



**NEW MEXICO WORKERS'
COMPENSATION
ADMINISTRATION
2020 ANNUAL REPORT**



STATE OF NEW MEXICO

Workers' Compensation Administration

ONE TEAM | ONE GOAL

A Better New Mexico for Workers and Employers

Michelle Lujan Grisham, Governor

Loretta Lopez, Director

The 2020 New Mexico Workers' Compensation Administration Annual Report was produced through a collaborative effort of agency staff. The report was made possible by Deputy Director Leigh Martinez; Economist and Bureau Chief Richard Adu-Asamoah, Ph.D.; Economists Dhuha Al Khalissi and Ruili Yan; Statisticians Kyle Bowman and Claudia Simmons; Public Relations Coordinator Aileen O'Catherine; and Public Information Officer Diana Sandoval-Tapia; with contributions from WCA field offices and bureaus.

The 2020 Annual Report is available on the WCA's website at

<https://workerscomp.nm.gov>

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Cover photos: First responders and essential workers have been an invaluable help to New Mexico's citizens during the COVID-19 pandemic.

Cover photos courtesy of Albuquerque Police Department/Brandi Madrid, Bernalillo County Sheriff's Department/James Devin Bush, Fred Blodgett, David Montoya, UA Local 412 Plumbers and Pipe Fitters, and Albuquerque area firefighters local 244.

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DIRECTOR'S MESSAGE

On behalf of the New Mexico Workers' Compensation Administration, it is my pleasure to introduce the 2020 New Mexico Workers' Compensation (WCA) Annual Report. Not unlike other state agencies, the WCA has had a defining year. Due to the COVID-19 global pandemic, the WCA has made many changes in order to continue providing services while maintaining adherence to public safety orders and observing social distancing. Our employees quickly adapted to teleworking and have implemented the use of new technology to perform their mission-critical functions. The administration has demonstrated an ability to prioritize and continue services with as little interruption or delay as possible.



Loretta Lopez, WCA Director

This year's cover is dedicated to the essential workers of New Mexico who have worked diligently and bravely to care for us all. The upcoming year will also be a year of change, and we as an agency intend to chart our future by prioritizing the credo of our mission statement. We will continue to provide the "quick and efficient delivery of indemnity and medical benefits to injured workers at a reasonable cost to employers."

For now, please be safe and know that your WCA is here to support you with the efficient processing of complaints and resolution services.



[Published October, 2020]

NMWCA HIGHLIGHTS 2019

793,782
INSURED
WORKERS
IN NEW
MEXICO

13,537
WALK-IN
VISITORS
TO WCA

464
BILLING
DISPUTES
INFORMALLY
RESOLVED

10,193
CONTACTS
WITH
OMBUDSMEN

7,086
EMPLOYER
COMPLIANCE
CASES
CLOSED

26,210
EMPLOYEES
UNDER
PARTICIPATING
RTW
EMPLOYERS

1,519
MEDIATED
RECOMMENDED
RESOLUTIONS

6,503
SAFETY
INSPECTIONS

Injuries, Non-Indemnity Claims and Fatalities Rose Slightly in 2019

- First reports of injuries or illness rose slightly in 2019, halting a downward trend that began in 2012.
- There were 3,835 indemnity claims in 2019, and 0.48 indemnity claims per 100 workers, the same rate per 100 workers as in 2018.
- Non-indemnity (medical only) claims increased 3.4%, although the number of indemnity claims that represent serious workplace injuries marginally fell by 0.08%.
- The most frequently injured parts of the body were the knee (17.2%), followed by other parts (including multiple parts not otherwise classified (NOC), 16.3%), and the back (lumbar region, 11.9%).
- The most common nature of injury was *strains, sprains, tears*.
- Most injuries leading to indemnity claims were caused by a *fall, slip or trip*, followed by *strain*.
- Workplace injuries most frequently occur during the first years on a job. About 39.6% of indemnity claims occurred in the first year on the job, and about 53.1% occurred in the first two years.
- Work-related fatalities reported to the WCA rose in 2019, continuing a gradual increase since 2017. Motor vehicles were the most common cause of occupational fatalities.

Premiums and Paid Losses

- The average premium per \$100 of payroll was \$1.38 in 2019, a decrease of 4.9% compared to 2018's final figures. Paid losses per \$100 of payroll were \$1.02 in 2019, a 3% increase from \$0.99 in 2018.
- The number of claims with benefits payments decreased in 2019 to 40,311, down 325 from 40,636 in 2018.
- The average expenditure per indemnity claim in 2019 totaled \$17,152, which was a 5.2% increase from 2018.
- The average amount reimbursed per claim for medical cannabis was \$2,819. Medical cannabis accounted for 0.4127% of all 2019 drug expenditures.

Inside the WCA

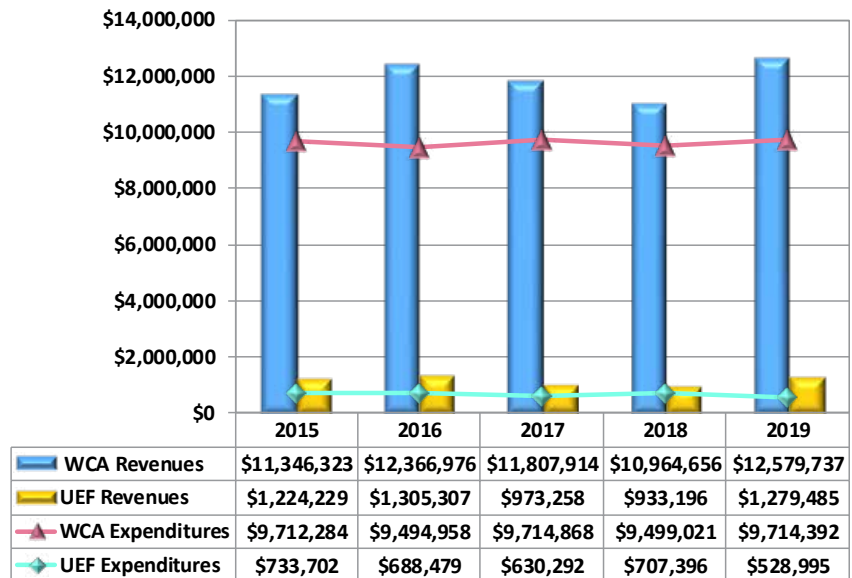
- In mid-March 2020, the WCA quickly shifted operations in an effort to limit in-person contact and thereby mitigate virus spread of COVID-19. Judges and mediators soon teleworked from home, with telephone call-ins functioning in lieu of courtrooms and mediation rooms.
- Lump Sum Tuesdays became telecommunicated Lump Sum Fridays beginning April 17, 2020.
- In March 2020, The agency purchased software to enable employees to telework. Work continued in adjudication, medical cost containment, enforcement, and all other bureaus. The agency has, for the most part, continued to work as a whole, though via a remotely centralized system.
- The agency hired a consultant in late 2019 to conduct an independent, high-level assessment on the agency's technology systems and resources, to determine where improvements could be made. One recommendation was to form an Information Technology Governance Committee, and another was to take advantage of the state's Information Technology appropriation process to obtain funding for necessary upgrades.
- The percent of TTD/PPD claims paid within 14 days of compensability date was 80.7% in 2019.
- The Enforcement Bureau (EB) has been working with the Construction Industries Division (CID) of the New Mexico Regulation and Licensing Department to ensure licenses are not renewed when CID-registered businesses required to carry workers' compensation insurance fail to do so. In 2019, EB received 11 CID license referrals for investigation.
- Trial reset delays declined in 2019. About 69.1% of trials were held on the first three scheduled dates, compared to 53.7% in 2018.
- More disputes were closed (64%) in 2019 in a shorter, 90-day period compared to 2018. This was the highest percentage closed within this time frame since 2015.
- In general, workplaces have been safer. New Mexico's change in lost-time claim frequency was -7.1%.
- In 2019, the Employer Compliance Bureau identified only 5% of the referred employers as needing insurance, a dramatic drop from a constant 14% between 2014 and 2016, and a continuing drop compared to 7% in 2018. Improvement efforts continue.

FUND DOLLARS AT WORK: FY 2019

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 collects the assessment fee for the agency, keeping back an amount not to exceed 5%, to cover collection costs. The assessment fee is \$4.30 per employee, per quarter. Employers subject to workers' compensation law pay \$4.30 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.

Figure 1.1 Total Revenue and Administrative Expenditures, FY 2015 - FY 2019



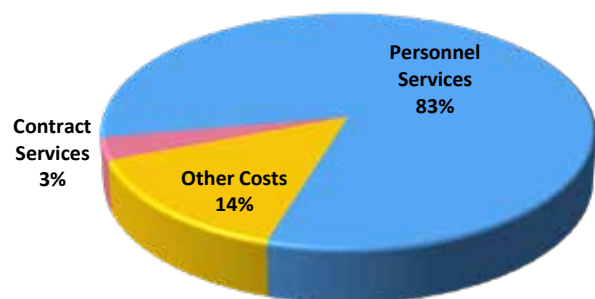
Source: New Mexico Workers' Compensation Administration Audited Financial Statements, FY 2015 - FY 2019

REVENUES AND ADMINISTRATIVE EXPENDITURES

The agency's audited financial statements show revenues for fiscal year (FY) 2019 were \$12,579,737 for the Workers' Compensation Administrative Fund, an increase of 14.7% from FY 2018 revenues. Revenues for the UEF totaled \$1,279,485 in FY 2019, a 37.1% increase from FY 2018. UEF revenues include assessments, penalties, UEF settlement agreements, and miscellaneous sources. The two-year revenue decrease trends in FY 2017 and FY 2018 came to an end in FY 2019.

Although the WCA is self-funded through its assessment fee, the agency must secure legislative approval of its budgets. For FY 2019, the New Mexico Legislature authorized the WCA to spend \$10,017,300 in operating expenses, a slight increase of 0.6 % from FY 2018. Personnel services remained constant from FY 2018 to FY 2019, at 83%. Contract services increased 1%, from 2 to 3%, but expenditures in the "other costs" category decreased from 15% in FY 2018 to 14% in FY 2019. Actual WCA expenditures were \$9,714,392, an increase of 2.3% from FY 2018.

Figure 1.2 WCA Expenditures, FY 2019



Source: New Mexico Workers' Compensation Administration Audited Financial Statements, FY 2019

EXPENDITURES BY CATEGORY

WCA FUND FY 2019:

Category	Amount
Personnel Services	\$8,019,813
Other Costs*	\$1,397,738
Contract Services	\$ 296,841

*The Other Costs category for Figures 1.2 and 1.3 includes (but is not limited to) expenditures for supplies and other operating expenses such as travel, training, building maintenance, utilities and capital outlays.

The separately funded UEF was authorized to spend \$894,900, a slight increase of 0.5% from FY 2018. UEF actual expenditures decreased 25.2% from \$707,396 in FY 2018 to \$528,995 in FY 2019.

UEF FY 2019

Category	Amount
Claims Benefits Paid	\$199,266
Personnel Services	\$314,649
Contract Services	\$ 8,635
Other Costs*	\$ 6,445

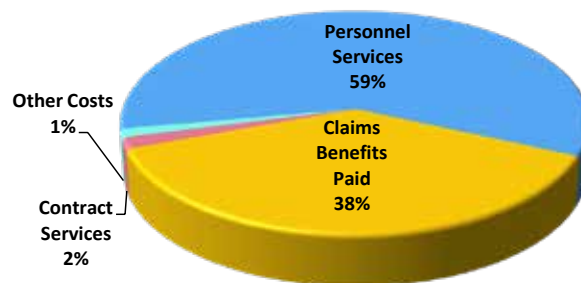
WCA FUND TRANSFERS

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 2019, \$1.25 million was transferred to DWS, as allocated during the 2018 legislative session. For FY 2020, the legislature approved a \$1.05 million transfer to DWS. As of the date of this writing, the legislature has approved \$1 million to be transferred from the WCA fund to DWS for FY 2021.

The cumulative effect of annual transfers has kept the WCA from completely fulfilling its goal to provide expanded and better services to the state's employers and injured workers. Since 2005, cumulative transfers from the WCA fund have exceeded \$38 million (Figure 1.5).

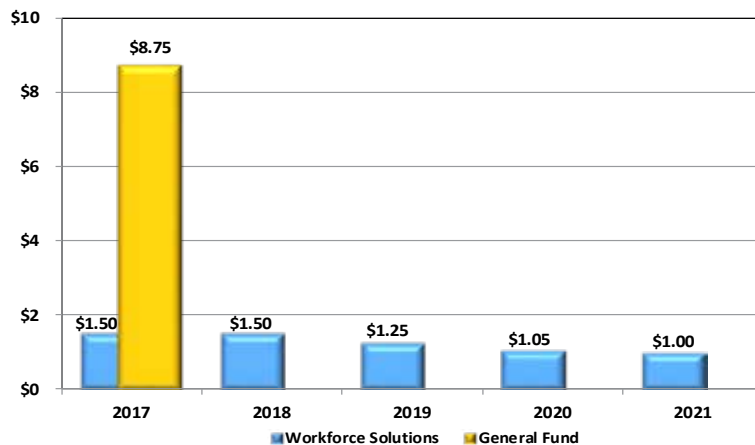
Because the agency has few discretionary funds, it has been unable to upgrade an aging phone system and outdated computer equipment. The Uninsured Employers' Fund, for example, is unable to be on a disaster recovery plan for its electronic information because it uses an old, outdated server.

Figure 1.3 UEF Expenditures, FY 2019



Source: New Mexico Workers' Compensation Administration Audited Financial Statements, FY 2019

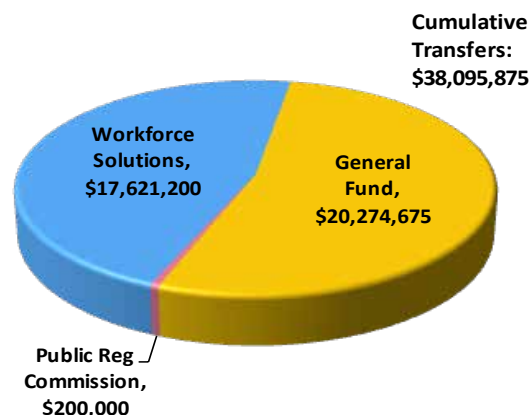
Figure 1.4 Funds Transferred from WCA Fund by Year, FY 2017 - FY 2021



Sources: New Mexico Workers' Compensation Administration Audited Financial Statements, FY 2017 - FY 2021

New Mexico General Appropriation Acts of 2019 and 2020

Figure 1.5 Cumulative Transfers from WCA Fund, FY 2005 - FY 2021



Sources: New Mexico Workers' Compensation Administration Audited Financial Statements, FY 2005-FY 2020

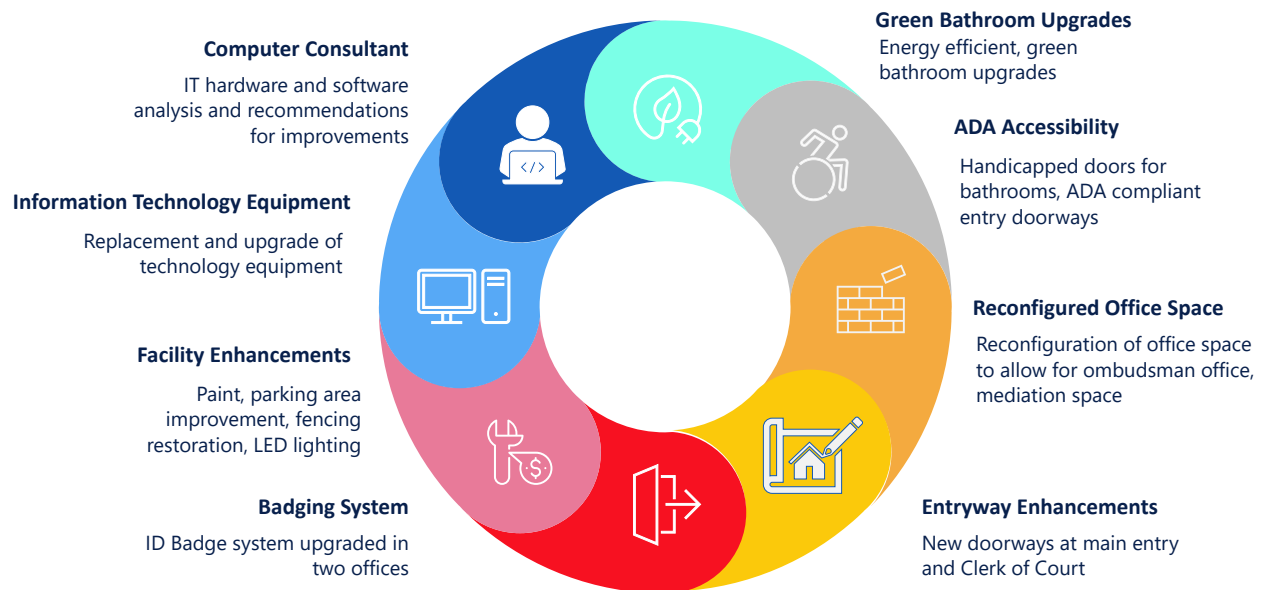
New Mexico General Appropriation Acts of 2019 and 2020

WCA FUND BALANCE

The WCA fund balance at the end of FY 2019 was \$4,230,723, about 61.8% higher than the \$2,614,718 balance at the end of FY 2018. The UEF fund balance at the end of FY 2019 was \$5,562,971, an increase of 15.6% from the \$4,812,481 at the end of FY 2018.

NOTABLE EXPENDITURES

FY2020



NOTABLE EXPENDITURES: FY 2019 - FY 2020

WCA special appropriations for FY 2020 were \$352,000. Funds allowed for the purchase of equipment for the Management Information Systems Bureau. Facility enhancements were made at the agency's Albuquerque building, which was constructed in 1997. Funds taken from the agency's operating budget allowed a consultant to be hired to analyze efficiency of information technology.

KEY DUTIES

The New Mexico Workers' Compensation Administration (WCA) fulfills its statutory duties by executing the following functions:

1. Educate the public on the workers' compensation system
2. Ensure employers maintain workers' compensation coverage
3. Decrease the number and severity of workplace accidents
4. Resolve workers' compensation disputes accurately and efficiently
5. Investigate and prosecute wrongdoers
6. 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

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, informing employers of their responsibilities toward workers' compensation, or helping companies establish a quality return-to-work program, WCA personnel make it a point to educate, provide excellent customer service, and distribute informational materials.

In 2019, WCA staff reached 4,325 individuals at outreach events, providing information on rights, requirements, safety issues, insurance, employer compliance, return to work, and other workers' compensation topics. Staff gave presentations, worked at conferences, and targeted specific groups. For the past several years, the Public Information Office has reached out to high school students to educate them about workers' compensation and their rights as they enter the workforce. The Safety Bureau has worked to build strong ties to employers to ensure workplace safety. The Early Return-to-Work program has informed businesses, risk managers, human resource specialists and medical personnel about the benefits of returning workers to the job after a workplace injury (see page 22).

The Public Information Office (PIO) provides updates to the media about workers' compensation issues. Keeping the public and the workers' compensation community



Then RTW Coordinator Jessica Sanchez explains the Return-to-Work program at the annual New Mexico Medical Conference.

EDUCATIONAL OUTREACH

In 2019, WCA Staff reached the public about:

◆ Workers' Compensation:
4,325

◆ Safety Topics for
Businesses:
890

◆ Return to Work:
2,516



◆ Workers'
Compensation for
Students:
175

◆ Intro to Workers'
Compensation to
Businesses through
multi-agency
workshops:
616

informed about changes to the agency's operations because of COVID-19 required making sure all stakeholders knew of the new procedures and processes. Going forward, PIO will expand upon what has been learned by providing the agency's stakeholders with surveys that will help point the way to improvement.

The WCA's ombudsmen are the agency's liaison to workers, employers, insurers, health care providers, and others who have questions about their rights and responsibilities under the Act, providing information in a neutral manner. They also provide presentations to groups upon request. Ombudsmen assist pro se parties (those not represented by an attorney), if needed, about filing claims. Ombudsmen have significant impact in assisting with the resolution of differences between parties, providing significant savings to the workers' compensation system; in 2019, they resolved 305 disputes (Table 2.1). All WCA offices have a staff member serving as an ombudsman to answer questions from the public. In 2019, the agency's ombudsmen were contacted 10,193 times to answer questions or help with an issue. Albuquerque staff answered 4,275 hotline calls, 921 fewer calls (about 17.7%) than in 2018. Many of the agency's ombudsmen are bilingual, ensuring New Mexico's Spanish-speaking population is well-served; in 2019, 655 Spanish-speaking customers were helped.

