



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

Allan L. McVey  
Insurance Commissioner

January 8, 2024

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

Dear Governor Justice:

Pursuant to W.Va. Code §33-2-16 (d), I am pleased to submit the annual report on the activities of the Office of the Consumer Advocate at the WV Insurance Commission for calendar year 2023. Should you have any questions please contact me at 304-558-3864.

Respectfully,

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

DVG/vms

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



# **West Virginia Office of Consumer Advocate Offices of the WV Insurance Commissioner 2023 Annual Report**

To the Honorable Governor James C. Justice II:

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

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

The Office of the Consumer Advocate is presently staffed with the Director, Attorney II and a Paralegal. There are vacancies in the Investigator, Nurse III and Financial Analyst positions.

Even with staff shortages, the Office of the Consumer Advocate has maintained a great working relationship with the West Virginia Offices of the Insurance Commissioner while still providing zealous representation for numerous West Virginia insurance consumers.

In 2023, 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 2023, the efforts of the Office of the Consumer Advocate on behalf of West Virginia insurance consumers yielded financial awards totaling \$144,097.92 which went directly into the pocket of the consumer as well as several other important actions directly benefiting the West Virginia insurance consumer.

During the entirety of the undersigned's tenure<sup>1</sup>, the Office of the Consumer Advocate has been involved in obtaining financial settlements totaling \$4,486,557.11, 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 2023, the Office of the Consumer Advocate reviewed 65 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. For some reason, the WVOIC opted not to attend any State festivals in 2023. The Office of the Consumer Advocate hopes that the WVOIC decides to start once again attending Conferences and State Festivals in 2023.

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

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

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

The Office of the Consumer Advocate also kept abreast of any cases before 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.

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

In 2023, the Office of the Consumer Advocate provided formal representation to insurance consumers in thirty-five (35) consumer complaints before the West Virginia Insurance Commission.

Twenty-Four (24) of these consumer complaints were third party complaints and the remaining Ten (10) consumer complaints were first party complaints. First party complaints are complaints filed by a consumer against their own insurer, while third party complaints are complaints filed by a consumer against another person's insurer. In addition to formal representation, the Office of the Consumer Advocate assisted and advised hundreds of West Virginia consumers throughout the year, be it via email inquiries, telephonic inquiries, office visits, or other means. This assistance has directly benefited those consumers and in many cases

has resolved the consumers' insurance issues or queries without requiring the filing of an actual consumer complaint with the WVOIC.

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

The Office of the Consumer Advocate is proud of the representation that it has provided to consumers. Further, the Office of the Consumer Advocate is also proud of the countless hours that have been spent assisting consumers in evaluating their claims and assisting them in exploring all their options including possibly retaining private counsel when it is in their best interests. This assistance has directly benefited hundreds of consumers every year and in many cases has resolved the consumer's insurance issues or queries without requiring the filing of a formal consumer complaint.<sup>2</sup>

### **Third Party Complaints**

The Office of the Consumer Advocate worked twenty-four (24) third party cases in 2023. The results of said cases are as follows:

A total of \$127,864.15 was awarded directly to West Virginia Consumers in the form of settlements in twelve (12) of the consumer complaints.

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

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

In four (4) consumer complaint cases, the Consumer failed or declined to request representation.

Four (4) consumer complaint cases are still pending.

### THIRD PARTY COMPLAINTS

#### HANDLED BY THE OFFICE OF THE CONSUMER ADVOCATE IN 2023

<b>RESPONDENT</b>	<b>THIRD PARTY COMPLAINANT</b>	<b>RESOLUTION</b>
Farmers Direct Property & Casualty Insurance Company	Anthony Gentry	Settled
National Union Fire Insurance Company of Pittsburgh, Pa	Betty Gravely	Consumer failed to request representation
Safeco Insurance Company of America	Anthony Lovejoy	Consumer failed to request representation
Allstate Property & Casualty Insurance Company	Cory Leonard	Settled
Esurance Property & Casualty Insurance Company	Heather Moyers	Settled
State Farm Mutual Automobile Insurance Company	Scott Thompson	Settled
Esurance Property & Casualty Insurance Company	Marsha Evans	Consumer failed to request representation
Safe Auto Insurance Company	David Boone	Settled
State Farm Mutual Automobile Insurance Company	Bryan Nicholson	Settled
Esurance Property & Casualty Insurance Company	Linda Burnside	Settled
Erie Insurance Property & Casualty Company	Tina Robinson	Consumer retained private counsel
Trumbull Insurance Company	Lucinda Lucas	Settled
USAA Casualty Insurance Company	Matthew Behnam	Settled
State Farm Mutual Automobile Insurance Company	Takiya Harley-Niblack	Consumer retained private counsel
Esurance Insurance Company	Monette Myers	Settled
National General Assurance Company	Angela Stewart	Settled
Permanent General Assurance Company	Isaac Whittington	Pending
Allstate Property & Casualty Insurance Company	Fred Ours	Pending

