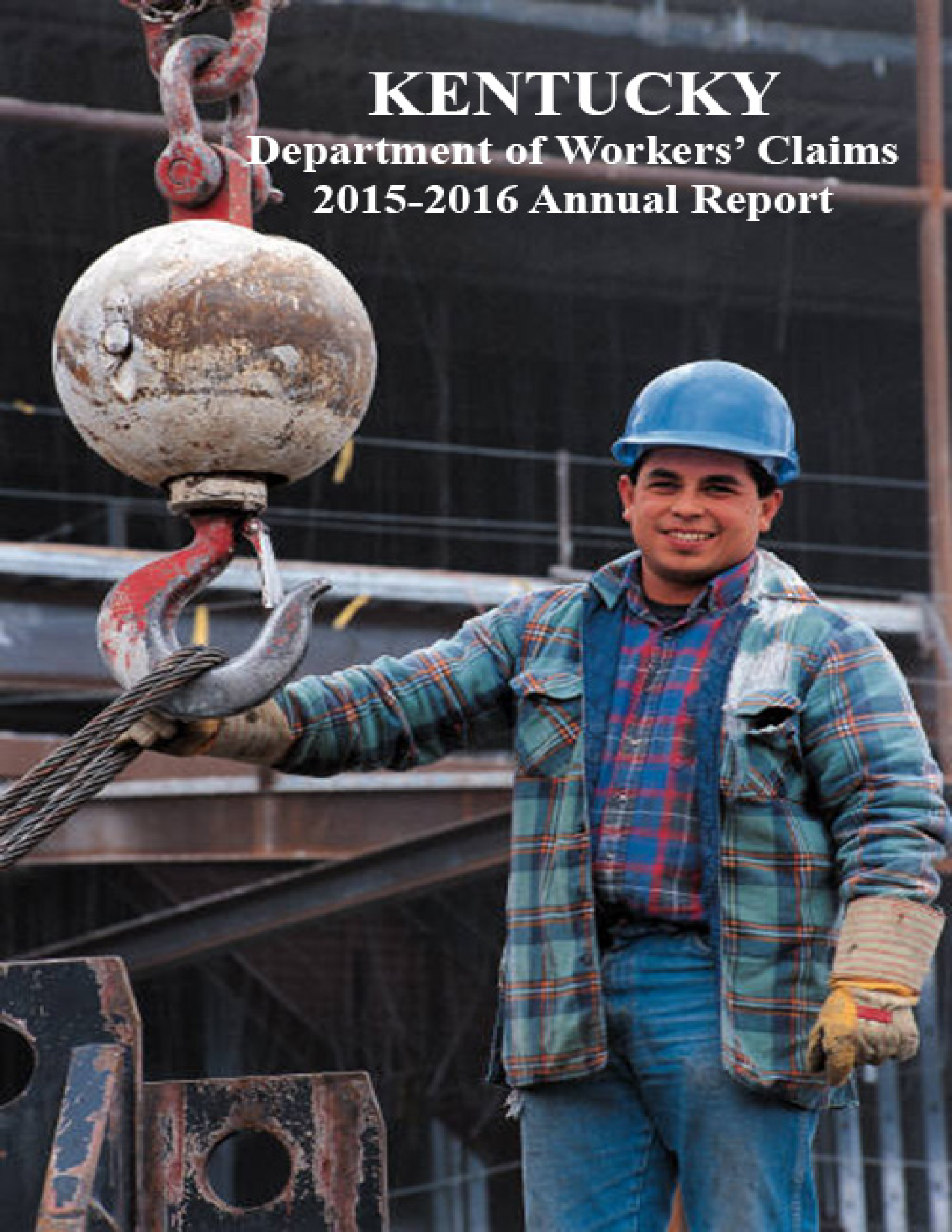


# KENTUCKY

## Department of Workers' Claims 2015-2016 Annual Report



**Commonwealth of Kentucky  
Department of Workers' Claims**

Prevention Park  
657 Chamberlin Avenue  
Frankfort, Kentucky 40601  
(502) 564-5550

Web site: <http://www.labor.ky.gov/workersclaims>

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Dwight T. Lovan

DEPUTY COMMISSIONER  
William P. Emrick

CHAIRMAN, WORKERS' COMPENSATION BOARD  
Michael W. Alvey

CHIEF ADMINISTRATIVE LAW JUDGE  
Robert L. Swisher

In addition to the Frankfort Office, DWC specialists may be contacted at the following office for information and assistance regarding workers' compensation issues:

**Toll free 800-554-8601**

107 Coal Hollow Road, Suite 100  
Pikeville, Kentucky 41501  
Telephone 606-433-7661  
Fax 606-433-7798

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*Developed by DWC Division of Information and Research  
Kim McKenzie, Resource Management Analyst II*

# Kentucky Department of Workers' Claims



## **Mission Statement:**

Resourceful administration of Kentucky's workers' compensation program with equitable and expedient processing of claims

## **Performance Objectives:**

- Assure prompt delivery of statutory benefits, including medical services and indemnity payments
- Provide timely and competent services to stakeholders
- Foster stakeholder knowledge of rights and responsibilities under the Workers' Compensation Act
- Encourage stakeholder involvement in the development of policy
- Provide the public and policy makers with accurate and current indicators of program performance
- Anticipate changes in the program environment and respond appropriately
- Be at the forefront in seeking new and innovative techniques to meet the needs of our constituents

*No individual in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, be excluded from participation in, or denied benefits of, or be subjected to discrimination under any program or activity under the jurisdiction of the Kentucky Labor Cabinet.*

**Printed with State Funds**

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



**Matthew G. Bevin**  
Governor



**Derrick K. Ramsey**  
Secretary

**Jenean M. Hampton**  
Lieutenant Governor

**Dwight T. Lovan**  
Commissioner

**KENTUCKY LABOR CABINET**  
**Department of Workers' Claims**

657 Chamberlin Avenue  
Frankfort, KY 40601  
Telephone: (502) 564-5550  
[www.labor.ky.gov/workersclaims](http://www.labor.ky.gov/workersclaims)

November 21, 2016

The Honorable Matthew G. Bevin  
Governor of Kentucky  
Capitol Building  
700 Capitol Avenue, Suite 100  
Frankfort, KY 40601

Dear Governor Bevin:

In accordance with KRS 342.230(2) and KRS 342.435, attached is the Fiscal Year 2015-2016 Annual Report for the Department of Workers' Claims (DWC). The annual report outlines activities undertaken by this agency to assure prompt and efficient delivery of statutory benefits. It also provides statistical information designed to openly share the activities of the Department.

We work diligently to stress the importance of a safe and knowledgeable workforce for the people of the Commonwealth. The DWC continues to work closely with all stakeholders; business, labor, medical providers, attorneys, self-insureds and insurers; to develop ideas and implement programs. This will improve the effectiveness of the Workers' Compensation System by delivering in a cost-effective manner, high quality services to the constituents of the Commonwealth of Kentucky.

The DWC is utilizing new technologies to build a better communication network. The advancements at the department are attributable to dedicated employees concerned with the best interests of the employees and employers of the State of Kentucky. Thank you for your interest and support for the Department of Workers' Claims during this fiscal year.

Yours very truly,

Dwight T. Lovan  
Commissioner



An Equal Opportunity Employer  
M/F/D



**Dwight T. Lovan  
Commissioner**

Commissioner Dwight T. Lovan received his Bachelor's degree from Baylor University and J.D. from the University of Kentucky College of Law. Admitted to the Kentucky Bar in 1977, Commissioner Lovan worked for 15 months as a staff attorney for the Kentucky Court of Appeals with responsibility for workers' compensation appeals. From 1979 to 1990 he practiced law in Owensboro, concentrating in the areas of workers' compensation and civil litigation.

In May of 1990, Commissioner Lovan was appointed Administrative Law Judge and remained in that position until August of 1994 when he was named to the Kentucky Workers' Compensation Board. Between July 2000 and January 2004, Commissioner Lovan served as Chairman of the Kentucky Workers' Compensation Board before returning to private practice in the firm of Jones, Walters, Turner and Shelton.

He was appointed to serve as the Commissioner of the Department of Workers' Claims in February 2008.



**William Emrick  
Deputy Commissioner**

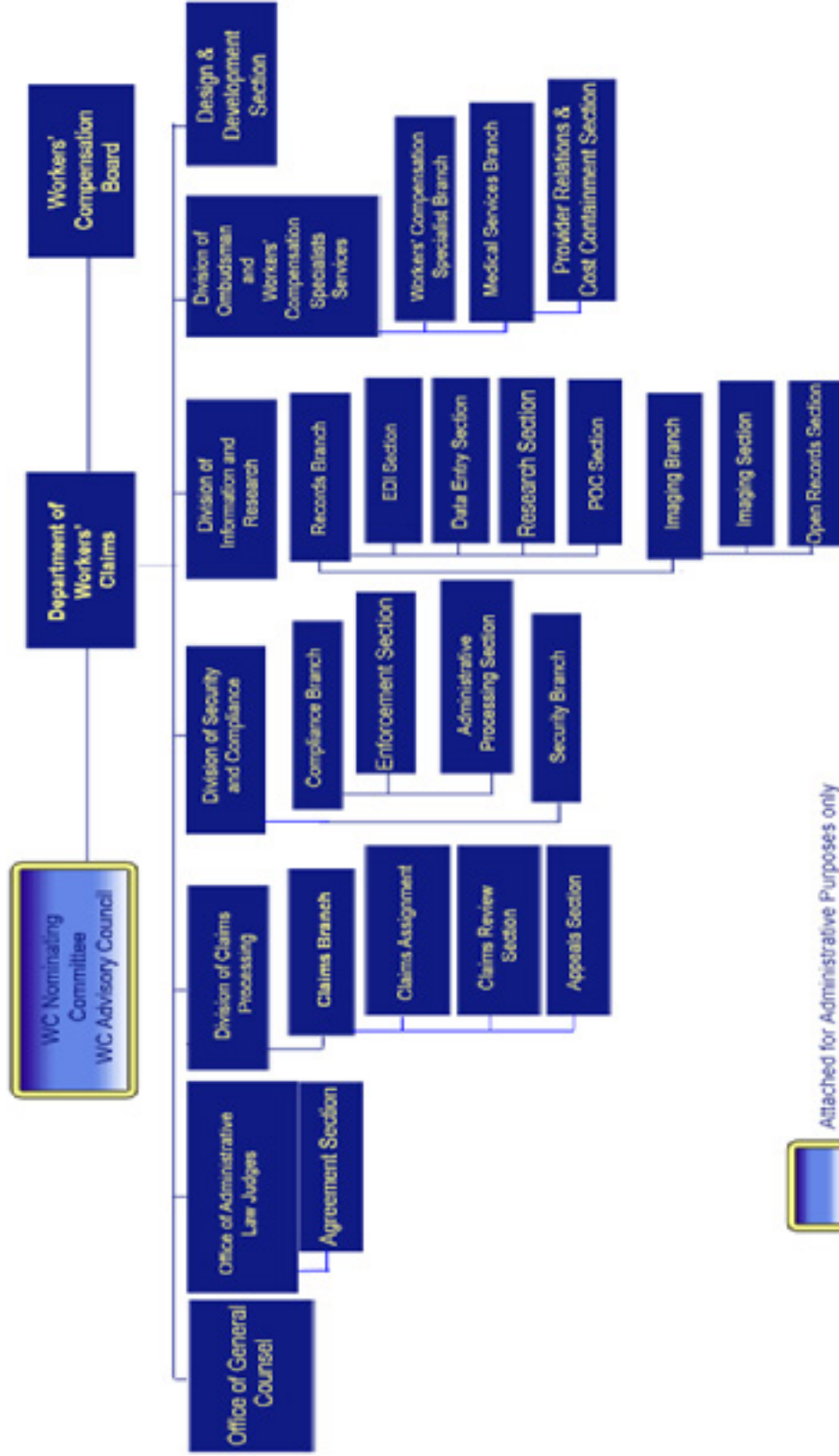
Deputy Commissioner William Emrick received his BA degree, with high distinction, from the University of Kentucky. He then attended the University of Kentucky law school where he received his Juris Doctor degree.

After receiving his law degree, Deputy Commissioner Emrick returned to Ashland, KY and engaged in the general practice of law; concentrating in civil litigation, corporate law and workers compensation.

Deputy Commissioner Emrick began his first tenure in KY state government and was appointed Executive Director of the Office of Legal Services in the Environmental and Public Protection Cabinet (EPPC).

In August 2004, Governor Ernie Fletcher appointed him as Commissioner/Executive Director of the Department of Workers Claims. He was confirmed by the Kentucky State Senate in February of 2005 and remained in office until 2008 when he returned to private law practice. He returned to the Department on August 1, 2016.

