

West Virginia Offices of the Insurance Commissioner



2021-2022 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

October 20, 2022

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 2021 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, 2021 annual statements filed with this agency by the insurance companies licensed in this state. The financial information and statements in this report are from fiscal year 2022, which ended June 30, 2022, and aligns with the insurance statistics as well as the Offices of the Insurance Commissioner's functions, operations and activities occurring during calendar year 2021 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. Due to the differences in calendar year and fiscal year dates, report data may be on a calendar year basis ending on December 31, 2021, or fiscal year data which ended on June 30, 2022. Datasets are appropriately marked throughout the report. 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 appeals from decisions issued by the Workers' Compensation Office of Judges pursuant to West Virginia Code §23-5-11 (see note in division section regarding the Appellate Reorganization Act of 2021). During 2021, the Board began preparing for the transition to its new duties as outlined in the Reorganization Act.
- The **Company Analysis and Examinations Division** is comprised of two (2) separate units. The summaries below outline each unit's activities during 2021.
 - The **Financial Conditions Unit** 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. This unit oversaw a total of 2,841 separate insurance entities transacting business in West Virginia during 2021. The unit has also been tasked with the financial analysis of bail bondsmen as part of legislation passed in the 2021 session.
 - The **Market Conduct Unit** performs analysis and examinations of insurance companies doing business in West Virginia for the purpose of determining statutory compliance. In 2021, the unit conducted fifty-one (51) level one and twenty (20) level two analysis reviews of licensed companies relating to compliance. Nine (9) Agreed Orders were entered by the Insurance Commissioner with penalties totaling \$2,100.00 assessed as a result of violations discovered during seven (7) completed market conduct examinations. The unit also participated in one (1) multi-state collaborative action which resulted in \$16,700.00 in penalties and other assessments and one (1) state-specific non-exam regulatory intervention, which resulted in \$2,000.00 in penalties. The Market Conduct Unit completed four (4) comprehensive compliance audits of self-insured employers, resulting in penalties of \$5,000.00.
- The **Office of Consumer Advocacy** assisted consumers with first- and third-party complaints which yielded financial awards totaling \$5,550.83 in 2021. The Office of Consumer Advocacy also participated in the review of 50 Certificate of Need applications.

- The **Consumer & Claims Services Division** is comprised of two (2) separate units. The Consumer & Claims Services Division assists insurance consumers and ensures regulatory compliance in the programs in which they provide oversight.
 - The **Consumer Services Unit** assists insurance consumers with questions, complaints, and education on various insurance topics. In 2021, this section received a total of 1,578 written complaints. Over the course of the year, the division responded to an average of 77 consumer inquiries per day.
 - The **Claims Services Unit** oversees management of the workers’ compensation Old Fund. As of June 30, 2021, there were 8,055 open claims with 39,906 (83.21%) old fund claims closed since January 31, 2008. In addition, the division is responsible for supporting regulatory boards: Occupational Pneumoconiosis (OP) Permanent Total Disability Review Board (PTDRB) and monitoring Electronic Documents Interchange (EDI) reporting.
- The **Employer Accounts Division** is comprised of three (3) 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 Employer Coverage, Revenue Recovery and Self-Insurance.
 - 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 regarding confirmation of workers’ compensation compliance.
 - The **Revenue Recovery Unit** is responsible for the collection of all monies due is responsible for the collection of all monies due the Uninsured Employers’ Fund and the Old Fund, as well as the collection of fines imposed upon employers where workers’ compensation coverage has been cancelled. The unit also collects from employers who have failed to maintained workers’ compensation for monies expended by the state for an employee of the business who becomes injured while working.
 - The **Self-Insurance Unit** is responsible for regulating 52 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. Two companies were approved for self-insured status in calendar year 2021.
- 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 3,223 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 2021, the Division received its sixteenth consecutive unmodified or “clean” opinion on the Audited Financial Statements.

- The **Health Policy Division** interprets and applies federal and state health care legislation for the consumers in West Virginia. The Division acts as a liaison between other units in the Offices of the Insurance Commissioner and provides public training to navigators, assisters and agents on the Health Insurance Marketplace.
- 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 2021, the Division received 305 referrals to the Regulatory Compliance Unit which resulted in 86 orders issued totaling \$217,000 in fines, 126 hearings scheduled, and 11 hearings held.
- The **Licensing and Education Division** presides over licensing, processing and maintaining records for more than 224,000 licensees transacting insurance business in West Virginia. In 2021, nearly 387,000 company appointments and appointment cancellations were processed and monitored by the Division. The Licensing and Education Division continues to see growth in the number of insurance adjusters licensed and maintained. House Bill 4502 was passed in 2020 that creates a new exam, license types, and lines of authority for adjusters. Adjuster license for the three new license classes and seven new lines of authority were first issued in July 2021. In 2021 the first issuance of a business entity for independent and public adjusting firms was issued. The Division maintains ongoing compliance with all Federal Bureau of Investigation (FBI) and West Virginia State Police criminal background search requirements.
- The **Office of Judges** (Workers' Compensation) will terminate on October 1, 2022. On or before September 30, 2022, the Office of Judges must issue a final decision or otherwise dispose of each pending or unresolved matter. During 2021, this division ruled upon 5,015 written motions, acknowledged 2,101 protests and held 330 hearings.
- The **Rates and Forms Division** reviews and makes disposition on proposed insurance rates and forms for all regulated lines of insurance in West Virginia. During 2021, the Division received a total of 5,562 filings for all lines of insurance. Of the 5,562 new filings received, 2,783 were property and casualty filings and 2,779 were life and health filings.
- 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 2021, the Division received a total of 591 insurance fraud referrals from the industry and public. The Special Investigations Division completed 265 field investigations, delivering investigative reports to State and Federal prosecutors, identifying more than \$6,000,000 in fraud, and resulting in 109 felony indictments.
- 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.

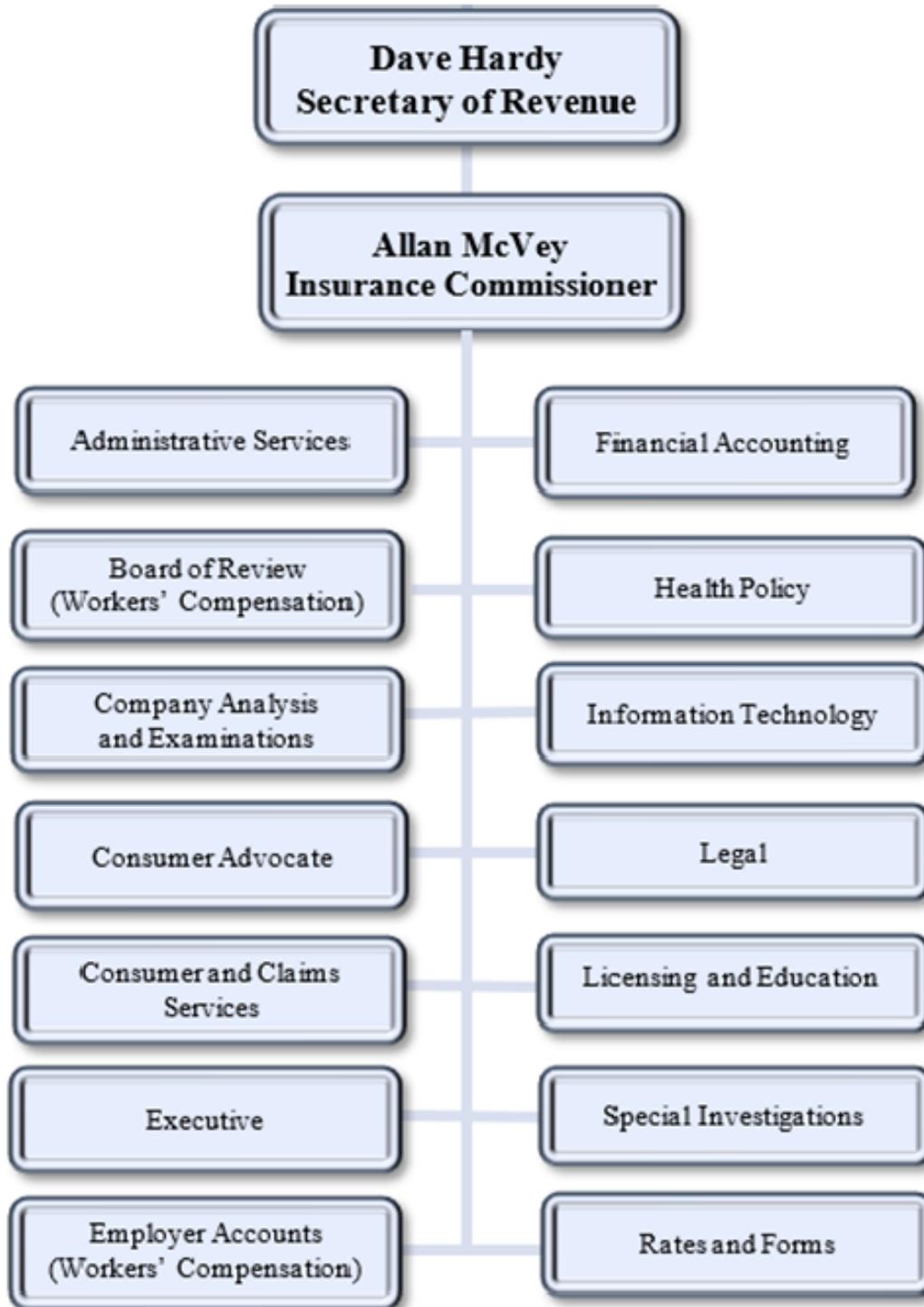
Section 3 of this report provides enhanced detail from each regulated line of insurance. This section shows the premium, market share, losses and pure loss ratios from lines of insurance separated into categories for Property and Casualty, Life, and Accident and Health.

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SECTION 1: GENERAL

ORGANIZATIONAL CHART



WEST VIRGINIA INSURANCE COMMISSIONERS

D. S. Butler	July 1, 1947 to April 30, 1948
Robert A. Crichton	May 1, 1949 to June 30, 1952
Hugh N. Mills	July 1, 1952 to June 30, 1953
Thomas J. Gillooly	July 1, 1953 to September 30, 1956
Louis Miller, Jr.	October 1, 1956 to June 30, 1957
Harold E. Neely	July 1, 1957 to February 5, 1958
C. Judson Pearson	February 7, 1958 to January 15, 1961
Hugh N. Mills	January 16, 1961 to May 16, 1961
Virginia Mae Brown	May 17, 1961 to September 3, 1962
Harlan Justice	September 4, 1962 to January 15, 1966
Frank Montgomery	January 16, 1966 to September 30, 1968
Robert J. Shipman	October 1, 1968 to January 30, 1969
Samuel H. Weese	January 31, 1969 to January 16, 1975
Donald W. Brown	January 16, 1975 to January 14, 1977
Richard G. Shaw	January 17, 1977 to January 11, 1985
Fred L. Wright	February 21, 1985 to June 30, 1988
Hanley C. Clark	July 1, 1988 to January 17, 1989*
Hanley C. Clark	January 18, 1989 to January 15, 2001
Jane L. Cline	January 15, 2001 to June 30, 2011
Michael D. Riley	July 1, 2011 to January 8, 2012*
Michael D. Riley	January 9, 2012 to January 31, 2017
Andrew R. Pauley	February 1, 2017 to March 31, 2017*
Allan L. McVey	April 1, 2017 to January 24, 2019
Erin K. Hunter	January 25, 2019 to March 1, 2019*
James A. Dodrill	March 2, 2019 to September 21, 2021
Allan L. McVey	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
GENERAL REVENUE					
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
TOTAL FOR GENERAL REVENUE	\$1,137,378	\$1,057,723	\$929,970	\$760,296	\$1,512,094
SPECIAL REVENUE					
*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
TOTAL FOR SPECIAL REVENUE	\$206,694,178	\$212,461,195	\$214,804,687	\$197,883,673	\$223,301,661
GRAND TOTAL COLLECTED	\$207,831,556	\$213,518,918	\$215,734,657	\$198,643,969	\$224,813,755

