

Arkansas Insurance Department

Mike Beebe
Governor



Jay Bradford
Commissioner

September 1, 2010

Via Messenger

Mr. David Ferguson
Director
Bureau of Legislative Research
State Capitol, Room 315
Little Rock, AR 72201

RE: Annual Study of the Workers' Compensation Insurance Market in Arkansas

Dear Mr. Ferguson:

Ark. Code Ann. § 23-67-304 requires the Commissioner to conduct an annual study detailing the workers' compensation insurance market in Arkansas and to report the findings to the Legislative Council and the Chairs of the Senate and House Insurance and Commerce Committees. In compliance, please see the enclosed report for the year ending 2009.

If you have any questions regarding this report, please contact Property and Casualty Division Manager Bill Lacy at (501) 371-2801 or bill.lacy@arkansas.gov.

Sincerely,


Jay Bradford
Insurance Commissioner

JB:sc

Enclosure

cc: The Honorable Mike Beebe, C/O Mr. James Miller, Regulatory Liaison
Ms. Carol Stapleton, Legislative Liaison, Bureau of Legislative Research (3 Copies)
The Honorable A. Watson Bell, Chairman, AWCC
The Honorable Karen H. McKinney, Commissioner, AWCC
The Honorable Philip Alan Hood, Commissioner, AWCC
Mr. Alan McClain, Chief Executive Officer, AWCC
Ms. Lenita Blasingame, Insurance Chief Deputy Commissioner, AID
Mr. Bill Lacy, Property & Casualty Division Manager, AID
Mr. Nathan Culp, Public Employee Claims Division Director, AID
Mr. Greg Sink, Criminal Insurance Fraud Director, AID
Ms. Alice Jones, Public Information Manager, AID

**A REPORT TO THE LEGISLATIVE COUNCIL AND
THE SENATE AND HOUSE INTERIM COMMITTEES
ON INSURANCE AND COMMERCE
OF
THE ARKANSAS GENERAL ASSEMBLY
(AS REQUIRED BY ACT 796 of 1993)**

**ANNUAL STUDY OF THE WORKERS' COMPENSATION
INSURANCE MARKET IN ARKANSAS**



**Prepared by: William R. Lacy, Property & Casualty Manager
Arkansas Insurance Department**

Approved by: Jay Bradford, State Insurance Commissioner

Date Submitted: September 1, 2010

REPORT TO THE LEGISLATURE ON ACT 796 OF 1993 THE STATE OF THE WORKERS' COMPENSATION MARKET FOR YEAR ENDING 2009

Previous reports to the Legislature have discussed in detail the condition of Arkansas's Workers' Compensation marketplace prior to the passage of Act 796 in 1993, and subsequent to the changes brought about as a result of Act 796.

Arkansas continues to enjoy a competitive workers' compensation market with the lowest premium levels in decades.

In 2009, Arkansas had a combined loss ratio of 91% ranking it among the lowest of any state for which Arkansas's statistical agent, the National Council on Compensation Insurance (NCCI), compiles loss data. In 2010, NCCI filed for slight increases in both the voluntary market loss costs (+1.9%) and assigned risk plan rates (+4.5%). These are the first increases since 2004. Several factors and trends in the industry may affect future rates. These factors include increased medical costs, increasing prescription drug utilization, increased reinsurance costs, and catastrophe loading for potential terrorism losses.

CONTINUED RATE IMPACT OF ACT 796 OF 1993

Arkansas's voluntary workers' compensation market would have disappeared and many employers would have found themselves unable to afford workers' compensation coverage, facing the choice of either closing down their business or operating outside the law, had Act 796 not become reality.

The impact of the Act on workers' compensation premiums is clear and significant. Prior to its enactment rates were increasing significantly. For example, for both the voluntary market and the assigned risk plan, rates in 1991 and 1992 increased 15% and 18% respectively. Passage of the Act forestalled anticipated rate increases in 1993 and 1994, with 1993 being the first year in the last ten in which there was no rate increase. 1993 and 1994 were years of market stabilization, and subsequent years have seen significant rate reductions in both the voluntary market and the assigned risk plan. Year 2000 saw our first increase in the assigned risk plan rates while experiencing a decrease in the voluntary market. In 2003, Arkansas had the lowest loss costs in the region per \$100 of payroll (\$1.26) compared to the regional average loss cost of \$2.11 and the countrywide average loss cost of \$2.00. There are still positive effects from this Act that benefit Arkansas employers.

Year	Voluntary Market	Assigned Risk Plan
1993	0.0%	0.0%
1994	0.0%	0.0%
1995	-12.4%	-12.4%
1996	-8.0%	-3.7%
1997	-4.7%	-7.6%

Year	Voluntary Market	Assigned Risk Plan
1998	-9.1%	-8.2%
1999	-4.1%	-3.0%
2000	-4.5%	-2.0%
2001	-7.5%	1.9%
2002	-4.5%	-1.9%
2003	1.8%	5.5%
2004	0.5%	5.1%
2005	-1.5%	-2.8%
2006	-0.5%	-2.0%
2007	-5.4%	-6.8%
2007 (effective 1/1/08)	2.7%	2.7%
2008 (effective 7/1/08)	-12.8%	-13.8%
2009	-7.0%	-6.4%
2010	1.9%	4.5%

PAYROLL AND EXPERIENCE MODIFIER

Reported payroll in Arkansas continues to increase while premiums for insureds continue to decrease. The average experience modifier has increased minimally (0.977 from 0.961). This minimal change in experience modifier could represent the continuing effectiveness of loss control measures and the impact of the Hazardous Employer Program operated by the Health and Safety Division of the Workers' Compensation Commission. Please refer to Exhibit "A" for additional statistical information regarding premiums.

ASSIGNED RISK PLAN

The assigned risk plan has seen a consistent history of decline in population since the passage of Act 796 except for a gentle upward trend during 2002 through 2004. Down from a record high of \$150,000,000 in 1993, to a low of \$6,566,275 in September 2000, the premium volume as of December 31, 2009, was \$11,236,985 as compared to \$14,077,770 on December 31, 2008. The increase in premium during the 2002 through 2004 period was, in part, attributable to the failure of several insurers domiciled in California and other states. A portion of the increase may also have been attributable to an increase in plan population of small premium employers who have premiums too low to be attractive to the competitive market. In essence, their premiums are less than the minimum premium for which coverage is available in the voluntary market. These employers may often get better rates through the plan; consequently, as of the end of 2009, small premium employers (less than \$2,500 in annual premium) constituted approximately 86% of the plan policy volume with an average of \$849 in premium per policy. Average plan premium per policy at the end of 2008 was \$2,431 for all 4,667 policies in the plan.

In 2008, NCCI filed a Voluntary Coverage Assistance Program (VCAP) which has helped to remove some employers from the assigned risk plan by allowing voluntary carriers to file their underwriting guidelines. When an application is received, it is compared to the filed guidelines

and if it meets a company's guidelines, the application will be forwarded to the insurer to determine whether they will make a voluntary offer of coverage. This program was approved effective October 1, 2008. By December 31, 2009, 55 employers were removed from the assigned risk plan with a premium of \$219,456. These policyholders saved a total of \$54,411 with an average savings of \$989. We believe that as carriers become more familiar with this program, the number of policyholders taken out of the plan will continue to grow as will their savings.

For those employers qualifying for voluntary coverage, cost savings have been substantial. According to the NCCI, price discounting by voluntary carriers reached record levels of 24% during 1999. Carriers pulled back on the discounting in 2000 to 14.7% and, as anticipated, carriers further reduced discounts in 2004 and 2005. In 2006, carriers resumed increased discounting again using primarily schedule credits and dividends. In 2007 there was a net -4.7%. That has continued into 2009 with a projected net of -7.9%.

PLAN ADMINISTRATION/SERVICING CARRIERS

The NCCI is an "Advisory Organization" licensed in Arkansas to assist its member insurers with ratemaking and data collection activities. Effective July 1, 2009, the Commissioner re-appointed NCCI as Administrator for the Arkansas assigned risk plan until at least July 1, 2013.

Arkansas participates in the oversight of the market and the NCCI through a multi-state working group of the National Association of Insurance Commissioners (NAIC). The working group monitors data reliability and any other issues that arise involving the market.

In recent years, Arkansas has also participated in a multi-state examination of the NCCI in its role as an advisory organization licensed pursuant to Ark. Code Ann. §23-67-214. Participation in the examination task force, and periodic reviews of this nature, function to assure the quality of the data, as well as presenting the opportunity to improve existing systems and procedures. The examination found concerns about statistical reporting and error correction. These concerns were remedied and are monitored by the working group of the NAIC, they were never significant enough to affect the overall reliability of the data reported by the NCCI for the State of Arkansas.

During the implementation of the examination findings, Arkansas served as chair of the multi-state exam task force and concluded its responsibilities in this capacity after implementation of the required reforms. A current multi-state examination is in progress and Arkansas is participating in this examination, as well.

The location of an office in Little Rock (mandated by 1993 legislation) continues to resolve many policy related service problems and provides Arkansas agents and insureds easy, immediate access to responsive company personnel. The effectiveness of this office is apparent in the reduction of the number of complaints received by the Insurance Department and the reduction in the number of appeals reaching the Appeals Board. The NCCI personnel assigned to the office are knowledgeable and committed to providing excellent service.

Attached are Exhibits “B” entitled *Arkansas Residual Market 1st Quarter 2010 Status Report*; and Exhibit “C” entitled *Arkansas Residual Market Annual 2009 Status Reports*. The exhibits are prepared by the NCCI and provide detailed information on risk profiles such as average premium size, top ten classifications by code and by premium, and a list of contacts within NCCI for specific areas of concern.

NCCI provides, at no charge to the agent, the option to submit assigned risk applications online. Upon successful submission, the customer receives a confirmation code and application identification number for reference. There are significant savings to the plan when an application can be processed electronically. Arkansas agents have been extremely responsive to this initiative with 89% in 2009 and 94% in the first quarter of 2010 of applications being submitted online.

The Annual Servicing Carrier Performance Review conducted by NCCI reveals either “Commendable” or “Satisfactory” scores for all areas for Arkansas’s servicing carriers. For the period commencing January 1, 2008, through December 31, 2011, the servicing carriers are Travelers Indemnity Company, Liberty Insurance Corporation, Union Insurance Company, and Technology Insurance Company.

SUMMARY OF INSURANCE DEPARTMENT’S CRIMINAL INVESTIGATION UNIT

Before the passage of Act 796 of 1993, there had never been a criminal prosecution in Arkansas for workers’ compensation fraud committed by employees, employers or healthcare providers.

Act 796 of 1993 created the Workers’ Compensation Fraud Investigation Division and made any type of fraud committed within the workers’ compensation system a Class D felony (maximum six years and/or \$10,000 fine). The Division was renamed the Criminal Investigations Division during the 2005 Legislative Session.

Fraud in the workers’ compensation system was perceived to be epidemic. Since the majority of employers were in the “plan,” there was little, if any, incentive for thorough investigation of possibly fraudulent insurance claims and few consequences to those caught making intentional misrepresentations. Act 796 changed the entire landscape of the workers’ compensation system, particularly in regard to the detection, prevention and prosecution of workers’ compensation fraud. The actual prosecution of a workers’ compensation fraud case is contingent on many factors.

Key among those factors is the elected prosecutor’s willingness to carry a case forward. If the information provided from an investigation is not enough to meet the standards for conviction found at Ark. Code Ann. § 11-9-106, a prosecutor will be unwilling to pursue the case. Local law enforcement agencies often do not have the resources to investigate workers’ compensation fraud; fortunately, the investigative authority of the Criminal Investigation Division allows the Arkansas Insurance Department to supplement these often under-funded local agencies. This Division’s dedication to a single purpose allows for complex investigations which require time and focus that would otherwise not be available. As these complex cases evolve, they frequently require investigators to work through a myriad of leads to develop a case. Occasionally, even

with dedicated resources for this single purpose being used, there simply is not enough information for a prosecutor to prosecute the crime. While the number of actual prosecutions varies from year to year, the possibility of investigation and prosecution is a constant deterrent. Any lessening of the Division's enforcement powers would likely result in a re-emergence of both frequency and severity of fraud committed by employees, employers, and healthcare providers.

The cases represented by the statistics noted below, which are comparable per capita to those of other states with active anti-fraud efforts, are believed to have had a significant impact on workers' compensation rates in Arkansas, and the deterrent factor has been substantial. In fact, many cases are not carried forward to prosecution. In many instances, the threat of prosecution is enough to get the parties involved to settle the cases outside of court, resulting in restitution for the aggrieved parties. While not technically prosecutor wins, these cases result in positive outcomes for injured workers in the state.

Act 743 of 2001 (The Act) significantly enhanced the efficiency and effectiveness of the Division by granting its investigators certified law enforcement authority. The Division can now execute arrest warrants, thus reducing the backlog of warrants that were awaiting service by local law enforcement agencies. Annual referrals to the Criminal Investigation Division have been reduced significantly since its first year of operation. This reduction is attributed to increased enforcement efforts under the Act. In the 2009-2010 reporting period there were 37 workers compensation investigations opened. Six cases were referred to prosecution. The investigated work continues on many of the cases that have been referred. Since the creation of the division in 1993, a total of 146 cases have been referred for prosecution which resulted in 109 convictions. Out of these 146 cases, only three prosecutions have resulted in acquittals. In the remaining 34 cases the charges were not filed or dropped.

2009 LEGISLATIVE ACTIVITY WITH REGARD TO WORKERS' COMPENSATION

The following changes to Arkansas's workers' compensation code were put into effect by Acts 327 and 726 of 2009:

Ark. Code Ann. §11-9-411 has been amended to prohibit an offset of workers' compensation benefits for group disability benefits if the injured worker purchased the group disability policy.

Ark. Code Ann. §11-9-525 has been amended to provide that for all claims for permanent partial disability or permanent total disability made after January 1, 2008, the employer at the time of the compensable injury will be liable for said benefits (subject to the remaining provisions of the state's workers' compensation laws, excluding §§11-9-525(a)(1)-(d)(2)).

Ark. Code Ann. §11-9-525 has been further amended to shift liability for permanent and total disability benefits, payable by the Second Injury Fund, to the Death and Permanent Total Disability Trust Fund effective January 1, 2010.

Ark. Code Ann. §17-25-308 has been amended to allow the Contractors' Licensing Board to revoke the license of a contractor who fails to obtain or maintain workers' compensation coverage.

Act 327 also added a new section to Title 17, Subchapter 25 (most likely codified as Ark. Code Ann. §17-25-316), which requires the Contractors' Licensing Board to obtain proof of workers' compensation coverage prior to issuing a license.

In addition, Act 726 of 2009 amended Ark. Code Ann. §11-9-801 to allow for payment of workers' compensation benefits by electronic transfer of funds.

SUMMARY OF SIGNIFICANT WORKERS' COMPENSATION CASES FROM THE ARKANSAS COURT OF APPEALS AND SUPREME COURT FISCAL YEAR 2010¹

Cases from the Arkansas Supreme Court

Stewart v. Arkansas Glass Container, 2010 Ark. 198, 2010 WL 1729386: Following a course of litigation involving additional medical benefits, the Claimant filed a request for additional benefits on December 21, 2005. An Administrative Law Judge with the Arkansas Workers' Compensation Commission found that this claim was not time-barred because the earlier hearing of March 19, 2004 (which resulted in a denial ultimately affirmed by the Arkansas Court of Appeals), had dealt with additional medical benefits and all other issues had been reserved by the parties. The Commission, however, reversed this finding, having reasoned that the only claim before the Commission had been the question of additional medical benefits – since this issue had been fully and finally resolved, there were no other pending matters to reserve. On appeal, the Arkansas Court of Appeals stated that it “...must determine the tolling impact – if any – a specific request for one benefit (medical expenses in this case) has on other benefits that could arise or flow from the specifically requested benefit. In more simplistic terms, we must determine if the statute-of-limitations tolling is claim or benefit specific.” In resolving this issue, the Court reasoned that “If we were to require claimants to be benefit specific, within one distinct compensable-injury claim, there would be multiple statutes of limitations running. This would result in piecemeal litigation at its worst...Therefore, we conclude that Stewart’s timely request for ‘additional medical benefits’ tolled the statute of limitations until the claim was finally and completely litigated, not only on the general medical-benefit claim but on all benefits that might flow from that specific request.” On further appeal, however, the Arkansas Supreme Court reversed, noting (as had the Commission) that “there were no specific claims for benefits that were excluded from consideration at the time of the ALJ’s first order.” The Court also observed that the Claimant had offered “no authority for his proposition that undefined claims purportedly ‘reserved’ by a lower tribunal can somehow satisfy his burden to prove that he made a timely request for additional compensation for purposes of the statute of limitations in section 11-9-702(b).” Looking also to the strict construction requirement of Ark. Code Ann. §11-9-704(c)(3), the Court reasoned that the

¹ Westlaw citations are provided where standard legal citations are partially available or unavailable.

Claimant's claim for additional benefits on December 21, 2005, had been filed in excess of one year from the last payment of compensation and more than two years from the date of injury, and was thus time-barred by Ark. Code Ann. §11-9-702(b).

Cases from the Arkansas Court of Appeals

Witt v. Allen & Son, Inc., 2009 Ark. App. 561, 2009 WL 2778031: The Claimant was injured in a motor vehicle accident while traveling with a co-worker to obtain a tractor for transport from one job site to another. The Arkansas Workers' Compensation Commission denied benefits for a lack of employment services, relying on evidence that the Claimant was not being paid at the time of the injury, was not in a company vehicle, and had elected to ride with a co-worker rather than his supervisor. Relying on *Bell v. Tri-Lakes Services*, 76 Ark. App. 42, 61 S.W.3d 867 (2001) and *Moncus v. Billingsley & American Ins. Co.*, 366 Ark. 383, 235 S.W.3d 877 (2006), the Arkansas Court of Appeals reversed, stating that it had "no hesitation in holding that Witt was engaged in employment services at the time of the automobile accident. Like the claimant in *Bell*, Witt was instructed by his employer to run an errand that specifically benefited the employer...This case is also analogous to *Moncus* in that Witt was expected to meet at a central location before going to that day's work site. As was the case in *Moncus*, the fact that Witt was directly advancing his employer's interests trumps any application of the going-and-coming rule to this case. Finally, the Commission appeared fixated on facts showing that Witt was not being paid at the time of the accident. Though it is relevant, payment for services is not dispositive in determining whether an employee is engaged in employment services at the time of the accident."

Kirkendolph v. DF&A Revenue Services Div., 2009 Ark. App. 629, 2009 WL 3153267: An Administrative Law Judge with the Arkansas Workers' Compensation Commission found that the Claimant had failed to prove that she was permanently and totally disabled as the result of bilateral carpal tunnel syndrome. The Claimant's counsel of record received a copy of the Administrative Law Judge's opinion on January 2, 2008, and was subsequently suspended from the practice of law on January 28, 2008. The Claimant then filed a *pro se* notice of appeal to the Full Commission on February 12, 2008, which the Respondents moved to dismiss as untimely. On April 12, 2008, the Full Commission issued an opinion dismissing the appeal as untimely. On further appeal, the Arkansas Court of Appeals noted that Ark. Code Ann. §11-9-711(a)(1) provides that Commission orders are not deemed final until thirty days after "a party" has received a copy. Since the operative time frame ran from the date of receipt rather than mailing, the Court concluded that the legislature had demonstrated a clear intent for a party to have a full 30 days in which to file an appeal. Because the Claimant's counsel of record had been suspended twenty-six days after receiving the Commission's opinion, he had not received the full thirty days provided by §11-9-711, and there was no evidence as to when or if the Claimant herself had ever received a copy. Under these circumstances, the Court concluded that the Commission had no basis to dismiss the appeal as untimely and had thus abused its discretion. However, the Court affirmed the Commission's denial of the Claimant's motion to re-open the record in order to submit a 42% permanent anatomic impairment rating assigned by the Claimant's treating physician. In essence, the Court agreed with the Commission's determination that the proffered evidence would not have changed the outcome, and thus held that the Commission had not abused its discretion in denying the motion.

Honeysuckle v. Curtis H. Stout, Inc., et al, 2009 Ark. App. 696, 2009 WL 3378528: Honeysuckle and McCarthy traveled together on a business trip from Little Rock to Addison, Texas, by way of a single-engine aircraft piloted by McCarthy. The plane crashed on the return trip, killing Honeysuckle and resulting in severe injuries to McCarthy. Honeysuckle's estate and McCarthy each sought and obtained workers' compensation benefits. Subsequently, Honeysuckle's estate sued McCarthy for failing to use reasonable care and skill in maintaining and operating the aircraft in question. McCarthy, who at all relevant times was an employee, president, board member and major stockholder for Respondent Curtis H. Stout, sought an extension of the exclusive remedy protection afforded by Ark. Code Ann. §11-9-105 before the Arkansas Workers' Compensation Commission (following remand from circuit court upon a writ of prohibition issued by the Arkansas Supreme Court). The Commission found in McCarthy's favor on the issue of exclusive remedy; however, the Arkansas Court of Appeals reversed. In particular, the Court seemed to place considerable emphasis on the fact that the plane was McCarthy's personally owned plane, was personally insured by McCarthy, and that the "means of travel was a personal decision made by McCarthy and Honeysuckle individually." In addition, the Court indicated that while Respondent Curtis H. Stout required both individuals to travel to the meeting in Texas, thus placing both within the ambit of employment services, it did not direct or control the means of travel, to wit, "more specifically, did not control or direct McCarthy in maintaining and operating the aircraft with reasonable care and skill. The actions of McCarthy for which Honeysuckle seeks damages arise from McCarthy's failure to use reasonable care and skill in maintaining and operating the aircraft whose failure resulted in Honeysuckle's death." (As opposed to McCarthy acting as the employer's alter ego in carrying out the duty to provide a safe workplace.)

Steinert v. Arkansas Workers' Compensation Comm'n., 2009 Ark. App. 719, 2009 WL 3643446: Following receipt of an anonymous phone call, the Arkansas Workers' Compensation Commission conducted an investigation to determine whether two of Respondent Steinert's motor carrier companies were providing workers' compensation coverage to their employees. The Commission eventually levied a \$10,000.00 fine and ordered both companies to provide their drivers with workers' compensation coverage (having also found that the drivers were employees rather than independent contractors). Finally, the Commission found that a single workers' compensation policy purchased by Respondent Steinert for his office and mechanical employees was insufficient under the dual employment doctrine. The Arkansas Court of Appeals affirmed the Commission's finding that the drivers in question were employees rather than independent contractors. However, the Court reversed as to the dual employment of the office and mechanical employees, holding that there was insufficient evidence of a dual employment arrangement since Steinert was the owner of all entities involved. In particular, the Court stated that "...all of the evidence presented demonstrates that there is no separate and distinct special and general employer. Steinert is both. While his employees may have worked at different times for Steinert's different companies, there is no evidence that Steinert was lending his employees to anyone other than himself."

Ayers Drywall and Insulation v. Carey, 2009 Ark. App. 749, 2009 WL 3762848: In this heart-attack claim involving an incident on July 17, 2006, the Claimant was fifty years old with a history of hypertension and non-insulin-dependent diabetes. In addition, the Claimant smoked

and had a prior history of alcohol and methamphetamine use. He was also somewhat obese with a family history of coronary disease, and had suffered prior cardiac dysfunctions established by abnormal EKG findings. Even so, the Claimant was engaged in stacking sheetrock panels for installation inside an apartment complex on the day in question, and testimony at the hearing established that it was very hot at the time (with the temperature inside the complex being even higher). The Claimant's helper was apparently not very large, so that the Claimant evidently had to bear more of the load than usual – particularly with regard to panels that had to be taken upstairs. The only expert medical evidence regarding causation came from Dr. Jane McKinnon, who opined in a written report that the Claimant had sustained a work-related injury on July 17, 2006, which had been the major cause of his need for treatment and resulting disability. Following a hearing, an Administrative Law Judge with the Arkansas Workers' Compensation Commission awarded benefits. Subsequently, the Full Commission affirmed and adopted this opinion as its own. On appeal, the Arkansas Court of Appeals also affirmed, finding in essence that there was nothing in the record to directly contradict Dr. McKinnon's opinion as to causation. In addition, as to the Claimant's multiple risk factors, the Court reasoned that "[T]he mere fact there was evidence supporting a contrary finding does not allow this court to reverse the Commission's resolution of conflicting medical evidence." Finally, as to the requirement that a compensable heart attack be caused by either "extraordinary and unusual exertion" or "an unusual and unpredicted incident," the Court felt that the Commission had adequately explained its findings (of extraordinary and unusual circumstances) by noting the extraordinarily hot temperature, the lack of a breeze to lessen the heat, and the Claimant's additional burden caused by being partnered with a smaller individual.

Johnson v. Arkansas Steel Erectors, et al, 2009 Ark. App. 755, 2009 WL 3762878: The Claimant worked for Arkansas Steel Erectors (ASE) on March 27, 2003, when he sustained compensable injuries as the result of a collapsed crane boom line. The crane involved, however, was owned by Erin, Inc. (Erin), a separate corporation. Respondent Harris was the sole shareholder of Erin, and was also the majority shareholder of ASE, at the time of the accident. During 2002, Erin, Inc., paid no costs associated with the Claimant's labor – all such costs were borne instead by ASE. In March, 2002, ASE entered into a contract with Nabholz Construction for a project involving the White County Medical Center. It was this particular job on which the Claimant was injured. Erin was not a party to the contract, but did lease the crane in question to ASE. After his injury, the Claimant filed a workers' compensation claim against ASE and received benefits associated therewith. He also filed third-party tort claims against Erin and Harris, alleging negligence in the repair, inspection and maintenance of the crane. After denial of their motion to transfer the case to the Arkansas Workers' Compensation Commission, Erin and Harris sought and obtained a writ of prohibition from the Arkansas Supreme Court. Accordingly, the case against Erin and Harris was transferred to the Commission for a determination on whether it had jurisdiction. Following a hearing, an Administrative Law Judge found that the Commission did have jurisdiction and that, pursuant to *Zenith Ins. Co. v. VNE, Inc.*, 61 Ark. App. 165, 965 S.W.2d 805 (1998), both Harris and Erin were protected by the "exclusive remedy" doctrine codified at Ark. Code Ann. §11-9-105(a). For various reasons, however, the Arkansas Court of Appeals found that *Zenith* was distinguishable and provided no guidance to the present claim (though it was "sympathetic" with how some of the language in *Zenith* might have convinced the law judge otherwise). The Court went on to explain that the existence of an employment relationship was the governing issue in an exclusive remedy case,

and that “personas” (as treated in *Zenith*) could not be “...employed independently in order to establish immunity from third-party actions. Rather, the existence of a ‘persona’ relationship must be analyzed in the context of an employment relationship.” From there, the Court noted that there was no evidence in the record to establish any employment relationship between the Claimant and Erin, nor was there any evidence to support a finding that Harris’ “persona” as ASE was the same as his “persona” for Erin, to wit, “The fact that Harris owns both ASE and Erin, Inc. cannot create an employment relationship between appellant and Erin, Inc. that did not, in fact, exist.”

Curt Bean Transport, Inc. v. Hill, 2009 Ark. App. 760, 2009 WL 3762859: On December 1, 2007, the Claimant flipped his tractor trailer rig while traveling through Nashville, Tennessee, en route to Ohio. The Claimant eventually sought medical treatment at an emergency room in Riverdale, Georgia, while being taken back to Atlanta by his girlfriend. While there, the Claimant spoke by phone with the Respondents’ safety director, Tommy Gage, who requested that the Claimant undergo a hair follicle test for intoxicants. The Claimant did not do so, but did provide a urine sample though he apparently never learned the results. The Claimant thereafter received a termination letter within a few days of his emergency room visit. At the hearing, the Claimant testified that he “was not directed to a facility for the purpose of having a hair-follicle test performed, he did not receive a letter in the mail directing him to some place to have a hair-follicle test performed, nor was he directed to a properly trained medical or law enforcement personnel for the purpose of having a hair-follicle test performed.” Mr. Gage testified that he did not make such arrangements because “Hill said he would not participate,” and that he was also unaware that the Claimant had undergone urine testing. Gage conceded that company policy did not specify which drug test the company could require, but testified that he “had the prerogative” to determine that the Claimant should have a hair-follicle test. Though the Claimant admitted that he had served prison time in 1993 in relation to illegal drugs, he testified that he had not used drugs since then. Before the Arkansas Workers’ Compensation Commission, the Respondents contended that since the Claimant had refused to submit to a hair-follicle test, the presumption of intoxication arose under Ark. Code Ann. §11-9-102(4)(B)(iv) and that the Claimant could not overcome that presumption. An Administrative Law Judge found otherwise, determining that even if the presumption had been raised, it would have been rebutted by the length of time that had elapsed from the date of the accident until the Respondents’ alleged request for a drug screen. The Full Commission affirmed and adopted the Administrative Law Judge’s opinion. On appeal, the Arkansas Court of Appeals agreed, noting that the statute in question does not specify that a refusal to take a drug screen is sufficient to raise the presumption of intoxication. Instead, it is the *presence* of alcohol or drugs that gives rise to the presumption, and the Court declined to adopt the Respondents’ somewhat broader interpretation. The Court also agreed that, even if the presumption were raised, it would have been rebutted by the remaining facts of the case.

Sivixay v. Danaher Tool Group, 2009 Ark. App. 786, 2009 WL 3852454: The Claimant’s employment in this instance involved forge work, which consisted of very heavy labor in a hot environment. He sustained an unfortunate abdominal injury when a piece of hot metal penetrated his abdomen on September 14, 2002. Subsequent treatment involved four surgeries requiring the removal of 80% of the Claimant’s stomach, the resection of one-half of his liver, the resection of significant amounts of his transverse colon, and the resection of

multiple feet of small intestine. In addition, the Claimant experienced considerable difficulty with eating and nutrition after his injury, and was assigned a 35% permanent impairment rating. Ultimately, the Claimant returned to work for the Respondents in a less demanding and lower paying job, eventually working his way back up to an eight-hour day. Following a hearing, the Arkansas Workers' Compensation Commission denied the Claimant's claim for wage loss disability, finding that he had refused a bona fide offer of employment at the same wages he had earned at the time of the injury (per Ark. Code Ann. §11-9-522(c)(1)). In particular, the Commission relied on testimony that the Claimant had been offered his former position in the forge in 2005 upon his release to full duty work, but had declined it (for his own part, the Claimant testified that he declined the position because he did not feel that he could perform the duties it entailed). On appeal, the Arkansas Court of Appeals essentially disagreed that a bona fide offer had been made, stating that, "Reasonable persons with the same facts before them could not conclude that a 100-pound man, who has trouble eating and maintaining nutrition and whose weight fluctuates due to digestive problems caused by the resection of large portions of his internal organs, is physically capable of performing a labor-intensive job in a hot environment on a day-to-day basis." Consequently, the Court remanded for proceedings consistent with its opinion.

Gardner v. Beverly Enterprises, 2009 Ark. App. 787, 2009 WL 3855706: In this statute of limitations case, the Arkansas Workers' Compensation Commission determined that a claim filing was one for additional benefits rather than one for the enforcement of a previous award of benefits. As such, the limitations period applied and the claim was time-barred. The Arkansas Court of Appeals agreed, noting that the previous award involved only a single office visit to a physician, and that the Claimant's present claim "...encompasses Dr. Jennings' subsequent recommendation for further testing and evaluation. We must agree with the Commission's conclusion that these services were not considered or contemplated at the time of the previous opinion. As such, appellant's present claim is aptly characterized as one for additional benefits...the Commission did not err in finding that the claim is barred by the statute of limitations."

Dick v. Conley Transport, 2009 Ark. App. 789, 2009 WL 3852424: Here, the Arkansas Workers' Compensation Commission denied additional benefits, largely relying on x-rays that showed stable cervical fusions. Although the Claimant's treating physician had advised her to remain off work for an additional three months, the Commission found that this recommendation was not adequately explained in the medical records other than a comment that the Claimant was recovering "slowly but steadily." Consequently, the Commission determined that "under the law," the Claimant had reached the end of her healing period. The Arkansas Court of Appeals did not agree with this reasoning. Looking to its holding and comments in *Bingle v. Quality Inn*, 96 Ark. App. 312, 241 S.W.2d 271 (2006), the Court pointed out that it had "previously rejected the premise that a medical opinion identifying an anticipated healing process satisfies the law's requirement for medical evidence of maximum medical improvement sufficient to support the Commission's finding that an injured employee has reached the end of his or her healing period." The Court also disapproved of the Commission's reliance on the cervical x-rays discussed above, cautioning that "an x-ray report does not equate to a medical opinion regarding the status of an individual's healing period."