# DWC Organizational Structure



Attached for Administrative Purposes only

# Program Statistics



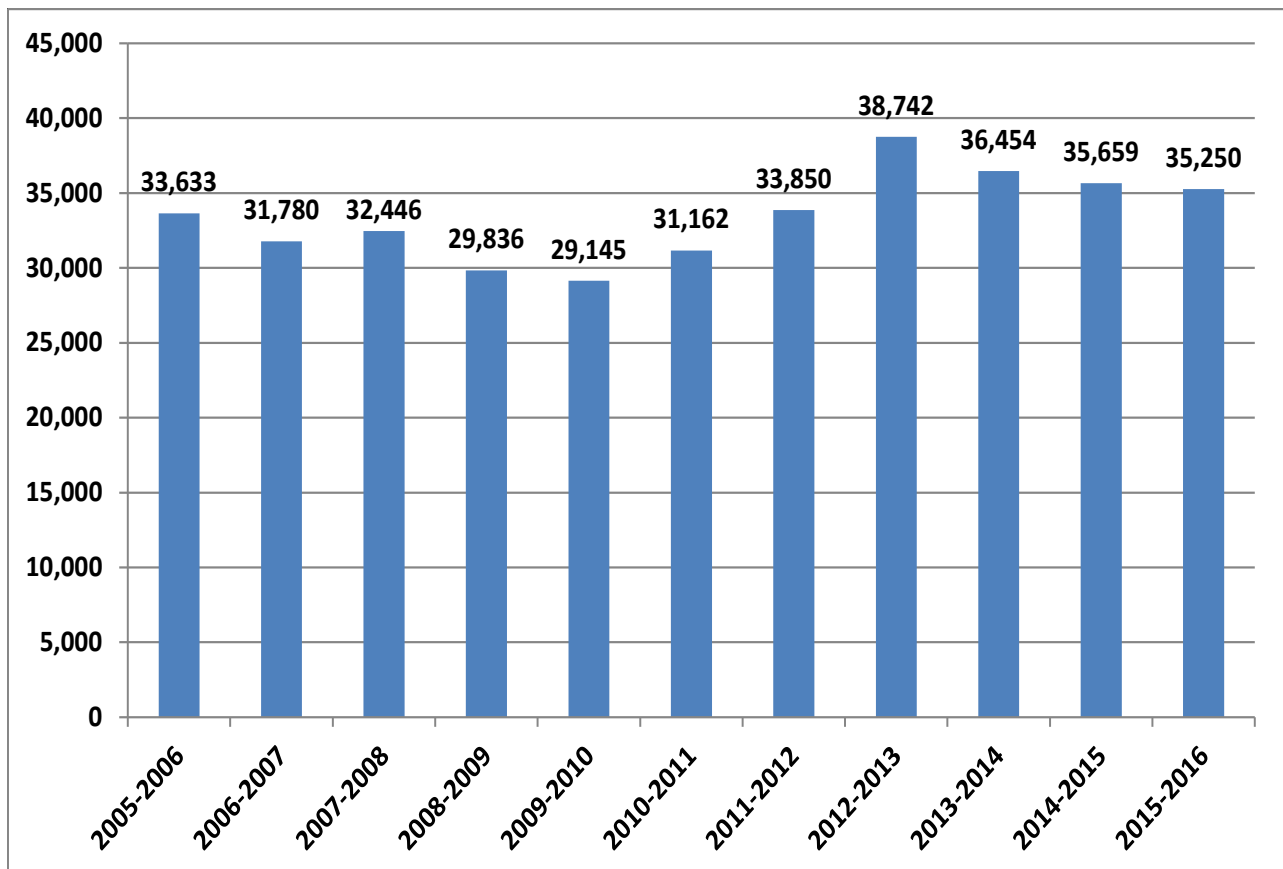


# First Reports of Injury

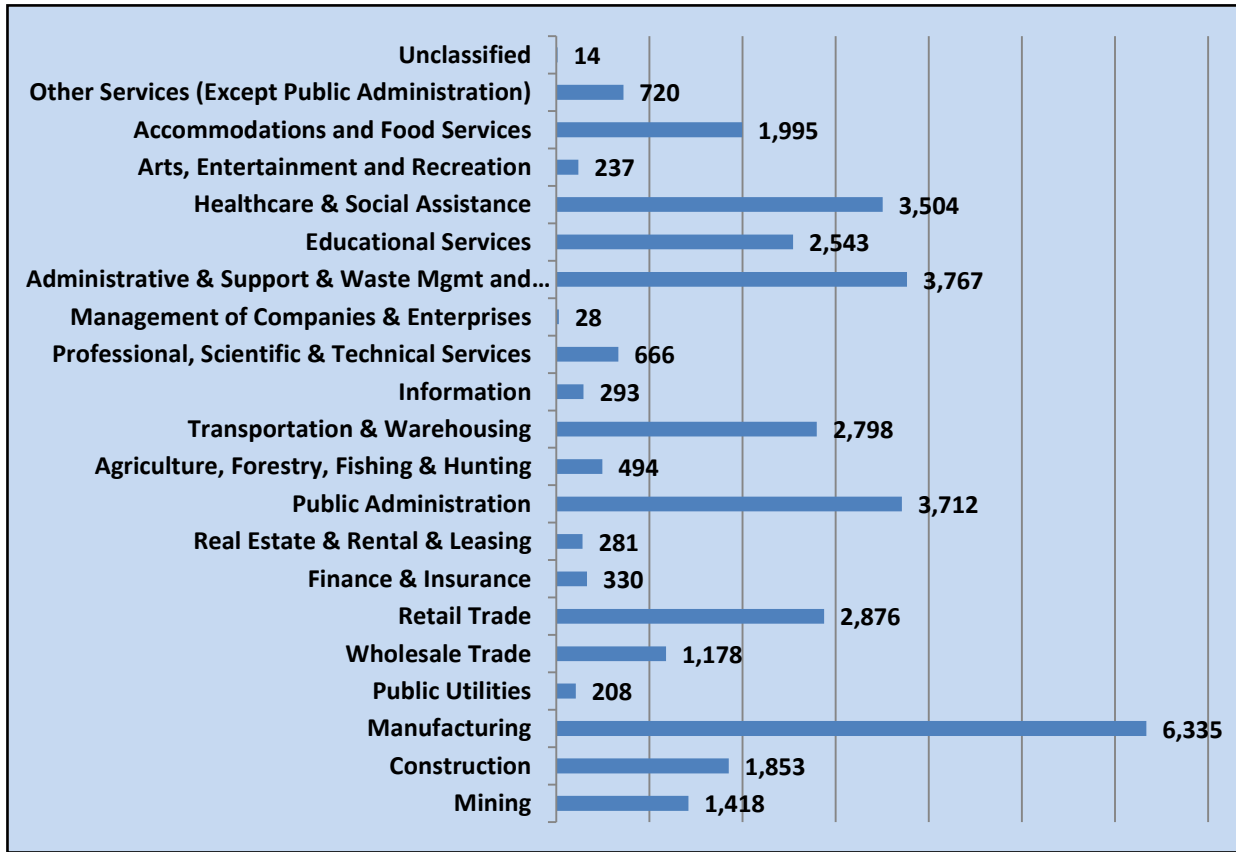
Kentucky Revised Statute (KRS) 342.038 mandates that employers keep a record of all employee workplace injuries and fatalities. The employer has three days to inform its workers' compensation insurance carrier or claim administrator when an injured worker misses more than one day of work as a result of an injury. These entities then have one week to file a First Report of Injury with the Department of Workers' Claims. Failure to comply with these reporting requirements may result in penalties pursuant to KRS 342.990.

In this fiscal year, there were 35,250 lost time First Reports of Injury (FROIs) filed with the Department. The three most common causes of work-related injuries reported were falls or slips (7,204), lifting (3,822) and strains (2,557).

## First Reports of Injury by Fiscal Year



## First Reports of Injury (FROIs) by Industrial Classification Category



A review of the nature of injuries revealed that there were 11,705 strains and 4,792 contusions reported. These two categories account for 47 percent of all reported injuries. Lacerations were reported in 3,700 of the injuries.

Of the information reported, the low back area (including lumbar and lumbosacral) was most frequently injured (4,075). The second most common injury reported was to multiple body parts (3,311) and third was injury to the knee (2,774). This closely mimics the lost time reports of the last six fiscal years.

### FROIs By Nature Type

<b>Coal Workers' Pneumoconiosis (CWP)</b>	<b>104</b>
<b>Hearing Loss</b>	<b>130</b>
<b>Injury</b>	<b>34,531</b>
<b>Other Occupational Disease</b>	<b>485</b>

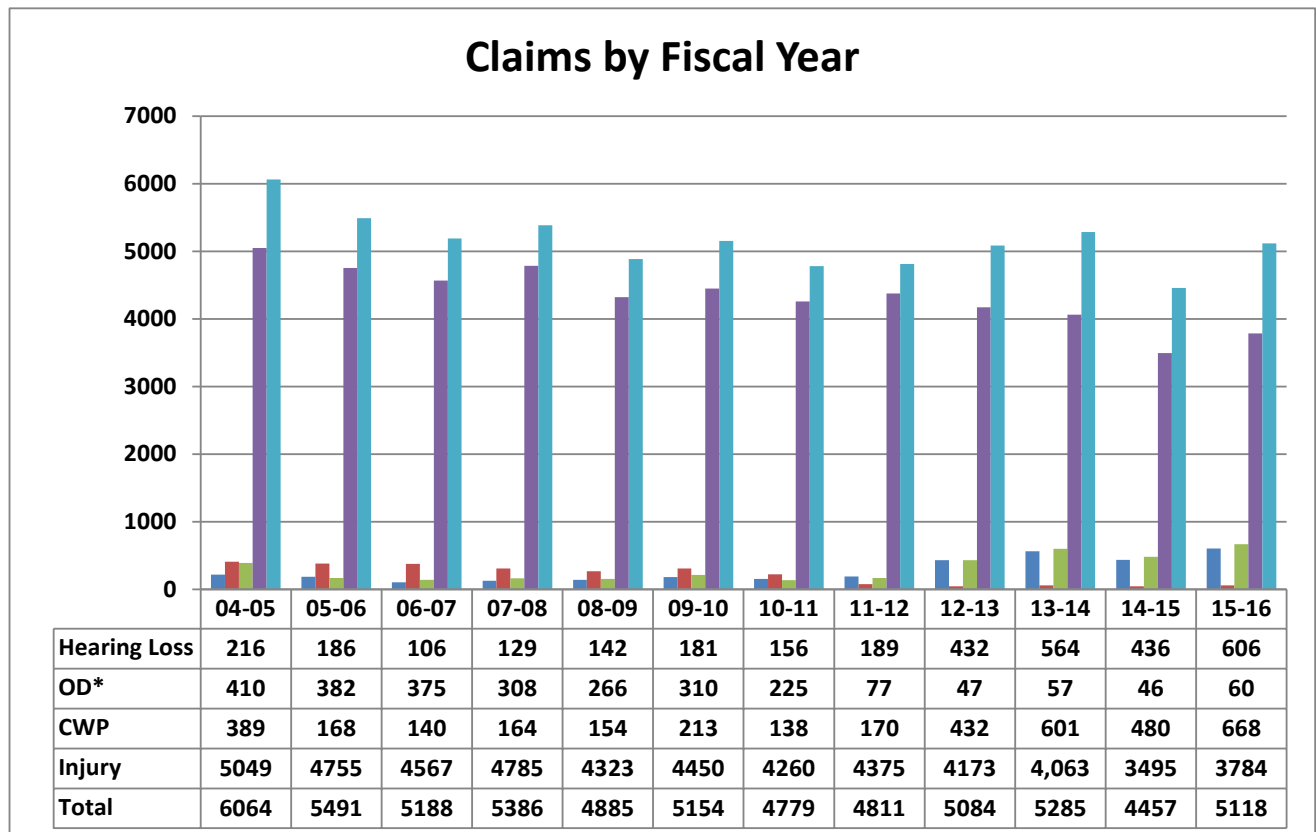
# Workers' Compensation Claims

A workers' compensation claim in Kentucky originates when one of two things happens: A settlement document is filed to voluntarily resolve workers' compensation issues between parties, or by application for adjustment of a claim when the parties cannot agree and the matter must be resolved by an Administrative Law Judge.

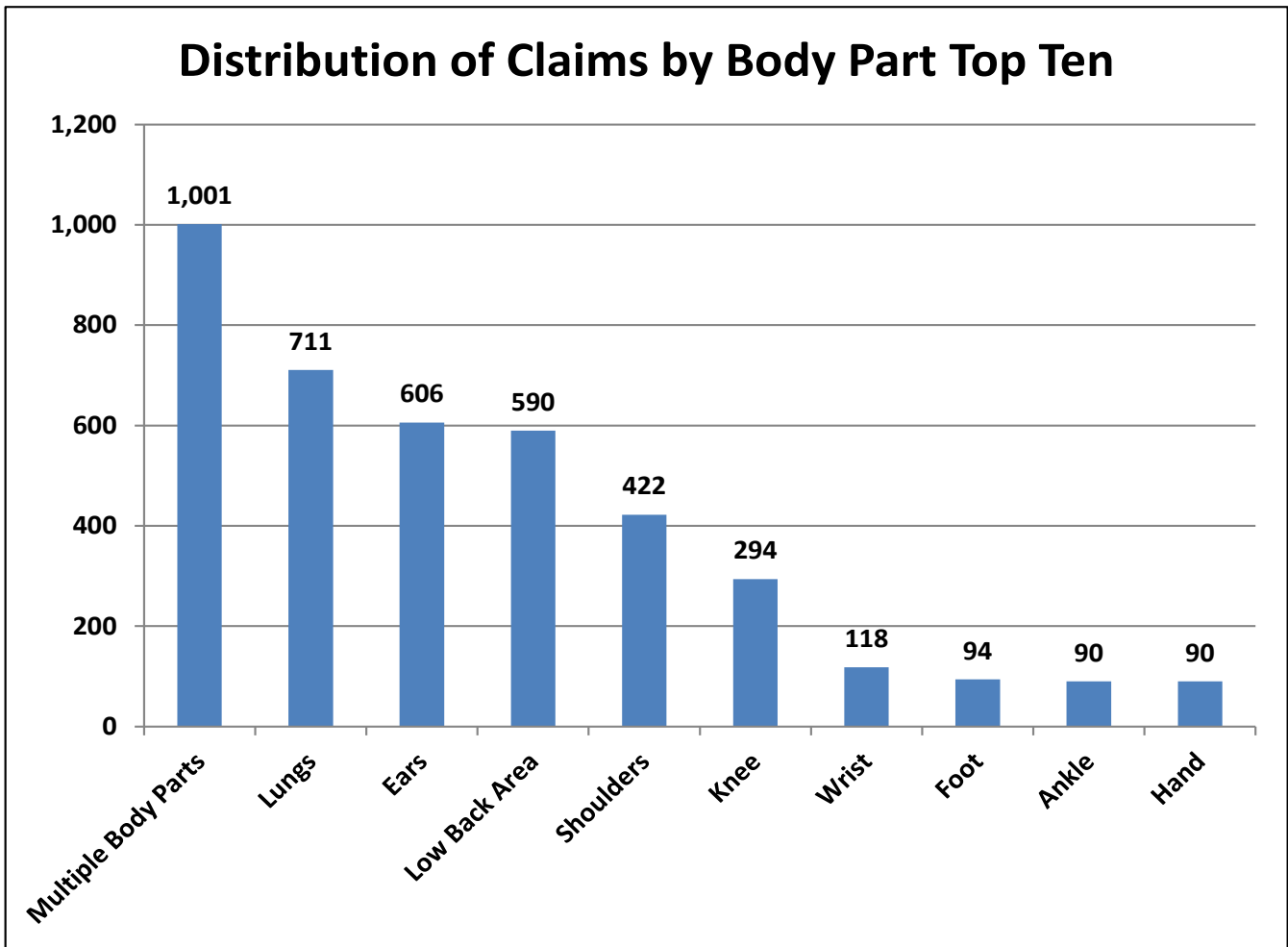
Workers' compensation claims are typically divided into two types: indemnity/medical and medical-only. Indemnity/medical claims are those for which income benefits are paid to compensate for lost wages, functional impairment or death. Medical service costs are paid in addition to those income benefits.