* 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>\$2,210,054</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>\$2,210,054</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	
ASSETS			
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	41,507	1,221,089	1,262,596
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	6,927	-	6,927
Total Assets	48,434	1,221,089	1,269,523
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	3,114	-	3,114
Total Assets and Deferred Outflows of Resources	51,548	1,221,089	1,272,637
LIABILITIES			
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	2,393	129,354	131,747
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	678	1,017,700	1,018,378
Total Liabilities	3,071	1,147,054	1,150,125
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	10,674	-	10,674
Total Liabilities and Deferred Inflows of Resources	13,745	1,147,054	1,160,799
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)	36,663	(61,178)	(24,515)
Total Net Position	\$ 37,803	\$ 74,035	\$ 111,838

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

<u>Functions/Programs</u>	<u>Expenses and Claims Provisions</u>	<u>Program Revenues</u>	<u>Net (Expense) Revenue and Changes in Net Position</u>		
		<u>Charges for Services</u>	<u>Governmental Activities</u>	<u>Business-Type Activities</u>	<u>Totals</u>
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	<u>11,021</u>	<u>10,224</u>	<u>-</u>	<u>(797)</u>	<u>(797)</u>
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 WWOIC 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)

The statutory role of the Workers' Compensation Board of Review is set forth in West Virginia Code § 23-5-12, which provides as follows: "Any employer, employee, claimant or dependent who shall feel aggrieved at any final action of the administrative law judge taken after a hearing held in accordance with the provisions of section nine of this article shall have the right to appeal to the board created in section eleven of this article for a review of such action. The Workers' Compensation Commission, the successor to the commission, other private insurance carriers and self-insured employers, whichever is applicable, shall likewise have the right to appeal to the board any final action taken by the administrative law judge." Our primary goal at the Board of Review is to resolve appeals 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 appeal process, the Board issues a written decision, which may be appealed to the Supreme Court of Appeals as set forth in West Virginia Code § 23-5-15.

A statistical report is provided to the Workers' Compensation Industrial Council every month. This report includes information regarding incoming appeals, such as the issues being appealed and the parties filing the appeals. Additionally, the report provides data regarding the Board's decisions.

[West Virginia Code § 23-5-1a](#) (effective July 1, 2022) changes the Board's composition and duties. The Board will include five members instead of three. Further, instead of receiving and resolving appeals, the Board will receive objections (also called protests) to decisions made by insurers regarding workers' compensation claims. The Board will provide a system of review, which is fair and efficient, to resolve the protests. At the conclusion of the review process, the Board will issue a written decision, which may be appealed to the Intermediate Court of Appeals as set forth in West Virginia Code § 23-5-12a.

During 2021, the Board began preparing for the transition to its new duties. A transition team consisting of the Chairperson of the Board, the Board's staff, the Commissioner and Commissioner's staff, and staff from the Office of Judges has been meeting on a regular basis. Additional staff has been 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. A computer vendor was chosen, and the Board's staff has been working with the vendor to develop a new computer system. The Board's new duties will begin on July 1, 2022.

COMPANY ANALYSIS AND EXAMINATIONS DIVISION

In 2019 the Company Analysis and Examinations Division was created by combining two (2) units that were previously separate but similar in function. The Company Analysis and Examinations Division is responsible for the financial regulation and market conduct examinations of all insurers admitted to transact insurance business in West Virginia. The Company Analysis and Examinations Division includes the following units:

- Financial Conditions Unit - responsible for the licensing, financial monitoring and financial examinations of insurance companies and entities.
- Market Conduct Unit – performs examinations of insurance companies and self-insured employers doing business in West Virginia for the purpose of determining statutory compliance.

FINANCIAL CONDITIONS UNIT

The primary functions of the Unit 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 Unit 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, Pharmacy Benefit Managers 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 Unit 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 Unit 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 Unit 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 Unit 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.

2021 TOTAL CORPORATE AMENDMENTS	
Expansion Applications	17
New Applications	101
Extension of Authority	8
Mergers	11
Acquisitions (Change of Control)	72
Name Changes	53
Redomestications	9
Suspensions/Revocations/Fines	0
Withdrawal/Deletion of lines of authority	19
Amended By-Laws/Articles	61
Assumptions	0
Modifications/Address Changes	98
Service Area Expansion (HMO)	0
Conversions	1

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, along with the Financial Conditions Unit, in a coordinated effort within the Company Analysis and Examinations 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 the insurer is 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.

Nine (9) agreed orders were entered by the Insurance Commissioner in 2021 as a result of market conduct examinations conducted in accordance with W. Va. Code §33-2-9. Penalties totaling \$2,100.00 were assessed as a result of violations discovered during seven (7) completed market conduct examinations. West Virginia also participated in one (1) multi-state collaborative action, resulting in \$16,700.00 in penalties and other assessments and one (1) state-specific non-exam regulatory intervention, resulting in \$2,000.00 in penalties. Furthermore, the Market Conduct Unit completed four (4) comprehensive compliance examinations of employers which are self-insured for workers' compensation, resulting in penalties totaling \$5,000.00.

Additionally, the Market Conduct Unit conducted fifty-one (51) level one and twenty (20) 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.

The West Virginia Offices of the Insurance Commissioner also received a total of 588 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 10 filings; Lender-Placed Insurance (LPI), 13 filings; and Disability Income (DI), 54 filings.

CONSUMER ADVOCATE DIVISION

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

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

The Office of the Consumer Advocate has been involved in obtaining financial settlements totaling \$3,947,289.94 on behalf of West Virginia insurance consumers. These awards go directly into the pocket of the consumer. The Office of the Consumer Advocate is very proud of this accomplishment.

In the health care arena in 2021, the Office of the Consumer Advocate reviewed 50 Certificate of Need Applications. The Office of the Consumer Advocate was also previously charged with reviewing Rate Review Applications before the West Virginia Health Care Authority. After passage of SB 68, the WV Health Care Authority's ability to establish and regulate hospital rates ceased in 2017. As such, the Office of the Consumer Advocate did not review Rate Review Applications last year.

Normally, the Office of the Consumer Advocate would attend many State conferences and State festivals as a means of interacting with and disseminating information to West Virginia insurance consumers. Those State festivals typically include the West Virginia Social Workers Conference, Older American Event, the State Fair, the Pumpkin Festival, the Forest Festival, and the West Virginia Hunting and Fishing Show. Due to COVID-19, the Office of the Consumer Advocate attended only the West Virginia State Fair.

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.

Finally, the Office of the Consumer Advocate maintained progress toward the ongoing goal of consumer outreach and education. The division 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 2020, the Office of the Consumer Advocate provided formal representation to insurance consumers in eighteen (18) consumer complaints before the West Virginia Insurance Commission. Fourteen (14) of these consumer complaints were third party complaints and the remaining four (4) consumer complaints were first party complaints. First party complaints are complaints filed by a consumer against their own insurer, while third party complaints are complaints filed by a consumer against another person's insurer. In addition to formal representation, the Office of the Consumer Advocate assisted and advised hundreds of West Virginia consumers throughout the year be it via email inquiries, telephonic inquiries, office visits, or other means. This assistance has directly benefited those consumers and in many cases has resolved the consumers' insurance issues or queries without requiring the filing of an actual consumer complaint with the WVOIC.

FIRST PARTY COMPLAINTS

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

- In three (3) consumer complaint cases, the consumers did not prevail at hearing.
- In one (1) consumer complaint case, the matter is still pending and/or awaiting hearing.

THIRD PARTY COMPLAINTS

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

- In three (3) of the consumer complaints, a total of \$5,550.83 was awarded directly to West Virginia consumers in the form of settlements.
- In four (4) consumer complaint cases, the consumer opted to obtain private counsel for representation.
- One (1) consumer complaint case went to a hearing before a WVOIC Hearing Examiner. The consumer did not prevail at that hearing.
- In one (1) consumer complaint case, the consumer failed or declined to request representation.
- Five (5) consumer complaint cases are still pending and/or are still awaiting hearing.

CERTIFICATE OF NEED REVIEWS

In 2021, the Office of the Consumer Advocate participated in the review of 50 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.

CONSUMER AND CLAIMS SERVICES DIVISION

In late 2021, the Consumer Services Division and the Claims Services Division were merged into one division, becoming the Consumer & Claims Services Division. This division assists insurance consumers and regulates claims functions to ensure compliance with West Virginia statutes and legislative rules. Another important initiative is educational outreach and participation in national workgroups related to consumer and claims issues.

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 to each complaint and provides a better understanding among the parties of their rights and responsibilities.

In addition, they educate the public regarding insurance topics through presentations at schools and civic organizations. The staff identifies problem areas and trends by collecting information gathered from complaints. It performs research and surveys about areas that need special attention.

The Claims Services Unit provides oversight of the Old Fund Program; the legacy claims liability that existed upon the privatization of workers' compensation and the Document and Imaging Unit that was transitioned to the Claims Services Unit in February 2019.

Effective December 1, 2021, the WV Offices of the Insurance Commissioner contracted with only one Third-party Administrator (TPA), Sedgwick CMS, to provide administrative claims services for the Old Fund, Uninsured Employer Fund, Coal Workers' Pneumoconiosis Fund (Federal Black Lung Program), Guaranty Fund and Security Fund. This unit provides claims oversight of each of those funds, in addition to the claims aspects for the State Agency Workers' Compensation (SAWC) Program. Its primary objectives are to ensure claims are properly reserved and administered to the Best Claims Practice standards and are handled in compliance with statutory and regulatory provisions.

The Claims Services unit is responsible for additional internal controls assuring proper management of claims which include the Best Claims Practice Reviews conducted on-site, on-going quality assurance reviews which includes pharmacy expenditure reviews and lung transplant claims reviews by an on-staff Registered Nurse, large loss review staffing with the third-party administrator (TPA), indemnity payment approval threshold of \$25,000.00 or greater, and the settlement initiative.

Regulatory duties of the unit include maintaining the Occupational Pneumoconiosis (OP) Board and the Permanent Total Disability Review Board (PTDRB) dockets, the Claims Index, maintaining the maximum allowable fee schedule, and the Electronic Data Interchange (EDI) program. 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.

CONSUMER SERVICES UNIT

This 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 2021, a total of 1,578 open complaints were filed and 19,892 telephonic consumer assistance calls were received. On average, the Unit handled 77 consumer inquiries per day. In 2021, complaint files were concluded in advance of the required 45 days.

The Consumer Services section handled 239 third-party liability complaints during 2021; 99 were not resolved during the cure period resulting in those files being referred to our Legal Division for a determination of merit.

In 2021, our educational outreach was re-implemented, and our staff assisted consumers at the West Virginia State Fair.

