

# QUARTERLY ACTIVITY REPORT

KENTUCKY DEPARTMENT OF WORKERS' CLAIMS  
QUARTERLY REPORT  
APRIL – JUNE 2001  
CHED JENNINGS, COMMISSIONER

## Under New Management



On May 7<sup>th</sup>, Charles Edward 'Ched' Jennings brought his 25 years of workers' compensation experiences to Frankfort and became the new Commissioner of Kentucky's Department of Workers' Claims.

**"The Department of Workers' Claims is here to service the workers' compensation community and the flow of claims and the delivery of benefits",** pledged Commissioner Jennings.

Serving as legal counsel on the Workers' Compensation Board in the late 1970's and as a member of the Workers' Compensation Task Force Commission in the late 1980's, Jennings' private law practice has specialized in representing injured workers.

He also is the founder of CompEd, a non-profit organization established to educate those working in the workers' compensation industry. CompEd, Inc. was formed to conduct workers' compensation seminars and to further the education endeavors of practitioners, claims adjusters, risk management specialists and claims managers. Topics from the recent annual seminar included cumulative trauma, innovative settlements and case law updates.

At DWC, the Commissioner's goals include increasing benefits and reducing premiums. He plans to place a great emphasis on vocational rehabilitation and retraining; identifying the more seriously injured claimants early on and promoting the retraining options. "This will give us an opportunity to perhaps save some individuals, get them back to work, save their families and keep them as productive citizens," he explained.

The Commissioner also proposes earlier intervention and visualizes a benefit review conference scheduled within the first 4-6 weeks of a claim filing. **"I want to get the claims before the judges early, so that they can address the issues early. We want to move the emphasis to the beginning instead of the end of the system."**

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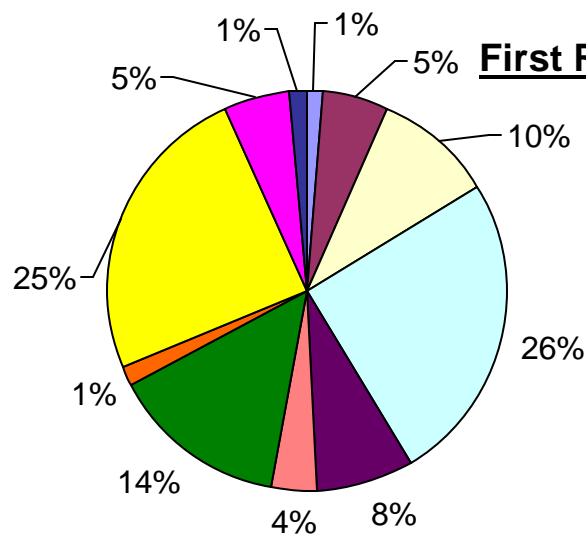
# Quarterly



# Statistics

## QUARTERLY ACTIVITY

Lost Time First Reports of Injury	9,522	Re-openings (medical)	80
Claims Assigned	1,430	Re-openings (overruled)	22
Pre-litigations	963	Re-openings (sustained)	97
Awards	254		
Agreements	715	Appeals to:	
Dismissals	166	Workers' Compensation Board	134
		Circuit Court of Appeals	51
		Kentucky Supreme Court	16



Agriculture/Forestry/Fishing	124
Mining	520
Construction	919
Manufacturing	2,384
Transportation/Communication/ Public Utilities	725
Wholesale Trade	357
Retail Trade	1,372
Finance/Insurance/Real Estate	121
Services	2,378
Public Administration	497
Not Classified	125

■ Agriculture/Forestry/Fishing	■ Mining
□ Construction	□ Manufacturing
■ Transportation/Communication/Public Utilities	■ Wholesale Trade
■ Retail Trade	■ Finance/Insurance/Real Estate
■ Services	■ Public Administration
■ Not Classified	

Total 9,522

## FIRST REPORT OF INJURY SORTED BY GROUP

Injuries	9,129	Other Occupational Diseases	333
Coal Workers' Pneumoconiosis	27	Hearing Loss	33
		Total	9,522

