Research Office
Legislative Council Secretariat

Information Note

Tackling employees' compensation fraud in selected places

IN07/20-21

1. Introduction

1.1 In many places, employees' compensation ("EC") provides a critical safety net for employees who sustain injuries on the job. It is designed to alleviate the imminent hardship faced by injured employees, typically through payment for medical expenses, a portion of wage losses, other compensation benefits and/or rehabilitation facilitation. While the majority of EC claims filed are legitimate, fraudulent claims have existed and have drawn concern in many jurisdictions with an EC system in place.[1]

1.2 EC fraud can be simple or complex in nature. It may simply occur when an employee fabricates on-the-job injury to reap insurance benefits, or it may concern malingering and exaggeration of a work-related or pre-existing injury. EC fraud may sometimes involve employers who conspire with employees to falsify a claim, or deliberately misreport employees' earnings and occupation to lower premium payments.[2] For more complex cases, EC fraud may be perpetrated by third parties such as medical and legal providers, recovery agents and even syndicated crime rings, which help defraud the EC system through over-treatment, false claims and/or champerty.[3] A prime reason for concern is that EC fraud can translate into higher insurance premiums, affect the business viability of insurers and have cost implications for the employers concerned. This has led to discussions at the Legislative Council ("LegCo") on whether the current EC regime and existing anti-fraud measures in Hong Kong can adapt to evolving fraud trends.

---

1 According to the Hong Kong Federation of Insurers, it is estimated that about 10% to 15% of the insurance claims paid out could be fraudulent in nature in overseas markets. See Hong Kong Federation of Insurers (2018).

2 See State Insurance Regulatory Authority (undated).

3 Champerty occurs when a disinterested party intermeddles to encourage a lawsuit in exchange for a portion of workers' compensation. It is a crime in Hong Kong punishable by fine and imprisonment for up to seven years.

1.3 At the request of Hon CHAN Kin-por, the Research Office has conducted a study on measures undertaken in selected places to tackle EC fraud. California in the United States ("US") and New South Wales ("NSW") in Australia are selected for the study. Similar to Hong Kong, both places are home to some of the world's major insurance markets[4] and adopt a "no-fault" EC system (i.e. regardless of who or what cause the work injury). Furthermore, California and NSW have ratcheted up anti-fraud efforts that may be of reference value to Hong Kong. For example, both places have enacted targeted laws with the intent to facilitate effective deterrence and enforcement against EC fraudsters.[5] California has set up a dedicated unit to support enforcement activities. NSW features a system for resolving EC disputes, while its mandatory return-to-work ("RTW") programme is conducive to fraud prevention through monitoring the recovery progress of injured workers.

1.4 Against the above backdrop, this information note begins with a review of the current situation of EC fraud in Hong Kong, followed by a discussion of relevant local legislation, measures and issues of concern. It then examines overseas approaches in tackling EC fraud in the two selected places, focusing on areas such as legal framework, enforcement, dispute resolution and other prevention strategies.

2. Hong Kong

2.1 In Hong Kong, the Employees' Compensation Ordinance ("ECO") (Cap. 282) mandates a non-contributory and no-fault EC system for work injuries. It requires employers to take out EC insurance with private insurers and provide compensation for employees[6] who sustain on-the-job injuries or deaths, regardless of whether employees have committed acts of faults or negligence.[7] In 2014-2018, there were on average 52 000 EC claims every

---

4 California is the largest insurance market in the US and the fourth largest in the world, with annual direct premiums of US$319 billion (HK$2.5 trillion). NSW has the largest workers' compensation system in Australia with more than four million workers. See California Department of Insurance (2020) and State Insurance Regulatory Authority (2020).

5 See California Legislative Information (undated) and NSW Legislation (2019).

6 ECO applies to full-time or part-time employees who are hired under contracts of service or apprenticeship. It excludes casual workers and outworkers but includes workers employed by local employers who get injured while working outside Hong Kong.

7 In addition to claiming statutory compensation under ECO, employees have the right to pursue common law claims against employers for negligence in causing their injuries.

year, or about 13 300 claims per million of labour force in Hong Kong.[8] The prevalence of EC fraud is, however, considered not easy to quantify. The Labour Department ("LD") does not keep statistics on suspected fraudulent EC claims.[9] Between 2011 and 2020, the Police received 490 reports of suspected fraudulent insurance claims involving some HK$102 million, but there was no breakdown by the category of insurance claims (e.g. EC claims).[10] Despite the lack of data, a negative consequence of EC fraud is that it can hit policyholders who see the costs of fraud prevention passed onto them in the form of higher insurance premiums. Fraudulent claims with prolonged sick leave and treatment can also cause insurers and employers to suffer losses, with implications on public healthcare resources. As such, EC fraud is not victimless. This concern is shared by some LegCo Members who have spoken up on EC fraud at various meetings over the past decade.[11]

2.2 Indeed, between 2015 and 2019, the EC insurance business in Hong Kong recorded an underwriting loss of HK$1.8 billion, representing an average loss of HK$367 million annually.[12] Although this loss has narrowed in recent years, some insurers have reportedly declined to underwrite policies for certain occupations such as construction and catering with higher risk of suffering work injuries.[13] While persistent underwriting loss might be indicative of various causes like an uptick in EC claims frequency and increased fatal and more serious work injury cases[14], some have also attributed this loss in part to fraudulent claims arising from the inadequacies of the existing EC regime and relevant policies. The ensuing paragraphs discuss the existing operation of the EC regime and views expressed by different stakeholders.

EC regime and legal framework

2.3 ECO sets down a statutory regime under which compensation for injured workers is calculated, based on the following components:

---

8 See Data.gov.hk (2021) and Census and Statistics Department (2021).

9 Based on the email reply from LD dated 6 January 2021.

10 Based on the email reply from the Hong Kong Police Force dated 21 January 2021.

11 See Official Record of Proceedings, 21 January 2015.

12 See Insurance Authority (2019).

13 See GovHK (2012).

14 Despite a downtrend in overall work injuries in 2010-2019, the number of fatalities rose 36% to 249 in 2019, up from 183 in 2010. The total amount of EC claims involving incapacitation of employees for over three days also reached HK$282 million in 2019, representing an increase of 42% from 2010. See Legislative Council Secretariat (2021).

(a) Payment for medical expenses (payable within 21 days upon receipt of a payment request)[15];

(b) Periodical payments for temporary incapacity, i.e. compensation for a period of absence from duty certified by registered medical practitioners[16] (payable by monthly instalments on the same days as wages would have been paid);

(c) Compensation for permanent incapacity, calculated with reference to age, degree of impairment and/or loss in earning capacity (payable subject to LD's assessment); and/or

(d) Costs for prostheses and surgical appliances (payable within a month upon receipt of a payment request).[17]

2.4 For work injury that results in temporary incapacity not exceeding seven days, the employer may directly settle with the employee by paying the medical expenses and periodical payments. For more serious cases involving temporary incapacity for more than seven days and/or possibly resulting in permanent incapacity, the employee may be referred to the Employees' Compensation Assessment Board[18] for a medical assessment before the Commissioner for Labour determines the compensation for the injured worker. Since ECO requires that periodical payments be paid by way of monthly instalments on the same day as wages would have been payable to the injured employee, it is often the case that prior to the Commissioner's determination of compensation, the employer have already paid the periodical payment

---

15 Medical expenses involve fees for consultation, surgical or therapeutic treatment, hospital accommodation, etc. The expenses payable by employers are up to HK$370 per day.

