

Workers Compensation Program

SUMMARY

The City and County of San Francisco has invested considerable money and staff time in efforts to control its workers' compensation (WC) costs; however, total WC expenditures have continued to climb. Annual WC cost exceeded \$63,000,000 in 1996.

The 1996-1997 Civil Grand Jury reviewed four elements of the WC program. These elements had also been examined in previous studies conducted by the Board of Supervisors' Budget Analyst and the City's Workers' Compensation Task Force (WCTF), as well as other observers.

- (1) The salary continuation and salary supplementation benefits available to City workers temporarily disabled due to a job related injury or illness.
- (2) The absence of financial incentives for City departments and employees to contain or reduce workers' compensation costs.
- (3) Return to Work (RTW) programs.
- (4) The Workers' Compensation Division's (WCD) administration of contracts with service providers.

The Grand Jury concluded that the City should review its full salary continuation and salary supplementation policies and stop compensating employees more when not working than when working. The City should also implement a citywide RTW program; recognize and reward departmental and individual employee efforts to contain or reduce WC costs; and regularly review its contracts with service providers to ensure they are operating as efficiently and effectively as possible.

BACKGROUND

California state law requires virtually every employer to provide workers' compensation benefits. If employees cannot work due to a job-related injury or illness, WC pays their medical bills and provides them with living expenses until they can return to work.

San Francisco's WC program has three major components:

- (a) The WCD, located within the Department of Human Resources, is responsible for administering workers' compensation benefits such as medical payments, temporary and permanent disability payments and rehabilitation expenditures for all active and retired employees of the City. The active population service is approximately 33,000, which includes San Francisco Unified School District and Community College District employees.
- (b) The Department of Public Health and numerous private contractors provide services such as claims administration, medical bill review and repricing services, and medical and rehabilitative treatment under contract with the WCD.
- (c) Some City departments assist in managing claims, operating safety and health programs and providing limited-duty assignments to injured workers.

San Francisco has invested considerable money and staff time, particularly over the past several years, toward finding ways to control its ever-increasing WC costs. These efforts resulted, in part, in various reports containing recommendations on the need to:

take measures to prevent or reduce the number of on-the-job injuries and illnesses;
minimize the time temporarily disabled employees remain off their jobs;
contain medical services and rehabilitation costs; and
correct deficiencies in the City's management of the WC program.

Many of the recommendations for controlling costs and improving program performance contained in these reports have been implemented; many others have not. The City's total WC expenditures, which include the disability pay and salary supplementation payments described in Appendix B, have continued to increase. Between 1992 and 1996, the last year for which WC costs figures are available, total annual costs increased by \$7,143,967 from \$56,585,917 to \$63,729,884, or almost 13%.

METHODS

The Grand Jury reviewed many documents and interviewed past and current City officials and employees from departments concerned with the administration and management of the WC program: the WCD, Civil Service Commission, Controller's office, City Attorney's office, Human Resources Department, Mayor's office, and the Department of Public Health. The major documents reviewed are listed in Appendix A.

FINDINGS AND RECOMMENDATIONS

Financial Disincentives to Returning to Work

WC state law sets the typical tax-free WC benefit at two-thirds of present salary, subject to a periodically adjusted maximum allowable benefit. Since the benefit is less than an employee's full salary, there is a financial incentive for the employee to return to work. The City, however, uses its funds to supplement most employees' disability benefits up to their full salaries. Since only the supplementation portion is taxable, an employee's income is higher when not working due to a job-related injury or illness than when working. The City pays certain other temporarily disabled employees tax-free disability benefits that equal their full salary.

Finding

City employees can receive higher net incomes when they are unable to work due to a job-related injury or illness than when they are working. This result of salary continuation and WC supplementation benefits is counterproductive. The general opinion among many City managers and other officials very familiar with the program is that the existing provisions allowing for full salary continuation and WC supplemental benefits operate as disincentives to returning to work as soon as possible.

Consequently, employees may be off the job longer than necessary, resulting in lost productivity. These practices tend also to have a demoralizing effect on working employees. See Appendix B for examples of salary continuation and salary supplemental provisions.

Recommendations

1. In light of the financial disincentive to return to work these practices create, the City should determine whether it is in the public's best interest to continue providing full salary continuation and salary supplementation benefits.

