# South Dakota Legislative Research Council

# Issue Memorandum 95-34

## WORKERS' COMPENSATION

## 24-HOUR COVERAGE

**Background**

The 24-Hour Working Group of the Workers' Compensation (D) Task Force of the National Association of Insurance Commissioners (NAIC) began working in 1991 on the issue of implementing 24-hour coverage for workers' compensation. In February the working group had an exposure draft of the Twenty-Four-Hour Coverage Pilot Project Model Act ready for comments.

The group prepared a revised exposure draft in March 1993, and it was adopted by the working group in June 1994. Immediate approval by the task group followed, and the draft was approved by the NAIC membership in September 1994.

**The Issue**

In an effort to control the costs of workers' compensation, states have become very interested in a solution known as 24-hour coverage, which attempts to combine, in a variety of ways, traditional health insurance coverage and medical coverage provided under workers' compensation statutes. The combination would erase the line between injuries occurring on the job and other health needs.

The issue is complex, and pilot projects appear to be the test of choice to see if melding the two types of insurance can successfully work to cut workers' compensation costs while conquering barriers such as "exclusive remedy" and the Employee Retirement Income Security Act of 1974, as amended (ERISA).

Under "exclusive remedy," the employee gives up the right to sue the employer. Under ERISA, the state may have to give up the right to regulate the medical portion of workers' compensation benefits.

**Pilot Projects**

Even before the model act received the approval of NAIC, states were ready to try pilot projects. California authorized its director of the Division of Workers' Compensation, effective January 1, 1993, to conduct pilot projects, and four projects have been approved. Georgia has authorized pilots and currently has three in operation.

Oregon received a grant of $336,658 from the Robert Wood Johnson Foundation in February 1993 to plan for and implement a 24-hour coverage pilot project. The Oregon project is now being implemented. Oregon has approved eight pilot plans.

**Interest of Other States**

Twelve other states have proposed legislation or are studying 24-hour coverage: Colorado, Florida, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, North Carolina,

Oklahoma, and Washington. In New Jersey, South Carolina, and Texas, employers already may elect to purchase 24-hour coverage.

**NCSL Involvement**

The National Conference of State Legislatures (NCSL) will be evaluating the results of the pilot projects and is developing common evaluation criteria. NCSL participated with NAIC, the International Association of Industrial Accident Boards and Commissions, and the Council of Governors' Policy Advisors in a symposium on 24-hour coverage preceding the NAIC national meeting earlier this month.

**Sources of Information on 24-Hour Coverage**

The information in this issue memorandum was derived from "A Progress Report on the Implementation of 24-Hour Coverage, June 1995" published by the National Association of Insurance Commissioners. The publication contains information on 24-hour coverage variants; advantages of 24-hour coverage; legal, institutional, and regulatory barriers to implementation of 24-hour coverage; state activities; NAIC activities, and NCSL activities. It concisely states the issues and includes names and addresses or telephone numbers of individuals who can provide additional information. A copy of this publication is available in the LRC library.

**Conclusion**

There is no doubt that interest in the 24-hour coverage issue for workers' compensation can only be expected to increase. Barriers to its implementation remain high, and the pilot projects are designed to discover how the coverage can be made to work to the advantage of states, employers, and workers. The report described in this memorandum is a useful tool for keeping abreast of the issues and the progress being made toward implementation of 24-hour coverage.

**This issue memorandum was written by Rosemary Quigley, Administrative Rules Analyst for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.**