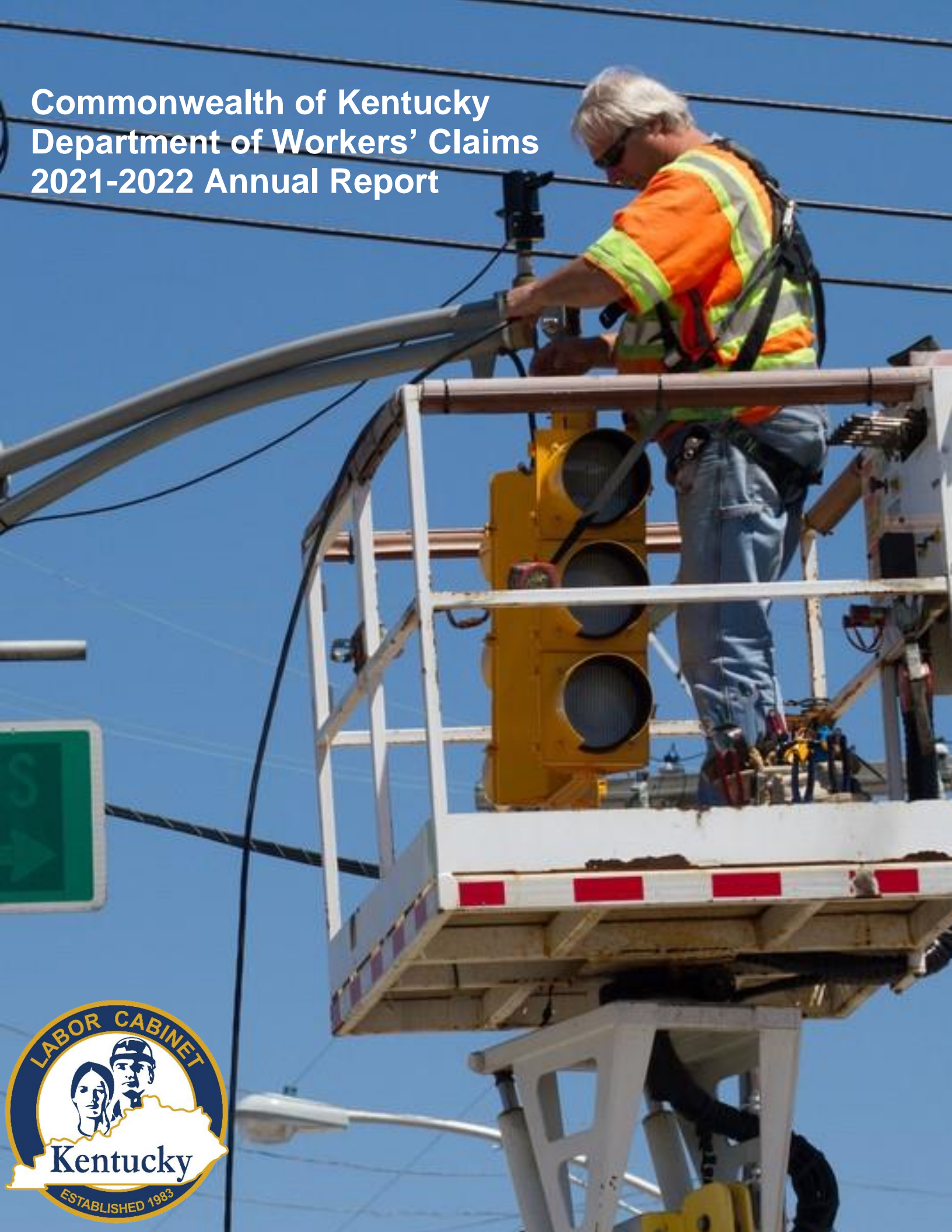


**Commonwealth of Kentucky
Department of Workers' Claims
2021-2022 Annual Report**



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

Mayo-Underwood Building
500 Mero Street, 3rd Floor
Frankfort, Kentucky 40601
(502) 564-5550

Website: <http://www.labor.ky.gov/comp>

COMMISSIONER
Scott C. Wilhoit

DEPUTY COMMISSIONER
Lucretia R. Johnson

CHAIRMAN, WORKERS' COMPENSATION BOARD
Michael W. Alvey

CHIEF ADMINISTRATIVE LAW JUDGE
Douglas W. Gott

DWC specialists may be contacted at the following number for information and assistance regarding workers' compensation issues:

Toll free 800-554-8601

| | |
|--|-----------|
| Commissioner's Letter to Governor Beshear | 5 |
| Department of Workers' Claims Organizational Chart | 7 |
| Program Statistics | 8 |
| First Reports of Injury (FROI) | 9 |
| Distribution of Lost Time Injuries by Industry Code | 10 |
| Workers' Compensation Claims | 11 |
| Distribution of Claims by Industry Code | 12 |
| Claims by Body Part | 13 |
| Comparison by County Labor Force, FROI's and Claims | 14 |
| Injuries to Minors | 17 |
| Work Related Fatalities | 18 |
| Fiscal Performance | 19 |
| DWC Personnel Ad Budget History | 20 |
| Programs and Performance | 21 |
| Office of Administrative Services | 22 |
| Forms | 23 |
| Workers' Claims Legal Division | 25 |
| Administrative Law Judges | 26 |
| Administrative Law Judge Activity | 27 |
| Summary of Kentucky Supreme Court WC Cases | 28 |
| Workers' Compensation Board | 34 |
| Appeals Section | 35 |
| Claims Processing Division | 36 |
| Records and Imaging Branch | 38 |
| EDI and POC | 39 |
| Security & Compliance | 41 |
| Security Branch | 42 |
| Compliance Branch | 43 |
| Enforcement Section | 45 |
| Division of Specialists and Medical Services | 46 |
| Medical Services Branch | 47 |
| Hospital Fee Schedule | 48 |
| Workers' Compensation Specialists | 49 |
| Drug Free Workplace | 50 |
| Retraining Incentive Benefits (RIB) | 51 |
| Division of Workers' Compensation Funds | 52 |
| Kentucky Workers' Compensation Adjudication Timeline | 53 |
| 2021 Schedule of Weekly Workers' Compensation Benefits | 55 |
| Key Personnel | 57 |

Table of Contents

Kentucky Department of Workers' Claims



Mission Statement:

The mission of DWC is 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.



Andy Beshear
GOVERNOR

**EDUCATION AND LABOR
CABINET**

Jamie Link
SECRETARY

Department of Workers' Claims
Scott Wilhoit
Commissioner
500 Mero Street, 3rd Floor
Frankfort, Kentucky 40601
(502) 564-5550

December 15, 2022

The Honorable Andy Beshear
Governor of Kentucky
Capitol Building
700 Capital Avenue, Suite 100
Frankfort, KY 40601

In accordance with KRS 342.230(1) and KRS 342.435, attached is the Fiscal Year 2021-2022 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.

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 public.

The DWC continues to leverage new and improved technologies to be more accessible and accountable to all stakeholders. The advancements at the department are attributable to dedicated employees concerned with the best interests of the employees and employers of the Commonwealth of Kentucky. Thank you for your interest and support for the Department of Workers' Claims during this fiscal year.

Yours very truly,

A handwritten signature in black ink, appearing to read "Scott Wilhoit".

Scott Wilhoit
Commissioner



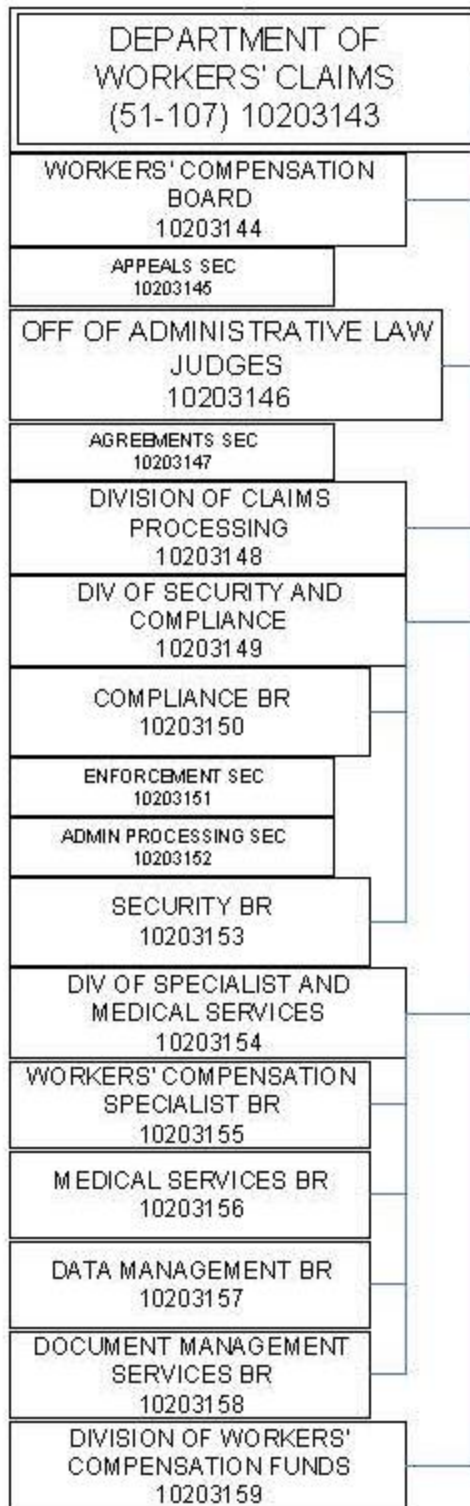
**Scott C. Wilhoit
Commissioner**

Scott C. Wilhoit graduated from the University of Kentucky with a bachelor's degree in Journalism in 1985. He then earned his Juris Doctorate from the University of Kentucky in 1989. Over the past 30 years, Scott has extensively practiced workers' compensation and civil litigation across the Commonwealth. He has litigated workers' compensation cases at all levels, including Administrative Hearings, Workers' Compensation Board, Kentucky Court of Appeals and the Kentucky Supreme Court. Scott is licensed to practice in Kentucky, Indiana, Eastern and Western Districts of United States District Courts and the United States Sixth Circuit Court of Appeals. He is a member of the Kentucky Bar Association. Scott resides in Louisville with his wife and three dogs. He is an active member with his church's community outreach programs.



**Lucretia R. Johnson
Deputy Commissioner**

Lucretia Reasons Johnson graduated from Murray State University with a bachelor's degree in Education. She has 28 years of experience in the Workers' Compensation arena and has been employed by the Department of Worker's Claims for 25 years as a Specialist, Director and most currently Deputy Commissioner. Lucretia is a Kentucky Certified Public Manager. She has served as a volunteer on numerous boards and currently serves as the co-chair of the Medical/Rehab Committee for the Southern Association of Workers' Compensation Administrators (SAWCA). She resides in Frankfort with her husband.



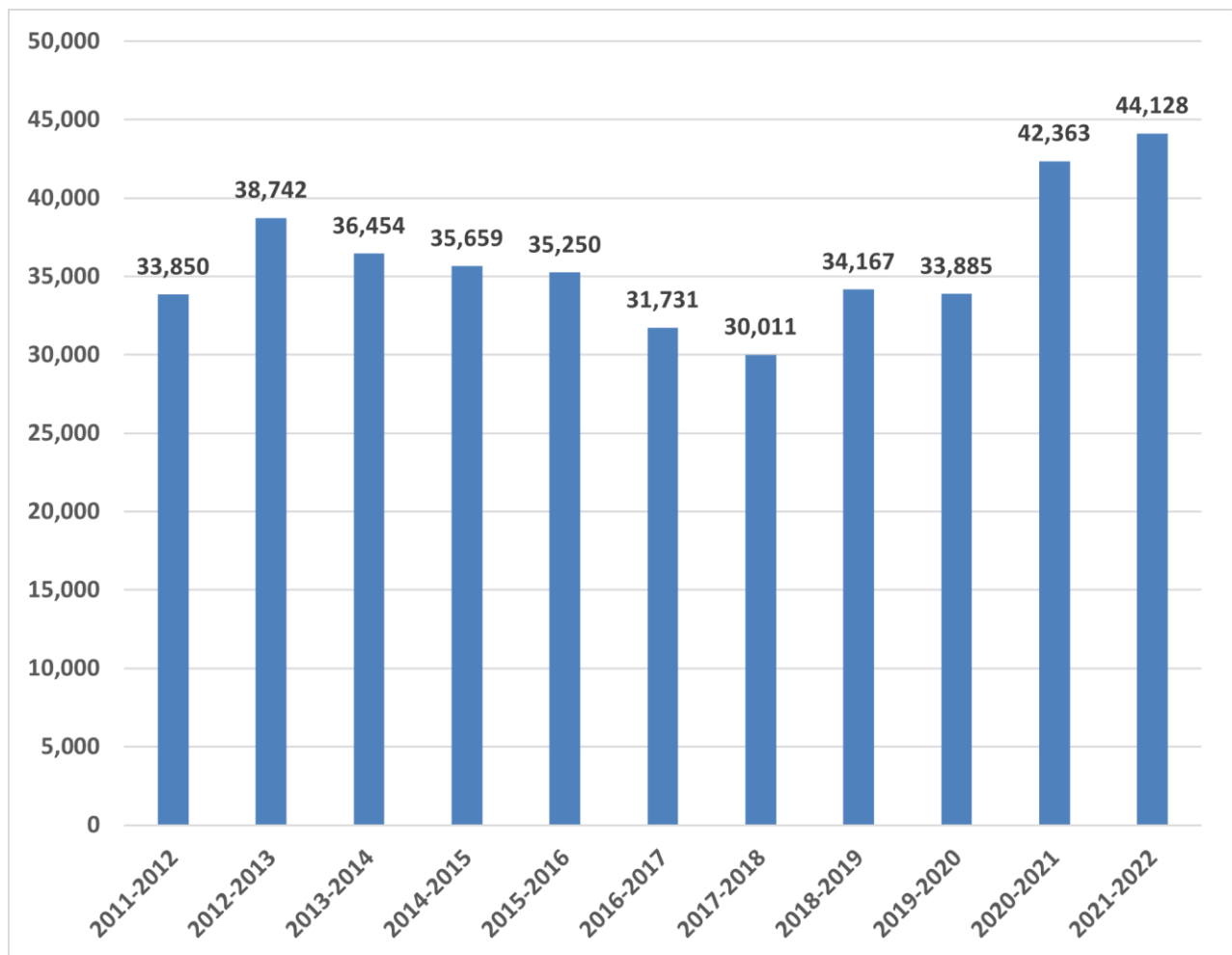
Program Statistics



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 fiscal year 2021-2022, there were 44,128 lost time First Reports of Injury (FROIs) filed with the Department. The three most common causes of work-related injuries reported were Pandemic (12,217), Strain/Injury by Lifting (2,900), and Falls or Slip on Same Level (1,979).



