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BULLETIN

Portland, Oregon

Vol. 59, No. 12

REPORT ON REHABILITATION IN THE WORKER'S COMPENSATION SYSTEM IN OREGON, 1978

The Committee: Joel I. Beerman, Richard E. Breuner, Ted McDermott, Neil Meagher,
Peter A. Nathan, Robert Rindfusz, Charles Sikes and Fred Young, *Chairman.*

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arouse in them a realization of the obligation of citizenship."*

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ERRATA

Please note the following changes in the report:

Page 35, Table of Contents, V, 4, Figure 2: "Frequency of Claims per \$100,000 payroll" should be "...per \$100,000,000 payroll".

Page 38, Table I: \$15,139,194 under "Premiums Paid" should be \$155,139,194.

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GLOSSARY

DVR	Vocational Rehabilitation Division, State Dept. of Human Resources
ORS	Oregon Revised Statutes
OSHA	Occupational Safety and Health Act
PPI	Permanent Partial Impairment
PPD	Permanent Partial Disability
PTD	Permanent Total Disability
SAIF	State Accident Insurance Fund
WCB	Worker's Compensation Board
WCD	Worker's Compensation Department (formerly Board)
Average Weekly Wage	The maximum temporary total disability benefit a worker can receive is limited to 66⅔ percent of wages but not more than 100 percent of the "average weekly wage." Average weekly wage is the average wage paid to a worker in Oregon as determined by the Employment Division of the Department of Human Resources. ORS 656.005 (2), 656.210. (For fiscal year 1978, the average weekly wage is \$224.16.)
Odd Lot Doctrine	The Odd Lot Doctrine allows a finding of permanent total disability in the case of worker who, while not altogether incapacitated for work, is so handicapped that he or she will not be employed regularly in any well-known branch of the labor market. <i>Swanson v. Westport Lumber Company</i> , 4 Or App 417 (1971)
Loss of Earning Capacity	Where a worker has an <i>unscheduled permanent disability</i> , such as a back injury or heart attack, the proper test for evaluating unscheduled permanent disability is loss of earning capacity. Such factors as disabling pain and suffering, the severity of the initial injury, and physical incapacity are relevant in ascertaining loss of earning capacity. <i>Surratt v. Gunderson Bros.</i> , 3 Or App 228 (1971); <i>Ford v. SAIF</i> , 7 Or App 549 (1972)
Self-insurance	A self-insured employer provides worker's compensation benefits itself without purchasing insurance from a private carrier or SAIF. A self-insured employer must furnish the Director of the Worker's Compensation Department proof that it has adequate staff qualified to process claims and that it has financial ability to make certain the prompt payment of all compensation and other benefits due by statute. ORS 656.407
Second Injury Payments	The Second Injury Fund of the Worker's Compensation Department is set up to protect any subsequent employer against increases in insurance premiums due to the re-injury of a worker. Payments are made to the employer.
Retroactive Payments	Reserve funds held for additional payments made to injured workers many years later in light of inflationary factors.
Unscheduled Permanent Disability	Includes those injuries not listed in ORS 656.214, which means, a disability not involving an extremity, hearing or vision.
Contributory Negligence	At common law, if it could be shown that the worker himself had acted negligently, and that the worker's negligence contributed to the injury, the worker's claim could be defeated.
Fellow-Servant Doctrine	At common law, if an employer could show that a worker's injury was caused by a fellow worker, rather than the employer, a worker's claim could be defeated.
Assumption of Risk Doctrine	At common law, if an employer could show that a worker had sufficient knowledge of the details of his job duties, a claim could be defeated on the theory that the worker knew the risks and had voluntarily assumed responsibility for his injury.

REPORT ON

REHABILITATION IN THE WORKER'S COMPENSATION SYSTEM IN OREGON, 1978

To the Board of Governors,
The City Club of Portland:

I. INTRODUCTION

In framing the charge to this research Committee, the City Club Research Board suggested the following issues as a basis of inquiry.

1. How does the present system of rehabilitation operate and, based on various criteria, to what extent, if any, is it successful?
2. What alternative systems of rehabilitation or modification in the present system would be practical in the state of Oregon, and which would the Committee recommend?
3. Is the new Callahan Disability Prevention Center in Wilsonville effective in the rehabilitation process?
4. Is the staffing for the rehabilitation programs adequate?
5. What role should privately-operated rehabilitation systems have in the worker's compensation program? Is there effective coordination and cooperation between private and state facilities and programs?
6. Are the admission criteria to the Wilsonville facility appropriate?
7. To what extent, if any, does the adversarial system in the worker's compensation procedure affect the rehabilitation process?

II. SCOPE OF RESEARCH

This Committee, after a considerable period of deliberating the vast scope of its charge, has undertaken its job by studying the following components:

- the history of worker's compensation in Oregon
- the insurance structure
- the medical personnel involved
- the rehabilitation programs and facilities
- the injured worker
- the legal system
- re-employment

The rehabilitation system is based on the premise that from both a human and an economic standpoint it is good to return workers to jobs. Therefore, the conclusions reached in this report imply a set of social, political, human, and economic values which should be recognized from the outset as not necessarily universal.

Appendices I, II, and III contain, respectively, the resource persons interviewed by the Committee (Interviews), the resource material and literature selected for consideration (Bibliography), and the site visits (Visits) made by the Committee. References in the text to interviews refer initially to *I* and the numbered interview within Appendix I. Reference to written material is footnoted as *B* and the numbered resource cited. Footnotes on visits are referenced as *V* and the numbered visit.

III. DISCUSSION

The most likely reason for current public interest in any topic relating to Worker's Compensation is the cost. *Table 1* shows the premiums paid in by employers and the benefits paid out to employees under the Worker's Compensation system in Oregon for the calendar year 1977. The total of premiums paid in 1977 represents an increase of about 43 percent over the total paid in 1976.

Table I
PREMIUM COSTS AND BENEFITS PAID OUT
Oregon Worker's Compensation Insurance
Business Calendar Year 1977 [I-16]

	<i>Premiums Paid</i>	<i>Benefits Paid Out</i>
Private Carriers	\$15,139,194	\$ 94,840,846
SAIF	208,895,911	155,828,446
Self-Insurer's Total (reported reserves)	60,065,957	Not available
	\$424,101,062	

Table II shows the additional expenditures of the Worker's Compensation Board for the fiscal year ending June 30, 1977. Roy Green, the director of the Worker's Compensation Department [I-14], expects those funds paid to continue to increase rapidly in the near future.

Table II
OPERATIONAL & OTHER EXPENSES
Worker's Compensation Board Financial Statement
Fiscal Year Ending June 30, 1977

Administrative Operating Expense	\$11,276,536
Second Injury Payments [Glossary]	2,564,793
Capital Construction	210,977
Retroactive Payments [Glossary]	20,851,500
Rehabilitation Expense	12,474,055
Noncomplying Employer Payments	917,527
Total Expenditures	\$48,295,388

While comparable data are not available for 1976, Dennis Fisher, Oregon State University [B-18], presented data in 1974 which showed Oregon had the highest loss and cost per \$100,000 in payroll of any of the 15 states studied for the period 1968-70.¹ Oregon's losses during that period were \$1050 per \$100,000 payroll while the median loss for worker's compensation experienced by the 15 states in the study group was \$567.

Fisher concluded in his study that the high frequency of Permanent Partial Disability (PPD) and Permanent Total Disability (PTD) claims per payroll dollar, and not the cost per claim, was the cause for the higher losses in Oregon (see Appendix 4). In the fiscal year 1976, 7,730 PPDs and 162 PTDs were awarded in Oregon.

Roy Green, Worker's Compensation Department director, quoted a study of Liberty Mutual Insurance Company [I-14] which adjusted the costs of worker's compensation systems in all states to the same level of benefits for comparable injuries or disabilities. Comparing the result, Oregon ranked highest in the United States with a cost of nearly six times that of South Carolina where benefits appear to be far less liberal and/or responsive to the injured worker's monetary needs.

A significant factor in controlling costs in the worker's compensation system is the efficiency of the program which manages rehabilitation of the injured workers. In view of Fisher's study, this factor would be the most logical to examine. A typical view of the efficiency of rehabilitation in the worker's compensation system was expressed by the President of the Oregon Trial Lawyers Association, James B. Griswold [B-29], "We feel strongly that the present system (of rehabilitation) is most unsatisfactory and that substantial work should be done to determine what improvements can be made."