16 Periodical payment is calculated at the rate of four-fifths of the difference in an employee's monthly earnings between the time of the accident and during the period of temporary incapacity. The duration of payment is up to 24 months after the accident or for another 12 months if the Court permits.

17 The maximum costs for fitting prostheses/surgical appliances and repairing/replacing such an item (within 10 years after installation) are HK$41,750 and HK$126,490, respectively.

18 The Assessment Board, comprising two registered medical practitioners, Chinese medicine practitioners or dentists, and a Labour Officer, is appointed by the Commissioner for Labour to assess the period of absence from duty necessary and the percentage loss of earning capacity of an injured worker. The Assessment Board will issue a Certificate of Assessment stating the assessment result, following which LD will issue a Certificate of Compensation Assessment stating the amount of compensation payable under ECO.

concerned.[19] While employers or employees who object to the compensation assessment may apply to LD for a review of the compensation assessment, any unresolved compensation claim shall ultimately be determined by the Court.[20]

2.5 Since its enactment in 1953, ECO has undergone various amendments revolving around the amount of compensation for work injury. The underlying legislative framework and operation of the EC system has remained largely unchanged, however. There are views that the existing EC regime and relevant measures are inadequate to keep pace with evolving fraud threats and a changing business and economic environment, as reflected by the following concerns raised by stakeholders:

(a) **Recovery of overpayment**: Section 10 of ECO requires that periodical payments by way of monthly instalments should be paid to injured employees, as long as a period of absence from duty is certified to be necessary by registered doctors or other professionals prescribed in ECO. As mentioned above, for more serious work injury cases, the Commissioner for Labour and even the Court may examine the case, which may ultimately assess a shorter period of temporary incapacity than the employee has claimed, resulting in overpayment of periodical payment. There are concerns that ECO contains no express remediation provisions for employers to recover overpayment of periodical payments, particularly payments obtained through fraud and other dishonest means[21];

(b) **Dispute resolution for doubtful cases**: In the face of suspected fraudulent EC claims/doubtful cases, employers may report to the Police. Furthermore, they may contact LD along with relevant information. LD then examines the case and advises employers and employees on the likelihood of the case being a work injury under ECO. However, LD is not empowered to take further actions such as adjudication of any EC disputes. In the absence

---

[19] In 2017-2019, the average waiting time for medical assessment services by the Board was about 9–10 weeks. This did not include the time for determination of compensation by the Commissioner for Labour. See Labour and Welfare Bureau (2020).

[20] For cases that should be settled by direct payment but remain unsettled, the employee concerned may seek compensation from the employer through the Small Claims Tribunal. Other unsettled cases shall be determined by the District Court.

[21] See *KAN Wai-ming v Hong Kong Airport Services Limited* (CACV 240/2010) and ONC Lawyers (2017).

of a non-judicial dispute resolution mechanism, employers and employees often have to go through a lengthy and costly litigation process to resolve disputes[22]; and

(c) **Law enforcement**: The Commercial Crime Bureau ("CCB") of the Police has established two focus groups tasked with preventing and investigating insurance fraud and champerty/maintenance cases. CCB has also worked closely with the insurance industry via the launch of a platform to coordinate the reporting of suspected EC fraud cases referred by insurers, and achieved a crackdown on a serious case involving fraud against over 10 insurance companies. Nevertheless, there have been concerns that the number of prosecutions remains limited.[23] Some consider that this might owe in part to the complexity of insurance fraud, a similar problem faced by overseas places.[24]

Besides, fraudulent EC claims are prosecuted as fraud-related offences in Hong Kong, such as attempted fraud under section 16A of the Theft Ordinance (Cap. 210), and the conspiracy to defraud under the Crimes Ordinance (Cap. 200) and the common law. Unlike some overseas places, in Hong Kong, there is neither an insurance law nor a specific clause that expressly defines and addresses EC fraud. Some believe that without having a specific anti-fraud law/provision may impede the deterrent effect on fraudsters and make prosecution less straightforward.[25]

2.6 In a motion debate held at the Council meeting of 21 January 2015, some Members called on the Government to pool together resources from across departments to ramp up preventive and enforcement efforts against EC fraud.[26] Besides, at the meetings of the Joint Subcommittee on Issues Relating to Insurance Coverage for the Transport Sector in 2012, some Members

---

22 See Labour Department (2017).

23 Based on the latest available information, the Police initiated two prosecutions in relation to suspected fraudulent insurance claims in 2014-2016. A breakdown by the category of insurance claims was not provided. See GovHK (2017) and Official Record of Proceedings, 21 January 2015.

24 See Morse and Skajaa (2004).

25 Overseas experience suggests that prosecution is easier in places where insurance fraud is identified as a specific crime with clear definition and penalty. See Insurance Information Institute (2020).

26 See Official Record of Proceedings, 21 January 2015.

have raised concerns about the exaggeration of work injuries by drivers and potential abuse in the issuance of medical certificates that may lead to unnecessary payout by insurers.[27] While the Government stressed that the issuance of medical certificates by doctors of the Hospital Authority was based on clinical and professional judgement, some Members put forward a number of recommendations to enhance the independence of medical opinion.[28] These included making reference to overseas practices in introducing an independent medical assessment to review work injury cases with prolonged recovery and treatment period; setting up a central reporting mechanism for receiving public complaints about EC fraud. It was also suggested that fitness certificates, which indicate one's capacity for work, should replace traditional medical certificates to prevent EC fraud.

2.7 Furthermore, there are views that the current regime for work injury management has centred on financial compensation, with a limited focus on rehabilitation. Some believe that **rehabilitation programmes with RTW support** help speed up recovery and thus prevent litigation and abuse of workers' compensation.[29] Indeed, in the 2019 Policy Address, the Government has announced the launch of a pilot programme, under which injured workers may seek private out-patient rehabilitation services (e.g. orthopaedics and physiotherapy) from 2022. A case manager will also be assigned to monitor the recovery progress of participants and coordinate with doctors and employers on RTW arrangements. Yet the programme is voluntary in nature and only covers the construction industry initially.[30] Some Members have suggested that the programme be extended to include more industries, and raised concerns about the neutrality and quality of the outsourced services.[31] In response, the Government has stated that it would draw up guidelines on service delivery and appointment of external providers, and has pledged to initially bear the costs for rehabilitation and case management services,

---

[27] In particular, some Members are concerned about the Traffic Accident Victims Assistance ("TAVA") Scheme, a non-means-tested Government scheme aimed to offer quick financial assistance to victims on a non-fault basis. They are worried that TAVA's approval process is not sufficiently stringent, thus prompting some dishonest drivers to abuse the scheme by staging accidents to obtain medical certificates and apply for TAVA grants, and subsequently, EC claims. Although the Government has pledged to prevent fraudulent TAVA claims by requiring applicants to attend an interview and referring doubtful cases to relevant authorities for reassessment and/or investigation, there have been calls for enhancing the monitoring of TAVA grants and independence of medical examinations. See Legislative Council Secretariat (2012).

