

Why Is My Comp So High?

An explanation of the factors driving compensation costs in workers' compensation

The main purpose of workers' compensation insurance is to provide an employee who has been injured due to their employment medical care and wage replacement benefits. Wage replacement benefits, also known as indemnity benefits, are a maximum 2/3 of the employee's average weekly wage subject to a cap that is set each year.

In 2007, sweeping workers' compensation reform was enacted by Governor Spitzer. Part of this legislation made the indemnity benefit cap dependent on the average wages throughout New York State. As a result of dramatic disparity in downstate wages versus upstate wages, the weekly wage cap may seem artificially high for upstate New York regions. The escalating maximum weekly wage rates are shown in the table below:

Effective Date	Maximum Rate	Minimum Rate
7/1/92	\$400	\$40
7/1/07	\$500	\$100
7/1/08	\$550	\$100
7/1/09	\$600	\$100
7/1/10	\$739	\$100
7/1/11	\$772	\$100
7/1/12	\$792	\$100
7/1/13	\$803	\$150
7/1/14	\$808	\$150

These indemnity benefit rates impact claim costs radically. Many claims can remain open for decades due to the complicated process of claimant recovery, maximum medical improvement determination, and establishment of the statutory claim on benefits. The following example demonstrates the impact these higher costs can have:

A maintenance worker has an Average Weekly Wage of \$2000, and injured her back when she was throwing garbage into a dumpster. She was out of work for 10 weeks:

If the claim had occurred on 6/30/2007, the wage benefit would be \$4,000.00

If the claim had occurred on 7/01/2012 the wage benefit would be \$7,921.10

In five years the cost of this case has almost doubled!!

Apart from the weekly indemnity benefit, some types of injuries entitle an injured worker to a bulk payment, called a "schedule loss of use" award. This is a one-time payment of a certain amount of weeks or years of the weekly rate. These awards have been increasing dramatically, as the example above shows.

These bulk awards and weekly benefit hikes are presenting ever more dramatic challenges for the employer to utilize cost containment tools and responsible reserve practices to ensure that workers' compensation remains solvent and able to pay the workers' compensation claims. Please ensure that you are working with your workers' compensation specialist to plan responsibly and to confront the increasing challenges of higher indemnity costs.

Prepared by

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