CONSUMER SERVICES UNIT COMPLAINTS CALENDAR YEAR 2021

Files Opened	1,578
Life, Accident and Sickness	671
Property and Casualty	685
Workers' Compensation	222
Telephone Activity	19,892
Life, Accident and Sickness	4,262
Property and Casualty	2,904
Workers' Compensation	2,255
Clerical	10,471
Office Visits	0

**In-person consumer assistance was not provided in 2021 due to Covid-19.*

**CONSUMER SERVICES COMPLAINTS
CALENDAR YEAR 2021**

PROPERTY AND CASUALTY COMPANIES WITH TEN OR MORE COMPLAINTS

COMPANY NAME	# COMPLAINTS
State Farm Mutual Automobile Insurance Company	107
Erie Insurance Property and Casualty Company	37
Allstate Property and Casualty Insurance Company	27
State Farm Fire and Casualty Company	25
Progressive Max Insurance Company	19
Progressive Classic Insurance Company	17
GEICO Advantage Insurance Company	12
Trumbull Insurance Company	12
Nationwide Insurance Company of America	11
Farmers and Mechanics Mutual Insurance Company of WV	10
10 Companies	277 Complaints

**WORKERS' COMPENSATION COMPANIES AND
THIRD PARTY ADMINISTRATORS WITH TEN OR MORE COMPLAINTS**

COMPANY NAME	# COMPLAINTS
Sedgwick Claims Management Services, Inc.	48
Gallagher Bassett Services, Inc.	19
ESIS, Inc.	17
BrickStreet Mutual Insurance Company	14
Indemnity Insurance Company of North America	12
5 Companies	110 Complaints

**LIFE, ACCIDENT AND SICKNESS COMPANIES AND HEALTH MAINTENANCE
ORGANIZATIONS WITH TEN OR MORE COMPLAINTS**

COMPANY NAME	# COMPLAINTS
Highmark West Virginia, Inc.	72
UnitedHealthcare Insurance Company	37
American General Life Insurance Company	28
Metropolitan Life Insurance Company	24
Humana Insurance Company	23
Transamerica Premier Life Insurance Company	22
CareSource West Virginia Company	21
Aetna Life Insurance Company	19
Washington National Insurance Company	16
American Family Life Assurance Company	13
The Health Plan of West Virginia, Inc.	10
12 Companies	312* Complaints

**Includes 27 complaints filed against PEIA; a non-regulated entity.*

TOP FIVE INSURANCE COVERAGE TYPES FOR COMPLAINTS

COVERAGE TYPES	# COMPLAINTS
Private Passenger Auto	703
Group Accident and Health	523
Individual Life and Annuity	243
Workers' Compensation	224
Individual Accident and Health	69
5 Coverage Types	1,762 Complaints

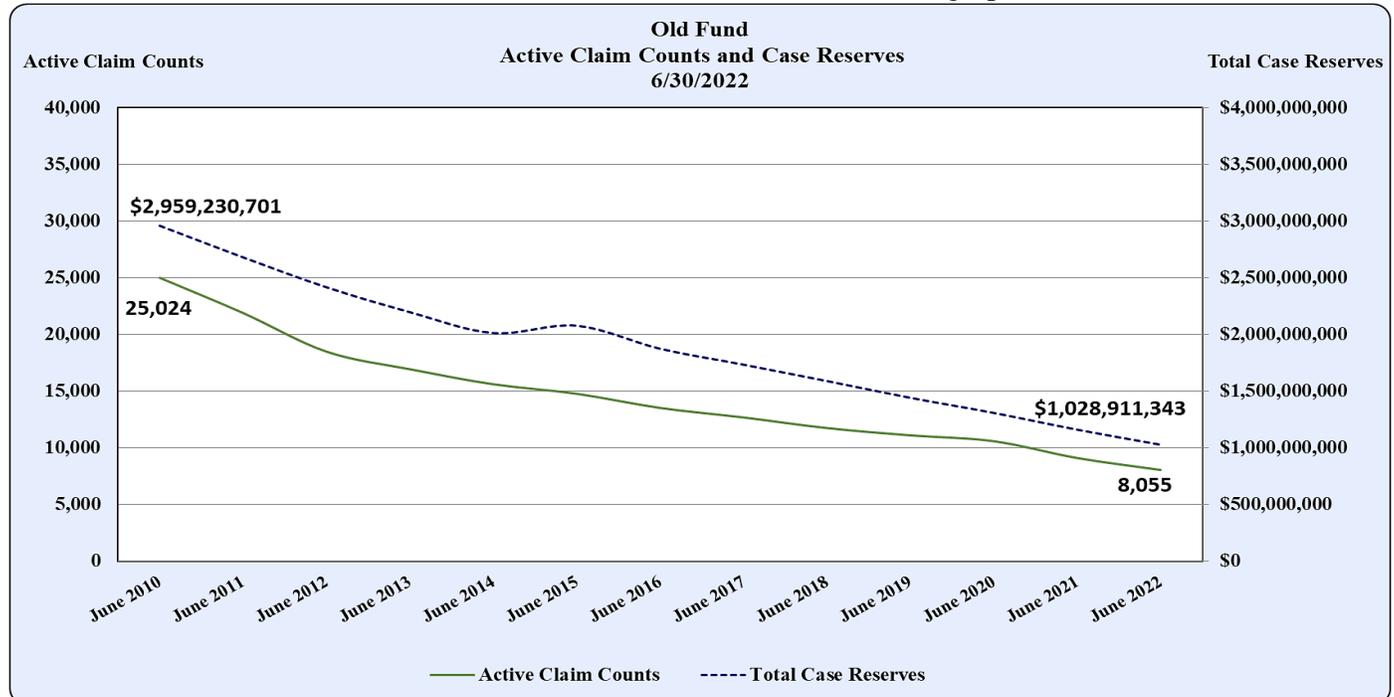
TOP FIVE INSURANCE REASONS FOR COMPLAINTS

COMPLAINT REASONS	# COMPLAINTS
Accident and Health Claim Handling - Denial of Claim	166
Auto Claim Handling – Unsatisfactory Offer	134
Workers' Compensation Claim Handling - Delays	133
Auto Claim Handling – Denial of Claim	110
Accident and Health Claim Handling – Unsatisfactory Offer	79
5 Complaint Reasons	622 Complaints

CLAIMS SERVICES UNIT

On December 1, 2007, the OIC officially began managing 47,961 active old fund claims. Since that time, through proper claims handling utilizing industry accepted standards and a focused settlement initiative, approximately 83.21% of the active claim load has been closed. With the passage of SB 531, which went into effect June 4, 2019, an impact has been observed in the reduction of hearing loss claims through full and final settlement negotiations to further reduce the active claim count.

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



Counts as of	Sedgwick	SmartCasualty	American Mining	Totals	Closed
6/30/2009	22,425	2,894	3,237	28,556	40.46%
6/30/2010	19,837	2,373	2,814	25,024	47.82%
6/30/2011	17,346	2,188	2,381	21,915	54.31%
6/30/2012	15,451	1,871	1,179	18,501	61.42%
6/30/2013	14,075	1,775	1,101	16,951	64.66%
6/30/2014	13,114	2,512	-0-	15,626	67.42%
6/30/2015	12,376	2,406	-0-	14,782	69.18%
6/30/2016	11,236	2,298	-0-	13,534	71.78%
6/30/2017	10,485	2,209	-0-	12,694	73.53%
6/30/2018	9,687	2,071	-0-	11,758	75.48%
6/30/2019	9,213	1,897	-0-	11,110	76.84%
6/30/2020	8,866	1,731	-0-	10,597	77.90%
6/30/2021	7,943	1,172	-0-	9,115	80.99%
6/30/2022	8,055	-0-	-0-	8,055	83.21%

QUALITY MEDICAL CARE AND COST CONTAINMENT INITIATIVES

The TPA continues to contract with Coventry, a managed care organization, on the Old Fund, UEF, Guaranty and Security Fund claims. This allows the OIC to monitor the quality of the care and provider efficiency in a cost-effective manner. Sedgwick is utilizing the OneCall Network for efficient and cost-effective services for the hearing loss claimants. In addition, they have streamlined their drug formulary with Optum, eliminating opioids from the formulary. Prior to this implementation, advance notice was provided to the claimants. This initiative was implemented to further reduce the opioids in our book of claims and eliminate the potential of abuse.

The role of the Nurse III position has been expanded to include medical reviews for all lines of insurance. In addition, we have broadened the contract with our WVU physician to include physician reviews for all lines of insurance, no longer exclusive to workers' compensation.

OCCUPATIONAL DISEASE CLAIMS

New occupational disease claims, such as Occupational Pneumoconiosis (OP) and Hearing Loss (HL) claims, 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 applications have a date of last exposure prior to July 1, 2005. The State OP claims are part of the Old Fund liability. There are two other separate and distinct funds in which new claim filings may be received. The Uninsured Employer Fund (UEF), as previously indicated, commenced as of January 1, 2006. The Claims Services Unit establishes these claims and assigns them to the TPA for administration. In addition, new claims for Federal Black Lung (FBL) benefits where the date of last exposure must be prior to January 1, 2006, are filed with the unit. The FBL claims are paid via the Coal Workers' Pneumoconiosis Fund (CWPF).

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

REGULATORY BOARDS

Regulatory duties of the Claims Services Unit include maintaining the Occupational Pneumoconiosis (OP) Board and the Permanent Total Disability Review Board (PTDRB) dockets. The Claims Services Unit prepare the files, maintain the docket for the OP Board, and prepare the files for hearings before the Board of Review. In FY2022, there were 838 examinations scheduled before the OP Board and 26 fatality reviews. The Unit has additionally provided PTDRB docket oversight since October 2008. In FY2022, the PTDRB had 13 initial reviews, not including the remands, and final reviews. Applications are received for the Old Fund, new insurers, and self-insured employers.

Regulatory Boards	FY2018	FY2019	FY2020	FY2021	FY2022
OP Board Examinations	950	561	375	943	838
OP Board Fatal Reviews	53	44	30	13	26
PTDRB Reviews	29	10	14	6	13

ELECTRONIC DATA INTERCHANGE (EDI) PROGRAM

The implementation of the Electronic Data Interchange (EDI) program resulted from the passage of §Title 85, Series 2, Workers' Compensation Claims Index. The purpose of EDI is to provide a consistent method for insurers or self-insured employers to report claims to the OIC. Any workers' compensation claim that is filed in the state of West Virginia is captured on the Claims Index System. Pursuant to regulations, the First Report of Injury (FROI) and Second Report of Injury (SROI) must be submitted electronically within 10 days of notification that an injury has occurred, using the Release 3 EDI standards as adopted by the International Association of Industrial Accident Boards and Commissions (IAIABC). The OIC's public website contains information and links to the EDI Implementation Guide. In addition, procedural steps on how to apply for a trading partner profile are provided to Carriers/TPAs/Self-Insured Employers through the EDI.

CLAIMS INDEX

The Claims Services Unit reviews applications for access to the Workers' Compensation Claims Index. The Claims Index is a legislatively mandated uniform system of gathering workers' compensation claim information through EDI and allows access to the information by approved participants. The Index contains basic demographic data to assist insurers in obtaining information from other insurers regarding previously filed workers' compensation claims by claimants.

DOCUMENT AND IMAGING UNIT

This unit is the repository of workers' compensation claim records, x-rays, etc. and distributes copies of records upon proper validation of requests. It is imperative that internal controls are in place and executed when relinquishing the records, including the redaction of sensitive information such as personally identifiable information (PII), as well as psychiatric records. A conversion project of the records is in its final stage. All records have been sent to a third-party vendor for conversion of the microfiche, x-rays and CDs. This project allows for proper preservation of claim records to eliminate the continued loss of images.

EMPLOYER ACCOUNTS DIVISION

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

- 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.

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.

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. 1,080 uninsured employer fine accounts were created in calendar year 2021.

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. 142 such requests were received during calendar year 2021 and 89 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.

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 and brought into compliance.

WEST VIRGINIA UNINSURED EMPLOYER FUND APPLICATIONS FOR BENEFITS

Employer Coverage receives West Virginia Uninsured Employer Fund Applications for Benefits (UEF Applications) when an employee is allegedly injured on the job and is unable to verify whether his/her employer is maintaining workers' compensation coverage. If a claim is uninsured, the State of West Virginia becomes the chargeable entity. Employer Coverage verifies the correct employer, if the UEF applicant is an employee of the employer, whether that employer is required to maintain workers' compensation coverage and if so, whether that employer has maintained coverage. Ten UEF Applications for Benefits were received in calendar year 2021. Seven UEF Applications were accepted and forwarded to the Fund's third-party administrator for adjudication and three UEF Applications were not accepted because, upon further review, the named employers did maintain workers' compensation coverage.

Employer Coverage works closely with Revenue Recovery and the OIC's Legal Division to resolve out of compliance situations as quickly as possible and thereby reduce risk to the State of West Virginia.

CY2021 Statistics	
Compliance Requests Completed	1,253
DOL Reports Investigated	109
Uninsured Employer Accounts Established	1,080

MANAGED HEALTH CARE PLANS

Employer Coverage also regulates managed health care plans (MHCP's) and 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 network review. Nine (9) MHCP's and three (3) medical provider networks are currently certified to operate in West Virginia.

