

The Link

Quarterly Activity Report
July -- September 2002



The Effect of House Bill 348 on the Department of Workers' Claims

House Bill 348 -- which became law on July 15, 2002 -- created significant changes in providing for coal miners in Kentucky through:

- Increased benefits for miners with black lung
- Better opportunities and incentives for retraining for miners with black lung
- Use of a B reader consensus process to establish the existence of black lung
- Retroactive consideration of black lung claims

Since the signing of House Bill 348 in April, the Department of Workers' Claims has been preparing for the implementation of these changes. In an effort to provide immediate access to the specific changes to the law and the forms to be used in the filing of claims, relevant documents have been posted on the Department's website since July.



New law, regulations, forms and procedures have been on the agendas of meetings for several months. From the drafting of the administrative regulations to the creation of an x-ray tracking system, most of the Department's staff has been involved in one way or another. Training sessions were conducted to ensure that staff members understand the specifics of the law and the new filing requirements and procedures. Other training sessions were conducted to ensure that staff members understand the internal procedural changes that are impacting their workloads.

In an effort to better communicate what the changes in the black lung law mean to Kentucky's workers, Deputy Commissioner Tick Lewis is "taking it to the people". Mr. Lewis is traveling across the Commonwealth, presenting a series of informational programs for potential black lung claimants. Included in the program are facts concerning filing a claim, reconsideration of a claim or reopening a claim as well as other related workers' compensation issues. As of this publication date, meetings are scheduled for Hindman, Madisonville, Prestonsburg and Whitesburg.

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Quarterly



Statistics

QUARTERLY ACTIVITY

Lost Time First Reports of Injury	9,950	Dismissals	149
Claims Assigned	1,470	Re-openings (medical)	164
Pre-litigated Agreements	1,013	Re-openings (overruled)	20
Awards	304	Re-openings (sustained)	113
Agreements	855	Re-openings (motion docket)	161

New CWP Claims Processing Activity Since July 15, 2002

Claims Received and Temporarily Assigned	71
Claims Received with No Consensus	3
Motions to Reopen/Reconsideration	12
Notice of Reconsideration	10

First Reports of Injury

There were 9,950 First Reports of Injury received by the Department of Workers' Claims this quarter. While this figure denotes an upsurge in reporting activity, it does not represent an increased incident rate. Of the 9,950 injuries reported during this quarter only 61% occurred during this period. Approximately 1,230 first report transactions actually occurred prior to 2002, but were not reported until now. In addition, there were 2,586 first reports with the date of injury prior to July 2002. Data clean up, data corrections and late notification by carriers and/or third party administrators are the primary reasons for the influx of reporting activity recorded during this quarter.

Fatalities

There were 25 on the job fatalities reported to the Department between July and September.



The workers who died on the job ranged in age from the 28-year old driver killed in a motor vehicle accident to the 79-year old warehouse worker who fell 20 feet to his death. The most common cause of these injuries was motor vehicle accidents and the second most common cause was heart-related.

The construction industry accounted for seven of the fatalities, with manufacturing following with four deaths. The retail and services sectors each reported three deaths, while agriculture/forestry/fishing, transportation/communication/public utilities and wholesale trade all reported two deaths each. There was one fatality reported by the mining industry and one death reported by the public administration sector.