Dotson v. Little Rock Nat'l Airport, 2009 Ark. App. 820, 2009 WL 4672146: Here, the Arkansas Workers' Compensation Commission found that the Claimant had not proven entitlement to additional diagnostic measures in the form of an MRI. In reaching this finding, the Commission principally relied on the report of a "peer review" company who concluded that the Claimant's treating physician had failed to include physical exam findings in his request for the proposed scan. The peer review report also stated that additional information was needed and that the requested MRI may be warranted at a future date. The Arkansas Court of Appeals held that the peer review report was not a reasonable basis for the denial of the MRI since "[t]he report did not say that a lumbar MRI was unwarranted, but instead expressly stated that additional information is required – *yet the Commission acknowledged that appellee refused appellant's request to return to Dr. Chakales, his authorized treating physician, to obtain the requested additional information.*" (Italics in original text.) The Court thus reversed the Commission on this issue, and remanded for the purpose of allowing the Claimant to return to Dr. Chakales for the purpose of addressing the peer review company's call for additional information.

Tucker v. Cooper Standard Automotive, Inc., 2010 Ark. App. 7, 2010 WL 46325: Following a hearing and an appeal, the Arkansas Workers' Compensation found that the Claimant had sustained a 20% wage-loss (permanent partial) disability. The Arkansas Court of Appeals subsequently affirmed the Commission's denial of permanent total disability, but reversed the 20% wage loss rating based on evidence that the Claimant's pre-injury wages were \$18-\$22 per hour while his post-injury job prospects were no more than \$8-\$12 per hour. Accordingly, the Court remanded this aspect of the claim "for the Commission to award a greater percentage of permanent partial wage-loss benefits." In pursuing their appeal, the Respondents had contended that the Commission impermissibly placed the burden of proof upon them to show that the Claimant had not co-operated with vocational rehabilitation pursuant to Ark. Code Ann. §11-9-505(b)(3). The Court did not agree, holding that "the statutory provision at issue provides a defense available to employers against claims for permanent wage-loss that might otherwise be sustainable by the claimant." The Court further pointed to *Johnson v. Mckee Foods*, 98 Ark. App. 360, 255 S.W.3d 478 (2007), where it held that "an employer relying upon the defense enumerated in §11-9-505(b)(3) must show that the claimant refused to participate in a program of vocational rehabilitation or job-placement assistance, or, through some other affirmative action, indicated an unwillingness to cooperate in those endeavors, and that such refusal to cooperate was without any reasonable cause."

Diddle v. Westwood Health & Rehabilitation, Inc., 2010 Ark. App. 57, 2010 WL 183504: In this instance, an Administrative Law Judge found that the Claimant was not entitled to additional benefits, and the Arkansas Workers' Compensation Commission affirmed and adopted these findings. On further appeal, however, the Arkansas Court of Appeals reversed the matter, holding that the Commission had "expressly relied" upon an erroneous fact. In particular, the Administrative Law Judge's opinion stated that the Claimant had been released from care without restrictions on July 28, 2006, when the record actually indicated that the Claimant remained under the same lifting restriction which had been imposed on July 20, 2006. This prompted the Court to hold that "...the ALJ's analysis proceeded under the false conclusion that appellant continued to work for appellee Westwood and others while free of lifting restrictions. This erroneous fact finding, on which the Commission expressly relied, led the ALJ to its (sic)

conclusion that appellant's back pain after his visit to a physician on July 28, 2006, could have resulted from some subsequent event." A dissenting justice concluded that this factual error was not relevant to the Commission's overall decision.

Scroggins v. Glen Roberts Excavation, 2010 Ark. App. 84, 2010 WL 308037: In this unfortunate case, the Claimant died as the result of being struck by a tree felled by the company owner ("Roberts") at Respondent Employer's excavation site. The Claimant's estate filed a personal injury action in circuit court, which was subsequently dismissed so that the Arkansas Workers' Compensation Commission could make a determination as to whether it had jurisdiction. In analyzing this question, the Commission (which affirmed and adopted the findings of the Administrative Law Judge) considered whether the Claimant was an employee or an independent contractor. The Commission found that the Claimant was indeed an employee and that it had jurisdiction over the matter. On appeal to the Arkansas Court of Appeals, the Claimant's estate asserted that the Commission should have focused on whether the Claimant had simply been an employee at the time of the accident. The Court of Appeals agreed, since the Claimant had not yet actually been hired by Roberts at the time of the accident. In particular, the Court stated that "It made no difference whether appellant 'would have been' an employee or independent contractor after the fatal accident occurred. As noted by the dissenting commissioner and the appellant, there was no contract of hire. Because appellant was not an employee at the time of the accident, the Commission lacked jurisdiction over this claim."

Dearman v. Deltic Timber Corp., 2010 Ark. App. 87, 2010 WL 306993: The Claimant worked as a lumber grader for Respondent Employer, which shut its mill down twice a day (once before lunch and once after) for mandatory fifteen-minute breaks. At the beginning of one these breaks, the Claimant tripped and fell on the way to the break room and sustained a rotator cuff tear. An Administrative Law Judge for the Arkansas Workers' Compensation Commission found that the Claimant had sustained a compensable injury, but the Commission itself subsequently reversed for lack of employment services. The Arkansas Court of Appeals thereafter reversed the Commission, reasoning that "In the present case, the mill operated in the context of an assembly-line type setting, and by the employer's own admission, the mandatory breaks were given so that all employees could take care of personal business, including getting something to drink or using the restroom, at the same time. This provides a direct benefit to the employer – employees are not constantly leaving the line during the day to attend to such matters." Further, in distinguishing its decision from that in *Harding v. City of Texarkana*, 62 Ark. App. 137, 970 S.W.2d 303 (1998), the Court stated that "...in the present case, such breaks were inherently necessary for the jobs the employees were hired to do, as evidenced by the fact that the entire factory shut down, all of the employees were required to take their breaks at the same time, and those breaks directly advanced the employer's interests." However, as the Arkansas Supreme Court had done in *Wallace v. West Fraser South*, 365 Ark. 68, 225 S.W.3d 361 (2006), the Court declined to adopt a "bright-line" rule that employees on break are *per se* performing employment services.

Hudak-Lee v. Baxter Co. Regional Hospital, 2010 Ark. App. 121, 2010 WL 475354: The Claimant was on vacation when contacted by her supervisor on December 31, 2007, and asked to work a twelve-hour shift beginning at 7:00 p.m. that evening. Initially, the Claimant performed clerical duties, but took up "one-on-one" supervision of a suicidal patient at 11:30 p.m. Around

2:30 a.m., a co-worker offered to relieve the Claimant, who accepted the offer and left the building for some fresh air. The Claimant did not clock out. During her walk around the building, the Claimant fell and sustained a broken hip. Following a hearing, an Administrative Law Judge with the Arkansas Workers' Compensation found that the Claimant was not performing "employment services" at the time of her injury. The Commission itself subsequently affirmed and adopted the Administrative Law Judge's findings. On further appeal, the Arkansas Court of Appeals reversed, noting that "Instead of focusing on whether Baxter Regional's interests were advanced, directly or indirectly, when Hudak-Lee stepped outside to refresh herself so she could complete her shift, the Commission improperly focused its attention on whether Hudak-Lee was on a break and whether she clocked out." With particular regard to Baxter Regional's interests, the Court observed that "Hudak-Lee testified that she exited the building for the sole purpose of regaining alertness...she was not going to her car, she was not going to get something to eat or drink, she was not eating or drinking at the time, she was not smoking, and she was not visiting with anyone. This evidence is entirely contrary to the Commission's finding that she was on a lunch break at the time of her fall. Because the only evidence in the record demonstrates that Hudak-Lee was walking in the cold night air to try to refresh herself solely for the benefit of her employer, we hold that substantial evidence fails to support the Commission's conclusion to the contrary." The Court also seems to have been persuaded by the circumstances in which the Claimant found herself during her shift: "The evidence established that Hudak-Lee was not scheduled to work the night shift on December 31 and was essentially sleep deprived when her shift began. Without sufficient sleep, she was asked by Baxter Regional to sit in a dark and quiet room for more than six hours and to observe a patient. She was not permitted to sleep if the patient was sleeping."

Rhodes v. Commercial Metals Co.; 2010 Ark. App. 198, 2010 WL 653565: Here, the Claimant had clocked out for the day and left his workplace when he recalled that his personal items (his lunch box and coat) had been left behind. Upon re-entering the plant to retrieve them, the Claimant's foot became entangled and he fell, resulting in a knee injury. The Respondents denied the ensuing workers' compensation claim for a lack of employment services, and both an Administrative Law Judge and the Workers' Compensation Commission found in the Respondents' favor after an eventual hearing. To the extent the Claimant argued that his actions had benefited his employer, to wit, by keeping his personal items out of anyone's way during subsequent shifts, the Commission seemed persuaded by the Claimant's admission that the items had not been in *his* way while he worked. In addition, the Commission noted that the Claimant had "clocked out," was not subject to being recalled nor was he "on call," and had finished his tasks for the day. On these facts, the Arkansas Court of Appeals concluded that reasonable minds could have reached the same findings as the Commission, and accordingly affirmed.

Jonesboro Care & Rehab Center v. Woods, 2010 Ark. App. 236, 2010 WL 811239: The Claimant in this instance worked as a certified nursing assistant and usually worked a 10:00 p.m. to 6:00 a.m. shift. While on duty, she was allowed a pair of 15-minute breaks and a one-half hour lunch break. In-service seminars were required every other Friday and these meetings coincided with payday (employees were also compensated for one hour of wages while attending). At the conclusion of an in-service on October 24, 2008, the Respondents' director of nursing instructed the employees to form a line to receive their paychecks and to complete paperwork for a flu shot. However, the Claimant elected instead to take a smoke break while

waiting for the line to shorten. After a brief time, the Claimant elected to return inside due to the cold. With a lit cigarette in her hand, she approached a trash can to throw away some chewing gum and then fell, breaking her leg. The Claimant subsequently sought workers' compensation benefits but the Respondents denied the claim in its entirety for a lack of employment services. An Administrative Law Judge, however, awarded benefits primarily on the theory that the Claimant was returning from her break, had not received her paycheck, and had not clocked out when she fell. The Arkansas Workers' Compensation Commission adopted this decision as its own. On appeal by the Respondents, the Arkansas Court of Appeals reversed. Though it acknowledged a number of cases whose facts yielded compensable injuries where a "break" was involved (such as "required" breaks, as well as breaks where the employee remained "on call"), the Court concluded here that "In this case, rather than waiting in line as directed by her employer, Ms. Woods was taking a smoke break...The critical fact is that Ms. Woods was not where she was supposed to be or doing what she was directed to do." The Court also noted that there was no evidence that the Claimant was "on call" during the break, or that she was "engaged in any activity from which her employer derived a benefit."

George Hill v. LDA Leasing, Inc., 2010 Ark. App. 271, 2010 WL 1233473: The Claimant in this instance was a truck driver who picked up a load in Alabama and delivered it to a plant in Louisiana. While waiting for the plant's employees to unload his trailer, the Claimant decided to go to the restroom. On the way back to his truck, he stopped at a vending machine for some crackers. While making his selection at the machine, the Claimant fell and injured his arm. The Claimant thereafter filed a claim for workers' compensation benefits, which the Respondents denied. An Administrative Law Judge with the Arkansas Workers' Compensation Commission also denied the claim, and the Commission itself subsequently affirmed that decision. On further appeal, the Arkansas Court of Appeals also affirmed, noting that it was "undisputed that appellant deviated from his return to the loading dock following a restroom break to purchase snack crackers from a vending machine in the plant's 'snack room.'" The Court also emphasized that the Commission was "bound to examine the activity appellant was engaged in *at the time of the accident* when determining whether or not he was performing employment-related services," and went on to conclude that "appellant was not advancing LDA's interests in any way at the time he was operating the vending machine away from the area in which his truck was being unloaded." (Emphasis in original.) Finally, the Court distinguished this case from others in which employees who were "on break" were nonetheless found to be performing employment services, to wit, "...appellant was not even in a position where he could have discharged the sole task required of him at the time. While in the break room, he could not have seen his truck had someone hit it; he could not have seen any damage inflicted upon the products being unloaded; and he was not in an area where he could have determined whether someone needed to him to move the truck for any reason."

Wood v. Wendy's Old Fashioned Hamburgers, 2010 Ark. App. 307, 2010 WL 1486915: Here, the Claimant fell and injured her knee after clocking out at the cash register and while attempting to exit through the rear door of her employer's premises. Along the way and before her fall, the Claimant had briefly stopped to offer a "one-arm" hug to a co-worker. Both an Administrative Law Judge and the Arkansas Workers' Compensation Commission found that the Claimant was not performing employment services at the time of her fall. The Arkansas Court of Appeals, however, reversed, and pointed out that the Claimant was required by her employer

to walk through a two-foot wide area to exit through the rear door. In addition, the Court noted that, to the extent the Claimant had deviated from her employment to hug a co-worker, the deviation appeared to have ended prior to her fall.

Hickey v. Gardisser, 2010 Ark. App. 464, 2010 WL 2195438: The Claimant fell from a metal roof and severely injured his ankle on November 22, 2006, and subsequently pursued benefits before the Arkansas Workers' Compensation Commission. Ultimately, the Commission denied the claim, finding that the Claimant could not overcome the presumption that his injury had been substantially occasioned by the use of an illegal drug (the Claimant had tested positive for methamphetamine shortly after his injury). The Arkansas Court of Appeals affirmed the Commission on November 4, 2009. While his workers' compensation claim was still pending, the Claimant filed suit against his employer in circuit court on July 21, 2009. Shortly afterward, the circuit court dismissed this action pursuant to the election of remedies and exclusive remedy doctrines. The Claimant appealed the dismissal of his circuit court action to the Arkansas Court of Appeals, asserting that "once the Commission finds that it does not have subject-matter jurisdiction of a particular injury, the injured worker is free to move into a forum that has the necessary authority to grant relief." Put another way, "Hickey contends that the language of the Act has defined those injuries occasioned by the use of illegal drugs to be outside of the fundamental coverage provisions of workers' compensation. Therefore, Hickey asserts that his injury is outside of the coverage afforded by the Act and there is no remedy available to him under the same." The Court was not persuaded, however, and concluded that "The Commission's jurisdiction does not turn on the ability of the claimant to meet his burden of proof but on the nature of the employment relationship and the employee's actions at the time of the injury. Hickey was subject to the provisions of the Act. He did have a remedy available under the Act, but he failed to overcome the presumption invoked by Gardisser's intoxication defense in order to receive the remedy." The Court also seemed cognizant of the fact that merely losing one's workers' compensation claim does not automatically dispose of the exclusive remedy doctrine or convey subject-matter jurisdiction to circuit court: "Further, if subject-matter jurisdiction of the injury were released by this court's decision affirming the Commission, then there would be a multitude of negligence cases filed in circuit court from claimants who have fully litigated their cases before the Commission and lost."

Gaskins v. Jeff Minner Trucking, 2010 Ark. 471, 2010 WL 2195773: The Claimant, a long-haul truck driver, sustained serious injuries when trying to extinguish a fire on his truck on July 6, 2007. At the time of the fire, the Claimant was on a deviation (with his employer's acquiescence) from his route in order to visit his ill grandmother. The Respondents controverted the ensuing workers' compensation claim, with the Workers' Compensation Commission subsequently finding in their favor. The Arkansas Court of Appeals, however, reversed, and noted that "We observe that our workers' compensation cases have long recognized the protection of an employer's property as a legitimate duty of an employee...The relevant inquiry in the present case is not whether Gaskins deviated from his route before he got out of his truck, but what he was doing at the moment of his injury." Since the Claimant was attempting to protect his employer's truck at the time of the injury, the Court held that he had been performing employment services and remanded the matter to the Commission for "entry of an order consistent with this opinion."

NATIONAL MARKETS IN GENERAL

While Arkansas has seen increases in the average indemnity and medical cost per lost time claim, claims frequency continues to decline. Arkansas's market remains strong and competitive.

The attached state of the industry report (Exhibit "D") graphically depicts the sound condition of the workers compensation marketplace; still, the NCCI continues to discover that workers' compensation results are affected by a number of factors that are having a negative impact on the market:

- lower earnings relating to investments;
- claim costs that are beginning to rise at more rapid rates than in previous years;
- pending proposals for benefit increases;
- challenges to workers' compensation as an exclusive worker remedy for workplace injury;
- recent federal initiatives that threaten to increase claim costs, broaden compensability definitions, and have the potential to create duplicate remedies;
- reform roll-back proposals in recent state legislative sessions;
- increasing costs of medical benefits; and
- increasing utilization of certain prescription pain medications

The NCCI does point out one favorable development among the negatives. The incidence of workplace injuries continues to fall sharply since the reform efforts of 1993. This means fewer injured workers – the most valuable outcome imaginable for workers, their families, and employers.

CONCLUSION

Absent the reforms encompassed in Act 796 of 1993, it is doubtful Arkansas's employers would now have the option of voluntary workers' compensation insurance. Rather, the assigned risk plan, designed to be a market of "last resort," would have become Arkansas's market of "only resort." The General Assembly is to be highly commended for its leadership in reforming the workers' compensation market in our State while protecting the interests of the injured worker.

Arkansas's employers must have available to them quality workers' compensation products in the voluntary market at affordable prices. The creation of good jobs requires a marketplace where all businesses, regardless of size, can grow. Maintaining a stable workers' compensation system is essential for this growth. The evidence shows the reforms have worked. The incidence of fraud has been reduced through high-profile fraud prosecutions, employee compensation rates and benefits have been increased, and workers injured within the course and scope of their employment have received timely medical treatment and the payment of much improved indemnity benefits. Eroding the positive changes incorporated into Act 796 would be counterproductive to continued economic growth and development.

Prepared: September 1, 2010

cc: The Honorable Mike Beebe, Governor
The Honorable A. Watson Bell, Chairman, AWCC
The Honorable Karen H. McKinney, Commissioner, AWCC
The Honorable Philip Alan Hood, Commissioner, AWCC
Mr. Alan McClain, Chief Executive Officer, AWCC
Ms. Lenita Blasingame, Insurance Chief Deputy Commissioner, AID
Mr. Nathan Culp, Public Employee Claims Division Director, AID
Mr. Greg Sink, Criminal Investigation Division Director, AID
Ms. Alice Jones, Public Information Manager, AID

Exhibit A

NCCI National Council on Compensation Insurance, Inc.

Arkansas state advisory forums 2010

June 3, 2010

Terri_Robinson@ncci.com	501.753.5180
Tom_Daley@ncci.com	561.893.3134
Melissa_Palmer@ncci.com	561.893.3003

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Arkansas Workers Compensation State Advisory Forum

- Forces of Change:
 - Political
 - Economic
- Comparative System Overview—Arkansas and the Nation
- Where Does Arkansas Stand?
- What's Driving Arkansas Loss Cost Changes?
- Claim Frequency
- Medical and Indemnity Costs
- Effectiveness of Workers Compensation Fee Schedules
- Residual Market Update

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NCCI National Council on Compensation Insurance, Inc.

Forces of Change



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Major Forces Drive Change in Workers Compensation

Political and Legislative/Regulatory/Judicial

Economic/Business Environment

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2010 Election Impacts

Upcoming Elections

- Governor Mike Beebe up for re-election
- US Congress
 - 1/2 Senators
 - 4/4 Representatives
- State Legislature
 - 17/35 Senators—13 Term-limited
 - 100/100 Representatives – 34 Term-limited

Appointments

- Workers Compensation Commission
 - Commissioner (Business)
- New WC Legislation Proposed or Reviewed—Death benefits increase, presumptive disease for firemen, out-of-state medical fee schedules



Federal Initiatives— Financial Services Modernization/Reform

- House: Wall Street Reform and Consumer Protection Act
 - Federal Insurance Office (FIO)
 - Data and information collection (no subpoena authority)
 - No state preemption authority
 - Excludes health insurance
 - Financial Stability Council
 - Interagency oversight council
 - Regulate large financial firms (could include insurance)



Federal Initiatives— Financial Services Modernization/Reform

- Senate: Restoring American Financial Stability Act
 - Office of National Insurance (ONI)
 - Data and information collection (subpoena authority)
 - May preempt state law in limited matters
 - Report to Congress about ways to modernize and improve state regulation
 - Excludes health lines
 - Preserves existing federal antitrust laws without modification



Federal Initiatives— National Healthcare Reform

- Direct Impact on Workers Compensation
 - Changes to Black Lung Act
 - Changes to Medicare Reimbursement Levels



Federal Initiatives— National Healthcare Reform

- Indirect Impact on Workers Compensation Costs
 - Increased healthcare coverage for individuals
 - Taxes on medical devices, drugmakers, health insurers
 - Possible reduction in fraud and abuse

Federal Initiatives— Medicare Workers Compensation- Related Reporting

- Responsible Reporting Entities (RREs) are required to report payments, settlements, etc., received by Medicare or Medicare-eligible claimants to Centers for Medicare and Medicaid Services (CMS)
- Mandatory reporting 1/11 to 3/11 for information from 4th Quarter 2010
- RREs include insurance companies
- Possible Penalties for Noncompliance:
 - \$1,000 per day per claimant
 - targeted to begin 2010 or 2011

Arkansas Business Environment



Arkansas Economic Overview

Strengths:

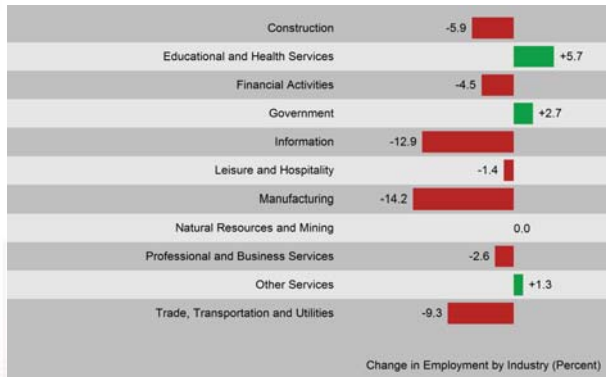
- Central location near roads and waterways
- Low business costs
- Natural gas mining remains strong
- Retail giant Wal-Mart provides stability

Weaknesses:

- Low educational attainment
- Relatively low per-capita income
- Slowing tax revenues starting to hamper state budget and spending

Arkansas

In Most Industries, Employment Has Not Yet Fully Recovered From the Recession



Percentage change since the onset of the recession (peak of economic activity, as defined by the NBER); Current Employment Statistics Survey, seasonally adjusted.
Frequency of observation: monthly; latest observed data point: March 2010.
Source: FRED, FRB of St. Louis, <http://www.frb.stls.org>

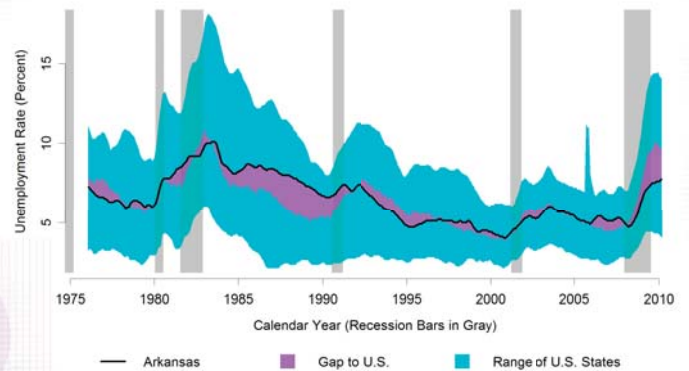
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Arkansas

The Unemployment Rate Is Below the National Rate



Unemployment rate, seasonally adjusted.
Frequency of observation: monthly; latest available data point: March 2010.
Source: BLS, <http://www.bls.gov>

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The Economy and Workers Compensation

Exposure

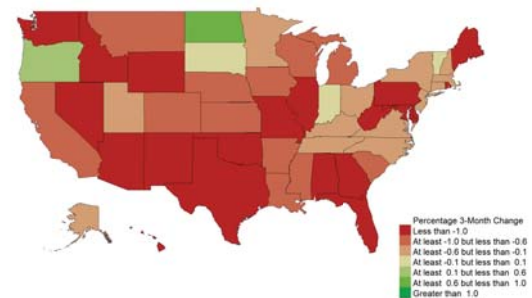
- Higher unemployment reduces exposure
- If employers reduce wage rates to avoid layoffs, basis of premium is reduced while exposure remains constant
- Workers Compensation premium very sensitive to high-rate sectors—construction and manufacturing

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The Arkansas Economy on the Time Line: September 2009



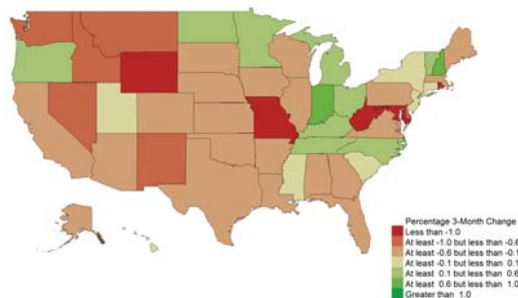
The map shows state coincidence indexes, which combine four state-level indicators to summarize current economic conditions in a single statistic. The four variables are nonfarm payroll employment, average hours worked in manufacturing, the unemployment rate, and wage and salary disbursements deflated by the consumer price index (U.S. city average).
Frequency of observation: monthly; latest observation: March 2010.
Source: FRB of Philadelphia, <http://www.philadelphiafed.org/research-and-data/regional-economy/indexes/coincident>

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The Arkansas Economy on the Time Line: December 2009



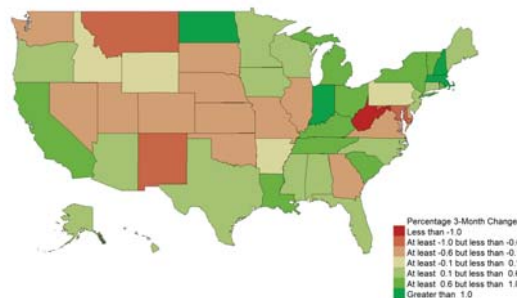
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Frequency of observation: monthly; latest observation: March 2010.
Source: FRB of Philadelphia, <http://www.philadelphiafed.org/research-and-data/regional-economy/indexes/coincident>

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The Arkansas Economy on the Time Line: March 2010



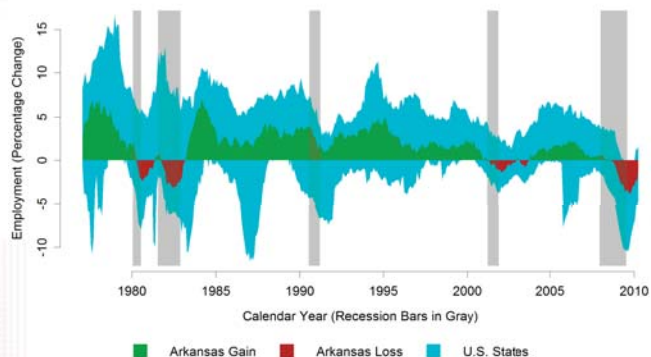
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Source: FRB of Philadelphia, <http://www.philadelphiafed.org/research-and-data/regional-economy/indexes/coincident>

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Arkansas Job Growth



Year-over-year percentage change in employment, Current Employment Statistics, Total Nonfarm, seasonally adjusted.
Frequency of observation: monthly; latest observed data point: March 2010.
Source: BLS, <http://www.bls.gov>

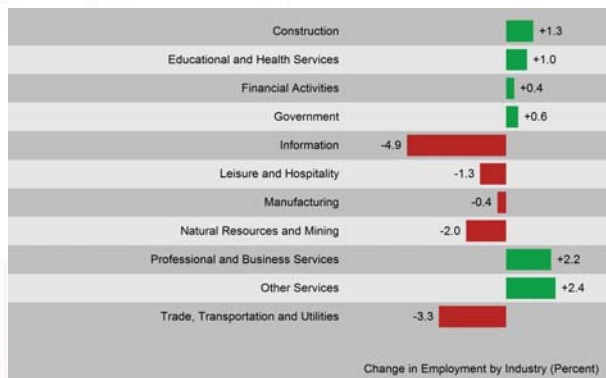
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Arkansas

Several Industries Have Added Jobs Since the Onset of the Recovery



Percentage change since the onset of the recovery (trough of economic activity, as defined by the NBER); Current Employment Statistics Survey, seasonally adjusted.
Frequency of observation: monthly; latest observed data point: March 2010.
Source: FRED, FRB of St. Louis, <http://www.frb.stls.org>

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The Economy and Workers Compensation

Frequency

- Frequency rates fell six out of seven recessions
- Recessions typically put downward pressure on frequency
- During recovery, employment growth applies upward pressure on frequency



The Economy and Workers Compensation

Severity

- Average wage remains positive in sagging economy, suggesting increases in indemnity severity likely to continue
- Medical severity grows due to increased utilization, regardless of economy



The Economy and Workers Compensation

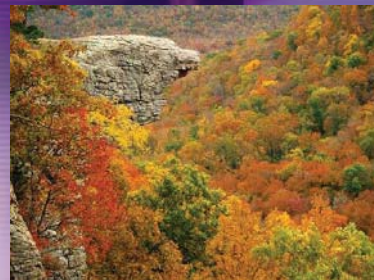
Caveats

- Every recession is unique
- Impact of the Economic Stimulus Plan on state

Conclusion—Uncertainty



Comparative System Overview



Arkansas Workers Compensation System—An Overview

- Premium volume has decreased in Arkansas
- Combined ratio has increased in recent years
- Decline in frequency has moderated while claim costs continue to rise
- The impact of the recession in Arkansas was less than that of the nation
- Residual market continues to depopulate

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State of the Industry—An Overview

- Calendar year and accident year combined ratios have deteriorated
- Pace of economic recovery unknown
- Medical and indemnity costs continue to increase faster than wages
- Claim frequency continues to decline
- Uncertain long-term impact of new federal healthcare law

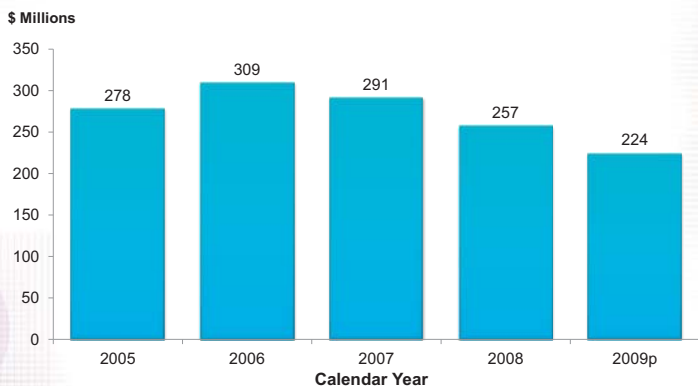
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Arkansas Workers Compensation Premium Volume

Direct Written Premium



p Preliminary
Source: NAIC Annual Statement data

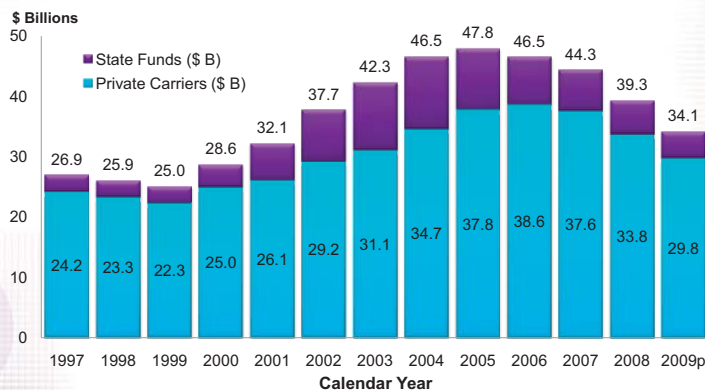
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Workers Compensation Premium Continues Its Sharp Decline

Net Written Premium



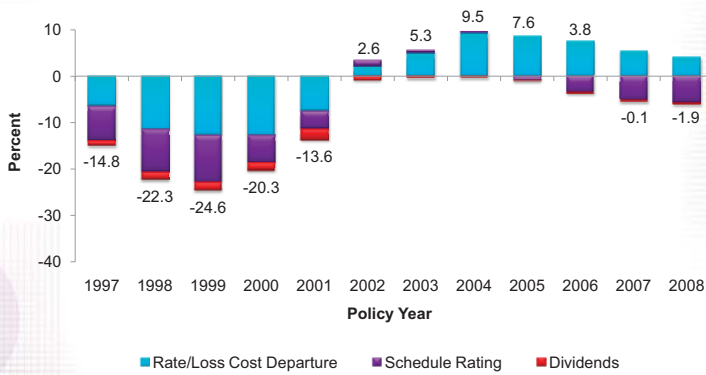
p Preliminary
Source: 1997-2008 Private Carriers, Best's Aggregates & Averages; 2009p, NCCI
1997-2009p State Funds: AZ, CA, CO, HI, ID, KY, LA, MD, MO, MT, NM, OK, OR, RI, TX, UT Annual Statements

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Arkansas Impact of Discounting on Workers Compensation Premium



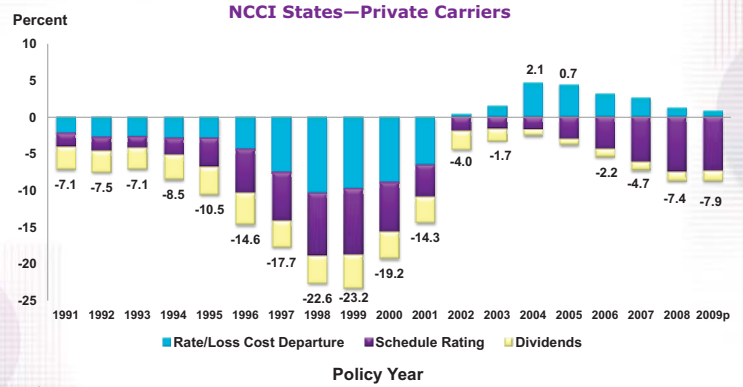
Based on data through 12/31/2008.
Dividend ratios are based on calendar year statistics.

