

EXAMINING COSTS AND TRENDS OF WORKERS COMPENSATION CLAIMS IN NEW YORK STATE

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1. INTRODUCTION

The average cost of workers compensation claims naturally increases over time. Wage inflation has a direct impact on the cost of indemnity (wage replacement) benefits, while increases to the cost of medical services and pharmaceuticals have a highly leveraged impact on the cost of workers compensation claims, where treatments are generally more complex and of greater duration than medical services associated with general health care.

Average claim costs and trends will vary between states. Each individual state has its own workers compensation benefit structure, administrative system, and governing statutes. Compensation rates, maximum and minimum weekly benefits, automatic adjustments to maximum and minimum benefits, system utilization, industry mix, administrative efficiency, constraints on medical care, and general cost of living levels all potentially vary by jurisdiction, and represent a sample cross section of items that directly impact variances by state.

This paper is an update to papers prepared by Oliver Wyman in past years and reflects the most recently available New York State insurance industry data.

The purpose of this paper is to:

- Present current estimates of average workers compensation claim costs in New York based on the most recently available data from the NYCIRB¹;
- Benchmark average New York claim costs against average claim costs in other states;
- Measure and discuss average claim cost trends in New York;
- Identify the actual and expected impact of the 2007 law change on average claim costs; and
- Illustrate the impact of New York Workers Compensation Board assessments.

Footnote references throughout the paper provide additional detail and context around the text.

¹ The New York Compensation Insurance Rating Board is the licensed workers compensation data collecting organization in New York, and bears no relation to the New York Workers Compensation Board, which administers the workers compensation system in New York. The NYCIRB is an extension of the insurance industry and analyzes collected workers compensation claims data generated by all insurance companies doing business in New York. The NYCIRB uses this data to calculate, amongst other items, the average expected cost of benefits and claim administration expense per \$100 payroll, also known as loss costs, for all employee classifications. The NYCIRB files loss costs (as well as other aspects of workers compensation rating plans) with the New York Department of Financial Services for review and approval on behalf of the insurance industry.

2. AVERAGE CLAIM COSTS IN NEW YORK STATE

“Lost time” and “medical only” are the two general categories of workers compensation claims. Lost time claims are sufficiently serious to warrant lost work time of sufficient duration² such that the employee qualifies for wage replacement benefits. Conversely, medical only claims are cases where wage replacement benefits have not been and are not expected to be paid. Medical only claims are characterized by minor injuries requiring minimal medical treatment with little or no lost work time³. Generally, on a countrywide average basis, lost time claims represent only 25% of total claim volume, but generate 95% of total workers compensation benefit costs. Conversely, medical only claims represent 75% of total claim volume, but generate only 5% of total workers compensation costs.

The table below displays average claim costs⁴ in New York State for policy years⁵ 2000 through 2009.

AVERAGE WORKERS COMPENSATION CLAIM COSTS NEW YORK STATE

POLICY YEAR	LOST TIME (\$)	MEDICAL ONLY (\$)	COMBINED TOTAL (\$)
2000	42,723	658	15,198
2001	47,214	695	17,036
2002	50,710	747	18,611
2003	53,269	801	19,625
2004	56,103	803	20,497
2005	59,057	857	21,635
2006	62,910	902	22,867
2007	68,102	940	24,982
2008	74,277	1,004	27,933
2009	87,435	1,037	34,435

This table displays average lost time claim cost, average medical only claim costs, and average combined total claim cost, by policy year⁶ as described.⁷ Note the very large difference between lost time claim costs and medical only claim costs. This difference emphasizes how, despite generating the majority of overall claims, medical only claims generate only a very small percentage of overall workers compensation costs.

