
ANNUAL PERFORMANCE REPORT

1994

MINNESOTA DEPARTMENT OF LABOR AND INDUSTRY

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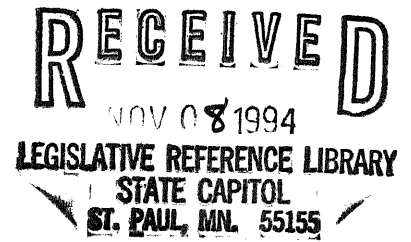
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AGENCY: Labor and Industry, Department of

MISSION:

The Mission of the Minnesota Department of Labor and Industry is to help create a safe and productive working environment for the citizens of Minnesota.

GOALS:

- to expand employment opportunities that provide adequate training and reasonable earnings
- to expand participation of women and people of color in apprenticeship
- to assure employer compliance with several employment-related laws
- to provide accurate, timely prevailing wage determinations for state-funded construction projects
- to assure that employment and entertainment agencies are licensed and operating pursuant to State law
- to assure safe and healthful working conditions for Minnesota workers
- to assure quick and efficient delivery of proper benefits to injured workers at a reasonable cost to employers
- to resolve all disputes fairly and equitably in the shortest possible time
- to capably manage the financial responsibilities of the Special Compensation Fund

Table 1:

<u>Program</u>	<u>Estimated Expenditures (\$ in Thousands)</u>	<u>Percent of Total</u>	<u>FTE Staff Positions</u>	<u>Percent of Total</u>
Workplace Services	\$ 7,484	7	128	33
Workers' Compensation	96,553	87	171	45
General Support	5,492	5	81	21
Miscellaneous	<u>1,047</u>	<u>1</u>	<u>2</u>	<u>1</u>
<u>Totals</u>	<u>\$110,576</u>	<u>100</u>	<u>382</u>	<u>100</u>

ORGANIZATION:

The department is organized into two programmatic areas. They are Workplace Services and Workers' Compensation. Workplace Services is responsible for administration of Minnesota's apprenticeship program, labor standards activities, OSHA compliance and consultation, and the enforcement of boiler and high pressure piping codes. Workers' Compensation is responsible for administration of Minnesota's workers' compensation system which provides medical and wage-loss benefits to workers injured while on the job.

During the 1993-1995 biennium, the department has been engaged in a process to make the agency more customer service oriented. This effort is named DAEDALUS. The whole Workers' Compensation Division is being reorganized around complimentary processes. Technology is being acquired and deployed to facilitate more effective and efficient service of the department's customers (i.e., employees and employers). Workplace Services' activities are scheduled for inclusion in this project during a later phase. The initial technological investment and redesign of work processes is financed through an appropriation of \$5 million from the Special Compensation Fund made by the Legislature in 1993. Completion of the project is contingent upon the Legislature appropriating an additional \$5 million for the next biennium during the 1995 legislative session.

WAYS TO IMPROVE PROGRAM OUTCOMES:

There are several actions that can be taken to improve program outcomes, including:

DAEDALUS Funding: The second half of the \$10 million original request for the DAEDALUS Project must be appropriated for the next biennium if it is to be completed. Effective, efficient, and responsive service to department customers will be provided with the implementation of organizational changes caused by this project. Staff will be able to respond immediately to inquiring workers' compensation claimants about their claim; disputes can be expedited without time delays caused by dependence on a paper process; enforcement activities can be better targeted to assure compliance; and numerous other changes will result to improve program outcomes.

Entertainment Agencies: The Legislature should repeal Minnesota Statutes 184A which regulates certain types of entertainment agencies. Very few entertainment agencies are covered under the law because they do not meet the statutory definition. Only entertainment agencies which procure engagements for at least three musical artists or groups are covered. There have been no complaints registered against entertainment agencies during the past several years. The vagueness of the law has also contributed to few agencies being licensed by the department. There does not appear to be any compelling reason for this activity to exist.

Boiler Inspections: State law requires boiler inspections be conducted annually. The law should, however, provide for greater flexibility in the frequency of inspection. The current frequency of inspection represents a legislative directive to the department arising out of the 19th Century when boiler explosions were occurring frequently with deadly results. Inspections and certification of boilers and other pressure vessels in Minnesota are essential. The department will be able, with modifications in agency computer technology, to track the inspection record of all boilers and pressure vessels in the state. Information derived from this data can subsequently be used to more intelligently target scarce resources to inspecting boilers and pressure vessels.

High Pressure Piping: The law authorizing the department to regulate the installation of high pressure and ammonia piping systems needs to be updated. The law needs to clarify its purpose.

SUMMARY

AGENCY: Labor and Industry, Department of
PROGRAM: 01 - Workplace Services - Apprenticeship Division

EXPENDITURES AND STAFFING (F.Y. 1994)

(\$ in Thousands)

Total Expenditures:	\$	531	1 % of department's budget
From State Funds	\$	520	
From Federal Funds	\$	11	
 Number of FTE Staff:		9	2 % of department's staff

PROGRAM GOALS:

- To expand employment opportunities that provide adequate training and reasonable earnings. (M.S. 178.01)
- To expand participation of women and people of color in apprenticeship. (M.S. 178.01)

DESCRIPTION OF SERVICES:

Apprenticeship training is a formal system of employee training that combines on-the-job training with related technical instruction. It is designed to produce craftworkers who are fully competent in all aspects of an occupation including knowledge, skill and proficiency on the job. Apprenticeship programs are voluntarily sponsored by employers at their own expense and are equally relevant in union and non-union environments. The purpose is to ensure that the work experience and technical education of apprentices meet the needs of Minnesota's employers.

The Federal Apprenticeship Act was passed in 1937 which authorized the Secretary of Labor to formulate and promote the extension of labor standards necessary to safeguard an apprentice. The Minnesota Legislature subsequently established the Division of Voluntary Apprenticeship in 1939 to promote and administer the state's apprenticeship program.

The Division of Apprenticeship is charged with the responsibility for approval and administration of apprenticeship programs and to assure that recruitment, selection, employment and training of apprentices shall be without discrimination because of race, color, religion, national origin, sex or age.

The Division provides technical assistance to those interested in apprenticeship by promoting, marketing and certifying apprenticeship programs. Up-to-date information is provided to prospective employers to ensure quality program standards. Increased participation of women and people of color is promoted and strongly encouraged. Employers, as a result, offer high-skilled training resulting in portable certification to their apprenticeship graduates.

BACKGROUND INFORMATION:**MEASURES OF ACTIVITIES (A), WORKLOAD (W), UNIT COSTS (UC), OTHER DATA (O)**

<u>Type</u>	<u>Measure</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>
A	Number of active apprentices	3,201	3,208
A	Number of active minority and female apprentices	413	433
A	Number of new apprentices enrolled	1,216	1,151
O	Total first year training hours for apprentices	N/A	7,169,840
O	Total first year apprentices' annual wages	N/A	\$21,164,051
A	Number of graduating apprentices	856	713
O	Total training hours of graduate apprentices	N/A	N/A
O	Annual wages graduates' first year (assumes full-time employment)	N/A	\$25,352,038
UC	Average unit cost per graduating apprentice	\$433	\$745
A	Number of active apprenticeship sponsors (approved standards)	N/A	301
W	Number of new apprenticeship standards approved	26	38
W	Number of existing apprenticeship standards revised	49	52
W	Number of compliance reviews conducted	109	51
W	Number of supervisory visits conducted	91	106

PROGRAM DRIVERS:

- **Prevailing Wage Projects.** Federal and state laws prescribe certain requirements which must be present in all bids by contractors for federal and state-funded construction projects. Apprentices working on such projects must be registered with this agency if they are to be paid less than the established prevailing journeyworker wage.
- **Equal Opportunity Employment.** Obstacles to employment caused by discrimination on the basis of race, gender, color, national origin or for other reasons are illegal in Minnesota and the nation as a whole. Federal civil rights laws and Minnesota's Human Rights Act have been passed, in part, to assure equal opportunity for employment. The Minnesota Plan for Non-Discrimination in Apprenticeship was adopted in 1972 and sets forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the state.
- **Non-Traditional Occupations/Industries.** Traditional apprenticeship programs focused on training workers into the construction trades (i.e., carpenter, pipefitter, etc.) and industrial occupations (i.e., machinist). Non-traditional apprenticeship programs tend to be in non-construction trades - creating additional opportunities for participation by workers in registered apprenticeships which lead to employment in occupations providing a living wage and upward mobility. Non-traditional programs can be found in service industries, manufacturing, health care, finance, professional/technical and transportation industries. Women and people of color are the beneficiaries of these added opportunities.
- **School-to-Work Transitions.** School-to-work legislation at the state and federal levels have increased the awareness of the need for apprenticeship opportunities for high school students. The need for facilitating a student's transition from school to the world of work was emphasized in the federal SCANS Report of 1991. This report, among others, identified the problem non-college-bound students have when attempting to make the transition to employment. Apprenticeships allow young people to explore potential occupations and apply academic principles while attending school.

- **Employment of Veterans.** Veterans in apprenticeship programs may receive financial assistance as part of their educational benefits if the program is approved by the Division of Apprenticeship. The Veteran's Administration also requires on-the-job training (OJT) programs to be approved by the state. These programs tend to be in occupations which are not considered apprenticeable trades. Rather, they are entry-level training situations which train veterans in shorter length training situations and which do not meet the requirements for apprenticeship.
- **Local Government.** Local government ordinances, such as one adopted in Minneapolis, requiring contractors to have a registered apprenticeship program have caused some employers to seek approval of an apprenticeship program solely to obtain contracts in the municipality as opposed to training quality employees. Apprenticeship was originally established to ensure a quality workforce through proper on-the-job training in conjunction with related instruction at approved educational institutions. These ordinances require contractors to have a registered apprenticeship program to qualify to receive a competency card which allows journeymen to perform their trade within the city limits of the municipality. The requirement has forced many employers, as a result, to seek apprenticeship registration. Some employers have agreed to the requirements and then provided only limited training to apprentices.
- **Organized Labor.** Among the strongest supporters of apprenticeship programs are the building trades unions. They sponsor joint labor-management apprenticeship programs with contractors to assure that new journeymen are competent, qualified people. An important objective is protection of appropriate apprenticeship training standards established for individual construction trades.

AGENCY: Labor and Industry, Department of
PROGRAM: Workplace Services - Apprenticeship

OBJECTIVE, MEASURE

Objective 01-1: By F.Y. 1998, the net number of active approved apprenticeship standards will increase by 20 percent over F.Y. 1994.

Measure (01-1): Percent increase over F.Y. 1994 of active approved apprenticeship standards.
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Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Total apprenticeship standards:	290	285	301	317(e)		
Percent increase:		(5%)	5.6%	5%(e)		
Target:				316	331	346

DEFINITION, RATIONALE, DATA SOURCE:

Employers and other sponsors, such as a joint labor-management committee, are required to document the minimum requirements of their apprentice training programs. Percent increase in net approved standards represents the difference between a fiscal year's total standards and the number for F.Y. 1994's (i.e., 301) divided by F.Y. 1994's approved apprenticeship standards (i.e., 301) multiplied by 100.

Measuring the percentage increase in the total number of approved apprenticeship standards demonstrates whether apprenticeship opportunities are being created for workers in Minnesota. The expansion or contraction of approved apprenticeship standards is an effective indicator of employer use of apprenticeship as a training tool for workers. By increasing the number of new standards, the Division is able to provide expanded opportunity for quality training for more employers, employees and future employees.

Detailed data about individual program standards is maintained in the apprentice sponsor's file. Certain data from each program standard, such as the schedule of apprentice wage increases and hours of instruction, are entered into the Department's computer. Summary program data is reported to the Apprenticeship Advisory Council on a regular basis - including a year-end report.

DISCUSSION OF PAST PERFORMANCE:

Increases in new approved standards have historically ranged from four to seven percent each year. Discontinued program standards have had a similar record of approximately four percent a year. There appears to be a natural, but slow growth in the number of approved apprenticeship standards. The increase in approved program standards for the two-year period 1992 to 1994 seems to bear this out with an increase of 3.8 percent.

PLAN TO ACHIEVE TARGETS:

Division outreach activities will identify prospective sponsors through interaction with local chambers of commerce, business organizations, employers' associations, community based organizations, minority advocacy groups, economic development agencies, union locals, and non-active past program sponsors. The Division will actively solicit sponsors and develop strategies for promoting the benefits of registered apprenticeship programs. Promotional materials will be developed which are user friendly. Technical assistance in the design and implementation of an apprenticeship program will be promoted as the major strength of the state's program.

OTHER FACTORS AFFECTING PERFORMANCE:

Employers currently have the ability to establish and implement apprenticeship training programs within their workplace without the approval of a bureaucracy. Registering their programs with the Division requires the sponsor to formally establish the program through an agreement which details the employer's program standards. Occasionally employers will comment about the need to deal with the Division when the state has no funding to go along with approving their program standards.

Participation in apprenticeship for both apprentices and sponsors is greatly affected by the rise and fall of the national and state economy. A healthy, growing economy will increase the employment of apprentices. Expansion in highway and construction of highways and public buildings will result in greater demand for apprentices. The opposite is however the case when the economy declines or grows slowly.

Adoption of additional local government ordinances requiring contractors to possess a competency card in order for journeyworkers to perform their trade (i.e., carpentry, painting, plumbing, electrician, etc.) within that municipality would expand the number of apprenticeship programs. Contractors must have a registered apprenticeship program in order to qualify for a competency card.

AGENCY: Labor and Industry, Department of
PROGRAM: Workplace Services - Apprenticeship

OBJECTIVE, MEASURE

Objective 01-2: 100 percent of active apprenticeship standards will have been approved or revised within preceding five years.

Measure (01-2): Percentage of active apprentice standards approved or revised within preceding five years.
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Actual Performance	F.Y. 1992	F.Y. 1993	F.Y. 1994	F.Y. 1995	F.Y. 1996	F.Y. 1997
Active standards:	290	285	301			
Target:				316	331	346
Percentage current:	N/A	N/A	N/A			
Target:				40%	50%	75%
Standards revised:	41	40	52			
Target:				65	81	101

DEFINITION, RATIONALE, DATA SOURCE:

Apprentice standards indicate the parameters and expectations a sponsor, apprentice, and the Division have over the duration of an apprentices enrollment in an apprenticeship program. Percentage of current program standards is the number of program standards approved or revised within the preceding five years.

Measuring the percentage of program standards that have been approved or revised within the past five years demonstrates whether the apprenticeship opportunities are current in their training activities and wage schedules. Use of this percentage allows for monitoring whether apprenticeship standards are kept current.

Detailed data on program standards is collected and maintained by the Division in the apprenticeship sponsor files and on the department's computer. The date of approval or revision is maintained on computer for each approved standard. The total numbers of approved and revised standards are standard elements of the Division's regular reports to the Apprenticeship Advisory Council.

DISCUSSION OF PAST PERFORMANCE:

Program standards are generally kept current by employers. Over 25 percent of active approved standards each year are either new or revised. Sponsors historically have revised their program standards in response to supervisory visits where compliance issues were identified by Division staff.

PLAN TO ACHIEVE TARGETS:

Approved program standards which have not been revised within the past five years will be identified for supervisory visits in F.Y. 1995. In subsequent years, approved or revised program standards at least four years old will be high priorities for supervisory visits.

OTHER FACTORS AFFECTING PERFORMANCE:

N/A

AGENCY: Labor and Industry, Department of
PROGRAM: Workplace Services - Apprenticeship

OBJECTIVE, MEASURE

Objective 01-3: To increase the participation and completion rate of people of color and women in apprenticeship by 20 percent by F.Y. 1998.