Most of the data in this report pertains to indemnity claims. For an injury to be compensable, it must be a direct result of the employee's work. To be considered for temporary total income benefits, an injured worker must miss more than seven days of work. Medical-only claims are those in which medical services are delivered but the employee does not qualify for income benefits.

In fiscal year 2015-2016, there were 5,118 new applications for resolution of claims filed with the Department of Workers' Claims.



\*Prior to FY 2011/2012, OD included cumulative trauma, which should have been classified as injury. The above statistics are derived from the agency database by various dates determined by status code. Specific details may be obtained by contacting the Division of Information and Research. Individual section breakdowns/statistics represent internal section activity that may differ from DWC database. This includes New 101, 102, 103 applications filed; excludes reopenings.



Of the 5,118 claims that were filed this fiscal year, 1,211 claims were filed by females (24%) and 3,883 by males (76%). Twenty-four claims failed to specify gender (less than 1%). The average age of those who filed claims with the DWC was 47 years.

The North American Industry Classification System (NAICS) category with the greatest number of claims was Unclassified 2,498 with Manufacturing a close second at 472. The remaining NAICS categories had the following number of claims: Mining (438), Administration & Support and Waste Management and Remediation Services (242), Retail Trade (205), Health Care and Social Assistance (198), Transportation and Warehousing (187), Construction (182), Public Administration (166), Wholesale Trade (103), Educational Services (96), Accommodations and Food Services (91), Other Services (except Public Administration) (57), Professional, Scientific and Technical Services (54), Finance and Insurance (37), Agriculture, Forestry, Fishing and Hunting (27), Real Estate and Rental and Leasing (24), Information (16), Utilities (11), Arts, Entertainment and Recreation (9), Management of Companies and Enterprises (5).

In reviewing litigated injury claims, the three most common causes of injury during this reporting period were Strains (2,096), Falls, Slips or Trips (880) and Absorption, Ingestion or Inhalation (515).

## Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 15-16

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Adair	6,894	71	1.03%	3	4.23%
Allen	8,536	76	0.89%	2	2.63%
Anderson	11,351	98	0.86%	15	15.31%
Ballard	3,577	21	0.59%	3	14.29%
Barren	17,930	258	1.44%	19	7.36%
Bath	4,702	44	0.94%	8	18.18%
Bell	8,989	193	2.15%	58	30.05%
Boone	63,652	1,440	2.26%	77	5.35%
Bourbon	9,678	198	2.05%	15	7.58%
Boyd	18,259	318	1.74%	35	11.01%
Boyle	11,807	307	2.60%	20	6.51%
Bracken	3,694	22	0.60%	1	4.55%
Breathitt	3,938	47	1.19%	32	68.09%
Breckinridge	7,871	61	0.77%	4	6.56%
Bullitt	38,704	410	1.06%	59	14.39%
Butler	5,033	51	1.01%	4	7.84%
Caldwell	5,290	56	1.06%	5	8.93%
Calloway	17,909	282	1.57%	14	4.96%
Campbell	46,684	363	0.78%	18	4.96%
Carlisle	2,320	9	0.39%	1	11.11%
Carroll	4,874	95	1.95%	13	13.68%
Carter	10,140	70	0.69%	9	12.86%
Casey	6,575	87	1.32%	5	5.75%
Christian	25,107	507	2.02%	37	7.30%
Clark	16,729	301	1.80%	34	11.30%
Clay	5,418	95	1.75%	32	33.68%
Clinton	3,829	54	1.41%	3	5.56%
Crittenden	3,750	41	1.09%	4	9.76%
Cumberland	2,874	28	0.97%	2	7.14%
Daviess	44,906	709	1.58%	38	5.36%
Edmonson	4,656	17	0.37%	2	11.76%
Elliott	2,129	5	0.23%	2	40.00%
Estill	5,211	38	0.73%	1	2.63%
Fayette	164,538	3,100	1.88%	506	16.32%
Fleming	6,187	76	1.23%	5	6.58%
Floyd	11,827	194	1.64%	115	59.28%
Franklin	24,188	1,484	6.14%	76	5.12%
Fulton	2,049	28	1.37%	5	17.86%
Gallatin	3,752	22	0.59%	4	18.18%
Garrard	7,484	38	0.51%	5	13.16%
Grant	10,921	124	1.14%	12	9.68%



## Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 15-16

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Graves	15,036	178	1.18%	13	7.30%
Grayson	10,586	155	1.46%	9	5.81%
Green	4,852	43	0.89%	2	4.65%
Greenup	13,683	131	0.96%	1	0.76%
Hancock	3,979	64	1.61%	7	10.94%
Hardin	46,440	726	1.56%	49	6.75%
Harlan	7,619	357	4.69%	265	74.23%
Harrison	8,402	106	1.26%	4	3.77%
Hart	7,687	106	1.38%	7	6.60%
Henderson	20,785	314	1.51%	38	12.10%
Henry	7,580	69	0.91%	7	10.14%
Hickman	2,239	19	0.85%	3	15.79%
Hopkins	19,385	390	2.01%	50	12.82%
Jackson	4,338	20	0.46%	7	35.00%
Jefferson	372,434	7,907	2.12%	765	9.67%
Jessamine	24,504	289	1.18%	31	10.73%
Johnson	7,538	77	1.02%	32	41.56%
Kenton	81,109	957	1.18%	53	5.54%
Knott	4,922	51	1.04%	63	123.53%
Knox	9,735	99	1.02%	4	4.04%
Larue	6,080	45	0.74%	8	17.78%
Laurel	23,315	354	1.52%	91	25.71%
Lawrence	5,181	65	1.25%	31	47.69%
Lee	2,197	24	1.09%	10	41.67%
Leslie	3,026	61	2.02%	70	114.75%
Letcher	6,944	147	2.12%	158	107.48%
Lewis	5,034	20	0.40%	0	0.00%
Lincoln	8,910	51	0.57%	6	11.76%
Livingston	3,600	38	1.06%	10	26.32%
Logan	11,491	135	1.17%	9	6.67%
Lyon	2,778	27	0.97%	1	3.70%
Madison	44,450	823	1.85%	65	7.90%
Magoffin	3,693	45	1.22%	32	71.11%
Marion	9,072	309	3.41%	15	4.85%
Marshall	14,632	136	0.93%	16	11.76%
Martin	3,342	106	3.17%	44	41.51%
Mason	7,387	124	1.68%	15	12.10%
McCracken	28,095	434	1.54%	34	7.83%
McCreary	4,795	52	1.08%	6	11.54%
McLean	4,226	37	0.88%	1	2.70%
Meade	12,045	144	1.20%	2	1.39%

## Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 15-16

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Menifee	2,345	20	0.85%	1	5.00%
Mercer	9,688	149	1.54%	9	6.04%
Metcalfe	3,992	24	0.60%	3	12.50%
Monroe	4,550	58	1.27%	1	1.72%
Montgomery	11,684	194	1.66%	32	16.49%
Morgan	4,604	45	0.98%	15	33.33%
Muhlenberg	11,766	135	1.15%	29	21.48%
Nelson	20,754	290	1.40%	44	15.17%
Nicholas	3,306	14	0.42%	1	7.14%
Ohio	9,259	197	2.13%	22	11.17%
Oldham	30,002	195	0.65%	19	9.74%
Owen	5,346	63	1.18%	1	1.59%
Owsley	1,143	11	0.96%	1	9.09%
Pendleton	6,579	45	0.68%	3	6.67%
Perry	9,083	424	4.67%	337	79.48%
Pike	20,820	568	2.73%	410	72.18%
Powell	4,830	54	1.12%	9	16.67%
Pulaski	25,268	546	2.16%	39	7.14%
Robertson	796	5	0.63%	0	0.00%
Rockcastle	6,764	47	0.69%	5	10.64%
Rowan	10,287	150	1.46%	15	10.00%
Russell	5,963	100	1.68%	7	7.00%
Scott	26,153	921	3.52%	119	12.92%
Shelby	22,352	308	1.38%	38	12.34%
Simpson	8,108	194	2.39%	14	7.22%
Spencer	9,052	23	0.25%	4	17.39%
Taylor	11,304	151	1.34%	13	8.61%
Todd	5,373	45	0.84%	5	11.11%
Trigg	5,675	70	1.23%	4	5.71%
Trimble	3,824	13	0.34%	3	23.08%
Union	6,143	224	3.65%	75	33.48%
Warren	57,951	1,215	2.10%	60	4.94%
Washington	6,025	140	2.32%	12	8.57%
Wayne	7,225	84	1.16%	9	10.71%
Webster	6,083	88	1.45%	46	52.27%
Whitley	12,867	313	2.43%	104	33.23%
Wolfe	1,908	33	1.73%	5	15.15%
Woodford	14,203	336	2.37%	20	5.95%
Out-of-State		1,081		213	19.70%
Unknown		4		34	0.00%
<b>Grand Total</b>	<b>1,960,183</b>	<b>35,250</b>	<b>1.80%</b>	<b>5118</b>	<b>14.52%</b>

Workforce data provided by the Department of Workforce Investment.  
Agriculture is included in the total labor force numbers.  
Unknown numbers are due to insufficient reporting information.

# Injuries to Minors

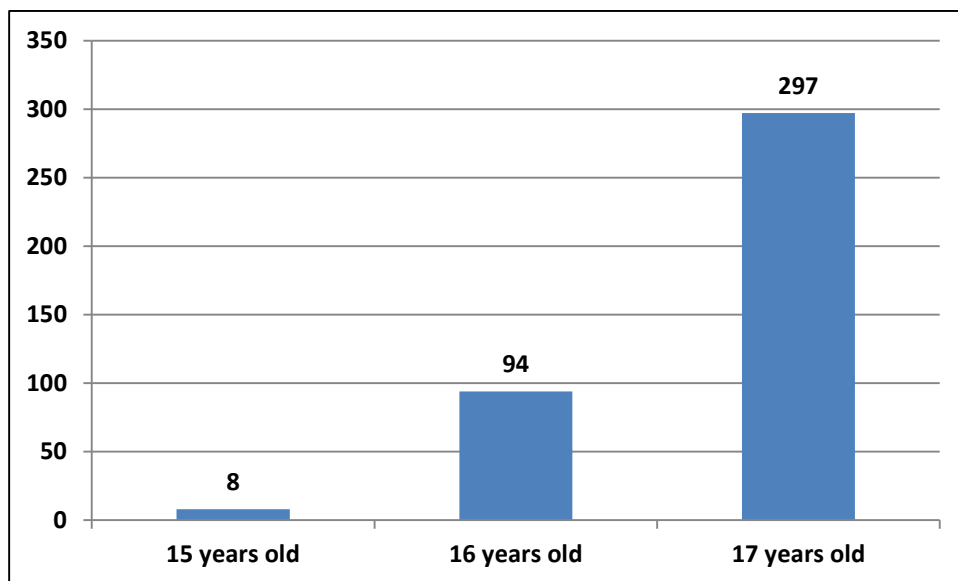
In fiscal year 2015-2016, there were 399 lost-time injuries to workers under the age of 18 reported to the Department of Workers' Claims.

According to electronic data submitted to the Department, 8 injuries were reported for workers 15 years of age; 94 injuries were reported for workers 16 years of age; and 297 injuries were reported in which the workers were 17.

Based on the North American Industry Classification System (NAICS) injuries sustained by minors during this period, 164 injuries occurred in the Accommodations and Food Services sector and 57 in Administrative & Support & Waste Mgmt. & Remediation Services sector. The remaining NAICS categories had the following number of injuries: Transportation and Warehousing (55), Retail Trade (37), Manufacturing (21), Arts, Entertainment, and Recreation (13), Public Administration (12), Health Care and Social Assistance (12), Other Services (except Public Administration) (5), Construction (4), Agriculture, Forestry, Fishing and Hunting (4), Professional, Scientific, and Technical Services (3), Real Estate and Rental and Leasing (3), Information (3), Wholesale Trade (3), Educational Services (1), Finance and Insurance (1), and Mining (1).

The top three causes of injury to minors reported during this fiscal year were falls or slips (62), Burn or scald (45) and cut, puncture or scrape (45). Accordingly, the top three body parts most frequently injured were fingers (48), hands (47) and low back which was reported in 29 instances.

## Distribution of Injuries to Minors by Age

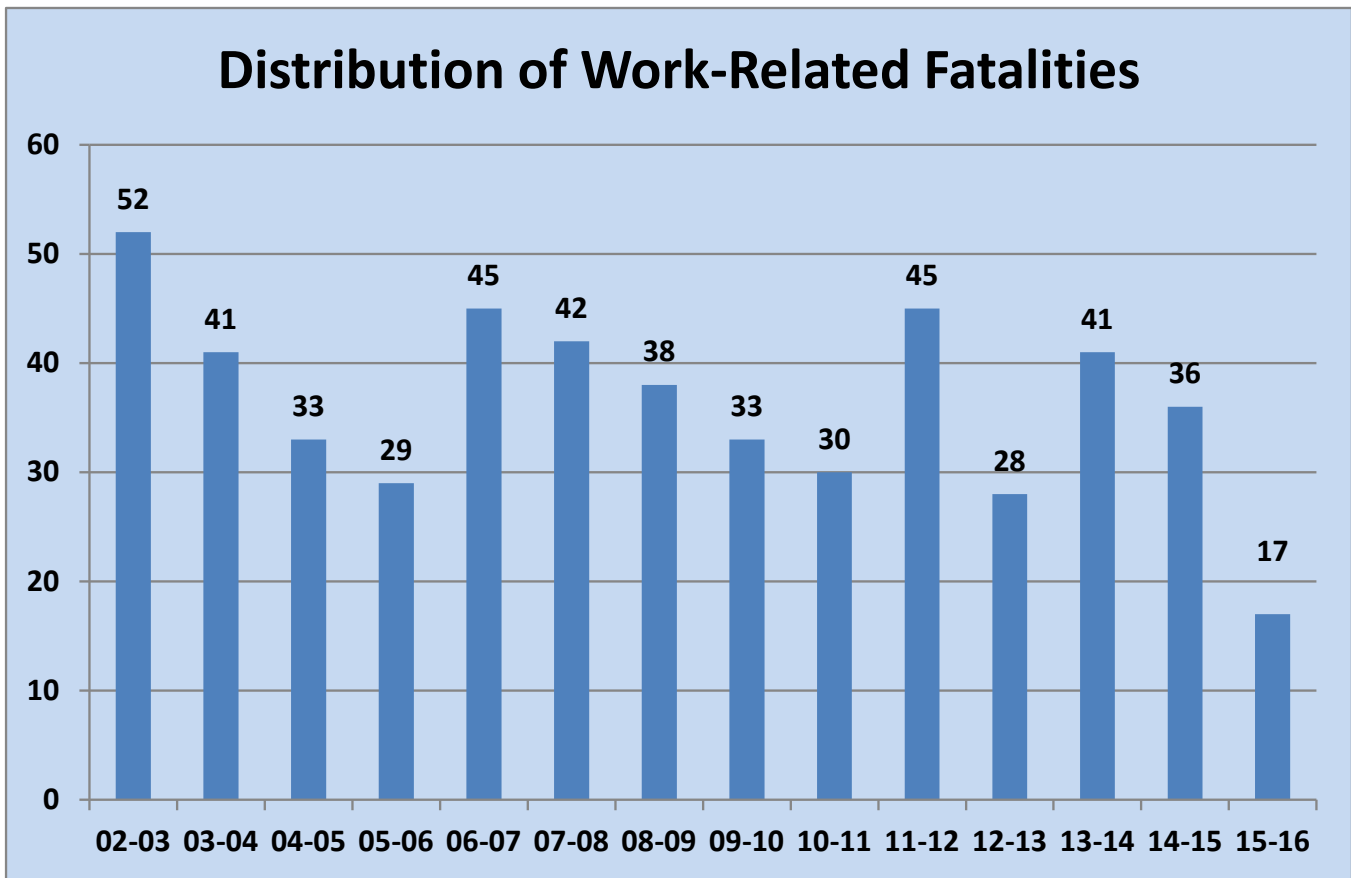


# Work-Related Fatalities

There were 86 workplace fatalities reported to the Department of Workers' Claims during this fiscal year. However, after investigation, only 17 of the deaths were found to be clearly work-related. The remaining have been ruled not work-related (24), containing issues which have the case in a pending status (28), and (16) undetermined.

