

# West Virginia Offices of the Insurance Commissioner



## 2022 Annual Report

Allan L. McVey  
Insurance Commissioner

The information in this report reflects the current financial condition and economic importance of the overall insurance industry in West Virginia.



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

Allan L. McVey  
Insurance Commissioner

July 25, 2023

The Honorable Jim Justice  
Governor of the State of West Virginia  
State Capitol  
Charleston, WV 25305

Dear Governor Justice:

The Annual Report of the Insurance Commissioner of the state of West Virginia for the calendar year 2022 is hereby submitted in accordance with Chapter 33, Article 2, Section 15, of the Code of West Virginia. An Executive Summary immediately follows this memorandum.

The information contained in this report reflects the economic importance and current financial condition of the insurance industry in our state. The included insurance entity statistics are compiled from the December 31, 2022 annual statements filed with this agency by the insurance companies licensed in this state. The information and statements in this report align with the insurance statistics as well as the Offices of the Insurance Commissioner's functions, operations and activities occurring during calendar year 2022 as is required of this report.

Respectfully submitted,

Allan L. McVey  
CPCU, ARM, AAI, AAM, AIS  
Insurance Commissioner



## EXECUTIVE SUMMARY

This report to the Governor of West Virginia provides detail of the previous calendar year operations and activities of the West Virginia Offices of the Insurance Commissioner. The report is divided into three major sections. Each section is detailed below.

**Section 1** of this report highlights the organization of the office and provides detail for \$224.8M in total revenue collected from the previous fiscal year. It includes an interdepartmental organizational chart, historical list of insurance commissioners, and proceeds to identify the individual revenue funds managed by the Offices of the Insurance Commissioner.

**Section 2** of this report further identifies the functional divisions of this office and enumerates each division's individual activities during the past year. A summarization of those activities follows:

- The **Board of Review** (Workers' Compensation) exercises exclusive jurisdiction over all objections (also called protests) from decisions issued by the Insurance Commissioner, private carriers, and self-insured employers pursuant to West Virginia Code §23-5-11a.
- The **Office of Consumer Advocacy** assisted consumers with first- and third-party complaints which yielded financial awards totaling \$395,169.25 in 2022. The Office of Consumer Advocacy also participated in the review of 34 Certificate of Need applications.
- The **Financial Accounting Division** is responsible for the preparation of audited financial statements, monthly financial reports, the budget, management and administration of federal grant funds, daily cash management and investment processing which includes accounts payable and all agency cash receipts processing through the state's accounting system. The Division also contains the Tax Unit which collects premium taxes and surcharges for approximately 3,413 insurance companies and surplus lines licensees licensed in West Virginia. The Tax Unit also collects the examination assessment due July 1 of each year. In 2022, the Division received its seventeenth consecutive unmodified or "clean" opinion on the Audited Financial Statements.
- The **Financial Conditions Division** is responsible for the licensing, financial monitoring, and financial examinations of the insurance companies/entities admitted to do business in West Virginia, ensuring that policyholders are secure in purchasing insurance products from financially solvent and compliant insurance companies. The Division oversaw a total of 2,860 separate insurance entities transacting business in West Virginia during 2022.
- The **Legal Division** provides legal counsel to the Insurance Commissioner and staff, drafts and promulgates statutes, investigates code/rule violations, responds to litigation, hearings and coordinates receivership activities. During 2022, the Division received 642 referrals to the Regulatory Compliance Unit which resulted in 97 orders issued totaling \$383,100 in fines, 65 hearings scheduled, and 15 hearings held.
  - The **Market Conduct Unit** performs analysis and examinations of insurance companies doing business in West Virginia for the purpose of determining statutory compliance. In 2022, the unit conducted thirty-four (34) level one and eighteen (18) level two analysis reviews of licensed companies relating to compliance. Eighteen (18) Agreed Orders were entered by the Insurance Commissioner with penalties totaling \$134,650.00 assessed because of violations discovered during various examinations and other regulatory actions performed by the Market Conduct Unit.

- The **Licensing and Education Division** presides over licensing, processing, and maintaining records for more than 248,000 licensees transacting insurance business in West Virginia. In 2022, over 400,000 company appointments and appointment cancellations were processed and monitored by the division. The division maintains ongoing compliance with all Federal Bureau of Investigation (FBI) and West Virginia State Police criminal background search requirements. In 2022, the FBI conducted an audit of the Licensing and Education Division, and the division scored a perfect score on the audit with no correction recommendations. The OIC successfully implemented new licensing processes and procedures for the regulation of bail bonds as required by the Code.
- The **Life and Health Division** is responsible for handling filings, reviewing complaints and establishing policies and processes related to the regulation of Life and Health insurance. The Division was created in 2023 by combining three existing divisions: Consumer Services, Health Policy, and Rates and Forms. The Life and Health Division was created to improve processes and procedures by helping to facilitate better communication between the three departments.
- The **Property and Casualty Division** handles inquiries and complaints from our consumers on their automobile, homeowners and other property and casualty lines of insurance. The Division also reviews and makes disposition on proposed rates and forms for all regulated property and casualty lines of insurance in West Virginia. The Division was created in 2023 by combining two existing divisions: Consumer Services and Rates and Forms. The Property and Casualty Division was created to improve processes and procedures by helping to facilitate better communication between the two departments.
- The **Special Investigations Division (Office of the Inspector General)** is responsible for facilitating a cooperative approach in the detection, investigation, and prosecution of insurance fraud. In 2022, the Division received a total of 546 insurance fraud referrals from the insurance industry, public and law enforcement. The Special Investigations Division completed 197 field investigations, delivering investigative reports to State and Federal prosecutors, identifying more than \$2,500,000 in fraud, and resulting in 61 indictments and warrants issued.
- The **State Agency Workers' Compensation (SAWC) Program** is a group insurance policy that provides workers' compensation coverage for more than 100 state agencies and boards. The program includes over 900 locations throughout the state and provides coverage for approximately 25,000 state employees.
- The **Workers' Compensation Division** is comprised of four (4) workers' compensation units. This division receives, reviews, investigates, and processes applications for benefits from the West Virginia Uninsured Employer Fund. Regulatory duties also include Managed Health Care Plans and Professional Employer Organizations. The separate units are Claims Services, Employer Coverage, Revenue Recovery and Self-Insurance.
  - The **Claims Services Unit** provides oversight of the claims management of the State-run workers' compensation funds. Those funds include the Old Fund, the Coal Worker's Pneumoconiosis Fund, the Uninsured Employer Fund, the Self-Insured Guaranty Fund and the Self-insured Security Fund. In addition, the Claims Services Unit is responsible for supporting the Occupational Pneumoconiosis (OP) Board and for maintaining the claim index, which includes monitoring the claim data submitted by insurers, third-party administrators and self-insured employers via Electronic Data Interchange (EDI).

- The **Employer Coverage Unit** is responsible for reviewing requests from employers who are not required to maintain workers' compensation coverage for a "verification of exemption from workers' compensation" letter. Employer Coverage is the point of contact for other agencies and individuals regarding confirmation of workers' compensation compliance.
- The **Revenue Recovery Unit** is responsible for the collection of all monies due the Uninsured Employers' Fund and the Old Fund. Monies collected on behalf of the Uninsured Employers' Fund include fines imposed upon employers operating without the statutorily mandated workers' compensation coverage and reimbursements for the costs associated with injuries incurred by employees of uninsured companies.
- The **Self-Insurance Unit** is responsible for regulating 51 employers that currently self-insure their workers' compensation coverage in West Virginia and approximately 100 employers who no longer self-insure but continue to administer claims incurred during their periods of self-insurance. One company was approved for self-insured status in calendar year 2022.

**Section 3** of this report provides enhanced detail from each regulated line of insurance. This section shows the premium, market share, losses and pure loss ratios from lines of insurance separated into categories for Property and Casualty, Life, and Accident and Health.

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SECTION 1: GENERAL

ORGANIZATIONAL CHART



## WEST VIRGINIA INSURANCE COMMISSIONERS

<b>D. S. Butler</b>	July 1, 1947 to April 30, 1948
<b>Robert A. Crichton</b>	May 1, 1949 to June 30, 1952
<b>Hugh N. Mills</b>	July 1, 1952 to June 30, 1953
<b>Thomas J. Gillooly</b>	July 1, 1953 to September 30, 1956
<b>Louis Miller, Jr.</b>	October 1, 1956 to June 30, 1957
<b>Harold E. Neely</b>	July 1, 1957 to February 5, 1958
<b>C. Judson Pearson</b>	February 7, 1958 to January 15, 1961
<b>Hugh N. Mills</b>	January 16, 1961 to May 16, 1961
<b>Virginia Mae Brown</b>	May 17, 1961 to September 3, 1962
<b>Harlan Justice</b>	September 4, 1962 to January 15, 1966
<b>Frank Montgomery</b>	January 16, 1966 to September 30, 1968
<b>Robert J. Shipman</b>	October 1, 1968 to January 30, 1969
<b>Samuel H. Weese</b>	January 31, 1969 to January 16, 1975
<b>Donald W. Brown</b>	January 16, 1975 to January 14, 1977
<b>Richard G. Shaw</b>	January 17, 1977 to January 11, 1985
<b>Fred L. Wright</b>	February 21, 1985 to June 30, 1988
<b>Hanley C. Clark</b>	July 1, 1988 to January 17, 1989*
<b>Hanley C. Clark</b>	January 18, 1989 to January 15, 2001
<b>Jane L. Cline</b>	January 15, 2001 to June 30, 2011
<b>Michael D. Riley</b>	July 1, 2011 to January 8, 2012*
<b>Michael D. Riley</b>	January 9, 2012 to January 31, 2017
<b>Andrew R. Pauley</b>	February 1, 2017 to March 31, 2017*
<b>Allan L. McVey</b>	April 1, 2017 to January 24, 2019
<b>Erin K. Hunter</b>	January 25, 2019 to March 1, 2019*
<b>James A. Dodrill</b>	March 2, 2019 to September 21, 2021
<b>Allan L. McVey</b>	September 22, 2021 to present

*\*Acting Insurance Commissioner during interim period*



## FINANCIAL INFORMATION

### FEES AND TAXES COLLECTED DURING THE LAST 5 FISCAL YEARS

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>GENERAL REVENUE</b>					
INSURER EXAMINATION ASSESSMENT FEE	\$542,525	\$516,375	\$561,500	\$563,629	\$617,811
PENALTY FEE	\$594,853	\$541,348	\$368,470	\$196,667	\$894,283
<b>TOTAL FOR GENERAL REVENUE</b>	<b>\$1,137,378</b>	<b>\$1,057,723</b>	<b>\$929,970</b>	<b>\$760,296</b>	<b>\$1,512,094</b>
<b>SPECIAL REVENUE</b>					
*INSURANCE TAX FUND	\$123,661,383	\$128,049,651	\$129,116,290	\$117,465,268	\$134,752,448
INSURER EXAMINATION ASSESSMENT FEES	\$956,900	\$903,000	\$1,025,235	\$975,800	\$1,042,300
FEES & CHARGES	\$35,557,222	\$35,596,021	\$36,137,323	\$36,749,322	\$36,906,012
FIRE MARSHAL	\$2,075,092	\$2,130,494	\$2,184,470	\$2,201,978	\$2,317,662
MUN. PENSION & PROTECTION FUND	\$29,907,039	\$30,816,675	\$31,602,509	\$27,602,477	\$32,985,428
VOL. FIREMEN & TEACHERS RETIREMENT	\$14,536,542	\$14,965,354	\$14,738,860	\$12,888,827	\$15,297,811
<b>TOTAL FOR SPECIAL REVENUE</b>	<b>\$206,694,178</b>	<b>\$212,461,195</b>	<b>\$214,804,687</b>	<b>\$197,883,673</b>	<b>\$223,301,661</b>
<b>GRAND TOTAL COLLECTED</b>	<b>\$207,831,556</b>	<b>\$213,518,918</b>	<b>\$215,734,657</b>	<b>\$198,643,969</b>	<b>\$224,813,755</b>

\* Revenue is net of Tobacco Settlement loan repayment, medical malpractice and Federal Flood transfer

**APPROPRIATED EXPENDITURE SCHEDULE  
EXAMINATION FUND 7150  
FISCAL YEAR 2022  
JULY 1, 2021 - JUNE 30, 2022**

**APPROPRIATED**

Personal Services	541,186	
Increment	10,912	
Employee Benefits	196,666	
Other Expenses	<u>1,461,290</u>	
		<u><b>\$2,210,054</b></u>

**ACTUAL EXPENDITURES**

Personal Services	276,465	
Increment	3,180	
Employee Benefits	65,659	
Other Expenses	<u>918,698</u>	
TOTAL EXPENDITURES		1,264,002

**APPROPRIATION BALANCE**

Personal Services	264,721	
Increment	7,732	
Employee Benefits	131,007	
Other Expenses	542,592	
TOTAL FUNDS REMAINING		<u>946,052</u>
		<u><b>\$2,210,054</b></u>

**APPROPRIATED EXPENDITURE SCHEDULE  
 CONSUMER ADVOCATE FUND 7151  
 FISCAL YEAR 2022  
 JULY 1, 2021 - JUNE 30, 2022**

**APPROPRIATED**

Personal Services	399,865	
Increment	9,360	
Employee Benefits	162,751	
Other Expenses	<u>265,702</u>	
		<u>\$837,678</u>

**ACTUAL EXPENDITURES**

Personal Services	222,130	
Increment	5,562	
Employee Benefits	72,991	
Other Expenses	<u>92,797</u>	
TOTAL EXPENDITURES		393,480

**APPROPRIATION BALANCE**

Personal Services	177,735	
Increment	3,798	
Employee Benefits	89,760	
Other Expenses	<u>172,905</u>	
TOTAL FUNDS REMAINING		444,198
		<u>\$837,678</u>

**APPROPRIATED EXPENDITURE SCHEDULE  
INSURANCE COMMISSION FUND 7152  
FISCAL YEAR 2022  
JULY 1, 2021 - JUNE 30, 2022**

**APPROPRIATED**

Personal Services	16,093,741	
Increment	489,982	
Employee Benefits	7,448,798	
Other Expenses	<u>11,096,773</u>	
		<u>\$35,129,294</u>

**ACTUAL EXPENDITURES**

Personal Services	11,104,182	
Increment	241,173	
Employee Benefits	3,606,523	
Other Expenses	<u>5,205,095</u>	
TOTAL EXPENDITURES		20,156,973

**APPROPRIATION BALANCE**

Personal Services	5,090,879	
Increment	217,489	
Employee Benefits	3,908,775	
Other Expenses	<u>5,755,178</u>	
TOTAL FUNDS REMAINING		14,972,321
		<u>\$35,129,294</u>

## ***Financial Statements***

To view the OIC's FY2022 Financial Statements in their entirety, as well as access prior years' Financial Statements, please refer to the [OIC website](#).

