

Florida Department of Financial Services
Division of Workers' Compensation

Research Brief

Impact of the 2003 Workers' Compensation Reform
(Senate Bill 50-A)

Compensability

May 1, 2009

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Executive Summary

Senate Bill 50-A (2003), also known as the 2003 workers' compensation reform, substantially overhauled the workers' compensation statute. The reform included changes to requirements for compensability of workplace injuries and illnesses. "Compensability" refers to the eligibility of an injured worker for benefits under workers' compensation. The 2003 reform mandated greater specificity both for injuries and illnesses qualifying as compensable and the standards for evidence supporting those conditions. The central question addressed in this report is whether the greater specificity of the law resulted in fewer workers qualifying for benefits. Because eligibility for benefits is determined at different points in the workers' compensation system, the question of whether fewer workers receive benefits resolves into other questions:

- Have the changes to compensability prompted carriers to deny cases more frequently?
- Are workers litigating denials of compensability more often?
- Has there been a change in the number of workers receiving benefits following a denial of compensability?

Each of these questions points to an area of workers' compensation subject to impact from statutory changes to compensability. It is the aim of this report to provide data to assess any such impact.

Administrative databases maintained by the Division of Workers' Compensation and the Division of Administrative Hearings provide the data used in this report. From the Division of Workers' Compensation, the Integrated Database is the source of all information on lost-time cases and denied cases, while the Medical Data Warehouse is the source of information on medical bills paid for lost-time and medical only cases. Both databases obtain information from required carrier reporting. Information on litigation comes from Petitions for Benefits data provided monthly by the Division of Administrative Hearings.

For this report, dates of accident from January 2002 through September 2003 represent the pre-reform period, while dates of accident from October 2003 and later months represent the post-reform period. Data maturity limitations pertain to dates of accident in 2006 and 2007. Comparison of data in the pre- and post-reform periods, supplemented with critical consideration of other factors, provides the basis for answering the questions stated above. Each answer has two aspects, one descriptive, the other explanatory: First, do the data show a change following implementation of the reforms? Second, can the changes be viewed as resulting from the statutory changes to compensability?

Analysis of the data reveals a number of differences between pre- and post-reform trends. Whether these differences result from the changes to compensability in the 2003 reforms remains an open question. Based on available data, alternative explanations cannot be eliminated. Major trends and alternative explanations are summarized below.

1. Denial of compensability is more frequent in the post-reform period.

- Cases with denied compensability have increased from an average of 1,844 to 2,244 per month, representing an increase of 21.6 percent.
- In the pre-reform period, there was a monthly average of 26.5 denied cases for every 100 lost-time cases. In the post-reform period, this average increased to 35.1 denied cases for every 100 lost-time cases.

Other Factors that May Explain Changes: The trend of increased denial of compensability preceded implementation of the reforms, suggesting the impact of other, non-reform factors. These factors could include improved carrier reporting of denials to the Division similar to documented improvements in other carrier reporting.

2. Litigation over denied compensability has diminished in the post-reform period.

- For the pre-reform period of January 2002 – September 2003, a monthly average of 841 cases resulted in a Petition for Benefits (PFB) involving compensability. For the post-reform period of October 2003 – December 2005, this number dropped nearly 21 percent to 666.
- After rising incrementally over the course of the pre-reform period to peak at 933 cases for September 2003, the number of litigated cases per month having compensability as an issue declined 19 percent to 756 for October 2003, registering the single largest reduction between consecutive months in the entire period from 2002 through 2007.
- In the pre-reform period, 27.6 percent of denied cases per month resulted in a PFB. In the post-reform period through December 2005, the monthly average fell to 20.7 percent.

Other Factors that May Explain Changes: The decline in litigation involving compensability may be part of a broader trend of decline in workers' compensation litigation that is evident in the data. This broader trend may reflect the impact of provisions in the 2003 reform specifically related to litigation, such as the revised requirements for specificity in PFB's or changes to attorney compensation.

3. In the post-reform period, fewer workers received benefits following a denial of compensability.

- For the pre-reform period of January 2002 – September 2003, a monthly average of 78.5 workers received no lost-time benefits for every 100 workers with initially denied compensability. This number, adjusted to exclude the continued impact of non-reform factors, rose six percent to 83.2 for the post-reform period through December 2005.

Other Factors that May Explain Changes: The decline in the percentage of denied compensability cases receiving lost-time benefits may also be part of the broader decline in litigation. The data establish that the increase in denied cases without benefits is associated with the decline in litigated cases receiving benefits. Data further indicate that the rate at which workers prevailed in denied, litigated cases is unchanged in the post-reform period. Thus, the decline in denied cases that later received benefits is associated with the decreased incidence of litigation, which raises again the question of what explains that decline.

Preface

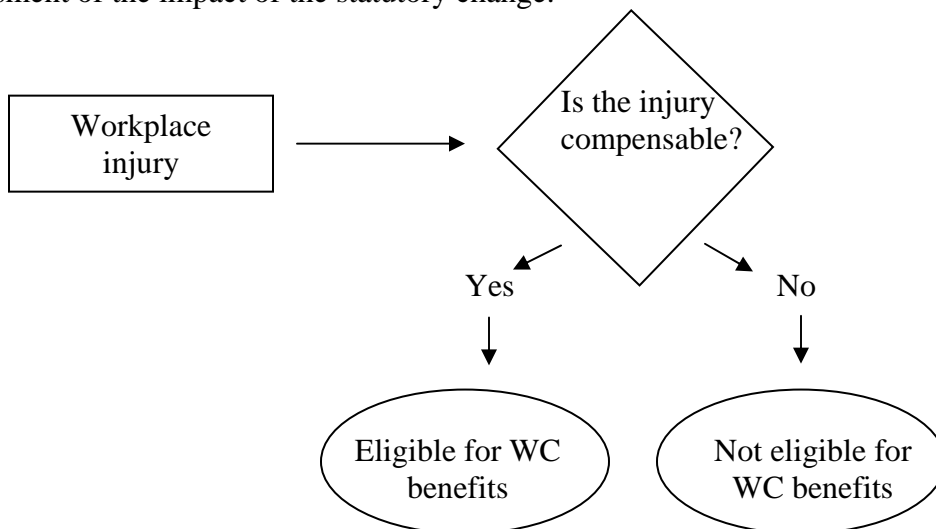
This report examines the impact of changes to the compensability of workplace injuries mandated in the 2003 workers' compensation reform (Senate Bill 50-A, Chapter 2003-412, Laws of Florida)¹. "Compensability" refers to the eligibility of an injured worker for benefits specified in the workers' compensation statute. If an injury is not compensable, the worker is not entitled to medical or indemnity benefits under workers' compensation. If an injury is compensable, the worker may receive those benefits, provided other eligibility criteria and restrictions are met. In this sense, compensability is a threshold qualification underlying all other eligibility criteria and restrictions governing specific benefits.

Compensability involves non-injury and injury related criteria. These can be expressed as two distinct conditions, each with two components.

1. Non-injury related criteria are: (a) whether the employer was required and did secure workers' compensation coverage, and (b) whether the employee is covered thereunder.
2. Injury-related criteria are: (a) whether the injury meets the statutory requirements, and (b) is supported by evidence that meets specific statutory standards.

This report will not address 1(a), i.e., compensability as impacted by coverage issues.

The compensability criteria govern the decision point in the diagram below and determine which cases are eligible for workers' compensation benefits. The impact of any statutory change in compensability requirements, such as those mandated in Senate Bill 50-A, would be reflected in changes to data characterizing the respective groups receiving and not receiving benefits, other factors remaining constant. Measurement of these changed characteristics would then constitute an assessment of the impact of the statutory change.



¹ The text of Senate Bill 50-A is available at http://laws.flrules.org/files/Ch_2003-412.pdf.

While the above diagram provides a schematic overview, it omits the actual, determinative processes of compensation. Definite steps transpire between the occurrence of a workplace injury and its acceptance as a workers' compensation case, such as:

- Is the injury reported to the employer or carrier?
- Does the carrier accept the case as compensable?
- Does the carrier subsequently rescind a denied case?
- Do denied claims result in litigation?
- Does litigation result in the award of benefits?

Each of these questions represents a different decision point in the compensability process. Outcomes of the different decisions may serve as measurement points in the determination of compensability. The aim of this report is to use these measurement points to assess the impact of the statutory changes. While there are, in principle, many measurement points, available data limit them to only a few. Accordingly, analysis will focus chiefly on denials of compensability, litigation associated with denied compensability, and benefits secured in denied cases. These cover some, but not all, of the places where statutory requirements for compensability are applied or enforced.

Before proceeding with analysis of the data, some further preliminary discussion is needed. The next two sections summarize and discuss the aspects of compensability that Senate Bill 50-A modified. These sections set some expectations and direction for approaching the data. Further direction is established in the section on methodology and data, which provides important caveats regarding the interpretation of this report. With preliminaries addressed, the report proceeds with sections on data analysis and conclusions.

Key Senate Bill 50-A Changes Related to Compensability

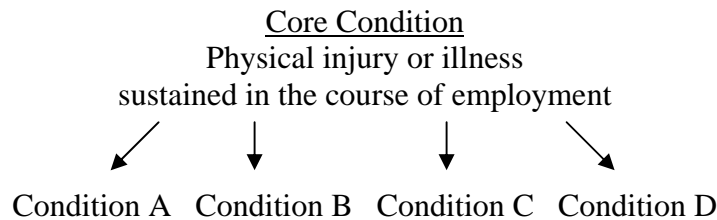
- Revised compensability where a pre-existing condition is aggravated or accelerated. [440.02(1) and 440.15(5)] (Effective July 15, 2003)
- Specified the standard for compensability of exposure to a toxic substance. [440.02(1)] (Effective July 15, 2003)
- Defined the terms “major contributing cause” and established the standard of proof in cases of occupational disease or repetitive exposure and the necessary type of evidence to support stand-alone complaints of pain, or other subjective complaints, in the absence of objective relevant medical findings. [440.09(1)] (Effective October 1, 2003)
- Created standards for compensation of mental or nervous injuries and physical injuries related thereto. [440.093(1)(2)] (Effective October 1, 2003)
- Provided criminal penalties for identity related fraud in employment or claims. [440.105(4)(b)(9)] Effective October 1, 2003
- Specified the standard of care in relation to stand-alone abnormal anatomical findings. [440.13(16)(a)] (Effective October 1, 2003)
- Defined “occupational disease.” [440.151(2)] (Effective October 1, 2003)

Discussion of the Statute

To help bridge the gap between the abstract language of statute and data pertinent to assessing the statute’s impact, this section attempts to clarify how the major changes in provisions governing compensability *may* alter the outcome of compensability determinations. This discussion is not intended as a substitute for, or an authoritative interpretation of, the actual statute or case law related to the statute.

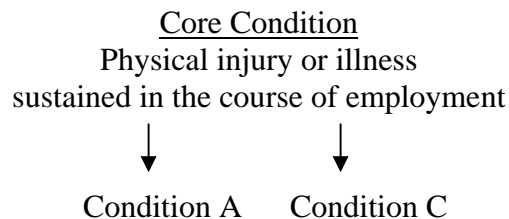
Senate Bill 50-A redefined the compensability criteria under the Workers’ Compensation Law with greater specificity and changed the standards of evidence required for establishing compensability.

The diagram below illustrates the basics of compensability under the amended law. Conditions that are compensable must have a “core” physical injury or illness sustained in the course of employment as their major (i.e., more than 50 percent) cause. In the diagram, A, B, C, and D represent conditions resulting from the core condition as their major cause. A core condition plus four accompanying conditions establish the scope of compensability in this example.



Variations can occur to alter the scope of compensability. First, conditions A, B, C, and D may lack a core condition as their major contributing cause. This would fully eliminate the compensability of the case. Examples may include cases with mental or nervous conditions or other subjective complaints not resulting from a compensable physical injury as their major cause, cases involving conditions associated with occupational diseases for which epidemiological evidence of a causal link at the experienced exposure levels is inconclusive, and cases with a causal link of 50 percent or less between the core and resulting physical conditions.

A second variation in compensability occurs when only some of conditions A, B, C, and D may lack a core contributing cause. The diagram below illustrates this scenario. Conditions B and D, lacking a causal connection to the core condition exceeding 50 percent, are eliminated as not compensable.



Another variation in compensability can affect the eligibility for benefits by shifting a lost-time claim to medical only. This scenario may occur if there is a compensable condition requiring medical care, but the loss of earning capacity is due to a non-compensable condition.

To sustain its redefinition of the scope of compensability, Senate Bill 50-A clarifies the standards for evidence required to establish compensability. Determination of compensability requires objective relevant medical evidence, demonstrated by physical examination findings or diagnostic testing. Abnormal anatomical findings do not, in themselves, establish compensability. Occupational diseases require substantiation from epidemiological studies. The compensability standard for mental or nervous injuries requires that a licensed psychiatrist must demonstrate that an underlying, compensable, physical injury is more than 50 percent responsible for any accompanying mental or nervous injuries using medical evidence that meets criteria provided in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American Psychiatric Association.