- 2 All states have a “waiting period” for wage replacement benefits generally ranging from 3 to 7 days. Wage replacement benefits commence after the waiting period. Retroactive reimbursement for wages lost during the waiting period occurs only if the disability exceeds a specified duration defined as the “retroactive period.”
- 3 New York State has a one week waiting period and a two week retroactive period. Therefore, claims by employees who return to work within 7 days are, by definition, medical only claims, as no wage replacement benefits will have been paid.
- 4 The time horizon from date of loss to closure for workers compensation claims may exceed 50 years. This is due to claims with lifetime disability benefits. Therefore, all claim costs presented in this paper are forecasts. In most cases, forecasts come directly from published insurance industry data. In other cases, Oliver Wyman prepared forecasts using insurance industry source data.
- 5 Policy years define the time period during which claims generating the data occurred. This time period is generally centered on December 31 of the stated policy year. For example, policy year 2008 average claim costs are calculated using claims with an average date of loss on December 31, 2008. More specifically, policy year 2008 represents claims due to insurance policies taking effect during 2008. It is apparent that since most policies provide coverage for a single year, approximately half the claims in policy year 2008 occurred in calendar year 2008, and half the claims occurred in calendar year 2009. For example, consider a policy taking effect on July 1, 2008. This policy provides coverage for the last six months of 2008 and the first six months of 2009.
- 6 Policy year 2009 represents the most recently available data. This is because the NYCIRB must collect, compile, and examine data generated by every insured workers compensation claim in New York State. This multi-year lag between collection and publication is common and expected in the insurance industry.
- 7 The average lost time claim cost is the cost of all lost time claims divided by the number of all lost time claims. The average medical only claim cost is the cost of all medical only claims divided by the number of all medical only claims. The average total claim cost is the cost of all lost time AND medical only claims divided by the number of all lost time claims AND medical only claims. The average total cost is a weighted average of the individual claim types using the relative proportion of each claim type as weights. In New York, lost time and medical only claims are generally 36% and 64% of total claims, respectively. Applying 36% to the average lost time cost and 64% to the average medical only cost will only approximately reproduce the total claim cost in each row because the precise proportion of lost time claims varies by policy year.

A comparison of claim costs in New York to claim costs in other states provides context to the table above. The three tables on the following page provide the average total claim costs, average lost time claim costs, and average medical only claim costs for the highest ten states for policy years 2004 through 2008. Policy year 2009 data is not yet available for other states⁸.

The following tables^{9,10} illustrate the following:

1. AVERAGE TOTAL CLAIM COSTS

New York consistently has had the highest or second highest total average workers compensation claim costs, second only to Delaware for three of the past five policy years.

- Data for jurisdictions such as CT, NJ, MA, and DC does not support arguments that New York’s position is due to New York’s high cost of living. These four jurisdictions, and New York, generally have had the five highest average weekly wages in the United States. Yet the average total claim cost in New York is roughly 50% greater than that in CT, NJ, and DC. MA is not in the top ten states.
- Delaware’s unique position is due to extraordinarily high medical costs associated with lost time claims. There was a material law change in Delaware, effective October 1, 2008, intended to address this specific issue. As of December 31, 2011, average workers compensation costs in Delaware are approximately 26% *below* pre-law change levels. However, there are questions as to whether or not the estimated impact of the law change is realistic¹¹. There were no adjustments made to Delaware’s claim data in the following tables for the potential impact of this law change. New York would have had the highest average total claim cost in all years if adjustments had been made to Delaware’s data.
- Average total claim costs in New York for policy years 2009 and later are expected to materially increase due to large increases to the maximum weekly benefit in New York. Policy year 2009 data, which is available for New York and presented earlier in this report, supports this assertion. This is discussed in detail in the following section.

2. AVERAGE LOST TIME CLAIM COSTS

Average lost time claim costs in New York are consistently in the top five states.

- New York consistently has had the first or second highest average total claim cost, yet lost time claim costs in New York have generally been in the second, third, and fourth positions. This does not appear to be logical, given that lost time claims account for almost all workers compensation costs. However, in New York, lost time claims represent a much larger portion of total claims, and the portion appears to have grown since the 2007 law changes were implemented in New York (this is discussed further in the following section). Lost time claims have generally been 36% of total claims in New York. This compares to a countrywide average of roughly 25%. Put simply, New York has extraordinarily high lost time claim costs and an extraordinarily high percentage of lost time claims. The combined impact of these two items accounts for New York’s high total average claim cost.

3. MEDICAL ONLY CLAIMS

Average medical only claim costs in New York are not remarkable and generally fall in the top 15 to 25 states.