West Virginia Offices of the Insurance Commissioner  
Statement of Net Position  
June 30, 2022 ( In Thousands)

	Primary Government		Total
	Governmental Activities	Business-Type Activities	
<b>ASSETS</b>			
Current Assets			
Cash and Cash Equivalents	\$ 38,438	\$ 1,207,666	\$ 1,246,104
Receivables, Net:			
Statutory Allocations	-	11	11
Assessments	196	83	279
Employer Surcharge	2,794	-	2,794
Premiums	-	10	10
Other	79	398	477
Prepaid Assets	-	1,240	1,240
Loss Reserve Fund	-	11,681	11,681
Total Current Assets	<u>41,507</u>	<u>1,221,089</u>	<u>1,262,596</u>
Noncurrent Assets			
Other Receivables	127	-	127
Net Pension Asset	6,069	-	6,069
Net OPEB Asset	65	-	65
Capital Assets, Net	186	-	186
Lease Assets-Building, Net	480	-	480
Total Noncurrent Assets	<u>6,927</u>	<u>-</u>	<u>6,927</u>
<b>Total Assets</b>	<u>48,434</u>	<u>1,221,089</u>	<u>1,269,523</u>
Deferred Outflows of Resources			
Deferred outflows related to pension	2,891	-	2,891
Deferred outflows related to other post-employment benefit	223	-	223
Total Deferred Outflows of Resources	<u>3,114</u>	<u>-</u>	<u>3,114</u>
<b>Total Assets and Deferred Outflows of Resources</b>	<u>51,548</u>	<u>1,221,089</u>	<u>1,272,637</u>
<b>LIABILITIES</b>			
Current Liabilities			
Estimated Liability for Unpaid Claims and Claim Adjustment Expense	-	126,700	126,700
Compensated Absences	464	-	464
Accrued Expenses and Other Liabilities	1,567	2,654	4,221
Short Term Lease Liability	362	-	362
Total Current Liabilities	<u>2,393</u>	<u>129,354</u>	<u>131,747</u>
Noncurrent Liabilities			
Estimated Liability for Unpaid Claims and Claim Adjustment Expense	-	1,017,700	1,017,700
Compensated Absences	547	-	547
Long Term Lease Liability	131	-	131
Total Noncurrent Liabilities	<u>678</u>	<u>1,017,700</u>	<u>1,018,378</u>
<b>Total Liabilities</b>	<u>3,071</u>	<u>1,147,054</u>	<u>1,150,125</u>
Deferred Inflows of Resources			
Deferred inflows related to pension	7,993	-	7,993
Deferred inflows related to other post-employment benefit	2,681	-	2,681
Total Deferred Inflows of Resources	<u>10,674</u>	<u>-</u>	<u>10,674</u>
<b>Total Liabilities and Deferred Inflows of Resources</b>	<u>13,745</u>	<u>1,147,054</u>	<u>1,160,799</u>
Net Position			
Invested in Capital and Lease Assets, Net of Related Debt	173	-	173
Restricted for:			
Pensions	967	-	967
Coal Workers' Pneumoconiosis	-	61,748	61,748
Uninsured Fund	-	13,369	13,369
Self-Insured Funds	-	48,696	48,696
State Entities Workers' Compensation Program Fund	-	11,400	11,400
Unrestricted (Deficit)	<u>36,663</u>	<u>(61,178)</u>	<u>(24,515)</u>
<b>Total Net Position</b>	<u>\$ 37,803</u>	<u>\$ 74,035</u>	<u>\$ 111,838</u>

**West Virginia Offices of the Insurance Commissioner**  
**Statement of Activities**  
**For the Fiscal Year Ended June 30, 2022 (In Thousands)**

Functions/Programs	Expenses and Claims Provisions	Program Revenues	Net (Expense) Revenue and Changes in Net Position		Totals
		Charges for Services	Governmental Activities	Business-Type Activities	
Primary Government					
Governmental Activities					
General Government	\$ 16,493	\$ 38,466	\$ 21,973	\$ -	\$ 21,973
Depreciation, Unallocated	22	-	(22)	-	(22)
Lease Amortization, Unallocated	511	-	(511)	-	(511)
Total Governmental Activities	<u>17,026</u>	<u>38,466</u>	<u>21,440</u>	<u>-</u>	<u>21,440</u>
Business-type Activities					
Workers' Compensation	6,228	1,116	-	(5,112)	(5,112)
State Entities Workers' Compensation Program Fund	11,021	10,224	-	(797)	(797)
Total Business-Type Activities	<u>17,249</u>	<u>11,340</u>	<u>-</u>	<u>(5,909)</u>	<u>(5,909)</u>
Total Primary Government	<u>\$ 34,275</u>	<u>\$ 49,806</u>	<u>21,440</u>	<u>(5,909)</u>	<u>15,531</u>
General Revenues:					
Investment Earnings			2	(125,954)	(125,952)
Severance Tax			-	(138)	(138)
Total General Revenues			<u>2</u>	<u>(126,092)</u>	<u>(126,090)</u>
Change in Net Position Before Interfund Transfers			21,442	(132,001)	(110,559)
Payments on Behalf of the WVOIC Interfund Transfers			(59)	-	(59)
			<u>1,655</u>	<u>(1,655)</u>	<u>-</u>
Change in Net Position			23,038	(133,656)	(110,618)
Net Position, Beginning of year			<u>14,765</u>	<u>207,691</u>	<u>222,456</u>
Net Position, End of Year			<u>\$ 37,803</u>	<u>\$ 74,035</u>	<u>\$ 111,838</u>

## SECTION 2: DIVISION REPORTS

### BOARD OF REVIEW (WORKERS' COMPENSATION)

Pursuant to the Appellate Reorganization Act of 2021, the Workers' Compensation Board of Review's duties changed as of July 1, 2022. The statutory role of the Workers' Compensation Board of Review is set forth in West Virginia Code §§[23-5-9a](#) and [23-5-11a](#). West Virginia Code §23-5-9a provides in part as follows: "Objections to a decision of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, made pursuant to the provisions of §23-5-1a of this code, shall be filed with the Workers' Compensation Board of Review."

West Virginia Code §23-5-11a changed the Board's composition. The Board now includes five members instead of three. During 2022, the Board completed the process of transitioning to its new duties. Additional staff members were hired by the Board, a new procedural rule was promulgated, and changes have been made to the Board's offices to accommodate the new staff and new functions. Also, the Board developed a new computer system during 2022.

The primary goal of the Board of Review is to resolve protests in a fair, efficient, and timely manner. The Board of Review is governed by procedural rules found in 102 CSR 1, Rules of Practice and Procedure. At the conclusion of the protest process, the Board issues a written decision, which may be appealed to the Intermediate Court of Appeals as set forth in West Virginia Code §23-5-12a.



## CONSUMER ADVOCATE DIVISION

In 2022, 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 2022, the efforts of the Office of the Consumer Advocate on behalf of West Virginia insurance consumers yielded financial awards totaling \$395,169.25 which went directly into the pocket of the consumer as well as several other important actions directly benefiting the West Virginia insurance consumer.

The Office of the Consumer Advocate has been involved in obtaining financial settlements totaling \$4,342,459.19 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 2022, the Office of the Consumer Advocate reviewed 34 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 regulate hospital rates ceased in 2017. As such, the Office of the Consumer Advocate did not review Rate Review Applications.

Normally, the Office of the Consumer Advocate along with other Departments in the WVOIC would attend a number of State festivals as a means of interacting with and disseminating information to West Virginia insurance consumers. Prior to the Covid Outbreak, the Office of the Consumer Advocate would try to attend the Consumer Advocate State conferences and State festivals such as WV Social Workers Conference, Older American Event, the State Fair, the Pumpkin Festival, the Forest Festival, and the WV Hunting and Fishing Show. The attendance at festivals was curtailed some in 2022, because of things still getting back to "normal" from the Coronavirus epidemic. In 2022, the Office of the Consumer Advocate was only able to attend the WV State Fair and the WV Forest Festival.

The Office of the Consumer Advocate kept abreast of any cases before both the West Virginia Supreme Court of Appeals and the West Virginia Intermediate 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 and Intermediate Court when insurance related cases were on either 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.

### REPRESENTATION IN FIRST- AND THIRD-PARTY ADMINISTRATIVE HEARINGS

In 2022, the Office of the Consumer Advocate provided formal representation to insurance consumers in thirty-six (36) consumer complaints before the West Virginia Insurance Commission. Also, the Office of the Consumer Advocate provided formal representation to insurance consumers in two (2) WVOIC administrative appeals filed at the West Virginia Intermediate Court of Appeals.

Twenty-Five (25) of these consumer complaints were third-party complaints and the remaining eleven (11) 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.

### FIRST PARTY COMPLAINTS

The Office of the Consumer Advocate worked eleven (11) first party cases in 2022. The results of said cases are as follows:

- A total of \$350,869.25 was awarded directly to West Virginia Consumers in the form of settlements in four (4) of the consumer complaints.
- In three (3) consumer complaint cases, the consumers did not prevail at hearing.
- In two (2) consumer complaint cases, the Consumer failed or declined to request representation.
- In two (2) consumer complaint cases, the matters are still pending and/or awaiting hearing and/or awaiting final order or are appealed to the West Virginia Intermediate Court of Appeals.

### THIRD PARTY COMPLAINTS

The Office of the Consumer Advocate worked twenty-five (25) third party cases in 2022. The results of said cases are as follows:

- In three (3) of the consumer complaints, a total of \$30,300.00 was awarded directly to West Virginia consumers in the form of settlements.
- In eight (8) consumer complaint cases, the consumer opted to obtain private counsel for representation.
- Three (3) consumer cases went to hearing and the consumer prevailed at hearing. In those cases, the hearing examiner found multiple violations of the Unfair Trade Practices Act. In one case, the hearing examiner fined the insurance company \$5,000.00 and fined the Agent \$1,000.00.
- In three (3) consumer complaint cases, the Consumer failed or declined to request representation.
- In four (4) cases the WVOIC investigated the matters further and decided to not set the case for hearing.
- Four (4) consumer complaint cases are still pending and/or are still pending and/or awaiting hearing and/or awaiting final order or are appealed to the West Virginia Intermediate Court of Appeals.

### APPEALS TO THE WV INTERMEDIATE COURT

The Office of the Consumer Advocate represented consumers in (2) cases appealed to the West Virginia Court of Appeals in 2022. The results of said cases are as follows:

- A total of \$14,000 was awarded directly to West Virginia Consumers in the form of settlements in one (1) of the appeals.
- One (1) of the appeals is still pending.

## CERTIFICATE OF NEED REVIEWS

In 2022, the Office of the Consumer Advocate participated in the review of 34 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.

## FINANCIAL ACCOUNTING DIVISION

The Financial Accounting (FA) Division is responsible for the preparation of the annual audited financial statements for the OIC which includes preparation of the trial balance, footnotes, required supplementary information, and other disclosures as required by Generally Accepted Accounting Principles (GAAP.) The FA Division works closely with consulting actuaries to assist with the annual reserve study of the OIC's claims liabilities. Work performed includes the preparation and coordination of data and the preliminary review and analysis of actuarial indications. The FA Division coordinates the information for the independent auditors and provides all supporting documentation for the financial statement.

The FA Division performs all daily cash management and investing activities of the OIC, and serves as the liaison with the Treasurer's Office, the Auditor's Office, the WV Investment Management Board, and the Board of Treasury Investments. The FA Division monitors investment performance and performs monthly investment analysis for all invested assets held by the OIC.

Daily operations of the FA Division include accounts payable processing through the State's accounting system. The FA Division coordinates with the OIC's contracted Third Party Administrators and claims services to disburse the claims payments to beneficiaries of the insurance programs administered by the OIC, including the workers' compensation related funds. The FA Division is also responsible for handling and processing all agency cash receipts processing for all units of the OIC through the State's accounting system and for depositing all non-lockbox checks with the Treasurer's Office.

The FA Division prepares and submits the OIC annual budget and budget narrative, as well as the appropriation and expenditure schedules as required for all OIC funds. The FA Division prepares and monitors budgets for sixteen separate OIC funds. An analysis of budget to actual expenditures is also prepared and analyzed.

The FA Division prepares and distributes monthly financial reports to the Commissioner. The OIC funds reported on a monthly basis consist of the Workers' Compensation Old fund, the State Entities Workers' Compensation fund, the Coal Workers' Pneumoconiosis fund, the Self-Insured Guaranty fund, the Self-Insured Security fund, the Uninsured fund, the Insurance Commissioner fund, the AccessWV fund, the Examination Revolving fund, the Consumer Advocate fund, the Unfair Claims Settlement Practice Trust fund, the Workers' Compensation Debt Reduction fund, the Consolidated Federal funds, the Insurance Fraud Prevention fund, the Bail Bondsmen Cash Security fund and the Closed Estate fund. These reports are used for internal analysis and for use at the legislative interim meetings.

The FA Division is responsible for the management and administration of federal funds for the agency including preparation of required reports and the drawing down of funds on the federal payment management system.

The Tax Unit in the FA Division is responsible for ensuring that insurance companies and brokers operating in West Virginia report and pay the appropriate taxes levied by West Virginia statutes. This process involves the reconciliation of companies' quarterly reports and payments to their year-end tax returns. This function also includes the tracking and collection of taxes generated by the surplus lines market. Surplus lines refer to business placed with companies that are not admitted in West Virginia. This occurs when certain lines of business are not readily available with companies licensed in West Virginia. Coverage is written with these surplus lines insurers by a licensed insurance broker that has obtained an excess lines broker's license from the Licensing and Education Division. The surplus lines licensee must provide reports to the Tax Unit on individual policies written and remit the appropriate tax payment as detailed by the West Virginia code.

The Tax Unit is responsible for the collection of the examination assessment which covers the cost of examining the activities, operations, financial conditions and affairs of all persons transacting the business of insurance in WV and all persons otherwise subject to the jurisdiction of the commissioner. The assessment must be paid by July 1st of each year. This examination is performed in accordance with the guidelines set by the National Association of Insurance Commissioners (NAIC).

#### FINANCIAL ACCOUNTING ACCOMPLISHMENTS FOR 2022 - 2023

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- Received a seventeenth consecutive unmodified or “clean” opinion on the OIC’s financial statements.
- Performed year end work on an interim basis when possible to do so and greatly reduced the amount of time necessary for the completion of the annual financial statement preparation.
- Prepared and distributed monthly financial reports for all OIC funds on a timely basis.
- Prepared the annual budget and all related documents on a timely basis.
- Collected \$1,672,097.10 for underpayment of taxes and \$349,820.85 in penalties and interest in 2023 for prior calendar year.
- Achieved all formal staff training goals and objectives.

## FINANCIAL CONDITIONS DIVISION

The primary functions of the Financial Conditions (FC) Division include, but are not limited to:

- Licensing/Registration of Insurance Risk-Bearing Entities
- Financial Analysis/Surveillance of Admitted Insurance Companies
- Financial Examinations of Domestic Insurance Companies

The types of insurance companies/entities licensed and monitored include, but are not limited to, traditional Life and Health and Property and Casualty insurers as well as health care corporations such as Blue Cross/Blue Shield plans and Health Maintenance Organizations (HMOs). The FC Division is also responsible for registering, licensing and/or monitoring Risk Retention Groups, Risk Purchasing Groups, Managing General Agents, Third-Party Administrators, Reinsurance Intermediaries, Viatical Settlement Providers, Discount Medical Plans, Discount Prescription Drug Plans, Professional Employer Organizations, Charitable Gift Annuities, and Surplus Lines Insurers planning to do business in the state of West Virginia.

Prior to being admitted, companies must file an application with the West Virginia Offices of the Insurance Commissioner. The FC Division utilizes the National Association of Insurance Commissioners (NAIC) Uniform Certificate of Authority Application (UCAA) process which is designed to allow insurers to file copies of the same application for admission in numerous jurisdictions. These applications, either foreign or domestic, are reviewed by the FC Division to ensure that all applicable insurance laws and regulations have been satisfied regarding the companies' general corporate organization and financial strength. Recommendations are then made to the Commissioner as to the admissibility of the applicant companies.

Companies admitted by the WVOIC are then monitored by the FC Division to ensure they maintain financial stability and solvency requirements necessary for the protection of West Virginia policyholders. Monitoring of the insurance industry is effectuated through complex analysis and/or financial examinations performed by financial analysts and certified financial examiners.

The FC Division is also responsible for processing various corporate amendments submitted by a licensed entity. Corporate amendments include, but are not limited to, name changes, re-domestications, mergers, and amendments to articles of incorporation or bylaws.

2022 TOTAL CORPORATE AMENDMENTS	
Modifications/Address Changes	122
New Applications	99
Acquisitions (Change of Control)	67
Name Changes	46
Amended By-Laws/Articles	43
Withdrawal/Deletion of lines of authority	38
Redomestications	26
Expansion Applications	19
Extension of Authority	6
Mergers	3
Conversions	3

## LEGAL DIVISION

The OIC's Legal Division performs many functions including providing legal counsel to the Offices of the Insurance Commissioner and all associated divisions thereof, as well as carrying out many day-to-day legal responsibilities entrusted to the Insurance Commissioner by the West Virginia Legislature. Responsibilities of the Legal Division include:

**LEGAL SUPPORT FOR ASSOCIATED DIVISIONS** - The Legal Division provides general legal support for all other divisions of the OIC, including all insurance and workers' compensation related regulatory functions. This involves attending meetings with the directors and staff of other divisions, consulting on legal issues relating to activities of other divisions, and assisting with legal interpretations of statutes, rules, and case law, as appropriate.

**LEGISLATION AND RULES** - The Legal Division drafts proposed legislation and legislative rules that are submitted for Legislative approval. Some bills and rules are based on models promulgated by the National Association of Insurance Commissioners ("NAIC") and others are custom drafted. Further, the Legal Division drafts legislative exempt workers' compensation rules that are submitted to the Workers' Compensation Industrial Council for review and approval. During the legislative sessions, Legal Division attorneys attend committee meetings to respond to questions relating to the proposed bills and rules. The Legal Division attorneys also attend Workers' Compensation Industrial Council meetings to answer questions during the public hearing process for workers' compensation rules. During the rulemaking process, Legal Division attorneys receive and respond to public comments.

