

Kentucky Department of Workers' Claims 2009-2010 Annual Report

Building a Better Tomorrow



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

Prevention Park
657 Chamberlin Avenue
Frankfort, Kentucky 40601
(502) 564-5550

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

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Dwight T. Lovan

CHAIRMAN, WORKERS' COMPENSATION BOARD
Michael W. Alvey

CHIEF ADMINISTRATIVE LAW JUDGE
J. Landon Overfield

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Developed by DWC Division of Information and Research
 Fran Davis, Director
 Kim McKenzie, Resource Management Analyst II

Kentucky Department of Workers' Claims



Mission Statement:

Resourceful administration of Kentucky's workers' compensation program with equitable and expedient processing of claims

Performance Objectives:

- Assure prompt delivery of statutory benefits, including medical services and indemnity payments
- Provide timely and competent services to stakeholders
- Foster stakeholder knowledge of rights and responsibilities under the Workers' Compensation Act
- Encourage stakeholder involvement in the development of policy and delivery mechanisms
- Provide the public and policy makers with accurate and current indicators of program performance
- Anticipate changes in the program environment and respond appropriately

No individual in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, be excluded from participation in, or denied benefits of, or be subjected to discrimination under any program or activity under the jurisdiction of the Kentucky Labor Cabinet.

Printed with State Funds

This agency does not discriminate on the basis of race, color, national origin, religion, age or disability in employment or provisional services.

Steven L. Beshear
Governor

Daniel Mongiardo
Lieutenant Governor



J. R. Gray
Secretary

Mark S. Brown
Deputy Secretary

Dwight T. Lovan
Commissioner

KENTUCKY LABOR CABINET
Department of Workers' Claims

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

November 22, 2010

The Honorable Steve L. Beshear
Governor of Kentucky
Capitol Building
700 Capitol Avenue, Suite 100
Frankfort, Kentucky 40601

Dear Governor Beshear:

In accordance with KRS 342.230(2) and KRS 342.435, attached is the fiscal year 2009-2010 Annual Report for the Department of Workers' Claims. The annual report details actions taken by this agency to assure prompt and efficient delivery of statutory benefits and provides in depth statistical information related to the Kentucky Workers' Compensation System.

Highlighted in the report are initiatives the Department of Workers' Claims has taken during this fiscal year, implementing the administrative and adjudicative provisions of the Workers' Compensation Act (KRS Chapter 342).

The Department continues to work closely with business, labor, members of the Kentucky bar, insurance industry and health care providers to develop ideas which will enhance the workers' compensation system while delivering high-quality service to the constituents of the Commonwealth of Kentucky.

It is an honor to serve as Commissioner of the Department of Workers' Claims and I thank you for your encouragement and support.

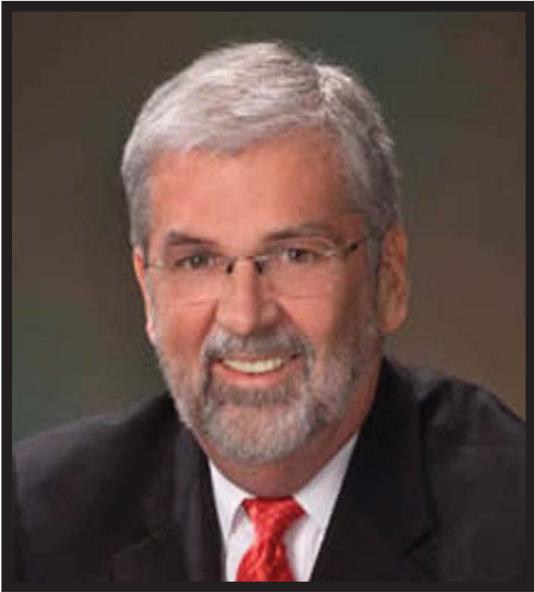
Yours very truly,

A handwritten signature in black ink, appearing to read "D. Lovan".

Dwight T. Lovan
Commissioner



An Equal Opportunity Employer
M/F/D



**Dwight T. Lovan
Commissioner**

Commissioner Dwight T. Lovan received his Bachelor's degree from Baylor University and J.D. from the University of Kentucky College of Law. Admitted to the Kentucky Bar in 1977, Commissioner Lovan worked for 15 months as a staff attorney for the Kentucky Court of Appeals with responsibility for workers' compensation appeals. From 1979 to 1990 he practiced law in Owensboro, concentrating in the areas of workers' compensation and civil litigation.

In May of 1990, Commissioner Lovan was appointed Administrative Law Judge and remained in that position until August of 1994 when he was named to the Kentucky Workers' Compensation Board. Between July 2000 and January 2004, Commissioner Lovan served as Chairman of the Kentucky Workers' Compensation Board before returning to private practice in the firm of Jones, Walters, Turner and Shelton.

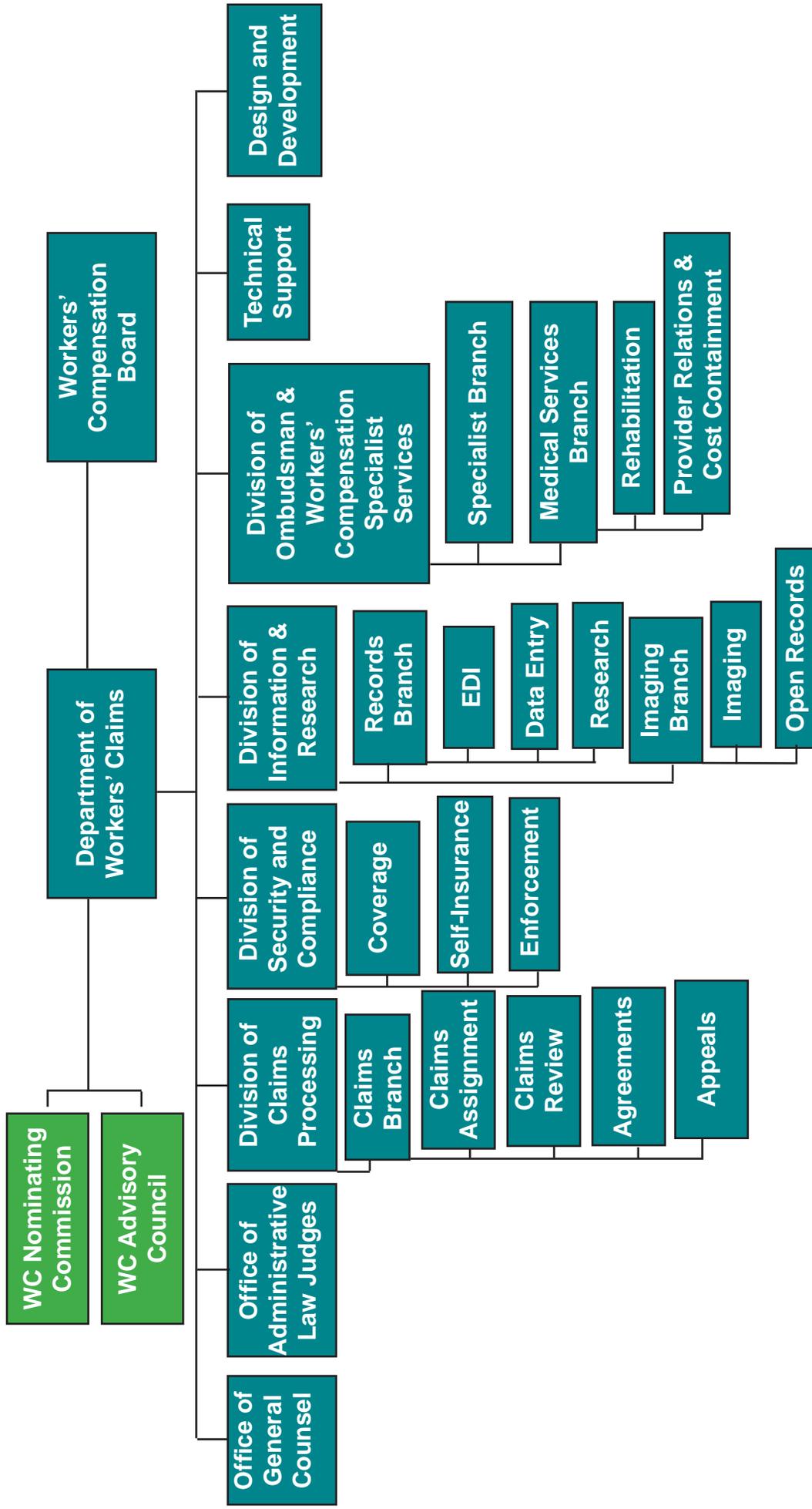
He was appointed to serve as the Commissioner of the Department of Workers' Claims in February 2008.



**Wayne Logan
Deputy Commissioner**

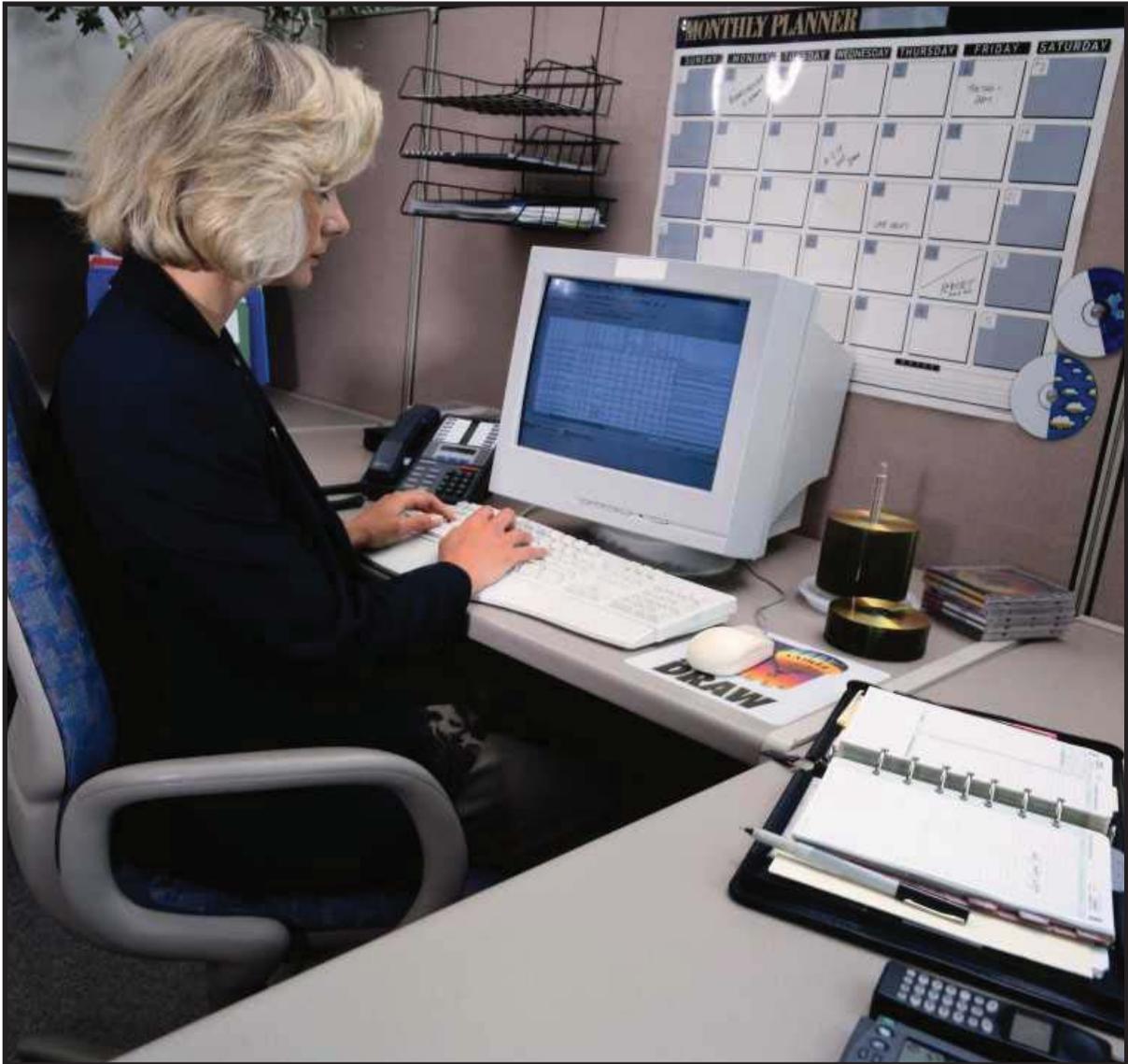
Deputy Commissioner Robert Wayne Logan has been with the Kentucky Labor Cabinet for over 25 years, having started as an interim employee in 1983. After receiving his associate degree from Fugazzi Business College, he became a full-time employee in June 1984 and has served in various positions in the Department of Workers' Claims. He was appointed as Deputy Commissioner in October 2008. Deputy Commissioner Logan resides in Woodford County with his wife Kelly and two children.

Department of Workers' Claims Organizational Structure



Attached for Administrative Purposes Only

Program Statistics



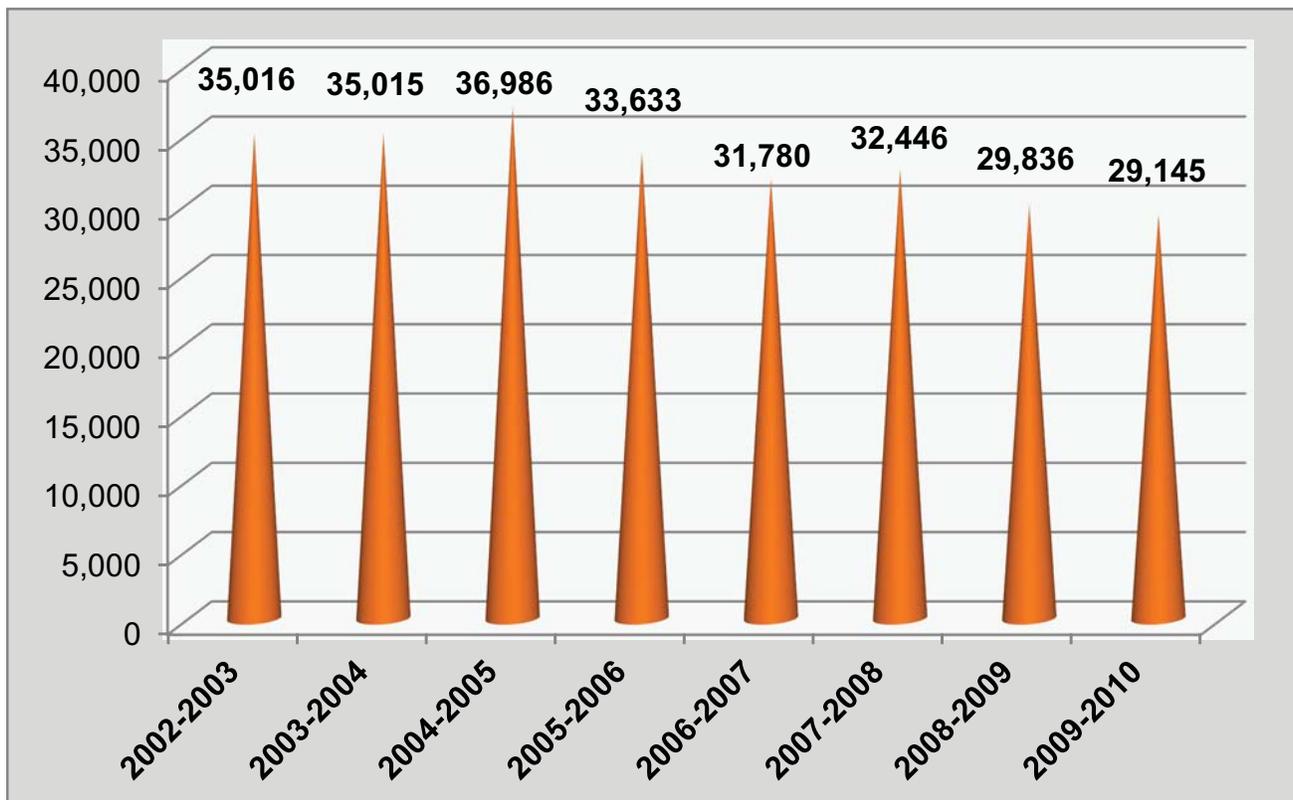
First Reports of Injury

Kentucky Revised Statute (KRS) 342.038 mandates that employers keep a record of all employee workplace injuries and fatalities. The employer has three days to inform its workers' compensation insurance carrier or claim administrator when an injured worker misses more than one day of work as a result of an injury. These entities then have one week to file a First Report of Injury with the Department of Workers' Claims. Failure to comply with these reporting requirements may result in penalties pursuant to KRS 342.990.

In this fiscal year, there were 29,145 lost time First Reports of Injury (FROIs) filed with the Department. This is the lowest number of FROIs the Department has received in the past seven years. Of these First Reports, 28 percent were subject to penalties.

The three most common causes of work-related injuries reported this fiscal year were falls or slips (6,600), lifting (3,646) and strains (2,973).

First Reports of Injury by Fiscal Year



First Report of Injury (FROIs) by Industrial Classification Category



A review of the nature of injuries revealed that there were 10,619 strains and 3,267 contusions reported. These two categories account for 48 percent of all reported injuries. Fractures were reported in 2,130 of the injuries.

