



MODERNIZING KENTUCKY'S WORKERS' COMPENSATION SYSTEM

*Protecting Benefits for Workers
While Improving Competitiveness*

FEBRUARY | 2018



Kentucky Chamber
Uniting Business. Advancing Kentucky.



NO MAJOR CHANGES IN 20 YEARS

THE GOAL

The purpose of workers' compensation is to protect employees who are injured on the job. The system provides medical treatment and lost wages until an employee can return to work. All employers are required to have workers' compensation coverage to guarantee employees' protection. In exchange, an injured worker cannot sue an employer for work injuries.

The goal of an effective workers' compensation system is to return an employee to work and ensure Kentucky is an attractive environment for businesses.

Kentucky's workers' compensation system is outdated — with no major changes being made in 20 years. As a result, its costs are among the highest in the country. Modernizing the Commonwealth's workers' compensation system by adopting such changes as treatment guidelines and a drug formulary will ensure injured workers get the health care they need and return to work sooner while improving Kentucky's competitive position by putting us in line with practices in other states. These changes can also reduce the use of prescription opioid drugs — a serious problem facing the Commonwealth.

CURRENT CHALLENGES

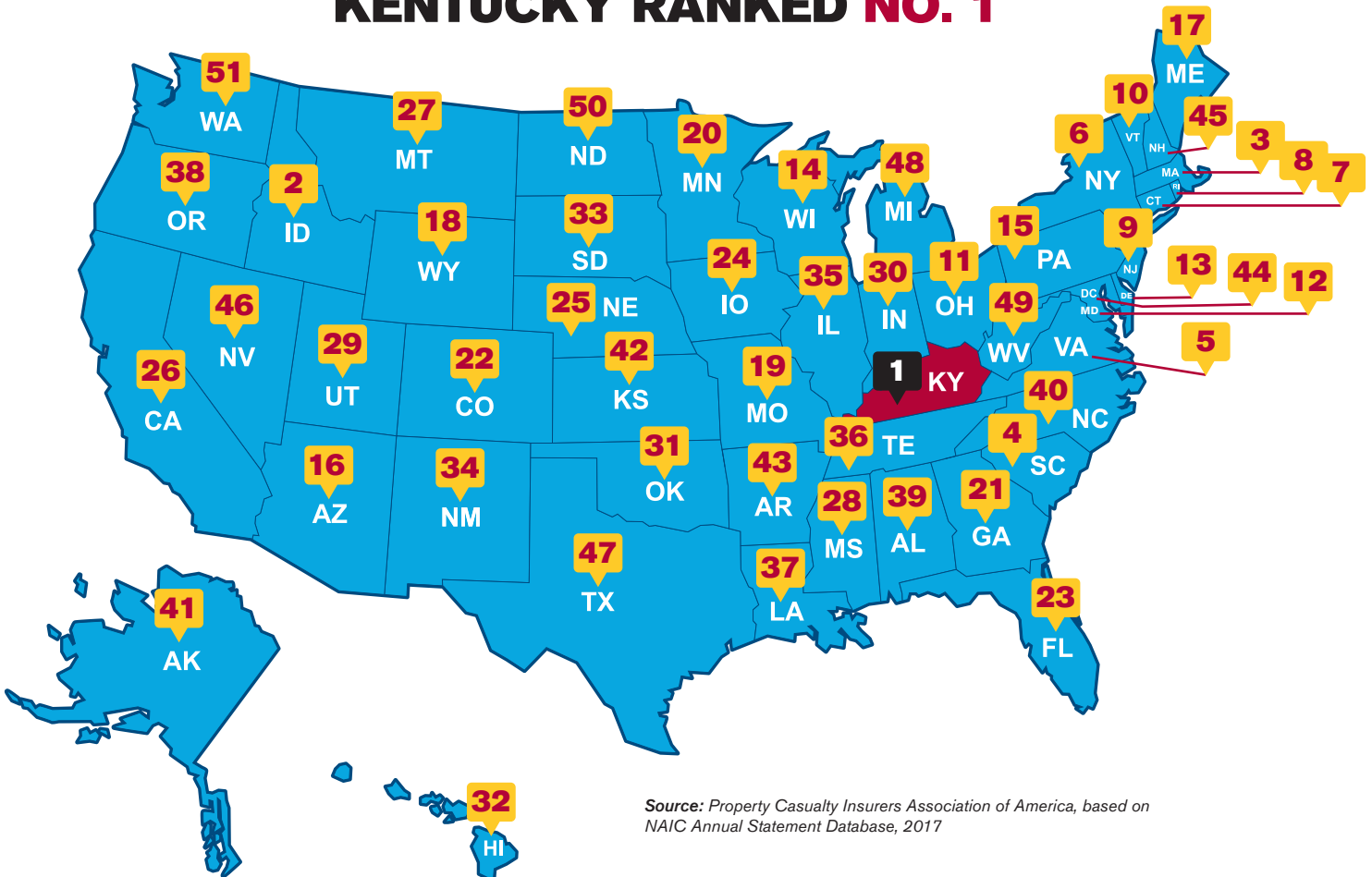
There is ample evidence that costs in Kentucky's workers' compensation system are out of line with those of Kentucky's competitor states.