**INSURANCE BULLETINS** - When the Insurance Commissioner needs to provide information to the public and to regulated entities, an Insurance Bulletin, formerly called an Informational Letter, is drafted by the Legal Division. Insurance Bulletins are issued for many reasons, including the provision of guidance for compliance with laws or rules, or the introduction of clarity to an area that may be subject to differing legal interpretations. Other means of dissemination of policy and legal guidance from the Insurance Commissioner may also be drafted in the Legal Division.

**ADMINISTRATIVE HEARINGS** – Pursuant to W.Va. Code §33-2-13, the Insurance Commissioner may call and hold hearings for any purpose deemed necessary in the performance of his or her duties. The Legal Division investigates complaints relating to alleged violations of unfair claims settlement practices, provisions of the Unfair Trade Practices Act or other alleged violations of the West Virginia Code and determines whether merit exists to proceed with hearing on the complaint. The process is described respectively in W.Va. Code of State R. §114-13-1, *et seq.* and §114-76-1, *et seq.* The OIC may also hold administrative hearings regarding filings pursuant to W.Va. Code §33-27-1, *et seq.* regarding the acquisition and control of insurance companies, complaints filed against pharmacy benefit managers (PBMs) regarding alleged violations of W.Va. Code §33-51-1, *et seq.* and W.Va. Code of State R. §114-99-1, *et seq.*, and hearings on insurance premium tax disputes requested pursuant to the *Insurance Tax Procedures Act*, W.Va. Code §33-44-1, *et seq.* The Legal Division participates on a committee to investigate and make recommendations on applications received from convicted felons for an 18 U.S.C §100 waiver and may hold hearings thereon if an applicant requests a hearing on the Insurance Commissioner's final order in regard to the waiver request. The Legal Division also annually solicits public comments regarding the Surplus Lines Export List and may hold hearings on requests for inclusion of insurance coverages and classes of insurance eligible for the Surplus Lines Export List, if needed.

**INVESTIGATIONS** - The Legal Division investigates complaints dealing with all aspects of insurance compliance contained in Chapters 33 and 23 of the West Virginia Code. The Legal Division receives referrals from various sources including the public, the insurance industry, and other divisions within the Insurance Commission, relating to possible misconduct by insurance industry representatives, insurance producers, and unauthorized insurers. These allegations are investigated to determine if West Virginia insurance laws or rules have been violated, and if so, the investigation will result in administrative action against the target of the investigation.

**ADMINISTRATIVE ACTIONS** - When necessary, the Legal Division files an administrative complaint against insurance companies seeking penalties and/or suspension or revocation of the Certificate of Authority, as appropriate. Administrative complaints may also be filed before the Insurance Commissioner to penalize an unauthorized insurer, or injunctive relief may be sought in Circuit Court to end the illegal operations of these entities. Administrative action may also be taken against insurance producers (agents), business entities (agencies), professional employer organizations (PEOs), third-party administrators, pharmacy benefit managers (PBMs), criminal bail bondsmen, and many other entities regulated by Chapter 33 of the West Virginia Code when violations of statutes or rules have been committed.

**LICENSURE ACTIONS** - The Legal Division assists in license suspensions, revocations and/or fines regarding insurance producers (agents) and other licensees including, but not limited to, insurers that are found to be financially insolvent or in hazardous financial condition as to render their continued transaction of insurance business hazardous to their policyholders, the people of West Virginia, pharmacy benefit managers (PBMs), and criminal bail bondsmen.

**APPEALS AND LITIGATION** - When an order entered by the Insurance Commissioner is appealed, a Legal Division attorney may appear in Circuit Court to defend the Insurance Commissioner's action. The Legal Division also files actions in the Circuit Court of Kanawha County against employers who fail to maintain workers' compensation insurance to enjoin the employer from operating until it complies with the law.

**FRAUD PROSECUTION** - The Legal Division can directly represent the OIC in prosecution of fraudulent insurance activity or provide support to state and federal prosecutors on similar criminal issues.

**WORKERS' COMPENSATION** - The Legal Division supports the "Old Fund" as created by workers' compensation privatization legislation in 2005, as well as various other workers' compensation funds administered by the OIC, including the Uninsured Employers' Fund, the Self-Insured Employers' Guaranty Risk Pool, the Self-Insured Employers' Security Risk Pool, and the Coal Workers' Fund. Assistance may include working with claimants and their counsel, outside defense counsel, and third-party administrators in all tribunals and courts including West Virginia circuit courts, the Board of Review, the West Virginia Intermediate Court of Appeals, and the West Virginia Supreme Court of Appeals. The Legal Division also provides legal support and representation to the OIC's Employer Accounts Division, which, among other things, regulates and takes action against uninsured employers and licensed self-insured employers and PEOs. The Legal Division represents the agency in Rule 11 proceedings regarding an employer's failure to maintain mandatory workers' compensation insurance and may also handle National Council on Compensation Insurance (NCCI) appeals filed by employers and appealed to the OIC.

**CONSUMER, INDUSTRY AND OTHER STAKEHOLDER INQUIRIES** - While the Legal Division cannot provide legal advice to outside parties, it does endeavor to assist consumers and stakeholders, point inquiries in the appropriate direction where possible, provide analysis for the insurance and workers' compensation market as a whole, and opine on issues of broad importance.



**FREEDOM OF INFORMATION ACT (FOIA) REQUESTS** - All FOIA requests are directed to, and processed by, the Legal Division. Legal Division staff gathers all public records that are responsive to the request and provides them to the requester, pursuant to and in compliance with the Act.

## LEGISLATION

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The Insurance Bulletin, available through the hyperlink below, summarizes significant insurance and workers' compensation legislation enacted during the 2022 Regular Session of the West Virginia Legislature. It does not necessarily include all legislation that may affect the insurance industry or insurance consumers and is only intended to highlight the major points in the more important regulatory bills. The explanations contained herein should in no way be construed as being indicative of the Insurance Commissioner's views on, or interpretation of, the legislation.

The 2022 Legislative summary noted herein is available for review using the following hyperlink:  
[2022 Legislation](#)

## INSURANCE BULLETINS

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Nine (9) Insurance Bulletins were issued by the Insurance Commissioner in 2022:

22 - 01	New Consumer Protections from Surprise Medical Bills
22 - 02	Bulletin to Health Care Providers and Facilities Regarding the No Surprises Act
22 - 03	Pharmacy Benefit Manager (PBM) Pharmacy Reimbursement
22 - 04	Freedom of Consumer Choice for Pharmacy
22 - 05	Funeral and Cemetery Expenses for Workers' Compensation Claims
22 - 06	Summary of 2022 Legislation
22 - 07	Content of Written Decisions and Information for Claimants
22 - 08	Fees for Pharmacy Benefit Managers and Pharmacy Auditing Entities
22 - 09	Cost Sharing in Prescription Insulin Drugs

The Insurance Bulletins noted herein are available for review using the following hyperlink:  
[Insurance Bulletins](#)

## FREEDOM OF INFORMATION REQUESTS AND RESPONSES

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Ninety-nine (99) requests for information were received and responded to by the Legal Division in accordance with the Freedom of Information Act in 2022.

## EMERGENCY ORDERS

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There were no Emergency Orders issued by the Insurance Commissioner in 2022.

The Emergency Orders for prior years are available for review using the following hyperlink:  
[Emergency Orders](#)

## REFERRALS OPENED

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A total of 642 matters were opened by the Legal Regulatory Compliance Unit in 2022 upon referrals from various divisions within the OIC, the public, and outside state or federal agencies.

TYPE OF REFERRAL	NUMBER OF REFERRALS
Company	10
Financial Conditions and Financial Accounting	39
First Party	74
General Inquiries	9
Market Conduct	20
Other Litigation	2
Producer Licensing	32
PBMs	107
Third Party	157
WCC Compliance - Failure to Timely Act	54
WCC Compliance - Injunctions	13
WCC Compliance - Postings	125
<b>TOTAL</b>	<b>642</b>

## ADMINISTRATIVE PROCEEDING CASES CLOSED

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A total of 548 administrative proceeding cases were closed by the Legal Regulatory Compliance Unit in 2022.

TYPE OF REFERRAL	# CASES CLOSED
Administrative Proceeding – Producer Licensing	54
Administrative Proceeding – Company	11
Administrative Proceeding – Company – PEO	5
Administrative Proceeding – First Party	83
Administrative Proceeding – Financial Conditions	31
Administrative Proceeding – Failure to Timely Act	48
Administrative Proceeding – Market Conduct	34
Administrative Proceeding – Market Conduct – Self-Insured	10
Administrative Proceeding – Third Party	146
Administrative Proceeding-Postings	125
Administrative Proceeding-PBB	1
<b>TOTAL</b>	<b>548</b>

## HEARINGS

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A total of 15 hearings were held in 2022 and 65 were scheduled by the Legal Regulatory Compliance Unit.

TYPE OF HEARINGS	# HEARINGS SCHEDULED	# HEARINGS HELD
1033 Committee Hearing	1	1
Appeal - Third Party	0	0
Company	2	1
Company - PEO	1	0
Company - Tax	7	4
Financial Conditions	5	2
First Party	10	1
General Inquiries	0	0
Producer Licensing	7	3
Restitution Hearing	0	0
Third Party	26	0
WC Contempt	1	0
WC Injunction	5	3
WCC Compliance Rule 11	0	0
Pharmacy Benefit Manager (PBM)	0	0
<b>TOTAL</b>	<b>65</b>	<b>15</b>

## POSTINGS AND COMPLIANCE CHECKS

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In 2022, 125 referrals were made to the Legal Regulatory Compliance Unit for employer postings or employer compliance checks in regard to employers that failed to maintain mandatory workers' compensation coverage or were suspected of having lapsed workers' compensation coverage. Of those, 71 employers were formally posted. The remainder of referrals were resolved through compliance checks with the employers and/or other resolution of their accounts.

## WORKERS' COMPENSATION SUBROGATION

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With respect to workers who suffered compensable injuries prior to July 1, 2005, resulting from the negligence of third parties, W. Va. Code §23-2A-1 creates subrogation liens in favor of the Insurance Commissioner against any amounts recovered by these workers from such third parties. In 2022, the OIC opened zero (0) and closed three (3) subrogation cases. The OIC collected \$83,396.19 from settlements or awards.

## PERMANENT TOTAL DISABILITY REVIEW BOARD

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The Permanent Total Disability Review Board ceased taking referrals from private carriers and self-insured employers on January 1, 2022. For the calendar year 2022, the Board recommended granting two (2) PTD awards and denied six (6) PTD requests.

Zero (0) PTD requests were remaining by the end of 2022.

## ORDERS AND COLLABORATIVE ACTIONS

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A total of 114 orders were prepared by the Legal Regulatory Compliance Unit in 2022.

TYPE OF CASE	FINAL ORDERS	COLLABORATIVE ACTION	FINE AMOUNT	RESTITUTION AMOUNT
Bail Bondsmen	0		0	
Company	1		\$1,000.00	
Company – Rates & Forms	0		0	
Company – Financial Conditions	12		\$15,000.00	
First Party	9		0	
Market Conduct -Multi State Collaborative Action	0		0	
Market Conduct – Company	4		\$56,500.00	
Market Conduct-Self-Insured	7		\$32,500.00	
Producer Licensing	2		0	
Third Party	4		0	
WCC Compliance - Contempt	0			
WCC - Failure to Timely Act	54		\$8,100.00	
WCC Compliance - Injunctions	3		0	
Pharmacy Benefit Manager (PBM)	1		\$270,000.00	
<b>TOTAL</b>	97		\$383,100.00	

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## MARKET CONDUCT UNIT

The Market Conduct Unit performs market-wide research, analysis and examinations of insurance entities regulated by the West Virginia Offices of the Insurance Commissioner. The Market Conduct Unit executes its primary activities as a section of the OIC Legal Division.

Market conduct examiners are charged with reviewing insurers on a regular basis as well as reacting to developments in the marketplace. Examiners validate the business operations of insurers to ensure compliance with all applicable laws and rules.

Market analysis consists of gathering large volumes of data from insurers that reveals how insurers are operating in the marketplace and, from that data, determining which companies may need further analysis or review. West Virginia cooperates with other jurisdictions in this process to foster possible collaborative actions.

Eighteen (18) agreed orders were entered by the Insurance Commissioner in 2022 because of market conduct examinations and other regulatory actions conducted in accordance with W. Va. Code §33-2-9. Penalties totaling \$39,500.00 were assessed due to violations discovered during three (3) completed market conduct examinations. West Virginia also participated in three (3) multi-state collaborative actions resulting in \$26,650.00 in penalties and other assessments, three (3) state-specific non-exam regulatory interventions resulting in \$19,000.00 in penalties, one (1) first-party exam referred by our Legal Division resulting in \$15,000.00 in penalties, and one (1) third-party exam referred by our Legal Division resulting in \$2,000.00 in penalties. Furthermore, the Market Conduct Unit completed seven (7) comprehensive compliance examinations of employers which are self-insured for workers' compensation resulting in penalties totaling \$32,500.00.

Additionally, the Market Conduct Unit conducted thirty-four (34) level one and eighteen (18) level two analysis reviews on licensed companies concerning compliance with the West Virginia Code and the West Virginia Code of State Rules, as well as claims compliance analysis of employers that are actively self-insured for workers' compensation.

In 2022, the West Virginia Offices of the Insurance Commissioner also received a total of 590 market conduct annual statements per the National Association of Insurance Commissioners' (NAIC) guidelines, further broken down by the following lines of business: Private Passenger Auto, 73 filings; Homeowners, 77 filings; Life, 190 filings; Annuity, 100 filings; Long-Term Care, 71 filings; Health, 12 filings; Lender-Placed Insurance (LPI), 13 filings; and Disability Income (DI), 54 filings.

## LICENSING AND EDUCATION DIVISION

The Licensing and Education Division is responsible for processing and maintaining records on individual producers and business entities licensed to transact business in West Virginia. Licensees include residents who must complete educational and testing requirements to obtain a license. Residents of other states who have completed similar requirements in their states of domicile may apply for a West Virginia non-resident license by submitting the appropriate application and documentation for review. In addition to licensing of individual producers, the division oversees the licensing of Adjusters, Surplus Lines Licensees, Business Entities, Public Adjusting Firms, Independent Adjusting Firms, Viatical Settlement Brokers, Viatical Settlement Business Entities, Travel Insurance Business Entities, Professional Bail Bonds, and Surety Bail Bonds.

Producers must be appointed to represent each insurance company for which they are transacting business in West Virginia. Insurance companies are responsible for submitting appointment information and fees to our Licensing and Education Division for processing.

Resident producers must periodically complete continuing education to maintain their licenses. The continuing education program is governed by a six-member board appointed by the Insurance Commissioner. The representatives (all of whom are West Virginia resident insurance producers) of this Board represent various areas of the insurance industry as prescribed by law.

Administrative functions for the continuing education program are handled by Prometric. Prometric reviews provider and course applications under guidelines established by the Board of Insurance Agent Education. Additionally, Prometric banks the continuing education credits to the producers' records and, at compliance time, provides the Insurance Commissioner with data on compliant and noncompliant producers.

The Licensing and Education Division continues to see an increase in adjusters applying for and obtaining various adjuster license types. The Licensing and Education Division is also seeing increased licensing numbers in most license classes. The Licensing and Education Division continues to follow FBI and West Virginia State Police background requirements.

In 2021, House Bill 2758 was passed into law. This bill overhauled the bail bond process in West Virginia and placed the regulatory authority of bail bonds under the West Virginia OIC. This created two new license types, a professional bail bond license and a surety bail bond license. These two new license types resulted in 29 professional bail bonds being issued in 2022 and 84 surety bail bonds being issued in 2022.

The division continues to move toward more electronic applications and less paper. In 2022, over 97% of applications were processed electronically.

The following tables and graphs are current statistics for the various activities of the Licensing and Education Division.

