

## AGENDA

### SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

1333 Main Street, 5<sup>th</sup> Floor  
Columbia, South Carolina 29201

November 14, 2016 – 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. APPROVAL OF AGENDA OF BUSINESS MEETING  
OF NOVEMBER 14, 2016 *CHAIRMAN BECK*
3. APPROVAL OF MINUTES OF THE BUSINESS MEETING  
OF OCTOBER 17, 2016 (Tab 1) *CHAIRMAN BECK*
4. GENERAL ANNOUNCEMENTS *MR. CANNON*
5. APPLICATIONS FOR APPROVAL TO SELF-INSURE (Tab 2) *MR. SMITH*
6. DEPARTMENT DIRECTORS' REPORTS *MS. SPRANG*  
Information Services (Tab 3) *MR. DUCOTE*  
Insurance and Medical Services (Tab 4) *MS. SPANN*  
Claims (Tab 5) *MS. BRACY*  
Judicial (Tab 6)
7. EXECUTIVE DIRECTOR'S REPORT (Tab 7) *MR. CANNON*  
Administration – Financial Report (Tab 8) *Mr. Cannon*
8. OLD BUSINESS *CHAIRMAN BECK*  
A. Approve Language of Proposed Regulations (Tab 9) Mr. Roberts
9. NEW BUSINESS *CHAIRMAN BECK*
10. ADJOURNMENT *CHAIRMAN BECK*

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<b>1</b>	<b>Approval of Minutes of the Business Meeting of October 17, 2016</b>
<b>2</b>	<b>Self-Insurance</b>
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<b>4</b>	<b>Insurance and Medical Services</b>
<b>5</b>	<b>Claims</b>
<b>6</b>	<b>Judicial</b>
<b>7</b>	<b>Executive Director's Report</b>
<b>8</b>	<b>Summary of Revenues and Expenditures</b>
<b>9</b>	<b>Approve Language of Proposed Regulations</b>

THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION  
BUSINESS MEETING  
October 17, 2016

A Business Meeting of the South Carolina Workers' Compensation Commission was held in Hearing Room A of the Workers' Compensation Commission on Monday, October 17, 2016, 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, Insurance and Medical Services Director; Loretta Dykes, Fiscal Analyst; Keith Roberts, Attorney; W.C. Smith, Self-Insurance Director; Sonji Spann, Claims Director; Sandee Sprang, IT Director; and Jordan Weeg, Attorney.

Chairman Beck called the meeting to order at 10:44 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 SEPTEMBER 19, 2016**

Commissioner Barden moved that the minutes of the Business Meeting of September 19, 2016 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. Sixteen (16) prospective members of one (1) fund were presented to the Commission for approval. The applications were:

**SC Home Builders SIF**

Acuff Brothers Unlimited, Inc.  
Culbertson Construction, LLC  
Custom Creations  
Eric Burnett  
Four Seasons Painting, LLC

GK Johnson Co., LLC  
Hoover Custom Contracting, LLC  
Huggins Builders, LLC  
J&K Enterprise  
Legacy Restoration, LLC  
LLE Construction Group, LLC  
Palmetto Upstate Group, LLC  
Ranger Concrete, LLC  
RK Zeigler Construction, Inc.  
Sharp Cut Lawn Maintenance, LLC  
Slades Plumbing, LLC

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 Campbell 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.

#### **Human Resources Department**

Gary Cannon, Executive Director, presented the Human Resources report for the period of September 15 through October 14, 2016. He said the Executive Director's office will follow-up with staff concerning annual open enrollment. Commissioners requested a copy of their medical spending re-enrollment.

Mr. Cannon gave an update on the office renovations.

#### **Information Technology Department**

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

- The IT Department is testing and benchmarking back-end processes in the upgrade to the hardware and software virtualization project.
- The IT Department completed the bi-annual Governor's Report.
- With regard to systems support, Mr. Duane Earles researched and corrected multiple invoice, payment and deposit issues.
- An offer has been extended to the candidate selected for the HelpDesk position. A decision is pending. IT continues work on filling the Business Analyst I and Business Analyst III positions.
- IT has retained the services of Cisco Meraki team to provide a heat map which will validate the number and placement of wireless network access points.

#### **Insurance and Medical Services Department**

Wayne Ducote presented the Insurance and Medical Services Department's report. Mr. Ducote pointed out the following highlights from the report:

- Year to date, the Compliance Division has compelled 60 employers to come into compliance with the Act. Approximately 558 previously uninsured workers are now properly covered.

- In September 48 carrier Rule to Show Cause cases were docketed; 42 cases were resolved and \$21,969 was recovered.
- In September the Coverage Division received a total of 2,134 claim files and collected \$18,200 in fine revenue.
- The Self-Insurance Division collected \$1.8 million in self-insurance tax.

Mr. Ducote announced that representatives from the Virginia Workers' Compensation Commission will spend time with the Medical Services Division in November to review the medical bill review process.

Chairman Beck noted from the report there were an additional 39 pharmaceutical payments disputes involving the State Accident Fund. Mr. Ducote said that he and Keith Roberts will meet this week to discuss the matter. Commissioner Taylor said she would like to be updated on the discussions.

### **Claims Department**

Sonji Spann presented the Claims Department's report. Ms. Spann reported the following for the month of September 2016:

- Closed 2,330 individual case files
- Received \$39,300 in fine revenue
- Claims examiners reviewed 3,209 individual case files
- 239 fines assessed
- 188 Form 18 fines assessed
- 12,014 forms processed
- 1,070 Form 18s processed through SROI
- 1,944 Form 18s received via Email
- 1,715 Forms received via USPS
- 838 Form 61s received (correction 772 for month of September)
- 736 Form 61s approved
- 41 Third Party Settlements received
- 43 Third Party Settlements approved

### **Judicial Department**

Amy Bracy presented the Judicial Department's report. She reported the following for the month of September 2016:

#### Judicial Department

- 897 requests for Hearings
- 135 Motions
- 124 Clincher Conference requests sent to Jurisdictional Commissioners

#### Commissioners

- 91 Single Commissioner Hearings conducted
- 15 Full Commission Hearings conducted
- 499 Orders served at single Commissioner level; 52 of those were Decision and Orders that resulted from hearings that went on record; 102 of those were Motion Orders ruled upon by Commissioners

#### Informal Conference

- 285 informal conferences conducted

#### Mediation

- 62 regulatory mediations scheduled
- 25 requested mediations

- 44 matters resolved in mediation with the receipt of Forms 70

Ms. Bracy reported that the mold issue at the Spartanburg Courthouse is resolved and is available for Commissioners' hearings.

### **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 the report:

#### **FY 2017-18 Budget Plan**

The FY 2017-18 Budget Request was submitted to the Executive Budget Office on September 30, 2016.

#### **Annual Ethics & APA Training**

Mr. Cannon announced the required annual ethics and APA training is scheduled for Monday, November 14, 2016, from 1:00 – 5:00 p.m.

#### **Personnel**

Mr. Cannon announced Ms. Jordan Weeg was selected for the Attorney I position. September 19, 2016 was her first day of employment.

Mr. Cannon announced Alicia Osborne, HR Manager, tendered her resignation from the Commission effective October 14, 2016. Recruiting began on October 7, 2016. Applications are under review.

### **ADMINISTRATION – FINANCIAL REPORT**

Mr. Cannon reported the benchmark for period ending September 2016 is 25%. The Commission's expenditures for the General Appropriations Fund are at 27%; the Earmarked Fund expenditures are at 18%.

Mr. Cannon noted that the amount shown for the Statewide Pay Plan line item as reported on page 1 of General Fund is the 3.25% increase in salaries approved by the General Assembly. We are awaiting confirmation from the State Treasurer's Office on the reallocation of amounts to the appropriate salary accounts.

Commissioner Taylor asked about the amount under Terminal Leave in the Commissioner section. Mr. Cannon will follow-up.

### **OLD BUSINESS**

#### **A. Approval of Language of Proposed Regulations**

#### **Motion to Carry Over Approval of Language of Proposed Regulations**

Commissioner Barden moved to carry over approval of the proposed regulations. Commissioner McCaskill seconded the motion. Keith Roberts, Staff Attorney, noted that the General Assembly is adjourning one month early on May 11, 2017. The timeline for promulgating the proposed regulations lists May 10, 2017 as the clock out date with the final regulations published in *State Register* on May 26, 2017. There was discussion concerning the deadline for submitting the proposed regulations for publication in the November 25, 2016 issue of the *State Register* in order to meet the clock out date of May 10, 2017. Documents to be published in the *State Register* must be received in the office of the *State Register* by 5:00 p.m. on the second Friday of each month in order to be included in that month's issue. In November, the second Friday is November 11, which is a State holiday. Commissioners requested clarification as to how the holiday affects submission of documents to be published in the November issue of the *State Register*.

**Motion to recess until 11:30 a.m.**

A motion was duly made, seconded, and carried unanimously to recess until 11:30 a.m. to allow staff to contact the State Register's Office for clarification.

**Reconvened at 11:30 a.m.**

Chairman Beck reconvened the meeting at 11:30 a.m. He stated that the State Register's Office confirmed that since November 11, 2016 is a holiday they will accept the proposed regulations on Monday, November 14, 2016 and this will not alter the Commission's timeline to have the proposed regulations clock out prior to the General Assembly recessing for the year in May 2017. Mr. Cannon agreed and stated the proposed regulations must be submitted by 5:00 p.m. on November 14, 2016.

Chairman Beck stated the motion was made and seconded to carry the approval of the proposed regulations over to the November 14, 2016 Commission Business Meeting. The vote was taken, and the motion was unanimously approved.

**NEW BUSINESS**

There was no new business.

**ADJOURNMENT**

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

The October 17, 2016 meeting of the South Carolina Workers' Compensation Commission adjourned at 11:32 a.m.

Reported November 14, 2016  
Kim Ballentine  
Office of the Executive Director

# State of South Carolina

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## Workers' Compensation Commission

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To: Gary Cannon  
SCWCC Executive Director  
From: Sandee Sprang, IT Director  
Date: November 9, 2016  
Subject: IT Department November 2016 Full Commission Report

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This report summarizes the activities and accomplishments of departmental projects and initiatives for the IT department during October 2016. 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 new projects and tasks which bring added functionality to our systems. The last section documents the IT Department's "Training and Meeting" accomplishments.

### I. Systems Operations, Maintenance and Support

#### Virtualization

Duane continues to lead the effort with DTO to upgrade our hardware and software to a virtualized environment. This project is currently on hold.

#### EDI

The IT department worked with EDI trading partners to research and resolve EDI transaction data errors. We have added several new trading partners and they will begin submitting EDI transactions via SFTP once the testing is completed. We continue to work with the IAIABC EDI Claims Workgroup, reviewing and recommending standard changes.

#### Reporting and Standardization

During October, we moved several new reports into production and continued to review and refine the business processes associated with data entry to ensure our reports are as complete and accurate as possible.

#### Systems Support

Duane researched and corrected multiple Invoice, Payment and Deposit issues.

#### Desktop Support

Our HelpDesk support calls are being fielded as quickly and efficiently as possible; we appreciate everyone's patience during this understaffed time period.



### Staffing

The IT department is excited to welcome 2 new employees to our group. Jason Pityk is our new IT consultant and is filling the Helpdesk role. Liz Schinke will begin employment with the agency on Wednesday, November 16<sup>th</sup> in our Business Analyst III position. We have reposted our Business Analyst I position.

## **II. Projects, Enhancements and Development**

### eCase

The eCase web portal upgrade is in the testing phase. All internal testing is complete and we are ready to open testing to several external users. We are 90% complete with this project.

### Office Renovations

The IT department spent a large portion of time working on the office renovation project assisting with the relocation of equipment and managing the installation of new cable.

### Hardware Upgrades

We have several hardware upgrade projects in process:

- 1) With regard to wireless network access points, we have ordered the new access points and will soon have a new wireless network.
- 2) We are continuing to meet with vendors on the State's VoIP telephone contract to determine which vendor can best meet our needs within our current budget.
- 3) We have gotten the quote back for the new laptop specifications and will proceed with ordering in the near future.
- 4) The printer study project is in the initial phase of evaluation and over the next several months we will be evaluating the use and related cost of current print environment.

### Video Conferencing

We met with representatives from the Department of Corrections and Probation, Pardon and Parole to discuss and evaluate the use of their video conference system for our hearings involving inmates. We will using their system starting in January to conduct these hearings.

## **III. Trainings and Meetings**

Sandee participated in the DTO Privacy and Security workshop, she attended the Meraki training class, the KeyMark conference and the Southeast Government Summit.

State of South Carolina



Workers' Compensation Commission

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**To:** Mr. Gary Cannon  
SCWCC Executive Director

**From:** Wayne Ducote, Jr.  
IMS Director

**Date:** 8-Nov-16

**Subj:** Insurance and Medical Services Department  
October 2016 Full Commission Report

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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:

- |                     |   |
|---------------------|---|
| Compliance Division | <ol style="list-style-type: none"><li>1. Reviewing revenue metrics / projections.</li><li>2. Working with staff to review workflow processes and additional training opportunities.</li><li>3. Working on systematic processes to improve the equitability of the compliance fines and penalties assessments.</li></ol> |
| Coverage Division   | <ol style="list-style-type: none"><li>1. Working with staff to review workflow processes and explore opportunities to enhance service provision.</li><li>2. Lapse in Coverage: 29 new registrants; 0 notifications sent.</li></ol>  |
| Medical Services    | <ol style="list-style-type: none"><li>1. Received 20 additional pharmaceutical payment disputes involving SAF.</li></ol>  |

