

March 19, 2004

The Honorable Todd Staples, Chair  
Senate Select Committee on Workers' Compensation  
Texas Senate  
P.O. Box 12068  
Austin, TX 78711-2068

Dear Chairman Staples,

Thank you for the opportunity to provide input to the Senate Select Committee on Workers' Compensation. We applaud the Committee's efforts to identify system reforms that will improve the quality of medical care delivered to injured employees, improve return to work outcomes and reduce administrative costs and burdens for system participants.

Studies published by the Research and Oversight Council on Workers' Compensation (ROC) and the Workers' Compensation Research Institute (WCRI) document problems with the current system. The attached paper, "Workers' Compensation System Costs and Drivers" summarizes findings of studies by both the ROC and WCRI.

Committee Charge 5 asks the Committee to compare the Texas workers' compensation system to systems operating in other states. Unfortunately, the Committee's comparison is unlikely to identify an ideal "model" system. An ideal "model" system would balance the needs of the states' employees and employers, provide the injured employees with access to quality medical care that is reasonable and necessary, promote restoration of the injured employee's pre-injury medical condition, and encourage return to work as soon as medically possible, all in a cost efficient way.

The current regulatory structure attempts to provide this balance, but has not succeeded in large part because of the administrative requirements that have been imposed on all system participants. Injured employees, employers, health care providers and insurance companies all find themselves operating in a system designed to deter "bad actors". Attempts to manage medical costs have been mired in litigation. The state's regulatory structure has also resulted in high administrative costs as compared to other states.

Texas Mutual encourages consideration of a new medical benefit delivery structure that will provide an opportunity for employees, employers, health care providers and insurance companies to communicate directly, improving outcomes for all system participants. Open dialogue between doctors, employees, health care networks and insurance companies will also establish expectations regarding “reasonable and necessary” medical care. This new structure would more closely mirror the health benefit plans currently offered to employees. In order to provide injured employees with quality and efficient medical care, it is not possible for employees to have access to any and every doctor licensed in this state. Injured employees can and should, however, have access to doctors who will provide quality medical care. Doctors in this system will understand and communicate the benefits of return to work to both the employee and the employer.

The Texas Legislature has an opportunity to break new ground in designing a market-based system focused on delivering quality medical care and achieving administrative efficiencies. We at Texas Mutual look forward to working with the Senate Select Committee on Workers’ Compensation to design an improved system.

Sincerely,

Russell R. Oliver, President  
Texas Mutual Insurance Company

## Workers' Compensation System Costs and Drivers

- According to several Workers' Compensation Research Institute (WCRI) studies, Texas severities (average cost/claim) are some of the highest in the nation. For example a study based on data through March 2002 showed the following:

**Table A: Accident Year 2001 Paid Claim Severities – All Claims<sup>1</sup>**

	<b>Texas</b>	<b>12 State Median</b>	<b>Texas Relative to Median</b>
Medical	\$2,931	\$1,750	+67%
Indemnity	\$1,913	\$1,164	+64%
Combined	\$4,844	\$2,806	+73%

Evaluated as of 3/31/02

- The WCRI incurred severities show Texas medical + indemnity costs only about 40% higher than the median. Medical differences are about the same, but Texas' average incurred indemnity cost is only about 17% higher than the median. The fact that Texas pays claims somewhat faster than other states contributes to the lower incurred comparisons.
- Several studies by the Research and Oversight Council on Workers' Compensation (ROC) and WCRI have demonstrated that a primary cause of the higher costs is higher utilization of medical services.

**Table B: 1999 Cost Components for Claims with More than 7 Days of Lost Time<sup>2</sup>**

	<b>Texas</b>	<b>12 State Median</b>	<b>Texas relative to Median</b>
Avg # services/claim	110.9	57.2	94% higher
Avg # visits/claim	29.8	17.4	71% higher
Avg payment/service	\$78	\$101	23% lower

- Unit cost stability was confirmed in a recently published WCRI study that developed an index similar to the consumer price index (CPI) to analyze true medical price inflation in workers' compensation. Like the CPI, the study compares money actually spent on a specific market basket of treatments and services that remains fixed over time. Based on this analysis<sup>3</sup>,
  - Texas medical inflation over the 1999-2000 timeframe is only 1%/year.
  - Across 15 states, the median trend was 2.6%.
  - This study concluded that medical fee schedules contributed to the stability of unit costs.

- WCRI research shows that chiropractors are a major source of over-utilization in Texas.

**Table C: Chiropractor Costs on Claims with More than 7 Days of Lost Time<sup>2</sup>**

	<b>Texas</b>	<b>12-State Median</b>	<b>Texas Relative to Median</b>
% of all medical payments	13%	2%	Over six times higher
% of claims involving chiros	23%	6%	Almost four times higher
Avg med payment/claim	\$4,995	\$1,079	Over four times higher
Avg # services/claim	124.1	37.2	More than three times as many
Avg # visits/claim	33.4	16.6	About twice as many
Avg payment/service	\$41	\$29	40% higher

The numbers above represent amount paid to or services rendered by chiropractors/# claims involving chiropractors

- Although considerably higher than the 11 other states in the WCRI study, chiropractors tend to be involved in relatively small non-catastrophic claims and account for about 13% of the total dollars paid.
- Over-utilization by physicians is also a serious issue because they provide treatment on over 90% of all claims.

