

A G E N D A

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

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

December 14, 2015 – 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.

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| 1. | CALL TO ORDER | <i>CHAIRMAN BECK</i> |
| 2. | APPROVAL OF AGENDA OF BUSINESS MEETING
OF DECEMBER 14, 2015 | <i>CHAIRMAN BECK</i> |
| 3. | APPROVAL OF MINUTES OF THE BUSINESS MEETING
OF NOVEMBER 16, 2015 (Tab 1) | <i>CHAIRMAN BECK</i> |
| 4. | GENERAL ANNOUNCEMENTS | <i>MR. CANNON</i> |
| 5. | APPLICATIONS FOR APPROVAL TO SELF-INSURE (Tab 2) | <i>MR. SMITH</i> |
| 6. | DEPARTMENT DIRECTORS' REPORTS
Human Resources (Tab 3)
Information Services (Tab 4)
Insurance, Medical & Administrative Services (Tab 5 & 6)
Claims (Tab 7)
Judicial (Tab 8) | <i>MS. OSBORNE</i>
<i>MS. SPRANG</i>
<i>MR. DUFFIELD</i>
<i>MS. SPANN</i>
<i>MS. BRACY</i> |
| 7. | EXECUTIVE DIRECTOR'S REPORT (Tab 9) | <i>MR. CANNON</i> |
| 8. | OLD BUSINESS | <i>CHAIRMAN BECK</i> |
| 9. | NEW BUSINESS
A. 2016 Average Weekly Wage (Tab 10)
B. Administrative Procedures Policy – Employee Leave (Tab 11) | <i>CHAIRMAN BECK</i>
Mr. Cannon
Mr. Cannon |
| 10. | EXECUTIVE SESSION
A. Legal Briefing (12) | <i>CHAIRMAN BECK</i>
MR. ROBERTS |
| 11. | ADJOURNMENT | <i>CHAIRMAN BECK</i> |

Table of Contents

1	Approval of Minutes of the Business Meeting of November 16, 2015
2	Self-Insurance
3	Human Resources
4	Information Services
5	Insurance, Medical & Administrative Services
6	Summary of Revenues and Expenditures
7	Claims
8	Judicial
9	Executive Director's Report
10	2016 Average Weekly Wage
11	Administrative Procedures Policy - Employee Leave
12	Legal Briefing

THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
BUSINESS MEETING

Monday, November 16, 2015

A Business Meeting of the South Carolina Workers' Compensation Commission was held in Hearing Room A of the Workers' Compensation Commission on Monday, November 16, 2015, 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 Cannon, Executive Director; Amy Bracy, Judicial Director; Wayne Ducote, Coverage & Compliance Director; Grant Duffield, Insurance, Medical & Administrative Services Director; Alicia Osborne, Human Resources Manager; Keith Roberts, Attorney; Marlene Johnson-Moore, Law Clerk; W.C. Smith, Self-Insurance Director; Sonji Spann, Claims Director; Sandee Sprang, IT Director; and Amanda Underhill, Business Analyst. Clara Smith, Injured Workers' Advocates, was also present.

Chairman Beck called the meeting to order at 10:31 a.m.

AGENDA

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

APPROVAL OF MINUTES – BUSINESS MEETING OF OCTOBER 19, 2015

Commissioner Barden moved that the minutes of the Business Meeting of October 19, 2015 be approved. Commissioner McCaskill seconded the motion, and the motion was approved.

GENERAL ANNOUNCEMENTS

Gary Cannon, Executive Director, announced the three hours required ethics and APA training for the Commissioners and their Administrative Assistants is scheduled for today from 1:00 – 4:00 p.m. in the first floor conference room. Joe Turner, Esquire, Office of Disciplinary Counsel, S.C. Supreme Court, and Michael Burchstead, General Counsel of the SC Ethics Commission, will lead the discussion.

APPLICATIONS FOR APPROVAL TO SELF-INSURE

Self-insurance applications were presented by W.C. Smith, Self-Insurance Director. Five (5) prospective members of one (1) fund were presented to the Commission for approval. The applications were:

SC Home Builders SIF

All Hardscapes & Stone
Daniel's Plaster & Stucco, Inc.
Glen's Heating & Air, LLC
IST Contracting, LLC
Orion Construction, Inc.

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 Taylor seconded the motion. The motion was unanimously approved.

Request of Blue Cross and Blue Shield of South Carolina and its subsidiaries to Self-Insure

Mr. Smith presented a request from Blue Cross and Blue Shield of South Carolina and its subsidiaries to self-insure.

Mr. Smith presented a recommendation that Blue Cross and Blue Shield of South Carolina and its subsidiaries be granted the privilege of self-insuring its workers' compensation liabilities contingent on the following:

1. Blue Cross and Blue Shield of South Carolina secure specific excess insurance coverage with an initial retention of not more than \$1 million and a statutory limit of liability; and
2. Blue Cross and Blue Shield of South Carolina provide the Commission with a corporate guaranty for each subsidiary; and
3. Blue Cross and Blue Shield of South Carolina provide the Commission's surety requirement in the form of a letter-of-credit or surety bond in the amount of \$1,050,000.

Motion to approve Blue Cross and Blue Shield of South Carolina and its subsidiaries to Self-Insure

Following discussion Commissioner Wilkerson made the motion to approve Blue Cross and Blue Shield of South Carolina and its subsidiaries to self-insure, and that a review of their financial statements is conducted on a six-month basis reporting any concerns to the Commissioners. Commissioner McCaskill seconded the motion, and the motion was approved.

DEPARTMENT DIRECTORS' REPORTS

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

Human Resources Department

Alicia Osborne presented the Human Resources report for the period of October 15, 2015 through November 6, 2015. Ms. Osborne announced the Division of State Human Resources approved the proposed changes to the EPMS Policy and the combined PD/EPMS form. A recommendation to adopt the proposed changes will be presented under New Business on the Agenda.

Information Technology Department

Sandee Sprang presented the Information Services Department's report. Ms. Sprang pointed out the following highlights from the report:

- Changes to DTO infrastructure were delayed due to the hazardous weather conditions experienced in October.
- Several workflow process changes have been completed and tested for the upgrade to OnBase 13.
- The SANS security training system was configured and tested. Ms. Sprang said she anticipates the training will be deployed this week.
- IT began the preliminary design of the ePay and eView enhancements to the eCase portal.
- IT is researching the potential benefits of using video conference technology to conduct certain hearings.

Insurance, Medical & Administrative Services Department

Grant Duffield presented the Insurance, Medical & Administrative Services Department's report. Mr. Duffield pointed out the following highlights from the report:

- The Lapse in Coverage Notification program registered 42 new registrants and issued five notices of potential lapse in coverage.
- Due to the recent retirement of Mary Bates, Administrative Specialist, the Coverage Division restructured duties and workflow in the Data Services area.
- Year to date, the Compliance Division has compelled 128 employers in S.C. to come into compliance with the Act.
- The Compliance Division has issued \$3.2 million in fines. Sixty-five percent of those fines, or \$2.1 million, have been waived or rescinded as employers have either obtained insurance coverage or were found not to be subject to the Act.
- In October, 14 carrier Rule to Show Cause cases were docketed; 13 cases were resolved and \$13,150 was recovered.
- The Compliance Division's fiscal year-to-date revenue trend is 45% of prior year.
- The Coverage Division's year to date claim files created is 36% of claim file volume prior year. Coverage Division's fines are at 33% of collections for prior year.
- Year to date Self-Insurance tax revenue is trending at 99% of prior year.

Mr. Duffield presented the Summary of Revenues and Expenditures for the period ended October 30, 2015. The benchmark for the fourth period is 38.1%. He explained an adjustment to the benchmark was due to three payrolls posted in the month of October. At the close of October 2015, the Commission's overall fiscal performance vs budget is as follows:

- Total Expenses Incurred: 37% of budget
- General Appropriation Received: 38% of budget
- Earmarked Revenue Received: 35% of budget
- Draw on Fund Balance: 42% of budget

Claims Department

Sonji Spann presented the Claims Department's report.

Ms. Spann reported the following for the month of October 2015:

- Closed 2,028 individual case files
- Received \$42,800 in fine revenue
- Claims examiners reviewed 240 individual case files
- 279 fines assessed
- 266 Form 18 fines assessed
- 12,464 forms processed
- 618 Form 18s processed through SROI
- 1,997 Form 18s received via Email

- 2,851 forms received via USPS

Ms. Spann reported the special project on properly scanning and indexing 1,200 open files in the File Room was on hold during the month of October due to staff illness and scheduled vacations. Ms. Spann said that the indexing is a slow process and she is looking at ways to move the process along. There was discussion on the claims examiners workflow and the number of case files reviewed by examiners. Ms. Spann explained that one claims examiner is focusing on the special project to index the open files in the File Room, and case files to be reviewed are divided among the other three examiners.

Judicial Department

Amy Bracy presented the Judicial Department's report. She reported the following for the month of October 2015:

- 104 Single Commissioner Hearings conducted
- 10 Full Commission Hearings conducted
- 200 informal conference cases
- 79 regulatory mediations scheduled
- 22 requested mediations
- 44 matters resolved in mediation with the receipt of Forms 70

Commissioner Taylor said she thought there were more than ten Full Commission Hearings conducted. Ms. Bracy said she will follow-up with her this afternoon.

EXECUTIVE DIRECTOR'S REPORT

Gary Cannon, Executive Director, presented his report which was also submitted to the Commission in written form. He pointed out that the next meeting of the Narcotics Use Ad Hoc Advisory Committee is scheduled for Thursday, December 17, 2015, at 2:00 p.m. at the S.C. Pharmacy Association in Columbia.

OLD BUSINESS

A. Budget Request FY 2016-17

Mr. Duffield presented a recommendation to approve the proposed FY 2016-17 Budget Request.

Motion to Approve Proposed FY 2016-17 Budget Request

Commissioner Campbell made a motion to approve the proposed FY 2016-17 Budget Request. Commissioner McCaskill seconded the motion. The vote was taken, and the motion was unanimously approved

NEW BUSINESS

A. EPMS Policy

Ms. Osborne presented a recommendation to approve revisions to the Employee Performance Management System (EPMS) Policy. Ms. Osborne stated that the revised EPMS Policy has been approved by the Division of State Human Resources (DSHR).

Commissioner Barden suggested amending the language in the last sentence in the first paragraph under **Purpose**, so that it clearly distinguishes between the mid-year review as recommended and the final annual review as required.

Motion to Adopt EPMS Policy

Commissioner Barden moved for the adoption of the revised EPMS policy as amended. Commissioner Taylor seconded the motion. The motion was approved unanimously.

ADJOURNMENT

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

The November 16, 2015 meeting of the South Carolina Workers' Compensation Commission adjourned at 10:57 a.m.

Reported December 14, 2015
Kim Ballentine
Office of the Executive Director

MEMORANDUM

Date: December 4, 2015

TO: Mr. Gary Cannon
Executive Director

FROM: Alicia Osborne
Human Resources

SUBJECT: Human Resources Report Period of November 6, 2015 to December 4, 2015

Below is a summary of the Human Resources activity for the period of November 6 to December 4, 2015.