The youngest of the casualties was a 17 year-old male who died while loading and unloading a front-end loader. The oldest worker was a 80 year-old male who died from a motor vehicle accident. The most common causes of death this fiscal year were other injury (Not otherwise classified) (23) and motor vehicles (8).

The fatalities reported to DWC occurred in a variety of industries ranging from local trucking, manufacturing, construction, lawn and garden, mining and automotive.



## Attorney Fees Awarded During FY 2015-2016

	Number of Fees Approved	Total Fees Awarded	Average Fee
Plaintiff	4,710	\$23,405,511.20	\$4,969.32
Defense	2,071	\$10,115,407.70	\$4,884.31

\*Based on motion made by attorney.





# Fiscal Performance

All the funding for the Department of Workers' Claims comes from an assessment imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, and against the simulated premium of every employer carrying its own risk. These funds are collected and managed by the Workers' Compensation Funding Commission (KRS 342.122). These are restricted funds and no general fund dollars are appropriated for DWC operations.



# DWC PERSONNEL AND BUDGET HISTORY

## FY 1991-92 THROUGH 2015-2016

FISCAL YEAR		FY 1991-92 THROUGH FY 2015-16							PERCENTAGE BUDGET
		PERSONNEL CAP	PERSONNEL ACTUAL	BUDGET ALLOTMENT	ACTUAL EXPENDITURES	DIFFERENCE	PERCENTAGE BUDGET		
2015	- 2016	177	156	18,039,100	17,673,180	(365,920)	97.7%		
2014	- 2015	177	165	21,788,000	18,456,148	(3,331,852)	84.7%		
2013	- 2014	177	168	16,527,200	14,973,463	(1,553,737)	90.6%		
2012	- 2013	181	162	15,945,500	15,122,771	(822,729)	94.8%		
2011	- 2012	181	170	15,670,600	14,563,810	(1,106,790)	92.9%		
2010	- 2011	181	172	15,229,700	14,827,465	(402,235)	97.4%		
2009	- 2010	185	175	14,888,900	14,283,695	(605,205)	95.9%		
2008	- 2009	174	167	14,170,100	13,373,435	(796,665)	94.4%		
2007	- 2008	184	160	11,455,000	10,794,005	(660,995)	94.2%		
2006	- 2007	184	167	10,211,700	9,840,070	(371,630)	96.4%		
2005	- 2006	173	156	11,093,300	10,634,776	(458,524)	95.9%		
2004	- 2005	173	163	9,498,700	9,182,865	(315,834)	96.7%		
2003	- 2004	195	188	13,649,200	10,735,937	(2,913,263)	78.7%		
2002	- 2003	242	201	16,397,700	13,384,935	(3,012,765)	81.6%		
2001	- 2002	242	204	15,806,800	13,373,836	(2,432,963)	84.6%		
2000	- 2001	242	208	14,942,300	12,716,927	(2,258,373)	85.1%		
1999	- 2000	268	207	15,637,000	12,387,288	(3,249,712)	79.2%		
1998	- 1999	268	208	14,994,000	12,606,188	(2,387,812)	84.1%		
1997	- 1998	272	227	15,182,500	12,588,527	(2,593,973)	82.9%		
1996	- 1997	272	229	12,137,900	11,057,391	(1,080,509)	91.0%		
1995	- 1996	207	138	9,822,200	9,479,970	(342,230)	96.5%		
1994	- 1995	210	120	9,757,200	8,586,716	(1,170,484)	88.0%		
1993	- 1994	167	159	7,860,000	7,337,688	(522,312)	93.4%		
1992	- 1993	167	160	7,505,100	7,004,561	(500,539)	93.0%		
1991	- 1992	153	150	6,901,600	6,497,815	(403,785)	94.0%		

# Programs and Performance



# Administrative Services

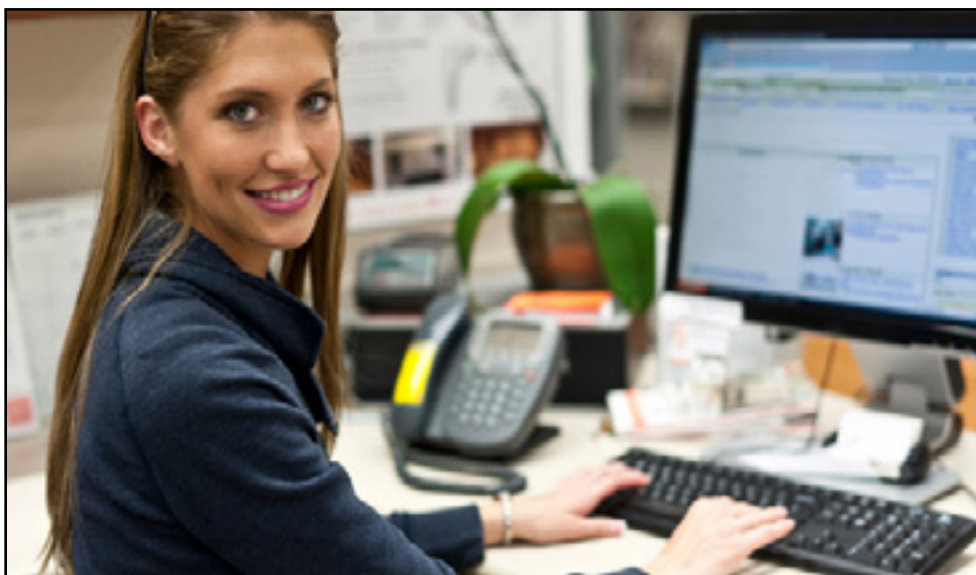
Administrative Services' responsibilities include ensuring all financial transactions and personnel actions comply with applicable laws and regulations; are executed in a timely manner; and are properly documented and allocated to the appropriate program budget unit. Some of the functions Administrative Services perform include: managing and executing the annual budget and all contracts and leases; responding to all requests for publications and forms; processing all incoming and outgoing mail; procuring supplies and equipment; maintaining infrastructure for 17 agency locations; coordinating DWC training; and providing daily assistance to all divisions of the Department of Workers' Claims.

The following publications are made available by the DWC:

Medical Fee Schedule for Physicians  
Hospital Fee Schedule  
Annual Report  
Life Expectancy Tables  
Rehabilitation Pamphlet  
Compliance Inspection Pamphlet  
Workers' Compensation Guidebook

Workers' Compensation Forms  
Benefits Schedule  
Quarterly Report  
Present Worth Table

The following pages contain a list of forms that may be requested through Administrative Services or by accessing the Department of Workers' Claims web site at <http://www.labor.ky.gov/workersclaims/pages/forms.aspx>. The only exceptions to this are the Form 4 and Form 5 which can only be obtained by contacting Administrative Services.



# Forms

Checklist	Checklist for Petitioner's Brief
Checklist	Checklist for Respondent's Brief
Form AWW-1	Average Weekly Wage Certification
FormAWWCON	Average Weekly Wage Certification-Concurrent
FormAWWPOST	Average Weekly Wage Certification-Post Injury
Form F	Fatality Form
Form 11	Motion to Substitute Party and Continue Benefits
Form 101	Application for Resolution of Claim-Injury
Form 102-OD	Application for Resolution of Claim- Occupational Disease
Form 103	Application for Resolution of Claim-Hearing Loss
Form101IR	Application for Resolution-Interloctory Relief
Form 104	Plaintiff's Employment History
Form 105	Plaintiff's Chronological Medical History
Form 106	Medical Waiver and Consent Form
Form 107	Medical Report-Injury/Hearing Loss/Psychological Condition
Form 108	Medical Report-Occupational Disease
Form 109	Attorney Fee Election
Form 110-F	Agreement as to Compensation and Order Approving Settlement-Fatality
Form 110-I	Agreement as to Compensation and Order Approving Settlement-Injury
Form 110ODHLCWP	Agreement as to Compensation and Order Approving Settlement-Occupational Disease/Hearing Loss
Form 112	Medical Dispute
Form 113	Notice of Designated Physician
Form 114	Request for Payment for Services or Reimbursement for Compensable Expenses
Form 115	Social Security Release Form
Form 120EX	Request for Expedited Determination of Medical Issue
Form 150	Workers' Compensation Statistical Report
Form 375	Application for Split Coverage
Form 375 Wrap Up	Application for Split Coverage (Wrap Up)
Form EL1 and EL2	Employee Leasing Company Registration Form
Form MTR-1	Motion to Reopen
Form SVC	Safety Violation Alleged by Plaintiff/Employee
Form SVE	Safety Violation Alleged by Defendant/Employer
Form SHL	Workers' Compensation-Hearing Loss Stipulation
FormSI	Workers' Compensation-Injury Stipulation
FormSOD	Workers' Compensation-Occupational Disease Stipulation
Form EL1 & EL2	Employee Leasing Company Registration Form
Form SI-01	Self-Insurers' Guarantee Agreement
Form SI-02	Self-Insurance Application
Form SI-02 Attachment	Self-Insurance Application Attachment
Form SI-03	Continuous Bond



# Forms Continued

Form SI-03 Attachment	Surety Rider
Form SI-04	Letter of Credit
Form SI-08	Loss Report
Ky Drug-Free Workplace Application	Application/Affidavit/Checklist for Certification of Ky Drug-Free Workplace Program Pursuant to 803 KAR 25:280
Ky Workers' Compensation Act Notarized Affidavit of Exemption by Building Contractor (Corporation or Partnership)	Affidavit of Building Contractor (declaring no employees) which is filed with local building permit.
Ky Workers' Compensation Act Notarized Affidavit of Exemption by Building Contractor (Individual)	Affidavit of Building Contractor (declaring no employees) which is filed with local building permit.
Managed Care - UR Form	Managed Care - UR Form
Service Contract Agreement	Service Contract Agreement
Open Records Request Form	Request for copies/inspection of DWC claim files.
Self-Insurance Open Records Request Form	Request for copies/inspection of Self-Insurance files.
Subpoena	Subpoena
Subpoena Duces Tecum	Subpoena Duces Tecum
Workers' Compensation Posting Notice	Workers' Compensation Posting Notice



# Design and Development Section

The Design and Development Section responds to all development and programming needs for the Department of Workers' Claims. Design and Development staff work to enhance the agency's Server-based System for Information Management and Business Application (SIMBA), Litigation Management System (LMS), Electronic Data Interchange (EDI), and Proof of Coverage (POC) programs to meet the evolving needs of the agency. Design and Development staff apply new features to SIMBA, LMS, EDI, POC, Reports, and other applications for the agency.

During the past fiscal year the Design and Development staff received 713 new issues, completed 589 test track issues, and performed 12 builds, patches and updates. A major project for Design & Development Section (D&D) and Department of Workers' Claims was to work with an outside vendor regarding the adoption of a new overarching system for litigation of claims now called the Litigation Management System. Another major project for Design & Development Section (D&D) was working with COT to migrate Department of Workers Claims servers into the state server farms and upgrade existing applications to the most updated versions for use in future applications. A continuing project for Design and Development Section (D&D) was the designing, programming of screens/reports, data conversion and implementation of the Frankfort Motion Docket and Claims Agreements stand-alone Microsoft Access databases into SIMBA. Staff also met with sections on integrating Claims Review and Claims Assignment stand-alone access databases into SIMBA. SIMBA/LMS/EDI/POC screens, reports and form letters were modified to reflect change or enhancement requests. Issues and/or requests for SIMBA/LMS/EDI/POC were addressed over several builds and patches. New status codes were added to the SIMBA and LMS systems. User security accounts for SIMBA and LMS were enabled and disabled as needed. Assisted vendors/trading partners with FROI/SROI & POC electronic filings. Staff applied the 2016 Workers' Compensation Benefit Schedule and Present Worth Table figures to the 992 Table Calculator program. With the inclusion of LMS as a system for the department, Sharepoint has replaced FileNet as the official department document repository. Staff assisted in migrating all documents and data stored on the FileNet repository to the new Sharepoint document repository. Custom queries were written and run when data was needed in addition to that supplied by existing programs and reports. Staff monitored and updated the CompLaw program with monthly board opinions. DWC Staff attended the IAIABC conference and other trainings throughout the year.

# Office of General Counsel

The Office of General Counsel is responsible for providing legal support services to the Department of Workers' Claims. The Office advises the Commissioner's Office as to responsibilities with regard to personnel actions under KRS Chapter 18A and defends the agency in any actions, personnel or otherwise, that are filed against the Department. Additionally, the Office has responsibility for promulgating regulations required of the Department and drafting and reviewing legislation. This current year, the Office has been involved in a major revision of the Workers' Compensation Practice regulations in anticipation of the implementation of the new Litigation Management System (LMS). The Office provides assistance to the Enforcement Branch in ensuring compliance with workers' compensation laws for imposition of injunctions and fines against employers who neglect or refuse to provide workers' compensation coverage for their employees. In circumstances where an employee is injured and the employer failed to provide insurance coverage, liens are filed against assets of uninsured employers pursuant to KRS 342.770. The Office is responsible for reviewing open records requests in compliance with the state's open records law. The Office investigates unfair claims practices and is responsible for issuing show cause orders and representing the Department at hearings when it has been determined that an unfair claims practice has occurred.

