



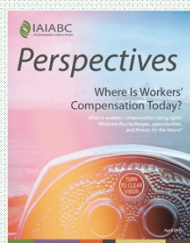
THE FORUM 2016

A Discussion on the Use of a Formulary in Workers' Compensation: Discusses formulary implementation in workers' compensation to address potentially harmful prescription drug prescribing patterns and reduce cost.

Return to Work: A Foundational Approach to Return to Function: Seeks to stimulate conversation on how workers' compensation stakeholders can support return to work efforts throughout the workers' compensation process.



THE FORUM 2016



National Conversation on the Future of Workers' Compensation: A year-long look at today's challenges and future opportunities for workers' compensation in the United States.

Perspectives: Where is Workers' Compensation Today?

All these resources are available at www.iaiacb.org

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UNDERSTANDING THE OPT-OUT ALTERNATIVE TO WORKERS' COMPENSATION

The IAIABC commissioned a study to conduct a comparative analysis of the treatment of occupational injuries and illnesses under state workers' compensation systems and opt-out programs adopted in Oklahoma and proposed in Tennessee and South Carolina.

Inform public policy questions, including:

- *What part of the workers' compensation law is the employer renouncing by opting-out?*
- *What are the conditions, or regulatory requirements, that the state places on opt-out employers?*
- *Discuss what is intended by "equal to or better"*

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UNDERSTANDING THE OPT-OUT ALTERNATIVE TO WORKERS' COMPENSATION

WAGE REPLACEMENT:

OK WORKERS' COMPENSATION	OK OPTION PLANS
Minimum and maximum statutorily defined; % of statewide average weekly wage (SAWW)	Minimum and maximum defined by employer; generally mirrors structure of work comp statute
Tax free	Taxable
3 day waiting period before benefits begin	Generally no waiting period
Settlements must be approved by an administrative law judge; can only be offered after MMI.	Settlements offered by claim administrator; can be offered within days of an open claim. Refusal of settlement can result in permanent claim closure.

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UNDERSTANDING THE OPT-OUT ALTERNATIVE TO WORKERS' COMPENSATION

CAUSATION:

OK WORKERS' COMP	OK OPT-OUT
Causation threshold is defined in statute and influenced by case law.	Causation is defined by the employer. Many plans exclude conditions resulting from exposure to asbestos, silica, or mold.
Injuries/illnesses occurring in parking lots, during work breaks, or degenerative conditions are generally covered; determinations are made on the facts of the case.	Injuries/illnesses occurring in parking lots, during work breaks, or degenerative conditions can be specifically excluded by the employer.

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UNDERSTANDING THE OPT-OUT ALTERNATIVE TO WORKERS' COMPENSATION

DISPUTE RESOLUTION:

OK WORKERS' COMP	OK OPT-OUT
Dispute resolution process is defined by statute and administrative procedure.	First/second level of dispute resolution is defined by the employer; typically an internal appeals process.
Disputes are heard by an administrative law judge of the Oklahoma Workers' Compensation Commission.	After internal appeals are exhausted, disputes are heard by an administrative law judge in the Oklahoma Workers' Compensation Commission.
Determinations are made based on the facts of the case; parties can present evidence, etc.	Determinations are de novo, based solely on the claim record. Parties can not present new evidence, etc.

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UNDERSTANDING THE OPT-OUT ALTERNATIVE TO WORKERS' COMPENSATION

ERISA APPLICATION:

	RESULT
ERISA does not apply.	ERISA is referenced only once in the Oklahoma statute. If ERISA does not apply, there is no state or federal law governing the application of these employee benefit plans.
ERISA is concurrent with OK state law.	Mandate of "equivalent" benefits can be enforced. If a qualified employer failed to comply with state pre-requisites for opting out, the qualified employer status would be withdrawn.
ERISA pre-empts state law	Pre-emption would negate any state mandate requiring specific benefit provisions. Employers would have complete discretion in developing plan requirements.

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