

# Workers' Compensation **Focus**

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## Surveys prove helpful in WCD's service efforts

*By Jan Miller, WCD communications manager*

**T**he Workers' Compensation Division launched its Voice of the Customer initiative in 2002. The goal of the initiative was to identify your priorities as they relate to WCD's administration of the workers' compensation laws and the services we provide and to find out how satisfied you are with our programs and services.

WCD surveyed major customer groups over the past two years: injured workers, employers, claims examiners, medical providers, vocational consultants, and return-to-work specialists. Boy, did we get an earful, and we're delighted! The more information we have, the better we can serve you.

Here are some highlights from the Employer and Injured Worker surveys:

### Employer Survey

Of the 1,068 employers randomly selected to participate in the survey, 60 percent were covered by SAIF, 32 percent by private insurers, and eight percent were self-insured.

Eighty-five percent of employers ask their workers' compensation insurance company or agent for information.

Areas identified as "high importance and low satisfaction" regarding information received were workers' compensation law and rule changes, return to work, time-loss disability benefits, employee responsibilities, and claim disputes.

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# The ABCs of WCD

## Terms and abbreviations in this issue

### Claim

A written request by the worker or on the worker's behalf for compensation. ORS 656.005

### Claim closure

The process of closing a claim when an injured worker is found to be medically stationary. The process of closing a claim when it qualifies by law to determine the award.

### Form 801-First Report of Injury

Official state form used by workers and employers to report occupational injury or disease.

### Management-Labor Advisory Committee (MLAC)

A governor appointed committee made up of management and labor representatives that advises the director of the Department of Consumer and Business Services (DCBS) on workers' compensation issues. ORS 656.790 ■



## Correction

Some issues of *Focus* published in 2003 carried incorrect volume numbers. Correct volume and issue numbers for the 2003 issues are Vol. VII, No. 1, No. 2, and No. 3.

Volume number for 2004 issues is VIII. ■

## Key telephone numbers and Web address

WCD general information: (503) 947-7810

TTY: (503) 947-7993

Workers' Compensation  
Infoline: (800) 452-0288

Fraud Complaints: (800) 452-0288

Ombudsman for  
Injured Workers: (503) 378-3351

TTY: (503) 947-7189, (800) 927-1271

[www.wcd.oregon.gov](http://www.wcd.oregon.gov)

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# Administrator's notebook

## WCD works at streamlining claims reporting processes

by John L. Shilts



During the last legislative session, Senate Bill 914 passed, requiring the Workers' Compensation Division (WCD) to conduct an evaluation of claim reporting requirements and end the long-standing 21-day claim-reporting requirement. SB 914 was sponsored by the Oregon Self-Insured As-

sociation and supported by both the Management-Labor Advisory Committee (MLAC) and WCD.

MLAC asked WCD to determine if there are ways to streamline other reporting requirements, and SB 914 requires WCD to report to MLAC prior to the next legislative session.

New rules promulgated by WCD required reporting of accepted and denied disabling claims and denied non-disabling claims within 14 days of acceptance or denial of the claim instead of within 21 days of the claim being filed. Because of this change, we are expecting over 20,000 fewer claim reporting forms (1502s) to be filled out and mailed to us this year. Changes in claim status that were normally sent on deferred claims (up to 10,000 notices) and other claim reports will no longer be required prior to claim acceptance or denial.

As a result of the changes to reporting requirements, we expect to mail 7,000 fewer claim error letters (873 letters) to insurers this year. This is greatly reduced from last year. We continue to expect forms to be filled out completely and correctly, and we will continue to use audits to confirm that the information we need is accurate.

We're evaluating the information we've been requiring on every claim and deciding what can be

obtained later from the insurer if needed, such as in a dispute. In exchange for requesting less information, we will ask insurers for prompt responses to WCD requests for information as issues arise. To streamline, we have to focus on our program needs and statutory requirements. That should alleviate some paperwork but will also shift responsibility to insurers for making sure that injured workers have the information they need. We have begun a review of electronic reporting of claims information. We will be reporting our findings and recommendations in this area soon.

After having met with employers, insurers, labor and other parties, we expect to redesign and roll out a new, shorter Form 801 this summer. We have focused the Form 801 to reflect the statutory purpose of a form on which workers inform employers about on-the-job injuries or illnesses. The insurer still will have to communicate with the employer to obtain information about the employee. WCD will be prescriptive with a one-page 801 while allowing insurers to decide what additional information they need from employers to investigate and process claims.

Insurers may create their own forms on which employers will provide additional information to help them process claims. Insurers and employers may continue to use the two-page 801s that they have in stock.

We have also just begun to evaluate the possibility of combining Forms 1502 and 1503 into one form. We are likely to be holding informational meetings with the public about this and other concepts designed to streamline reporting requirements. ■

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# *Focus on* Regulatory streamlining

by Meg Reinhold

Regulatory streamlining is moving “full steam ahead” at the Workers’ Compensation Division. Governor Ted Kulongoski has asked all state agencies to delve into their forms and rules looking for ways to streamline paperwork and reduce or remove other regulatory burdens.

