

# QUARTERLY ACTIVITY REPORT

KENTUCKY DEPARTMENT OF WORKERS CLAIMS  
QUARTERLY REPORT  
OCTOBER -- DECEMBER 2000  
WALTER W. TURNER, COMMISSIONER

## MOTIONS TO REOPEN INCREASE SIGNIFICANTLY

December 12, 2000, marked the last opportunity for claims with decisions rendered prior to December 12, 1996, to be reopened. The chart below illustrates the drastic increase in the number of motions to reopen received by the DWC during this past quarter. The number of motions to reopen received in December closely rivals the number received during the entire previous calendar year.

<u>MOTIONS TO REOPEN</u>							
	JULY	AUG	SEPT	OCT	NOV	DEC	TOTALS
INJURY	71	77	87	78	122	600	1443
OCCUPATIONAL DISEASE	10	14	13	16	22	124	260
CWP	31	38	38	30	63	244	598
HEARING LOSS	3	8	8	5	8	60	111
TOTALS	115	137	146	129	215	1028	2412

A final settlement or award in workers' compensation is generally subject to a "motion to reopen" for further proceedings. This motion can be filed within four years after an award of settlement for such things as: a change in disability, a mistake, fraud, or newly discovered evidence. However, a claim cannot be reopened within two years of an award and a party cannot file a motion to reopen within two years of any previous motion to reopen. The four year limitation does not apply to reopenings regarding medical issues, return to work after receiving a total disability award, fraud, or an increase in or reduction of benefits to conform with the employee's current work status under impairment model awards for injuries occurring after December 12, 1996.

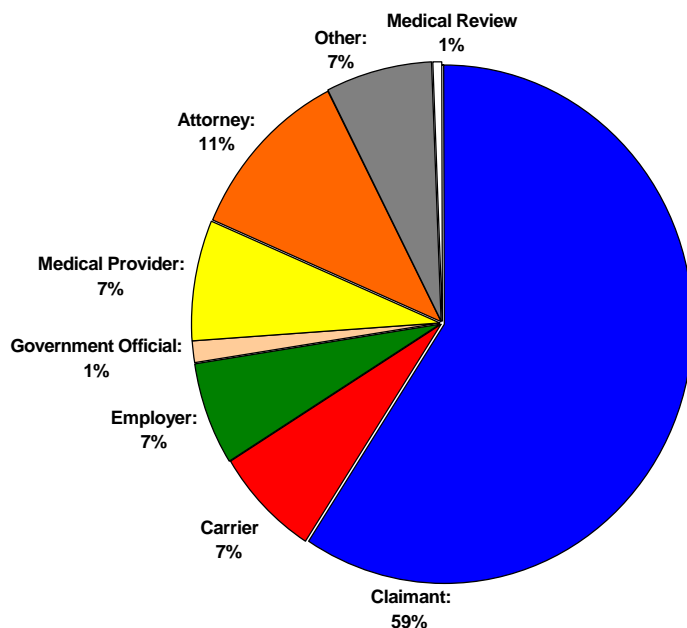
## Summary of Quarterly Activity

First Reports of Injury (lost time)	9747
First Reports of Injury (no lost time)	1191
Claims received	1397
Agreements	860
Awards	431
Pre-lits	910
Dismissals	269
Orders to Reopen (includes medical)	373
Appeals to the Workers Compensation Board	161
Appeals to the Court of Appeals	47
Appeals to the Kentucky Supreme Court	32

## Workers' Compensation Specialists/Ombudsmen

<u>Categories:</u>	Specialist	Ombudsmen
Number of Requests Received:	1928	2112
Number of Requests Completed:	1757	1896
Prior Month Completed:	627	288
*Pending:	338	809

## Assistance Requested by:



## Top Five Topics of Assistance:

Rights and Procedures	2480
Status of a claim	515
Forms completion	400
Coverage issues	305
First Reports of Injury	180
Other *	767

\*includes medical fee schedule, rehabilitation services, fraud, claim filing assistance, managed care, utilization review and unfair claims practices.

## Medical Evaluations

### University of Kentucky

<u>Nature</u>	<u>Claims received</u>	<u>Reports received</u>
Injury	14	16
Hearing Loss	9	13
Black Lung	4	5
RIB	0	1
Fumes/Chemicals	1	1
Contagious Diseases	1	1
Total	29	37

### Managed Care

During this quarter, one additional managed care plan was approved to operate in Kentucky. Two plans withdrew their participation. This brings the total number of approved managed care plans to 38.

