

A G E N D A

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

1333 Main Street, 5th Floor
Columbia, South Carolina 29201

October 27, 2014 – 10:30 a.m.

Commission Hearing Room A

This meeting agenda was posted prior to the meeting and proper advance notice was made to all concerned parties in compliance with requirements in the Freedom of Information Act.

1. CALL TO ORDER *CHAIRMAN BECK*
2. EXECUTIVE SESSION *CHAIRMAN BECK*
 - a. Legal Briefing *Mr. Rubens*

3. RETURN TO OPEN SESSION *CHAIRMAN BECK*
4. APPROVAL OF AGENDA OF BUSINESS MEETING OF OCTOBER 27, 2014 *CHAIRMAN BECK*
5. APPROVAL OF MINUTES OF THE BUSINESS MEETING OF SEPTEMBER 15, 2014 (Tab 1) *CHAIRMAN BECK*
3. GENERAL ANNOUNCEMENTS *MR. CANNON*
4. APPLICATIONS FOR APPROVAL TO SELF-INSURE (Tab 2) *MR. SMITH*
5. DEPARTMENT DIRECTORS' REPORTS *MS COPELAND*
 - Administration – Financial Report (Tab 3) *MS HARTMAN*
 - Information Services (Tab 4) *MR. DUFFIELD*
 - Insurance & Medical Services (Tab 5) *MS. SPANN*
 - Claims (Tab 6) *MS. BRACY*
 - Judicial (Tab 7)
6. EXECUTIVE DIRECTOR'S REPORT (Tab 8) *MR. CANNON*
7. OLD BUSINESS *CHAIRMAN BECK*
 - A. Court Reporters Administrative Policies (Tab 9) *Mr. Cannon*
 - B. FY 15-16 Budget Proposal (Tab 10) *Mr. Cannon*
9. NEW BUSINESS *CHAIRMAN BECK*
 - A. Commissioners Annual Ethics Training (Tab 11) *Mr. Cannon*
 - B. DTO Contract and Service (Tab 12) *Mr. Cannon*
 - C. Regulation 67-801. Settlement of the Claim, General (Tab 13) *Mr. Cannon*
 - D. Compensation Payments Debit Card Program (Tab 14) *Mr. Cannon*
 - E. Approval of Revisions to Form 31 (Tab 15) *Mr. Cannon*
10. ADJOURNMENT *CHAIRMAN BECK*

**THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
BUSINESS MEETING**

Monday, September 15, 2014

A Business Meeting of the South Carolina Workers' Compensation Commission was held in Hearing Room A of the Workers' Compensation Commission on Monday, September 15, 2014 at 10:30 a.m. The meeting agenda was posted prior to the meeting and proper advance notice was made to all concerned parties in compliance with requirements in the Freedom of Information Act. The following Commissioners were present:

**T. SCOTT BECK, CHAIRMAN
SUSAN S. BARDEN, VICE CHAIR
R. MICHAEL CAMPBELL, II, COMMISSIONER
MELODY L. JAMES, COMMISSIONER
GENE MCCASKILL, COMMISSIONER
AISHA TAYLOR, COMMISSIONER
AVERY B. WILKERSON, JR., COMMISSIONER**

Present also were Gary M. Cannon, Executive Director; Duane Earles, Business Analyst; Grant Duffield, Insurance and Medical Services Director; Amy Bracy, Judicial Director; Sherry Copeland, Administration Director; Wayne Ducote, Coverage & Compliance Director; W.C. Smith, Self-Insurance Director; and Keith Roberts, Attorney. Clara Smith, Injured Workers' Advocates, was also present.

Chairman Beck called the meeting to order at 10:35 a.m.

AGENDA

Commissioner Barden moved that the agenda be approved. Commissioner Taylor seconded the motion, and the motion was approved.

APPROVAL OF MINUTES – BUSINESS MEETING OF AUGUST 11, 2014

Commissioner Taylor moved that the minutes of the Business Meeting of August 11, 2014 be approved. Commissioner James seconded the motion, and the motion was approved.

GENERAL ANNOUNCEMENTS

There were no general announcements.

APPLICATIONS FOR APPROVAL TO SELF-INSURE

Self-insurance applications were presented by W.C. Smith, Self-Insurance Director. Thirty (30) prospective members of three (3) funds were presented to the Commission for approval. The applications were:

Palmetto Timber Fund
L&P Logging
Three Gen, Inc.

SC Home Builders SIF

AA Cormiveau General Contracting, LLC
Barker Renovations & New Construction, LLC
Barron Residential, Inc.
Boerner Construction, LLC
Bradley S. Krantz dba Krantz Masonry
Charleston Renovations, LLC
Chuck Cornwell dba Almost Nuts Construction
Classic Style Homes, Inc.
Cornerstone Concrete Services
Jacob Gillens dba Gillens Masonry
James Kelsy dba Kelsy Carpentry
Jason Michael Stephens
Joey A. Randall
Jonathan Botts dba Botts Construction
Maintain Construction
North Beach Heating and Cooling, Inc.
Patrick Kalinowski dba P&L Construction
Prime Builders, Inc.
Rios Siding Construction, LLC
RT&T, LLC
Samuel Willie dba Samuel Framing
Shane Roach dba C.R. Painting
Silver Lining Construction, LLC
Squire Bostic dba Bostic's Professional Painting and Pressure Washing
Steven Holloway dba Brian Creek Electric
Sudara Management, LLC
Williams Jones dba All American Custom Painting

SC School Board Self Insurance Trust Fund

Greenwood School District 50

After examination of the applications, it was determined that each complied with the Commission's requirements and each was recommended for approval. Commissioner Wilkerson made the motion to approve the applications to self-insure, and Commissioner McCaskill seconded the motion. The motion was unanimously approved.

DEPARTMENT DIRECTORS' REPORTS

The Department Directors presented their reports which were also submitted to the Commission in written form.

Administration Department

Sherry Copeland presented the Summary of Revenues and Expenditures for the period ending August 31, 2014. The benchmark for August is 16.67%. The Commission's revenues are at 11.94%, and expenses are at 21.9%. Chairman Beck asked why a high report in expenses so early in the fiscal year. Following discussion, Chairman Beck requested Ms. Copeland review the numbers in the report and get back with him later in the day.

Information Technology Department

On behalf of Betsy Hartman, Gary Cannon, Executive Director, presented the Information Services Department's report, which was received as information.

Insurance & Medical Services Department

Grant Duffield presented the Insurance & Medical Services Department's report. He reported fiscal year to date the Compliance Division has compelled 45 employers in South Carolina to come into compliance with the Act. The Compliance Division's fiscal year-to-date revenue trend is 40% of prior year, and coverage fines collections are at 14% for the same period.

Mr. Duffield reported the contract with Optum for professional services to conduct an analysis and recommend a new fee schedule in the Medical Services Provider Manual is in place. He anticipates having the study finalized by close of this year thereby using the most recent utilization data available.

Mr. Duffield reported he is working with the Executive Staff Team to prepare the Commission's Annual Accountability Report.

In response to Chairman Beck's question at the August Commission Business Meeting about activity on the on-line proof of coverage application and if there is a way to assess the effectiveness of the process since implementation, Mr. Duffield included in his report two charts for the period September 2012 through August 2014: (1) Number of New Registrations for Lapse in Coverage; and (2) Number of Lapse in Coverage Notifications Issued, which represents how many times registrants receive notification that something irregular has happened with a policy.

Chairman Beck stated that during the past month he had occasions in which he needed assistance of the Coverage and Compliance staff, and expressed his appreciation for the promptness and accuracy of service by those staff members.

Claims Department

Sonji Spann presented the Claims Department's report. For the month of August, the Claims Department closed 2,137 individual case files. The fine revenue received in August was \$42,100. Claims Examiners reviewed 601 individual case files.

Ms. Spann included in her report the number of fines per form for FY 10-11 through FY 13-14. She said the Claims Department is looking at ways to educate and provide guidance to stakeholders as well as claims examiners on how to properly complete workers' compensation forms.

Judicial Department

Amy Bracy presented the Judicial Department's report. She reported the following for August:

- 134 regulatory mediations scheduled
- 25 requested mediations
- 73 matters resolved in mediation with the receipt of Forms 70
- Addressed 508 informal conference cases; some were actually conducted in July but reported in August due to a staff member's vacation
- 65 Single Commissioner Hearings conducted
- 47 cases appealed to Full Commission

Commissioner Taylor asked how the number for Single Commissioner Hearings Conducted is determined. Ms. Bracy explained that the Commissioners' administrative assistant enters a code into the system to indicate when a hearing was held.

EXECUTIVE DIRECTOR'S REPORT

Gary Cannon, Executive Director, presented his report which was also submitted to the Commission in written form. He pointed out the following highlights from his report:

Human Resources Manager I Recruitment

Mr. Cannon reported that Mimi Love was selected for the position of Human Resources Manager I effective September 2. Ms. Love tendered her resignation as Human Resources Manager I effective September 5 to return to work in the private sector. The position was posted and reactivated on the State's NEOGOV system on Monday, September 8. In addition to the previous fifty-five applications, twenty-two individuals submitted applications for the position. The applications are being reviewed and interviews will be scheduled as soon as possible.

Narcotics Use Advisory Committee

The next meeting of the Narcotics Use Advisory Committee is pending receipt of requested data from insurance carriers on the use of opioids and narcotics in workers' compensation cases.

OLD BUSINESS

A. Court Reporters Administrative Policies

Mr. Cannon referred to, and the Commission reviewed and discussed, the proposed Court Reporters Administrative Policies.

Motion to Carry Over Approval of Court Reporters Administrative Policies

Commissioner McCaskill moved to carry over the matter, which was duly seconded by Commissioner James. The vote was taken, and the motion was approved. Chairman Beck instructed Mr. Cannon to set the matter for a legal briefing on next month's business meeting agenda.

NEW BUSINESS

A. FY 2015-16 Budget Request

Mr. Cannon presented a recommendation to carry over the matter.

Motion to Approve Proposed FY 2015-16 Budget Request

Commissioner Barden moved to carry over the matter, which was duly seconded by Commissioner Campbell. The vote was taken, and the motion was approved.

ADJOURNMENT

Commissioner Barden made the motion to adjourn. Commissioner Campbell seconded the motion, and the motion was approved.

The September 15, 2014 meeting of the South Carolina Workers' Compensation Commission adjourned at 11:01 a.m.

Reported October 27, 2014

Kim Ballentine, Office of the Executive Director

INTEROFFICE MEMORANDUM

TO: GARY CANNON, EXECUTIVE DIRECTOR
FROM: SHERRY COPELAND, DIRECTOR OF ADMINISTRATION
SUBJECT: FINANCIAL REPORT PERIOD ENDING SEPTEMBER 30, 2014
DATE: 10/20/2014

The Summary of Revenues and Expenditures for the period ending September 30, 2014, is attached.

- September is the 3rd Fiscal Month of Fiscal Year 2015.
- The benchmark for September is 25%. The Commission's revenues are at 15.88% and expenses are at 24.8%.
- There were 72 payment made to vendors, travelers, and other State Agencies
- The following is a summary of each department expenditure benchmarks:

General Fund: Total expenditures are at 25.6%.

Barmark Fund:

Commissioners –

- Total expenditures are at 19% of budget.

Administration –

- Overall the expenditures are 27% of budget.

Claims –

- Expenditures are at 20% of budget.

Insurance & Medical –

- Total expenditures are at 25% of budget

Judicial –

- Total expenditures are at 17% of budget.

Activity Report from the Procurement Office:

	MTD	YTD
SCEIS Shopping Carts- Purchase Orders	15	47
Vendors Contacted for Price Quotes	18	49
Visa Procurement Card Orders Placed	21	35
SC Dept of Corrections Orders Placed	0	3
State leased vehicles traded	4	4
State Leased Vehicles taken for Service	0	4
GAAP packages completed	2	8

Mail Room Activity:

	MTD	YTD
Files Copied for Outside Parties	240	659

South Carolina Workers' Compensation Commission
Summary of Revenues and Expenditures
2014-15 Budget
September 30, 2014

	Budget	FY To Date	Benchmark	25.00%
STATE APPROPRIATIONS				
Account Description	Appropriation	Expenditure	Balance	% Expended
Personal Services	\$ 1,378,405	\$ 368,853	\$ 1,009,552	26.8%
Other Operating Expenses	-	-	-	0.0%
Employer Contribution	496,796	114,703	382,093	23.1%
Total	\$ 1,875,201	\$ 483,556	\$ 1,391,645	25.8%
Carry Forward Money 6100.00	\$ 15,141		\$ 15,141	
	\$ 1,890,342		\$ 1,406,786	

OTHER APPROPRIATIONS

EARMARKED

	Budgeted Revenues	Received Thru 09/30/2014	% Received
Training Conference Registration Fee	\$ 5,000	\$ -	0.00%
Sale of Publication and Brochures	8,000	1,125	14.06%
Workers' Comp Award Review Fee	73,000	12,300	16.85%
Sale of Photocopies	88,000	15,490	17.60%
Workers' Compensation Filing Violation Fee	1,660,000	235,564	14.19%
Sale of Listings and Labels	25,000	4,570	18.28%
Workers' Comp Hearing Fee	562,000	115,291	20.51%
Earmarked Funds - Original Authorization	\$ 2,421,000	\$ 384,339	15.88%
Increase Authorization	951,066		
Total Earmarked Revenues + Fund Balance	\$ 3,372,066		

SELF INSURANCE

	Collected Revenue	Transferred to State Fund	Balance to WCC Fund Balance
Self Insurance	\$ 1,529,412	\$ -	\$ 1,529,412

Account Description	Appropriation	Expenditure	Balance	% Expended
Personal Services	\$ 1,544,527	\$ 384,642	\$ 1,159,885	24.9%
Taxable Subsistence	50,000	17,250	32,750	34.5%
Other Operating Expenses	1,224,669	256,505	968,164	20.9%
Employer Contribution	552,870	146,505	406,365	26.5%
Total Earmarked	\$ 3,372,066	\$ 804,902	\$ 2,567,164	23.9%

TOTAL OTHER APPROPRIATIONS	\$ 3,372,066	\$ 804,902	\$ 2,567,164	23.9%
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South Carolina Workers' Compensation Commission
2013 - 2014 Budget
 September 30, 2014

Consolidated

	Original Budget	Budget Amendments	Amended Budget	Expended July	Year to Date	%	Encumb	Balance
Commissioners								
Salaries	\$ 1,153,234	\$ -	\$ 1,153,234	\$ 69,086	\$ 320,910	28%	\$ -	\$ 832,324
Other Operating Expenditures								
Total Contractual Services	200,094	-	200,094	5,806	23,720	12%	-	176,374
Total Supplies & Materials	12,120	-	12,120	705	1,357	11%	-	10,763
Total Fixed Charges	159,405	143,000	302,405	347	9,369	3%	-	7,990
Total Travel	57,600	-	57,600	2,442	12,410	21%	-	46,751
Total Other Operating Exp	429,219	143,000	572,219	9,300	46,859	8%	-	341,288
Total Commissioners	\$ 1,582,453	\$ 143,000	\$ 1,725,453	\$ 78,336	\$ 367,769	21%	\$ -	\$ 1,073,612
Administration								
Salaries	\$ 640,790	\$ -	\$ 640,790	\$ 27,405	\$ 162,819	25%	\$ -	\$ 479,770
Other Operating Expenditures								
Total Contractual Services	154,772	-	154,772	31,150	57,258	37%	-	97,514
Total Supplies & Materials	33,134	-	33,134	690	5,103	15%	-	28,208
Total Fixed Charges	131,740	335,300	467,040	1,342	125,407	27%	-	350,267
Total Travel	20,000	-	20,000	1,270	4,078	20%	-	15,922
Total Equipment	-	-	-	-	-	0%	-	-
Total Other Operating Exp	339,646	335,300	674,946	34,752	191,846	28%	-	491,911
Total Administration	\$ 980,436	\$ 335,300	\$ 1,315,736	\$ 62,154	\$ 354,665	27%	\$ -	\$ 971,681
Claims								
Salaries	\$ 428,856	\$ -	\$ 428,856	\$ 17,986	\$ 98,139	23%	\$ -	\$ 330,717
Other Operating Expenditures								
Total Contractual Services	40,570	-	40,570	253	507	1%	-	40,061
Total Supplies & Materials	24,600	-	24,600	296	1,725	7%	-	22,875
Total Fixed Charges	82,734	75,000	157,734	355	2,167	1%	-	5,067
Total Travel	100	-	100	-	-	0%	-	100
Total Other Operating Exp	147,904	75,000	222,904	905	4,399	2%	-	68,105
Total Claims	\$ 576,360	\$ 75,000	\$ 651,360	\$ 18,491	\$ 102,538	16%	\$ -	\$ 398,822
Insurance and Medical Services								
Salaries	\$ 421,909	\$ -	\$ 421,909	\$ 20,644	\$ 127,418	30%	\$ -	\$ 294,491
Other Operating Expenditures								
Total Contractual Services	98,898	-	98,898	541	6,082	6%	-	52,816
Total Supplies & Materials	20,800	-	20,800	244	752	4%	-	20,048
Total Fixed Charges	63,090	52,000	115,090	892	2,868	26%	-	8,227
Total Travel	1,350	-	1,350	-	-	0%	-	1,350
Total Other Operating Exp	184,138	52,000	232,138	1,677	9,702	7%	-	122,424
Total Insurance and Medical Services	\$ 606,047	\$ 52,000	\$ 658,047	\$ 22,343	\$ 137,119	21%	\$ -	\$ 416,928
Judicial								
Salaries	\$ 328,143	\$ -	\$ 328,143	\$ 12,399	\$ 61,459	19%	\$ -	\$ 266,684
Other Operating Expenditures								
Total Contractual Services	35,522	-	35,522	174	366	1%	-	35,156
Total Supplies & Materials	12,650	-	12,650	318	1,287	10%	-	11,363
Total Fixed Charges	70,545	65,300	135,845	268	2,047	2%	-	3,199
Total Travel	5,445	-	5,445	-	-	0%	-	5,445
Total Other Operating Exp	129,162	65,300	194,462	760	3,700	2%	-	55,382
Total Judicial	\$ 457,305	\$ 65,300	\$ 517,605	\$ 12,959	\$ 65,158	13%	\$ -	\$ 321,847
Totals By Department								
Department Totals								
Commissioners	\$ 1,582,453	\$ 143,000	\$ 1,725,453	\$ 78,336	\$ 367,769	21%	\$ -	\$ 1,073,612
Administration	980,436	335,300	1,315,736	62,154	354,665	27%	\$ -	\$ 971,681
Claims	576,360	75,000	651,360	18,491	102,538	16%	\$ -	\$ 398,822
Insurance & Medical	606,047	52,000	658,047	22,343	137,119	21%	\$ -	\$ 416,928
Judicial	452,305	65,300	517,605	12,959	65,158	13%	\$ -	\$ 321,847
Total Departmental Expend	\$ 4,197,601	\$ 670,600	\$ 4,868,201	\$ 194,284	\$ 1,027,290	21%	\$ -	\$ 3,192,868
Employer Contributions	1,033,476	16,190	1,049,666	44,696	261,208	25%	-	788,458

South Carolina Workers' Compensation Commission
2013 - 2014 Budget
September 30, 2014

Consolidated

	Original Budget	Budget Amendments	Amended Budget	Expended July	Year to Date	%	Encumb	Balance
Total General & Earmarked Funds	<u>\$ 5,231,077</u>	<u>\$ 686,790</u>	<u>\$ 5,917,867</u>	<u>\$ 298,980</u>	<u>\$ 1,288,458</u>	<u>22%</u>	<u>\$ -</u>	<u>\$ 3,971,346</u>

South Carolina Workers' Compensation Commission
14-25 Budget
September 30, 2014

General Appropriation

	Original Budget	Budget Amendments	Amended Budget	Year to date:				
				Expended September	Year to Date to Date	%	Encumb	Balance
Commissioners								
Salaries								
Chairman	\$ 118,890	\$ -	\$ 118,890	\$ 4,849	\$ 29,093	24%	\$ -	\$ 89,797
Commissioner	684,540	-	684,540	28,296	175,780	26%	-	508,760
Bonus	-	-	-	-	-	-	-	-
Terminal Leave	-	-	-	20,143	20,143	0%	-	(20,143)
Classified Employees	189,804	-	189,804	13,447	78,645	26%	-	121,159
Total Commissioners	1,103,234	-	1,103,234	67,735	303,660	28%	-	799,574
Administration								
Salaries								
Director	\$ 96,976	\$ -	\$ 96,976	\$ 4,122	\$ 24,729	15%	\$ -	\$ 72,247
Bonus	-	-	-	-	-	-	-	-
Classified Positions	46,169	-	46,169	1,962	11,773	25%	-	34,396
Total Administration	143,145	-	143,145	6,084	36,502	25%	-	106,643
Claims								
Salaries								
Classified Positions	\$ 77,223	\$ -	\$ 77,223	\$ 3,187	\$ 19,125	25%	\$ -	\$ 58,098
Temporary Positions	\$ -	\$ -	\$ -	\$ -	\$ -	-	\$ -	\$ -
Terminal Leave	0	-	-	0	0	-	-	-
Total Claims	77,223	-	77,223	3,187	19,125	25%	-	58,098
Insurance and Medical Services								
Salaries								
Bonus	0	-	0	0	0	-	-	0
Classified Positions	\$ 26,110	\$ -	\$ 26,110	\$ 1,110	\$ 6,658	25%	\$ -	\$ 19,452
Total Ins and Medical Svcs	26,110	-	26,110	1,110	6,658	25%	-	19,452
Judicial								
Salaries								
Bonus	0	-	0	0	0	-	-	0
Classified Positions	\$ 28,693	\$ -	\$ 28,693	\$ -	\$ 2,908	10%	\$ -	\$ 25,785
Total Judicial	28,693	-	28,693	-	2,908	10%	-	25,785
General Funds								
Department Totals								
Commissioners	\$ 1,103,234	\$ -	\$ 1,103,234	\$ 67,735	\$ 303,660	28%	\$ -	\$ 799,574
Administration	143,145	-	143,145	6,084	36,502	25%	-	106,643
Claims	77,223	-	77,223	3,187	19,125	25%	-	58,098
Insurance & Medical	26,110	-	26,110	1,110	6,658	25%	-	19,452
Judicial	28,693	-	28,693	-	2,908	10%	-	25,785
Total Departmental Expend	\$ 1,378,405	\$ -	\$ 1,378,405	\$ 78,116	\$ 368,853	27%	\$ -	\$ 1,009,552
Employer Contributions	490,606	16,190	496,796	22,340	114,703	23%	-	382,093
Carry Forward money	15,141	-	-	0	0	-	-	-
Total General Fund Appropriations	\$ 1,874,152	\$ -	\$ 1,874,152	\$ 100,464	\$ 483,556	26%	\$ -	\$ 1,390,598

South Carolina Workers' Compensation Commission
2014-15 Budget
 September 30, 2014

Encumbered Funds

	Original Budget	Budget Amendments	Amended Budget	Expended September	Ytd to Date	%	Encumbr	Balance
Commissioners								
Salaries								
Taxable Subsistence	\$ 50,000	\$ -	\$ 50,000	\$ 1,328	\$ 17,250	35%	\$ -	\$ 32,750
Total Salaries	\$0,000	-	\$0,000	1,328	17,250	35%	-	32,750
Other Operating Expenditures								
Contractual Services								
Copying Equipment Service	1,300	-	1,300	-	-	0%	-	1,300
Data Processing Services	14,000	-	14,000	-	-	0%	-	14,000
Freight Express Delivery	200	-	100	-	-	0%	-	100
Telephone	3,520	-	3,520	168	694	20%	-	2,826
Cellular Phone Service	11,520	-	11,520	-	765	7%	-	10,755
Legal Services/Attorney Fees	149,494	-	149,494	5,438	22,261	15%	-	127,233
Other Professional Services	200	-	200	-	-	0%	-	200
Total Contractual Services	200,094	-	200,094	5,806	23,720	12%	-	176,374
Supplies & Materials								
Office Supplies	2,900	-	2,900	454	706	24%	-	2,194
Copying Equipment	2,300	-	2,300	-	-	0%	-	2,300
Printing	1,800	-	1,800	107	167	9%	-	1,693
Data Processing Supplies	50	-	50	37	34	107%	-	(74)
Postage	4,800	-	4,800	105	645	9%	-	4,315
Maintenance/Repair Supplies	150	-	150	-	-	0%	-	150
Motor Vehicle Supp/Gasoline	50	-	50	-	20	40%	-	30
Other Supplies	70	-	70	-	-	0%	-	70
Total Supplies & Materials	12,170	-	12,170	706	1,262	11%	-	10,768
Fixed Charges								
Rent-Cont. Rent Payment	1,000	-	1,000	94	303	10%	-	697
Rent-Non State Owned Property	149,000	143,000	Established in Administrative	-	-	0%	-	-
Rent-other	-	-	-	120	350	-	-	-
Insurance-Workup Comp.	13,806	-	13,806	-	3,294	60%	-	5,512
Insurance-Unemployment	1,159	-	1,159	193	193	17%	-	976
Dues & Memberships	430	-	430	-	430	96%	-	10
Total Fixed Charges	159,405	143,000	16,405	347	9,168	57%	-	7,886
Travel (Includes Leased Car)								
In State - Meets (Non-Reportable)	200	-	200	73	148	74%	-	51
In State - Auto Mileage	12,500	-	18,000	2,466	4,055	22%	-	13,945
In State - Subsistence Advance	9,000	-	9,000	609	645	7%	-	8,355
In State Lodging	-	-	-	-	341	-	-	341
Out State - Meals	100	-	100	-	51	51%	-	49
Out State - Auto Mileage	300	-	300	-	-	0%	-	300
Out of State Registration Fees	-	-	-	-	1,223	-	-	1,223
Leased Car	30,000	-	32,000	-	3,949	20%	-	24,051
Total Travel	52,000	-	57,600	2,442	12,416	22%	-	40,792
Total Other Operating Expenditures	429,219	143,000	286,219	9,300	49,839	16%	-	281,188
Total Commissioners	\$ 479,219	\$ 143,000	\$ 336,219	\$ 10,608	\$ 64,109	19%	\$ -	\$ 272,110

South Carolina Workers' Compensation Commission
2014-15 Budget
September 30, 2014