Measure (01-3): Participation and completion rates of women and people of color in apprenticeship.
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Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
New apprentices:*	184	150	160			
Target:				168	176	185
Participation rate:	15%	12.3%	13.9%			
Target:						
Graduate apprentices:*	74	81	76			
Target:				80	84	88
Completion rate:	9%	9.4%	10.6%			
Target:						

*Apprentices included in this count represent an unduplicated count of women and people of color.

DEFINITION, RATIONALE, DATA SOURCE:

A primary goal of Minnesota's apprenticeship program is enrollment of and service to people regardless of race, sex, color or national origin. Participation and completion rates are the number of participants and graduates who are persons of color and women divided by the total number of apprentices and total number of apprentice graduates respectively.

Measuring the rate of participation and graduation demonstrates the actual share women and people of color represent in the state's apprenticeship program. The use of this measure allows for the monitoring of program progress toward enrolling and graduating persons of color and women.

Data on apprentices is maintained in the department's computer system. Information on participation and completion rates is reported monthly to the Minnesota Apprenticeship Advisory Council. Fiscal year data is derived from monthly reports at the conclusion of the year. The report does not have any official name or title.

DISCUSSION OF PAST PERFORMANCE:

Each year there are approximately 3200 apprentices with 800 graduates. Steady increases in participation rates have occurred since 1992 in conjunction with the department's emphasis on equal employment opportunity compliance reviews. Graduation rates also have increased over this time period.

PLAN TO ACHIEVE TARGETS:

The Division will promote and emphasize the importance of apprenticeship to the general community, program sponsors, organizations serving people of color, women's groups, employment and training providers and union locals. It will also initiate recruitment of minority and women business owners to establish and register apprentice programs. The emphasis will be on ensuring opportunities for individuals to work in their respective communities. Non-traditional opportunities will be identified and targeted for establishment of apprentice programs where people of color and women may participate in larger numbers.

OTHER FACTORS AFFECTING PERFORMANCE:

Participation in an apprenticeship program is voluntary. People electing to become an apprentice view the decision as a career move and generally intend to make a lifetime commitment to that work.

Approximately 70 percent of those enrolled in an apprenticeship program are working in the construction industry. Working conditions are often physically demanding, frequently outdoors and hazardous. Few people of color and women have historically pursued employment in these occupations.

Significant fluctuations in participation and graduations rates can be caused by unique situations and types of apprenticeship opportunities. An example is an apprenticeship program sponsored by the City of Duluth where 60 people, primarily women, enrolled in a support program. This caused a dramatic increase in the women apprentices statewide for that year with a decrease when they graduated two years later.

The health of the national economy dictates, to a large degree, the number of apprenticeship opportunities available in Minnesota. Employers are likely to rely on those workers already employed when they retrench during recessions or declines in the economy. The consequences of such decisions are fewer apprenticeship opportunities.

AGENCY: Labor and Industry, Department of
PROGRAM: Workplace Services - Apprenticeship

OBJECTIVE, MEASURE

Objective 01-4: Entry-level and graduate apprentice average wages will retain their relative proportions to the hourly equivalent of the Statewide Average Weekly Wage.

Measure (01-4): Average state hourly wage will remain in the same proportion as entry- and graduate-level wages paid apprentices as adjusted for 3 percent inflation rate.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Statewide Average						
Hourly Wage:	N/A	\$12.28	\$12.30	\$13.06	\$13.48	\$13.93
Projection (SAHW)						
Entry-Level Ave.						
Hourly Wage:	N/A	N/A	\$10.00			
Target:				\$10.62	\$10.95	\$11.33
Graduate Ave. Hourly						
Wage:	N/A	N/A	\$19.16			
Target:				\$20.35	\$21.00	\$21.70

DEFINITION, RATIONALE, DATA SOURCE:

A primary purpose of the state's apprenticeship program is the promotion of employment opportunities that provide adequate training and reasonable earnings. Approval of apprenticeship standards is conditioned upon hourly wage rates being based on prevailing hourly wage rates for specific trades or the apprenticeship agreement wage rate on file with the Division. Average hourly wage rates are computed by adding together workers' hourly wage rates and dividing the resulting total by the number of apprentices. The average hourly wage is computed separately for both entry-level apprentices and graduate apprentices. The Statewide Average Weekly Wage (SAWW) is computed by the Department of Economic Security for use in determining annual unemployment compensation and workers' compensation maximum weekly benefit amounts.

Average hourly wage rates for entry-level and graduate apprentices demonstrate reasonable earnings in relationship to the hourly equivalent of the Statewide Average Weekly Wage. The use of average hourly wage rates, as an indicator of reasonable earnings, allows monitoring program wage growth against changes in wages paid throughout Minnesota's economy.

Detailed data on apprentice wages are collected and maintained by the Division. The data is filed as part of each apprentice indenture agreement and remains on file in the apprenticeship office. It is also entered into the department's computer system. A summary report of apprenticeship wage information will be included in its year-end report to the Apprenticeship Advisory Council. Reporting of this information was initiated for the Annual Performance Report and is thus unavailable for prior years.

DISCUSSION OF PAST PERFORMANCE:

Although the Division has received apprentice hourly wage data since 1939, wage information has never been computed in this way. The range between average hourly wage rates for entry-level apprentices and graduate apprentices for F.Y. 1994 in comparison to the SAWW is quite wide (81.3 to 155.8 percent) and reflects the scheduled wage increases apprentices receive as a result of completing required hours of work during their training.

PLAN TO ACHIEVE TARGETS:

As Division staff write new programs, the most current journeyworker wage rate will be requested from each sponsor. In addition, apprentice wage rates will be annually adjusted as journeyworker wages are increased.

OTHER FACTORS AFFECTING PERFORMANCE:

Historically, the wage issue has been a contested part of apprenticeship agreements. Non-union construction employers have traditionally resisted the use of prevailing hourly wage rates in their apprenticeship agreements.

With over 70 percent of apprentices employed in the construction trades, wage increases are highly dependent on collective bargaining agreements between building trade unions and the appropriate industry contractors (i.e., general, painting, electrical, etc.).

An economic recession has the potential to reduce or significantly slow wage growth for apprentices and journeyworkers. Employers are more inclined to cut wages or provide no increases when their sales are reduced because of slower demand for their products or services.

AGENCY: Labor and Industry, Department of
PROGRAM: Workplace Services - Apprenticeship

OBJECTIVE, MEASURE

Objective 1: Compliance by sponsors with apprenticeship standards and equal employment opportunity will exceed 98 percent.

Measure (1): Compliance rate.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Standards compliance visits:	107	109	106			
Standard compliance rate:	N/A	N/A	N/A			
Target:				90%	95%	100%
EEO compliance visits:	92	107	51			
EEO compliance rate:	N/A	N/A	N/A			
Target:				90%	95%	100%

DEFINITION, RATIONALE, DATA SOURCE:

Supervisory visits and equal employment opportunity (EEO) compliance reviews are essential components of an effective apprenticeship program. They assure that apprentices are receiving the training and wages as indicated in the approved program standard and that employers are providing opportunities to people regardless of their race, color, religion, national origin, gender, or age. Compliance rate is determined by dividing the number of sponsors in compliance by the total number of sponsors subject to a supervisory visit or EEO compliance review multiplied by 100.

Compliance rates demonstrate whether sponsors are adhering to their respective apprenticeship standard agreements and are providing equal opportunity for access to and participation in apprenticeship programs. Using this measure allows monitoring of the program over time in terms of sponsor commitment to the principles of quality apprenticeship programs. Training apprentices requires a firm commitment by both the employer and apprentice. The approved standards specifically spell out their respective responsibilities.

Detail data on apprenticeship standards is collected and maintained by the Apprenticeship Unit. Data for this objective is maintained on the Unit's personal computers.

DISCUSSION OF PAST PERFORMANCE:

Sponsors are generally in compliance with their apprenticeship standard agreements and EEO responsibilities. Sponsors are out of compliance with their apprenticeship standard agreement when they fail to rotate an apprentice from work process to work process, allow apprentices to fall back in their related training, and fail to pay wages according to the agreed-to scale and schedule. Sponsors are out of compliance with their EEO responsibilities when they fail to meet their agreed-upon goal for hiring women and people of color.

PLAN TO ACHIEVE TARGETS:

Supervisory visits and EEO compliance reviews will be conducted during the fiscal year a sponsor's program is scheduled for review. Technical assistance will be provided to sponsors to fulfill their program standards and EEO agreements.

OTHER FACTORS AFFECTING PERFORMANCE:

Many program sponsors keep the number of apprentices employed under five in order to avoid the EEO requirements and therefore are exempt from EEO compliance reviews.

The number of supervisory visits is dependent on the number of active apprenticeship standards for any given year. The number of active sponsors fluctuates with the economy.

SUMMARY

AGENCY: Labor and Industry, Department of
PROGRAM: 01 - Workplace Services - Code Administration and Inspection Services Division

EXPENDITURES AND STAFFING (F.Y. 1994)

(\$ in Thousands)

Total Expenditures:	\$ 1,456	1% of department's budget
From State Funds	\$ 1,456	
From Federal Funds	\$ 0	
 Number of FTE Staff:	 25	 6% of department's staff

PROGRAM GOALS:

- To assure public and workplace safety where boilers, pressure vessels, boats-for-hire, and hobby boilers are in operation. (M.S. Chapter 183)
- To assure that high pressure piping and ammonia piping systems are installed according the State's installation code. (M.S. 326.47)

DESCRIPTION OF SERVICES:

Code Enforcement and Inspection Services (CAIS) is responsible for inspection and certification of all pressure vessels, excluding those specified in law, and for all installations of high pressure piping and ammonia piping systems. It is also responsible for supervising new construction, repair and alteration of boilers and pressure vessels and the inspection and licensing of boats-for-hire in Minnesota.

Minnesota's first laws requiring inspection and licensing of boilers were enacted over 100 years ago in 1879. The reason for such regulation was the many deaths being caused by boiler explosions. A single boiler explosion in 1878 caused the deaths of 18 people. As recent as 1993 a boiler explosion caused a death. Regulation of the installation of high pressure piping was established in 1937 with ammonia piping systems added to the law in 1989.

Types of pressure vessels subject to inspection and certification include both self-fired and unfired objects. Self-fired objects include steam boilers, hot water boilers, steam farm traction engines, hobby boilers, and engines. Unfired vessels include objects such as air compressor tanks, sand blasting tanks, waste heat boilers, certain types of air filters and separators. All pressure vessels and boilers operating in Minnesota must be certified at construction to be built to the American Society of Mechanical Engineers Boiler and Pressure Vessel Code. (A.S.M.E.). The A.S.M.E. Code is an internationally recognized standard for the construction of boilers and pressure vessels.

CAIS assures boiler and pressure vessel safety by certifying their operation through inspection, overseeing construction and repair and licensing boiler operators. Boiler operators must pass a written examination to qualify as an operating engineer

and must renew the license annually. Inspections, which are conducted by Division personnel and insurers certified to sell such insurance in the state, are required by law to occur annually for boilers and biennially for pressure vessels. Manufacturers and repair organizations are reviewed tri-annually and certified to continue fabrication or repair of boilers and pressure vessels.

Boats-for-hire are annually inspected and certified to operate. Boats subject to inspection are over 20 feet in length and have over 50 horsepower motors. Cruise boats used for tours and fishing on inland waterways are the focus of this activity. The number of boats licensed each year varies according to the number of boats put into service by the owner. Boat pilots must pass a written examination and maintain a current pilot license to operate boats-for-hire in Minnesota.

High pressure and ammonia piping systems are required to be installed in accordance to the State's Code for Power Piping Systems. Contractors and pipefitters installing these systems are also required to be licensed to perform such work. High pressure piping systems include steam heating where the pressure exceeds 15 pounds per square inch (psi) gage and exceeding 250 degrees Fahrenheit, and high temperature and pressure liquid (i.e., water) piping where the pressure exceeds 30 psi gage. Such systems include central and district heating steam, hot water distribution piping away from a plant (i.e., boiler), and building heating piping.

The High Pressure Piping Unit of CAIS issues installation permits, licenses contractors and pipefitters, inspects the installation of ammonia and high pressure piping systems, and revises the Code for Power Piping Systems. Installation permits are issued to licensed contractors. Passage of a written examination is required for contractors and pipefitters to become licensed. Inspections of piping systems occur primarily during installation process. Inspectors may participate in a preliminary inspection with the contractor, design engineer, and building owner prior to actual installation to assure that installation plans are consistent with the Code. In-process inspections are conducted during the installation phase of a construction project to check for proper licensure, installation of Code compliant material and equipment, welding procedures and certification of welders. Final inspections are conducted to certify that the piping system is ready for operation. Inspectors will witness hydrotesting of systems prior to approval. Survey inspections are also conducted to ascertain whether existing systems are in compliance with the State Code, to identify any past or future modifications, and to identify possible new installations.

BACKGROUND INFORMATION:

MEASURES OF ACTIVITIES (A), WORKLOAD (W), UNIT COSTS (UC), OTHER DATA (O)

<u>Type</u>	<u>Measure</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>
<i>Boilers and Pressure Vessels</i>			
A	No. of registered boilers	N/A	21,146
A	No. of licensed boiler operators on file	37,785	37,986
A	No. of boiler operator examinations given	2,992	4,247
O	Boiler Examination success rate	87.5 %	91.1 %
A	No. of registered pressure vessels	N/A	54,825
A	No. of insured boilers and pressure vessels	N/A	53,424
A	No. of boilers and pressure vessels State responsibility		22,547
A	No. of boiler and pressure vessel explosions	2	2
W	No. of boilers and pressure vessels State inspected	N/A	8,800
O	Average No. boilers and pressure vessels per State inspector	N/A	2,050
W	No. of hobby boilers inspected	270	270
A	No. of licensed hobby boiler operators	N/A	318
UC	Average cost per State inspection	N/A	N/A

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<u>Type</u>	<u>Measure</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>
<i>Boiler and Pressure Vessel Fabrication and Repair</i>			
A	No. of certified fabrication and repair shops	N/A	65
W	No. of fabrication and repair shops inspected and certified	N/A	65
W	No. of hours performing shop inspections	909	726
UC	Average cost per State inspection	N/A	N/A
<i>Boats-for-Hire</i>			
A	No. of boats-for-hire on file	159	120
W	No. of boats-for-hired inspected	120	93
A	No. of licensed pilots	N/A	515
UC	Average cost per State inspection	N/A	N/A
<i>High Pressure and Ammonia Piping</i>			
A	No. of licensed contractors	292	295
A	No. of licensed journeyman pipefitters	2,144	2,147
W	No. of permits issued to install piping systems	346	335
W	No. of permit-based State inspections conducted	891	929
O	Average number of inspections per permit	2.6	2.7
O	No. of permits per inspector	115	112
W	No. of survey inspections conducted	577	551
UC	Average cost per inspection (permit & survey)	N/A	N/A

PROGRAM DRIVERS:

- **Economic Growth/Business Expansion.** The economic growth and business expansion that results in the construction of commercial and industrial facilities and apartment buildings often cause the installation of boilers and high pressure piping. A primary use of boilers and high pressure piping is heating buildings. Pressure vessels may be installed to assist in a production process such as cleaning parts.
- **American Society of Mechanical Engineers.** Changes made to the ASME Boiler and Pressure Vessel Code or to the National Board of Boiler Inspectors Standards would necessitate comparable changes in the State's program. Boilers installed and used in the State of Minnesota must be built to the ASME standards, and must be repaired to the National Board of Boiler Inspectors Standards.
- **Boiler Maintenance.** Boilers are considered 100 percent safe at the time of construction. It is the duty of all boiler operators and owners of boilers to maintain and operate the boilers in a safe, efficient manner. Poor maintenance of a boiler can eventually become a hazard to operators and to the public.
- **International Trade Agreements.** When the United States executes a trade agreement such as the North American Free Trade Agreement (NAFTA) or the General Agreement on Trade and Tariffs (GATT), there is the potential for one or more provisions impacting the approved manufacturing standards for boilers and pressure vessels. The principal impact would be allowing foreign manufactured objects easier access to this country's market for boilers.
- **Insurance Companies.** Insurers are certified to inspect boilers and pressure vessels. There are approximately 125 inspectors responsible for 53,251 vessels. That represents 426 vessels per insurance company inspector. Failure to conduct inspections of boilers annually and pressure vessels biennially is one of the consequences of this workload.

