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M E M O R A N D U M

DATE: August 23, 2005

TO: Metropolitan King County Councilmembers

FROM: Cheryle A. Broom, County Auditor

SUBJECT: Performance Audit of King County Workers' Compensation Program

Attached for your review is the Workers' Compensation Performance Audit report. The primary objective of the audit was to identify reasons for the growth in county workers' compensation costs and determine whether the Office of Safety and Claims Management of the Human Resources Division is following best practices for controlling workers' compensation costs.

The general audit conclusion was that workers' compensation costs at the Transit Division of the Department of Transportation are significantly greater than other county agencies and other transit agencies in Washington, and that these high costs are attributable, at least in part, to an enhanced level of workers' compensation benefits provided in the collective bargaining agreement between King County and the Amalgamated Transit Union Local 587. The Office of Safety and Claims Management follows many best practices for controlling workers' compensation costs, but further efforts are needed.

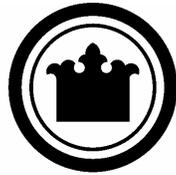
The Executive Response, included in the appendices, indicates agreement with the findings and concurrence with the recommendations of the audit.

The Auditor's Office sincerely appreciates the cooperation received from the Office of Safety and Claims Management's management and staff.

CB:LB:jl

PERFORMANCE AUDIT

**KING COUNTY WORKERS'
COMPENSATION PROGRAM**



King County

Presented to
the Metropolitan King County Council
Labor, Operations & Technology Committee
by the
County Auditor's Office

Cheryle A. Broom, King County Auditor
Ron Perry, Principal Lead Auditor
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Report No. 2005-02
August 23, 2005

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We conduct audits and studies that identify and recommend ways to improve accountability, performance, and efficiency of county government.

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We are committed to producing substantive work of the highest quality and integrity that results in significant improvements in accountability, performance, and efficiency of county government. We share a commitment to our mission, to our profession, and to a collaborative work environment in which we challenge ourselves to accomplish significant improvements in the performance of the King County Auditor's Office.



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The King County Auditor's Office provides oversight of county government

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TABLE OF CONTENTS

	<u>PAGE</u>
Executive Summary	iii
Chapters	
Chapter 1 Introduction	1
Chapter 2 Workers' Compensation Cost Elements, Cost Growth, and Cost Comparisons	5
Chapter 3 Assessment of Safety and Claims Management's Efforts to Control Costs	21
Exhibits	
Exhibit A Growth in Workers' Compensation Costs Has Exceeded the Growth in Claims	7
Exhibit B Workers' Compensation Costs Less Recoveries	8
Exhibit C Growth in Claims and Inflation Explain Only a Small Amount of Medical and Time-Loss Cost Growth	10
Exhibit D Transit Has the Highest Workers' Compensation Costs	11
Exhibit E Agencies with Highest Workers' Compensation Cost-Proportion of Claims Vs. Proportion of County FTEs	12
Exhibit F 2003 Workers' Compensation Costs per FTE	14
Exhibit G King County Transit Cost per FTE Still Much Higher After Adjusting for Differences in Salaries	16
Exhibit H Areas of Best Practice for Controlling Workers' Compensation Costs	23
Exhibit I Best Practices for Returning Injured Workers to Work	24
Exhibit J Best Practices for Controlling Medical Costs	28
Exhibit K Reductions to King County Workers' Compensation Medical Bills Per Washington Fee Schedule, 2000-2004	29
Exhibit L Best Practices for Promoting Workplace Safety	34
Exhibit M Best Practices for Managing Claims	39
Exhibit N Best Practices for Deterring and Investigating Fraud	44

Appendices

List of Findings, Recommendations & Implementation Schedule	51
Executive Response	55
Appendix 1 Sources of Best Practices	57

Abbreviations

ATU	Amalgamated Transit Union
CAFR	Comprehensive Annual Financial Report
DLI	Department of Labor and Industries
FTE	Full-time Equivalent
HRD	Human Resource Division
IME	Independent Medical Examination
SCM	Safety and Claims Management
WCRI	Workers' Compensation Research Institute
WSIA	Washington Self Insurers Association

EXECUTIVE SUMMARY

Workers' Compensation Covers Job-Related Injuries and Illnesses

Introduction

This performance audit of the county's self-insured workers' compensation insurance program was adopted with the Auditor's Office 2004/05 work program as a self-initiated study. Workers' compensation is insurance provided by employers to cover employees for job-related injuries and illnesses. It pays for the medical costs of job-related injuries or illnesses, and for wages lost for injured employees who are unable to work. County workers' compensation claims are managed by the Office of Safety and Claims Management (SCM) of the Human Resources Division of the Department of Executive Services.

This audit follows the 2004 Financial Audit of the Workers' Compensation Program, which found that the financial health of the Workers' Compensation Fund was deteriorating in that the fund balance was decreasing while the unfunded liability of current workers' compensation claims was increasing.

The purpose of this performance audit was to identify the reasons for the growth in workers' compensation costs, and to assess whether the SCM follows best practices in controlling workers' compensation costs.

General Conclusions

Workers' Compensation Costs Growing Rapidly

The cost of the county's workers' compensation program is growing rapidly. Between 2001 and 2004, workers' compensation costs increased by 36 percent while claims increased by only one percent.

The number and cost of claims for employees of the Transit Division of the Department of Transportation far exceeds those of other county agency employees as well as other transit agency employees in Washington State. The costs of claims for other

King County agency employees compares favorably to other local governments in Washington State. We conclude that the high cost of claims by Transit Division employees is attributable, at least in part, to an enhanced level of benefits provided for in the collective bargaining agreement between the county and the Amalgamated Transit Union Local 587. The enhanced benefit level may create a disincentive for injured Transit Division employees to return to work, thus increasing costs. Research suggests that enhanced benefit levels can lead to increased costs of the magnitude by which the Transit Division's costs exceed those of other county agencies and other transit agencies in Washington.

SCM Follows Many Best Practices for Controlling Costs, but Improvements Could Be Made

We also found that, in general, SCM manages claims in a timely manner and follows many best practices for controlling workers' compensation costs. However, SCM could implement additional best practices to improve performance. SCM could also verify that existing best practices are consistently followed by claims staff, and more thoroughly measure the effectiveness of its efforts to control workers' compensation costs.

To some extent, the cost of workers' compensation claims is outside the control of SCM. For example, state law or regulation determines benefit levels and payment amounts for lost wages. Further, state law allows injured workers the freedom of choice over the physician who treats their job-related injuries and illnesses. Physicians must authorize an injured worker's return-to-work. These factors may limit an employer's ability to control costs.

Audit Scope and Objectives

The scope of the audit was to assess the performance of King County's self-insured workers' compensation program.

The audit objectives were to:

- Compare the cost of King County's workers' compensation program to those of similar jurisdictions.
- Identify the reasons for growth in workers' compensation costs.
- Assess the extent to which the growth of workers' compensation costs is due to factors within or outside the control of the program and/or the county.
- Evaluate whether the SCM effectively uses performance measures to assess its own performance in managing claims and controlling cost growth.
- Assess whether the SCM follows best practices in promoting workplace safety and loss prevention, investigating and managing claims, managing costs of health care services, and facilitating injured workers' return-to-work.
- Develop recommendations, as appropriate, to improve the performance of King County's workers' compensation program.

Summary of Findings and Recommendations

**Workers'
Compensation Claims
Not Growing but Costs
Are**

- The number of workers' compensation claims filed by King County employees increased by one percent between 2001 and 2004. However, during the same period, the cost of workers' compensation claims increased by 36 percent. The amount of the cost increases substantially exceeds the combination of claims growth and inflation growth.
- The number and costs of claims filed by employees of the Transit Division within the Department of Transportation far exceeds those of other county agencies. Despite the large size of the agency, the cost of claims by Transit employees is disproportionately high, and is much higher than those of other large transit agencies in Washington State. These high costs may be attributable, at least in part, to an enhanced

level of workers' compensation benefits provided to members of the Amalgamated Transit Union Local 587 in its collective bargaining agreement with the county.

- SCM effectively manages claims in accordance with the timeliness and accuracy standards of the state Department of Labor and Industries (DLI). Claims management staff are experienced professionals supported by a good management information system. Many best practices for controlling workers' compensation costs are in place. However, in some areas, SCM does not have uniform practices in place to control costs, does not verify that the practices are used in all instances, and does not evaluate and/or measure the performance of the cost controls that are in place. In general, the organization monitors its performance as a whole and the performance of individual staff on adherence to claims processing standards. There are relatively few performance measures or other monitoring activities that track the organization's effectiveness in controlling costs or returning injured workers to work in a timely way.
- The report recommends that the county consider aligning the time-loss benefit in the transit workers' collective bargaining agreement to make it more comparable to other county bargaining units.
- The report makes eight other recommendations for promoting further compliance with best practices for enhancing worker safety, managing claims, controlling medical costs, improving timely return-to-work, and deterring and investigating fraud.

Methodology

We compared workers' compensation costs per full-time equivalent (FTE) among county agencies and to other general local governments in Washington State. Because few general local governments operate transit agencies, we also compared

the workers' compensation costs per FTE of King County Metro Transit to other transit agencies in Washington State. We identified workers' compensation costs from the Comprehensive Annual Financial Report (CAFR) of the other governments and transit agencies. If the CAFR did not identify workers' compensation costs, we obtained cost data from agency financial management staff. We obtained FTE counts from the published budget documents of the organization or from the financial management staff. In comparing of King County Metro Transit's workers' compensation costs to other transit agency costs, we adjusted the data to reflect salary differences among transit agencies.

We compared the growth in workers' compensation costs to the growth in claims and also to underlying inflation in major cost elements (e.g., medical costs) to identify whether costs were escalating faster than claims and inflation.

We attempted to identify the extent to which cost growth is due to controllable or uncontrollable factors by identifying those factors that are relatively uncontrollable (e.g., inflation in medical costs and employee salaries, changes to state-mandated benefit levels) versus those factors that are relatively controllable (number of claims, amount of time lost per claim), and attributed the proportion of cost growth to these factors.

We identified best practices by conducting a literature review and by interviewing workers' compensation experts. We identified SCM practices through interviews and reviewing policies and procedures. SCM practices were then compared to best practices.

Scope of Work on Internal Controls

Internal controls relevant to the audit objectives were assessed. These included reviewing claims management policies and procedures, return-to-work policies and procedures, safety program policies and procedures, business plans and performance measures.

Summary of Executive Response

The County Executive concurred with the audit recommendations. See the appendices section for the complete text of the Executive Response.