2. The City should, at a minimum, discontinue all salary continuation or supplementary benefit practices which result in employees' receiving a higher net income when not working, an obvious disincentive to return to work.

Use of Department Budgets to Provide Incentives to Reduce WC Costs

Each year, City funds are allocated to departments to pay for WC benefits and services according to a formula which gives most weight to a department's actual claims experience. All departments are expected to keep their expenditures within budgeted amounts, but if WC costs for a department exceed the amount budgeted, the department's budget is simply increased accordingly. On the other hand, if a department reduces its WC costs by better managing its WC claims, or by starting an effective injury and illness prevention program, and therefore spends less than the amount budgeted for WC, all the saved monies are returned to the general fund.

Finding

The City is not using the budget process to provide department heads, managers, and employees with incentives to contain WC costs. There is no citywide process for financially rewarding efforts which may have lowered or contained WC costs.

Recommendations

3. The City should develop a financial incentive program to recognize exceptional efforts or outstanding accomplishments made by departments to contain or reduce their WC costs. The City should reward departments that show positive results from cost containment efforts by allowing them to retain in their budgets a portion of the monies saved. Departments should be permitted to use the retained funds to enhance or expand WC cost-containment practices, or to support other department activities not directly related to WC.

4. The City should consider setting aside funds to support a citywide financial incentive program to reward cost-containment and -reduction success in the WC program. All organizational units or individual employees in any department should be encouraged to participate in such a financial incentive program. Following established criteria, the program should recognize exceptional efforts or outstanding accomplishments in containing or reducing WC costs.

Return to Work Programs (Modified Duty Program)

An effective Return to Work (RTW), that is modified duty, program is widely acknowledged by both public and private sector WC executives to be an essential component of any effort to control WC costs. RTW programs provide temporary work assignments to employees who cannot perform their customary job duties as a result of a job-related injury or illness. In addition, job duties may be modified to accommodate an employee who is recuperating from an occupational injury or illness.

Only a few departments have established RTW programs. [1] A department developing its own program must use whatever staff expertise and financial resources it can spare from its own budget. Creating a sufficient number of meaningful modified duty assignments for temporarily disabled employees within a single department is often a

major problem. A citywide program would increase the number of potential job assignments available for temporarily disabled employees.

Finding

The City has still not implemented a citywide RTW program. The City's WCTF prepared a plan for a RTW program in 1994, but it was never implemented. Substantial savings in WC costs will be achieved by helping injured employees return to work as quickly as possible by offering modified duty assignments through an effective, citywide RTW program.

Recommendation

5. The City should, at the earliest possible time, implement an effective, citywide RTW program similar to that developed by the Return-To-Work subcommittee of the City's WCTF. Experience clearly indicates that RTW programs reduce fraudulent claims and help employees return to their regular jobs faster. Furthermore, no additional costs accrue to the City for the work these employees perform.

Contracting

The WCD obtains a major portion of all the services required by the WC program through contracts with San Francisco General Hospital (SFGH), the University of California at San Francisco (UCSF), and a number of independent contractors. These contracts cost the City over \$9,000,000 annually.

SFGH and UCSF operate clinic facilities and emergency rooms for both the initial and continuing treatment of injured City employees. Private contractors provide administrative services: processing and adjusting approximately one half of all City WC claims; reviewing bills submitted by doctors and other medical service providers and maintaining networks of medical service providers offering discounted fees to injured or ill City workers. The WCD also makes payments for other medical treatment services and specialized procedures provided by practitioners not under contract with one of the City's medical service providers.

In 1993 the WCD contracted with Noetics, now FIRM Solutions, to administer about one-half of all WC claims, with the WCD retaining responsibility for the other half. The decision to contract out was made because at the time it was seen as the quickest and easiest way to increase the number of staff available, to lower the average caseload per claims examiner and to handle an increasing number of WC claims. City officials expected that the efficiency and effectiveness of both systems of administering WC claims would be evaluated after two to three years, and a determination would then be made on whether to return all claims administration to the WCD or to assign all claims to a private contractor.

For a number of years the WCD has retained a Vocational Rehabilitation Coordinator and a Medical Coordinator, who provide referrals to City workers and coordinate oversight of vocational rehabilitation and medical services for the City. The Coordinators are paid over \$50 per hour. The City does not have a written employment contract with them and has never held open competitive bidding for these services.

