



STATE OF NEW MEXICO

Workers' Compensation Administration

ONE TEAM | ONE GOAL

A Better New Mexico for Workers and Employers

Michelle Lujan Grisham, Governor Verily Jones, Acting Director

The 2019 New Mexico Workers' Compensation Administration Annual Report was produced through a collaborative effort of agency staff. The report was made possible by Economist and Bureau Chief Richard Adu-Asamoah, Ph.D.; Economists Thomas Dauphinee, Ph.D., Leigh Martinez, and Ruili Yan; and Technical Writer Aileen O'Catherine, with assistance from Public Information Officer Diana Sandoval-Tapia and statisticians Dhuha Al Khalissi and Kyle Bowman. Contributions were made from all WCA field offices and bureaus.

The 2019 Annual Report is available on the WCA's website at https://workerscomp.nm.gov

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Cover photo: A medical staffer at Sandoval Regional Medical Center pauses in the operating room.

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DIRECTOR'S MESSAGE

On behalf of the New Mexico Workers' Compensation Administration, I am pleased to present the 2019 Annual Report. The Administration's mission is to assure the quick and efficient delivery of indemnity and medical benefits to injured and disabled workers at a reasonable cost to employers. We implement that mission through these key duties:

- Educate the public on the workers' compensation system
- ✓ Ensure employers maintain workers' compensation coverage
- ✓ Decrease the number and severity of workplace accidents
- ✓ Resolve workers' compensation disputes accurately and efficiently
- ✓ Investigate and prosecute wrongdoers
- ✓ Assure the quick and efficient delivery of benefits to workers at a reasonable cost to employers

The 2019 Annual Report provides an overview of the agency's performance in fulfilling these duties. It looks at the year's trends in injury characteristics, benefits and claims, indemnity and medical costs, legislative activity, and recent case law. It highlights recent work of some of the agency's bureaus. This year's report also contains a new chapter on medical cannabis, with cost and claim data delineated so readers can more easily understand this emerging area of workers' compensation. We continue to collect data on medical cannabis reimbursement, where the average amount of claim costs decreased. This data serves to not only inform New Mexico, but also other states considering reimbursement for medical cannabis use in workers' compensation claims.

New Mexico's workers' compensation system is stable and healthy. Premiums and losses continue to decrease, as do injuries and indemnity claims. The Annual Report looks at some of the agency's bureaus and spotlights some of the staff members who contribute to the agency's mission. Although the agency runs efficiently, we are always looking for ways to improve. The new e-filing system launched on January 1, 2018, provides an efficient electronic method for filing legal documents, ultimately saving money. One example is the savings in annual postage costs (see Figure 7.4, pg. 66). The Medical Cost Containment Bureau has made large strides in reducing billing disputes. The staff of the Uninsured Employers' Fund have reduced claim expenses overall. We are in the beginning stages of our Early Return-to-Work Initiative, with an eye toward its ability to reduce costs in the long run by communicating to employers prior to workplace accidents. The agency seeks other ways to reduce costs and improve efficiency as we move forward. Improvements are underway in customer service as well as information dissemination to all stakeholders.

This year there is a new governor. As of this writing, a new director has not yet been appointed, and I have served as acting director since mid-December 2018. The agency currently has five workers' compensation judges and four attorney-mediators who contribute to the success of the administration's dispute resolu-



Verily Jones, Acting WCA Director

tion bureau. Rachel Bayless, Tony Couture, and Reginald Woodard were reappointed as judges in 2018. Leonard Padilla was reappointed in 2019. Adjudication efficiency reached 104 percent, with more disputed claims closed than opened in the 2018 calendar year.

Serving as acting director has been a challenge, but with large rewards. I appreciate and acknowledge the many people who make the workers' compensation system run effectively, both inside and outside the agency. I have worked to mirror the dedicated service I see reflected in the state system, and in the work of agency staff. I am grateful to all of them, and to all of you, who make up part of this complex system. We hope the information in this Annual Report illuminates some of the work we do, and we welcome your thoughts and questions. On behalf of myself and agency staff, thank you for allowing us to serve the people of New Mexico.

[Published September, 2019]

New Mexico Workers' Compensation Administration

The Jones

REPORT HIGHLIGHTS

INJURIES, INDEMNITY CLAIMS AND FATALITIES

- ✓ First reports of injuries or illness (FROI) continued their downward trend since 2012, reaching their lowest level of 24,298 (3.06 per 100 workers) in 2018. In 2018, 17,698 subsequent reports of injury (SROI), or 2.23 per 100 workers, were reported to the WCA.
- ✓ New indemnity claims per 100 workers declined about 4 percent from 2017. There has been an average year-to-year decline of about 3.7 percent since 2012.
- ✓ Knee (14.3%), back (13.4%) and shoulder (10.1%) were the top three parts of body injured in 2018 for indemnity claims.
- ✓ Strain or tear of muscle or tendon continued to be the most common nature of injury in 2018 (1,297), followed at a distance by fracture (464), contusions (420) and sprain or tear of ligaments (410) for indemnity claims.
- ✓ Most injuries leading to indemnity claims were caused by "strain or injury by," followed by "fall, slip or trip," "struck or injured by," and "miscellaneous causes."
- ✓ More males (63.3 percent) than females (36.7 percent) were injured on the job in 2018. For males, most of the injuries were for the age group 45-54 years (25.3 percent). The peak age group for injuries was 45-54, tapering off from age group 55-64 years. For females, 34 percent of the injuries were for age group 25-44 years, while 51 percent of injuries were for the age group 45-64 years.
- ✓ Most serious workplace injuries (37.9 percent) occurred in the first year on a job. The number rapidly declined between the second and the seventh years on the job (37.2 percent); thereafter, a long, gradual decline in injuries occurred over as many as 60 years that the worker was on the job. These injury patterns are similar to patterns observed in previous years for indemnity claims.
- ✓ Most indemnity claims in 2018 were from counties within the major population centers. The top five counties, in descending order, were Bernalillo, Doña Ana, Santa Fe, Eddy and Lea.
- ✓ By count, health care and social assistance (529), public administration (426), construction (423), retail trade (399), and educational services (295) were the top five industrial types with a high number of indemnity claims. The public administration industry includes law enforcement and correctional facilities.
- ✓ In 2018, 32 work-related fatalities were reported, one fewer than in 2017, and 12 fewer than in 2016. The top five industries with job-related fatalities in 2018, in descending order, included construction, wholesale trade, retail trade, arts, entertainment & recreation, and health care and social assistance.

PREMIUMS AND MEDICAL CANNABIS REIMBURSEMENTS

- New Mexico employers in the voluntary insurance market paid, on average, the 34th highest worker's compensation premium rates in the nation in 2018. This was an impressive improvement over the 2016 and 2014 rates of 22nd highest but far below the 2000 rates (ranking = 42, index rate = 1.66). New Mexico's rates were 12 percent below those of the median state in the 2018 Oregon rate ranking study. In the southwestern sub-region, New Mexico outperformed only Oklahoma.
- ✓ The number of claims with benefit payments decreased by 1,502 (3.6 percent) from 41,908 in 2016 to 40,406 in 2017. Reported total expenditures by carriers and self-insurers in 2017 decreased 4 percent to \$296.9 million, from \$309.4 million in 2016.
- ✓ Between 2016 and 2018, claimants were reimbursed for medical cannabis purchases. The majority of claimants were reimbursed for two or three years. Only 20 claims were reimbursed for the first time in 2018. The average dollar amount per claim was \$1,639 in 2018.
- ✓ Of the medical cannabis claims reimbursements made between 2016 and 2018, 69 percent were made to male claimants and 31 percent were made to female claimants. The top three industries for medical cannabis claims were public administration, educational services, and construction. The top occupations with medical cannabis claims were construction, transportation and materials moving, and education, training and library.

INSIDE THE WCA

- ✓ New Mexico workers' compensation revenues continued to decline from FY2016, although covered employment increased year-to-year through FY2018.
- ✓ Revenues in FY2018 were about 11.3 percent less than revenues in FY2016, an average year-to-year decline of about 5.8 percent during the period.
- ✓ Beginning January 1, 2018, all pleadings handled by the agency's Clerk of the Court (CC) were filed, served, and received through the WCA's electronic case filing system (ECF).
- ✓ The majority of WCA visitors (about 78 percent) visited the Albuquerque headquarters. The six field offices (Las Cruces, Roswell, Santa Fe, Hobbs, Farmington and Las Vegas) handled the remaining 22 percent of visitors in 2018.
- WCA ombudsmen made 10,197 contacts, and resolved 831 of 1,021 outstanding claims disputes in 2018. The Albuquerque office alone received 5,196 hotline calls, about a 24 percent increase from 2017.
- ✓ In 2018, the Safety Bureau referred 24 cases to the enforcement bureau and only one case went to the director for a hearing. The bureau also researched 1,798 businesses, 232 more than in 2017. WCA

- safety consultants also inspected 588 "15k" businesses, those whose work comp annual premiums are \$15,000 or more. In addition to inspections conducted by other qualified entities, a total of 5,572 15k safety inspections were conducted in 2018.
- Mediators achieved an average 66.8 percent acceptance rate for recommended resolutions (RR), about 1.7 percentage point less than in 2017. The median number of days to file an RR was 56 days, the same as in 2017.
- ✓ In 2018, 2,949 disputed cases were filed and 3,066 disputed cases were closed which included cases left over from 2017. This resulted in a clearance rate (adjudication efficiency) of 104 percent, one percentage point better than 2017. Only 2.4 percent of disputed cases were closed through formal trial.
- ✓ The Employer Compliance Bureau (ECB) identified only 7 percent of referred employers who still needed insurance, the lowest since 2012 and three percentage points below 2017.
- ✓ In 2018, the Medical Cost Containment Bureau (MCC) received 694 billing disputes, compared to 1,394 in 2017. They also reviewed 116 hospital admissions. MCC informally resolved 724 billing disputes, and referred 16 for a director's determination.
- ✓ Under the Early Return-to-Work (RTW) Initiative, 1,717 stakeholders learned about RTW through outreach efforts; 19 employers received in-depth consultations; and 70 employers received issuespecific consultations.
- ✓ In 2018, the Enforcement Bureau (EB) received 45 referrals, only one fewer than in 2017. The EB resolved 73 cases, and collected \$24,733 in penalties compared to \$10,000 collected in 2017.
- ✓ The Uninsured Employers' Fund (UEF) paid out \$379,610 for 33 claims, and collected \$89,390 in reimbursements from affected employers in FY2018.

NM Tax Dollars at Work: FY 2018

FUNDING

The New Mexico Workers' Compensation Administration (WCA) is a self-funded agency whose revenues come from the workers' compensation assessment fee. The New Mexico Taxation and Revenue Department (TRD) collects the assessment fee for the agency, keeping up to 5 percent of fees to cover collection costs. The assessment fee is \$4.30 per employee, per quarter. Employers subject to workers' compensation law pay \$2.30 per employee per quarter, and are allowed to pass on \$2 per quarter to employees. Of the amount paid by employers, \$0.30 is earmarked specifically for the Uninsured Employers Fund (UEF). The UEF also receives revenues from employers who reimburse the fund for uninsured claims.

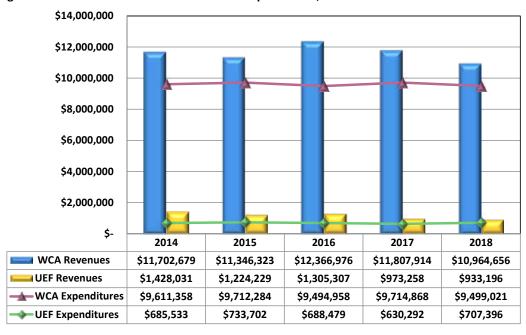
REVENUES AND ADMINISTRATIVE EXPENDITURES

The agency's audited financial statements show revenues for fiscal year (FY) 2018 were \$10,964,656 for the Workers' Compensation Administrative Fund, a decrease of 7.1 percent from FY 2017 revenues. Revenues for the UEF totaled \$933,196, a 4.1 percent decrease from FY 2017. These revenues include assessments, penalties, UEF settlement agreements and miscellaneous sources.

For FY 2018, the New Mexico Legislature authorized the WCA to spend \$9,962,000 in operating expenses, a decrease of 1.8 percent from FY 2017. The separately funded UEF was authorized to spend \$890,500, a decrease of 2.5 percent from FY 2017.

Actual WCA expenditures were \$9,499,021, a decrease of 2.2 percent from FY 2017. UEF actual expenditures increased 12.2 percent from FY 2017 to FY 2018, to \$707,396.

Figure 1.1 Total Revenue and Administrative Expenditures, FY 2014 - FY 2018



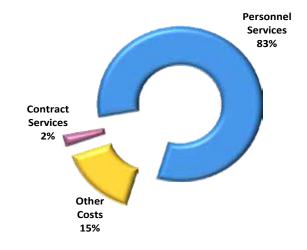
Source: NMWCA Audited Financial Statements, FY 2014 - FY 2018

EXPENDITURES BY CATEGORY

Figure 1.2 WCA Fund Expenditures, FY 2018

WCA FUND FY 2018:

Category	Amount
Personnel Services	\$ 7,831,010
Other Costs*	\$1,436,575
Contract Services	\$ 231,436



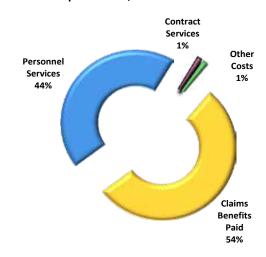
UEF FY 2018:

Category	Amount
Claims Benefits Paid	\$379,610
Personnel Services	\$310,244
Contract Services	\$ 7,558
Other Costs*	\$ 9,984

*The Other Costs category includes (but is not limited to) expenditures for supplies and other operating expenses such as travel, training, building maintenance, utilities and capital outlays.

Source: NM Workers' Compensation Administration Audited Financial Statements, FY 2018

Figure 1.3 UEF Expenditures, FY 2018

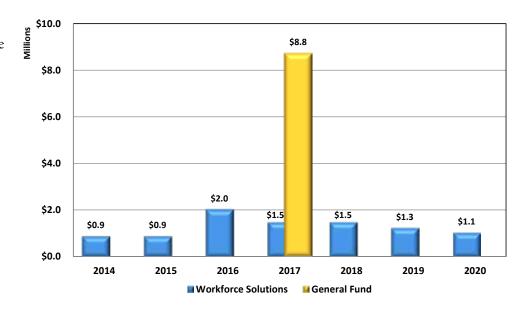


Sources: NM Workers' Compensation Administration Audited Financial Statements, FY 2018, NM SHARE Financial Data, FY 2018

WCA FUND TRANSFERS

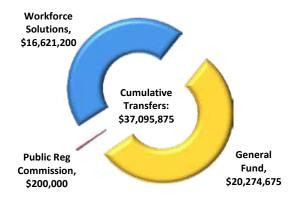
Money from the Workers' Compensation Administrative Fund is routinely transferred to other state funds, most frequently to the Department of Workforce Solutions (DWS). In FY 2018, \$1.5 million was transferred to DWS, as allocated during the 2017 legislative session. For FY 2019, the legislature approved a \$1.25 million transfer to DWS. As of the date of this writing, the legislature has approved \$1.05 million to be transferred from the WCA fund to DWS for FY 2020.

Figure 1.4 Funds Transferred from WCA Fund by Year, FY 2014-FY 2020



Sources: Audited WCA Financial Statements, FY 2005 - FY 2018 NM General Appropriation Acts of 2018 and 2019

Figure 1.5 Cumulative Transfers from WCA Fund, 2005 - 2020



Sources: Audited WCA Financial Statements, FY 2005-FY 2018 NM General Appropriation Acts of 2018 and 2019 While annual transfers often appear minor, the cumulative effect is significant. Since 2005, cumulative transfers from the WCA fund exceed \$37 million (Figure 1.5).

WCA FUND BALANCE

The WCA fund balance at the end of 2018 was \$2,614,718. The balance was \$2,618,337 at the end of 2017. The UEF fund balance at the end of 2018 was \$4,812,481, a slight increase from \$4,456,728 at 2017's end.

NOTABLE EXPENDITURES: FY 2019 - FY 2020

The FY 2020 WCA special appropriations are for a total of \$352,000. Funds will allow for replacement and upgrades of information technology equipment, upgrade of the security badging systems in the Albuquerque and Las Vegas offices, and re-stuccoing of the Albuquerque office building. The Las Vegas parking lot will be patched, sealed and re-striped.

An approved \$250,000 special appropriation for an independent research study of New Mexico's workers' compensation system was not used in FY 2019. Responses to the WCA's request for proposals exceeded appropriated funding for the project by a significant amount. The agency is looking into options for independent research and other funding avenues for this research.

WCA KEY DUTIES

The WCA aims to fulfill its statutory mission by executing the following:

- ✓ Educate the public on the workers' compensation system
- ✓ Ensure employers maintain workers' compensation coverage
- ✓ Decrease the number and severity of workplace accidents
- ✓ Resolve workers' compensation disputes accurately and efficiently
- Investigate and prosecute wrongdoers
- Assure the quick and efficient delivery of benefits to injured workers at a reasonable cost to employers

EDUCATE THE PUBLIC ON THE WORKERS' COMPENSATION SYSTEM

The Workers' Compensation Administration's (WCA) staff conduct outreach in a variety of ways so the public understands the agency's programs and utilizes its resources. Whether conducting safety trainings, letting employers know their responsibilities toward workers' compensation, or helping companies get on board with a quality return-to-work program, WCA personnel make it a point to inform, provide excellent customer service, and distribute informational materials. In 2018, WCA staff reached 4,590 individuals at outreach events, providing information on rights, requirements, safety issues, insurance, employer compliance, return to work, and other workers' compensation topics. Members of the public were reached through outreach events conducted by WCA staff which included safety consultants, ombudsmen, information specialists, return-to-work coordinator, compliance officers and management.