During this past fiscal year, the Legal Services Division collected approximately \$1,498,409.19 in enforcement fines and penalties and \$71,250.00 in Unfair Claims Settlement Practices penalties. The Office received 594 citation cases, 34 unfair claims settlement practice cases and two new fraud cases. This office has filed restraining orders and collection actions in circuit court, held formal hearings and show cause hearings before administrative law judges and drafted agreed orders for settlements with regard to the above cases. The Office of General Counsel has also represented the agency, more specifically the Security and Compliance Division, in hearings with regard to self-insurance audits, bankruptcy proceedings and insurance company rehabilitation proceedings.



# Administrative Law Judges

The Department of Workers' Claims has 19 Administrative Law Judge (ALJ) positions allocated, 11 of which are currently filled. Each ALJ is appointed for a four-year term by the Governor and is subject to confirmation by the Kentucky State Senate. One of the ALJs is designated Chief Administrative Law Judge pursuant to KRS 342.230(8).

## Chief Administrative Law Judge

The Chief Administrative Law Judge regularly works from the Frankfort office. The CALJ presides over the Frankfort motion docket. In addition, the CALJ rules on settlement agreements in unassigned cases, regularly conducts dockets for coal workers' pneumoconiosis (CWP) cases, conducts hearings and renders opinions in various enforcement actions and advises other DWC sections regarding issues relating to workers' compensation litigation. The CALJ supervises ALJ activities, prepares a rotation schedule for the ALJs, plans two adjudicator training sessions annually, takes initial assignment of all CWP claims and covers dockets for other ALJs on an emergency basis.



Robert L. Swisher  
A.B., 1976 University of Notre Dame  
J.D., 1979, University of Kentucky  
Initial appointment date: January 1, 2010  
Chief ALJ December 1, 2014 - Present



J. Gregory Allen  
B.A., 1987, Eastern Kentucky University  
J.D., 1991, Salmon P. Chase  
College of Law  
Initial Appointment Date: October 13, 2013  
End of Term: April 15, 2016



Steven G. Bolton  
B.A. 1968 Hanover College  
J.D., 1973, University of Kentucky  
Initial Appointment Date: July 15, 2012  
End of Term: July 14, 2016



Scott Borders  
B.A., 1984, University of Kentucky  
J.D., 1987, Salmon P. Chase College of Law  
Initial Appointment Date: December 7, 2001  
End of Term: April 15, 2016



R. Roland Case  
B.A., 1968, University of Kentucky  
J.D., 1970, University of Kentucky  
Initial Appointment Date: January 1, 2014





John Coleman  
B.A., 1986, Morehead State University  
J.D., 1992, Salmon P. Chase  
College of Law  
Initial Appointment Date: January 1, 1998



Chris Davis  
B.A., 1994, University of Kentucky  
J.D., 1998, University of Kentucky  
L.L.M., 2000, Loyola Chicago  
Initial Appointment Date: January 12, 2007



Douglas W. Gott  
B.A., 1987, Western Kentucky University  
J.D., 1991, University of Kentucky  
Initial Appointment Date: June 23, 2008



Stephanie Kinney  
B.S., 2003, University of Pikeville  
J.D., 2007, Appalachian School of Law  
Initial Appointment Date: January 1, 2015



Udell B. Levy  
 B.A., 1978, Washington University  
 J.D., 1981, University of Louisville  
 Initial Appointment Date: July 1, 2014  
 End of Term: April 15, 2016



Jeanie O. Miller  
 B.A., 1976, University of Kentucky  
 M.P.A., 1981, University of Kentucky  
 J.D., 1984, University of Kentucky  
 Initial Appointment Date: January 1, 2010



Thomas Polites  
 B.S. 1981 Tulane University  
 J.D. 1987 Salmon P. Chase College of Law  
 Initial Appointment Date: July 15, 2012  
 End of Term: July 14, 2016

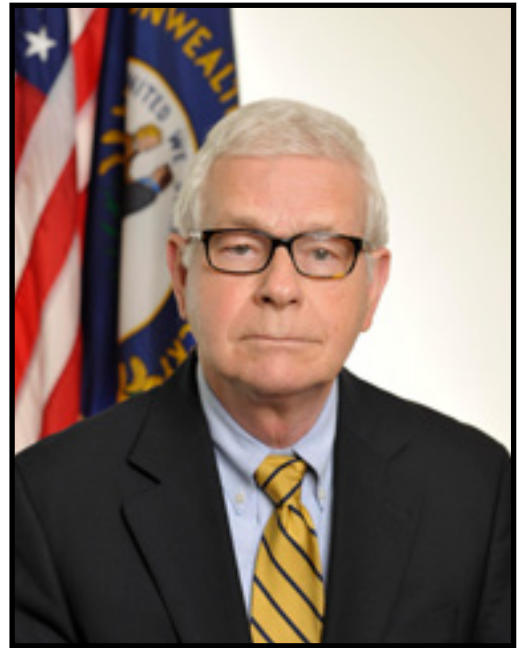


Tanya Pullin  
 B.S., 1980, University of Kentucky  
 M.A., 1985, Duke University  
 J.D., 1986, University of Kentucky  
 1984 Certificate of International Law,  
 Law school at Uppsala University of Sweden  
 Initial Appointment Date: January 1, 2016





Grant Roark  
B.S., 1992, University of Kentucky  
J.D., 1995, University of Louisville  
Initial Appointment Date: February, 2004



William Rudloff  
A.B., 1961, Western Kentucky University  
J.D., 1965, Vanderbilt University  
Initial Appointment Date: January 1, 2012  
End of Term: December 31, 2015



Jonathan Weatherby  
B.A., 1995 Kentucky State University  
J.D., 1998 University of Kentucky  
Initial Appointment Date: January 1, 2012



Jane Rice Williams  
B.A. 1992 University of Kentucky  
J.D. 1995 Salmon P. Chase, College of Law  
Initial Appointment Date: July 15, 2012



Otto Daniel Wolff IV  
B.A., 1970, University of Cincinnati  
J.D. 1974, University of Cincinnati  
Initial Appointment Date: July 15, 2008  
End of Term: July 14, 2016

# Administrative Law Judge Activity

Under the guidance and supervision of the Chief Administrative Law Judge, the ALJs oversee the adjudication of litigated claims filed with the Department of Workers' Claims. The ALJs are required to conduct benefit review conferences and formal hearings in these claims. Thereafter, they are required to issue decisions within 60 days of the hearing. Decisions must contain findings of fact and rulings of law and are subject to appeal to the Workers' Compensation Board, Court of Appeals and Supreme Court.

Benefit review conferences and hearings are held at 10 hearing sites in Kentucky, maintained by the Department of Workers' Claims. In January 2012, the number of active hearing sites was reduced to 10. Currently, hearing sites are located in Bowling Green, Florence, Frankfort, Hazard, Lexington, London, Louisville, Owensboro, Paducah and Pikeville.

During the past fiscal year, the ALJs conducted 4,257 benefit review conferences. This conference is an informal meeting for the parties to define and narrow the issues of the claim, discuss settlement options and consider other relevant matters that may aid in the resolution of the claim. A substantial number of these cases were settled; formal hearings were held in the remainder. The ALJs conducted 1,740 formal hearings and issued 2,412 opinions. The ALJs also participated in two training sessions and attended and/or made presentations to various seminars and groups on workers' compensation topics.

## **The Agreements Section**

Effective November 16, 2014, the Agreements Section came under the responsibility of the Chief Administrative Law Judge's Office. This section processes and records all settlement/Form 110s received by the Department. Pre-litigation agreements are reviewed by the Agreements staff for accuracy/completeness and approved by the Chief Administrative Law Judge if they meet the statutory/regulatory requirements. In FY 2015-2016, 3,715 agreements were received for approval by the Chief Administrative Law Judge. Of those, 3,313 were approved. The remaining deficient agreements were returned to the parties for corrections.

Motions to substitute party (widow's benefits) are also handled by the Agreement's Section. A total of 103 motions for widow benefits were received and processed. Seventy were approved by the Chief Administrative Law Judge in this fiscal year.

# Summary of FY 2015-2016 Published Kentucky Supreme Court Workers' Compensation Cases

## **Livingood V. Transfreight, LLC 467 S.W.3d 249 (Ky. 2015)**

### **Subject: Two Multiplier**

The Court overruled Chrysalis House, Inc. v. Tackett, 283 S.W.3d 671 (Ky. 2009), holding the reason for cessation of work at the same or greater wage under KRS 342.730(1)(c)2 does not have to relate to the work-related disabling injury. The only exception is if the employee's conduct is shown to have been intentional, deliberate action with disregard of the consequences either to himself or to another.

## **Garrard County Fiscal Court V. Camps, 469 S.W.3d 409 (Ky. 2015)**

### **Subject: Concurrent Employers/AWW**

Where claimant had ceased working for a concurrent employer prior to the subject work injury, she was no longer under a contract of hire with that employer or concurrently employed and her wages from that employer could not be included in the calculation of her AWW.

## **Consol V. Goodgame, 479 S.W.3d 78 (Ky. 2015)**

### **Subject: Statute of Limitations/Statute of Repose**

The Court overruled Manalapan Mining Co. v. Lunsford, 204 S.W.3d 601 (Ky. 2006), holding the repose aspect of KRS 342.185(1) begins to run on the date the statute of limitations begins to run – the date a claimant is informed of a work-related cumulative trauma injury. For single traumatic events, the running of both periods begins on the date of the accident.

## **Kingery V. Sumitomo, 481 S.W.3d 492 (Ky. 2015)**

### **Subject: Medical Fee Dispute**

Where employee introduced no medical evidence regarding the causation/work-relatedness of contested medications, the ALJ could not rely on the claimant's testimony regarding the cause of her pain.

## **Hale V. CDR Operations Inc., 474 S.W.3d 129 (Ky. 2015)**

### **Subject: Apportionment of Liability**

In a cumulative trauma injury, the last date of injury controls an employer's obligation and the last employer where the injury manifests is responsible for payment of the claim arising from the injury.

# Summary of FY 2015-2016 Published Kentucky Supreme Court Workers' Compensation Cases

## **Trane V. Tipton, 481 S.W.3d 800 (Ky. 2016)**

### **Subject: TTD**

Absent extraordinary circumstances, an award of TTD benefits is inappropriate if the injured employee has been released to return to customary employment for which she has the experience, training, and education, and the employee has actually returned to employment.

## **Hampton V. Flavo Rich, 2016 WL 671726 --- S.W.3d ---- (Ky. 2016)**

### **Subject: Finality of Board Decisions**

The test for determining whether a workers' compensation decision is final and appealable is if it divests a party of a vested right by setting aside an ALJ's award or by authorizing or requiring the entry of a different award on remand.

## **Fuertes V. Ford, 481 S.W.3d 808 (Ky. 2016)**

### **Subject: Two Multiplier**

The burden of proof is on the employer to prove that the claimant committed the type of misconduct which would bar application of the two multiplier.

## **Rahla V. Medical Center at Bowling Green, 483 S.W.3d 360 (Ky. 2016)**

### **Subject: Condition Precedent to Employment**

Where claimant was injured in a pre-employment physical, she was not acting in the service of the potential employer since the examination was not work in the furtherance of the business and there was no situation in which she could receive pay for performing the physical examination.





# Claims Processing & Appeals

The Division of Claims Processing and Appeals provides support to the Administrative Law Judges and the Workers' Compensation Board. The key responsibilities of this Division include timely processing of Applications for Resolution of Claim Injury (Form 101), Occupational Disease (Form 102 and 102 CWP) and Hearing Loss (Form 103), and all appeals to the Workers' Compensation Board. All processing in the Division must adhere to strict timelines.

Once the Applications for Resolution of Claim are filed with the Department, the claims are prepared, sorted into regions based on the county of residence of the plaintiff and assigned to an Administrative Law Judge. When the claims are ready to be scheduled, it is this division's responsibility to ensure that all parties are notified the claim has been assigned to an Administrative Law Judge and scheduled for a Benefit Review Conference.



# Claims Branch

The Division of Claims Processing and Appeals is not only the beginning point for these claims, but also for the many transactions that must occur on the claim's path to resolution, as well as the resting place of the resolved claims. The Division includes four sections: Claims Review Section, Claims Assignment Section, and Appeals Section. Each of these sections serves a critical function in the life of a claim. The following includes section activity for the fiscal year 2015-2016, accompanied by a brief narrative of each section's duties and responsibilities.

**The Claims Review Section** focuses on routing and the processing of an Application for Resolution. This section reviews the claim for required elements, assembles the file, enters claim information such as parties and addresses into the Department's database, assigns a claim number and researches insurance coverage through the Department's insurance database. In fiscal year 2015-2016, there were 5,156 new claims filed including 3,816 Applications for Resolution of Injury (Form 101), 729 Occupational Disease (Form 102, 102-CWP) and 611 Hearing Loss (Form 103). Of the 729 Occupational Disease Applications, 676 were coal workers' pneumoconiosis applications.



**The Claims Assignment Section** responsibilities begin with the assignment of new claims, older claims that have been reopened by order of the Chief Administrative Law Judge and medical disputes. Other duties include: routing motions on claims prior to assignment to an Administrative Law Judge; scheduling court reporters and reserving hearing sites; serving as x-ray and exhibit custodians; and auditing resolved claims to confirm all information is contained in the electronic file before the physical file is purged. This fiscal year, 4,323 new and 70 reopened/motion docket claims were assigned to the Administrative Law Judges and scheduled for a benefit review conference. The Section audited and purged 4,621 physical files by the end of FY 2015-2016.



**The Appeals Section** is the other major area of concentration within this division. The final awards, orders and decisions from the Administrative Law Judges appealed must pass through this section to verify timeliness of filings, completeness of records, indexing, scheduling and ensuring compliance with the Administrative Regulations - all in preparation for the Workers' Compensation Board's (WCB) review and judgement. Motions are tracked daily and a docket prepared weekly. In the event the decision of the WCB is appealed, section staff shall, upon request, ready and certify the files for review by the Court of Appeals and, in some cases, the Supreme Court.

