



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

Allan L. McVey  
Insurance Commissioner

January 11, 2022

The Honorable James C. Justice, III  
Governor, State of West Virginia  
Office of the Governor  
1900 Kanawha Boulevard, East  
Charleston, WV 25305

Dear Governor Justice:

Pursuant to W.Va. Code §33-2-16 (d), I am pleased to submit the annual report on the activities of the Office of the Consumer Advocate at the WV Insurance Commission for calendar year 2021. Should you have any questions please contact me at 304-558-3864.

Respectfully,

Dennis V. Garrison III, Director  
Office of the Consumer Advocate

DVG/vms

cc: Legislative Auditor (via post on Auditor's Agency Report site)  
West Virginia Insurance Commissioner  
Clerk of the Senate (via email [senate.clerk@wvsenate.gov](mailto:senate.clerk@wvsenate.gov))  
Clerk of the House of Delegates (via email [house.clerk@wvhouse.gov](mailto:house.clerk@wvhouse.gov))



# **West Virginia Office of Consumer Advocate Offices of the WV Insurance Commissioner 2021 Annual Report**

To the Honorable Governor James C. Justice II:

The purpose of this Annual Report is to comply with W.Va. Code §33-2-16 (d) which reads:

*(d) On or before the first day of each regular session of the Legislature, the Director [Office of Consumer Advocacy] shall file with the Governor, the Clerk of the Senate and the Clerk of the House of Delegates a report detailing the actions taken by the division in the preceding calendar year.*

During 2021, the State of WV was still facing a global pandemic due to the Covid-19 virus. The Governor and executive branch leaders did everything within their power to navigate this global crisis. A lot of State employees were able to work remotely until around June of 2021. The Office of the Consumer Advocate was able to successfully work remotely and successfully come into the Office as necessary to maintain our daily operations. The Office of the Consumer Advocate was able to maintain its contact with consumers, represent consumers at hearings, work with the WVOIC representatives and work with other outside agencies at a level that makes the Director proud.

With that matter highlighted, I will now move on to the normal yearly report:

Until 2008, the Office of the Consumer Advocate was fully staffed. Since 2008, the Office of the Consumer Advocate has not been fully staffed due to the untimely death of a staff member, retirements and statewide governmental budget cuts and belt tightening. The Nurse III position, Secretary II and the Financial Analyst positions are vacant.

The Office of the Consumer Advocate is presently staffed with the Director, Attorney II, Paralegal and Investigator. Even with staff shortages, the Office of the Consumer Advocate has maintained a good working relationship with the West Virginia Offices of the Insurance Commissioner while still providing zealous representation for numerous West Virginia insurance consumers.

In 2021, the Office of Consumer Advocate served the interests of the West Virginia insurance consumer and fulfilled the expanded duties conferred upon the Office in the tort reform measures passed in 2005 in Senate Bill 418. A large portion of the Office of the Consumer Advocate's time and resources was devoted to first- and third-party administrative cases.

During 2021, the efforts of the Office of the Consumer Advocate on behalf of West Virginia insurance consumers yielded financial awards totaling \$5,550.83 which went directly into the pocket of the consumer as well as several other important actions directly benefiting the West Virginia insurance consumer.

During the entirety of the undersigned's tenure<sup>1</sup>, the Office of the Consumer Advocate has been involved in obtaining financial settlements totaling \$3,947,289.94 on behalf of West Virginia insurance consumers. These awards go directly into the pocket of the consumer. The Office of the Consumer Advocate is very proud of this accomplishment.

In the healthcare arena in 2021, the Office of the Consumer Advocate reviewed 50 Certificate of Need Applications. The Office of the Consumer Advocate was also previously charged with reviewing Rate Review Applications before the West Virginia Health Care Authority. After passage of SB 68, the WV Health Care Authority's ability to establish and

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<sup>1</sup> The undersigned has been the Director since November 2007.

regulate hospital rates ceased in 2017. As such, the Office of the Consumer Advocate did not review Rate Review Applications last year.

Normally, the Office of the Consumer Advocate would attend many State conferences and State festivals as a means of interacting with and disseminating information to West Virginia insurance consumers. Those State festivals typically include the WV Social Workers Conference, Older American Event, the State Fair, the Pumpkin Festival, the Forest Festival, and the WV Hunting and Fishing Show. Due to Covid-19, the Consumer Advocate was only able to attend the WV State Fair. The Director was able to directly interact with attendees and answer questions or make referrals regarding insurance related issues.