Emarked Funds

	Original Budget	Budget Amendments	Amended Budget	Expended September	Year to Date	%	Engulm	Balance
Administration								
Salaries								
Classified Position	\$ 462,643	\$ -	\$ 462,643	\$ 20,830	\$ 105,359	23%	\$ -	\$ 357,482
Temporary Employees	35,004	-	35,004	3,614	39,360	55%	-	15,644
Of and Shift Differem	-	-	-	875	1,790	-	-	-
Bonus pay	-	-	-	-	-	-	-	-
Terminal Leave	-	-	-	-	-	0%	-	-
Total Salaries	497,647	-	497,647	25,319	126,509	25%	-	\$71,126
Other Operating Expenditures								
Contractual Services								
Office Equipment Service	7,139	-	7,139	-	-	0%	-	7,139
Copying/Equipment Service	3,000	-	3,000	-	-	0%	-	3,000
Print/Bind/Advertising	3,000	-	3,000	-	-	0%	-	3,000
Print - Pub Annual Reports	100	-	100	-	-	0%	-	100
Data Processing Services	101,561	-	103,563	39,907	51,287	51%	-	50,176
Freight Express Delivery	1,800	-	1,800	-	-	0%	-	1,800
Telephones	7,000	-	7,000	1,321	7,358	31%	-	4,902
Cellular Phone Service	5,000	-	5,000	-	467	9%	-	4,533
Educator & Training Services	5,000	-	5,000	-	-	0%	-	5,000
Printing Fees	10,000	-	10,000	-	-	0%	-	10,000
General Repair	1,500	-	1,500	-	-	0%	-	1,500
Audit/Account Finance	130	-	130	-	131	101%	-	(1)
Catered Meals	4,000	-	4,000	-	-	0%	-	4,000
Other Professional Services	1,500	-	1,500	-	750	50%	-	750
Other Contractual Services	2,000	-	2,000	23	545	29%	-	1,432
Total Contractual Services	154,772	-	154,772	31,300	67,258	37%	-	87,514
Supplies & Materials								
Office Supplies	9,500	-	9,500	727	4,431	47%	-	5,069
Copying/Equipment Supplies	4,434	-	4,434	-	-	0%	-	4,434
Printing	3,500	-	3,500	168	368	5%	-	3,132
Data Processing Supplies	2,300	-	2,300	-	-	0%	-	2,300
Postage	8,000	-	8,000	-	307	4%	-	7,693
Mail/Internet Supplies	1,000	-	1,000	-	-	0%	-	1,000
Fees & Fines	1,800	-	1,800	-	-	0%	-	1,800
Gasoline/Motor Vehicle Supply	100	-	100	-	-	0%	-	100
Employee Recognition	1,500	-	1,500	-	130	0%	-	1,370
Other Supplies	1,200	-	1,000	-	57	2%	-	1,000
Total Supplies & Materials	33,234	-	33,134	895	5,103	15%	-	28,031
Fixed Charges								
Rental-Car Rent Payment	6,000	-	6,000	335	616	10%	-	5,384
Rent-Non State Owned Property	25,000	335,300	410,300	-	110,266	25%	-	320,034
Rent-Other	21,000	-	21,000	538	3,621	24%	-	8,379
Rental-Data processing equip	-	-	-	53	6,634	-	-	6,581
Insurance-Workers Comp	7,490	-	7,490	-	2,703	36%	-	4,787
Insurance-Unemployment	750	-	750	796	290	39%	-	474
Dues and Membership	5,000	-	5,000	-	271	5%	-	4,729
Sales Tax Paid	6,500	-	6,500	-	-	0%	-	6,500
Total Fixed Charges	131,740	335,300	467,040	1,342	125,487	27%	-	350,267
Travel (Includes Leased Car)								
In State - Meal/Mon/Reperable	1,000	-	1,000	273	406	41%	-	594
In State-Auto Miles	2,000	-	1,300	463	482	46%	-	518
In State - Lodging	2,000	-	2,000	611	696	70%	-	304
In State - Registration Fees	2,000	-	2,000	-	660	33%	-	1,340
Leased Car	15,000	-	15,000	-	1,834	13%	-	13,166
Total Travel	20,000	-	20,000	1,378	4,078	20%	-	15,922
Equipment								
Equipment-Data Processing-PC's	-	-	-	-	-	0%	-	-
Total Equipment	-	-	-	-	-	0%	-	-
Total Other Operating Expenditures	338,646	335,300	674,946	34,752	151,840	78%	-	491,911
Total Administration	\$ 836,293	\$ 670,300	\$ 1,172,591	\$ 60,071	\$ 278,349	27%	\$ -	\$ 894,242

South Carolina Workers' Compensation Commission

2014-15 Budget

September 30, 2014

Earmarked Funds

Claims	Original Budget	Budget Amendments	Amended Budget	Expended September	Year to Date	%	Encumb	Balance
Salaries								
Classified Positions	\$ 338,268	\$ -	\$ 338,268	\$ 13,574	\$ 78,389	24%	\$ -	\$ 259,879
Temporary Positions	40,475	-	40,475	825	825	4%	-	39,650
Terminal Leave	-	-	-	-	-	0%	-	-
Total Salaries	\$ 378,743	-	\$ 378,743	14,399	79,214	22%	-	299,529
Other Operating Expenditures								
Contractual Services								
Copying Equipment Service	1,800	-	1,800	-	-	0%	-	1,800
Data Processing Services	33,050	-	33,050	-	-	0%	-	33,050
Telephone	4,000	-	4,000	153	507	13%	-	3,493
Cellular Phone Service	1,720	-	1,720	-	-	0%	-	1,720
Total Contractual Services	\$ 40,570	-	\$ 40,570	153	507	1%	-	\$ 39,963
Supplies & Materials								
Office Supplies	2,000	-	2,000	128	674	34%	-	1,326
Copying Equipment	2,535	-	2,535	-	-	0%	-	2,535
Filing	2,430	-	2,430	85	85	3%	-	2,345
Data Processing Supplies	3,035	-	3,035	-	-	0%	-	3,035
Postage	14,000	-	14,000	83	967	7%	-	13,033
Maintenance/Janitorial Supplies	500	-	500	-	-	0%	-	500
Other Supplies	100	-	100	-	-	0%	-	100
Total Supplies & Materials	\$ 24,600	-	\$ 24,600	296	1,729	7%	-	\$ 22,875
Fixed Charges								
Rental-Car, Rent Payment	2,500	-	2,500	35	344	14%	-	2,155
Rent-Non State Owned Property	75,000	75,000	Transferred to Administration	-	-	100%	-	-
Insurance-Workers Comp	2,900	-	2,900	-	1,480	51%	-	1,420
Insurance- Unemployment	134	-	134	283	283	211%	-	(149)
Equipment- Copying	800	-	800	17	75	9%	-	725
Equipment Maintenance	1,000	-	1,000	-	-	0%	-	1,000
Total Fixed Charges	\$ 2,334	75,000	\$ 77,334	355	2,167	30%	-	\$ 5,067
Travel (Includes Leased Car)								
In State - Meals (Non-Reportable)	50	-	50	-	-	0%	-	50
In State - Lodging	-	-	-	-	-	0%	-	-
In State - Auto Mileage	-	-	-	-	-	0%	-	-
In State Registration	-	-	-	-	-	0%	-	-
Reportable Meals	50	-	50	-	-	0%	-	50
Total Travel	\$ 100	-	\$ 100	-	-	0%	-	\$ 100
Total Other Operating Expenditures	\$ 147,504	75,000	\$ 222,504	905	4,189	6%	-	\$ 187,315
Total Claims	\$ 526,247	\$ 75,000	\$ 601,247	\$ 15,304	\$ 83,413	20%	\$ -	\$ 517,934

South Carolina Workers' Compensation Commission
2014-15 Budget
September 30, 2014

Emarked Funds

	Original Budget	Budget Amendments	Amended Budget	Expended September	Year to Date	%	Encl. mb	Balance
Insurance and Medical Services								
Salaries								
Classified Positions	395,799	-	395,799	19,566	127,533	30%	-	278,236
Temporary Employees	-	-	-	-	5,727	0%	-	(3,227)
Terminal Leave	0	-	0	0	0	0%	-	-
Total Salaries	395,799	-	395,799	19,566	133,260	31%	-	275,039
Other Operating Expenditures								
Contractual Services								
Office Equipment Service	100	-	100	-	-	0%	-	100
Copying Equipment Service	100	-	100	-	-	0%	-	100
Data Processing Services	55,000	-	55,000	-	-	0%	-	55,000
Telephones	2,300	-	2,300	260	538	23%	-	1,762
Cell Phone	1,000	-	1,000	-	93	9%	-	907
Catered Meals	1,600	-	1,600	-	-	0%	-	1,600
Other Professional Services	38,288	-	38,288	275	4,748	12%	-	33,540
Other Contractual Services	500	-	500	-	731	14%	-	(231)
Total Contractual Services	98,888	-	98,888	541	6,082	6%	-	92,806
Supplies & Materials								
Office Supplies	9,000	-	9,000	10	195	2%	-	8,985
Copying Equipment	2,500	-	2,500	-	-	0%	-	2,500
Printing	2,500	-	2,500	186	180	7%	-	2,314
Data Processing Supplies	500	-	500	19	78	15%	-	421
Postage	5,000	-	5,000	-	253	5%	-	4,747
Miscellaneous/Personal Supplies	150	-	150	-	-	0%	-	150
Binding Materials	1,000	-	1,000	-	-	0%	-	1,000
Fees & Fines	50	-	50	-	-	0%	-	50
Other Supplies	100	-	100	-	-	0%	-	100
Total Supplies & Materials	20,800	-	20,800	249	792	4%	-	19,559
Fixed Charges								
Rental-Car Rent Payment	2,500	-	2,500	36	149	14%	-	2,464
Rent-on State Owned Property	97,100	52,000	149,100	-	-	100%	-	-
Rent-Other	2,000	-	2,000	-	-	0%	-	2,000
Insurance-workers comp	2,500	-	2,500	-	1,653	67%	-	847
Insurance-unemployment	148	-	148	282	283	191%	-	(135)
Equipment Maintenance	942	-	942	-	-	0%	-	942
Sales Tax Paid	3,000	-	3,000	572	572	19%	-	2,428
Total Fixed Charges	104,090	52,000	156,090	892	2,644	26%	-	153,448
Travel (Includes Leased Car)								
In State - Meals (Not-Reportable)	400	-	400	-	-	0%	-	400
In State Registration	100	-	100	-	-	0%	-	100
Miles	-	-	-	-	-	-	-	-
Expensive Meals	150	-	150	-	-	0%	-	150
In State - Lodging	700	-	700	-	-	0%	-	700
Total Travel	1,350	-	1,350	-	-	0%	-	1,350
Total Other Operating Expenditures	184,138	52,000	236,138	1,677	9,702	7%	-	226,436
Total Insurance and Medical Services	\$ 579,937	\$ 52,000	\$ 631,937	\$ 21,233	\$ 142,962	25%	\$ -	\$ 488,975

Judicial

Salaries								
Classified Positions	\$ 299,450	\$ -	\$ 299,450	\$ 12,199	\$ 58,551	20%	\$ -	\$ 240,899
Temporary Employees	0	-	0	0	0	0%	-	-
Total Salaries	299,450	-	299,450	12,199	58,551	20%	-	240,899
Other Operating Expenditures								

South Carolina Workers' Compensation Commission

2014-15 Budget

September 30, 2014

Earmarked Funds

	Original Budget	Budget Amendments	Amended Budget	Expended September	Year to Date	%	Encumb	Balance
Contractual Services								
Office Equipment Services	80	-	80	-	-	0%	-	80
Copy Equipment Services	850	-	850	-	-	0%	-	850
Print/Bind/Advertisement	800	-	800	-	-	0%	-	800
Data Processing Services	29,972	-	29,972	-	-	0%	-	29,972
Telephone	2,500	-	2,500	174	288	15%	-	2,134
Cellular Phone Service	1,120	-	1,120	-	-	0%	-	1,120
Other Professional Services	200	-	200	-	-	0%	-	200
Total Contractual Services	35,522	-	35,522	174	386	1%	-	35,136
Supplies & Materials								
Office Supplies	2,000	-	2,000	128	107	3%	-	1,893
Copying Equipment Supplies	2,500	-	2,500	-	-	0%	-	2,500
Printing	2,000	-	2,000	76	70	4%	-	1,924
Data Processing Supplies	2,500	-	2,500	30	78	3%	-	2,422
Postage	3,380	-	3,380	74	416	13%	-	2,964
Maintenance/Lanternet Supplies	150	-	150	-	-	0%	-	150
Promotional Supplies	20	-	20	-	-	0%	-	20
Other Supplies	100	-	100	-	-	0%	-	100
Total Supplies & Materials	17,850	-	17,850	318	1,287	10%	-	16,563
Fleet Charges								
Rental-Cost Cont Payment	3,000	-	3,000	36	109	4%	-	2,891
Rent-Non Scale Owned Property	65,300	65,300	Transferred to Administration	-	-	100%	-	-
Taxes-Other	125	-	125	-	140	192%	-	(115)
Intermap Workers Comp	2,000	-	2,000	-	1,466	73%	-	534
Insurance-Unemployment	120	-	120	137	232	193%	-	(112)
Total Fleet Charges	70,545	65,300	5,745	268	2,847	39%	-	3,189
Travel (Includes Lodging Cost)								
In State - Meals / Non-Reportable	450	-	450	-	-	0%	-	450
Reportable Meals	770	-	770	-	-	0%	-	770
In State - Lodging	2,200	-	2,200	-	-	0%	-	2,200
In State - Auto Mileage	1,800	-	1,800	-	-	0%	-	1,800
In State - Misc Travel Expense	25	-	25	-	-	0%	-	25
In State Registration	100	-	100	-	-	0%	-	100
Out State - Auto Mileage	100	-	100	-	-	0%	-	100
Total Travel	5,445	-	5,445	-	-	0%	-	5,445
Total Other Operating Expenditures	124,142	65,300	58,882	700	3,706	8%	-	55,182
Total Projects	\$ 422,612	\$ 65,300	\$ 358,312	\$ 12,959	\$ 62,251	17%	\$ -	\$ 296,061
Earmarked Funds								
Department Totals								
Commissioners	\$ 479,219	\$ 241,000	\$ 338,219	\$ 30,601	\$ 64,108	15%	\$ -	\$ 272,110
Administration	817,101	(335,100)	1,172,501	18,070	318,163	27%	-	916,512
Claims	498,137	75,000	424,137	25,304	81,413	20%	-	340,774
Insurance & Medical	579,937	52,000	527,937	21,233	130,461	25%	-	407,638
Judicial	423,612	66,300	258,112	12,959	67,731	17%	-	258,061
Total Departmental Expended	\$ 2,819,196	\$ -	\$ 2,819,196	\$ 116,168	\$ 481,997	23%	\$ -	\$ 2,241,086
Employer Contributions	552,870	-	552,870	11,346	145,505	16%	-	406,365
Total Earmarked Funds	\$ 3,372,066	\$ -	\$ 3,372,066	\$ 128,514	\$ 627,502	24%	\$ -	\$ 2,647,451
Capital / Computer Project Carryforward	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ -	\$ -



Workers' Compensation Commission

To: Gary Cannon
SCWCC Executive Director
From: Betsy Hartman
IT Director
Date: October 7, 2014
Subject: IT Department September 2014 Full Commission Report

IT Department Activities for the Month of September 2014

- Production issues
 - Multiple Secure Email issues where external users could not log in due to lost passphrases or did not understand how to use the system. Approximately 5 law firms had issues this month. This problem should be remedied by the use of upload for hearing documents.
 - EDI RI53
 - Processing error research and resolution based on email questions from TPA's and Carriers. Working with Barbara James to educate her on how to resolve the issues and respond to the questions.
 - Progress
 - Ad Hoc reports were requested by Amy Bracy for insolvent carriers, specifically Freestone Insurance. Also Gary Cannon requested a report for Rep. Norman.
 - POC EDI
 - Coverage processing questions from subscription user Insurety Online. They purchased the weekly transaction file but are unsure how to process the data without the Employer FEIN. Talked to them twice over the phone about other suggestions on how to use the data. They requested we discuss this with their programmer. Conference call set up for October 21, 2014 with Duane and Betsy.
 - OnBase Document Type Deployment
 - New Security design to restrict deletions, and re-indexing for security compliance. If a Hearing Notice is re-indexed for a change in keyword or closed in favor of, the notice is re-sent to all parties. Removing rights to re-index to prevent this from happening.
 - Server-to-file shares failure caused configuration issue for upload process by not allowing the uploaded documents to be placed in the correct location for OnBase processing. The configuration was corrected and problem was resolved.
 - Deposits output hang-up when Mario Glisson was processing checks. Duane Earles was able to regenerate the process to completions.
 - Orders Report failure in Progress. The report was re-compiled and re-ran. Problem resolved
 - Hearing subject addition was requested by Amy Bracy. Duane made the modification and pushed to production.

- Desktop support
 - Multiple intermittent phone failures occurred which were due to a state wide issue with Spirit. Problem was resolved by Spirit
 - Multiple Password Resets were performed by Brian and Betsy to assist staff and Commissioners.
 - Four printers required either toner or cleaning which were causing black marks and smudging on copies.
 - 1 Virus detected by DIS JSAC SOC on Marion Buraczynski's workstation. Brian followed the SOC Tiered response which required a complete wipe and rebuild of her work station. A spare was given to Marlon to prevent a work stoppage.
 - New PC/Laptops and monitors deployed to Alicia Osborne, HR
 - Adobe upgrade for all AA's workstations to ensure they are using the most recent version of Adobe Pro. The install caused issues with a missing stamp icon for Barbara Cheeseboro Brian resolved the issues
- ELT projects
 - Upload Testing with outside users from Ehlias Law Firm. They did have an issue with a large APA document which required them to break into smaller pieces to upload properly. Cannot reproduce the issues. Working with DTC to determine if the issue was an isolated case with our receiving server or if it is on the users end with a slow internet connection
 - Modifying security for new document types to lighten up who can view, delete, re-index and modify keywords on various hearing type documents as part of the upload project and the IT Security Policies.
 - Prepared template language to be added to Hearing notice email as well as a hand out for Commissioners on new Upload procedures. By having all Commissioner Offices follow the same standard process for submission of forms may make it easier on the end users and will reduce the work load on the AA's for scanning and indexing documents.
 - SROI, Form 18 meetings were put on hold for the month of September and October due to other project priorities such as upload and preparation for Comp Camp. Betsy established time lines and milestones for the implementation of the Form 18 as required by JAIABC. The public launch date is March 31, 2015.
 - IT Security / DIS Policies continue to be a large project for IT. SCWCC started and completed the nGuard assessment. SCWCC's infrastructure and security posture received a 3.5 out of a 4.0 scale. nGuard identified 71 issues that require remediation to bring SCWCC in compliance with the DIS policies. IT is reviewing recommendations to incorporate into the implementation plan due January 1, 2014.
 - The Budget and Control Board send a Proviso Spread Sheet to all state agencies at the request of the Legislators with a due date of October 15, 2014. This spread sheet is a Comprehensive inventory both type and cost of equipment, data storage, IT personnel, both current and future service needs by all agencies. This is not tied to the DIS policies but is a separate requirement based solely on the Proviso 117.32.
 - Design and test of Open Edge Deployment Process for restricted Standard User Security in relationship to the DIS policies.
 - Amy Bracy and Keith Roberts requested a change to the Appeals Process for Form 31. The current process was evaluated to the regulations. Modification and testing of application programs in Development environment were required to meet the intent of the regulation.

- **DTO meetings**
 - Finalizing Contract FY 14/15. Prepared a cost comparison to the current contract(s) that were signed in 2010.
 - Betsy attended a meeting to discuss virtualization of Production and Development Servers which is a recommendation best practices and close a security gap identified by the nGuard assessment. Plan to implement FY 15/16. Put in the budget request submitted October 2014.
 - DTO notified IT that the switch/router located in the SCWCC computer room is at end of life. DTO provided SCWCC with a quote from Cisco for new Switch/Router for a onetime charge of \$17,193.00 for equipment and installation. There will be an increase for the maintenance cost due to newer technology and security of \$334.00 per month bringing the total maintenance cost from the current \$3,384 per year to \$22,176 per year. Plan to implement FY15/16 if the agency cannot absorb the cost in this fiscal year. Equipment cost was added to the budget request submitted in October 2014 but added the additional maintenance cost in the new DTO contract.

Professional Development/Training attended in September 2014

- **IT Training Center Business Advisory Council – Vocational Rehabilitation – Betsy Hartman**
- **SC IT Directors Association (SCITDA) Conference** was attended by the SCWCC IT staff. Several breakout sessions were attended by all which included sessions on Intrusion Detection and Virtual Desktop Implementation. Information gathered at the sessions will be beneficial in the coming fiscal year as we implement the new security policies.
- **Betsy Hartman is a member of the SC Quality Forum (SCQF) Steering Committee and is a Senior Examiner for the SC Governors' Quality Award. She attended the Alliance meeting at the Minnesota Baldrige Conference and met with the Alliance board, Executive Director of the Baldrige Foundation and the Director of the National Baldrige Program**
- **Betsy Hartman attended weekly SCQF Steering Committee meetings via conference calls to discuss the October 15, 2014 SC Governor's Quality Award Conference. These were planning sessions to confirm speakers and to plan for Governor Haley's attendance and presentation of the Milliken Award to Craig Long. Betsy assisted in marketing the event to the State Agency heads due to the panel discussion on Accountability, Productivity and South Carolina Government. This panel included Mike Shealy, Budget Director of SC Senate Finance Committee, Don Hottel, Assistant Clerk of the SC House of representatives and Patrick Maley, State Inspector General. The topic was the new Accountability report format for State Agencies.**
- **As part of the SC Quality Forum Examiner training, Betsy attended the BOSS User group conference call to discuss changes in the BOSS Tool which is used for examiners during an applicant examination and scoring for the SC Governor's Quality Award.**
- **IAIABC Annual Conference** was attended by Duane Earles and Gary Cannon. Duane is a member of the working committee for Claims Standards. He attended breakout sessions including Research and Standards Committee, EDI General Session, EDI Claims, EDI Proof of Coverage, EDI XML, EDI Systems

State of South Carolina



Workers' Compensation Commission

To: Mr. Gary Cannon
SCWCC Executive Director

From: Grant Duffield
IMS Director

Date: 10 - Oct - 2014

Subject: Insurance and Medical Services Department
September 2014 Full Commission Report

Please find attached information provided to summarize the status and workflow of initiatives currently underway within the Insurance and Medical Services (IMS) Department

In addition to the statistical data provided, please be advised of the following workflow initiatives:

Compliance Division	<ol style="list-style-type: none">1. Working to identify metrics that better illustrate value of effort.2. Observing fewer employers in non-compliance.3. Clean-up of "cases open" files / metrics
Coverage Division	<ol style="list-style-type: none">1. Working with staff to review workflow processes and explore opportunities to enhance service provision.2. Preparing for staffing transition in October.3. Training new staff member.4. Lapse in Coverage
Medical Services	<ol style="list-style-type: none">1. Identifying edits needed within the Medical Services Provider Manual.2. Working with Optum to obtain utilization numbers from MCCI.3. Finalized Scope of Work concerning fee schedule analysis.4. Continue work with MedAssets to improve Medical Bill reviews.
IMS Administration:	<ol style="list-style-type: none">1. Working with team-members to review / improve team processes and key functions.2. Working with Division Mgrs to provide cross coordination of mgmt. functions.3. Working with Exec Director to complete 2013-14 Accountability Report.4. Working with Executive Team concerning strategic planning and future needs forecasting.

Mr. Cannon, while this summary is in no way all-inclusive, it may serve to assist you and our Commissioners in understanding the key initiatives underway in the IMS Department and provide measures by which the Department's effectiveness can be gauged. IMS welcomes any guidance that you and/or our Commissioners can provide concerning our performance and direction.

IMS COMPLIANCE DIVISION

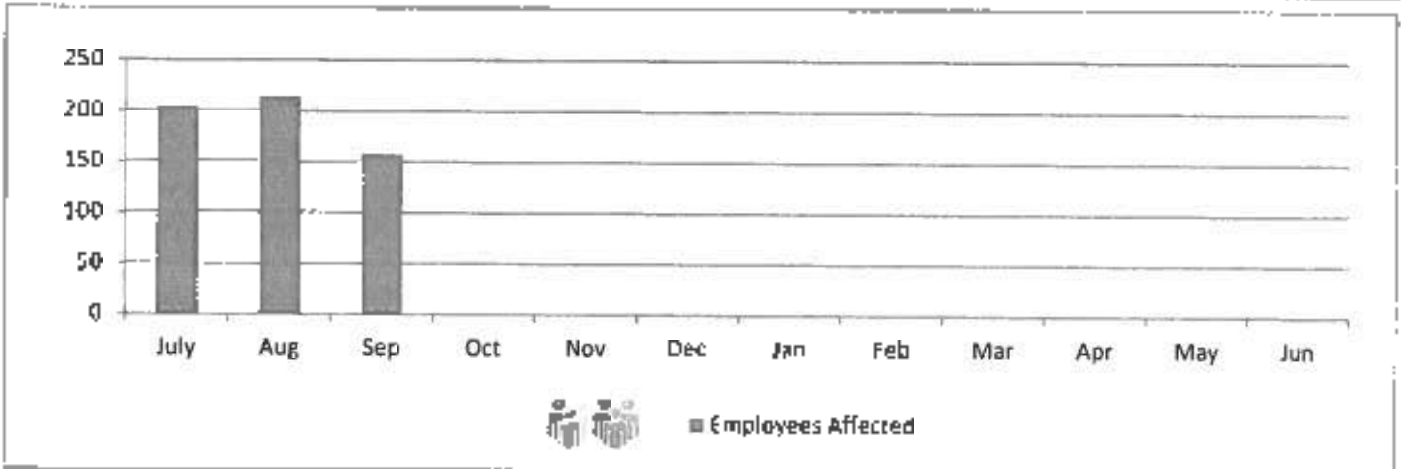
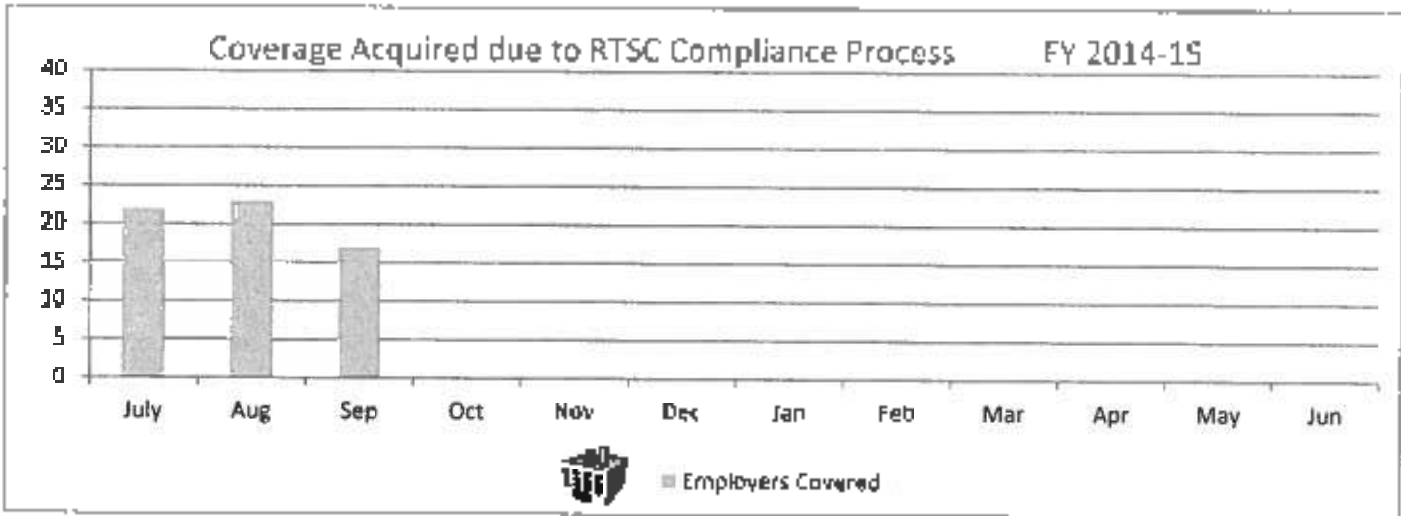
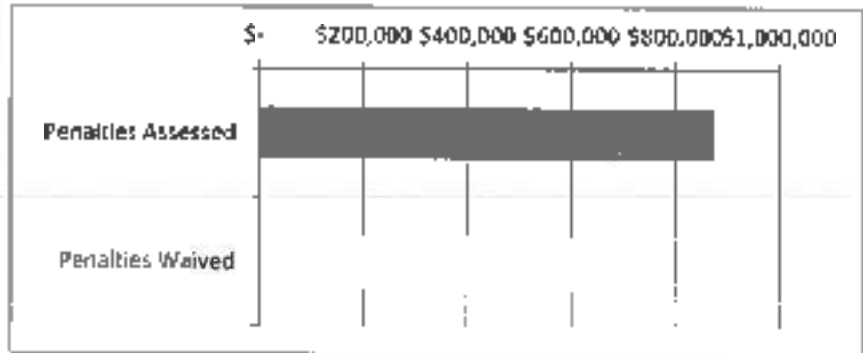
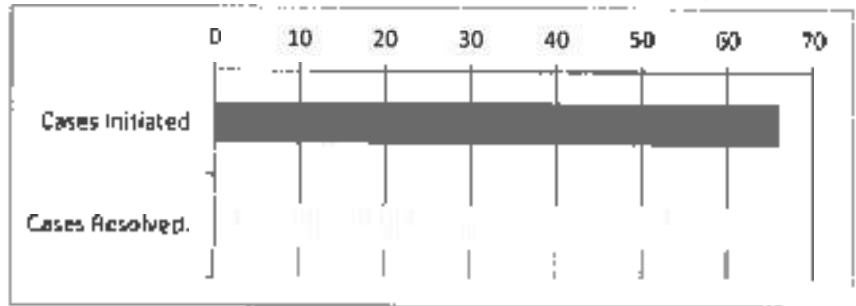
September 2014

Employers Obtaining Coverage

For the Fiscal Year 2014 - 2015, the Compliance Division has worked with great diligence to help employers come into compliance with the South Carolina Workers' Compensation Act. Year to date, the Compliance Division has compelled 62 employers in South Carolina to come into compliance with the Act. In so doing, approximately 577 previously uninsured workers are now properly covered.

