

The Link
Department of Workers' Claims
Quarterly Report
October-December 2017

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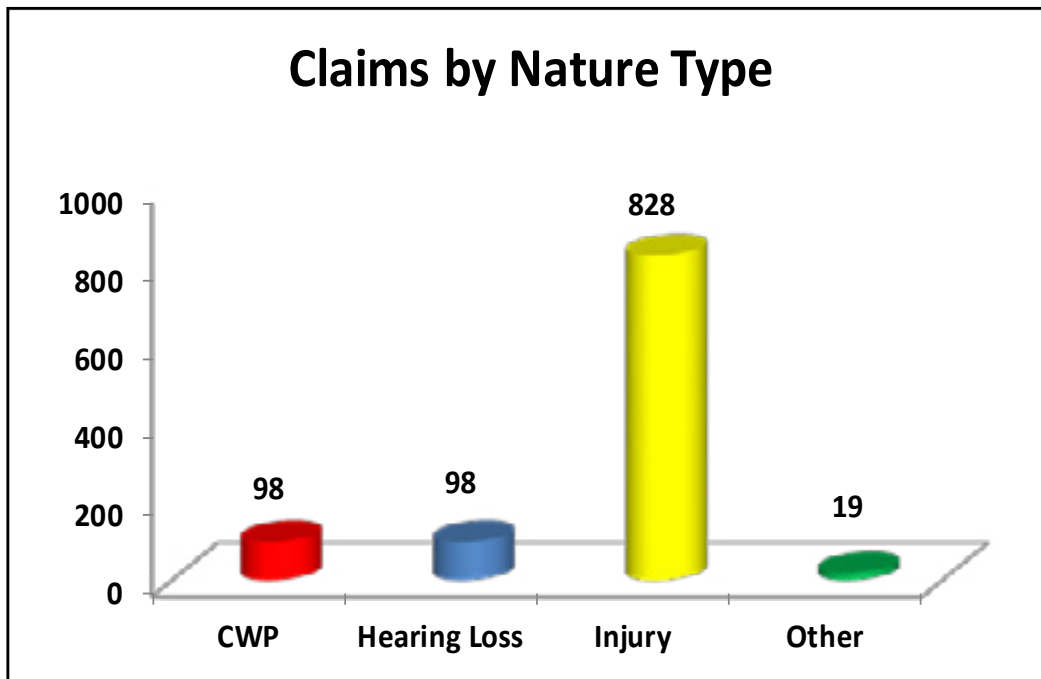
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DWC Quarterly Statistics

Distribution of FROI's by Industry

	First *	Claims
	Reports	
Accommodation and Food Services	392	18
Admin. & Support & Waste Mgmt and Remediation Services	1,065	55
Agriculture, Forestry, Fishing & Hunting	120	7
Arts, Entertainment & Recreation	54	2
Construction	382	46
Educational Services	516	25
Finance and Insurance	51	7
Health Care and Social Assistance	721	49
Information	58	1
Mgmt. of Companies & Enterprises	6	0
Manufacturing	1,325	123
Mining	223	56
Other Services Except Public Admin.	158	13
Professional, Scientific & Technical Services	138	7
Public Administration	657	40
Real Estate and Rental & Leasing	43	5
Retail Trade	564	49
Services	0	0
Transportation and Warehousing	478	48
Transportation/Public Utilities	0	0
Wholesale Trade	235	27
Unclassified	4	461
Utilities	31	4

*This only includes First Report of Injury (FROIs) submitted via Electronic Data Interchange (EDI) to the DWC.



Claims figures are based on date of filing.

Top Ten Causes Of Injury Claims

Fall or Slip	153
Cumulative	165
Lifting	98
Absorption, Ingestion and Inhalation	74
Motor Vehicle	67
Other Injury	65
Strain or Injury By	62
Continual Noise	51
Pushing or Pulling	41
Repetitive Motion	37

QUARTERLY ACTIVITY*

Lost Time First Reports (FROI)	7,221	Re-openings (overruled)	3
Claims Assigned	1,043	Re-openings (sustained)	1
Re-openings (motion docket)	287		

*The above statistics are derived from the agency database by various dates determined by status code. Specific details may be obtained by contacting the Division of Information and Research. Individual section breakdown/statistics represent internal section activity that may differ from DWC database.