Employee Relations (ER)

- Ongoing Workers' Compensation Injuries
 - Four active claims
 - Treatment being sought for one active case;
 - SCVR treatment being pursued
 - Remaining three cases active but no recent activity submitted by SAF/Compendium to HR
- FMLA
 - One ongoing case
 - One case closed
 - Leave current in SCEIS

Benefits

- Consulted with two staff members on retirement benefits
- Addressed four benefits concerns
- Completed retirement certification in EES

Fiscal Responsibilities (w/ Fiscal Technician II)

- Approved 36 SCEIS financial transactions
 - Within the SCEIS system, approved documents and travel requests submitted by the Fiscal Technician and Director of IMAS for November 6 through December 4, 2015
- Levy Updates
 - Two levies received
 - Coordinated with CG's office for processing

Policy Updates

- EPMS
 - At the November business meeting, the Commission adopted the revised EPMS Policy as amended
 - Submitted final approved copy to DSHR for filing
- Employee Leave Programs Policy
 - Submitted revisions to the employee leave programs policy to Executive Director and Chairman
 - Met with law clerk to discuss additional concerns regarding unauthorized leave
 - Consulted with Law Clerk regarding employee leave programs

Reports

- Ran SCEIS Deductions Not Taken / Arrears report
 - Report is clear
- Ran SCEIS Wage Type Report
 - No discrepancies unaccounted for
- Time Administration
 - Ran Time Collision Report; Unapproved Leave Report, and Missing Time Report
 - Approved Leave as requested by supervisors and Commissioners
 - Assisted Employees with leave corrections and working time corrections

SCEIS

- Assisted staff with minor SCEIS concerns (mainly leave)
- Received approval for SRM workflow
 - Formulating request for new organizational structures to ensure smooth workflow and back up assistance is available for shopping carts in SRM

Training

- Attended first part of training on Business Objects and Business Warehouse reporting for HR on December 1
- Cyber Security Training
 - Notified staff of pending training
 - Working with IT Manger to implement
 - Pending distribution due to technical issues
- Drivers' training course pending
 - Tentative 8-hour training for all applicable staff in January/February/March

Miscellaneous

- Meeting(s) attended onsite
 - Ethics Training – November 16
- Social Committee –
 - Holiday Luncheon – December 14th
 - Hudson's BBQ
 - Cocoa and Treats
 - Huge success!
- Created Consent Form
 - Met with Executive Director and law clerk to discuss form
 - Started using form to ensure agency's best interests are taken care of
- DMV Commissioner Plate
 - Contacted DMV regarding Commissioner plates 11.6.2015, 11.17.2015, 11.23.2015
 - Received notification 12.1.15 of new process and procedures
 - Notified Commissioners of new processes and procedures
 - Updated list Due at DMV December 15th



Workers' Compensation Commission

To: Gary Cannon
SCWCC Executive Director
From: Sandee Sprang, IT Director
Date: December 4, 2015
Subject: IT Department November 2015 Full Commission Report

This report summarizes the activities and initiatives for the IT department during November 2015. The first section, "Systems Operation, Maintenance and Support", details the work related to keeping our current production systems up and running. The second section, "Projects, Enhancements and Development", highlights the activities related to projects which bring added functionality to our systems. The last section documents the IT Department's "Training and Meeting" activities.

I. Systems Operations, Maintenance and Support

Virtualization

Duane continues to lead our effort with DTO to upgrade Progress software and virtualize our servers. We are still testing the development system environment.

OnBase

Amanda continues to work with DTO to coordinate the upgrade of our imaging system, OnBase to version 13. Testing has been completed and we are waiting for DTO to complete the rollout.

EDI

Amanda and Duane worked with EDI trading partners to research and resolve EDI transactional data errors. SA implementation with Liberty Mutual was completed, and both continue their work with the IAIABC EDI Claims Workgroup, reviewing and recommending standard changes.

Ad Hoc Reports

There were several requests in November for new reports which, in totality, required significant effort from the IT staff. These reports included:

1. US Dept. of Labor report request
2. Preliminary Judicial Pleading Lag report for Executive and Judicial Directors
3. Lapse in Insurance metrics for IMAS
4. Order Metrics for Judicial

Systems Support

The following problems in production systems were reported and resolved:

1. The SC Voc. Rehab system had data quality issues preventing the identification and reporting of potential cases.
2. In conjunction with DTO, Duane resolved the unexpected failure of our Progress production server.
3. Several staff reported VPN connection issues; these issues were a result of duplicated usernames on systems at DTO.
4. The Medical Bill Dispute system had a secure email issue.

Desktop Support

The desktop support issues for the month were typical. He addressed problems related to passwords, VPN access, and printers and other hardware. Brian also provided user assistance for OnBase, eCase and secure email.

II. Projects, Enhancements and Development

eCase

The modernization of the eCase web portal system continues and development is approximately 40% complete.

Security Training

The SANS training system was deployed.

ePay and View

The preliminary design of the ePay and View enhancements to the eCase portal continues.

Cell Phone Upgrades

The new cell phones were ordered according to each Commissioner's preference. The conversion is in process.

Hardware Upgrades

The new switches and routers were received. They are being configured and patched by DTO with implementation scheduled during December.

III. Trainings and Meetings

Duane completed the SANS SEC505: Securing Windows with PowerShell and the Critical Security Controls course sponsored by DTO.

Amanda earned her CBAP certification.

Sandee conducted multiple meetings with vendors and representatives from DTO related security, accountability, operational efficiencies and improving communications.

State of South Carolina



Workers' Compensation Commission

To: Mr. Gary Cannon
SCWCC Executive Director

From: Grant Duffield
IMAS Director

Date: 3 – Dec – 2015

Subj: Insurance, Medical and Administrative Services Department
November 2015 Full Commission Report

Please find attached information provided to summarize the status and workflow of initiatives currently underway within the Insurance, Medical and Administrative Services (IMAS) 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. Reviewing organizational structure.2. Reviewing revenue metrics / projections.3. Working w IT to review debt collection process.
Coverage Division	<ol style="list-style-type: none">1. Working with staff to review workflow processes and explore opportunities to enhance service provision.2. Lapse in Coverage: 19 new registrants; 14 notifications sent3. Modifying workflows given recent staff vacancies.
Medical Services	<ol style="list-style-type: none">1. Working through recertification of Bill Review entities.2. Working on pharmaceutical payment disputes involving SAF.3. Working with MedAssets and IT to improve Medical Bill reviews.
Administrative Svcs	<ol style="list-style-type: none">1. Implementing file indexing process.2. Revised purchasing processes / roles for audit standard.
IMAS Administration:	<ol style="list-style-type: none">1. Working with Division Mgrs to provide cross coordination of mgmt. functions.2. Working with Executive Team concerning strategic planning and future needs forecasting.3. Completed lease analysis and justification.

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 IMAS Department and provide measures by which the Department's effectiveness can be gauged. IMAS welcomes any guidance that you and/or our Commissioners can provide concerning our performance and direction.

IMS COMPLIANCE DIVISION

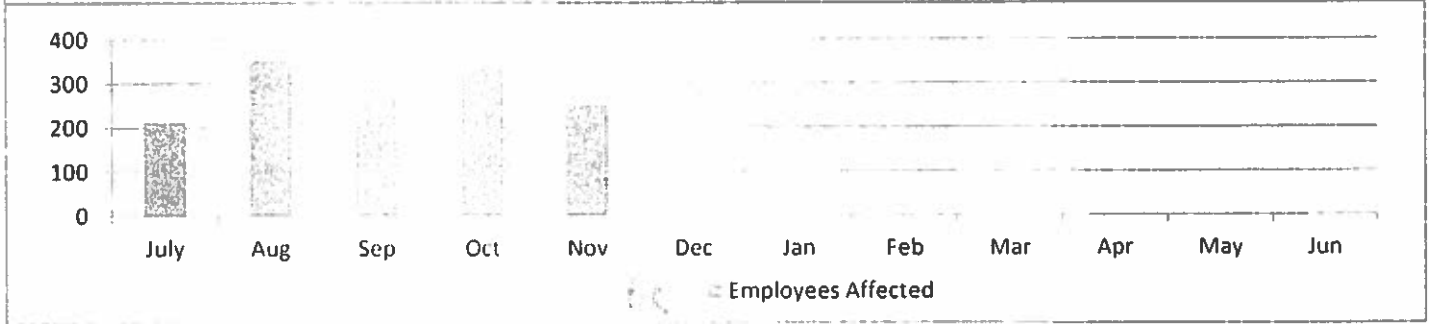
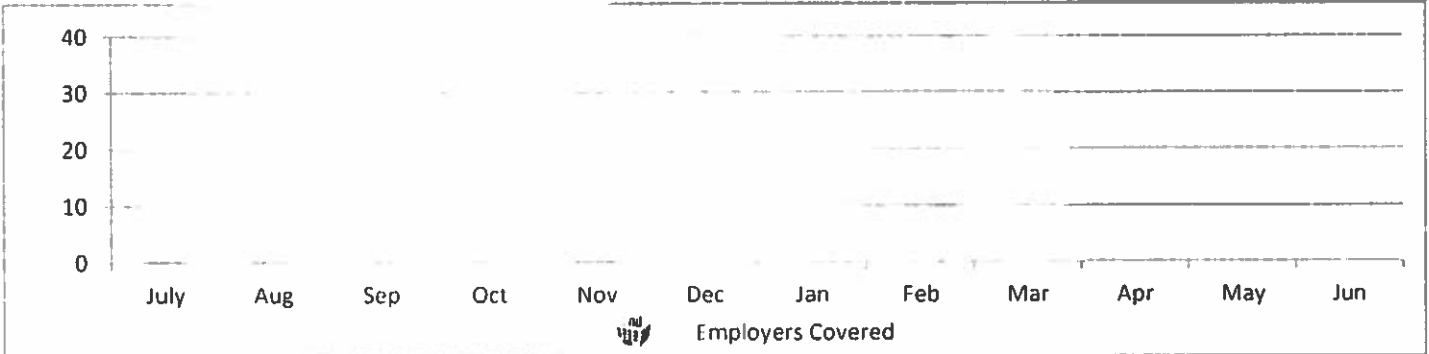
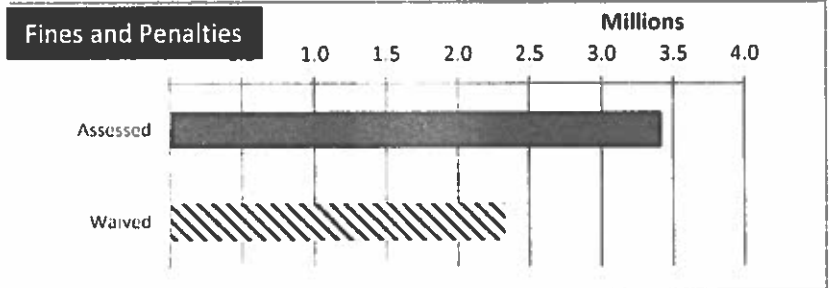
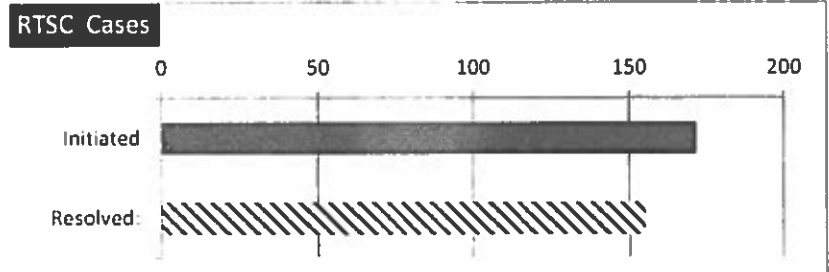
November 2015

Employers Obtaining Coverage

The Compliance Division works with great diligence to help uninsured employers become compliant with the South Carolina Workers' Compensation Act. Year to date, the Compliance Division has compelled 155 employers in South Carolina to come into compliance with the Act. In so doing, approximately 1,442 previously uninsured workers are now properly covered.

Penalties Waived

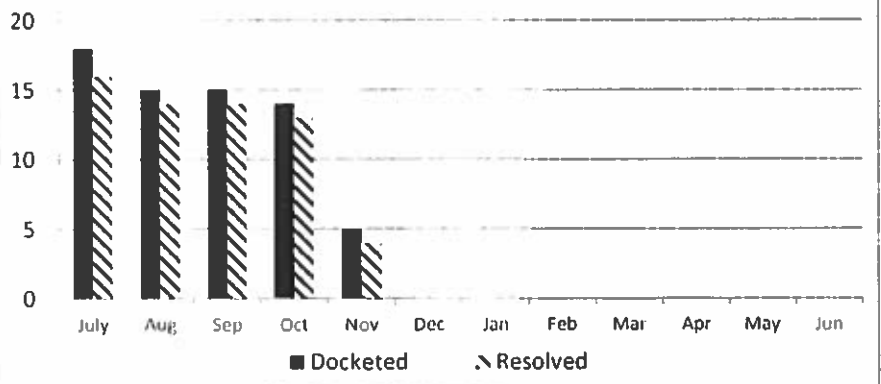
Although the Division has assessed \$ 3.4m in fines, 68% of those fines (\$2.3m) have been waived or rescinded as employers have either obtained insurance coverage or were found not to be subject to the Act.



Carrier Rule to Show Cause Hearings

The Compliance Division manages the Rule to Show Cause process involving the recovery of outstanding carrier fines and penalties. In the month of November 2015, 5 carrier RTSC cases were docketed, 4 cases were resolved and \$5,959 was recovered.

Year to date, 67 carrier RTSC cases have been docketed, 61 cases have been resolved and \$67,084 has been recovered.