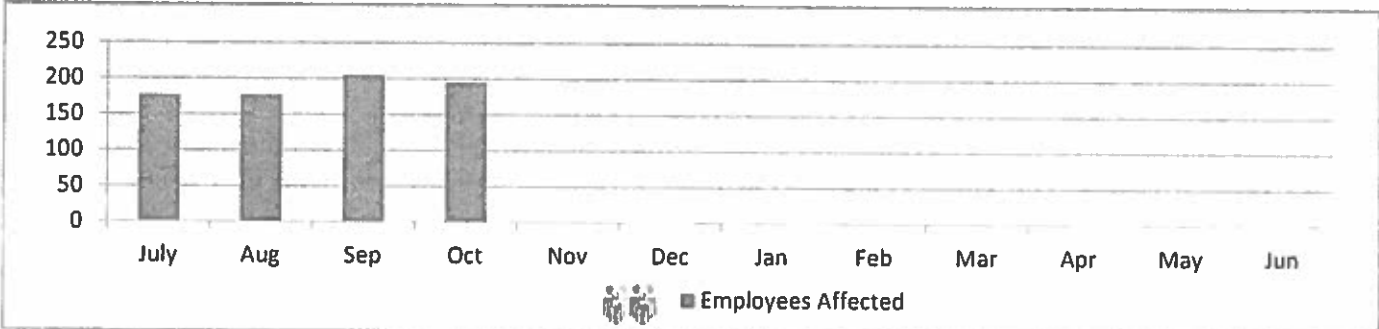
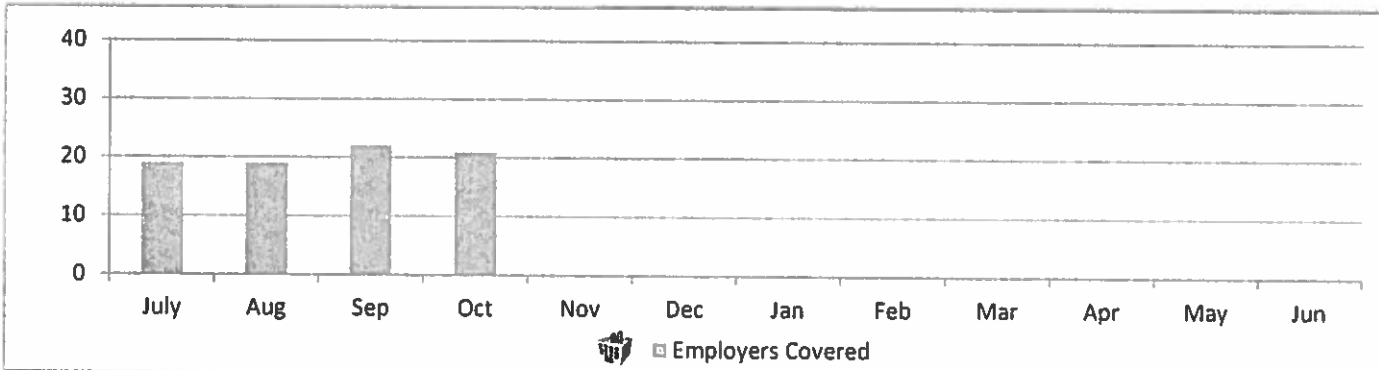
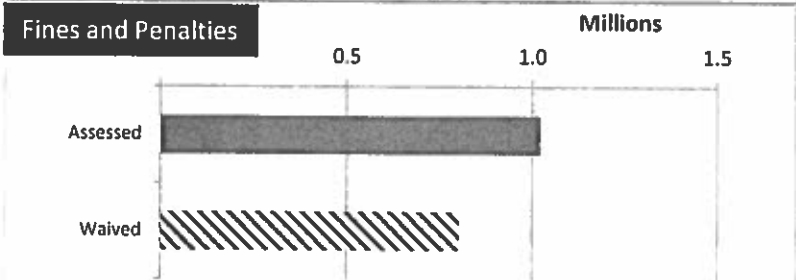
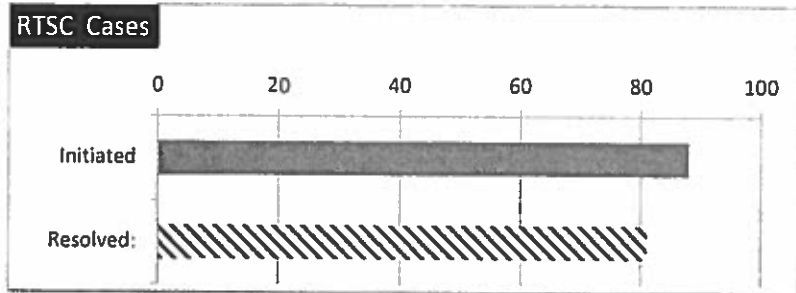
While this summary is in no way all-inclusive, it may serve to assist you and our Commissioners in understanding the key initiatives underway in the IMS Department and provide measures by which the Department's effectiveness can be gauged. IMS welcomes any guidance that you and/or our Commissioners can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

**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 81 employers in South Carolina to come into compliance with the Act. In so doing, approximately 753 previously uninsured workers are now properly covered.

**Penalties Waived**

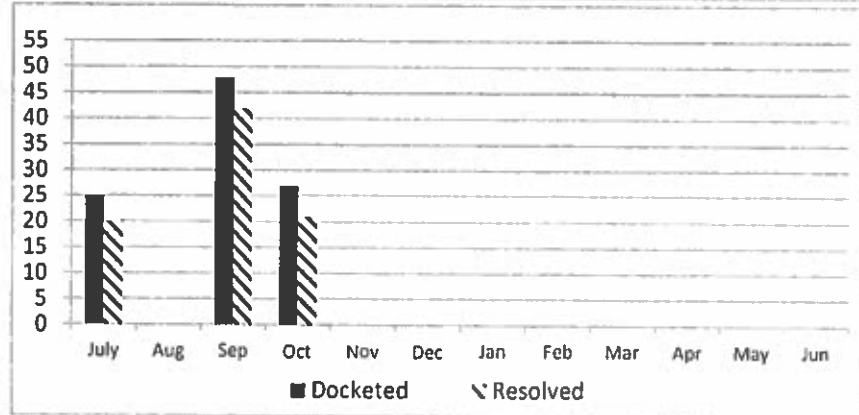
Although the Division has assessed \$1.0 m in fines, 79% of those fines (\$802k) have been waived or rescinded as employers have either obtained insurance coverage or were found not to be subject to the Act.



**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 Oct 2016, 27 carrier RTSC cases were docketed; 21 cases were resolved and \$16,392 was recovered.

Year to date, 100 carrier RTSC cases have been docketed, 83 cases have resolved and \$51,980 has been recovered.



**Carryover Caseload:**

The Compliance Division closed Oct 2016 with 232 cases active, compared to an active caseload of 377 at the close of Oct 2015.

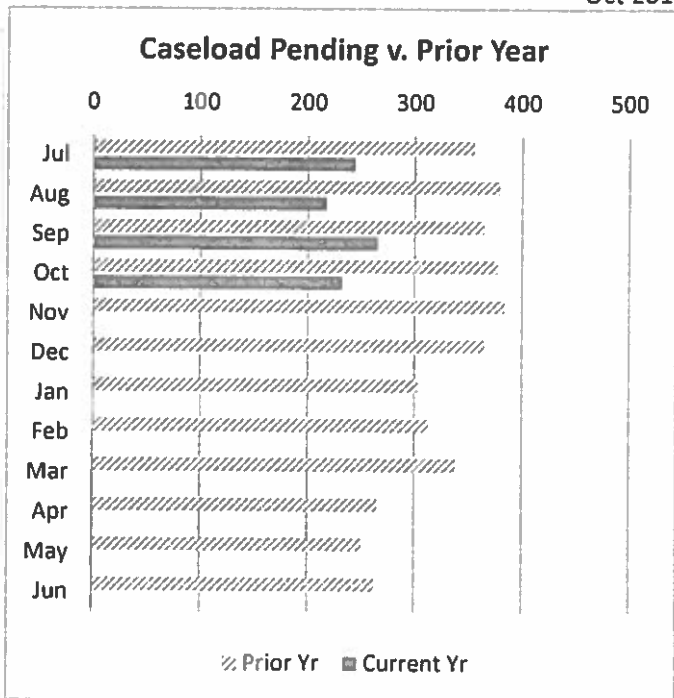
**Cases Resolved:**

For the month of Oct 2016, Compliance Division staff closed-out 134 cases.

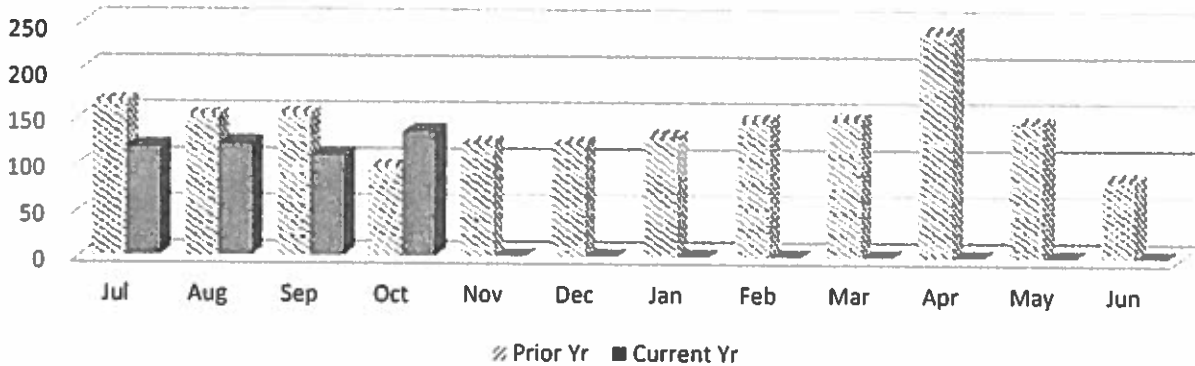
**Compliance Fines:**

In Oct 2016, the Compliance Division collected \$35,339 in fines and penalties. Year to Date, the Compliance Division has collected \$181,557 in fines.

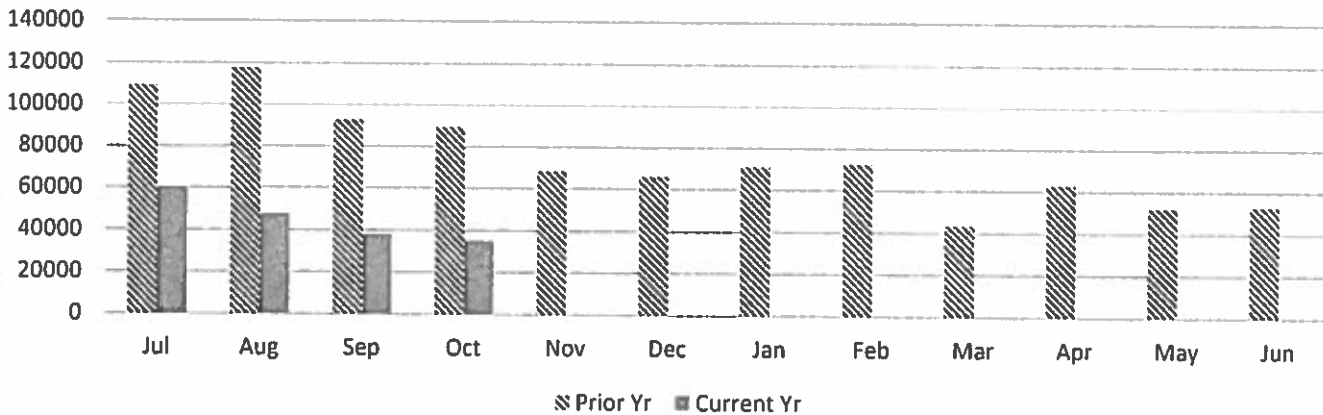
Year to Date vs Prior Year Total (\$902,128): 20%.  
 Oct 2016 vs. Oct 2015: 39%  
 Current Year End trend is 60% of 2015-2016.  
 YTD 2016-17 (July - July) vs YTD 2015-2016: 44%



### Cases Resolved v. Prior Year



### Compliance Fines Collected v. Prior Year

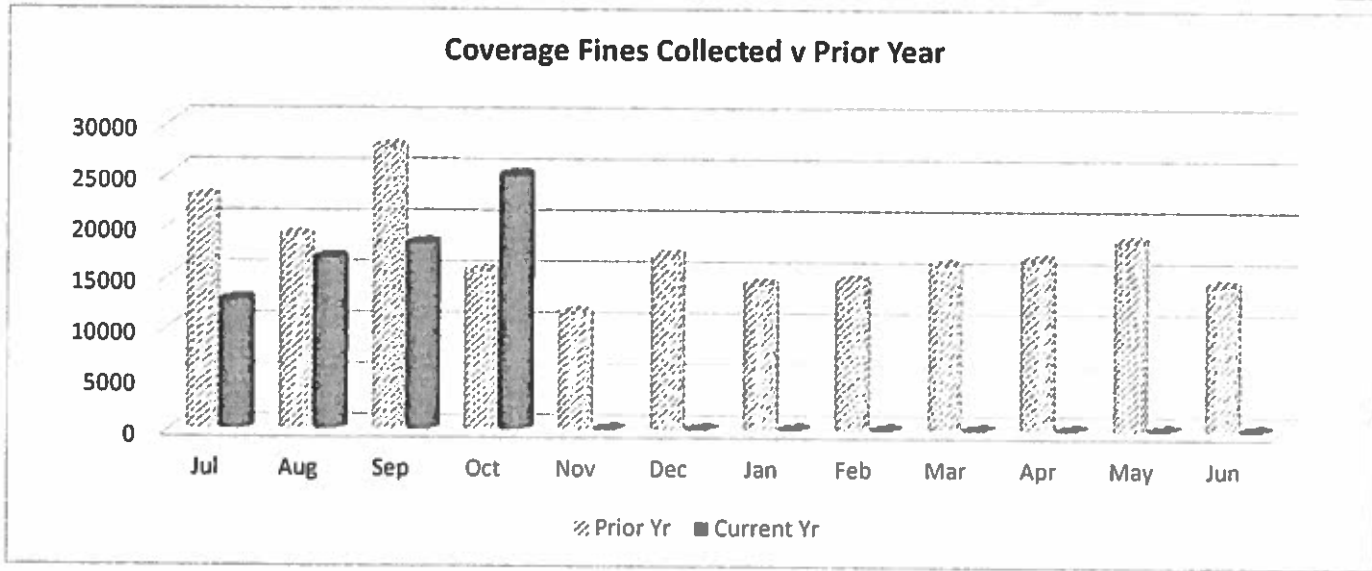
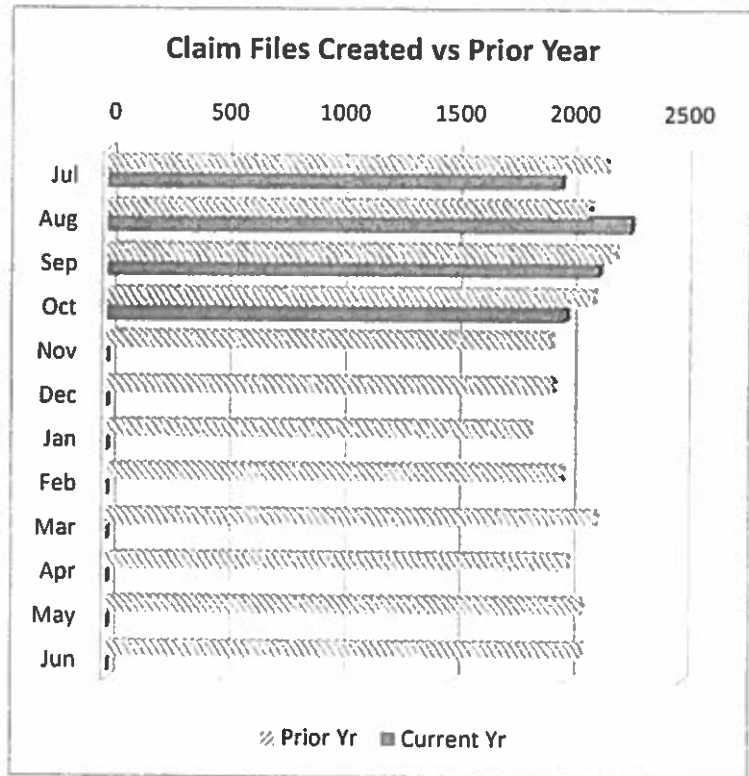


**WCC Claim Files:**

In Oct 2016, the Coverage Division recieved a total of 1,994 WCC Claim files. Of these, 1,695 were created through proper carrier filing of a 12A, and 299 were generated as a result of a Form 50 claim filing. Year to Date, 8,374 Claim files have been created which is 34% of claim file volume prior year (24,516).

**Coverage Fines:**

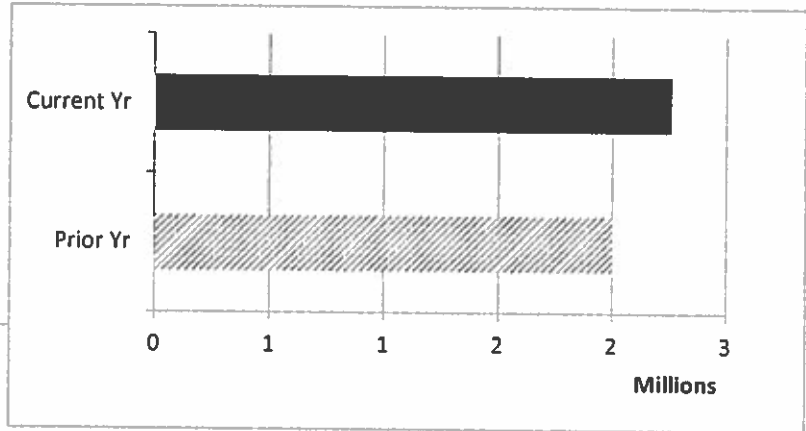
The Coverage Division collected \$24,900 in fine revenue in Oct 2016, as compared to \$15,400 in Coverage fines/penalties accrued during Oct 2015. Year on Year, Coverage fines are at 35% of collections for prior year.