Acknowledgement

We thank the staff from the Office of Safety and Claims Management for their responsiveness and assistance to the auditors. Also, we appreciate the assistance we received from the Transit Division of the Department of Transportation.

1 INTRODUCTION

Overview of Washington Workers' Compensation Law

Workers' compensation is insurance that covers workers for job-related injuries or illnesses. Almost all employers in Washington State, as well as all other states, are required by law to provide workers' compensation coverage for their employees. In Washington State, employers can provide workers' compensation coverage by insuring through the state fund, which is managed by the State Department of Labor and Industries (DLI). Larger employers may self insure under the regulation and oversight of DLI. King County self insures for workers' compensation.

Workers' Compensation Pays for Medical Costs and Lost Wages

Workers' compensation insurance covers not only the medical costs of injuries or illnesses incurred on the job, it also provides what are known as indemnity benefits. Indemnity benefits provide cash payments to injured workers to replace a portion of the wages lost (time-loss) when an employee is unable to work due to a job-related injury or illness. Additionally, indemnity benefits provide cash payments to injured employees for injuries that result in permanent partial disability, or ongoing cash payments to workers who are permanently disabled and unable to work due to job-related injuries or illnesses.

To a significant extent, the amount and cost of workers' compensation benefits are established by state law or regulation. State law establishes the minimum amount of indemnity benefits provided to injured workers (e.g., time-loss amounts, schedule for one-time permanent partial disability awards). Further, the DLI establishes the fee schedule for payments to medical providers who treat injured workers.

Physicians Have a Major Influence on Costs**Role of Physicians**

Physicians and other health care providers play a significant role in the workers' compensation system. State law requires that injured workers covered by workers compensation have freedom of choice in selecting an attending physician. The employer cannot require an injured worker to return to work without the attending physician's approval. Therefore, physicians play an important role in the system, in that they determine when an injured worker is able to return to work, and the ultimate expenses incurred for workers' compensation claims.

The decisions of the attending physician can only be challenged by a process involving the use of outside medical professionals. This process may take a considerable amount of time, and may be costly.

Overview of King County's Self-Insured Workers' Compensation Program

King County's self-insured workers' compensation program is managed by the Office of Safety and Claims Management (SCM) within the Human Resources Division of the Department of Executive Services. County agencies pay annually into the Workers' Compensation Fund.

SCM manages the countywide safety program (although the Transit and Wastewater Treatment Divisions also operate their own safety programs), processes the claims of injured workers, makes payments to medical providers, pays indemnity benefits to injured workers, and attempts to facilitate the injured worker's return-to-work.

Findings and Recommendations of the 2004 Workers' Compensation Financial Audit

This performance audit follows a financial audit of the Workers' Compensation Fund conducted in 2004. The major findings of the financial audit included:

- The fund balance in the Workers' Compensation Fund was inadequate to cover the future liability of current claims, and the deficit was increasing.
- The amount of the fund balance deficit reported in the county's financial statements significantly understated the full actuarial liability of current claims.
- Internal controls over handling of workers' compensation funds were generally adequate.
- Workers' compensation rates for the Transit and Wastewater Treatment Divisions are set based on the claims experience of the agency as a whole, rather than by determining risk classifications for different jobs and by basing rates on the number of employees in each risk classification, as is the case for all other county agencies.

The financial audit recommended that SCM develop a multi-year plan to reduce the unfunded liability in the workers' compensation fund. The county should also reflect the full actuarial liability of the fund in its financial statements, and that the premiums for Transit and Wastewater Treatment Divisions be based on employee risk classifications.

A separate follow-up to the 2004 financial audit is planned for later in 2005.

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2 Workers' Compensation Cost Elements, Cost Growth, and Cost Comparisons

Chapter Summary

This chapter reviews data on the increased costs of King County's workers' compensation program, compares cost growth to inflation, compares costs among King County agencies, and compares King County's workers' compensation costs with those of other local governments in Washington State.

Summary of Findings

Costs Are Growing Rapidly...

The costs of King County's workers' compensation program increased from \$13.8 million in 2001 to \$18.8 million in 2004, a growth of 36 percent. During this same period, the number of workers' compensation claims grew by just one percent.

...but Claims Are Not

Most of the growth in costs can be attributed to a higher cost per claim versus a higher number of claims. The growth in workers' compensation costs far exceeds the growth in medical provider rates established by the state Department of Labor and Industries (DLI), and the growth in average employee salaries (time-loss payments are a function of the salary of the employee receiving time-loss payments).

Among King County agencies, the Transit Division has the highest number of claims, the highest proportion of claims per FTE, the highest proportion of claims involving time-loss, and the highest proportion of the claims involving time-loss that exceeds 100 days, which are the highest cost claims. When comparing King County's workers' compensation costs per FTE with other jurisdictions, King County (excluding Transit) compares favorably with other local governments in Washington State. However, Transit Division's workers' compensation costs per FTE are

considerably higher than costs per FTE in other county agencies and other large transit agencies in Washington.

**Enhanced Benefit
Provided in Bargaining
Agreement...**

**...Likely Leads to
Higher Costs**

One explanation for Transit's high costs may be the unique workers' compensation provisions of its collective bargaining agreement with Local 587 of the Amalgamated Transit Union (ATU). That agreement provides an enhanced level of time-loss benefits that exceeds the amount of time-loss benefits provided for in state law. Research suggests that such an enhanced benefit can result in higher costs of the magnitude by which King County Transit's costs exceed those of other transit agencies. The higher benefit for Transit employees not only adds costs in and of itself (since the time-loss payment rate is higher), but may also create a disincentive for injured workers to return to work. Other anecdotal explanations were offered for Transit's high costs but did not bear out when data was available to test them.

Summary of Recommendations

The county should consider negotiating with ATU Local 587 to better align the time-loss benefit for Local 587 members with the benefit provided to other county bargaining units for the purpose of mitigating a potential disincentive to returning to work.

GROWTH OF WORKERS' COMPENSATION COSTS

Exhibit A illustrates the growth in King County's workers' compensation costs between 2001 and 2004. It also compares the growth in workers' compensation costs with the growth in claims. Workers' compensation costs increased by 36 percent between 2001 and 2004 while the number of workers' compensation claims increased by one percent.

EXHIBIT A					
Growth in Workers' Compensation Costs Has Exceeded the Growth in Claims					
	2001	2002	2003	2004	Percent Growth
Medical Costs (1)	\$4,773,299	\$5,170,274	\$5,431,056	\$6,471,639	36%
Pharmacy Costs (2)	235,118	257,036	233,058	332,388	41%
Indemnity Costs (3)	8,207,101	9,353,373	10,202,147	11,345,458	38%
Investigations/Legal Costs (4)	71,811	137,163	41,959	125,099	74%
Vocational Rehabilitation Costs (5)	426,592	287,935	357,810	495,343	16%
Other Costs (6)	125,740	30,448	45,454	35,146	-72%
Total	\$13,841,662	\$15,238,231	\$16,313,487	\$18,807,076	36%
Number of Claims	1,527	1,578	1,625	1,538	1%

Notes:

- (1) Medical costs are payments to medical providers such as physicians, hospitals, physical therapists, and chiropractors for treatment of injured workers.
- (2) Pharmacy costs are payments to pharmacies for drugs provided to injured workers.
- (3) Indemnity costs are cash payments to injured workers for temporary total disability (time-loss), temporary partial disability (loss of earnings power), permanent partial disability, and permanent total disability.
- (4) Investigations/legal costs include payments for investigations of questionable claims, and for other legal expenses (e.g., court reporters) associated with such investigations.
- (5) Vocational rehabilitation costs are payments to vocational rehabilitation providers to train or otherwise assist injured workers in becoming re-employed.
- (6) Other costs are miscellaneous costs (e.g., computer enhancements or contracting costs) not coded in other categories.

SOURCE: Data provided by the Office of Safety and Claims Management.

We note that some workers' compensation costs are offset by recovery of expenses from third parties. For example, if a county employee is injured in an automobile accident and the other party to the accident is at fault, the county can recover some of the cost of the claim from the other driver's insurance company. SCM along with Risk Management is responsible for pursuing such recoveries and has been increasingly successful, as illustrated in Exhibit B.

EXHIBIT B				
Workers' Compensation Costs Less Recoveries				
	2001	2002	2003	2004
Total Workers' Compensation Costs	\$13,841,662	\$15,238,231	\$16,313,487	\$18,807,076
Less Recoveries	(267,637)	(987,462)	(823,332)	(1,221,051)
Net Workers' Compensation Costs	13,574,025	14,250,769	15,490,155	17,586,024
Percent of Workers' Compensation Costs Recovered by Third Parties	1.9%	6.5%	5.0%	6.5%

SOURCE: Data from the Office of Safety and Claims Management.

Comparison of Workers' Compensation Cost Growth to Inflation

Because medical costs and time-loss costs comprise approximately 68 percent of total workers' compensation costs, we compared these cost categories to inflation. We found that the growth in county workers' compensation medical costs and time-loss costs was significantly greater than inflation.

Growth in Claims Costs Far Exceeds Inflation

Reimbursements to medical providers to care for injured workers are based on a fee schedule established by the DLI. The schedule determines the maximum rates paid for thousands of different medical procedures. The rates for each procedure are adjusted each year by the DLI. DLI states that the growth in provider rates is based on the overall economic growth in the state, so the growth in rates was relatively small between 2001 and 2004. According to data provided by the DLI, the cumulative growth in provider rates between 2001 and 2004 was five percent. This compares to the 36 percent increase in King County's payments to medical providers during the same period.