The Workers’ Compensation Division paired this directive with the mandate from Senate Bill 914 to review all requirements for reopening claims. The result has been a top to bottom look at why, when, and how WCD requires insurers to report claims data.

This review resulted in significant changes. SB 914 removed the requirements that all claims be filed with the division within 21 days of the employer’s knowledge. Starting January 1, 2004, claims information is not reported until acceptance or denial of the claim. Tens of thousands fewer forms will be filed with the division. The forms that have been received since the change have been more complete.

A second change in the works is to bring Form 801 back to a one-page form with a page of instructions, instead of the current two-page form with three pages of instructions. Customers and stakeholders indicated the two-page 801 was too cumbersome and it was not a good investigation tool. Stakeholders told WCD they wanted a simplified form that will facilitate early claim processing.

The division looked at the purpose of the form and identified the business needs for each data item requested on the form. The director is required under ORS 656.265(6) to develop and issue a uniform form for workers to use in reporting their injuries to employers. That form is Form 801.

The division analyzed all of the items on the 801 and reduced the number significantly. The new draft of Form 801 includes only those items necessary to get the claims process started after an initial report of an injury by the worker. The division also included those items necessary to meet Oregon OSHA record-keeping requirements. WCD hopes the new form will be easier for workers and employers to understand.

Much of the information needed for a complete investigation by the insurer (wage and work schedule, Preferred Worker status, health insurer, etc.) is not on the new 801 but must be acquired by the insurer from the employer. In the spirit of regulatory streamlining, the division will not prescribe the best tool for this investigation. Insurers, self-insured employers, and third-party administrators can design processes that work best for them.

The new one-page 801 is expected to be available sometime this summer. An industry notice will be sent when it is available.

All previous versions of the 801 are still valid and may continue to be used. ■

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# New faces

## In WCD's Communications & Training Section

by Amy Wadsworth

Last summer, Kara Null, former editor of *Focus*, was promoted to another role in the Workers' Compensation Division: conference and training coordinator.

Kara recently finished coordinating the division's Educational Conference, and it was a huge success!

Currently, Kara is promoting and coordinating all workshops and training for the division. She is partnering with various organizations and associations in several educational efforts.

Kara graduated from Western Baptist College with a bachelor's degree in pre-law; she has a strong background in project coordination.

For training or conference information, please contact Kara Null, (503) 947-7515, [kara.null@state.or.us](mailto:kara.null@state.or.us).

Ana Contreras replaced Kara Null as editor of *Focus* and coordinator of all WCD's publications. Even though Ana has been with the Workers' Compensation Division only since 2001, she has held five positions in various areas of workers' compensation.



**Kara Null**

Ana is bilingual in Spanish and is involved in the Multicultural Communications Program at the Department of Consumer & Business Services.

She was born in Matagalpa, Nicaragua, and spent her childhood in the Nicaraguan mountains, or "las montañas," where her family grew coffee and citrus fruits.

Ana graduated from the University of Oregon with a bachelor's degree in journalism with an emphasis in advertising.

If you have questions about WCD's publications, call Ana Contreras, (503) 947-7523, or send e-mail to [ana.contreras@state.or.us](mailto:ana.contreras@state.or.us).

Congratulations to both Kara and Ana in their new roles! We welcome your input regarding *Focus* newsletter, publications, conferences, and training. ■

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**Ana Contreras**

# WCD streamlines file-retention policy

By Nanci Johnston

Starting with claims that close on or after May 1, 2004, the Workers' Compensation Division is changing the way it retains claim files. Previously, WCD stored essential claim documents for 75 years. In order to save costs and avoid redundancy, WCD will now retain such claim files for 10 years after the final notice of closure is issued, as long as the claim remains closed and there is no new claim activity.

This is just one example of the efforts WCD is taking to streamline processes and avoid unnecessary expenses. A recent business-needs analysis indicated less than two percent of claims that were closed for more than 10 years were accessed. As a result of this analysis, WCD views the retention policy as a great opportunity to save money without negatively affecting injured workers.

Bulletin 329, issued March 24, 2003, highlighted the Division 50 rules that require insurers to retain claim information until all potential for benefits to the injured worker is gone. If information is needed after a claim file is destroyed by WCD, the division will request copies of the relevant claim file documents from the insurer. It is fiscally irresponsible for WCD to continue to pay high storage fees to



retain copies of materials it receives from insurers and which represent only a portion of the insurer's file.

WCD's claim information system (CIS) database will continue to retain a complete index of all claims, and will not be purged. In fact, the division is developing an expanded database that will be able to electronically store more detailed claim information.

WCD also plans to allow electronic filing of claim information, thereby reducing or eliminating the need to store paper documents. This will not only provide major savings in reporting, storage, and labor costs, but it will also improve WCD's workflow processes so that information can be used in "real time" in order to provide better customer service to injured workers and the industry.

