



Industrial Special Indemnity Fund (ISIF)

2013 Annual Report

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INTRODUCTION TO ISIF

The Industrial Special Indemnity Fund (ISIF) was adopted in 1927 by the Idaho State Legislature as part of the state's comprehensive workers compensation system. The ISIF is more commonly referred to as the "second injury fund." Its general purpose when enacted was to encourage employers to hire disabled workers by offering the employer relief from liability for total and permanent disability, if the disabled worker was subsequently injured and became totally and permanently disabled following a second or subsequent injury at work.

The purpose and management of the ISIF was created in Sections 72-323, 324, 331 and 334, Idaho Code.

Funding for the ISIF is provided by an annual assessment. The assessment is calculated by ISIF to be an amount which is two times (2x) all its expenses during the immediately preceding fiscal year less (-) the cash balance of that fiscal year. That figure is then pro-rated semi-annually among the State Insurance Fund, self-insured employers, and other sureties based on each entity's proportionate share of total indemnity (income) benefits paid on open workers' compensation claims during the reporting period. The pro-rated amount is calculated by the Idaho Industrial Commission, which prepares the semi-annual notice of assessment for each responsible entity. The Commission also invoices each entity for the assessment and collects the funds on behalf of the ISIF.

ISIF is liable for lifetime total and permanent disability benefits only. All other benefits within the workers compensation program are not the responsibility of the ISIF; i.e. retraining, medical, vocational, functional loss, partial disability, etc. Allocation of liability for total and permanent disability between the employer/surety and the ISIF is apportioned under what is called the "Carey formula." Cited in the case of *Carey v. Clearwater*.

Claims for benefits from ISIF are started by filing a Notice of Intent to File a Complaint Against the ISIF (NOI). Such notices are filed by claimants, self-insured employers and insurance entities in the workers compensation system seeking ISIF contribution for total disability benefits. The notices are filed under what is commonly called the "60 day rule." Section 72-334, Idaho Code. During the 60 days, the ISIF will undertake an in-house review of the claim for liability and will either resolve or deny the claim. Following the conclusion of 60 days if the claim is not resolved, the party filing the NOI can elect to file a formal Complaint against the ISIF, or determine to drop the entire matter. Upon receipt of a Complaint, the ISIF will refer the claim to outside legal counsel and commence formal litigation of the issues.

Resolution of claims can be accomplished by lump sum settlement, periodic monthly payments, deferred lump sum or periodic payment, or any combination of these options with the approval of the Industrial Commission.

Benefit rates for total and permanent disability, and hence ISIF liability, are part of a statutory system too complicated to explain in this Introduction. In general, the benefits are based on the average weekly wage of the injured worker and fall into categories of 45%, 60% or 67% of that wage structure. Benefits are paid at these levels and may change from year-to-year as the average weekly wage may change.

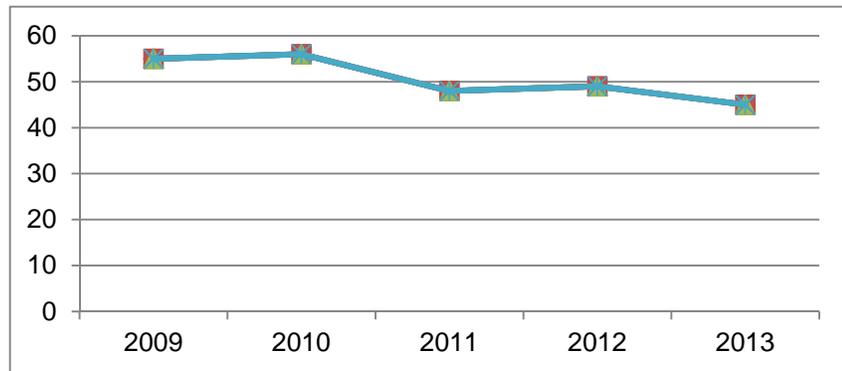
OPERATIONS

Adjudication

Managing claims is a major function of this agency. Management takes the form of initially evaluating the NOIs in-house and responding within the statutory time period of 60 days. If the claim proceeds to a formal Complaint filed with the Industrial Commission, then management takes a more formal approach of adjudicating the claim with the assistance of outside legal counsel. In either situation, ISIF personnel are actively involved in all phases of the claim from start to finish. The information in this report is based on calendar year (CY) statistics.

