

LEGISLATIVE RESEARCH UNIT

PATRICK D. O'GRADY, EXECUTIVE DIRECTOR

January 2, 2009

WORKERS' COMPENSATION IN ILLINOIS AND NEARBY STATES

asked us on your behalf for information on workers' compensation in Illinois and surrounding states. On December 2, [redacted] forwarded to us more detailed questions on several aspects of that subject. We examined workers' compensation in Indiana, Iowa, Michigan, Missouri, and Wisconsin, concentrating on four topics: (1) administration; (2) coverage; (3) insurance and rates; and (4) benefits. The results of our research are set forth below.

Workers' Compensation Coverage

Tables 1 and 2 show how many workers in Illinois and the five surrounding states were covered by workers' compensation, and amounts of covered wages, in 2005 and 2006.

LRU 

Table 1: Workers Under Workers' Compensation (2005 and 2006)

	<i>2005</i>	<i>2006</i>	<i>% change</i>
Illinois	5,660,000	5,733,000	1.3%
Indiana	2,827,000	2,845,000	0.6
Iowa	1,428,000	1,453,000	1.7
Michigan	4,418,000	4,085,000	-1.5
Missouri	2,499,000	2,532,000	1.3
Wisconsin	2,657,000	2,679,000	0.8

Source: National Academy of Social Insurance, "Workers' Compensation: Benefits, Coverage, and Costs, 2006" (Aug. 2008), p. 10, Table 3 (downloaded Dec. 29, 2008 from NASI Internet site).

Table 2: Wages of Workers Under Workers' Compensation (2005 and 2006) (millions)

	<i>2005</i>	<i>2006</i>	<i>% change</i>
Illinois	\$246,223	\$260,371	5.7%
Indiana	99,459	103,262	3.8
Iowa	46,958	49,539	5.5
Michigan	170,240	171,402	0.7
Missouri	88,993	93,134	4.7
Wisconsin	93,822	98,170	4.6

Source: National Academy of Social Insurance, p. 10, Table 3.

State Administration

Illinois

The 10-member Workers' Compensation Commission administers both the Workers' Compensation Act and the Workers' Occupational Diseases Act.¹ The Commission lists its four main functions as resolving disputes; ensuring compliance with the law; administering self-insurance; and collecting statistics.²

Indiana

The seven-member Workers' Compensation Board of Indiana is responsible for administering the workers' compensation law.³ Its lists its primary duties as resolving disputes, answering public inquiries, and collecting statistics on workplace injuries.⁴

Iowa

The Division of Workers' Compensation in the Department of Workforce Development⁵ administers the workers' compensation and occupation diseases laws.⁶ It is headed by the Commissioner of Workers' Compensation.⁷

The Division list its primary administrative duties as claims processing and monitoring; informing the public; adjudicating disputes (including appeals to the Commissioner); collecting statistics; and exercising limited responsibilities for medical monitoring and rehabilitation of workers.⁸

Michigan

The Workers' Compensation Agency in the Department of Labor and Economic Growth administers the Workers' Compensation Disability Act of 1969. It is headed by a Director.⁹ It lists six primary responsibilities: claims processing; mediation; ensuring employer compliance and keeping records on them; supervising employer self-insurance programs; overseeing health care for injured workers; and administering several funds for injured workers.¹⁰

Missouri

The Division of Workers' Compensation in the Department of Labor and Industrial relations administers the workers' compensation law. (The Department is governed by the Labor and Industrial Relations Commission, which appoints the director.¹¹) It is headed by a director.¹² It performs these duties: claims processing and monitoring; informing the public; adjudicating disputes; and promoting safety and loss prevention.¹³

Wisconsin

The Division of Workers' Compensation in the Department of Workforce Development administers the workers' compensation law. It is headed by a director,¹⁴ and performs duties of claims processing, enforcement, and adjudication.¹⁵ The Labor and Industry Review Commission hears appeals of workers' compensation claims processed by the Division.¹⁶

Coverage

Illinois

Workers' compensation coverage is mandatory for all private employers not in a specifically exempt category.¹⁷ Some farm workers, domestic servants, and real estate brokers and salespeople paid only by commission are exempt.¹⁸ Sole proprietors and partners can elect whether to be covered as employees.¹⁹ Minors are also covered by the Act.²⁰ But an illegally employed minor can file a rejection of rights under the Act and sue for damages.²¹

Coverage is compulsory for all public employers²² except the Chicago police and fire departments.²³

Occupational diseases are covered by the Workers' Occupational Diseases Act which the Commission administers.²⁴

Indiana

Workers' compensation coverage is mandatory for most private and public employers.²⁵ It is elective for municipal fire and police department members;²⁶ executive officers of municipal corporations;²⁷ owner-operators of motor vehicles;²⁸ and members and managers of limited liability companies.²⁹ Sole proprietors and partners can choose whether to be covered.³⁰

The law exempts farm workers, domestic workers, casual workers, railroad workers, independent contractors in construction trades, independent contractors working for nonprofit corporations as part-time youth coaches, nonprofit corporations providing part-time youth coaching services, and licensed real estate professionals.³¹

Minors are covered.³² If a minor under 16 was employed without the legally required employment certificate, double compensation is to be paid for any injury or death.³³

Occupational diseases are also covered.³⁴

Iowa

Workers' compensation coverage is mandatory for all private employers,³⁵ and for public employers (except the employers of firefighters and police officers entitled to pensions).³⁶ Sole proprietors, working partners, and limited liability corporation members may elect to be covered.³⁷ Minors are covered.³⁸

