

COMMISSIONER'S REPORT

BACKGROUND INFORMATION

Senate Bill (SB) 199, as adopted by both houses of the Legislature and signed by the Governor, took note of the use of the language “latest edition of, ‘Guides to the Evaluation of Permanent Impairment,’ published by the American Medical Association in KRS 67A.460, 342.0011, 342.315, 342.316, 342.730, and 342.7305.” In Section 1(2) it directed the Executive Director (now Commissioner) of the Office of Workers’ Claims to:

Study the feasibility and advisability of adopting the sixth edition of, ‘Guides to the Evaluation of Permanent Impairment,’ published by the American Medical Association, or of retaining the usage of the fifth edition of that publication. In conducting the study, the commissioner shall seek the input of groups representing labor, industry, commerce, and the medical and legal professions.

It concluded requiring, “[t]he commissioner shall submit to the Legislative Research Commission a report of the commissioner’s findings by January 5, 2009.”

Although some form of a guide to evaluate permanent impairment has been provided by the American Medical Association since 1958, the actual “Guides to the Evaluation of Permanent Impairment” (Guides) had their beginning in 1971 when thirteen different guides were put together to become the first edition. The second edition was published in 1984 and the third edition in 1988. A revised third edition was published in 1990. The fourth edition was published in 1993, and for the first time introduced the diagnosis-related estimate (DRE) or “injury” model for the evaluation of spinal injuries. This DRE model permitted the assignment of an impairment rating based solely on the diagnosis made even if maximum medical improvement had not been reached.

The Guides made their first appearance in Kentucky law in 1980, with a reference to the use of the Guides, although subsequent court decisions held the Guides was merely an element of evidence to be considered in the assessment of disability. In 1994 the Kentucky Workers' Compensation Act was changed to reflect that if an individual returned to work, then partial disability would be assessed at the level of permanent impairment as assigned by the Guides. If the individual could establish an impact on the ability to perform work greater than reflected by the impairment rating, then he could receive up to two times the impairment rating. In 1996 with a major change to the Act in a December special session of the Legislature, permanent partial disability became solely a mathematical function of the AMA impairment rating. At that time the fourth edition of the Guides was in existence. September of 2000 brought about the publication of the Guides fifth edition. By certification of the Commissioner of the Department of Workers' Claims, the fifth was found to be readily available for use in Kentucky workers' compensation matters on March 1, 2001. The fifth edition continued the use of DRE and modified the approach for the assessment of spinal impairment evaluation, giving a choice between range of motion and DRE depending upon the circumstances. The sixth edition was published in December of 2007, and was initially certified for use in Kentucky effective April 1, 2008, which date was modified to July 1, 2008. With SB 199 the fifth edition was retained for use until the completion of this study.

In August of 2008 the AMA issued a 52-page errata addressing errors identified in the original publication of the sixth edition. In an article written for the IAIABC Journal, authors Christopher Brigham, senior contributing editor to the AMA Guides Sixth Edition, Elizabeth Genovese, section editor of the sixth edition, and Craig Uejo, reviewer of AMA Guides sixth edition, acknowledged that with the anticipation of typographical errors in the first printing and

the issuance of correction of those errors there would likely be some initial confusion resulting in potential rating errors (IAIABC Journal Volume 45, No. 1, page 53). The publication of this errata constitutes a significant modification to the initial publication of the guides. It is reasonable to presume the AMA will publish a revised sixth edition, although there is no firm information to that effect.

PHILOSOPHY AND RATIONALE

In Chapter 1 of both the fifth and sixth editions, a philosophy and rationale is provided that is the basis for each edition. Each is based in part upon the World Health Organization's systems. The Guides since 1980 have been based upon the "1980 International Classification of Impairments, Common Disabilities and Handicaps." Impairment to disability in this system is viewed as linear with a progression from impairment loss to loss of use or derangement of a body part, organ system or organ function, and this results in an identified pathology.

The sixth edition states that it replaces the 1980 model with the World Health Organization's more recently adopted model of disablement, "The International Classification of Functioning, Disability and Health" (ICF). As constantly used by the guides and those discussing the guides, this has resulted in a change in terminology and conceptual framework of disablement and is the first axiom of the 'paradigm shift' demonstrated by the sixth. The ICF model apparently has three components, the first: body function and structures; the second: activity; and the third: participation. The first through the fifth editions, and specifically the fifth edition as an example, have emphasized that the Guides are for the purpose of identifying "impairment," impairment being a medical determination or analysis as distinguished from disability which according to Kentucky law is a legal determination. This distinction has been recognized by the AMA.

