

## Commission Analysis

### Hospital payment system saves employers \$98 million per year

The commission's hospital payment system, which became effective October 1, 2006, is saving South Carolina employers and insurance companies close to \$100 million per year, according to a recent analysis by the South Carolina Workers' Compensation Commission.

The agency reports that figures provided by the health and demographics section of the state's Office of Research and Statistics show the number of workers' compensation cases treated by hospitals and ambulatory surgery centers declined 8.6 percent between 2000 and 2006. Over the same period, inpatient charges for workers' compensation cases increased nearly 141 percent, while outpatient charges increased by almost 225 percent.

Employers who sent their hospital bills to the commission for review by the agency were the most direct beneficiaries of the new payment system. Specifically, in calendar year 2007 the commission reviewed 753 bills for inpatient care, with total charges of \$27.9 million and total maximum allowable payments of \$7.2 million.

Using statewide inpatient data for 2006, there were 2,535 admissions with total charges of \$99.5 million. Under the old hospital payment system, employers would have paid nearly \$85.5 million. Under the new

payment system, they paid \$25.5 million. The new payment system reimburses hospitals 40 percent more than what Medicare pays them for the same services.

Similarly, the commission reviewed 6,899 bills for outpatient care in 2007 and these bills amounted to a total of \$79.7 million. Under the old payment system, employers would have paid \$70.1 million of these charges. Under the new payment system, they paid only \$31.6 million.



Gary Thibault

reasonable projection because the number and nature of workers' compensation cases does not change much from year to year.

"The commission's hospital payment system addresses one of the most significant problems in workers' compensation, considering that medical costs account for more than 50 percent of all workers' compensation costs," notes Mr. Thibault.

The National Council on Compensation Insurance echoes that sentiment and warns "the rising cost of medical care is the major issue facing

workers compensation stakeholders, now and for the foreseeable future."

"These are significant savings for employers. Charges are going up so rapidly in both the inpatient and outpatient setting that employers need the shield of the payment system," notes Gary Thibault, executive director of the agency.

In its recently released State of the Line analysis, NCCI reports that

*(Continued on page 3)*

## What's Inside

President's Message	2
Appealing Results	2
Calendar	4

## APPEALING\* RESULTS

By Sam Painter

Listed below are brief summaries of points of law made by South Carolina appellate courts in recent decisions that are of general interest to workers' compensation self-insurers:

- A mental-mental injury may be proven by evidence that "the work conditions at issue were unusual compared to the particular employee's normal strains". *Doe v. South Carolina Department of Disabilities and Special Needs* [Supreme Court].
- Where the full commission appellate panel had not designated an authorized treating physician, the employer, rather than the workers' compensation claimant, was entitled to select the claimant's treating physician after the single commissioner determined that the claimant was permanently and totally disabled. *McKinney v. Kimberly Clark Corporation* [Court of Appeals].
- A suicide, occurring two years after a depression patient's back and knee injuries, was held not to be compensable as a death claim due to the statute, S.C. Code Ann. 42-9-60, that bars claims that result from a claimant's wilful intent to injure himself or another. *Thompson v. Cisson Construction Co.* [Court of Appeals].
- A circuit court order remanding a claim for further findings is interlocutory and therefore not immediately appealable. *Foggie v. General Electric Co.* [Court of Appeals].
- Substantial evidence supported a finding that injuries which occurred while an employee was on a business trip arose out of and in the course of his employment although the employee's injuries occurred as the result of an after-dinner Jeep ride, and there was evidence that both the driver of the Jeep and the injured employee had consumed alcohol before and during their dinner meeting. *Hall v. Desert Aire, Inc.* [Court of Appeals].

### President's Column

## A very successful annual conference

**T**hose of you who attended our 2008 Members Only Conference (April 23-25) will remember it as one of our best-ever conferences. We had close to 100 registrants, and more than half-a-dozen exhibitors. This was the first year we had invited exhibitors so we were pleased to see so many of our supporting members take advantage of the unique opportunity to meet and network with employers and TPAs and others at the conference.

