

August 2008

Inside This Issue

Jurisdictional &
Industry News
pages 1-5

- Economic Slowdown and Its Impact on Workers' Compensation
- Stress Claims
- Changes to ICD-9 Coding Announced
- Comings & Goings

Inside the IAIABC
pages 5 - 8

- IAIABC Welcomes New Members!
- Executive Committee Nominations Sought
- BCin2008 Preview
- Calendar of Events

Subscribe to the IAIABC Newsletter online, or submit stories and news, at:
www.iaiaabc.org



How Will Workers' Compensation Handle an Increase in Stress Related Claims?

We know that a certain degree of physical and mental stress is a normal part of life. Stress can be a motivating force that snaps us out of doldrums and goads us on to higher performance. Unfortunately, too much stress for too long can injure even the hardest person.

In 1996, the World Health Organization labeled stress a "worldwide epidemic." Today, workplace stress is estimated to cost American companies more than \$300 billion a year in poor performance, absenteeism and health costs. *Continued on page 4*

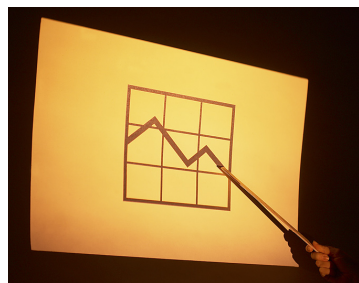
The Economy and Workers' Compensation

The U.S. economy may be at the brink of being declared in "recession" by the National Bureau of Economic Research, the official arbiter of such matters. How will this slowdown in the rate of economic growth affect workers' compensation systems?

One linkage is in the claiming behavior of workers. Claiming activity might be driven up or down by a mix of positive and negative personal incentives to make a claim. In addition, the physical hazards of the workplace and demographics of the workforce should affect injury rates. These, too, are influenced by the rate of economic output. So will a recession boost claims?

A 2008 report¹ by Wausau Insurance found that 255 financial executives surveyed had little fear of a slowdown in the economy creating greater claim rates. In that survey, only 23% of respondents

thought a recession would cause an increase in their workers' compensation claims, compared to 62% who predicted there would be "no change."



In fact, the statistical record should make these executives even more optimistic about claims in the face of a recession. Research by the National Council on Compensation Insurance (NCCI) shows a very clear drop in manufacturing claim incidence rates in 7 of the 9 recessions since WWII. They conclude that incidence rates have "tended to rise and fall with the business cycle."

Unemployment rates tend to move in the opposite direction from claim incidence rates. **Harry Shuford**, Chief Economist for NCCI, sees a connection with workforce demographics. When unemployment is low, there are many new workers and they tend to have the highest rates of injury. When unemployment is high, the newest workers have been laid off, leaving a more experienced and safer workforce.²

Continued on page 3

COMINGS & GOINGS

Texas Governor **Rick Perry** has appointed **Rod Bordelon** as the Commissioner of the Workers' Compensation Division at the Texas Department of Insurance. Commissioner Bordelon recently worked as the executive director and public counsel for the Texas Office of Public Insurance Counsel. Commissioner Bordelon is also an advisory member of the Interstate Insurance Product Regulation Commission and a board member of the Insurer Guaranty Association.

Dennis R. Ruth resigned his position as Chairman of the Illinois Workers' Compensation Commission in early September. Arbitrator **Gerald Jutila** has been appointed to serve as Chairman effective October 3, 2008. Mr. Jutila has served as an arbitrator for the Illinois Workers' Compensation Commission since 2004 and previously worked as an attorney specializing in workers' compensation cases.

Thomas Murphy recently retired as the Self Insurance Director for the Maryland Workers' Compensation Commission. Mr. Murphy served as a member of the IAIABC Audit Committee and also participated in SAWCA.

Deborah Wingate announced her retirement from the Kentucky Office of Workers' Claims. Ms. Wingate served as Director of Information and Research, EDI for many years. She was an active contributor to the IAIABC EDI program and a committee chair in SAWCA.