Compared to the pre-reform law, the language of Senate Bill 50-A alters compensability requirements and provides more specific standards for supporting evidence. One consideration is whether greater specificity resulted in fewer workers pursuing litigation because the specificity added during the reforms made clearer who is eligible for benefits. The research question that emerges is whether data on compensable cases and the underlying determinative processes of compensation reflect an impact that can be attributed to the reforms.

Data and Methodology

All data used in this report are from administrative databases maintained by the Division of Workers' Compensation and the Division of Administrative Hearings. The Integrated Database from the Division of Workers' Compensation is the source of all information on lost-time cases and denied cases. The Medical Data Warehouse from the Division of Workers' Compensation is the source of information on medical bills paid for lost-time and medical only cases. The data are reported by insurance carriers pursuant to requirements of the workers' compensation statute or administrative rules; however, reporting errors will impact the completeness and accuracy of the data.² Information on litigation comes from monthly files provided to the Division of Workers' Compensation by the Division of Administrative Hearings.

“Case,” a fundamental term used throughout this report, means a specific worker having a specific injury, identifiable in the databases as a unique combination of Social Security Number and date of accident.

The following data sources are used in this report:

1. Denied Cases

A denied case is a case in which *compensability* has been totally denied, initially or subsequent to the payment of some benefits, and has been reported to the Division on Form DFS-F2-DWC-

² The Division of Administrative Hearings and Division of Workers' Compensation code compensability issues from different forms, which resulted in different compensability denial figures.

12 (or its electronic successor) or another document. The carrier is required to file a Notice of Denial (Form DFS-F2-DWC-12) with the Division if the carrier denies compensability or entitlement to indemnity benefits. Each denied case is counted only once regardless of the number of associated forms reporting the denial.³

2. Lost-Time Cases

A lost-time case is any case in the Integrated Database that has received indemnity benefits or full salary in lieu of compensation as reported on Forms DFS-F2-DWC-1 or DFS-F2-DWC-13 or as otherwise reported as qualifying as a lost-time case on Forms DFS-F2-DWC-4 or DFS-F2-DWC-12, or the electronic successors to those forms. Any lost-time case so identified is counted as having lost-time benefits.

3. Litigated Cases

A litigated case is a case having one or more Petitions for Benefits (PFB's) filed with the Florida Division of Administrative Hearings. A case litigated for denied compensability is a case with one or more PFB's filed in which compensability is coded as an issue. Litigation associated with denied cases has been identified by cross-matching litigated cases with denied cases based on the Social Security Number and date of accident.

Data pertaining to denied cases, lost-time cases, and litigated cases have been aggregated by date of injury, generally by the year and month of injury. This coordinates the data with the implementation dates of the reforms. The time frame covered is January 1, 2002, through December 31, 2007. The period from January 2002 through September 2003 represents the pre-reform period in that most of the changes to compensability became effective on October 1, 2003. Use of data prior to 2002 has been avoided to maximize the accuracy of the analysis by concentrating on injury years with the most complete carrier reporting. The post-reform period of October 2003 through December 2007 includes injury years with preliminary data; generally, data for October 2003 through December 2005 are reasonably mature and suitable for representing many post-reform trends.

The methodology employed in this report involves pre- and post-reform comparison of selected measures chosen deductively for their suitability as indicators of an impact resulting from Senate Bill 50-A. When the conceptual or theoretical relationship between the legislation and the measure is sound, and the measure shows a clear-cut difference in the data before and after implementation of the change, some evidence suggestive of the impact is provided. Such evidence, however, is tenuous to the extent that it does not preclude alternative explanations. Because the comparison methodology does not systematically control for alternative explanations, it remains descriptive rather than explanatory, *prima facie* rather than conclusive. Even a *prima facie* case, however, may be stronger or weaker depending on the rigor with which it seeks and acknowledges the limits of its own conclusions. Accordingly, this analysis will introduce control variables in the form of supplementary measures and reasoned assessment of

³ The number of denials reported in the Division's 2008 *Annual Report* (p. 46) is the total number of Notices of Denial (Form DFS-F2-DWC-12) processed in Fiscal Year 2007-2008, not the number of denied cases aggregated by injury date.

alternative explanations to help temper the inherent weakness of the comparisons and ultimate conclusions.

Data Analysis

1. Denials of Compensability

After an injury is reported to a carrier, the carrier must determine whether or not the case is compensable. This decision provides a measurement point for assessing the impact of statutory changes to compensability.

Table 1 shows the average number of denied compensability cases per month in the pre-reform period of January 2002 through September 2003 and the post-reform period of October 2003 through December 2007. Dates represent injury dates. As shown in the table, the post-reform period had a greater average number of denied cases per month than the pre-reform period, and the difference is statistically significant (p=.05).

Table 1. Average Number of Cases Denied per Month Before and After Implementation of Senate Bill 50-A

| Time Interval | Average Cases Denied per Month | Lower 95% Confidence Level | Upper 95% Confidence Level |
|----------------------|--------------------------------|----------------------------|----------------------------|
| Jan 2002 - Sept 2003 | 1,844.3 | 1,741.7 | 1,946.9 |
| Oct 2003 - Dec 2007 | 2,243.5 | 2,177.0 | 2,309.9 |

Source: Division of Workers' Compensation Integrated Database as of July 3, 2008

Figure 1 (below) provides further breakout of denied compensability cases by year and month of injury. The broad pre- and post-reform difference indicated in Table 1 is evident in the chart: Denied cases in the pre-reform months for the most part total between 1,500 and 2,000, while the predominant monthly post-reform total ranges from 2,000 to 2,500. The month-by-month trend, however, does not conform to pre- and post-reform periodization. This is made evident by the linear trend calculated from pre-reform data and projected forward into the post-reform period. Monthly counts of denied cases from January 2002 through August 2005 cluster around the trend line, while counts for September 2005 and after consistently fall below the line in a leveling-off pattern. Lower counts for the later months in 2007 may reflect case and data vintage issues more than actual patterns of case denial.

Figure 2 (below) provides another perspective on denied cases by tracking them alongside lost-time cases. In the pre-reform period displayed in the chart, the number of denied cases steadily crept upward, while the number of lost-time cases moved slightly downward. This trend of increase continued into the post-reform period until all three indicators—denied cases, lost-time

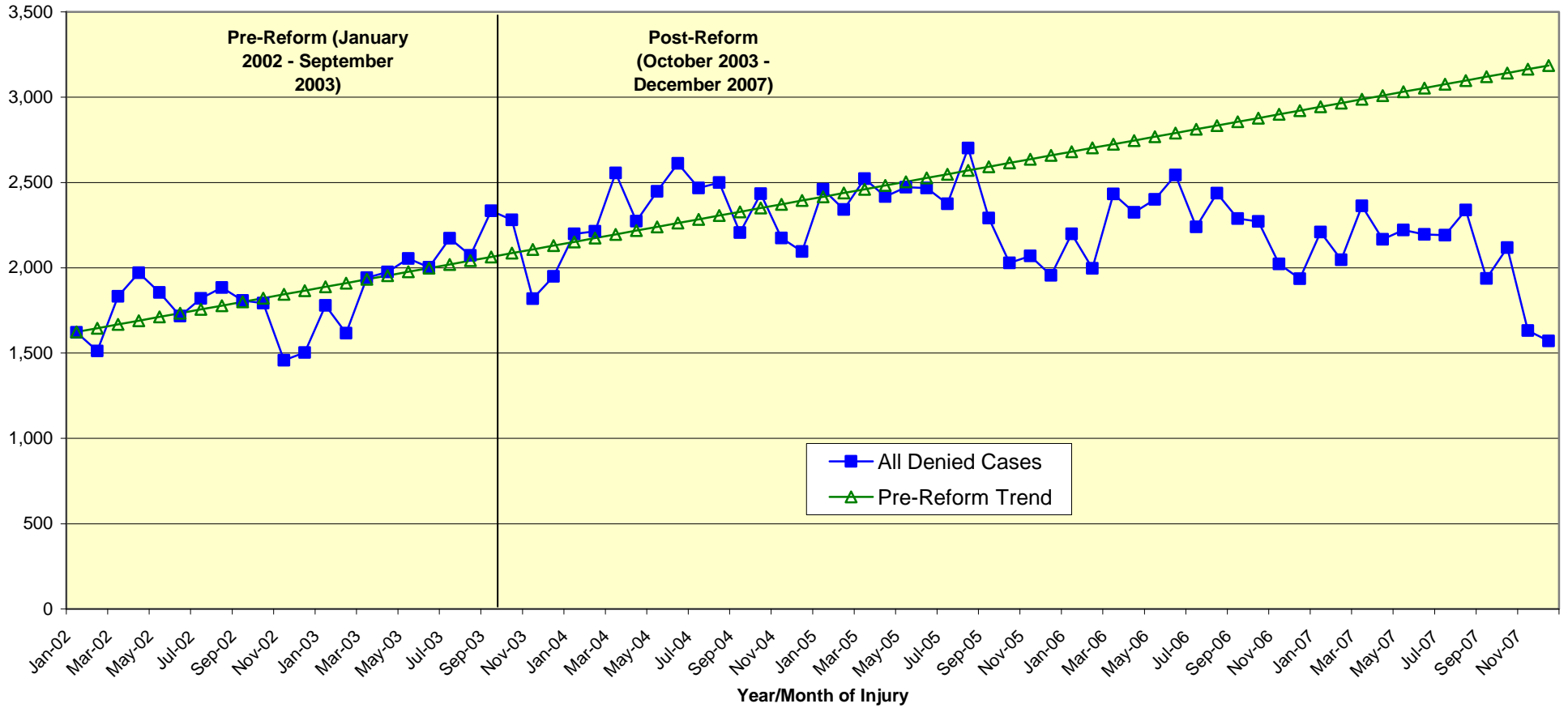
cases, and denied cases as a percentage of lost-time cases—leveled off, at least in the portion of the post-reform period with reasonably mature data.

What is clear is that no proliferation of denials occurred following the implementation of Senate Bill 50-A. The trend of increase in both the number of denied cases and denied cases as a percentage of lost-time cases began late in 2002, well before the 2003 reforms. This suggests that the higher numbers of the post-reform period may be partly or fully due to factors other than the statutory changes to compensability in Senate Bill 50-A. In this regard it is instructive to note that analysis of carrier reporting conducted in March 2008 revealed that 4,690 of 12,778 lost-time cases missing a First Report of Injury (Form DFS-F2-DWC-01) for injury years 2002 through 2007 were associated with 2002.⁴ Improvement in carrier reporting since that year may be a factor in the higher counts of denied cases noted for the post-reform period. On this point the analysis remains inconclusive.

Another issue related to the denial of claims concerns occupational disease cases. Senate Bill 50-A established more specific standards of evidence needed to establish compensability for occupational disease. The question is whether any measurable impact resulted from this change. Figure 3 (below) displays denied occupational disease cases as a percent of all denied cases, and lost-time occupational disease cases as a percent of all lost-time cases. What is apparent is that occupational disease cases have not increased their share among all denied cases since the implementation of Senate Bill 50-A, nor has the share of lost-time cases represented by occupational disease cases significantly declined. Both measures have remained relatively stable.

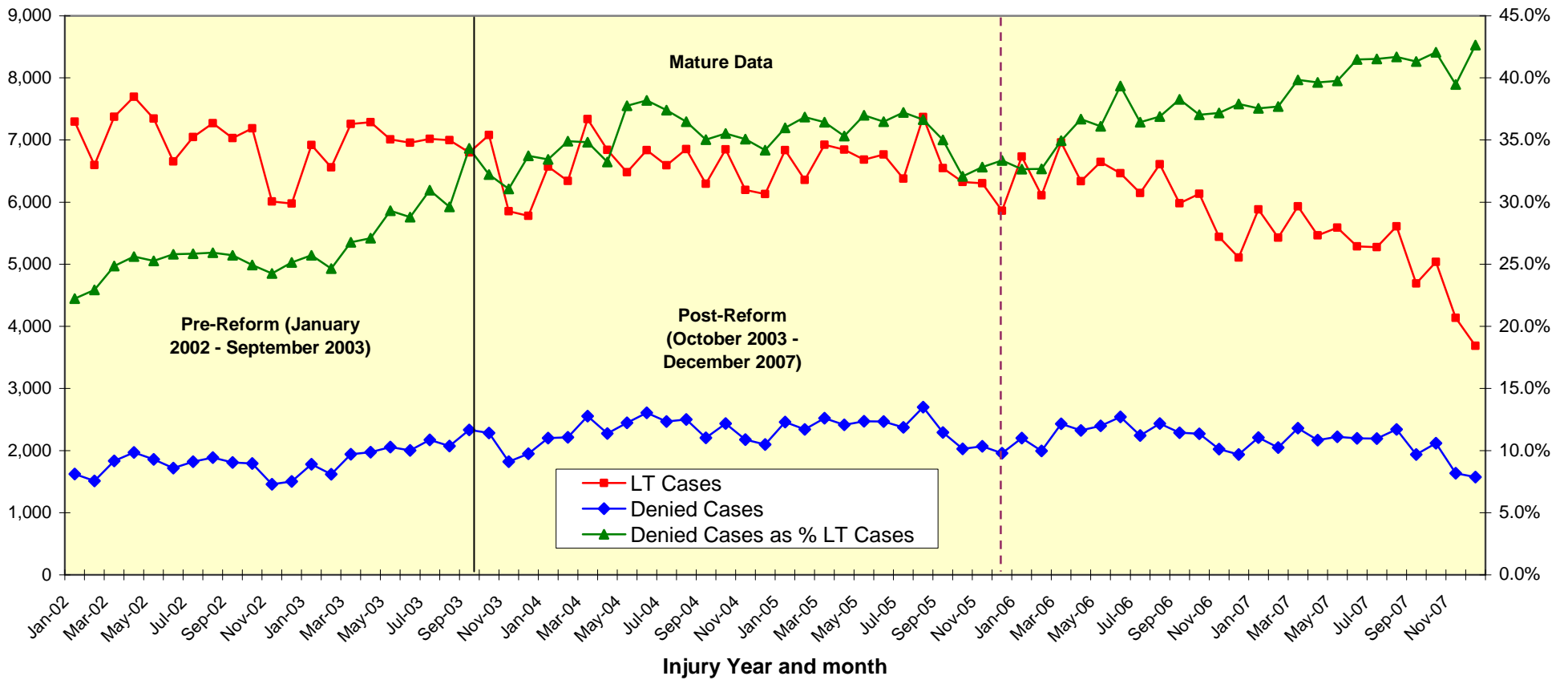
⁴ The total number of lost-time cases for injury years 2002 – 2007 was 460,242 as of July 3, 2008.