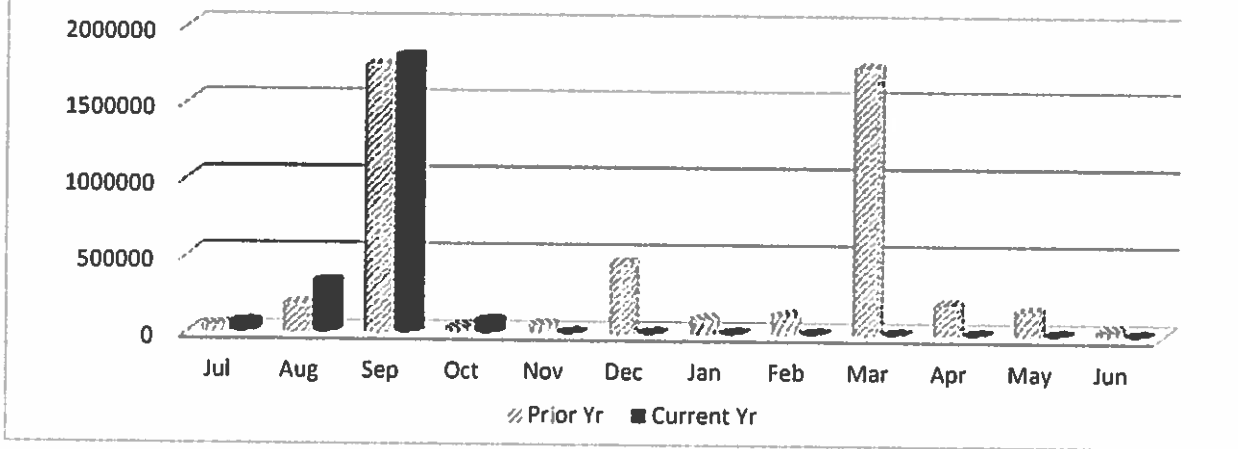
During the month of Oct 2016, the Self Insurance Division:

- \* collected \$74,073 in self-insurance tax.
- \* added 16 new self-insurers.
- \* conducted 5 Self Insurance audits.

Year to Date, Self Insurance tax revenue is trending at 113% of prior year and 16 Self Insurance audits have been completed.



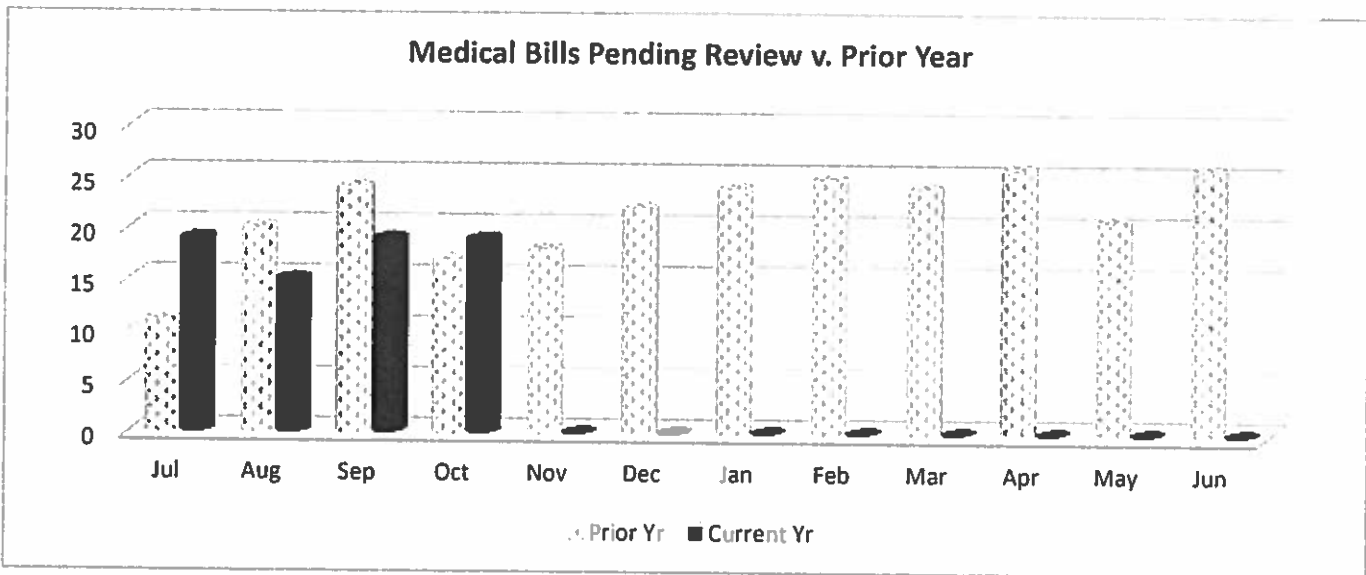
**Self Insurance Tax Collections v. Prior Year**



IMS MEDICAL SERVICES DIVISION

In Oct 2016, the Medical Services Division began the month with 19 bills pending review, received an additional 16 bills for review, conducted 16 bill reviews and ended the month with 19 bills pending.

**Medical Bills Pending Review v. Prior Year**



# State of South Carolina

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## Workers' Compensation Commission

### MEMORANDUM

To: Gary Cannon, Executive Director

From: Sonji Spann, Claims Director

Date: November 7, 2016

Re: Claims Department – November 2016 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:

	Oct 2016	Sept 2016	Oct 2015
Individual Case Files Closed	1,966	2,330	2028
Fine Revenue Collected	\$46,500	\$39,300	\$42,800
# of individual case files reviewed by examiners	2,757	3,209	240
Total Fines	251	239	279
Form 18 Fines	234	188	266
Total Forms Processed	11,437	12,014	12,464
SROI	1162	1070	618
Email 18's	1939	1944	1997
USPS	1295	1715	2851
Form 61's Rec'd	782	772	
Form 61's Approved	736	736	
TPY Settlements Rec'd	32	41	
TPY Settlements Approved	35	43	

- Claims continue to review files for compliance and closure
- Claims continue to educate the stakeholders







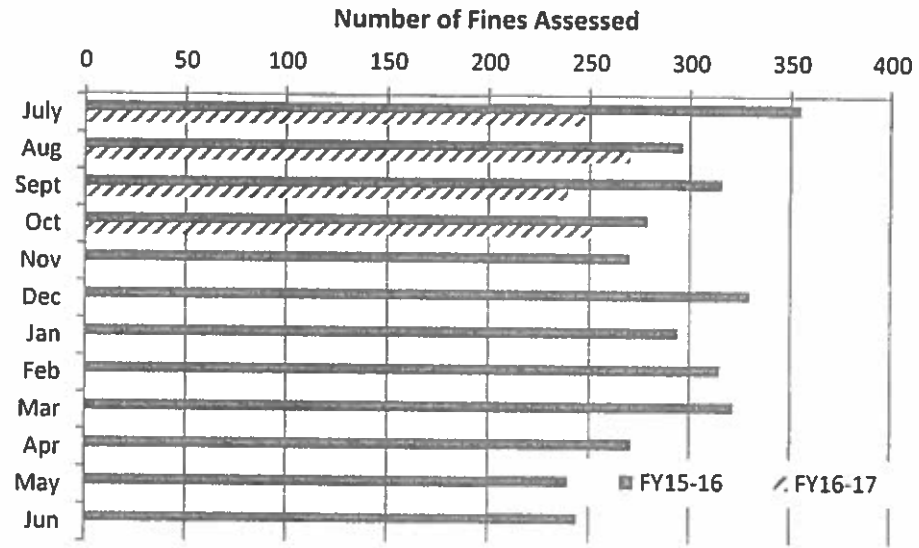




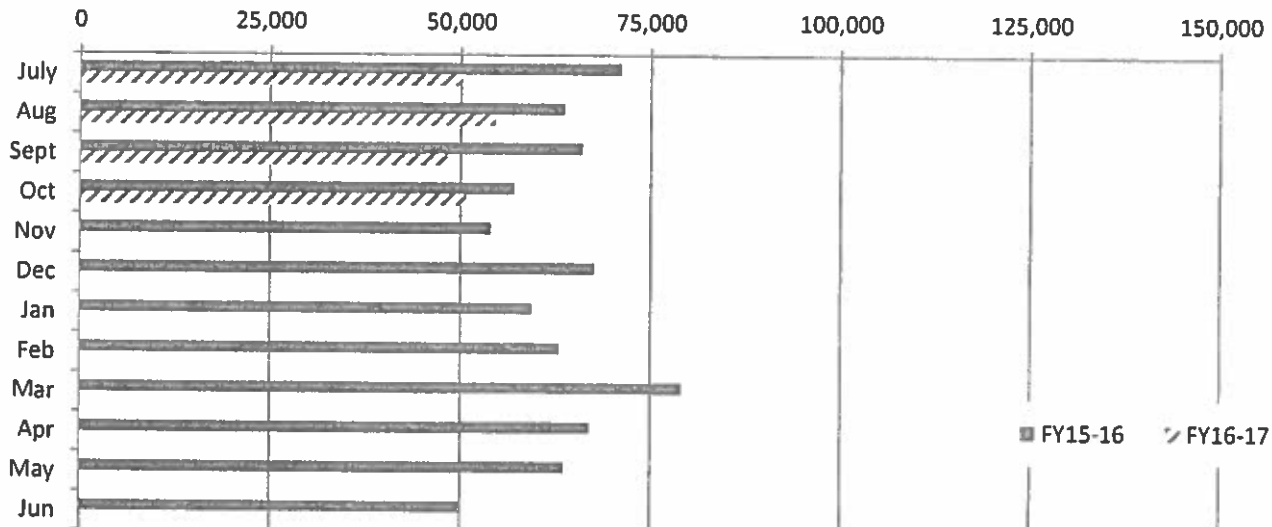
**CLAIMS DEPARTMENT - Fine Activity Report October 2016**

The number of fines assessed by the Claims Department increased in number to 251 from 239 in October. The number of Claims fines paid increased from 196 in September to 229 in October.

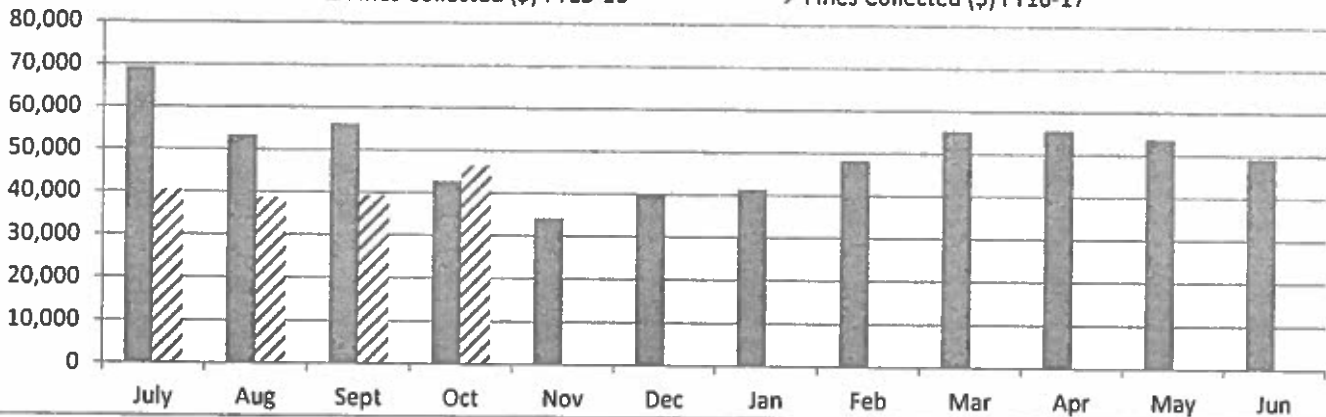
Total fine dollars assessed in October was \$50,800 an increase over prior month of 48,200. Fine revenue received in October was \$46,500 an increase over prior month \$39,300.



**Net Fines Assessed (\$)**



■ Fines Collected (\$) FY15-16      ▨ Fines Collected (\$) FY16-17



Claims Department - Fine Activity Report

Fines Assessed (#)

	FY15-16	FY16-17
July	355	247
Aug	296	270
Sept	316	239
Oct	279	251
Nov	270	0
Dec	330	0
Jan	294	0
Feb	315	0
Mar	322	0
Apr	271	0
May	316	0
Jun	244	0
<b>Total</b>	<b>3,608</b>	<b>1,007</b>
Mo Avg	301	252

Fines Received (#)

	FY15-16	FY16-17
July	341	198
Aug	260	186
Sept	271	196
Oct	203	229
Nov	168	0
Dec	195	0
Jan	205	0
Feb	241	0
Mar	273	0
Apr	245	0
May	247	0
Jun	236	0
<b>Total</b>	<b>2,885</b>	<b>809</b>
Mo Avg	240	202

Net Fines Assessed (\$)\*

	FY15-16	FY16-17
July	71,050	50,000
Aug	63,600	54,600
Sept	66,000	48,200
Oct	57,000	50,800
Nov	54,000	0
Dec	67,600	0
Jan	59,400	0
Feb	63,000	0
Mar	79,200	0
Apr	67,050	0
May	63,600	0
Jun	49,800	0
<b>Total</b>	<b>761,300</b>	<b>203,600</b>
Mo Avg	63,442	50,900

Fines Collected (\$)

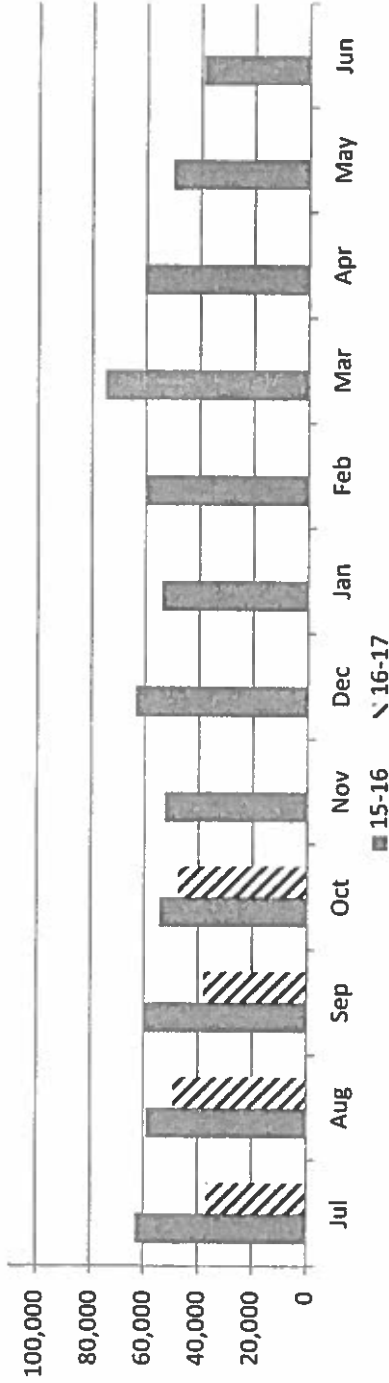
	FY15-16	FY16-17
July	69,250	40,450
Aug	53,350	38,600
Sept	56,200	39,300
Oct	42,800	46,500
Nov	34,200	0
Dec	39,800	0
Jan	41,400	0
Feb	48,250	0
Mar	55,400	0
Apr	55,700	0
May	53,800	0
Jun	49,400	0
<b>Total</b>	<b>599,550</b>	<b>164,850</b>
Mo Avg	49,963	41,213

\*after reductions and rescinded

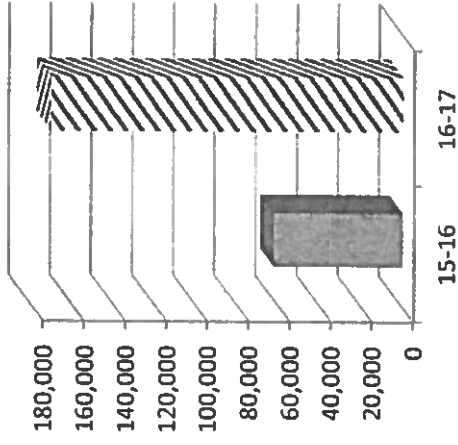
### FORM 18 FINE ASSESSMENTS

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 October 2016, this has resulted in an increase in Form 18 Fine Assessments to \$47,400 as compared to September 2016 of \$38,000. The actual number of fines assessed increased from 188 to 234 in October 2016.