HHS Proposes Adoption of ICD-10 Code Sets and Updated Electronic Transaction Standard *Proposed Changes Would Improve Disease Tracking and Speed Transition to an Electronic Health Care Environment*

The U.S. Department of Health and Human Services (HHS) announced on August 15, 2008 a long-awaited proposed regulation that would replace the ICD-9-CM code sets now used to report health care diagnoses and procedures with greatly expanded ICD-10 code sets, effective Oct. 1, 2011. In a separate proposed regulation, HHS has proposed adopting the updated X12 standard, Version 5010, and the National Council for Prescription Drug Programs standard, Version D.0, for electronic transactions, such as health care claims. Version 5010 is essential to use of the ICD-10 codes.

"We are taking a giant step forward toward developing a health care system that focuses on quality and affordability through the implementation of health information technology," HHS Secretary **Mike Leavitt** said. "The greatly expanded ICD-10 code sets will enable HHS to fully support quality reporting, pay-for-performance, bio-surveillance, and other critical activities. Conversion to ICD-10 is essential to the development of a nationwide electronic health information environment, and the updated X12 transaction standards are a critical step in the implementation of these new codes."

In 2000, under authority provided by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the ICD-9-CM code sets were adopted for use in the administrative transactions by both the public and private sectors to report diagnoses and inpatient hospital procedures. Covered entities required to use the ICD-9-CM code sets include health plans, health care clearinghouses, and health care providers who transmit any electronic health information in connection with a transaction for which a standard has been adopted by HHS.

Developed almost 30 years ago, ICD-9 is now widely viewed as outdated because of its limited ability to accommodate new procedures and diagnoses. ICD-9 contains only 17,000 codes and is expected to start running out of available codes next year. By contrast, the ICD-10 code sets contain more than 155,000 codes and accommodates a host of new diagnoses and procedures. The additional codes will help to enable the implementation of electronic health records because they will provide more detail in the electronic transactions. This granularity will also help to improve efficiencies by helping to identify specific health conditions such as Methicillin-Resistant Staphylococcus aureus (MRSA) and other conditions.

"Now is the right time to move forward with the transition from ICD-9 to ICD-10," said CMS Acting Administrator **Kerry Weems**. "We recognize that the transition to ICD-10 will require some upfront costs, but each year of delay would create additional costs, both because of the limitations of ICD-9 and because of the need to employ the greater precision that ICD-10 codes provide to support value-based purchasing of health care and other initiatives. We will continue to work collaboratively across the health care system to ensure a smooth transition to use of the updated transaction standards and ICD-10."

The Economy and Workers' Compensation (page 1)

Unlike the unemployment rate, increases in real GDP are associated with increases in incidence rates. An expanding economy results in increased hiring (bringing down average skill levels), overtime, and capacity utilization, factors likely to result in higher rates of workplace injuries.

Another possible linkage is between insurance rates and the economy. Workers' compensation insurance rates go through underwriting cycles. A cycle is a period of low rates and relaxed underwriting followed by years of increasingly higher rates and tougher underwriting. This underwriting cycle is linked to investment earnings that insurers get from the funds set aside as reserves on payment of incurred claims.

At times of high earnings, insurers compete with each other to retain or expand policyholders by discounting the rates they charge for workers' compensation. This discounting can take many forms, including offering additional services (loss control), premium financing, or policy dividends. When investment earnings are relatively meager, insurers reverse their behavior and charge rates that are more adequate to cover their loss costs and administrative expenses. If the history of cycles repeats itself, workers' compensation premiums are in line for a price cut, with underwriters eager to retain market shares.

Finally, the administration of workers' compensation laws via state regulatory agencies can be affected by economic growth and its impact on state budgets. As with every business cycle, some states are in much better situations than others. Jurisdictions like Wyoming and North Dakota are booming from oil and gas revenues and therefore more insulated from negative effects on their workers' compensation agencies.

The story is much different in many other states. Many agencies are under constant threat of budget cuts and 2008 has seen some particularly draconian measures to curb spiraling deficits. California has announced layoffs of temporary workers and the suspension of all state contracts. The New York Workers' Compensation Board is under orders from the Governor to reduce its budget by 3.5%. Wisconsin has struggled with gubernatorial orders to remove several positions from the agency. And

while Florida has tabled the proposal to raid the Workers' Compensation Administrative Trust Fund, the state is still reducing its number of workers' compensation judges.