Of the information reported, the low back area (including lumbar and lumbosacral) was most frequently injured (4,436). The second most common injury reported was to multiple body parts (2,970) and third was injury to the knee (2,658). This closely mimics the lost time reports of the last three fiscal years.

FROIs by Nature Type

Coal Workers' Pneumoconiosis (CWP)	135
Hearing Loss	211
Injury	27,728
Other Occupational Disease	1,071

Workers' Compensation Claims

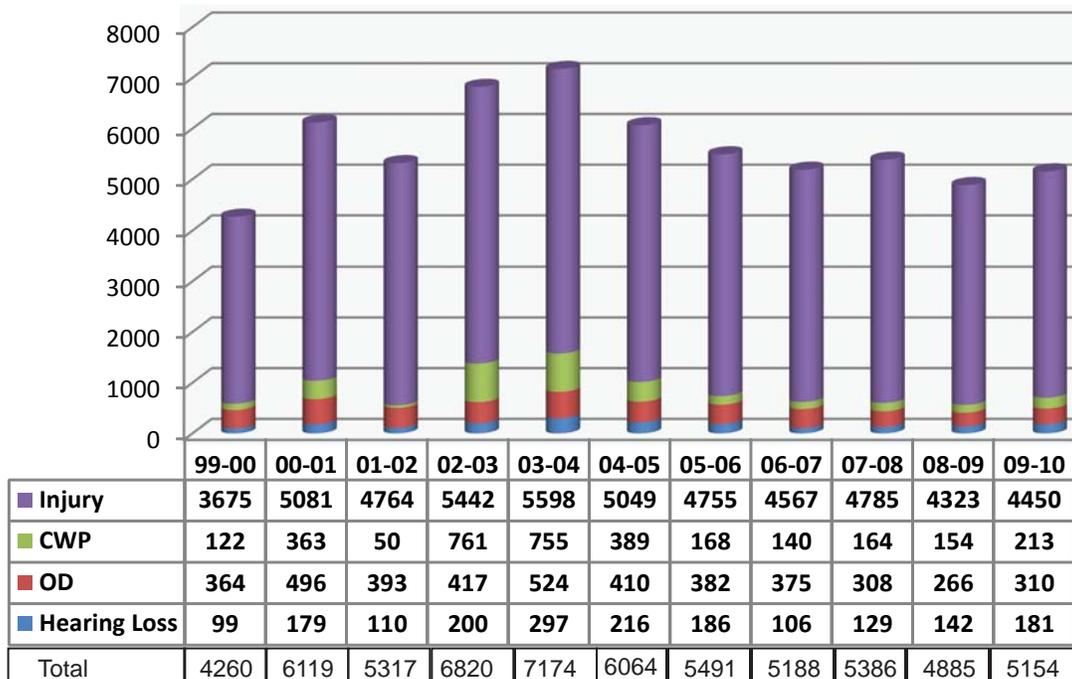
A workers' compensation claim in Kentucky originates when one of two things happens: A settlement document is filed to voluntarily resolve workers' compensation issues between parties or by application for adjustment of a claim when the parties cannot agree and the matter must be resolved by an Administrative Law Judge.

Workers' compensation claims are typically divided into two types: indemnity/medical and medical-only. Indemnity/medical claims are those for which income benefits are paid to compensate for lost wages, functional impairment or death. Medical service costs are paid in addition to those income benefits.

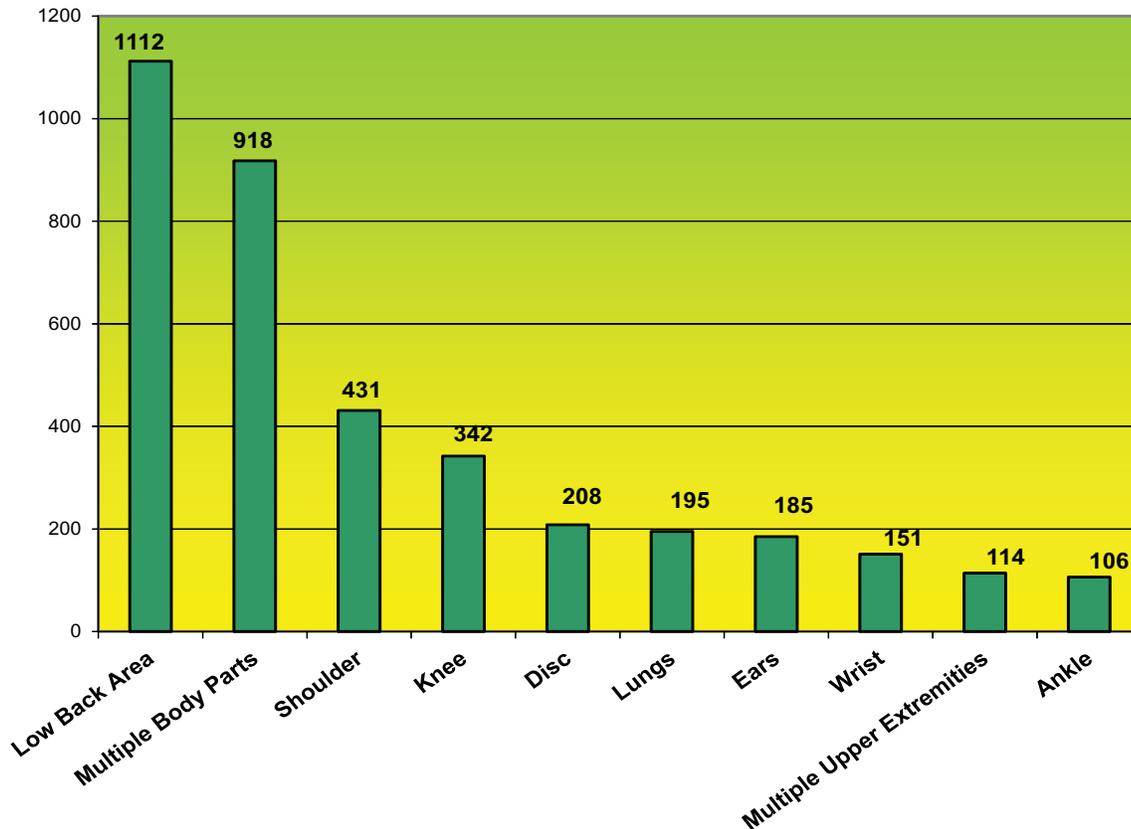
Most of the data in this report pertains to indemnity claims. For an injury to be compensable, it must be a direct result of the employee's work. To be considered for temporary total income benefits, an injured worker must miss more than seven days of work. Medical-only claims are those in which medical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

In fiscal year 2009-2010, there were 5,154 applications for resolution of claims filed with the Department of Workers' Claims.

Claims by Fiscal Year 2009-2010



Distribution of Claims by Body Part Top Ten



Of the 5,154 claims that were filed this fiscal year, 1,709 claims were filed by females (33%) and 3,434 by males (67%). Eleven claims failed to specify gender (less than 1%). The average age of those who filed claims with the DWC was 43 years.

The Standard Industrial Classification (SIC) category with the greatest number of claims filed was Services (1,105); Manufacturing was a close second with 950. The remaining SIC categories had the following number of claims: Mining (849), Retail Trade (600), Construction (527), Transportation/Public Utilities (477), Public Administration (232), Wholesale Trade (186), Finance, Insurance, Real Estate (77), Agriculture, Forestry, Fishing (77), and Unclassified (74).

In reviewing litigated injury claims, the three most common causes of injury during this reporting period were Falls, Slips, or Trips (1,101), Lifting (782) and Strains (446).

Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 09-10

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Adair	9,099	50	0.55%	6	12.00%
Allen	8,658	56	0.65%	15	26.79%
Anderson	11,113	81	0.73%	9	11.11%
Ballard	4,228	31	0.73%	3	9.68%
Barren	19,255	222	1.15%	27	12.16%
Bath	5,166	50	0.97%	5	10.00%
Bell	10,034	166	1.65%	53	31.93%
Boone	63,680	947	1.49%	109	11.51%
Bourbon	9,766	234	2.40%	21	8.97%
Boyd	23,257	440	1.89%	85	19.32%
Boyle	12,973	197	1.52%	30	15.23%
Bracken	4,291	16	0.37%	0	0.00%
Breathitt	5,785	63	1.09%	26	41.27%
Breckinridge	9,526	44	0.46%	5	11.36%
Bullitt	40,229	280	0.70%	39	13.93%
Butler	5,422	20	0.37%	8	40.00%
Caldwell	6,923	69	1.00%	12	17.39%
Calloway	18,095	187	1.03%	36	19.25%
Campbell	45,246	355	0.78%	37	10.42%
Carlisle	2,351	9	0.38%	0	0.00%
Carroll	5,486	102	1.86%	16	15.69%
Carter	13,684	109	0.80%	10	9.17%
Casey	7,129	42	0.59%	5	11.90%
Christian	29,954	450	1.50%	43	9.56%
Clark	17,690	268	1.51%	37	13.81%
Clay	6,978	86	1.23%	25	29.07%
Clinton	4,884	43	0.88%	9	20.93%
Crittenden	4,142	31	0.75%	4	12.90%
Cumberland	3,167	44	1.39%	5	11.36%
Daviess	48,457	605	1.25%	58	9.59%
Edmonson	5,464	18	0.33%	5	27.78%
Elliott	3,224	15	0.47%	1	6.67%
Estill	6,409	41	0.64%	6	14.63%
Fayette	152,341	2,497	1.64%	346	13.86%
Fleming	6,523	53	0.81%	8	15.09%
Floyd	15,955	357	2.24%	176	49.30%
Franklin	25,004	827	3.31%	85	10.28%
Fulton	2,738	48	1.75%	7	14.58%
Gallatin	4,025	13	0.32%	3	23.08%
Garrard	7,738	47	0.61%	6	12.77%
Grant	12,987	97	0.75%	23	23.71%
Graves	16,460	155	0.94%	16	10.32%
Grayson	11,708	97	0.83%	13	13.40%
Green	5,747	27	0.47%	2	7.41%
Greenup	17,991	111	0.62%	22	19.82%
Hancock	4,381	71	1.62%	9	12.68%
Hardin	48,482	532	1.10%	57	10.71%
Harlan	10,761	264	2.45%	115	43.56%

Program Statistics

Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 09-10

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Harrison	9,456	93	0.98%	8	8.60%
Hart	8,439	57	0.68%	11	19.30%
Henderson	23,521	310	1.32%	44	14.19%
Henry	7,937	80	1.01%	11	13.75%
Hickman	2,122	30	1.41%	2	6.67%
Hopkins	23,461	480	2.05%	41	8.54%
Jackson	4,309	33	0.77%	9	27.27%
Jefferson	364,432	6,167	1.69%	867	14.06%
Jessamine	23,498	263	1.12%	41	15.59%
Johnson	10,160	140	1.38%	58	41.43%
Kenton	85,064	828	0.97%	82	9.90%
Knott	6,850	108	1.58%	83	76.85%
Knox	12,780	94	0.74%	18	19.15%
Larue	7,147	33	0.46%	6	18.18%
Laurel	26,832	357	1.33%	115	32.21%
Lawrence	6,297	154	2.45%	29	18.83%
Lee	2,850	38	1.33%	11	28.95%
Leslie	3,660	61	1.67%	24	39.34%
Letcher	8,892	173	1.95%	68	39.31%
Lewis	5,644	31	0.55%	1	3.23%
Lincoln	10,780	56	0.52%	14	25.00%
Livingston	4,884	40	0.82%	4	10.00%
Logan	12,297	129	1.05%	15	11.63%
Lyon	3,472	30	0.86%	5	16.67%
Madison	42,605	412	0.97%	66	16.02%
Magoffin	4,602	48	1.04%	34	70.83%
Marion	10,040	143	1.42%	18	12.59%
Marshall	15,019	159	1.06%	26	16.35%
Martin	3,800	88	2.32%	53	60.23%
Mason	8,871	112	1.26%	18	16.07%
McCracken	31,601	439	1.39%	73	16.63%
McCreary	5,860	66	1.13%	10	15.15%
McClean	4,666	20	0.43%	2	10.00%
Meade	11,931	58	0.49%	9	15.52%
Menifee	2,687	6	0.22%	4	66.67%
Mercer	10,542	119	1.13%	24	20.17%
Metcalfe	4,494	21	0.47%	1	4.76%
Monroe	4,670	55	1.18%	6	10.91%
Montgomery	12,401	192	1.55%	44	22.92%
Morgan	5,210	50	0.96%	14	28.00%
Muhlenberg	13,909	170	1.22%	32	18.82%
Nelson	22,112	254	1.15%	40	15.75%
Nicholas	3,148	21	0.67%	2	9.52%
Ohio	12,651	120	0.95%	19	15.83%
Oldham	28,084	203	0.72%	30	14.78%
Owen	5,565	52	0.93%	1	1.92%
Owsley	1,590	23	1.45%	3	13.04%
Pendleton	7,476	55	0.74%	6	10.91%

Comparison by County Labor Force, Lost Time First Reports of Injury (FROIs) and Litigated Claims FY 09-10

County	Total Labor Force	FROIs	% of FROIs to Labor Force	Claims	% of Claims to FROIs
Perry	11,900	424	3.56%	153	36.08%
Pike	26,549	629	2.37%	420	66.77%
Powell	5,901	34	0.58%	9	26.47%
Pulaski	27,996	512	1.83%	65	12.70%
Robertson	1,082	2	0.18%	1	50.00%
Rockcastle	7,316	59	0.81%	15	25.42%
Rowan	12,528	168	1.34%	26	15.48%
Russell	8,478	108	1.27%	20	18.52%
Scott	23,343	653	2.80%	94	14.40%
Shelby	21,836	206	0.94%	34	16.50%
Simpson	9,130	158	1.73%	18	11.39%
Spencer	9,290	29	0.31%	5	17.24%
Taylor	13,488	128	0.95%	19	14.84%
Todd	5,307	42	0.79%	5	11.90%
Trigg	6,676	61	0.91%	7	11.48%
Trimble	4,507	24	0.53%	8	33.33%
Union	7,698	118	1.53%	18	15.25%
Warren	57,944	699	1.21%	115	16.45%
Washington	5,358	54	1.01%	6	11.11%
Wayne	8,849	67	0.76%	10	14.93%
Webster	6,545	96	1.47%	15	15.63%
Whitley	15,967	347	2.17%	66	19.02%
Wolfe	2,420	38	1.57%	6	15.79%
Woodford	13,414	320	2.39%	33	10.31%
Out-of-State		874		216	
Unknown		57		30	
Grand Total	2,076,446	29145	1.40%	5154	17.68%

Program Statistics

Workforce data provided by the Department of Workforce Investment.
 Agriculture is included in the total labor force numbers.
 Unknown numbers are due to insufficient reporting information.

Injuries to Minors

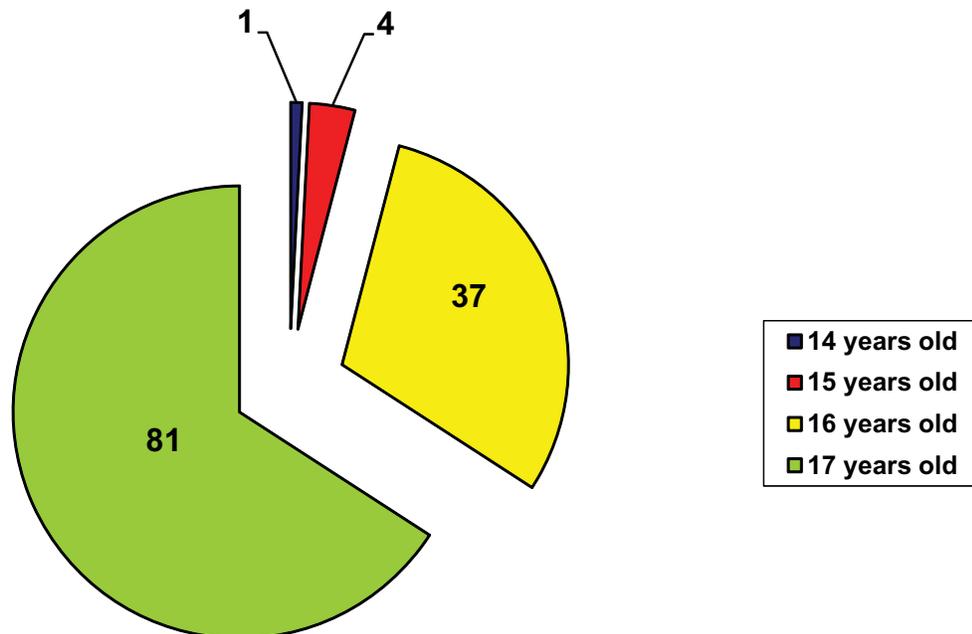
In fiscal year 2009-2010, there were 122 lost-time injuries to workers under the age of 18 reported to the Department of Workers' Claims.

According to electronic data submitted to the Department, one injury was reported for a worker 14 years of age; four injuries were reported for workers 15 years of age; 37 injuries were reported for workers 16 years of age; and 81 injuries were reported in which the workers were 17.

