

# QUARTERLY ACTIVITY REPORT

KENTUCKY DEPARTMENT OF WORKERS CLAIMS  
QUARTERLY REPORT  
JULY -- SEPTEMBER 2000  
WALTER W. TURNER, COMMISSIONER

## ADMINISTRATIVE LAW JUDGES

During the first quarter of FY01, significant changes were enacted as a result of House Bill 992 (HB992). One significant change, which affected the Administrative Law Judges, was the elimination of the Division of Arbitration as of July 14, 2000. This action resulted in the ALJs again assuming first level responsibility for presiding over the adjudication of workers' compensation claims.

The statute increased the maximum number of Administrative Law Judges (ALJs) permitted to 19, although in reality there are currently only 17. When HB992 created 6 additional ALJ positions, the Commissioner certified the need for only 4. The four newly appointed ALJs are Walter Bedford, John Earl Hunt, J. Kevin King and Ronald Johnson. Their offices are located in Louisville, Pikeville and Covington.

During this quarter, the ALJs held 1,100 benefit review conferences (also known as pre-hearing conferences), presiding over settlement negotiations and obtaining

stipulations. These conferences offer the ALJs an opportunity to speak informally with the parties and their counsel about the merits of a claim, which is helpful in achieving settlements.

The ALJs held 796 formal hearings and issued 381 opinions. In addition, they issued opinions remanded from the Workers' Compensation Board, the Court of Appeals and the Kentucky Supreme Court in 32 cases.

## MANAGED CARE

Between July and September 2000, four additional managed care plans were approved to operate in Kentucky, bringing the total number of approved plans to thirty-nine.

In addition to the four new plans, many of the existing plans requested supplemental county approval, substantially expanding their coverage area.

Many of the plans now offer managed care services in all 120 Kentucky counties, providing employers with a wider choice of plan selection.

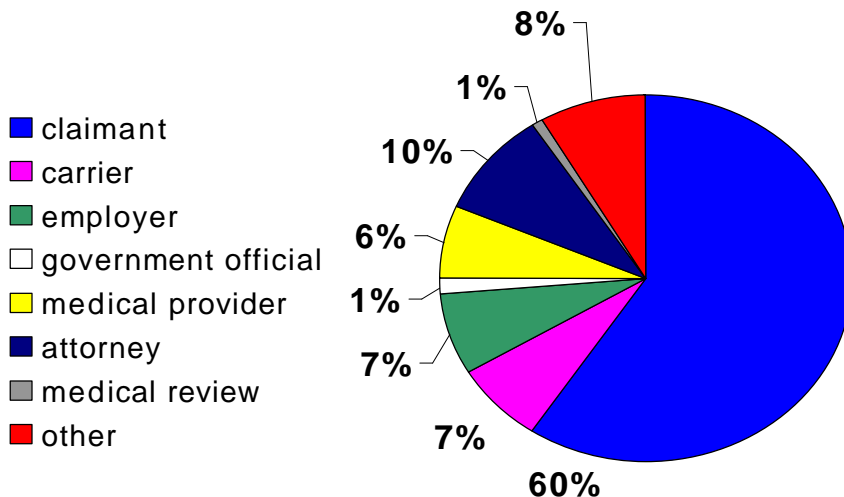


## WORKERS' COMPENSATION SPECIALISTS AND OMBUDSMEN

### SPECIALISTS OMBUDSMEN

Requests received	2313	2250
Requests completed	2066	1851
Prior month completed requests	693	242
Pending	484	718
Services provided to:		
Claimant	1498	1207
Carrier	108	219
Employer	128	204
Government official	12	48
Medical provider	137	152
Attorney	193	241
Medical review	4	27
Other	234	152
Top five "topics" of requests:		
Rights and Procedures	1463	1400
Claims status request	325	202
Form request	270	178
First Report of Injury	118	107
Coverage	132	232

### SERVICES PROVIDED BY WORKERS' COMPENSATION SPECIALISTS AND OMBUDSMEN BY SOURCE OF REQUEST





## MEDICAL EVALUATIONS

### University of Kentucky

### University of Louisville

Nature	Claims	Reports	Nature	Claims	Reports
RIB	2	4	RIB	2	0
Black Lung	2	9	Black Lung	8	7
Hearing Loss	9	16	Hearing Loss	7	10
Silicosis	1	1	Silicosis	1	1
Asthma	0	0	Asthma	0	0
Fumes/Chemicals	1	1	Fumes/Chemicals	0	4
Injury	18	27	Injury	14	32
Contagious Diseases	1	1	Contagious Diseases	0	1
Dermatitis	0	0	Dermatitis	0	0
Lead Poison/Liver Dis.	0	0	Lead Poison/Liver Dis.	0	0
Asbestosis	0	0	Asbestosis	1	1
<b>Total</b>	<b>34</b>	<b>59</b>	<b>Total</b>	<b>33</b>	<b>56</b>

Thirty-four claims were scheduled for medical evaluations at the University of Kentucky and 33 at the University of Louisville during this quarter, for a total of 67. This compares to 112 medical evaluations scheduled for the previous quarter (April - June, 2000) and is approximately half the number scheduled during this same quarter last year (July - Sept., 1999), a reflection of the decrease in the overall number of claims filed.