Distribution by Body Part (Top Ten)

Claims

Multiple Body Parts	223
Low Back	120
Lungs	112
Ears	100
Shoulders	85
Knee	55
Wrist	25
Fingers	21
Multiple Trunk	20
Hand	18



FROIs

Lower Back	804
Multiple Body Parts	657
Fingers	616
Knee	612
Shoulder(s)	553
Hand	383
Ankle	343
Foot	319
Wrist	223
Lower Arm	217

Division of Information Technology and Support Services

As a customer focused division, we provide our users with a wide variety of technology based services. For example, we provide technical assistance/solutions and guidance to resolve individual user and departmental issues related to technology. We also provide a structured environment that ensures the reliability, accuracy and integrity of data submitted to the cabinet through accurate data entry and an Electronic Data Interchange system which includes First and Subsequent Reports of Injury as well as Workers' Compensation Proof of Coverage reporting. We scan and maintain required documents or images in an electronic or digital fashion which facilitates an efficient process of storing and retrieving documents for responding to claim requests, first report information and open records requests.



Imaging

The Imaging Section is responsible for scanning all hard-copy claims and documentation into the agency's Sharepoint Imaging System, the DWC's storage medium and official record of the DWC.

During this quarter, the Imaging Section scanned 137,850 sheets.

Open Records

The Open Records Section responds to requests for claim and first report information pursuant to KRS 61.872(2). Requests are received from a variety of outside parties including attorneys, insurance carriers, employers, the Social Security Administration and the general public. Requests may be submitted by mail, fax or hand delivery. Currently, charges for copies are 15 cents per photocopied page and 75 cents per microfilmed page. Upon receipt of the request, Open Records staff compiles a cost estimate. The estimate is returned to the requesting party. The request is filled upon receipt of payment from the requestor, and materials are mailed by U.S. Mail or United Parcel Services. Open Records staff is not permitted to fax workers' compensation documentation.

A service of pre-employment screening is available to prospective employers through the Open Records Section. Work history may be obtained by submitting a written request along with pre-payment of \$2.00 per Social Security Number submitted. Pursuant to KRS 150.170, the Open Records Section also verifies workers' compensation awards for the Department of Fish and Wildlife for individuals applying for free hunting and fishing licenses.

During this quarter, the Open Records Section processed 2,088 written requests, 1,195 pre-employment requests and 3 Fish and Wildlife request.



Data Entry

As of October 10, 2016, our Litigation Management System (LMS) was officially opened to Workers' Compensation attorneys to allow them to file documents electronically. Electronic filing became mandatory, with certain exceptions, July 1, 2017. During this quarter, while most attorneys are filing their documents through our LMS system, some attorneys filed paper documents, some of which were accepted for filing by DWC based on the circumstances of filing. Any paper documents such as motions for extension of time, to file late briefs, to place in/or remove from abeyance; depositions of plaintiffs and physicians; notice of filings of medical reports, wage records, Claim Denials; as well as responses to motions filed in active claims with the Department of Workers' Claims continue to be processed by the Data Entry Section.

During this quarter, the Data Entry Section indexed 10,340 pieces of mail.

EDI Claims/POC

The EDI Claims personnel monitor the electronic reports submitted to the DWC by insurance carriers when an injury is reported. First Reports of Injury (FROI) and Subsequent Reports of Injury (SROI) are received daily from third-party administrators and insurance carriers through vendors. Each record goes through program edits prior to acceptance and is scrutinized by EDI staff for accuracy. The EDI staff provide assistance and information to third-party administrators and insurance carriers daily on how to file new FROIs/SROIs or to make changes to existing records. This quarter, the EDI Claims Section received and processed 12,290 records.



EDI Proof of Coverage (POC) Personnel

Every insurance carrier is required by statute to report coverage and cancellation of coverage of Workers' Compensation Insurance issued to the employers in Kentucky. The EDI POC Section of the Department of Workers' Claims is charged with receiving and maintaining workers' compensation coverage filings for employers doing business in the State of Kentucky. During this quarter, 144,239 proof of coverage transactions were received and processed, 94% of which were accepted.

