NC Workers' Comp NEWS

A publication of the North Carolina Association of Self-Insurers

spring 25

NCCI

Continued Gains for Workers' Comp

For the 11th consecutive year, the workers' compensation insurance industry maintained profitability with a combined ratio of 86% in 2024. Workers' compensation remains one of the most profitable among all property & casualty lines, according to the most-recent report from the National Council on Compensation Insurance.

Donna Glenn, FCAS, MAAA, chief actuary, NCCI, called the 14-point underwriting gain, "a metric of significant underwriting profitability," adding "the workers' compensation system continues an era of exceptional performance with strong results and a financially healthy line. And while there are early indications of potential headwinds on the horizon, the industry is positioned well to navigate these challenges."

Among other highlights:

- The 2024 accident year combined ratio was 99%, with prior years continuing to experience downward reserve development
- NCCI estimates a redundant industry reserve position of $16B
- Lost-time claim frequency declined by 5% in 2024, a faster pace of decline than the long-term average. NCCI expects that the long-term downwards trend in frequency will likely continue for at least the near future
- Workers' compensation results have been strong, with over a decade of operating gains and 10 straight years of operating gains greater than the long-term average of 14%
- However, severity grew in 2024 with increases of 6% for medical claim severity and 6% for indemnity claim severity
- Accident Years 2022–2024 each saw larger-than-average increases in indemnity severity. The larger-than-average changes are largely driven by significant wage increases in recent years.
- Workers' compensation net written premium decreased 3% in 2024

Workers' compensation was the only line in property & casualty to record premium decreases, driven by decreases in rates that exceeded the pace of payroll growth in 2024. The premium decreases were widespread geographically, with 31 states experiencing decreases in direct written premium. Since premiums in other commercial lines have increased over the past 20 years, workers' compensation now accounts for only 10% of the market, down from 17% in 2004, reports Donna Glenn, NCCI's chief actuary.

NCCI says premiums nationwide are expected to decrease by an average of 6.1% from 2024 to 2025 as a result of loss cost/rate changes in approved NCCI filings The most recent filings resulted in decreases for nearly every NCCI state, including North Carolina, where last fall the North Carolina Rate Bureau approved indicated and filed voluntary loss cost of – 5.2%, effective April 1, 2025.

Additionally, NCCI notes the labor market remained in solid shape through early April, with employment growth concentrated in healthcare, transportation, and warehousing. Other industries saw little growth. Growth in transportation and warehousing may be related to increased logistics activity ahead of the coming implementation of tariffs.

INSIDE THIS ISSUE

Settling a Claim via Clincher with a Current Employee

By: Tracey Jones

The Industrial Commission and Court of Appeals decided a case recently that reiterates the potential exposures employers face when they clincher a claim with a current employee. While this practice is necessary in certain cases, there can be future exposures to the employer despite their best intentions to resolve any and all aspects of the injury in question.

In *Collins v. Wieland Copper Prods., LLC, 2024* N.C. App. LEXIS 958, *18, 910 S.E.2d 373, 2024 WL 4941594 (Sampson, J.) (December 3, 2024), the North Carolina Court of Appeals found that the plaintiff was not barred from compensation despite a prior settlement reached between the parties.

FACTS

On June 15, 2009, Plaintiff suffered an injury to his right shoulder. After multiple surgeries, PPI ratings, and permanent work restrictions to the shoulder, the claim was settled via a Compromise Settlement Agreement on April 18, 2014, which was approved by the Commission on May 23, 2014. Plaintiff returned to work for the same employer.

On November 20, 2020, Plaintiff was reassigned from his regular job that was accommodating his permanent work restrictions to a different position. Shortly thereafter, Plaintiff felt a pop in his right shoulder. On March 3, 2021, Plaintiff filed a Form 18 listing injury to the arm and elbow for the 2020 injury. On March 10, 2021, Defendants filed a Form 61 denying the claim on the grounds that the condition "pre-existed the alleged date of injury" and arguing that the prior settlement agreement in 2014 barred the claim.