All WCA offices play a role in educating the public. When the Lovington field office relocated to Hobbs in 2017, field office staff made it a priority to inform the public about the agency's programs and resources. They connected with the local Small Business Development Center to expand their workshops to include workers' compensation topics. They made inroads with the contractors that work at Canon Air Force Base (CAFB), and are set to provide targeted safety presentations to CAFB contractors. The office also plans to reach out to small employers whose workers' compensation policy premiums fall below the minimum of \$15,000 that triggers WCA oversight of the employer's safety program. "Our intent is to contact these businesses to let them know we are here to help them," said Hobbs Field Office Manager Sharron Johncox.

The WCA's Return-to-Work (RTW) Initiative provides employers with information and best practices to help workers get back to work as quickly as possible after an injury. In 2018, the initiative made 1,717 contacts statewide. In addition to offering guidance and expertise on RTW issues, the agency was able to answer questions, provide materials, and demonstrate how a good RTW program can help employers reduce their workers' compensation insurance costs.



RTW Coordinator Jessica Sanchez (I) and Safety Consultant Austin House confer with an employer (r) at a regional mining conference.

Table 2.1 Ombudsman Bureau Workload Summary Report, 2016-2018

	2016	2017	2018
Contacts	10,134	10,622	10,197
Disputed	590	395	1,021
Disputed Resolved	286	229	831
Spanish	1,035	748	774
Hotline Calls	4,055	4,195	5,196

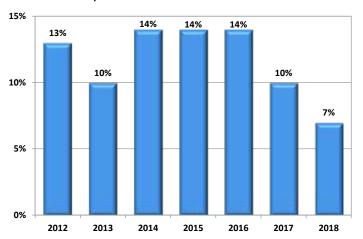
The WCA's ombudsmen are the agency's liaison to workers, employers, insurers and health care providers who have questions about the system. They answer questions and provide information about the agency, and work with the public, which contacts them by phone or in person by appointment. In 2018, the agency's ombudsmen were contacted more than 10,000 times and answered more than 5,000 hotline calls in the Albuquerque office alone (Table 2.1). Many of the agency's ombudsmen are bilingual, ensuring New Mexico's Spanish-speaking population is well-served.

Outreach includes education to the public through media such as the agency website, Facebook, LinkedIn and YouTube. In 2018, the Public Information Office (PIO) coordinated with a professional contractor to shoot a video specifically targeting injured workers, then broadcast it statewide. The public information office plans to create more videos going forward to inform and educate the public about all aspects of workers' compensation.

ENSURE EMPLOYERS MAINTAIN WORKERS' COMPENSATION COVERAGE

The WCA monitors New Mexico businesses required to carry workers' compensation insurance, ensuring they comply with the law. The Albuquerque office has six compliance officers (COs), and each field office has one. The New Mexico Department of Workforce Solutions (DWS) supplies the WCA with confirmation

Figure 2.1 Percent of Total Referrals Identifying NM Employers Who Need Insurance, 2012-2018



of the number of employees reported by an employer. The National Council on Compensation Insurance (NCCI) notifies the WCA if an employer drops its compensation policy. WCA COs then conduct investigations to determine whether employers are required to carry workers' compensation insurance. If a business has three or more workers, it must carry workers' compensation insurance. Businesses engaged in activities regulated by the Construction Industries Licensing Act (CILA) [§ 60-13 NMSA 1978] must have coverage, regardless of the number of workers. Workers are counted whether they are full-time, part-time, temporary or seasonal workers. In 2018, the WCA's Employer Compliance Bureau (ECB) opened 6,587 new cases, and closed 6,581 cases in total (some cases carry over from the prior year). The clearance rate was 99.9 percent, a small decrease compared to the prior year (101.3 percent).

Beginning in 2012, the ECB determined that each year, less than 15 percent of all referred employers were not in compliance with workers' compensation insurance regulations. The ECB increased its efforts to further reduce the level of non-compliance by increasing the number of investigations it undertook. In 2018, ECB identified only 7 percent of the referred employers as needing insurance. This was a dramatic drop from a consistent 14 percent between 2014 and 2016, and a continuing drop compared to 10 percent in 2017 (Figure 2.1). Efforts to improve are ongoing.

Once a business is notified by ECB to come into compliance with the law, they do so, at a rate of 99 percent in 2018. The compliance rate has stayed very stable at 97 to 99 percent since 2012 (Figure 2.2). Very few non-compliant businesses are referred to the Enforcement Bureau for investigation. In 2018, ECB referred 81 cases, seven fewer than in 2017, for further enforcement action.

DECREASE THE NUMBER AND SEVERITY OF WORKPLACE ACCIDENTS

The WCA's Safety Bureau helps employers meet their statutory requirement to hold annual safety inspections, and assists employers in developing and maintaining effective safety programs. WCA safety consultants provide free safety services for the workplace such as consultations, inspections, safety publications and safety resources via the agency's website. The Safety Bureau researched 1,798 businesses in 2018, 232 more than in 2017 (Table 2.2). The WCA requires annual safety inspections for employers with workers' compensation insurance premiums of \$15,000 or more, for certified self-insured employers and for employers who are members of a certified self-insurance group. The WCA's Safety Program sent 1,806 notifications to businesses about the safety inspection requirement. Employers have several ways to fulfill the inspection requirement. One way is to have a WCA safety consultant perform the inspection free of charge. In 2018, the WCA safety team conducted 588 safety inspections, 228 more than in 2017, an increase of 63.3 percent (Table 2.2). Employers can also conduct inspections with a dedicated safety professional employed by the business, with a professional safety consultant, or with a safety professional from the company's insurance provider. Safety consultants work with the business to identify problems and prevent accidents.

Businesses with a higher than average accident frequency are placed in the WCA's Risk Reduction Program (RRP). Businesses in the \$15K program that fail to meet safety requirements are referred to the WCA Enforcement Bureau. There were 24 cases referred to the Enforcement Bureau in 2018. Businesses typically comply with the safety requirement at this point. Only one case required going to the director for a hearing. One business was enrolled in the risk reduction program in 2018, and one business completed the RRP process. Employers typically meet the requirements of the RRP process within eight months.

Figure 2.2 Percent of NM Employers Identified and Obtaining Insurance Prior to Enforcement Proceedings, 2012-2018

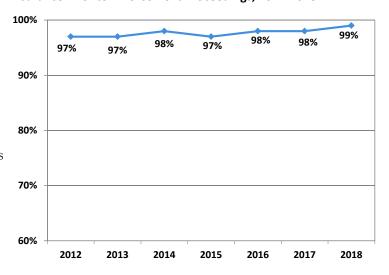
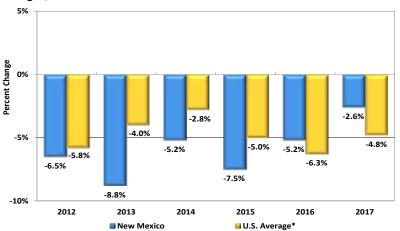


Table 2.2 Safety Bureau Workload Summary Report, 2018

Businesses Researched	1,798		
RRP Enrolled	1		
Businesses Completing RRP	1		
\$15K Annual Safety Inspection Program			
\$15K Notifications Sent	1,806		
\$15K Inspections by WCA-SC	588		
\$15K Total Inspections	5,572		
Enforcement Referral Program			
Cases Referred to Enforcement	24		
Director Hearings	1		
Self Insured Safety Audit Program			
Safety Audit Request Received	20		
Safety Audits Completed	13		

Risk Reduction Program (RRP)

Figure 2.3 New Mexico vs. National Lost-Time Claim Frequency Changes, Accident Years 2012-2017



Source: National Council on Compensation Insurance (NCCI) Frequency and Severity Results by State, 2012-2017

U.S. average includes all states where NCCI provides ratemaking services.

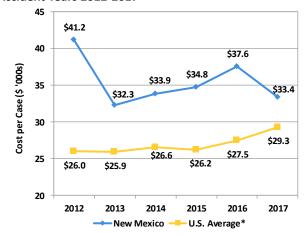
New Mexico's workplace accident data is reported to the National Council on Compensation Insurance (NCCI). NCCI's annual update of frequency and severity of accident results is based on data valued at end of year 2017, the most recent year data is available. Statistics include only commercially insured markets. The frequency for most jurisdictions declined, while the severity generally increased (NCCI Frequency and Severity Results by State, 2017). Figure 2.3 shows the percent of lost-time claim frequency change for the U.S. and New Mexico from accident year 2012 to 2017. Lost-time claims frequency continued to decline countrywide and in New Mexico (NCCI 2018, New Mexico State Advisory Forum). Workplaces were safer across the country in general. In accident year 2017, the annual frequency change was -4.8 percent nationally, and -2.6 percent in New Mexico.

When viewing Figures 2.4 and 2.5 together, the medical cost of a lost-time claim exceeds the indemnity cost of a lost-time claim, on average. National indemnity and medical severities have generally increased over the most recent six accident years. In New Mexico, indemnity severity increased in accident year 2017, while medical severity decreased. New Mexico's medical and indemnity severity have always been higher than the national average.

Figure 2.4 New Mexico vs. National Lost-Time Indemnity Severity, Accident Years 2012-2017



Figure 2.5 New Mexico vs. National Lost-Time Medical Severity, Accident Years 2012-2017



Source: National Council on Compensation Insurance (NCCI) Frequency and Severity Results by State, 2012-2017 *U.S. average includes all states where NCCI provides ratemaking services.

^{*}Lost-Time Claim Frequency - Claims per \$1M pure premium, private carriers and state funds--NCCI states.

RESOLVE WORKERS' COMPENSATION DISPUTES ACCURATELY AND EFFICIENTLY

On average, about 95 percent of all workers' compensation claims are handled without any intervention from the WCA. When a claim is disputed, it first goes through the mediation process. Once a complaint is filed at the WCA's Clerk of the Court, a mediation is scheduled with one of the agency's four attorney-mediators. Mediators handle cases for the entire state, using video-conferencing equipment to reach outlying field offices. In the mediation conference, the parties air their differences with a mediator, who tries to help them resolve the issues during the conference, and then writes a recommended resolution (RR) that either reflects the parties' agreement, or if they were unable to agree, recommends a resolution to the issues in dispute. RRs are usually issued within 60 days of the complaint, after which the parties have 30 days to accept or reject the RR. If all parties accept the RR, the terms within it are binding, as in a court order. If the RR is rejected by either or both parties, it is not binding and the case is assigned to a judge for formal adjudication.

In 2018, 1,653 RRs were written, almost the same number as 2017. The acceptance rate was 66.8 percent, 1.7 percentage points lower than in 2017. The acceptance rate has stayed between 65 and 69 percent for the last seven years (Figure 2.6). The effectiveness of the mediation process is also measured by examining the median number of days it takes for mediators to file an RR after a complaint has been filed. In 2018, the median number of days to file the RR was 56 days, the same median days as in 2017 (Figure 2.7).

One way of measuring the efficiency of the adjudication program is through the clearance rate for complaints. If a complaint is unresolved after the mediation process, it proceeds to formal adjudication, and parties go before a workers' compensation judge. In 2018, 2,949 cases were filed, and 3,066 cases were closed. The clearance rate was approximately 104 percent. Clearance rates have stayed above 100 percent since 2012, indicating more cases were closed than were filed in those calendar years. In 2018, 82 percent of disputes were closed within 180 days, a one percent increase over 2017. In 2018, fewer disputes (58 percent) were closed in a shorter, 90-day period

Figure 2.6 New Mexico WCA Recommended Resolution (RR) Acceptance Rate, 2012-2018

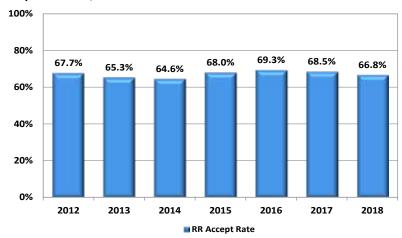


Figure 2.7 Mediation Resolutions & Median Days for Completion, 2012-2018

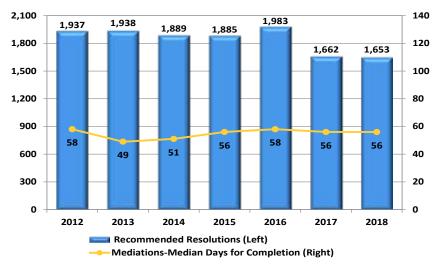
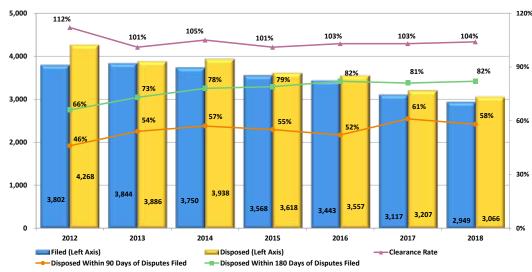


Figure 2.8 Dispute Resolution Clearance Rates, 2012-2018



than in 2017. This was the second highest percentage closed within that time frame since 2012 (Figure 2.8).

Very few cases require a formal trial for resolution. In 2018, 3,066 disputes were resolved in total, with only 75 disputes disposed through a formal trial. About 2.4 percent of cases were resolved with trial (Figure 2.9).

Trials are often reset, which delays resolution of cases. In the past, the majority of trials have been held on the first, second or third scheduled date (Figure 2.10). In 2018, however, fewer trials were held on the first three scheduled dates compared to 2017, when 82.1 percent were held within the first three dates. In 2018, more trials were held on the fourth scheduled date, 20.9 percent, the highest percentage in the last five years. Working toward the goal of fewer resets should expedite the case resolution process in the future.

Figure 2.9 Percent of New Mexico WCA Disputes Resolved with Trial, 2012-2018

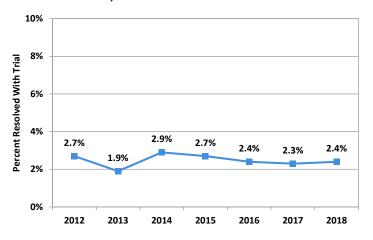
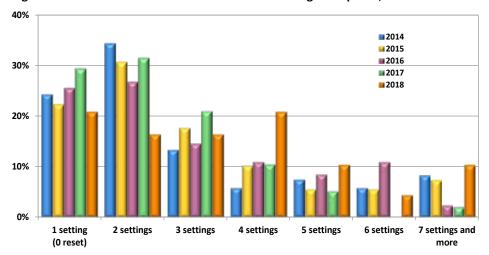


Figure 2.10 Percent of Total Trials at Number of Settings Compared, 2014-2018



INVESTIGATE AND PROSECUTE WRONGDOERS

The Enforcement Bureau (EB) investigates, and when warranted, prosecutes administrative and/or criminal violations of the Workers' Compensation Act and Rules. All reports of fraud, bad faith, unfair claims practices or other potential violations of the Act/Rules by any participant in the workers' compensation system such as a doctor, lawyer, insurer, insurance agent, claims administrator, worker or employer are documented, reviewed and investigated by the EB. Referrals for suspected violations come from a variety of sources, including the public, parties to a claim,

Table 2.3 Enforcement Bureau Workload Summary Report, 2016-2018

	2016	2017	2018
Enforcement Referrals	90	46	45
Cases Resolved	131	58	73
Case Remained Open in the End of Year	56	51	26
Criminal Cases Filed	1	0	2
Penalties Collected	\$3,350	\$10,000	\$24,733

as well as internal sources such as the Ombudsman Bureau or other WCA bureaus. The EB works with the Employer Compliance Bureau (ECB) to investigate and prosecute employers who are subject to the Act but who fail to carry workers' compensation insurance. Additionally, EB seeks injunctions in District Court, enjoining an employer from operating the business until it has complied with statute and obtained workers' compensation insurance. The EB works with the Economic Research & Policy Bureau and the Self-Insurance Regulatory Audit Bureau to enforce proper, timely and accurate reporting of data. The EB works with the Safety Bureau for timely submission of affidavits from employers required to have annual safety inspections.

In 2018, the EB received 45 enforcement referrals, one fewer than in 2017. There has been a continuous decrease in referrals, from a high of 90 in 2016. In 2018, 73 cases were resolved, and 26 cases remained open for enforcement investigation. This was a drop from the 51 that remained open at the end of 2017. Few criminal cases have been filed by the EB in previous years, and only two were filed in 2018. Collected penalties have been growing the past two years. In 2018, \$24,733 in penalties were collected, more than two times the amount collected in 2017.