1. Total Cases with Denied Compensability by Year and Month of Injury



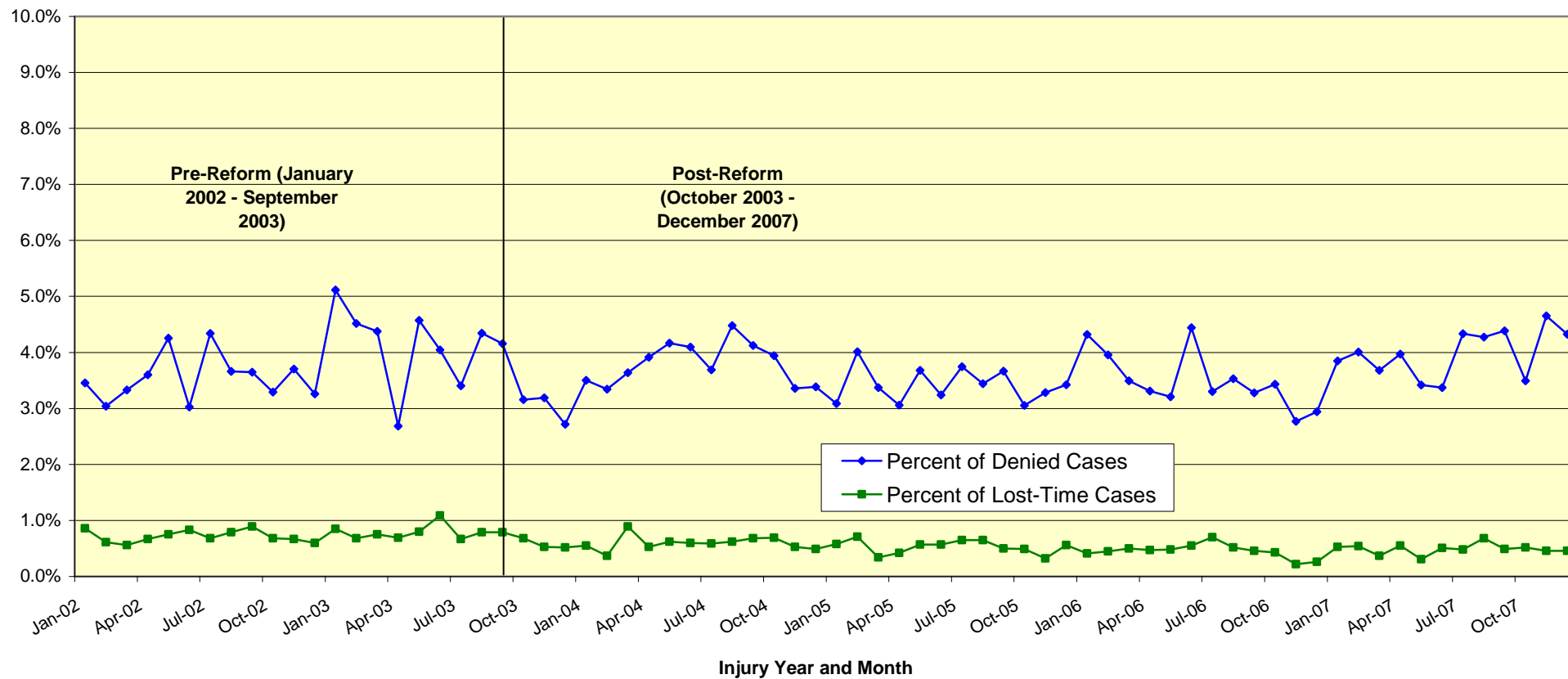
Source: Division of Workers' Compensation Integrated Database as of July 3, 2008

2. Denied and Lost-Time Cases by Injury Year and Month



Source: Division of Workers' Compensation Integrated Database as of September 9, 2008

3. Occupational Disease Cases as a Percent of Denied and Lost-Time Cases



Source: Division of Workers' Compensation Integrated Database as of July 3, 2008

2. Litigation and Compensability

After the compensability of a claim has been denied by the carrier, the worker, typically in consultation with an attorney, may elect to formally dispute the denial. This provides another measurement point for assessing the impact of statutory changes to compensability. Analysis in this section will address two questions. First, did litigation over compensability increase, decrease, or remain constant following the implementation of Senate Bill 50-A? Second, can changes in litigation be attributed to the legislative changes to compensability?

Figure 4 (below) displays the total number of litigated cases involving compensability, the total number of litigated cases, and the percent of total litigated cases that involve compensability. The data show that litigated cases involving compensability increased slightly over the pre-reform period, dipped in October and November 2003, and proceeded over the remainder of the post-reform months in a trend of steady decline. Litigated cases involving compensability as a percent of all litigated cases also exhibit different pre- and post-reform patterns. In the pre-reform months, the percent of litigated cases involving compensability rose steadily and continued to rise until the peak month of June 2004, following which a period of flat to slight decline began and ran until early 2007. Later months in the chart do not have sufficiently mature data to determine any trends.

Overall, Figure 4 indicates that litigation involving compensability rose steadily over the pre-reform months both in number of cases and share of all litigated cases. Then, in October 2003, overall litigation dropped precipitously, while litigation involving compensability dropped less sharply, resulting in a continued increase in the share of litigated cases until mid-2004. Subsequently, the respective decline in all litigated cases and litigated cases involving compensability was roughly commensurate, resulting in a leveling off in the share of litigation involving compensability. The data reflect that all litigation is down for the post-reform period, and litigation involving compensability is commensurate with this trend following an initial adjustment period when litigation involving compensability remained more robust than other litigation.⁵

Figure 5 (below) further characterizes the decline in litigation by tracking all litigated cases and litigated cases involving compensability in relationship to lost-time cases. Again, there are clear-cut differences in trends before and after the reforms. In the pre-reform months, litigated cases held steady at about 45 – 47 percent of lost-time cases. In October 2003, this percentage abruptly dropped nearly eight percentage points and continued in a downward pattern before leveling off after August 2005. Lack of data maturity for months after December 2005 suggests caution in interpreting trends for those months. Litigated cases involving compensability also show a pattern of decline and subsequent stability in the post-reform period, though less pronounced than the corresponding pre- and post-reform trends for all litigated cases. Overall, Figure 5 complements Figure 4 by showing that both litigation in general and litigation over

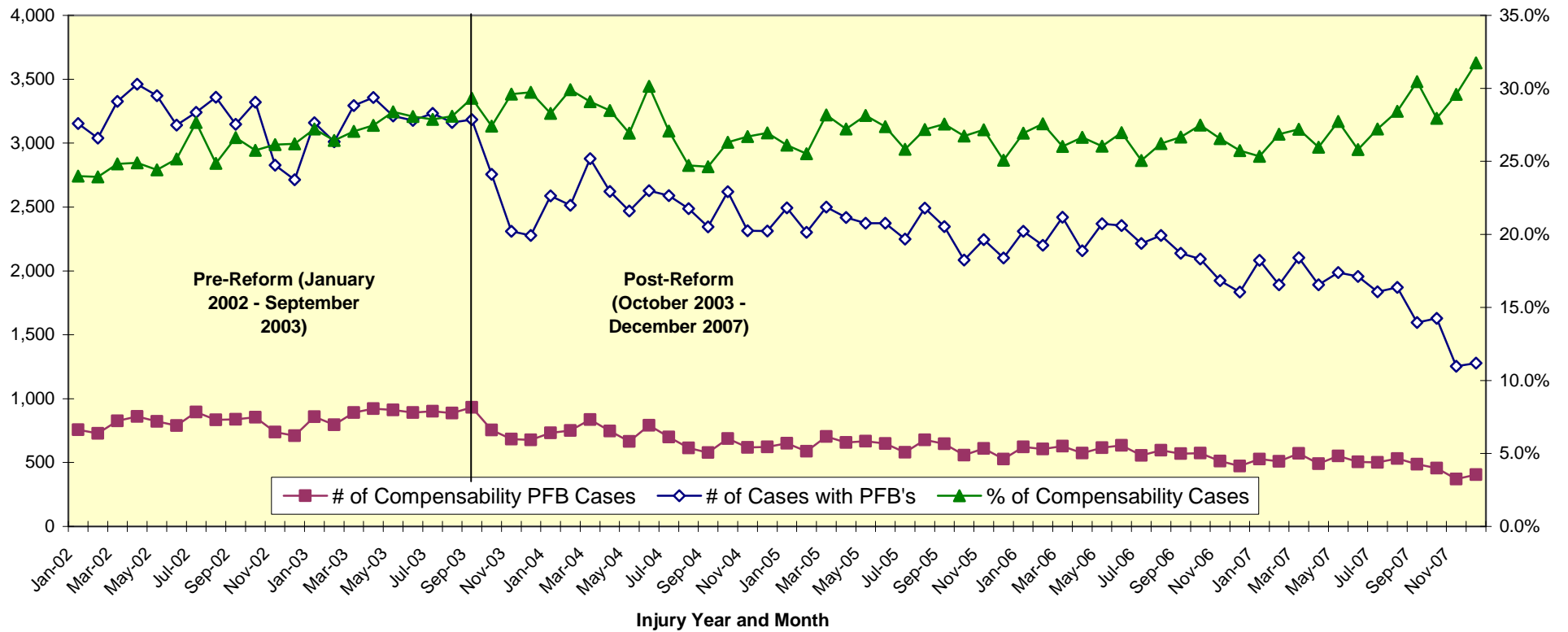
⁵ State Of Florida Division of Administrative Hearings 2007-2008 Annual Report of the Office of the Judges of Compensation Claims, pp. 6-11, (2008), provides further information on the frequency of litigation in workers' compensation.

compensability are down in the post-reform period not only in total numbers, but relative to the number of lost-time cases, as well.

Figure 6 (below) examines litigation in cases with denied compensability by displaying trends in basic frequencies of litigation and in relative shares of litigated cases among all denied cases. In the pre-reform period, the number of denied cases that were litigated rose slightly, while the percent of denied cases that were litigated remained steady at 25 – 29 percent. In the post-reform period, both measures declined. The percent of denied cases that were litigated dropped nearly six percentage points between injury months September and October 2003 and subsequently declined steadily through the remainder of the post-reform period. It is evident that cases with denied compensability are progressively less likely to litigate in the post-reform period, though the apparent trend of decline for the later months will likely be mitigated by further claim maturity.