NCCI

Transactions Processed: 89,486

Acceptance Rate: 93%

CLAIMPORT

Transactions Processed: 44,137

Acceptance Rate: 97%

KESA

Transactions Processed: 9,546

Acceptance Rate: 97%

WORKERS COMPLINK

Transactions Processed: 82

Acceptance Rate: 61%

KAGC

Transactions Processed: 988

Acceptance Rate: 96%

The EDI POC Section is also responsible for registering Professional Employer Organizations (PEOs), manually processes mining and mine-related coverage and processes "split coverage/wrap up" POC for Owner and Contractor Controlled Insurance Programs (OCIP and CCIP). During this quarter, the section manually processed 1,364 coal transactions, with 1,308 of those being accepted. The DWC maintains files on currently registered PEOs who provide employee leasing services to Kentucky businesses. This quarter the section received 4,947 transactions, 4,743 of those were accepted. Wrap Ups received 481 transactions with 345 accepted for this quarter.

Design and Development

- The Department of Workers' Claims Design and Development Section actively develops and maintains in-house programs using C# and .NET.
- The section maintains the SIMBA/LMS, EDI/POC programs and ensures these in-house programs meet the IAIABC standards concerning submitting FROI/SROI and POC data electronically from approved Trading Partners/Vendors.
- Researches, analyzes, and tracks user requests for new programs.
- Meets with management and additional staff for ways of improving current programs.
- Supplies statistical information to management.
- Develops database scripts to enhance productivity for Department of Workers' Claims programs.
- Responsible for SQL database backups, disaster recovery, and optimizing performance of SQL servers.
- Develops in-house user reports, form letters, and on-line forms.
- Enters and/or deletes user SIMBA/LMS security permissions for SQL server security.
- Creates, compiles, and runs queries for the department's monthly, quarterly, annual reports and any additional reports requested.
- Develops scripts for new program designs.
- Assists with the KRONOS/KHRIS timekeeping systems.
- Imports WC Board opinions to the web application monthly to ensure up-to-date reference material is available. Staff assists management with deadlines and special projects.

During this quarter, Design and Development staff implemented modifications to EDI/POC, SIMBA programs, SIMBA reports and SQL databases. Section activity also included the following:

- Installed monthly CompLaw Board Opinions into NXT4
- Submitted requests for addition and removal of SIMBA/LMS and SharePoint accounts
- Answered questions from Trading Partners/Vendors and assisted them in answering questions concerning FROI/SROI & POC electronic filings
- Met with users to discuss issues for upcoming builds, patches and new development
- Attended meetings with DWC sections for Litigation Management System
- Monitored log files for LMS/SharePoint submissions
- Ran queries for specific data as requested by in-house management
- Staff completed analysis of Division of Special Funds Claims Payment Management System

Research Section

The Research Section coordinates the DWC web site, produces all the agency's publications and has the responsibility of processing WC letters that are driven by statute. During this quarter, the Research Section received 187 pieces of mail and 50 web/email inquiries.

Statute of Limitation letters are generated and processed daily by the Department of Workers' Claims. They are generated by Maintenance Type Codes (MTC) that come in on the EDI records. These letters serve as a notice to the injured worker that the statutory time limit for filing a work-related injury claim has begun.

MTC codes that generate a statute letter are:

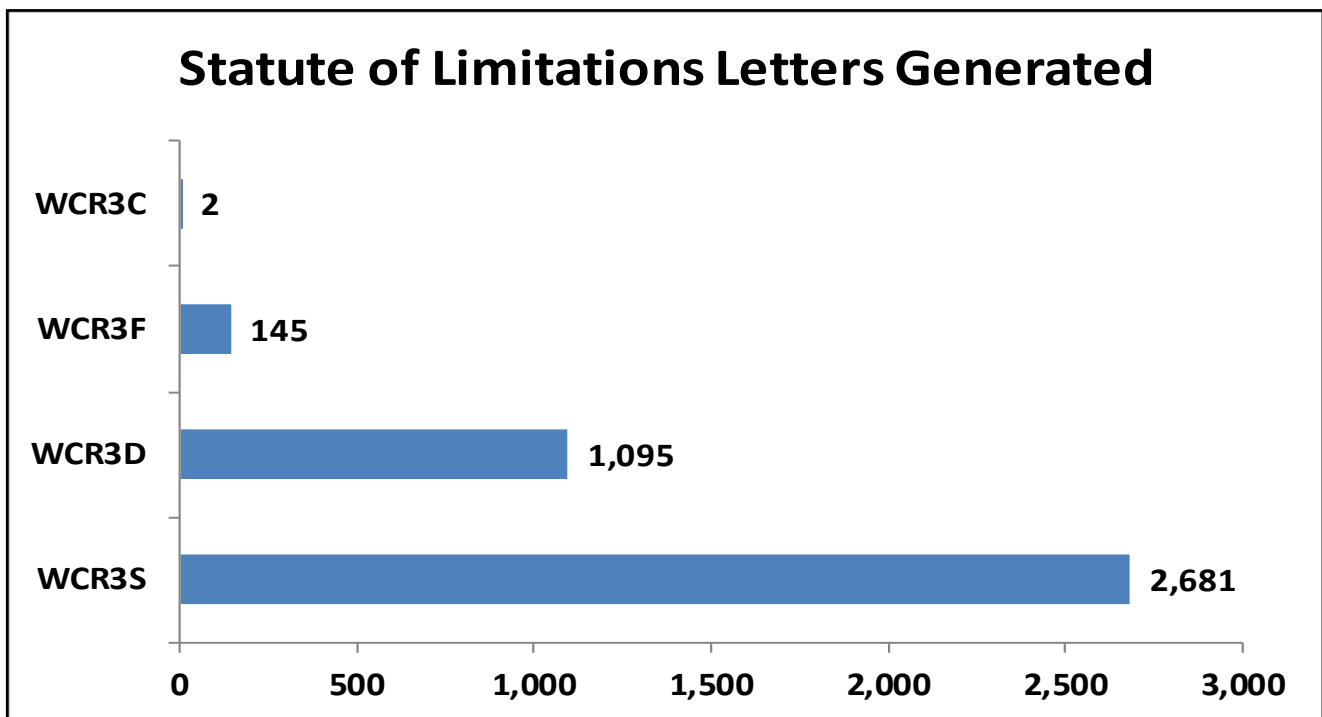
MTC S1-9 (excluding S7) and SD, suspension of benefits (WCR3S)

MTC 04, claim denial from carrier (WCR3D)

MTC with a date of death reported (WCR3F)

MTC01 cancellation with open benefits (acts as a suspension of benefits) (WCR3C)

This chart represents the number of letters generated this quarter.



Fatality letters generated are driven by EDI filings submitted to DWC by the insurance carriers. Follow-up filings by the insurance carrier that contain a date of death trigger a fatality letter. This is not indicative that the fatality actually occurred in the time frame specified.

Office of General Counsel

The attorneys in the Labor Cabinet, Office of General Counsel, provide legal representation to the Department.

One of the major functions of the Office of General Counsel is pursuing enforcement actions. Kentucky law requires all employers, except those engaged solely in agriculture, to have workers' compensation insurance or be authorized by the Commissioner to self-insure. If an employer fails to do so, the employer can be penalized or fined \$100.00 to \$1,000.00 per employee for each day the employer fails to have insurance or be authorized to self-insure.

The Office of General Counsel serves as the prosecutor in enforcement cases in which the employer has been cited and fined for not having workers' compensation coverage. The foremost goal is to have the employer obtain coverage for its employees.

Once coverage is obtained, the Office of General Counsel diligently tries to negotiate a settlement of the fine or penalty with the employer. This may be done on a payment plan to make it more convenient and less onerous for the employer. If a compromise cannot be accomplished, the employer can have its case heard and decided by an Administrative Law Judge.

During this last quarter, the Office of General Counsel staff and attorneys handled 143 enforcement citation cases. A total of \$177,140.00 in enforcement fines and penalties was collected.

The Office of General Counsel also investigates, resolves and prosecutes unfair claims settlement practice (UCP) allegations. After investigation, the Office determined there were two (2) situations that appeared to violate the standards set forth in 803 KAR 25:240 and were pursued as unfair claims settlement practices this quarter. A total of \$6,000.00 in fines and penalties was collected.