# Quarterly



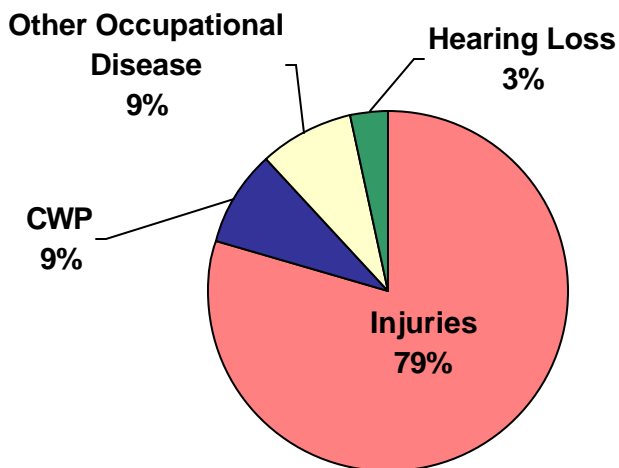
# Statistics

## FIRST REPORT OF INJURY SORTED BY CAUSE

Strains/Sprains	3,787	Absorption or Ingestion	120
Fall or Slip	1,892	Foreign Body in Eye	113
Struck or Injured By	1,034	Cumulative Injury	76
Cut, Puncture or Scrape	415	Animal or Insect	60
Repetitive Motion	408	Robbery or Criminal Assault	28
Motor Vehicle	400	Contact with Electrical Current	23
Caught In or Between	385	Explosion/Flareback	5
Striking Against or Stepping On	326	Rubbed or Abraded By	1
Burns/Scalds	194	Other	255
		<b>Total</b>	<b>9,522</b>

## CLAIMS SORTED BY INDUSTRY

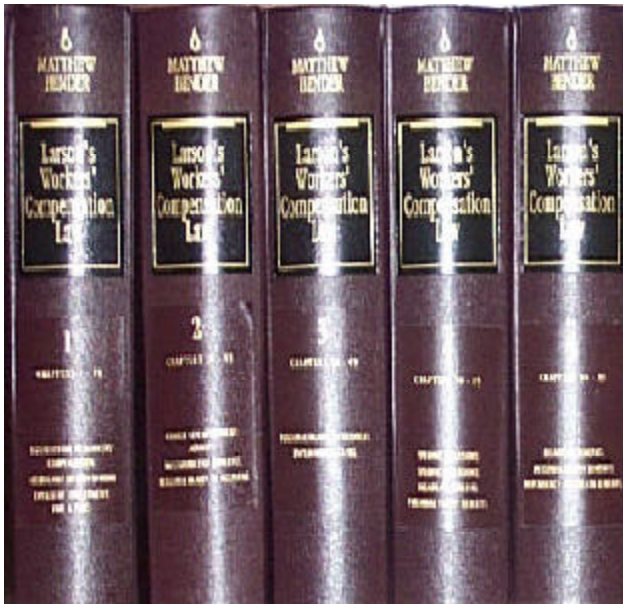
Agriculture/Forestry/Fishing	11	Retail Trade	162
Mining	214	Finance/ Insurance/ Real Estate	21
Construction	143	Services	271
Manufacturing	374	Public Administration	45
Transportation/Communication/ Public Utilities	118	Wholesale Trade	51
		Not Classified	<u>20</u>
		<b>Total</b>	<b>1,430</b>



## CLAIMS SORTED BY GROUP

Injuries	1,280
Coal Workers' Pneumoconiosis	21
Other Occupational Diseases	100
Hearing Loss	<u>29</u>
<b>Total</b>	<b>1,430</b>

## Administrative Law Judges



Effective June 8, Judge John Earl Hunt, whose office was in Pikeville, resigned from his position as an Administrative Law Judge in order to return to private practice.

During this quarter, the ALJs held 1,305 benefit review conferences, presiding over settlement negotiations, ruling on evidentiary disputes and identifying contested issues. They also held 566 formal hearings and issued 442 opinions, and issued 37 decisions in claims on remand from the Workers' Compensation Board, the Court of Appeals and the Kentucky Supreme Court.