¹Current comparable ratings, as compiled by the National Council on Compensation Insurance, were not available for public record at the time of publication.

Improved efficiency of the rehabilitative process, however, should be viewed as only part of the process necessary in controlling costs. Another analysis by the Oregon Executive Department presented substantially the same view from a slightly different perspective [B-9]. "The team has been informed repeatedly that the key to rehabilitation success depends on early identification and treatment. Medical, paramedical, and program personnel invariably emphasized the need to reach injured workmen within 90 days of the injury date. At present, the average delay from date of injury to entry into physical or vocational rehabilitation programs is 18 months. Consensus of medical opinion indicates that treatment success after such a prolonged delay is virtually nil." These assertions were confirmed through interviews by your Committee with M. Keith Wilson, former chairman of the Workmen's Compensation Board, Martha Rushing, Chief of Occupational Therapy, Providence Hospital in Portland, and B. J. Blachly, R.N., Rehabilitation Specialist, International Rehabilitation Associates, Inc.

Examination of the management of the rehabilitation of a worker injured in Oregon will be undertaken by describing what happens to a worker in the system. This description will be composed of the following sections:

- a) the history of Worker's Compensation in Oregon;
- b) the effects of the type of insurer;
- c) medical treatment and case management;
- d) physical and vocational rehabilitation;
- e) the injured worker's view;
- f) the role of the legal advisor; and
- g) re-employment of the injured worker.

A. A BRIEF HISTORY OF WORKER'S COMPENSATION IN OREGON

Worker's compensation systems were developed because of a recognition that industrial injuries are to some extent a necessary part of the industrial process, and the cost of such injuries should be included as a part of the cost of doing business and ultimately borne by the consumer of the goods or services produced. The essence of a worker's compensation system is that an injured worker, instead of having an uncertain possibility of recovering a potentially large amount from his employer in a damage action based upon negligence, has the certainty of receiving a smaller amount without having to prove negligence. In other words, smaller benefits are a trade-off for certainty of recovery. Any time the benefits payable under a compensation system are increased to the point where they approach what an injured worker could have recovered in a damage action, but without giving up the element of certainty, then the purpose of the compensation system is being distorted.

Prior to 1913, when the Oregon legislature created its first Workman's Compensation Fund, the only relief available to an industrially injured worker was provided by the common law. The injured worker could sue his employer for past wages, lost and future earnings, pain and suffering, and for medical expenses. The legal action was expensive and time consuming and the well-established defenses of contributory negligence, fellow-servant doctrine and assumption of risk doctrine often worked against affording the injured worker adequate relief for his disability.

Oregon's 1913 Act, which followed the U.S. Department of Labor guidelines, was based on a "no fault liability" principle which guaranteed relief to the injured worker regardless of fault. The 1913 Act set up, through a State Industrial Accident Commission, an Industrial Accident Fund that insured covered employers in hazardous industries. (Oregon's wood products industry ranked high in frequency and severity of industrial injury.) The Fund developed its own rates from its own experience and the benefit levels for injured workers were fixed by law. The employer could elect not to participate in the fund and thereby become subject to the Employer's Liability Act which barred the employer's use of the established common law defenses if he were sued. Most employers who did not participate in the Fund protected themselves by purchasing employer's liability coverage from a private carrier.

The 1913 code remained intact for 52 years without substantial change. In 1965 the present "three-way" act was passed. The 1965 act was a compromise revision of the code which was designed to satisfy the conflicting interests of labor, large industry and the private insurance carriers.

The new "three-way" law, which became effective January 1, 1966, split the old state fund into two agencies, a State Accident Insurance Fund (SAIF), and a Workman's Compensation Board

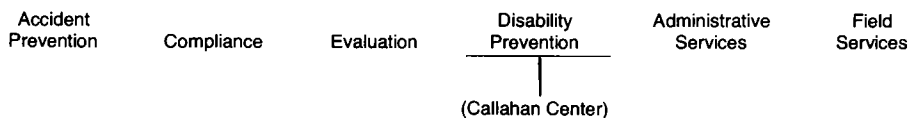
(WCB). SAIF, supervised by the Insurance Commissioner as an insurance company, guaranteed coverage to all classes of risks and was responsible for underwriting all risks and administering claims of all employers electing to insure through the State Fund. The WCB was expanded in size and function and given much broader administrative authority to carry out the functions of safety, claims, hearings, rehabilitation and recording. Further, the legislature authorized WCB to perform the new function of evaluation of all claim closures for permanent partial disability or permanent total disability, rating those workers whose injuries are considered medically stationary; to supervise the claims payment procedures of SAIF, the private insurance carriers, and those who are self-insured; and to conduct the registration of all private insurers admitted to sell worker's compensation insurance in Oregon.

The three-way law reduced the number of exempt classifications of employees. It also permitted qualified employers to self-insure and private carriers to compete with SAIF. In the interests of uniformity, SAIF abandoned its old experience rating system and adopted the National Council on Compensation Insurance rules and regulations.

Since the effective date of the three-way legislation on January 1, 1966, each session of the Oregon legislature has enacted legislation affecting the cost and administration of the program. Some of the major changes are:

- 1967: Increased permanent and partial disability benefits
- 1969: Established Court of Appeals to which compensation cases could be appealed from Circuit Courts
- 1971: Brought farm employees under the law
Second injury payments reimbursed directly to employer
Increased loss time payments to 66⅔ percent of wage
Established "usual and customary" medical fee schedule
Increased survivor benefits
- 1973: WCB assumed Occupational Safety and Health Act inspection and enforcement responsibilities
Provided educational benefits through vocational rehabilitation
Increased retroactive reserve and assessment
Tied disability benefits to the average weekly wage
- 1974: Again increased retroactive reserve and assessment
- 1975: Increased requirements for out of state insurance carriers
Increased maximum compensation level to 100 percent of "average wage"
- 1976: Callahan Center for Disability Prevention opened at Wilsonville
- 1977: Eliminated Circuit Court as a court of appeal
Created a Worker's Compensation Department (which is structured, in part, as follows:)

WORKER'S COMPENSATION BOARD
DIRECTOR
DIVISIONS



Also, during this last eleven year period, court decisions established the "average weekly wage" standard, the "odd lot doctrine" and the "loss of earnings capacity standard" as administrative law precedents [B-23, 26, Glossary]. All legislative actions prior to 1977, have, in effect, increased the cost of the system.

B. THE EFFECTS OF THE TYPE OF INSURER

After injury, workers have varied experiences according to how their employer is insured.

Oregon's three-way law gives the employer the option of insuring his employees through one of three methods: SAIF; a private insurance company of his choice; or, he may elect to self-insure [Glossary]. All three optional methods are regulated by the same standards under the Insurance Commissioner, adhere to the same rate schedule developed by the National Council on Workmen's Compensation Insurance, and are subject to the same Oregon State and OSHA safety requirements set forth by federal and state statute. Their claims procedures are supervised in identical manner by the Compliance Division of the Worker's Compensation Board. All (except self-insured) pay premium refunds or receive refund dividends when cost experience has been less than anticipated.

By the end of 1977 there were over 110 self-insured employers, and the total number of private insurance companies had been reduced by more stringent enforcement of residence and capital requirements to about 122 approved carriers. Roy Green, Worker's Compensation Department director, advised that whereas total premiums paid in were \$295 million in 1976, by the end of 1978 the total premiums paid in will have exceeded \$440 million and may go to \$480 million by 1980.

The number of employers electing to self-insure has increased dramatically since 1967 from 33 to 110. Self-insurers are usually large employers. Also, 80 percent of the premiums paid in to private insurance companies is paid through the top 20 private insurance companies of the 122 qualified to sell worker's compensation insurance in the state. Therefore, the large number of smaller insurance companies has a very small impact on the system.

1. Self Insured

Employers are motivated to self-insure because:

- a) Businesses pay no premiums to insurance companies, but reimburse claims directly, allowing them more profitably to manage their cash reserves, which they are obliged by law to set aside;
- b) many managers of worker's compensation programs in self-insured companies demonstrate a definite interest in the welfare of the disabled worker and his early return to productive employment [I-21]; and
- c) employees' knowledge of their company's involvement in claims processing may diminish the number and extent of claims.