The Appeals Section processed 251 appeals to the WCB this fiscal year. A total of 479 motions were submitted for the Board's consideration during weekly motion dockets. The WCB rendered 206 opinions with Chairman Michael Alvey authoring 73 opinions, Board Member Franklin Stivers authoring 71 opinions and Board Member Rebekkah Rechter authoring 62 opinions. A total of 296 cases were completed by the WCB during this fiscal year, either by opinion or final order.

Fifty-three petitions for review were filed with the Kentucky Court of Appeals, and 57 records were requested by the Court. Appeals Section staff prepared, indexed and transferred the requested records to the Court of Appeals, with 60 opinions and 7 final orders being issued. Additionally, there were 32 appeals to the Kentucky Supreme Court, with the Court rendering 42 opinions and 3 final order during the fiscal year.



# Information and Research

The duties of the Division of Information and Research include collection, storage and retrieval of data and the dissemination of information. The Division of Information and Research is organized into two branches, Records and Imaging. The Records Branch is primarily responsible for data entry, Electronic Data Interchange (EDI) Claims, EDI Proof of Coverage, publications, and maintaining/updating the agency website. The duties of the Imaging Branch consist of imaging and verifying all hard copy documents as well as indexing them into the DWC's integrated information and optical image system. The Imaging Branch also responds to requests for claim and first report information as well as production of records in response to open records requests.



# Records Branch

**The Records Branch** is a fundamental part of the Department of Workers' Claims (DWC) and is divided into four sections: Data Entry, Electronic Data Interchange (EDI) Claims, EDI Proof of Coverage and the Research Section. These sections combine to ensure reliability, accuracy and integrity within the data that is submitted to the DWC.

**The Data Entry Section** receives and processes incoming mail both electronically for the new Litigation Management System (LMS) and the paper document to be routed to the appropriate Administrative Law Judge (ALJ). The documents are scanned into different categories for the Data Entry section to index to the appropriate claim number.

The Data Entry section still receives the majority of the documents filed with the Department. The Data Entry staff is charged with analyzing some orders not issued through LMS. The opinions prepared by the Administrative Law Judges (ALJ's) and pleadings filed by attorneys are still processed thru this section. By electronic indexing, the staff updates the database with the proper status codes to ensure the claim is in the proper disposition as these status codes are used by department personnel to ensure quality assistance to claimants, attorneys, employers and carriers. During this reporting period, the Data Entry Section received and/or indexed 90,978 pieces of mail, 27,647 orders and 1,690 awards from the ALJ's as well as 1,198 docket orders.

Each document received in the Section receives personal attention to ensure data quality. The Medical Dispute Program that began in 2013 to expedite medical disputes continues. The Data Entry Section continues processing the documents for this program. During this reporting period, the Data Entry Section received and/or indexed 5,668 orders and opinions for the medical dispute program.



**The Electronic Data Interchange (EDI) Claims** system is used by carriers and self-insured employers to report data electronically. The EDI Section is responsible for communicating daily with vendors, carriers and third party administrators to explain correct procedures and give directives to file first reports and subsequent reports correctly and timely. The EDI Section audits these reports daily for discrepancies. DWC does testing for new system designs to make the DWC system more efficient, and has a goal to collect the most accurate information for statistical purposes. The EDI Section is continually doing data cleanup and taking requests from internal sections requesting changes from the carrier and TPA's for required updates to data. The Section assigns Coverage/Location ID's to each first report that comes in daily requiring an extensive knowledge of the POC database.

The Kentucky DWC utilizes the IAIABC standard, EDI Claims Release 3.0. EDI information is used for tracking purposes and as system triggers for the issuance of statute of limitations letters based on the date of injury, last receipt of temporary total disability benefits or date of death, whichever is pertinent per transmission. Information compiled by this section is utilized by the Department as the claim progresses throughout the adjudication process. During this fiscal year, the EDI Section received \*42,733 first reports through the EDI system. EDI numbers include 00s (Original), 04s (Denials) and AUs (Acquired) prior to manual rejections (for inaccurately reported information such as 'unknown').

The Proof of Coverage (POC) Section of the Department of Workers' Claims is charged with receiving and maintaining workers' compensation coverage filings for employers doing business in the State of Kentucky. Section staff maintain historical policy information going back over 50 years. This section received 549,223 POC transactions this fiscal year, with an average acceptance rate of 88%. The database is used by employers, employees, attorneys, the Claims and Enforcement Section of the DWC, and numerous other state and federal agencies. Our overall goal is to maintain a database that reflects correct workers' compensation information that can be utilized by the various individuals and organizations that rely on this data. This is achieved by daily monitoring of incoming transactions as well as daily "clean up" of erroneous files in the database. At present, this section operates with a staff of 2 employees. The POC Section continues to strive to not only maintain a small workforce, but also improve the integrity of the workers' compensation database. The email notification system for cancellations and delete locations for users to access is in place and can be accessed by anyone. The notification system can be found on the front page of the DWC's website.

\*This reflects section activity, not database statistics.

**The Research Section** collects, reviews and compares information pertinent to workers' compensation and the Kentucky Department of Workers' Claims.

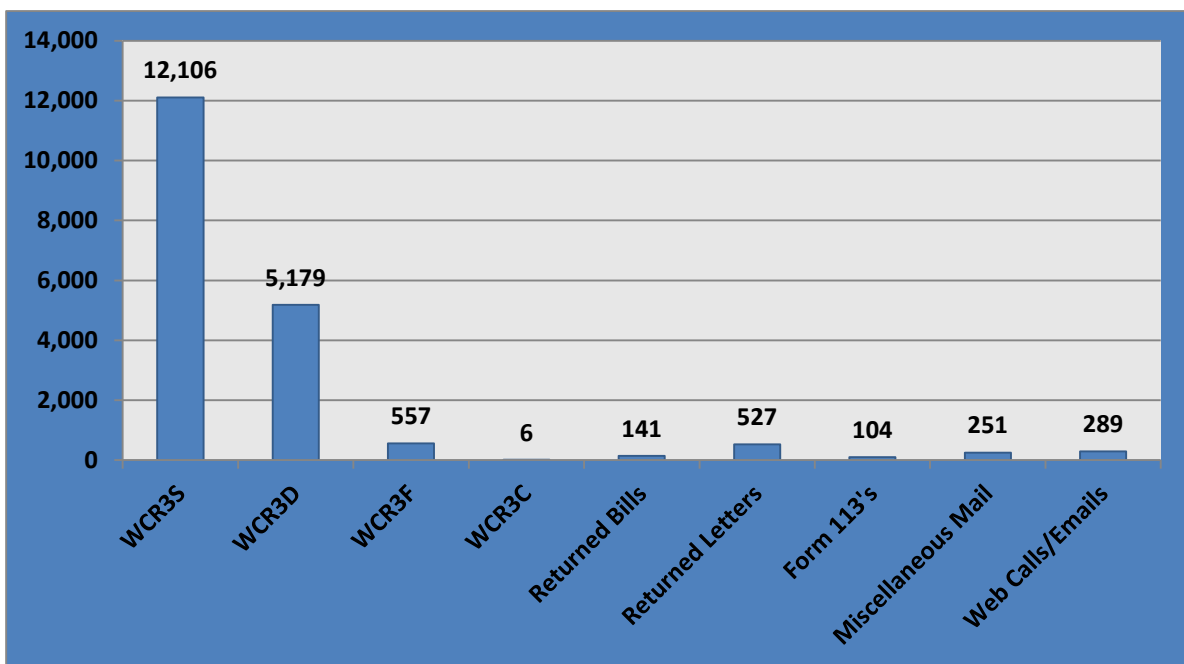
The Department of Workers' Claims Annual Report, the Link (Quarterly Activity Report) and the Workers' Compensation Guidebook are a few examples of the publications designed and developed by the Research staff. All of the current publications are being printed in black and white and bound in-house on an as-needed basis in an effort to be cost-efficient. The agency publications are essential to providing constituents and the general public with the knowledge necessary to understand and utilize the workers' compensation system.

The Research Section maintains and manages the agency web site. Research staff serve as webmaster for inquiries from the web site and provide the requestor with information, answers to their questions or forwards the request to appropriate personnel for response.



During this time period, the Research staff processed statute letters (WC letters) and returned mail. WC letters are sent out for a variety of reasons: benefits terminated, untimely filing, denials and fatality letters. The mail totals for this fiscal year are outlined in the following chart.

## Distribution of Mail - Research Section



WCR3S-Suspension of benefits  
WCR3D-Denials  
WCR3F-Fatality  
WCR3C-Cancellation



# The Imaging Branch

The Imaging Branch is comprised of two sections, Scanning and Open Records. It is the responsibility of this branch to input, maintain and disseminate claim litigation information for reference and adjudication by agency staff as well as constituents of the Commonwealth.

The Imaging Section is responsible for scanning and exporting all hard-copy claims and first report documentation into the agency's Litigation Management System, the Department of Workers' Claims storage medium. The documents are verified for correctness via SharePoint prior to being approved for export for further processing by DWC staff. The LMS application is utilized throughout the agency and functions as a source of reference and method of reproduction. This fiscal year 1,934,820 pages were scanned. Micrographics equipment is located within the Imaging Branch and is available for use by agency staff as well as the general public by appointment for retrieval of archival information.





**The Open Records Section** responds to requests for claim and first report information pursuant to KRS 61.872(2). Sources of requests include attorneys, insurance carriers, employers and federal and state agencies.

As a service to prospective employers, the Open Records Section provides, upon request, work history reports. These reports provide brief details concerning any injuries that potential employees have sustained subsequent to 1982. This requires pre-payment in the amount of \$2.00 for each report requested. In fiscal year 2015-2016, the number of pre-employment requests totaled 6,464.

Due to circumstances outside of our control, the online portal was turned off on August 31, 2015. Paper or fax requests continue as usual. For fiscal year 2015-2016, Open Records processed 9,341 written requests and received \$161,194.38 for requested materials. During this same time period, Open Records processed 665 on-line requests and received \$6,246.04.



# Security & Compliance

The focus the Division of Security and Compliance is to assure that workers' compensation benefits are available to employees in Kentucky by ensuring employers have obtained and maintained the required insurance coverage or have met their duties as employers authorized to self-insure their compensation liabilities. The Division is comprised of two branches, the **Security Branch** and the **Compliance Branch**.

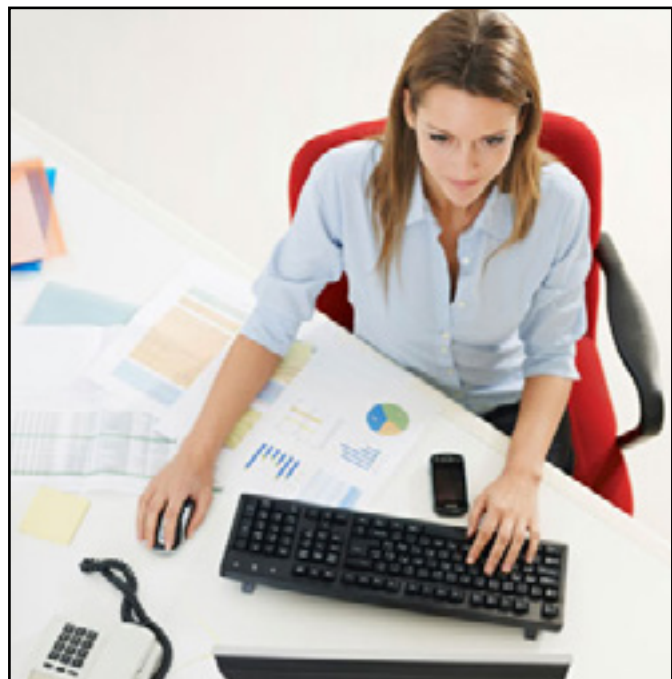


## Security Branch

Currently there are 108 Kentucky employers that are self-insured and approximately 353 companies that were self-insured in the past. The Self-Insurance Branch regulates individual self-insured employers by examining financial statements, claim data, and monitoring overall financial status of current and former self-insured employers. As part of this process this fiscal year, staff reviewed 116 financial statements. The examinations also include an assessment of the adequacy of claim reserves and reserving practices. The Branch gathers data, provides analysis and, when requested, makes recommendations to the Commissioner regarding the amount and acceptability of the security an employer is required to deposit in order to assure payment of workers' compensation benefits. The Branch also uses this data to establish simulated premium assessments pursuant to 803 KAR 25:021. The DWC currently maintains \$1.3 billion in security to assure payment of workers' compensation benefits.

Companies that have left self-insurance status may request a reduction in the amount of security the Branch is holding after a period of time has passed since they left self-insurance status. The Branch will request updated loss data and audited financial statements. The Self-Insurance Branch then conducts a review to determine what will be an adequate amount of security to pay for any future workers' compensation liabilities. During this fiscal year, 21 such reviews were conducted for former self-insured companies.

When a self-insured employer fails to meet its obligations, the Branch calls the security deposited by the employer and represents the Department in any legal action required to obtain the security proceeds. The Branch also represents the Department when a self-insured employer is alleged it has been aggrieved by an action of the Commissioner, including the Commissioner's determination of the amount of security required to be deposited to assure payment of workers' compensation benefits.



