

# The Case for a Regionally Competitive Workers' Compensation System – A Call to Action

## Louisiana Compmetrics

Compmetrics is the empirical analysis of the health of a workers' compensation system. It is the analytical, evidence-based approach to developing a workers' compensation system that prioritizes appropriate medical care for injured workers and at the same time promotes a cost-effective and efficient workers' compensation system.

The following compilation of studies has never been put together in a single format. It is astounding that we have operated within the type of dysfunctional system we have today. **Clearly it is time for action.**

### Louisiana Compmetrics

#### *WCRI Studies*

- Louisiana costs per claim are higher than most states (approximately 60% of all closed claims in the nation) for all cost components – indemnity, medical and expenses.<sup>1</sup>
- Duration of temporary disability is 8 to 15 weeks longer - Louisiana workers are off the job considerably longer – 31 weeks on average - a major factor in higher-than-typical indemnity benefits per claim-38% higher<sup>2</sup>
- System features contribute to longer time off work-it is more difficult to terminate temporary disability benefits and the dispute resolution process is more prolonged.<sup>3</sup>
- Medical costs/payments per claim in Louisiana are among the highest driven, in part, by higher payments for hospital outpatient care – 53% higher than typical<sup>4,5</sup>
- Most hospital outpatient services, payment per claim are higher – 38% for treatment/operating/recovery room services and 65 percent higher for physical medicine.<sup>6</sup>
- Louisiana's percent-of-charges reimbursement approach for hospital outpatient care has higher hospital outpatient costs per surgical episode than states with fixed –amount fee schedules.<sup>7</sup>
- When compared with group health episodes of care, Louisiana payments under workers' compensation are nearly 60% higher than group health for shoulder surgical episodes and 74% higher for knee surgical episodes.<sup>8</sup>
- Differences between group health costs and workers' compensation cost are substantial.<sup>9</sup>

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<sup>1</sup> CompScope Benchmarks for Louisiana, 15<sup>th</sup> Edition

<sup>2</sup> CompScope Benchmarks for Louisiana, 15<sup>th</sup> Edition

<sup>3</sup> CompScope Benchmarks for Louisiana, 15<sup>th</sup> Edition

<sup>4</sup> CompScope Benchmarks for Louisiana, 15<sup>th</sup> Edition,

<sup>5</sup> CompScope Medical Benchmarks for Louisiana, 16<sup>th</sup> Edition

<sup>6</sup> CompScope Medical Benchmarks for Louisiana, 16<sup>th</sup> Edition

<sup>7</sup> Hospital Outpatient Cost Index for Workers' Compensation, 4<sup>th</sup> Edition

<sup>8</sup> Comparing Workers' Compensation and Group Health Hospital Outpatient Payments

<sup>9</sup> Comparing Workers' Compensation and Group Health Hospital Outpatient Payments

- Conflicting provisions of the law have produced considerable litigation. The Louisiana Fee Schedule sets reimbursement for hospital outpatient services at 90 percent of billed charges. The workers' compensation statute calls for reimbursement based on the mean of usual and customary charges. Payors tend to pay the higher amount of the two provisions to avoid potential substantial penalties and attorney fees.<sup>10</sup>
- Medical costs per claim are 32% higher for claims with more than seven days of lost time at an average 36 months of experience.<sup>11</sup>
- Benefit delivery expenses per claim are among the highest and growing rapidly because of the high rate of litigation.<sup>12</sup>
- Since 1996 Louisiana claims at 12 and 36 months of experience – costs per claim are higher and growing faster.<sup>13</sup>
- Indemnity accounted for nearly half of the increase in Louisiana costs per claim from 2008-2013.<sup>14</sup>
- Trends in average weekly wages and duration of temporary disability account for part of the Louisiana trend in indemnity benefits per claim.<sup>15</sup>
- From 2008 to 2013, wages of injured workers grew more in Louisiana.<sup>16</sup>

#### *Narcotic/Opioid Use in Louisiana*

- 87% of injured workers with pain medications receive opioids/narcotics. The average Louisiana worker received over 3,600 milligrams of morphine equivalent narcotics per claim which is double, triple and four times the number in other states.<sup>17</sup>
- Louisiana physicians write and injured workers fill more opioid/narcotic prescriptions for more narcotic pills – the average worker in the state received seven prescriptions for opioids/narcotics totaling 399 pills per claim – almost double the nationwide median.<sup>18</sup>

#### *PPO Lawsuit – A Decade of Higher Workers Compensation Costs*

Forgotten are the unimaginable costs to the Louisiana workers' compensation system of the PPO lawsuits. Unfortunately, these costs are not tracked by NCCI or WCRI however they have changed the state of workers' compensation in Louisiana and continue to drive costs higher than regional and national norms.