Quarterly

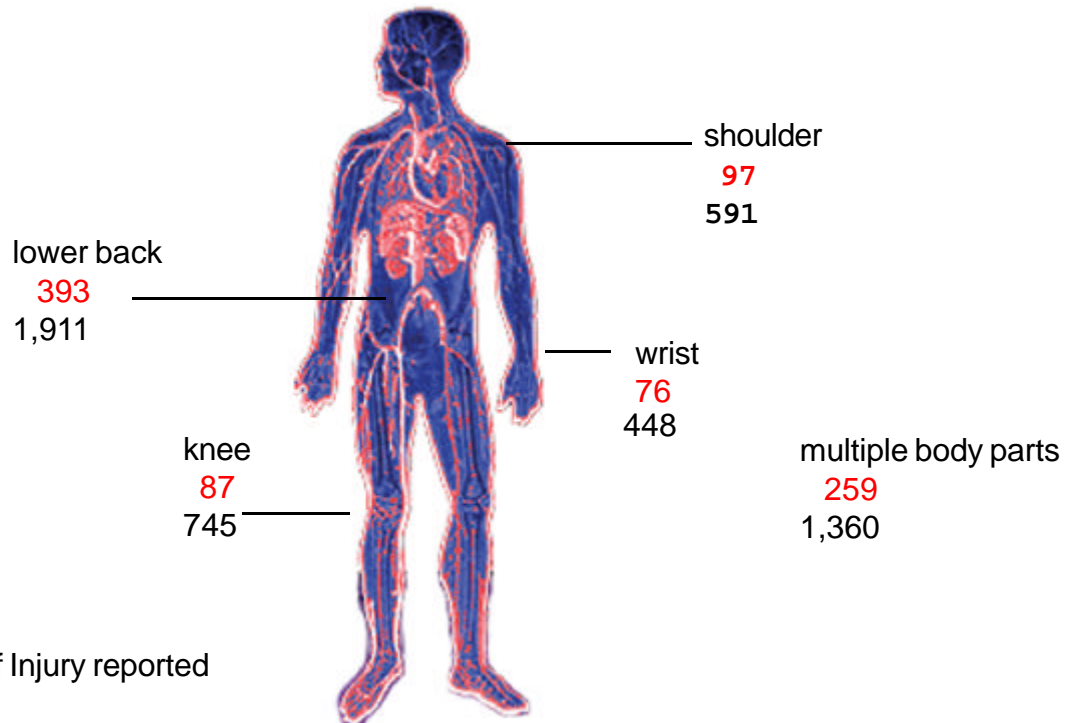


Statistics

DISTRIBUTION BY INDUSTRY

	CLAIMS	FIRST REPORTS
Agriculture, Forestry, Fishing	12	182
Mining	207	598
Construction	154	1,113
Manufacturing	383	2,157
Transportation, Communication, Public Utilities	112	699
Wholesale Trade	52	357
Retail Trade	172	1,385
Finance, Insurance and Real Estate	18	114
Services	299	2,545
Public Administration	44	725
Unclassified	17	75

Body Part Distribution (top five)



Division of Ombudsmen and Workers' Compensation Specialists Services

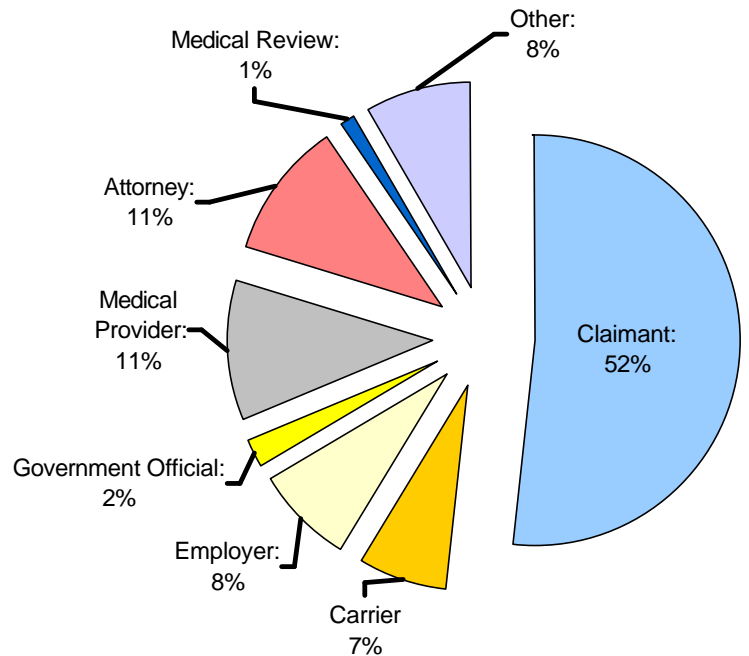
Workers' compensation specialists and ombudsmen received over 4,100 requests for assistance during this reporting period.

The most common topics related to rights and procedures (2,398), questions on the status of a claim (503) and requests for forms (391).

In addition to constituent services, requests for mediation are also handled by the Division of Ombudsmen and Workers' Compensation Specialists Services. Between July and September, the Division received 642 requests for mediation and successfully resolved 332 cases. There remain 141 requests pending.

Most requests for mediation involved issues of medical treatment and payments.

SOURCES OF REQUESTS FOR ASSISTANCE



MEDICAL EVALUATIONS

During this quarter, there was a combined total of 43 medical evaluation reports received from the University of Kentucky and University of Louisville medical schools. Additionally, the Department's medical scheduling staff received 58 claims to be scheduled for evaluations at one of the university's medical schools.

Of the 58 claims to be scheduled, 34 involved hearing loss and 20 were injury related. There were three claims involving Retraining Incentive Benefits and one case of Coal Workers' Pneumoconiosis (black lung) which were sent to the panel of B-Readers.



Office of General Counsel

Between July and September, the Office of General Counsel received 108 citation cases and three unfair claims practice cases, with fines and penalties collected totaling \$43,262. Additionally, the Office of General Counsel referred five cases to the Department of Insurance for fraud investigation.