Table 2.1 Ombudsman Bureau Workload Summary, 2016-2019

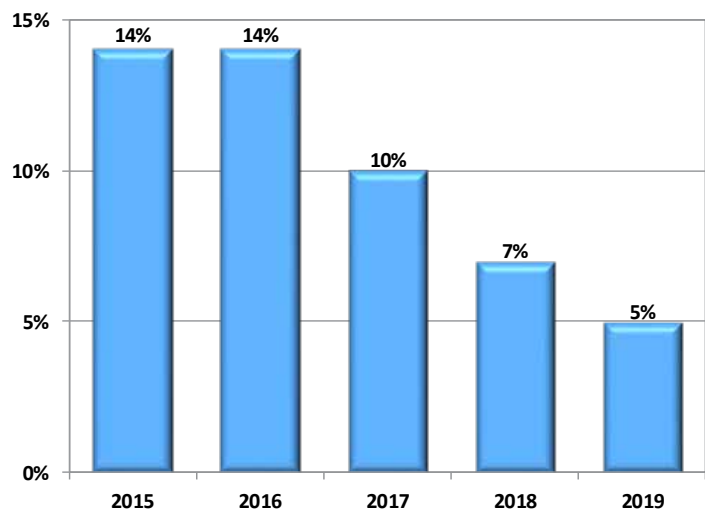
	2016	2017	2018	2019
Contacts	10,134	10,622	10,197	10,193
Disputed	590	395	1,021	531
Disputed Resolved	286	229	831	305
Spanish	1,035	748	774	655
Hotline Calls	4,055	4,195	5,196	4,275

ENSURE EMPLOYERS MAINTAIN WORKERS' COMPENSATION COVERAGE

The Employer Compliance Bureau (ECB) 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 CO coverage. The New Mexico Department of Workforce Solutions (DWS) supplies the WCA with confirmation 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. Using this information, WCA COs 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 employees.

In 2019, the WCA's Employer Compliance Bureau (ECB) opened 7,115 new cases, and closed 7,086 cases in total (some cases carry over from the prior year). The clearance rate was 99.6%, a small decrease compared to the prior year (99.9%). Beginning in 2013, the ECB determined that less than 15% of all referred employers were not in compliance with workers' compensation insurance regulations each year.

Figure 2.1 Percent of Total Referrals Identifying NM Employers Who Need Insurance, 2015-2019

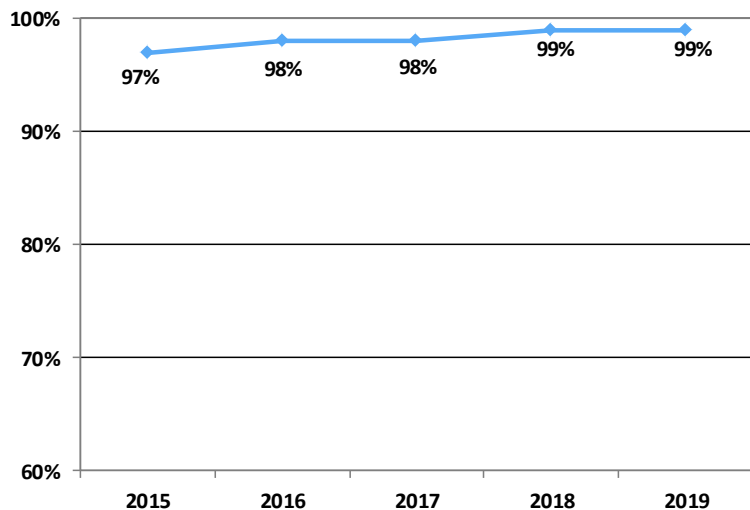


The ECB continued to increase its efforts to further reduce the level of non-compliance by increasing the volume of investigations. In 2019, ECB identified only 5% of the referred employers as needing insurance, a dramatic drop from a constant 14% between 2014 and 2016, and a continuing drop compared to 7% in 2018 (Figure 2.1). Improvement efforts continue.

Once a business is notified by ECB to come into compliance with the law, they do so, at a rate of 99% in 2019. The compliance rate has stayed very stable at 97 to 99% since 2015 (Figure 2.2). Very few non-compliant businesses are referred to the Enforcement Bureau for investigation.

In 2019, ECB referred 61 cases, 20 fewer than in 2018, for further enforcement action. About 99% of employers obtained insurance prior to enforcement proceedings in 2019, the same as in 2018. This rate has remained stable at 97 to 99% since 2015. (Figure 2.2)

Figure 2.2 Percent of NM Employers Identified and Obtaining Insurance Prior to Enforcement Proceedings, 2015-2019



DECREASE THE NUMBER AND SEVERITY OF WORKPLACE ACCIDENTS

The Safety Bureau helps employers meet their statutory responsibility to maintain a safe workplace for New Mexico's workers. The bureau's safety consultants (SCs) ensure employers conduct annual safety inspections, and assist employers in developing and maintaining effective safety programs. SCs provide free safety services for the workplace such as consultations, inspections, safety publications and safety resources via the agency's website. The Albuquerque office has four SCs, and field offices are served by four SCs who extend their services across nearby regions of the state.

The Safety Bureau researched 1,994 businesses in 2019, 196 more than in 2018 (Table 2.2). The WCA requires annual safety inspections for employers with workers' compensation insurance premiums of \$15,000 or more annually, for certified self-insured employers, and for employers whose workers are members of a certified self-insurance group. In 2019, 2,135 notifications were sent to businesses about the safety inspection requirement, 329 (18.2%) more than in 2018. 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 2019, SCs conducted 812 safety inspections, 224 (about 38.1%) more than the 588

Table 2.2 Safety Bureau Workload Summary Report, 2018-2019

Risk Reduction Program (RRP)		
	2018	2019
Businesses Research	1,798	1,994
RRP Enrolled	1	0
Businesses Completing RRP	1	0
\$15K Annual Safety Inspection Program		
\$15K Notifications Sent	1,806	2,135
\$15K Inspections by WCA-SC	588	812
\$15K Total Inspections	5,572	6,503
Enforcement Referral Program		
Cases Referred to Enforcement	24	14
Director Hearings	1	6
Self Insured Safety Audit Program		
Safety Audit Request Received	20	12
Safety Audits Completed	13	12
Business Outreach Program		
Business Outreach Performed	NA*	890

inspections conducted in 2018. 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. The bureau verified that 6,503 local safety inspections took place with safety professionals in 2019, a 16.7% increase from the 5,572 verified inspections the prior year.

Businesses that fail to fulfill statutory safety requirements are referred to the WCA's Enforcement Bureau. In 2019, only 14 cases were referred to Enforcement, and six cases went to the Director for hearings.

The bureau received requests for and completed 12 safety audits. Beginning in 2019, the bureau started a business outreach program that performed 890 outreaches.

Businesses with a higher than average accident frequency are placed in the WCA's Risk Reduction Program (RRP), while businesses in the \$15K program that fail to meet statutory safety requirements are referred to the WCA Enforcement Bureau. No businesses were enrolled in the RRP in 2019.

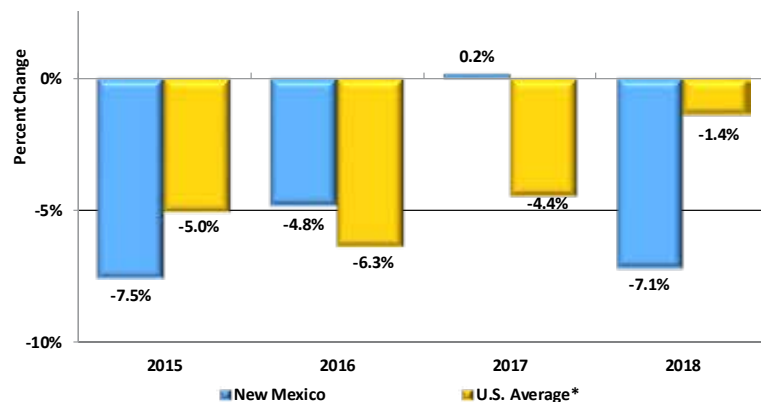
Insurance carriers report New Mexico's workplace accident data to the National Council on Compensation Insurance (NCCI). NCCI's annual update of frequency and severity of accident results are based on data reported to NCCI on the Calendar-Accident Year Financial Data Call. The results are provided by individual jurisdictions based on lost-time claim data valued at end of year 2018, the most recent year for which data is available. Statistics include only commercially insured markets. Self-insured entities are not included. The frequency for most jurisdictions

declined in the most recent year, while severity generally increased (NCCI Frequency and Severity Results by State, 2018). Figure 2.3 shows the percent of lost-time claim frequency change for the U.S. and New Mexico from accident years 2015 to 2018. Lost-time claims frequency continued to decline again countrywide and in New Mexico, in accident year 2018 (NCCI 2019, New Mexico State Advisory Forum). In general, workplaces nationwide have been safer. The countrywide change in lost-time claim frequency was -1.4%, a smaller

decline than in previous years. New Mexico's change in lost-time claim frequency was -7.1%.

The medical severity of claims only includes medical cost for lost-time claims. When viewing Figures 2.4 and 2.5 together, it is seen that 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 four accident years. Medical severity and indemnity increased in 2018 both in New Mexico and nationally. New Mexico's medical and indemnity severity have always been higher than the nationwide average.

Figure 2.3 New Mexico vs. National Lost-Time Claim Frequency Changes, Accident Years 2015-2018



Source: National Council on Compensation Insurance (NCCI) *Frequency and Severity Results by State, 2015-2018*

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

Figure 2.4 New Mexico vs. National Lost-Time Indemnity Severity, Accident Years 2015-2018

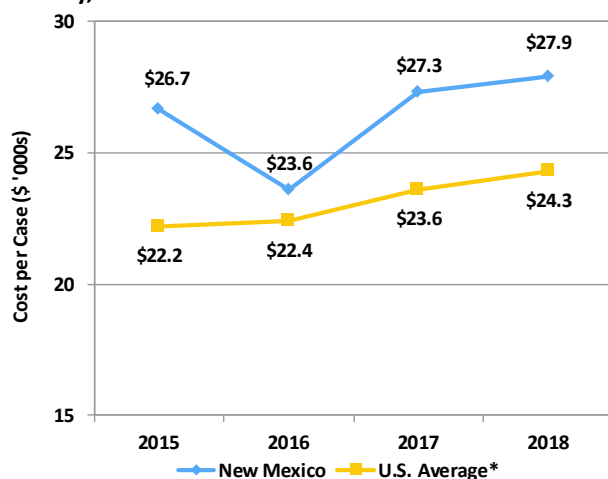
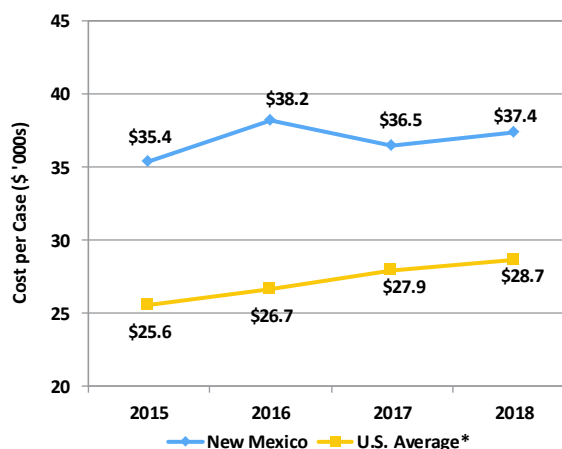


Figure 2.5 New Mexico vs. National Lost-Time Medical Severity, Accident Years 2015-2018



2018 is the most recent year data is available.

Source: National Council on Compensation Insurance (NCCI) *Frequency and Severity Results by State, 2015-2018*

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

RESOLVE WORKERS' COMPENSATION DISPUTES ACCURATELY AND EFFICIENTLY

On average, approximately 95% of all workers' compensation claims are handled without the need to come to the WCA, which results in a low percentage necessitating a trial. Unresolved claims must enter the WCA's mediation process, where mediators draft a recommended resolution. In 2019, 1,519 recommended resolutions (RRs) were written, 134 (about 8.1%) fewer than the 1,653 RRs written in 2018. The acceptance rate of RRs averaged 67.7% in 2019, 0.9 percentage points lower than in 2018. The RR acceptance rate has remained between 65 and 69% for the last five years (Figure 2.6).

The efficiency of the mediation process is also measured by examining the median number of days it takes for mediators to file a RR after a complaint has been filed. In 2019, the median number of days to file a RR was 53 days, three fewer days than in 2018 (Figure 2.7).

Figure 2.6 New Mexico WCA Recommended Resolution (RR) Acceptance Rate, 2015-2019

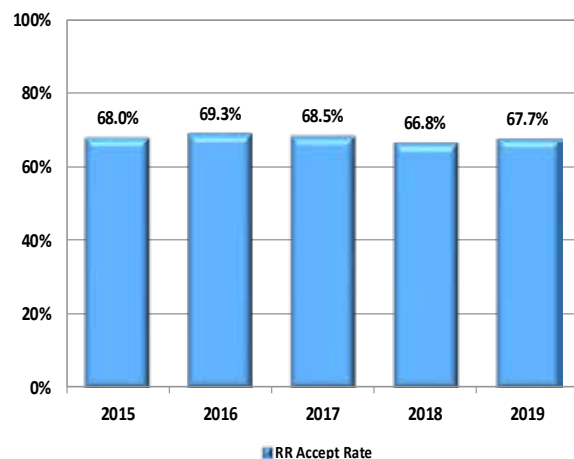


Figure 2.7 Mediation Resolutions & Median Days for Completion, 2015-2019

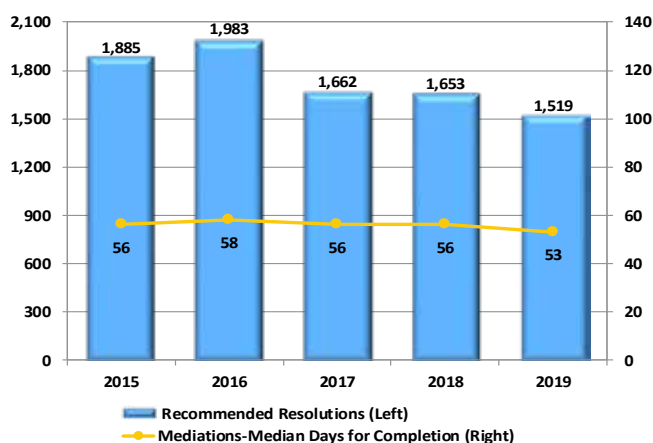
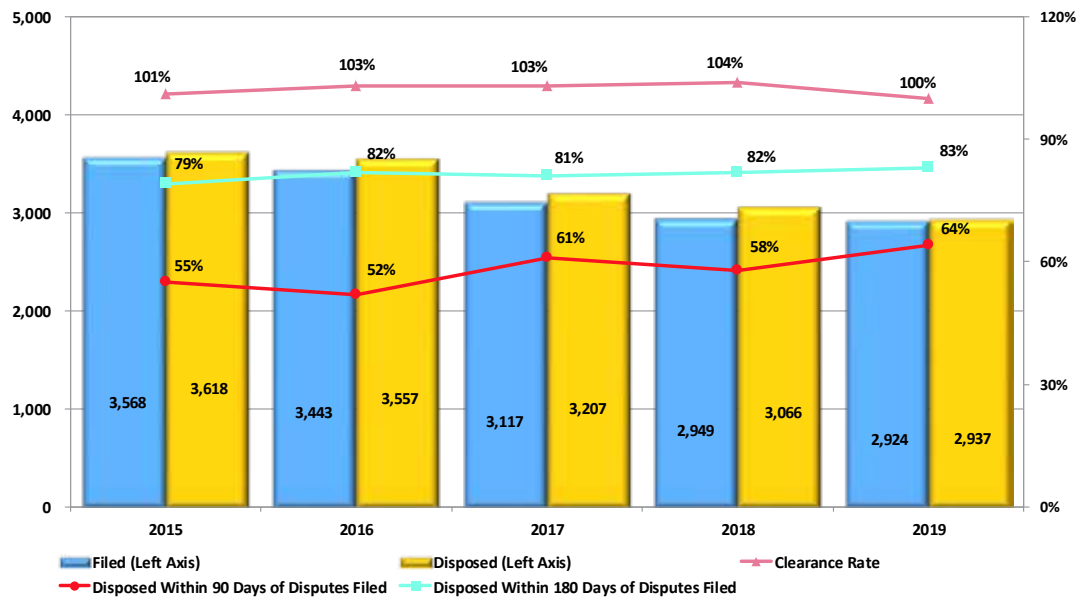


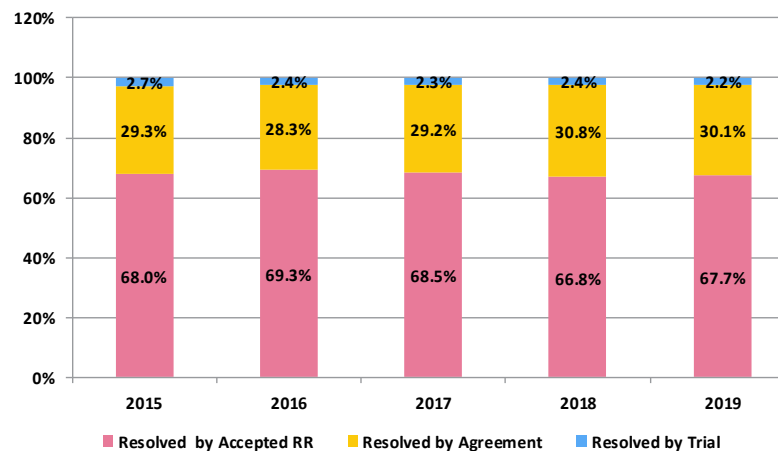
Figure 2.8 Dispute Resolution Clearance Rates, 2015-2019



The annual clearance rate for complaints is used to measure the adjudication program's efficiency. In 2019, 2,924 cases were filed and 2,937 cases were closed. The clearance rate was approximately 100% in 2019. Clearance rates have stayed above 100% since 2015, indicating that more cases were closed than were filed in those calendar years. In 2019, 83% of disputes closed in 180 days, another slight increase (one percentage point) from 2018. More disputes were closed (64%) in 2019 in a shorter, 90-day period compared to 2018. This was the highest percentage closed within this time frame since 2015 (Figure 2.8).

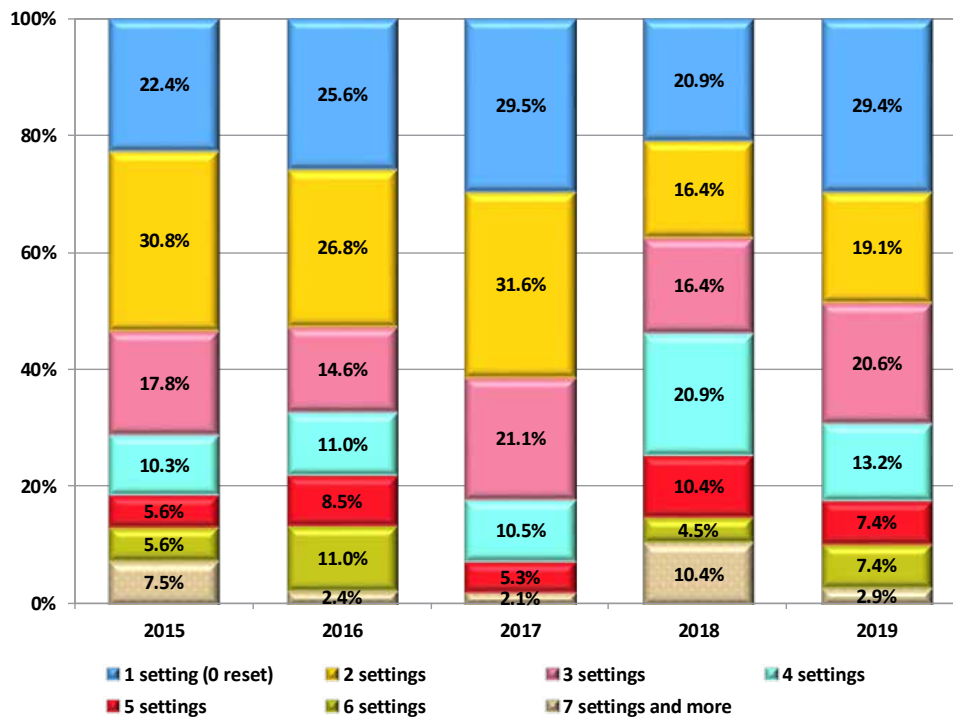
If a complaint is unresolved after the mediation process, it proceeds to formal adjudication, and parties go before a workers' compensation judge. Very few cases require a formal trial for resolution. In 2019, 2,937 disputes were resolved, with only 65 disputes disposed through a formal trial, and most resolved through Agreement or RR. About 2.2% of cases were resolved with a formal trial in 2019 (Figure 2.9).

