

QUARTERLY ACTIVITY REPORT

October 1 - December 31, 2001

Ched Jennings, Commissioner
KY Department of Workers' Claims

<http://dwc.state.ky.us>



Ched Jennings, Commissioner

THE COMMISSIONER REPORTS ...

When I was appointed Commissioner six months ago, I pledged to implement a system that is fair and user friendly to facilitate the processing of claims by focusing on service. I am proud to report that our team is meeting those goals. We welcome your suggestions for continuous improvement.

The Department of Workers' Claims has been preparing for certain procedural changes to the administrative regulations (.010) which become effective January 14, 2002. Benefit Review Conferences will be held approximately 6-8 weeks after the filing of a claim. There are also changes to the appeal procedures and date of filing regulations.

We have been preparing for the 2002 legislative session. Governor Patton is committed to making black lung one of his legislative priorities.

At the end of 2001, Governor Paul E. Patton appointed Lawrence F. Smith of Radcliff and R. Scott Borders of Covington to serve as Administrative Law Judges filling unexpired terms of retiring Administrative Law Judges Ronald May of Pikeville and Richard H. Campbell, Jr. of Danville.

Ann Elizabeth Delahanty has been appointed my Principal Assistant. Ms. Delahanty was formerly Press Secretary to Lieutenant Governor Stephen L. Henry, M.D.

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Quarterly



Statistics

QUARTERLY ACTIVITY

Lost Time First Reports of Injury	8,735	Re-openings (medical)	77
Claims Assigned	1,242	Re-openings (overruled)	29
Pre-litigations	1,049	Re-openings (sustained)	89
Awards	318		
Agreements	928	Appeals to:	
Dismissals	241	Workers' Compensation Board	147
		Circuit Court of Appeals	45
		Kentucky Supreme Court	19

Lost time First Reports of Injury reported during this period represent a decrease of approximately 1,000 from last quarter.

The only increase was within the unclassified category of the Standard Industrial Classification groupings.

All other categories of statistics usually reported on this page remained similar to those of the previous quarter.

Distribution by Body Part (top ten)

Claims

Lower Back	318
Multiple Body Parts Including Systems	215
Wrist	89
Shoulders	76
Knee	74
Multiple Lower Extremities	45
Disc	45
Hand	27
Multiple Trunk	26
Soft Tissue Neck	23



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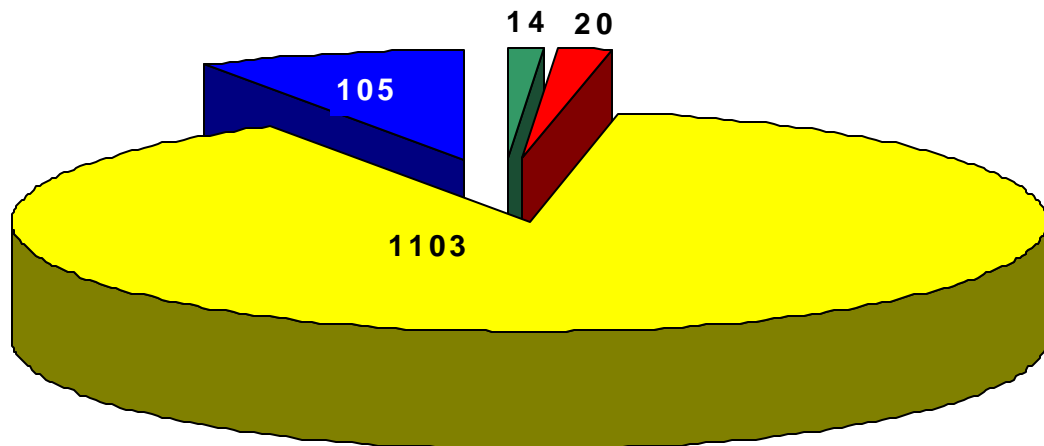
Lower Back	1,827
Multiple Body Parts Including Systems	1,076
Knee	490
Shoulders	461
Fingers	400
Wrist	381
Hand	364
Ankle	286
Abdomen	279
Foot	



Distribution of Claims By Cause

Strain or Injured By	509	Cumulative Injury (NOC)	20
Fall or Slip	247	Cut, Puncture, Scrape	12
Struck or Injured By	119	Burn/Scald	11
Repetitive Motion	113	Robbery or Criminal Assault	5
Motor Vehicle	92	Foreign Body in Eye	2
Caught In or Between	38	Contact with Electric Current	1
Absorption/Injection	24	Rubbed or Abraded By	1
Other Injury (NOC)	24		
Striking Against or Stepping On	24		

Distribution of Claims By Type



DISTRIBUTION OF CLAIMS BY INDUSTRY

Agriculture, Forestry, Fishing	16	Retail Trade	150
Construction	129	Services	234
Finance, Insurance, Real Estate	10	Transportation/Communication/ Public Utilities	123
Manufacturing	325	Unclassified	16
Mining	150	Wholesale Trade	43
Public Administration	46		

Summary of the Kentucky Department for Public Health Administrative Performance Assessment of 1997- 2000 Workers' Compensation Medical Evaluations

Kentucky Revised Statute (KRS 342.315) requires the Cabinet for Human Resources or a designee to annually assess the performance of the Kentucky medical schools to determine if the medical schools are conducting examinations for workers' compensation claims in accordance with the standards prescribed.