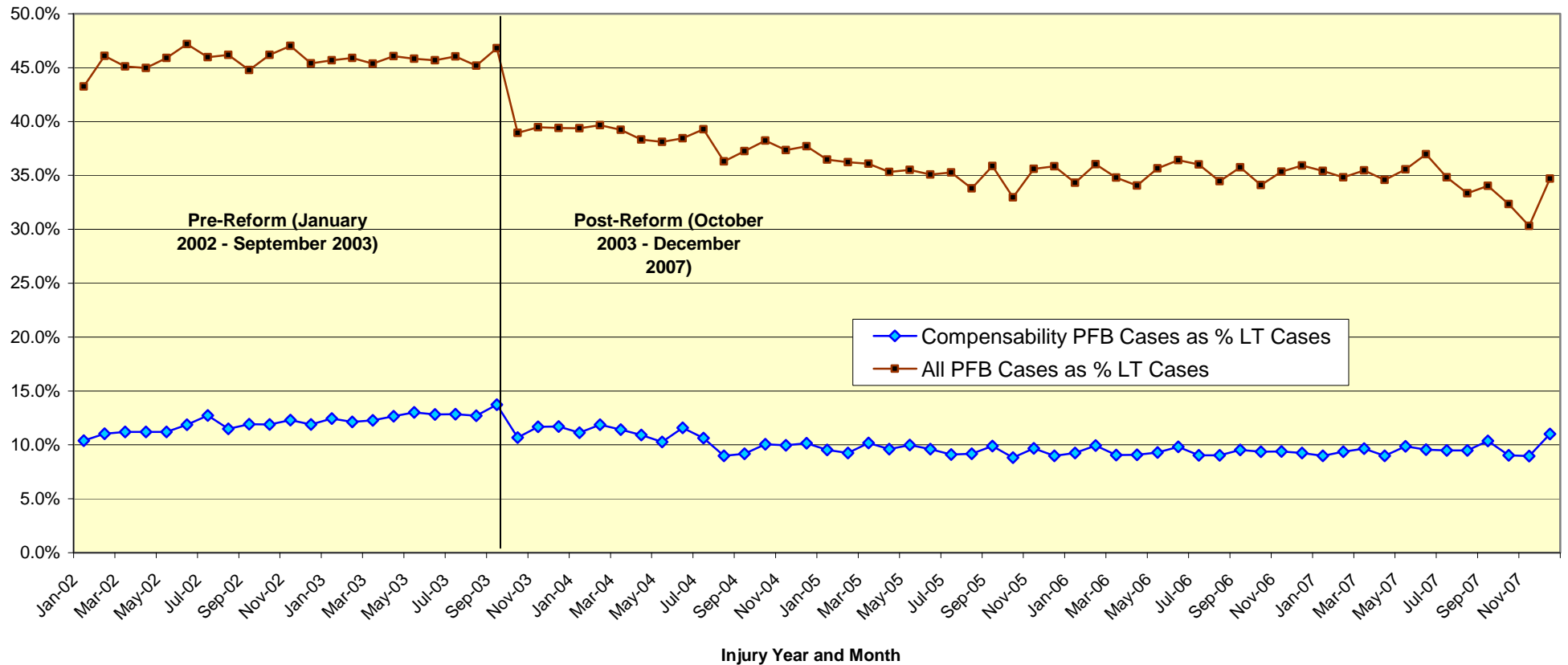
The decline in litigation involving compensability following the implementation of Senate Bill 50-A is consistently supported by the data. The next question is whether that decline can be explained by the changes to compensability mandated in the bill. At first glance, the connection between the statutory change and the decline in litigation is plausible: Given the changes in requirements governing compensability and the greater specificity with which they were expressed, injured workers, counseled by attorneys, were less inclined to contest a denial of compensability simply as an anticipation of the reduced likelihood of success. While plausible, this conjecture encounters two difficulties. First, all litigation, not just litigation involving compensability, declined following implementation of the reforms. It is not evident that statutory changes to compensability would reduce litigation involving other issues, particularly when the data show a trend of decline in litigation even for cases without denied compensability. This suggests that the decline in litigation involving compensability may be part of a broader trend in litigation. Any explanation of this broader trend must consider provisions of Senate Bill 50-A specifically related to litigation, such as specificity requirements for PFB's, changes to the compensation of attorneys, and a more self-executing system. These potential explanations of the overall decline in litigation complicate the analysis of litigation specifically involving compensability. Whether the statutory changes to compensability even partly explain the decline in compensability litigation cannot be determined here.

4. Total Cases with PFB's, Cases with PFB's Having Compensability as an Issue, and Cases with PFB's Having Compensability as an Issue as a Percent of Total Cases with PFB's by Injury Year and Month



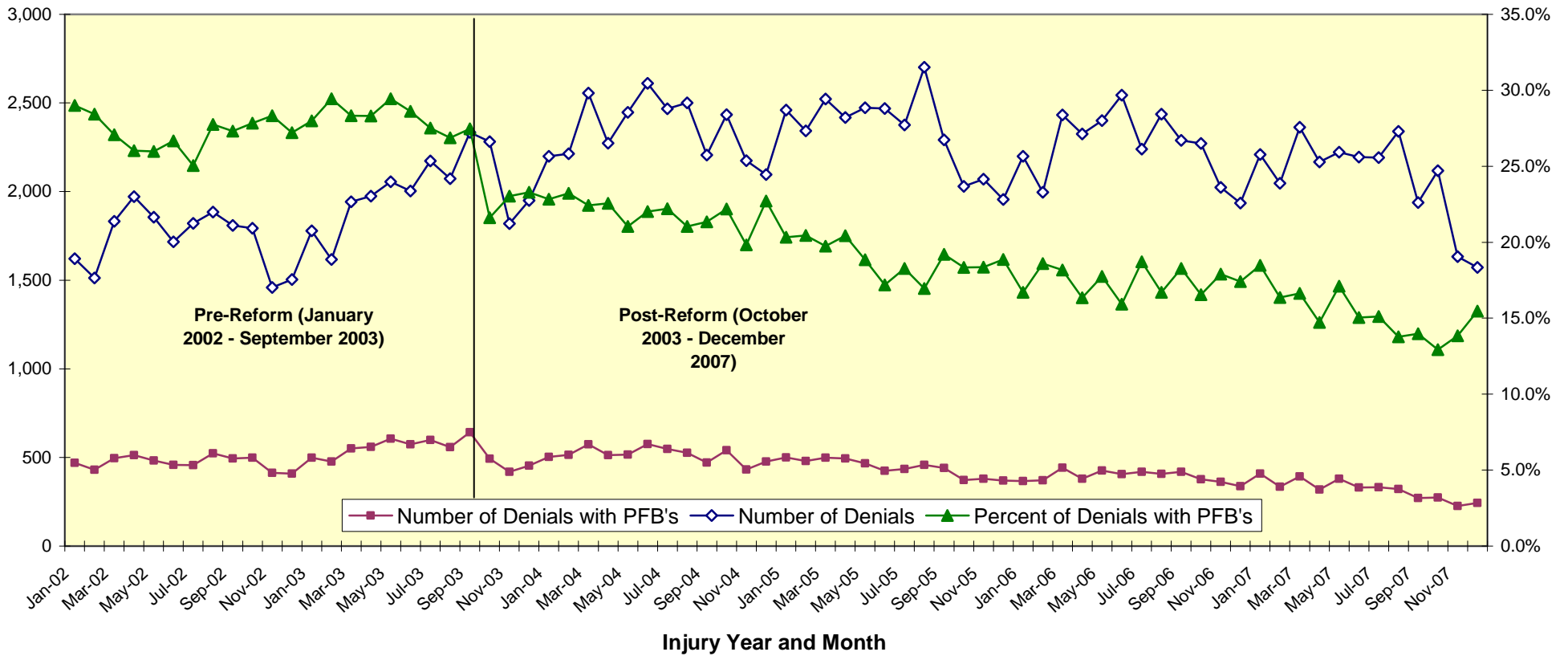
Source: Florida Division of Administrative Hearings' PFB files (January 2002 - July 2008)

5. Compensability PFB Cases and All Cases with PFB's as a Percent of Lost-Time Cases



Source: Florida Division of Administrative Hearings' PFB files (January 2002 - July 2008) and Division of Workers' Compensation Integrated Database as of July 3, 2008

6. Denied Cases with PFB's, Total Denied Cases, and Denied Cases with PFB's as a Percent of All Denied Cases by Year and Month of Injury



Source: Florida Division of Administrative Hearings' PFB files (January 2002 - July 2008) and Division of Workers' Compensation Integrated Database as of July 3, 2008

3. Disposition of Denied Compensability Cases

In the end, a denied compensability case either receives or does not receive benefits. The former occurs if the carrier rescinds the denial or if benefits are obtained in the course of dispute resolution. The granting of benefits is an acknowledgment of, or acquiescence to, the compensability of the case, but does not mean the carrier inappropriately denied the case. The receipt of benefits by denied cases, then, represents another measurement point for assessing the impact of statutory changes to compensability.

To measure the disposition of denied compensability cases, it is important to select only those cases that received indemnity benefits after a denial. Because carriers may have 120 days to deny compensability, many denied cases receive benefits before the denial. Given the constraints of the data only initially denied cases are included in this analysis. With these cases, the sequence of events leading to an outcome can be followed more easily and accurately. Generally, 75 – 80 percent of all denied compensability cases are initial denials.

Two further points of clarification need to be stated. Because the Division does not have complete medical data for medical only cases for the pre-reform period, benefits cited for denied cases are limited to those received by lost-time cases. In other words, a case having “benefits” is one that has received, or is entitled to receive, indemnity benefits. The second point involves the litigation process. Benefits may be obtained at any juncture of this process—prior to mediation, during mediation, following an order of a Judge of Compensation Claims, or following an appeal of an order. In this report, no specificity is intended regarding the juncture of dispute resolution where benefits are obtained other than some point after a PFB is filed.

Figure 7 (below) shows the percent of initially denied cases having no benefits, benefits with a PFB, and benefits without a PFB. Some clear-cut differences are evident between the pre- and post-reform periods displayed in the chart. In the pre-reform period, the percent of denied cases with no benefits remains constant at about 80 percent, while the percent of cases with benefits following a PFB remains constant in the mid to upper teens. Cases with benefits and without a PFB range from 5 – 7 percent, with a very slight downward trend.

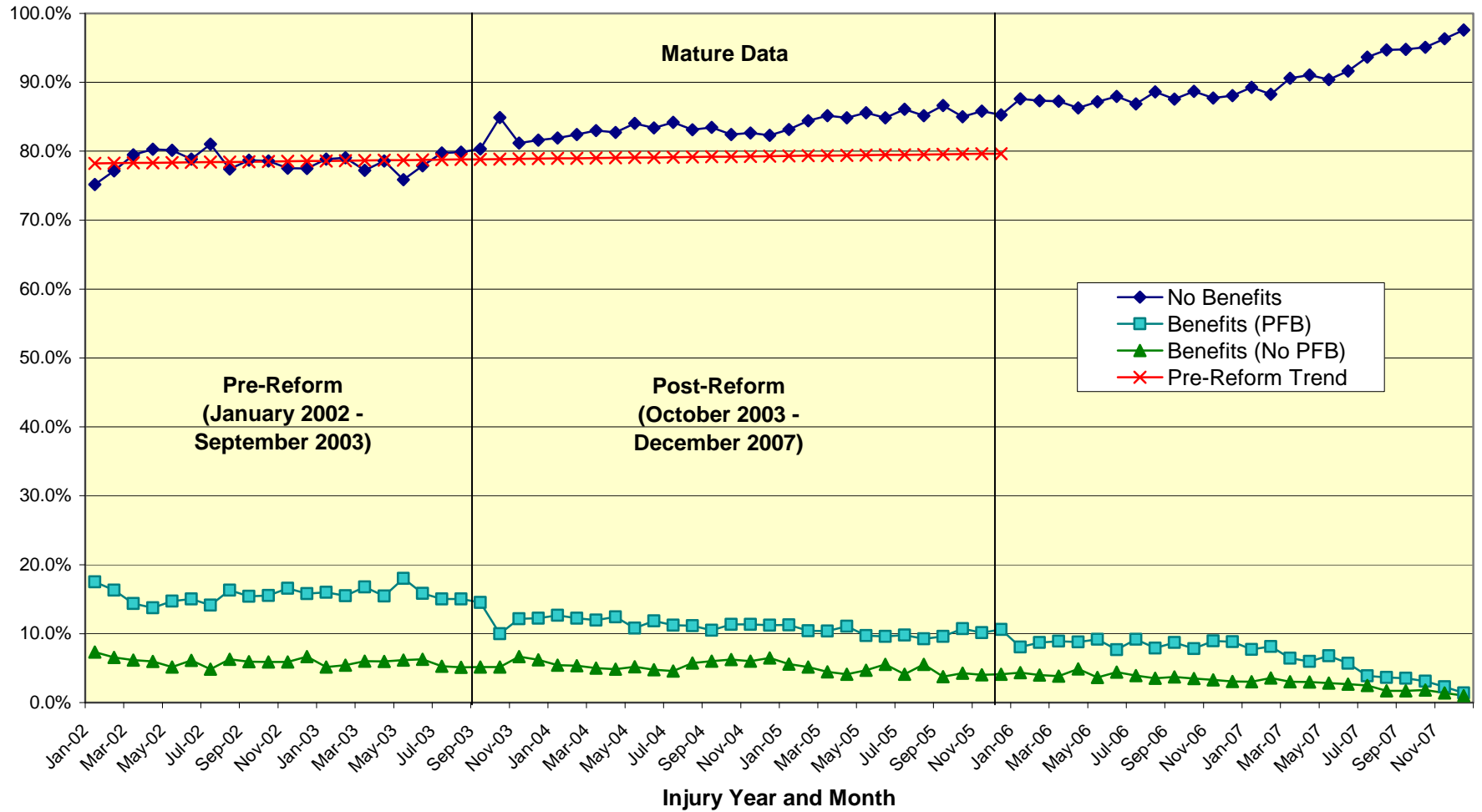
In the post-reform period, two of these measures change immediately: The percent of cases with no benefits enters a trend of progressive upward growth, while the percent of cases with benefits and a PFB drops off and trends slightly downward through the months with mature data. Analysis of the distribution of cases with and without benefits in the pre- and post-reform periods demonstrates that the difference is statistically significant (Chi-square = 149.4829, DF = 1, $p < .0001$). On average, 78.5 percent of initially denied pre-reform cases per month received no lost-time benefits, compared to 83.9 percent for post-reform cases having mature data. This reflects a 6.9 percent post-reform increase in the average monthly percent of initially denied cases receiving no benefits. It is important to note, however, that a very slight trend of increase pre-dated implementation of the reforms. Statistically controlling for the continued impact of this trend requires a comparison of the percent of cases without benefits in the post-reform period with the percent estimated from a linear trend of pre-reform data. This comparison shows a monthly average increase of 5.9 percent in the percent of cases receiving no benefits for the post-reform period from October 2003 through December 2005. In total case numbers, this suggests that an average of about a thousand more denied cases per year received no benefits during the post-reform period.