Penalties Waived

Although the Division has assessed .875 million dollars in fines, over 69% of those fines (\$.60 m) have been waived or rescinded as employers have either obtained insurance coverage or were found not to be subject to the Act.



Carryover Caseload:

The Compliance Division closed September 2014 with 165 cases active, compared to an active caseload of 421 at the close of September 2013.

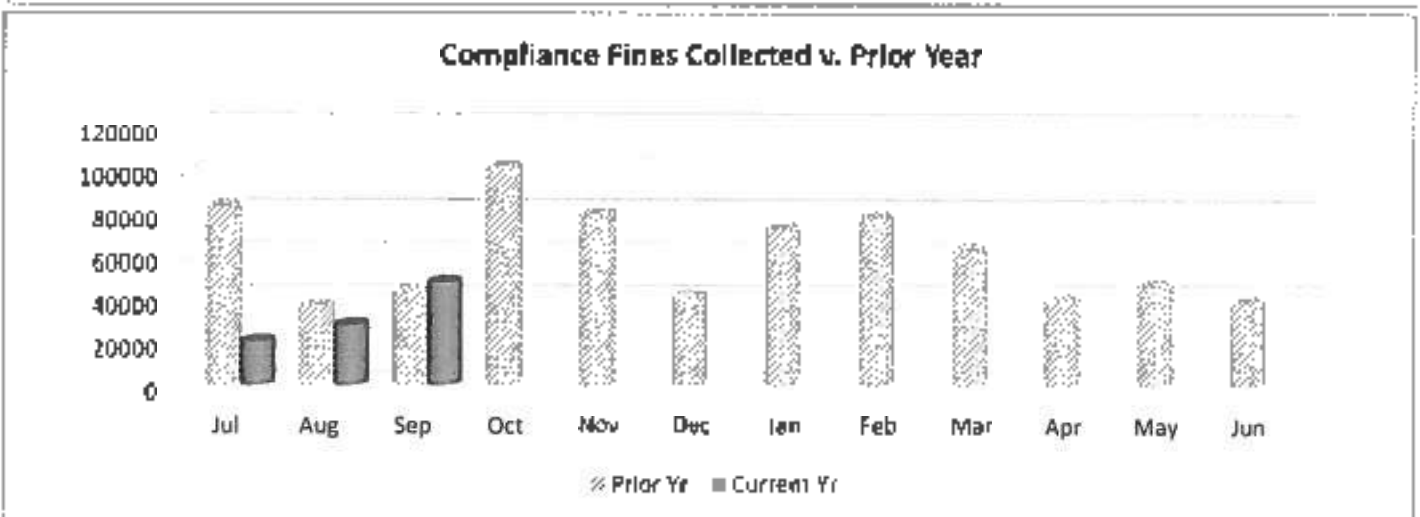
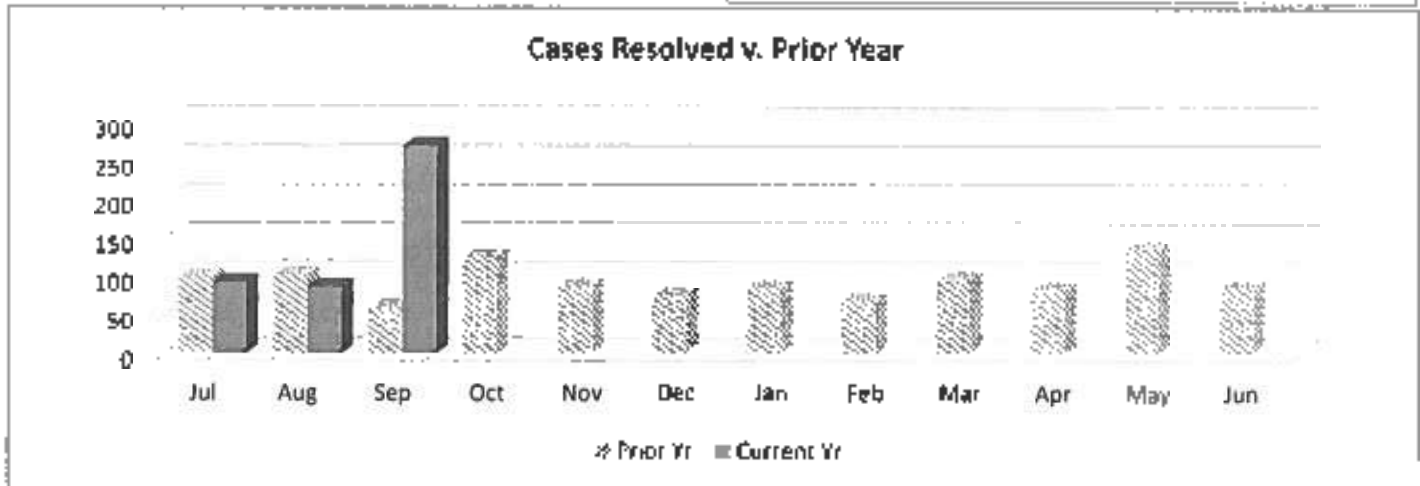
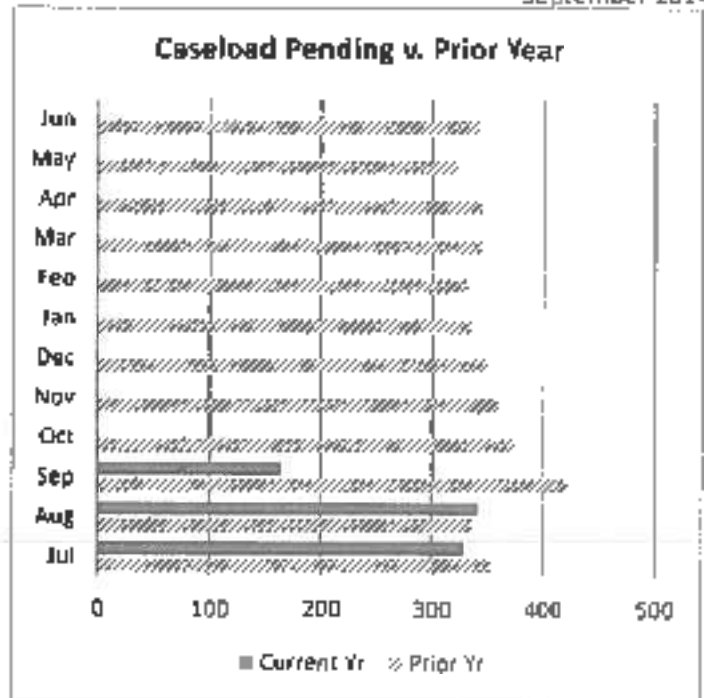
Cases Resolved:

Due to the decrease in carry-over, greater effort is focused on case resolution. For the month of September 2014, Compliance Division staff closed-out 271 cases.

Compliance Fines:

In September 2014, the Compliance Division collected \$48,017 in fines and penalties. Year to Date, the Compliance Division has collected \$96,701 in fines which represents 13% of prior year's year-end collection (\$725,776). The Compliance Division Year-to-Date revenue trend is 59% of prior year.

Compliance fine revenue represents 19% of the Commission's annual earmarked revenue budget.



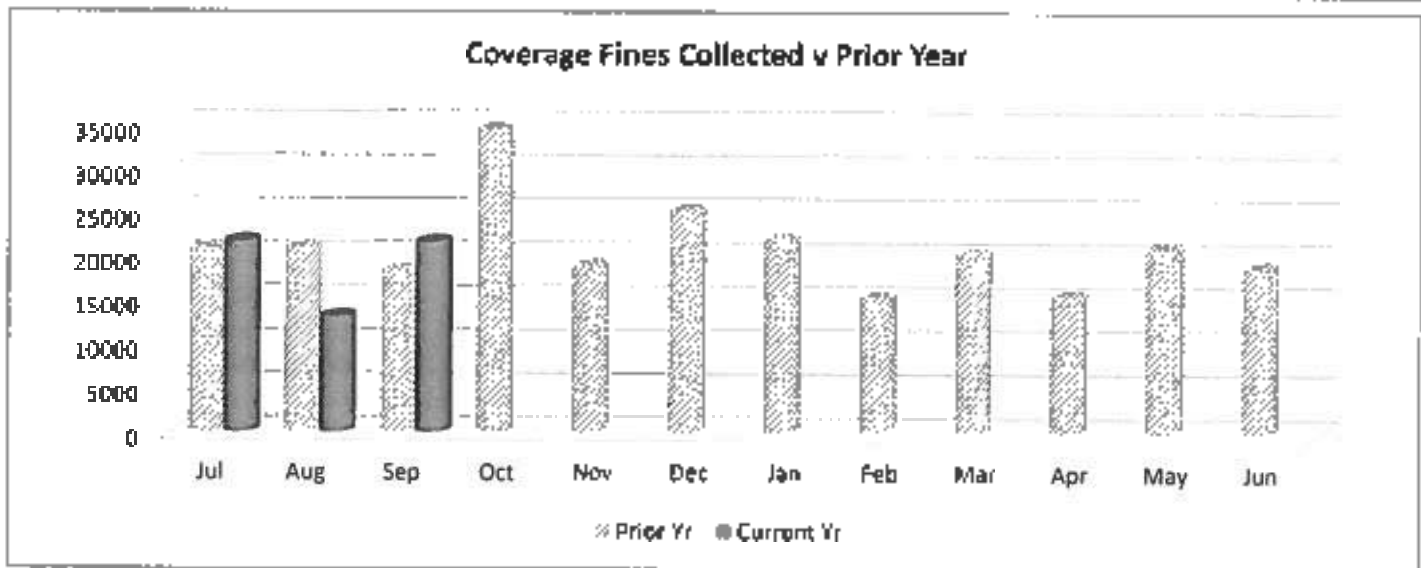
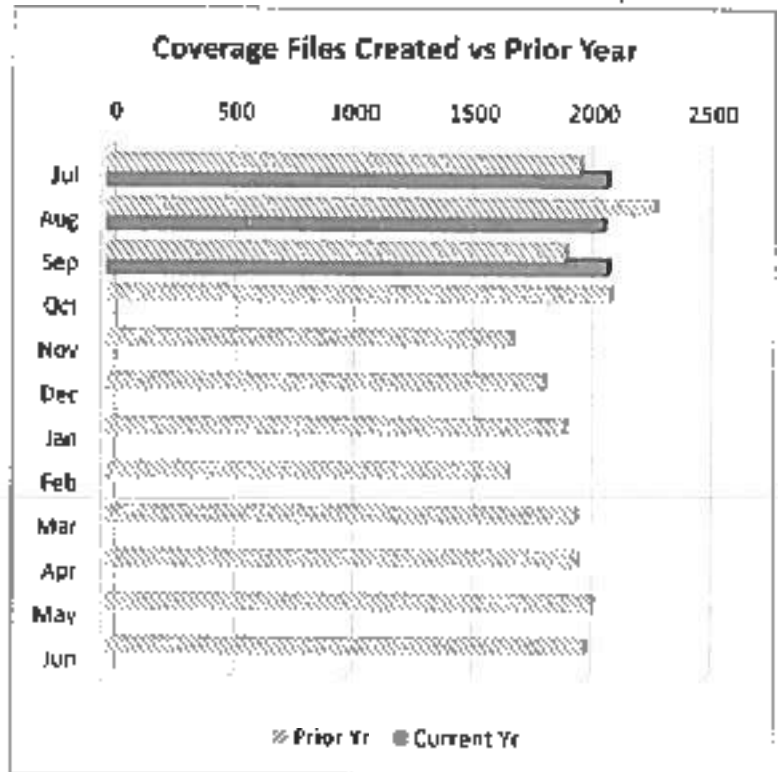
WCC Claim Files:

In September 2014, the Coverage Division received a total of 2,098 WCC Claim files. Of these, 1,755 were created electronically, and 343 were submitted in hard copy format. Year to Date, 6,275 Claim files have been created which is 27% of claim file volume prior year [23,369]

Coverage Fines:

The Coverage Division collected \$21,800 in fine revenue in September 2014, as compared to \$18,450 in Coverage fines/penalties accrued during September 2013. Year on Year, Coverage fines are at 23% of collections for prior year.

Coverage Division fines represent 10% of the Commission's annual earmarked budget.



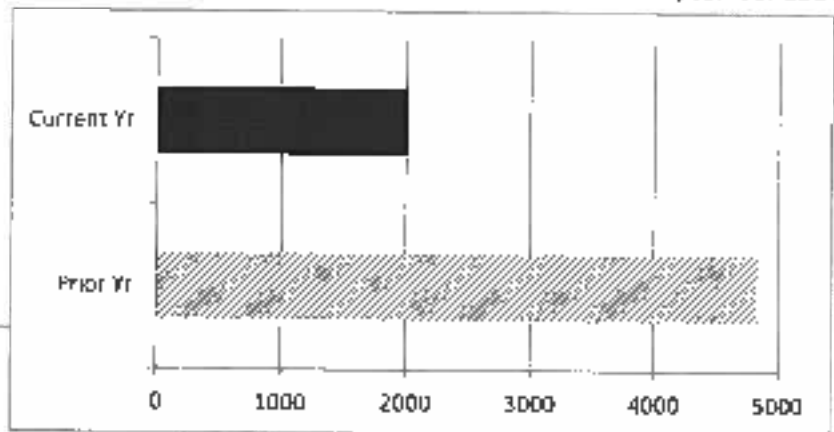
IMS SELF INSURANCE DIVISION

September 2014

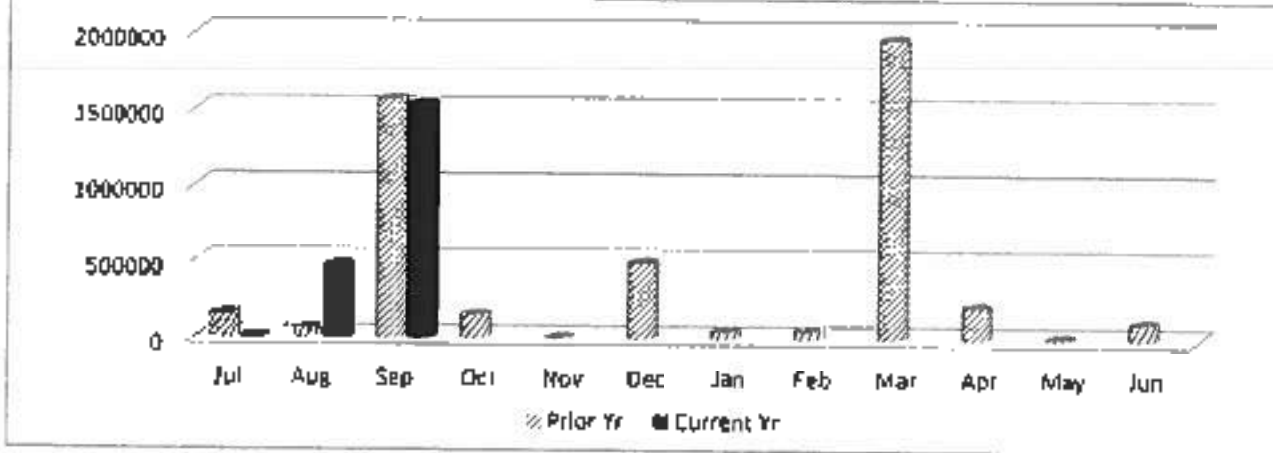
During the month of September 2014, the Self Insurance Division:

- * collected \$1,529,427 in self-insurance tax.
- * added 30 new self-insurers.
- * conducted 4 Self Insurance audits.

Year to Date, Self Insurance tax revenue is trending at 113% of prior year and 12 Self Insurance audits have been completed.



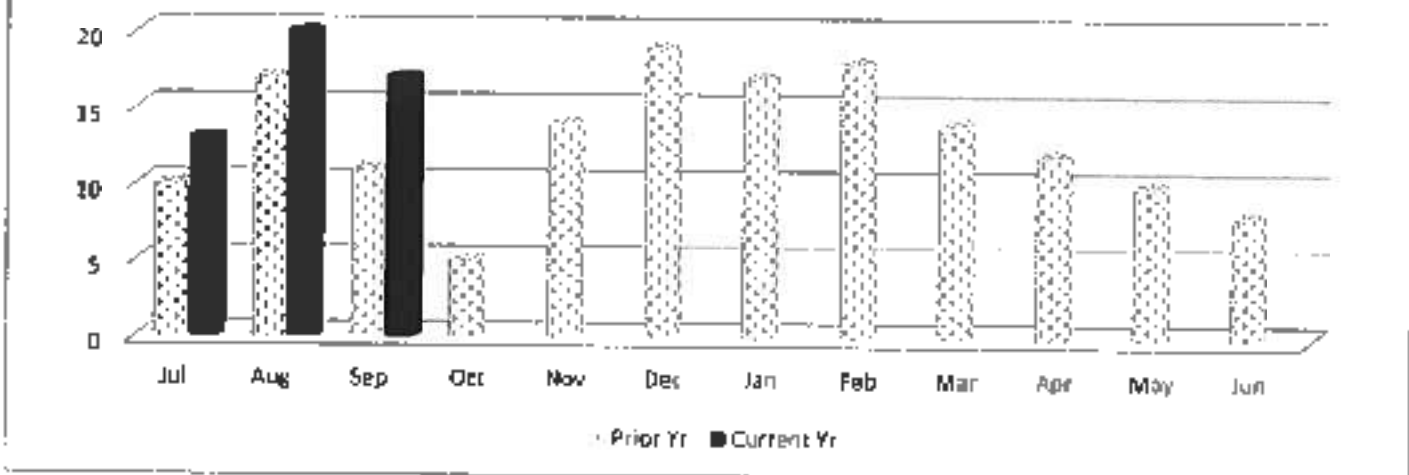
Self Insurance Tax Collections v. Prior Year



IMS MEDICAL SERVICES DIVISION

In September 2014, the Medical Services Division began the month with 20 bills pending review, received an additional 23 bills for review, conducted 26 bill reviews and ended the month with 17 bills pending.

Medical Bills Pending Review v. Prior Year

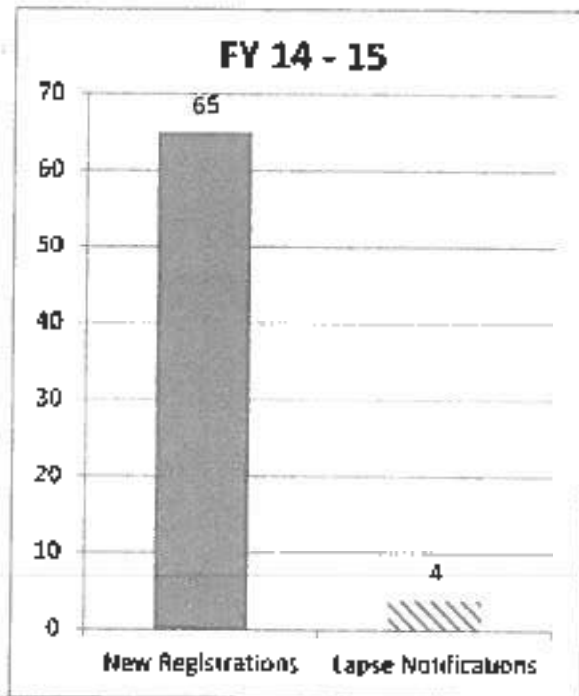


Lapse In Coverage Notification

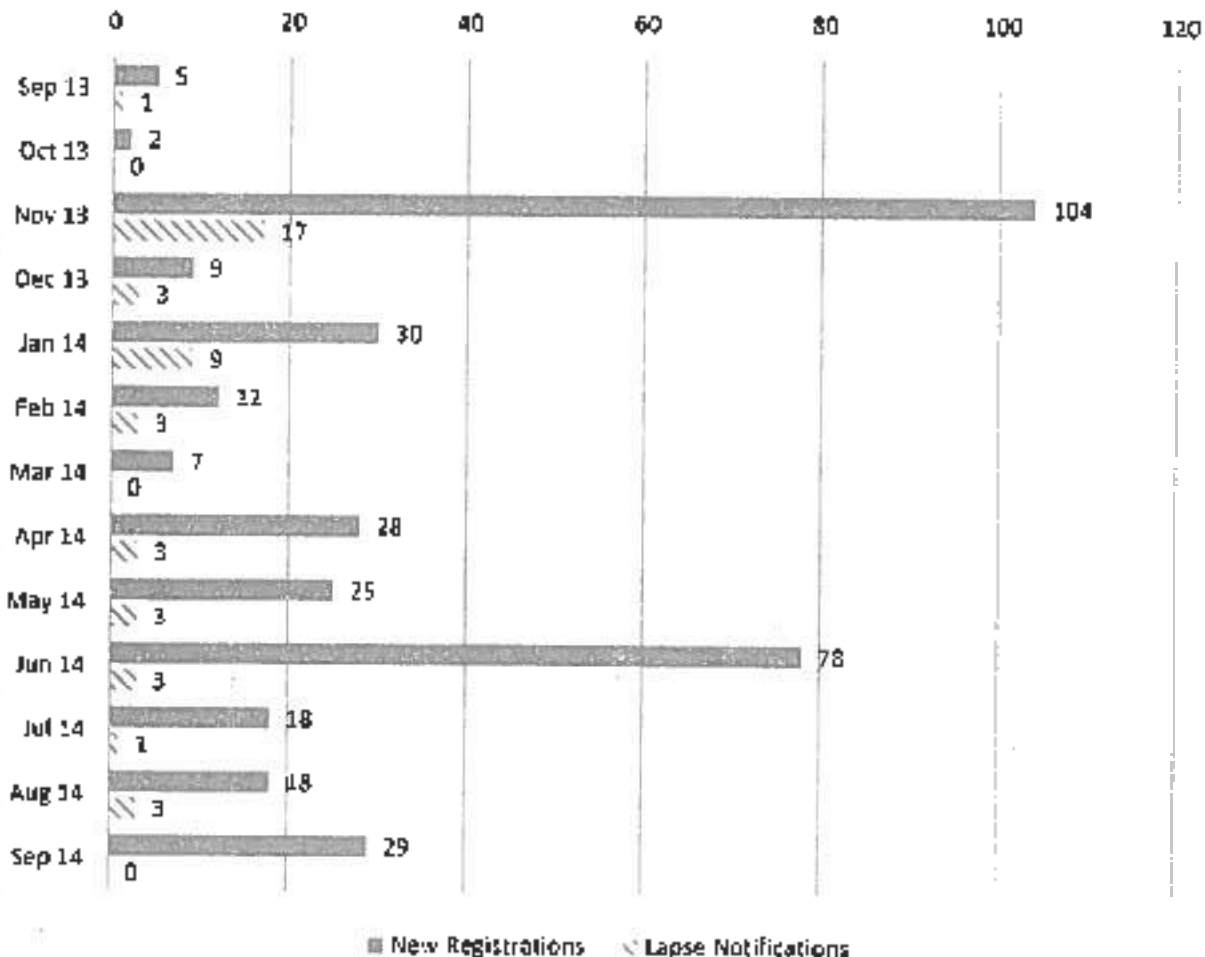
Title 42 holds that entities engaging a subcontractor for services may be held liable occupational injuries or death sustained by employees of the subcontractor if the subcontractor fails to maintain workers' compensation insurance. In collaboration with the SC Homebuilders Association, the SCWCC has developed a web-based application that allows an "up stream" employer to receive notification if a subcontractor's workers' compensation policy lapses. This enables the up stream contractor to take actions to safeguard themselves against unforeseen workers' compensation claim losses.

In September 2014, the LIC program registered 29 new policies to be tracked and issued 0 Lapse in Coverage notifications.

SEPTEMBER 2014



Lapse In Coverage Program Data (12 mo)



State of South Carolina



Workers' Compensation Commission

To: Gary Cannon
SCWCC Executive Director

From: Sonji Spann
Claims Director

Date: October 1, 2014

Subj: Claims Department
September 2014 Full Commission Report

Please find attached information provided to summarize key workflow benchmarks related to the functions of the Claims Department. In addition to the statistical data provided herein, please note the following information.

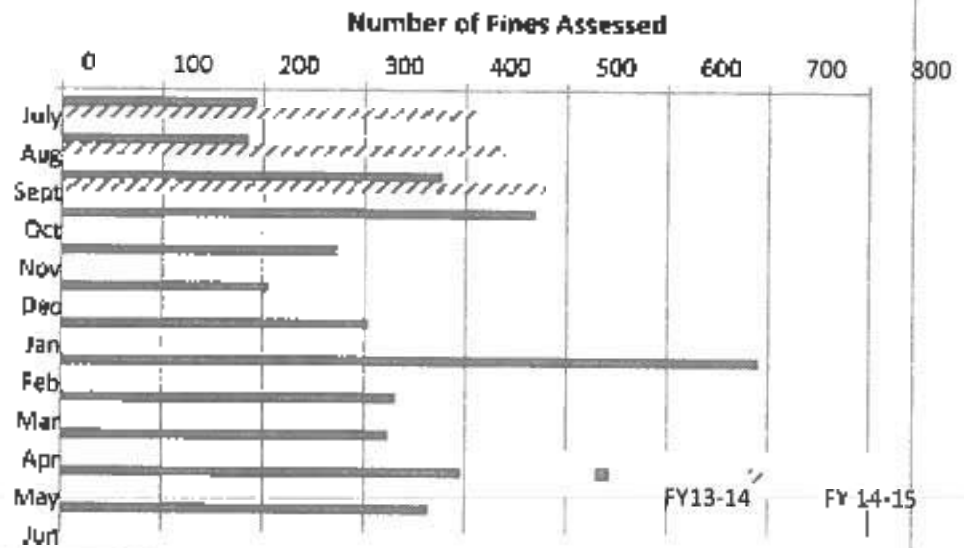
For the month of September 2014, the Claims Department has:

1. Closed 2509 individual case files.
2. Collected \$51,650 in fine revenue.
3. The examiners reviewed 886 individual case files.
4. Examiners are focusing on educating the stakeholders on how to complete forms:
 - Powerpoint: How to Successfully Complete WCC Forms at WC Education Conference;
 - 2 Telephonic training session on How to Successfully Complete WCC Forms : Walmart (2 Stakeholders) and Berkeley Specialty (1 stakeholder) and Dickie McCarmey (1 stakeholder)

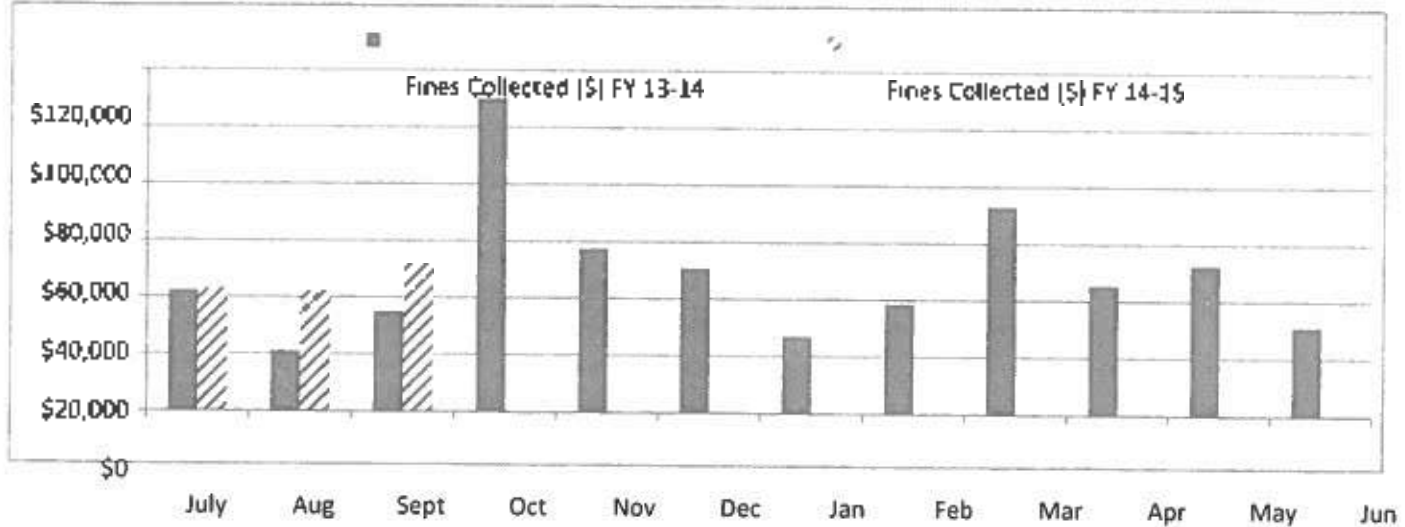
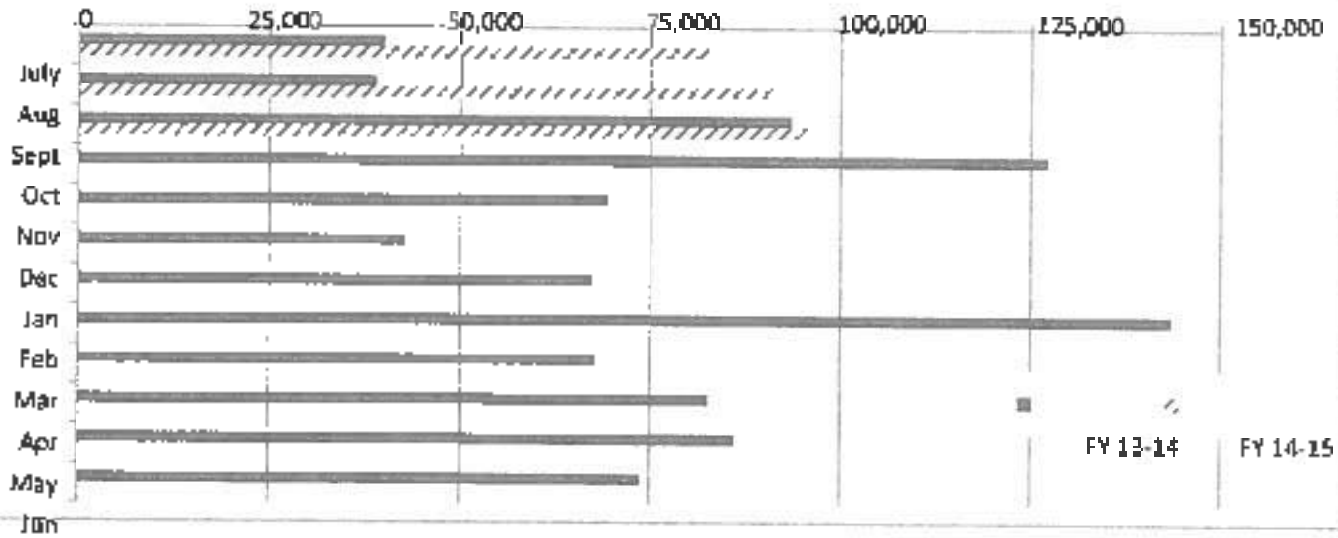
CLAIMS DEPARTMENT - Fine Activity Report September 2014

The number of fines assessed by the Claims Department increased in number to 478 from 438 in September. The number of claims fines paid increased from 205 in August to 254 in September.

