Workers' Compensation Advisory Committee (WCAC) Meeting
Labor & Industries Tumwater, WA
Meeting Minutes
September 21, 2009

Business Representatives:
Rick Anderson, Sakuma Bros; Nancy Dicus, TOC Management Services; Kris Tefft, Association of Washington Business; Rebecca Forrestor, Group Health

Labor Representatives:
Karen Gude, United Food & Commercial Workers Union Local 1439; Dave Johnson, Washington State Building & Construction Trades Council; Jeff Johnson, Washington State Labor Council; Owen Linch, Joint Council of Teamsters No. 28

Labor & Industries:
Judy Schurke, Director; Bob Malooly, Assistant Director of Insurance Services

Recorder:
Sharon Avery

Guests:
Dave Kaplan, Bill Johnson, Theresa Baxter, Donna Egeland, Dave O'Meara, Paulette Gilliardi, Greg Kabacy, Hiller Payne, Ann Jarvis, Jerry Bonagofsky, Vicky Smith, Bruce Beckett, Craig Scukas, Tom Kwieciak, Lauren Gubbe, Dennis Kelley-Jones, Jim King, John Meier, Dan Fazio, Lloyd Brooks, Jeannie Gorrell, Joan Elgee, David Spring, Veronica Shakitko, Rebecca Johnson, Randy Loomans, Jim Brownell, Liana Dupont-Smith, Tammie Hetrick, Janee Cantor, Chris Ristine, T.K. Bentler, Trent House, Christine Swanson, Cody Arledge, Holly Chisa, Jamila Thomas-Roberts, Lori Hanson, Janice Camp, Jan Gee, Kim Hoff, Terry Tilton, Art D'Alessandro, Naomi Goodman, Terry Peterson, Larry Stevens, Richard Weeks, Erica Edel, Booker Shallworth, and Janea Holmquist

L&I Staff:
Mark Mercier, Sharon Elias, Joshua Ligosky, Janet Morris, Mike Ratko, Bill Vasek, and Vickie Kennedy

Opening Comments and Safety Message

The safety message was presented by Kim Contris, Assistant Director of Communications. A safety video created by a student was presented. This was part of a larger peer-to-peer safety program for high schools. In the past year, the program has been to 26 high schools and they anticipate presenting to 50 high schools next year.

The June 22, 2009, minutes were approved.

Mr. Malooly advised the committee members that their packets included handouts to address questions that were asked at the June 22, 2009, meeting.

Board of Industrial Insurance Appeals (BIIA) Update: Tom Egan

The presentation *Monthly Statistical Report for August 2009 Report (Report 411)* and the *Stay Motion Decision Totals Report (Report 340)* were reviewed.

- *Appeals Filed and Granted per Month:* Appeals filed and appeals granted are both up. Report 411 reflects data that is two months after the June entry on the chart and it reflects that appeals continue to be at a high level and are up 12-15% for the last quarter.
- *Department Reassumption Rate by Quarter:* The reassumption rates are down, which means there is more work for the Board and agency as a whole. When the department reassumes, the Board does not have to work on the appeal in the interim. Reassumptions are down to 22% of appeals received for the first two quarters. Report 411 shows that it is currently at 24%, which is historically typical.
- *Average PD&O Time Lag by Quarter for Hearing Judges:* This is at 28 days; the Board's goal is an average of around 30 days.
- *D&O Lag Time by Quarter:* This chart measures the time the Board takes to issue a Decision and Order once a Petition for Review is filed. There has been a large increase in the time it takes the three board members to arrive at a decision after the review judge submits a memo to them. The duration increased from 31 days to 42 days from March, 2009, to June, 2009. This is a result of not having a replacement member until April, 2009.
- *Quarterly Average Weeks to Completion:* The Board has placed a lot of emphasis over the years on trying to get cases through the agency expeditiously. The 31.8 average days reported in June is the lowest it has ever been. Report 411 shows it is at 31.3 days so far for the current fiscal year.
- *Caseload at End of Quarter:* There has been an increase in caseload and it continues to rise. This is a reflection of the increase in numbers of appeals in the last several months. The Board recently replaced three hearing judges who retired and hopes to see these numbers begin to decrease.

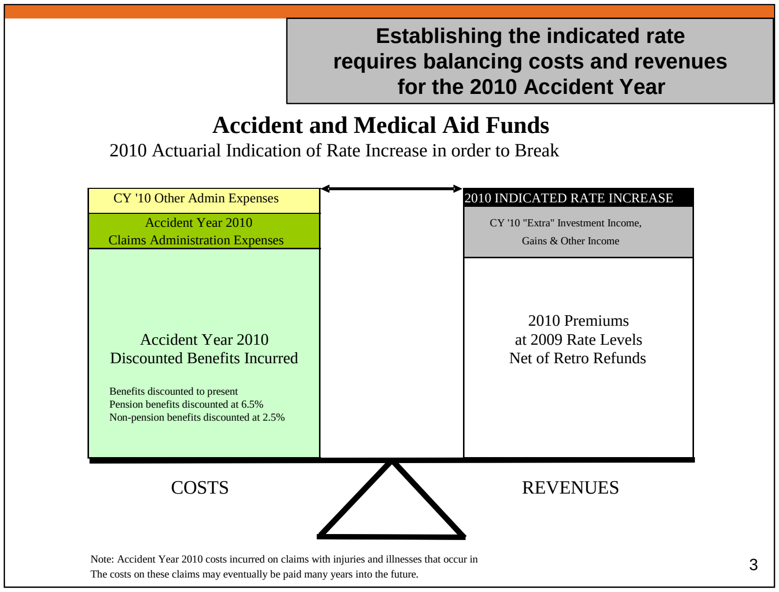
The figures on Report 340 reflect that the Board had a total of 150 motions to stay benefits pending appeal denied and ten granted. At the last meeting, it was asked what the results of cases that have gone through the system are. The Board only has two cases that have arrived at a final Board decision. One is ready for a Proposed Decision and Order (PD&O) from the hearing judge and one resulted in a PD&O which granted time-loss benefits. It may still be petitioned for review by the full Board.

A question was asked regarding the increase in appeals filed and granted and if the proportion of self-insured and state fund cases have changed. The department worked overtime in the spring, and typically appeals increase when the department generates more orders. Mr. Egan referred to Report 411 and answered that appeals by employers in the last two months have increased approximately 15%. Mr. Egan noted that there is not a significant difference in the proportion of appeals between self-insured and state fund claims.

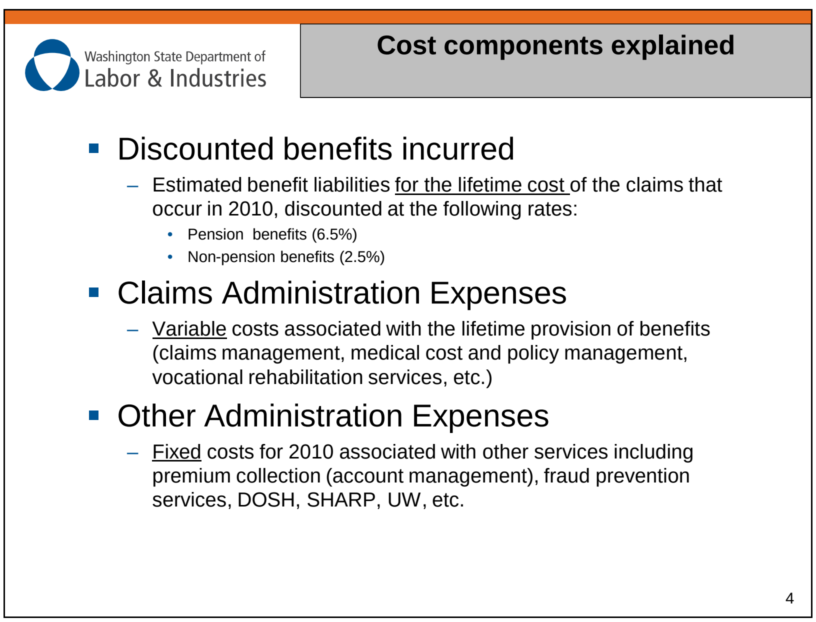
Rates Presentation: Judy Schurke, Bob Malooly, Bill Vasek and Vickie Kennedy

The *2010 Proposed Rate Discussion* presentation was reviewed. Mr. Malooly provided an overview of the discussion and advised the committee that the 2010 proposed rates will be distributed in a separate handout after the presentation.

Refresher on How Indicated Rate is Determined: Bob Malooly

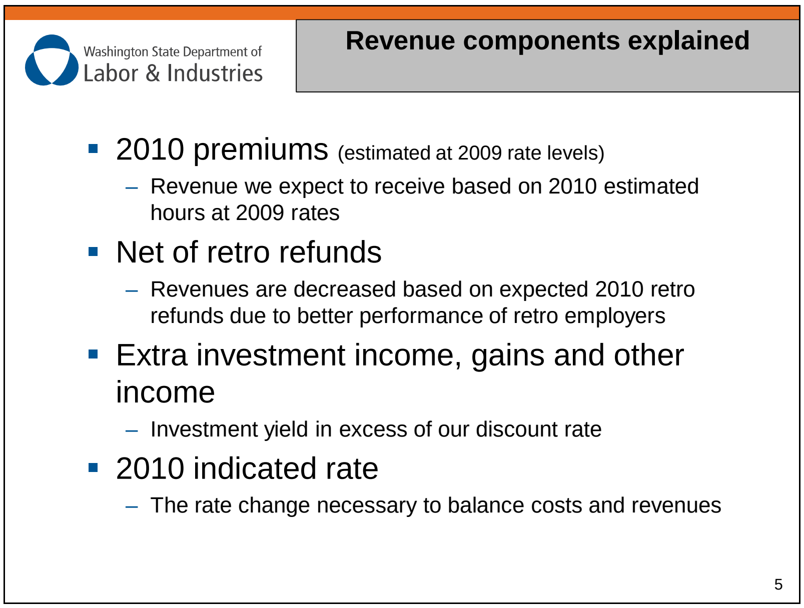


The first component is the estimate of the benefits to be incurred in 2010 which are discounted to reflect the time value of money. The second and third components are the estimated 2010 claims administrative expenses and other administrative expenses which are reported on the cost side. The fourth component is the premiums that would be received if no changes were made in the rates for 2010. Mr. Malooly explained that the department takes the 2009 rates and applies them to the level of exposure the department expects next year in order to come up with the amount of revenue rates would produce if we made no change. Fifth, the department looks at the extra investment income. This is additional money from the invested assets over and above the discount rate. The last component is the rate change needed for 2010 to make sure everything is in balance.