Based on the standard industrial classification (SIC) codes represented on injuries to minors during this period, 79 injuries occurred in the Retail Trade sector and 31 occurred in the Services sector. The Manufacturing sector reported five; the Transportation/Public Utilities two and the Agriculture, Forestry, Fishing, Construction, Finance, Insurance Real Estate, Public Administration, and Wholesale Trade sectors all reported one each.

The top three causes of injury to minors reported during this fiscal year were falls or slips (33), lifting (15) and burns by steam or hot fluids (12). Accordingly, the top three body parts most frequently injured were fingers (17), hands (14) and lower back area which was reported in 10 instances.

Distribution of Injuries to Minors by Age



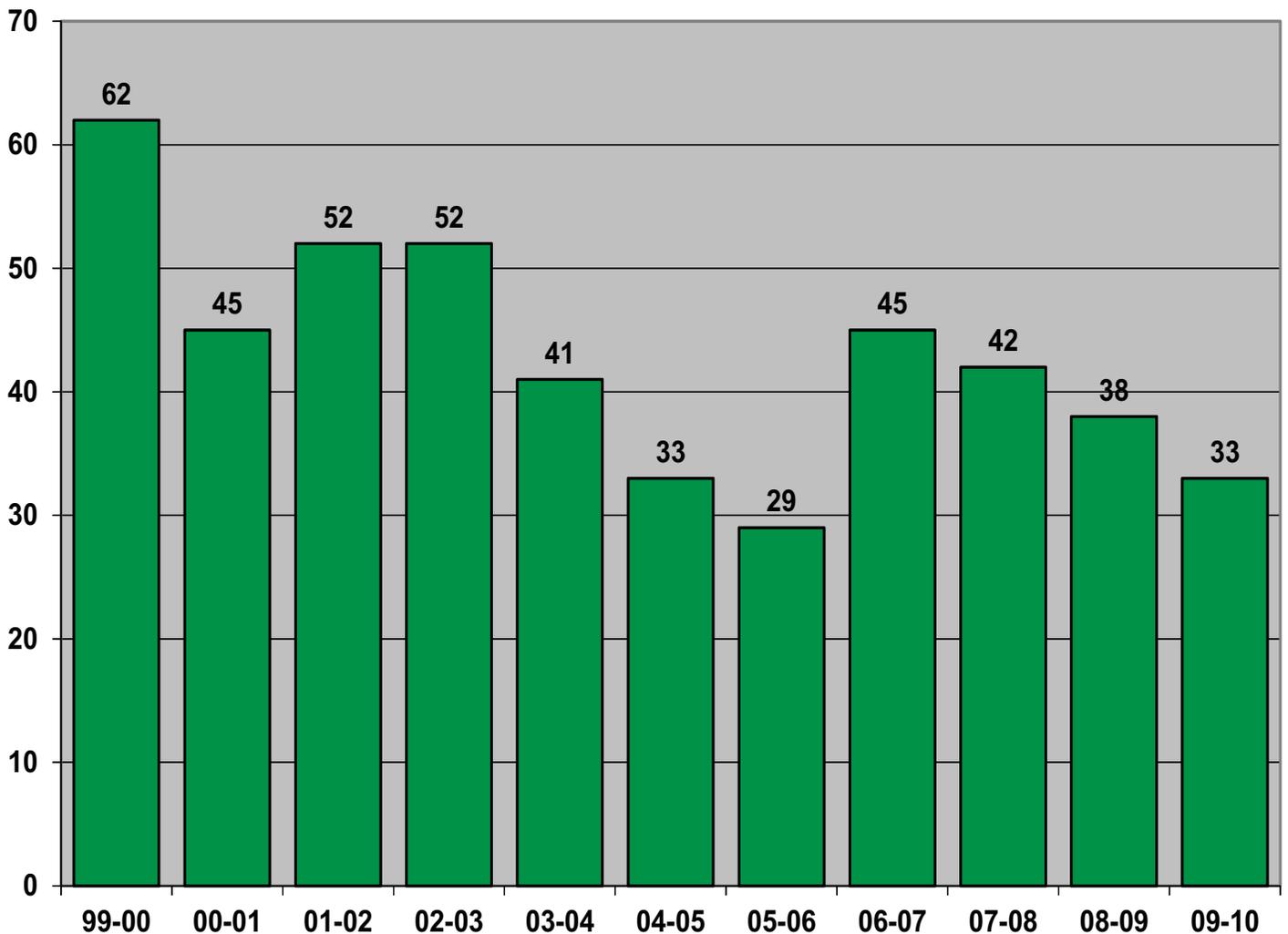
Work-Related Fatalities

There were 91 workplace fatalities reported to the Department of Workers' Claims during this fiscal year. However, after investigation, 33 of the deaths were found to be clearly work-related. The remaining have been ruled not work-related (23), containing issues which have the case in a pending status (14), and (21) occurred outside of the specified time period.

The youngest of the casualties was a 21-year-old male who was struck by a tractor trailer. The oldest worker was a 61-year-old male who died in a motor vehicle accident. The most common causes of death this fiscal year were motor vehicles (10) and falling objects (5).

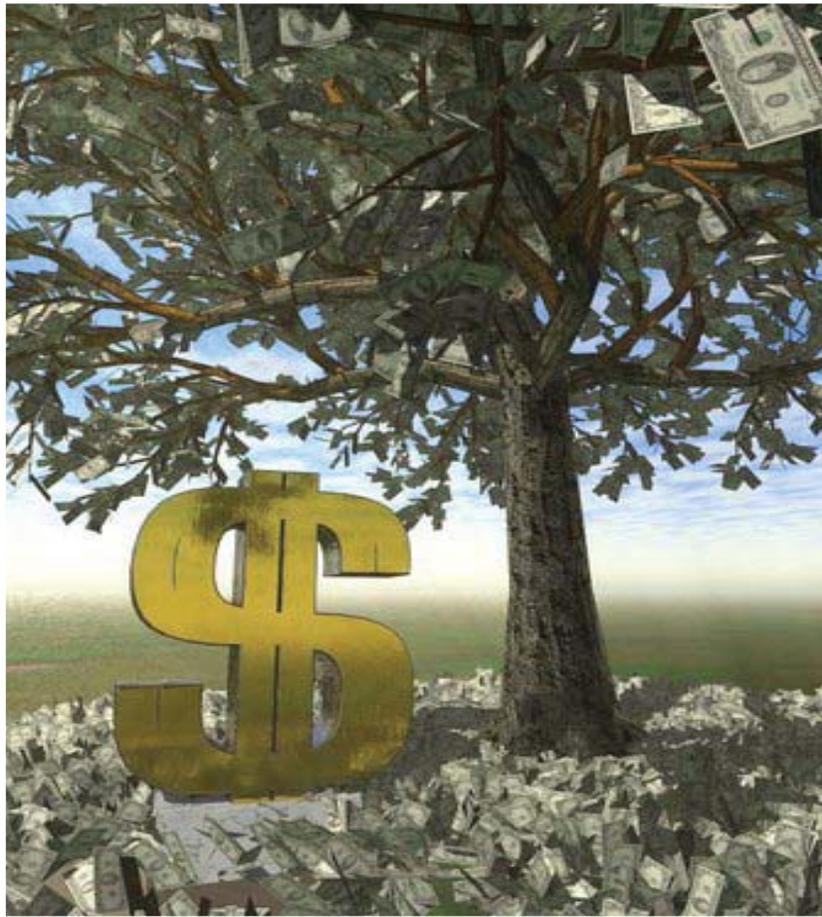
The fatalities reported to DWC occurred in a variety of industries ranging from local trucking, saw mills, plumbing, heating, air conditioning, concrete work, mining and lawn and garden.

Distribution of Work-Related Fatalities



Fiscal Performance

All the funding for the Department of Workers' Claims comes from a special fund assessment imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, and against the simulated premium of every employer carrying its own risk. These funds are collected and managed by the Workers' Compensation Funding Commission (KRS 342.122). These are restricted funds and no general fund dollars are appropriated for DWC operations.



DWC PERSONNEL AD BUDGET HISTORY

FY 1992-93 THROUGH FY 2009-10

FISCAL YEAR	PERSONNEL CAP	PERSONNEL ACTUAL	BUDGET ALLOTMENT	ACTUAL EXPENDITURES	DIFFERENCE	PERCENT OF BUDGET EXPENDED
			(\$)	(\$)	(\$)	
2009-2010	185	175	14,888,900	14,283,695	(605,205)	95.9%
2008-2009	179	167	14,170,100	13,373,435	(796,665)	94.4%
2007-2008	184	160	11,455,000	10,794,005	(660,995)	94.2%
2006-2007	184	167	10,211,700	9,840,070	(371,630)	96.4%
2005-2006	173	156	11,093,300	10,634,776	(458,524)	95.9%
2004-2005	173	163	9,498,700	9,182,865.00	(315,834)	96.7%
2003-2004	195	188	13,649,200	10,735,937	(2,913,263)	78.7%
2002-2003	242	201	16,397,700	13,384,935	(3,012,765)	81.6%
2001-2002	242	204	15,806,800	13,373,836	(2,432,963)	84.6%
2000-2001	242	208	14,942,300	12,716,927	(2,225,373)	85.1%
1999-2000	268	207	15,637,000	12,387,288	(3,249,712)	79.2%
1998-1999	268	208	14,994,000	12,606,188	(2,387,812)	84.1%
1997-1998	272	227	15,182,500	12,588,527	(2,593,973)	82.9%
1996-1997	272	229	12,137,900	11,057,391	(1,080,509)	91.0%
1995-1996	207	138	9,822,200	9,479,970	(342,230)	96.5%
1994-1995	210	120	9,757,200	8,586,716	(1,170,484)	88.0%
1993-1994	167	159	7,860,000	7,337,688	(522,312)	93.4%
1992-1993	167	160	7,505,100	7,004,561	500,539	93.0%

Programs and Performance



Office of Administrative Services

The Office of Administrative Services' responsibilities include ensuring all financial transactions and personnel actions comply with applicable laws and regulations; are executed in a timely manner; and are properly documented and allocated to the appropriate program budget unit. Some of the functions Administrative Services perform include: managing and executing the annual budget and all contracts and leases; responding to all requests for publications and forms; processing all incoming and outgoing mail; procuring supplies and equipment; maintaining infrastructure for 15 agency locations; coordinating DWC training; and providing daily assistance to all divisions of the Department of Workers' Claims.



The following publications are made available by the DWC:

Medical Fee Schedule for Physicians
Commissioner's Report on "B" Readers
Workers' Compensation Posting Notice
Life Expectancy Tables
Rehabilitation Pamphlet
Compliance Inspection Pamphlet
List of "B" Readers for CWP
Acute Low Back Pain Booklet

Workers' Compensation Forms
Hospital Fee Schedule
Annual Report
Benefits Schedule
Quarterly Report
Present Worth Table
Workers' Compensation Guidebook

The following pages contain a list of forms that may be requested through Administrative Services or by accessing the Department of Workers' Claims web site at <http://www.labor.ky.gov/workersclaims>. The only exceptions to this is the Form 4 and the Workers' Compensation Posting Notice which can only be obtained by contacting Administrative Services.

Forms

Form AWW-1	Average Weekly Wage Certification
Form 11	Motion to Substitute Party and Continue Benefits
Form 101	Application for Resolution of Injury Claim
Form 102-OD	Application for Resolution of Occupational Disease Claim
Form 102-CWP	Application for Resolution of Coal Workers' Pneumoconiosis Claim
Form 103	Application for Resolution of Hearing Loss Claim
Form 104	Plaintiff's Employment History
Form 105	Plaintiff's Chronological Medical History
Form 106	Medical Waiver and Consent Form
Form 107-I	Physician's Medical Report-Injury
Form 107-P	Physician's Medical Report-Psychological
Form 108-CWP	Physician's Medical Report-Occupational Disease
Form 108-HL	Physician's Medical Report-Hearing Loss
Form 108-OD	Physician's Medical Report-Occupational Disease
Form 109	Attorney Fee Election
Form 110-CWP	Agreement as to Compensation and Order Approving Settlement for Coal Workers' Pneumoconiosis
Form 110-F	Agreement as to Compensation and Order Approving Settlement-Fatality
Form 110-I	Agreement as to Compensation and Order Approving Settlement-Injury
Form 110-OD	Agreement as to Compensation and Order Approving Settlement-Occupational Disease
Form 111-I-HL	Notice of Claim Denial or Acceptance-Injury and Hearing Loss
Form 111-OD	Notice of Claim Denial or Acceptance-Occupational Disease
Form 112	Medical Dispute
Form 113	Notice of Designated Physician
Form 114	Request for Payment for Services or Reimbursement for Compensable Expenses
Form 115	Social Security Release Form
Form 120EX	Request for Expedited Determination of Medical Issue
Form 150	Workers' Compensation Statistical Report
Form 375	Application for Split Coverage
Form 375 Wrap Up	Application for Split Coverage (Wrap Up)
Form EL1 and EL2	Employee Leasing Company Registration Form
Form MTR-1	Motion to Reopen by Employee
Form MTR-2	Motion to Reopen KRS 342.732 Benefits
Form MTR-3	Motion to Reopen by Defendant
Form NMRP	Notice of Filing Medical Report
Form Hearing Loss Stipulation	Workers' Compensation-Hearing Loss Stipulation
Form Injury Stipulation	Workers' Compensation-Injury Stipulation
Form Occupational Disease Stipulation	Workers' Compensation-Occupational Disease Stipulation
Form SI-01	Self-Insurers' Guarantee Agreement
Form SI-02	Self-Insurance Application
Form SI-02 Attachment	Self-Insurance Application Attachment
Form SI-03	Continuous Bond
Form SI-03 Attachment	Surety Rider
Form SI-04	Letter of Credit
Form SI-08	Loss Report
Ky Drug-Free Workplace Application	Application/Affidavit/Checklist for Certification of Ky Drug-Free Workplace Program Pursuant to 803 KAR 25:280

Forms

Ky Workers' Compensation Act Notarized Affidavit of Exemption by Building Contractor (Corporation or Partnership)	Affidavit of Building Contractor (declaring no employees) which is filed with local building permit.
Ky Workers' Compensation Act Notarized Affidavit of Exemption by Building Contractor (Individual)	Affidavit of Building Contractor (declaring no employees) which is filed with local building permit.
Manual Change Form	Request for Manual Changes (By Carrier or TPA)
Managed Care - UR Form	Managed Care - UR Form
MIR-1	Motion for Interlocutory Relief-If you are attempting to fill out this form without counsel, you may contact a workers' compensation specialist for assistance toll free at 800-554-8601.
MIR-2	Affidavit for Payment of Medical Expenses-If you are attempting to fill out this form without counsel, you may contact a workers' compensation specialist for assistance toll free at 800-554-8601.
MIR-3	Affidavit for Payment of Temporary Total Disability-If you are attempting to fill out this form without counsel, you may contact a workers' compensation specialist for assistance toll free at 800-554-8601.
MIR-4	Affidavit Regarding Rehabilitation Services-If you are attempting to fill out this form without counsel, you may contact a workers' compensation specialist for assistance toll free at 800-554-8601.
Service Contract Agreement	Service Contract Agreement
Open Records Request Form	Request for copies/inspection of DWC claim files.
Self-Insurance Open Records Request Form	Request for copies/inspection of Self-Insurance files.
Subpoena	Subpoena
Subpoena	Subpoena Duces Tecum