Thursday night's dinner was also a big hit, perhaps in large part because we cooked it ourselves, hired our own bartender, and for entertainment brought back Bil Krauss (One-L Bil, as some of you know him.) All indications are we will be back at Litchfield in 2009. So, start planning now, especially if you have any culinary skills or can sing or dance!

The association's program committee has begun pooling ideas and resources for 2009. If you've heard a speaker you enjoyed, or know of a topic that would be of interest to our members, please send us your ideas and suggestions. We want to put on an even better conference next year and having a first-rate program is essential in drawing registrants, especially those who are not familiar with our association.



Hugh McAngus

The South Carolina Self-Insurers Association is the voice of employers in workers' compensation. We are grateful for the generous support we enjoy from our associate and supporting members but the long-term success of the association depends upon the support of employers. Whether you are self-insured or have a large deductible, your support and participation can reinforce our ranks.



**\*And sometimes not so appealing.** These points of law are presented subject to the following disclaimer: Fairly summarizing a point of law in a sentence or two is often difficult. Sometimes it is

impossible. Before relying on any of the points of law discussed, you should review the entire decision, and check to see if the case has been subject to further appeal.



## A new era at the Commission

Starting June 30, 2008 all seven commissioners at the South Carolina Workers' Compensation Commission will be appointees of Republican Governor Mark Sanford. Also, in addition to two new commissioners, the agency will have a new chairman, as Commissioner Andrea P. Roche will replace Chairman David W. Huffstetler. He will continue to serve as commissioner until June 30, 2012.

Avery B. Wilkerson and Thomas Scott Beck will replace Commissioners J. Alan Bass and George N. Funderburk, whose terms expire on June 30. Both were appointed by Gov. Jim Hodges in 2002.



Andrea Roche Pope

Mr. Wilkerson is mayor of Cayce, a position he has held since 1990. A graduate of Newberry College, Mr.

Wilkerson is vice president at County Banc Insurance and a past president of the Municipal Association of South Carolina and the Lexington Municipal Association.

Mr. Beck most recently served as assistant attorney general in the SC Attorney General's Office. A former member of the SC House of

Representatives (1996 – 2000), he received his Bachelor of Science Degree from Penn State University and his Juris Doctor from the University of South Carolina School of Law in 1999.

The South Carolina Senate also confirmed the re-appointment of Commissioner Derrick L. Williams, who was appointed in 2007 to complete the unexpired term of Commissioner Michelle Childs.

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(Continued from page 1)

the workers' compensation calendar year combined ratio stands at 99%—the second consecutive year that the line has realized an underwriting profit, albeit a 6-point deterioration from 2006.