HOLDINGS:

Both the Deputy Commissioner and the Full Commission ruled that the 2020 injury was a separate distinct injury by accident which materially aggravated Plaintiff's pre-exiting right shoulder condition, and thus, found the November 2020 injury compensable. Additionally, the Commission concluded that NCGS 97-6, which provides that "[n]o contract or agreement . .. shall in any manner operate to relieve an employer in whole or in part, of any obligation created by [the Act], except as . . . otherwise expressly provided," invalidated any language in the 2014 Settlement that "could be construed as relieving Defendants of any obligation they have under the Act for any claims filed by Plaintiff for any future alleged injury[.]" Plaintiff was awarded all medical expenses incurred, or to be incurred for treatment of his shoulder and temporary total disability benefits at the weekly rate of $783.24 beginning 10 March 2021 and continuing until he returned to work or until further order of the Commission. Defendants appealed.

The North Carolina Court of Appeals affirmed the decision by the Commission finding that the November 24, 2020 injury was a separately compensable injury from the April 18, 2014 injury that was settled via clincher. The Court stated that a clincher agreement would not be effective against a claim for a later "material aggravation" of an injury or a separate injury by accident to the same body part. Additionally, the Court noted that to the extent any language in the April 18, 2014 Agreement could be construed as Plaintiff releasing Defendants from liability for his November 24, 2020 injury , such language is unenforceable as a matter of law under N.C. Gen. Stat. § 97-6.

PRACTICAL TAKEAWAYS:

Although there are certainly situations where settling a case with a current employee is advisable, this case is a good reminder of the potential pitfalls when doing so. While we hope that settlements via clincher reached with current employees will protect the employer from future exposures as it relates to the settled body part, this case highlights closing out those exposures with a current employee can be problematic.

In Collins, the fact that the Plaintiff described a "pop" in his shoulder in November 2020 and the fact that Plaintiff was new to the position when the pop occurred are what the Court focused on in its opinion. The description of the incident in November 2020 and the short amount of time the employee was in his position at the time of the accident could be found to meet the definition of an injury by accident, and thus, the prior 2014 settlement was not a bar to the Plaintiff's newest claim. If Plaintiff had not had a new and distinct injury, the decision might have come out differently. If Plaintiff was unable to point to a new injury by accident and his shoulder symptoms were on-going and not associated to a new incident at work, perhaps the Court would have denied Plaintiff's claim citing the prior 2014 clincher.

When you have a situation where you have settled a prior claim and an employee files a new claim for the same body part, obtain the Plaintiff's prior medical records from the date of the prior settlement until the new "injury". If the Plaintiff has treated for the settled body part since the settlement, the employer may have the argument that the symptoms are simply a continuation of the prior injury and are thus barred by the prior clincher. If there is evidence that the prior settled condition was aggravated by a new injury by accident at work, try to elicit testimony from the physicians that the aggravation was temporary in nature and Plaintiff has since returned to baseline and the Defendant Employer is no longer responsible for any future indemnity or medical expenses.

Tracey Jones, co-chair of Teague Campbell's Workers' Compensation practice group, is a graduate of the University of North Carolina and Wake Forest University School of Law.

Not Much Works Against Low-Back Pain

Only 10% of treatments for low-back pain are supported by medical evidence and even these therapies don't work that well, according to an online review published in March in BMJ Evidence-Based Medicine.

"Surprisingly, we found only around one in 10 was effective and most provided pain relief that was only marginally better than placebo – in other words, our review did not find reliable evidence of large effects for any of the included treatments," says Dr. Aidan Cashin, lead author and deputy director of the Center for Pain IMPACT at Neuroscience Research Australia.

Researchers compared 69 drugs or combinations of analgesics for treating acute low back pain in adults. The study was a meta-analysis - it reviewed 98 trials, making it the most comprehensive evaluation of its kind to inform clinical decision making. The drugs evaluated included non-steroidal anti-inflammatory drugs, paracetamol, opioids, anticonvulsants, antidepressants, skeletal muscle relaxants and corticosteroids.

