

Safety & Workers' Compensation Committee

Tuesday, May 5, 2015

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2015 Safety & Workers' Compensation Committee Calendar

Meetings begin at 10:00 a.m.

Tuesday, May 5
Wednesday, October 7

OMA Safety & Workers' Compensation Committee Meeting Sponsor:





OMA Safety & Workers' Compensation Committee May 5, 2015

AGENDA

Welcome & Self-Introductions	Larry Holmes, Fort Recovery Industries Inc.
BWC Update	Denny Davis, OMA Staff
Marijuan Presentation	Joëlle Khouzam, Bricker & Eckler LLP
Guest Speaker	Thomas H. Bainbridge, Chairman, Ohio Industrial Commission
Public Policy Report	Rob Brundrett, OMA Staff
OMA Counsel's Report	Sue Wetzel, Bricker & Eckler LLP

Please RSVP to attend this meeting (indicate if you are attending in-person or by teleconference) by contacting Denise: dlocke@ohiomfg.com or (614) 224-5111 or toll free at (800) 662-4463.

Additional committee meetings or teleconferences, if needed, will be scheduled at the call of the Chair.

Thanks to Today's Meeting Sponsor:



Our Workplaces have Gone to Pot – What's an Employer to Do?

Marie-Joëlle C. Khouzam

614.227.2311

jkhouzam@bricker.com

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Today's Roadmap

Medical marijuana laws v. recreational use laws

What is the law here, and in other jurisdictions where you may be doing business?

Legal conduct v. illegal workplace conduct

What can employers do to maintain a safe workplace?



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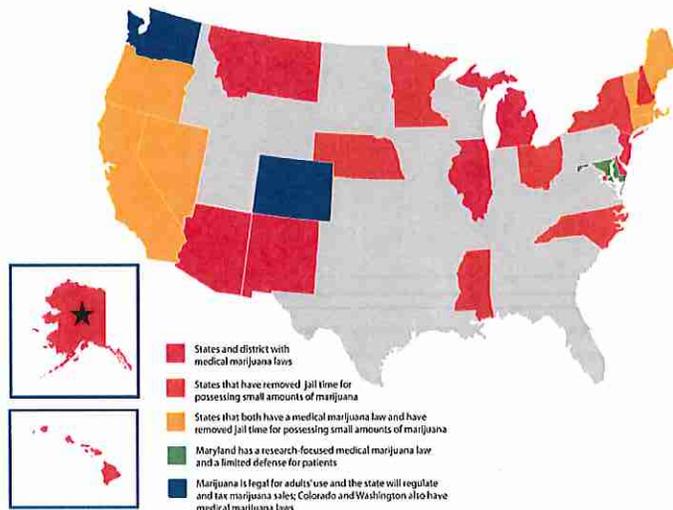
Weed 101

- Tetrahydrocannabinol (THC) – psychoactive constituent of cannabis; the “high”
- Cannabidiol (CBD) – non-mood altering oil extracted from cannabis. Thought to aid in treatment of glaucoma, AIDS wasting syndrome, neuropathic pain, cancer, multiple sclerosis, chemotherapy-induced nausea, and certain seizure disorders
- DEA: five "schedules" for controlled drugs or chemicals. Schedule I = drugs DEA considers to have the highest potential for abuse and no "current accepted medical use." Marijuana has been classified as Schedule I, with heroin and LSD.



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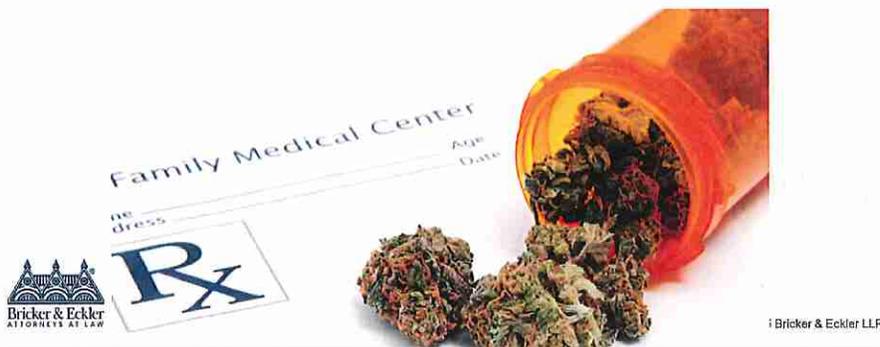
State of the Union



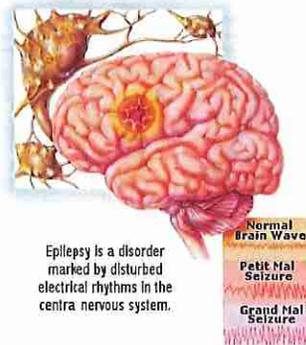
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Medical Marijuana Laws

- Generally, individual must be a “patient” (state registry)
- Limits on amount dispensed / possessed
- Restrictions on workplace use



Many of these laws contain provisions to permit parents of children with severe forms of epilepsy or other seizure disorders access to marijuana that is low in THC but high in cannabidiol (CBDs), a non-mood-altering ingredient.



Epilepsy is a disorder marked by disturbed electrical rhythms in the central nervous system.

Medical Marijuana Legal in:

- Alaska
- Arizona
- California
- Colorado
- Connecticut
- Delaware
- D.C.
- Florida*
- Guam
- Hawaii
- Illinois
- Iowa*
- Kentucky*
- Maine
- Maryland
- Massachusetts
- Michigan
- Minnesota
- Mississippi*
- Montana
- Nevada
- New Hampshire
- New Jersey
- New Mexico
- New York
- North Carolina*
- Oregon
- Rhode Island
- Tennessee*
- Vermont
- Virginia
- Washington
- Wisconsin



* States with limited med-pot laws considering expansion

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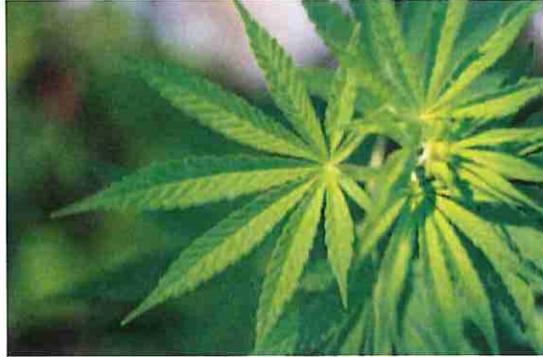
- **AK, CA, CO:** patient may cultivate for medical use
- **DE, DC:** specifics about homegrows
- **FL:** permitted use for cancer, seizures, frequent muscle spasms
- **IA:** intractable epilepsy; prescribed by neurologist; no other satisfactory alternative treatment options
- **ME:** E'r may prohibit onsite use; can prohibit all smoking
- **MD:** max 30-day supply
- **MA:** max 60-day supply
- **MI, MN, NM:** restrict places of consumption
- **MT:** valid ID = exemption from prosecution
- **NH:** Patient restricted from using at work without permission
- **WI:** state board approves dispensers, permits users



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States with Pending MM Bills

- Georgia*
- Indiana
- Kansas
- Missouri
- Nebraska
- North Dakota
- Pennsylvania
- South Carolina
- Texas*
- Virginia*



- 1 failed in 2015: Mississippi

* States considering use of CBD for medical treatment of minors



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States with Recreational Marijuana Laws

- Alaska
- Colorado
- Oregon
- Washington



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Recreational Marijuana

- Age threshold
- Limit on possession quantity
- AK: Limit on number of plants that may be grown
- CO: use is taxed



PHOTO: ARND BRONKHORST/SHUTTERSTOCK

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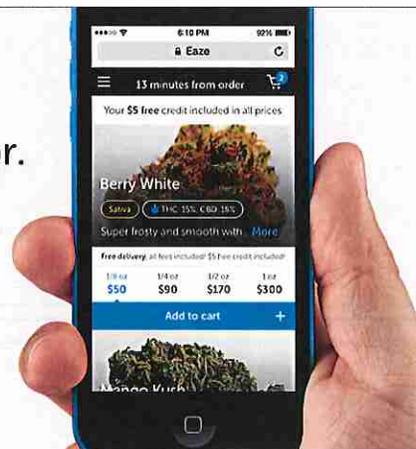
Medical marijuana delivered to your door.

Sign up now and get your first delivery in minutes!

Zip Code 

Available in your area?

Already have an account? [Login](#)



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Is Ohio next?



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Coats v. DISH Network

- Random saliva test 2009 = THC
- Employee fired
- Argued in CO Supreme Court September 2014:
Can employers prohibit use at work, when state's Lawful Activities statute prohibits employer from discharging employee for engaging in lawful activity off the premises during nonworking hours?



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Washington – June 2011

- *Roe v. Teletch Customer Care Management*: WA MM act does not prohibit employer from discharging employee for use of MM, was passed only to provide a defense to qualifying patients, caregivers and physicians for conduct otherwise prohibited by law. Act does not require accommodation of any MM use at work.



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Oregon – June 2011

- *Emerald Steel Fabricators, Inc. v. Bureau of Labor & Industries*: employers are not required to accommodate use of MM, and E'R could revoke offer after learning of E'EE' MM use. E'EE claimed to be discharged for failure to accommodate. Court said employee not protected, because U.S. Controlled Substances Act preempts OR statute authorizing MM use.



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Casias v. Wal-Mart (6th Cir. 2012 - MI):

- Employee with brain tumor had MM user registration, was terminated for being impaired in violation of company policy
- Termination upheld

BUT

Braska v. Challenge Mfg (MI, 2014):

- Registered user can't be penalized – unemployment denial is a penalty



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Problems

- Inconsistencies – multi-state companies???
- Proliferating black market, due to high taxes
- Competition between licensed medical marijuana dispensaries (untaxed) and recreational shops
- Lack of definition of “impairment”
- “Lawful” still conflicts with federal law



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Banking

- “Cash crop”
- 2014 Treasury guidelines tell federal prosecutors to concentrate resources on high-priority marijuana-related conduct, but don’t promise immunity from prosecution



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Colorado Results - \$

Marijuana so far hasn't been the boon ... that many expected, offering potential lessons to other states considering legalization.

- Dan Frosch, *WSJ*, 1-9-2015



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Should DEA remove marijuana from Controlled Substances list?



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Not every state is a fan

Nebraska and Oklahoma sued
their neighbor, Colorado



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These laws
protect users
from
CRIMINAL
prosecution

They are not
authorization to
use, sell, buy,
or distribute
marijuana at
work

They are not a
free pass to be
impaired at
work

They are not a
free pass to get
out of drug
testing



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The Buckeye State



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2013

HB 153: to allow patients to use and grow marijuana, or designate a caregiver to grow for them (R. Hagan)

HJR 6: to enable voters to establish a taxed and regulated system – like alcohol - to legalize marijuana for adults 21 and older (R. Hagan)



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And now...

- **ResponsibleOhio**

- supports regulated commercial sale and consumption
- STATE MONOPOLY: 10 regulated indoor sites in Butler, Clermont, Franklin, Hamilton, Licking, Lorain, Lucas, Montgomery, Stark and Summit counties **Delaware**
- 5 testing and inspection sites
- Non-profit dispensary
- 7-member Marijuana Control Commission
- 15% personal tax
- Economic impact study claims projected revenues of \$554 million in new annual tax revenue by 2020
- Targeting Nov. 3, 2015 ballot



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“Party” schools?



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“You can call, text or email to have someone deliver marijuana to your door in 10 minutes. That’s faster than you can get a pizza.”



- Ian James, ResponsibleOhio



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- ResponsibleOhio initiative does not address workplace testing:

“Employers will still be free to set their own drug-testing policies... The Marijuana Control Commission or the General Assembly could choose to pass additional protections for individuals who legally purchase marijuana at a licensed retail store or not-for-profit medical marijuana dispensary.”

- Lydia Bolander, spokeswoman for ResponsibleOhio



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Legislative Process

State must approve ballot language

Petitioners must collect 305,591 valid signatures by July 1

A certain number of signatures must be collected in each of 44 counties



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"I think it's a stupid idea."



Gannett, January 15, 2015

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Regarding ResponsibleOhio's first ballot submission, AG says



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BUT...

March 13, 2015

“Without passing upon the advisability of the approval or rejection of the measure to be referred,... I hereby certify that the summary is a fair and truthful statement of the proposed law.”



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Next step

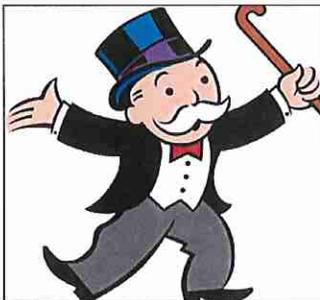
Ohio Ballot Board must decide if the language constitutes one issue or two.



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“Big Money”

“This is about creating a monopoly in the Ohio Constitution to make a small number of individuals very rich.”



- Tony Coder of the Drug Free Action Alliance



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Colorado feedback

“Drugs are money losers. The societal costs are far greater than the proceeds they’re going to make.”



- Bob Doyle, Colorado Tobacco Education and Prevention Alliance



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- **Ohio Rights Group** (2016 ballot): medical-marijuana only. 30 counties have met 5% petition threshold.
- **Ohioans to End Prohibition** – seeks medical / therapeutic cannabis production and use
- **Responsible Ohioans for Cannabis** - Anyone 18+ may produce, cultivate, possess, transport, distribute, consume, or otherwise engage in use of cannabis products and paraphernalia for personal use, up to 24 plants/person/household. Amnesty and release from detention, probation and deletion of criminal records for cannabis charges/convictions. No pre-employment screening, not testing for insurance or licensing. Only sales over \$400/year would be taxed. Licensing fees up to \$1,250. No restrictions on potency.
- **H.B.33** - authorize use of cannabis oil and other cannabis-derived drugs and substances for seizure disorders. Dx by only by doctors at OSU Wexner Medical Center, Nationwide Children's Hospital, University Hospitals Case Medical Center, Rainbow Babies and Children's Hospital. Would apply only to 0.7% of Ohioans, according to Epilepsy Foundation

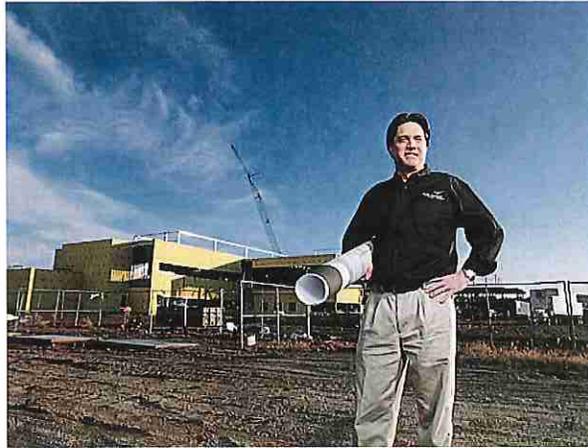


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State of the Cities



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“Economic Development” in sheep’s clothing?

■ 344 acres under contract:

- Lorain
- Moraine
- Middletown
- Grove City
- Pataskala
- Delaware



Proposed marijuana growing facilities

ResponsibleOhio identified 10 sites for indoor marijuana growing farms if the issue makes the statewide ballot and voters approve it in November. The group is seeking to legalize marijuana for recreational and medical uses.

*Two combined parcels
** Total acreage is 32.2
*** Gupta's office said he recently sold the property

CITY	COUNTY	ADDRESS	ACRES	MARKET VALUES	PROPERTY OWNER
1. Toledo	Lucas	6070 Hagman Road	28.46	\$82,700	James M. and Bettie C. Bourmes of Toledo
2. Lorain*	Lorain	200 W. Erie Ave. and 2610 Colorado Ave.	76.83	\$373,620*	City of Lorain
3. Hudson	Summit	6333 Hudson Crossing Parkway	29	\$870,160	Industrial Land Partners Holdings LLC
4. Alliance	Stark	West Main Street off Ohio 62	27.18	\$79,300	James G. Stout of Alliance
5. Jackson Twp.	Franklin	Seeds Road along I-71	19.1**	\$31,960	Kenneth R. Cambell of Mason
6. Pataskala*	Licking	6197 Mink St.	35	\$217,200	Dr. Suresh Gupta*** of Dayton
7. Moraine	Montgomery	2477 Soldiers Home West Carrollton Road	50.8	\$196,520	City of Moraine
8. Middletown*	Butler	Yankie and Toothunter roads	40.44	\$606,680*	Magnode Corp.
9. Anderson Twp.	Hamilton	8485 Broadwell Road	24.46	\$2.8M	Broadwell Factory Group
10. Union Twp.*	Clermont	Winding Creek Boulevard and Olive Branch-Stonelick Road off Ohio 32	13.4	\$161,100*	Winding Creek Estates



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Municipal squawking

- Secret land deals with undisclosed buyers, challenges being sent to AG for review
- Speculative deals hinge on outcome of ballot efforts
- Within 1,000 feet of a church, school, or park?
(Moraine – Delaware)



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State of the Art

- FDA has not conducted clinical trials to determine the safety and efficacy of marijuana, and has not approved use as medical treatment.
- Marijuana is not listed in the Work Loss Data Institute's Official Disability Guidelines (ODG) or the American College of Occupational and Environmental Medicine's Practice Guidelines.
- Efficacy/effects can vary by variety/plant



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Known hazards

- respiratory illnesses
- Cancer
- Increase in MIs
- potential to cause or exacerbate problems in daily life
 - increased absences
 - Tardiness
 - Accidents
 - workers' compensation claims
 - job turnover



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Study Shows Association Between Development of Psychosis and Smoking Marijuana

By [Denise Mann](#)

WebMD Health News

Reviewed by [Laura J. Martin, MD](#)

[WebMD News Archive](#)

March 1, 2011 -- Adolescents and young adults who smoke [marijuana](#) have an increased risk for experiencing psychotic symptoms, according to a new study.