Table 2.4 Medical Cost Containment Bureau Workload, 2016-2018

	2016	2017	2018
Billing Disputes			
New Billing Disputes Received	303	1,394	694
Disputes Resolved Informally by MCC Bureau Staff	382	1,390	724
Disputes Referred to the Director	38	34	16
Inpatient Requests			
Hospital Admissions Reviewed	210	137	116
TOTAL Hospital Stay Days	824	455	440
ER Hospital Stay Days	255	376	275
Scheduled Hospital Stay Days	569	79	165

ASSURE THE QUICK AND EFFICIENT DELIVERY OF BENEFITS TO INJURED WORKERS AT A REASONABLE COST TO EMPLOYERS

The Medical Cost Containment (MCC) Bureau implements cost-saving measures for medical services provided to injured or disabled workers. Using data collected by the Economic Research & Policy Bureau (ERPB), MCC resolves medical billing and payment disputes which arise in the course of workers' compensation claims among health care providers, employers, insurers, and in some cases, injured workers. If a pattern emerges

in the billing disputes, the bureau makes recommendations for changes to the WCA's Rules or to the Health Care Providers' (HCP) Fee Schedule & Billing Instructions (HCP Fee Schedule), working closely with the ERPB. In 2018, MCC received 694 new billing disputes, a dramatic decrease from 1,394 disputes in 2017. MCC staff informally resolved 724 billing disputes, including 65 that had carried over from 2017. More billing disputes were resolved than those received (Table 2.4). Billing disputes that were referred to the director for a determination continued to decrease. There were 34 disputes sent to the director for resolution in 2017, and 16 in 2018. In 2018, MCC reviewed a total of 116 hospital admissions that resulted in 440 hospital stay days. This was a slight drop from 455 hospital stay days in 2017. There were more emergency room hospital stay days (275), than scheduled hospital stay days (165).

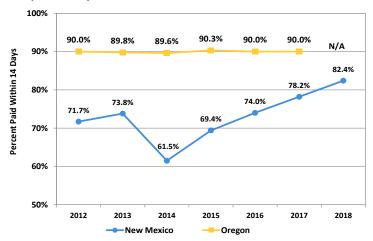
MCC works with the ERPB to calculate hospital ratios and the HCP Fee Schedule. Each year, MCC receives required information from hospitals regarding their revenues and operating expenses. A hospital ratio list is then computed by the ERPB and published. This ratio determines how much New Mexico hospitals will be paid for services provided in their facilities. The HCP Fee Schedule sets maximum allowable fees for medical procedures performed in workers' compensation cases.

The WCA's Early Return-to-Work (RTW) Initiative operated from within the MCC in 2018, and in 2019, was moved under Field Operations. The RTW initiative educates employers on how to get workers back to the job as quickly as possible, safely and responsibly. The RTW program has expanded its scope and strives to reach as many stakeholders as possible, with a special emphasis on employer RTW education. Since the initiative launched in July 2017, the RTW coordinator has conducted issue-specific one-on-one RTW consultations with more than 70 employers. Nineteen employers have participated in in-depth, comprehensive RTW consults, and of those, 10 have been recognized as "RTW champions" for achieving an "A" in all RTW best practices. By helping employers reduce time away from work, the program helps them save money on indemnity benefits. RTW staff reached 1,717 stakeholders in 2018 to inform them about how to best support their injured workers in the RTW process.

In addition to working to keep costs down for employers, the Economic Research and Policy Bureau (ERPB) collects information about injury reports and workers' compensation claims to ensure the system works efficiently for injured workers. Delivery of indemnity benefits are tracked for timeliness. First Report of Injury (FROI) data must, by statute, be submitted to the WCA within 10 days of notification of any injury that results in more than seven cumulative days of lost time. The WCA tracks payment efficiency using the percent of indemnity claims paid to workers within 14 days of the compensability date. Data comes from temporary and permanent total disability (TTD/PPD) claims reported within the calendar year. Figure 2.11 compares the timeliness of initial indemnity payments in New Mexico and Oregon over the past several years. Oregon consistently scores well on timeliness of indemnity claim payments. The most recent year with complete data for Oregon is 2017. The ERPB shares information with payers (carriers and self-insurers) by publishing the Carrier and Self-Insurer Scorecards by Year and Quarter at https://workerscomp.nm.gov/NMWCA-Publications.

The ERPB works with New Mexico's compensation payers to improve the payment efficiency of benefits to injured workers. ERPB's efforts to work directly with payers to improve this statistic began in 2015, and as seen in Figure 2.11, continuous improvement has been made since that calendar year. Payers in New Mexico achieved the highest timeliness percentage of initial indemnity payments in 2018, moving closer to the Oregon rate. The WCA also tracks how soon the FROI filings for temporary and permanent total disability (TTD/PTD) claims are reported to the agency. Table 2.5 shows the timeliness of first report filings for the two types of payers—commercial insurance carriers and self-insurers. In 2018, self-insurers' median days per filing were nine, two days shorter than carriers' median days. More self-insurers than commercial carriers filed FROIs within the first 14 days after a worker had notified the employer about a sustained injury.

Figure 2.11 Percent of TTD/PPD Claims Paid Within 14 Days of Compensability Date, 2012-2018



Source: New Mexico statistics are based on the Quarterly Scorecard Report, 4th Quarter (2012-2014) and Calendar Year Reports (2015-2018); Oregon statistics are based on workers' compensation claims - workers' compensation claims administration (2012-2017).

Table 2.5 Timeliness of Filing First Report of Injury or Illness (FROI), 2018

	Median	Days from Employer Notice to Filing of FROI for TTD/PTD Claims Filed in 2018							Total FROI			
	Days per	0 to 7	' days	8 to 1	4 Days	15 to 2	1 Days	22 to 2	8 Days	Over 2	8 Days	Filed by
	Filing	Filings	%	Filings	%	Filings	%	Filings	%	Filings	%	Insurer Type
Insurance Carriers	11	819	36.6%	528	23.6%	341	15.2%	166	7.4%	385	17.2%	2,239
Self-Insurers	9	465	41.1%	320	28.3%	128	11.3%	72	6.4%	146	12.9%	1,131
Totals	11	1,284	38.1%	848	25.2%	469	13.9%	238	7.1%	531	15.8%	3,370

CHARACTERISTICS OF WORKERS' COMP CLAIMS

Data reported to the WCA's Economic Research & Policy Bureau (ERPB) provides insights into trends on workplace injuries and illnesses in the state. This chapter summarizes the number and rate of workplace injuries and illnesses as well as non-indemnity and indemnity claims (disability and fatality). It also provides information on variations by industry, geography, and other characteristics. ERPB compiled statistics from First Reports of Injuries (FROIs) and Subsequent Reports of Injuries (SROIs)

Table 3.1 Injuries and Claims Reported to the WCA

YEAR	EMPLOYMENT	FROI	FROI PER 100 WORKERS	SROI	SROI PER 100 WORKERS	NON- INDEMNITY CLAIMS	NON- INDEMNITY PER 100	INDEMNITY CLAIMS	INDEMNITY PER 100 WORKERS
2012	755,594	30,401	4.02	19,794	2.62	15,814	2.09	4,878	0.65
2013	763,356	28,025	3.67	18,583	2.43	14,100	1.85	4,483	0.59
2014	769,430	26,223	3.41	19,956	2.59	15,007	1.95	4,949	0.64
2015	779,122	26,177	3.36	19,057	2.45	14,558	1.87	4,499	0.58
2016	779,927	24,817	3.18	17,061	2.19	12,858	1.65	4,203	0.54
2017	783,720	24,485	3.12	17,540	2.24	13,626	1.74	3,914	0.50
2018	793,782	24,298	3.06	17,698	2.23	13,860	1.75	3,838	0.48

Source: Covered employment statistics are based on the Quarterly Census of Employment Wages, Second Quarter (2012-2018), NM Department of Workforce Solutions. Rates represent the number of FROIs or SROIs per 100 workers.

submitted by insurance carriers and third party administrators (TPA). Reports are filed through the WCA's electronic data interchange (EDI), or through its internet data submission system.

To view the WCA's interactive claims data, go to https://public.tableau.com/profile/nm.workers.compensation.administration.erpb#1/

NEW MEXICO COVERED EMPLOYMENT

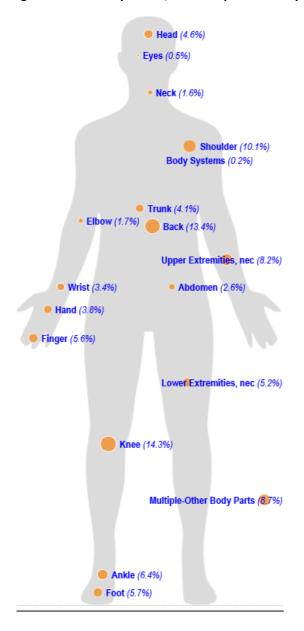
The trend of small annual employment increases continued, with covered employment* increasing by 10,062, for a total of 793,782 employees. Federal employment figures in the state are subtracted from covered employment numbers because federal employees are not covered by the state workers' compensation law.

INITIAL INJURY REPORTING

Workers' compensation claims administrators for New Mexico employers are responsible for filing the first report of injury (FROI) with the WCA within 10 days of notification of a workplace injury or occupational illness that results in more than seven cumulative days of lost time (11.4.2.8 NMAC). This does not preclude employers/carriers from reporting most if not all injuries and illnesses. The number of reported injuries dropped slightly to 24,298 (-076%) in 2018, continuing to steadily decrease since 2012, as Table 3.1 shows. The injury rate decreased to 3.06 injuries per 100 workers, which also contracted because of a 1.3 percent expansion of New Mexico's covered employment base. The recent decline parallels the national trend in nonfatal occupational injuries and illnesses (U.S. Bureau of Labor Statistics (BLS), 2018). The BLS 2017 survey of private industry found that New Mexico's rate of 2.7 injuries or illness per 100 full-time workers ranked slightly below midpoint among other states and was close to the national rate of 2.8 per 100 workers.

^{*}Covered employment is any employment covered by workers' compensation insurance.

Figure 3.1 Indemnity Claims/Percent by Part of Body



INITIAL PAYMENT REPORTING

More severe injuries usually result in lost time that requires indemnity payments to the injured worker. When an initial payment is made for such an indemnity claim, a subsequent report of injury (SROI) must be filed with the WCA within 10 days. SROIs are also filed for non-indemnity (medical only) claims that have cumulative payments over \$300. In 2018, carriers and self-insured employers submitted 17,698 SROIs to the WCA (Table 3.1), a slight increase from the 17,540 filed in 2017.

INDEMNITY CLAIMS

In 2018, the number of non-indemnity, (medical-only) and indemnity claims increased slightly (0.9%) for the second year in a row, to 17,698. Since 2017, non-indemnity claims have trended in opposite directions. The number of non-indemnity claims rose to 13,860 (1.7%) in 2018, while indemnity claims that represent serious workplace injuries fell to 3,838 (-1.9%) from 2017 to 2018. The indemnity claims rate dropped to its lowest level on record at 0.48 claims per 100 workers.

INDEMNITY - PART OF BODY INJURED

The incidence of serious workplace injuries followed well-established patterns of worker and workplace characteristics. Once again, the knee and back were injured most often, accounting for 14.3 percent and 13.4 percent of indemnity claims (Figure 3.1), respectively. Historically, these two parts of body are the most reported injury sites for indemnity claims. Injuries involving the shoulder (10.1%), multiple other body parts (8.7%), and upper extremities (8.2%) were also common.

INDEMNITY - NATURE

The nature of an injury or illness describes the damaging result of an event or exposure. Figure 3.2 shows the 10 most prevalent classes of injuries by nature in 2018, which account for 90.6 percent of indemnity claims. The top five categories include strains or tears of muscle or tendon (1,297 claims, 33.8%), fractures (464; 12.1%), contusions (420; 10.9%), sprains or tears of ligaments (410; 10.7%), and all other specific injuries, not otherwise classified (297; 7.7%).

INDEMNITY - CAUSE

The major causes of injuries in 2018 are shown in Figure 3.3. 'Strains or injuries by' and 'fall, slip or trip' injuries were the two most numerous causes by far, which together account for 62.9% of indemnity claims. Both of these have been in the top three causes of injury for the past two years. Other large categories included 'struck or injured by,' 'miscellaneous causes,' and 'motor vehicle.' Each category accounted for more than 5% of indemnity claims.

Figure 3.2 Indemnity Claims by Nature of Injury (Top Ten Categories)

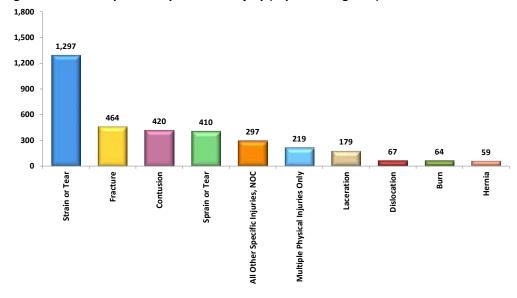
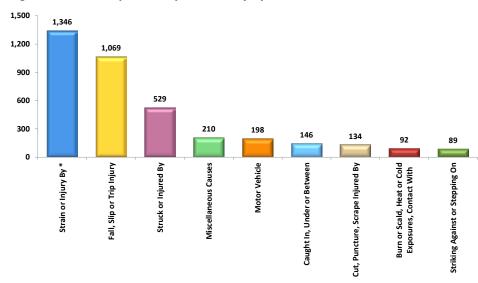


Figure 3.3 Indemnity Claims by Cause of Injury



^{*}Lifting is included in this category.

Note: Unknown cause (16) and Rubbed or Abraded By (9) are not shown.

Figure 3.4 Indemnity Claims by Age and Gender of Injured Worker

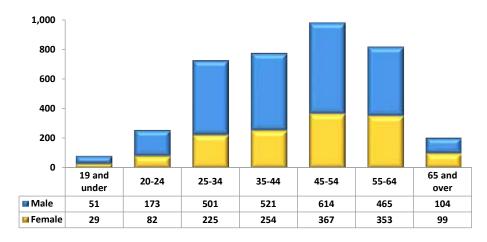
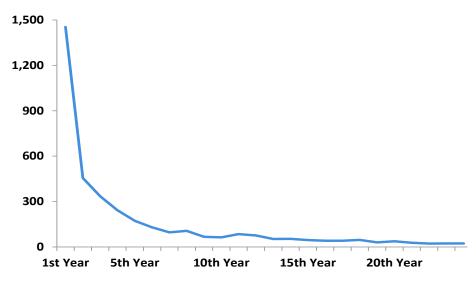


Figure 3.5 Indemnity Claims by Number of Years on Job



INDEMNITY CLAIMS BY AGE AND GENDER

The incidence of serious workplace injuries varies significantly by age and gender. In 2018, the overall number of indemnity claims peaked between the ages of 45 and 54 (25.6% of indemnity claims, Figure 3.4). However, the age distribution differs for males and females. The share of claims grew slowly for females between 25 and 44 years of age (34%), and the largest share occurred during the extended period from ages 45 to 64 (51.1%). For males, claims were more evenly distributed across all ages from 25 to 64. Males' claims concentrated in the 45 to 54 age span (25.3%) and tapered off slightly between the ages of 55 to 64. As usual, most indemnity claims (63.3%) were associated with males (2,429 claims). Females accounted for 1,409 indemnity claims (36.7%). These patterns are consistent with those found in years past.

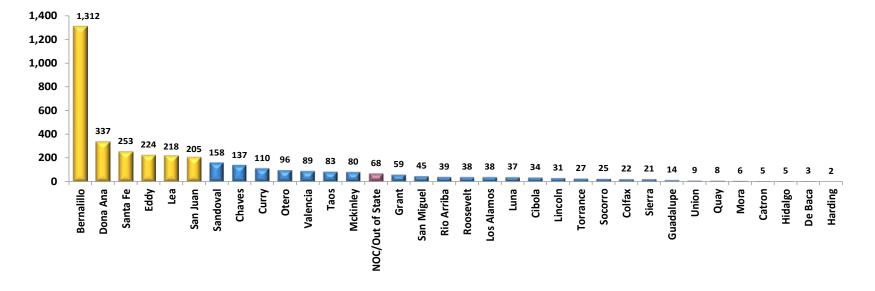
INDEMNITY CLAIMS BY NUMBER OF YEARS IN A JOB

In 2018, most serious workplace injuries happened in a worker's first year in a job (39.7%; Figure 3.5). The number of claims rapidly declined between the second and seventh years in a job (37.2%) before settling into a long, gradual decline for up to 60 years that workers held a job (24.9%). These patterns follow what has been found in years past.

INDEMNITY - LOCATION

Once again in 2018, New Mexico's three most populous areas, Bernalillo, Doña Ana, and Santa Fe counties, had the most indemnity claims (collectively 49.6%; Figure 3.6). Eddy, Lea, and San Juan counties also had more than 200 indemnity claims each (combined 16.9%). Sixy-eight claims were from injuries that occurred outside New Mexico or in a county that was not specified (1.8%).

Figure 3.6 Indemnity Claims by County



INDEMNITY CLAIMS

Figure 3.7 shows 2018 indemnity claims per 100 covered workers by county. The six counties with the highest rates had more than 80 claims per 100 workers. It is important to note that these counties have small workforces and together accounted for only 3.6 percent of indemnity claims. Under these conditions, a relatively small change in the number of claims can markedly affect a rate. Claim rates for counties such as Bernalillo and Doña Ana have been more stable. There were some exceptions, however, as Santa Fe County had an 11 point drop in the claim rate, reflecting a decrease of 64 claims since 2017. Also, Sandoval County's rate increased 12 points because of an increase of 33 claims in the last year.