The Office of the Consumer Advocate participated in mandatory continuing legal education with a focus on insurance and consumer related education.

The Office of the Consumer Advocate kept abreast of any legislation that would affect West Virginia Consumers. When needed, representatives from the Office of the Consumer Advocate reviewed legislation and attended or watched via live web camera legislative hearings in both the House of Representatives and the Senate.

The Office of the Consumer Advocate also kept abreast of any cases before the West Virginia Supreme Court of Appeals regarding insurance law issues. The Consumer Advocate read any pertinent opinions and attended or watched via live web camera oral arguments at the Supreme Court chambers when insurance related cases were on the Court's docket.

Finally, the Office of the Consumer Advocate maintained progress toward the ongoing goal of consumer outreach and education. The Office achieved progress by fielding hundreds of calls and contacts from consumers. These contacts were responded to directly and/or referred to the proper agency for response.

## **Representing Consumers in First and Third-Party Administrative Hearings**

In 2021, the Office of the Consumer Advocate provided formal representation to insurance consumers in eighteen (18) consumer complaints before the West Virginia Insurance Commission.

Fourteen (14) of these consumer complaints were third party complaints and the remaining four (4) consumer complaints were first party complaints. First party complaints are complaints filed by a consumer against their own insurer, while third party complaints are complaints filed by a consumer against another person's insurer. In addition to formal representation, the Office of the Consumer Advocate assisted and advised hundreds of West Virginia consumers throughout the year, be it via email inquiries, telephonic inquiries, office visits, or other means. This assistance has directly benefited those consumers and in many cases has resolved the consumers' insurance issues or queries without requiring the filing of an actual consumer complaint with the WVOIC.

Whenever a case is received by the Office of the Consumer Advocate, it is evaluated carefully. A number of different things can occur at this time including, but not limited to; the consumer can opt to not request representation; a consumer can request representation, but after careful review of the case the Office of the Consumer Advocate can decline to represent; the consumer can request representation and the Office of the Consumer Advocate can accept; or the Office of the Consumer Advocate can assist the consumer in deciding whether or not they want to obtain private counsel because the damages in the matter merit a civil lawsuit.

The Office of the Consumer Advocate is proud of the representation that it has provided to consumers. Further, the Office of the Consumer Advocate is also proud of the countless hours that have been spent assisting consumers in evaluating their claims and assisting them in exploring all their options including possibly retaining private counsel when it is in their best

interests. This assistance has directly benefited hundreds of consumers every year and in many cases has resolved the consumer’s insurance issuers or queries without requiring the filing of a formal consumer complaint.<sup>2</sup>

**Third Party Complaints**

The Office of the Consumer Advocate actively worked fourteen (14) third party cases in 2021. The results of said cases are as follows:

A total of \$5,550.83 was awarded directly to West Virginia Consumers in the form of settlements in three (3) of the consumer complaints.

In four (4) consumer complaint cases, the consumer opted to obtain private counsel for representation.

One (1) consumer complaint case went to a hearing before a WVOIC Hearing Examiner. The Consumer did not prevail at that hearing.

In one (1) consumer complaint case, the Consumer failed or declined to request representation.

Five (5) consumer complaint cases are still pending and/or are still awaiting hearing.

**THIRD PARTY COMPLAINTS**

**HANDLED BY THE OFFICE OF THE CONSUMER ADVOCATE IN 2021**

<b>RESPONDENT</b>	<b>THIRD PARTY COMPLAINANT</b>	<b>RESOLUTION</b>
State Farm Mutual Insurance Company	Janette Adkins	Retained private counsel
Atlantic Specialty Insurance Company	William Garrison	Pending
Atlantic Specialty Insurance Company	William Garrison	Pending
Cincinnati Insurance Company	William Garrison	Pending
State Farm Mutual Insurance Company	Lindwood Hamilton	Consumer did not prevail at hearing

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<sup>2</sup> A detailed breakdown of the work performed by the Office of the Consumer Advocate each week is available for review.

