ADA and WC

Sorting out sticky issues when the ADA crosses paths with workers’ compensation law

BY JOHN ANNARINO
OHIO BUREAU OF WORKERS’ COMPENSATION

The Americans with Disabilities Act (ADA), first enacted in 1990, protects disabled individuals from discrimination with regard to hiring, promotion, and discharge, provided they are otherwise qualified to work. It generally applies to employers having fifteen or more employees working for them for twenty or more calendar weeks in the current or preceding calendar year. The ADA is a constantly changing body of law. In fact, the United States Supreme Court recently handed down three important ADA decisions. There are many interactions and conflicts between the ADA and workers’ compensation, and therefore, an understanding of the ADA itself, as well as its relationship to workers’ compensation laws, is very important.

In order to determine whether or not an individual is covered by the ADA, it is first necessary to determine whether or not he or she is a “qualified individual with a disability.”

Applied Technology

How does it really work to serve your customers?

BY STUART MACLEAN
WORKERS’ COMP BOARD OF NOVA SCOTIA

A hallmark of the 1990’s will be the customer’s increasing demand for instant gratification. Fast food, television, remote controls, cell phones and computer technology have advanced to a point where everybody expects something and they want it now. One needs only look back a few years to see the dramatic changes that new technolo-
First Stop, St. Louis-
Congratulations to Dennis Smith, Wendy Knorr and their associates in Missouri for the final AASICF Workshop. What a great transition from the annual workshop concept to the specialty meetings which now will serve as our primary educational effort. While the meeting in St. Louis closes this chapter in the history of AASICF, it provides a challenge to our association to exceed this standard of excellence as we continue to develop the agendas and programs for our future specialty meetings. Ironically, St. Louis was the site of one of the first AASICF meetings held back in 1949.

Now Canada-
Jerry LeCompte, Warren Smalley, Lane Summerhays and I attended the Canadian Congress sponsored by Gerry Meier and his Northwest Territory team which convened during the first week of July. The trip north was well worth the effort as the lineup of speakers was first class and the Canadian hospitality simply outstanding. Despite the structural differences between the comp market in the US and the program in Canada, many of the issues are exactly the same. Appropriate medical care, return-to-work opportunities and cost containment are some of the issues that know no borders. The Congress moves to Prince Edward Island in 2000 and Phil MacDougall encourages all of us to participate in this promising event.

On to Pennsylvania-
While I’m on the topic of meetings, I thought you may enjoy a brief story of how life tends to repeat itself at times. Ralph Chase and SWIF sponsored an educational seminar for “comp junkies” in Pennsylvania last month. Ralph extended an invitation for me to serve as a first day speaker and a second day panelist. The event was held at the Nittany Lion Inn on July 21st and 22nd, one day after the 30th anniversary of Neil Armstrong and Buzz Aldrin setting foot on the moon. NASA’s achievement was America’s achievement as President Kennedy committed this nation to that triumph during an era when achievements in outer space continued to define the success of both the US and Russia.

Deja vu, the background to this story was important to “yours truly” as I had only been to Penn State, and specifically the Nittany Lion Inn, once before. That was during a stretch of time in July, 1969 when my employer sponsored 6 so called “high potentials” to an executive development course held at that university. I remember the setting so well as we continually took breaks from classwork on July 20, 1969 to watch the dramatic unfolding of the lunar landing on a black and white television which was brought into the lobby area. 

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FEATURE ARTICLE

Applied Technologies: Fax, Telephone, Internet

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gies have had on our business environment.

We have all experienced the benefits of modern business technology in helping us meet the needs of our customers more efficiently and effectively. Conversely, we've all experienced the frustrations - “please hold for the next available agent”, “one moment and I'll transfer your call”, bouncing around in a voice mail system unable to reach a live person, listening to a phone ring and ring and never reaching voice mail to leave a message.

Ironically, the systems we put in place to make things easier and more convenient for our customers may not be meeting their needs.

More often than not, new technology is great. In fact, new technology can help companies carry on a relationship with their customers more effectively and less expensively than old technology. The challenge lies in the application.

This article will attempt to focus our thinking on improving our chances for positive outcomes in applying technology to deliver service. Like all organizations striving for success, we must covet our relationship with the customer, and ensure that the applications we create are designed to meet their needs.

It is not surprising that all AASCIF funds utilize fax technology. In the US alone there are 45 million fax machines.

Fax Technology

As recently as 20 years ago, no one, including the telephone companies, anticipated the fax explosion. Who could have imagined that the fax would become such a standard business tool - let alone becoming standard technology in many homes.

At its most basic level, fax as a medium is low cost, measurable, and effective. The applications of fax are continuing to evolve, and the potential as a business solution is tremendous. For example, The Workplace Health, Safety and Compensation Commission in New Brunswick has introduced a new fax-based payroll reporting system. With this new application of the fax technology employers can fax their payroll report form directly to an electronic file. The technology cycle is complete when the employer pays their assessment through electronic funds transfer. This type of creativity demonstrates the potential for reducing the administrative burden associated with a “non value added service” such as data entry.

