

Department of Workers' Claims 2016-2017 Annual Report



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

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Frankfort, Kentucky 40601
(502) 564-5550

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

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Robert L. Swisher

DEPUTY COMMISSIONER
Robert E. Milligan

CHAIRMAN, WORKERS' COMPENSATION BOARD
Michael W. Alvey

CHIEF ADMINISTRATIVE LAW JUDGE
Douglas W. Gott

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*Developed by DWC Division of Information Services
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

Robert L. Swisher
Commissioner

KENTUCKY LABOR CABINET
Department of Workers' Claims

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

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 2016-2017 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 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 that reads "Robert L. Swisher".

Robert L. Swisher
Commissioner



An Equal Opportunity Employer
M/F/D



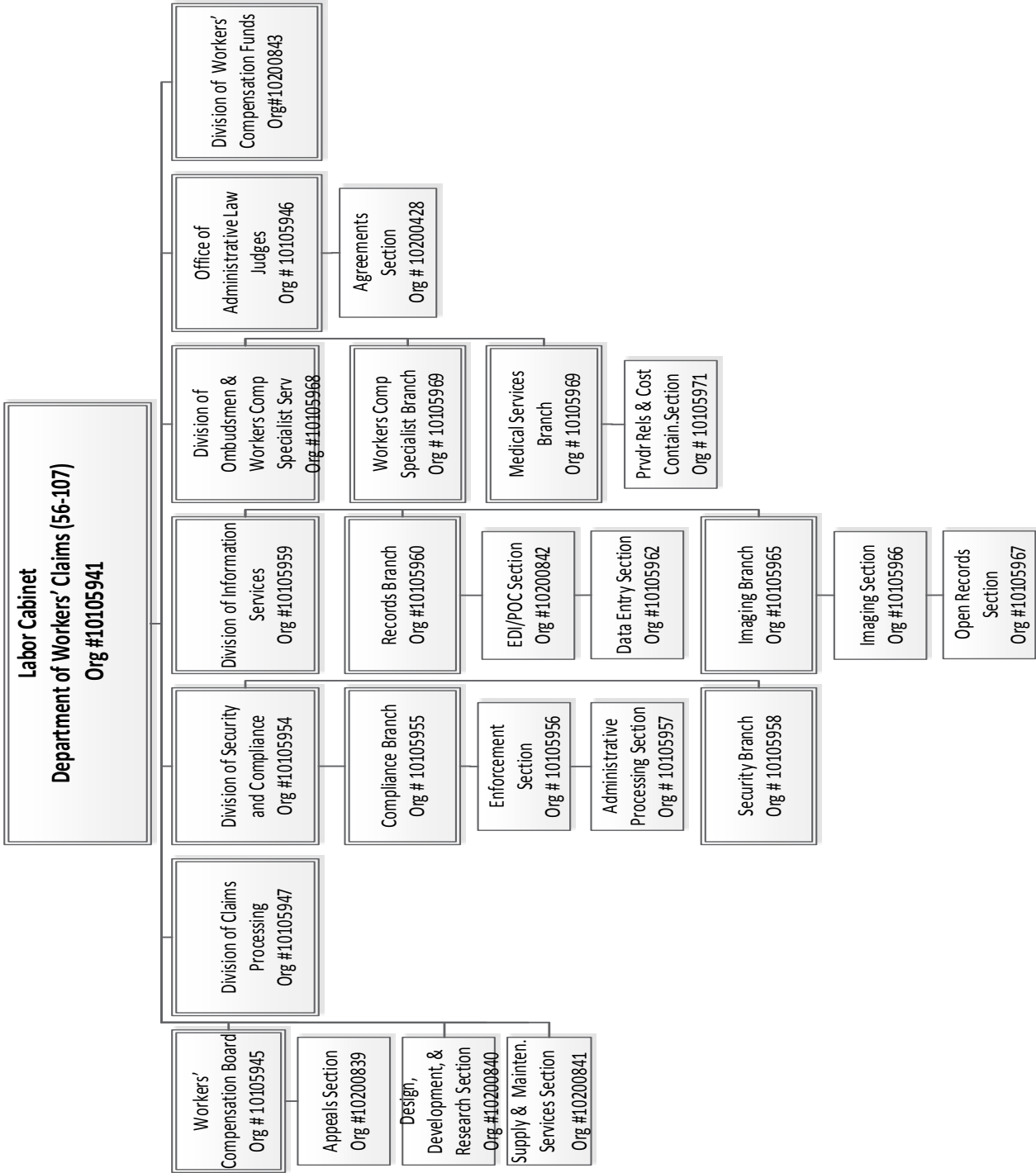
**Robert L Swisher
Commissioner**

Robert L. Swisher was raised in Lexington, Kentucky, and is a graduate of the University of Notre Dame (Class of 1976, A.B. in English with High Honors) and the University of Kentucky College of Law (Class of 1979, Juris Doctor). From 1979 through 1990 he was engaged in the general civil practice of law in Versailles, Kentucky and from 1991 through 2009 he practiced in Lexington concentrating in civil litigation and workers' compensation, representing both claimants and employers. He was appointed an Administrative Law Judge in January 2010. In January 2013 Swisher was one of two Administrative Law Judges assigned exclusively to the Medical Dispute Docket, a pilot project initiated by the Department of Workers' Claims to improve the process by which post-award medical disputes are resolved. On December 1, 2014 he was appointed Chief Administrative Law Judge. On April 1, 2017 he was appointed Acting Commissioner of the Kentucky Department of Workers' Claims and was appointed Commissioner on July 1, 2017. Commissioner Swisher is a member of the National Association of Workers' Compensation Judiciary, the Southern Association of Workers' Compensation Administrators and is a Fellow in the College of Workers' Compensation Lawyers.



**Robert E Milligan
Deputy Commissioner**

Robert E. Milligan was raised in Somerset, Ky. He is a U.S. Army veteran having served in Viet Nam (101st Airborne Division) and Korea. Robert graduated from the University of Kentucky with a B.A. in Education. He retired from the Kentucky State Police with the rank of Lieutenant Colonel. Among Robert's assignments with KSP were Post Commander for the Hazard and Frankfort Posts and Director for the Technical Services Division and KSP Forensic Laboratory System. Robert is also a graduate of the FBI National Academy. Robert returned to state service as a regional supervisor with the Kentucky State Park Rangers and was subsequently appointed as Director (Colonel) of Law Enforcement for the Kentucky Department of Fish and Wildlife Resources (the first African American to serve in that position, at a state level, in the United States). Robert was appointed as Director of the Division of Ombudsman and Workers' Comp Specialist Services April 2016. His appointment as Deputy Commissioner for the Kentucky Department of Workers' Claims was effective September 16, 2017.