These considerations are financially and socially profitable to the employer. The self-insured employer is usually able, due to its large size, to guarantee alternate jobs sooner to the rehabilitated worker. Some self-insured employers administer their programs as part of their company staff function. Others contract to have this function performed by private administrative firms (e.g., Employee Benefits Insurance, Scott-Wetzel, Fred S. James, etc.).

Motivated by these considerations the self-insurers appear to administer their claims in a more efficient and timely manner. This results in more closely monitored cases, fewer litigations, speedier rehabilitation, and higher percentages of return-to work cases.

One large employer [I-21] demonstrated a corporate attitude toward the rehabilitation process which appears to have been particularly successful. The injured workers, according to company attitude, are never off work—they are working to get better and to return to productivity. Further, this company places the responsibility for the injured worker's return to productivity on the local plant manager. This manager then must concern himself with the worker as a whole person (medical, financial, psychological, and physical) in assisting his return to productivity. If he is not successful in returning his worker to a job in his former department, the manager must then pay the manager of another department to assume the responsibility and costs of re-employment of this particular injured worker.

As a result of the above factors there is a definite trend in the state of Oregon toward self-insurance. Generally, the Committee was much impressed by the attitude of management personnel and the monitoring of the injured worker undertaken by the self-insured employers. It appears unfortunate that smaller employers, because of insurance regulations, are not in a financial position to self-insure. Information made available to your Committee indicates a similar trend is occurring in the state of Washington, where an employer can choose only between the Department of Labor

and Industries, which is the state-run insurance company, or self-insurance. Since 1970 when the law was changed in Washington to allow for self-insurance, the number of employees covered by self-insurance has grown to 18 percent of the work force, with 215 companies electing to self-insure. In Oregon, the percentage of premiums paid by self-insurers has increased from 8.6% in 1973 to 14.2% in 1977.

2. Private Carriers

Employers electing to insure through private insurance companies select them on their competitive ability to deliver services required by law such as claims payment, safety engineering, legal services, and rehabilitation. In addition, the employer considers an insurance company's history of dividend refund on premiums paid in its consideration of choice of carrier.

The carrier functions as a third party contractor [B-1] and often subcontracts for rehabilitative services with industrial claims specialty firms (e.g., International Rehabilitation Associates, etc.). There appears to be considerable variation among the private carriers in the efficiency of delivery of services. On the whole a lack of consistent, early administrative follow-through toward speedy rehabilitation and return to work appears to be prevalent. This is further complicated by the attitude of the employer toward rehabilitation, which varies from indifference (let the third party/insurance company take care of the case) to genuine concern about the performance of the carrier and how that performance affects dividend refund and premiums, as well as the success of the rehabilitation of the injured worker by the insurance company. In spite of these shortcomings, the private carriers as a group appeared somewhat more efficient in responding to the injured worker than the third option of coverage through SAIF.

Because of the large percentage (37 percent of premiums) of workers covered by private insurance companies, the efficiency of this segment has a heavy impact on compensation costs in Oregon.

3. State Accident Insurance Fund (SAIF)

SAIF covers substantially all workers in Oregon not insured through the above two options, including farm workers and most seasonal workers, and guarantees coverage for all levels of risk. SAIF functions within the rules and regulations as to claim payments, reporting, etc., set forth by the WCB. There are no indications that SAIF goes beyond the rules and regulations to bring about early identification of problem cases, or effective and continuous supervision leading toward speedy rehabilitation and return to work. There has been evidence reported that SAIF as well as private carriers are often reluctant to press for early treatment and rehabilitation services [1-5, 12, 23, 25, 24]. Because SAIF covers more than half of all workers and employers in the state, including the highest risk groupings, its efficiency has the greatest impact on the level of rates and the percentage of workers rehabilitated.

C. MEDICAL TREATMENT AND CASE MANAGEMENT

Independent of the type of insurance carrier, the injured worker receives prompt medical treatment. The law gives the worker complete freedom to select his doctor of choice. By both law and tradition the doctor selected retains total control over medical treatment and physical rehabilitation until he releases the worker to return to the job. This traditional and legal control then places the responsibility for management of the rehabilitation program of the injured worker upon the treating physician during the critical early phases of the injury.

This management role then thrusts the physician into the center of efforts by numerous organizations to obtain information about the case. Often simultaneously, the insurance carrier, the Worker's Compensation Department, the employer and other agencies such as the Social Security Administration are attempting to collect data. As a result of this inundation of requests, many physicians delegate this information flow, which was intended to be of a case management nature, to clerical assistants. Even when the information is processed by clerks there has been evidence presented which indicates that data is often not available in a timely fashion.

While the management of the rehabilitation in effect is placed upon the physician through the role specified for him by law, there are indications that a working knowledge of the Worker's

Compensation system and of the range and functions of physical, mental, and vocational rehabilitation services available is lacking among physicians.

By treating an injured worker, the physician becomes the medical advisor both to the patient and to the system. Therefore, he is placed under multiple pressures which may be conflicting: a) he is asked by the system to act as a social agent and make determinations on the rehabilitation and return to work of his patient which are not purely medical in nature; and b) he is asked by the patient to maintain the integrity of his medical role without regard to the social, financial and work rehabilitation considerations engendered by his patient's injury. Those physicians in small communities might be particularly affected by this conflict.

D. PHYSICAL AND VOCATIONAL REHABILITATION

Physical rehabilitation is the treatment process whereby the function of some part or parts of the body is improved. **Vocational rehabilitation** is the process through which an injured worker is returned to economic productivity.

The normal sequence would be for a physician to prescribe a physical rehabilitation process to improve the function of an injured part. Vocational rehabilitation would follow in cases where the worker would not be able to return to his/her former job, or any other job, without retraining or modification to the job site.

1. Physical Rehabilitation

The rehabilitation systems in the state are so constructed that any one of the three alternatives (SAIF, private carriers or self-insurers) may elect to use either a private rehabilitative resource or a public resource such as the WCD Callahan Center for Disability Prevention at Wilsonville.

a) Callahan Center

This facility consists of a modern 110,000 sq. ft., \$5.3 million structure [B-5] located on a 40-acre site with a staff in excess of 100 [V-1]. The purpose of the Callahan Center has been announced to be:

“ . . . to provide a multidisciplinary program of service to injured workers to:

- a) restore body conditioning and increase work tolerance prior to return to work,
- b) address psychological problems which may be interfering with ability to return to work,
- c) test the viability and/or feasibility of vocational or re-employment alternatives for return to work, and
- d) provide a plan for re-employment or retraining to be carried out by the insurance company, the Service Coordinator, Vocational Rehabilitation Division of the state Department of Human Resources, by the patient himself, or a combination of the above” [B-2].

The physical structure has been criticized for its lavishness [I-17] and for minor shortcomings of a more specific nature [B-9]. The role of the Center in providing physical rehabilitation has been questioned by an Executive Department study team which subsequently recommended that responsibility for operation of the Center be transferred to the Vocational Rehabilitation Division (DVR) of the Department of Human Resources (this division is not a part of the Worker's Compensation system). A curious deficiency in the physical facility was pointed out to your Committee [I-18, 9], [V-1]—there is no provision for wheelchairs at the Callahan Center.

An injured worker entering the Center is placed under the care of a physician who in turn is assisted by a team consisting of an industrial therapist, a remedial therapist, a physical therapist and a psychiatrist [V-1]. The doctor and team analyze the worker's injury and prescribe a program which is undertaken at the Center. During this period, from about three to four weeks, the patient is housed in comfortable motel-like facilities on the site adjacent to the main building. Housing is provided only five days a week, since the Center is closed on the weekend. Some of these injured workers must then drive long distances to return home for the weekend or stay in commercial motels.

The treatment programs are often inefficient in the utilization of time. Treatment often begins late in the morning, ends early in the afternoon (your Committee visited at 2 p.m. and observed almost no activity [V-1]), and contains many gaps in between [I-17, 14, 32, 33]. While the low patient-to-staff ratio (about 2:3 [B-9, V-1]) would indicate the capability of individualized treat-

ment, a regimented, large, class-type treatment program was reported [I-2, 5, 12, 22, 24, 25, 32, 33]. A management study of the staffing levels at the Center has been recommended [B-9].