Findings

The WCD does not regularly, consistently or formally monitor, assess or audit the performance of its WC program contractors, or measure their efficiency and effectiveness in meeting the City's expectations. Because of the lack of systematic monitoring and assessment, the WCD is unable to evaluate if its funds are being well spent.

The City has not evaluated how well the WCD and Noetics (FIRM Solutions) have administered the WC claims assigned to them.

The Noetics (FIRM Solutions) contract has not been conducted as anticipated. The contract is in its fifth year and has not been competitively bid since inception. Each time the WCD fails to offer a contract for competitive bidding, it forfeits the potential to obtain services for less money.

The employment arrangements of the Vocational Rehabilitation Coordinator and the Medical Coordinator are inappropriate since the contractors function as WCD staff and perform services which are permanent in nature. This same problem was highlighted in the Budget Analyst's management audit three years ago.

Recommendations

6. The WCD should regularly monitor, assess and audit all of its contracts in a consistent and formal manner to ensure that they are conducted effectively, efficiently, and in accordance with their terms and conditions.

7. The City should evaluate how well the WCD and the current private contractor have managed their respective claims administration functions. Based on that evaluation, the City should determine whether in-house or contracted claims administration is in the best interest of the City and its WC program.

8. The WCD should avoid long extensions of the termination dates of contracts which were once competitively bid.

9. The positions of Vocational Rehabilitation Coordinator and Medical Coordinator should be evaluated by the WCD. If they are necessary, they should be properly classified and filled through the City's competitive merit system, or, if the City is best served by contracting for these services, an open competitive bidding process should be followed.

REQUESTED RESPONSES

Mayor

Board of Supervisors

Department of Human Resources

Controller

Civil Service Commission

APPENDICES

A. Information Reviewed

B. Salary Continuation/Supplementation

APPENDIX A

List of Information Reviewed

1. 1994 Management Audit of WCD by Budget Analyst
2. 1994-95 Annual Report of Department of Human Resources
3. 1993-94 Annual Report of Retirement System
4. 1990-91 Report of Workers' Compensation Task Force, 6/6/92
5. Civil Service Commission proposed Rule 35, Return to Work Program
6. Civil Service Commission proposed amendments to Rule 22
7. Various Sections of City Charter and Administrative Code
8. Listing of Independent Contractors, WCD
9. Summary of WC Expenditures, 1991-96, WCD
10. Description of Salary Continuation and Supplementary Benefits, WCD
11. 1996 SFUSD Risk Management and Risk Financing Study
12. WCD's Management Information System Reports
13. SF Public Transportation Department Quarterly Occupational Injury and Illness Report, 1996
14. Organization Chart

APPENDIX B

Examples of Salary Continuation and Salary Supplementation

CSC Rule 20 allows all City employees on leave for a work-related injury or illness to supplement their tax free WC benefits up to their normal full salaries with funds from a special WC supplementation account (WCSA) established by their departments for them. Each employee's WCSA is equivalent to the employee's accumulated unused sick leave with pay credit balance. Since only the WCSA benefit is taxable, most employees have a higher net income from the City while out on disability leave than when working. The WCSA benefit cost the City \$1,063,519 in 1996.

a. The City, through negotiation with the unions, is attempting to amend this benefit by eliminating the WCSA and requiring employees to use their own earned sick, compensatory, and vacation leave with pay credits if they wish to supplement their WC disability benefits, and by not permitting the total of these two amounts to exceed an employee's normal net salary. At this time, only 10% of City employees can no longer receive the WCSA benefit; however, all employees can still supplement their WC benefits up their full salaries.

b. S.F. Administrative Code 16.170, often called "assault pay," applies to all City employees. It provides WC benefits up to one year per injury at full pay, tax free, to those who qualify. Municipal Railway employees are the major users of this provision. It cost the City \$1,081,109 in 1996.

The following provisions cost the City \$8,018,109 in 1996:

c. City Charter, Section 8.515 and .516, affecting Police and Fire safety officers, provides WC benefits up to 365 days per injury at full pay, tax free.

d. The state Labor Code 4850, affecting deputy sheriffs, full-time life guards, District Attorney investigators and airport police. It provides up to 365 days of WC benefits at full pay, per injury, tax free.

e. S.F. Administrative Code 16.171 affects paramedics. It provides up to 365 days of WC benefits per injury at full pay, tax free.

Footnotes

1. Municipal Railway, Public Works, Parking and Traffic, and Police.