Kentucky's Workers' Compensation Loss-Ratio is the Highest in the Nation.

The Property Casualty Insurers Association of America reports that Kentucky has the highest Workers' Compensation loss ratio in the country. **Kentucky's loss ratio is 75.2% compared to the national average of 57.4%**, meaning the cost of claims takes up 75.2% of the premiums collected. When administrative expenses are added to the cost of claims – known as combined ratio – Kentucky is ranked second highest in the United States at 109.8%; the average is 95.7%. **The bottom line: For every dollar of premium collected, Kentucky is spending \$1.09 to pay claims and expenses—the highest total cost in America after South Carolina.**



STATE RANKINGS FOR WORKERS' COMPENSATION LOSS RATIO KENTUCKY RANKED NO. 1



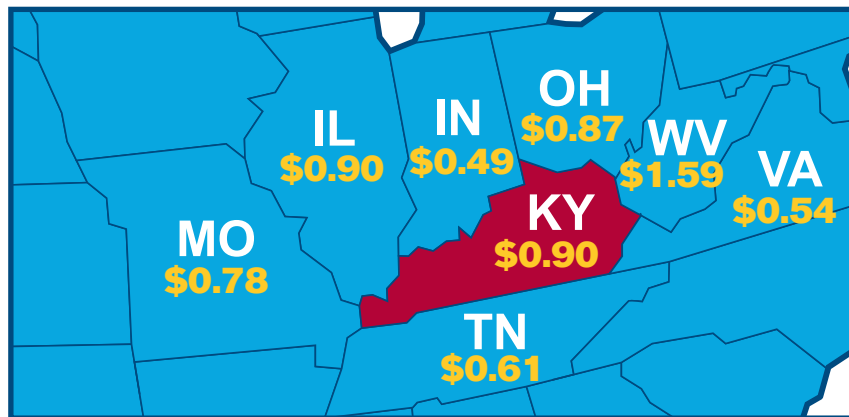
Source: Property Casualty Insurers Association of America, based on NAIC Annual Statement Database, 2017

BENEFIT COSTS ARE HIGH

The National Foundation for Unemployment Compensation and Workers' Compensation annually publishes fiscal data for all 50 state workers' compensation systems. The 2016 report indicates **workers' compensation benefit costs per \$100 of payroll are higher in Kentucky than the national average and all surrounding competitor states except West Virginia and Illinois.** The report ranked Kentucky's benefit cost rate at 29th among the 50 states (1 = lowest benefit cost rate), and the Commonwealth's rate of \$0.90 per \$100 of payroll was higher than the national average of \$0.89. The following map shows how Kentucky's benefit cost rate compares with surrounding states.



