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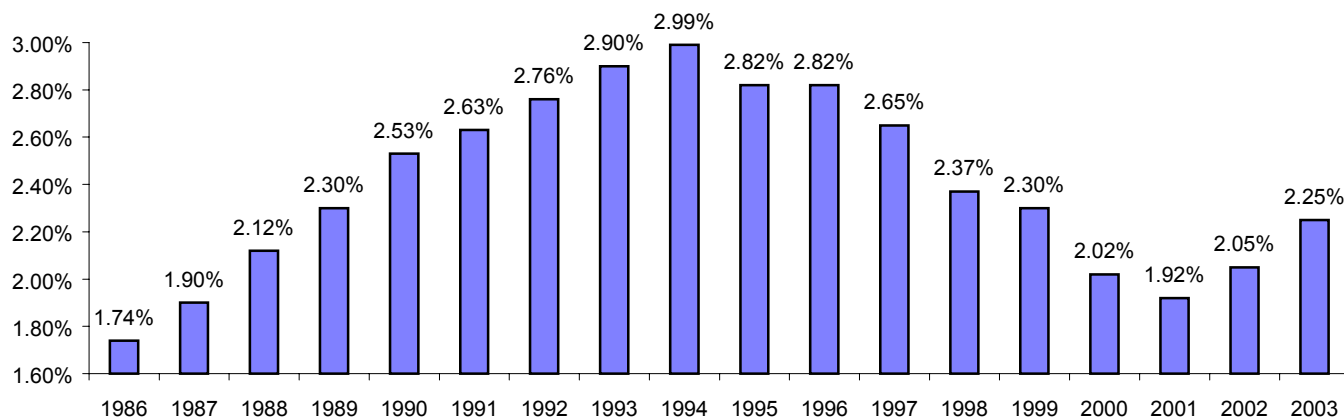
This issue is being distributed in April 2004. Readers should expect a continuing deluge of issues in the next few months.

Summary of the Contents

Workers' compensation is only one of a series of programs in the workers' disability system that provide cash benefits, medical care, and rehabilitation services to current or former employees who are disabled. The workers' compensation program provides these benefits to employees whose disabilities are caused by work-related injuries or diseases. Some of the other programs in principle provide benefits to workers regardless of the source of their disabilities. However, in recent years the Medicare program has taken aggressive action to ensure that workers' compensation is the primary source of medical care for workers disabled by workplace injuries and diseases. Edward Welch did a masterful job of clarifying the relationships between Medicare and workers' compensation in the March/April 2003 issue of the *Workers' Compensation Policy Review*. In this issue, Ed provides a helpful and provocative update on this topic.

The employers' costs of workers' compensation for employers in the private sector increased to 2.25 percent of payroll in 2003, continuing a two-year trend of higher costs. As shown in Figure A (from the article by Burton in this issue), there have been significant swings in the costs to employers since the Bureau of Labor Statistics began collecting these data in 1986. Costs increased from that year until they peaked at 2.99 percent of payroll in 1994. Then costs plummeted to 1.92 percent of payroll in 2001. In this historical perspective, the recent increase in costs means that employers are still paying less for workers' compensation now than in any year in the 1990s.

Figure A



Source: See Figure A from Burton article in this issue.

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Medicare: New Developments and Their Implications for Workers' Compensation

by Edward M. Welch

In an earlier article (Welch 2003), I discussed the relationship between Medicare and workers' compensation. There have been a couple of important developments since that article was published, which have led me to reconsider some of the positions I took in that article. They also raise important questions about the nature of workers' compensation and the role of the federal government in the workers' compensation system.

I will discuss these questions after beginning with a brief overview of the situation. A more detailed discussion of the relationship between Medicare and workers' compensation and the 2003 Amendments is available on the web page of the Workers' Compensation Center at Michigan State University: <http://www.lir.msu.edu/wcc/>.

Overview

Medicare is a federally sponsored healthcare plan available to individuals who are at least 65 years old and to individuals who have received Social Security Disability Insurance benefits for more than two years. A significant number of workers' compensation claimants fall into these categories.

Since the mid-1980s, the Medicare as Secondary Payer Act has provided that Medicare is secondary to workers' compensation. That is, if medical expenses could be covered under either workers' compensation or Medicare, then workers' compensation, and not Medicare, should pay.

Medicare is administered by the Centers for Medicare and Medicaid Services (CMS). CMS delegates some of its work, especially work dealing with the collection of overpayments, to private contractors that vary by region and state.

I concede that in the past, to at least some extent, workers, their attorneys, employers, and insurance companies ignored or attempted to evade the fact that workers' compensation is primary. Ignorance and/or evasion are no longer viable options.

Since about the middle of 2001, CMS has made it clear that it will vigorously enforce the Medicare as Secondary Payer Act. This has several important implications for workers' compensation:

- If a current medical bill could be covered under either workers' compensation or Medicare, it should be paid under workers' compensation.
- If a worker receives a lump-sum settlement of a workers' compensation claim, Medicare will not begin paying medical bills for the work-related disability until the worker has exhausted the portion of the settlement that represents payment for future medical expenses.
- Under certain circumstances CMS wants to preapprove settlements in workers' compensation cases.

Most of the problems that have arisen involve workers' compensation claims that are resolved by settlements (commonly referred to as compromise and release agreements). CMS has taken the position that under certain circumstances parties should obtain CMS preapproval before they settle a workers' compensation claim. Those circumstances involve:

- Cases in which the worker is currently entitled to Medicare; or
- Cases in which the settlement is over \$250,000 and there is a reasonable expectation of Medicare entitlement within 30 months.

The process of obtaining approval from CMS has sometimes been difficult and time consuming. This has resulted in substantial disruptions to the workers' compensation system. In addition, many parties have questioned whether CMS has all the authority it claims concerning the preapproval of workers' compensation cases. The situation has become so troublesome that a number of important parties in the workers' compensation system are attempting legislative action to remedy the situation.

The 2003 Amendments

In my earlier article, I questioned the authority of CMS to require, or even to ask for, preapproval of workers' compensation settlements because there is nothing in the statutes that gives it this authority. In addition, I pointed out that the positions CMS has taken in memos and policy statements seem different from, or contrary to, positions in its published regulations. For example, the published regulations seem to grant deference to state agency allocations of the portions of settlements allocated to future medical expenses.

I was not alone in this skepticism; many others agreed with me. As a result of these doubts about the authority of CMS and the delays and complications involved in obtaining preapproval, many parties have not sought preapproval under some cir-

cumstances where CMS indicated that they should. Until recently, this seemed like a reasonable approach. I believe the situation has now changed.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 is the bill that was discussed and debated for more than a year that added prescription drug coverage to Medicare. With virtually no notice, discussion or hearings, CMS added to that bill amendments to the Medicare As Secondary Payer Act that greatly strengthened the position of CMS in dealing with workers' compensation and other potential payers.

Prior to these amendments, the Act had said that payments by Medicare were "conditioned on reimbursement to the appropriate Trust Fund," but there was no language in the statute that explicitly gave CMS the power to recover payments from other parties, at least not to the extent claimed. Those amendments added language to 42 USCS § 1395y (b)(2)(B)(ii), which provides:

A primary plan, and an entity that receives payment from a primary plan, shall reimburse the appropriate Trust Fund for any payment made by the Secretary under this title with respect to an item or service if it is demonstrated that such primary plan has or had a responsibility to make payment with respect to such item or service. A primary plan's responsibility for such payment may be demonstrated by a judgment, a payment conditioned upon the recipient's compromise, waiver, or release (whether or not there is a determination or admission of liability) of payment for items or services included in a claim against the primary plan or the primary plan's insured, or by other means.

It is not yet clear what Congress intended by this language or even how CMS will interpret it, but it is clear that CMS now has stronger statutory authority for its position. In fact, it would be possible to interpret this language to mean that if a workers' compensation case is settled without preapproval from CMS and the worker later charges medical expenses to Medicare, CMS can seek reimbursement for those expenses from the insurance company or employer or from any entity that has received a payment from the insurance company or an employer.

The parties now take a considerable risk if they disregard the request by CMS to preapprove settlements in certain types of workers' compensation cases.

As discussed in more detail in my earlier article and in the paper currently available on our website, I still believe there are many areas in which CMS is exceeding its statutory authority, and that there are many defenses available to parties to the workers' compensation system against the claims of CMS. It must be recognized, however, that CMS is now in a stronger position than it was before to enforce its demands. The parties now take a considerable risk if they disregard the request by CMS to preapprove settlements in certain types of workers' compensation cases.

In addition, for those who feel that the actions taken by CMS are inappropriate, there is now all the more reason to seek Congressional intervention.

Does Workers' Compensation Pay Its Share?

The preapproval of settlements required by CMS has led to the review of a large number of workers' compensation settlements by CMS,

contractors for CMS, and other outside parties who specialize in the evaluation of disability claims. No hard data are available, but the reports received from the field suggest that there are a significant number of cases in which these outside parties reach the conclusion that the settlement does not include enough money to cover the expected costs of future medical care for the worker.

One can argue that these outsiders do not understand the workers' compensation system and how it works. This is true, but it is also true that these people do understand disability and the cost of providing medical care to disabled individuals. They may not understand what is usual and customary under state workers' compensation systems, but they are in a good position to estimate the future medical costs in these cases.

In theory, the workers' compensation system pays for all the medical care needed by workers who are injured on the job. These evaluations of settlements suggest that perhaps the workers' compensation system is not doing what it is supposed to do. Perhaps, workers' compensation is in fact not really paying for all the medical costs of work related disabilities. Andrew Hogan and I (Hogan and Welch 1996) reviewed a survey of people who reported on the treatment they received for medical problems. We looked at the treatment they reported receiving for back problems and found that of all the people who received medical treatment paid for by workers' compensation, over 70% also received treatment for back problems paid for by someone else. This suggests that a large percentage of people with work-related back injuries were having some of their medical bills paid for outside the workers' compensation system.

A possible explanation for this is the question of liability. CMS is only looking at settlements. A few of these settlements probably involve cases in which the carrier admits liability, but transfers its responsibilities to some

other entity through a structured settlement. It is very likely, however, that most of the settlements involve at least some dispute as to whether the continuing need for medical care was caused by a work-related incident. In these cases, the settlement represents a compromise, and accordingly, it seems appropriate that the settlement would represent only a part of the cost of future medical expenses.

While this may seem appropriate to those of us in the workers' compensation system, at least as a practical matter, it is not the way the system should work in theory. If a compensable injury caused the need for medical care, then workers' compensation should pay for all of it. If it did not cause it, then workers' compensation should pay nothing.

One implication of this difference between practical solutions and theory is that it illustrates why CMS and others outside the workers' compensation system have difficulty understanding and interacting with the workers' compensation system. What we do in practice is considerably different from what the system does in theory.