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Surgeon General Vivek Murthy (02-04-2015):

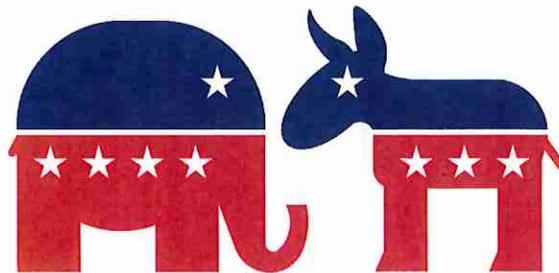
Some research shows medical marijuana can help against certain health conditions and symptoms.

American Academy of Pediatrics recently endorsed more research.



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- Multi-state standards = inconsistency
- Discrimination issues in states with protections
- Uncertain science
- Applicant pool
- Employer's ability to test?



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Federal Regulations

Controlled Substances Act of 1970: illegal to cultivate, possess, use, or distribute marijuana.

Drug-Free Workplace Act of 1988: certain federal contractors and all federal grantees must maintain drug-free workplaces

Omnibus Transportation Employee Testing Act of 1991: requires drug and alcohol testing of drivers, pilots, and others in “safety-sensitive” jobs.

OSHA General Duty Clause: employers must maintain workplaces “free from recognized hazards that are causing or are likely to cause death or serious physical harm” to employees.



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DOT regs

- Legalization of marijuana by states does not take it off the DEA's list of controlled substances
- Testing should continue for safety-sensitive positions (pilots, truck drivers, bus drivers, etc.)
- Consequences for employers who fail to test include criminal sanctions
- See <http://www.dot.gov/odapc/medical-marijuana-notice>



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2009 DoJ prosecution guidelines

“...No State can authorize violations of federal law...

[T]his memorandum does not alter ...the Department's authority to enforce federal law, including laws prohibiting the manufacture, production, distribution, possession, or use of marijuana on federal property. **This guidance ...does not "legalize" marijuana or provide a legal defense** to a violation of federal law, nor is it intended to create any privileges, benefits, or rights, substantive or procedural, enforceable by any individual, party or witness in any administrative, civil, or criminal matter. Nor does clear and unambiguous compliance with state law or the absence of one or all of the [federal] factors create a legal defense to a violation of the Controlled Substances Act.”



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Dec. 2014: Shift?

Buried in 1,603-page federal spending measure: provision that ends the federal government's prohibition on **medical marijuana**

States where medical pot is legal would no longer need to worry about federal drug agents raiding retail operations

“There is a growing bipartisan consensus that states should be allowed to set their own policy on marijuana.”

Malik Burnett, policy manager, Drug Policy Alliance, Washington, D.C.



- With half of Americans believed to have tried pot, it appears Congress may be refocusing and reprioritizing



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April 6 *Business First*

Most Ohioans favor legalizing marijuana, poll finds

Apr 6, 2015, 4:58pm EDT



Doug Buchanan
 Managing editor-digital-
Columbus Business First
 Email | Google+ | Twitter | LinkedIn

More Ohioans are OK with letting their fellow citizens smoke marijuana, especially if it's for medical reasons.

A new Quinnipiac University poll shows overwhelming support for legalizing the drug for medical purposes, with 84 percent of Ohioans saying they'd support it against just 15 percent opposed.



Enlarge Photo

Mathu
 Canisters of medical marijuana
 Highland Health, a medical dispensary center in Denver, Colorado, U.S., 2009.



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And now, for something really new: a federal “free pass”?

March 10, 2015:

- Sen. Cory Booker (D-NJ)
- Sen. Rand Paul (R-KY)
- Sen. Kirsten Gillibrand (D-NY)



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State of the Workplace



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Mahoning Valley – Shale experience

- Finding drug-free applicants posed a problem in the Valley in 2013: 80-90% of applicants tested positive
- 5,300 drug tests from Trumbull and Mahoning counties conducted by Accord Occupational Health Services in Boardman.
- By contrast, the positivity rate of federally mandated programs, such as transportation jobs, is 3-4%

(www.vindy.com, 02-13-2015)



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Workers' Compensation

- States where marijuana is legal and there is no burden-shifting: no employer defense?
- Ohio has “rebuttable presumption”
- Stays in a person’s body for weeks or even months, which can create positive test result even after any off-duty use (or possible impairment)



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Discrimination/EPLI-covered claims

- In states with protection, employers cannot discriminate based on an applicant's/ employee's status as a medical marijuana patient.
- Exceptions:
 - DOT guidelines for "safety-sensitive" jobs - employers may be able to decline applicants
 - If applicant voluntarily discloses use of a prescribed medication that would preclude him or her from safely performing the job, the employer may decline to hire
- Terminating an employee solely for a positive drug test, without evidence of impairment, could give rise to a claim of discrimination based on medical marijuana patient status or an underlying disability or illness for which the drug is prescribed



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Must insurance, workers' comp pay for medical marijuana?

- *Creole Steele v. Ricky Stewart* (Louisiana, 2012)
- *Cockrell v. Farmers Insurance and Liberty Mutual Insurance Company* (CA, 2012)
- *Vialpando v. Ben's Automotive Services* (NM, 2014)



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POLICIES

- Clarify prohibited conduct, including unlawful use of prescribed (legal) substances
- Describe safety considerations, activities that could temporarily sideline an employee
- Make consequences clear
- Describe testing
- Discuss resources or offers of assistance
- Educational tools or requirements
- (Collectively bargain, if applicable)
- BWC discounts



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ADA

- Asking about illegal use is not prohibited
- Testing is not prohibited



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Enforcing workplace policies

- Review policies for compliance with state law
- Review job descriptions for safety-sensitive aspects
- Train management
- Provide employee education
- Document impairment/unfitness for duty
- Prohibit on-duty/at-work use
- Consult with legal counsel
- Consider value of rehabilitation offers



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Related Workplace Challenges

Abuse of prescription medications

- Vaporizers used to ingest marijuana
- 49% of the population has used a prescription in the past month
- 22% use 3 or more prescription medications
- 11% use 5 or more
- About 100 deaths/day due to overdoses



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Opioids

- Users are consuming past prescribed timeframe
- Cost/toll on health insurance plans and public entitlement programs
- Risks to workplaces
- Challenges with legal issues (ADA, FMLA, labor contracts, state laws)
- Confidentiality challenges
- NOTE: unprescribed use of pharmaceuticals is not protected



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**2011: 1,765 deaths from
unintentional overdoses**



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ADA Cases to Note

- *EEOC v. Dura Auto Systems* (M.D. Tennessee): EEOC ADA settlement \$750,000 for questioning employees who tested positive for prescriptions without evidence of impairment
- *Bates v. Dura Auto System* (6th Cir. 2014) (remanded) - \$870,000 jury verdict for 5 of 6 plaintiffs sent back for determination of whether drug screen violated ADA
- *Wells v. CCHMC* (S.D. Ohio, 2012)



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**What one thing
did you learn
today?**

Joëlle Khouzam, Esq.

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I. Personal Background

A. Over 40 years of workers compensation experience

1. Managing partner at Ward, Kaps, Bainbridge, Maurer & Melvin from 1970-2009.
2. Partner at the Bainbridge Firm from 2009-2013.

B. Numerous Board Positions

1. Bureau of Board of Directors, Oversight Commission, 1995-2006
2. Court of Claims, Victims of Crime Division
3. Unemployment Compensation Review Commission

4. Columbus Bar Association Board of Governors
5. Chairman of the Industrial Commission since 2013

II. **General Commission Updates**

A. Fiscal Updates

1. In 2013, the IC presented a biennium budget for FY 2014/2015, which was a combined 6.6 percent reduction from the previous budget year.
2. Recently, the IC has submitted a new biennium budget for approval for 2016/2017, which will decrease the budget in 2016 another 6.8% from the current year.

3. Significantly, our budget has been reduced from a ten-year high of \$62.6 million in FY 2011 to \$54.4 million in FY 2015.
4. Consequently, the IC has cut Administrative Cost rates for three of four Ohio employer groups. The fourth group, while not realizing a reduction, remained stable with no rate increase.

B. 2014 Accomplishments

1. Information Technology

Department:

- a) launched the IC mobile site, which permits users to access contact numbers, links to Google

maps, and hearing calendars for hearing representatives; and

- b) Created an emergency text alert system to communicate office closures or other important information to representatives and employees.

2. Operational Updates

- a) New DHOs= Archangelino & McKinley
- b) Barb Hoylman promoted to SHO
- c) Darren Biery promoted to SHO (Akron)
- d) Moved forward with the proposed Cleveland Renovation Project, the Cincinnati lobby

expansion, and new location for the Portsmouth District Office.

e) Reorganizing the boundaries of regional offices:

f) Mansfield office will be positioned under the Columbus office and the Youngstown office under Akron.

3. Communications Department

a) Updated the IC fact sheets on the IC public site.

4. Security Department

a) Continued security training and facilitated safety drills

C. Hearing Statistics

1. Our 88 hearing officers, all of whom are licensed attorneys,

adjudicated more than 131,000 claims in 2014, of which only 88 were advanced through a writ of mandamus to the Tenth District Court of Appeals. This reflects a 28% decrease from 2011.

2. The IC consistently achieved a high success rate in adjudicating claims well within the periods mandated by law throughout FY 2014.
3. From filing date to hearing date, district hearing officer allowance orders and staff hearing officer appeals are required to be heard within 45 days of a motion or appeal filing. The Commission averaged 33 days at the DHO

level and 36 days at the SHO level, both of which well below the mandated requirement.

4. The statistics of filing date to mailing date were just as positive. For the district level, filing date to mailing date was 33 days on average. For the staff level, it averaged 36 days.

D. Rules & Guidelines

1. PTD application still being revamped
2. Dr. Welsh (medical director) recently left for a new position; actively working on replacement. Dr. Stanko is interim.

3. Legal department began comprehensive review of Hearing Officer Manual; distribution sometime this summer.

E. 512 Appeals

1. **6,218** new .512 appeals in 2014, a 1% increase from 2013.

F. Court of Appeals Mandamus Statistics

1. In 2014, only **81** new mandamus complaints were filed, making 2014 the lowest in years. In 2001, **295** were filed.
2. **55** decisions were issued, **43** of which affirmed the Commission and denied the writ—an affirmance rate of **78%**.

G. .Supreme Court statistics

1. The decrease in filings also carries over to the Supreme Court. In 2014, **15** new appeals were filed, compared to **79** in 2001.
2. In 2014, the Supreme Court issued **17** decisions, affirming the Commission in **all but one**, amounting to an affirmance rate of **94%**.

Ohio | Industrial Commission



IC *Keeping Our Customers First*

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Letter from the Chairman



It is my privilege to present to you the Industrial Commission of Ohio's (IC) 2016 and 2017 Biennial Budget Request.

The upcoming biennium presents new challenges for our agency both in staffing and in technological evolution. However, we have laid the groundwork to ensure that the Commission remains a model for process innovation and a commitment to quality.

In the next biennium, the IC will face the continued maturation of its workforce and its potential for a "retirement wave." The Claims Examiner (CE) and Staff Hearing Officer (SHO) classifications are at moderate to high risk of retirement eligibility. Both require extensive periods of training to perform their functions at a high level of quality. SHO ranks must be backfilled by promoting eligible and qualified District Hearing Officers (DHO). DHO positions normally require external hiring to a level based on observed claim filing trends at that time. Due to the advanced legal and medical knowledge required for DHO positions, the training period is four to six months before a hearing officer can actively take dockets. To avoid disruptions in customer service during this training, it is IC's intent to place new hires while the retiring employee is still active. The IC also has a 15 percent retirement risk in its CE classifications. The necessity to fill claims examiner positions is not as critical as hearing officers due to the centralization of workflow technologies and the implementation of standardized processes. However, at both levels, we anticipate some utilization of temporary staffing to secure an effective knowledge transfer.

Within our technological infrastructure, the IC continues to initiate steps to meet future challenges. Starting in fiscal year (FY) 2015 and continuing into the next biennium, the IC will convert its paperless hearing process to a Case Manager hearing platform. This is in response to an April 2017 end-of-vendor-support date for the current paperless hearing workflow interface. Efforts are underway to train in-house IT employees to execute migration to the new platform in order to reduce the cost of external assistance. However, there will still be a need to engage the services of non-IC developers at a different level than recent years' expenditures. Since the beginning of 2008 through the end of FY 2014, staffing has been reduced by 22 percent resulting in a cumulative estimated savings of \$27MM in payroll expense. Much of this reduction, through retirement or attrition, relates to labor-saving claim-processing automation and standardization. While the IC has reduced its workforce, we continue to maintain a significantly high level of compliance with statutory hearing and order issuance timeframes at 90 percent across the first and second hearing levels.

Our 88 hearing officers, all of whom are licensed attorneys, adjudicated more than 131,000 claims in 2014, of which only 88 were advanced through a writ of mandamus to the Tenth District Court of Appeals. Coincidentally, that is the same number of mandamus claims for the preceding year. With the exception of 2013, these 88 claims represent the lowest number of new mandamus cases filed for decades and reflects a 28 percent decrease from 2011. To put this achievement in perspective, 248 of these cases were filed in 2005 and 295 such cases were filed in 2001. As the number of mandamus cases has remained static over the past two years, the appellate court's affirmation rate has remained stable. The appellate court decided 55 cases in 2014, affirming the IC at a rate of 78 percent.

The FY 2016/2017 Biennium Budget request totals \$102MM, which is a 6.9 percent decrease from the FY 2014/2015 request of \$110MM. As a non-General Revenue Fund agency funded by an Administrative Cost surcharge (ACF) to the employers' premium workers' compensation coverage base rate, the IC continues to pass our efficiency-based savings to these job creators. ACF rates were reduced again for the 2014 policy period for three of the four stakeholder groups while the last group was held to the same level.

As we venture into our next fiscal year, our mission will remain the same: Continue to provide an exemplary service to Ohio's injured workers and employers while remaining dedicated to a philosophy of fiscal responsibility.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas H. Bainbridge". The signature is fluid and cursive, written over a light blue horizontal line.

Thomas H. Bainbridge
Industrial Commission Chairman

Reduced Premium Assessment for Ohio Employers

The IC is funded by administrative rates applied to the workers' compensation premiums of Ohio employers.

Employers are divided into four distinct groups: private state insurance fund participating employers, state government agencies, other public taxing districts and self-insuring employers. Periodically, the Commission examines rates for each of these groups and related operational costs.

The agency does not receive any Ohio state income taxes or sales taxes to fund its operations.

Because of significant expenditure reduction initiatives in recent years, the IC has been able to reduce its portion of administrative rates charged to Ohio employers from \$63.6MM in 2008 to \$48.9MM in 2014, a reduction of 23 percent.

In June 2014, the IC proposed new, lower administrative rates for three of four Ohio employer groups. The fourth employer group, while not realizing a reduction, remained stable with no rate increase.

For calendar year 2014 and for the current calendar year 2015, the IC's Administrative Cost Fund rates are as follows:

EMPLOYER GROUP	2014	2015
Private	1.95%	1.87%
Public State	3.22%	3.12%
Public Taxing Districts	1.81%	1.81%
Self-Insuring	6.96%	6.68%

Providing Exemplary Service While Cutting Costs

The IC provides a forum for appealing Ohio Bureau of Workers' Compensation (BWC) and self-insuring employer decisions. IC hearing officers resolve issues of dispute in a workers' compensation claim, determine violations of specific safety requirements and determine if an injured worker is permanently and totally disabled due to a work-related injury or occupational disease. Throughout the appeals process, the agency offers information and resources to assist parties, including telephone customer-service assistance and assorted Web services, which allow representatives to manage and submit evidence for consideration.

The IC adjudicates claims across three hearing levels. The first level of hearings is at the District Hearing level (DHO). If this DHO decision is appealed, a hearing is held at the Staff Hearing level (SHO). If the SHO decision is appealed, the claim may be heard at the Commission level. The Governor appoints the three-member Commission and the Ohio Senate confirms these appointments. By previous vocation, employment, or affiliation, one member must represent employees, one must represent employers and one must represent the public. One of these members must be an attorney. Hearings are conducted in 12 IC offices around the state. The Executive Director manages the agency's day-to-day operations.