As part of Commissioner Jennings' pledge to expedite the adjudication process, he has taken steps to increase support staff within the ALJ offices.

## Office of General Counsel

During this reporting period, the General Counsel's Office collected \$51,783 in fines and penalties.

## Department of Workers' Claims Financial Activity

	BUDGET	SPENT TO DATE	% SPENT
AGENCY BUDGET TOTAL	\$14,942,300	\$12,716,927.11	85.1
PERSONNEL	\$11,564,500	\$ 9,765,204.69	84.4
OPERATING	\$ 3,377,800	\$ 2,951,722.42	87.4

PERCENT OF FISCAL YEAR LAPSED 100%

## Division of Security and Compliance

### Self-Insurance

During this quarter, the Department of Workers' Claims continued monitoring those previously self-insured coal companies for whom surety was provided through financially weakened Frontier Insurance Company. Manalapan Mining and AEI Inc (Bluegrass Coal & Cyprus Amax) continued utilizing the Frontier surety for past self-insured periods. Frontier Insurance, having previously taken measures to strengthen those surety instruments through the purchase of reinsurance from Berkshire Hathaway to a limit of \$858 million, continued to experience severe financial difficulties. On June 29, 2001 Frontier announced that its stock had

*continued from page four*

been suspended from trading on the OTC Bulletin Board because of the company's delinquency in filing its first-quarter financial results with the Security and Exchange Commission. According to published reports the OTC suspension will be lifted after the company files the results. Until then, trading of Frontier stock will be conducted on the pink sheets, a system in which buyers and sellers are matched up independently. Reportedly, pink sheet trading is the last stop on the downward spiral toward totally worthless securities.

Continued improvement in spot market coal prices may serve to create an opportunity for these companies to obtain replacement coverage that prior to the upturn has been unobtainable. Reportedly the coal industry has been unable to take full advantage of the favorable pricing to date due to current contracts and production limitations.

The continuing good news is the funding by Frontier Insurance of the Quaker Coal claims through the Self-Insured Coal Employers Guaranty Fund and the continued payment of workers' compensation awards by Manalapan and AEI.

AIK-Comp – As required by KRS 342.347 the second round of examinations began with AIK-Comp, the fund formerly known as Associated Industries of Kentucky Self-Insurance Fund. An examiner from the Department of Insurance and an auditor from DWC completed the fieldwork and a draft report is expected by September 1, 2001.

In addition, the Self-Insurance Branch focused their efforts toward the following areas:

- Completion of surety calculations
- Analysis of corporate financial statements
- Analysis, update and review of former self-insured coal and non-coal companies
- Preparation and completion of simulated premium calculations
- Continued monitoring of A.M. Best ratings of participating insurance companies
- Maintenance of information on the DWC web page
- Preparation of re-certification dockets
- Analysis of South East Coal Restoration Fund with various projected pay-out scenarios
- Prepared for group self-insurance examinations of KACo and KLC scheduled for last half of 2001
- Participated in training & JAD sessions associated with the computer system redesign



## Coverage

The Proof of Coverage system is expected to benefit the most from the Department's system redesign initiative although it may be many months before those benefits can be realized. With a small but dedicated staff the Coverage Branch receives the electronic information from carriers and vendors, processes the data and researches various complex coverage options.

The proof of coverage system continues to steadily improve its overall quality and efficiency. The staff is approximately one-third the size of pre-EDI levels yet processes more than three times the number of records. During the past three months, the Branch participated in training and JAD sessions associated with the computer system redesign.

HNC Software, Inc., the parent company of HNC Insurance Solutions, has acquired Claimport, one of the two approved vendors for submission of proof of coverage data to Kentucky. This acquisition will hopefully benefit the Department's effort to obtain quality POC data submitted by carriers, especially since HNC Insurance Solutions acquired Celerity Technologies last year.

### POC Quarterly Statistics:

- Mass rejections of erroneous data represented only 5% of the total submissions.
- 78% of all transactions submitted were accepted into the database.
- KEMI led the way with an acceptance rate of 94%.