Coverage is voluntary³⁹ for employees who are specifically exempt from coverage, such as domestic and casual workers earning under \$1,500 per year⁴⁰ and farm laborers.⁴¹

Some truck owner-operators and real estate agents are responsible for their own coverage as independent contractors.⁴²

Like Illinois, Iowa has an occupational diseases law.⁴³

Michigan

The Workers' Disability Compensation Act of 1969⁴⁴ mandates coverage by any private employer of at least three employees,⁴⁵ and by any agricultural employer of at least three regular employees working at least 35 hours a week for at least 13 consecutive weeks in the last 52 weeks.⁴⁶ All public employers, regardless of number employed, are covered.⁴⁷ Minors are covered by the Act, and some kinds of illegal employment of minors can result in double compensation.⁴⁸

Coverage may be declined by some officer-shareholders of small corporations or limited liability companies.⁴⁹ Some domestic workers⁵⁰ and commission-paid real estate salespersons and brokers are exempt.⁵¹

Occupational diseases are covered.⁵²

Missouri

Workers' compensation coverage is compulsory for any private employer of five or more employees (or of one or more in the construction industry).⁵³ It is compulsory for all public employers regardless of number of employees.⁵⁴

Coverage is elective for sole proprietors and partners.⁵⁵ Owners of limited liability companies, and of corporations with only two owners, can decline coverage.⁵⁶

Farm laborers, domestics, some occasional laborers, members of an employer's family farm corporation, state or county prisoners, residents of state mental health facilities, real estate agents, unpaid volunteers for tax-exempt organizations, and amateur youth sports officials are exempt.⁵⁷ Owner-operators of for-hire motor vehicles are also exempt.⁵⁸

Minors are covered,⁵⁹ and if illegally employed may receive 50% extra compensation.⁶⁰

The law also covers occupational diseases.⁶¹

Wisconsin

All private employers of at least three employees are covered by the Workers' Compensation Act.⁶² All public employers are also covered.⁶³

Coverage is mandatory for farm employers hiring at least 6 workers, in one or more locations, for at least 20 days in a year.⁶⁴

Partners and members of limited liability companies are exempt.⁶⁵ Domestic servants,⁶⁶ some volunteers for nonprofit organizations⁶⁷, and county jail prisoners assigned to work camps are exempt.⁶⁸

Minors are covered by the Act.⁶⁹ Employers of illegally employed minors who are injured must pay specified amounts into a special fund.⁷⁰

Occupational diseases are compensable under the Act.⁷¹

Insurance and Rates

Comparison of Rates

Employers are responsible for paying benefits to injured workers by either buying insurance (the usual choice) or self-insuring. Workers' compensation insurance rates vary by occupation and industry, as well as among states. The National Council of Compensation Insurance (NCCI), a private organization, maintains a system for classifying occupations by risk level, with subcategories within occupations. As an example, drywall carpenters are assigned a different risk level than framing carpenters.⁷²

To compare rates among states, we consulted a biennial study by an Oregon state agency. It compares workers' compensation premium rates among the states, and ranks them from most to least expensive based on a premium rate index (the weighted average premium rate per \$100 of payroll). It combines rates for 50 classifications into an average rate. The index is weighted to include jobs prevalent in the Oregon economy, but includes rates for a variety of job titles likely to be found in most states. Table 3 shows rankings for 2006 and 2008 of each state mentioned above. The lower the numbers for a state in the "Ranks" column, the higher its average premium per \$100 of payroll.

Table 3: Workers' Compensation Premium Rankings of Illinois and Surrounding States, 2006 and 2008

State	Ranks		Index rate (2008)	Percentage of median (2008)	When rates effective	
	2006	2008			Year	Month
Illinois	20	11	2.79	124%	2008	January
Indiana	50	50	1.23	55	2008	January
Iowa	45	41	1.86	82	2008	January
Michigan	39	32	2.15	95	2007	January
Missouri	25	28	2.20	97	2008	January
Wisconsin	35	34	2.12	94	2007	October

Sources: Oregon Department of Consumer & Business Services, Research & Analysis Section, "Oregon Workers' Compensation Premium Rate Ranking: Calendar Year 2006," p. 4, Table 1 and "Oregon Workers' Compensation Premium Rate Ranking: Calendar Year 2008," p. 2, Table 2.

Illinois has the 11th highest index rating, having jumped from 20th to 11th between 2006 and 2008. Indiana had the lowest ranking of any state in the U.S. in both years.

State Laws on Workers' Compensation Insurance

Illinois

Employers must either buy workers' compensation insurance or participate in a self-insurance program approved by the Commission.⁷³ Most employers buy the insurance. Illinois does not regulate workers' compensation insurance rates. Self-insurers must provide proof of financial ability to pay benefits to workers.⁷⁴

Failure to insure may result in a penalty up to \$1,000 per day of violation, to a maximum of \$50,000 per project or contract under which work is done. An uninsured employer is also liable to being sued by injured workers.⁷⁵

Other states

The other surveyed states have similar requirements to buy insurance or self-insure workers' compensation liability. Non-compliance can result in fines and lawsuits by injured workers.⁷⁶

Benefits

Workers' compensation is intended to cover most of a worker's economic loss, including medical expenses and lost earnings, from occupational injuries. Workers' compensation benefits may be classified as follows:

Cash Benefits

Cash (monetary) benefits vary with the duration and severity of an injured worker's disability. They usually are calculated as some number of weeks of pay at a statutorily set percentage of the worker's current pay rate, subject to minimum and maximum amounts for that state.