Program Statistics

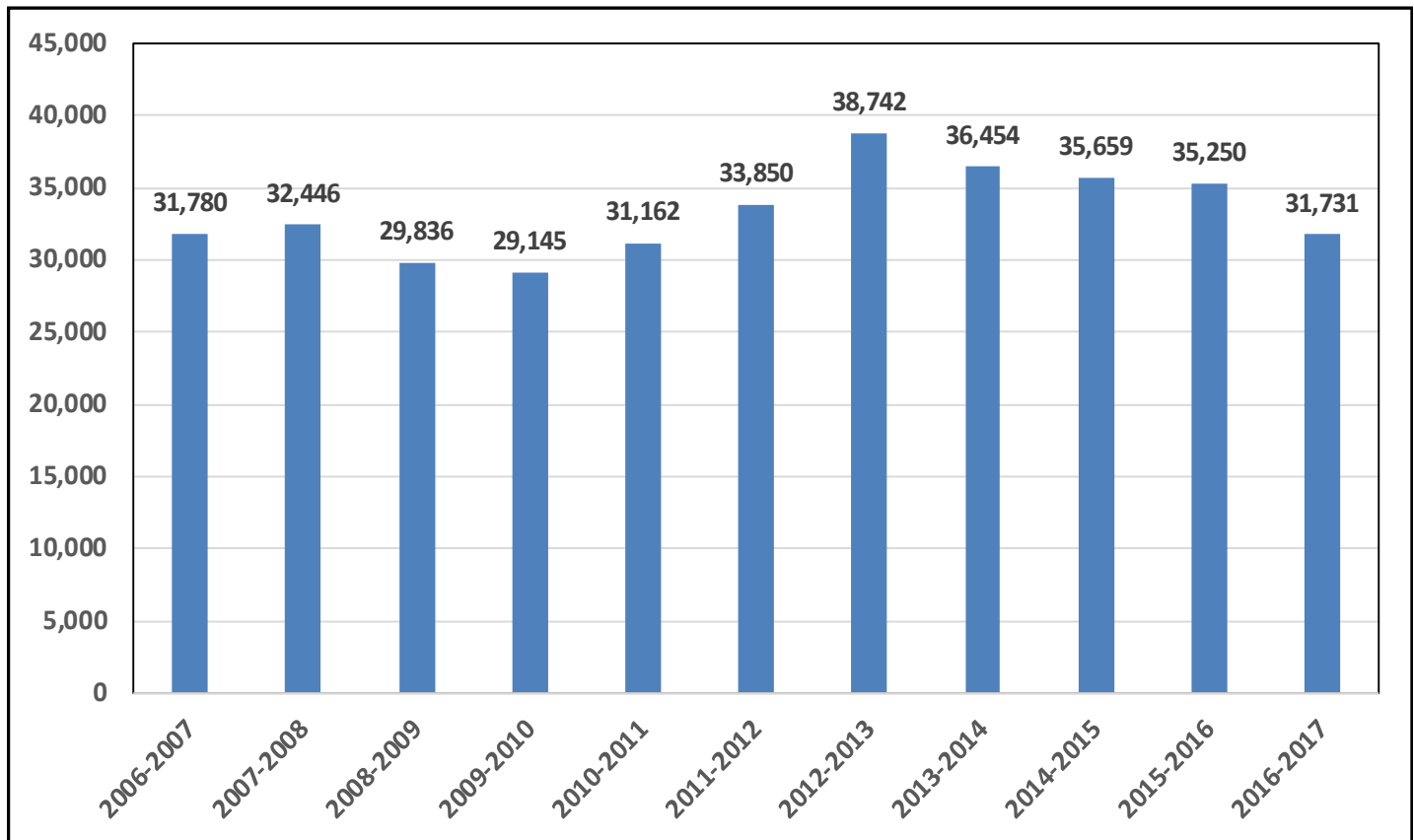


First Reports of Injury

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.

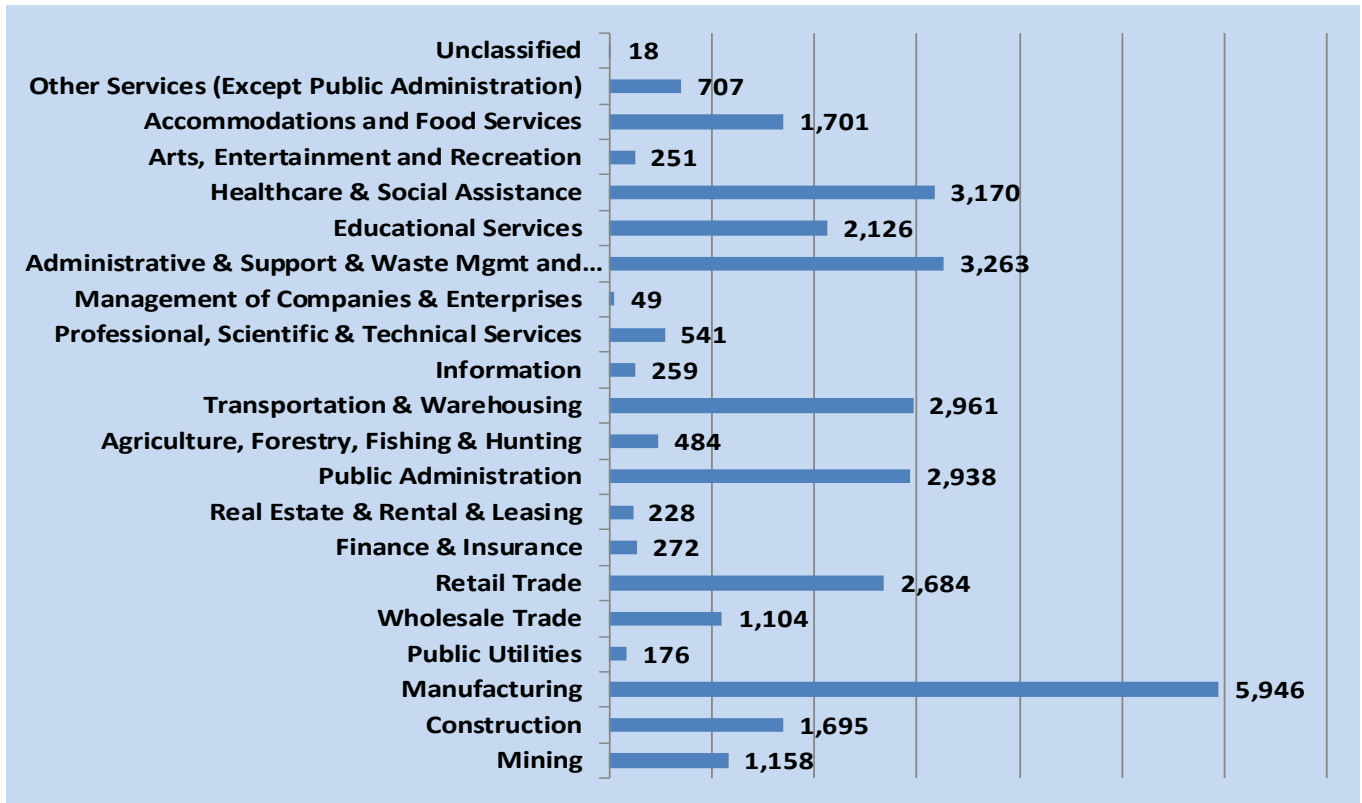
In this fiscal year, there were 31,731 lost time First Reports of Injury (FROIs) filed with the Department. The three most common causes of work-related injuries reported were falls or slips (6,358), lifting (3,271) and strains (2,328).

First Reports of Injury by Fiscal Year



***This only includes First Report of Injury (FROIs) submitted via Electronic Data Interchange (EDI) to the DWC.**

First Reports of Injury (FROIs) by Industrial Classification Category



A review of the nature of injuries revealed that there were 10,567 strains and 4,459 contusions reported. These two categories account for 47 percent of all reported injuries. Lacerations were reported in 3,442 of the injuries.

Of the information reported, the low back area (including lumbar and lumbosacral) was most frequently injured (3,572). The second most common injury reported was to multiple body parts (2,916) and third was injury to the knee (2,603). This closely mimics the lost time reports of the last six fiscal years.

FROIs By Nature Type	
Coal Workers' Pneumoconiosis (CWP)	92
Hearing Loss	120
Injury	30,915
Other Occupational Disease	560
Null	45

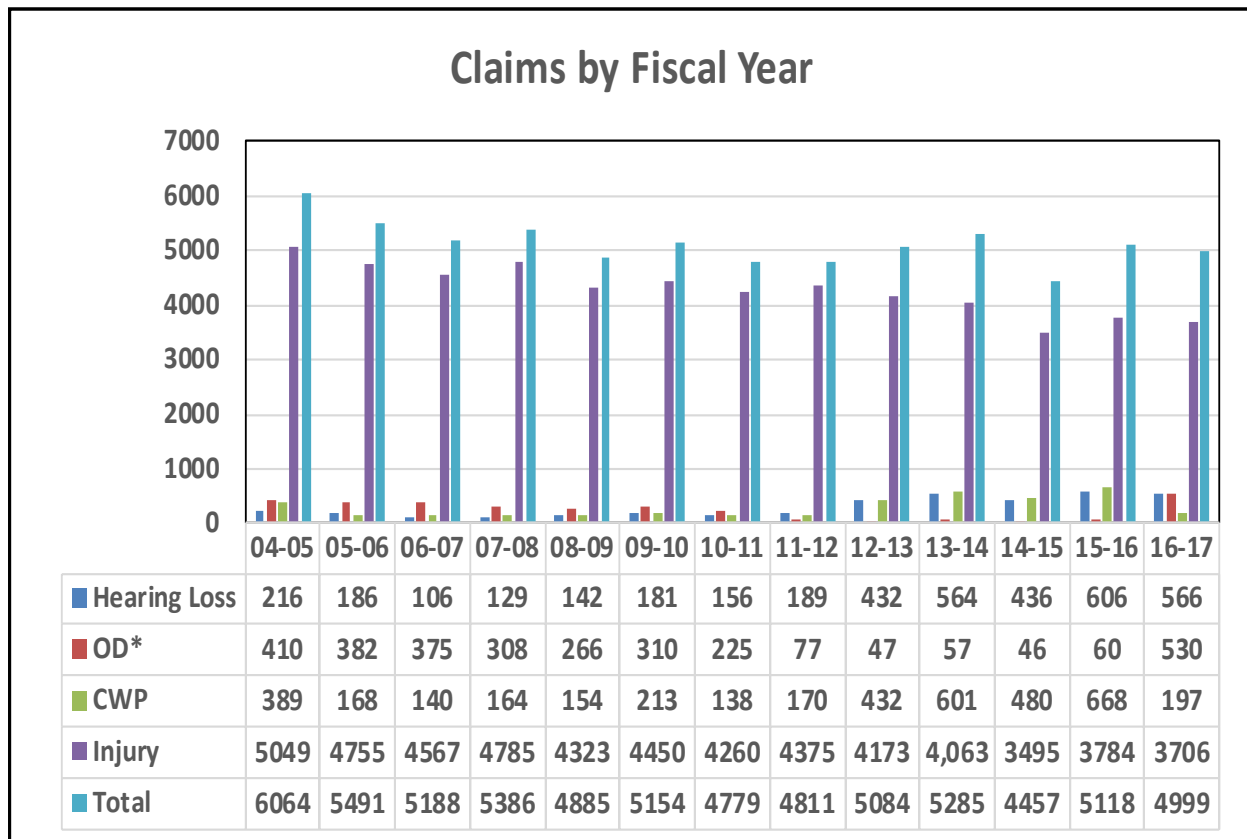
Workers' Compensation Claims

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.