The fifth edition states:

Impairment percentages derived from the guides criteria should not be used as direct estimates of disability. Impairment percentages estimate the extent of the impairment on whole-person functioning and account for basic activities of daily living, not including work. The complexity of the work activities requires individual analyses. Impairment assessment is a necessary first step for determining disability.” (Emphasis Guides)

The sixth edition in Section 1.3d, has an ongoing discussion about impairment disability and impairment rating. It notes in part:

The relationship between impairment and disability remains both complex and difficult, if not impossible, to predict. In some conditions there is a strong association between the level of injury and the degree of functional loss expected in one’s personal sphere of activity (mobility and ADL’s). The same level of injury is in no way predictive of an affected individual’s ability to participate in major life functions including work (when appropriate motivation, technology and sufficient accommodations are available). Disability may be influenced by physical, psychological, and psychosocial factors that can change over time.

The sixth edition continues to recognize that an impairment rating is merely one of several determinants of what constitutes disability. However, it is less direct in stating it should not be used for the award of benefits. Instead, it acknowledges that there is an increased use of the guides to translate “objective” clinical findings into a percentage of the whole person. This number is then used in some “scheme” as identified by statute to arrive at a number that is then converted to a monetary award to the injured party (Section 2.1a sixth edition, page 20). Unlike prior editions the sixth provides no editorial commentary concerning the propriety of this usage.

CONDUCTING THE STUDY

In accordance with the directives of Senate Bill 199 and in an effort to have an organized approach to consulting various groups, the Commissioner organized an AMA Study Group which consisted of thirteen individuals in addition to the Commissioner. These individuals are

identified in Appendix I. They were asked to actively participate in conducting research, discussing issues within the group and communicating with their own constituencies about any issue related to the fifth/sixth editions. Each attended meetings in Frankfort at the Kentucky Department of Workers' Claims, and meetings of smaller groups were conducted at other times and locations. In addition to this study group, the Commissioner attended at least five seminars, two of which were solely dedicated to the discussion of the sixth edition; the others included significant discussion of the sixth edition of the Guides. The first of these in February of 2008 was presented by physicians and included several physicians who were contributors to the sixth edition.

The Commissioner reviewed numerous writings, including but not limited to, the report of the 2008 Iowa AMA Guides Task Force; multiple articles written by Christopher Brigham, senior contributing editor to the AMA Guides sixth edition, including regular review of his updated web site addressing sixth edition issues; a policy statement from the American Insurance Association contributed to by Dr. Robert Bonner, Vice President, Medical Practices and Technical Support with the Hartford; and written submissions from several Kentucky stakeholders and study group members. (Appendix 2) The Commissioner had personal conversations and discussions with a variety of medical practitioners including neurosurgeons, orthopedic surgeons, neurologists, chiropractors, psychiatrists, psychologists and occupational medicine specialists. The subject was discussed with individuals involved with group self-insureds and insurance companies. Communications were had with representatives of the Chamber of Commerce and others in business and industry.

Written commentary was solicited from members of the legal profession who regularly represent employers and those who regularly represent injured workers and labor organizations.

Each individual participating in the study group was offered the opportunity to provide written commentary to the Commissioner for consideration of ideas and issues to be used in completing this report.

MEDICAL/LEGAL DISCUSSION

Physicians with whom the Guides was discussed were generally of the opinion that the methodology used for the assessment of impairment in the sixth edition is better. The sixth appeared to be designed to address an individual's functioning after an injury or medical procedure and thus take into consideration the outcome of medical treatment. In some instances in the fifth edition, the diagnosis regardless of outcome establishes the level of impairment, i.e. cervical fusion 25 to 28 percent impairment. However, a significant majority of these same medical providers were of the opinion the continued use of the fifth edition is the better option at this time because of the familiarity with and the consistency of use and how it works within the overall workers' compensation statutory scheme. This is not a consensus opinion, but was the opinion of most of the physicians with whom this matter was discussed.