Another possible interpretation may be that the workers' compensation system works better than we thought. The causal connection standard in workers' compensation is a very controversial issue. In most states, it is enough if a work-related incident combines with, contributes to, or aggravates a preexisting condition. In recent years, some states have backed away from this standard and most employers think it is unfair, but in theory at least, that is how the system works in most states.

Perhaps in practice, the system really works very differently from that. No state that I know of has a law that provides that if work is only one of many causes of the disability, then workers' compensation should only pay part of the medical cost, but perhaps that is in fact what is hap-

pening. The employer pays for a while and then finds some reason to challenge its ongoing obligation. In response to the challenge, and in recognition of the possibility of receiving no future benefits, the worker settles for an amount that covers only part of the potential future liability for both lost wages and medical benefits. Thus, we may in fact have a system that, when the workplace is only one of several causes of a disability, only pays part of the costs.

Admittedly, much of the above is speculation, but we should not disregard insights into our system that may be available to us when outside parties come in and look at what is going on.

Federal Scrutiny

At first, most of us assumed that CMS was not seeking to approve whether the worker should settle his or her claim. We assumed CMS was only seeking to determine if an appropriate proportion of a settlement amount was being attributed to future medical care. More recently, however, experience and statements from CMS have indicated that this is not the case. CMS is scrutinizing settlements to determine if, in fact, a sufficient amount is being paid to cover future medical care. This is the federal government supervising the operation of state workers' compensation systems.

...there are many people in the workers' compensation community who would like CMS to step back from the aggressive role it has taken recently.

If some other health care payer, such as Blue Cross, paid a bill that might have been covered under workers' compensation, it could appear, intervene, and argue for a right to reimbursement in a workers' compensation proceeding. CMS, however, wants more than this. (If CMS were

satisfied with being given this opportunity, few people would object.)

Instead, CMS is doing much more than just arguing its position in a workers' compensation proceeding. It is exercising all its powers as an arm of the federal government to insist that it be able to scrutinize settlements on its own terms outside state workers' compensation systems. It is insisting that parties should obtain its approval before they can proceed to request approval from the state system. This is the federal government supervising the administration of state workers' compensation.

Whether and to what extent there should be a role for the federal government in workers' compensation is an old issue that goes back for many years. Over 30 years ago, John Burton was the Chairman of the National Commission on State Workmen's Compensation Laws (Yes, it was so long ago that they called it "workmen's" compensation and they selected a Chairman rather than a Chair or a Chairperson), which recommended national standards for state workers' compensation laws unless states significantly improved their programs.

Organized labor has virtually always argued that there should be at least federal supervision of workers' compensation. Business has always opposed this and fought against any intervention by the federal government.

There has been very little activity in this area in the 30 years since the National Commission. It seems ironic that the imposition of federal scrutiny of state workers' compensation programs should arise during the watch of the present conservative Republican administration in Washington. (But then, the Nixon Administration selected the members of the National Commission, and most were loyal Republicans, including, it is alleged, the Chair. I mean Chairman.)

As mentioned above, and discussed more completely in other articles, there are many people in the workers' compensation community who would like CMS to step back from the aggressive role it has taken recently. The contrast between the actions of CMS and the general commitment of a Republican administration to states' rights may give us some hope that if this issue can be brought to the attention of Congress, or higher levels of the administration, then this policy will be reconsidered.

Conclusion

We need to pay careful attention to what is going on in the interface between Medicare and workers' compensation. On a practical level, parties can no longer ignore the demands by CMS to seek its preapproval before

settling cases involving certain individuals.

On a more theoretical level, the results of the evaluations by CMS and others should lead us to reconsider just how the system is working and the extent to which its practical application differs from its theory. The departure from the theoretical operation may be either good or bad, but we should, nevertheless, be aware of the extent to which our practices deviate from what we tell people we are doing.

Finally, on the political level, we should be aware of the fact that in certain cases, the federal government is now seeking to scrutinize the operation of state workers' compensation systems.

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About the Author

Ed Welch is the director of the Workers' Compensation Center in the School of Labor and Industrial Relations at Michigan State University. From 1991 to 1999 he was the editor of the newsletter *On Workers' Compensation*. He was the Director of the Michigan Bureau of Workers' Disability Compensation from 1985 through 1990. Prior to that, he was a claimants' attorney in Muskegon and Battle Creek, Michigan and was a high school teacher before going to law school. He is known for his ability to explain the complex aspects of workers' compensation in a simple and entertaining manner.

Ed has written *Employers' Guide to Workers' Compensation*, an analysis of the legal and practical aspects of workers' compensation, published by the Bureau of National Affairs. He has also written *Workers' Compensation in Michigan: Law and Practice*. This book has become the standard legal textbook on workers' compensation in Michigan. It is, however, not written in a legalistic style, and consequently, anyone familiar with workers' compensation can read and understand it. He has edited *Workers' Compensation Strategies for Lowering Costs and Reducing Workers' Suffering* and published many articles related to workers' compensation.

Ed has a Bachelor's Degree in English, a Master's Degree in Guidance and Counseling, and a Law Degree, all from the University of Michigan. He was elected a charter member for workers' compensation of the National Academy of Social Insurance and currently is a member of the National Academy's Steering Committee for Workers' Compensation. He was the Vice President of the International Association of Industrial Accident Boards and Commissions. He served as the secretary to a Labor/Management Discussion Group on Workers' Compensation, which is co-chaired by the National Association of Manufacturers and the AFL-CIO. He served as the neutral co-chair of the Workers' Compensation Committee of the American Bar Association's Labor and Employment Law Section. He serves as a member of the Board of Directors of the Institute for Work and Health, a research organization in Toronto, Ontario.

In 1990, he received the outstanding achievement award in workers' compensation, from the National Association of Manufacturers, the Alliance of American Insurers, and the American Insurance Association. (Not bad for a former claimants' attorney.)

I have known Ed for at least 20 years, beginning when we were regular attendees at the National Symposium on Workers' Compensation. We then served as Co-Directors of the National Symposium from 1991 to 2000, sometimes a trying experience. We nonetheless remained close friends through these decades—in part because of our devotion to University of Michigan sports. Go Blue. (Except, of course, when Michigan plays Rutgers in basketball.)

John Burton

Workers' Compensation Costs for Employers 1986 to 2003

By John F. Burton, Jr.

The Bureau of Labor Statistics (BLS) recently released information on the employers' costs of workers' compensation in December 2003. Similar information is available for private sector employers for each March between 1986 and 2003, as shown in Tables 1 and 2. The tables also provide information on the employers' costs of workers' compensation for each March between 1991 and 2003 for state and local government employers and for all non-federal employers.

The BLS has published data on the employers' costs of workers' compensation in the private sector, the state and local government sector, and for all non-federal employers on a quarterly basis since March 2002, as shown in Table 3. These quarterly data have been used to calculate the annual averages of workers' compensation costs for 2002 and 2003 included in Table 3.

Tables 1 to 3 present information on two measures of the employers' costs of workers' compensation: in costs per hour worked (which is how the BLS reports the data) and in costs as a percentage of payroll (which were calculated for this article). In-

formation on the BLS survey and the methodology used to prepare the information in this article are contained in Appendix A.

ANNUAL DATA

The subsequent analysis generally uses the BLS March data (from Tables 1 and 2) as the measures of workers' compensation costs through 2001 since those are the only data for those years. For 2002 and 2003, the analysis relies on the annual averages of BLS data (from Table 3) as the measure of workers' compensation costs for those years. Since costs have been increasing since March 2002, the annual averages for 2002 and 2003 exceed the employers' costs during March in those years (as shown in Table 3), which means there is a discontinuity between the data through 2001 and the data for the last two years.

Workers' Compensation Costs As A Percent of Payroll

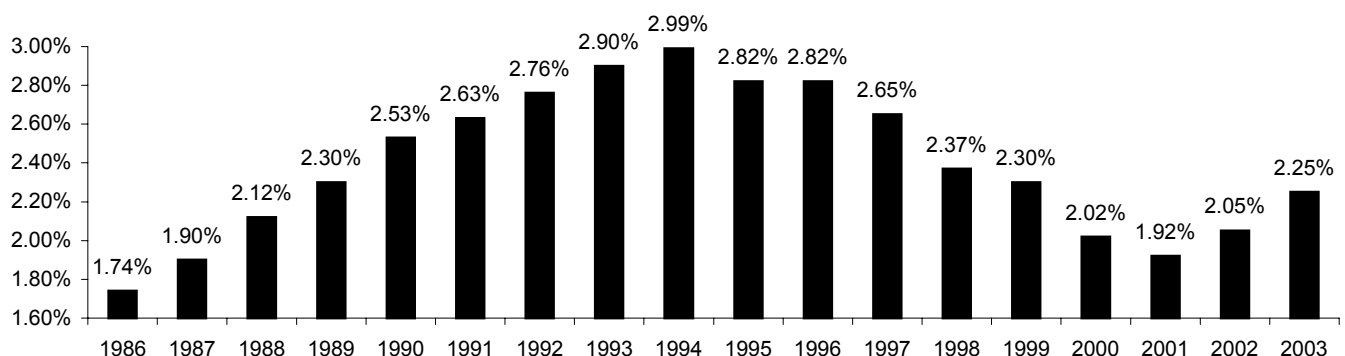
For reasons explicated in the concluding section, I believe the most useful measure of employers' expenditures on workers' compensation is

workers' compensation costs as a percent of payroll.

Private Sector Employees. The employers' costs of workers' compensation as a percent of gross earnings (payroll) for private sector employees from 1986 to 2003 are shown in Figure A and in Panel A of Tables 1, 2, and 3. Employers' expenditures on workers' compensation in private industry represented 1.74 percent of payroll in 1986, increased in each of the next eight years until peaking at 2.99 percent of payroll in 1994, and then declined for seven years until reaching 1.92 percent of payroll in 2001. Costs subsequently began to increase, reaching 2.05 percent of payroll in 2002 and 2.25 percent of payroll in 2003.

State and Local Government Employees. The employers' costs of workers' compensation as a percent of payroll for employees in the state and local government sector from 1991 to 2003 are shown in Figure B and Panel B of Tables 1, 2, and 3. This sector's workers' compensation costs started at 1.49 percent of payroll in 1991, peaked in 1995 at 1.59 percent of payroll, dropped to 1.34 percent of payroll in 2000, rebounded to 1.42

Figure A - Workers' Compensation Costs as a Percentage of Gross Earnings, Private Industry Employees, 1986-2003



Source: Tables 1, 2 and 3.

Note: Data for 2002 and 2003 are annual averages; data for earlier years are for March.