The cost of running the facility is supposed to be borne by the insurers² of the patients treated, but it is not. The basic cost of treatment at Wilsonville was reported to your Committee at its on site visit [V-1] to be \$44 per day. This is misleading because a 1977 audit by the Oregon Division of Audits [B-7] estimated that insurers had been underbilled by about \$350,000 during the audit period due to inadequate accounting procedures.

Your Committee found statistical data [I-17, 31; B-9; V-1, 2] indicating patient performance after treatment at Wilsonville to be either totally inadequate from the point of view of exposure to the Callahan rehabilitation program, or a total failure in enabling a cost of benefit analysis. Data available indicates that about 14 percent of the patients treated at Wilsonville return to work [V-2].

To illustrate a patient's experience at Wilsonville, the following excerpts from a taped interview are given (the patient had earlier received therapy in Portland and then had been referred to Wilsonville; he had completed two weeks of the usual three-to-four week program):

Q: What is happening down at Wilsonville for you?

A: Nothing as a matter of fact.

Q: What do you mean by nothing is happening to you?

A: Well, they are all working just on the pelvis bone, you know, and it ain't in my back, it is in my hand. Like the whole school is about your back. Soon as I got there, we saw the films about the back, how to sit, and they have little stools that you use. Nothing about the hand but there is a lot about the back. . . . They have already got the class set up you know. The teacher already has the schedule planned. The exercises are all ready to do and everybody goes in there and I am the only one that is there that doesn't have a back problem. So everybody does the same exercise, including me.

Q: You are supposed to be there at 10:30 and what do you do when you arrive at 10:30?

A: Usually, it is a mistake or I don't know. They tell me to wait around a little bit and I go shoot some billiards and come back at 1:00 and go to the therapy for an hour and come back and shoot some more billiards. I have learned a lot about pool, I'll say.

Q: What about the people with back injuries?

A: Well, you know, I think a lot of them are skating through there.

Q: They are what?

A: A lot of people are just, you know, using the program.

Q: What makes you feel that?

A: Because they can sure lean over those pool tables and do other things but they complain a lot when it gets down to therapy, you know. About the money and I think that is all they are after.

Q: What do you mean when they complain about the money.

A: They don't complain about the money but they will complain about their backs for the money. (Balance of recorded testimony on file at City Club office.)

b) Private Physical Rehabilitation Facilities

Private physical rehabilitation facilities exist in almost every part of Oregon. Your Committee made inquiries of two, the Rehabilitation Institute of Oregon adjacent to Good Samaritan Hospital [I-9, 18], and Providence Medical Center [V-3]. These private facilities, in contrast to the Callahan Center treat many patients on a one-staff-to-one-patient basis over about a half hour treatment period once a day for about three and one half weeks. At Providence, for example, cost is \$17 per visit. Of 42 work related injuries treated by Providence in the January-May 1977 period, 36 returned to work. While these statistics might appear to be an overwhelming condemnation of the effectiveness of the Callahan Center, your Committee feels there are additional factors to be considered here. The typical patients treated at Providence have not been off work as long as those at the Callahan Center (an average of one year), and they are more likely to want to be rehabilitated (the large majority of those at Wilsonville have been reported as having no intention of going back to work [I-17, 33]).

²Although Oregon law allows cross-over of patients from the private to the public sector, the vast majority of patients at Wilsonville are referred by SAIF, and not by the private carriers and self-insureds. On July 21, 1978, six out of seven referrals to Wilsonville were referred from SAIF, and according to Assistant Administrator Meredith Windsor, this reflects the typical patient origin.

2. Vocational Rehabilitation

The state of Oregon provides vocational rehabilitation to all citizens of Oregon whether their disabilities are job related or not, through two state agencies: 1) the Disability Prevention Division (Callahan Center at Wilsonville) of the Worker's Compensation Department (WCD), and 2) the Vocational Rehabilitation Division (DVR) of the Department of Human Resources.

The legislature has directed, by statute, that the vocational rehabilitation of the *injured worker* shall come under the supervision of the WCD. Likewise, a cooperative agreement between WCD and the DVR allows DVR to accept injured worker referrals from Wilsonville for vocational rehabilitation upon certification of eligibility by the WCD. The Callahan Center also may provide to handicapped workers treatment, counseling, job placement assistance, and training through a contractual agreement with DVR. Again, it is to be reiterated, *use of the Callahan Center* by the patient, the physician, and the employer through his insurance program, *is purely voluntary*.

A rehabilitation program may be initiated by an insurer through a referral to the *Field Services Division* of the WCD. If the decision is made by WCD that a patient will receive rehabilitation, the Field Services Division is responsible for programs which may include on-the-job training, basic education, formal education, self-employment, or a combination of these methods. The Field Services Division can also arrange to provide intensive counseling and/or specialized rehabilitation services for workers whose condition presents special problems.

The referral to the Field Services Division must be made within fourteen days of the time that the insurer has knowledge that a worker suffers from a serious injury. Regulations elaborate examples of serious injuries. The Field Services Division then determines whether vocational rehabilitation is feasible, and if it is, a program is prepared. The Field Services Division may reject a claimant where it finds that the worker is not vocationally handicapped or that vocational rehabilitation is not feasible.

Once a program is started, the Field Services Division may suspend or terminate it if a) it is apparent that the physical condition of a worker is such that the program cannot be completed, b) the worker's performance level is not satisfactory, c) medical treatment is expected to prohibit a worker from completing a program, or d) the worker requests that the program be terminated.

Nearly all costs of rehabilitation programs are paid from the WCD rehabilitation fund to which SAIF and the direct-responsibility employers (those employers either insured by a private carrier or self-insured) contribute on a *pro rata* basis³ (ORS 656.616).

A worker's compensation claim cannot be closed until the worker's physical condition has become medically stationary, *and* the worker has completed any authorized programs of vocational rehabilitation. During the period of disability, a worker receives time loss compensation,⁴ which is generally about two-thirds of his or her wages. Since these payments are tax-free and in certain cases are accompanied by other benefits, there are many instances when an injured worker in Oregon receives more actual income during the disability period than when he was working and must accept *decreased* income to return to work. In a specific audit of 85 randomly selected cases, 39 injured workers (46 percent) were found to be receiving financial benefits from several sources *outside* of and in addition to the worker's compensation system *in excess* of their net take home pay prior to injury [B-8].

The *Evaluation Division* of the WCD determines when a worker's condition is medically stationary from information submitted to it by the insurer. In practice, this decision is made by the treating physician. Temporary disability payments must continue until the program of rehabilitation is completed, but the insurer is entitled to reimbursement from the Board's rehabilitation fund. Time loss compensation payments are stopped when the program of vocational rehabilitation is completed.

Your Committee was informed [I-17] that *an insured worker* who has not yet been declared medically stationary *may receive benefits under the worker's compensation system and hold a paying job at the same time*.

³*pro rata*, in this context, is the percentage of the gross premium dollars, not the frequency of use.

⁴such as loss of income insurance to cover mortgage and auto payments.

E. THE INJURED WORKER

The injured worker enters an entirely new attitude environment upon injury. Not only is the worker the focus of attention of physicians, rehabilitation specialists, and insurance personnel, but also he is the subject of family attention, perhaps for the first time in years. At the same time the employer may exhibit an attitude of rejection or indifference as previously described. Also, the worker is beginning to slip out of the routine schedule of getting up in the morning and going to work, quitting at a certain time, and coming home. (The concept of establishing a schedule has been found to be so important in inner city employment programs that taxis have been sent to pick workers up at specified times.) A recent study [B-27] suggests that in many cases the injury may become a convenient excuse for decreased productivity brought on prior to the accident by certain psychological problems.

All of these attitudes discourage rapid return to work. At the same time the injured worker is supposedly recovering from his injury, he must also deal with the Worker's Compensation system. An experienced counselor of the DVR drew a flow chart describing the injured worker's journey through the Worker's Compensation system, which indicates the worker may be exposed to as many as 25 different interactions with the components of the system. Your Committee believes that this process is far from reassuring to an injured worker seeking rehabilitation. In fact, this diagram and the system it describes would most likely give the injured worker the impression that the system is society's means of punishment for becoming injured.