The IC continues to meet the statutory mandates of providing a hearing within 45 days of appeal filing and 7 days to issue an order after that hearing for a 52-day time frame maximum for both DHO and SHO levels. DHO/SHO levels have a very high compliance rate with the statutory time frame mandates as discussed further in this document.

With investment in modern technological processes, the IC has been able to absorb a significant reduction in its workforce. By attrition only, staffing has decreased by more than 266 employees (41.4 percent) over the past seventeen years, yet the IC continues to meet and exceed statutory requirements for timely service. This process migration has been alleviated by the implementation of computerized improvements in our paperless hearing process (ECM – Enterprise Content Management), through ICON (Industrial Commission Online Network) and broadening data transmission connectivity. This system allows claims examining, clerical work, word processing and scanning/indexing to be assigned to employees regardless of their location among our 12 offices. Therefore, employee utilization is increased by having lower volume offices process claims or hearing orders for a higher volume office. At the same time, stakeholders can file appeals, request interpreters and continuances/cancellations through ICON. The IC also offers e-distribution of hearing notices, hearing orders and other correspondence to reduce postage and paper document costs.

We are an agency that is already maximizing productivity while minimizing expenditures, a philosophy that serves the public well in a recovering economy. Prudent planning has reduced our budgets incrementally while introducing many efficiency upgrades in technology.

IC Commissioners



Thomas H. Bainbridge

Employee Member

Dates of Service: July 2013 - June 2019

Thomas (Tim) Bainbridge brings over four decades of workers' compensation experience to his role as Chairman of the Industrial Commission of Ohio.

As an attorney, Tim has spent a tremendous amount of time protecting the rights of Ohio's workers through his involvement with numerous organizations, which are dedicated to improving Ohio's workers' compensation system.

Tim displayed his knowledge and expertise as the Chairman of the Columbus Bar Association Workers' Compensation Committee from 1982 to 1983, and served as the Chairman of the Workers' Compensation Section of the Ohio Association for Justice from 1991 to 1993. He also served as President of the Ohio Association for Justice. Later, he served Ohio's injured workers and employers as the Commissioner for the Bureau of Workers' Compensation Oversight Commission from 1995 to 2006.

Tim's passion for workers' compensation has been evident throughout his career. Before arriving at the IC, Tim served as an attorney and managing partner at Ward, Kaps, Bainbridge, Maurer & Melvin from 1968 until 2009. He later served as a partner at the Bainbridge Firm from 2009 until 2013.

Originally from Steubenville, Ohio, Tim earned his bachelor's degree from Washington & Jefferson College in Washington, Pennsylvania, and then received his law degree from The Ohio State University.

Tim was admitted to the Ohio Bar in 1967 and has also been admitted to practice before the US District Court in the Southern District of Ohio. Tim is a member of the Ohio State Bar Association, Columbus Bar Association, Ohio Association for Justice and the American Association for Justice.

He resides in Columbus. He and his late wife, Deidre, have three grown sons who also reside in Columbus.



Jodie M. Taylor

Employer Member

Dates of Service: July 2009 - June 2015

On January 14, 2011, Governor John Kasich appointed Commissioner Jodie Taylor as chairperson of the Industrial Commission of Ohio. She served as Chairperson until July 2011. On February 13, 2013, Governor Kasich reappointed Jodie as chairperson.

Jodie has been the employer member of the Commission since July 2009.

Her first day on the job was a homecoming for the newest Industrial Commissioner. From 1997 to 2000, Jodie served as an assistant to an IC Commissioner. In this role, she performed legal and legislative research, assisted during hearings, and gained an extensive understanding of the agency.

After leaving the IC, Jodie served as an attorney for two Columbus law firms, where she represented state-funded and self-insuring employers at all levels of IC hearings and in court actions throughout Ohio. She is also a frequent lecturer on workers' compensation issues with extensive legal knowledge in both the private and public sectors.

Jodie earned her bachelor's degree in diplomacy and foreign affairs from Miami University in 1991. While at Miami, Jodie studied overseas in Luxembourg. In 1995, she received her law degree from the University of Akron School of Law. She is a member of the Ohio State Bar Association and is also a board-certified specialist in workers' compensation.

Jodie lives in Dublin with her husband, Michael. In October 2009, they welcomed twins, a boy and a girl, Evan and Elizabeth.



Karen L. Gillmor, Ph.D.

Public Member

Dates of Service: July 2011 - June 2017

With over three decades of dedicated public service, Karen brings a tremendous knowledge of workers' compensation issues to the Industrial Commission of Ohio. A native of Ohio, she earned her diploma from Rocky River High School before earning a bachelor's degree with honors from Michigan State University and a master's degree and Ph.D. from The Ohio State University. Her career shows a passionate interest in the fields of health care, labor relations and workers' compensation. From 1983 to 1986, Karen served as Chief of Management

Planning and Research at the Industrial Commission of Ohio. In this position, she authored a study of self-insurance, which was incorporated into Ohio's omnibus workers' compensation reform law. She also served as the employee representative to the Industrial Commission of Ohio's Regional Board of Review and the Ohio Bureau of Workers' Compensation Oversight Commission. Before coming to the IC, Karen was elected to Ohio's 26th Senate District seat in 1992, 1996 and 2008. She chaired the Senate Insurance, Commerce and Labor Committee, was a member of the Unemployment Compensation Advisory Committee, and the Labor-Management-Government Committee. She served as vice chair of the State Employment Relations Board from 1997 to 2007 and was a consultant to the United States Secretary of Labor.

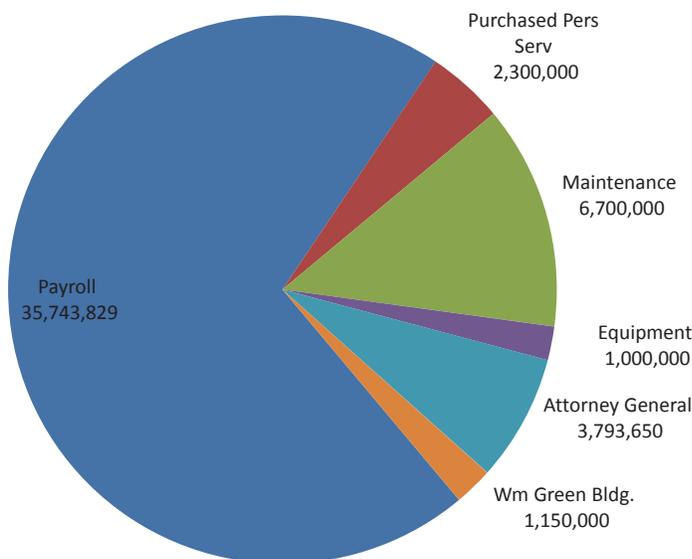
Nationally, Karen served on the Health Committee of the American Legislative Exchange Council, as well as on the Health and Human Services Committee of the Council of State Governments' Midwestern Region. Karen was married to United States Congressman Paul Gillmor, who tragically passed away in 2007. They have five children, Linda, Julie, Paul Michael and twins Connor and Adam.

OUR PLAN TO CONTROL COSTS

Budget Request

As we prepare to enter the next biennium budget period, the IC faces the challenge of succession planning as well as changes to the technological infrastructure. The IC has approximately 35 percent of its current contingent of Full Time Equivalent resources eligible for retirement by the end of FY 2016. As the agency transitions through this period, it is focused on keeping costs low while ensuring a seamless knowledge transfer as new employees enter and retirees exit. The agency will also need to invest in the migration of paperless hearing process to a new technology platform, as the current system will not be vendor supported after April 2017. Finally, the agency needs to accommodate transitional and ongoing costs related to the OIT Transformation initiative. Conservative financial projections and highly scrutinized spending have kept the IC on firm financial footing and this will continue in the next biennium. We are requesting a total budget of \$50,687,479 for FY 2016 and \$51,753,389 for FY 2017 (See Exhibit A).

Exhibit A



Biennium Budget – Fiscal Year 2016

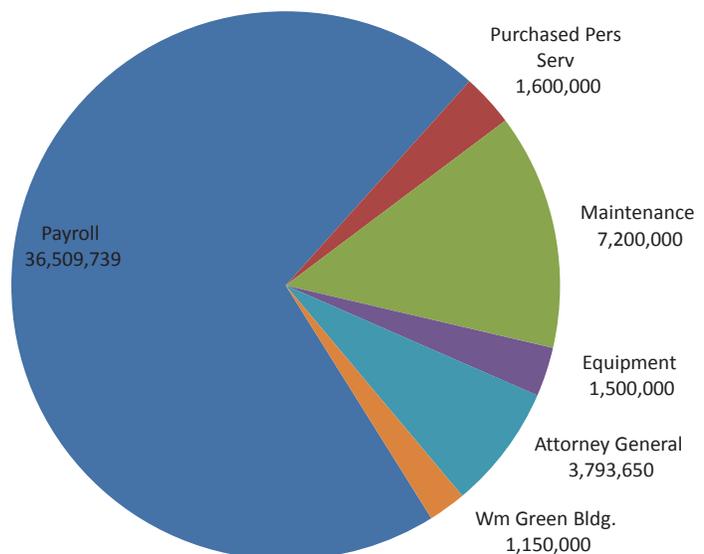
Description	2016
Payroll	\$35,743,829
Purchases Personal Service	\$2,300,000
Maintenance/Supplies	\$6,700,000
Equipment	\$1,000,000
Attorney General	\$3,793,650
William Green Building	\$1,150,000
Total Budget	\$50,687,479

-8.9% Decrease from 2014

Biennium Budget – Fiscal Year 2017

Description	2017
Payroll	\$36,509,739
Purchases Personal Service	\$1,600,000
Maintenance/Supplies	\$7,200,000
Equipment	\$1,500,000
Attorney General	\$3,793,650
William Green Building	\$1,150,000
Total Budget	\$51,753,389

-4.8% Decrease from 2015

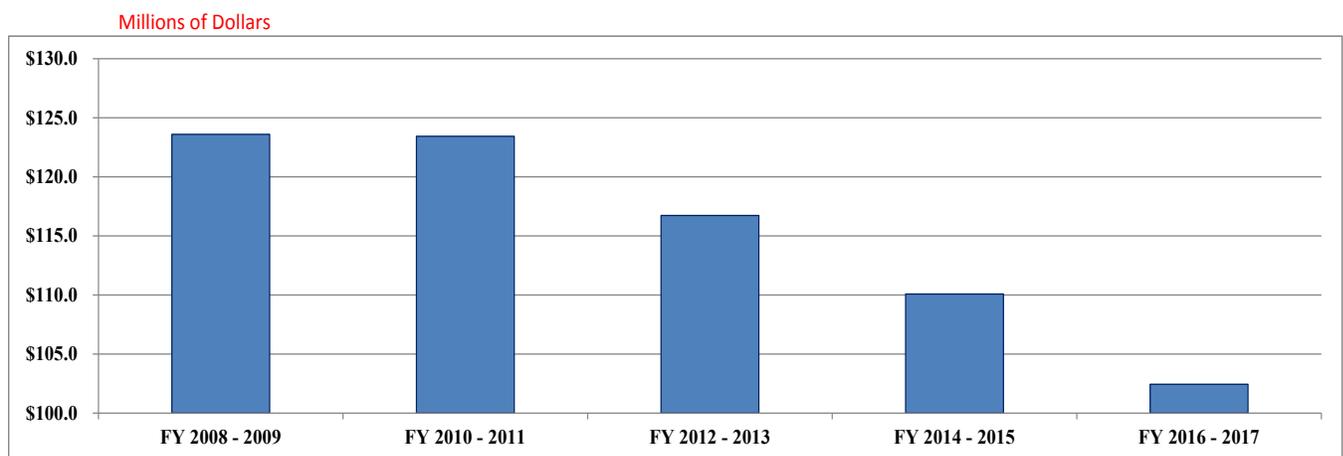


Comparison to Previous Budgets

The proposed biennium budget for FY 2016/2017 at \$102.4m is 6.9 percent less than the current FY 2014/2015 biennium budget total, which is \$110.1m. Over the past four budgets, the IC's request has been a decrease from the previous biennium. In a historical 10-year perspective, our proposed FY 2016/2017 budget is 17.1 percent less than our FY 2008/2009 budget total of \$123.6m. Despite factors beyond our control such as negotiated pay raises, step increases, increases in health insurance and other inflation, we were able to reduce our overall budget during the last ten years.

Exhibit B

Biennium Appropriations Fiscal Year 2008/2009 – Fiscal Year 2016/2017



Average Biennium Change Over the Period: -4.55%

Proposed Biennium Amount vs. Current Biennium Amount: -6.93%

Biennium Years	Biennium Budgets	Biennium to Biennium Change
FY 2008-2009	\$123.6 Million	
FY 2010-2011	\$123.4 Million	-0.14%
FY 2012-2013	\$116.7 Million	-5.43%
FY 2014-2015	\$110.1 Million	-5.71%
FY 2016-2017	\$102.4 Million	-6.93%

Decrease in Biennium Request over the Period	\$21.2 Million	-17.12%
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Full Time Employment Level Trend

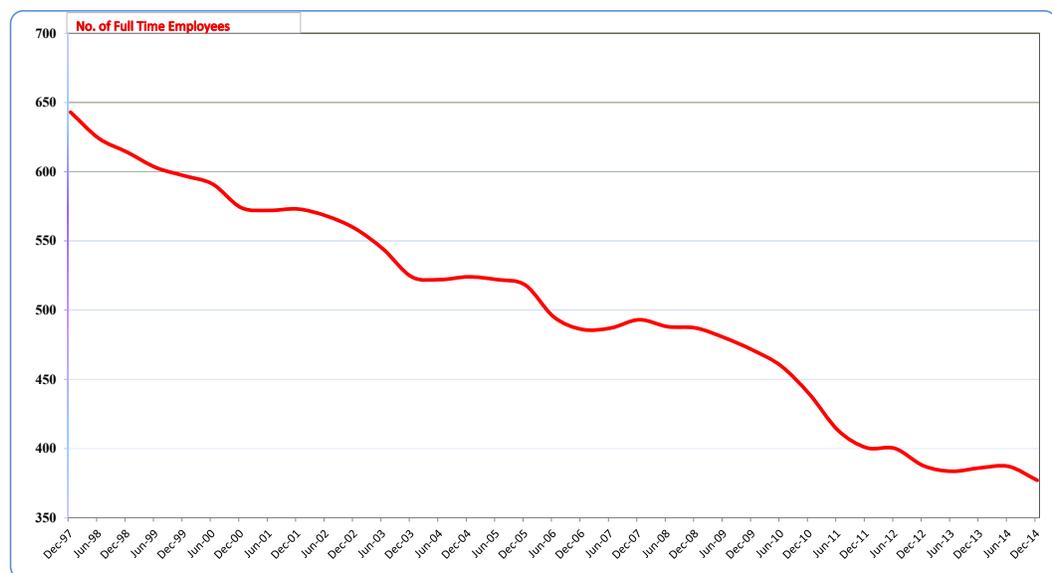
For over a decade and a half, the IC has steadily decreased its number of employees.

Between December 1997 and the end of FY 2014, the employment level has decreased from 643 to 387, which represents a total decrease of 40 percent. In recent years, the employment level has decreased from 496 in January 2008 to a present level of 377. This is a decrease of 24 percent and an estimated \$27.7MM in payroll expense savings. Most of our employment decreases have been the result of computer automation, the emergence of electronic claims processing, a higher degree of customer interaction with claim management and consolidation of mailing services. Work productivity gains have been achieved by the automation of hearing notice and hearing order generation, by the high degree of hearing order content being auto-populated and by the expansion of connectivity capacity among offices to allow support functions like claims examining and word processing to be completed throughout the state regardless of the hearing location. This has reduced the need for filling support functions lost to attrition and the need to staff fully remote offices for the hearing process. In addition, customers have the capability to manage their own claims via online connection.

Reviewing employment levels between January 2013 and December 2014 indicates that the IC has reached a new "core" level of FTE's averaging 385 over this period. The range is approximately twelve FTE's running from a low of 377 to a high of 389 at the start of this period. In the next biennium, we expect to encounter some overlapping in job classification staffing totals as succession transition continues. The IC will continue to explore avenues for efficiency by expanding accessibility for direct stakeholder interaction and reviewing the potential for other internal operational labor saving alternatives.

Exhibit C

Full Time Employment Levels December 1997 through December 2014



Current FTE as of February 2015 is 375.

Cost Savings and Customer Service Initiatives – Hearing Process

The IC continues to install customer focused improvements by either its own operational review or by listening to its stakeholders (employers, injured workers, representatives, legislators, etc.). In turn, some of these changes result in greater efficiencies and cost savings for the hearing process.

