

LEGISLATIVE AUDIT DIVISION

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MEMORANDUM

TO: Legislative Audit Committee Members
FROM: Lisa Blanford, Performance Audit Manager
DATE: December 2010
CC: Keith Kelly, Commissioner, Department of Labor and Industry
Jerry Keck, Administrator, Employment Relations Division
RE: Performance Audit Follow up 11SP-11: Montana's Subsequent Injury Fund,
Department of Labor and Industry (09P-03)
ATTACHMENT: Original Performance Audit Summary

INTRODUCTION

In August 2009, we presented our performance audit of Montana's Subsequent Injury Fund. The audit made one recommendation to the Department of Labor and Industry. In November 2010, we gathered information from the department on their progress in implementing the recommendation. This memo summarizes the results of our follow-up work, in addition to presenting background information.

Overview

The audit recommendation focused on improving management controls to enhance consistency, ensure accountability, and reduce the potential for program payments. Based on our follow-up work, we determined the recommendation contained in the original audit has been fully implemented by the Department of Labor and Industry. The actions taken by the department have strengthened program management controls and reduced potential future program costs by improving data accuracy and increasing consistency and accountability associated with calculating assessment rates.

BACKGROUND

The Department of Labor and Industry administers the Subsequent Injury Fund as an extension of the Worker's Compensation System. Subsequent Injury Funds were developed to reduce an employer's hesitation of hiring a previously injured worker by limiting worker's compensation costs if that employee is reinjured in a future workplace accident. While all employers pay into the state's Worker's Compensation System, only employers who have experienced a worker's compensation claim will pay into the Subsequent Injury Fund.

A worker who was previously injured and applied to the department for Subsequent Injury Fund certification will allow his employer to be reimbursed by the fund for any future medical costs extending beyond two years if that worker is injured in the future. In 2008, there were 3772 individuals certified by the Subsequent Injury Fund. Since January 1950, the Subsequent Injury Fund has reimbursed employers \$7.1 million for injuries to 102 certified workers.

FOLLOW-UP AUDIT FINDINGS

In response to the original audit report, the department concurred with all parts of the recommendation. As part of audit follow-up work, we requested an implementation status update from the department, reviewed program documents and changes to program procedures, and interviewed program staff. The implementation status of each part of the recommendation is discussed in the following sections.

Recommendation #1

We recommend the Department of Labor and Industry improve management controls to ensure:

- A. Written procedures are established for determining Subsequent Injury Fund assessments.**

Implementation Status – Implemented

During audit work, it was found that no written procedures existed to determine Subsequent Injury Fund assessments. When the person assigned this task retired, the new individual assigned responsibility for determining Subsequent Injury Fund assessments had to learn how to determine the assessment by attempting to recreate previous year's assessments. This significantly increased the time needed to determine the assessment and increased the potential for incorrect assessments. The department has developed written procedures for determining Subsequent Injury Fund assessments.

- B. Documentation of management approval of Subsequent Injury Fund assessments.**

Implementation Status – Implemented

In the past, although there were indications that management was aware of Subsequent Injury Fund assessment amounts, there was no formal management approval of the assessment. A committee of Worker's Compensation program managers, to include the division administrator and the bureau chief, now approves subsequent Injury Fund assessments, in writing.

- C. Subsequent Injury Fund data is screened annually to identify anomalies.**

Implementation Status – Implemented

During audit work, we found the department did not conduct regular screenings of its Subsequent Injury Fund database to ensure anomalies, such as incorrect social security numbers, were identified or prevent the program from making payments to deceased individuals. The department initiated a process of screening Subsequent Injury Fund participants against the social security database during audit activities. The department has since incorporated these activities into its desktop procedures and conducts the screen twice yearly.

- D. Procedures are established to ensure identified anomalies are evaluated and corrected, if necessary, to assure program costs are contained.**

Implementation Status – Implemented

A screen of Subsequent Injury Fund participants in April of 2010 identified two anomalies resulting from transposed social security numbers. In the most recent screen, conducted in November of 2010, no anomalies were identified. The department included a modification of its existing Subsequent Injury Fund database in its Information Technology work plan to include a field for "date of death." This information would prevent future Subsequent Injury Fund payments to those individuals.

While the department approved this modification request, higher priority IT projects have prevented it from being implemented. However, in the interim, the program has included a "Deceased" notation at the end of the individual's name within the current Subsequent Injury Fund database. Although modification of the database would be more effective, the program's successful implementation of an alternative solution meets the intent of the audit recommendation.