



Commonwealth of Massachusetts Executive Office of Labor and Workforce Development

Department of Industrial Accidents: Overview of Workers' Compensation

For Benefits Providers and Health Care Staff

Deval L. Patrick, Governor

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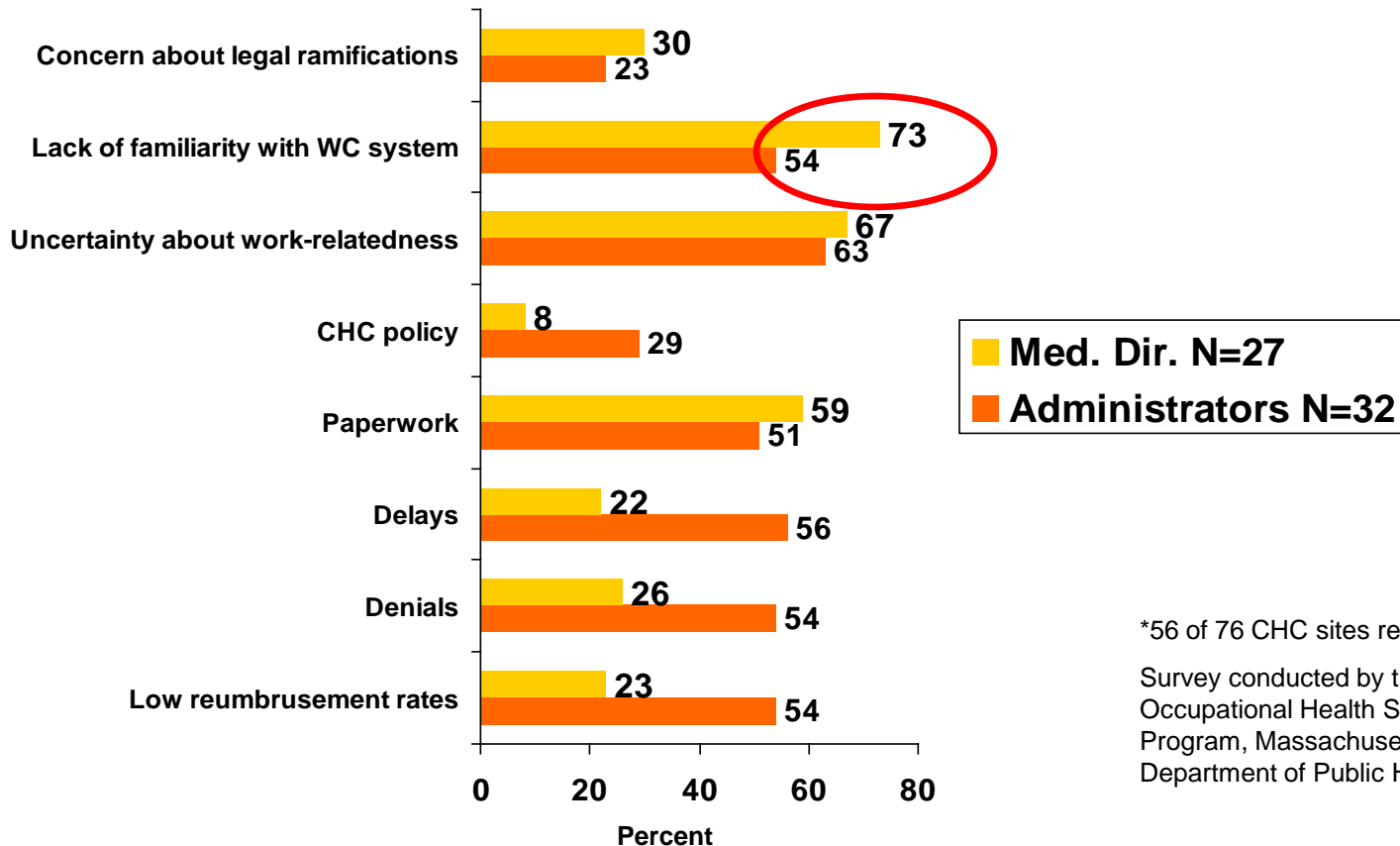
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What Is the DIA

- If you are injured or become ill as a result of your job, you may be eligible for Workers' Compensation.
- The DIA administers Workers' Comp law in MA, with 26 judges adjudicating disputed claims.
- 50,000-60,000 Workers' Comp claims each year
- 10,000-11,000 disputed cases each year
 - $\frac{1}{2}$ of cases are resolved within 3-4 weeks of injury.
 - $\frac{1}{4}$ of cases resolved within 2-4 months.
 - $\frac{1}{4}$ of cases resolved within 6-9 months.
- One of the best Workers' Comp systems in the nation.