Improvements to the hearing and medical examination experience in the current biennium include:

- Implementation of the 1-877-ICFAXIN phone line where representatives can directly fax or e-mail documents to the Teleform platform to be indexed directly for the hearing and reducing labor efforts directed towards batching and scanning;
- Expanding public Internet access in the hearing lobby from ICON to the general Web so stakeholders can conduct task management while waiting for their hearing;
- Implementation of electronic delivery of hearing notices, hearing orders and other correspondence in lieu of U.S. Postal delivery saving an approximate \$5,000 per month by the close of the FY 2014;
- Implementation of the SMS notification systems where text messages are auto-distributed to representatives in the event of an emergency such as severe weather;
- Installed digital signage in each office’s hearing lobby to centralize and improve display of hearing schedules, relevant IC rules, statutory notifications, emergency notifications and general information related to traffic and weather;
- Hearing administrators have instituted local quality review programs to provide timely feedback on published orders to reduce errors;
- Claims Support provides a continuous schedule of statewide claims examiner training both “in-person” and via remote video link to maintain standardized processes for a consistent work product;
- Medical Services section minimized the cost of testing for examinations through automatic authorization for specific diagnostic testing and using prior authorization for non-specific testing yielding \$7,000 in savings annually;
- Regional managers, hearing officers and medical specialists maintain open external communication channels by participation and/or speaking in various events or committees sponsored by various stakeholder groups;
- Remodeled the Columbus Hearing Room Lobby and Customer Service area for better traffic flow;
- Updated facilities to meet Americans with Disabilities Act (ADA) requirements;
- Initiated security modifications for improved safety such as increased video surveillance, hand wands and “active shooter” exits.

Our Cost Savings Efforts – Support Areas

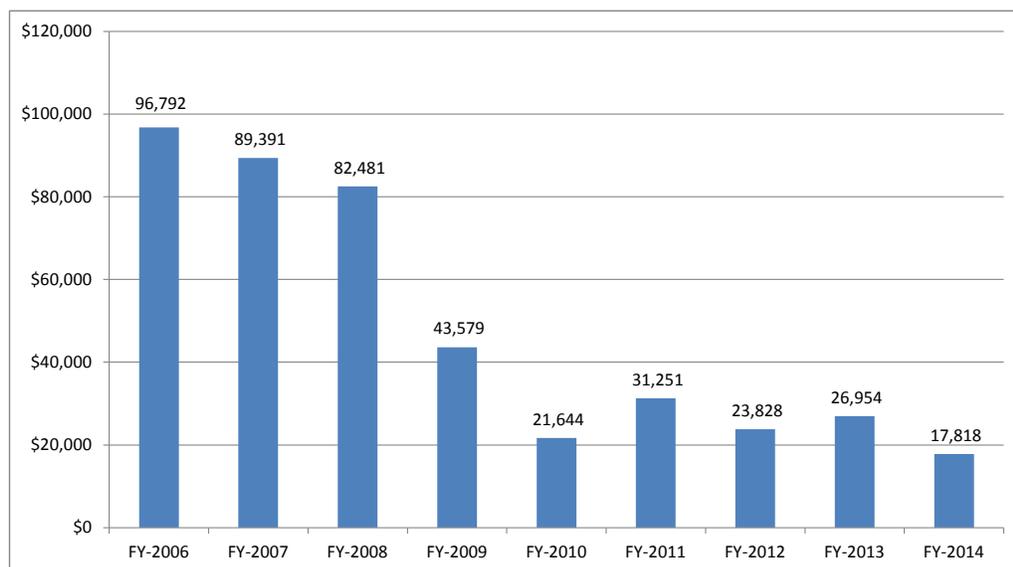
While agency attrition since FY 2008 has yielded estimated payroll expense savings in excess of \$27MM, there are other areas of note which have contributed to the IC's low cost structure.

These include:

- Negotiated IC's exit as obligated party to the William Green Building (WGB) debt service and the WGB quarterly maintenance assessment resulting in a combined estimated savings of \$6.1MM across fiscal years 13 and 14;
- Passed a third straight Administrative Cost Fund rate for three of four risk groups for Policy Year 2014;
- VoIP operations have saved an average of \$114,000 per year since FY 2009 while expanding our broadband capabilities to the regional and district offices for remote work-share opportunities;
- Leveraged toner purchases using a vendor point program to secure \$151,000 in needed equipment replacements and maintenance during the current biennium without a cash outlay;
- Support an agency sponsored training policy that offers opportunities to expand specific technological skill sets that can immediately be applied to labor saving activities;
- Developed automated random quality checks on hearing orders to improve word processor training and reduce re-work turnover;
- As noted below, the IC has also slashed overtime paid by 82 percent from \$96,792 in FY 2006 to \$17,818 in FY 2014.

Exhibit D

OVERTIME EXPENSES



A Vision for the Future

In the next biennium, the IC will face the continued maturing of its workforce and its potential for a “retirement wave.” Most at risk is our Staff Hearing Officer (SHO) classification, but other classifications note moderate to high risk of retirement eligibility. By the end of FY 2016 in the middle of the next biennium, our potential for retirement is estimated below:

Position Description	Type of Retirement as of 6-30-2016			Total Retirements Potential
	30 Years	55 & 25	60 & 5	
SHO classification	39.2%	19.6%	3.9%	62.7%
DHO classification	6.7%	4.4%	17.8%	28.9%
CE classification (including all 9 supervisors)	14.7%	7.8%	11.2%	33.6%
WP classification	10.5%	21.1%	0.0%	31.6%
All other classifications	13.0%	6.2%	9.6%	28.8%
Totals	16.2%	9.0%	9.8%	35.0%

SHO ranks will be back-filled by promoting eligible and qualified District Hearing Officers (DHO). Conversely, these DHO positions will require external hiring at a level based on observed claim filing trends at that time. Due to the advanced legal and medical knowledge required for the DHO position, the training period is four to six months before a hearing can be assigned. To avoid disruptions in customer service during this training and possibly exceed statutory time frame mandates for hearing and order issuance, it is IC’s intent to on-board new hires while the retiring resource is still active. The IC also has a 15 percent retirement risk in its Claims Examiner (CE) classifications. While the fill need is not as vital as a hearing officer since CE work can be pooled through the paperless platform, extended training of at least 3 months will be required. This will result in some staffing overlaps to secure an effective knowledge transfer resulting in a temporary bump in FTE counts during these transitions. With a FTE level of 384 at the time of budget drafting, a 5 percent overlap to approximately a 404 FTE funding level is requested to transition particularly if the retirements are concentrated in a short timeframe.

Steps are already being taken to meet the next challenge that the IC faces. Starting in FY 2015 and continuing with higher funding needs will be IC’s conversion to the Case Manager hearing platform. IBM informed the IC during FY 2014 that the end of support date for BPF (Business Process Framework) is April 30, 2017. BPF is an IBM FileNet product and is the underlying software for the front end of IC’s paperless Workflow. It provides the user interface. This conversion and migration will require the use of staff augmentation through the CAI contract. Based on current rates for emerging technologies, the cost for this project over the next biennium will be \$1.4MM for Personal Service Contracts. IC resources will require the necessary training to implement successfully this conversion strategy. Consequently, new applications are built and serviced with those IC resources. End user training will be conducted with these in-house resources to maintain lowest cost possible. The Case Manager product itself will require maintenance support after Year 1 estimated at \$35,000 per annum with a 10 percent cost riser.

Other application needs to support the hearing process will have reached end of life and/or mandated updates to remain effective.

A Vision for the Future

These include:

- Teleform replacement which is the batching and scanning link,
- ECM redesign which is the document management component of the paperless hearing process,
- Uninterrupted Power Source (UPS) infrastructure,
- DTM which is the word processing application within the Workflow system,
- Site Router replacement to maintain remote processing capabilities,
- Various servers and SAN's by FY 2017 dependent on the scheduled migration to an OIT platform.

The IC is a single program entity dedicated to the adjudication of contested workers' compensation claims. Alongside core business function staff, the "heartbeat" of our operation lies within the paperless hearing process. All past investments in this technology and its peripheral applications like VoIP, SAN servers and Winscribe dictation have been recaptured via payroll expense savings through personnel attrition. These non-Case Manager-related projects entail estimated costs of \$810,000 in Personal Service, Supplies and Equipment. The projects also present an opportunity to continue our success in meeting the MBE and EDGE program goals through the various offered State contracts while yielding continued efficiencies in the hearing process.

Should an OIT server conversion occur, the trade-off in lieu of new servers and SANs will be a need for significant funding latitude to pay the service fees based on current volume levels and OIT pricing. It is expected that initial pricing levels for OIT platforms applicable to IC operations will be higher as conversions occur over the next biennium. Savings from economies scaling savings may not be realized until after FY 2017. Applicable platforms will include migration of all servers, VoIP operations and security management tools.

The IC's workforce has stabilized in the 385 FTE area over the current biennium suggesting that a technological break-through may be required to further efficiency gains.

In the meantime, the IC pursues other avenues that may lead to other savings. Still in its infancy and gaining user acceptance, the IC implemented the electronic delivery of notices, order and letters to representatives and employers in August 2013. Currently, 9 percent of IC documents are delivered electronically saving an approximate \$60,000 annually. Despite some initial hesitancy in the workers' compensation community, the IC will continue to market this program aggressively in the next biennium to reduce postage expense. Postage comprises nearly 2 percent of total expenditures.

Several IT projects are in process or under consideration that could provide savings reductions in the future.

- Migrating the internal VoIP phone system to the OIT initiative of CBTS SIP trunk service. After initial funding of \$30,000, the expected annual savings is \$70,000 over current operations;
- Planned for FY 2017, the IC will be scoping out a possible cost saving initiative of Voice Recognition for hearing officer orders. Findings rendered at a hearing will be directly blended within the basic hearing order template straight from voice transfer and translation. This will result in reduced need for word processor interaction to finalize these documents and savings will be achieved through further attrition. This project has an estimated funding need of \$225,000;

A Vision for the Future

- Develop a process to automatically e-mail the opposing party if an appeal is filed on ICON thereby providing sufficient notice to avoid a potential continuance need;
- Develop a hearing-related data warehouse to generate on-demand reports without compromising the production environment. Also, non-IT resource reporting capabilities will be introduced which will lessen the demand on IT resources to perform this peripheral function;
- eForms will be created on ICON that will allow external parties to complete online forms and submit them directly into our Teleform scanning process. This will reduce paper and hands-on scanning activity. This project has a funding need of \$95,000;

Looking into the next biennium budget period starting in 2015, we expect an uncertain volatile period that comes with a maturing workforce. Turnover at the IC has historically been very low so the expected rotation in our workforce may extend over several bienniums. Therefore, payroll expense reduction resulting from higher paid resources exiting for lower salaried resources should be expected to occur gradually with an uneven trend. Against this backdrop of internal challenges, the revenue source for IC operations is becoming more volatile as premium charges for Medical and Indemnity coverage (Base premium) are reduced significantly. The Administrative Cost Rate (ACF) when applied as a surcharge on the base premium has a dependent relationship to the Base premium revenue. Should base rates be lowered and the ACF rate remains unchanged, the IC incurs a "passive" revenue loss. In order to maintain a stable range of revenue, the ACF rate will need to be adjusted to offset the opposite impact of the adjusted premium base rate. Should payroll levels also change substantially, the differential effect to ACF revenue could be further magnified. In the next biennium, this situation will be influenced by the migration to a prospective billing method for two (2) of the four customer groups. This will add further uncertainty to the timing of the revenue stream as premium payment choices will reside with the employer.

While the IC will continue to pursue cost saving measures and tactics, the agency will need to maintain a stable floor of funding to ensure the continued delivery of a quality and timely product. We look forward to providing the same high level of commitment, dedication, performance and fiscal prudence to our stakeholders over the coming biennium.

EXCELLENT CUSTOMER SERVICE AT A LOWER COST

Excellent Customer Service at a Lower Cost

Even with our history of fiscal responsibility, our production has not suffered. During CY 2014, the IC heard 530 claims per day and conducted 2,866 medical exams. This requires great teamwork, especially when customers need our help in emergency situations.

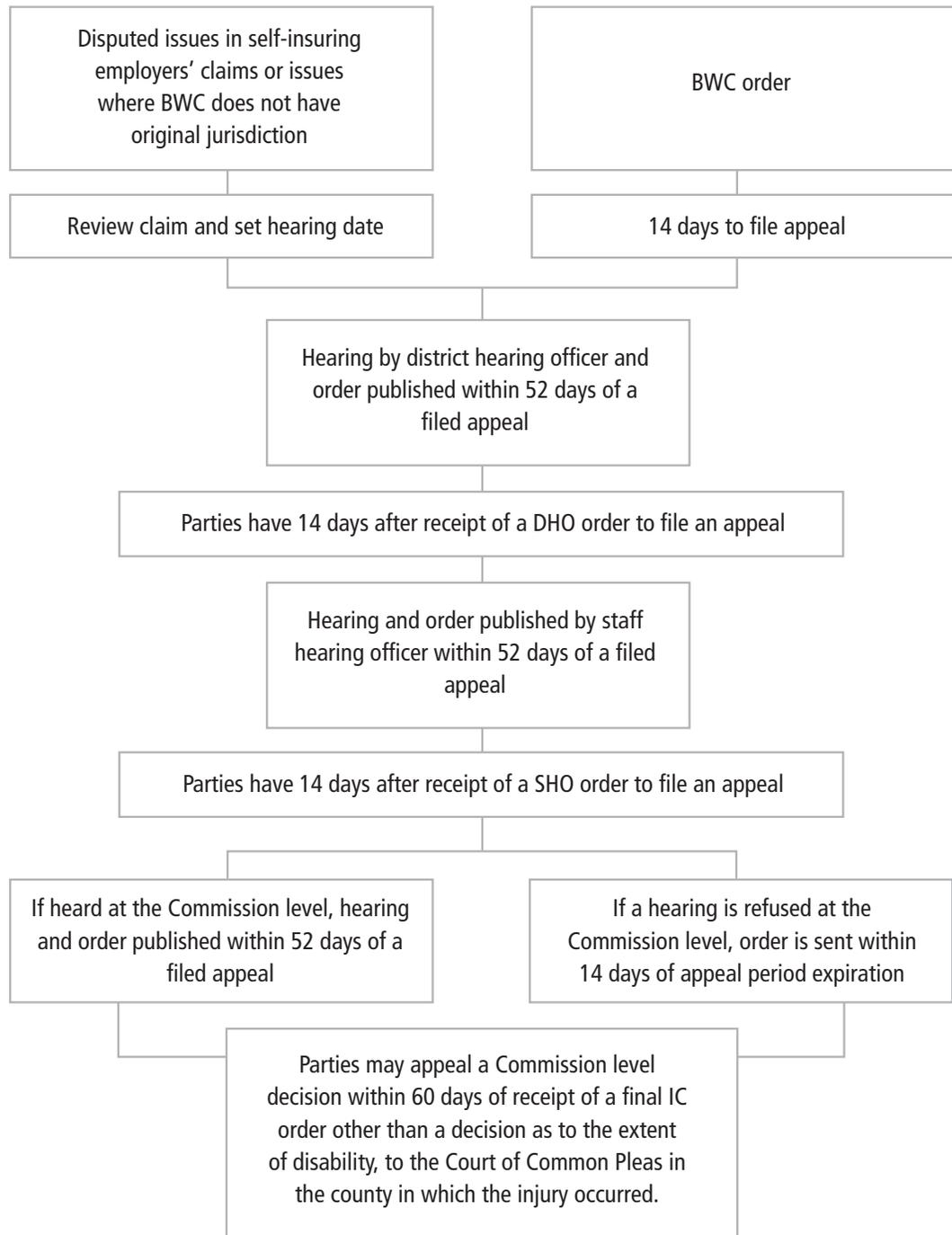
When an injured worker has a dire need, the IC strives to docket an emergency hearing on the injured worker's claim within three to five days after the injured worker files a request for an emergency hearing. This may happen, for instance, in a case where an injured worker is about to be evicted because their injury has prohibited them from being able to work and receive wages to pay their bills. In some cases, cash relief could be a matter of life and death. Sometimes the injured worker simply cannot afford to wait the 45 days that it may take for their claim to be processed, so we work to expedite their claim in these urgent situations. We also offer Interpreter Services to injured workers.

BWC initially determines claims. If a BWC order is appealed, by statute the IC has 45 days to conduct the first level hearing. If this decision is appealed, the IC conducts the second level hearing within 45 days. A final appeal may be made to the three-member Commission. Exhibit E (next page) outlines the potential flow of an appeal through the process.

Administrative Hearing Levels Chart

Exhibit E

Administrative Hearing Levels Flow Chart



Technological Initiatives

Representative Hearing Calendars Viewable on the IC Mobile Website

In November 2014, workers' compensation representatives were granted the capability to view their hearing schedules on smartphones, using the Industrial Commission Online Network (ICON).

After logging in with an ICON password, representatives can now view their scheduled hearings at each regional and district office. Calendars can also be filtered by hearing location.

In order to view claim documents or make requests, representatives still need to go through ICON's full website.

In addition to hearing calendars, representatives can view office locations and contact information on the mobile website.

Emergency Text Alerts Keep IC Customers Informed

Since December 2013, 571 workers' compensation representatives have signed up to receive emergency text alerts from the IC that announce potential office closings and hearing cancellations.

Representatives who were interested in receiving the text alerts could visit the "Texting Contacts" section of the Representative Profile page on ICON to sign up for the service. Representatives have the ability to submit multiple phone numbers on that page.