# Division of Security and Compliance

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## Enforcement

Consistency and continuity are the goals for enforcement . The officer's utilization of the small palmtop computers has contributed greatly to the achievement of these goals. However, these units are starting to show some age and are requiring minimal repair. Technical support, along with input from Division staff and consultants associated with the Department's system redesign initiative, are initiating the search for the next generation of palmtop computers.

The recent hiring of a compliance officer based in Louisville, Kentucky fills the lone vacancy in the field personnel. The following data represents the citation and collection activity during this quarter.

- The Department of Workers' Claims collected \$74,856 in penalties during this quarter
- 106 employers were cited for noncompliance
- 2783 investigations were conducted
- Rejection notices decreased this quarter by more than 200 filings over the previous three quarters

## Division of Information and Research

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The Division of Information and Research regularly fulfills requests for injured worker statistics from a variety of agencies. Below are highlights of some of the results of the research conducted during this reporting period.



A State Senator requested the number of CWP claims, awards and agreements filed during 1996 – 2000.

**Results:** The number of claims filed dropped from 1,835 in 1996 to 51 in the year 2000; the number of people receiving monetary benefits dropped from 1,151 in 1996 to seven in the year 2000.

The National Safety Council requested accident data for the 2001 edition of *Injury Facts*, to include the number of injuries reported as well as the number of cases compensated for the last three years.

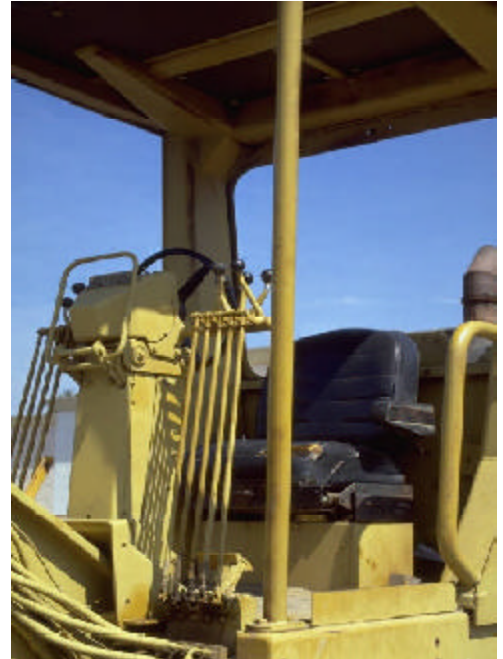
**Results:** While the number of injuries and fatalities remained fairly constant in 1998 and 1999, the total number of injuries dropped dramatically in the year 2000.

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The State Fire/Rescue Training Center requested injury and fatality reports on forklift operators for calendar years 1995-2000.

**Results:** A total of 317 injuries were attributed to industrial truck and tractor equipment operators; the most common injury was strain and 15 of the injured were 20 years old or younger; the largest number of injuries occurred in the manufacturing industry and the services sector reported 33 injuries – 29 of which were personnel supply services.

Kentucky's Occupational Safety and Health Program's Education and Training Division submitted a request for information on ergonomically related injuries which were reported in 1998. KOSH also requested that DWC identify Kentucky's top 300 employers reporting these injuries, based on the number of incidences.



**Results:** Based on the criteria submitted, research results indicated more than 13,000 injuries, with construction and service operations reporting the highest number (2,656 and 1,910 respectively); in isolating Kentucky's top 300 employers, there were 7274 injuries revealed – these included hundreds of injuries reported by the Commonwealth's major employers as well as dozens of employers reporting less than ten ergonomically related injuries. The most common nature of injuries was reported to be strains while lifting ranked first as the most common cause of injuries reported.



The Central Campbell Fire Department/Campbell County Office of Emergency Management requested information on firefighter injuries occurring in Kentucky from 1998 through the year 2000.