If you have any questions or concerns regarding this new file retention policy, please contact Cory Van Houten, (503) 947-7624 or send e-mail to [cory.m.vanhouten@state.or.us](mailto:cory.m.vanhouten@state.or.us). ■

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## Shelly Cochran, forms and bulletins coordinator

*By Cathy Ostrand-Ponsioen*

Shelly Cochran has been the division's forms and bulletins coordinator since July 2002. She works with all division program areas to coordinate the creation and revision process for bulletins and forms. The process involves drafting, formatting, soliciting input, gaining final approval, publishing, mailing, and posting to the Web site. Division bulletins provide information, forms, and directions necessary to comply with workers' compensation laws and rules.

Shelly began working for the division in 1996 as the hearings technician, and later became the technical coordinator. At that time, the division still had its own hearings officers. Shelly's job involved coordinating the hearings process from the request for hearing through the final order and appeal process. She continued in that capacity when the Hearing Officer Panel (now known as the Office of Administrative Hearings) was created in 2000 and the division's hearings officers were moved to the panel.

With each promotion, Shelly has remained in what is now known as the Policy Section, where she enjoys the interaction with her co-workers. She also enjoys the opportunity to work with customers on a daily basis on the wide variety of issues addressed in the division's bulletins and forms, and she welcomes any and all comments and questions.

An animal lover, Shelly volunteers as a dog walker for the Humane Society of the Willamette Valley. In her spare time, she enjoys playing Frisbee with her dog, taking care of her three cats, reading, watching movies, and traveling. ■

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# Return to Work

## Employer at Injury Program (EAIP) Q & A

by Jerry Rutherford

**Q.** A worker broke her arm and it required surgical repair. The company owner covered for the worker while she was off work. The office was set up for one person to work in it. The worker was released to modified work with “no use of her arm and four-hour shifts.” The worker was unable to do all the work that was required during the four-hour shift, so the owner also had to work during this time. The owner wants to purchase a chair for the worker to perform the modified job because there is only one chair in this office and the employer is using it. In this situation would the chair be a worksite modification? EAIP purchase? Or would it qualify as neither?

**A.** Although the worker’s restrictions do not justify the purchase of the chair as a worksite modification, the chair qualifies as an EAIP purchase. Because of the worker’s injury, a part-time, limited-duty transitional job was created. EAIP purchases may be used to set up workstations for transitional jobs.

**Q.** The injured worker was released to modified work and restrictions were cited on 12/26/01. On 1/2/02 the worker followed up with his attending physician, who told him to continue light-duty restrictions and make a follow-up appointment once an electromyography is obtained. Is this considered an open-ended release that expires in 30 days? Or would the restrictions be in place until he obtained the EMG and was examined again by his attending physician?

**A.** This is not an open-ended release. There is an end date on the 1/2/02 release, which is the re-check date after the EMG is obtained. The restrictions would be in place until that recheck date. If the EMG is not obtained or there is no follow-up appointment after the EMG, the 1/2/02 release ends after 30 days. ■

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# Dear RRU: Frequently asked questions for the Rehabilitation Review Unit

by Nancy Cummings

*With the revised April 1 rules, came some changes in the way we obtain labor market and wage data. Our resource was Brenda Turner, occupational economist with the Oregon Employment Department.*

## Dear RRU:

I heard the OARS reports are not being produced anymore. Where do I find the data I used to get from OARS?

## Answer:

Due to the switch at the Employment Department to the iMatchSkills job match program, OARS reports are no longer available. The Q2 wage has been replaced by the 10th percentile wage. A new report will be generated soon by the Employment Department that will show the portion of job orders that are part-time. As soon as it is available, this new report will be distributed to all those on the OARS mailing list.

## Dear RRU:

Where do I find the 10th percentile wage data?

## Answer:

There are two places you can locate this data. One is on [www.qualityinfo.org](http://www.qualityinfo.org) (aka [www.OLMIS.org](http://www.OLMIS.org)) in the Occupational Information Center. This is a one-stop shop for labor market information by occupation, including wage data. The second is in the *Oregon Wage Information* publication. The Web site and *Oregon Wage Information* contain the same wage data.

## Dear RRU:

What is SOC?

## Answer:

SOC stands for Standard Occupational Classification. It is the coding system now used by the Oregon Employment Department to produce occupational data. It replaces the old OES system.

## Dear RRU:

Where can I find a DOT-to-SOC crosswalk?

## Answer:

There is an electronic crosswalk at <http://online.onetcenter.org>. On this site, click on Crosswalk and type in a DOT code. After you click on Go, you will see an O\*Net-SOC code that relates to the DOT code you entered. The first six digits of this code are the SOC code.

## Dear RRU:

Are the OPPS publications going to be updated?

