

## INSURANCE COUNCIL OF TEXAS

*service, information, and representation for the property and casualty insurance industry*

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## **Workers' Compensation Headed for Trouble**

Texas employers are witnessing a workers' compensation system that is in trouble and on the verge of a major crisis according to the Insurance Council of Texas. Insurers say the driving factors are double-digit increases in medical payments and the increasing amount of time injured employees are off from work. The result has been an increasing number of Texas employers questioning whether or not they are going to continue to carry workers' compensation insurance coverage due to rising premiums.

The Research and Oversight Council on Workers' Compensation (ROC) reported in a February 2002 report that almost half (48 percent) of current subscribers indicated that they would consider dropping coverage if premiums increased by some increment up to 20 percent. The ROC noted that this propensity of employers to seriously weigh the possibility of opting out of the system in the event of higher costs holds across employers of all sizes.

Employers in Texas have the option of maintaining workers' compensation coverage for their employees or going without it.

Steve Nichols, manager of workers' compensation services at the Insurance Council of Texas, says costs associated with medical and income replacement benefits continue to increase despite a decrease in the number of claims, improvements in work site safety, a drop in the number of fatal work related accidents and a decrease in the severity of injuries.

"The system has every factor working in its favor with the exception of the cost of treating the patient," said Nichols. "Texas has the highest costs for treating injured workers in the country and the costs keep going up. We have to get a handle on this before workers' compensation insurance becomes completely unaffordable for every business owner."

"The Texas workers comp system is broken and in need of immediate repair. It is fast approaching the point of no return," said Dr. Robert Hartwig, Chief Economist for the Insurance Information Institute. Hartwig said that the state's problems are eerily reminiscent of those in California, where skyrocketing medical costs, fraud, abuse and a state fund with a 50-plus percent market share have pushed the system to the brink of

collapse. Hartwig added that neglect of the state's workers comp system ultimately costs the state jobs. "Failure to enact serious reform will raise costs for employers throughout Texas, forcing businesses to scale back on employment or even consider relocating to another state—this is exactly what is happening in California today," he warned.

Texas Insurance Commissioner Jose Montemayor has also commented that this line of insurance is under stress as many companies are showing unacceptable loss ratios, and that we have lost a significant amount of market capacity over companies going insolvent, or not writing the line of business.

The "Top 25" writers of workers' compensation insurance reported cumulative net losses of \$2.1 billion during 2001. The Texas Department of Insurance has reported that seven companies writing workers' compensation policies have become insolvent while two others have gone into run-off and exited the Texas market since 2001.

Another major concern is the fact that the state's "insurer of last resort," the Texas Mutual Insurance Company (Texas Mutual), now writes a quarter of the workers' compensation policies in the state and is growing rapidly. The increase in Texas Mutual's market share is a clear indication that fewer insurance companies are offering workers' compensation insurance and that premiums will continue to rise.

Nichols pointed to four major problems facing the workers' compensation system:

- Medical costs in the Texas workers' compensation system are the highest in the nation and increasing.
- Injured employees in Texas are off work for longer periods of time as compared to other states.
- Income replacement (indemnity) benefits are on the rise at a time, when the number of injuries is down.
- Insurance premiums will continue to rise as system costs increase.

The Texas Legislature is expected to take action on several workers' compensation issues during the 2005 legislative session as part of its "sunset review" of the Texas Workers' Compensation Commission.

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