In addition to the methodology differences, a concern was raised by both those representing the legal community and the medical community that while the sixth attempts to be consistent between chapters in its analysis of impairment, it is a totally different approach to the analysis of impairment than used in previous editions. There are publications that have stated that to be well trained in using the sixth edition a physician will need to dedicate himself to a minimum of eight hours of an educational event directed only to the sixth edition usage. If a physician uses his own time to become familiar with the process, the requirement would increase to a minimum of thirty hours of time dedication. It was opined by most physicians and attorneys discussing the issue that numerous physicians would no longer be willing to offer impairment

ratings. This would include a large percentage of treating physicians. Interestingly, the sixth edition does not necessarily encourage the performance of impairment ratings by treating physicians since they are “not independent and therefore may be subject to greater scrutiny.” (Sixth Guides, page 23, section 2.3b) The concern raised is that with fewer individuals being willing to perform impairment ratings the cost of securing an impairment rating will escalate. It will also contribute to an ever-increasing difficulty in obtaining quality evidence to be presented in a timely manner.

Dr. Richard Broeg, a chiropractor, while attending a chiropractic association meeting surveyed 48 chiropractors, all of whom believed the sixth edition was more complicated, that the sixth edition would require more medical testing such as MRI's and EMG's, therefore being more costly, that the deposition costs would likely increase due to the complicated nature of the sixth edition, and that 75 percent of the 48 would no longer perform impairment ratings if the sixth edition were adopted. Each of these 48 had participated in a six-hour training course covering the computation of impairment ratings pursuant to the sixth edition.

Because the sixth edition has very specific criteria for diagnoses, there may be a greater need to use diagnostic testing, which will result in a concomitant increase in cost.

Orthopedic surgeons and neurosurgeons have generally agreed that some of the impairment ratings contained in the fifth edition, particularly for a cervical fusion, are inappropriately high. The sixth addresses outcome of treatment which appears to be a failure of the fifth, especially in the spine chapter. The sixth prohibits the use of the range of motion model, and most physicians believe this to be appropriate. Range of motion method of rating “generally” results in a higher percentage of impairment and may be more susceptible to erroneous usage. Alternatively, there was some concern about the extent of the impairment

swing that is reflected in the sixth edition. Overall, impairments in the spine decrease in the cervical and thoracic regions with an increase in the maximum impairment available for the lumbar spine. However, a lumbar fusion like a cervical fusion has a lower impairment.

Psychiatrists were concerned that the sixth edition, which for the first time since the second edition provides an actual impairment rating, apparently allows no separate impairment rating if there is a diagnosable and ratable physiological condition. Considering that a zero impairment is a rating and that Kentucky law mandates there be a physical injury before there can be an award of any impairment for psychological impairment, there exist quality opinions that the sixth edition will not be usable in Kentucky.

Dr. Russell Travis, Lexington neurosurgeon, was a reviewer for the AMA Guides and provided several actual case study comparisons for spinal and extremity injuries. These are attached as Appendix 3(a). Dr. Travis, in attempting to accurately analyze the use of the AMA Guides, compares the impairment ratings in the sixth with not only the fifth but also the fourth edition. Included are separate income benefit calculations for these impairments. This provides an historical perspective for similar injuries resulting in disparate impairment ratings.

Also attached are ratings performed by Dr. James Templin with income benefit calculations based upon differing impairments determined by the fifth and sixth editions.

Appendix 4(a)

Dr. James Talmadge, a chapter contributor and physician with the Occupational Health Center in Cookeville, Tennessee, at a February seminar and then again at the University of Kentucky Biennial Workers' Compensation Institute in October, 2008, discussed the challenges associated with the sixth edition. Dr. Talmadge, at the UK seminar, suggested Kentucky would be well served to further delay the implementation of the sixth edition and await the receipt of

data from the use of the sixth edition by Tennessee, which usage began in January, 2008. Dr. Talmadge opined that it was difficult at this time to have a complete understanding of the impact of the sixth edition.

In a separate discussion, Dr. Talmadge stated that he had also recommended to the Tennessee Legislature a delay in the implementation of the sixth edition and suggested to them that they wait and see what the data would show from Kentucky, assuming at that time that Kentucky would begin using the sixth. However, Tennessee because of the state of its law mandated the use of the “latest edition” beginning on January 1 of the year after its publication. Therefore, by the time the Tennessee Legislature met, the sixth edition was already mandated for use by statute and it was concluded that reverting to the fifth edition would be more confusing than proceeding with the use of the sixth

Finally, the medical editors of both the fifth and the sixth appear to acknowledge that impairment is not based upon empirical scientific data, but derived from the best qualitative medical evidence at the time, coupled with a consensus approach in agreeing upon impairment levels and methodology. A stated goal of the sixth edition was to reduce inter-rater error and a tendency to inflate impairment ratings by treating physicians.