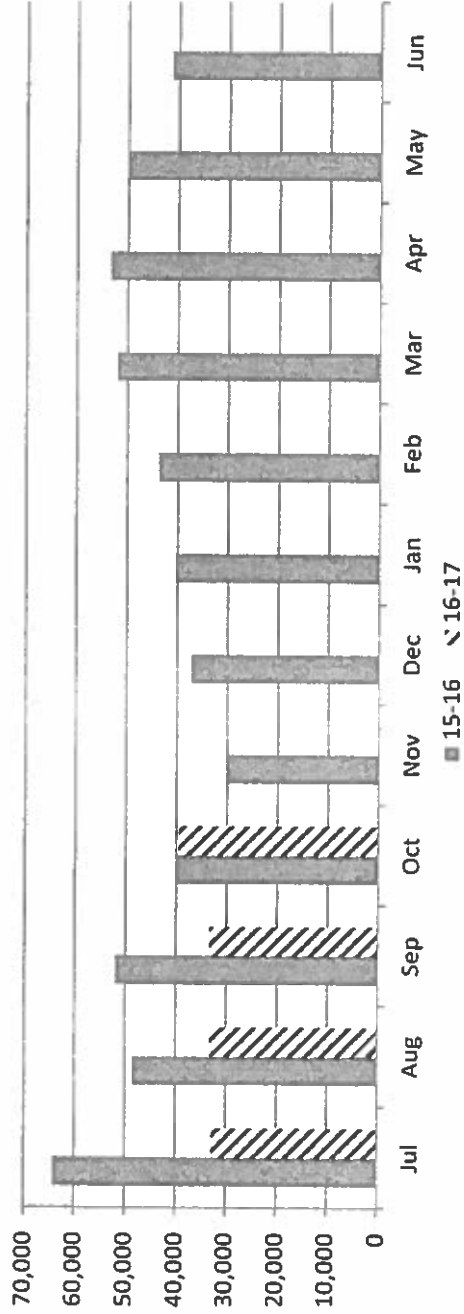


**FORM 18 FINE ASSESSMENTS YTD**  
Form 18 Fine Assessment is trending at 86% of prior year assessments.

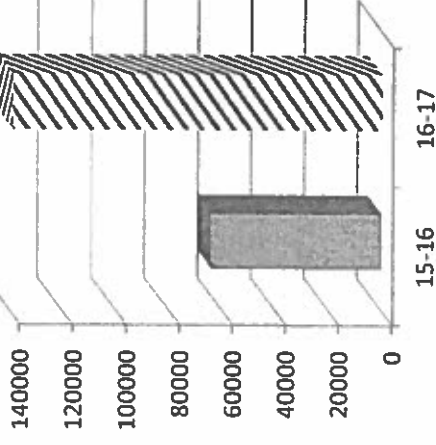


### FORM 18 FINE COLLECTION

In August 2016, the Claims Department received payment on Form 18 Fines resulting in revenue of \$33,200.



**FORM 18 FINE REVENUE YTD**  
Form 18 Fine Revenue is trending at 160% of prior year collections.



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**Workers' Compensation Commission**

November 8, 2016

To: Gary M. Cannon  
Executive Director

From: Amy A. Bracy  
Judicial Director

**RE: Monthly Judicial Report for October 2016**

During the month of October, Judicial processed eight hundred sixty-nine (869) requests for hearings, one hundred seventeen (117) Motions and one hundred twenty-four (124) clincher conference requests that were sent to the Jurisdictional Commissioners.

There were eighty-six (86) Single Commissioner Hearings conducted during the past month, and eight (8) Full Commission hearings were held. A total of four hundred fifty-eight (458) Orders were served at the single Commissioner level, fifty-six (56) of those were Decision and Orders that resulted from hearings that went on the record and seventy-five (75) were Motion Orders that were a result of Motions ruled upon by Commissioners.

The Informal Conference system conducted two hundred eighty-four (284) hearings during the last month.

There were sixty-one (61) regulatory mediations scheduled and eighteen (18) requested mediations. The Judicial Department was notified of fifty-three (53) matters resolved in mediation, with the receipt of Forms 70.

This month, as part of our outreach strategy to increase the number of venues, I visited multiple locations in the Florence area which resulted in two additional locations for our list. During the same trip I visited one of the sites we currently use in Hartsville.

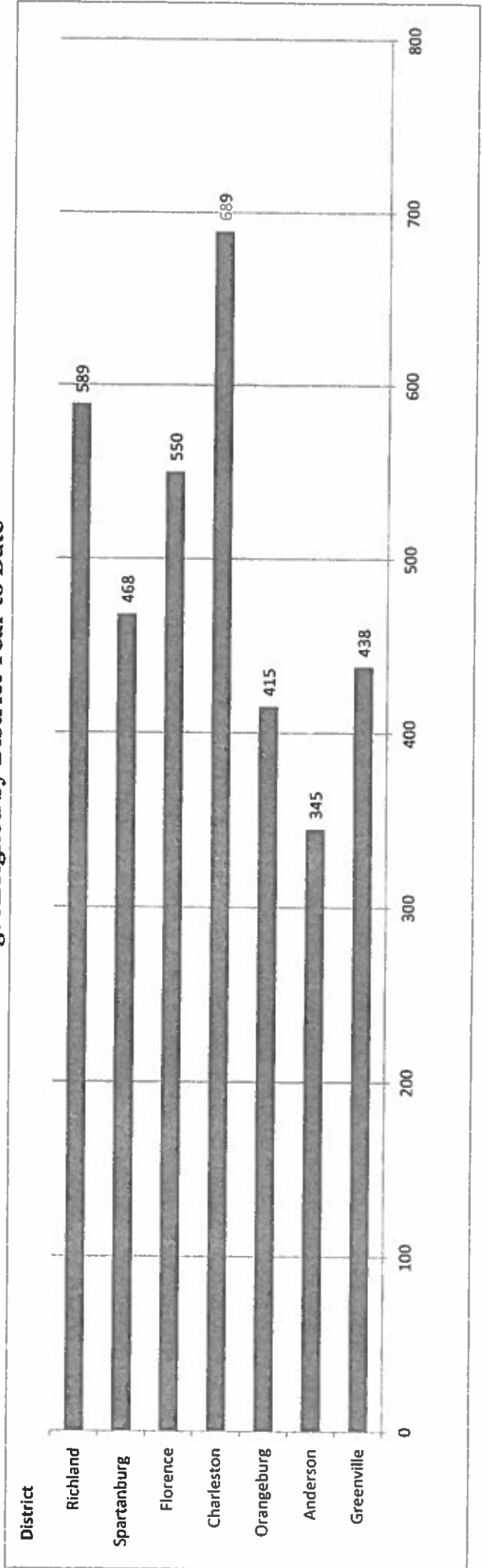




### Pleadings Assigned - Three Year Comparison by Month

	District 1 Greenville			District 2 Anderson			District 3 Orangeburg			District 4 Charleston			District 5 Florence			District 6 Spartanburg			District 7 Richland		
	16-17	15-16	14-15	16-17	15-16	14-15	16-17	15-16	14-15	16-17	15-16	14-15	16-17	15-16	14-15	16-17	15-16	14-15	16-17	15-16	14-15
	98	107	103	82	90	92	108	118	119	158	181	140	131	144	145	92	130	116	149	166	141
Jul	92	110	86	97	76	96	93	109	120	176	171	153	164	122	146	115	122	104	157	138	164
Aug	144	102	105	92	88	84	121	132	105	183	198	155	140	154	126	142	110	70	141	167	124
Sep	104	106	83	74	101	78	93	119	115	172	172	143	115	171	146	119	96	112	142	170	156
Oct		72	80		62	56		88	93		145	115		133	135		81	80		129	127
Nov		101	99		105	86		103	108		160	133		148	119		99	85		162	146
Dec		75	109		84	80		113	120		113	163		110	158		97	108		158	174
Jan		90	98		88	86		84	92		125	141		129	110		144	111		117	114
Feb		122	112		124	91		134	132		214	156		140	118		117	122		174	140
Mar		100	99		92	87		93	97		154	165		129	120		90	88		138	149
Apr		106	101		103	73		116	105		186	158		146	140		111	101		150	158
May		120	89		75	66		110	102		141	143		151	147		114	117		150	139
Jun		1211	1164		345	1088		415	1319		689	1765		550	1677		468	1311		589	1819
Totals	438																				

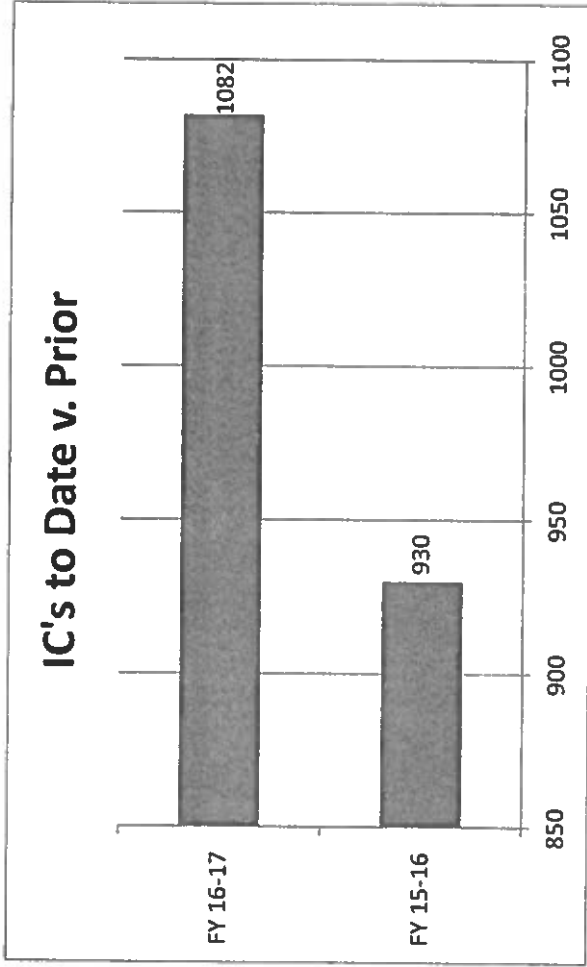
### Pleadings Assigned by District Year to Date



**Informal Conf. Conducted**

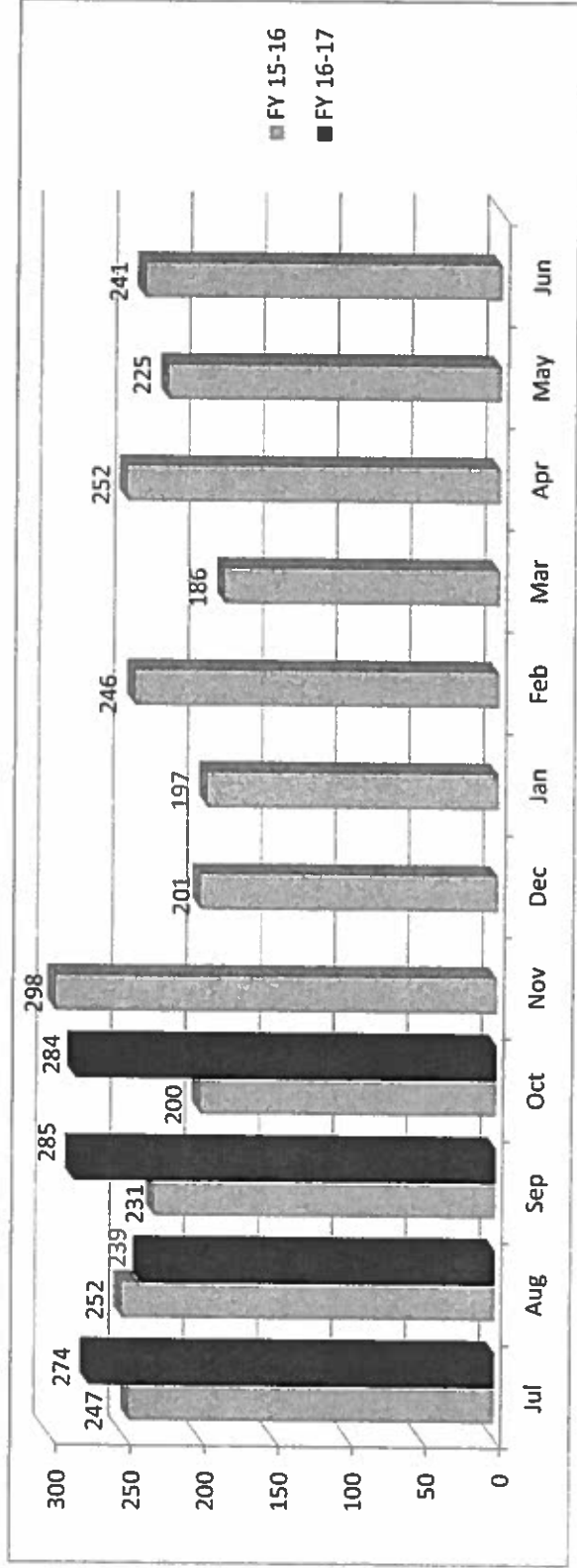
	FY 15-16	FY 16-17
Jul	247	274
Aug	252	239
Sep	231	285
Oct	200	284
Nov	298	
Dec	201	
Jan	197	
Feb	246	
Mar	186	
Apr	252	
May	225	
Jun	241	
<b>Total</b>	<b>2776</b>	<b>1082</b>