Table 1 - Total Remuneration, Wages and Salaries, and Workers' Compensation, March 1986-1995
(In Dollars Per Hours Worked)

Panel A: Private Industry Employees		1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
(1)	Total Remuneration	13.25	13.42	13.79	14.28	14.96	15.40	16.14	16.70	17.08	17.10
(2)	Gross Earnings	10.90	11.08	11.32	11.72	12.24	12.55	13.06	13.43	13.69	13.81
(3)	Wages and Salaries	9.67	9.83	10.02	10.38	10.84	11.14	11.58	11.90	12.14	12.25
(4)	Paid Leave	0.93	0.93	0.97	1.00	1.03	1.05	1.09	1.11	1.11	1.09
(5)	Supplemental Pay	0.30	0.32	0.33	0.34	0.37	0.36	0.39	0.42	0.44	0.47
(6)	Benefits Other Than Pay	2.36	2.35	2.47	2.56	2.72	2.85	3.07	3.26	3.39	3.29
(7)	Insurance	0.73	0.72	0.78	0.85	0.92	1.01	1.12	1.19	1.23	1.15
(8)	Retirement Benefits	0.50	0.48	0.45	0.42	0.45	0.44	0.46	0.48	0.52	0.52
(9)	Legally Required Benefits	1.11	1.13	1.22	1.27	1.35	1.40	1.47	1.55	1.60	1.59
(9A)	Workers' Compensation	(0.19)	(0.21)	(0.24)	(0.27)	(0.31)	(0.33)	(0.36)	(0.39)	(0.41)	(0.39)
(10)	Other Benefits	0.02	0.02	0.02	0.02	*	*	0.02	0.04	0.04	0.03
(11)	Workers' Compensation as Percent of Remuneration	1.43%	1.56%	1.74%	1.89%	2.07%	2.14%	2.23%	2.34%	2.40%	2.28%
(12)	Workers' Compensation as Percent of Gross Earnings	1.74%	1.90%	2.12%	2.30%	2.53%	2.63%	2.76%	2.90%	2.99%	2.82%
Panel B: State and Local Employees							1991	1992	1993	1994	1995
(1)	Total Remuneration						22.31	23.49	24.44	25.27	24.86
(2)	Gross Earnings						17.48	18.40	19.07	19.71	19.48
(3)	Wages and Salaries						15.52	16.39	17.00	17.57	17.31
(4)	Paid Leave						1.75	1.80	1.86	1.94	1.95
(5)	Supplemental Pay						0.21	0.21	0.21	0.20	0.22
(6)	Benefits Other Than Pay						4.84	5.08	5.36	5.57	5.38
(7)	Insurance						1.63	1.84	2.02	2.15	2.03
(8)	Retirement Benefits						1.85	1.82	1.87	1.90	1.78
(9)	Legally Required Benefits						1.34	1.40	1.44	1.49	1.55
(9A)	Workers' Compensation						(0.26)	(0.28)	(0.30)	(0.31)	(0.31)
(10)	Other Benefits						0.02	0.02	0.03	0.03	0.02
(11)	Workers' Compensation as Percent of Remuneration						1.17%	1.19%	1.23%	1.23%	1.25%
(12)	Workers' Compensation as Percent of Gross Earnings						1.49%	1.52%	1.57%	1.57%	1.59%
Panel C: All Non-Federal Employees							1991	1992	1993	1994	1995
(1)	Total Remuneration						16.45	17.27	17.88	18.30	18.21
(2)	Gross Earnings						13.30	13.89	14.29	14.58	14.62
(3)	Wages and Salaries						11.81	12.33	12.68	12.95	12.98
(4)	Paid Leave						1.16	1.20	1.22	1.23	1.21
(5)	Supplemental Pay						0.33	0.36	0.39	0.40	0.43
(6)	Benefits Other Than Pay						3.16	3.38	3.59	3.72	3.59
(7)	Insurance						1.10	1.23	1.32	1.37	1.28
(8)	Retirement Benefits						0.65	0.67	0.70	0.73	0.70
(9)	Legally Required Benefits						1.39	1.46	1.53	1.58	1.58
(9A)	Workers' Compensation						(0.32)	(0.35)	(0.38)	(0.39)	(0.38)
(10)	Other Benefits						0.02	0.02	0.04	0.04	0.03
(11)	Workers' Compensation as Percent of Remuneration						1.95%	2.03%	2.13%	2.13%	2.09%
(12)	Workers' Compensation as Percent of Gross Earnings						2.41%	2.52%	2.66%	2.67%	2.60%

Notes: See table on page 11.

Sources: Data in rows (1), (3) to (5), and (7) to (10) of Panels A, B, and C:
1986-1990: U.S. Department of Labor, 2000a, Tables 140, 150, 158, 165, 169
1991-1995: U.S. Department of Labor, 2000a, Tables 1, 3, 5, 17, 19, 21, 33, 35, 37, 49, 51, 53, 65, 67, 69, 81, 83, 85, 97, 99, 101, 112, 114, 116, 126, 128, 130

Table 2 - Total Remuneration, Wages and Salaries, and Workers' Compensation, March 1996-2003
(In Dollars Per Hours Worked)

Panel A: Private Industry Employees		1996	1997	1998	1999	2000	2001	2002	2003
(1)	Total Remuneration	17.49	17.97	18.50	19.00	19.85	20.81	21.71	22.37
(2)	Gross Earnings	14.19	14.69	15.19	15.62	16.37	17.16	17.86	18.26
(3)	Wages and Salaries	12.58	13.04	13.47	13.87	14.49	15.18	15.80	16.15
(4)	Paid Leave	1.12	1.14	1.16	1.20	1.28	1.37	1.44	1.47
(5)	Supplemental Pay	0.49	0.51	0.56	0.55	0.60	0.61	0.62	0.64
(6)	Benefits Other Than Pay	3.31	3.29	3.31	3.38	3.48	3.65	3.86	4.11
(7)	Insurance	1.14	1.09	1.10	1.13	1.19	1.28	1.40	1.52
(8)	Retirement Benefits	0.55	0.55	0.55	0.57	0.59	0.62	0.63	0.67
(9)	Legally Required Benefits	1.59	1.62	1.63	1.65	1.67	1.73	1.80	1.89
(9A)	Workers' Compensation	(0.40)	(0.39)	(0.36)	(0.36)	(0.33)	(0.33)	(0.35)	(0.40)
(10)	Other Benefits	0.03	0.03	0.03	0.03	0.03	0.02	0.03	0.03
(11)	Workers' Compensation as Percent of Remuneration	2.29%	2.17%	1.95%	1.89%	1.66%	1.59%	1.61%	1.79%
(12)	Workers' Compensation as Percent of Gross Earnings	2.82%	2.65%	2.37%	2.30%	2.02%	1.92%	1.96%	2.19%
Panel B: State and Local Employees		1996	1997	1998	1999	2000	2001	2002	2003
(1)	Total Remuneration	25.73	26.58	27.28	28.00	29.05	30.06	31.29	32.62
(2)	Gross Earnings	20.16	20.90	21.53	22.19	23.08	23.94	24.83	25.66
(3)	Wages and Salaries	17.95	18.61	19.19	19.78	20.57	21.34	22.14	22.85
(4)	Paid Leave	1.99	2.06	2.11	2.17	2.26	2.34	2.43	2.51
(5)	Supplemental Pay	0.22	0.23	0.23	0.24	0.25	0.26	0.26	0.30
(6)	Benefits Other Than Pay	5.56	5.69	5.76	5.81	5.97	6.13	6.46	6.96
(7)	Insurance	2.07	2.09	2.15	2.22	2.38	2.56	2.82	3.12
(8)	Retirement Benefits	1.90	1.95	1.94	1.91	1.84	1.73	1.74	1.85
(9)	Legally Required Benefits	1.56	1.61	1.63	1.64	1.70	1.78	1.84	1.93
(9A)	Workers' Compensation	(0.31)	(0.30)	(0.30)	(0.30)	(0.31)	(0.34)	(0.34)	(0.36)
(10)	Other Benefits	0.03	0.04	0.04	0.04	0.05	0.06	0.06	0.06
(11)	Workers' Compensation as Percent of Remuneration	1.20%	1.13%	1.10%	1.07%	1.07%	1.13%	1.09%	1.10%
(12)	Workers' Compensation as Percent of Gross Earnings	1.54%	1.44%	1.39%	1.35%	1.34%	1.42%	1.37%	1.40%
Panel C: All Non-Federal Employees		1996	1997	1998	1999	2000	2001	2002	2003
(1)	Total Remuneration	18.68	19.22	19.76	20.29	21.16	22.15	23.15	23.93
(2)	Gross Earnings	15.05	15.59	16.11	16.57	17.33	18.14	18.91	19.39
(3)	Wages and Salaries	13.36	13.85	14.30	14.72	15.36	16.07	16.76	17.17
(4)	Paid Leave	1.24	1.27	1.30	1.34	1.42	1.51	1.59	1.63
(5)	Supplemental Pay	0.45	0.47	0.51	0.51	0.55	0.56	0.56	0.59
(6)	Benefits Other Than Pay	3.64	3.63	3.66	3.73	3.83	4.00	4.24	4.54
(7)	Insurance	1.27	1.23	1.25	1.29	1.36	1.46	1.61	1.77
(8)	Retirement Benefits	0.75	0.75	0.75	0.76	0.77	0.78	0.80	0.85
(9)	Legally Required Benefits	1.59	1.62	1.63	1.65	1.67	1.73	1.80	1.89
(9A)	Workers' Compensation	(0.38)	(0.38)	(0.35)	(0.35)	(0.33)	(0.34)	(0.35)	(0.39)
(10)	Other Benefits	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03
(11)	Workers' Compensation as Percent of Remuneration	2.03%	1.98%	1.77%	1.72%	1.56%	1.53%	1.51%	1.63%
(12)	Workers' Compensation as Percent of Gross Earnings	2.52%	2.44%	2.17%	2.11%	1.90%	1.87%	1.85%	2.01%

Notes: See table on page 11.

Sources: Data in rows (1), (3) to (5), and (7) to (10) of Panels A, B, and C:
1996-1999: U.S. Department of Labor, 2000a, Tables 1, 3, 5, 17, 19, 21, 33, 35, 37, 49, 51, 53, 65, 67, 69, 81, 83, 85, 97, 99, 101, 112, 114, 116, 126, 128, 130
2000: U.S. Department of Labor, 2000b, Tables 1, 3, and 5.
2001: U.S. Department of Labor, 2001, Tables 1, 3, and 5.
2002: U.S. Department of Labor, 2002a, Tables 1, 3, and 5.
2003: U.S. Department of Labor, 2003b, Tables 1, 3, and 5.