Figure 2.9 Dispute Resolution by Accepted RR, Agreement¹, and Trial, 2015-2019



¹Not every case scheduled for trial is resolved by trial; some may be resolved by agreement

Figure 2.10 Percent of Total Trials at Number of Settings Compared, 2015-2019



Trial resets delay the resolution of cases. In the past, the majority of trials were held on the first, second or third scheduled date (Figure 2.10). In 2019, about 69.1% of trials were held on the first three scheduled dates, compared to 53.7% in 2018. Fewer trials (13.2%) were held on the fourth scheduled date in 2019 compared to 20.9% in 2018. Maintaining a trend of fewer trial resets should expedite the case resolution process in the future.

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 health care provider, 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, as well as internal sources such as 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, the 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

Table 2.3 Enforcement Bureau Workload Summary Report, 2016-2019

	2016	2017	2018	2019
Enforcement Referrals	90	46	45	41
Cases Resolved	131	58	73	32
Case Remained Open in the End of Year	56	51	26	36
Criminal Cases Filed	1	0	2	1
Penalties Collected	\$3,350	\$10,000	\$24,733	\$26,100

the Self-Insurance Regulatory Audit Bureau to enforce proper, timely and accurate reporting of data. The EB also works with the Safety Bureau for timely submission of affidavits from employers required to have annual safety inspections.

In 2019, the EB received 41 enforcement referrals, four fewer than in 2018. There has been a continuous decrease in referrals, from a high of 90 in 2016. In 2019, 32 cases were resolved, fewer than the 73 cases resolved in 2018. Thirty-six cases remained open for enforcement investigation in 2019, 10 cases more than at the end of 2018. Very few criminal cases were filed by EB in previous years, with one filed in 2019. Collected penalties have been growing the past three years. In 2019, \$26,100 in penalties were collected. Additionally, the bureau filed 48 charges for employer non-compliance, and 10 for safety non-compliance.

The EB has been working with the Construction Industries Division (CID) of the New Mexico Regulation and Licensing Department to ensure licenses are not renewed when CID-registered businesses required to carry workers' compensation insurance fail to do so. In 2019, EB received 11 CID license referrals for investigation.

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. The MCC resolves medical billing and payment disputes that 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 2019, MCC received 609 new billing disputes, a 12.2% decrease from 694 disputes in 2018. MCC staff informally resolved 464 billing disputes, including 37 carried over from 2018. This was a marked decrease from the 724 disputes resolved in 2018. Fewer billing disputes were resolved than received in 2019 (Table 2.4). The 70 billing disputes referred to the director for a determination in 2019

were an increase from the prior three years. In 2019, MCC reviewed a total of 86 hospital admissions that resulted in 307 hospital stay days. Both hospital admissions reviewed and hospital stay days have decreased over the last three years. There were

fewer emergency room hospital stay days (112) than scheduled hospital stay days (195).

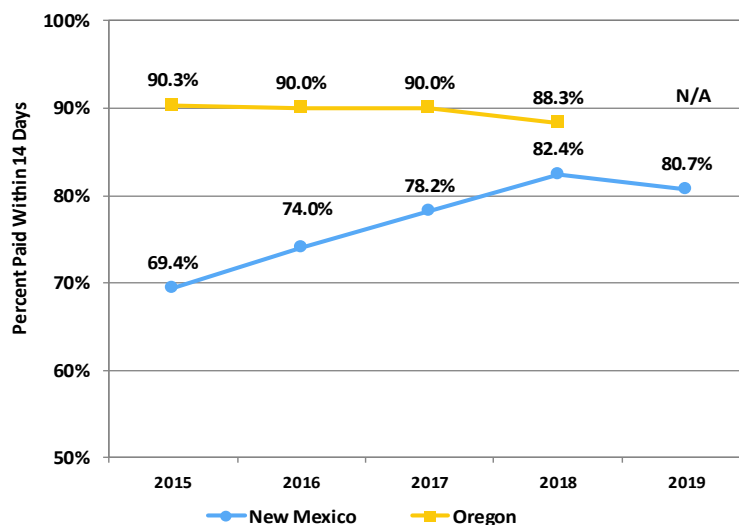
MCC works with the ERPB to calculate hospital ratios and the HCP Fee Schedule. Each year, MCC receives required information from hospitals regarding their revenues and operating expenses. A hospital ratio list is then computed by the ERPB and published. This ratio determines how much New Mexico hospitals 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.

Table 2.4 Medical Cost Containment Bureau Workload, 2016-2019

	2016	2017	2018	2019
Billing Disputes				
New Billing Disputes Received	303	1,394	694	609
Disputes Resolved Informally by MCC Bureau Staff	382	1,390	724	464
Disputes Referred to the Director	38	34	16	70
Inpatient Requests				
Hospital Admissions Reviewed	210	137	116	86
TOTAL Hospital Stay Days	824	455	440	307
ER Hospital Stay Days	255	376	275	112
Scheduled Hospital Stay Days	569	79	165	195

The ERPB collects and analyzes 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. Payment efficiency is tracked using the percent of indemnity claims paid to workers within the required 14 days from the compensability date. Information 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 2018). 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 workers' 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. As seen in Figure 2.11, continuous improvement has been made. Payers in New Mexico achieved the second-highest timeliness percentage (80.7%) of initial indemnity payments in 2019.

Figure 2.11 Percent of TTD/PPD Claims Paid Within 14 Days of Compensability Date, 2015-2019



Source: New Mexico Workers' Compensation Administration *Quarterly Scorecard*, (2015-2019)

Oregon Department of Consumer and Business Services (DCBS) (2015-2018). *Workers' Compensation Claims*. 2018 is the most recent year data is available.

The WCA 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 2019, self-insurers' median days per filing were 10, 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.

Table 2.5 Timeliness of Filing First Report of Injury or Illness (FROI) for TTD/PTD, 2019

Insurer Type	Median Days per Filing	Days from Employer Notice to Filing of FROI for TTD/PTD Claims Filed in 2019										Total FROI Filed by Insurer Type
		0 to 7 days		8 to 14 Days		15 to 21 Days		22 to 28 Days		Over 28 Days		
		Filings	%	Filings	%	Filings	%	Filings	%	Filings	%	
Insurance Carriers	12	790	34.0%	589	25.3%	365	15.7%	175	7.5%	406	17.5%	2,325
Self-Insurers	10	407	36.7%	323	29.2%	131	11.8%	86	7.8%	161	14.5%	1,108
Totals	11	1,197	34.9%	912	26.6%	496	14.4%	261	7.6%	567	16.5%	3,433

The WCA’s Early Return-to-Work (RTW) Initiative provides employers with information and best practices to help workers get back to work as quickly as possible after a workplace illness or injury. In addition to offering guidance and expertise on RTW issues, program staff answer questions, provide materials, and demonstrate how a good RTW program can help employers reduce workers’ compensation insurance costs. Since it began operating, the RTW program has expanded its scope and strives to reach as many stakeholders as possible. In 2019, 21 employers were 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. In 2019, RTW staff reached 2,516 attendees at outreach events or informational meetings, 16.6% more than the 2,157 attendees in 2018 (Table 2.6).

Table 2.6 Early Return-to-Work (RTW) Initiative, 2018-2019

Early RTW Initiative	2018	2019
Consults		
Number of Employers Currently in RTW Champion Recognition	15	21
Number of NM Employees under Participating Employers	11,091	26,210
Number of Inquiries/Specific Issue Consults	44	111
Outreach		
Outreach Events (reported to PIO)	27	23
Informational Outreach Meetings/Contacts	49	47
Number of Attendees at Outreach Events/Information Meetings	2,157	2,516
Radio/Publications	4	1
Research Activities & Resource Development		
Structured Interviews	7	8
RTW Tool Kit docs/Forms/PowerPoint/video rolled out	11	11

CHARACTERISTICS OF CLAIMS

Data reported to the WCA's Economic Research & Policy Bureau (ERP) provides important information about trends with 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) reported to the WCA in 2019, with comparisons to prior years. It provides information on statistical variations by industry, geography, and other characteristics. ERP compiled statistics from First Report and Subsequent Reports of Injuries (FROIs and SROIs) submitted by insurance carriers and third party administrators (TPAs) on behalf of carriers and self-insured employers. Reports are filed through the WCA's electronic data interchange (EDI), or through the agency's internet data submission system. To view the interactive presentation of the WCA SROI claims data for the period 2012 through 2018, go to the agency's [Tableau](#) page. The presentation of claims data is updated periodically, and summarized yearly for the annual report.

NEW MEXICO COVERED EMPLOYMENT

The trend of small annual employment increases continued, with covered employment* increasing by 11,910, for a total of 805,692 employees. Federal employment figures in the state are subtracted from covered employment numbers because federal employees are not covered by state workers' compensation laws.

INITIAL INJURY REPORTING

Workers' compensation claims administrators for New Mexico employers are responsible for filing the first report of injury or illness (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). The number of reported injuries increased slightly to 25,040 (3.05%) in 2019, as Table 3.1 shows. The injury rate also increased to 3.11 injuries per 100 workers, although there was a 1.3% expansion of New Mexico's employment base.

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 WORKERS	INDEMNITY CLAIMS	INDEMNITY PER 100 WORKERS
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
2019	805,692	25,040	3.11	18,171	2.26	14,336	1.78	3,835	0.48

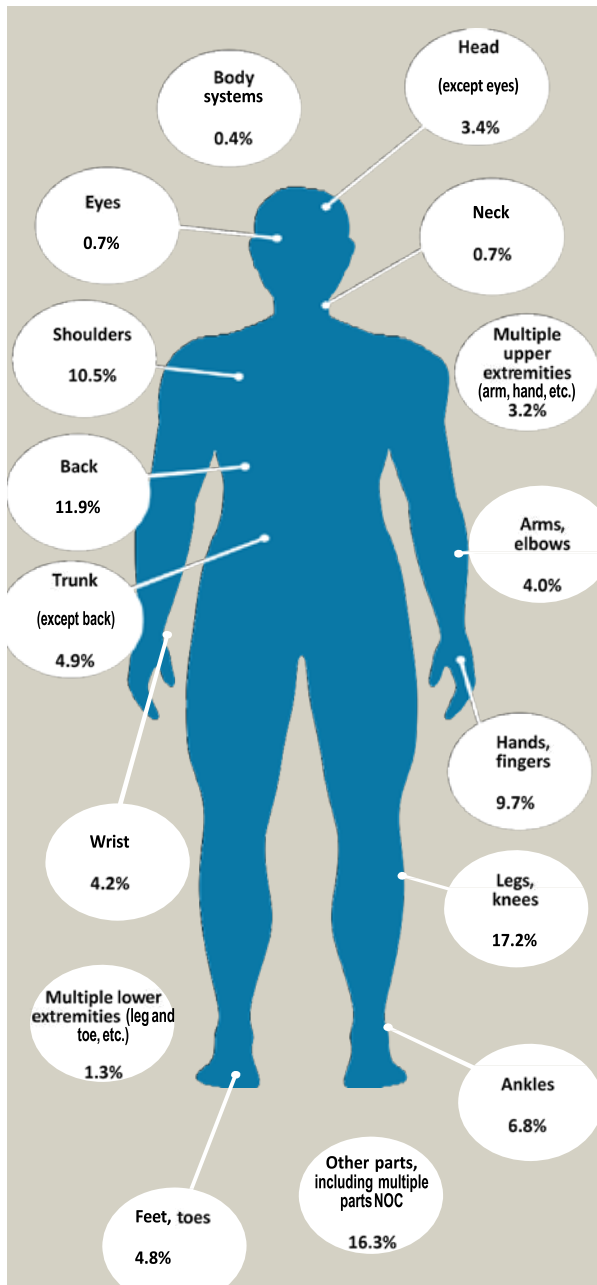
Source: Covered employment statistics are based on the *Quarterly Census of Employment and Wages, Second Quarter (2015-2019)*, New Mexico Department of Workforce Solutions

Rates represent the number of FROIs or SROIs per 100 covered workers

In 2019, the number of non-indemnity (medical only) claims increased slightly (2.7%) for the second year in a row to 18,171. Recently, non-indemnity and indemnity claims have trended in opposite directions. Non-indemnity claims rose to 14,336 from 2018 (3.4%). Indemnity claims, which represent more serious workplace injuries, fell to 3,835 (-0.1%). The indemnity claims rate remained at its lowest level on record, at 0.48 claims per 100 workers. In 2019, the injury rate (FROIs per 100 workers) reversed a downward trend begun in 2012, and increased by 1.6% over the 2018 rate.

**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 of \$300 or more. In 2019, carriers and self-insured employers submitted 18,171 SROIs to the WCA (Table 3.1), a 2.7% increase from the 17,698 filed in 2018.

INDEMNITY CLAIMS

From 2018 to 2019, the number of non-indemnity (medical-only) claims increased 3.4%, while the number of indemnity claims that represent serious workplace injuries marginally fell by 0.1%. The indemnity claims rate remained at 0.48 claims per 100 workers.

PART OF BODY INJURED

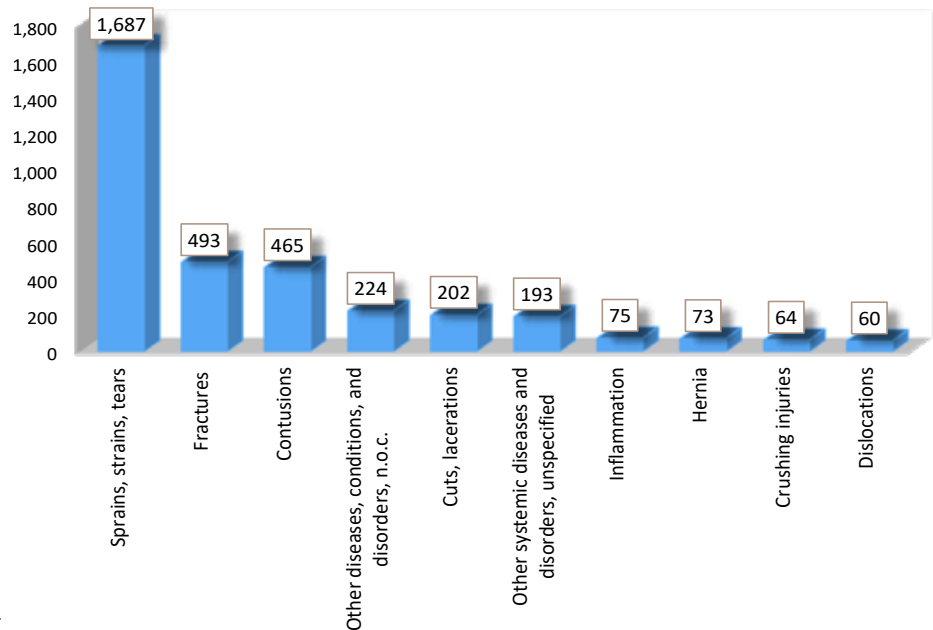
The knee and the back have historically been reported as the body parts most injured in New Mexico workplaces. As seen in Figure 3.1, in 2019, the most frequently injured parts of the body were the knee (17.2%); followed by other parts (including multiple parts not otherwise classified (NOC) (16.3%); the back (lumbar region, 11.9%); shoulders (10.5%); hands and fingers (9.7%); ankle (6.8%); trunk, except back (4.9%); and feet and toes (4.8%). These body parts are known to be involved in frequent and complex movements during work and experience tremendous pressures that may result in serious wear and tear of joints, muscle, and breaking of bones.

NATURE OF INJURY

The nature of an injury or illness describes the damaging result of an event or exposure. Sprains, strains or tears, together, combine to make up the most common nature of injuries in 2019, accounting for 1,687 claims, or about 43.9% of all 3,835 indemnity claims. Fractures, followed by contusions, round out the leading indemnity claims by nature of injuries or illnesses in 2019.

As seen in Figure 3.2, the top 10 categories for nature of injury claims included sprains, strains and tears of muscle, tendon and ligaments (43.9%); fractures (12.9%); contusions (including bruises) (12.1%); other diseases, conditions and disorders, not otherwise classified (NOC) (5.8%); cuts and lacerations (5.3%); other systemic diseases and disorders unspecified (5.0%); inflammation (2.0%); hernia (1.9%); crushing injuries (1.7%); and dislocations (1.6%). These top 10 categories of nature of injury claims make up about 92% of total indemnity claims.

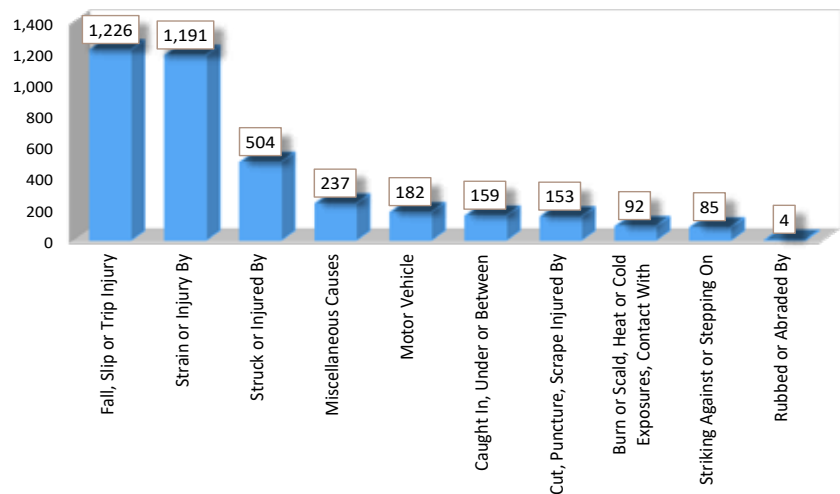
Figure 3.2 Indemnity Claims by Nature of Injury (Top Ten Categories)



CAUSE OF INJURY OR DISEASE

The major causes of injuries in 2019 are shown in Figure 3.3. “Fall, slip or trip” injuries accounted for 32% of the 3,835 indemnity claims. “Strain or injury by” injuries combined to account for 1,191 (31.1%) of all indemnity claims. “Struck or injured by” accounted for 504 or 13.1% of the reported causes of injury or disease for all indemnity claims. Figure 3.3 illustrates the top 10 causes of injury or disease for all reported indemnity claims in 2019, which made up about 99% of total indemnity claims.

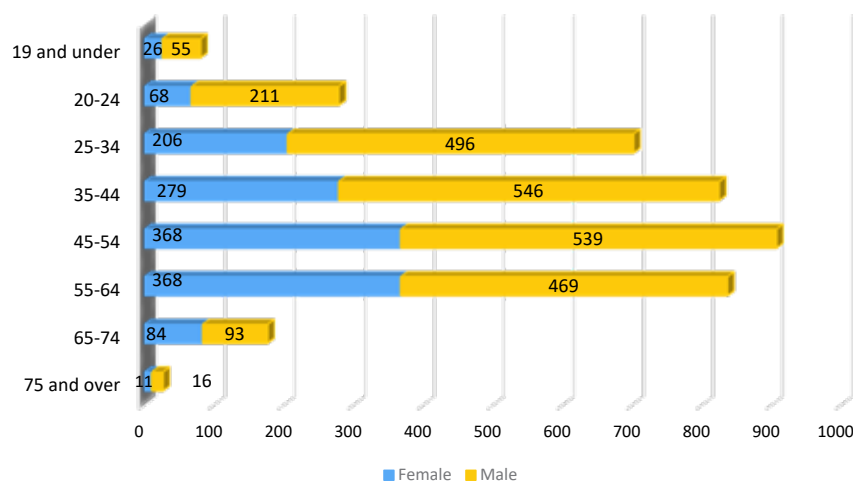
Figure 3.3 Indemnity Claims by Cause of Injury



INDEMNITY CLAIMS BY AGE AND GENDER

The incidence of serious workplace injuries varies significantly by age and gender. Figure 3.4 illustrates indemnity claims by demographics (age, and gender) in 2019. The distribution of claims for age and gender continued to follow historic trends. Male workers sustained severe injuries and illnesses more frequently than female workers. In 2019, the number of indemnity claims for males peaked between 35 and 44 years of age, and 84.5% of injured males were between the ages of 25 and 64. Injuries for females peaked between the ages of 45 and 64, and 52.2% of injured females were between 45-64. For both female and male workers, the age group with the largest number of indemnity claims was 45-54 years. Male workers accounted for 2,425 indemnity claims (63.2 %), while female workers accounted for 1,410 claims (36.8 %).