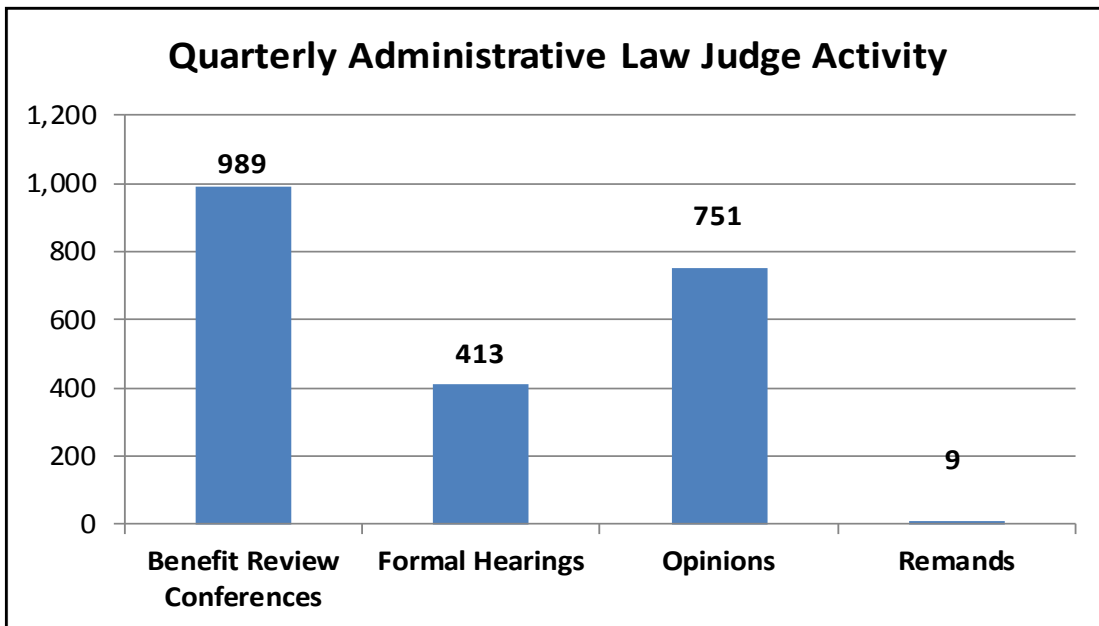
Finally, the Office of General Counsel litigates any claims brought by or against the Department, reviews and drafts potential legislation or regulations and answers questions on workers' compensation issues for claimants, insurance companies, legislators and the general public.



Administrative Law Judges

The Department of Workers' Claims has 19 Administrative Law Judge (ALJ) positions allocated, 17 of which are currently filled. Each ALJ is appointed by the Governor for a four-year term and is subject to confirmation by the Kentucky Senate. One of the ALJ's is designated Chief Administrative Law Judge (CALJ) pursuant to KRS 342.230(8). ALJ's adjudicate workers' compensation claims by conducting Benefit Review Conferences, presiding over Formal Hearings and issuing Opinions awarding or denying benefit claims.

The Chief Administrative Law Judge presides over the Frankfort motion docket. In addition, the CALJ rules on settlement agreements in unassigned cases and regularly conducts dockets for coal workers' pneumoconiosis (CWP) cases, as well as hearings in various enforcement actions. The CALJ supervises ALJ activities, prepares a rotation schedule for the ALJs, plans two adjudicator training sessions annually, takes initial assignment of all CWP claims and covers dockets for other ALJs on an emergency basis.



Agreements Section

All agreements (Form 110s) come through the Frankfort office to be processed and put into the record, whether signed by the CALJ or one of the other 16 ALJ's within the Department. Any agreements received prior to assignment to an ALJ (pre-litigation) are reviewed for accuracy and completeness and approved by the CALJ if appropriate. In this quarter, 1,428 agreements were received by the Agreements Section. Of those, 802 settlement agreements were approved by the CALJ; 588 were forwarded to the assigned ALJ; and 33 were returned to the parties for correction. Section staff also received 27 motions to substitute party during this period.

Division of Claims Processing

The Division of Claims Processing consists of two phases of processing: Claims Review, and Claims Assignment. Each phase has a distinct role in processing the workers' compensation litigated claims filed with the Department of Workers' Claims.

Claims Review

The Claims Processing staff reviews all of the Applications for Resolution of Claim filed with the Department, verifying that filing requirements as outlined in 803 KAR 25:010 are followed. A total of 1,049 new claims were filed this quarter including 833 injury claims, 11 occupational disease claims, 99 hearing loss claims and 106 coal workers' pneumoconiosis claims. The staff identifies and verifies insurance coverage for all named defendant employers. If no workers' compensation insurance is found, steps are taken to join the Uninsured Employers Fund as a party to the claim. Once the claims have been verified through the Claims Review process, they are assigned to an Administrative Law Judge.