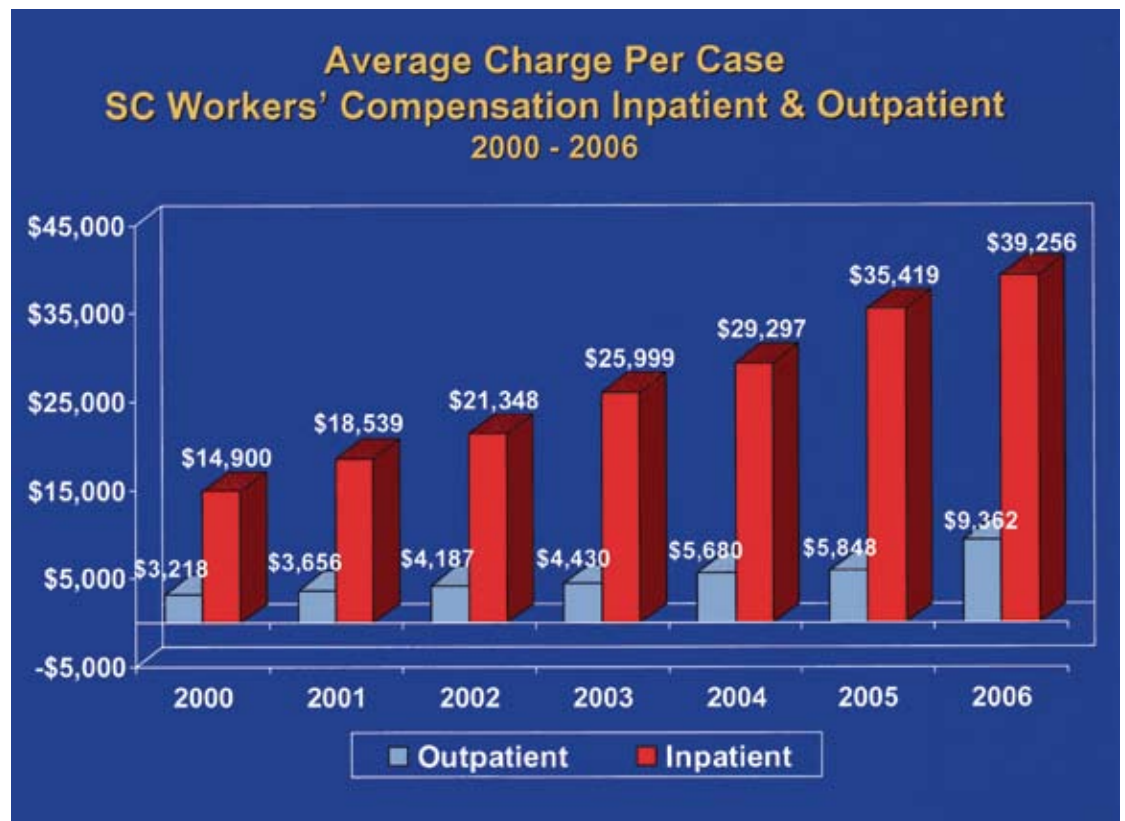
"Given the positive 2007 results, our short-term view of the market is optimistic," adds NCCI Chief Actuary Dennis Mealy. "However, our long-term outlook is cautionary due to the myriad of uncertainties that continue to face the business." Medical cost increases are one major uncertainty "putting upward pressure on costs," according to NCCI.

Amid several favorable developments reported by the agency, "favorable frequency trends continued—and along with payroll increases, were more than enough to offset medical and indemnity claim cost increases. This resulted in bureau loss cost and rate filings that generally were downward last year, with a couple

of notable exceptions." (South Carolina being one).

NCCI also estimates the average workers' compensation indemnity claim cost

increased 4% in 2007. This is slightly lower than the 5% increase in 2006 and is only modestly higher than the change in average wage levels last year.





## CALENDAR

- October 19-22, 2008*      32nd Annual SCWEA Educational Conference on Workers' Compensation. Marriott's Hilton Head Resort. Hilton Head Island
- November 6, 2008*      General Membership Meeting, SC Self-Insurers Association, Inc. Seawell's Columbia.
- April 19-23, 2009*      RIMS 2009 Annual Conference. Orange County Convention Center. Orlando



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## NCCI, seeking 23.7% increase, accepts 9.8%

**T**he National Council on Compensation Insurance, which in April 2007 filed for a loss cost increase of 23.7% in South Carolina, has settled for an increase of 9.8%, effective July 1, 2008.

The South Carolina Department of Insurance had approved an increase of nearly 16%, but the state's consumer advocate intervened and eventually NCCI agreed to the lower amount. Even better days are ahead for South Carolina employers, says South Carolina Consumer Advocate Elliott Elam.

"We fully expect that when NCCI makes its filing next year that the data will indicate the need for rate reductions. The improving experience of the employers in our state, increased regulatory scrutiny, and the reforms passed by the General Assembly have all made a positive difference," he says.

Virtually all workers' compensation insurance companies in South Carolina base their rates on NCCI data. The consumer advocate's intervention saved South Carolina employers roughly \$130 million per year, his office said.



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