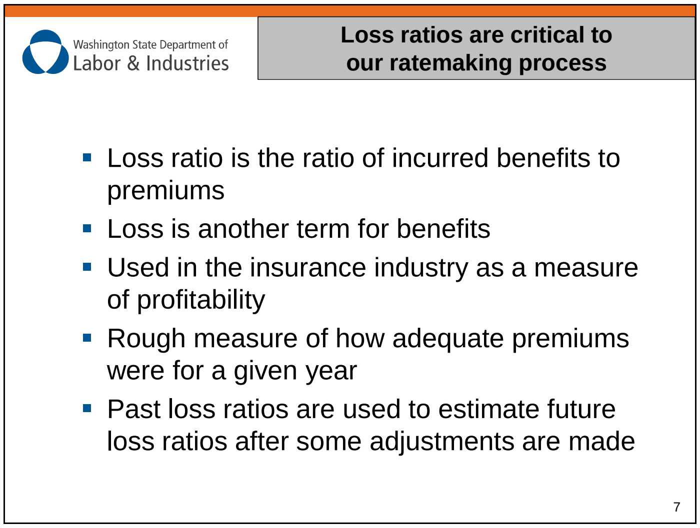
The discounted benefits incurred are the estimated lifetime costs of the claims. In 2010, employers transfer their risk of workers' compensation claims to the department and the costs of those claims are paid no matter how long it takes to pay them out. Some long duration claims can run for 20 to 30 years. Enough money needs to be collected in premiums and investment income to ensure there is sufficient revenue for 2010 to cover the expected costs. The administrative costs have two components. The claims administrative expenses are variable costs associated with the lifetime administration of the claims that are going to occur in 2010. These claims could run for many years and the department must pay for staff and other expenses to administer those claims through those years. Some of that expense will be paid in 2010, but most will be paid in future years. The other administrative expenses are fixed costs and almost all of them will be paid in 2010. These include costs of collecting premiums, fraud prevention, DOSH, SHARP, research conducted at the University of Washington, and other expenses.

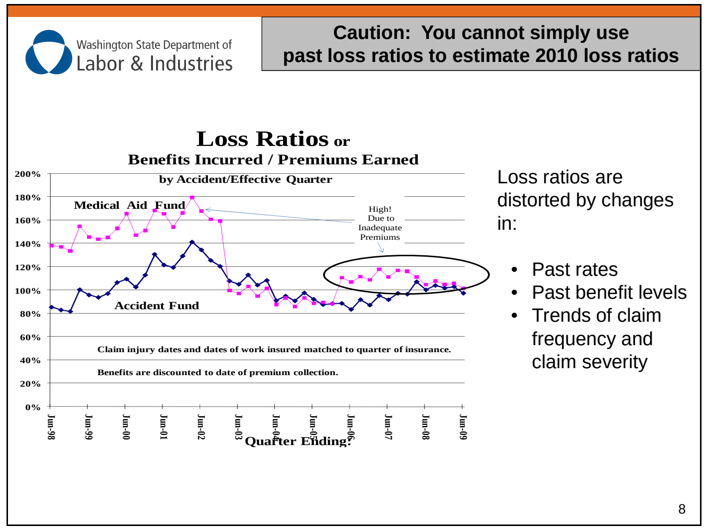
A question was asked about fraud prevention services: through the Underground Economy Task Force, the fraud program has shown a significant financial return for their efforts. How does that factor into the administrative cost? Mr. Malooly answered that the money recovered goes back into the respective trust funds, so it reduces the benefit outlay that the department anticipates or increases premiums collected. The department reviews the premiums and benefits net of any additional collections or recoveries that are received from the anti-fraud efforts. The return on the investments in fraud prevention is high. The overall level of fraud and abuse in the system is small and the recoveries are watched very carefully.



On the revenue side, the department estimates what premiums would be earned in 2010 if no changes were made to the rates. We expect reduced hours because of the effects of the economic downturn, and apply the same rates as 2009. The department adjusts for retro refunds. The extra investment income is expected to be lower than past years. The final component is the indicated rate change for 2010.

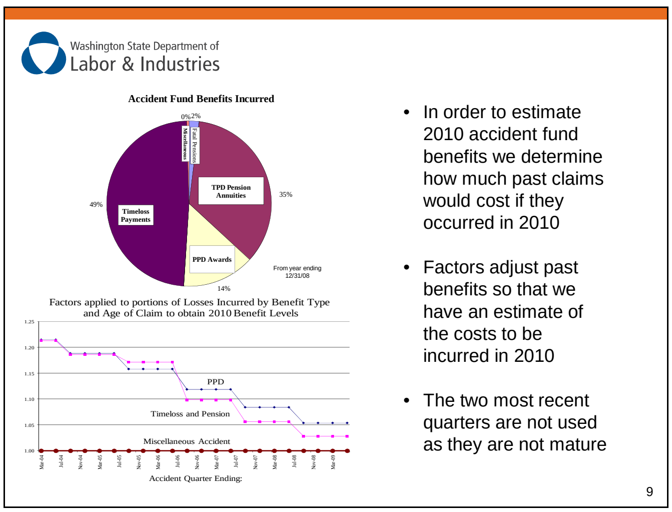
Mr. Vasek continued the presentation and provided more detail in the individual components of each of the cost items. Mr. Vasek reviewed the steps that actuaries take in order to determine a rating indication that will achieve break even or balance the cost with the revenues for 2010 accident year. This is the cost of all the claims and administration expenses for the claims that occur and the insurance that the department provides during 2010 together with revenues for 2010. The focus is on 2009 premium rates: the department is looking at how much to increase the 2009 rates in order to balance the costs and the revenues in 2010.

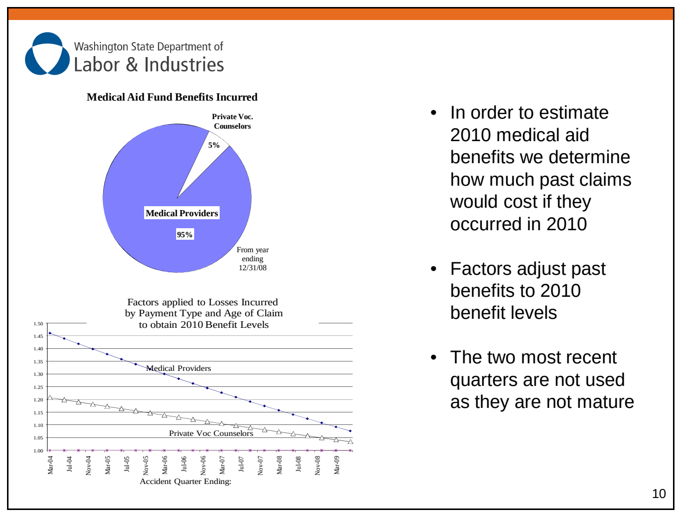




The first component reviewed is the 2010 discounted benefits. The 2010 benefits are based on estimated 2010 loss ratios, and multiplying that by the 2010 premiums at the 2009 level.

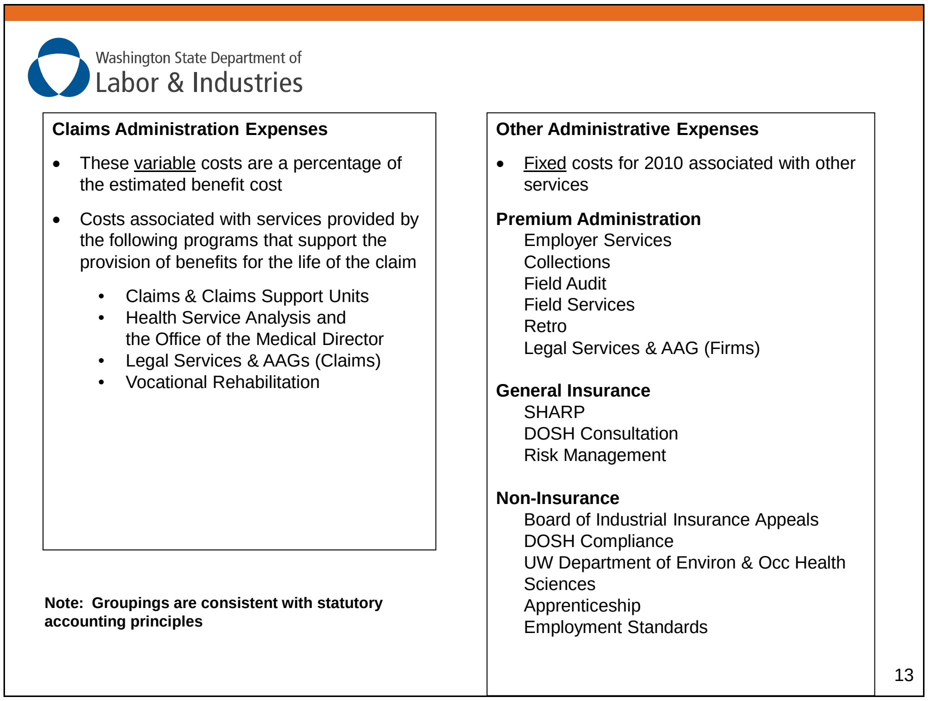
In order to forecast accurately, the department must adjust for the changes in past rates and past benefits levels.