LABOR/EMPLOYEE

Individuals associated with representation of injured workers and/or labor groups have consistently been of the opinion that transition to the sixth edition would be detrimental to injured workers. The sixth edition will, except on the very lower ends of impairment, provide awards to injured workers for permanent partial disability benefits equal to or less than benefits presently being received. Labor representatives accept that the overall cost of the workers’ compensation system is of concern to employers and industry, but based upon the recent NCCI

lost cost filing which has resulted in rate reductions, that the continued use of the fifth edition is not detrimental to industry. The amount saved in the payment of income benefits by use of the sixth edition would not materially alter the benefits to industry. This is particularly true when the NCCI reports also demonstrate that 68 percent of every dollar in workers' compensation in Kentucky goes to medical expenses and only 32 percent to income benefits paid directly to the injured worker. The vast majority of awards are for permanent partial disability and are therefore totally controlled by the impairment rating established in the AMA Guide. Employee groups recognize the sixth edition creates some categories for the assessment of impairment ratings that do not exist in the fifth edition. However, virtually all of these have an impairment rating of 5 percent or less, which when used with the statutory factors result in an award of benefits of 3.25 percent disability or less. In order to maintain some semblance of "fairness," employee groups believe the adoption of the sixth edition would necessitate a revisiting of the statutory factors that are contained in KRS 342.730(1)(b). These factors came into existence in 2000, at or near the time of the publication of the fifth edition. Prior factors which were used primarily with the fourth edition were somewhat higher.

A labor representative states:

The compensation to the worker and their families will not improve with the 6th Edition as shown with a variety of examples discussed in our meetings. Furthermore the time it would take for all of those involved, doctors, lawyers and insurance providers to come to a case by case decision would delay compensation to the injured worker.

I can understand that workers compensation laws could prove to be a factor in business opportunities for the state of Kentucky, however I do not agree that lessening the awards or compensation owed to the worker should be the cost saving measure to attract new business.

...

I cannot see how changing to the sixth edition benefits the union or non-union worker. I would be hesitant to agree to any change that would have a negative effect on the injured worker.

...

I would hope that your recommendation would be to not move to the sixth edition as the harm to the injured worker could be enormous, especially in non-union shops where their only protection is the recognized law.

Further, an attorney who normally represents injured workers writes that the highest impairment ratings in the spine have all been reduced with the possible exception of lumbar injuries which increase the maximum from 28 percent to 33 percent. A cervical fusion which would result in a disability award of 28.75 to 33 percent would be reduced to possibly six percent or less disability under the sixth edition. For an individual with a cervical fusion who lacks the ability to return to the same job and has a \$400 average weekly wage, it is the difference between \$229.99 per week for 425 weeks (fifth edition) and \$47.60 a week (sixth edition) for that same 425 weeks. Other reductions occur in the areas of internal injuries, injuries to the skin such as burns, and most neurological injuries. Hearing and vision impairments remain the same. This attorney noted that a “troubling and confusing” area of the AMA Guides is for psychiatric impairment. Since Kentucky requires a physical injury for the award of psychiatric impairment, the Guides appear to prohibit the use of the psychiatric chapter. When a rating for physical injury is available the psychiatric chapter is not to be used. In addition, while the sixth provides for an independent assessment of a three percent impairment for pain, that impairment can only be used if the physical condition is not otherwise ratable. This attorney concludes with the following statement:

It is essentially an understood fact that the sixth edition of the AMA Guides will result in a reduction in income benefits to the injured worker in Kentucky. Additionally, it appears the sixth

edition will be replaced by the seventh edition within a few years. Therefore, the consistency, uniformity and objectivity of the application of “most recent edition” of the AMA Guides will most likely give way to inconsistency, confusion and unpredictability. These negative results of adopting “the most recent” edition of the AMA Guides are precisely what was to be eliminated in the disability determination process when the General Assembly adopted the reliance on the guides.

It can be safely stated that labor and employee representatives do not believe the sixth in any way materially enhances the welfare of the workers in the Commonwealth.