**IC's to Date v. Prior**



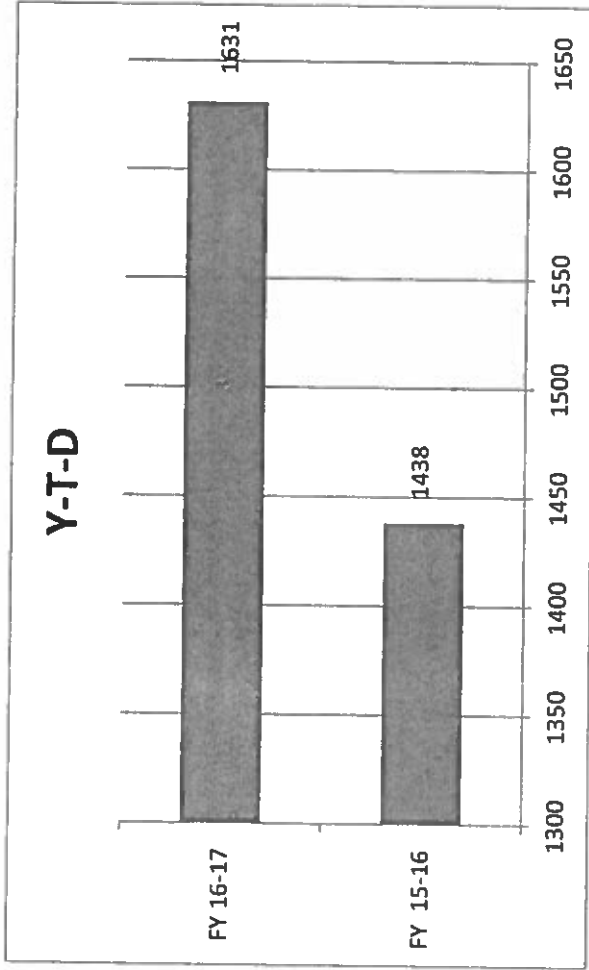
FY 15-16 930  
FY 16-17 1082

**Y-T-D**

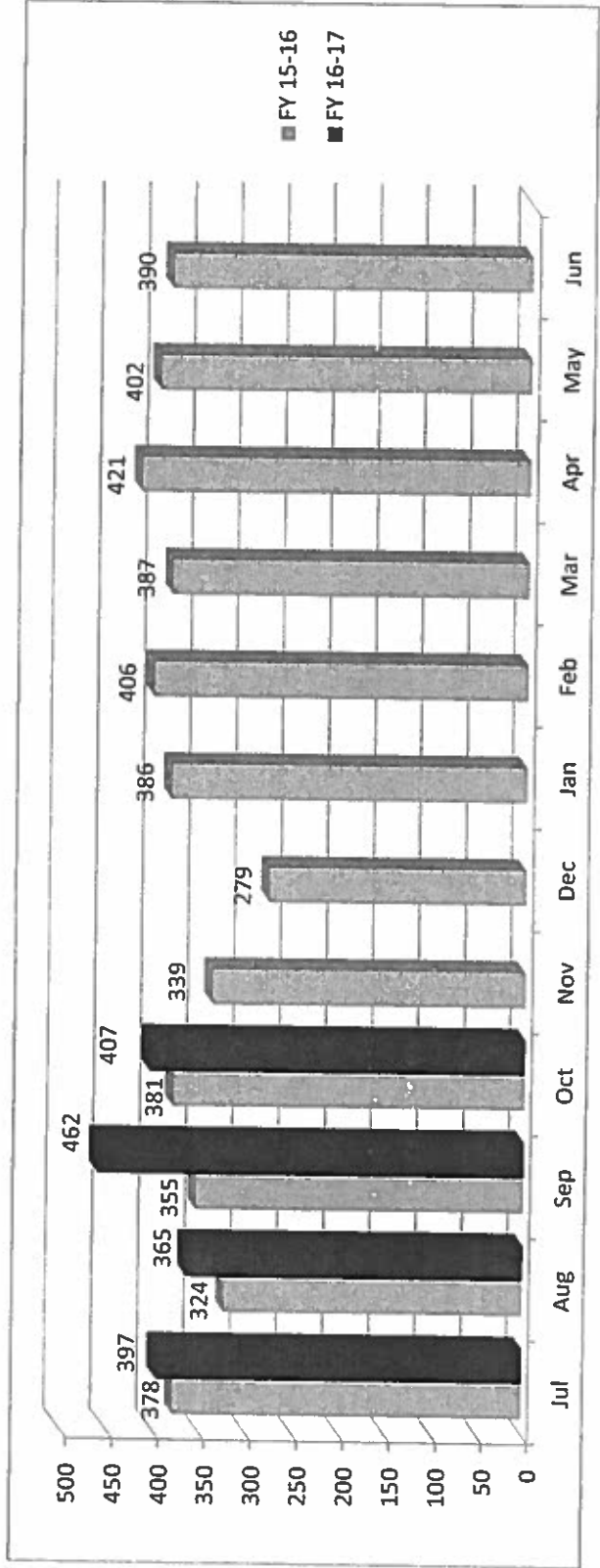


**Informal Conf. Requested**

	FY 15-16	FY 16-17
Jul	378	397
Aug	324	365
Sep	355	462
Oct	381	407
Nov	339	
Dec	279	
Jan	386	
Feb	406	
Mar	387	
Apr	421	
May	402	
Jun	390	
<b>Total</b>	<b>4448</b>	<b>1631</b>



Y-T-D	FY 15-16	FY 16-17
	1438	1631



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## Workers' Compensation Commission

### Executive Director's Report Gary M. Cannon

November 10, 2016

#### **Annual Ethics & APA Training**

The required annual ethics and APA training is scheduled for Monday, November 14, 2016, from 1:00 – 5:00 p.m. The training will take place in the first floor conference room. Michael Burchstead, General Counsel, State Ethics Commission, and Joe Turner, Assistant Disciplinary Counsel, SC Court Administration, will conduct the training. Additionally, Stuart Mauney, Esq., Gallivan White & Boyd, PA, will conduct an hour session on substance abuse.

#### **Open Enrollment**

Due to Hurricane Matthew, PEBA extended the 2016 Open Enrollment period. Subscribers have until November 15, 2016 to submit open enrollment changes.

#### **FY 2017-18 Budget Plan**

The FY 2017-2018 Budget Request was submitted to the Executive Budget Office, S.C. Department of Administration, on September 30, 2016. Chairman Beck, Ms. Sprang and I met with the staff of the Governor's Office and Executive Budget Office on October 13 to discuss our request.

#### **Office Renovations**

A final walk-through and review of the construction punch list with the building contractor was held on October 13. The punch list items are scheduled to be complete by November 11. The relocation of the last phase of the construction was completed on November 8.

#### **Chapter 67 Proposed Regulations**

The Notice of Drafting was published in the October 28, 2016 issue of the *State Register*. Comment period closed 5:00 p.m. on November 7, 2016. No comments were received.

#### **Meetings/Activities**

The Executive Director participated in the following meetings/activities:

- October 18 – Staff meeting to discuss the S.C. Department of Probation, Parole & Pardon Services (PPP)/S.C. Department of Corrections (DOC) video conference system
- October 19 – Met with McWaters' representative to discuss furniture needs
- October 20 – Presentation to Forestry/Logging class at Clemson University
- October 20 – Participated in IAIABC Executive Committee Teleconference

- November 2 – Met with representatives of PPP and DOC for a review of their video conference system
- November 3-5 – Attended the Injured Workers’ Advocates Association’s annual Convention in Asheville, N.C.

**Personnel**

Human Resources Manager I

Recruiting began for the Human Resources Manager I position on October 7, 2016. Interviews were held with six candidates on October 26. Ms. Alexa Stuart was selected for the position. She began her employment with the Agency on October 31, 2016.

Attorney I

Ms. Jordan Weeg was selected for the Attorney I position and she began her responsibilities with the Agency on September 19, 2016. Ms. Weeg tendered her resignation effective October 28, 2016. The position recruitment announcement was posted on November 10, 2016.

IT Consultant I

Mr. Jason Pitkey was selected for the IT Consultant I position. Mr. Pitkey will assist staff with the Help Desk requests for desktop and laptop computer issues. He began his employment with the Agency on November 2, 2016.

IT Business Analyst III

Nineteen individuals submitted applications for the IT Business Analyst III position. Ms. Elizabeth Schinke was selected for the position and will begin her employment with the Agency on November 16, 2016.

IT Business Analyst I

The IT Business Analyst I position was posted on September 19, 2016. The closing date for accepting applications for the position was September 26, 2016. Twenty individuals submitted applications for the position. Applications were reviewed. We were unable to find a candidate suitable for the position therefore, the position recruitment announcement was posted on November 10, 2016.

**Constituent /Public Information Services**

For the period October 12, 2016 through November 9, 2016 the Executive Director’s Office and the General Counsel’s office had 573 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 October 12, 2016 through November 9, 2016, we added seven individuals to the distribution list. A total of 665 individuals currently receive notifications from the Commission.

**Employee Meetings**

An All Employee meeting was held on October 14, 2016.

**SC Vocational Rehabilitation Department (SCVRD)**

SCVRD reported seven (7) referrals for the month of October, and 36 referrals year to date.

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## *Workers' Compensation Commission*

**TO: Commissioners**  
**FROM: Gary M. Cannon**  
**DATE: November 10, 2016**  
**RE: Financial Report FY2016 YTD 10/31/16**

Attached is the monthly financial report for the four month period ending October 31, 2016. The budget benchmark is 33%.

### General Fund

Reported expenditures to date are \$669,128 or 31% of budget, 2% below budget benchmark.

### Earmarked Fund Revenues

A total of \$710,239 in revenues was received for this period. This is 17% of the projected revenues budgeted for the fiscal year. We anticipated a shortfall of revenues therefore appropriated \$2.6 million from Fund Balance. By including the 33% benchmark allocation of Appropriated Fund Balance \$893,366 with the actual revenues received we are at 23% of budget. This matches the benchmark of expenditures for this period.

### Earmarked Fund Expenditures

Earmarked year-to-date expenditures are \$1,060,895, which is 23% of budget.

**SC Workers' Compensation Commission  
 Financial Report  
 Budget vs. Actual Expenditures  
 FY2016-17  
 Period Ending: October 31, 2016  
 General Fund**

Fund Center Description	Fund	Commitment Items Description	Current Budget	Benchmark 33%	
				YTD Actual Expense	% of Budget
COMMISSIONERS	GENERAL FUND	CHAIRMAN	\$ 125,209	\$ 40,051	
		COMMISSIONER	\$ 720,924	\$ 241,991	
		TAXABLE SUBS		\$ 16,887	
		CLASSIFIED POS	\$ 324,037	\$ 110,620	
		TERMINAL LEAVE		\$ 17,412	
		EMPLOYER CONTRIB		\$ 132,132	
Total			\$ 1,170,170	\$ 559,092	48%
ADMINISTRATION	GENERAL FUND	DIRECTOR	\$ 102,130	\$ 34,043	
		CLASSIFIED POS	\$ 48,622	\$ 13,979	
		DUAL EMPLOYMENT		\$ 320	
		OTHER OPERATING	\$ 75,000		
		EMPLOYER CONTRIB		\$ 14,579	
Total			\$ 225,752	\$ 62,921	28%
JUDICIAL	GENERAL FUND	CLASSIFIED POS	\$ 30,218		
Total			\$ 30,218		
CLAIMS SERVICES	GENERAL FUND	CLASSIFIED POS	\$ 79,733	\$ 26,329	
		EMPLOYER CONTRIB		\$ 7,910	
Total			\$ 79,733	\$ 34,239	43%
MEDICAL SERVICES	GENERAL FUND	CLASSIFIED POSITIONS	\$ 27,498	\$ 9,166	
		EMPLOYER CONTRIB		\$ 3,710	
Total			\$ 27,498	\$ 12,876	47%
		EMPLOYER CONTRIB	\$ 531,739		
Total			\$ 531,739		0%
		MISC OPS (Information Technology)	\$ 72,631		
Total			\$ 72,631		0%
Total			\$ -		
<b>Fund Total</b>			<b>\$ 2,137,741</b>	<b>\$ 669,128</b>	<b>31%</b>

**SC Workers' Compensation Commission**  
**Financial Report Revenues**  
**FY2016-17 Period Ending: October 31, 2016**  
**Earmarked Fund**

			Benchmark 33%	
Account	Acct No.	Budget	YTD Actual Received	% of Budget
Workers Comp Hearing Fee	4110090000	\$ 1,075,662	\$ 189,225	18%
Self Insurance App Fee	4160040000	\$ -	\$ 150	0%
Violations and Penalties	4223030000	\$ 2,895,476	\$ 424,128	15%
Sale of Publications and Brochures	4350040000	\$ -	\$ -	0%
Parking Fee	4350040000	\$ -	\$ 1,925	0%
Workers Comp Award Review Fee	4350140000	\$ 93,251	\$ 9,600	10%
Sales of Photocopies	4380050000	\$ 145,199	\$ 26,798	18%
Training Conference Registration Fee	4480040000	\$ (6,443)		0%
Sale of Listings Labels	4480060000	\$ 25,687	\$ 4,735	18%
Returned Checks	4530010000	\$ -	\$ (1,701)	0%
Adj To Agency Deposit	4530020000	\$ -	\$ (25)	0%
MISC REVENUE	4530030000		\$ 17,538	0%
	4380020000	\$ (1,422)		
		\$ 4,227,410	\$ 672,372	16%
<b>Appropriated Fund Balance</b>		\$ 2,680,098	\$ 893,366	33%
<b>Total</b>		\$ 6,907,508	\$ 1,565,738	23%



SC Workers' Compensation Commission  
 Financial Report  
 Budget vs. Actual Expenditures  
 FY2016-17 Period Ending: October 31, 2016  
 Earmarked Fund

Fund	Commitment Items Description	Program	Current Budget	Benchmark 33%	
				YTD Actual Expense	% of Budget
COMMISSIONERS	TAXABLE SUBS	COMMISSIONERS	\$ 70,000		
	OTHER OPERATING		\$ 230,700		
	DP SVCS-OTHER			\$ 780	
	FREIGHT EXPRESS DELV			\$ 54	
	TELEPHONE & TELEGRPH			\$ 1,034	
	CELLULAR PHONE SVCS			\$ 2,344	
	LEGAL SERVICES			\$ 16,859	
	LEGAL SERVICES			\$ 3,650	
	EDUC & TRNG-STATE			\$ 367	
	POSTAGE			\$ 1,749	
	RENT-OFFICE EQUIP				
	RENT-DATA PROC EQUIP			\$ 37	
	RENTAL-CONT RENT PMT			\$ 103	
	RENT-OTHER			\$ 120	
	INSURANCE-STATE			\$ 230	
	IN ST-MEALS-NON-REP			\$ 233	
	IN ST-LODGING			\$ 2,168	
	HR-IN ST-AIR TRANS			\$ 475	
	HR-IN ST-AUTO MILES			\$ 7,620	
	IN ST-MISC TR EXP			\$ 70	
	IN ST-SUBSIST ALLOW			\$ 3,999	
	OUT ST-REGISTR FEES			\$ 980	
	REPORTABLE MEALS			\$ 94	
	LEASED CAR-ST OWNED			\$ 3,947	
	INS WORKERS COMP	EMPLOYER CONTR		\$ 11,926	
	UNEMP COMP INSURANCE			\$ 171	
	<b>Total</b>		\$ 300,700	\$ 59,011	20%
ADMINISTRATION	CLASSIFIED POS	ADMINISTRATION	\$ 585,119	\$ 121,374	
	OTH PERS SVC		\$ 41,000		
	TERMINAL LEAVE			\$ 953	
	OTHER OPERATING		\$ 1,914,920		
	OFFICE EQUIP SERVICE			\$ -	
	PRINT / BIND / ADV			\$ 1,667	
	DP SVCS-OTHER			\$ 8,753	
	FREIGHT EXPRESS DELV			\$ 21,822	
	TELEPHONE & TELEGRPH			\$ 810	
	CELLULAR PHONE SVCS			\$ 963	
	LEGAL SERVICES			\$ 9,180	
	MOTOR VEH REP -WRECK			\$ 200	
	AUDIT ACCT FINANCE			\$ 121	
	OTHER PROFESS SVCS			\$ 825	
	OTHER CONTRACT SVCS			\$ 685	
	OFFICE SUPPLIES			\$ 4,536	
	POSTAGE			\$ 2,822	
	OTHER SUPPLIES			\$ 1,698	
	RENT-OFFICE EQUIP			\$ 1,815	
	RENT-COPYING EQUIP			\$ 465	
	RENT-DATA PROC EQUIP			\$ 30	
	RENTAL-CONT RENT PMT			\$ 559	
	RENT-OTHER			\$ 69,616	