First Reports of Injury (FROIs) by Industrial Classification Category



A review of the nature of injuries revealed that there were 12,279 Covid and 7,854 strains reported. These two categories account for 45.6 percent of all reported injuries. Contusions were reported in 4,635 of the injuries.

Of the information reported, the Body Systems was most frequently injured (7,011). The second most common injury reported was to the Lungs (4,124) and third was Injury Multiple Body Parts (3,085).

FROIs By Nature Type

| | |
|------------------------------------|--------|
| Coal Workers' Pneumoconiosis (CWP) | 33 |
| Hearing Loss | 57 |
| Injury | 43,053 |
| Other Occupational Disease | 985 |

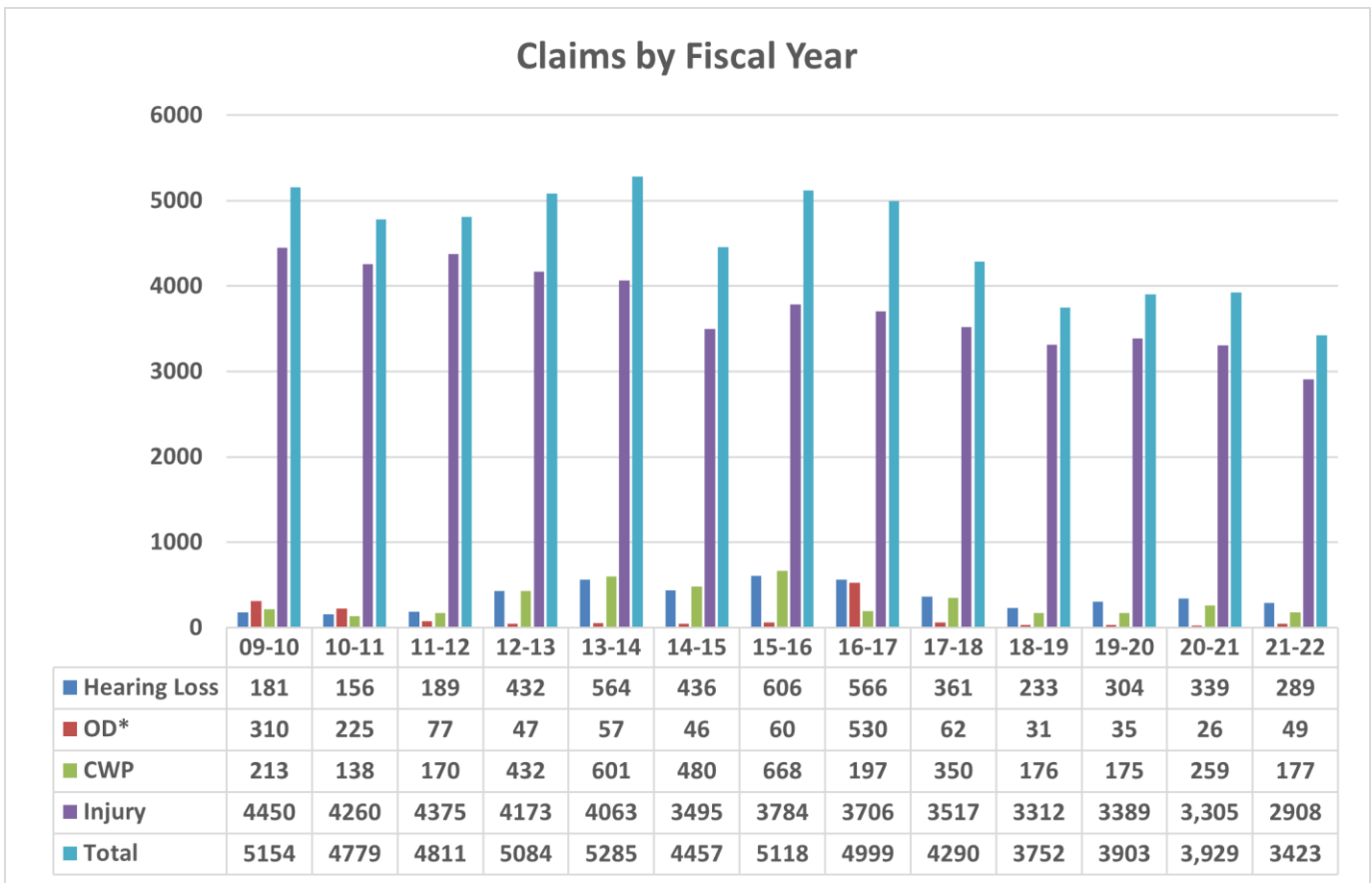
Workers' Compensation Claims

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

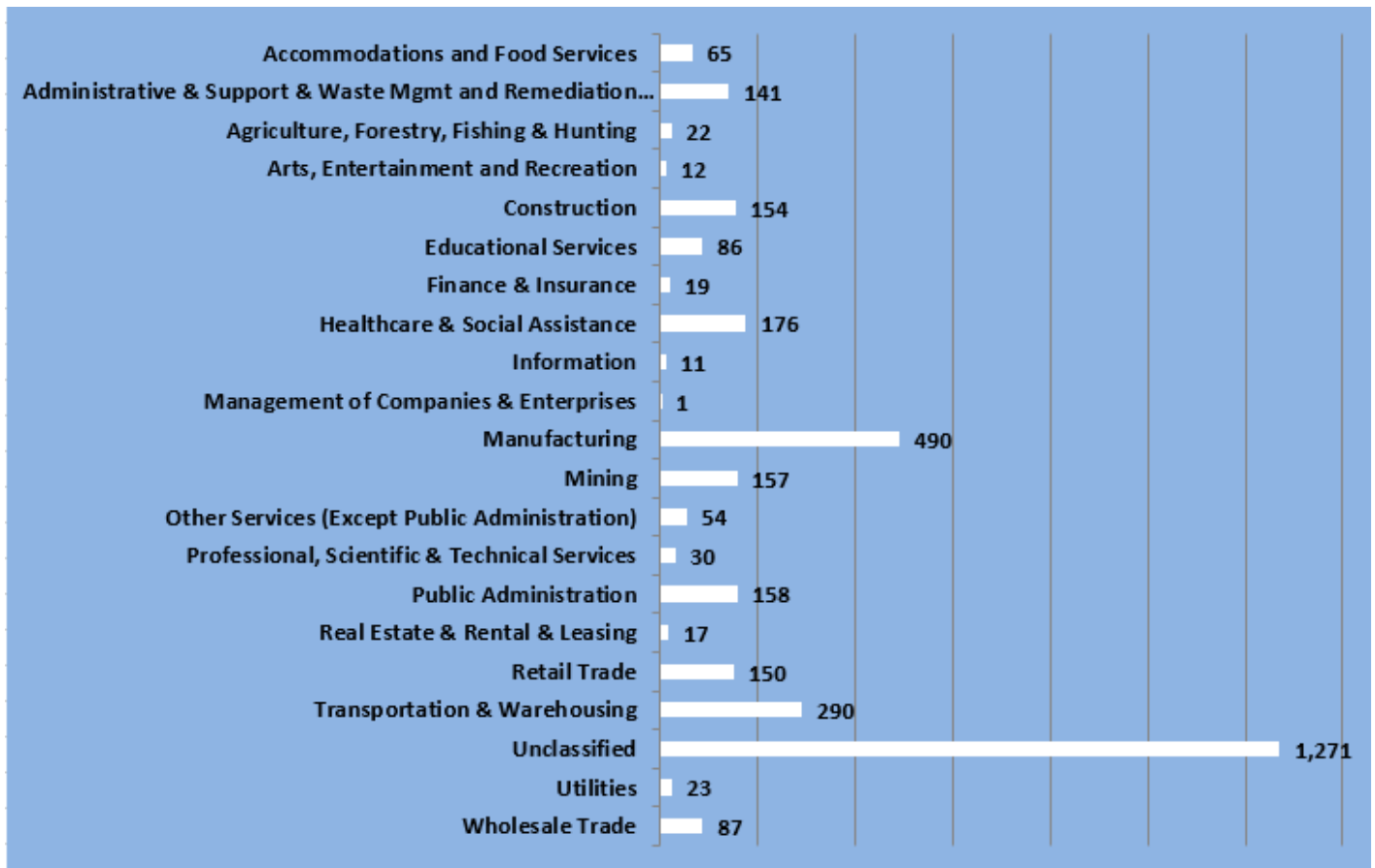
Workers' compensation claims are typically divided into two types: indemnity/medical and medical-only. Indemnity/medical claims are those for which income benefits are paid to compensate for lost wages, functional impairment or death. Medical service costs are paid in addition to those income benefits.

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 2021-2022, there were 3,423 new applications for resolution of claims filed with the Department of Workers' Claims.



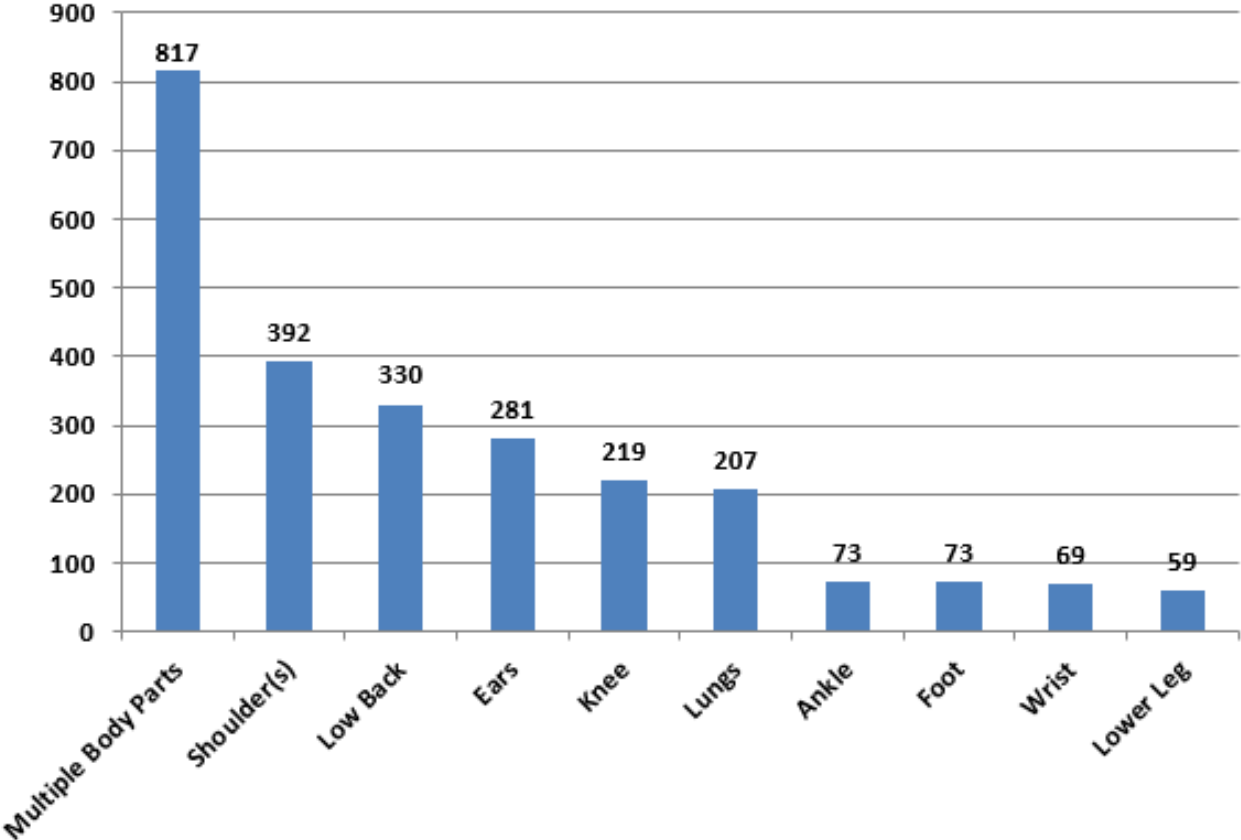
Claims by Industrial Classification Category



Of the 3,423 claims that were filed this fiscal year, 1,010 claims were filed by females (29.5%) and 2,402 by males (70%). Eleven (11) claims did not to specify gender (less than 1%). The average age of those who filed claims with the DWC was 49 years.

In reviewing litigated injury claims, the three most common causes of injury during this reporting period were Cumulative Trauma (534), Lifting Strains (261), and Falls, Slips or Trips on same level (194).