As long as it is used effectively, broadcast fax is a great medium for keeping in contact with your customers. Effective is a key word however. Broadcast fax is basically a new form of direct mail - instead of using the post office you are using the telephone lines. Business associations frequently use fax broadcasts to keep in touch with their members - it is quick, low production and low cost. You must beware of the “junk” fax - generally unsolicited faxes sent as a promotional tool. With the boom in SOHOs (small office/home offices), there are many customers with their fax machines in their homes - who become angry when the phone rings in the middle of the night and prints an unsolicited fax on their expensive fax paper. Companies should segment their mailing lists into traditional offices and SOHOs, and fax during the appropriate hours.

In addition, many states have laws in place that prohibit unsolicited faxes or limit the times of transmission. Before undertaking a fax broadcast campaign, be aware of the laws.

Telephone Technology

Just like the fax machine, who could

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Editor's Note: The following is a review of the Benchmarking program made by AASCIF’s Audit and Statistics Committee at the 1999 Spring Workshop in St. Louis.

By Tine B. Smith
Arizona State Compensation Fund

As an opportunity to network and gather information, AASCIF events are exercises in benchmarking in its simplest form. The essence of benchmarking is learning and sharing key information. To benchmark, a company must first recognize its weaknesses and strengths and then identify and study the best organizational practices. By comparing work practices, valuable information is acquired that can be adapted to fit another organization’s circumstances.

Benchmarking is a topic discussed daily throughout the insurance industry. At the workshop in St. Louis in May, it was the AASCIF Audit and Statistics Committee's turn to share and discuss benchmarking ideas. Chairperson Diane Darling of the California State Compensation Insurance Fund began the morning presentation with a comparison: “Benchmarking - It's like the weather. Everybody talks about it but who's actually doing something about it?” Benchmarking seems like a very simple process but putting benchmarking statistics into place can be quite challenging.

Jon Stewart of Kentucky Employers’ Mutual Insurance Fund discussed some of his ideas regarding benchmarking - “If we can't measure it, we can't manage it.” Jon stated that benchmarking is a continuous, systematic process of measuring and assessing ourselves against those recognized as leaders in the industry in order to determine how we can improve our own performance. Benchmarking is a tool to identify and diagnose our particular strengths and weaknesses and it gives us external references to which we can measure our own processes. We need to know how we measure up against other organizations and it is easier to initiate change if the best are already doing it. Benchmarking allows us to learn from what has already been tried and therefore better utilize our most sacred resource of time. Objectives of benchmarking include identifying competitive positions within the insurance industry and developing an awareness of the need to change and improve. Other goals are to identify best practices and to develop new techniques for improving quality, customer service and efficiency.

Mr. Stewart stated that “benchmarking is not a one-time project but rather a continuous improvement strategy.” Once begun, a company must continue to evaluate work processes and benchmark against its “best practices” in order to continuously improve. Currently the AASCIF Fact Book includes workload statistics for premium, loss, underwriting and investment data. As the Audit and Statistics Committee collected data for this year’s Fact Book, ideas were solicited for additional statistics that might be useful to all workers’ compensation funds. The response was minimal at best. The Audit and Statistics Committee would like to incorporate new additional statistics in the AASCIF 2000 Fact Book in the areas of underwriting, audit, claims and loss education. Included will be data on amount of business retained by size of premium, audit response time from received date to billing date, time expired between the date a claim is first reported to date of the first compensation payment, and number of policyholders who comply with loss education recommendations.

Wayne Buck of the Workers’ Compensation Board of Manitoba described a three-year study conducted by the Association of Worker’s Compensation Boards of Canada (AWCBC). The study, titled “Development of Key Statistical Measures and Indicator Ratios by Canadian Compensation Funds,” established methodologies for gathering and reporting data in a consistent enough manner to permit development of operational benchmarks. This study was driven by a committee of CFOs from workers’ compensation funds in each of the twelve Canadian jurisdictions. Their mandate was to develop accurate, comparable financial and statistical data to support an analysis of best practices. This project has been a work in progress. The study deter-
mined that differences in legislation among the twelve Canadian jurisdictions caused even more variation in the way data was captured, classified and reported. The reality is that not all data reporting differences between jurisdictions can be overcome through data restructuring. The AW CBC found that exact comparability is not possible. Mr. Buck mentioned that the main objective of capturing data on a fully comparable basis is to develop an understanding of reasons why results, rather than data definitions, may differ from other jurisdictions. The data, he said, has to be treated with caution and with detailed analysis to understand what is occurring in each jurisdiction. These same precautions apply to any data being collected and analyzed within the United States.

By late 1998, the committee responsible for this Canadian study had identified thirty-two measures and ratios to be used for analysis and comparability purposes. Data integrity remains a serious issue in many cases. Examples of these new measures are administrative costs per $100 of employer payroll; investment income in excess of actuarial requirements; and percentage of claims with long-term disability awards. This study of sharing information between Canadian jurisdictions will continue and eventually move into sharing research plans and research related products.