⁸ New York data for policy year 2009 is currently available directly from the NYCIRB at the time this paper was prepared. Policy year 2009 data for other states is not available at this time.

⁹ North Dakota, Ohio, Washington, West Virginia, and Wyoming are not included in the comparison. These states all have had or have monopolistic state funds, that is, workers compensation systems with a single government sanctioned and controlled insurance provider. Data is generally not available for these states.

¹⁰ The United States Longshore and Harbor Workers Compensation Act (USLHWCA) is excluded from the comparison. Under the USLHWCA, injuries must occur on or near coastal or inland waterways. USLHWCA claim costs are generally the highest in the United States, and are due primarily to high hazard occupations such as stevedoring, shipbuilding and repair, as well as the relatively generous benefits available under the act. These occupations are not typical of workers compensation claims filed under state jurisdictions.

¹¹ On August 14, 2012 the Delaware Compensation Rating Bureau submitted a request to increase loss costs (the expected cost of benefits and loss adjustment expense) by 38%. This is a significant increase and in all likelihood reflects claim cost values materially higher than quoted above.

AVERAGE TOTAL CLAIM COST
TOP TEN STATES BY POLICY YEAR

PY 2008		PY 2007		PY 2006		PY 2005		PY 2004	
NY	27,933	DE	25,929	NY	22,867	DE	24,505	DE	22,002
DE	25,182	NY	24,982	DE	22,023	NY	21,635	NY	20,497
IL	21,609	LA	20,933	IL	18,785	LA	17,021	LA	16,286
MT	21,254	IL	20,445	LA	18,126	IL	16,637	IL	15,546
CA	20,328	CA	18,361	AK	17,479	DC	16,124	CA	14,624
LA	19,669	OK	17,931	CT	16,828	SC	15,125	DC	13,660
OK	19,427	AK	16,688	CA	16,189	CT	15,064	CT	13,597
CT	17,672	DC	16,623	NJ	16,028	NJ	14,964	SC	13,490
MD	17,096	CT	16,600	OK	15,907	AK	14,797	OK	13,432
AK	16,202	NJ	15,945	MD	15,068	CA	14,492	NJ	13,400

AVERAGE LOST TIME CLAIM COST
TOP TEN STATES BY POLICY YEAR

PY 2008		PY 2007		PY 2006		PY 2005		PY 2004	
DE	86,523	DE	87,784	DE	74,184	DE	80,439	DE	73,503
MT	80,382	LA	72,760	NY	62,910	LA	61,309	LA	57,700
NY	74,277	NY	68,102	LA	62,889	NY	59,057	NC	56,549
LA	69,439	NC	64,955	NC	62,633	NC	58,306	NY	56,103
NC	67,789	VA	62,776	AL	59,881	VA	54,959	MT	51,483
IL	63,780	IL	60,937	MT	57,899	SC	53,782	VA	50,810
CA	61,549	GA	60,666	VA	57,831	GA	53,153	GA	49,822
MN	60,004	AL	59,861	IL	56,468	MT	51,405	SC	48,186
AL	59,311	CA	58,448	CT	56,314	IL	51,043	IL	48,150
VA	59,241	PA	57,043	GA	55,768	CT	49,064	ME	45,816

