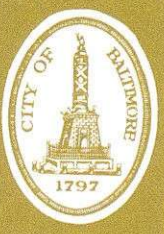


FROM	NAME & TITLE	Douglas S. Kerr, City Risk Manager <i>DSK.</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Finance Department Office of Risk Management, 401 E. Fayette, 7 th Floor		
	SUBJECT	Council Bill 13-0087R		

TO

DATE:

June 3, 2013

Honorable President and Members of the City Council
 Attention: Karen Randle, Executive Secretary
 Room 409, City Hall

City of Baltimore
 Council Bill 13-0087R
 (Resolution)

Informational Hearing – Baltimore City Workers’ Compensation Claims

Response from the Office of Risk Management, Risk Manager, Douglas S. Kerr
 May 31, 2013

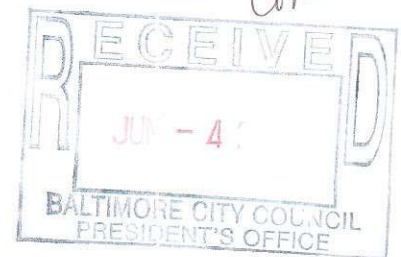
Key Points related to the City of Baltimore’s Workers’ Compensation Program

- Number of Employees covered under the Program = Roughly 28,000 Employees
- The City of Baltimore’s Workers’ Compensation Program covers all City agencies and employees of the public school system, totaling approximately 28,000 employees, under one unified WC program.
 - No other Public Employer in MD does that.

Workers’ Compensation Commission – Permanent Partial Disability (PPD) Rates
 Note: This is what is paid to an Employee if they have sustained a Disability Award for their Injury.

	<75 weeks	75-249 weeks	250+ weeks
2013	\$166.00	\$330.00	\$743.00
2012	\$162.00	\$322.00	\$724.00
2011	\$157.00	\$314.00	\$705.00
2010	\$142.00	\$307.00	\$690.00
2009	\$130.00	\$302.00	\$680.00

Comments



Police and Fire

Note: The Workers' Compensation Act states that Police and Fire Permanent Partial Disability Rates begin at what we call the second tier.

	<75 weeks	75-249 weeks	250+ weeks
2013		\$330.00	\$743.00
2012		\$322.00	\$724.00
2011		\$314.00	\$705.00
2010		\$307.00	\$690.00
2009		\$302.00	\$680.00

PERMENANT PARTIAL DISABILITY CASE EXAMPLE

DOA: 4/10/2012
Issue: Nature and Extent (Neck, Right Shoulder, Back, Right Knee)
Agency: Police

Claimant is a Baltimore City Police Officer who allegedly suffered injuries to her neck, right shoulder, back and right knee when she was walking up a ramp and fell onto her hands and knees. She treated conservatively with therapy and chiropractic care. MRI of the neck show degenerative disk disease and a small disk protrusion. She is currently working full duty. Commissioner Weinberg awarded 12% PPD to the neck, right shoulder, right knee and low and mid back which equals \$19,320.

Agency: Police
Award: \$19,320 (60 weeks @ \$322/week)
VS.
Award: \$ 9,720 (60 weeks @ \$162/week)
Agency: DOT

KeyRisk
Expertise is no accident



Number and Costs of Claims (total paid on Workers' Compensation Claims)

FY12 =	3,589 (Received)	\$47,346,417*
FY11 =	3,515 (Received)	\$44,659,237*
FY10 =	3,665 (Received)	\$42,358,254*

NOTE: The total amount paid on Workers' Compensation Claims in a particular Fiscal Year can be from a claim that occurred in the current Fiscal Year or from a claim from any previous Fiscal Year.

* = payments for the following items: TTD/A-Time (lost time from work), PPD (award of disability), Medical Treatment, Vocational Rehabilitation, Surveillance, Legal Fees, Etc.