Total fine dollars assessed in September was \$95,700 an increase over prior month \$91,250. Fine revenue received in September was \$51,650 an increase over prior month \$42,100.



Net Fines Assessed (\$)



Fines Assessed (#)

	FY 13-14	FY 14-15
July	193	413
Aug	185	438
Sept	377	478
Oct	469	0
Nov	272	0
Dec	204	0
Jan	304	0
Feb	691	0
Mar	331	0
Apr	324	0
May	396	0
Jun	364	0
Total	4,110	1,329
Mo Avg	343	443

Fines Received (#)

	FY 13-14	FY 14-15
July	162	198
Aug	190	205
Sept	174	254
Oct	459	0
Nov	242	0
Dec	203	0
Jan	138	0
Feb	175	0
Mar	336	0
Apr	219	0
May	214	0
Jun	130	0
Total	2,642	657
Mo Avg	220	219

Net Fines Assessed (\$)*

	FY 13-14	FY 14-15
July	40,000	82,650
Aug	39,000	91,250
Sept	93,500	95,700
Oct	127,250	0
Nov	69,350	0
Dec	42,750	0
Jan	67,200	0
Feb	143,600	0
Mar	67,600	0
Apr	82,700	0
May	86,200	0
Jun	73,750	0
Total	932,900	269,600
Mo Avg	77,742	89,867

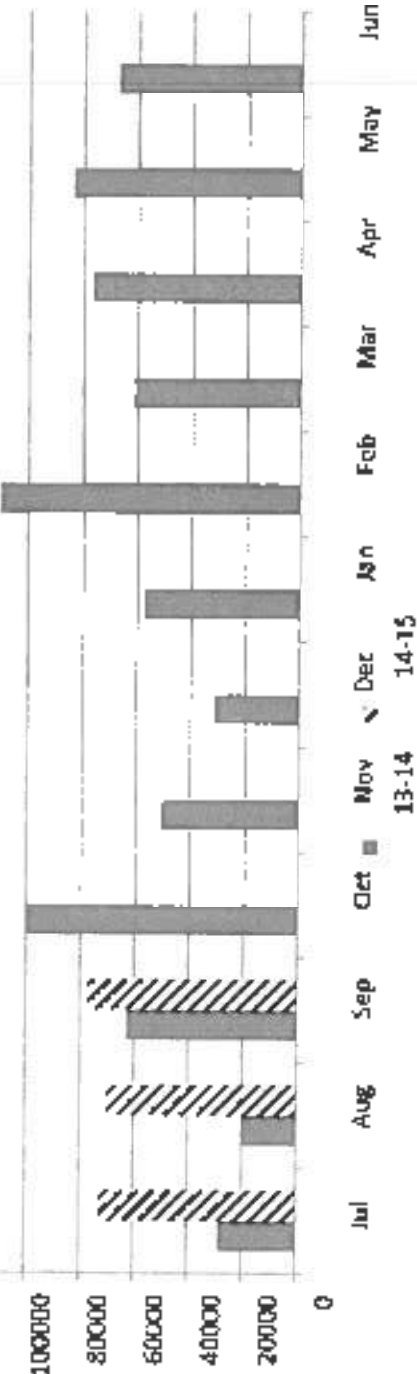
Fines Collected (\$)

	FY 13-14	FY 14-15
July	\$42,350	43,300
Aug	\$21,200	42,100
Sept	\$35,050	51,650
Oct	\$110,350	0
Nov	\$57,425	0
Dec	\$50,900	0
Jan	\$27,000	0
Feb	\$38,550	0
Mar	\$73,100	0
Apr	\$45,350	0
May	\$52,550	0
Jun	\$31,200	0
Total	585,025	137,050
Mo Avg	48,752	45,683

*after reductions and rescinded

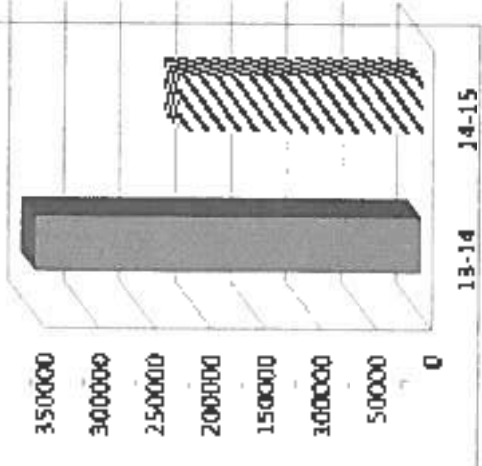
FORM 18 FINE ASSESSMENTS

Consistent with overall Commission strategy, the Claims Department works with our Carrier partners to develop approaches that result in increased compliance levels and reduced fine related costs to businesses in South Carolina. A key "success measure" of this effort is the Form 18 Fine Assessment report. For the month of September 2014, this has resulted in a increase in Form 18 Fine Assessments to \$77,600 as compared to August 2014 of \$70,400. The actual number of fines assessed increased from 333 in August 2014 to 386 in September 2014.



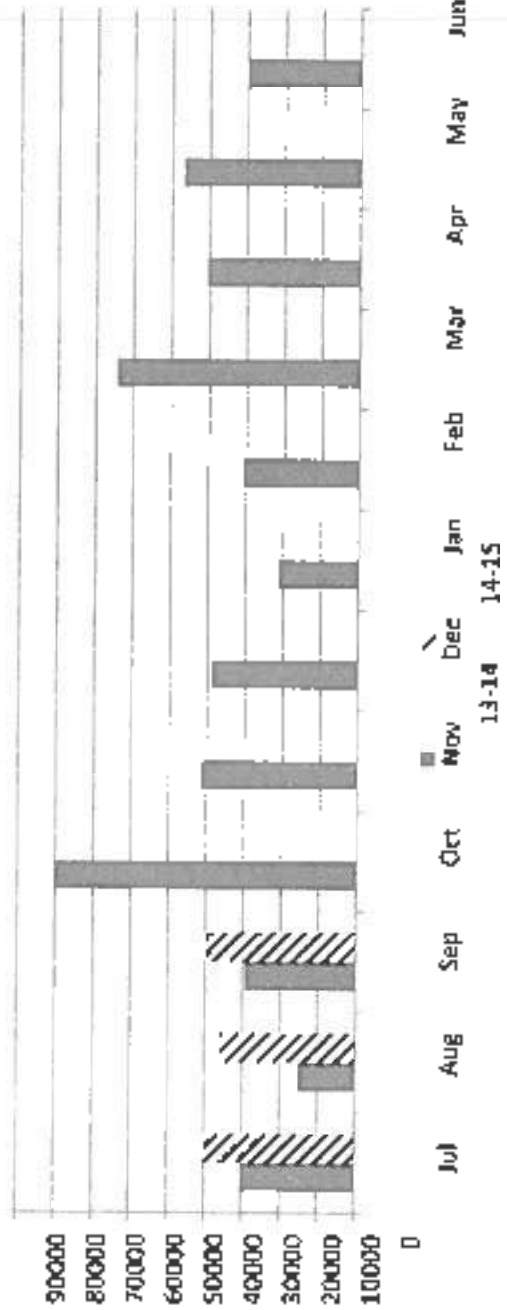
FORM 18 FINE ASSESSMENTS YTD

Form 18 Fine Assessment is trending at 115% of prior year assessments.



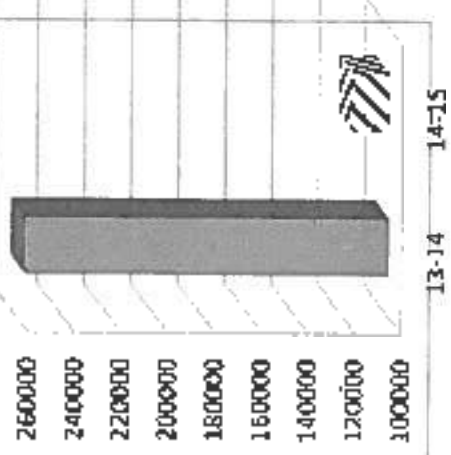
FORM 18 FINE COLLECTION

In September 2014, the Claims Department received payment on Form 18 Fines resulting in revenue of \$40,000.



FORM 18 FINE REVENUE YTD

Form 18 Fine Revenue is trending at 93% of prior year collections



State of South Carolina

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Workers' Compensation Commission

October 9, 2014

To: Gary M. Cannon
Executive Director

From: Amy A. Bracy
Judicial Director

RE: **Monthly Judicial Report**

Please be advised of the following:

There were one hundred five (105) regulatory mediations scheduled and thirty-three (33) requested mediations. The Judicial Department was notified of sixty-two (62) matters resolved in mediation with the receipt of Forms 70.

The Informal Conference system has addressed two hundred ninety-four (294) cases during the last month.

There were one hundred fifty-seven (157) Single Commissioner Hearings conducted during the past month.

There were fifteen (15) cases appealed to Full Commission during the past month.

Pleadings Assigned

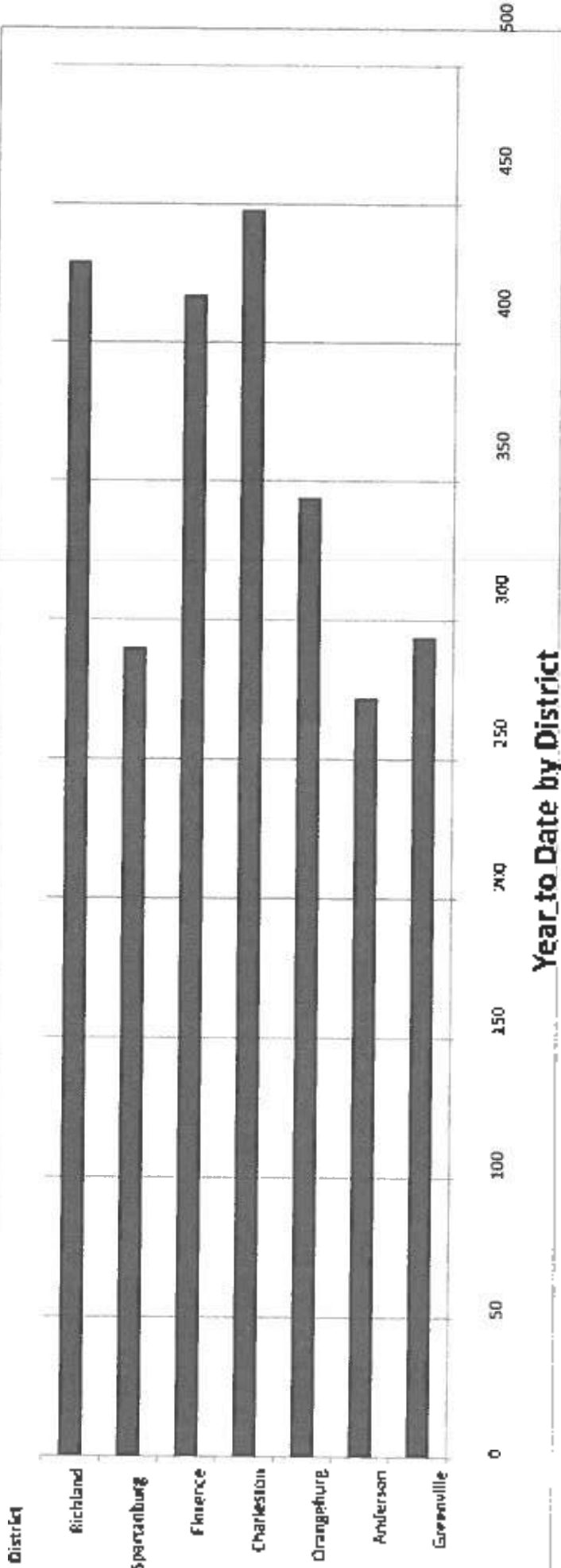
	District 1 Greenville			District 2 Anderson			District 3 Orangeburg			District 4 Charleston			District 5 Florence			District 6 Spartanburg			District 7 Richland			
	14-15	13-14	12-13	14-15	13-14	12-13	14-15	13-14	12-13	14-15	13-14	12-13	14-15	13-14	12-13	14-15	13-14	12-13	14-15	13-14	12-13	14-15
Jul	107	119	94	92	96	89	119	121	124	140	164	160	145	117	140	116	111	99	141	135	173	173
Aug	86	121	133	96	71	100	120	121	126	153	176	176	146	131	151	104	119	149	164	141	211	211
Sep	105	102	95	84	80	100	105	97	104	155	163	144	126	137	101	70	90	107	124	132	144	144
Oct		124	118		84	97		128	120		170	188		159	138		106	115		160	141	141
Nov		115	111		67	90		115	125		163	153		115	139		79	106		112	131	131
Dec		78	74		93	80		102	142		123	126		106	118		95	116		113	108	108
Jan		92	111		56	106		100	118		151	193		95	128		88	121		119	141	141
Feb		91	106		98	98		98	115		107	165		146	114		93	89		106	133	133
Mar		101	104		76	90		107	107		121	134		130	143		91	121		128	164	164
Apr		98	122		69	73		100	107		144	155		141	168		101	103		150	162	162
May		88	67		97	67		124	78		169	134		121	80		100	102		153	107	107
Jun		81	98		79	80		95	121		148	161		110	121		79	110		123	145	145
Totals	394	1212	1233	872	966	1079	1441	1308	1384	448	1843	1891	437	1510	1483	290	1152	1338	429	1572	177	177

Pleadings Assigned 2014-15

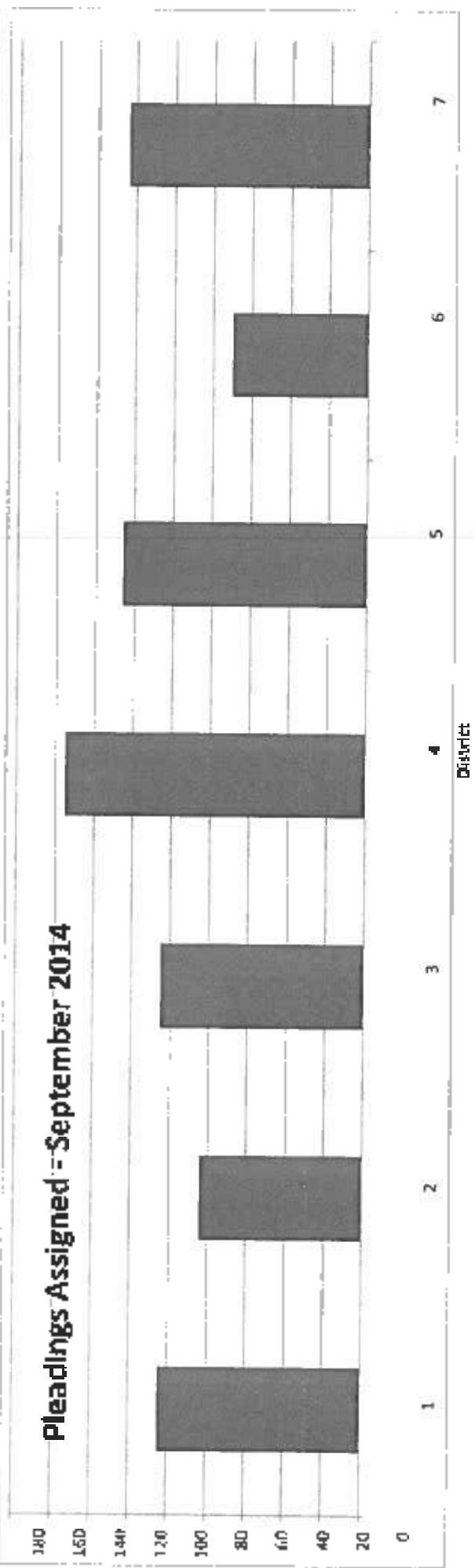


Greenville
 Anderson
 Orangeburg
 Charleston
 Florence
 Spartanburg
 Richland

Jul Aug Sep Oct Nov Dec Jan Feb Mar Apr May Jun



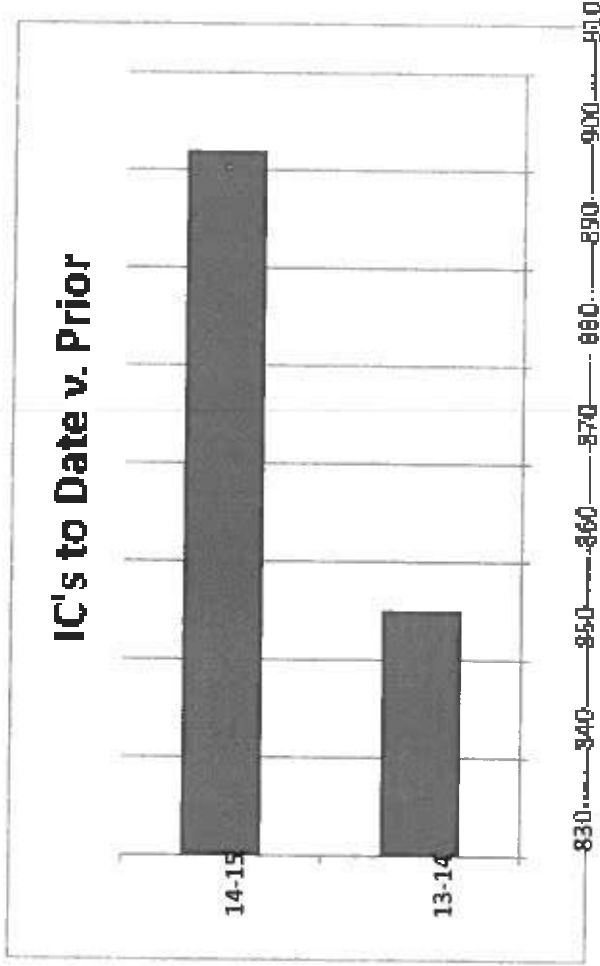
Pleadings Assigned - September 2014



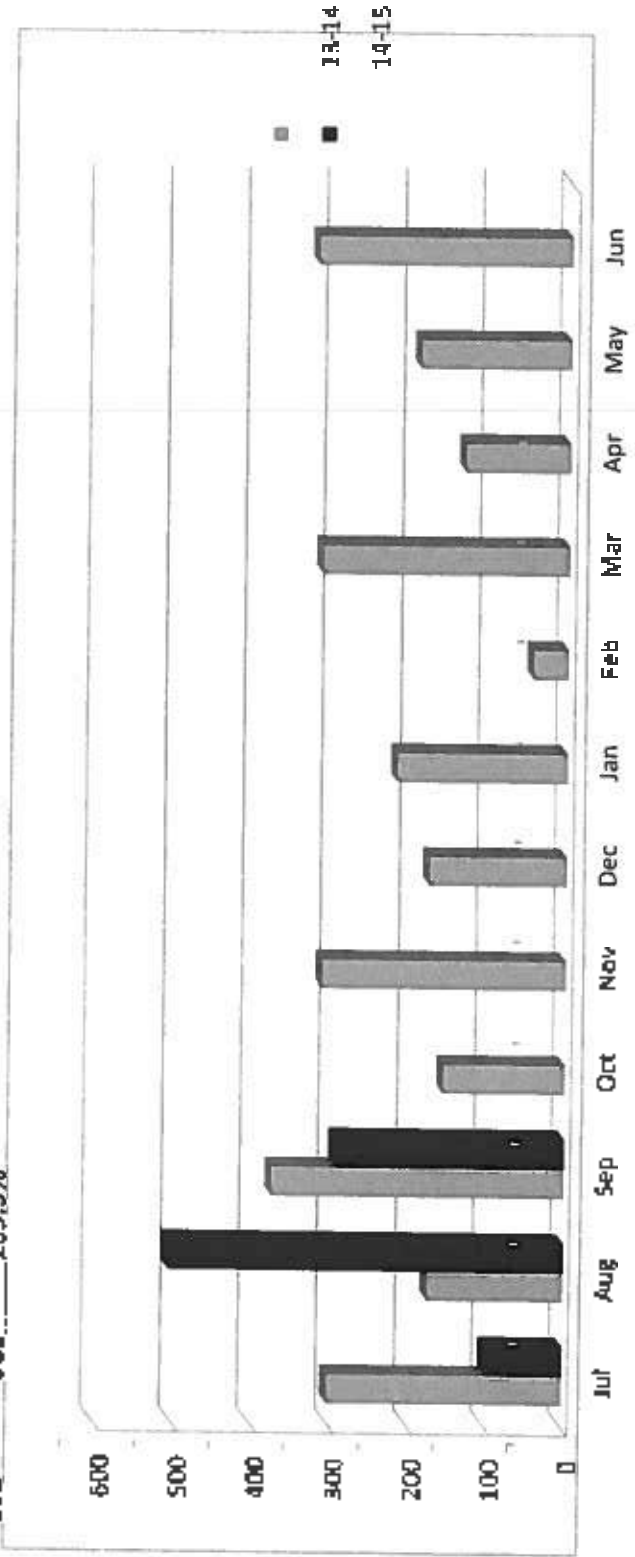
Informal Confi. Conducted

	13-14	14-15	
Jul	303	100	33.0%
Aug	176	508	288.6%
Sep	376	294	78.2%
Oct	158		0.0%
Nov	314		0.0%
Dec	178		0.0%
Jan	220		0.0%
Feb	46		0.0%
Mar	317		0.0%
Apr	136		0.0%
May	195		0.0%
Jun	326		0.0%
Total	2745	902	

IC's to Date v. Prior



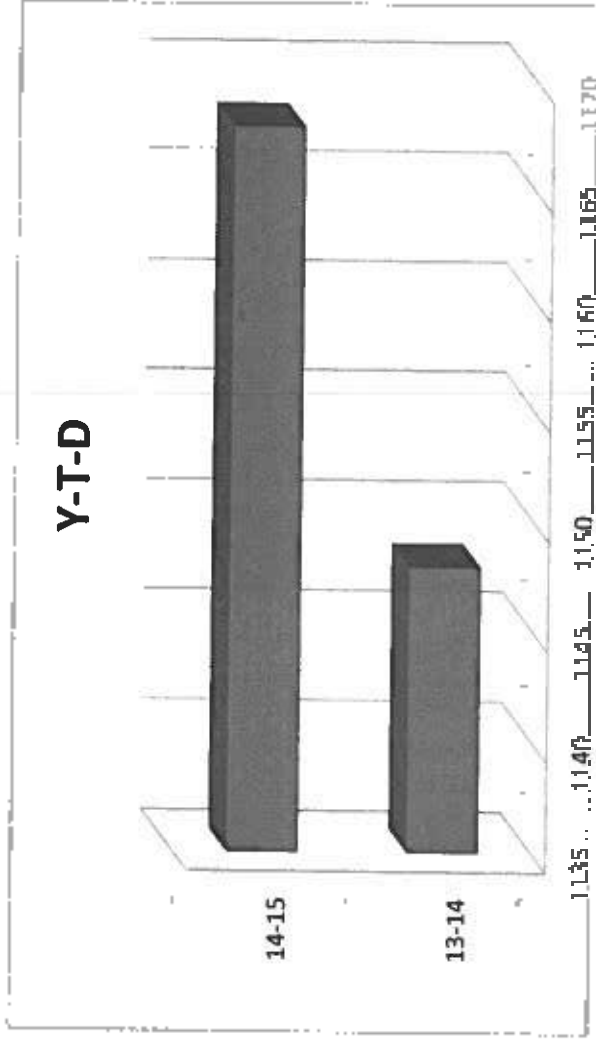
13-14	14-15	Y-T-D
855	902	105.5%



Informal Conf. Requested

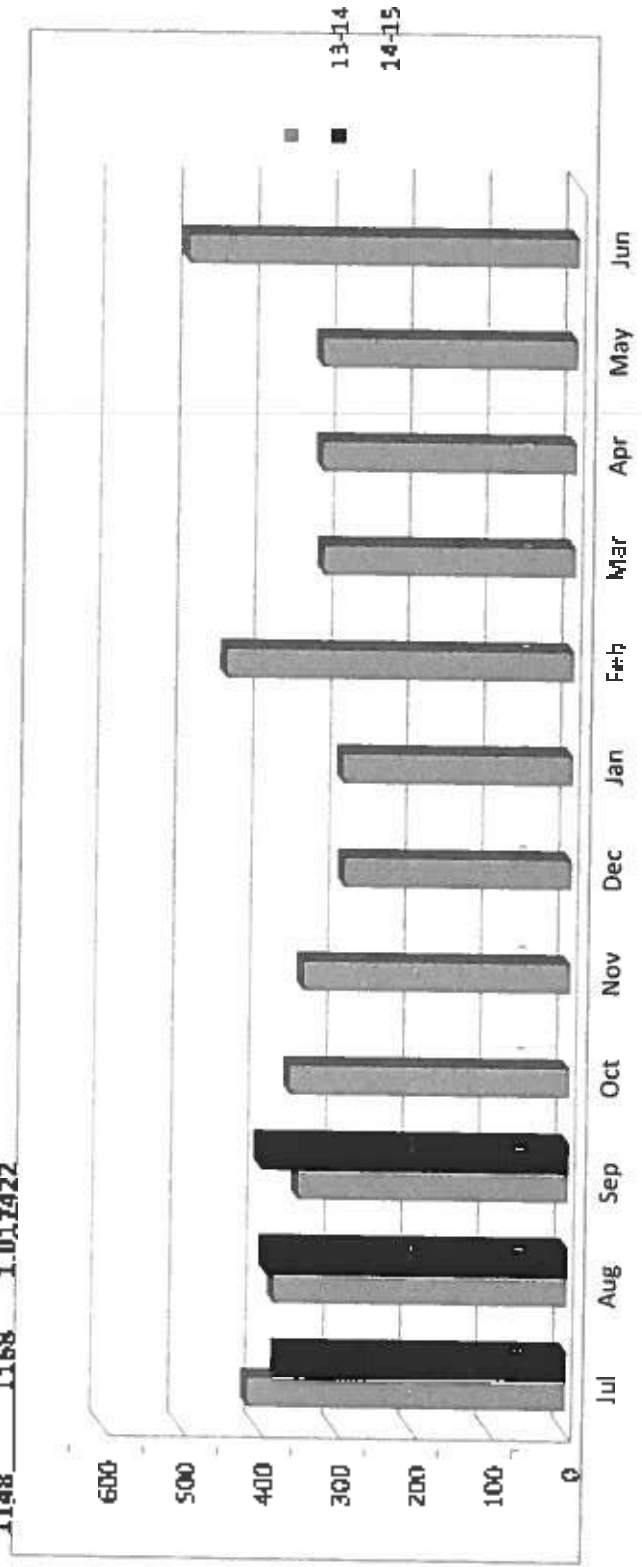
	13-14	14-15
Jul	414	375
Aug	382	393
Sep	352	400
Oct	364	
Nov	348	
Dec	296	
Jan	299	
Feb	452	
Mar	328	
Apr	331	
May	332	
Jun	506	
Total	4404	1168

Y-T-D



13-14	14-15
1148	1.017422

Y-T-D



State of South Carolina

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Workers' Compensation Commission

Executive Director's Report Gary M. Cannon October 22, 2014

Audit Report – State Auditor's Office

The Commission received the preliminary draft of the State Auditor's Report dated June 30, 2013 for the fiscal year ending June 30, 2013. The Commission's response to the Accountants Comments section is attached.