It is important to emphasize again that “benefits” in this analysis refers to indemnity benefits. Benefits for medical only cases may qualify the findings, though perhaps not in a major way. Review of initially denied compensability cases without lost-time benefits from injury year 2006 revealed that 38 percent had one or more paid medical bills in the Division’s Medical Data Warehouse for a date of service prior to the date the case was established as denied in the Integrated Database. By contrast, fewer than 5 percent had paid medical bills with a service date subsequent to the date the case was established. This suggests that, though a substantial minority of denied compensability cases without lost-time benefits may receive some medical benefits prior to the denial; following the denial, receipt of medical benefits ends for most cases. The lack of complete medical data for the pre-reform period precludes assessment of the impact of statutory changes to compensability specifically on medical benefits.

The increase in denied cases without benefits following the implementation of Senate Bill 50-A draws mostly from a corresponding decline in cases having benefits and a PFB. This raises the question as to whether the decline in litigated cases with benefits is due to the diminished frequency of litigation, the rate at which litigated cases obtain benefits, or some combination of both factors. Figure 8 (below) displays the rate at which denied cases with PFB’s obtain benefits in the pre- and post-reform periods. Essentially, this rate does not change in the post-reform period having mature data; in both the pre- and post-reform periods, 60 – 70 percent of denied, litigated cases obtain benefits, with no upward or downward trend. This contrasts with the much lower percentage and the slightly downward trend for non-litigated cases obtaining benefits following implementation of the reforms.

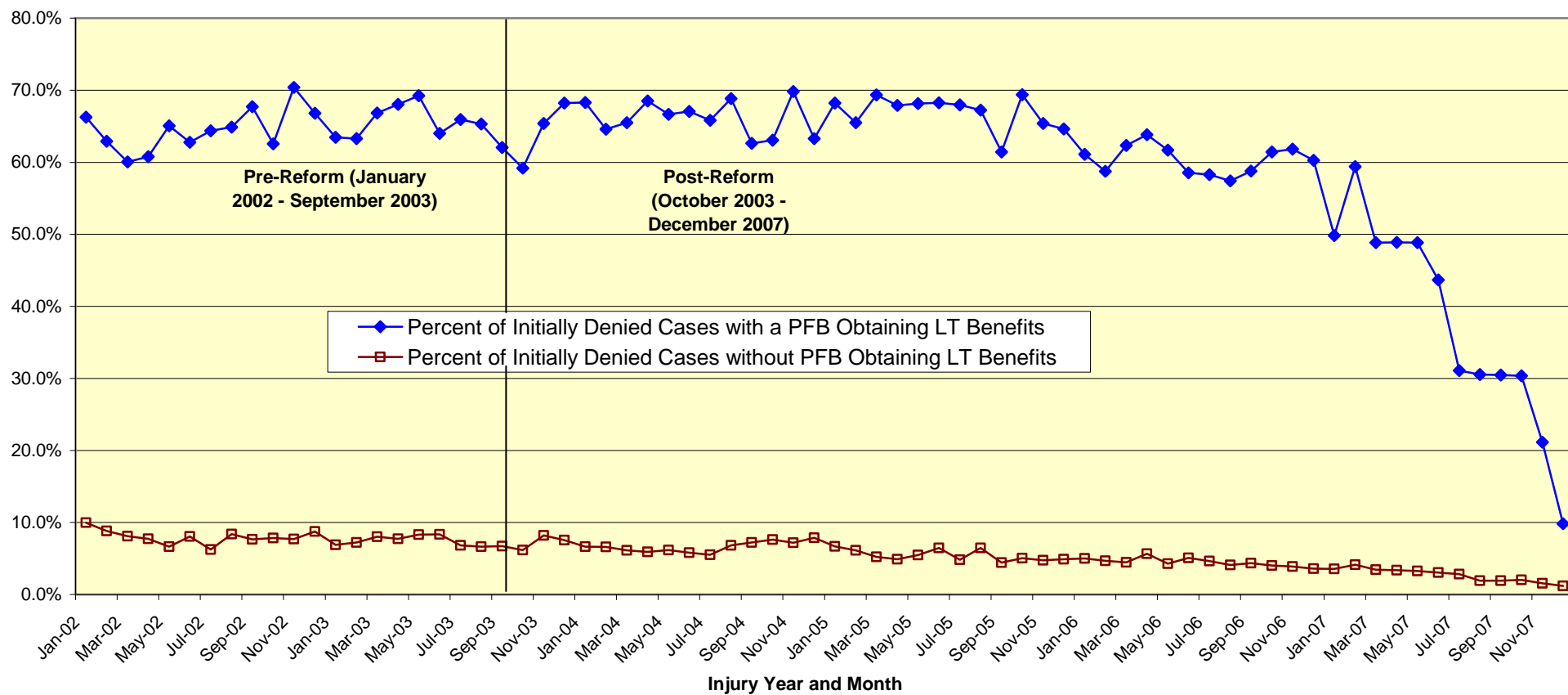
If the “success” rate for litigation among denied compensability cases has not changed in the post-reform period, the decline in the relative frequency of litigated cases obtaining benefits must be due to the decline in the frequency of litigation. For that reason, the explanation of the decline in receipt of benefits by denied cases in the post-reform period resolves to the explanation for the decline in litigation. As discussed in the previous section, that explanation may or may not involve statutory changes to compensability as a contributing factor.

7. Percent of Initially Denied Cases with and without Lost-Time Benefits



Source: Florida Division of Administrative Hearings' PFB files (January 2002 - July 2008) and Division of Workers' Compensation Integrated Database as of July 3, 2008

8. Relative Outcomes for Denied Cases with and without PFB's



Source: Florida Division of Administrative Hearings' PFB files (January 2002 - July 2008) and Division of Workers' Compensation Integrated Database as of July 3, 2008

Conclusions

This report addresses the impact of statutory changes to compensability mandated in Senate Bill 50-A. The methodology comprises three aspects: identification of different measurement points that would reflect the impact of the reforms, summarization of data at each measurement point to depict any pre-and post-reform changes, and critical assessment to determine whether the observed changes result from the reforms or from other factors. All findings need to be considered in relation to the capabilities and limitations of this methodology.

With regard to identification of measurement points, the preface characterizes compensability as a series of decision points, or determinative processes, whose outcomes provide the measurement points that together express any impact of the statutory changes. Due to limitations in the available data, however, not all of the determinative processes could be measured. The exclusion of two decision points, in particular, truncates the scope of the analysis by excluding areas of potential statutory impact on the bottom-line issue of who receives benefits. First, no data are available concerning workplace injuries not reported to a carrier. This is an initial decision that determines the course of remedy for the injury and prompts the following question: Did some workers or employers pursue remedy outside the workers' compensation system? If so, an impact of the statutory change would escape detection based on the available data.

The second area for loss of scope involves medical benefits. Determination of which initially denied compensability cases subsequently received benefits is restricted in this report to benefits for cases qualifying as lost-time. Because of historical limitations in the completeness of the Division's medical data, the impact of the statutory change to compensability on all benefits cannot be assessed.

From analysis of the pre- and post-reform data, the following summary conclusions emerge.

1. In total number, and relative to the number of lost-time cases, denied compensability cases have increased in the post-reform period having mature data compared to the pre-reform period of January 2002 through September 2003.
2. In the post-reform period, denied compensability cases have leveled off in total number and as a percent of lost-time cases following a growth period that began in the pre-reform period.
3. Occupational disease cases in the post-reform period have remained unchanged as a percent of denied compensability cases and as a percent of lost-time cases.
4. After rising steadily in the pre-reform period of January 2002 through September 2003, the number of litigated cases having compensability as an issue declined in October and November 2003 and trended steadily downward in a pattern roughly parallel to the downward trend in all litigated cases.
5. Relative to lost-time cases, litigated cases involving compensability rose in the pre-reform period, declined sharply in October 2003 and continued to diminish slowly before leveling off late in 2004.

6. In the post-reform period, the percent of denied compensability cases initiating litigation has declined sharply compared to the pre-reform period.
7. The percent of initially denied cases obtaining lost-time benefits has declined in the post-reform period.

Of the descriptive trends in the data, three reflect definite pre- and post-reform differences: the higher number of post-reform denied compensability cases, the decline in litigation associated with compensability, and the decline in obtaining lost-time benefits by denied compensability cases. Each of these could plausibly reflect an impact of the statutory changes to compensability mandated in Senate Bill 50-A. Analysis, however, fails to eliminate equally plausible alternative explanations. For example, improved carrier reporting or other factors originating in the pre-reform period may partly or fully explain the increase in denied compensability cases. The decline in litigation involving compensability may be part of a larger trend in all litigation, possibly reflecting the impact of other aspects of Senate Bill 50-A such as the specificity requirements for PFB's or the changes to attorney compensation. Lastly, the decline in the percent of initially denied compensability cases obtaining benefits may be attributable to the decreased frequency of litigation rather than statutory changes to compensability. In short, all three areas of change are subject to alternative explanations. Further complicating the analysis is the prospect that statutory changes to compensability may interact with other factors to account for observed pre- and post-reform differences. Definitive explanation of these differences lies beyond the scope of this report.

Appendix 1: Data for Figure 1
Total Cases with Denied Compensability
by Year and Month of Injury

| Year/Month of Injury | Denied Cases | Pre-Reform Trend |
|-----------------------------|---------------------|-------------------------|
| Jan-02 | 1,621 | 1,624.3 |
| Feb-02 | 1,513 | 1,646.3 |
| Mar-02 | 1,832 | 1,668.3 |
| Apr-02 | 1,971 | 1,690.3 |
| May-02 | 1,856 | 1,712.3 |
| Jun-02 | 1,717 | 1,734.3 |
| Jul-02 | 1,821 | 1,756.3 |
| Aug-02 | 1,885 | 1,778.3 |
| Sep-02 | 1,809 | 1,800.3 |
| Oct-02 | 1,793 | 1,822.3 |
| Nov-02 | 1,458 | 1,844.3 |
| Dec-02 | 1,503 | 1,866.3 |
| Jan-03 | 1,779 | 1,888.3 |
| Feb-03 | 1,617 | 1,910.3 |
| Mar-03 | 1,942 | 1,932.3 |
| Apr-03 | 1,975 | 1,954.3 |
| May-03 | 2,055 | 1,976.3 |
| Jun-03 | 2,003 | 1,998.2 |
| Jul-03 | 2,173 | 2,020.2 |
| Aug-03 | 2,073 | 2,042.2 |
| Sep-03 | 2,334 | 2,064.2 |
| Oct-03 | 2,281 | 2,086.2 |
| Nov-03 | 1,819 | 2,108.2 |
| Dec-03 | 1,950 | 2,130.2 |
| Jan-04 | 2,199 | 2,152.2 |
| Feb-04 | 2,214 | 2,174.2 |
| Mar-04 | 2,555 | 2,196.2 |
| Apr-04 | 2,273 | 2,218.2 |
| May-04 | 2,447 | 2,240.2 |
| Jun-04 | 2,611 | 2,262.2 |
| Jul-04 | 2,467 | 2,284.2 |
| Aug-04 | 2,500 | 2,306.2 |
| Sep-04 | 2,206 | 2,328.2 |
| Oct-04 | 2,434 | 2,350.2 |
| Nov-04 | 2,174 | 2,372.2 |
| Dec-04 | 2,096 | 2,394.2 |
| Jan-05 | 2,460 | 2,416.2 |
| Feb-05 | 2,342 | 2,438.1 |
| Mar-05 | 2,522 | 2,460.1 |
| Apr-05 | 2,417 | 2,482.1 |
| May-05 | 2,472 | 2,504.1 |
| Jun-05 | 2,468 | 2,526.1 |
| Jul-05 | 2,375 | 2,548.1 |
| Aug-05 | 2,701 | 2,570.1 |

| Year/Month of Injury | Denied Cases | Pre-Reform Trend |
|-----------------------------|---------------------|-------------------------|
| Sep-05 | 2,292 | 2,592.1 |
| Oct-05 | 2,029 | 2,614.1 |
| Nov-05 | 2,070 | 2,636.1 |
| Dec-05 | 1,956 | 2,658.1 |
| Jan-06 | 2,199 | 2,680.1 |
| Feb-06 | 1,996 | 2,702.1 |
| Mar-06 | 2,432 | 2,724.1 |
| Apr-06 | 2,325 | 2,746.1 |
| May-06 | 2,400 | 2,768.1 |
| Jun-06 | 2,544 | 2,790.1 |
| Jul-06 | 2,240 | 2,812.1 |
| Aug-06 | 2,437 | 2,834.1 |
| Sep-06 | 2,289 | 2,856.0 |
| Oct-06 | 2,272 | 2,878.0 |
| Nov-06 | 2,023 | 2,900.0 |
| Dec-06 | 1,936 | 2,922.0 |
| Jan-07 | 2,209 | 2,944.0 |
| Feb-07 | 2,047 | 2,966.0 |
| Mar-07 | 2,363 | 2,988.0 |
| Apr-07 | 2,167 | 3,010.0 |
| May-07 | 2,222 | 3,032.0 |
| Jun-07 | 2,195 | 3,054.0 |
| Jul-07 | 2,191 | 3,076.0 |
| Aug-07 | 2,339 | 3,098.0 |
| Sep-07 | 1,938 | 3,120.0 |
| Oct-07 | 2,118 | 3,142.0 |
| Nov-07 | 1,633 | 3,164.0 |
| Dec-07 | 1,572 | 3,186.0 |