- **Ban on Use of Chlorofluorocarbons (CFCs).** In 1991 the Federal government banned the manufacture, sale, and use of CFCs by 1994. Ammonia cooling systems are among the replacements being installed to replace CFC-based refrigerant cooling systems. The trend is for owners of larger cooling systems, such as cold storage warehouses, to convert their operations to an ammonia cooling system.
- **Auto Emission Controls.** Recent legislation mandating the addition of alcohol to gasoline to reduce auto emission pollution has resulted in the construction of numerous corn-based alcohol production plants in Minnesota. High pressure piping is a critically important part of the production plant. Owners, engineers, vendors, and contractors often desire guidance on installation to assure it is made according to the State Code.
- **Maintenance of Existing Systems.** Owners of high pressure piping and ammonia piping systems must maintain them in order to assure their continued safe operation. Repair of systems may only be performed by licensed contractors or pipefitters who know and apply the State Code. Replacement parts used by the owner or unlicensed contractor to repair the system may not be approved under the State Code thereby putting workers and the public at potential risk of a rupture in the system.

AGENCY: Labor and Industry, Department of
PROGRAM: Workplace Services - Code Administrative and Inspection Services

OBJECTIVE, MEASURE

Objective 01-6: 100 percent of boilers, pressure vessels, hobby boilers, and boats-for-hire will be certified to operate by 1997.

Measure (01-6): Percentage of boilers, pressure vessels, hobby boilers, and boats-for-hire certified to operate.
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Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Boilers:	N/A	N/A	N/A			
Target:				100 %	100 %	100 %
Pressure Vessels:	N/A	N/A	N/A			
Target:				100 %	100 %	100 %
Hobby Boilers:	N/A	N/A	N/A			
Target:				100 %	100 %	100 %
Boats-for-hire:	N/A	N/A	N/A			
Target:				100 %	100 %	100 %
Fabrication/Repair Shops	N/A	N/A	N/A			
Target:				100 %	100 %	100 %

DEFINITION, RATIONALE, DATA SOURCE:

The objects identified above are required to be inspected and certified annually, or biennially in the case of pressure vessels. Percentage of objects certified to operate is the number of objects inspected and certified divided by the total number of that object in the state.

Measuring the percentage of boilers, pressure vessels, or boats-for-hire certified to operate demonstrates the extent to which the program is complying with State law. It is also a proxy for measuring safety of these objects. The presumption of this measure is that an unsafe object would not be certified to operate. The use of this measure allows for monitoring Division and insurer effectiveness in inspecting boilers, pressure vessels, hobby boilers and boats-for-hire.

Detailed data on boilers, pressure vessels, and hobby boilers is maintained on the Department's computer. The date of the most recent inspection is maintained on the computer. Subsequent inspection dates replace previous ones. In future years, the Division will be preparing a year-end report which presents program data.

DISCUSSION OF PAST PERFORMANCE:

The objective for inspection and certification of hobby boilers and boats-for-hire has been consistently met over the past several years. Operation of these vessels is conditioned upon annual certification. Consequently, hobby boilers and boats-for-hire are annually inspected and certified by the Division.

Inspection and certification of boilers and pressure vessels have not met the statutory objective of annual or biennial review. The gap between total vessels in the state and actual inspections/certifications is generally explained by the number of inspections conducted by insurers and whether such inspections were reported to the Department. The number of inspections conducted by the Division was also down in F.Y. 1994 due, in large part, to personnel issues. Few boilers or pressure vessels were inspected in an inspectors area while that person was assigned to be acting Boiler Chief.

PLAN TO ACHIEVE TARGETS:

In September 1994, new rules were adopted to substantially reduce the difficulty in gaining access to boiler and pressure vessels in the state. Fines for non-inspection will cause owners of boilers and pressure vessels to contact the inspector and thus reduce the number of no-access complaints. The rules also cover boiler and pressure vessels that are insured, and should cause a change in the number of reports to the Division by insurance companies. This rule will make it easier for the State inspector to know if the boiler is insured or not. By utilizing the rules, the State inspectors' cost per inspection will be reduced because of better time management.

OTHER FACTORS AFFECTING PERFORMANCE:

The principal factor influencing performance is the punctuality of insurers in reporting their inspections of boilers and pressure vessels. Performance is also affected when insurers fail to report new insured vessels and/or discontinuance of policies.

The Division's computer technology is dated. It was originally programmed as a repository of data on boilers and pressure vessels. Data is overlaid onto previously entered data from the year before. This action creates a situation where no historical data exists on individual boilers or insurance company performance. Reports generated from the data, therefore, provide minimal assistance in managing the program.

AGENCY: Labor and Industry, Department of
PROGRAM: Workplace Services - Code Administrative and Inspection Services

OBJECTIVE, MEASURE

Objective 01-7: The ratio of licensed personnel to boilers, hobby boilers, and boats-for-hire will be 1:1.

Measure (01-7): Ratio of licensed personnel to boilers, hobby boilers, and boats-for-hire.
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Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Boilers:	N/A	N/A	1.80			
Target:				1.0	1.0	1.0
Hobby Boilers:	N/A	N/A	1.17			
Target:				1.0	1.0	1.0
Boats-for-hire:	N/A	N/A	5.53			
Target:				1.0	1.0	1.0

DEFINITION, RATIONALE, DATA SOURCE:

Boilers, hobby boilers, and boats-for-hire require a licensed operator present when in operation. Operators are required by law to possess current operating licenses before they may operate such equipment. The ratio of operators to vessels is the number of operators divided by the number of boilers, hobby boilers, or boats-for-hire.

Measuring the ratio of operators to vessels is a useful proxy for indicating whether the state's boilers, hobby boilers, and boats-for-hire have sufficient licensed personnel to operate them. It generally demonstrates that competent, qualified individuals are operating these vessels.

Data on these vessels and on licensed operators and pilots is collected and maintained by the Division. Boilers and hobby boilers are catalogued on the Department's computer. Boats-for-hire data is recorded and maintained in paper files. In future years, the Division will be preparing a year-end report which presents summary program data.

DISCUSSION OF PAST PERFORMANCE:

Boilers and boats-for-hire must have licensed operators in Minnesota. Computing this measure demonstrated with data, for the first time, that at least one operator is licensed for each object in the state.

PLAN TO ACHIEVE TARGETS:

The objective of having a 1:1 ratio between licensed operators to boilers, hobby boilers, and boats-for-hire is being achieved. A component of inspections is verification that a boiler, hobby boiler, or boat-for-hire is being operated by a person with a current license.

OTHER FACTORS AFFECTING PERFORMANCE:

N/A

AGENCY: Labor and Industry, Department of
PROGRAM: Workplace Services - Code Administrative and Inspection Services

OBJECTIVE, MEASURE

Objective 01-8: 100 percent of high pressure piping systems and ammonia piping systems will be in accordance with State Code on final inspection by F.Y. 1998.

Measure (01-8): Percentage of high pressure piping and ammonia piping systems certified for use on their single final inspection.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Certification Rate:	N/A	N/A	N/A			
Target:				95%	100%	100%

DEFINITION, RATIONALE, DATA SOURCE:

Minnesota law requires the Department of Labor and Industry to supervise all high pressure ammonia piping installation in the state. The initial rate of certification to operate is the annual percentage of high pressure piping and ammonia piping systems approved to operate upon a single final inspection.

Although no high pressure piping or ammonia piping system is approved to operate without a final inspection which certifies the installation was done according to the State Code, measuring the percentage of such systems certified to operate with a single final inspection does demonstrate the effectiveness of Department activities associated with supervising their installation. Among these activities are: enforcement of the Code for Power Piping Systems, which contractors are required to follow when installing a system; contractors obtaining permits prior to installation; issuing licenses to contractors and pipefitters who pass an examination to install these systems; and monitoring of system installation through preliminary and in-process inspections. It is reasonable to expect that a system can be certified with a single final inspection.

Detailed data is collected and maintained by Code Administration and Inspection Services' High Pressure Piping Unit. The data is currently compiled as part of a paper-based system. The data is not currently reported in any formal report.

DISCUSSION OF PAST PERFORMANCE:

Although the Department has not previously used this measure to monitor the performance of the program, it is something that will be used in the future.

PLAN TO ACHIEVE TARGETS:

The objective can be achieved by identifying installation projects requiring assistance, by conducting more frequent in-process inspections, and by assuring better understanding of Code requirements through use of preliminary inspections prior to installation of a system. The Unit will continue working with the state association of high pressure piping contractors to assure continued understanding of the State's Code.

OTHER FACTORS AFFECTING PERFORMANCE:

The principal factor affecting performance is the ability of contractors and pipefitters to follow the State's Code when installing a high pressure piping or ammonia piping system. Contractors' effectiveness at installing these systems is directly related to the number of systems they install.

An additional factor is represented by the attempted use of non-licensed contractors for installation and modification of high pressure piping systems. This situation becomes a problem when a project has been initiated prior to an inspection.

Materials and craftsmanship may not be consistent with the Code and may require replacing or reworking of previously installed pipes.

The size and complexity of piping systems represent a significant factor influencing performance. Bigger and more complex systems offer greater opportunities for systems to fail a final inspection on their initial examination.

The number of permits issued to install high pressure and ammonia piping systems is highly dependent on the economy and whether commercial and industrial facilities are being built. The number of in-process inspections per installation may decline when the number of sites increases. Fewer in-process inspections on a project can result in piping systems failing to be certified on their final inspection.

SUMMARY

AGENCY: Labor and Industry, Department of
PROGRAM: 01 - Workplace Services - Labor Standards Division

EXPENDITURES AND STAFFING (F.Y. 1994)

(\$ in Thousands)

Total Expenditures:	\$ 463	1 % of department's budget
From State Funds	\$ 463	
From Federal Funds	\$ 0	
 Number of FTE Staff:	 12	 3 % of department's staff

PROGRAM GOALS:

- Assure employer compliance with the Minnesota Fair Labor Standards Act and the Child Labor Standards Act and other appropriate employment-related laws. (M.S. 177.27; M.S. 181A; M.S. 181.9435; M.S. 181.966; M.S. 181.13; M.S. 181.14)
- Provide accurate, timely prevailing wage determinations for State-funded construction projects. (M.S. 177.41)
- Assure that employment and entertainment agencies in Minnesota are licensed and operating pursuant to State law. (M.S. 184.24, M.S. 184A.02)

DESCRIPTION OF SERVICES:

The Labor Standards Division exists to assure employer compliance with several employment laws and to assure that employment and entertainment agencies are licensed and operating in accordance with State law. Employment laws within its jurisdiction are: the Minnesota Fair Labor Standards Act (MFLSA); Child Labor Standards Act (CLSA); and miscellaneous employment laws such as Employee Access to Personnel Records, Parenting Leave, and Prompt Payment of Wages.

The Division principally investigates complaints alleging employer violation of Minnesota's Fair Labor Standards Act and Child Labor Standards Act. The MFLSA was enacted in 1973 to safeguard minimum wage and overtime standards for employment in Minnesota. The Child Labor Standards Act was likewise enacted in 1973 to aid in the economic and social development of young people through employment. The Division has the authority to assess penalties on employers found in violation of these state laws.

The Division is also responsible for determining the prevailing wage rates which must be included in State and local government bid documents for public building and road construction projects subject to Minnesota's prevailing wage laws. The prevailing wage rates are determined by a survey of commercial and highway/heavy construction projects statewide. Contractors, labor organizations and other interested parties are surveyed to determine the largest number of workers in a class of labor (i.e., trade) paid the same rate in a given area. An "area" is defined as a county or an adjacent county. The

result is the determined prevailing wage rate. Surveys are conducted once per year for highway/heavy construction projects and once every six months for commercial construction projects. Contractors awarded state-funded projects are required to pay the certified prevailing wage as determined by the survey.

Regulation of fee employment agencies and entertainment agencies is also a Division responsibility. Principal activities of the Division are issuance of licenses to fee employment agencies and their staffs; investigation of complaints; and examining the competency of individuals to manage such an agency. Fee employment agencies charge applicants and/or employers a fee to procure employment or find employees respectively. Search firms, which charge fees to employers, are excluded from the licensing requirements but must register with the Division. Licensing of entertainment agencies, which procure engagements for musical artists, became a Division responsibility in 1984.

The Division acts as a information resource on Minnesota's employment laws. It provides the public access to information on the rights of employees and obligations of employers under State employment laws. The Division offers a continuously staffed telephone answering service in which inquiries of workers and employers about employment laws are answered. Brochures on laws pertaining to minimum wage, overtime, child labor, parenting leave, record keeping and age discrimination are available to the public, without cost, upon request. Division staff also gives speeches, conducts seminars, and makes presentations throughout the state on employment law issues to groups ranging from business groups to labor organizations.

BACKGROUND INFORMATION:

MEASURES OF ACTIVITIES (A), WORKLOAD (W), UNIT COSTS (UC), OTHER DATA (O)

<u>Type</u>	<u>Measure</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>
<i>Employment Law Activities</i>			
A	No. of employees covered by employment laws (est.) (Source: Department of Economic Security)	2,139,099	2,189,796
W	No. of complaints investigated	148	150
W	No. of claims for final payment of wages investigated	300	400
W	No. of inquiries from workers and employers (est.)	70,000	83,000
W	No. of speeches and presentations made by staff	24	37
O	Inquiry rate (per 1,000 employees)	33.1	39.2
O	Average number of investigations per investigator	74	91
O	Average number of inquiries per investigator	8,750	10,375
UC	Average cost per investigation	\$243	\$200
UC	Average cost per inquiry	\$1.55	\$1.30
<i>Prevailing Wage Activities</i>			
A	No. of contractors	6,100	6,129
A	No. of union locals	232	232
A	No. of state and county officials	1,100	1,100
W	No. of highway/heavy certifications issued	3,981	3,593
A	No. of commercial construction projects	650	900
<i>Employment and Entertainment Agency Activities</i>			
A	No. of licensed fee employment agencies	25	26
W	No. of complaints investigated	4	2

<u>Type</u>	<u>Measure</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>
A	No. of registered agency managers	41	44
A	No. of registered counselors	31	64
A	No. of registered search firms	230	245
A	No. of licensed entertainment agencies	1	2

PROGRAM DRIVERS:

- **Minnesota Legislature.** Legislators frequently respond to employment situations that confront constituents by proposing changes to employment laws. Recently enacted laws include parenting leave, personnel records, drug testing, and child labor work curfew. The Department may be assigned responsibility to enforce or administer a law following its original enactment. An example of this is the 1994 assignment to enforce the personnel records law by investigating alleged violations and assessing fines.
- **Minnesota Fair Labor Standards Act.** The Act covers all enterprises in the state and varies from the Federal Fair Labor Standards Act. Minnesota's law provides the same minimum wage for all employees whether adult or minors. Federal law allows the minimum wage to be 20 percent less for students. The second difference relates to the use of a "tip credit" which permits employers to pay tipped employees, such as restaurant wait staff, a subminimum wage. Minnesota prohibits this practice while the Federal government permits it.
- **Minimum Wage.** Periodic increases in the State's minimum wage are passed by the Legislature. When such increases become law prior to a comparable increase in the Federal minimum wage, or to the extent the two minimum wages differ, this Unit has the responsibility to enforce the variances in the laws. Enforcement of a State minimum wage that is higher than the federal minimum wage is the sole responsibility the Department of Labor and Industry. The U.S. Department of Labor is responsible for enforcing the federal minimum wage -- not state minimum wages.
- **Contingent Workforce.** Part-time and temporary workers are increasingly being used by employers in several industries to make products and provide services. Use of such workers permits employers to avoid providing employee benefits such as health insurance coverage, pensions, and various legally required benefits such as parenting leave.
- **Automated Payroll Systems.** Computerized automated payroll systems are used by most employers to pay workers' wages and to keep track of tax and benefit deductions. Many employers use third-party vendors to perform this administrative function. Payment of wages under these systems occurs on a regular schedule which may be weekly, biweekly, or semimonthly. Such systems are incapable of making final payment of wages within 24-hours of a worker being discharged.
- **Employment of Minors.** Employment of minors has experience tremendous growth over the past several years. A recent report of the U.S. Department of Health stated that the United States has more of its children in the work force than any other affluent country. Minor employees are the major source of non-skilled employees of the rapidly growing fast-food industry. The increasing number of single-parent families has caused many minors to work in support of the family.
- **Funding of Road and Public Building Construction.** The level of federal, state, and local funds allocated to road and public building construction determines the number of actual projects subject to the prevailing wage.
- **Collective Bargaining Agreements.** Unionized employers in the construction industry employ workers according their respective collective bargaining agreements. The hourly rate of pay specified in an agreement frequently represents the prevailing wage for a given trade. Collective bargaining agreements which raise the hourly rate of pay tend to subsequently impact the prevailing wage for that trade.