In the accident fund, we first look at benefits by type: 49% are time-loss benefits, 35% are total permanent disability (TPD) pension benefits, and 14% are permanent partial disability (PPD) awards. For each of these benefit types, there are estimates of the benefit levels by accident year. The past benefit levels are adjusted to levels we expect in 2010. We create factors (the factors for the oldest years are highest, the most recent years are lowest) so they are more similar to the benefits that we expect to find in 2010.

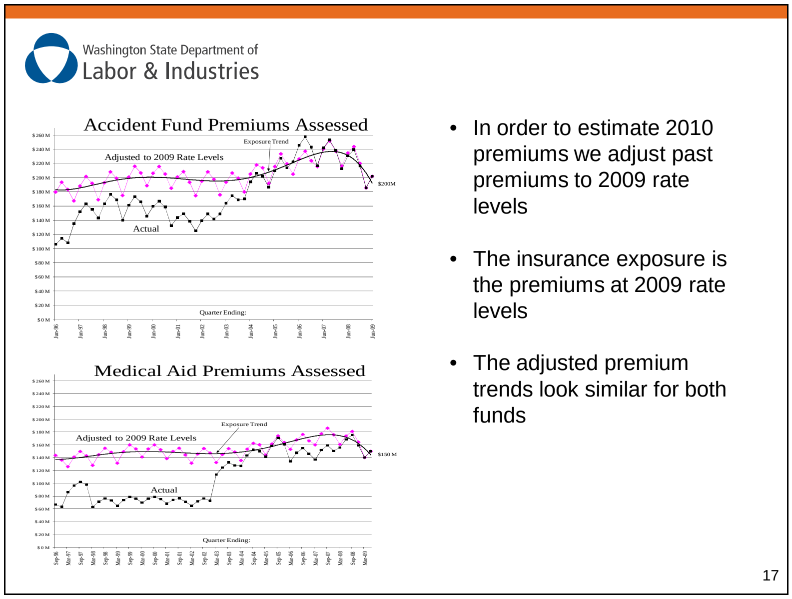
In the medical aid fund, the two benefit components are for private vocational counselors which make up 5% and medical providers which account for the remaining 95%. We apply factors to these benefits in order to bring them to 2010 rate levels; we are applying a 5.5% annual increase trend for medical providers, and a 2.5% upward trend for private vocational counselors.



Administrative costs are broken into two categories: other administrative expenses and claims administration expenses. The claims administrative expenses vary as a percentage of the estimated benefit costs and they vary with the frequency and severity of the claims. If we have more claims, we have more costs for claims administration, and if the claims are more severe, they last longer.

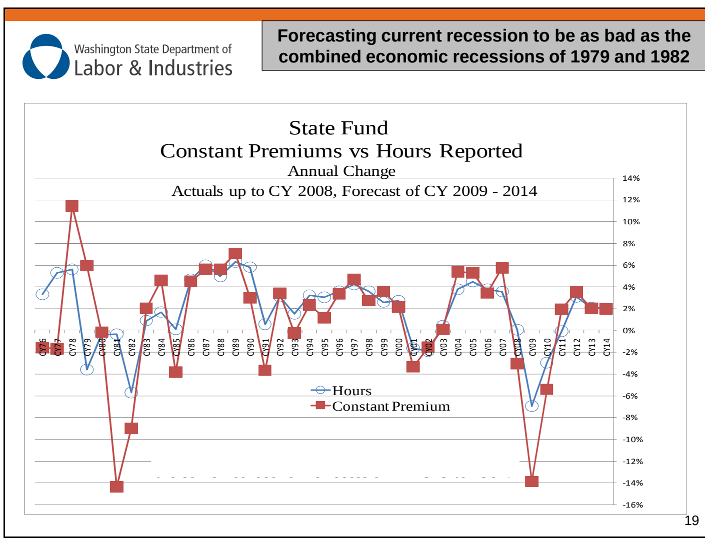
The other administrative expense costs incurred during 2010 are fixed costs that are grouped to be consistent with statutory accounting principles so we can compare ourselves to other insurance companies and state funds.

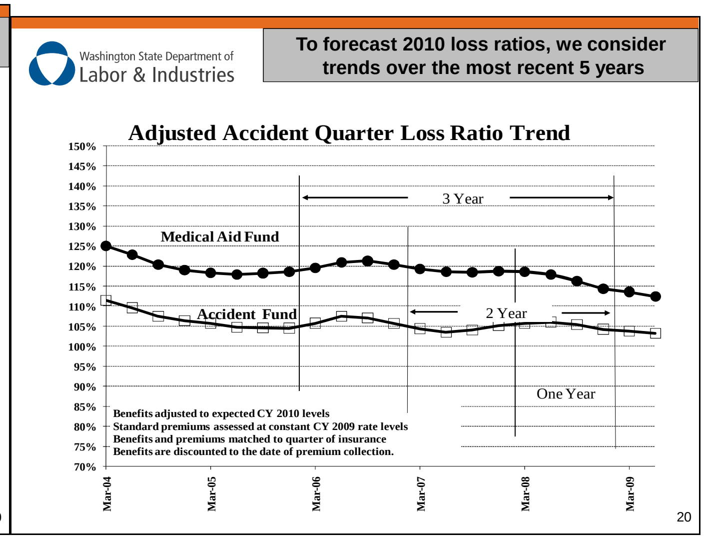
It was asked that information be clarified regarding claims administration going up 28% while the frequency is down. Have we dropped administration costs for the last year? It was added that the variability of claims administration based on claims frequency and data was surprising. Mr. Malooly explained that the level of increase in the administrative expenses was due to a change in how we account for our costs. The actual costs of claims administration went up 7% from the previous year. We can go through the exact changes to reported expenditures. Bad debt was included which caused the big percentage change in the financial statements. (Bad debt expense is defined as accounts receivable that will likely remain uncollectable and will be written off.) Mr. Malooly suggested that details can be provided in a future meeting.



In order to forecast the rate indication, the department must forecast 2010 premiums at 2009 rate levels. The first step is to take the past premiums that were assessed and the rate levels in effect and convert them to premiums at 2009 rate levels. This is called insurance exposure.

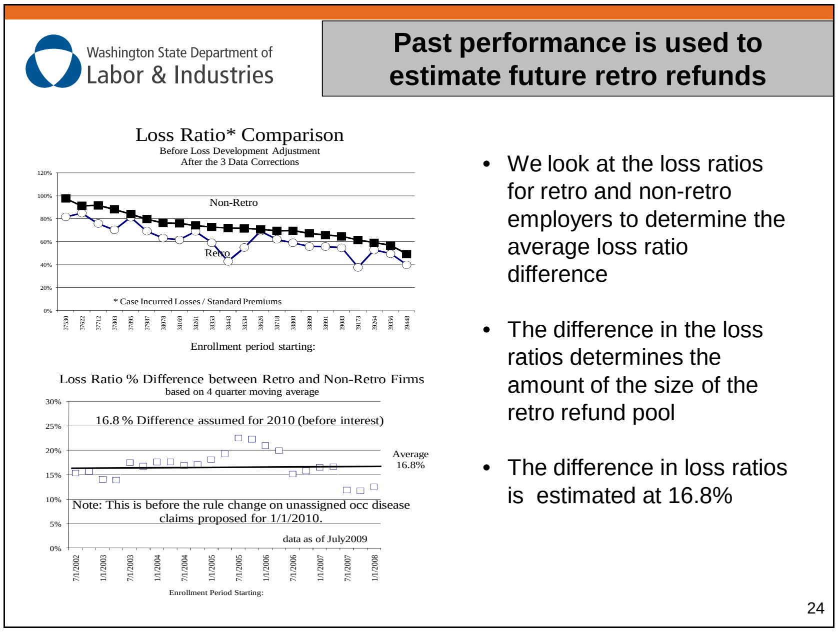
There has been a decline of 15% in the exposure since the last quarter 2007.





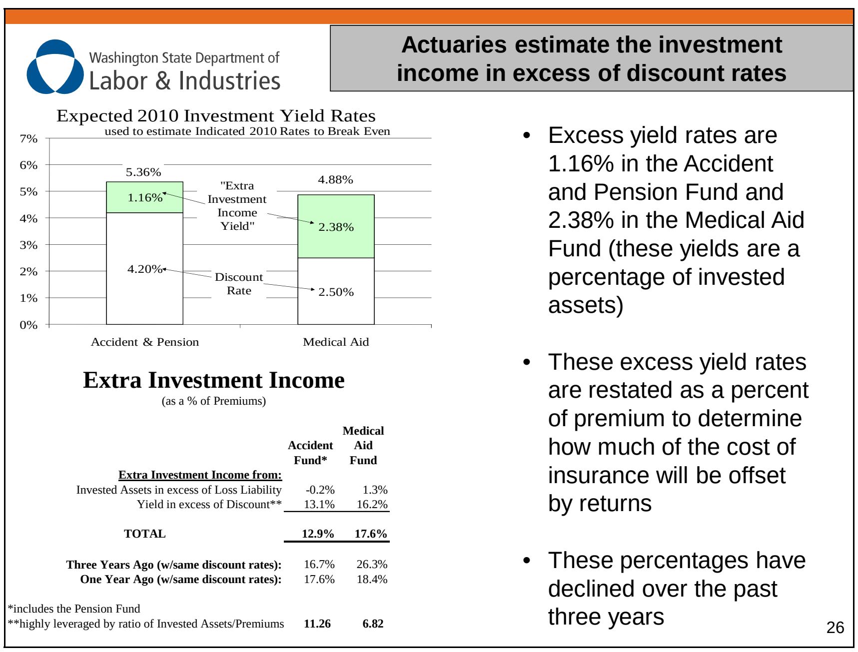
The department is forecasting a 7% decline in calendar 2009 reported hours. We are forecasting a drop in premiums at the 2009 rate levels more severe than the expected drop in hours because the larger declines are in more hazardous industries such as construction.