Allstate Insurance Company	Allen Cale	Consumer retained private counsel
Atlantic Specialty Insurance Company	HARRY Bohon	Pending
Allstate Property & Casualty Insurance Company	Natalie Auvil	Settled
State Farm Mutual Insurance Company	Terry Townsend	Consumer retained private counsel
GEICO Advantage Insurance Company	Dwaine Doss	Consumer failed to request representation
Liberty Mutual General Insurance Company	James Strahin	Settled
Zurich American Insurance Company	Grace Mills	Consumer retained private counsel
GEICO Choice Insurance Company	Brenda Cavender	Settled
Liberty Mutual Insurance Company	Catherine Exline	Pending

### **First Party Complaints**

The Office of the Consumer Advocate actively worked (4) first party cases in 2021. The results of said cases are as follows:

In three (3) consumer complaint cases, the consumers did not prevail at hearing.

In one (1) consumer complaint case, the matter is still pending and/or awaiting hearing and/or is awaiting final order or appealed to Circuit Court.

### **FIRST PARTY COMPLAINTS HANDLED BY THE OFFICE OF THE CONSUMER ADVOCATE IN 2021**

<b>RESPONDENT</b>	<b>FIRST PARTY COMPLAINANT</b>	<b>RESOLUTION</b>
Transamerica Premier Life Insurance Company	Merri Williamson	Consumer did not prevail at hearing
Nationwide Agribusiness Insurance Company	Charles Burkhart	Pending
State Farm Mutual Automobile Insurance Company	Vincent DiChiacchio	Consumer did not prevail at hearing
Municipal Mutual Insurance Company	Ilse Burris	Consumer did not prevail at hearing

## Certificate of Need Review

The Office of the Consumer Advocate participated in the review of Certificate of Need (CON) applications before the Health Care Authority. All health care providers must obtain a CON from the West Virginia Health Care Authority to develop, add, or acquire new health care facilities and equipment. The Office of the Consumer Advocate reviews all CON applications and may intervene for the interests of West Virginia residents in the Health Care Authority's CON review process. The Office of the Consumer Advocate carefully reviewed and considered the following 50 CON applications:

### CERTIFICATE OF NEED - February 2021

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Cabell Huntington Hospital, Inc.	21-2-12014-H	Outpatient Medical Building	\$51,045,000.00
Pocahontas	21-4-12029-P	Ambulatory care center	\$75,000.00
WVUHS	21-8/9-12037-z	Home Health Expansion	\$50,000.00

### CERTIFICATE OF NEED – March 2021

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Summersville Center LLC Whitman Properties, LLC	21-4-12039-NH	Post Acute Care Facility	\$24,680,000.00
United Physicians Care, Inc.	20-6-12006-P	Ambulatory Care Facility	\$305,000.00
Berkeley Medical Center	20-9-12005-H	Addition of NICU beds	\$11,000.00
WVU Hospitals, Inc.	21-6-12045-H	NICU Level IV	\$10,000
Personal Home Care	21-6-12046-Z	Home Health Services	\$45,000.00



**CERTIFICATE OF NEED – April 2021**

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Boone Memorial Hospital, Inc.	21-3-12059-P	Ambulatory Care Center	\$50,000.00
Pleasant Valley Hospital	21-2-12070-P	Relocation	\$50,000
Raleigh General Hospital	21-1-12068-H	Cardiac Surgery	\$1,150,000.00
Stonewall Jackson Memorial Hospital Company	21-7-12069-H	Renovation-Replacement of Acute Care Facilities	\$41,455,000.00

**CERTIFICATE OF NEED – May 2021**

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Webster Memorial Hospital, Inc.	21-4-12081-H	Lease of Webster County Memorial Hospital	\$18,330,000.00

**CERTIFICATE OF NEED - June 2021**

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Humana	21-1/2/3/4/5/6-1 2089-A	Acquisition of Kentucky Homecare Parents, Inc.	\$54,150,000.00
Encompass Health Rehabilitation Hospital of Parkersburg	21-5-12091-B	Addition of inpatient rehabilitation beds	\$18,800,000.00
Pleasant Valley Hospital, Inc.	21-2-12100-B	Inpatient rehabilitation unit	\$150,000.00
Select Specialty Hospitals, Inc.	21-6/10/11/12-A	Acquisition of Acuity Healthcare Holdings, Inc.	\$19,000,000.00
Path Well Health, Inc.	21-8/9-12106-A	Acquisition of equity interests	\$1,355,768.00
Braxton County Memorial Hospital	21-7-12102-P	Gilmer County Family Health Facility	\$1,840,000.00
Preston Memorial Hospital Corporation	21-6-12110-P	Ambulatory Care Facility	\$150,000.00
Pocahontas Memorial Hospital	21-4-12109-P	Outpatient therapy center	\$31,000.00
Pretera Center of Mental Health Services, Inc.	21- $\frac{2}{3}$ -12065-P	Primary care services	\$11,800.00