[28] See Official Record of Proceedings, 21 January 2015, and Legislative Council Secretariat (2012).

[29] See Yip et al. (2015) and Chinese University of Hong Kong (2011).

[30] The three-year pilot programme targets construction workers who have not returned to work six weeks after sustaining work injury, and is expected to benefit 2 300 workers annually.

[31] See Legislative Council Secretariat (2020) and Labour Department (2020).

although it may also explore having employers to fund the programme in the long-term.[32]

3. California of the United States

3.1 California has in place a compulsory workers' compensation system since the 1910s. This century-old EC system is a no-fault system, funded by employers who are required to purchase insurance in the private market or self-insure. In 2018, the number of EC claims was estimated at 694 000 (i.e. about 40 600 claims per million workers).[33] Yet the system was encumbered by rampant fraud and rising medical and legal costs in the 1980s, partly driven by the rise of the so-called "claim mills"[34], which led to abuses in the system. Since the late 1980s, the government had enacted a series of reforms, which included, among others, attempts to strengthen anti-fraud enforcement and regulations over fraudulent EC claims.

3.2 In 1989, California enacted the Insurance Frauds Prevention Act to prevent and punish insurance fraud through imposition of heavy penalty and recovery of costs and damages. The Act was incorporated as part of the California Insurance Code. Section 1871.4 of the Code is a **dedicated statute** pertaining to EC fraud, intended to provide a solid basis for effective enforcement against fraudulent activities. It targets not just workers, but also stakeholders in the EC system including medical and legal providers, employers and claims administrators. The statute provides that it is unlawful to[35]:

(a) make a knowingly false or fraudulent material statement or representation, whether written or oral, to obtain or deny any workers' compensation;

(b) knowingly assist, abet, conspire with, or solicit any person in an unlawful act of workers' compensation fraud; or

---

32 See Labour Department (2020).

33 See Department of Industrial Relations (2020).

34 Claim mills operate by recruiting workers to file false work injury claims, which are then referred to cooperating medical and legal providers to help defraud EC benefits. See Kilgour (1997) and (1998).

35 See California Legislative Information (undated).

(c) make a false or fraudulent material statement with the intent to discourage an injured worker from claiming benefits.

3.3 EC fraud in California is punishable by imprisonment in county jail for one to five years, depending on the severity. A fine of up to US$150,000 (HK$1.2 million) or double the amount of the fraud, whichever is greater, may also be imposed on fraudsters. As for fraud committed by medical providers, there are specific provisions allowing the authorities to suspend relevant providers convicted of fraud from taking part in the EC system.[36]

3.4 On **remediation**, a person convicted of EC fraud is ineligible to receive or retain any compensation obtained by fraud. The Insurance Code provides that the Court shall order restitution and determine the amount to be returned, including restitution for any medical treatment services obtained through fraudulent means.[37] The convicted fraudster may also be charged the costs of investigation at the discretion of the Court. To further enhance the **deterrent effect** against fraudulent activities which cost California up to US$3 billion (HK$23.3 billion) annually[38], its government has started to **publicize information about EC fraud convictions online**. Information such as the defendant's full name, city of residence and a description of the offence and punishment imposed will remain on relevant department's website for five years from the date of conviction or until the conviction has been reversed.[39]

Workers' Compensation Fraud Programme

3.5 Since the introduction of the anti-fraud law, the California government has pooled together resources from state and local entities to combat EC fraud. The California Department of Insurance ("CDI") is the primary state agency for the criminal investigation of EC fraud.[40] It has set up Fraud Division, a **dedicated unit** tasked with the detection, investigation and arrest of insurance

---

36 See Department of Industrial Relations (2020c).

37 See California Legislative Information (undated).

38 See California Department of Insurance (undated).

39 Ibid.

40 Upon the receipt of a suspected fraudulent case, CDI may initiate investigation and refer it to the local district attorney's office for prosecution. Depending on the availability of investigative resources, CDI may also enlist the help of county district attorneys to investigate a case or conduct joint investigations.

fraudsters to prevent economic loss.[41] The **Workers' Compensation Fraud Programme** ("WCFP") is the largest anti-fraud programme under the oversight of CDI[42], established in 1991 as part of the government reforms to tackle EC fraud. Unlike most other state-funded programmes, WCFP is **funded by employers**, whose annual contributions totalling US$60 million (HK$465.1 million) on average in the last five years have helped bolster anti-fraud enforcement activities.[43]

3.6 WCFP is operated with a range of tools and powers to detect and investigate EC fraud. First, CDI has a **dedicated hotline** for receiving fraud allegations from the public. The **mandatory reporting of suspected fraud** by insurers also contributes to the detection of fraudulent claims.[44] Second, CDI detectives are sworn **law enforcement officers with expertise** in handling insurance fraud. They have powers to conduct surveillance and undercover operations, interview witnesses and suspects, make arrests, etc.[45] Enforcement efforts are also strategically focused on high impact cases (e.g. against fraud rings) due to their negative economic impact. Third, CDI taps into inter-departmental efforts in using **data analytics** to identify EC fraudsters. For example, it has collaborated with the Department of Industrial Relations, whose Anti-Fraud Unit has utilized data mining and predictive analysis to review more than 100 million medical bills and reports in the EC system, and has provided lists of potentially fraudulent providers to CDI for investigation.[46]

3.7 The California system – with a dedicated enforcement unit combining investigative resources from other departments – is considered productive in terms of enforcement activities when compared to other US states.[47] Apart from enforcement, CDI also helps consumers understand insurance fraud and create stronger deterrence through public awareness and education. It was reported that CDI's efforts in combating EC fraud had resulted in the avoidance

---

41 The Fraud Division was first established in 1979 as the California State Bureau of Fraudulent Claims, and was later reorganized under CDI in 1988. In light of growing concerns about EC fraud, the state legislature in 1991 assigned the Division the additional mission of investigating EC fraud.

42 In fiscal year 2018-2019, CDI's Fraud Division spent 46% of its time on WCFP, while the remaining time was used to fight other types of insurance fraud such as automobile fraud, life and casualty fraud, and disability and healthcare fraud. See California Department of Insurance (2020).

43 The Fraud Assessment Commission, the unit tasked with funding allocation for insurance fraud prosecution, annually establishes an aggregate assessment amount that employers must pay to support the investigation and prosecution activities of CDI and the district attorney's offices.

44 California law requires each insurer to have a special investigative unit to monitor claims for fraud and refer to CDI and district attorney's offices any claims that show reasonable evidence of fraud.