**Table 3 - Total Remuneration, Wages and Salaries, and Workers' Compensation, Quarterly Since March 2002
(In Dollars Per Hours Worked)**

		March 2002	June 2002	Sept. 2002	Dec. 2002	2002 Average	March 2003	June 2003	Sept. 2003	Dec. 2003	2003 Average
Panel A: Private Industry Employees											
(1)	Total Remuneration	21.71	21.83	22.01	22.14	21.92	22.37	22.61	22.84	22.92	22.69
(2)	Gross Earnings	17.86	17.94	18.05	18.16	18.00	18.26	18.41	18.59	18.61	18.47
(3)	Wages and Salaries	15.80	15.90	16.00	16.08	15.95	16.15	16.31	16.46	16.49	16.35
(4)	Paid Leave	1.44	1.44	1.45	1.47	1.45	1.47	1.46	1.48	1.48	1.47
(5)	Supplemental Pay	0.62	0.60	0.60	0.61	0.61	0.64	0.64	0.65	0.64	0.64
(6)	Benefits Other Than Pay	3.86	3.89	3.95	3.98	3.92	4.11	4.20	4.25	4.31	4.22
(7)	Insurance	1.40	1.42	1.45	1.46	1.43	1.52	1.57	1.59	1.62	1.58
(8)	Retirement Benefits	0.63	0.62	0.63	0.64	0.63	0.67	0.67	0.68	0.70	0.68
(9)	Legally Required Benefits	1.80	1.82	1.84	1.85	1.83	1.89	1.93	1.95	1.96	1.93
(9A)	Workers' Compensation	(0.35)	(0.37)	(0.38)	(0.38)	(0.37)	(0.40)	(0.41)	(0.42)	(0.43)	(0.42)
(10)	Other Benefits	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03
(11)	Workers' Compensation as Percent of Remuneration	1.61%	1.69%	1.73%	1.72%	1.69%	1.79%	1.81%	1.84%	1.88%	1.83%
(12)	Workers' Compensation as Percent of Gross Earnings	1.96%	2.06%	2.11%	2.09%	2.05%	2.19%	2.23%	2.26%	2.31%	2.25%
Panel B: State and Local Employees											
(1)	Total Remuneration	31.29	31.20	31.89	32.32	31.68	32.62	32.99	33.62	33.91	33.29
(2)	Gross Earnings	24.83	24.72	25.17	25.46	25.05	25.66	25.96	26.26	26.43	26.08
(3)	Wages and Salaries	22.14	22.00	22.40	22.68	22.31	22.85	23.14	23.42	23.56	23.24
(4)	Paid Leave	2.43	2.45	2.49	2.49	2.47	2.51	2.52	2.55	2.58	2.54
(5)	Supplemental Pay	0.26	0.27	0.28	0.29	0.28	0.30	0.30	0.29	0.29	0.30
(6)	Benefits Other Than Pay	6.46	6.47	6.72	6.85	6.63	6.96	7.02	7.36	7.48	7.21
(7)	Insurance	2.82	2.85	2.96	3.02	2.91	3.12	3.16	3.32	3.39	3.25
(8)	Retirement Benefits	1.74	1.72	1.81	1.84	1.78	1.85	1.86	1.99	2.03	1.93
(9)	Legally Required Benefits	1.84	1.84	1.89	1.92	1.87	1.93	1.94	1.98	1.99	1.96
(9A)	Workers' Compensation	(0.34)	(0.35)	(0.36)	(0.37)	(0.36)	(0.36)	(0.37)	(0.38)	(0.38)	(0.37)
(10)	Other Benefits	0.06	0.06	0.06	0.07	0.06	0.06	0.06	0.07	0.07	0.07
(11)	Workers' Compensation as Percent of Remuneration	1.09%	1.12%	1.13%	1.14%	1.12%	1.10%	1.12%	1.13%	1.12%	1.12%
(12)	Workers' Compensation as Percent of Gross Earnings	1.37%	1.42%	1.43%	1.45%	1.42%	1.40%	1.43%	1.45%	1.44%	1.43%
Panel C: All Non-Federal Employees											
(1)	Total Remuneration	23.15	23.20	23.44	23.66	23.36	23.93	24.19	24.48	24.59	24.30
(2)	Gross Earnings	18.91	18.92	19.09	19.24	19.04	19.39	19.57	19.76	19.80	19.63
(3)	Wages and Salaries	16.76	16.78	16.93	17.06	16.88	17.17	17.35	17.52	17.56	17.40
(4)	Paid Leave	1.59	1.59	1.60	1.62	1.60	1.63	1.63	1.64	1.65	1.64
(5)	Supplemental Pay	0.56	0.55	0.56	0.56	0.56	0.59	0.59	0.60	0.59	0.59
(6)	Benefits Other Than Pay	4.24	4.26	4.35	4.41	4.32	4.54	4.64	4.73	4.78	4.67
(7)	Insurance	1.61	1.63	1.67	1.69	1.65	1.77	1.81	1.86	1.88	1.83
(8)	Retirement Benefits	0.80	0.78	0.80	0.82	0.80	0.85	0.86	0.88	0.90	0.87
(9)	Legally Required Benefits	1.80	1.82	1.85	1.86	1.83	1.89	1.93	1.95	1.96	1.93
(9A)	Workers' Compensation	(0.35)	(0.36)	(0.38)	(0.38)	(0.37)	(0.39)	(0.41)	(0.42)	(0.42)	(0.41)
(10)	Other Benefits	0.03	0.03	0.03	0.04	0.03	0.03	0.04	0.04	0.04	0.04
(11)	Workers' Compensation as Percent of Remuneration	1.51%	1.55%	1.62%	1.61%	1.57%	1.63%	1.69%	1.72%	1.71%	1.69%
(12)	Workers' Compensation as Percent of Gross Earnings	1.85%	1.90%	1.99%	1.98%	1.93%	2.01%	2.10%	2.13%	2.12%	2.09%

Notes: See table on page 11.

Sources: Data in rows (1), (3) to (5), and (7) to (10) of Panels A, B, and C:
March 2002: U.S. Department of Labor, 2002a, Tables 1, 3, and 5.
June 2002: U.S. Department of Labor, 2002b, Tables 1, 3, and 5.
September 2002: U.S. Department of Labor, 2002c, Tables 1, 3, and 5.
December 2002: U.S. Department of Labor, 2003a, Tables 1, 3, and 5.
March 2003: U.S. Department of Labor, 2003b, Tables 1, 3, and 5.
June 2003: U.S. Department of Labor, 2003c, Tables 1, 3, and 5.
September 2003: U.S. Department of Labor, 2003d, Tables 1, 3, and 5.
December 2003: U.S. Department of Labor, 2004, Tables 1, 3, and 5.

Notes for Tables 1, 2, and 3

Notes: * = \$0.01 or less

- (1) Table 1 and the text of this article use the term "remuneration" in place of the term "compensation" that is used in the BLS publications, and use the term "All non-federal Employees" in place of the term "Civilian workers" that is used in the BLS publications.
- (2) Total remuneration (row 1) = gross earnings (row 2) + benefits other than pay (row 6).
- (3) Gross earnings (row 2) = wages and salaries (row 3) + paid leave (row 4) + supplemental pay (row 5).
- (4) Benefits other than pay (row 6) = insurance (row 7) + retirement benefits (row 8) + legally required benefits (row 9) + other benefits (row 10).
- (5) Workers' compensation (row 9A) is one of the legally required benefits (row 9).
- (6) Workers' compensation as percent of remuneration (row 11) = workers' compensation (row 9A)/total remuneration (row 1).
- (7) Workers' compensation as percent of gross earnings (row 12) = workers' compensation (row 9A)/gross earnings (row 2).
- (8) Results in rows (2), (6), (11), and (12) were calculated by Florence Blum and John F. Burton, Jr.

percent of payroll in 2001 and 2002, and then increased again to 1.43 percent of payroll in 2003.

All Non-Federal Employees. Workers' compensation costs for 1991 to 2003 for all non-federal employees, a category that includes private industry employees along with state and local government employees, are presented in Figure C and in Panel C of Tables 1, 2, and 3. Workers' compensation costs for employers of all non-federal employees represented 2.41 percent of payroll in 1991, increased to a peak of 2.67 percent in 1994, declined from 1994 to 2001, when it was 1.87 percent of payroll, and then increased to 2.09 percent of payroll in 2003.

Costs Per Hour Worked

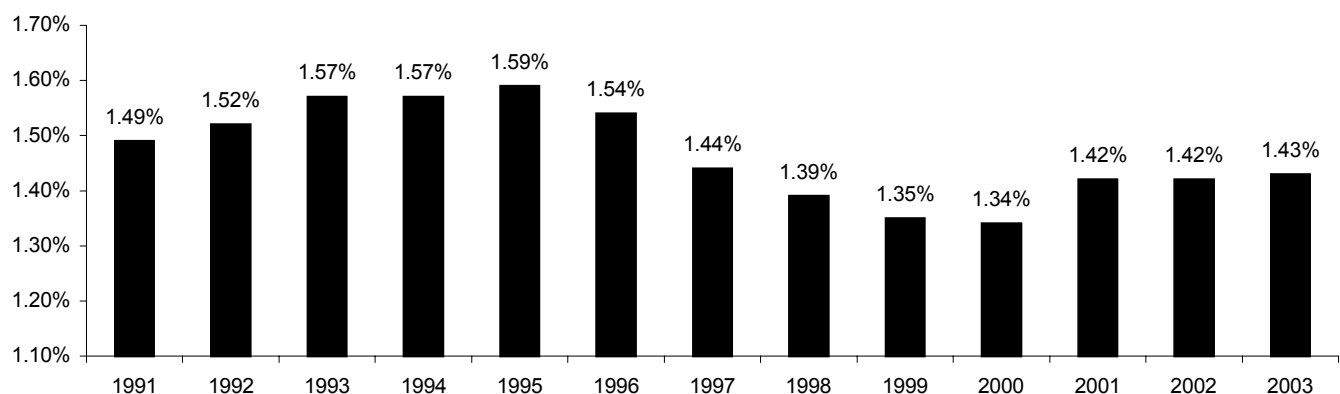
An alternative measure of the employers' costs of workers' compensation is employers' expenditures on the program in dollars per hour worked.

Private Sector Employees. The employers' costs of workers' compensation in dollars per hour worked for private sector workers from 1986 to 2003 are shown in Figure D and Panel A of Tables 1, 2, and 3. Using this measure of employers' costs, the costs in the private sector began at \$0.19 per hour in 1986, increased to \$0.41 per hour in 1994, declined in most years until reaching \$0.33 per hour in 2000 and 2001, and then increased to

\$0.37 per hour in 2002 and \$0.42 in 2003.

State and Local Government Employees. The employers' costs of workers' compensation in dollars per hour worked for workers in the state in the state and local government sector from 1991 to 2003 are shown in Figures E and Panel B of Tables 1, 2, and 3. The employers' costs of workers' compensation per hour worked in the state and local government sector were \$0.26 in 1991 (the first year with data), increased to \$0.31 in 1994, fluctuated in a narrow band between \$0.30 and \$0.31 per hour from 1994 to 2000, and finally "spurred" to \$0.34 per hour in 2001 and \$0.37 in 2003.