Our final presenter was Ed Woodward, president of the California Workers’ Compensation Institute (CWCI). CWCI is a private, non-profit organization made up of insurers and self-insured employers in California who are working to improve that state workers’ compensation system through research, education and information representation. CWCI and its members are creating a new data warehousing system that will allow California employers to review and compare data by a variety of methods. CWCI promotes the concept of “business intelligence,” which is the process of assembling disparate data, transforming it to a consistent state for decision making purposes, and empowering users by providing them with access to multiple views of the data. The data warehouse will be used by CWCI for research and analysis and to create benchmarks that will allow insurers to evaluate their individual performance against industry averages. Insurers will also be able to determine whether their results are unique or part of a more commonplace, system-wide trend.

As with the Canadian study, this California data warehousing system will use “key indicator” reports. This will allow individual insurers to compare their own data in relation to statewide industry statistics for the purpose of monitoring internal business operations. The CWCI data warehousing project will be particularly useful for analyzing trends, problems and issues affecting the California workers’ compensation insurance system.

One of the great values of benchmarking is that a company can take a good, hard look at how it does business. Benchmarking and best practice comparisons enable companies to improve performance by identifying what work processes need to be changed and how to make those changes. The Audit and Statistics Committee has identified within our St. Louis presentation that key indicators are essential for comparing individual company data against industry wide benchmarking statistics. This is important since it is not possible to have identical reporting formats for data received from all workers’ compensation funds. Benchmarking is more than simply contrasting data throughout the industry. It is also the comparison of similar processes across organizations to identify best practices and set improvement targets. The primary objective of benchmarking is to create practices that will provide a competitive advantage and establish the best starting point for change. Benchmarking has no finish line...it is a continuous improvement process.

Tine B. Smith is a member of the Audit and Statistics Committee from the Arizona State Fund.
Around AASCIF is a regular feature of the AASCIF newsletter. It briefly covers items of interest submitted by AASCIF members. To ensure that your organization is included, send information to Michael Bourque, Maine Employers Mutual Ins. Co., P.O. Box 11409, Portland, ME 04104, by fax at 207.791.3335 or via e-mail at mbourque@memic.com.

Arizona

Legislative Action: The Arizona legislature adjourned in May, enacting the first significant increase in benefit levels since 1991. The maximum average monthly wage upon which the injured worker’s compensation benefit is based was increased from $2,100 to $2,400. Significant increases to death benefits were also enacted. As a result of the strengthening of provisions to the drug/alcohol statute and other amendments to statutes pertaining to permanent disabilities and re-openings, the omnibus bill is expected to only minimally impact workers’ compensation insurance rates.

Computer Based MO: The Fund has completed the development of an auto adjudication system which processes the majority of medical only claims in a computer based, automated environment.

Fundamental Change: The Fund’s Fundamental Change reorganization continues with the decentralization of claims staff to multifunctional teams in the Fund’s new district office building in Mesa and the district office in Glendale.

Foster Dies: The Fund’s first general manager and AASCIF president from 1974-76, William K. Foster, passed away April 11 at the age of 79.

Colorado

CCIA SelectNet Wins URAC Accreditation: Colorado Compensation Insurance (CCIA) announced that SelectNet, its managed care network, has been awarded Workers’ Compensation Network Accreditation by The American
Accreditation HealthCare Commission (URAC). With this prestigious honor, CCIA joins the ranks of only four other workers’ compensation provider networks nationwide including American Specialty Networks of San Diego, California; Focus Healthcare Management, Inc. of Brentwood, Tennessee; NATLSCO, Inc. of Plantation, Florida; and O’Hara, LLC, of Sioux Falls, South Dakota.

URAC accreditation is the result of a formal review of SelectNet’s structure and processes to ensure that quality health care is provided and the rights of patients and providers are preserved. SelectNet is CCIA’s statewide network of 275 primary and 325 specialist doctors with expertise in treating work-related injuries.

“We pursued URAC accreditation to demonstrate to our customers and medical providers the importance of adherence to national standards for provider network management,” said Gary Pon, CCIA President and CEO. “Our accreditation shows that SelectNet meets these nationally recognized standards and best practices.”

URAC is a not-for-profit organization that has issued more than 1,200 accreditation certificates to more than 300 managed care organizations doing business in all 50 states. URAC accredited companies provide health care to more than 120 million Americans. URAC accreditation standards are recognized nationally as providing the benchmarks for quality in managed care organizations.

Susan Griffiths, 303-782-4021, susan.griffiths@colocomp.com

Kentucky

Fries Leaves for AIG: Roger J. Fries, founding president and CEO of Kentucky Employers’ Mutual Insurance (KEMI), announced in June that he would leave KEMI to lead American Home Assurance Company’s specialty workers’ compensation division. American Home Assurance is a member company of American International Group, Inc. AIG is the largest underwriter of commercial and industrial coverage in the U.S.