Extensive hearing, appeal and litigation processes place the worker in an adversary position to the system. It is only natural, therefore, to adopt an adversary attitude; the logical outcome is to want to "win" by defeating the objective of the program. "Winning" is often assisted by those in the system (medical, insurance, WCD personnel) who adopt the attitude, "If they don't want to go back to work, there is nothing we can do."

F. THE LEGAL SYSTEM

Many of those involved in the system believe that "claims conscious" workers will hire an attorney to postpone or resist medical and vocational rehabilitation until their award for benefits has been deemed satisfactory both by their attorney and themselves.

However, your Committee also heard the view that attorneys can help convince workers that compensation benefits will normally allow workers only to survive rather than prosper, and that the best possible course for them is to return to productive employment as soon as possible [I-30].

Your Committee believes that the negative impact of the adversarial system upon the rehabilitation process should not generally be blamed on the legal profession. For example, often the worker does not seek the assistance of an attorney until after he has received a determination order issued by WCD which informs him of his right to a hearing and to be represented by an attorney. Determination orders are not issued until the worker has become medically stationary and thus, are typically issued months after the injury. Since time is of the essence in the rehabilitation process, a positive or negative attitude toward rehabilitation and return to work may have been formed before the worker ever reached an attorney. Moreover, there is evidence that the size and bureaucratic nature of the system is such that many workers' rights ultimately are protected only because of the intervention of the worker's lawyer [I-14].

G. RE-EMPLOYMENT

A critical phase of the rehabilitation process is the re-employment of the injured worker. Self-insurers have significant financial incentive (in addition to often-demonstrated genuine concern), for re-employing their injured workers, since the compensation paid to the worker and the rehabilitation cost must be borne as a direct expense. In contrast, the attitude of employers insured by SAIF or a private carrier is often very different. Many employers take the attitude that they have paid a very high rate for Worker's Compensation insurance and therefore an injured worker is the responsibility of the insurance carrier [I-31]. This attitude, then, not only serves as a barrier to re-employment but also fosters a negative attitude on the part of the newly injured worker since he/she feels used up and discarded.

The Worker's Compensation Department does employ incentives to promote re-employment. For instance, the Second Injury Fund of the WCD is set up to protect any subsequent employer against increases in insurance premiums due to the re-injury of a worker [see Glossary]. Unfortunately, the supposed incentive offered by the Fund is often negated since many employers do not feel the financial incentive is great enough and consequently have established an attitude of not hiring previously injured workers (especially those with a back injury).⁵ Injured workers become aware of this attitude and avoid it by not reporting their previous injuries at the time of job application. As a result, the employer, not knowing of an employee's previous injury, may not receive Second Injury Fund protection, since employer eligibility for the Fund requires that a report of previous injury be submitted by him prior to a second injury claim.

Another incentive for re-employment is the availability of state funds to pay for re-training of an injured worker (this is often on-the-job training) or modification of the workplace to accommodate the injured worker.

While these incentive have been used with some success, some questions remain. Will employers use these re-training funds to increase their short-term profits and subsequently terminate the "re-trained" worker at the end of the funding period? Will labor unions permit employees with more seniority to bid a job (with a workplace modified to accommodate a physical impairment) out from under a re-employed injured worker? Your Committee feels these questions may have an impact on the re-employment of injured workers and should be mentioned here. However, the issues involved are so complex and sensitive that far more study would be required than your Committee was able to undertake as part of this report.

IV. CONCLUSIONS AND RECOMMENDATIONS

The conclusions are presented in response to the charges to this Committee enumerated in Section I of this report.

1. *How does the present system of rehabilitation operate, and, based on various criteria, to what extent, if any, is it successful?*

The present system as described in this report has both positive and negative aspects. On the positive side your Committee was impressed with the safeguards incorporated in the system to protect the patient's rights, with the availability of choosing between the private and public sector for rehabilitation, and in addition, with the variety of choices within each sector. Further, your Committee was impressed by the diversity of excellent facilities for rehabilitation offered within the private sector.

Negatively, your Committee found that the system of rehabilitation basically operates by offering financial awards to the injured worker and, by its very nature, demands *manipulation* by the worker in order for him to survive. Many learn to use the system and manipulate it to defer their return to work as long as possible. As a consequence, a majority of those who are off work more than 90 days do not appear to belong within the rehabilitation phase of recovery and have no intention of using the positive aspects of the system to return to work. The adverse results of the system are that:

- a) Oregon has the highest per capita cost of worker's compensation in the nation;
- b) the State rehabilitation system is overburdened by the number of injured workers in the system and the excessive amount of time required to deal with those who are manipulating the system;
- c) rehabilitation of serious cases is often delayed for over one year, which severely decreases the chance of successful rehabilitation, including those workers highly motivated to return to work; and that,
- d) careful follow-up during the early part of the treatment-rehabilitation phase is generally neglected and thus ineffective. This appears to be the major opening wedge to the high cost factors of the rehabilitation system.

⁵While discrimination against mentally or physically handicapped workers is generally prohibited, it is permitted if the particular handicap prevents the performance of the work involved (ORS 659.415, 659.425).

Your Committee recommends a fundamental change in the system. First, all those concerned with the system should adopt an *attitude* of expectation that all injured workers are not off work but are working to get better. While this recommendation sounds naive and overly simplistic, we feel the lack of a universally accepted expectation fosters attitudes on the part of employers, workers, government agencies, insurance carriers and the legal and medical professions that are very real deterrents to the successful rehabilitation of an injured worker.

2. *What alternative system of rehabilitation or modifications in the present system would be practical in the state of Oregon, and which would the Committee recommend?*

One alternative which has many efficiency advantages is the British Columbia system, which has not been reviewed in the body of this report. Basically, this system is one in which the worker is told what to do at each stage and is offered very little opportunity for negotiation or litigation. The socio-political impacts of such a system in Oregon would be large, as it would deny the worker the extent of due process now guaranteed under our system.

Your Committee suggests the following desirable changes in Oregon's rehabilitation system:

- a) rehabilitation facilities should be distributed geographically to provide timely, convenient service to injured workers;
- b) a single government agency should be responsible for supervision of rehabilitation in the government sector and rehabilitation services should *not* be duplicated among governmental agencies (as exists now between WCD and DVR);
- c) a central comprehensive case management system should be developed to provide continuous identification of each injured worker regardless of the phase of treatment or the type of insurance carrier; and
- d) this case management system should automatically review the case of each injured worker no later than 60 days after injury and identify the rate of progress towards return to work.

Your Committee offers the following specific recommendations:

a) The *Worker's Compensation Department* should be charged with the responsibility of planning and implementing a comprehensive case management system for injured workers. This system should contain goals of performance, a means of collecting and analyzing performance and cost data, and procedures and organization for operational management with special emphasis on cooperation with all appropriate state and private agencies.

b) The *Worker's Compensation Department* should cease its rehabilitation treatment programs. It should *not* attempt to provide *direct* physical or vocational rehabilitation but should instead make use of the excellent programs and facilities existing in the private sector. Its role should be limited to planning and supervision as outlined herewith. If rehabilitation facilities are to be maintained in the public sector, they should be centralized within the Vocational Rehabilitation Division (DVR) of the Department of Human Resources.

c) Immediately, while awaiting broader changes, a pilot program should be established, in a limited geographic area, to flag and to institute a *medical review* of the rehabilitation program of each injured worker in that area off work longer than 60 days. The program could be modeled after the utilization review mechanisms currently used by the medical profession, government and the insurers to determine the appropriateness of hospitalization and the use of such facilities.

We suggest that this medical review be undertaken by a rotating *peer board* of physicians selected in consultation with the Oregon Medical Association or appropriate local county medical society, with costs defrayed by the WCD. Further, this program should be coordinated and evaluated by an *advisory body* of both lay and medical people.

3. *Is the new Wilsonville facility (Callahan Center) effective in the rehabilitation process?*

NO!

The new Wilsonville facility exhibits little evidence of being effective in the rehabilitation process, nor are there any indications that its effectiveness will improve. Indeed, your Committee believes that this facility duplicates treatment programs available elsewhere through other private and government agencies, and in fact does a poor job in rehabilitation.