## Answer:

No. The *Occupational Outlook Handbook* and the *Comprehensive Analysis File* are not going to be updated in the familiar format. The OPPS data, which is currently available, is on [www.qualityinfo.org](http://www.qualityinfo.org) in the Occupational Information Center. At this time, unemployment data by occupation is not being produced. Regional employment analysis information will be added to the site in May 2004.



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# Retraining Winners

by Warren Patterson

## Technician switches from breaking down tires to crunching numbers

**John\*** injured his lower back while employed as a sales and service tire technician for Les Schwab Tire Centers. John could not return to work at Les Schwab because it had no permanent light work he could do. John couldn't return to any of other job in which he had experience because of his physical limitations.

Denis Broderick of Verk Consultants determined that John was eligible for vocational assistance. John selected the vocational goal of bookkeeper/tax preparer. John enrolled in the one-year business assistant certificate program at Rogue Community College. The training began.

John was doing so well that he enrolled in coursework and passed exams for certification in payroll, depreciation, adjustment, error correction, and inventory with the American Institute of Professional Bookkeepers, which enhanced his employability.

John completed the academic program and practicum for bookkeeper/tax preparer with a 3.97 cumulative grade point average. In January 2004, he was hired by the CPA where he did his practicum training, earning \$10 an hour plus bonuses.

John won't be breaking down tires anymore — he's crunching numbers now.

*Submitted by Denis Broderick of Verk Consultants.*

## A former floorboard maker finds happiness in health care

**Hank\*** had worked almost three years for a boat manufacturer as a floorboard maker when he injured his back. He had always been employed in unskilled or semi-skilled occupations, in jobs rated medium or heavy. Permanent restrictions prevented him from returning to those occupations.

SAIF determined Hank was eligible for vocational assistance. He met with Anami Ridge of Carney Smith & Associates to develop a plan to get him back into the workforce. Hank had a difficult time choosing a goal. He resides in Douglas County so there were limited occupational goals within his physical restrictions that had a good labor market.

Anami recognized that one of Hank's strengths was his friendly, outgoing personality. Anami asked Hank to look into medical goals. Hank was skeptical at first, but once he started looking into those job possibilities, he got excited. They set up a plan for a medical assistant that included two terms of formal training to get computer skills, office skills, medical terminology and phlebotomy. The formal

training was followed by six months of professional-skills training in a physician's office.

When Hank was taking phlebotomy, his instructor was managing an urgent-care facility in Briartown. Hank was the top student in his class. When there was an opening at the instructor's urgent care facility, he contacted Hank and asked him to interview for the position. Hank was offered the job the same day.

Hank discontinued his training September 2003, and started work several months before his training plan was to end. The employer continues to provide Hank the opportunity to learn new skills and Hank loves his job. ■

*Submitted by Anami Ridge of Carney Smith & Associates and Judy Barrall of SAIF Corporation.*

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\* Names have been changed to protect the privacy of workers.

# New efforts help workers and employers get information about the Preferred Worker Program

By Ursulla Bischoff

**W**e're working to better educate employers and the general public about the Preferred Worker Program. Here are just a few actions we've taken to promote the program:

## Job Match

In 2002, the Preferred Worker Program online Job Match Web site was created to help connect Preferred Workers with interested employers. Over time, we realized it would be easier for Preferred Workers if the data system automatically notified them of new job postings instead of having them review the system on a regular basis. As of April 1, Preferred Workers can register by location, and the system e-mails direct links to jobs. To post job openings using our free online service, you can go to Job Match at [www.oregonpwp.info](http://www.oregonpwp.info).

## E-mail address

On February 1 the Preferred Worker Program got a new e-mail address. Questions about the Preferred Worker Program may be e-mailed to [oregonpwp@state.or.us](mailto:oregonpwp@state.or.us).

## Preferred Worker poster

The poster shown on this page was created for employers to post in their personnel offices. The poster was developed to encourage Preferred Workers to present their Preferred Worker identification/eligibility cards to employers. The posters are available from WCD.

## Employer contacts/presentations

Preferred Worker Program (PWP) staff members are contacting previous users of the program as well as employers who have not used the program but that have workers who may qualify or are



This poster, in 8½-by-11-inch and 11-by-17-inch sizes, is available from WCD.

already qualified for PWP. Staff members are traveling throughout the state to provide informational material and one-on-one training to employers.

If you would like a representative from the Preferred Worker Program to provide training to your staff, would like to receive copies of the poster, or have questions, please send e-mail to [oregonpwp@state.or.us](mailto:oregonpwp@state.or.us), or call (800) 445-3948 or (503) 947-7588. ■

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# Ethical crossroads

## *To what extent is a vocational rehabilitation counselor ethically obligated to look out for the interests of the injured worker?*

By Andre Allen

At one time or another, every vocational rehabilitation counselor struggles with the issue of “advocacy,” i.e., how far to go in defending the interests of an injured worker who may have been treated unfairly. The Commission on Rehabilitation Counselor Certification *Code of Professional Ethics* (CRCC Code) is the vocational rehabilitation industry’s standard. The CRCC Code states: “Rehabilitation counselors shall serve as advocates for people with disabilities.” Does this mean counselors are required only to be advocates for disabled workers as a group or does it mean they should also look out for the interests of individuals? In other words, is it sufficient to help an injured worker select a suitable vocational goal, develop an effective return-to-work plan, and help the worker find a job, or should a counselor also help the worker deal with adversity?