The chart on slide 20 is a five-year picture. The long-term trend in loss ratios has also been the long-term trend in declining claim frequency.



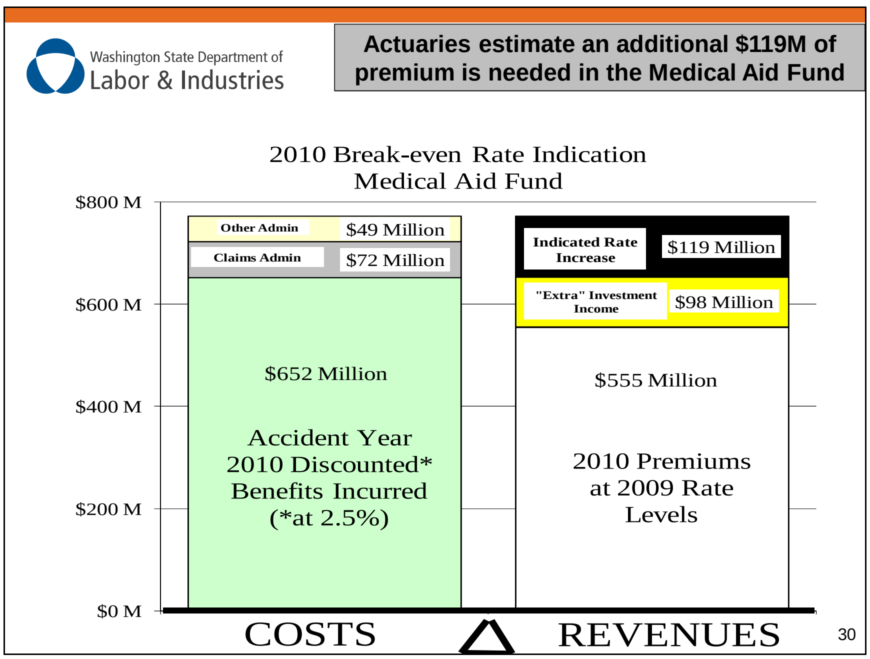
It was asked if the fact that employers are reporting fewer hours helps drive up the rates for the following year. Mr. Vasek answered that for the supplemental pension fund this could occur because the estimated 2010 losses are not accident year incurred losses, but calendar year paid losses. If fewer hours are reported, this would drive up the rate. In the accident and medical aid fund, the department forecasts the losses by multiplying the forecasted premiums by the forecasted loss ratio. If the premiums come down, the losses come down at the same rate. So lower reported hours do not affect the accident or medical aid fund rates, except in the fixed administrative expenses where they have a very small effect.

The information in these slides is based on data from July, 2009. The change in the treatment of unassigned occupational disease claims is being proposed for 2010 and the effect is not included in the numbers for the presentation.



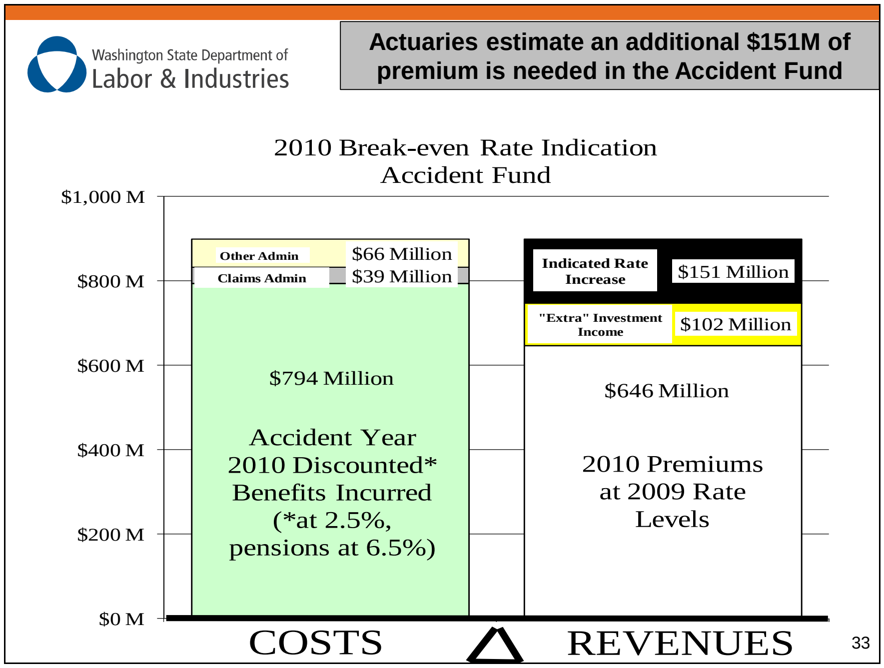
The extra investment income helps offset the rate increase. Mr. Malooly explained that investments pay part of the cost of the insurance. If the investment yield is smaller, a larger percentage of the cost of the insurance must be paid by premiums collected from workers and employers in the system. Lower investment income is one item driving up the rate indication.

Medical Aid Story:
In previous meetings, the committee has requested a report card of how past ratios have turned out. It was asked what caused the drastic drop in the loss ratio in 2003-2004 on the "Report Card on Indicated Medical Aid Fund Loss Ratio" chart. Mr. Vasek explained that the department was setting rates at ten cents an hour in the medical aid fund in order to give excess money back to rate payers. In 1995, the rate was 17 cents and dropped down to ten cents until 2002. Eventually, the rate had to be increased above 17 cents. Going from ten cents to 17 cents is a 70% rate increase in the medical aid fund. Mr. Malooly further explained that this is why the department had a rate holiday in 2007, rather than suppress medical aid rates and subject everyone to a large rate increase. Instead, the department decided to hold the rates steady and have a rate holiday to return the excess dollars in the medical aid fund.



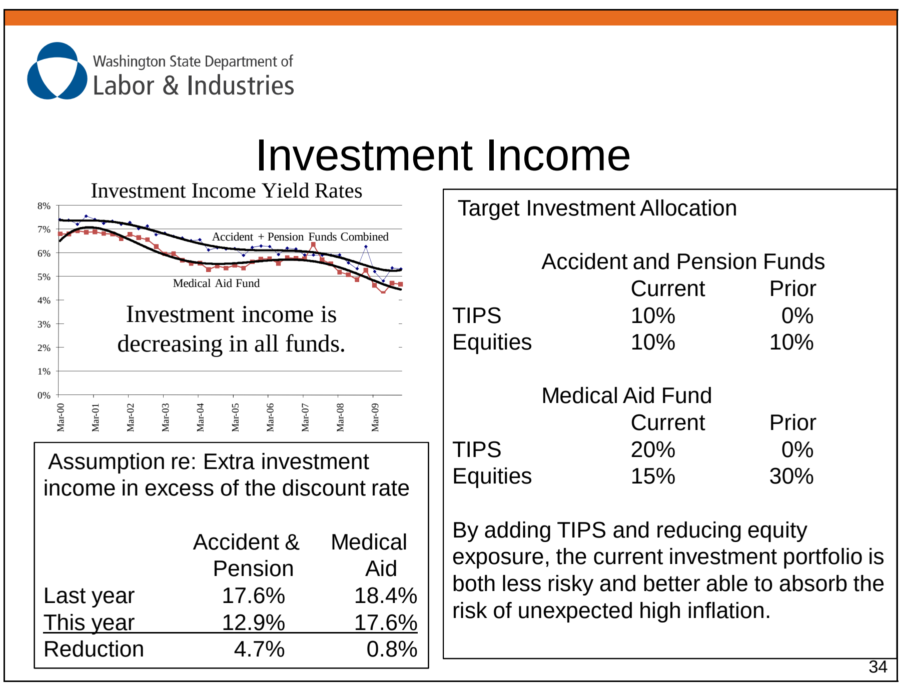
Actuaries estimate an additional $119 million in medical aid fund revenues are needed in order for the revenues to be at the same level as the costs.

Accident Fund Story:
The time-loss duration index has been growing. For the latest quarter, the index is at 266 days. More claims are turning into pensions. Last year at this time, we were estimating the pension frequency had leveled off at 4.75% of time-loss claims. The latest indications show continued growth in the frequency in pensions with respect to time-loss claims. We are now above 5% and anticipating it to be 5.25% for 2010.



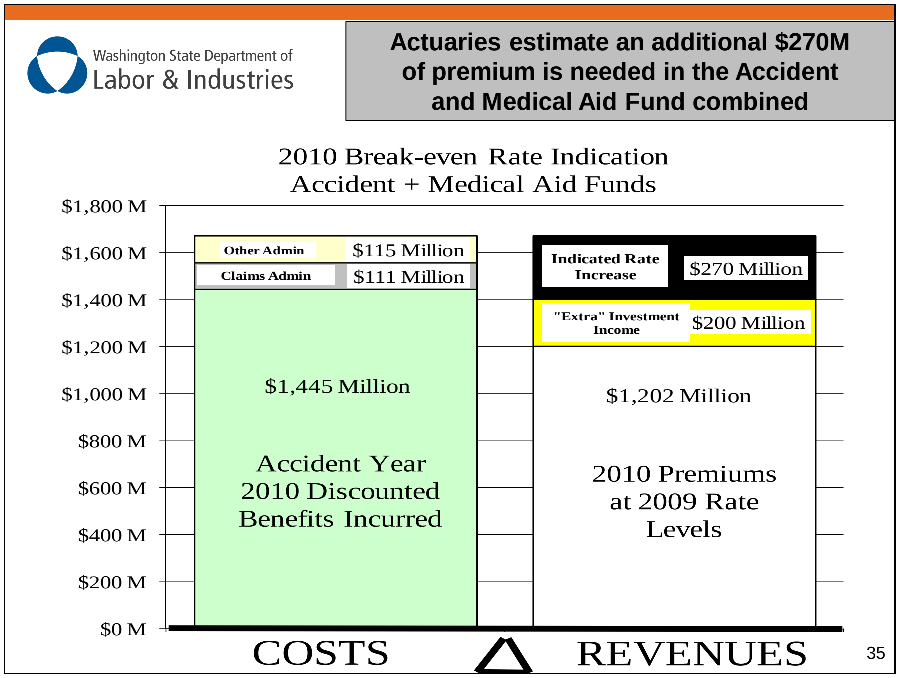
The premiums are over $700 million before anticipated retro refunds, and $646 million after refunds. Actuaries estimate the need for $151 million in premiums to balance the revenues with the costs in the accident fund.