Claims Assignment

For this quarter, a total of 964 new and reopened claims were assigned by the Claims Processing staff to ALJ's and scheduled for Benefit Review Conferences. Claims staff processed 287 reopened claims (that were routed to motion docket). In addition, this division contacted and scheduled court reporter services to attend and transcribe 669 hearings; each transcript is examined and verified for payment within the Claims Assignment Section.

Once a claim is final, it is returned to Frankfort to be audited by confirming all documents are present in the electronic file before the hardcopy is purged. A total of 1,484 claims were audited and purged during this quarter.



Workers' Compensation Board and Appeals

Appeals Section

The Appeals Section serves as support for the Workers' Compensation Board, Court of Appeals, and Supreme Court. Appeals Staff enters the appeals information into the DWC database, verifies that briefs filed in each appeal are in compliance with 803 KAR 25:010, Section 21, prepares a weekly roster of requests for additional actions filed on appealed claims, assigns appealed claims to the Workers' Compensation Board, and enters and complies with all pertinent requests from the Court of Appeals and Supreme Court. A total of 84 appeals were filed before the Workers' Compensation Board. When an appeal is final, it is reviewed by the Appeals Section to be routed to an ALJ if further action is required or audited for finality (confirming all documents are contained in the electronic file) before the hardcopy is purged.

Opinions rendered by Board Members:

Stivers:	8
Alvey:	8
Rechter:	5
	<hr/>
Total opinions rendered:	21
Appeals to Court of Appeals:	6
Court of Appeals Opinions:	10
Appeals to Supreme Court:	5
Supreme Court Opinions:	5



Division of Ombudsman and Workers' Compensation Specialists Services

Services provided by the Division of Ombudsman, Workers' Compensation Specialists and Medical Services personnel are a vital component to the delivery of quality, timely medical service and assistance to workers injured in the workplace and their families.

The **Medical Services Branch** has 7 main tasks that relate to the mission of the Department of Workers' Claims (DWC). Those tasks are: (1) **Certification of Managed Care Organization's Plans** which encompasses physician certification (AMA licensed); proper legal documentation for the managed care provider (provider contracts, etc.); compliance with Kentucky Revised Statutes (KRS) regarding grievance rights and procedures for claimants and their employees; (2) **Utilization Review (UR) Certification** which assists in determining necessary and appropriate medical care for claimants; (3) **Medical Bill Audit (MBA)** which is to assure compliance with adopted fee schedules; (4) **Hospital Fee Schedule (cost-to-charge)** pursuant to 803 KAR 25:091 and the latest cost report (HCFA-2552) which is supplied by the Kentucky Cabinet for Health and Family Services; (5) **Pharmacy Fee Schedule** pursuant to 803 KAR 25:092 which mandates using the average wholesale price; (6) **Physician Fee Schedule** pursuant to 803 KAR 25:089 and related medical data supplied by Fair Health Inc. which is an independent nonprofit organization that supplies medical billing data; (7) **University Evaluations** whereby Medical Services personnel schedule appointments for Pneumoconiosis (Black Lung), Hearing Loss and Occupational Disease claimants at University of Kentucky and University of Louisville Medical Centers, Commonwealth Respiratory Consultants, University of Louisville Pulmonary Clinic and Coal Miners Respiratory Clinic (Muhlenberg Community Hospital).

Medical Services 4th Quarter Report

Currently, there are thirty-five (35) Managed Care Organizations (MCO) that are certified by DWC and sixty-one (61) UR/MBA plans that are DWC certified.



The Hospital Fee Schedule (cost-to-charge ratio) governs the reimbursement for hospital charges in workers' compensation claims and these ratios are modified April 1st each year.

The Department of Workers' Claims promulgated the cost-to-charge ratios for 111 in-state hospitals and 243 out-of-state hospitals during FY 2016-2017. Out-of-state hospitals, by regulation are reimbursed in the same manner as Kentucky hospitals.

**University Evaluations
Hearing Loss**

University of Kentucky
Hearing Loss Claims Received
17

University of Louisville
Hearing Loss Claims Received
18

**Coal Workers Pneumoconiosis (CWP)
(Black Lung)**

Commonwealth Respiratory Consultants
Claims Referred for Evaluations
30

Owensboro Health/Muhlenberg Community Hospital
Claims Referred for Evaluations
28

University of Louisville Pulmonary Clinic
Claims Referred for Evaluation
16

Medical Service personnel make and coordinate these evaluation appointments for claimants alleging to have developed CWP. Evaluation Reports are reviewed and transmitted to the employee, employer, insurance adjuster and the Administrative Law Judge to whom the claim is assigned.