**Results:** There were a total of 843 injuries reported during this period, with strains and sprains being the most common nature of injury; based on information provided, several firefighters were as young as 17; one was reported to be 77 years old; there were five fatalities – the youngest was 19, the oldest 37. A review of the firefighters' experience based on date of hire information indicated that three firefighters were injured on their first day on the job; other injured workers had as many as 27 years on the job; 45 of the 843 firefighters were women.

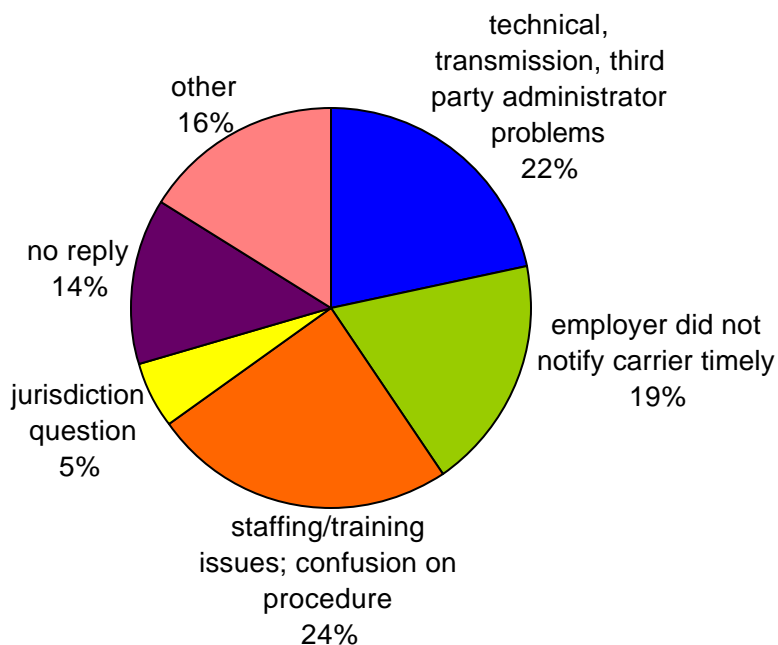
## Performance Report Cards Issued for Timely Filing of Fatality Reports During 2000

In April, the Department issued performance report cards to insurance carriers, a result of monitoring carriers' compliance with timely filing laws.

There were 70 work-related fatalities included in this report card for calendar year 2000. Less than half of the fatalities were reported to DWC according to law; 42 of the 70 were in violation. Of those 42, there were 36 who qualified for assessment of penalties. There were eight fatalities that were never reported to the Department and there were five instances in which there was no workers' compensation insurance coverage.

Kentucky statute holds the carrier responsible for compliance with reporting requirements. Performance report cards regarding timely filing of fatalities have been issued since 1997. Report cards are accompanied by a letter from DWC's Commissioner, stating that those in violation must provide in writing the reason for non-compliance. The responses from this latest report card are indicated in the following chart.

### Stated Reasons for Non-Compliance of Timely Filing of Fatality Reports



#### 342.038 Employer to keep record of injuries- Reports to be filed:

(1) Every employer...shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within one (1) week after the occurrence and knowledge, as provided in KRS 342.185 and 342.200, of an injury to an employee causing his absence from work for more than one (1) day, a report thereof shall be made to the department in the manner directed by the commissioner through administrative regulations. An employer's insurance carrier or other party responsible for the payment of workers' compensation benefits shall be responsible for making the report to the Department of Workers' Claims within one week of receiving the notification referred to in subsection (3) of this section.

(3) Every employer...shall report to his workers' compensation insurance carrier or the party responsible for the payment of workers' compensation benefits any work-related injury or disease or alleged work-related injury or disease within three (3) days of receiving notification of the incident or alleged incident.

4) Every employee or insurer...shall file additional reports covering specifically voluntary payments and settlements, and any other reports required by the commissioner by administrative regulation for the determination of the promptness of voluntary payment and validity and fairness of agreements. In addition, the commissioner may require additional information as may be necessary to comply with a federal statute or regulation or any state statute.