The most common way of funding administrative agencies is by special assessments based on a percentage of workers' compensation insurance premiums. These assessments are quite insulated from a drop in general tax revenue. Seldom do the businesses that pay these assessments make demands for reductions part of reform proposals. Yet, oddly enough, many governors force across-the-board cutbacks that are often unnecessary for agencies with dedicated revenues. Such is the case in Washington and Wisconsin, both funded by special assessments. This sharing in the fiscal pain appears to be good politics, but wreaks unnecessary havoc on the ability of workers' compensation agencies to maintain stable services. Everything from computer systems to hearing dockets suffers as a consequence of sudden belt tightening.

Travel budgets are a huge political issue during election years. Governors facing re-election in difficult economic times feel compelled to ban all travel out of state. California, Michigan, New Hampshire, Vermont, Wisconsin, and Washington are among the many states announcing restrictions on all out of state travel in 2008. These travel bans often hurt the ability of senior staff and management to stay current in their fields of expertise and responsibility.

Regrettably, many states that had built up expertise have seen their leaders retire or seek other employment because of several years of budget cuts. "Soft" areas, such as research and public information, that do not directly affect payment of benefits, are most vulnerable to cuts.

To learn more about the economy and its effect on workers' compensation, attend Harry Shuford's session at the *IAIABC Annual Convention* on October 30, 2008. Visit [BCin2008](#) to view the entire conference agenda.

¹ 2008 Wausau Multiline Productivity Poll, July 10, 2008.

² Shuford and Wolf, *An Analysis of Factors Affecting Changes in Manufacturing Incidence Rates*, Fall 2006.

[Click here](#) to view the complete NCCI report.

Growing Incidence of Stress Claims in Workers' Compensation (page 1)

A 1999 report by the National Institute of Occupational Safety and Health (NIOSH) confirms the perception of a stress epidemic. Many individuals in the U.S. reported work as the major stressor in their lives. (See sidebar for additional statistics).

One indirect way to measure the level of stress is through the types of workers' compensation claims being filed. A study of workers in the Australian state of Victoria found that 13% of male workers and 17% of female employees suffer from work-related depression. Yet, according to these researchers, recorded claims statistics under-report stress by a factor of 30. However, research on stress is subject to a host of reporting errors and biases.

In the U.S., claims for psychological or mental injury are only a tiny fraction of disabling injury claims. According to Harry Shuford of the NCCI, "the data indicate that stress related diagnoses in the United States currently account for less than 1% of lost time claims."

The first obstacle in managing what appears to be an emerging and potentially big issue is defining and measuring work stress. Given the ubiquity of stress in everyday life, it is challenging to draw a bright line between normal and abnormal stress, or tolerable and pathological stress. What is intolerable to one person may be only a mild and passing irritant to another.

The lack of consensus on what constitutes too much stress is reflected in the mixed bag of laws relating to workers' compensation stress claims. Workers' compensation in most advanced economies will compensate stress if it is connected to a physical event or trauma, for example, witnessing the death of a co-worker or being physically assaulted.

Many post traumatic stress claims were generated in New York in the aftermath of the World Trade Center attack. More recently, a bevy of post traumatic stress injuries are reported for soldiers returning from Iraq. The Insurance Information Institute reports that "...nearly 30% of personnel deployed in Iraq exhibit some post-deployment symptoms of mental health problems."

When it comes to mental illness caused by pure stress

Stress at Work*

- **40% of workers reported their job was very or extremely stressful.**
- **25% view their jobs as the number one stressor in their lives.**
- **29% of workers felt quite a bit or extremely stressed at work.**
- **26% of workers said they were "often or very often burned out or stressed by their work."**
- **Job stress is more strongly associated with health complaints than financial or family problems.**

***NIOSH Stress at Work (Publication No. 99-101)**

without any objective physical event, jurisdictions are much more diverse in their approaches. Generally speaking, Australia has the keenest public awareness and openness to job stress disability claims. By comparison, the U.S. has many state laws that bar stress claims that are not connected to a physical trauma.

Why the jumble of policy approaches? **Bob Aurbach** speculates that "lawmakers are concerned with the difficulty of obtaining a clear-cut medical diagnosis and the uncertain duration of stress related disability." There is a huge range of individual reactions to potentially stressful circumstances and an equally broad range of individual adaptability to stressful stimuli. When the wide range of treatment options and difficulty in determining the appropriate indemnity benefits is added to the mix, it's no wonder that there is no consensus among jurisdictions concerning the appropriate response to stress claims.