### University of Louisville

<u>Nature</u>	<u>Claims Received</u>	<u>Reports Received</u>
Injury	13	25
Hearing Loss	23	12
Black Lung	13	4
RIB	3	2
Fumes/Chemicals	1	0
Asbestosis	1	0
Total	54	43



Eighty-three claims were scheduled for medical evaluations during this quarter, as compared to thirty-four claims scheduled last quarter. This is a rather significant increase, due mainly to the increase in the number of motions to reopen. The majority, 32, of the scheduled evaluations related to hearing loss claims, while 27 were injury claims, and 20 were Black Lung or RIB.

During this quarter, DWC also received 80 medical reports from the universities, relating evaluations' results, 37 from the University of Kentucky and 43 from the University of Louisville. This compares to 115 reports received last quarter.

## Vocational Rehabilitation

Thirty-seven cases were referred by the Administrative Law Judges for vocational rehabilitation services during this quarter. This is an increase over the 17 cases referred last quarter. Twenty-five of these cases, or 68%, were male. The average age was 38 and the average completed years of education was 12. Twenty-eight were from coal or other occupations requiring substantial physical activity and 28 involved injuries to the back or lower extremities.

The average time lapse from the date of injury to referral for rehabilitation services was 29 months this quarter. In general, most researchers agree that earlier evaluation for vocational rehabilitation could save employers and insurers millions of dollars each year and increase opportunities and earnings for the "rehabilitated" worker. Ideally, the injured worker would be evaluated for rehabilitation services no later than six months after injury.

During this quarter, the Vocational Rehabilitation Section closed 32 cases, compared to 30 cases last quarter. Three of these were employed and the other 29 were unemployed. Employment continues to be a difficult goal to achieve for these disabled individuals. Again, earlier intervention practices may improve the chances of an injured worker returning to work.

## Self-Insurance

DWC continued monitoring those previously self-insured coal companies for whom surety was provided through Frontier Insurance Company. Manalapan Mining and AEI Inc (Bluegrass Coal & Cyprus Amax) continued utilizing the Frontier surety for past self-insured periods. DWC met with representatives from AON, Marsh, and the Kentucky Department of Insurance in a search for creative and fiscally conservative options. Continued improvement in coal prices on the spot market may serve to create an opportunity for these companies to obtain replacement coverage that prior to the upturn had been unobtainable.

Kentucky Retail Federation Self-Insured Fund -- out-of-state fieldwork related to the examination of Kentucky Retail Federation Self-Insured Fund was initiated during late October and completed on November 10, 2000. Completion of a final report is anticipated around the end of the year.

Forest Industry Workers' Compensation Fund – the auditors and DOI examiner completed the examination, discussed with Forest Industry's representative appropriate resolutions to all relative issues and prepared a final report. The final report was issued November 20, 2000.

Cooperative Self-Insurance Fund - Fieldwork is complete and staff issued the final report in December. Once the compilation of the associated summaries is complete, the report will be submitted to Commissioner Turner for review.

Prior to the end of the year, DWC will complete examinations of all group self-insurance funds as required by KRS 342.347. The second round of examinations is tentatively scheduled for the first of February beginning with AIK-Comp, previously known as Associated Industries of Kentucky Self-Insurance Fund.

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
- Annual renewal applications for the self-insured groups
- Preparation for the simulated premium calculations
- Continued monitoring of A.M. best ratings of participating insurance companies
- Maintenance of information of the DWC web site
- Preparation of re-certification dockets
- Presentation at the Kentucky Self-Insured Employers December meeting

## Coverage

After struggling with EDI-Proof Of Coverage for approximately two and a half years, the Coverage Branch is ending calendar year 2000 on a relative mountaintop. Since the elimination of the NCCI backlog of over 500,000 records in the summer, the efficiency of the current processing system has steadily increased.

The good news is that EDI-POC works. The Branch operates on a 1-2 day turnaround of received coverage notices enabling the carrier to know within three (3) days of submission whether or not the notice was accepted. We still have a lot of work to do but we can now focus on "quality assurance" issues including database clean-up, process testing, training and cross-training.

## Enforcement

Citations and Collections - The Department of Workers' Claims collected \$73,109 in penalties during this quarter, for a YTD total of \$312,420. Citations to employers for noncompliance in this same time frame totaled 156 for a YTD total of 559. This represents a record number of citations for the fourth year in a row.

This compares favorably with annual totals for CY 1998 & 1999 and is indicative of our enforcement effort focused on early intervention and the encouragement of voluntary compliance.

Employee's Written Notice of Rejection – Form 4s – The major workers' compensation reform in 1996 resulted in speculation by some industry observers that utilization of Form 4s, the notice whereby an employee would opt out of the system, would be significantly increased. However, the actual annual filings have decreased during the past four (4) years from 13,807 in calendar year 1996 to 6,531 in calendar year 2000.

