



OLR RESEARCH REPORT

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WORKERS' COMPENSATION COSTS AND HOSPITAL RATES

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You asked that we update OLR Report [2007-R-0173](#) and identify which states set rates for a hospital's workers' compensation-covered inpatient services. You also asked if an out-of-state company using out-of-state workers on a job in Connecticut must pay workers' compensation insurance premiums based on Connecticut's rates for those workers.

SUMMARY

OLR Report [2007-R-0173](#) found two ways to compare Connecticut's workers' compensation (WC) costs for employers: (1) the loss cost calculation prepared by the National Council on Compensation Insurance (NCCI) and (2) the 50 state WC premium ranking done by Oregon's Department of Consumer and Business Services. Loss cost is the amount of a WC insurance premium paid for actual payouts of medical and wage replacement benefits, per \$100 of payroll.

In NCCI's 2007 loss cost comparison, Connecticut had the second lowest loss cost of the five New England states that are NCCI members. In NCCI's 2013 comparison, Connecticut had the highest loss cost of the five states. While the state's loss cost increased six cents between 2007 and 2013, the other four states' loss costs decreased between \$.17 and \$.45 during that same period.

The Oregon Department of Consumer and Business Services' 50-state WC premium ranking determined Connecticut had the 14th most expensive average WC premiums in 2006 and the second most expensive average premiums in 2012, when all states' rates were weighted by Oregon's payroll distribution. Connecticut's premium index increased nine cents per \$100 of payroll during that period, however indexes for almost all of the other states decreased over that time. Only Illinois, New Jersey, South Dakota, and Iowa also experienced index increases.

Forty-one states set rates for WC-covered hospital inpatient services through methods such as fee schedules, fixed discounts, or formulas based on predetermined reimbursement rates. Nine states, including Connecticut, do set rates for such services.

An out-of-state employer's non-resident employees working in Connecticut are subject to the state's workers' compensation law if (1) the employer has a business facility in the state where the employee spends at least half of his or her employment time or (2) the employee works under an employment contract to be performed primarily in the state. If the non-resident employees are covered by Connecticut law, their workers' compensation insurance coverage would be subject to the state's rates and requirements. How the employer would pay the state-specific premiums would depend on the employer's insurance carrier.

CT WORKERS' COMPENSATION COSTS

Background

Methodological Issues. Due to the differences in the way each state's WC insurance system works, it is difficult to compare the costs to employers from state to state. First, WC insurance premiums vary considerably depending on the insured worker's occupation and its likelihood of leading to a work-related injury. Second, some states strictly regulate what employers can be charged for WC insurance coverage, while Connecticut (and others) allows a competitive marketplace where carriers have some flexibility in setting premium rates within parameters set by the state Insurance Department. Third, a comparison of rates does not tell the entire story because states prescribe different levels of WC benefits and different reimbursement rates for medical services. In addition, since a portion of a premium is calculated to replace an injured workers' lost wages, states with higher average wages may also pay higher average premiums. Similarly, states with a larger mix of workers in relatively dangerous occupations may pay higher average premiums due to their increased risk of injury.

WC Rating Agencies. WC insurance rates are typically developed by rating agencies and then approved by a state's insurance department. Connecticut and 42 other states use NCCI, which gathers and analyzes WC-related data to propose the loss cost figures for every job classification insured through WC. The loss cost is the cost paid out for workers' compensation claims for both medical expenses and salary replacement payments; it does not include administrative cost or profits for the carrier. The loss cost figure for a more hazardous job is higher than the loss cost for a relatively low-risk occupation.

NCCI also proposes assigned risk policy rates, which include administrative costs for policies covering businesses with high claims experience.

Making Rates in Connecticut. In Connecticut, NCCI submits proposed loss cost figures and assigned risk policy rates to the state Insurance Department to review and approve. Once the loss cost figures are approved, individual insurance companies submit their premium rates to the Insurance Department for approval. (These rates are usually expressed as a multiple of the loss cost figure. For example a multiplier of 1.5 means the premium is one and a half times the loss cost.)

Because each insurance carrier is individually approved, each has rates that (1) differ from their competitors and (2) differ from one job classification to another. Some carriers specialize in one area of WC insurance (construction or even a subcategory of construction) and therefore do not offer insurance for all job classifications. Due in part to these complications, the Insurance Department does not calculate an average WC insurance rate for individual job classifications.