Fund	Commitment Items Description	Program	Current Budget	YTD Actual Expense	% of Budget
	FEES AND FINES			\$ -	
	IN ST-MEALS-NON-REP			\$ 137	
	IN ST-LODGING			\$ 1,559	
	HR-IN ST-AUTO MILES			\$ 1,025	
	LEASED CAR-ST OWNED			\$ 16,254	
	EMPLOYER CONTRIB	EMPLOYER CONTR		\$ 48,234	
Total			\$ 2,541,039	\$ 316,101	
EXECUTIVE DIRECTOR	TEMPORARY POSITIONS	ADMINISTRATION		\$ 12,405	
	OT & SHIFT DIFFERENT			\$ 394	
	CELLULAR PHONE SVCS			\$ 193	
	DUES & MEMBER FEES				
	IN ST-MEALS-NON-REP			\$ 256	
	IN ST-LODGING			\$ 836	
	OUT ST-REGISTR FEES			\$ 250	
	REPORTABLE MEALS			\$ 244	
	EMPLOYER CONTRIB	EMPLOYER CONTR		\$ 3,141	
Total				\$ 17,719	
INFORM. SERVICES	DP SVCS-OTHER	ADMINISTRATION		\$ 101,776	
	TELEPHONE & TELEGRPH			\$ 189	
	CELLULAR PHONE SVCS			\$ 912	
	LEGAL SERVICES			\$ 6,623	
	DATA PROCESS SUPP				
	RENT-COPYING EQUIP			\$ 7,417	
	RENT-DATA PROC EQUIP			\$ 23	
	RENTAL-CONT RENT PMT			\$ 279	
	DUES & MEMBER FEES	ADMINISTRATION		\$ 3,600	
Total				\$ 120,817	
Total	EMPLOYER CONTRIB	EMPLOYER CONTR			
Total			\$ 2,841,739	\$ 454,637	16%
CLAIMS SERVICES	CLASSIFIED POS	CLAIMS	\$ 272,010		
	CLASSIFIED POSITIONS			\$ 87,093	
	CLASSIFIED POSITIONS			\$ 18,528	
	OTH PERS SVC				
	TERMINAL LEAVE			\$ 204	
	OTHER OPERATING		\$ 19,700		
	TELEPHONE & TELEGRPH			\$ 769	
	CELLULAR PHONE SVCS			\$ 106	
	POSTAGE			\$ 2,998	
	RENT-DATA PROC EQUIP			\$ 37	
	RENTAL-CONT RENT PMT			\$ 176	
	EMPLOYER CONTRIB	EMPLOYER CONTR		\$ 43,115	
Total			\$ 291,710	\$ 153,027	52%
MEDICAL SERVICES	CLASSIFIED POS	INS & MED SERVICES	\$ 445,000		
	CLASSIFIED POSITIONS			\$ 112,036	
	CLASSIFIED POSITIONS			\$ 47,188	
	OTH PERS SVC		\$ 22,881		
	TEMPORARY POSITIONS			\$ 3,209	
	LEGAL SERVICES			\$ 456	
	OTHER OPERATING		\$ 54,500		
	CELLULAR PHONE SVCS			\$ 152	
	CELLULAR PHONE SVCS			\$ 98	
	OTHER PROFESS SVCS			\$ 3,378	
	OTHER CONTRACT SVCS			\$ 610	
	POSTAGE			\$ 1,913	
	RENT-DATA PROC EQUIP			\$ 39	
	RENTAL-CONT RENT PMT			\$ 109	
	LEASED CAR-ST OWNED			\$ 75	
	EMPLOYER CONTRIB	EMPLOYER CONTR		\$ 59,247	

Fund	Commitment Items Description	Program	Current Budget	YTD Actual Expense	% of Budget
Total				\$ 228,510	
COMPLIANCE	TELEPHONE & TELEGRPH	INS & MED SERVICES		\$ 792	
	EDUC & TRNG-STATE			\$ 249	
	OTHER PROFESS SVCS			\$ 2,460	
	INS UNEMPLY COMP			\$ 171	
				\$ 3,672	
Total			\$ 522,381	\$ 232,182	44%
JUDICIAL DOCKETING	CLASSIFIED POS	MANAGEMENT	\$ 292,779		
	CLASSIFIED POSITIONS			\$ 100,727	
	OTHER OPERATING		\$ 12,800		
	TELEPHONE & TELEGRPH			\$ 472	
	CELLULAR PHONE SVCS			\$ 106	
	POSTAGE			\$ 2,517	
	RENT-DATA PROC EQUIP			\$ 39	
	RENTAL-CONT RENT PMT			\$ 109	
	HR-IN ST-AUTO MILES			\$ 210	
	EMPLOYER CONTRIB	EMPLOYER CONTR		\$ 40,444	
Total				\$ 144,624	
JUDICIAL ASSESSMENT	CLASSIFIED POSITIONS	MANAGEMENT		\$ 12,259	
	EMPLOYER CONTRIB	EMPLOYER CONTR		\$ 5,155	
				\$ 17,414	
Total			\$ 305,579	\$ 162,038	53%
	EMPLOYER CONTRIB	EMPLOYER CONTR	\$ 607,999		
<b>Fund Total</b>			<b>\$ 4,569,408</b>	<b>\$ 1,060,895</b>	<b>23%</b>

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*Workers' Compensation Commission*

**TO:** Workers' Compensation Commissioners  
**FROM:** Gary M. Cannon  
**DATE:** November 10, 2016  
**RE:** Proposed Regulations

The Notice of Drafting on the proposed regulations was published in the October 28, 2016 issue of the *State Register*. The next step in the process is the publication of the proposed regulations. Attached is a draft for your consideration. If approved, the proposed regulations will be published in the November 25, 2016 issue of the *State Register*. The deadline to receive comments for Public Hearing is December 26, 2016. A Public Hearing on the proposed regulations is scheduled for January 5, 2017 at 10:30 a.m. in Hearing Room A at the Commission.

Action Requested: Commission approve the language of the draft proposed regulations.

Document No. \_\_\_\_\_  
**SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION**  
**CHAPTER 67**

Statutory Authority: 1976 Code Section 42-3-30

- 67-201. Application of Regulations
- 67-205. Filing with the Commission, Defined
- 67-207. Requesting a Hearing, Claimant
- 67-211. Service of Forms and Documents
- 67-213. Service of Orders, Hearing Notices, and Review Hearing Notices
- 67-214. Subpoenas
- 67-215. Motions
- 67-413. Periodic Report
- 67-504. Terminating Payment of Temporary Total or Temporary Partial Compensation During the First One Hundred Fifty Days After Employer's Notice of the Accident
- 67-611. Pre-hearing Brief
- 67-613. Postponement or Adjournment of the Scheduled Hearing
- 67-615. Transcripts of Hearings
- 67-712. Requesting Higher Court Review
- 67-802. Settlement, Form 16, Form 16A
- 67-804. Informal Conference
- 67-1515. Confidentiality of Information
- 67-1602. Payment of Compensation
- 67-1802. Mediation Required with Certain Claims
- 67-1804. Selection of Mediator and Required Schedule
- 67-1809. Forms Required Upon Completion

**Preamble:**

The South Carolina Workers' Compensation Commission proposes to amend regulations to Chapter 67 for clarification of certain regulations. The Notice of Drafting regarding this regulation was published on October 28, 2016 in the State Register.

**Section by Section Discussion**

Reg. 67-201: In response to *Rhame v. Charleston Co. School Dist.*, the Commission needs to clarify that Article 2 of the Regulations applies to all levels of proceedings before the Commission.

Reg. 67-205: Clarification that the effective date of service when service is made electronically is the date it is sent and received as indicated by the parties' electronic mail service provider.

Reg. 67-207: In order to streamline the procedure for requesting a Hearing, the Commission is abolishing the use of a superfluous form, the Form 15, Section III, and directing claimants requesting a Hearing on any issues involving the merits to use a Form 50 Employee Request for Hearing.

Reg. 67-211: Clarification that the effective date of service when service is made electronically is the date it is sent and received as indicated by the parties' electronic mail service provider.

Reg. 67-213: Clarification that the effective date of service when service is made electronically is the date it is sent and received as indicated by the parties' electronic mail service provider.

Reg. 67-214: Amend the process of a pro se litigant obtaining a subpoena to compel discovery. The amendments will provide Commission supervision of the content of the subpoenas before they are signed by a representative of the Commission on the pro se party's behalf. This will ensure an unrepresented litigant's access to meaningful discovery is preserved and reduce the use of subpoenas for abusive practices.

Reg. 67-215: In response to *Rhame v. Charleston Co. School Dist.*, the Commission needs to clarify that the Commission will not consider Motions addressing the merits, including Motions for Reconsideration of substantive issues, at any level of proceedings before the Commission.

Reg. 67-413: Eliminate the use of the Form 18 to request an informal conference by deleting subsection (A)(2) which currently reads "[file a Form 18 Status Report] to request an informal conference". Line 6 on the current Form 18 reading "Informal Conference is Requested: Yes No (check one)" will be eliminated from the Form 18. This is necessary to implement the use of the Form 18 as Second Report of Injury (SROI) through Electronic Document Interface (EDI).

Reg. 67-504: In order to streamline the procedure for requesting a Hearing, the Commission is abolishing the superfluous Form 15, Section III, and directing claimants requesting a Hearing under this section to use a Form 50 Employee Request for Hearing.

Reg. 67-611: The changes clarify a deadline for making amendments to a Pre-Hearing Brief. They are a result of the decision in *Fore v. Griffco of Wampee*, 409 S.C. 360, 762 S.E.2d 37 (S.C. App. 2014).

Reg. 67-613: The changes eliminate provisions of the regulation that are inconsistent with the Commission's current practice in which postponements are not passed on to the next jurisdictional Commissioner.

Reg. 67-615: Amending language to direct parties to contact the Court Reporter directly for a copy of a transcript, not the Commission. This change is needed to reflect the changes made to S.C. Code Ann. Section 42-3-60 and Section 42-3-170.

Reg. 67-712: In response to *Rhame v. Charleston Co. School Dist.*, the Commission needs to clarify that a party aggrieved by a final decision on the merits of the Commission must appeal in accordance with S.C. Code Ann. Section 42-17-60 instead of filing a Motion for Reconsideration.

Reg. 67-802: Amending the process for requesting an informal conference by clarifying that the employers' representative must file a letter requesting that an informal conference be held and file a current Form 18. Line 6 on the current Form 18 reading "Informal Conference is Requested: Yes No (check one)" will be eliminated from the Form 18. This is necessary to implement the use of the Form 18 as SROI through EDI.

Reg. 67-804: Amending the process for requesting an informal conference by clarifying that the employer's representative must file a letter requesting that an informal conference be held and file a current Form 18. Line 6 on the current Form 18 reading "Informal Conference is Requested: Yes No (check one)" will be eliminated from the Form 18. This is necessary to implement the use of the Form 18 as SROI through EDI.

Reg. 67-1515: Correction of a typographical error; removal of the word "the" from the clause ". . .the effective date of *the* such insurance program, . . ."

Reg. 67-1602: The Commission will consider adopting the amendments recommended by the Debit Card Advisory Committee.

Reg. 67-1802: The Commission will alter the listing of situations where mediation is mandatory to clarify that mandatory mediation is only triggered for claimants claiming permanent and total disability when the claimant has reached maximum medical improvement.

Reg. 67-1804: The change provides grammatical amendments and clarifies the timing in which a mediator must be selected.

Reg. 67-1809: The Commission will provide sanctions for the failure of the parties to file a Form 70 Report of Mediation in a timely manner by barring the processing of a Form 19 until the Form 70 has been received.

**Notice of Public Hearing and Opportunity for Public Comment:**

Interested persons may submit written comments to the South Carolina Workers' Compensation Commission, attention Gary M. Cannon, Executive Director, Post Office Box 1715, Columbia, South Carolina 29202-1715. To be considered, comments must be received no later than 5:00 p.m. on Monday, December 26, 2016.

The South Carolina Workers' Compensation Commission has scheduled a public hearing for January 5, 2017 at 10:30 a.m. in Hearing Room A at the SC Workers' Compensation Commission, 1333 Main Street, Columbia, SC 29202.

**Preliminary Fiscal Impact Statement:**

The fiscal impact of the proposed changes to this regulation is \$0.

**Statement of Need and Reasonableness:**

The Workers' Compensation Commission is the regulatory agency of the State of South Carolina responsible for overseeing and administering the South Carolina Workers' Compensation Act. SC Code Ann. § 42-1-10 et seq. (1976). The Commission shall promulgate all regulations relating to the administration of the workers' compensation laws.

**DESCRIPTION OF REGULATIONS:** South Carolina Workers' Compensation Regulations Chapter 67.

**Purpose:** To amend regulations to Chapter 67 for clarification of certain regulations; to amend the subpoena process of a pro se litigant; to eliminate the use of the Form 18 to request an informal conference; to streamline the procedures for requesting a Hearing by abolishing the Form 15, Section III; to amend language to provide instructions for requesting copies of transcripts; to correct a typographical error; to adopt amendments recommended by Debit Card Advisory Committee; and to require parties to file a Form 70 at completion of mediation.

**Legal Authority:** The Commission is authorized to promulgate rules and regulations relating to the administration of the workers' compensation laws necessary to implement the provisions of this title Section 42-3-30. The regulation will cover claims pursuant to Title 42 of the SC Code of Laws.

**Plan for Implementation:** After approval by the General Assembly and publication in the *State Register*, the proposed regulation will take effect on July 1, 2017. The proposed amendments will be implemented

by providing the regulated community a copy of the regulations on the Commission's website: [www.wcc.sc.gov](http://www.wcc.sc.gov).

**DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

The proposed amendments further clarify that Article 2 of the Regulations applies to all levels of proceedings before the Commission; clarify the Commission's judicial ruling that the effective date of service when made electronically is the date it is sent and received as indicated by the parties' electronic mail service provider; streamline the procedure for requesting a hearing; reduce the use of subpoenas for improper purposes; establish regulatory procedures governing the use of Motions before the Full Commission; eliminate the use of the Form 18 to request an informal conference; clarify a deadline for making amendments to a Pre-Hearing Brief; provides instructions for requesting a copy of a transcript; clarify the process for appealing a Decision of the Commission to the Courts; allow the option for carriers to make claimants' indemnity payments by electronic transfer or debit card; provide sanctions for the failure of the parties to file a Form 70 at the completion of mediation.

**DETERMINATION OF COSTS AND BENEFITS:**

There are no additional costs to the agency related to the proposed regulations. The proposed changes will allow the Commission to implement the statutory requirements of Title 42 in an more efficient and effective manner.

**UNCERTAINTIES OF ESTIMATES:**

None

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

None

**DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:**

None

**Statement of Rationale:**

The amendments to Chapter 67 are necessary for clarification of certain regulations; to amend the subpoena process of a pro se litigant; to facilitate the electronic submission of certain forms and documents; to eliminate the use of the Form 18 to request an informal conference; to streamline the procedure for requesting a Hearing by abolishing the Form 15, Section III; to amend language to provide instructions for requesting copies of transcripts; to correct a typographical error; to adopt amendments recommended by Debit Card Advisory Committee; and to require parties to file a Form 70 at completion of mediation.

**Text:**

67-201. Application of Regulations.



A. These regulations are entitled to a liberal construction in the furtherance of the purpose for which the South Carolina Workers' Compensation Law is intended.

B. In doubtful cases, the application of these regulations shall be construed in favor of the injured employee.

C. Unless the context otherwise requires, the regulations in this Article shall be construed to apply to all levels of proceedings before the Workers' Compensation Commission.

#### 67-205. Filing with the Commission, Defined.

A. The date of filing a form or document with the Commission is provided in subsections B, C, and D, ~~below~~.

B. A form or document delivered to the Commission electronically, by first class mail, or by hand delivery is filed the date of receipt in the Commission's offices as indicated by the earliest date stamped on the form or document by an official Commission stamp with the exception of forms and documents delivered pursuant to R.67-205C, ~~and R.67-205D, and R.67-205E.~~

C. A form or document delivered to the Commission by certified or registered mail is deemed filed the date of deposit in the United States Postal Service as indicated by the date of postmark.

D. A form or document transmitted to and received by the Commission electronically on or before 11:59:59 p.m. shall be considered filed with the Commission on that date, provided it is subsequently accepted after review by the appropriate department of the Commission.

E. The following forms or documents are deemed filed on the date on the accompanying certificate of service properly addressed to the Commission: Forms ~~15(H)~~, 50, 51, 52, 53, 54, 55, 58, 30, and appellate briefs.

#### 67-207. Requesting a Hearing, Claimant.

A. ~~To request a hearing, file~~ A hearing shall be requested by filing a Form ~~15~~, Form 50; or Form 52 with the Commission's Judicial Department as provided below:

(1) ~~The party shall Mark mark~~ the box at the signature line on the Form 50 or Form 52 which states, "I am requesting a hearing," ~~or sign and date under Section III of the Form 15 "Notice to Injured Worker or Legal Representative When Temporary Compensation Has Been Stopped."~~

(2) ~~Address and deliver the~~ The form shall be addressed and delivered to the Judicial Department pursuant to R.67-205.

