



Federal Legislative and Regulatory Update

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Agenda

- I. Impacts of the Affordable Care Act on Workers Compensation
 - A. The Affordable Care Act (ACA) and Medical Insurance Expansion
 - B. The ACA and “Crowding Out”: Access to Primary Care
 - C. The ACA and Wellness: Obesity and Medical Costs

- II. TRIPRA of 2015 Implementation Issues
 - A. Section 108: GAO Study

 - B. Section 110: Advisory Committee on Risk-Sharing Mechanisms

 - C. Section 111: Data Reporting and Effectiveness

Agenda

- III. Federal Focus on State Workers Compensation
- IV. National Conversation On Workers Compensation
- V. Social Security Disability Reform
- VI. Medicare Set-Aside Reform
- VII. Questions and Answers



ACA Impact on Workers Compensation: Medical Insurance Expansion

- The ACA increased the medically insured population
 - Via the health insurance mandate in all states
 - Via Medicaid expansion in some states
 - Medicaid expansion, where it applies, creates a greater increase in the share of new medical insureds than the health insurance mandate
- ACA insurance exchanges and Medicaid expansion took effect in 2014
 - In 25 states including DC, Medicaid expansion took effect on January 1, 2014
 - Seven other states have expanded Medicaid since then
 - No state has rescinded its decision to expand Medicaid

ACA Impact on Workers Compensation: Access to Primary Care

- ACA increases the medically insured population
 - Particularly via Medicaid expansion
- Does medical service demand from new insureds under the ACA “crowd out” WC?
 - Access to primary care, in particular
- Some states expanded Medicaid, others did not
- A natural experiment:
 - 16 NCCI states expanded Medicaid as of January 1, 2014
 - 19 NCCI states did not expand Medicaid during 2014
 - Compare the experience of both groups for 2012–2014

ACA Impact on Workers Compensation Wellness-Obesity and Medical Costs

- An important goal of the ACA is to promote wellness
 - Many primary and preventive health care services are not subject to a deductible
- Also, workplace wellness programs are gaining traction
 - Participants may qualify for group health discounts
- Increasing wellness means lower comorbidity incidence
- Comorbidities particularly relevant to WC are:
 - Obesity
 - Hypertension
 - Diabetes
 - Pulmonary conditions
 - Drug abuse
- Obesity is the most studied comorbidity in terms of medical cost impact

TRIPRA of 2015 Implementation

- Section 108—Government Accountability Office Study:
 - Examine the feasibility of
 - the creation of a capital reserve fund for terrorism losses
 - the federal government charging up-front premiums
 - other countries' approaches

TRIPRA of 2015 Implementation

- Section 110—Creation of the Advisory Committee on Risk-Sharing Mechanisms
 - Overarching objective is to work toward consensus on a single alternative
 - Key elements will include determining if there is in fact a workable alternative
 - Consideration of whether TRIPRA currently covered cyber and NBCR are covered perils
 - Awareness of the unique impact of terrorism on workers compensation
 - The working groups will focus on developing a transition plan from the current federal backstop to the alternative

TRIPRA of 2015 Implementation

- Federal Insurance Office -- Section 111 (Data Collection)
 - Statutory Requirement
 - NCCI Participation in Consultations
 - NCCI's Supplemental Workers Compensation Data
 - Coordination with non-NCCI States
 - Subsequent Year's Strategy

TRIPRA of 2015 Implementation

- Federal Insurance Office -- Section 111 (Effectiveness Report)
 - Carrier response overview
 - Fifty-two (52) insurer groups provided some or all of the information requested by FIO
 - Responses received by FIO represent approximately 41 percent of DEP for TRIP eligible insurance lines
 - Eleven (11) of the largest twenty-five (25) insurer groups responded

TRIPRA of 2015 Implementation

- Federal Insurance Office -- Section 111 (Effectiveness Report)
 - Effectiveness of the program
 - It was indicated that 18 percent of workers compensation policies disclosed a zero (\$0) charge for terrorism
 - For workers compensation 2.8 percent of premium was attributed to terrorism coverage (compared to 2.6 percent for all covered lines)
 - In response to the modeling scenario proposed in the FIO data request it was determined that a five-ton truck bomb in an urban area would result in approximately \$14 billion in insured loss

TRIPRA of 2015 Implementation

- Federal Insurance Office -- Section 111 (Effectiveness Report)
 - Workers Compensation
 - Provides an overview of the workers compensation line
 - Discusses the unique impact of the terrorism risk on workers compensation
 - Identifies an inconsistency in the percent of workers compensation premium attributed to terrorism coverage reported to Treasury (2.8 percent) and what is reflected nationally (1.6 percent)

TRIPRA of 2015 Implementation

- Federal Insurance Office -- Section 111 (Effectiveness Report)
 - Report Conclusions
 - FIO found no evidence that terrorism coverage would be more available in the absence of the program
 - Insurance premiums would like increase without TRIP
 - Acknowledges that given the nature of the terrorism peril premiums are difficult to determine with actuarial precision

NAIC Terrorism Coverage Data Call

- NAIC Data Call
 - Background

 - NAIC Data Collection Approach
 - Bifurcation of Workers Compensation
 - Multiple Phase Approach
 - NCCI Single Solution for Workers Compensation

 - Coordination with non-NCCI States

Federal Focus on Workers Compensation

- Increased interest in workers compensation:
 - Letter from Congress to the USDOL
 - “State workers compensation laws are no longer providing adequate levels of support for workers injured on the job; instead, costs are being shifted to the American taxpayer to foot the bill.”
 - Federal Advisory Committee on Insurance (FACI)
 - “Workers compensation insurance is extremely important to the American economy and workers and will remain in this Committee’s workflow.” – FIO Director McRaith, August 6, 2015
 - Federal Insurance Office (FIO) 2015 Annual Report
 - “...these state-by-state differences raise important questions regarding the propriety of local standards.”

Social Security Disability Insurance (SSDI) Reform

- Enactment of SSDI Solvency Legislation
- SSDI Solutions Initiative recommendations:
 - eliminate the 15 states that are grand-fathered under the federal code to apply a reverse workers compensation offset
 - enact new Secondary Payer legislation that would require set-aside from workers compensation settlements to account for future SSDI program expenditures
- The SSDI Solutions Initiative DID NOT adopt a proposed recommendation advocating for national workers compensation standards

Medicare Set-asides (MSAs)

- HR 2649 (Reichert, WA)
 - Legislation to reform current MSA process
 - Representative Reichert Subcommittee Statement
 - UWC Hill Briefing
 - Congressional Budget Office (CBO) Scoring

QUESTIONS