# Compliance Branch

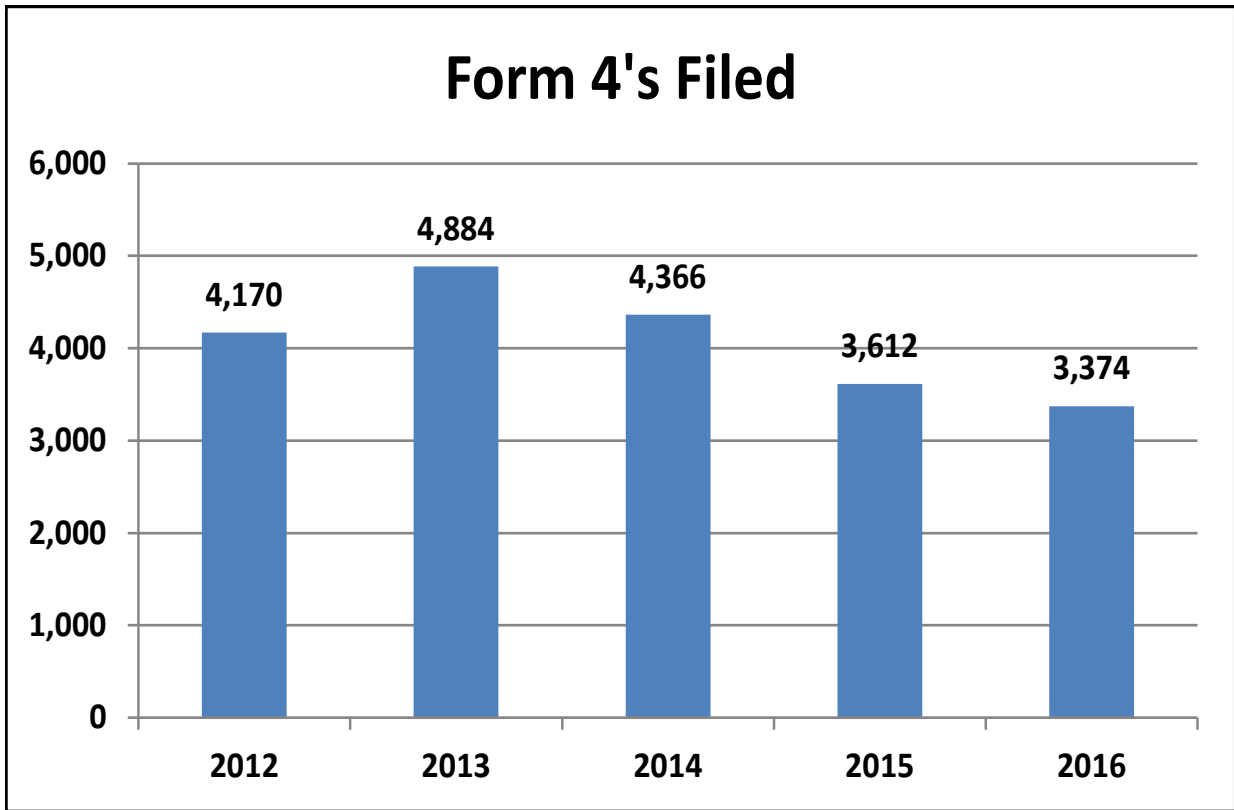
This branch consists of two sections. They are the Administrative Processing Section and the Enforcement Section. Each is distinct in purpose, but compliance with the Act is their joint mission.

**The Administrative Processing Section** provides general support services to the Branch. Specific duties include issuing certifications of coverage to Administrative Law Judges, private attorneys, and for open record requests. The Section issued 263 certifications of coverage this year. The Section also registers Professional Employer Organizations (PEOs). A PEO is also known as an employee leasing company. Files on 420 currently registered Professional Employer Organizations are maintained by the Section. Of those, 201 are active PEOs with 1,895 Kentucky clients. The Section received 7,048 PEO insurance coverage transactions during the fiscal year, accepting 6,501 for filing.

Processing mining and mining-related insurance coverage is completed daily by the Section. There were a total of 3,514 coal insurance coverage transactions submitted, with 3,259 manually processed and accepted. It also prepared 307 certifications of coal-mining risks and a daily notice of insurance cancellations to the Kentucky Office of Mine Safety and Licensing.

“Split Coverage/Wrap-up” filings for employers with owner or contractor controlled insurance programs (“OCIPs” or “CCIPs”) must be approved. Kentucky statutes require that every policy cover the entire liability of the employer (KRS 342.375). The statute permits the Commissioner to authorize a separate policy for specific locations; commonly called Split Coverage/Wrap-ups/OCIPs or CCIPs depending on how they are structured. The employer must submit application to this section for review providing project description, proposed project budget, and estimated dates of project. Upon approval by the Commissioner, the contractor must provide a list of enrolled subcontractors and policy numbers for the project. The Section received 3,462 insurance coverage transactions involving multiple coverage locations for Spilt Coverage/Wrap-ups/OCIPs or CCIPs. Of those, 3,134 were accepted for filing.

The Section maintains and files the Employee’s Written Notice of Rejection of the Workers’ Compensation Act (Form 4) that is properly submitted to the agency. Filing a properly completed and notarized Form 4 permits an employee to waive the right to protection under the Kentucky Workers’ Compensation Act. The right to workers’ compensation benefits is forfeited. It is recommended that options and consequences be carefully weighed prior to submitting a rejection by seeking legal advice from an attorney. In Fiscal Year 2015-2016, the Branch received and processed 3,374 Form 4s. The chart below indicates the filing trend for the past five years has been consistent.



Form 4-Rejection of Coverage under the Workers' Compensation Act.



The Enforcement Section’s primary function is to ensure compliance of employers subject to the Workers’ Compensation Act. This is achieved, primarily, through the investigation efforts of its 11 investigators and section supervisor. Those investigators research leads generated by branch staff and also conduct random on-site inspections of employers. Investigators also respond to referrals submitted from the public by telephone and on-line through the DWC web site. Referrals from the Attorney General’s Office Uninsured Employer Fund (UEF) are investigated for compliance when injury claims are filed. The Branch also encourages timely compliance through educational initiatives.

Investigators cover each of Kentucky’s 120 counties from field offices located throughout the state. Investigators record each employer contact onto a tablet computer and electronically transmit the reports to the Frankfort office. Non-compliant employers are subject to citation and civil penalty by the Commissioner. Investigations, citations, and penalties are logged and processed through our legal tracking database by branch staff. All penalties are forwarded to the Kentucky Workers’ Compensation Funding Commission (KWCF) in accordance with statute. The collected penalties are held for employees of self-insured employers injured before Guaranty funds were established and the security funds are insufficient.

During this fiscal year, the Branch’s investigators conducted 9,146 on-site investigations of Kentucky employers. As a result, the Commissioner issued 680 citations to non-complying employers for failure to maintain Kentucky workers’ compensation insurance. The Branch processed \$1,373,281.11 in penalties. This includes penalties paid in full to the Branch and collections received from contested citations by our Legal Division. For comparative purposes, the following chart illustrates the number of investigations and citations issued to non-complying employers during the previous five years.

### Investigation Analysis For Fiscal Years

	FY2012	FY2013	FY2014	FY2015	FY2016
Number of Investigations	9,574	9,842	9,700	7,913	9,146
Number of Citations	772	848	781	844	680
Penalties Collected	1,360,663.48	1,079,945.42	1,818,399.32	1,490,964.58	1,373,281.11

\*This includes penalties paid in full to Compliance and settlements collected by DWC Legal Division for processing and forwarding to KWCF.

# Division of Ombudsman & Workers' Compensation Specialist Services



Services provided by the Division of Ombudsman, Workers' Compensation Specialists and Medical Services/Cost Containment personnel are a vital component to the delivery of quality, timely medical services and assistance to workers injured in the workplace and their families.



## Medical Services Branch

The Medical Services Branch has seven (7) main tasks that relate to the mission of the Department of Workers' Claims (DWC). Those tasks are: **(1) Certification of Managed Care Organization's Plans** which encompasses physician certification (AMA licensed); proper legal documentation for the managed care provider (provider contracts, etc.); compliance with Kentucky Revised Statutes (KRS) regarding grievance rights and procedures for claimants and providers; **(2) Utilization Review (UR) Certification** which assists in determining necessary and appropriate medical care for claimants; **(3) Medical Bill Audit (MBA)** which is to assure compliance with adopted fee schedules; **(4) Hospital Fee Schedule** pursuant to 803 KAR 25:091 and the latest cost report (HCFA-2552) which is supplied by the Cabinet for Health and Family Services; **(5) Pharmacy Fee Schedule** pursuant to 803 KAR 25:092 which mandates using the average wholesale price; **(6) Physician Fee Schedule** pursuant to 803 KAR 25:089 and medical related data supplied by Fair Health Inc. which is an independent non-profit organization that supplies medical billing data; **(7) University Evaluations** whereby Medical Services personnel schedule appointments for Pneumoconiosis (Black Lung) Hearing Loss and Occupational Disease claimants at University of Kentucky and University of Louisville Medical Centers, Commonwealth Respiratory Consultants, University of Louisville Pulmonary Clinic and Coal Miners Respiratory Clinic (Muhlenberg Community Hospital).

Currently, there are thirty five (35) Managed Care Organizations (MCO) that are certified by DWC and sixty one (61) UR/MBA plans that are DWC certified.

The Managed Care Plans (MCP) that are operational in Kentucky (FY 2015-2016) covered **6,402** employers and **858,555** employees. The percentage of workers covered by a MCP was **52%**.

For Fiscal Year 2015-2016, there were **1,847,938** Kentucky Jobs and **959,826** Covered Lives under Managed Care and other plans.

\*In FY 2014-2015; Kentucky Jobs: 1,960,690; Covered Lives: 990,951; 50% under Managed Care Plans.

### Certifications

Managed Care Plans  
**35**  
(2 year certification cycle)

Utilization Review/Medical Bill Audit Plans  
**61**  
(4 year certification cycle)

The Hospital Fee Schedule (cost-to-charge ratio) governs the reimbursement for hospital charges in workers' compensation claims and these ratios are modified April 1st each year. The Department of Workers' Claims promulgated the cost-to-charge for **111** in-state hospitals and **243** out-of-state hospitals during FY 2015-2016. Out-of-state hospitals, by regulation are reimbursed in the same manner as Kentucky hospitals.

**University Evaluations  
Hearing Loss**

University of Kentucky  
Hearing Loss Claims Received  
**234 + 1 (other injury)**

University of Louisville  
Hearing Loss Claims Received  
**368 + 8 (other injury)**

**Coal Workers Pneumoconiosis (CWP)  
(Black Lung)**

Commonwealth Respiratory Consultants  
Claims Referred for Evaluations  
**213**

Owensboro Health/Muhlenberg Community Hospital  
Claims Referred for Evaluations  
**259**

University of Louisville Pulmonary Clinic  
Claims Referred for Evaluation  
**62**

Medical Service personnel make and coordinate these evaluation appointments for miners with CWP.

During Fiscal Year 2015-2016, there were **1,116** claims that were referred for university evaluations.

**Workers' Compensation Specialists  
(KRS 342.329)**

**The Workers' Compensation (WC) Specialists Branch** is tasked with providing assistance to claimants, attorneys, medical providers, employers, family members of claimants and Administrative Law Judges (ALJ).

Individuals seeking assistance may call, toll free, **1-800-554-8601**. Additional information may be found on the Department of Workers' Claims web site: **[www.labor.ky.gov/workersclaims](http://www.labor.ky.gov/workersclaims)**.

WC Specialists provide intervention service (i.e. assist with resolving issues between claimants, insurance adjusters and medical provided) on issue(s) that might otherwise have to be resolved by an Administrative Law Judge. The specialists are supervised by two (2) attorneys, the Chief Specialist and a Staff Attorney.

The other entities within the WC Specialists Branch are: **Drug Free Workplace Certification Program (803 KAR 25:280); Vocational Rehabilitation Program (KRS 342.710); Retraining Incentive Benefits (RIB) Program (803 KAR 25:120); and Workplace Fatality Reporting.**

**Requests Received**

New Request <b>10,656</b>	Requests from Claimants <b>4,659</b>
Request from Attorneys: <b>1,481</b>	Request from Employers <b>560</b>
Request from Medical Providers <b>765</b>	Request from Government Official <b>275</b>
Request from Widow/Widower <b>111</b>	Request from Family Member <b>720</b>

The balance of requests received come from Carriers, Medical Reviews, Drug Free, and Other. **1,896**

## **Assistance Type**

Claim Status  
**3,568**

Rights and Procedures  
**3,465**

Coverage  
**502**

Medical Fee Dispute  
**125**

Medical Fee Schedule  
**57**

First Report of Injury  
**87**

Additional assistance in this area concerns Managed Care, Utilization Review, Fraud, Unfair Claims, Form Request, Referrals to Outside Agencies, Other, Rehabilitation, Open Records and Referral to Inside Agencies: **2,813**

## **Drug Free Workplace**

This is a voluntary program which allows employers (private or governmental) to promote a workplace free from drugs. Employers must submit a drug free workplace plan, make application to DWC and upon satisfactory review will be certified by the Commissioner. Upon satisfactory completion of the process, the employer (private) may be eligible for a 5% reduction of their worker's compensation insurance premium pursuant to KRS 304.13-167(6).

New Plans Certified  
**16**

Plans Renewed  
**193**

## **Workplace Fatality Report\***

Tracks workplace fatalities (with assistance from OSHA) and pursuant to KRS 342.750(6), assists in securing payment of death benefits to the worker's estate.

Fatalities  
**115**

## Vocational Rehabilitation

KRS 342.710 permits retraining for those who are unable to perform work for which they have previous training or experience due to the effects of work-related injury. Evaluations are scheduled to determine aptitude, educational level and employment interest. The test results are provided to all parties and assistance is offered to the injured worker. Most injured workers complete the evaluation but do not request to complete the retraining process.

New Cases  
41



## **Retraining Incentive Benefits (RIB)**

This program dedicated to individuals who contract Coal Workers' Pneumoconiosis (Black Lung) and is designed to provide an alternative work environment. The program provides for attainment of a GED and other bona fide training and education programs for those who do not desire to or cannot reenter the coal mining profession.