Survey of Massachusetts Community Health Centers, 2008-2009*

How much do the following factors discourage your center's use of WC insurance: Percent responding "very or somewhat"



*56 of 76 CHC sites responded.
Survey conducted by the
Occupational Health Surveillance
Program, Massachusetts
Department of Public Health.

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Who is eligible for Workers' Compensation?

- **All employers are obligated under the law to carry Workers' Comp coverage.** All employees must be covered (other than sole proprietors).
- If an employer lack coverage, injured workers are covered by a DIA Trust Fund. The Trust Fund is obligated to recoup any paid benefits from the employer.
- Workers' Comp coverage protects employers against most lawsuits. Employers without Comp risk BOTH a lawsuit by the employee AND a suit by the Trust Fund to recoup benefits.
- It is very hard for an employee to sue an employer for negligence when they have an active Workers' Comp policy.
- Independent contractor law in MA is complex. Improperly categorized workers should seek legal advice.

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What do WC Benefits Cover?

- **Medical bills**, prescriptions and copays for Work-Related Illness or Injury (WRII). Pays at a comparable rate to MassHealth.
- **Lost wages**, 60% of average weekly wage (capped at 60% of State Average Weekly Wage) if employee misses 5+ *calendar* days of work as a result of a WRII.
- **Cost of travel** to and from a doctor's office or medical facility for treatment of WRII.
- **Disability benefits** available for those who's injury prevents them from ever being able to work again.

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If An Employee Becomes Sick or Injured

- An employee reports WRIL to employer.
- Employer informs Workers' Comp insurer, and a claim form is completed.
- Insurer sends the employee a claim number.
- If medical attention required, patient provides claim number to the benefits staff, informs doctor that injury or illness is work-related, gets treatment.
- Comp carrier receives and pays the bill.

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If No Claim Number Provided, or Claim Is Denied

- If employee is unable to get a claim number, the employee can file an Employee Claim 30 days after injury. Submitted along with relevant medical documentation.
- If a claim is denied, an employee can contest the denial by filing an Employee Claim with medical documentation.
- **Consulting an attorney is strongly advised.**
An attorney gets paid if employee receives benefits – even if it's a case with only medical benefits.
- Mass Bar Attorney Referral Service:
 - o 866-627-7577
 - o 617-654-0400
 - o <http://masslawhelp.com>.

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Obtaining Info on a Comp Carrier

- If the employee is unable to provide a claim number or info on their employer's Comp carrier, attempt to contact the employer to request the information.
- You can find out if an active Workers' Comp policy is applicable by visiting www.mass.gov/dia, click on the "Verify Workers' Comp" icon.
- If no active Workers' Comp policy is found, call the DIA at 617-727-4900 x470 to get additional help regarding policy status.

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Protecting Workers' Compensation Rights

Any of the following can be reported (anonymously) to the DIA's Office of Investigations at 877-627-7233 x214.

- Suspect that employer doesn't carry Workers' Compensation.
- Employer refuses to provide name Workers' Compensation insurer.
- Employer discourages a worker from filing a claim following a workplace injury or illness.

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Workers' Comp vs. Health Insurance

- Wage replacement for 5+ missed days of work.
- Additional benefits to patient (travel, copays covered).
- In a disputed claim, if medical evidence of work-relatedness of injury exists, reasonable medical benefits usually aren't denied, even if wage replacement still at issue.
- If originally filed as health insurance, will require additional burden to prove work-relatedness.
- Budget impact on health plans if illness or injury is covered by private insurer.

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If Comp Denies Can Employee File for Health Insurance?

- If patient receives WC denial, get denial in writing and file with health insurance using the denial letter. Health insurer should accept the claim with a written denial of Workers' Comp coverage.
- Health insurer can subrogate Comp insurer if later becomes a Comp Claim.
- Health insurer should be going to the Comp insurer, and not providers for subrogated claims.

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Next Steps

- New easily-understandable and translated materials for workers.
- Information for doctors and health centers
 - Trainings & Presentations
 - Online materials
- Ongoing reviews of the system to determine possible barriers and explore solutions to make the system easier

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Workers Comp and MassHealth

(Slide Info Provided by MassHealth)

- If an individual has Workers Comp, the individual can still apply for MassHealth coverage
- Workers Comp. coverage does not make an applicant ineligible for MassHealth coverage
- MassHealth's Casualty Recovery Unit performs monthly data matching with the Department of Industrial Accidents for TPL.
- If the individual has WC, MassHealth will work with DIA regarding recover payment for eligible medical benefits to ensure MassHealth is payer of last resort.