

**Kentucky Case Study** 

Does
Workers'
Comp Leave
Kentucky's
Workers in
the Hole?



### **Kentucky on Comp**

Since 1916, workers in Kentucky have depended on the state's workers' compensation system for financial support when they are injured at work. In turn, employers have counted on the workers' comp system to contain and stabilize work injury benefit costs. In 1994, House Bill 928 significantly revised Kentucky's workers' comp statutes to combat high workers' compensation costs and authorized the creation of a state-sponsored insurer, Kentucky Employers' Mutual Insurance. Today, KEMI writes 30% of the \$500 million in workers' comp insurance written in the state, and lost-time claims frequency has declined by 43% since 1999, according to the National Council on Compensation Insurance. From 2000 through 2014, Kentucky employers have enjoyed a 35% reduction in premium manual rates, according to Oregon's biennial study of insurance costs.

How have Kentucky's workers fared in this climate? Peter Rousmaniere presents his findings in this report, part of a series published by WorkCompCentral investigating the effects of workers' compensation on injured workers and their households. The first report, "Meet Tim: The Uncompensated Worker," is available online.



#### **About the Author**

Peter Rousmaniere is a journalist specializing in workers' compensation issues for several decades. He is the author of several WorkCompCentral special reports, including "Meet Tim: The Uncompensated Worker," published in January 2016, "Seismic Shifts," a report on the future of workers' compensation released in February 2015 and "We're Beating Back Opioids—Now What?" in June 2015. He lives in Woodstock, Vermont. pfr@rousmaniere.com



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#### **Safety Matters**



The past 20 years have seen improvements in the safety records of Kentucky industries. Take coal mining, for example, a major industry in the state. In 1996, coal miners sustained 1,200 injuries that resulted in time away from work while convalescing. By 2014, lost-time injuries in mining numbered about 400, due mostly to dramatic improvements in safety which reduced the lost-time injury rate from 5.9 cases per hundred workers to 2.1 cases per hundred. Unfortunately, the employment rate sank from 2012 through 2015, and the number of employed miners in the state dropped from 29,000 to 22,000.

We take a closer look at the work injury experiences of two miners in Pike County, the state's second largest county in terms of coal mining. Located on the West Virginia and Virginia borders, Pike County is the site of the infamous Hatfield-McCoy feud as well as one of several Appalachian counties burdened with very high rates of prescribed opioid abuse.

#### **Did You Know?**



1 ton of coal =
5 barrels of oil =
30,000 ft of natural gas.
A lump of coal could
keep a light bulb going
for a million years if all
of its energy could be
harnessed!



Almost 1,500 miners die from Black Lung disease annually.



More than half of the electricity used in the United States is generated by coal.



Kentucky's coal has been commercially mined for more than 200 years.

Source: http://www.coal-miners-in-kentucky.com/

### **Spotlight on Coal Miners Dale & Chris**

Thirty-eight-year-old section foreman Dale and 24-year-old Chris, a ventilation curtain man, are part of a 12-man team that enters a Pike County, Kentucky drift mine at 7 a.m. on a Monday morning. After traveling into the mine for half an hour, the crew reaches its designated work area. Chris begins setting up a ventilation curtain, while Dale checks for methane.

Suddenly, a loud explosion of several overburdened support pillars showers heavy coal and rock debris onto Dale and Chris, covering them completely. The team members rush to extricate the men from the debris. The team's certified mine emergency technician completes a head-to-toe assessment of Dale and Chris, treating injuries and preparing the men to be transported to the surface where ambulances are waiting to take the injured miners to the Pikeville Medical Center.

# **Injury Outlook**

Chris incurred light lacerations and a broken rib and is expected to be able to return to work in a few days. Dale, however, sustained a crushed humeral head to his right shoulder joint, several fractured bones and damaged nerves in his right arm and fingers. Surgery is called for, in addition to several months of rehabilitation. Both miners will also experience a disruption in their usual take-home pay due to their work injuries resulting from the mine explosion.