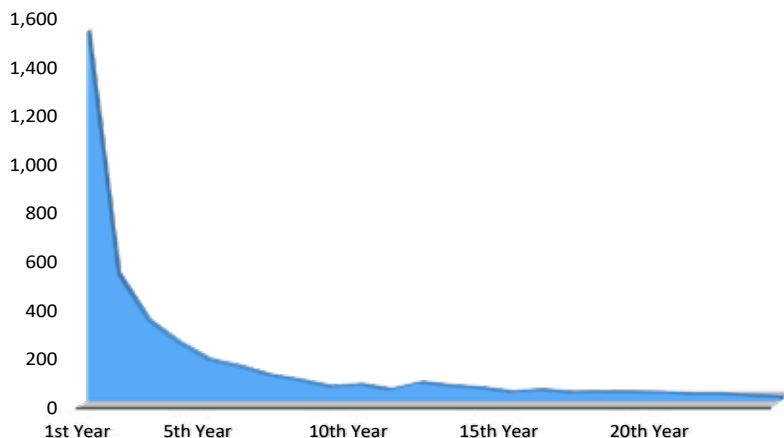
Figure 3.4 Indemnity Claims by Age and Gender of Injured Worker



INDEMNITY CLAIMS BY NUMBER OF YEARS IN A JOB

Workplace injuries most frequently occur during the first years on a job. Figure 3.5 illustrates the relationship between years on the job at the time of injury and the frequency of indemnity claims. The 2019 indemnity claims data suggest that about 39.6% of all claims that require initial payment of benefits occurred in the first year on the job, and about 53.1% occurred in the first two years. The high frequency of injuries in the early years on the job has historically followed the same pattern. It is possible that injuries occurring in the early years on a job are a result of inexperience, inadequate training, and unfamiliarity with tools and processes. It could also in part be the result of an increasing frequency of job changes, where more employees would be in their first few years on the job at any given time.

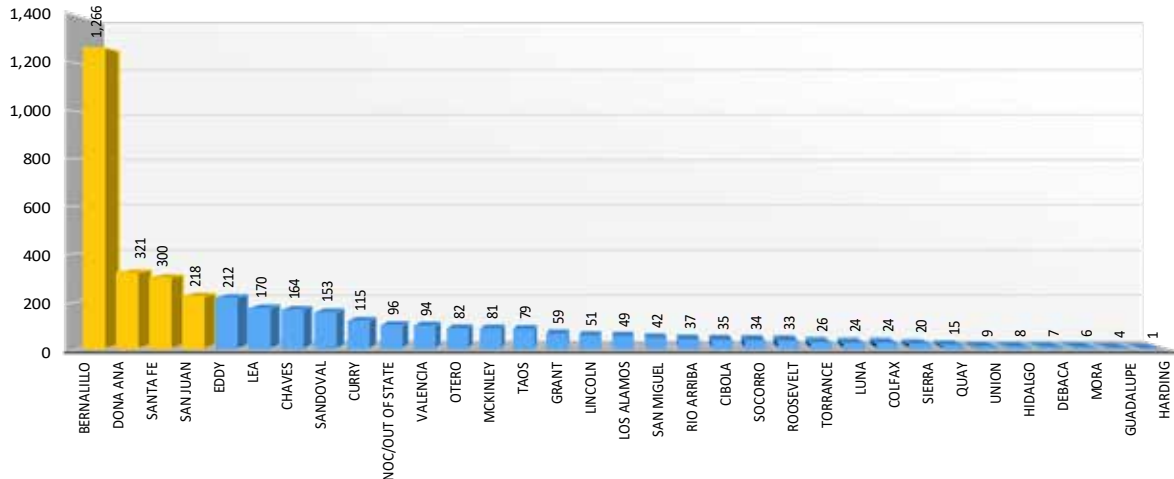
Figure 3.5 Indemnity Claims by Number of Years on Job



INDEMNITY CLAIMS BY LOCATION

As in the recent past, New Mexico's four most populous counties, Bernalillo, Doña Ana, Santa Fe and San Juan, reported the most indemnity claims (collectively 2,105, or 59%; Figure 3.6). These four counties constitute the major population centers in the state, where most of the high employment occupations and industries are concentrated. There were 96 indemnity claims filed for injuries sustained outside New Mexico.

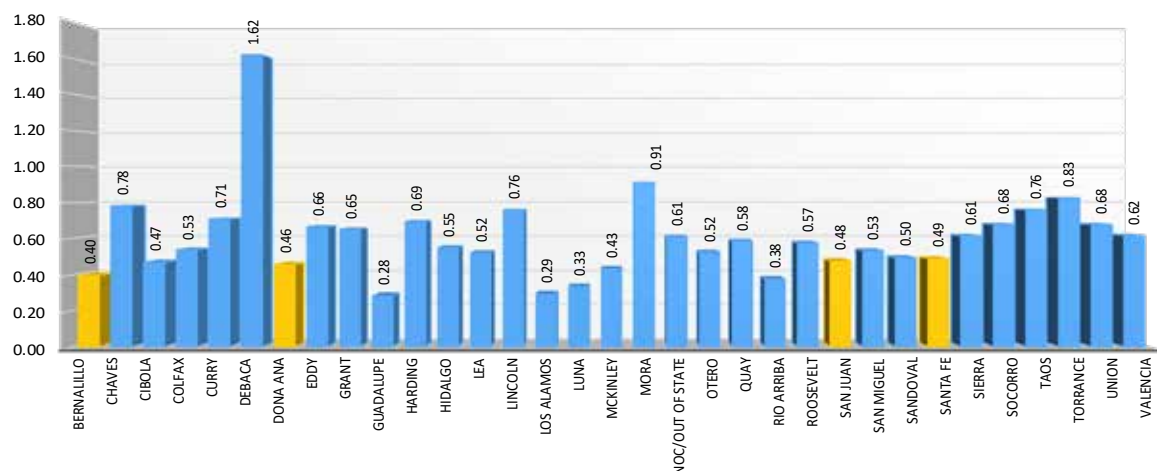
Figure 3.6 Indemnity Claims by County



INDEMNITY CLAIMS PER 100 WORKERS BY COUNTY

Compared to Figure 3.6, lost-time claims per 100 workers (Figure 3.7) show the distribution of 2019 indemnity benefit claims per 100 covered workers by county. Counties with larger populations have lower claims per 100 workers (compare Bernalillo, Doña Ana, Santa Fe and San Juan counties in Figure 3.6 to those in Figure 3.7). The top four indemnity claims per 100 workers occurred in DeBaca, Mora, Torrance and Chaves counties, in descending order. These counties have low populations with relatively high-risk industries such as mining, which may in part explain the higher indemnity claims per 100 workers.

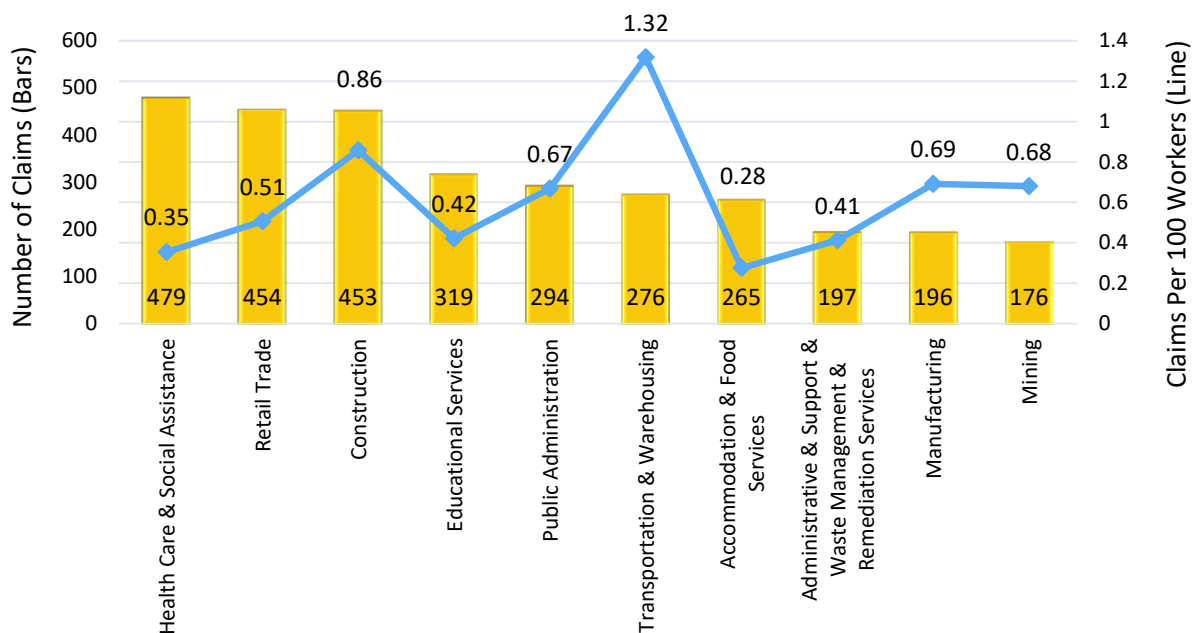
Figure 3.7 Indemnity Claims Per 100 Workers by County



INDEMNITY CLAIMS BY INDUSTRY

Figure 3.8 shows the top 10 industries with the most new indemnity claims in 2019, with corresponding claim rates. Health care and social assistance has been the top industry for the past two years. Retail trade advanced from fourth place in 2018 to second place in 2019. Transportation & warehousing, along with manufacturing, have relatively fewer specialized numbers of employees but more injuries, so they have higher numbers of claims per 100 workers (right axis). The construction industry has a high incidence of injuries because of the nature of the work. The public administration sector has a large number of employees and a relatively large number of injuries, which results in a higher number of claims per 100 workers.

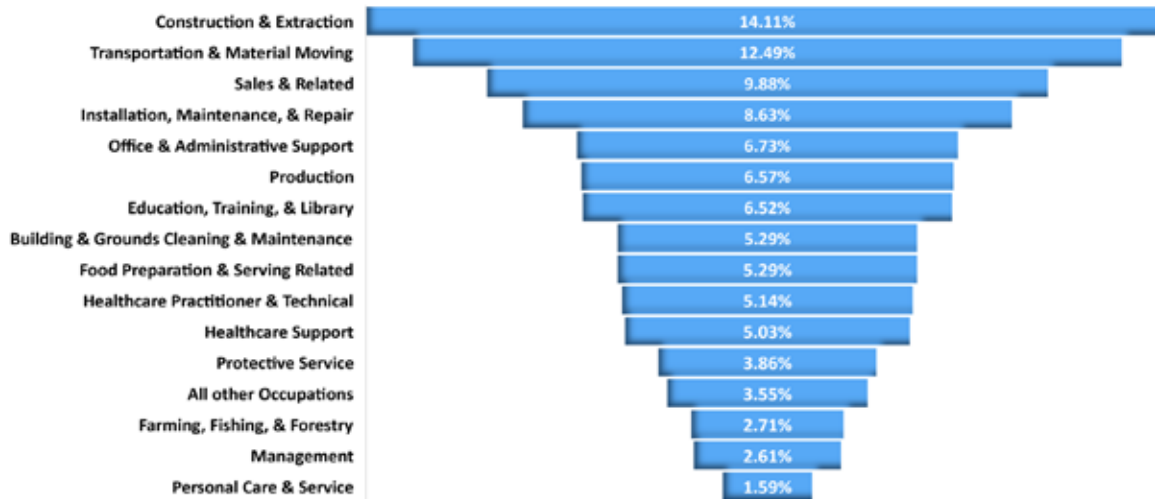
Figure 3.8 Indemnity Claims by Top Ten Industry Sectors and Claims Per 100 Workers



INDEMNITY CLAIMS BY OCCUPATION

Certain occupations have historically accounted for large portions of indemnity claims. Figure 3.9 (next page) illustrates the range of occupations in which indemnity claims were filed in 2019. The top 10 occupations made up 80.65% of all claims. Construction and extraction occupations had the highest number of claims (14.1%), which has been the case since 2014. Transportation and material moving occupations (12.5%) had the next highest number of claims, followed by sales and related occupations (9.9%); installation, maintenance and repair (8.6%); office and administrative support (6.7%); production occupations (6.6%); and education, training and library (6.5%).

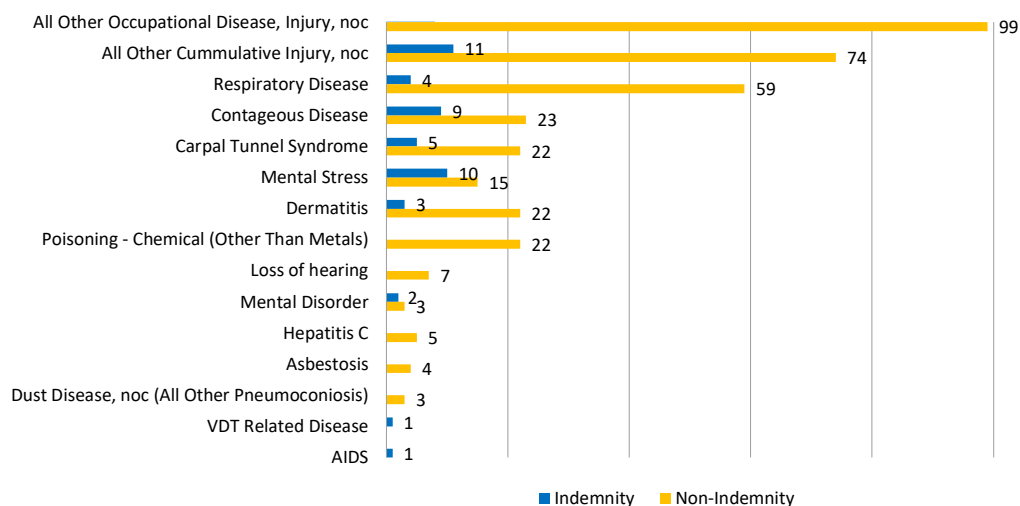
Figure 3.9 Percent of Indemnity Claims by Occupation of Injured Workers



OCCUPATIONAL DISEASES

Figure 3.10 shows the most common occupational diseases and cumulative injuries for claims filed in 2019. Occupational diseases and cumulative injuries have routinely made up a small share of New Mexico's workers' compensation claims. In 2019, there were 412 occupational disease and cumulative injuries claims, 2.3% of the 18,171 total indemnity and non-indemnity claims. These consisted of 54 indemnity claims, which were 1.4% of the 3,835 total indemnity claims. There were 358 non-indemnity claims (2.5% of the 14,336 total non-indemnity claims). Since many occupational diseases take a long time to manifest, workers are typically at advanced impairment stages by the time they are first diagnosed. Occupational diseases include brain damage that results from exposure to industrial chemical vapors, lung disease caused by asbestos that leads to mesothelioma, and musculoskeletal and cumulative trauma disorders.

Figure 3.10 Occupational Illnesses and Injuries by Indemnity and Non-Indemnity Claims



NOC = Not otherwise classified

VDT= Video display terminal

NEW MEXICO WORK-RELATED FATALITIES

Work-related fatalities reported to the WCA rose in 2019 to 41, continuing a gradual increase since 2017. The fatality rate, expressed as the number of fatalities per 100,000 covered workers, also increased to 5.09 from 4.66 in 2018 (Table 3.2). Motor vehicles were the leading cause of occupational fatalities (17 claims, 41.5%) in 2019, as they have been since 2012. In 2019, 13 claims involved miscellaneous causes, which has consistently been the second-highest category of fatalities behind motor vehicles since 2015. Miscellaneous causes encompass a number of events, including work-related violence and natural disasters.

Table 3.2 Causes of Work-Related Fatalities, 2015-2019

Cause of Death					
	2015	2016	2017	2018	2019
Motor Vehicle	17	12	13	19	17
Miscellaneous Causes	10	9	10	10	13
Struck or Injured By	7	7	2	3	4
Fall, Slip or Trip Injury	2	3	3	3	3
Unknown	1	3	0	0	0
Burn or Scald, Heat or Cold Exposures, Contact With	0	2	2	0	4
Strain or Injury By	2	4	1	2	0
Caught In, Under or Between	1	3	2	0	0
Striking Against or Stepping On	0	1	0	0	0
Total	40	44	33	37	41
Workforce	779,122	779,927	783,720	793,782	805,692
Covered Fatalities Per 100,000 Workers	5.13	5.64	4.21	4.66	5.09

Source: New Mexico Workers' Compensation Administration (WCA) Claims Database

Note: The historical data is updated through the year because the WCA continues to receive new/updated information for prior years

The two industry sectors with the most work-related deaths in 2019 were construction (19.1%), and transportation & warehousing (11.6%). Transportation & warehousing; construction; public administration; mining; and manufacturing had the most work-related deaths in 2019, together accounting for 65.9% of the year's total.

Table 3.3 Work-Related Fatalities by Industry Sector, 2015-2019

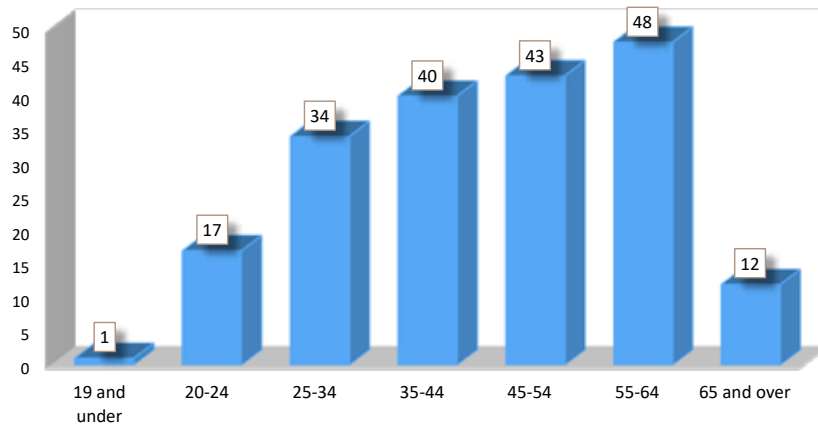
Industry						Total
	2015	2016	2017	2018	2019	
Transportation & Warehousing	8	2	5	1	9	34
Construction	7	5	3	8	8	56
Public Administration	4	9	4	0	4	27
Mining	7	3	4	3	3	45
Manufacturing	1	3	2	1	3	12
Admin & Waste Mgt & Remediation Services	0	1	3	1	3	12
Accommodation & Food Services	2	4	0	1	2	13
Health Care & Social Assistance	1	0	1	4	2	12
Other Services (Except Public Administration)	2	1	4	1	2	12
Agriculture, Forestry, Fishing & Hunting	1	7	2	1	1	14
Retail Trade	1	2	1	4	1	12
Professional, Scientific, & Technical Services	1	3	1	1	1	9
Educational Services	2	1	1	0	1	8
Utilities	0	0	0	0	1	3
Arts, Entertainment, & Recreation	0	1	0	4	0	5
Information	1	1	1	0	0	4
Finance & Insurance	0	0	0	1	0	3
Real Estate & Rental & Leasing	0	0	0	1	0	1
Wholesale Trade	2	1	1	5		11
Total	40	44	33	37	41	293

Source: New Mexico Workers' Compensation Administration Claims Database

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

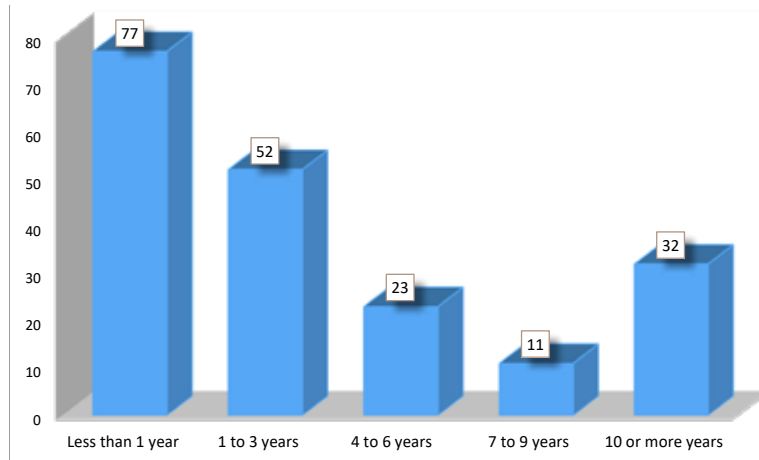
Work-related fatalities were distributed across various age groups. Most fatalities occurred within the age groups of 45-54 and 55-64, which represented 45.4% of total fatalities (Figure 3.11). (For more information about work-related fatalities that occurred in 2019, see <https://workerscomp.nm.gov/sites/default/files/documents/publications/bulletins/Spring2020.pdf>.)