Temporary total disability (TTD) benefits are paid if a worker is temporarily prevented from performing the pre-injury job, or another job for the employer that the worker could have done before being injured.

Permanent partial disability (PPD) benefits may be paid if a worker returns to work before reaching maximum medical improvement and has reduced responsibilities and lower pay.

Permanent total disability (PTD) benefits may be paid if the worker reaches maximum medical improvement but still has significant impairments that are judged to be permanent.

Medical Benefits

Workers' compensation benefits usually cover all medical expenses.

Rehabilitation Benefits

For cases involving severe disabilities, medical rehabilitation and vocational rehabilitation benefits may be available

Death Benefits

All states require benefits to be paid to eligible survivors of a worker who dies from a job-related injury or disease. All states also require payment of a burial allowance.

Table 4 on the next page shows total workers' compensation benefits in each surveyed state in two recent years.

**Table 4: Workers' Compensation Benefits and Percentage Changes
2005-2006 (000 omitted)**

<i>State</i>	<i>2005</i>	<i>2006</i>	<i>% change</i>
Illinois	\$2,398,845	\$2,487,602	3.7%
Indiana	607,970	615,323	1.2
Iowa	481,794	492,346	2.2
Michigan	1,473,598	1,464,204	-0.6
Missouri	1,155,906	1,174,633	1.6
Wisconsin	1,170,055	1,043,244	-10.8

Source: National Academy of Social Insurance, p. 18-19, Table 7.

Table 5 shows the source's estimate for each surveyed state's ratio of benefits to covered wages in the same years. (The source's estimates were reported to the nearest cent; apparent discrepancies between those numbers and some of the reported percentage changes probably are due to rounding.)

**Table 5: Workers' Compensation Benefits Per \$100 of Covered
Wages, and Change 2005-2006**

<i>State</i>	<i>2005</i>	<i>2006</i>	<i>Change</i>
Illinois	\$0.97	\$0.96	-\$0.02
Indiana	0.61	0.60	-0.02
Iowa	1.03	0.99	-0.03
Michigan	0.87	0.85	-0.01
Missouri	1.30	1.26	-0.04
Wisconsin	1.25	1.06	-0.18

Source: National Academy of Social Insurance, p. 24, Table 10.

Summary of Benefits

Due to the complexity of each state's legal provisions on benefits, they are described in Appendix A to this letter.

Premiums for Workers' Compensation Insurance in Illinois

As discussed above, workers' compensation premiums are based on a code classification system. Each workplace exposure is given a code, which is assigned a rate based on the risks of that type of workplace. For example, the classification code for a clerical worker would be much lower than the code for a roofer. Illinois' classification system is devised and maintained by NCCI. The latest edition of NCCI's codes and accompanying rates for Illinois is enclosed.⁷⁷

Procedures for Filing Claims

Illinois

The Workers' Compensation Act requires an injured employee to notify the employer of the date and place of the accident, if known. Notice may be either oral or written.⁷⁸ This must be done within 45 days after an accident in most cases.⁷⁹ For an occupational disease, the employee must notify the employer as soon as practicable after becoming aware of the condition.

The employer must provide or pay for all necessary first aid and medical services.⁸⁰ If the employee misses work for more than 3 days due to the injury, the employer must do one of the following:

- (1) start paying TTD;
- (2) give the employee a written explanation of any further information it needed before starting payments; or
- (3) give the employee a written explanation of why benefits are being denied.⁸¹

If the employer declares the injury uncomensable, or disputes the extent of the injury under the Workers' Compensation Act, the employee may file an "Application for Adjustment of Claim" with the Commission.⁸² The Commission assigns a case number and an arbitrator to the case.⁸³ Usually the employee must file a claim within 3 years after injury or 2 years after the last payment of TTD or a medical bill, whichever is later.⁸⁴

The employee has the burden of proving eligibility for benefits. An arbitrator hears the evidence and makes a decision for the employee or employer.⁸⁵ The employee or employer can appeal that decision to a panel of three commissioners.⁸⁶ If the employee works for the state, the Commission's decision is final. For all other employment covered by workers' compensation, either party can appeal to trial court, then to the Illinois Appellate Court, and in some cases to the Illinois Supreme Court.⁸⁷

Other States

Indiana

Claims for work injuries are handled initially by the employer or its workers' compensation insurer. In event of a dispute, the employer or employee may file a claim with the Workers' Compensation Board and request a hearing before a workers' compensation judge.

Any party may request a hearing before a member of the Board by filing an Application for Adjustment of Claim. That application must be filed within 2 years after the injury to be eligible for benefits.⁸⁸ The case will be heard in the county where the injury occurred or where the employer is located, or an adjacent county.⁸⁹

Hearings are informal, and the Board is not bound by technical rules of practice. But hearsay may be barred and other rules of evidence applied at the discretion of the hearing member.⁹⁰

If a party seeks to show that the employee's condition has changed, a form must be filed within 2 years after compensation was last paid under the original award. Applications for increases in permanent partial impairment (PPI) and medical treatment must be filed within 2 years after compensation was last paid.⁹¹

Any party who disagrees with the workers' compensation judge may appeal to the full Workers' Compensation Board⁹² by filing an application within 30 days after the hearing judge's decision.⁹³

The Board reviews the evidence from the initial hearing, hearing new evidence only in extraordinary cases.⁹⁴ Final orders of the full Board may be reviewed in the Indiana Court of Appeals.⁹⁵

If the employer and/or insurer appeals an award by the full Board, and the Court of Appeals affirms, the award is increased by 5% (or 10% in the Court's discretion). The Court of Appeals' decisions are reviewable by the Indiana Supreme Court.⁹⁶

Iowa

An injured employee must give notice of injury to the employer within 90 days after its occurrence to preserve the right to benefits.⁹⁷ If an employee reports a work-related injury and either loses more than 3 days of work, or sustains permanent injury or death on account of the injury, the employer or

insurer must file a report of injury with the Workers' Compensation Commissioner.