“My wife Kathy and I will leave Kentucky with mixed emotions,” Fries said. “We leave behind many friends and associates but we are looking forward to exciting new challenges.”

Fries started his new job in early July. He complimented the KEMI board and staff and was praised by the company’s board for his work in starting and sustaining KEMI. Fries led the company since its beginning in 1994. KEMI Executive Vice President Larry Clevinger will serve as interim president and CEO and a nationwide search for a Fries’ successor is underway.

Steven Paul, 606-425-7800

Louisiana

A pair of bills that would help ensure that Louisiana Workers Compensation Corporation can survive and thrive in its competitive market passed the state’s legislature and await approval at the ballot on November 20, 1999. The bills address constitutional changes, therefore require a majority vote from Louisiana voters to become law. The bills establish procedures to remove the full faith and credit guarantee of the state. Before the guarantee would be removed, the company would need to obtain a rating of A- or better from A.M. Best and obtain authorization of the U.S. Department of Labor to write USL&H (longshore) coverage without the guarantee. The earliest LWCC can obtain the Best rating is September 2000.

From www.lwcc.com

Maine

MEMIC Scores High: A recent in-depth review of service to injured workers by insurance companies and TPAs showed that Main Employers’ Mutual Insurance Company continues to lead the effort to treat injured workers fairly and promptly. In a review of the first quarter of 1999, MEMIC met on-time payment guidelines 92 percent of the time. That was compared with the overall average of 84 percent. Because MEMIC accounted for such a large percentage of the reviewed claims, it helped bring the overall average up by four percentage points. MEMIC President and CEO John T. Leonard challenged other insurance companies to equal MEMIC’s performance.

“MEMIC really carried the ball on this one,” Leonard said. “We are proud to be the leader but I don’t see any reason why these other companies can’t improve their service to at least get close to our performance. This is important to people’s lives.”

Michael P. Bourque, 207-791-3314, mbourque@memic.com

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disability,” according to the statutory definition. Under the ADA, a disability is a physical or mental impairment that substantially limits one or more “major life activities.” The ADA lists activities that qualify as major life activities without further inquiry. These include seeing, hearing, walking, speaking, breathing, learning, and working. In other cases, however, courts must look at the individual circumstances in order to determine whether or not a major life activity is limited. Disabilities can include contagious diseases, such as HIV/AIDS.

Recent U.S. Supreme Court decisions have changed the manner in which disabilities are evaluated. The Equal Employment Opportunity Commission (EEOC), a federal government agency responsible for administering the ADA, enacted guidelines stating that disabilities were to be evaluated in their uncorrected or unmitigated states. The Supreme Court recently issued three separate decisions holding that ... disabilities are to be judged by taking corrective measures, such as eyeglasses, into consideration.

In order for the ADA to apply, an individual with a disability must be “otherwise qualified.” This element requires the individual to prove that he or she is able to meet all of a job’s requirements despite the handicap.

The ADA requires “reasonable accommodation” on the part of the employer unless it would cause undue hardship. An “undue hardship” is a significant difficulty or expense incurred by an employer, taking the employer’s resources and operations into consideration. Possible reasonable accommodations include the following:

- Modifications to the application process
- Modifications to the work environment or the manner in which the position is customarily performed
- Modifications that enable a disabled employee to enjoy the benefits and privileges of similarly situated employees.

It is important to note that under the ADA an employee must be able to perform all “essential job functions,” and reasonable accommodation does not require the employer to restructure or eliminate such functions. While many essential job functions are specific to the physical requirements of each individual job, courts have established some overall essential job functions for which an employer does not have to create exceptions under the ADA:

- Psychological stability at a level sufficient to regularly interact with co-workers
- Psychological stability at a level sufficient to follow a supervisor’s orders
- Ability to work mandatory overtime and/or rotate shifts, depending on factors including the nature of the job, seasonal requirements, and collective bargaining agreement terms
- Regular attendance at work
- Appearing for work in a timely manner
- Statutory requirements.

Therefore, while essential job functions may be waived or modified by the employer as part of a workers’ compensation light duty policy, essential job functions do not have to be modified under the ADA.
Conflicts and Interactions with Workers’ Comp

There are several different interactions and conflicts between the ADA and workers’ compensation laws. Although the answers are not always clear, an awareness of the various issues is valuable for employers, employees, and state insurance funds.

The first conflict revolves around the fact that intermittent or temporary impairments that are common in workers’ compensation claims generally do not qualify as disabilities under the ADA. The EEOC has issued enforcement guidance in an attempt to explain the relationship between workers’ compensation and the ADA. In order for an employee who files a workers’ compensation claim to qualify for ADA protection, he or she must meet one of the following requirements:

- The impairment must substantially limit a major life activity
- The employee must have a record of having such an impairment in the past
- The employee must be regarded as having an impairment.

Therefore, if an employee gets injured in the course of employment and recovers completely, the employee is not entitled to ADA protection. However, if the employee’s injury permanently restricts his or her ability to work, the ADA may apply.