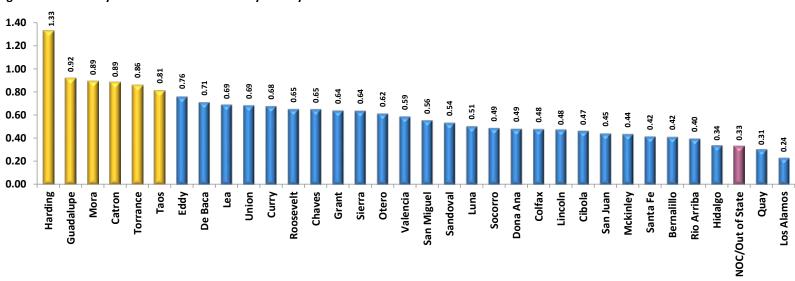


Figure 3.7 Indemnity Claims Per 100 Workers by County

INDEMNITY - INDUSTRY

Figure 3.8 illustrates the 10 industry sectors with the most new indemnity claims in 2018 and their corresponding claim rates. Health care and social assistance and public administration have ranked among the top three industry sectors for the last several years. Together these industries comprised 24.9 percent of indemnity claims in 2018. The construction (11%) and retail trade (10.4%) industry sectors accounted for significant shares of claims as well. The number of claims per 100 covered workers in transportation and warehousing (1.29) and public administration (0.98) were among the three industry sectors with the highest claim rates in 2018 and recently.

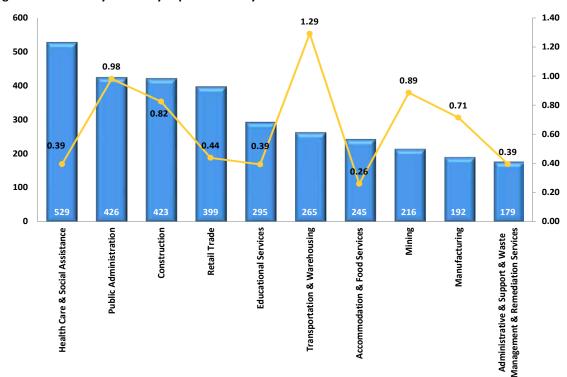


Figure 3.8 Indemnity Claims by Top Ten Industry Sectors and Claims Per 100 Workers

INDEMNITY - OCCUPATION

Certain occupations have accounted for large portions of indemnity claims. Two major groups of occupations, construction and extraction and transportation and material moving, accounted for the majority of claims in 2018 (627 claims or 16.3%, and 448 claims or 11.7%, correspondingly, Figure 3.9) which has been the case since at least 2014. The top five occupation groups taken together accounted for 50.5 percent of indemnity claims in 2018. Occupations usually have distinctive injury characteristics. Strains of the back, knee or shoulder were the most common injuries in construction and extraction and transportation and material moving occupations.

*All Other Occupations category (Figure 3.9) encompasses claims from seven occupations, each of which accounts for less than one percent of the total.

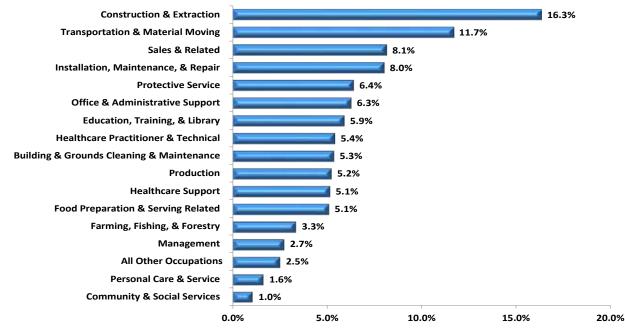
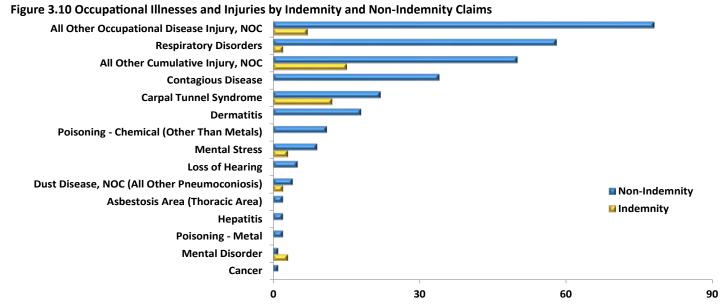


Figure 3.9 Percent of Indemnity Claims by Occupation of Injured Workers

OCCUPATIONAL DISEASES

Occupational illnesses and injuries have routinely made up a small share of New Mexico's workers' compensation claims, a trend that continued in 2018. A total of 341 claims were associated with occupational illnesses and injuries, comprised of 44 indemnity claims (1.1%) and 297 non-indemnity claims (2.1%). As seen in Figure 3.10, the top two disorders among non-indemnity claims fell under the categories of all other occupational diseases and cumulative injuries not otherwise classified (26.3%), and respiratory disorders (19.5%). All other cumulative injuries not otherwise classified (34.1%) and carpal tunnel syndrome (27.3%) categories accounted for the largest shares of indemnity claims.



NOC = Not otherwise classified VDT= Video display terminal

NEW MEXICO WORK-RELATED FATALITIES

In 2018, 32 work-related fatalities were reported to the WCA, continuing a decrease since 2016. The fatality rate, expressed as the number of fatalities per 100,000 covered workers, dropped to 4.03, a low since at least 2012 (Table 3.2). According to the most recent information from the U.S. Bureau of Labor Statistics' Current Population Survey (2018b), New Mexico reported 4.7 fatal occupational injuries for every 100,000 full-time workers. This work-related fatality rate tied the state of Iowa for the 14th highest rate in the country in 2017. Nationally, the fatal injury rate was 3.5 per 100,000 workers in 2017. Claims and survey statistics differ on key data collection and calculation methods and are not comparable. Still, survey statistics provide helpful insights into New Mexico's work-related deaths.

Motor vehicles were the leading cause of occupational fatalities (12 claims, 46.9%) in 2018, as they have been since 2012. In 2018, 10 claims involved miscellaneous causes, which has consistently been the second highest category of fatalities behind motor vehicles. Miscellaneous causes encompass a number of events, including work-related violence and natural disasters.

Table 3.2 Causes of Work-Related Fatalities, 2012-2018

Cause of Death	Year of Injury						
Cause of Death	2012	2013	2014	2015	2016		
Motor Vehicle	14	18	30	17	12		
Miscellaneous Causes	8	7	6	9	9		
Struck Or Injured By	12	6	9	7	7		
Fall, Slip Or Trip Injury	9	5	3	2	3		
Unknown	2	3	5	1	3		
Strain Or Injury By	2	0	0	2	4		
Caught In, Under Or Between	1	2	0	1	3		
Burn Or Scald, Heat Or Cold Exposures	1	2	1	0	2		
Striking Against Or Stepping On	1	0	0	0	1		
Cut, Puncture, Scrape Injured By	0	1	0	0	0		
Total	50	44	54	39	44		
Workforce	755,594	763,356	769,430	779,122	779,927		
Covered Fatalities Per 100,000 Workers	6.62	5.76	7.02	5.01	5.64		

Source: WCA Claims Database

Note: Previously published statistics are subject to revision due to updated fatality information.

The two industry sectors with the most work-related deaths since 2012 were construction and mining (18.2% and 15.8% respectively), though the 2018 counts were far below the high points in 2014 (Table 3.3). Construction, manufacturing, wholesale trade, retail trade, and arts, entertainment, and recreation industry sectors had the most work-related deaths in 2018, together accounting for 56.3 percent of the year's total.

Table 3.3 Work-Related Fatalities by Industry Sector, 2012-2018

Industry	Year of Injury					
Industry	2012	2013	2014	2015	2016	
Construction	9	12	13	7	5	
Mining	6	11	14	7	3	
Transportation & Warehousing	3	2	7	8	2	
Public Administration	3	2	4	3	9	
Retail Trade	5	3	0	1	2	
Agriculture, Forestry, Fishing & Hunting	2	1	1	1	7	
Accommodation & Food Services	3	1	3	2	4	
Administrative & Support & Waste Management & Remediation Services	5	2	2	0	1	
Wholesale Trade	3	1	1	2	1	
Manufacturing	3	1	1	1	3	
Health Care & Social Assistance	2	1	3	1	0	
Other Services (Except Public Administration)	0	0	2	2	1	
Educational Services	2	3	0	2	1	
Professional, Scientific, & Technical Services	1	1	1	1	3	
Arts, Entertainment, & Recreation	1	0	0	0	1	
Information	0	1	0	1	1	
Finance & Insurance	1	1	1	0	0	
Real Estate & Rental & Leasing	1	0	0	0	0	
Utilities	0	1	1	0	0	
Total	50	44	54	39	44	

Source: WCA Claims Database

Notes: Previously published statistics are subject to revision due to updated fatality information. Industry sectors at the two-digit level of detail, North American Industry Classification System, U.S. Census

From 2012 through 2018, construction; mining; transportation & warehousing; public administration; and retail trade were the five industry sectors that reported the most fatalities, in descending order.

Work-related fatalities were distributed across various age groups. Their share progressively grew from 12.2 percent in the 20 to 24 year age group to 23.3 percent in the 55 to 64 age group, where most of them occurred (Figure 3.11).

(For more information about work-related fatalities that occurred in 2018, see https://workerscomp.nm.gov/sites/default/files/documents/publications/bulletins/Spring2019.pdf.)

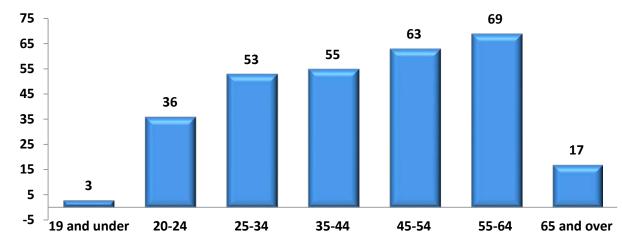


Figure 3.11 Work-Related Fatalities by Age of Injured Worker, 2012 - 2018

Most work-related deaths between 2012 and 2018 happened in a worker's first year in a job (40.2%; Figure 3.12), which is not surprising, as the first year on a job is when the majority of workplace injuries take place (p. 26, Figure 3.5) Another 40.9 percent occurred when workers had been in a job for one to six years. A substantial share of fatalities (12.5%) happened when workers had been in a job for 10 or more years.

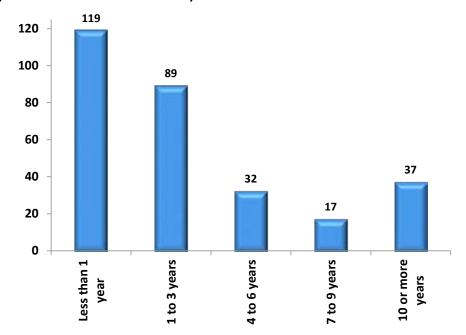


Figure 3.12 Work-Related Fatalities by Number of Years in a Job

Since 2012, most work-related fatalities involved multiple body parts (23.6%), body systems simultaneously with multiple body parts (8.8%), skull (7.8%), internal organs (5.7%), and the heart (5.1%). These injuries are predictable given their long history of devastating circumstances.

Between 2012 and 2018, most workers (79.7%) died on the same day they were injured. A few (6.15%) died within a week (4.7%). Another 7.1 percent died within a year. A small residual (2.4%) died more than a year after their workplace injury.

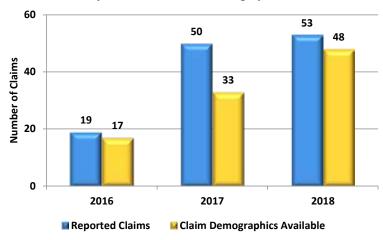
MEDICAL CANNABIS

Despite the small dollar amount, data collected on medical cannabis claims proves significant. This marks the third year medical cannabis reimbursement data has been collected by the WCA. Medical cannabis reimbursement rates were added to the providers' fee schedule effective January 1, 2016, and data collection for medical cannabis information began at the end of 2016. This was in conjunction with the effective date of 11 NMAC 4.7.7.D, governing the reimbursement of claimants for medical cannabis. At the time the rules for medical cannabis were published, there was concern claimants might claim the maximum allowable amount regardless of need. However, collected data shows that on average in 2018, claimants were reimbursed for approximately 14.8 percent of the annual allowable maximum. The current reimbursement rate for medical cannabis is \$12.02 per unit (approximately 1 gram), and reimbursement can be for up to 230 units of cannabis per calendar quarter, or 920 units per calendar year. The current maximum allowed reimbursement per claim is \$2,765 per calendar quarter, or \$11,058 per year (Figure 4.1). In 2018, 24 payers reported reimbursements totaling \$86,850.39 for 53 claims. The average amount reimbursed per claim was \$1,639. This corresponds to an average of 136 units of medical cannabis per claim, an uptick from 97 units per claim in 2017. Medical cannabis accounted for 0.4804 percent of all 2018 drug expenditures, and for 0.0288 percent of 2018 total expenditures.

Figure 4.1 Medical Cannabis Reimbursements, 2018

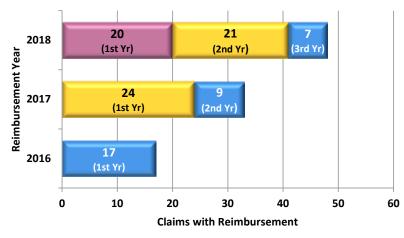
		2016	2017	2018
Total Reimbursement (All Paye	rs):	\$46,826	\$58,401	\$86,850
Maximum Allowable Reimburse (per claim)	ement:	\$11,058	\$11,058	\$11,058
Average Per Claim Reimbursen	nent:	\$ 2,465	\$1,168	\$1,639
Total Reimbursed Claimants:		19	50	53
Reimbursement Rate per Unit*:	\$12.02	2		
Maximum Annual Quantity:	920 U	nits		

Figure 4.2 Availability of Cannabis Claim Demographics



Source: New Mexico Workers' Compensation Administration Annual Expenditure Report, 2016-2018

Figure 4.3 Claim Reimbursement Duration, 2016-2018



Source: New Mexico Workers' Compensation Administration Annual Expenditure Report, Supporting Data, 2016-2018

MEDICAL CANNABIS CLAIMS

The WCA requests claimant demographic information informally from payers who report reimbursements on the annual expenditure report (AER). Data is provided on a voluntary basis by payers who support the WCA's continuing study of this emerging facet of workers' compensation care.

The WCA may someday consider establishing a mandatory report through rule or statute to allow further research into the costs and benefits of medical cannabis as a component of workers' compensation care. Demographic information is currently available for approximately 80 percent of reported claims that include medical cannabis reimbursements. Figures 4.2 through 4.11 rely on the claims for which demographic information is available.

Reports of medical cannabis reimbursement have increased in the two years since initial data collection. There were 19 claims in 2016, 50 in 2017 and 53 in 2018. Although the total number of reimbursement reports for the three years is 122, the number of individual claimants for the total is somewhat lower, as claimants continue treatment and reimbursement over multiple years. Of the 48 claimants reimbursed in 2018 with data available, seven were reimbursed each of the three years, while 21 were reimbursed in 2017 and 2018. Twenty claims were reimbursed for the first time in 2018.

The WCA hopes to continue tracking treatment duration for medical cannabis claims in the coming years. Only 53 percent of claimants with reimbursements in 2016 also received reimbursements in 2017 (Figure 4.3). However, 87.5 percent of the claimants with first-time reimbursements in 2017 continued cannabis treatment in 2018, a significant jump.

Based on reported claimant demographics for the workers' compensation population identified as receiving reimbursements for medical cannabis therapy, the profile of a "typical" patient has begun to emerge (Figure 4.4). The patient profile is based on the most commonly occurring features of the cannabis claim population. The "typical" patient is a male who has been in the workers' compensation system for about 13 years with a back injury acquired while working in heavy industry. His type of injury was sprain, strain or tear, which initially occurred in his early forties (Figure 4.4). Additional detailed demographic information regarding claims with medical cannabis reimbursements is summarized in Figures 4.6-4.11.

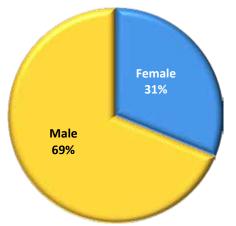
The data indicates medical cannabis reimbursement claims over the past three years have been made predominantly by males, with 69 percent being male, and 31 percent female (Figure 4.5).

Figure 4.4 Average Cannabis User, 2016-2018



Source: New Mexico Workers' Compensation Administration Annual Expenditure Report, Supporting Data, 2016-2018

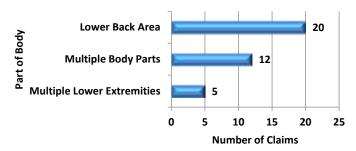
Figure 4.5 Medical Cannabis Claims by Gender, 2016-2018



Source: New Mexico Workers' Compensation Administration Annual Expenditure Report, Supporting Data, 2016-2018

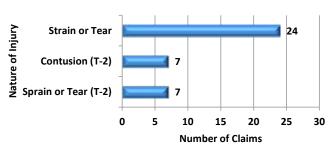
^{*}The green cross has been adopted by medical cannabis dispensaries as an easy to recognize symbol identifying their industry.