In the event of an emergency involving an Industrial Commission office, these contacts will be sent a text message alert that offers further details.

Digital Signage Provides Valuable Information to IC Customers

In an effort to modernize how the IC communicates with its customers, the IC launched a digital signage initiative in December 2013.

Now, state-of-the-art 54-inch digital signage monitors are being used to display the agency's signs, notices and postings in the hearing room lobby of each regional and district office.

The IC has 20 public postings that must be displayed in each IC office. The Ohio Revised Code requires some of these postings and others are displayed for safety reasons. There are also signs that are not mandatory, but are displayed to provide necessary information to our customers.

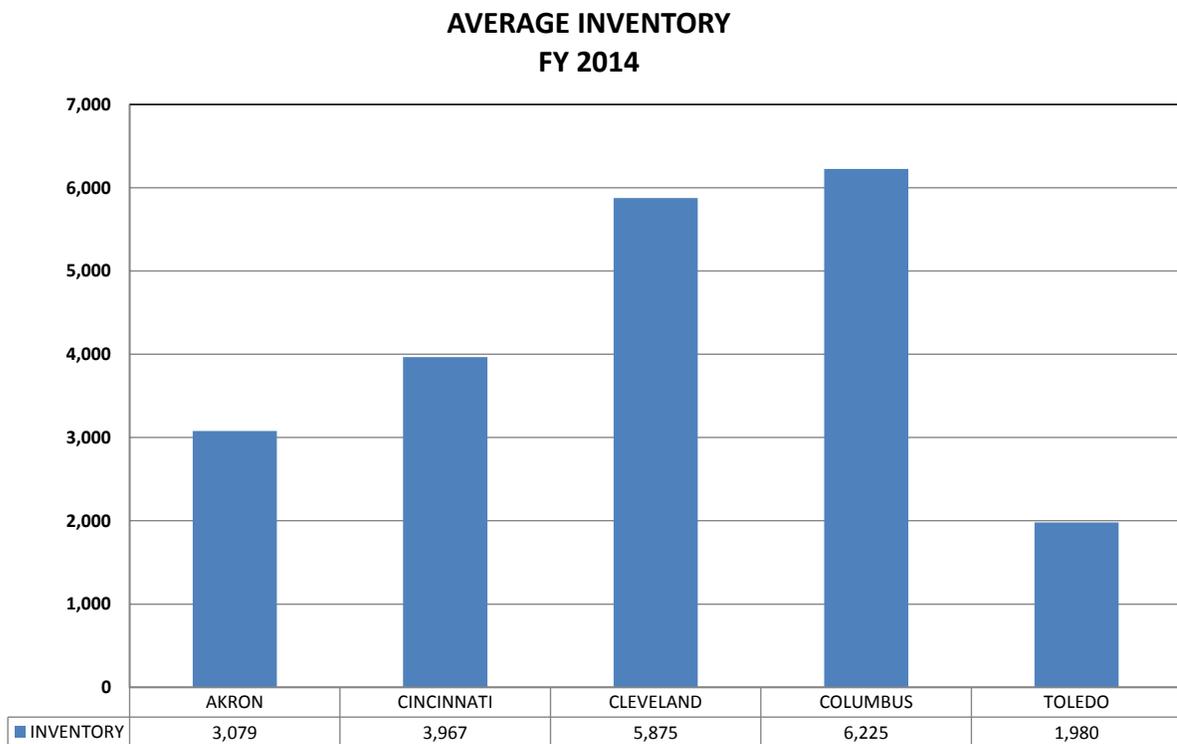
With the new digital signage, this information can be displayed without additional paper on a wall or bulletin board. The monitor's layout consists of a basic three-panel template. The left panel displays weather and traffic updates, the center panel displays the IC's public notifications and informational graphics, and the right panel displays the daily hearing schedule.

Inventory

Hearing Inventory

Industrial Commission workloads and performance are initiated by and heavily dependent upon the volume of new claims filed with the Bureau of Workers' Compensation along with new motion and appeal filings. IC inventory volume is subject to volatile daily swings dependent on appeal filings, claim flows from the BWC, docketing loads, and other factors.

Statewide average monthly DHO/SHO inventory was 21,126 claims for FY 2014. Regional breakdown of average inventories for FY 2014 is as follows: Columbus – 29 percent; Cleveland – 28 percent; Cincinnati – 19 percent; Akron – 15 percent; Toledo – 9 percent.

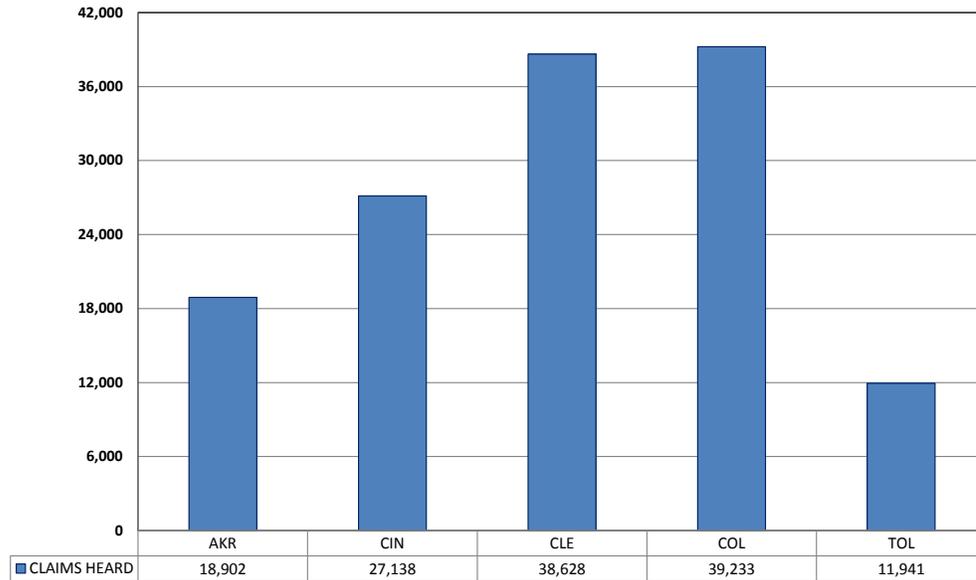


FY 2014 AVERAGE INVENTORY = 21,126

Hearing Activity

The Industrial Commission heard approximately 135,842 claims during FY 2014 at all adjudicatory levels. The total DHO volume accounts for 70 percent of overall hearings at 95,167 claims heard. Total SHO claims heard are recorded at 40,675 claims. Deputy venue claims heard totaled 104 in FY 2014 while the Commission venue recorded 251 claims heard.

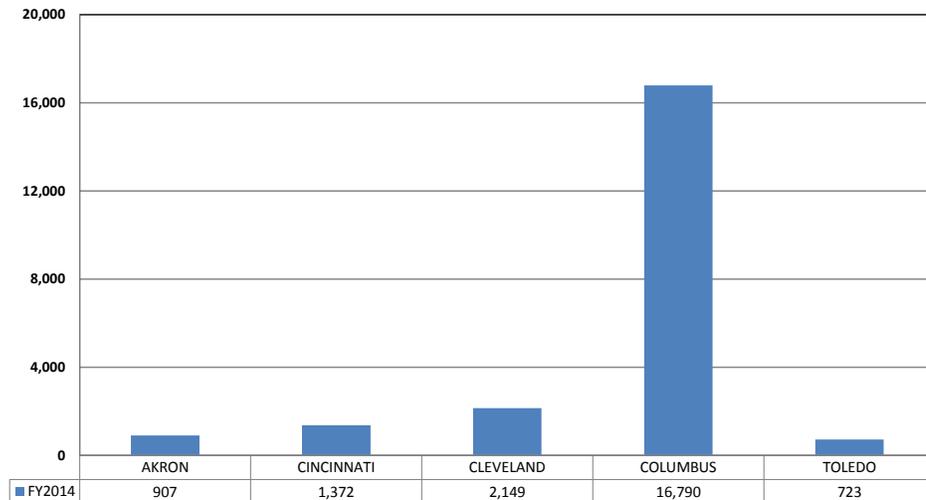
CLAIMS HEARD BY REGION - FY 2014



FY 2014 CLAIMS HEARD = 135,842

Approximately 21,941 issues were captured that do not initially require formal adjudication via hearing (lump sum settlements, lump sum advancements, Hearing Administrator issues, PT adjustments, etc.). These issues receive administrative review and processing at the clerical, claims examining, word processing, and hearing officer levels but are not typically reflected in routine production reports under DHO or SHO dockets. These issues may subsequently result in a hearing under the normal adjudicatory process and are reflected accordingly under respective hearing venues.

**ADMINISTRATIVE REVIEWS
FY 2014**



>TOTAL REVIEWS IN FY 2014 - 21,941

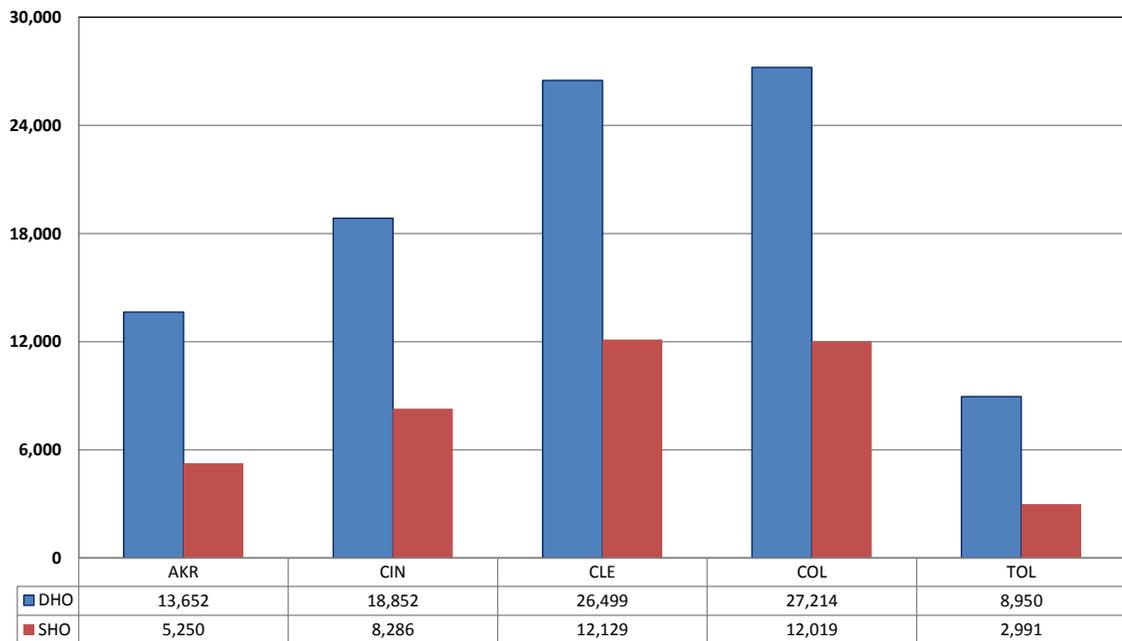
>ADMIN REVIEWS INCLUSIVE OF HEARING ADMIN, COMMISSION SCREENING, AND OTHER NON-HEARING ISSUES

Regionally, the distribution of FY 2014 claims heard at DHO and SHO hearing levels is as follows: Columbus – 29 percent; Cleveland – 28 percent; Cincinnati – 20 percent; Akron – 14 percent; Toledo – 9 percent.

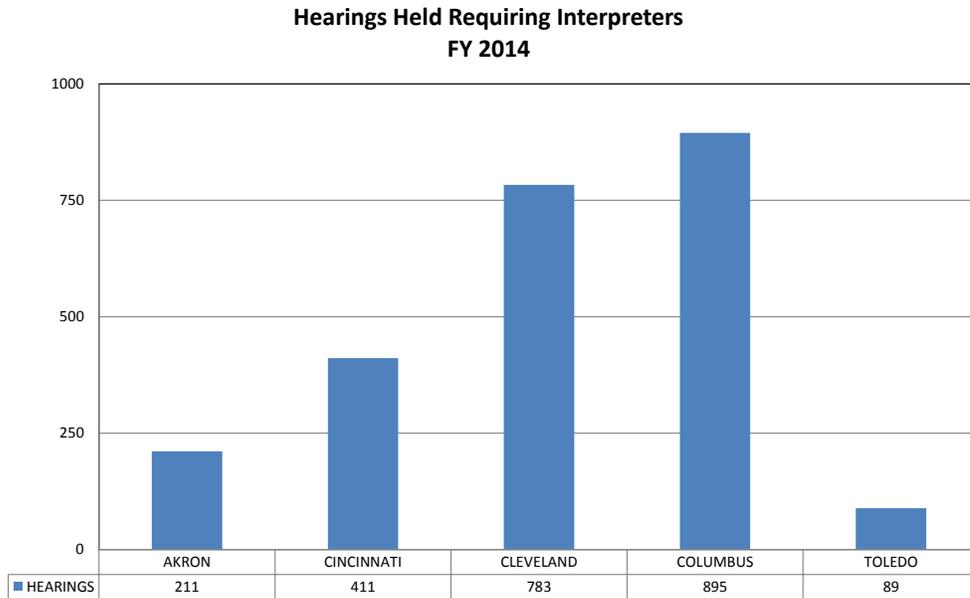
The total claims heard figure is inclusive of continuances, referrals, dismissals, and other final determinations made as a result of a hearing.

DHO and SHO hearings were conducted on 246 days during FY 2014. An average of 552 claims were heard per day at the DHO/SHO hearing levels. District Hearing Officers averaged 387 claims heard per day while Staff Hearing Officers averaged 165 claims heard per day.

DHO/SHO CLAIMS HEARD - FY 2014

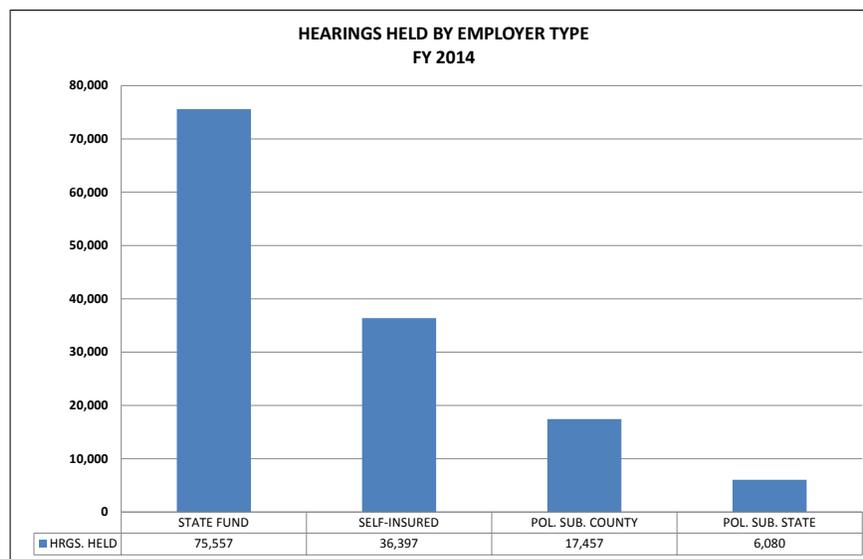


A total of 2,389 hearing records were flagged as requiring interpreter services during FY 2014.



Hearings Held by Employer Group

Hearings were conducted for approximately 35,509 different employers in FY 2014. Hearings for claims of private state funded employers accounted for 56 percent of all hearings while self-insuring employers accounted for 27 percent; public county employers accounted for 13 percent; and public state employers' claims accounted for 4 percent.

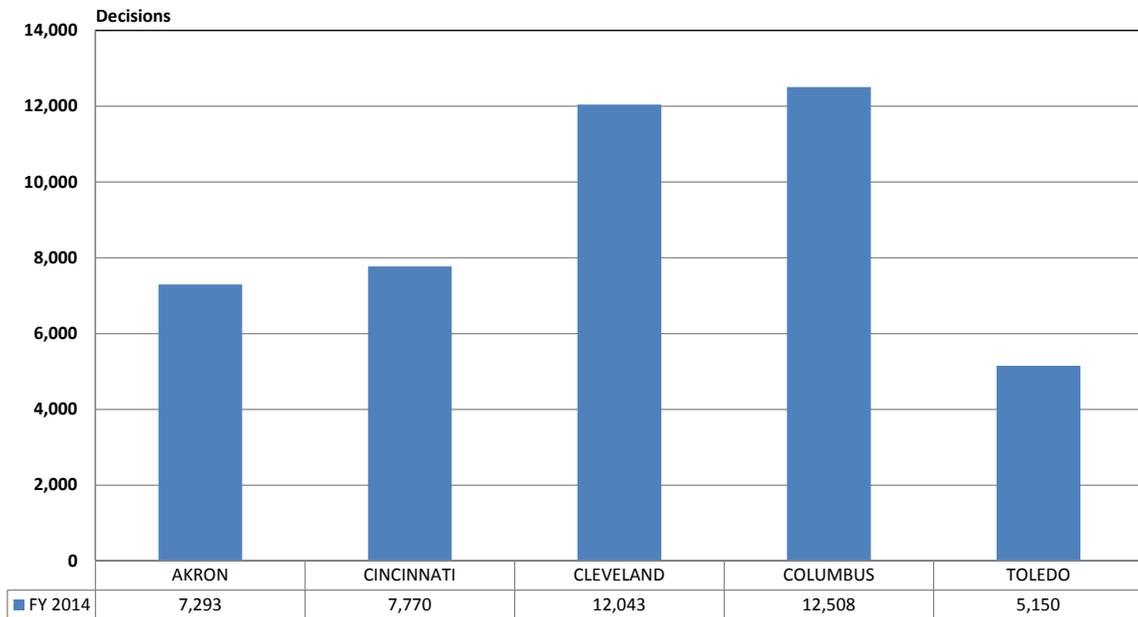


Hearing Administrator

Hearing Administrators perform a variety of functions that facilitate the adjudication process. In addition to processing approximately 24,374 continuance requests during FY 2014, they also processed 15,168 requests to withdraw motions or appeals and to cancel scheduled hearings. Additionally, Hearing Administrators processed requests for extensions related to PTD filings and requests regarding other miscellaneous issues.