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Countrywide Impact of Discounting on Workers Compensation Premium



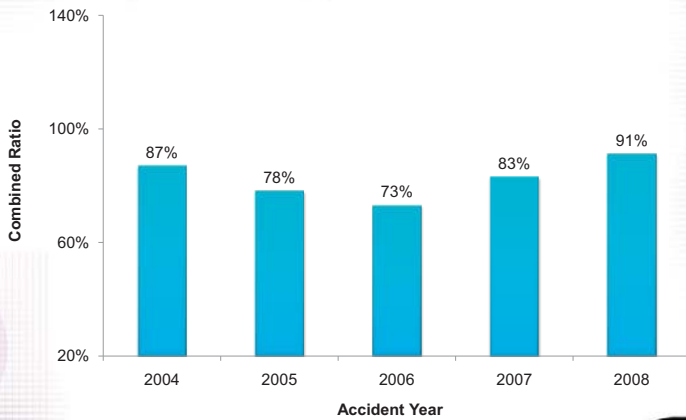
p Preliminary
Dividend ratios are based on calendar year statistics.
NCCI benchmark level does not include an underwriting contingency provision
Based on data through 12/31/2009 for the states where NCCI provides ratemaking services

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Arkansas Accident Year Combined Ratios



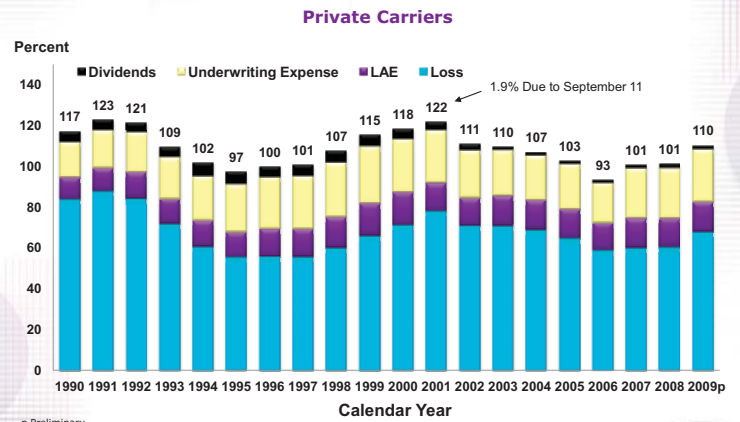
Source: NCCI financial data, NAIC Annual Statement data.

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Countrywide WC Calendar Year Combined Ratio Up Markedly



p Preliminary
Source: 1990-2008, Best's Aggregates & Averages; 2009p, NCCI

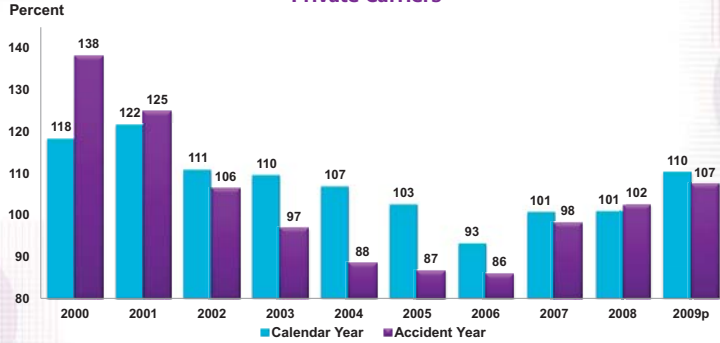
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Countrywide Accident Year Combined Ratios

Workers Compensation Calendar Year vs. Ultimate Accident Year Private Carriers



p Preliminary
Accident Year data is evaluated as of 12/31/2009 and developed to ultimate
Source: Calendar Years 2000-2008, Best's Aggregates & Averages;
Calendar Year 2009p and Accident Years 2000-2009p, NCCI analysis based on Annual Statement data
Includes dividends to policyholders

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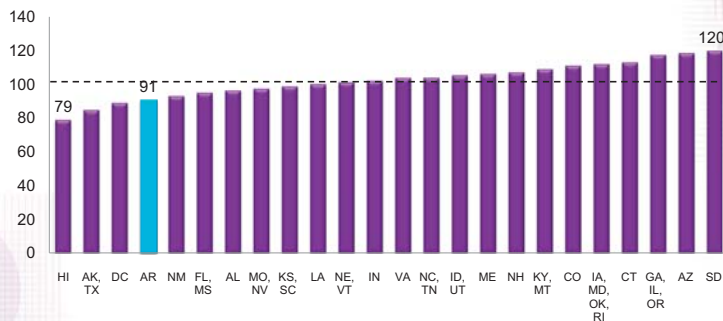
Where Does Arkansas Stand?



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Results Vary From State to State

Accident Year 2008 Combined Ratios



Data is evaluated as of 12/31/2008.

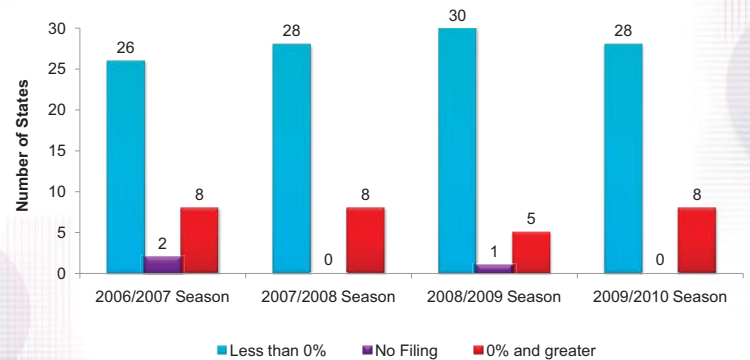
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Status of NCCI Filing Activity

Voluntary Market Filings



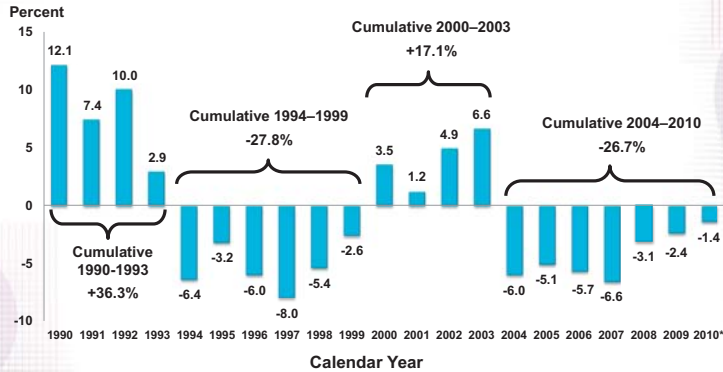
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Countrywide Average Approved Bureau Rates/Loss Costs

History of Average WC Bureau Rate/Loss Cost Level Changes

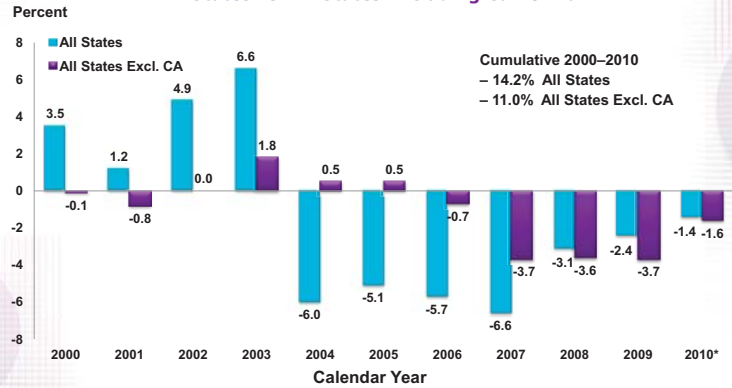


* Preliminary
Countrywide approved changes in advisory rates, loss costs and assigned risk rates as filed by the applicable rating organization
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Countrywide Average Approved Bureau Rates/Loss Costs

All States vs. All States Excluding California

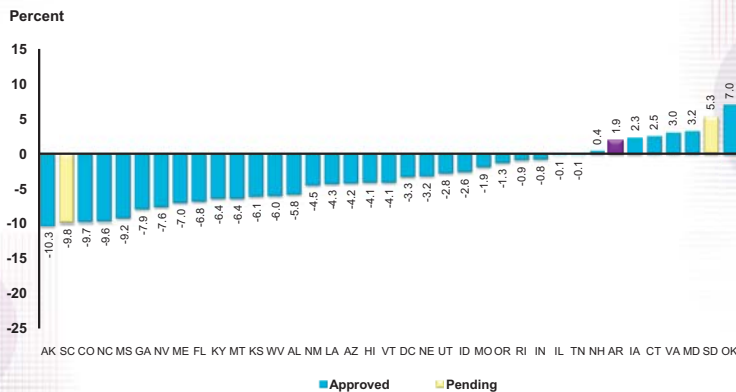


* Preliminary
Countrywide approved changes in advisory rates, loss costs and assigned risk rates as filed by the applicable rating organization
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Current NCCI Voluntary Market Filed Rate/Loss Cost Changes

Excludes Law-Only Filings



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State Voluntary Market Filings in the Southeast

Virginia	4/1/10	+3.0%
Arkansas	7/1/10	+1.9%
Tennessee	3/1/10	-0.1%
Louisiana	5/1/10	-4.3%
Alabama	3/1/10	-5.8%
Kentucky	10/1/09	-6.4%
Georgia	7/1/09	-7.9%
Mississippi	3/1/10	-9.2%

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Current Average Voluntary Pure Loss Costs Using Arkansas Payroll Distribution



Based on the latest NCCI approved rates and loss costs in the various states.

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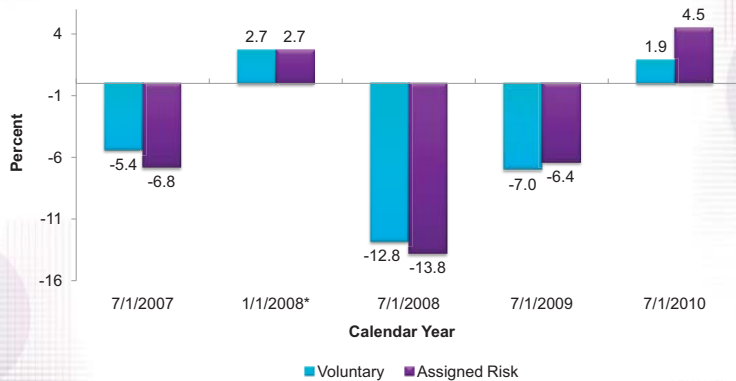
What's Driving Arkansas Loss Cost Changes?



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Arkansas Filing Activity

Voluntary Loss Cost and Assigned Risk Rate Changes



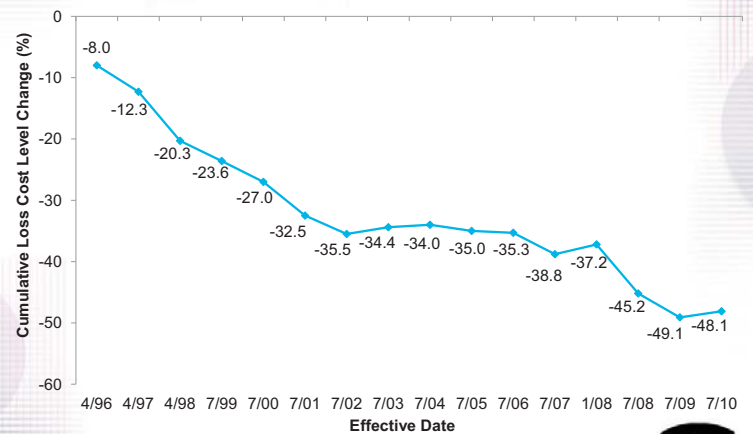
* Law-only filing—Act 1415 and Act 1599

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Arkansas Cumulative Loss Cost Level Change



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Arkansas Voluntary Loss Cost Level Change—Effective July 1, 2010

Voluntary Loss Cost Components	Impact
Due to Change in Experience	+1.4%
Due to Change in Trend	+0.0%
Due to Change in Benefits	+0.4%
Overall Due to Change in Experience, Trend, and Benefits	+1.8%
Due to Change in Loss Adjustment Expenses	+0.1%
Overall Indicated Loss Cost Level Change	+1.9%

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Factors Underlying Increase in Advisory Loss Costs

- Claim frequency decline moderating somewhat
- Medical claim severity increasing
- Large loss claim emergence
- Good experience year replaced by experience year with worse experience

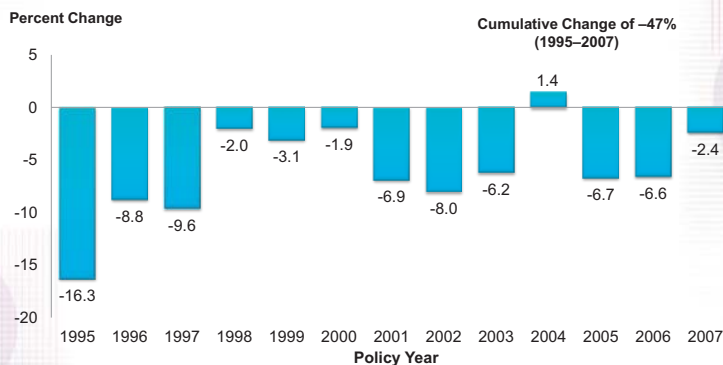
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Arkansas Workers Compensation Lost-Time Claim Frequency

Lost-Time Claims



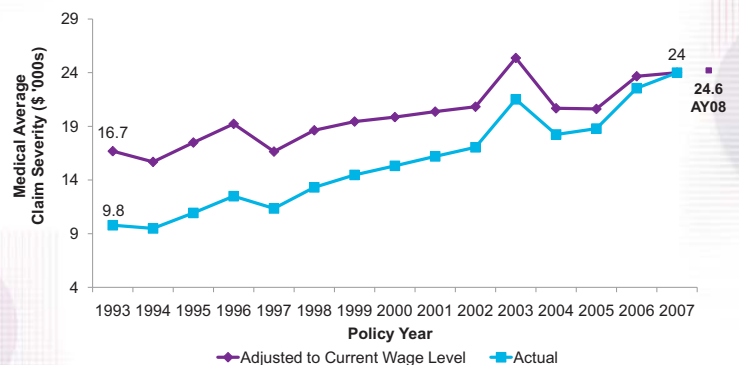
Based on data through 12/31/2008, developed to ultimate.

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Arkansas Average Medical Severity



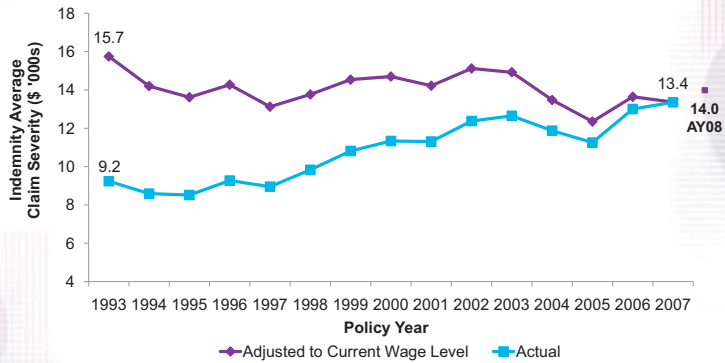
Based on NCCI's financial data for lost-time claims at current benefit level and developed to ultimate.

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Arkansas Average Indemnity Severity



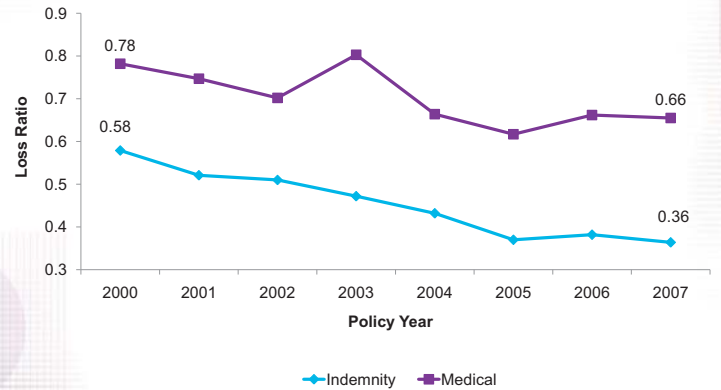
Based on NCCI's financial data for lost-time claims at current benefit level and developed to ultimate.

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Arkansas Indemnity and Medical Loss Ratios



Based on NCCI's financial data at current benefit level and developed to ultimate.

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Arkansas Large Loss Summary Comparison Policy Years 2006 and 2007 at 12/31/2007 vs. at 12/31/2008

Reported Incurred Losses for Claims \$500,000 and Greater					
Policy Year	No. of Claims	Losses Reported at 12/31/2007	No. of Claims	Losses Reported at 12/31/2008	Difference
2006	7	\$5.5 M	11	\$16.7 M	\$11.2 M
2007	4	\$5.6 M	15	\$18.3 M	\$12.7 M

Source: NCCI financial data valued as of 12/31/2008.

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Arkansas Large Loss Summary Comparison Policy Years 2006 and 2007 at 12/31/2007 vs. at 12/31/2008

Reported Incurred Medical Losses for Claims \$500,000 and Greater					
Policy Year	No. of Claims	Losses Reported at 12/31/2007	No. of Claims	Losses Reported at 12/31/2008	Difference
2006	7	\$3.5 M	11	\$14.6 M	\$11.1 M
2007	4	\$5.2 M	15	\$14.4 M	\$9.2 M

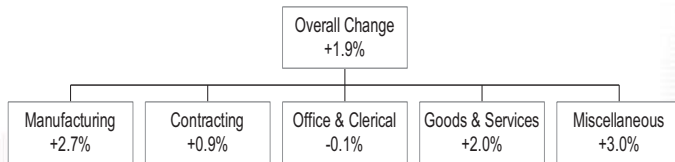
Source: NCCI financial data valued as of 12/31/2008.

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Arkansas July 1, 2010 Filing Average Changes by Industry Group



NCCI's New Class Ratemaking Methodology



History of Changes

- Last "major" change was made in the 1960s
 - National pure premium added to supplement low credibility classes
- Other minor changes made in 1993 in response to NAIC exam
 - Industry groups: three to five
 - Years of experience: three to five
 - Credibility formulas adjusted



Class Ratemaking Methodology Changes Loss Development

- Prior Method
 - Claims are developed by serious, non-serious, and medical categories based on injury type
- New Method
 - Claims are developed by categories (likely-to-develop and not-likely-to-develop) based on the following.
 - Injured part of body
 - Injury type
 - Open or closed @ first report



Class Ratemaking Methodology Changes Loss Limitations

- Prior Method
 - Individual claim loss limitations vary by state
 - Average loss limitation is approximately \$750,000
- New Method
 - Individual claims are limited to \$500,000 in all states



Class Ratemaking Methodology Changes Excess Losses

- Prior Method
 - Excess losses are spread across each industry group
- New Method
 - Excess losses are calculated by class code based on the seven Hazard Groups



Benefits of the New Methodology

- Loss Development: Increased accuracy and stability
- Loss Limitation: Increased stability
- Spreading Excess Losses: Increased accuracy and class equity



Claim Frequency

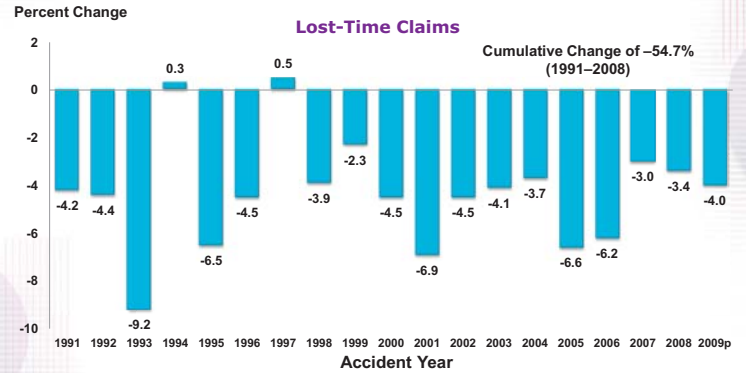


Countrywide Workers Compensation Claim Frequency and Severity

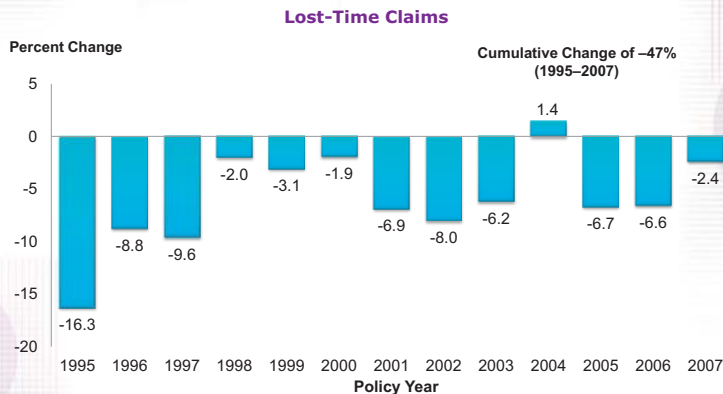
- Countrywide frequency continues to decline. In fact, for each of the last 12 years (and 17 of the last 19), on-the-job claim frequency for workers compensation injuries has declined from the previous year's level
- Countrywide medical and indemnity costs continue to rise—somewhat negating the good news regarding reduced claims



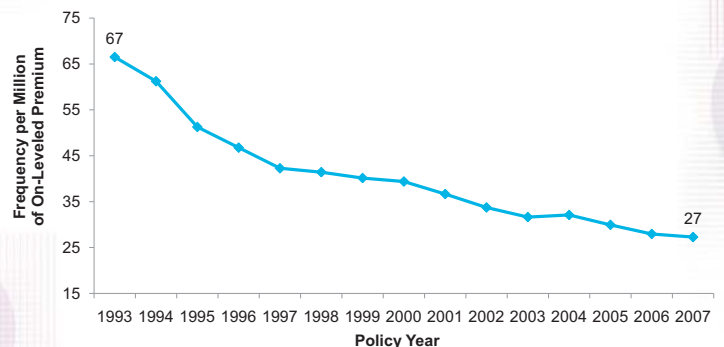
Countrywide Workers Compensation Lost-Time Claim Frequency Continues to Decline



Arkansas Workers Compensation Lost-Time Claim Frequency

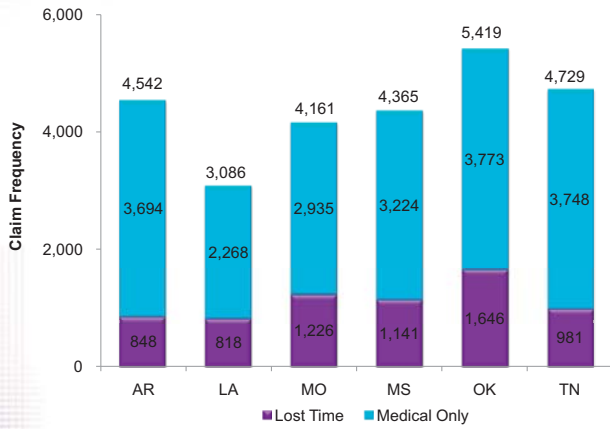


Declines in Claim Frequency Continue to Influence Arkansas Results



Arkansas Average Claim Frequency

Frequency per 100,000 Workers—All Claims



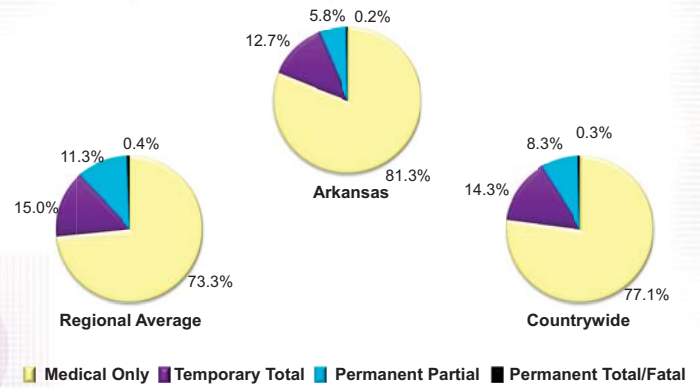
Based on NCCI's Statistical Plan data.

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Arkansas Distribution of Claims by Injury Type



Regional states are LA, MO, MS, OK, TN.

Based on NCCI's Statistical Plan data.

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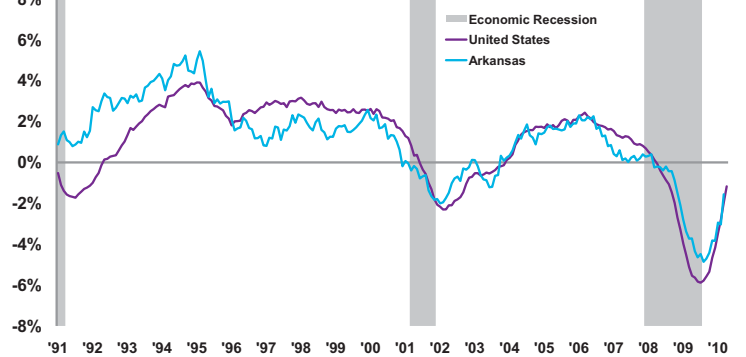
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Employment in Arkansas—Implications for Claim Frequency

Job Losses in Arkansas Have Lessened in Recent Months

Percent Change in Private Employment Levels From Year Ago



Source: US Bureau of Labor Statistics

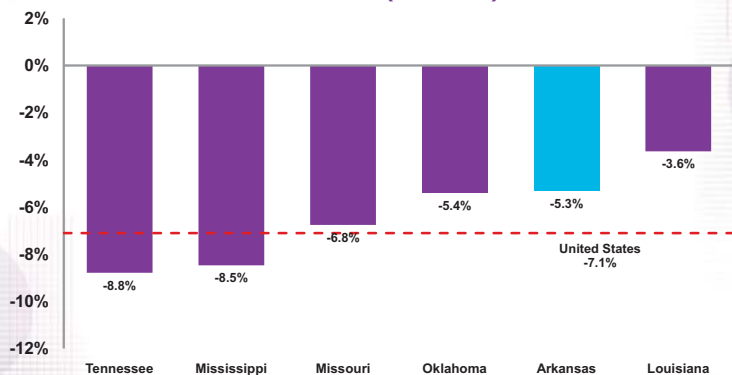
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Arkansas Job Losses in This Recession Are Less Than the Region and Nationally

Percent Decline in Private Employment From Start of National Recession (Dec. 2007) to March 2010



Source: US Bureau of Labor Statistics

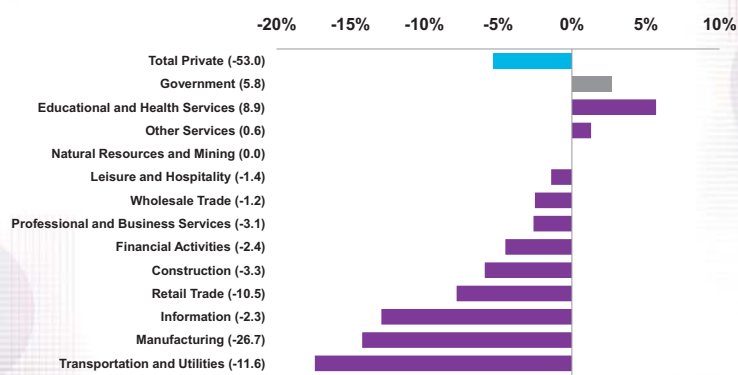
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Employment Declines Have Affected Nearly All Sectors in Arkansas

Percent Change in Employment Between December 2007 and March 2010



() = thousands of jobs lost between December 2007 and March 2010

Source: US Bureau of Labor Statistics

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Impact of Job Flows on Frequency Growth: Results of Quantitative Analysis

- The decline in job creation at the onset of recessions causes the growth rate of frequency to decrease—reflective of the “experienced worker” effect
- At the same time, the increase in the rate of job destruction causes the growth rate of frequency to increase—(possibly indicative of moral hazard, e.g., “plant-closing” effect)

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Impact of Job Flows on Frequency Growth: Results of Quantitative Analysis

- Statistical modeling shows that the effect of the decline in job creation in recessions outweighs the effect of the increase in job destruction—so, *on net, recessions tend to cause a decline in the rate of frequency growth*
- Conversely, economic expansions come with an *increase* in the growth rate of frequency

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Medical and Indemnity Costs

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Medical Benefits Constitute the Majority of Total Benefit Costs in Arkansas

43%

57%

Regional Average

32%

68%

Arkansas

42%

58%


Countrywide

Indemnity

Medical

Regional states are LA, MO, MS, OK, TN.

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Workers Compensation Medical Losses Are More Than Half of Total Losses

All Claims—NCCI States

53%

47%

1989

48%

52%

1999

42%

58%

2009p


Indemnity

Medical

Accident Year

2009p: Preliminary based on data valued as of 12/31/2009
1989, 1999: Based on data through 12/31/2008, developed to ultimate
Based on the states where NCCI provides ratemaking services, including state funds
Excludes high-deductible policies

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Medical Costs



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Arkansas Workers Compensation Medical Claim Cost Trends



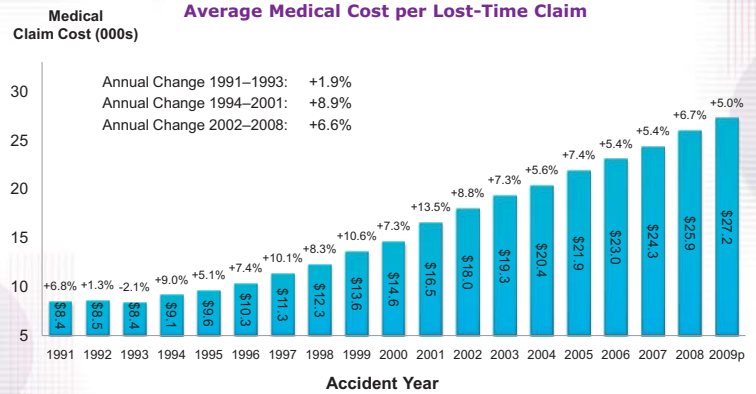
Based on data through 12/31/2008, on-leveled and developed to ultimate

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Countrywide Workers Compensation Medical Claim Cost Trends



2009p: Preliminary based on data valued as of 12/31/2009

1991–2008: Based on data through 12/31/2008, developed to ultimate

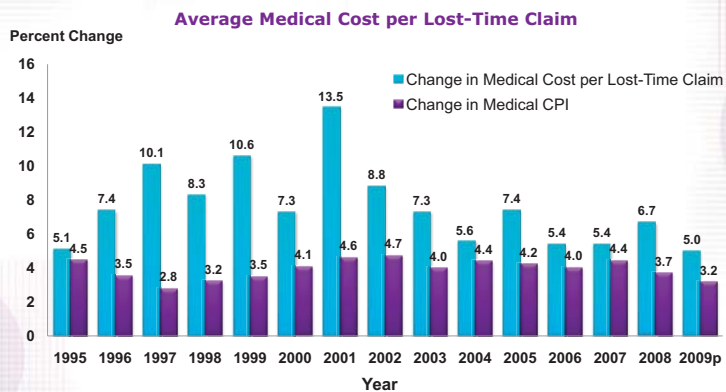
Based on the states where NCCI provides ratemaking services, including state funds
Excludes high-deductible policies

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Countrywide WC Medical Severity Is Still Growing Faster Than the Medical CPI



Medical severity 2009p: Preliminary based on data valued as of 12/31/2009

Medical severity 1995–2008: Based on data through 12/31/2008, developed to ultimate

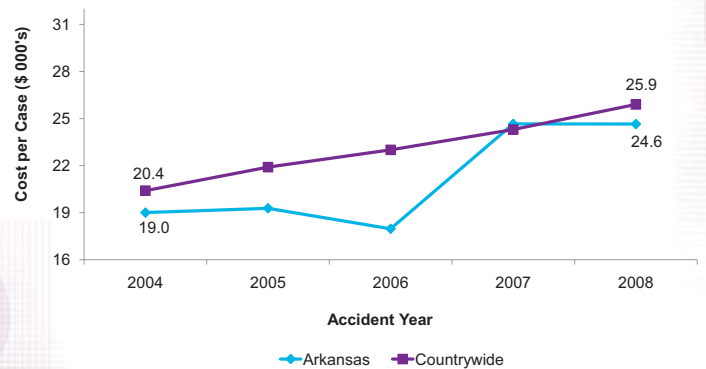
Based on the states where NCCI provides ratemaking services, including state funds; excludes high-deductible policies
Source: Medical CPI—All states, Economy.com; Accident year medical severity—NCCI states, NCCI

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Arkansas Medical Average Cost per Case vs. Countrywide



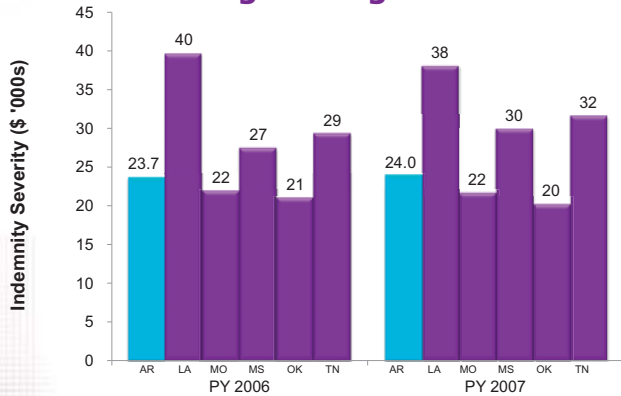
Source: NCCI financial data valued as of 12/31/2008

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Arkansas Medical Average Claim Severity Compared With Neighboring States



Based on NCCI's financial data for lost-time claims.