Figure 4.6 Top Three Parts of Body - Medical Cannabis Claims, 2016-2018



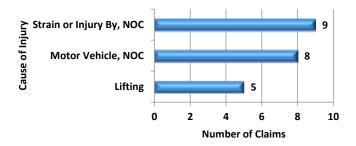
Source: New Mexico Workers' Compensation Annual Expenditure Report, Supporting Data, 2016-2018

Figure 4.7 Top Three Natures of Injury - Medical Cannabis Claims, 2016-2018



Source: New Mexico Workers' Compensation Annual Expenditure Report, Supporting Data, 2016-2018

Figure 4.8 Top Three Causes of Injury - Medical Cannabis Claims, 2016-2018



Source: New Mexico Workers' Compensation Annual Expenditure Report, Supporting Data, 2016-2018 NOC=Not Otherwise Classified Characteristics that emerge from the first three years of known medical cannabis claims point out an interesting pattern with some similarities and differences from characteristics of indemnity claims in general. The lower back is a leading cause of injury, as it is in indemnity claims. Rather than a high incidence of knee injuries as found in indemnity claims, medical cannabis indemnity claims typically involve the categories of multiple body parts and multiple lower extremities (Figure 4.6).

The top nature of injury for medical cannabis claims is the category of strain or tear, as it is with indemnity claims. Sprain or tear and contusion are top categories for medical cannabis reimbursement claims as they are with indemnity claims (Figure 4.7).

For medical cannabis claims, strain or injury by, motor vehicle, and lifting have been the top categories for cause of injury (Figure 4.8). In 2018, the top three causes for non-medical cannabis indemnity claims were strain or injury by, fall, slip or trip, and struck or injured by (see p. 27).

The majority of workers who utilize medical cannabis reimbursement had jobs in the private sector from industires such as construction, mining and retail trades (Figure 4.9) at the time of their injury. This mirrors the same workplace pattern found in workers' compensation indemnity claims.

The top three industries for medical cannabis indemnity claims were public administration, educational services, and construction (Figure 4.10). The construction industry has a consistently high rate of injury overall. For non-medical cannabis indemnity claims in 2018, health care & social assistance and public administration were the top two industry categories (Figure 3.8, p. 31).

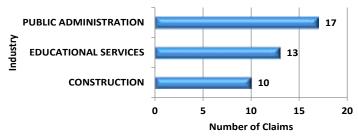
The top occupations for which medical cannabis reimbursement claims were filed over the past three years were construction & extraction, transportation & material moving, and education, training & library (Figure 4.11). For non-medical cannabis indemnity claims in 2018, the top occupations were construction & extraction, transportation & material moving, and sales & related (Figure 3.9, page 32).

Figure 4.9 Medical Cannabis Claims by Employer, 2016-2018



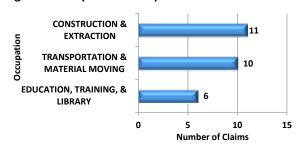
Source: New Mexico Workers' Compensation Annual Expenditure Report, Supporting Data, 2016-2018

Figure 4.10 Top Three Industries - Medical Cannabis Claims, 2016-2018



Source: New Mexico Workers' Compensation Annual Expenditure Report, Supporting Data, 2016-2018

Figure 4.11 Top Three Occupations - Medical Cannabis Claims, 2016-2018



Source: New Mexico Workers' Compensation Annual Expenditure Report, Supporting Data, 2016-2018

WORKERS' COMPENSATION COSTS

To evaluate costs, the WCA collects and examines claim financial figures (paid loss information) from annual expenditure reports (AER) submitted annually by carriers and self-insurers to the Economic Research and Policy Bureau (ERPB). For comparison, statistics are also gathered from the National Association of Insurance Commissioners (NAIC), the National Council on Compensation Insurance (NCCI), the New Mexico Department of Workforce Solutions (DWS), and the Oregon Department of Consumers and Business Services. The WCA uses the data to analyze losses, premiums and carrier performance each year.

CLAIM EXPENDITURES

The cost of workers' compensation claims affects all New Mexico employers. Employers covered by commercial coverage are affected by rising and falling claim costs through the premiums they pay for insurance. Self-insured employers see the effects in their operating results. Highlights from Table 5.1 show total paid losses increased by \$2,227,447 in 2018, 0.8 percent greater than in 2017. The number of claims with benefit payments remained flat, increasing by a total of 230 claims from 2017. Claim expenditures for the year totaled \$299,177,013. Results were mixed when looking at the type of payer. Carrier paid losses increased 3.4 percent, whereas self-insurer paid losses decreased 4.5 percent.

As seen in Figure 5.1, medical costs again comprise the highest dollar amount reported on the AER, totaling 169.2 million for 2018. Indemnity expenditures decreased 2.8 percent in 2018 compared to 2017, for a total of approximately \$3,215,296 million. Other expenditures and legal expenditures remained largely unchanged from 2017 to 2018.

Table 5.1 Carrier and Self-Insurer Paid Losses and Total Claims by Calendar Year

Year	Total Expenditures	Total Claims	Carrier Expenditures	Self-Insured Expenditures
2012	\$315,110,547	46,724	\$214,720,582	\$100,389,965
2013	\$311,260,984	44,050	\$216,329,626	\$94,931,358
2014	\$317,849,969	43,806	\$216,818,811	\$101,031,157
2015	\$321,804,171	41,592	\$219,465,347	\$102,338,824
2016	\$309,429,016	41,908	\$206,924,518	\$102,504,498
2017	\$296,949,566	40,406	\$198,158,462	\$98,791,104
2018	\$299,177,013	40,636	\$204,840,262	\$94,336,751

Source: New Mexico Workers' Compensation Administration, Annual Expenditure Report, 2012-2018

Figure 5.1 Total Expenditures by Category, 2012-2018 (\$ in millions)

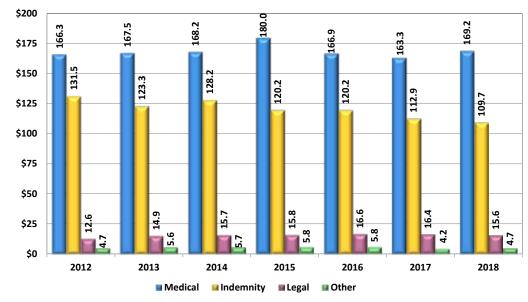
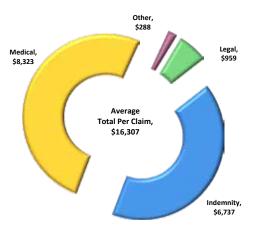
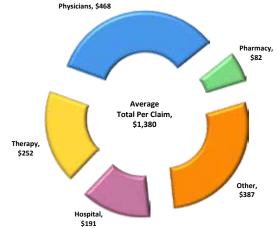


Figure 5.2 Indemnity Claim Distribution of Expenditures, 2018



Source: New Mexico Workers' Compensation Administration, Annual Expenditure Report, 2018

Figure 5.3: Medical-Only (Non-Indemnity) Claim Distribution of Expenditures, 2018



Source: New Mexico Workers' Compensation Administration, Annual Expenditure Report, 2018 Indemnity claims provide funds for wage replacement or permanent disability for injured workers. Total expenditures for indemnity claims in 2018 were \$265,564,641. There was a slight decrease of 4.5 percent in indemnity claims in 2018, with 765 fewer reported claims than in 2017. Indemnity claims account for 89 percent of 2018 expenditures overall. In comparison, 2017 indemnity claims represented 91 percent of expenditures, and medical claims 9 percent.

Since 2017, there have been fewer indemnity claims with benefits. However, indemnity claims that had benefit payments had higher expenditures. The amount paid per indemnity claim in 2018 increased by \$536 per claim to \$16,307 (Figure 5.2), an increase of 3.4 percent from 2017.

Total expenditures for medical-only (non-indemnity) claims were \$33,612,372, an increase from 2017's total of \$28,032,443. There were 24,350 open medical-only claims during 2018, an increase of 4.3 percent, or 995 claims since 2017. There were 24,350 medical-only claims compared to 16,286 indemnity claims in 2018. Despite the higher volume of medical-only claims, they represented only 11 percent of total workers' compensation expenditures overall. The average total per medical-only claim was \$1,380 in 2018, compared to \$1,200 in 2017 (Figure 5.3).

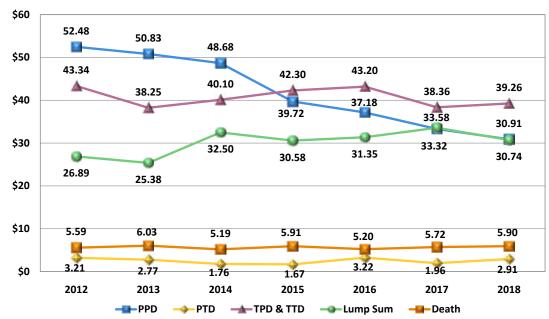


Figure 5.4 Summary of Indemnity Expenditures, 2012-2018 (\$ in millions)

Source: New Mexico Workers' Compensation Administration Annual Expenditure Report, 2012-2018

Indemnity payments totaled \$109,719,547 in 2018, which is \$3,215,296 less than 2017's total of \$112,934,843. Lump-sum settlements decreased, reversing a continued trend of increasing lump-sum settlement expenditures since 2013. Lump-sum settlements totaled \$30,741,386, a decrease of 8.5 percent from \$33,584,252 in 2017. In Figure 5.4, the trajectory of trends for decreasing PPD and increasing lumpsum settlements met in 2017, and this year it was expected that the total of lump-sum settlement payments would be larger than PPD benefit payments, illustrated by a crossing of those lines on the graph. Yet with the decrease in PPD and lump-sum payments, the lines again met. Traditionally, the WCA has categorized lump-sum expenditures reported on the AER as indemnity payments. However, in recent years, a portion of this amount includes money used to settle medical benefits on claims. It is believed that medical benefit settlements account for a minority of this category, and the WCA does not have data to justify or support reclassifying the expenditures reported into a different category. The trend for declining PPD expenditures continued for the sixth straight year. 2018's total of \$30,909,845 reflects a decline of 41.1 percent in annual expenditures since 2012 and 7.2 percent since 2017. In all likelihood, the decrease is the result of the higher incidence of claims being settled over the past several years. As indemnity claims are settled through lump sums, future PPD expenditures decrease, since those payments shift to the year in which the lump-sum settlement occurred. TTD/TPD, Death and PTD remain essentially flat across the years shown.

PREMIUM COSTS

Historically, about two-thirds of New Mexico's workers are covered by commercial workers' compensation insurance. In 2019, loss costs and corresponding premium rates are estimated to decrease by 5 percent for the voluntary market, based on NCCI's loss cost filing with the New Mexico Office of the Superintendent of Insurance for 2019 (Figure 5.5). Loss costs are the portion of the rates sufficient to cover claim loss

expenses. Loss costs for the assigned risk pool will remain unchanged in 2019. The decrease approved for 2019 marks four consecutive years of decreasing workers' compensation premiums for the voluntary market in New Mexico, as compared to the moderate annual increases of the prior three years (2013-2015). NCCI attributes the premium decrease in 2018 to prior years' loss experience and trends in the state.

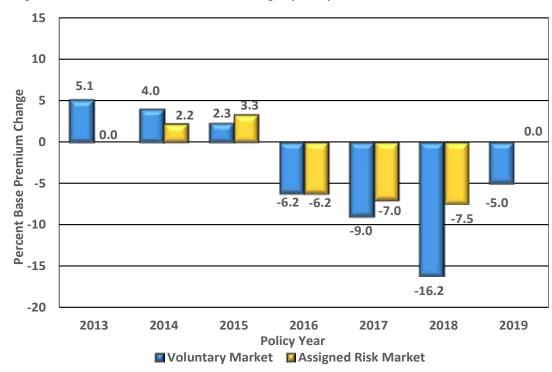


Figure 5.5 New Mexico Annual Premium Change by Policy Year, 2013-2019

Source: National Council on Compensation Insurance, New Mexico State Advisory Forum, 2018

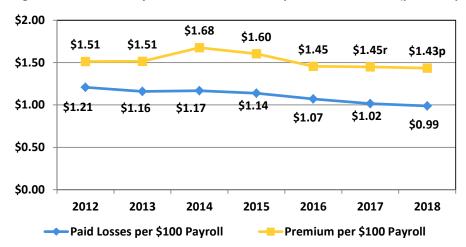


Figure 5.6 Estimated Payroll Costs: Premium Compared to Paid Losses (per \$100 payroll)

r: revised based on final NAIC premium data p: preliminary data

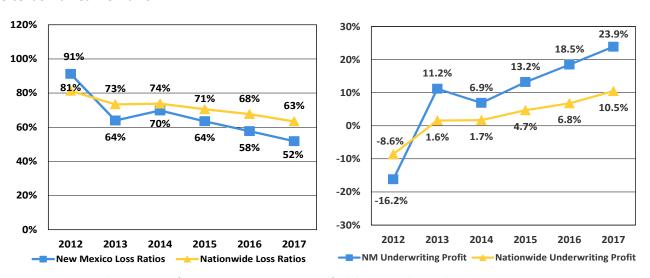
Sources: New Mexico Workers' Compensation Administration, *Annual Expenditure Report*, 2012-2018
National Association of Insurance Commissioners (NAIC), Preliminary NAIC Annual Statement Data, 2018
New Mexico Department of Workforce Solutions, *Quarterly Census of Employment and Wages*, 2012-2018

Premiums are billed based on loss costs filed by NCCI which are then approved by the Office of the Superintendent of Insurance. They vary widely based on industry and job classifications of workers. Direct written premium in New Mexico in 2018 totaled \$273,425,000, based on preliminary market share data from the National Association of Insurance Commissioners (NAIC). The average premium per \$100 of payroll was \$1.43 in 2018, based on preliminary data from NAIC (Figure 5.6). This is a decrease of 1.4 percent compared to 2017's final figures. Paid losses per \$100 of payroll were \$0.99 in 2018, a three percent decrease from 2017.

Figures 5.7 and 5.8 present 2017 data from the National Association of Insurance Commissioners' (NAIC) Report on Profitability. This is the most current report available. Loss ratio is a measure of underwriting profitability for carriers calculated by dividing incurred losses and adjusting expenses by premiums for a given period. In 2017, carriers experienced a loss ratio of 52 percent in New Mexico, compared to 58 percent in 2016. Nationwide, loss ratios decreased, from 68 percent in 2016 to 63 percent in 2017. Underwriting profit is inversely related to loss ratio, with the underwriting profit increasing as the loss ratio decreases. At 23.9 percent, New Mexico's underwriting profit in 2017 was significantly higher than the nationwide average of 10.5 percent. Carriers' underwriting profit increased substantially in 2017, from 18.5 percent to 23.9 percent, mirroring a similar increase nationwide. The profitability trends seen in Figures 5.7 and 5.8 would indicate that New Mexico's loss costs should be decreasing to maintain balance between insurer profit and reasonable rates. The loss cost decreases illustrated by Figure 5.5 (detailed earlier in this chapter) show that this is the case.

Figure 5.7 Nationwide vs. NM Adjusted Loss Ratios by Percent of Earned Premiums

Figure 5.8 Nationwide vs. New Mexico Underwriting Profit



Source: National Association of Insurance Commissioners, Profitability Report by Line by State in 2017

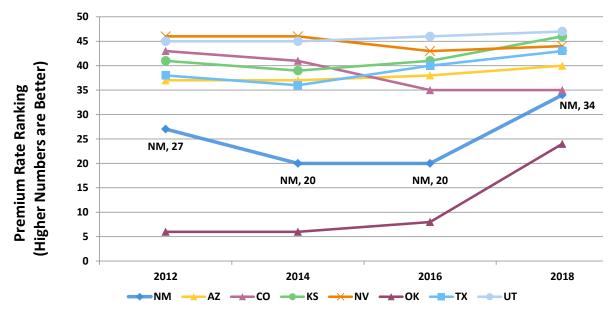


Figure 5.9 Eight-State Southwest Subregional Comparisons Based on Oregon Premium Rate Ranking, 2012-2018

Source: Oregon Workers' Compensation Premium Rate Ranking Summary, 2012-2018

The Oregon Department of Consumer and Business Services (DCBS) studies and computes premium rate ranking summaries for 51 states based on National Council on Compensation Insurance (NCCI) data, in even-numbered years. The data can be used to compare workers' compensation costs among states. The DCBS 2018 premium ranking summary indicated that New Mexico employers in the voluntary insurance market paid, on average, the 34th highest workers' compensation premium rates in the nation (Figure 5.9). In other words, New Mexico's rates were 12 percent below those of the median states in the 2018 Oregon study. New Mexico's 34th ranking in 2018 was an improvement from its position as 20th in the 2016 and 2014 rankings. It fell short of the highest ever ranking in 2000, however, when it was ranked 42nd.

In the southwestern sub-region, which includes New Mexico, the 2018 relative ranking positions in the sub-region (AZ, CO, KS, NM, OK, TX, NV, UT) remained the same as those in 2016. The exception was Kansas, which outperformed Nevada. All sub-regional jurisdictions improved their ranking and index rates. New Mexico continued to outperform only Oklahoma, which was ranked 24th in the 2018 study.