Distribution of Claims by Body Part Top Ten



Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 21-22

| County | Total Labor Force | FROIs | % of FROIs to Labor Force | Claims | % of Claims to FROIs |
|--------------|-------------------|-------|---------------------------|--------|----------------------|
| Adair | 7,295 | 81 | 1.11% | 6 | 7.41% |
| Allen | 8,954 | 219 | 2.45% | 3 | 1.37% |
| Anderson | 11,992 | 89 | 0.74% | 4 | 4.49% |
| Ballard | 3,472 | 22 | 0.63% | 1 | 4.55% |
| Barren | 18,010 | 247 | 1.37% | 11 | 4.45% |
| Bath | 4,696 | 18 | 0.38% | 5 | 27.78% |
| Bell | 8,212 | 129 | 1.57% | 34 | 26.36% |
| Boone | 71,950 | 1,567 | 2.18% | 87 | 5.55% |
| Bourbon | 9,699 | 177 | 1.82% | 7 | 3.95% |
| Boyd | 17,408 | 1034 | 5.94% | 32 | 3.09% |
| Boyle | 12,697 | 240 | 1.89% | 16 | 6.67% |
| Bracken | 3,792 | 14 | 0.37% | 1 | 7.14% |
| Breathitt | 3,292 | 36 | 1.09% | 16 | 44.44% |
| Breckinridge | 8,024 | 59 | 0.74% | 5 | 8.47% |
| Bullitt | 43,456 | 598 | 1.38% | 56 | 9.36% |
| Butler | 4,982 | 24 | 0.48% | 1 | 4.17% |
| Caldwell | 5,984 | 86 | 1.44% | 7 | 8.14% |
| Calloway | 17,401 | 213 | 1.22% | 14 | 6.57% |
| Campbell | 50,602 | 353 | 0.70% | 18 | 5.10% |
| Carlisle | 2,214 | 7 | 0.32% | 0 | 0.00% |
| Carroll | 5,457 | 153 | 2.80% | 15 | 9.80% |
| Carter | 9,812 | 82 | 0.84% | 5 | 6.10% |
| Casey | 6,764 | 72 | 1.06% | 7 | 9.72% |
| Christian | 25,095 | 428 | 1.71% | 18 | 4.21% |
| Clark | 17,245 | 299 | 1.73% | 24 | 8.03% |
| Clay | 5,193 | 24 | 0.46% | 4 | 16.67% |
| Clinton | 3,963 | 83 | 2.09% | 5 | 6.02% |
| Crittenden | 3,828 | 24 | 0.63% | 2 | 8.33% |
| Cumberland | 3,354 | 171 | 5.10% | 0 | 0.00% |
| Daviess | 46,686 | 694 | 1.49% | 33 | 4.76% |
| Edmonson | 4,702 | 56 | 1.19% | 0 | 0.00% |
| Elliott | 1,882 | 10 | 0.53% | 1 | 10.00% |
| Estill | 5,177 | 49 | 0.95% | 1 | 2.04% |
| Fayette | 175,179 | 4,280 | 2.44% | 429 | 10.02% |
| Fleming | 6,036 | 58 | 0.96% | 4 | 6.90% |
| Floyd | 10,954 | 186 | 1.70% | 53 | 28.49% |
| Franklin | 25,169 | 1,485 | 5.90% | 51 | 3.43% |
| Fulton | 2,088 | 56 | 2.68% | 1 | 1.79% |
| Gallatin | 4,015 | 24 | 0.60% | 3 | 12.50% |
| Garrard | 7,715 | 37 | 0.48% | 6 | 16.22% |
| Grant | 11,694 | 87 | 0.74% | 4 | 4.60% |

Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 21-22

| County | Total Labor Force | FROIs | % of FROIs to Labor Force | Claims | % of Claims to FROIs |
|------------|-------------------|--------|---------------------------|--------|----------------------|
| Graves | 15,931 | 265 | 1.66% | 14 | 5.28% |
| Grayson | 10,554 | 156 | 1.48% | 4 | 2.56% |
| Green | 5,269 | 21 | 0.40% | 4 | 19.05% |
| Greenup | 13,117 | 75 | 0.57% | 3 | 4.00% |
| Hancock | 3,881 | 98 | 2.53% | 2 | 2.04% |
| Hardin | 47,294 | 923 | 1.95% | 49 | 5.31% |
| Harlan | 6,585 | 134 | 2.03% | 66 | 49.25% |
| Harrison | 8,879 | 121 | 1.36% | 5 | 4.13% |
| Hart | 7,639 | 104 | 1.36% | 9 | 8.65% |
| Henderson | 20,942 | 281 | 1.34% | 10 | 3.56% |
| Henry | 8,241 | 52 | 0.63% | 5 | 9.62% |
| Hickman | 1,712 | 12 | 0.70% | 2 | 16.67% |
| Hopkins | 18,125 | 509 | 2.81% | 153 | 30.06% |
| Jackson | 4,134 | 30 | 0.73% | 0 | 0.00% |
| Jefferson | 398,857 | 14,078 | 3.53% | 691 | 4.91% |
| Jessamine | 26,521 | 290 | 1.09% | 32 | 11.03% |
| Johnson | 6,682 | 72 | 1.08% | 13 | 18.06% |
| Kenton | 87,585 | 969 | 1.11% | 60 | 6.19% |
| Knott | 4,300 | 21 | 0.49% | 3 | 14.29% |
| Knox | 10,194 | 60 | 0.59% | 4 | 6.67% |
| Larue | 5,811 | 21 | 0.36% | 0 | 0.00% |
| Laurel | 25,671 | 355 | 1.38% | 44 | 12.39% |
| Lawrence | 5,491 | 26 | 0.47% | 1 | 3.85% |
| Lee | 2,012 | 46 | 2.29% | 3 | 6.52% |
| Leslie | 2,544 | 37 | 1.45% | 23 | 62.16% |
| Letcher | 6,107 | 73 | 1.20% | 53 | 72.60% |
| Lewis | 4,727 | 31 | 0.66% | 4 | 12.90% |
| Lincoln | 9,312 | 83 | 0.89% | 7 | 8.43% |
| Livingston | 3,640 | 27 | 0.74% | 3 | 11.11% |
| Logan | 12,429 | 128 | 1.03% | 11 | 8.59% |
| Lyon | 3,132 | 29 | 0.93% | 12 | 41.38% |
| Madison | 47,463 | 526 | 1.11% | 29 | 5.51% |
| Magoffin | 3,322 | 29 | 0.87% | 6 | 20.69% |
| Marion | 9,262 | 141 | 1.52% | 6 | 4.26% |
| Marshall | 14,393 | 128 | 0.89% | 14 | 10.94% |
| Martin | 2,312 | 16 | 0.69% | 17 | 106.25% |
| Mason | 6,754 | 100 | 1.48% | 8 | 8.00% |
| McCracken | 29,757 | 733 | 2.46% | 43 | 5.87% |
| McCreary | 4,823 | 55 | 1.14% | 3 | 5.45% |
| McLean | 4,055 | 43 | 1.06% | 22 | 51.16% |
| Meade | 11,717 | 85 | 0.73% | 3 | 3.53% |

Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 21-22

| County | Total Labor Force | FROIs | % of FROIs to Labor Force | Claims | % of Claims to FROIs |
|--------------------|-------------------|---------------|---------------------------|-------------|----------------------|
| Menifee | 2,342 | 11 | 0.47% | 0 | 0.00% |
| Mercer | 9,990 | 78 | 0.78% | 9 | 11.54% |
| Metcalfe | 3,972 | 31 | 0.78% | 0 | 0.00% |
| Monroe | 4,637 | 63 | 1.36% | 2 | 3.17% |
| Montgomery | 11,733 | 150 | 1.28% | 19 | 12.67% |
| Morgan | 4,338 | 38 | 0.88% | 6 | 15.79% |
| Muhlenberg | 9,813 | 157 | 1.60% | 55 | 35.03% |
| Nelson | 23,626 | 294 | 1.24% | 29 | 9.86% |
| Nicholas | 3,344 | 12 | 0.36% | 1 | 8.33% |
| Ohio | 8,985 | 112 | 1.25% | 30 | 26.79% |
| Oldham | 33,596 | 253 | 0.75% | 23 | 9.09% |
| Owen | 5,079 | 23 | 0.45% | 1 | 4.35% |
| Owsley | 1,050 | 13 | 1.24% | 0 | 0.00% |
| Pendleton | 6,930 | 49 | 0.71% | 4 | 8.16% |
| Perry | 8,037 | 192 | 2.39% | 82 | 42.71% |
| Pike | 19,104 | 357 | 1.87% | 172 | 48.18% |
| Powell | 5,200 | 46 | 0.88% | 4 | 8.70% |
| Pulaski | 26,036 | 534 | 2.05% | 42 | 7.87% |
| Robertson | 815 | 3 | 0.37% | 2 | 66.67% |
| Rockcastle | 6,568 | 91 | 1.39% | 5 | 5.49% |
| Rowan | 9,943 | 146 | 1.47% | 9 | 6.16% |
| Russell | 6,158 | 68 | 1.10% | 7 | 10.29% |
| Scott | 30,260 | 810 | 2.68% | 108 | 13.33% |
| Shelby | 26,156 | 307 | 1.17% | 27 | 8.79% |
| Simpson | 8,912 | 253 | 2.84% | 9 | 3.56% |
| Spencer | 10,704 | 35 | 0.33% | 1 | 2.86% |
| Taylor | 12,539 | 203 | 1.62% | 16 | 7.88% |
| Todd | 5,550 | 33 | 0.59% | 1 | 3.03% |
| Trigg | 6,122 | 88 | 1.44% | 2 | 2.27% |
| Trimble | 3,873 | 12 | 0.31% | 3 | 25.00% |
| Union | 6,038 | 270 | 4.47% | 73 | 27.04% |
| Warren | 65,124 | 2,299 | 3.53% | 46 | 2.00% |
| Washington | 6,212 | 86 | 1.38% | 6 | 6.98% |
| Wayne | 7,264 | 59 | 0.81% | 10 | 16.95% |
| Webster | 5,333 | 24 | 0.45% | 11 | 45.83% |
| Whitley | 14,230 | 452 | 3.18% | 30 | 6.64% |
| Wolfe | 2,243 | 32 | 1.43% | 1 | 3.13% |
| Woodford | 15,115 | 263 | 1.74% | 24 | 9.13% |
| Out-of-State | | 1,630 | | 121 | 7.42% |
| Unknown | | 0 | | 1 | 0.00% |
| Grand Total | 2,054,287 | 44,131 | 2.15% | 3423 | 7.76% |

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.

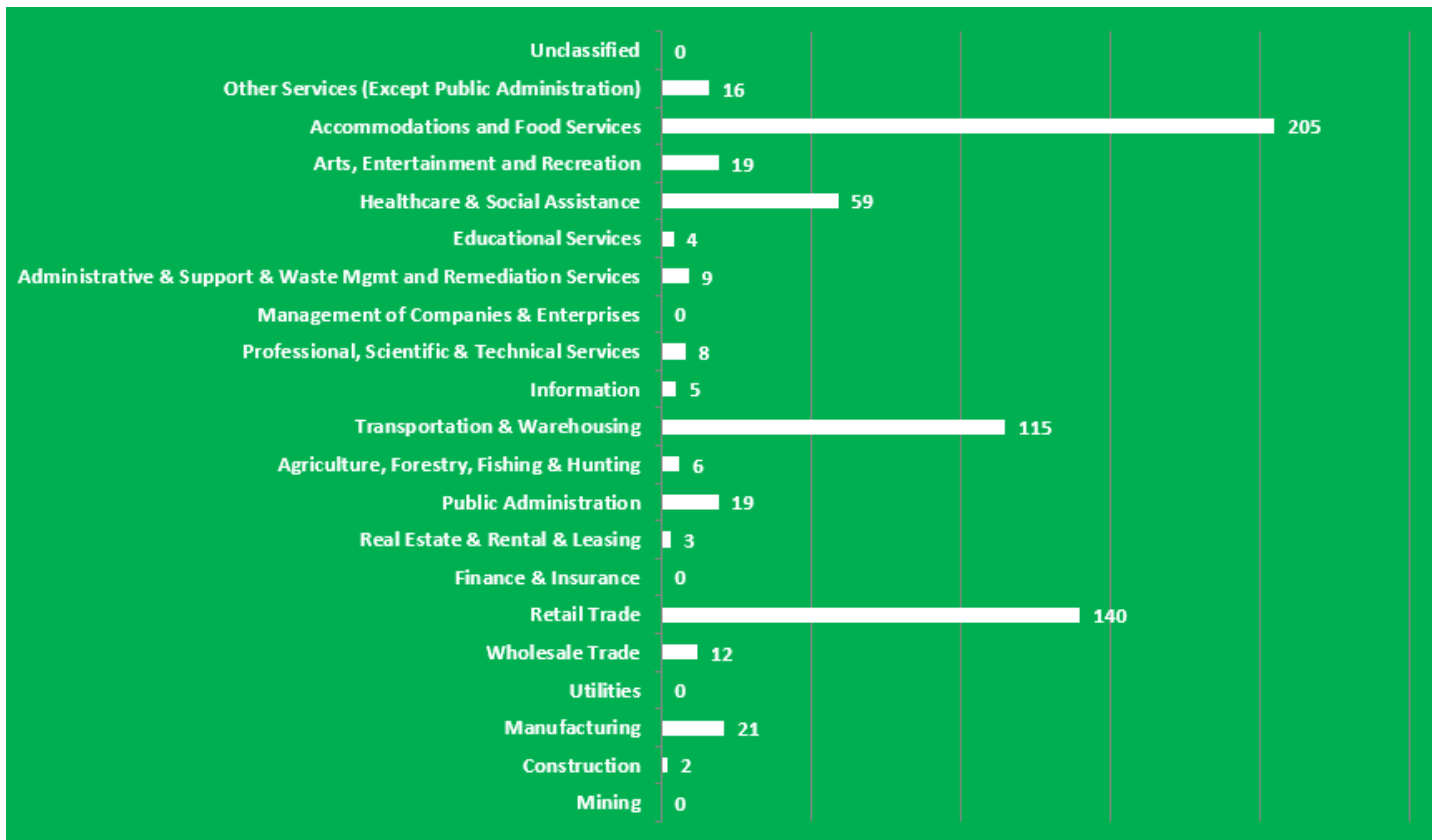
Injuries to Minors

In fiscal year 2021-2022, there were 643 lost-time injuries to workers that were under the age of 18 reported to the DWC.