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Key Drivers of Medical Costs (Severity)

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Key Drivers of Medical Severity

- Medical Inflation
- Utilization
- Demographics

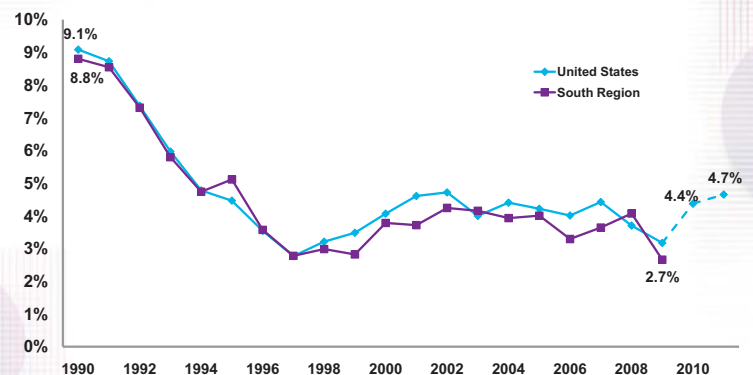
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Medical Care CPI

Percent Change From Year Ago



Source: NCCI; US Bureau of Labor Statistics; Moody's Economy.com

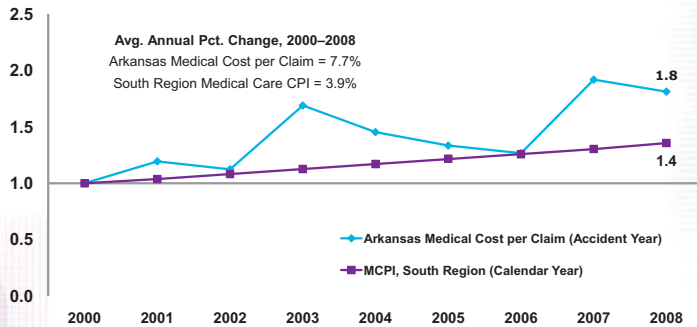
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Arkansas Medical Severity and South Medical Care CPI Indices

Indices of Medical Severity*
and Regional Medical Care CPI, 2000 = 1.0



* Lost-time claims
Data valued at 12/31/2008
Medical Severity is represented above as unlimited medical losses at ultimate without adjustments for either wage or benefit changes
Source: NCCI, US Bureau of Labor Statistics

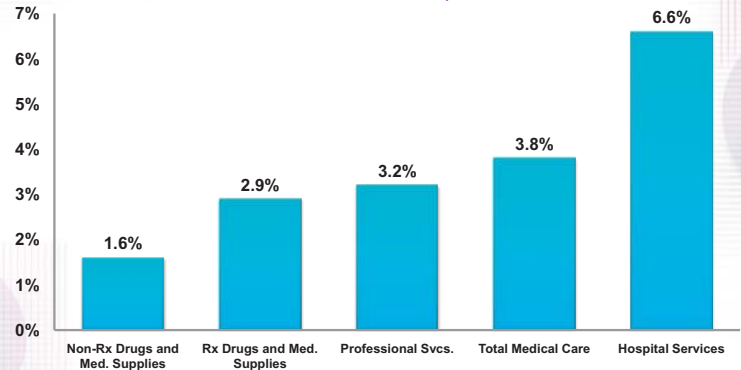
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Medical Care Price Increases

Average Annual Pct. Change in Components
of the US Medical Care CPI, 2005–2010



Source: NCCI

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Drivers of Medical Severity

- Medical Inflation
- **Utilization**
- Demographics

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Utilization Changes Are Key to Understanding Changes in Medical Severity

- Recent NCCI research quantifies the extent to which changes in utilization help to explain the rise in medical severity
- The study focuses on claims closed within 24 months of date of injury between 1996–97 and 2001–02, a period when medical severity rose 73%
- Looks separately at impact of changes in mix, quantity, and price on medical severity changes
- Full study available on NCCI's Website (ncci.com)

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Changes in Utilization (Mix and Quantity) Explain the Major Portion of the Increase in Paid Medical Severity

Paid Medical Severities on Lost-Time Claims Closed Within 24 Months of Date of Injury

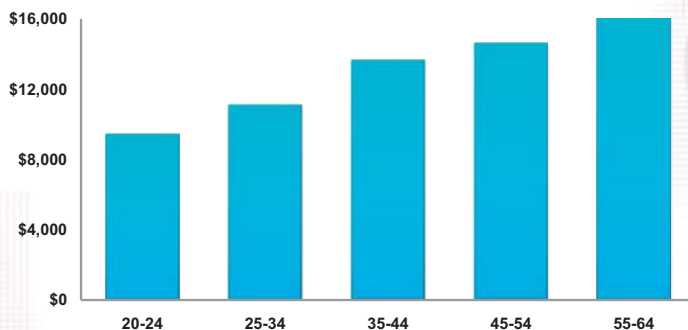
	Percent of Severity Increase, Accident Years 2001/02 vs. 1996/97
Increase Due to Diagnosis Mix Differences	21%
Increase Due to Number of Treatments	52%
Remaining Increase Due to Price and Other Factors	27%

Drivers of Medical Severity

- Medical Inflation
- Utilization
- **Demographics**

Medical Severity Increases With Age

Average Paid + Case Medical Severity Reported at 18 Months by Age, Accident Year 2005, NCCI States



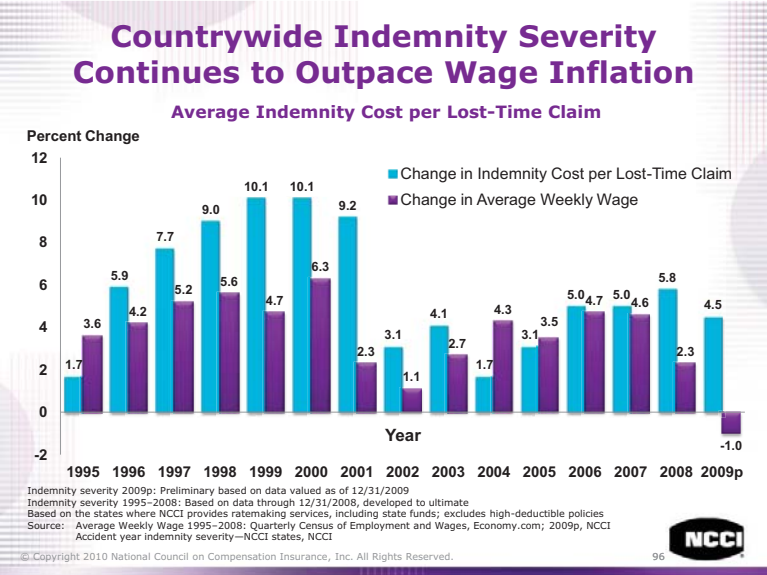
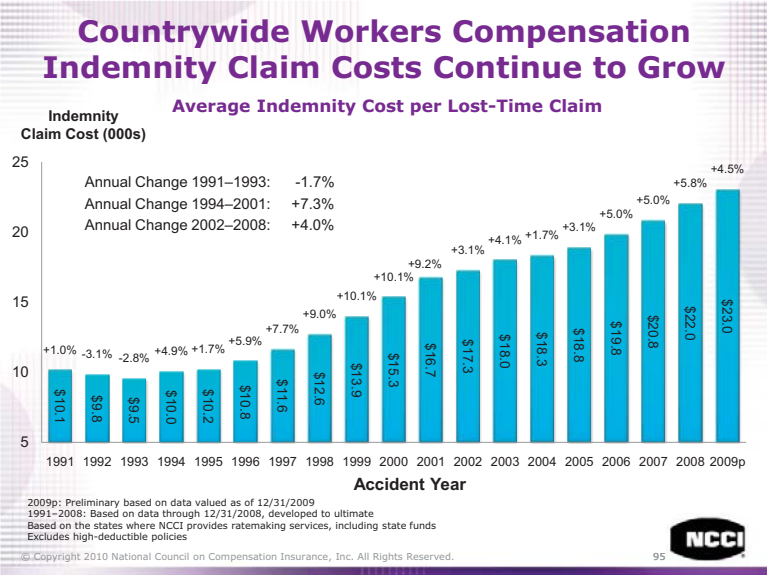
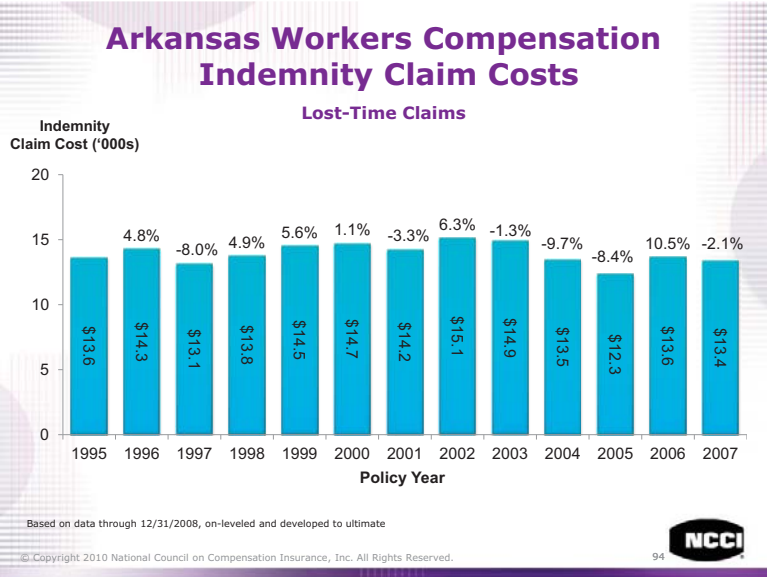
Key Takeaways—Drivers of Medical Severity

- Ongoing increases in medical inflation and utilization suggest further upward pressure on medical severity
- Medical severity increases with age
- Upward pressure on medical severity may diminish as baby boomers exit the workforce
- This latter effect may be partly offset to the extent that persons work well beyond the “normal” retirement age

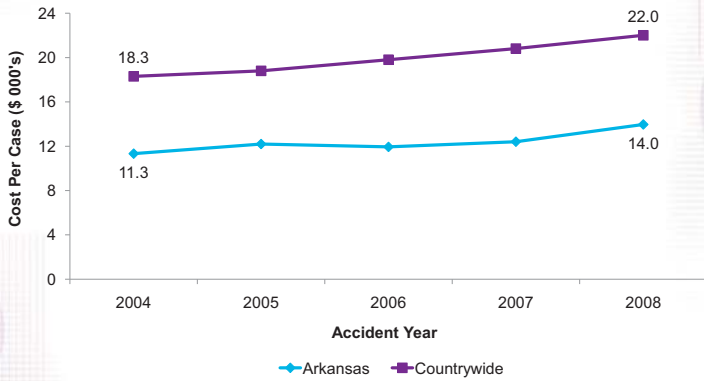
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Indemnity Costs

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Arkansas Indemnity Average Cost per Case vs. Countrywide



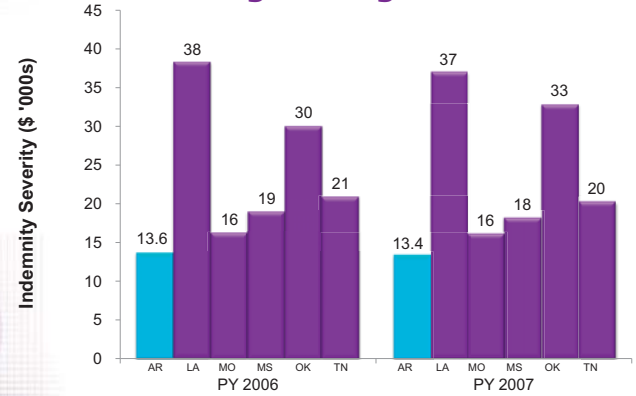
Source: NCCI financial data valued as of 12/31/2008

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Arkansas Indemnity Average Claim Severity Compared With Neighboring States



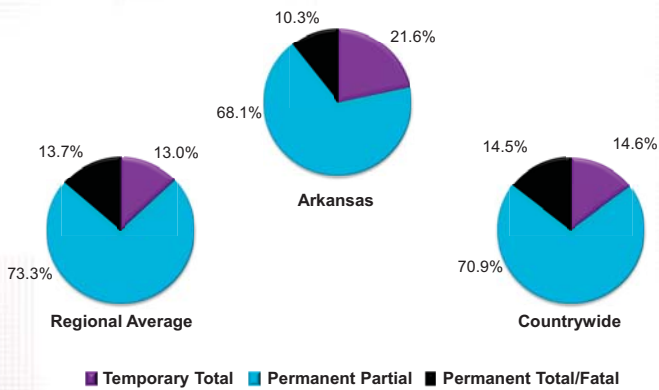
Based on NCCI's financial data for lost-time claims.

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Arkansas Indemnity Loss Distribution by Injury Type



Regional states are LA, MO, MS, OK, TN.
Based on NCCI's *Statistical Plan* data.

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Key Drivers of Indemnity Costs (Severity)



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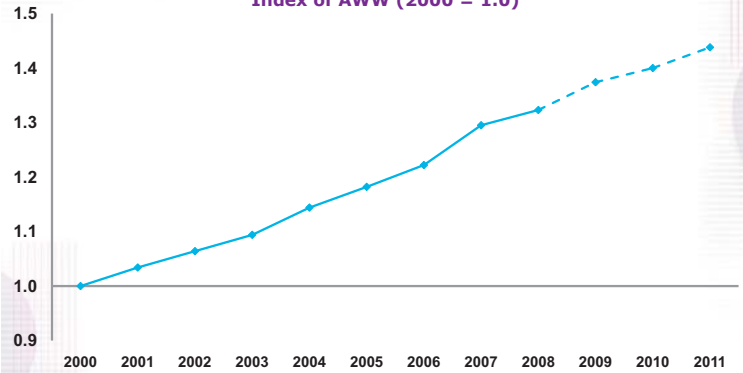
Drivers of Indemnity Severity

- Wages
 - Arkansas-specific information
- Demographics
 - How indemnity severity varies by age



Increases in Arkansas Average Weekly Wage Are Expected to Moderate Through 2010

Index of AWW (2000 = 1.0)

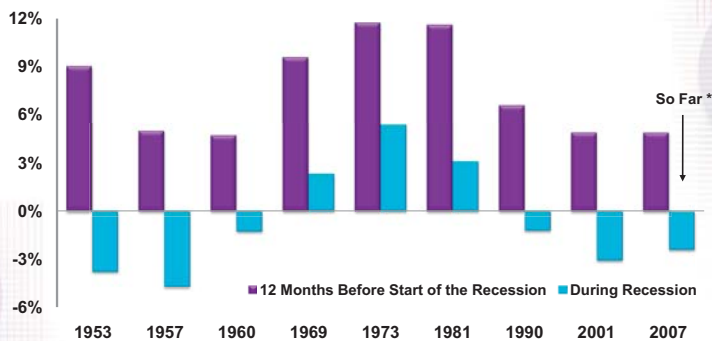


Source: NCCI; US Bureau of Labor Statistics



Recessions Result in Slower Growth or Declines in Wages and Salaries

Percent Change in Wage and Salary Disbursements 12 Months Before the Start of Recession vs. *During* Recession (at an Annual Rate)
Years Indicate Start of Recession

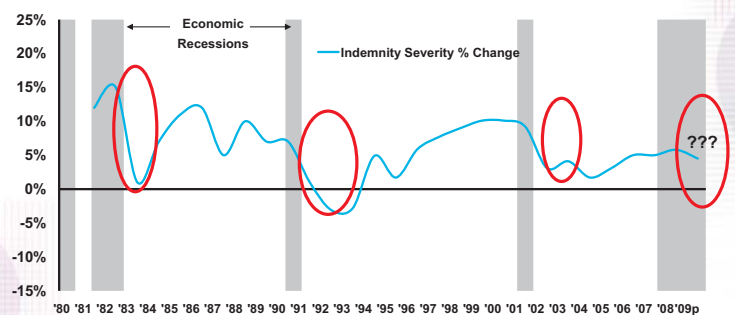


Excludes 1980 "mini" recession
* Begins in December 2007 and includes quarterly data available through March 2010
Source: Bureau of Economic Analysis; National Bureau of Economic Research



Indemnity Severity Growth Rates Show a Lagged Response to Recessions

Percent Change, Lost-Time Claims

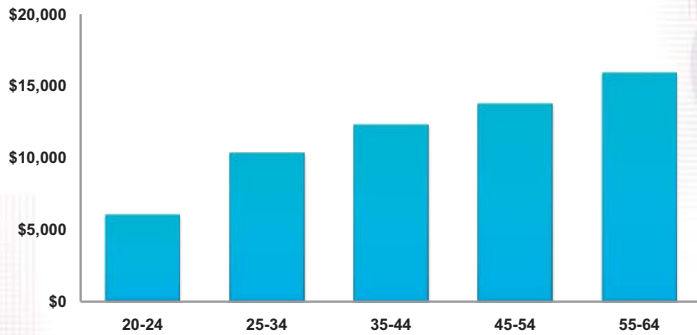


2009p: Preliminary based on data valued as of 12/31/2009
1980-2008: Based on data through 12/31/2008, developed to ultimate
Based on the states where NCCI provides ratemaking services, including state funds
Excludes high-deductible policies



Indemnity Severity Increases With Age

Average Paid + Case Indemnity Severity Reported at 18 Months by Age, Accident Year 2005, NCCI States



Source: NCCI

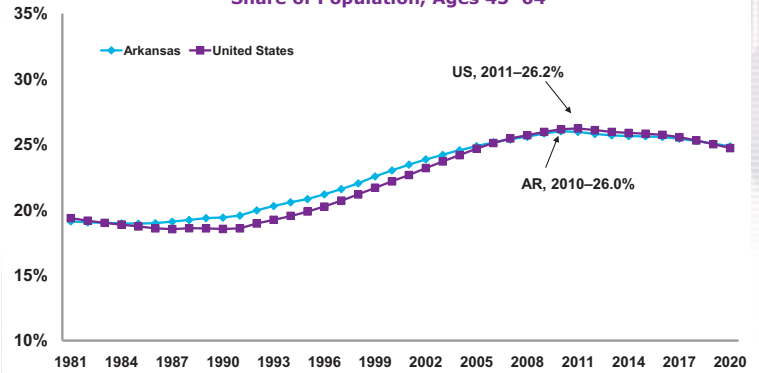
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The Share of Arkansas Population Aged 45 to 64 Is Expected to Peak in 2010

Share of Population, Ages 45-64



Source: NCCI; US Bureau of Labor Statistics; Moody's Economy.com

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Effectiveness of Workers Compensation Fee Schedules

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Overview

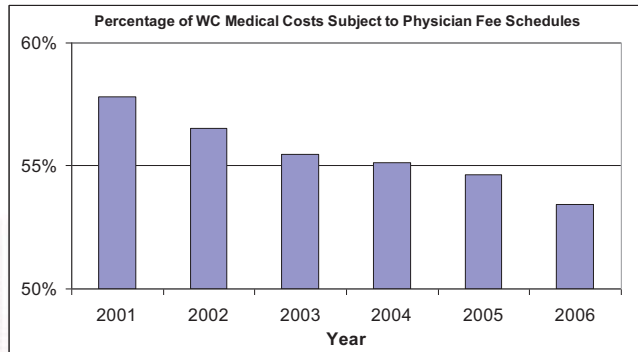
Study focused on how WC medical fee schedules work and how they might work better, given the challenges of a changing healthcare environment

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The Share of WC Medical Costs Covered By Physician Fee Schedules Is Declining



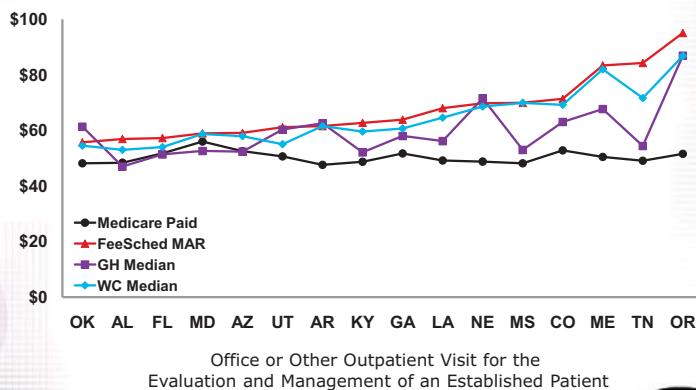
The Share of WC Medical Costs Covered By Physician Fee Schedules Is Declining

Two major contributors to the decline in the proportion of services covered by WC physician fee schedules:

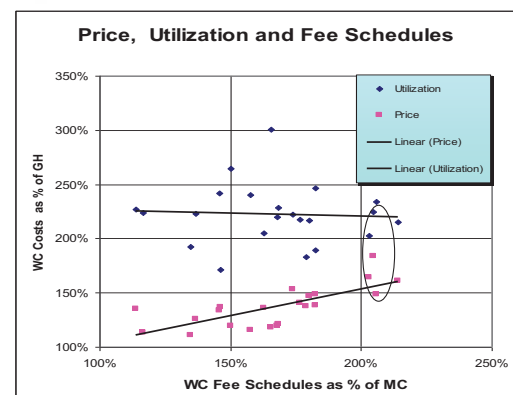
- Prices for medical services not covered by the state WC physician fee schedule have generally increased at a faster rate than prices for covered services
- In general healthcare, and in WC, there has been a shift toward services being provided at medical facilities and away from private physicians

Variation by State and Service Type

Office Visit (CPT Code 99213)



Confirmation of Prior Findings on Price And Utilization of Medical Services



Confirmation of Prior Findings on Price and Utilization

- For almost all of the 21 NCCI states considered, both WC utilization and WC price were greater than Group Health
- Higher utilization accounts for more than price in explaining why WC costs more than Group Health to treat comparable medical conditions
- WC costs generally increase as the ratio of the WC fee schedule to Medicare increases

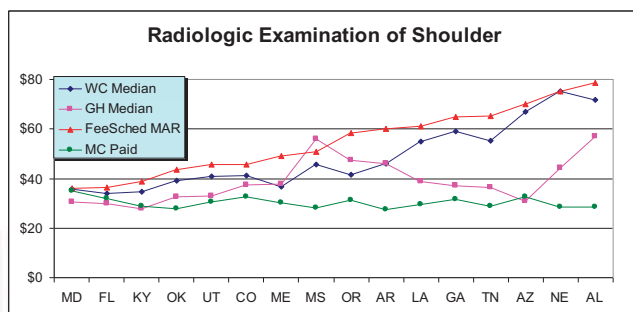


Higher Prices Paid by WC Are Associated With Higher Utilization

- Possible explanations include:
 - Higher reimbursements are a financial incentive to medical providers to perform more procedures on WC claimants
 - WC insurers are more willing to pay premium prices for the care most necessary to effect return to work
 - The more frequently used procedures are the more likely to be lobbied for higher fee schedule reimbursement



Fee Schedules Can Pull Some WC Reimbursements Well Above GH



Reimbursement for shoulder X-rays (CPT 73030)

States ordered by increasing WC maximum amount reimbursable (MAR)

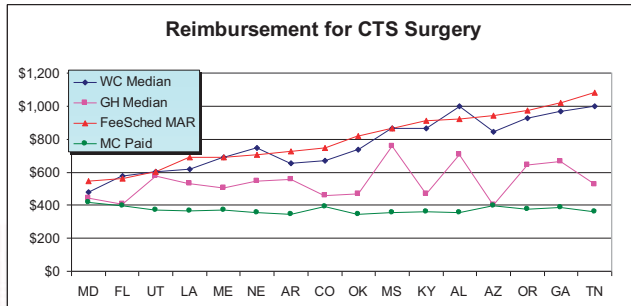


Fee Schedules Can Pull Some WC Reimbursements Well Above GH

- It is typical for radiology MARs to be above GH and to be set well above Medicare
- Half the state WC fee schedules set the MAR for a shoulder X-ray at more than double Medicare and a third at more than a 50% markup over the market price, as measured by Group Health
- In general, WC payments correlate with the fee schedule MAR



Medicare Is Not Sensitive to State Cost Differences



Reimbursement for carpal tunnel surgery (CPT 64721)

Medicare Is Not Sensitive to State Cost Differences

- Both WC and Group Health show substantial variation in amounts paid by state
- Medicare reimbursements do not vary as much by state as Group Health or WC
- Both WC and Group Health pay more than Medicare
- WC pays more for many services than Group Health, especially in the areas of surgery and radiology
- WC payments are generally in line with, and less than, fee schedule maximums

WC Payments for Hospital Services Are More Likely to Exceed the Fee Schedule

- For emergency room visits, over 60% of WC payments exceed the fee schedule amount as do 80% of Group Health payments
- When billing for emergency room care, hospitals may include technical and facility charges not envisioned in WC and Medicare physician fee schedules

Main Findings

- The proportion of WC medical cost that is subject to physician fee schedules is declining by about one percentage point per year
- Higher prices and utilization push WC medical costs higher than Group Health, with utilization as the main driver
- For comparable injuries, higher price markups for WC medical services over Group Health correlate with higher WC utilization
- Particularly in specialty areas such as radiology and surgery, fee schedules can result in especially high WC reimbursement rates compared to Group Health

Main Findings

- The Medicare fee schedule is useful for WC medical fee schedules, but has notable shortcomings, for example:
 - Too little emphasis on return to function
 - Too little sensitivity to cost differences among states
- While fee schedules tend to concentrate reimbursements at the maximum allowable rate (MAR), many payments are greater or less than the MAR, due, for example, to:
 - Negotiated discounts
 - Technical fee components
- Reimbursement for the care doctors provide at a medical facility is more likely to exceed the WC fee schedule than care in a doctor's office. This is partly due to:
 - Fee schedule need not always apply to facilities
 - Facility fees and other costs not contemplated in the WC fee schedule

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Conclusion

- To stay viable, WC medical fee schedules must address the growing proportion of WC medical services provided by hospitals and ambulatory surgical centers
- The key to bringing facility charges under control might lie in bundling procedures. One approach is to reimburse by Diagnostic Related Group (DRG) or by Ambulatory Patient Classification (APC), as is done in Medicare

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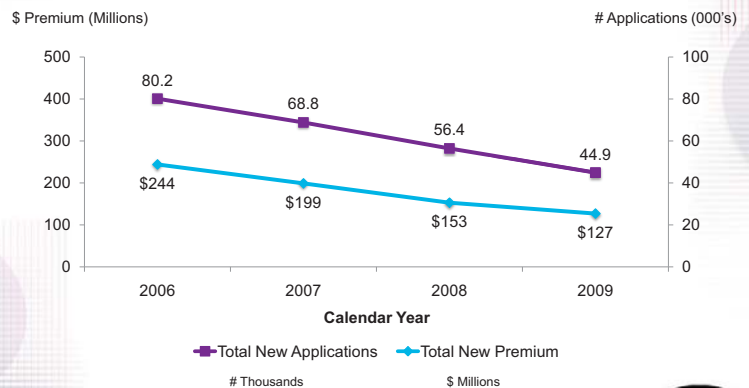


The Residual Market in Arkansas



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Total Residual Market New Applications and Premium Assigned in All Plan States

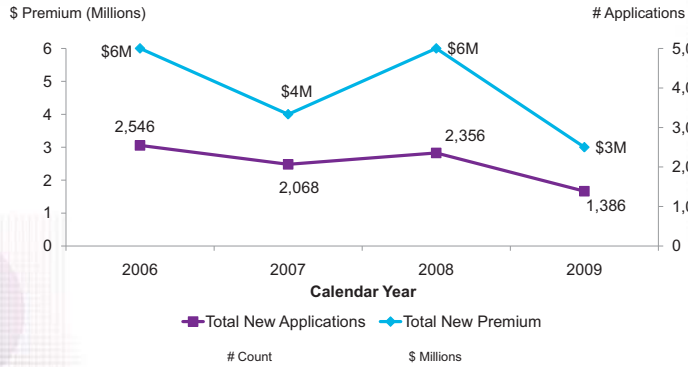


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Total Residual Market New Applications and Premium Assigned in Arkansas

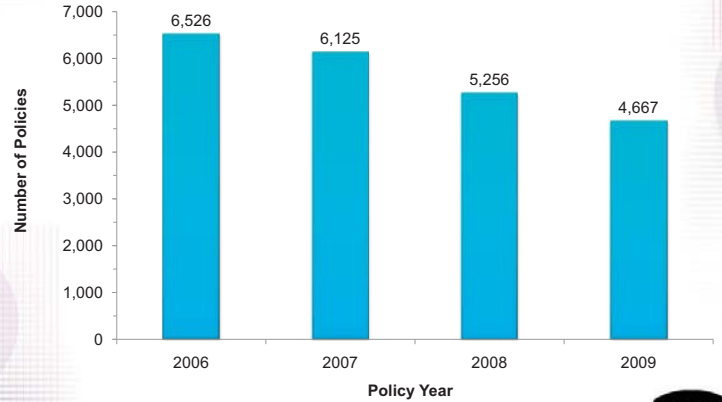


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Arkansas Total Residual Market Plan Policy Count

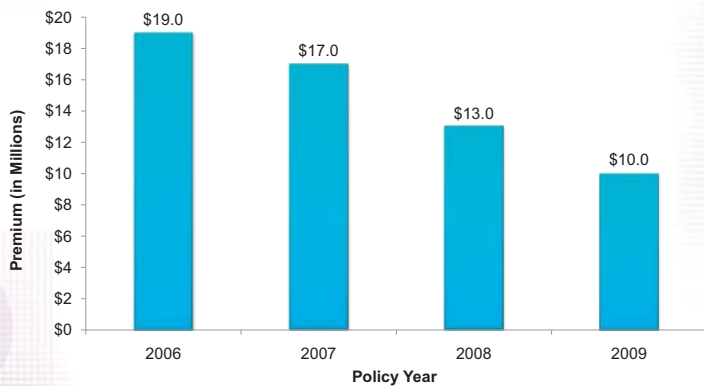


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Arkansas Total Residual Market Plan Premium Volume



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Arkansas Residual Market Plan 2008 vs. 2009 Total Policy Size Comparison

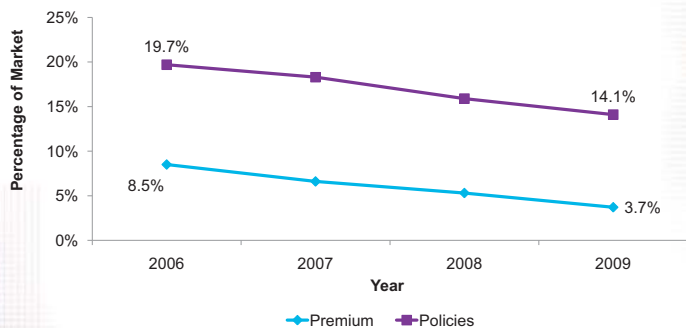
Premium Size	2008		2009	
	# of Policies	Premium	# of Policies	Premium
\$0-\$2,499	4,498	\$3,735,472	3,995	\$3,392,325
\$2,500-\$4,999	385	\$1,354,830	341	\$1,196,193
\$5,000-\$9,999	194	\$1,373,300	165	\$1,158,584
\$10,000-\$19,999	92	\$1,312,028	97	\$1,295,518
\$20,000-\$49,999	55	\$1,666,063	56	\$1,677,032
\$50,000-\$99,999	19	\$1,224,668	9	\$587,922
\$100,000-\$199,999	10	\$1,280,809	3	\$455,194
\$200,000 and greater	3	\$831,813	1	\$482,671
TOTAL	5,256	\$12,778,983	4,667	\$10,245,439

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Comparison of the Estimated Market Share for Arkansas Residual Market by Total Policy Count and Written Premium



Note: Market share as a percentage of residual market total written premium/policies in force.
2009 numbers are preliminary.