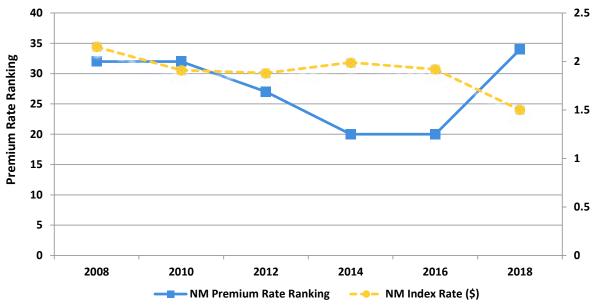


Figure 5.10: New Mexico: Oregon Index Rates and Premium Rate Ranking, 2008-2018

Source: Oregon Workers' Compensation Premium Rate Ranking Summary, 2012-2018

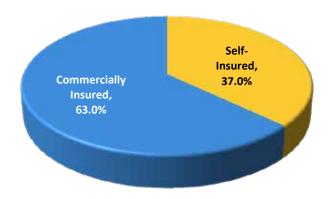
The index rate in 2018 was \$1.66 per \$100 of payroll. The sub-regional premium rate indices ranged from a low of \$1.06 for Utah to a high of \$1.71 for Oklahoma per \$100 of payroll. New Mexico's index rate was \$1.50 per \$100 of payroll (Figure 5.10), or 88 percent of the national median. New Mexico's 2018 ranking of 34th represents a solid improvement over its ranking of 20th in 2016. However, this still falls short of its best ranking of 42nd which was achieved in 2000.

WORKERS' COMPENSATION COVERAGE

New Mexico law requires that all employers in New Mexico carry workers' compensation insurance if they employ three or more workers, or perform work required to be licensed by the New Mexico Construction Industries Act (regardless of the number of employees). Alternatively, they can be approved for self-insurance. Out-of-state employers may need coverage if work is performed in New Mexico. Premiums for commercial insurance are based on the classification(s) of the work being performed by employees, and on the claims history and payroll of the employer. Employers in New Mexico have several options when it comes to meeting the coverage requirements under the Act. In addition to hundreds of commercial insurance companies licensed and actively writing workers' compensation policies in New Mexico, employers may be eligible to participate in a self-insured group or pool, or to become certified as an individual self-insurer. As a last resort, companies unable to find insurance elsewhere may obtain coverage through the assigned risk pool.

Figure 6.1 shows the proportion of workers covered under commercial policies (through the voluntary market and assigned risk pool) compared to workers covered under self-insured programs in 2018. Table 6.1 illustrates the insurance categories and their coverage from 2012 through 2018. It also demonstrates that the adjusted covered workforce has steadily increased for each of the past six years.

Figure 6.1 2018 Percentage Covered Workforce by Type of Coverage



Sources: DWS Quarterly Census of Employment and Wages, 2018 WCA Annual Expenditure Report, 2018

Table 6.1 Estimated Covered Workforce and Employers by Type of Insurance, 2012-2018

Voluntary & Assigned-Risk Markets			ed-Risk Self-Insurance		
	Active	Covered	Covered		
	Carriers ¹	Workers ²	Employers ³	Workers ⁴	Total
2012	229	423,821	2,544	248,588	672,409
2013	228	435,922	2,591	243,184	679,106
2014	223	431,040	2,586	253,460	684,500
2015	215	443,387	2,604	249,771	693,158
2016	222	446,529	2,514	251,484	698,013
2017	222	448,402	2,611	256,946	705,348
2018	226 ^P	450,044	2,384	264,360	714,404

P Preliminary Data

¹ Source: National Association of Insurance Commissioners, *Annual Statement Data, New Mexico Market Share Report*, 2012-2018.

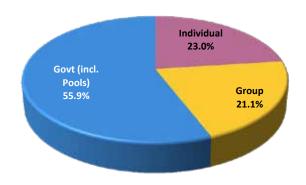
² Total covered workforce minus self-insured workers.

³ Source: WCA Self-Insurance Bureau.

⁴ Source: WCA Annual Expenditure Report.

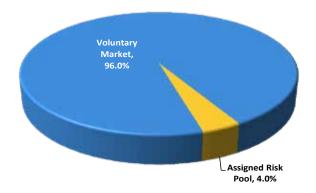
⁵ Source: DWS Quarterly Census of Employment and Wages (excludes workers not subject to the Act).

Figure 6.2 2018 Self-Insured Workforce by Self-Insured Type



Source: WCA Annual Expenditure Report, 2018

Figure 6.3 2017 New Mexico Assigned Risk Pool Market Share^p



Source: NCCI, *Residual Market Management Summary, 2017* 2018 figures not available at the time of publication.

SELF-INSURED PROGRAMS

The majority of workers covered under self-insured programs in New Mexico are public employees (55.9 percent). Nearly all of the governmental entities in New Mexico fall under a self-insured pool or individual program. The remaining 44.1 percent of workers covered under self-insured programs are split between individual self-insured private sector employers (those who qualify and choose to pay their claims directly) and self-insured groups (private sector employers in similar industries who form a member-owned entity which directly pays member claims for them).

COMMERCIAL INSURANCE

Most employers in New Mexico who seek commercial workers' compensation insurance are able to find a policy within the voluntary market (96 percent in 2017). However, new companies with little loss history and companies with a poor loss history may find it difficult to secure a policy. Companies having a hard time securing insurance may participate in the assigned risk pool, a market of last resort for insurance coverage. In New Mexico and some other states, the assigned risk pool is administered by the National Council on Compensation Insurance (NCCI). Employers that obtain policies through the assigned risk pool pay higher rates determined annually by NCCI. In 2017, only 4 percent of commercially insured companies in New Mexico were covered through the assigned risk pool, compared with 6 percent countrywide.

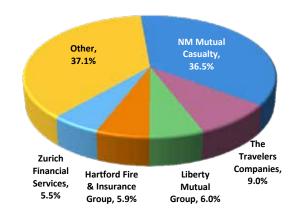
Table 6.2 Assigned Risk Pool Market Share by Direct Written Premium, 2011-2017

	2011	2012	2013	2014	2015	2016	2017
New Mexico	3.0%	3.7%	5.6%	7.0%	6.0%	5.2%	4.0%
Nationwide	4.0%	5.3%	6.6%	6.8%	6.3%	6.1%	6.0%

Source: National Council on Compensation Insurance, New Mexico Residual Market *Management Summary, 2017*Note: 2018 figures not available at time of publication.

New Mexico Mutual Casualty Company (NM Mutual) was originally created under \$52-9-1-25 to make it easier for small- and medium-sized New Mexico companies to obtain workers' compensation insurance at competitive rates. Based on preliminary figures from the National Association of Insurance Commissioners (NAIC), NM Mutual held approximately 36.5 percent of the 2018 commercial workers' compensation market in New Mexico (based on direct written premium). In 2018, the next four highest volume carriers comprised 26.4 percent of the market, as illustrated in Figure 6.4. Other carriers with lower percentages were responsible for the remaining total 37.1 percent of 2018's direct premiums earned in New Mexico. Table 6.3 illustrates the market share by direct written premium for some of the state's largest insurers.

Figure 6.4 2018 Commercially Insured Market Share by Direct Written Premium^P



P Preliminary figures from NAIC

Source: National Association of Insurance Commissioners, Annual Statement Data, New Mexico Market Share Report, 2018

Table 6.3 Market Share by Direct Written Premium, Largest Insurance Carriers

WC Insurance Carrier	2012	2013	2014	2015	2016	2017 ^r	2018 ^P
New Mexico Mutual Casualty	31.7%	34.6%	37.0%	36.3%	36.5%	37.3%	36.5%
The Travelers Companies	9.4%	9.6%	9.6%	9.0%	8.8%	8.5%	9.0%
Liberty Mutual Group ¹	7.4%	4.0%	6.0%	5.4%	4.6%	5.3%	6.0%
Hartford Fire and Insurance Group	7.0%	6.6%	4.8%	5.6%	6.4%	6.2%	5.9%
Zurich Financial Services	10.5%	6.6%	6.0%	5.9%	5.6%	5.3%	5.5%
Other	34.0%	38.6%	36.6%	37.8%	38.1%	37.6%	37.1%

P Preliminary Data

Source: National Association of Insurance Commissioners, *Annual Statement Data*, New Mexico Market Share Report, 2012-2018

^r Revised to reflect final NAIC figures published in 2018

¹ 2012-2015 American International Group

REGULATORY AND CASE LAW UPDATE

2019 LEGISLATIVE SESSION

In the 2019 60-day legislative session, one House bill related to workers' compensation passed both houses. HB 324 was sent to Gov. Michelle Lujan Grisham, who signed it into law on April 2, 2019.

HB 324 - PTSD AS FIREFIGHTER EMPLOYMENT CONDITION

HB 324, introduced by Rep. Deborah A. Armstrong (D- Bernalillo) and Melanie A. Stansbury (D-Bernalillo) amends the Occupational Disease and Disablement Law to add post-traumatic stress disorder (PTSD) to a the list of conditions *presumed* to be caused by the occupation of firefighter. With the presumed assumption, an employer/insurer would authorize medical treatment for PTSD as with other job-related conditions, without requiring proof it was caused by the job. The bill also changes references of "disease" to "condition."

ADVISORY COUNCIL ON WORKERS' COMPENSATION AND OCCUPATIONAL DISEASE DISABLEMENT

The Advisory Council on Workers' Compensation and Occupational Disease Disablement was created by statute. The Advisory Council monitors the workers' compensation system and makes recommendations to the Governor, Legislature, regulatory agencies and participating industries related to the adoption of rules and legislation and the method and form of statistical data collections. There are six voting members of the council, who are appointed by the Governor. Three members represent employers and three members represent workers. The WCA director serves as an ex officio (seventh) member. Meetings take place on an as-needed basis at least twice a year, following an open-meeting format. The public and interested parties can attend. The Council's role is an advisory one, so members do not make rulings or recommendations on individual cases. The all-volunteer Council reports annually to the Governor, the Superintendant of Insurance, and the legislative leadership on the status of the state's workers' compensation system. The Council appoints members to the panel of professionals who select Independent Medical Examiners. The Council can also give its endorsement of proposed workers' compensation legislation.

Council members Darrell Deaguero*, Courtenay Eichhorst, and Sara Ranney* represent labor. Kevin Mc-Ginley, Sharon Pedroncelli* and Lillian Santillanes* represent business. Deaguero is President of the Laborers' International Union of North America, Local 16, in New Mexico. Council chair Eichhorst is business manager of U.A. Local 412. Council vice-chair McGinley is president of McGinley Construction, Inc., a residential and commercial remodeling firm. Pedroncelli is president and chief financial officer at McDade-Woodcock, Inc., a commercial electrical, instrumentation and control contractor. Ranney is with the International Association of Firefighters Local 244 and is an engine company lieutenant. Santillanes is vice president and co-owner of Structural Services, Inc., a steel erection firm.

*Newly appointed by Gov. Lujan Grisham



New Mexico Capitol Rotunda

RECENT COURT DECISIONS

The following selection of appellate case summaries is provided for informational purposes only, and should not be considered as legal precedent. Interested parties should read the case opinions and/or rely on the advice of legal counsel when evaluating their rights and obligations under the law.

NEW MEXICO SUPREME COURT

Casey R. Baker v. Endeavor Services, Inc. and Great West Casualty Company, 2018-NMSC-035 (filed September 6, 2018)

Worker appealed a decision by a Workers' Compensation Judge (WCJ) that denied his request that Employer pay 100 percent of Worker's attorney fees based upon the fee-shifting provisions of NMSA 1978 Section 52-1-54(F)(4) (2003, amended 2013). Worker received a higher judgment than offered after a trial, which may have shifted 100 percent of the attorney fees to Employer/Insurer. The WCJ determined that the mandatory fee-shifting provision didn't apply because Worker's offer of judgement did not address the maximum medical improvement date or the permanent partial disability benefits to be paid, thereby not meeting all requirements for an offer of judgment since the litigation would not have ceased when the offer was made. Employer/Insurer argued the offer of judgement failed to provide Employer with notice that the offer was intended to trigger the fee-shifting provision in the statute. On appeal, the New Mexico Court of Appeals (COA) affirmed the WCJ ruling. After accepting review of COA's decision, the New Mexico Supreme Court determined by majority opinion WCJ erred as a matter of law by not shifting 100 percent of the fee to Employer. The Supreme Court reasoned the fee-shifting provision of Section 52-1-54(F)(4) is mandatory when the offer of judgment has met all of its requirements. The Supreme Court noted that attorney fees were addressed in the offer and that Employer/Insurer was put on notice unambiguously that the fees shifting provisions of Section 52-1-54(F)(4) would apply if the offer was rejected. Chief Justice Nakamura dissented, noting Worker failed to offer terms fully setting forth all of the contested issues in the case. The matter was remanded to the WCJ to shift the attorney fees 100 percent to the Employer/Insurer.

NEW MEXICO COURT OF APPEALS

Melendez v. Salls Bros. Construction, Inc., 2018-NMCA-028 (filed January 17, 2018)

Worker was an undocumented person working as a construction worker. After sustaining a workplace injury, he sought modifier benefits in addition to PPD. The New Mexico Supreme Court determined in *Gonzalez v. Performance Painting, Inc., 2013-NMSC-021*, that an undocumented worker is only entitled to modifier benefits if the employer knew or should have known of the worker's undocumented status. At trial, it was determined that Worker used a fake Colorado driver's license and a fake social security card to gain employment. The court determined that despite deficiencies on the I-9 tax form the worker completed at the time of his employment, there was substantial evidence that the central office of the construction company relied on Worker's false documentation when it hired him. The COA upheld the WCJ ruling that denied the Worker modifier benefits.

Gloria Mendoza v. Isleta Resort and Casino and Hudson Insurance, 2018-NMCA-038 (filed April 9, 2018)

[With New Mexico Supreme Court, pending review (at time of publication)]

Worker was injured while employed by Isleta Resort and Casino, and filed for workers' compensation benefits with the tribe within 24 hours of the injury. Tribal First administers the workers' compensation program on behalf of the tribe, and claimed Worker failed to report her injury within 24 hours as required by the casino. Worker had provided notice within 24 hours, so filed a claim with the New Mexico Uninsured Employer Fund. The casino and Tribal First filed a motion to dismiss the case, citing tribal sovereign immunity. The WCJ granted the motion and dismissed the case. Worker filed an appeal, noting WCJ did not hear any evidence on whether Isleta complied with state gaming compacts that require the casino to participate in a workers' compensation program. The COA noted that the current gaming compact stipulates for an equivalent system of workers' compensation law for workers in the casinos that fall under the compacts and that the compact is a waiver of sovereignty. The COA concluded Worker was a third-party beneficiary to the workers' compensation insurance policy between Isleta and Hudson Insurance, and that Isleta and Hudson intended for Isleta Casino employees to benefit from the rights and protections created under the insurance policy in the event of any injury on the job. Worker can pursue her workers' compensation case against Hudson and Tribal First separately from the Pueblo of Isleta in the UEF court because Hudson and Tribal First are non-tribal entities.

Michael D. Lewis as surviving spouse of Patricia A. Lewis v. Albuquerque Public Schools, 2018-NMCA-049 (filed April 30, 2018)

Worker made a claim for an illness that resulted from mold in the workplace. The illness was compensated. Worker received disability benefits, and during this time, was eventually also treated for breast cancer. After Worker died, her surviving spouse filed for workers' compensation death benefits. The WCJ excluded records from the New Mexico Cancer Center, and the testimony of the Worker's cancer doctor. WCJ cited statute 52-1-51(C), which indicates only the health care provider who has treated the worker or provided an IME may offer testimony in a workers' compensation hearing. COA determined that the WCJ erred in not entering evidence from the cancer center to determine whether Worker's illness and death were work-related. The COA affirmed the WCJ's determination that the statute of limitations was met in the case. The COA overturned the WCJ determination that the case was not a maximum compensation rate case. The case was remanded for retrial.

David D. Griego v. Jones Lang LaSalle and The Hartford, 2019-NMSC-007 (filed October 16, 2018)

Worker sustained an injury by tripping over his own foot while working in maintenance at Intel. Insurer argued the injury was not work-related because worker was not undertaking a work task at the time of injury. The WCJ ruled in favor of the insurer, concluding that Worker's accident did not arise out of employment because the risk experienced by the Worker was not increased by the circumstances of employment. The COA reversed the decision and determined that when a worker is at a place where the worker may reasonably be fulfilling work duties, there is a rebuttable presumption the injury is work-related. A slip and fall is a neutral event that, in the absence of evidence to rebut the fall being work-related, will be presumed to be work-related.

WCA BUREAU HIGHLIGHTS

The WCA operates through the New Mexico Workers' Compensation Act (the Act) [52-1 NMSA 1978], which mandates the agency's annual operating budget, degree of budgetary flexibility, personnel system, management of property and purchasing. The WCA provides an array of services through its main office in Albuquerque, and its regional offices in Farmington, Hobbs, Las Cruces, Las Vegas, Roswell and Santa Fe. All agency bureaus report to the director. Figure 7.1 WCA Organizational Chart Two executive deputy directors oversee operations and support services, and the general counsel's office works on legal and legislative matters. The agency Governor of has four governor-appointed positions that have not been filled. The WCA cur-New Mexico rently operates under an acting director, and awaits the governor's decision on a permanent director and the vacant positions of two deputy directors and general counsel. Figure 7.1 shows the current organizational structure of the WCA. There are currently 122 full time positions. Two human resources staff reported directly to the State Personnel Office in 2018, but returned to the agency mid-Executive 2019. As of the date of publication, there are 111 filled positions at the WCA, with a current "fill" rate of 90.9 percent. Public Office of the General Deputy Director **Deputy Director** Information Counsel Support Services Office Management Employers' Fund Clerk of the Court Adjudication Resources Mediation Field Programs Manager Economic Information Ombudsman Self-Insurance Compliance Medical Cost Return-to-Work Las Vegas Roswell

WORKERS' COMPENSATION ADMINISTRATION JUDGES



Judge Rachel A. Bayless, a New Mexico native from Clovis, NM, was appointed in April 2017, having previously served as WCA general counsel since February 2014. While in private practice, her areas of focus included personal injury, insurance and workers' compensation. Bayless also worked for the 2nd Judicial District Attorney's Office as an assistant district attorney, including prosecuting physical and sexual abuse crimes against children. She received her law degree from the University of New Mexico School of Law in 2005, graduating *magna cum laude* and as a member of Order of the Coif.