- **Expansion of Employment Search and Outplacement Firms.** Fee employment agencies, which charge workers for their service, are declining in numbers as more employment and executive search firms and outplacement firms are established. Executive and employment search firms work for employers with the purpose of locating qualified candidates for job openings. The cost of such searches are typically based on a percentage of the job's first-year compensation. Outplacement firms contract with employers who are cutting their workforce to provide impacted workers with a variety of services that will enable them to obtain replacement employment.
- **Employer Compliance.** Most employers comply with Minnesota's child labor laws, and wage and hour requirements. Those that do violate State law tend to fail to pay the minimum wage and overtime rates to employees. Others refuse to pay final wages owed to workers when the employment relationship ends. Inquiries from employees and employers regarding obligations of employers annually exceed 60,000.

AGENCY: Labor and Industry, Department of
PROGRAM: Workplace Services - Labor Standards

OBJECTIVE, MEASURE

Objective 01-9: Achieve an average of 75 days per investigation of alleged violations of the Minnesota Fair Labor Standards Act and other appropriate employment laws.

Measure (01-9): Average days per investigation.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Average Investigation Length (days):	136	87	75			
Target:				75	75	75

DEFINITION, RATIONALE, DATA SOURCE:

Complaints formally filed with the Division regarding violations of Minnesota's Fair Labor Standards Act and Child Labor Standards Act are required to be investigated and penalties assessed when appropriate. Average investigation length is the sum of the total number of calendar days taken to complete an investigation divided by the total number of investigations completed during the fiscal year. Measuring the average length an investigation takes demonstrates promptness of response by the Department. Detailed data on investigations is collected and maintained by the Division.

DISCUSSION OF PAST PERFORMANCE:

The Division has historically been able to achieve an average of 75 days per investigation. Fiscal years 1992 and 1993 exceeded that level due primarily to fewer staff available to investigate alleged violations of the law.

PLAN TO ACHIEVE TARGETS:

The Division is becoming computerized in its operations. Staff will be better able to promptly investigate allegations against employers with this technology.

OTHER FACTORS AFFECTING PERFORMANCE:

The length of investigations is highly dependent on the number of formal complaints filed with the Division and the staff allocated to perform this activity.

Statutory changes have provided higher standards under Minnesota's Fair Labor Standards Act than under the Federal Fair Labor Standards Act regarding both minimum wage and child labor laws. Because of budget requirements, labor investigators who have left employment have not been replaced to cover the increased workload.

AGENCY: Labor and Industry, Department of
PROGRAM: Workplace Services - Labor Standards

OBJECTIVE, MEASURE

Objective 01-10: 100 percent of requested prevailing wage determinations will be made within the 60-day statutory timeframe.

Measure (01-10): 100 percent of prevailing wage determinations for commercial construction projects are made within 60 days of formal request.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Commercial Projects						
Timely Determinations:	100%	100%	100%			
Target:				100%	100%	100%

DEFINITION, RATIONALE, DATA SOURCE:

State law requires the Division to promptly issue prevailing wage rates for applicable construction projects when requested by State or local government agencies. Timely determinations are computed by dividing the number of determinations issued within 60 days by the total number of requests submitted to the Division. Measuring whether the Division issues determinations within the required timeframe demonstrates actual compliance with State law. A more preferable measure is the average length of time it takes to make a determination for the construction projects. That date is not readily available. Detailed data on prevailing wage rate requests and determinations is maintained by the Division on paper.

DISCUSSION OF PAST PERFORMANCE:

The Division has met the requirements for issuing certifications of prevailing wages by providing them for counties in which projects are being constructed.

PLAN TO ACHIEVE TARGETS:

The Division intends to improve its use of personal computers to assure timely issuance of certifications of prevailing wages for individual projects. A statistical program compatible with project-by-project certification on commercial determinations needs to be developed.

OTHER FACTORS AFFECTING PERFORMANCE:

Contested rate petitions may result in variables in rate certifications.

AGENCY: Labor and Industry, Department of
PROGRAM: Workplace Services - Labor Standards

OBJECTIVE, MEASURE

Objective 01-11: Annually license and register 100 percent of search firms, fee employment agencies, and their counselors and managers.

Measure (01-11): Percentage of registered search firms, licensed fee employment agencies, and licensed entertainment agencies.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Lic. Fee Employment Agencies:	100 %	100 %	100 %			
Target:				100 %	100 %	100 %
Registered Search Firms:	100 %	100 %	100 %			
Target:				100 %	100 %	100 %
Lic. Entertainment Agencies:	N/A	N/A	N/A			
Target:				100 %	100 %	100 %

DEFINITION, RATIONALE, DATA SOURCE:

State law requires fee employment agencies and their managers and counselors to be licensed in Minnesota. Search firms are required to be registered with the Division. Statutorily defined entertainment agencies are required to be licensed before they may operate in Minnesota. This rate of licensing and registration is the number of licensed or registered agencies divided by the total number of such previously registered agencies in the state multiplied by 100. Measuring the percentage of these organizations appropriately licensed or registered with the Division is an indicator of their compliance with State law. Use of this measure permits monitoring of agency license renewal. Detailed data is maintained in Division files. Data for this report comes from the department's computers.

DISCUSSION OF PAST PERFORMANCE:

The Division has maintained a 100 percent licensure and renewal rate for fee employment agencies for several years. This is due to the timely distribution of license renewal material and the prompt response of most agencies. License renewals usually occur within 30 days of the expiration date.

Licensing of entertainment agencies has been less successful. There are very few entertainment agencies that meet the statutory definition. The vagueness of the law has also contributed to few such agencies being licensed with the Division.

PLAN TO ACHIEVE TARGETS:

The Division will continue its fee employment agency licensing and search firm registration renewal procedures. Additionally, the Division will explore ways of updating current computer support of this activity to improve efficiency. The Division will also ask the Legislature to either repeal the Entertainment Agency statute or provide clarification sufficient to make the law effective.

OTHER FACTORS AFFECTING PERFORMANCE:

- There is a high turnover rate among search firms. This situation requires the Division to closely monitor the employment search firm industry for new agencies.

- Entertainment agency licenses are renewed by birthdate rather than an annual date set by the Division, resulting in complications in coordinating the renewal procedures. Also the lack of statutory authority to intervene in disputes between artists and entertainment agencies results in agencies ignoring the authority of the Division.

SUMMARY

AGENCY: Labor and Industry, Department of
PROGRAM: 01 - Workplace Services - OSHA Compliance and Workplace Safety Consultation

EXPENDITURES AND STAFFING (F.Y. 1994)

(\$ in Thousands)

Total Expenditures:	\$ 4,916	4% of department's budget
From State Funds (Special Compensation Fund)	\$ 2,139	
From Federal Funds	\$ 2,777	
Number of FTE Staff:	80	21% of department's staff

PROGRAM GOALS:

- To assure safe and healthful working conditions for Minnesota's workers (M.S. 182.65, subd. 2).

DESCRIPTION OF SERVICES:

OSHA Compliance and Workplace Safety Consultation exist to assure safe and healthful working conditions for all Minnesota workers. Both activities are authorized under Federal law. Minnesota established its own programs in 1973.

The Williams-Steiger Occupational Safety and Health Act of 1970 (Public Law 91-596) established the Federal Occupational Safety and Health Administration (Federal OSHA). Provisions were included in the law that allow states to develop their own OSHA enforcement program. It also allows the Secretary of Labor to enter into agreements with states for the purpose of establishing state consultation programs. The Congressional intent was to establish two separate and independent safety and health programs. Funding for the enforcement program is on a 50/50 basis (50 percent Federal funds and 50 percent State funds) while funding for the consultation program is 90/10 (90 percent Federal funds and 10 percent State funds).

In 1973, the Minnesota Legislature passed the Minnesota Occupational Safety and Health Act (M. S. Chapter 182) which established Minnesota's Occupational Safety and Health Program in accordance with Section 18 of the Federal OSHA Act for the purpose of ensuring safe and healthful working conditions for Minnesota's employees, promoting occupational safety and health, and providing direction and support to employers in meeting their obligations under the Minnesota Occupational Safety and Health Act through training and education.

OSHA Compliance conducts enforcement inspections statewide and issues citations and proposed penalties, where appropriate; investigates workplace fatalities and accidents to determine the cause and to prevent recurrence; provides employers with information and technical assistance in reducing or eliminating hazards from the workplace; encourages voluntary compliance and joint labor-management efforts to reduce injuries and illnesses; conducts and/or participates in occupational safety and health training and education seminars and conferences; develops and distributes written compliance

guides to assist employers in meeting the requirements of OSHA standards; and adopts new standards to provide compliance guidelines.

Workplace Safety Consultation provides non-enforcement safety and health consultative services statewide, at no cost, to requesting employers to help them prevent or reduce the occurrence of injuries and illnesses which may result from exposure to hazardous workplace conditions or from hazardous work practices; responds to employers' requests for assistance in understanding and voluntarily complying with safety and health standards; provides on-site and off-site technical assistance in standards interpretation; encourages compliance through employer/employee participation in safety and health loss prevention programs; and provides additional assistance through training and education sessions for employers and their employees.

While OSHA Compliance and Workplace Safety Consultation share a common goal, each activity uses different means for attaining that goal. OSHA Compliance conducts enforcement inspections of workplaces, adopts safety and health standards, and provides training and education to employers. All employers, with the exception of Federal facilities and those under exclusive Federal jurisdiction (such as interstate commerce (ICC) and airlines (FAA)), are subject to enforcement inspections by OSHA Compliance. High-hazard industry employers are a priority for inspection. They include those employers in an industry which is among the top 200 in number of serious violations per OSHA inspection and therefore appear on the Federal planning guide list of companies to be inspected. Inspections are scheduled for employers which have had four or more lost work time cases for workers' compensation within the past 12 months or when an employer is experience rated by the Workers' Compensation Insurers Association as having an experience modification rating of 1.1 or greater. Workplace Safety Consultation provides non-enforcement safety and health consultation services at no cost to requesting employers and provides training and education for employers. Small employers (1-500 employees) in high-hazard industries, who might not otherwise have assistance in their efforts to reduce the human and financial costs of job-related injuries and illnesses, are specifically targeted in promotional activities and given highest priority in scheduling inspections.

OSHA Compliance must meet the Federal OSHA mandate to maintain a program that is at least as effective as the federal program. This includes a requirement to adopt and enforce safety and health standards that are at least as effective as Federal OSHA standards. These standards form the basis for determining whether employers have met their obligation under the OSH Act to maintain a safe and healthful workplace. When OSHA Compliance and OSHA Workplace Safety Consultation identify a hazard which is a violation of standards, the violation is classified as either serious or nonserious, depending upon whether an injury is likely to result from the violation and how serious the most likely injury would be. There are also two other classifications for violations: willful and repeat. A violation is cited as willful when the employer either knows of the hazard, or should have known, and refuses to either correct it or halt the unsafe/unhealthy activity. A repeat violation is issued when an employer had been cited for a violation of the same standard within the previous three years; repeat violations may be either serious or nonserious. Following an OSHA Compliance inspection where violations were observed, the employer receives a citation and notification of proposed penalty which lists all violations found during the inspection, grouped by classification - e.g. all serious violations in one citation, all nonserious in one citation, etc. Penalties are calculated following established criteria that take into consideration the severity and probability ratings of the violation and allow credits for good faith, size, and history. Maximum penalties are established by statute.

OSHA Compliance and Workplace Safety Consultation share a responsibility to educate employers and employees about the importance of maintaining a safe and healthful work environment. Both activities support and encourage employer and employee participation in safety and health loss prevention programs, assist employers and employees in understanding and complying with OSHA standards through training and education, and encourage joint labor-management committees.

BACKGROUND INFORMATION:**MEASURES OF ACTIVITIES (A), WORKLOAD (W), UNIT COSTS (UC), OTHER DATA (O)**

<u>Type</u>	<u>Measure</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>
<i>OSHA Compliance</i>			
W	Number of workers under Minnesota OSHA jurisdiction (est.)	2,093,400	2,143,000
A	Number of inspections conducted by Minnesota OSHA	2,667	2,584
A	Number of violations cited by Minnesota OSHA Compliance	7,455	6,445
	Serious	2,205	2,187
	Willful	14	39
	Repeat	62	95
A	Number of outreach events given by Minnesota OSHA	176	137
A	Number of workers covered by Minnesota OSHA inspections	136,657	146,851
A	Number of individuals attending Minnesota OSHA outreach	9,228	12,556
A	Penalties collected by Minnesota OSHA	\$1,340,167	\$1,302,423
UC	Total cost per Minnesota OSHA inspection or outreach	\$1,387	\$1,467
UC	Net cost in State funds per Minnesota OSHA inspection or outreach (less: Federal funding and penalties collected)	\$221	\$255
<i>Workplace Safety Consultation</i>			
A	Number of consultations conducted	541	281
A	Number of training/education sessions	58	94
A	Number of workers covered	27,380	29,304
O	Impact on consultation to employees in penalties savings (hazards identified and eliminated)	\$695,000	\$435,000
UC	Total cost per consultation visit and training and education sessions	\$891	\$1,468
UC	Net cost in State funds per consultation visit or training/education session	\$89	\$147

PROGRAM DRIVERS:

- **Federal OSHA Action.** In order to maintain Minnesota's status as an approved state plan (i.e., one that is determined to be "at least as effective as" as the Federal OSHA program), OSHA Compliance and Workplace Safety Consultation are required to adopt and/or implement programs and standards that meet Federal criteria. OSHA reform is being debated in Congress at the present time and will most likely result in new programs and new measures of effectiveness.
- **Technological Advancements.** Technological advancements in the workplace will change the way OSHA approaches workplace safety and health issues. The challenges created by advanced technology require flexibility and future-oriented planning. Technological advancements have provided industry with new and better ways of doing the job faster, more efficiently, and, in some cases, more safely. However, the new machines and equipment have also created new hazards — mechanical parts that need to be guarded or covered to prevent accidental employee contact; switches that need to be accessible to employees but guarded from unintentional activation; complex mechanical and/or electronic systems that need periodic inspections and maintenance; new processes that create unanticipated toxic dusts or chemical exposures; etc. In some cases, the new way may not necessarily be the safest way, so OSHA Compliance and Workplace Safety Consultation must be prepared to meet the needs of evolving workplace technology to ensure safe and healthful working

conditions and work practices for all Minnesotans. The challenge is to keep safety and health investigators and consultants up-to-date with constantly changing technology.