AVERAGE MEDICAL ONLY CLAIM COST
TOP TEN STATES BY POLICY YEAR

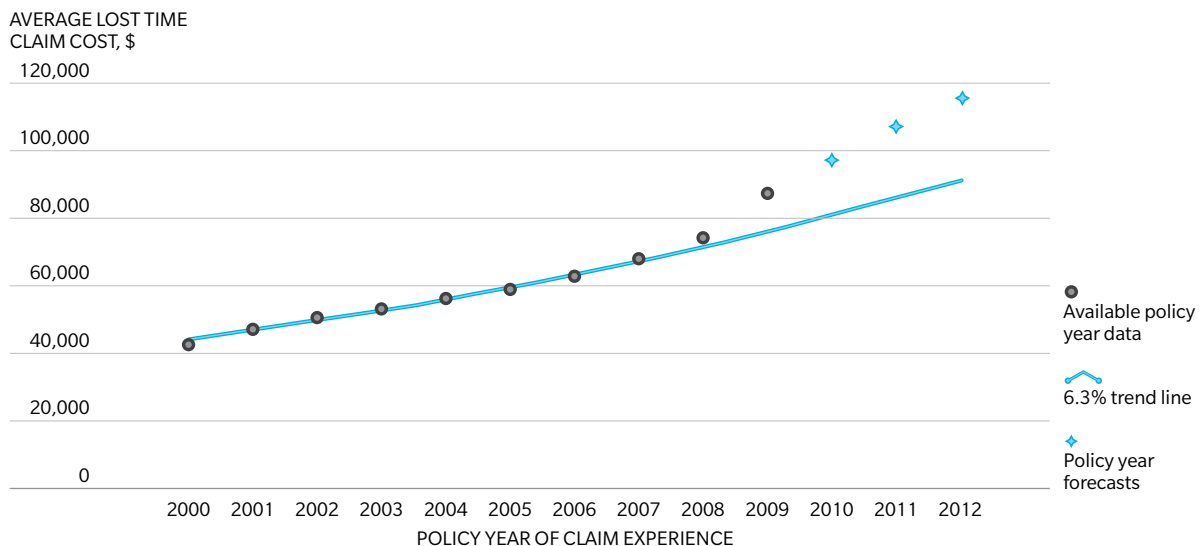
PY 2008		PY 2007		PY 2006		PY 2005		PY 2004	
LA	1,702	LA	1,580	LA	1,495	LA	1,390	NJ	1,321
AK	1,637	AK	1,463	DE	1,458	DE	1,314	LA	1,296
NH	1,572	NH	1,390	NJ	1,351	NJ	1,286	AK	1,286
NJ	1,483	NJ	1,362	AK	1,324	AK	1,268	IL	1,160
DE	1,439	DE	1,337	NH	1,313	NH	1,209	DE	1,143
VA	1,403	IL	1,280	IL	1,218	IL	1,190	NH	1,108
IL	1,374	VA	1,236	VA	1,181	VA	1,045	VA	1,022
IN	1,305	IN	1,195	MO	1,107	MO	1,045	DC	969
WI	1,230	MO	1,156	IN	1,098	AL	1,018	FL	951
MO	1,228	AL	1,146	AL	1,075	IN	1,003	MO	946
...
NY	1,004	NY	940	NY	902	NY	857	NY	803

3. TRENDS AND LAW CHANGES

3.1. LOST TIME CLAIM COSTS

The following graph illustrates the increase to average lost time claim costs in New York. The graph shows estimates based on actual policy year data from 1999 through 2008 (circular markers) and Oliver Wyman's forecasts for policy years 2009 through 2012 (diamond markers) benchmarked against a blue trend line.

AVERAGE WORKERS COMPENSATION LOST TIME CLAIM COSTS
NEW YORK – MEDICAL AND INDEMNITY BENEFITS ONLY



Prior to 2007, lost time claim costs in New York had been increasing at rate of approximately 6.3% per year. The blue trend line on the graph represents an average annual increase of 6.3% per year based on policy years 2000 through 2006. The trend line extends through 2012 to illustrate the observed divergence upward for policy years 2007 through 2009, and the expected continued divergence upward for policy years 2010 and forward.

Elements of the 2007 law change that increased the maximum weekly benefit in New York partially explain the higher claim costs observed for policy years 2007 through 2009. Prior to July 1, 2007, the maximum weekly benefit was \$400 per week and had been at this value for 15 years. Beginning July 1, 2007, and every July 1 thereafter, the 2007 law implemented changes that eventually increased the maximum weekly benefit to a value equal to 2/3 the average weekly wage in New York on July 1, 2010. Increases to the maximum weekly benefit are tabulated to the right:

EFFECTIVE DATE	MAXIMUM WEEKLY BENEFIT
Prior	\$400
July 1, 2007	\$500
July 1, 2008	\$550
July 1, 2009	\$600
July 1, 2010	\$740
July 1, 2011	\$773
July 1, 2012	\$792