45 See California Department of Insurance (undated).

46 See Department of Industrial Relations (2018).

47 See Advisory Task Force on Insurance Fraud (2008).

of more than US$1 billion (HK$7.8 billion) in potential losses.[48] Over the past five fiscal years up to 2018-2019, CDI's Fraud Division detected and reported an average of nearly 4 600 suspected EC fraud cases annually.[49] In fiscal year 2018-2019 alone, more than 1 500 prosecutions were made, resulting in 514 convictions. Restitution of US$26.6 million (HK$206.2 million) was also ordered in relation to these convictions.[50] That said, the California State Auditor has pointed out several concerns with regard to enforcement, such as difficulty in retention of CDI investigators and potential underreporting of suspected EC fraud to CDI by insurers. Improvements in these areas were recommended for enhancing the efficiency and effectiveness of enforcement efforts.[51]

Safeguards on independence of medical opinion

3.8 Medical treatment for injured workers under the California EC system used to be guided by the opinions of treating doctors. This led to disputes over the medical necessity of treatment and concerns over the independence of medical opinion.[52] To address these issues, the California legislature passed a law to introduce the Medical Treatment Utilization Schedule ("MTUS"). Effective from 2007, MTUS is the **utilization standard for medical providers** for the treatment and evaluation of injured workers under the EC system. It sets the standards of what should be considered as reasonable and necessary treatment for work injury, with respect to type, frequency, duration and intensity.[53] MTUS is based on the principle of evidence-based medicine. In short, treatment decisions should be guided by objective medical guidelines, including guidelines developed by the American College of Occupational and

---

48 See Society for Human Resource Management (2014).

49 See California Department of Insurance (2020).

50 Ibid.

51 A major reason for the talent retention problem is the large pay disparity between CDI investigators and similar positions in other enforcement agencies. In response, CDI has agreed to reduce the pay disparity with salary increase. On reporting of suspected EC cases by insurers, of the 21 insurers examined from 2015 to 2016, eight insurers submitted one or fewer referrals per US$10 million (HK$77.5 million) in earned premiums, while two insurers made no referrals in one of the two years. Against this, CDI issues a public report rating EC insurers based on the effectiveness of their anti-fraud efforts, including the rate of fraud referrals to CDI. See California State Auditor (2017).

52 A 2004 comparative study across 12 US states showed that California had more medical visits per claim than any other states studied. See Rand Corporation (2005).

53 For example, it is recommended that patients with burns should receive postsurgical treatment in 16 visits over eight weeks, as well as occupational and physical therapy including respiratory and scar management.

Environmental Medicine for different types of injuries such as elbow and shoulder disorders.[54] This contrasts with Hong Kong, where medical treatment decisions are usually based on doctors' own clinical experience.

3.9 While a treatment decision must be based on MTUS guidelines, California, like many other states, has put in place since 2004 a utilization review ("UR") system[55], a mandatory process for insurers/employers to review the **medical necessity** of treatment under the oversight of a medical director. Upon the receipt of a proposed treatment request from the worker's treating doctor, claims administrators normally have five days to approve requests that meet MTUS guidelines.[56] Alternatively, insurers/employers may opt to reduce the time and cost of review in UR by designing a "prior authorization" to specify conditions under which a treating doctor will be assured of reimbursement for providing particular treatment.[57] If UR denies, delays or modifies the requested treatment, the worker concerned may seek a review of the insurers' decision through an Independent Medical Review ("IMR") after exhausting the internal appeal process of the insurer. IMR was introduced in 2013 to provide an alternative to the court system for medical treatment disputes. Although the costs of IMR are borne by insurers/employers[58], all IMR requests are processed and reviewed by CDI with the aid of **independent medical experts** contracted by CDI. The IMR recommendation, endorsed by CDI, is binding on insurers.

---

[54] For medical conditions not covered by MTUS, such treatment should be performed according to medical treatment guidelines that are scientifically based and recognized by the national medical community. Doctors who seek treatment outside of MTUS bear the burden of proof to justify their treatment decisions.

[55] This practice has been considered a means to combat fraud, waste and inappropriate care. See Bean et al. (2020).

[56] The response time is five business days for most requested treatments, unless additional information is needed to make a decision. When an injured worker faces a serious threat, an expedited review to be completed within 72 hours can be requested. Emergency treatment may also be reviewed retrospectively (i.e. after medical services have been provided). See Department of Industrial Relations (2021a).

[57] For example, it may be agreed between insurers and medical providers that whenever rotator cuff surgery is approved through UR, a prescribed course of postsurgical rehabilitation (e.g. up to 14 physical therapy visits) is automatically authorized.

[58] A standard IMR involving pharmacy and non-pharmacy claims costs US$345 (HK$2,675). Seeking a MRI does not prevent one from pursuing further legal actions. See California Department of Insurance (undated) and Department of Industrial Relations (2021b).

3.10 California's two-tier medical review process is fundamentally different from the approach in Hong Kong. Since the launch of IMR, the annual number of IMR requests received by CDI increased steadily to 184 700 in 2018, 28% higher than that in 2014.[59] Despite some concerns that the medical review process gives insurers more control over treatment decisions and risks undermining the professional judgement of treating doctors, a survey study indicated that the majority of medical care requests submitted by treating doctors were approved. For denied requests seeking IMR, medical reviewers were upholding the denials in about 90% of the time.[60] Nevertheless, the government has defended the IMR process as a cost-effective way for medical treatment disputes to be resolved with the aid of independent experts, rather than through time-consuming and expensive litigation.[61]

4. New South Wales of Australia

4.1 The EC system in NSW provides injured workers with statutory compensation for medical treatment and income loss on a no-fault basis.[62] The system is among the largest of its type in Australia covering more than four million workers.[63] In 2019-2020, it collected a premium of A$3.8 billion (HK$22.9 billion) and managed more than 94 000 EC claims, or about 23 700 claims per one million workers.[64] NSW does not appear to publish data on the prevalence of EC fraud, but its government has attached importance to fraud prevention given the sheer size of its EC system. Specifically, it has promulgated the Workplace Injury Management and Workers Compensation Act 1998 ("1998 Act") to replace the WorkCover Administration Act 1989. The 1998 Act not only specifies the workplace injury management obligations of employers, but also establishes a dispute resolution system and RTW obligations of injured workers.

---

59 After reaching the peak in 2018, the volume of IMR requests fell about 11% in 2019. See California Workers' Compensation Institute (2019) and (2020).

60 See California Workers' Compensation Institute (2019).

61 See ProPublica (2015) and NPR (2015).

62 In NSW, employees are allowed to claim either statutory EC benefits or common law damages against employers for an injury caused by negligence.

63 In NSW, most employers take out EC insurance through the statutory insurer known as Insurance and Care ("icare"), which contracts three private insurance agents to manage claims on its behalf. Other players in EC system include the Treasury Managed Fund for government workers; self-insurers; and specialized insurers for particular industries (e.g. coal and hospitality). See State Insurance Regulatory Authority (undated).