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Arkansas Top Five Class Codes Based on Residual Market Plan Total Policy Count

Nationally

5645—Carpentry (9.8%)
5437—Carpentry, Interior Trim (4.3%)
7228—Trucking, Local (4.0%)
5474—Painting (3.9%)
8810—Clerical (3.4%)

Arkansas

5645—Carpentry (25.1%)
8810—Clerical (3.5%)
5474—Painting (3.3%)
5022—Masonry (3.2%)
5551—Roofing (3.2%)

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Arkansas Top Five Class Codes Based on Residual Market Plan Total Written Premium

Nationally

5645—Carpentry (5.5%)
5551—Roofing (2.9%)
8835—Nursing, Home Health (2.8%)
7228—Trucking, Local (2.7%)
5474—Painting (2.0%)

Arkansas

5645—Carpentry (13.5%)
7222—Trucking, Oil Field Equipment (4.8%)
5403—Carpentry NOC (3.1%)
7403—Aviation (2.3%)
5474—Painting (2.1%)

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Arkansas Assigned Risk Programs

- Merit Rating
- Differential
- Removal of Premium Discounts
- Take-Out Credit
- Tabular Adjustment Program (TAP)
- Alternate Preferred Plan
- Arkansas Alcohol and Drug-Free Workplace Premium Credit
- Deductibles
- Voluntary Coverage Assistance Program (**VCAP® Service**)

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Arkansas VCAP® Service Report

Date Range: 1/1/2009–12/31/2009

Number of Applications Reviewed By VCAP® Service	1,441
Number of VCAP® Service Matches	268
Number of Confirmed VCAP® Service Policies	55
Redirected Assigned Risk Premium	\$219,456
Associated Voluntary Market Premium	\$165,045
Savings	\$54,411
Average Savings per Application	\$989
Savings as a % of Redirected Assigned Risk Premium	24.8%



Arkansas Hot Topics

- Servicing Carrier Bid
- Manage Expenses
- Uncollectible Premium
- Filings



Q & A

Closing Remarks
Thank You!

Glossary

Glossary

- **Assigned Risk Adjustment Program (ARAP)**—An assigned risk market program that surcharges residual market risks based on the magnitude of their experience rating modification.
- **Calendar Year (CY)**—Experience of earned premium and loss transactions occurring within the calendar year beginning January 1, irrespective of the contractual dates of the policies to which the transactions relate and the dates of the accidents.
- **Calendar-Accident Year (AY)**—The accumulation of loss data on all accidents with the date of occurrence falling within a given calendar year. The premium figure is the same as that used in calendar year experience.
- **Claim Frequency**—The number of claims per unit of exposure. For example, the number of claims per million dollars of premium or per one hundred workers.

Glossary

- **Claim Severity**—The average cost of a claim. Severity is calculated by dividing total losses by the total number of claims.
- **Combined Ratio**—The sum of the (i) loss ratio, (ii) expense ratio, and (iii) dividend ratio for a given time period.
- **Detailed Claim Information (DCI)**—An NCCI call that collects detailed information on an individual workers compensation lost-time claim basis, such as type of injury, whether or not an attorney was involved, timing of the claim's report to the carrier, etc.
- **Direct Written Premium (DWP)**—The gross premium income adjusted for additional or return premiums, but excluding any reinsurance premiums.

Glossary

- **Indemnity Benefits**—Payments by an insurance company to cover an injured worker's time lost from work. These benefits are also referred to as "wage replacement" benefits.
- **Loss Ratio**—The ratio of losses to premium for a given time period.
- **Lost-Time (LT) Claims**—Claims resulting in indemnity benefits (and usually medical benefits) being paid to or on behalf of the injured worker for time lost from work.
- **Medical-Only Claims**—Claims resulting in only medical benefits being paid on behalf of an injured worker.
- **Net Written Premium (NWP)**—The gross premium income adjusted for additional or return premiums and including any additions for reinsurance assumed and any deductions for reinsurance ceded.

Glossary

- **Permanent Partial (PP)**—Disability that prevents the insured from working at their own (and sometimes any) occupation. A disability is considered to result in partial permanent loss of earning power.
- **Policy Year (PY)**—Premium and loss data on business for a 12-month period for policies with inception dates within the 12-month period.
- **Schedule Rating**—A debit and credit plan that recognizes variations in the hazard-causing features of an individual risk.
- **Take-Out Credit Program**—An assigned risk program that encourages carriers to write current residual market risks in the competitive voluntary marketplace.
- **Temporary Total (TT)**—A disability that totally disables a worker for a temporary period of time.



Appendix

NCCI Workers Compensation Databases

- Financial Aggregate Calls
 - Used for aggregate ratemaking
- **Statistical Plan for Workers Compensation and Employers Liability Insurance (Statistical Plan)**
 - Used for class ratemaking
- Detailed Claim Information
 - In-depth sample of lost-time claims
- Policy Data
 - Policy declaration page information

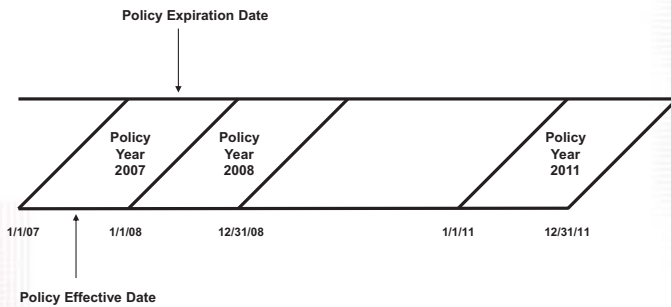


Financial Aggregate Calls

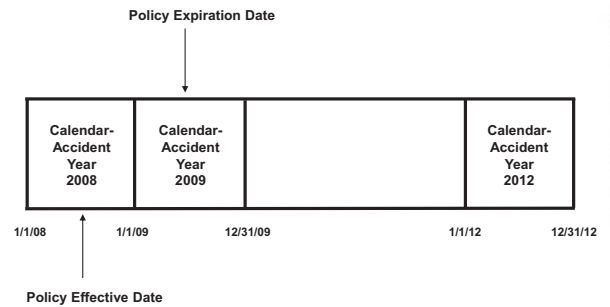
- Collected annually
 - Policy and calendar-accident year basis
 - Statewide and assigned risk data
- Premiums, losses, and claim counts
 - Evaluated as of December 31
- Purpose
 - Basis for overall aggregate rate indication
 - Research



Policy Year Financial Aggregate Data



Calendar-Accident Year Financial Aggregate Data



Statistical Plan for Workers Compensation and Employers Liability Insurance (Statistical Plan) Data

- Experience by policy detail
 - Exposure, premium, experience rating modifications
 - Individual claims by injury type
- Purposes
 - Classification relativities
 - Experience Rating Plan
 - Research

Valuation of Statistical Plan Data

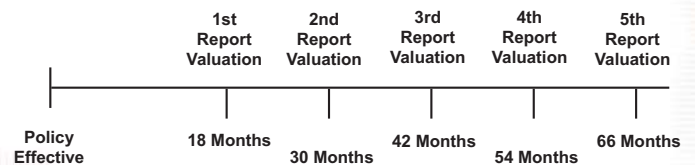


Exhibit B

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Arkansas Residual Market First Quarter 2010 Status Report Data Reported as of April 13, 2010

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Executive Summary

NCCI, as Pool and Plan Administrator of the Arkansas Workers Compensation Insurance Plan, is pleased to provide the First Quarter 2010 Residual Market State Activity Report.

Readers will notice an update of the key measurement factors and issues relating to the operation of the Arkansas Plan. NCCI has enhanced our data reporting tools to provide a more accurate picture of what is happening in your state.

If you have any questions or comments about this report, please feel free to contact any of the individuals listed below.

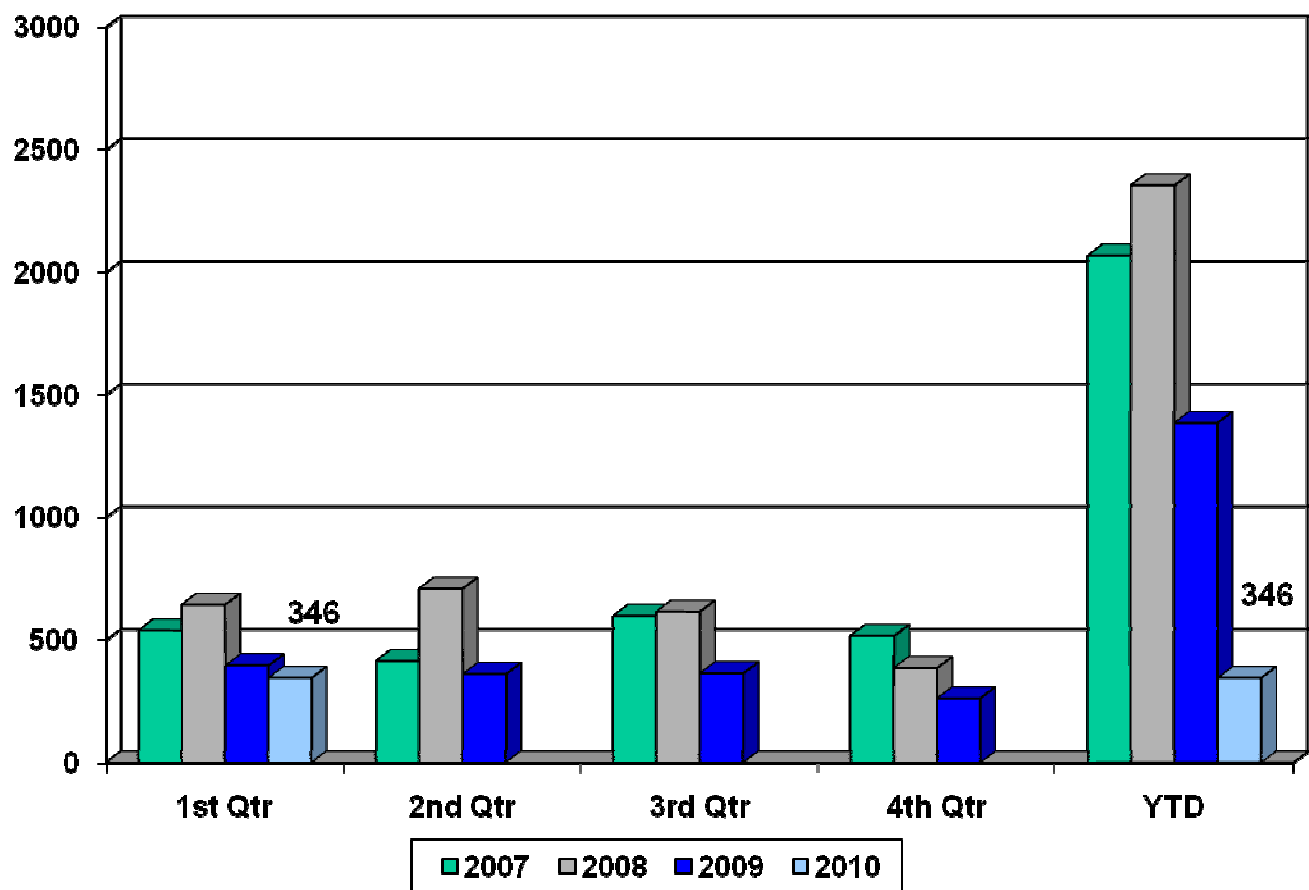
Terri Robinson, State Relations Executive
Chantel Weishaar, Technical Specialist

(314) 843-4001
(561) 893-3015

Residual Market Demographics – 1Q 2010

Arkansas Residual Market Total New Applications Bound 2007 vs. 2008 vs. 2009 vs. 2010

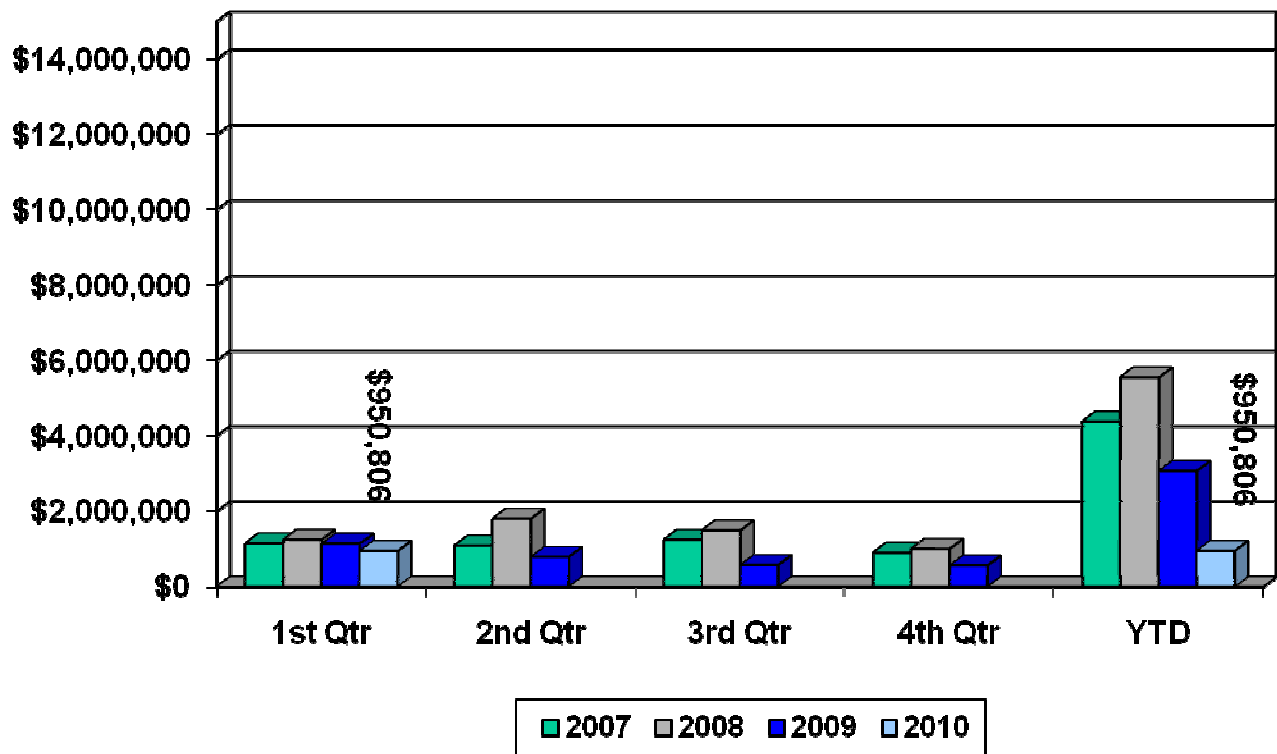
*The number of new applications that are actually assigned to a Servicing Carrier
or Direct Assignment Carrier (if applicable).*



Residual Market Demographics – 1Q 2010

Arkansas Residual Market Total New Application Premium Bound 2007 vs. 2008 vs. 2009 vs. 2010

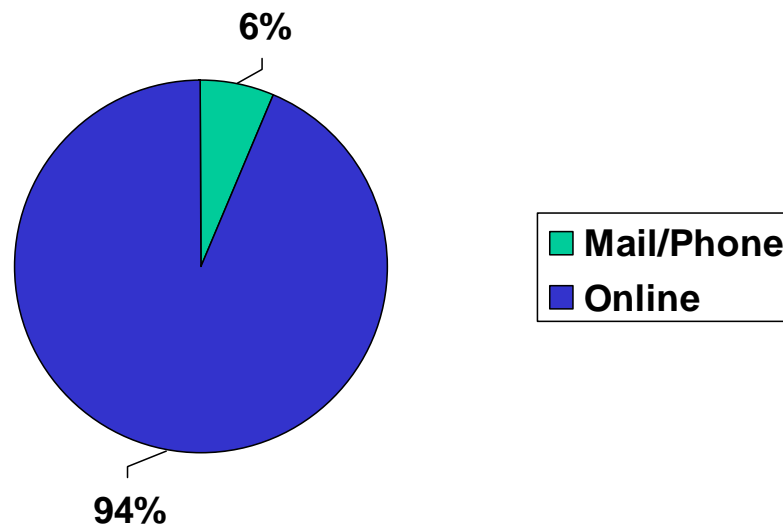
*The total estimated premium on bound new applications assigned to as
Servicing Carrier or Direct Assignment Carrier (if applicable).*



Residual Market Demographics – 1Q 2010

Percentage of New Applications Received by Submission Format Data through March 31, 2010

The total percentage of new applications received via online, phone or mail formats.

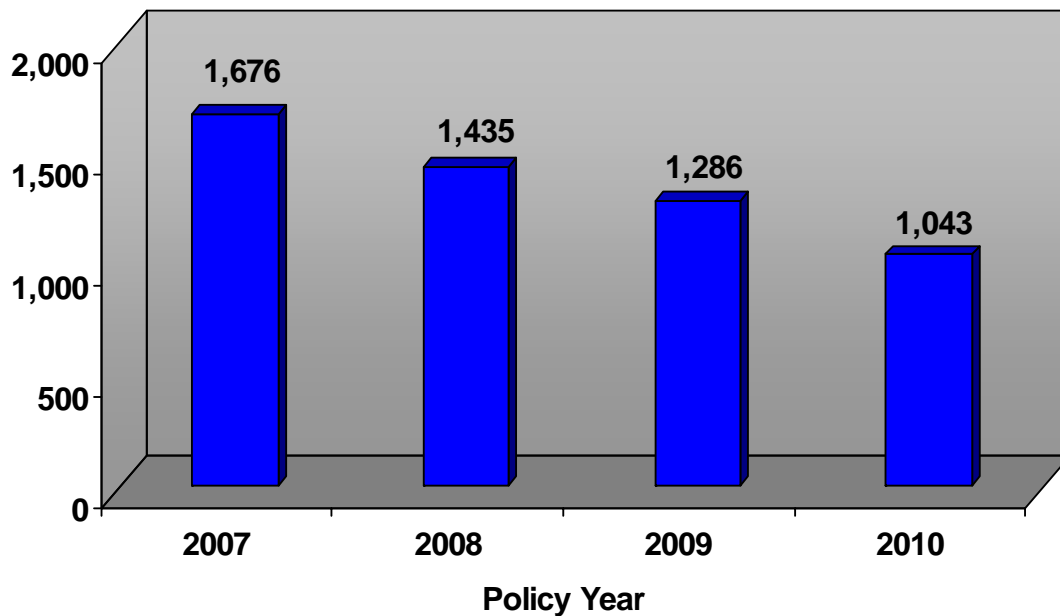


Residual Market Demographics – 1Q 2010

Residual Market Total Policy Counts

First Quarter Data for Policies Reported through March 31, 2010

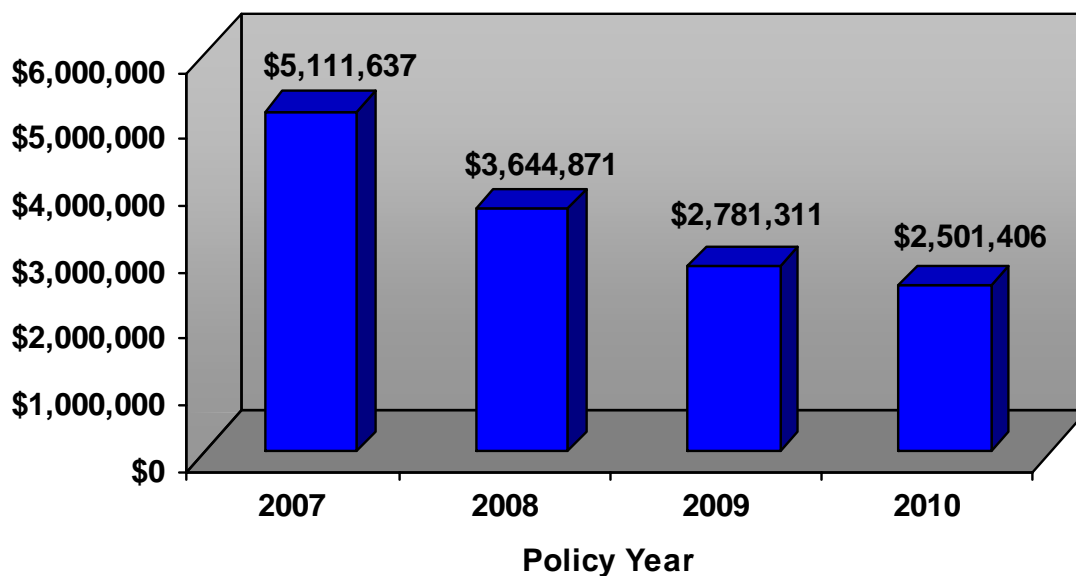
Total Number of all Assigned Risk Plan Policies effective during this quarter and reported as of the date listed above.



Residual Market Total Premium Volume

First Quarter Data Reported through March 31, 2010

Total Amount of All Assigned Risk Plan Premium effective during this quarter and reported as of the date listed above.



Residual Market Demographics

Residual Market Total Policies and Premium in Force As of March 31, 2010 compared to prior year

This chart reflects the total number of policies and estimated premium in-force for this state as of the date shown above.

The other exhibits in this report describe quarterly and year-to-date data.

	2009	2010	2009 vs. 2010 #	2009 vs. 2010 %
Policy Count	5,072	4,339	-733	-14.5%
Premium Volume	\$11,889,419	\$9,834,600	-\$2,054,819	-17.3%

Residual Market Demographics – 1Q 2010

Residual Market First Quarter 2010 Total Premium Distribution by Size of Risk Data Reported through March 31, 2010

The total number of assigned risk plan policies reported to NCCI for this quarter by Direct Assignment and Servicing Carriers in a premium range as of the date listed above.

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	873	83.70%	\$740,852	29.62%	\$848
\$2500 - 4999	76	7.29%	\$261,648	10.46%	\$3,442
\$5000 - 9999	44	4.22%	\$314,586	12.58%	\$7,149
\$10000 - 19999	30	2.88%	\$389,853	15.59%	\$12,995
\$20000 - 49999	14	1.34%	\$465,551	18.61%	\$33,253
\$50000 - 99999	6	0.58%	\$328,916	13.15%	\$54,819
\$100000 - 199999	0	0.00%	\$0	0.00%	\$0
\$200000 +	0	0.00%	\$0	0.00%	\$0
Total	1,043	100%	\$2,501,406	100%	\$2,398

Residual Market Total Premium Distribution by Size of Risk First Quarter 2009 Data for Comparison

The total number of assigned risk plan policies reported to NCCI for this quarter by Direct Assignment and Servicing Carriers in a premium range as of the date listed above.

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	1,090	84.76%	\$899,036	32.32%	\$824
\$2500 - 4999	94	7.31%	\$336,902	12.11%	\$3,584
\$5000 - 9999	49	3.81%	\$353,782	12.72%	\$7,220
\$10000 - 19999	30	2.33%	\$390,322	14.03%	\$13,010
\$20000 - 49999	20	1.56%	\$605,041	21.75%	\$30,252
\$50000 - 99999	3	0.23%	\$196,228	7.06%	\$65,409
\$100000 - 199999	0	0.00%	\$0	0.00%	\$0
\$200000 +	0	0.00%	\$0	0.00%	\$0
Total	1,286	100%	\$2,781,311	100%	\$2,163

Residual Market Demographics – 1Q 2010

Residual Market Top 10 Classification Codes by Policy Count Data Reported through March 31, 2010

The top ten governing class codes by total policy count - policies issued by Servicing Carriers and Direct Assignment Carriers in this state as of the date listed above.

Rank	Code	Description	Policy Count	% of Policies
1	5645	Carpentry-detached One Or Two Family Dwellings	250	23.97%
2	8810	Clerical Office Employees NOC	44	4.22%
3	5551	Roofing-All Kinds	35	3.36%
4	5445	Wallboard Installation Within Buildings	32	3.07%
5	8832	Physician & Clerical	27	2.59%
6	5474	Painting Or Paperhanging NOC & Shop Operations	26	2.49%
7	8279	Stable Or Breeding Farm & Drivers	25	2.40%
8	5190	Electrical Wiring-within Buildings & Drivers	23	2.21%
9	5022	Masonry NOC	23	2.21%
10	6217	Excavation & Drivers	22	2.11%

Residual Market Top 10 Classification Codes by Premium Volume Data Reported through March 31, 2010

The top ten governing class codes by premium volume written on total policies issued by Servicing Carriers and Direct Assignment Carriers in this state as of the date listed above.

Rank	Code	Description	Premium	% of Policies
1	5645	Carpentry-detached One Or Two Family Dwellings	\$411,514	16.45%
2	0037	Farm: Field Crops	\$96,208	3.85%
3	2003	Bakery Salespersons	\$85,747	3.43%
4	8832	Physician & Clerical	\$84,688	3.39%
5	7229	Trucking-long Distance Hauling	\$75,481	3.02%
6	8842	Group Homes - All Employees & Salespersons	\$66,478	2.66%
7	2719	Logging Or Tree Removal –Mechanized Harvesting Exclusively	\$62,551	2.50%
8	3632	Machine Shop NOC	\$62,530	2.50%
9	5551	Roofing-All Kinds	\$57,111	2.28%
10	6217	Excavation & Drivers	\$54,742	2.19%

Residual Market Demographics

Voluntary Coverage Assistance Program - Arkansas

*The volume of assigned risk applications redirected to the voluntary market through NCCI's **VCAP® Service**. The following shows the results **VCAP® Service** has provided during First Quarter 2010.*

Date Range: 01/01/2010 - 03/31/2010	
Number of Applications Reviewed by VCAP® Service	361
Associated Premium for Applications Reviewed	\$1,033,666
Number of VCAP® Service Matches	49
VCAP® Service Matches as a % of Applications Reviewed	13.6%
Number of VCAP® Service Offers	15
VCAP® Service Offers as a % of Matches	30.6%
Number of Confirmed VCAP® Service Policies	14
Confirmed VCAP® Service Policies as a % of Applications Reviewed	3.9%
Redirected Assigned Risk Premium	\$81,242
Associated Voluntary Market Premium	\$60,057
Savings	\$21,185
Average Savings per Application	\$1,513
Savings as a % of Redirected Assigned Risk Premium	26.1%
Redirected Premium as a % of Associated Premium for Applications Reviewed by VCAP® Service	7.9%

Residual Market Demographics

Collections/Indemnification

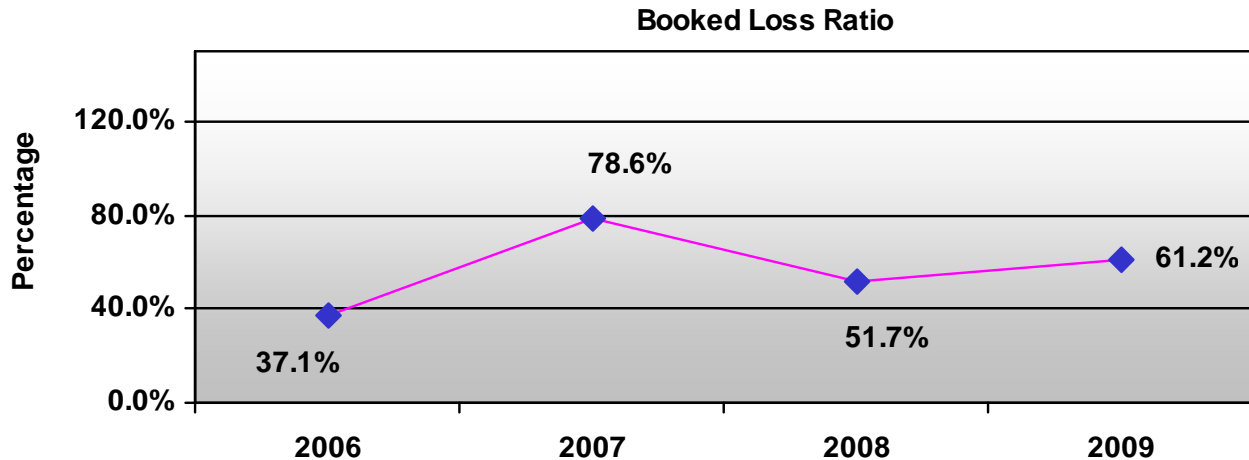
The following shows a comparison of gross written premium and uncollectible premium reported in Arkansas and the National Pool for Policy Years 2005-2009, obtained through NP-4 and NP-5 reports including traumatic and black lung claims, evaluated through Fourth Quarter 2009.

Arkansas	Gross Written Premium	Uncollectible Premium	Percentage
2005	\$25,328,864	\$1,806,519	7.1%
2006	\$22,697,753	\$1,697,000	7.5%
2007	\$17,966,296	\$1,042,422	5.8%
2008	\$14,083,478	\$671,780	4.8%
2009	\$10,678,386	\$31,838	0.3%
National Pool 2009	\$410,141,658	\$1,080,130	0.3%

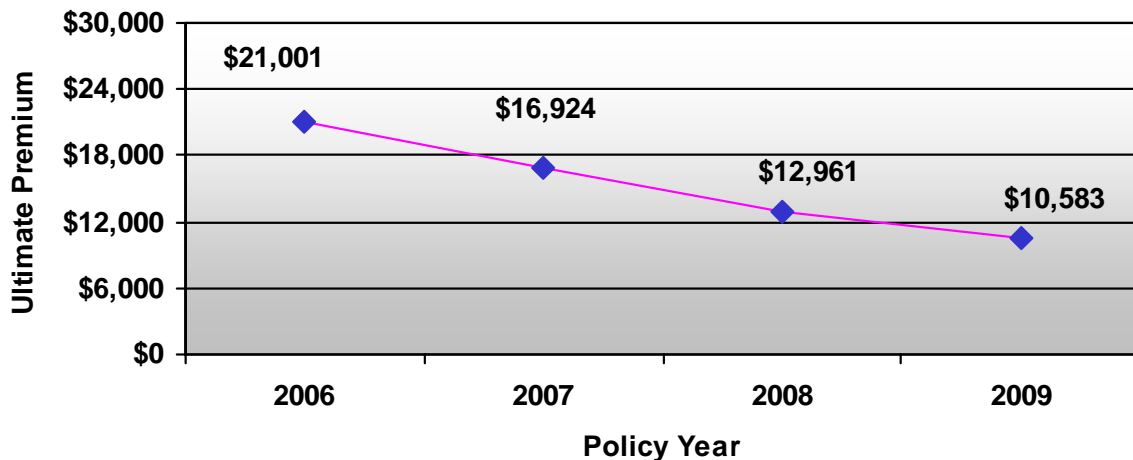
The uncollectible premiums provided are reported by the servicing carriers on a quarterly basis. Uncollectible premium is generally reported up to 24 months after the policy expiration date due to audit, billing, and collection requirements. Therefore, the most recent year data has not yet developed.

Residual Market Demographics

Arkansas Residual Market Reinsurance Pool Booked Loss Ratio
Policy Year Financial Results through 4th Quarter 2009 for 2009 and prior years
The ratio of total incurred losses to total earned premiums in a given period, in this state, expressed as a percentage .