A related issue is the question of whether or not an individual can claim that he or she is “totally disabled” in applying for workers’ compensation benefits while at the same time pursuing a claim under the ADA. There is an inherent conflict here in that the worker claiming to be totally disabled is also maintaining that he or she has the ability to perform essential job functions, with or without reasonable accommodations, as required by the ADA. There are several different opinions on what the resolution to this conflict should be.

The United States Supreme Court upheld a court of appeals ruling that an employee is barred from pursuing an ADA lawsuit and simultaneously collecting total disability benefits when he or she makes inconsistent statements about the ability to work. (McNemar v. Disney Stores) Other courts have held that the application for receipt of disability benefits creates a rebuttable presumption that the recipient of such benefits is judicially estopped from asserting that he or she is a qualified individual with a disability. This means that unless the employee presents evidence to the contrary, it will be assumed that he or she does not meet the requirements of the ADA.

The EEOC has issued enforcement guidance with a different conclusion. The EEOC’s position is that an individual’s assertion of total disability when applying for benefits is not an absolute bar to coverage under the ADA. Instead, a representation of total disability is relevant, but not the only factor considered in deciding whether an individual is covered under the ADA. The EEOC recommends that the following factors be consid-
Another issue with regard to workers' compensation and the ADA involves the concept of reasonable accommodation. As a general rule, workers' compensation laws do not require employers to provide reasonable accommodation to allow the injured worker to return to work. The ADA, on the other hand, requires reasonable accommodation, and therefore, employers who require injured workers to remain off work until fully recovered could be in violation of the ADA. Employers do have some discretion, however, as to the type of reasonable accommodation:

• offering a leave of absence
• reassignment to a different job
• job restructuring
• offering part-time work
• re-assigning some duties to co-workers
• eliminating shift work or eliminating shift rotation and/or alternate shifts
• offering light duty.

It is important to note that while all of the above-listed accommodations are legal, courts are divided as to which are too burdensome and therefore optional rather than mandatory. Employers should also be aware of the fact that if the employer offers light-duty work to an employee with a work-related injury, it may be in violation of the ADA if the employer does not also offer light-duty to workers with injuries unrelated to work.

There is one final issue for employers with regard to workers' compensation and the ADA's reasonable accommodation. There often exists a substantial conflict between workers' compensation, reasonable accommodations under the ADA, and collective bargaining agreements. The question of the employer's liability in situations where accommodations conflict with terms and conditions of collective bargaining agreements has been frequently litigated.

A common scenario involves an attempt to move an employee to first shift from either second or third shift under ADA reasonable accommodation. The EEOC has maintained that such accommodations are reasonable and should take precedence over collective bargaining agreements. Courts have consistently rejected this contention, holding that the collective bargaining agreement takes precedence, thereby making any conflicting accommodation "unreasonable" under the ADA. The result has been the same in the case of providing an employee with an exemption from forced overtime. Courts have consistently held that these accommodations are unreasonable because the exemptions infringe upon seniority rights under a collective bargaining agreement.

The ADA and state workers' compensation statutes have a confusing relationship, especially given the oftentimes conflicting interpretations of issues by courts and the EEOC. It is therefore important for employers, employees, and state compensation funds to consider not only the mandates of the individual statutes, but also the interrelationship of the two schemes.

John A. Annarino is Chief Legal Officer for the Ohio Bureau of Workers' Compensation in Columbus, OH. He is also a member of the AASCIF Legal Affairs Committee.
Maryland

Acquisition: The Injured Workers Insurance Fund acquired the assets of its managed care partner on July 1. The move will result in administrative savings, reduce the ultimate cost of claims, and enhance the quality of services rendered. The addition of 80 full-time employees, who are already experienced in delivering IWIF services, has already elevated morale among all IWIF employees.

Employerslink: IWIF has entered into a partnership with Fireman’s Fund Insurance Company and two of Maryland’s leading insurance brokers with a program called “employerslink.” This technology-based program is designed for Maryland businesses owners with more than four but fewer than 100 employees. It provides them with workers’ comp coverage and services for reduction in premium of up to 25 percent. Discounts are possible through IWIF’s expertise and state of the art quote technology, available via an 800 line and via the internet. Increased efficiency dramatically cuts administrative costs.

Missouri

WorkSAFE Week ’99 Celebrated: To celebrate WorkSAFE Week ’99, officially declared by Missouri Gov. Mel Carnahan, many MEM policyholders received ideas in MEM’s WorkSAFE® Week activity kit. The kit included activity suggestions, fact sheets, payroll stuffers, stickers and flyers.

Internally, MEM adopted a theme of “Safety Wars: The Prequel to an Accident-Free Missouri” for its third annual WorkSAFE Week celebration. The week included safety check points, daily safety trivia contests, daily safety events, buttons for blue jeans, safety quotes of the day, an auction, and a king and queen contest. The king and queen contest was conducted with penny votes with the proceeds going to the Make-A-Wish Foundation. MEM raised more than $6,000.