## LICENSING ACTIVITY

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<b>NEW LICENSES ISSUED</b>	<b>2022</b>
Resident Producer	1,317
Non-Resident Producer	30,318
Resident Adjuster	98
Non-Resident Adjuster	9,690
Surplus Lines	385
Viatical Settlement Broker	1
Business Entities (Includes all Types)	1,150
Professional Bail Bonds	29
Surety Bail Bonds	84
<b>TOTAL NEW LICENSE ISSUED</b>	<b>43,072</b>

<b>LICENSING TRANSACTIONS</b>	<b>2022</b>
Licenses Denied	323
License Suspended including for CE	854
Licenses Revoked	5
<b>TOTAL</b>	<b>1,182</b>

<b>LICENSING CONTACT</b>	<b>2022</b>
Telephone Activity	7,109
Office Visits	28
<b>TOTAL</b>	<b>7,137</b>

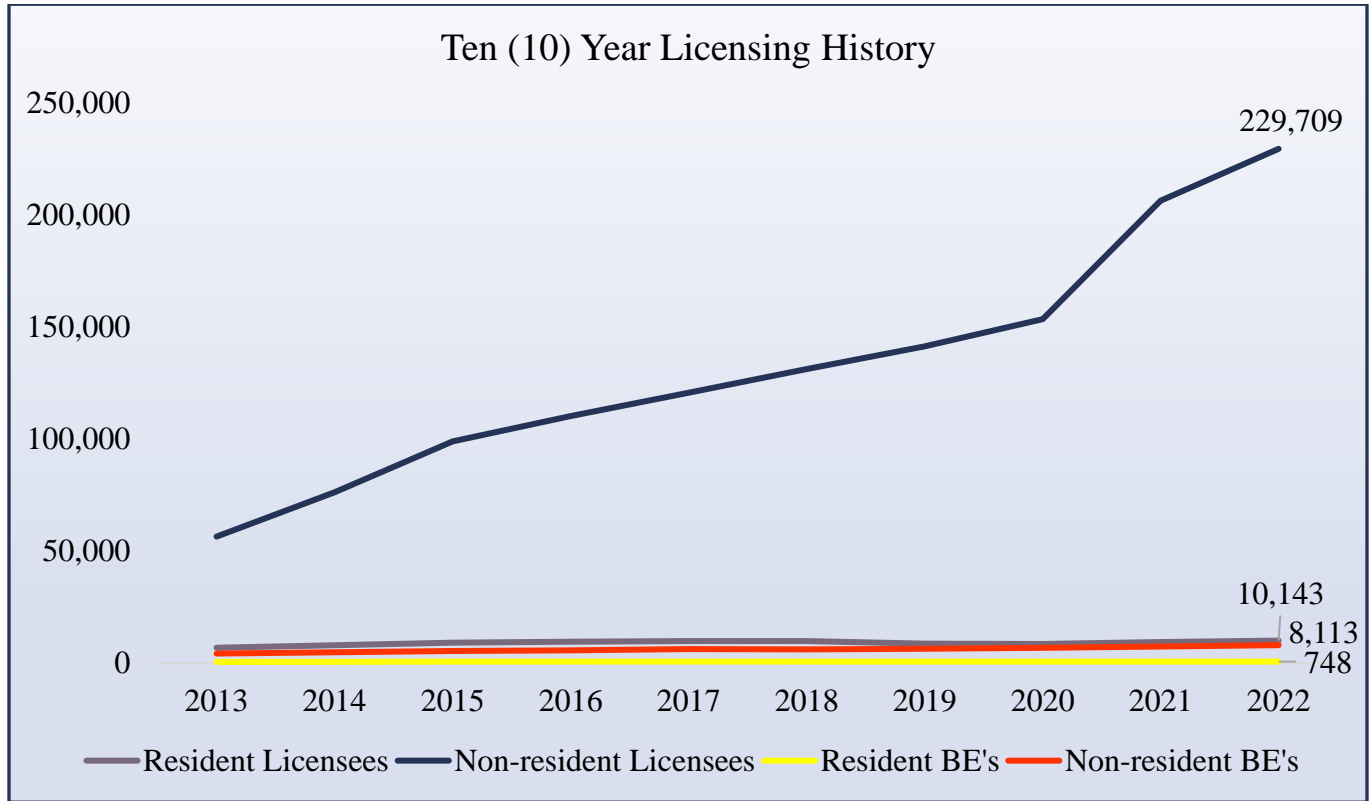
<b>COMPANY APPOINTMENTS</b>	<b>2022</b>
Companies with appointments	964
Number of company appointments	400,690

## LICENSING EXAMINATION SUMMARY

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<b>TYPE OF EXAM</b>	<b>2022 Tested</b>	<b>2022 Passed</b>	<b>Percent Passed</b>
Life	1,399	691	49.4%
Accident and Sickness	1,325	795	60.0%
Property and Casualty	545	313	57.4%
Property	0	0	-
Casualty	0	0	-
Company / Independent Adjuster	242	119	49.2%
Surplus Lines	0	0	-
Public Adjuster	2	1	50.0%
Workers' Compensation Adjuster	47	28	59.6%
Personal Lines	58	33	56.9%
<b>TOTAL</b>	<b>3,618</b>	<b>1,980</b>	<b>54.7%</b>

## TEN YEAR LICENSING HISTORY



As shown in the graph above, issued licenses have steadily grown over the years. The non-resident licenses increased 11% from calendar year 2021 to 2022 and 306% over the last ten (10) years.



## LIFE AND HEALTH DIVISION

The Life and Health Division is responsible for handling filings related to Life and Health insurance. The Division was created in 2023 by combining three existing divisions: Consumer Services, Health Policy, and Rates and Forms. The Life and Health Division was created to improve processes and procedures by helping to facilitate better communication between the three departments.

### CONSUMER SERVICES UNIT

The Consumer Services Unit is responsible for the review of facts surrounding complaints received against insurance companies, adjusters, and agents. It is our mission to evaluate the facts of each complaint received to ensure compliance with the West Virginia Insurance Laws and contract in question. This unit ensures a fair resolution of each complaint and provides a better understanding among the parties of their rights and responsibilities.

Consumer Services also manages inquiries from and provides assistance to consumers regarding legislation, benefits, and other life and health insurance-related questions. Common examples include life insurance claims, major medical insurance questions and implementation questions by providers. Unit staff can help consumers enroll in commercial medical coverage as well.

This unit receives consumer inquiries by phone, fax, email, public walk-ins or through the [web portal](#). A complaint file is set up for each written inquiry.

Below is a summary of the calendar year 2022 inquiries and complaints.

Activity Type	Total
Email and Phone Call Consumer Inquiry	4,069
Walk-in Consumer Inquiry	9
Complaints Opened	873
Complaints Closed	812

Coverage Complaint Type	Total
Health	386
Life	275
Pharmacy Benefit Manager	142
Dental	19
All Other Life & Health	51
<b>TOTAL</b>	<b>873</b>

In addition, the unit educates the public concerning insurance topics through conferences, presentations at schools, civic organizations, festivals and fairs. The staff identifies problem areas and trends by collecting information gathered from complaints and performs research and surveys about areas that need special attention.

In 2022, the unit provided or attended educational outreach opportunities for the following:

- 2022 West Virginia State Fair
- 2022 Forest Festival
- 2022 Spring Health Fair
- 2023 MarketPlace Assister Training
- 2023 ACA Agent Training
- Consumer Assistance Training
- West Virginia Pharmacy Benefit Manager Training

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## **HEALTH POLICY UNIT**

The Health Policy Unit assists other OIC divisions in communications with the Federal government, interpretation of the ACA Federal statute and regulations, Qualified Health Plan (QHP) review and certification decisions. The Unit liaises with the West Virginia Legislature and implements state law across all units in the OIC. It also conducts annual training for agents and assisters on West Virginia QHP products to be offered each year, as well as new state mandated coverage.

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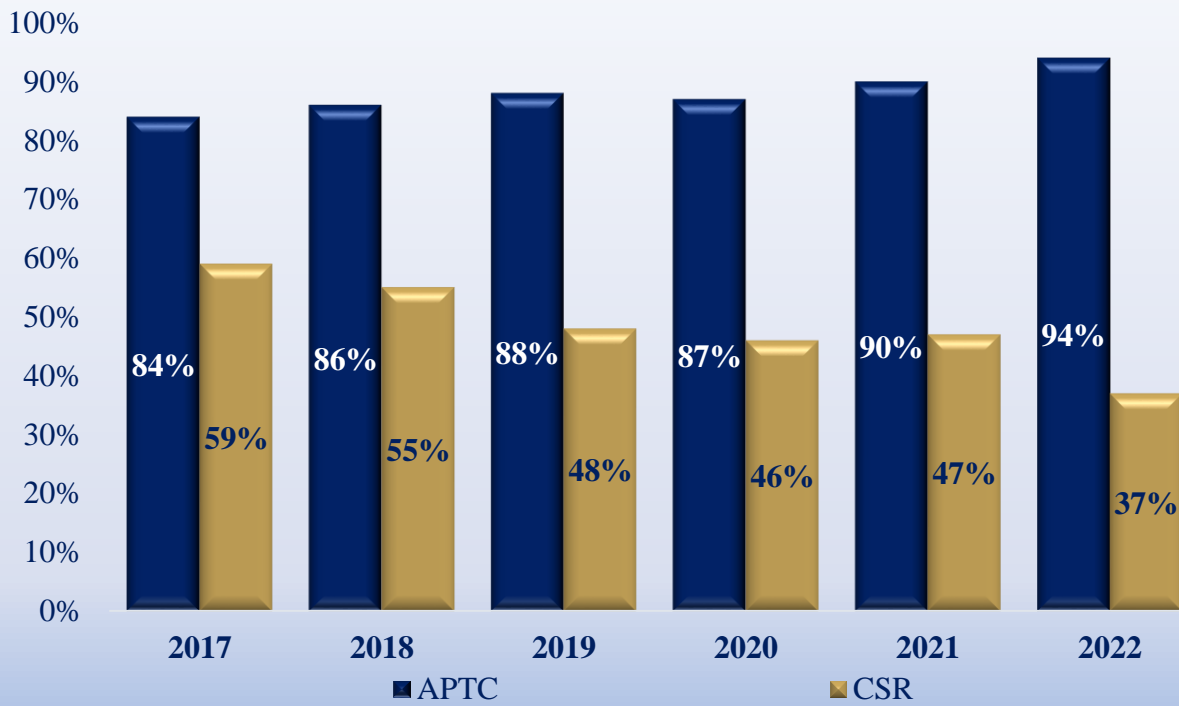
## **ACA/HEALTH INSURANCE MARKETPLACE**

West Virginia maintains a Partnership Exchange Model keeping local control of plans, rates and consumer services while leveraging the federal call centers and technology platforms (healthcare.gov).

Open Enrollment runs each year from November 1 – December 15, with any extensions controlled by the Centers for Medicare and Medicaid Services (CMS). West Virginia continues to leverage the state navigator team and Certified Applications Counselors in the Federally Qualified Health Centers, as well as OIC Consumer Services Staff, to lead enrollment activities.

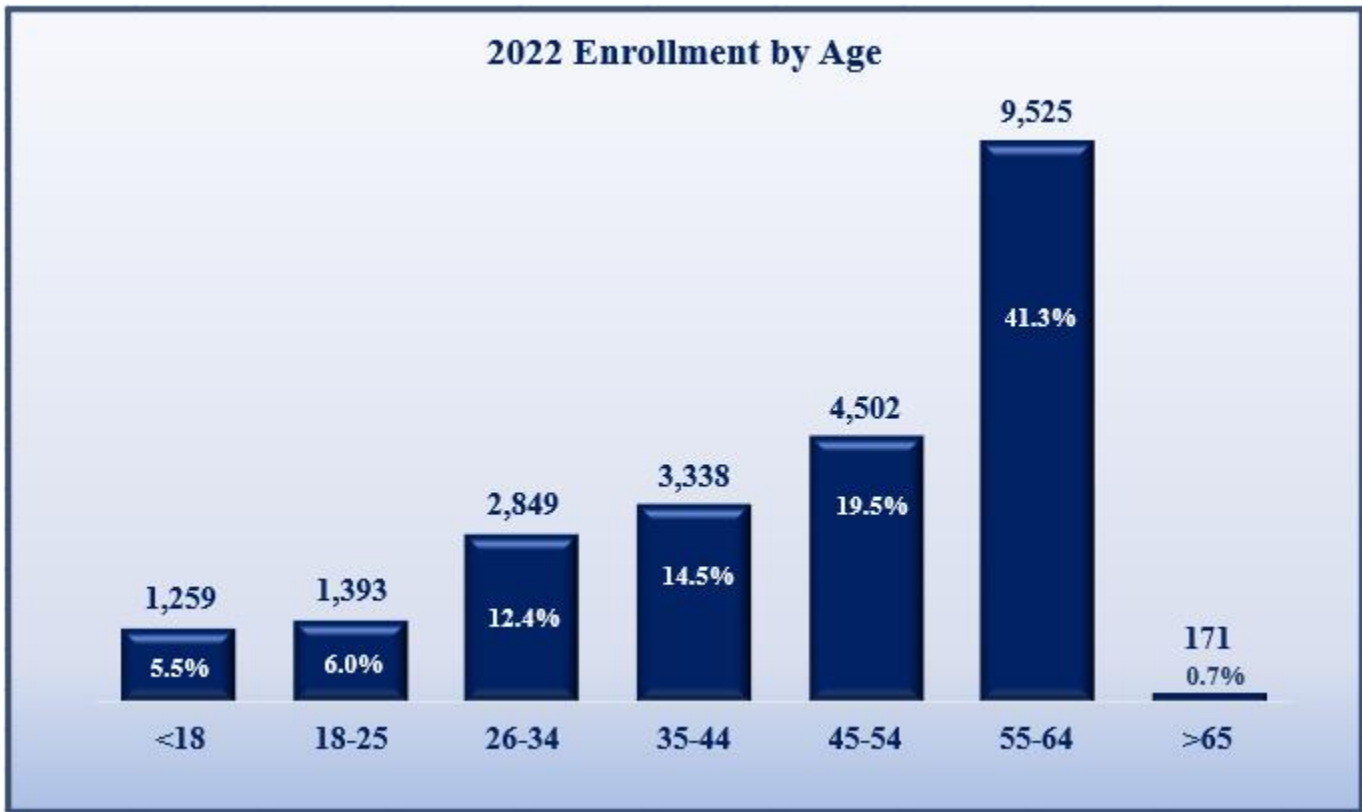
The charts below provide ACA information pertaining to Advanced Premium Tax Credits (APTC), Cost Sharing Reduction (CSR) payments and total enrollment counts and demographics. All participants that received CSRs also received APTCs.

### ACA Credits and Reductions



### ACA Total Enrollment





## MENTAL HEALTH PARITY

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During the 2020 Regular Legislative Session, SB 291 passed requiring health insurance providers to provide mental health parity in benefits. Calendar year 2021 was the first year for data reporting, which was collected via data call in May of 2022. The current report, published on June 1, 2023 for calendar year 2022 is published on the WV OIC webpage. Ongoing efforts with the WV OIC, CMS, the Department of Labor and insurance carriers seek to move all facets of health insurance benefits to compliance.

## NETWORK ADEQUACY

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West Virginia State Code § 33-55 and Title 114-100 provides the Offices of the Insurance Commissioner the authority to regulate Network Adequacy for all commercial health plans in West Virginia. In addition, the West Virginia OIC partners with the Centers for Medicare and Medicaid Services to regulate network adequacy for Qualified Health Plans offered on the Health Insurance Marketplace.

Health Insurers must provide information on projected enrollment and time and distance standards for all providers in their network. The insurer must also provide a publicly available Access Plan, including but not limited to information on telehealth, factors used by the health carrier to build the network and criteria to select providers. After approval, networks must file any material changes within 15 business days. Provider Directories must be updated every 30 days and audited at least three times during an 18-month period.

In 2022, CMS released its own set of guidelines for Network Adequacy, which are similar but not identical to the rules set forth in WV State Code § 33-55 and Title 114-100. As a result, marketplace carriers must adhere to two different sets of rules. In order to facilitate Network Adequacy filings and to streamline the process for our insurance companies, it has been requested that West Virginia's Legislative Rule be modified to match CMS standards.