Issues that come to RRU’s attention frequently:

- An insurer fails to reimburse a worker for a direct worker purchase in a timely manner.
- A rehabilitation counselor tells a worker he must accept a low-paying vocational goal or lose his eligibility.
- An insurer does not approve or disapprove a return-to-work plan within 14 days.
- A counselor recommends a worker ineligibility for vocational assistance based on inaccurate labor-market survey information.

The CRCC Code states that: “Rehabilitation counselors will remain aware of the actions taken by cooperating agencies on behalf of their clients and will act as advocates of clients to ensure effective service delivery. (R3.5)”

Injured workers are often overwhelmed by the complexity of the workers’ compensation system in general and the vocational-assistance process in particular. Workers depend on their counselors to help them understand and deal with issues like selecting a vocational goal, registering for community college classes, filling out employment applications, purchasing clothing and tools for new employment, keeping track of automobile mileage, and submitting reimbursement requests to the insurer. When a problem occurs that might interfere with the rehabilitation process, and the worker is not represented by an attorney, the counselor may be called upon to help resolve the issue. For example, if the counselor becomes aware that an insurer has not reimbursed a worker for mileage expenses in a timely manner, the counselor may remind the insurer that, under the administrative rules, it has 28 days to do so.

If the counselor is unable to resolve the matter informally, the counselor may help the worker to explore his or her options. This may include explaining to the worker which statutes or administrative rules apply to the current situation and providing the names of agencies that may help the worker resolve the matter, e.g., RRU, the Ombudsman for Injured Workers, the Bureau of Labor and Industries.

In some cases, the counselor may suggest that a worker consult an attorney who has experience with workers’ compensation issues.

The vocational rehabilitation counselor’s advocacy role, like the counselor’s role as a vocational assistance provider, is a “balancing act” between what

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# Worksite modification

## A new door makes the difference for a worker who must control noise

By David Onheiber

### Worker disability

The worker suffered a traumatic brain injury and a cervical strain when she fell down a flight of stairs. At the time of her injury, she was working at a health club as a membership salesperson.

As a result of the brain injury, the worker is sensitive to noise, light, and temperature. Her doctor reported that the worker must be able to control noise, light, and temperature levels to perform work that requires attention to detail. She also needs to control exposure to visual distractions such as people frequently passing by her office. In addition, because of visual problems related to the brain injury, she has difficulty using a small screen for computer work. Because of the neck injury, the worker must avoid repetitive or prolonged neck extension and forward neck flexion and repetitive or prolonged neck lateral flexion.

### Work setting

The worker returned to work at a different health club as the membership sales director. Her small office has windows and a glass door that face the exercise room next to her office. She uses the office to meet with prospective club members, prepare documents and use the telephone. She also works at the front counter, where she receives phone calls.

### Job obstacles

Even with the office door closed, the worker was distracted by the noise from the exercise machines and by the rapid movements of club members using the machines. When she closed the door, the temperature in the office significantly increased. She was not able to control lighting in the office. Because of these environmental distractions, the worker was not able to do her job in an effective and timely manner. The office was equipped with a standard small-screen monitor. Also, she had to

repetitively flex or extend her neck to reach materials stored at floor level and overhead. She also had to flex her neck laterally when she used the hand-held phone in her office and at the front desk.

### Modification

The worker's office was remodeled. A solid-core door with noise-deadening glass was installed. The windows were replaced with noise-deadening windows. Blinds were installed on the door and windows. Lighting was replaced with dimmable lighting. Air conditioning was added to the office. A 19" flat-panel monitor was provided. Ergonomic furnishings were purchased, including a chair with cervical support, a slant board, and a copyholder so that the worker can maintain neutral head posture when reading or preparing documents. A custom-designed work surface, with shelving and a file cabinet, was installed to eliminate repetitive neck flexion and extension. Two noise-canceling headsets (one for the office and one for use at the front desk) were provided to eliminate lateral neck flexion and to reduce external noise when the worker uses the telephone.

When asked about the impact of the worksite modification, the worker said: "If I had not had the modification, I would not have been able to come back to work. I have long-term employment and job security. It makes all the difference in the world. Without it, I don't know where I'd be today."

### Cost

The cost for the modification was \$12,821. ■

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## Surveys *continued from Page 1*

Employers rated information about WCD services/assistance as “high in importance but low in satisfaction.”

Employers are satisfied with the information they receive regarding premium rate computation and the Workers’ Benefit Fund.