Carryover Caseload:

The Compliance Division closed November 2015 with 384 cases active, compared to an active caseload of 170 at the close of November 2014.

Cases Resolved:

For the month of November 2015, Compliance Division staff closed-out 120 cases.

Compliance Fines:

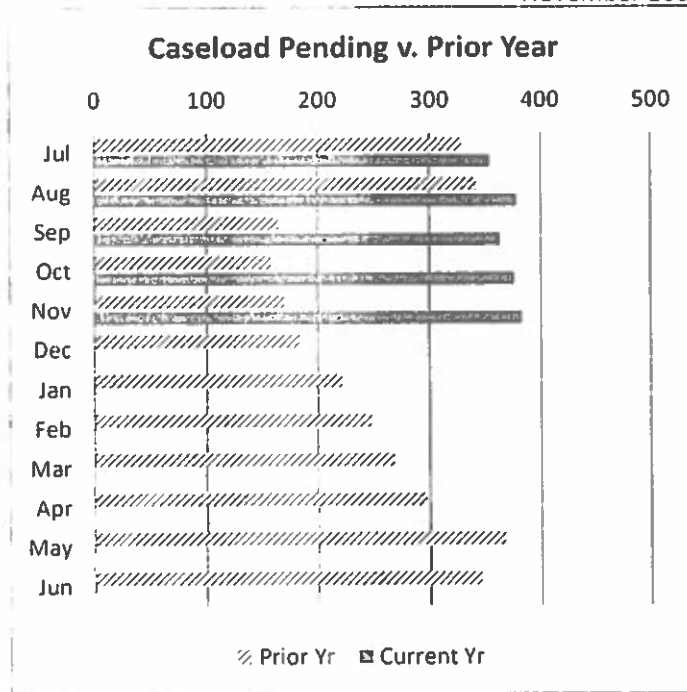
In November 2015, the Compliance Division collected \$68,755 in fines and penalties. Year to Date, the Compliance Division has collected \$478,775 in fines.

Year to Date vs Prior Year Total (906,833): 53%.

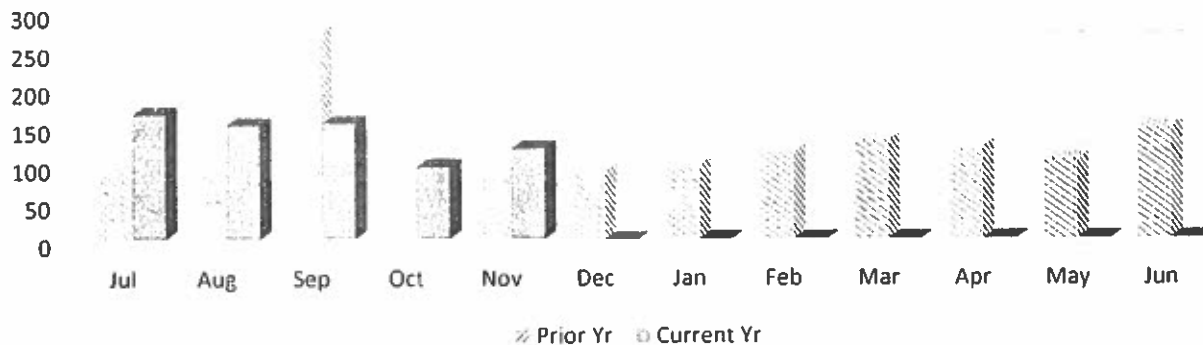
Nov 2015 vs. Nov 2014: 162%

YTD 2015 (July, Aug, Sept, Oct, Nov) vs YTD 2014: 266%

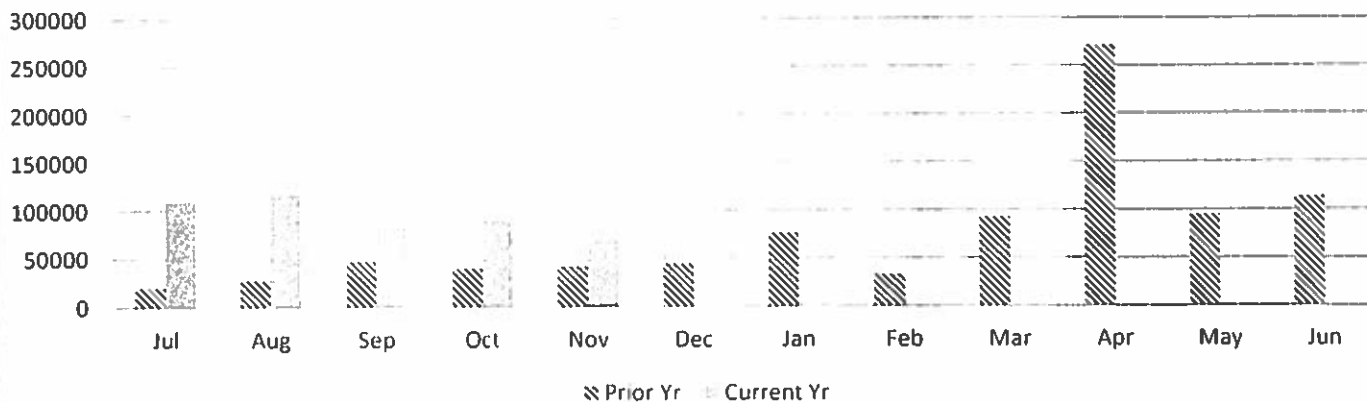
Current Year End trend is 127% of 2014-2015.



Cases Resolved v. Prior Year



Compliance Fines Collected v. Prior Year



WCC Claim Files:

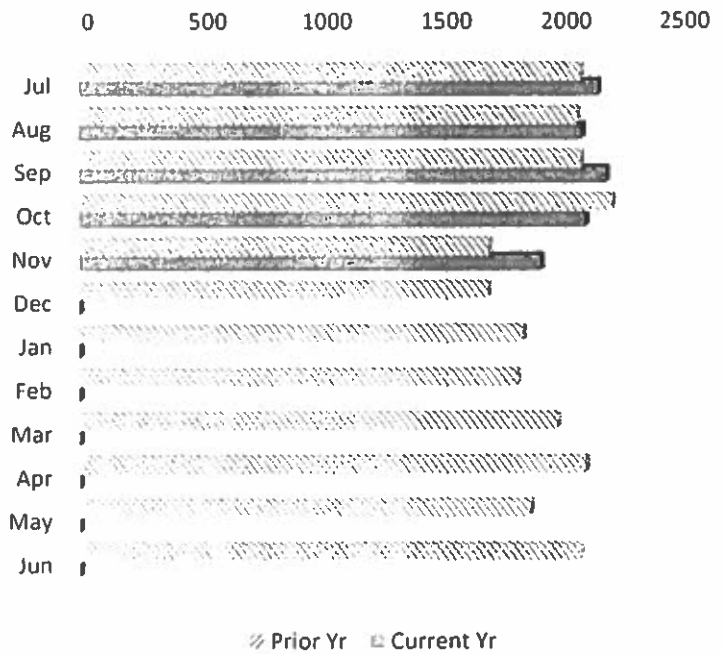
In November 2015, the Coverage Division recieved a total of 1,928 WCC Claim files. Of these, 1,637 were created through proper carrier filing of a 12A, and 291 were generated as a result of a Form 50 claim filing. Year to Date, 10,513 Claim files have been created which is 44% of claim file volume prior year (23,682).

Coverage Fines:

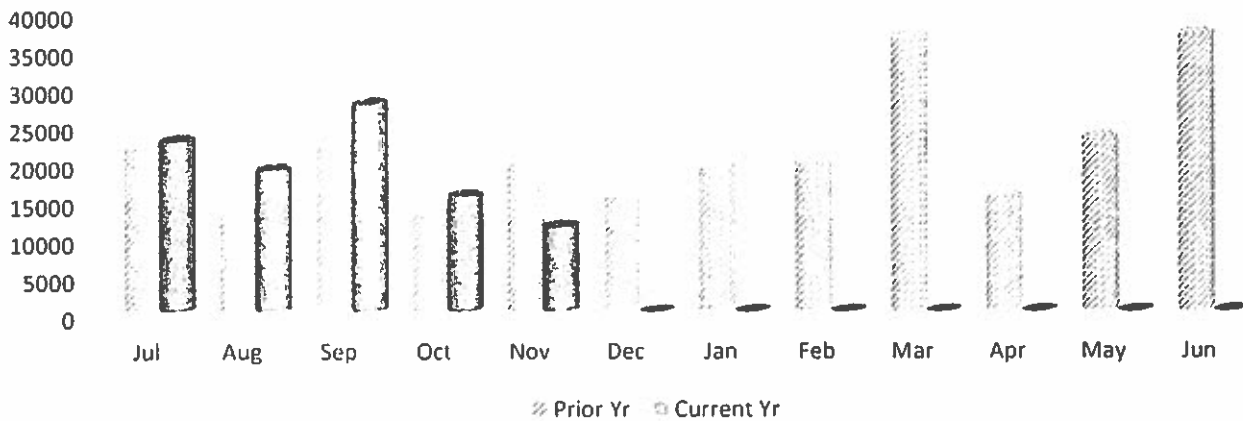
The Coverage Division collected \$11,300 in fine revenue in November 2015, as compared to \$19,700 in Coverage fines/penalties accrued during November 2014. Year on Year, Coverage fines are at 38% of collections for prior year.

Coverage Division fines represent 8% of the Commission's annual earmarked budget.

Coverage Files Created vs Prior Year



Coverage Fines Collected v Prior Year



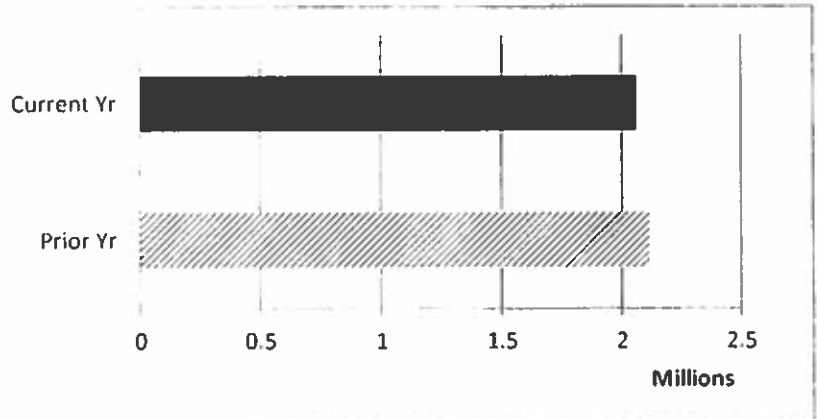
IMS SELF INSURANCE DIVISION

November 2015

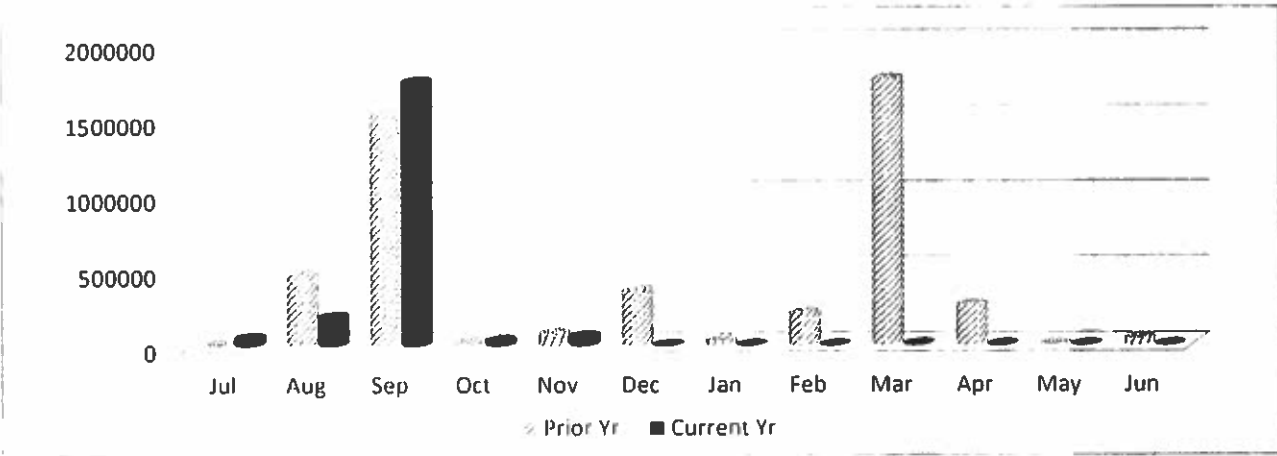
During the month of November 2015, the Self Insurance Division:

- * collected \$57,507 in self insurance tax.
- * added 6 new self-insurers.
- * conducted 4 Self Insurance audits.