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 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

Revenue Recovery sends letters of notification to all employers that are reported as not having mandatory workers' compensation insurance. In 2021, there were 1,080 such notices sent to employers. There were over 3,800 contacts by telephone between Revenue Recovery and uninsured employers.

EMPLOYER VIOLATOR SYSTEM (EVS)

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) listing. 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 2021, an average of 2,400 businesses along with the individual owners, officers, partners and members were listed on EVS every month.

LIENS, INJUNCTIONS, AND REGULATORY COMPLIANCE

Liens are filed when an employer has not cured the fine 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 597 liens to West Virginia county clerks in 2021. 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, 272 lien releases were prepared and mailed to the county clerk offices.

REVENUE RECOVERY COLLECTIONS

CY2021 Collections	
January	\$18,124.86
February	\$38,693.39
March	\$41,491.09
April	\$53,198.50
May	\$27,183.83
June	\$23,852.88
July	\$191,238.36
August	\$53,601.76
September	\$48,116.85
October	\$30,070.89
November	\$36,964.34
December	54,026.85
Total	\$616,563.60

SELF-INSURANCE UNIT

The Workers' Compensation Self-Insurance Unit is responsible for regulating 52 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. Two companies were approved for self-insured status in calendar year 2021.

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.

PROFESSIONAL EMPLOYER ORGANIZATION LICENSING

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.

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 fourteen 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 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 Operating fund, the AccessWV fund, the Consolidated Federal funds, the Insurance Fraud Prevention 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 2021 - 2022

- Received a sixteenth 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 \$4,726,563.78 for underpayment of taxes and \$650,431.50 in penalties and interest in 2022 for prior calendar year.
- Achieved all formal staff training goals and objectives.

HEALTH POLICY DIVISION

The Health Policy Division 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 Division liaises with the West Virginia Legislature and implements state law across all units in the OIC. The Division conducts annual training for agents and assisters on West Virginia QHP products to be offered each year, as well as new state mandated coverage.

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.

MENTAL HEALTH PARITY

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. 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

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 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.

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. PBM's 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.

WEST VIRGINIA MARKETPLACE ENROLLMENT FOR 2017 - 2021

	2017	2018	2019	2020	2021
Received Advanced Premium Tax Credits (APTC)	84%	86%	88%	87%	90%
Received Cost Sharing Reduction (CSR) Payments*	59%	55%	48%	46%	47%
Total Enrollment	34,045	27,409	22,599	20,066	17,217

* All that received CSRs also received APTCs

LEGAL DIVISION

The OIC's Legal Division performs many functions including providing legal counsel to the Offices of 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 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 a 18 U.S.C §100 waiver, and may hold hearings thereon if an applicant requests a hearing on the Insurance Commissioner's final order regarding the waiver request. The Legal Division also annually solicits public comments in regard to 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 found to be in such hazardous financial condition as to render their continued transaction of insurance business hazardous to their policyholders or 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 Office of Judges, the Board of Review 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 regrading an employer's failure to maintain mandatory workers' compensation insurance and may also handle 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

The Insurance Bulletin available through the hyperlink below summarizes significant insurance and workers' compensation legislation enacted during the 2021 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 2021 Legislative summary noted herein are available for review using the following hyperlink:
[2021 Legislation](#)

INSURANCE BULLETINS

Eight (8) Insurance Bulletins were issued by the Insurance Commissioner in 2021:

- 21 – 08 Electronic Prior Authorizations
- 21 – 07 Specialty Drug Networks
- 21 – 06 Permanent Total Disability Review Board
- 21 – 05 Cybersecurity Alert
- 21 – 04 Summary of 2021 Legislation
- 21 – 03 Physical Exams of Workers' Compensation Claimants
- 21 – 02 "Full Coverage" Automobile Insurance
- 21 – 01 Workers' Compensation Claims for COVID-19

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

FREEDOM OF INFORMATION REQUESTS AND RESPONSES

One hundred twenty-five (125) requests for information were received and responded to by the Legal Division in accordance with the Freedom of Information Act in 2021.

EMERGENCY ORDERS

There were no Emergency Orders issued by the Insurance Commissioner in 2021.

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

REFERRALS OPENED

A total of 305 matters were opened by the Legal Regulatory Compliance Unit in 2021 upon referrals from various divisions within the OIC, the public, and outside state or federal agencies.

TYPE OF REFERRAL	NUMBER OF REFERRALS
Company	5
Financial Conditions	33
First Party	37
General Inquiries	11
Market Conduct	20
Other Litigation	2
Producer Licensing - Administrative Action	17
Producer Licensing - Application	7
Third Party	108
WC Claims	0
WCC Compliance - Failure to Timely Act	28
WCC Compliance - Injunctions	12
WCC Compliance - Pending Account/Compliance Check	0
WCC Compliance - Postings	25
TOTAL	305

ADMINISTRATIVE PROCEEDING CASES CLOSED

A total of 250 administrative proceeding cases were closed by the Legal Regulatory Compliance Unit in 2021.

TYPE OF REFERRAL	# CASES CLOSED
Administrative Proceeding – Producer Licensing	17
Administrative Proceeding – Company	9
Administrative Proceeding – Company – Rates & Forms	1
Administrative Proceeding – First Party	38
Administrative Proceeding – Financial Conditions	30
Administrative Proceeding – Failure to Timely Act	24
Administrative Proceeding – General Referral	0
Administrative Proceeding – Market Conduct	18
Administrative Proceeding – Market Conduct – Self-Insured	3
Administrative Proceeding – Third Party	110
TOTAL	250

HEARINGS

A total of 11 hearings were held in 2021 and 126 were scheduled by the Legal Regulatory Compliance Unit.

TYPE OF HEARINGS	# HEARINGS SCHEDULED	# HEARINGS HELD
1033 Committee Hearing	0	0
Appeal - Third Party	0	0
Company	1	0
Company - PEO	0	0
Company - Tax	0	0
Financial Conditions	5	2
First Party	4	3
General Inquiries	0	0
Producer Licensing	4	1
Restitution Hearing	0	0
Third Party	7	3
Third Party - Initial	102	0
WC Contempt	0	0
WC Injunction	2	1
WCC Compliance Rule 11	0	0
Pharmacy Benefit Manager (PBM)	1	1
TOTAL	126	11

POSTINGS AND COMPLIANCE CHECKS

In 2021, 25 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, 11 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

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 2021, the OIC opened one (1) and closed one (1) subrogation case. The OIC collected \$2,500.00 from settlements or awards.

PERMANENT TOTAL DISABILITY REVIEW BOARD

Upon referral, the Board reviews claims of injured workers to determine whether the worker has met the threshold for permanent and total disability. Once the Board determines a claimant has met the appropriate statutory thresholds for a permanent total disability (“PTD”) award, the Board will evaluate the case to determine whether the injured worker has rehabilitation potential to return to the workforce or if the worker should receive a PTD award. The Board is staffed with three medical physicians, and two vocational rehabilitation experts.

The Board generally meets six (6) times a year or every other month. However, given the ongoing COVID-19 pandemic in 2021, new applications to the Board were again severely decreased and the Board only met one time in 2021. Accordingly, in 2021, the Board recommended granting two (2) PTD applications and recommended denying one (1) PTD application. No PTD applications to the Board were settled by the parties. At the end of 2021, two (2) recommendations were awaiting review and approval by the Board. In 2021, no PTD claim was remanded to the Board from a judicial entity (the Workers’ Compensation Office of Judges, the Workers’ Compensation Board of Review, or the Supreme Court of Appeals of West Virginia) for consideration.

ORDERS AND COLLABORATIVE ACTIONS

A total of 86 orders were prepared by the Legal Regulatory Compliance Unit in 2021.

TYPE OF CASE	FINAL ORDERS	COLLABORATIVE ACTION	FINE AMOUNT	RESTITUTION AMOUNT
Company	1	-	\$2,000.00	-
Company – Rates & Forms	1	-	\$75,000.00	-
Company – Financial Conditions	29	-	\$86,000.00	-
First Party	8	-	\$20,000.00	-
Market Conduct -Multi State Collaborative Action	-	-	-	-
Market Conduct - Statutory	5	-	-	-
Market Conduct - Third Party	1	-	\$2,000.00	-
Market Conduct - Self Insured	4	-	-	-
Producer Licensing	2	-	\$30,000.00	-
Third Party	5	-	-	-
WCC Compliance - Contempt	-	-	-	-
WCC - Failure to Timely Act	28	-	\$2,000.00	-
WCC Compliance - Injunctions	1	-	-	-
Pharmacy Benefit Manager (PBM)	1	-	-	-
TOTAL	86	0	\$217,000.00	\$0

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 and Travel Insurance Business Entities.

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 2020, [House Bill 4502](#) was passed and signed into law. This bill overhauled the licensing and monitoring of adjusters in West Virginia. This created a new insurance exam, expanded the license types, and added seven (7) new lines of authority, created fingerprint requirements, and created fingerprint requirements with the West Virginia State Police and FBI. In 2021 the first license was issued after implementation of House Bill 4502. This has further increased adjusting license holders and for the first time independent and public adjusting firms are licensed.

The division continues to move toward more electronic application and less paper. In 2021, 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

NEW LICENSES ISSUED	2021
Resident Producer	1,407
Non-Resident Producer	34,022
Resident Adjuster	74
Non-Resident Adjuster	8,282
Surplus Lines	315
Viatical Settlement Broker	3
Business Entities (Includes all Types)	1,135
TOTAL NEW LICENSE ISSUED	45,238

LICENSING TRANSACTIONS	2021
Licenses Denied	343
License Suspended including for CE	1,029
Licenses Revoked	4
TOTAL	1,376

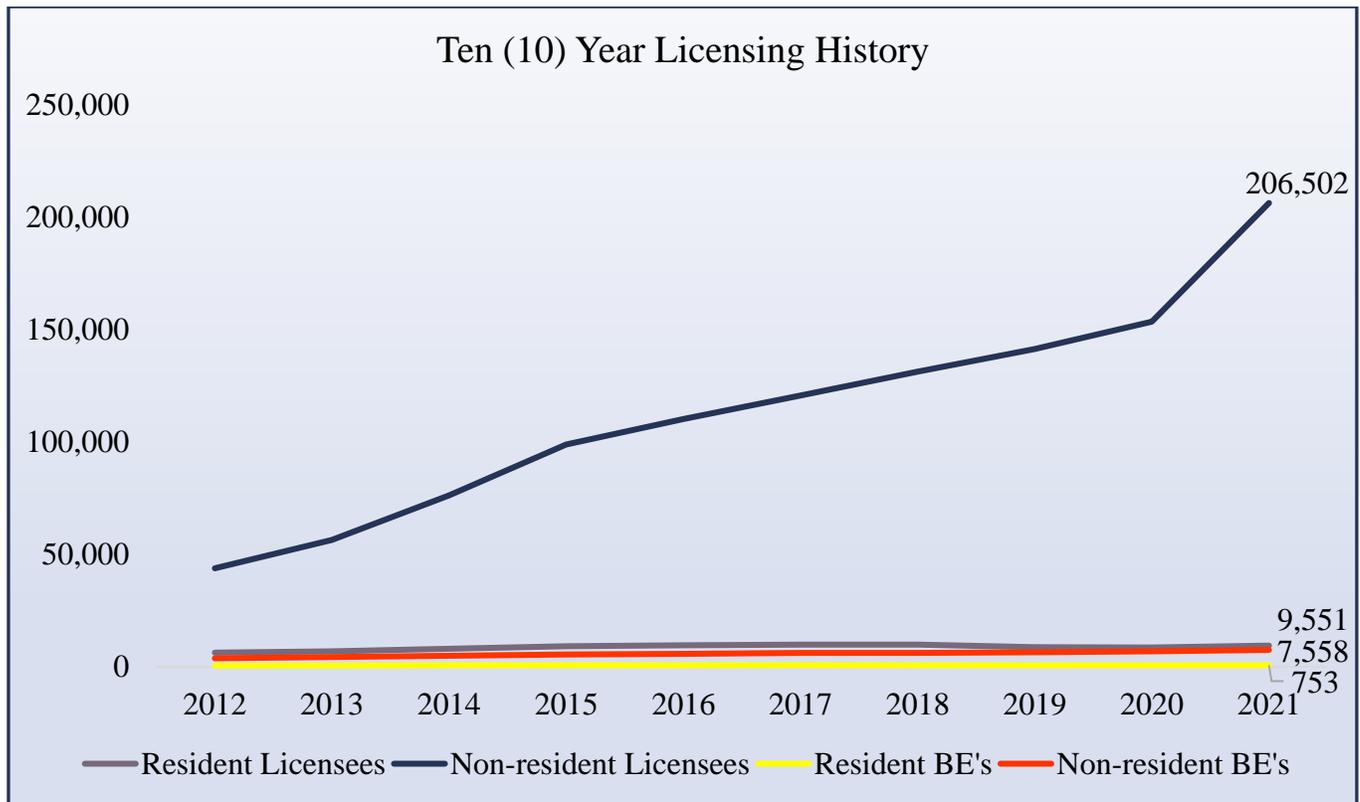
LICENSING CONTACT	2021
Telephone Activity	7,493
Office Visits	5
TOTAL	7,498