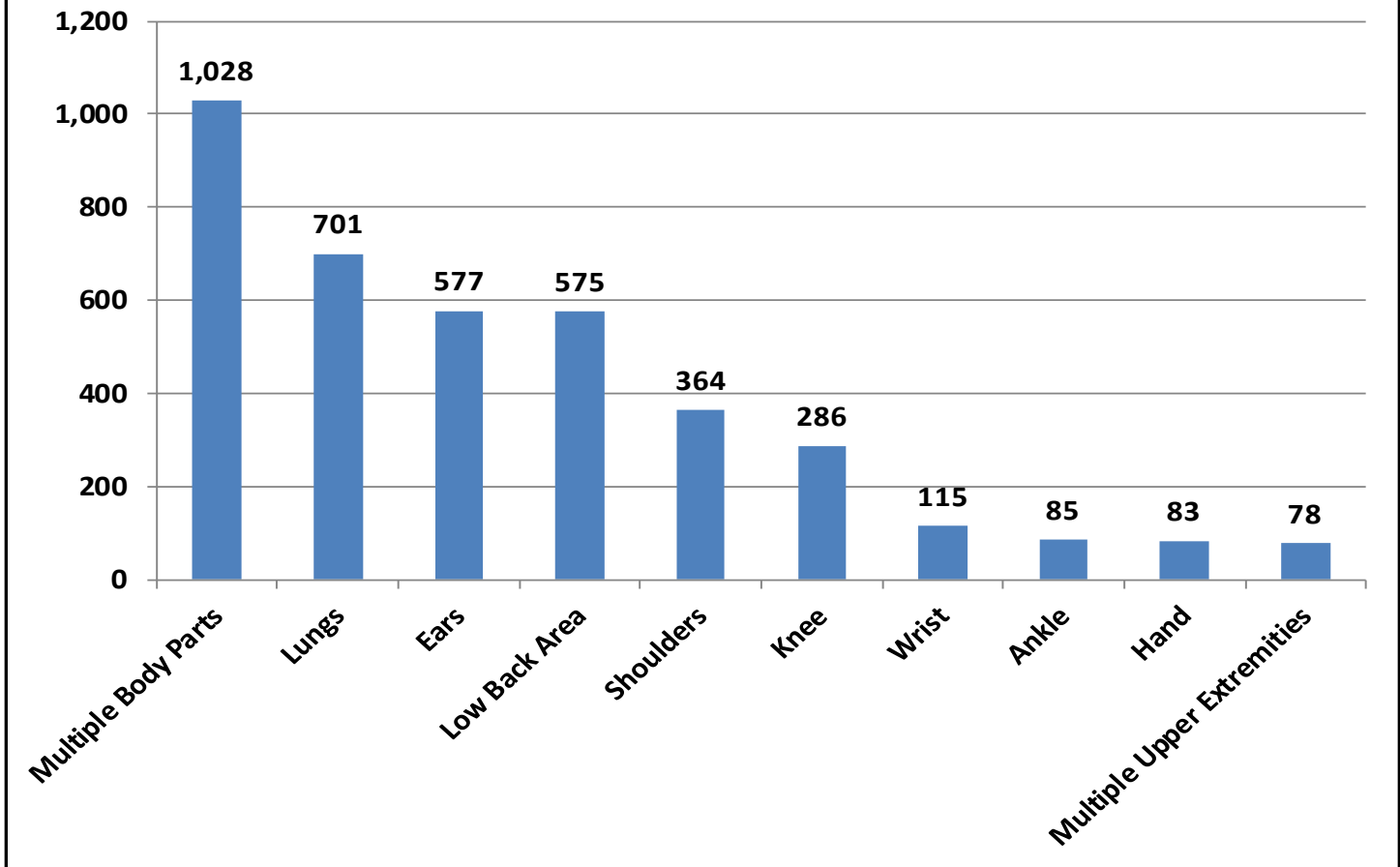
Most of the data in this report pertains to indemnity claims. For an injury to be compensable, it must be a direct result of the employee's work. To be considered for temporary total income benefits, an injured worker must miss more than seven days of work. Medical-only claims are those in which medical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

In fiscal year 2016-2017, there were 4,999 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.

Distribution of Claims by Body Part Top Ten



Of the 4,999 claims that were filed this fiscal year, 1,111 claims were filed by females (22%) and 3,840 by males (76%). Forty-eight 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 2,042 with Mining a close second at 708. The remaining NAICS categories had the following number of claims: Manufacturing (511), Construction (236), Public Administration (208), Healthcare & Social Assistance (208), Administrative & Support & Waste Mgmt and Remediation Services (203), Transportation and Warehousing (195), Retail Trade (185), Educational Services (109), Wholesale Trade (88), Accommodations and Food Services (84), Other Services (except Public Administration) (59), Finance and Insurance (29), Real Estate & Rental & Leasing (27), Information (27), Agriculture, Forestry, Fishing and Hunting (18), Public Utilities (12), Arts, Entertainment and Recreation (9).

In reviewing litigated injury claims, the three most common causes of injury during this reporting period were Strains (1,749), Falls, Slips or Trips (799) and Cumulative (652).

Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 16-17

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Adair	6,822	57	0.84%	3	5.26%
Allen	8,994	74	0.82%	5	6.76%
Anderson	11,439	83	0.73%	6	7.23%
Ballard	3,703	18	0.49%	2	11.11%
Barren	19,282	243	1.26%	9	3.70%
Bath	4,785	30	0.63%	5	16.67%
Bell	8,633	169	1.96%	75	44.38%
Boone	67,197	1,381	2.06%	88	6.37%
Bourbon	10,014	169	1.69%	4	2.37%
Boyd	18,390	286	1.56%	37	12.94%
Boyle	12,491	227	1.82%	13	5.73%
Bracken	3,813	12	0.31%	4	33.33%
Breathitt	3,892	64	1.64%	27	42.19%
Breckinridge	7,325	69	0.94%	8	11.59%
Bullitt	40,772	439	1.08%	36	8.20%
Butler	5,230	42	0.80%	2	4.76%
Caldwell	5,445	43	0.79%	10	23.26%
Calloway	18,803	211	1.12%	15	7.11%
Campbell	48,914	347	0.71%	22	6.34%
Carlisle	2,891	7	0.24%	0	0.00%
Carroll	5,154	94	1.82%	14	14.89%
Carter	10,059	81	0.81%	9	11.11%
Casey	6,987	82	1.17%	6	7.32%
Christian	25,193	401	1.59%	24	5.99%
Clark	17,278	297	1.72%	39	13.13%
Clay	5,814	67	1.15%	35	52.24%
Clinton	3,791	52	1.37%	5	9.62%
Crittenden	4,165	50	1.20%	3	6.00%
Cumberland	2,953	25	0.85%	2	8.00%
Daviess	46,364	642	1.38%	29	4.52%
Edmonson	4,862	17	0.35%	0	0.00%
Elliott	2,195	10	0.46%	0	0.00%
Estill	5,393	28	0.52%	6	21.43%
Fayette	172,435	2,298	1.33%	553	24.06%
Fleming	6,067	66	1.09%	4	6.06%
Floyd	11,515	174	1.51%	138	79.31%
Franklin	24,490	1,357	5.54%	86	6.34%
Fulton	2,093	31	1.48%	2	6.45%
Gallatin	3,926	32	0.82%	2	6.25%
Garrard	7,695	47	0.61%	5	10.64%
Grant	11,330	116	1.02%	4	3.45%

Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 16-17

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Graves	15,746	178	1.13%	13	7.30%
Grayson	11,098	134	1.21%	6	4.48%
Green	5,139	32	0.62%	4	12.50%
Greenup	13,757	80	0.58%	8	10.00%
Hancock	3,967	69	1.74%	5	7.25%
Hardin	48,341	676	1.40%	46	6.80%
Harlan	7,102	291	4.10%	164	56.36%
Harrison	8,676	80	0.92%	10	12.50%
Hart	8,116	94	1.16%	4	4.26%
Henderson	21,631	288	1.33%	18	6.25%
Henry	7,889	58	0.74%	3	5.17%
Hickman	2,000	13	0.65%	2	15.38%
Hopkins	20,121	353	1.75%	111	31.44%
Jackson	4,336	19	0.44%	5	26.32%
Jefferson	390,363	7,933	2.03%	740	9.33%
Jessamine	25,931	262	1.01%	23	8.78%
Johnson	7,301	62	0.85%	31	50.00%
Kenton	85,164	898	1.05%	66	7.35%
Knott	4,516	56	1.24%	93	166.07%
Knox	9,178	84	0.92%	23	27.38%
Larue	6,061	57	0.94%	2	3.51%
Laurel	24,049	304	1.26%	70	23.03%
Lawrence	5,171	65	1.26%	34	52.31%
Lee	2,014	12	0.60%	5	41.67%
Leslie	2,775	60	2.16%	54	90.00%
Letcher	6,510	118	1.81%	143	121.19%
Lewis	4,995	19	0.38%	1	5.26%
Lincoln	9,344	43	0.46%	3	6.98%
Livingston	3,736	35	0.94%	3	8.57%
Logan	12,124	119	0.98%	8	6.72%
Lyon	3,135	31	0.99%	5	16.13%
Madison	53,750	617	1.15%	64	10.37%
Magoffin	3,113	29	0.93%	27	93.10%
Marion	9,662	264	2.73%	14	5.30%
Marshall	15,137	120	0.79%	9	7.50%
Martin	3,026	77	2.54%	39	50.65%
Mason	7,336	96	1.31%	3	3.13%
McCracken	29,180	399	1.37%	33	8.27%
McCreary	4,757	32	0.67%	8	25.00%
McLean	4,335	26	0.60%	14	53.85%
Meade	12,220	104	0.85%	12	11.54%

Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 16-17

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Menifee	2,415	18	0.75%	2	11.11%
Mercer	10,129	117	1.16%	12	10.26%
Metcalfe	4,173	31	0.74%	0	0.00%
Monroe	4,805	50	1.04%	4	8.00%
Montgomery	11,990	180	1.50%	27	15.00%
Morgan	4,611	36	0.78%	9	25.00%
Muhlenberg	11,733	146	1.24%	51	34.93%
Nelson	22,025	242	1.10%	53	21.90%
Nicholas	3,402	13	0.38%	0	0.00%
Ohio	9,624	201	2.09%	31	15.42%
Oldham	31,946	211	0.66%	21	9.95%
Owen	5,729	39	0.68%	2	5.13%
Owsley	1,140	7	0.61%	2	28.57%
Pendleton	6,810	57	0.84%	5	8.77%
Perry	8,501	286	3.36%	309	108.04%
Pike	19,911	517	2.60%	375	72.53%
Powell	5,039	51	1.01%	7	13.73%
Pulaski	25,532	481	1.88%	45	9.36%
Robertson	825	7	0.85%	0	0.00%
Rockcastle	6,772	43	0.63%	11	25.58%
Rowan	10,882	140	1.29%	18	12.86%
Russell	6,152	98	1.59%	10	10.20%
Scott	27,666	813	2.94%	124	15.25%
Shelby	23,613	299	1.27%	32	10.70%
Simpson	8,510	166	1.95%	12	7.23%
Spencer	9,559	23	0.24%	1	4.35%
Taylor	11,955	130	1.09%	5	3.85%
Todd	5,594	44	0.79%	2	4.55%
Trigg	5,794	53	0.91%	3	5.66%
Trimble	3,964	20	0.50%	0	0.00%
Union	6,148	231	3.76%	85	36.80%
Warren	62,099	1,022	1.65%	77	7.53%
Washington	6,232	118	1.89%	5	4.24%
Wayne	7,606	75	0.99%	14	18.67%
Webster	5,783	34	0.59%	43	126.47%
Whitley	13,442	287	2.14%	106	36.93%
Wolfe	1,978	36	1.82%	8	22.22%
Woodford	14,713	300	2.04%	19	6.33%
Out-of-State		881		197	22.36%
Unknown		3		9	0.00%
Grand Total	2,040,198	31,731	1.56%	4999	15.75%

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

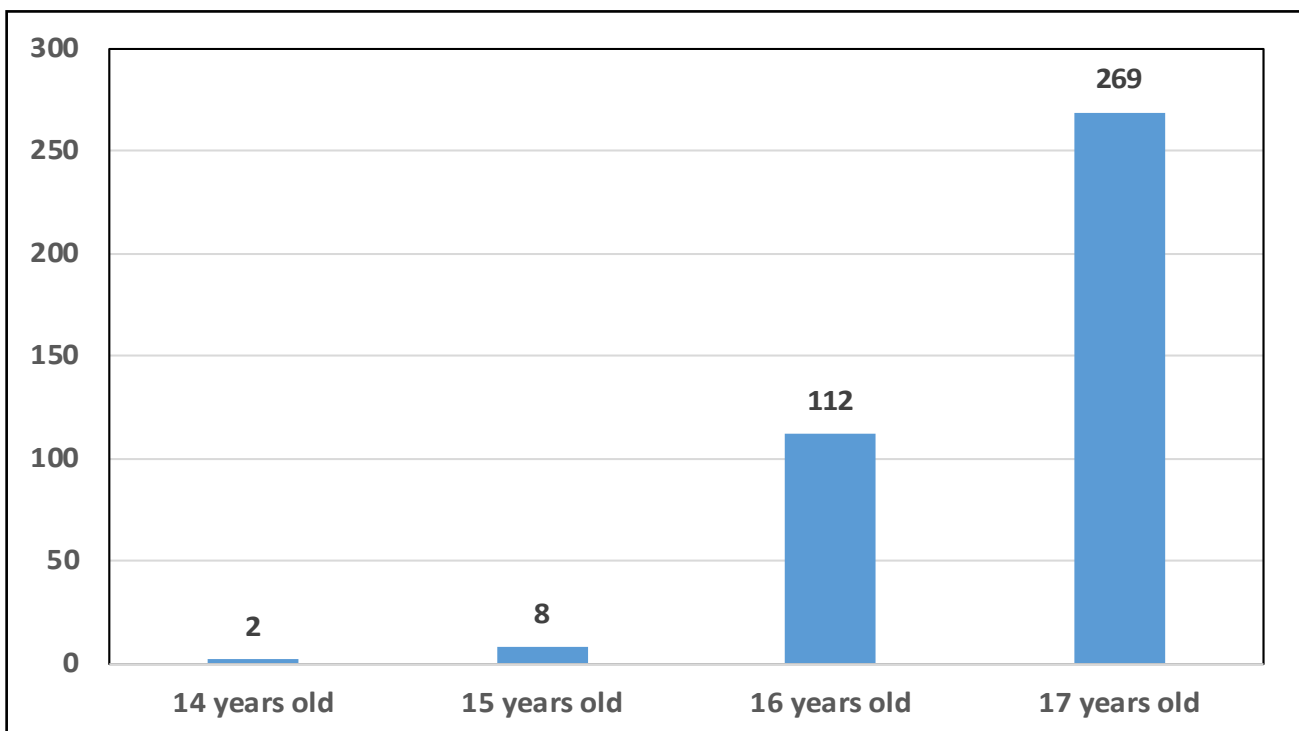
In fiscal year 2016-2017, there were 391 lost-time injuries to workers under the age of 18 reported to the Department of Workers' Claims.

According to electronic data submitted to the Department, 2 injuries were reported for a workers 14 years of age; 8 injuries were reported for workers 15 years of age; 112 injuries were reported in which the workers were 16 years of age; and 269 injuries were reported in which the workers were 17 years of age.

Based on the North American Industry Classification System (NAICS) injuries sustained by minors during this period, 163 injuries occurred in the Accommodations and Food Services sector and 54 in Transportation & Warehousing. The remaining NAICS categories had the following number of injuries: Retail Trade (46), Administrative & Support & Waste Management and Remediation Services (30), Manufacturing (20), Arts, Entertainment and Recreation (16), Public Administration (13), Other Services (except Public Administration) (12), Finance & Insurance (10), Construction (9), Healthcare & Social Assistance (7), Wholesale Trade (4), Professional, Scientific & Technical Services (3), Educational Services (2), Agriculture, Forestry, Fishing & Hunting (1), and Mining (1).

The top three causes of injury to minors reported during this fiscal year were Burn or scald (59), Falls or slips (58) and cut, puncture or scrape (51). Accordingly, the top three body parts most frequently injured were fingers (51), hands (38) and knee which was reported in 30 instances.