Proceedings to claim benefits must be begun within 2 years after the injury for which they are claimed, or (if weekly compensation benefits have been paid) within 3 years after the last payment of such benefits.⁹⁸

The Commissioner or a deputy commissioner may preside over any contested case.⁹⁹ Any party may appeal a deputy commissioner's decision may appeal to the Commissioner.¹⁰⁰ A decision by the Commissioner may be reviewed in the trial court of the county where the hearing was held;¹⁰¹ the court may affirm, reverse, or modify the Commissioner's order.¹⁰²

The court's decision may be appealed to the Court of Appeals. A party may request leave to appeal its decision to the Supreme Court.¹⁰³

Michigan

An employee must give the employer notice of injury within 90 days after the injury (or 90 days after the employee should have known of the injury).¹⁰⁴ But the employer may be liable even without such notice unless the employer can show prejudice from lack of notice.¹⁰⁵ However, the employee must claim benefits within 2 years after the injury.¹⁰⁶

If the disability will last more than 1 week, the employer must file a form with the Workers' Compensation Agency.¹⁰⁷

A worker seeking to contest the employer's decision must file an "Application for Mediation or Hearing" (giving detailed information on the injury) with the Agency, and serve copies on the employer and insurer. The employer must file a response giving detailed information, and send medical records to the worker or the worker's attorney.

Many cases are set for mediation. If mediation is not successful, a case is assigned a trial date before a workers' compensation magistrate.¹⁰⁸

If one or both parties disagree with the magistrate's decision, they may appeal to the Workers' Compensation Appellate Commission.¹⁰⁹ An aggrieved party may seek leave to appeal the Commission's decision to the Court of Appeals. The courts can review only issues of law, provided that there is any evidence to support factual conclusions by the magistrate and Commission.¹¹⁰

Missouri

An injured employee must give the employer written notice of injury within 30 days,¹¹¹ and file a claim for compensation within 2 years after the injury.¹¹²

The employer must report the injury to its insurer (or administrator if self-insured) within 5 days after the injury (or after the injury was reported to the employer if that is later). The insurer or administrator then reports the injury to the Division of Workers' Compensation.¹¹³

If the employer and employee do not agree on benefits, either of them may apply for a hearing with the Division of Workers' Compensation.¹¹⁴ An administrative law judge for the Division is to hold a hearing, then make an award within 90 days.¹¹⁵

Applications to review an award may be made to the Labor and Industrial Commission within 20 days after the award.¹¹⁶ The final award of the Commission is conclusive unless either party, within 30 days after, the final award, files an appeal in trial court.¹¹⁷ Decisions by trial courts may be appealed like other civil matters.¹¹⁸

Wisconsin

The employer must be notified within 30 days after an injury, (or after the employee should have known of its relation to work).¹¹⁹ However, lack of notice does not bar recovery if it can be shown that the employer was not misled.¹²⁰

A claim for compensation must be filed within 2 years after an injury or death, or after the employee or dependent should have known the nature of the disability and its relation to the employment—except that the right to compensation is not barred if the employer, within that 2-year period, knew or should have known that the employee had suffered the injury.¹²¹

Any party in interest may file with the Division of Workers' Compensation an application stating the general nature of any claim as to which any dispute or controversy has arisen.¹²² A hearing will be held before a workers' compensation examiner, who will make findings and issue an order determining the rights of the parties.¹²³

Any party may petition the Labor and Industry Review Commission to review an examiner's decision within 21 days after the department mailed a copy of the examiner's order to the party, unless the petitioner shows probable cause to believe that the cause of delay was beyond the petitioner's control. The Commission is to review the evidence determined below.¹²⁴

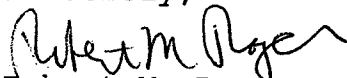
Within 30 days after an order or award by the Commission, any party may file a complaint for review in the trial court.¹²⁵ The trial court's decision may be appealed to the Court of Appeals, and in some cases to the Supreme Court.¹²⁶

Appointments to Illinois Workers' Compensation Commission

Members of the Commission are appointed by the Governor with Senate confirmation. Three members are to represent employers and three are to represent employees; four others are to be citizens not identified with either employers or employees. No more than six members may be of the same political party.¹²⁷

We hope this information is helpful. Please let us know if you need anything further.

Sincerely,



Robert M. Rogers
Staff Attorney

RMR:ag

Enclosure

National Council on Compensation Insurance, Inc, "Workers Compensation and Employers Liability: Illinois" (2008), pp. S1 to S3 (provided by John Gatlin, Supervisor, Property and Casualty Compliance Unit, Division of Insurance, Illinois Department of Financial and Professional Regulation.