Almost half, 32, of the scheduled evaluations were related to injury claims, while 16 were hearing loss, 14 were Black lung and RIB, and 5 were other occupational diseases.

DWC also received a total of 115 reports reporting the results of medical evaluations, 59 from the University of Kentucky and 56 from the University of Louisville.

## VOCATIONAL REHABILITATION

The Administrative Law Judges referred 17 cases to the vocational rehabilitation program during this quarter. The majority of these referrals had awards for permanent disability ratings of 10% or less. The average award for permanent occupational disability benefits was 68%.

Thirteen of these referrals were male. The average age was 41 and fourteen had completed high school. Six were coal miners, six were from occupations requiring substantial physical activities and five were from other "lighter" occupations. The most common reported injury was to the back, with 10 cases.

During this quarter, 30 vocational rehabilitation cases were closed. Six individuals found employment, one as the result of retraining as a marine mechanic technician. The other five secured employment on their own.

## HOUSE BILL 992 Increased Benefits to Survivors

House Bill 992 raised the benefit amount paid to the widow and/or dependents of a worker killed as a result of a work-related injury. Benefits were increased from \$25,000 to \$50,000, the nation's highest lump sum death benefit (in addition to survivor payments).

There were 15 fatalities reported to the Department of Workers Claims between July 1 and September 30. This compares to 30 fatalities reported during the same time frame in 1999, a decrease of 50%.

While many states are making revisions to their workers' compensation programs, Kentucky appears to be the only state making a lump-sum payment of \$50,000. However, in addition to the benefits paid to survivors of workers killed on the job, several states participate in the **KID'S CHANCE** program. This is a non-profit corporation developed by the Workers' Compensation Section of the State Bar of Georgia in association with insurers, employers, attorneys, labor, medical and rehabilitation groups.

The purpose of KID'S CHANCE is to provide financial scholarships for children of permanently or catastrophically injured or deceased workers. Participating states host fund raising events throughout the year and in 1999, Missouri's General Assembly appropriated \$50,000 to the Kid's Chance Inc. of Missouri Trust Fund.

Although Kentucky pays the highest lump sum death benefit in the country, one question remains, should Kentucky join other states to provide kids a chance?

For more information on KID'S CHANCE, visit their web site: [www.kidschance.org](http://www.kidschance.org)

### NEW WORKERS' COMPENSATION GUIDEBOOK RELEASED

A revised version of the Workers' Compensation Guidebook was released in August.

Intended to provide assistance in understanding how the workers' compensation program works, the new guidebook reflects the recent changes made as a result of the 2000 General Assembly.

Single copies are available free of charge; multiple copies may be obtained for \$5 per copy. The Workers' Compensation Guidebook is also available on DWC's website:

[dwc.state.ky.us](http://dwc.state.ky.us)

### Workers' Compensation Activity July - September, 2000

First Reports of Injury	9939
Claims Filed	873
Pre-lit settlements	931
Agreements	768
Awards	233
Dismissals	194
Reopenings	167
<u>Appeals to:</u>	
ALJs	42
Workers Compensation Board	291
Court of Appeals	78
Kentucky Supreme Court	53

## Self-Insurance

During this quarter, staff members have focused on self-insurance re-certification, evaluations of surety, revisions of CY 2000 simulated premiums, financial statement analysis of self-insured employers, certification dockets and the replacement of Amwest Surety & Reliance excess policies.

Frontier Insurance and the problems associated with the financially stressed carrier have been a complicated process, requiring numerous meetings with self-insured employers, insurance officials and government agencies exploring ways to provide adequate surety in case of default by either the employer or the insurance carrier. The majority of surety exposure was successfully moved; DWC continues to work with two coal companies whose combined surety exposure exceeds \$32 million.

Manalapan Mining and AEI Inc (Bluegrass Coal & Cyprus Amax) have been unsuccessful in replacing their surety bond. Manalapan Mining moved their voluntary market insurance coverage from American Mining to KEMI maintaining a standard "first-dollar" policy. Bluegrass Coal Development and Cyprus Amax represent the single largest concern relative to the Frontier Insurance collapse with a combined surety exposure of approximately \$23.5 million

Quaker Coal, a former self-insured employer, filed Chapter 11 Bankruptcy and defaulted on payments to injured workers in their self-insurance program. Exacerbating the problem was the presence of Frontier Insurance as the self-insured bond underwriter. Through the efforts of the Commissioner's Office, Frontier Insurance established and reimburses monthly a revolving claims account of \$1 million from which the Kentucky Coal Employers' Self-Insurance Fund makes payments to injured workers and appropriate vendors. CGH Claims Service, Inc. was selected by the guaranty fund as the claims administrator. The transfer of information and subsequent payment of claims progressed with minimal problems.