# **Chris' Brief Disability**

Chris earns \$19 an hour, taking home \$565 weekly after taxes. Using his story to generalize about brief work disability in Kentucky, rather than set a specific number of days for his recovery, we instead spread the possible time out for recovery between three, six and 10 work days. According to this spread, Chris' probable indemnity payment comes to \$101, which is \$531 (84%) less than he would have taken home before his work injury, as shown in Table 1.

Table 1		
Pre-injury Take-Home	Short-term Disability Compensation	Shortfall
\$632	\$101	\$531 (84%)

Note: Figures based on an average of 3, 6 and 10 work days.

In Kentucky, an injured worker is not paid for the first seven calendar days of a work disability. If he remains out of work for more than 14 days, Chris will recoup payment for that lost time, but if he returns to work before then, he will not be paid for the first seven days he misses work while recovering from his injury. Had Kentucky complied with the recommendations of the 1972 National Workmen's Compensation Commission, Chris would receive benefits on the fourth calendar day of his disability. His probable indemnity payment would be \$237, which is still \$328 (52%) less than he would have taken home pre-injury, as shown in Table 2.

Table 2					
	Waiting Period	Short-term Disability Compensation (average of 3, 6, 10 work days)	Shortfall		
Kentucky WC Laws	7 days	\$101	\$531		
National Commission on Workmen's Compensation Laws 1972 Recommendations	3 days	\$237	\$328		

Chris and his partner, a restaurant waitress, are forced to cancel a weekend trip to Nashville to make their monthly rent payment. In addition to dealing with the pain of his injury and the disappointment of canceling an anticipated mini-vacation, Chris will not recoup the \$530 lost due to being injured at work through no fault of his own.



# **Dale's Extended Disability**

Dale is out of work for months, enduring surgery and coping with his pain by prudent use of doctor-prescribed painkillers. Dale and his wife, Susan, are well aware of the dangers of opioids, having witnessed several of their friends and acquaintances succumb to the ravages of OxyContin in eastern Kentucky. With two children to raise, Dale is careful to avoid getting into trouble with opioids.

Dale earns \$30 an hour at his job. While in years past, he could make over \$80,000 a year with overtime, the drop in demand for labor in the past 12 months has resulted in less overtime, and Dale earns \$67,800, taking home after taxes \$979 a week, on average.

Kentucky law mandates that Dale will be paid 66 2/3% of his normal wage, tax-free, which comes to \$867 a week – a cut in weekly pay of \$112. But there's still another cut to be made. Like the other states, Kentucky imposes a maximum, or cap, on what a worker can receive in weekly benefits – regardless of how hard he or she has worked in overtime. Kentucky's maximum for 2016 is \$798.63, which cuts Dale's check by an additional \$68. He loses 19% of his take-home pay, as shown in Table 3.

Table 3			
	Dale's Pre-injury Take-Home Pay	2016 State Cap on Weekly Benefits	Shortfall
Kentucky WC Laws	\$979	\$798.63	\$180



The monthly basic living costs in rural Kentucky, according to the Economic Policy Institute, are \$4,302, or about \$990 a week (leaving out taxes) for a family of four. Dale and Susan pay the bills with their earned income. As a controller at a car dealership, Susan makes \$43,000 a year, which after taxes comes to \$690 per week. Without the injury, the two earn \$1,489 a week to pay basic costs and save for education and retirement. Dale's injury cuts their combined take-home pay by \$180, a setback they can manage.

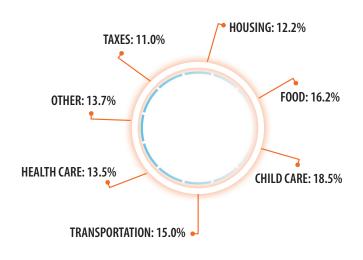
Their big worry is the risk of Susan's time at the dealership being cut back due to the soft economy. The reduced hours would cut her pay to \$368 a week. With Dale on work disability, their combined weekly takehome pay would be \$1,167. Given the sharp decline in the coal-mining industry, they are considering relocating and changing careers. It's a lot to think about, especially when recovering from a traumatic work injury such as a mine explosion.