Notes

1. 820 ILCS 305/13.
2. Illinois Workers' Compensation Commission, Annual Report FY 2007, p. 2.
3. Ind. Code, subsec. 22-3-1-1(a).
4. "Workers' Compensation Board of Indiana" (downloaded Nov. 21, 2008 from Indiana Workers' Compensation Board Internet site).
5. See Iowa Code, sec. 84A.5, subd. 5.
6. Iowa Code, sec. 84A.1, subd. 3.
7. Iowa Code, sec. 84A.5, subd. 6.
8. U.S Department of Labor, *State Workers' Compensation Administration Profiles* (Oct. 2003), pp. 105-09.
9. Mich. Comp. Laws, sec. 445.2011.
10. Michigan Workers' Compensation Agency, 2007 Annual Report, pp. 8-15.

11. Mo. Rev. Stat., sec. 286.005, subd. 1.
12. Mo. Rev. Stat., sec. 286-120.
13. U.S. Department of Labor, pp. 183-87.
14. Wis. Stat., sec. 102.14
15. U.S. Department of Labor, pp. 367-374.
16. Wis. Stat., subsecs. 102.18(3) and (4).
17. 820 ILCS 305/3.
18. 820 ILCS 305/1(b), subd. 3.
19. 820 ILCS 305/1(b), subd. 3.
20. 820 ILCS 305/5(a).
21. 820 ILCS 305/5(a).
22. 820 ILCS 305/1(a), subd. 1.
23. 820 ILCS 305/1(b), subd. 1.
24. 820 ILCS 310/1 ff.
25. Ind. Code, secs. 22-3-6-1(a) and 22-3-2-2.
26. Ind. Code, subsec. 22-3-2-2(c)(1).
27. Ind. Code, subsec. 22-3-6-1(b)(2).
28. Ind. Code, subsec. 22-3-6-1(b)(8).
29. Ind. Code, subsec. 22-3-6-1(b)(9).
30. Ind. Code, subsecs. 22-3-6-1(a) & (b).
31. Ind. Code, subsec. 22-3-2-9(b).
32. Ind. Code, sec. 22-3-2-4.
33. Ind. Code, subsec. 22-3-6-1(c)(2).
34. Ind. Code, sec. 22-3-7-2 ff.
35. Iowa Code, secs. 85.1 and 85.61.
36. Iowa Code, secs. 85.1 and 85.2.
37. Iowa Code, sec. 85.1A.
38. Iowa Code, sec. 85.61, subd. 11., par. f.
39. Iowa Code, sec. 85.1, subd. 6.
40. Iowa Code, sec. 85.1, subd. 1.
41. Iowa Code, sec. 85.1, subd. 3.
42. Iowa Code, sec. 85.61, subds. 11 and 13.
43. Iowa Code, secs. 85A ff.
44. Mich. Comp. Laws, secs. 418.101 ff.
45. Mich. Comp. Laws, subsecs. 418.115(a) and (b).
46. Mich. Comp. Laws, subsec. 418.115(d).
47. Mich. Comp. Laws, subsec. 418.115(c).
48. Mich. Comp. Laws, subsec. 418.161(1)(1).
49. Mich. Comp. Laws, subsecs. 418.161(3) and (4).
50. Mich. Comp. Laws, sec. 418.118.
51. Mich. Comp. Laws, sec. 418.119.
52. Mich. Comp. Laws, sec. 418.441.
53. Mo. Rev. Stat., secs. 287.030, subd. 1 and 287.060.
54. Mo. Rev. Stat., secs. 287.030, subd. 2 and 287.060.
55. Mo. Rev. Stat., sec. 287.035, subd. 1.
56. Mo. Rev. Stat., secs. 287.037 and 287.090, subd. 5.
57. Mo. Rev. Stat., sec. 287.090, subd. 1.
58. Mo. Rev. Stat., sec. 287.040.

59. Mo. Rev. Stat., sec. 287.020, subd. 1.
60. Mo. Rev. Stat., sec. 287.250, subd. 7.
61. Mo. Rev. Stat., sec. 287.067, sub. 1.
62. Wis. Stat., subsec. 102.04(1)(b), subd. 1.
63. Wis. Stat., subsec. 102.04(1)(a).
64. Wis. Stat., subsec. 102.04(1)(c).
65. Wis. Stat., subsec. 102.04(2).
66. Wis. Stat., subsec. 102.07(4)(a), subd. 1.
67. Wis. Stat., subsecs. 102.07(7)(a), (b), and (11m).
68. Wis. Stat., subsec. 102.07(17).
69. Wis. Stat., subsec. 102.07(4)(a).
70. Wis. Stat., sec. 102.60.
71. Wis. Stat., subsec. 102.01(2)(c).
72. National Council on Compensation Insurance, eLearning Center, "Introduction to Classification" lesson (downloaded Nov. 14, 2008 from National Council on Compensation Insurance Internet site).
73. 820 ILCS 305/4(a)(1).
74. 820 ILCS 305/4(a).
75. 820 ILCS 305/4(a-1).
76. Ind. Code, secs. 22-3-7-16, 27-7-2-28, and 22-3-4-13(d) and (f); Iowa Code, secs. 87.1, 87.4, and 87.21; Mich. Comp. Laws, secs. 418.611 and 418.641; Mo. Rev. Stat., secs. 287.280 and 287.128, subd. 7; and Wis. Stat., secs. 102.31 and subsecs. 102.82(1), (2)(a) (subds. 1. and 2.), (2)(ag), and (8).
77. Telephone conversation with John Gatlin, Supervisor, Property and Casualty Compliance Unit, Division of Insurance, Department of Financial and Professional Regulation, Springfield, December 9, 2008.
78. 820 ILCS 305/6(c)(2).
79. 820 ILCS 305/6(c).
80. 820 ILCS 305/8(a).
81. 820 ILCS 305/8(b).
82. 50 Ill. Adm. Code subsec. 7020.20(c).
83. 820 ILCS 305/19(a).
84. 820 ILCS 305/6(d).
85. 820 ILCS 305/19(b).
86. 820 ILCS 305/19(b).
87. 820 ILCS 305/19(f).
88. Ind. Code, sec. 22-3-3-3.
89. Ind. Code, sec. 22-3-4-5(b).
90. 631 Ind. Adm. Code sec. 1-1-3.
91. Ind. Code, sec. 22-3-3-27.
92. Ind. Code, sec. 22-3-4-7.
93. Ind. Code, sec. 22-3-4-7.
94. 631 Ind. Adm. Code sec. 1-1-15.
95. Ind. Code, sec. 22-3-4-8.