The analysis focused on pain intensity outcomes at first assessment posttreatment. Treatments were categorized according to back-pain duration (acute, < 12 weeks; chronic, ≥ 12 weeks). "We found for acute low back pain, NSAIDs may be effective. For chronic low back pain, exercise, spinal manipulation, taping, antidepressants and TRPV1 agonists (warming creams) may be effective. However, those effects were small," Dr. Cashin said.

The paper is titled "Analgesic effects of non-surgical and non-interventional treatments for low back pain: a systematic review and meta-analysis of placebo-controlled randomised trials." Researchers concluded efficacy of the majority of treatments is uncertain because of limited number of randomised participants and poor study quality.

Researchers cautioned some analgesics could increase the risk of adverse events or side effects, which can include nausea, dizziness and drowsiness. A news release put out by the University of New South Wales in Sydney quoted another official at the university's pain center as noting despite more than 60 years of research, clinicians are still uncertain whether any analgesic medicine provides meaningful pain relief for people with low back pain.

Low-back pain is common, debilitating, and complex because in the vast number of cases it is categorized as non-specific, meaning there's no immediately identifiable cause. Some observers caution the recent study may be interpreted as being too pessimistic. Researchers found for most treatments, the evidence was inconclusive, rather than definitively negative, and meta-analyses [as in the current study) report average effects across populations, but individual responses vary considerably. A treatment showing small or no average benefit may still significantly help specific patients based on their unique pain mechanisms, preferences, and biology.

According to data from the 2019 National Health Interview Survey, 8.2 percent of American adults have chronic severe back pain, and about three-quarters (74.8 percent) of those with chronic severe back pain have difficulties with mobility, social participation, self-care, or work participation.

Among the findings from the survey:

- The majority of those who reported having chronic severe back pain were women and/or people who were overweight.
- Almost all those who had chronic severe back pain reported having at least one coexisting health problem, most commonly arthritis, other musculoskeletal conditions, anxiety, or depression.
- Approximately 75 percent of those with chronic severe back pain reported disability, with 60 percent noting mobility problems and work limitations, 34 percent self-identifying as having limitations with social participation, and 16 percent stating that they had limitations with self-care (getting dressed, washing, etc.).
- People who reported that they were unable to effectively manage their pain were more likely to have limitations in self-care, social participation, and work but not mobility.
- One-fifth of the participants reported that they were not using any pain management strategies that were captured in the survey.
- People who were older had more difficulties with mobility and more work limitations.
- Lower socioeconomic status was associated with increased likelihood of disability, and having obesity was associated with mobility difficulties.

coming up

Wednesday, March 25- Friday, March 27, 2026
NCASI Annual Conference 2026 **Holiday Inn Resort Lumina on Wrightsville Beach**

NC Workers' Comp News is produced quarterly by the North Carolina Association of Self-Insurers. To be added to our distribution list, please contact Moby Salahuddin, executive director, at mobysal@outlook.com

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NORTH CAROLINA
Association of Self-Insurers
The employers' voice in workers' comp

NC Industrial Commission Update

Goodman Reappointed to Full Commission

Governor Josh Stein has reappointed Kenneth L. Goodman to serve a second six-year term as a commissioner beginning May 1, 2025, subject to confirmation by the North Carolina General Assembly.

For over 40 years, Goodman owned and operated a small retail business in downtown Rockingham known as R.W Goodman & Company. He previously served as chief financial officer of Richmond Yarns, Inc. for 19 years.

In addition to his private sector business background, Goodman has over eight years of legislative experience having served in the North Carolina House of Representatives from 2011 -2019. Goodman also previously served in the United States Army Reserve and the North Carolina National Guard. He is a graduate of Florida State University.

Prather Joins Agency as Chief Administrative Officer and Lead Counsel

J.D. Prather, who joined the Commission in December 2024, manages daily operations and serves as the primary contact for public inquiries regarding Full Commission dockets and case management.

Prather has litigated workers' compensation cases throughout the entirety of his 34-year legal career, including cases representing employers as well as injured workers. He joined the North Carolina Department of Justice (NCDOJ) in 2021 as a Special Deputy Attorney General in the Workers' Compensation Section, where he represented the North Carolina Department of Adult Correction and the North Carolina Department of Public Safety. He earned his undergraduate and law degrees from Duke University.