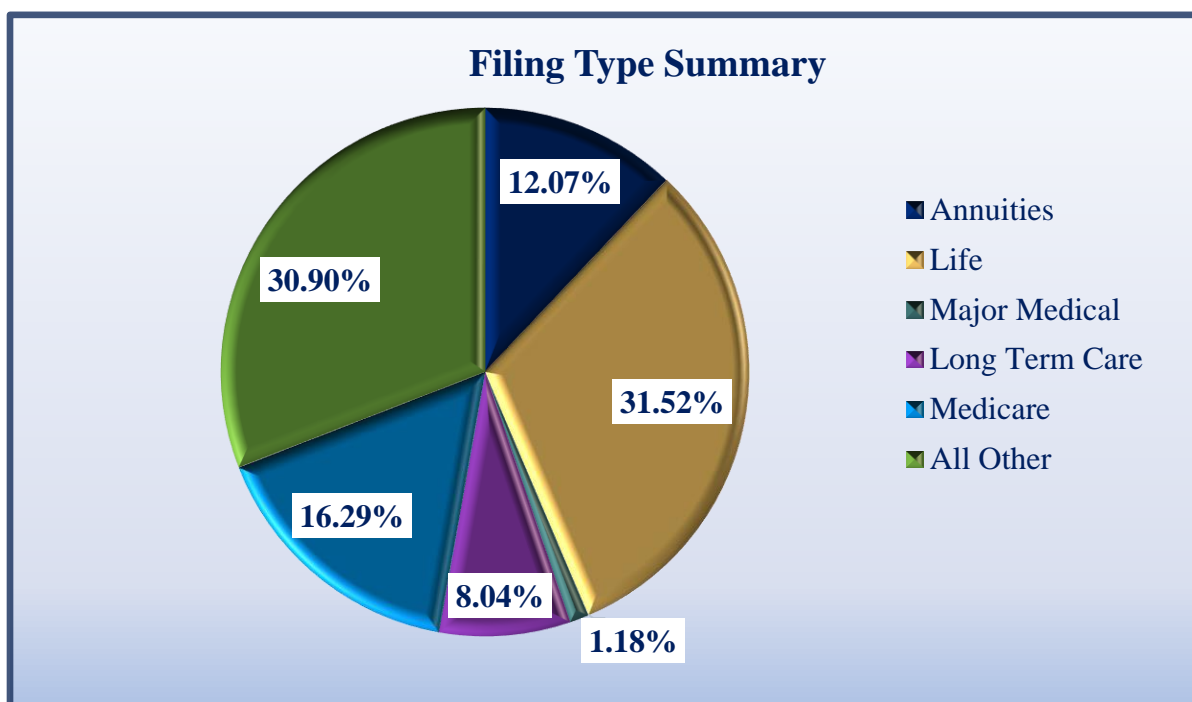
## PHARMACY BENEFIT MANAGERS

Pharmacy Benefit Managers (PBM) have been regulated by the West Virginia Offices of the Insurance Commissioner since 2019 per WV 33-51 and Title 114-99. PBMs must apply for licensure biennially as well as submit quarterly and annual reporting to the WV OIC. The legislation requires that a PBM pay the national average drug acquisition cost (NADAC) plus a dispensing fee and does not permit a PBM to direct a consumer to a specific pharmacy. In addition, all rebates for a prescription drug must go directly to cost control for consumers, first at the point of sale, with any remaining rebates to be taken off the annual rates.

<b>2022 PBM Complaint Summary</b>	
Cases Opened	184
Cases Closed	176

## RATES AND FORMS

The Rates and Forms Unit analyzes all policy rate, form and advertising filings proposed by licensed insurance companies for use in the West Virginia insurance markets. Analysts review all such filings for group and individual accident and sickness, life, disability, Medicare supplements, long term care, and annuities products. They ensure that the proposed material is in compliance with West Virginia State Code, legislative rules, and federal statutes. Filings are submitted through the System for Electronic Rate and Form Filings (SERFF) and divided among the OIC's analysts. West Virginia is a "prior approval" state, which means rates, rules and forms must be approved by the West Virginia Insurance Commissioner prior to marketing plans to West Virginia consumers for most product lines.

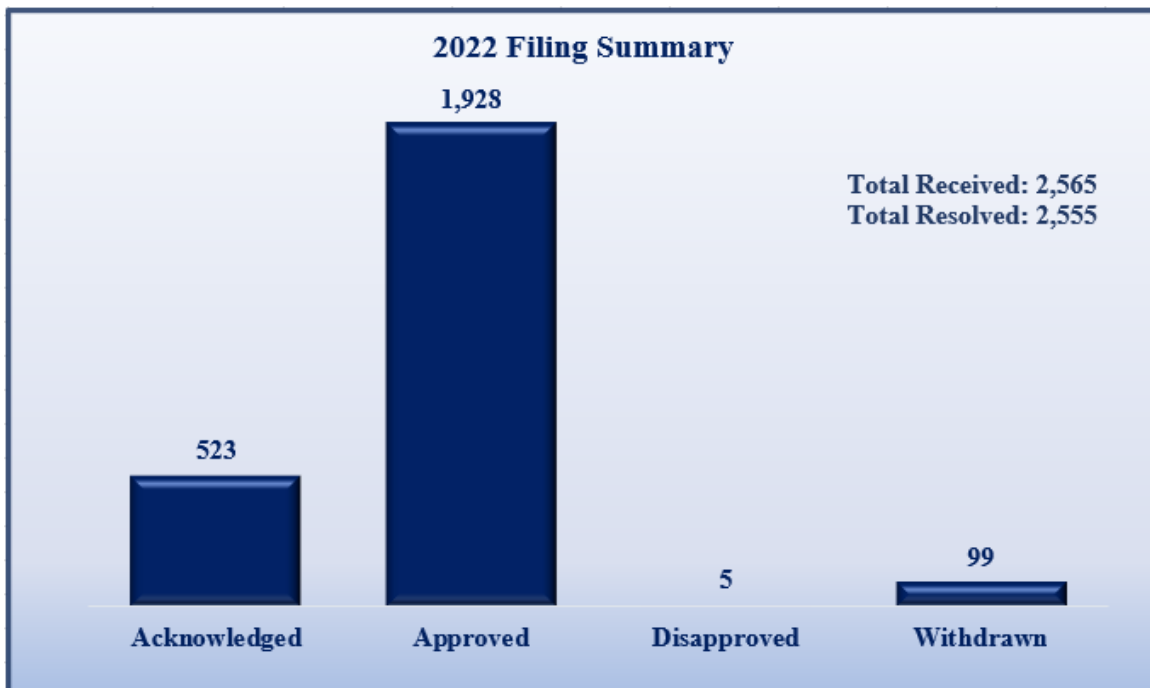


In addition, analysts review binders as submitted by major medical and dental companies as part of the certification process for Qualified Health Plans (QHPs) within the statutes of the Patient Protection and Affordable Care Act (ACA). Binders are also submitted through SERFF and consist of a series of templates that are used to transfer the plan data to the federal marketplace ([www.Healthcare.gov](http://www.Healthcare.gov)). W. Va. Code §33-6-8, 33-15-1b and 33-16B-1, is the primary authority for West Virginia to review and recommend Qualified Health Plans (QHPs) for certification.

Analysts participate on various committees with the NAIC (National Association of Insurance Commissioners) to work on national solutions to issues that span more than West Virginia. The NAIC has members from every state working together to protect consumers and stabilize insurance markets. For example, the Analysts continue to work on the NAIC’s Long-Term Care Executive Task Force, along with the Insurance Commissioner. This Task Force is working on the tough issues surrounding long-term care using a multifaceted approach, and its efforts will affect and, hopefully, benefit West Virginia Long-Term Care Insurance consumers as they continue to receive extraordinary rate increases.

Filings for noncommercial lines must be filed with the Unit no less than 60 days in advance of the desired effective date per Code §33-6-8(b)(1) and §33-16B-1, and unless more information is requested from the insurance company, will be deemed approved at the end of the 60-day timeframe. Commercial lines and casualty risks, as well as any mass-marketed life and health product offered to members of an association must be filed with the Unit as noted in Code §33-6-8(b)(2). However, there is no OIC prior approval needed before an insurer can implement the filing. The Commissioner may take action on such forms within 30 days. Code 33-6-9(e) requires the Insurance Commissioner to disapprove a form “if the coverages provided therein are not sufficiently broad to be in the public interest.”

Below is a chart of the 2022 filing summary.



## PROPERTY AND CASUALTY DIVISION

The Property and Casualty Division is responsible for handling filings related to Property and Casualty insurance. The Division was created in 2023 by combining two existing divisions: Consumer Services and Rates and Forms. The Property and Casualty Division was created to improve processes and procedures by helping to facilitate better communication between the two departments.

### CONSUMER SERVICES UNIT

The Consumer Services Unit receives consumer inquiries by mail, webmail, email, telephone, online complaint form, and public walk-ins. A complaint file is set up for each written inquiry. In 2022, a total of 1,057 open complaints were filed and 4,789 consumer assistance calls and emails were exchanged.

The Consumer Services section handled 329 third-party liability complaints during 2022; 96 were not resolved during the cure period resulting in those files being referred to our Legal Division for a determination of merit.

Below is a summary of the calendar year 2022 inquiries and complaints.

Activity Type	Total
Email and Phone Call Consumer Inquiry	4,789
Walk-in Consumer Inquiry	16
Complaints Opened	1,057
Complaints Closed	1,046

Coverage Complaint Type	Total
Private Passenger Auto	578
Workers' Compensation	182
Homeowners	149
Liability	22
All Other Property and Casualty Lines	126
Total	1,057

### RATES AND FORMS UNIT

The Property and Casualty Rates and Forms Unit analyzes all rate, rule, and form filings proposed by licensed insurance companies for use in the West Virginia insurance markets. Analysts review all such filings for automobile, homeowners, motorcycle, mobile homes, umbrella, business owners, inland marine, medical malpractice, credit, and workers' compensation products. Filings are submitted through the System for Electronic Rate and Form Filings (SERFF) and divided among the OIC's analysts. West Virginia is a "prior approval" state, which means policy rates, rules and forms must be approved by the West Virginia Insurance Commissioner prior to marketing plans to West Virginia consumers for most products.

Filings for noncommercial lines must be filed with the Unit no less than 60 days in advance of the desired effective date as noted in Code §33-6-8(b)(1) and §33-16B-1, and unless more information is requested from the insurance company, will be deemed approved at the end of the 60-day timeframe. Commercial lines and casualty risks must be filed with the Rates and Forms Unit as noted in Code §33-6-8(b)(2). However, there is no OIC prior approval needed before an insurer can implement the filing. The Commissioner may act on such forms within 30 days. Code 33-6-9(e) requires the Insurance Commissioner to disapprove a form “if the coverages provided therein are not sufficiently broad to be in the public interest.”

Below is a summary of the 2022 filing summary.

<b>2022 Filing Summary</b>	
<b>Total Received</b>	<b>2,573</b>
Acknowledged	110
Approved	2,400
Disapproved	0
Withdrawn	39
<b>Total Resolved</b>	<b>2,549</b>

The majority of filings are ultimately approved. However, many filings are incomplete and regularly require additional information, data and time to complete a comprehensive review. The rate review process can involve several parties. Consulting actuaries and opinions from our Legal Department are often relied upon before a final determination is made.

There are 330 insurers eligible to write workers’ compensation insurance in West Virginia. Of the 330 carriers, 273 are writing at least one policy.

The West Virginia residual market had 1,908 policies as of December 31, 2022. These are policies that do not qualify for coverage in the voluntary market. The Volunteer Fire Departments makes up 391 of the policies in the residual market.

As of November 2022, there have been eighteen (18) consecutive annual workers’ compensation loss cost decreases filed since the privatization in 2006. These decreases represent an overall premium savings to West Virginia employers of approximately \$446 million or 82.5% reduction from pre-reform workers’ compensation levels.



## SPECIAL INVESTIGATIONS DIVISION - OFFICE OF INSPECTOR GENERAL

The Special Investigations Division was created under legislation passed by the WV Legislature during its 2004 regular session. The Special Investigations Division is responsible for facilitating a cooperative approach in the detection, investigation, and prosecution of insurance fraud, as well as making the public aware of insurance fraud and providing a way to report instances of suspected insurance fraud. Further, the Special Investigations Division is tasked with investigating persons suspected of engaging in insurance fraud and referring cases with merit to the appropriate authorities for criminal prosecution.

The Special Investigations Division currently consists of twelve (12) allocated field investigative positions, four (4) field investigative supervisors (who also conduct investigations), one (1) WV State Police Trooper and seven (7) allocated analysts and support positions, one (1) Director of Operations and one (1) Inspector General. Field Investigators currently occupy field offices in the following cities:

- Beckley
- Charleston
- Fairmont
- Martinsburg
- Wheeling

The geographic locations of these field offices allow investigators to respond quickly to reports of alleged insurance fraud. It also allows investigators to foster relationships with federal, state and local law enforcement and prosecutors that the Special Investigations Division relies on to bring about successful prosecutions.

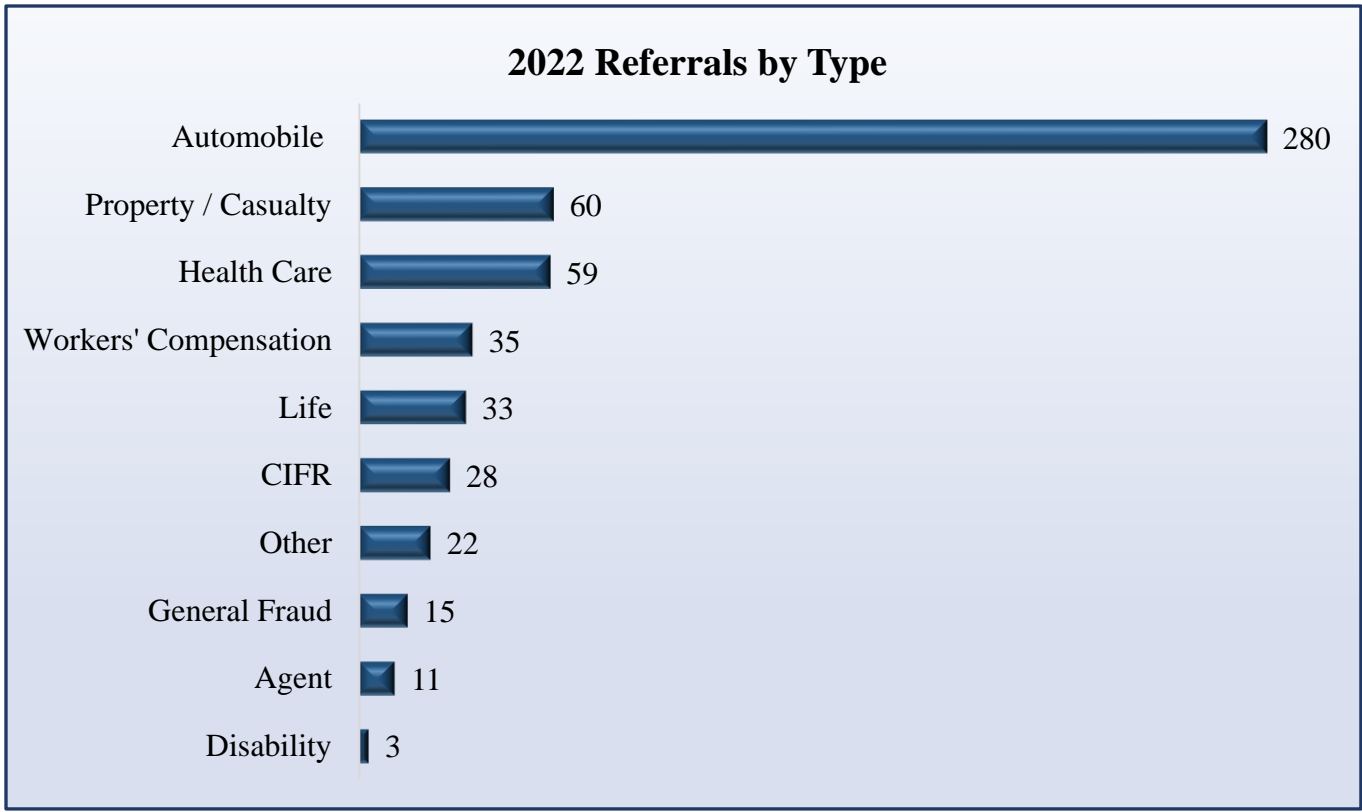
There are three ways in which the public and the insurance industry can report suspected insurance fraud to the Special Investigations Division:

- by calling toll free at 1-800-779-6853
- online reporting at [www.wvinsurance.gov](http://www.wvinsurance.gov)
- and by correspondence at P.O. Box 2901; Charleston, WV; 25301-2901