- The lack of PPO discounts increase medical benefit costs by 10-20% directly.<sup>19</sup>
- Payors are strong-armed to pay higher fees for fear of being repeatedly sued.<sup>20</sup>
- Settlements, penalties and attorney fees total over \$500,000,000 – one half a BILLION dollars.<sup>21</sup>
- Provider litigation in other areas continues to increase.<sup>22</sup>

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<sup>13</sup> CompScope Benchmarks for Louisiana, 15<sup>th</sup> Edition

<sup>14</sup> CompScope Benchmarks for Louisiana, 15<sup>th</sup> Edition

<sup>15</sup> CompScope Benchmarks for Louisiana, 15<sup>th</sup> Edition

<sup>16</sup> CompScope Benchmarks for Louisiana, 15<sup>th</sup> Edition

<sup>17</sup> Interstate Variations in Use of Narcotics, 2<sup>nd</sup> Edition

<sup>18</sup> Interstate Variations in Use of Narcotics, 2<sup>nd</sup> Edition

<sup>19</sup> Litigation Issues in the Medial Treatment of Injured Workers

<sup>20</sup> Litigation Issues in the Medial Treatment of Injured Workers

<sup>21</sup> Litigation Issues in the Medial Treatment of Injured Workers

<sup>22</sup> Litigation Issues in the Medial Treatment of Injured Workers

- New waves of Litigation - UCR, E&M, and other assorted coding issues hamstringing employers as they try and take care of their injured workers.<sup>23</sup>

#### *OWCA Administrative Law Judge Terms*

- The current Civil Service status limits OWCA oversight.
- Lack of judicial consistency contributes to unclear interpretations of the law.
- Plaintiff focused judges tend to render medical decisions with no authority to do so.
- OWCA ALJ's have basically a lifetime appointment.

#### *Johns Hopkins Louisiana Workers' Compensation Studies*

- 3.7 percent of physicians – cost-intensive providers, or CIPs account for more than 72 percent of comp costs with the Louisiana Workers Compensation system.<sup>24</sup>
- CIPs are more likely to be involved in the PPO lawsuit and other associated litigation – not only are their billed costs higher, they directly increase litigation rates within the WC system.
- CIPs practice patterns have a profound impact on the ultimate cost of claims within the entire workers' compensation system.<sup>25</sup>
- Workers' compensation costs of claims associated with CIPs are much higher than those claims associated with other physicians.<sup>26</sup>
- Involvement of a plaintiff attorney and duration of claims greatly impact overall claim cost.<sup>27</sup>
- Plaintiff attorney involvement is associated with consistently higher medical, indemnity and claim handling costs.<sup>28</sup>
- Plaintiff attorney presence on a claim correlated with duration, and the duration correlated with higher cost.<sup>29</sup>

## *LOUISIANA, TEXAS, ARKANSAS, MISSISSIPPI REGIONAL ANALYSIS / Comparisons*

### *NCCI – Louisiana State Advisory Statistics Regional Comparisons - 2014*

#### Current Average Voluntary Pure Loss Costs Using Louisiana Payroll Distribution – All Classes

- AR - \$0.72
- TX - \$0.74
- MS - \$1.28
- LA - \$1.54

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<sup>23</sup> Litigation Issues in the Medial Treatment of Injured Workers

<sup>24</sup> Workers' Comp Research Provides Insight into Curbing Health Care Costs

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*Louisiana's Average Claim Frequency Per 100,000 Workers-All Claims*

- AR – 3,283
- TX – 2,557
- MS – 3,309
- LA – 2,539

*Louisiana's Average Lost-Time Claim Frequency Per 100,000 Workers-Lost-Time Claims*

- AR – 637
- TX – 696
- MS – 883
- LA - 705

*Average Indemnity Claim Severity in the Region – Lost-Time Claim Severity in \$ Thousands*

- AR - \$14.3
- TX - \$17.7
- MS - \$20.2
- LA - \$38.6

*Average Medical Claim Severity in Region – Lost-Time Claim Severity in \$ Thousands*

- AR - \$27.7
- TX - \$26.1
- MS - \$30.0
- LA - \$48.0

*Louisiana has the 2<sup>nd</sup> Highest Average Wholesale Price in the Nation*

- AR – Brand / Generic -AWP + \$5.00 Dispensing Fee
- TX – Brand – AWP + 9%, Generic +25 % + \$4.00 Dispensing Fee
- MS – Brand / Generic - AWP + \$5.00 Dispensing Fee
- LA – Brand + 10 %, Generic + 40% + \$ 10.51 Dispensing Fee

*Regional Fee Schedule Comparison – Percentage Above Medicare*

- AR – CMS RVUs + Multiplier for CPT Code Categories
- TX – Medicare + 30%
- MS – Medicare + 30%
- LA – Medicare + 81%

*Oregon Workers' Compensation Premium Rate Ranking 2014*

- AR- 49<sup>th</sup>
- TX – 36<sup>th</sup>
- MS – 38<sup>th</sup>
- LA – 10<sup>th</sup> highest

*Average Benefit Cost Per Covered Employee*<sup>30</sup>

- AR - \$189
- TX - \$205
- MS - \$327
- LA - \$468

*State Benefit Cost Rate Ranking*<sup>31</sup>

- AR – 3<sup>rd</sup>
- TX – 2<sup>nd</sup> lowest
- MS – 22<sup>nd</sup>
- LA – 37<sup>th</sup> highest

*State Nonfatal Occupational Injury and Illness Incidence Rates*<sup>32</sup>

- Since 2006 Louisiana employers have only been second to the District of Columbia in the fewest number of nonfatal occupational injuries and illnesses<sup>33</sup>
- Louisiana employers have been the driving force in the reduction of costs within the workers' compensation system. Our employers are working hard to protect their employees.

The case for a regionally competitive workers' compensation is clear. If we are to compete for economic growth and job expansion then we must, on a systemic basis, reform the Louisiana Workers' Compensation System. **It is time for action.**

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<sup>30</sup> Fiscal Data for State Workers' Compensation Systems

<sup>31</sup> Fiscal Data for State Workers' Compensation Systems

<sup>32</sup> U.S. Bureau of Labor Statistics, U.S. Department of Labor, December 2014

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