**Workers' Compensation Specialists
(KRS 342.329)**

The Workers' Compensation (WC) Specialists Branch is tasked with providing assistance to claimants, attorneys, medical providers, employers, family members of claimants and Administrative Law Judges (ALJ). Individuals seeking assistance may call, toll free, 1-800-554-8601. Additional information may be found on the Department of Workers' Claims web site: www.labor.ky.gov/workersclaims.

WC Specialists provide intervention service (i.e. assist with resolving issues between claimants, insurance adjusters and medical providers) on issue(s) that might otherwise have to be resolved by an Administrative Law Judge. The specialists are supervised by the Attorney/Chief Specialist.

The other entities within the WC Specialists Branch are: Drug Free Workplace Certification Program (803 KAR 25:280); Vocational Rehabilitation Program (KRS 342.710); Retraining Incentive Benefits (RIB) Program (803 KAR 25:120); and Workplace Fatality Reporting.

Requests Received

New Requests 2,292	Requests from Claimants 901
Requests from Attorneys: 950	Requests from Employers 164
Requests from Medical Providers 126	Requests from Government Official 36
Requests from Widow/Widower 20	Requests from Family Member 108

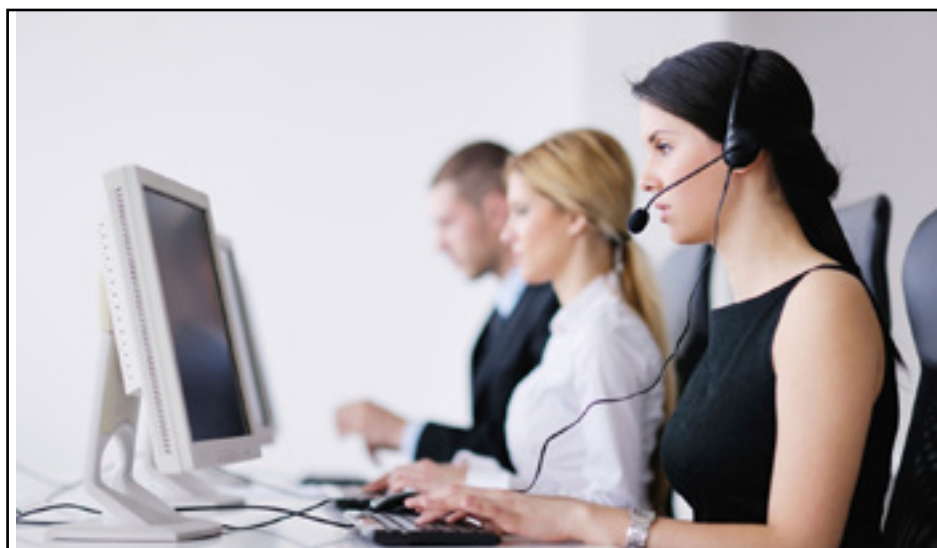
Assistance Type

Claim Status 871	Rights and Procedures 797
Coverage 90	Medical Fee Dispute 40
Medical Fee Schedule 11	First Report of Injury 51

Beginning in October 2016, with the advent of the Litigation Management System (LMS), the Worker's Compensation Specialists acquired additional tasks of assigning user Access Numbers, and assisting Pro Se claimants with filing claims. WC Specialist also assist law firms, insurance companies and other authorized entities with non-technical navigation of LMS.

**LMS Requests for Assistance
October, November, December
583**

**Total Outgoing Calls
2,183**



Drug Free Workplace

This is a voluntary program which allows employers (private or governmental) to promote a workplace free from drugs. Employers must submit a drug free workplace plan, make application to DWC and upon satisfactory review will be certified by the Commissioner. Upon satisfactory completion of the process, the employer (private) may be eligible for a 5% reduction of their worker's compensation insurance premium pursuant to KRS 304.13-167(6).

New Plans Certified**18****Plans Renewed****216****Workplace Fatality Report***

*Tracks workplace fatalities (with assistance from OSHA).