INDUSTRY, COMMERCE AND INSURANCE

While not totally in agreement, for the most part commerce, industry and insurance believe going to the sixth edition is the correct action. Each of these groups is rightly concerned with the cost of workers’ compensation in Kentucky. Cost containment measures, whether they be by income benefits or medical benefits, are of significant concern in these difficult economic times. Further, both insurance and business believe that maintaining the objectivity that is set forth by the use of the AMA Guides and continuing its predictability is important. While moving to the sixth edition appears to be important, most significant is maintaining the “objectivity” in the assessment of impairment and thus a level of consistency in rendering awards. Questioning the move from the fifth to the sixth could be considered a challenge to whether a “jurisdictions acceptance of a uniform means of rating impairment and the role of ratings to ascertain disability and permanency of benefits, with potentially costly and destabilizing results.”

The American Insurance Association has issued a policy statement confirming:

As has been its policy for many years, AIA supports the use of the most current version of the AMA Guides for workers’ compensation impairment determinations and as a foundation for ascertaining permanent impairment, using impairment as an

objective basis for the determination of permanent disability and payment of permanent disability benefits.

It further states:

The Guides sixth edition represents a significant change in impairment assessments methodology as compared to earlier editions of the guides. When correctly applied, the new methodology should reduce error and support greater interrater and intrarater reliability and impairment ratings. Establishing impairment classes using Diagnosed-Based Impairments with the application of modifiers would challenge physicians who are familiar with earlier editions of the guides. Accuracy of the impairment ratings will be of concern until physicians become familiar with the new rating methodology. Formal training of physicians in the use of the *Guides Sixth Edition* will speed understanding and acceptance. Stakeholders must also be familiar with the corrections and clarifications to the 6th Edition published in August, 2008.

The AIA further acknowledges that there are concerns with such reductions in impairment ratings as may be found with the single-level fusion which would rate a 25 percent impairment under the fifth edition with a good result, and the same condition could rate as low as 4 percent with the sixth edition. Further, because of the change in methodology, unless physicians undertake significant training to use the sixth edition, a physician who attempts to apply an understanding from an earlier edition to impairment assessment in the sixth will result in inaccurate ratings. The AIA states that while it does not minimize the challenge that some physicians and other stakeholders may face in acclimating themselves to the sixth edition with extensive training in the use of the sixth edition, there will be an acceptance of that edition. It encourages the continued use of an objective measure of impairment.

Sherri Brown, an attorney with Ferreri and Fogle, a Louisville-Lexington law firm that represents employers and insurers in the Kentucky workers' compensation system, provided a writing entitled, "A Case for Transition to the AMA Guides 6th." Attorney Brown served as a

reviewer for the sixth edition. She provides the results of a survey conducted by senior contributing editor to the AMA Guides, Christopher Brigham, in which it was noted that overall 48 percent of those involved in the survey agreed or strongly agreed that the sixth edition was a significant improvement. Those most strongly opposed to the sixth were plaintiffs' attorneys. Greater than 50 percent surveyed believe that ratings would be more reliable under the sixth and the ICF method was most appropriate. She emphasizes that the Guides continued to state that it is not designed to automatically translate into benefit awards. "It is the role of the Legislature to determine how a rating should translate into a benefit award, not the physician." (Brown, page 14) She opines that if adjustments to the transition from impairment to disability need to be made based upon societal values in a specific jurisdiction in order to impact disability awards, that is the role of the Legislature. Challenging the guides is not the appropriate analysis and instead "the solution is for legislators to frequently assess the benefit structure so that all appropriate factors are taken into consideration." Ms. Brown concludes with the recognition that impairment is a medical concept, not a societal legal concept.

Industry and commerce, and by extension insurance, are interested in reducing the cost of workers' compensation in Kentucky. They are interested in maintaining an objective measure of impairment which then through legislative methods will translate into an objective assessment of "disability" for the award of permanent partial disability benefits. In other words, maintaining the overall income benefits compensation analysis established by the 1996 change to the Kentucky Workers' Compensation Act.

MISCELLANEOUS MATTERS

The sixth edition, unlike the fifth edition, provides a more in-depth discussion and definitions of "concepts important to the independent medical examiner." (See Section 2.5

beginning page 25.) There the Guides discuss legal terminology such as the difference between probability as used in the legal arena (more likely than not) and the need for the potential cause and effect of 95 percent or more in the relationship to be considered probable from a scientific and medical standpoint. It is not clear which concept of probability is to be used by the physician in the impairment analysis of the Guides. This section further defines “causality,” “exacerbation” and “aggravation” as well as “apportionment.” In the fifth edition these terms are discussed, but without the specificity that is used in the sixth. These terms as defined in the sixth edition may conflict with Kentucky case law and its interpretation of these same terms. Within the medical legal arena of workers’ compensation, this may or may not become problematic.