Figure 3.11 Work-Related Fatalities by Age of Injured Worker, 2015 - 2019



Most work-related deaths between 2015 and 2019 happened in a worker's first year in a job (Figure 3.12). Most workers (79.9%) died on the same day they were injured. Some died within a week of their injury (10.24%), and 7.51% died within one year. A small number, 2.05%, died more than a year after their workplace injury.

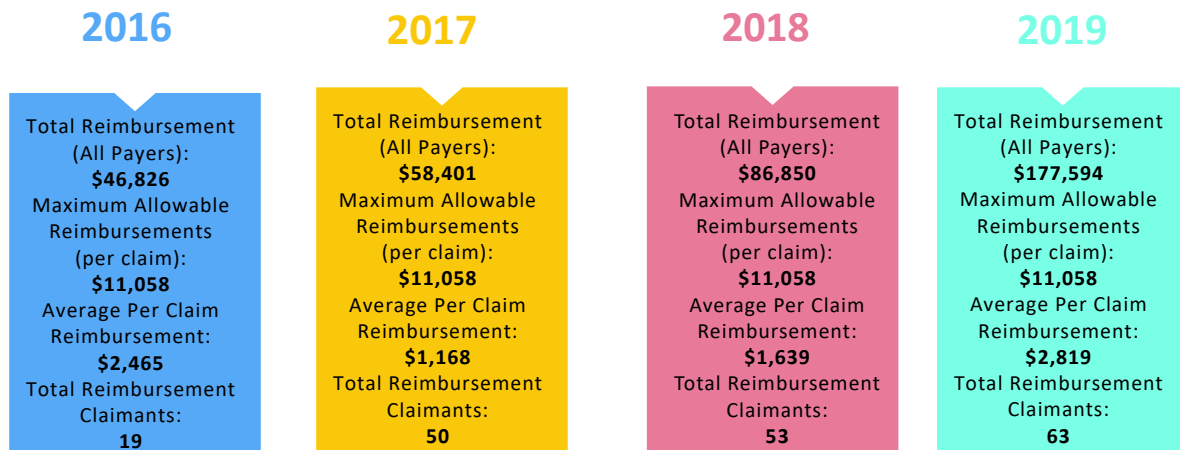
Figure 3.12 Work-Related Fatalities by Number of Years in a Job



MEDICAL CANNABIS

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. Although concerns have been expressed that claimants might claim the maximum allowable amount for cannabis regardless of need, collected 2019 data shows that on average, claimants were reimbursed for about 25.5% 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 2019, 24 payers (same as 2018) reported reimbursements totaling \$177,594 for 63 claims. The average amount reimbursed per claim was \$2,819. This corresponds to an average of 235 units of medical cannabis per claim, an increase from 136 units per claim in 2018. Medical cannabis accounted for 0.4127% of all 2019 drug expenditures, and for 0.0546% of 2019 total expenditures.

Figure 4.1 Medical Cannabis Reimbursements, 2016-2019



Notes: Reimbursement Rate Per Unit*: \$12.02 Maximum Annual Quantity: 920 Units
Equivalent Maximum quantity per calendar quarter = 230 units (\$2,764.60) *1 unit = 1 gram dry weight

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2019*

Comments:

Not all claimants who choose to treat an injury with medical cannabis will notify or seek reimbursement from their employer or carrier. The WCA has no access to data for these injured workers. Also, the WCA has no access to reimbursement data on costs for cannabis when payers provide lump-sum settlements in a disputed claim.

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.

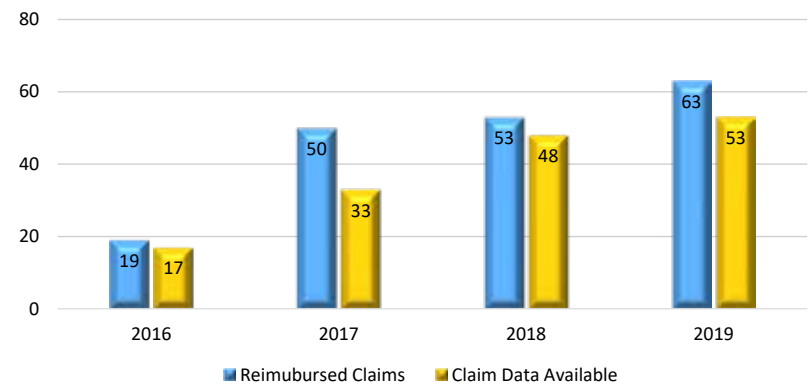
The WCA may someday consider establishing a mandatory report through rule or statute to allow further research into the costs and benefits of medical cannabis as a component of workers' compensation care. Demographic information is available for approximately 80% of reported claims that include medical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

Claims reports of medical cannabis reimbursement have increased in the four years since initial data collection (Figure 4.2). Although the total number of reimbursement reports for the four years is 185, the number of individual claimants for the total is somewhat lower, as some claimants continue treatment and

reimbursement over multiple years. For example, of the 53 claims reimbursed in 2019 with available data, three were reimbursed in 2016, 13 in 2017, and seven in 2018. Only 30 claims were reimbursed for the first time in 2019 (Figure 4.3).

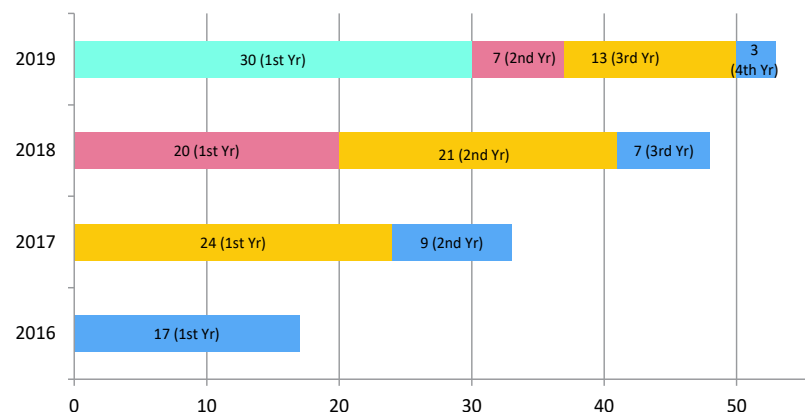
The WCA hopes to continue tracking treatment duration for medical cannabis claims in the coming years. Only 53% of claimants with reimbursements in 2016 also received reimbursements in 2017. However, 87.5% of the claimants with first-time reimbursements in 2017 continued cannabis treatment in 2018, and 35% of first-time claimants in 2018 continued treatment in 2019. Claims in 2016 and 2017 continued for a second year of treatment and were 29 out of 41, or 71%.

Figure 4.2 Availability of Cannabis Claim Demographics



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2016-2019*

Figure 4.3 Claim Reimbursement Duration, 2016-2019



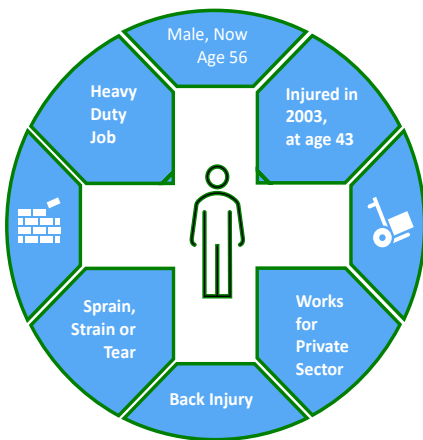
Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, Supporting Data, 2016-2019*

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, based on the most commonly occurring features of the medical 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 40s (Figure 4.4). Additional detailed demographic information regarding claims with medical cannabis reimbursements is summarized in Figures 4.6-4.11.

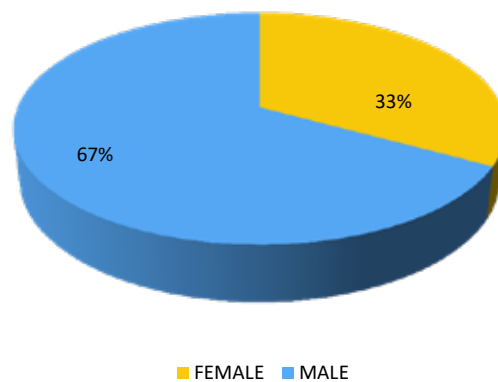
The data indicates medical cannabis reimbursement claims over the past four years have been made predominantly by males, with 67% being male, and 33% female (Figure 4.5).

Figure 4.4 Average Cannabis Claimant, 2016-2019



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, Supporting Data, 2016-2019*

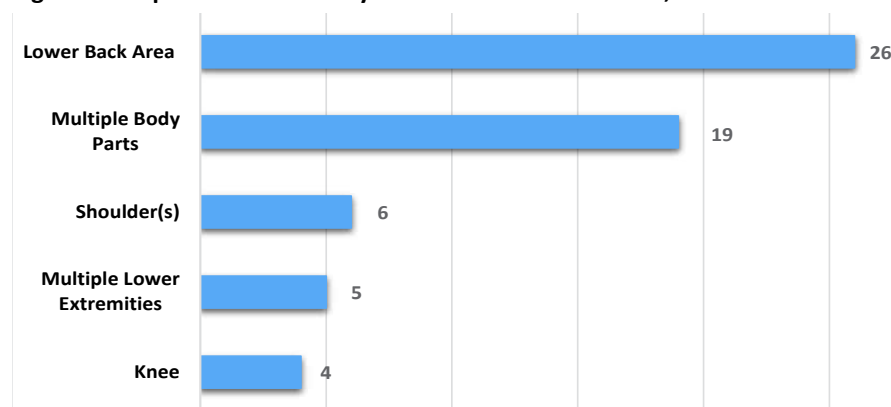
Figure 4.5 Medical Cannabis Claims by Gender, 2016-2019



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, Supporting Data, 2016-2019*

Characteristics that emerge from the first four years of known medical cannabis claims point out an interesting pattern with some similarities with characteristics of indemnity claims in general. These are, in descending order, lower back area, multiple body parts, shoulder(s), multiple lower extremities, and knees (Figure 4.6).

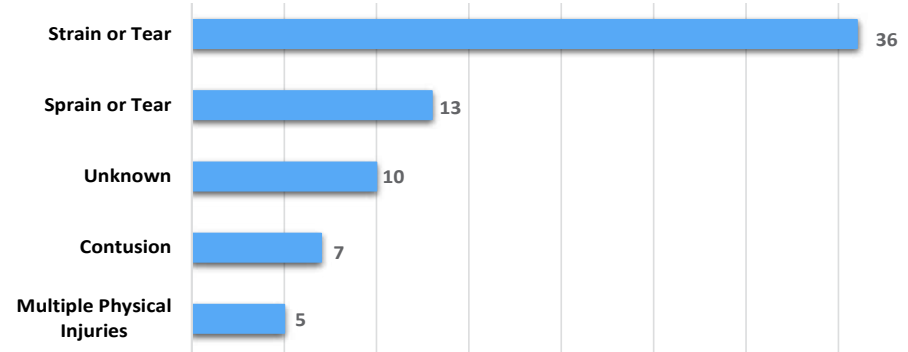
Figure 4.6 Top Five Parts of Body - Medical Cannabis Claims, 2016-2019



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, Supporting Data, 2016-2019*

The top five natures of injury for medical cannabis claims, in descending order, are strain or tear; sprain or tear; unknown; contusion; and multiple physical injuries (Figure 4.7).

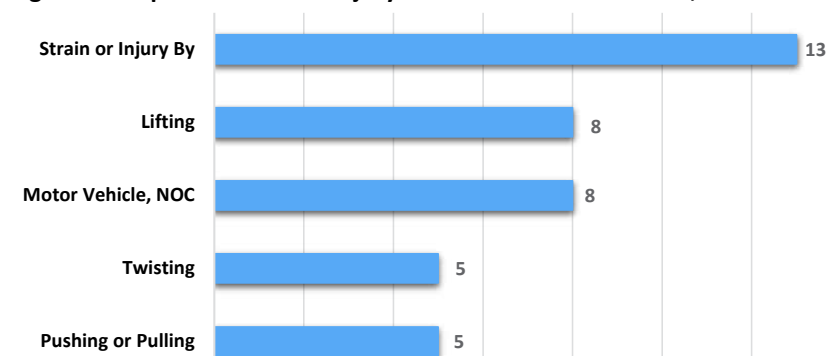
Figure 4.7 Top Five Natures of Injury - Medical Cannabis Claims, 2016-2019



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, Supporting Data, 2016-2019*

For medical cannabis claims, strain or injury by; lifting; motor vehicle, NOC; twisting; and pushing or pulling were the top five categories for causes of injury (Figure 4.8).

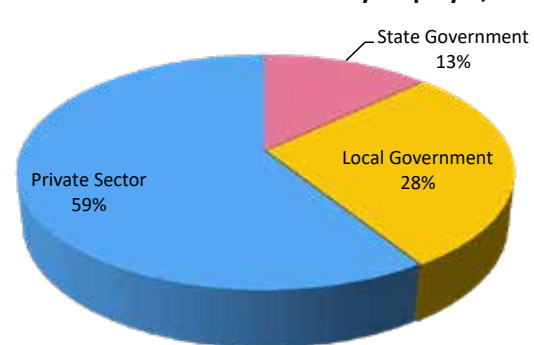
Figure 4.8 Top Five Causes of Injury - Medical Cannabis Claims, 2016-2019



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, Supporting Data, 2016-2019*
NOC=Not Otherwise Classified

The majority of workers who utilized medical cannabis reimbursements during 2016-2019 had jobs in the private sector at the time of injury (52), in industries such as construction, mining, and retail trades (Figure 4.9). This was followed by local government (25) and state government (11). This mirrors the same workplace injury pattern found in workers' compensation indemnity claims.

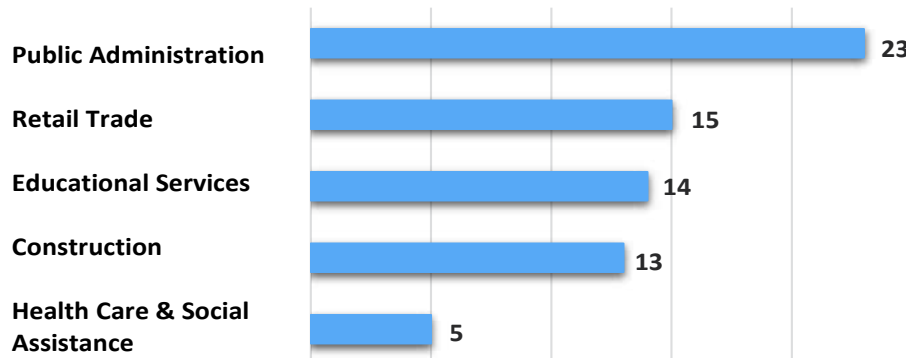
Figure 4.9 Medical Cannabis Claims by Employer, 2016-2019



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, Supporting Data, 2016-2019*

During 2016-2019, the top five industries for medical cannabis indemnity claims were public administration; retail trade; educational services; construction; and health care & social assistance (Figure 4.10). The construction industry has a consistently high rate of injury overall.

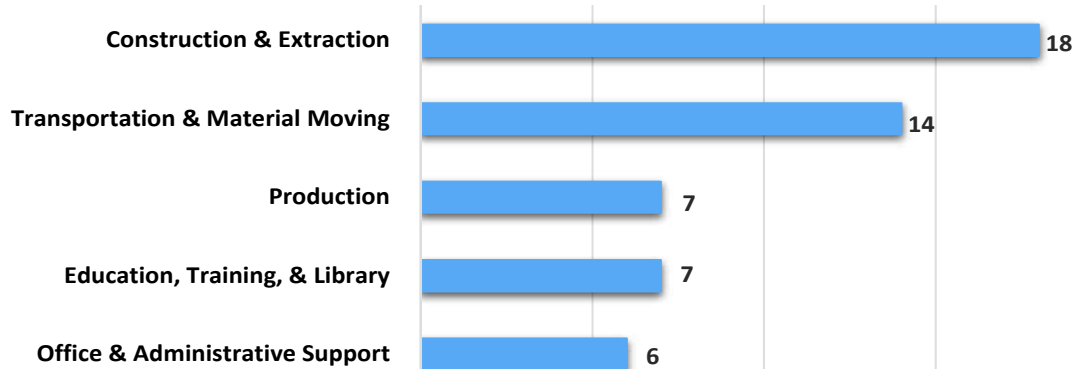
Figure 4.10 Top Five Industries - Medical Cannabis Claims, 2016-2019



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, Supporting Data, 2016-2019*

The top five occupations for which medical cannabis reimbursement claims were filed over the past four years were construction & extraction occupations; transportation & material moving occupations; production occupations; education, training & library occupations; and office & administrative support occupations (Figure 4.11).

Figure 4.11 Top Five Occupations - Medical Cannabis Claims, 2016-2019



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, Supporting Data, 2016-2019*

WORKERS' COMPENSATION COSTS

The WCA collects and examines claim payments (paid loss information) from annual expenditure reports (AER) submitted by carriers and self-insurers to the Economic Research and Policy Bureau (ERPB). Collected data is used to evaluate workers'

compensation costs and the effectiveness as well as efficiency of the system. For comparison, statistics are also gathered from the National Association of Insurance Commissioners (NAIC), the National Council on Compensation Insurance (NCCI), and the New Mexico Department of Workforce Solutions (DWS). The WCA uses these and the AER data to analyze and evaluate trends in New Mexico's paid losses, premiums and carrier and self-insurer performances each year.

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
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
2019	\$318,521,473	40,311	\$213,550,822	\$104,970,651

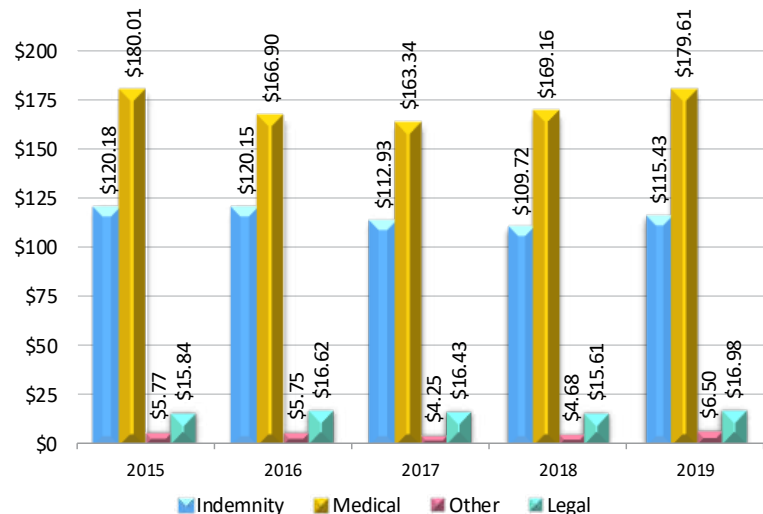
Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2015-2019*

CLAIM COSTS

The cost of workers' compensation claims affects all New Mexico employers. Employers with commercial coverage are affected by rising and falling claim costs through the premiums they pay for insurance. Self-insured employers and the WCA's Uninsured Employers' Fund see the effects in their operating results. As seen in Table 5.1 above, the number of carrier and self-insurer claims with benefit payments decreased by 325 from 2018 (40,636 to 40,311). This follows an overall trend in decreasing claims. Total paid losses for 2019 were \$318,521,473, an increase of \$19,344,460, or 6.5%, from 2018. Carrier paid losses were \$213,550,822, in 2019, an increase of 4.25% from 2018. Self-insurers' paid losses increased 11.3% in 2019, jumping from \$94,336,751 in 2018 to \$104,970,651 in 2019.