According to electronic data submitted to the Department, 1 injury was reported for a worker 13 years of age; 5 injuries were reported for workers 14 years of age; 43 injuries were reported for workers 15 years of age; 171 injuries were reported for workers 16 years of age and 423 injuries were reported in which the workers were 17 years of age.

The top three causes of injury to minors reported during this fiscal year were Pandemic (78), Falls or Slips on same level (44), and Cuts, Punctures or Scrapes by Hand Tools (30). The top three body parts most frequently injured were Fingers (82), Multiple Body Systems (58), and Hands (58).

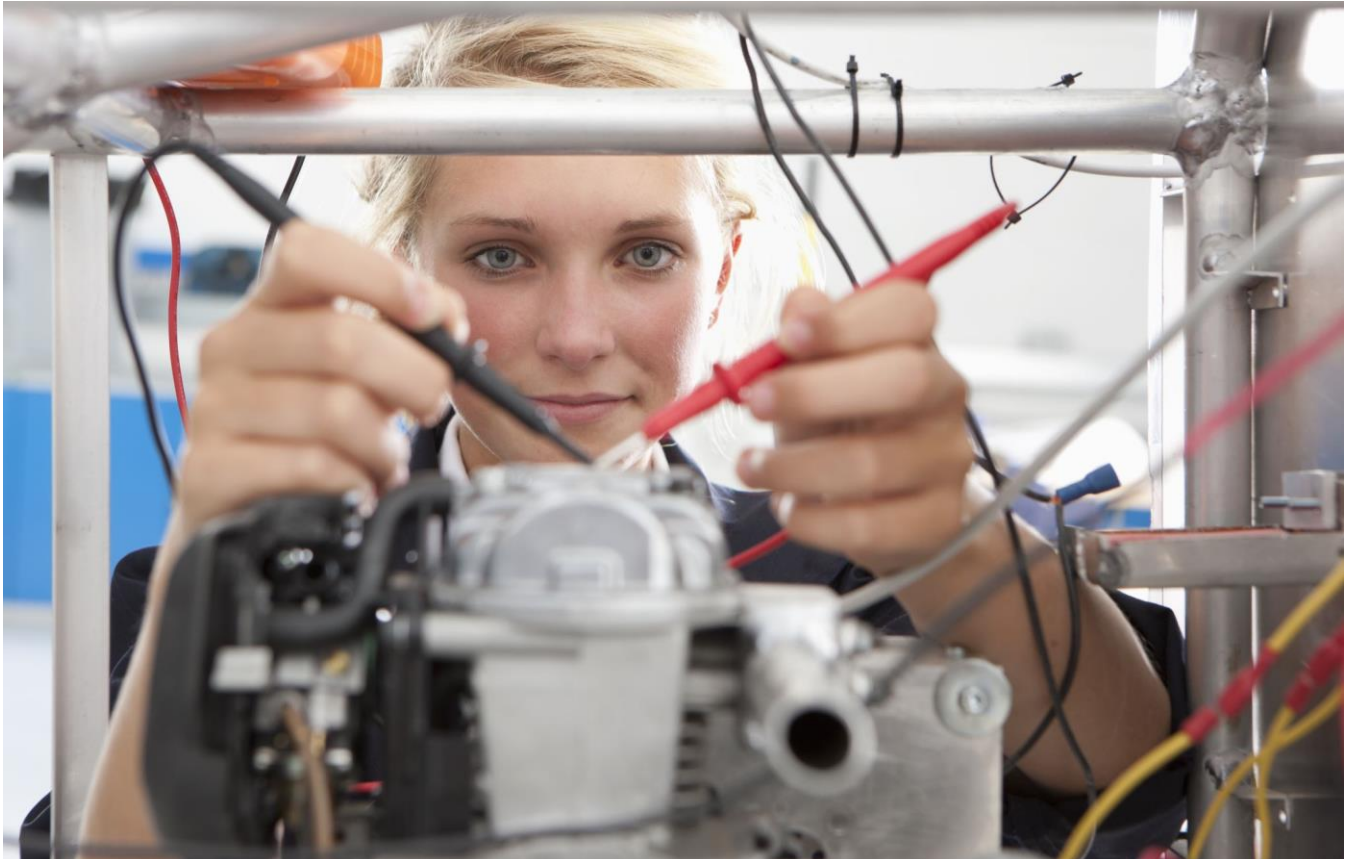
Injuries To Minors by Industrial Classification Category



Work-Related Fatalities

There were 101 workplace fatalities reported to the DWC during fiscal year 2021-2022. The youngest of the casualties was a 21-year-old male who was a victim of a natural disaster. The oldest worker was an 83-year-old male who had either a stroke or heart attack while operating a tractor. The most common causes of death this fiscal year were other injury (not otherwise classified) (23) and pandemic (18).

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



Fiscal Performance

All the funding for the DWC 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 1995-96 THROUGH FY 2021-22 | | | | | | | | |
|-------------------------------|---|-------------|------------------|---------------------|---------------------|------------------------|----------------------|----------------------|
| FISCAL YEAR | | | PERSONNEL CAP | PERSONNEL ACTUAL | BUDGET ALLOTMENT | ACTUAL EXPENDITURES | DIFFERENCE | PERCENTAGE BUDGET |
| 2021 | - | 2022 | 120 | 97 | \$71,061,800 | 52,415,713 | -\$18,646,087 | 73.8% |
| 2020 | - | 2021 | 120 | 94 | \$71,061,800 | 53,034,878 | -\$18,026,922 | 74.6% |
| 2019 | - | 2020 | 120 | 92 | \$75,227,500 | 57,924,216 | -\$17,303,284 | 77.0% |
| 2018 | - | 2019 | 130 | 105 | \$75,004,600 | 60,839,172 | -\$14,165,428 | 81.1% |
| 2017 | - | 2018 | 177 | 114 | \$94,443,300 | \$62,975,261 | -\$31,468,038 | 66.7% |
| 2016 | - | 2017 | 174 | 146 | \$66,027,100 | \$51,045,811 | -\$14,981,289 | 77.0% |
| 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% |

Programs and Performance



Administrative Services

The Office of Administrative Services is attached to the Secretary of the Labor Cabinet and provides services to DWC. Responsibilities include ensuring all financial transactions and personnel actions (I) comply with applicable laws and regulations; (II) are executed in a timely manner; (III) 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 DWC.

The following publications are made available by the DWC:

Medical Fee Schedule for Physicians
Hospital Fee Schedule
Annual Report
Present Worth Table
Rehabilitation Pamphlet
Compliance Inspection Pamphlet

Workers' Compensation Forms
Benefits Schedule
Life Expectancy Tables

The following pages contain a list of forms that may be requested through Administrative Services or by accessing the DWC website at <https://labor.ky.gov/comp/Pages/Workers-Comp-Documents.aspx>. The only exceptions to this are Form 4's and Form 5's 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 101-COV | Application for Resolution of Claim – Covid Exposure |
| Form 102-OD | Application for Resolution of Claim- Occupational Disease |
| Form 103 | Application for Resolution of Claim-Hearing Loss |
| Form101IR | Application for Resolution-Interlocutory 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 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 |

Workers' Claims Legal Division

Every employer in Kentucky is required to secure its liability for workers' compensation in one of two ways: (1) the employer must either obtain and maintain a policy of workers' compensation insurance or (2) deposit acceptable security after having been approved by the Commissioner to pay workers' compensation benefits directly to its injured employees. When an employer fails to secure its liability by acquiring a policy of workers' compensation insurance, the Commissioner issues a Citation and fine to the employer. The Workers' Claims Legal Division represents the Commissioner in efforts to bring the employer into compliance and to collect the fine. Likewise, when an employer has secured its liability for workers' compensation by depositing security with the Commissioner but then defaults on its obligations, the Commissioner calls the security and uses it to provide workers' compensation benefits to that employer's injured employees. The Division represents the Commissioner in efforts to collect and retain the security.

Additionally, under KRS Chapter 342, insurance carriers are subject to fines if they have violated established claim settlement and administration practices. The Division investigates allegations of unfair claim practices by insurance carriers and prosecutes those matters when the Commissioner determines a violation has occurred. KRS 342.990 also imposes penalties for other violations of KRS Chapter 342. The Division represents the Commissioner when those fines are imposed and when the Department or its employees are named in an action as a Defendant. The Division drafts or revises regulations as required, reviews open records requests, and represents other areas of the Labor Cabinet when involved in matters related to workers' compensation.

During the past fiscal year, the Division has collected approximately \$709,521.00 in fines from employers who failed to secure their workers' compensation liability with a policy of insurance and \$31,500.00 in fines stemming from unfair claims practices. The Division represented the Commissioner in multiple matters involving disputes over millions of dollars of security either maintained by the Commissioner or held under his control. The Division received 308 challenges to citations issued by the Commissioner and 23 allegations of unfair claims practices, all of which required investigation and prosecution. The Division represents the Commissioner, Department, and Cabinet in matters involving KRS Chapter 342 at all levels of the administrative, state, and federal court systems.

Administrative Law Judges

The Department of Workers' Claims has 19 Administrative Law Judge (ALJ) positions authorized by statute, 17 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(7).

Chief Administrative Law Judge

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 and covers dockets for other ALJs on an emergency basis.



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

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 various hearing sites maintained by the Department of Workers' Claims. Currently, hearing sites are located in Bowling Green, Florence, Hazard, Lexington, London, Louisville, Owensboro, Paducah and Pikeville.

During the past fiscal year, the ALJs conducted 3,625 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 1,053 formal hearings and issued 1,728 opinions.

As a result of the COVID-19 Pandemic and Governor Beshear's declaration of a state of emergency, all in-person proceedings were cancelled beginning April 2020. The hearing sites reopened in April 2022, and since then the ALJs have conducted 151 live hearings and 353 virtual hearings.

The ALJs also participated in two statutorily required training sessions and attended and/or made presentations at various seminars on workers' compensation topics.

The Agreements Section

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 2021-2022, 2,360 agreements were received for approval by the Chief Administrative Law Judge. Of those, 2,105 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 77 motions for widow benefits were received and processed. Sixty-one were approved by the Chief Administrative Law Judge in this fiscal year.

Summary of FY 2021-2022 Published Kentucky Supreme Court Workers' Compensation Cases

Gloria Dowell, Widow of William Bruce Dowell v. Matthews Contracting, et al. AND Terry Adams v. Excel Mining, LLC, et al.

2020-SC-0170-WC

2020-SC-0137-WC

August 26, 2021

Opinion of the Court by Chief Justice Minton. All sitting. Conley, Hughes, Keller, Lambert, and VanMeter, JJ., concur. Nickell, J., concurs by separate opinion. In this matter, the Supreme Court addressed whether the 2018 amendment to Kentucky Revised Statute (KRS) 342.730(4), which terminates workers' compensation income benefits when the benefit-recipient reaches the age of 70 or four years from the date of injury or last injurious exposure, whichever event occurs last, violates the Contracts Clause of the federal and state constitutions. The Court rejected Adams's and Dowell's arguments and instead found that the workers' compensation system is statutory, not contractual, in nature. Accordingly, the Court affirmed the Court of Appeals, holding that those receiving or entitled to claim benefits do not have contractual rights that the statutory amendment could infringe. Justice Nickell concurred to explain that these constitutional arguments were properly preserved and strict compliance with CR 73.03 was met.

Cheryl Cates v. Kroger, et al. AND Ronnie Bean v. Collier Electrical Service, et al.

2020-SC-0275-WC

2020-SC-0277-WC

August 26, 2021

Opinion of the Court by Chief Justice Minton. All sitting. Conley, Hughes, Keller, Lambert, and VanMeter, JJ., concur. Nickell, J., concurring in part and dissenting in part by separate opinion. Plaintiffs, Cates and Bean, brought separate appeals arguing that the 2018 amendment to KRS 342.730(4), which terminates workers' compensation income benefits when the recipient reaches the age of 70 or four years from the date of injury or last injurious exposure, whichever event occurs last, is unconstitutional. The plaintiffs argued the amendment violated the state and federal Equal Protection Clauses because it discriminates based on the income-benefits recipient's age. They also argued the statute is unconstitutional special legislation because it applies only to older income-benefits recipients. Both panels of the Court of Appeals upheld the statute's age classification on equal protection grounds finding that it was rationally related to a legitimate state interest in preventing workers' 11 compensation income-benefits recipients from receiving duplicate payments in the form of retirement benefits. Likewise, panels rejected the special-legislation challenges to the statute, holding that the statute treated all older income-benefits recipients alike. The Supreme Court affirm the Court of Appeals in both cases and agrees with its reasoning. Additionally, the Supreme Court, like the Court of Appeals in Bean's case, chose to address Bean's improperly preserved constitutional arguments because he had substantially complied with CR 73.03. Justice Nickell concurred with the majority's holding that the statute is constitutional but dissented in the majority's decision to find Bean had substantially complied with CR 73.03.

Wonderfoil, Inc. v. Richard Russell, et al.
2020-SC-0301-WC

September 30, 2021

Opinion of the Court by Justice Keller. All sitting; all concur. Richard Russell sustained a work-related injury while employed by Wonderfoil, Inc. He initiated a claim for benefits pursuant to Kentucky Revised Statutes (KRS) Chapter 342, the Workers' Compensation chapter. An Administrative Law Judge (ALJ) granted permanent partial disability (PPD) benefits to Russell but found certain medical expenses were submitted untimely and were therefore non-compensable. Russell 7 appealed the ALJ's denial of those medical expense benefits to the Workers' Compensation Board (the Board). The Board reversed the ALJ finding the expenses were submitted timely. Wonderfoil then appealed to the Court of Appeals, which affirmed the Board's decision. The Supreme Court interpreted 803 KAR 25:096, § 11 by viewing it in the context of the entire workers' compensation regulatory scheme. The Court concluded that the regulatory scheme governing workers' compensation claims anticipates that medical expenses will be provided to the employer pre-award and throughout the litigation of the claim. It held that 803 KAR 25:096, § 11's application only post-award best effectuates the intent of the Commissioner of the Department of Workers' Claims and prevents an absurd result. In so doing, the Court affirmed the Court of Appeals.