The Department for Public Health(DPH) was designated to assess the performance of the University of Louisville, University of Kentucky, and the Kentucky Department of Workers' Claims. The review consisted of two parts, a record review and a review of the DWC's scheduling books.

RESULTS:

General: All medical evaluators were board certified, appropriately trained and credentialed. The agreed upon algorithms, protocols, fees and impairment ratings were used. All x-rays were labeled with unique identifiers and spirometric tests were described and standardized.

RECORD REVIEW: There were few missing data or blank sections in the reports prepared for the DWC.

For the combined years 1997-2000, the completeness of reporting for the University of Louisville and the University of Kentucky are listed below:

APPOINTMENT SCHEDULING: The DWC recorded the number of days between the claim referral date and the date that the Universities made an appointment to evaluate the claimant. The determination of a late appointment was made by the DWC. According to the contracts with the Universities, claims are referred by the medical schedulers, and the Universities have 15 days from the referral date to schedule an appointment for the claimant.

TIMELINESS OF REPORTING: The DWC recorded the number of days from the claimant's appointment date with the University physician and the receipt of the University evaluation by the DWC. The determination of whether or not a report was late was made by DWC based on KRS 342.315 (3). According to this statute, after examining a claimant the medical evaluator "shall file with the commissioner within fifteen (15) days after such examination a written report." The 1997-2000 data compiled are from listings provided by the DWC.

Assessment of Workers' Claims Medical Evaluations 1997-2001			
Type of Claim	University of Louisville Percent Complete	University of Kentucky Percent Complete	Total Percent Complete
CWP	76.5	93.8	84.8
Other Pulmonary Occupational Disease	100.0	100.0	100.0
Injury	93.9	91.2	92.5
Hearing Loss	86.1	94.6	90.4
Psychological Disease	100.0	0.0	42.1

Administrative Law Judges

At the end of 2001, two new Administrative Law Judges were appointed to fill the openings created by the retirement of Ronald W. May and Richard H. Campbell, Jr. Both of these judges were originally appointed to serve as Administrative Law Judges on May 1, 1988.

Also, at the end of 2001, we lost another Administrative Law Judge due to the sudden death of Administrative Law Judge Thomas A. Nanney. Judge Nanney was originally appointed to serve as Administrative Law Judge on May 1, 1988.

The new Administrative Law Judges appointed to fill unexpired terms ending December 31, 2003, are R. Scott Borders of Covington and Lawrence F. Smith of Radcliff.

The seventeen Administrative Law Judges held 1,195 benefit review conferences. During these conferences, they presided over settlement negotiations, ruled on evidentiary disputes and identified contested issues. During this period, the Administrative Law Judges also held 565 formal hearings and issued 517 opinions. They issued 38 decisions in claims on, remand from the Workers Compensation Board, Court of Appeals and Supreme Court of Kentucky.

Office of the General Counsel

During this reporting period, the General Counsel's Office collected \$44,227 in fines.



Division of Ombudsmen and Workers' Compensation Specialists Services

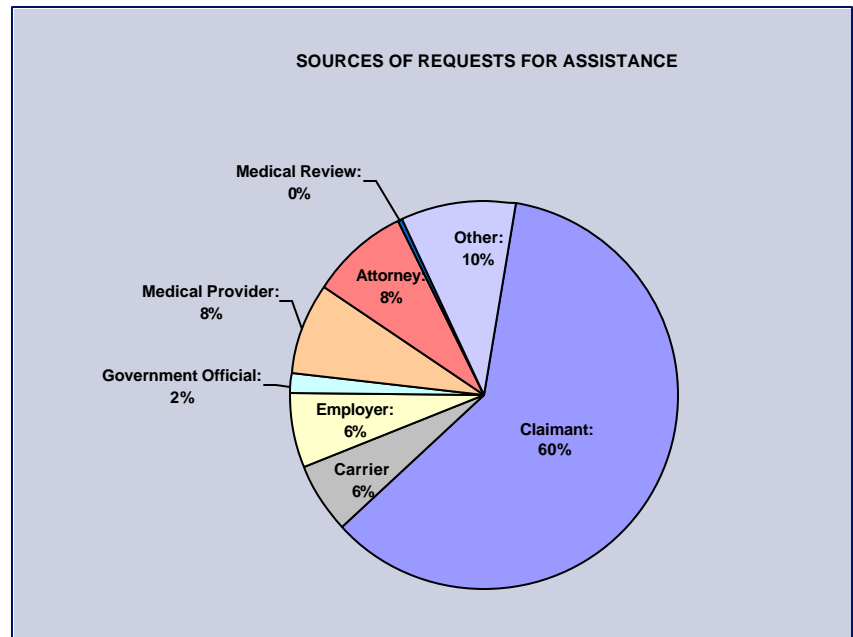
Sources of Requests for Assistance

Workers' compensation specialists and ombudsmen received over 3100 requests for assistance during this reporting period.