Kentucky's business prospects are not great for someone like Dale – college educated, with lots of technical experience but in an isolated and declining industry. Federal funds are available in the area for job retraining, and most workers who migrate from Kentucky move to southern states, Texas or California. Until he recovers from his injury, it's hard to decide on a new career. Dale doesn't know when he will recover, and until he does, he doesn't make a good interview candidate. The biggest cost to Dale from his injury is how it greatly complicates planning for the future.

# Economic Policy Institute Basic Budget for Family of 4 in Rural Kentucky

For a two-parent, two-child family in rural Kentucky, it costs **\$4,833** per month (**\$58,005 per year**) to secure a decent yet modest standard of living.

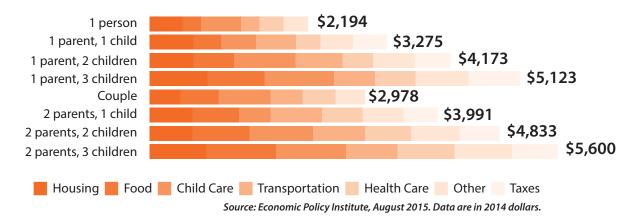
Here's a breakdown of how muc two-child family to get k		
A HOUSING	\$589/month	
FOOD	\$782/month 16.2% of total costs	
Costs range from	\$893/month 18.5% of total costs om \$457 for a single-child family	
to \$	966 for a family with three kids \$723/month 15.0% of total costs	
HEALTH CARE	\$652/month 13.5% of total costs	
OTHER NECESSITIES	\$662/month 13.7% of total costs	
TAXES	\$532/month 11.0% of total costs	



Source: http://www.epi.org/resources/budget/budget-factsheets/#/231

# **Budgets for Different Family Types**

Here's how monthly budgets in rural Kentucky vary by family size and composition.



#### **Kentucky's Drug Problem**

A special report supplement by Yvonne Guibert, Marketing Director, & Tracy Marcynzsyn, Editor

For more than a decade, Kentucky has experienced a sharp rise in deaths due to drug overdose, particularly opioid-based painkillers prescribed to injured workers. Nationwide, more than 28,000 people died from overdoses involving opioids in 2014 (over half from prescription opioids) and opioid overdoses have quadrupled since 2000, according to the Centers for Disease Control and Prevention. With 1,087 drug overdose deaths in 2014 (as of June 2015), Kentucky ranks among the five highest states for opioid fatalities, along with West Virginia, New Mexico, New Hampshire and Ohio. While drug overdoses historically were most common in big cities, today's fatal drug overdoses are happening more in rural and suburban areas.

Some of the hardest hit counties in Kentucky involve the coalfield regions, also known as the Appalachian region, where people like Dale and Chris from our report live and work. This area has the second-highest rate of drug deaths nationally. This is largely due to work-related injuries treated with opioid-based painkillers. Issues continue to worsen and have raised concern all the way to President Obama's office. Obama announced new initiatives during a panel discussion at the 2016 National Rx Drug Abuse & Heroin Summit in Atlanta, Georgia in March 2016.

- Overdose fatalities increased in Kentucky in 2014: 1,087 deaths as of June 2015, compared to 1,010 in 2013
- Jefferson County experienced the most overdose deaths of any Kentucky county, with 204
- Pharmaceutical opioids were the main cause of Kentucky resident drug overdose deaths in 2013
- Purdue Pharma, manufacturer of OxyContin, and the Kentucky Attorney General's Office reached a \$24 million settlement in December 2015
- Morphine was the most detected controlled substance in Kentucky overdose deaths, present in 40.88% of all autopsied cases
- Comparatively, counties nationwide experienced 13 drug overdose deaths per 100,000 residents each year from 2012 through 2014

Of the estimated 2.4 million people struggling with prescription drug and heroin dependency in 2013, only half received specialty treatment for their condition, in part because of prescription caps