96. Ind. Code, subsec. 22-3-4-8(f).
97. Iowa Code, sec. 85.23.
98. Iowa Code, sec. 85.26, subd. 1.
99. Iowa Code, sec. 86.17, subd. 1.
100. Iowa Code, sec. 86.24, subd. 1.
101. Iowa Code, sec. 86.26.
102. Iowa Code, sec. 86.42.
103. Iowa Code, sec. 17A.20.
104. Mich. Comp. Laws, subsec. 418.381(1).
105. Mich. Comp. Laws, subsec. 418.381(1).
106. Mich. Comp. Laws, subsec. 418.381(1).
107. Mich. Comp. Laws, sec. 418.805.
108. Mich. Comp. Laws, subsec. 418.847(1).
109. Mich. Comp. Laws, subsecs. 418.847(2) and 418.859a(1).
110. Mich. Comp. Laws, subsec. 418.861a(14).
111. Mo. Rev. Stat., sec. 287.240.
112. Mo. Rev. Stat., sec. 287.430.
113. Mo. Rev. Stat., sec. 287.380, subd. 1.
114. Mo. Rev. Stat., sec. 287.450.
115. Mo. Rev. Stat., sec. 287.460, subd. 1.
116. Mo. Rev. Stat., sec. 287.480, subd. 1.
117. Mo. Rev. Stat., sec. 287.490.
118. Mo. Rev. Stat., sec. 287.490, subd. 2.
119. Wis. Stat., sec. 102.12.
120. Wis. Stat., sec. 102.12.
121. Wis. Stat., sec. 102.12.
122. Wis. Stat., subsec. 102.17(1)(a).
123. Wis. Stat., subsec. 102.18(1)(b).
124. Wis. Stat., subsec. 102.18(3).
125. Wis. Stat., subsec. 102.23(1)(a).
126. Wis. Stat., subsec. 102.25(1).
127. 820 ILCS 305/13, first full paragraph.

Appendix A: Workers' Compensation Benefit Summaries for Surveyed States

Illinois

Medical Benefits. Full medical benefits are provided with no time or monetary limitations if treatment is reasonable and necessary to cure the injury.

TTD Benefits. The portion of a worker's wage paid is 2/3. For weekly payments, the minimum is \$206.67 to \$310.00 based on number of dependents (or the worker's average wage if less); the maximum is \$1,216.75 ($1\frac{1}{3}$ times the state's average weekly wage (SAWW)). The maximum period of payments is the duration of disability.

PTD Benefits. The portion of a worker's wage paid is 2/3. For weekly payments, the minimum is \$456.25 (50% of SAWW), and the maximum is \$1,216.75 ($1\frac{1}{3}$ times SAWW). The maximum period of payments is life.

PPD Benefits. The portion of a worker's wage paid is 3/5. For weekly payments, the minimum is \$206.67 to \$310 based on number of dependents (or the worker's average wage if less). For payments not on the schedule, the maximum period of payments is 500 weeks if the worker is able to pursue usual work duties, or the duration of the disability if unable to pursue usual work duties; there is no maximum payment amount.

The maximum weekly PPD benefit for amputation of a member or enucleation of an eye is \$1,2216.75 ($1\frac{1}{3}$ times SAWW); the minimum is \$456.28 (50% of SAWW).

In there is no amputation or enucleation, the maximum weekly PPD benefit is figured differently. The maximum payment changes each July 1 but is announced in December of that year. The maximum for the period July 2007 through June 2008 was \$636.15. The maximum for the period July 2008 through June 2009 was to be announced in December 2008,¹ but had not been announced when this report was prepared.

Death Benefits. The surviving spouse of an employee killed by work-related injury or disease is eligible for a weekly workers' compensation benefit for 25 years (or \$500,000 if greater). The minimum weekly rate is \$441.93 and the maximum is \$1,178.48. The burial allowance is \$8,000.

Rehabilitation Benefits. The Act says an employer must pay for the "physical, mental, and vocational rehabilitation of the employee."² Physical and mental rehabilitation costs are part of medical expenses paid when an employee receives TTD or PTD payments. However, vocational rehabilitation sometimes causes confusion as to the rights of the employer and the employee.