Statewide, Hearing Administrators made decisions on, or referred to hearing, approximately 44,764 issues during FY 2014. Regional volumes of Hearing Administrator activity are presented in the graph below.

HEARING ADMINISTRATOR DECISIONS BY REGION - FY 2014



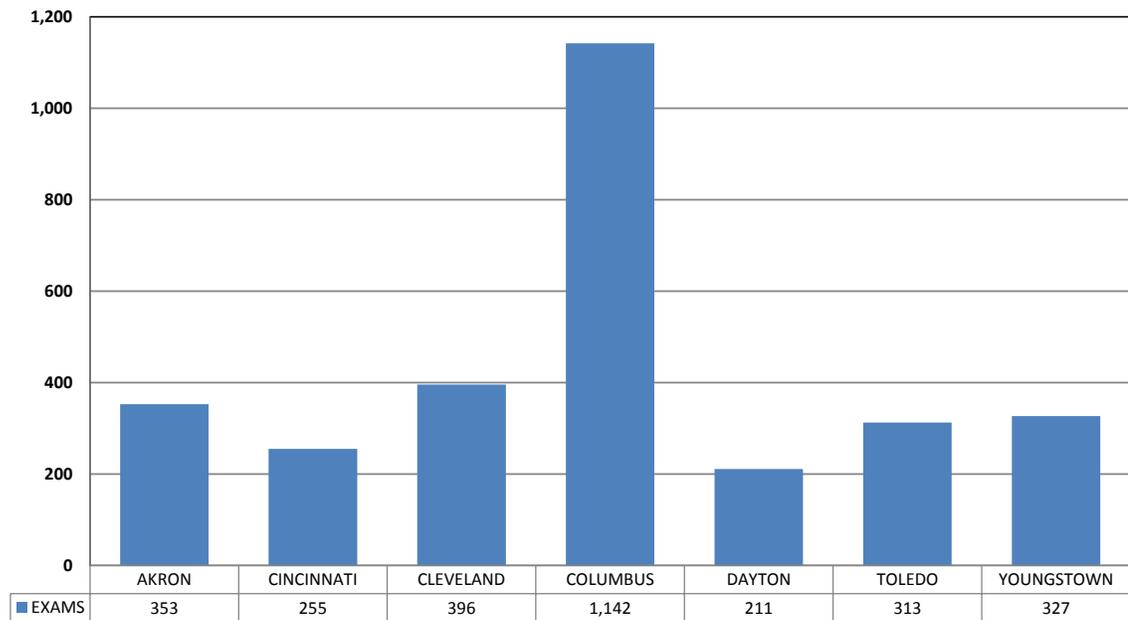
TOTAL DECISIONS FOR FY 2014 - 44,764

Medical Activity

The Industrial Commission schedules medical exams for injured workers who have filed for permanent total disability benefits related to work injuries. Most of these claims will result in a subsequent hearing. The volume of claims within the IC medical section at Fiscal Year ending 2014, was 597 claims.

A total of 2,997 specialist exams and medical reviews were performed on behalf of the IC during FY 2014

**MEDICAL SPECIALIST EXAMS/REVIEWS
FY 2014**



FY 2014 EXAMS = 2,997

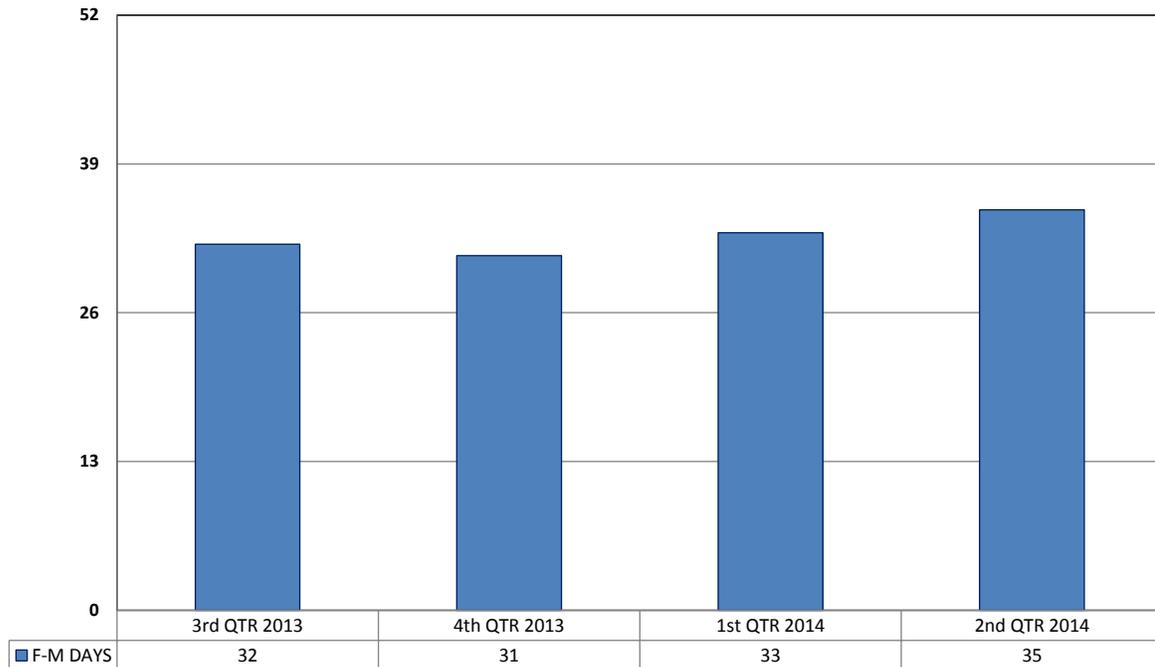
Commission Performance

Hearing timeframe performance mandates and benchmarks have been set forth in HB 107 and HB 413 for the DHO, SHO, and Commission hearing venues. On average, all IC offices and venues performed within the statutory limits set forth that require a claim to be heard within 45 days of a motion or appeal filing. The overall IC performance benchmarks for Filing to Mailing are set at 52 days for each hearing venue. This performance measure is based on the combination of the two statutory periods Filing to Hearing and Hearing to Mailing (45 + 7).

DHO Performance

District hearing officers (DHO) conduct hearings on two formal docket types – Allowance (primarily injury allowance, compensation, and treatment issues) and C-92 (permanent partial disability issues). Only allowance dockets fall under time frame requirements outlined in HB 107. DHOs heard a total of 75,056 allowance docket claims during FY 2014. Of those, 62,032 qualified for inclusion in time studies. On average, the DHO process was completed within 33 days during FY 2014.

DHO FILING TO MAILING PERFORMANCE - FY 2014

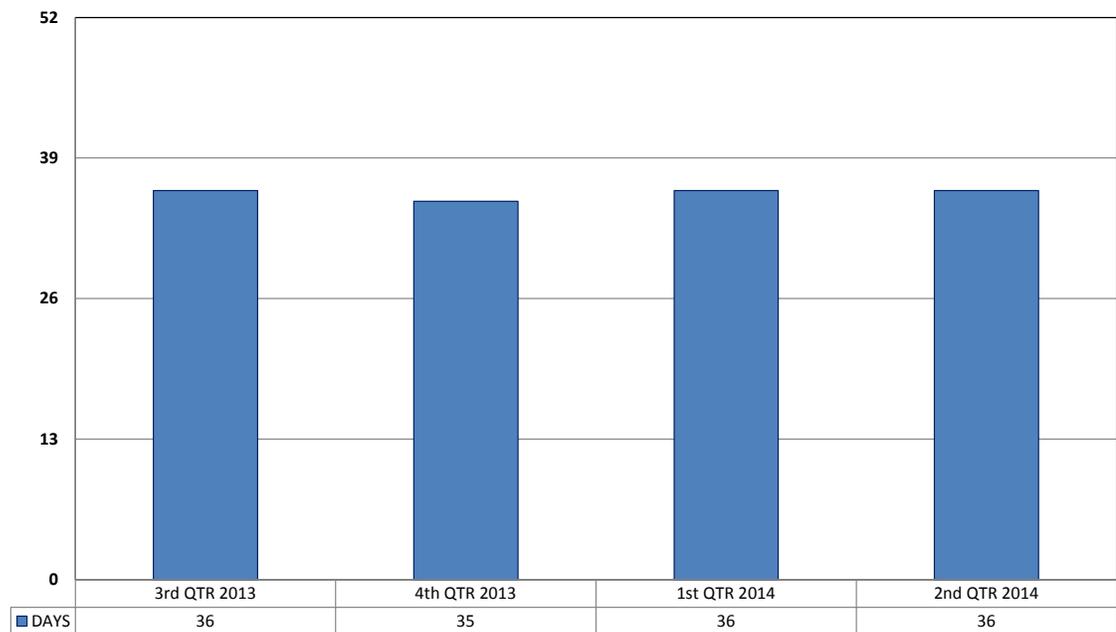


BENCHMARK IS 52 DAYS

SHO Performance

Staff hearing officers (SHO) conduct hearings on five formal docket types – Appeal (primarily injury allowance, compensation, and treatment issues), PTD (permanent total disability), Reconsideration (permanent partial disability issues), VSSR (Violations of Specific Safety Requirements), and MISC (other issues not designated to a pre-defined docket type). Only appeal dockets fall under time frame requirements outlined in HB 107. SHOs heard a total of 33,841 appeal claims during FY 2014. Of those, 29,548 qualified for inclusion in time studies. On average, the SHO process was completed within 36 days during FY 2014.

SHO FILING TO MAILING PERFORMANCE - FY 2014



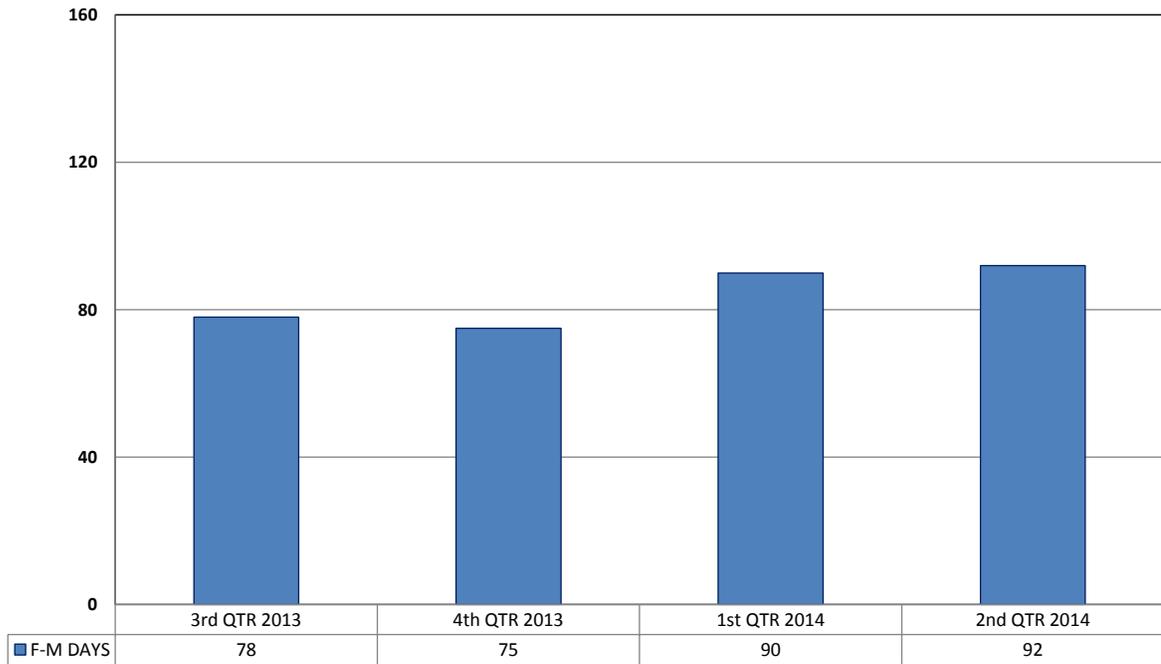
*BENCHMARK IS 52 DAYS

Commission Performance

For hearings conducted during FY 2014, the Commission venue average for the period Filing of Appeal to Hearing Date (F-H) is 45 days.

The Commission venue average for the Filing of Appeal to Mailing of Order time frame is 84 days.

COMMISSION FILING TO MAILING PERFORMANCE - FY 2014

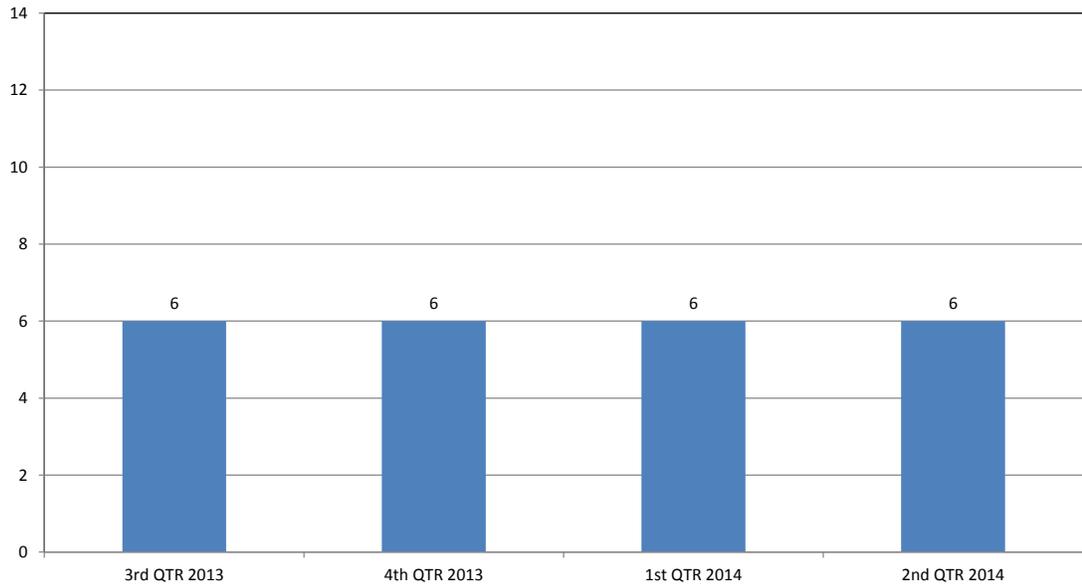


BENCHMARK IS 52 DAYS

SHO Refusal Order Performance

Appeals to SHO orders are discretionary in nature and processed centrally by the Commission Level Hearing Section in Columbus. If an appeal is refused, it is to receive a refusal order within 14 days of the expiration period in which an appeal may be filed to an SHO order.