Distribution of Injuries to Minors by Age

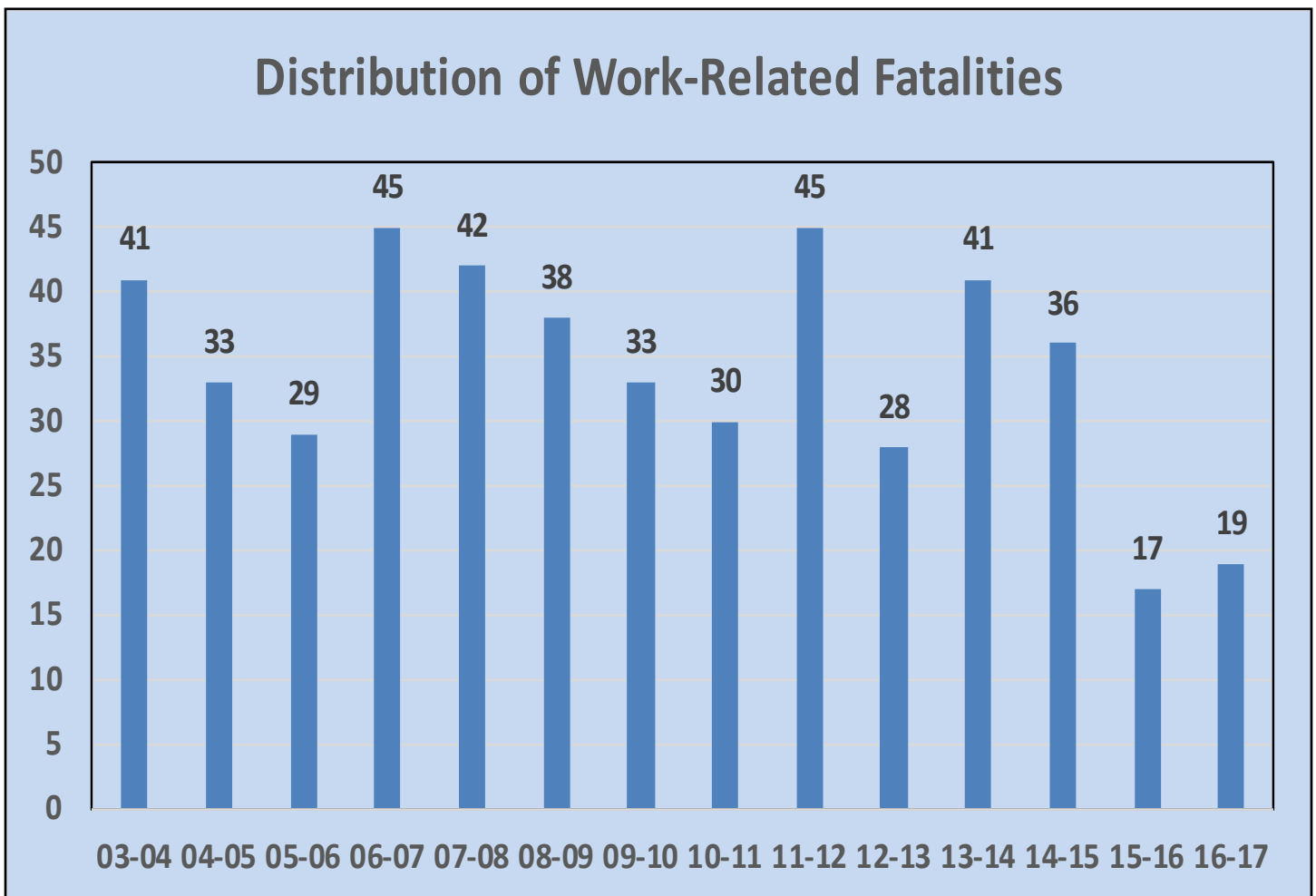


Work-Related Fatalities

There were 84 workplace fatalities reported to the Department of Workers' Claims during this fiscal year. However, after investigation, only 19 of the deaths were found to be clearly work-related. The remaining have been ruled not work-related (13), containing issues which have the case in a pending status (14), and (38) undetermined.

The youngest of the casualties was a 23 year-old male who was electrocuted. The oldest worker was a 77 year-old male who was crushed by a bush hog. The most common causes of death this fiscal year were other injury (Not otherwise classified) (15) and motor vehicles (13).

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	\$28,117,037.13	\$4,862.86
Defense	2,855	\$13,331,504.86	\$4,669.53

*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 FY 2016-17							
FISCAL YEAR	PERSONNEL CAP	PERSONNEL ACTUAL	BUDGET ALLOTMENT	ACTUAL EXPENDITURES	DIFFERENCE	PERCENTAGE BUDGET	
	2016		146	\$66,027,100	51,045,811	(14,981,289)	77.0%
2015	174	156	18,039,100	17,673,180	(365,920)	97.7%	
2014	177	165	21,788,000	18,456,148	(3,331,852)	84.7%	
2013	177	168	16,527,200	14,973,463	(1,553,737)	90.6%	
2012	181	162	15,945,500	15,122,771	(822,729)	94.8%	
2011	181	170	15,670,600	14,563,810	(1,106,790)	92.9%	
2010	181	172	15,229,700	14,827,465	(402,235)	97.4%	
2009	185	175	14,888,900	14,283,695	(605,205)	95.9%	
2008	174	167	14,170,100	13,373,435	(796,665)	94.4%	
2007	184	160	11,455,000	10,794,005	(660,995)	94.2%	
2006	184	167	10,211,700	9,840,070	(371,630)	96.4%	
2005	173	156	11,093,300	10,634,776	(458,524)	95.9%	
2004	173	163	9,498,700	9,182,865	(315,834)	96.7%	
2003	195	188	13,649,200	10,735,937	(2,913,263)	78.7%	
2002	242	201	16,397,700	13,384,935	(3,012,765)	81.6%	
2001	242	204	15,806,800	13,373,836	(2,432,963)	84.6%	
2000	242	208	14,942,300	12,716,927	(2,258,373)	85.1%	
1999	268	207	15,637,000	12,387,288	(3,249,712)	79.2%	
1998	268	208	14,994,000	12,606,188	(2,387,812)	84.1%	
1997	272	227	15,182,500	12,588,527	(2,593,973)	82.9%	
1996	272	229	12,137,900	11,057,391	(1,080,509)	91.0%	
1995	207	138	9,822,200	9,479,970	(342,230)	96.5%	
1994	210	120	9,757,200	8,586,716	(1,170,484)	88.0%	
1993	167	159	7,860,000	7,337,688	(522,312)	93.4%	
1992	167	160	7,505,100	7,004,561	(500,539)	93.0%	
1991	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 and Research Section

The Design, Development, and Research Section (DD&R) responds to all development and programming needs for the Department of Workers' Claims (DWC). 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. DD&R staff apply new features to SIMBA, LMS, EDI, POC, Reports, and other applications for the agency.

During the past fiscal year the DD&R staff received 244 new issues, completed 237 test track issues, and performed 6 builds, patches and updates. A major project for DD&R and DWC was to work with the Commonwealth Office of Technology (COT) regarding the conversion of old servers used for Department applications to new updated servers in the COT server farm. Another major project for DD&R was working with COT to migrate DWC's servers into the state server farms and upgrade existing applications to the most updated versions for use in future applications. A continuing project for DD&R was designing, programming and improving workflow processes for the DWC's new overarching system for litigation of claims now called the Litigation Management System (LMS). DD&R continues to research options on a project for designing, programming of screens/reports, data conversion and implementation of the Frankfort Motion Docket and Claims Agreements stand-alone Microsoft Access databases into SIMBA/LMS. Staff also met with sections on integrating Claims Review and Claims Assignment stand-alone access databases into SIMBA/LMS. 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 document codes and status codes were added to the SIMBA and LMS systems. User security accounts for SIMBA and LMS were enabled and disabled as needed. Staff assisted vendors/trading partners with FROI/SROI & POC electronic filings. Staff applied the 2017 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.