Time Warner Cable, Inc. v. Ricky Smith, et al.
2020-SC-0580-WC

October 28, 2021

Opinion of the Court by Justice Conley. All sitting; all concur. In this case, the ALJ concluded Ricky Smith was totally, permanently disabled. Time Warner appealed arguing the ALJ improperly concluded total disability based solely upon evidence of 5 Smith's psychological conditions, and that no substantial evidence supported the judgment as Smith did not have any psychological restrictions placed upon him by a doctor. The Court of Appeals affirmed the ALJ. The Supreme Court affirmed the Court of Appeals. It held as a matter of first impression that a claimant can testify to the extent and duration of his psychological injuries, but cannot make a diagnosis, and an ALJ may rely upon such testimony in making an award of total disability so long as evidence supports the psychological condition is a direct result of a physical work injury. In this case, medical evidence did support the ALJ's conclusion. Finally, the Supreme Court reiterated the holding and import of *Ira A. Watson Dept. Store v. Hamilton*, 34 S.W.3d 48 (Ky. 2000), that a finding of disability is a holistic analysis of several factors, some of which are not named in the statutory scheme but nonetheless remain viable.

Michael O'Bryan v. Zip Express (Correctly Identified as Ramp Logistics, LLC), et al.
2020-SC-0262-WC

December 16, 2021

Opinion of the Court. All sitting; all concur. Appellant, Michael O'Bryan was injured in a work-related automobile accident during the course of his employment for Appellee, Zip Express. O'Bryan filed a workers' compensation claim. The administrative law judge found he was permanently totally disabled and should receive benefits as long as he remained disabled. Zip Express appealed to the Workers' Compensation Board, arguing O'Bryan's benefits should terminate at age 70 under a newly-amended version of KRS 342.730(4). O'Bryan countered, arguing the amendment is unconstitutional on several grounds. The Board could not determine the constitutionality of the statute, but held that it applied to O'Bryan's case. O'Bryan appealed to the Court of Appeals, which affirmed and held the statute is constitutional. O'Bryan appealed to the Supreme Court of Kentucky, which affirmed the Court of Appeals. The Supreme Court held the statute did not violate O'Bryan's right to equal protection under the law, his due process rights, that it does not amount to the exercise of an absolute and arbitrary power, that it is not special legislation, and that it did not violate the requirement that all bills be read three times before each house of the legislature

Dee Whitaker Concrete v. Austin Ellison, et al.

2021-SC-00070-WC

February 24, 2022

Opinion of the Court by Justice Hughes. All sitting; all concur. Austin Ellison was employed by Dee Whitaker Concrete as a general laborer. Whitaker Concrete employees, including Ellison, routinely met at the employer's premises and traveled together to various jobsites. While leaving a jobsite and traveling back to the employer's premises, Ellison was injured in an automobile accident. Whitaker Concrete denied Ellison's workers' compensation claim, asserting that injuries sustained while going to or returning from the workplace are not compensable. The Administrative Law Judge (ALJ) determined that the "service to the employer" and "traveling employee" exceptions to the "going and coming" rule were applicable and awarded disability benefits. On appeal, the Workers' Compensation Board and Court of Appeals affirmed. The Kentucky Supreme Court held that the traveling employee exception is applicable. Grounded in the positional risk doctrine, the traveling employee exception considers that an injury that occurs while the employee is in travel status is work-related unless the worker was engaged in a significant departure from the purpose of his trip. Ellison's work required travel away from the employer's premises and Ellison's employment was the reason for his presence at what turned out to be a place of danger. Travel was an implicit part of Ellison's employment and Whitaker Concrete acquiesced to this practice by providing company vehicles and paying for gas. Additionally, the service to the employer exception also applies because the employees traveling together ensured that employees arrived at jobsites on time and as a group, which was essential to the coordination of the arrival of concrete. The travel benefitted the employer by furthering his business. The Court affirmed the Court of Appeals.

Deborah Robbins French v. Rev-A-Shelf, et al.

2021-SC-0146-WC

February 24, 2022

Opinion of the Court by Justice Keller. All sitting; all concur. Robbins was employed by Rev-A-Shelf as an assembly line leader. While in that employment, Robbins tripped over a pallet and fell on her extended left arm. She was eventually diagnosed with a Type II SLAP tear. She sought workers' compensation benefits. The Administrative Law Judge (ALJ) awarded Robbins temporary total disability (TTD) benefits and permanent partial disability (PPD) benefits. He enhanced the PPD benefits by the two-times multiplier from Kentucky Revised Statute (KRS) 342.730(1)(c)2. 7 On appeal, the Supreme Court held that the ALJ's award of TTD benefits was supported by substantial evidence and affirmed that award. In order to determine if the ALJ erred in enhancing Robbins's PPD benefits by the two-times multiplier, the Court had to determine if the ALJ properly included the wages from her concurrent employment in the calculation of her post-injury weekly wage. The Court held that because Robbins did not obtain her concurrent employment until after she sustained the work-related injury, the requirement that Rev-A-Shelf have knowledge of the concurrent employment before the date of injury found in KRS 342.140(5) did not apply. Further, the Court held that the ALJ failed to make any findings regarding whether Robbins's earnings from her concurrent employment were covered by the Workers' Compensation Act. Therefore, the Court could not determine if those findings were supported by substantial evidence. Accordingly, the Court vacated the ALJ's enhancement of Robbins's PPD benefits by the two-times multiplier and remanded for further factual findings on that issue.

Kindred Healthcare v. Carlye Harper, et al.
2020-SC-0200-WC

March 24, 2022

Opinion of the Court by Justice Nickell. All sitting. All concur. Harper suffered a workrelated lifting injury while employed by Kindred Healthcare. ALJ ultimately determined she had sustained an eight percent whole person impairment, lacked physical capability of returning to work for which she had training and experience at time of injury, and was entitled to an award of permanent partial disability income benefits enhanced by the three multiplier. Though Harper requested vocational evaluation in hearing testimony, ALJ refused to address request due to her failure to specifically list vocational rehabilitation services as a contested issue in benefit review 5 conference memorandum or at hearing. ALJ's award was not appealed and became final. Sixteen months later, after unsuccessfully attempting a return to suitable gainful employment and having independently obtained a vocational evaluation, Harper sought to file an application for vocational rehabilitation services and acceleration of income benefits. Because no official template exists for filing motions to reopen seeking vocational rehabilitation services under KRS 342.710, she utilized a form setting forth the four grounds for reopening compensation claims under KRS 342.125, but attached a separate motion setting out her claim for the former under KRS 324.710. CALJ overruled motion to reopen, holding Harper had failed to preserve and contest issue in original proceeding or demonstrate authorization to seek such services post-award under one of the four grounds listed for reopening in KRS 342.125. Board reversed CALJ's decision, holding KRS 342.710 contemplates independent ground for reopening to seek vocational rehabilitation services separate to four grounds listed in KRS. 342.125. The Court of Appeals agreed, holding KRS 342.710 mandates ALJ inquiry upon finding claimant incapable of performing previous employment and Harper's failure to appeal ALJ's original refusal to address vocational rehabilitation services did not preclude a post-award motion to reopen to seek such services once requirements were established. Concerning a matter of first impression, Supreme Court held KRS 342.710 separately governs vocational rehabilitation services and authorizes raising of disputes relating to such services at any time by any mechanism, whether during original claim or postaward reopening. Statute provides independent ground for reopening apart from grounds enumerated in KRS 342.125 relating to motions to reopen to end, diminish, or increase compensation. As used in the workers' compensation statute, "compensation" does not encompass vocational rehabilitation services. Upon factual finding claimant incapable of performing previous work, ALJ is statutorily mandated to inquire regarding voluntary evaluation and reasonable provision or rejection of vocational rehabilitation services and may exercise discretion in assessing merits of an award of vocational rehabilitation services. Statutorily mandated administrative procedure need not be preserved by a request or by listing as a contested issue. Harper implicitly raised issue of vocational rehabilitation benefits when she identified "[a]bility to return to work performed at time of injury" as contested issue, and because ALJ refused to address the merits, claim preclusion doctrine was inapplicable.

Apple Valley Sanitation, Inc. v. Jon Stambaugh, et al.

2021-SC-0227-WC

April 28, 2022

Opinion of the Court by Chief Justice Minton. All sitting; all concur. Workers' Compensation Appeal. Jon Stambaugh was awarded benefits by the Administrative Law Judge for two separate work-related injuries that occurred in the course and scope of his work for Apple Valley Sanitation. The ALJ applied the 3x multiplier from KRS 342.730(1)(c) to both Stambaugh's awards, finding that each injury individually precluded him from returning to the type of work he performed at the time of the injuries. Apple Valley appealed, arguing that the ALJ erred in applying the 3x multiplier to both awards because it reasoned that there was no change in Stambaugh's job duties between injuries and Stambaugh could not lose the same ability twice. Both the Workers' Compensation Board and the Court of Appeals affirmed the ALJ's decision. The Kentucky Supreme Court held that the 3x multiplier was properly applied to Stambaugh's benefits awards because his injuries were assessed at the time of the benefits hearing, rather than at the time

immediately following his injuries. Although Stambaugh returned to his job after his first injury, by the time of his benefits hearing, his injuries were both independently and individually severe enough to preclude him from returning to the type of work he performed at the time of his injuries. As such, the Court affirmed the Court of Appeals.

Jarvis Helton v. Rockhampton Energy, LLC, et al.
2021-SC-0248-WC

June 16, 2022

Opinion of the Court by Justice Hughes. Minton, C.J.; Conley, Keller, Nickell, and VanMeter, JJ., sitting. All concur. Lambert, J., not sitting. Jarvis Helton appealed from a Court of Appeals' decision affirming the Workers' Compensation Board's reversal of an Administrative Law Judge's (ALJ) application of the 2x multiplier in Kentucky Revised Statute (KRS) 342.730(1)(c)2, the provision that doubles a claimant's benefits if the claimant returns to work after injury at the same or higher wages but then experiences a cessation of that employment. Helton suffered a work-related injury that manifested on November 16, 2018, and continued working his normal job until he was laid off for economic reasons on September 2, 2019. The ALJ determined that since Helton earned no wage after the lay-off, he qualified for the 2x multiplier. The Board reversed, and the Court of Appeals agreed. The Kentucky Supreme Court affirmed the Court of Appeals. Helton did not "return" to work because he never left work. The Court found similarity to *Bryant v. Jessamine Car Care*, No. 2018-SC-000265-WC, 2019 WL 1173003 (Ky. February 14, 2019), in which the Court held that a continuation of work is not a return to work. To qualify as a "return," there must be a cessation followed by a resumption. Because Helton indisputably continued to perform his regular job after his injury and only ceased working when he was laid off due to the mine closing, no "return" to work occurred because there was no cessation followed by a resumption. While the Court recognized that Helton's employment with Rockhampton ended for reasons he could not control, the purposes of KRS 342.730(1)(c)2 are to encourage continued employment and create an incentive to return to work. Awarding the 2x multiplier did not accomplish the recognized objectives and does not comport with the plain language of the statute.

Tractor Supply v. Patricia Wells, et al.
2021-SC-0286-WC

June 16, 2022

Opinion of the Court by Justice Conley. All sitting; all concur. Patricia Wells was injured in August 2018. The ALJ made a finding of fact that she was unable to return to her previous work, therefore applied the three multiplier under KRS 342.730(1)(c)1. She was subsequently fired for allegedly filing false information on a work report. Tractor Supply moved for further findings of fact, arguing this Court's holding in *Livingood v. Transfreight, LLC*, 467 S.W.3d 249 (Ky. 2015), precluded application of the three-multiplier. The ALJ and Worker's Compensation Board both concluded *Livingood* was not applicable. On appeal, the Court of Appeals affirmed. The Supreme Court unanimously affirmed the Court of Appeals. *Livingood's* holding was based on the totality of the text of KRS Chapter 342, to hold that the two-multiplier did not apply when a claimant's conduct proximately causing his cessation of employment is "shown to have been an intentional, deliberate action with a reckless disregard of the consequences either to himself or to another." *Id.* at 259. In this case, the Supreme Court ruled "[t]he three-multiplier benefit is concerned with a finding of disability, and not tied to any condition of employment. Therefore, application of the general rule that no claimant should profit by his or her misconduct serves no substantive purpose regarding the three-multiplier." Because Wells did not gain or prolong any benefit as a result of her alleged misconduct, the rule was inapplicable. The Court concluded that nothing in the statutory text or facts of the case justified extending *Livingood's* holding to KRS 342.730(1)(c)1.

Tracy Scott Toler v. Oldham County Fiscal Court, et al.
2021-SC-0356-WC **June 16, 2022**

Opinion of the Court by Justice Lambert. All sitting; all concur. The employee suffered a work-related injury to his left knee requiring surgical repair. To dispute the employee's entitlement to an additional impairment rating for pain, the employer submitted a report by a physician, Dr. Brigham, who did not have a medical license issued by the Commonwealth of Kentucky. Dr. Brigham conducted a review of the employee's medical records, but did not physically examine him. Dr. Brigham opined that the employee was not entitled to an additional impairment rating for pain. The employee objected to the admission of Dr. Brigham's report as evidence before the ALJ on the basis that he was not a "physician" as that term is defined in KRS Chapter 342. The ALJ disagreed and allowed the report to be admitted as evidence. The Workers' Compensation Board and the Court of Appeals affirmed. The Supreme Court reversed, and held that Dr. Brigham did not meet the statutory definition of "physician" because he does not hold a Kentucky medical license. KRS 342.0011(32) declares that "[a]s used in this chapter, unless the context otherwise requires . . . 'Physician' means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth[.]" The Court held that the context of submitting a physician's report as evidence did not compel the definition of physician to be expanded to include individuals not licensed in Kentucky in contravention of the plain language of the statute. The Court further held that the employee's argument that Dr. Brigham was unqualified to determine whether he was entitled to an additional impairment rating for pain because he did not physically examine him was moot. The Court vacated the ALJ's opinion and order and remanded for further proceedings.