**Table D: Physicians Costs on Claims with More than 7 Days of Lost Time<sup>2</sup>**

	<b>Texas</b>	<b>12-State Median</b>	<b>Texas Relative to Median</b>
% of all payments	30%	31%	1 point lower
% of claims involving Physicians	93%	90%	3 points higher
Avg med payment/claim	\$2,769	\$2,160	28% higher
Avg # services/claim	30.3	17.3	75% more
Avg # visits/claim	11.0	7.8	41% more
Avg payment/service	\$92	\$115	20% lower

The numbers above represent amount paid to or services rendered by Physicians/# claims involving Physicians

- The ROC identified 5 specific medical treatment types that account for the vast majority of medical costs in Texas. In their study, Texas had either the highest or second-highest utilization for each of these treatment types. Below are examples for one type of injury: Neck Soft Tissue Injuries. The study includes many more examples for a variety of injuries.

**Table E: Comparison of Treatments for Neck Soft Tissue Injuries<sup>4</sup>**

	<b>Texas</b>	<b>9-State Median</b>	<b>Texas Relative to Median</b>
Avg # of Surgeries/worker who received surgeries	3.4	2.4	1 additional surgery/worker
Avg # of Injections/worker who received injections	10.2	5.4	Twice as many
Avg # of Manipulations/worker who received manipulations	28.5	14.3	Twice as many
Avg # of Office Visits/worker	11.5	6.6	About 75% more

- The ROC study also demonstrated that Texas workers' compensation utilization is much higher than utilization under group health programs administered in Texas. The following shows examples of the treatment of injuries likely to be treated under workers' compensation.

**Table F: Comparison of Workers' Compensation versus Group Health Utilization in Texas<sup>5</sup>**

	<b>Workers' Compensation</b>	<b>Group Health</b>	<b>WC Relative to Group Health</b>
Avg # of Surgeries/worker who received surgeries	2.2	1.8	Almost 1/2 more surgery/worker
Avg # of Trigger Point Injections/worker who received injections	5.4	1.5	Almost 4 more injections/worker
Avg # of Manipulations/worker who received manipulations	21.6	5.8	Over 3 times as many

- Both the WCRI studies and the ROC studies found that heavier medical utilization is correlated with longer duration.<sup>6</sup>
  - The ROC study cited experience from one large carrier that reported the average duration of medical care for Texas' most common workers' compensation injuries was 20 weeks, as compared to the 9-state median of about 14.6.
  - The ROC study also reported that Texas treatment duration "exceeds the levels recommended in many nationally accepted treatment guidelines."<sup>6</sup>
  - The longer duration contributes to Texas' higher indemnity benefit costs. One WCRI study found that Texas pays temporary income benefits about 29% longer (in weeks) than the 12-state median for claims with more than 7 days of lost time.<sup>7</sup>
- Both the WCRI and the ROC studies present evidence that suggests that the ability to select or screen providers can impact medical costs.
  - One WCRI study cites recent research that "has shown that workers' compensation networks can reduce the costs of medical care for work-related injuries by discounting prices and limiting the utilization of services." This study also demonstrated the correlation between very low medical price inflation and increasing network penetration in Tennessee.<sup>8</sup>
  - The ROC study found that a very small percentage of health care providers account for a very large share of the medical costs.<sup>9</sup>
    - About 4.5% (about 2,500) of health care providers treating workers' compensation injuries account for 70% of non-hospital medical costs.
    - About 7% (about 4,000) of health care providers account for 80% of non-hospital medical costs.

- The ROC study includes the following table that illustrates the concentration of doctors (MD's chiropractors and osteopaths) within the system.

**Table G: Distribution of Texas Workers' Compensation Doctors by Patient Volume and Total Medical Costs (% of Total)<sup>9</sup>**

	Low Dollar	High Dollar	Total
Low Volume	36,903 (87%)	1,613 (4%)	38,516 (91%)
High Volume	1,813 (4%)	2,198 (5%)	4,011 (9%)
Total	38,716 (91%)	3,811 (9%)	42,527 (100%)

High volume = at least 25 patients in 1 year; High dollar= patients were among the 20% most costly claims.

- Approximately 2,200 doctors are characterized as “high dollar/high volume” providers because they treat most of the expensive claims. They represent only about 5% of the approximately 40,000 total doctors who submit workers' compensation medical bills in Texas.
- The ROC study was careful to emphasize that “high volume/high dollar” may not necessarily mean that the doctors over-treat, offering the example that some of these may be surgeons whose services cost more than non-surgeons.

### **INDUSTRY COST TRENDS**

- The WCRI found that workers' compensation severity trends are accelerating across the country. Texas is experiencing a modest increase in its medical trends, but this is offset by a modest decrease in indemnity trends. The following 2 charts show WCRI's analysis of trends in Texas as compared to 12 other states.

**Table H-1: 12-State Median Annual Trends<sup>10</sup>**

	5 Years (AY 96-01)	Latest Year (AY 00-01)
Medical	8%	11%
Indemnity	8%	9%
Total	8%	10%

**Table H-2: Texas Annual Trends<sup>10</sup>**

	5 Years (AY 96-01)	Latest Year (AY 00-01)
Medical	10%	11%
Indemnity	8%	7%
Total	9%	9%

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