Time-loss payments to workers are based on the salary of the injured worker because the time-loss payment rate is a percentage of the injured workers' salary. To identify the portion of time-loss payment growth that is attributable to inflation in

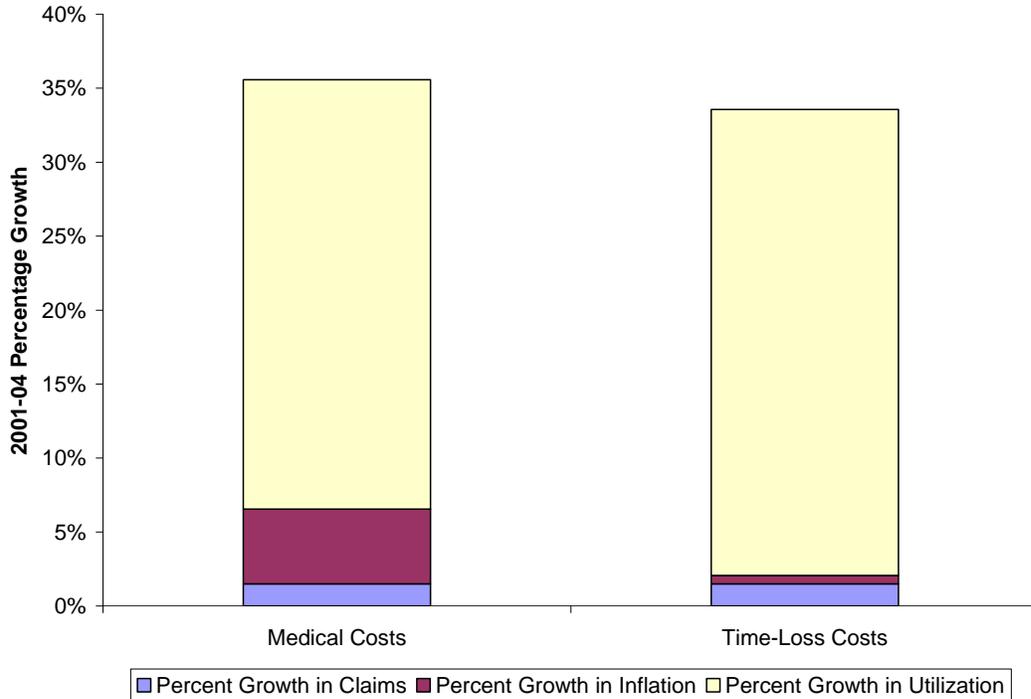
employee salaries, we calculated the average cost per time-loss day by dividing the total amount of time-loss payments each year by the number of days of time-loss paid in that year. Based on that calculation, the average cost per time-loss day has increased by only one percent between 2001 and 2004. King County's time-loss payments to injured workers increased by 34 percent during that period.

Comparison of Medical and Time-Loss Costs, Claims, and Inflation

**Cost Growth
Attributable to Higher
Utilization Per Claim,
Not More Claims or
Inflation**

Most of the growth in medical and time-loss costs is attributable to higher amounts of medical services or days of time-loss (higher utilization) per claim, rather than to growth in claims or inflation. Exhibit C identifies the amount of growth in medical and time-loss costs that is attributable to higher utilization (of medical services or time-loss days) per claim. As illustrated by Exhibit C, only a small amount of the growth in medical and time-loss costs is attributable to the growth in the number of claims or inflation.

EXHIBIT C
Growth in Claims and Inflation Explain Only a Small Amount of Medical and Time-Loss Cost Growth*



* Percent Growth in Claims is the percentage growth in the number of claims.
 Percent Growth in Inflation is the portion of growth in medical and time-loss costs that is solely attributable to inflation.
 Percent Growth in Utilization is the percentage growth in medical or time-loss costs not explained by the growth in claims or growth in inflation.

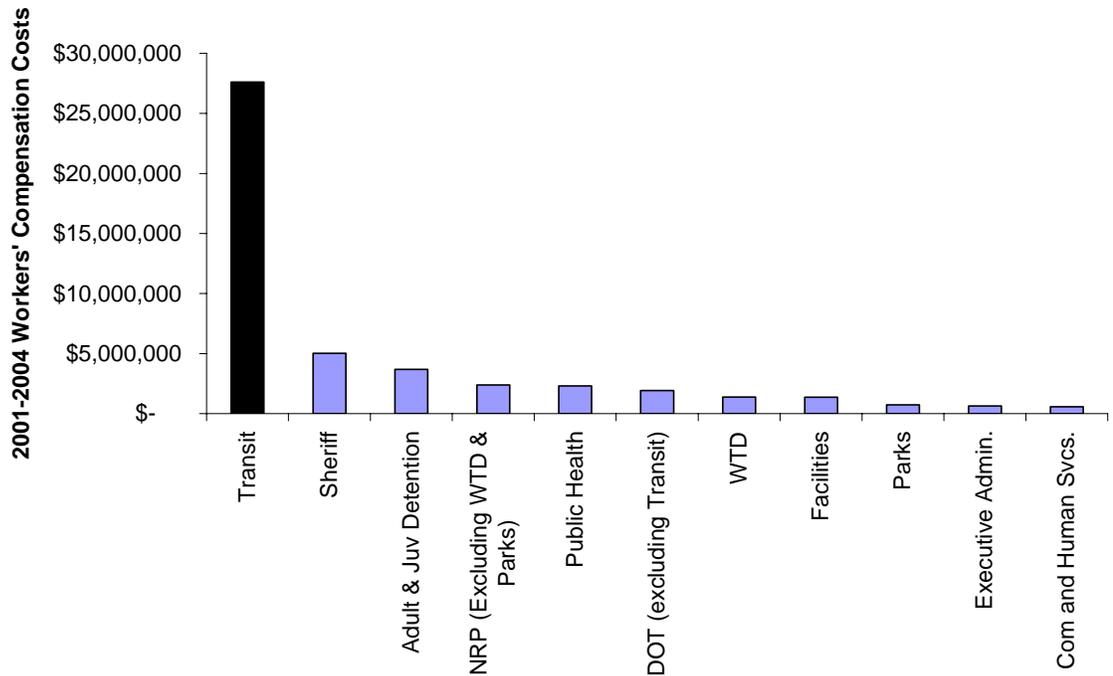
SOURCE: King County Auditor's Office analysis of data from the Office of Safety and Claims Management and from the state Department of Labor and Industries.

COMPARISONS OF WORKERS' COMPENSATION CLAIMS AND COSTS AMONG COUNTY AGENCIES

In this section, we compared the number and costs of workers' compensation claims among county agencies. As illustrated in Exhibit D, the Transit Division of the Department of Transportation has by far the highest workers' compensation costs among county agencies.

EXHIBIT D

Transit Has the Highest Workers' Compensation Costs



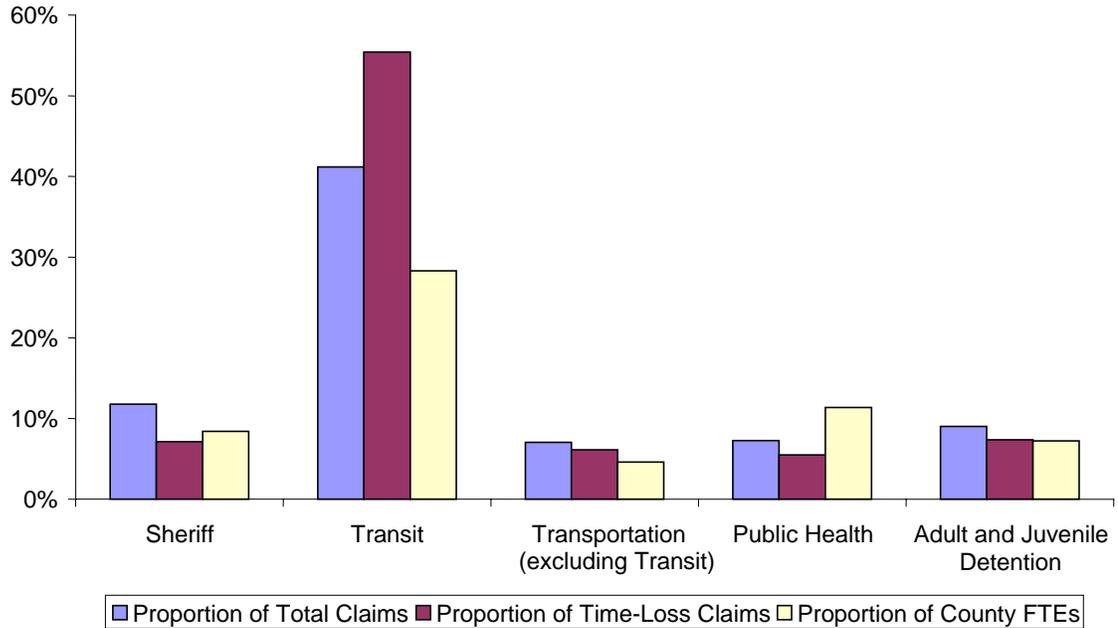
SOURCE: The Office of Safety and Claims Management.

With over 3,600 of the approximately 13,000 FTEs employed by King County, the Transit Division is also the largest county agency by far. However, relative to its number of FTEs, Transit has a disproportionate number of claims. Claims involving time-loss are costlier than medical-only claims.

Transit's share of time-loss claims is even more disproportionate to its number of employees. Exhibit E illustrates a comparison of the number of claims and time-loss claims for the five county agencies with the highest workers' compensation costs.

EXHIBIT E

Agencies with Highest Workers' Compensation Cost Proportion of Claims Vs. Proportion of County FTEs



SOURCE: The Office of Safety and Claims Management

For County Employees, Transit's Workers' Compensation Costs Disproportionately High

Exhibits D and E illustrate that the Transit Division has by far the highest workers' compensation costs among county agencies, and has a disproportionate number of claims and time-loss claims, relative to its number of FTEs. Claims from Transit employees also are disproportionate in several other areas:

Employees of the Transit Division make up 28 percent of countywide FTEs, yet are generating:

- 41 percent of countywide claims
- 55 percent of countywide time-loss claims
- 61 percent of the highest-cost claims involving 100 or more days of time-loss
- 56 percent of countywide workers' compensation costs

- 81 percent of the growth in countywide time-loss days between 2000 and 2004

Further, among county agencies, Transit has the highest proportion of total claims that involve time-loss (64 percent). No other county agency has more than 50 percent of claims that involve time-loss. The median number of days of time-loss per time-loss claim for Transit (22 days) is also the highest among county agencies.