Encompass Home & Auto Insurance Company	Amornrat Buathong & Rittikorn Ladkaew	Consumer retained private counsel
Encompass Home & Auto Insurance Company	Amy Fairman	Pending
Encompass Home & Auto Insurance Company	Danny Neale	Consumer retained private counsel
State Farm Mutual Automobile Insurance Company	Daymeion Sell	Consumer failed to request representation
State Farm Mutual Automobile Insurance Company	Linda Love	Pending

### **First Party Complaints**

The Office of the Consumer Advocate worked ten (11) first party cases in 2023. The results of said cases are as follows:

A total of \$7233.77 was awarded directly to West Virginia Consumers in the form of settlements in one (1) of the consumer complaints.

In three (3) consumer complaint cases, the consumers retained private counsel.

In three (3) consumer complaint cases, the Consumer failed to request representation.

In three (3) consumer complaint cases, the matters are still pending.

One (1) case was appealed to the WV Intermediate Court of Appeals.

### **FIRST PARTY COMPLAINTS HANDLED BY THE OFFICE OF THE CONSUMER ADVOCATE IN 2023**

<b>RESPONDENT</b>	<b>FIRST PARTY COMPLAINANT</b>	<b>RESOLUTION</b>
Randy Young and Western & Southern Life Assurance Compan	Paulette Graham	Appealed to WV Intermediate Court
Highmark West Virginia	Megan Williams	Consumer retained private counsel
Arch Insurance Company	Charlie & Jill Gwinn	Consumer retained private counsel
WebMD	Inner Radiance Medical Spa	Settled
State Auto Property & Casualty Insurance Company	Corey Thaxton	Consumer failed to request representation

Safeco Insurance Company of America	Jordan Bradford	Consumer failed to request representation
Allstate Vehicle & Property Insurance Company	Crista Nezhni	Consumer retained private counsel
Westfield Insurance Company	Sharon Bogard & Ronald Kinney	Consumer failed to request representation
Liberty Mutual Insurance Company	John Donahue	Pending
State Farm Fire & Casualty Company	Mary Wylie	Pending
Allstate Insurance Company	Bruno Rhodes	Pending

### **Appeals to the West Virginia Intermediate Court of Appeals**

The Office of the Consumer Advocate represented consumers in (1) cases appealed to the West Virginia Court of Appeals in 2023. The results of said case is as follows:

A total of \$9,000 was awarded directly to West Virginia Consumers in the form of settlements in one (1) of the appeals.

### **APPEALS TO THE WEST VIRGINIA INTERMEDIATE COURT OF APPEALS HANDLED BY THE OFFICE OF THE CONSUMER ADVOCATE IN 2023**

COMPLAINANT	RESPONDENT	RESOLUTION
Randy Young and Western & Southern Life Assurance Company	Paulette Graham	Settled

### **Certificate of Need Review**

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

CON review process. The Office of the Consumer Advocate carefully reviewed and considered the following 65 CON applications:

**CERTIFICATE OF NEED - January 2023**

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Princeton Community Hospital	22-1-12596-P	Acquisition of Oncology Practice	\$210,000.00
Fayette Physician Network, Inc. d/b/a WVUHS Medical Group	23-6-12598-P	Acquisition of Morgantown Physician Practice	\$410,000.00
Grant Memorial Hospital	23-8-12601-P	Lease of Love Memorial Clinic	\$10,000.00
Princeton Community Hospital	23-1-12603-P	Acquisition of BRIM Ambulatory Care Center	\$422,000.00
Charleston Area Medical Center, Inc.	23-4-12606-A	Acquisition of Plateau Medical Center	\$100,000,000.00
Jackson General Hospital	23-5-12607-P	Ravenswood Urgent Care Center	\$60,000.00