The Type of Claims Filed

Types = Medical Only (MO); Indemnity/Lost Time (LT) and Record Only (RO)

Total Paid -= What has been paid to date on all of those fiscal year claims

Total Incurred = What we expect to pay on all of the claims when they have closed

	<u># of Claims</u>		<u>Total Paid</u>	<u>Total Incurred</u>
FY12 =	2,122 (MO)	1,467 (LT)	\$10,691,676	\$30,812,888
FY11 =	1,957 (MO)	1,558 (LT)	\$9,775,234	\$30,951,710
FY10 =	1,606 (MO)	2,059 (LT)	\$11,193,291	\$32,387,482

The Number of Cases Tried at the Workers' Compensation Commission & Award Total Rendered

FY 12= 423 PPD cases tried, total Award value \$8,987,697

FY 11= 487 PPD cases tried, total Award value \$8,785,337

FY 10= 430 PPD cases tried, total Award value \$8,833,102

Contracts with Private Vendors

Third Party Workers' Compensation Claims Administration (TPA) - Vendor =
Key Risk Management Services, Inc.
Via RFP; Contract through the Office of Risk Management

Workers' Compensation Legal Services - Vendor =
Semmes, Bowen & Semmes
Via RFP; Contract through the City's Legal Department

Occupational Health Clinic – Vendor =
Mercy Medical Center
Via RFP, Contract through the Office of Risk Management

How the Office of Risk Management assists with the Adjudication of Workers' Compensation Claims

Monthly Claim Reviews with City Agencies

- Review between 8-10 "Problem" claims to develop a resolution plan
- Attendees = Dr. Levy (head of the City's Occupational Clinic) who addresses the Medical Issues; an Attorney Representative (from Semmes, Bowen & Semmes) who addresses the Legal Issues; the Claims Supervisor and Claim Adjusters (from our TPA, Key Risk) who present the claim details; Agency Representatives; an Office of Risk Management Representative (Donna Briscoe, Workers' Compensation Contract Administrator); and any other player who may have involvement on the claims being discussed

Quarterly Oversight Meetings

- Meet with the Director of Finance and other Agency Heads to give them a current Fiscal Year update on the City's Workers' Compensation Results

Workers' Compensation Program – Strategic Planning

- Quarterly Meeting to discuss Strategic Planning for the City's Workers' Compensation Program
- Attendees = Dr. Levy and Lisa Conic (from the City's Occupational Clinic); Rudy Rose, Lead Attorney Representative (from Semmes, Bowen & Semmes); Doug Kerr and Donna Briscoe from the Office of Risk Management, and Tracy Logue, Program Manager and her Supervisors who work on the City Account (from Key Risk, our TPA)

Monthly "Scorecard" Results

- Monthly Workers' Compensation Results set out to each Agency so they have up-to-date WC results as they go through the Fiscal Year
- Scorecards sent out on the 15th of each month from the Office of Risk Management

Monthly Review of Cases on Appeal

How this information could be made more accessible to the General Public

Suggestions welcomed.

Comp Pinkbook

Per the data provided by Byron Warnken:

- Baltimore City paid out 2,173 claims for \$28 million. \$12,885 per claim
- The State of Maryland paid out 1,823 claims for \$28.8 million. \$15,798 per claim
- Prince George's County paid out 1,019 claims for \$15.1 million. \$14,818 per claim
- Montgomery County paid out 812 claims for \$10.8 million. \$13,300 per claim
- The Maryland Transit Administration paid out 437 claims for \$5 million. \$11,441 per claim

In the private sector, information about the top private employers is as follows:

- Giant Food paid out 384 claims for \$8 million. \$20,833 per claim
- Wal-Mart paid out 148 claims for \$2.1 million. \$14,189 per claim
- Verizon paid out 101 claims for \$2.1 million. \$20,792 per claim

In order by lowest per claim average

1. The Maryland Transit Administration paid out 437 claims for \$5 million. \$11,441 per claim
2. Baltimore City paid out 2,173 claims for \$28 million. \$12,885 per claim
3. Montgomery County paid out 812 claims for \$10.8 million. \$13,300 per claim
4. Wal-Mart paid out 148 claims for \$2.1 million. \$14,189 per claim
5. Prince George's County paid out 1,019 claims for \$15.1 million. \$14,818 per claim
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7. Verizon paid out 101 claims for \$2.1 million. \$20,792 per claim
8. Giant Food paid out 384 claims for \$8 million. \$20,833 per claim

Risk Management Comments on the Pinkbook:

We rely upon the Maryland WC Commission's authorized reporting and their compilation of information that has been analyzed and presented by their authorized analysis and claims staffs. We are aware of the book in question, and while it purports to relay useful information we have found it to be of very little practical or statistical value.