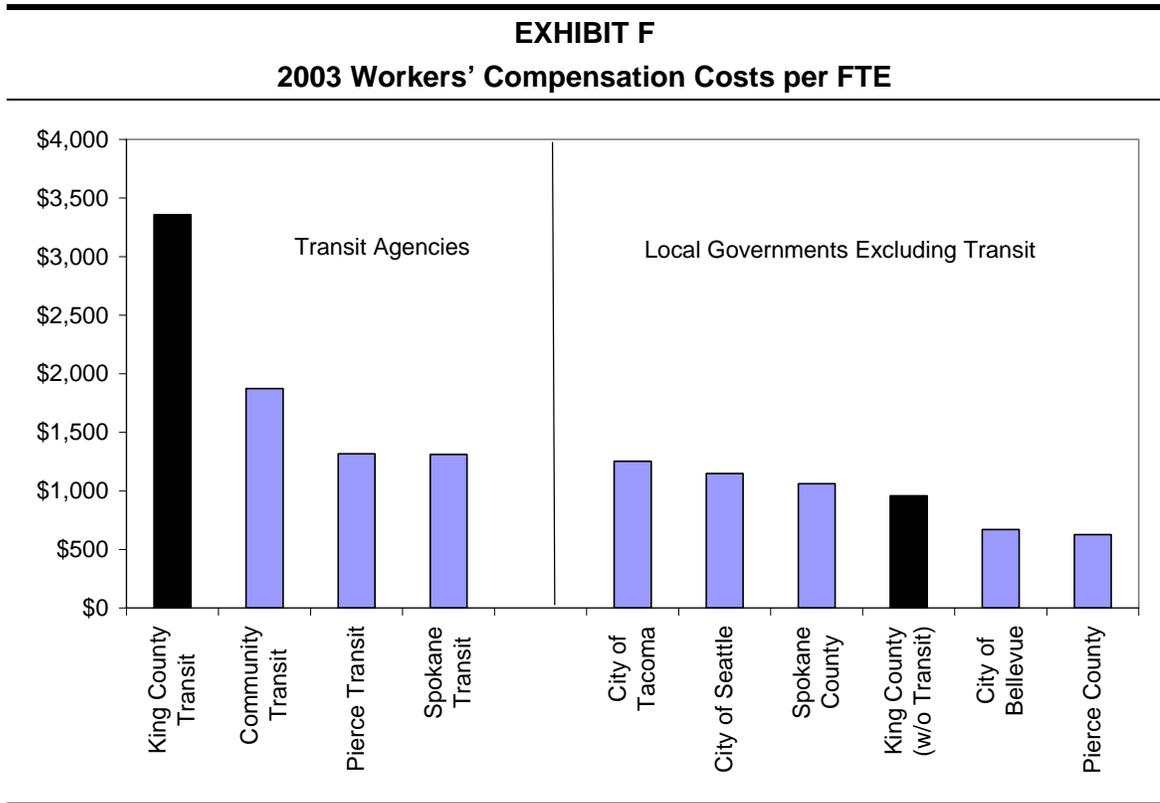
With the highest proportion of claims involving time-loss, and the highest number of days of time-loss per time-loss claim, Transit has by far the highest median number of days of time-loss for *all claims* (time-loss and medical only claims combined) among county agencies. Transit's median number of days of time-loss for *all claims* is six days. For most county agencies the same figure is zero days, and no other county agency has a higher median than one day. This shows that there is a significant difference in the pattern of claims from employees of the Transit Division in comparison to all other county agencies.

Comparisons of Workers' Compensation Claims Costs With Other Governments

Transit's Costs High Compared to Other Large Transit Agencies in Washington

Comparisons with other local governments in Washington confirm Transit's high workers' compensation costs. Because no other general local government operates a transit agency, and because King County Transit's costs are higher than other county agencies' costs, we separated Transit from the remainder of King County, and compared Transit to other transit agencies, and the remainder of King County to other general-purpose local governments in Washington.

Exhibit F illustrates that King County Transit's workers' compensation costs per FTE were substantially higher than other transit agencies in Washington, while the remainder of King County compared relatively favorably to other general governments.



SOURCE: Financial statements, budget documents, and other data provided by each agency.

Potential Explanations for Transit's High Costs

Due to the extent to which King County Transit's workers' compensation costs are substantially higher than other county agencies, and substantially higher than other transit agencies, we asked representatives from SCM, King County Transit management, and the Amalgamated Transit Union Local 587 to identify factors that might help explain the difference. Several hypotheses were offered. For example, it was suggested that King County Transit pays higher salaries, which leads to higher costs because time-loss costs are a function of salaries. It was

also suggested that claims are high for trolley operators, because they often have to make physically difficult maneuvers to reattach disconnected trolley poles. Another suggestion was that assaults against transit operators are higher in King County, or that Transit management does not pay enough attention to bus driver's complaints about vehicle maintenance issues. However, supporting data was not available to confirm most of these hypotheses.

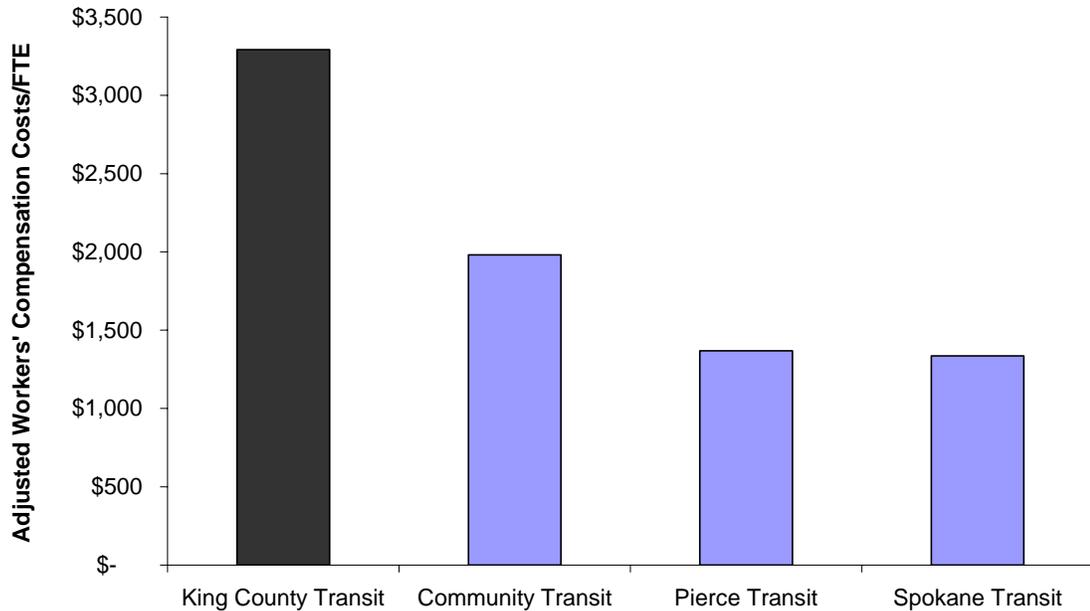
We found data to test two of the hypotheses. We tested the premise that King County Transit's costs are affected by a high level of assaults by identifying the cost of Transit's claims associated with physical altercations, verbal altercations, and assaults and comparing that amount with total claims costs. We found that such costs represent only four percent of Transit's total claims costs. Even if these costs were removed, Transit's costs would still be substantially higher than workers' compensation costs in other transit agencies and other county agencies.

We also tested the hypothesis that Transit's high workers' compensation costs were due to higher salaries paid by Transit. We found that higher salaries didn't make much of a difference either. Exhibit G shows a comparison of Transit's workers' compensation costs per FTE after adjusting for differences in salaries¹ paid by different transit agencies.

¹ We used salary data for each agency from the U.S. Department of Transportation's National Transportation Database to adjust time-loss costs for differences in salaries among the transit agencies.

EXHIBIT G

King County Transit Cost per FTE Still Much Higher After Adjusting for Differences in Salaries



SOURCE: Financial statements, budget documents, other data provided by each agency, and information from U.S. Department of Transportation's National Transportation Database.

Enhanced Workers' Compensation Benefit Provided in Collective Bargaining Agreement

Provisions of ATU Local 587 Contract

Another potential explanation for Transit's high costs is a provision in Transit's collective bargaining agreement with the Local 587 of the Amalgamated Transit Union. The bargaining agreement provides an enhanced time-loss benefit compared to other collective bargaining units, both within the county, and for the other transit agencies in Washington. The time-loss benefit for Local 587 members is 100 percent of salary for the first 60 working days of time-loss, 90 percent of salary for the next 60 working days, and 80 percent of salary for the next 140 working days of time-loss. Sick leave benefits can also be used to supplement workers' compensation benefits. For example, during the 60 working-day period in which an injured worker is at the 90 percent of salary amount, the employee can use 1/10th of a sick day each day in order to receive 100 percent of salary.

Thus, an injured Local 587 member can receive 100 percent of salary while on time-loss for 120 working days by using six days of sick leave. Because workers' compensation benefits are not subject to federal income tax, an injured worker on time-loss at 100 percent of salary can realize higher take-home pay than while working.

**Degree of
Enhancement Unique
Among County
Bargaining Units**

The enhanced time-loss provisions of the Local 587 bargaining agreement are unique among King County agencies and the other transit agencies in Washington. Most collective bargaining agreements have no enhanced workers' compensation benefits. While a few other bargaining units do have enhanced time-loss provisions in their contracts, they do not match the level of enhancement of the Local 587 contract.

**Potential Incentives of Local 587 Contract Time-Loss
Benefit**

**Enhanced Benefit May
Create a Disincentive
to Return to Work**

The enhanced time-loss benefit of the Local 587 contract may create a disincentive for some injured workers to return to work or an incentive to file for workers' compensation benefits for non-job related injuries or conditions. As previously mentioned, the workers' compensation benefits for Local 587 members are not only higher than those for other county agencies and other transit agencies, but also exceed the state-mandated benefit level.

We were unable to directly test the hypothesis that the enhanced time-loss benefit for Local 587 members leads to higher utilization of workers' compensation benefits. However, we note that research from the Workers' Compensation Research Institute (WCRI)² found that greater levels of workers' compensation benefits leads to higher costs in two ways:

² The Workers' Compensation Research Institute is an independent, not-for-profit research organization providing objective information about public policy issues involving workers' compensation issues.

- The direct cost of the higher benefit.
- Increased utilization of benefits.

**Research Indicates
Enhanced Benefits
Increase Costs**

The institute's research suggests a general rule that a 10-percent increase in benefits would increase costs by 15 percent; 10 percent due to the higher cost of the benefit and five percent due to increased utilization. Given that the time-loss benefit amount for Local 587 members is as much as 40 percent above the amount for other county and transit agencies, the WCRI study would suggest Transit's costs could be as much as 60 percent higher due to the higher time-loss benefit. This could explain much of the cost differences between Transit and other agencies.

Conclusions

King County Transit's workers' compensation costs per FTE are substantially higher than other transit agencies or local governments in Washington. The higher costs are not explained by differences in salaries or the prevalence of assaults or altercations. Time-loss days are growing more quickly for Transit employees than for the remainder of the county. Both SCM and Transit management staff have suggested that the high costs may be attributable to the enhanced level of time-loss benefits provided in the collective bargaining agreement with Local 587. Research suggests that higher benefit levels could result in greater costs of the magnitude that Transit's workers' compensation costs exceed other transit agencies in Washington. Therefore, we conclude that the enhanced Local 587 time-loss benefit is a likely explanation for at least some of the higher workers' compensation costs at King County Transit.