**CERTIFICATE OF NEED - February 2023**

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Grant Memorial Hospital, Inc..	23-8-12612-H	Lease of Grant Memorial Hospital	\$35,000,000.00
United Health Group, Inc.	23-1/2/3/4/5/6/7/8/10-12618-A	Merger	\$211,000,000.00
Princeton Community Hospital	23-1-12625-P	Women's Health Ambulatory Care Center	\$380,000.00
West Virginia Home Health, LLC	23-8/9-12713-Z	Expansion of service area	\$60,380.00
Thomas Memorial Hospital and Camden Clark Medical Center	23-3-12627-H	Cardiac surgery	\$770,000.00

**CERTIFICATE OF NEED – March 2023**

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Lotus Recovery Center, LLC	22-3-12517-X	Relocation of Licensed Behavioral Health Center	\$0
Saint Francis Hospital and THS Physician Partners, Inc.	23-3-12654-P	Hurricane Orthopedic Physician Practice	\$88,000.00

**CERTIFICATE OF NEED – April 2023**

<b>FACILITY</b>	<b>CON NO.</b>	<b>REQUEST</b>	<b>CAPITAL EXPENDITURE</b>
Princeton Community Hospital	23-1-12665-P	Princeton Pediatrics	\$108,000.00

**CERTIFICATE OF NEED – May 2023**

<b>FACILITY</b>	<b>CON NO.</b>	<b>REQUEST</b>	<b>CAPITAL EXPENDITURE</b>
Charleston Area Medical Center, Inc.	23-3-12667-P	Ambulatory health care facility	\$2,800,000.00
Charleston Area Medical Center, Inc.	23-3-12666-A	Acquisition of 70% of assets of Charleston Surgical Hospital	\$56,800,000.00
Grant Memorial Hospital	23-8-12670-E	Fixed MRI Services	\$2,393,000.00
Thomas Memorial Hospital	23-3-12679-P	Outpatient Rehabilitation Services	\$307,000.00

**CERTIFICATE OF NEED - June 2023**

<b>FACILITY</b>	<b>CON NO.</b>	<b>REQUEST</b>	<b>CAPITAL EXPENDITURE</b>
Monongalia County General Hospital	23-6-12680-P	Ambulatory Health Care Facility	\$170,000.00
Option Care Health, Inc.	23-12-12688-A	Indirect ownership merger	\$102,100,000.00
Elder Aide Services LLC d/b/a Right at Home	23-2/3/4-12697-PC	In-Home Personal Care Services	\$21,500.00
Panhandle Support Services, Inc.	23-2/3-12689-PC	Personal Care Services	\$1,500.00
Panhandle Support Services, Inc.	23-10/11-12696-PC	Personal Care Services	\$1,500.00
Panhandle Support Services, Inc.	23-6-12695-PC	Personal Care Services	\$1,500.00
Panhandle Support Services, Inc.	23-1/2/3/4-12690-PC	Personal Care Services	\$1,500.00
Panhandle Support Services, Inc.	23-1/4-12694-PC	Personal Care Services	\$1,500.00
Panhandle Support Services, Inc.	23-5/6/7/10-12693-PC	Personal Care Services	\$1,500.00
Panhandle Support Services, Inc.	23-8/9-12692-PC	Personal Care Services	\$1,500.00
Panhandle Support Services, Inc.	23-4/6/7-12691-PC	Personal Care Services	\$1,500.00
A Special Touch in Home Care, LLC	23-2/3/4-12702-PC	In-Home Personal Care Services	\$5,000.00
Hometown Care	23-4/7-12703-PC	Personal Care Services	\$1,500.00

Hometown Care	23-6-12704-PC	Personal Care Services	\$1,500.00
Special Touch Nursing Services, Inc.	23-2/3-12707-PC	In-Home Personal Care	\$5,000.00
Hometown Care	23-5/10-12706-PC	Personal Care Services	\$1,500.00
Hometown Care	23-8/9-12705-PC	Personal Care Services	\$1,500.00
Southern Home Care Services, Inc.	23-2/5-12698-PC	In-Home Personal Care Services	\$10,000.00
Southern Home Care Services, Inc.	23-2/3/4/5-12699-PC	In-Home Personal Care Services	\$10,000.00
Southern Home Care Services, Inc.	23-1/4-12700-PC	In-Home Personal Care Services	\$10,000.00
Southern Home Care Services, Inc.	23-5/6-12701-PC	In-Home Personal Care Services	\$10,000.00
Village Caregiving, LLC	23-12-12717-PC	In-Home Personal Care Services	\$1,500.00