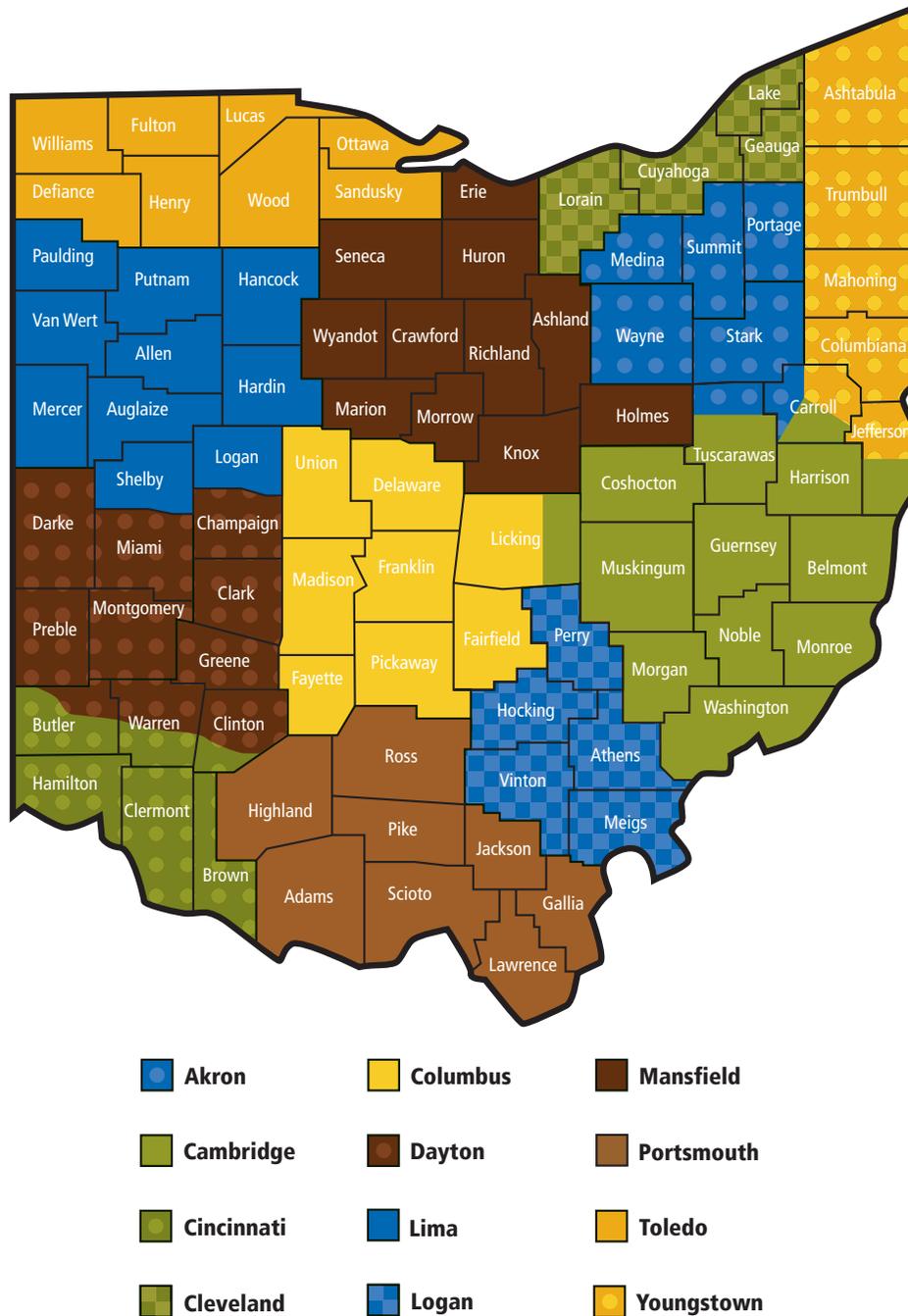
**SHO Appeal Order Expiration Date to Refusal Order Mailing Date
FY 2014**



STATUTE = 14 DAYS

District Offices Assignments Map

Our 12 offices in 5 regions blanket the state. IC office locations are carefully chosen so that most injured workers do not have to drive more than 45 minutes from their home to get to their hearing.



Office Locations & Contact Information

Customer Service and Interpretive Services

800.521.2691; toll free, nationwide
614.466.6136; Franklin County
800.686.1589; toll free, TDD

Email: askic@ic.ohio.gov
Web: www.ic.ohio.gov

AKRON REGION

Akron*

161 S. High St., Suite 301
Akron, Ohio 44308-1602

Tel: 330.643.3550
Fax: 330.643.1468

Mansfield

240 Tappan Drive N., Suite A
Mansfield, Ohio 44906

Tel: 419.529.1360
Fax: 419.529.3084

CINCINNATI REGION

Cincinnati*

125 E. Court St., Suite 600
Cincinnati, Ohio 45202-1211

Tel: 513.357.9750
Fax: 513.723.9811

Dayton*

1242 E. Dayton-Yellow Springs Rd.
Fairborn, OH 45324

Tel: 937.264.5116
Fax: 937.264.5130

CLEVELAND REGION

Cleveland*

615 Superior Ave. NW, 7th Floor
Cleveland, Ohio 44113-1898

Tel: 216.787.3001
Fax: 216.787.3483

Youngstown*

242 Federal Plaza West
Youngstown, Ohio 44503-1206

Tel: 330.792.1063
Fax: 330.792.2473

COLUMBUS REGION

Columbus*

30 W. Spring St., 7th Floor
Columbus, Ohio 43215-2233

Tel: 614.466.4683
Fax: 614.644.8373

Cambridge

2130 E. Wheeling Ave.
Cambridge, Ohio 43725

Tel: 740.435.4000
Fax: 740.435.4010

Logan

12898 Grey St.
Logan, Ohio 43138

Tel: 740.380.9685
Fax: 740.385.2436

Portsmouth

1005 Fourth St.
Portsmouth, Ohio 45662-4315

Tel: 740.354.2334
Fax: 740.353.6975

TOLEDO REGION

Toledo*

One Government Center, Suite 1500
640 Jackson Street
Toledo, Ohio 43604

Tel: 419.245.2740
Fax: 419.245.2652

Lima

2025 E. Fourth St.
Lima, Ohio 45804-0780

Tel: 419.227.7193
Fax: 419.227.7150

*Medical Examination Locations

PTD Submission Process

Permanent total disability (PTD) claims are in a separate category because they are required to be handled differently than other claims that come to the IC. PTD claims take longer to process because there is a required independent medical exam, and there are submission periods built in to allow parties time to obtain medical and vocational information. The submission periods were put into place so that parties could provide hearing officers with the most information possible when they decide whether to grant or deny a PTD award. Exhibit F shows the submission periods for permanent total disability processing.

As shown in Exhibit F (next page), while there are potentially six months of submission periods built into the PTD process, overall the IC is processing PTD claims at a faster rate than the submission periods dictate.

Exhibit F

Permanent Total Disability (PTD) Timeline



* The IC is currently processing PTD applications at a rate of 175 days.

Ohio | **Industrial Commission**

30 West Spring Street
Columbus, Ohio 43215

Governor John R. Kasich
Lt. Governor Mary Taylor

www.ic.ohio.gov
1-800-521-2691

TO: OMA Safety and Workers' Compensation Committee
FROM: Rob Brundrett
RE: Public Policy Report
DATE: May 5, 2015

Overview

The General Assembly continues to focus on the state operating budget. The House has already moved the BWC, IC, and operating budgets to the Senate. The Senate already has had several hearings on both the BWC and IC budgets. They should be up for a full Senate vote in the near future.

Legislation and Rules

Senate Bill 5 – mental / mental

State Senators Tom Patton (R-Strongsville) and Edna Brown (D-Toledo) have introduced Senate Bill 5. The bill would allow emergency first responders to receive workers' compensation benefits for PTSD even if they do not have an accompanying physical work injury. This would go against how Ohio's workers' comp system has historically operated.

“Mental/mental,” as the provision is called, would go against the workers' compensation principle that benefits must be tied to a compensable physical illness or injury. The measure would increase complexity and cost for public employers and allow certain employees to receive benefits not available to others. It also would be a terrible precedent facing private sector employers.

This would be a major change for public employers and possibly private employers in the future. The Senate passed a similar measure three times last year, only to be rebuffed by the House on each occasion.

The Senate heard powerful testimony from Administrator Buehrer but nonetheless passed the bill out of committee with only one no vote (Uecker). However the bill was referred to Senate Finance because of the price tag.

The Senate has continued to have hearings on this bill in the Finance Committee. There was an amendment floating around that would have opened the bill up to private employers. The Senate continues to seriously consider the bill for movement over the next few weeks.

Senate Bill 27 – firefighter cancer

Senator Tom Patton (R-Strongsville) introduced a bill that would assume a firefighter with certain types of defined cancers contracted those cancers within their working conditions. The bill is limited strictly to firefighters.

House Bill 51 – IC budget

The Industrial Commission budget was introduced with no real policy changes. The bill passed the House and is currently pending in the Senate.

House Bill 52 – BWC budget

The BWC budget was introduced with minimal policy changes, following the same path the Kasich Administration paved with earlier versions of the budget. Perhaps the most noteworthy change in the bill would give the BWC authority to use funds from its current net position to cover the unfunded liabilities of the Disabled Workers Relief Fund I (DWRF I). The OMA submitted support testimony in both the House and Senate. There is some concern that the budget might get drawn into the Senate Bill 5 discussions.

HB 64 – State Operating Budget

The Governor introduced the state operating budget in early February. The bill contains the budget appropriations to fund Ohio's general government provisions. However the 2,700 page bill often contains policy changes impacting numerous state agencies. Some workers' comp amendment may be slipped into the bill prior to the June 30 deadline for passage.

The budget is currently pending in the Senate. Hot button issues, such as school funding, tax reform, and Medicaid expansion have taken center stage.

BWC Medical Reform

The BWC is preparing to launch a medical management pilot later this year focused in northeast Ohio. The pilot will be focusing on comprehensive care for knee injuries.

Bureau of Workers' Compensation

BWC Board Passes Rate Cut

Bureau of Workers' Compensation (BWC) proposed to again reduce overall rate levels for private employers beginning July 1. The proposed reduction is 10.8%.

The proposed reduction is attributable to a number of factors, including lower expected claim frequency, as well as the upcoming adoption of a prospective billing system. BWC currently bills employers in arrears. Under the new system of prospective billing, BWC will collect premiums before extending coverage. Prospective billing enables BWC to lower rates to reflect the increased investment income.

The proposed 10.8% reduction is an overall statewide average. The actual premium paid by individual private employers will depend on a number of factors, including the expected future costs in their industry segment, their recent claims history, and their participation in various premium credit and savings programs.

The BWC board of directors approved the proposal at its February hearing.

Ballot Issues

Marijuana Ballot Issue

Responsible Ohio, the group pushing for a 2015 marijuana ballot amendment, released the full text of the proposed amendment. The group also made headlines by naming the ten sites throughout Ohio where marijuana would be grown in compliance with the new constitutional amendment. The sites are specific parcels of land named in the amendment.

The group is currently collecting the approximately 306,000 signatures needed for the November ballot.

Ohio Manufacturers' Association
Workers' Compensation Counsel Report
May 5, 2015

By: Sue A. Wetzel, Esq.
Bricker & Eckler LLP

Changes Under Senate Bill 5 and the Amendment

Expansion of the Definition of Injury:

Senate Bill 5, if enacted, would be very costly for all of Ohio's employers. This bill, as amended, would expand the definition of "injury" to psychiatric conditions that both arise out of an injury, as well as, those which accompany the injury. This amendment would overturn the recent Supreme Court case *Armstrong v. John R. Jurgenson Co.*, which specifically held that for a mental condition to be compensable under the Ohio Workers' Compensation system, a compensable physical condition must have caused the mental condition. These types of claims have never been allowed in Ohio, or any other monopolistic state for that matter. SB 5 originally affected only public employers, but with this amendment, all employers are now exposed to increased costs and decreased productivity.

Psychological Condition Arises Out of an Injury

If an employee sustains a physical injury as part of a compensable workers' compensation claim, that individual could also be entitled to benefits for a compensable psychological condition, if the psychological condition *arises out of* the injury. What this means is that the actual, physical injury must have caused the psychological condition. This usually requires a more significant injury or an injury that causes significant pain either at the outset or temporarily at some point throughout treatment, or results in permanent pain. Generally, sprains, minor contusions, etc. are not going to be the proximate cause of a psychological condition.

Psychological Condition Accompanies an Injury

If an employee sustains a physical injury as part of a compensable workers' compensation claim, that individual could also be entitled to benefits for a compensable psychological condition, if the psychological condition *accompanies* the injury. What this means is that the psychological condition no longer needs to arise from the actual physical injury, it can arise from the circumstances in which the injury occurred. This could be a motor vehicle accident, attack by a co-worker, or a simple fall. If the mechanism of injury leading to a compensable claim was traumatic for the injured worker, they will have a cause of action for a psychological condition to be added to their claim.

PTSD as an Occupational Disease for All Employees:

Additionally, under SB 5, R.C. § 4123.68 permits occupational diseases "for every employee who is disabled because of the contraction of an occupational disease..." This Amendment permits PTSD for 1) anyone exposed to a deadly weapon or 2) anyone exposed to

the results of the use of a deadly weapon. Deadly weapon is defined by section R.C. § 2923.11(A) as: “any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.” Thus, essentially anything can qualify as a deadly weapon under this section, and I would fully expect the claimant’s bar to argue this as needed.

Anyone Exposed to a Deadly Weapon:

If an employee is exposed to a deadly weapon, they can qualify for PTSD under the workers’ compensation system, assuming all other elements are met for a compensable workers’ compensation claim. This permits all employees, not just first responders, to apply for a workers’ compensation claim for the original allowance of PTSD. As with the original SB 5, a physical injury is no longer required first. The additional requirement of a deadly weapon has been added, arguably as a gatekeeper, but the definition of deadly weapon fails to act as a true gatekeeper since it essentially allows anything to be considered a deadly weapon.

Anyone Exposed to the Results of a Deadly Weapon:

If an employee is exposed to *the results* of the use of a deadly weapon, i.e. witnesses an assault/threat/death, walks into the scene after the fact, etc., they too can qualify for PTSD under the workers’ compensation system, assuming all other elements are met for a compensable workers’ compensation claim. This expansion overrules *Armstrong* and *McCrone*, permitting any employee *involved in the incident* where a deadly weapon is involved to file a claim for workers’ compensation benefits for the condition of PTSD. Again, a physical injury is no longer required to initiate a workers’ compensation claim.

	Pre-SB 5	SB 5	SB Amendment
Who can qualify as an Injured Worker?	All Employees, but only if 1) physical injury first, and 2) PTSD arises out of physical condition	First Responders; no physical injury required (all other employees pre-SB 5)	All Employees; no physical injury required for PTSD
Physical Injury Required	Yes	No – First Responders Yes – all other employees pre SB 5	Not for PTSD, but for any other psychological condition a physical condition must have occurred
Psychological Disorder Compensable if it <i>arises out of</i> the Physical Condition	Yes	No for First Responders; Yes for all other employees	No
Psychological Disorder Compensable if it <i>accompanies</i> the Physical Condition	No	No	Yes
Deadly Weapon Required	No	No	Yes

In effect, this Amendment permits PTSD to be the original allowance for a workers’ compensation claim and will likely result in increased claims for all employers. The obvious employers affected by this Amendment are banks, retailers, leasing companies, etc. but OMA members are equally at risk. Under this Amendment, any object or piece of equipment at the

employer's place of business can be used as a "deadly weapon," and anyone that witnesses or is otherwise exposed to the results of the use of that "deadly weapon" can file a workers' compensation claim. It should be noted that death is not required under this Amendment; an attack or threat with a deadly weapon can arguably be the basis for a PTSD claim. Additionally, when an OMA is exposed to one of these claims, it is likely it will affect more employees at once and result in a bigger impact.

For example, if a rogue employee uses an air hose/hammer/shoe as a weapon to attack a co-worker, that co-worker and any employees who witnessed the incident, and potentially anyone who didn't witness it but are still exposed to the results of the attack can file a claim with PTSD as the original allowance under this Amendment. The "deadly weapon" in this scenario could be an air hose, a lunch bag, a hammer, a chemical in someone's water, etc. – the list of potential deadly weapons here is endless. While these types of incidents are likely rare, they in deed possible, and would be very costly for the employer. Taking the above scenario down a few notches, an employee holding a hammer/air hose/chemical/etc. and making a threat that he will use the item to harm another employee could equally constitute a compensable claim for PTSD. This scenario is much more likely to occur in a manufacturing setting, and once employees learn of "mental-mental" claims for PTSD being allowed under the workers' compensation system, the potential for abuse becomes a reality.

Long term, this Amendment opens the door for mental-mental claims of all types as well. This Amendment permits claims for PTSD, but it is conceivable that an employee in the exact same situation that causes one employee PTSD could also cause another employee "only" depression. To permit a claim for PTSD and deny another for depression when they arise out of the exact same scenario, admittedly, does not make much sense, so it is only a matter of time.

COMPARISON DOCUMENT

**House Bills 51 and 52
131st General Assembly**

**Budget Bills for the
Ohio Industrial Commission and
Bureau of Workers' Compensation**

(FY 2016 – FY 2017)

**As Introduced
As Passed by the House**

Legislative Service Commission

March 11, 2013

Executive

As Passed by the House

OICCD2 Hearing spike personal service contracts

No provision.

R.C. 4121.351, (Repealed)

Eliminates the ability of the Industrial Commission to enter into personal service contracts with attorneys to serve as temporary district or staff hearing officers during a hearing spike and eliminates the requirement that the Industrial Commission prepare monthly reports regarding the use of these temporary officers.

Fiscal effect: Potential reduction in costs of preparing monthly reports, and potential decrease in hearing costs.

OICCD1 Rent - William Green Building

Section: 1

Requires that appropriation item 845402, Rent - William Green Building, be used to pay for rent and operating expenses for the space occupied by the Industrial Commission in the William Green Building.

Section: 2

Same as the Executive.