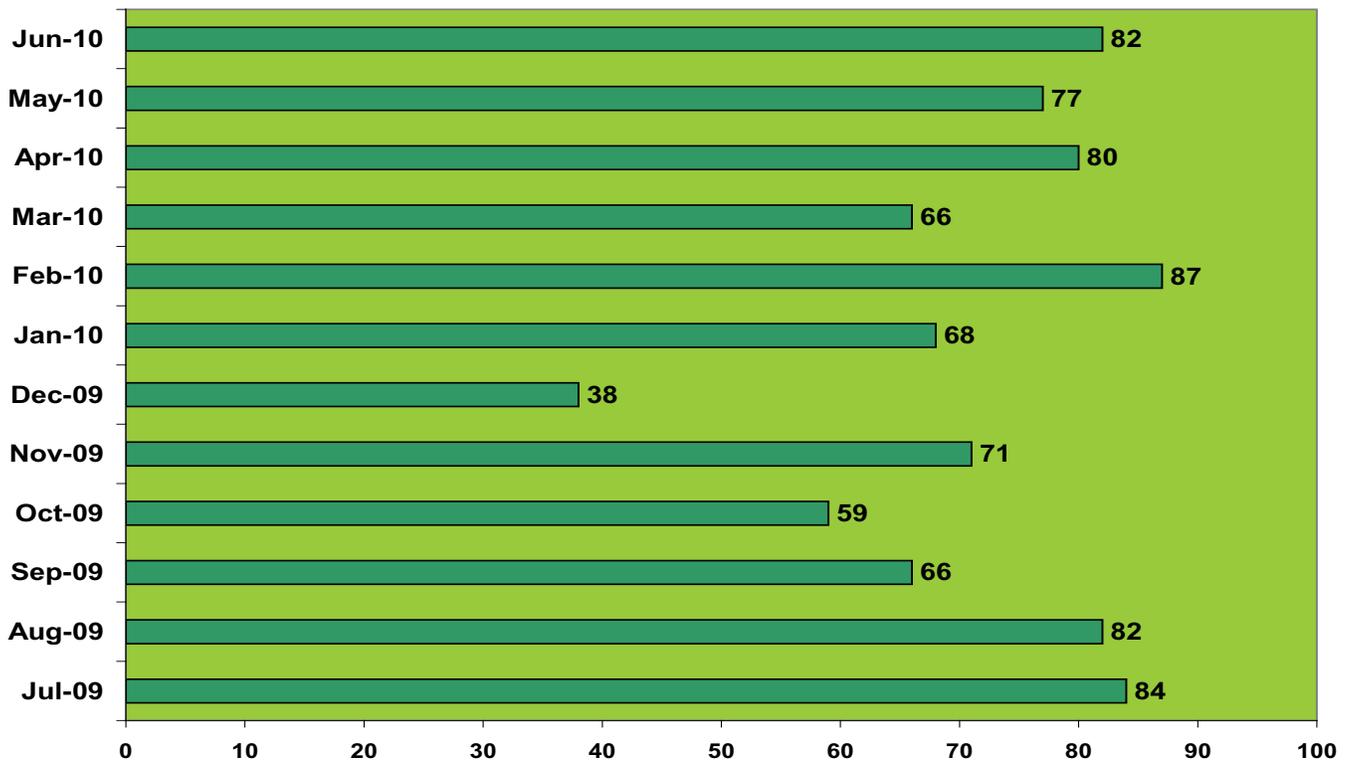
Technical Support

Distribution of Requests FY 2009-2010

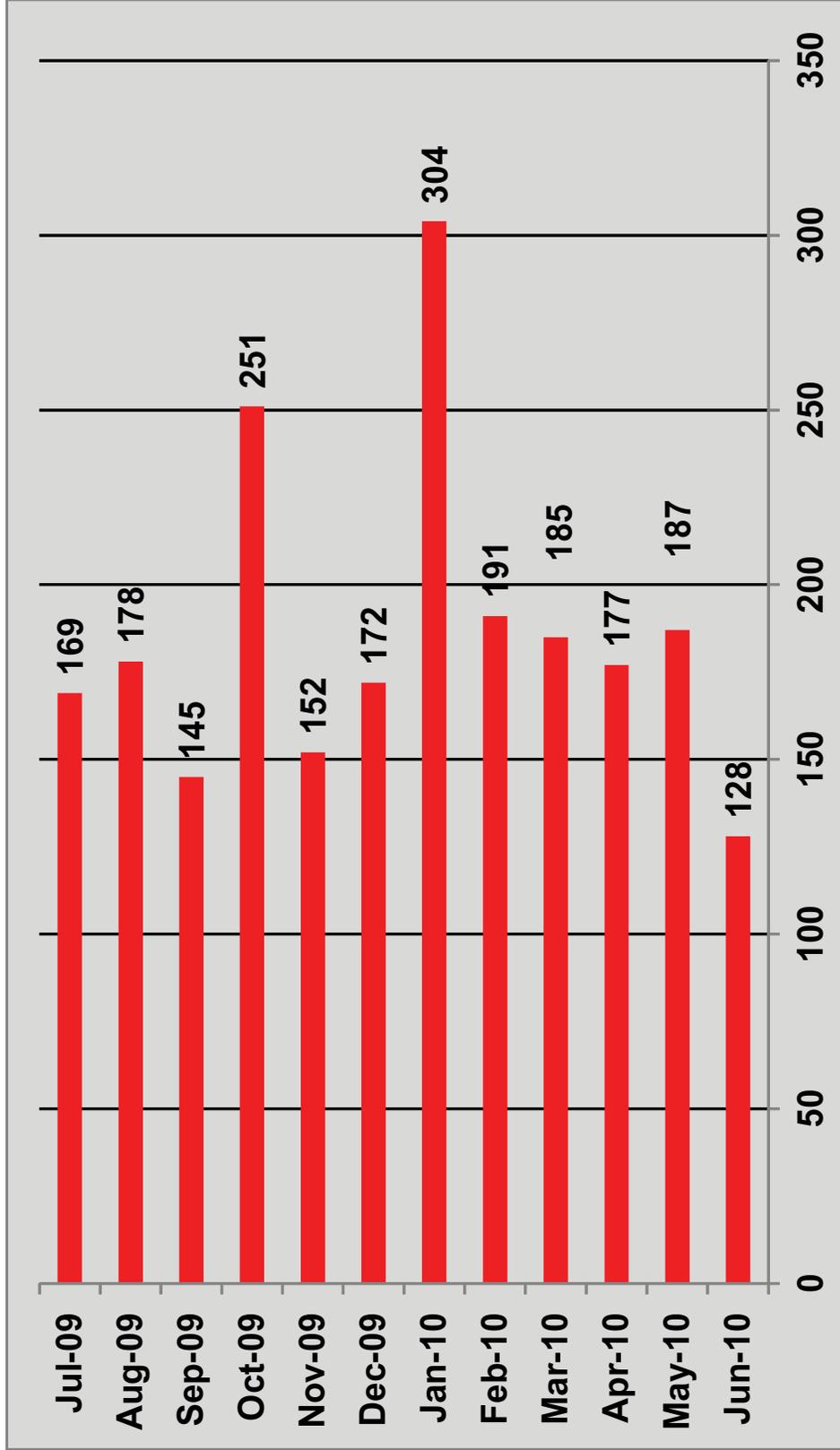
The Technical Support Section consists of four technicians and is responsible for the network infrastructure and all computer related equipment and services for the Department of Workers' Claims. Technical Support staff administers and maintains an Active Directory environment, NT resource domain and three Voice Over Internet Protocol (VOIP) phone systems. Staff researches, configures and upgrades all network, server, desktop, laptops, printers and user hardware and software. They oversee the audio/visual needs of the agency through planning, setup and training on A/V equipment. Staff ensures computer surplus equipment is sanitized to State Auditor's standards. All wireless Blackberry and AT&T data devices are configured and maintained through the Technical Support Section. VMWare virtual server implementation is an ongoing process to consolidate server operations, hardware cost reduction and to aid in disaster recovery.

During this past fiscal year, the Technical Support Section responded to 860 helpdesk calls and 2239 issues or requests for assistance. Staff upgraded computers, servers and backup power redundancy capabilities; upgraded VOIP phone system infrastructure; coordinated and networked the Owensboro ALJ and Board office; closed the Richmond ALJ office and migrated all remaining resources from KYWC to the Labor domain during this fiscal year.

Helpdesk Totals for July 1, 2009 - June 30, 2010



Technical Support Total Requests Completed from July 2009-June 2010



Design and Development Section

The Design and Development Section responds to all development and programming needs for the Department of Workers' Claims. Design and Development staff works to enhance the agency's *Server-based System for Information Management and Business Application (SIMBA)*, *Electronic Data Interchange (EDI)* and *Proof of Coverage (POC)* programs to meet the evolving needs of the agency. During this period, staff applied new features to SIMBA, EDI, POC, reports and other applications for the agency. They received 392 new test track issues; completed 395 test track issues; and performed 79 installs for the year. They developed and published the On-line Referral Form for the Enforcement Section on the Department of Workers' Claims web site. Staff met with users to discuss enhancement requests and new screens for SIMBA and other applications. They assisted in the creation and implementation of new status codes, FileNet codes and form letters. Staff updated the 992 Table with 2010 Worker's Compensation Benefit Schedule and Present Worth Table. They also migrated applications from KYWC domain to the Labor domain. Staff is responsible for monitoring and upgrading the CompLaw program as well as the monthly installation of Board opinions. Staff researched requirements this fiscal year for Secure FTP and recommendations were submitted for purchases. Staff participated in preparing documentation for the EDI Release 3.0 project.



Office of General Counsel

Programs & Performance

The Office of General Counsel is responsible for providing legal support services to the Department of Workers' Claims. The office advises the Commissioner's Office as to responsibilities with regard to personnel actions under KRS Chapter 18A and defends the agency against any actions, personnel or otherwise, that are filed against the Department. Additionally, the Office has responsibility for promulgating regulations required of the Department and drafting and reviewing legislation. The Office provides assistance to the Enforcement Branch in ensuring compliance with workers' compensation laws for imposition of injunctions and fines against employers who neglect or refuse to provide workers' compensation coverage for their employees. In



circumstances where an employee is injured and their employer has failed to provide insurance coverage, liens are filed against assets of uninsured employers pursuant to KRS 342.770. The Office is responsible for reviewing open records requests in compliance with the state's open records law. The Office investigates unfair claims practices and is responsible for issuing show cause orders and representing the Department at hearings when it has been determined that an unfair claims practice has occurred.

During this past fiscal year, the Legal Services Division collected approximately \$1,725,338 in fines and penalties. The Office received 921 citation cases, 68 unfair claims settlement practice cases and eight new fraud cases. This Office has filed restraining orders and collection actions

in circuit court, held formal hearings and show cause hearings before administrative law judges and drafted agreed orders for settlements with regard to the above cases. The Office of General Counsel has also represented the agency, more specifically the Security and Compliance Division, in hearings with regard to self-insurance audits, bankruptcy proceedings and insurance company rehabilitation proceedings.

Administrative Law Judges

The Department of Workers' Claims has 19 Administrative Law Judge (ALJ) positions allocated, 16 of which are currently filled. Each ALJ is appointed for a four-year term by the Governor and is subject to confirmation by the Kentucky State Senate. One of the ALJs is designated Chief Administrative Law Judge pursuant to KRS 342.230(8).

Chief Administrative Law Judge

The Chief Administrative Law Judge regularly works from the Frankfort office. The CALJ presides over the Frankfort motion docket. In addition, the CALJ rules on settlement agreements in unassigned cases and regularly conducts dockets for coal workers' pneumoconiosis (CWP) cases, as well as conducts hearings in various enforcement actions. The CALJ supervises ALJ activities, prepares a rotation schedule for the ALJs, plans two adjudicator training sessions annually, takes initial assignment of all CWP claims and covers dockets for other ALJs on an emergency basis.



J. Landon Overfield
B. A., Political Science, 1970,
University of Kentucky
J.D., 1972, University of Kentucky
College of Law
Initial appointment date: November 15, 1994
Chief ALJ January 1, 2009 - June 30, 2009
September 1, 2010-Present

Administrative Law Judges



Scott Borders
B.A., Business Administration, 1984,
University of Kentucky
J.D., 1987, Salmon P. Chase College of Law
Initial appointment date: December 7, 2001
Served as Acting CALJ
FY 2009-2010



Caroline Pitt Clark
B.A., 1999, Centre College
J.D., 2002, University of Kentucky
College of Law
Initial appointment date: July 15, 2008



John Coleman
B.A., 1986, Morehead State University
J.D., 1992, Salmon P. Chase College of Law
Initial appointment date: January 1998



Chris Davis
B.A., 1994, University of Kentucky
J.D., 1998, University of Kentucky
College of Law
L.L.M., 2000, Loyola Chicago
Initial appointment date: January 12, 2007



Howard Fraiser
B. A., 1984, David Lipscomb College
J.D., 1987, University of Kentucky
College of Law
Initial appointment date: February 12, 2004



Douglas W. Gott
B.A., 1987, Western Kentucky University
J.D., 1991, University of Kentucky
College of Law
Initial appointment date: June 23, 2008



Edward D. Hays
B.A., 1970, University of Kentucky
J.D., 1973 University of Kentucky
College of Law
Initial appointment date: August 1, 2008



Richard Joiner
B.A., Economics, 1972,
University of Michigan
J.D., 1975, University of Kentucky
College of Law
Initial appointment date: September 18, 2001

Administrative Law Judges



Joseph W. Justice
B.A., 1958, University of Kentucky
J.D., 1962, University of Kentucky
College of Law
Initial appointment date: July 15, 2008



James Kerr
B.A. ,1973, Northern Kentucky University
M.B.A., 1975, Xavier University
J.D., 1983, Salmon P. Chase College of Law
Ed.D., 1983, University of Cincinnati
Initial appointment date: May 1, 1992



Jeanie O. Miller
B.A.,1976, University of Kentucky
M.B.A., 1981, University of Kentucky
J.D., 1984, University of Kentucky
Initial appointment date: January 1, 2010



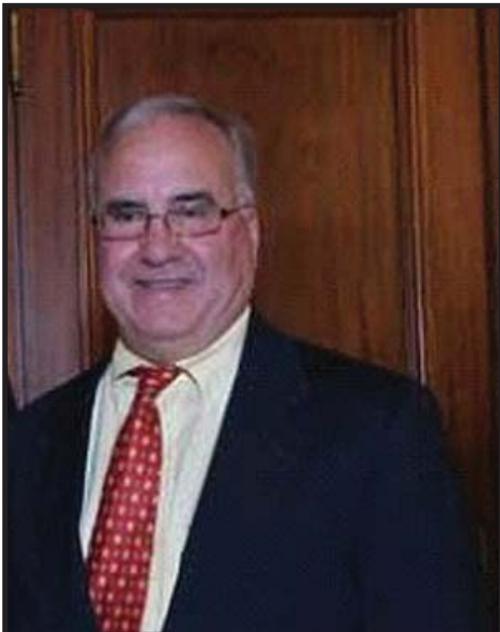
Grant Roark
B.S., 1992, University of Kentucky
J.D., 1995, University of Louisville
College of Law
Initial appointment date: February, 2004



Lawrence F. Smith
B.S. Ed, 1970, Ohio University
J.D., 1973, Case Western Reserve University
School of Law
Initial appointment date: December 15, 2003



Robert L. Swisher
A.B., 1976 University of Notre Dame
J.D., 1979, University of Kentucky
Initial appointment date: January 1, 2010



Otto Daniel Wolff IV
B.A., 1970, University of Cincinnati
J.D. 1974, University of Cincinnati
Initial appointment date: July 15, 2008

Administrative Law Judge Activity

Under the guidance and supervision of the Chief Administrative Law Judge, the ALJs oversee the adjudication of claims filed with the Department of Workers' Claims. The ALJs are required to conduct benefit review conferences and formal hearings in these claims. Thereafter, they are required to issue decisions within 60 days after the date of the hearing. These decisions must contain findings of fact and rulings of law and are subject to appeal to the Workers' Compensation Board, Court of Appeals and Supreme Court.



Benefit review conferences and hearings are held at the 13 hearing sites in Kentucky maintained by the Department of Workers' Claims. These hearing sites are located in Ashland, Bowling Green, Florence, Frankfort, Hazard, Lexington, London, Louisville, Madisonville, Owensboro, Paducah, Pikeville and Pineville.

During the past fiscal year, the ALJs conducted 4,487 benefit review conferences. A substantial number of those cases were settled. Formal hearings were held in the remainder. The ALJs conducted 2,134 formal hearings and issued 1,735 opinions. The ALJs also participated in two training sessions and attended

and/or made presentations to various seminars and groups on workers' compensation topics.

Summary of FY 2009-2010 Published Kentucky Supreme Court Workers' Compensation Cases

Baptist Hospital East v. Possanza, 298 S.W.3d 459 (Ky. 2009)

Subject: KRS 342.165(2) False Representation

KRS 342.165(2) codifies Divita v. Hopple Plastics, 858 S.W.2d 214 (Ky. App. 1993), requiring proof of three factors: a knowing and willing false representation as to physical condition or medical history; employer reliance on the false representation; and a causal connection between the false representation and the claimed injury. The causal connection prong is not satisfied by proof; the employer would not have hired the employee absent the misrepresentation.

Sweasy v. Wal-Mart Stores, Inc., 295 S.W.3d 835 (Ky. 2009)

Subject: KRS 342.730(1)(d)

The compensable period for permanent partial disability benefits begins on the date the impairment and disability arise, without regard to the date of maximum medical improvement, the worker's disability rating or the period of income benefits.

Radco Asbestos Specialists, Inc. v Lyons, 295 S.W.3d 75 (Ky. 2009)

Subject: KRS 342.125 Reopening

As used in KRS 342.125, the "period of an award" includes the period of any medical and income benefits awarded. Although KRS 342.730 provides income benefits for periods of 425 or 520 weeks, KRS 342.020(1) entitles an injured worker to medical benefits "during disability," a period extending for so long as an injury causes impairment as defined in the *AMA Guides*.

Bradley v. Com. 301 S.W.3d 27 (Ky. 2009)

Subject: Uninsured Employers' Fund

KRS 342.760(1) and KRS 342.790 hold the UEF responsible for an uninsured employer's entire liability for income benefits, including interest on past-due benefits, and permit the UEF to recover liquidated damages from the employer with interest.

Vacuum Depositing, Inc. v. Dever, 285 S.W.3d 730 (Ky. 2009)

Subject: Work-relatedness

When a worker alleges an unexplained workplace fall, the fall is presumed to be work-related under Workman v. Wesley Manor Methodist Home, 462 S.W.2d 898 (Ky. 1971), unless the employer proves a non-work-related cause. Unexplained falls ultimately divide into two categories: 1) those the employer has shown resulted from a personal or idiopathic cause but which may be compensable under the positional risk doctrine; and 2) those that remain unexplained and entitled to a presumption of work relatedness. Evidence the worker was clumsy and wearing high heels when she fell did not support a conclusion the fall was idiopathic rather than unexplained.