As seen in Figure 5.1, medical costs continued to dominate New Mexico's workers' compensation expenditure categories, totaling \$179.61 million. Indemnity expenditures maintained second place on the AER in 2019, increasing by 5.2% compared to 2018. Legal costs maintained a distant third place in total workers' compensation expenditures, but were higher in 2019 than in the previous four years. Other expenditures remained small but also marginally increased in 2019.

Figure 5.1 Total Expenditures by Category, 2015-2019 (\$ in millions)



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2015-2019*

Figure 5.2 Indemnity Claim Distribution of Expenditures, 2019



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2019*

Indemnity claims provide funds for wage replacement or permanent disability for injured workers in addition to medical benefits. Total expenditures for indemnity claims in 2019 were \$282,131,593. There were 16,449 indemnity claims with benefit payments in 2019, an increase of 163 claims (1%) from 2018. Indemnity claims accounted for 89% of 2019 expenditures overall, the same percentage of expenditures (89%) as in 2018. Medical-only claims payments were 11% of total costs in 2019, also the same as the percentage of payments in 2018 (11%).

The amount paid per indemnity claim in 2019 increased by \$845 to \$17,152, which was a 5.2% increase from 2018 (Figure 5.2).

Figure 5.3: Medical-Only (Non-Indemnity) Claim Distribution of Expenditures, 2019

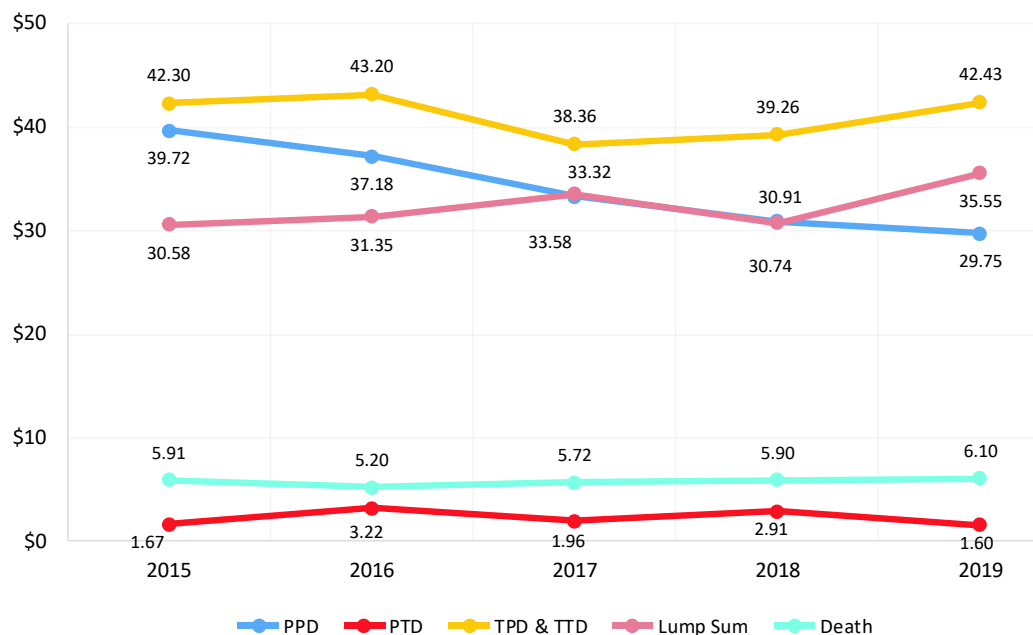


Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2019*

There were 23,862 medical-only (non-indemnity) claims in 2019, a decrease of 488 claims compared to 2018 (2%). Total expenditures for medical-only claims were \$36,389,880, an 8% increase from 2018's total of \$33,612,372. Despite the higher volume of medical-only claims compared to indemnity claims (16,449), medical-only claims represented only 11% of total workers' compensation expenditures in 2019.

For 2019, expenditures for the physicians category accounted for the largest portion of annual claim expenditures for medical-only claims (Figure 5.3), as in years past. The average total per medical-only claim was \$1,525 in 2019, compared to \$1,380 in 2018.

Figure 5.4 Summary of Indemnity Expenditures, 2015-2019 (\$ in millions)



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2015-2019*

Indemnity payments encompass several categories (Figure 5.4). Permanent partial disability (PPD), permanent total disability (PTD), temporary partial disability (TPD) and temporary total disability (TTD), as well as lump-sum payments and death are included within the indemnity category. In 2019, indemnity payments totaled \$115,433,737, which was \$5,714,190 more than the \$109,719,547 expended in 2018.

Lump-sum settlement payments totaled \$35,552,565, an increase of 15.7% from the \$30,741,386 paid in 2018. (The WCA has traditionally categorized lump-sum expenditures reported on the AER as indemnity payments, despite payments sometimes going partially to medical expenses. Since the WCA does not have data to support reclassification of expenditures into another category, they are not broken out of the total).

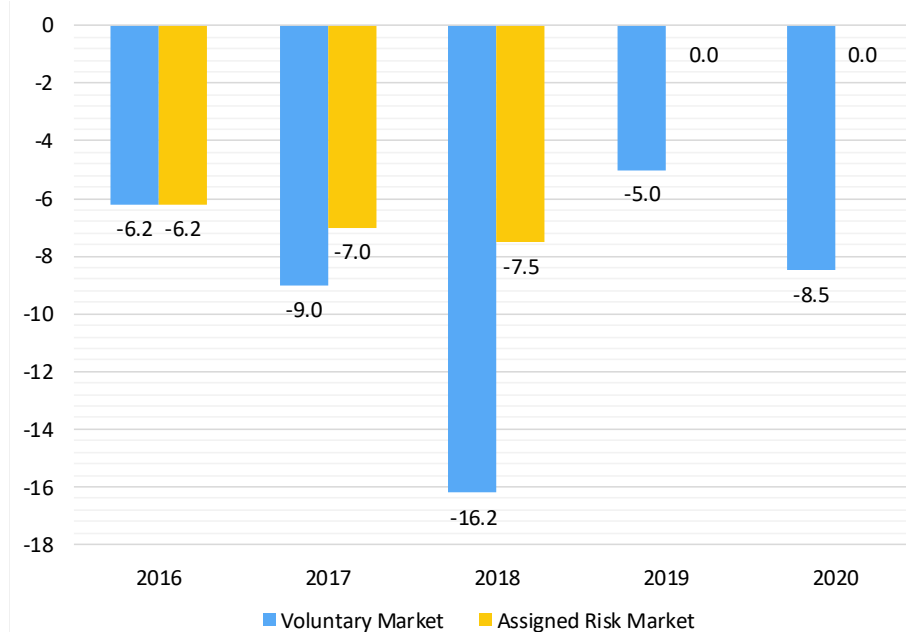
While lump-sum payments have been increasing in the past few years, since 2015, PPD payments have continued a sharp decline (Figure 5.4). The 2019 total of \$29,754,539 in PPD payments reflect a decline of 25.1% since 2015. There was a decline of 3.73% since 2018. The decrease in PPD payments could be the result of a higher rate of claims being settled through lump-sum payments. As indemnity claims are settled via lump-sum payments, future PPD expenditures decrease because payments are shifted to the year in which the lump-sum payment occurred. In 2019, TTD/TPD, death and PTD expenditures remained essentially flat from 2018 numbers.

PREMIUM COSTS

Historically, about two-thirds of New Mexico's workers are covered by commercial workers' compensation insurance. Loss costs and corresponding premium rates decreased by 8.5% for the voluntary market, based on NCCI's loss cost filing with the New Mexico Office of the Superintendent of Insurance for 2020 (Figure 5.5). Loss costs for the assigned risk pool have remained unchanged since 2018. Loss costs are the portion of the rates sufficient to cover claim loss expenses.

The decrease in loss costs approved for 2020 marks five consecutive years of decreasing workers' compensation premiums for the voluntary market in New Mexico. NCCI attributes the premium decrease in 2020 to prior years' loss experience and trends in the state.

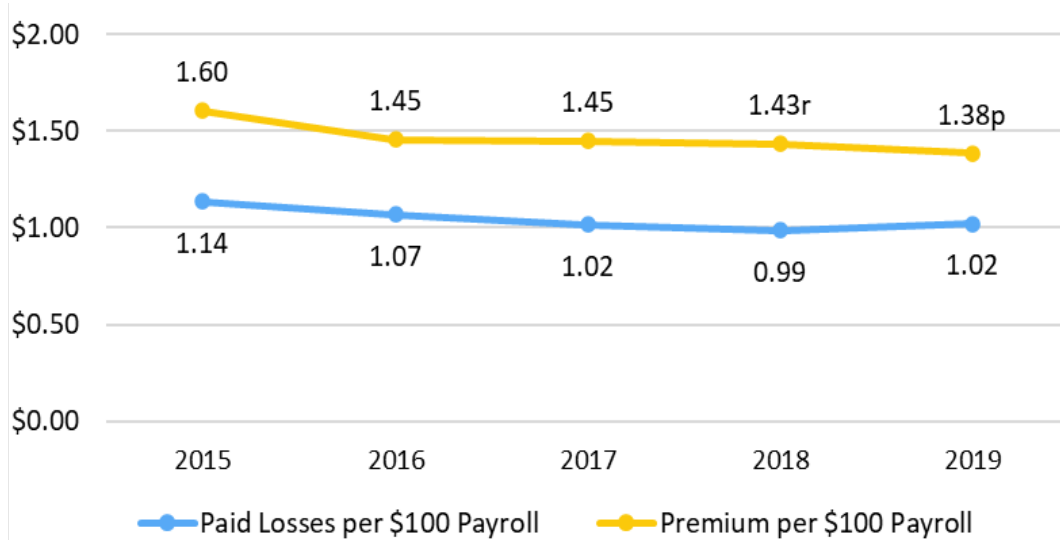
Figure 5.5 New Mexico Annual Premium Change by Policy Year, 2016-2020



Source: National Council on Compensation Insurance, *New Mexico State Advisory Forum*, 2019

Premiums are billed based on loss costs filed by NCCI, which must be approved by the New Mexico Office of the Superintendent of Insurance. They vary widely based on industry and job classifications of workers. Direct written premium for New Mexico in 2019 totaled \$280,378,000, based on preliminary market share data from the National Association of Insurance Commissioners (NAIC). The average premium per \$100 of payroll was \$1.38 in 2019, based on preliminary data from NAIC (Figure 5.6). This is a decrease of 4.9% compared to 2018's final figures. Paid losses per \$100 of payroll were \$1.02 in 2019, a 3% increase from \$0.99 in 2018.

Figure 5.6 Estimated Payroll Costs: Premiums 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, 2015-2019*

National Association of Insurance Commissioners (NAIC), *Preliminary NAIC Annual Statement Data, 2019*

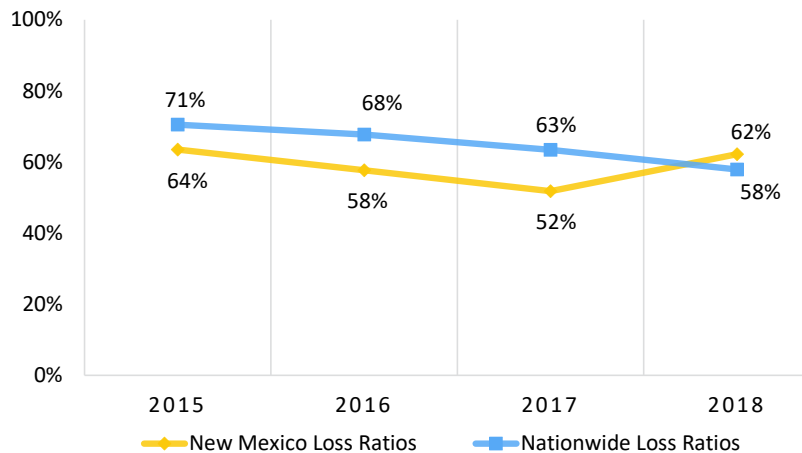
New Mexico Department of Workforce Solutions, *Quarterly Census of Employment and Wages, 2015-2019*

NATIONAL COMPARISON

Figures 5.7 and 5.8 present 2018 data from the National Association of Insurance Commissioners' (NAIC) Report on Profitability. The 2018 report provides the most current data available. Loss ratio is a measure of underwriting profitability for carriers, and is calculated by dividing incurred losses and adjusting expenses by premiums for a given period. In 2018, carriers experienced a loss ratio of 62% in New Mexico, compared to 52% in 2017. Nationwide, loss ratios decreased, from 63% in 2017 to 58% in 2018. Underwriting profit is inversely related to loss ratio, with the underwriting profit increasing as the loss ratio decreases. New Mexico's underwriting profit of 13% was lower than the nationwide average of 15.6% in 2018. Underwriting profit for carriers in New Mexico decreased substantially, from 23.9% in 2017 to 13% in 2018.

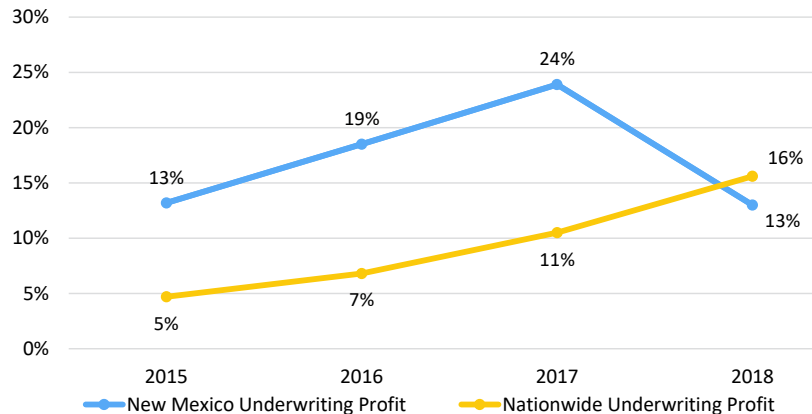
It is likely that the downturn in underwriting profit and increase in loss costs in 2018 are the result of the significant rate decrease (16.2%) for that year. Based on this, and coupled with rate decreases in 2019 and 2020, the profitability of carriers in New Mexico will likely continue to decline as data for 2019 and 2020 becomes available.

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



Source: National Association of Insurance Commissioners, *Profitability Report by Line by State in 2018*

Figure 5.8 Nationwide vs. New Mexico Underwriting Profit



Source: National Association of Insurance Commissioners, *Profitability Report by Line by State in 2018*

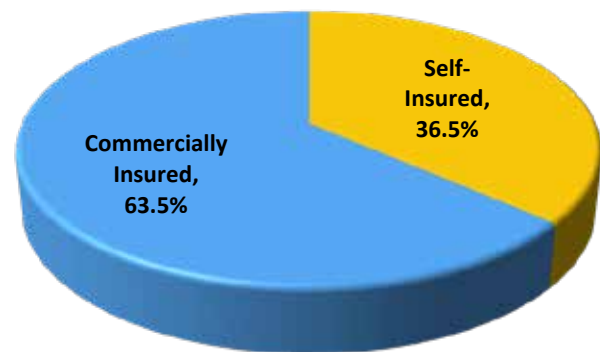
2018 is the most recent year for which data is available.

WORKERS' COMPENSATION COVERAGE

New Mexico law requires that all employers in New Mexico not covered by federal programs 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 2019. Table 6.1 illustrates the insurance categories and their coverage from 2015 through 2019. It also demonstrates that the adjusted covered workforce has steadily increased for each of the past six years.

Figure 6.1 2019 Percentage Covered Workforce by Type of Coverage



Sources: New Mexico Department of Workforce Solutions, *Quarterly Census of Employment and Wages*
New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2019*

Table 6.1 Estimated Covered Workforce and Employers by Type of Insurance, 2015-2019

Voluntary & Assigned-Risk Markets			Self-Insurance		Adj. Covered Workforce ⁵
	Active Carriers ¹	Covered Workers ²	Covered Employers ³	Covered Workers ⁴	Total
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	254	450,044	2,384	264,360	714,404
2019	224 ^P	460,718	2,443	264,405	725,123

^P Preliminary Data

¹ Source: National Association of Insurance Commissioners, *Annual Statement Data, New Mexico Market Share Report, 2015-2019*

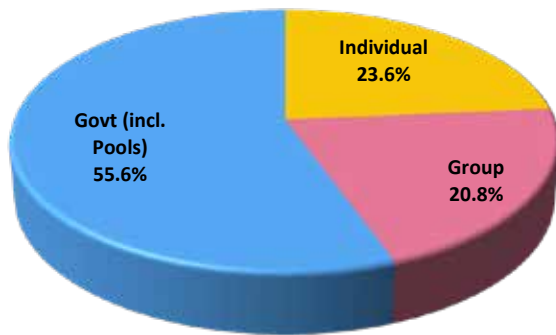
² Total covered workforce minus self-insured workers

³ Source: New Mexico Workers' Compensation Administration Self-Insurance Bureau

⁴ Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report*

⁵ Source: New Mexico Department of Workforce Solutions, *Quarterly Census of Employment and Wages* (excludes workers not subject to the Act)

Figure 6.2 2019 Self-Insured Workforce by Self-Insured Type

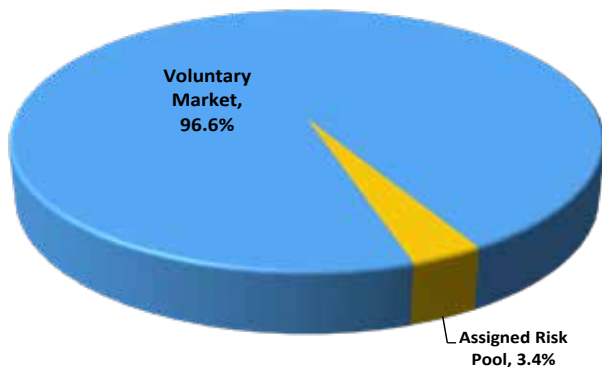


Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2019*

SELF-INSURED PROGRAMS

The majority of workers covered under self-insured programs in New Mexico are public employees (55.6%) in 2019. Nearly all of the governmental entities in New Mexico fall under a self-insured pool or individual program. The remaining 44.4% of workers covered under self-insured programs are split almost evenly between individual self-insured private sector employers (those who qualify and choose to pay their claims directly) and self-insured groups (employers in similar industries who form a member-owned entity which directly pays member claims for them), as seen in Figure 6.2.

Figure 6.3 2018 New Mexico Assigned Risk Pool Market Share^p



Source: National Council on Compensation Insurance, *New Mexico Residual Market Management Summary, 2018*

COMMERCIAL INSURANCE

Most employers in New Mexico who seek commercial workers' compensation insurance are able to find a policy within the voluntary market (96.6% in 2018), as seen in Figure 6.3 and Table 6.2. 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 2018, only 3.4% of commercially insured companies in New Mexico were covered through the assigned risk pool, compared with 5.7% countrywide.

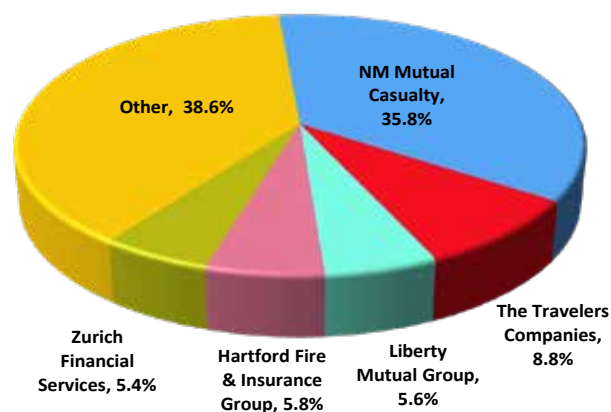
Table 6.2 Assigned Risk Pool Market Share by Direct Written Premium, 2015-2018

	2015	2016	2017	2018 ^p
New Mexico	6.0%	5.2%	4.0%	3.4%
Nationwide	6.3%	6.1%	6.0%	5.7%

^pPreliminary DataSource: National Council on Compensation Insurance, *New Mexico Residual Market Management Summary, 2018*

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 35.8% of the 2019 commercial workers' compensation market in New Mexico (based on direct written premium). In 2019, the next four highest volume carriers comprised 25.6% of the market, as illustrated in Figure 6.4. Other carriers with lower percentages were responsible for the remaining total 38.6% of 2019'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 2019 Commercially Insured Market Share by Direct Written Premium^P



^P Preliminary figures from National Association of Insurance Commissioners
Source: National Association of Insurance Commissioners, *Annual Statement Data, New Mexico Market Share Report, 2019*

Table 6.3 Market Share by Direct Written Premium, Largest Insurance Carriers in New Mexico, 2015-2019

WC Insurance Carrier	2015	2016	2017	2018 ^r	2019 ^P
New Mexico Mutual Casualty	36.3%	36.5%	37.3%	35.6%	35.8%
The Travelers Companies	9.0%	8.8%	8.5%	8.8%	8.8%
Hartford Fire and Insurance Group	5.4%	4.6%	5.3%	5.9%	5.8%
Liberty Mutual Group ¹	5.6%	6.4%	6.2%	5.8%	5.6%
Zurich Financial Services	5.9%	5.6%	5.3%	5.4%	5.4%
Other	37.8%	38.1%	37.4%	38.5%	38.6%

^P Preliminary Data

^r Revised to reflect final National Association of Insurance Commissioners figures published in 2019

¹ 2015 American International Group

Source: National Association of Insurance Commissioners, *Annual Statement Data, New Mexico Market Share Report, 2015-2019*

REGULATORY AND CASE LAW UPDATE

2020 LEGISLATIVE SESSION

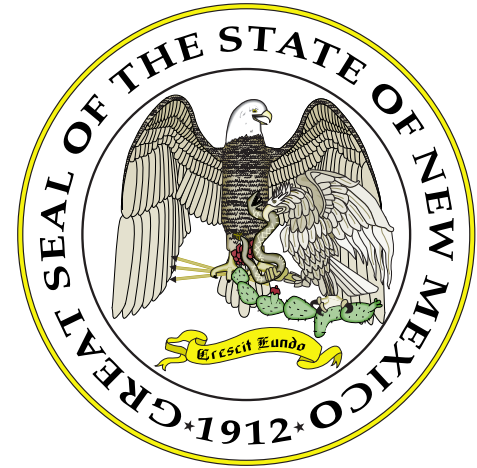
There were no substantive workers' compensation bills during the 2020 regular or special sessions.