Your Committee believes that the Worker's Compensation Department should cease operation and maintenance of rehabilitation facilities altogether, and that its involvement be limited to *supervision* of an overall rehabilitation program. Oregon statutes currently provide that the State, through WCD, "may provide under uniform rules and regulations, for the vocational rehabilitation" of injured workers [ORS 656.719(1)]. This statute does not imply that WCD must *maintain* rehabilitation facilities. Therefore, *we recommend that the Callahan Center facility at Wilsonville, as currently used, be closed*, and after re-evaluation of each patient, those who have a reasonable chance of successful rehabilitation should be transferred to appropriate facilities, preferably in the private sector; those who do not should have their claims closed. The facility itself should be moth-balled until alternative use and need can be ascertained. For those who argue that it is politically unrealistic to make this suggestion, your Committee believes that such an argument only encourages further waste of resources.

If subsequent outside review indicates constructive reason for continued operation of the Wilsonville facility for rehabilitation, *we strongly recommend* that its operation be given over to private management or to DVR, which as a public agency appears to have broader range, better depth and more experience in rehabilitation of both general disabilities (medical and accidental) and work-related injuries.

4. *Is the staffing for the rehabilitation programs adequate?*

The adequacy of staffing of rehabilitation programs varies significantly. At present, the program at Wilsonville appears to us to be inappropriately staffed, in contrast to the programs at the private facilities visited. The field service coordinator program of WCD may not be adequately staffed if a vigorous management program as recommended is implemented.

5. *What role should privately-operated rehabilitation systems have in the worker's compensation system? Is there proper coordination and cooperation between private and state facilities and programs?*

Rehabilitation appears to achieve its best successes through the competing programs in the private sector and your Committee recommends that private rehabilitation programs should become the primary means of treatment. The government sector should primarily be concerned with supervision and regulation.

Coordination among the many agencies varies from very efficient to intentional non-cooperation. An example of the former is the utilization of private rehabilitation programs by the Vocational Rehabilitation Division (DVR). An example of the latter reported to your Committee [I-17] was the attitude of the former Director of the State Employment Division that cooperation with the Worker's Compensation Department was undesirable.

We recommend that a functional system be adopted among state program and agency administrators to enhance cooperation to facilitate the injured worker's return to work as a productive wage earner.

We further recommend that re-employment operations (when not re-employed by the self-insured or other employers) be conducted through the State Employment Division of the Department of Human Resources, not only to avoid the duplication of structure and functions, but also to avoid the wasted time of multi-agency contacts with every employer and physician treating the injured worker.

6. *Are the admission criteria to the Wilsonville facility appropriate?*

The criteria for admission to the Callahan Center at Wilsonville appear to be aimed at the group of injured workers who most likely would respond to treatment—the recently-injured worker. However, this worker should be able to be treated locally, near his home. In rare instances should a regional or central facility be necessary.

In fact, Wilsonville is not treating the patient it was designed to treat, but rather handles a preponderance of chronic, low-back injuries. Most of these are patients who have back injuries which have not responded to previous treatment courses and who have been off work for one or more years. There was no indication given to your Committee that this discrepancy between admissions criteria and actual patients admitted has been acknowledged by Wilsonville and corrective action planned or taken.

In a successful rehabilitation system the number of injured workers with chronic conditions

would be markedly reduced, further negating the need for a separate physical plant in the public sector.

Allowing, at the worst, for continuation of the present system in Oregon, the success of attempting to re-educate the chronic patient must be weighed against the costs involved. Too few patients admitted to Wilsonville succeed in rehabilitation. Your Committee, while remaining very concerned about the social needs and personal well-being of the injured worker, at the same time wonders whether, in chronic injury cases, attempts to further "rehabilitate" these patients are warranted in view of the high costs and very low success rates.

7. To what extent, if any, does the adversarial system in the worker's compensation procedure affect the rehabilitation process?

The adversarial system very definitely has an impact on the rehabilitation process. The Committee heard evidence that the litigation process of hearings and appeals delayed the rehabilitation program and, consequently, had a negative impact on injured workers [I-1, 4, 11]. However, your Committee suggests that the negative effects of the adversarial system upon the rehabilitation process are balanced by the positive effect of protecting the rights of the individual worker. In short, the problem to this Committee did not appear to be the negative and delaying effects of the legal system in protecting the individual worker's rights, but rather the *attitudes* and sense of frustration and resentment which the system seems to imbue between the involved parties.

8. Further Observations.

Your Committee, in studying the rather limited topic of rehabilitation within the Worker's Compensation system, has observed one definite trend. The system is so large and complex that the tendency of both government agencies and private organizations (such as the City Club of Portland) is to deal only with troublesome symptoms. The result is that the system has evolved as a patchwork of changes which have proven expensive and inefficient.

We recommend that the Oregon legislature authorize a comprehensive review of the entire system and provide the staffing and resources necessary to do a thorough, objective study. The magnitude of the current cost to Oregonians of the Worker's Compensation system justifies the cost of such a study.

V. SUMMARY OF RECOMMENDATIONS

1. All concerned with the Worker's Compensation system (workers, employers, governmental personnel and members of the insurance, legal and medical professions) should adopt an expectation that *all injured workers are not off work but are working to get better*.

2. The Worker's Compensation Department should be charged with the responsibility of planning and implementing a comprehensive case management system for injured workers.

3. The Callahan Center for Disability Prevention at Wilsonville should be closed.

4. The WCD should transfer all patients in physical and vocational rehabilitation treatment programs at Wilsonville to the private sector, or to the Vocational Rehabilitation Division if a public program must be maintained.

5. Prior to transfer of any patients, each patient should be carefully evaluated for the appropriateness of further efforts at rehabilitation.

6. Immediately, while awaiting broader changes, a pilot program should be initiated to flag and to institute a medical review of the rehabilitation program of *all* injured workers receiving compensation benefits who are off work longer than 60 days.

7. A functional system should be adopted, targeted at agency and program administrators, to enhance cooperation to facilitate the injured worker's return to work as a productive wage earner.

8. Efforts by WCD and DVR to re-employ injured workers should be coordinated through the State Employment Division of the Department of Human Resources to avoid time wasted by multi-agency contacts with every employer and physician.

9. The Oregon legislature *must* authorize a comprehensive study of the entire Worker's Compensation system and allocate appropriate staffing and resources to conduct the study.

Respectfully submitted,*

Joel I. Beerman

Richard E. Breuner

Ted McDermott

Neil Meagher

Peter A. Nathan

Robert Rindfusz

Charles Sikes

Fred Young, *Chairman*

*We wish to acknowledge the assistance of City Club members Everett Baggerly, Sheila Duncan and Sid Stoddard during earlier stages of the study.

Approved by the Research Board July 20, 1978 for transmittal to the Board of Governors. Received by the Board of Governors July 31, 1978 and ordered printed for discussion and action on August 18, 1978.