Workers' Compensation Board

Since 1987 and pursuant to KRS 342.285, the Kentucky Workers' Compensation Board (WCB) has been the first step in the appellate process in workers' compensation litigated claims. The appeal procedure is set forth in 803 KAR 25:010 Section 22. The three members of the board are appointed to four-year terms by the Governor, subject to confirmation by the Senate. Board members must possess qualifications of Court of Appeals judges.

Since 1994, the board is statutorily required to render opinion within 60 days of the filing of the last brief. Cases are randomly assigned to each board member to primarily author opinions. In each opinion, unless it is necessary for a board member to recuse from the case, all three board members will participate in rendering the decision.

From 1991 to present, over 65 percent of the decisions rendered by the Workers' Compensation Board were appealed no further. A higher percentage of appeals occur following new law changes, or new interpretations of existing statutory law by either the Kentucky Court of Appeals or the Kentucky Supreme Court.

WCB members are statutorily limited to:

- Determine whether the ALJ acted without or in excess of his or her powers
- Whether the order, decision or award was procured by fraud
- Whether the order, decision or award was in conformity with the provisions of the Kentucky Workers' Compensation Act
- Whether the order, decision or award is clearly erroneous on the basis of the reliable, probative and material evidence contained in the record
- Whether the order, decision or award is arbitrary or capricious or characterized by abuse or a clearly unwarranted exercise of discretion

Hon. Michael W. Alvey of Owensboro, Kentucky, has served as Chairman of the Board since January 5, 2010. Hon. Franklin A. Stivers of London, Kentucky, has served as a member of the Board since June 28, 2007. Hon. Scott M. Miller of Louisville, Kentucky has served as a member of the Board since January 1, 2022.

The Appeals Section

Effective December 1, 2016, the Appeals Section came under the authority of the Workers' Compensation Board. The final awards, orders and decision 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 133 appeals to the WCB this fiscal year. A total of 311 motions were submitted for the Board's consideration during weekly motion dockets. The WCB rendered 129 opinions. A total of 160 cases were completed by the WCB during this fiscal year, either by opinion or by final order.

For the preceding fiscal year, fifty (50) petitions for review were filed with the Kentucky Court of Appeals, and the Court requested 47 records. Appeals Section staff prepared, indexed and transferred the requested records to the Court of Appeals, with 54 opinions and 8 final orders being issued. Additionally, there were 18 appeals to the Kentucky Supreme Court, with the Court rendering 40 opinions and issued four (4) final orders.

Claims Processing Division

The Division of Claims Processing provides support to the Administrative Law Judges and their staff. The key responsibilities of this Division include timely processing of Applications for Resolution of Claim Injury (Form 101), Covid Exposure (Form 101-COV), Occupational Disease (Form 102 and 102 CWP), Hearing Loss (Form 103), and Reopenings. All processing in the Division must adhere to strict timelines.

Once 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 Division

The Division of Claims Processing is not only the beginning point for a claim, but also for the many transactions that must occur on the claim's path to resolution. The following includes division activities for the fiscal year 2021-2022, accompanied by a brief narrative of each the division's duties and responsibilities.

The claims review procedure focuses on routing and processing an Application for Resolution. This involves review of the claim for required elements, entering claim information such as parties and addresses into the Department's database, assigning a claim number and researching insurance coverage through the Department's insurance database. In fiscal year 2021-2022, there were 3,457 new claims filed including 2,928 Applications for Resolution of Injury (Form 101), 225 Occupational Disease (Form 102, 102-CWP) and 288 Hearing Loss (Form 103). Of the 225 Occupational Disease Applications, 179 were coal workers' pneumoconiosis applications. There were 16 claim filings for the emergency 101-COV application (TTD benefit for covid exposure).

The claims assignment docket responsibilities involve the assignment of new claims and older claims that have been reopened by order of the Chief Administrative Law Judge. Other related 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, 3,427 new and 42 reopened/motion docket claims were assigned to the Administrative Law Judges and scheduled for a benefit review conference. The Division audited and purged 7,347 electronic and paper files by the end of FY 2021-2022.

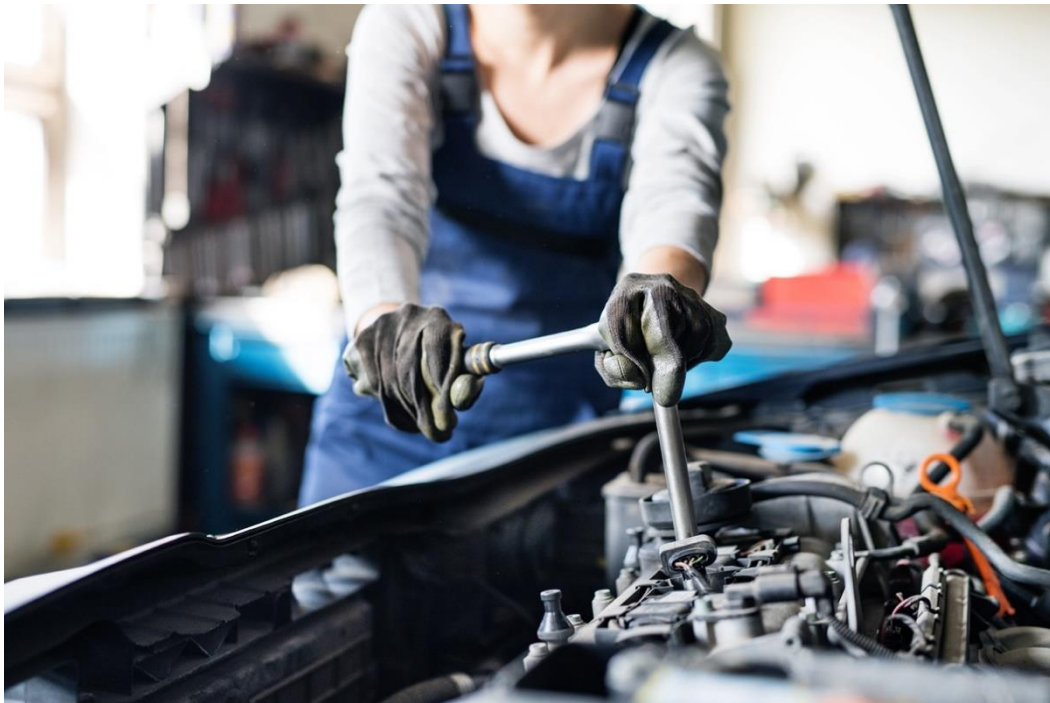
Records Branch

The Records Branch is a fundamental part of the Division of IT and Support Services and is divided into two sections: Electronic Data Interchange (EDI) Claims and EDI Proof of Coverage. These sections combine to ensure reliability, accuracy and integrity within the data that is submitted to the DWC.

The Imaging Branch

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 93,346 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.



EDI/POC

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 provide directives to file first reports and subsequent reports correctly and timely. The EDI Section audits these reports daily for discrepancies. The EDI/POC section performs 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 performing 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 which requires an extensive knowledge of the POC database.

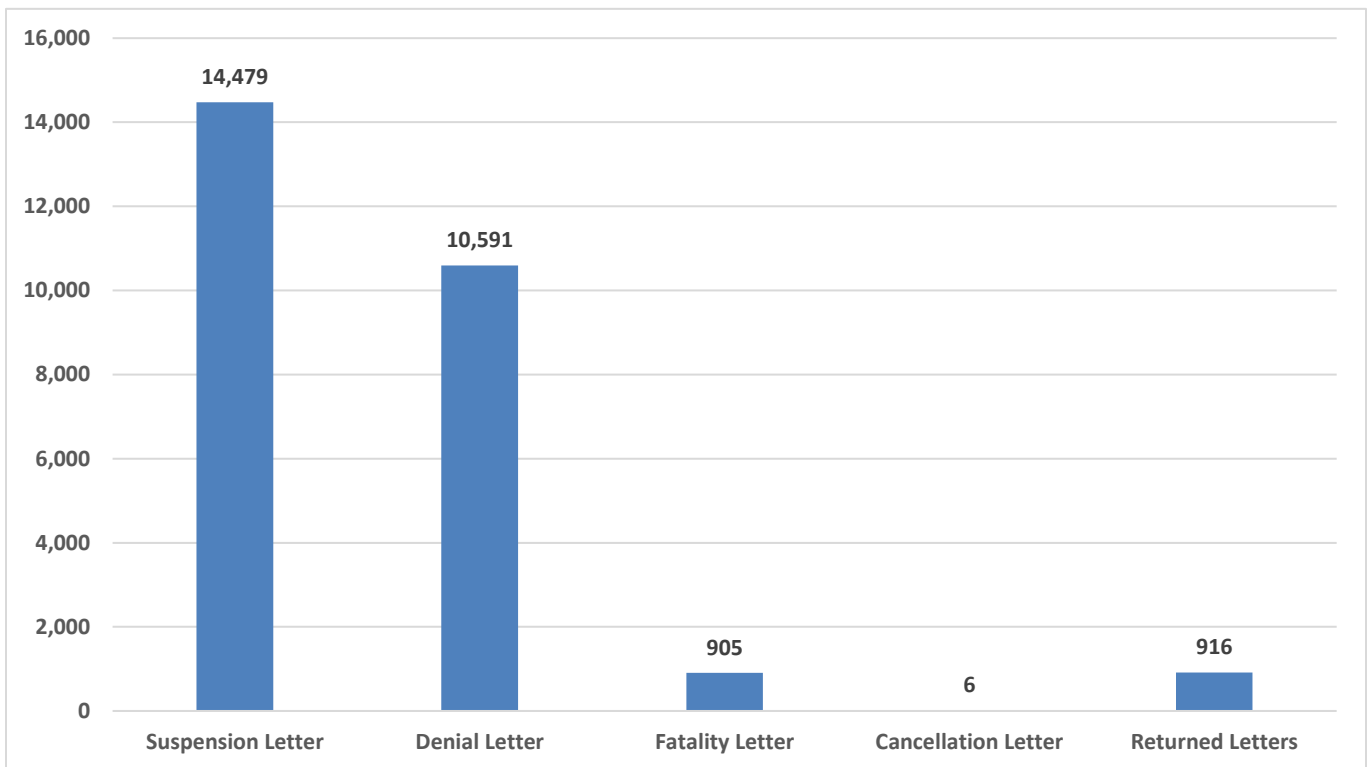
The Kentucky DWC utilizes the IAIABC standard, EDI Claims Release 3.0. EDI information is used for tracking purposes and as system triggers for the issuance of statute of limitations letters based on the date of injury, last receipt of temporary total disability benefits or date of death, whichever is 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 *134,039 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 672,280 POC transactions this fiscal year, with an average acceptance rate of 91%. The database is used by employers, employees, attorneys, the Claims and Enforcement Section of the DWC, and numerous other state and federal agencies. The 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 4 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 deleted locations for users to access by the public. The notification system can be found on the front page of the DWC's website.

*This reflects section activity, not database statistics.

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

Distribution of Mail-EDI Section



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 81 Kentucky employers that are certified to self-insure and approximately 384 former insured employers. 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 106 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.

Employers that have left self-insurance certification 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 an adequate amount of security to pay for any future workers' compensation liabilities. During the preceding fiscal year, 24 such reviews were conducted for former self-insured companies. Of these reviews, ten(10) reviews were approved, two(2) were denied, eight(8) are pending, and four(4) have not followed up with the initial request.

When a self-insured employer fails to meet its obligations, the Commissioner issues an order of default and calls the security deposited by the employer and assists the Department in any legal action required to obtain the security proceeds. The Branch also assists the Department when a self-insured employer claims 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 (2) sections. Administrative Processing Section and the Enforcement Section. Each is distinct in purpose, but compliance with the law is their joint mission.