Personnel Recruitment

Human Resources Manager I

Six candidates were interviewed on September 17 and September 19 for the position of Human Resources Manager I. Alicia Osborne was selected for the position. Ms. Osborne comes to the Commission from the Human Resources Department at Health and Human Services. She began employment with the Agency on October 17.

Law Clerks

Mark James will end his law clerkship on October 30.

Marlene Johnson Moore has completed her Officer Candidate School and will return to her law clerk duties November 1.

Administrative Assistant – IMS Department

A recruitment announcement for an Administrative Assistant position in the Insurance and Medical Services Department was posted October 7-17. The Commission received 331 applications. Ms. Osborne is conducting initial screening of the applications. Interviews will be scheduled the week of October 27.

Retirement

Marion Buraczynski, Administrative Assistant in the Insurance and Medical Services Department will retire effective November 1. Her last day of employment will be October 30. The Commission wishes Mrs. Buraczynski all the best as she begins a new chapter in her life.

Recycling Annual Report

The S.C. Solid Waste Policy and Management Act of 1991 (Act) requires state agencies to establish recycling programs and submit to DHEC by September 15 of each year an overview of

the recycling and buying recycled activities. The Commission utilizes the recycling collection services of the S.C. Department of Corrections. For FY 2014, the Commission recycled .18 tons of cardboard and 12.93 tons of mix paper.

International Association of Industrial Accident Boards & Commissions (IAIABC)

The Executive Director was elected to serve an At-Large seat on IAIABC's Executive Committee.

Employee Meetings/Staff Training

Executive Staff met on September 18. The Executive Director and Department Heads met on October 7 to discuss plans for the information booth at the SCWCEA Annual Meeting October 12-15, 2014. An All Employee meeting held on October 20 to discuss the Open Enrollment period for employee benefit program.

Other Meetings

The Executive Director participated in the following meetings/activities:

- September 17 & 19 – Interviews of Human Resource Manager candidates
- September 19 – Telephone conference with Ric Davis, chairman, NUAC
- September 22 – Ombudsman meeting with claimant
- September 22 – Meeting - Ron Jackson, Vice President, American Insurance Association
- September 29 – Oct 4 – IAIABC Annual Convention
- October 13-15 – SCWCEA Annual Meeting
- October 20 – All Employee meeting
- October 21 – Meeting with SCDVR "Counterparts" group

Narcotics Use Advisory Committee

The next meeting of the Narcotics Use Advisory Committee is scheduled for Tuesday, November 20, 2014 at 1:30 p.m. The meeting will take place at the S.C. Pharmacy Association in Columbia.

Constituent /Public Information Services

For the period September 10 through October 9, 2014 the Executive Director's Office and the General Counsel's office had 463 contacts with various system constituents and stakeholders. The Executive Director's office handled 92 Human Resource related contacts in the absence of a Human Resources manager. The contacts included telephone communications; electronic and personal contacts with claimants or constituents, state agencies, federal agencies, attorneys, service providers, business partners; and letters with congressional offices.

SCWCC Stakeholder Electronic Distribution List

For the period September 10, 2014 through October 9, 2014, we added four individuals to the Commission's stakeholder distribution list. A total of 501 individuals currently receive notifications from the Commission.

SC Vocational Rehabilitation Department

Attached is a report on SCVRD/WCC referrals provided by Chuck Hamden, SCVRD Counselor, for September 2014.

State of South Carolina

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Workers' Compensation Commission

October 17, 2014

Mr. Richard H. Gilbert, Jr., CPA
Deputy State Auditor
1401 Main Street, Suite 1200
Columbia, SC 29201

RE: SC Workers' Compensation Commission
State Auditor's Report for FY 2013

Dear Mr. Gilbert:

The SC Workers' Compensation Commission has reviewed the preliminary draft of the State Auditor's Report dated October 1, 2014 for fiscal year ending June 30, 2013. Enclosed you will find the Commission's response to the Accountants Comments section of the Report and the names and addresses of the members of the Commission.

Please accept this letter informing you that we have reviewed the report and authorize the State Auditor's Office to release the report provided the released Report includes the Commission's comments.

Sincerely,

A handwritten signature in black ink that reads "Gary M. Cannon". The signature is written in a cursive, flowing style.

Gary M. Cannon
Executive Director

Enclosures

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Workers' Compensation Commission

**MANAGEMENT'S RESPONSE TO ACCOUNTANTS COMMENTS
STATE AUDITOR REPORT
JUNE 30, 2013**

Section A- Violation of State Laws, Rules or Regulation

Revenue Cut-off

Management does not dispute the finding that one receipt transaction was recorded in the wrong year.

Cash Receipt Transaction

The Commission's standard operating procedure is to deposit receipts the next business day. This procedure was followed for the receipts of June 30, 2012, causing the deposit to be recorded in the next fiscal year. The Commission will continue to follow the standard operating procedure for depositing receipts the following day of receipt with the exception of the end of the fiscal year. The commission will implement new procedures to ensure receipts received June 30 or the last business day of June will be deposited and recorded the same day.

Reporting Packages

Compensated Absences Reporting Package

Management does not dispute the finding one employee recorded leave after the reporting package was completed. The Commission will implement procedures and controls to ensure employees record their leave within the required time prior to the preparation and submission of the financial closing package and/or report it on the Subsequent Even Questionnaire filed in November.

Capital Assets Reporting Package

Management does not dispute the finding that the Commission failed to report adjustments for all the differences between the Capital Assets Worksheet and the SCEIS Asset History Report on Form 3.8.2. The Commission will implement new control procedures to ensure all closing packages are completed as required by the Reporting Policies and Procedures Manual. Further, the Commission will review the SCEIS Asset History to identify errors and consult with SCEIS personnel to correct any errors discovered during the review.

State of South Carolina

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Workers' Compensation Commission

TO: Commissioners

FROM: Gary M Cannon

DATE: October 22, 2014

RE: Use of Court Reporters Policy

Attached is the revised Use of Court Reporters Policy. It contains the changes recommended by the Commission at the last meeting.

**S.C. Workers' Compensation Commission
Administrative Policies and Procedures**

Use of Court Reporter Services

Revised: October 22, 2014

Adopted: _____

Use of Court Reporters. The Commission may contract for court reporting services for the purposes of stenographically reporting Commission hearings at any facility located within the Hearing Districts that is used by the Commission to conduct Workers' Compensation proceedings. (S.C. Code Ann. Section 42-3-170).

Reporters as Independent Contractors. It shall be the policy of the Commission to utilize court reporter services from private independent contractors for court reporters ("Reporter"). The Reporter shall not be an employee of the Commission.

Equipment. Each Reporter shall use and furnish at Reporter's expense Reporter's own recording equipment, computers, tools, lapes, supplies, and materials. The Reporter shall maintain equipment to provide services. The Reporter shall have the ability to troubleshoot and repair equipment with no assistance if equipment malfunctions. As necessary, the Reporter shall have the ability to provide replacement equipment in a timely manner that does materially disrupt the proceedings.

Designation. The Commission shall establish and maintain a list of designated court reporters that are qualified pursuant to the Minimum Qualifications and Experience set forth in this policy to perform services for Commission. The Commission shall only contract for services with designated court reporters. A court reporter may apply for qualification with the Commission in writing to the Executive Director, certifying the qualifications they meet pursuant to paragraph 2.4.

List of Court Reporters. The Commission will establish a list of eligible court reporters for use by the Commissioners. The Commission will establish minimum qualifications and experience for a Reporter to be eligible for inclusion on the list of eligible court reporters. The Commissioner will select a Court Reporter for use at a single Commissioner hearing from the list of eligible reporters. The Judicial Department shall be responsible for selecting a Court Reporter for the Appellate Panel Hearings from the list of eligible reporters.

Minimum Qualifications and Experience. To be eligible to provide court reporting services to the Commission the Reporter must meet the following minimum qualifications and experience. High school diploma or G.E.D. and a degree in court reporting OR certification as a proficient stenotype writer from an accredited school OR Court reporting institution qualifications such as a Registered Professional Reporter (RPR) or a Certified Verbatim Reporter (CVR); or four (4) years prime court reporting experience; a thorough knowledge of legal terminology and considerable knowledge of hearing procedures and preparation of complex legal records or any combination of the minimum qualifications and experience.

When a party to a proceeding requests an expedited processing of a transcript, the remaining parties shall have the option of receiving expedited delivery of a copy for the same expedited processing fee. Otherwise, the ordinary charge and delivery schedule shall apply.

Maximum Allowable Charge. The Commission will pay increased rates per page based on a schedule of delivery options. The maximum amount the Commission will pay is per page is \$6.50.

Other Fees. The Reporter may designate fees other than those listed herein and such fees to be charged shall be agreed upon by Reporter and the requesting party.

Invoices. The Reporter will remit the invoice for services to the Commissioner's office that was responsible for ordering the services and for whom the services were performed. The Commissioner will be responsible for reviewing the invoice, verifying the amount, approving for payment and forwarding to the Director of Administration for payment. Invoices will not be paid unless authorized by a Commissioner.

State of South Carolina

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Workers' Compensation Commission

TO: Commissioners

FROM: Gary M Cannon

DATE: October 23, 2014

RE: FY 2015-16 Budget

Attached is a summary of the FY15-16 Proposed Budget. The matter was carried over at the last business meeting.

We submitted a preliminary budget to the State Budget Office as required by October 1. We informed the Budget Office staff and the House Ways and Means Committee staff that we were submitting the budget with the condition the Commission would take action on it on October 27. They concurred that this stage of the process we have some flexibility with adjusting the numbers if you deem necessary.

The total budget is \$5.6 million, \$2.1 million in General Fund and \$3.5 million in the Earmarked Fund. The total is \$350,000 more than the current budget. We have requested an addition \$150,000 in General Fund Appropriations and \$200,000 in Earmarked Funds. The \$150,000 in General Fund Appropriations will be used to implement changes in the Information Technology System to comply with information security requirements established by the General Assembly. These changes must be implemented by July 2016.

The additional \$200,000 requested in Earmarked Funds will be used for enhancements to the Information Technology System to implement the Subsequent Report of Injury (SROI) program. We anticipate implementing Phase I of these enhancements in FY14-15 to allow submission of Form 18 data electronically. \$185,000 of the total increase will be used in the IT Department for additional enhancements to the IT System for implementing the final phases of SROI. The substantial increase in the operational expenses in IT department is a result of a change in the accounting for IT. All IT expenditures are now allocated in one department rather than in all of the departments.

ACTION REQUESTED: Approval of the FY15-16 Budget request.

South Carolina Workers' Compensation Commission

Budget Request

FY 2015-16

TOTAL ALL FUNDS

Final Budget

STATE APPROPRIATIONS

REVENUE SOURCE	FY13-14 Actual	FY14-15 Budget	FY2015-16 Request	Diff + (-)
General Fund Appropriations	\$ 1,859,011	\$ 1,909,261	\$ 2,059,261	\$ 150,000
EXPENDITURES				
	FY13-14 Actual	FY14-15 Budget	FY2015-16 Request	
Total	\$ 1,859,011	\$ 1,909,261	\$ 2,059,261	\$ 150,000

EARMARKED FUND

EARMARKED FUND REVENUES	FY13-14 Budget	FY14-15 Budget	FY2015-16 Budget	Difference + (-)
Total	\$ 3,260,250	\$ 3,372,066	\$ 3,572,066	\$ 200,000
EXPENDITURES				
	FY13-14 Actual	FY14-15 Budget	FY2015-16 Budget	
Total	\$ 3,218,446	\$ 3,372,066	\$ 3,572,066	\$ 200,000
TOTAL ALL FUNDS	\$ 5,077,457	\$ 5,281,327	\$ 5,631,327	\$ 250,000

**FY 2015-16 Budget Request
General Appropriations**

REVENUES

REVENUE SOURCE	FY13-14	FY14-15	FY2015-16	Difference + (-)
	Actual	Budget	Request	
Appropriations	\$ 1,859,011	\$ 1,909,261	\$ 2,081,163	\$ 171,902

EXPENDITURES

	FY13-14	FY14-15	FY2015-16	Difference + (-)
	Actual	Budget	Request	
Commissioners	\$ 1,165,651	\$ 1,140,859	\$ 1,140,859	\$ -
Claims	\$ 45,626	\$ 76,500	\$ 76,500	\$ -
Judicial	\$ 34,521	\$ 29,266	\$ 29,266	\$ -
Insurance and Medical	\$ 31,960	\$ 26,632	\$ 26,632	\$ -
Administration	\$ 146,145	\$ 98,915	\$ 98,915	\$ -
Information Technology	\$ -	\$ 47,092	\$ 197,092	\$ 150,000
Total	\$ 1,423,903	\$ 1,419,264	\$ 1,569,264	\$ 150,000
Employee Benefits	\$ 419,967	\$ 489,997	\$ 489,997	\$ -
Total	\$ 1,843,870	\$ 1,909,261	\$ 2,059,261	\$ 150,000

Comments on changes:

**FY 2015-16 Budget Request
EARMARKED FUND
Revenues**

REVENUE SOURCE	FY13-14	FY14-15	FY2015-16	Difference + (-)
	Actual	Budget	Budget	
Training Conference Registration Fee	\$ 5,780	\$ 5,000	\$ 5,000	\$ -
Sale of Publication and Brochures	\$ 3,900	\$ 8,000	\$ 4,000	\$ (4,000)
Workers' Comp Award Review Fee	\$ 39,750	\$ 73,000	\$ 55,000	\$ (18,000)
Sale of Photocopies	\$ 62,485	\$ 88,000	\$ 62,000	\$ (26,000)
Workers' Compensation Filing Violation Fee	\$ 1,613,161	\$ 1,660,000	\$ 1,162,000	\$ (498,000)
Sale of Listings and Labels	\$ 21,084	\$ 25,000	\$ 20,000	\$ (5,000)
Workers' Comp Hearing Fee	\$ 540,391	\$ 562,000	\$ 530,000	\$ (32,000)
Insurance Reserve Refund	\$ -	\$ -	\$ -	\$ -
Self Insurance Tax (Special Revenue)	\$ 2,422,633	\$ 2,400,000	\$ 2,400,000	\$ -
Total	\$ 4,709,184	\$ 4,821,000	\$ 4,238,000	\$ (583,000)
Received or (Retained) - Fund Balance	\$ (1,448,934)	\$ (1,448,934)	\$ (665,934)	\$ 783,000
Total Revenues + Fund Balance	\$ 3,260,250	\$ 3,372,066	\$ 3,572,066	\$ 200,000

NOTE: Workers' Compensation Filing Violation Fee projected 30% reduction

Expenditures

Department	FY13-14	FY14-15	FY2015-16	Difference + (-)
	Actual	Budget (Amended)	Budget	
Commissioners	\$ 291,617	\$ 272,469	\$ 285,700	\$ 13,231
Claims	\$ 347,852	\$ 372,767	\$ 291,710	\$ (81,057)
Judicial	\$ 307,634	\$ 317,790	\$ 305,579	\$ (12,211)
Insurance and Medical	\$ 531,353	\$ 463,937	\$ 522,381	\$ 58,444
Administration	\$ 981,911	\$ 862,061	\$ 906,515	\$ 44,454
Information Technology	\$ -	\$ 530,181	\$ 715,217	\$ 185,036
Employee Benefits	\$ 528,629	\$ 552,861	\$ 544,964	\$ (7,897)
Total	\$ 2,988,996	\$ 3,372,066	\$ 3,572,066	\$ 200,000

State of South Carolina

1333 Main Street, 5th Floor
P.O. Box 1715
Columbia, S.C. 29202-1715



TEL: (803) 737-5711
www.sccoe.sc.gov

Workers' Compensation Commission

TO: Commissioners
FROM: Gary M Cannon
DATE: October 22, 2014
RE: Annual Ethics Training

Request the Commission confirm the date for the annual ethics training for the Commissioners and Administrative Assistants November 17 from 1:00 p.m. to 4:00 p.m. The agenda includes 1 ½ hours on the State Ethics Act and 1 ½ hours on Judicial Ethics.

Session leaders will be Cathy Hazelwood from the State Ethics Commission and Joe Turner from the SC Courts Administration.

State of South Carolina

1333 Main Street, 5th Floor
P.O. Box 1715
Columbia, S.C. 29202-1715



TLL: (803) 737-5700
www.wcc.sc.gov

Workers' Compensation Commission

TO: Commissioners

FROM: Gary M Cannon

DATE: October 23, 2014

RE: Agreement for Services – Department of Technology Operations

Attached is the proposed Agreement for Information Technology Services with the SC Division of Technology Operations (DTO), formerly Division of State Information Technology (DSIT), Appendix A to the agreement and an analysis comparing the cost in the proposed agreement to the actual cost billed by DSIT in FY13-14. Also shown in the analysis is the amount in FY09-10 agreement. The Commission approved increases to the cost of services in 2010 for the purchase of an additional server. These costs are reflected in the Actual Billing FY13-14 column.

As shown on page two of the analysis the total increase annual increase is \$35,821 or 26%. This equates to an average increase of 3.8% per year since the contract approved in FY09-10. The increase can be attributed to pass through increases in the Microsoft Licensing, Software Assurance licensing, and adding a Tier 2 Access Point Maintenance and Management under Network Services. Appendix A of the agreement provides a general description of the services associated with the costs. The last three pages of the Appendix reflect the information security services provided by DTO at no cost to the Commission.

ACTION REQUESTED: Approve the Service Agreement with DTO and authorize the Executive Director to execute it.

WCC / DSIT Contract Comparison 2010 to 2014 (10/22/14)

Line No.		Contract FY 09/10	Actual Billing FY13/14	Contract Proposal FY14/15	Difference + (-)	Comments
Progress - Server and backups						
1	MS Server Management Prod and Dev servers, WCCSQLPRD, WCCSQLDEV	\$ 5,784	\$ 11,568	\$ 11,568	\$ -	Increased to 2 servers Production and Development
2	Server Hosting - racks	\$ 384	\$ 768	\$ 1,536	\$ 768	Increased from 2 rack to 4 racks
3	WCCSQL Software Maintenance Unix	\$ 292	\$ 292		\$ (292)	changed to Idera
4	Idera SQL backup license Maintenance for WCCSQLPRD & WCCSQLDEV		\$ -	\$ 398	\$ 398	New charge in FY14/15
5	Idera SQL safe Database Backup Software		\$ -	\$ 1,990	\$ 1,990	New charge in FY14/15 - One Time Cost
6	Hardware Maintenance HP Warranty	\$ 1,168	\$ -	\$ 1,182	\$ 1,182	Increase from Microsoft for licensing
7	Wildcard Cert		\$ 316	\$ 350	\$ 34	
8	MS SQL maintenance 2 processor	\$ 8,263	\$ -	\$ 14,690	\$ 14,690	DTD incorrectly didn't bill us last FY. Added a 20% increase for the contract. Will be billed based on the vendor contract. May be lower or higher
9	MS OS Maintenance	\$ 403	\$ -	\$ 403	\$ 403	DTD incorrectly didn't bill us.
10	Microsoft Licensing for Development		\$ -	\$ 96	\$ 96	To become compliant with microsoft licensing.
11	Microsoft remote Desktop CALS		\$ -	\$ 111	\$ 111	to allow staff to connect to server
12	Disaster Recovery for WCCSQL (HP DL38DG72 Processor B Core - 16 Cores total)		\$ -	\$ 3,149	\$ 3,149	New service needed to be compliant
13	WCCWSQL 300 GB (\$0.21 per GB)		\$ -	\$ 756	\$ 756	data replication at Clemson for Disaster Recovery
14	Total	\$ 16,294	\$ 12,944	\$ 36,228	\$ 23,284	

15	Telecommunications Charges - Internet					
16	Firewall Protection	\$ 1,548	\$ 1,548	\$ 7,744	\$ 6,196	Increase to medium firewall
17	Data Center Network Ports Enterprise	\$ 384	\$ 384	\$ 1,536	\$ 1,152	Increased from 2 ports to 8 ports
18	Internet	\$ 960	\$ 1,680	\$ 1,680	\$ -	Increased from 2Mb to 10 Mb
19	300 Mb Connection CBW, Fixed wide	\$ 12,327	\$ 12,327	\$ 12,327	\$ -	
20	Router maint/mgr 24x7 Tier 5	\$ 3,384	\$ 3,384	\$ 3,384	\$ -	
21	Wireless Access Point Maintenance and Management 24x7 Tier 2			\$ 1,848	\$ 1,848	New charge
22	Virtual Private Network	\$ 168	\$ 168	\$ -	\$ (168)	
23	Total	\$ 18,771	\$ 19,491	\$ 28,520	\$ 9,028	

WCC / DSIT Contract Comparison 2010 to 2014 (10/22/14)

Line No.		Contract FY 09/10	Actual Billing FY13/14	Contract Proposal FY14/15	Difference + (-)	Comments
24	OnBase					
25	Non SCEIS Imaging	\$ 20,817	\$ 20,817	\$ 20,817	\$ -	
26	Cold ERM Add on	\$ 6,192	\$ 6,182	\$ 6,183	\$ 1	*typo in original contract
27	Onbase Mobile App		\$ 2,400	\$ 2,400	\$ -	
28	Named user client Maintenance	\$ 5,999	\$ 6,799	\$ 6,362	\$ (437)	
29	Disconnected Scanning	\$ 1,454	\$ 1,647	\$ 1,543	\$ (104)	
30	Concurrent Client Maintenance	\$ 545	\$ 741	\$ 694	\$ (47)	
31	Publishing Maintenance **	\$ 264	\$ -	\$ -	\$ -	Dropped
32	Export Maintenance **	\$ 909	\$ -	\$ -	\$ -	Dropped
33	Concurrent Workflow		\$ -	\$ 848	\$ 848	Required for upload approved by FC
34	API Licens / 500 query per hour block license		\$ -	\$ 1,928	\$ 1,928	Required for upload approved by FC
35	PDF frameword		\$ -	\$ 578	\$ 578	Required for upload approved by FC
36	Total	\$ 36,281	\$ 38,579	\$ 41,353	\$ 2,774	
37	Infrastructure and PC Support					
38	Standard Desktop Support (67) - (actually infrastructure - includes network drives, internet connectivity, email and backup of data on network drives and email)	\$ 55,540	\$ 56,497	\$ 55,540	\$ (957)	
39	Software Assurance		\$ 8,074	\$ 10,144	\$ 1,670	Billed at \$127 per unit not \$85 as contracted. Vendor increase rate - may be an additional 20% higher in FY14/15 as DTD doesn't know until the renewal comes up.
40	Total	\$ 55,540	\$ 64,971	\$ 65,684	\$ 713	
41	Total Fixed Cost Items	\$ 126,886	\$ 135,985	\$ 171,786	\$ 35,800	
42	Percent difference				26.33%	
43	Use or Utilization Charges					
44	Desktop support \$55 per hour as needed		\$ 270		\$ (270)	As needed - estimate same
45	Tivoli backups \$0.44 per GB utilization		\$ 210		\$ (210)	dropped
46	SQL DBA support \$75 per hour		\$ -		\$ -	wasn't charged - estimate same
47	Language Line Peak \$2.25 - \$2.60		\$ 85		\$ (85)	As needed - estimate same
48	Language Line Non-Peak \$2.50 - \$4.50		\$ -		\$ -	As needed - estimate same
49	Centers for Imaging Storage both onsite and offsite .072 per G		\$ -	\$ 586	\$ 586	339.0 G at both HHR & Clemson
50	Total	\$ -	\$ 565	\$ 586	\$ 21	
51	Contract Total	\$ 126,886	\$ 136,550	\$ 172,371	\$ 35,821	

WCC / DSIT Contract Comparison 2010 to 2014 (10/22/14)

Line No.		Contract FY 09/10	Actual Billing FY13/14	Contract Proposal FY14/15	Difference + (-)	Comments
52	Percent difference				26.23%	



**SOUTH CAROLINA BUDGET AND CONTROL BOARD
DIVISION OF TECHNOLOGY OPERATIONS**

AGREEMENT FOR SERVICES

SOUTH CAROLINA WORKERS COMPENSATION COMMISSION

AGREEMENT # WCC 102014

AGREEMENT FOR SERVICES

BETWEEN

**SOUTH CAROLINA BUDGET AND CONTROL BOARD
DIVISION OF TECHNOLOGY OPERATIONS**

AND

SOUTH CAROLINA WORKERS COMPENSATION COMMISSION

FOR

INFORMATION TECHNOLOGY SERVICES

AGREEMENT # WCC 102014

Submitted by: Alyson Fletcher

Date: October 22, 2014



I. SERVICE OVERVIEW

The South Carolina Budget and Control Board's Division of Technology Operations (DTO) will provide the South Carolina Workers Compensation Commission (WCC) with certain information technology services.

II. PRICE

ACCOUNT #: 1113100

DTO will provide WCC with SQL database hosting and consulting services:

DESCRIPTION	UNIT COST	QUANTITY	MONTHLY RECURRING COSTS	ANNUAL RECURRING COSTS
MS Server Management Prod and Dev Servers, WCCSQLPRD and WCCSQLDEV	\$482.00	2	\$964.00	\$11,568.00
Server Hosting	\$32.00 per rack unit	4	\$128.00	\$1,536.00
Idera SQL Backup License Maintenance for WCCSQLPRD and WCCSQLDEV	**\$199.00 per license	2		**\$398.00
Idera SQLsafe Database Backup Software	\$995.00	2		\$1,990.00 (one time cost)
HP Hardware Maintenance WCCSQLDEV				**\$1,182.00
Wildcard Cert (wccprogress.sc.gov)				**\$350.00
Microsoft SQL Maintenance 12 Cores				**\$14,689.66
Microsoft OS Maintenance				**403.00
Microsoft Licensing for DEV environment	**\$23.93 per user	4		**\$95.72
Microsoft Remote Desktop CALS	**\$55.27 per CAL	2		**\$110.54
Disaster Recovery for WCCSQL (HP 101,380G72 Processor 8 Core - 16 Cores total)			\$262.40	\$3,148.80
WCCSQL 500 GB (\$0.21 per GB)			\$63.00	\$756.00
SQL DISA Support			*\$75.00	
Backup per GB			*\$0.44	
Total			\$1,417.40	\$36,227.72



*These charges are based on actual monthly usage.

**These estimated charges are pass-through charges and will be re-billed based on the actual cost from the vendor.

DTO will provide the WCC with Imaging:

DESCRIPTION	UNIT COST	QUANTITY	MONTHLY RECURRING COSTS	ANNUAL RECURRING COSTS
Non SCEIS Imaging			\$1,734.75	\$20,817.00
COLD BIRN Add on			\$515.17	\$6,182.04
OnBase Mobile App for Ipad			\$200.00	\$2,400.00
Centera For Imaging Storage for both onsite and offsite	*\$0.72 per G		*\$0.72 per G	
Hyland Named User Client Maintenance	\$115.68	55		\$6,362.40
Hyland Disconnected Scanning Maintenance	\$385.60	4		\$1,542.40
Concurrent Client	\$231.36	3		\$694.08
Concurrent Workflow	\$424.16	2		\$848.32
API License/ 500 Query per hour block license	\$1,928.00	1		\$1,928.00
PDF framework	\$578.40	1		\$578.40
Total			\$2,449.92	\$41,352.64

*These charges are based on actual monthly usage.