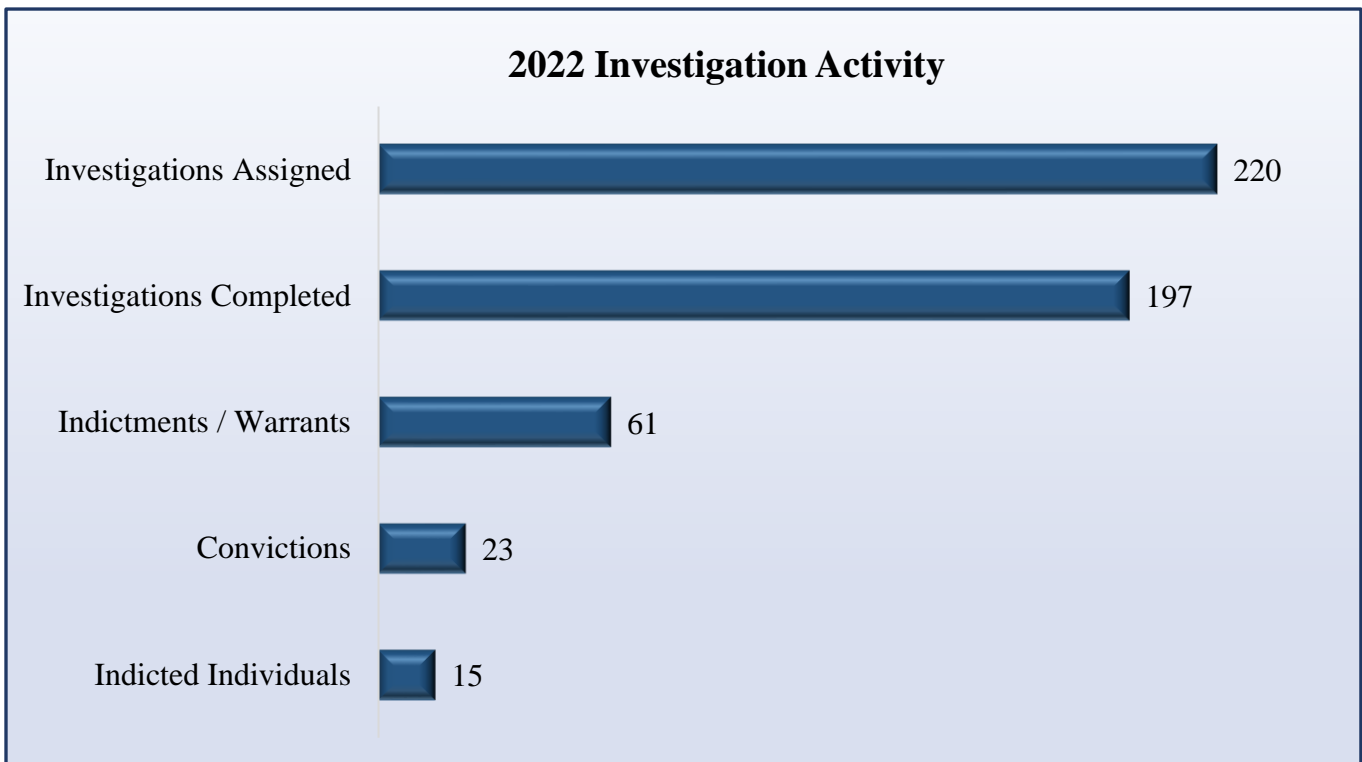
The Special Investigations Division's case management and reporting application has been recognized as one of the premier systems in the nation for its ability to manage cases, detect trends in fraud, and create investigative reports suitable for presentation to prosecutors. It has also been designed to receive referrals from the online reporting function of the National Association of Insurance Commissioners (NAIC) online reporting tool.

The Special Investigations Division has been proactive in its approach to educate the public on what constitutes insurance fraud as well as the costs associated with insurance fraud. A brochure explaining the types of fraud, what the penalties are and what happens when someone reports suspected fraud was developed and is given out at fairs and festivals across the state as well as distributed to each WV State Police Detachment. Additionally, representatives from the Unit appear at various functions, events, and meetings statewide taking the message to the general public that insurance fraud is not a victimless crime, but one that victimizes everyone in the form of higher costs for goods and services.

The West Virginia Insurance Commission Special Investigations Division received 546 referrals or reports of suspected insurance fraud in 2022 from the insurance industry, public and law enforcement. The following chart breaks down the referrals received:



The Special Investigations Division completed 197 field investigations with reports submitted to State and Federal Prosecutors. The Special Investigations Division also identified over \$2.5 million of fraudulent activity, resulting in 61 indictments/warrants issued.



## STATE AGENCY WORKERS' COMPENSATION (SAWC) PROGRAM

As the State Agency Workers' Compensation Program (SAWC) entered its thirteenth policy year in 2023, the program has had some volatility but, in general, continues to experience a positive trend with decreased frequency and severity of claims and losses. The program currently includes more than 100 agencies, boards and commissions with over 900 locations across our state. It is estimated that approximately 25,000 public employees are covered under this consolidated policy.

As the plan administrator, the West Virginia Offices of the Insurance Commissioner (WVOIC) continually monitors and evaluates loss trends and exposures to determine if they are being properly addressed as well as makes safety recommendations to help mitigate workplace injuries. Zurich Insurance Company was the SAWC policy coverage provider from October 2011 through June 2017. Effective July 1, 2017, the SAWC policy transitioned to the Encova Insurance Group (formerly BrickStreet Mutual Insurance Company). Encova continues to be the current coverage provider.

### SAFETY AND RETURN TO WORK INITIATIVES

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Many of the SAWC Program members have welcomed the safety initiatives and have worked diligently in implementing suggestions for improvement from the safety professionals. These initiatives include:

- Establishing safety committees
- Establishing transitional work assignments that provide employees the opportunity to return to work on a limited basis (Return to Work Program)
- Incident and accident investigation training
- Defensive drivers' training
- Developing Emergency Action Plans
- Workplace violence training
- Enhanced patient observation by using cameras to reduce workplace violence
- Industrial hygiene studies were completed to address noise and air quality
- Industrial hygiene survey was completed related to airborne contaminants
- BRIM and OIC site visits to agencies to discuss strategies for reducing Motor Vehicle Accidents
- COVID-19 prevention training
- Personal protective equipment training
- Hazardous material training

### SAFETY VISIT SUMMARY

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Safety visits and evaluations continue to play an important role in all aspects of the SAWC Program. During the first SAWC policy year (October 2011), all plan members were visited by a safety professional. After the initial visitations to all agencies and the follow-up reports were evaluated, safety resources were focused on agencies with a higher frequency and severity of losses. The table below outlines the number of visits performed by policy year by Zurich (2011 -2016) and Encova (2017 - 2022) safety teams as well as the SAWC Program Manager.

<b>Policy Year</b>	<b>Number of Visits</b>
2011	109
2012	102
2013	81
2014	90
2015	93
2016	90
2017	200
2018	173
2019	161
2020	84
2021	163
2022	160
<b>Total</b>	<b>1,506</b>

Many state agencies have already implemented safety programs or are in the process of implementing safety committees, policies, and procedures. Some notable safety initiatives that have been developed and implemented include:

- **Department of Health and Human Resources** – Workplace Violence Prevention Training, Return to Work Program, and installation of video cameras in some locations. The agency is conducting weekly employee injury meetings in an effort to prevent injuries.
- **Department of Veterans Assistance** – Workplace Violence Prevention Training and Return to Work Program.
- **Department of Military Affairs** – The Division of Corrections, Division of Juvenile Services and the Regional Jail and Correctional Facility Authority have combined resources in the past to focus on workplace and employee safety programs by forming a multi-Agency Shared Services Committee on Safety, Workplace Violence Prevention Training, and Return to Work Programs. Effective July 2018, HB 4338 merged these agencies into a single entity called the Department of Corrections and Rehabilitation (DCR). DCR will share a centralized safety and health program and return-to-work program. DCR has hired a return-to-work coordinator and is considering expanding its safety department.
- **Division of Highways** – Slip, Trip and Fall Training, Confined Space Training, Silica Training, and additional OSHA training. DOT is also conducting additional training for safety in construction zones.

The WVOIC has worked extensively with SAWC Program members to develop Return to Work programs. The Return-to-Work programs have been finalized and implemented by several SAWC Program members. SAWC Program members have implemented functional Return to Work programs and continue to look for ways to improve the process for returning injured workers to the workplace. This is a critical area of success for the program and all agencies are encouraged to focus on implementing and maintaining an effective return to work program. The SAWC Program Manager is continuously monitoring the success of the program and is providing support to agencies that face challenges related to return-to-work program implementation.

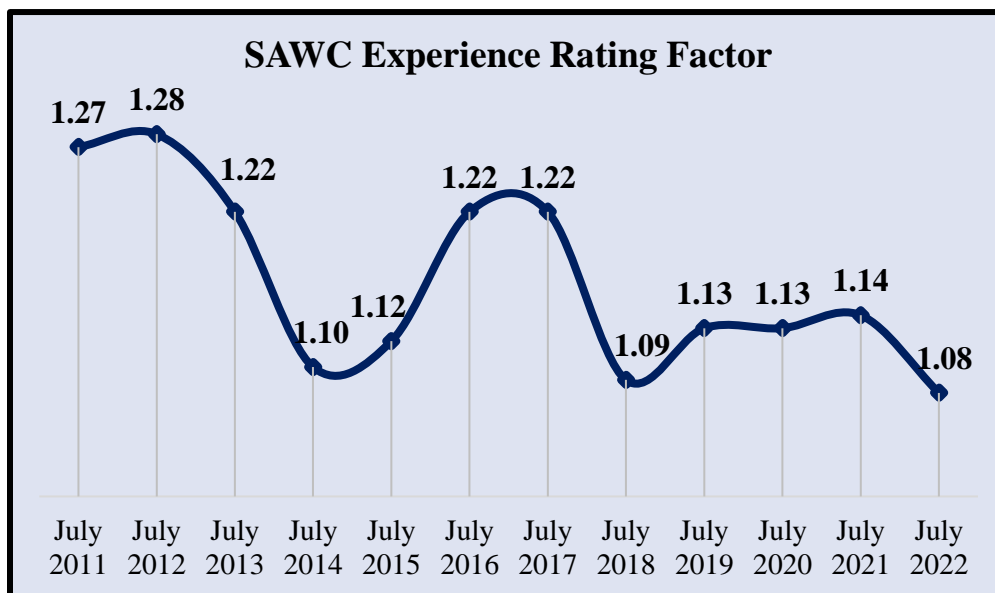
## SAWC EXPERIENCE RATING FACTOR (EMOD)

An experience rating factor (emod) is an industry standard calculation that compares a policy's expected losses to actual losses for a three (3) year period. An emod can increase or decrease premium based on a policy's loss experience. If an insured has actual losses that are greater than the expected losses, a debit emod is applied to the policy. If an insured has fewer actual losses than expected losses, a credit emod is applied. The chart below illustrates how an experience rating factor impacts final premium.

Premium Component	Agency A	Agency B
Payroll	\$1,000,000	\$1,000,000
Rate	\$3.50	\$3.50
Manual Premium	\$35,000	\$35,000
Experience Rating Factor	1.10	0.90
Modified Premium	\$38,500	\$31,500
Schedule Rating Credit	25%	25%
Standard Premium	\$28,875	\$23,625

Through the hard work of agencies and WVOIC employees, the SAWC Program emod has decreased from 1.27 for the July 2011 policy to 1.08 for the July 2022 policy. The emod increase from the July 2014 policy includes the claim and loss effects from the 2012 derecho and 2012 Superstorm Sandy as well as several fatal claims and severe motor vehicle accidents. The experience is cyclical but the variability from 2018 to 2022 has less dispersion and is more consistent or flat in trend analysis. The OIC is monitoring the emod trends and is working with Encova to ensure the safety of all state employees is the number one priority.

The chart below shows the experience rating factor progression throughout the SAWC Program by policy year:



The aggregate policy emod is shown above and individual agency emods are calculated to allocate the premium by the risk and loss experience that each agency provides to the program.

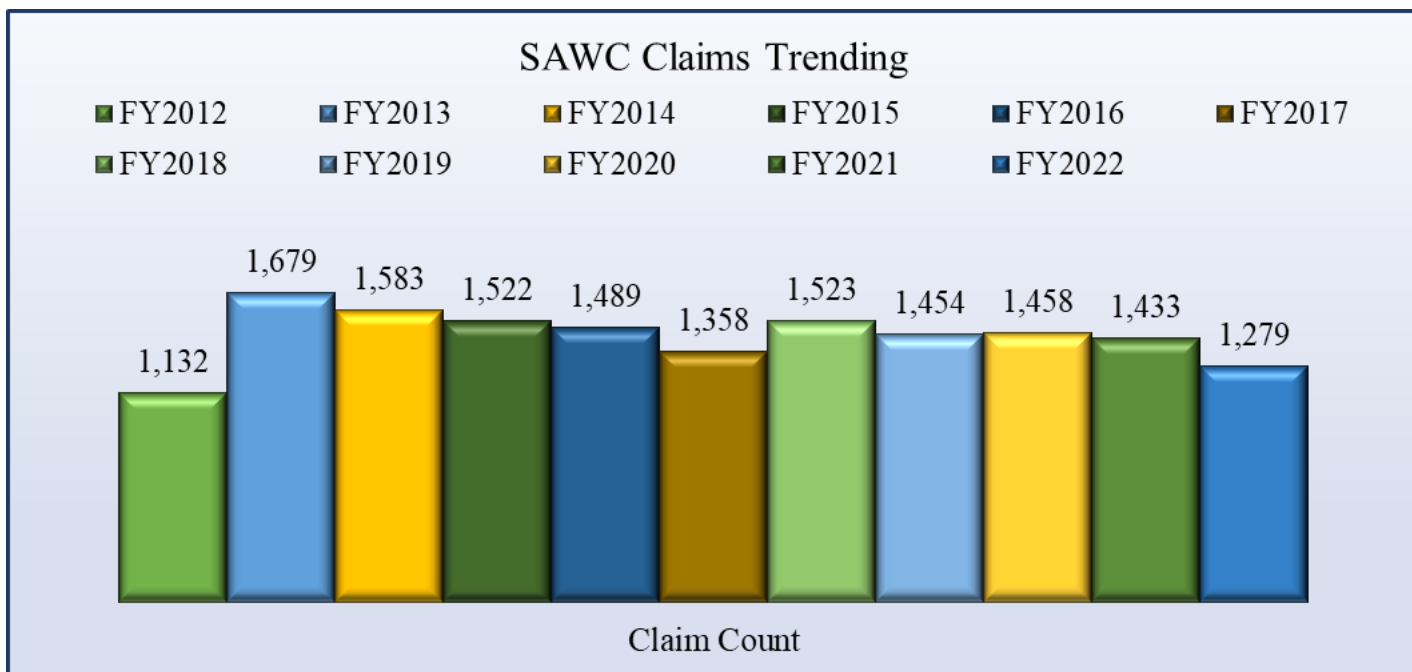
For the July 2022 policy, the individual agency emods summary is as follows:

Emod Range	Agency Count
Less than 1.00	28
Equal to 1.00	52
Greater than 1.00	19

For the July 2022 policy, the agencies with the lowest emods were the Governor’s Office (0.50), Department of Environmental Protection (0.57) and Civil Contingent Fund (0.59). The agencies with the highest emods were Mildred Mitchell Bateman Hospital (3.31), Regional Jail Authority (2.37) and Bureau of Juvenile Services (1.88).