## EDI Proof of Coverage Transactions for October - December, 2000

<b>Trading Partners:</b>	<b>Claimport</b>	<b>KEMI</b>	<b>Workers CompLink</b>
processed and accepted automatically	7,440	11,263	750
processed and rejected automatically	1,031	177	49
processed and accepted manually	12,074	10,692	3,750
processed and rejected manually	5,724	743	894
mass rejected	0	0	0
total transactions	26,269	22,875	5,443
percentage of total transactions accepted to total transactions received:	74%	96%	82%

## ALJ Activity

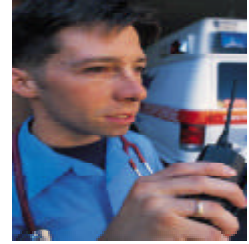
During this quarter, while assuming exclusive responsibility for presiding over the adjudication of workers compensation claims after the Arbitration Division was abolished by House Bill 1, the ALJs held 1,200 benefit review conferences. These conferences give the ALJs an opportunity to meet informally with the parties about the merits of a claim which is sometimes helpful in achieving settlements. In addition, the ALJs held 672 formal hearings and issued 694 opinions. They also rendered 20 opinions on cases remanded from the Workers Compensation Board, Court of Appeals and Supreme Court.

## Office of the General Counsel

During this quarter, the General Counsel's office collected \$14,000 in Unfair Claims Practice penalties and \$48,334 in enforcement fines for a total of \$62,334.



## WORKPLACE VIOLENCE



Violence in the workplace has become an epidemic, costing hundreds of lives and billions of dollars. The Workplace Violence Research Institute estimates that violence in the workplace costs about \$4.2 billion annually. According to the National Institute for Occupational Safety and Health, homicide is the second leading cause of death on the job, with an average of 20 workers murdered each week in this country. What doesn't always make the headlines is that each day, thousands of workers are harassed, intimidated, threatened and verbally or physically attacked **while on the job**.

Kentucky's Department of Workers Claims does not routinely capture the data elements required to monitor workplace violence in relation to injured workers. However, a preliminary look at the number of injuries caused by robberies and criminal assaults provided through First Reports of Injury indicates a decrease over the past several years.

Down from the 594 reported in 1995 to 143 reported in 1999, this bit of encouraging news is offset by the fact that between October and December of 2000, the Department of Workers Claims received First Reports of Injury on these workplace fatalities:

- A 19-year old, shot in the head at the drive-through window of his workplace
- A 42-year old mother of two, shot more than ten times by a co-worker
- A 46-year old county prosecutor gunned down in his home

State legislatures and the courts are encouraging employers to be proactive and to manage this risk through programs of prevention, identification and education.

- In Minnesota, the Department of Labor and Industry has established a Workplace Violence Prevention Resource Center.
- An Executive Order was issued in Florida, establishing Workplace Violence Prevention Week.
- The state of Washington's Department of Labor and Industries adopted requirements for crime prevention in late night retail establishments.
- The New Jersey Public Employees Occupational Safety and Health Program adopted guidelines to assist public employees in health care facilities to protect them from violent and aggressive behavior.

The US Occupational Safety and Health Administration has issued guidelines and recommendations which include policies and procedures to help prevent workplace violence. The US Department of Agriculture has issued a handbook titled Workplace Violence Prevention and Response. In addition to various governmental agencies providing information and assistance, there are numerous entities in the private sector whose primary mission is the elimination of violence in the workplace.

To learn more, visit [www.noworkviolence.com](http://www.noworkviolence.com)

## DWC Reaches out to Medical Communtiy

With over 1250 family practice physicians licensed in the Commonwealth, it's quite likely that an injured worker will seek medical attention from his/her family doctor.

In a proactive approach to ensure a greater understanding of Kentucky's workers' compensation statutes and regulations, the DWC is contributing to the education of family practice residents.

This educational program provides an overview of Kentucky's workers' compensation statutes regarding medical benefits and related regulations as well as information on managed care, medical fee schedules and medical fee disputes. Presented to first, second and third year family practice residents, the program includes important background material such as charting and documentation and causation and work-relatedness.

Serving in this educational outreach manner, the DWC is positioning itself as a key liaison between Kentucky's injured workers and the physicians who will treat them.

### Budget Analysis 10/1/00 - 12/31/00

	<u>BUDGET</u>	<u>SPENT</u>	<u>% SPENT</u>
PERSONNEL	\$11,564,500	\$4,956,589	42.9 %
OPERATING	\$ 3,377,800	\$1,078,276	31.9 %
CAPITAL EQUIPMENT	-0-	-0-	-0-
<b>TOTAL BUDGET</b>	<b>\$14,942,300</b>	<b>\$6,034,865</b>	<b>40.4 % *</b>

\* PERCENT OF FISCAL YEAR LAPSED 50.0%



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

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