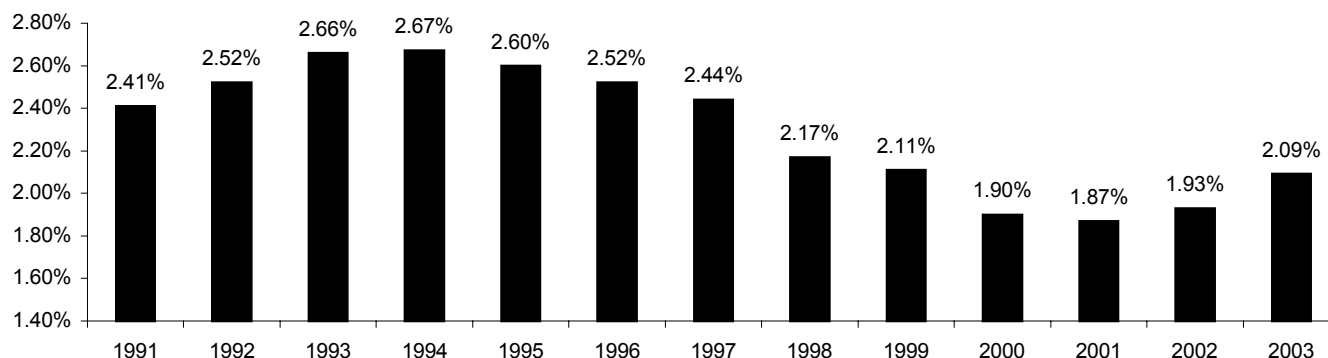
Figure B - Workers' Compensation Costs as a Percentage of Gross Earnings, State and Local Government Employees, 1991-2003



Source: Tables 1, 2 and 3.

Note: Data for 2002 and 2003 are annual averages; data for earlier years are for March.

**Figure C - Workers' Compensation Costs as a Percentage of Gross Earnings,
All Non-Federal Employees, 1991-2003**



Source: Tables 1, 2 and 3.

Note: Data for 2002 and 2003 are annual averages; data for earlier years are for March.

All Non-Federal Employees. The employers' costs of workers' compensation in dollars per hour worked for all non-federal government employees from 1991 to 2003 are shown in Figure F and Panel C of Tables 1, 2, and 3. Workers' compensation costs per hour worked for all non-federal government employees were \$0.32 in 1991 (the first year with data), increased to \$0.39 in 1994, declined to \$0.33 in 2000, and then increased significantly to \$0.37 in 2002 and \$0.41 in 2003.

QUARTERLY DATA

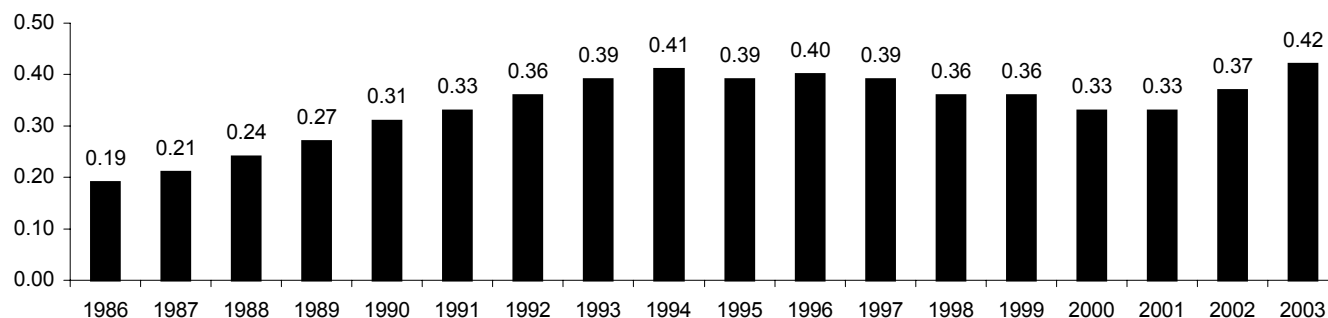
Workers' Compensation Costs as Percent of Payroll

Private sector employees. The trend towards higher workers' compensation costs in the private sector since March 2002 is further documented in Figure G and Panel A of Table 3, which present information on the eight quarters of data available under the new BLS quarterly publication schedule. The employers' costs of 1.96 percent in March 2002 increased until September 2002, dropped slightly in December 2002,

and subsequently resumed an increase in every quarter of 2003, reaching 2.31 percent of payroll in December 2003.

State and Local Government Employees. The fluctuations in workers' compensation costs in the state and local sector in recent years are evident in the eight quarters of data available included in Figure H and Panel B of Table 3. The employers' costs increased from 1.37 percent of payroll in March 2002 to a peak of 1.45 percent of payroll in December 2002, dropped to 1.40 percent of payroll in March 2003, and then matched the previous peak of 1.45 percent of

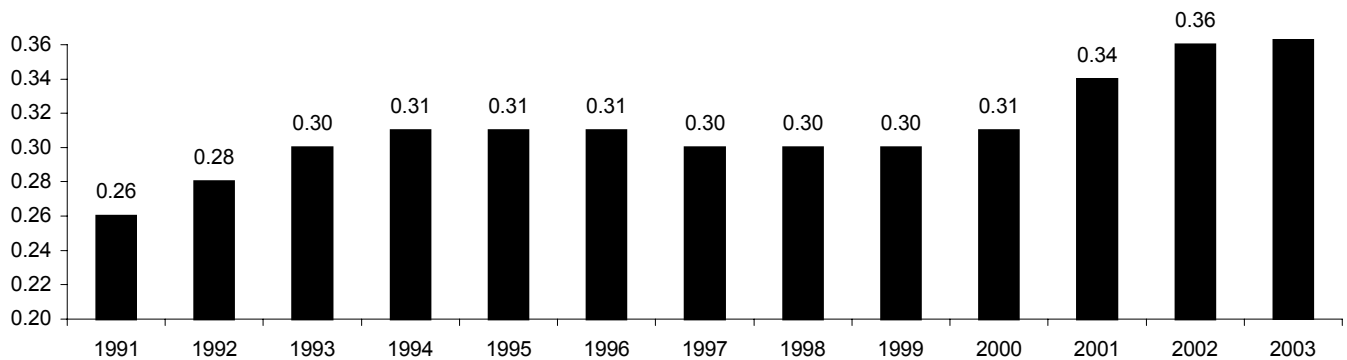
**Figure D - Workers' Compensation Costs for Private Industry Employees,
1986-2003 (In Dollars per Hour Worked)**



Source: Tables 1, 2 and 3.

Note: Data for 2002 and 2003 are annual averages; data for earlier years are for March.

Figure E - Workers' Compensation Costs for State and Local Government Employees, 1991-2003 (In Dollars per Hour Worked)



Source: Tables 1, 2 and 3.

Note: Data for 2002 and 2003 are annual averages; data for earlier years are for March.

payroll in September 2003, before declining again to 1.44 percent of payroll.

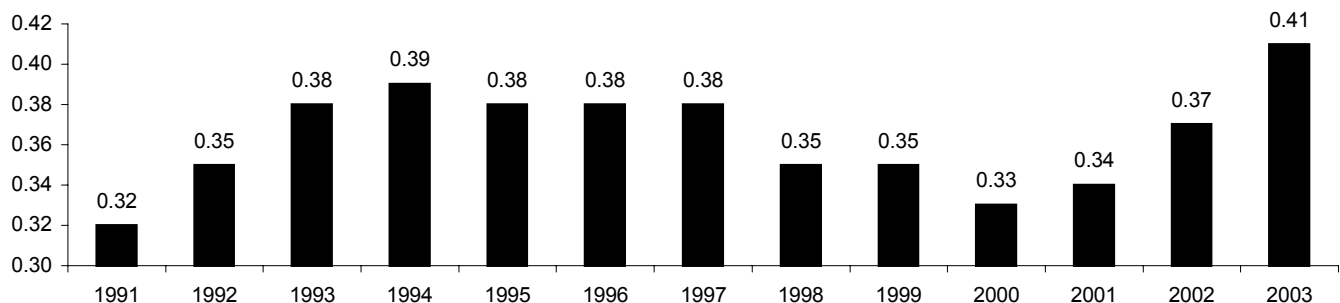
All Non-federal Employees. A general trend towards higher workers' compensation costs for all non-federal employers since 2002 is shown in the eight quarters of data in Figure I and in Panel C of Table 3. The employers' costs of 1.85 percent of payroll in March 2002, increased to 1.99 percent of payroll in September 2002, dropped slightly to 1.98 percent of payroll in December 2002, and then increased during the first three quarters of 2003, reaching 2.13 percent of payroll in September 2003, before dropping to 2.12 percent of payroll in December 2003.

Workers' Compensation Costs per Hour Worked

Private Sector Employees. The quarterly data indicate that private sector employers expended \$0.35 per hour on workers' compensation in March 2002 and that these expenditures increased almost every quarter until reaching \$0.43 per hour in December 2003 (Figure J and Panel A of Table 3). Using this measure of costs, private sector workers' compensation costs in June 2003 exceeded the previous high of \$0.41 per hour reached in 1994.

State and Local Government Employees. The quarterly data indicate that state and local government employers expended \$0.34 per hour on workers' compensation in March 2002 and that these expenditures fluctuated between \$0.36 and \$0.38 per hour between September 2002 and December 2003 (Figure K and Panel B of Table 3). Using this measure of costs, workers' compensation costs for state and local government employers were \$0.38 per hour in the last two quarters of 2003, which is the highest they have been since the series began in 1991.

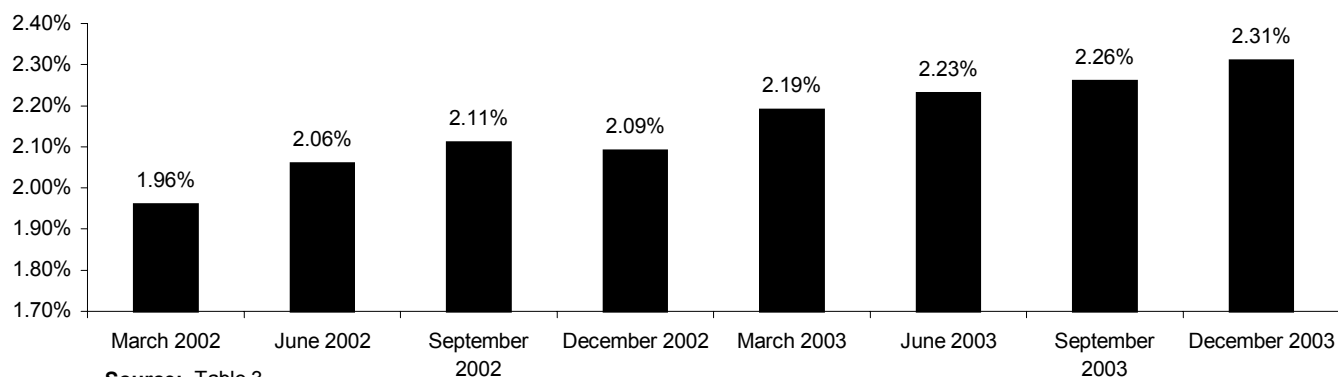
Figure F - Workers' Compensation Costs for All Non-Federal Employees, 1991-2003 (In Dollars per Hour Worked)



Source: Tables 1, 2 and 3.