The sixth edition clearly states how changes in impairment from prior ratings should be analyzed. It notes that the guides are not intended to be used to assess future impairment and are to be used at the time of maximum medical improvement. If a rating has been provided based upon a prior guide, then a subsequent impairment evaluation should be done using the sixth. To affect an appropriate comparison, documentation from the prior examination should be used within the context of the newest edition. If the information from the prior evaluations are unavailable or insufficient, then the rater is directed to state that she cannot provide a direct comparison. The sixth edition also states that in order for a report to be considered prepared pursuant to the sixth edition, it must follow a three-step process setting forth the details of the clinical examination, provide an analysis of the finding and include a discussion of how the impairment rating was calculated. The failure to state these details in a report could lead to the conclusion the impairment rating was not in accordance with the most recent edition of the AMA Guides.

CONCLUSIONS AND RECOMMENDATIONS

The Commissioner is of the opinion there needs to be an analysis of various aspects of the Kentucky workers' compensation system, including the cost impact of both income benefits and medical benefits. It is the recommendation of the Commissioner that the most feasible and advisable conclusion to this study is to remain with the fifth edition until additional considerations are studied. A subsequent study should include the mathematical formula for the computation of income benefits used with the guides and all aspects of the delivery of medical benefits in the workers' compensation system. This study could be conducted during calendar year 2009 with a report of the study being provided to the Legislature at the beginning of the regular 2010 session. The fifth edition would remain the controlling guide unless during the 2010 session the Legislature directed a more recent edition be used or a more recent edition is adopted by regulations promulgated by the Commissioner.

Compensation in the workers' compensation system consists of two elements, the first, income benefits and the second, medical benefits. Income benefits include temporary total disability benefits, permanent partial disability benefits and permanent total disability benefits. In litigated claims, the greatest number of claims involve permanent partial disability, which is computed using a mathematical formula including the impairment rating assigned pursuant to the AMA Guides. Numerous problems would occur with a transition to the sixth edition, including: lower income benefits to the injured worker, a reduction in the number of physicians who would be willing to perform evaluations and assess impairment based upon the methodology in the sixth edition, and potential creation of a larger disparity between the cost of medical benefits and income benefits.

Since going to the AMA Guides as a controlling force in assessing disability benefits, treating physicians have become less willing to perform impairment ratings. With the onset of the sixth edition and its methodology, it can be anticipated that virtually all treating physicians, unless they also perform independent medical examinations, will cease doing impairment ratings. This will create a dependence upon independent medical examiners, and while there are several highly trained and qualified IME's, they are costly and difficult to schedule even now. With an adoption of the sixth edition, the cost will increase and obtaining examinations will become more challenging.

According to NCCI, income benefits constitute approximately 32 percent of the cost of the system, with the remainder attributable to medical costs. It seems illogical to see a further decrease in income benefits without addressing a more significant cost driver to the system. Further, any move to the sixth edition without considering the need to make modifications to the multipliers in KRS 342.730 does not seem reasonable. By analogy, recently the Department of Workers' Claims issued a new physician fee schedule. Medical fee schedules were authorized by changes to the Workers' Compensation Act in 1994 to address then escalating costs to the workers' compensation system. One of the tenets of the fee schedule as it has been revised every two years is to insure the payments to physicians remain equal to or greater than the previous fee schedule. Logically, one would anticipate that when addressing income benefits being paid to the injured worker, similar considerations would be appropriate.

With the most recent NCCI lost cost report reflecting decreases and most insurers and self-insureds reducing rates in 2008, it does not appear that the Kentucky workers' compensation system is in a state of crisis. This does not mean the Kentucky workers' compensation system does not have problems or that consideration should not be given to analyzing the overall system

to determine whether alteration in the delivery of medical benefits might be appropriate. The number of claims filings in contested claims has remained fairly level over the last five years. However, during the same time the number of medical fee disputes has increased both in frequency and complexity. The ideal approach to considering system-wide issues is in a measured and thoughtful way. Since a move to the sixth edition should consider an analysis of the multipliers contained in the Act, it is more practical to remain using the fifth while a broader study of the Workers' Compensation Act is done.