(3) ~~The Commission serves shall serve~~ the Form ~~15~~, Form 50; or Form 52 on the employer ~~according pursuant~~ to R.67-210 and R.67-211.

(4) When under the laws of this State the employer and its insurance carrier, if any, are required by law to be represented by an attorney in a contested case hearing, an attorney shall be designated according to R.67-603.

(5) The WCC file number or Coverage Coding Form must be included.

B. Filing When a party files a Form 50 or Form 52 with the Commission requesting a hearing, the Form 50 also ~~files~~ serves to file the claim if a claim has not been filed before.

#### 67-211. Service of Forms and Documents.

##### A. Claimant's Request for Hearing.

(1) When the claimant is represented by an attorney, the attorney shall serve a copy of the Form ~~15(H)~~, Form 50; or Form 52 hearing request electronically or by depositing the form in the United States Postal Service first class postage, addressed to the opposing parties pursuant to R.67-210. Service is deemed complete upon mailing or electronic transmission unless the form is returned or

the sender's or recipient's electronic server indicates that the transmission was unable to be completed. If the form is returned or unable to be transmitted, service may be completed pursuant to the South Carolina Rules of Civil Procedure. A hearing will not be set until service is complete and proof of service is filed with the Judicial Department.

(2) When the claimant is not represented by an attorney, the claimant may serve the ~~Form 15(H)~~, Form 50, or Form 52 hearing request as set forth in A(1) ~~above~~. When the claimant does not serve the hearing request, the Commission ~~will~~ must serve the request electronically or by depositing the form in the United States Postal Service first class postage, addressed to the opposing parties per R.67-210.

B. Employer's Representative's Request for Hearing and/or Response to a Request For Hearing.

(1) When the claimant is represented by an attorney, the employer's representative shall serve a copy of the Form 21, Form 51, or Form 53 electronically or by depositing the form in the United States Postal Service first class postage, addressed to the claimant's attorney. Service is deemed complete upon mailing or electronic transmission unless the form is returned or the sender's or recipient's electronic server indicates that the transmission was unable to be completed. If the form is returned or unable to be transmitted, service may be completed pursuant to the South Carolina Rules of Civil Procedure. A hearing will not be set until service is complete and proof of service is filed with the Judicial Department.

(2) When the claimant is not represented by an attorney, the employer's representative shall serve a copy of the Form 21, Form 51, or Form 53 by personal service or by certified mail, return receipt requested, delivery restricted to the addressee. When service is by certified mail, service is complete as of the date of the addressee's receipt of the form as indicated by the signed certified mail return receipt. If the form is returned, service may be completed pursuant to the South Carolina Rules of Civil Procedure. A hearing will not be set until service is complete and proof of service is filed with the Judicial Department.

C. Other Forms and Documents.

(1) Unless otherwise specified in this Chapter, ~~serve~~ other forms and documents shall be served by the parties electronically or by depositing the form or document in the United States Postal Service first class postage, addressed to the opposing parties per R.67-210. Service is deemed complete upon mailing or electronic transmission unless the document is returned or the sender's or recipient's electronic server indicates that the transmission was unable to be completed. If the document is returned or unable to be transmitted, service may be completed pursuant to the South Carolina Rules of Civil Procedure.

(2) When the claimant is not represented by an attorney, the claimant may serve a form or document according to C(1) ~~above~~. When the claimant does not serve the form or document, the Commission ~~will~~ shall serve it by depositing the form or document in the United States Postal Service first class postage, addressed to the opposing parties per R.67-210.

(3) Hearing notices may be served electronically pursuant to R.67-210. All unrepresented claimants and uninsured employers shall be served by depositing the notice in the United States Postal Service, first class postage ~~per~~ pursuant to R.67-210. Service is deemed complete upon mailing or electronic transmission unless the form is returned or the sender's or recipient's electronic server indicates that the transmission was unable to be completed.

67-213. Service of Orders, Hearing Notices, and Review Hearing Notices.

A. The Commission serves orders electronically, by certified mail, return receipt requested or by deposit in the United States Postal Service, first class postage, addressed to the parties ~~according~~ pursuant to R.67-210.

(1) Service is made by delivering a copy of the order to a an unrepresented party representing himself or herself or to the attorney representing the party.

(2) When service is made by certified mail, the date of service is the date of the addressee's receipt indicated by the certified mail return receipt. When service is made by first class mail, five days are added to the date of mailing. Service by first class mail is deemed complete five days after the date of deposit in the United States Postal Service. Service made electronically is deemed complete five days after the date the electronic transmission is completed, unless the Commission's electronic server indicates that the transmission was unable to be completed.

B. The Commission serves hearing notices and Form 31, Review Hearing Notices, electronically or by deposit in the United States Postal Service first class postage, addressed to the parties according to R.67-210. Service is deemed complete upon mailing or electronic transmission unless the form is returned or the Commission's electronic server indicates that the transmission was unable to be completed. All unrepresented claimants and uninsured employers shall be served by depositing the notice in the United States Postal Service, first class postage per R.67-210. The Commission may, but is not required to, serve such notices by certified mail, return receipt requested. Service by certified mail is complete upon receipt.

C. When an attorney represents a party, the party is not served. If the mailing is returned, service may be completed ~~as in~~ pursuant to R.67-211.

#### 67-214. Subpoenas.

A. ~~To subpoena~~ A party may subpoena a person or document(s), ~~complete and serve by completing and serving~~ a Form 27 as set ~~out below~~ forth in this section.

B. When the party issuing the Form 27 is represented by an attorney, the attorney shall complete and sign the Form 27.

C. ~~When the party issuing the Form 27 is not represented by an attorney, the party may obtain a blank Form 27 signed by an authorized representative of the Commission.~~ A party not represented by an attorney may obtain a Form 27 Subpoena signed by an authorized representative of the Commission by (1) completing but not signing the Form 27, and (2) submitting the unsigned Form 27 to the Commission's Judicial Department to be signed by an authorized representative of the Commission.

D. When the individual person being served is represented by an attorney, serve the Form 27 shall be served by depositing the Form 27 in the United States Postal Service, first class postage addressed to the attorney. Service is deemed complete upon mailing, unless the form is returned. If the form is returned, service may be completed pursuant to South Carolina Rules of Civil Procedure.

E. When the individual person being served is not represented by an attorney, serve the individual the Form 27 shall be served on the person by personal service or by certified mail, return receipt requested, delivery restricted to the addressee. When service is by certified mail, service is complete on the date of the addressee's receipt of the form as indicated by the signed certified receipt. If the form is returned, service may be completed pursuant to the South Carolina Rules of Civil Procedure.

F. ~~Do not file the Form 27 with the Commission.~~ A party is not required to copy the Commission when serving a Form 27 in accordance with subsections D. and E. When the Form 27 is to be used at a hearing, the person sending the Form 27 shall retain a copy and proof of service to be presented at the hearing as necessary.

G. The signature of an attorney on a Form 27, or the written request to the Commission for the execution of a Form 27 by an unrepresented party, constitutes a certification by the attorney or party that he or she has read the Form 27; that to the best of his or her knowledge, information, and belief there is good ground(s) to support it; that it is not being presented for any improper purpose such as

to harass, cause unnecessary delay, or increase the cost of litigation; and that it is only seeking information relevant to a party's claim or defense.

H. An individual A person may contest a Form 27 by filing and serving a motion to quash or modify pursuant to R.67-215.

#### 67-215. Motions.

A. This regulation governs motions practice at all levels of proceedings before the Commission. A party may file a motion when a form is not applicable. The Commission will accept motions including, but not limited to, a motion

- (1) Relating to a subpoena or discovery;
- (2) Relating to the appointment of a Guardian ad Litem;
- (3) Relating to an attorney's appearance, withdrawal, or fee;
- (4) Relating to a claim pending Commission review;
- (5) Relating to postponing or adjourning a hearing;
- (6) Relating to self-insurance privileges;
- (7) Relating to penalties and or interest;
- (8) Relating to third party practice.

B. The Commission will not address a motion involving the merits of the claim, including, but not limited to, a motion for

- (1) ~~For~~ dismissal; or
- (2) ~~For~~ summary judgment.

The single Commissioner or Full Commission will entertain motions to reconsider an order, opinion, or award if the purpose of the motion is not an attempt to reargue the merits of the dispute. Any motion for reconsideration must be made within five (5) days of the date that the order, opinion, or award is served, and shall not be made if any party has already filed an appeal of the order, opinion, or award. If a motion for reconsideration is properly filed consistent with the provisions of this subsection, the order, opinion, or award under reconsideration is not considered final until the motion for reconsideration has been disposed of by the single Commissioner or Full Commission.

C. The Commission does not provide a form for a motion. A motion shall contain a complete caption of the case including the title of the action, the state and county in which the injury occurred, the Commission's name, the workers' compensation file number, and a designation of the relief or order sought.

D. The body of the motion shall contain numbered paragraphs each limited to a statement of a single set of circumstances. The final paragraph of the motion shall state specifically the relief or order sought.

(1) If the grounds on which the motion or reply depend is based on the existence of facts not in the Commission's file, the moving party shall file an affidavit or affidavits evidencing those facts. The opposing party may file an affidavit or affidavits in reply.

(2) If the motion or reply depends on the existence of facts in evidence or are admitted in forms on file with the Commission, the party shall cite the document and page number.

E. When the claimant or an uninsured employer is not represented by an attorney, the moving party shall serve the motion by personal service or by certified mail, return receipt requested, delivery restricted to the addressee.

(1) When service is by certified mail, service is complete the date of the addressee's receipt of the mailing as indicated by the signed certified return receipt. Otherwise, the moving party shall serve the motion by any of the methods listed or by depositing the motion in the United States Postal Service, first class postage, addressed to the appropriate party.

(2) If the mailing is returned, service may be completed pursuant to the South Carolina Rules of Civil Procedure.

F. The moving party shall file the motion and proof of service with the Judicial Department. ~~The moving party, and~~ may attach a memorandum in support of the motion. The opposing party may file a memorandum in reply within ten days of service of the motion. The parties may agree to an extension by filing a written consent. Failure to respond is deemed a general denial. No further memoranda are allowed, unless requested by a Commissioner or the Commission.

G. The jurisdictional commissioner or Full Commission, if an appeal is pending, may consider the motion after the opposing party has had ten ~~days~~ days' notice of the motion, and shall grant or deny the relief requested.

(1) The jurisdictional commissioner may hear the ~~parties~~ motion in any county or by telephone conference call; however, a hearing is not ~~necessary~~ required.

(2) The jurisdictional commissioner shall issue a written decision to be filed with the record and served on all parties.

H. All motions filed by a party represented by an attorney shall contain an affirmation that prior to filing the motion, the movant's counsel has communicated, verbally or in writing, with opposing counsel and has attempted in good faith to resolve the matter contained in the motion, unless the movant's counsel certifies that consultation (i) would serve no useful purpose or (ii) could not be timely held.

#### 67-413 Periodic Report.

A. The employer's representative shall file a Form 18, Periodic Report, or the EDI equivalent Sub Annual (SA), as follows:

(1) Six months after the alleged date of injury and each six months thereafter until the Commission's file is closed;

~~(2) To request an informal conference;~~

~~(3) Within thirty days of service of a claimant's Form 50 or Form 52 request for a hearing or request for an informal conference; and~~

(4) At the request of the Commission.

~~B. The employer's representative may file a Form 18 at any time to transmit a message to the Commission.~~

#### 67-504. Terminating Payment of Temporary Total or Temporary Partial Compensation During the First One Hundred Fifty Days After Employer's Notice of the Accident.

A. The employer's representative may terminate or suspend temporary compensation during the first one hundred fifty days after the employer ~~has~~ received notice of the injury ~~according~~ pursuant to Section 42-9-260. When compensation is terminated or suspended, the employer's representative shall complete Section I and Section II of the Form 15, Temporary Compensation Report. The employer's representative shall file the Form 15 immediately with the Claims Department and shall serve ~~two copies~~ of the Form 15 immediately on the claimant ~~according~~ pursuant to R.67-211 with documentation attached as to the reason for termination or suspension.

B. To terminate or suspend compensation pursuant to Section 42-9-260(B)(2), the employer's representative must obtain a signed Form 17.

C. The claimant may request a hearing to dispute the termination or suspension of temporary compensation by completing ~~Section III of the Form 15~~ a Form 50 Request for Hearing and filing it ~~according~~ pursuant to R.67-207.

### 67-611. Pre-hearing Brief.

A. A claimant who is ~~representing himself or herself~~ not represented by an attorney is not required to file a Form 58, Pre-hearing Brief.

(1) If the claimant elects to file a Form 58, the claimant must mail the Form 58 to the Commissioner's office identified on the hearing notice.

(2) The Commissioner's office ~~will~~ shall send a copy of the Form 58 to the employer's attorney.

B. Each attorney representing a party at a hearing shall file and serve a Form 58 according to the following:

(1) ~~File a~~ A Form 58 and proof of service must be filed at least ten days before the hearing with the Hearing Commissioner's office identified on the hearing notice. ~~Complete the~~ The Form 58 must be complete and give set forth the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements including video recordings and/or transcribed audio recordings have been taken from ~~one of the witnesses~~ any witness including the claimant, and indicate who has possession of same. A party ~~is under a duty to~~ shall promptly supplement a response with respect to any question directly addressed on the form and amend a response if the party obtains information upon the basis of which the party knows the response was incorrect when made, or the party knows the response, ~~though~~ though correct when made, is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(2) All amendments and supplements to a Form 58 must be made at least 5 days prior to the date of the hearing. Otherwise, a party seeking to supplement or amend the Form 58 must move for relief pursuant to R.67-613.

(3) Serve The Form 58 shall be served on the opposing party according pursuant to R.67-211.

(4) All blanks on the Form 58 must be completed pursuant to R.67-204.

C. The Form 58 shall remain in the Commission's file, but ~~shall~~ does not constitute evidence or become part of the record of the hearing.

D. If an attorney fails to file and serve a Form 58, the Commissioner may postpone the hearing according to R.67-613 or assess against an attorney by written order a fine ~~of up to~~ not to exceed one hundred dollars.

### 67-613. Postponement or Adjournment of the Scheduled Hearing.

A. Each party shall arrange and present all evidence at the hearing. Testimony of a necessary witness unable to appear at the hearing may be presented by deposition.

B. A commissioner may postpone a hearing for good cause.

(1) Good cause includes but is not limited to:

(a) The attorney is actually engaged in another court;

(b) Illness;

(c) Additional discovery is necessary;

(d) A conflict of interest exists requiring another Commissioner hear the case;

(e) It is premature to hear the case.

(2) ~~To request a postponement,~~ A party requesting a postponement shall file and serve a motion pursuant to R.67-215 at least ten days ~~before~~ prior to the hearing. If the moving party can show emergency or other circumstance beyond its control, the motion may be filed and served as soon as reasonably possible before the hearing.

(3) ~~If the moving party postpones~~ postponement is granted upon the request of the moving party who requested a hearing set pursuant to Section 42-9-260, the requirement to hold the hearing within sixty days is waived. ~~The hearing will be postponed only until the following month. If the~~

~~commissioner cannot hear the case by the following month, the case will be returned to the Judicial Department for reassignment.~~

~~(4) All hearings other than those set pursuant to Section 42-9-260 are postponed only until the following month. If the commissioner cannot hear the case the following month, the hearing will not be reset until the moving party files a written request with the Judicial Department. If the nature of the claim or the relief requested changes, file a new hearing request according to R.67-207 unless R.67-610 applies.~~

C. A party may move for adjournment at a hearing under the following circumstances:

(1) To ~~procure~~ obtain additional evidence when the evidence is in existence, identified, and necessary for the decision, but unavailable at the time of the hearing.