The Office was involved with continued litigation on Frontier and the New York Department of Insurance regarding Quaker Coal and attended Lodestar hearings in bankruptcy court.



Notification of Public Hearing

A public hearing on administrative regulations **803 KAR 25:009 (Procedure for Adjustment of Coal Workers' Pneumoconiosis)** and **803 KAR 25:120 (Training or Education Programs Eligible for Retraining Incentive Benefits)** is scheduled for October 21, 2002 at 10:00 a.m. (ET) at the Frankfort office of the Kentucky Department of Workers' Claims.

Written comments may be submitted; these must be received prior to 10:00 a.m. (ET) October 21, 2002 in order to receive consideration. Submit to:

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Prevention Park
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Telephone Number: (502) 564-5550
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Administrative Law Judges

During this quarter, the Administrative Law Judges held 1,318 benefit review conferences. During these conferences, they presided over settlement negotiations, ruled on evidentiary disputes and identified contested issues. In addition, the Administrative Law Judges held 613 formal hearings and issued 431 opinions. They also issued 26 decisions in claims on remand from the Workers' Compensation Board, the Court of Appeals and the Supreme Court of Kentucky.

During this quarter, the judges were extensively involved in the implementation of the new black lung law contained in House Bill 348. They also attended an adjudicator's training session and participated in several seminars concerning Kentucky workers' compensation.

Division of Information and Research

During this quarter, several of the requests for injury-related data were presented by chiropractic and/or orthopedic services within the state. One of these requests required researching the department's database for musculoskeletal claims filed in the past two years by residents and/or workers of employers located in three northern Kentucky counties. Initial results revealed 117 claims filed on injuries to the neck and lower back attributed to Boone, Campbell and Kenton counties.

In looking at musculoskeletal claims filed in the past two years for the entire state, residents of Jefferson County had filed the most number of claims. There were 389 claims filed on injuries to the neck and lower back by residents of Jefferson County. The second highest number of claims on injuries to the neck and lower back were filed by 185 residents of Pike County, with residents of Fayette County filing 124 such claims.

Just before Labor Day, the American Academy of Orthopaedic Surgeons urged extra caution at the workplace, stating that musculoskeletal disorders are the number one workplace injury.

“Back sprains due to slips, falls and improper lifting account for over half of the six million injuries that occur each year. Slippery and uneven floors in the workplace are one of the main causes of falls. Many of these accidents can cause permanent disabling injuries or death, and could have easily been prevented with proper training and safe work practices.”

In accordance with the Department's information sharing agreement with the Mine Safety and Health Administration of the US Department of Labor, injury and claim statistics on specific mining/coal companies were released during this quarter.



Additionally, complex and comprehensive research was conducted by the Information and Research Division in response to requests for information from the *Chicago Tribune*. According to the request submitted under the Kentucky Open Records Act, ***“the release of these coal mine records will serve the public interest in the Commonwealth and the U.S. because an accurate and comprehensive examination of workplace safety issues will foster safety in operators and government officials on practices that reduce injuries and accidents; this could help save lives.”***

Results of these research efforts can be viewed in a *Chicago Tribune* special three-part series at <http://www.chicagotribune.com/news/specials/>.

Division of Claims Processing and Appeals

The Claims Branch consists of the Claims Assignment Section, Docket Section, Case Files Section and Open Records Section.

Between July and September, the **Claims Assignment Section** processed 1,453 new claims (124 were CWP claims), assigned 1,238 new claims and 158 reopenings to the Administrative Law Judges for Benefit Review Conferences.

Also during this quarter, the **Case Files Section** received 732 new motions and assigned a combined total of 1,013. The **Docket Section** assigned 748 motions to the Frankfort dockets.

The **Open Records Section** processed 7,858 written requests, 72 requests from the Social Security Administration, 3,674 pre-employment requests and 23 requests from the Department of Fish and Wildlife. Monies received for copy charges amounted to \$14,256.

Office of Administrative Services

The Office of Administrative Services is focused on achieving a level of operational self-sufficiency that is compatible with the Labor Cabinet's strategic plan. The resulting efforts will provide career opportunities for employees, increase efficiency and enhance and strengthen management controls.

Achieving self-sufficiency will require reengineering the processes performed by the Office of Administrative Services, inclusive of assuming responsibility for posting and approving transactions in the MARS system.

MARS is the computerized accounting system used by state government to process receipts and expenditures. The Labor Cabinet has been performing all functions in MARS for the Department of Workers' Claims.

The Labor Cabinet will conduct target specific MARS training to employees and provide "help desk" functions after training is complete. The Cabinet will assume an internal audit oversight role to insure the Office of Administrative Services has properly applied management controls and is complying with all laws and regulations governing the expenditure of state funds.



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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