Summary of FY 2009-2010 Published Kentucky Supreme Court Workers' Compensation Cases

Belsito v. U-Haul of Kentucky, 313 S.W.3d 549 (Ky. 2010)

Subject: Procedure

The failure to serve the Workers' Compensation Board with a copy of a petition for review as required by CR 76.25(8) warranted dismissal of the appeal to the Court of Appeals. A tardy petition for review is subject to automatic dismissal and cannot be saved through the doctrine of substantial compliance.

Styles v. Elkhorn Truck Service, 313 S.W.3d 552 (Ky. 2010)

Subject: KRS 342.730(4)

KRS 342.739(4) is unambiguous in limiting income benefits to two years for claimants who have qualified for normal old age Social Security retirement benefits. The two year limit applies regardless of whether the income benefits are for temporary total disability, permanent total disability, permanent partial disability or a combination of income benefits.

Claims Processing & Appeals

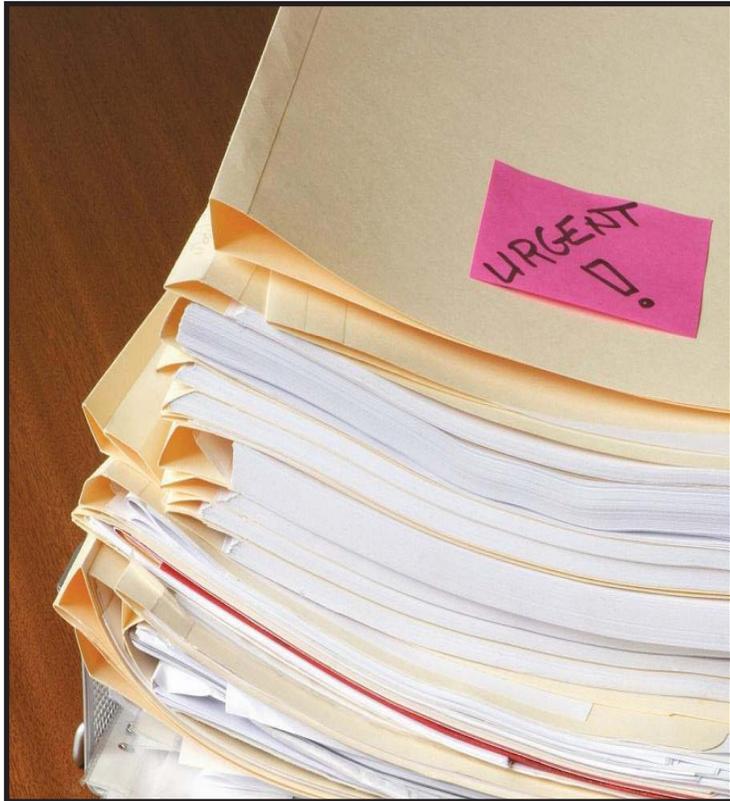
The **Division of Claims Processing and Appeals** provides support to the Administrative Law Judges and the Workers' Compensation Board. The key responsibilities of this Division includes the timely processing and assignment to the Administrative Law Judges of Applications for Resolution of Injury Claims (Form 101), Coal Workers' Pneumoconiosis/Black Lung, all other Occupational Disease (Form 102), (Form 102 CWP), and Hearing Loss (Form 103). Additionally, staff processes widow's benefits, pre-litigation agreements and appeals from decisions of the Administrative Law Judges to the Workers' Compensation Board, Court of Appeals and Supreme Court.

Once a claim application has been filed with the Department of Workers' Claims, the cases are prepared and sorted into regions based upon where the plaintiff resides. It is the Division's responsibility to ensure that all parties are notified that the claim has been assigned to an Administrative Law Judge and scheduled for a Benefit Review Conference at one of the 13 hearing sites, operated by the Department of Workers' Claims. This conference is an informal meeting for the parties to define and narrow the issues of the case, discuss settlement options and consider other relevant matters that may aid in the resolution of the case.



Claims Branch

The Division of Claims Processing and Appeals wishes to take the mystery out of the claims process and to continually improve our services. In an effort to achieve these goals, we have modified the web site <http://www.labor.ky.gov/workersclaims/claimsprocessing/>: to include a directory of our division with direct lines and email addresses; to provide an overview of each section with their specific duties; to answer the most frequently asked questions; and to make available the necessary forms for filing.



When it becomes necessary to file a workers' compensation claim, the **Division of Claims Processing and Appeals** is the beginning point for these claims. It also processes many transactions that must occur on the claim's path to resolution, and is the repository for the closed file. The Division consists of four sections: **Agreement Section**, **Claims Review Section**, **Claims Assignment Section** and **Appeals Section**. The following data for fiscal year 2009-2010 is accompanied by a brief narrative of each section's duties and obligations.

The **Agreement Section** receives and processes all pre-litigation agreements, lump sum settlements, and motions to substitute party for widow's

benefits. Motions and agreements are prepared on a daily basis for submission to the Frankfort agreement docket for rulings to be made by the Chief Administrative Law Judge (CALJ). Section staff received and processed 4,138 pre-litigated agreements; 579 unassigned litigated claim/reopening agreements (medicals and lump sums of remaining benefits); and 151 motions to substitute party/widow's benefits.

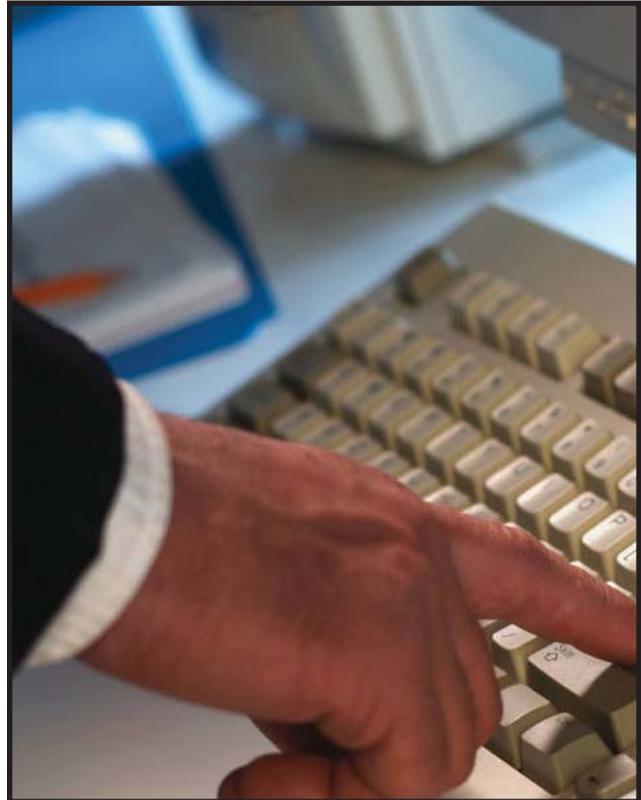
The **Claims Review Section** mainly focuses on the routing and preparation work involved in the processing of an Application for Resolution claim filing. This procedure includes insurance coverage research and verification through our insurance database system. In this fiscal year, there were 3,904 new claim filings of Applications for Resolution of Injury (Form 101), Occupational Disease (Form 102, 102-CWP) and Hearing Loss (Form 103), the vast majority being "Injury" claims – numbering 3,587.

The **Claims Assignment Section** responsibilities begin with the assignment of new claims, older claims that have been reopened by order from the Frankfort motion docket and medical fee disputes. Other duties include: routing of motions on unassigned files to and from the motion docket; court reporter and hearing site scheduling; x-ray and exhibit custodian; and the auditing and purging of the completed file once final decisions have been rendered and the time for appeal to the Board has expired. In fiscal year 2009-2010, there were 4,715 new/reopened claims assigned to ALJ's for a benefit review conference. This number includes 1,040 cases from the motion docket. Files returned for auditing and purging from the ALJ offices numbered 4,007.

The **Appeals Section** is the other major area of concentration within this division. The final awards, orders and decisions from the Administrative Law Judges that are challenged must pass through this section to verify timeliness of filings, completeness of records, indexing, scheduling and certification – all in preparation for the Workers' Compensation Board's (WCB) review and judgment. If the appeal continues beyond the board, section staff readies the files for the Court of Appeals and, if necessary, the Supreme Court. Motions are tracked daily and a docket is prepared weekly. The Appeals Section processed 323 appeals to the WCB during this fiscal year.

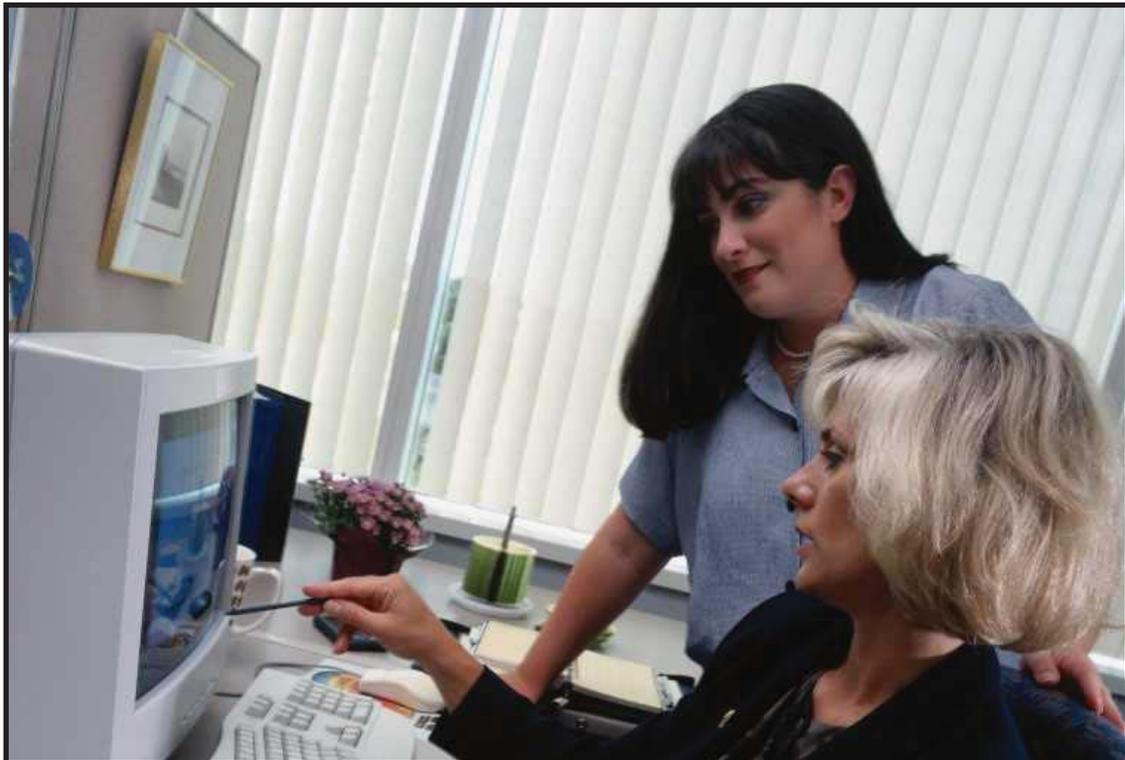
The Board issued a total of 309 opinions. Chairman John Gardner prior to his departure of the Board rendered 42 opinions; the newly named Chairman Michael Alvey authored 58 opinions; Board Member Bruce Cowden rendered 103 opinions and Board Member Franklin Stivers issued 106 opinions. A total of 389 cases were completed by the WCB during this fiscal year, either by opinion or final order. One hundred petitions for review were filed with the Kentucky Court of Appeals. Staff prepared, indexed and transferred 78 records to the Court of Appeals, with the court rendering 88 opinions and 6 final orders. Additionally, there were 46 appeals to the Kentucky Supreme Court, with the court rendering 22 opinions and 6 final orders during this fiscal year.

The Judicial appointment changes within the 2009-2010 year are as follows: Chairman John Gardner's term expired January 4, 2010; Chairman Michael Alvey's term began effective January 5, 2010.



Information and Research

The duties of the Division of Information and Research include collection, storage and retrieval of data and the dissemination of information. The Division of Information and Research is organized into two branches, Records and Imaging. The Records Branch is primarily responsible for data entry, Electronic Data Interchange (EDI), coding, publications, specific data extrapolation associated with open records requests and ensuring the validity and integrity of the DWC's databases. The duties of the Imaging Branch consist of imaging and verifying all hard copy documents as well as indexing them into the DWC's integrated information and optical image system. The Imaging Branch also responds to requests for claim and first report information as well as production of records in response to open records requests.



Records Branch

The **Records Branch** is a fundamental part of the Department of Workers' Claims (DWC) and is divided into three sections: Data Entry, Electronic Data Interchange (EDI) and the Research Section. These sections combine to ensure reliability, accuracy and integrity within the data that is submitted to the DWC.

The **Data Entry Section** receives and processes incoming mail, sorting and counting by document type. This section receives the majority of the documents filed with the Department. The section staff is charged with analyzing orders and opinions prepared by the Administrative Law Judges (ALJs) and pleadings filed by attorneys. The staff updates the database with numerous status codes to ensure the claim is in the proper disposition as these status codes are used by Department personnel to ensure quality assistance to claimants, attorneys, employers and carriers. During this reporting period, the Data Entry Section received 95,269 pieces of mail, 28,759 orders and 1,761 awards from the ALJ's, as well as 4,222 docket orders. Each document received in the section receives personal attention to ensure data quality.

The Electronic Data Interchange (EDI) system is used by carriers and self-insured employers to report data electronically. The information transferred via EDI is monitored by the **EDI Section**. This information is used for tracking purposes and as system triggers for the issuance of statute of limitations letters based on the date of injury, last receipt of temporary total disability benefits or date of death, whichever is pertinent per transmission. Information compiled by this section is utilized by the Department as the claim progresses throughout the adjudication process. During this fiscal year, the EDI Section received 32,260 first reports through the EDI system. EDI numbers include 00s, 04s and AUs prior to manual rejections for inaccurately reported information such as 'unknown'. The EDI Claims Release 1.0 version has been used by Kentucky since 1996. In an effort to refine EDI reporting and adhere to the national standards for EDI workers' compensation claim reporting set by the International Association of Industrial Accident Boards and Commissions (IAIABC), Kentucky plans to implement EDI Claims Release 3.0 on February 1, 2011. Please visit the department web site for updates as the migration progresses at www.labor.ky.gov/workersclaims.

Attorney Fees Awarded During FY 2009-2010

	Number of Fees Approved	Total Fees Awarded	Average Fee
Plaintiff	4,215	\$25,898,934.63	\$6,144.47
Defense	2,834	\$23,018,669.16	\$8,122.33

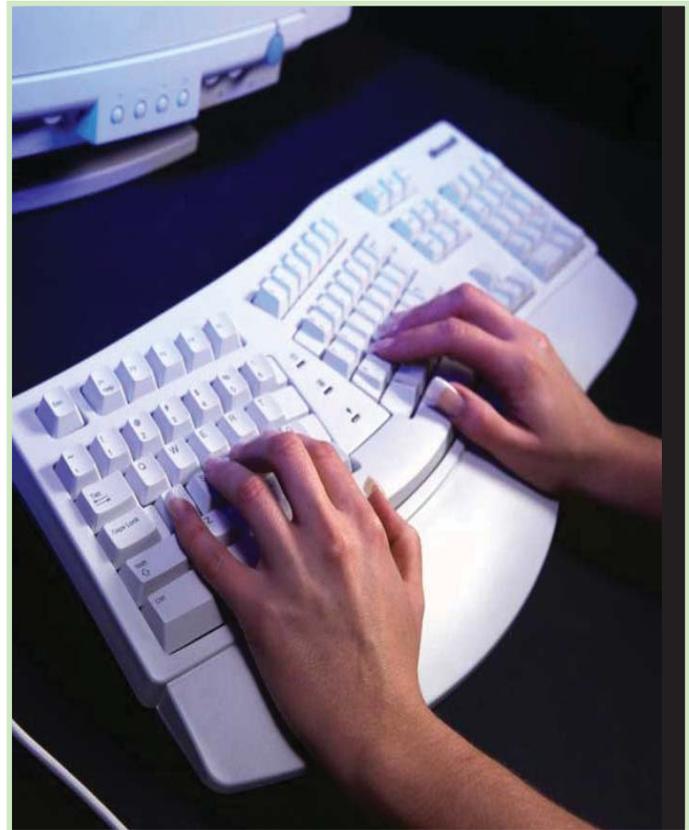
The Research Section collects, reviews and compares information pertinent to workers' compensation and the Kentucky Department of Workers' Claims. Specialized queries are developed to extract data from the Department's database system. Research staff is familiar with the tables contained within the database. Detailed coding, current and historical, is used to identify each document utilized through the claims process, thus allowing specialized reports to be generated for analysis within the Section.

The Department of Workers' Claims Annual Report, the Link (Quarterly Activity Report) and the Workers' Compensation Guidebook are a few examples of the publications designed and developed by the Research staff. All of the current publications are being printed and bound in-house on an as-needed basis in an effort to be cost efficient. The agency publications are essential in providing constituents and the general public with the knowledge necessary to understand and utilize the workers' compensation system.

Statistical information is requested from a multitude of sources such as government entities, health care representatives, attorneys, the media, legislators and private individuals. Data gathered by the research staff is used for assisting in filing a claim, preparation of safety/training programs and updating state and national data banks. Information sharing agreements are in place with a variety of state agencies, i.e. Medicaid, Revenue, Retirement and the Department of Insurance.