Investment Income:



Investment income as a percentage of premiums is declining. The investment income yield rates with respect to invested assets have been declining. There is a reduction of 4.7% in the excess income above the discounted rate in the accident and pension funds. There is a decline in the excess income of .8% in the medical aid fund. This increases the rate indication.

We have changed our strategy in investing the funds. In the previous asset allocation for the accident and pension funds, we had no Treasury Inflation Protected Securities (TIPS). Currently, there are 10% of assets for these funds invested in TIPS, and the equity allocation is still the same. In the medical aid fund, we lowered the equity allocation from 30% to 15%. We also allocated 20% of the assets to TIPS. The TIPS help guard against increases in medical inflation—35% of assets are in investment products that vary with inflation. There is less volatility by decreasing equities from 30% to 15%. After these changes, from a risk management standpoint, the department is better able to absorb any unexpected high inflation that may occur. Shifting to TIPS saved the department a huge amount of investment losses compared to the prior asset allocation. We avoided approximately $400 million in declines by reducing our exposure to the stock market back in January, 2008.



When the accident and medical aid funds are combined, there is a need for $270 million additional premiums.

Supplemental Pension Fund Story:
The supplemental pension fund is funded on a 'pay-as-you-go' basis and is not pre-funded. It is paid by state fund and self-insured employers and employees, and is 50% funded by employees. The rate indication for the supplemental pension fund is 16%.

2010 Actuarial Indication:

Washington State Department of
Labor & Industries

AY 2010 Break-Even Premium Rate Change*

Based on 2nd Q 2009 Analysis

	Indicated 2009 Rate**	Adopted 2009 Rate**	Indicated 2010 Change	Indicated 2010 Rate**
Accident	$0.271	$0.271	**23.3%**	$0.334
Medical Aid	$0.219	$0.201	**21.5%**	$0.244
Supp. Pension	$0.083	$0.083	**16.0%**	$0.097
TOTAL Rate	**$0.573**	**$0.556**	**21.6%**	$0.675
Accident	$ 749 Million	$ 749 Million		$ 924 Million
Medical Aid	$ 604 Million	$ 555 Million		$ 675 Million
Supp. Pension	$ 231 Million	$ 231 Million		$ 267 Million
TOTAL Premiums	$ 1,584 Million	$ 1,535 Million		$ 1,866 Million
Net of Retro	**$0.543**	**$0.526**		**$0.639**
Employee Rate	**$0.151**	**$0.142**		**$0.170**
'10 Net Premiums	$ 1,500 Million	$ 1,454 Million		$ 1,767 Million
Employee portion	$ 417 Million	$ 393 Million		$ 471 Million
Employee percentage	27.8%	27.0%		26.7%
Net Employer portion	$ 1,083 Million	$ 1,061 Million		$ 1,296 Million

* Balanced Accident Year 2010 for Accident and Medical Aid Funds
Balanced Cash Flow 4/1/10 to 3/31/11 for Supplemental Pension Fund
**Premium rate per hour worked.

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The rate indication for the accident fund is 23.3%, the medical aid fund is 21.5% and the supplemental pension fund is 16.0%. When combined, the total indicated rate increase is 21.6%.

Washington State Department of
Labor & Industries

2010 Break-Even Premium Rate Change
History of Indications

				BEFORE*		AFTER*
Premium Funding Account	**2009 Standard Average Rate**	**2010 Rate Change Indication 4Q 2008**	**2010 Rate Change Indication 1Q 2009**	**2010 Rate Change Indication 2Q 2009**	**2010 Indicated Average Rate**	**2010 Rate Change Indication 2Q 2009**
Accident	$0.271	6.5%	20.2%	23.3%	$0.334	18.9%
Medical Aid	$0.201	15.8%	22.1%	21.5%	$0.244	21.5%
Supp. Pension	$0.083	19.0%	15.0%	16.0%	$0.097	16.0%
Overall	**$0.556**	**11.7%**	**20.1%**	**21.6%**	**$0.675**	**19.4%**

*Effect from Removing Unassigned Occ Disease Claims
from Performance Adjusted Retro Refund Target calculation

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There is a rule proposal to remove the unassigned occupational disease claims from the calculation of retro refunds. If the department adopts this rule effective January 1, 2010, we would anticipate having lower retro refunds so the indicated rate increase would drop to 18.9% instead of 23.3% in the accident fund. This would reduce the overall rate indication from 21.6% to 19.4%.

Washington State Department of Labor & Industries

Factors leading to high indicated rate

Indicated 2010 Overall Rate Change*
as of June 30, 2009

	2Q 2008 Indication 2009 Change	Adopted Average 2009 Change	Rate Level not Taken	Ongoing Hourly Benefit Inflation	Other* Factors	BEFORE** Indicated Average 2010 Change	Retro Change**	AFTER** 2010 Rate Change Indication 2Q 2009
Accident	**1.8%**	1.8%	0.0%	2.5%	20.3%	**23.3%**	-4.4%	18.9%
Medical Aid	**12.3%**	3.2%	8.8%	5.5%	5.8%	**21.5%**	0.0%	21.5%
Supp. Pension	**7.0%**	7.0%	0.0%	4.0%	11.5%	**16.0%**	0.0%	16.0%
Overall	**6.4%**	3.1%	3.2%	3.8%	13.5%	**21.6%**	**-2.1%**	**19.4%**

Other* Factors

Accident — Unexpected Increases to:
- 8.3% Timeloss Duration
- 6.1% Higher TPD Pension probability at fixed ages
- 4.7% Lower Investment yield
- Change to Retro rule for occ. disease**

Medical Aid — Unexpected Changes to:
- 3.4% Medical Growth
- 6.3% Timeloss Duration
- -2.0% FY '10 Fee Schedule
- 0.8% Lower Investment yield

Supplemental Pension — 10% Declining projected work hours '09 & '10

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Pension Discussion:
A question was asked regarding the supplemental pension fund: does the increasing pension rate also contribute to the rate increase for this fund, not just the decrease in worker hours? Mr. Vasek answered that it eventually will. Pension claims receive about 85% of the total payments from the supplemental pension fund. Most of these payments are for pensions that were granted years ago. Old claims have a higher proportion of benefits that have grown due to cost of living increases. The pensions granted recently receive relatively small payments from the supplemental pension fund, but in the future they will have more.

Washington State Department of Labor & Industries

Increasing duration of claims is causing an increase in estimated future pensions

Estimated Future TPD Pensions
As of 6/30/2009

Age (Years)	6/30/2008 Active Timeloss Claims	One Year Increase	6/30/2009 Active Timeloss Claims	X	Chance of TPD Pension	=	Estimated Pensions Future	Estimated Pensions Already Granted	Total Ultimate Pensions
0 to 0.99	12,001		10,808		13%		**1,459**	0	1,459
1 to 1.99	4,663	**486**	5,149		**32%**		**1,626**	24	1,650
2 to 2.99	2,718	**370**	3,088		**48%**		**1,488**	110	1,598
3 to 3.99	1,845	**149**	1,994		**62%**		**1,236**	241	1,477
4 to 4.99	1,322	**159**	1,481		**74%**		**1,089**	351	1,440
5 to 5.99	986	**98**	1,084		**80%**		**868**	554	1,422
6 to 6.99	814	**-10**	804		**84%**		**677**	609	1,286
7 to 7.99	670	**1**	671		**88%**		**591**	773	1,364
8 to 8.99	503	**36**	539		**89%**		**478**	808	1,286
9 to 9.99	386	**32**	418		**91%**		**382**	833	1,215
10 to 11	283	**20**	303		**95%**		**287**	795	1,082
11 to 12	214	**15**	229		**97%**		**223**	756	979
12 to 13	146	**27**	173		**98%**		**170**	757	927
13 and over	655	**15**	670		**100%**		**670**	**21,627**	22,297
TOTAL	27,206		27,411		41%		11,244	28,238	39,482
Annual Increase							**1,358**	**1,385**	**2,743**

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Washington State Department of Labor & Industries

The increasing probability of active time-loss claims becoming a pension has lead to more estimated pensions

Age (Years)			6/30/2008 Chance of TPD Pension	6/30/2009 Chance of TPD Pension	Increased Probability
0	to	0.99	11%	13%	2.8%
1	to	1.99	29%	32%	3.0%
2	to	2.99	44%	48%	3.9%
3	to	3.99	58%	62%	3.8%
4	to	4.99	68%	74%	6.0%
5	to	5.99	77%	80%	3.5%
6	to	6.99	82%	84%	1.8%
7	to	7.99	88%	88%	-0.3%
8	to	8.99	88%	89%	0.2%
9	to	9.99	93%	91%	-1.1%
10	to	10.99	96%	95%	-1.2%
11	to	11.99	99%	97%	-1.4%
12	to	12.99	99%	98%	-0.3%
13 and over			100%	100%	-0.3%
Total			36%	41%	4.5%

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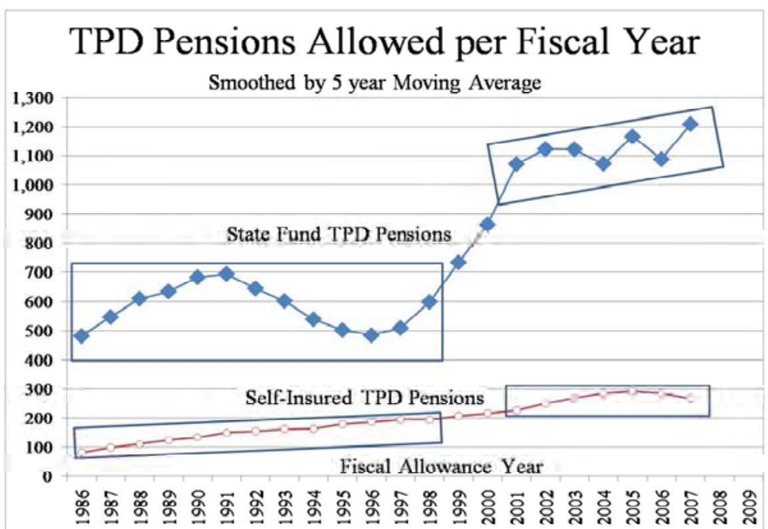
The increasing probability of active time-loss claims becoming a pension has resulted in more estimated pensions. Comparing the percentages last year versus this year shows an increased probability for younger claims. This trend is occurring in self-insured claims as well.