It is our understanding that the book was not authorized by the Workers' Compensation Commission and the data contained in the book has not been verified by the Commission. We have spoken to the author of the book and he has candidly admitted that he does not fully understand the data he collected or its codes or the data he is reporting.

The ranking by total number of awards is not statistically significant and therefore listing the City first in that category, even if the data is accurate, has very little importance.

As one of the larger employers in Maryland, the City would anticipate a high volume of claims and it should be noted that the City's program includes City Schools where other municipalities separate their programs.

Therefore, since the ranking as applied in the book seems to be misleading and since the Commission has not authorized the search or verified the data and since the author is unable to fully explain the data and his compilation cohort, we simply feel the information cannot be relied upon to make any statistically significant assessment or comparison of the City's Workers' Compensation Program or any other WC programs or participants.

However, if one does look at the average cost per claim cited in the data provided, Baltimore City actually does not lead the counties or private employers in this measure. Again, we cannot verify this data or its usefulness.

Additional Points

766 of the cases were handled by attorney Mitchell Mark Gordon (who frequently handles police claims) and took home \$2.5M in attorney's fees.

Baltimore City has seen very similar numbers of claims over the past three fiscal years.

While we cannot verify the data in the report cited by the Sun, it is reasonable for a jurisdiction with a high number of Police and Fire employees to have a high number of claims, as these employees are actively engaged in public safety, which often puts them in harm's way to protect our residents.

Additionally, the "presumption" structure and other Maryland State law for Workers' Compensation (WC) for public safety (Fire and Police) guarantees more and higher payouts for these employees. The State law on "presumption" nearly automatically guarantees favorable judgments on WC matters by the virtue of being a Firefighter or Police Officer. This means that these employees can claim hypertension, erectile dysfunction, and a whole series of cancers as being caused as a result of being in the line of duty – and therefore must be compensated by taxpayers under government WC payouts. Public Safety employees also automatically receive a higher award for their WC claims by virtue of being a Firefighter or Police Officer than other non-public safety employees.

Baltimore City and our local government colleagues across Maryland hope that state lawmakers will recognize that the presumption structure must be based on science and research and that adding more conditions to the list of presumption claims that have no basis in scientific research – as the General Assembly did in April 2012 by adding 5 types of cancer to the list of presumption conditions for firefighters – is not fair to Maryland's taxpayers and is bad practice for all Maryland residents.

Summary:

The takeaway from the Pinkbook's per awards averages of WC benefits paid: A. Baltimore City has a lower per award average than most of the other public sector employers (9 of the 12 listed) and a lower per award average than the State of MD; B. Baltimore City has the 6th lowest average awards of all Governmental employers listed; and C. Baltimore City has the 57th lowest average awards of all employers (including private sector) listed in the book. Thus, the Pinkbook data for WC benefits paid per award shows that the City of Baltimore has a very successful and model Workers' Compensation Program for Governmental Employers in MD.

Pinkbook Unauthorized WC Commission Computer Search:

We have now had an opportunity to more fully evaluate the Comp Pinkbook and the data contained therein. First, we must stress that the data contained in the book was obtained without authorization from the Workers' Compensation Commission and has not been verified by the Commission for accuracy or for interpretation of Commission computer codes.

Further, the information contained is raw data without any analysis other than to rank employers arbitrarily by the number of awards without any explanation of what constitutes an award or an employer. Since the Commission did not participate in the book we are unable to get any clarification of what the data represents or the commission computer codes interpretations and assumptions from either the Commission or the author.

Pinkbook Can Not and Does Not Accurately Compare Public and Private Employers:

The first concern about the data presented is that it purports to compare all employers in the State of Maryland when the risks associated with different types of employment are not fairly comparable. Governmental employers provide public safety and thus face different challenges in workers' compensation than those faced by the private sector which makes any comparison of the two meaningless without in depth analysis which the book does not provide.