Year to Date, Self Insurance tax revenue is trending at 98% of prior year and 20 Self Insurance audits have been completed.



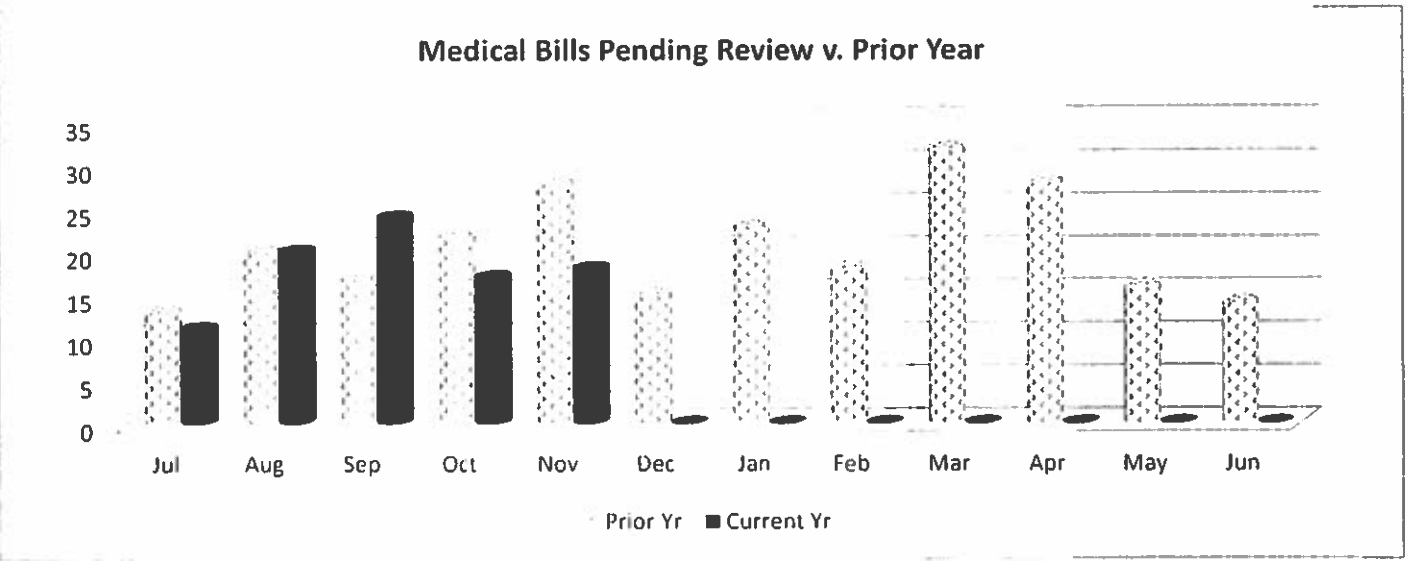
Self Insurance Tax Collections v. Prior Year



IMS MEDICAL SERVICES DIVISION

In November 2015, the Medical Services Division began the month with 17 bills pending review, received an additional 15 bills for review, conducted 14 bill reviews and ended the month with 18 bills pending.

Medical Bills Pending Review v. Prior Year



South Carolina Workers' Compensation Commission
Summary of Revenues and Expenditures 2015-16 Budget
November 2015 - Period 5

Expenditures

Bench:	41.7%	Annual		Annual	Nov	Year to Date	Budget	Nov	Annual
		Budget	Amend	Final	Spend	Spend	Remaining	Spend %	Spend %
Commissioners									
Personnel GA		1,133,336	19,314	1,152,650	50,416	504,165			
Personnel EM									
Ttl Pers		1,133,336	19,314	1,152,650	50,416	504,165	648,485	4%	44%
Expense GA									
Expense EM		285,700		285,700	26,206	104,876			
Ttl Expense		285,700		285,700	26,206	104,876	180,824	9%	37%
Total Comm		\$ 1,419,036		\$ 1,438,350	\$ 76,622	\$ 609,041	\$ 829,309	5%	42%

Administration

Personnel GA		146,007	800	146,807	6,378	65,379			
Personnel EM		606,119	19,973	626,092	17,200	176,389			
Ttl Pers		752,126		752,126	23,578	241,768	510,358	3%	32%
Expense GA		75,000		75,000	75,000	75,000			
Expense EM		1,000,649		1,000,649	88,268	453,780			
Ttl Expense		1,075,649		1,075,649	163,268	528,780	546,869	15%	49%
Total Admin		\$ 1,827,775		\$ 1,827,775	\$ 186,846	\$ 770,548	\$ 1,057,227	10%	42%

Claims

Personnel GA		77,223	800	78,023	3,188	32,675			
Personnel EM		272,010	5,600	277,610	13,000	138,533			
Ttl Pers		349,233		349,233	16,188	171,208	178,025	5%	49%
Expense GA									
Expense EM		19,700		19,700	1,440	8,222			
Ttl Expense		19,700		19,700	1,440	8,222	11,478	7%	42%
Total Claims		\$ 368,933		\$ 368,933	\$ 17,628	\$ 179,430	\$ 189,503	5%	49%

IMS

Personnel GA		26,632	800	27,432	1,110	11,897			
Personnel EM		467,881	7,200	475,081	21,515	227,793			
Ttl Pers		494,513		494,513	22,625	239,690	254,823	5%	48%
Expense GA									
Expense EM		54,500		54,500	5,307	40,478			
Ttl Expense		54,500		54,500	5,307	40,478	14,022	10%	74%
Total IMS		\$ 549,013		\$ 549,013	\$ 27,932	\$ 280,168	\$ 268,845	5%	51%

Judicial

Personnel GA		29,267		29,267		-			
Personnel EM		292,779	6,400	299,179	13,679	143,188			
Ttl Pers		322,046		322,046	13,679	143,188	178,858	4%	44%
Expense GA									
Expense EM		12,800		12,800	1,069	5,940			
Ttl Expense		12,800		12,800	1,069	5,940	6,860	8%	46%
Total Judicial		\$ 334,846		\$ 334,846	\$ 14,748	\$ 149,128	\$ 185,718	4%	45%

Employer Contribution

GA		496,796	11,891	508,687	18,369	221,311			
EM		559,928	7,920	567,848	22,782	250,518			
Ttl Fringe		\$ 1,056,724		\$ 1,076,535	41,151	\$ 471,829	\$ 604,706	4%	44%

Total Agency

Ttl GA		1,984,261	33,605	2,017,866	154,461	910,427	1,107,439	8%	45%
Ttl EM		3,572,066	47,093	3,619,159	210,466	1,549,717	2,069,442	6%	43%
GF Carry Fwd			15,226	15,226			15,226	0%	0%
Total Agency		\$ 5,556,327	\$ 95,924	\$ 5,652,251	\$ 364,927	\$ 2,460,144	\$ 3,192,107	6%	43.5%

Summary of Fiscal Activity - November 2015

As of the close of November 2015, the Commission's overall fiscal performance vs budget is as follows:

Total Expenses Incurred	43.5% of budget
Gen Appropriation Received	45.1% of budget
Earmarked Revenue Received	44.5% of budget
Draw on Fund Balance	39.3% of budget (benchmark 41.7%)

Operational Funding

The Workers' Compensation Commission derives its operational funding from three sources: General Fund Appropriation; Earmarked Funds (earned revenue), and Appropriated Fund Balance. The Commission's Fund Balance is supported by the retention of the greater of one half of Self Insurance Tax receipts or \$2.4m.

For November 2015, the Commission's operational funding of \$364,927 was received as follows:

General Fund Appropriation:	\$ 154,461
Earmarked Funds	\$ 232,901
Fund Balance:	(\$ 22,435)

Self Insurance Tax Received

November 2015	\$ 57,507
FY15-16 (YTD)	\$ 2,060,998

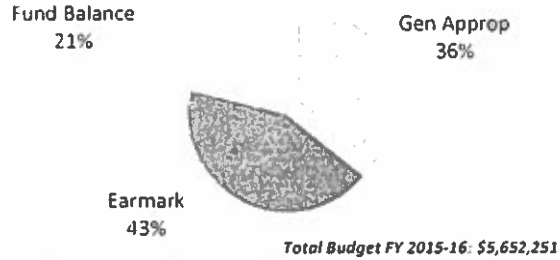
Operational Expenditures

The Workers' Compensation Commission has budgeted expenditures for FY 2015-16 in the amount of \$5,652,251, of which 74% is personnel related.

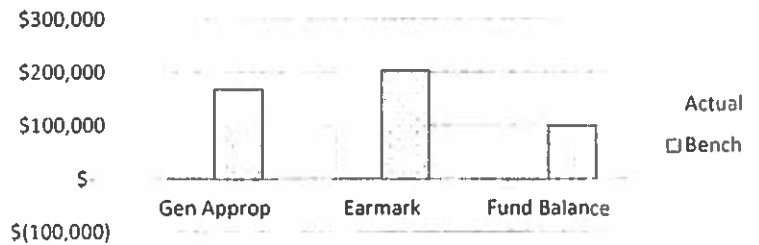
Total expenditures for November 2015 \$ 364,927.

Commissioners:	\$ 76,622
Administration:	\$ 186,846
Claims:	\$ 17,628
Judicial:	\$ 14,748
IMAS:	\$ 27,932

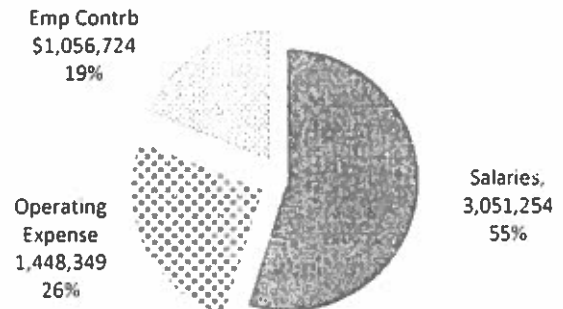
Funding Sources (annual budget)



Funding Sources (Nov)

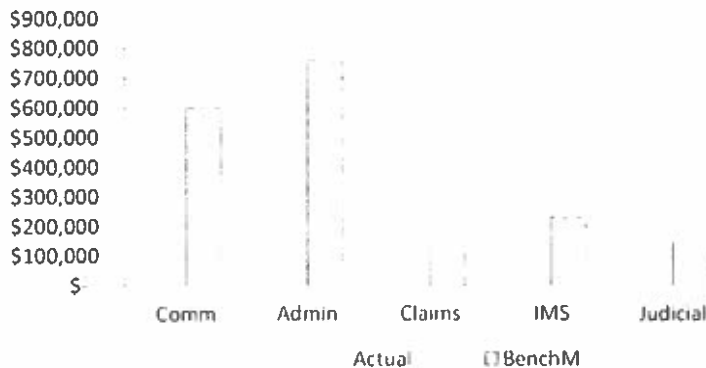


FY 2015-16 Expenditure Budget

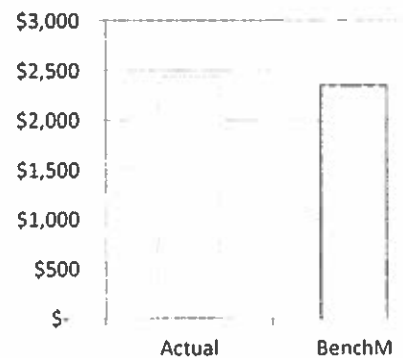


Total Budget FY 2015-16: \$5,652,251

Year to Date Expenditures by Department



Total Expenditures YTD



South Carolina Workers' Compensation Commission
Summary of Revenues and Expenditures 2015-16 Budget
November 2015 - Period 5

Funding and Appropriations

Period 5

	Annual Budget	Amend	Annual Final	Nov Received	Year to Date Received	Budget Remaining	Nov Rcvd %	Annual Rcvd %
General Fund Approp	\$ 1,984,261	\$ 33,605	\$ 2,017,866	\$ 154,461	\$ 910,427	1,107,439	7.7%	45.1%