The increases have been substantial, essentially doubling across a five-year time horizon. Current claims data from Oliver Wyman clients shows material increases to indemnity payments due to new claims, a direct result of this aspect of the law change. Examination of insurance industry data demonstrates that the upward divergence of policy year 2008 and 2009 data away from the expected trend line (see graph on prior page) is essentially fully explained by the increase to the maximum weekly benefit. However, the material upward divergence in average claim costs for policy year 2009 is greater than expected based on the increase to the maximum indemnity benefit. Additionally, it is important to note that the most significant maximum benefit increase, which occurred on July 1, 2010, is reflected only minimally in the available policy year data. With a maximum weekly benefit of \$792 per week effective July 1, 2012, the **average lost time claim cost in New York will likely exceed \$115,000.**

3.2. CLAIM FREQUENCY

The following table displays workers compensation claim frequency per 100,000 workers in New York State, by policy year, separately for lost time claims and medical only claims, as well as on a combined basis. Additionally, the portion of claims that are lost time claims is tabulated in the rightmost column, by policy year.

WORKERS COMPENSATION CLAIM FREQUENCY PER 100,000 WORKERS
NEW YORK STATE

POLICY YEAR	LOST TIME	MEDICAL ONLY	COMBINED TOTAL	PORTION LOST TIME
2000	1,383	2,618	4,001	35%
2001	1,221	2,255	3,476	35%
2002	1,142	2,052	3,194	36%
2003	1,105	1,975	3,080	36%
2004	1,021	1,846	2,867	36%
2005	985	1,774	2,759	36%
2006	938	1,710	2,648	35%
2007	930	1,668	2,598	36%
2008	921	1,585	2,506	37%
2009	949	1,506	2,455	39%

The general decline in claim frequency since 2000 in New York is not exceptional, as this decline is consistent with the observed decline to overall claim frequency countrywide. The general moderation to the decline in claim frequency in more recent years (that is, claim frequency is decreasing at a lower rate) is also consistent with countrywide observations.

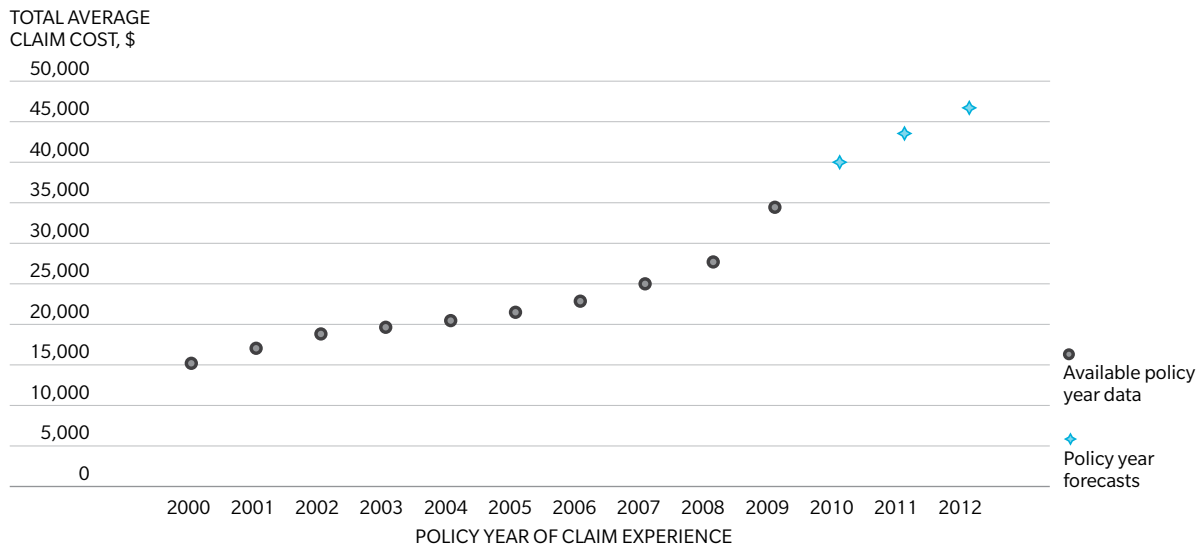
However, since 2007, there has been an upward trend in the portion of total claims that are lost time claims in New York. The magnitude of the observed increase (from approximately 36% to 39% in 2009, as a portion of total claims) is not consistent with countrywide data. Countrywide data shows little, if any, change to the proportion of claims that are lost time.