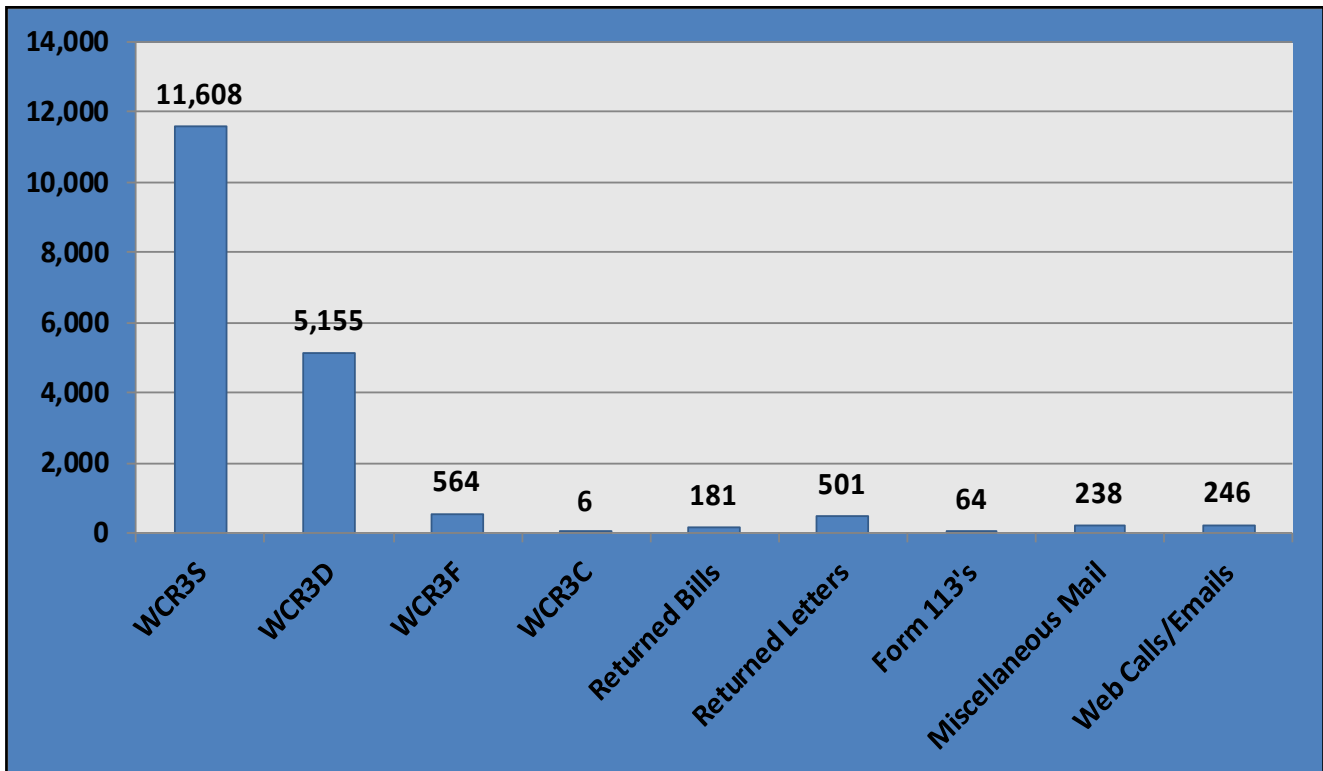
The Research Section collects, reviews and compares information pertinent to workers' compensation and the Kentucky Department of Workers' Claims.

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 filings, denials and fatality letters. The mail totals for this fiscal year are outlined in the following chart.

Distribution of Mail-Research Section



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 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 \$900,904.87 in fines from employers who failed to secure their workers' compensation liability with a policy of insurance and \$50,600.00 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 577 challenges to citations issued by the Commissioner and 29 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 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.



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. In January 2012, the number of active hearing sites was reduced to 9. Currently, hearing sites are located in Bowling Green, Florence, Frankfort, Hazard, London, Louisville, Owensboro, Paducah and Pikeville.

During the past fiscal year, the ALJs conducted 4,201 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 1,594 formal hearings and issued 2,537 opinions. The ALJs also participated in two statutorily required 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 2016-2017, 3,238 agreements were received for approval by the Chief Administrative Law Judge. Of those, 2,793 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 102 motions for widow benefits were received and processed. Seventy-five were approved by the Chief Administrative Law Judge in this fiscal year.

Summary of FY 2016-2017 Published Kentucky Supreme Court Workers' Compensation Cases

Eddie's Service Center v. Thomas 503 S.W.3d 881 (Ky. 2016)

Subject: Sufficiency of Evidence, Heart Attack

Where a physician failed to consider increased stress directly related to work, his opinion did not constitute substantial evidence necessary to rebut the presumption the death was work-related.

Uninsured Employers' Fund v. Sidebottom, 509 S.W.3d 701 (Ky. 2017)

Subject: Average Weekly Wage

Where an employee receives a weekly wage and earns tips but fails to report tip income on a tax return, the AWW is properly calculated for variable income based upon the best quarter in the 52 weeks preceding the injury.

Ballou v. Enterprise Mining Co., LLC, 512 S.W.3d 724 (Ky. 2017)

Subject: Constitutionality

KRS 342.732(1)(a)7 which permits an employee who is 57 or older and leaves the mining industry to elect a 25% disability for 425 weeks or until age 65 in lieu of a retraining incentive benefit award does not violate the equal protection provisions of the U.S. and Kentucky Constitutions.

Mullins v. Leggett & Platt, 513 S.W.3d 337 (Ky. 2017)

Subject: Attorney Fee

Where claimant settled claim for periodic payments and elected to pay her attorney fee from the proceeds, a present-value discount of the lump-sum payment for the attorney fee was proper.

Parker v. Webster County Coal, LLC, --- S.W.3d --- (Ky. 2017)

Subject: Constitutionality

KRS 342.730(4) that limits workers' compensation benefits for injured older workers who qualify for normal old-age Social Security retirement benefits violates the right to equal protection and the prohibition against special legislation found in Section 59 of the Kentucky Constitution.

LKLP CAC Inc. v. Fleming, 520 S.W.3d 382 (Ky. 2017)

Subject: Weight and Sufficiency of Evidence

In a reopening to show an increase in permanent partial disability, a claimant must show both an increase in impairment and in permanent impairment rating. A greater permanent impairment rating is objective medical evidence of a worsening of impairment.

Workers' Compensation Board

Since 1987 and pursuant to KRS 342.285, the Kentucky Workers' Compensation Board has been the first step in the appellate process in a workers' compensation litigated claim. 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.

Beginning in 1994, statutory alterations obligated the board to render its opinion within 60 days of the filing of the last brief. The cases are randomly assigned to each board member to be the primary author of that opinion. In each opinion, unless it is necessary for a board member to recuse himself from the case, all three will participate in the decision.

From 1991 to present, approximately 65 percent to 72 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:

- Determining 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 on the board since June 28, 2007. Hon. Rebekkah B. Rechter has served on the board since July 16, 2013.

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 231 appeals to the WCB this fiscal year. A total of 456 motions were submitted for the Board's consideration during weekly motion dockets. Chairman Alvey issued 208 motion docket orders. Board Member Franklin Stivers issued 119 motion docket orders. Board Member Rebekkah Rechter issued 129 motion docket orders. The WCB rendered 208 opinions with Chairman Michael Alvey authoring 71 opinions, Board Member Franklin Stivers authoring 68 opinions and Board Member Rebekkah Rechter authoring 69 opinions. A total of 265 cases were completed by the WCB during this fiscal year, either by opinion or by final order.

Fifty-three petitions for review were filed with the Kentucky Court of Appeals, and the Court requested 51 records. Appeals Section staff prepared, indexed and transferred the requested records to the Court of Appeals, with 54 opinions and 4 final orders being issued. Additionally, there were 29 appeals to the Kentucky Supreme Court, with the Court rendering 16 opinions and 3 final orders during the fiscal year.



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), Occupational Disease (Form 102 and 102 CWP) Hearing Loss (Form 103), and reopenings. 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 Division

The Division of Claims Processing 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. The following includes division activities for the fiscal year 2016-2017, accompanied by a brief narrative of each the division's duties and responsibilities.

The claims review duties 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 claim number and researching insurance coverage through the Department's insurance database. In fiscal year 2016-2017, there were 5,060* new claims filed including 3,743 Applications for Resolution of Injury (Form 101), 742 Occupational Disease (Form 102, 102-CWP) and 575 Hearing Loss (Form 103). Of the 742 Occupational Disease Applications, 682 were coal workers' pneumoconiosis applications.



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, 4,505 new and 598 reopened/motion docket claims were assigned to the Administrative Law Judges and scheduled for a benefit review conference. The Division audited and purged 6,448 physical files by the end of FY 2016-2017.

***This depicts division activity, not necessarily what is derived from the agency database.**

Division of Information Services

Effective December 1, 2016, the Division of Information Services was renamed Information Services. The duties of the Information Services include collection, storage and retrieval of data and the dissemination of information. The Division of Information Services 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 submitted by pro se parties. 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 pleadings filed by pro se parties and processed through the 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 77,107 pieces of mail, 6,830 orders and 449 awards from the ALJ's as well as 1,090 docket orders. Each document received in the Section receives personal attention to ensure data quality.