Earmarked Funds

Training Reg fee	5,000		\$ 5,000		\$ 810	4,190		
Sale of Publications	8,000		\$ 8,000		\$ 2,800	5,200		
Award Review fee	73,000		\$ 73,000	1950	\$ 12,000	61,000		
Sale of Photocopies	88,000		\$ 88,000	8065	\$ 28,356	59,644		
WC Violation Fee	1,660,000		\$ 1,660,000	153092	\$ 793,775	866,225		
Listings and Labels	25,000		\$ 25,000	1510	\$ 8,275	16,725		
WC Hearing Fee	567,000		\$ 562,000	52950	\$ 213,674	348,326		
Parking	5,900		\$ 5,900		\$ 2,280	3,620		
Other	2000		\$ 2,000	15334	\$ 19,129	(17,129)		
Ttl Earmarked Funds	\$ 2,428,900		\$ 2,428,900	\$ 232,901	\$ 1,081,099	\$ 1,347,801	9.6%	44.5%

Appro EM Fund Balance
GF Carry Forward

\$ 1,143,166	\$ 47,093	\$ 1,190,259	\$ (22,435)	\$ 468,618	721,641	
	\$ 15,226	\$ 15,226		\$ -	15,226	
Total Funding	\$ 5,556,327	\$ 95,924	\$ 5,652,251		\$ 2,460,144	\$ 3,192,107

State of South Carolina

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Workers' Compensation Commission

MEMORANDUM

To: Gary Cannon, Executive Director

From: Sonji Spann, Claims Director

Date: December 4, 2015

Re: Claims Department –December 2015 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:

	Nov 2015	Oct 2015	Nov 2014
Individual Case Files Closed	2069	2,028	2348
Fine Revenue Collected	\$34,200	\$42,800	\$44,750
# of individual case files reviewed by examiners	462	240	402
Total Fines	268	279	381
Form 18 Fines	263	266	336
Total Forms Processed	11,600	12,464	11,116
SROI	824	618	
Email 18's	1223	1997	1488
USPS	2303	2851	2553

SPECIAL PROJECT (1200 OPEN)

	Nov 2015	Oct 2015	Sept. 2015
Individual Case Files Closed	249	220	285
# of individual case files reviewed by examiner	280	52	679
Total Fines	6	5	26

The Claims Department continues their efforts to educate the stakeholders:

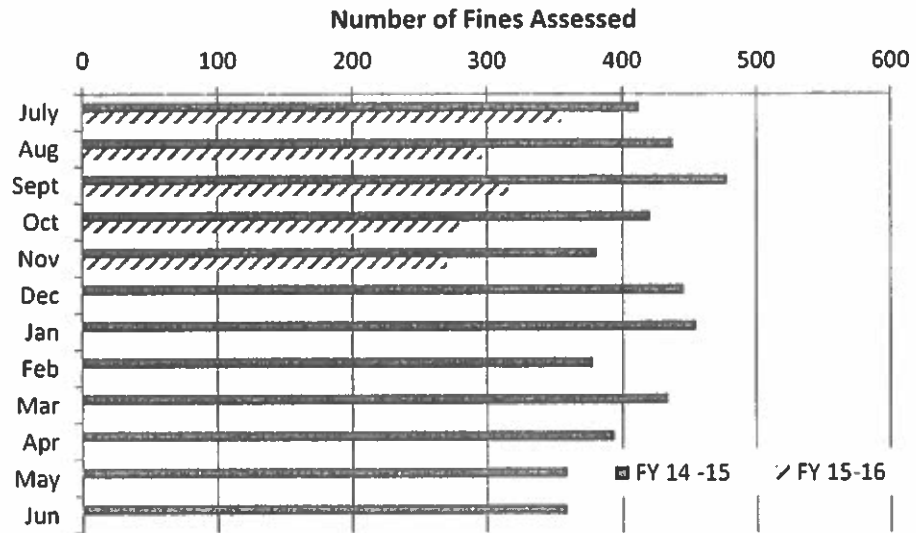
The 1200 Project: DiAnn has reviewed 158 (81 in Nov) of the 1200 Open files. As she separates the documents, she is reviewing for compliance and closure.

	Five Year Claims Fine Collection History											
	FY 2011-2012, 2012-2013, 2013-2014, 2014-2015 and 2015-2016											
	July	August	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June
2011-2012	111,875	103,800	83,300	81,300	85,100	110,700	126,700	120,225	116,915	100,200	61,050	90,450
2012-2013	80,825	69,100	57,075	91,925	64,825	65,950	60,550	79,875	67,000	56,650	47,550	48,500
2013-2014	42,350	21,900	35,050	110,350	57,425	50,900	27,000	38,550	73,100	45,350	52,550	31,200
2014-2015	43,300	42,100	51,650	55,100	44,750	49,900	44,700	77,100	90,200	52,250	74,750	124,800
2015-2016	69,250	53,350	56,200	42,800	34,200							

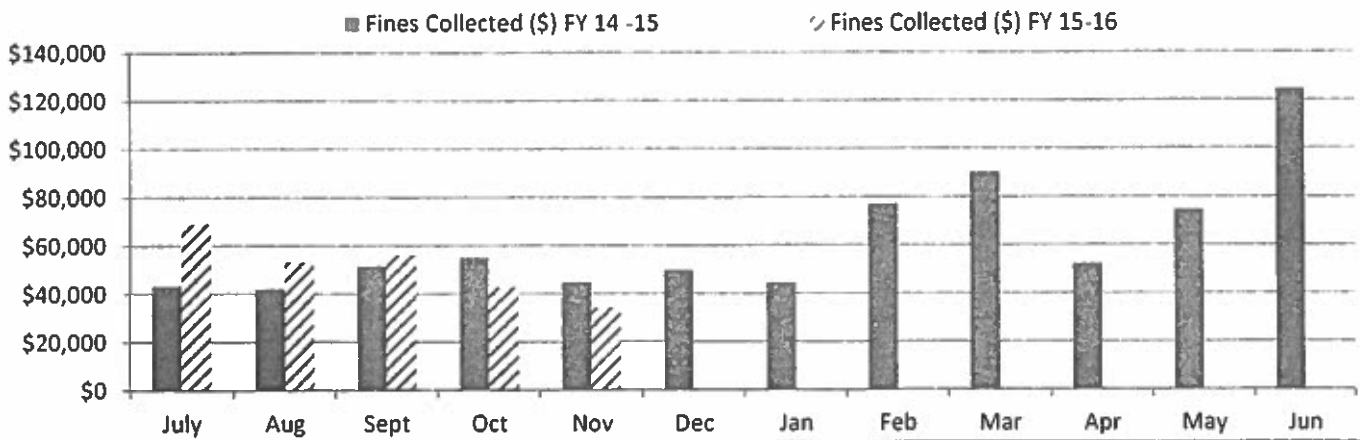
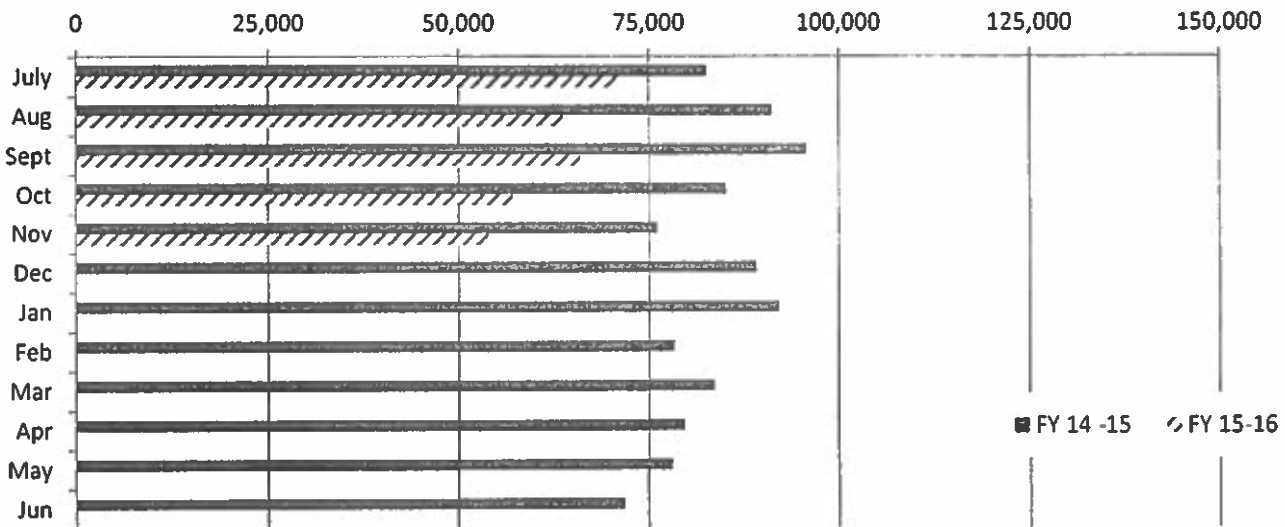
CLAIMS DEPARTMENT - Fine Activity Report November 2015

The number of fines assessed by the Claims Department decreased in number to 270 from 279 in November. The number of Claims fines paid decreased from 203 in October to 168 in November.

Total fine dollars assessed in November was \$54,000 a decrease over prior month \$57,000. Fine revenue received in November was \$34,200 a decrease over prior month \$42,800.



Net Fines Assessed (\$)



Claims Department - Fine Activity Report

Fines Assessed (#)

	FY 14 -15	FY 15-16
July	413	355
Aug	438	296
Sept	478	316
Oct	421	279
Nov	381	270
Dec	446	0
Jan	455	0
Feb	378	0
Mar	434	0
Apr	394	0
May	390	0
Jun	359	0
Total	4,987	1,516
Mo Avg	416	303

Fines Received (#)

	FY 14-15	FY 15-16
July	198	341
Aug	205	260
Sept	254	271
Oct	259	203
Nov	234	168
Dec	245	0
Jan	224	0
Feb	368	0
Mar	423	0
Apr	234	0
May	363	0
Jun	604	0
Total	3,611	1,243
Mo Avg	301	249

Net Fines Assessed (\$)*

	FY 14 -15	FY 15-16
July	82,650	71,050
Aug	91,250	63,600
Sept	95,700	66,000
Oct	85,200	57,000
Nov	76,200	54,000
Dec	89,200	0
Jan	92,100	0
Feb	78,400	0
Mar	83,600	0
Apr	79,700	0
May	78,100	0
Jun	71,800	0
Total	1,003,900	200,650
Mo Avg	83,658	40,130

Fines Collected (\$)

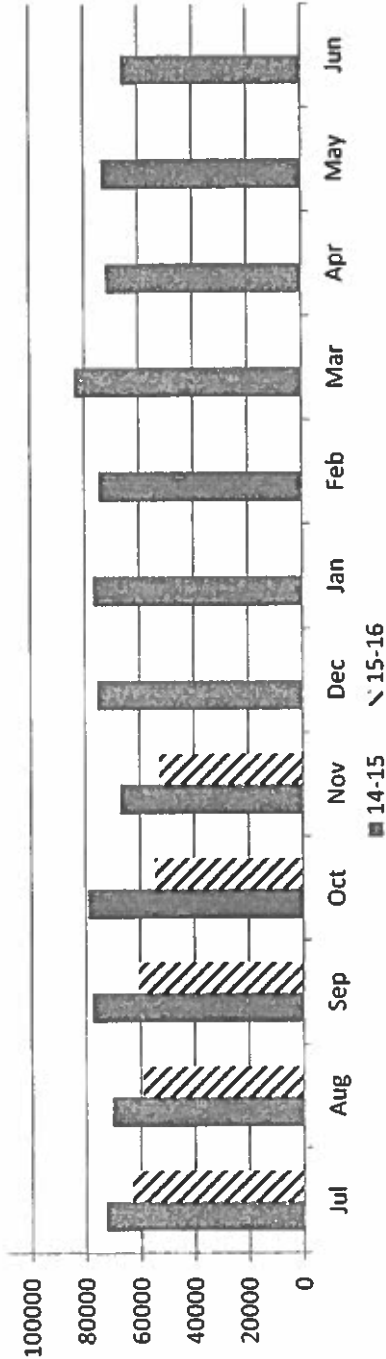
	FY 14 -15	FY 15-16
July	\$43,300	69,250
Aug	\$42,100	53,350
Sept	\$51,650	56,200
Oct	\$55,100	42,800
Nov	\$44,750	34,200
Dec	\$49,900	0
Jan	\$44,700	0
Feb	\$77,100	0
Mar	\$90,200	0
Apr	\$52,250	0
May	\$74,750	0
Jun	\$124,800	0
Total	750,600	255,800
Mo Avg	62,550	51,160