The Employer-at-Injury Program was the most widely used service, followed by the services of insurer/loss-control consultants, the Preferred Worker Program, and training workshops.

Services that employers indicated that they were “not receiving, but would like to have,” included training, education, or written material on light-duty work, time-loss disabilities, basic workers’ compensation laws, law and rule workshops, and a summary sheet of services provided by WCD.

Newsletters were identified by 74 percent of the employers as the preferred way to receive information.

Overall, 82 percent of the employers responded that they were satisfied with their experience with the workers’ compensation system. Employers’ overall experience with their workers’ compensation insurer was satisfying 88 percent of the time.

Only 75 percent of the employers responding to the survey had an opinion about their satisfaction with their overall experience with WCD. Of these, 94 percent were satisfied.

### **Injured Worker Survey**

Thirty-three percent of the 429 injured workers who participated in the survey were insured by SAIF, 44 percent by private insurers, and 23 percent by self-insured employers.

The top five needs or concerns identified by workers following their injuries: prompt medical treatment (59 percent), quality medical care (47 percent), steady income (42 percent), returning to normal activities (42 percent), and the ability to return to their original job (39 percent).

Fifty-eight percent indicated that they received timely workers’ compensation disability checks and 21 percent indicated their checks were not timely.

Seventy-five percent of the injured workers surveyed returned to their employer at injury after their work injury. Workers returned to the same or similar type of work 73 percent of the time, 13 percent to a different type of work, and 11 percent did not return to work.

Fifty-three percent of the injured workers returned to the level of pay they had before they were injured, 15 percent worked earned higher wages, and 26 percent received lower wages.

Injured workers received information primarily from their doctors (51 percent), their employers (48 percent), the Workers’ Compensation Division (35 percent), their insurers/claims adjusters (30 percent), and their lawyers (18 percent).

Five areas of information regarding rights and responsibilities related to a claim rated high in importance and low in satisfaction: how the claim process works, the rights of an injured worker, the employer and the insurer’s responsibilities, and how an injured worker gets disability benefits.

The most frequently used WCD services were toll-free phone numbers (25 percent), benefit consultants (17 percent), reconsideration of claims closure (12 percent), Preferred Worker Program wage subsidy (11 percent), and dispute resolution (10 percent). Forty-five percent of the injured workers used none of the 11 WCD services listed on the survey.

Injured workers rated their overall experience with the workers’ compensation system. Fifty percent were satisfied, 28 percent were dissatisfied, and 17 percent were undecided.

### **What next?**

Now that WCD has this data from most of our major customer groups, WCD is using the information to improve processes, services and information. At our recent Educational Conference in Portland, several of the programs offered were in direct response to the needs identified in these surveys. WCD is developing a two-year

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**Summer 2004**

# Compliance audit program changes

By Norm English

In April, the Workers' Compensation Division (WCD) began using a new method of conducting compliance audits, which primarily changes the number and selection of claims being audited. Information provided by stakeholders helped WCD identify areas of dissatisfaction:

- Audits are time-consuming and intrusive.
- There needs to be more advance notice of the specific areas being audited.
- Audits should focus more on timely and accurate benefits to workers rather than accurate reporting.

Details were developed over several months and are intended to emphasize accurate and timely benefits, assess and influence industry performance, and support a positive business environment.

WCD's previous method of auditing all active insurers and self-insured employers took more than seven years to accurately compare the collected insurer performance data to current insurer performance.

The new method focuses on processing locations, although all insurers and self-insured employers will be represented in the claim sample. The sample size will be significantly reduced but will still be sufficient to measure industry performance. Accurate and timely benefits will be the key component of the program. WCD continues to monitor industry reporting of claim data. On-site time for the entire audit cycle will be reduced to three years.

Results will be published on the WCD Web site later this year, similar to the recent posting of Employer-at-Injury Program audit results. This is consistent with the leadership shown by other states in providing recognition for those companies delivering strong claims-processing performance and benchmarks for industry performance. ■

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## Surveys *continued from Page 14*

outreach plan to provide training around the state. WCD's dispute-resolution-services process has been changed to reduce the time it takes to issue an order. The Contested Case Reporter, based on the now-defunct *Workers' Compensation Supplemental Reporter* (WCSR) has been added to our Web site for researching case law easily. And this is just the beginning. WCD will continue to use this data to improve our services to you.

For more information on our surveys and results, visit WCD's Web site, [www.wcd.oregon.gov](http://www.wcd.oregon.gov), under Customer Service. ■

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## Crossroads *continued from Page 12*

the counselor should do for the workers and what the workers should do for themselves.

The CRCC Code requires rehabilitation counselors to serve as advocates for injured workers who are treated unfairly, but that does not mean the counselor is obligated to represent the worker in dealings with insurers, employers, or other counselors. In most cases, the counselor's advocacy role should consist of helping the worker understand the issue and supporting the worker in dealing with the matter appropriately and effectively. ■

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# Alternative dispute resolution options

By Kevin Willingham, Debra Buchanan, and Rand Schledorn

The Workers' Compensation Division offers alternative dispute resolution (ADR) for medical disputes, vocational disputes, and contested-case hearings. Alternative dispute resolution includes facilitation, mediation, and negotiated settlement. Alternative dispute resolution services are free to those receiving the services.