APPENDIX I**RESOURCE PERSONS INTERVIEWED**

1. *Alverson, Norm*, Program Manager, Vocational Rehabilitation Division, Department of Human Resources, State of Oregon.
2. *Blachly, B. J.*, R.N., Rehabilitation Specialist, International Rehabilitation Associates, Inc.
3. *Brown, Roger L.*, Division Manager, Argonaut Insurance Company, Portland, Oregon.
4. *Brown, William*, Regional Manager, Vocational Rehabilitation Division, Department of Human Resources, State of Oregon.
5. *Bursell, Cheri M.*, formerly Claims Supervisor, Self-Insurance Services, Fred S. James & Company of Oregon.
6. *Chamberlin, Roy*, Supervisor, Industrial Therapy, Callahan Center for Disability Prevention, Worker's Compensation Department, Wilsonville.
7. *Chappell, Leona*, Supervisor, Physical Therapy Conditioning, Callahan Center, Worker's Compensation Department.
8. *Conley, William*, Administrator, Providence Medical Center, Portland, Oregon.
9. *Cross, Leland*, M.D., Medical Director, Rehabilitation Institute of Oregon, Division of Good Samaritan Hospital and Medical Center.
10. *Dodge, Dennis*, Administrative Manager, Dillingham Marine & Manufacturing Company, Portland, Oregon. Past president, Self-Insured Association of Oregon.
11. *Ellgen, Dave*, Assistant Regional Manager, Vocational Rehabilitation Division, Department of Human Resources, State of Oregon.
12. *Friday, Linda M.*, R.N., formerly Medical Representative, Claims Department, The Travelers Insurance Companies.
13. *Gill, Charles B.*, General Manager, State Accident Insurance Fund (SAIF), Salem, Oregon.
14. *Green, Roy G.*, Director, Worker's Compensation Department, State of Oregon.
15. *Hayes, Wayne*, Director, Rehabilitation Services, Providence Medical Center, Portland, Oregon.
16. *Jacobson, Carl*, Research Analyst, Research Section, Worker's Compensation Department.
17. *Kalinoski, Jack R.*, former Vice-Chairman, Industrial Accident Advisory Committee, Worker's Compensation Department.
18. *Kennedy, John*, M.D., Chief, Department of Physical Medicine & Rehabilitation, Good Samaritan Hospital & Medical Center.
19. *Loeb, Louis S.*, Ph.D., Psychologist, Callahan Center, Worker's Compensation Department.
20. *Meadows, Ken*, Chief Physical Therapist, Providence Medical Center, Portland, Oregon.
21. *McCallister, Robert L.*, Corporate Manager, Workmen's Compensation Claims, Georgia-Pacific Corporation, Portland, Oregon.
22. *McQuilken, Jan*, R.N., formerly Rehabilitation Consultant, Employers Insurance of Wausau.
23. *Paque, John*, Claims Coordinator and Manager, EBI Insurance Companies, Portland, Oregon.
24. *Quinton-Cox, Joan*, R.N., Rehabilitation Nurse, Southern Pacific Transportation Company.
25. *Robinson, Viola L.*, Rehabilitation Specialist, International Rehabilitation Associates, Inc.
26. *Rushing, Martha*, Chief, Occupational Therapy, Providence Medical Center, Portland, Oregon.
27. *Sollman, John R.*, Administrator, Callahan Center, Worker's Compensation Department.
28. *Stube, Judy*, formerly Supervisor, Physical Therapy, Callahan Center, Worker's Compensation Department.
29. *Willuweit, Sidney H.*, Supervisor, Self-Insurance Section, Department of Labor & Industries, Olympia, Washington.
30. *Wilson, Donald R.*, Attorney, Pozzi, Wilson, Atchison, Kahn & O'Leary, Portland, Oregon.

31. *Wilson, M. Keith*, Chairman, Worker's Compensation Board, State of Oregon.
32. Former Callahan Center patient (name withheld at his request). Transcript of interview on file at City Club office.
33. Former Physical Therapist, Callahan Center (name withheld at her request).

APPENDIX II

BIBLIOGRAPHY & SOURCE MATERIALS

Worker's Compensation Department

1. *Annual Report* of the Workmen's Compensation Board for Fiscal Years 1975, 1976 and 1977.
2. Chance, R. J. Memorandum to Workmen's Compensation Insurers and Physicians. Workmen's Compensation Board, September 9, 1976.
3. Green, Roy G. Memorandum to Loren Kramer re Suggested solutions to some of the "problems" of the Workmen's Compensation Board. Salem, August 8, 1977.
4. Disability Prevention Division, Worker's Compensation Department. Disability Prevention Division Objective and Limited Budget, 1975/7 and 1977/9 Biennium.
5. "The WCB Disability Prevention Center." Workmen's Compensation Board News Release No. 67, October 7, 1976.
6. Order of Adoption of Permanent Rules Governing Vocational Rehabilitation of Injured Workers (OAR Chapter 436, Worker's Compensation Department, Division 61). WCD Administrative Order 1-1978, February 1, 1978.

State of Oregon

7. Renner, George. "Audit Report State of Oregon Workmen's Compensation Board." Secretary of State, Division of Audits, Salem, August 31, 1977.
8. Renner, George, Supervisor, Division of Audits. Letter to Secretary of State Norma Paulus, Salem, December 22, 1977.
9. Smith, Robert W. *Management Study of Workmen's Compensation Board*. Executive Department, State of Oregon, September 1976.
10. Straub, Robert. "Workmen's Compensation Issue Report to the Fifty-Ninth Legislative Assembly." March 11, 1977.
11. Oregon Legislative Assembly. *Report of Legislative Committee on Trade and Economic Development, 1975-1977 Interim*. Salem, December 1976. (See especially Chapter V, Subcommittee on Workmen's Compensation.)
12. *Findings and Recommendations*, Subcommittee of the Interim Task Force on Worker's Compensation. Salem, Oct. 26, 1977. (Drafts 1 and 2)
13. *Verbatim Testimony*, Senate Hearing on Executive Appointment of Roy Green, Salem, Director, Worker's Compensation Department. September 8, 1977.
14. Oregon Department of Vocational Rehabilitation. *Standards for Rehabilitation Facilities in Oregon*, Revised, Feb. 10, 1971.

Reports, Pamphlets & Books

15. Associated General Contractors. *Preliminary Report and Recommendations* of the Associated General Contractors Study Group on Workmen's Compensation to the Interim Committee on Trade and Economic Development. September 14, 1976.
16. Associated Oregon Industries. "Workmen's Compensation." Salem, April 1, 1976.
17. City Club of Portland, "Report on Amending State Workmen's Compensation Law (State Ballot No. 3)," *Bulletin*, Vol. 45, No. 1, Oct. 23, 1964.
18. Fisher, Dennis U. *An Analysis of the Rates and Provisions of Workmen's Compensation Insurance Carried by Oregon Employers*. Agricultural Experimentation Station, Oregon State University, Circular of Information 646, March 1974.

19. Georgia-Pacific Corporation. "Analysis of Administrative Nightmare Within the WCB," December 6, 1976.
20. Insurance Company of North America. "Employee Rehabilitation, Some Professional Considerations." Philadelphia, PA, undated.
21. McCallister, Robert L., Georgia-Pacific Corp. Speech before Oregon Personnel Managers Association, October 19, 1977.
22. Policy Group of the Interdepartmental Worker's Compensation Task Force. *Worker's Compensation: Is There a Better Way? A Report to the President and the Congress on the need for reform of state worker's compensation.* Washington, D.C., Jan. 19, 1977.
23. Turnbull-Williams-Cheit. "Economic and Social Security." The Ronald Press, 1967, p. 332.

Newspaper and Magazine Articles

24. Cogswell, Phil. "Labor, industry at odds on workmen's compensation," *The Sunday Oregonian*, Forum, Jan. 2, 1977.
25. Colbach, Edward M., M.D. "Being Sick is Doing Well," *Willamette Week*, July 24, 1978.
26. Skelton, Keith. "Workmen's Compensation in Oregon: Ten Years After," *12 Willamette Law Journal*, 1 (1975).
27. Weinstein, Morton R., "The Concept of the Disability Process," *Psychosomatics*, Vol. 19, No. 2, February 1978, pp 94-97.

Correspondence

28. Green, Roy G., Director, Worker's Compensation Department. Letter to Fred Young, Chairman, City Club Committee on Rehabilitation in the Worker's Compensation System in Oregon. January 20, 1978.
29. Griswold, James B., President, Oregon Trial Lawyers Association. Letter to Mr. Robert Costagna, Legislative Committee on Trade and Economic Development, July 30, 1976.
30. Haugerud, Carl A., Administrator, Vocational Rehabilitation Division, Dept. of Human Resources. Letter to Ed Lindquist, Chairman, Subcommittee on Workmen's Compensation, Legislative Committee on Trade and Economic Development. Salem, August 2, 1976.
31. Kennedy, R. G., President, Oregon AFL-CIO. Letter to Mr. Sid Stoddard, City Club Committee on Rehabilitation in the Worker's Compensation System in Oregon. December 15, 1977.