#### 342.039 Filing of detailed claim information by each insurance company, group of self-insurers, and self insurer:

Beginning on January 1, 1995, and pursuant to administrative regulations promulgated under KRS Chapter 13A by the commissioner, each insurance company writing workers' compensation insurance policies in the commonwealth, every group of self insurers, and each employer carrying its own risk shall file in the manner directed by the commissioner, detailed claim information...



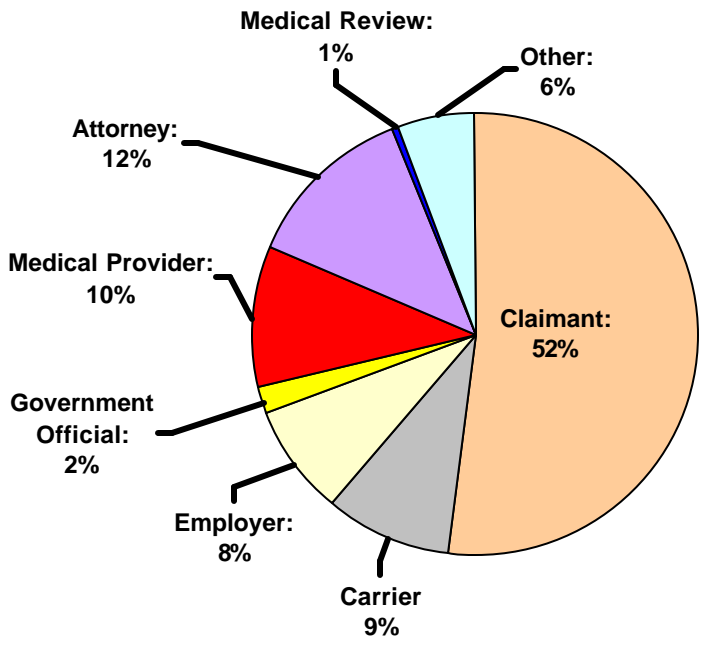
# Division of Ombudsmen and Workers' Compensation Specialists Services

Workers' compensation specialists and ombudsmen received over 4500 requests for assistance during this reporting period.

The most common requests related to rights and procedures, requests for forms, and questions on the status of a claim.

The sources of these requests are noted in the chart.

Also, there were 285 requests for mediation, with mediation completed successfully in 171 cases.



## VOCATIONAL REHABILITATION SERVICES

Administrative Law Judges referred 30 cases to the Vocational Rehabilitation Section during this quarter.

The majority of these referrals (70%) were males. The average age was 41, the average grade completed was 11 and most came from occupations requiring substantial physical activities such as laborers, construction workers, and truck drivers.

The average award of these referrals for permanent occupational disability benefits was 92%. The average award for permanent disability ratings was 34%. Fifty-five cases were closed this quarter, 12 with successful employment. Steps were taken during this quarter to automate rehabilitation tracking. This new system is expected to be completed by the end of next quarter.

## MEDICAL EVALUATIONS

There were 27 medical evaluations scheduled at the University of Kentucky and 44 scheduled at the University of Louisville from April to June. Most medical evaluations at both facilities involved injuries and hearing loss claims. During this same time period, DWC received 45 completed medical evaluation reports from UK and 58 from U of L.

Along with the heat, rain and humidity summer brings a surge of teenage workers into the labor market. According to the U. S. Department of Labor, approximately 2 million teenagers will enter the workplace this summer. These seasonal employees combined with the nearly 10 million minors who have continuous employment throughout the year make up a growing population within our workforce.

In Kentucky, approximately 103,000 or 44.8% of teens (16-19) are employed, this figure does not include those working on a per job basis (babysitting, mowing lawns etc.).

Across the Country 70 teens are killed while each year working. 210,000 teens are injured on the job; 70,000 are injured seriously enough to require hospital emergency room treatment. In Kentucky, the Department of Worker's Claims received 375 injury reports involving teens in FY 00-01. Included in these reports was one fatality: a 15 year old boy was killed when he lost control of a golf cart and went careening down a steep hill.

These numbers may seem staggering, especially as minors are protected by the Fair Labor Standards Act. The act places restrictions on the types of jobs teens can have as well as the number of hours and time of day they can work.