COMPANY APPOINTMENTS	2021
Companies with appointments	960
Number of company appointments	387,548

LICENSING EXAMINATION SUMMARY

TYPE OF EXAM	2021 Tested	2021 Passed	Percent Passed
Life	1,635	817	50.0%
Accident and Sickness	1,196	723	60.5%
Property and Casualty	507	314	61.9%
Property	6	2	33.3%
Casualty	6	2	33.3%
Company / Independent Adjuster	149	53	35.6%
Surplus Lines	1	0	0%
Public Adjuster	10	7	70.0%
Workers' Compensation Adjuster	20	8	40.0%
Personal Lines	30	18	60.0%
TOTAL	3,560	1,944	54.6%

TEN YEAR LICENSING HISTORY



As shown in the graph above, issued licenses have steadily grown over the years. The non-resident licenses increased 34.4% from calendar year 2020 to 2021 and 370.3% over the last ten (10) years.

OFFICE OF JUDGES DIVISION (WORKERS' COMPENSATION)

The primary responsibility of the Office of Judges is to process initial appeals, commonly referred to as “protests,” from workers’ compensation claim management decisions made by insurers or their agents. Jurisdiction of the Office of Judges commenced on July 1, 1991. Early in the history of the office, the sole responsibility was to perform judicial review of actions of the Administrative Agency, the Workers’ Compensation Division. Since privatization of the workers’ compensation market in 2005, the Office of Judges reviews claim management decisions from private insurance carriers, self-insured employers, as well as claim management decisions from third-party administrators, which administer the legacy claims of the former Workers’ Compensation Commission. Our goal is to resolve these protests in a fair, efficient and timely manner.

In addition to the Chief Administrative Law Judge, one Deputy Chief Administrative Law Judge and seven Administrative Law Judges, the Office of Judges currently maintains a staff of 20 support personnel. Since the beginning of the COVID-19 pandemic in 2020, all hearings in 2021 were held telephonically or by Zoom.

The issues in litigation traditionally arise under Chapter 23 of the West Virginia Code, as well as Workers’ Compensation Rules found in Title 85 of the Code of State Rules. The Office of Judges is governed by procedural rules found in W.Va. C.S.R. § 93-1, Litigation of Protests, and W.Va. C.S.R. § 93-2, Time Standard Rules. Pursuant to rule, the Office of Judges establishes a deadline for the filing of evidence by the parties. After all parties have been allowed an opportunity to submit evidence and argument to the Office of Judges, a written decision is issued by an Administrative Law Judge. Decisions from the Office of Judges may be appealed to the Workers’ Compensation Board of Review.

In addition to traditional workers’ compensation appeals, the Office of Judges also conducts hearings or reviews of other legal matters, including the following:

Failure to Timely Act or Rule on a Claim Request: The Offices of the Insurance Commissioner (OIC) has jurisdiction to hear complaints that an insurer has failed to perform an act required by Statute or rule within the time limits set by law. The OIC assigns the hearing of these matters to the Office of Judges.

Award of Attorney Fees for Unreasonable Denial of Benefits by the Insurance Carrier: W.Va. Code § 23-2C-21(c) provides that the Office of Judges may order a self-insured employer, or any private insurance carrier, to pay reasonable attorney fees and expenses to claimants when the Office of Judges determines that the original denial of a claim or treatment request was unreasonable.

Award of Claimant’s Attorney Fees and Expenses: W.Va. Code § 23-5-16(c) provides that an attorney’s fee for successful recovery of denied medical benefits may be charged or received by an attorney and paid by the private carrier or self-insured employer for a claimant or dependent.

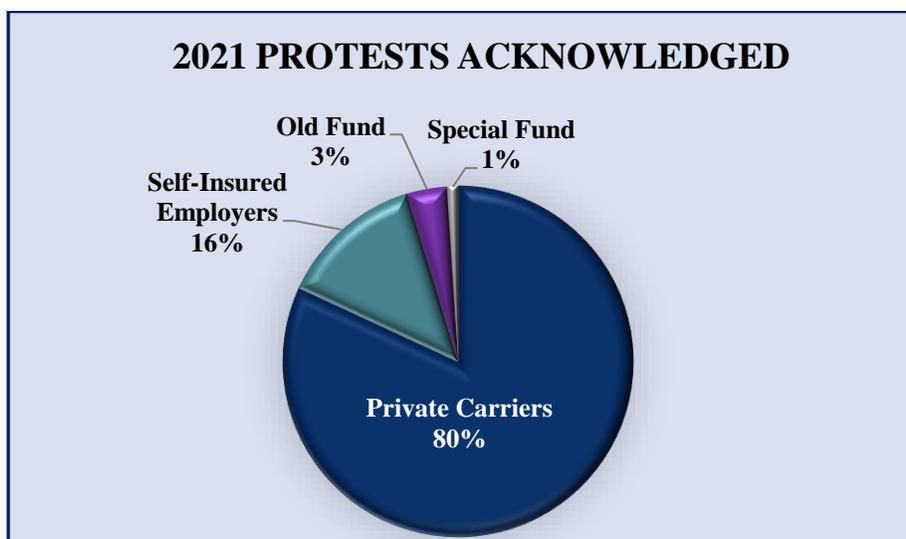
Unconscionable Settlement Review: In accordance with the provisions of W.Va. Code § 23-5-7, the Insurance Commissioner may review any workers’ compensation settlement entered into between an unrepresented claimant and their responsible insurance carrier and may declare any such settlement void if the Insurance Commissioner determines the settlement to be unconscionable pursuant to criteria set forth in W.Va. C.S.R. § 85-12. The Office of Judges has been designated as the entity to review requests for settlement review by the OIC.

Workers' Compensation Default List: An employer that fails to provide statutorily required workers' compensation insurance may be liable to the OIC for all medical and indemnity payments, administrative expenses, attorney fees and interest. The employer will remain on the default list until all payments are current and can be fined up to \$10,000.00. The Office of Judges has been designated as the entity to review final decisions by the OIC regarding placement of an employer on the Workers' Compensation Default List. Review by the Office of Judges must be conducted in accordance with the West Virginia Administrative Procedures Act.

WV Health Care Authority: Pursuant to Executive Order No. 3-99, the Office of Judges is designated as the entity to review final decisions of the West Virginia Health Care Authority with regard to their final written decisions on matters relative to certificates of need for new institutional health services and to rate setting of hospitals pursuant to W.Va. Code § 16-2D-1, *et. seq.* and § 16-29B-1, *et. seq.* The review is conducted in accordance with the West Virginia Administrative Procedures Act.

PROTESTS ACKNOWLEDGED

In calendar year 2021, the Office of Judges acknowledged 2,101 protests. The breakdown of protests is as follows: 1,682 protests from private carrier market, 343 protests from the self-insured market, 61 protests arising from the Old Fund, and 15 protests arising from Special Fund claims.



TIME STANDARD COMPLIANCE

Pursuant to regulation, the Office of Judges is required to process protests in a timely manner in order that the parties to litigation may receive decisions without unreasonable delay. Additionally, on an annual basis, the Office of Judges is required to report on "the degree of compliance" with the time limitations set forth in the Rule. The following statistical analysis reflects the performance of the Office of Judges for calendar year 2021.

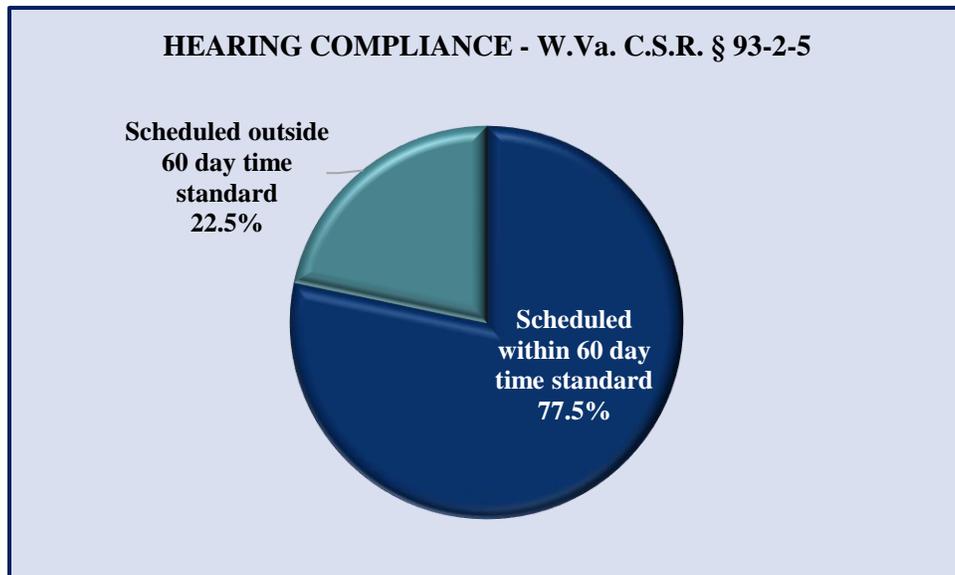
A. W.VA. C.S.R. § 93-2-4 MOTIONS

The Rule requires the Office of Judges to act upon a motion “within 45 days of the date of submission” of the motion or on the date of the final decision, whichever is earlier. Of the 5,015 written motions ruled upon in the 2021 calendar year, 97.9% were issued in compliance with the time standard.



B. W.VA. C.S.R. § 93-2-5 HEARINGS

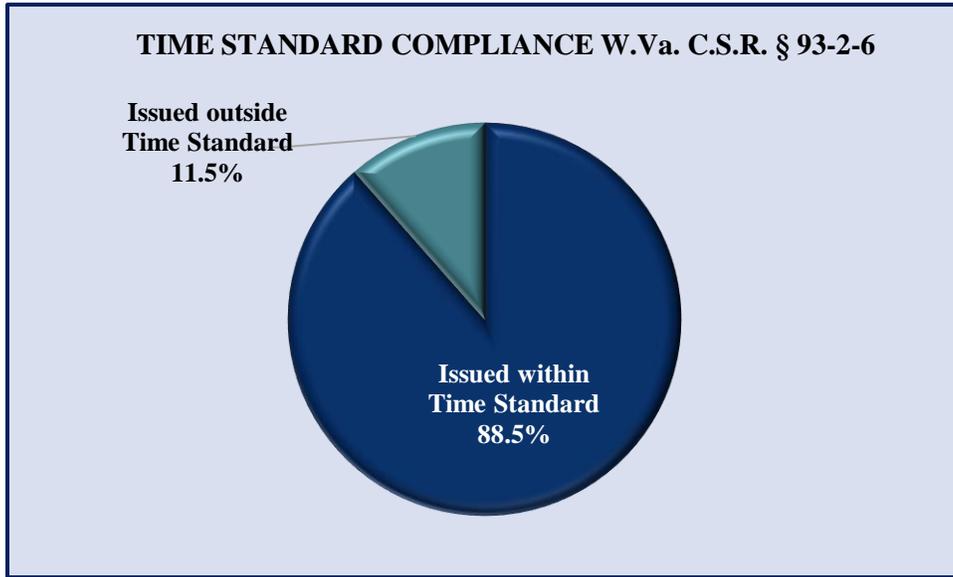
The Rule requires the Office of Judges to schedule a hearing “within 60 days from the receipt of the request for hearing.” Of the 330¹ hearings scheduled from motions in calendar year 2021, 77.5% were scheduled in compliance with the time standard.



