



## Workers' Compensation in Pennsylvania

### How Is the System Performing? How Should It Be Reformed?

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It has been nearly a century since the first U.S. workers' compensation laws were adopted by the states. The idea behind the laws was simple: to provide greater certainty and less risk to workers and employers in redressing the consequences of workplace injury or illness, by removing grievances from the civil justice system and dealing with them through a no-fault compensation scheme. Today, however, the simplicity of the original premise has been overshadowed by complicated administrative mechanisms, pervasive adversarial interests, and fundamental tensions between competing policy goals.

Recent reform efforts in Pennsylvania, including major legislation in 1993, 1996, and 2006, reflect nationwide concern about the state of modern workers' compensation systems. In a study sponsored by the Commonwealth of Pennsylvania, RAND Corporation researchers examined the performance of the Pennsylvania workers' compensation system. The researchers focused on two criteria for evaluating performance: *cost* (how much the system costs to operate) and *effectiveness* (how well the system performs major functions, such as delivering medical care, restoring lost income, resolving disputes over claims, etc.). The researchers also explored some of the major policy issues that the workers' compensation system faces and offered suggestions to help Pennsylvania policymakers in addressing these issues. The study examined four primary aspects of the system—benefits and compensation, safety, medical care, and dispute resolution.

#### Benefits and Compensation

The researchers found that the Pennsylvania workers' compensation system does not appear to be a system in crisis, or one in which employer costs are spiraling rapidly out of control. Benefit payments adjusted for payroll growth were relatively flat during 2000–2004, and Pennsylvania

#### Abstract

The Pennsylvania workers' compensation system performs reasonably well, compared with other states, on measures of cost. Performance data are sparser on dimensions such as adequacy of wage replacement or the quality of medical care. Pennsylvania, like the nation as a whole, will continue to face challenges in the form of rising health care costs. More robust performance data, together with prospective assessment of specific workers' compensation mechanisms and standards, can help policy-makers in fine-tuning the system in the future.

compares favorably with other states on several measures of average costs per workers' compensation claim. There are comparatively sparse data to support interstate comparisons regarding the adequacy of indemnity benefits or how quickly injured workers return to work.

A striking development in Pennsylvania policy during the last 15 years was a new statutory framework for "compromise and release" agreements, which allow claimants and insurers to negotiate final, lump-sum settlements in discharge of workers' compensation liability. As yet, there are little data available with which to assess the effect of these settlements on adequacy of wage-replacement benefits, long-term vocational outcomes, or medical care for injured workers.

Suggested action for Pennsylvania policy-makers:

- Consider the adequacy of wage replacement, as well as systemic payment levels, in assessing the overall performance of the system.

#### Safety

Promoting safety and preventing workplace injuries have become major priorities for Pennsyl-

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Corporate Headquarters  
1776 Main Street  
P.O. Box 2138  
Santa Monica, California  
90407-2138  
TEL 310.393.0411  
FAX 310.393.4818

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vania policymakers, and rates of workplace injuries fell substantially between 1996 and 2005. Data to support rigorous interstate comparisons of injury rates are limited, however, and several exploratory analyses undertaken by RAND on data from the Occupational Safety and Health Administration suggest that the commonwealth may not compare favorably with peer states on some measures of safety outcomes (see the table). Specific Pennsylvania policies intended to address workplace safety, particularly insurance incentives given to employers to adopt certified safety committees, have so far generated only limited performance data concerning their effectiveness. In consequence, one important avenue for improving workplace safety in Pennsylvania may simply involve improving data collection and assessment, particularly in connection with new safety programs and initiatives on a prospective basis.

<b>Pennsylvania's Ranking Among Selected States in Traumatic Occupational Death Rate</b>	
<b>Sector</b>	<b>Pennsylvania's Rank<sup>a</sup></b>
Agriculture	4th
Construction	2nd
Manufacturing	3rd
Transportation and public utilities	1st
Trade	1st
Professional and business services	1st
Education and health services	3rd
Leisure and hospitality services	1st
Other services	5th
Public administration	2nd

NOTE: These rankings are based on comparisons involving Pennsylvania and six peer states: California, New York, Illinois, Michigan, Ohio, and New Jersey.