The impact of the increase in average lost time claim costs and the increase in the portion of lost time claims has a compound effect on total average claim costs. This is illustrated in the chart on the following page.

3.3. TOTAL AVERAGE CLAIM COST

The following graph illustrates the increase to average total claim costs in New York. The graph shows forecasts based on actual policy year data from 2000 through 2009 (black circles) and Oliver Wyman's forecasts for policy years 2010 through 2012 (blue diamonds). The acceleration to total claim costs after policy year 2006 is due to the underlying increase to lost time claim costs and the relative portion of lost time claims discussed in the prior section. As a note, the impact of medical only claim costs on trend is not material because of the very small contribution to total costs by medical only claims.

AVERAGE TOTAL WORKERS COMPENSATION CLAIM COSTS NEW YORK – MEDICAL AND INDEMNITY BENEFITS ONLY



It is clear from this graph and the benchmark tables provided earlier in this paper that New York has emerged as the state with the highest average total workers compensation claim costs in the United States. Additionally, the amount by which New York claim costs exceed claim costs in other states is expected to increase.

4. ASSESSMENTS

New York State collects assessments to fund various WC related programs in the state. The assessments either are paid as a percentage of premium for insured (guaranteed cost, deductible, retrospectively rated, etc.) employers, or as a percentage of every indemnity (wage replacement) benefit dollar paid by self-insured employers. The assessment percentages currently in place, relative to indemnity dollars paid, are listed below:

ASSESSMENT	2007	2008	2009	2010	2011	2012
15-8	18.3 %	19.3 %	20.6 %	23.2 %	21.8%	22.5%
25-A	4.1%	4.2%	7.4%	10.1%	12.2%	9.1%
151	6.9%	6.8%	6.6%	6.1%	5.8%	6.7%
IDP	1.9%	2.0%	2.0%	2.0%	2.1%	1.9%
505	0.3%	0.3%	0.7%	3.5%	6.5%	7.4%
TOTALS						
15-8 + 25-A	22.4 %	23.5 %	28.0 %	33.3 %	34.0 %	31.6%
All	31.5 %	32.6 %	37.3 %	44.9 %	48.4 %	47.6%

The following is a brief description of each assessment:

15-8: Special Disability Fund

Funds the Special Disability Fund (second injury fund)

25-A: Reopened Case Fund

Funds the Reopened Case Fund

151: Workers Compensation Board Expenses

Funds operating expenses of the Workers Compensation Board

IDP: Interdepartmental Expenses

Funds various occupational health and safety programs in New York

505: Self-Insurers Assessment

Funds WCB oversight of self-insurers and claim costs of insolvent self-insurers

The 151, IDP, and 505 assessments do not directly affect claim costs, and are similar to programs in other states that are funded through similar assessment programs. The 15-8 and 25-A programs, on the other hand, relieve employers of portions of the cost of certain claims, with the associated assessments on all employers funding the cost of these programs. The 15-8 and 25-A assessments therefore represent an additional claim cost paid either through assessments or, absent these programs, directly by employers. Therefore, it is appropriate to incorporate the cost of these assessments in measurements of average claim costs in New York.

The tables below are restatements of tables presented earlier, but with the cost of 15-8 and 25-A assessments factored into the cost of New York claims¹². With these assessments, New York has the highest average total claim costs in each of the five policy years available.

AVERAGE TOTAL CLAIM COST

TOP TEN STATES BY POLICY YEAR – NY INCLUDES 15-8 & 25-A ASSESSMENTS

PY 2008		PY 2007		PY 2006		PY 2005		PY 2004	
NY	33,818	NY	30,245	NY	27,685	NY	26,193	NY	24,815
DE	25,182	DE	25,929	DE	22,023	DE	24,505	DE	22,002
IL	21,609	LA	20,933	IL	18,785	LA	17,021	LA	16,286
MT	21,254	IL	20,445	LA	18,126	IL	16,637	IL	15,546
CA	20,328	CA	18,361	AK	17,479	DC	16,124	CA	14,624
LA	19,669	OK	17,931	CT	16,828	SC	15,125	DC	13,660
OK	19,427	AK	16,688	CA	16,189	CT	15,064	CT	13,597
CT	17,672	DC	16,623	NJ	16,028	NJ	14,964	SC	13,490
MD	17,096	CT	16,600	OK	15,907	AK	14,797	OK	13,432
AK	16,202	NJ	15,945	MD	15,068	CA	14,492	NJ	13,400