¹ The Office of Judges scheduled a total of 503 hearings in calendar year 2021, including 173 hearings that did not require a motion.

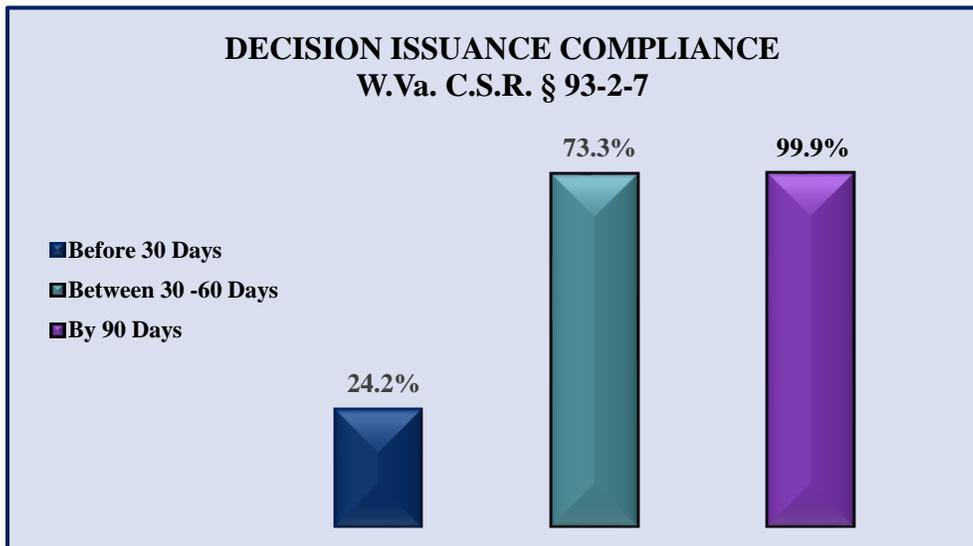
C. W.VA. C.S.R. § 93-2-6 TIME STANDARDS

The Rule requires the Office of Judges to issue a final decision within various time limits depending upon the issue involved (measuring time from the date of receipt of the protest to issuance of the decision). Pursuant to W.Va. C.S.R. § 93-2-3.1, the percentage of final decisions that must be at or under the applicable time standards as provided in W.Va. C.S.R. § 93-2-6 is 80%. In 2021, the Office of Judges issued 88.5% of its decisions within the time standard.



D. W.VA. C.S.R. § 93-2-7 ISSUANCE OF DECISIONS

The Rule requires the Office of Judges to issue 60% of its decisions within 30 days of the Order to Submit; 80% of its decisions within 60 days of the Order to Submit; and 100% of its decisions within 90 days of the Order to Submit. Of the 1,386 decisions issued in calendar year 2021, 24.2% were issued in less than 30 days, 97.5% were issued within 60 days and 99.9% were issued within 90 days of the Order to Submit.



The Appellate Reorganization Act of 2021, ([Senate Bill 275](#)) was enacted and created an Intermediate Court of Appeals for West Virginia. The legislation eliminates the Workers' Compensation Office of Judges and established the West Virginia Workers' Compensation Board of Review as the initial reviewing body for objections to decisions made by insurers regarding workers' compensation claims. The transition of duties will become effective July 1, 2022.

The Office of Judges will officially terminate on or before October 1, 2022. On or before September 30, 2022, the Office of Judges must issue a final decision or otherwise dispose of each pending or unresolved matter.

RATES AND FORMS DIVISION

The Rates and Forms Division analyzes all rate, rule, form and advertising 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, workers' compensation products, group and individual accident and sickness, life, disability, Medicare supplements, long term care, and annuities 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 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). 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 Division 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 Division 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."

2021 FILING SUMMARY

Property and Casualty	
Total Received	2,783
Acknowledged	100
Approved	2,785
Disapproved	5
Withdrawn	86
Total Resolved	2,901

Life and Health	
Total Received	2,779
Acknowledged	593
Approved	2,235
Disapproved	3
Withdrawn	157
Total Resolved	2,988

Although the majority of filings are ultimately approved, many filings regularly require additional information, data and time to complete a comprehensive review. Several parties are involved in the rate review process. Consulting actuaries and opinions from our Legal Department are often relied upon before a final determination is made.

There are 314 insurers eligible to write workers' compensation insurance in West Virginia. Of the 314 carriers, 255 are writing at least one policy.

As of December 31, 2021, the West Virginia residual market had 1,842 policies. The Volunteer Fire Departments have 383 of the policies in the residual market. The remaining policies do not qualify for coverage in the voluntary market.

As of November 2021, there have been seventeen (17) 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 \$432 million or 79.9% reduction from pre-reform workers' compensation levels.

TOP WRITING COMPANIES' MARKET SHARE

2021 Property & Casualty Market Share		
<i>Top 10 Writing WV Property & Casualty Insurance Companies</i>		
NAIC Group Code	Company	Market Share
176	State Farm Group	16.04%
213	Erie Insurance Group	12.71%
140	Nationwide Corp Group	6.94%
31	Berkshire Hathaway Group	5.57%
111	Liberty Mutual Group	5.46%
8	Allstate Insurance Group	5.21%
155	Progressive Group	4.72%
291	Encova Mutual Insurance Group	4.45%
3548	Travelers Group	3.83%
228	Westfield Group	3.27%

**2021 Snapshot of Auto, Homeowners and Workers'
Compensation Insurance**

Private Passenger Auto

NAIC Company Code	Company	Market Share
25178	State Farm Mut Auto Ins Co	23.32%
26830	Erie Ins Prop & Cas Co	14.24%
24279	Progressive Max Ins Co	5.77%
14138	GEICO Advantage Ins Co	5.40%
25453	Nationwide Ins Co Of Amer	4.97%

Homeowners

NAIC Company Code	Company	Market Share
25143	State Farm Fire & Cas Co	26.89%
26263	Erie Ins Co	11.14%
26830	Erie Ins Prop & Cas Co	7.11%
37907	Allstate Vehicle & Prop Ins Co	3.35%
37877	Nationwide Prop & Cas Ins Co	3.23%

Workers' Compensation

NAIC Group Code	Company	Market Share
291	Encova Mut Ins Group	33.95%
3548	Travelers Group	7.21%
457	Argo Group	5.74%
111	Liberty Mutual Group	3.79%
213	Erie Insurance Group	3.74%

2021 Top Health Insurers in West Virginia		
<i>Individual Comprehensive Major Medical Health Insurance</i>		
NAIC Company Code	Company	Market Share
54828	Highmark West Virginia Inc.	67.27%
15728	CareSource W VA Co	30.47%
62286	Golden Rule Ins Co	1.66%
95677	The Health Plan of WV Inc	0.55%
71773	American Natl Life Ins Co Of TX	0.02%

<i>Small Group Comprehensive Major Medical Health Insurance</i>		
NAIC Company Code	Company	Market Share
54828	Highmark West Virginia Inc.	81.18%
79413	UnitedHealthcare Ins Co	12.17%
95677	The Health Plan of WV Inc	5.26%
60016	THP Ins Co	1.00%
60054	Aetna Life Ins Co	0.20%

<i>Large Group Comprehensive Major Medical Health Insurance</i>		
NAIC Company Code	Company	Market Share
54828	Highmark West Virginia Inc.	85.16%
95677	The Health Plan of WV Inc	10.09%
79413	UnitedHealthcare Ins Co	1.48%
60054	Aetna Life Ins Co	1.17%
67369	Cigna Hlth & Life Ins Co	1.08%

*A fully insured health plan is a health insurance plan where an employer pays a specific premium amount to an insurance company for health coverage for a set number of employees. Fully insured health plans are an alternative to self-funded plans, where an employer assumes all risk.

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.

During the 2020 Regular Session of the West Virginia Legislature, House Bill 4361 was passed and signed into law, which amended sections of W.Va. Code Chapter 33 Article 41. This amended code provided clarifications/definitions for acts of Insurance Fraud, the creation of the Insurance Commission Forfeiture Revenue Fund, and Insurer Antifraud Initiatives. In addition, this House Bill and its subsequent passage extended limited arrest powers for the OIC Fraud Investigators which includes:

- Powers of arrest upon probable cause, without a warrant for a person found in the act of violating or attempting to violate an insurance law of West Virginia or related criminal law.
- The ability to execute search warrants and arrest warrants for criminal violations of the insurance laws of West Virginia or related crimes. *Provided: That those persons designated (Special Agents/Fraud Investigators) by the Commissioner to do so meet the requirements of and are certified law-enforcement officers under §30-29-5 of the W. Va. Code and their certification is active.*

The Special Investigations Division currently consists of fifteen (15) allocated investigative positions, four (4) field supervisors (who also conduct investigations), two (2) WV State Police Troopers and twelve (12) allocated analyst and support positions, one (1) Director of Operations, and one (01) 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 Special Agents to respond quickly to reports of alleged insurance fraud. It also allows investigators to foster relationships with local law enforcement and prosecutors that the SID relies on and works with to bring about successful prosecutions.

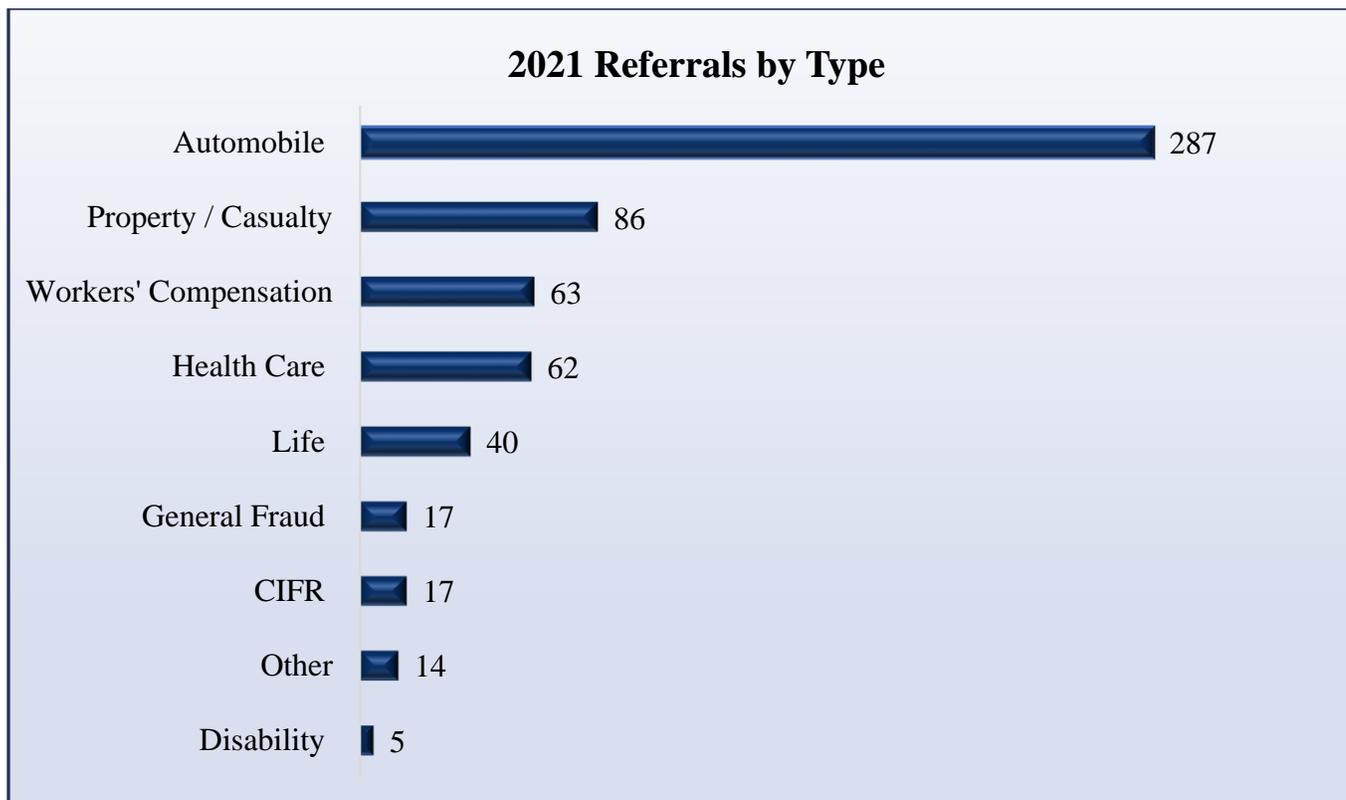
There are three ways in which the public and the insurance industry can report suspected insurance fraud to the Special Investigations Division:

- by calling toll free at 1-800-779-6853
- online reporting at www.wvinsurance.gov
- and by correspondence at P.O. Box 2901; Charleston, WV; 25301-2901

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 591 referrals or reports of suspected insurance fraud in 2021 from the insurance industry, the public and law enforcement. The following chart breaks down the referrals received:



The Special Investigations Division completed 265 field investigations with reports submitted to State and Federal Prosecutors with identified fraudulent dollars totaling over 6 million, resulting in 109 felony indictments.