- **Emergence of New Hazards.** New technology will undoubtedly create new hazards. Scientific and medical research will continue to uncover previously unidentified hazards. Existing standards may not be effective in dealing with these hazards and new standards will have to be developed. For example, scientific and medical research have brought awareness of the health hazards associated with exposure to asbestos, lead, formaldehyde, high voltage and numerous other substances. Once identified, these hazards needed to be eliminated. Standards were developed to provide guidance to employers and safety and health investigators and consultants. Another example of research and technology that has affected the workplace is the emphasis on ergonomic adjustment. The day-to-day operations of many workplaces have changed because of new information about work station design, work processes and procedures, etc. Some changes resulted in safer, more healthful working conditions; but some created cumulative trauma disorder problems. It is essential that OSHA Compliance and Workplace Safety Consultation are ready to help employers in determining the appropriate changes for their workplaces.
- **Budget and Resources Constraints.** Budgeting constraints placed on the department require thorough planning and innovative management techniques. Limited funds and personnel resources must be carefully appropriated and assigned if the mandates of Federal OSHA and the Minnesota Legislature are to be met while meeting the needs of Minnesota's employers and employees. One new and innovative approach to managing under budget constraints was implemented by Minnesota OSHA approximately two years ago--team management. The former hierarchy of management (i.e., the Director and Assistant Director) was eliminated and management of the Minnesota OSHA program became the responsibility of the OSHA Management Team (OMT), a self-directed work team consisting of six area supervisors. The OMT works on the premise that those closest to the work know the best way to do that work. The OMT has formed several sub-teams composed of division personnel to address varying aspects of Minnesota OSHA's functions and responsibilities, thereby involving all division personnel in the administration of the program.
- **Workforce Demographics.** Minnesota's seasonally adjusted unemployment rate for May, 1994, is 3.5 percent, down from 4.2 percent in April and 5.2 percent one year ago. This is the lowest rate since January 1978 and is considerably lower than the national rate of 6 percent in May, 1994. The number of nonfarm wage and salary jobs in Minnesota is up 58,400 from one year ago; this is 20 percent greater than the 10-year average job increase. Construction experienced a 4.7 percent increase in new jobs in the past year. As the unemployment rate drops and the number of new workers in the workplace increases, the potential for more accidents and injuries increases. New and inexperienced workers are not always properly trained in the safest way to perform a task before being allowed to begin work, increasing the possibility of an accident occurring. Inexperienced workers make mistakes that can result in accidents and injuries. As the number of workers increases, the potential for injuries increases, resulting in higher injury rates.

AGENCY: Labor and Industry, Department of
PROGRAM: Workplace Services - OSHA Compliance and Workplace Safety Consultation

OBJECTIVE, MEASURE

Objective 01-12: Reduce the Lost Workday Case Incidence Rate to 3.7 by 1997.

Measure (01-12): Bureau of Labor Statistics' Lost Workday Case Incidence Rate.
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Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Lost Workday Case Incidence Rate:	3.9	3.9	3.875			
Target:				3.85	3.825	3.8

DEFINITION, RATIONALE, DATA SOURCE:

Minnesota OSHA is charged with assuring, "so far as possible, every working man and woman in the State of Minnesota safe and healthful working conditions." A reduction in the number of workplace injuries and illnesses which have resulted in lost work time will demonstrate that, in response to Minnesota OSHA's efforts, workplaces are becoming safer, because a safe and healthful workplace has fewer and less serious accidental injuries and/or illnesses.

There are currently about 84,100 workplace injuries and illnesses which have resulted in a loss of one or more days of work time or in one or more days of restricted activity each year. The Minnesota workforce which is subject to Minnesota OSHA regulation is about 2,143,000 workers. The Lost Workday Case Incidence rate (LWDCI) is the U.S. Department of Labor's Bureau of Labor Statistics' measure of the annual number of cases per 100 workers of workplace injury and illness which are serious enough to prevent the affected worker from working or performing his/her regularly assigned duties. The LWDCI rate is currently 3.8 ((Lost Worktime Injuries & Illnesses / Total Workers) x 100). Reducing the annual number of lost worktime injuries and illnesses by 2,200 by the year 1997 represents a 2.5 percent annual reduction of the overall number of such injuries and illnesses, and will translate to an LWDCI rate of 3.8.

DISCUSSION OF PAST PERFORMANCE:

When the Minnesota OSHA program was established in 1973, the number of injuries and illnesses resulting in lost time per 100 full-time workers in Minnesota was 4.6 while the national average was 4.3. In 1985 when the Minnesota OSHA had satisfactorily met all criteria for a Federally certified state OSHA program, the lost workday incidence rate had dropped to 3.4 with the national rate at 3.6. In 1992, the last year for which comparative data is available, the rate for Minnesota and the nation was 3.9.

In addition, the number of workplace fatalities inspected by Minnesota OSHA has also continued to decline. There were 27 fatalities in 1992 as compared to 31 in 1985 and 55 in 1979. These figures include only those occupational fatalities over which Minnesota OSHA has jurisdiction. They do not include fatalities resulting from such things as traffic accidents, heart attacks, mining accidents, suicides, and homicides. This improvement was achieved at the same time employment grew from approximately 1.6 million workers covered by Minnesota OSHA in 1979 to 2.2 million covered in 1993.

PLAN TO ACHIEVE TARGETS:

Minnesota OSHA intends to place a greater emphasis on service through outreach to the employers and employees of the State. While Minnesota OSHA has always attempted to raise the consciousness of workplace safety and health through outreach/education, the principal effort has been in safety and health enforcement. Minnesota OSHA intends to take a more pro-active stance and promote workplace safety and health with a vigorous outreach effort. That has meant recently hiring a full-time Outreach Coordinator who will be reviewing and improving all the publications which are available for distribution in outreach events. Currently, there are no target numbers of outreach events. Rather, the focus of this effort will be to

organize and improve the quality of what has been, heretofore, an ad hoc activity. This is expected to affect Minnesota OSHA's enforcement activity by a decline of up to 5 percent per year in the number of inspections conducted. This decline will occur as investigative staff are encouraged to schedule the time necessary to prepare effective outreach presentations.

Workplace Safety Consultation intends to place a greater importance on the assistance provided to small high-hazard employers through: (1) improved program-assistance strategies to reduce workers' compensation costs; (2) increased number of on-site/off-site consultations; and (3) improved targeting of employers/employees and trade and business associations for training and education assistance. Workplace Safety Consultation will improve overall services to all Minnesota employers by installing a computer network for all employers to access safety and health information, such as Minnesota Statutes Chapter 182 (Occupational Safety and Health Act of 1973), Minnesota OSHA Rules, Federal OSHA Standards, standards interpretations and the division newsletter. This on-line computer system will greatly enhance our information providing capabilities to our clients.

OTHER FACTORS AFFECTING PERFORMANCE:

- **Changes to the BLS Survey.** Potential changes in the Bureau of Labor Statistic's data collection process would affect the type and amount of data that is collected and reported. Considerable delays in reporting Minnesota and national BLS data prevent the availability of "current year" data. In fact, at the current rate of data reporting, data for the year 1997 will not be available before late 1999 or early 2000.
- **Staffing Levels.** Minnesota OSHA staffing levels are dependent upon Federal and State appropriations, which affect the number of inspections and consultations that can be conducted each year and the availability of employer assistance through outreach, education, and training efforts.
- **Potential for Population Coverage.** Annually Minnesota OSHA inspections and consultations cover the workplaces of approximately 176,000 workers. That is only about 6.7 percent of the eligible population of workers. At that rate of coverage, it would take about 15 years to inspect the workplaces of all the workers for whom Minnesota OSHA has jurisdiction. In reality, it would take much longer since there is a great deal of reinspection which takes place in the most hazardous and non-compliant workplaces. This is due to several factors: Some workplaces are reinspected to monitor the abatement of serious hazards; many workplaces are in the Federal OSHA "High Hazard" list and are scheduled for frequent reinspection; and large construction sites are usually inspected several times, to involve all the subcontractors who work on a site at different times. The result is that some workplaces are inspected regularly, while others, due to the low level of hazards, may never be inspected.
- **The Economy and Safety.** Economic prosperity usually brings a large number of inexperienced workers into the workplace. While that is an economic advantage, new workers are the workers most at risk for injury because they are less familiar with processes, procedures and equipment.
- **Industrial Changes.** Changes in industrial processes and technology also affect the objective. Introduction of a new technology places everyone in an industry in the position of being inexperienced and at greater risk for injury. Changed processes and technology can also introduce hazards which were not previously encountered in a particular industry.
- **Program Changes in Federal OSHA.** Changes in the Federal OSHA program will affect the way Minnesota OSHA pursues its objective. For instance, Minnesota OSHA must follow the Federal OSHA lead in penalties for violations of standards. Such a change of penalties will, as it has in the past several years, affect the number of contested citations and, therefore, the amount of resources which must be diverted from investigation to litigation.

SUMMARY

AGENCY: Labor and Industry, Department of
PROGRAM: 02 - Workers' Compensation Division

EXPENDITURES AND STAFFING (F.Y. 1994)

(\$ in Thousands)

Total Expenditures:	\$ 96,553	87% of department's budget
From State Funds (Special Compensation Fund)	\$ 96,553	
From Federal Funds	\$ 0	
Number of FTE Staff:	171	45% of department's staff

PROGRAM GOALS:

- To assure the quick and efficient delivery of proper benefits to injured workers at a reasonable cost to employers. (M.S. 176.001).
- To resolve all disputes fairly and equitably in the shortest possible time. (M.S. 176)
- To meet the annual financial obligations of the Special Compensation Fund. (M.S. 176.129)

DESCRIPTION OF SERVICES:

Minimizing the impact of work-related injuries and disease on employers and employees is the purpose of Minnesota's workers' compensation program. The Workers' Compensation Division is responsible to administer the State's workers' compensation system in which the actual services are provided predominately by the private sector. Among benefits and services provided injured workers are medical care, rehabilitation assistance, and partial replacement of lost wages. Employers pay for these services through premiums to insurance companies or directly if they self-insure against work-related injuries. The Division is primarily responsible for providing oversight and resolving problems with employee claims for benefits.

For workers injured while at work, there are the following types of benefits:

- Indemnity benefits that provide temporary partial replacement of lost wages during the period the employee is unable to work or unable to earn as much income as the pre-injury wage. Specific benefits include Temporary Total and Temporary Partial benefits.
- Medical benefits that pay all the reasonable current and future health care costs arising from or connected to the evaluation and treatment of a work-related injury.

- Rehabilitation benefits that include costs associated with job placement, vocational counseling, evaluation and testing, on-the-job training, vocational or college education, or other activities necessary to prepare an employee for return to a pre-injury job or a new job.
- Payments resulting from permanent loss of or damage to one or more body parts (i.e., hand, leg, back, shoulder, etc.). These benefits may take the form of Permanent Partial Disability Benefits which provide payment based on a disability rating or Permanent Total Disability Benefits which are paid when a worker cannot return to suitable employment.
- Death benefits are paid as wage replacement benefits to the spouse and dependents of an employee who dies because of a work-related injury or disease.

Payments to injured workers are made by insurers or the self-insured employer. The Division monitors the accuracy and timeliness of payments made by insurers to qualified claimants. It also issues warnings and penalty assessments to insurers, to emphasize the importance of complying with effective, efficient, and accurate processing of worker claims.

Although the vast majority of workers' compensation claims are uncontested and involve no disputes, there are a significant number requiring intervention to resolve problems arising out of the claim for benefits. Disputes can arise at the time a claim is filed or throughout the period a claim is active. Disagreements often occur over whether the injury is work-related or for such issues as the extent of disability, medical and rehabilitation issues, and when to discontinue benefits.

The Division utilizes various methods to resolve workers' compensation problems and disputes, including:

- Timely, accurate responses to inquiries from injured workers about their claims and from employers about issues they may have with the system.
- To assist the parties to a workers' compensation claim mediate a resolution to their dispute. Mediation sessions are alternatives to formal litigation and may address medical and rehabilitation issues, disputes over primary liability, and full or partial closeouts of entire claims. Participation is voluntary and focused on reaching a fair settlement of the issues that are mutually agreeable to all parties.
- Administrative conferences to resolve disputes involving the discontinuance of weekly indemnity benefits, or medical and rehabilitation issues such as: the appropriateness of medical treatment; reasonableness of medical fees; change of treating doctor; whether the treatment provided was for a condition arising from a work injury; eligibility for rehabilitation services; appropriateness of a proposed rehabilitation plan; and change of a qualified rehabilitation consultant.
- The use of more formal settlement conferences which are administrative law sessions focused on settling a dispute between an insurer and a claimant. These conferences represent the start of formal litigation and primarily address benefit issues. The most frequently disputed issue addressed in settlement conferences, excluding attorney's fees, is permanent partial disability benefit decisions.

A compensation judge with the Office of Administrative Hearings (OAH) considers unresolved issues and appeals of Division decisions. OAH has had the responsibility for adjudicating contested workers' compensation claims since 1981. Its decisions may be appealed to the Workers' Compensation Court of Appeals. The State Supreme Court is the final body which may consider workers' compensation disputes.

The Department's Special Compensation Fund, authorized under M.S. 176.129, is located within the Division. It administers several activities specified in state law. The Fund verifies whether employers have workers' compensation liability insurance. It enforces employer compliance with the mandatory coverage requirements specified in State law. The Fund is similar to a small insurer in its responsibility to manage benefit claims arising from employment with uninsured and bankrupt self-insured employers. It also reimburses employers' benefit costs associated with certain types of catastrophic cases (i.e., supplementary benefits) and subsequent injury claims (i.e., second injury). An employer's insurer receives the reimbursement and credits it against the employer's account. The Fund ensures that Fund assessments on insurers and self-insurers are properly calculated and paid. The Targeted Industries Fund is managed by the Fund and provides Minnesota

loggers necessary safety training to reduce the potential for injury on the job. The Fund also monitors the professional conduct and accountability of health care and rehabilitation providers to the workers' compensation system.

Funding of State administrative costs within Minnesota's workers' compensation system is derived from three sources. They include assessments on Minnesota employers based on premium, payments from employers in lieu of dependency benefits in cases of work-related deaths of workers with no dependents, and recoveries from uninsured employers and the assets of bankrupt self-insured employers and their sureties. There have been no general fund appropriations to the Department for administration of the workers' compensation system since 1990.