RECOMMENDATION 1 In order to mitigate the potential disincentive for injured transit employees to return to work, the Human Resources Division should consider realigning the time-loss benefit for Local 587 to a level that is more comparable to other county bargaining units during negotiations of its next contract with ATU Local 587. We recognize that this benefit change would need to be negotiated within the broader context of the entire compensation package for Local 587 members, and that the unit is subject to interest arbitration.³

³ Interest arbitration is used to determine the provisions of a new contract when the parties to the contract are unable to agree.

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3 Assessment of Safety and Claims Management's Efforts to Control Costs

Chapter Summary

In light of the growth in workers' compensation costs as detailed in the previous chapter, this chapter explores whether the Office of Safety and Claims Management (SCM) is following best practices in managing claims. The focus of this review was on practices that are aimed at controlling costs.

Summary of Findings

SCM Meets Claims Processing Standards

We compared SCM practices to state standards and recognized best practices. Our analysis found that SCM is mostly meeting the standards of the state Department of Labor and Industries (DLI) for timely and accurate claims processing. However, DLI claims processing standards are mostly oriented toward timely and accurate claims processing; not directly toward controlling costs. Therefore, compliance with DLI standards does not necessarily mean the best practices for cost control are in place.

Claims management caseloads are reasonable and SCM is keeping pace with the caseload. Claims management staff are experienced professionals.

From our literature review, we found five general areas where efforts can be made to control workers' compensation costs. These areas are discussed below. We found that SCM has many best practices in place for controlling costs, and these have resulted in proven cost savings.

But some practices are not in place. We also noted some informality in policies and procedures promoting the use of best practices, and a lack of measurement of the effectiveness of cost control efforts that are in place.

Costs Growing in Spite of Cost Controls

Further, King County's experience of medical and time-loss costs growing more quickly than the combination of claims growth and inflation suggests that more efforts are needed to control costs. This may be particularly so for claims from the Transit Division, as Transit's claims costs are substantially higher than other county agencies or transit agencies. Cost control efforts for claims from other county agencies may be more effective, in that the workers' compensation costs of the county excluding Transit compare favorably with costs for other local governments.

Summary of Recommendations

We present eight recommendations in this chapter to facilitate further compliance with best practices in promoting worker safety, managing claims, controlling medical costs, facilitating return-to-work, and deterring and investigating fraud.

Controllable Versus Uncontrollable Costs

It is important to note that there are limits to what an individual employer can do to control workers' compensation costs. In spite of efforts to improve worker safety, accidents still happen. Benefit levels and provider payment rates are established by state law or regulation. State law establishes the right to file a claim and prohibits the restriction of freedom of choice over physicians. If a physician does not certify that an injured worker is able to return to work, an employer cannot attempt to overturn this decision without a time-consuming and costly process of independent medical examinations. Decisions made by the employer can be appealed to the DLI and to the Board of Industrial Insurance Appeals. Therefore, to some extent, control

over workers' compensation costs is outside the control of the employer. The following discussion focuses on practices that SCM can or could control.

Areas of Best Practices and Their Relationship to Controlling Costs

We identified five areas of best practices which can play an important role in controlling workers' compensation costs. These areas are summarized in Exhibit H.

EXHIBIT H	
Areas of Best Practice for Controlling Workers' Compensation Costs	
Area of Best Practice	Relationship to Controlling Costs
Returning injured workers to work	Ensuring that injured workers return to work when appropriate, either in light-duty jobs or to the job of injury, can minimize the cost of paying for time-loss.
Controlling medical costs	Practices to ensure that only appropriate medical services are provided to injured workers, at an established price, can help to control medical costs.
Promoting workplace safety	Reducing the number or severity of accidents has a direct relationship with controlling workers' compensation costs.
Managing claims in a timely and effective manner	Minimize the duration of the claim and time-loss payments through timely and effective claims management.
Deterring and investigating fraud	Instituting practices to ensure that workers' compensation funds only pay for necessary costs associated with legitimate job-related injuries and illnesses can minimize costs associated with fraudulent claims or inappropriate services.

SOURCE: King County Auditor's Office best practices research. See Appendix 1, Sources of Best Practices.

RETURNING INJURED WORKERS TO WORK

The cost of paying workers for time-loss due to job-related injuries or illnesses represents about 35 percent of total workers' compensation costs in King County. Research indicates that early return-to-work is one of the most effective ways of controlling workers' compensation costs.

Best Practices for Returning Injured Workers to Work

We identified five best practices for returning injured workers to work. These practices, and a summary of our assessment of SCM's (or the county's) adherence to them are described in Exhibit I.

EXHIBIT I		
Best Practices for Returning Injured Workers to Work		
Best Practice	Assessment of SCM (or Countywide) Compliance	Comment
1. Return-to-work program in place	In compliance	SCM has a program, and policies and procedures are in place.
2. Set and update return-to-work goals on virtually every case	Partially in compliance	SCM establishes claim reserves which is an estimate of the ultimate cost of the claim. Implicit in this calculation is an assumption concerning the number of days of time-loss.
3. Establish a strong relationship with medical providers	Partially in compliance	SCM communicates with physicians about job requirements, but return-to-work goals are not routinely established or monitored with physicians.
4. Ensure light duty jobs are available when needed	Partially in compliance	Sometimes there is a waiting list for light duty jobs.
5. Create financial incentives for employers to accept workers on light duty	Partially in compliance	Transit pays other departments to accept their employees on light duty jobs. Other agencies do not.

SOURCE: King County Auditor's Office best practices research. See Appendix 1, Sources of Best Practices.

Discussion of Compliance With Best Practices for Returning Injured Workers to Work

Best Practice #1: Have a Return-to-Work Program in Place

A good return-to-work program has established policies and procedures, clear expectations, and expected timelines. SCM has a return-to-work program in place with established policies and procedures. SCM worked with the County Executive to secure a transitional duty policy in which agencies are asked to

identify light duty jobs. Disability Services Unit in SCM provides job accommodation and job reassignment to injured workers. This may involve looking for transferable skills and/or providing vocational rehabilitation services.

Performance in Meeting Return-to-Work Goals Is Not Monitored

Best Practice #2: Set and Update Return-to-Work Goals on Virtually Every Case

Establishing and monitoring return-to-work goals allows for the measurement of the effectiveness of return-to-work efforts. While claims staff make an assumption for an expected return-to-work date when setting reserves on a claim, performance against these assumptions is not tracked.

Best Practice #3: Establish a Strong Relationship With Medical Providers

The attending physician must approve the return-to-work of an injured employee. Communicating job requirements to the physician, establishing return-to-work goals with the physician, and following up with the physician on the achievement of those goals can facilitate an early return-to-work.

SCM communicates with physicians to facilitate return-to-work. Physicians are requested to fill out a form suggesting approval for gradual return-to-work or light duty at the first or second payment of time-loss. For light-duty assignments other than a clerk, a description of the requirements of the light duty job is sent to the physician. Job requirements of the employee's permanent job are also sent to the physician. However, the return-to-work policies and procedures do not include setting a return-to-work goal with the physician.

Best Practice #4: Ensure Light Duty Jobs Are Available When Needed

Light duty jobs are an important transition for workers who are not ready to return to their previous job but are capable of working. Light duty jobs keep workers in the habit of coming to work which is an important factor in a successful return-to-work. SCM works with county agencies to establish light duty jobs. According to SCM staff, there is, at times, a waiting list for light duty assignments.

Best Practice #5: Create Financial Incentives for Employers to Accept Workers on Light Duty

Financial incentives can provide additional motivation for employers to find light duty assignments for injured workers. Transit pays other county departments \$12 per hour to accept Transit employees on light duty assignments. No other department pays to place their light-duty employees with other departments.

Effectiveness of SCM's Return-to-Work Efforts

**Days of Time-Loss
Increasing...**

SCM has made progress in promoting light duty assignments. The number of days of light duty worked by county employees increased from 12,279 in 2000 to 15,564 days in 2004. SCM worked with the County Executive to secure a transitional duty policy, which was adopted in June of 2004. Nevertheless, the number of days of time-loss has increased by a much greater percentage than the number of claims, particularly for Transit claims. SCM's performance measures include setting a target and monitoring the total number of days of time-loss per year, so some information is monitored concerning the effectiveness of return-to-work efforts. However, while SCM has established targets for reducing the total number of time-loss days, the number of time-loss days has continued to increase.

**...Despite Targets for
Reducing Time-Loss**

Conclusions Concerning Return-to-Work Efforts

SCM follows several return-to-work best practices and has made progress in promoting light duty assignments. However, SCM does not routinely monitor return-to-work for each case, and SCM has not met its targets for reducing the number of time-loss days.

RECOMMENDATION 2

In order to better facilitate timely and appropriate return-to-work of injured employees, SCM should:

- Monitor whether the return-to-work goal established for each case is met, and update the goal if necessary.
 - More thoroughly evaluate the effectiveness of return-to-work efforts, and investigate the reasons why days of time-loss are increasing.
-

CONTROLLING MEDICAL COSTS

Medical benefits are a sizable component of the workers' compensation system. For King County, medical and pharmaceutical benefits comprise 37 to 39 percent of total workers' compensation benefits between 2001 and 2004, and have grown by 36 percent during this period.

Summary of Comparison of SCM to Best Practices for Controlling Medical Costs

We identified five best practices for controlling medical costs. These practices, and a summary of our assessment of SCM's (or the county's) adherence to them are described in Exhibit J.

EXHIBIT J

Best Practices for Controlling Medical Costs

Best Practice	Assessment of SCM (or Countywide) Compliance	Comment
1. Fee schedules	In compliance	SCM uses the fee schedule established by the state Department of Labor and Industries.
2. Bill review	In compliance	Bill review is automated.
3. Utilization review	Partially in compliance	Utilization review is conducted, but in some instances formal procedures do not exist.
4. Treatment guidelines	In compliance	Treatment guidelines established by the state Department of Labor and Industries are used, and SCM states claims management staff are expected to follow them.
5. Restricted networks/managed care	Partially in compliance	SCM makes some use of restricted networks, but opportunities for further use are available.

SOURCE: King County Auditor's Office best practices research. See Appendix 1, Sources of Best Practices.