The goal of the division's alternative dispute resolution program is to increase customer and stakeholder satisfaction and increase agency efficiency. Alternative dispute resolution can reduce litigation, decrease the time it takes to resolve disputes and improve relationships.

## **For contested cases, the process works like this:**

When a party requests a contested-case hearing through the Workers' Compensation Division, the division sends letters offering alternative dispute resolution.

Interested parties should contact the Policy Section ADR coordinator within 14 days. Unless all parties agree to alternative dispute resolution, the case is referred to the Office of Administrative Hearings (OAH) for a contested-case hearing.

If all parties agree to alternative dispute resolution, the ADR coordinator sets the date, place, and time and assigns a trained division mediator or facilitator to the case. If ADR is scheduled, the division sends letters to all parties with additional information and instructions.

## **What the parties can do**

The parties should prepare for alternative dispute resolution. They are expected to approach ADR in good faith and to make a commitment to work toward resolving the case. The parties should have full authority to resolve the dispute.

At the alternative dispute resolution session, the facilitator or mediator explains the process and the confidentiality requirements of ORS 36.220 and OAR 440-055-0015(7). The parties sign a "State-

ment of Good Faith and Confidentiality." That statement basically confirms in writing that the parties understand ADR confidentiality and are prepared to move forward in good faith to attempt to resolve the dispute.

The facilitator or mediator does not decide the dispute, but helps parties explore settlement options and reach agreement, if possible. The dispute is not resolved unless all parties agree to the settlement terms. The agreement can be a stipulated agreement, disputed claims settlement (DCS), or claims disposition agreement (CDA). The Workers' Compensation Hearings Division must approve a DCS or CDA. Then the parties send the approved DCS or CDA to the Workers' Compensation Division, which issues an order dismissing the case. A stipulated agreement doesn't need Hearing Division approval; it can be sent directly to the Workers' Compensation Division, which then issues an order dismissing the case.

For more information about alternative dispute resolution in contested cases, contact Kevin Willingham, Policy Section manager, (503) 947-7506.

## **Using alternative resolution in medical disputes**

For many years, the Medical Review Unit (MRU) has resolved disputes using alternative dispute resolution. MRU notifies the parties of options early in the process. Initially, when a party sends a dispute regarding medical issues to the MRU, MRU sends letters to all parties offering alternative dispute resolution services.

If the parties are interested in alternative dispute resolution, the parties contact MRU and MRU finds out if all parties agree to alternative dispute resolution. Then MRU determines if the issue can be settled over the phone; and if so, MRU facilitates. If the parties want to meet at an agreed-upon location, MRU schedules the meeting. An MRU staff member, trained in mediation or facilitation, is assigned to the case.

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**Summer 2004**

# Small Business Fair coming in September

By Linda Repp

Federal, state, local and nonprofit agencies have again organized the Oregon Small Business Fair to provide information about the rules, regulations, and other provisions with which businesses must comply. It is a one-stop shopping destination for information on what a person needs to know to start a business and to keep that business operating. The eleventh annual Oregon Small Business Fair will be Saturday, September 18, 8 a.m. to 3 p.m., at Portland Community College, Southeast Center 2305 S.E. 82nd Ave., Portland. There is no charge to attend this event.

In addition to information booths, there will be workshops taught by agency representatives, attorneys, and CPAs covering topics of interest to small businesses.

The following are examples of workshop topics:

- How do I turn my dream into reality?
- Workforce development
- Record keeping
- Marketing your small business
- E-commerce

For more information about the business fair, call Linda Repp, (503) 329-4260, or send e-mail to [linda.e.repp@state.or.us](mailto:linda.e.repp@state.or.us). ■

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## Alternative dispute resolution *continued from Page 16*

If an in-person session is scheduled, MRU sends information and instructions to the parties before the session. From this point, the process is similar to that described above, except that a stipulated agreement is reached, which becomes final 10 days after the agreement is issued in a letter by WCD.

For more information please contact Debra Buchanan, MRU manager, (503) 947-7734.

### **ADR helps solve a third of vocational disputes**

The Rehabilitation Review Unit (RRU) solves about one third of all disputes through agreement. Most agreements result from informal facilitation. Parties may request formal mediation at any time and the disputes will be assigned to one of the unit's trained mediators.

For more information about alternative dispute resolution in RRU, contact Rand Schledorn, RRU manager, (541) 776-6032, extension 242. ■

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# SB 757: What's the big deal?

By Carol Helton

Over the past few years, the workers' compensation system has undergone numerous modifications of philosophy and process. One of those having significant impact on the approach to determining permanent disability and the commitment of resources is Senate Bill 757, passed by the Oregon legislature in 2003.