**These estimated charges are pass-through charges and will be re-billed based on the actual cost from the vendor.

DTO will provide the WCC with standard desktop support services:

DESCRIPTION	UNIT COST	QUANTITY	MONTHLY RECURRING COSTS	ANNUAL RECURRING COSTS
Standard Desktop Support	\$69.08	67	\$4,628.36	\$55,540.32
MS Office Software Assurance	\$151.40	67		**\$10,143.80
Desktop Support Remote or On-site technical support			*\$55.00	
Total			\$4,628.36	\$65,684.12

*These charges are based on actual monthly usage.

**These estimated charges are pass-through charges and will be re-billed based on the actual cost from the vendor.

DTO will provide WCC with network services:

DESCRIPTION	UNIT COST	QUANTITY	MONTHLY RECURRING COSTS	ANNUAL RECURRING COSTS
Firewall Protection - Medium	\$645.36	1	\$645.36	\$7,744.32
Data Center Network Ports Enterprise	\$16.00 per port	8 ports	\$128.00	\$1,536.00
Internet 10Mbps	\$14.00 per Mbps	10 Mbps	\$140.00	\$1,680.00
100MB Connection C/WB, Fixed Mode	\$513.64	2	\$1,027.28	\$12,327.36
Router Maintenance and Management 24x7 Tier 5	\$282.00	1	\$282.00	\$3,384.00
Wireless Access Point Maintenance and Management 24x7 Tier 2	\$154.00	1	\$154.00	\$1,848.00
Total			\$2,376.64	\$28,520

Price and Payment

DTO may increase or decrease the rates set forth above. DTO must give WCC written notice at least sixty (60) days in advance of any rate increase.

DTO shall invoice WCC monthly and all invoices hereunder are due and payable within thirty (30) days of WCC's receipt of DTO's invoice in accordance with Section 11-35-45 of the Code of Laws of South Carolina.

III. SERVICE LEVEL AGREEMENT

This Agreement is entered into by and between the South Carolina Budget and Control Board, Division of State Information Technology (DTO) with its principal offices located at 4430 Broad River Road, Columbia, South Carolina 29210 and WCC with its principal offices located at 1333 Main Street, Suite 500, Columbia, South Carolina, 29201.

This Agreement represents a joint effort between DTO and WCC to create a shared understanding regarding:



- Services to be provided
- Level of service that can reasonably be expected
- Responsibilities of DTO and WCC

In performing the services to be provided hereunder, DTO will perform all services in a professional and workmanlike manner in accordance with the professional or technical standards applicable to such services and use individuals of suitable training and skill.

Term

This Agreement shall commence xxxx (or when service is activated). Acceptance of this Agreement shall remain in full force and effect continuously until xxxx, and thereafter shall be automatically renewed for successive one-year terms unless written notice of expiration is delivered to the other party at least thirty (30) days prior to expiration of the contract term.

Termination

Either party may terminate this Agreement upon material breach by the other party of any one or more of the terms and conditions of this Agreement. The party so failing shall be notified in writing by the other party of the failure and unless a satisfactory resolution has been agreed upon in writing within sixty (60) days of said written notification, the non-breaching party may terminate this Agreement by so notifying the breaching party.

Confidentiality

DTO understands and acknowledges that the customer's data are proprietary. DTO shall protect such data and use reasonable care to prevent its unauthorized disclosure. DTO and customer understand and agree the determination whether to disclose customer's information in response to requests made pursuant to provisions of the SC Freedom of Information Act, Section 30-4-10 et seq., SC Code of Laws, 1976, as amended, is the responsibility of the customer, and the customer is solely responsible for such decision.

Warranties

DTO shall use reasonable care in processing WCC requests and in performing related services as set forth in this Agreement. DTO shall be responsible only to the extent of (a) correcting, at its expense, any non-conformity which is the sole fault of DTO and (b) reworking, at its expense, any request which may have been completed in error.

Limitation of Liability

Except as provided in the Warranties paragraph above, DTO shall not be liable for specific performance or for any direct, indirect, special or consequential damages such as, but not limited to, loss of anticipated revenues or other economic loss in connection with or arising out of the existence, the furnishing, or the customer's use of any services provided for in this Agreement.

The parties hereto agree that there are no understandings, agreements, representations or warranties, express or implied, including any regarding merchantability, fitness, or fitness for a particular purpose not specified herein respecting this Agreement, the services, or the equipment

described herein or in any Exhibit made a part hereof. This Agreement states the entire obligation of DTO in connection with this transaction.

Force Majeure

DTO shall not be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of service resulting, directly or indirectly, from acts of God, civil or military authority, labor disputes, shortages of suitable parts, materials, labor or transportation, or any similar cause beyond the reasonable control of DTO.

Duties of DTO

- A. DTO certifies that it complies with requirements of the South Carolina Drug Free Workplace Act, Sections 44-107-10, ET SEQ., S.C. Code ANN, (1976).
- B. DTO shall perform its duties and obligations under this Agreement.
- C. In order to facilitate the services to be provided pursuant to this Agreement, DTO shall provide the necessary personnel, network infrastructure, telecommunications infrastructure, and data center infrastructure facilities.
- D. DTO shall maintain the physical security of the infrastructure systems and shall establish and maintain reasonable safeguards against the intrusion by unauthorized persons or destruction or loss of WCC's data in the possession of DTO.
- E. DTO will provide a 24 x 7 x 365 Service Center to serve as the single point of contact for all information technology service problems.
- F. DTO will provide a single point of contact to serve as a liaison between DTO and WCC to respond to any non-service outage related question.
- G. DTO will provide billing for services on a monthly basis.
- H. DTO will establish escalation procedures for services and problems.
- I. DTO will schedule and participate in an annual planning session to review planned Information Technology initiatives (new technology requirements, storage needs, growth anticipated, etc.) and to review this Agreement to determine the actual level of performance by DTO and to define any modifications needed to the Agreement.
- J. DTO will strive to meet or exceed each of the service levels established within this Agreement.

Duties of Customer

- A. WCC will provide a single point of contact for DTO.

-
- B. WCC shall promptly report all problems to DTO's Service Center to ensure proper reporting and performance.
 - C. WCC shall reimburse DTO for the costs associated with providing information technology services as specified in this Agreement.
 - D. WCC shall process invoices as described in Section II. PRICE of this Agreement.
 - E. WCC may elect to participate in an annual session to define the needs of the agency, to review this Agreement to determine the actual level of performance by DTO, and to define any modifications needed to this Agreement.

Disaster Recovery Duties of DTO

- A. Back-up and storage of the data in a secure off-site location
- B. Establishment of disaster recovery network connectivity for the State Data Center
- C. Configuration of the server and the operating system to a functional state
- D. Reestablishment of customer's service (possibly in a degraded mode)

Service Level Objectives

DTO Service Center tracking software will be used to collect and extract data by WCC for all problems submitted to DTO's Service Center. Therefore, all problems must be reported to DTO's Service Center to ensure proper reporting and performance measurement. The number of incidents and requests, the name of the requester, and the resolution time for all tickets will be tracked. The resolution/completion times will be measured from the time of receipt and entry into the tracking software until the time the problem/request has been resolved (completed). Details of any trouble ticket or summary reports will be available to WCC upon request.

Escalation Procedures

There are two escalation lists for WCC to use when DTO is unable to respond in a timely or acceptable manner. One is for system problems and/or outages and the second is for service requests or when normal contacts cannot be made.

Service Escalation Procedures

For system problems and/or outages, the call list is as follows:

ESCALATION	NAME	PHONE NUMBER	E-MAIL ADDRESS
Level 1	Service Center	803-896-0001	cjohelpdesk@cio.sc.gov
Level 2	Kris Pluss Help Desk Manager	803-896-5115 803-348-1342	kpluss@cio.sc.gov
Level 3	Alyson Fletcher, Customer Services	803-896-7552 803-318-0639 (cell)	afletcher@cio.sc.gov
Level 4	Marcus Brailsford, Customer Services	803-896-4778 803-386-5438 (cell)	mbrails@cio.sc.gov

Service Provisioning Procedures

For billing or other administrative issues, the call list is as follows:

ESCALATION	NAME	PHONE NUMBER	E-MAIL ADDRESS
Level 1	Candace Paxton Information Resource Consultant Cost Recovery Management	803-896-0333	cpaxton@cio.sc.gov
Level 2	Betsy Smoak Information Resource Consultant Cost Recovery Management	803-896-0355	bsmoak@cio.sc.gov

Service Level Compliance

Each time DTO fails to meet a service level objective, DTO shall do the following:

- A. Use its best efforts to correct the problem and to begin meeting such service level as soon as practicable.
- B. Upon request, DTO will investigate the root cause(s) of the failure and deliver to WCC a written report identifying such root cause(s).

Data Center Highlights

Access Controls – Physical security is provided to the facility 24x7x365 by DPS security staff. Visitor login sheets and ID checks are maintained at the security desk. A Card reader system restricts movement of personnel to various areas of the building.

Security Cameras – The facility currently has 19 video cameras positioned for monitoring of interior and exterior areas. Three of the exterior cameras are pan, tilt, zoom (PTZ) capable. All cameras record to a central digital recorder for playback and review.

Fire Protection System – The fire protection system consists of Simplex monitoring systems and VESDA smoke detection in 3 zones of the computer room. The system is linked to USC for

constant monitoring. The Computer Room is protected by pre-action dry sprinkler system requiring 2 actions to dump water into a trouble zone (heat, smoke and pressure loss). The remainder of the building is protected by wet sprinkler systems. An emergency power off (EPO) system automatically cuts power to the computer room upon detection of water flow. There are also 3 manual EPO switches located in the computer room exits.

Leak Detection System- An under floor leak detection system is installed to alarm and indicate location in the event of moisture being detected.

UPS System – The UPS system is 1000kva total capacity. Two redundant 500kva Liebert units share the computer room load. Battery backup is capable of supporting computer room for approximately 30 minutes without generator input.

Utility Power – Provided by dual/redundant transformers to redundant main bus. Power is available from 2 different substations with manual transfer switching. Surge suppressors protect main distribution panels.

Emergency Generator – A 1500kw CAT diesel generator provides an emergency power source. Any one of 7 automatic transfer switches can call for the Genset to crank upon sensing loss of utility power. A 3 second loss of power is required to bring the Genset on line. The fuel tank is a 15,000 gallon fiberglass underground storage tank with remote monitoring system for approximately 12 days of emergency operation. The entire facility is on emergency generator, computer room is covered by UPS. A remote generator and UPS monitoring panel are located in the computer room. The fuel burn rate with the whole facility on line is approximately 27 gallons per hour.

Building Controls – Johnson Controls METASYS system provides capability of monitoring and manipulating the HVAC, facility lighting, electrical, and environmental systems. OGS personnel can monitor systems remotely.

Change Advisory Board

All technical changes are discussed and approved at a weekly Change Advisory Board (CAB) meeting, typically held on Tuesdays at 11:00 a.m. All Requests for Change (RFC) must be submitted thirty (30) minutes prior to the CAB meeting each week. A schedule of these meetings will be provided upon request. Changes received after Tuesday at 11:00 a.m. will be considered urgent/emergency changes. An Emergency Change Board must be convened to approve urgent/emergency changes.

Agency requests for change should be submitted by Tuesday to DTO staff with the only rare exceptions being urgent/emergency requests that must be addressed immediately. After changes are approved on Tuesday at 11:00 a.m., a Forward Schedule of Changes is published for the coming week.



Review Schedule

This Service Level Agreement shall be reviewed by DTO and WCC at least annually. This review is to determine the actual level of performance by DTO and to define any modifications needed to the Agreement by WCC and/or DTO. The review times and dates are to be mutually agreed upon by both WCC and DTO.

IV. ACCEPTANCE

Therefore, the signatories hereunder warrant and declare that they are duly authorized to execute this Agreement by virtue of their positions and title and are signing on behalf of their respective entity by virtue and strength thereof and that, furthermore, it is stipulated and agreed by the parties that this Agreement shall be binding upon their respective entity, officers, employees, agents, and their heirs, successors and assigns of each.

By signing this document, the South Carolina Workers Compensation Commission agrees to the project as described previously. This proposal is valid for sixty (60) calendar days. Upon acceptance, return a signed copy to Alyson Fletcher, Customer Service, Division of State Information Technology, 4430 Broad River Road, Columbia, South Carolina, 29210.

**DIVISION OF STATE
INFORMATION TECHNOLOGY**

**WORKERS COMPENSATION
COMMISSION**

BY: _____
(Authorized Signature)

BY: _____
(Authorized Signature)

Gary Cannon

Division Director
(Title)

Executive Director
(Title)

(Date)

(Date)

DTO will provide WCC with SQL database hosting and consulting services:

DESCRIPTION	Unit Cost	Quantity	MONTHLY		ANNUAL	Notes
			RECURRING COSTS	RECURRING COSTS		
MSS Server Management Prod and Dev Servers, WCCSQLPRD and WCCSQLDEV	\$482.00	2	\$964.00	\$11,568.00		The Division of Technology Operations (DTO) offers Server Management which includes: Installing and maintaining Virus Protection, 24 Hour Monitoring of system functions, Installing patches, Fixes and updates to system software, Monitoring system performance and data storage utilization, Resolving system software and hardware problems, Performing system backups (See Backup notes), Reinstalling backup tapes in-house and off-site, Provide and support the storage area network if utilized by the specific server
Server Hosting	\$32.00 per rack unit	4	\$128.00	\$1,536.00		DTO offers Server Hosting within a secure environment. The server racks meet DTO rack standards. The racks have front and rear combination locks. The racks will be supplied with redundant power. The racks are prewired and terminated and tested with connectivity of up to 4 ports per server. SAN connectivity is pre-terminated. These are shared racks and have KVM (keyboard / Video / Mouse) devices that require authentication and will only allow your servers to be managed.
Idera SQL Backup License Maintenance for WCCSQLPRD and WCCSQLDEV	**\$199.00 per license	2		**\$398.00		The Division of Technology Operations Utilizes Idera SQL Safe software for Database backup and Recovery. This is the purchase cost for the Software.
Idera SQL Safe Database Backup Software	\$995.000	1		\$1,990.00 (one time cost)		The Division of Technology Operations Utilizes Idera SQL Safe software for Database backup and Recovery. This is the annual maintenance cost for the Software.
HP Hardware Maintenance WCCSQLDEV				**\$1,182.00		This passthrough cost is the actual cost for Hardware maintenance supplied by HP.
Wildcard Cert (wccpregress.wc.gov)				**\$50.00		This passthrough cost is the actual cost for the Symantec (Verisign) SSL wildcard certificate

Microsoft SQL Maintenance 12 Cores					**\$14,689.66	This passthrough cost is the actual cost for Microsoft SQL licensing maintenance based on two servers with two processors with six cores each. If these specifications change, the costs will change also.
Microsoft OS Maintenance					**403.00	This passthrough cost is the actual cost for Microsoft Operating System (OS) licensing maintenance based on two servers with two processors with six cores each. If these specifications change, the costs will change also.
Microsoft Licensing for DEV environment	**\$23.93 per user	4			**\$95.72	This passthrough cost is the actual cost for Visual Studio Pro with MSNOM licensing maintenance. This licensing allows you not to duplicate the OS and Database users for the development server.
Microsoft Remote Desktop CALS	**\$55.27 per CAL	2			**\$110.54	This passthrough cost is the actual cost for Microsoft Remote Desktop licensing maintenance. This licensing allows you access the two servers remotely.
Disaster Recovery WCCSQL/PLU (1IP DL380G72 Processor & Core - 16 Cores Total)				\$262.40	\$1,148.80	DTO is responsible for backups and restoration of the server. The customer is responsible for the application(s).
Disaster Recovery WCCSQL 300 GB (\$4.21 per GB)				\$63.00	\$756.00	Storage
SQL DBA Support				*\$75.00		Hourly DBA support as required.
Backup per GB				*\$0.44		Rate associated with the back-ups of servers and data.
Total				\$1,417.40	\$36,217.72	

*These charges are based on actual monthly usage.

** These estimated charges are pass-through charges and will be re-billed based on the actual cost from the vendor.

DTQ will provide the WCC with Imaging:

DESCRIPTION	Unit Cost	Quantity	MONTHLY RECURRING COSTS	ANNUAL RECURRING COSTS	Notes
Non SCEIS Imaging			\$1,734.75	\$20,817.00	Non SCEIS Imaging is an Electronic Document Management Service (EDMS) and is offered as a hosting environment for South Carolina government agencies to implement document imaging and workflow. The hosting environment leverages and expands upon the central document management infrastructure that is in place for the SCEIS project. TDMS enables government agencies to extend their document imaging and workflow beyond the scope of SCEIS imaging.
COLD IRM Add on			\$515.17	\$6,182.04	COLD IRM is an add on service for South Carolina government agencies that are currently under contract with DTQ for EDMS and SCEIS agencies. The hosting environment leverages and expands upon the central document management infrastructure that is in place for the SCEIS project. COLD IRM enables government agencies to extend their document imaging and workflow beyond the scope of South SCEIS and the base EDMS service. The functionality that COLD IRM provides is to capture reports in the imaging system instead of printing reports to paper, it also enables text fields in the reports to be used as keywords to search and retrieve reports.
OnBase Mobile App for iPad			\$200.00	\$2,400.00	Allows for iPad access to onbase imaging system. This is an add-on service to the Non SCEIS Imaging line of service.
Centra For Imaging Storage for both onsite and offsite	**\$0.72 per GB		**\$0.72 per GB		Centra Storage Service is a Storage Archival platform that allows us to store archived data for extended retention periods. The service can place different archival retention periods on customer data to meet the requirements of the customer, application, or regulatory statute. This storage is specific to Non SCEIS Imaging (EDMS). This storage is replicated to the DR facility.
Hyland Named User Client Maintenance	**115.88	55		**\$6,362.40	This passthrough cost is the actual cost for Hyland Named User Client licensing maintenance based on number of users listed. If these specifications change, the costs will change also.

Hyland Disconnected Scanning Maintenance	**\$185,600	4		**\$1,512,400	This passthrough cost is the actual cost for Hyland Disconnected Scanning licensing maintenance based on number of users listed. If these specifications change, the costs will change also.
Concurrent Client	**\$231,360	3		**\$694,080	This passthrough cost is the actual cost for Hyland view clients. The number listed is the number of concurrent clients that can be connected at one time utilizing this license.
Concurrent Workflow	**\$424,160	2		**\$848,320	This passthrough cost is the actual cost for Hyland Concurrent Workflow licensing maintenance based on number of licensing listed. If these specifications change, the costs will change also.
API License/500 Query per hour block license	**\$1,928,000	1		**\$1,928,000	This passthrough cost is the actual cost for API License/500 Query per hour block license licensing maintenance based on number of hours listed. If these specifications change, the costs will change also.
PDF framework	**\$378,400	1		**\$378,400	This passthrough cost is the actual cost for PDF framework licensing maintenance based on number of licenses listed. If these specifications change, the costs will change also.
Total				\$2,449,920	\$41,352,640

* These charges are based on actual monthly usage

** These substantial charges are pass-through charges and will be re-billed based on the actual cost from the vendor.

DTO will provide the WCC with standard desktop support services:

DESCRIPTION	Unit Cost	Quantity	MONTHLY RECURRING COSTS	ANNUAL RECURRING COSTS	Notes
Standard Desktop Support	\$69.08	67	\$4,628.36	\$55,540.32	The Standard Desktop Support exists identified include the following services: File services - Access to DTO file servers to store agency and user data. Print services - Access to DIO network printing queues for network printers. Email services - Support and maintenance on DIO Email servers for email to internal employees, other State agencies, and to the Internal Office conducted in the Internet, access to email from a browser on any workstation anywhere in the world via WebAccess. Antivirus Services - Scanning of all files prior to saving at the server. Scanning of email for viruses prior to entering the email system with McAfee Virus Scanning appliances. Scanning of all files prior to opening at the workstation. Anti-Spam Services - Scanning of all email for SPAM prior to entering the email system
MIS Office Software Assurance	\$126.17	67		**\$10,143.80	This passthrough cost is the actual cost for Microsoft Office (Desktop) licensing maintenance based on the number of users specified. If these specifications change, the costs will change also.
Desktop Support Remote or On-site technical support			*\$55,100		Hourly onsite support as needed.
Total			\$4,628.36	\$65,684.12	

*These charges are based on actual monthly usage

**These estimated charges are pass-through charges and will be re-billed based on the actual cost from the vendor.

DTO will provide WCC with network services:

DESCRIPTION	Unit Cost	Quantity	MONTHLY RECURRING COSTS		ANNUAL RECURRING COSTS	Notes
			RECURRING COSTS	RECURRING COSTS		
Firewall Protection - Medium	\$645.36	1	\$645.36	\$7,744.32	Medium Virtual Firewall Protection at DTO includes the following services: Security policies custom tailored to match the needs of the individual clients, access to four virtual connections, and a redundant automatic failover when necessary.	
Data Center Network Ports Enterprise	\$16.00 per port	8	\$128.00	\$1,536.00	Data Center Network Ports Enterprise is the port access for servers and equipment located in the DTO Broad River Road Datacenter to	
Internet Hostings	\$14.00	10	\$140.00	\$1,680.00	This internet service is to provide a 10 Mbps connection to the outside internet and is provided for \$14 per Mbps by DTO	
100Mbps Connection C/W-B, Fixed Mode	\$513.64	2	\$1,027.28	\$12,327.36	The 100Mbps Connection C/W-B, Fixed Mode is for 100 Mbps of MetroNet access. This provides the pipe that the internet connection runs on, as well as other services such as PMS and VoIP	
Router Maintenance and Management 24x7 Tier 3	\$282.00	1	\$282.00	\$3,384.00	The Router Maintenance and Management provides 24x7x24 router maintenance / support by DTO. This charge includes setup, configuration as well as equipment troubleshooting.	
Wireless Access Point Maintenance and M	\$154.00	1	\$154.00	\$1,848.00	The Wireless Access Point Maintenance and Management provides 24x7x24 router maintenance / support by DTO. This charge includes setup, configuration as well as equipment troubleshooting.	
Total			\$2,376.64	\$28,519.68		

DTIO will provide WCC with security services:

DESCRIPTION	Unit Cost	Quantity	MONTHLY RECURRING COSTS	ANNUAL RECURRING COSTS	Notes
Security Monitoring					<p>South Carolina's network security monitoring, alerting, and analysis services are designed to monitor the State networks for intrusions and cyber-attacks.</p> <p>Agency hosted patch management console with Agency deployed VPN workstation clients. These are integrated with existing Agency software deployment tools (e.g., SCCTM / WSUS). Solution will provide secure, encrypted remote access to Agency networks and systems. Solution consists of:</p> <ul style="list-style-type: none"> • DTIO hosted VPN licensing server and statewide two-factor authentication cloud service • VPN: Agency hosted Juniper VPN appliance and Agency deployed VPN workstation clients • ZTA: Agency hosted SafeNet Switch Server and agency deployed tokens
2 Factor Authentication					<ul style="list-style-type: none"> • This is a Division of Information Security (DIS) service and will have a separate MOA.
Laptop Encryption					<p>Intelligence Solution is Symantec Whole Disk Encryption. Agencies have 2 participation options: Participation in the centralized laptop encryption solution, with deployment led by the project team and supported by Agency resources; agency specific solution deployment. While the project would fund the software licensing costs and provide high level guidance, Agencies will be responsible for this deployment.</p> <ul style="list-style-type: none"> • This is a Division of Information Security (DIS) service and will have a separate MOA.

Third Party Patch Management					<p>Underlying the enterprise Secunia patch management solution. Agencies will manage the patch level of third party software on workstations. The enterprise solution consists of ITO hosted scalable patch management cloud service.</p> <p>*This is a Division of Information Security (DIS) Info. See offering and will have a separate MOA.</p>
Total					

State of South Carolina

1335 Main Street, 5th Floor
P.O. Box 1713
Columbia, S.C. 29202-1713



TEL: (803) 737-5700
www.sc.gov

Workers' Compensation Commission

TO: Commissioners

FROM: Gary M Cannon

DATE: October 23, 2014

RE: Petition to Repeal Regulation 67-801

Attached is a Petition to Repeal Regulation 67-801, a copy of Regulation 67-801, a copy of Section 1-23-126 and a copy of Section 42-3-390 of the SC Code of Laws.

The Petition requests the repeal of 67-801 Settlement of the Claim, General. This regulation establishes procedures for the settlement of a claim.

Repealing Regulation 67-801 is vital to accomplishing the Commissions' statutory duties as set out in § 42-3-390.

ACTION REQUESTED: Deny request to repeal regulation 67-801 on the grounds that the regulation is vital to accomplishing the Commissions' duties under the Act.

Alexander Guice

P.O. Box 13281
Tampa, FL 33681
Email: alguice@hotmail.com
Phone: (813) 562-0547

October 3, 2014

Virginia Crocker, Judicial Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202-1715

In RE: Alexander Guice v. U.S. Food Service, Inc., et al
WCC Case No : 0506205

Dear Ms. Crocker:

Please find enclosed an original and two (2) copies of a Petition to Repeal South Carolina Regulation 67-801 of the Workers' Compensation Act, with supporting attachments; a certificate of service, and a \$25.00 Money Order for the filing fee. Please forward to the appropriate personnel for filing, and please return a date stamped copy of the same and a receipt to the undersigned in the prepaid self-addressed envelope enclosed for your convenience.

Please be advised the undersigned has taken the liberty to provide true copies of the aforementioned petition to uninterested jurists, and the like, and respectfully requested that they submit briefs regarding the petition prior to the thirty (30) day time limit prior to the Commission issuing a decision regarding the petition.

Should you have any questions or concerns, please do not hesitate to contact me. Thank you for your assistance in this matter.

Very truly yours,



Alexander Guice
Petitioner, Pro Se

/AG

Enclosures: As stated

Cc:

- 1) The Honorable Lee S. Alford
- 2) Robert G Bacon, Esquire
- 3) The Honorable Donald W. Beatty
- 4) Erin L. Hantske, Esquire
- 5) The Honorable Eric Holder
- 6) The Honorable James E. Lockemy
- 7) Dr. Lonnie Randolph, Jr.
- 8) Clara Thomas Smith, Executive Director
- 9) The Honorable Letitia H. Verdin

THE STATE OF SOUTH CAROLINA

In the Workers' Compensation Commission

In Re:

Alexander Guice,.....Employee, Claimant, Plaintiff, Appellant,

v.

**US Food Service, Inc., and ACE American Insurance
Company c/o Gallagher Bassett Service, Inc.,
Employer and Carrier,Defendants, Respondents.**

**Workers' Compensation Commission Case No.: 0506205
Circuit Court Case No.: 2013-CP-32-01272 & 2014-CP-32-00399
Court of Appeals Case No.: 2013-002491**

**PETITION TO REPEAL SOUTH CAROLINA REGULATION
67- 801 OF THE WORKERS' COMPENSATION ACT**

**Alexander Guice
Post Office Box 13281
Tampa, FL 33681
(813) 562-0547
Petitioner, Pro Se**

TABLE OF CONTENTS

Introduction.....	1
Factual statement of the case.....	1
Statutory right to petition the repeal of a regulation.....	11
Argument.....	11
<u>Argument # 1</u>	
Regulation 67- 801 violates S.C. Code Ann. § 42-1-620.....	11
<u>Argument # 2</u>	
The current regulatory procedure in place to approve Clincher Agreements by the Workers' Compensation Commission opens the door to intentional misrepresentation of injured workers and fraud.....	14
<u>Argument # 3</u>	
Regulation 67-801 and the use and application of the Clincher Agreement violates the intended purpose of the Workers' Compensation Act.....	17
Commentary.....	21
Conclusion.....	24
Verification.....	ii

INTRODUCTION

PLEASE TAKE NOTICE that ALEXANDER GUICE (hereafter "Claimant" or "Employee" or "Injured Worker" or "Appellant" or "Petitioner"), the Petitioner in the above styled caption, asserts the petition in this matter are being filed by Petitioner *in propria persona*, wherein pleadings are to be considered without regard to technicalities. In *propria*, pleadings are not held to the same high standards of perfection and expertise as practicing lawyers. See Haines v. Kerner 92 Sct 594, also See Power 914 F2d 1459 (11th Cir 1990), also See Hulsey v. Ownes 63 F3d 354 (5th Cir 1995). Pursuant to S.C. Code Ann. § 1-23-126 (1980), Petitioner presents this "Petition to Repeal South Carolina Regulation 67-801 of the South Carolina Workers' Compensation Act" (hereafter, the "Act"), and the like, in particular, seeking the Workers' Compensation Commission (hereafter, the "Commission") to repeal S.C. Reg. 67-801 and the alleged unlawful use and application of the "Settlement Agreement and Final Release", also known as the "Clincher" agreement, as a means to terminate, resolve and/or settle injured workers' entitled rights to compensation payments, and would further state as follows;

FACTUAL STATEMENT OF THE CASE

Demographical Background Information:

Company Name and Location:	US Foodservice, Inc. 120 Longs Pond Road Lexington, SC 29072
Injured Worker's Name:	Alexander Guice
Date of Hire:	10/01/2001
Date of Injury:	05/05/2005
Date of Birth:	02/13/1971
Gender:	Male
Race/Ethnicity:	Black/African American

Education: Completion of the 10th Grade / General Equivalency Diploma (G.E.D.)
Occupation: Delivery (Route) Driver
Former/Current Family Status: Married with 3 dependents; involuntarily separated in 12/2005; divorced in 10/2007; currently single with 1 dependent under the age of 18
Previous Employment History: Professional Driver, Crete Carrier Corporation (2000-2001); Professional Driver, Transport Corporation of America (1999-2000); Sergeant, U.S. Army (1990-1997 – involuntarily separated under honorable conditions - a redacted copy of DD Form 214 is enclosed herein as Attachment "A")
Current Employment: Unemployed since November 2005

Alexander Guice was hired as a delivery driver by US Foodservice, Inc. on October 1st, 2001. The parties are bound by the Act pursuant to S.C. Code Ann. § 42-1-310 (1996). On May 5th, 2005 petitioner was injured in a work-related accident while in the performance and scope of claimant's duties. Claimant immediately notified employer of the work related injury on May 5th, 2005. The work-related injury was admitted by the parties. At the time of the work-related injury, the mutually agreed average weekly wage of the claimant was \$1,161.00 per week (Attachment "B").