Washington State Department of Labor & Industries

Pension frequency has doubled for both the State Fund and for Self-Insurers



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Prior to 1999, the state fund was averaging about 600 pensions annually. Currently, it is averaging over 1,100 pensions. For the self-insured community, this has increased from around 150 to almost 300. The number of pensions has doubled for both the state fund and self-insurers.

Factors Affecting Time-loss Duration:

Washington State Department of
Labor & Industries

(From June WCAC)

Factors Affecting Time-loss Duration

We are researching how the following characteristics of claims may influence duration :

- Permanent partial, permanent total and temporary disability
- Specific diagnoses – carpal tunnel, back injury, soft-tissue disorders, psychological, occupational disease, etc.
- Diagnosis mix and number per claim
- Utilization of prescription drugs for chronic pain
- Administrative delays
- Need for voc rehab services
- Re-openings
- Impact of economy on RTW and KOS opportunities
- Variation by industry sector
- Duration/cost by provider type

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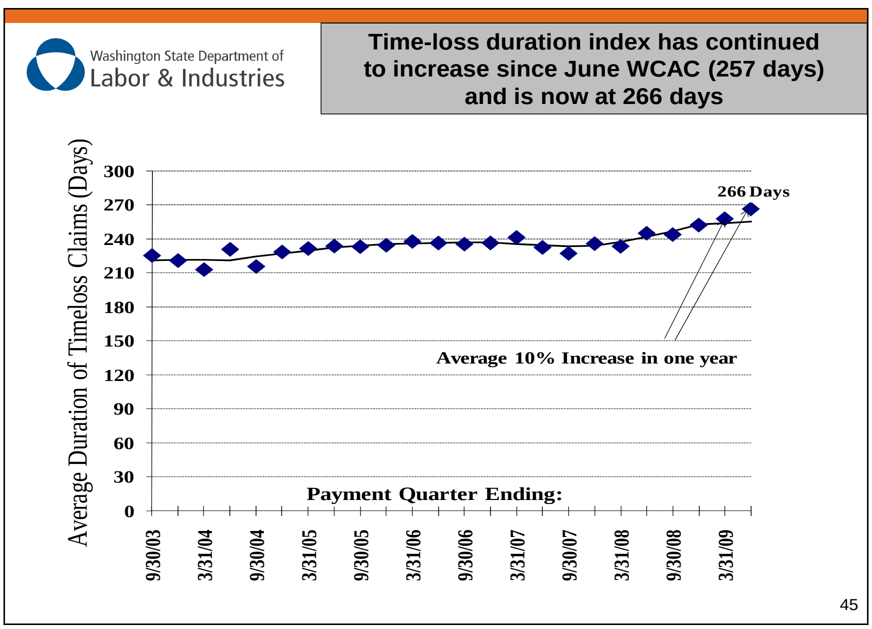
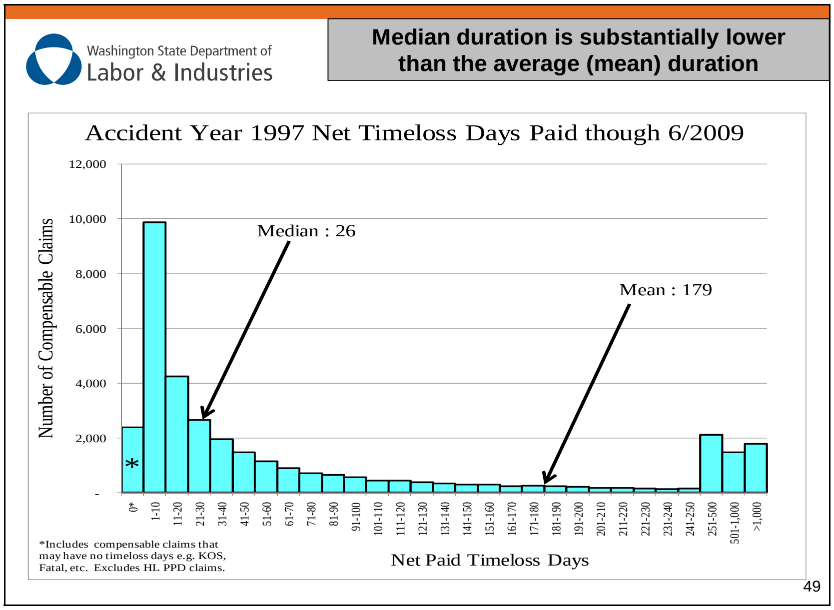
Mr. Malooly explained that the department is committed to looking at factors that may have an impact on time-loss duration. The time-loss duration index is up to 266 days and is a significant component in the rate indication.



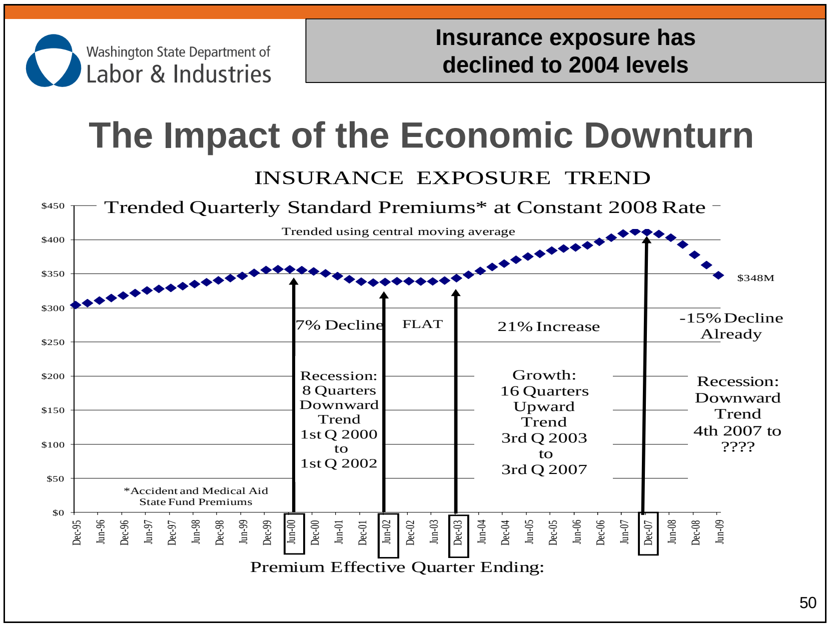
The time-loss duration index is a focus for the department. It is a very simple and straightforward formula. The department counts the number of days that time-loss is paid in a quarter at each claim age, divides by the number of compensable claims at each claim age, and adds them to get an average days paid per compensable claim. The formula is a good measure of big changes.

The department looked at whether the recent growth was due to a single claim, or a court decision that affected a limited number of claims. The answer was no; there is something more fundamental occurring. In addition, Tillinghast will review the methodology used and provide a formal opinion on whether or not they believe there are factors distorting the result.

It was asked if the department is aware of how other states report their average duration. Do they use a similar formula? Mr. Malooly was unsure, but remarked that they most likely do not use this approach because of the different statutes each state has. Some states provide an equivalent of weeks of compensation for certain injuries. Other states have compromise and release or insurers delegate the claim to another insurer if it gets above their retention levels for reinsurance. When a claim comes to the department, it is with us for the entire duration. The liabilities are not assigned to a reinsurer.



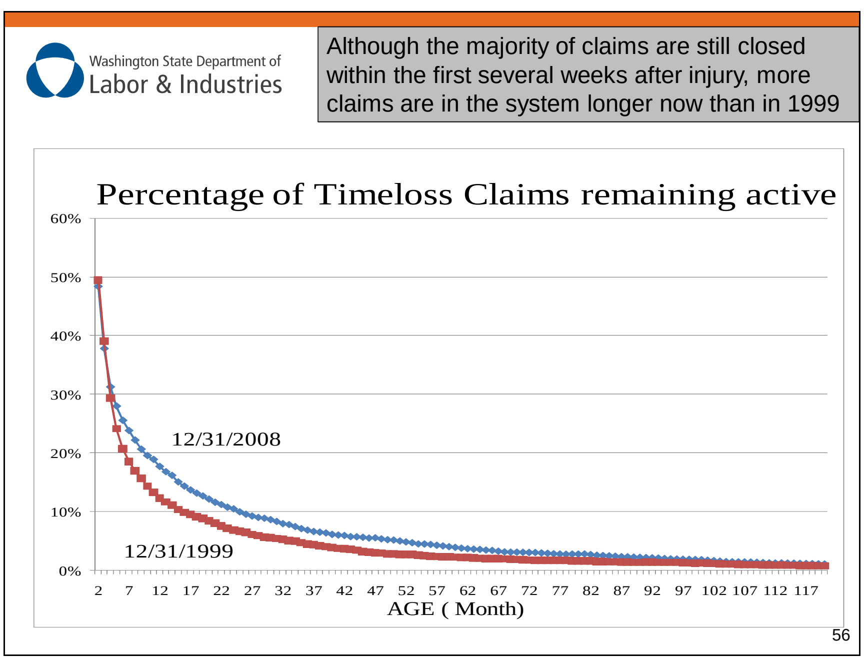
Another way to look at duration is shown above. There is a significant difference between the median (26) and the mean (179). Most claims are resolved quickly, while some last a long time. It is these long-duration claims that “push out” the average.