NCCI'S Comparison

According to NCCI's 2013 loss cost comparison, Connecticut has the highest average loss cost of the five NCCI member states in New England (Massachusetts is not an NCCI member). To control for differences in industry distributions across the states, each state's rates are weighted by Connecticut's payroll distribution to obtain the average rate for each. This loss cost comparison is for the voluntary WC market. Table 1 shows the 2013 and 2007 average loss costs for the five New England NCCI member states, arranged by 2013 loss cost.

Table 1: 2007 and 2013 NCCI New England Lost Cost Comparison

	<i>CT</i>	<i>NH</i>	<i>VT</i>	<i>ME</i>	<i>RI</i>	<i>Regional Average</i>
2013 Loss Cost (Premium \$ per \$100 of payroll)	1.32	1.16	1.16	1.03	0.95	1.08
2007 Loss Cost (Premium \$ per \$100 of payroll)	1.26	1.43	1.58	1.48	1.12	1.39

Source: NCCI Connecticut State Advisory Forum 2013
http://www.ncci.com/documents/SAF_CT.pdf

As Table 1 illustrates, Connecticut's loss cost has increased six cents over the previous six years, however it has moved from the second lowest in 2007 to the highest in 2013 because the loss costs of the other four states decreased. On average, the region's loss cost decreased \$.31 per \$100 of payroll in the past six years.

Oregon's WC 50-State Ranking

The Oregon Department of Consumer and Business Services conducts a 50-state ranking of WC premium rates. To control for differences in industry distributions across the states, it weights each state's rates by Oregon's payroll distribution to obtain the average rate for each state. The ranking does not show rates for any particular job classification; it only shows a state's average premium. Table 2 shows the rankings and index rates for 2012 and 2006, arranged by 2012 ranking from highest to lowest rates.

Table 2: Workers' Compensation Premium Rate Ranking 2012 and 2006

State	2012 Rank	2006 Rank	2012 Index Rate <i>(Premium \$ per \$100 of payroll)</i>	2006 Index Rate <i>(Premium \$ per \$100 of payroll)</i>
AK	1	1	3.01	5.00
CT	2	14	2.99	2.90
CA	3	2	2.92	4.13
IL	4	20	2.83	2.69
NY	5	10	2.82	3.15
OK	6	13	2.77	2.96
NJ	7	23	2.74	2.52
MT	8	5	2.50	3.69
NH	9	19	2.40	2.75
ME	10	8	2.24	3.21
PA	11	18	2.15	2.80
WI	11	35	2.15	2.18
WA	13	36	2.11	2.17
VT	14	7	2.07	3.24
LA	15	11	2.06	3.10
SC	16	25	2.04	2.50
MN	17	21	2.03	2.69
ID	18	32	2.02	2.29
TN	18	26	2.02	2.48
RI	20	22	1.99	2.68
AL	21	9	1.97	3.17
KY	22	4	1.96	3.78
SD	23	44	1.91	1.83
IA	24	45	1.90	1.75
NC	24	37	1.90	2.17
GA	26	41	1.88	2.02
NM	26	27	1.88	2.41
OH	28	12	1.84	3.00
FL	29	6	1.82	3.32
DE	30	3	1.77	3.91
WY	31	28	1.74	2.40
MI	32	39	1.73	2.05
NE	33	33	1.71	2.25
MD	34	40	1.68	2.03
HI	35	15	1.66	2.89
MO	36	24	1.62	2.50

Table 2 (continued)

State	2012 Rank	2006 Rank	2012 Index Rate <i>(Premium \$ per \$100 of payroll)</i>	2006 Index Rate <i>(Premium \$ per \$100 of payroll)</i>
AZ	37	46	1.61	1.73
TX	38	17	1.60	2.84
OR	39	42	1.58	1.97
WV	40	34	1.55	2.20
KA	41	43	1.54	1.84
MS	42	31	1.49	2.29
CO	43	29	1.42	2.40
MA	44	47	1.37	1.70
UT	45	38	1.35	2.06
NV	46	30	1.33	2.36
DC	47	16	1.28	2.86
VA	48	49	1.20	1.52
AR	49	48	1.19	1.59
IN	50	50	1.16	1.24
ND	51	51	1.01	1.10

Source: 2012 Oregon Workers' Compensation Premium Rate Ranking
http://www.cbs.state.or.us/external/imd/rasums/2083/12web/12_2083.pdf

As Table 2 illustrates, Connecticut's premium rate is the second highest in the country at \$2.99 per \$100 of payroll. The 50-state median is \$1.88. Connecticut's index rate has increased nine cents per \$100 of payroll since 2006 but the state's ranking has increased from 14th to second, largely because other states' index rates decreased during that time. Only Illinois, New Jersey, South Dakota, and Iowa also experienced index increases.