Judge Tony Couture, appointed in August 2017, graduated from the University of New Mexico School of Law in 2007. His private practice was in the areas of workers' compensation, general liability and complex civil litigation. Prior to becoming a lawyer, he was a registered nurse and computer scientist. His nursing experience has helped him have a deep understanding of the complicated medical issues that often accompany workers' compensation matters. Couture is a member of the State Bar of New Mexico and the American Bar Association.



Judge Leonard Padilla was appointed in August 2013, having previously worked in both private practice and public service, to include 16 years in workers' compensation law. He had more than 25 years legal experience at the time of his appointment. From 1992 through 1997 he was a recognized certified specialist in workers' compensation law by the New Mexico Board of Legal Specialization. Before joining the WCA, Padilla served nine years as chief administrative law judge for the New Mexico State Personnel Office. He received a Juris Doctor degree from Southern Methodist University in Texas in 1988.



Judge Shanon Riley practiced law in New Mexico for 10 years prior to joining the WCA as a judge in August 2011. Riley had served as assistant district attorney in the 1st Judicial District Court in Santa Fe, and for three years was general counsel for the New Mexico Department of Military Affairs. She was also an analyst for the House Judiciary Committee; an associate attorney with a private law firm; and an associate trial attorney for the 2nd Judicial District Attorney's Office. She earned a Juris Doctor degree in 2001 from the University of New Mexico School of Law.



Judge Reg. *C.* Woodard had more than 35 years of legal experience prior to his appointment in November 2012, and had practiced workers' compensation law for more than 16 years. Since 2005, he was a recognized certified specialist in workers' compensation law by the New Mexico Board of Legal Specialization. Woodard came to the WCA from the law firm of Woodard and Associates, PC., where he had been sole proprietor since 2004. Prior to that he was affiliated with private practices. Woodard earned a Juris Doctor degree in 1977 from the University of New Mexico School of Law.

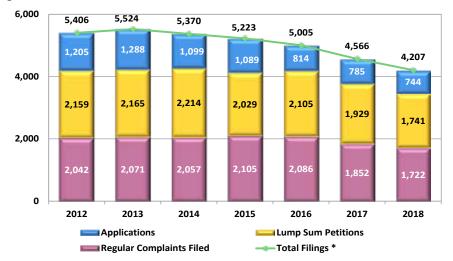
CLERK OF THE COURT

The Clerk of the Court (CC) has two main functions: docketing and record keeping. Filed documents have steadily decreased over the past five years. In 2018, there were 4,207 documents filed for applications, complaints, and lump-sum petitions, a decrease of about 7.9 percent compared to the 4,566 documents filed in 2017 (Figure 7.2). Beginning January 1, 2018, pleadings filed with the agency are filed, served and received by electronic means through the WCA's Electronic Case Filing (ECF) system. The system is mandatory for all represented parties. Workers and employers who are unrepresented are encouraged, but not required, to e-file. The e-filing system has reduced costs for both the WCA and its customers. It also makes claim files and pleadings more accessible and speeds up the adjudication process. In most cases, it is possible for attorneys to view information the day it is provided. Having case files readily available allows for mediations and hearings to be scheduled more quickly. Clerk of the Court staff transitioned well in 2018 from a paper system to an electronic one, enabling the agency to streamline operations and create more efficient standards. Paperwork has been reduced dramatically as a result, creating savings for the agency in material and postage costs (see p. 66).

CC staff, (I to r): Irasema Salinas, Deena Tanberg, Bureau Chief Heather Jordan, Kyley Hernandez, Jenifer Gonzales*, Michelle Chavez, Janell Merry *Has since left employment with the WCA.

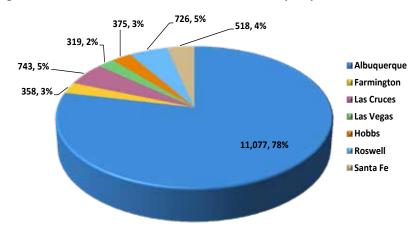
Clerk of the Court staff includes Clerk of Court Heather Jordan and Docket Clerks Michelle Chavez, Kyley Hernandez, Janell Merry, Irasema Salinas, and Deena Tanberg.

Figure 7.2 Clerk of Court Workload, 2012-2018



^{*} Total Filings - Sum of Lump Sum Petitions, Regular Complaints Filed and Applications

Figure 7.3 Total Visitors in Six Field Offices and Albuquerque Office, 2018





Hobbs field office staff, (I to r): Compliance Officer Amber Crow, Field Office Manager Sharron Johncox and Ombudsman Valerie Seidl

WCA FIELD OFFICES

The WCA has six field offices located around the state to better serve New Mexicans outside the area of its Albuquerque headquarters. Field offices in Farmington, Hobbs, Las Cruces, Las Vegas, Roswell and Santa Fe provide a wide range of services to workers, employers and insurance providers. Field offices provide a convenient place where mediations, hearings and trials can occur. Field office staff include safety consultants, ombudsmen and compliance officers. Video conferencing equipment enables mediations and hearings to facilitate court proceedings from the Albuquerque office.

Walk-in visitors to agency offices need a variety of services. They may need to talk to an ombudsman, fill out paperwork, or file complaints. In 2018, a total of 14,116 visitors came to agency offices, a decrease from the total of 16,310 visitors in 2017 (Figure 7.3). Visitors ask questions, clarify work comp issues they may have, attend

hearings, file pleadings, and meet with mediators and judges. The main office in Albuquerque saw a total of 11,077 visitors in 2018, at an average of 44+ people per day. This was a decrease from the average of 53+ visitors per business day in 2017. The Albuquerque office served 78 percent of total visitors, and the six field offices served the remaining 22 percent. Las Cruces was the busiest field office, with 743 visitors, at an average of three visitors per business day, an increase from 586 visitors the prior year. Roswell followed with 726 visitors, a decrease from 808 visitors in 2017. Santa Fe had 518 visitors for the year; Hobbs had 375; Farmington had 358; and Las Vegas had 319. Field office staff conduct outreach to educate the public about workers' compensation and the requirements of the law. The southeastern area of the state has had increased work activity as a result of the surge in oil and gas production there in the past few years. The two WCA field offices that serve the southeastern area, Hobbs and Roswell, took steps to increase outreach efforts to ensure area businesses knew about work comp requirements and safety services. Staff from the Roswell office reached 932 in area outreach visits in 2018, presenting topics such as introduction to workers' compensation, safety resources, return to work, and ombudsman services. Since moving its office from Lovington to Hobbs in 2017, staff have reached out to area businesses who

may need help with workers' compensation. They reached 407 in outreach visits, and many more through agency brochures left at libraries, businesses and community centers. The offices partner with small business development centers to provide employer training and conduct compliance workshops. The Hobbs office has started reaching out to businesses that have workers' compensation insurance policies below the \$15,000 amount that would require monitoring by the WCA, to let business owners know what services the agency provides. ¹New Mexico Energy, Minerals and Natural Resources Department, 2018 Annual Report

The Hobbs field office includes Manager Sharron Johncox, Compliance Officer Amber Crow, and Ombudsman Valerie Seidl. Roswell staff includes Manager Sarah Castro, Compliance Officer Leaha Hardwick, Ombudsman Christopher Olivas, Business Operations Specialist Azucena Ramirez, and Safety Consultant Donald St. Germain.

SELF-INSURANCE BUREAU

The Self-Insurance Bureau (SI) examines applications submitted by employers, groups and pools seeking to become or remain self-insured. Table 7.1 shows the self-insurance workload summary for individual employers, groups and pools. In 2018, there were 36 individual active self-insured companies, and 47 decertified but monitored companies. There were eight group self-insured entities and three pools (governmental entities) as well as two inactive but monitored groups. The Guarantee Fund year-end balance was \$4,272,795. The Guarantee Fund was created by statute and guarantees claim payments for companies that have become insolvent. The bureau's five auditors and the bureau chief conduct ongoing periodic reviews of self-insured entities to ensure they are financially sound and can continue to be eligible for self-insurance within the guidelines of the Act. In an effort to achieve this objective, SI revised its audit criteria and audit schedule in



SI staff, (I to r): Lisa Romero, Debbie Shearin, Vanessa Ramirez, Bureau Chief Clyde Romero. Not pictured: Angelique Jaramillo,.

2017. The bureau now audits high-risk entities annually, and low-risk entities every other year. As a result, SI conducted a large number of audits in 2017, for a total of 55 combined desk and field audits that year. The schedule is now back to a more normal pace of regular audits, with 36 field audits conducted in 2018. The agency also monitors both inactive and decertified groups to ensure any ongoing payments to injured workers can continue. Self-Insurance staff includes Bureau Chief Clyde Romero and Financial Auditors Angelique Jaramillo, Vanessa Ramirez, Lisa Romero and Deborah Shearin.

Table 7.1 Self-Insurance Workload Summary Report, 2018

Activities	Year Total
Field Audits	36
Financial Statements Analysis	137
Loss Runs Examined	258
Letters of Credit & Surety Bond Examined	149
Guarantee Fund Year End Balance	¢4.272.70F
(monitoring several bank accounts)	\$4,272,795

Figure 7.4 WCA Postage Used Before vs. After E-Filing





MIS staff, (I to r): Bureau Chief Brenda Henderson, Liz Peralta, Benjie Ulibarri, Gayle Osburn, Gary Chavez, Tony Adams, Victor Martinez

MANAGEMENT INFORMATION SYSTEMS

The Management Information Systems Bureau (MIS) oversees the WCA's computer systems, to include maintenance of hardware and electronic equipment, maintenance of database software, and the development and implementation of software applications. MIS collects injury and claims information, proof of insurance coverage, and inpatient hospital services data through the Electronic Data Interchange (EDI). The bureau manages the secure web-based calendar and case filing system in which parties can view and schedule mediation conferences. The bureau also maintains electronic equipment such as the video conferencing system that connects Albuquerque and its six field offices. WCA mediators and judges use this system for conferences and hearings, which reduces travel expenses and increases productivity.

MIS monitors and continues to improve its e-services and website to better serve the needs of the public. The agency website provides information on rules and regulations, agency services, as well as forms and publications.

MIS created an Electronic Case Filing (ECF) program that allowed for implementation of a paperless system (see p. 63). Since going live January 1, 2018, the agency has seen a significant savings in resource costs, having reduced the use of paper. The agency also saw a significant reduction in postage costs (Figure 7.4). MIS staff are Bureau Chief Brenda Henderson, Systems Administrator Tony Adams, Application Developer Gary Chavez, Support Specialist Victor Martinez, Database Administrator Gayle Osburn, Systems Administrator Liz Peralta, and Network Administrator Benjie Ulibarri.

UNINSURED EMPLOYERS' FUND

The Uninsured Employers' Fund (UEF) was created in 2003 to protect injured workers whose employers failed to maintain workers' compensation insurance at the time of the worker's injury. The UEF pays workers' compensation medical and indemnity benefits to eligible injured workers, and can then penalize the uninsured employer anywhere between 15 to 50 percent of the benefits paid on the injured worker's behalf. UEF attorneys work to resolve as many cases as possible at the front end of a claim so the employer can be made to pay as much of the claim as possible. This reduces the amount of funds coming out of the UEF's reserves.

There were 33 UEF claims in FY 2018, three fewer claims than in FY 2017. (The fiscal year runs July 1 to June 30). UEF claims expenses for FY 2018 were \$379,610, a 23.9 percent increase in claims expenses from FY 2017 (Figure 7.5). The average amount paid per claim was \$11,503, which is about 35.1 percent higher than the \$8,513 in 2017, due in part to the lower number of claims.

was \$11,503, which is about 35.1 percent higher than the \$8,513 in 2017, due in part to the lower number of claims.

Collections from businesses for the year were \$89,390, a 28.2 percent decrease from FY 2017, which was anticipated. Collection penalties are on a downward trend. For the past

several years, the UEF was collecting from businesses that had long-standing penalties, which allowed for the UEF's reserve balance to increase.

UEF staff include Bureau Chief Mark Plomer, Attorneys Richard Bustamante and Richard Crollett, and Legal Secretary Andrea Martinez.

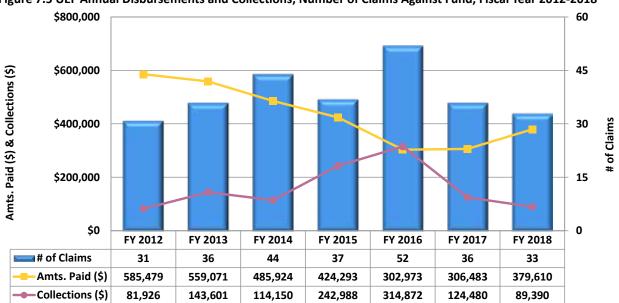


Figure 7.5 UEF Annual Disbursements and Collections; Number of Claims Against Fund, Fiscal Year 2012-2018

Source: New Mexico Workers' Compensation Administration Uninsured Employers' Fund, Fiscal Year 2012-2018.



WCA 2018 Bureau of the Year: MIS (front row, I to r) Tony Adams, Bureau Chief Brenda Henderson, Martha Perez-Clark*, Wayland Davis*. (back row, I to r) Victor Martinez, Elizabeth Peralta, Gary Chavez, Celina Fresquez*

^{*}Have since left employment with the WCA.



WCA 2018 Employee of the Year Julie Head with former Director Darin Childers

BUREAU OF THE YEAR

Each year, the WCA acknowledges an agency bureau for its outstanding work and efforts over the preceding year. The announcement is made at the "All Hands" employee meeting, an event held each year for employee recognition. The 2018 Bureau of the Year award went to Management Information Systems (MIS). MIS staff serve the agency by providing electronic hardware and software expertise, systems administration, database management, application development, network security and administration, the agency website, and ongoing assistance with a wide variety of technical issues. Their work serves as the basis for the many day-to-day processes and operations that take place in agency courtrooms, data gathering and management, insurance carrier reporting and hospital data filing. Without their efforts, the agency could not function. Over the prior year, MIS staff went above and beyond their usual workload to launch a new electronic filing system and updated website, resulting in costs savings to the agency (see postal savings, page 66).

"I value my team for always striving to do their best in all aspects of the job," said Bureau Chief Brenda Henderson. "Dedicated to their profession, they are hardworking team players with a can-do attitude who accomplish difficult projects in a timely manner."

Along with Bureau Chief Brenda Henderson, MIS staff at the time of the award were Tony Adams, Gary Chavez, Wayland Davis, Celina Fresquez, Victor Martinez, Elizabeth Peralta, and Martha Perez-Clark.

EMPLOYEE OF THE YEAR

The WCA Employee of the Year is also announced at the annual "All Hands" meeting. The outstanding employee for 2018 was Julie Head, an employer compliance officer in the Farmington field office. Head has worked for the WCA for three-and-a-half years, and is known for her positive attitude and commitment to the WCA mission. Compliance officers must deal with difficult situations, but then-Director Darin Childers noted that Head always manages to be polite, professional and firm in what the law requires. Employer Compliance Bureau Chief Trey Flynt said Head is "a true professional and an asset to the WCA and she is well deserving of the award."