Note: Data for 2002 and 2003 are annual averages; data for earlier years are for March.

Figure G
Workers' Compensation Costs as a Percentage of Gross Earnings,
Private Industry Employees, March 2002 - December 2003



All Non-Federal Employees. The quarterly data indicate that state and local government employers expended \$0.35 per hour on workers' compensation in March 2002 and that these expenditures increased in most quarters until they reached \$0.42 per hour worked in September and December 2003 (Figure L and Panel C of Table 3). Using this measure of costs, workers' compensation costs for all non-federal employees in the last two quarters of 2003 were the highest they have been since the series began in 1991.

RECENT INCREASES IN WORKERS' COMPENSATION COSTS

The most comprehensive set of employers represented in the BLS survey are those employing all non-federal employees. For those employers, the low point for employers' costs as a percent of payroll occurred in March 2002, when the costs represented 1.85 percent of payroll. Tables 4 and 5 indicate the increases in workers' compensation costs since March 2002.

Employer's Costs as a Percent of Payroll

Private Sector Employees. The employers' costs of workers' compensation as a percent of payroll increased from 1.96 percent in March 2002 to 2.31 percent of payroll in December 2003 (Figure G and Panel A, Column (1) of Table 4). This represents a cumulative increase of costs of 17.9 percent over the eight quarters (Table 4, Panel A, column (2)). The quarterly data can also be used to calculate annual rates of increase in workers' compensation costs over the preceding year. For example, private

Figure H
Workers' Compensation Costs as a Percentage of Gross Earnings,
State and Local Employees, March 2002 - December 2003

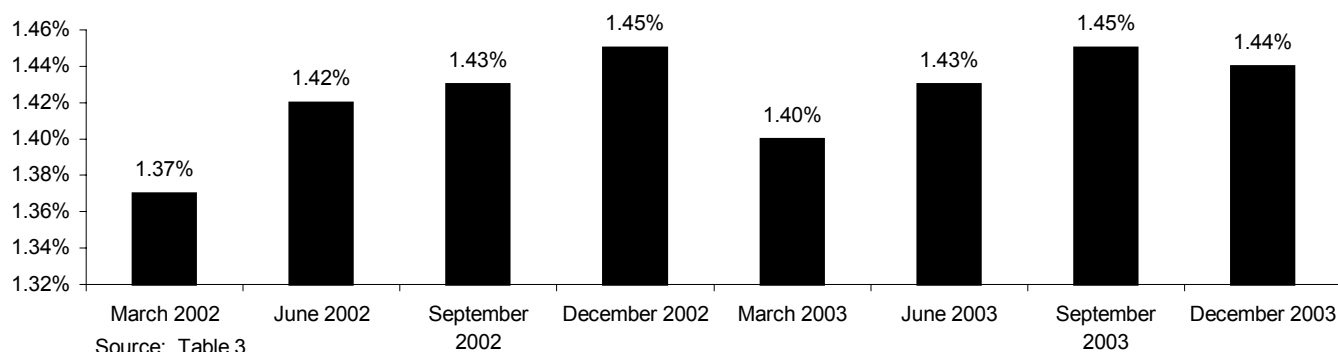


Table 4 - Employers' Cost of Workers' Compensation as Percent of Gross Earnings (Payroll): Increases Since March 2002**Panel A: Private Industry Employees**

	Employers' Costs as % of Payroll	Cumulative Increase Since March 2002	Increase Over Twelve Months
	(1)	(2)	(3)
March 2002	1.96		
June 2002	2.06	5.1%	
September 2002	2.11	7.7%	
December 2002	2.09	6.6%	
March 2003	2.19	11.7%	11.7%
June 2003	2.23	13.8%	8.3%
September 2003	2.26	15.3%	7.1%
December 2003	2.31	17.9%	10.5%

Panel B: State and Local Employees

	Employers' Costs as % of Payroll	Cumulative Increase Since March 2002	Increase Over Twelve Months
	(1)	(2)	(3)
March 2002	1.37		
June 2002	1.42	3.6%	
September 2002	1.43	4.4%	
December 2002	1.45	5.8%	
March 2003	1.40	2.2%	2.2%
June 2003	1.43	4.4%	0.7%
September 2003	1.45	5.8%	1.4%
December 2003	1.44	5.1%	-0.7%

Panel C: All Non-Federal Employees

	Employers' Costs as % of Payroll	Cumulative Increase Since March 2002	Increase Over Twelve Months
	(1)	(2)	(3)
March 2002	1.85		
June 2002	1.90	2.7%	
September 2002	1.99	7.6%	
December 2002	1.98	7.0%	
March 2003	2.01	8.6%	8.6%
June 2003	2.10	13.5%	10.5%
September 2003	2.13	15.1%	7.0%
December 2003	2.12	14.6%	7.1%

Source: Column (1) from Table 3, Row (12) of Panels A, B, and C.

sector employers' costs were 1.96 percent of payroll in March 2002 and 2.19 percent of payroll in March 2003, which represents an 11.7 percent increase in costs over the twelve months (Figure M and Table 4, Panel A, Column (3)). The data indicate that the annual rate of increase in the employers' costs of workers' compensation in the private sector fluctuated during 2003, first decelerating over the first three quarters and then accelerating in the final quarter.

State and Local Employees. The employers' costs of workers' compensation as a percent of payroll increased from 1.37 percent of payroll in March 2002 to 1.44 percent of payroll in December 2003 (Figure H and Table 4, Panel B, Column (1)). This represents a cumulative increase in costs of 5.1 percent over eight quarters (Table 4, Panel B, Column (2)). The quarterly data can also be used to calculate annual rates of increase in workers' compensation costs over the preceding year. For example, state and local government sector employers' costs were 1.37 percent of payroll in March 2002 and 1.40 percent of payroll in March 2003, which represents a 2.2 percent increase in costs over the twelve months (Figure M and Table 4, Panel B, Column (3)). The data indicate that the annual rate of change in the employers' costs of workers' compensation in the state and local government sector fluctuated during 2003, ranging from a 2.2 percent increase from March 2002 to March 2003 to a 0.7 percent decrease from December 2002 to December 2003.

All Non-Federal Employees. The employers' costs of workers' compensation as a percent of payroll increased from 1.85 percent of payroll in March 2002 to 2.12 percent of payroll in December 2003 (Figure I and Table 4, Panel C, Column (1)). This represents a cumulative increase of costs of 14.6 percent over the eight quarters (Table 4, Panel C, Column (2)). The quarterly data can also be used to calculate annual rates of in-

crease in workers' compensation costs over the preceding year. For example, all non-federal employers' costs were 1.85 percent of payroll in March 2002 and 2.01 percent of payroll in March 2003, which represents an 8.6 percent increase in costs over the twelve months (Figure M and Table 2, Panel C, Column (3)). This means that the annual rate of increase in the employers' costs of workers' compensation for all non-federal employees fluctuated during 2003, although the rate of increase was lower in the last two quarters than in the first half of the year.

Workers' Compensation Costs per Hour Worked

Private Sector Employees. The employers' costs of workers' compensation per hour worked increased from \$0.35 in March 2002 to \$0.43 percent of payroll in December 2003 (Figure J and Panel A, Column (1) of Table 5). This represents a cumulative increase of costs of 22.9 percent over the eight quarters (Table 5, Panel A, column (2)). The quarterly data can also be used to calculate annual rates of increase in workers' compensation costs over the preceding year. For example, private sector employers' costs were \$0.35 per hour in March 2002 and \$0.40 in March 2003, which represents a 14.3 percent increase in costs over the twelve months (Figure N and Table 5, Panel A, Column (3)). The data indicate that the annual rate of increase in the employers' costs of workers' compensation in the private sector fluctuated during 2003, decelerating over the first three quarters and then accelerating in the final quarter.

State and Local Employees. The employers' costs of workers' compensation per hour worked increased from \$0.34 in March 2002 to \$0.38 in December 2003 (Figure K and Table 5, Panel B, Column (1)). This represents a cumulative increase of costs of 11.8 percent over eight quarters (Table 5, Panel B, Column (2)). The quarterly data can also be

Table 5 - Employers' Cost of Workers' Compensation in Dollars Per Hours Worked: Increases Since March 2002

Panel A: Private Industry Employees

	Employers' Costs in Dollars (1)	Cumulative Increase Since March 2002 (2)	Increase Over Twelve Months (3)
March 2002	0.35		
June 2002	0.37	5.7%	
September 2002	0.38	8.6%	
December 2002	0.38	8.6%	
March 2003	0.40	14.3%	14.3%
June 2003	0.41	17.1%	10.8%
September 2003	0.42	20.0%	10.5%
December 2003	0.43	22.9%	13.2%

Panel B: State and Local Employees

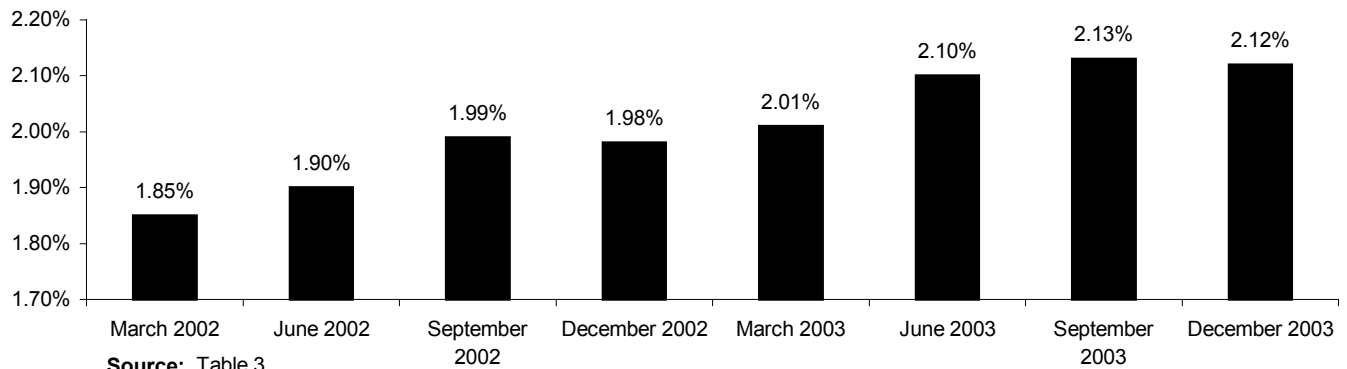
	Employers' Costs in Dollars (1)	Cumulative Increase Since March 2002 (2)	Increase Over Twelve Months (3)
March 2002	0.34		
June 2002	0.35	2.9%	
September 2002	0.36	5.9%	
December 2002	0.37	8.8%	
March 2003	0.36	5.9%	5.9%
June 2003	0.37	8.8%	5.7%
September 2003	0.38	11.8%	5.6%
December 2003	0.38	11.8%	2.7%

Panel C: All Non-Federal Employees

	Employers' Costs in Dollars (1)	Cumulative Increase Since March 2002 (2)	Increase Over Twelve Months (3)
March 2002	0.35		
June 2002	0.36	2.9%	
September 2002	0.38	8.6%	
December 2002	0.38	8.6%	
March 2003	0.39	11.4%	11.4%
June 2003	0.41	17.1%	13.9%
September 2003	0.42	20.0%	10.5%
December 2003	0.42	20.0%	10.5%

Source: Column (1) from Table 3, Row (9A) of Panels A, B, and C.