BACKGROUND INFORMATION:

MEASURES OF ACTIVITIES (A), WORKLOAD (W), UNIT COSTS (UC), OTHER DATA (O)

Type	Measure	F.Y. 1993	F.Y. 1994
<i>Workers' Compensation Claims</i>			
A	Total number of claims	204,589	208,131
A	No. of claims opened	62,027	62,349
A	No. of claims reopened	12,402	13,785
A	No. of claims closed	72,592	84,212
A	No. of claims denied	10,408	11,184
W	No. of inquiries answered	88,245	82,156
W	No. of claims files being tracked	N/A	723,047
W	No. of copies made	N/A	441,192
<i>Benefits</i>			
O	Maximum Weekly Benefit Amount	\$508.20	\$516.60
O	Minimum Weekly Benefit Amount	\$96.80	\$98.40
O	Supplementary Benefit Rate	\$314.60	\$319.80
O	Annual Benefit Adjustment	4.00%	1.65%
O	Median Permanent Partial Disability Rating (% of body)	3.61%	3.66%
O	Average duration of Temporary Total Benefits (weeks)	12.35	13.73
O	Average duration of Temporary Partial Benefits (weeks)	21.30	28.30
O	Employer cost per \$100 of payroll	\$2.01	N/A
O	Total benefit cost per \$100 of payroll	\$1.54	N/A
<i>Uninsured Workers' Compensation</i>			
A	No. of total uninsured claims open	2,601	3,365
A	No. of uninsured claims accepted	271	231
A	No. of uninsured claims denied	81	57
A	No. of uninsured employers identified	345	279
O	Benefit amount paid on uninsured claims (in thousands)	\$12,345	\$12,533
<i>Vocational Rehabilitation - Labor & Industry Staff</i>			
A	No. of claimants served by DOLI	1,220	1,036
W	No. of rehabilitation plans filed by DOLI	319	232
UC	Average cost of closed rehabilitation plans (DOLI)	\$1,800	\$1,994

1994 Annual Performance Report

<u>Type</u>	<u>Measure</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>
O	Average duration of closed rehabilitation plans (days)	300	411
<i>Vocational Rehabilitation - Vendors and Department</i>			
A	No. of registered Qualified Rehabilitation Consultants (QRC)	526	452
A	No. of QRC firms	138	143
A	No. of rehabilitation plans filed	5,986	2,718
A	No. of plan closures	7,413	4,112
A	No. returned to work	5,417	1,810
O	Average cost of QRC and Placement	\$4,914	\$6,300
O	Average duration of closed plans (days)	522	686
<i>Dispute Resolution and Litigation (F.Y.)</i>			
A	No. of Requests for Assistance filed	12,760	11,493
A	No. of Claim Petitions filed	8,309	7,955
A	No. of Small Claims Court Petitions filed	0	1
A	No. of Claims for Contribution or Reimbursement filed	433	373
A	No. of Petitions for Permanent Total Status filed	47	43
W	No. of disputes/litigation resolved	13,644	12,752
W	No. of disputes/litigation certified to OAH	6,065	5,375
W	No. of disputes/litigation certified to WCCA	26	35
W	No. of stipulations issued	3,374	4,098

PROGRAM DRIVERS:

- **Legislative Reforms.** Legislative amendments over the past 20 years have dramatically changed Minnesota's workers' compensation system. The Department has grown in size and responsibility with each change. Among the more important legislative actions have been:
 - The establishment of supplementary benefits in 1971 to be paid out of a special fund. Minimum weekly benefits for workers totally disabled more than two years were increased to \$60 and subsequently raised to 65 percent of the statewide average weekly wage (SAWW) by 1981.
 - Indexing of maximum weekly benefit amounts to the statewide average weekly wage in 1977.
 - Revamping the provision of rehabilitation by moving responsibility from the State's Division of Vocational Rehabilitation to a system of independent private rehabilitation providers. The intent was to place less emphasis on retraining and more emphasis on return to work. Seriously injured workers were required to be evaluated for the need of rehabilitation.
 - Deregulation of workers' compensation insurance rates in 1981 to promote price competition among private insurance carriers.
 - Comprehensive revisions to the State's workers' compensation law in 1983 aimed at reducing system costs by encouraging a worker's early return to work. Among some of the changes enacted were: prohibiting the payment of temporary total benefits and permanent partial benefits concurrently; ending payment of temporary total benefits 90 days after the injured worker achieves "maximum medical improvement" or completes an approved training program; replacing a single system of paying permanent partial benefits with a two-tiered system that provided different payments based on whether the employer offered a suitable job; involving Qualified Rehabilitation Consultants (QRC) early in an employee's recovery.
 - Administrative reforms enacted in 1987 which: imposed higher penalties on uninsured employers; eliminated the "triple-track" dispute resolution process to achieve early settlement of disagreements; revised procedures for

discontinuing benefits; and provided compensation judges authority to decide cases without a hearing if the parties stipulate to the facts and only the legal issues.

- **Revisions in 1992 that, among other things:** established a fraud unit within the Department; capped attorneys fees; raised the maximum weekly benefit amount to 110 percent of SAWW; limited the duration of temporary partial disability payments; established a health care fee schedule; and required health care be provided through managed care organizations and according to treatment standards that eliminate excessive, unnecessary, and inappropriate treatments.
- **Litigation.** Untested areas of ambiguity within the workers' compensation statutes and rules cause litigation if they cannot be resolved through other means. For example: insurers, health care providers, or rehabilitation providers may choose to provide or pay for services in accordance with their interpretation of the law. The consequence can be hundreds or thousands of identical disputes. None of the disputes can be resolved until the law is clarified via litigation. Layoffs resulting from a worsening state economy often result in workers attempting to revive old workers' compensation claims through litigation.
- **Complexity of Workers' Compensation System.** It is generally agreed that Minnesota's workers' compensation system is one of the more complex systems in the nation. There are a vast number of forms that must be filed by insurers and other entities within the system. Injured workers and employers want prompt responses to their inquiries about the status of claims or problems they are encountering. Attorneys are used to litigate issues in a system which was originally established to be a no-fault method of compensating workers injured on the job. The need for effective, efficient administration of the workers' compensation system has created opportunities to utilize technology to better serve the program's various customers.
- **High Insurance Costs.** Small business owners and employers in high workers' compensation cost industries (i.e., trucking, construction, and manufacturing) want lower workers' compensation insurance costs. Small business organizations advocate lower rates for their members who have no experience yet have high insurance rates. Some industries with high costs explore creative ways to avoid paying high workers' compensation insurance premiums. An example is the use of independent contractors within the construction industry.
- **Uninsured Employers.** People employed by uninsured employers who are injured on the job receive their workers' compensation benefits through the Department's Special Compensation Fund. The Fund is financed through assessments on self-insured employers and insurers who pass the cost on to policyholders. Uninsured employers tend to be in the construction and trucking industries, have less than ten employees, are marginal enterprises, and are generally unaware of their legal requirement to have coverage. There are, however, other employers who deliberately avoid providing workers' compensation coverage.
- **Cumulative Trauma Disorders (CTD).** Cumulative trauma disorders are associated with a person's musculoskeletal system. Terms used to describe CTDs are repetitive motion syndrome and repetitive strain injury. A common form is Carpal Tunnel Syndrome. CTDs arise from ordinary movements that may include, among others, repetitive gripping, twisting, and reaching which are done in chronic repetition in a forceful and awkward manner without rest or sufficient recovery time.
- **Workplace Safety.** Every employers' workers' compensation costs are directly tied to the safety of the workplace and that of employers within the same industry. Individual employer's workers' compensation costs will go up if they or their industry sustain more injuries. Costs can go up if the injuries are more severe and require longer durations of lost work.
- **Industry Mix.** Minnesota's mix of industry is diversified to the extent that no single industry has an overwhelming impact on the costs of the workers' compensation system. Service industries such as insurance and financial institutions have low experience while other sectors of the economy (i.e., construction, trucking, mining) have greater experience ratings.

AGENCY: Labor and Industry, Department of
PROGRAM: Workers' Compensation Division

OBJECTIVE, MEASURE

Objective 02-1: 100 percent of inquiries will receive an accurate response within one day of such inquiry by June 30, 1996.

Measure (02-1): Percentage of inquiries accurately responded to within one day of contact.
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Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Same day response rate:	N/A	N/A	80%(e)			
Target:				90%(e)	100%	100%

DEFINITION, RATIONALE, DATA SOURCE:

The Division responds to over 6,000 telephone inquiries per month as part of its responsibility to provide assistance to employees and employers. Inquiries include telephone calls and walk-in clientele who desire information on their workers' compensation claim. Percentage of inquiries accurately responded to within one day of contact is computed by dividing the number of inquiries responded to within one day of contact by the total number of inquiries multiplied by 100.

Measuring the percentage of inquiries accurately responded to within one day of contact demonstrates actual responsiveness of the Division in providing accurate, timely responses to workers' inquiries.

Detailed data on this measure will not be available until implementation of the Department's DAEDALUS computer project. Inquiries to the Division will be logged on the computer data base and responses tracked by date and what information was provided to the worker. Monthly management reports for the Assistance and Compliance Unit report the number of telephone and "walk-in" inquiries received by the Department.

DISCUSSION OF PAST PERFORMANCE:

The Division will not be able to provide an accurate measure of its same day response rate for worker inquiries until the DAEDALUS computer project implements the inquiry tracking component. The Division estimates the rate has improved from 70 percent in F.Y. 1992 to approximately 80 percent during F.Y. 1994.

PLAN TO ACHIEVE TARGETS:

The Division anticipates the DAEDALUS Project component that will enable this measure to be computed will be implemented in 1995. Inquiries will then be logged with the Division's response time being tracked by the computer. A computerized reproduction of all documents in a claim file will be immediately accessible in order to respond to inquiries.

OTHER FACTORS AFFECTING PERFORMANCE:

Complexity of Inquiries. Most questions handled by the Division regarding claims are routine. Among these are requests for information about benefits; the status of a claim for compensation; and the status of a dispute.

AGENCY: Labor and Industry, Department of
PROGRAM: Workers' Compensation Division

OBJECTIVE, MEASURE

Objective 02-2: By F.Y. 1996, 98 percent of workers' compensation first payments will be made within 14 days of employer notice of loss time injury.

Measure (02-2): Percentage of first payments to workers' compensation claimants paid within 14 days of employer notice of loss time injury.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Timely payment rate:	90 %	93 %	95 %			
Target:				96 %	98 %	98 %

DEFINITION, RATIONALE, DATA SOURCE:

Minnesota law requires the first payment of workers' compensation benefits be made within 14 days from the first day of lost time at work or the date of notice to the employer, whichever occurs later. The timely payment rate is computed by dividing the total number of payments to claimants initiated within 14 days by the total number of lost time first reports of injury.

The timely payment rate demonstrates whether insurers and self-insurers are meeting their statutory responsibility to initiate timely payment of workers' compensation benefits upon the lost-time injury of an employee. This is the most accurate measurement of the efficiency of the system because it gauges the degree to which services are provided to claimants in the right amounts at the right time when they require and qualify for such benefits.

Detailed data is compiled by the Department on first report of injuries and claim-related data submitted by insurers and self-insurers. The data is captured on the Department's computer information management system and retained in claim files maintained by the Division. Summary reports of this information are prepared monthly for use by the Assistance and Compliance unit.

DISCUSSION OF PAST PERFORMANCE:

Measures of past performance are estimates based on audits of a random sample of claims.

PLAN TO ACHIEVE TARGETS:

The Department is required by law to audit all claims. That has not occurred due to an inability to capture all necessary information on computer and insufficient staff to perform the required tasks given the available technology and budget. Auditing 100 percent of all claims for late payments will be addressed with the implementation of the DAEDALUS computer project. The new computer system will capture all relevant claim data. The Division will then have the ability to coordinate information from first payment notifications and first reports of injuries. The Division issues warning letters and assesses penalties on employers and insurers for late first reports of injury and late payments.

OTHER FACTORS AFFECTING PERFORMANCE:

Insurers. The Division monitors insurer and self-insurer compliance with this statutory responsibility. Achieving the objective is clearly dependent on insurer cooperation.

AGENCY: Labor and Industry, Department of
PROGRAM: Workers' Compensation Division

OBJECTIVE, MEASURE

Objective 02-3: Employers required to have workers' compensation liability insurance by law will have coverage within 60 days of notification from the Special Compensation Fund by 1998.

Measure (02-3): Average number of days uninsured employers take to comply with mandatory insurance coverage requirement.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Average day to coverage:	N/A	122.64				
Target:			100	90	70	60

DEFINITION, RATIONALE, DATA SOURCE:

Employers in Minnesota are required by law to be insured for workers' compensation liability. The average length of time it takes an uninsured employer to obtain such coverage is the sum of the total number of days uninsured employers take to obtain insurance coverage divided by the total number of uninsured employers obtaining coverage. The clock begins to run on the date the Special Compensation Fund is informed of the uninsured employer. The clock stops running on the date the Special Compensation Fund is notified that workers' compensation liability insurance coverage has been obtained by the employer - or it has been determined the employer is excluded or out-of-business.

Measuring the average number of days it takes to bring alleged uninsured employers into compliance with mandatory workers' compensation insurance requirements accurately reflects the mandate to ensure employers and employees are provided their statutory rights to protection in case of a workplace injury. The longer a business is uninsured the greater the risk to individual employees for an uninsured injury to occur. It further puts those employers who pay assessments into the Special Compensation Fund at risk for the financial liability of those uninsured employers.

Detailed data is collected and maintained by the Special Compensation Fund in the Mandatory Coverage Unit's computer tracking system. A year-end report (June 30) will be prepared in the future to report information about uninsured employers.

DISCUSSION OF PAST PERFORMANCE:

Until recently, the Special Compensation Fund has not been able to effectively track the outcomes of insurance coverage investigations. Each individual file was closed with an outcome recorded in that individual file. The ongoing status of files that were closed due to employers obtaining insurance was not tracked on a continuous basis. Therefore, the Special Compensation Fund was unable to determine if employers, who had been out of compliance, maintained coverage or lapsed into non-compliance over time after they acquired insurance coverage. In August, 1994, a computer tracking system was developed that will allow the Division to track the outcomes of investigations and ongoing status of formerly uninsured employers.

PLAN TO ACHIEVE TARGETS:

The Special Compensation Fund has established standard operating procedures which will allow the Division to be consistent in ensuring that employers obtain and maintain proper workers' compensation coverage. A computer tracking system was implemented effective August 5, 1994 that will enable the Special Fund to monitor and measure the success of compliance efforts from July 1, 1994 and beyond.

The main emphasis of the compliance section is to ensure voluntary compliance through education of the employer. If education activities are unsuccessful, enforcement penalties are aggressively pursued. The 1992 legislature created new provisions to allow for strong penalty and enforcement actions. In order to more effectively implement investigative, education and compliance activities, two additional staff were added to this unit in F.Y. 1994.

OTHER FACTORS AFFECTING PERFORMANCE:

The length of time it takes employers to acquire workers' compensation coverage is highly dependent on employer cooperation. Some will contest applicability of the mandatory coverage provisions to their businesses. The Special Compensation Fund has no direct control over the litigation process and the time it takes to resolve the dispute.

AGENCY: Labor and Industry, Department of
PROGRAM: Workers' Compensation Division

OBJECTIVE, MEASURE

Objective 02-4: By 1998, all eligible uninsured injured employees paid by the Special Compensation Fund will receive their benefits within 14 days of constructive notice of the injury.

Measure (02-4): Average days to make first payment of benefits to uninsured workers' compensation claimants.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Number day to compliance:	N/A	N/A	N/A			
Target:				28	25	20

DEFINITION, RATIONALE, DATA SOURCE:

The Special Compensation Fund is required by law to directly pay and administer workers' compensation claims when the employer of the injured worker was improperly uninsured. Average weeks to make first payment of a claim is the number of days to initiate payment of claims divided by the number of uninsured claims initiated in the fiscal year. The starting point for this measure is the date of "constructive notice" to the Special Compensation Fund that a work-related injury was sustained by an employee of an uninsured employer. The end point of the measure represents the date payment was made.

Measuring the average number of days it takes to make payment of a compensable claim reflects the legislative mandate to ensure that employees receive timely benefits when a workplace injury occurs. The use of this measure allows monitoring the timely payment of benefits to injured workers employed by uninsured employers. The Special Compensation Fund is typically notified of an injury 30 to 60 days after an uninsured worker sustains an injury. It is therefore critical for the injured worker to begin treating and receiving any wage loss benefits truly due and owing as soon as possible.

There is no single data source for this measure. Currently, the only way to track this information is to hand calculate the payment records generated from the Statewide Accounting System against the status received date on the Department's management information system and cross check against the claimant's paper file. The Special Compensation Fund's management information system needs are currently scheduled as part of Phase 2 of the Department's DAEDALUS project.

DISCUSSION OF PAST PERFORMANCE:

This particular measure has not been previously computed and used by the Division. The Special Compensation Fund is very sensitive to the need to initiate payment of workers' compensation benefits to uninsured workers in a timely manner. Current payments are generally initiated within four weeks of notice to the Department.