(2) When a witness fails to appear.

(a) If the witness has been properly subpoenaed, the moving party shall produce a copy of the Form 27 and proof of service. The Commission may allow the testimony to be made part of the record by *de bene esse* deposition or by testimony at a reconvened hearing. Nothing in this section shall prevent the moving party from withdrawing the subpoena or agreeing to an alternate means of obtaining the necessary evidence.

(b) If the witness has not been properly subpoenaed, the moving party shall provide a reasonable basis for failure to subpoena the witness. The testimony may be allowed at the Commissioner's discretion.

#### 67-615. Transcripts of Hearings.

A. A person may, by written request in writing to the ~~Commissioner's office~~ court reporter, obtain all or a portion of a transcript of a hearing.

B. A request for a portion of a transcript shall be limited to the entire testimony of a particular witness, ~~the opening or closing statement or the position of a party or parties.~~

C. ~~The hearing reporter shall transcribe and deliver the request as soon as reasonably possible.~~

~~D. The cost will be at the prevailing rate established by the Commission and the of a transcript is the responsibility of the party ordering the transcript. Bills shall be paid within thirty days of the receipt of the transcript, and failure to do so shall result in the party's inability to obtain additional transcripts or copies until the account is current.~~

#### 67-712. Requesting Higher Court Review.

A. ~~Notice shall be given to~~ The appellant shall notify the Judicial Department of any and all subsequent appeals and orders. ~~See Rule 203(b)(6), SCACR.~~

B. ~~The appellant prevailing party shall provide the Judicial Department with a copy of any orders issued by the courts on appeal. The prevailing party shall also notify the Commission in writing when a final order issued by the courts on appeal remits jurisdiction to the Commission.~~

#### 67-802. Settlement, Form 16, Form 16A.

A. If the parties agree to the terms of a Form 16 or Form 16A, the employer's representative ~~completes shall complete~~ a Form 16 or Form 16A by recording the claimant's compensation rate; the percent of disability agreed upon; disfigurement, if any; and the number of weeks of compensation the claimant will receive. The form may be approved as follows:

(1) If the claimant is not represented by an attorney, the Form 16 or Form 16A must be approved at an informal conference.

(a) The employer's representative must request an informal conference by ~~filing~~ writing the Judicial Department requesting that an informal conference be scheduled, and filing an updated Form 18 or the EDI equivalent Sub Annual (SA) Periodic Report showing the status of payment of temporary compensation, if any, and medical expenses with the Commission's Judicial Department. For claims arising after July 1, 2007, a Form 14B is also required. The Commission shall accept medical records containing the substantial equivalent of the information contained in the Form 14B only when the party certifies and documents that it has made a good faith effort to obtain a completed Form 14B, and the hospital or physician has unreasonably refused to complete a Form 14B. The claimant may request an informal conference by writing to the Judicial Department.

(b) If the parties at the informal conference reach an agreement ~~at the informal conference~~ which the Commissioner approves, or the claims mediator recommends, the parties shall sign the agreement. (A Commissioner must approve a claims mediator's recommendation before the settlement is recorded as binding.)

(c) If the parties do not reach an agreement with of which the Commissioner approves, the Commission ~~will~~ shall set the matter for a hearing according pursuant to R.67-804I.

(2) If the claimant is represented by an attorney, the claimant, his or her attorney, and the employer's representative shall sign the Form 16 or Form 16A. The Form 16 or Form 16A ~~may~~ shall then be filed with the Commission for approval without an appearance before a Commissioner, as follows:

(a) The employer's representative ~~files~~ shall file an original and one copy of the Form 16 or Form 16A with the Commission's Claims Department. The employer's representative shall file the Form 14B, if applicable, with the Form 16A for claims arising after July 1, 2007.

(b) A Commissioner ~~reviews~~ shall review the Form 16 or Form 16A and may approve the Form.

(c) If the Commissioner approves and signs the Form 16 or 16A ~~approving it~~, the Claims Department ~~records~~ shall record the settlement and ~~returns~~ return an approved copy of the Form to the employer's representative.

(d) The employer's representative must provide the claimant a copy of the approved Form 16 or Form 16A.

(3) If the claimant is represented by an attorney, and the employer is represented by an attorney, a Form 16 or a Form 16A shall be filed with the Commission.

(a) The attorney for the employer's representative ~~files~~ shall file an original and one copy of the Form 16 with the Commission's Claims Department. A Commissioner ~~reviews~~ shall review the Form and may approve the Form.

(b) The attorney for the employer's representative ~~files~~ shall file an original and one copy of the Form 16A with the Commission's Claims Department.

(c) The Commission's Claims Department ~~reviews~~ shall review and ~~records~~ record the settlement, and ~~returns~~ return an official copy of the Form 16 or 16A to the attorney for the employer's representative.

B. The Commissioner may schedule an informal conference to discuss the terms of the settlement when necessary.

#### 67-804. Informal Conference.

~~A. A claims mediator may appear on behalf of a Commissioner at an informal conference and review a proposed Form 16 or Form 16A settlement or review a R.67-505 or R. 67-506 request to certify a Form 17. A claims mediator may not appear on behalf of a Commissioner at an informal conference requested for review of a proposed Agreement and Final Release.~~

#### Appearances at Informal Conferences.



(1) A claims mediator may appear on behalf of a Commissioner at an informal conference when the purpose of the informal conference is to:

(a) review a proposed Form 16 or Form 16A settlement when the total amount of medical benefits paid is below the threshold amount established by the Commission; or

(b) certify a Form 17.

(2) A Commissioner shall preside over an informal conference when the purpose of the informal conference is to:

(a) approve a settlement in the form of a full and final Agreement and Release made pursuant to Section 42-9-390; or

(b) approve a proposed Form 16 or Form 16A settlement when the total amount of medical benefits paid meets or exceeds the threshold amount as established by the Commission.

The Commissioner may, in the Commissioner's discretion, preside over an informal conference that does not fall under items (a) or (b).

(3) An insurance adjuster licensed by the South Carolina Department of Insurance in accordance with Chapter 47 of Title 38, South Carolina Code of Laws, may appear on behalf of an employer or insurance company at an informal conference when the purpose of the informal conference is to:

(a) review a proposed Form 16 or Form 16A settlement when the total amount of medical benefits paid is below the threshold amount as established by the Commission; or

(b) certify a form 17.

(4) An attorney licensed in this State or admitted in accordance with R.67-1201C shall appear on behalf of an employer or insurance company at an informal conference when the purpose of the informal conference is to:

(a) approve a settlement in the form of a full and final Agreement and Release made pursuant to Section 42-9-390; or

(b) approve a proposed Form 16 or Form 16A settlement when the total amount of medical benefits paid meets or exceeds the threshold amount as established by the Commission;

The Commissioner may deem it prudent for an attorney to appear at an informal conference that does not fall under subsections (a) or (b) according to the Commissioner's discretion.

B. An informal conference is defined in R.67-202(8).

C. ~~Request~~ Requesting an informal conference ~~Informal Conference as follows:~~

(1) File an updated Form 18 indicating the status of payment of temporary compensation, if any, and medical expenses and complete Section 6 by checking "yes." A party requesting an informal conference shall (a) write the Commission's Judicial Department requesting that an informal conference be set, and (b) upload an updated Form 18 or the EDI equivalent Sub Annual (SA) Periodic Report showing the status of payment of temporary compensation, if any, and medical expenses.

(2) ~~When~~ Upon receipt of a request for an informal conference is received, the Commission's file is reviewed the Commission shall review the Commission's file for required reports. The employer's representative must assure ensure that the following reports are in the Commission's file before the informal conference is held, or # the employer's representative may be subject to a fine.

(a) Form 14B, if applicable; and

(b) Form 15, if applicable; and

(c) Form 17, if applicable; and

(d) Form 20, if applicable; and

(e) All medical reports required by R.67-1301; and

(f) An authorized health care provider's report stating the claimant has reached maximum medical improvement and an impairment rating, if any; and

(g) An amputation chart, if applicable.

D. The claimant may request an informal conference by writing the Commission's Judicial Department and stating whether the parties propose to settle the claim on a Form 16, a Form 16A, or by Agreement and Final Release.

E. An informal conference may be held with less than thirty ~~days~~ days' notice to the parties. The conference shall be held at a hearing site as designated by the jurisdictional commissioner. If the parties request in writing to convene the conference ~~in~~ at a different hearing site, all parties agree, and the ~~letter~~ request is received before the ~~conference~~ hearing notice for the conference is issued, the request may be approved administratively.

F. Only ~~the~~ a Commissioner ~~assigned to the claim~~ is authorized to approve a Form 16, a Form 16A, or an Agreement and Final Release.

G. When the claimant fails to appear at an informal conference, the Commission ~~reschedules~~ shall reschedule the conference.

(1) If the claimant fails to appear twice, the claim ~~is taken~~ shall be removed from the informal conference roster and administratively dismissed.

(2) The claimant may request the Commission to schedule another informal conference and the Commissioner assigned to the claim may, if a good cause is shown, allow the claimant to proceed with his or her claim.

H. If the employer's representative or an attorney, if any, fails to appear at the informal conference, the Commission ~~reschedules~~ shall reschedule the conference. The Commissioner assigned to the claim may ~~impose on~~ assess against the employer's representative or an attorney, if any, the actual costs of the conference as established by the Commission.

I. If the parties fail to reach an agreement at the informal conference, or the proposed Agreement and Final Release is not approved, the Commission ~~will~~ shall set the claim on the contested case hearing docket. A Form 50 or Form 52 is not required, but if filed, the opposing party must respond according pursuant to R.67-603.

J. Either party may request postponement of the informal conference by writing either the Commissioner whose name appears on the informal conference notice or the Judicial Department. The Commissioner may reschedule the conference during the term the Commissioner is in the district. If the Commissioner cannot reschedule the conference during his or her term in the district, the Commission ~~will~~ must reschedule the conference, unless otherwise provided agreed to by the parties or ordered by the Commission.

#### 67-1515. Confidentiality of Information.

A. ~~Records~~ Commission records and information ~~concerning~~ relating to the solvency and financial condition of an employer ~~acquired by the Commission~~ under the authority granted by this Chapter and the Act shall not be subject to inspection; nor shall any information ~~in any way~~ be directly or indirectly divulged by the Commission ~~or any of its members unless~~ except by order of a Court of competent jurisdiction.

B. The Commission shall not release to the public any information concerning a self-insured or a self-insurance fund other than (1) confirmation that an employer is individually self-insured or is a member of a specific self-insurance fund, (2) ~~its~~ the self-insured's or self-insurance fund's address, (3) the effective date of ~~the~~ such insurance program, and (4) the name of the claims administrator.

#### 67-1602. Payment of Compensation.

A. ~~The~~ Unless otherwise ordered by the Commission, the employer's representative shall pay all compensation directly to (1) the claimant or (2) the guardian, if the claimant is a minor or

incapacitated person, or (3) another person approved by a court to accept payment on behalf of the claimant, unless otherwise ordered by the Commission.

B. The employer's representative ~~may~~ shall make a check payable to the claimant and the claimant's attorney, as allowed ~~according~~ pursuant to an approved Form 61, Attorney Fee Petition, or by order of the Commission.

C. The employer, employer's representative, or other payer shall make each payment in the form of a check, unless the parties mutually agree to an alternate payment method as provided for in this section. ~~Payment to a person other than as directed above shall not acquit, protect, or discharge the employer or its representative for the payment due.~~ An employer, employer's representative, or other payer may use an electronic payment system, including, but not limited to, an electronic funds transfer, a direct deposit, debit card, or similar payment system, as an alternative method of payment if:

(1) the claimant can immediately obtain the full amount of the periodic payment;  
(2) the method of payment is easily and readily accessible to the claimant; and  
(3) the use of an electronic payment system is optional and at the election of the parties as documented in the records of the payer; and

(4) once the parties have agreed to use an alternate payment system in accordance with this section, either party may opt to change the method of payment to another method consistent with this section by providing 30 days' written notice to the other party.

D. When payment is made to a debit card account:

(1) the payer shall not charge the claimant any fee related to the issuance of the debit card;  
(2) the claimant must be provided a reasonable method to obtain payment in full without incurring any usage fee; and

(3) any other fees associated with the use of the debit card shall be disclosed to the claimant in writing by the payer.

E. Other than when making payment by check, an employer, employer's representative, or other payer shall not make a payment as described in subsection C. without the full consent of the claimant, obtained without intimidation, coercion, or fear of discharge or reprisal. Default payment shall be by check.

F. Payment made other than as directed in this section shall not acquit, protect, or discharge the employer, employer's representative, or other payer for the payment due.

G. The claimant may request a hearing to assess a penalty and/or interest for late payment by filing with the Commission's Judicial Department a motion to increase compensation payments according to R.67-215.

#### 67-1802. Mediation Required with Certain Claims.

A. ~~It is ordered by the~~ The Commission orders that the following claims arising under Section 42-9-10, or claiming permanent and total disability pursuant to Section 42-9-30 (21), occupational disease cases, third party lien reduction claims, contested death claims, mental/mental injury claims, and cases of concurrent jurisdiction under the South Carolina Workers' Compensation Act and the Federal Longshore and Harbor Workers' Compensation Act must be mediated prior to a hearing:

- (1) Claims for permanent and total disability arising under either Section 42-9-10 or Section 42-9-30(21), but only after the employee has reached maximum medical improvement per the opinion of an authorized health care provider;
- (2) Claims arising under Chapter 11 or Chapter 13 of Title 42, South Carolina Code of Laws;
- (3) Third-party lien reduction claims;
- (4) Contested death claims;

- (5) Claims for stress, mental injuries, and mental illness arising out of and in the course of employment unaccompanied by physical injury, and resulting in mental illness or injury; and
- (6) Claims involving concurrent jurisdiction under the South Carolina Workers' Compensation Act and the Federal Longshore and Harbor Workers' Compensation Act.

B. In contested death claims, a Commissioner must ~~still~~ make a finding that a good faith dependency investigation has been conducted and completed.

~~(2)~~ C. Except for contested death claims, ~~all claims listed in this section would apply the requirement for mandatory mediation applies~~ only to claims where compensability of the accident is admitted by the employer/carrier.

~~(3) Claims involving multiple employees arising out of employment with the same Employer, whether or not compensability has been admitted, shall be subject to a scheduling order and shall be mediated prior to a hearing. Participation in mediation in no way constitutes an admission of compensability at any subsequent proceeding.~~

~~(4)~~ D. Unless an unrepresented claimant requests that the claimant's case be mediated, the Commission shall ~~enter an order dispensing with~~ not require mediation.

#### 67-1804. Selection of Mediator and Required Schedule.

A. The parties may consent to use any mediator who is duly qualified. The mediator must be certified as a mediator per the certification process established by the South Carolina Bar Association.

B. The parties must select a mediator within ten days of the filing of the ~~Form 51 or the response to the Form 21~~ earliest pleading raising grounds for mediation, and must promptly notify the Commission of the mediator and proposed mediation date.

C. The mediation must be completed within sixty days of the filing of the ~~Form 51 or the response to the Form 21~~ earliest pleading raising grounds for mediation, unless otherwise agreed to by the parties or ordered by the Commission. If the mediation is not completed within the sixty-day timeframe, ~~then the case shall~~ may be set ~~by the Judicial Department~~ in the normal course of the docket scheduling.

D. If the parties cannot agree on a mediator, the Commission shall appoint a duly qualified mediator ~~for them~~.

#### 67-1809. Forms Required Upon Completion.

A Form 70 shall be filed by the ~~Mediator~~ mediator with the Judicial Department at the conclusion of the mediation. A Form 70 shall not become a part of the Commission's file, and will solely be used for tracking purposes. The Commission shall not process a Form 19 or further request for hearing until a Form 70 has been filed with the Commission.