The Commission assigned this matter Case Number 0506205. On or around May 16th, 2005 Claimant retained the legal services of Robert G. Bacon, Esq. and Harry Pavilack & Associates, P.A. and later, the Bacon Law Firm, LLC (hereafter "Attorney Bacon") (Attachment "C"). Attorney Bacon currently practices law with the Cardinal Law Group, LLC. Claimant attended all required and scheduled medical appointments related to the work-related injury. On October 27th, 2005 the authorized treating physician, namely, Alan Tamadon, MD (hereafter "Dr. Tamadon") opined maximum medical improvement, or "MMI". In particular, Dr. Tamadon; (1) assigned a 5% percent impairment rating to the whole

person of claimant; (2) assigned permanent lifting restrictions to claimant; and (3) reported to the employer that claimant could no longer perform the duties of a delivery driver (Attachment "D").

The medical opinion of Dr. Tamadon was never challenged by the parties. When Dr. Tamadon opined MMI on October 27th, 2005 claimant had received temporary compensation payments for approximately 175 days, including the first 150 days¹ (Attachment "E"). Subsequent MMI, the employer never offered or afforded the claimant suitable work to accommodate claimant's incapacity.

On or around November 2nd, 2005, the employer "verbally" terminated claimant² on the grounds of "permanent lifting restrictions" and "no position available" (Attachment "F"). Claimant Immediately informed Attorney Bacon of

¹ The Act, and in particular, S.C. Code Ann. § 42-9-260(F) provides clearly expressed procedures the employer's representative must comply with in terms of lawfully suspending and/or terminating compensation benefit payments. S.C. Code Reg. § 67-506D & E (1997) states in pertinent part, "After the one hundred fifty day period, when the claimant is receiving temporary compensation and the authorized health care provider assigns an impairment rating and reports the claimant is unable to return to work at the same or other suitable job, the employer's representative must continue payment of temporary compensation until the Commission finds the employer's representative may terminate temporary compensation. E. To request a hearing for permission to terminate temporary compensation, the employer's representative shall file a Form 21 with the Judicial Department. (1) The employer's representative shall serve a copy of the Form 21 on the claimant according to R.67-211. (2) The employer's representative shall certify temporary compensation is current or no hearing will be set." In the instant case, the employer's representative never filed a Form 21 with the Commission requesting permission to terminate compensation payments. The Commission never convened a stop payment hearing, and the Commission never issued an Order granting permission to terminate compensation payments.

the termination; however, Attorney Bacon took no legal action on behalf of the claimant.

Subsequent the termination of employment, the employer and employer's representative suspended all payments of compensation to the claimant and reduced claimant's average weekly wage from \$1,161.00 to the state maximum compensation rate of \$592.56 (Attachment "G"). Claimant informed Attorney Bacon that claimant was not receiving compensation payments; however, again, Attorney Bacon took no legal action on behalf of claimant. On or around December 13th, 2005 claimant was involuntarily separated from claimant's now ex-wife. Claimant was homeless and sleeping in claimant's personally owned vehicle.

On or around December 16th, 2005 claimant received telephonic correspondence from Attorney Bacon. Claimant informed Attorney Bacon that claimant was homeless and still was not receiving compensation payments. Attorney Bacon informed claimant that employer's representative was offering \$20,000.00 to settle the workers' compensation claim. Attorney Bacon further stated that if the claimant did not accept the settlement offer, Attorney Bacon did

² On or around November 2, 2005 Michael Sanders, Transportation Manager for the employer, verbally terminated the Petitioner. The petitioner requested a written copy of the termination notice; however Mr. Sanders stated the written termination notice would be mailed to the petitioner. After months of calling the HR Department of the Employer, the employer provided a written letter dated March 9, 2006 stating "Mr. Guice left the company in November 2005 because he could not longer perform the duties of a delivery driver". Petitioner did not receive a copy of the termination notice until the employer's representative complied with a duly served Subpoena, with service of the same upon Petitioner on or around December 20th, 2012, more than seven years after the termination.

not know when claimant could expect to receive another compensation payment, or any other payment of any kind. Attorney Bacon never advised the claimant of any legal or civil rights afforded to the claimant under the Act or S.C. Code Ann. § 41-1-80³ with respect to petitioner's entitled right to continued employment or entitled right to compensation.

On December 22nd, 2005, and in the office of Attorney Bacon, claimant signed the Settlement Agreement and Release. No hearing, formal conference, or informal conference before the commission was ever convened. Subsequent to claimant signing the Settlement Agreement and Release, claimant received an envelope from the employer's carrier which contained three (3) compensation checks reflecting withheld compensation payments from November 7th, 2005 to December 17th, 2005 (Attachment "H"). The checks were paid out at the reduced average weekly wage of \$592.56. On or around January 5th, 2006 Commissioner David W. Huffstetler approved the aforementioned Settlement Agreement and Release (Attachment "H"). Subsequent the approval of the Settlement Agreement and Release, claimant received a check for \$13,333.33 from Attorney Bacon, as Attorney Bacon retained \$6,666.66 or 33.3% of the settlement amount as attorney

³ S.C. Code Ann. § 42-1-80 prohibits an employer from terminating an employee as retaliation against an employee who has filed a claim with the Commission. Furthermore, 42-1-80 provides the affirmative defenses an employer can assert in support of terminating an employee; however, as confirmed in the termination notice, the employer terminated the petitioner on the grounds of "permanent lifting restrictions" and "no position available", grounds which are not support by law, in addition to the fact that the permanent lifting restrictions incurred by petitioner were a direct result from the injuries sustained in the admitted work-related injury which occurred on May 5, 2005.

fees. Claimant has not received another payment from the employer's representative to date. At the time compensation payments were terminated, on December 4th, 2005, claimant had received temporary compensation payments for approximately 213 days, including the first 150 days (Attachment "E"). Attorney Bacon never filed any action with the commission or the Circuit Court on behalf of the claimant with respect to claimant's entitled right to employment or compensation payments.

Claimant relieved Attorney Bacon as counsel of record (Attachment "I").

On December 7th, 2012 Claimant duly served a WCC Form 27 (Subpoena) upon Attorney Bacon, commanding the same to provide unto claimant a copy of the client file regarding W.C.C. Case Number 0506205; however, to date, Attorney Bacon has failed to comply with the duly served Subpoena (Attachment "I"). On December 7, 2005, following guidance from the Commission, Claimant filed a WCC Form 50 requesting a hearing with the commission, alleging *inter alia*; (1) the employer unlawfully terminated claimant; (2) the employer's representative unlawfully terminated temporary total compensation payments; and (3) claimant was subjected to misrepresentation by Attorney Bacon (Attachment "J").

The Employer's Representative filed and served a WCC Form 51 denying claimant's employment and compensation payments were unlawfully terminated, on the grounds that the parties entered into the Settlement Agreement and Release, and that ("...he (claimant) entered into a clincher settlement agreement to resolve his claim related to his accident of May 5, 2005") (Attachment "K"). On January 29th, 2013 the commission issued a Notice of Hearing, scheduling a

hearing regarding WCC Case Number 0506205 to be heard in Summerville, SC on March 28th, 2013 (Attachment "L").

Claimant filed several motions with the commission, and in particular, a "Motion for Transfer of Jurisdiction", seeking the district assigned to hear WCC Case Number 0506205 be transferred from "District 4" (Charleston) to "District 7" (Richland) based on the employer's proper address of 120 Longs Pond Road, Lexington, SC 29072, which was not objected to, and mutually agreed with, by the Defendants' (Attachment "M"). On February 22nd, 2013 Single Commissioner Susan S. Barden (hereafter "Commissioner Barden"), while within the jurisdictional control of District 2, issued an Order cancelling claimant's previously scheduled March 28th, 2013 hearing and dismissing all motions filed with respect to WCC Case No.: 0506205 on the grounds that ("Claimant settled his claim (WCC# 0506205) through a Full and Final Settlement Agreement...") (Attachment "N").

On February 28th, 2013 Appellant filed a WCC Form 30 requesting a review of Commissioner Barden's February 22nd, 2013 Order (Attachment "O"). On March 4th, 2013 Claimant filed and served a "Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments (hereafter "Motion for Reinstatement")" (Attachment "P", exhibits to the motion not included). On March 14th, 2013 Defendants' filed and served a "Reply" to the Motion for Reinstatement (Attachment "Q"). A review of the aforementioned "Reply to Motion for Reinstatement" confirms Defendants' failed to "affirm or deny" the averments contained in claimant's aforementioned "Motion for

Reinstatement". On March 17th, 2013 claimant filed and served an "Answer" to the "Reply" to the Motion for Reinstatement", wherein claimant asserted Rule 8(d) of the South Carolina Rules of Civil Procedure (SCRCP)("...Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading...") (Attachment "R"). On March 18th, 2013 claimant filed and served a proposed order granting the motion for reinstatement (Attachment "S").

On March 27th, 2013 Gary M. Cannon, Executive Director of the Commission (hereafter "Mr. Cannon"), issued correspondence to claimant in regards to the aforementioned 'Motion for Reinstatement', wherein Mr. Cannon summarily dismissed the same⁴ on the grounds that ("...the Commission does not have subject matter jurisdiction for the Issues set forth in the motion.") (Attachment "T"). To date, neither jurisdictional Commissioner Roche, nor the Commission, has ever adjudicated the aforementioned 'Motion for Reinstatement' as required by law.

On April 8th, 2013 Appellant appealed the March 27th, 2013 decision of Mr. Cannon to the Lexington County Court of Common Pleas (hereafter "lower court"), which assigned the matter Case Number 2013-CP-32-01272. On June 10th, 2013 the lower court issued an "Order Granting Defendants' Motion to Dismiss" on the grounds that ("...Claimant...has failed to exhaust all

⁴ S.C. Code Ann. § 42-3-20(C) states in relevant part that "The commissioners shall hear and determine all contested cases..." S.C. Code Ann. § 42-3-80 provides the clearly expressed authorities and duties of the executive director, none of which includes rendering decisions in contested cases brought before the commission.

administrative remedies within the workers' compensation forum prior to initiating this appeal..." (Attachment "U"). The aforementioned Order did not include a single reference or citation of authority relied upon by the lower court in support of its rationale with respect to granting the dismissal of the appeal.

Appellant filed a "Motion for Reconsideration" challenging the lower court's opinion; however, the lower court issued an Order on September 6th, 2013 denying Appellant's motion. Upon notice of the lower court's September 6th, 2013 decision, on or around November 22nd, 2013, Appellant filed and served a Notice of Appeal, challenging the June 10th, 2013 order of the lower court with the Court of Appeals (hereafter "appellate court") which assigned the appeal Case Number 2013-002491. On January 31st, 2014 Appellant filed and served an "Appellant's Initial Brief" and "Designation of Matter" with the appellate court.

On February 28th, 2014 Respondents' filed and served a "Motion to Dismiss Appeal". On March 10th, 2014 Appellant filed a "Return and Counterclaim to Motion to Dismiss Appeal". Respondents' filed a "Reply to Motion to Dismiss Appeal". On April 24th, 2014 the appellate court issued an Order dismissing the appeal and remanding the case back to the Circuit Court and ordering the Circuit Court to "...consider the merits of this appeal in conjunction with Appellant's appeal from the commission's final order (Attachment "V").

With respect to Petitioner's Form 30 appealing the February 22nd, 2013 Order of Commissioner Barden, briefs were duly filed by both parties. The Appellate Panel of the Commission considered the appeal without oral arguments. On July 17th, 2013 the Appellate Panel of the Commission issued a

final order affirming the aforementioned February 22nd, 2013 Order of Commissioner Barden⁵. In the "Conclusions of Law" section, the Appellate Panel concluded that "Pursuant to S.C. Reg. 67-801, Claimant settled his claim (WCC No. 0506205) through a Full and Final Settlement Agreement which was approved by the South Carolina Workers' Compensation Commission on January 5, 2006. Pursuant to S.C. Code Reg. 67-801(E), the Employer and the Insurance Carrier are relieved from any further responsibility for payment of compensation or medical expenses..." (Attachment "W").

Petitioner appealed the final order of the commission to the lower court, which assigned the appeal Case Number 2014-CP-32-00398. After briefs were filed by the parties, a hearing was convened on June 16th, 2014. Petitioner did not appear at the hearing due to financial circumstances. On July 21st, 2014, the Circuit Court issued an Order affirming the final order of the commission and dismissing the appeal (Attachment "X"). On August 4th Petitioner filed a "Motion for New Trial", wherein Petitioner challenged the July 21st Order, *inter alia*, on the grounds of abuse of discretion; fraud upon the court; that the Circuit Court failed

⁵ It should be noted that although Commissioner Andrea C. Roche (Commissioner Roche), who was the jurisdictional district 7 commissioner (See Attachment "O") who failed to perform Her Honor's required ministerial duty, pursuant to Canon 3B(2), Code of Judicial Conduct, Rule 501 South Carolina Appellate Court Rules (SCACR); S.C. Code Ann. § 42-3-20(C); and S.C. Code Reg. 67-707C(2)(c) with respect to issuing an order regarding the petitioner's aforementioned "Motion for Reinstatement", Commissioner Roche was one of the Commissioners assigned to the Appellate Panel who heard and ultimately affirmed the February 22 Order from Commissioner Barden at the review hearing. Is it possible that the May 21st, 2013 review hearing and subsequent July 17th, 2013 final order issued by the commission is erroneous due to the failure of Commissioner Roche to issue an order on the "Motion for Reinstatement" prior to the review hearing being held?

to comply with the April 24th Appellate Court Order and consider the merits of the remanded and related appeal; and Petitioner's assertion that S.C. Code Reg. 67-901 and the clincher agreement entered into by the parties must be invalidated by the Circuit Court pursuant to S.C. Code Ann. § 42-1-620 (1962) ("No agreement by an employee to waive his rights to compensation under this Title shall be valid.").

After the submission of additional pleadings by the parties, as requested by the Circuit Court, the Honorable Brian M. Gibbons informed the parties on September 18th that a ruling would be issued within the next 10 days (Attachment "Y"). However, to date, no ruling has been issued.

STATUTORY RIGHT TO PETITION THE REPEAL OF A REGULATION

S.C. Code Ann. § 1-23-126(1980) states in pertinent part, "An interested person may petition an agency in writing requesting the promulgation, amendment or repeal of a regulation. Within thirty days after submission of such petition, the agency shall either deny the petition in writing (stating its reasons for the denial) or shall initiate the action in such petition". Petitioner meets the criteria of an "interested person" on the grounds that Petitioner's entitled rights to compensation have been alleged to be unlawfully terminated by way of use and application of the clincher agreement Petitioner was coerced into entering, which Petitioner alleges is in clear violation and contradiction of S.C. Code Ann. § 42-1-620(1962).

ARGUMENT

I.

Regulation 67- 801 violates S.C. Code Ann. § 42-1-620

"The cardinal rule of statutory interpretation is to determine the intent of the legislature" Miller v. Aiken, 364 S.C. 303, 307, 613 S.E.2d 364, 366 (2005). "The intent of the legislature should be ascertained primarily from the plain language of the statute" State v. Landis, 362 S.C. 97, 102, 606 S.E.2d 503, 505 (Ct. App. 2004). "The language must also be read in a sense which harmonizes with its subject matter and accords with its general purpose" Mun. Ass'n of South Carolina v. AT&T Communications of S. States, Inc., 361 S.C. 576, 580, 606 S.E.2d 468, 470 (2004). "A statute as a whole must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of the lawmakers" Liberty Mut. Ins. Co. v. South Carolina Second Injury Fund, 363 S.C. 612, 622, 611 S.E.2d 297, 302 (Ct. App. 2005).

A review of S.C. Code Ann. § 42-1-620 (1962) - Agreements of employee to waive rights shall be invalid – reflects a clear and unambiguous interpretation of the intent of the legislature. The statute states, "No agreement by an employee to waive his rights to compensation under this Title shall be valid." Title 42 addresses Workers' Compensation. The statute provides no exceptions wherein an employee would be able to deviate from the law and waive his or her rights to compensation by way of an agreement. Even if an employee wanted to waive, resolve, relinquish, or settle entitled rights to compensation by way of an agreement, it would be unlawful, pursuant to the "plain language of the statute" State v. Landis, 362 S.C. 97, 102, 606 S.E.2d 503, 505 (Ct. App. 2004).

Although the Commission, pursuant to S.C. Code Ann. § 42-3-30 (1962)

(“The Commission shall promulgate all regulations relating to the administration of the workers' compensation laws of this State necessary to implement the provisions of this title and consistent therewith.”), has the inherent authority and power to promulgate all regulations relating to the administration of the workers' compensation laws, the regulations are required to be “consistent” with the statutes of Title 42, which includes S.C. Code § 42-1-620.

In clear contradiction, and violation of S.C. Code Ann. § 42-1-620, S.C. Code Reg. 67-801A states, “After the claimant reaches maximum medical improvement the parties may agree to settle the claim by signing a Form 16 or Form 16A, Agreement for Permanent Disability/Disfigurement Compensation, or by signing an Agreement and Final Release (clincher)”. Furthermore, S.C. Code Reg. 67-801E & F states, “E. An Agreement and Final Release (clincher) relieves the employer and its representative from any further responsibility for payment of compensation or medical expenses, unless the Agreement and Final Release specifically provides otherwise. When the claimant signs the Agreement and Final Release and it is approved, the claimant does not have the right to ask for additional payments in the future even if the claimant's medical condition worsens, unless otherwise specifically provided in the document. F. An official copy of the settlement is approved and certified by the Commission as binding”.

The Petitioner would allege unto the Commission that the Commission has acted outside its scope of authority, as stated and afforded in S.C. Code Ann. § 42-3-30, and has promulgated a regulation, namely, S.C. Code Reg. 67-801, which is inconsistent with, and in direct contradiction and violation of, S.C. Code Ann. §

42-1-620. Finally, in Society of Professional Journalists v. Sexton, 283 S.C. 563, 324 S.E. 2d 313 (S.C. 1984), the Supreme Court opined, "a regulation...must fall when it alters or adds to a statute."

II.

The current regulatory procedure in place to approve Clincher Agreements by the Workers' Compensation Commission opens the door to intentional misrepresentation of injured workers and fraud

In addition to Petitioner's assertion that S.C. Code Reg. 67-801 and the application and use of the Agreement and Final Release (clincher) is inconsistent with, and in direct contradiction and violation of, S.C. Code Ann. § 42-1-620, Petitioner would allege unto the Commission that the regulatory procedures in place to approve clincher agreements, by the Commission, opens the door to intentional misrepresentation of injured workers, and fraud. In particular, S.C. Code Reg. 67-801B states, "B. If each party is represented by an attorney, an appearance before a Commissioner is not required for approval of a settlement unless either party requests an informal conference, or the Commissioner schedules a hearing".

Furthermore, S.C. Code Reg. 67-803B(2) states in relevant part, "B. An Agreement and Final Release shall be approved as follows: (2) If the claimant is represented by an attorney, the claimant, his or her attorney, and the attorney for the employer's representative sign the Agreement and Final Release. The Agreement and Final Release shall be filed with the Claims Department. (a) The attorney for the employer's representative files the original and two copies of the proposed Agreement and Final Release with the Claims Department. (b) An

official copy of the Agreement and Final Release is returned to the attorney for the employer's representative. (c) The employer's representative shall provide the claimant an official copy of the Agreement.

Petitioner asserts the procedures currently in place to approve clincher agreements opens the door to intentional misrepresentation, based on the fact that the Commission does not require a hearing, conference, or informal conference prior to approving clincher agreements when injured workers are represented by an attorney. The procedures also open the door to fraud, based on the fact that the Commission, and in particular, the single Commissioner who approves the clincher agreement without convening a hearing, conference, or informal conference, relies on the injured worker's attorney, and not the injured worker, that the injured worker has been duly advised of the injured worker's entitled rights – and the rights the Injured worker is waiving, relinquishing, releasing, or settling – when the injured worker enters into the clincher agreement.

In the instant case, the Petitioner's former attorney, Robert G. Bacon, Esq., never informed the Petitioner that the Petitioner had the option and entitled legal right to continue receiving entitled compensation payments, at the mutually agreed upon average weekly wage of \$1,161.00 per week, pursuant to the fact that at the time the authorized treating physician opined maximum medical improvemant, the Patitioner had received temporary compensation payments for approximately 175 days (Attachment "D").

Additionally, Attorney Bacon intentionally took no legal action on behalf of

the Petitioner when the employer's representative stopped payments of compensation, which was in willful violation of S.C. Code Ann. § 42-9-260(F) and S. C. Code Reg. 67-506(D) of the Act. Still further, Attorney Bacon intentionally failed to take legal action on behalf of the Petitioner when the employer unlawfully discharged the Petitioner on or around November 2nd, 2005 (Attachment "E"). In fact, Attorney Bacon utilized; (1) the unlawful termination of the Petitioner's employment and temporary compensation payments; (2) the Petitioner's limited education, knowledge and awareness of the Act; (3) the side effects of the prescribed medications of Hydrocodone and Flexiril taken by Petitioner; and (4) the Petitioner's harsh and incongruous situation (homeless and sleeping in Petitioner's personally owned vehicle), to coerce the Petitioner into entering into the clincher agreement, by stating to the Petitioner that if the Petitioner did not enter into the clincher agreement, that Attorney Bacon did not know when the Petitioner would receive any compensation payment of any kind.

Finally, in the instant case, the Commission, and in particular, single Commissioner David W. Huffstetler, never convened a hearing, conference, or informal conference with the parties prior to approving the clincher agreement on January 5th, 2006, fourteen (14) days after the parties entered into the clincher agreement, which includes the December 25th and January 1st holidays. The regulatory procedures in place to approve the clincher agreements – and the Commission's reliance upon attorney's that the injured workers' have been duly advised of their entitled rights under the Act, and that the injured workers' are aware and comprehend what they are being surrendered when entering into a

clincher agreement, is sorely misplaced, to the detriment of the injured worker and their families.

If upon review of this petition, the Commission denies the petition with respect to the repeal of S.C. Code Reg. 67-801 and other promulgated regulations directly related to the use and application of the Agreement and Final Release (clincher), the Commission should consider amending the regulation to require a mandatory hearing prior to the Commission approving clincher agreements, to ensure that injured workers are in fact fully advised and aware of exactly what the injured workers' are agreeing to waive or settle by entering into the clincher.

III.

Regulation 67-801 and use and application of the Clincher Agreement violates the intended purpose of the Workers' Compensation Act

Petitioner would allege unto the Commission that it is a fundamental provision of the Act that the Statute shall be liberally construed in favor of benefits to the injured worker. That principle and a line of cases that holds that this is the fundamental construction principle of Workers' Compensation is as follows: "Compensation Laws constitute a form of social legislation and were enacted primarily for the benefit, protection and welfare of working men and their dependents; and such laws should be construed liberally in favor of the employees and their dependents, in furtherance of the beneficent purposes for which they were enacted and to avoid any incongruous or harsh results". See Cokeley v. Robert Lee, Inc., 197 S.C. 157, 14 S.E. 2d 889 (1941); Dennerly v. Ocmulgee Lumber Co., 206 S.C. 481, 34 S.E. 2d 792 (1945); Baldwin v. Pepsi-Cola Bottling Co., 234 S.C. 320, 108 S.E. 2d 409 (1959); Carver v. Bill Pridemore and

Co., 278 S.C. 236, 294 S.E. 2d 419 (1982); and Stokes v. First National Bank, 298 S.C. 13, 377 S.E. 2d 922 (S.C. App. 1988).

Petitioner further asserts it strains credulity to believe Regulation 67-801 and the like regulations, promulgated by the Commission, in terms of the use and application of the Agreement and Final Release (clincher) "...were enacted primarily for the benefit, protection and welfare of working men and their dependents..." *Id.* Although the Commission promulgated S.C. Regulation 67-803C which states in relevant part, "C. The Commission shall not approve an Agreement and Final Release that is not fairly made and in accordance with the Act...", Petitioner would allege unto the Commission that this language contained in said regulation is nothing more than lip service.

In the instant case, single Commissioner David W. Huffstetler should have rejected the proposed clincher agreement entered into by the parties, based on the fact the clincher "was not fairly made and in accordance with the Act".

In particular, based on the Petitioner's limited education, which consist of completion of the 10th grade and a G.E.D., and in accordance with S.C. Code Ann. § 42-3-80 ("He shall also be responsible for the referral to the South Carolina Vocational Rehabilitation Department of all industrially injured persons that need vocational counseling or vocational evaluation, personal adjustment, training and placement...") the Commission should have rejected the proposed clincher agreement and immediately referred the Petitioner to the South Carolina Vocational Rehabilitation Department, and the Petitioner should have received entitled compensation while participating in the vocational rehabilitation program.

Furthermore, prior to approving the clincher agreement, the Commission and Commissioner Huffstetler failed to ascertain whether or not the Petitioner was gainfully employed AND earning the same or similar wages (\$60,372.00 per year, based on the mutually agreed average weekly wage of \$1,161.00 times 52 weeks in a year) the Petitioner was earning prior to the admitted work related injury wherein the Petitioner incurred permanent lifting restrictions as a direct result thereof.

Still further, the Commission and Commissioner Huffstetler should have rejected the proposed clincher agreement based on the fact that at the time the Petitioner reached MMI, Petitioner had received temporary compensation for approximately 175 days, to include the first 150 days, which should have served to disqualify the use of the clincher agreement, in favor of S.C. Code Ann. § 42-9-260(F) (“(F) After the one-hundred-fifty-day period has expired, the commission shall provide by regulation the method and procedure by which benefits may be suspended or terminated for any cause, but the regulation must provide for an evidentiary hearing and commission approval prior to termination or suspension unless such prior hearing is expressly waived in writing by the recipient or the circumstances identified in Section 42-9-260(B)(1) or (B)(2) are present. Further, the commission may not entertain any application to terminate or suspend benefits unless and until the employer or carrier is current with all payments due.”) and S.C. Code Reg. 67-506D & E of the Act (“D. After the one hundred fifty day period, when the claimant is receiving temporary compensation and the authorized health care provider assigns an impairment rating and reports the

claimant is unable to return to work at the same or other suitable job, the employer's representative must continue payment of temporary compensation until the Commission finds the employer's representative may terminate temporary compensation. E. To request a hearing for permission to terminate temporary compensation, the employer's representative shall file a Form 21 with the Judicial Department. (1) The employer's representative shall serve a copy of the Form 21 on the claimant according to R.67-211. (2) The employer's representative shall certify temporary compensation is current or no hearing will be set".