*after reductions and rescinded

FORM 18 FINE ASSESSMENTS

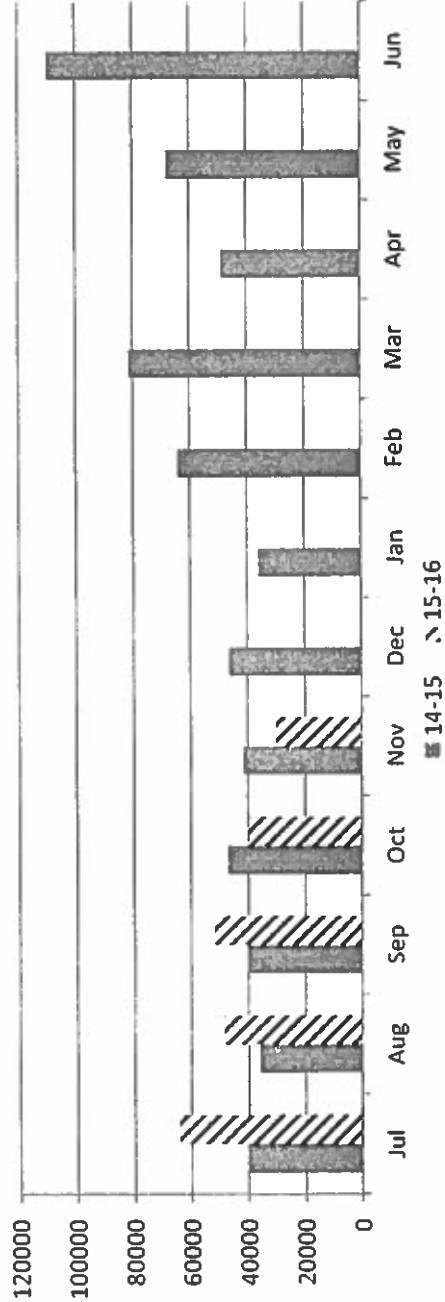
Consistent with overall Commission strategy, the Claims Department works with our Carrier partners to develop approaches that result in increased compliance levels and reduced Fine related costs to businesses in South Carolina.

A key "success measure" of this effort is the Form 18 Fine Assessment report. For the month of November 2015, this has resulted in an decrease in Form 18 Fine Assessments to \$52,600 as compared to October 2015 of \$54,400. The actual number of fines assessed decreased from 266 to 263 in November 2015.



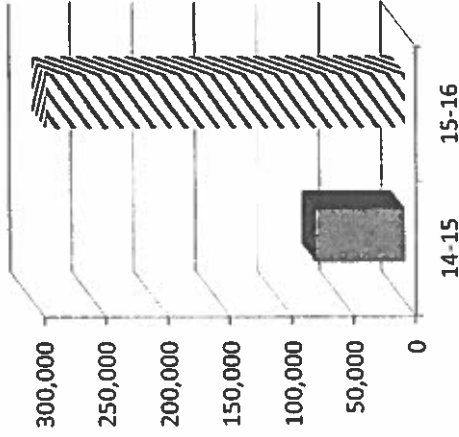
FORM 18 FINE COLLECTION

In November 2015, the Claims Department received payment on Form 18 Fines resulting in revenue of \$30,200.



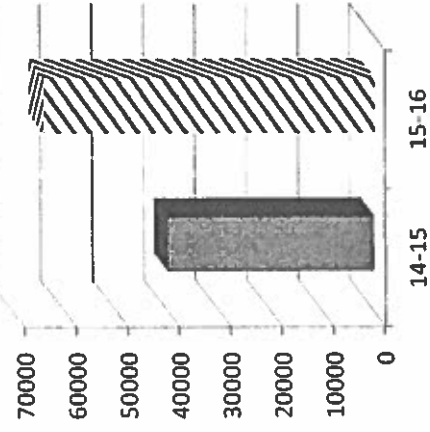
FORM 18 FINE ASSESSMENTS YTD

Form 18 Fine Assessment is trending at 86% of prior year assessments.



FORM 18 FINE REVENUE YTD

Form 18 Fine Revenue is trending at 160% of prior year collections.



State of South Carolina

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Workers' Compensation Commission

December 4, 2015

To: Gary M. Cannon
Executive Director

From: Amy A. Bracy
Judicial Director

RE: **Monthly Judicial Report for November 2015**

There were one hundred three (103) Single Commissioner Hearings conducted during the past month, and there were fourteen (14) Full Commission hearings held in November.

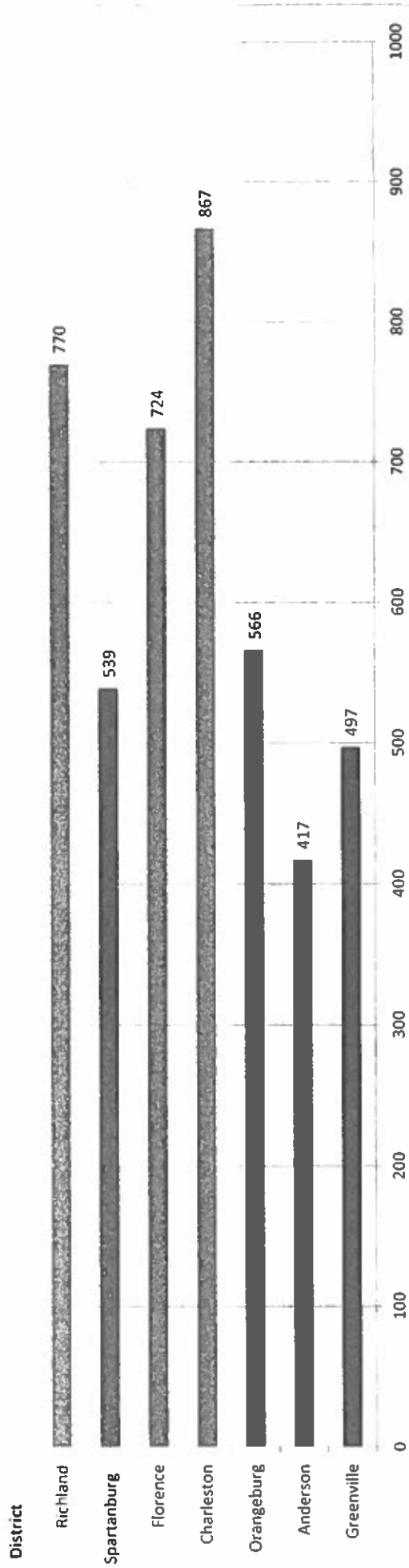
The Informal Conference system conducted two hundred ninety-eight (298) hearings during the last month.

There were fifty-six (56) regulatory mediations scheduled and twenty-three (23) requested mediations. The Judicial Department was notified of fifty-six (56) matters resolved in mediation, with the receipt of Forms 70.

Pleadings Assigned - Three Year Comparison by Month

	District 1 Greenville			District 2 Anderson			District 3 Orangeburg			District 4 Charleston			District 5 Florence			District 6 Spartanburg			District 7 Richland				
	15-16	14-15	13-14	15-16	14-15	13-14	15-16	14-15	13-14	15-16	14-15	13-14	15-16	14-15	13-14	15-16	14-15	13-14	15-16	14-15	13-14		
	107	103	119	90	92	96	118	119	121	121	121	181	140	164	144	145	117	130	116	111	130	116	141
Jul	110	86	121	76	96	71	109	120	121	121	171	153	170	164	122	146	131	122	104	119	138	164	141
Aug	102	105	102	88	84	80	132	105	97	97	198	155	163	154	126	137	110	96	70	90	167	124	132
Sep	106	83	124	101	78	84	119	115	128	128	172	143	170	171	146	159	96	112	106	170	156	160	160
Oct	72	80	115	62	56	67	88	93	115	115	145	115	163	133	135	115	81	80	79	129	127	112	112
Nov		99	78		86	93		108	102	102		133	123		119	108		85	95		146	113	113
Dec		109	92		80	56		120	100	100		163	151		158	95		108	88		174	119	119
Jan		98	93		86	98		92	98	98		141	157		110	146							106
Feb		112	101		91	76		132	107	121		156	121		118	130							128
Mar		99	98		87	69		97	100	144		165	144		120	141							150
Apr		101	88		73	97		105	124	169		158	169		140	121							153
May		89	81		66	79		102	95	148		143	148		147	110							123
Jun		1164	1212	417	975	966	566	1308	1308	1843	867	1765	1843	1510	1610	724	539	1214	1152	770	1732	1572	1572
Totals	497	1164	1212	417	975	966	566	1308	1308	1843	867	1765	1843	1510	1610	724	539	1214	1152	770	1732	1572	1572

Pleadings Assigned by District Year to Date



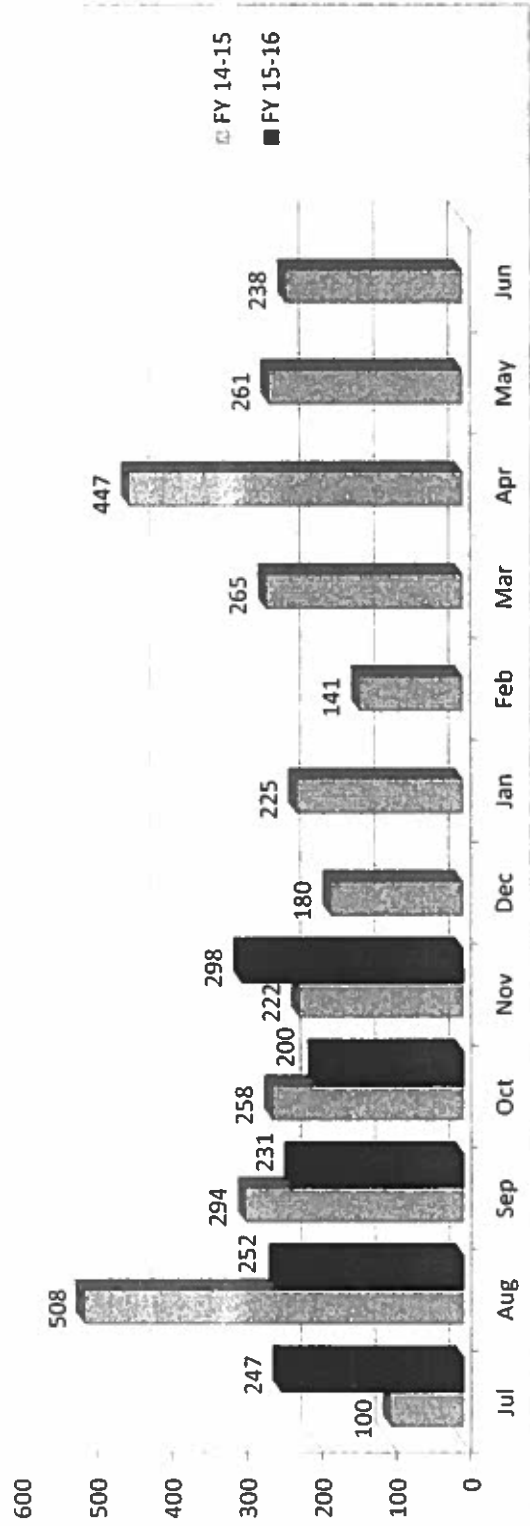
IC's to Date v. Prior

Informal Conf. Conducted

	FY 14-15	FY 15-16
Jul	100	247
Aug	508	252
Sep	294	231
Oct	258	200
Nov	222	298
Dec	180	
Jan	225	
Feb	141	
Mar	265	
Apr	447	
May	261	
Jun	238	
Total	3139	1228