AVERAGE LOST TIME CLAIM COST

TOP TEN STATES BY POLICY YEAR – NY INCLUDES 15-8 & 25-A ASSESSMENTS

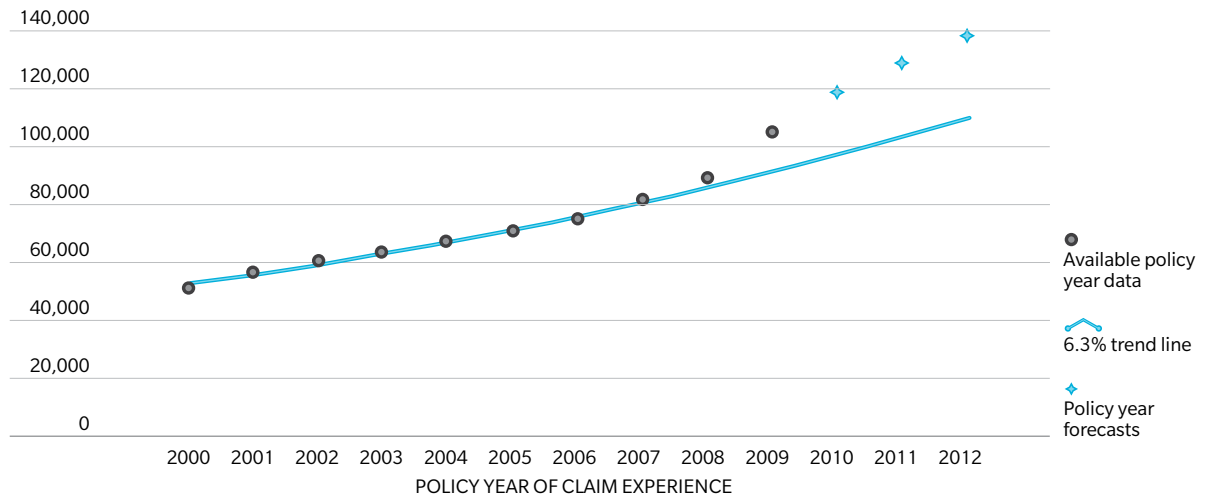
PY 2008		PY 2007		PY 2006		PY 2005		PY 2004	
NY	89,924	DE	87,784	NY	76,164	DE	80,439	DE	73,503
DE	86,523	NY	82,449	DE	74,184	NY	71,499	NY	67,922
MT	80,382	LA	72,760	LA	62,889	LA	61,309	LA	57,700
LA	69,439	NC	64,955	NC	62,633	NC	58,306	NC	56,549
NC	67,789	VA	62,776	AL	59,881	VA	54,959	MT	51,483
IL	63,780	IL	60,937	MT	57,899	SC	53,782	VA	50,810
CA	61,549	GA	60,666	VA	57,831	GA	53,153	GA	49,822
MN	60,004	AL	59,861	IL	56,468	MT	51,405	SC	48,186
AL	59,311	CA	58,448	CT	56,314	IL	51,043	IL	48,150
VA	59,241	PA	57,043	GA	55,768	CT	49,064	ME	45,816

As noted earlier, the average cost of a lost time claim in New York State is expected to exceed \$115,000 in 2012 prior to consideration of 15-8 and 25-A assessments. With these assessments, that value is \$140,000. The following graphs are restated versions of the graphs presented earlier in this report, and include provisions for the cost of 15-8 and 25-A assessments.

12 Note that some other states have similar assessments. However, the magnitude of assessments in New York is the highest.

