



Extension of Medco beyond whiplash proposed as long-term solution

Insurers pessimistic about swift NIHL claims drop despite government action



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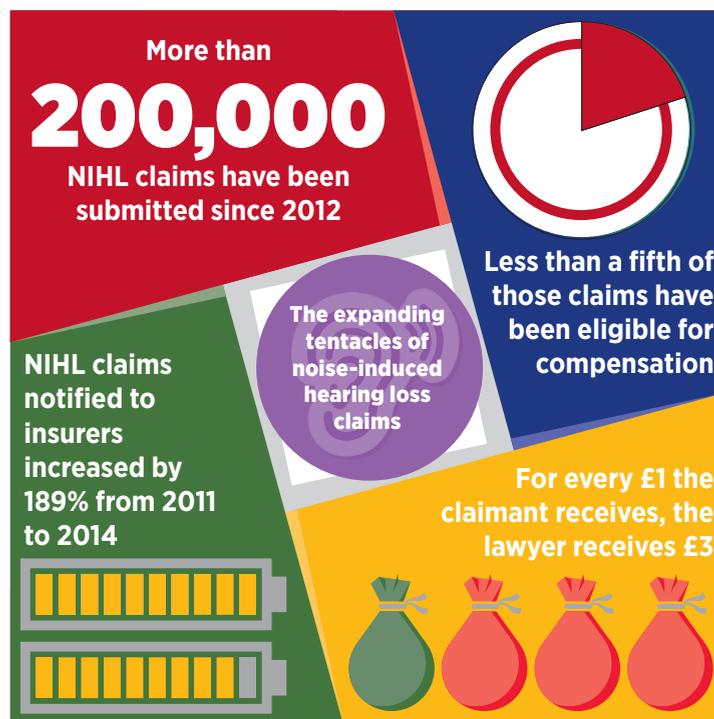
Government-led measures to clamp down on unmeritorious industrial deafness claims will not trigger a short-term decline in record-breaking claims volumes, according to industry bosses, although the prospect of a Medco extension has been mooted as a long-term solution.

Figures produced by the Association of British Insurers last month showed that noise-induced hearing loss claims submitted to insurers increased by 189% from 2011 to 2014 and that of the more than 200,000 NIHL claims submitted since 2012, less than one-fifth have been eligible for compensation (see box).

The Ministry of Justice has called on the Civil Justice Council to make recommendations about tackling issues around the growing number and cost of NIHL claims and it is understood the MoJ is looking to consult on the introduction of fixed fees for such claims in a potential move that has already been widely backed by insurers and criticised by claimant lawyers.

Another development in the fight against erroneous NIHL claims came earlier this month, when a rogue claims management company called the Hearing Clinic became the first business of its kind to be fined following the introduction of new regulatory powers overseen by the MoJ's Claims Management Regulator.

Nevertheless, certain insurers remain pessimistic over the prospect



Source: Association of British Insurers' report: Noise Induced Hearing Loss Claims: Improving the claims system for everyone

of government action having a material impact on claims volumes in the coming years.

Bob Howe, head of global operations for Axa liabilities managers, told *Post*: "I am not optimistic that claims volumes [for NIHL cases] are going to fall materially in the short term.

"It is an issue that has been around for a while now and it will take a while to resolve. Fixed costs and an online portal for such claims would be a good starting point to reduce these industrial disease claims in the long term. There is also a good argument that the regulator should introduce an annual report on the topic."

Karl Helgesen, motor and casualty claims director at Zurich, added: "There will be a number of challenges ahead in terms of the implementation of any extension of a fixed fee regime

so it will take some time to filter through, there's no overnight solution.

"The current problems will continue for the foreseeable future but we have to continue to focus on the right things that bring about reform in this area and if that reform takes two to three years to implement then I'd much rather have it then than not at all."

Helgesen championed the possibility of the principles of the Medco system being extended beyond soft tissue injuries to involve a taxi rank system for audiologists.

He told *Post*: "I know it's being considered as one of a number of options to tackle the challenge in this area. In terms of the CJC review, obviously there will be insurer representatives who will be involved in that process and my understanding

is that not only will they look at the concept of fixed fees but also at the broader process around the claims themselves – including looking at the credibility of any medical evidence that supports the claim."

The number of NIHL claims faced by contractors' insurer ECIC has doubled since 2013, according to CEO Roger Brown, who told *Post* his firm has received the same number of claims in the first half of 2015 as it did for the whole of last year.

He said: "The cost associated with managing these claims is disproportionately high in terms of trying to get an understanding of paying the real claims."

When asked if he felt enough was being done to reduce the propensity of such claims, he added: "Until such time as I see it start to stabilise and moreover reduce then I will reserve judgment. I don't know if we've reached a peak yet – I'm not convinced we have. We could see another 12 months before we start to see [claims numbers levelling out]."

Jim Byard, a member of the Forum of Insurance Lawyers' disease sector focus team and a partner with Weightmans, added: "NIHL claims have risen in frequency so far in this calendar year to levels not far short of the record pre-*Legal Aid, Sentencing and Punishment of Offenders Act 2012* year of 2013.

"There are a number of factors driving this – both the 53,000 NIHL claims Quindell state will be notified to the market this year but also the continued attractiveness of such claims to claimant firms. In the short term, we believe there will be little impact on frequency but we hope that the two recent [government] announcements will help to reduce frequency."