PLAN TO ACHIEVE TARGETS:

The Division plans to achieve the goal by bringing the staff-to-claims ratio closer to insurance industry standards and developing appropriate technology to facilitate quicker initiation of benefit payments. The technological investment will enable quick access to information to make decisions concerning all phases of claims management.

OTHER FACTORS AFFECTING PERFORMANCE:

Uninsured employers may not wish to participate in the resolution of issues related to validating the claim and may even hinder the process. The agency can mitigate against such responses but it cannot truly control uninsured employers in their response.

AGENCY: Labor and Industry, Department of
PROGRAM: Workers' Compensation Division

OBJECTIVE, MEASURE

Objective 02-5: By 1996, The Special Compensation Fund financial system will have a positive balance.

Measure (02-5): Annual Special Compensation Fund balance.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Annual fund balance:						
(in thousands)	(\$23,511)	(\$15,215)	(\$13,463)			
Target:				(\$4,883)	\$151	\$572

DEFINITION, RATIONALE, DATA SOURCE:

Minnesota's Special Compensation Fund was established to pay for supplementary benefits, second injury claims, bankrupt self-insured employer costs, benefits for uninsured workers, and administration of the workers' compensation system. The Special Compensation Fund balance is the total annual revenues less total annual expenditures.

Measuring the annual fund balance demonstrates whether the Special Compensation Fund is meeting its financial responsibilities in accordance with State law. Using this measure allows monitoring of the Fund's fiscal responsibility. A positive fund balance assures that financial assessments on employers and insurance companies will be as low as possible.

Detailed data on revenues and expenditures is maintained by the Special Compensation Fund with a summary published annually in its Financial Statement.

Revenue is defined as the total monies received from assessments, penalties, investment income, recoveries, and OSHA penalties. Assessments are amounts paid to the Special Compensation Fund by employers based on their workers' compensation premiums or costs. Penalties are those generated pursuant to the workers' compensation law which are not assigned to the Assigned Risk Safety Account. Investment income is interest income. Recoveries are monies paid to the Special Compensation Fund by uninsured employers for benefits paid to their injured employee. OSHA penalty income is money paid by employers for OSHA violations.

Expenses are payments made from the Special Compensation Fund for specific programs and include: Supplementary benefits, Second Injury claims, and Special Claims (Uninsured and certain Bankrupt Self-Insurer claims). The costs associated with the governmental aspects (e.g., DOLI, OAH, WCCA) of the workers' compensation system are also part of expenses.

DISCUSSION OF PAST PERFORMANCE:

The Special Compensation Fund deficit was at \$49,057,000 in 1990. A plan has been in place since then to reduce the deficit. The total deficit in 1992 was \$23,511,000. The unaudited projected deficit for 1994 is \$13,463,000. The decrease of over \$10,000,000 occurred while the assessment rate on employers was lowered from 31 percent to 30 percent. A positive fund balance is projected to occur by fiscal year 1996 under the current management practices.

PLAN TO ACHIEVE TARGETS:

The assessment rate on employers needs to remain constant until the budget shortfall is eliminated. Audits of insurers and self-insurers will continue to ensure that payments to the Special Compensation Fund have been appropriate. Collections on penalties and recoveries from uninsured employers will be improved through the use of the Attorney General, Department of Revenue, and private collection agencies. Since the revenue from OSHA violations is a relatively new source of income,

the Special Compensation Fund is basing projections conservatively at less than \$1,000,000. This may need to be adjusted as history is accumulated.

Expenses will need to be controlled so only appropriate payments are made. The Second Injury Fund will continue its phase out. The Special Compensation Fund has increased its participation in full, final settlements of claims. This is part of the strategy to bring expenses for this program to their lowest possible level. Supplementary benefits program is participating in more decisions regarding permanent and total status of injured employees. This ensures the criteria set forth under the law is met and payments are made for those truly deserving.

All benefit payments due to uninsured and bankrupt self-insured claims will meet statutory deadlines. Litigation costs will be increased to obtain payment from the uninsured employer. This should increase revenue as the responsible employers are held to their liability for the claim costs.

OTHER FACTORS AFFECTING PERFORMANCE:

Controlling revenue and expenses is affected by inflation and the insurance industry's economic climate. Liabilities and collections also are based upon the ability to pay by the affected party. If the uninsured employer has no money or real assets, it is impossible for the Fund to collect.

Economic factors also affect the expense side of the balance sheet. If the economy takes a downward trend, more employers may elect to go uninsured creating a larger pool of potential uninsured injuries.

Any additional legislation could negatively or positively impact the Special Compensation Fund's balance.

The addition of computerized tools would allow the Special Compensation Fund to measure, monitor, and control revenue and expenses. Implementation of these tools is dependent on the Legislature appropriating the funding necessary to complete the DAEDALUS project. The Special Compensation Fund is part of the second phase of the project.

AGENCY: Labor and Industry, Department of
PROGRAM: Workers' Compensation Division

OBJECTIVE, MEASURE

Objective 02-6: By 1997, the Division will achieve a 75 percent successful closure rate of its rehabilitation plans filed with the Department.

Measure (02-6): Percentage of rehabilitation cases successfully closed.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Successful closures:	60%	65%	70%			
Target:				72%	74%	75%

DEFINITION, RATIONALE, DATA SOURCE:

The Division is responsible for providing injured workers universal access to rehabilitation assistance. Return to work is the primary objective of this activity. Successful closure rate is obtained by dividing the number of successfully closed plans by all closed plans and multiplied by 100. A closed plan is judged successful if the injured worker becomes ready to return to work or returns to work. Measuring successful closure rate of rehabilitation demonstrates the level of success in returning workers to employment through the intervention of the Division's Vocational Rehabilitation Unit. Detailed data is collected and maintained on the Department's computer system.

DISCUSSION OF PAST PERFORMANCE:

Past performance has been affected, in part, by the tendency for denied cases to settle before the injured worker returns to work. While the Division has always emphasized work readiness and return to work, performance in the past has been measured on return-to-work rates rather than on both work readiness and return-to-work percentages. For this reason the Unit has a lower return-to-work percentage than private QRC firms. However, private firm referrals are accepted claims do not tend to settle as often as denied claims and the return-to-work closures for the Unit are most often from placements with a different employer, which takes longer and costs more than a return to work with the same employer. For example, in F.Y. 1991-92, the return-to-work percentage for the unit was 42 percent, as compared to 54 percent for private and affiliated QRCs. However, the Unit's average cost for a return to work with a different employer was \$1,583 (versus \$4,945 for private QRCs) and the average plan duration was 360 days (versus 483 for private QRCs). Due to these inequities in comparisons of the Unit to private QRCs, it is more appropriate for the Unit to be measured on overall work readiness rather than strictly on a return-to-work percentage.

PLAN TO ACHIEVE TARGETS:

The Unit will emphasize early vocational readiness by stressing early transferable-skill and job-goal identification, job seeking skills training, skill deficit training, etc., to ensure the injured worker's preparedness for return to work.

OTHER FACTORS AFFECTING PERFORMANCE:

Lack of cooperation of injured worker, relocation, removal from the labor market, termination of rehabilitation plan due to commissioner or judge's order, among others, are factors beyond the Unit's control. Files will be closed after one month of inactivity.

AGENCY: Labor and Industry, Department of
PROGRAM: Workers' Compensation Division

OBJECTIVE, MEASURE

Objective 02-7: By 1998 the number of days between initial consultation with the Vocational Rehabilitation Unit and injured workers whose claims have been denied will average 45 calendar days from the date the Department receives notice of the denial.

Measure (02-7): Average number of days elapsed between the initial receipt of denial status to consultation.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Early intervention:	N/A	N/A	259.1			
Target:				200	160	120

DEFINITION, RATIONALE, DATA SOURCE:

The Vocational Rehabilitation Unit is responsible for intervening with injured workers whose claims are denied on the basis of primary liability. Early intervention is computed as the average number of days between the filing date of the denial of primary liability and the filing date of the Unit's rehabilitation consultation report. Measuring the average number of days injured workers take to access a rehabilitation consultation demonstrates the timeliness of early intervention provided by the Department. Using this measure allows the monitoring of whether rehabilitation consultations are being accessed by qualifying injured workers in a timely manner. Detailed data is collected and maintained on the Department's computer system. The average number of days between a worker's injury or, in this case, denial of primary liability, and the initial consultation with a rehabilitation consultant has not been a measure previously reported.

DISCUSSION OF PAST PERFORMANCE:

In the past, the Division has had to rely on referrals from attorneys and walk-in's, and has relied on form letters to initiate first contact with injured workers who have been referred for service. If prompt follow-up is not done, a delay could occur before an in-person contact is made by the QRC. This practice will be replaced by a list of denied cases generated internally, follow-up phone calls and prompt in-person contact.

PLAN TO ACHIEVE TARGETS:

The first contact with the injured worker can be made by correspondence, phone call, or in-person visit. All correspondence will be followed up with phone calls or visits by Unit QRCs, when appropriate. Using 45 calendar days from receipt of denial to first contact with injured worker as a standard, VRU supervisors will report the actual number of days that elapse, based on self-reported information by the counselor or support staff, kept in an internal database. No data is available prior to F.Y. 1994 as the form from which the information was gathered was not required to be filed until July 1, 1993. Presently, the Unit has little control over how early a referral for services is received when compared to the denial date as referrals come from third parties such as attorneys, health care providers, employers, etc. The ability to improve on this measure would necessitate the internal compilation of denial and status information by other units in the Division and the reporting of this information to the Unit in a timely fashion. A comprehensive database will also be developed to track each contact with a referral or potential referral, and prompt service requirements will be made part of the Unit QRC's performance goals and objectives.

OTHER FACTORS AFFECTING PERFORMANCE:

Lack of cooperation of injured worker, mail delays, data processing equipment breakdowns, caseload size, etc.

AGENCY: Labor and Industry, Department of
PROGRAM: Workers' Compensation Division

OBJECTIVE, MEASURE

Objective 02-8: Annually reduce the number of benefit disputes and litigation by ten percent through F.Y. 1999.

Measure (02-8): The percentage of reduction of benefit disputes and litigation that are filed with the department.

Actual Performance	F.Y. 1992	F.Y. 1993	F.Y. 1994	F.Y. 1995	F.Y. 1996	F.Y. 1997
Benefit disputes filed:	14,762	12,760 (-13.6%)	11,493 (-9.9%)			
Target:				10,344	9,310	8,379
Litigation cases filed:	8,199	8,789 (7.2%)	8,372 (-4.7%)			
Target:				7,535	6,781	6,103

DEFINITION, RATIONALE, DATA SOURCE:

State law requires that all disputes and litigation be initiated by filing various forms, such as claim petitions and requests for assistance, with the Department. Percentage decline in disputes and litigation is measured by subtracting each fiscal year's numbers of filed disputes and litigation from the previous year's corresponding numbers, then dividing the previous year's number into the difference and multiplying by 100.

Because disputes and litigation can only be filed with the Department on forms approved for that purpose, measuring the number of disputes and litigation received by the Department demonstrates the actual extent to which conflict is occurring in the workers' compensation system. By monitoring the rise and fall of these filings, the department is able to measure progress in its attempts to prevent disputes and litigation in the system.

Detailed data on disputes and litigation is initiated by filing the appropriate forms with the Department and entered into the department's computer data base on workers' compensation. The monthly Division's Administrative Operations Report contains updated counts of these filings for all months within a fiscal year.

DISCUSSION OF PAST PERFORMANCE:

Since F.Y. 1992, the Department has observed an overall decrease in litigation. This follows a period in which the rate of increased disputes/litigation filings had stabilized. The reasons for decreases in disputes and litigation appear to be due, in part, to the matured body of case law arising from the 1982 workers' compensation amendments and the Department's promulgation of rules to implement the 1992 legislative reforms.

PLAN TO ACHIEVE TARGETS:

During F.Y. 1995 - F.Y. 1997, the Department is changing its method of providing customer service so that injured workers at high risk for disputes or litigation will be contacted once the Department receives notice of the injury. This contact will be made by customer assistance staff, who will then follow the claim and remain personally available to answer the injured worker's questions and intervene on his/her behalf to resolve disagreements before it is necessary to file for a formal dispute or litigation. In addition, the department will institute an audit check of 100 percent of all workers' compensation claims to ensure that the appropriate and timely payment of benefits has been made. Finally, the department will begin systematic training of external customers so that all understand their rights and responsibilities under workers' compensation law.

OTHER FACTORS AFFECTING PERFORMANCE:

Factors making it difficult to achieve this objective will include any statutory changes affecting the internal structure of the Department, any staffing reductions required due to budget constraints, and/or the inability to obtain the necessary funding to complete the DAEDALUS initiative. Another factor affecting performance would be any changes made in the number and kinds of forms used to file disputes and litigation with the department. The factor having the greatest potential effect on performance will be any substantive statutory changes which affect the extent of injured workers' benefits. This last factor results in litigation to clarify the application of the legislative changes.

AGENCY: Labor and Industry, Department of
PROGRAM: Workers' Compensation Division

OBJECTIVE, MEASURE

Objective 02-9: To resolve by 1996, with finality, 75 percent of all benefit disputes/litigation filed with the department without certification or referral to another court system.

Measure (02-9): Percentage of disputes/litigation filed with the department which is not referred or certified to the Office of Administrative Hearings or the Workers' Compensation Court of Appeals.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Resolution/settlement rate:	67.8%	63.3%	62.8%			
Target:				65%	70%	75%

DEFINITION, RATIONALE, DATA SOURCE:

Minnesota law charges the Department with the responsibility for facilitating resolution of disputes and litigation so that appropriate benefits are paid or provided quickly to eligible injured workers at minimal cost to employers. Resolution/settlement rate is the annual number of disputes and litigation resolved or settled with finality within the Department divided by the sum of certifications and referrals to the Office of Administrative Hearings and the Workers' Compensation Court of Appeals and the number of disputes and litigation resolved within the Department multiplied by 100.

By definition, disputes and litigation are resolved with finality only when the parties do not take these disagreements to a court system outside the department. Bringing matters to another court can only be accomplished by the department's own action in certifying or referring them, or by the parties' action in filing the forms necessary either to initiate a hearing at OAH or to review the department's order at the WCCA. The department is able to determine the extent to which it is resolving disputes and litigation with finality by monitoring the extent to which these matters are referred or certified to another court.

The referral and certification of disputes/litigation is entered into the department's computer data base. The monthly Administrative Operations report, supplemented by reports pulled by request, contain the number of certifications and referrals occurring in a fiscal year.

DISCUSSION OF PAST PERFORMANCE:

The decreasing percentage of disputes/litigation resolved from F.Y. 1992 through F.Y. 1994 coincides with a declining number of disputes filed during those years. These statistics reflect in part the department's success in preventing disputes/litigation forms from being filed by intervening with the parties early in the disagreement. In earlier years a larger number of disagreements evolved into filed disputes or litigation, but from F.Y. 1992 - F.Y. 1994 many minor disagreements were resolved with finality by the department through agreement without the need to file dispute/litigation forms. As a result, the body of disputes and litigation which are filed with the department increasingly consists of "harder" cases which are not as readily resolved. The challenge lies in finding ways to resolve these, too, so that both the number of filed disputes continues to decline while 75 percent of those which remain are resolved with finality in the Department.

PLAN TO ACHIEVE TARGETS:

The Department's plan to further reduce the number of filed disputes and litigation will also help to resolve those which are filed despite the department's intervention. Customer service staff, who will already be in touch with the parties and may have helped them to avoid past disputes, will also be in a position to assist the parties after a dispute is filed. A number of informal methods, using a mixture of mediation and arbitration, will be employed in a proactive fashion (within an already-

established working relationship with the injured worker and other parties) to resolve disputes in higher percentages. Settlement judges will continue to conduct settlement conferences on a wider range of claim petitions, using various strategies to increase their resolution percentage.