### Self-Insured Group Audits

The examination on Forest Industry Workers' Compensation Fund has neared completion with a final ~~report expected in October.~~ Fieldwork on the Cooperative Self-Insurance Fund is complete. The Kentucky Retail Federation Self-insured Fund's audit began September 13, 2000; we anticipate completion of all fieldwork prior to November 1, 2000 with a draft available for review prior to December 2000. Kentucky Retail Federation is the last self-insured group fund to be examined for the first time since the requirement was passed in the 1996 Special Session.

## Coverage

Earlier this summer the Coverage Branch completed processing the NCCI backlog and achieved “current” status with all vendors by processing the submissions and sending acknowledgments within 48 hours of receipt. Though the NCCI backlog was processed, it had not been acknowledged due to DWC’s lack of access to data permanently residing at NCCI. The final step in the NCCI process was acknowledging back to the carriers data detailing the status of their submissions. NCCI refused to participate in the process.

During August, the Branch sent NCCI the processed transactions and notified all carriers of the high rejection rate encountered with the data and offered the carriers the option of requesting an electronic file detailing their current open coverage. Many carriers have responded requesting this open coverage list, keeping the Branch busy filling these requests and answering questions.

With the restructuring of tech support services at Labor, the Coverage Branch lost the capability of immediately responding to minor “glitches” in the EDI-POC programming. Large volumes of transactions near the end of the month served notice that constant attention is required to ensure we do not fall back into a significant backlog.

Additional attention to quality control has enabled the Department to identify carriers who have not converted from NCCI to one of the approved vendors. These carriers, usually writing minimal premium dollars in the Commonwealth, are being contacted and encouraged to submit proof of coverage data immediately through one of our approved vendors.

With the efficiency of the current processing system we are now able to focus on “quality assurance” issues with the Branch working on database clean-up, process testing, training and cross-training and developing user-friendly guides for those DWC employees needing occasional system use.

## Enforcement

The HP Jornada 680 handheld units continue to provide reliable service for the Compliance Officers out in the field. Reports are concise and consistent with a uniform format.

The Department of Workers’ Claims collected \$82,832 in penalties during this quarter for a YTD total of \$239,310. Citations issued to employers for noncompliance YTD total 403. This compares favorably with annual totals for CY 1998 and 1999 and is indicative of our enforcement effort focused on early intervention and the encouragement of voluntary compliance. The Branch is on track for performance records in several areas including the number of on-site investigations estimated to exceed 10,500. At the same time, investigations are at record numbers: the percentage of investigations identifying employers without workers’ compensation coverage (14.63%) is at a four-year high.

Uninsured Employer’s Fund - In 1994 the DWC issued 91 citations to employers for failing to carry workers’ compensation insurance. During that same year Kentucky had 615 injury claims that named the Uninsured Employer’s Fund as a participant. In the subsequent five years, the DWC has steadily increased its enforcement efforts with more than 500 citations for each of the past three years (97 – 99). For this same period, the involvement of the UEF has decreased to less than 300 claims in both 1997 and 1998. A ten-year low of 185 claims was reached in 1999 and CY 2000 projections indicate additional reductions.



The pilot project with Dun & Bradstreet designed to provide quality leads for Compliance Officers completed its testing phase in Kenton and McCracken counties. With only borderline success this project does not warrant an expansion of the program statewide at an estimated cost of \$35,000. One additional test is in process in an attempt to obtain an efficient method of generating information on employers operating without workers' compensation coverage. Upon completion of this final test this fall, we will be prepared to recommend a decision relative to statewide implementation.

### OFFICE OF GENERAL COUNSEL

The Office of General Counsel collected a total of \$71,125 in fines and penalties this quarter. This compares to \$92,574 collected last quarter.

BUDGET ANALYSIS 7/1/00 - 9/30/00			
DEPARTMENT OF WORKERS CLAIMS			
	<u>BUDGET</u>	<u>SPENT</u>	<u>% SPENT</u>
PERSONNEL	\$11,564,500	\$2,496,418	21.6%
OPERATING	\$ 3,377,800	\$ 564,742	16.7%
CAPITAL EQUIPMENT	-0-	-0-	-0-
TOTAL BUDGET	\$14,942,300	\$3,061,160	20.5% *

\* PERCENT OF FISCAL YEAR LAPSED - 25.0%



*This agency does not discriminate on the basis of race, color, national origin, religion, age or disability in employment or provision of services.*

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