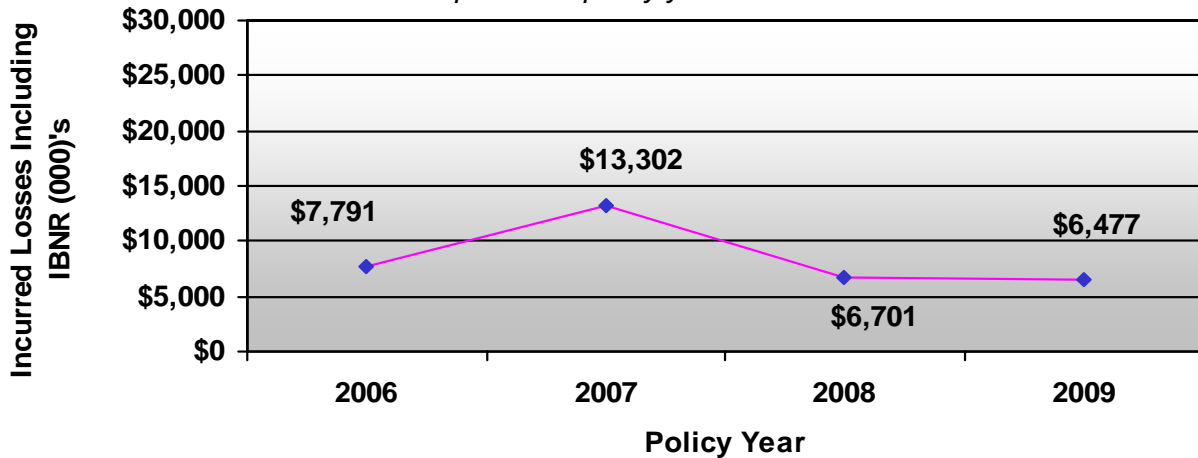
Arkansas Residual Market Reinsurance Pool Ultimate Net Written Premium
(Projected to Ultimate) (000's)
Policy Year Financial Results through 4th Quarter 2009 for 2009 and prior years*
The premium charged by an insurance company for the period of time and coverage provided by an insurance contract in this state.



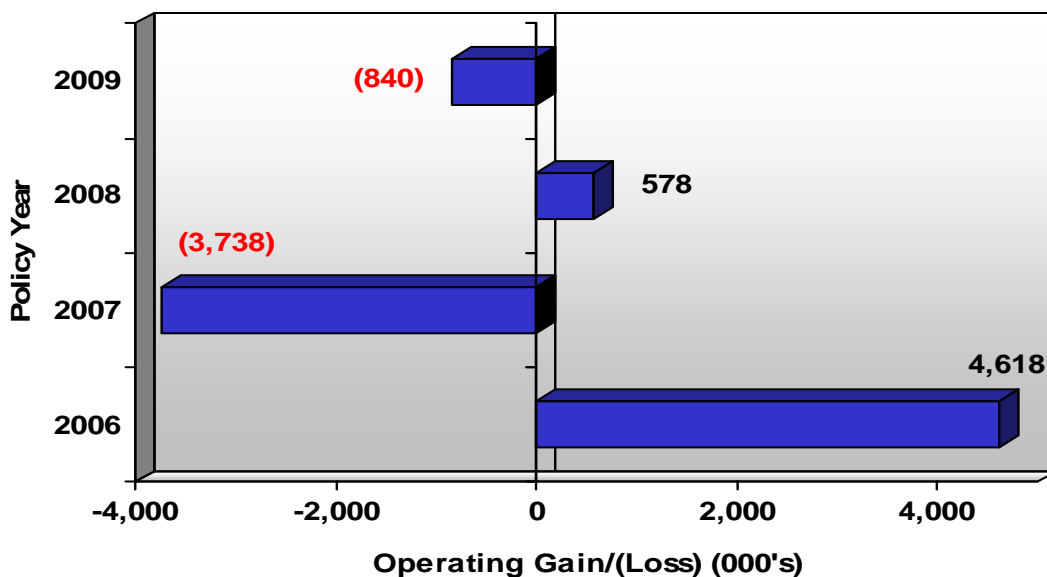
*-First Quarter 2010 Data will be available the end of July 2010 due to the timing of data reporting

Residual Market Demographics

**Arkansas Residual Market Reinsurance Pool Net Operating Results
(Projected to Ultimate) Incurred Losses**
Policy Year Financial Results through 4th Quarter 2009 for 2009 and prior years*
Policy year incurred losses reflect paid losses, case reserves and IBNR reserves for policies written in a particular policy year in that state.



**Arkansas Residual Market Reinsurance Pool Net Operating Results
(Projected to Ultimate) Estimated Net Operating Gain/(Loss) (000's)**
Policy Year Financial Results through 4th Quarter 2009 for 2009 and prior years*
The financial statement presentation that reflects the excess of earned premium over incurred losses, less all operating expenses, plus all investment income in that state.



*-First Quarter 2010 Data will be available the end of July 2010 due to the timing of data reporting

Glossary of Terms

Combined Ratio-The combined loss ratio, expense ratio and dividend ratio, expressed as a sum for a given period. The formula for combined ratio is [(loss + loss adjustment expense)/earned premium] + [underwriting expenses/written premium].

EBNR (Earned But Not Reported) Premium Reserve-A projection of additional premium that is expected to be uncovered after auditing at the end of the policy.

Earned Premium or Premiums Earned-That portion of written premiums applicable to the expired portion of the time for which the insurance was in effect. When used as an accounting term, "premiums earned" describes the premiums written during a period plus the unearned premiums at the beginning of the period less the unearned premiums at the end of the period.

Incurred But Not Reported (IBNR)-Pertaining to losses where the events which will result in a loss, and eventually a claim, have occurred, but have not yet been reported to the insurance company. The term may also include "bulk" reserves for estimated future development of case reserves.

Underwriting Gain/(Loss)-The financial statement presentation that reflects the excess of earned premium over incurred losses.

Applications Bound-The applications that are actually assigned to a Servicing Carrier or Direct Assignment Carrier (if applicable).

Premium Bound-The total estimated annual premium on bound applications.

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Executive Summary

NCCI, as Pool and Plan Administrator of the Arkansas Workers Compensation Insurance Plan, is pleased to provide the Annual 2009 Residual Market State Activity Report.

Readers will notice an update of the key measurement factors and issues relating to the operation of the Arkansas Plan. NCCI has enhanced our data reporting tools to provide a more accurate picture of what is happening in your state.

If you have any questions or comments about this report, please feel free to contact any of the individuals listed below.

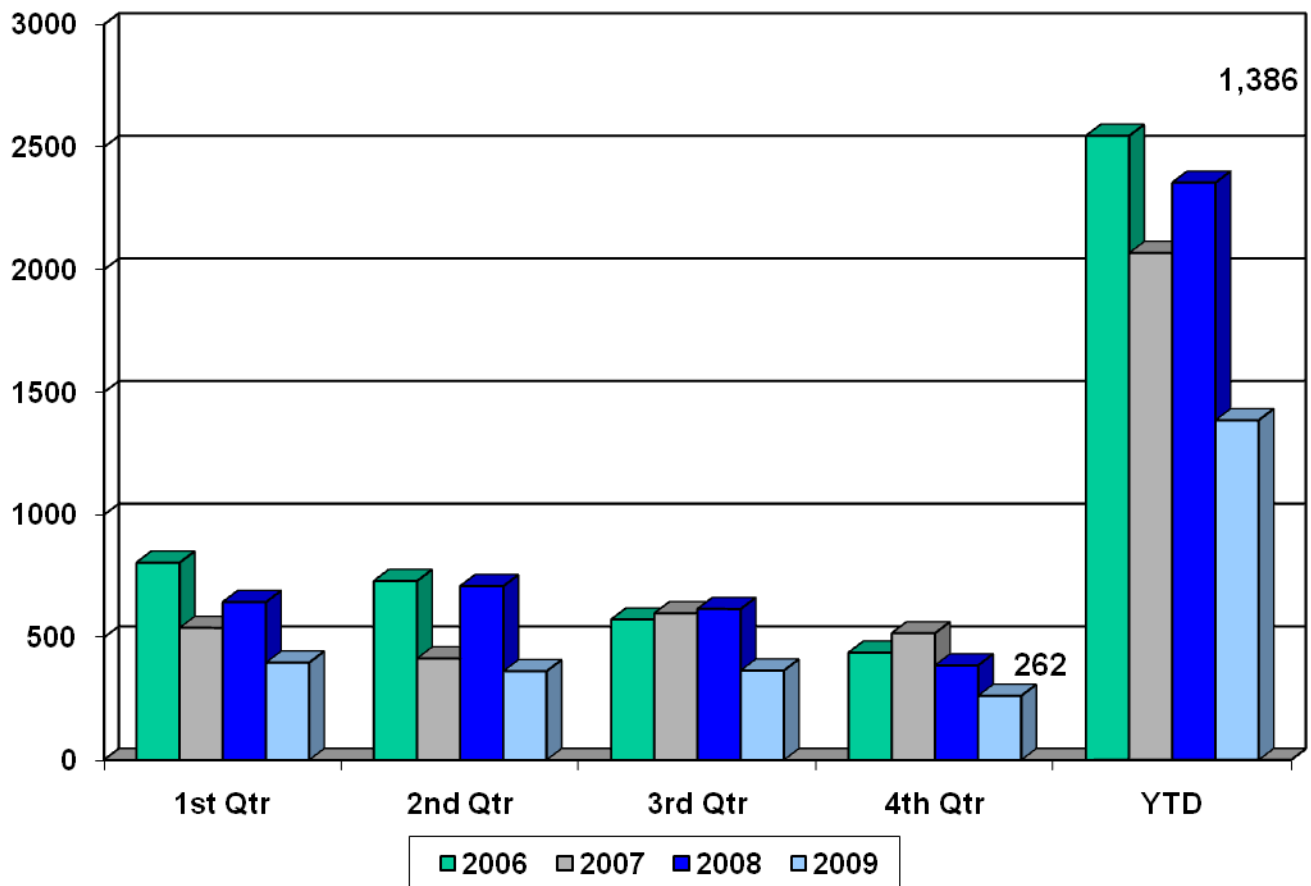
Terri Robinson, State Relations Executive
Chantel Weishaar, Technical Specialist

(314) 843-4001
(561) 893-3015

Residual Market Demographics – Annual 2009

Arkansas Residual Market Total New Applications Bound 2006 vs. 2007 vs. 2008 vs. 2009

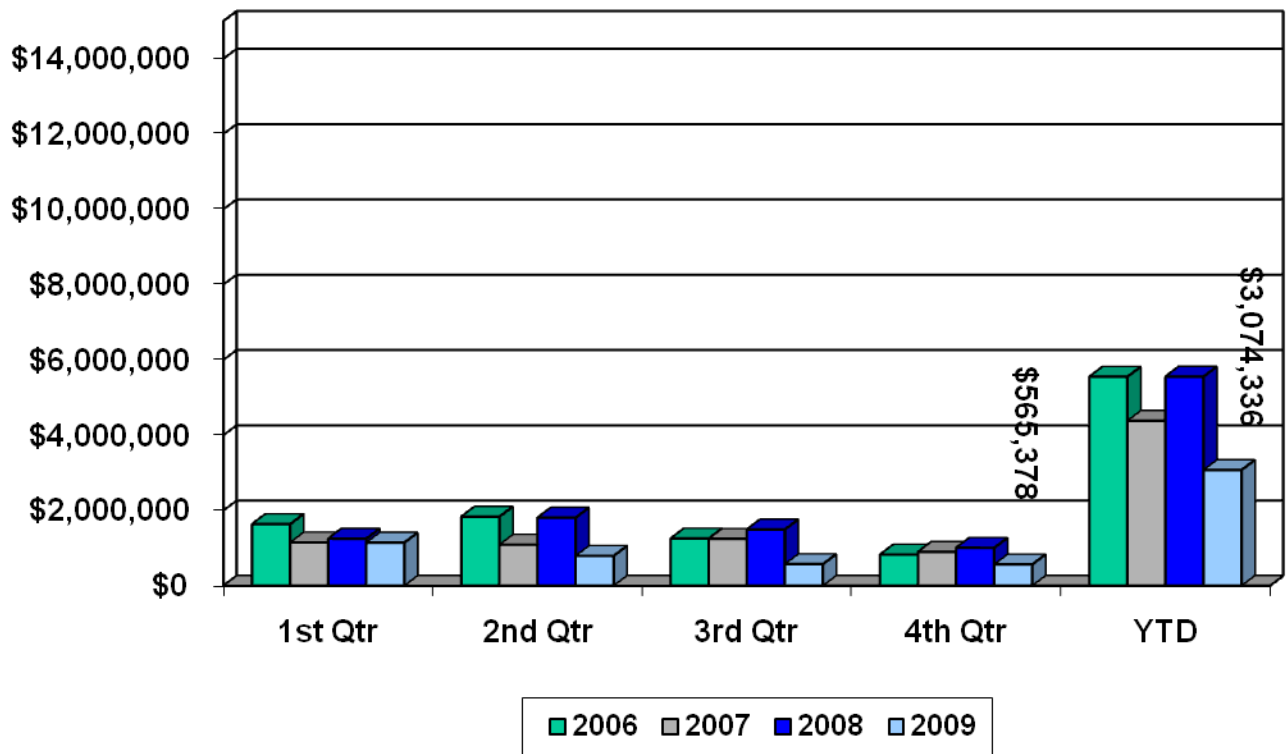
The number of new applications that are actually assigned to a Servicing Carrier or Direct Assignment Carrier (if applicable).



Residual Market Demographics – Annual 2009

Arkansas Residual Market Total New Application Premium Bound 2006 vs. 2007 vs. 2008 vs. 2009

*The total estimated premium on bound new applications assigned to as
Servicing Carrier or Direct Assignment Carrier (if applicable).*

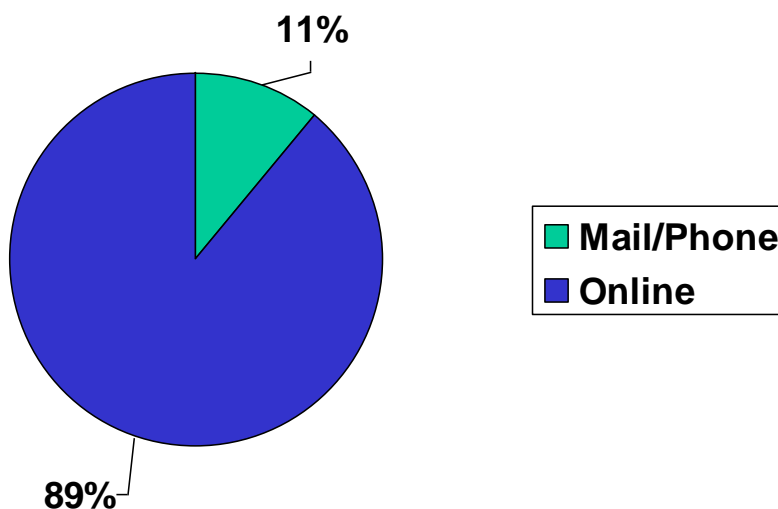


Residual Market Demographics – Annual 2009

Percentage of New Applications Received by Submission Format

Data through December 31, 2009

The total percentage of new applications received via online, phone or mail formats.

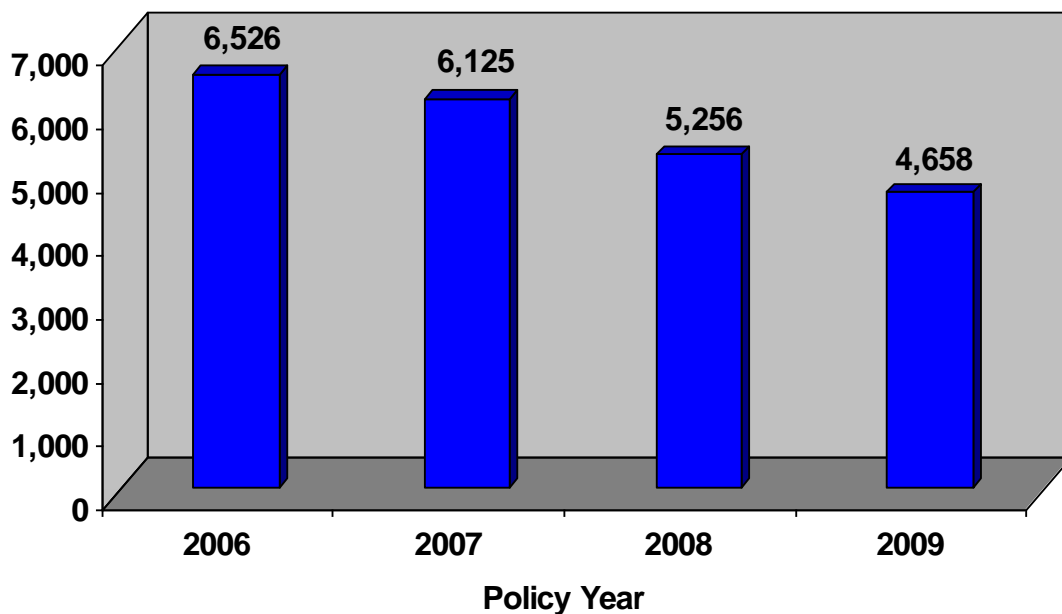


Residual Market Demographics – Annual 2009

Residual Market Total Policy Counts

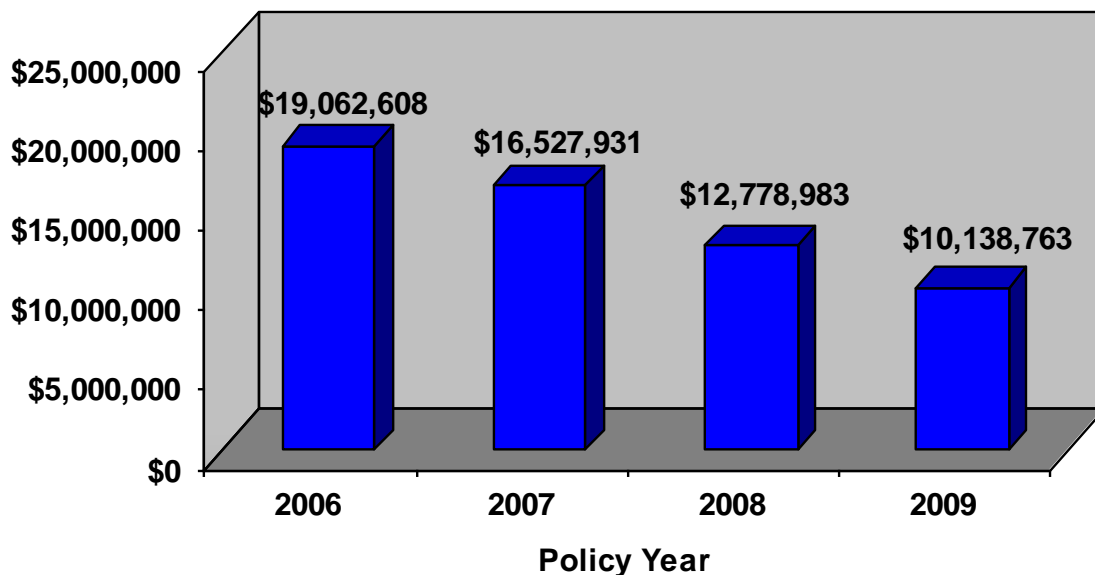
Annual Data for Policies Reported through December 31, 2009

Total Number of all Assigned Risk Plan Policies effective during this year and reported as of the date listed above.



Annual Data Reported through December 31, 2009

Total Amount of All Assigned Risk Plan Premium effective during this year and reported as of the date listed above.



Residual Market Demographics

Residual Market Total Policies and Premium in Force

As of December 31, 2009 compared to prior year

This chart reflects the total number of policies and estimated premium in-force for this state as of the date shown above.

The other exhibits in this report describe quarterly and year-to-date data.

	2008	2009	2008 vs. 2009 #	2008 vs. 2009 %
Policy Count	5,218	4,581	-637	-12.2%
Premium Volume	\$12,690,630	\$10,132,851	-\$2,557,779	-20.2%

Residual Market Demographics – Annual 2009

Residual Market Annual 2009 Total Premium Distribution by Size of Risk Data Reported through December 31, 2009

The total number of assigned risk plan policies reported to NCCI for this year by Direct Assignment and Servicing Carriers in a premium range as of the date listed above.

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	3,975	85.34%	\$3,392,798	33.46%	\$853
\$2500 - 4999	339	7.28%	\$1,196,106	11.80%	\$3,528
\$5000 - 9999	171	3.67%	\$1,191,935	11.76%	\$6,970
\$10000 - 19999	96	2.06%	\$1,265,006	12.48%	\$13,177
\$20000 - 49999	62	1.33%	\$1,856,950	18.32%	\$29,950
\$50000 - 99999	12	0.26%	\$781,705	7.71%	\$65,142
\$100000 - 199999	3	0.06%	\$454,263	4.48%	\$151,421
\$200000 +	0	0.00%	\$0	0.00%	\$0
Total	4,658	100%	\$10,138,763	100%	\$2,177

Residual Market Total Premium Distribution by Size of Risk Annual 2008 Data for Comparison

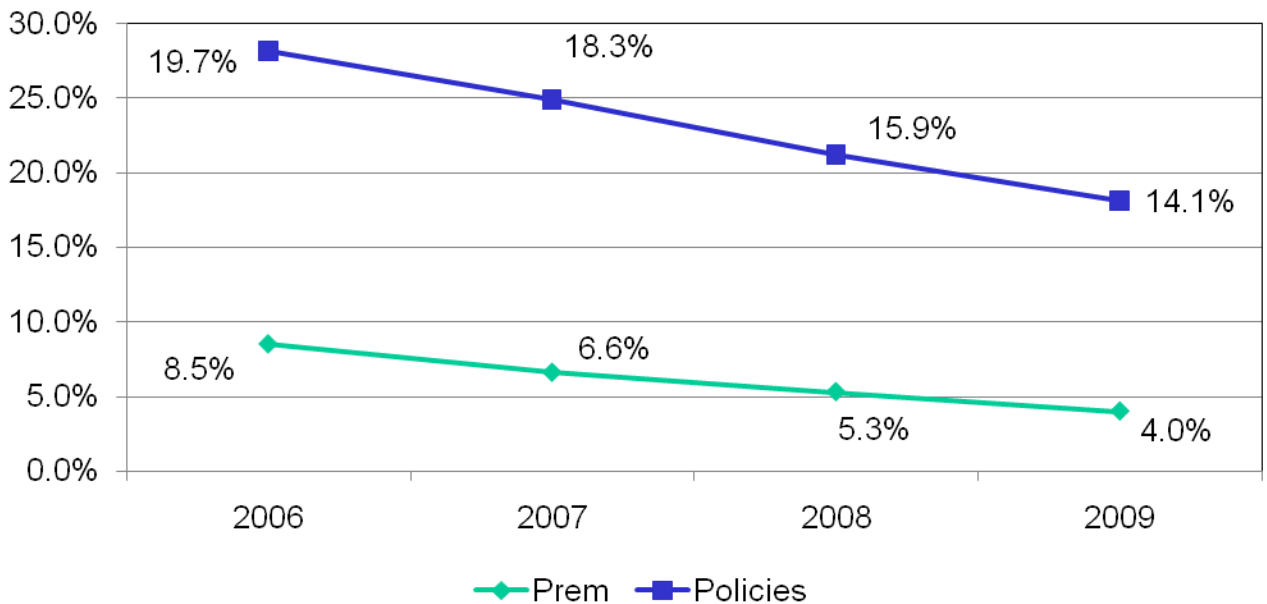
The total number of assigned risk plan policies reported to NCCI for this year by Direct Assignment and Servicing Carriers in a premium range as of the date listed above.

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	4,498	85.58%	\$3,735,472	29.23%	\$830
\$2500 - 4999	385	7.32%	\$1,354,830	10.60%	\$3,519
\$5000 - 9999	194	3.69%	\$1,373,300	10.75%	\$7,078
\$10000 – 19999	92	1.75%	\$1,312,028	10.27%	\$14,261
\$20000 - 49999	55	1.05%	\$1,666,063	13.04%	\$30,292
\$50000 - 99999	19	0.36%	\$1,224,668	9.58%	\$64,456
\$100000 - 199999	10	0.19%	\$1,280,809	10.02%	\$128,080
\$200000 +	3	0.06%	\$831,813	6.51%	\$277,271
Total	5,256	100%	\$12,778,983	100%	\$2,431

Residual Market Demographics

Total Arkansas Assigned Risk Plan Market Share

The percentage of total assigned risk plan policies and estimated annual premium, as compared to the total policies and estimated annual premium for the voluntary market, as of December 31, 2009.



Residual Market Demographics – Annual 2009

Residual Market Top 10 Classification Codes by Policy Count Data Reported through December 31, 2009

The top ten governing class codes by total policy count - policies issued by Servicing Carriers and Direct Assignment Carriers in this state as of the date listed above.

Rank	Code	Description	Policy Count	% of Policies
1	5645	Carpentry-detached One Or Two Family Dwellings	1,172	25.16%
2	8810	Clerical Office Employees NOC	161	3.46%
3	5474	Painting Or Paperhanging NOC & Shop Operations Drivers	152	3.26%
4	5022	Masonry NOC	150	3.22%
5	5551	Roofing-all Kinds & Drivers	145	3.11%
6	5183	Plumbing NOC& Drivers	112	2.40%
7	5437	Carpentry-installation Of Cabinet Work Or Interior Trim	108	2.32%
8	5445	Wallboard Installation Within Buildings & Drivers	95	2.04%
9	8832	Physician & Clerical	93	2.00%
10	5403	Carpentry NOC	88	1.89%

Residual Market Top 10 Classification Codes by Premium Volume Data Reported through December 31, 2009

The top ten governing class codes by premium volume written on total policies issued by Servicing Carriers and Direct Assignment Carriers in this state as of the date listed above.

Rank	Code	Description	Premium	% of Policies
1	5645	Carpentry-detached One Or Two Family Dwellings	\$1,381,722	13.63%
2	5403	Carpentry NOC	\$317,144	3.13%
3	5551	Roofing-all Kinds & Drivers	\$263,255	2.60%
4	5474	Painting Or Paperhanging NOC & Shop Operations Drivers	\$243,152	2.40%
5	7403	Aviation - All Other Employees & Drivers	\$238,192	2.35%
6	0037	Farm: Field Crops & Drivers	\$221,426	2.18%
7	8832	Physician & Clerical	\$194,202	1.92%
8	4771	Explosives Mfg. NOC	\$168,276	1.66%
9	6216	Oil Or Gas Lease Work NOC-by Contractor & Drivers	\$159,060	1.57%
10	8106	Iron Or Steel Merchant & Drivers	\$156,119	1.54%

Residual Market Demographics

Voluntary Coverage Assistance Program - Arkansas

*The volume of assigned risk applications redirected to the voluntary market through NCCI's **VCAP® Service**. The following shows the results **VCAP® Service** has provided during Fourth Quarter 2009.*

Date Range:	10/01/2009 - 12/31/2009
Number of Applications Reviewed by VCAP® Service	270
Associated Premium for Applications Reviewed	\$606,356
Number of VCAP® Service Matches	42
VCAP® Service Matches as a % of Applications Reviewed	15.6%
Number of VCAP® Service Offers	8
VCAP® Service Offers as a % of Matches	19.0%
Number of Confirmed VCAP® Service Policies	8
Confirmed VCAP® Service Policies as a % of Applications Reviewed	3.0%
Redirected Assigned Risk Premium	\$40,978
Associated Voluntary Market Premium	\$29,195
Savings	\$11,783
Average Savings per Application	\$1,473
Savings as a % of Redirected Assigned Risk Premium	28.8%
Redirected Premium as a % of Associated Premium for Applications Reviewed by VCAP® Service	6.8%

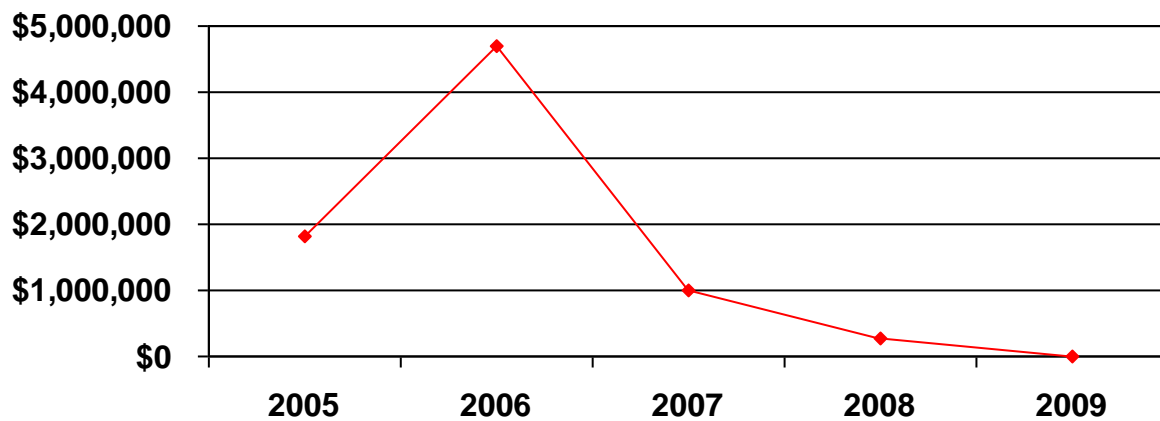
Residual Market Demographics

Collections/Indemnification

The following shows a comparison of gross written premium and uncollectible premium reported in Arkansas and the National Pool for Policy Years 2005-2009, obtained through NP-4 and NP-5 reports including traumatic and black lung claims, evaluated through Third Quarter 2009.

Arkansas	Gross Written Premium	Uncollectible Premium	Percentage
2005	\$25,328,864	\$1,818,409	7.2%
2006	\$22,672,354	\$1,696,618	7.5%
2007	\$17,959,260	\$1,004,412	5.6%
2008	\$14,001,009	\$287,068	2.1%
2009	\$8,258,651	\$5	0.0%
National Pool 2009	\$314,309,429	\$77,458	0.0%

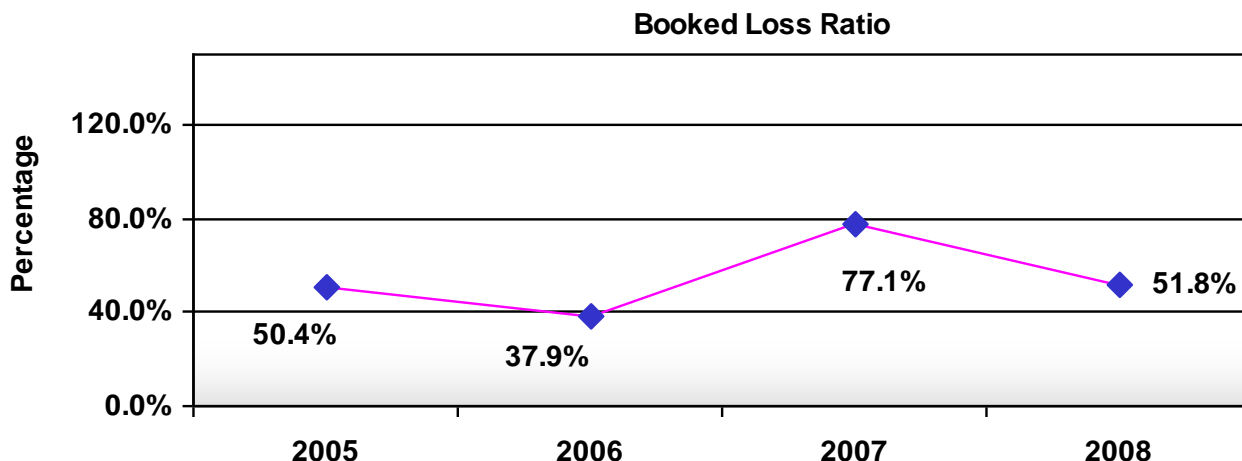
Arkansas Uncollectible Premium



Residual Market Demographics

Arkansas Residual Market Reinsurance Pool Booked Loss Ratio Policy Year Financial Results through 3rd Quarter 2009 for 2008 and prior years

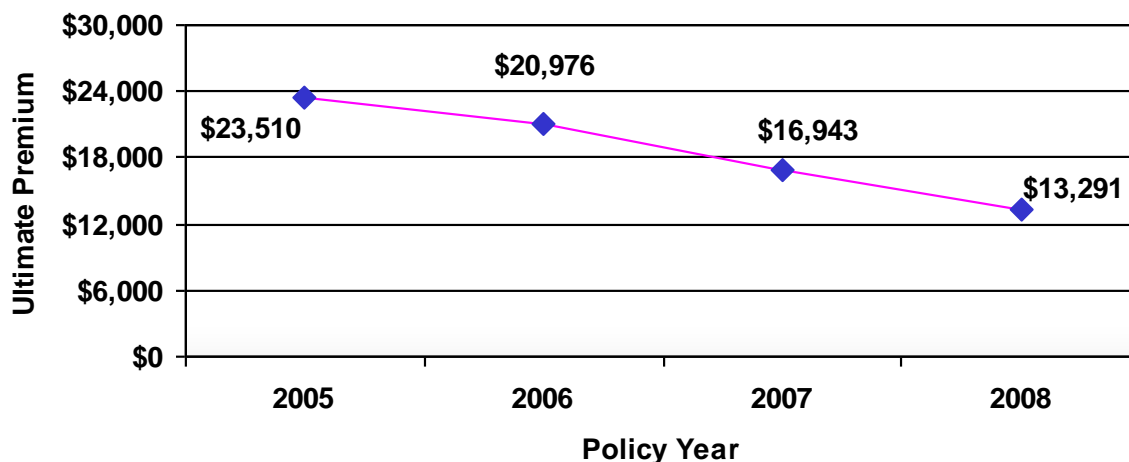
The ratio of total incurred losses to total earned premiums in a given period, in this state, expressed as a percentage .