Appendix 2: Data for Figure 2
Denied and Lost-Time Cases
by Injury Year and Month

| Year/Month of Injury | LT Cases | Denied Cases | Denied Cases as % LT Cases |
|-----------------------------|-----------------|---------------------|-----------------------------------|
| Jan-02 | 7,293 | 1,621 | 22.2% |
| Feb-02 | 6,596 | 1,513 | 22.9% |
| Mar-02 | 7,374 | 1,832 | 24.8% |
| Apr-02 | 7,697 | 1,971 | 25.6% |
| May-02 | 7,345 | 1,856 | 25.3% |
| Jun-02 | 6,654 | 1,717 | 25.8% |
| Jul-02 | 7,047 | 1,821 | 25.8% |
| Aug-02 | 7,272 | 1,885 | 25.9% |
| Sep-02 | 7,031 | 1,809 | 25.7% |
| Oct-02 | 7,189 | 1,793 | 24.9% |
| Nov-02 | 6,011 | 1,458 | 24.3% |
| Dec-02 | 5,977 | 1,503 | 25.1% |
| Jan-03 | 6,918 | 1,779 | 25.7% |
| Feb-03 | 6,561 | 1,617 | 24.6% |
| Mar-03 | 7,256 | 1,942 | 26.8% |
| Apr-03 | 7,285 | 1,975 | 27.1% |
| May-03 | 7,011 | 2,055 | 29.3% |
| Jun-03 | 6,957 | 2,003 | 28.8% |
| Jul-03 | 7,019 | 2,173 | 31.0% |
| Aug-03 | 6,996 | 2,073 | 29.6% |
| Sep-03 | 6,800 | 2,334 | 34.3% |
| Oct-03 | 7,080 | 2,281 | 32.2% |
| Nov-03 | 5,854 | 1,819 | 31.1% |
| Dec-03 | 5,781 | 1,950 | 33.7% |
| Jan-04 | 6,574 | 2,199 | 33.4% |
| Feb-04 | 6,342 | 2,214 | 34.9% |
| Mar-04 | 7,337 | 2,555 | 34.8% |
| Apr-04 | 6,841 | 2,273 | 33.2% |
| May-04 | 6,481 | 2,447 | 37.8% |
| Jun-04 | 6,838 | 2,611 | 38.2% |
| Jul-04 | 6,595 | 2,467 | 37.4% |
| Aug-04 | 6,853 | 2,500 | 36.5% |
| Sep-04 | 6,297 | 2,206 | 35.0% |
| Oct-04 | 6,851 | 2,434 | 35.5% |
| Nov-04 | 6,198 | 2,174 | 35.1% |
| Dec-04 | 6,131 | 2,096 | 34.2% |
| Jan-05 | 6,837 | 2,460 | 36.0% |
| Feb-05 | 6,357 | 2,342 | 36.8% |
| Mar-05 | 6,924 | 2,522 | 36.4% |
| Apr-05 | 6,844 | 2,417 | 35.3% |
| May-05 | 6,682 | 2,472 | 37.0% |
| Jun-05 | 6,768 | 2,468 | 36.5% |
| Jul-05 | 6,380 | 2,375 | 37.2% |
| Aug-05 | 7,370 | 2,701 | 36.6% |

| Year/Month of Injury | LT Cases | Denied Cases | Denied Cases as % LT Cases |
|-----------------------------|-----------------|---------------------|-----------------------------------|
| Sep-05 | 6,548 | 2,292 | 35.0% |
| Oct-05 | 6,324 | 2,029 | 32.1% |
| Nov-05 | 6,306 | 2,070 | 32.8% |
| Dec-05 | 5,863 | 1,956 | 33.4% |
| Jan-06 | 6,733 | 2,199 | 32.7% |
| Feb-06 | 6,110 | 1,996 | 32.7% |
| Mar-06 | 6,959 | 2,432 | 34.9% |
| Apr-06 | 6,338 | 2,325 | 36.7% |
| May-06 | 6,646 | 2,400 | 36.1% |
| Jun-06 | 6,467 | 2,544 | 39.3% |
| Jul-06 | 6,147 | 2,240 | 36.4% |
| Aug-06 | 6,608 | 2,437 | 36.9% |
| Sep-06 | 5,981 | 2,289 | 38.3% |
| Oct-06 | 6,134 | 2,272 | 37.0% |
| Nov-06 | 5,443 | 2,023 | 37.2% |
| Dec-06 | 5,108 | 1,936 | 37.9% |
| Jan-07 | 5,882 | 2,209 | 37.6% |
| Feb-07 | 5,430 | 2,047 | 37.7% |
| Mar-07 | 5,931 | 2,363 | 39.8% |
| Apr-07 | 5,468 | 2,167 | 39.6% |
| May-07 | 5,589 | 2,222 | 39.8% |
| Jun-07 | 5,290 | 2,195 | 41.5% |
| Jul-07 | 5,276 | 2,191 | 41.5% |
| Aug-07 | 5,610 | 2,339 | 41.7% |
| Sep-07 | 4,689 | 1,938 | 41.3% |
| Oct-07 | 5,035 | 2,118 | 42.1% |
| Nov-07 | 4,137 | 1,633 | 39.5% |
| Dec-07 | 3,686 | 1,572 | 42.6% |

Appendix 3: Data for Figure 3
Occupational Disease Cases as a Percent
of Denied and Lost-Time Cases

| Year/Month of Injury | Denied Occupational Disease (OD) Cases | All Denied Compensability Cases | Denied OD Cases as Percent of All Denied Cases | Occupational Disease Lost-Time Cases | All Lost-Time Cases | Lost-Time OD Cases as Percent of All Lost-Time |
|-----------------------------|---|--|---|---|----------------------------|---|
| Jan-02 | 56 | 1,621 | 3.5% | 57 | 6,653 | 0.9% |
| Feb-02 | 46 | 1,513 | 3.0% | 34 | 6,113 | 0.6% |
| Mar-02 | 61 | 1,832 | 3.3% | 38 | 6,817 | 0.6% |
| Apr-02 | 71 | 1,971 | 3.6% | 48 | 7,162 | 0.7% |
| May-02 | 79 | 1,856 | 4.3% | 49 | 6,820 | 0.8% |
| Jun-02 | 52 | 1,717 | 3.0% | 52 | 6,232 | 0.8% |
| Jul-02 | 79 | 1,821 | 4.3% | 45 | 6,618 | 0.7% |
| Aug-02 | 69 | 1,885 | 3.7% | 52 | 6,810 | 0.8% |
| Sep-02 | 66 | 1,809 | 3.6% | 58 | 6,659 | 0.9% |
| Oct-02 | 59 | 1,793 | 3.3% | 42 | 6,812 | 0.7% |
| Nov-02 | 54 | 1,458 | 3.7% | 36 | 5,683 | 0.7% |
| Dec-02 | 49 | 1,503 | 3.3% | 32 | 5,682 | 0.6% |
| Jan-03 | 91 | 1,779 | 5.1% | 54 | 6,611 | 0.9% |
| Feb-03 | 73 | 1,617 | 4.5% | 43 | 6,301 | 0.7% |
| Mar-03 | 85 | 1,942 | 4.4% | 52 | 6,969 | 0.8% |
| Apr-03 | 53 | 1,975 | 2.7% | 48 | 6,979 | 0.7% |
| May-03 | 94 | 2,055 | 4.6% | 53 | 6,714 | 0.8% |
| Jun-03 | 81 | 2,003 | 4.0% | 72 | 6,679 | 1.1% |
| Jul-03 | 74 | 2,173 | 3.4% | 44 | 6,766 | 0.7% |
| Aug-03 | 90 | 2,073 | 4.3% | 51 | 6,749 | 0.8% |
| Sep-03 | 97 | 2,334 | 4.2% | 50 | 6,608 | 0.8% |
| Oct-03 | 72 | 2,281 | 3.2% | 46 | 6,878 | 0.7% |
| Nov-03 | 58 | 1,819 | 3.2% | 29 | 5,700 | 0.5% |
| Dec-03 | 53 | 1,950 | 2.7% | 29 | 5,606 | 0.5% |
| Jan-04 | 77 | 2,199 | 3.5% | 35 | 6,393 | 0.6% |
| Feb-04 | 74 | 2,214 | 3.3% | 22 | 6,168 | 0.4% |
| Mar-04 | 93 | 2,555 | 3.6% | 64 | 7,151 | 0.9% |
| Apr-04 | 89 | 2,273 | 3.9% | 35 | 6,654 | 0.5% |
| May-04 | 102 | 2,447 | 4.2% | 38 | 6,339 | 0.6% |
| Jun-04 | 107 | 2,611 | 4.1% | 40 | 6,661 | 0.6% |
| Jul-04 | 91 | 2,467 | 3.7% | 37 | 6,436 | 0.6% |
| Aug-04 | 112 | 2,500 | 4.5% | 41 | 6,641 | 0.6% |
| Sep-04 | 91 | 2,206 | 4.1% | 42 | 6,136 | 0.7% |
| Oct-04 | 96 | 2,434 | 3.9% | 46 | 6,696 | 0.7% |
| Nov-04 | 73 | 2,174 | 3.4% | 31 | 6,054 | 0.5% |
| Dec-04 | 71 | 2,096 | 3.4% | 29 | 5,974 | 0.5% |
| Jan-05 | 76 | 2,460 | 3.1% | 39 | 6,699 | 0.6% |
| Feb-05 | 94 | 2,342 | 4.0% | 44 | 6,221 | 0.7% |
| Mar-05 | 85 | 2,522 | 3.4% | 22 | 6,758 | 0.3% |
| Apr-05 | 74 | 2,417 | 3.1% | 26 | 6,683 | 0.4% |
| May-05 | 91 | 2,472 | 3.7% | 37 | 6,545 | 0.6% |

| Year/Month of Injury | Denied Occupational Disease (OD) Cases | All Denied Compensability and Indemnity Cases | Denied OD Cases as Percent of All Denied Cases | Occupational Disease Lost-Time Cases | All Lost-Time Cases | Lost-Time OD Cases as Percent of All Lost-Time |
|-----------------------------|---|--|---|---|----------------------------|---|
| Jun-05 | 80 | 2,468 | 3.2% | 37 | 6,652 | 0.6% |
| Jul-05 | 89 | 2,375 | 3.7% | 41 | 6,267 | 0.7% |
| Aug-05 | 93 | 2,701 | 3.4% | 47 | 7,220 | 0.7% |
| Sep-05 | 84 | 2,292 | 3.7% | 32 | 6,428 | 0.5% |
| Oct-05 | 62 | 2,029 | 3.1% | 29 | 6,185 | 0.5% |
| Nov-05 | 68 | 2,070 | 3.3% | 20 | 6,203 | 0.3% |
| Dec-05 | 67 | 1,956 | 3.4% | 32 | 5,750 | 0.6% |
| Jan-06 | 95 | 2,199 | 4.3% | 26 | 6,619 | 0.4% |
| Feb-06 | 79 | 1,996 | 4.0% | 27 | 5,996 | 0.5% |
| Mar-06 | 85 | 2,432 | 3.5% | 32 | 6,829 | 0.5% |
| Apr-06 | 77 | 2,325 | 3.3% | 29 | 6,236 | 0.5% |
| May-06 | 77 | 2,400 | 3.2% | 31 | 6,507 | 0.5% |
| Jun-06 | 113 | 2,544 | 4.4% | 35 | 6,344 | 0.6% |
| Jul-06 | 74 | 2,240 | 3.3% | 42 | 6,043 | 0.7% |
| Aug-06 | 86 | 2,437 | 3.5% | 34 | 6,510 | 0.5% |
| Sep-06 | 75 | 2,289 | 3.3% | 26 | 5,895 | 0.5% |
| Oct-06 | 78 | 2,272 | 3.4% | 25 | 6,047 | 0.4% |
| Nov-06 | 56 | 2,023 | 2.8% | 11 | 5,373 | 0.2% |
| Dec-06 | 57 | 1,936 | 2.9% | 13 | 5,051 | 0.3% |
| Jan-07 | 85 | 2,209 | 3.8% | 29 | 5,822 | 0.5% |
| Feb-07 | 82 | 2,047 | 4.0% | 28 | 5,364 | 0.5% |
| Mar-07 | 87 | 2,363 | 3.7% | 22 | 5,869 | 0.4% |
| Apr-07 | 86 | 2,167 | 4.0% | 29 | 5,412 | 0.6% |
| May-07 | 76 | 2,222 | 3.4% | 17 | 5,540 | 0.3% |
| Jun-07 | 74 | 2,195 | 3.4% | 27 | 5,254 | 0.5% |
| Jul-07 | 95 | 2,191 | 4.3% | 25 | 5,249 | 0.5% |
| Aug-07 | 100 | 2,339 | 4.3% | 38 | 5,583 | 0.7% |
| Sep-07 | 85 | 1,938 | 4.4% | 23 | 4,674 | 0.5% |
| Oct-07 | 74 | 2,118 | 3.5% | 26 | 5,029 | 0.5% |
| Nov-07 | 76 | 1,633 | 4.7% | 18 | 4,133 | 0.5% |
| Dec-07 | 68 | 1,572 | 4.3% | 17 | 3,684 | 0.5% |