Finally, Commissioner Huffstetler should have rejected the proposed clincher agreement based on the fact that upon approval, the Petitioner only received \$13,333.33 of a total \$20,000.00 settlement, with Attorney Bacon receiving 33 and 1/3 percent or \$6,666.66, which is to serve as a final payment for injuries incurred in the May 5th, 2005 work-related accident, which includes permanent lifting restrictions and the permanent inability to perform the duties of a delivery driver, which clearly was not fair to the injured worker or his dependents.

Petitioner asserts the Commission, in accordance with S.C. Code Reg. 67-803C, has the understood ministerial duty and obligation to protect an injured worker from himself or herself, to include overruling the advisement of an injured workers' attorney, if a proposed clincher is not fairly made, even if the proposed clincher agreement is in accordance with the Act, which it is not, as clincher agreements violates S.C. Code Ann. § 42-1-620.

COMMENTARY

Is the Commission, to include the Commissioners and its officers, both past and present, in place to protect the entitled legal rights of injured workers and their families with regards to the administration and enforcement of the Act, or is the Commission in place to limit the liability of employers, corporations and insurance carriers at the behest of attorneys? In the instant case, notwithstanding the alleged unlawful use of the clincher agreement, there are several unlawful and clearly disturbing acts taken by commissioners, and the executive director, which can only be perceived as being taking to protect fellow commission staff and the interest of the employer, carrier, and attorneys concerned, while intentionally depriving and adversely affecting the entitled rights of the Petitioner, an injured worker.

Furthermore, it is the position of the Petitioner that the unlawful use and application of S.C. Reg. 67-801 and the like regulations in terms of the Agreement and Final Release (clincher) has remained nearly unchanged and in place since 1976 due to the fact the clincher constitutes a "win-win" for employers, insurance carriers, and attorneys – for both the employer, carrier and the injured worker. As it relates to employers and carriers, the clincher provides an unlawful method wherein employers and insurance carriers can "legally" be relieved of their obligation to provide compensation benefits for injured workers and their dependents.

With respect to attorneys, and in particular, attorneys who represent injured workers, and in particular, attorneys who represent injured workers who

are in possession of limited education and are not aware of their entitled rights afforded under the Act, an attorney is in the position to afford intentional ineffective counsel to the injured worker, as well as the potential of attorneys entering into “backroom” agreements and deals with the opposing party, in exchange for providing the intentional misrepresentation to the injured worker.

Petitioner believes there are hard questions which must be asked and appropriately answered, preferably by a special investigation, to include, but not limited to, the following:

1. How many unlawful clincher agreements have been approved by the Commission since 1976?
2. Of the unlawful clincher agreements approved, how many were approved wherein the injured worker was African American?
3. Of the unlawful clincher agreements approved by the commission, did the attorneys who represented the injured workers fully advise the injured workers of their entitled rights afforded under the provisions of the Act prior to the injured worker agreeing to enter into the clincher agreement?
4. Did the attorneys who advised their clients into entering into approved clincher agreements receive additional payments, gifts, or special favors, directly or indirectly, from opposing employers, insurance carriers or law firms?
5. Did commissioners, both past and present, to include commission officers, who approved, affirmed on review, or took inappropriate or

unlawful actions to protect or shield employers, corporations, law firms or fellow commission staff, from unlawful commission decisions which deprived injured workers from entitled compensation benefits, or who intentionally failed to enforce the provisions contained in the Act, profit in any way from said unlawful or inappropriate acts?

6. Did injured workers and/or their dependents, who entered into clincher agreements, which were approved by the commission, endure harsh and incongruous results after, or prior to, the clincher agreement being approved?
7. Has any Justices (to include Circuit, Appellate, Administrative and Supreme Courts) or court officials thereof, past or present, benefited or profited in any way from issuing clearly erroneous or unlawful appellate decisions or orders which affirmed or upheld the unlawfully applied and approved clincher agreements?

As long as the Commission continues to allow the use and application of S.C. Code Reg. 67-801 and the like regulations with regards to the unlawful Agreement and Final Release (clincher), the Commission, by promulgation of the same, shall continue to; (1) intentionally violate S.C. Code Ann. § 42-1-620 (1962); (2) deliberately undermine the intended purpose of the South Carolina Workers' Compensation Act; (3) knowingly fail the past and present injured workers' of South Carolina, by the continued use and application of regulations which serve to jeopardize the protection and welfare of injured workers and their dependants; (4) provide a clear and unmistakable opening for attorneys to afford injured

workers intentional misrepresentation; and (5) provide a safe haven for employers, insurance carriers, and employer's representatives of the same, to commit insurance fraud and the like, with regards to deliberate violations of the provisions contained in S.C. Code Ann. § 42-9-260(F), S.C. Code Reg. 67-506(D) of the Act, and S.C. Code Ann. § 41-1-80.

CONCLUSION

Based on the foregoing, Petitioner moves the Commission to immediately repeal S.C. Code Regulation 67-801 and all other regulations directly related to the application, use, and approval of the Agreement and Final Release (clinch), or in the alternative, temporarily suspend use of the same until such time as the legislature has been afforded an opportunity to take the required actions of repealing S.C. Code Ann. § 42-1-620(1962) or amending the same to provide a provision wherein employees may legally have the option of waving their entitled rights to compensation by way of the clincher agreement.

Respectfully submitted,



Alexander Guice
Post Office Box 13281
Tampa, FL 33681
(813) 562-0547
Petitioner, Pro Se

October 3, 2014

67-801. Settlement of the Claim, General

A. After the claimant reaches maximum medical improvement the parties may agree to settle the claim by signing a Form 16 or Form 16A, Agreement for Permanent Disability/Disfigurement Compensation, or by signing an Agreement and Final Release (clinch).

B. If each party is represented by an attorney, an appearance before a Commissioner is not required for approval of a settlement unless either party requests an informal conference, or the Commissioner schedules a hearing.

C. If the claimant is not represented by an attorney, the parties must appear before the Commissioner assigned to the claim at an informal conference for approval of the settlement. At the informal conference, the Commissioner will review the proposed settlement and may approve it if the Commissioner finds the settlement fairly made and in accordance with the provisions of the Act.

D. A Form 16 or Form 16A retains the claimant's right to request a hearing according to R.67-207 for additional benefits not later than one year from the date of the last compensation payment. By signing the Form 16 or Form 16A, the employer's representative does not agree it will make any additional payments in the future unless the form specifically provides otherwise.

E. An Agreement and Final Release (clinch) relieves the employer and its representative from any further responsibility for payment of compensation or medical expenses, unless the Agreement and Final Release specifically provides otherwise. When the claimant signs the Agreement and Final Release and it is approved, the claimant does not have the right to ask for additional payments in the future even if the claimant's medical condition worsens, unless otherwise specifically provided in the document.

F. An official copy of the settlement is approved and certified by the Commission as binding.

SECTION 1-23-126. Petition requesting promulgation, amendment or repeal of a regulation.

Section 1-23-126 is the statute that allows any interested person to petition an agency in writing requesting the "... promulgation, amendment or repeal of a regulation." We are required to deny or initiate the action of the petition within thirty days after submission. (§ 1-23-126, 1980 Act No. 442, Section 6).

SECTION 42-9-390. Voluntary settlements.

Nothing contained in this chapter may be construed so as to prevent settlements made by and between an employee and employer as long as the amount of compensation and the time and manner of payment are in accordance with the provisions of this title. The employer must file a copy of the settlement agreement with the commission if each party is represented by an attorney. If the employee is not represented by an attorney, a copy of the settlement agreement must be filed by the employer with the commission and approved by one member of the commission.

State of South Carolina

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Workers' Compensation Commission

TO: Commissioners

FROM: Gary M Cannon

DATE: October 23, 2014

RE: Compensation Payments – Debit Cards

In 2011 the Commission was requested to consider approval of claimant's compensation payments by pre-paid debit cards. Regulation 67-1602 Payment of Compensation is the regulation governing this process. It states "The employer's representative shall make each payment in the form of a check." Further research by legal staff is needed to determine if pre-paid debit cards are allowed under the current regulation. No action was taken to approve the request.

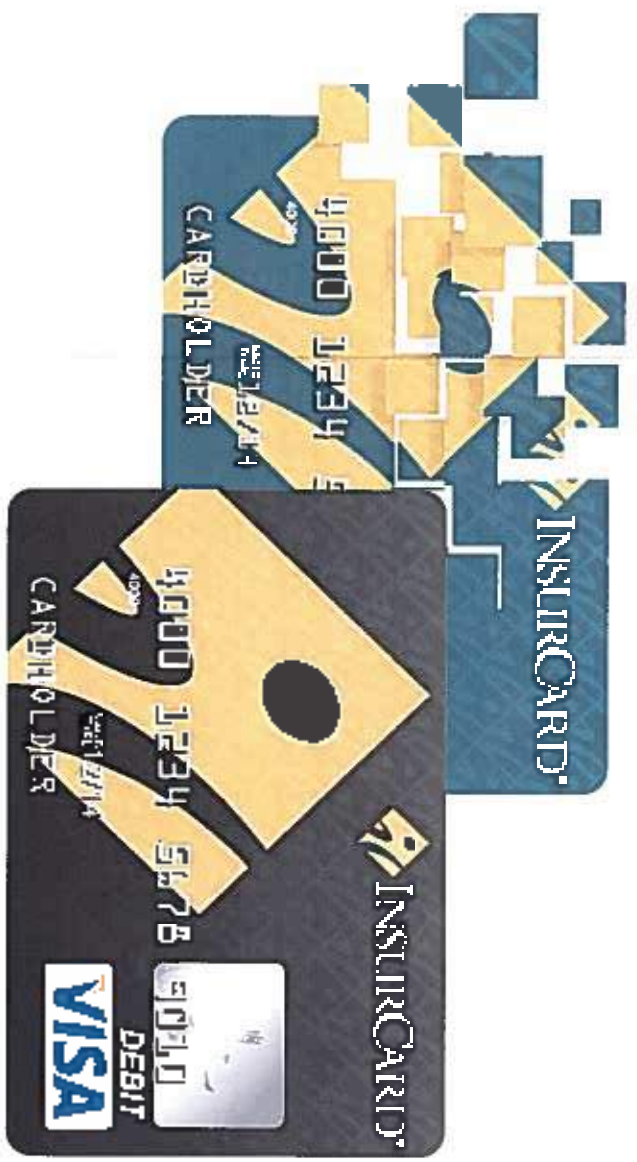
In August, at the Workers' Compensation Institute's annual meeting, the Chairman and I met with representatives of Insurcard. Insurcard is a company that provides claimants' workers' compensation payments by pre-paid debit card. The representatives requested the Commission consider allowing carriers and employers to make indemnity payments by pre-paid debit card. Attached is the information provided by Insurcard.

Chairman Beck asked me to provide this information for your consideration.

ACTION REQUESTED: None. Materials provided for information and future consideration by the Commission.

InsurCard

Workers Compensation Claim Payments



South Carolina
August 2014



Overview – Prepaid Cards

- ❖ **Debit cards use has passed credit cards and even cash**
 - 64% of all small purchases (under \$150) use debit cards
- ❖ **State & Federal benefits programs have moved to prepaid**
 - Better for low-income recipients
 - 24% of all adults have no banking relationship
- ❖ **Other industries have moved most consumer payments from checks or cash to prepaid**
 - Lower cost, no backend handling costs, less fraud exposure
- ❖ **P&C Insurance has trailed this trend**
 - Barriers are primarily regulatory

Indemnity Payments to Injured Workers

The InsurCard Prepaid Card is a turnkey, prepaid card program designed specifically for the payment of insurance claims with a tested infrastructure including:

- ❖ Customer Service via Web
- ❖ Automated phone & live bi-lingual US Call Center
- ❖ Advantageous fund flows
- ❖ And an integrated workers compensation payment process



 **INSURCARD®**

Key Elements of InsurCard Program for WC

- ❖ Offered as a payment option vs. checks
- ❖ Card is reloadable
- ❖ Card is activated by claimant – pin protected
- ❖ One free ATM withdrawal for each payment
- ❖ Use anywhere Visa/MasterCard debit cards are accepted
- ❖ Free cash disbursements at any MasterCard bank
- ❖ Many claimants will save check-cashing fees*

* FDIC 2009 Study: 100 million adults rely on non-bank providers of financial services – such as costly check cashing outlets



 INSURCARD®

Legal Review

InsurCard's WC program has been presented to all Insurance departments and WC boards in all states (excluding monopolies)

- ❖ Over 42 states written approvals or approve a debit card program
- ❖ 4 states pending (2 of these have legislative changes in process)

New York, Minnesota and several more states have only approved InsurCard as a debit card payment solution

2 top 5 insurers & the top 3 TPA have vetted our legal approvals

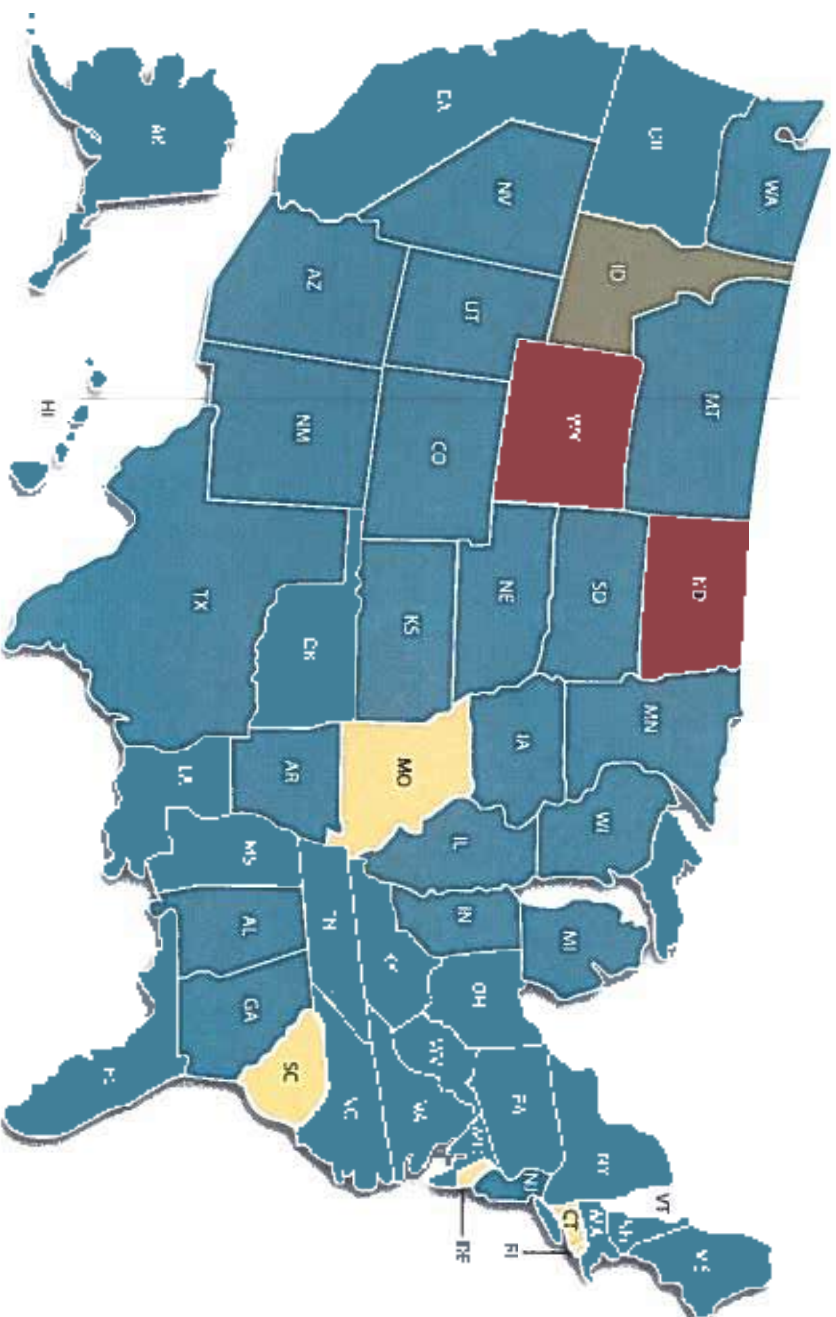
State concerns have been satisfied

- ❖ Account structure – real account equating to an EFT
- ❖ Access – Large ATM Network, Rural area coverage
- ❖ Protections – FDIC, Zero Liability, Regulation E



 **INSURCARD®**

InsurCard Workers Comp State Approvals

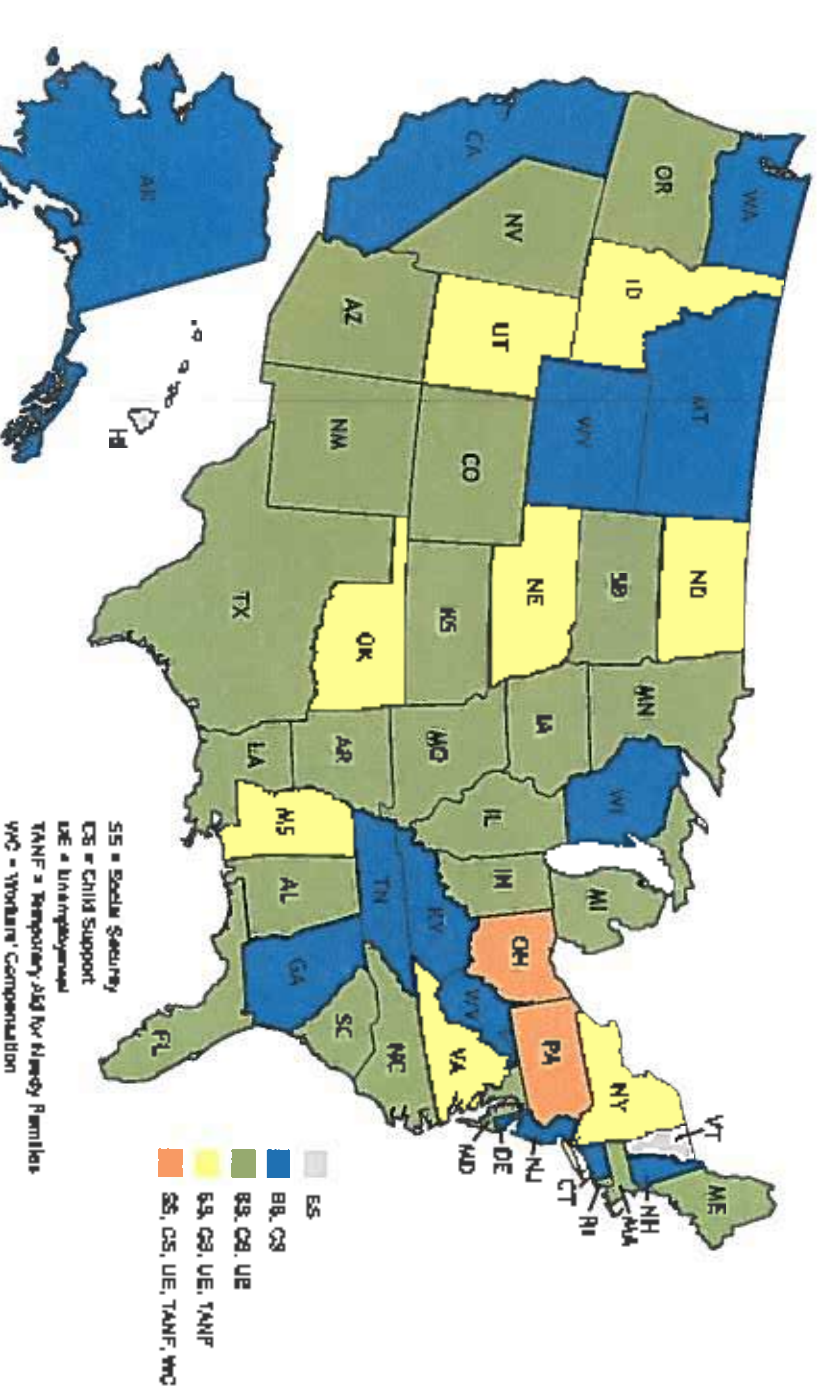


- Approved
- Approval Pending
- Inexact Specific
- Nonoperative States
- None



INSURCARD®

• 48 of 50 states have adopted prepaid cards for benefit payments.



Benefits to Injured Worker

- ❖ **Funds are immediately available to claimant**
 - No check cashing fees
 - No delay for check clearance
- ❖ **MasterCard benefits**
 - Zero Liability[®] policy
 - Use at banks & merchants, wherever MC debit cards are accepted
- ❖ **ATM access**
 - Accepted at over 400,000 ATMs worldwide
 - Over 44,000 surcharge-free ATMs
 - Larger than any bank network of ATMs
 - Located in national and regional retailers
- ❖ **Claimant does not reveal banking data to the insurer**
 - No forms to sign
- ❖ **Aids claimants without bank accounts**
 - Eliminates the need for alternative financial services



 **INSURCARD[®]**

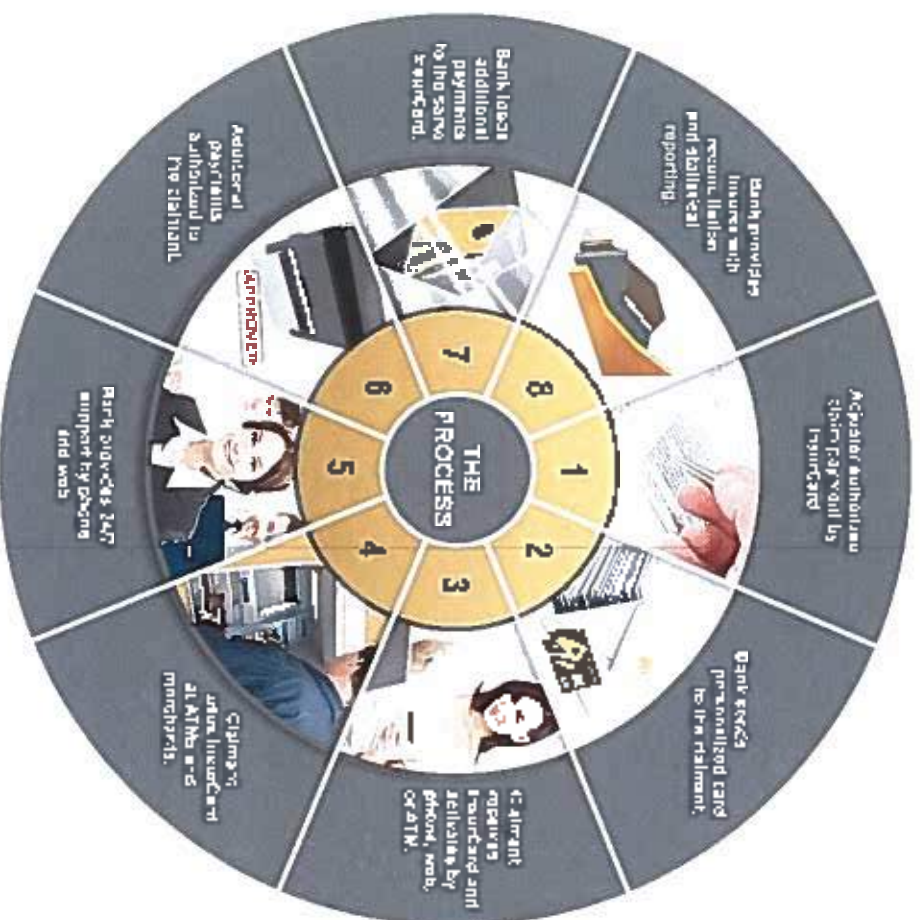
Benefits to Issuer

- ❖ **Lower cost on every payment - up to 85% saved**
 - Voids and stop-payments of checks eliminated
 - Escheatment no more—Bank's responsibility
- ❖ **Reduces Fraud – protection for you and the claimant**
- ❖ **Reduced customer care costs**
- ❖ **Improve cash control—exact cash management**
 - Funds draw from designated bank 24 hours after cards are loaded
- ❖ **Customer Service—bilingual U.S. Call Center**
- ❖ **Customized/Branded card provides an enhanced program image—Builds Brand Equity**



 **INSURCARD®**

The Process: How InsurCard Works



- ❖ The Adjuster controls the process
- ❖ Each payment is initiated by
 - An Adjuster action
 - A Claim system diary
- ❖ A Card Account is established
 - In the Injured Workers name
 - FDIC Insured
 - Subsequent payments are like direct deposits
- ❖ When the claim closes, the account stays open while in use.
- ❖ Statistics are fed back to Issuer for system and accounting use



InsurCard Visa® Prepaid Card Program

Fees Paid by Claimant

Card issuance – Free	Inactivity Fee - None
Account fee – Free	Electronic statement – Free
ATM fees – One free every payment; \$1.50 per transaction thereafter	Paper statement - \$2.50 per month requested
ATM balance inquiry – Free	PIN – Free when issued
Web and Automated phone Inquiries – Free	Replacement card - \$10 if lost; Free replacements when stolen or damaged
Live Customer Service – Free	Rush Delivery of Card - \$25
Merchant purchases – Free	Overdraft Fee - None
• Signature purchases	Account closing - Free
• PIN purchases	
• International use - \$3.00	



Payment methods Comparison

Vs. Checks

- Cards are universally accepted at ATMs, Merchants, Banks
- Funds are immediately available to claimant, No check clearance wait
- No check cashing fees

Vs. EFT (Direct Deposit)

- **Since account is established for the claimant**
 - Claimant does not reveal their bank account information
 - There is no need to wait for signed approval
 - Eliminates fraud exposure of personal information received by Insurer
- **All claimants can participate – even those without bank accounts**
- **Impractical for insurers due handling and timing issues**

General

- **Bank extends protection against loss – Zero Liab & RegE protections**



Implementation Overview

PROJECT PLANNING

WEEKS 1-2

Insurer

- Determine modifications to claim payment processes and procedures
- Approve card design
- Review data requirements
- Determine required systems changes
- Determine pilot and rollout plan

PROJECT DEVELOPMENT

WEEKS 3-10

Insurer

- Modify systems
 - Build data link with SE
 - Develop training
- SE**
- Develop card and packet
 - Establish account processing and settlement
 - Set up program reports

PILOT

WEEKS 11-12

Adjustments as necessary



State of South Carolina

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Workers' Compensation Commission

October 23, 2014

To: Gary M. Cannon
Executive Director

From: Amy A. Bracy
Judicial Director

RE: Approval of Form 31

The attached Form 31 will revise our appellate process of setting Full Commission hearings.

In order to become compliant with 67-704 we must give at least thirty days' notice of the hearing. The Form 31 must state the date, place, time, purpose of the review hearing and the filing date for the appellant's brief.

The respondent may file a brief within fifteen days of service of the appellant's brief and the appellant may file a reply brief within ten days of service of the respondent's brief. All briefs must be filed at least five days before the scheduled review.

Our new process will allow the Form 31 to be issued 60 days prior to the Full Commission hearing date in order to give proper time for filing of all briefs. In order to accomplish the change over to the new process, January Full Commission will only consist of the Judicial Conference if necessary.

[LETTERHEAD]

**FORM 31 BRIEFING SCHEDULE
AND
NOTICE OF APPELLATE HEARING**

[APPELLANT] v. [RESPONDENT]

Filing Date for Appellant's Brief: [MM/DD/YYYY]

Notice of Appellate Hearing

Subject: To Determine Issues Set on Review
Date: [MM/DD/YYYY]
Location: South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
Columbia, SC 29201

You are receiving this notice pursuant to South Carolina Regulation 67-704. This matter is to be set for Full Commission Review on the above date. Regulation 67-705(A) requires the appellant to file a brief which includes a statement of the case, questions presented, argument, and the conclusion. Pursuant to Regulation 67-205, please submit your brief and the complete appellate record electronically through the Upload functionality in eCase located on the Commission's website at www.wcc.sc.gov.

The claimant must attend when not represented by an attorney or when disfigurement is involved. Corporations must be represented by an attorney, and uninsured employers must attend.

To properly certify the record for appeal, the appellant must submit a copy of the Decision and Order appealed, the evidence presented under the Administrative Procedures Act, and the exhibits submitted before the Single Commissioner which pertain to matters pertinent to the appeal. The submission procedures are listed on the Commission website under Appellate Preferences.

Pursuant to South Carolina Regulation 67-705, the Respondent may file a responding brief within fifteen (15) days of service of Appellant's brief. Appellant may then file a reply brief within ten (10) days of service of Respondent's responding brief. All briefs must be received by the Workers' Compensation Commission at least five (5) days before the scheduled date for review.

For questions regarding this matter, please visit eCase Status at www.wcc.sc.gov or contact the Judicial Department of the South Carolina Workers' Compensation Commission at (803) 737-5739.