Notice of Intent Filings (CY)

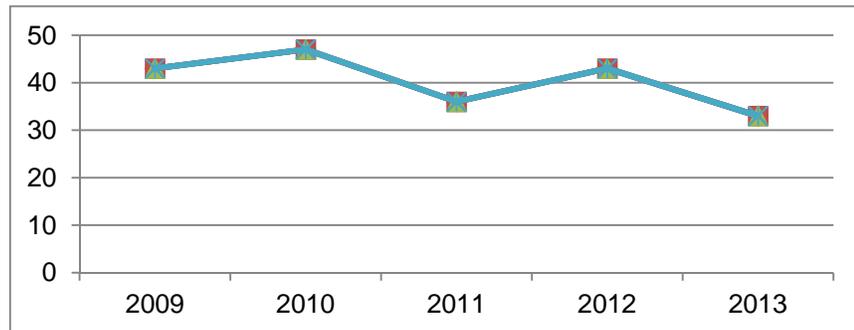
2009	55
2010	56
2011	48
2012	49
2013	45



Although the number of NOIs submitted had a slightly declining level over the past four years, the number of formal Complaints filed with the Industrial Commission has been more erratic. However, a slight downward trend has likewise occurred.

Complaint Filings (CY)

2009	43
2010	47
2011	36
2012	43
2013	33



Even though the numbers actually show a slightly downward trend in the number of claims and cases filed, the ISIF has been facing an ever increasing challenge in the last few years in limiting the overall cost of litigation. Due to economic changes in the workplace, a drop in available jobs has caused a decrease in available opportunities for injured workers to reenter the job market and rejoin their fellow workers. Additional changes at the federal level have created an attractive atmosphere for injured workers

to receive long-term disability benefits that were not previously available with such ease. Thus, injured workers have determined to largely forego regular employment in a lesser capacity. Instead, many injured workers now leave the work force and seek federal benefits, and then apply to the ISIF for what amounts to lifetime pension benefits. The ages of claimants seeking benefits from ISIF has expanded greatly over the past few years and now range from the upper 30's to mid-70. This spread is growing further apart each year.

ISIF is proactive in bringing claims to final adjudication. By actively managing the claims and working closely with outside legal counsel, litigation costs, liability exposure, and operational costs are held to acceptable levels. Needless to say, however, that with a more complex litigation process, costs have increased in any event.

Benefits Administration

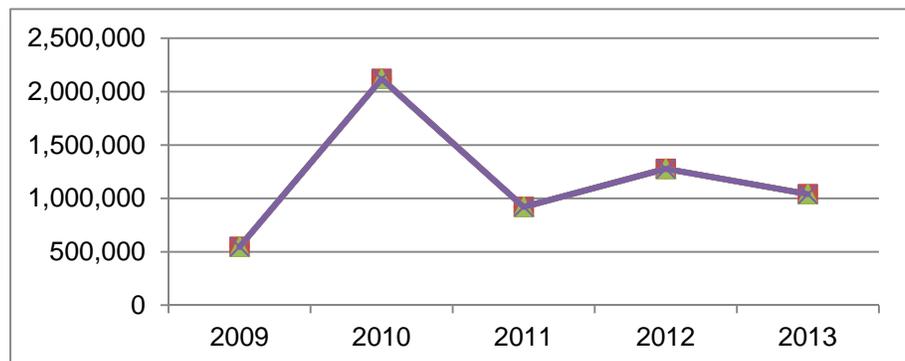
One way to bring cases to final adjudication is through the settlement process. As mentioned previously, a final settlement can be accomplished in several ways through a one-time lump sum payment, periodic monthly payments, deferred lump sum or periodic payments, or any combination of these options with the approval of the Industrial Commission.