Appendix 4: Data for Figure 4

Total PFB Cases, Cases with PFB's Having Compensability as an Issue, and Cases with PFB's Having Compensability as an Issue as a Percent of Total Cases with PFB's by Injury Year and Month

| Year/Month of Injury | Compensability PFB Cases | Total PFB Cases | Compensability PFB's as Percent of Total PFB's |
|----------------------|--------------------------|-----------------|--|
| Jan-02 | 757 | 3,154 | 24.0% |
| Feb-02 | 728 | 3,040 | 23.9% |
| Mar-02 | 826 | 3,326 | 24.8% |
| Apr-02 | 862 | 3,461 | 24.9% |
| May-02 | 823 | 3,371 | 24.4% |
| Jun-02 | 790 | 3,140 | 25.2% |
| Jul-02 | 896 | 3,240 | 27.7% |
| Aug-02 | 835 | 3,359 | 24.9% |
| Sep-02 | 838 | 3,148 | 26.6% |
| Oct-02 | 855 | 3,320 | 25.8% |
| Nov-02 | 739 | 2,827 | 26.1% |
| Dec-02 | 711 | 2,714 | 26.2% |
| Jan-03 | 860 | 3,160 | 27.2% |
| Feb-03 | 796 | 3,011 | 26.4% |
| Mar-03 | 891 | 3,293 | 27.1% |
| Apr-03 | 922 | 3,356 | 27.5% |
| May-03 | 912 | 3,213 | 28.4% |
| Jun-03 | 892 | 3,178 | 28.1% |
| Jul-03 | 901 | 3,232 | 27.9% |
| Aug-03 | 888 | 3,162 | 28.1% |
| Sep-03 | 933 | 3,183 | 29.3% |
| Oct-03 | 756 | 2,757 | 27.4% |
| Nov-03 | 684 | 2,310 | 29.6% |
| Dec-03 | 677 | 2,277 | 29.7% |
| Jan-04 | 732 | 2,588 | 28.3% |
| Feb-04 | 752 | 2,515 | 29.9% |
| Mar-04 | 837 | 2,878 | 29.1% |
| Apr-04 | 747 | 2,622 | 28.5% |
| May-04 | 665 | 2,469 | 26.9% |
| Jun-04 | 792 | 2,628 | 30.1% |
| Jul-04 | 701 | 2,590 | 27.1% |
| Aug-04 | 615 | 2,488 | 24.7% |
| Sep-04 | 578 | 2,346 | 24.6% |
| Oct-04 | 689 | 2,619 | 26.3% |
| Nov-04 | 618 | 2,315 | 26.7% |
| Dec-04 | 623 | 2,312 | 26.9% |
| Jan-05 | 651 | 2,493 | 26.1% |
| Feb-05 | 588 | 2,303 | 25.5% |
| Mar-05 | 704 | 2,499 | 28.2% |
| Apr-05 | 658 | 2,418 | 27.2% |
| May-05 | 668 | 2,373 | 28.2% |

| Year/Month of Injury | Compensability PFB Cases | Total PFB Cases | Compensability PFB's as Percent of Total PFB's |
|-----------------------------|---------------------------------|------------------------|---|
| Jun-05 | 650 | 2,374 | 27.4% |
| Jul-05 | 581 | 2,250 | 25.8% |
| Aug-05 | 677 | 2,491 | 27.2% |
| Sep-05 | 647 | 2,348 | 27.6% |
| Oct-05 | 557 | 2,084 | 26.7% |
| Nov-05 | 610 | 2,246 | 27.2% |
| Dec-05 | 527 | 2,101 | 25.1% |
| Jan-06 | 622 | 2,310 | 26.9% |
| Feb-06 | 607 | 2,201 | 27.6% |
| Mar-06 | 630 | 2,421 | 26.0% |
| Apr-06 | 575 | 2,158 | 26.6% |
| May-06 | 617 | 2,369 | 26.0% |
| Jun-06 | 635 | 2,355 | 27.0% |
| Jul-06 | 555 | 2,214 | 25.1% |
| Aug-06 | 597 | 2,277 | 26.2% |
| Sep-06 | 570 | 2,138 | 26.7% |
| Oct-06 | 575 | 2,092 | 27.5% |
| Nov-06 | 511 | 1,924 | 26.6% |
| Dec-06 | 472 | 1,834 | 25.7% |
| Jan-07 | 528 | 2,083 | 25.3% |
| Feb-07 | 508 | 1,891 | 26.9% |
| Mar-07 | 572 | 2,103 | 27.2% |
| Apr-07 | 491 | 1,891 | 26.0% |
| May-07 | 551 | 1,987 | 27.7% |
| Jun-07 | 505 | 1,956 | 25.8% |
| Jul-07 | 500 | 1,837 | 27.2% |
| Aug-07 | 532 | 1,871 | 28.4% |
| Sep-07 | 486 | 1,596 | 30.5% |
| Oct-07 | 455 | 1,628 | 27.9% |
| Nov-07 | 371 | 1,254 | 29.6% |
| Dec-07 | 406 | 1,279 | 31.7% |

Appendix 5: Data for Figure 5
Compensability PFB Cases and All Cases with PFB's
as a Percent of Lost-Time Cases

| Year/Month of Injury | Compensability PFB Cases as % LT Cases | All PFB Cases as % LT Cases |
|-----------------------------|---|------------------------------------|
| Jan-02 | 10.4% | 43.2% |
| Feb-02 | 11.0% | 46.1% |
| Mar-02 | 11.2% | 45.1% |
| Apr-02 | 11.2% | 45.0% |
| May-02 | 11.2% | 45.9% |
| Jun-02 | 11.9% | 47.2% |
| Jul-02 | 12.7% | 46.0% |
| Aug-02 | 11.5% | 46.2% |
| Sep-02 | 11.9% | 44.8% |
| Oct-02 | 11.9% | 46.2% |
| Nov-02 | 12.3% | 47.0% |
| Dec-02 | 11.9% | 45.4% |
| Jan-03 | 12.4% | 45.7% |
| Feb-03 | 12.1% | 45.9% |
| Mar-03 | 12.3% | 45.4% |
| Apr-03 | 12.7% | 46.1% |
| May-03 | 13.0% | 45.8% |
| Jun-03 | 12.8% | 45.7% |
| Jul-03 | 12.8% | 46.0% |
| Aug-03 | 12.7% | 45.2% |
| Sep-03 | 13.7% | 46.8% |
| Oct-03 | 10.7% | 38.9% |
| Nov-03 | 11.7% | 39.5% |
| Dec-03 | 11.7% | 39.4% |
| Jan-04 | 11.1% | 39.4% |
| Feb-04 | 11.9% | 39.7% |
| Mar-04 | 11.4% | 39.2% |
| Apr-04 | 10.9% | 38.3% |
| May-04 | 10.3% | 38.1% |
| Jun-04 | 11.6% | 38.4% |
| Jul-04 | 10.6% | 39.3% |
| Aug-04 | 9.0% | 36.3% |
| Sep-04 | 9.2% | 37.3% |
| Oct-04 | 10.1% | 38.2% |
| Nov-04 | 10.0% | 37.4% |
| Dec-04 | 10.2% | 37.7% |
| Jan-05 | 9.5% | 36.5% |
| Feb-05 | 9.2% | 36.2% |
| Mar-05 | 10.2% | 36.1% |
| Apr-05 | 9.6% | 35.3% |
| May-05 | 10.0% | 35.5% |
| Jun-05 | 9.6% | 35.1% |
| Jul-05 | 9.1% | 35.3% |

| Year/Month of Injury | Compensability PFB Cases as % LT Cases | All PFB Cases as % LT Cases |
|-----------------------------|---|------------------------------------|
| Aug-05 | 9.2% | 33.8% |
| Sep-05 | 9.9% | 35.9% |
| Oct-05 | 8.8% | 33.0% |
| Nov-05 | 9.7% | 35.6% |
| Dec-05 | 9.0% | 35.8% |
| Jan-06 | 9.2% | 34.3% |
| Feb-06 | 9.9% | 36.0% |
| Mar-06 | 9.1% | 34.8% |
| Apr-06 | 9.1% | 34.0% |
| May-06 | 9.3% | 35.6% |
| Jun-06 | 9.8% | 36.4% |
| Jul-06 | 9.0% | 36.0% |
| Aug-06 | 9.0% | 34.5% |
| Sep-06 | 9.5% | 35.7% |
| Oct-06 | 9.4% | 34.1% |
| Nov-06 | 9.4% | 35.3% |
| Dec-06 | 9.2% | 35.9% |
| Jan-07 | 9.0% | 35.4% |
| Feb-07 | 9.4% | 34.8% |
| Mar-07 | 9.6% | 35.5% |
| Apr-07 | 9.0% | 34.6% |
| May-07 | 9.9% | 35.6% |
| Jun-07 | 9.5% | 37.0% |
| Jul-07 | 9.5% | 34.8% |
| Aug-07 | 9.5% | 33.4% |
| Sep-07 | 10.4% | 34.0% |
| Oct-07 | 9.0% | 32.3% |
| Nov-07 | 9.0% | 30.3% |
| Dec-07 | 11.0% | 34.7% |

Appendix 6: Data for Figure 6
Denied Cases with PFB's, Total Denied Cases, and
Denied Cases with PFB's as a Percent of All Denied Cases
by Year and Month of Injury

| Year/Month of Injury | Denied Cases with PFB's | Denied Cases | Percent of Denials with PFB's |
|-----------------------------|--------------------------------|---------------------|--------------------------------------|
| Jan-02 | 470 | 1,621 | 29.0% |
| Feb-02 | 430 | 1,513 | 28.4% |
| Mar-02 | 496 | 1,832 | 27.1% |
| Apr-02 | 513 | 1,971 | 26.0% |
| May-02 | 482 | 1,856 | 26.0% |
| Jun-02 | 458 | 1,717 | 26.7% |
| Jul-02 | 456 | 1,821 | 25.0% |
| Aug-02 | 523 | 1,885 | 27.7% |
| Sep-02 | 494 | 1,809 | 27.3% |
| Oct-02 | 499 | 1,793 | 27.8% |
| Nov-02 | 413 | 1,458 | 28.3% |
| Dec-02 | 409 | 1,503 | 27.2% |
| Jan-03 | 498 | 1,779 | 28.0% |
| Feb-03 | 476 | 1,617 | 29.4% |
| Mar-03 | 550 | 1,942 | 28.3% |
| Apr-03 | 559 | 1,975 | 28.3% |
| May-03 | 605 | 2,055 | 29.4% |
| Jun-03 | 573 | 2,003 | 28.6% |
| Jul-03 | 598 | 2,173 | 27.5% |
| Aug-03 | 557 | 2,073 | 26.9% |
| Sep-03 | 641 | 2,334 | 27.5% |
| Oct-03 | 493 | 2,281 | 21.6% |
| Nov-03 | 419 | 1,819 | 23.0% |
| Dec-03 | 454 | 1,950 | 23.3% |
| Jan-04 | 502 | 2,199 | 22.8% |
| Feb-04 | 514 | 2,214 | 23.2% |
| Mar-04 | 573 | 2,555 | 22.4% |
| Apr-04 | 513 | 2,273 | 22.6% |
| May-04 | 515 | 2,447 | 21.0% |
| Jun-04 | 575 | 2,611 | 22.0% |
| Jul-04 | 548 | 2,467 | 22.2% |
| Aug-04 | 526 | 2,500 | 21.0% |
| Sep-04 | 471 | 2,206 | 21.4% |
| Oct-04 | 540 | 2,434 | 22.2% |
| Nov-04 | 431 | 2,174 | 19.8% |
| Dec-04 | 476 | 2,096 | 22.7% |
| Jan-05 | 500 | 2,460 | 20.3% |
| Feb-05 | 479 | 2,342 | 20.5% |
| Mar-05 | 498 | 2,522 | 19.7% |
| Apr-05 | 494 | 2,417 | 20.4% |
| May-05 | 466 | 2,472 | 18.9% |
| Jun-05 | 424 | 2,468 | 17.2% |