Appendix A: Workers' Compensation Benefit Summaries for Surveyed States (cont.d)

An injured employee is entitled to vocational rehabilitation benefits. If the employee is making a good-faith effort to cooperate with rehabilitation, the employer is required to provide such a program—which may include maintenance if it is requested and shown necessary due to economic loss or need. Maintenance may be awarded if an employee has stabilized but is still engaged in a prescribed vocational rehabilitation program. Maintenance payments must at least equal TTD payments for the employee, and must include expenses incidental to the program. If an employee has completed vocational rehabilitation but has not yet been placed in the labor market, the employer must continue making maintenance payments.³

Indiana

Medical Benefits. Full medical benefits are provided with no time or monetary limitations.

Benefits for TTD. The portion of a worker's wages paid is 2/3. For weekly payments, the minimum is \$50 (or the worker's average wage if less) and the maximum is \$636. The maximum period of payments is 500 weeks, and the maximum total is \$310,000.

PTD Benefits. The portion of a worker's wages paid is 2/3. For weekly payments, the minimum is \$50 (or the worker's average wage if less), and the maximum is \$636. The maximum length of payments is 500 weeks. The maximum total payable is \$318,000; but a claimant may thereafter receive payments indefinitely from a special fund.

PPD Benefits. The portion of a worker's wages paid is 2/3. For weekly payments, no minimum is statutorily prescribed; the maximum is \$636. For injuries not on the statutory schedule, there is no maximum period of payments or maximum payment amount. The amount of compensation for PPD is determined by multiplying a percentage of the worker's wage by the degree of permanent impairment.⁴

Death Benefits. If an employee dies immediately, any surviving dependents are entitled to weekly payments of 2/3 of the employee's average weekly wage for up to 500 weeks. If the employee dies within 500 weeks after an injury causing death, the dependents are entitled to payment at the same rate, until the total compensation paid to the employee and the employee's dependents equals 500 weeks. Average weekly wages for payment of the death benefit are calculated in the same manner as such wages for disability payments.⁵

Appendix A: Workers' Compensation Benefit Summaries for Surveyed States (cont.d)

An additional allowance for funeral expenses is also made; it is currently up to \$7,500.⁶

A dependent spouse's dependency terminates upon remarriage. A remarrying spouse receives a lump sum of 104 weeks' compensation or the amount not yet paid, whichever is less.⁷

Rehabilitation Benefits. Vocational rehabilitation is available to an employee unable to attain gainful employment due to an occupational injury or disease.⁸

Iowa

Medical Benefits. Full medical benefits are provided with no time or monetary limit.

TTD Benefits. The percentage of a worker's wages paid is 80% of the worker's spendable earnings. For weekly payments, the minimum is \$239 (or actual wages if less), and the maximum is \$1,366 (2 times SAWW). The maximum period of payments is the duration of the disability.

PTD Benefits. The percentage of a worker's wages paid is 80% of the worker's spendable earnings. For weekly payments, the minimum is \$239 and the maximum is \$1,366 (2 times SAWW). The maximum period of payments is the duration of disability.

PPD Benefits. The percentage of a worker's wages paid is 80% of the worker's spendable earnings. For weekly payments, the minimum is \$239 and the maximum is \$1,257 (184% of SAWW). For injuries not on the schedule, the maximum period of payments is in proportion to scheduled injuries or in proportion to losses of the "whole man" (body as a whole) based on a maximum of 500 weeks, and the maximum payment amount is \$603,000.⁹

Death Benefits. Death benefits are payable to dependents of a deceased employee. They go first to the surviving spouse for life or until remarriage. Dependent children are entitled to the benefits until age 18 (25 if still actually dependent). Others may qualify upon a showing of actual dependency. At remarriage with no dependent children, the surviving spouse is entitled to a 2-year lump sum. Burial expenses, limited to 12 times SAWW at the time of death, are paid in addition to weekly death benefits.¹⁰

Rehabilitation Benefits. Medical care includes physical rehabilitation. An employee receiving vocational rehabilitation may be entitled to maintenance payments upon reaching medical stabilization and ceasing to be eligible for TTD. Maintenance

Appendix A: Workers' Compensation Benefit Summaries for Surveyed States (cont.d)

payments of \$100 in addition to other compensation may be provided for 13 weeks, extendable for 13 more weeks.¹¹

Michigan

Medical Benefits. Full medical benefits are provided with no time or monetary limitations.

TTD Benefits. The percentage of worker's wages paid is 80% of the worker's spendable earnings. For weekly payments, there is no minimum and the maximum is \$739 (90% of SAWW). The maximum period of payments is the duration of disability. Benefits are subject to reduction for unemployment insurance and Social Security benefits, and by payments under an employer's disability, retirement, or pension plan.

PTD Benefits. The percentage of a worker's wages paid is 80% of the worker's spendable earnings. For weekly payments, the minimum is \$205.28 (25% of SAWW) and the maximum is \$739 (90% of SAWW). The maximum period of payments is the duration of disability. Benefits are subject to reduction for unemployment insurance.

PPD Benefits. The percentage of a worker's wages paid is 80% of the worker's spendable earnings. For weekly payments, the minimum is \$205.28 (25% of SAWW) for injuries on the schedule only, and the maximum is \$739 (90% of SAWW). For injuries not on the schedule, the maximum period of payments is the duration of disability and there is no maximum payment amount. Benefits are subject to reduction for unemployment insurance.

Death Benefits. The amount of benefits is generally 80% of the after-tax value of the wages the worker was receiving when injured. A minimum benefit rate in death cases is 50% of the state average weekly wage (SAWW) on the date of injury.