64 See State Insurance Regulatory Authority (2020).

4.2 While the 1998 Act deals with EC claims like Hong Kong's ECO, the Act also contains specific provisions to help deter EC fraud and underpin enforcement efforts. For example, section 235A of the 1998 Act specifies that if anyone who, by deception, obtains for oneself or for another person any financial advantage from the EC system may be held responsible. Section 235C also defines what constitute false claims and expands the scope to cover false statements in medical certificates or other claims documents. Each of the above offence under the 1998 Act has a maximum penalty of 500 penalty units (i.e. A$55,000 (HK$320,000)) or two years in prison, or both. At present, the EC system in NSW is regulated by the State Insurance Regulatory Authority ("SIRA").

Dedicated regulator for EC fraud

4.3 Established in 2015, SIRA is the **one-stop statutory agency for investigating and handling reports of EC fraud**.[65] It was created as part of the government's reform efforts to more clearly delineate and enhance the regulatory, insurance and workplace safety functions of the now defunct WorkCover NSW.[66] SIRA has its **own enforcement team** to deal with breaches of the legislation within its jurisdiction, including EC fraud. To encourage members of the public to report suspected EC fraud, SIRA allows reports to be made through mail, email or a hotline. After receiving reports of EC fraud, SIRA may gather information and conduct investigation where there is evidence of an offence. An investigation may also be initiated as a result of data analysis or intelligence obtained. SIRA inspectors have various powers to assist their investigation. These include entering a workplace/premise of insurer; searching and/or seizing evidence; and commencing prosecutions through criminal courts.[67] The enforcement approach depends on the level of risk and potential for harm of the alleged cases.

---

[65] SIRA also has jurisdiction over other compensation schemes including motor accidents compulsory third-party insurance and home building compensation.

[66] In addition to SIRA, two other entities were established, namely SafeWork NSW, the work health and safety regulator; and icare, the state insurance provider. See SafeWork NSW (undated).

[67] See State Insurance Regulatory Authority (2017b).

4.4 SIRA's role is not only limited to investigation but also **remediation** of EC fraud. The 1998 Act contains express provisions on the recovery of overpayments arising from fraudulent claims, with a view to maintaining the financial viability of the EC system. Insurers may refer a case to SIRA, if they have sufficient evidence to show that a worker/person has committed fraud as defined in sections 235A or 235C of the 1998 Act.[68] If SIRA is satisfied with the evidence provided, it may issue the order for refund of the amount of overpayment (whether or not the person has been convicted for fraud). The person concerned also has the right to apply for a review of the decision.[69]

4.5 Despite its relatively short history, SIRA has been active in combatting EC fraud. In 2019-2020, SIRA assessed or investigated 229 reported cases of alleged worker or service provider fraud, representing an increase of 62% from 141 cases in 2016-2017.[70] Still, prosecutions against fraudulent claimants remained at single digit in the past few years, which might be due to a number of factors such as budget constraints, difficulty in proving cases, strength of evidence, etc. Nevertheless, SIRA's enforcement capacity against insurance fraud is likely to be strengthened in the long-term, attributable to substantial staff expansion and state budget increase for the agency.[71]

Dispute resolution mechanism

4.6 In NSW, dispute resolution is a key component of the EC system that facilitates transparent communication among stakeholders, thereby reducing the risk of fraud. Following legislative reforms in 2018 to centralize the pathways for resolution of EC disputes[72], the **Workers Compensation Commission** ("WCC") has become the main body for resolving EC disputes among workers, employers and insurers. Its salient features are highlighted as follows:

---

68 Insurers are advised to refer the case to SIRA after considering the accuracy of evidence, amount of payment and any communication they had with SIRA concerning the merits of pursuing the case. See State Insurance Regulatory Authority (2019).

69 See NSW Legislation (2019).

70 See State Insurance Regulatory Authority (2017a) and (2020).

71 In 2019-2020, SIRA received a budget allocation of A$594 million (HK$3.6 billion), an increase of 42% compared to A$418 million (HK$2.5 billion) in 2016-2017. The number of full-time equivalent staff also rose from 221 to 361 during the period. See Ibid.

72 The reforms abolished the system of internal review by the insurer, merit review by SIRA and procedural review by the Workers Compensation Independent Review Office.

(a) **Dedicated tribunal for EC disputes**: WCC, established under the 1998 Act, is a statutory tribunal within NSW's judicial system. It is tasked with resolving various types of EC disputes, ranging from entitlements to weekly compensation, medical payments and other compensation disputes.[73] Specifically, WCC can determine on issues such as whether an injury has occurred or is work-related, the necessity of medical treatment and the amount of compensation. It is considered to be a "one stop shop" for resolving EC disputes after reforms in 2018;

(b) **Blended conciliation and arbitration model**: Most EC disputes lodged with WCC are resolved through the legal disputes pathway, which applies to cases involving weekly compensation exceeding 12 weeks and/or other medical expenses compensation exceeding A$9,590 (HK$56,916). This pathway begins with the use of **informal conciliation** conducted by an arbitrator, who assists workers and employers to reach their own resolution rather than imposing an arbitrated outcome on them. Initially, a teleconference is held in four weeks from the date of lodgment of the dispute and, if necessary, a face-to-face conference may be held. If the dispute cannot be resolved by conciliation, it proceeds to a **formal arbitration** hearing.[74] The arbitrator then makes a legally binding decision within 21 days of the hearing. Either party may appeal to WCC against the decision for an error of fact, law or discretion; and

(c) **Other pathways for dispute resolution**: Apart from the above standard pathway, WCC provides alternative avenues for resolving disputes of various types and degrees of injury. Smaller disputes involving weekly compensation up to 12 weeks and/or medical expenses compensation up to A$9,590 (HK$56,916) can be **fast-tracked** to an informal conciliation conference via telephone, held two weeks from the date the dispute is lodged. Alternatively, more complex cases concerning disputes of a workers' degree of permanent impairment and the appropriateness of a certain treatment may be resolved through

[73] WCC resolves most EC disputes, except those for some classes of workers (e.g. coal miners and volunteer rescue workers), who are required to seek assistance from other agencies.

[74] The arbitration hearing, which may take place on the same day as the conciliation conference, is a formal proceeding where relevant parties make submissions and evidence may be provided by witnesses.

the **medical disputes pathway** involving an assessment by independent medical specialists appointed by WCC. If the dispute continues, the case may be referred to an arbitrator for a legally binding decision.[75]

4.7 Overall, WCC appears to have offered a timely and flexible mechanism for the resolution of EC disputes, serving as an alternative to the often cumbersome and costly court system. The vast majority of cases lodged with WCC were settled at the conciliation stage. In 2018-2019, of some 4 700 applications for resolving disputes, 92% of them were resolved without the need for determination by an arbitrator.[76] In terms of timeliness, during the same period, about 95% of dispute applications without an appeal were resolved in six months. On average, it took about three months for a dispute case to be resolved.[77]

Return-to-work support

4.8 RTW programmes assist injured workers to make a quick and safe transition back to the workplace. There have been growing views that an effective RTW programme helps create an inclusive environment with lower incidences of fraud and/or claim litigations.[78] In NSW, RTW support is a major part of its EC system. The government has a RTW policy setting out the responsibilities of employers and workers and relevant supporting measures, with key features outlined below:

(a) **Mandatory RTW programme**: Employers, regardless of their industries, are required to have a RTW programme in place within one year of starting a business. The RTW programme should outline the general procedures for handling work injuries and show an employer's commitment to the recovery of workers by offering necessary support. Among others, these may include

[75] See Workers Compensation Commission (undated).
[76] See Workers Compensation Commission (2019).
[77] Ibid.
[78] See Batterson et al. (2009) and Insurance Thought Leadership (2012).

the provision of workplace rehabilitation services[79], suitable work in the form of light duties and modified hours, and/or other adaptation and retraining activities, if needed. Whereas in Hong Kong, such arrangements are optional and subject to provision by individual employers.