WORKERS' COMPENSATION BENEFIT COST RATE PER \$100 OF PAYROLL Kentucky and Surrounding States



Source: Fiscal Data For State Workers' Compensation Systems 2005-2014, UWC Research Bulletin, October 2016

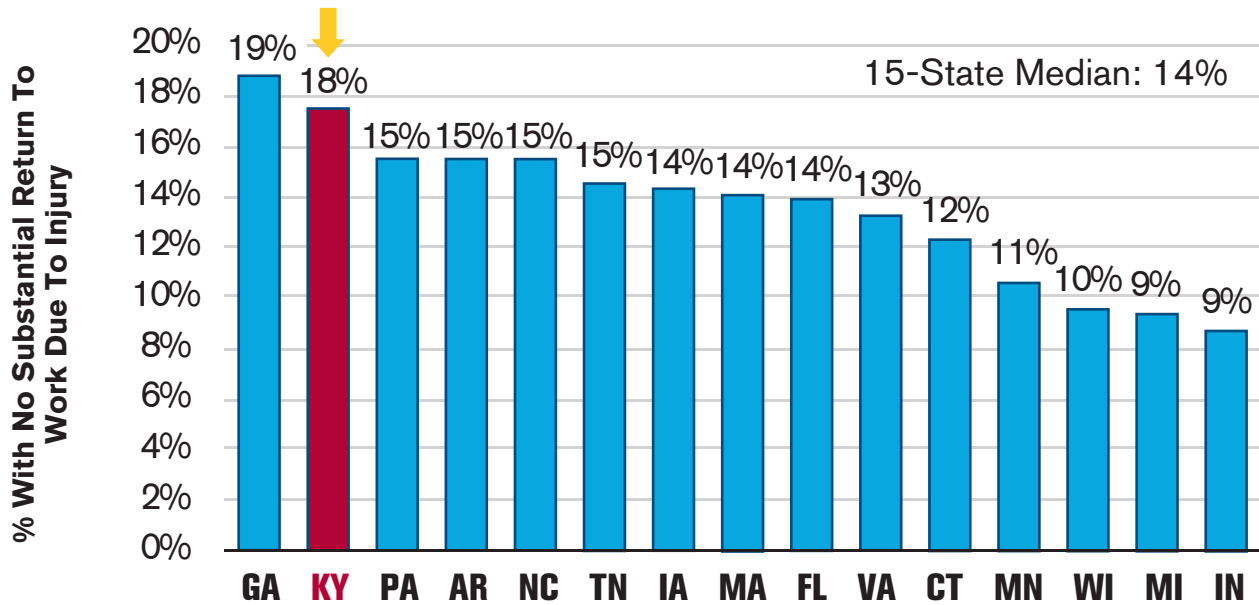
COST DRIVERS

Kentucky Has a Number of Cost Drivers in the System.

In a 2016 presentation to the Task Force on Workers' Compensation (created by the 2016 Kentucky General Assembly), the Workers' Compensation Research Institute identified a number of cost drivers in Kentucky's workers' compensation system, including:

- **Indemnity costs** (compensation for injury) and **benefit delivery expenses** (consisting of legal costs, independent medical exams, depositions) are higher in Kentucky than in a sample of median states (Michigan, Texas, Massachusetts, Arkansas, Florida, Minnesota, Indiana, Wisconsin, New Jersey, California, Georgia, Illinois, Virginia, Iowa, Pennsylvania, North Carolina and Louisiana).
- Workers receiving benefits in Kentucky see a **longer period of temporary total disability, and permanent partial disability payments and lump sum settlements are higher in Kentucky.**
- **More workers in Kentucky reported no substantial return to work** as compared to median states.

18% OF KENTUCKY WORKERS HAD NO SUBSTANTIAL RETURN TO WORK DUE TO INJURY



Source: Report of the Task Force on Workers' Compensation, LRC Research Memorandum No. 521, 2016

OPIOID PRESCRIPTIONS ARE A SIGNIFICANT COST FACTOR



Kentucky's largest workers' compensation insurer reports that the longer a worker receives workers' compensation benefits, the more prescriptions the person receives.