Except in the case of minor children, death benefits are paid for a total of 500 weeks. If disability benefits were paid before the worker died, the 500 weeks are reduced accordingly. If there is a dependent child, benefits continue longer. If the child is physically or mentally incapacitated, benefits can continue indefinitely.¹² A burial allowance of \$6,000 is also provided.¹³

Rehabilitation Expenses. An employee is entitled to transportation expenses and other necessary expenses for up to 1 year of vocational rehabilitation, which may be extended to 2 years.¹⁴

Appendix A: Workers' Compensation Benefit Summaries for Surveyed States (cont.d)

Missouri

Medical Benefits. Full medical benefits are provided with no time or monetary limitations.

TTD Benefits. The portion of a worker's wage paid is 2/3. For weekly payments, the minimum is \$40 and the maximum is \$772.53 (105% of SAWW). The maximum length of payments is 400 weeks.

PTD Benefits. The percentage of a worker's wage paid is 2/3. For weekly payments, the minimum is \$40 and the maximum is \$772.53 (105% of SAWW). The maximum period of payments is the duration of the disability.

PPD Benefits. The portion of a worker's wage paid is 2/3. For weekly payments, the minimum is \$40 and the maximum is \$404.66 (55% of SAWW). For injuries not on the schedule, the maximum length of payments is 400 weeks and the maximum amount payable is \$161,864. If a scheduled injury is total due to severance or complete loss of use of a limb, the number of weeks of compensation allowed in the schedule for that disability is increased by 10%.¹⁵

Death Benefits. The deceased worker's surviving spouse and children are entitled to 2/3 of the worker's weekly wage at the time of death. The minimum per week is \$40 and the maximum is \$718.87. A burial allowance of \$5,000 is provided.¹⁶

Rehabilitation Benefits. TTD and TPD payments may be payable throughout the vocational rehabilitation program. Reasonable board, lodging, and travel expenses may also be payable by the employer or insurer. The maximum time to complete a rehabilitation program is 26 weeks. An employee's refusal to participate in vocational rehabilitation will result in 50% reduction in TTD or TPD benefits.¹⁷ The Second Injury fund will pay \$40 per week for physical rehabilitation for up to 20 weeks, with all remaining costs borne by the employer or insurer.

Wisconsin

Medical Benefits. Full medical benefits are provided with no time or monetary limitations.

TTD Benefits. The portion of a worker's wage paid is 2/3. For weekly payments, the minimum is \$30 (or actual wage if less) and the maximum is \$805 (100% of SAWW). The maximum period of payments is the duration of disability. Benefits are subject to Social Security benefit offsets.

Appendix A: Workers' Compensation Benefit Summaries for Surveyed States (cont.d)

PTD Benefits. The portion of a worker's wage paid is 2/3. For weekly payments, the minimum is \$30 (or actual wage if less), and the maximum is \$805 (100% of SAWW). The maximum period of payments is life. Benefits are subject to Social Security benefit offsets.

PPD Benefits. The portion of a worker's wage paid is 2/3. For weekly payments, the minimum is \$30 (or actual wage if less), and the maximum is \$262. For injuries not on the schedule, the maximum length of payments is 1,000 weeks, and the maximum total payable amount is \$262,000. Benefits are subject to Social Security offsets.¹⁸

Death Benefits. A deceased worker's surviving spouse and children are entitled to 2/3 of the worker's weekly wage at the time of death. The minimum per week is \$20 and the maximum is \$777. The time limit is 1,000 weeks. The amount is limited to \$233,100. A burial allowance of \$6,000 is provided.¹⁹

Rehabilitation Benefits. An injured employee is entitled to TTD benefits, travel, and necessary maintenance for a period up to 80 weeks if away from home.²⁰

Notes

1. "Workers Compensation Summary—Illinois" (downloaded Nov. 18, 2008 from WorkWorld Internet site).
2. 820 ILCS 305/8(a).
3. Peter J. Lorenz, "Interim Benefits: Temporary Total, Medical, and Rehabilitation" (ch. 6S in Illinois Institute of Continuing Legal Education, *Workers' Compensation* (2006)), p. 4.
4. "Workers" Compensation Summary—Indiana" (downloaded Nov. 18, 2008 from WorkWorld Internet site).
5. Ind. code, sec. 22-3-3-17.
6. Ind. Code, sec. 22-3-3-21.
7. U.S. Chamber of Commerce, *2007 Analysis of Workers Compensation Laws* (2007), p. 64.
8. U.S. Chamber of Commerce, p. 77.
9. "Workers' Compensation Summary—Iowa" (downloaded Nov. 18, 2008 from WorkWorld Internet site).
10. *2007 Analysis of Workers Compensation Laws* at 64.
11. *2007 Analysis of Workers Compensation Laws* at 78.
12. Workers' Compensation Summary—Michigan (downloaded Nov. 18, 2008 from WorkWorld Internet Site).
13. *2007 Analysis of Workers Compensation Laws* at 64.
14. *2007 Analysis of Workers Compensation Laws* at 78.

15. Workers' Compensation Summary—Missouri (downloaded Nov. 18, 2008 from WorkWorld Internet Site).
16. *2007 Analysis of Workers Compensation Laws* at 64.
17. *2007 Analysis of Workers Compensation Laws* at 78.
18. "Workers' Compensation Summary—Wisconsin" (downloaded Nov. 18, 2008 from WorkWorld Internet Site).
19. *2007 Analysis of Workers Compensation Laws* at 65.
20. *2007 Analysis of Workers Compensation Laws* at 80.