Moreover, it is compulsory for injured workers to participate in the programme and make reasonable efforts to take up suitable work provided by employers. According to the latest National Return to Work Survey in 2018, NSW has achieved a 92.8% overall RTW rate for injured employees[80], largely attributable to the statewide mandatory RTW programme;

(b) **Support for small employers**: To help businesses overcome financial difficulty when fulfilling RTW obligations, NSW has provided additional support for small businesses. For example, while sizeable companies must employ a RTW coordinator[81] to manage the recovery of injured workers, small companies are allowed to share a RTW coordinator with other employers.[82] There is also a trial programme that subsidizes small employers for providing RTW support for injured workers. A weekly assistance payment of up to A$400 (HK$2,390) is available for six weeks to cover the costs of making arrangements for supporting workers' recovery, such as hiring temporary staff while the injured worker is given light duties;[83] and

---

79 Workplace rehabilitation may involve conducting assessments to determine an employee's capacity to work, identifying and addressing any physical and psychological RTW barriers. The cost for these services is covered by EC insurance in NSW. See Australasian Legal Information Institute (undated).

80 It measures the percentage of workers reported having returned to work at any time since their work injury. See Australian Government Comcare (2020).

81 RTW coordinators support and monitor the recovery of injured workers, such as by liaising with employers and medical providers, providing case management service and identifying suitable work options. RTW coordinators must complete specific online and/or face-to-face training sessions offered by SIRA. See State Insurance Regulatory Authority (undated).

82 Small companies, also known as "category 2 employers", are those paying an EC premium of A$50,000 (HK$299,008) or less a year, or who are insured by a specialized insurer and have 20 employees or less. See State Insurance Regulatory Authority (undated).

83 The programme targets companies that (a) employ up to 19 full-time workers; (b) pay an EC premium of A$30,000 (HK$179,405) or less; and (c) are financially unable to offer suitable work and additional assistance to injured workers. See State Insurance Regulatory Authority (undated).

(c) **Quality assurance of rehabilitation services**: As part of the RTW programme, workplace rehabilitation services may be engaged if it is considered necessary (e.g. additional expertise needed). To ensure the quality of outsourced rehabilitation services, NSW has an accreditation system for workplace rehabilitation providers.[84] Different from the arrangement in Hong Kong, workplace rehabilitation services in NSW are part of the claims cost paid by insurers. As such, prior approval from insurers is required before the services can commerce.

4.9 In addition, NSW requires the use of a **certificate of capacity** by medical providers in the EC system. Unlike a medical certificate used by doctors in Hong Kong to specify the period of time on which an employee is unfit for work, the certificate of capacity in NSW gives further information on the degree of capacity for work so as to help employers develop an injury management plan in terms of rehabilitation and retraining for the worker. Depending on the recovery progress, the certificate may also include a prescription for work hours and job types to help injured workers and employers/insurers better understand the adaptation required for a successful RTW outcome.[85]

5. Concluding remarks

5.1 EC fraud is a problem seen in many jurisdictions with an EC regime, and Hong Kong is no exception. Although the scale of EC fraud is often difficult to quantify, its impact could be widespread. Fraudulent claims with prolonged sick leave affect the business viability of insurers, push up insurance premiums for policyholders and hamper staff resources allocation for employers. To tackle EC fraud, Hong Kong relies on police investigation of suspected claims and existing laws to prosecute EC fraud. However, concerns have grown over whether the existing EC legal regime and anti-fraud enforcement efforts can keep pace with changing fraud trends. In particular, some are concerned

[84] NSW has implemented the Nationally Consistent Approval Framework for Workplace Rehabilitation Providers, a national guideline which sets the service standards and minimum qualifications for relevant providers. For instance, relevant providers must have qualifications accredited by the Australian Health Practitioner Regulation Agency or other qualified agencies. See Heads of Workers Compensation Authorities (2015).

[85] See State Insurance Regulatory Authority (undated).

about potential abuse in the issuance of medical certificates, limited remedies for employers to recover overpayment of EC benefits obtained through fraud, and the lack of a non-judicial mechanism for resolving EC disputes.

5.2 Contrary to Hong Kong, California and NSW have targeted insurance laws to deal with EC fraud (whether committed by employees or stakeholders in the EC system), with enforcement efforts centralized in the insurance department/authority. NSW's insurance regulator is equipped with a central reporting mechanism and has its own inspectors for handling and investigating EC fraud allegations. Similarly, California has an insurance department responsible for criminal investigation of EC fraud, with related funding coming from employers. Both places also have legal provisions on the recovery of EC payments/benefits obtained through fraud.

5.3 Furthermore, California and NSW have introduced specific measures to safeguard the independence of medical opinion and/or resolve EC disputes, which are conductive to fraud prevention. For example in California, its standard protocol for medical providers specifies what should be regarded as reasonable and necessary treatment for work injury with respect to intensity and duration. As for NSW, its dispute resolution system administered by a central body facilitates transparent communication between employers and employees. A majority of EC disputes lodged in 2018-2019 were resolved through informal conciliation, without the need to resort to the court system. In addition, NSW's mandatory RTW programme, coupled with the use of certificate of capacity by medical practitioners, has played a part in helping workers stay active and reduce the incentive to commit fraud.

Prepared by Jennifer LO
Research Office
Information Services Division
Legislative Council Secretariat
30 March 2021
Tel: 3919 3585

References

Hong Kong

1. Census and Statistics Department. (2021) *Table 006: Labour Force, Unemployment and Underemployment*. Available from: https://www.censtatd.gov.hk/hkstat/sub/sp200.jsp?tableID=006&ID=0&productType=8 [Accessed March 2021].

2. Chinese University of Hong Kong. (2011) *Multidisciplinary Orthopedics Rehabilitation Empowerment (MORE) Program*. Available from: http://more.ort.cuhk.edu.hk/MORE/index.html [Accessed March 2021].

3. Data.gov.hk. (2021) *Number of employees' compensation claims received and number of work injury assessments*. Available from: https://data.gov.hk/en-data/dataset/hk-ld-ecd-ecd-figures/resource/2b0ef96d-1ad9-4341-af92-2c6b4ca538c4 [Accessed March 2021].