Managed Care: Missouri Employers Mutual is on the verge of a new managed care initiative. As part of this initiative, MEM has created three new services to more efficiently handle claims and increase care.

- CAT teams: The new catastrophic teams specialize in personal hands-on management of catastrophic claims. Each of MEM’s four offices have a CAT team with two claims representatives and an internal nurse case manager. These team members receive special training in the areas of catastrophic medical management, claims reserving, medical procedures and long-term medical needs.

- After-hours call center: Policyholders who call MEM’s claims reporting hotline number after hours will now be forwarded to a live person who records the information needed to report an injury. In the event of a catastrophic injury, the answering service will notify a CAT team member.

- Fast tracking claims: In order for medical-only representatives to focus their attention on more complex claims, MEM now sends most report-only claims directly to the Division of Workers’ Compensation where they are required by law.

Tammy Miller, Tmiller@mem-ins.com

Montana

Fiscal Year Ends on High Note: Montana State Fund ended its 1999 fiscal year on a high note. During the past fiscal year, the Old Fund’s $500 million unfunded liability was fully funded, in large part because of a $166 million contribution from Montana State Fund, and Montana’s Old Fund Liability Tax on employers and employees was ended. Since it was created by the Montana Legislature in 1990 to replace the Old Fund, Montana State Fund has made significant progress to ensure that Montanans will never be faced with an Old Fund situation again. The State Fund has written nearly $70 million in premium this year and has a $149 million surplus.

A $10 million dividend was returned to employers in January, and a two percent premium rate decrease was declared in April. Rates have decreased 42 percent over the past five years.

New Computer System Launched: The State Fund is in the process of launching a new, comprehensive computer system that will streamline operations and introduce important func-
actions for more flexible services. Called PowerComp®, the new system is a product created by Information Engineering, LLP, of Denver. It has been individualized for the State Fund's specific needs and includes a Policyholder System and a Claims Management System. PowerComp® will increase policy flexibility, provide customers with user-friendly payroll reporting and billing, allow for faster processing of medical bills, improve the dividend process, and resolve remaining Y2K issues.

Fighting Fraud: The State Fund continues its successful fight against workers' comp fraud in Montana. Since anti-fraud legislation was passed in 1993, State Fund has saved its aggressive fraud investigation and recovery programs.

Hubbard Promoted: Laurence Hubbard has been promoted to Vice President of Underwriting and Marketing. Before his promotion, Hubbard served as underwriting manager at the State Fund. He also served as legal counsel for 10 years and was involved in many complex underwriting issues. Chuck Christiansen, Christiansen@state.mt.us

Nevada

EIC to become Private Mutual: As a result of legislative action, Employers Insurance Company of Nevada will become a private mutual insurance company effective January 1, 2000. Privatization allows EIC of Nevada to compete in the open workers' compensation insurance marketplace, removes liability from state government and provides safeguards for the company's employees.

“We view the transition of Employers Insurance Company of Nevada from a state-owned entity to the private sector as a positive, benefiting all workers' compensation policyholders in the state,” said Douglas D. Dirks, chief executive officer of Employers Insurance Company of Nevada.

The transition allows Employers Insurance Company of Nevada to immediately remove the current $600 million deficit from its books, as reinsurance companies will purchase $800 million in liability. Employers Insurance Company of Nevada is then financially solvent with a $300 million surplus entering competition.

Privatization also provides safeguards for Employers Insurance Company of Nevada's employees in the event of layoffs. This safety net lifts the hiring freeze in state government and places them as top priority for rehiring within the state system. In addition, $2 million is allocated for employee retraining and for the purchase of retirement benefits for employees eligible in less than five years.

On July 1, 1999, Nevada opened its workers' compensation market. EIC of Nevada had prepared for that change with a host of changes. “We have developed progressive programs to simplify workers' compensation insurance in order to be in a strong competitive position on July 1, 1999 with other private insurance companies,” said Dirks.

Carol Evans, (775) 886-1076, cevans@eicn.com

Ohio

Safety campaign: Safety Works for You is the Ohio Bureau of Workers' Compensation campaign to raise awareness of workplace safety and give Ohio's employers the tools they need to keep their costs down. BWC’s newest program, Safety Grants, provides matching grants to eligible employers who implement the Drug-Free Workplace Program or want to prevent cumulative trauma disorders (CTDs). Eligible employers can receive a 2-to-1 matching grant to implement BWC’s Drug-Free Workplace Program and a 4-to-1 matching grant to prevent CTDs, such as carpal tunnel syndrome, through research, equipment and training.

