 95% loss of earnings capacity
- Claimants with over 80% loss of earnings capacity had the potential to request a hardship provision
  - Successful petitions would results in a permancy decision
- Introduction of medical guidelines to assist in establishing PPD – target date December 1, 2007

As the Special Disability Fund's Role Decreased, the Aggregate Trust Fund's Role Potentially Increased

- The Special Disability Fund was closed to new claimants as of July 1, 2007
  - Window to file claims closed in 2010
  - Unfunded liability to be addressed through a bond issue
  - Loss amounts previously reimbursed by SDF would paid by carriers or self-insurers prospectively
- Private carriers were mandated to deposit PPD settled claims into the ATF

There were a number of changes made around medical benefits

- Fee schedule and discounts for prostheses
- Pharmacy fee schedule and incentives for generic/mail order drugs
- Networks for imaging and x-rays
- Controverted cases to utilize health insurance

So how much was this supposed to save or cost?

- Benefit increase – Over 15% over 4 years; assumed 10% increase in utilization
- Reduced PPD duration – Reduction in excess of 50%
- Elimination of SDF – 13% increase; additional costs to carrier, partially mitigated by additional control
- Expansion of ATF – likely to increase costs (disadvantage settlements, “savings” retained by ATF, additional administrative costs)
- Medical changes – over 6% mitigated by existence of existing discounts
- Combined - 18% loss cost reduction

How has the Reform Worked Out?

- Loss costs decreased initially, than increased
  - 2007 – -18%
  - 2008 – -6%
  - 2009 – +4%
  - 2010 – +8%
  - 2011 – +9%
  - 2012 – 0%; filing 11.5%
- Some flattening in trends observed
- Key reform elements:
  - Benefit increase – as expected
  - Reduced PPD Duration – little impact to date; guidelines effective January 1, 2012
  - Elimination of SDF – on-going
  - Expansion of ATF – changed
  - Medical changes – minor increases in fee schedules, subsequent implementation of limited medical treatment guidelines in 2010

Subsequent Developments

- 2013 Proposals
  - Closing ATF and Re-opened Case Funds
  - Increasing minimum benefit from $100 to $150
  - Changing assessment basis
  - Addressing SIG unfunded liabilities

Historical Perspective – Massachusetts and Maine

- Background
- Key Features of Reforms
- Historical Cost Impacts
- Subsequent Developments

Workers Compensation was Ugly in the Late 80s and Early 90s in Massachusetts and Maine

- In Massachusetts the assigned risk market was over 60% of the market
- Massachusetts attempted to reform workers compensation in 1986 – ultimately resulted in benefit expansion
- Four years of double digit premium increases beginning January 1, 1988

Key Features of the 1991 Massachusetts Reform

- Indemnity replacement rate reduced to 60% from 2/3 of average weekly wage
- Medical fee schedule which was introduced was the lowest in the nation
- Shortened the duration of temporary total disability benefits to three years and PPD to five years; aggregate duration of seven years (PPD/TT) except special cases
- Introduced a 5 day waiting period for the provision of benefits
- The QLRMP was introduced for employers in the Assigned Risk pool
- The reform was projected to reduce costs by 20%

Looking back on the Massachusetts Reform

- Impacts were significantly greater than anticipated
- Significant reduction in residual market
- Rates decreased to about 1/3 of the 1991 level
- Recent rate "suppression" causing growth in residual market
  - 11% in 2009
  - 16% (est) in 2012

Maine was even “uglier” in the late 1990s

- Market decreased from over 20 carriers in early 1980s to three in 1992
- $220 million residual market deficit determined in 1995
- Highest rates in the nation

Key Features of the 1992 Reform

- Benefits changed from 2/3 of average weekly earnings to 80% of spendable earnings
- Maximum reduced to 90% of average weekly wage
- Escalation eliminated
- Waiting period increased from 3 to 7 days
- Durations reduced
  - Fatal - 500 weeks
  - PT - length of disability
  - PPD duration reduced to 26 weeks for impairment ratings less than 15%
- Requires injured employees to be pay attorney costs
- Established competitive state fund
- Estimated impact -16%

Looking back on the Maine Reform

- The market became more “normal” - about 40 carriers in the State in the latter part of the 1990s
- MEMIC successful
  - Volume - $180M, A rated
  - Expansion into other New England states
- Rates are #10 in the US (per Oregon Premium Ranking Summary)
- Reforms have been “tweaked”
  - 260 week PPD cap expanded to 520 weeks
  - Impairment rating provides loophole to duration cap
- Loss costs about ½ of pre-reform level

Recent changes in Illinois and North Carolina

- Background
- Key Features of Reforms
- Estimated Cost Impacts

Illinois is a “Tough” Workers Compensation Environment

- Rates in the top five in the US
- Higher PPD frequency than average, trickling through to medical costs
- Residual market not significant

Illinois Passed a Compromise Reform Effective September 1, 2011

- PPD rating based on objective criteria
- TTD based on 2/3 of difference between AWW and gross earnings on modified duty
- Capped wage differential claims at age 67 or five years
- Medical fee schedule decreased 30%
- Carpal tunnel benefits reduced
- Estimated impact – 8.8%, driven primarily from the fee schedule changes
- 2013 filing -3.8% decrease, driven by improving experience

North Carolina is also a Difficult Workers Compensation Environment

- Prior attempt at reform in 2005
- High benefit levels
- Longer TTD duration than average
- High lump sum settlements

North Carolina Passed HB709 in June 2011

- Focus is returning claimants to work
- Expanded vocational rehabilitation access
  - Previously only allowed once reached MMI; subsequently allowed at any point
  - Considers post injury earning capacity
- Defined suitable employment
- Eased access to medical information/IMEs
- Imposed TTD caps (500 weeks)
- Increased TPD duration subject to TTP caps
- PT limited to specific injuries
- Net impact: Slight reduction in overall costs

On the Horizon

- Oklahoma – moving to opt out system
- Tennessee – April 2013 reform established an administrative system
- New Jersey - ???

Observations

- What makes costs high?
  - Some reflect macro economic differences or employment mix
  - Others include
    - PPD and/or TTD frequency
    - “Extendable” PPD duration caps
    - System administration

Questions and Discussion