4. GovHK. (2012) *Press Releases – LCQ5: Employee' compensation insurance*. Available from: https://www.info.gov.hk/gia/general/201212/19/P201212190366.htm [Accessed March 2021].

5. GovHK. (2017) *Press Releases – LCQ14: Establishing insurance claims database to assist in combating fraudulent insurance claims*. Available from: https://www.info.gov.hk/gia/general/201707/12/P2017071200485.htm?fontSize=1 [Accessed March 2021].

6. Hong Kong Federation of Insurers. (2018) *Technology to Strengthen Insurance Fraud Detection to Safeguard the Interest of Policyholders*. Available from: https://www.hkfi.org.hk/#!/media-release/450 [Accessed March 2021].

7. Insurance Authority. (2019) *Annual Statistics for General Business 2019*. Available from: https://www.ia.org.hk/en/infocenter/statistics/market_4_2019.html [Accessed March 2021].

8. Insurance Information Institute. (2020) *Background on: Insurance fraud*. Available from: https://www.iii.org/article/background-on-insurance-fraud [Accessed March 2021].

9. *Kan Wai-ming v Hong Kong Airport Services Limited*, CACV 240/2010 (26 May 2011). Available from: https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=76635&QS=%2B&TP=JU [Accessed March 2021].

10. Labour and Welfare Bureau. (2020) *Replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2020-21*. Available from: https://www.legco.gov.hk/yr19-20/english/fc/fc/w_q/lwb-l-e.pdf [Accessed March 2021].

11. Labour Department. (2017) *Frequently Asked Questions about The Employee's Compensation Ordinance, Cap. 282.* Available from: https://www.labour.gov.hk/eng/faq/cap282j_whole.htm [Accessed March 2021].

12. Labour Department. (2020) *Panel on Manpower paper: Pilot Rehabilitation Programme for Employees Injured at Work.* LC Paper No. CB(2)209/20-21(03). Available from: https://www.legco.gov.hk/yr20-21/english/panels/mp/papers/mp20201117cb2-209-3-e.pdf [Accessed March 2021].

13. Legislative Council Secretariat. (2012) *Report of the Joint Subcommittee on Issues Relating to Insurance Coverage for the Transport Sector*. LC Paper No. CB(2)2446/11-12. Available from: https://www.legco.gov.hk/yr11-12/english/panels/icts/reports/ictscb2-2446-e.pdf [Accessed March 2021].

14. Legislative Council Secretariat. (2020) *Updated background brief prepared by the Legislative Council Secretariat for the meeting on 17 November 2020 – Rehabilitation services for employees injured at work*. LC Paper No. CB(2)209/20-21(04). Available from: https://www.legco.gov.hk/yr20-21/english/panels/mp/papers/mp20201117cb2-209-4-e.pdf [Accessed March 2021].

15. Legislative Council Secretariat. (2021) *Statistical Highlights on Employee's compensation and insurance coverage*. LC Paper No. ISSH16/20-21. Available from: https://www.legco.gov.hk/research%2Dpublications/english/2021issh16%2Demployees%2Dcompensation%2Dand%2Dinsurance%2Dcoverage-20210204-e.pdf [Accessed March 2021].

16. Morse, D. & Skajaa, L. (2004) *Tackling Insurance Fraud: Law and Practice*. 1st ed. London, Routledge.

17. *Official Record of Proceedings of the Legislative Council*. (2015) 21 January. Available from: https://www.legco.gov.hk/yr14%2D15/english/counmtg/hansard/cm20150121-translate-e.pdf#nameddest=SP_MB_CKP_00416 [Accessed March 2021].

18. ONC Lawyers. (2017) *The Overpayment of Periodical Payment to the Injured Employee*. Available from: http://www.onc.hk/wp-content/uploads/2017/06/1706_PI_EN.pdf [Accessed March 2021].

19. Yip, P. et al. (2015) *From Compensation to Rehabilitation – A Social Review of the Employees' Compensation Insurance System in Hong Kong*. Available from: https://csrp.hku.hk/wp%2Dcontent/uploads/2016/01/From_Compensation_to_Rehabilitation_Final_report.pdf [Accessed March 2021].

California

20. Advisory Task Force on Insurance Fraud. (2008) *Reducing Insurance Fraud in California*. Available from: http://www.insurance.ca.gov/0300-fraud/upload/FraudReport.pdf [Accessed March 2021].

21. Bean, M. et al. (2020) Utilization Review in Workers' Compensation: Review of Current Status and Recommendations for Future Improvement. *Journal of Occupational and Environmental Medicine*, vol. 62, no. 6, pp. 273-286. Available from: https://pubmed.ncbi.nlm.nih.gov/32502086/ [Accessed March 2021].

22. California Department of Insurance. (2020) *2019 Annual Report of the Commissioner*. Available from: http://www.insurance.ca.gov/0400-news/0200-studies-reports/0700-commissioner-report/upload/2019-Annual-Report_Web_Final.pdf [Accessed March 2021].

23. California Department of Insurance. (undated) *Fraud Division Overview*. Available from: http://www.insurance.ca.gov/0300-fraud/0100-fraud-division-overview/ [Accessed March 2021].

24. California Department of Insurance. (undated) *Independent Medical Review (IMR) Program*. Available from: http://www.insurance.ca.gov/01-consumers/110-health/60-resources/01-imr/index.cfm [Accessed March 2021].

25. California Department of Insurance. (undated) *Workers' Compensation Fraud Convictions*. Available from: http://www.insurance.ca.gov/0300-fraud/0100-fraud-division-overview/25-wc-conv/ [Accessed March 2021].

26. California Legislative Information. (undated) *California Insurance Code Section 1871.4.* Available from: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=INS&division=1.&title=&part=2.&chapter=12.&article=1 [Accessed March 2021].

27. California State Auditor. (2017) *California State Auditor Report 2017-103: Workers' Compensation Insurance*. Available from: https://www.auditor.ca.gov/pdfs/reports/2017-103.pdf [Accessed March 2021].

28. California Workers' Compensation Institute. (2019) *Research Update: Independent Medical Review Decisions January 2014 through December 2018*. Available from: https://www.cwci.org/document.php?file=4228.pdf [Accessed March 2021].

29. California Workers' Compensation Institute. (2020) *Research Update: Independent Medical Review Decisions January 2014 through March 2020*. Available from: https://www.cwci.org/document.php?file=4522.pdf [Accessed March 2021].

30. Department of Industrial Relations. (2018) *Progress Report on Anti-Fraud Efforts in the California Workers' Compensation System*. Available from: https://www.dir.ca.gov/Fraud_Prevention/Reports/Anti-Fraud-Report2018.pdf [Accessed March 2021].

31. Department of Industrial Relations. (2020) *California Commission on Health and Safety and Workers' Compensation 2020 Annual Report*. Available from: https://www.dir.ca.gov/chswc/Reports/2020/CHSWC_AnnualReport2020.pdf [Accessed March 2021].