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 *42,796 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 570,167 POC transactions this fiscal year, with an average acceptance rate of 92%. 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 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 1,385,822 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 2016-2017, the number of pre-employment requests totaled 5,720.

For fiscal year 2016-2017, Open Records processed 9,548 written requests and received \$204,770.90 for requested materials.



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 104 Kentucky employers that are self-insured and approximately 359 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 79 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, 89 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

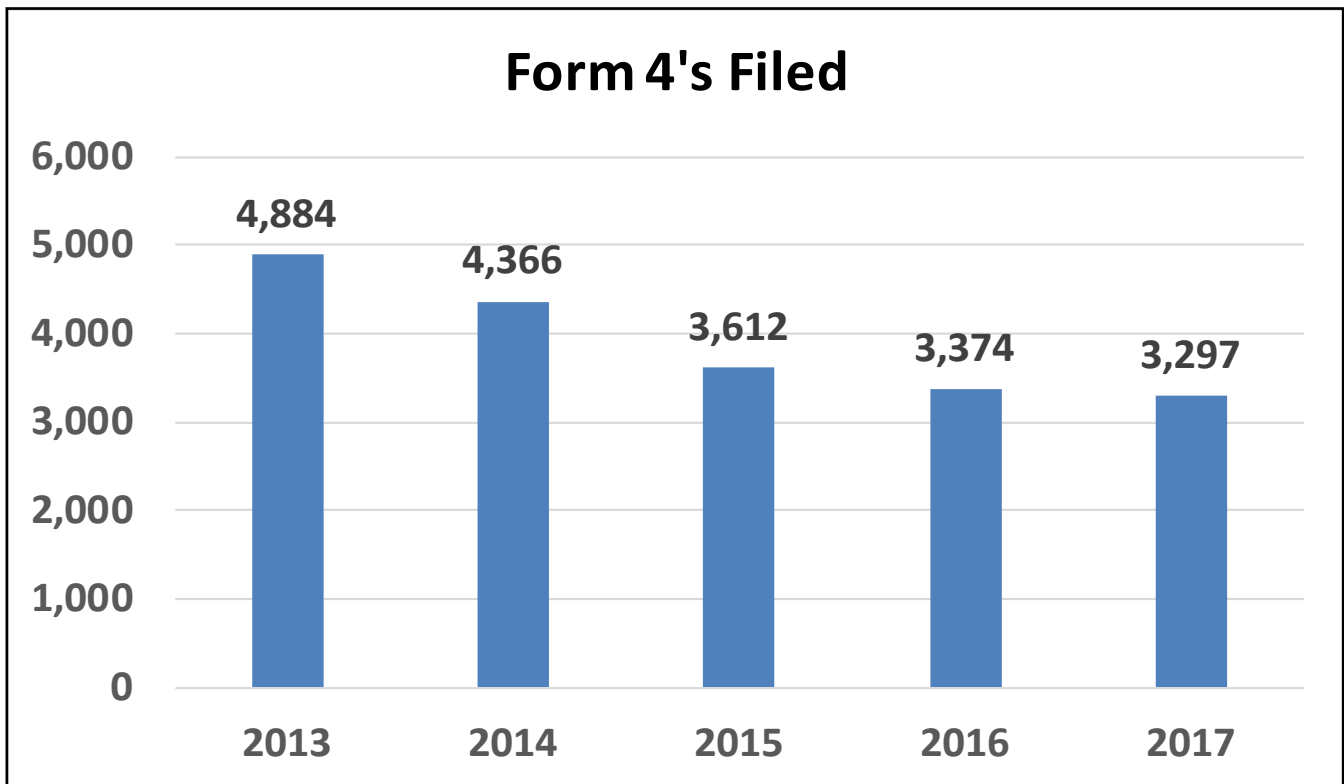
This branch consists of two sections. They are the Administrative Processing Section and the Enforcement Section. Each is distinct in purpose, but compliance with the Act is their joint mission.

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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 285 certifications of coverage this year.

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 2017, the branch received and processed 3,297 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 10 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 11,048 on-site investigations of Kentucky employers. As a result, the Commissioner issued 681 citations to non-complying employers for failure to maintain Kentucky workers’ compensation insurance. The Branch processed \$1,053,179.77 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.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Number of Investigations	9,842	9,700	7,913	9,146	11,048
Number of Citations	848	781	844	680	681
Penalties collected*	\$1,079,945.42	\$1,818,399.32	\$1,490,964.58	\$1,373,281.11	\$1,053,179.77

*This includes penalties paid in full to the 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 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 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.); compliance with Kentucky Revised Statutes (KRS) 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 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.

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 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
269

University of Louisville
Hearing Loss Claims Received
378

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

Commonwealth Respiratory Consultants
Claims Referred for Evaluations
167

Owensboro Health/Muhlenberg Community Hospital
Claims Referred for Evaluations
168

University of Louisville Pulmonary Clinic
Claims Referred for Evaluation
18

Medical Service personnel make and coordinate these evaluation appointments for miners with CWP, Hearing Loss and other injuries.

**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**.

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 9,548	Requests from Claimants 3,647
Request from Attorneys: 3,767	Request from Employers 613
Request from Medical Providers 647	Request from Government Official 253
Request from Widow/Widower 62	Request from Family Member 629

The balance of requests received come from Carriers, Medical Reviews, Drug Free Workplace, and Other. **1,881**

Assistance Type

Claim Status
3,390

Rights and Procedures
4,013

Coverage
414

Medical Fee Dispute
235

Medical Fee Schedule
59

First Report of Injury
229

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: **2,661**

* A newly installed telephone system allowed for the capturing of the number of outbound calls made by the specialist: **1,819**

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). 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
16

Plans Renewed
168

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
106

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
66

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 the coal mining profession.

Program Participants
5



Key Personnel*

Robert Swisher, Commissioner (502) 782-4469
Robert Milligan, Deputy Commissioner (502) 782-4469
Douglas Gott, Chief Administrative Law Judge (502) 782-4462
Dale Hamblin, General Counsel (502) 782-4404
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
James Wood, Branch Manager (502) 782-4553
Deana Mitchell, Open Records (502) 782-4455
Vacant, EDI
Terri Robinson, Data Entry Supervisor (502) 782-4402
Kim McKenzie, Web Administrator (502) 782-4484

Division of Ombudsman & Medical Specialist Services

Vacant, Director
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

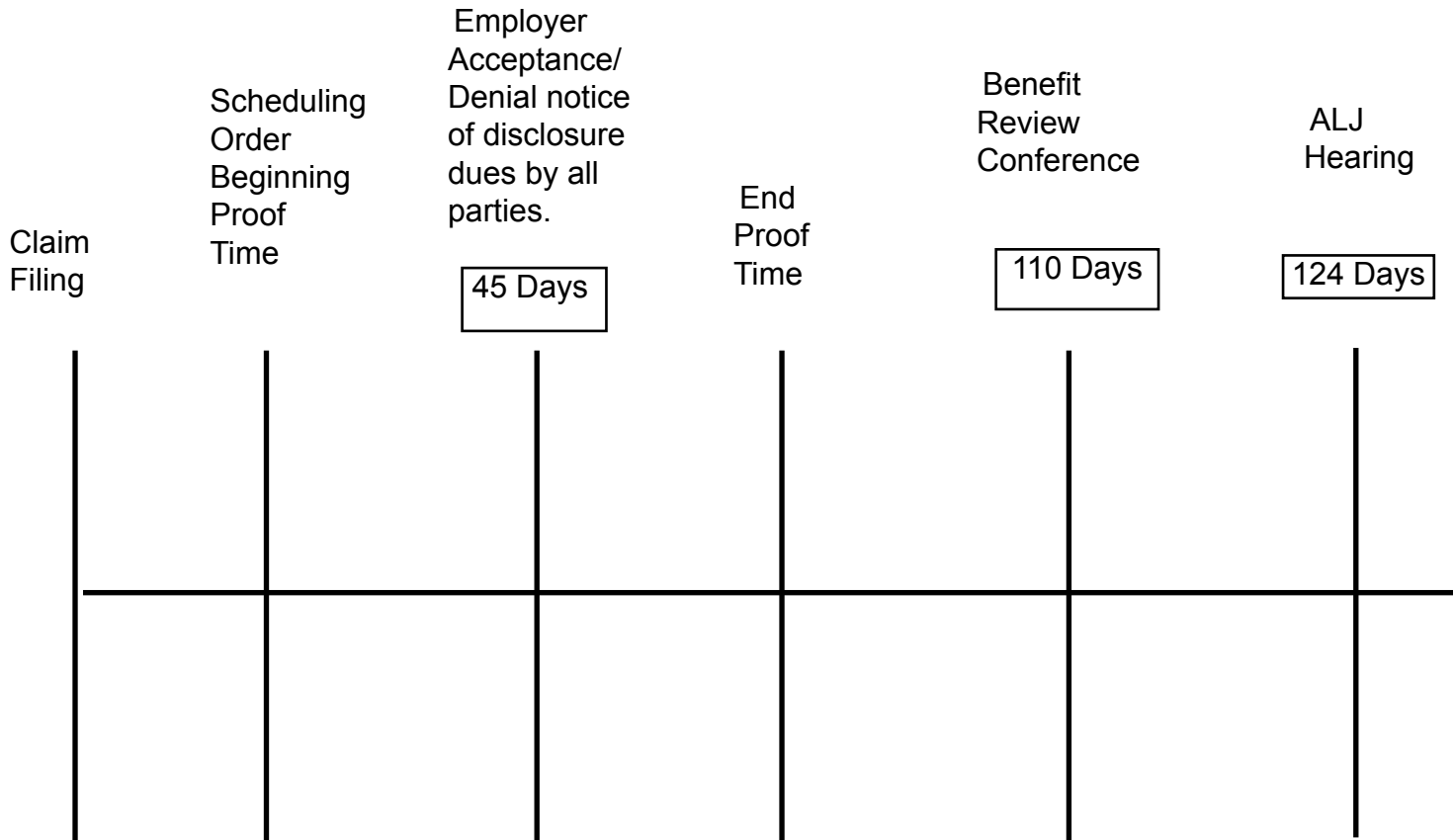
Scott Gasser, Director (502) 782-4534
Vacant, Assistant Director
Mike Watts, Self-Insurance Branch Manager (502) 782-4450
Will McGinnis, Compliance Branch Manager