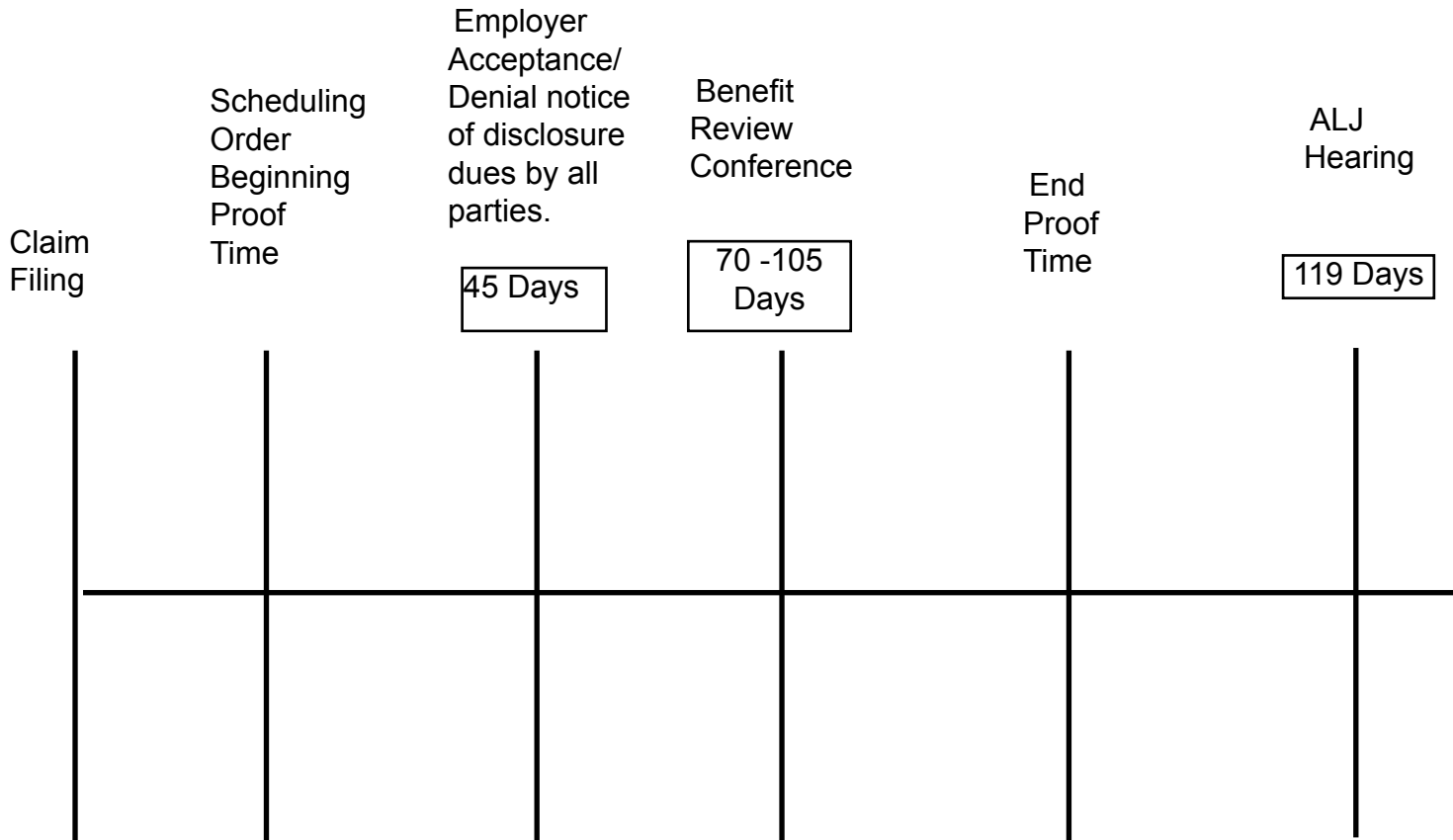
Program Participants

**28**





# Kentucky Workers' Adjudication



Claim filed/ issuance of notice that application for resolution of claim has been filed/ assignment to Administrative Law Judge and scheduling of the Benefit Review Conference including week of hearing will be scheduled.

Employer must file notice of claim denial or acceptance Form 111 within 45 days of the scheduling order. All parties file notice of disclosure.

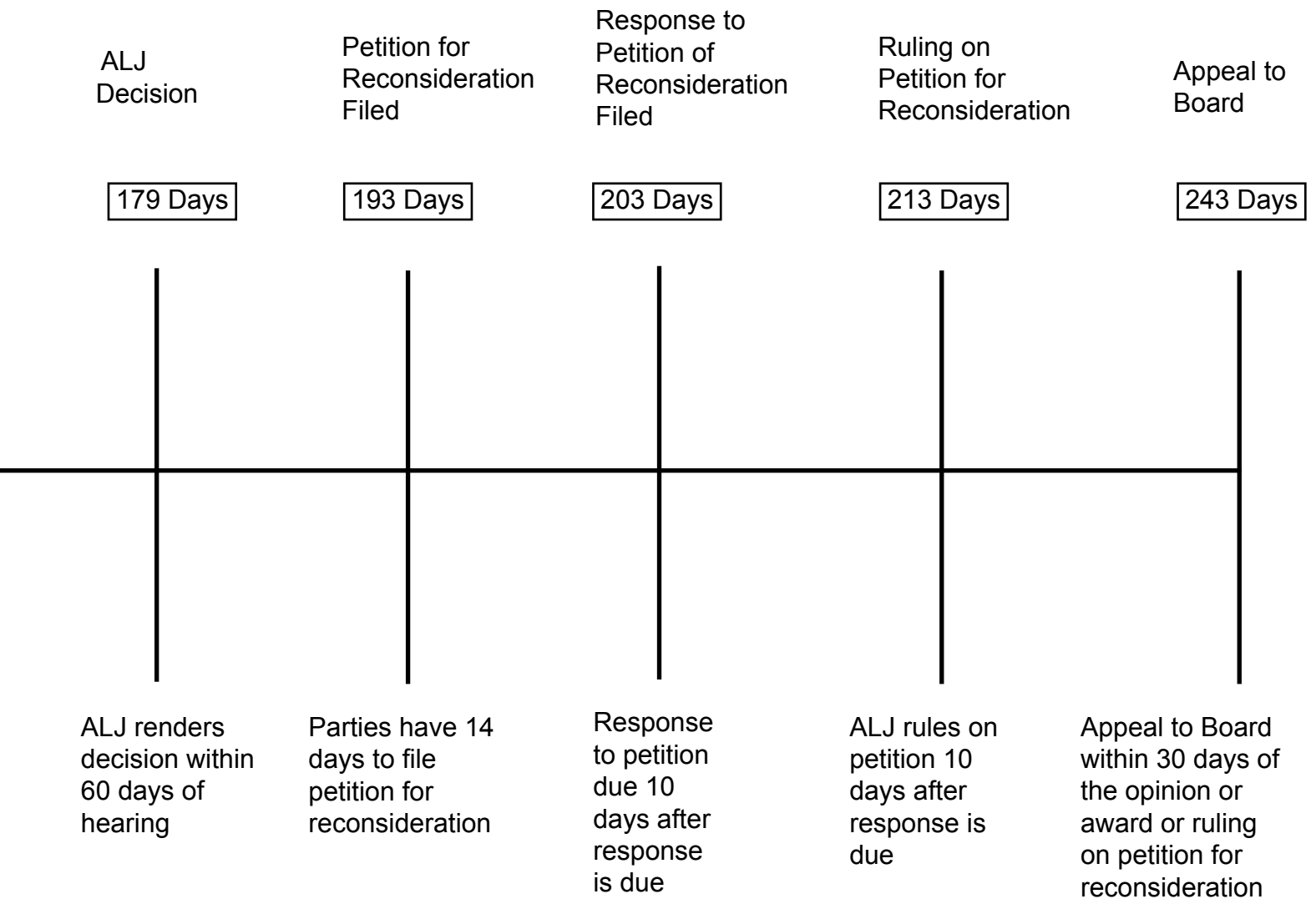
ALJ holds benefit review conference

End of proof taking and discovery period

Hearing, if needed before ALJ

All parties have 60 days to present proof, then the defendant has 30 days, finally the plaintiff has 15 days rebuttal (105 days total)

# Compensation Timeline



# SCHEDULE OF WEEKLY WORKERS' COMPENSATION BENEFITS

**TYPE OF DISABILITY  
SECTION OF STATUTE**

**FOR INJURIES OCCURRING**

	01-01-12 thru 12-31-12	01-01-13 thru 12-31-13	01-01-14 thru 12-31-14	01-01-15 thru 12-31-15	01-01-16 thru 12-31-16	01-01-17 thru 12-31-17
<b>APPLICABLE AVERAGE WEEKLY WAGE OF THE STATE</b>	<b>\$736.19</b> (2010)	<b>\$752.69</b> (2011)	<b>\$769.06</b> (2012)	<b>\$773.61</b> (2013)	<b>\$798.63</b> (2014)	<b>\$835.04</b> (2015)

**DEATH (KRS 342.750)**

a. Widow or widower with no children-50% of average weekly wage of deceased-subject to the following:						
<b>MAXIMUM</b>	\$368.11	\$376.36	\$384.55	\$386.83	\$399.34	\$417.55
<b>MINIMUM</b>	147.24	150.54	153.81	154.72	159.72	167.00
b. Widow or widower with children living in the home-45% of average weekly wage of deceased, plus 15% for each child-subject to the following:						
<b>MAXIMUM</b>	\$552.13	\$564.52	\$576.80	\$580.21	\$598.98	\$626.29
<b>MINIMUM</b>	147.24	150.54	153.81	154.72	159.72	167.00
c. Widow or widower with children <b>not</b> living in home-40% of average weekly wage of deceased, plus 15% for each child-subject to the following:						
<b>MAXIMUM</b>	\$552.13	\$564.52	\$575.80	\$580.21	\$598.98	\$626.29
<b>MINIMUM</b>	147.24	150.54	153.81	154.72	159.72	167.00
d. One child, <b>no</b> widow or widower-50% of average weekly wage of deceased-subject to the following:						
<b>MAXIMUM</b>	\$368.11	\$376.36	\$384.55	\$386.83	\$399.34	\$417.55
<b>MINIMUM</b>	147.24	150.54	153.81	154.72	159.72	167.00
d(1)More than one child, <b>no</b> widow or widower-50% of average weekly wage of deceased for the first child with an additional 15% of average weekly wage of deceased for each additional child-subject to the following:						
<b>MAXIMUM</b>	\$552.13	\$564.52	\$576.80	\$580.21	\$598.98	\$626.29
<b>MINIMUM</b>	147.24	150.54	153.81	154.72	159.72	167.00
e. Dependent parents-25% of average weekly wage of deceased to each parent-subject to the following:						
<b>MAXIMUM</b>	\$552.13	\$564.52	\$576.80	\$580.21	\$598.98	\$626.29
<b>MINIMUM</b>	147.24	150.54	153.81	154.72	159.72	167.00
f. Dependent brothers, sisters, grandparents and grandchildren-25% of average weekly wage of deceased to each dependent-subject to the following:						
<b>MAXIMUM</b>	\$552.13	\$564.52	\$576.80	\$580.21	\$598.98	\$626.29
<b>MINIMUM</b>	147.24	150.54	153.81	154.72	159.72	167.00

The above is subject to the maximum of 75% of the average weekly wage of the deceased.

# SCHEDULE OF WEEKLY WORKERS' COMPENSATION BENEFITS

**TYPE OF DISABILITY  
SECTION OF STATUTE**

**FOR INJURIES OCCURRING**

	01-01-12 thru 12-31-12	01-01-13 thru 12-31-13	01-01-14 thru 12-31-14	01-01-15 thru 12-31-15	01-01-16 thru 12-31-16	01-01-17 thru 12-31-17
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**LUMP SUM DEATH BENEFIT  
INCREASE KRS 342.750(6)**

	\$72,313.24	\$73,933.98	\$75,541.95	\$75,988.88	\$78,446.51	\$82,022.93
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**TEMPORARY AND PERMANENT  
TOTAL KRS 342.730(1)(a)**

66 2/3% of average weekly wage of employee-subject to the following:

<b>MAXIMUM</b>	\$736.19	\$752.69	\$769.06	\$773.61	\$798.63	\$835.04
<b>MINIMUM</b>	147.24	150.54	153.81	154.72	159.72	167.00

**RETRAINING INCENTIVE BENEFITS**

**KRS 342.732(1)(a)** 66 2/3% of average weekly wage of employee-subject to the following:

<b>MAXIMUM</b>	\$552.13	\$564.52	\$576.80	\$580.21	\$598.98	\$626.29
<b>MINIMUM</b>	NONE	NONE	NONE	NONE	NONE	NONE

**PERMANENT PARTIAL  
FOR INJURIES OCCURRING  
AFTER 12-11-96**

**KRS 342.730(1)(b), (1)(c)2,&(1)(d)**  
99% of 66 2/3% of average weekly wage of employee subject to the following:

<b>MAXIMUM</b>	\$552.13	\$564.52	\$576.80	\$580.21	\$598.98	\$626.29
<b>MINIMUM</b>	NONE	NONE	NONE	NONE	NONE	NONE

**PERMANENT PARTIAL  
FOR INJURIES OCCURRING  
AFTER 12-11-96**

**KRS 342.730(1)(c)1, & (1)(d)**  
When the employee does not retain physical capacity to return to type of work performed at time of injury- 99% of 66 2/3% of average weekly wage of employee subject to the following:

<b>MAXIMUM</b>	\$736.19	\$752.69	\$769.06	\$773.61	\$798.63	\$835.04
<b>MINIMUM</b>	NONE	NONE	NONE	NONE	NONE	NONE

## Key Personnel\*

Dwight T. Lovan, Commissioner (502) 782-4439  
William Emrick, Deputy Commissioner (502) 782-4482  
Robert L. Swisher, Chief Administrative Law Judge (502) 782-4535  
Charlie Lowther, General Counsel (502) 782-4464  
Derrick Hill, Technical Support Section (502) 782-4440  
Yvonne Creech, Design and Development Section (502) 782-4479  
Steve Mason, EDI Administrator (502) 782-4540

### **Division of Claims Processing & Appeals**

Marian Johnson, Director (502) 782-4418  
Connie Morris, Assistant Director (502) 782-4407  
Melissa Anderson, Appeals Section Supervisor (502) 782-4467

### **Division of Information & Research**

Vacant, Director  
Cam Lawson, Assistant Director (502) 782-4486  
Vacant, Imaging Branch Manager  
Deana Mitchell, Open Records (502) 782-4455  
Shane Searcy, EDI (502) 782-4468  
Terri Robinson, Data Entry Supervisor (502) 782-4402  
Kim McKenzie, Web Administrator (502) 782-4484

### **Division of Ombudsman & Medical Specialist Services**

Robert Milligan, Director (502) 782-4559  
John Mann, Attorney/Chief Specialist (502) 782-4532  
Pam Knight, Medical Cost Containment Supervisor (502) 782-4449  
Marilyn Chastain, Managed Care (502) 782-4539  
Tara Aziz, Vocational Rehabilitation & Drug Free Workplace Coordinator (502) 782-4555  
Toll Free Specialist Line (800) 554-8601

### **Division of Security and Compliance**

Scott Gasser, Director (502) 782-4534  
Dale Hamblin, Assistant Director (502) 782-4404  
Mike Watts, Self-Insurance Branch Manager (502) 782-4510  
Vacant, Compliance Branch Manager

### **DWC Fax Numbers:**

Commissioner's Office	(502) 564-5934	Claims	(502) 564-3792
Administrative Services	(502) 564-8250	Rehabilitation	(502) 564-5741
Ombuds & WC Specialist	(502) 564-9533	Security & Compliance	(502) 564-0916
Open Records/EDI	(502) 564-5732	WC Board Offices	(859) 246-2779
Medical Schedulers	(502) 564-5741		

\* at end of fiscal year

**No individual in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, be excluded from participation in, or denied benefits of, or be subjected to discrimination under any program or activity under the jurisdiction of the Kentucky Labor Cabinet.**

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