In general, the changes made by SB 757 focused on resolving two concerns. The first was inequities between workers with permanent limitations to extremities (legs, arms), hearing, and vision and those whose injuries affect body areas (e.g., back, including neck and head) and systems (e.g., digestive, respiratory, circulatory, etc.). Policymakers believe this resulted from failing to consider the impact of limitations on the worker's ability to return to regular work in the case of "scheduled" injuries (extremities, hearing, and vision). The second was the continuing need to revise the rate(s) paid for each type of disability and the unique method(s) we use to compute and pay permanent disability awards. To research the issue, our system was compared with workers' compensation systems of other states to see if incorporating any aspects of their systems would address the concerns.

Here are the basic tenets of SB 757:

- It affects only claims with dates of injury on or after January 1, 2005.
- There is no distinction between "scheduled" and "unscheduled" disability computation methods.
- Permanent impairment is loss of use or function of a body part or system as determined under disability rating standards, regardless of return-to-work status. Work disability is a combination of impairment and modifying factors; benefits for work disability are awarded to a worker in addition to permanent impairment if the worker can't return to regular work.

- When the worker can't return to regular work, the factors of age, education, adaptability, wage at injury, and return-to-work status at time of closure will be used to compute work disability.
- Disability will be expressed in terms of percentage of "the whole person," requiring conversion beyond those traditionally performed.

The existing system of rating disability will continue to apply to claims with dates of injury prior to January 1, 2005.

Changes to the statute affect at least three sets of administrative rules: Division 30 (Claim Closure and Reconsideration), Division 35 (Disability Rating Standards) and Division 60 (Claims Administration). All three sets of rules are currently undergoing review and revision, with external advisory committees meeting in May and proposed rules anticipated by July. Hearings on Divisions 30 and 35 are slated for late August, permanent rules are scheduled to be filed by October 1 (effective January 1, 2005), and training sessions are planned for October and November in Portland, Salem, Eugene, and Medford. WCD will schedule smaller training sessions for groups of at least 10, as needed.

We encourage anyone involved in preparing claims for closure, closing claims, and rating permanent disability to watch for and take advantage of the training sessions. If you have questions about the bill, changes anticipated to the rules, or training, call or send e-mail to Jim Van Ness, manager of the Appellate Review Unit, (503) 947-7753, jim.vanness@state.or.us.

We believe that, as the first major rewrite of the rating standards in the 25 years since their inception (1980), this really is ... a big deal. ■

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# What's up on the Web



*By Amy Wadsworth*

The Workers' Compensation Division wants to measure customer-service satisfaction level and we're using the Web to do it. In order to improve our customer service, we need to know the quality of service you received and your comments.

On WCD's Web site, there is a short online survey on the customer service page entitled Customer Service Survey.

This survey has five short questions and will allow us to measure customer-service satisfaction now and in the future. The survey results will be kept strictly confidential.

In addition to the customer service survey, there is another online survey on the customer service page to help us gather information regarding our Web site. This survey is also short and confidential. Please visit our customer service site: [www.cbs.state.or.us/external/wcd/communications/surveys/surveyind.html](http://www.cbs.state.or.us/external/wcd/communications/surveys/surveyind.html).

The survey should help us discern the following:

- Are customers finding what they need?
- Do customers want additional information?
- Is the Web site easy to use?
- Are customers satisfied with WCD's Web site?
- Do customers have comments about or requests concerning our Web site?

Thank you for assisting us in our goal to continually improve our customer service. ■

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## New address, same Web site

WCD has a new Web address: [www.wcd.oregon.gov](http://www.wcd.oregon.gov). It's the same site, with the same tools and the same features, at the new "oregon.gov" address that Oregon state agencies are adopting to make finding state services easier for all stakeholders. WCD's previous address will continue to work, too, and will redirect you to the new address. ■

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**Dear RRU** *continued from Page 9*

**Dear RRU:**

Is employment data published anywhere besides the Occupational Information Center on [www.qualityinfo.org](http://www.qualityinfo.org)?

**Answer:**

Yes. The *Employment Projections by Occupation* publication produced by the Employment Department contains the most current employment estimates by occupation, projections, number of openings, and minimum education level. To sum it up:

1. The OARS Q2 wage is being replaced by the Oregon Wage Information (OWI) 10th percentile wage.
2. For referencing jobs, the DOT is being replaced by the Standard Occupational Classification (SOC).

3. The information formerly contained in the Oregon Comprehensive Analysis File (employment projections, annual new openings, etc.) can now be found on the OLMIS Web site (Occupational Information Center), albeit it a more generalized form. Once you have selected an occupation in the Occupational Information Center, request the "Full Report."

We hope once all the kinks are worked out, these changes will enable us to collect the wage and labor market information much more easily. Instead of going to several resource publications, almost the entire data is now found in the Occupational Information Center, our one-stop-shop. ■

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