Administrative Processing Section

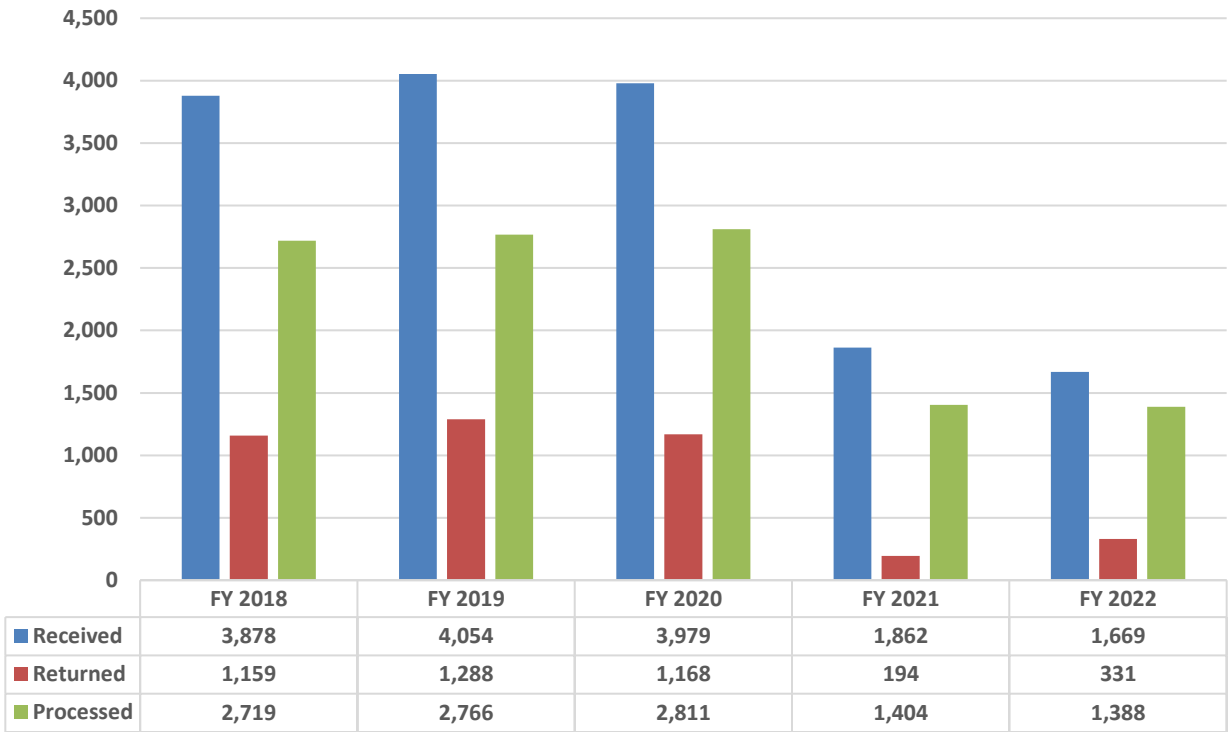
The Administrative Processing Section provides general support services to the branch. Specific duties include issuing certifications of coverage to Administrative Law Judges, private attorneys, and for open record requests. The section issued 472 certifications of coverage during the preceding fiscal year.

Additional duties include registering Professional Employer Organizations (PEOs). The section currently maintains files on 288 active PEOs with 2,088 Kentucky clients.

“Split Coverage/Wrap-up” filings for employers with owner or contractor controlled insurance programs (“OCIPs” or “CCIPs”) must also 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 an application to this Section for review and provide a project description, proposed project budget, and estimated dates for the project. Upon approval by the Commissioner the contractor must provide a list of enrolled subcontractors and policy numbers for the project. Files are currently maintained for 11 approved Split Coverage/Wrap-up projects along with a listing of 825 subcontractors associated with approved projects.

The Section maintains and files all Employee’s Written Notice of Rejection of the Workers’ Compensation Act forms (Form 4) that are 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. 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 2021-2022 the branch received 1,669 Forms 4s, 1,388 were processed and 331 returned for corrections. The Section mailed out 4,415 Original Form 4s. The chart below indicates the filing trend for the past five fiscal years.

Form 4's Filed



Enforcement Section

The Enforcement Section's primary function is to ensure compliance with the statutory obligation that employers subject to the Workers' Compensation Act maintain Workers' Compensation Insurance. 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.

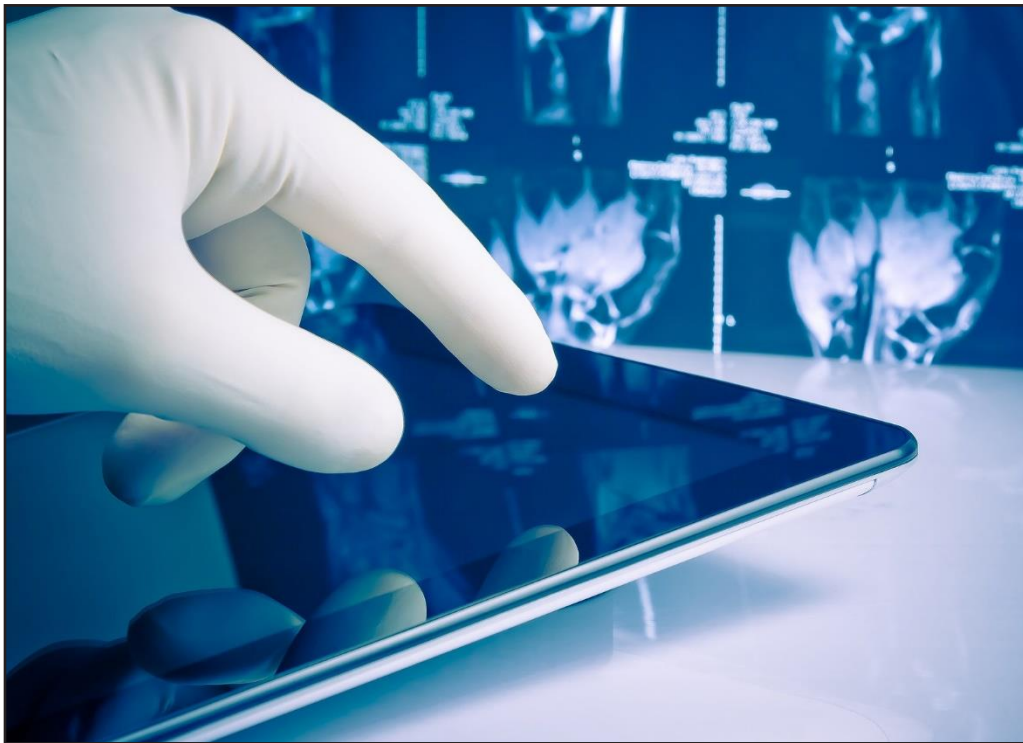
Investigators cover each of Kentucky's 120 counties from field offices located throughout the state. Investigators record each employer contact onto a tablet computer and electronically transmit the reports to the Frankfort office. Non-compliant employers are subject to citation and civil penalty by the Commissioner. Investigations, citations, and penalties are logged and processed through the section's 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 to pay benefits to employees of self-insured employers injured before March 1, 1997 once the employer's security has been exhausted.

During the preceding fiscal year, the Branch's investigators conducted 11,555 on-site investigations of Kentucky employers. In light of the COVID-19 pandemic and the declared state of emergency, in-person site investigations were temporarily suspended. Virtual investigations were conducted instead. As a result, the Commissioner issued 458 citations to non-complying employers for failure to maintain Kentucky workers' compensation insurance. The Branch processed \$800,612.00 in penalties. This includes penalties paid in full to the Branch and collections received from contested citations by the DWC Legal Division. For comparative purposes, see the below chart.

| Investigation Analysis for Fiscal Years | | | | | |
|--|---------------------|---------------------|---------------------|---------------------|---------------------|
| | FY2018 | FY 2019 | FY 2020 | FY 2021 | FY 2022 |
| Number of Investigations | 9,330 | 11,429 | 8,090 | 831 | 11,555 |
| Number of citations | 507 | 675 | 407 | 134 | 458 |
| Penalties collected* | \$965,667.91 | \$976,513.25 | \$868,415.11 | \$461,917.00 | \$800,612.00 |

*This includes penalties paid in full to Compliance Branch and settlements collected by DWC Legal Division. All collected penalties are processed by the Administrative Processing Section and forwarded to KWCF.

Division of Specialists and Medical Services



Services provided by the Division of Specialists, Medical Services, and Open Records 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 Section

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.); and compliance with Kentucky Revised Statutes regarding grievance rights and procedures for claimants, providers and employees; **(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 billing 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 and coordinate appointments for Pneumoconiosis (Black Lung) Hearing Loss and Occupational Disease claimants at University of Kentucky and University of Louisville Medical Centers, and University of Louisville Pulmonary Clinic.

Currently, there are twenty-four (24) Managed Care Organizations (MCO) that are certified by DWC and sixty-three (63) UR/MBA plans that are DWC certified.

Certifications

Managed Care Plans
24
(2 year certification cycle)

Utilization Review/Medical Bill Audit Plans
63
(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 in-state hospitals, out-of-state hospitals and ambulatory surgery centers. 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
129

University of Louisville
Hearing Loss Claims Received
157

**Other OD Claims
26**

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

Dr. Ammiesity
Claims Referred for Evaluations
181

**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/comp**.

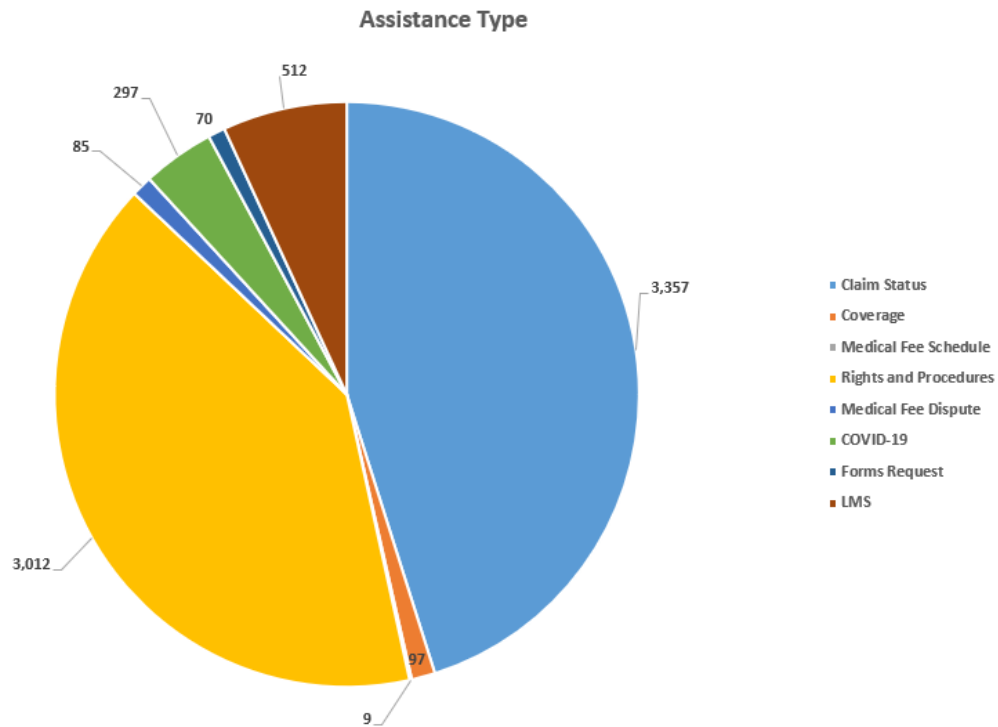
WC Specialists provide intervention service (i.e., assist with resolving issues between claimants, insurance adjusters and medical providers on issue(s) that might otherwise have to be resolved by an Administrative Law Judge). The specialists are supervised by an attorney.

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); Workplace Fatality Reporting; and Open Records.**

Requests For Assistance Received

| | |
|--|--|
| New Request 9,277 | Requests from Claimants 3,087 |
| Request from Attorneys: 2,193 | Request from Employers 467 |
| Request from Medical Providers 582 | Request from Government Official 218 |
| Request from Widow/Widower 119 | Request from Family Member 480 |

The balance of requests received come from Carriers, Medical Reviews, Drug Free Workplace, and Other. **2,131**



Additional assistance in this area concerns Managed Care, Utilization Review, Fraud, Unfair Claims, Referrals to Outside Agencies, Other, Rehabilitation, Open Records, Referral to Inside Agencies.

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 its worker’s compensation insurance premium pursuant to KRS 304.13-167(6). A model Drug Free Workplace policy is available, for businesses that do not have a HR department, on the Department of Workers’ Claims website.

New Plans Certified
15

Plans Renewed
284

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
97
50

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.

Active Cases

16

Retraining Incentive Benefits (RIB)

This program is 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 coal mining employment.

Program Participants

0

Open Records Section

This section is dedicated to responding 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 indicate whether a work-related injury has been reported for a prospective employee subsequent to 1982. This requires pre-payment in the amount of \$2.00 for each report requested. In fiscal year 2021-2022, the number of pre-employment requests totaled 423.

For fiscal year 2021-2022, Open Records processed 7,361 written requests and received \$140,849.09.