**CERTIFICATE OF NEED – July 2023**

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Stonewall Jackson Memorial Hospital Company	23-6-12724-P	Ambulatory Health Care Facility	\$16,000.00
Summersville Regional Medical Center	23-4-12721-P	Acquisition of Summersville Physician Practice	\$123,000.00
United Physicians Care, Inc.	23-6-12731-P	UPC Cardiology	\$104,000.00
Wheeling Hospital	23-10-12736-P	Acquisition of Podiatric Medicine Practice	\$80,000.00
Monongalia Health System, Inc.	23-7-12737-A	Ambulatory Health Care Facility	\$30,000,000.00

**CERTIFICATE OF NEED - August 2023**

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Mountain Health Network, Inc. University Physicians & Surgeons, Inc.	23-1/2/3-12742-A/P	Development of Integrated Academic Health System	\$559,750,000.00
Charleston Area Medical Center, Inc.	23-1-12747-A	Acquisition of Beckley Oncology Associates, Inc. d/b/a Carl Larson Cancer Center	\$6,500,000.00
Berkeley Medical Center	23-9-12756-P	Provider-Based Clinics	\$354,000.00

Camden-Clark Memorial Hospital Corporation Camden-Clark Physician Corporation	23-5-12755-P	Acquisition of Internal Medicine Practice	\$125,000.00
CAMC Greenbrier Valley Medical Center, Inc.	23-1-12768-P	Ambulatory Health Care Facility	\$850,000.00

**CERTIFICATE OF NEED - September 2023**

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Monongalia County General Hospital Corporation d/b/a Mon Health Medical Center	23-6-12772-P	Ambulatory Health Care Facility	\$172,000.00
Charleston Area Medical Center, Inc.	23-3-12775-P	Ambulatory Health Care Facility	\$2,800,000.00

**CERTIFICATE OF NEED - October 2023**

FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Hometown Care	23-1/2/3/4/5-12785-PC	Personal Care Program	\$1,500.00
St. Joseph Behavioral, LLC	23-5-12789-BH	New inpatient adult psychiatric beds	\$8,983,100.00
Hometown Care	23-7-12797-PC	Personal care services through WV Medicaid	\$1,500.00

**CERTIFICATE OF NEED - November 2023**

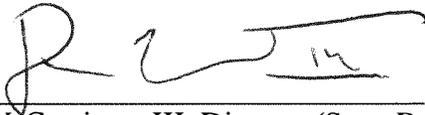
FACILITY	CON NO.	REQUEST	CAPITAL EXPENDITURE
Stonepeak Magnet Holdings LP	23-3-12818-A	Indirect parent company acquisition transaction	\$860,000.00
United Hospital Center, Inc.	23-7-12815-P	Ambulatory Care Center	\$55,000.00
Charleston Area Medical Center, Inc.	23-3-12822-P	Ambulatory Health Care Facility	\$150,000.00
The Greenbrier Clinic, Inc.	23-4-12829-E	Magnetic resonance imaging-new service	\$839,028.00
Special Touch Nursing Services, Inc.	23-2-12832-PC	In-home personal care expansion into Lincoln County	\$5,000.00
Berkeley Medical Center	23-9-12827-A	Acquisition of Ambergris, LLC	\$3,020,000.00

**CERTIFICATE OF NEED - December 2023**

<b>FACILITY</b>	<b>CON NO.</b>	<b>REQUEST</b>	<b>CAPITAL EXPENDITURE</b>
Essential Needs Homecare	23-6-12835-PC	Personal care services through WV Medicaid	\$1,500.00
Amedisys, Inc.	23-1/3/5/6-12837-A	Merger of Amedisys and United Health Group	\$112,235,000.00
Physician Reliance Network, LLC	23-1/4-12836-A	Acquisition transaction	\$8,125,000.00
Potomac Valley Hospital	23-8-12845-P	Ambulatory care center	\$455,000.00

**Conclusion**

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



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