APPENDIX III

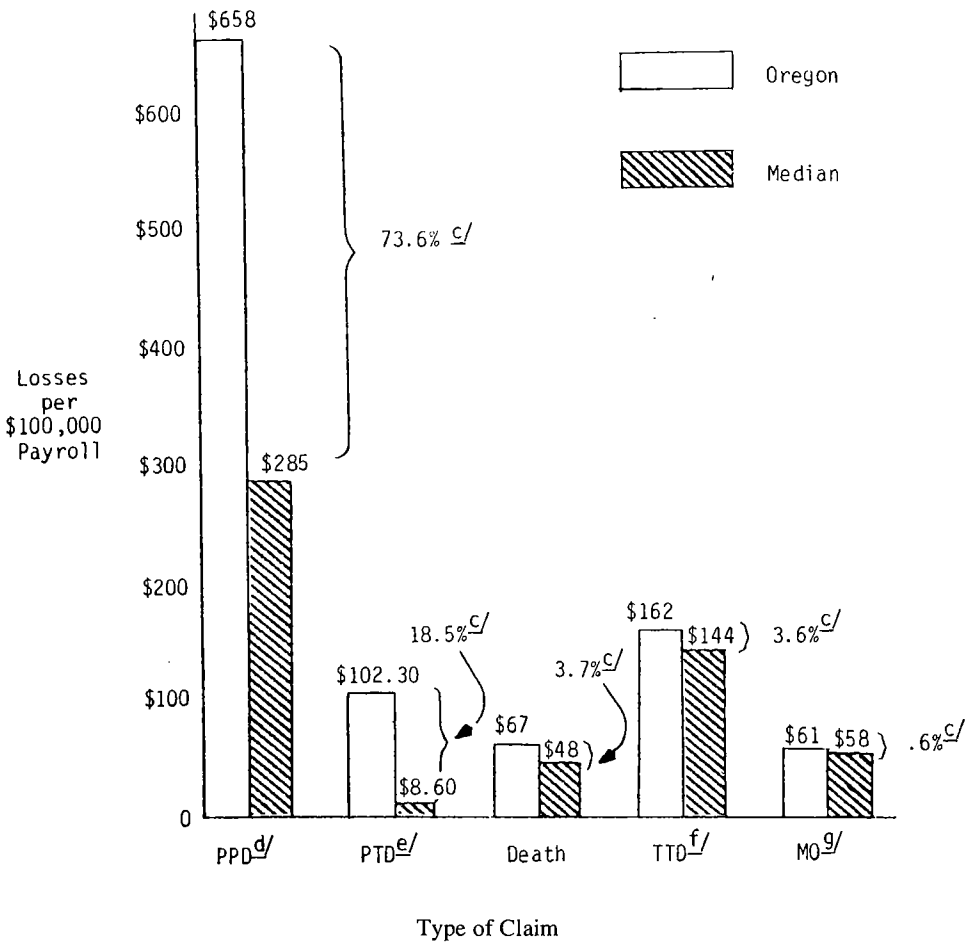
SITE VISITS

- V1 Wilsonville (later Callahan) Disability Prevention Center, April 27, 1977.
- V2 A consultant team consisting of Dr. Nathan of this Committee and the following personnel from Providence Medical Center: the Chief Physical Therapist, the Chief Occupational Therapist and the Director, visited the Wilsonville Disability Prevention Center on May 4, 1977.
- V3 Providence Medical Center, May 19, 1977.

Individual Committee members also visited the Department of Rehabilitation at Good Samaritan Hospital in Portland, the Rehabilitation Institute of Oregon, Division of Good Samaritan Hospital and Medical Center, and the Department of Rehabilitation at Emanuel Hospital, Portland.

APPENDIX 4—(taken from [B-18])

Figure 1. Losses per \$100,000 Payroll—Oregon Compared to the Medians for Group A^{a/}: 1968—70^{b/}



^{a/} States from Group A: Colorado, Connecticut, Hawaii, Idaho, Illinois, Indiana, Iowa, Maryland, Minnesota, Montana, Nebraska, New Hampshire, Oregon, South Dakota, Utah.

^{b/} Data is from policy years falling in the time period 1968-70. See Table 4, pp. 10-11 of the main report for policy year for each state.

^{c/} Percentage of the total difference between Oregon's losses and the median losses.

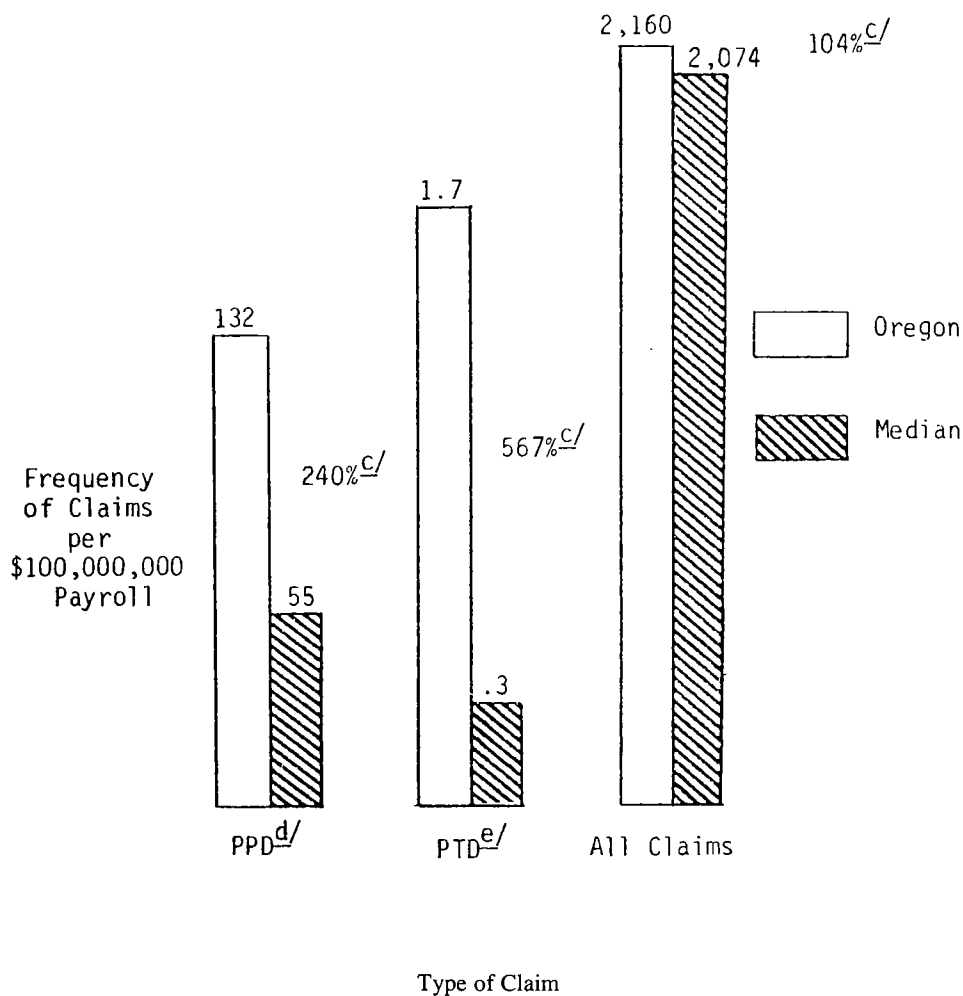
^{d/} Permanent partial disability. ^{e/} Permanent total disability.

^{f/} Temporary total disability. ^{g/} Medical only.

SOURCES: "Countrywide Workmen's Compensation Experience Including Certain Competitive State Funds," March 1973, National Council on Compensation Insurance (a statistical table).

Payroll was taken from 1972-3 "State Supplementary Memos," published by the National Council on Compensation Insurance.

Figure 2. Frequency of Claims per \$100,000,000 Payroll—Oregon Compared to the Medians for Group A ^{a/}: 1968-70 ^{b/}



^{a/} States from Group A: Colorado, Connecticut, Hawaii, Idaho, Illinois, Indiana, Maryland, Minnesota, Montana, Nebraska, New Hampshire, Oregon, South Dakota, Utah.

^{b/} Data is from policy years falling in the time period 1968-70. See Table 4, pp. 10-11 of the main report for policy year for each state.

^{c/} This figure is Oregon's frequency of claims as a percentage of the median frequencies.

^{d/} Permanent partial disability. ^{e/} Permanent total disability.

SOURCES: "Countrywide Workmen's Compensation Experience Including Certain Competitive State Funds," March 1973, National Council of Compensation Insurance (a statistical table).

Payroll was taken from 1972-3 "State Supplementary Memos," published by the National Council on Compensation Insurance.