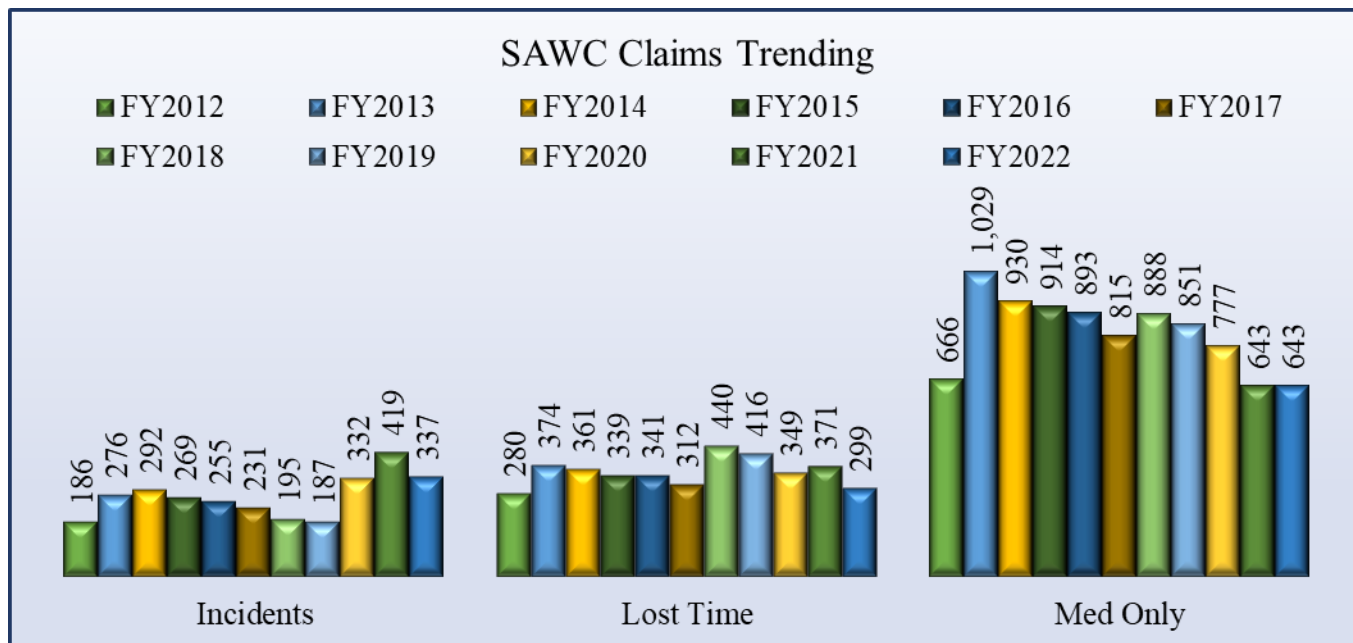
### SAWC CLAIMS SUMMARY

As of June 30, 2021, 8,763 SAWC claims were submitted to Zurich with dates of injury between October 2011 and June 2017. As of June 30, 2022, there have been 7,147 SAWC claims submitted to Encova with dates of injury between July 2017 and June 2022 for a total SAWC claim count of 15,910. The charts below represent claims trending analysis by fiscal year:



Encova data as of June 30, 2022; Zurich data as of June 30, 2021  
 FY2012 – FY2017 are Zurich claims; FY2018 – FY2022 are Encova claims

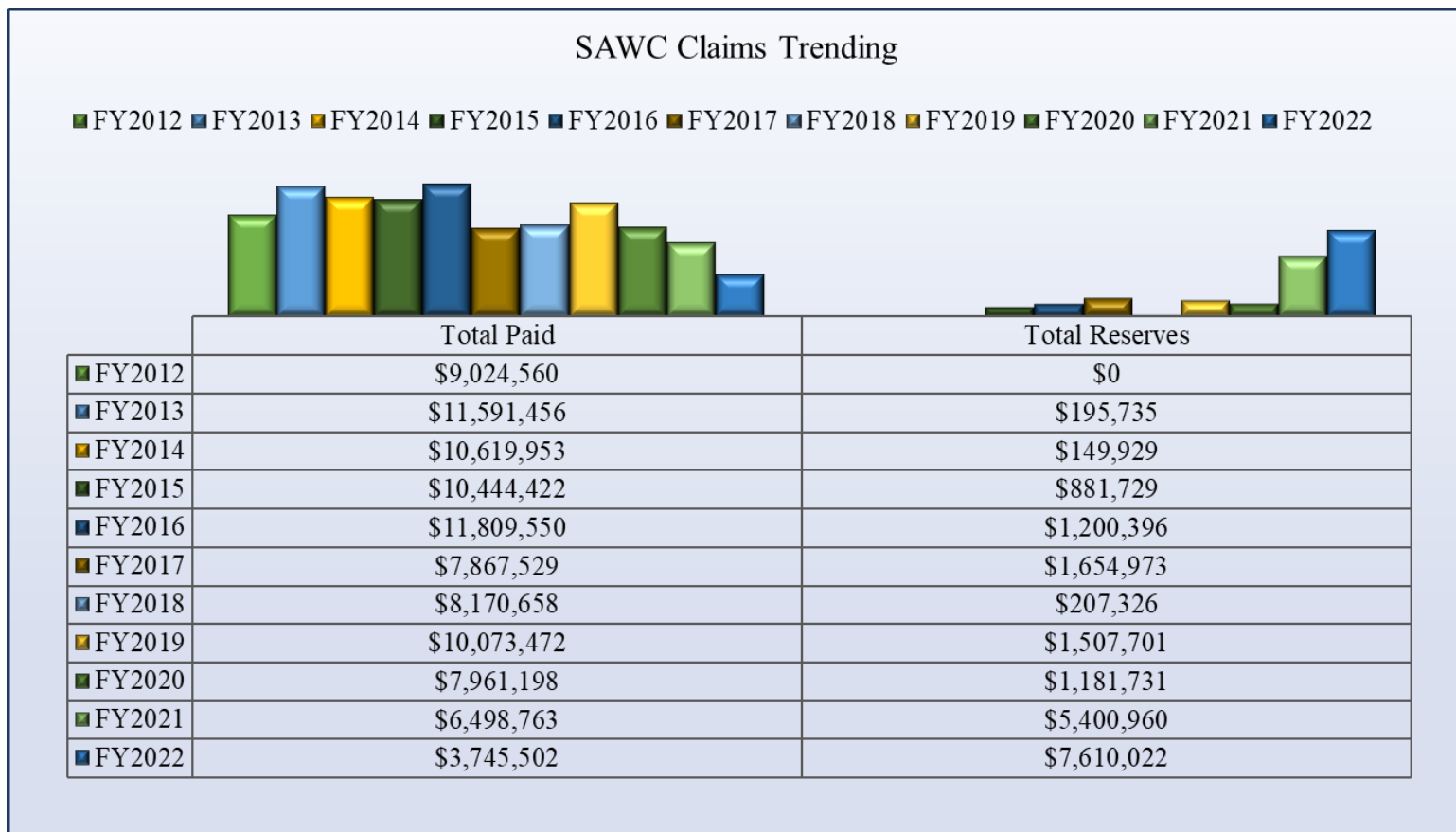
Of the 15,910 total claims reported to Zurich and Encova 2,979 (18.7%) have resulted in being closed with no payments (incidents); 3,882 (24.4%) are lost time requiring wage replacement benefits and 9,049 (56.9%) are medical only claims requiring medical payments but no lost wage replacements.



Encova data as of June 30, 2022; Zurich data as of June 30, 2021

FY2012 from October 2011 – June 2012

FY2012 – FY2017 are Zurich claims; FY2018 – FY2022 are Encova claims



As indicated by the trending charts, the SAWC Program realized decreasing frequency from FY2013 through FY2017. However, FY2018 had a 12% frequency increase over FY2017. The frequency declined by 5% in FY2019 and remained relatively static until FY2022 when there was a 10.7% decrease from FY2021. However, it is important to keep in mind that a claimant has six (6) months from the date of injury to file a claim so the FY2022 results may be premature since the valuation date and policy expiration date is the same. The severity continues to be volatile with significant fluctuations. The severity increased dramatically from FY2018 to FY2019 resulting in a 38% increase due to large loss claims. However, in FY2020 the severity decreased more than 21% over the FY2019 results even with a slightly higher frequency. Severity again increased in FY2021 due to several large loss claims; two of those claims being fatalities from COVID-19 that total ~\$3M incurred costs. FY2022 severity slightly declined 4.6% from FY2021 but continues to remain above the average severity rate of the program.

Considering only the Encova data from July 2017 to June 2022, there are currently 14 claims in excess of the \$250,000 deductible per claim limit. These 14 claims have a total incurred cost of \$9,488,016 or 18% of the aggregate costs of the entire SAWC program.

## SAWC SUMMARY

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The SAWC Program has a complex workforce doing tasks that at times place employees in danger. Our employees are our greatest asset, and their safety is of the utmost importance. Safety policies and procedures have been developed for employees to follow to minimize these risks. Efforts have been made in all agencies to ensure that policies and procedures are in place and are being followed by all employees to prevent workplace injuries. Accident prevention efforts have been hindered due to previous COVID-19 restrictions in correctional facilities and employee turnover in state agencies by adversely impacting the implementation of safety programs, initiatives and return-to-work programs.

Major training campaigns will continue throughout 2023 and into 2024 for motor vehicle accident (MVA) prevention strategies, defensive driving training, Return-to-Work Implementation, workplace violence, sprain, and strain reduction as well as fall prevention.

The OIC has partnered with BRIM in a shared services approach to provide motor vehicle accident prevention techniques and strategies to agencies with a goal of reducing the frequency and severity of MVAs. For the FY2018 through FY2022 policies written by Encova, MVAs accounted for 233 of the total 7,147 claims or 3.3% of the overall frequency. Those 233 claims account for \$3,792,767 of the total incurred costs or 7.2% of the overall severity.

The SAWC Program will conduct the Annual Conference on October 17, 2023, at Encova Headquarters in Charleston, West Virginia. The information distributed during the conference will be available to all members of the SAWC, even those who do not attend the conference.



## WORKERS' COMPENSATION DIVISION

The Workers' Compensation Division is responsible for the workers' compensation regulation of West Virginia employers and includes the following units:

- Claims Services Unit – manages the third-party administrator contract for the administration of the various workers' compensation claims funds, supports the Occupational Pneumoconiosis (OP) Board and regulates Electronic Data Interchange (EDI) reporting.
- Employer Coverage Unit - ensures employers are compliant with current workers' compensation laws as related to requirements for mandatory coverage.
- Revenue Recovery Unit – calculates and collects fines in addition to the costs associated with claims administered by the Uninsured Employer Fund, from uninsured employers who are out of compliance with mandatory workers' compensation coverage requirements.
- Self-Insurance Unit – regulates self-insured employers and ensures compliance with West Virginia Code as well as monitors employers who no longer self-insure but continue to administer claims incurred during their periods of self-insurance.

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### CLAIMS SERVICES UNIT

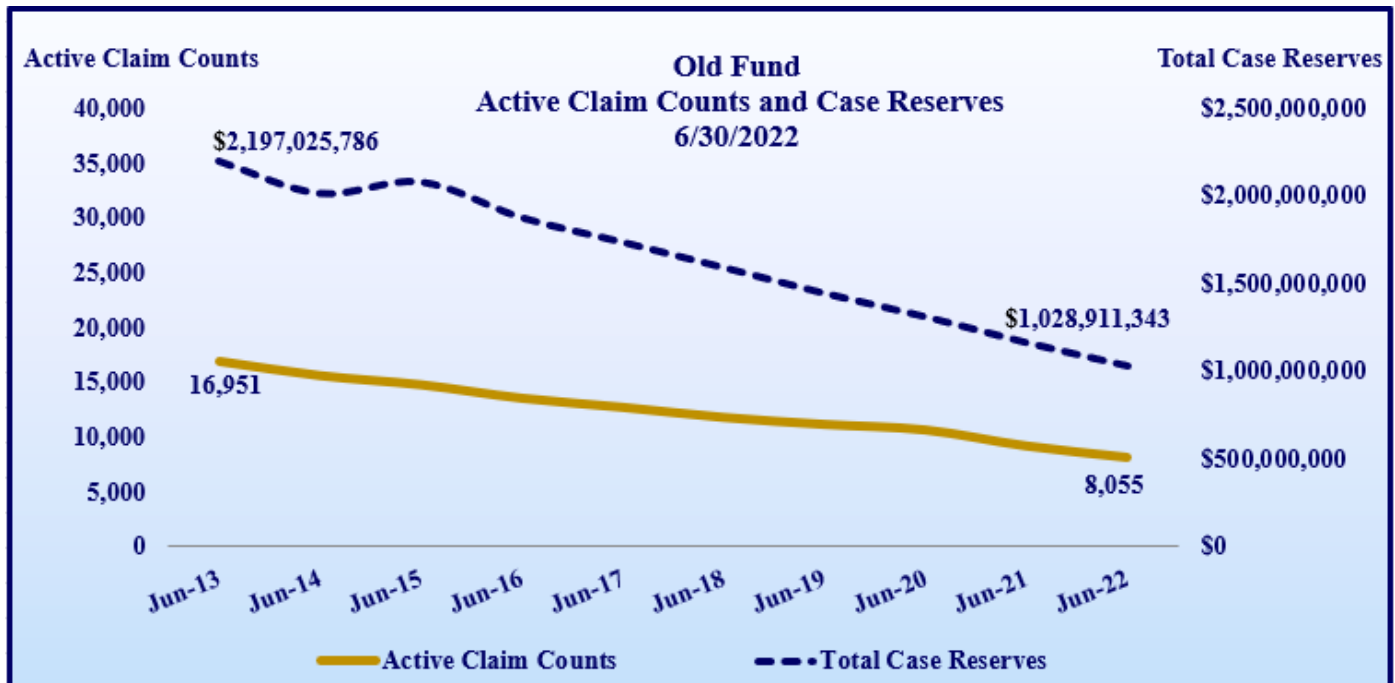
The Claims Services Unit provides oversight of the third-party administrator engaged to manage the State-run workers' compensation funds. The Old Fund consists of the legacy claim liability that existed at the time of the privatization of the State's formerly monopolistic workers' compensation program.

Effective December 1, 2021, the WV Offices of the Insurance Commissioner contracted with the third-party administrator (TPA), Sedgwick CMS, to provide administrative claim services for the Old Fund, Uninsured Employer Fund, Coal Workers' Pneumoconiosis Fund (Federal Black Lung Program), Self-Insured Guaranty Fund and Self-Insured Security Fund. The primary objectives are to ensure that claims are properly reserved and administered according to the Best Claims' Practice standards and in compliance with statutory and regulatory provisions.

The Claims Services Unit seeks to ensure proper administration of claims by performing on-going quality assurance reviews of the third-party administrator (TPA), reviewing large reserve increases or decreases and indemnity settlement approval at a threshold of \$25,000.00 or greater. The Claims Services Unit also reviews the TPA's monitoring of the eligibility status of claim beneficiaries.

Regulatory duties of the unit include maintaining the Occupational Pneumoconiosis (OP) Board docket and the Claim Index. The Claims Services Unit coordinates with the West Virginia State Auditor's Office and TPAs to establish Electronic Fund Transfers (EFTs) and US Bank Cards for injured workers or their dependents who receive benefits.

Annual active Old Fund claim counts are as follows in both graphical and data table formats:



Claim Counts as of:	Totals
6/30/2013	16,951
6/30/2014	15,626
6/30/2015	14,782
6/30/2016	13,534
6/30/2017	12,694
6/30/2018	11,758
6/30/2019	11,110
6/30/2020	10,597
6/30/2021	9,115
6/30/2022	8,055

### QUALITY MEDICAL CARE AND COST CONTAINMENT INITIATIVES

The TPA sub-contracts with Coventry, a managed health care plan, for the Old Fund, UEF, Guaranty and Security Fund claims. Sedgwick is utilizing the OneCall Network for efficient and cost-effective services for the hearing loss claimants. In addition, Sedgwick has streamlined their drug formulary with Optum, eliminating opioids from the formulary. Advance notice of the elimination of opioids from the formulary was provided to the claimants prior to implementation. This initiative was implemented to further reduce the opioids in our book of claims and significantly reduce the potential for abuse.

## OCCUPATIONAL DISEASE CLAIMS

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New occupational disease claims, such as Occupational Pneumoconiosis (OP) and Hearing Loss (HL) claims with dates of last exposure prior to July 1, 2005, are submitted to the Claims Services Unit for entry and establishment of a new claim. The claim is then assigned to the TPA for administration. The State OP claims are included in the Old Fund. Two other funds may receive new claim filings: the Uninsured Employer Fund (UEF), which began accepting claims on January 1, 2006 and the Coal-Workers' Pneumoconiosis Fund (Federal Black Lung program), which accepts claims with a date of last exposure prior to January 1, 2006. The Claims Services Unit establishes these claims and assigns them to the TPA for administration.

<b>New Claim Filings</b>	<b>FY2018</b>	<b>FY2019</b>	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>
State OP	62	53	41	35	<b>14</b>
HL & OD	5	6	1	4	<b>0</b>
Uninsured Employer Fund	10	4	5	4	<b>8</b>
FBL	416	448	392	385	<b>248</b>

## REGULATORY BOARDS

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Regulatory duties of the Claims Services Unit include maintaining the Occupational Pneumoconiosis (OP) Board docket. The Claims Services Unit prepares the files, maintains the docket for the OP Board, and prepares the files for hearings before the Board of Review. In FY2022, there were 838 examinations scheduled before the OP Board and 26 fatality reviews.