ADVISORY COUNCIL ON WORKERS' COMPENSATION AND OCCUPATIONAL DISEASE DISABLEMENT

Created by statute, the Advisory Council on Workers' Compensation and Occupational Disease Disablement 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, 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 at which 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 Superintendent 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. Members Kevin McGinley, 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.



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

Gloria Mendoza v. Isleta Resort and Casino, Hudson Insurance, Tribal First, and State of New Mexico, Uninsured Employers' Fund, 2020-NMSC-006 (filed January 16, 2020)

Worker was injured while employed at Isleta Resort and Casino, and filed a workers' compensation claim with the New Mexico Workers' Compensation Administration (WCA). Because Worker's injury occurred within the Pueblo of Isleta's sovereign jurisdiction, the WCA dismissed Worker's claim for lack of jurisdiction, referencing the Pueblo's tribal

sovereign immunity. As a result of Pueblo's sovereign status, Worker's complaint was dismissed as to all parties, which included Hudson Insurance Company (Isleta Casino insurer) and Tribal First (Hudson's third party administrator). Worker appealed to New Mexico Court of Appeals (COA), which reversed the findings of the WCA and remanded the case back to the WCA. The Supreme Court (SC) reversed the COA opinion in its entirety and affirmed the WCA's dismissal of Worker's claim. The SC concluded that the Compact (negotiated pursuant to the Indian Gaming Regulatory Act) contains no waiver as to the Pueblo's sovereign immunity, and that the Worker, as a non-contracting party, cannot pursue a private right of action to enforce Compact entered between the State of New Mexico and the Pueblo. The SC also concluded that the Pueblo was an indispensable party to Worker's claim, but limited this holding to the facts in the case before it.

Michael D. Lewis as surviving spouse of Patricia A. Lewis v. Albuquerque Public Schools, 2019-NMSC-022 (filed November 18, 2019)

Following the death of Worker, her widower (Petitioner) received death benefits under the Act. Workers' Compensation Judge (WCJ) found that Worker, while employed at Albuquerque Public Schools, contracted allergic bronchopulmonary aspergillosis (ABPA), which played a part in Worker's death. While treating for her ABPA, worker was diagnosed with cancer which had been in remission since 1997. Petitioner filed a complaint within two years of when worker was unable to work following her diagnosis of ABPA. At trial, WCJ excluded testimony from worker's cancer doctor, finding he was not an authorized health care provider (HCP) on worker's claim. Employer appealed to Court of Appeals (COA). COA held WCJ was correct in rejecting Employer's contention that Petitioner's claim for death benefits was time-barred because the complaint was filed within two years from when worker's injuries became a disability and the date of her death. COA also concluded WCJ erred in excluding medical testimony and records that employer argued were related to worker's cause of death, reasoning that limitations on HCP testimony do not apply to medical evidence in a death benefits case. COA remanded the case for retrial on whether Worker's ABPA "proximately resulted" in Worker's death.

The SC granted certiorari. SC affirmed COA's determination that death benefits were not time-barred. On the second issue, SC held COA erred in its interpretation that IMEs under Section 52-1-51(C) only apply to living workers. SC agreed with COA that the case should be remanded for further proceedings on whether worker's death was proximately caused by ABPA, and instructed that further proceedings could include opinions from an IME. In all other respects, SC affirmed the opinion of COA.

NEW MEXICO COURT OF APPEALS

Goodman v. OS Restaurant Services, LLC, 2019-NMCA-019 (filed July 31, 2019)

This was an appeal from the District Court on a New Mexico Human Rights Act (HRA) case. Worker (Plaintiff*) sustained an ankle injury at work. When Plaintiff reported the injury, the supervisor said Plaintiff did not need to file a claim, gave inaccurate information about benefits and how to file a claim, and delayed reporting the claim, which slowed availability of workers' compensation benefits. After Plaintiff filed his claim, the supervisor said he would no longer be promoted and also refused to provide accommodations so Plaintiff could return to work. After Plaintiff reported the supervisor's conduct to Employer's (Outback's) legal team, Plaintiff was terminated because he had not worked in 30 days.

Plaintiff filed a discrimination claim under the HRA, alleging unlawful discrimination based on perceived disability, bad faith workers' compensation claim retaliation, and other

tort claims. After pretrial motions, Plaintiff's HRA retaliation claim was the only claim presented to the jury. The jury instructions asked the jury to decide whether (not how) Employer violated HRA. After trial, the jury found Outback violated the HRA and awarded \$95,000 in damages to Plaintiff, \$60,000 for lost wages and \$35,000 for emotional distress. Employer appealed, seeking reversal of the jury verdict or a new trial.

COA affirmed the jury's decision, concluding evidence was sufficient to support Plaintiff's claim that Outback violated the HRA because it viewed Plaintiff as disabled after his injury and retaliated by terminating him. On appeal, Employer argued that filing a workers' compensation claim could not be a basis for liability under the HRA. Because COA ruled Outback agreed to the jury instruction and that sufficient evidence supported the jury verdict, COA declined to review Employer's contention that filing a workers' compensation claim was not a basis for liability under the HRA.

(*Plaintiff" used as term rather than "Worker" as this was a district court case.)

Silva v. Denco Co., Inc., 2019-NMCA-012 (filed November 8, 2019)

The case addressed what constitutes valid and timely notice of an employer's decision regarding initial selection of a health care provider (HCP) under NMSA 1978, Section 52-1-49 and Rule 11.4.4.12(B)(2)(b) NMAC, and in the event of untimely notice, whether Employer made the initial HCP selection.

On February 1, 2017, Worker was injured at work and reported the accident to supervisor, who verbally directed Worker to seek treatment at Concentra because Concentra was the medical provider used by Employer. Worker received treatment at Concentra on the day of the work accident. Employer reported the accident to insurer the next day and insurer third party administrator (TPA) (Sedgwick) immediately advised worker it would be administering the claim on Employer's behalf. On February 28, 2017, insurer notified Worker that Employer was permitting Worker to make the initial HCP selection ("Howell letter"). Prior to and following the February 28th letter, Worker continued to treat with Concentra and its referrals. On May 22, 2017, insurer sent Worker a letter advising Employer was exercising a right of second selection of HCP. Worker filed a timely objection, arguing that the February 28th written notice to Worker was invalid because it was sent by insurer not employer and that written notification to work was untimely. The WCJ applied Rule 11.4.4.12(B)(2)(b) NMAC and found that care received prior to the February 28th letter was not a selection by either party.

The COA held that insurers may send written notice of an employer's decision regarding the initial selection of HCP. However, in this case, employer's decision (communicated 27 days after having notice of the claim) was not made within a reasonable time. By virtue of Employer's failure to provide timely written notice that allowed worker to make the initial selection of HCP, employer was deemed to have made the initial selection. As a result, the HCP providing initial, non-emergency care was Employer's initial selection under 52-1-49(B) and Worker retained right of second selection. The COA did not address whether Rule 11.4.4.12(B)(2)(6) NMAC was a valid and enforceable regulation, noting it was possible to read the rule in harmony with the Act and allow for a reasonable period of non-selection of HCP.

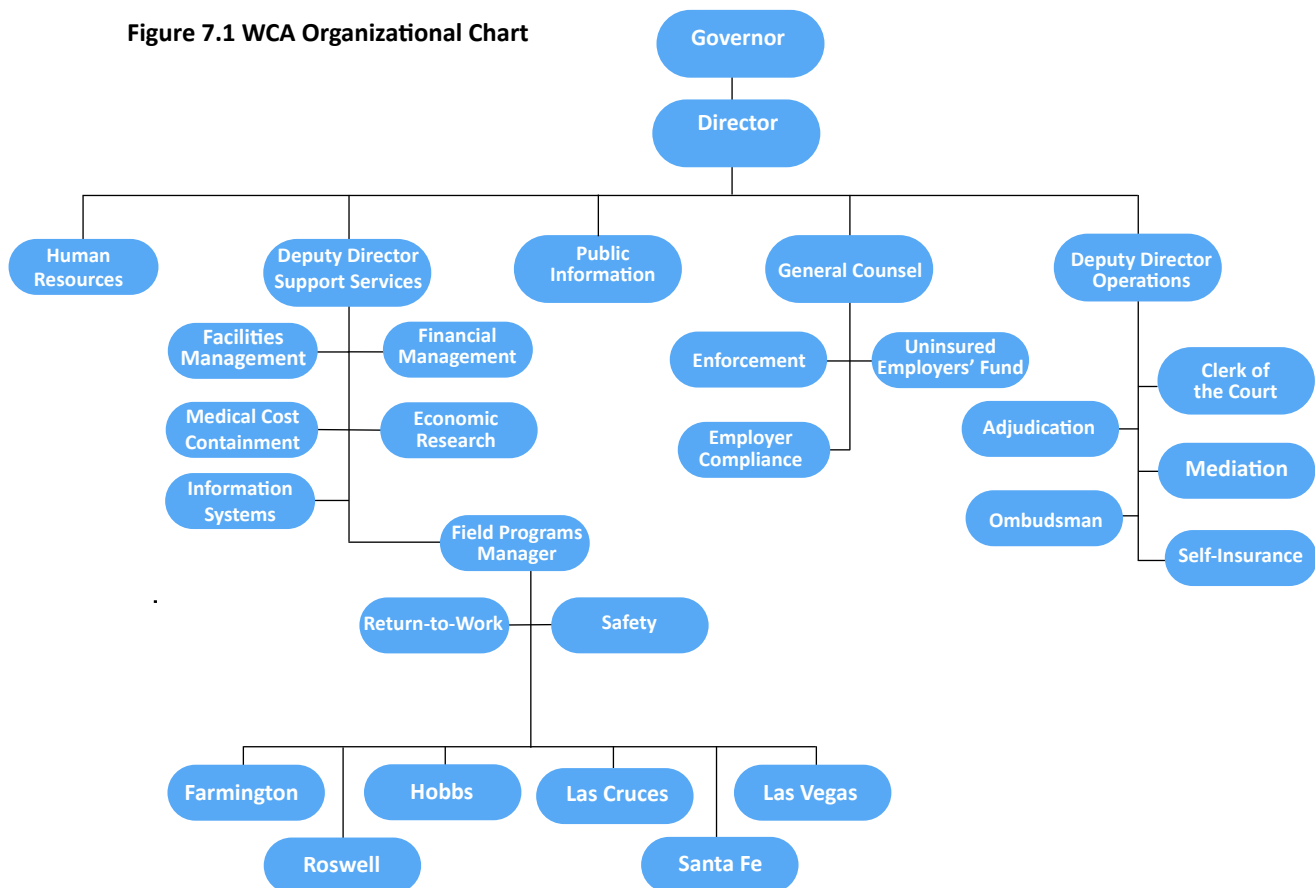
WCA BUREAU HIGHLIGHTS

The Workers' Compensation Administration (WCA) operates within the framework of the New Mexico Workers' Compensation Act (the Act). The WCA's mission is to administer the provisions of the Act to "assure the quick and efficient delivery of indemnity and medical benefits to injured and disabled workers at a reasonable cost to employers," 52-5-1 NMSA 1978. The Act mandates the agency's annual operating budget, degree of budgetary flexibility, personnel system, management of property and purchasing processes. 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. Two executive deputy directors oversee operations and support services, and the General Counsel's office works on legal and legislative matters. Figure 7.1 shows the current organizational structure of the WCA. There are currently 122 full time positions. As of the date of publication, there are 108 filled positions at the WCA, with a current "fill" rate of 88.5%, which indicates how many authorized positions are currently filled.

COVID-19 IMPACT ON AGENCY OPERATIONS

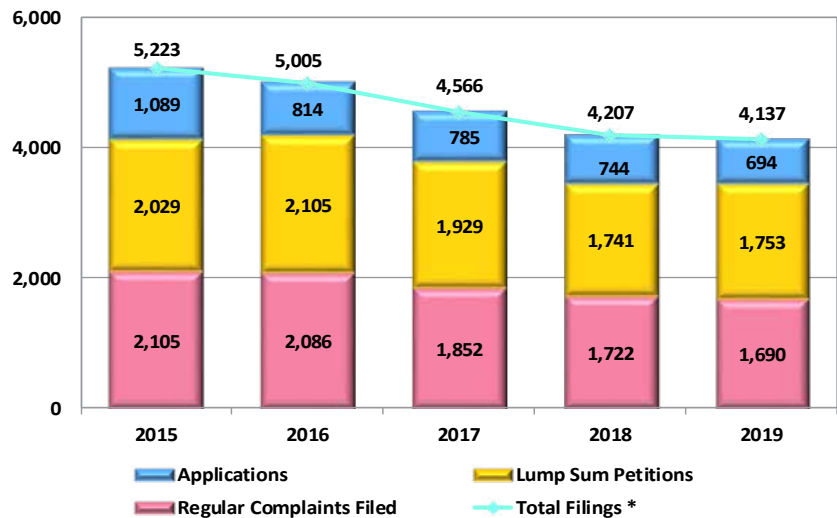
In mid-March 2020, it became clear that COVID-19 was spreading throughout the state. Governor Michelle Lujan Grisham quickly moved to ensure key state agencies remained open, but that as many employees as possible be given the opportunity to telework, in an effort to limit in-person contact and thereby mitigate virus spread. For the WCA, the majority of staff were equipped with remote access to work computers and began teleworking from home. Key personnel remained at the Albuquerque site. Judges and mediators soon teleworked from home, with telephone call-ins functioning in lieu of courtrooms and mediation rooms.

Figure 7.1 WCA Organizational Chart



Lump-Sum Tuesdays became telecommunicated Lump-Sum Fridays beginning April 17, 2020. The agency continued its work in adjudication, medical cost containment, enforcement and all other bureaus. The agency has for the most part continued to work as a whole, though via a remotely centralized system. As of this writing, it is unclear when the phase-in to working in offices will begin.

Figure 7.2 Clerk of Court Workload, 201-2019



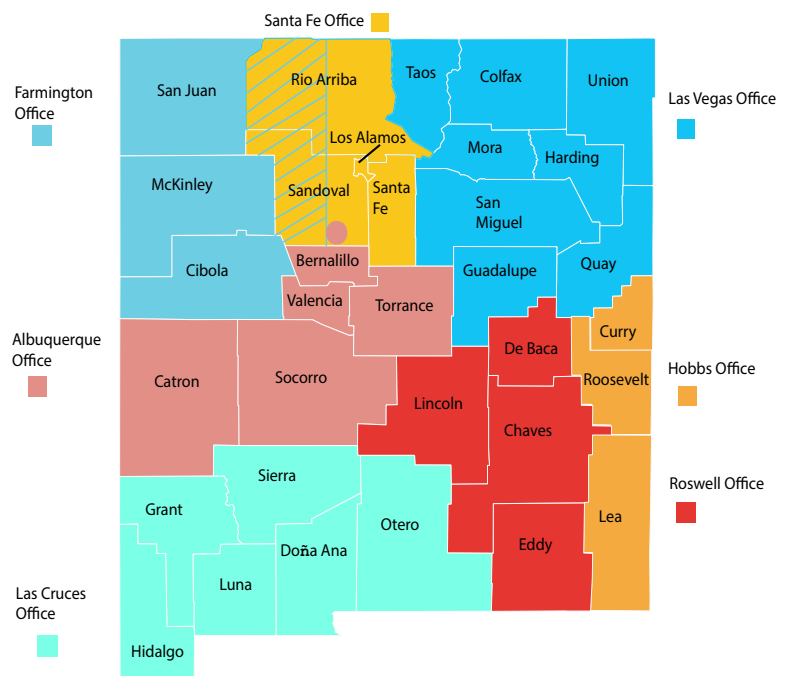
CLERK OF THE COURT

The Clerk of the Court performs adjudication docketing and record keeping. The number of filed documents have continued to steadily decrease. In 2019, there were 4,137 documents filed for applications, complaints, and lump-sum petitions, which is a slight decrease of about 1.7% compared to the 4,207 documents filed in 2018 (Figure 7.2). In early 2020, when the WCA offices closed all but essential walk-in services because of COVID-19, Clerk of the Court rotated bureau staff so a worker would be at the office, and filings could continue to be processed and records continue to be stored.

WCA FIELD OFFICES

The WCA's main office is in Albuquerque, and the agency also maintains six field offices around the state to better serve New Mexicans. Field offices in Farmington, Hobbs, Las Cruces, Las Vegas, Roswell, and Santa Fe provide services for injured workers, employers, attorneys, insurance adjusters, and others. Field offices provide a place where mediations, hearings and trials can take place. Most field office staff include managers, business operations specialists, safety consultants, ombudsmen and compliance officers. Video conferencing equipment enables mediations and hearings to take place with Albuquerque mediators and judges. Walk-in visitors to agency offices may need to talk to an ombudsman, fill out paperwork, or file complaints.

Figure 7.3 Counties Served by Field Offices and Albuquerque Office



In 2019, a total of 13,537 visitors came to agency offices, 4.1% fewer than the total of 14,116 visitors in 2018 and 17% fewer than 16,310 visitors in 2017, continuing a downward trend that follows an overall trend of decreasing workers' compensation claims.

Visitors ask questions, clarify issues, attend hearings, file papers, and meet with mediators and judges. The Albuquerque office had 10,712 visitors in 2019, 79% of total visitors. This average of 42 visitors per business day was a slight decrease from the average of 44 daily visitors in 2018, and a significant decrease from the average of 53 visitors per business day in 2017. (The decrease coincides with instituting e-filing at the agency). The remaining 21% of visitors sought help at the agency's field offices. Las Cruces served 810 visitors for the year, averaging three visitors per business day, a 9% increase from 2018. Roswell saw a substantial 23% decrease in visitors from the previous calendar year, with 557 visitors in 2019 and 726 in 2018. The Santa Fe office saw 409 visitors, Hobbs 402, Farmington 363, and Las Vegas 284 visitors, respectively. As seen in Figure 7.3, agency field offices are responsible for large geographic regions of the state. The Las Vegas and Las Cruces field offices provide coverage for the widest geographic swaths for the agency.

Field office staff conduct outreach, workshops, and presentations to educate the public and business owners about workers' compensation, safety and the requirements of the law. The WCA's six field offices reached 1,935 New Mexicans in outlying areas of the state in 2019.

SELF-INSURANCE BUREAU

The Self-Insurance and Regulatory Audit Bureau (SI) examines applications submitted by employers, groups and pools seeking to become or remain self-insured. It monitors current active and decertified self-insured entities to ensure compliance with applicable statutes and regulations.

In 2019, there were 35 individual active self-insured companies, and 46 decertified but monitored companies. There were eight group self-insured entities and three pools (governmental entities) as well as two inactive but decertified, monitored groups. The number of active individual self-insured companies decreased from 2018 to 2019 as the result of a voluntary decertification of an active self-insured company. Decertified individual companies also decreased because of bankruptcy and the reclassification of another company to the archived class.