OTHER FACTORS AFFECTING PERFORMANCE:

Statutory changes which are ambiguous may cause the parties to select litigation as their method of choice for resolving their disagreement. Any staffing declines occurring through budget cuts will adversely affect the extent to which personalized help can be given to parties. The extent to which injured workers elect to obtain attorneys before their contact with the department will impact the department's ability to assist injured workers directly. Large groups of individual disputes, filed on identical issues by one health care provider or other entity to test ambiguous law will seriously affect performance.

AGENCY: Labor and Industry, Department of
PROGRAM: Workers' Compensation Division

OBJECTIVE, MEASURE

Objective 02-10: 100 percent of claim petitions will be scheduled for a settlement conference within 60 days of receipt by the Commissioner by 1997.

Measure (02-10): Percentage of claim petitions scheduled for a settlement conference within 60 days of receipt by the Commissioner.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Conference scheduled within 60 days:	N/A	N/A	N/A			
Target:				N/A	100 %	100 %

DEFINITION, RATIONALE, DATA SOURCE:

State law requires that claim petitions, which initiate formal litigation within Minnesota's workers' compensation system, be scheduled for a settlement conference within 60 days of receipt by the Commissioner. The performance measure is the total annual number of claim petitions scheduled for a conference within 60 days of receipt divided by the total annual number of claim petitions received by the Commissioner multiplied by 100.

Measuring the percentage of claim petitions scheduled for settlement conferences within the statutory timeframe demonstrates whether the Division is performing this activity within a timely manner. Using this measure essentially allows for monitoring of how quickly the litigation process is commenced. It does not, however, measure how long it takes to resolve a litigated dispute.

Data on claim petitions and scheduling of settlement conferences is compiled and maintained within the Division's Dispute Resolution Unit and Judicial Services Unit. Claim petitions are received by the Dispute Resolution Unit - along with other requests for intervention - where they are sorted, catalogued, and subsequently delivered to Judicial Services for scheduling of settlement conferences. Actual scheduling dates are maintained on paper within the Judicial Services Unit. Some detailed data on litigation is maintained on the Department's computer.

DISCUSSION OF PAST PERFORMANCE:

The Division's objective of timely scheduling of claim petitions for settlement conferences is key to prompt resolution of litigation. Although unable to indicate the exact percentage of claim petitions scheduled for a settlement conference within the statutory timeframe, the Division believes very few settlement conferences get scheduled outside the 60-day timeframe.

PLAN TO ACHIEVE TARGETS:

The Division intends to examine the Judicial Services Unit work processes. This is being done in conjunction with the Department's DAEDALUS Project. Timely notice of the Commissioner's receipt of a claim petition is the objective. The Judicial Services Unit will have immediate receipt (i.e., notice) of a claim petition through the computer without the current delays in the paper process. Another consequence of the Project is that data on litigation can be collected and retrieved electronically instead of hand-counting and sorting appropriate data from the original documents and logs.

OTHER FACTORS AFFECTING PERFORMANCE:

Data Collection and Reporting Systems. Although management information systems do not, or at least should not, affect actual performance, they can have an impact on the organization's ability to report the appropriate information. That is the

particular situation which affects the reporting of this performance measure. The Department's computer system is not programmed to collect and report this type of information. Significant modifications to the existing computer system are on hold pending data- and statistics-related decisions in the DAEDALUS Project. That is the principal explanation for the lag in showing progress toward the performance objective.

Caseload/Workload. The ability of Judicial Services Unit staff to schedule settlement conferences is directly tied to the number of claim petitions filed with the Commissioner and the related settlement work essential to the efficient processing of litigation. Meeting the statutory timeline becomes more difficult as the caseload and/or workload increases.

Timely Receipt of Claim Petitions. Settlement conferences cannot be scheduled within the statutory timeframes without timely receipt of the claim petition. There is the potential for delays in scheduling until the DAEDALUS Project imaging system is completely installed and available to Judicial Services. This factor should be essentially eliminated once the imaging system is available to Judicial Services.

SUMMARY

AGENCY: Labor and Industry, Department of
PROGRAM: 03 - General Support - Investigative Services

EXPENDITURES AND STAFFING (F.Y. 1994)

(\$ in Thousands)

Total Expenditures:	\$	298	1 % of department's budget
From State General Funds	\$		
From State Special Compensation Fund	\$	298	
 Number of FTE Staff:		5	1 % of department's staff

PROGRAM GOALS:

- To refer cases of workers' compensation fraud to prosecuting authorities which result from investigations of alleged fraudulent activities and other illegal practices. (M.S. 176.86)

DESCRIPTION OF SERVICES:

The Investigative Services Unit is a criminal investigative agency within the Minnesota Department of Labor and Industry. It conducts criminal investigations of alleged fraud in Minnesota's workers' compensation system and presents cases for prosecution to county attorneys throughout the state.

The Unit was created by the 1992 Legislature as part of a larger workers' compensation reform initiative. At the time it was formed there had never been a criminal prosecution for workers' compensation fraud in Minnesota. The Unit became fully operational during F.Y. 1994 and has referred over 40 cases to county attorneys for prosecution since its inception. Much of F.Y. 1993 was spent designing and implementing a process for handling incoming complaints, establishing procedures for investigating charges of alleged fraud, and hiring competent, trained criminal investigators.

The Unit investigates allegations of fraud committed by claimants, insurers and their agents, employers, health care providers and other service professionals (attorneys and qualified rehabilitation consultant). Perjury, forgery, theft and conspiracy are the principal focus of investigations. It also assists in the training of employers and insurance company adjusters in methods for preparing cases and conducting preliminary investigations of alleged fraud. Outreach services are also provided to employer groups, insurance groups, employee organizations, bar associations, and other professional organizations (i.e., County Attorney Association).

The Unit was created because of the perception that there was a substantial amount of fraud and abuse in the \$1.2 billion-a-year workers' compensation industry. National and local media exposure of fraudulent workers' compensation activity alerted the public and the Legislature to the problem. Insurance industry experts from the NCCI (National Council of Compensation Insurance) and the NICB (National Insurance Crime Bureau) have estimated that there may be an element of

fraud in 10 to 20 percent of all workers' compensation claims. It is quite difficult to place a number on fraud activity within Minnesota's system because only those complaints that have been referred to the Unit are identified.

BACKGROUND INFORMATION:

MEASURES OF ACTIVITIES (A), WORKLOAD (W), UNIT COSTS (UC), OTHER DATA (O)

<u>Type</u>	<u>Measure</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>
A	Total intakes and complaints	151	555
A	Information-only complaints	N/A	151
A	Referrals to third parties (insurers, Special Compensation Fund)	N/A	N/A
A	Complaint unfounded/unable to verify	N/A	90
A	Total referrals to prosecuting authority	2	38
A	Referrals open	0	14
A	Referrals declined	0	10
A	Referrals charged	2	14
A	Convictions	2	4
W	Average number of cases per investigator	N/A	48
UC	Cost per referral to prosecuting authority	N/A	\$7,842
O	Average number of weeks per referral to prosecution	N/A	14

PROGRAM DRIVERS:

- **Contingent Workforce.** The increase in employer use of temporary employment - which does not require provision of medical, pension, or other employee benefits - fosters an environment where workers may view workers' compensation as a way of obtaining treatment and medical expenses.
- **Corporate Restructuring.** When employers cut their workforces or close facilities such as manufacturing plants, there is a dramatic increase in the number of claims filed or reopened for workers' compensation. Large numbers of these workers usually have worked for that employer many years and were not interested in seeking new employment. The possibility for fraudulent claims being filed as a result of people attempting to replace a constant source of income is present.
- **False Claims.** Claimant fraud takes many different forms. They include people who:
 - are reluctant to return to work when they can continue receiving two-thirds of their average weekly wage, tax free;
 - claim non-work injuries as work-related in order to receive wage-replacement benefits and to avoid paying health care deductibles and co-pays;
 - work at another job or for cash, collect unemployment or human services benefits, or work more than one job under assumed names while receiving workers' compensation benefits; and
 - fabricate fictitious claims supported by unscrupulous healthcare professionals.
- **Health Care Cost Control.** Health Maintenance Organizations (HMOs), Medicare, health care reform, and the Department of Labor and Industry's fee schedule, managed care rules, and treatment parameters have all impacted health care providers financial situation. Some health care providers are tempted by this pressure on their income to over-bill, double-bill, or phantom bill insurers for services.

- **Advertising by Attorneys.** Aggressive and creative advertising by attorneys in newspapers, on radio and on television stresses that a person may be eligible for workers' compensation benefits even when no work-related injury is readily apparent.
- **Subjective Injuries.** Workers' compensation injuries are often subjective. Subjective injuries are often soft tissue injuries. Such injuries usually involve a strain or sprain of the claimant's back and are almost impossible to disprove. Health care providers who treat these injuries may conspire with an injured claimant to continue treatment and keep the employee from returning to work. Workers with subjective injuries may also mislead health care providers in order to remain off work.
- **Insurance Adjuster Workload.** Overworked claims adjusters are not able to properly administer their files. Claims adjusters from two of the larger insurers routinely handle 250-400 claims at one time. Some suspicious cases slip through the cracks in the system without a diligent follow-up investigation.
- **Prosecution Standard.** Even though a case may be presented to a prosecutor for prosecution, that does not mean alleged fraud will be prosecuted. Prosecutors may decline to pursue a case if they cannot prove it "beyond a reasonable doubt." Over 40 cases have been presented for prosecution since the creation of the Investigative Services Unit. Twenty-five percent of these cases have been declined by prosecutors.
- **Rate Avoidance.** Employers may attempt to avoid premiums for workers' compensation insurance through several means. Premiums are based on the amount of an employer's payroll and the classification of employees. Under-reporting of an employer's payroll is one method of cutting insurance costs. Another method is inaccurate reporting of employee rating classifications. A third method is periodically creating a new business, which does the same thing and reflects similar ownership, to avoid paying insurance premiums based on their acquired injury experience rating and instead take advantage of the statutorily set rate. Premium avoidance can also result when employers use the subterfuge of independent contractors and subcontractors.
- **Public Attitude Towards Insurance Fraud.** Insurance groups have done studies that show even the most honest of people feel a certain amount of insurance fraud is acceptable.

AGENCY: Labor and Industry, Department of
PROGRAM: General Support - Investigative Services

OBJECTIVE, MEASURE

Objective 03-1: Increase the referral rate of cases investigated for fraud to 25 percent by F.Y. 2000.

Measure (03-1): Referral rate of cases to county attorneys for prosecution.

Actual Performance	<u>F.Y. 1992</u>	<u>F.Y. 1993</u>	<u>F.Y. 1994</u>	<u>F.Y. 1995</u>	<u>F.Y. 1996</u>	<u>F.Y. 1997</u>
Referrals to prosecution:	N/A	2	38			
Referral rate to prosecuting authority:	N/A	13%	14%			
Target:				15%	17%	20%

DEFINITION, RATIONALE, DATA SOURCE:

Minnesota law requires the Department of Labor and Industry to refer cases "where illegal activity occurs" to the Attorney General or other prosecuting authority for prosecution. The referral rate is the number of cases alleging fraud that have been investigated and referred to county attorneys for prosecution divided by the sum total of cases that are "open" (i.e., being investigated), referred to insurer, employer or Special Compensation Fund for investigation, and the complaints referred to prosecuting authorities. The total number of cases does not include complaints noted as information only or determined to be unfounded.

Measuring the rate of referrals to prosecutors each year demonstrates whether the Department is achieving its goal of investigating fraud within the workers' compensation system and referring cases with sufficient evidence to prosecutors. This particular measure is used within the law enforcement community for Uniform Crime Reporting and reflects the clearance of cases.

Data for this measure is compiled by the Investigative Services Unit as part of its ongoing activities. The data is maintained on hard copy in the Unit's files. Computerization of data related to alleged charges or complaints of fraud is being developed. A year-end report of the Unit's activities is planned for future years.

DISCUSSION OF PAST PERFORMANCE:

Since the investigative activity was initiated during F.Y. 1993, there is minimal data available for that year. A 13 percent referral rate is a good start for this activity in 1994. The vast majority of the referrals involve claimant fraud. The principle reason is that such fraud is reported more frequently and is generally easier to prove than many other forms of workers' compensation fraud. Examples of employer and provider fraud are under investigation and expect to be included in future-year performance. The rate of case referrals should improve in F.Y. 1995 as cases initiated in F.Y. 1994 are investigated and referred to local prosecutors.

PLAN TO ACHIEVE TARGETS:

Legislation that would more clearly define activity that is not allowed by a party who is receiving workers' compensation benefits would greatly assist in overcoming prosecutors' reluctance to charge cases criminally. A clear law stating exactly what is premium fraud would also assist county prosecutors. The Unit has asked for limited police powers that would enable peace officer certified investigators to draft and execute search warrants. The unit's effectiveness could also be increased with the authorization to use unmarked state vehicles to conduct investigations.

Streamlined processing of complaints will allow Unit members to effectively handle an increase in the work load. Additional staffing may be necessary to handle the work load as investigators will likely be unable to handle more than five new cases per month. Staff training and continuing education will increase the efficiency and effectiveness of the Unit's investigators.

Coordinated efforts of public and private sector members are essential in detecting and preventing fraud. To achieve this the Investigative Services Unit will conduct training seminars for employee groups, employers and insurance industry claims adjusters, special investigators and contract private investigators.

OTHER FACTORS AFFECTING PERFORMANCE:

The inability to get legislation passed that would help prosecutions is a factor affecting performance. Presently, investigators in the Investigative Services Unit have no police authority although they are charged with investigating criminal acts. Limited police powers for the Director and Senior Investigator would allow for the ability to prepare and execute search warrants. The use of unmarked vehicles for investigations and undercover operations would also increase the Unit's effectiveness.

Budgeting constraints, reductions in staffing, or an increase in cases requiring investigation could create a backlog of cases. Stable funding levels are needed to keep operating at an effective level.

Increased responsibility within the Minnesota Department of Labor and Industry would increase the workload of the investigators. As the primary investigatory arm of the Department of Labor and Industry, the Investigative Services Unit may be called upon to conduct internal investigations. We may also be called upon to assist other State agencies such as the Department of Employee Relations in conducting their internal investigations. These investigations will occur when a conflict of interest exists in the requesting agency.

Many victims fail to report fraudulent activities. This situation exists despite the national media exposure about workers' compensation fraud. The perception presented by the media is that fraud is a widespread, out-of-control problem.

A downturn in the job market historically increases the number of workers' compensation claims and therefore would increase the potential for false workers' compensation claims.

Appendix A: Agency Performance Report Process

Development of the Department of Labor and Industry's annual performance report was coordinated by a single staff person working directly for the Deputy Commissioner. That individual worked with the appropriate assistant commissioners and managers in a consultative role.

The report coordinator worked with individual program activity managers to identify relevant measures of performance for their respective activities. The measures and descriptions provided in the report represent a collaborative effort between the coordinator and the managers.

Measures presented in the performance report reflect what can be developed given current data being collected and maintained by the Department. New and/or improved performance measures may result from the Department's DAEDALUS Project which is designed to reengineer work processes in workers' compensation. It is anticipated that will be the case as employees and managers become familiar with the capabilities of the new technologies which will be installed. This situation is discussed at greater length in Appendix B.

Formal worker participation committees were not involved in the development of the annual performance report. There were, however, many staff members within the Department who participated individually in the preparation of the document. Future performance measures resulting from the DAEDALUS Project, which is in most respects employee driven, will reflect broad employee participation.

The Department's principal stakeholders were consulted early in the process of developing the Department's annual performance report. The presidents of the Minnesota Chamber of Commerce and the Minnesota AFL-CIO were contacted in July for their feedback on potential measures related to program performance. Modifications were made to several measures under consideration as a result of their input.

Prior to final submission, the performance report was reviewed by the Commissioner, Deputy Commissioner, and Assistant Commissioners for form and content.