Over the past 4 years, Idaho case law has made the settlement process more complicated. These cases set fundamental standards for ISIF in bringing settlement proposals to the attention of the Industrial Commission. In essence, the ISIF must now concede all issues of liability before a settlement can be delivered to the Commission for review and ultimate approval. This process has necessarily resulted in more complex procedures and by necessity longer time frames to explore and fully review all aspects of liability on the part of ISIF before a potential settlement can be negotiated and presented for approval.

Set out below are the amounts of lump sum settlements during the past 5 years.

Lump Sum Settlements (CY)

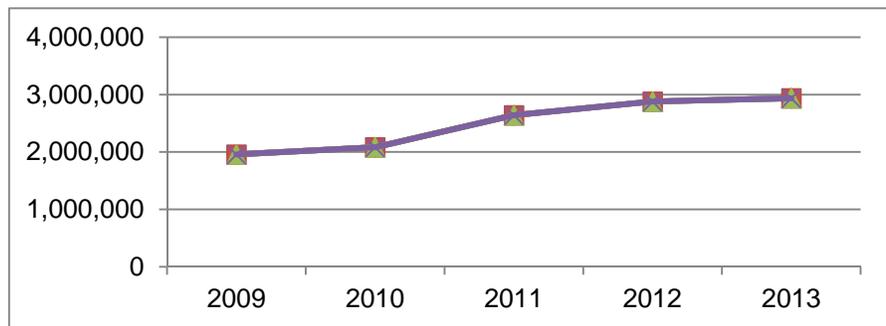
2009	\$ 546,578
2010	\$ 2,119,131
2011	\$ 920,298
2012	\$ 1,277,076
2013	\$ 1,039,817



Another avenue in resolving cases is through the judicial hearing process, in which the parties actively litigate the liability of the ISIF before the Industrial Commission. Should the ISIF be liable, then monthly statutory benefits are paid during the lifetime of the disabled worker. Since 2009, 22 lifetime beneficiaries have been added to the rolls. During that same time, an equal number have passed away. However, since the new beneficiaries are coming in at a higher wage rate than their earlier counterparts, the overall cost for this administration has increased. Further, regular inflationary increases add to the overall cost of this benefit. As a result, the payouts have increased 50% from just four years ago, which is an average of 12.5% per year. This trend is clearly of great concern to the ISIF. Should this trend continue, the payments for monthly annuitants would double every 5¾ years.

Monthly Annuitant Payouts (CY)

2009	\$ 1,955,926
2010	\$ 2,083,140
2011	\$ 2,641,662
2012	\$ 2,879,967
2013	\$ 2,936,617



Litigation

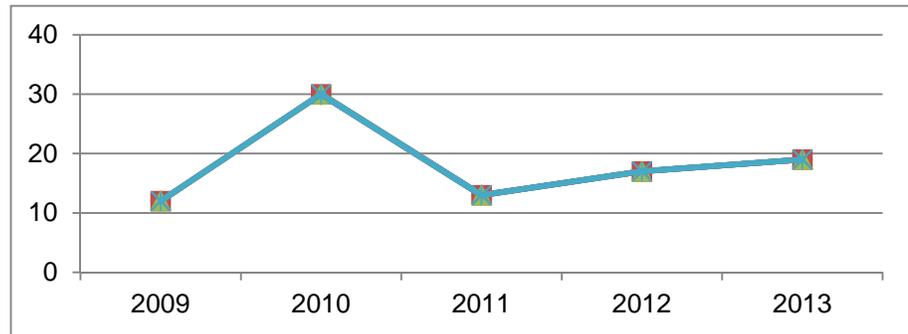
Litigation expense and time delays are seemingly a natural occurrence in the litigation process and have been a long standing concern to the ISIF. Since judicial review of an injured worker's potential disability is not conducted until the hearing, any unnecessary delay will work to the disadvantage of ISIF. Put another way, any unnecessary delay in the judicial process will more-than-likely diminish the already poor health conditions of the worker. As a result, the likelihood of a finding of liability is increased. Such factors precipitated the ISIF in proposing and getting passed legislation in 1997 commonly known as the "60 day rule" in filing NOIs. This statute allows the ISIF 60 days to review, evaluate and possibly settle claims without involving extensive use of outside legal counsel and the time consuming judicial process.