In spite of these restrictions teens are injured at a higher rate than adults. Most injuries occur within the retail and services industries, where teens are most likely to be employed. In Kentucky last year, 79% of injuries reported were from these two sectors. The most common injuries among teens were falls/slips, sprains/strains, struck or injured by, cuts and punctures and burns/scalds.

Seventeen hazardous non-farm jobs, as determined by the U.S. Secretary of Labor, are out of bounds for teens below the age of 18. Generally, they may not work at jobs that involve:

1. Manufacturing or storing explosives
2. Driving a motor vehicle and being an outside helper on a motor vehicle
3. Coal Mining
4. Logging and sawmilling
5. Power-driven wood –working machines
6. Exposure to radioactive substances and to ionizing radiations
7. Power-driven hoisting equipment
8. Power-driven metal-forming, punching and shearing machines
9. Mining, other than coal mining
10. Meat packing or processing (including power-driven meat slicing machines)
11. Power-driven bakery machines
12. Power-driven paper-products machines
13. Manufacturing brick, tile, and related products
14. Power-driven circular saws, band saws and guillotine shears
15. Wrecking, demolition and ship breaking operations
16. Roofing operations
17. Excavation operations

Although most of the nation sees a significant increase in injuries during the summer months, Kentucky's injury rate remains somewhat constant throughout the year; last year there was only a slight increase in April through July injuries. In Kentucky, as well as the nation, males account for a slightly larger percentage of the injuries than females. 56.8% of Kentucky's reports involved males.

The causes behind the high injury rate among teens revolve mainly around their youth. Most young workers lack the training and experience required to recognize and avoid workplace dangers. Fatigue may also be a factor, teens that work 20 hours per week combined with a full class schedule are taking on a fifty plus hour work week.

Massachusetts is taking a proactive approach to prevent teen injuries in the workplace. The Massachusetts Department of Public Health has initiated a *Teens at Work: Injury Surveillance and Prevention Project*, which collects data on work-related injuries to teens under age 18. Since 1992, Massachusetts public health code has mandated that physicians and hospitals report cases of work-related injuries to teens to the Department of Public Health (MDPH). Workers' compensation records are also used to identify cases of work-related injuries to teens. These findings are used to guide prevention efforts across the state.



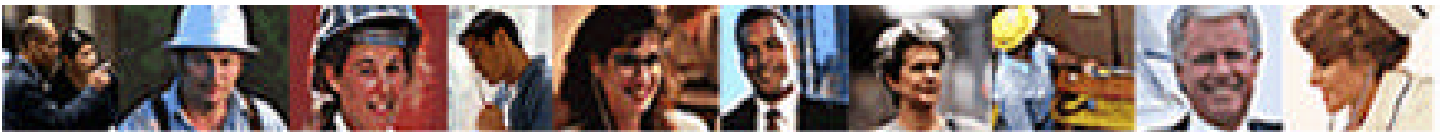
## **COMP-ED CONFERENCE HELD IN LOUISVILLE**

The premier workers' compensation seminar sponsored by CompEd, Inc. and the Workers' Compensation Section of the Kentucky Bar Association was held in Louisville on June 7<sup>th</sup> and 8<sup>th</sup>. The annual seminar was attended by approximately 450 attorneys, adjusters and risk management specialists.

Commissioner Jennings addressed the assembly and presented his visions for the DWC. A wide variety of compensation topics were also covered by the Workers' Compensation Board members, ALJ's, and practitioners who participated as speakers.

Each year, the profits of this nonprofit corporation are awarded as scholarships to the three law schools in Kentucky, UK's College of Law, U of L's Brandeis School of Law and NKU's Chase College of Law. This year, CompEd, Inc. provided the Deans of each law school with a check for \$10,000.

Mark your calendars now, next year's seminar will be held in Louisville on June 6<sup>th</sup> and 7<sup>th</sup>.



*"A Kentucky non-profit corporation dedicated to the educational and informational needs of the workers' compensation system of Kentucky ."*



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