Fatalities**22****Vocational Rehabilitation**

KRS 342.710 permits retraining for those who are unable to perform work for which they have previous training or experience due to the effects of work-related injury. Evaluations are scheduled to determine aptitude, educational level and employment interest. The test results are provided to all parties and assistance is offered to the injured worker.

New Cases**5****Retraining Incentive Benefits (RIB)**

This program dedicated to individuals who contract Coal Workers' Pneumoconiosis (Black Lung) and is designed to facilitate training to enable transition to an alternative work environment. The program provides for attainment of a GED and other bona fide training and education programs for those who do not desire to or cannot reenter the coal mining profession.

Program Participants**1**

Division of Security & Compliance

Security Branch

The Security Branch regulates companies that have been approved by the Commissioner of The Department of Workers' Claims (DWC) to self-insure their workers' compensation liabilities as opposed to purchasing primary coverage. A self-insured company is required to deposit security. The security must be a bond, letter of credit, or deposit contract. The security is used to pay injured employees in the event a company is insolvent or defaults on its workers' compensation liabilities. The DWC currently has approximately \$1.3 billion in security on file from the 103 current and 360 former self-insured employers.

Annually, the security branch reviews audited financial statements in order to determine if the self-insured employer sufficiently is financially viable enough to maintain self-insured status. Twenty (20) financial statements were reviewed this quarter.

Self-insured employers are required to submit loss reports on an annual basis. One of the main duties of the branch is providing data and information to the Commissioner to utilize in setting the required amount of security. The Branch conducts reviews using loss data when assessing the amount of required security. Twenty-six (26) reviews were completed this quarter.

Formerly self-Insured employers must wait a period of 5 years before seeking a reduction in the amount of security held by the DWC. Subsequent reduction requests may be made no more frequently than every two years. The Branch requests updated loss reports and audited financial statements in order to review the security reduction request and submits the result to the Commissioner for decision. Three (3) review(s) of a former self-insured employer were conducted this quarter.

A reserve is the estimated amount necessary to pay a claim to its conclusion. There are basically two types of reserves:

- 1) Indemnity (income benefits payable); and
- 2) Medical

Adequate reserves must be reported to assure the proper amount of security is deposited. The Branch reviews the loss data to ensure self-insured employers are reporting adequate reserves. seven external medical reviews were conducted this quarter.



Compliance Branch

The Compliance Branch consists of two sections:

- 1) Enforcement Section; and
- 2) Administrative Processing Section

Enforcement Section

The Enforcement Section's primary function is to ensure employers provide insurance coverage as required by statute. This is achieved primarily through the efforts of its 10 investigators. The investigators cover Kentucky's 120 counties from field offices located throughout the state. The investigators make on-site inspections to ensure employers have workers' compensation insurance. The investigators also investigate leads generated by section staff, referrals submitted to DWC by telephone and through the department's website, and in matters involving the Uninsured Employer Fund (UEF).

Non-compliant employers are subject to citations and civil penalties issued by the Commissioner. However, a large number of investigations reveal employers are aware of their requirements and have voluntarily purchased workers' compensation insurance. The investigators also conduct educational presentations throughout the state in order to educate employers on their workers' compensation requirements and to encourage compliance.

During this quarter, the Branch's investigators conducted 2,027 on-site investigations of Kentucky businesses. The Commissioner issued 105 citations to employers for failure to comply with the requirements imposed by KRS Chapter 342.



Administrative Processing Section

The Administrative Processing Section is responsible for multiple tasks involving Coverage and Citations that include the following:

- 1) Prepare citation docket and process citations payments. Prepare citation files for remittance to General Counsel's office.
 - a) The branch processed \$244,050.00 in collected penalties, which includes penalties paid in full to the Branch and collections received by our legal division from contested citations.
 - b) Collected penalties are deposited into a fund created by KRS 342.920. These funds are used to pay benefits to employees injured before March 1, 1997 when their employer's security is exhausted.
- 2) Maintain Employee Written Notice of Rejection of the Workers' Compensation Act (Form 4s). The proper filing of this form permits an employee to waive the right to protection under the Kentucky Workers' Compensation Act.
 - a) 833 Form 4s received
 - b) 601 Form 4s approved
 - c) 2,698 Form 4s mailed upon request
- 3) 78 certifications of coverage were issued this quarter to Administrative Law Judges, private attorneys and open records requests.