**Discussion of Compliance With Best Practices for
Controlling Medical Costs**

**Use of Fee Schedule
Reduces Costs**

Best Practice #1: Fee Schedules

Fee schedules are prescribed amounts or maximum amounts that may be paid for particular medical procedures. For example, many states (including Washington) have adopted a fee schedule that sets the amounts that care providers can charge for thousands of particular services. SCM uses Washington's fee schedule to adjust medical bills received from providers. Exhibit K shows the effect of this adjustment:

EXHIBIT K				
Reductions to King County Workers' Compensation Medical Bills per Washington Fee Schedule, 2000-2004				
	Billed	Paid	Savings	Reduction
2000	\$6,083,376.33	\$4,291,197.96	\$1,792,178.37	29.5%
2001	7,961,317.20	5,077,965.07	2,883,352.14	36.2%
2002	9,223,522.96	5,453,297.31	3,770,225.65	40.9%
2003	8,853,027.36	5,482,501.70	3,370,525.66	38.1%
2004	10,501,103.39	6,352,373.84	4,148,729.55	39.5%
Total	\$42,622,347.24	\$26,657,335.88	\$15,965,011.37	37.4%

SOURCE: The Office of Safety and Claims Management.

While SCM does not actively negotiate down from the fee schedule, if a physician has billed less than what the fee schedule allows, the physician is paid the amount that was billed.

Best Practice #2: Bill Review

Bill review refers to the practice of reviewing medical bills in order to ensure that providers are not receiving more than the maximum allowed under the system. In a system with a fee schedule, bill review entails ensuring that the amount paid to providers is equal to or less than the price set by the fee schedule. Bill review is automated through SCM's claim processing computer system. The previous table shows the savings that SCM has achieved through bill review and applying the state's fee schedule.

Best Practice #3: Utilization Review

Utilization review involves examining medical bills submitted from physicians treating injured workers to ensure that the billed procedures are appropriate for the treatment of the workplace injury. Claims officers perform a basic utilization review themselves, such as whether the treated body part was involved

in the accident. For more complex utilization review, such as surgery requests or challenging the treatment approach of an attending physician, claims officers enlist outside help from a medical professional.

More complex utilization review has historically been carried out through an independent medical examination (IME). However, scheduling IMEs is time consuming. State law requires that SCM give an injured worker at least two-week notice in scheduling an IME, and it can take an additional two weeks to a month to obtain the findings from an IME. Since the injured worker may be receiving time-loss payments during this period, the scheduling delay may result in additional costs.

When possible, SCM prefers to contract with nurse case managers for utilization reviews that cannot be done by claims officers. Nurse case management costs approximately \$30 per claim, compared to more than \$400 for an average IME. In addition, turnaround time for a nurse case management review is also considerably shorter than an IME – about 48 to 72 hours, rather than a month or more.

SCM has not analyzed the costs and benefits of using nurse case management in lieu of IMEs. However, SCM notes that using nurse case management allows for faster surgery request evaluations and potentially returns employees back to work sooner.

Also, while SCM has policies and procedures in place for utilization review for surgery requests, there are no policies and procedures for utilization review for other medical services.

Best Practice #4: Treatment Guidelines

Treatment guidelines define standards for treating specific injuries or conditions. The most prevalent guidelines are for injuries to the:

- lower back
- upper extremities
- lower extremities
- carpal tunnel

The Washington State Department of Labor and Industries (DLI) has developed treatment guidelines for certain conditions that are frequently encountered in the workers' compensation system. SCM states that they use the DLI Medical Guidelines extensively. DLI provides regular "Provider Bulletins" with updates on the treatment guidelines. Claims officers are expected to use DLI's online Medical Guidelines, since they are the most up to date.

Best Practice #5: Restricted Networks/Managed Care

Restricted networks are groups of health care providers that have contracted, usually at a discount, to serve a client's workers' compensation patients. Use of managed care for the primary care of injured workers cannot be mandated due to the provisions of Washington State law requiring freedom of choice of physicians.

SCM uses a form of managed care for prescription drug coverage and for hearing aid claims. In February 2004, SCM began using a pharmacy benefit management contract administered by the Washington Self Insurers Association (WSIA). This contract utilizes a preferred provider approach for pharmacy costs. There is a similar program for the purchase of hearing aids. The difference is the claims officer must approve the hearing aid purchase and workers must contact SCM when the hearing aids are to be purchased, so SCM always has the

opportunity to direct the employees to preferred provider for the same or better hearing aids at a lower price.

While SCM indicates that it does periodic reviews to ensure that it is receiving the best cost reduction from these programs, it does not have information to demonstrate the cost savings of these two managed care programs in comparison to alternatives.

Effectiveness of Efforts to Control Medical Costs

SCM has achieved significant savings resulting from their use of the DLI fee schedule to determine medical reimbursements.

These savings are shown in Exhibit K above. In other areas, SCM does not routinely measure the effectiveness of its other medical cost control efforts. For example, it does not compare the growth in medical costs to inflation in the DLI provider payment rates. Also, SCM has no performance measures or other performance information relating to medical cost controls. Therefore, SCM has little information on the effectiveness of its efforts to control medical costs.

Little Measurement of Effectiveness of Medical Cost Controls Occurs

The amount of medical services provided to injured workers has increased significantly while the number of claims has not. Attending physicians have primary control over the amount of medical services provided to injured workers. SCM's ability to challenge the decisions of attending physicians is limited and involves the use of outside professionals (i.e., independent medical examinations or nurse case managers) to review the decisions of the attending physician. SCM has expanded its use of nurse case managers and put in place other efforts to try to control physical therapy and chiropractic costs. However, it has not attempted to measure the effectiveness of these efforts. The growth in the utilization of medical services suggests they may not be very effective.

Conclusions Concerning Medical Cost Controls

SCM follows key best practices for medical cost control at least to some extent, and it has achieved some cost savings.

However, it is difficult to demonstrate the effectiveness of many of these best practices, since SCM has not measured or tracked their cost control efforts. In addition, SCM lacks some policies and procedures relating to some of these practices.

RECOMMENDATION 3

In order to better control medical costs, SCM should:

- Enhance policies and procedures for utilization review.
 - Establish performance measures and targets for controlling medical costs, and evaluate actual performance against the targets.
-

PROMOTING WORKPLACE SAFETY

According to a leading researcher in the workers' compensation field, "safety is the approach to the workers' compensation problem that is most likely to yield significant long-lasting solutions." Preventing accidents from taking place is clearly an important way to control workers' compensation costs.

Summary of Comparison of SCM to Best Practices for Promoting Workplace Safety

We identified three best practices for promoting safety in the workplace. These practices, and a summary of our assessment of SCM's (or the county's) adherence to them are described in Exhibit L.

EXHIBIT L

Best Practices for Promoting Workplace Safety

Best Practice	Assessment of SCM (or Countywide) Compliance	Comment
1. Make safety an organization-wide priority	Partially in compliance	King County Accident Prevention Program includes a policy statement from the executive in support of safety. SCM is not accountable for the separate safety programs of some county agencies.
2. Provide incentives for supervisors and managers to promote safety	Partially in compliance	Performance evaluations for county supervisors include a safety component, but this criterion is not always used, and is based on perceptions about safety, rather than actual accident data.
3. Regularly review claims data for opportunities to reduce accidents and improve safety training	Partially in compliance	SCM regularly reviews claims data to identify opportunities to reduce accidents. This process is less formal at Transit, which manages its own safety program.

SOURCE: King County Auditor's Office best practices research. See Appendix 1, Sources of Best Practices.

**Discussion of Compliance With Best Practices for
Promoting Safety in the Workplace**

Best Practice #1: Make Safety an Organization-wide Priority

Part of making safety a countywide priority involves ensuring that safety programs are comprehensive and consistent. The King County Accident Prevention Program includes a policy statement from the County Executive in support of safety.

Although SCM is responsible for the countywide safety programs, some agencies (Transit, Wastewater Treatment, and the Department of Public Health) also have internal safety programs. These separate safety programs mostly cover agency-specific safety risks. SCM does not have responsibility for their content, nor does it work with the agencies to measure the performance of their internal safety programs.

SCM has hired well qualified people. All SCM safety officers have relevant master's degrees. Those that are certified industrial hygienists have passed a two-day test, have five years of experience, and attend required continuing professional education. Safety and Health employees attend many of the monthly safety committee meetings for county employees. (Field employees, such as Roads and Parks, are required by state law to hold monthly safety meetings of one-half to one hour.) SCM identifies the need for additional training by accepting suggestions offered by county employees in the monthly safety meetings.

Best Practice #2: Provide Incentives for Supervisors and Managers to Promote Safety

The best practice incentive for promoting safety that is most applicable to King County involves using performance appraisals to ensure that supervisors and managers promote safety. King County's standard performance appraisal form includes a category for safety. However, not all King County supervisors and managers are evaluated using the same performance appraisal system. Many county departments have modified the standard form in order to add evaluation criteria specific to their work. SCM staff indicated they do not know the extent to which safety criteria is actually used in supervisor performance evaluations. Transit noted that whether employees are rated on safety is at the discretion of middle management. In any case, county's standard form may be overly vague, as it is designed to evaluate a supervisor's perceptions and attitudes toward safety, rather than the accident/workers' compensation record of the supervisor's work unit.

**Supervisors Are
Evaluated on
Perceptions of Safety,
Not Actual Results**

Best Practice #3: Regularly Review Claims Data for Opportunities to Reduce Accidents and Improve Safety Training
SCM reviews claims data monthly, quarterly, and annually to find injury trends that can be addressed. Claims officers meet regularly with the departments to which they have been assigned in order to eliminate hazards or propose training. One example of SCM's discovery of a countywide injury trend was with carpal tunnel claims. As a result of this discovery, SCM designed (and has subsequently refined) a system where employees can submit a request for an ergonomic evaluation of their workstation.

Transit safety staff review claims data monthly for opportunities to reduce accidents and improve safety. This is an ad-hoc process, however, where Transit's safety and health personnel distribute workers' compensation statistics to managers, who may request that another report be run to test a theory about workers' compensation claims. For example, when one manager noticed an inordinate number of trolley-related claims, a special report was run that indicated similar injuries occurred due to the same equipment. Transit used this report to initiate a change in trolley equipment that has reportedly reduced injuries.