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

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.

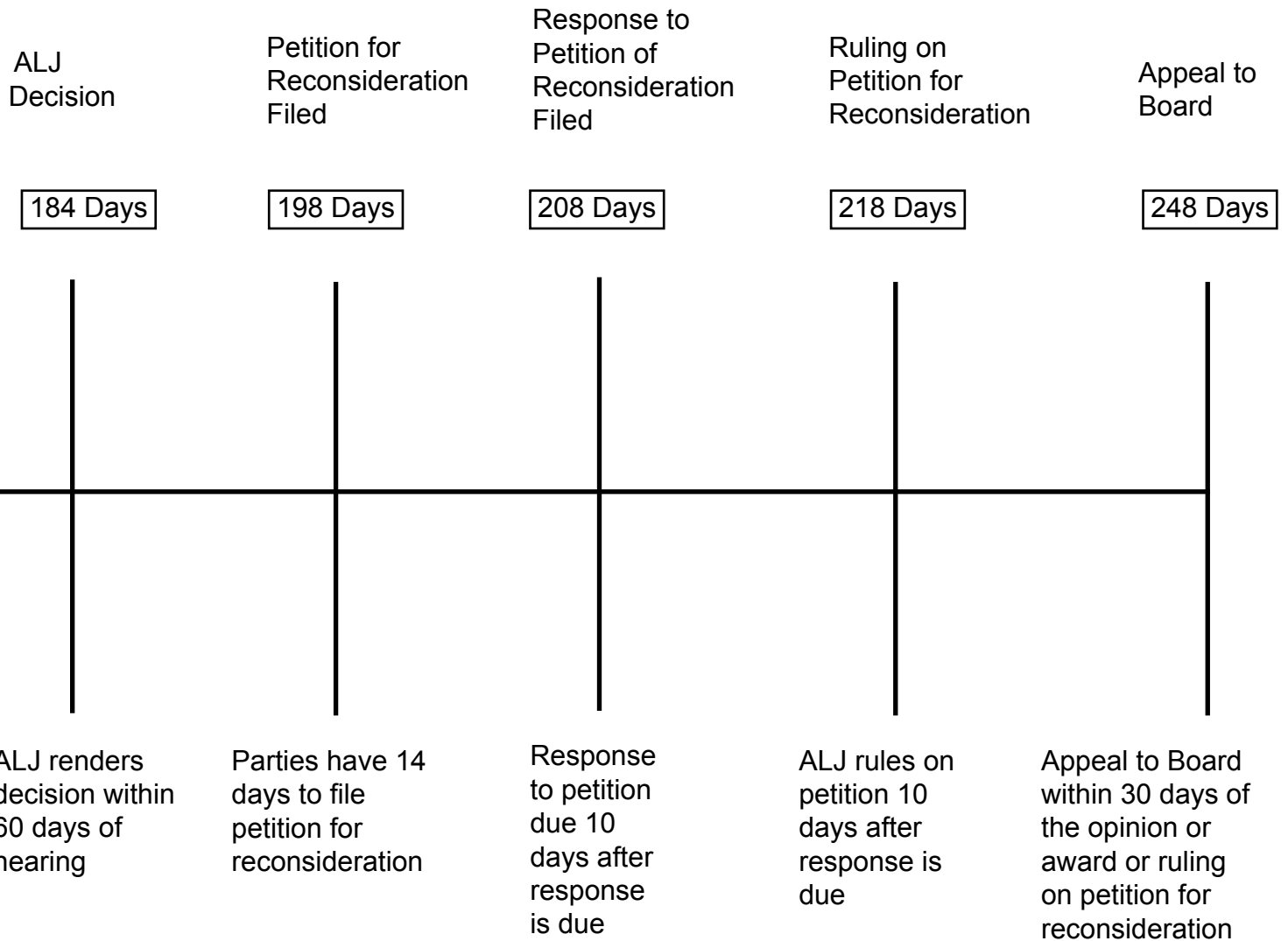
End of proof taking and discovery period

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

	01-01-13 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	01-01-18 thru 12-31-18
APPLICABLE AVERAGE WEEKLY WAGE OF THE STATE	\$752.69 (2011)	\$769.06 (2012)	\$773.61 (2013)	\$798.63 (2014)	\$835.04 (2015)	\$848.41 (2016)

DEATH (KRS 342.750)

a. Widow or widower with no children-50% of average weekly wage of deceased-subject to the following:

MAXIMUM	\$376.36	\$384.55	\$386.83	\$399.34	\$417.55	\$424.24
MINIMUM	150.54	153.81	154.72	159.72	167.00	169.67

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	\$564.52	\$576.80	\$580.21	\$598.98	\$626.29	\$636.32
MINIMUM	150.54	153.81	154.72	159.72	167.00	169.67

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	\$564.52	\$575.80	\$580.21	\$598.98	\$626.29	\$636.32
MINIMUM	150.54	153.81	154.72	159.72	167.00	169.67

d. One child, **no** widow or widower-50% of average weekly wage of deceased-subject to the following:

MAXIMUM	\$376.36	\$384.55	\$386.83	\$399.34	\$417.55	\$424.24
MINIMUM	150.54	153.81	154.72	159.72	167.00	169.67

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	\$564.52	\$576.80	\$580.21	\$598.98	\$626.29	\$636.32
MINIMUM	150.54	153.81	154.72	159.72	167.00	169.67

e. Dependent parents-25% of average weekly wage of deceased to each parent-subject to the following:

MAXIMUM	\$564.52	\$576.80	\$580.21	\$598.98	\$626.29	\$636.32
MINIMUM	150.54	153.81	154.72	159.72	167.00	169.67

f. Dependent brothers, sisters, grandparents and grandchildren-25% of average weekly wage of deceased to each dependent-subject to the following:

MAXIMUM	\$564.52	\$576.80	\$580.21	\$598.98	\$626.29	\$636.32
MINIMUM	150.54	153.81	154.72	159.72	167.00	169.67

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					
	01-01-13 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	01-01-18 thru 12-31-18
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LUMP SUM DEATH BENEFIT INCREASE KRS 342.750(6)	\$73,933.98	\$75,541.95	\$75,988.88	\$78,446.51	\$82,022.93	\$83,336.22
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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:						
MAXIMUM	\$752.69	\$769.06	\$773.61	\$798.63	\$835.04	\$848.41
MINIMUM	150.54	153.81	154.72	159.72	167.00	169.67
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RETRAINING INCENTIVE BENEFITS KRS 342.732(1)(a) 66 2/3% of average weekly wage of employee-subject to the following:						
MAXIMUM	\$564.52	\$576.80	\$580.21	\$598.98	\$626.29	\$636.32
MINIMUM	NONE	NONE	NONE	NONE	NONE	NONE
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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:						
MAXIMUM	\$564.52	\$576.80	\$580.21	\$598.98	\$626.29	\$636.32
MINIMUM	NONE	NONE	NONE	NONE	NONE	NONE
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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:						
MAXIMUM	\$752.69	\$769.06	\$773.61	\$798.63	\$835.04	\$848.41
MINIMUM	NONE	NONE	NONE	NONE	NONE	NONE

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.