The most common requests related to rights and procedures (1955), questions on the status of a claim (488) and requests for forms (331).

The sources of these requests are noted in the chart .

Also, there were 223 requests for mediation, with mediation completed successfully in 143 cases.



Update and Revisions of the Workers' Compensation Medical Fee Schedule for Physicians

As required by KRS 342.035 and prescribed by 803 KAR 25:089, the Department has completed the process of reviewing and updating the Workers' Compensation Medical Fee Schedule for Physicians.

The new schedule features updated coding (based on CPT 2001), ground rule updates, more detailed procedure descriptions, and revised reimbursement values. Currently, reimbursement to medical providers treating injured workers is prescribed by the 1998 Workers' Compensation Medical Fee Schedule for Physicians.

The 2001 Workers' Compensation Medical Fee Schedule for Physicians will be applied to all medical bills incurred for services rendered on or after January 1, 2002. The 2001 fee schedule will completely replace the 1998 schedule.

The 2001 Workers' Compensation Medical Fee Schedule for Physicians will be available as a soft-bound book and includes a CD-ROM. The cost of the schedule is \$35.00 each, with checks/money orders made payable to the "Kentucky State Treasurer."

To place your order, call the Department of Workers' Claims at **502-564-5550**.

Division of Security and Compliance

Self-Insurance

Usually this time of year provides an opportunity for the Self-Insurance Branch to focus on special projects and prepare for the analysis of annual loss information received from the self-insured employers necessary to calculate the simulated premiums. However, this has not been an ordinary year primarily due to the issues surrounding Frontier Insurance Company and the coal employers who secured surety bonds through them.

Frontier Insurance: Although the DWC was successful in converting the vast majority of Frontier surety bonds to other forms of security, AEI remained the lone employer continuing to rely upon Frontier bonds to satisfy its surety requirement with the DWC. AEI's efforts to substitute other surety for the Frontier bonds were hampered by the terrorist attacks of September 11th and by the recent demise of Enron. These two events coupled with an already hardening market served to limit the number of companies willing to consider providing this type of surety coverage and slowed the process for those remaining.

During this quarter the Self-Insurance Branch focused heavily on determining the liability of AEI for its self-insured period and strengthening its surety position with the Department through the posting of letters of credit totaling \$8 million. As of the end of the quarter the DWC held \$8 million in letters of credit and retained the full amount of the Frontier bonds with a face value of \$23.4 million. The DWC is continuing to work with AEI to quantify the total exposure for the self-insured period and to assist in the effort by AEI to substitute other security for the Frontier bonds. Continued efforts are expected to

further strengthen the Department's position during the first calendar quarter of 2002.

Routine activities of the Self-insurance Branch include completion of surety calculations and surety revisions, analysis of corporate financial statements, preparation and completion of simulated premium calculations, examinations of self-insured group funds, and various other duties all designed to ensure adequate security exists to fund the workers compensation obligations of the self-insured employers.

Coverage

In July 1999, KEMI, the Commonwealth's competitive workers' compensation carrier, became the first insurance Company to report proof of coverage information directly to the Department of Workers' Claims. The electronic data interchange (EDI) continues to operate successfully with KEMI leading the way with a 93% acceptance rate for the fourth quarter of the year. Effective the close of calendar year 2001, KEMI sports an impressive 94% acceptance rate for the 52,514 transactions received this year. The DWC is encouraged by these results and is exploring the possibility of offering other large volume carriers the opportunity to respond directly to the department in a like manner.

Although the Coverage Branch has enjoyed success with EDI they have experienced some new challenges with the automatic processed transactions this quarter and are looking at system redesign plans to determine if that outcome may be improved through programming changes. The number of transactions received and processed from all vendors for this quarter total 52,926 with an overall acceptance rate of 83%.

Division of Security and Compliance

Enforcement

The Enforcement Branch includes ten field officers home based throughout the State who conduct on site investigations to verify compliance with the Kentucky Workers Compensation Act. Enforcement Officers conducted 2,671 investigations during the fourth quarter. The Commissioner issued 116 citations to employers for noncompliance and collected \$63,421 in penalties for this same time period. The table below indicates that although the total number of investigations have increased over the past three calendar years, the total number of citations issued for noncompliance held relatively steady from CY1999 to CY2000, and then declined from CY2000 to CY2001. The DWC is

encouraged that these recent calendar year end totals suggest that we are approaching a greater degree of voluntary compliance by employers.

Palmtop computers were introduced to the Enforcement Officers in 1999 which resulted in increased efficiency through more timely reporting, greater accuracy and a reduction of paperwork. The original palmtops are beginning to show signs of wear and require more frequent repairs. The recent implementation of cell phones and the upgrading of the palmtop computers in the near future will continue to facilitate the investigative process.

	CY 1999	CY 2000	CY 2001
Investigations	9,418	10,537	10,770
Non Compliance Citations	550	559	452
Rejection Notices	7,303	6,531	6,857



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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