Among the other programs BWC makes available is its Safety Loan Program which offers loans up to $50,000 at two points below the prime interest rate for employers who would like to purchase safety equipment, but can't afford it. The BWC also sponsors the annual Ohio Safety Congress & Expo. From www.ohiobwc.com

Utah

National Trucking Firm Come to WCF: The Workers Compensation Fund of Utah has partnered with its TPA, Pinnacle Risk Management, to underwrite a national trucking company. The account was coming out of self-insurance and had been a client of Pinnacle. It is noteworthy since it is the largest single account now with our company. WCF is also looking at structuring a loss portfolio transfer.
American Association of State Compensation Insurance Funds

SafetyRules! Awards Made: High school and college students from across Utah were honored for inventive safety ideas through WCF’s Safety Rules! program. Scholarships totaling $5,200 were awarded to four students for their workplace safety concepts. A four-member judging panel, consisting of safety experts and an educator, judged the entries based on creativity, forethought and potential for implementation. The winning entry envisioned an on-board computer system to reduce tip-overs and accidents with forklifts.

Dividend Announced: WCF is paying its policyholders a dividend of $25 million for 1998. The dividend is the results of continuing accident reduction efforts and claim cost controls. Over the last five years, the company has paid more than $125 million in dividends to its policyholders.

Advertising and Marketing Program Syndicated: WCF is syndicating its nationally recognized advertising and marketing resources. The company has teamed up with its partner agency, FJC and N, to make its advertising available to AASCIF members. The advertising has a proven track record and is available at significant cost savings. If interested, AASCIF Companies may select anything, from a complete marketing program to a single advertisement. Resources include: TV, radio, and print ads; direct mail campaigns; media buying and tracking; market research; and public relations. A mailing recently went out to all AASCIF CEOs.

Meghan Parry, (801) 288-8322, mparry@wcf-utah.com

West Virginia

Pay By Credit Card: Employers in West Virginia now have the option of making their workers’ compensation premium payments via credit card. Under the new program which began in June, the Division accepts Visa, MasterCard and American Express. Employers who want to take advantage of the new payment option can do so by visiting the Division’s headquarters in Charleston or by calling a toll-free telephone number dedicated to handle credit card payments.

Internet Claim Submission: In July, employers were introduced to the concept of submitting claims electronically. The Division began accepting no-lost-time claims from employers via the internet. This new service will assist employers in meeting their statutory requirement of reporting injuries within five days and will expedite compensability rulings and payment of medical bills in those claims. The program is currently being piloted with a large county employer.

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Alberta

New Managers Added: The Board welcomed some new members to its management team: Guy Kerr is the new Vice-President, Business Development & Marketing. Most recently he held the position of President & CEO at Payment Systems Corporation. Jim Wheadon is the new Director of Business Development and Marketing. David Booth is the new Director of Integrated Information Technology Programs. Vern Lappi will be the new Director of Medical Services.

Partners in Injury Reduction Earns Payback: On May 20, 1999 the WCB announced $2.6 million in refunds to be distributed to 533 Alberta companies who reduced their workplace injuries and implemented effective disability management programs. These checks are a partial refund of WCB premiums to employers who participated in the WCB’s Partners in Injury Reduction (PIR) initiative.

Injured Workers Polled: The WCB announced the results of the 1998 Injured Worker Satisfaction Survey which asked 1600 short, medium and long-term claimants to rate the WCB on a variety of factors, including staff performance. The survey found 78.5 percent of injured workers were either satisfied or very satisfied with the overall WCB experience. 88 percent of injured workers felt they were treated in a courteous, caring and respectful way and 76.1 percent of injured workers felt they were kept well informed.

1998 Annual Report Highlights: Investment revenues of $344 million were realized in 1998. The operating surplus of $140.1 million was primarily due to a market return on investments of 11.0%. Claims costs were $555 million compared to $471 million in 1997, and premium revenue was $412 million compared to $417 million in 1997. Overall employer satisfaction with the WCB rose to 85.7% from 81.8% in 1997. Registered employers with the WCB were 87,134 with 1,117,464 workers covered.

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Applied Technologies: Fax, Telephone, Internet

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exist in business today without a telephone? There have been some incredible success stories utilizing telephone technology. The WCB in Alberta uses call center technology to answer 95 percent of phone calls within 20-30 seconds with less than five percent of calls being transferred. This is a tremendous result, and meeting their customer's need for fast, efficient service.

New telecommunications technology allows a business to monitor calls, determine the number, how long callers are waiting, all while maintaining personalized service. Companies using this technology are able to set performance standards based on the service expectations of their customers, and measure their success in achieving those standards.

Another great call center application includes forwarding branch phones to a call center. The service representative simply brings up the client's file on their computer screen, and knowledgeably answers routine questions and resolves as many issues as possible. This process provides the efficiency that comes with volume answering of calls and reduces call traffic at the branch providing an opportunity for improved productivity.

But like fax technology, we must be careful that the solutions we put in place suit our clients. We all have heard many stories on the good, the bad and the ugly of voice mail systems. I heard a story recently about a client who called a business and ended up in their voice mail system. The system had the added feature of voice recognition to make it simpler for the client who needed assistance. The caller was told that if they wanted to speak with a "real person" they could say the word "help" at any time, and their call would be transferred. The caller said, "help", "help", "help", louder and louder each time with growing frustration, as the voice recognition system didn't recognize his voice. "Help! Help! Help!" he shouted. Finally help arrived - his co-workers rushed into his office, thinking he was in trouble, only to find the help he really needed was with the phone application that was not responding.