Arkansas Residual Market Reinsurance Pool Ultimate Net Written Premium (Projected to Ultimate) (000's)

Policy Year Financial Results through 3rd Quarter 2009 for 2008 and prior years*

The premium charged by an insurance company for the period of time and coverage provided by an insurance contract in this state.



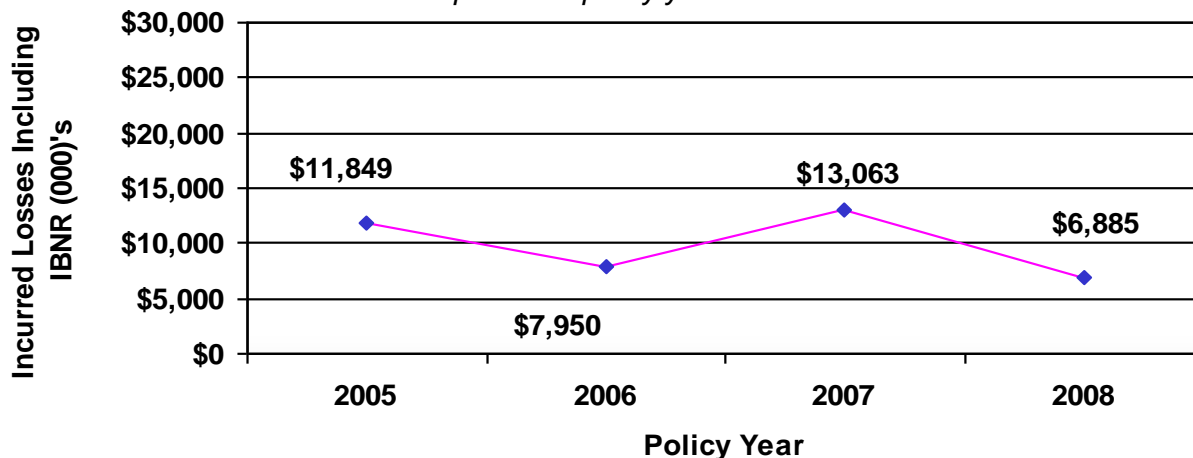
*-Fourth Quarter 2009 Data will be available the end of April 2010 due to the timing of data reporting

Residual Market Demographics

Arkansas Residual Market Reinsurance Pool Net Operating Results (Projected to Ultimate) Incurred Losses

Policy Year Financial Results through 3rd Quarter 2009 for 2008 and prior years*

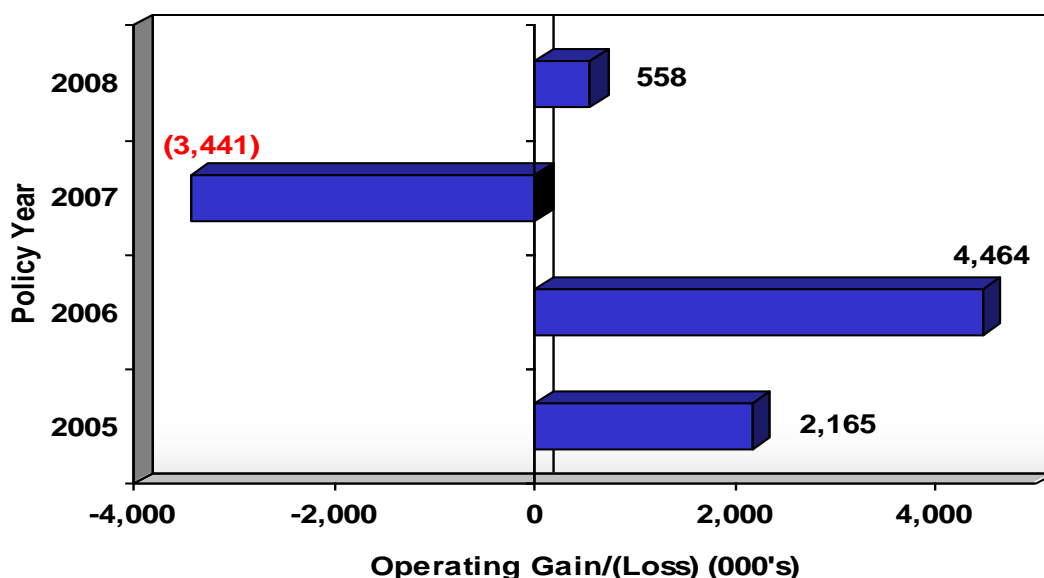
Policy year incurred losses reflect paid losses, case reserves and IBNR reserves for policies written in a particular policy year in that state.



Arkansas Residual Market Reinsurance Pool Net Operating Results (Projected to Ultimate) Estimated Net Operating Gain/(Loss) (000's)

Policy Year Financial Results through 3rd Quarter 2009 for 2008 and prior years*

The financial statement presentation that reflects the excess of earned premium over incurred losses, less all operating expenses, plus all investment income in that state.



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Glossary of Terms

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Premium Bound-The total estimated annual premium on bound applications.

Exhibit D



ANNUAL ISSUES SYMPOSIUM 2010

State of the Line

Dennis Mealy, FCAS, MAAA
NCCI Chief Actuary
May 6, 2010
Orlando, Florida




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I. Property/Casualty Results

II. Workers Compensation Results


III. Current Topics of Interest

IV. Concluding Remarks



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Property/Casualty Results



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P/C Industry Net Written Premium Another Decline

Private Carriers

Line of Business (LOB)	2007	2008	2009p	2008– 2009p Change
Personal Auto	\$159.1 B	\$157.9 B	\$159.9 B	1.2%
Homeowners	\$54.8 B	\$55.6 B	\$56.3 B	1.3%
Other Liability (Incl Prod Liab)	\$44.3 B	\$42.0 B	\$41.6 B	-0.9%
Workers Compensation	\$37.6 B	\$33.8 B	\$29.8 B	-11.8%
Commercial Multiple Peril	\$31.1 B	\$30.1 B	\$27.0 B	-10.2%
Commercial Auto	\$25.5 B	\$23.7 B	\$23.1 B	-2.6%
Fire & Allied Lines (Incl EQ)	\$21.9 B	\$23.8 B	\$20.3 B	-14.5%
All Other Lines	\$66.4 B	\$68.1 B	\$61.0 B	-10.5%
Total P/C Industry	\$440.6 B	\$434.9 B	\$419.0 B	-3.7%

p Preliminary

Source: Workers Compensation, NCCI;
All Other Lines, Best's Review Preview and ISO



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P/C Underwriting Losses Moderate

Net Combined Ratio—Private Carriers

Line of Business (LOB)	Calendar Year		
	2007	2008	2009p
Personal Auto	98%	100%	99%
Homeowners	96%	117%	106%
Other Liability (Incl Prod Liab)	99%	95%	100%
Workers Compensation	101%	101%	110%
Commercial Multiple Peril	92%	104%	97%
Commercial Auto	94%	97%	97%
Fire & Allied Lines (Incl EQ)	70%	100%	81%
All Other Lines	93%	112%	108%
Total P/C Industry	95%	104%	101%

p Preliminary

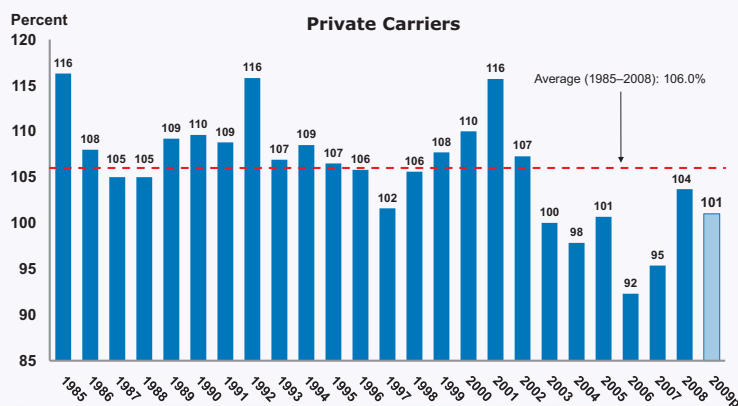
Source: Workers Compensation, NCCI;
All Other Lines, Best's Review Preview and ISO

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P/C Industry Calendar Year Net Combined Ratios



p Preliminary

Source: 1985–2008, Best's Aggregates & Averages; 2009p, ISO

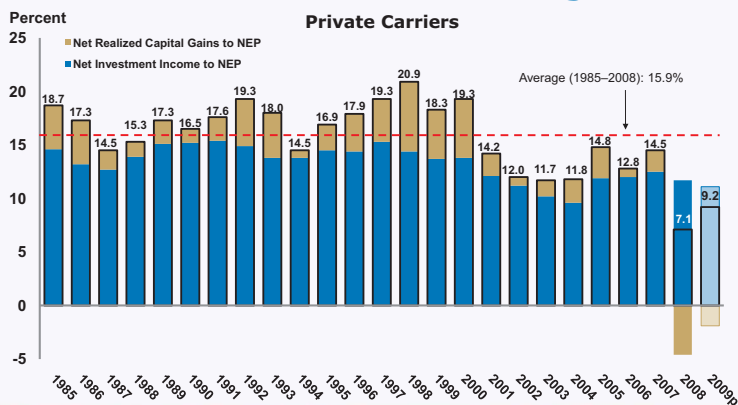
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Calendar Year

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Investment Gain Ratio Remains Below Historical Average



p Preliminary

Source: 1985–2008, Best's Aggregates & Averages; 2009p, ISO

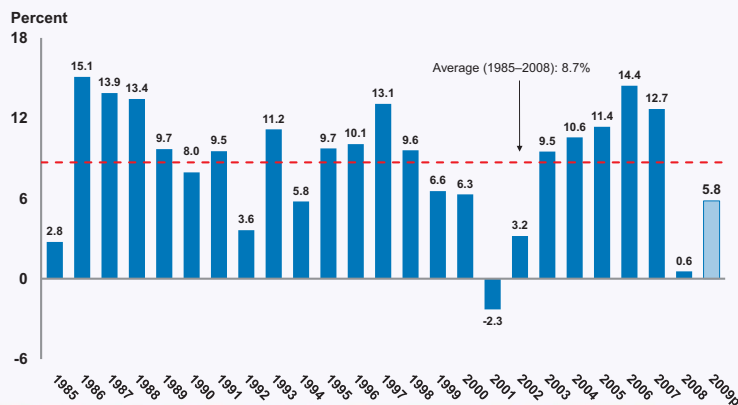
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P/C Industry Return on Surplus

Annual After-Tax Return on Surplus—Private Carriers



p Preliminary

Note: After-tax return on average surplus, excluding unrealized capital gains
Source: 1985–2008, Best's Aggregates & Averages; 2009p, ISO; 2009p Surplus, 2008 Best's Aggregates & Averages + 2009 ISO contributions to surplus

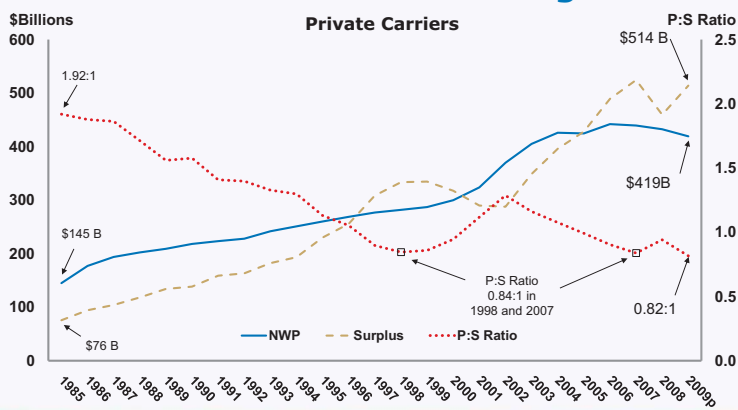
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Calendar Year

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P/C Industry Premium-to-Surplus Ratio Remains Strong



p Preliminary

Calendar Year

Source: 1985–2008, Best's Aggregates & Averages; 2009p Surplus, 2008 Best's Aggregates & Averages + 2009 ISO contributions to surplus

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Contributions to Surplus

Private Carriers

	2007	2008	2009p
Underwriting Gains/Losses	\$ 19.3 B	\$ (21.2) B	\$ (3.1) B
Investment Income	\$ 55.1 B	\$ 51.5 B	\$ 47.0 B
Realized Capital Gains/Losses	\$ 8.9 B	\$ (19.8) B	\$ (8.0) B
Other Income	\$ (1.0) B	\$ 0.4 B	\$ 0.8 B
Unrealized Capital Gains/Losses	\$ (0.6) B	\$ (52.9) B	\$ 23.1 B
Federal Taxes	\$ (19.8) B	\$ (7.8) B	\$ (8.4) B
Shareholder Dividends	\$ (32.2) B	\$ (24.1) B	\$ (16.7) B
Contributed Capital	\$ 3.2 B	\$ 12.3 B	\$ 6.5 B
Other Changes to Surplus	\$ (1.2) B	\$ 1.1 B	\$ 13.0 B
Total	\$ 31.7 B	\$ (60.6) B	\$ 54.2 B

p Preliminary

Source: ISO

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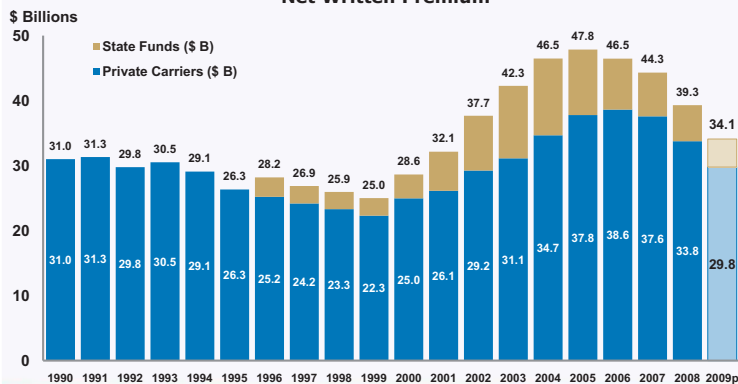
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Workers Compensation Results

Workers Compensation Premium Continues Its Sharp Decline

Net Written Premium



p Preliminary

Calendar Year

Source: 1990–2008 Private Carriers, Best's Aggregates & Averages; 2009p, NCCI 1996–2009p State Funds: AZ, CA, CO, HI, ID, KY, LA, MD, MO, MT, NM, OK, OR, RI, TX, UT Annual Statements State Funds available for 1996 and subsequent

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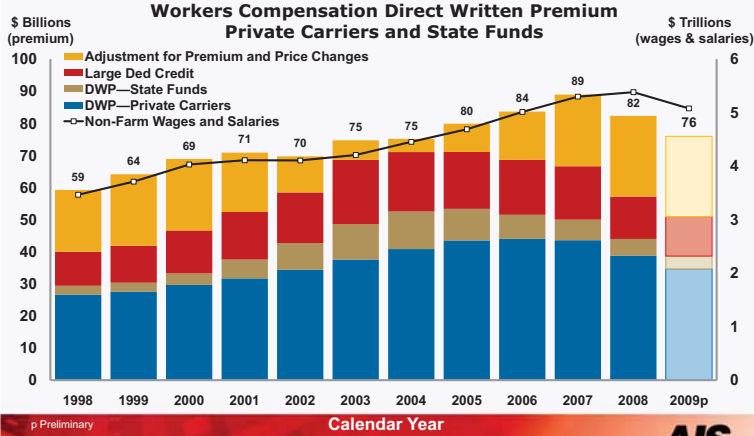
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Adjusted Workers Compensation Premium Volume



Source: 1998–2008 Private Carriers, Best's Aggregates & Averages; 2009p, NCCI
1998–2009p State Funds: AZ, CA, CO, HI, IL, KY, LA, MO, MT, NM, OK, OR, RI, TX, UT Annual Statements
Adjustment for premium and price level changes relative to 1995; premium adjustment to 1995 rate level

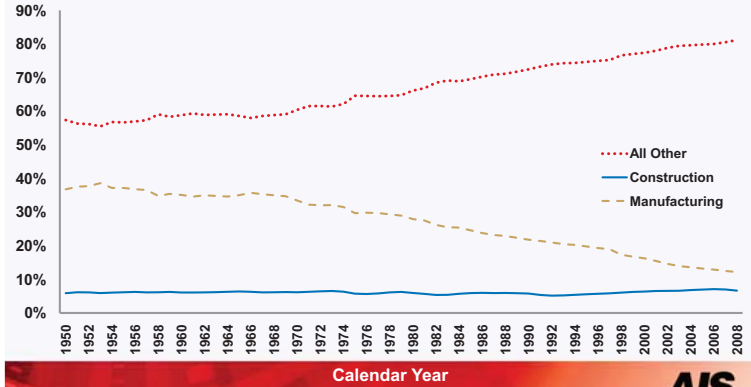
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Manufacturing Share of Employment Has Declined Steadily Over the Past 50 Years

Full-Time Equivalent Employees by Industry (% of Total Private Industry)



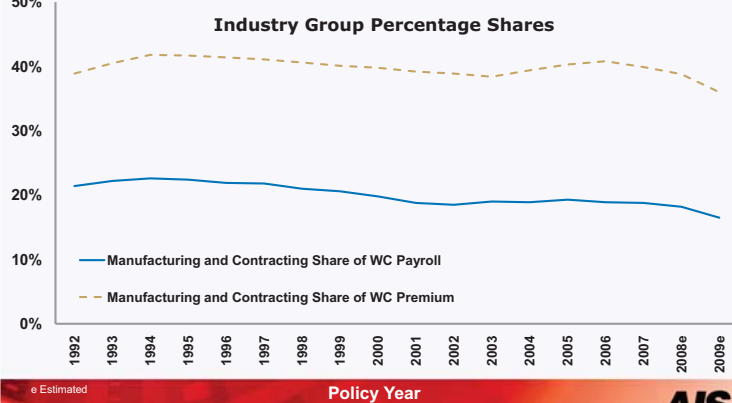
Source: Bureau of Economic Analysis, Moody's Economy.com, NCCI

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Manufacturing and Contracting 20% of WC Payroll But 40% of WC Premium



e Estimated
Source: NCCI Workers Compensation Statistical Plan (WCSP)
2008 and 2009 are NCCI projections

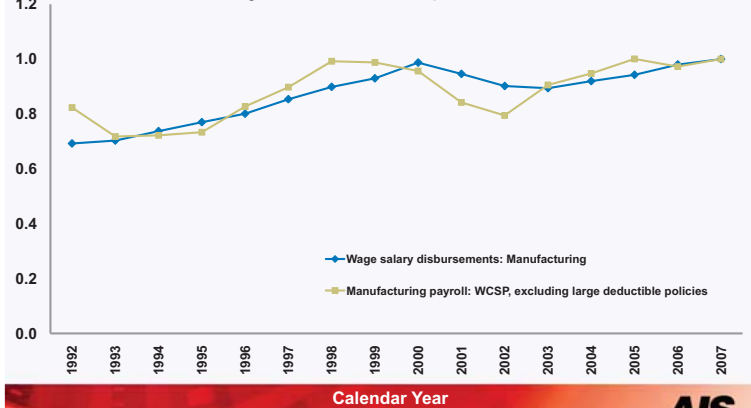
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Workers Compensation Manufacturing Payroll Is Highly Cyclical

Payroll Growth Index, 2007=1.00



Source: Wage and salary disbursements—US Bureau of Economic Analysis; Moody's Analytics Estimates
Manufacturing payroll—NCCI

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16

Contributions to WC Net Written Premium Decline

Calendar Years 2007–2009

2-Year Change in Countrywide NWP **-23%**

Known Pricing Impacts

Change in Bureau Rates and Loss Costs **-7%**
Change in Carrier Pricing **-4%**

Economic Impacts

Change in Total Payroll **-4%**
Impact of Recession on Industry Group Mix **-4% to -6%**
Impact of Recession by Firm Size **-4% to -6%**
Other Impacts **+1% to -2%**

Source: NCCI Analysis

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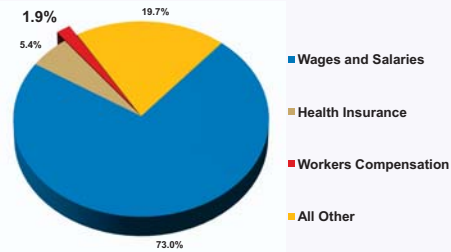
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17

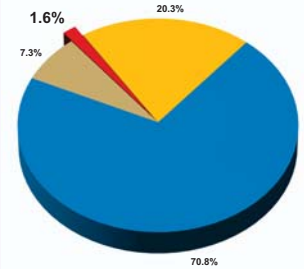
Employer Costs as Percentage of Total Compensation

Private Industry

1999



2009



All Other includes Paid Leave, Supplemental Pay, Insurance (other than Health), Social Security, Retirement and Savings
Source: US Department of Labor, Bureau of Labor Statistics

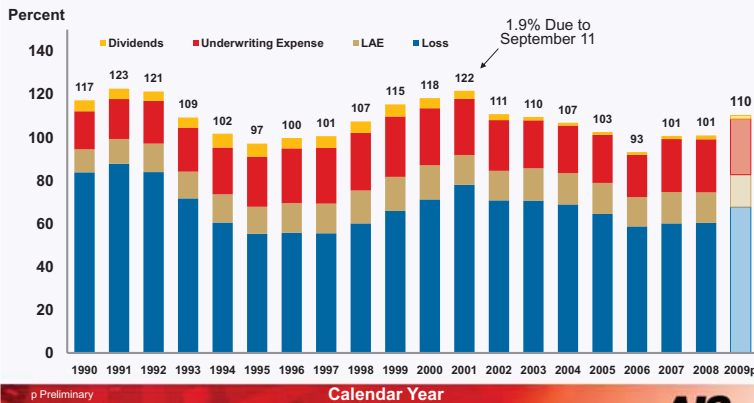
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18

WC Calendar Year Combined Ratio Up Markedly

Private Carriers



p Preliminary

Calendar Year

Source: 1990–2008, Best's Aggregates & Averages; 2009p, NCCI

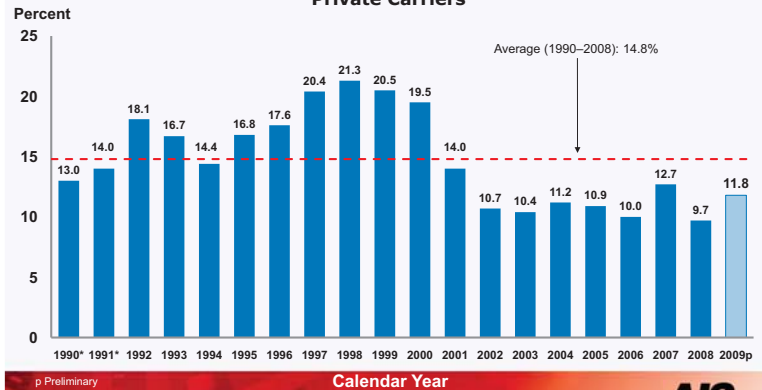
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19

Workers Compensation Investment Returns Remain Below Historical Average

Investment Gain on Insurance Transactions-to-Premium Ratio
Private Carriers



p Preliminary

Calendar Year

Source: 1990–2008, Best's Aggregates & Averages; 2009p, NCCI
Investment Gain on Insurance Transactions Includes Other Income
* Adjusted to include realized capital gains to be consistent with 1992 and after

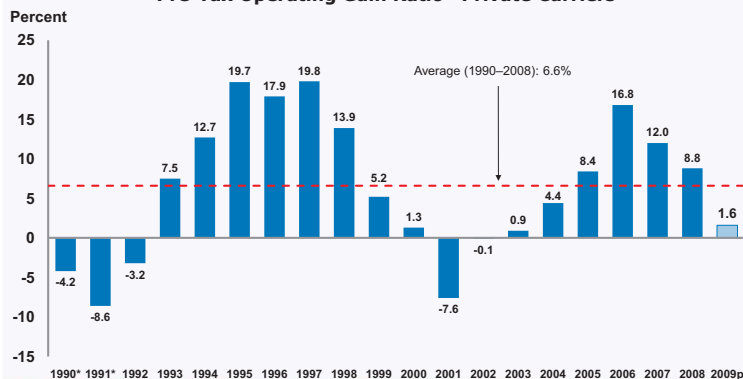
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Workers Compensation Results Barely an Operating Gain

Pre-Tax Operating Gain Ratio—Private Carriers



p Preliminary

Calendar Year

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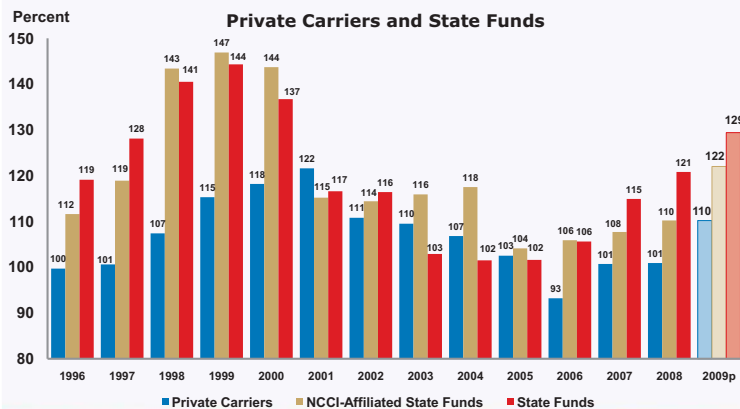
Source: 1990-2008, Best's Aggregates & Averages; 2009p, NCCI
Operating Gain Equals 1.00 minus (Combined Ratio Less Investment Gain on Insurance Transactions and Other Income)
* Adjusted to include realized capital gains to be consistent with 1992 and after

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Workers Compensation Calendar Year Net Combined Ratios

Private Carriers and State Funds



p Preliminary

Calendar Year

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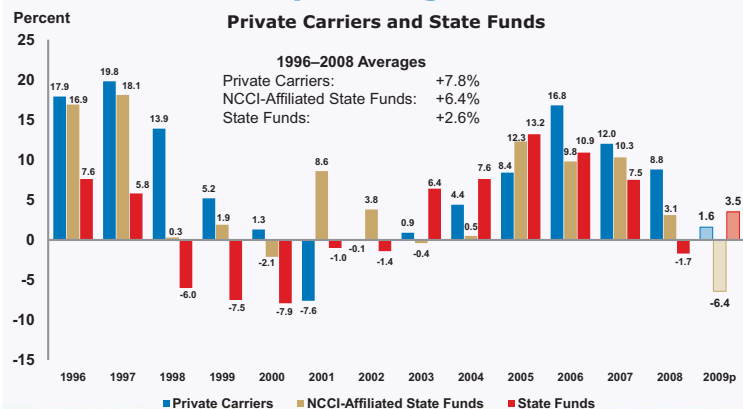
Source: 1996-2008 Private Carriers, Best's Aggregates & Averages; 2009p, NCCI
1996-2009p NCCI-Affiliated State Funds: AZ, CA, CO, HI, ID, KY, LA, MD, MO, MT, NM, OK, OR, RI, UT Annual Statements
1996-2009p State Funds: AZ, CA, CO, HI, ID, KY, LA, MD, MO, MT, NM, OK, OR, RI, TX, UT Annual Statements

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Workers Compensation Pre-Tax Operating Gain Ratios

Private Carriers and State Funds



1996-2008 Averages

Private Carriers:

NCCI-Affiliated State Funds:

State Funds:

+7.8%

+6.4%

+2.6%

p Preliminary

Calendar Year

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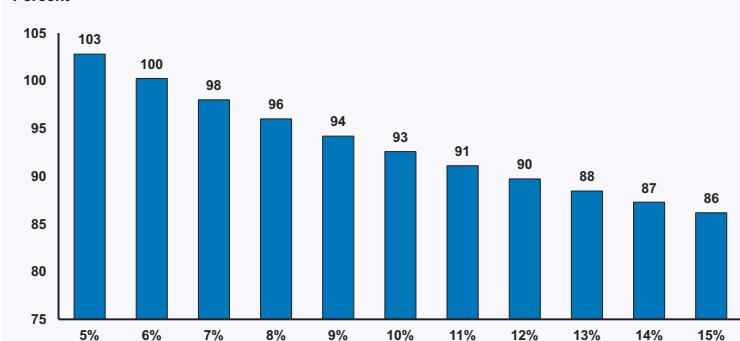
Operating Gain Equals 1.00 minus (Combined Ratio Less Investment Gain on Insurance Transactions and Other Income)
Source: 1996-2008 Private Carriers, Best's Aggregates & Averages; 2009p, NCCI
1996-2009p NCCI-Affiliated State Funds: AZ, CA, CO, HI, ID, KY, LA, MD, MO, MT, NM, OK, OR, RI, UT Annual Statements
1996-2009p State Funds: AZ, CA, CO, HI, ID, KY, LA, MD, MO, MT, NM, OK, OR, RI, TX, UT Annual Statements

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Workers Compensation Combined Ratios for Given Cost of Capital

Percent



Cost of Capital

Assumptions: 3.4% Pre-Tax Investment Yield
2.7% After-Tax Investment Yield
WC Reserve to Surplus Ratio = 2.05
Based on NCCI's 2009 Internal Rate of Return model

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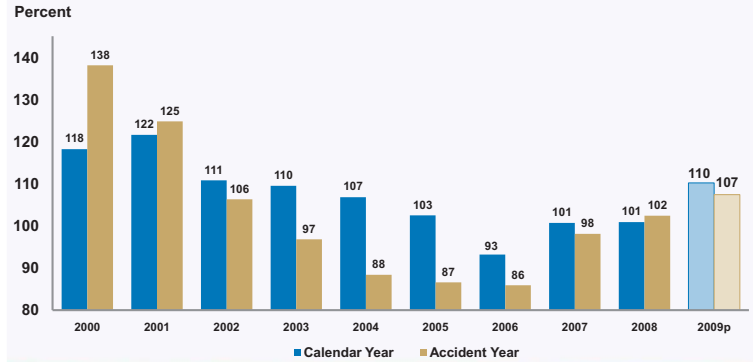
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Workers Compensation Accident Year Results and Reserve Estimates

Accident Year Combined Ratios

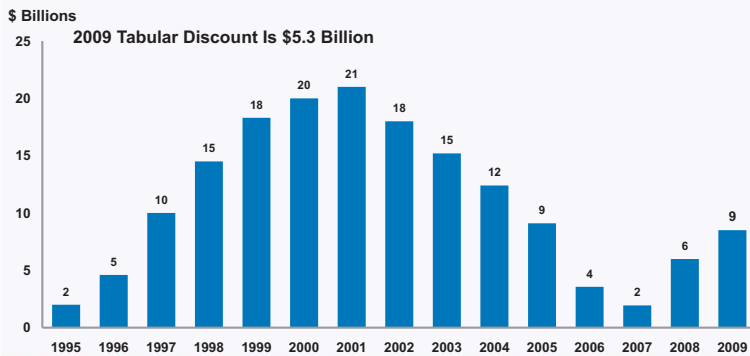
Workers Compensation Calendar Year vs. Ultimate Accident Year
Private Carriers



p Preliminary
Accident Year data is evaluated as of 12/31/2009 and developed to ultimate
Source: Calendar Years 2000–2008, Best's Aggregates & Averages;
Calendar Year 2009p and Accident Years 2000–2009p, NCCI analysis based on Annual Statement data
Includes dividends to policyholders

Calendar Year Reserve Deficiencies

Workers Compensation Loss and LAE Reserve Deficiency
Private Carriers

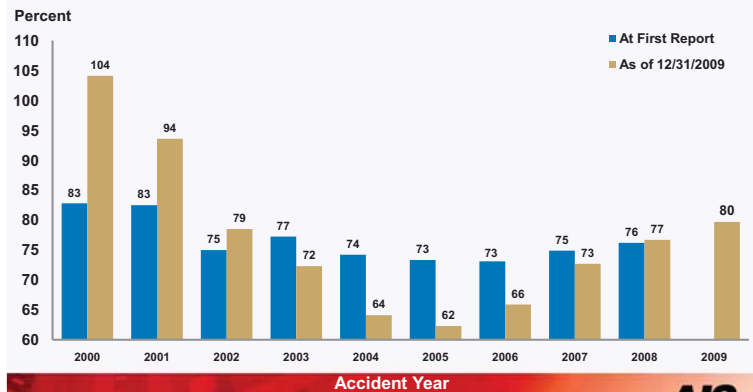


Calendar Year

Loss and LAE figures are based on NAIC Annual Statement data for each valuation date and NCCI latest selections
Source: NCCI analysis
Considers all reserve discounts as deficiencies