| Year/Month of Injury | Denied Cases with PFB's | Denied Cases | Percent of Denials with PFB's |
|-----------------------------|--------------------------------|---------------------|--------------------------------------|
| Jul-05 | 434 | 2,375 | 18.3% |
| Aug-05 | 458 | 2,701 | 17.0% |
| Sep-05 | 440 | 2,292 | 19.2% |
| Oct-05 | 372 | 2,029 | 18.3% |
| Nov-05 | 380 | 2,070 | 18.4% |
| Dec-05 | 369 | 1,956 | 18.9% |
| Jan-06 | 367 | 2,199 | 16.7% |
| Feb-06 | 371 | 1,996 | 18.6% |
| Mar-06 | 442 | 2,432 | 18.2% |
| Apr-06 | 380 | 2,325 | 16.3% |
| May-06 | 426 | 2,400 | 17.8% |
| Jun-06 | 405 | 2,544 | 15.9% |
| Jul-06 | 419 | 2,240 | 18.7% |
| Aug-06 | 407 | 2,437 | 16.7% |
| Sep-06 | 418 | 2,289 | 18.3% |
| Oct-06 | 376 | 2,272 | 16.5% |
| Nov-06 | 362 | 2,023 | 17.9% |
| Dec-06 | 337 | 1,936 | 17.4% |
| Jan-07 | 408 | 2,209 | 18.5% |
| Feb-07 | 335 | 2,047 | 16.4% |
| Mar-07 | 393 | 2,363 | 16.6% |
| Apr-07 | 319 | 2,167 | 14.7% |
| May-07 | 380 | 2,222 | 17.1% |
| Jun-07 | 330 | 2,195 | 15.0% |
| Jul-07 | 331 | 2,191 | 15.1% |
| Aug-07 | 322 | 2,339 | 13.8% |
| Sep-07 | 271 | 1,938 | 14.0% |
| Oct-07 | 274 | 2,118 | 12.9% |
| Nov-07 | 226 | 1,633 | 13.8% |
| Dec-07 | 243 | 1,572 | 15.5% |

Appendix 7: Data for Figure 7
Percent of Initially Denied Cases
With and Without Lost-Time Benefits

| Year/Month of Injury | Received Benefits (PFB) | Received Benefits (No PFB) | No Benefits | Pre-Reform Trend for No Benefits |
|-----------------------------|--------------------------------|-----------------------------------|--------------------|---|
| Jan-02 | 17.5% | 7.3% | 75.2% | 78.2% |
| Feb-02 | 16.3% | 6.5% | 77.2% | 78.3% |
| Mar-02 | 14.4% | 6.2% | 79.5% | 78.3% |
| Apr-02 | 13.8% | 6.0% | 80.3% | 78.3% |
| May-02 | 14.7% | 5.1% | 80.1% | 78.4% |
| Jun-02 | 15.0% | 6.1% | 78.9% | 78.4% |
| Jul-02 | 14.1% | 4.9% | 81.0% | 78.4% |
| Aug-02 | 16.3% | 6.3% | 77.4% | 78.4% |
| Sep-02 | 15.4% | 5.9% | 78.7% | 78.5% |
| Oct-02 | 15.5% | 5.9% | 78.6% | 78.5% |
| Nov-02 | 16.6% | 5.9% | 77.5% | 78.5% |
| Dec-02 | 15.8% | 6.7% | 77.5% | 78.6% |
| Jan-03 | 16.0% | 5.2% | 78.9% | 78.6% |
| Feb-03 | 15.5% | 5.4% | 79.1% | 78.6% |
| Mar-03 | 16.8% | 6.0% | 77.2% | 78.7% |
| Apr-03 | 15.4% | 6.0% | 78.6% | 78.7% |
| May-03 | 18.0% | 6.1% | 75.9% | 78.7% |
| Jun-03 | 15.9% | 6.3% | 77.9% | 78.7% |
| Jul-03 | 15.0% | 5.3% | 79.7% | 78.8% |
| Aug-03 | 15.0% | 5.1% | 79.9% | 78.8% |
| Sep-03 | 14.5% | 5.1% | 80.3% | 78.8% |
| Oct-03 | 10.0% | 5.1% | 84.9% | 78.9% |
| Nov-03 | 12.2% | 6.7% | 81.2% | 78.9% |
| Dec-03 | 12.2% | 6.2% | 81.6% | 78.9% |
| Jan-04 | 12.7% | 5.4% | 81.9% | 79.0% |
| Feb-04 | 12.2% | 5.3% | 82.4% | 79.0% |
| Mar-04 | 12.0% | 5.0% | 83.0% | 79.0% |
| Apr-04 | 12.5% | 4.8% | 82.7% | 79.0% |
| May-04 | 10.8% | 5.2% | 84.0% | 79.1% |
| Jun-04 | 11.9% | 4.8% | 83.4% | 79.1% |
| Jul-04 | 11.2% | 4.6% | 84.2% | 79.1% |
| Aug-04 | 11.2% | 5.7% | 83.1% | 79.2% |
| Sep-04 | 10.5% | 6.0% | 83.5% | 79.2% |
| Oct-04 | 11.3% | 6.2% | 82.4% | 79.2% |
| Nov-04 | 11.3% | 6.0% | 82.7% | 79.3% |
| Dec-04 | 11.2% | 6.5% | 82.3% | 79.3% |
| Jan-05 | 11.3% | 5.6% | 83.1% | 79.3% |
| Feb-05 | 10.4% | 5.2% | 84.4% | 79.3% |
| Mar-05 | 10.4% | 4.4% | 85.2% | 79.4% |
| Apr-05 | 11.1% | 4.1% | 84.8% | 79.4% |
| May-05 | 9.7% | 4.7% | 85.6% | 79.4% |
| Jun-05 | 9.6% | 5.5% | 84.9% | 79.5% |
| Jul-05 | 9.8% | 4.1% | 86.1% | 79.5% |

| Year/Month of Injury | Received Benefits (PFB) | Received Benefits (No PFB) | No Benefits | Pre-Reform Trend for No Benefits |
|-----------------------------|--------------------------------|-----------------------------------|--------------------|---|
| Aug-05 | 9.3% | 5.6% | 85.2% | 79.5% |
| Sep-05 | 9.6% | 3.7% | 86.6% | 79.5% |
| Oct-05 | 10.7% | 4.3% | 85.0% | 79.6% |
| Nov-05 | 10.2% | 4.0% | 85.8% | 79.6% |
| Dec-05 | 10.6% | 4.1% | 85.3% | 79.6% |
| Jan-06 | 8.1% | 4.3% | 87.6% | |
| Feb-06 | 8.7% | 4.0% | 87.3% | |
| Mar-06 | 8.9% | 3.8% | 87.3% | |
| Apr-06 | 8.8% | 4.9% | 86.3% | |
| May-06 | 9.2% | 3.6% | 87.2% | |
| Jun-06 | 7.7% | 4.4% | 87.9% | |
| Jul-06 | 9.2% | 3.9% | 86.9% | |
| Aug-06 | 7.9% | 3.5% | 88.6% | |
| Sep-06 | 8.7% | 3.7% | 87.6% | |
| Oct-06 | 7.8% | 3.5% | 88.7% | |
| Nov-06 | 9.0% | 3.3% | 87.7% | |
| Dec-06 | 8.8% | 3.1% | 88.1% | |
| Jan-07 | 7.7% | 3.0% | 89.3% | |
| Feb-07 | 8.2% | 3.6% | 88.3% | |
| Mar-07 | 6.4% | 3.0% | 90.6% | |
| Apr-07 | 6.0% | 3.0% | 91.1% | |
| May-07 | 6.8% | 2.8% | 90.4% | |
| Jun-07 | 5.7% | 2.7% | 91.6% | |
| Jul-07 | 3.9% | 2.5% | 93.6% | |
| Aug-07 | 3.6% | 1.7% | 94.7% | |
| Sep-07 | 3.5% | 1.7% | 94.8% | |
| Oct-07 | 3.1% | 1.8% | 95.1% | |
| Nov-07 | 2.3% | 1.4% | 96.3% | |
| Dec-07 | 1.4% | 1.0% | 97.6% | |

Appendix 8: Data for Figure 8
Relative Outcomes for Denied Cases
with and without PFB's

| Injury Year/Month | Percent of Initially Denied Cases with a PFB Obtaining LT Benefits | Percent of Initially Denied Cases without PFB Obtaining LT Benefits |
|----------------------|---|---|
| Jan-02 | 66.2% | 10.0% |
| Feb-02 | 62.9% | 8.8% |
| Mar-02 | 60.1% | 8.1% |
| Apr-02 | 60.8% | 7.7% |
| May-02 | 65.1% | 6.7% |
| Jun-02 | 62.8% | 8.0% |
| Jul-02 | 64.4% | 6.2% |
| Aug-02 | 64.9% | 8.4% |
| Sep-02 | 67.7% | 7.7% |
| Oct-02 | 62.6% | 7.8% |
| Nov-02 | 70.4% | 7.7% |
| Dec-02 | 66.8% | 8.7% |
| Jan-03 | 63.5% | 6.9% |
| Feb-03 | 63.3% | 7.2% |
| Mar-03 | 66.8% | 8.0% |
| Apr-03 | 68.0% | 7.7% |
| May-03 | 69.2% | 8.3% |
| Jun-03 | 64.0% | 8.3% |
| Jul-03 | 65.9% | 6.8% |
| Aug-03 | 65.3% | 6.6% |
| Sep-03 | 62.1% | 6.7% |
| Oct-03 | 59.2% | 6.2% |
| Nov-03 | 65.4% | 8.2% |
| Dec-03 | 68.2% | 7.5% |
| Jan-04 | 68.3% | 6.6% |
| Feb-04 | 64.6% | 6.6% |
| Mar-04 | 65.5% | 6.1% |
| Apr-04 | 68.5% | 5.9% |
| May-04 | 66.7% | 6.2% |
| Jun-04 | 67.0% | 5.8% |
| Jul-04 | 65.8% | 5.5% |
| Aug-04 | 68.8% | 6.8% |
| Sep-04 | 62.6% | 7.2% |
| Oct-04 | 63.1% | 7.6% |
| Nov-04 | 69.8% | 7.2% |
| Dec-04 | 63.3% | 7.9% |
| Jan-05 | 68.2% | 6.7% |
| Feb-05 | 65.5% | 6.1% |
| Mar-05 | 69.3% | 5.2% |
| Apr-05 | 67.9% | 4.9% |
| May-05 | 68.1% | 5.5% |

| Injury Year/Month | Percent of Initially Denied Cases with a PFB Obtaining LT Benefits | Percent of Initially Denied Cases without PFB Obtaining LT Benefits |
|------------------------------|---|--|
| Jun-05 | 68.3% | 6.5% |
| Jul-05 | 68.0% | 4.8% |
| Aug-05 | 67.2% | 6.4% |
| Sep-05 | 61.4% | 4.4% |
| Oct-05 | 69.4% | 5.0% |
| Nov-05 | 65.4% | 4.8% |
| Dec-05 | 64.6% | 4.9% |
| Jan-06 | 61.1% | 5.0% |
| Feb-06 | 58.8% | 4.7% |
| Mar-06 | 62.3% | 4.5% |
| Apr-06 | 63.8% | 5.7% |
| May-06 | 61.7% | 4.3% |
| Jun-06 | 58.5% | 5.1% |
| Jul-06 | 58.3% | 4.7% |
| Aug-06 | 57.4% | 4.1% |
| Sep-06 | 58.8% | 4.4% |
| Oct-06 | 61.4% | 4.0% |
| Nov-06 | 61.8% | 3.9% |
| Dec-06 | 60.3% | 3.6% |
| Jan-07 | 49.8% | 3.6% |
| Feb-07 | 59.4% | 4.1% |
| Mar-07 | 48.8% | 3.5% |
| Apr-07 | 48.9% | 3.4% |
| May-07 | 48.8% | 3.3% |
| Jun-07 | 43.7% | 3.1% |
| Jul-07 | 31.1% | 2.8% |
| Aug-07 | 30.5% | 1.9% |
| Sep-07 | 30.5% | 1.9% |
| Oct-07 | 30.4% | 2.0% |
| Nov-07 | 21.2% | 1.6% |
| Dec-07 | 9.8% | 1.2% |