<sup>a</sup> "1st" represents the highest death rate.

SOURCE: Analysis Based on Bureau of Labor Statistics data from the Census of Fatal Occupational Injuries

Suggested actions for Pennsylvania policymakers:

- Request that the Bureau of Labor Statistics increase its Pennsylvania sample size for the annual Survey of Occupational Injuries and Illnesses, so that directly comparable state-level injury rates will become available.
- Seek better performance data to gauge the impact of certified safety committees on workplace injuries, as an antecedent to efforts to expand the reach and influence of safety committees in the employer community.
- Consider new ways to make the financial benefits of improved safety performance to employers more transparent and more salient throughout the employer community.

### Medical Care

Pennsylvania's workers' compensation medical costs are relatively low, on several measures, compared with those of other states. However, medical care is likely to be a crucial aspect of workers' compensation policy in the future, because related costs continue to climb in Pennsylvania and across the nation. Data are currently far more abundant to support interstate comparisons of medical costs, as opposed to comparisons on other dimensions of medical performance, such as quality of care and access to care.

Future policy changes to further strengthen medical cost controls could build on any of a number of mechanisms already enacted in Pennsylvania, such as provider panel requirements, utilization review oversight, or the current medical fee schedule (derived from Medicare circa 1994, with subsequent annual adjustments based on state wage rates).

Suggested actions for Pennsylvania policymakers:

- Balance considerations of cost containment against competing interests in maintaining workers' access to care, quality of care, and good outcomes for injured workers.
- Improve the tracking of access, quality, and outcomes in care.
- Undertake prospective assessment of the impact of any future policy changes in workers' compensation medical care standards, e.g., regarding provider panel requirements or utilization review mechanisms.

### Dispute Resolution

Dispute resolution within the workers' compensation system has been the target of several major reforms in the last decade, including the introduction of compromise and release agreements in 1996 and the enactment of mandatory mediation requirements in 2006.

Recent years of performance data suggest that the Pennsylvania Department of Labor and Industry's Office of Adjudication has become faster in resolving workers' compensation cases and has reduced the backlog of cases within the system. However, the performance data that are currently available mostly focus on litigation speed and cost rather than on quality of outcomes or on the experience of litigants as participants in the justice system.

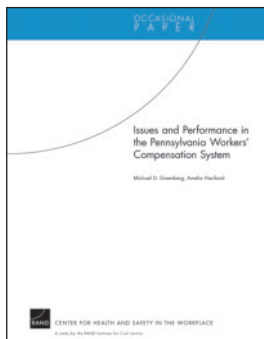
Suggested actions for Pennsylvania policymakers:

- Collect more information about the impact of compromise and release agreements and formally evaluate any proposed additional reforms to the legal requirements for entering these agreements.
- Track mediation processes and outcomes going forward, thereby providing help to policymakers when they review any future proposals to refine or expand the current mediation requirements.

## **Conclusion**

A consistent theme from the study is the desirability of collecting broader and more robust performance data concerning the various aspects of the Pennsylvania system. Such data could help policymakers and stakeholders to understand better how the system is actually doing at fulfilling its goals

of replacing lost wages, providing high-quality medical care, and resolving disputes over claims. Ultimately, better data and more prospective assessment could help policymakers to fine-tune the Pennsylvania system and to evaluate the success of specific programs and legislative mandates over time. ■



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This research brief describes work done for the RAND Center for Health and Safety in the Workplace and documented in *Issues and Performance in the Pennsylvania Workers' Compensation System*, by Michael D. Greenberg and Amelia Haviland, OP-216-PA, (available at [http://www.rand.org/pubs/occasional\\_papers/OP216/](http://www.rand.org/pubs/occasional_papers/OP216/)), 2008, 80 pp., \$23.00, ISBN: 978-0-8330-4408-2. The RAND Corporation is a nonprofit research organization providing objective analysis and effective solutions that address the challenges facing the public and private sectors around the world. RAND's publications do not necessarily reflect the opinions of its research clients and sponsors. **RAND**® is a registered trademark.

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A study by the RAND Institute for Civil Justice

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