<b>Regulatory Boards</b>	<b>FY2018</b>	<b>FY2019</b>	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>
OP Board Examinations	950	561	375	943	<b>838</b>
OP Board Fatal Reviews	53	44	30	13	<b>26</b>

## CLAIMS INDEX AND ELECTRONIC DATA INTERCHANGE (EDI)

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The Claims Index is a method for indexing the claims of injured workers filing for West Virginia workers' compensation benefits that will make information concerning West Virginia's injured workers available to insurers or self-insured employers, as required by the Industrial Council pursuant to W. Va. Code §23-2C-5(c)(8). The Claims Index contains basic demographic data to assist insurers in obtaining information from other insurers regarding previously filed workers' compensation claims. The data utilized to populate the Claim Index is transmitted to the OIC by insurers, third-party administrators and self-insured employers (collectively referred to as trading partners) via EDI, a consistent method of data transmission developed by the International Association of Industrial Accident Boards and Commissions through a cooperative effort between participating states (jurisdictions) and the trading partners. The Claims Services Unit reviews and approves or denies applications for access to the Workers' Compensation Claims Index, maintains updated trading partner profiles for those entities submitting data via EDI and ensures that the claim data submitted via EDI is correct, complete and updated according to the specifications set forth in the EDI Implementation Guide.

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## EMPLOYER COVERAGE UNIT

The Employer Coverage Unit is responsible for confirming whether or not West Virginia businesses with employees are in compliance with current workers' compensation coverage requirements as established by Chapter 23 of the W.Va. Code.

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### COMPLIANCE WITH MANDATORY WORKERS' COMPENSATION COVERAGE

Workers' compensation compliance reviews begin by extracting canceled and expired policy data provided by the National Council on Compensation Insurance (NCCI) and researching various databases to determine if coverage is required. If an employer is found to be non-compliant, the unit establishes an account to assess a fine to the employer. 546 uninsured employer fine accounts were created in calendar year 2022.

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### VERIFICATION OF EXEMPTION FROM MANDATORY COVERAGE

Certain employers are not required to maintain workers' compensation coverage, although they may elect to do so: an employer of domestic services, some employers in the agricultural service, an employer deemed to be a casual employer, an employer who is a church, an employer engaged in professional sports activities, a volunteer rescue squad or volunteer police auxiliary, and an employer whose employees are provided workers' compensation benefits under the Long Shoremen and Harbor Workers' Compensation Act. Employers who fall within any of these categories may request that a verification of exemption from workers' compensation coverage letter be issued by the OIC. Employer Coverage reviews such requests and issues the letters where appropriate. 120 such requests were received during calendar year 2022 and 91 verifications of exemption from workers' compensation coverage letters were issued by Employer Coverage. Employers who are confirmed to be exempted from workers' compensation coverage are entered into the NCCI POC system for compliance verification purposes.

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### PROOF OF COVERAGE

Employer Coverage also has the responsibility of overseeing insurer compliance within the Proof of Coverage (POC) system. Insurers that fail to report information timely as required by the POC guidelines are reported to OIC Legal for further review.

Employer Coverage assists members of the public, as well as other State agencies, with the utilization of the Proof of Coverage system, which is available on the OIC's website. Employer Coverage staff provides guidance to third party users on how to search the POC database and verify whether specific employers are maintaining the statutorily mandated workers' compensation coverage or are exempt from the requirement to maintain workers' compensation coverage. Increased usage of the POC database improves the likelihood that employers who are not in compliance will be reported to the OIC to be brought into compliance.

CY2022 Statistics	
Compliance Requests Completed	1463
DOL Reports Investigated	84
Uninsured Employer Accounts Established	546

## MANAGED HEALTH CARE PLANS

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Employer Coverage also regulates managed health care plans (MHCP's) and the medical provider networks of insurance carriers, third-party administrators, and self-insured employers. These plans provide managed care to West Virginia workers whose employers participate in an approved West Virginia MHCP. Regulation of these plans includes processing new and renewal certification applications as well as reviewing and approving modifications to existing plans and ongoing medical provider networks. Nine (9) MHCP's and three (3) medical provider networks are currently certified to operate in West Virginia.

## PROFESSIONAL EMPLOYER ORGANIZATION LICENSING

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Professional Employer Organizations (PEO's) operate under numerous descriptive names, the most common being staff leasing companies, registered staff leasing companies, employee leasing companies, and administrative employers. Services provided by PEO's may include, but are not limited to employee benefits, payroll, workers' compensation coverage, recruiting, training and development, and risk/safety management. Licenses are renewed annually or if not renewed, expire six months following the PEO's fiscal year-end. New applicants and renewal applicants are required to provide audited financial statements, among other documents, and must meet certain minimum financial requirements. Approximately 200 PEO's are licensed to do business in West Virginia.

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## REVENUE RECOVERY UNIT

The Revenue Recovery Unit is responsible for the collection of all monies due to the State for (1) past due balances related to the Old Fund, (2) expenditures from the West Virginia Uninsured Employer Fund, and (3) fines imposed upon employers who have not maintained statutorily required workers' compensation coverage.

Revenue Recovery contacts employers that have defaulted on their workers' compensation premium payments, and may take actions such as:

- Placement of employer on the Employer Violator System (EVS), and the Defaulted Employer Database.
- Compliance Posting (notice to inform employees of the employer's default on workers' compensation coverage).
- File liens (for fines and claims charges owed) against the business and its individual owners, officers, partners or members.
- Request revocation of state issued licenses.
- Seek to enjoin the employer's operations.

Revenue Recovery also works with the OIC's Regulatory Compliance (Legal) Division to enforce employer compliance with West Virginia workers' compensation laws, rules and regulations.

## DEFAULT NOTIFICATIONS AND EMPLOYER CONTACT

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Revenue Recovery sends letters of notification to all employers that are reported as not having mandatory workers' compensation insurance. In 2022, there were 1,244 such notices sent to employers. There were over 2,400 contacts by telephone between Revenue Recovery and uninsured employers.

## EMPLOYER VIOLATOR SYSTEM (EVS)

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Revenue Recovery reviews all employers reported as out of compliance with the statutory requirement to carry workers' compensation insurance and places all confirmed uninsured employers and the individual owners, officers, partners or members of the business on the Employer Violator System (EVS). This electronic report allows other state agencies to search for and identify out of compliance businesses and the related officers, owners, partners or members when said businesses apply for other state licenses or permits. If the employer and its associated individual owners, officers, partners or members are on EVS, other agencies may not grant licenses or permits until the out of compliance status is cured and the business is appropriately insured. In 2022, an average of 2,450 businesses along with the individual owners, officers, partners and members were listed on EVS every month.

## LIENS, INJUNCTIONS, AND REGULATORY COMPLIANCE

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Liens are filed when an employer has not cured the fine or claims charges caused by not complying with its workers' compensation obligations and the lien releases are filed when any amounts due to the State are paid. Revenue Recovery prepared and mailed 784 liens to West Virginia County clerks in 2022. The liens were placed on the businesses as well as on the individual owners, officers, partners or members of the business as listed on the West Virginia Secretary of State's website. During the same timeframe, 217 lien releases were prepared and mailed to the county clerk offices.

## REVENUE RECOVERY COLLECTIONS

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CY2022 Collections	
January	\$35,169.84
February	\$33,165.28
March	\$28,290.01
April	\$32,858.17
May	\$102,803.94
June	\$32,234.02
July	\$29,819.36
August	\$84,137.67
September	\$58,132.23
October	\$39,281.70
November	\$30,796.85
December	\$33,266.39
Total	\$539,955.46

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## SELF-INSURANCE UNIT

The Workers' Compensation Self-Insurance Unit is responsible for regulating 51 employers that currently self-insure their workers' compensation coverage in West Virginia and the approximately 100 employers that no longer self-insure but continue to administer claims incurred during their period of self-insurance.

Self-insured employers in West Virginia self-administer their claims. Ordinarily, the employer hires a third-party administrator (TPA) to manage and process claims, although a small number of employers truly self-administer through an internal claim management department or a subsidiary company. Self-administration provides the self-insured employer with a greater degree of control over the claim management process than participation in guaranty cost or deductible programs.

Regulation of the self-insured employers focuses primarily on two areas: maintenance of the risk pools and annual financial condition reviews. W. Va. Code St. R. § 85-19-1 et seq. establishes two risk pools in which the self-insured employers participate: the Security Risk Pool that covers claims with dates of injury, last exposure or death prior to July 1, 2004 (the date self-administration began) and the Guaranty Risk Pool that covers claims with dates of injury, last exposure or death on or after July 1, 2004. Active and inactive self-insured employers participate in the risk pools dependent upon each employer's exposure base since self-insured employers are joint and severally liable for defaults of other self-insured employers. The purpose of the risk pools is to provide the means to pay claims for defaulted self-insured employers without placing the burden on the taxpayers of West Virginia.

## SECTION 3: INSURANCE BUSINESS IN WEST VIRGINIA

### 2022 WEST VIRGINIA PROPERTY AND CASUALTY SUMMARY REPORT

Line of Business	Direct Premiums Written	Market Share	Direct Premiums Earned	Direct Losses Incurred	Pure Direct Loss Ratio
Other private passenger auto liability	\$675,420,247	21.3%	\$670,985,282	\$439,164,151	65.5%
Private passenger auto physical damage	\$647,565,917	20.5%	\$629,623,487	\$507,298,595	80.6%
Homeowners multiple peril	\$524,650,880	16.6%	\$507,430,265	\$296,598,344	58.5%
Workers' compensation	\$234,398,304	7.4%	\$236,015,884	\$68,910,407	29.2%
Commercial multiple peril (non-liability portion)	\$156,397,109	4.9%	\$150,281,442	\$78,154,421	52.0%
Other commercial auto liability	\$155,006,906	4.9%	\$150,091,643	\$80,404,879	53.6%
Other liability - occurrence	\$137,133,812	4.3%	\$129,289,720	(\$23,545,329)	(18.2%)
Inland marine	\$98,700,022	3.1%	\$97,030,621	\$32,540,787	33.5%
Commercial multiple peril (liability portion)	\$82,846,247	2.6%	\$81,040,714	\$38,090,034	47.0%
Commercial auto physical damage	\$59,660,175	1.9%	\$57,991,059	\$37,154,929	64.1%
Fire	\$59,410,558	1.9%	\$59,212,742	\$16,563,720	28.0%
Other liability - claims-made	\$54,860,971	1.7%	\$53,746,286	\$26,997,491	50.2%
Surety	\$48,579,255	1.5%	\$48,204,573	\$658,269	1.4%
Allied lines	\$43,073,307	1.4%	\$42,526,056	\$19,447,533	45.7%
Medical professional liability - claims-made	\$38,052,716	1.2%	\$35,832,474	\$15,681,883	43.8%
Farmowners multiple peril	\$18,895,666	0.6%	\$18,314,531	\$8,193,450	44.7%
Other Health	\$17,577,795	0.6%	\$16,471,243	\$18,354,020	111.4%
Mortgage guaranty	\$16,848,634	0.5%	\$17,285,494	(\$1,577,369)	(9.1%)
Boiler and machinery	\$11,211,490	0.4%	\$10,356,423	\$554,973	5.4%
Federal flood	\$10,388,801	0.3%	\$11,004,985	\$3,463,739	31.5%
Comprehensive (Hospital and Medical) Group	\$9,853,762	0.3%	\$10,068,087	\$4,861,912	48.3%
Credit	\$7,566,814	0.2%	\$7,624,446	\$2,138,030	28.0%
Medical professional liability - occurrence	\$6,620,601	0.2%	\$6,024,974	\$3,978,301	66.0%



Line of Business	Direct Premiums Written	Market Share	Direct Premiums Earned	Direct Losses Incurred	Pure Direct Loss Ratio
Excess workers' compensation	\$5,868,455	0.2%	\$7,071,423	\$4,097,585	57.9%
Medicare Supplement	\$5,846,787	0.2%	\$5,892,191	\$4,770,491	81.0%
Products liability - occurrence	\$5,623,094	0.2%	\$5,549,602	\$9,653,139	173.9%
Aircraft (all perils)	\$4,770,599	0.2%	\$4,393,961	\$96,581,278	2198.0%
Warranty	\$4,700,749	0.1%	\$4,384,604	\$3,047,790	69.5%
Ocean marine	\$4,478,323	0.1%	\$4,441,881	\$1,521,467	34.3%
Fidelity	\$4,185,272	0.1%	\$4,040,980	\$688,351	17.0%
Multiple peril crop	\$4,173,717	0.1%	\$4,080,546	\$2,454,883	60.2%
Private flood	\$3,063,239	0.1%	\$2,474,812	\$180,912	7.3%
Aggregate write-ins for other lines of business	\$2,876,101	0.1%	\$3,054,060	\$543,213	17.8%
Earthquake	\$1,289,076	0.0%	\$1,258,595	\$37,161	3.0%
Burglary and theft	\$777,805	0.0%	\$753,364	(\$40,316)	(5.4%)
Disability Income	\$691,828	0.0%	\$692,027	\$518,212	74.9%
Products liability - claims-made	\$302,021	0.0%	\$298,223	(\$109,958)	(36.9%)
Financial guaranty	\$229,369	0.0%	\$169,825	\$0	0.0%
Dental Only	\$66,902	0.0%	\$67,037	\$18,850	28.1%
Commercial auto no-fault (personal injury protection)	\$25,966	0.0%	\$21,465	\$94,274	439.2%
Vision Only	\$19,970	0.0%	\$20,036	\$260	1.3%
Credit A&H (group and individual)	\$9,586	0.0%	\$9,586	(\$1,555)	(16.2%)
Private crop	\$8,503	0.0%	\$8,503	(\$1,223)	(14.4%)
International	\$274	0.0%	\$171	(\$10)	(5.8%)

WV Totals for all Property and Casualty Business                      \$3,163,727,625    100.0%    \$3,095,135,323    \$1,798,141,974    58.1%

2022 WEST VIRGINIA LIFE SUMMARY REPORT

Line of Business	Direct Premiums Written	Market Share	Direct Losses Paid	Pure Direct Loss Ratio*
Ordinary Life (Total Life and Annuity Considerations)	\$1,778,019,692	49.4%	\$1,830,568,513	103.0%
Group Life (Total Life and Annuity Considerations)	\$915,732,920	25.4%	\$865,741,468	94.5%
Group A&H	\$527,624,328	14.6%	\$416,911,211	79.0%
Guaranteed Renewable A&H	\$169,580,558	4.7%	\$113,410,346	66.9%
Medicare Title XVIII	\$165,295,706	4.6%	\$127,962,487	77.4%
Non-cancelable A&H	\$20,258,886	0.6%	\$11,152,341	55.0%
Federal Employee Health Benefit Program	\$7,853,656	0.2%	\$4,980,048	63.4%
All Other A&H	\$5,956,908	0.2%	\$1,938,026	32.5%
Credit Life (Total Life and Annuity Considerations)	\$5,621,028	0.2%	\$3,165,172	56.3%
Credit A&H	\$4,340,983	0.1%	\$1,815,279	41.8%
Non-renewable A&H	\$1,326,694	0.0%	\$514,022	38.7%
Other Accident	\$672,776	0.0%	\$417,940	62.1%
Collectively Renewable A&H	\$52,431	0.0%	\$7,906	15.1%
Industrial Life (Total Life and Annuity Considerations)	\$14,068	0.0%	\$2,225,544	15819.9%

WV Totals for all Life Business	\$3,602,350,634	100%	\$3,380,810,303	93.9%
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\* Pure Direct Loss Ratio is generally calculated by dividing direct losses incurred by earned premium. This summary uses direct losses paid divided by written premium due to reporting constraints from the NAIC.

2022 WEST VIRGINIA ACCIDENT AND HEALTH SUMMARY REPORT

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Line of Business*	Direct Premiums Written	Market Share	Direct Premiums Earned	Direct Claims Incurred	Pure Direct Loss Ratio
Title XVIII Medicare	\$2,518,108,386	38.5%	\$2,520,728,195	\$2,164,087,145	85.9%
Title XIX Medicaid	\$2,431,576,167	37.2%	\$2,409,684,021	\$1,958,159,098	81.3%
Group Comprehensive	\$642,923,071	9.8%	\$642,923,071	\$568,316,913	88.4%
Federal Employees Health	\$476,394,367	7.3%	\$514,152,003	\$488,256,066	95.0%
Individual Comprehensive	\$332,746,305	5.1%	\$332,760,703	\$260,800,956	78.4%
Other	\$83,640,800	1.3%	\$84,832,805	\$70,356,150	82.9%
Dental Only	\$44,604,709	0.7%	\$44,652,523	\$30,865,051	69.1%
Vision Only	\$9,603,266	0.1%	\$9,602,944	\$8,029,069	83.6%
Disability Income	\$1,225	0.0%	\$1,225	\$10,538	860.2%
 WV Totals for all A&H Business	 \$6,539,598,296	 100.0%	 \$6,559,337,490	 \$5,548,880,986	 84.6%

\* Long Term Care and Medicare Supplement lines of insurance are removed from the analysis due to reporting constraints from the NAIC.