SETTING WC HOSPITAL RATES

Forty-one states prescribe how much hospitals can charge for their WC-covered inpatient services by (1) issuing a fee schedule with itemized allowable charges per case, per procedure, or per diem; (2) establishing fixed discounts that must be applied to a hospital's charges; or (3) using a formula based on Medicare or other pre-defined reimbursement rates.

Nine states, including Connecticut, do not set such rates for hospital services. In Connecticut, CGS § [31-294d](#) requires a workers' compensation payor to pay a hospital for its actual costs of treating an injured worker, as determined by a workers' compensation commissioner. In practice, the payor and hospital typically negotiate

discounted rates for the hospital's services. If they do not negotiate such rates, workers' compensation case law requires the payor to pay the hospital's billed rates (*Thompson, et al, v. J&J Properties, et al, Liberty Mutual Insurance et al, and Lawrence & Memorial Hospital and William W. Backus Hospital, State of Connecticut Workers' Compensation Commission, Second District, Norwich, Connecticut, File Nos. 200151995, 200158976, 200115873, 400008394, September 2012*).

The other states that do not set hospital rates for WC-covered inpatient services are Arizona, Iowa, Missouri, New Hampshire, New Jersey, Utah, Virginia, and Wisconsin.

Table 3 shows the 50 states and whether they prescribe WC-covered hospital charges for inpatient services.

Table 3: States Setting WC-covered Hospital Inpatient Charges

State	State sets hospital inpatient charges	Source
Alabama	Yes	http://dir.alabama.gov/wc/FeeSchedules/2013%20Hospital%20Fee%20Schedule.pdf
Alaska	Yes	http://labor.alaska.gov/wc/bulletins/11-04.pdf
Arizona	No	http://www.ica.state.az.us/Director/DIR_FSFAQs.aspx
Arkansas	Yes	http://www.awcc.state.ar.us/rule30misc/inpatfeesc h.html
California	Yes	https://www.dir.ca.gov/dwc/OMFS9904.htm#4
Colorado	Yes	http://www.colorado.gov/cs/Satellite?c=Page&childpage=CDLE-WorkComp%20CDLELayout&cid=1251635147224&page=CDLEWrapper
Connecticut	No	
Delaware	Yes	http://delcode.delaware.gov/title19/c023/sc02/index.shtml
Florida	Yes	http://www.myfloridacfo.com/wc/provider/reimbursement-manuals.html
Georgia	Yes	http://sbwc.georgia.gov/medical
Hawaii	Yes	http://labor.hawaii.gov/lirab/files/2012/11/MFS_Admin_Rules_rev_2-28-2011.pdf
Idaho	Yes	http://www.iic.idaho.gov/medical/medical.html#feeschedule
Illinois	Yes	http://www.iwcc.il.gov/ig020109new.pdf
Indiana	Yes	http://www.in.gov/wcb/ (Legislation requiring a hospital fee schedule became effective in July 2013)

Table 3 (continued)