Instead the book simply offers superficial data that has not been verified. By their very nature Public Employers who provide policing and firefighting have significant unique WC exposures from dangerous jobs that can naturally be expected to generate more injuries than any jobs in the private sector. In addition, Maryland law provides Legal WC Presumptions that mandate that numerous diseases (heart disease, lung disease and a multitude of cancers) are compensable for public safety employees and as a result Government employers face a far greater number of these types of claims than the private sector. This would seem to be borne out by the fact that seven of the top ten (an all of the top four) Employers ranked by number of awards are Governmental Entities.

Finally, public safety employees are entitled to a higher rate of WC benefits than similarly injured private sector employees. As such, Governmental Employers would be expected to have higher average and aggregate awards than the private sector.

For all of these reasons a comparison of the private sector employers to Governmental Employers on the three lone categories (total number of award, aggregate payout and average payout per award) is of extremely limited value.

The Pinkbook Cannot Accurately Compare Governmental Employers:

One might expect that the data contained in the book would therefore be more useful if one were to just compare the data provided as it pertains to the various Governmental entities. However, once again, the data alone, without in depth analysis, is misleading, inaccurate and subject to misinterpretation. Simply put all municipalities are not alike in either the size or scope of their program. The City of Baltimore's workers' compensation program covers all City agencies and employees and the public school system, approximately 28,000 employees, under one unified WC program. No other Public Employer in MD does that. As a result the data supplied, without a correlation to the number and type of employees covered by the program, does not represent an accurate comparison.

Each County represented in the book has separate listings for their School system and many separate other agencies as well, including their police force and firefighters, from the general County program.

For example, the book provides separate data for Prince Georges County Executive & County Council, Prince George's County Board of Education, Prince George's Volunteer Fire Department, City of Bowie, City of Hyattsville and City of Greenbelt. If all of these agencies fell under one program Prince George's County would have 1,506 awards with aggregate awards of \$24.6 million. While these numbers likely represent a more accurate picture of the risk incurred by Prince George's County they are still not numbers that, by themselves, can be used to compare Baltimore City's program unless they are adjusted for the total number of employees covered by each program.

The book does not supply the number of employees covered by each program. For example, there is no information as to how many employees are covered under the Prince George's County Executive and County Counsel Workers' Compensation Program.

However, Prince George's County Government reports that they have 7,052 employees (separate from their school system). The PinkBook reports aggregate awards of \$15,187,018 (excluding the Board of Education). This represents a per employee cost of \$2,153.58 for the Workers' Compensation Program. The City's per employee cost is less than half that at \$1,001.04, based on the aggregate awards cited by the Pinkbook. We firmly believe that when averaged by the number of employees covered and when taking into consideration the ratio of public safety employees in each program, the City of Baltimore's Program is a very successful model for Governmental Employers' Programs.

Baltimore City in the Pinkbook:

Baltimore City's comprehensive program allows for the results reflected in the most useful statistic found in the book, average award. Baltimore City has lower average awards according to this data than the State of Maryland and 9 of the 12 Counties listed, including Prince George's, Montgomery, Anne Arundel, Baltimore, and Howard Counties. Only St. Mary's, Allegany and Washington Counties have a lower per award average than the City of Baltimore. Further, Baltimore City has the 6th lowest average awards of all Governmental employers listed. Despite the challenges of legally imposed presumptions, public safety employees and higher benefit rates, the City of Baltimore has the 57th lowest average awards of all employers (including private sector) listed in the book.

As the City of Baltimore is one of the largest Governmental Employers covered by Maryland Workers' Compensation and one of the largest Employers generally, it is understandable that we would face a high volume of claims and awards, despite our ongoing efforts to improve safety and reduce claims. While the success of the program cannot be measured in a snapshot of raw data collected over 18 months, we do believe the comparison of average awards is the one piece of data in the book that is useful in comparing employers in the State of Maryland.

Unfortunately, the author chose instead to "rank" employers by total awards. Given the number of employees of the City of Baltimore and our comprehensive program that covers all agencies and the School System it is not surprising that we would have more awards than other municipalities who have fewer employees and have separate programs for different agencies.

Conclusion:

If the data in the book is verified and with additional information and more in depth analysis we believe the results will prove that the City of Baltimore has a very successful Workers' Compensation Program.

Please contact me at 443-984-3786 or Douglas.Kerr@baltimorecity.gov if there are any questions.