Harry Shuford, NCCI, and **Robert Aurbach**, Uncommon Approach, discuss the issues related to work stress and its compensability at the IAIABC *Annual Convention* on October 29, 2008.

¹ Moises Velasquez-Manoff, news summary, **Columbia News Service**.

Visit www.humannatureatwork.com for a compendium of research on the cost of stress.

Changes to ICD-9 Medical Coding Requirements (page 2)



The ICD-10 code sets proposed rule would concurrently adopt the International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10-CM) for diagnosis coding, and the International Classification of Diseases, Tenth Revision, Procedure Coding System (ICD-10-PCS) for inpatient hospital procedure coding. The new codes would replace the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM) Volumes 1 and 2, and the International Classification of Diseases, Ninth Revision, Clinical Modification (CM) Volume 3 for diagnosis and procedure codes, respectively.

Updated versions of current HIPAA electronic transaction standards require the use of the ICD-10 code sets for claims, remittance advice, eligibility inquiries, referral authorization, and other widely used transactions. The currently adopted standard, Version 4010/4010A1 of the American Standards Committee X12 group, cannot accommodate the much larger ICD-10 code sets.

Under the updated transaction standards proposed rule, compliance with Version 5010 (health care transactions) and Version D.0 (pharmacy claims) would be required by April 1, 2010. In that rule, a standard for the Medicaid pharmacy subrogation transaction is also proposed. Medicaid pharmacy subrogation is the process by which state Medicaid agencies recoup funds for payments they have made for pharmacy services for Medicaid recipients, in cases where another third party payer has primary financial responsibility. Compliance would be required two years after the effective date of the final rule, except for small health plans, which would have an additional year.

Click here to view both regulations. **Click here** to read fact sheets describing both proposed rules. Comments on the ICD-10 code sets proposed rule and the updated transaction standards proposed are due by 5:00 p.m. Eastern time on Oct. 21, 2008.

Nominations Sought for IAIABC Executive Committee

The IAIABC is currently accepting nominations for persons to serve on the Executive Committee. The Executive Committee, as defined in the IAIABC Constitution and Bylaws, serves as the governing body of the Association. The Executive Committee is responsible for maintaining financial oversight and establishing the strategic direction of the Association.

Candidates must hold an executive position in a member jurisdiction. All candidates will be interviewed by the Nominating Committee during the IAIABC *Annual Convention* in October 2008.

To be considered, please send a letter of interest and curricula vitae to either **Greg Krohm**, IAIABC Executive Director, at gkrohm@iaibc.org or **Paul Dionne**, IAIABC Nominations Chair, at paul.dionne@maine.gov.

Inside the IAIABC



WorkSafe BC welcomes the IAIABC and the AWCBC to

BCin2008

Register now for **BCin2008**: the week-long conference that combines IAIABC's *Annual Convention, Medical Institute* and the Association of Workers' Compensation Boards of Canada's (AWCBC) *Learning Symposium*. Workers' compensation professionals throughout Canada, the United States, and beyond will attend.

Taking place in Vancouver on October 27-31, **BCin2008** addresses emerging issues and explores viable solutions in the context of workers' compensation. In select joint presentations, IAIABC and AWCBC representatives collaborate on a single topic. Explore how each jurisdiction approached a common issue and what solutions can be added to a decision-maker's toolbox, such as:

- **Managing Difficult or Complex Claims:** Some claims grow in complexity and cost far beyond what the objective medical condition warrants. Learn specific signs to pick out these claims early on and what methods can be used to close claims in a fair and timely way.
- **Transforming Employers into Safer Organizations:** A commitment to reducing workplace accidents can be a powerful way for employers to protect workers and decrease workers' compensation costs. Hear from two experts on how leadership and vision can transform employer safety programs.
- **Legislative Trends in the U.S. and Canada:** A change to workers' compensation legislation in one jurisdiction is often an early warning of pressures and issues that will face other jurisdictions. This session explores recent changes in workers' compensation policy and law in Canada and the U.S., highlights unique approaches to emerging issues, and identifies trends that may be facing your jurisdiction.