32. Department of Industrial Relations. (2021a) *Answers to frequently asked questions about utilization review (UR) for claims administrators.* Available from: https://www.dir.ca.gov/dwc/utilizationreview/ur_faq.htm [Accessed March 2021].

33. Department of Industrial Relations. (2021b) *Independent Medical Review (IMR).* Available from: https://www.dir.ca.gov/dwc/imr.htm [Accessed March 2021].

34. Department of Industrial Relations. (2021c) *Special Adjudication Unit*. Available from: https://www.dir.ca.gov/dwc/sb1160-ab1244/special-adjudication-unit-calendar.htm [Accessed March 2021].

35. Kilgour, J. G. (1997) *California's Experience: Addressing Workers' Compensation Fraud and Abuse*. Available from: https://journals.sagepub.com/doi/10.1177/08863687902900307?icid=int.sj-abstract.similar-articles.1 [Accessed March 2021].

36. Kilgour, J. G. (1998) *A Success Story: Workers' Compensation Reform in California*. Available from: https://journals.sagepub.com/doi/10.1177/088636879803000208 [Accessed March 2021].

37. NPR. (2015) *Employers And Insurers Gain Control In Workers' Compensation Disputes*. 30 March. Available from: https://www.npr.org/2015/03/30/395765942/employers-and-insurers-gain-control-in-workers-compensation-disputes [Accessed March 2021].

38. ProPublica. (2015) *California Workers' Comp Law Gets Criticism, Praise at Senate Hearing*. 26 March. Available from: https://www.propublica.org/article/california-workers-comp-law-gets-criticism-praise-at-senate-hearing [Accessed March 2021].

39. Rand Corporation. (2005) *Evaluating Medical Treatment Guideline Sets for Injured Workers in California*. Available from: https://www.rand.org/pubs/monographs/MG400.html [Accessed March 2021].

40. Society for Human Resource Management. (2014) *Understanding Workers' Compensation Premium Fraud*. Available from: https://www.shrm.org/hr-today/news/hr-magazine/pages/0214-workers-comp-premium-fraud.aspx [Accessed March 2021].

New South Wales

41. Australian Government Comcare. (2020) *Safe Work Australia's national return to work survey projec*t. Available from: https://www.comcare.gov.au/safe-healthy-work/research-evidence/research-projects/return-to-work-survey-research-project [Accessed March 2021].

42. Australian Legal Information Institute. (undated) *Workers Compensation Act 1987 – Section 60*. Available from: http://www5.austlii.edu.au/au/legis/nsw/consol_act/wca1987255/s60.html [Accessed March 2021].

43. Batterson, L. M. et al. (2009) *The Business Case Method For Presenting And Developing a Return to Work Program to Your Management*. Paper presented at the ASSE Professional Development Conference and Exhibition. Available from: https://onepetro.org/ASSPPDCE/proceedings-abstract/ASSE09/All-ASSE09/ASSE-09-558/35249 [Accessed March 2021].

44. Heads of Workers Compensation Authorities. (2015) *Guide: Nationally consistent approval framework for workplace rehabilitation providers*. Available from: https://www.hwca.org.au/wp-content/uploads/2016/08/1-Guide-Nationally-Consistent-Approval-Framework-for-Workplace-Rehabi....pdf [Accessed March 2021].

45. Insurance Thought Leadership. (2012) *An Integrated Strategy To Prevent Claimant Fraud In Workers' Compensation*. Available from: https://www.insurancethoughtleadership.com/an-integrated-strategy-to-prevent-claimant-fraud-in-workers-compensation/ [Accessed March 2021].

46. NSW Legislation. (2019) *Workplace Injury Management and Workers Compensation Act 1998 No 86*. Available from: https://www.legislation.nsw.gov.au/view/whole/html/inforce/current/act%2D1998%2D086 [Accessed March 2021].

47. SafeWork NSW. (undated) *What we do*. Available from: https://www.safework.nsw.gov.au/about-us/What-we%2Ddo [Accessed March 2021].

48. State Insurance Regulatory Authority. (2017a) *Annual Report 2016-2017*. Available from: https://www.opengov.nsw.gov.au/publications/16946 [Accessed March 2021].

49. State Insurance Regulatory Authority. (2017b) *SIRA compliance and enforcement policy*. Available from: https://www.sira.nsw.gov.au/__data/assets/pdf_file/0008/331388/SIRA-compliance-and-enforcement-policy.pdf [Accessed March 2021].

50. State Insurance Regulatory Authority. (2019) *Recovery of overpayments*. Available from: https://www.sira.nsw.gov.au/workers-compensation-claims-guide/insurer-guidance/claims-management-other/recovery-of-overpayments [Accessed March 2021].

51. State Insurance Regulatory Authority. (2020) *Annual Report 2019-2020*. Available from: https://www.sira.nsw.gov.au/__data/assets/pdf_file/0006/950973/2019-20-Annual-Report-of-the-State-Insurance-Regulatory-Authority.pdf [Accessed March 2021].

52. State Insurance Regulatory Authority. (undated) *Certificate of capacity or fitness for workers compensation*. Available from: https://www.sira.nsw.gov.au/for%2Dservice%2Dproviders/cofcoc#Certificate_of_capacity_or_fitness_for_workers_compensation [Accessed March 2021].

53. State Insurance Regulatory Authority. (undated) *Guidelines for workplace return to work programs*. Available from: https://www.sira.nsw.gov.au/resources-library/workers-compensation-resources/publications/help-with-getting-people-back-to-work/guidelines-for-workplace-return-to-work-programs [Accessed March 2021].

54. State Insurance Regulatory Authority. (undated) *How to get workers compensation insurance*. Available from: https://www.sira.nsw.gov.au/insurance-coverage/workers-compensation-insurance/how-to-get-workers-compensation-insurance [Accessed March 2021].

55. State Insurance Regulatory Authority. (undated) *Recover at Work Assist for Small Business*. Available from: https://www.sira.nsw.gov.au/theres-been-an-injury/im-a-worker-recovering-at-work/pop-over-content/workers-compensation/buttons/recover-at-work-programs/buttons/help-for-micro-employers [Accessed March 2021].

56. State Insurance Regulatory Authority. (undated) *What's a return to work coordinator?* Available from: https://www.sira.nsw.gov.au/theres-been-an-injury/im-an-employer-helping-my-worker-recover/return-to-work-coordinators/whats-a-return-to-work-coordinator [Accessed March 2021].

57. State Insurance Regulatory Authority. (undated) *Workers compensation fraud.* Available from: https://www.sira.nsw.gov.au/fraud%2Dand%2Dregulation/preventing-fraud/workers-compensation-fraud [Accessed March 2021].

58. Workers Compensation Commission. (2019) *Annual Review 2018/19*. Available from: https://pi.nsw.gov.au/resources/archive/workers%2Dcompensation-division?a=559768 [Accessed March 2021].

59. Workers Compensation Commission. (undated) *Dispute pathways*. Available from: https://www.wcc.nsw.gov.au/types-of-disputes [Accessed March 2021].