Figure I
Workers' Compensation Costs as a Percentage of Gross Earnings,
All Non-Federal Employees, March 2002 - December 2003



used to calculate annual rates of increase in workers' compensation costs over the preceding year. For example, state and local government sector employers' costs were \$0.34 per hour worked in March 2002 and \$0.36 per hour worked in March 2003, which represents a 5.9 percent increase in costs over the twelve months (Figure N and Table 5, Panel B, Column (3)). The data indicate that the annual rate of change in the employers' costs of workers' compensation in the state and local government sector decelerated throughout 2003, starting with a 5.9 percent increase from March 2002 to March

2003 until slowing to a 2.7 percent increase from December 2002 to December 2003.

All Non-Federal Employees. The employers' costs of workers' compensation per hour worked increased from \$0.35 in March 2002 to \$0.42 in December 2003 (Figure L and Table 5, Panel C, Column (1)). This represents a cumulative increase of costs of 20.0 percent over the eight quarters (Table 5, Panel C, Column (2)). The quarterly data can also be used to calculate annual rates of increase in workers' compensation costs over the preceding year. For

example, all non-federal employers' costs were \$0.35 per hour worked in March 2002 and \$0.39 in March 2003, which represents an 11.4 percent increase in costs over the twelve months (Figure N and Table 5, Panel C, Column (3)). The annual rate of increase in the employers' costs of workers' compensation for all non-federal employees fluctuated during 2003, although the rate of increase was lower in the last two quarters than in the first half of the year.

Figure J
Workers' Compensation Costs for Private Industry Employees,
March 2002 - December 2003 (in Dollars per Hour Worked)

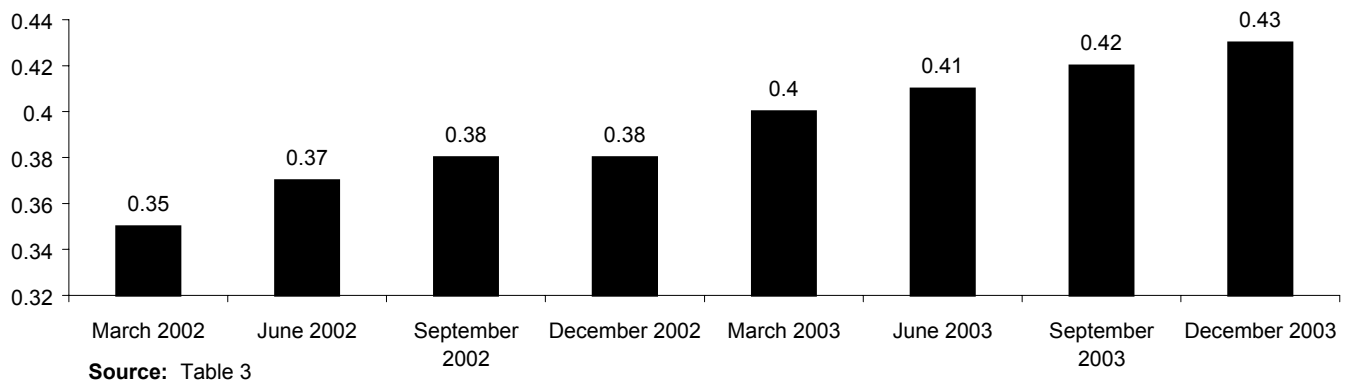
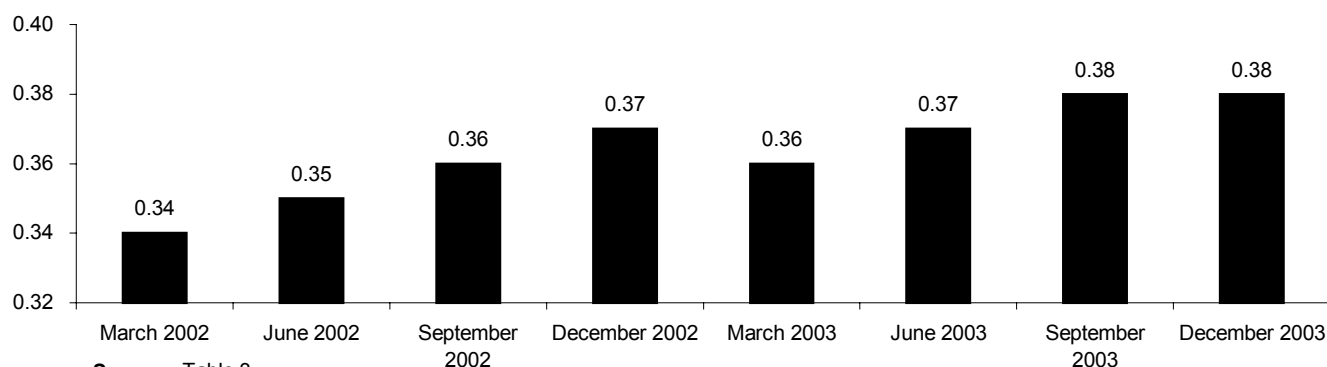


Figure K
Workers' Compensation Costs for State and Local Employees,
March 2002 - June 2003 (in Dollars per Hour Worked)



ANALYSIS

Employers' Costs in Historical Context

Workers' compensation costs as a percentage of gross earnings (or payroll) is the most common measure of employers' costs used in the workers' compensation literature. The rationale is that over time employer expenditures on remuneration for employees, including wages, health insurance, pensions and workers' compensation, increase. For example, between 1991 (March) and 2003 (annual), private sector employers'

expenditures for workers' compensation increased from \$0.33 to \$0.42 per hour worked (annual), which represents a 27 percent increase. In isolation, a 27 percent increase in workers' compensation costs per hour worked may sound like a substantial increase. However, over that same period -- between 1991 (March) and 2003 (annual), the gross earnings (payroll) paid by employers for private sector employees increased from \$12.55 to \$18.47 per hour worked (Panel A, Tables 1 and 3), which is a 47 percent increase. Obviously, workers' compensation costs per hour worked have increased much less rapidly than payroll since 1991, which helps put the

workers' compensation cost developments in perspective.

Another way to put in perspective the developments over time in employer expenditures on workers' compensation is to compare them to payroll in each year. That workers' compensation expenditures represented 2.63 percent of payroll in 1991 (March) for private sector employers and 2.25 percent of payroll in 2003 (annual) provides information more useful than simply stating that workers' compensation costs per hour increased by 27 percent over those 13 years.

Figure L
Workers' Compensation Costs for All Non-Federal Employees,
March 2002 - December 2003 (in Dollars per Hour Worked)

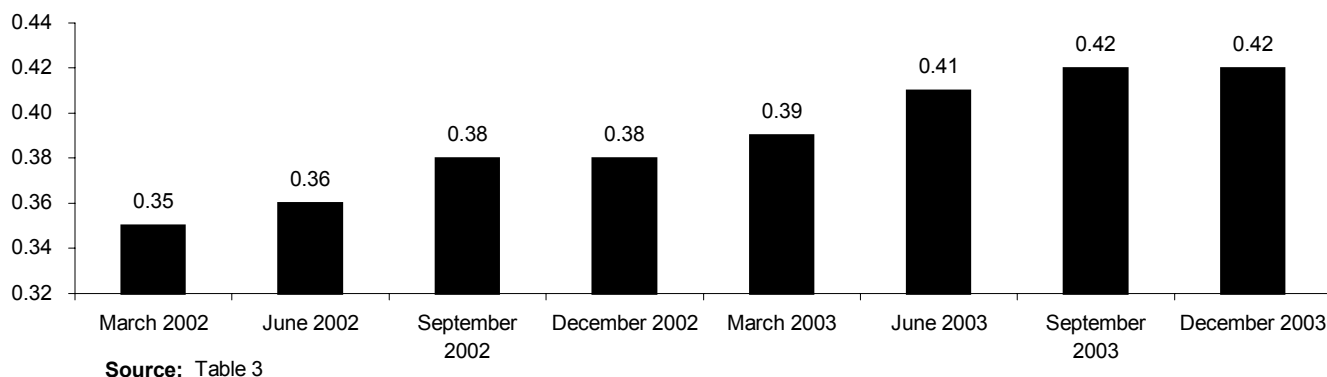
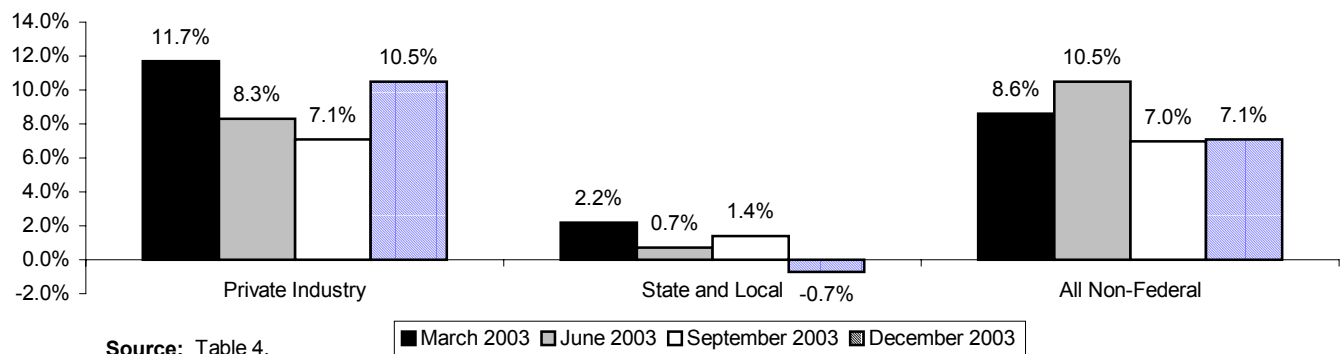


Figure M
Workers' Compensation Costs as Percent of Payroll:
Annual Rates of Increase (Over Five Quarters)



The preceding sections have documented the changes in employer expenditures on workers' compensation as a percent of payroll for three levels of aggregation of employees. For private sector employees, where the data are available since 1986, the costs increased from 1986 to 1994, declined sharply through 2001, and then increased from 2001 to 2003. For state and local government employees, where the data are only available since 1991, the pattern is similar: employers' costs increased through 1995, declined until 2000, and then increased through 2003. Finally, for all non-federal employees (which primarily consists of private sector employees), the data series shows a decline in employers'

costs between 1991 and 2002, followed by an increase in the last two years. While the patterns differ slightly in recent years, the experience in all of the sectors indicates that the employers' costs of workers' compensation have been increasing in the last year or two.