BCin2008 also welcomes IAIABC delegates to AWCBC sessions where Canadian workers' compensation professionals will focus on:

- **Benchmark survey:** Learn the recent results of a Canadian study that measures safety attitudes of employers and workers relative to other workplace issues
- **Foreign workers:** Discuss with experts about social challenges that face decision-makers when ensuring safe and fair outcomes equivalent to those provided to domestic workers
- **Managing psychological issues:** Acquire best-practice clinical methods to manage psychological issues associated with a compensation claim.

Visit www.bcin2008.com to learn about speakers, sessions, registration and social events.

27-31 OCT



Inside the IAIABC

IAIABC Welcomes New Executive Committee Member

The IAIABC would like to welcome the newest member of its Executive Committee, **Robert Malooly**. Mr. Malooly currently serves as the Assistant Director of Insurance Services at the Washington Department of Labor and Industries. Before assuming his current position, Mr. Malooly worked for the Insurance Services Office and was Chairman of the Illinois Industrial Commission.

Mr. Malooly has been involved in the Association for over ten years and currently serves on the EDI Prescreening Committee. **Greg Krohm**, Executive Director of the IAIABC, notes, "I met Bob at the IAIABC Convention in Pittsburgh, PA in 1995 and we became fast friends. I have the greatest respect for his integrity and good judgment. He will be a tremendous asset to the Executive Committee."

Travel Reminder: Passports Required for Travel to Canada

Have you applied for or renewed your passport recently?

All U.S. citizens attending BCin2008, which includes the AWCBC *Learning Symposium*, IAIABC *Annual Convention*, and *Medical Institute*, in Vancouver, BC will be required to have a passport.

Due to high volume, U.S. passport processing times have increased. Visit <http://travel.state.gov> to learn more and apply or renew your passport.



The Minnesota Department of Labor and Industry invites you to a **SPAM n'EGG Breakfast** at the 2008 IAIABC *Annual Convention*. Held on October 29, 2008 from 7:00 - 8:30 am, you won't want to miss **Commissioner Steve Sviggum** and other Minnesota staff serve up **SPAM** and other breakfast treats.

This special breakfast will help celebrate the **2009 IAIABC Annual Convention** in Minneapolis, MN on **September 21-25, 2009**. Attend the breakfast, enjoy some SPAM and learn about all the the Twin Cities have to offer!

Welcome new IAIABC members!

NEW JURISDICTIONAL MEMBER

**South Dakota Department of
Labor**

Contact: James Marsh

<http://dol.sd.gov>

NEW EDI MEMBER

Jopari Solutions, Inc.

Contact: Sherry Wilson

www.jopari.com

NEW CORPORATE MEMBERS

HealthTech, Inc.

Contact: Mark Hughes

www.htedi.com

Kids' Chance

Contact: Kathy West

www.kidschance.org

NEW INDIVIDUAL MEMBER

Modern Medical, Inc.

Contact: Heather Morris

Visit the **IAIABC Membership
Website** to learn more about
IAIABC membership benefits!

Calendar of Upcoming IAIABC Events

Click on the titles below to learn more about these IAIABC events.

2008 IAIABC Annual Convention

October 27-31, 2008

Vancouver, BC

Hosted in conjunction with the *Medical Institute* and *AWCBC's Learning Symposium*, the 2008 *Annual Convention* will address the emerging issues, trends, and current research in workers' compensation administration.

2008 Medical Institute

October 29-30, 2008

Vancouver, BC

The 2008 *Medical Institute* will bring together occupational physicians, medical directors, and administrators to enjoy constructive dialogue on improving the delivery of medical care in workers' compensation.

2009 Workers' Compensation College

February 9-12, 2009

Orlando, FL

Attend the Workers' Compensation College and experience an intensive educational experience designed to foster discussion on emerging topics and provide in-depth training on workers' compensation's most important issues.

2009 IAIABC Annual Convention

September 21-25, 2009

Minneapolis, MN

Join the IAIABC and the Minnesota Department of Labor and Industry in celebrating the 95th anniversary of the IAIABC and the 2009 Annual Convention.

2010 IAIABC Annual Convention and International Forum on Disability Management

September 13-17, 2010

Los Angeles, CA

Join the IAIABC and the international workers' compensation community for the Annual Convention and IFDM 2010. This unique event will focus on management strategies to improve disability outcomes across the world.

The IAIABC is happy to announce your upcoming event in the IAIABC newsletter and on our website. Please contact **Jennifer Wolf** at jwolf@iaibc.org for more details.