Effectiveness of Efforts to Promote Workplace Safety

**Performance Measures
Focus on Outputs, Not
Results**

SCM performance measures relating to its safety program are output measures (e.g., the number of ergonomic evaluations completed) rather than outcome or effectiveness measures. SCM stated that the effectiveness of safety programs is hard to evaluate because they aim to increase awareness, which may often result in increased reporting of incidents. Their ultimate goal is to prevent injuries and decrease the severity of claims. Some efforts to measure effectiveness have been made. For example, SCM hired an intern to compile statistics to measure the effectiveness of the ergonomic program, but discontinued the

**Growing Medical Costs
and Days of Time-Loss
Per Claim...****...Suggest Efforts to
Improve Workplace
Safety Are Not
Effective**

effort due to confounding factors (e.g., doctors performed far fewer carpal tunnel surgeries after they discovered the procedure was ineffective).

Empirical evidence suggests there have been mixed results from efforts to promote safety. The number of countywide workers' compensation claims has remained relatively constant over the last four years, during a period that the total number of county employees has decreased. At the same time, there has been significant growth in the utilization of medical services and in the number of days of time-loss, particularly at Transit. These suggest that efforts to promote safety could be improved. The comparisons of workers' compensation costs per FTE between King County and other governments suggest that safety efforts for county agencies other than Transit may be relatively effective, whereas safety efforts at Transit seem less effective.

Conclusions Concerning Countywide Safety Programs

SCM is partially following best practices in that it has made safety a countywide priority, and regularly reviews claims data to identify injury trends that could be addressed. It is less clear that agency supervisors are evaluated based on safety criteria; however, this may be more appropriately facilitated by the Human Resources Division (HRD) rather than by SCM. Also, because some agencies have their own safety function, authority for countywide safety is somewhat diffused, and no county agency is assigned responsibility for routine evaluation of the effectiveness of efforts to promote safety.

RECOMMENDATION 4 SCM should assume greater responsibility for safety countywide by developing and monitoring performance measures for county safety programs. This would include collaborating with agencies with internal safety programs to develop and monitor performance measures for their internal safety programs.

RECOMMENDATION 5 HRD should promote a countywide policy to emphasize safety, including ensuring that safety criteria are used in the performance evaluations of supervisors.

RECOMMENDATION 6 SCM should enhance its safety-related performance measures to include outcome and effectiveness measures, establish performance targets, and evaluate actual performance against the targets.

MANAGING CLAIMS

Timely and accurate claims processing can help control costs by facilitating the delivery of appropriate services to injured workers in a timely manner, which in turn facilitates a more speedy return to work.

Summary of Comparison of SCM to Best Practices for Managing Claims

In our literature review, we found numerous examples of best practices for managing claims.⁴ For this review, we limited the list of best practices to a few practices relating to basic claims processing activities. Some of the practices that could be considered as claims management practices (e.g., practices for

⁴ For example, one source of best practices included 26 separate practices for claims handling. Some of these practices (e.g., have a system in place to make sure that no claim falls through the cracks) were too detailed for the purposes of this review, and others (e.g., set and monitor return-to-work goals on each case) are covered elsewhere in this report.

controlling medical costs or facilitating return-to-work) have been covered in earlier sections of this report.

We identified four best practices for managing workers' compensation claims. These practices, and a summary of our assessment of SCM's (or the county's) adherence to them are described in Exhibit M.

EXHIBIT M		
Best Practices for Managing Claims		
Best Practice	Assessment of SCM (or countywide) Compliance	Comment
1. Single point accountability	In compliance	SCM assumed countywide responsibility after merger with Metro.
2. Supervisor training	In compliance	County supervisors receive training on how to file workers' compensation claims.
3. Timely claims processing	Partially in compliance	SCM is generally in compliance with standards issued by the state Department of Labor and Industries; however, there are often delays before claims are reported to SCM.
4. Written policy and procedures manuals	Partially in compliance	SCM's policy and procedure manual is primarily a compilation of policies, with few procedures to guide claims management staff.

SOURCE: King County Auditor's Office best practices research. See Appendix 1, Sources of Best Practices.

Discussion of Compliance With Best Practices for Managing Claims

Claims Processing

Centralized

Best Practice #1: Single Point Accountability

In general, claims processing is most effective when responsibility for claims is centralized within one department. When Metro merged with King County, claims management functions were assimilated into a single unit for the entire county. Accountability for countywide claims management is now centralized at SCM.

Best Practice #2: Supervisor Training

Supervisors need to be trained and have the tools to properly report workers' compensation claims. All King County supervisors are required to attend a two-week training course in management and supervision. During that training, SCM provides a day of training on workers' compensation injuries and timely reporting. Supervisors receive detailed packets that help standardize supervisor handling of workers' compensation claims.

Best Practice #3: Timely Claims Processing

Timely claims reporting and processing promotes early involvement in claims and facilitates a more speedy return-to-work. SCM closely tracks claims processing activities relative to required timeframes and monitors the performance of individual claims managers against these timeframes. The most recent audit of SCM claims processing by the DLI found only a few examples of errors made by SCM, and they were minor.

Delays Often Occur in Reporting Claims to SCM

However, we note that there are often delays before claims are reported by county departments to SCM. Data from SCM's claims processing database indicates that the median amount of time between an injury event and when SCM is notified is nine days. Some claims take considerably longer than the median; therefore, the average delay between the time an injury occurs and the time it is reported to SCM is 22 days. Such delay in claims reporting can delay the delivery of services to injured workers, which may add costs by delaying the return-to-work.

Best Practice #4: Written Policy and Procedures Manuals

A written policy and procedures manual is important in ensuring that the process is consistently applied and standards are followed. SCM maintains a collection of formal policy and procedure documents, checklists, and communications (including

email and state directives) that comprise the division's policies and procedures manual. Other documents (e.g., state laws and DLI regulations and standards) also guide claims processing. We found that SCM's policies and procedures manual is not well organized, and could best be described as a collection of policies, with few defined procedures. While it conveys the policy directives guiding the claims management process, there is no comprehensive set of procedures to guide claims managers on how to meet the policies.

Other Observations About SCM Claims Management Practices

In addition to the results of our review of SCM claims management practices against industry best practices, we made other observations concerning the operation of the office and its compliance to other professional expectations. These are discussed below:

- In order to retain its self-insured status, DLI requires that King County have at least one certified claims officer. SCM has exceeded that standard, by requiring that all its claims officers be certified.
- Claims management staff are experienced professionals. Many of the staff have private sector experience managing workers' compensation claims.
- SCM has good claims management software. The software automates several claims management tasks, and assists claims managers in managing claims. A considerable amount of useful data is available from the database and the data is largely complete and reasonably accurate.⁵ Data from the database is used by SCM to identify injury trends and to try to address their underlying causes.

⁵ We did not formally audit the completeness and accuracy of the data. However, we did perform tests of reasonableness and while some problems were found with older data, more recent data appeared to be relatively accurate.

- Claims management caseloads are reasonable compared to industry standards, and SCM is keeping pace with the caseload.
- SCM's performance measures relating to claims management are process oriented (e.g., claims closing ratio, percentage of bills paid within 60 days). Process measures are appropriate to ensure that the workload is being addressed in a timely and accurate way. Efficiency measures (e.g., administrative cost per claim) or effectiveness measures (e.g., return-to-work achieved within expected time) could provide useful data for making further performance improvements.

Conclusions Regarding SCM Claims Management

Practices

SCM manages claims in a timely and accurate manner, and has a good information system to assist in this process. However, delays in the reporting of claims to SCM can lead to delays in claims processing, and the policies and procedures manual and performance measurement activities could be improved.

RECOMMENDATION 7

The County Executive should establish a policy requiring that county departments report claims to SCM in a timely way.

RECOMMENDATION 8

SCM should:

- Reorganize its policy and procedure manual to include the creation of a comprehensive and organized set of procedures for meeting the policy directives.
- Enhance its performance measurement of claims management to include measures of efficiency and effectiveness, performance targets, and evaluation of its performance against the targets.

DETERRING AND INVESTIGATING FRAUD

In 2004, the Washington Legislature modified the definition of workers' compensation fraud and renamed it "willful misrepresentation." Willful misrepresentation is defined to mean that the claimant filed a willful false statement, or a willful misrepresentation, omission, or concealment of a fact. State law allows for the recovery of benefits if they were induced through "willful misrepresentation." Willful misrepresentation is ostensibly easier to prove than fraud.⁶ Criminal charges may also be pursued if the circumstances of the case warrant it.

DLI defines three sub-types of claimant fraud: claim fraud, unfair benefits fraud, and disability fraud.

- Claim fraud involves faking an injury or claiming an injury is work related, when the injury really occurred elsewhere.
- Unfair benefits fraud occurs when a worker falsely claims to have dependents or a spouse in order to increase his or her benefits, or when a worker exaggerates an injury in order to prolong benefits.
- Disability fraud involves a worker failing to report that he or she is working at another job while receiving workers' compensation benefits.

According to workers' compensation experts, only a very small percentage of claims are fraudulent. A much greater number of claims may be termed "problem claims" and involve situations in which a worker with a legitimate injury should be progressing toward returning to work, but is not. This section concerns efforts to control actual fraud, not problem claims.

⁶ While the statutory language has been changed from fraud to willful misrepresentation, willful misrepresentation is a central element of fraud, and the discussion in this report will continue to refer to fraud.

Best Practices for Controlling Fraud

We identified three best practices for controlling fraud. These practices, and a summary of our assessment of SCM's (or the county's) adherence to them are described in Exhibit N.

EXHIBIT N**Best Practices for Deterring and Investigating Fraud**

Best Practice	Assessment of SCM (or Countywide) Compliance	Comment
1. Deter fraud	Partially in compliance	Limited deterrence program. SCM (and the Prosecuting Attorney's Office) rarely pursue a civil or criminal action against workers' compensation fraud.
2. Define the antifraud strategy; Measure and track antifraud efforts	Not in compliance	No documented strategy or performance measurement in place.
3. Participate in ongoing fraud awareness training and develop red flags	In compliance	Training occurs; red flags not formally disseminated to claims staff.

SOURCE: King County Auditor's Office best practices research. See Appendix 1, Sources of Best Practices.

Best Practice #1: Deter Fraud

A good antifraud program begins with an effective strategy for deterring fraud before it occurs. Best practice deterrence strategies include:

- **Communicating with employees about fraud.** This includes making employees aware of the goals of workers' compensation, what fraud is, and how fraud affects the people who really need the program. A hotline to report suspected fraud is often part of a successful communication effort.
- **Printing fraud warnings on workers' compensation checks.** Fraud warnings serve both to deter fraud and to provide documentation of criminal intent.
- **Committing to a zero tolerance policy for fraud.** The most important part of deterring fraud is letting employees know

that fraudulent claims will be treated seriously, and that committing fraud may be grounds for immediate termination and referral for legal action. Such deterrence practices are in place at DLI, and the results are tracked in an annual fraud report.