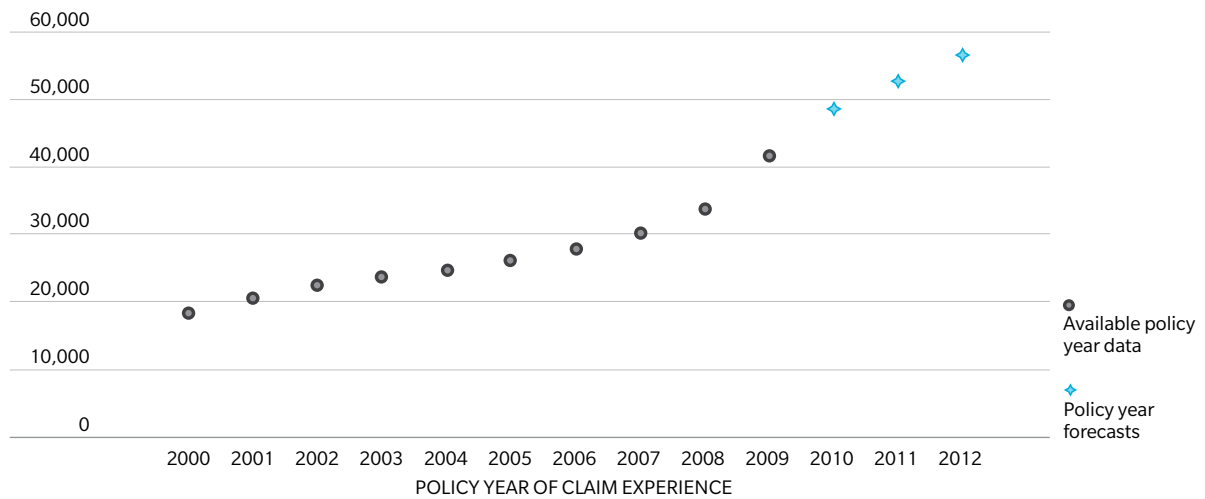
AVERAGE WORKERS COMPENSATION LOST TIME CLAIM COSTS
 NEW YORK – INCLUDES COST OF 15-8 AND 25-A ASSESSMENTS

AVERAGE LOST TIME
 CLAIM COST, \$



AVERAGE TOTAL WORKERS COMPENSATION CLAIM COSTS
 NEW YORK – INCLUDES COST OF 15-8 AND 25-A ASSESSMENTS

TOTAL AVERAGE
 CLAIM COST, \$



5. CONCLUSION

This paper examined three workers compensation claim cost metrics in New York:

- Total Average Claim Costs
- Medical Only Claim Costs
- Lost Time Claim Cost

When considering total average claim costs, the high cost of lost time claims in New York is leveraged by the relatively high portion of claims that evolve into lost time cases in New York. Countrywide, roughly 25% of all claims are lost time cases. In New York, that number had been approximately 36% prior to the 2007 law changes, but it is now 39%. Prior to consideration of 15-8 and 25-A assessments, the average total claim cost in New York during 2012 is forecast to be \$47,000. That forecast increases to a value in excess of \$57,000 with incorporation of 15-8 and 25-A assessments. Both of these values will also likely be the highest in the United States.

Medical only claims in New York are not remarkable as respects cost. However, lost time claim costs in New York have always been amongst the highest in the United States. Law changes implemented in 2007 combined with large increases to assessment programs have accelerated the growth to workers compensation claim costs in New York. Oliver Wyman forecasts that the average cost of a lost time claim in New York occurring in 2012 will be approximately \$115,000. This forecast increases to approximately \$140,000 if the 15-8 and 25-A assessments are included in the measurement of lost time claim cost. Both of these values will likely be the highest in the United States.

ABOUT THE AUTHORS

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The Actuarial Consulting Practice of Oliver Wyman specializes in property, casualty, life and health insurance risks. We provide independent, objective advice combining a wide range of expertise with specialized knowledge of specific risks. With more than 80 credentialed actuaries it is one of the largest actuarial practices in North America. Oliver Wyman currently has actuarial consulting offices in Atlanta, GA; Charlotte, NC; Chicago, IL; Columbus, OH; Houston, TX; Los Angeles, CA; Melville, NY; Milwaukee, WI; New York, NY; Philadelphia, PA; Princeton, NJ; San Francisco, CA; St. Michael, Barbados, and Toronto, ON, Canada.

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