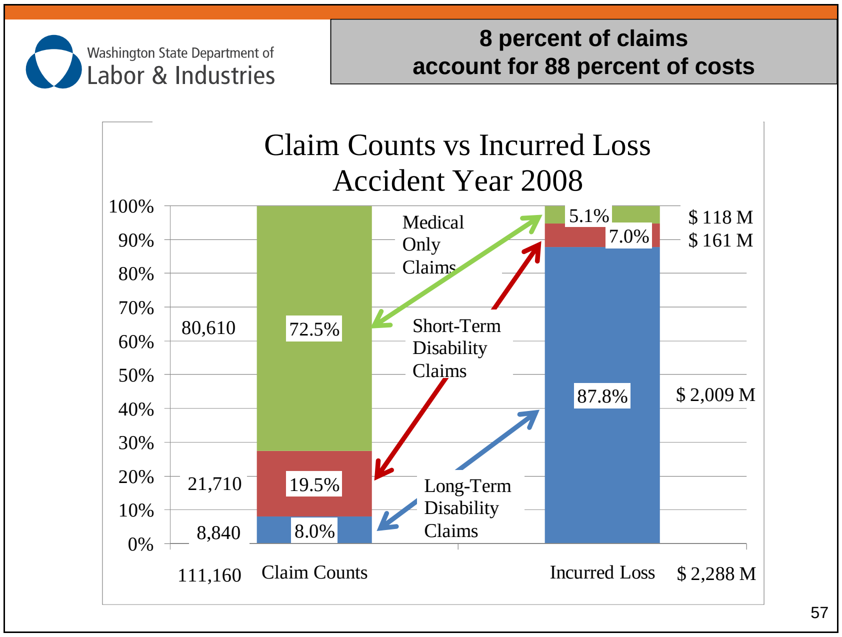
Insurance exposure is a way to look at the overall effect of the economic downturn. There is already a 15% decline in exposure. The department looked at prior recessions to see if it could help us understand what is occurring during the economic downturn.

Both overall claim frequency and time-loss claim frequency trends decrease during recessions. The department received fewer claims during recessions, however, in three out of the last four recessions there was an increase in time-loss duration. The current downturn affected home construction and differs from the downturn in the 1990's which affected "dot-com" and clerical/office positions.

The department reviewed active time-loss claims and unemployment claims, it appears there is a strong similarity during the last three years. The department is concerned about the most recent period of recession and what is happening to drive the 10% increase in time-loss duration over the last year as this is dramatic and unprecedented. If this is a temporary circumstance due to the economy, the department does not want to take too much of a rate increase.

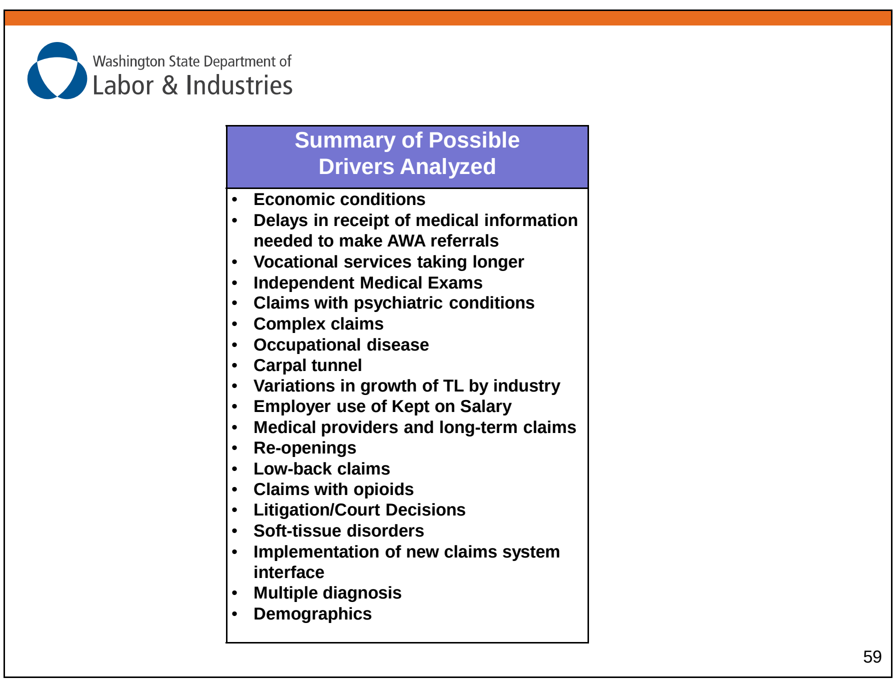


The data shows the difference between the percentage of time-loss claims remaining active (collecting time-loss benefits) on 12-31-1999 and 12-31-2008. The difference between the two trends is what is driving the costs; workers are remaining on time-loss longer.



Eight percent of claims account for 88% of costs—the 8% of claims are long-term disability claims. About half of the incurred loss of $2,288 million is due to pension claims.

In response to the time-loss duration increase, a cost driver analysis was conducted since the last WCAC meeting. Several department program managers and researchers met to look at factors that might have contributed to the 10% increase.

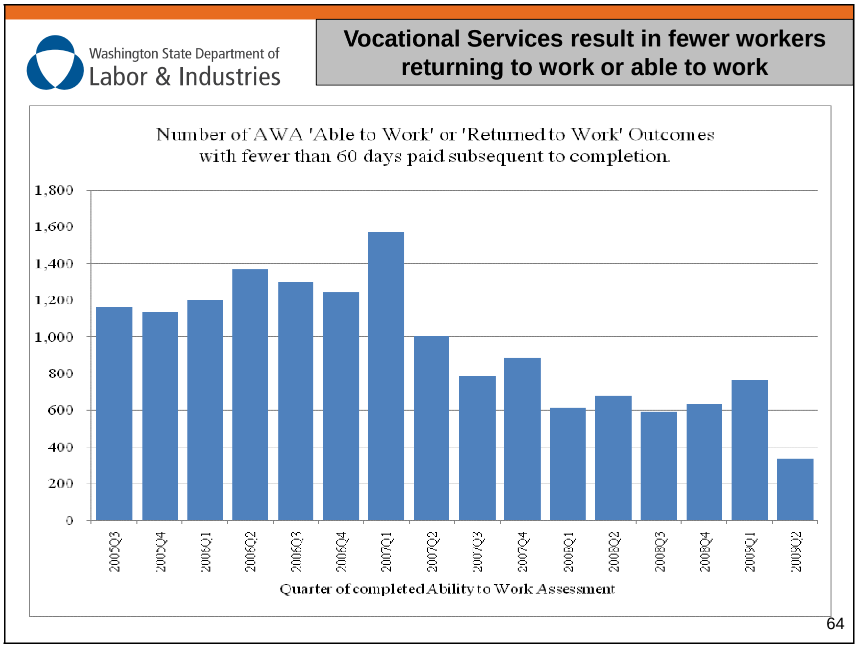


Mr. Malooly briefly discussed each possible driver—these drivers and the analysis will be discussed further at the December WCAC meeting.

- Demographics: Changes have been slow; this did not have a significant impact in the last year.
- Litigation/Court Decisions: There was nothing significant that would be a short-term driver, however, long-term drivers were identified.
- Reopenings: The department has seen more requests for reopenings during this period, but the number of cases that were actually reopened remained the same, therefore it is not a contributor.
- Carpal Tunnel Syndrome: This has flattened and is declining.
- Opioid Use: The doses are decreasing in response to the department's efforts.
- Complex Claims: The department is seeing more complex claims, but there is not a significant recent change to contribute to the 10% increase.
- Psych Conditions: There has been a small increase, but not a short-term driver.
- Vocational Services: The department did find delays in the receipt of medical information needed to make ability-to-work assessments (AWA). Interventions are already underway.
- Economic Conditions: The department believes that current economic conditions have made it difficult for workers to return to work.

Ms. Kennedy reviewed the slides regarding vocational services. The department found a strong correlation with early vocational services and the economy. The department provides Early-Return-To-Work (ERTW) services to workers who receive time-loss benefits for over 14 days. ERTW results in 50% of workers successfully returning to work, but the process is taking about a week longer. Early Intervention Services (EI) are provided by private vocational professionals (VRCs). These are referred from the department and VRCs provide more formal efforts to return a worker to the employer of injury. VRCs are struggling to get workers back on the job due to lack of light-duty work availability. Kari D'Aboy, President of the International Association of Rehabilitation Professionals, wrote a letter to Director Schurke confirming the VRCs' difficulties with successfully getting workers to return to work with their employer of injury due to economic conditions. Ms. D'Aboy also commented that another difficulty they are finding is that the average work week has dropped to 33 hours. For a worker who worked full time, there are less job opportunities needed to provide a valid labor market as part of the assessment of the workers ability to work. A copy of the letter will be forwarded to the committee members.

Ms. Kennedy referred to slide 54 of the presentation and noted a claims manager survey was conducted. Claim managers confirmed they are receiving additional requests for time-loss from workers, medical providers are increasingly certifying additional time-loss, and employers are providing fewer return-to-work options for injured workers.



There is a significant drop in the number of "Able to Work" or "Returned to Work" outcomes from AWA. Other outcomes mean either the worker is staying on time-loss benefits longer because they will require additional vocational assistance of treatment or the case could potentially be heading toward a pension.