State	State sets hospital inpatient charges	Source
Iowa	No	http://www.ama-assn.org/resources/doc/psa/wc/ia.pdf
Kansas	Yes	http://www.dol.ks.gov/Files/PDF/med_fees_2012.pdf
Kentucky	Yes	http://www.lrc.ky.gov/kar/803/025/091.htm
Louisiana	Yes	http://doa.louisiana.gov/osr/lac/40v01/40v01.pdf
Maine	Yes	http://www.maine.gov/sos/cec/rules/90/chaps90-.htm
Maryland	Yes	http://www.wcc.state.md.us/MFG/Medical_Fee_Schedule.html
Massachusetts	Yes	http://www.mass.gov/eohhs/docs/eohhs/eohhs-regs/114-1-41.pdf
Michigan	Yes	http://www.michigan.gov/wca/0,1607,7-191-26922_27470_28076-294507--,00.html
Minnesota	Yes	https://www.revisor.mn.gov/rules/?id=5221
Mississippi	Yes	http://www.mwcc.state.ms.us/INFO/Fee%20Schedule%20Update%20-%20October%201,%202011.pdf
Missouri	No	http://labor.mo.gov/DWC/Healthcare/
Montana	Yes	http://erd.dli.mt.gov/images/stories/pdf/wc_studyprojects/fee_schedules/24-29-273%20pro-arm.pdf
Nebraska	Yes	http://www.wcc.ne.gov/medical/fs_hasc_20120101.pdf
Nevada	Yes	http://dirweb.state.nv.us/wcs/mfs/2013_MedicalFeeSchedule.pdf
New Hampshire	No	http://www.ama-assn.org/resources/doc/psa/wc/nh.pdf
New Jersey	No	http://www.ama-assn.org/resources/doc/psa/wc/nj.pdf
New Mexico	Yes	http://www.workerscomp.state.nm.us/partners/providers.php
New York	Yes	http://www.wcb.ny.gov/content/main/hcpp/MedFeeSchedules/medfee.jsp
North Carolina	Yes	http://www.ic.nc.gov/ncic/pages/feesec14.htm
North Dakota	Yes	http://www.workforcesafety.com/medical-providers/feeschedule/displayFeeSchedule.asp?name=HospitalInpatient2013January.pdf
Ohio	Yes	https://www.bwc.ohio.gov/provider/services/brmdefault.asp
Oklahoma	Yes	http://www.owcc.state.ok.us/fee_schedule.htm
Oregon	Yes	http://www.cbs.state.or.us/wcd/policy/bulletins/dccconv_9568/9_11054.pdf

Table 3 (continued)

State	State sets hospital inpatient charges	Source
Pennsylvania	Yes	http://www.portal.state.pa.us/portal/server.pt/community/fee_schedule/10424
Rhode Island	Yes	http://www.risingms.com/RIFee/2013%20Fee%20Schedules/RI%20Hospital%20Fee%20Schedule%20Rates_07012013.pdf
South Carolina	Yes	http://www.wcc.sc.gov/Documents/IMS/2007%20HPS%20Manual.pdf
South Dakota	Yes	http://legis.state.sd.us/rules/DisplayRule.aspx?Rule=47:03:05
Tennessee	Yes	http://www.tn.gov/labor-wfd/wc_medfeebook.pdf
Texas	Yes	http://www.tdi.texas.gov/wc/rules/adopted/documents/aorderhfg0108.pdf
Utah	No	http://laborcommission.utah.gov/media/pdfs/industrialaccidents/pubs/2012MEDFEE.pdf
Vermont	Yes	http://www.labor.vermont.gov/Portals/0/WC/rule40.pdf
Virginia	No	http://www.vwc.state.va.us/vwc-portlet-cm-contentmanagement/content/4969dcdf-65e7-11e0-b349-6f99b354d4e5/Fee%20Schedule.pdf
Washington	Yes	http://www.lni.wa.gov/ClaimsIns/Files/ProviderPay/FeeSchedules/2013FS/fsHospRates.pdf
West Virginia	Yes	http://www.wvinsurance.gov/Portals/0/pdf/med_rates_and_plans/Hospital%20Inpatient%20methodology%20July%201,%202013.pdf
Wisconsin	No	http://www.ama-assn.org/resources/doc/psa/wc/wi.pdf
Wyoming	Yes	http://soswy.state.wy.us/Rules/RULES/7341.pdf

OUT-OF-STATE CONTRACTORS

In general, the state's worker's compensation law prohibits employees from suing their employers over a work-related injury if the employer maintained workers compensation insurance for the injured employee. To obtain this liability protection in Connecticut, employers must either carry their workers' compensation insurance from an Insurance Department-approved insurer or be approved as a self-insurer by the Connecticut Workers' Compensation Commission, regardless of the employer's home state.

People who are not state residents, but are injured in the state during the course of their employment are not considered "employees" covered by the law unless (1) the person's employer has a place of employment or

business facility in the state where the person spends at least half of his or her employment time or (2) the person works for the employer under an employment contract to be performed primarily in the state (CGS § [31-275](#)).

According to the Insurance Department, if an out-of-state employer's non-resident workers in Connecticut were considered employees covered by the state's workers' compensation law, their insurance coverage would be subject to the state's workers' compensation rates and benefits. How the employer would pay the state-specific premiums would depend on the employer's insurance carrier. Some carriers charge premiums based on the state where a person earned wages, while others determine if payroll from a new state should be charged during an audit. If the employer's carrier is not licensed to provide workers' compensation coverage in Connecticut, the employer may have to obtain a separate policy from a licensed carrier for the employees working in the state.

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