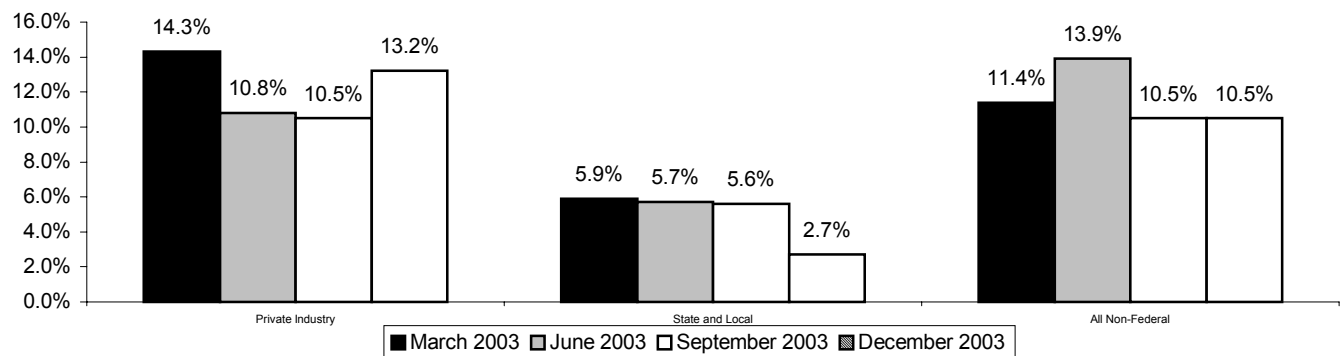
While these recent increases in costs are noteworthy, the recent run-up in costs for private sector employers nonetheless meant that workers' compensation costs as a percent of payroll in 2003 were lower than in any year between 1989 and 1999. Likewise, the employers' costs of workers' compensation as a percent of payroll in the state and local sector were lower in

2003 than in any of the years between 1991 and 1997, while the employers' costs as a percent of payroll for all non-federal employers were lower in 2003 than in all the years between 1991 and 1999.

A Comparison to Other Sources of Data on Employers' Costs

The BLS information on employers' expenditures on workers' compensation has some advantages over other sources of data on workers' compensation. One significant advantage, compared to the annual data prepared by the National Academy of Social Insurance (NASI), is timeliness: the most

Figure N
Workers' Compensation Costs in Dollars Per Hour Worked:
Annual Rates of Increase (Over Five Quarters)



recent NASI data pertain to 2001 (Williams, Reno, and Burton 2003), while BLS data for 2003 are already available. The BLS data on employers' costs are also disaggregated by region, major industry group, occupational group, establishment employment size, and bargaining status -- useful distinctions that are not available in the NASI data, which only includes data on employers' costs at the national level.

The BLS data also have their limitations when compared to the NASI data. The foremost limitation of the BLS data is that they only measure costs to employers, not benefits paid to workers. The NASI data, for example, provide national and state-specific information on benefit payments that differentiate among the types of insurance arrangements (private carriers, state funds, and self-insurers) and that distinguish between medical and cash benefit payments. The NASI national data on benefits and costs also include

the federal sector, which are missing from the BLS data on costs.

The NASI data and BLS data are, to a considerable degree, complementary and, as such, both sources of information are valuable. One problem, however, is that the two data series are not entirely consistent with one another. For example, the NASI data for 2001 (the latest year with data available from that source) indicate that the employers' costs of workers' compensation were 1.39 percent of covered payroll for employers in all sectors (including the federal government); the BLS data for all non-federal employees in 2001 yield an estimation of workers' compensation costs for that group of 1.87 percent of payroll.¹ In addition, the NASI data show 1990 as the peak year (with employers' costs at 2.18 of payroll), while the BLS data (as shown in Figure C and Table 1) for all non-federal employees show continuing increases in workers' compensa-

tion costs as a percent of payroll through 1994, with a decrease in costs only beginning in 1995. But even though the NASI and BLS data have different peak years, both sources of data indicate that the employers' costs of workers' compensation measured as a percent of payroll substantially declined during the latter half of the 1990s. Finally, the BLS data for the non-federal employees show that workers' compensation costs as a percent of payroll declined until 2001 and only started to increase in 2002, while the NASI data show an increase from \$1.32 per \$100 of payroll in 2000 to \$1.39 in 2001, thus anticipating the start of higher costs by a year compared to the BLS data. What remains to be seen is whether the increases in employer costs evident in both series in the last few years persist. We will continue to publish updates as the NASI annual and BLS quarterly data are available.

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Appendix A

Source of the Information and Methodology

Tables 1 to 5 and Figures A through N are based on data published by the Bureau of Labor Statistics (BLS), which is a part of the U.S. Department of Labor.² The BLS data are based on a national survey of approximately 8,300 establishments in the private sector and 800 establishments in state and local government. The BLS published annual data based on the survey conducted each March from 1986 to 2002. Beginning with March 2002, the BLS has conducted the survey every quarter, and this article includes the data on workers' compensation costs through December 2003. This appendix discusses the data from March 2003 shown in Table 2 (since the March 2003 data are most comparable to the data from earlier years).³

The BLS data on Employer Costs for Employee Compensation (ECEC) measure the average cost per employee hour worked that employers pay for wages and salaries and various benefits, including benefits voluntarily paid as well as legally required benefits, such as workers' compensation. I have calculated workers' compensation as a percent of gross earnings (payroll) for this article, as explained below.

Data are available since 1986 for private sector employers' expenditures per hour on employees' total remuneration, and (as shown in Panel A of Tables 1, 2, and 3) on a number of components of remuneration, including wages and salaries, paid leave, insurance, and legally required benefits (including separate information on workers' compensation).⁴ Comparable data pertaining to state and local government employees (Panel B of Tables 1, 2, and 3) and to all non-federal employees (Panel C of Tables 1, 2, and 3) are available for the period 1991 to 2003.

The only employees not included in this BLS data series are federal government, agriculture, and household workers, who in aggregate account for only about 4 percent of all employees. Of the 96 percent of all employees who are included in the BLS data, private industry employees clearly predominate (83 percent of all employees), whereas state and local government employees account for the remaining 13 percent of all employees.⁵

Private Industry Employees

The March 2003 data for private industry employees presented in Panel A of Table 2 further explain the BLS data series. In 2003, private sector employers spent, on average, \$22.37 per hour worked on *total remuneration* (row 1). The \$22.37 of total remuneration included *gross earnings* of \$18.26 per hour (row 2) and *benefits other than pay* of \$4.11 per hour (row 6).⁶ *Gross earnings*, or *payroll*, included wages and salaries (\$16.15 per hour; row 3), paid leave (\$1.47 per hour; row 4), and supplemental pay (\$0.64 per hour; row 5). *Benefits other than pay* included insurance (\$1.52 per hour; row 7), retirement benefits (\$0.67 per hour; row 8), legally required benefits (\$1.89 per hour; row 9), and other benefits (\$0.03 per hour; row 10). *Workers' compensation*, which averaged \$0.40 per hour worked (row 9A), is one of the legally required benefits (row 9).⁷

The BLS data in Panel A of Table 2 indicate that private sector employers' workers' compensation expenditures (\$0.40 per hour) were 1.79 percent of total remuneration (row 11) and 2.19 percent of gross earnings (payroll) (row 12) in March 2003.⁸

State and Local Government Employees

The BLS data with respect to state and local government employees' remuneration are only available since 1991. There are several interesting differences between the employer expenditure patterns in the state and local government sector (Panel B of Tables 1, 2, and 3) and in the private sector (Panel A). In March 2003, for example, the state and local sector had higher figures than the private sector for gross earnings per hour (\$25.66 vs. \$18.26, row 2); benefits other than pay (\$6.96 vs. \$4.11, row 6); and, therefore, total remuneration (\$32.62 vs. \$22.37, row 1). Workers' compensation costs per hour worked were somewhat lower in the state and local sector (\$0.36) than in the private sector (\$0.40) (row 9A). However, because of the higher wages in the government sector, workers' compensation costs as a percentage of gross wages and salaries (payroll) in 2003 were considerably lower in the state and local government sector than in the private sector (1.40 percent vs. 2.19 percent, row 12), as they have been each year from 1991 to 2003.

All Non-Federal Employees

The most comprehensive variant of the BLS data, the data for all non-federal employees, is shown in Panel C of Tables 1, 2, and 3. Available since 1991, this grouping, which is the total of private sector employees and state and local government employees, covers about 95 percent of all U.S. employees.

In March 2003, total remuneration per hour worked for all non-federal employees averaged \$23.93 per hour (row 1) and gross earnings (payroll) averaged \$19.39 per hour (row 2). Workers' compensation expenditures were \$0.39 per hour in March 2003 (row 9A), which represented 2.01 percent of payroll (row 12).

ENDNOTES

1. The differences between the NASI data and the BLS data used in this article on the employers' costs of workers' compensation as a percentage of payroll are greater than is immediately obvious. The NASI data relate the employers' costs for workers' compensation only to the payroll of employers who are covered by state or federal workers' compensation programs. The costs would be a lower percentage if the base were payroll for all employers (whether covered or not), which is the base used for the BLS data.
2. Citations to the U.S. Department of Labor publications containing the data used to prepare this article are provided in the references.
3. The data are from the survey conducted in March 2003. The BLS uses the current-cost approach. That is, the costs do not pertain to the costs for the previous year. Rather, annual costs are based on the current price of the benefits and current plan provisions as of March 2003. The annualized cost of these March 2003 benefits are then divided by the annual hours worked to yield the cost per hour worked for each benefit, including workers' compensation benefits. Thus, if the annual workers' compensation premium per worker is \$800 and the employee works 2,000 hours per year, the workers' compensation cost is \$0.40 per hour worked. For further explanation of the BLS data, see Appendix A of U.S. Department of Labor 2000a.
4. This article uses the term "remuneration" in place of the term "compensation" that is used in the BLS publications in order to more clearly distinguish between workers' compensation and remuneration.
5. U.S. Department of Labor 2000a. See Chart 1, "Coverage of the Employment Cost Index, Total Civilian Employment, 1999." Comparable data for 2002 and 2003 are not yet available, but should not differ much from the 1999 data.
6. The terms "gross earnings" and "benefits other than pay" are not used in the BLS publications. These terms are used here to make the base for calculating workers' compensation costs as a percentage of payroll comparable to measures used in other publications.
7. The parentheses around the workers' compensation figures in row 9A of each panel in Tables 1, 2, and 3 are to show that these figures are included in the legally required benefits figures in row 9 of each panel.
8. Relating workers' compensation costs to "gross wages" (which is straight-time hourly wages plus paid leave and supplemental pay) is based on advice in an April 7, 1995 letter to me from Mr. Albert Schwenk, Supervisory Economist, Division of Employment Cost Trends, Bureau of Labor Statistics, U.S. Department of Labor. I appreciate this suggestion from Mr. Schwenk.

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