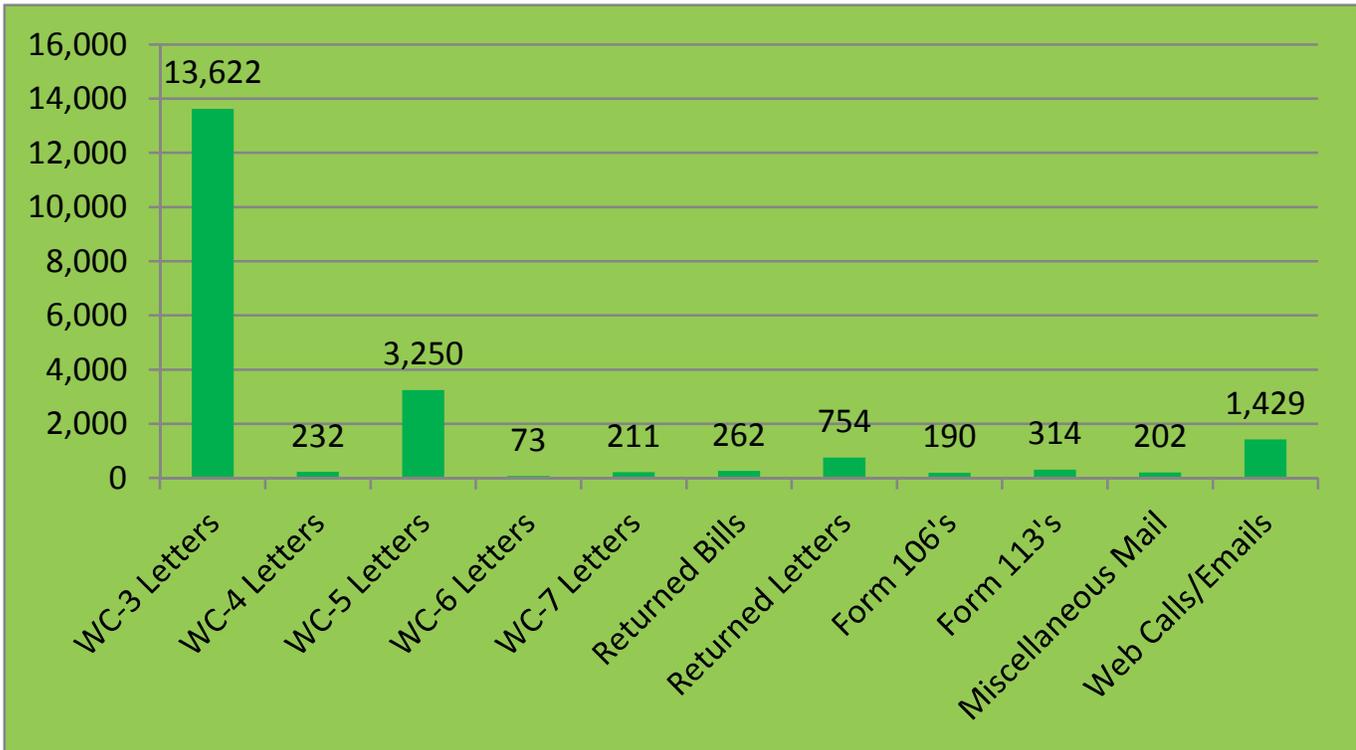
The Research Section maintains and manages the agency web site. Research staff serve as webmaster for inquiries from the web site and provide the requestor with information, answers to their questions or forwards the request to appropriate personnel for response. Section staff also create PowerPoint presentations for DWC personnel for conferences, speeches, and seminars.

The Research Section continues to focus on insurance carrier performance. Reports are generated on timely filing of first reports, initial payment of benefits and termination of benefits. Using analysis of information submitted electronically through the agency's Electronic Data Interchange (EDI) system by the insurance carrier, section staff was able to process reports for 31 different insurance carriers this fiscal year.



During this time period, the Research staff processed statute letters (WC letters) and returned mail. WC letters are sent out for a variety of reasons: benefits terminated, untimely filing, denials and fatality letters. The mail totals for this fiscal year are outlined in the following chart.

Distribution of Mail - Research Section



- WC-3 Letter generated as a result of a report of suspension of benefits (filed timely).
- WC-4 Letter generated as a result of a report of suspension of benefits (filed un-timely).
- WC-5 Letter generated as a result of a report of denial (filed timely).
- WC-6 Letter generated as a result of a report of denial (filed un-timely).
- WC-7 Letter generated as a result of a report of a fatality - mailed to the family of the deceased.

The Imaging Branch

The Imaging Branch is comprised of two sections: Scanning and Open Records. The Scanning Section is responsible for scanning and verifying all hard-copy documents and indexing them into the agency's integrated imaging system. Effective February 1, 2010, the responsibility of entering data into the Simba database was moved from the Scanning Section to the Data Entry Section. The change was also made to expedite file distribution to the Administrative Law Judges. Therefore, scanning staff sort the ALJ mail and prepare it for distribution. This fiscal year, 218,539 documents equaling 1,669,662 pages were scanned. Micrographics equipment is located within the branch's office and is available for use by agency staff as well as the general public. The number of microfilm pages printed from these machines during this time period totaled 124,928. Other responsibilities of this branch include document retention and destruction. All documents are maintained in accordance with the Department for Library and Archives retention schedule.



The Open Records staff are charged with the responsibility of responding to requests for claim and first report information pursuant to KRS 61.872(2). Requests for prior claim history are received from a variety of outside parties, including attorneys, insurance carriers, employers, the Social Security Administration and general public. The Department of Workers' Claims open records process migrated to a pre-pay system. As provided in KRS 61.874(1) the custodian may require advanced payment of prescribed fee, including postage. The Commissioner and Official Records Custodian of the DWC implemented this process January 1, 2010.

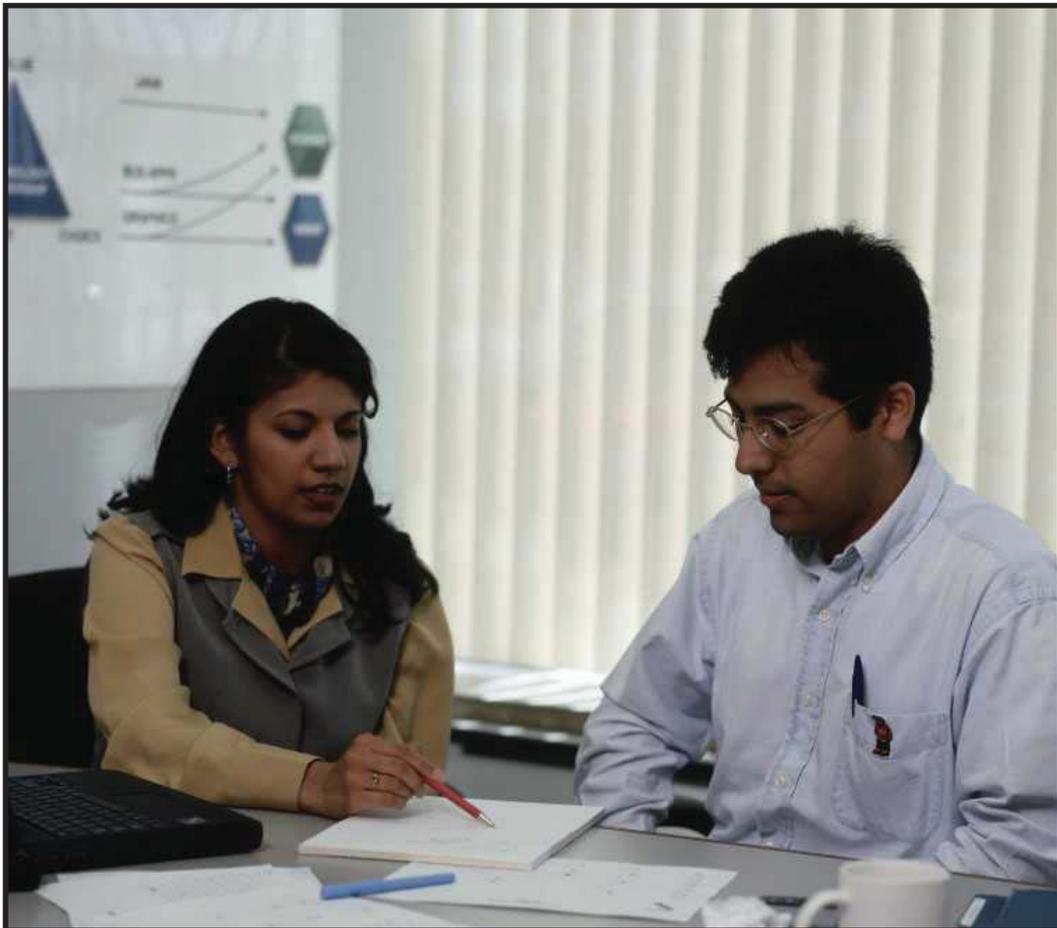
Those individuals submitting open records requests first receive a cost estimate according to the volume of records requested and the medium by which they are produced. Open Records fees remain at \$0.10 per photocopied page and \$0.50 per microfilmed page. When payment is remitted, the records are forwarded to the requesting party.

During the 2009-2010 fiscal year, 12,259 written requests, 11 walk-in requests and 666 requests from the Social Security Administration were received. In addition to producing hard copy records, oral testimony and certifications are also provided by this section upon request. Available to prospective employers through the Open Records Section is a service of pre-employment screening. Pre-employment requests are only granted after the Department of Workers' Claims has received a written request, accompanied by a signed employee authorization form. Pre-employment inquiries totaled 15,854, coming in as the most frequently requested material. Open Records collected \$116,675.59 this fiscal year.

Pursuant to KRS 150.170, the Open Records Section also verifies workers' compensation awards for the Department of Fish and Wildlife for individuals applying for free hunting and fishing licenses. This reporting period, there were 18 applications processed.

Security & Compliance

The focus of the Division of Security & Compliance is to ensure that non-exempt employers maintain workers' compensation coverage for their employees. This division is comprised of three branches. **The Self-Insurance Branch** audits the individual self-insured employers' claim files, monitors their financial strength and determines the surety requirements necessary to secure benefits for the self-insured employers' workforce. This branch provides analysis and recommendations concerning the propriety of self-insured status. **The Coverage Branch** maintains records to document proof of coverage for each insured Kentucky employer and provides certification on behalf of the department of that coverage. **The Enforcement Branch** investigates the status of Kentucky employers' insurance coverage through on-site visits to encourage compliance with the Workers' Compensation Act, ensuring that workers within the Commonwealth are protected in the event of a workplace accident.



Self-Insurance Branch

At the end of the fiscal year, there were 141 individual self-insured companies, six of which were on the self-insurance watch list.

One former self-insured company (Axia) declared bankruptcy during the year. No active self-insured companies declared bankruptcy.

The actuarial model used to establish surety amounts for the self-insured employers was reviewed for adequate development factors. The model uses factors that address financial strength of a self-insured and the degree of hazard to employees of a self-insured employer. The actuarial model is reviewed at least annually to ensure the accuracy and efficiency of the factors being utilized.

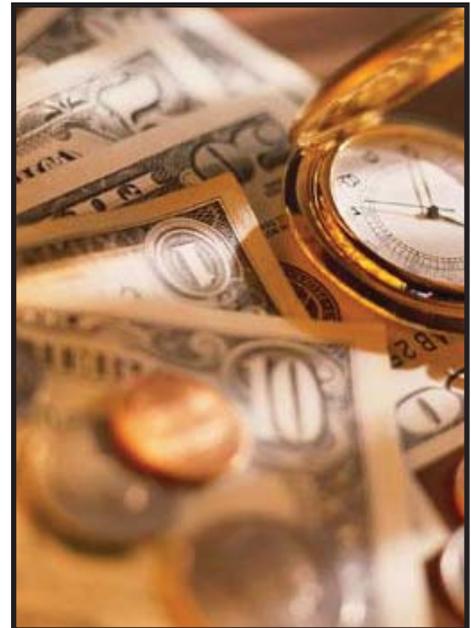
There were 142 surety requirement audits and 58 reserve audits conducted during fiscal year 2009-2010. The DWC continues to review the practices of the self-insured companies to assure that adequate reserves are being reported. In addition, reviews have been performed to assist the DWC in determining when a surety reduction requested by a former self-insured is or is not warranted.

Coverage Branch

The Coverage Branch receives information through the Electronic Data Interchange (EDI) documenting proof of workers' compensation coverage from each carrier and self-insured group fund, for employers covered by the Workers' Compensation Act.

An estimated 306 insurance companies, including the competitive state fund Kentucky Employers Mutual Insurance Company (KEMI), insured the Commonwealth's employers during this fiscal year. Carriers submit required Proof of Coverage information through one of the state-approved data collection agents. There are three (3) data reporters approved to submit proof of coverage: Workers' Comp-Link, Claimport (ISO) and National Council on Compensation Insurance (NCCI). Self-insured groups Kentucky Employers Safety Association (KESA) and Kentucky Association of General Contractors (KAGC) are approved for direct filing of Proof of Coverage.

Data is received by a master database maintained by the Coverage Branch. During the fiscal year, there were 474,689 POC transactions received from carriers and direct filers. The Policy Driven system process numbers are as follows: Auto Accepted 82% or 387,753 transactions; Auto Reject 13% or 63,613 transactions; and Unprocessed 5% or 23,327 transactions. Manual Process is the processing of the Auto Reject plus the Unprocessed. Transactions Manually Processed was 18% of the total transactions, or 86,940 transactions. Of the 86,940 transactions, 45% were accepted and 55% were rejected.



Total transactions Accepted for fiscal year, 90% or 426,952.
Total transactions Rejected for fiscal year, 10% or 47,738.

Fiscal year 2009-2010 is the first fiscal year for the policy driven system. To do a comparison of numbers with the fiscal year 2008-2009 which contained multiple historical files to build the data base, would not be a true indicator of the effectiveness of the policy driven system.

Certifications of coverage, monitoring of “Wrap-up” construction projects, registration of employee leasing organizations and other special projects complete the responsibilities that are part of normal day-to-day operations.

Enforcement Branch

The role of the Enforcement Branch is to ensure employers subject to the Workers’ Compensation Act provide workers’ compensation insurance. To facilitate timely compliance, enforcement officers make random on-site visits to Kentucky businesses to verify compliance. This is the most frequent type of contact. Officers also investigate leads generated by in-house personnel and complaints reported through various sources. Uninsured Employer Fund (UEF) claims are also investigated. In addition, the Branch encourages compliance through educational initiatives.

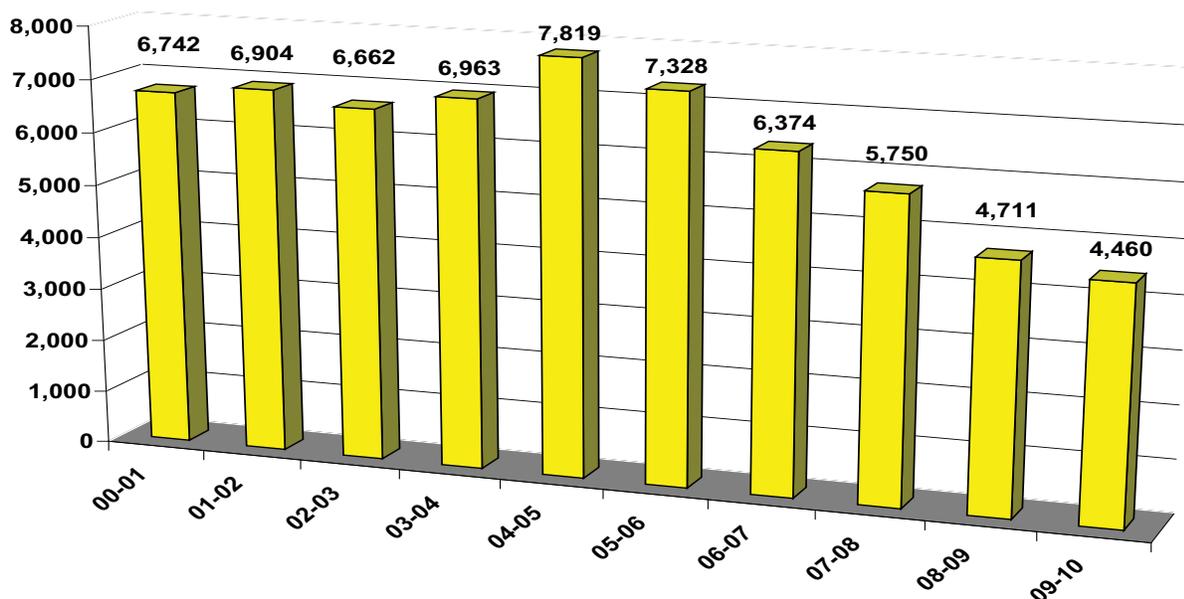
Enforcement officers are assigned to field offices across the state. They use mobile computers to record information at the point of contact and electronically transmit investigations to the Frankfort office. Employers found to be in violation are assigned to a citation docket for the Commissioner’s review. By statute, the Commissioner has the authority to issue citations with civil penalties to employers for failure to maintain coverage. The Branch then prepares and delivers the citations. Citations are processed and logged through the legal tracking system. Collected penalties are also recorded in this system. In accordance with the statute, penalties are forwarded to the Workers’ Compensation Funding Commission. When necessary, officers testify and present evidence in official proceedings. During this fiscal year, the Branch’s enforcement officers conducted 11,400 on-site investigations of Kentucky businesses. As a result, the Commissioner issued 1,015 citations to non-complying employers. The Branch processed \$1,703,578.15 in penalties. This includes penalties paid in full to the Branch and collections received from contested citations by our legal division. For comparative purposes, the following chart illustrates the number of investigations and citations issued to non-complying employers during the previous five years.