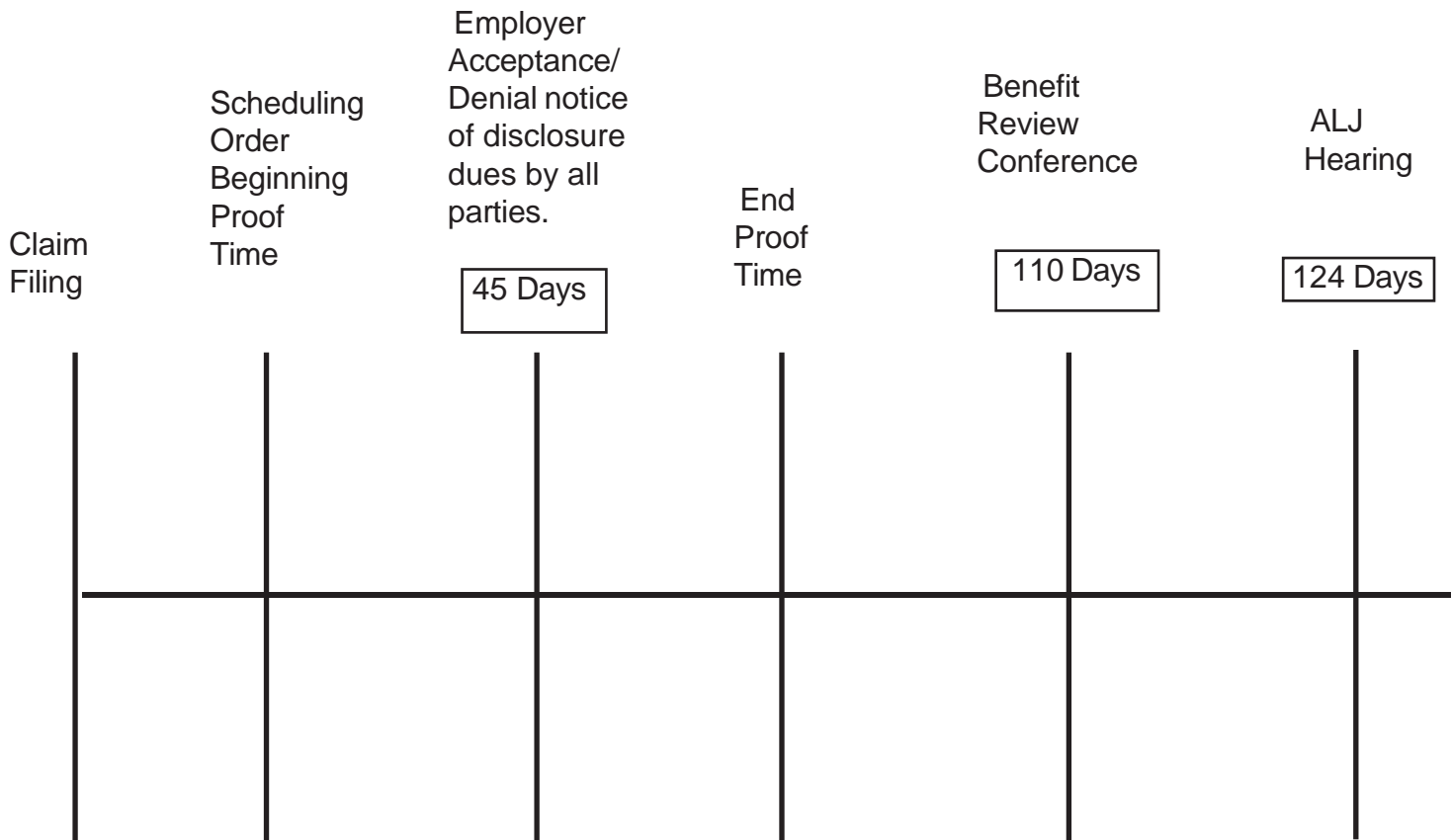
Division of Workers' Compensation Funds

The Division of Workers' Compensation Funds is responsible for the administration of the Special Fund. The Special Fund is liable for part of the income benefits awarded for certain occupational injuries and diseases resulting from incidents or last exposures occurring prior to Dec. 12, 1996. The division pays approximately \$34 million in benefits per year to nearly 3,300 disabled workers or surviving dependents.

Prior to July 1, 2017, the Division of Workers' Compensation Funds also administered the Coal Workers' Pneumoconiosis Fund. Pursuant to HB 377 of the 2017 Regular Session of the General Assembly, the assets and liabilities of the Coal Workers' Pneumoconiosis Fund were transferred to Kentucky Employers Mutual Insurance as of July 1, 2017.

Benefits are funded by assessments on workers' compensation insurance premiums collected by the Kentucky Workers' Compensation Funding Commission. For more information on the Kentucky Workers' Compensation Funding Commission, visit their web site at <http://www.kwfcf.ky.gov/>.

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.

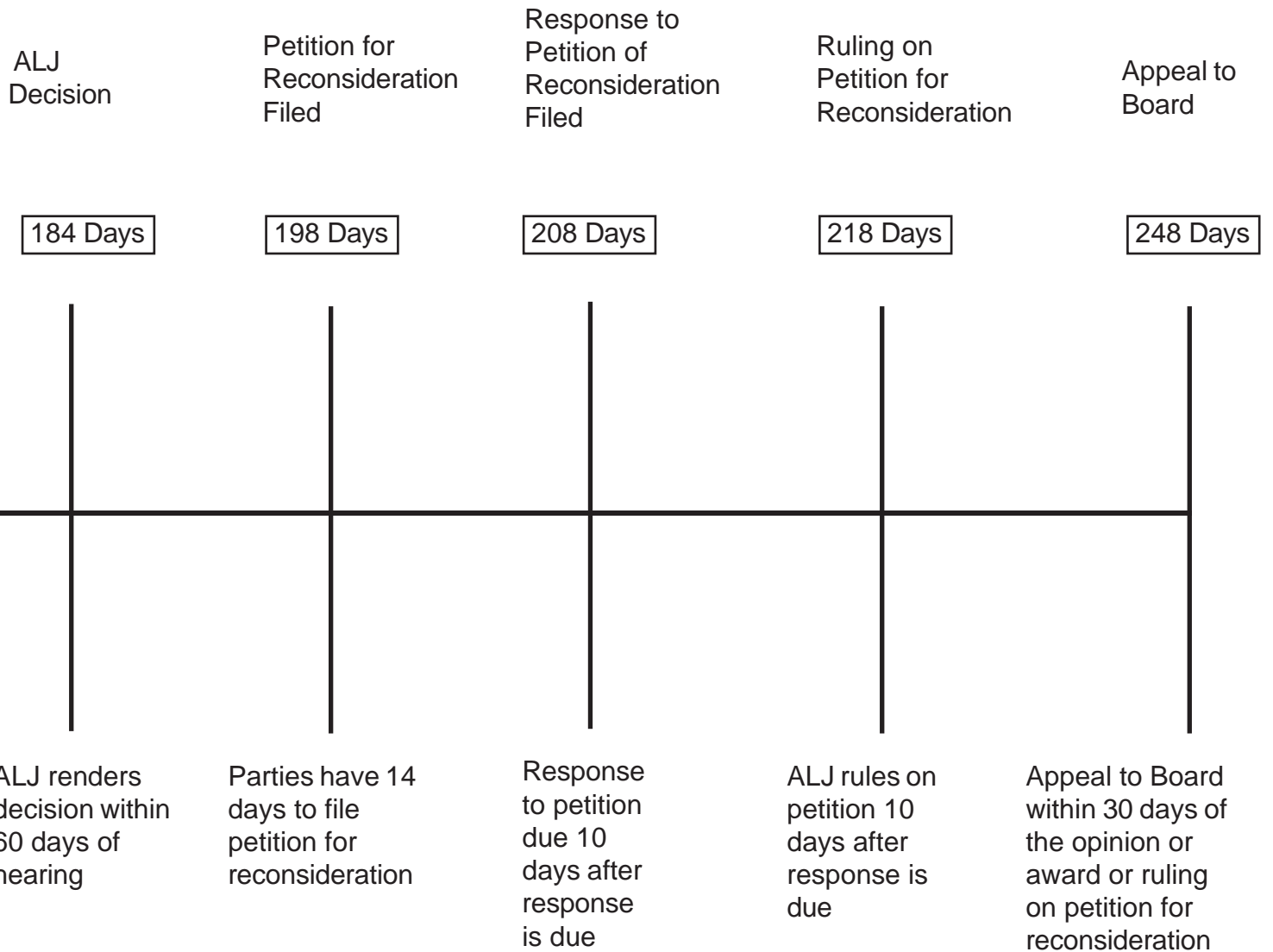
End of proof taking and discovery period

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

ALJ holds benefit review conference

Hearing, if needed before ALJ

Compensation Timeline



SCHEDULE OF WEEKLY WORKERS' COMPENSATION BENEFITS

| TYPE OF DISABILITY | | | | | | |
|--|-------------------------------|------------------------------|------------------------------|--------------------------------|------------------------------|------------------------------|
| SECTION OF STATUTE | FOR INJURIES OCCURRING | | | | | |
| | 01-01-17 THRU 12-31-17 | 01-01-18 THRU 12-31-18 | 01-01-19 THRU 12-31-19 | 01-01-2020 THRU 12-31-20 | 01-01-21 THRU 12-31-21 | 01-01-22 THRU 12-31-22 |
| APPLICABLE AVERAGE WEEKLY WAGE OF THE STATE | \$835.04 (2015) | \$848.41 (2016) | \$868.47 (2017) | \$890.00 (2018) | \$917.78 (2019) | \$976.47 (2020) |
| DEATH (KRS 342.750) | | | | | | |
| a. Widow or widower with no children-50% of average weekly wage of deceased-subject to the following: MAXIMUM MINIMUM | \$417.55 NONE | \$424.21 NONE | \$434.24 NONE | \$445.00 NONE | \$458.89 NONE | \$488.24 NONE |
| 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: MAXIMUM MINIMUM | \$626.29 NONE | \$636.32 NONE | \$651.35 NONE | \$667.50 NONE | \$688.34 NONE | \$732.35 NONE |
| c. Widow or widower with children not living in home-40% of average weekly wage of deceased, plus 15% for each child-subject to the following: MAXIMUM MINIMUM | \$626.29 NONE | \$636.32 NONE | \$651.25 NONE | \$667.50 NONE | \$688.34 NONE | \$732.35 NONE |
| d. One child, no widow or widower-50% of average weekly wage of deceased-subject to the following: MAXIMUM MINIMUM | \$417.55 NONE | \$424.24 NONE | \$434.24 NONE | \$445.00 NONE | \$458.89 NONE | \$488.24 NONE |
| d(1)More than one child, no 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: MAXIMUM MINIMUM | \$626.29 NONE | \$636.32 NONE | \$651.35 NONE | \$667.50 NONE | \$688.34 NONE | \$732.35 NONE |
| e. Dependent parents-25% of average weekly wage of deceased to each parent-subject to the following: MAXIMUM MINIMUM | \$626.29 NONE | \$636.72 NONE | \$651.35 NONE | \$667.50 NONE | \$688.34 NONE | \$732.35 NONE |
| f. Dependent brothers, sisters, grandparents and grandchildren-25% of average weekly wage of deceased to each dependent-subject to the following: MAXIMUM MINIMUM | \$626.29 NONE | \$636.32 NONE | \$651.35 NONE | \$667.50 NONE | \$688.34 NONE | \$732.35 NONE |

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 | | | | | | |
|--|----------------------------------|---------------------------------|---------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|
| | 01-01-2017 THRU 12-31-2017 | 01-01-2018 THRU 7-13-2018 | 7-14-2018 THRU 12-31-2018 | 01-01-2019 THRU 12-31-2019 | 01-01-2020 THRU 12-31-2020 | 01-01-2021 THRU 12-31-2021 | 01-01-2022 THRU 12-31-2022 |
| LUMP SUM DEATH BENEFIT INCREASE KRS 342.750(6) | \$82,022.93 | \$83,336.22 | \$83,336.22 | \$85,306.64 | \$87,421.45 | \$90,150.18 | \$95,915.08 |
| TEMPORARY AND PERMANENT TOTAL KRS 342.730(1)(a) 66 2/3% of average weekly wage of employee-subject to the following: MAXIMUM MINIMUM | \$835.04 167.00 | \$848.41 169.67 | \$933.25 169.67 | \$955.32 173.69 | \$979.00 178.00 | \$1,009.56 183.56 | \$1,074.12 195.29 |
| RETRAINING INCENTIVE BENEFITS KRS 342.732(1)(a)-66 2/3% of average weekly wage of employee-subject to the following MAXIMUM MINIMUM | \$626.29 NONE | \$636.32 NONE | \$636.32 NONE | \$651.35 NONE | \$667.50 NONE | \$688.34 NONE | \$732.35 NONE |
| PERMANENT PARTIAL FOR INJURIES OCCURRING AFTER 12-11-96 – KRS 342.730(1)(b), (1)(c)(2) and (1)(d) – 99% of 66 2/3% of average weekly wage of employee subject to the following: MAXIMUM MINIMUM | \$626.29 NONE | \$636.32 NONE | \$699.94 NONE | \$716.49 NONE | \$734.25 NONE | \$757.17 NONE | \$805.59 NONE |
| PERMANENT PARTIAL FOR INJURIES OCCURRING AFTER 12-11-96 – KRS 342.730(1)(c)(1) and (1)(d)- When the employee does not retain physical capacity to return to the type of work performed at the time of injury – 99% of 66 2/3% of average weekly wage of employee subject to the following: MAXIMUM MINIMUM | \$835.04 NONE | \$848.41 NONE | \$933.25 NONE | \$955.32 NONE | \$979.00 NONE | \$1,009.56 NONE | \$1,074.12 NONE |

Key Personnel*

| | |
|---|----------------|
| Scott Wilhoit, Commissioner | (502) 782-4462 |
| Lucretia Johnson, Deputy Commissioner | (502) 782-4443 |
| Douglas Gott, Chief Administrative Law Judge | (270) 746-7178 |
| Michael Alvey, Chairman Workers' Comp Board | (270) 687-7337 |
| Dale Hamblin, Assistant General Counsel | (502) 782-4404 |
| Division of Claims Processing & Appeals | |
| Connie Morris, Director | (502) 782-4407 |
| Imaging & Data Management Services | |
| Cam Lawson | (502) 782-4486 |
| James Wood, Imaging | (502) 782-4553 |
| Steve Mason, EDI | (502) 782-4540 |
| Division of Specialists & Medical Services | |
| Pam Knight, Assistant Director | (502) 782-4449 |
| Peggy Harper, Managed Care | (502) 782-4539 |
| Toll Free Specialist Line | (800) 554-8601 |
| Division of Security and Compliance | |
| Scott Gasser, Director | (502) 782-4534 |
| Mike Watts, Self-Insurance Branch Manager | (502) 782-4510 |
| Will McGinnis, Compliance Branch Manager | (502) 782-4450 |
| Division of Special Fund | |
| Brian Hiles, Assistant Director | (502) 782-8549 |
| Derrick Hill, Technical Support Section | (502) 782-4440 |
| Austin Maddox, LMS Technical Support | (502) 782-4454 |

DWC Fax Numbers:

| | | | |
|-------------------------|----------------|-----------------------|----------------|
| Commissioner's Office | (502) 564-0682 | Claims | (502) 564-3792 |
| Administrative Services | (502) 564-8250 | Rehabilitation | (502) 564-5741 |
| Ombuds & WC Specialist | (502) 564-0682 | Security & Compliance | (502) 564-0916 |
| Open Records/EDI | (502) 564-5732 | WC Board Offices | (859) 246-2779 |
| Medical Schedulers | (502) 564-5741 | Appeals | (502) 782-4467 |
| Legal Services | (502) 564-0681 | Special Fund | (502) 564-5467 |

* 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.