**CERTIFICATE OF NEED – July 2021**

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Preston Memorial Hospital Corporation	21-6-12118-P	Ambulatory Care Facility	\$150,000.00
WVU Hospitals, Inc.	21-6-12125-A	Acquisition of FMC real property	\$9,355,000.00
Roane General Hospital	21-5-12124-P	Roane General RHC relocation	\$439,720.00
Webster Equity Partners III-A, L.P.	21/2/3/6/9-12128-A	Acquisition of BayMark Holdings, LLC	\$2,280,000.00

**CERTIFICATE OF NEED - August 2021**

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Stellar Support Service	21-6-12146-BH	IDD waiver funded organization	\$2,500.00
Brightspring Health Services, Inc.	21-1/3/5-12138-A	Sale of ownership interests	\$1,100,000.00
Cavalier Mobile X-Ray Co.	21-WV-12143-P	Service area expansion	\$143,000.00
Kanawha Hospice Care, Inc.	20-3-11992-Z	Home Health Services	\$29,000.00
Pocahontas Memorial Hospital	21-4-12147-P	Primary Care Clinic	\$40,000.00

**CERTIFICATE OF NEED - September 2021**

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Potomac Valley Hospital	21-8-12155-P	Relocation of physical therapy	\$10,000.00
Stonewall Jackson Memorial Hospital Company	21-7-12157-H	Renovation-replacement of Acute Care Facilities	\$55,960,000.00
Tugaloo Dialysis, LLC	21-6-12158-R	Addition of dialysis stations	\$10,000.00
High Meadows Residential Services	21-1/3/4-12256-BH	IDD waiver service provider	\$500.00
Potomac Valley Hospital	21-8-12167-P	School based Health clinics	\$10,000.00

Raleigh General Hospital	21-1-12253-H	Cardiac Surgery	1,150,000.00
Akkary Center for Weight Management and Surgical Services, LLC	21-6-12254-P	Ambulatory Care Center	\$2,500.00

**CERTIFICATE OF NEED - October 2021**

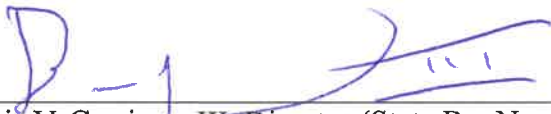
FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
PSC Sperry Holdco, LLC	21-3-12259-A	Acquisition of SBHC Holdings, LLC	\$162,000.00
Hospice of Huntington, Inc. dba Tri-State LifeCare	21-2-12269-P	Medical Adult Care Center	\$450,000.00
Oak Hill Clinic Corp dba Plateau Medical Group	21-4-12270-P	Ambulatory Care Center	\$425,000.00
Diversified Assessment & Therapy Services	21-4-12272-BH	Addition Nicholas County	\$0
WVUHS Home Care, LLC	21-5-12280-Z	Home Health Expansion Wood County	\$25,000.00
Diversified Assessment & Therapy Services	21-6/7-12278-BH	Addition of office	\$0

**CERTIFICATE OF NEED - December 2021**

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
St. Mary's Medical Center, Inc.	21-2-12319-H	Adult acute care beds	\$10,000
WMC Physician Practices, LLC	21-11-12322-P	Wellsburg Ambulatory Health Care Facility	\$60,000.00
Solutions PBS	21-1-12321-BH	Expanding Service Area	\$2,500
Cornerstone Hospital of Huntington, LLC	21-2-12325-H	Addition of Acute care beds	\$10,000
Potomac Valley Hospital	21-8-12333-P	Walk-in/Urgent Care Clinic	\$180,000
Appalachian Regional Healthcare, Inc. dba Beckley ARH Hospital	21-4-12333-P	Development of Ambulatory Care Center	\$40,000.00

## Conclusion

The Office of the Consumer Advocate continues to remain dedicated to providing consumer protection and promoting consumer awareness. Further, the Office of the Consumer Advocate will track trends in the insurance industry and educate West Virginia insurance consumers regarding insurance issues and practices. The Office of Consumer Advocate remains a remarkable resource for West Virginia insurance consumers and will continue to do everything possible to protect citizens and advocate for a fair and accessible insurance marketplace for everyone.



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