FY 14-15 1382
FY 15-16 1228

Y-T-D



Y-T-D

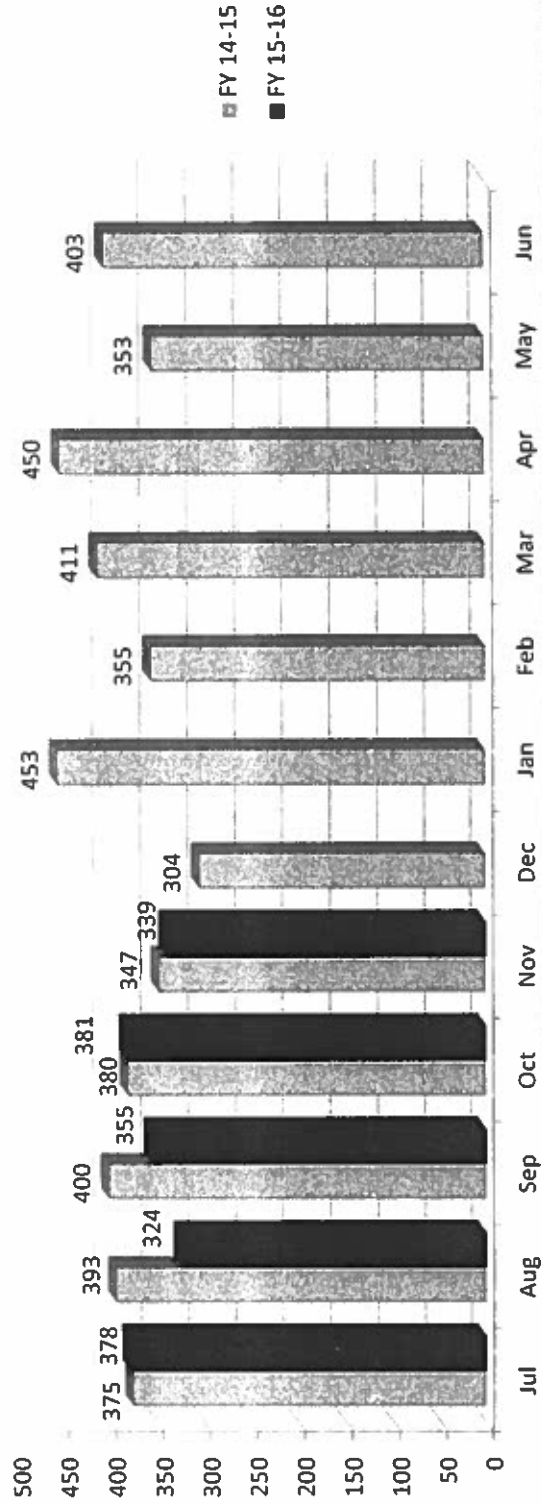
Informal Conf. Requested

	FY 14-15	FY 15-16
Jul	375	378
Aug	393	324
Sep	400	355
Oct	380	381
Nov	347	339
Dec	304	
Jan	453	
Feb	355	
Mar	411	
Apr	450	
May	353	
Jun	403	
Total	4624	1777



FY 14-15 1895
FY 15-16 1777

Y-T-D



State of South Carolina

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Workers' Compensation Commission

Executive Director's Report Gary M. Cannon

December 10, 2015

Narcotics Use Ad Hoc Advisory Committee

The Narcotics Use Ad Hoc Advisory Committee will meet on Thursday, December 17, to review and discuss proposed recommendations.

Office Lease Agreement

The lease for the Commission's office space (1333 Main Street) expires April 30, 2015. Pursuant to State regulations the Office of General Services solicited proposals for 19,660 to 22,000 square feet. General Services received two proposals, one of which is from the current landlord for 19,660 square feet. Office of General Services recommended accepting the proposal from the current landlord. A final decision is pending review and approval by the State Fiscal Accountability Authority on March 15.

SCWCC v Westpoint Home, LLC

Arguments were held in the Court of Common Pleas' Business Court Pilot Program before the Honorable Alison Renee Lee on November 23rd, 2015. The parties were able to stipulate to the facts and presented cross-motions for summary judgment. At issue is whether Westpoint Home, LLC is entitled to access records under the control of the Commission regarding security paid to the State as a result of the now defunct self-insurer, Westpoint Stevens, Inc., defaulting on its obligations under the Workers' Compensation Act. The Commission was represented by Parkin Hunter, Assistant Attorney General, Jared Libet, Assistant Attorney General, and Keith Roberts, General Counsel. Judge Lee has taken the matter under advisement. Counsel will notify the Commission when a decision has been reached.

Personnel

Law Clerk

Marlene Johnson-Moore, Law Clerk, will be on military leave January through March 2016.

Meetings/Activities

The Executive Director participated in the following meetings/activities:

- November 17 – Telephone conference with representative of Automated Health Care Solutions
- November 19 – Attended McAngus Goudelock & Courie Educational Seminar in Charlotte with Chairman Beck
- November 20 – Telephone conference with Chairman of the Narcotics Use Ad Hoc Advisory Committee
- December 7-9 – Participated in the IAIABC Board Meeting, Phoenix, AZ

Employee Meetings

The annual Holiday Luncheon is scheduled for December 14 at Noon.

Constituent /Public Information Services

For the period November 10, through December 9, 2015 the Executive Director's Office and the General Counsel's office had 302 contacts with various system constituents and stakeholders. 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 November 10, 2015 through December 9, 2015, we added five individuals to the distribution list. A total of 580 individuals currently receive notifications from the Commission.

SC Vocational Rehabilitation Department (SCVRD)

SCVRD reported no referrals for the month of November, and 29 referrals year to date.

P.O. Box 995
1550 Gadsden Street
Columbia, SC 29202
dew.sc.gov



Nikki R. Haley
Governor

Cheryl M. Stanton
Executive Director

December 11, 2015

Mr. Gary Cannon
Office of Executive Director
Workers' Compensation Commission
1333 Main Street
Columbia, SC 29202-1715

Re: Average Weekly Wage

Dear Mr. Cannon,

This is in reference to your correspondence dated November 5, 2015, in which you requested the average weekly wage.

This letter certifies that the average weekly wage for July 1, 2014 through June 30, 2015 as computed under South Carolina Employment Security Law was \$784.03.

If you should have any questions or need any further information, please contact Brenda Lisbon, Business Intelligence Department Director, at 737-2813.

Sincerely,

A handwritten signature in black ink that reads "Cheryl M. Stanton".

Cheryl Stanton
Executive Director

CMS/tcm

ES-8

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
_____)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION
COMMISSION

In Re: Average Weekly Wage
Maximum Compensation Rate
Effective January 1, 2016

The South Carolina Department of Employment and Workforce has certified the average weekly wage in South Carolina for the period of July 1, 2014 through June 30, 2015, was Seven Hundred Eighty Four Dollars and Three Cents (\$784.03). South Carolina Code Ann. Section 42-9-10, provides, in pertinent part, that "The injured employee may not be paid more each week than the average weekly wage in this State for the preceding fiscal year." Therefore, according to South Carolina Code Sections 42-1-50; 42-9-10; and 42-9-20, et seq. (Law. Co-op 1976), the maximum weekly compensation rate for injuries arising on and after January 1, 2016, shall be Seven Hundred Eight Four Dollars and Three Cents (\$784.03).

AND IT IS SO ORDERED!

T. Scott Beck, Chairman

Susan S. Barden, Vice Chair

Mike Campbell, Commissioner

Melody L. James., Commissioner

Gene McCaskill, Commissioner

Aisha Taylor, Commissioner

Avery B. Wilkerson, Jr., Commissioner

In Chambers
Columbia, South Carolina

Date

State of South Carolina

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Workers' Compensation Commission

MEMORANDUM

TO: Commissioners

FROM: Alicia Osborne
Human Resources

DATE: December 14, 2015

SUBJECT: Revised Employee Leave Programs Policy

In the Commission's continued effort to stay current with policies and procedures, we are recommending the Family Medical Leave Act section of the Employee Leave Programs policy be revised. The attached DRAFT document reflects the changes via ~~strikethrough~~ for deleted language and underline for new language. The attached FINAL document reflects the changes without the ~~strikethrough~~ and underline.

The purpose for the revisions is to clarify the processes and procedures of FMLA law as it applies to the Commission. This policy reflects the State Human Resources Policy on FMLA and further shows how FMLA applies to Commission employees.

The FMLA section begins with the defining FMLA eligibility. The language is updated to show how an individual may be eligible for FMLA, particularly a state employee.

The scheduling portion of FMLA is revised to include intermittent or reduced-scheduled leave for the employee and the employee's sick/military family member.

Use of Paid and Unpaid Leave under FMLA is revised to show what the Commission's requirements are for taking sick leave, annual leave, and Leave Without Pay (LWOP) when running concurrently with FMLA.

The Procedures (Section G) is a new section. It provides the steps an employee must take to request and obtain FMLA coverage. Certification and Recertification are subsections included to show what steps an employee must take when obtaining certifications. Included in this language are measures that can be taken if the Commission is given reason to doubt the validity of the certification or the recertification. The Commission may also seek verification from the

employee's provider to verify leave absences. This section sets forth the procedures for a Second and/or Third Opinion should it be required for the certification/recertification for FMLA.

I recommend that the Commission adopt these proposed changes to the Employee Leave Programs Policy effective December 18, 2015. The later date will allow the Commission to notify the employees and give the employees an opportunity to review the policy before it becomes effective.

Family Medical Leave Act (FMLA) Guidelines

For more detailed information, consult the Family and Medical Leave Act (FMLA) and relevant federal regulations. State government is considered a single employer for the purpose of determining FMLA leave.

3. A. Eligibility and Reasons for FMLA Leave

- a. 1. ~~Employees must have been employed by~~ FMLA leave shall be granted to any employee who has worked for the State of South Carolina for at least 12 months in the preceding seven (7) years. The 12 months need not be consecutive. Employees must have completed, and who has worked at least 1,250 hours of service (defined as FLSA compensable hours of work) during the 12-month period preceding prior to the employee's request for FMLA leave, including "on-call" hours. The required total of 12 months of employment need not be consecutive. An agency can go back 7 years prior to the date of the need for leave to determine if the employee worked a total of 12 months with State government is considered to be a single employer for the purpose of determining FMLA leave eligibility. An agency has the ability to go beyond 7 years if an employee left State employment due to National Guard or Reserve Military obligations or a written agreement reflecting an employer's intention to rehire after a break.

1.2. ~~The Commission may grant an~~ In order to determine if an exempt employee meets the 1,250 hours of service, work records may be kept.

- b. ~~An eligible employee shall be granted up to a total of 12 weeks of unpaid FMLA leave during a, in each calendar year, for any of the following reasons:~~

1. a. Pregnancy, prenatal medical care, For the birth or adoption of a son or daughter and to care for that child;

2.1. For placement of a son or the daughter for adoption or foster care placement of a child (NOTE: eligibility expires 12 months after with the date employee;

For caring of the birth, adoption or placement);

3. b. To care for the employee's spouse, son, daughter, or parent with a serious health condition; and

4. c. For a serious health condition that makes the employee unable to perform the essential functions of the employee's job;

5. d. For qualifying eventsexigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or called to active duty status as a member for the National Guard or Reserves in support of a contingency operation. Qualifying eventsmayexigencies can include: 1) short notice deployment; 2) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation; 7) post-deployment activities; and 8) additional activities not encompassed in other categories but agreed to by the agency and the employee; and

e. ~~Note: Reasons (1) and (2) for leave expires 12 months after the date of the birth or placement.~~

- e- Under the military caregiver leave provisions, an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness may be able to take up to a total of 26 workweeks in a single 12-month period to care for the service member.

B. ~~2-~~ Scheduling FMLA Leave

1. An eligible employee requesting FMLA leave must give 30-days advance notice to the employing agency of the need to take FMLA leave when the need for leave is foreseeable.
2. When the need for leave is not foreseeable, such notice must be given as soon as practical. The use of FMLA leave shall be subject to verification.
- ~~a.~~3. The agency may require documentation or certification from a health care provider supporting the need for FMLA leave for a serious health condition. Agencies may also require documentation for certification or serious health condition of a spouse, son, or daughter, a qualifying exigency or to confirm familial relationships.
4. If the FMLA leave is for the planned medical treatment of the employee or a family member, or requires intermittent or reduced-schedule leave, the Commission may request that the employee arrange a particular schedule for the appointments or treatment.
5. Intermittent or reduced-schedule leave for the adoption or placement of a child may be taken only with the approval of the Commission.
6. Intermittent or Reduced Schedule Leave
 - a. FMLA leave taken because of an employee's serious health condition or the serious health condition of an eligible family member may be taken on an intermittent or reduced-schedule leave basis when medically necessary upon the approval of the Executive Director.
 - b. Intermittent or reduced-schedule leave for the adoption or placement of a child may be taken only with the approval of the Executive Director, subject to departmental needs and SC WCC policies and procedures.

~~3.~~ C. Use of FMLA Leave

The agency is responsible for declaring leave as FMLA leave based on information provided by the employee.