#### Sources:

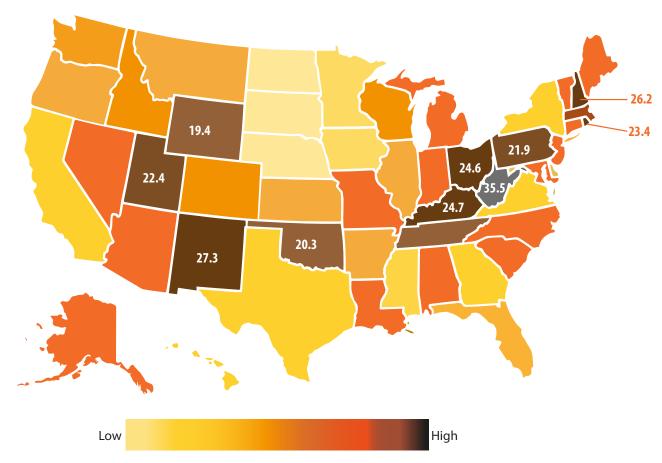
Centers for Disease Control and Prevention: <a href="http://www.cdc.gov/drugoverdose/data/statedeaths.html">http://www.cdc.gov/drugoverdose/data/statedeaths.html</a> 2014 Overdose Fatality Report, Kentucky Office of Drug Control Policy

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2016 National Rx Drug Abuse & Heroin Summit

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Goodman, Elaine "Kentucky, Purdue Pharma Reach \$24 Million Settlement in OxyContin Case." WorkCompCentral.com [Camarillo, CA] December 30, 2015
Rousmaniere, Peter "Is the Opioid Problem Getting Worse or Better?" WorkCompCentral.com [Camarillo, CA] February 29, 2016

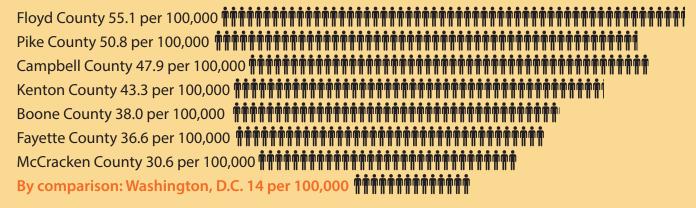
# Number of Drug Overdose Deaths per 100,000 People



Source: Centers for Disease Control and Prevention. Age-adjusted drug overdose rate per 100,000 people. Data for 2014.

Several Kentucky counties ranked high in number of opioid deaths, when compared by 100,000 population

#### The top 7 counties by overdose deaths per 100,000 people for 2014 are:



Source: Commonwealth of Kentucky 2014 Overdose Fatality Report

#### **Future Prospects**

Compared to other states, Kentucky's wage-replacement benefits for total temporary disability is roughly average. But as we see, a brief disability imposes a big one-time hit on a worker's budget. For an injury involving months of recovery, the financial burden might be sustainable, barring further misfortune.

The bottom line: Avoiding work injury and returning to work as quickly as possible after injury are the best ways for a worker to maintain his or her current standard of living and prospects for future opportunities.

#### **Sources**



#### **Demographic Data**

The Bureau of Labor Statistics reports Occupational Employment and Wage Estimates under Occupational Employment Statistics for each state. Hourly wages were based on 2015 data for Chris (helpers, extraction worker, 47-5081) and Dale (a high-paid mine-cutting and channeling machine operator, 47-5042).

http://www.bls.gov/oes/current/oessrcst.htm



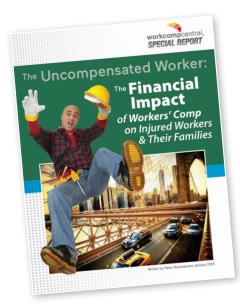
#### **Tax Computations**

To find net take-home pay, a calculator at <a href="https://www.paycheckmanager.com">www.paycheckmanager.com</a> was used.



#### **Monthly Basic Budget**

The Economic Policy Institute's Family Budget Calculator was used for rural Kentucky. <a href="http://www.epi.org/resources/budget/">http://www.epi.org/resources/budget/</a>



For additional information on sources, see "The Uncompensated Worker," available at <a href="https://www.WorkCompCentral.com">www.WorkCompCentral.com</a>.

#### **About WorkCompCentral**

Based in Camarillo, California, WorkCompCentral is the nation's only specialty media company producing daily news on the workers' compensation industry. With its own team of award-winning journalists located around the country, the niche outlet frequently breaks important news stories covering legal, medical, legislative/regulatory and business issues. The company also develops and maintains an extensive library of continuing educational content and can be reached at 805.484.0333 and via www.workcompcentral.com

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