Investigation Analysis Fiscal Years 2005-2010

	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10
Number of Investigations	10,474	7,797	10,049	10,415	10,798	11,400
Number of Citations	1,142	1,052	1,000	966	979	1,015
Penalties Collected	\$737,755	\$1,192,471	\$1,362,754	\$1,061,323	\$1,533,629	\$1,703,578

The branch also has the responsibility to maintain the filing of Employee's Written Notice of Rejection of the Workers' Compensation Act (Form 4). An employee may waive the right to protection under the Act by filing this notarized form with the Department of Workers' Claims. In fiscal year 2009-2010, the Branch received and filed 4,460 Form 4s. The chart below shows the number of employees rejecting coverage for the past 10 fiscal years. Employees rejecting coverage remained relatively constant from 2001 through 2005. Those rejecting coverage consistently declined the past five fiscal years.

Employee's Written Notice of Rejection filed with the Department of Workers' Claims by Fiscal Year



Division of Ombudsman & Workers' Compensation Specialist Services



The Division of Ombudsman and Workers' Compensation Specialists provides a centralized source of information and assistance. The Medical Services Branch and Rehabilitation Services Section are included in this division.

This division maintains toll free telephone lines to assist citizens by answering questions, providing information and attempting to resolve conflicts. Information is also available on the Department of Workers' Claims web site at www.labor.ky.gov/workersclaims.

The Medical Service Branch's primary focus is on cost containment. This section oversees the approval of utilization review and managed care plans and maintains the hospital fee schedule and medical fee schedule for doctors. This section also schedules university and "B-reader" evaluations.

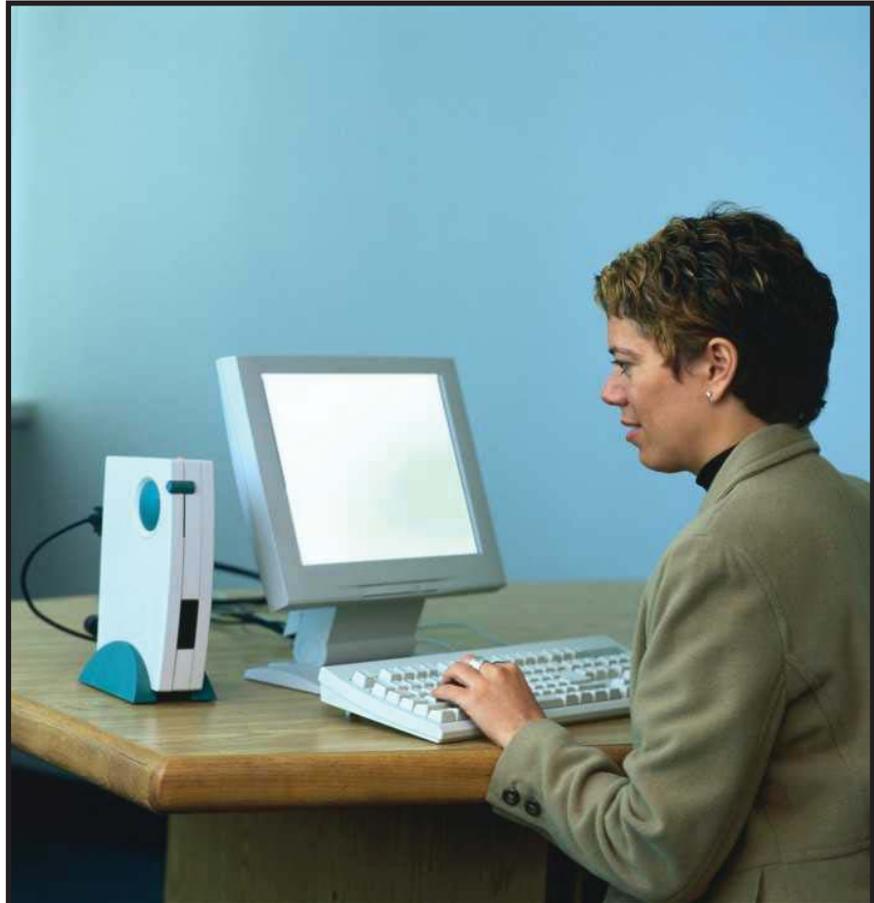
The Vocational Rehabilitation Services section includes retraining and job placement opportunities for the injured workers.

Ombudsman and Workers' Compensation Specialist Branch

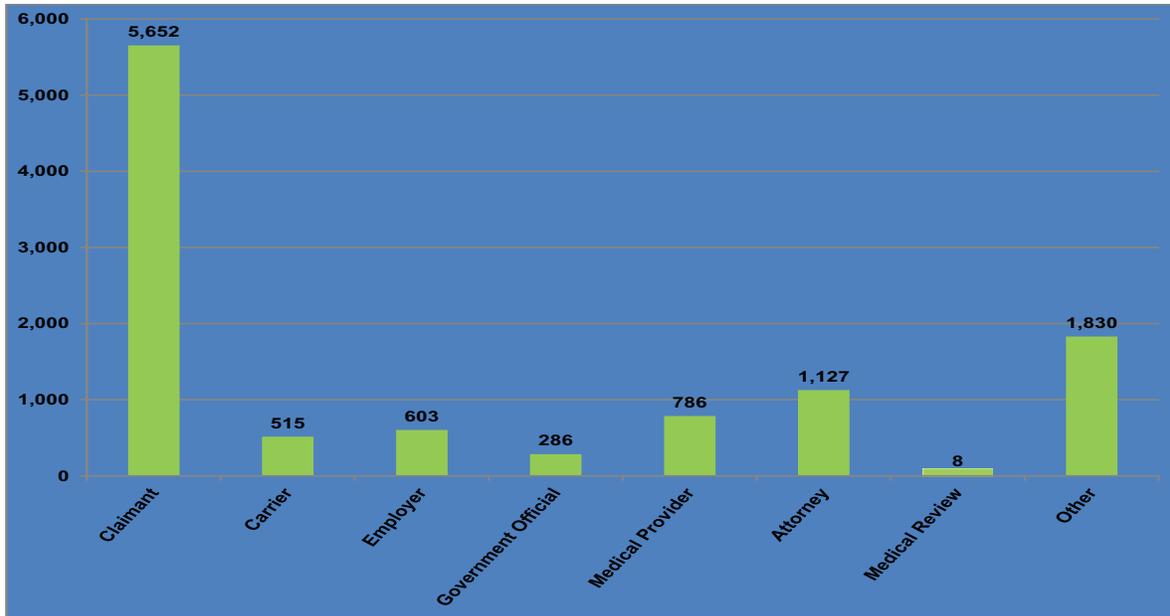
Established in 1994, the Ombudsman and Workers' Compensation Specialist Branch is now in its sixteenth year of operation. The Branch currently employs eight workers' compensation specialists throughout the state – seven in Frankfort and one in a branch office in Pikeville.

Toll-free telephone assistance is available to callers on all workers' compensation topics of interest to the public, including how to report or file a claim, dispute resolution, benefit information, rights and procedures and other related issues. This branch also responds to constituent services requests from lawmakers and attorneys.

The primary daily activity of the workers' compensation specialists is to assist in the prompt delivery of benefits. This is done by facilitating communication and exchange of information between the injured worker and claims adjusters, employers and medical providers. Care is taken to remain impartial in dealings with all parties.



During the 2009-2010 fiscal year, the Division of Ombudsman and Workers' Compensation Specialist Services continued to be proactive in providing assistance and information. They responded to 10,807 requests. Most requests for assistance were completed within a week of initial contact. The chart below reflects a breakdown on the sources of those requests.



Breakdown of Assistance

The table below outlines the subject matter of these requests. The category represented by 'Other' includes such things as the attorney of record, current mileage rate, carrier/insurance agent and questions of a general nature.

Topic	Number of Calls
Rights and Procedures	5130
Claims Status Request	1825
Coverage	543
Other	1771
Form Request	535
Referrals to Outside Agencies	570
First Report of Injury	99
Medical Fee Schedule	33
Claim Filing Assistance	98
Medical Fee Dispute	49
Utilization Review	25
Fraud	36
Managed Care	10
Rehabilitation	6

Drug-Free Workplace

803 KAR 25:280 sets forth the requirements for employers to obtain a certification of a drug-free workplace. These requirements include alcohol and substance abuse education and awareness training for employees and supervisors. All employees shall receive written material explaining the employer's policies and procedures with respect to the drug-free workplace program. All records of drug and alcohol test results written or otherwise received by the employer shall be confidential and shall not be disclosed by the employer.

This voluntary program allows employers to submit applications for certification to the Department of Workers' Claims. If the application is approved, the employer may be eligible for a 5% discount on their workers' compensation insurance premiums.

Currently, the Department of Workers' Claims has received 191 applications of which 125 were certified; of those, 72 were renewed.

Medical Services Branch

Cost containment and the administration of medically related services are the primary activities of this section of the Department of Workers' Claims. Responsibilities in this division this fiscal year included Managed Care, Utilization Review, Medical Bill Audit Plans, University Evaluations, "B" Reader Consensus Panel, Medical Fee Schedules and Cost Containment. The 2010 edition of the Kentucky Workers' Compensation Medical Fee Schedule for Physicians is currently in the legislative review process.

Managed Care Section

The Managed Care Section is responsible for overseeing the approval of and operations of Managed Care Programs (MCPs) in Kentucky. During fiscal year 2009-2010, there were 34 approved managed care programs in operation.

Workers' Compensation Managed Care is intended to enable employers to better regulate costs while also providing high quality medical care by utilizing gatekeeper and specialist physicians, permitting pre-certification of services, maintaining aggressive case management and ensuring coordination of medical treatment. Assistance was offered in response to over 580 inquiries regarding managed health care plans during this time period.

Approximately 36% of Kentucky's workforce (excluding agriculture) participated in workers' compensation MCPs this year. The 34 MCPs that were operational covered approximately 3,982 employers and 662,560 employees.

Managed Care Plans

Fiscal Year	Number of Kentucky Jobs	Covered Employees	Percent in MC
1997-1998	1,753,400	721,964	41%
1998-1999	1,795,800	681,213	38%
1999-2000	1,824,500	542,764	30%
2000-2001	1,804,700	600,522	33%
2001-2002	1,786,100	531,731	30%
2002-2003	1,782,900	499,038	28%
2003-2004	1,898,952	647,318	34%
2004-2005	1,878,341	783,077	42%
2005-2006	1,922,163	699,266	36%
2006-2007	1,944,983	700,194	36%
2007-2008	1,902,517	808,375	42%
2008-2009	1,878,891	812,226	43%
2009-2010	1,862,872	662,560	36%

Fee Schedules

Mandated by statutory requirements and implemented as a cost-containment measure, the reimbursement fee schedules are routinely updated and distributed by the Department of Workers' Claims. These fee schedules set the maximum limits physicians and hospitals can be paid for treatment or services related to workers' compensation injuries.

Physicians Fee Schedule

The 2010 Kentucky Medical Fee Schedule, when implemented, will supersede all prior fee schedules. It governs physician charges in Kentucky Workers' Compensation cases, utilizing updated coding (2010 CPT codes), procedure description updates, revised reimbursement values and ground rules. The 2010 edition of the Kentucky Workers' Compensation Medical Fee Schedule for Physicians has entered the regulatory approval process.

Hospital Fee Schedule

The hospital fee schedule (cost-to-charge ratio) governs the reimbursement for hospital charges in workers' compensation claims and these ratios are modified effective on April 1st of each year. Calculations are determined by using applicable figures taken from each facility's cost report (HCFA-2552) on file with the Cabinet for Health and Family Services. The Department of Workers' Claims promulgated the cost-to-charge ratio for 114 hospitals in FY 09-10. Out-of-state facilities, by regulation, are reimbursed in the same manner as Kentucky hospitals.

Utilization Review/Medical Bill Audit

Utilization Review/Medical Bill Audit is governed by 803 KAR 25:190 and is a review of the medical necessity and appropriateness of medical treatment and services. It was implemented as a cost-containment measure and for managing quality assurances in the delivery of medical services to injured workers.

Workers' compensation claims are automatically selected for utilization review when they meet the following criteria:

- Upon a medical provider's request for pre-authorization
- Upon notification of a surgical procedure
- When total medical costs exceed \$3,000
- When total lost work days exceed 30
- An Arbitrator or Administrative Law Judge orders a review

University Evaluations

During the 2009-2010 fiscal year, there were a total of 282 claims that were referred for university evaluations. Of those, 193 were scheduled at the University of Kentucky and 89 at the University of Louisville. Timely scheduling of university evaluations by the universities and preparing and sending reports are elements that are critical to the success of the program.

As mandated by KRS 342.315, the Department of Workers' Claims has contracted with the University of Kentucky and the University of Louisville medical schools to perform evaluations of employees with workers' compensation claims.

Occupational disease and hearing loss claims are referred for evaluations upon the filing of a claim for benefits. In injury claims, an Administrative Law Judge may order evaluations on their own order or upon request by the plaintiff or defendant.

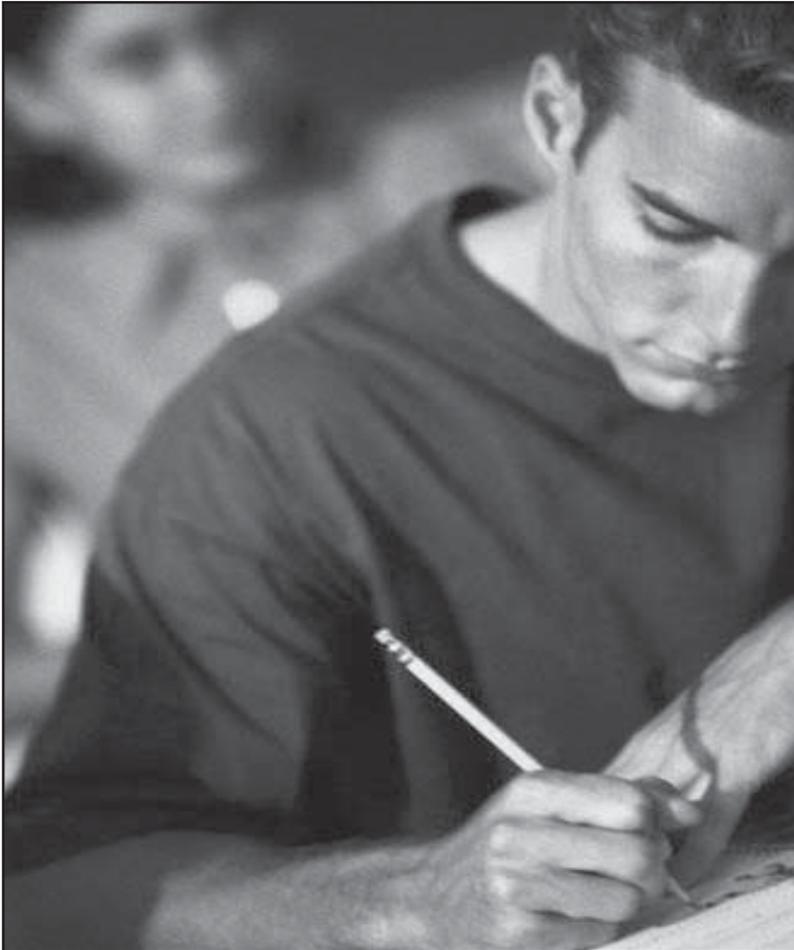
Examinations Scheduled from 7/1/2009 - 6/30/2010

	<u>University of Kentucky</u>	<u>University of Louisville</u>	<u>TOTAL</u>
Injury Claims	19	53	72
Hearing Loss Claims	158	14	172
Pulmonary Claims	16	22	38
Total	193	89	282

B-Reader Consensus Panel and Black Lung

Black Lung claims (coal-related occupational pneumoconiosis) require a chest x-ray interpretation by a National Institute of Occupational Safety and Health (NIOSH) certified “B” reader. If the interpretations filed by each party are not in consensus, the claim is forwarded for panel processing. In 2009-2010, there were 69 Black Lung claims referred for the panel process. The Department of Workers’ Claims is required to maintain a list of certified “B” readers. Medical Schedulers are responsible for processing the random selection of “B” readers, sending x-rays to the chosen panel of three and recording and maintaining all reports. A court of appeal opinion issued in April 2010 found aspects of this system in violation of

the Kentucky Constitution. As a result, referrals to the panel have been halted pending the decision of the Supreme Court.



Vocational Rehabilitation Section

KRS 342.710 provides retraining benefits for those who are unable to perform work for which they have previous training or experience because of the effects of work-related injuries.

In FY 2009-2010, the **Vocational Rehabilitation Section** opened 91 new cases. Of these, 77 were ordered by an Administrative Law Judge. Twelve claimants are in training at this time.