- ~~a.~~ 1. When the agency designates leave as FMLA leave, it must notify the employee. No leave may be designated as FMLA leave after the leave has ended, except as provided for under FMLA (See Ragsdale v. Wolverine World Wide Inc., 535 U.S. 81 (2002)). ~~the FMLA.~~

b. 2. Use of FMLA leave shall be calculated by either the actual time or in quarter hour increments.

c. 3. Any ~~The agency should declare any leave declared and approved by the Commission taken that qualifies as FMLA leave. The FMLA leave should run concurrently with any other leave. The, and the leave shall~~ should be charged against the FMLA leave and the other applicable both leave allowance categories' allowances.

D. 4- Use of Paid and Unpaid Leave

Generally, FMLA leave is unpaid; with the following exceptions; however,

a. 1. An eligible employee shall ~~will~~ be required to substitute his accrued sick leave for unpaid FMLA leave when the FMLA leave request qualifies for sick leave usage, ~~or~~

b. 2. ~~Once the sick leave has been exhausted, an~~ An eligible employee may use ~~select to substitute~~ accrued annual leave to run concurrently with ~~for unpaid~~ FMLA leave. 3. All sick leave must be exhausted before the employee is eligible for LWOP.

E. 5- FMLA Leave Record

A leave record shall be maintained by the Commission ~~employing agency~~ for each employee subject to the provisions of the FMLA. The leave ~~Such~~ record shall:

a. 1. Reflect the maximum FMLA leave allowance (12 weeks in a calendar year) and charges in terms of hours.

b. 2. Indicate the number of FMLA leave hours used in the current calendar year.

c. 3. Indicate the number of hours in the employee's established workweek.

F. 6- Transfer of FMLA Leave Records

For an eligible employee who transfers from one agency to another, the transferring agency is responsible for transferring the employee's FMLA leave records in that calendar year to the receiving agency.

G. Procedures

1. Requesting Family Medical Leave

a. An employee requesting FMLA leave should send a written request (e-mail or letter) to the Human Resources Manager.

b. The Human Resources Manager shall respond to the employee's request within five business days with the appropriate forms and certification documents required to request FMLA leave.

c. The employee must return the completed certification forms to the Human

Resources Manager no later than 15 days after receipt of the FMLA certification forms provided by the Commission.

- d. Upon receipt, the Human Resources Manager shall review the certification. The Human Resources Manager shall notify the employee in writing of any deficiencies in the information provided and specify the additional information needed to make the certification complete and sufficient. The employee must submit the additional information within seven business days to cure the deficiency. Additional time may be granted by the Executive Director if requested by the employee.
- e. The Human Resources Manager or Executive Director are the only authorized representatives of the Commission with authority to contact the healthcare provider for authentication or clarification of the medical certification pertaining to the FMLA request.
- f. Disability leave for 10 or more days taken pursuant to the sick leave policy will be counted toward the allowed 12 weeks of FMLA leave subject to verification.
- g. If the employee fails to report to work when FMLA leave has been denied, the time taken may be treated as unauthorized leave and the employee will be subject to any disciplinary actions for unauthorized leave.

2. Certification

- a. The employee must provide FMLA certification to the Commission. The certification shall include:
 - 1. The date on which the serious health condition commenced.
 - 2. The duration of the employee's condition or an estimate of the amount of time the employee will be needed to care for a family member.
 - 3. Medical facts from the health care provider sufficient to support the employee's request for FMLA leave.
 - 4. For FMLA leave requests for the adoption or foster care placement of a child, a copy of the adoption papers or letter from the attorney or agency handling the adoption or foster care placement must accompany the FMLA Certification request.
 - 5. For FMLA leave requests for Military Family Leave, a copy of the applicable Military Orders, DD214 for Veterans, or other acceptable documentation must accompany the FMLA Certification request.
 - 6. For the birth of a child, a copy of the birth certificate must accompany the FMLA Certification request
- b. Recertification
 - 1. Recertification will be required every three months for continuous FMLA leave that lasts for more than three months.
 - 2. Intermittent FMLA will require recertification a minimum of every 30 days.
 - 3. The Commission may request recertification in less than 30 days only if:

a. The employee requests an extension of leave;

b. The circumstances described by the previous certification have changed significantly; or

c. The employer receives information that causes it to doubt the employee's stated reason for the absence or the continuing validity of the existing medical certification.

4. Exceptions to the recertification procedures may only be made upon approval of the Executive Director of the Commission.

5. The employee shall be responsible for the expense of the recertification.

c. The Commission may provide the health care provider with a record of the employee's absences and request information to verify the FMLA leave.

d. Second and Third Opinions

1. The Commission reserves the right seek a second and third opinion.

2. The Commission may require the employee to obtain a second opinion from a health care provider selected by the Commission. The Commission shall be responsible for the expense of the second opinion.

3. The Commission may require the employee to obtain a third opinion if the current certification and second opinion differ. The healthcare provider for the third opinion shall be selected by the employee and the Commission.

4. The opinion of the third health care provider is final and must be used by the Commission.

5. The Commission shall be responsible for paying for the expense of the second and third opinions, including any reasonable travel expenses for the employee or family member should the family member be the one requiring FMLA certification.

6. The employee shall be entitled to the requested FMLA leave pending the results of the second and third opinion.

7. The second and third opinion may be obtained during a recertification process.

8. The employer may not obtain a second (or third) opinion between certifications.

Family Medical Leave Act (FMLA) Guidelines

For more detailed information, consult the Family and Medical Leave Act (FMLA) and relevant federal regulations.

A. Eligibility and Reasons for FMLA Leave

1. Employees must have been employed by the State of South Carolina for at least 12 months in the preceding seven (7) years. The 12 months need not be consecutive. Employees must have completed at least 1,250 hours of service during the 12-month period preceding the employee's request for FMLA leave. State government is considered to be a single employer for the purpose of determining FMLA leave eligibility.
2. The Commission may grant an eligible employee up to a total of 12 weeks of unpaid FMLA leave during a calendar year for any of the following reasons:
 - a. Pregnancy, prenatal medical care, birth or adoption of a child or the foster care placement of a child (NOTE: eligibility expires 12 months after the date of the birth, adoption or placement);
 - b. To care for the employee's spouse, son, daughter, or parent with a serious health condition;
 - c. For a serious health condition that makes the employee unable to perform the essential functions of the employee's job;
 - d. For qualifying events arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or called to active duty status as a member for the National Guard or Reserves in support of a contingency operation. Qualifying events may include: 1) short notice deployment; 2) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation; 7) post-deployment activities; and 8) additional activities not encompassed in other categories but agreed to by the agency and the employee; and
 - e. Under the military caregiver leave provisions, an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness may be able to take up to a total of 26 workweeks in a single 12-month period to care for the service member.

B. Scheduling FMLA Leave

1. An eligible employee requesting FMLA leave must give 30-days advance notice to the employing agency of the need to take FMLA leave when the need for

leave is foreseeable.

2. When the need for leave is not foreseeable, such notice must be given as soon as practical. The use of FMLA leave shall be subject to verification.
3. The agency may require documentation or certification from a health care provider supporting the need for FMLA leave for a serious health condition. Agencies may also require documentation for certification or serious health condition of a spouse, son, or daughter, a qualifying exigency or to confirm familial relationships.
4. If the FMLA leave is for the planned medical treatment of the employee or a family member, or requires intermittent or reduced-schedule leave, the Commission may request that the employee arrange a particular schedule for the appointments or treatment.
5. Intermittent or reduced-schedule leave for the adoption or placement of a child may be taken only with the approval of the Commission.
6. Intermittent or Reduced Schedule Leave
 - a. FMLA leave taken because of an employee's serious health condition or the serious health condition of an eligible family member may be taken on an intermittent or reduced-schedule leave basis when medically necessary upon the approval of the Executive Director.
 - b. Intermittent or reduced-schedule leave for the adoption or placement of a child may be taken only with the approval of the Executive Director, subject to departmental needs and SC WCC policies and procedures.

C. Use of FMLA Leave

The agency is responsible for declaring leave as FMLA leave based on information provided by the employee.

1. When the agency designates leave as FMLA leave, it must notify the employee. No leave may be designated as FMLA leave after the leave has ended, except as provided for under FMLA (See Ragsdale v. Wolverine World Wide Inc., 535 U.S. 81 (2002)).
2. Use of FMLA leave shall be calculated in quarter hour increments.
3. Any leave declared and approved by the Commission as FMLA leave should run concurrently with any other leave. The leave shall be charged against the FMLA leave and the other applicable leave allowance.

D. Use of Paid and Unpaid Leave

FMLA leave is unpaid; with the following exceptions:

1. An eligible employee shall be required to substitute accrued sick leave for unpaid FMLA leave when the FMLA leave request qualifies for sick leave usage.
2. Once the sick leave has been exhausted, an eligible employee may use accrued annual leave to run concurrently with FMLA leave.
3. All sick leave must be exhausted before the employee is eligible for LWOP.

E. FMLA Leave Record

A leave record shall be maintained by the Commission for each employee subject to the provisions of the FMLA. The leave record shall:

1. Reflect the maximum FMLA leave allowance (12 weeks in a calendar year) and charges in terms of hours.
2. Indicate the number of FMLA leave hours used in the current calendar year.
3. Indicate the number of hours in the employee's established workweek.

F. Transfer of FMLA Leave Records

For an eligible employee who transfers from one agency to another, the transferring agency is responsible for transferring the employee's FMLA leave records in that calendar year to the receiving agency.

G. Procedures

1. Requesting Family Medical Leave

- a. An employee requesting FMLA leave should send a written request (e-mail or letter) to the Human Resources Manager.
- b. The Human Resources Manager shall respond to the employee's request within five business days with the appropriate forms and certification documents required to request FMLA leave.
- c. The employee must return the completed certification forms to the Human Resources Manager no later than 15 days after receipt of the FMLA certification forms provided by the Commission.
- d. Upon receipt, the Human Resources Manager shall review the certification. The Human Resources Manager shall notify the employee in writing of any deficiencies in the information provided and specify the additional information needed to make the certification complete and sufficient. The employee must submit the additional information within seven business days to cure the deficiency. Additional time may be granted by the

Executive Director if requested by the employee.

- e. The Human Resources Manager or Executive Director are the only authorized representatives of the Commission with authority to contact the healthcare provider for authentication or clarification of the medical certification pertaining to the FMLA request.
- f. Disability leave for 10 or more days taken pursuant to the sick leave policy will be counted toward the allowed 12 weeks of FMLA leave subject to verification.
- g. If the employee fails to report to work when FMLA leave has been denied, the time taken may be treated as unauthorized leave and the employee will be subject to any disciplinary actions for unauthorized leave.

2. Certification

- a. The employee must provide FMLA certification to the Commission. The certification shall include:
 - 1. The date on which the serious health condition commenced.
 - 2. The duration of the employee's condition or an estimate of the amount of time the employee will be needed to care for a family member.
 - 3. Medical facts from the health care provider sufficient to support the employee's request for FMLA leave.
 - 4. For FMLA leave requests for the adoption or foster care placement of a child, a copy of the adoption papers or letter from the attorney or agency handling the adoption or foster care placement must accompany the FMLA Certification request.
 - 5. For FMLA leave requests for Military Family Leave, a copy of the applicable Military Orders, DD214 for Veterans, or other acceptable documentation must accompany the FMLA Certification request.
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 - 3. The Commission may request recertification in less than 30 days only if:
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 - b. The circumstances described by the previous certification have changed significantly; or
 - c. The employer receives information that causes it to doubt the employee's stated reason for the absence or the

continuing validity of the existing medical certification.

4. Exceptions to the recertification procedures may only be made upon approval of the Executive Director of the Commission.
 5. The employee shall be responsible for the expense of the recertification.
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 3. The Commission may require the employee to obtain a third opinion if the current certification and second opinion differ. The healthcare provider for the third opinion shall be selected by the employee and the Commission.
 4. The opinion of the third health care provider is final and must be used by the Commission.
 5. The Commission shall be responsible for paying for the expense of the second and third opinions, including any reasonable travel expenses for the employee or family member should the family member be the one requiring FMLA certification.
 6. The employee shall be entitled to the requested FMLA leave pending the results of the second and third opinion.
 7. The second and third opinion may be obtained during a recertification process.
 8. The employer may not obtain a second (or third) opinion between certifications.