Workers Compensation Accident Year Loss and LAE Ratios

As Reported—Private Carriers

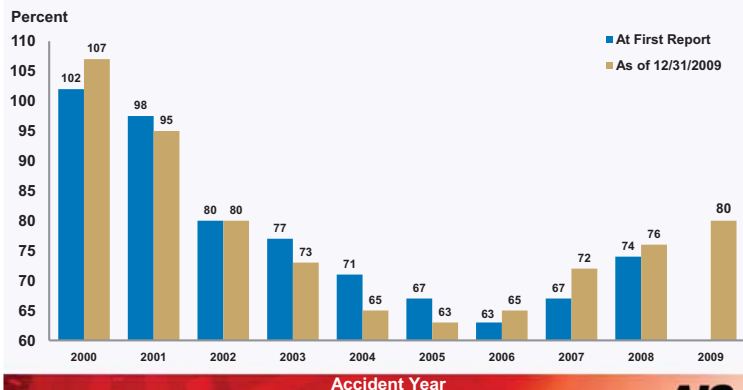


Accident Year

Reported Loss and LAE ratios
Source: NAIC Annual Statement, Schedule P data as reported by Private Carriers

Workers Compensation Accident Year Loss and LAE Ratios

NCCI Selections—Private Carriers



Selected Loss and LAE ratios
Source: NCCI Reserve Analysis

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Workers Compensation Premium Drivers

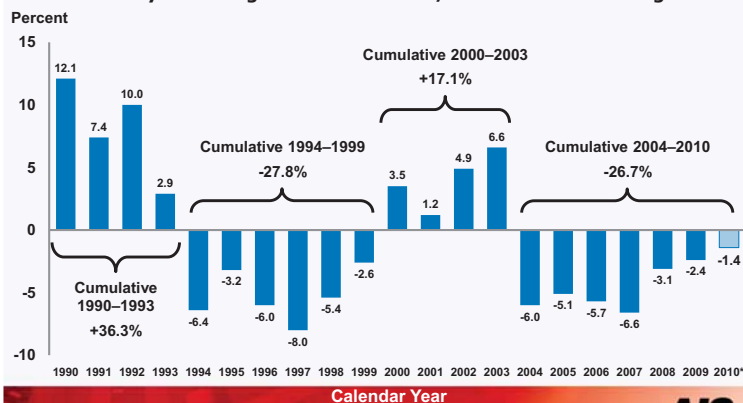
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Average Approved Bureau Rates/Loss Costs

History of Average WC Bureau Rate/Loss Cost Level Changes



* States approved through 4/23/2010

Countrywide approved changes in advisory rates, loss costs, and assigned risk rates as filed by the applicable rating organization

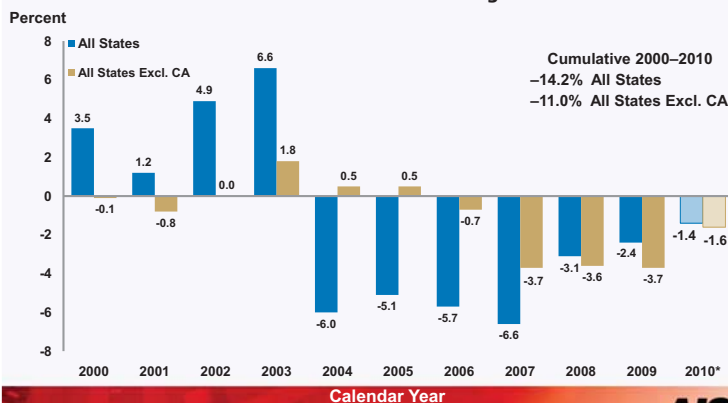
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Average Approved Bureau Rates/Loss Costs

All States vs. All States Excluding California



* States approved through 4/23/2010

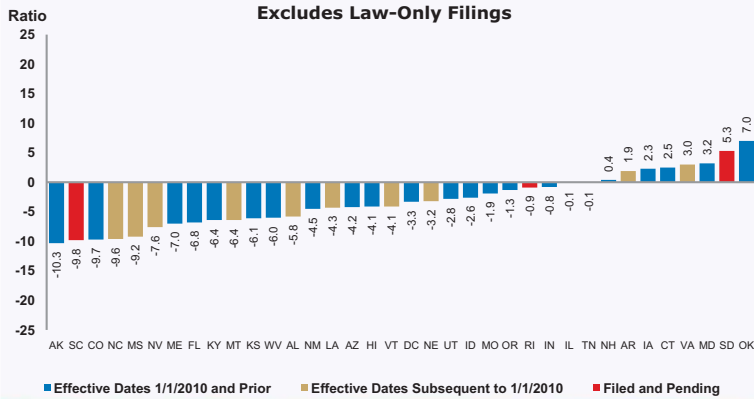
Countrywide approved changes in advisory rates, loss costs, and assigned risk rates as filed by the applicable rating organization

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Current NCCI Voluntary Market Filed Rate/Loss Cost Changes



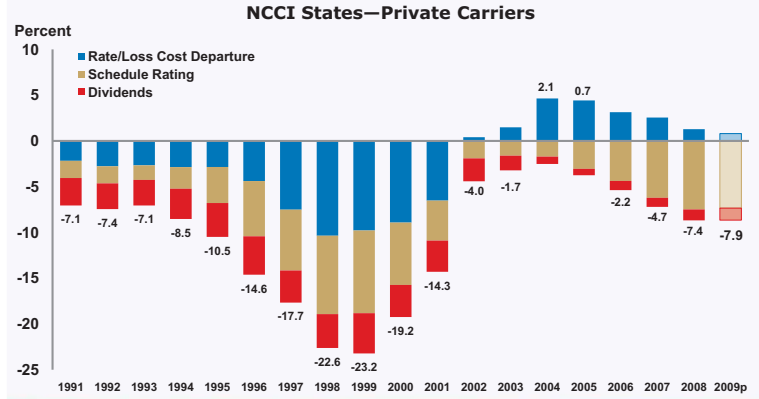
States filed through 4/23/2010

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Impact of Discounting on Workers Compensation Premium



p Preliminary
Dividend ratios are based on calendar year statistics
NCCI benchmark level does not include an underwriting contingency provision
Based on data through 12/31/2009 for the states where NCCI provides ratemaking services

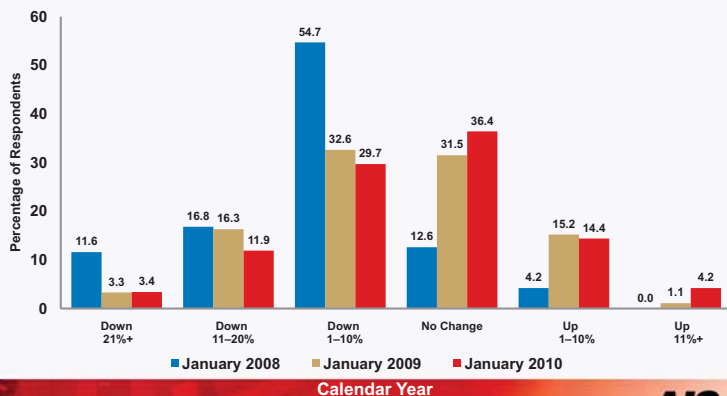
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According to Goldman Sachs, Pricing Declines Continue to Moderate

Agent Responses on WC Policy Renewal Premiums vs. 12 Months Prior



Source: Goldman Sachs Research, Proprietary Survey, "January 2010 Pricing Survey, Insurance: Property & Casualty" (Exhibit 8, Workers' Compensation, Percentage of Respondents)

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Workers Compensation Loss Drivers

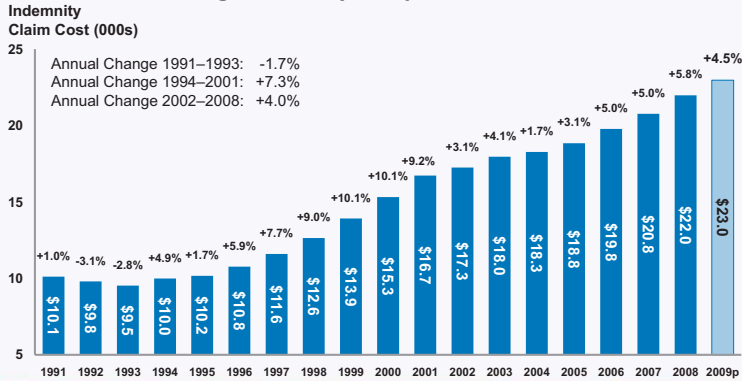
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Workers Compensation Indemnity Claim Costs Continue to Grow

Average Indemnity Cost per Lost-Time Claim



Accident Year

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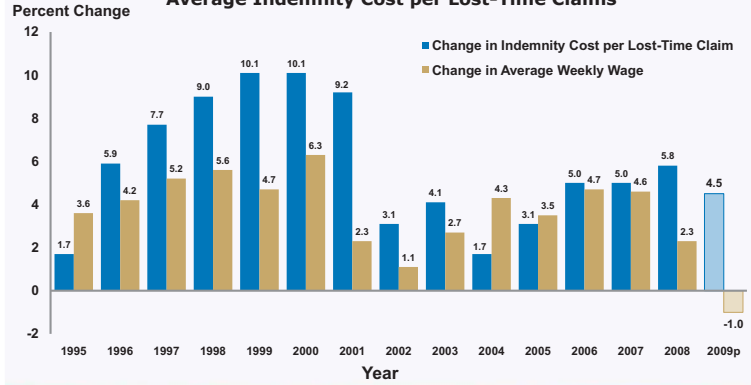
2009p: Preliminary based on data valued as of 12/31/2009
1991–2008: Based on data through 12/31/2008, developed to ultimate
Based on the states where NCCI provides ratemaking services, including state funds
Excludes high deductible policies

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WC Indemnity Severity Continues to Outpace Wage Inflation

Average Indemnity Cost per Lost-Time Claims



Year

Indemnity severity 2009p: Preliminary based on data valued as of 12/31/2009
Indemnity severity 1995–2008: Based on data through 12/31/2008, developed to ultimate
Based on the states where NCCI provides ratemaking services, including state funds; excludes high deductible policies
Source: Average Weekly Wage 1995–2008: Quarterly Census of Employment and Wages, Economy.com; 2009p, NCCI
Accident year indemnity severity—NCCI states, NCCI

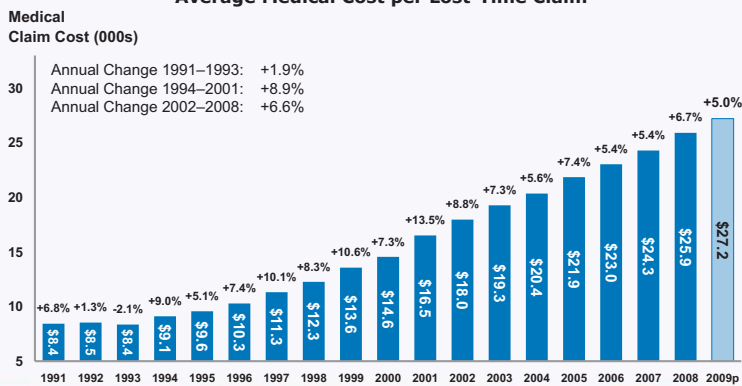
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WC Medical Claim Costs Will Moderate Trends Continue?

Average Medical Cost per Lost-Time Claim



Accident Year

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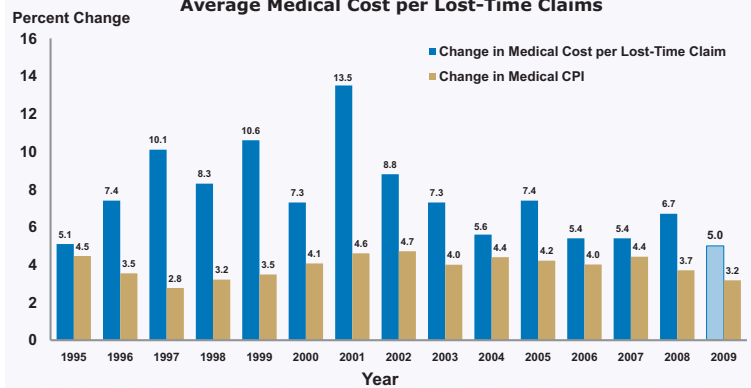
2009p: Preliminary based on data valued as of 12/31/2009
1991–2008: Based on data through 12/31/2008, developed to ultimate
Based on the states where NCCI provides ratemaking services, including state funds
Excludes high deductible policies

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WC Medical Severity Still Growing Faster Than the Medical CPI

Average Medical Cost per Lost-Time Claims



Year

Medical severity 2009p: Preliminary based on data valued as of 12/31/2009
Medical severity 1995–2008: Based on data through 12/31/2008, developed to ultimate
Based on the states where NCCI provides ratemaking services, including state funds; excludes high deductible policies
Source: Medical CPI—All states, Economy.com; Accident year medical severity—NCCI states, NCCI

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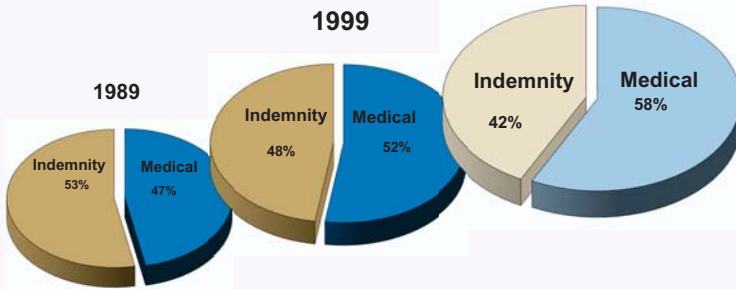
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Workers Compensation Medical Losses Are More Than Half of Total Losses

All Claims—NCCI States

2009p



2009p: Preliminary based on data valued as of 12/31/2009
1989, 1999: Based on data through 12/31/2008, developed to ultimate
Based on the states where NCCI provides ratemaking services, including state funds
Excludes high deductible policies

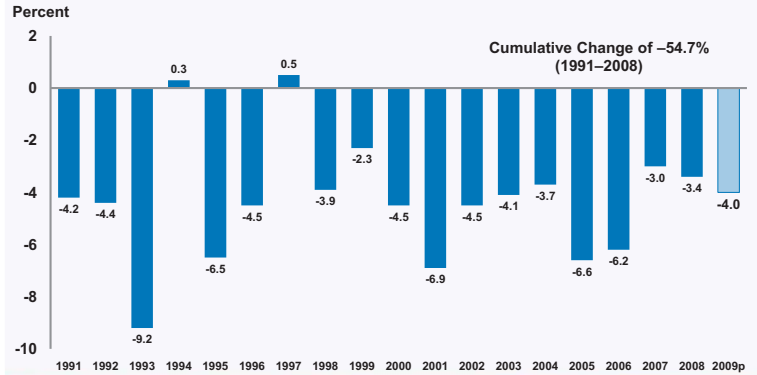
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Workers Compensation Lost-Time Claim Frequency Continues to Decline

Lost-Time Claims



2009p: Preliminary based on data valued as of 12/31/2009
1991-2008: Based on data through 12/31/2008, developed to ultimate
Based on the states where NCCI provides ratemaking services, including state funds; excludes high deductible policies
Frequency is the number of lost-time claims per 100,000 workers as estimated from reported premium

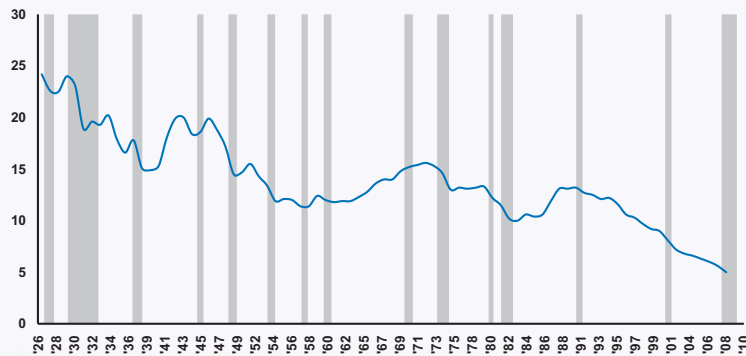
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Frequency A Long-Term Drift Downward

Manufacturing—Total Recordable Cases
Rate of Injury and Illness Cases per 100 Full-Time Workers



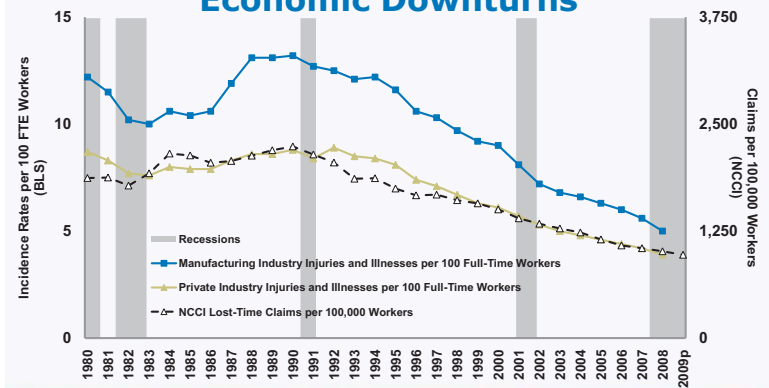
Note: Recessions indicated by gray bars
Source: U.S. Bureau of Labor Statistics; National Bureau of Economic Research

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Workplace Injury Incidence Rates Have Shown Declines in Last Four Economic Downturns



p Preliminary

Source: U.S. Department of Labor, Bureau of Labor Statistics (BLS), National Bureau of Economic Research
NCCI Frequency and Severity Analysis; based on the states where NCCI provides ratemaking services, including state funds; excludes high deductible policies

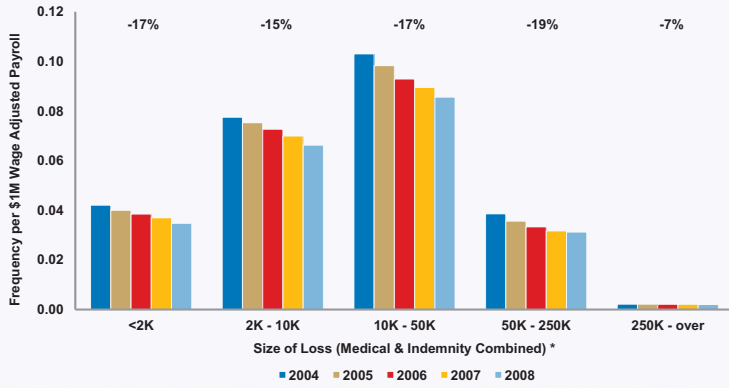
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After Adjusting for Inflation, All Loss Size Ranges Show Frequency Decreases

Policy Years Expiring 2004 to 2008 at First Report



Frequency at 1st report, WCSP data, for all states where NCCI provides ratemaking services, excluding WV
For Policy Years Expiring 2004-2008
* Adjusted for Wage and Medical Inflation

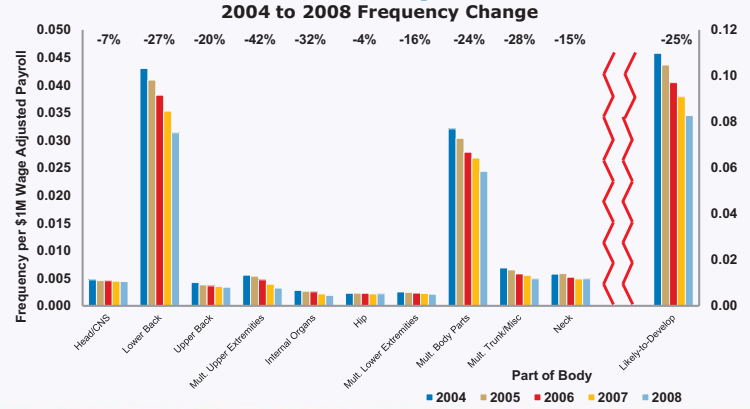
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Likely-to-Develop Body Parts Exhibited Sharp Declines

2004 to 2008 Frequency Change



Frequency at 1st report, WCSP data, for all states where NCCI provides ratemaking services, excluding WV
For Policy Years Expiring 2004-2008

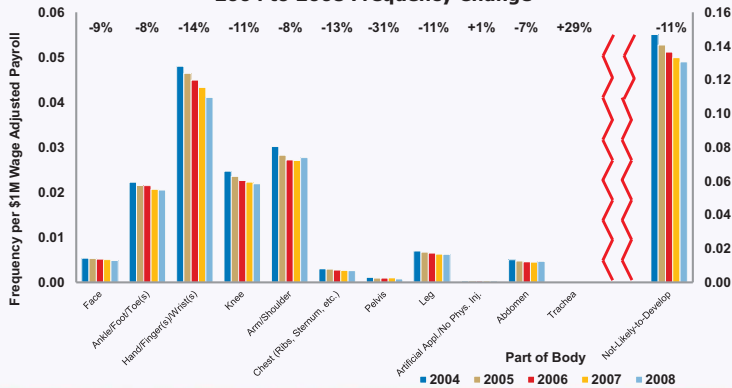
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Not-Likely-to-Develop Body Parts Did Not Show as Sharp a Decline

2004 to 2008 Frequency Change



Frequency at 1st report, WCSP data, for all states where NCCI provides ratemaking services, excluding WV
For Policy Years Expiring 2004-2008

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Workers Compensation Residual Market

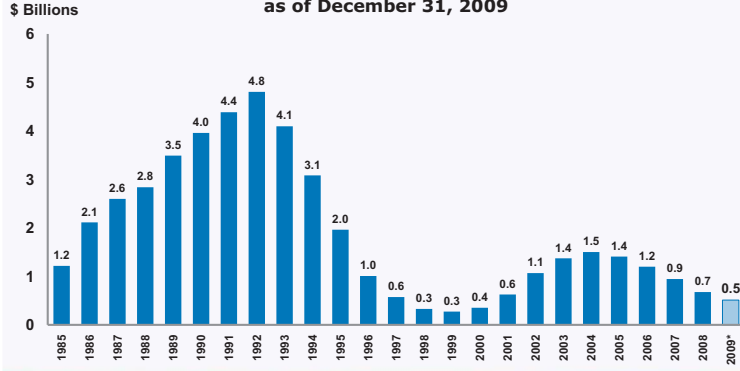
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Workers Compensation Residual Market Premium Volume Declines

NCCI-Serviced Workers Compensation Residual Market Pools
as of December 31, 2009



* Incomplete policy year projected to ultimate

Policy Year

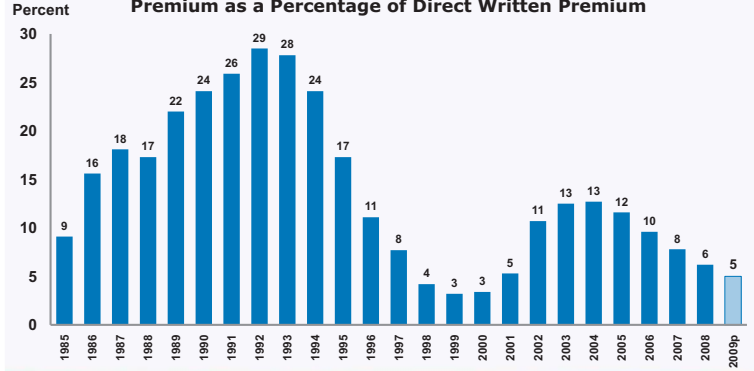
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Workers Compensation Residual Market Shares Continue to Decline

Workers Compensation Insurance Plan States*
Premium as a Percentage of Direct Written Premium



p Preliminary

* NCCI Plan states plus DE, IN, MA, MI, NJ, NC

Calendar Year

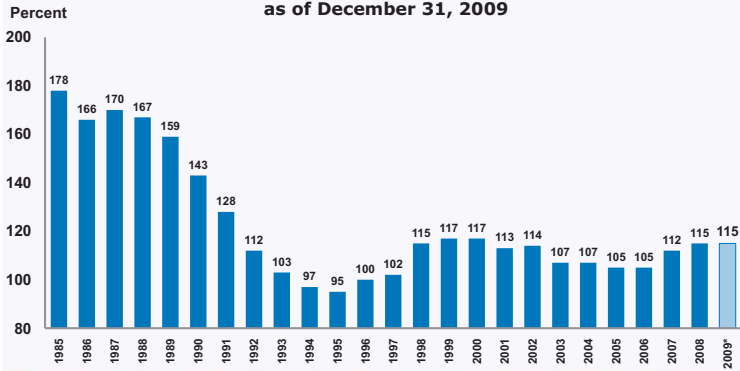
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Workers Compensation Residual Market Combined Ratios

NCCI-Serviced Workers Compensation Residual Market Pools
as of December 31, 2009



* Incomplete policy year projected to ultimate

Policy Year

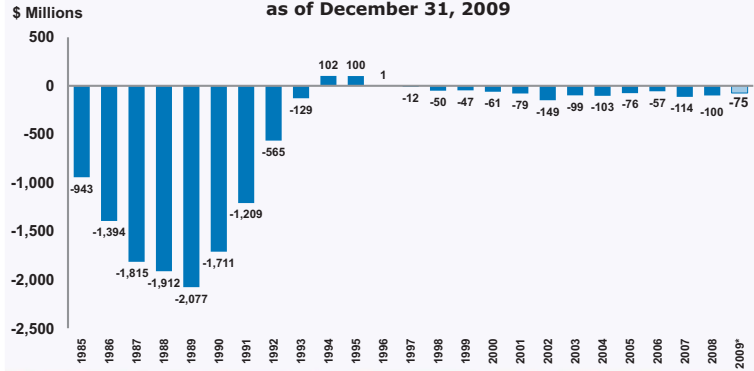
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Workers Compensation Residual Market Underwriting Results

NCCI-Serviced Workers Compensation Residual Market Pools
as of December 31, 2009



* Incomplete policy year projected to ultimate

Policy Year

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Residual Markets Continue to Depopulate

First Quarter 2010 vs. First Quarter 2009

Size of Risk	2009	2010	Change
\$ 0 – \$ 2,499	20.1 M	20.4 M	2%
\$ 2,500 – \$ 4,999	10.8 M	10.1 M	-6%
\$ 5,000 – \$ 9,999	12.6 M	12.0 M	-4%
\$ 10,000 – \$49,999	33.0 M	30.2 M	-9%
\$ 50,000 – \$99,999	11.7 M	11.0 M	-6%
\$ 100,000 and over	11.5 M	7.8 M	-32%
Total	99.6 M	91.5 M	-8%

Total estimated annual premium on policies
Includes residual market policies for:
AK, AL, AR, AZ, CT, DC, GA, IA, ID, IL, IN, KS, MS, NH, NM, NV, OR, SC, SD, VA, VT, WV

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Current Topics of Interest

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National Health Care Bill Implications for Workers Compensation Insurance The Patient Protection and Affordable Care Act*

Direct Impacts

- Changes to Federal Black Lung Benefit Entitlement Provisions**
 - Reinstates the 15-year rebuttable presumption of total disability for benefits
 - Eliminates the requirement to prove that death of miner was due to occupational disease for survivor benefits
- Changes to Medicare reimbursement levels; potential impacts will depend on:
 - Potential modifications to Medicare reimbursements
 - How the states react to those potential changes

*HR3590 as amended by HR4872

**Section 1556, Federal Coal Mine Health and Safety Act

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National Health Care Bill Implications for Workers Compensation Insurance The Patient Protection and Affordable Care Act*

Provisions Worth Watching:

- Increased health care coverage in general population
- Wellness initiatives
- Consumer access to more generic drugs
- New taxes on medical devices, pharmaceutical manufacturers, and health insurance companies
- Fraud and abuse provisions

Other Areas of Interest:

- Electronic transaction standards
- Coordination, subrogation, and reimbursement issues
- Medicare as a secondary payer

*HR3590 as amended by HR4872

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NCCI Developments in Class Ratemaking Methodology

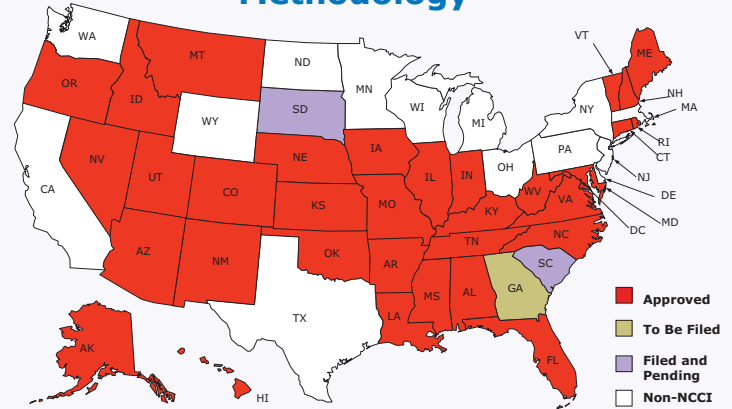
- NCCI conducted a comprehensive review of all class ratemaking methodologies
- Implemented with filings effective October 1, 2009
- The goal of NCCI's new class ratemaking methodology is to improve accuracy, class equity, and loss cost stability
- The new methodology has been approved in all states to date

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Adoption of New Class Ratemaking Methodology



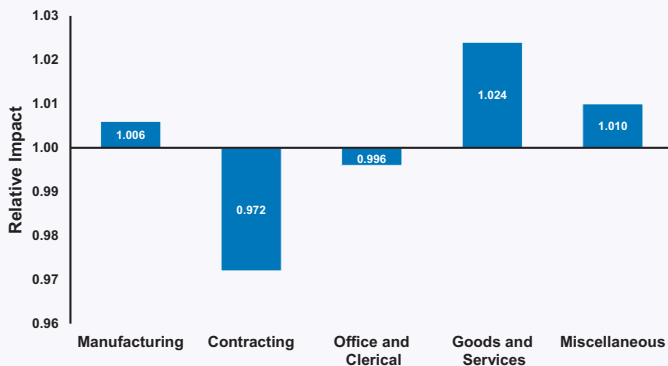
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Industry Group Impact Relative to Statewide Loss Cost Changes

Distribution of State Industry Group Differentials



Impact in loss costs relative to statewide average
Note: Results exclude F-Class codes

Source: NCCI analysis

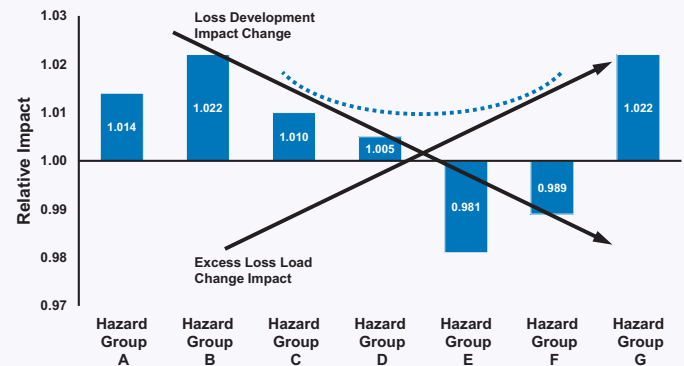
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Hazard Group Loss Cost/Rate Changes Relative to Statewide Average

Distribution of State Hazard Group Relativities



Impact in loss costs relative to statewide average
Note: Results exclude F-Class codes

Source: NCCI analysis

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NCCI Plans Filings in Texas

- Loss Cost Filing proposed for January 1, 2011
 - First NCCI filing in 18 years
 - Filing to be made in summer of 2010
 - Loss Costs will be calculated using prior NCCI class ratemaking methodology
 - Experience modifications will continue to use Texas Department of Insurance (TDI) plan and rating values
 - Carriers interested in using NCCI's loss costs would let TDI know in their rate filing
 - No change in procedures for carriers choosing to continue with TDI relativities

NCCI Plans Filings in Texas

- Retrospective Rating Plan Manual proposed for January 1, 2011
 - Manual will have updated language and values
 - NCCI's 7 Hazard Groups will be included with updated Excess Loss Pure Premium factors
 - Table M will be updated
 - Carriers will have option of using NCCI's updated Retrospective Rating Plan Manual, continuing to use the current TDI manual, or their own

Concluding Remarks

In Summary

Positives

- Industry's capital position
- Frequency continues to decline
- Residual market depopulation continues

Negatives

- Low investment returns continue to put pressure on underwriting results
- Potential reform erosion
- Uncertain impact from health care reform
- Unknown scope of future Federal actions
- Underwriting cycle

Questions and More Information

Questions on the State of the Line presentation?
E-mail us at stateoftheline@ncci.com

Download the complete presentation materials
and watch a video overview of the State of the
Line at **ncci.com**