Opioid analgesics represent the largest class of prescription drugs in workers' compensation cases and **accounted for 22% of all prescription drug costs in the first quarter of 2017.**

AGE OF CLAIMS	PERCENTAGE OF MEDICAL COSTS RELATING TO PRESCRIPTION DRUGS
5 YEARS	29.6%
10 YEARS	42.8%
15 YEARS	57.7%
20 YEARS	53.2%

Source: Kentucky Employer Mutual Insurance

RECENT PRACTICES IN OTHER STATES

A number of states have enacted reforms in their workers' compensation systems that are designed to improve the treatment provided to injured workers and better manage the use of prescription drugs. **Two of the most common reforms involve the use of drug formularies and treatment guidelines.**

Drug Formularies: A drug formulary is a list of prescription drugs used by practitioners to identify drugs with the greatest overall value. The American College of Occupational and Environmental Medicine reports that the use of drug formularies in state workers' compensation systems has resulted in significantly lower costs for prescription drugs and notes that a well-managed formulary system can drive improvements in medical quality.

Proven benefits of drug formularies include:

- Lower total drug costs
- Decreased opioid use
- Diminished use of compounded topical medications
- Lower utilization review costs

**COSTS COULD
BE REDUCED BY
10% - 20%**

A 2016 research brief by the National Council on Compensation Insurance (NCCI) notes that at least nine states have adopted a workers' compensation drug formulary (another 20 states are considering formularies) and estimates that **if Kentucky adopted a formulary, prescription drug costs in workers' compensation could be reduced by 10% to 20%**. Legislation or regulations have also been enacted in nine states (and are pending in another 10 states) that would impose limits on opioid prescriptions in the system.

TREATMENT GUIDELINES



Treatment guidelines are evidence-based medical guidelines that safeguard access to quality care while limiting excessive or inappropriate use of medical services. A report by the Work Loss Data Institute (WLDI) notes that **40 states have adopted some form of medical treatment guidelines** in their workers' compensation system — including Kentucky's border states of Missouri, Ohio, Tennessee and West Virginia. Ohio, North Dakota, Texas and Kansas were the first states to adopt treatment guidelines, and the report notes the following results in Texas after it adopted treatment guidelines in 2007.

- Workers' compensation premiums down 51%
- Average lost-time per claim down 34%
- Median disability duration down 20%
- Return to work rates are up in all stages
- Average medical costs are down 30%
- Total drug costs are down 30%
- Opioid cost down 18%
- Access to care is up 42%

The report also cites similar results in other states after adopting treatment guidelines: premiums dropped 40% in North Dakota and, in Ohio, average cost per claim fell 60% and average lost time per claim was reduced 66%.

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TREATMENT GUIDELINES**



CONCLUSION

The evidence clearly shows that workers' compensation costs in Kentucky are out of line with those in other states, and change is needed to reduce costs and improve treatment outcomes for workers. The experience of other states indicates modernizing the system through the adoption of treatment guidelines and a drug formulary can reduce costs, improve access to needed care and reduce the duration of disability. **Kentucky is one of only 10 states that do not have treatment guidelines**, and a drug formulary could save an estimated 10% to 20% in prescription drug costs and reduce the use of opioid drugs.

The Kentucky General Assembly has recently taken a number of pro-business actions that played a strong role in delivering a record number of new jobs and investments in the state over the past year. But writing the next chapter in this success story will require action to modernize Kentucky's workers' compensation system and address the impact of recent court decisions. **Taking these critical steps will improve Kentucky's competitive position by reducing system costs while improving treatment and outcomes for injured workers — allowing a faster return to work and a reduced period of disability.**

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Workers, their families, employers and the entire Commonwealth will benefit from the modernization of Kentucky's workers' compensation system.

Sources

Adoption of the ODG Treatment Guidelines for Medical Necessity Determinations in Workers' Comp, Work Loss Data Institute

Workers Compensation and Prescription Drugs: 2016 Update, NCCI, September 2016

Drug Formularies in Workers' Compensation Systems, American College of Occupational and Environmental Medicine, August 2016

Comparing Kentucky's Workers' Compensation System with Other States, WCRI presentation to Task Force on Workers' Compensation, August 19, 2016

Loss Ratios and Combined Ratios by Line and State-2015, Property Casualty Insurers Association of America, 2017

Fiscal Data for State Workers' Compensation Systems 2005-2014, UWC, October 2016