The focus of today’s Rehabilitation Section is early identification of vocational rehabilitation candidates.

Injured workers seeking vocational rehabilitation may be referred for a vocational evaluation and can be tested in one of 14 authorized Vocational Evaluation Facilities located throughout the state.

Publications



Why not change your direction?

There are many avenues open to coal miners who are ready to leave the mines. If you have been awarded retraining incentive benefits there are numerous training/education routes available, you may even receive income benefits while you continue your education, plus possible bonuses upon completion. If you are ready to strike out in a new direction you should...

Explore new opportunities!

Call the Department of Workers' Claims at 1-800-554-8601

Classes are available across the state!

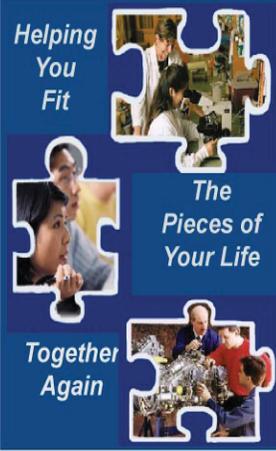
For more information on post secondary educational programs in your area contact:

Kentucky Higher Education Assistance Authority 1-800-928-8926 www.kheaa.org	Kentucky Community and Technical College System 1-877-528-2748 www.kctcs.net
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These publications may be accessed through the agency Web site at <http://www.labor.ky.gov/workersclaims> or by calling the Department of Workers' Claims at 800-554-8601.

Coal Workers' Pneumoconiosis Poster

Kentucky Department of Workers' Claims



Helping You Fit

The Pieces of Your Life

Together Again

An Injured Worker's Guide to Vocational Rehabilitation

Vocational Rehabilitation Brochure



Kentucky 2008
UNBRIDLED SPIRIT

Guidebook to Workers' Compensation

Workers' Compensation Guidebook

SCHEDULE OF WEEKLY WORKERS' COMPENSATION BENEFITS

**TYPE OF DISABILITY
SECTION OF STATUTE**

FOR INJURIES OCCURRING

	01-01-06 thru 12-31-06	01-01-07 thru 12-31-07	01-01-08 thru 12-31-08	01-01-09 thru 12-31-09	01-01-10 thru 12-31-10	01-01-11 thru 12-31-11
APPLICABLE AVERAGE WEEKLY WAGE OF THE STATE	\$631.22 (2004)	\$646.47 (2005)	\$670.02 (2006)	\$694.30 (2007)	\$711.79 (2008)	\$721.97 (2009)

DEATH (KRS 342.750)

a. Widow or widower with no children-50% of average weekly wage of deceased-subject to the following:						
MAXIMUM	\$315.61	\$323.24	\$335.02	\$347.16	\$355.91	\$361.00
MINIMUM	126.24	129.29	134.00	138.86	142.36	144.40
b. Widow or widower with children living in the home-45% of average weekly wage of deceased, plus 15% for each child-subject to the following:						
MAXIMUM	\$473.42	\$484.85	\$502.51	\$520.72	\$533.84	\$541.47
MINIMUM	126.24	129.29	134.00	138.86	142.36	144.40
c. Widow or widower with children not living in home-40% of average weekly wage of deceased, plus 15% for each child-subject to the following:						
MAXIMUM	\$473.42	\$484.85	\$502.51	\$520.72	\$533.84	\$541.47
MINIMUM	126.24	129.29	134.00	138.86	142.36	144.40
d. One child, no widow or widower-50% of average weekly wage of deceased-subject to the following:						
MAXIMUM	\$315.61	\$323.24	\$335.02	\$347.16	\$355.91	\$361.00
MINIMUM	126.24	129.29	134.00	138.86	142.36	144.40
d(1)More than one child, no widow or widower-50% of average weekly wage of deceased for the first child with an additional 15% of average weekly wage of deceased for each additional child-subject to the following:						
MAXIMUM	\$473.42	\$484.85	\$502.51	\$520.72	\$533.84	\$541.47
MINIMUM	126.24	129.29	134.00	138.86	142.36	144.40
e. Dependent parents-25% of average weekly wage of deceased to each parent-subject to the following:						
MAXIMUM	\$473.42	\$484.85	\$502.51	\$520.72	\$533.84	\$541.47
MINIMUM	126.24	129.29	134.00	138.86	142.36	144.40
f. Dependent brothers, sisters, grandparents and grandchildren-25% of average weekly wage of deceased to each dependent-subject to the following:						
MAXIMUM	\$473.42	\$484.85	\$502.51	\$520.72	\$533.84	\$541.47
MINIMUM	126.24	129.29	134.00	138.86	142.36	144.40

The above is subject to the maximum of 75% of the average weekly wage of the deceased.

SCHEDULE OF WEEKLY WORKERS' COMPENSATION BENEFITS

**TYPE OF DISABILITY
SECTION OF STATUTE**

FOR INJURIES OCCURRING

	01-01-06 thru 12-31-06	01-01-07 thru 12-31-07	01-01-08 thru 12-31-08	01-01-09 thru 12-31-09	01-01-10 thru 12-31-10	01-01-11 thru 12-31-11
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**LUMP SUM DEATH BENEFIT
INCREASE KRS 342.750(6)**

	\$62,002.42	\$63,500.37	\$65,813.60	\$68,198.54	\$69,916.52	\$70,916.46
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**TEMPORARY AND PERMANENT
TOTAL KRS 342.730(1)(a)**

66 2/3% of average weekly wage of employee-subject to the following:

MAXIMUM	\$631.22	\$646.47	\$670.02	\$694.30	\$711.79	\$721.97
MINIMUM	126.24	129.29	134.00	138.86	142.36	144.40

RETRAINING INCENTIVE BENEFITS

KRS 342.732(1)(a) 66 2/3% of average weekly wage of employee-subject to the following:

MAXIMUM	\$473.42	\$484.85	\$502.51	\$520.72	\$533.84	\$541.47
MINIMUM	NONE	NONE	NONE	NONE	NONE	NONE

**PERMANENT PARTIAL
FOR INJURIES OCCURRING
AFTER 12-11-96**

KRS 342.730(1)(b), (1)(c)2,&(1)(d)

99% of 66 2/3% of average weekly wage of employee subject to the following:

MAXIMUM	\$473.42	\$484.85	\$502.51	\$520.72	\$533.84	\$541.47
MINIMUM	NONE	NONE	NONE	NONE	NONE	NONE

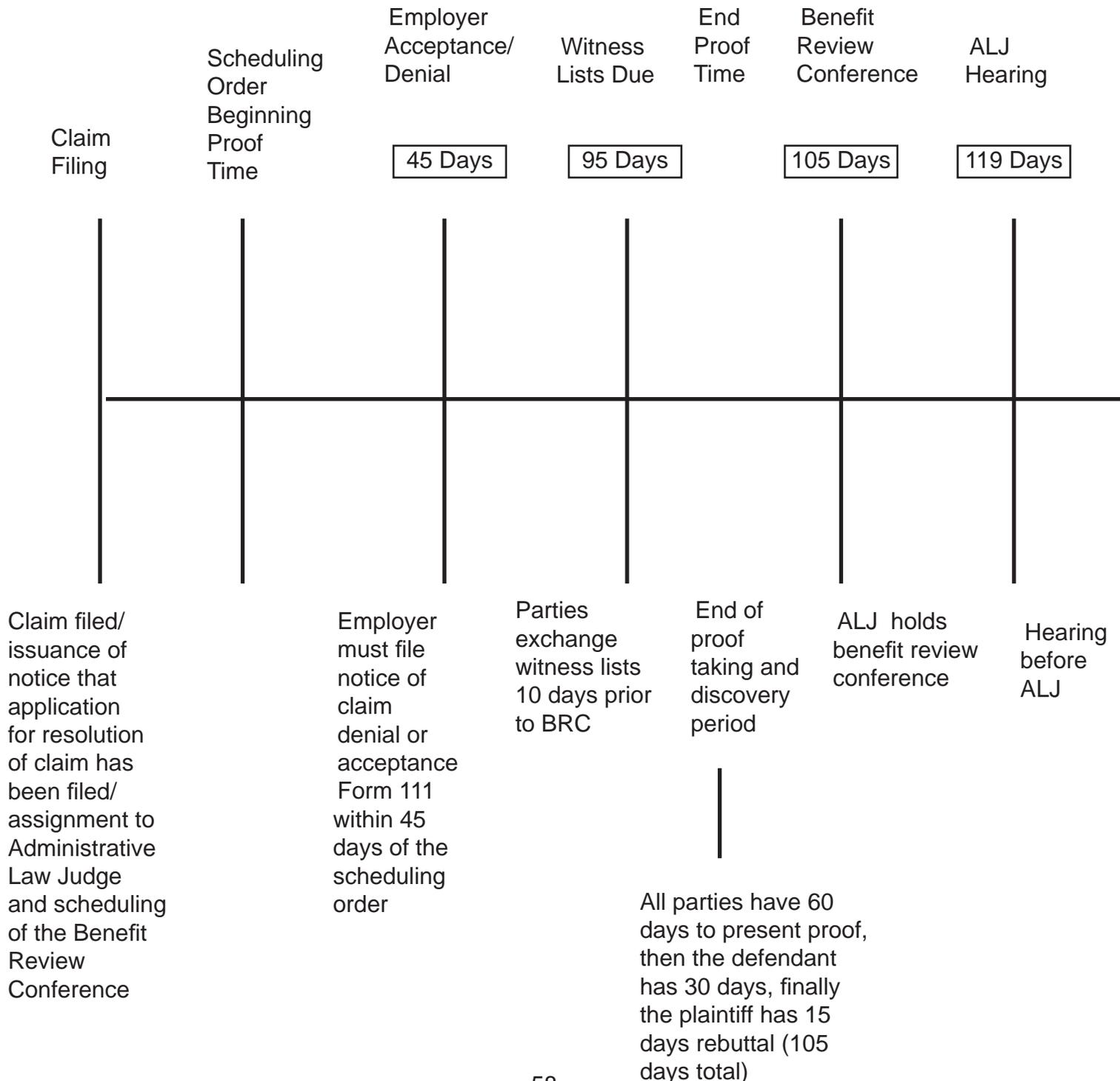
**PERMANENT PARTIAL
FOR INJURIES OCCURRING
AFTER 12-11-96**

KRS 342.730(1)(c)1,& (1)(d)

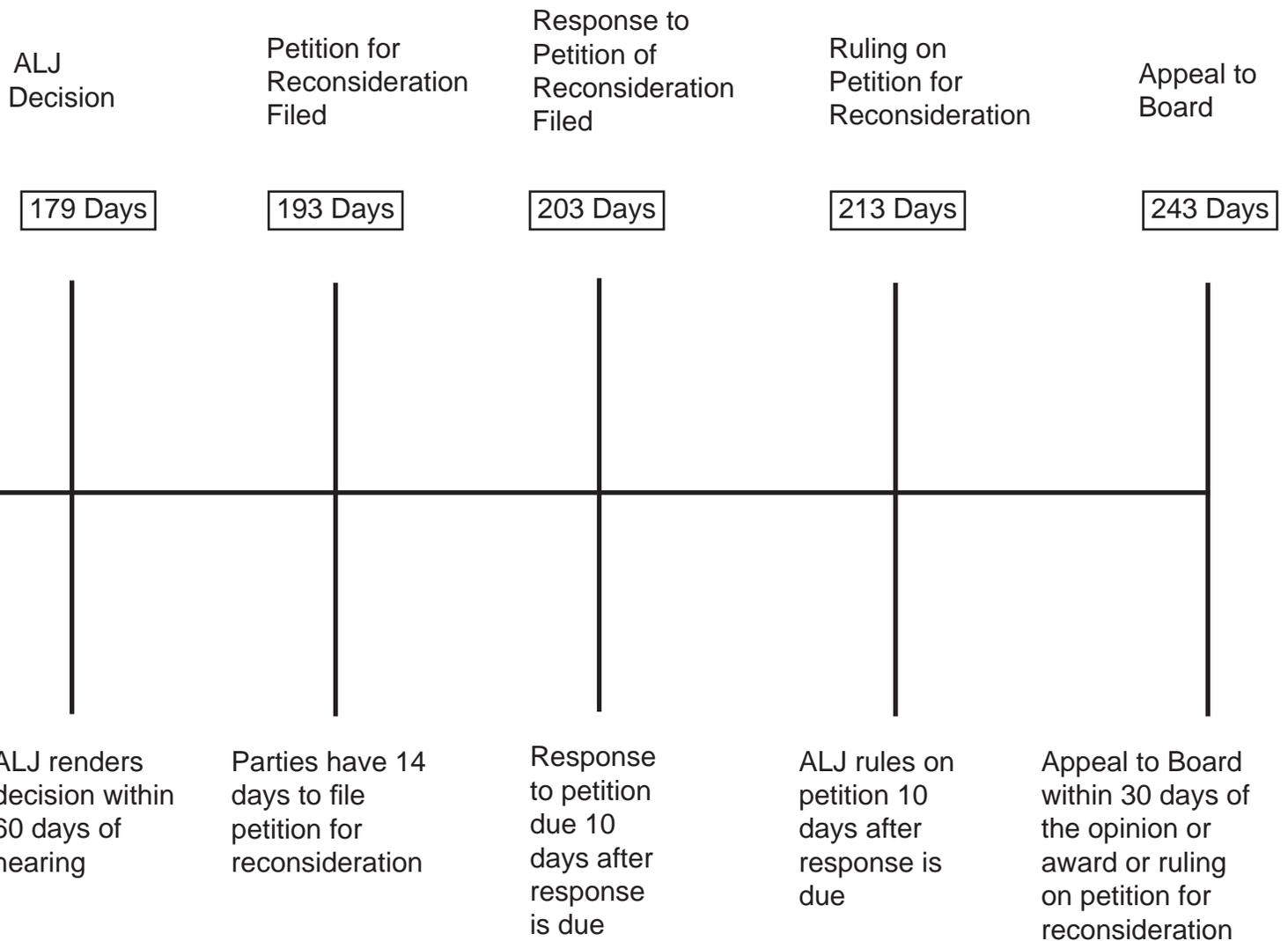
When the employee does not retain physical capacity to return to type of work performed at time of injury- 99% of 66 2/3% of average weekly wage of employee subject to the following:

MAXIMUM	\$631.22	\$646.47	\$670.02	\$694.30	\$711.79	\$721.97
MINIMUM	NONE	NONE	NONE	NONE	NONE	NONE

Kentucky Workers' Adjudication



Compensation Timeline



Key Personnel*

Dwight T. Lovan, Commissioner	(502) 782-4439
Wayne Logan, Deputy Commissioner	(502) 782-4428
Brenda Majcher, Senior Staff Advisor	(502) 782-4439
J. Landon Overfield, Chief Administrative Law Judge	(502) 782-4535
Charlie Lowther, General Counsel	(502) 782-4464
Derrick Hill, Technical Support Section	(502) 782-4440
Jeremy King, Design & Development Section	(502) 782-4415
Howard "Cam" Lawson, EDI Administrator	(502) 782-4486
Division of Claims Processing & Appeals	
Ingrid Bowling, Director	(502) 782-4418
Connie Morris, Claims Branch Manager	(502) 782-4407
Diana Morgan, Appeals Section Supervisor	(502) 782-4457
Division of Information & Research	
Fran Davis, Director	(502) 782-4578
Sheila Shouse, Records Branch Manager	(502) 782-4483
Carol Stevens, Imaging Branch Manager	(502) 782-4557
Ashley Estep, Open Records Supervisor	(502) 782-4429
Sharon Anderson, EDI Supervisor	(502) 782-4416
Terri Robinson, Data Entry Supervisor	(502) 782-4402
Kim McKenzie, Web Administrator	(502) 782-4484
Division of Ombudsman & Medical Specialist Services	
Lucretia Johnson, Director	(502) 782-4559
John Mann, Attorney/Chief Specialist	(502) 782-4532
Pam Knight, Medical Cost Containment Supervisor	(502) 782-4449
Kelly Tharpe, Utilization Review	(502) 782-4445
Marilyn Thompson, Managed Care	(502) 782-4539
Carol Hughes, Vocational Rehabilitation	(502) 782-4544
Tara Aziz, Drug Free Workplace Coordinator	(502) 782-4555
Toll Free Specialist Line	(800) 554-8601
Division of Security and Compliance	
John Burkholder, Director	(502) 782-4534
Joe Peters, Coverage Branch Manager	(502) 782-4448
Steve Taluskie, Self-Insurance Branch Manager	(502) 782-4452
Tom Powell, Enforcement Branch Manager	(502) 782-4450

DWC Fax Numbers:

Commissioner's Office	(502) 564-5934	Claims	(502) 564-3792
Administrative Services	(502) 564-8250	EDI	(502) 696-5096
Ombuds & WC Specialist	(502) 564-9533	Security & Compliance	(502) 564-0916
Open Records	(502) 564-5732	WC Board Offices	(859) 246-2779
Medical Schedulers	(502) 564-5741	Rehabilitation	(502) 564-5741

* at end of fiscal year

No individual in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, be excluded from participation in, or denied benefits of, or be subjected to discrimination under any program or activity under the jurisdiction of the Kentucky Labor Cabinet.

This agency does not discriminate on the basis of race, color, national origin, religion, age or disability in employment or provision of services.