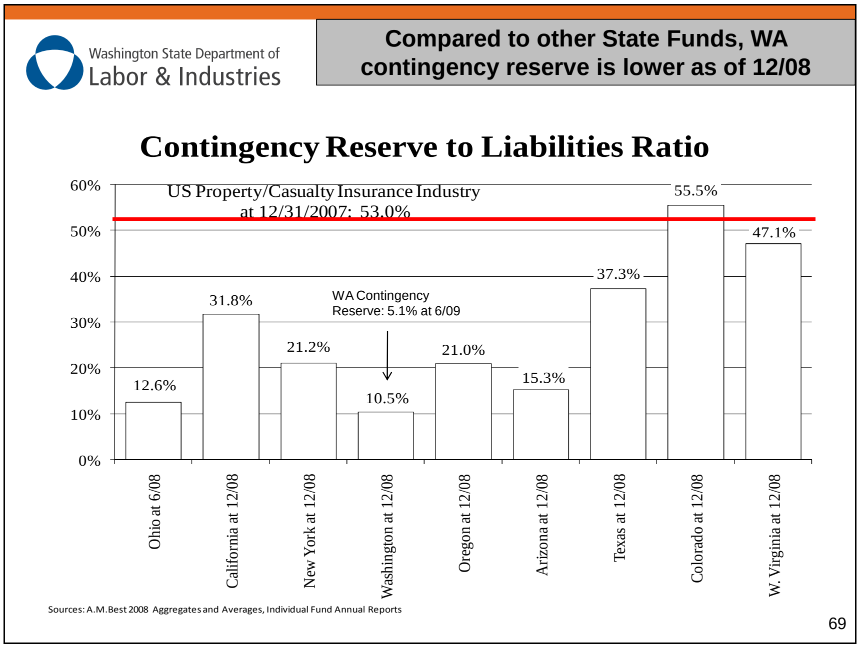
Additionally, the claim manager survey and the vocational community confirm that the medical providers are very cautious about recommending workers are able to work when the worker is fearful about re-entering the current labor market with the recession. In an effort to address this, the department has made some changes on the Activity Prescription Form (APF). The questions were changed to clarify with the medical provider the temporary nature of the worker's inability to work by asking specific questions about the length of time of restrictions and asking the medical provider if the worker will need assistance to return to work. To speed the process, the vocational community is now being allowed to go directly to the medical provider for the APF information rather than making a request through the department. The department hopes this will provide information sooner because the claim reviews of cases where the AWA process had been delayed confirmed that often it was due to the lack of medical information stating the worker is ready for vocational services.

Contingency Reserve:
Mr. Malooly reviewed the contingency reserve slides. The department established upper and lower limits for the contingency reserve for each fund in the draft policy developed over the past few years.

As of June 30, 2009, the medical aid contingency reserve remains above the lower policy limit with $496 million. The evaluation of equities has improved since then; the actual dollar amount might be higher.

As of June 30, 2009, the accident fund contingency reserve remains well below the lower policy limit at $49 million.

As of June 30, 2009, the overall contingency reserve is below the lower policy limit with a combined total of $545 million.



The department does not purchase reinsurance; if there were a catastrophic event, there is no reinsurance to cover the losses. As of June 30, 2009, the contingency reserve is 5.1%. The US property/casualty insurance industry is generally at 53%. The department's contingency reserve is substantially below what a private carrier would need in reserve to satisfy regulatory definitions of solvency. Because Washington is an exclusive state fund, the department is in a different circumstance than most private companies. Ohio is the only large state shown that is also exclusively state fund. Other exclusive state funds are Wyoming, North Dakota, and the Virgin Islands.

Washington State Department of
Labor & Industries

2009 Break-Even Rate Change/Actuarial Indication

	as of 6/30/08	Adopted	as of 6/30/09
Accident	1.8%	1.8%	18.1%
Medical Aid	12.3%	3.2%	18.8%
Supplemental Pension	7.0%	7.0%	19.0%
Overall Average using current mix of business	6.4%	3.1%	18.5%

- The contingency reserve decreased $525M during the first half of 2009 due to inadequate rates and investment losses
- Estimated underwriting losses are $50M/quarter through 12/31/09

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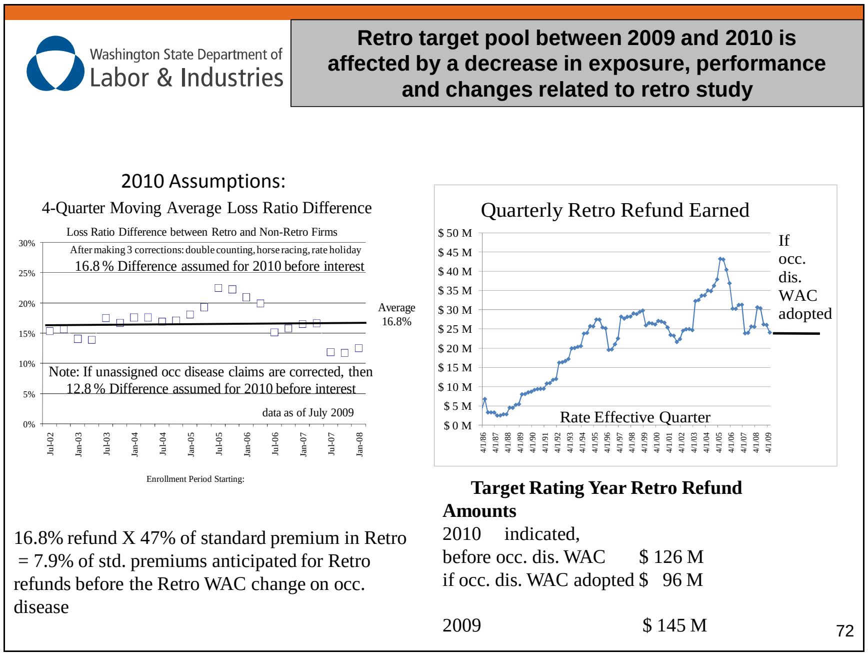
The actuaries review last year's overall rate indication using the figure from June 30, 2008. The proposed rate was 6.4%; the department adopted 3.1%. When the department looks back at 2009 to determine what the rate should have been, the indication is 18.5%. The biggest factor for this increase appears to be economic conditions.

A question was asked regarding the WCAC minutes from March 30, 2009: it was noted that the contingency reserve had lost over $600 million dollars due to economic conditions. Has that changed much between March 30, 2009, and present? Mr. Malooly committed to providing current data when the end of September information is complete.



The expected target for the retro refund without the proposed occupational disease rule would be $126 million dollars at the indicated rate level. If the occupational disease rule is adopted, it drops to $96 million dollars at the indicated rate level.

2010 Proposed Rate

After weeks of discussion, Director Schurke is proposing an overall rate increase of 7.6%. This is a proposed rate and hearings will be held the end of October. The department will consider the input from the hearings and the third quarter financials before adopting a rate. There are two sets of rates being filed: the first set results in a 7.6% increase and assumes adoption of the proposed rule change concerning unassigned occupational disease claims in the retro calculations. The other set results in a 9.3% increase and assumes the rule is not adopted. Hearings have been held regarding the proposed occupational disease rule, but a decision has not been made yet.

It was asked if the department is using some of the contingency reserve to bridge the gap between the $270 million indicated increase and the $117 million proposed increase. This is correct, as long as the numbers develop as anticipated.

A comment was made regarding slide 41, “Estimated future TPD Pensions.” It was expressed that the expectations for claim managers are to resolve and close older claims; however, instead of a decrease in older claims, there is an increase. It was felt this information merits further investigation in the claims management processes. Out of all years reported, only year six showed a decrease. Director Schurke advised that the committee can follow up on these concerns at the December WCAC meeting.

Director Schurke remarked that the department has uncovered some interesting trends that affect the system. She would like to review these with the committee at the December meeting.

The department met with Conning Asset Management and was presented with a peer analysis. Director Schurke felt this would be valuable to review with the committee at the December meeting to understand the comparison of the Washington funds with the loss ratios of other state funds and private companies.

The hearings for 2009 rates are scheduled as follows:

- October 21, 9 a.m., Spokane Airport Ramada
- October 21, 2 p.m., Kennewick L&I Office
- October 22, 2 p.m., Bellingham Quality Inn
- October 22, 2 p.m., Labor & Industries Bldg.
- October 24, 10 a.m., Tukwila L & I Office
- October 24, 10 a.m., Red Lion Inn at the Quay

An audience member asked how the state moved from the original announcement of a 15-20% indicated rate to a proposed rate of 7.6%. What does this mean for next year in terms of solvency of the fund? Mr. Malooly answered that determining the proposed rate is a judgment call. The actuarial indication has increased steeply in a short amount of time. The question is how much of the indication is due to long-term increases, and how much is due to temporary economic conditions. If we believe that this is all a long-term trend, then the full actuarial indication should be taken. However, if we believe that a large component is temporary economic conditions, then the full indication should not be taken. The department believes that given the state of the economy and the tremendous burden on employers, it is prudent to take less than the actuarial indication. There is a lot of direct and indirect evidence that tells us much of the increase is due to economic conditions. The department believes with the combination of administrative changes and the improvement in the economy, the trends will come back down. Director Schurke added that the department has been charged in statute to provide stable and predictable rates and try to avoid volatile swings. The department has reviewed the claims operation to try to discern whether there are issues that will affect long term trends. The department is also optimistic about the initiatives funded by the legislature. The department is re-tooling the process for filing claims and making them electronic, which will allow the department to quickly intervene with employers and help workers get back to work. In addition, there is an occupational safety and health focus initiative to provide services and compliance to the most appropriate employers and continued focus on the underground economy.

It was commented that when the department is analyzing the pension increases and determining whether there are things that legislatively could be changed, there may be some changes the department, labor, and business could work together on to avoid a huge increase the following year. This is the biggest concern.

Meeting adjourned.