SI auditors and bureau chief conduct ongoing, periodic reviews of self-insured entities to ensure their financial soundness and capacity to qualify as self-insureds. Audits increased 27% from 2018 to 2019, and financial statements analyses increased 13% in the same time period. The Guarantee Fund was created by statute and guarantees claim payments for companies that have become insolvent. The Guarantee Fund increased in 2019 upon the cashing and depositing of security funds as the result of the financial insolvency of a decertified individual entity. Table 7.1 provides the self-insurance workload summary for individual employers, groups and pools. In 2019, the bureau conducted 47 audits and 155 financial statements analyses. It also examined 269 loss runs and 91 letters of credit and surety bonds.

Table 7.1 Self-Insurance Workload Summary Report, 2019

Activities	Year Total
Audits	47
Financial Statements Analysis	155
Loss Runs Examined	269
Letters of Credit & Surety Bond Examined	91
Guarantee Fund Year End Balance (monitoring several bank accounts)	\$4,393,170

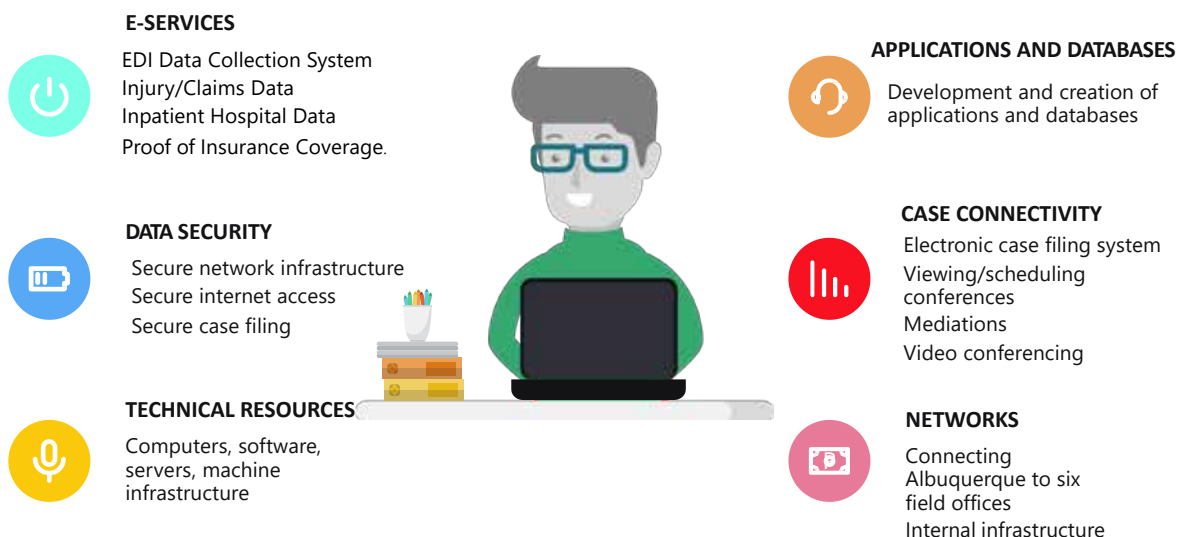
MANAGEMENT INFORMATION SYSTEMS

The Management Information Systems Bureau (MIS) implements and maintains the agency's technology resources and the information contained in those systems. The bureau maintains a secure network infrastructure, internal and external websites, application and database development, helpdesk, and secure internet access for the agency. MIS provides the agency's Economic Research and Policy Bureau with the electronic system to collect injury and claims information, proof of insurance coverage, and inpatient hospital data through the Electronic Data Interchange (EDI). MIS 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, current events, as well as forms and publications.

In 2019, MIS moved an upgraded remote server to one of its field offices, as part of a project to implement and expand the disaster recovery process for the agency, which included reconfiguring data storage for the agency as a whole. The completion of upgrading from Windows Server 2008 to Windows 2012/2016 was completed in January, 2020. The project was a complete revamp of the agency's active directory structure. Upgrading of all agency desktops and laptops to Windows 10 was completed in April, 2020.

The agency hired a consultant in late 2019 to conduct an independent, high-level assessment on the agency's technology systems and resources, to determine where improvements could be made. One important outcome was the formation of an IT Governance Committee to monitor and control key information technology capability decisions to ensure the delivery of value to key stakeholders. Another recommendation was that the WCA should take advantage of the state's Information Technology appropriation

Management Information Systems



process to obtain funding to enhance and improve IT services. The agency is working on a special appropriations request to fund necessary upgrades. In March 2020, MIS purchased software to enable agency employees to telework when the governor instituted social distancing measures as a result of COVID-19. Agency staff were set up with computers/laptops, software and remote login capabilities within a matter of days.

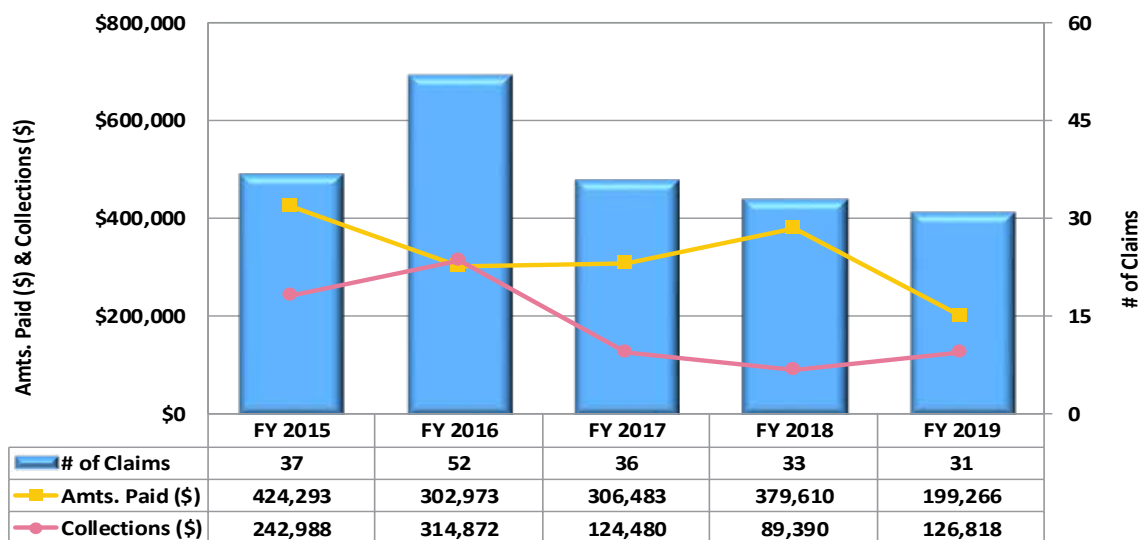
UNINSURED EMPLOYERS' FUND

The Uninsured Employers' Fund (UEF) protects 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. Uninsured employers can then be penalized anywhere between 15 and 50% of the benefits paid on behalf of the injured worker.

The UEF processed 31 claims in FY 2019, two claims fewer than in FY 2018. (The fiscal year runs July 1 to June 30). UEF claims expenses for FY 2019 were \$199,266, a 47.5% decrease in claims expenses from FY 2018 (Figure 7.4). The average amount paid per claim was \$6,428, which is 44.1% lower than the \$11,503 paid per claim in FY 2018.

The UEF experienced a much higher amount of collections in FY 2019 compared to FY 2018. Collections amounted to \$126,818 in FY 2019, about 41.9% higher than the \$89,390 collected in FY 2018. This was still less than the amount paid toward claims in 2019 (\$199,266).

Figure 7.4 UEF Annual Disbursements and Collections; Number of Claims Against Fund, FY 2015-2019



Source: New Mexico Workers' Compensation Administration, *Uninsured Employers' Fund, Fiscal Year 2015-2019*

WORKERS' COMPENSATION ADMINISTRATION SENIOR MANAGEMENT

In October 2019, Loretta Lopez was appointed by Governor Michelle Lujan Grisham to serve as Director of the New Mexico Workers' Compensation Administration. She is the first woman to be appointed to that position. Lopez attended the University of New Mexico, earning a Bachelor of Science degree in nursing in 1982, and in 1989 she received her Juris Doctorate degree. Lopez has 30 years of legal experience working in state government and private practice.



Leigh Martinez serves as Executive Deputy Director of Support Services. Martinez has been an employee of the WCA since 1996, working as a financial auditor in the Self Insurance Bureau and then as an economist in the agency's Economic Research and Policy Bureau. Prior to joining the WCA, Martinez was financial manager for Sandia Casino. She has a bachelor's degree in business administration with a concentration in accounting from the University of New Mexico. Martinez oversees the WCA's support services, which includes the bureaus of Finance, Facilities, Economic Research, Safety, Field Programs, Medical Cost Containment and Information Systems.



Kenneth Owens has served as the Acting Deputy Director of Operations since June, 2020. Owens is a native New Mexican and a graduate of New Mexico Military Institute, where he received his commission as a United States Army officer. He is a Persian Gulf War era Army veteran and served as an Air Defense artillery officer. After his military service, he worked as a community organizer for El Centro de la Raza in Seattle. He returned to New Mexico and graduated from the UNM School of Law in 2011. Owens has worked extensively in state government, community legal services and private practice. Owens joined the WCA in late March 2018 and was promoted to Mediation Bureau Chief in April, 2020. Owens temporarily oversees the bureaus of Adjudication, Mediation, Clerk of the Court, Ombudsman, and Self-Insurance.



WORKERS' COMPENSATION ADMINISTRATION JUDGES



Judge Shanon Riley, the longest-serving of the current judges, was appointed chief judge by a vote of her peers and administration approval in early 2020. Judge 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 Rachel A. Bayless was appointed in April 2017, having previously served as WCA general counsel since February 2014. Bayless has worked in private practice, with experience that includes insurance defense, personal injury defense, representing employers and insurers in workers' compensation matters, and some plaintiffs' work. Bayless worked for the 2nd Judicial District Attorney's Office as an assistant district attorney in the Metro Court and Crimes Against Children Divisions. She received her law degree from the University of New Mexico School of Law in 2005.



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 of 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 in 1988 from Southern Methodist University in Dallas, Texas.



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. He has been a recognized certified specialist in workers' compensation law by the New Mexico Board of Legal Specialization since 2005. 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 Sturges, Houston & Sexton, PC, and has been in-house counsel for CIGNA Insurance Companies. Woodard earned a Bachelor of Undergraduate Studies degree from the University of New Mexico in 1974. He earned his Juris Doctor degree in 1977 from the University of New Mexico School of Law.

APPENDIX A: REFERENCES & 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 Department of Workforce Solutions	DWS

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, 2015-2019

Insurance Carrier Medical Costs Associated with Indemnity Claims					
	2015	2016	2017	2018	2019
Facility	\$21,389,581	\$22,062,304	\$18,972,242	\$20,833,099	\$22,651,458
Avg. Cost Per Claim	\$1,700	\$1,785	\$1,724	\$1,975	\$2,189
Physicians	\$19,294,702	\$19,651,352	\$20,988,585	\$19,794,936	\$19,841,720
Avg. Cost Per Claim	\$1,534	\$1,590	\$1,907	\$1,877	\$1,917
Therapy	\$9,532,011	\$8,916,340	\$8,617,081	\$8,891,358	\$10,200,338
Avg. Cost Per Claim	\$758	\$721	\$783	\$843	\$986
Medication	\$14,122,419	\$12,881,930	\$11,696,943	\$10,541,076	\$8,963,796
Avg. Cost Per Claim	\$1,123	\$1,042	\$1,063	\$999	\$866
Vocational Rehab	\$634,068	\$575,437	\$543,949	\$463,601	\$1,168,809
Avg. Cost Per Claim	\$50	\$47	\$49	\$44	\$113
Other	\$38,978,764	\$28,662,757	\$29,813,969	\$32,301,363	\$35,169,967
Avg. Cost Per Claim	\$3,098	\$2,319	\$2,709	\$3,062	\$3,398
Grand Total for Year	\$103,951,545	\$92,750,120	\$90,632,770	\$92,825,434	\$97,996,088
Total No. of Claims	12,581	12,362	11,006	10,548	10,349
Avg. Cost per Claim	\$8,263	\$7,503	\$8,235	\$8,800	\$9,469

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2015-2019*

Table B.2 Self-Insurers: Medical Costs Associated with Indemnity Claims, 2015-2019

Self Insurer Medical Costs Associated with Indemnity Claims					
	2015	2016	2017	2018	2019
Facility	\$12,380,830	\$12,567,091	\$12,165,787	\$13,271,689	\$13,333,145
Avg. Cost Per Claim	\$2,000	\$2,025	\$2,013	\$2,313	\$2,186
Physicians	\$8,875,966	\$9,246,177	\$8,419,888	\$7,526,326	\$7,436,596
Avg. Cost Per Claim	\$1,434	\$1,490	\$1,393	\$1,312	\$1,219
Therapy	\$5,613,463	\$6,151,014	\$5,993,288	\$5,597,374	\$6,214,573
Avg. Cost Per Claim	\$907	\$991	\$991	\$975	\$1,019
Medication	\$7,430,639	\$7,538,445	\$6,194,952	\$5,179,900	\$5,335,476
Avg. Cost Per Claim	\$1,201	\$1,215	\$1,025	\$903	\$875
Vocational Rehab	\$195,597	\$263,444	\$162,590	\$103,609	\$163,740
Avg. Cost Per Claim	\$32	\$42	\$27	\$18	\$27
Other	\$11,640,004	\$11,813,498	\$12,443,672	\$11,615,121	\$14,070,032
Avg. Cost Per Claim	\$1,881	\$1,904	\$2,059	\$2,024	\$2,307
Grand Total for Year	\$46,136,499	\$47,579,669	\$45,380,178	\$43,294,018	\$46,553,560
Total No. of Claims	6,189	6,206	6,045	5,738	6,100
Avg. Cost per Claim	\$7,455	\$7,667	\$7,507	\$7,545	\$7,632

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2015-2019*

Table B.3 Insurance Carriers: Workers' Compensation Insurance Paid Losses, 2015-2019

Loss Category & Claims Count					
INDEMNITY Claims	2015	2016	2017	2018	2019
A. Wage Replacement Benefits	\$84,244,052	\$85,765,846	\$78,977,266	\$78,081,232	\$82,089,343
B. Medical Costs	\$103,317,477	\$92,174,683	\$90,088,820	\$92,361,833	\$96,827,279
C. Attorney Fees	\$9,993,316	\$11,081,862	\$10,800,500	\$10,393,349	\$12,209,463
D. Vocational Rehab Costs	\$634,068	\$575,437	\$543,949	\$463,601	\$1,168,809
E. Other Benefits ¹	\$3,244,795	\$2,477,498	\$1,874,282	\$2,244,270	\$2,483,295
F. Indemnity Claims Subtotal	\$201,433,709	\$192,075,326	\$182,284,818	\$183,544,285	\$194,778,189
G. No. of Indemnity Claims	12,581	12,362	11,006	10,548	10,349
MEDICAL-ONLY Claims					
H. Medical Costs Subtotal	\$18,031,639	\$14,849,192	\$15,873,644	\$21,295,977	\$18,772,634
I. No. of Medical-Only Claims	12,211	11,298	12,183	13,683	13,499
J. Grand Total: Paid Losses	\$219,465,347	\$206,924,518	\$198,158,462	\$204,840,262	\$213,550,822
K. Grand Total : No. of Claims	24,792	23,660	23,189	24,231	23,848
L. Average Loss per Indemnity Claim = F/G	\$16,011	\$15,538	\$16,562	\$17,401	\$18,821
M. Average Loss per Medical-Only Claim = H/I	\$1,477	\$1,314	\$1,303	\$1,556	\$1,391
N. Average Loss per Carrier Carrier Claims =J/K	\$8,852	\$8,746	\$8,545	\$8,454	\$8,955

¹Includes Miscellaneous Admin. and Funeral Benefits

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2015-2019*

Table B.4 Self-Insurers: Workers' Compensation Insurance Paid Losses, 2015-2019

Loss Category & Claims Count					
INDEMNITY Claims	2015	2016	2017	2018	2019
A. Wage Replacement Benefits	\$35,933,425	\$34,385,573	\$33,957,577	\$31,638,316	\$33,344,394
B. Medical Costs	\$45,940,902	\$47,316,225	\$45,217,588	\$43,190,409	\$46,389,821
C. Attorney Fees	\$5,850,593	\$5,542,944	\$5,627,360	\$5,216,834	\$4,770,132
D. Vocational Rehab Costs	\$195,597	\$263,444	\$162,590	\$103,609	\$163,740
E. Other Benefits ¹	\$1,695,460	\$2,437,866	\$1,667,189	\$1,871,188	\$2,685,318
F. Indemnity Claims Subtotal	\$89,615,976	\$89,946,052	\$86,632,305	\$82,020,356	\$87,353,404
G. No. of Indemnity Claims	6,189	6,206	6,045	5,738	6,100
MEDICAL-ONLY Claims					
H. Medical Costs Subtotal	\$12,722,847	\$12,558,446	\$12,158,799	\$12,316,395	\$17,617,246
I. No. of Medical-Only Claims	10,611	12,042	11,172	10,667	10,363
J. Grand Total: Paid Losses	\$102,338,824	\$102,504,498	\$98,791,104	\$94,336,751	\$104,970,651
K. Grand Total : No. of Claims	16,800	18,248	17,217	16,405	16,463
L. Average Loss per Indemnity Claim = F/G	\$14,480	\$14,493	\$14,331	\$14,294	\$14,320
M. Average Loss per Medical-Only Claim = H/I	\$1,199	\$1,043	\$1,088	\$1,155	\$1,700
N. Average Loss per Carrier Carrier Claims =J/K	\$6,092	\$5,617	\$5,738	\$5,750	\$6,376

¹Includes Miscellaneous Admin. and Funeral Benefits

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2015-2019*

Table B.5 Self-Insured Government Workers' Compensation Losses & Claims, 2019

Losses					Number of Claims			
Organization	Employees Covered	Medical-Only Claims	Indemnity Claims	Total		With Benefits Paid	Opened	Closed
Albuquerque Public Schools	14,214	\$1,402,972	\$3,895,347	\$5,298,320	Med-Only	809	106	621
					Indemnity	282	38	68
Albuquerque Bernalillo Co. Water Utility Auth.	650	\$52,542	\$860,222	\$912,764	Med-Only	54	10	32
					Indemnity	26	0	5
City of Albuquerque	8,062	\$1,278,194	\$4,452,461	\$5,730,655	Med-Only	693	438	450
					Indemnity	283	62	192
City of Carlsbad	482	\$42,919	\$680,303	\$723,223	Med-Only	37	6	26
					Indemnity	34	2	11
City of Farmington	959	\$135,489	\$739,239	\$874,729	Med-Only	134	11	94
					Indemnity	54	6	18
City of Las Cruces	1,601	\$264,064	\$858,013	\$1,122,078	Med-Only	177	22	115
					Indemnity	58	9	14
City of Santa Fe	1,406	\$317,030	\$1,836,215	\$2,153,245	Med-Only	232	44	154
					Indemnity	86	11	22
NM County Insurance Authority	8,727	\$721,955	\$7,064,434	\$7,786,389	Med-Only	1,018	659	686
					Indemnity	621	143	211
NM Public Schools Ins. Authority	51,487	\$1,867,779	\$9,038,033	\$10,905,812	Med-Only	1,522	123	1,073
					Indemnity	1,048	78	310
NM Self-Insurer's Fund (Municipal League)	7,967	\$1,209,915	\$5,944,124	\$7,154,039	Med-Only	222	589	649
					Indemnity	187	112	153
State of New Mexico	51,392	\$6,566,544	\$11,619,849	\$18,186,393	Med-Only	1,410	1,531	1,370
					Indemnity	1,015	228	212

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2019*

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:

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	2020 max benefit = \$845.10

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 pre-injury 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)

Whole Body PPD benefits begin on the MMI date.

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 For whole body injuries, including those based on primary mental impairment, benefits are paid for

Duration: 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 PPD benefits is reduced by the number of weeks a worker receives TTD.

Scheduled Benefits are paid for the loss or loss of use of body members, including an arm, hand, finger, leg,

Injury Amount: 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 impairment.

Scheduled Injury Benefits are paid for the number of weeks specified in the statute for that body member (§52-1-43).

Duration: 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 Benefits are paid to the worker's dependents up to the full compensation rate, contingent

Amount: 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 different 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 (to be decided by presiding judge) 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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