SCM relies on the state's DLI hotline for reporting suspected fraud. SCM prints fraud warnings on workers' compensation checks. The fraud warning only encompasses one type of fraud.

**Formal Civil or Criminal
Fraud Actions Rarely
Pursued**

While all cases of suspected fraud (or willful misrepresentation) are investigated, formal civil or criminal cases are only pursued for one sub-type of fraud, disability fraud. Due to the narrow definition of fraud (for purposes of filing an action in civil or criminal court), rarely do such cases result in the pursuit of a formal action in court. In King County, only one formal fraud action has been pursued in the past six years. In that case, SCM and the Prosecuting Attorney settled with the claimant. Most often, SCM uses evidence of suspected fraud or willful misrepresentation to convince physicians to end time-loss for those that are "malingering," or refusing to return to work when they are able to work. The independent medical examination process is also used to end cases involving "malingering." While such efforts may end inappropriate payments for that particular case, the deterrent value of such an approach seems limited, because there is no threat of legal action.

**No Antifraud Program
in Place**

Best Practice #2: Define the Antifraud Strategy; Measure and Track Antifraud Efforts

Antifraud programs should have an articulated overall strategy for effectively and efficiently reducing fraud. The strategy should be translated into objectives, priorities, and measurable targets to guide the fraud reduction effort. Measuring and tracking the

antifraud effort is critical to assessing whether the effort is effective and how good a return on investment it provides.

SCM has not defined a written antifraud strategy, nor does it measure its antifraud efforts.

Best Practice #3: Participate in Ongoing Fraud Awareness Training and Develop Red Flags

Ongoing fraud awareness training for claims officers is crucial for addressing the ever changing nature of insurance fraud. In addition, it is helpful to the antifraud effort to develop a list of characteristics of claims that may indicate fraud. These characteristics are known as “red flags.”

SCM indicated that claims management staff have had training on fraud either in their initial training for certification, or in refresher training. While SCM has a document on red flags from a training session, it has not formally disseminated this document to staff.

Effectiveness of Efforts to Control Fraud

SCM collects no information assessing the effectiveness of efforts to control fraud. There are no performance measures relating to controlling fraud.

Conclusions

SCM is in compliance with best practices concerning antifraud training of claims staff. However, SCM is not meeting best practices in that it does not have an antifraud strategy, nor does it measure the results of antifraud activities. Also, practices for deterring fraud are limited in that formal court actions against fraud (or misrepresentation) are rarely pursued.

RECOMMENDATION 9

We recommend that SCM evaluate its fraud control activities. This should include the consideration of best practices such as defining an antifraud strategy, distributing a list of red flags to all claims management staff, broadening the circumstances under which formal court actions against fraud are initiated (consistent with state practices), communicating a zero tolerance policy toward fraud, and measuring results.

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APPENDICES

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LIST OF FINDINGS, RECOMMENDATIONS & IMPLEMENTATION SCHEDULE

Finding: High cost of workers' compensation benefits at Transit is likely attributable to enhanced workers' compensation benefit in collective bargaining agreement with the Amalgamated Transit Union Local 587.

Recommendation 1: In order to mitigate the potential disincentive for injured transit employees to return to work, the Human Resources Division should consider realigning the time-loss benefit for Local 587 to a level that is more comparable to other county bargaining units during negotiations of its next contract with ATU Local 587. We recognize that this benefit change would need to be negotiated within the broader context of the entire compensation package for Local 587 members, and that the unit is subject to interest arbitration.

Implementation Date: First quarter of 2007

Estimate of Impact: Eliminating the disincentive for injured workers to return to work should result in reductions in time-loss with corresponding cost savings.

Finding: SCM does not monitor its performance in meeting return-to-work goals on individual cases, or the effectiveness of return-to-work efforts as a whole.

Recommendation 2: In order to better facilitate timely and appropriate return-to-work of injured employees, SCM should:

- Monitor whether the return-to-work goal established for each case is met, and update the goal if necessary.
- More thoroughly evaluate the effectiveness of return-to-work efforts, and investigate the reasons why days of time-loss are increasing.

Implementation Date: Second quarter of 2006

Estimate of Impact: Setting goals and tracking performance for return-to-work could potentially reduce the amount of time-loss paid.

Finding: Policies and procedures for utilization review are missing. Performance measures for controlling medical costs do not exist.

Recommendation 3: In order to better control medical costs, SCM should:

- Enhance policies and procedures for utilization review.
- Establish performance measures and targets for controlling medical costs, and evaluate actual performance against the targets.

Implementation Date: Fourth quarter of 2005

Estimate of Impact: Establishing policies and procedures should improve uniformity of use of best practices. Setting performance targets and measuring results should

LIST OF FINDINGS, RECOMMENDATIONS & IMPLEMENTATION SCHEDULE (Continued)

improve accountability, provide better information identifying the reasons for medical cost growth, and potentially result in cost savings.

Finding: SCM does not measure the performance of its own safety efforts, nor those of agencies with internal safety programs.

Recommendation 4: SCM should assume greater responsibility for safety countywide by developing and monitoring performance measures for county safety programs. This would include collaborating with agencies with internal safety programs to develop and monitor performance measures for their internal safety programs.

Implementation Date: First quarter of 2006

Estimate of Impact: Better measurement of the effectiveness of safety programs should eventually result in improvements to countywide safety efforts and reductions in costs.

Finding: While standardized forms for evaluating the performance of county supervisors includes a safety component, it measures perceptions of safety rather than actual results. Further, this evaluation criterion is not always used.

Recommendation 5: HRD should promote a countywide policy to emphasize safety, including ensuring that safety criteria are used in the performance evaluations of supervisors.

Implementation Date: Fourth quarter of 2006

Estimate of Impact: A more rigorous evaluation of the safety performance of countywide supervisors in the performance evaluation process should make safety a greater priority among supervisors, which may reduce accidents and save costs.

Finding: Performance measures used to evaluate safety programs measure inputs, but not outcomes or effectiveness.

Recommendation 6: SCM should enhance its safety-related performance measures to include outcome and effectiveness measures, establish performance targets, and evaluate actual performance against the targets.

Implementation Date: First quarter of 2006

Estimate of Impact: Better measurement of the effectiveness of safety programs should eventually result in improvements to countywide safety efforts, and reductions in costs.

LIST OF FINDINGS, RECOMMENDATIONS & IMPLEMENTATION SCHEDULE (Continued)

Finding: There are frequently lengthy delays in the reporting of job-related injuries to SCM.

Recommendation 7: The County Executive should establish a policy requiring that county departments report claims to SCM in a timely way.

Implementation Date: Second quarter of 2006

Estimate of Impact: More timely claims reporting allows SCM to direct services to injured workers in a more timely way, which should improve timeliness and potentially save costs through reductions in time-loss.

Finding: SCM's policy and procedure manual is primarily a collection of policies, with few procedures to direct staff on how to manage claims. Measurement of claims officer performance is primarily oriented toward adherence to required timeframes, but not toward efficiency or effectiveness in achieving desired results.

Recommendation 8: SCM should:

- Reorganize its policy and procedure manual to include the creation of a comprehensive and organized set of procedures for meeting the policy directives.
- Enhance its performance measurement of claims management to include measures of efficiency and effectiveness, performance targets, and evaluation of its performance against the targets.

Implementation Date: First quarter of 2006

Estimate of Impact: Improved policy direction and measuring the effectiveness of claims officers in achieving results should improve performance in achieving desired results (e.g. reducing time-loss) and thereby, result in reductions in costs.

Finding: Fraud control efforts do not include an overall strategy for reducing fraud; few formal fraud actions are pursued in the courts; and red flags are not distributed to claims management staff.

Recommendation 9: We recommend that SCM evaluate its fraud control activities. This should include the consideration of best practices such as defining an antifraud strategy, distributing a list of red flags to all claims management staff, broadening the circumstances under which formal court actions against fraud are initiated (consistent with state practices), communicating a zero tolerance policy toward fraud, and measuring results.

Implementation Date: Fourth quarter of 2005

Estimate of Impact: More rigorous deterrence efforts and actions against suspected fraud should reduce the incidence of attempted fraud.

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EXECUTIVE RESPONSE



King County

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RECEIVED

JUL 29 2005

KING COUNTY AUDITOR

July 29, 2005

Cheryle A. Broom
King County Auditor
Room 1020
COURTHOUSE

Dear Ms. Broom:

Thank you for the opportunity to review your Report of the Performance Audit of the Workers' Compensation Program. I concur with the findings, and your insights have brought to light new factors to consider for possible changes to an already effectively managed program. I look forward to the discussion of the final audit at the August 23rd, 2005 meeting of the Labor, Operations and Technology Committee. This letter and the associated enclosure respond to the findings and recommendations presented in the proposed final report.

As noted in the audit, in Washington State, employers have very limited control of workers compensation costs. King County has experienced increasing workers' compensation costs similar to other employers. The Departments other than Transit have lower costs as compared to other larger local governments in Washington. However, the Transit Division does incur most of the workers compensation costs within King County. The Director of the Transit Division, Kevin Desmond, is committed to lowering those costs and has formed a Workers Compensation Task Force. The task force is made up of representatives of both Transit and Safety and Claims Management. Its purpose is to find ways to lower the Transit Workers' Compensation costs.

As noted in the audit, King County is in full or partial compliance with 19 of the 20 industry best practices. The Safety and Claims Office will develop a written antifraud strategy and antifraud performance measures in order to more fully conform to the final best practice. King County does not tolerate fraud and has a substantial history of vigorously pursuing every indication of fraud in the workers' compensation program. For ease of presentation, our responses are contained in the attachment in the format requested by your office. If you require additional information, please contact Anita Whitfield, Human Resources Management Division Director, at 206-296-1737.

Sincerely

Ron Sims
King County Executive

Enclosure

cc: Kurt Triplett, Chief of Staff, Executive Office (EO)
Sheryl V. Whitney, Assistant County Executive, EO
Paul Tanaka, County Administrative Officer, Department of Executive Services (DES)
David Lawson, Internal Audit Manager, Office of Management and Budget
Anita Whitfield, Director, Human Resources Division, (HRD) DES



*King County is an Equal Opportunity/Affirmative Action Employer
and complies with the Americans with Disabilities Act*



APPENDIX 1

SOURCES OF BEST PRACTICES

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APPENDIX 1 (Continued)

Fraud

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