The Special Investigations Division Investigators maintained an average of 249 open field investigations throughout 2021. The Special Investigations Division opened 29 cooperative investigations with, and at the request of, Federal and State agencies on various insurance fraud cases including arson, public corruption, falsified claims, staged accidents (crash rings), workers' compensation and health care fraud. Cooperative Investigations often expand parameters of criminal investigations to include parallel insurance frauds.

STATE AGENCY WORKERS' COMPENSATION (SAWC) PROGRAM

As the State Agency Workers' Compensation Program (SAWC) entered its twelfth policy year in 2022, 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 make safety recommendations to mitigate workplace injuries. This report outlines specific portions of the program's administration including safety visits and recommendations, policy experience rating factors, claims trending and summaries, and future focus areas for specific agencies. 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

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

SAFETY VISIT SUMMARY

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 follow-up reports were evaluated, it was determined that future safety resources should be 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 - 2021) safety teams as well as the SAWC Program Manager.

Policy Year	Number of Visits
2011	109
2012	102
2013	81
2014	90
2015	93
2016	90
2017	200
2018	173
2019	161
2020	84
2021	163
Total	1,346

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.
- **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.

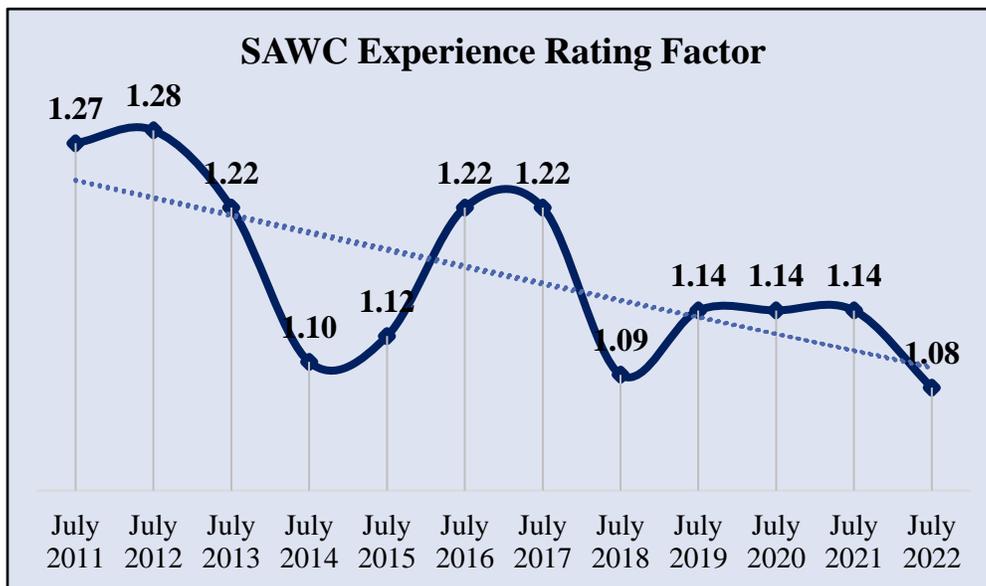
SAWC EXPERIENCE RATING FACTOR (EMOD)

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 current 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.

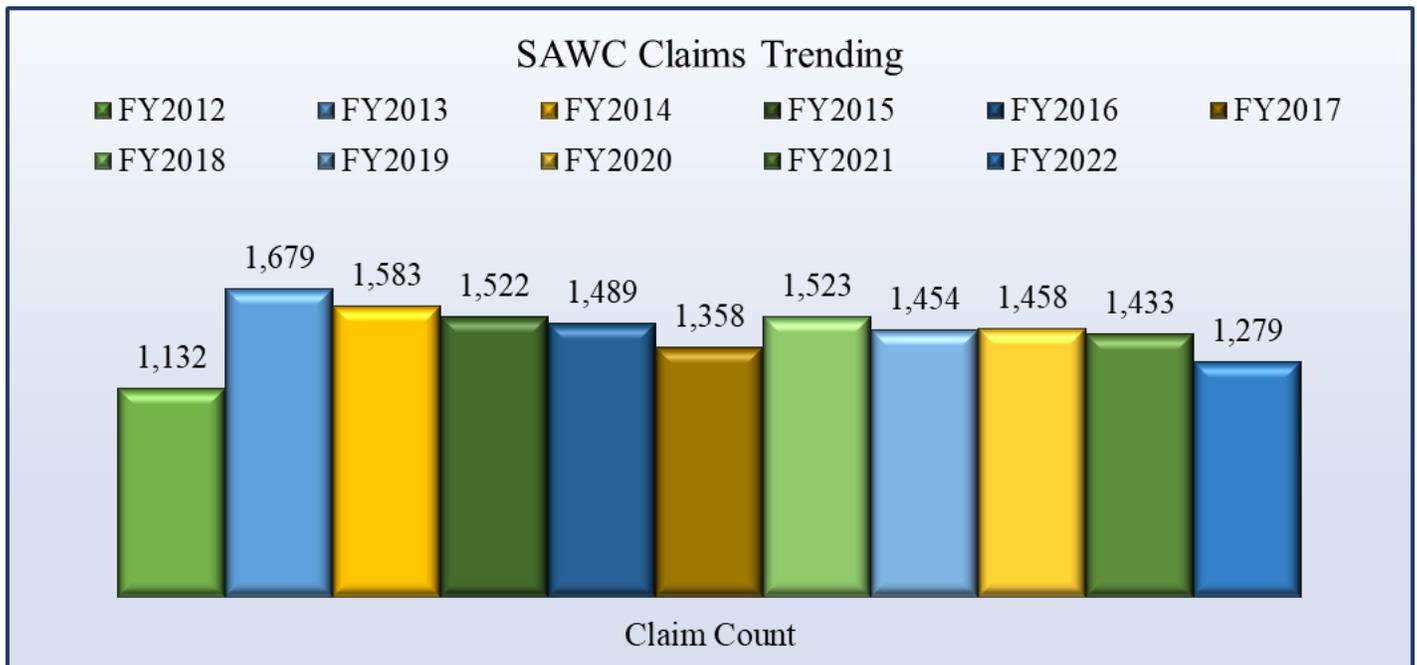
For the July 2022 policy, the individual agency emods summary is as follows:

Emod Range	Agency Count
Less than 1.00	25
Equal to 1.00	54
Greater than 1.00	20

For the July 2022 policy, the agencies with the lowest emods were the Governor’s Office (0.50), the Department of Environmental Protection (0.57) and the Civil Contingent Fund (0.59). The agencies with the highest emods were Mildred Mitchell Bateman Hospital (3.31), Regional Jail Authority (2.37) and the 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. All Zurich data in this current and subsequent reports will be frozen as of June 30, 2021, due to the age of the claims and lack of access to system data since the state no longer has any liability for those claims. 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:

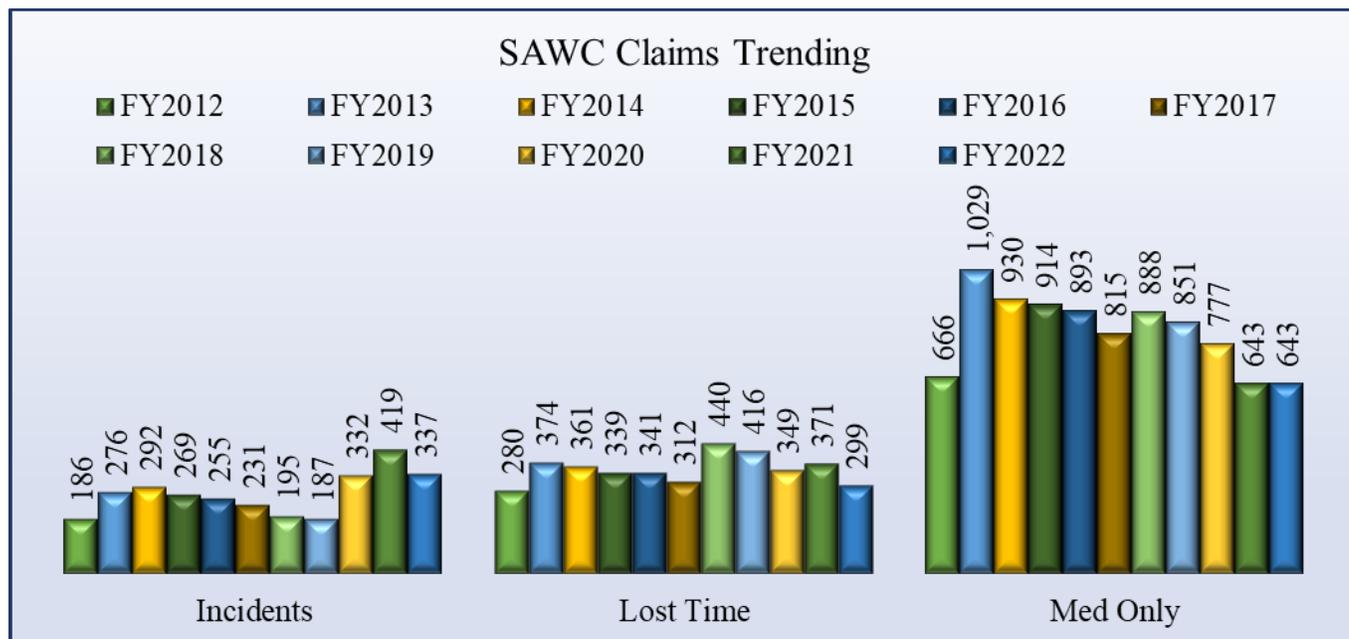


Encova data as of June 30, 2022; Zurich data as of June 30, 2021

FY2012 from October 2011 – June 2012

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

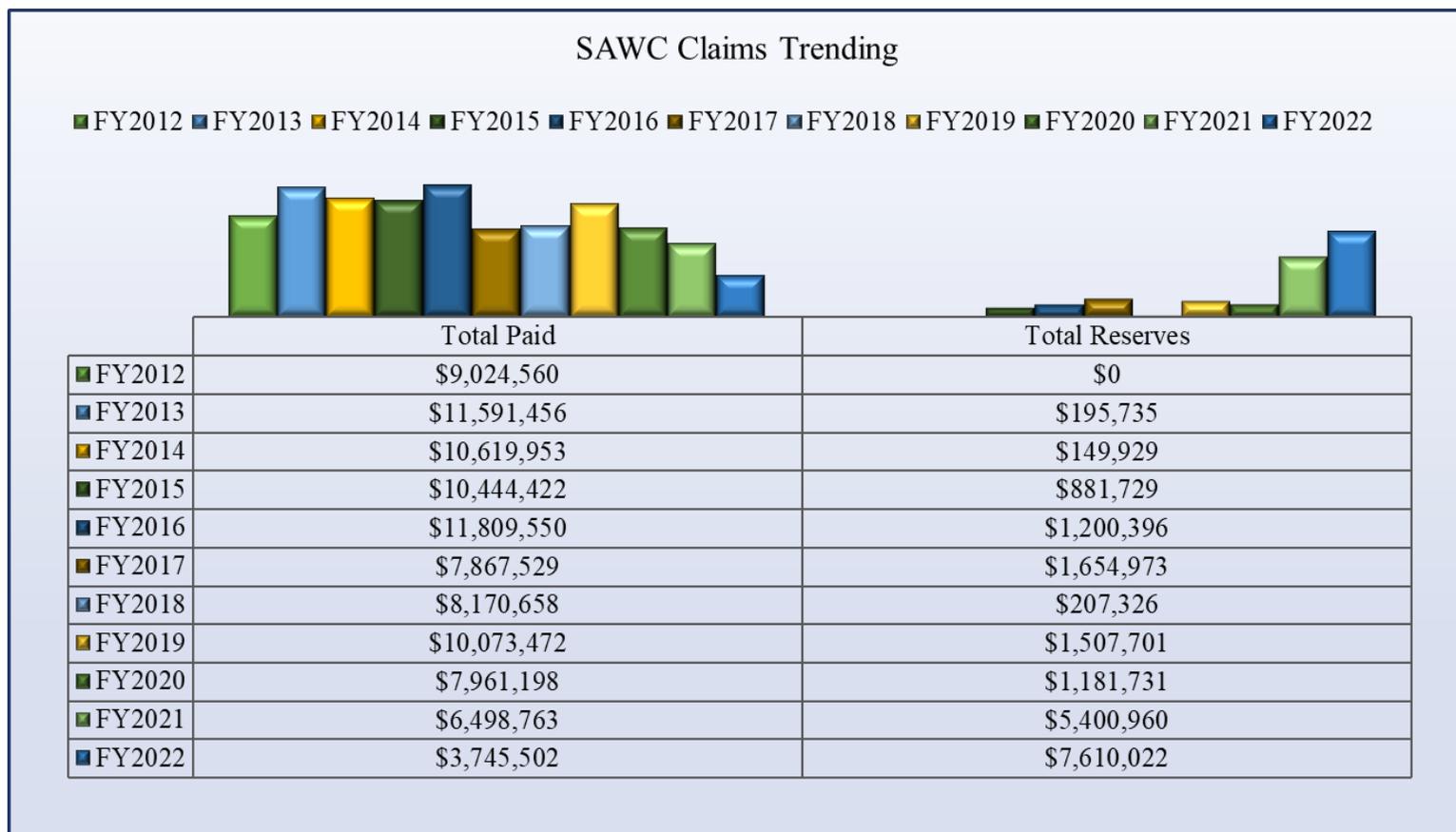
Of the 15,910 total claims reported to Zurich and Encova 2,979 (18.7%) have resulted in being closed with no payments (incidents); 3,882 (24.4%) are lost time requiring wage replacement benefits and 9,049 (56.9%) are medical only claims requiring medical payments but no lost wage replacements.



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.

COVID-19 IMPACT

As previously mentioned, the SAWC was impacted by the COVID-19 virus. The agencies reporting COVID-19 cases to Encova were generally frontline workers in the state hospitals and public safety agencies; although there were several agencies that reported exposures from positive co-workers as well. Encova investigated each report to ensure cases were contracted at work rather than community spread. Most claims were reported as incidents with no medical or indemnity losses (exposures only – no positive test). Most of the cases were due to community spread and the virus was contracted outside of the work environment.

A table showing the agencies frequency and severity of reported COVID-19 cases is provided below.

Agency	Claim Count	Incurred
MILDRED MITCHELL BATEMAN HOSPITAL	149	\$0
HOPEMONT HOSPITAL	54	\$0
WELCH EMERGENCY HOSPITAL	44	\$0
LAKIN STATE HOSPITAL	24	\$0
DEPARTMENT OF HEALTH AND HUMAN RESOURCES	18	\$0
REGIONAL JAIL & CORRECTIONAL FACILITY	4	\$1,759,960
DEPARTMENT OF CORRECTIONS	3	\$1,207,293
ALCOHOL BEVERAGE CONTROL ADMINISTRATION	2	\$0
DIVISION OF HIGHWAYS	2	\$7,500
LOTTERY	2	\$0
WILLIAM R SHARPE JR HOSPITAL	2	\$0
BUREAU OF JUVENILE SERVICES	1	\$0
JACKIE WITHROW HOSPITAL	1	\$0
Total	306	\$2,974,753

Data as of June 30, 2022

Of the 306 total claims reported, 296 (97%) were incidents, seven (7) were indemnity (lost wages) claims and three (3) were medical only claims. Of the ten (10) non-incident claims, six (6) were denied and four (4) were accepted and paid. The large incurred values were two (2) fatal claims of correctional officers within the Department of Corrections and Rehabilitation cabinet.

While many state employees continue remote or hybrid telecommuter schedules, there has been only a single claim filed and ruled compensable for a remote state employee that was injured outside of their home while walking to their car to drive into work to mail correspondence as part of their job expectations. The employee slipped on their icy driveway. The claim was medical only with \$1,137 in total incurred costs and is now closed.

SAWC SUMMARY

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. This task has been hindered due to continued 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 2022 and into 2023 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 resume the Annual Conference on September 27, 2022, at Encova Headquarters in Charleston, WV. The conference is limited to 60 attendees due to on-going COVID-19 concerns but will be recorded and shared with all program members.

SECTION 3: INSURANCE BUSINESS IN WEST VIRGINIA

2021 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	\$672,667,025	22.4%	\$671,667,002	\$355,024,630	52.9%
Private passenger auto physical damage	\$612,281,619	20.4%	\$604,339,567	\$414,645,058	68.6%
Homeowners multiple peril	\$493,998,295	16.5%	\$478,560,390	\$228,107,834	47.7%
Workers' compensation	\$221,728,652	7.4%	\$220,613,606	\$107,206,927	48.6%
Other commercial auto liability	\$142,179,419	4.7%	\$138,928,848	\$55,523,035	40.0%
Commercial multiple peril (non-liability portion)	\$141,424,870	4.7%	\$137,801,230	\$72,291,835	52.5%
Other liability - occurrence	\$125,391,644	4.2%	\$128,955,481	\$149,134,698	115.6%
Inland marine	\$94,182,277	3.1%	\$90,615,101	\$39,396,898	43.5%
Commercial multiple peril (liability portion)	\$76,617,811	2.6%	\$75,425,512	\$40,127,538	53.2%
Fire	\$59,363,534	2.0%	\$55,809,671	\$14,572,917	26.1%
Commercial auto physical damage	\$55,219,110	1.8%	\$53,474,217	\$25,736,305	48.1%
Other liability - claims-made	\$50,568,788	1.7%	\$49,887,533	\$25,378,097	50.9%
Surety	\$46,227,370	1.5%	\$47,589,961	(\$5,545,043)	(11.7%)
Allied lines	\$41,746,955	1.4%	\$39,919,761	\$22,151,466	55.5%
Medical professional liability	\$38,644,088	1.3%	\$37,460,634	\$165,824	0.4%
Group accident and health	\$20,243,665	0.7%	\$20,217,549	\$14,175,561	70.1%
Farmowners multiple peril	\$18,424,636	0.6%	\$17,870,018	\$6,065,942	33.9%
Mortgage guaranty	\$16,529,905	0.6%	\$16,792,103	\$1,407,888	8.4%
Federal flood	\$12,547,008	0.4%	\$12,628,868	\$2,799,463	22.2%
Boiler and machinery	\$9,614,455	0.3%	\$5,838,024	\$136,968	2.3%
Guaranteed renewable A&H	\$8,260,733	0.3%	\$8,038,039	\$6,077,374	75.6%
Credit	\$7,239,947	0.2%	\$7,221,557	\$2,784,754	38.6%
Excess workers' compensation	\$6,598,480	0.2%	\$5,504,453	\$1,813,030	32.9%

2021 WEST VIRGINIA PROPERTY AND CASUALTY SUMMARY REPORT CONTINUED

Line of Business	Direct Premiums Written	Market Share	Direct Premiums Earned	Direct Losses Incurred	Pure Direct Loss Ratio
Ocean marine	\$4,307,083	0.1%	\$3,668,646	\$1,033,167	28.2%
Warranty	\$4,153,079	0.1%	\$3,482,158	\$2,631,524	75.6%
Fidelity	\$3,878,315	0.1%	\$3,941,671	\$537,031	13.6%
Aircraft (all perils)	\$3,874,958	0.1%	\$3,980,365	\$1,469,816	36.9%
Aggregate write-ins for other lines of business	\$3,205,466	0.1%	\$3,319,697	\$239,080	7.2%
Multiple peril crop	\$2,934,600	0.1%	\$3,322,738	\$2,484,009	74.8%
Products liability	\$2,592,158	0.1%	\$3,319,135	\$2,959,106	89.2%
Private flood	\$1,871,463	0.1%	\$1,704,954	\$132,907	7.8%
All other A&H	\$1,251,031	0.0%	\$1,245,700	\$598,341	48.0%
Earthquake	\$1,169,991	0.0%	\$1,191,886	\$14,440	1.2%
Burglary and theft	\$724,683	0.0%	\$832,585	\$40,750	4.9%
Financial guaranty	\$392,491	0.0%	\$292,577	\$0	0.0%
Other accident only	\$355,258	0.0%	\$352,504	(\$12,293)	(3.5%)
Non-renewable for stated reasons only	\$189,996	0.0%	\$196,352	\$33,682	17.2%
Commercial auto no-fault (personal injury protection)	\$25,163	0.0%	\$22,386	\$29,331	131.0%
Credit A&H (group and individual)	\$22,224	0.0%	\$22,224	\$3,828	17.2%
Private crop	\$6,775	0.0%	\$6,775	(\$47)	(0.7%)
Non-cancelable A&H	\$108	0.0%	\$5,667	\$0	0.0%
Collectively renewable A&H	\$0	0.0%	(\$40)	\$0	0.0%
Medicare Title XVIII exempt from state taxes or fees	\$0	0.0%	\$0	\$0	0.0%
Federal employees health benefits plan premium	\$0	0.0%	\$0	\$0	0.0%
Private passenger auto no-fault (personal injury protection)	\$0	0.0%	\$0	\$729,230	0.0%
International	\$0	0.0%	\$0	\$0	0.0%

WV Totals for all Property and Casualty Business \$3,002,655,128 100.0% \$2,956,067,105 \$1,592,102,901 53.9%

2021 WEST VIRGINIA ACCIDENT AND HEALTH SUMMARY REPORT

Line of Business*	Direct Premiums Written	Market Share	Direct Premiums Earned	Direct Claims Incurred	Pure Direct Loss Ratio
Title XIX Medicaid	\$2,273,509,364	38.6%	\$2,254,582,599	\$1,774,655,103	78.7%
Title XVIII Medicare	\$2,178,029,557	36.9%	\$2,179,829,335	\$1,887,611,910	86.6%
Group Comprehensive	\$600,521,914	10.2%	\$600,521,914	\$524,187,813	87.3%
Federal Employees Health	\$458,493,105	7.8%	\$466,264,087	\$443,017,949	95.0%
Individual Comprehensive	\$252,513,721	4.3%	\$252,513,721	\$209,059,071	82.8%
Other	\$86,769,841	1.5%	\$86,822,269	\$64,850,472	74.7%
Dental Only	\$38,725,441	0.7%	\$38,915,260	\$26,575,725	68.3%
Vision Only	\$6,637,707	0.1%	\$6,636,829	\$4,090,077	61.6%

WV Totals for all A&H Business \$5,895,200,650 100.0% \$5,886,086,014 \$4,934,048,120 83.8%

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