APPENDIX A: REFERENCES AND ABBREVIATIONS

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ABBREVIATIONS

For ease of reference, the following abbreviations have been used in this report:

GROUP AND ORGANIZATION NAMES:

NM Workers' Compensation Administration	WCA
National Association of Insurance Commissioners	NAIC
National Academy of Social Insurance	NASI
National Council on Compensation Insurance	NCCI
NM Dept. Workforce Solutions	DWS
US Dept. of Labor	DOL

GENERAL WORKERS' COMPENSATION TERMINOLOGY:

Annual Expenditure Report	AER
Average Weekly Wage	AWW
Construction Industries Licensing Act	CILA
Electronic Data Interchange	EDI
First Report of Injury or Illness	FROI
Lump-Sum Settlement	LSS
Maximum Medical Improvement	MMI
New Mexico Statutes 1978 Annotated	NMSA
New Mexico Workers' Compensation Act	The Act
Permanent Partial Disability	PPD
Permanent Total Disability	PTD
Proof of Coverage	POC
Recommended Resolution	RR
Return to Work	RTW
Subsequent Report of Injury (notice benefit payment)	SROI
Temporary Partial Disability	TPD
Temporary Total Disability	TTD
Uninsured Employers' Fund	UEF

APPENDIX B

Table B.1 Insurance Carriers: Medical Costs Associated with Indemnity Claims, 2012-2018

Insurance Carrier Medica	l Costs Assoc	iated with Inc	demnity Claim	ıs			
	2012	2013	2014	2015	2016	2017	2018
Facility	\$20,505,013	\$21,841,412	\$21,767,351	\$21,389,581	\$22,062,304	\$18,972,242	\$20,833,099
Avg. Cost Per Claim	\$1,453	\$1,664	\$1,619	\$1,700	\$1,785	\$1,724	\$1,975
Physician	\$17,842,717	\$19,563,558	\$18,883,765	\$19,294,702	\$19,651,352	\$20,988,585	\$19,794,936
Avg. Cost Per Claim	\$1,264	\$1,491	\$1,404	\$1,534	\$1,590	\$1,907	\$1,877
Therapy	\$8,724,080	\$8,588,726	\$8,469,334	\$9,532,011	\$8,916,340	\$8,617,081	\$8,891,358
Avg. Cost Per Claim	\$618	\$655	\$630	\$758	\$721	\$783	\$843
Medication	\$13,753,114	\$15,191,042	\$14,344,171	\$14,122,419	\$12,881,930	\$11,696,943	\$10,541,076
Avg. Cost Per Claim	\$974	\$1,158	\$1,067	\$1,123	\$1,042	\$1,063	\$999
Vocational Rehab	\$573,889	\$571,182	\$485,562	\$634,068	\$575,437	\$543,949	\$463,601
Avg. Cost Per Claim	\$41	\$44	\$36	\$50	\$47	\$49	\$44
Other	\$28,673,117	\$32,211,560	\$32,542,344	\$38,978,764	\$28,662,757	\$29,813,969	\$32,301,363
Avg. Cost Per Claim	\$2,031	\$2,455	\$2,420	\$3,098	\$2,319	\$2,709	\$3,062
Grand Total for Year	\$90,071,930	\$97,967,480	\$96,492,527	\$103,951,545	\$92,750,120	\$90,632,769	\$92,825,433
Total No. of Claims	14,115	13,122	13,449	12,581	12,362	11,006	10,548
Avg. Cost per Claim	\$6,381	\$7,466	\$7,175	\$8,263	\$7,503	\$8,235	\$8,800

Table B.2 Self-Insurers: Medical Costs Associated with Indemnity Claims, 2012-2018

Self Insurer Medical Costs Associated with Indemnity Claims										
	2012	2013	2014	2015	2016	2017				
Facility	\$13,435,770	\$10,071,464	\$12,575,425	\$12,380,830	\$12,567,091	\$12,165,787	\$13,271,689			
Avg. Cost Per Claim	\$2,002	\$1,409	\$1,910	\$2,000	\$2,025	\$2,013	\$2,313			
Physician	\$9,747,932	\$9,538,332	\$8,176,365	\$8,875,966	\$9,246,177	\$8,419,888	\$7,526,326			
Avg. Cost Per Claim	\$1,453	\$1,334	\$1,242	\$1,434	\$1,490	\$1,393	\$1,312			
Therapy	\$6,066,162	\$5,390,883	\$5,607,798	\$5,613,463	\$6,151,014	\$5,993,288	\$5,597,374			
Avg. Cost Per Claim	\$904	\$754	\$852	\$907	\$991	\$991	\$975			
Medication	\$7,536,763	\$7,774,029	\$7,672,750	\$7,430,639	\$7,538,445	\$6,194,952	\$5,179,900			
Avg. Cost Per Claim	\$1,123	\$1,087	\$1,166	\$1,201	\$1,215	\$1,025	\$903			
Vocational Rehab	\$376,978	\$483,168	\$333,514	\$195,597	\$263,444	\$162,590	\$103,609			
Avg. Cost Per Claim	\$56	\$68	\$51	\$32	\$42	\$27	\$18			
Other	\$10,240,270	\$9,359,316	\$10,661,786	\$11,640,004	\$11,813,498	\$12,443,672	\$11,615,121			
Avg. Cost Per Claim	\$1,526	\$1,309	\$1,620	\$1,881	\$1,904	\$2,059	\$2,024			
Grand Total for Year	\$47,403,875	\$42,617,192	\$45,027,638	\$46,136,499	\$47,579,669	\$45,380,177	\$43,294,019			
Total No. of Claims	6,711	7,150	6,583	6,189	6,206	6,045	5,738			
Avg. Cost per Claim	\$7,064	\$5,960	\$6,840	\$7,455	\$7,667	\$7,507	\$7,545			

Table B.3 Insurance Carriers: Workers' Compensation Insurance Paid Losses, 2012-2018

Loss Category & Claims Count							
INDEMNITY Claims	2012	2013	2014	2015	2016	2017	2018
A. Wage Replacement Benefits	\$96,127,335	\$89,019,542	\$92,216,054	\$84,244,052	\$85,765,846	\$78,977,266	\$78,081,232
B. Medical Costs	\$89,498,041	\$97,396,299	\$96,006,964	\$103,317,477	\$92,174,683	\$90,088,820	\$92,361,833
C. Attorney Fees	\$8,163,088	\$10,124,304	\$10,090,862	\$9,993,316	\$11,081,862	\$10,800,500	\$10,393,349
D. Vocational Rehab Costs	\$573,889	\$571,182	\$485,562	\$634,068	\$575,437	\$543,949	\$463,601
E. Other Benefits ¹	\$2,208,139	\$2,447,572	\$2,497,835	\$3,244,795	\$2,477,498	\$1,874,282	\$2,244,270
F. Indemnity Claims Subtotal	\$196,570,492	\$199,558,898	\$201,297,277	\$201,433,708	\$192,075,326	\$182,284,817	\$183,544,285
G. No. of Indemnity Claims	14,115	13,122	13,449	12,581	12,362	11,006	10,548
MEDICAL-ONLY Claims							
H. Medical Costs Subtotal	\$18,150,090	\$16,770,729	\$15,521,534	\$18,031,639	\$14,849,192	\$15,873,644	\$21,295,977
I. No. of Medical-Only Claims	15,241	12,482	12,465	12,211	11,298	12,183	13,683
J. Grand Total: Paid Losses	\$214,720,582	\$216,329,627	\$216,818,811	\$219,465,347	\$206,924,518	\$198,158,461	\$204,840,262
K. Grand Total : No. of Claims	29,356	25,604	25,914	24,792	23,660	23,189	24,231
L. Average Loss per Indemnity							
Claim = F/G	\$13,926	\$15,208	\$14,967	\$16,011	\$15,538	\$16,562	\$17,401
M. Average Loss per Medical-Only							
Claim = H/I	\$1,191	\$1,344	\$1,245	\$1,477	\$1,314	\$1,303	\$1,556
N. Average Loss per Carrier Carrier							
Claims =J/K	\$7,314	\$8,449	\$8,367	\$8,852	\$8,746	\$8,545	\$8,454

¹Includes Miscellaneous Admin. and Funeral Benefits

Table B.4 Self-Insurers: Workers' Compensation Insurance Paid Losses, 2012-2018

Loss Category & Claims Count							
INDEMNITY Claims	2012	2013	2014	2015	2016	2017	2018
A. Wage Replacement Benefits	\$35,375,080	\$34,233,277	\$36,015,246	\$35,933,425	\$34,385,573	\$33,957,577	\$31,638,316
B. Medical Costs	\$47,026,897	\$42,134,024	\$44,694,124	\$45,940,902	\$47,316,225	\$45,217,588	\$43,190,409
C. Attorney Fees	\$4,468,814	\$4,813,691	\$5,636,253	\$5,850,593	\$5,542,944	\$5,627,360	\$5,216,834
D. Vocational Rehab Costs	\$376,978	\$483,168	\$333,514	\$195,597	\$263,444	\$162,590	\$103,609
E. Other Benefits ¹	\$1,559,945	\$2,073,983	\$2,354,448	\$1,695,460	\$2,437,866	\$1,667,189	\$1,871,188
F. Indemnity Claims Subtotal	\$88,807,714	\$83,738,144	\$89,033,585	\$89,615,977	\$89,946,052	\$86,632,304	\$82,020,356
G. No. of Indemnity Claims	6,711	7,150	6,583	6,189	6,206	6,045	5,738
MEDICAL-ONLY Claims							
H. Medical Costs Subtotal	\$11,582,251	\$11,193,213	\$11,997,573	\$12,722,847	\$12,558,446	\$12,158,799	\$12,316,395
I. No. of Medical-Only Claims	10,657	11,296	11,309	10,611	12,042	11,172	10,667
J. Grand Total: Paid Losses	\$100,389,965	\$94,931,357	\$101,031,158	\$102,338,824	\$102,504,498	\$98,791,103	\$94,336,751
K. Grand Total : No. of Claims	17,368	18,446	17,892	16,800	18,248	17,217	16,405
L. Average Loss per Indemnity							
Claim = F/G	\$13,233	\$11,712	\$13,525	\$14,480	\$14,493	\$14,331	\$14,294
M. Average Loss per Medical-Only							
Claim = H/I	\$1,087	\$991	\$1,061	\$1,199	\$1,043	\$1,088	\$1,155
N. Average Loss per Carrier Carrier							
Claims =J/K	\$5,780	\$5,146	\$5,647	\$6,092	\$5,617	\$5,738	\$5,750

¹Includes Miscellaneous Admin. and Funeral Benefits

Table B.5 Self-Insured Government Workers' Compensation Losses & Claims, 2018

Losses							Number of Claims				
Organization	Employees Covered	Medical-Only Claims	Indemnity Claims	Total			With Benefits Paid	Opened	Closed		
						Med-Only	737	108	535		
Albuquerque Public Schools	14,342	\$1,109,142	\$3,973,441	\$5,082,583		Indemnity	291	42	69		
						Med-Only	48	8	28		
Albuquerque Bernalillo County Water Utility Authority	655	\$79,546	\$531,942	\$611,488		Indemnity	32	4	7		
						Med-Only	777	206	525		
City of Albuquerque	8,093	\$685,856	\$5,097,832	\$5,783,688		Indemnity	310	87	134		
						Med-Only	36	6	20		
City of Carlsbad	484	\$40,888	\$385,258	\$426,146		Indemnity	29	2	8		
						Med-Only	120	13	92		
City of Farmington	976	\$108,877	\$1,329,027	\$1,437,904		Indemnity	55	4	14		
City of Las Cruces	1,521	\$243,247	\$657,931	\$901,178		Med-Only Indemnity	173 52	21 8	106 18		
						Med-Only	228	33	158		
City of Santa Fe	1,421	\$290,148	\$736,194	\$1,026,342		Indemnity	76	6	9		
						Med-Only	759	571	572		
NM County Insurance Authority	9,415	\$798,036	\$7,488,118	\$8,286,154		Indemnity	591	133	155		
						Med-Only	1,470	141	933		
NM Public Schools Ins. Authority	53,047	\$1,728,164	\$9,855,920	\$11,584,084		Indemnity	1,120	70	334		
						Med-Only	282	521	516		
NM Self-Insurer's Fund (Municipal League)	7,865	\$993,259	\$3,480,257	\$4,473,516		Indemnity	207	117	155		
						Med-Only	2,038	1,429	1,261		
State of New Mexico	50,000	\$1,993,878	\$11,710,286	\$13,704,164		Indemnity	557	143	246		

APPENDIX C

C.1 Summary of Common Workers' Compensation Benefits

DISABILITY COMPENSATION RATE

Maximum: The rate of compensation is 66-2/3% of the worker's average weekly wage up to a maximum of 100% of the state average weekly wage for injuries:

2014 max benefit = \$759.89 2015 max benefit = \$764.18 2016 max benefit = \$785.03 2017 max benefit = \$796.77 2018 max benefit = \$796.96 2019 max benefit = \$814.64

Minimum: The minimum weekly benefit is \$36.

TEMPORARY TOTAL DISABILITY (TTD)

Amount: TTD benefits are paid for work-related injuries involving more than seven days of lost work time. If prior to the date of maximum medical improvement (MMI) the worker is not released by the health care provider to return to work, benefits are paid at the workers' compensation rate. If the worker is released to return to work prior to MMI and the employer offers work at less than the preinjury wage, the benefit is paid at 2/3 of the difference between pre- and post-injury wage.

Duration: TTD benefits are paid through the day prior to MMI. For disabilities lasting more than 28 days, compensation is also paid for the first seven days of lost time, and up to a maximum of 700 weeks.

PERMANENT PARTIAL DISABILITY (PPD)

PPD benefits begin on the MMI date.

Whole Body Amount: PPD is paid for injuries to parts of the body not listed as a scheduled injury (e.g., back, etc.). To be eligible, a worker must have a permanent impairment for which a health care provider has given an impairment rating based on the AMA Guides to the Evaluation of Permanent Impairment. The benefit amount is adjusted according to the worker's pre- and post-MMI earnings. If worker's post-MMI wage is less than the pre-injury wage, benefits are a percentage of the compensation rate calculated according to a formula, including the impairment rating and modifiers for the worker's age, education, specific vocational preparation, training and residual physical capacity (§§52-1-26.1, .2 and .3). If worker's post-MMI wage is equal to or greater than pre-injury wage, benefits are limited to the percentage of impairment.

Whole Body Duration: For whole body injuries, including those based on primary mental impairment, benefits are paid for 500 weeks if the disability rating is less than 80 percent; and for 700 weeks if the disability rating is equal to or greater than 80 percent. The number of weeks for Scheduled PPD benefits is reduced by the number of weeks a worker receives TTD.

Injury Amount: Benefits are paid for the loss or loss of use of body members, including an arm, hand, finger, leg, foot, toe, sight or hearing, and are paid as a percentage of the compensation rate computed from the loss of use percentage. The loss of use is not the same as Scheduled Injury impairment.

Duration: Benefits are paid for the number of weeks specified in the statute for that body member (§52-1-43). The payment period for scheduled injury benefits is not reduced where TTD benefits were paid.

PERMANENT TOTAL DISABILITY (PTD)

Amount: For the permanent and total loss of or loss of use of both arms, hands, legs, feet, eyes or any combination of two; or a brain injury which by itself results in an impairment rating of 30 percent or more. PTD benefits are paid at the compensation rate.

Duration: Benefits are paid for the worker's lifetime.

DEATH

Funeral Expenses: If an accidental injury results in death within two years, up to a maximum of \$7,500.

Indemnity Amount: Benefits are paid to the worker's dependents up to the full compensation rate, contingent upon the dependent's relationship to the worker and the number of eligible dependents (§52-1-46).

Duration: Benefits are paid up to a maximum of 700 weeks.

C.2 Miscellaneous Provisions of the Workers' Compensation Act

CHOICE OF HEALTH CARE PROVIDER

The employer shall initially either select the health care provider for the injured worker or permit the injured worker to make the selection. The employer must notify the worker in writing. After 60 days, the party who did not make the initial selection may select a health care provider. The other party must be notified of the change at least 10 days before treatment begins. If one party objects, that party must file a notice of objection with the WCA within three days of receipt of the change notice (§52-1-49).

RE-EMPLOYMENT OF INJURED WORKER

The employer is required to rehire an injured worker if: (1) the former job or similar modified job is available, (2) the health care provider certifies that the injured worker is fit to perform the work without significant risk of injury, and (3) the injured worker applies for the job (§52-1-50.1).

LUMP-SUM SETTLEMENTS

Provisions for lump-sum settlement of benefits: (1) A worker may elect to receive a lump-sum settlement of indemnity benefits after returning to work for at least six months and earning at least 80 percent of the pre-injury wage; (2) After reaching MMI, a worker may elect to receive a partial lump-sum settlement of indemnity benefits for the purpose of paying debts accumulated during the disability; (3) The worker and employer may also elect to resolve a claim for injury with a lump-sum payment to worker for all or a portion of past, present and future payments of compensation benefits, medical benefits or both in exchange for a release of the employer from liability for such compromised benefits. Lump-sum payment agreements must be submitted to a WCA judge for approval (§52-5-12,13,14).

ATTORNEY FEE CAP

Attorneys' fees including, but not limited to, representation before the WCA and courts on appeal, costs for paralegal services, legal clerk services and related services on behalf of a worker or an employer for a single claim shall not exceed \$22,500. The limitation applies whether or not multiple attorneys represent the claimant or employer. A WCA judge reviews and approves the worker's attorney fees. Usually, half the worker's attorney fees are paid by the worker and half by the employer (§52-1-54).

EMPLOYER PENALTIES

Worker may be entitled to a 10-percent increase in indemnity benefits if the employer failed to provide a safety device and that failure resulted in the accident or increased the severity of injury (§52-1-10). The worker may be entitled to an increase in indemnity benefits up to 25 percent if the employer or insurer acted in bad faith or committed unfair claims practices. The director may also impose administrative penalties for retaliatory firing, unfair claims processing, oppressive conduct, late reporting of injuries or late payment of benefits. Any employer found by a WCJ to have terminated a worker to avoid paying benefits, or retaliation for filing a workers' compensation claim could be fined up to \$10,000.

WORKER PENALTIES

Indemnity benefits may be reduced by 10 percent if the worker failed to use safety devices provided or failed to observe statutory regulations pertaining to safe conduct (§52-1-10). A worker can lose 10 to 90 percent of non-medical benefits depending on the degree worker's impairment by alcohol or drugs contributes to the accident (§52-1-12.1, amendments effective as of May 18, 2016). The director may also impose administrative penalties against a worker for bad faith, unfair claims process, or other violations of law. A worker who commits fraud can also be criminally prosecuted.



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