Even without resolution of the claim during the 60-day period, the legislation has permitted ISIF to better manage overall litigation expenses with an initial in-house review of the claim. In addition, the legislation sought to bring speedier relief and a less litigious process to claimants, sureties and self-insured employers. In some claims, the new rule has met its expectations. However, in far too many claims, the material submitted to ISIF for review is not entirely relevant and contains many extraneous documents having no bearing on ISIF liability. This creates a frustrating process leading to denial of a claim, which then leads to formal litigation necessitating more time and a more expensive process. When this occurs, the intent of the 60-day rule is thwarted.

In the past four years, litigation costs have stabilized even though the caseloads for each attorney have increased. With fewer opportunities for lump sum settlements, more innovative ways to resolve cases have been implemented and have gained approval from the Industrial Commission. Such resolution measures have increased the overall closure of cases.

Cases Closed by Lump Sum Settlement (CY)

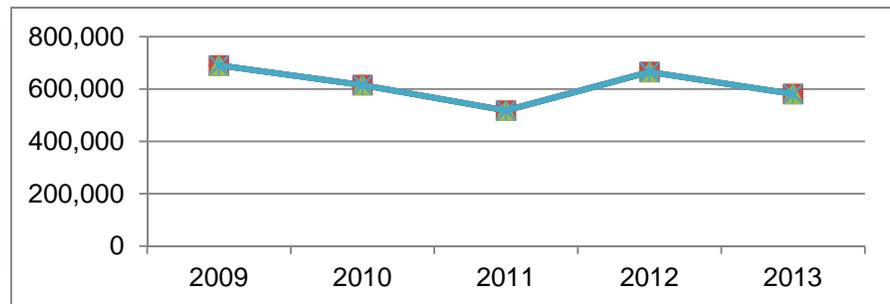
2009	12
2010	30
2011	13
2012	17
2013	19



Overall costs of outside legal counsel are set out below. Such costs include depositions, travel, discovery of medical and vocational information, strategy summaries, analysis of all issues, and formal legal briefing to the Industrial Commission.

Legal Costs CY

2009	\$ 690,689
2010	\$ 615,470
2011	\$ 517,962
2012	\$ 665,401
2013	\$ 581,507

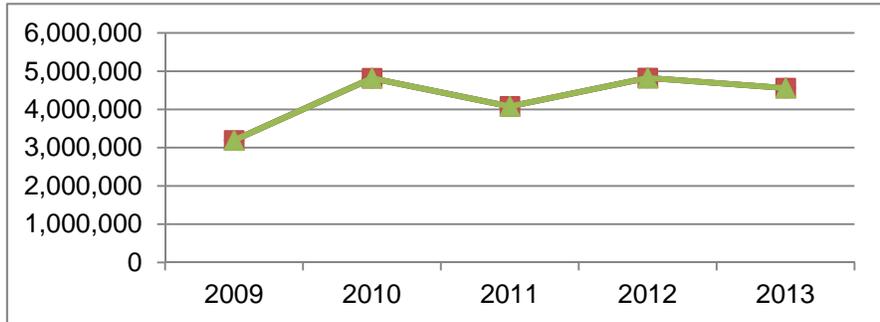


Over the past four years, the ISIF has added one more attorney to its staff of outside legal counsel making the total number of attorneys now eight. Even with this additional attorney, costs have been trending downward. Such a trend is largely due to the active participation by ISIF staff in each case. Such activity has led to more efficient representation by outside counsel directing resources to meaningful defense strategies and more successful outcomes in litigation and/or settlements.