Aren't you glad it wasn't your company he was calling? Do you think he would ever call back again?

Internet

Wow! Everywhere you look you find website addresses. From cereal boxes and television to annual reports. With the Internet's huge growth, it is not surprising that a large portion of the St. Louis conference agenda focused on this topic.

The WCB in Nova Scotia has developed an innovative use of the Internet to deliver faster and more effective service to its customers. The WCBNS has partnered with the Provincial and Federal governments to offer businesses integrated technology services including registration, fax, telephone and Internet services. These changes are all being driven by the demand from businesses to simplify the system. The partners are harmonizing to one set of payroll reporting rules, and offering choices on how and when the client interacts with them. This significantly improved service is being offered by the WCB at a reduced administrative cost through leveraging infrastructure.

But even the Internet must be applied properly. For example, if the demographics of a covered workforce include only five percent Internet usage, an Internet payroll reporting system may not gain the market penetration necessary to justify its development. In addition, you must consider the technology required to access your services as well as the technology being used by your customers. Websites can have every bell and whistle imaginable, but if it takes ten minutes for it to come up on your customer's PC, most surfers will give up rather than wait.

Integration of Services

How do we drive our customers to utilize our applications of these new technologies? By integrating services we can become more effective. For example, marketers will tell you that using a combination of new and traditional media can generate a higher response.

For example, you've decided you want to move interaction with your customers to the Internet and away from the telephone. You can send a fax broadcast to your customers inviting them to file their claims or report their pay-
roll through the website. Reinforcing that message by including your website address in a prominent spot in all print or television advertising can generate a higher response.

Next, you might send out an information kit, with a “how to” type of CD-ROM. Provide a toll free number to your call center where a service representative can “walk them through” how to load this onto their desktop so they just have to point and click to file a claim. Follow up with an email to see how they are doing, and encourage them to email back to you with questions or ideas.

Before you know it, you are building and utilizing technology to serve your customers - better, faster and cheaper.

Before closing, we need to briefly remind ourselves about managing these areas. It is important to remember that the same principles that apply to sound business management must be applied in technology applications. These are not add-on features but rather are core to our service delivery models.

We need information and we need to measure. Most of our organizations have set corporate performance measures, including measurements of knowledge of staff, accessibility, politeness, etc. In light of these goals we need to answer questions like; how long are my clients waiting to speak to a representative? Are our messages consistent? Are my customers receiving the services they want when they want them? Are we accessible? Has the new technology made it easier or harder for my customers to reach me when they want and how they want?

The key is to utilize the right mix of technology for your individual situation. There is no perfect answer. If we treat each customer contact as an opportunity, listen to our clients, and continue to strive for the one on one interaction that generates trust and rapport, technology will enhance our business. One thing is for sure. If we don't get it right, it will impact both our bottom line, and our clients’.

If you build it will they come? As technology broadens our choices, we all need to answer this question.

Stuart MacLean is Director of Assessment Services for the Workers’ Compensation Board of Nova Scotia in Halifax, Nova Scotia. He is also a member of the AASCIF Policyholder Services Committee. The AASCIF Policyholders Services Committee is conducting a survey of all AASCIF Members regarding our collective experiences in the applied use of technology. This output was presented at the St. Louis convention, which included an overview of all AASCIF Members regarding our collective experiences in the applied use of technology. This output was presented at the St. Louis convention, which included an overview of all AASCIF Members regarding our collective experiences in the applied use of technology.

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**President’s Letter**

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**Our Career—**

When we begin to reflect on what constitutes a career, we often consider ourselves lucky, or unlucky, or at least fortunate, or unfortunate. In retrospect, our work lives produce few surprises. We each possess a unique set of values and it’s easy over an extended period of time to identify those who want to maximize the potential they possess in their youth. Education, such as provided in our specialty meetings, helps us round out the skill base required for our assignments. Company sponsored efforts, however, pale in comparison to what high achievers can do for themselves. Their level of commitment is analogous to the commitment made by this nation 30 years ago to be the first to set foot on the moon.

Few things in life are impossible when the development of an individual matches the difficulty of the goal.

There are advantages to being in this industry for more than 30 years— you see just about everything in terms of career development and career stagnation. I believe fortuity has little to do with the outcome because the individual charts his or her own destiny. As I returned from State College, a number of thoughts ran through my head and I would like to share some of them with you— particularly our AASCIF employees who are fairly new in their career:

- I certainly know my limitations, but if I was able to maximize my potential, anyone can and that certainly includes you.
- Education is the primary vehicle for self-development— look to your employer but lean on yourself.
- Opportunity is always present, you simply have to find it.
- Work within a team concept; the real heroes are the ones that make other people look successful.
- Remember the Apollo moon mission, dream big dreams, and reach for the moon!

I look forward to seeing many of you at our Annual Conference in Albuquerque. Hold on tight during those balloon rides!