Thus, total litigation costs are composed of attorney fees and costs, monthly annuitant payments, and lump sum payments. An illustration of these costs over the past five years is set out below:

Litigation Costs (CY)

2009	\$ 3,193,192
2010	\$ 4,817,491
2011	\$ 4,079,922
2012	\$ 4,822,444
2013	\$ 4,557,941

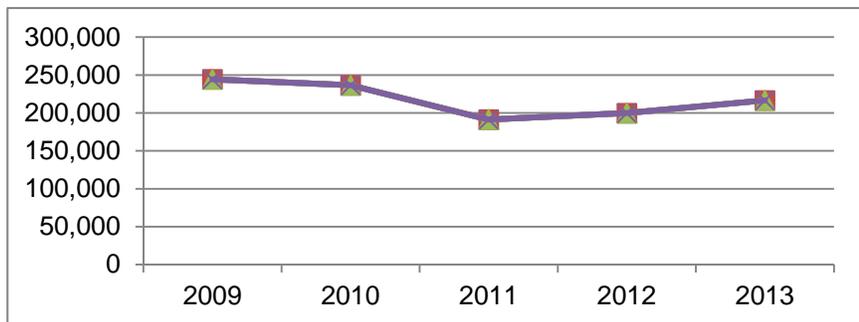


Costs of Office Administration

The final piece to the expense-side of ISIF is the cost of operating an administrative office. This is rather a small amount compared to the other major expenses in managing the ISIF. The expenses include two full time employees and general office expenses such as rent, technical services, supplies and travel. These costs have been fairly stable over the past few years but generally trending downward.

Office Admin Expenses (CY)

2009	\$ 244,296
2010	\$ 236,411
2011	\$ 191,197
2012	\$ 199,724
2013	\$ 216,510

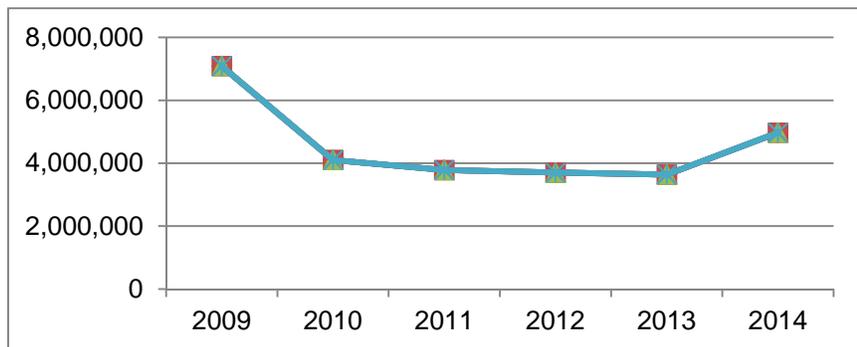


ASSESSMENT

The ISIF is funded through an annual assessment to sureties, self-insured employers, and the State Insurance Fund. It is calculated by a rather simple method of taking two times (2x) the total expenses of the most recent fiscal year minus (-) ending cash from that same fiscal year. This calculation is then pro-rated on a semi-annual basis for the entity’s share of total indemnity benefits paid on workers’ compensation claims during the reporting period. Below is an illustration of Assessments from 2009.

Assessments (CY)

2009	\$ 7,088,187
2010	\$ 4,103,171
2011	\$ 3,782,089
2012	\$ 3,701,257
2013	\$ 3,636,709
2014	\$ 4,969,970



The expenditure-side of the Assessment is broken into three main categories: Administrative, Benefits and Litigation. These costs have been detailed in previous parts of the Report. Generally, expenses have been more predictable in recent years due to their overall stability. The cash-side of the Assessment, however, is more variable each year. As cash reserves are used to a greater extent, the Assessment fluctuates more. Thus, the remaining cash balance becomes a smaller portion of the equation compared to expenses. Therefore, with a higher percentage of expenses, a larger Assessment was calculated for the next calendar year. This is the basis for the significant rise in the Assessment for 2014. With less emphasis on using-up cash reserves in FY 2014, the Assessment is projected for CY 2015 to be less volatile or even decrease over the next few years depending on maintaining stable expenditures for the ISIF.