Executive

As Passed by the House

BWCCD7 Appeals regarding Health Partnership Program participation**R.C. 119.12**

Requires appeals of the Bureau of Workers' Compensation decisions regarding participation in the Health Partnership Program to be filed in the Franklin County Court of Common Pleas rather than, as under current law, filing the appeal in the court of common pleas of the county in which the place of business of the provider or the managed care organization is located or the provider is a resident and, pursuant to administrative rule, filing a copy of that appeal in the Franklin County Court of Common Pleas.

Fiscal effect: Potential increase in court costs for the Franklin County Court of Common Pleas to hear these appeals. Possible administrative savings for BWC to be realized under Fund 7023 line item 855407, Claims, Risk and Medical Management.

R.C. 119.12

Same as the Executive.

Fiscal effect: Same as the Executive.

BWCCD4 Elimination of the Long Term Care Loan Program**R.C. 4121.37, 4121.48 (repealed)**

Eliminates the Long-term Care Loan Program that allows BWC to make interest-free loans to nursing homes or hospitals so that they may purchase, improve, install, or erect certain lift equipment and electric beds to implement a facility policy of no manual lifting of residents by employees.

R.C. 4121.37, 4121.48 (repealed)

Same as the Executive.

Executive

As Passed by the House

Fiscal effect: Few such loans have been made in recent fiscal years. Interest paid by BWC amounted to \$644 in FY 2013 and no payments were made during FY 2014.

Fiscal effect: Same as the Executive.

BWCCD5 Number of unclassified employees in Division of Safety and Hygiene

R.C. 4121.37

Allows the Administrator of Workers' Compensation to designate more than six unclassified positions in the Division of Safety and Hygiene (current law limits the number of such designated employees to six) and removes the requirement that the BWC Board of Directors advise and consent on those designations.

Fiscal effect: None apparent. However, if the Administrator were to hire additional unclassified employees, there could be some additional payroll costs.

R.C. 4121.37

Same as the Executive.

Fiscal effect: Same as the Executive.

BWCCD12 Self-insured employers: BWC rehabilitation and handicap reimbursement programs

R.C. 4121.61, 4121.65, 4121.66, 4121.67, 4121.68, 4123.34, 4123.35, and 4123.56

Eliminates the requirement that a self-insuring employer be approved by the Bureau of Workers' Compensation prior to furnishing rehabilitation services directly.

Requires a self-insuring employer to furnish or pay directly for rehabilitation services, counseling, training, living maintenance payments, and certain wage loss compensation, or compensation and benefits for an injury, occupational disease, or death that results from a claimant's participation in a rehabilitation program rather than allowing for those payments to be made initially from

R.C. 4121.61, 4121.65, 4121.66, 4121.67, 4121.68, 4123.34, 4123.35, and 4123.56

Same as the Executive.

Same as the Executive.

Executive

As Passed by the House

the Surplus Fund Account within the State Insurance Fund. Requires a self-insuring employer to furnish or pay directly, for all compensation, benefits, and services due to an employee for injury, occupational disease, or death caused by a pre-existing mental or physical handicap of the employee, rather than allowing a portion of those payments to be made initially from the Surplus Fund within the State Insurance Fund as under current law.

Same as the Executive.

Fiscal effect: None. No self-insured employers in recent years have participated in either BWC's rehabilitation program or handicap reimbursement program. If a self-insured employer elects to participate in either program, BWC charges an assessment that is deposited into the Surplus Fund to cover related expenses.

Fiscal effect: Same as the Executive.

BWCCD8 Duties of BWC Audit and Actuarial Committees

R.C. 4121.129

Requires the Workers' Compensation Audit Committee to recommend an accounting firm to the BWC Board of Directors to perform the Auditor of State's annual audit of the Safety and Hygiene Fund and administration of the Workers' Compensation Law.

R.C. 4121.129

Same as the Executive.

Eliminates the requirement that the Audit Committee recommend to the Board an actuarial firm to perform the required annual actuarial analysis of the workers' compensation funds.

Same as the Executive.

Requires the Workers' Compensation Actuarial Committee to review and approve rate schedules prepared and presented by the BWC actuarial division or by contracted

Same as the Executive.

Executive

As Passed by the House

actuarial consultants rather than reviewing only those rate schedules prepared by contracted actuarial consultants as under current law.

Fiscal effect: Minimal. There may be some administrative savings for BWC if the rate schedules that the Actuarial Committee are to review and approve can be done by BWC actuarial staff rather than contract actuarial consultants.

Fiscal effect: Same as the Executive.

BWCCD11 Volunteer corporate officers and workers' compensation

R.C. 4123.01

Exempts volunteer corporate officers who work for a nonprofit corporation from coverage under Ohio's Workers' Compensation Law, and does not allow these volunteer corporate officers to elect coverage under the law.

Requires persons who under continuing law may elect to be covered under the law to make that election in accordance with the rules adopted by the Administrator of Workers' Compensation with the advice and consent of the Bureau of Workers' Compensation Board of Directors.

Fiscal effect: Potential for few claims to be filed if these individuals would no longer be receiving coverage, However, the number of such claims would likely be small.

R.C. 4123.01

Same as the Executive.

Same as the Executive.

Fiscal effect: Same as the Executive.

Executive

As Passed by the House

BWCCD2 Sick leave and temporary total disability leave compensation**R.C. 4123.56**

Allows temporary total disability compensation to be paid without an offset for supplemental sick leave benefits provided by the employer if the employer and employee mutually agree in writing.

Fiscal effect: None apparent.

R.C. 4123.56

Same as the Executive.

Fiscal effect: Same as the Executive.

BWCCD1 Workers' compensation death benefit eligibility**R.C. 4123.59**

Allows for a mentally or physically incapacitated dependent to continue receiving workers' compensation death benefits while the dependent is working in a sheltered workshop, as long as the dependent does not receive income, compensation or remuneration from that employment in excess of \$2,000 in any calendar quarter.

Fiscal effect: Potential increase in death benefit payments from the State Insurance Fund for dependents that meet these criteria.

R.C. 4123.59

Same as the Executive.

Fiscal effect: Same as the Executive.

BWCCD6 Appeals from adjudicating committee decisions**R.C. 4123.291**

Eliminates the requirement that the Administrator of Workers' Compensation or Administrator's designee must hold a hearing on the employer's appeal of an adverse decision of an adjudicating committee, but requires a hearing if the employer requests one.

R.C. 4123.291

Replaces the Executive provision with a provision that (1) allows the employer to request that a hearing of an adverse decision be waived, and (2) requires the Administrator to decide whether to grant or deny a request to waive a hearing.

Executive

As Passed by the House

Fiscal effect: Potential reduction in administrative hearing costs if some employers choose not to have a hearing on an adverse decision.

Fiscal effect: Same as the Executive, but likely a smaller reduction in hearings under this provision than under the Executive.

BWCCD9 DWRf assessments and alternative funding of claims for certain private and public taxing district employers

R.C. 4123.411, 4123.419

R.C. 4123.411, 4123.419

Permits, rather than requires under current law, the Administrator of Worker's Compensation to levy assessments on employers for amounts necessary to sustain Disabled Worker Relief Fund (DWRf) for claims occurring before January 1, 1987.

Same as the Executive.

Allows the Administrator, with the advice and consent of the Bureau of Workers' Compensation Board of Directors, to transfer investment earnings of the surplus or reserve accounts in the State Insurance Fund amounts necessary to the DWRf to cover DWRf claims involving private and public taxing district employers, rather than levying these assessments against these employers.

Same as the Executive.

Eliminates the current law requirement to make transfers from the Disabled Worker Relief Fund to the GRF to reimburse the GRF for moneys appropriated for disabled worker relief.

Same as the Executive.

Fiscal effect: Potential reduction in moneys within the surplus and reserve accounts in the State Insurance Fund; however, DWRf claims in this provision are becoming rare. Also, potential small savings for certain private and public taxing district employers that will no longer be charged DWRf assessments.

Fiscal effect: Same as the Executive.

Executive

As Passed by the House

BWCCD3 Notice to employer of appellate obligations

R.C. 4123.512

Adds to the notice that the Administrator of Workers' Compensation must provide to an employer, upon appeal of an order of the Industrial Commission, that the results of the appeal may result in recovery against an employer who is a noncomplying employer.

Fiscal effect: None apparent.

R.C. 4123.512

Same as the Executive.

Fiscal effect: Same as the Executive.

BWCCD13 Workers' Compensation Fraud Unit

Section: 3

Earmarks \$828,200 in each fiscal year of appropriation item 855410, Attorney General Payments, to fund the expenses of the Workers' Compensation Fraud Unit within the Attorney General's Office, and requires these payments to be processed at the beginning of each quarter of each fiscal year and deposited into the Workers' Compensation Section Fund (Fund 1950) used by the Attorney General.

Section: 3

Same as the Executive.

BWCCD14 Safety and Hygiene

Section: 3

Requires the Treasurer of State to transfer \$21,661,132 in cash in each fiscal year from the State Insurance Fund to the Safety and Hygiene Fund (Fund 8260).

Section: 3

Same as the Executive.

Executive

As Passed by the House

BWCCD15 OSHA On-Site Consultation Program

Section: 3

Allows a portion of appropriation item 855609, Safety and Hygiene Operating, to be used to match federal funding for the federal Occupational Safety and Health Administration's On-Site Consultation Program operated by the Division of Safety and Hygiene..

Section: 3

Same as the Executive.

BWCCD16 Interagency agreement for provision of vocational rehabilitation services

Section: 3

Requires BWC and the Opportunities for Ohioans with Disabilities Agency to enter into an interagency agreement for the provision of vocational rehabilitation services and staff to mutually eligible clients. Specifies that BWC may provide up to \$605,407 in each fiscal year from the State Insurance Fund as part of the interagency agreement.

Section: 3

Same as the Executive.

Executive

As Passed by the House

BWCCD17 Deputy Inspector General for BWC and OIC funding

Section: 4

Requires the Director of Budget and Management to transfer \$212,500 in cash from the Workers' Compensation Fund (Fund 7023) to the Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission Fund (Fund 5FT0) on July 1 and January 1 of each fiscal year, or as soon as possible after these dates, to pay for the costs of the Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission over the FY 2016-FY 2017 biennium. Authorizes the Inspector General to seek Controlling Board approval for additional cash transfers and appropriations if needed.

Section: 4

Same as the Executive.



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Ohio Manufacturers' Association
Workers' Compensation Counsel Report
May 5, 2015

By: Sue A. Wetzel, Esq.
Bricker & Eckler LLP

Regulatory Actions

O.A.C. 4123-6-01.2 Provisional Treatment Reimbursement Approval – Pilot Program

- BWC filed the rule with JCARR on April 13, 2015
- Public Hearing scheduled for May 22, 2015

The proposed rule would permit BWC to implement a pilot program under which an MCO could authorize medical treatment reimbursement requests for the first 60 days from the initial allowance of an identified at-risk claim.

The BWC may conduct the pilot program for a period of one year from the effective date of the rule, but could be terminated early or extended for up to one additional year.

Legislative Actions

SB 5 – see additional handout

SB 149 – Proposed bill to amend O.R.C. §§ 4123.57 and 4123.58 which would permit an individual who has lost the use of a body part due to a brain injury or spinal cord injury eligible for partial disability and permanent total disability compensation under the Workers' Compensation Law.

Judicial Actions

State ex rel. Viking Forge Corp. v. Perry, 2015-Ohio-968

On March 18, 2015, the Supreme Court of Ohio handed down this per curiam decision finding that the Industrial Commission did not abuse its discretion when it relied on the medical report of Dr. Steven Rodgers and testimony of Kelly Perry (“Mr. Perry”) in finding that Mr. Perry was entitled to TTD compensation.

After Mr. Perry was injured in an industrial accident while working for Viking Forge Corporation (“VFC”) in September 2008, Dr. Drew Engles

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performed surgery on both of Mr. Perry's thumbs. After a period of TTD, Mr. Perry returned to light duty work in December 2008 and to his full former position with no medical restrictions in February 2009. At that point, Dr. Engles believed that Mr. Perry could be discharged from active care.

In March 2009, VFC terminated Mr. Perry's employment for violating work rules. Mr. Perry then returned to Dr. Engles, requesting to be placed on work restrictions and continue therapy. When Dr. Engles, who believed Mr. Perry had maximized the benefit of therapy, denied this request, Mr. Perry changed his physician of record to Dr. Rodgers. Thereafter, Dr. Rodgers placed Mr. Perry on restricted duty, and Mr. Perry applied for an additional period of TTD compensation. Relying on Dr. Rodgers's finding that Mr. Perry was temporarily and totally disabled, as well as Mr. Perry's testimony that he had not voluntarily abandoned his employment, the SHO awarded the request.

VFC then filed a complaint, alleging that the Commission had abused its discretion. On appeal before the Supreme Court, VFC challenged the sufficiency of the evidence supporting Mr. Perry's claim in three ways: first, VFC argued that there were no new or changed circumstances since Dr. Engle's report to support Dr. Rodger's contradictory opinion that Mr. Perry could not work. Second, the employer argued that Mr. Perry's termination from employment was voluntary and therefore made him ineligible for TTD compensation. Finally, VFC argued that the SHO failed to adequately explain the basis for its decision.

Noting that the Commission is exclusively responsible for evaluating the weight and credibility of evidence in deciding disputed issues of fact, the Supreme Court found that the Commission did not abuse its discretion. Specifically, the Court found that it was within the Commission's discretion to rely on Mr. Perry's testimony and Dr. Rodgers's medical documentation in reaching the decision to award TTD compensation. So long as the Commission's order is supported by evidence in the record, as here, there is no abuse of discretion.

State ex rel. Penwell v. Indus. Comm'n, slip op. no. 2015-Ohio-976

On March 19, 2015, the Supreme Court of Ohio handed down this per curiam decision, finding that the "one-time malfunction" exception to the violation of a specific safety requirement ("VSSR") rule was applicable in the case at hand because the machine in question was equipped with statutorily sufficient safety devices, there was no indication of malfunction on the date of injury, and there was evidence that no similar malfunction had occurred in nearly four decades.

Here, Cathy Penwell was employed as a press operator for Amanda Bent Bolt Company ("ABB"), where she operated a hydraulic press. On May 18, 2007, the machine she operated appeared to be in good working order. Ms. Penwell began her shift and, after punching holes in

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five parts, left the machine to perform a required quality-control inspection. Shortly after she returned to her machine and rehooked her wrist restraints, the machine's ram descended on her left hand, causing serious injuries. This was the first time in at least 38 years that there had ever been a malfunction of the safety guards on this machine.

In addition to her claim for workers' compensation benefits, Ms. Penwell applied for a VSSR award. To establish entitlement to such an award, a claimant must show that (1) there is a specific safety rule applicable to the employer; (2) the employer violated the rule; and (3) the violation proximately caused the injury. Here, the specific safety rule at issue can be found in Ohio Administrative Code Section 412:1-5-11(E), which includes a "pull guard," such as the one Ms. Penwell used, as an acceptable safety device for a hydraulic press.

The SHO ultimately found that the "one-time malfunction" exception to a VSSR award applied. This defense provides that the fact that a safety mechanism that otherwise complies with the safety regulations failed on a single occasion is sufficient to find that the safety regulation was violated. Because the accident here involved a one-time malfunction of the pullback system and there was no evidence of mechanical defect with the press, the SHO concluded this exception applied.

Thereafter on appeal, Ms. Penwell argued that the Industrial Commission's application of the "single failure" exception to VSSR liability is precluded by evidence that ABB repeatedly informed its operators not to rely on the pullback guards during the monthly safety meetings. The Supreme Court affirmed the magistrate's conclusion that these safety meetings and warnings were components of a good safety policy and not evidence that ABB knew the pullback system would fail.

Further, the Court held that an allegation that an employer has violated a duty to its employees cannot justify a VSSR award unless the employer acts contravene to the express statutory provisions. Here, ABB used an approved guard for its hydraulic press—the only duty imposed by the specific safety rule. Therefore, it is irrelevant if there were more effective safety mechanism for the press. Because the pullback safety system was in good working order on the date of injury, and because similar presses had been operated for at least 38 years without a single failure of a pullback guard, the employer was not forewarned of any indication that the machine would malfunction. Accordingly, the Court concluded that a VSSR award was inappropriate.

State ex rel. Baker v. Indus. Comm., slip op. No. 2015 Ohio 1191

After sustaining a workplace injury in 1995, Karen Baker was awarded TTD compensation for several years. However, a 2008 investigation by the BWC revealed that Ms. Baker had been concealing her subsequent employment in order to receive benefits to which she was not entitled.

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Thereafter, the Industrial Commission declared that Ms. Baker had been overpaid from January 2002 through November 2007 due to her fraudulent activity.

In March 2010, using attorney representation, Ms. Baker successfully filed an application to increase her PPD compensation. The BWC credited the nearly \$25,000 resultant award to reduce her overpayment balance. The law firm representing Ms. Baker subsequently brought this action, seeking a writ of mandamus compelling the BWC to pay Ms. Baker's attorney fees from her PPD award.

On appeal, the Supreme Court of Ohio rejected each of the law firm's arguments, finding that the firm had no clear legal right to payment of the attorney fees from Ms. Baker's PPD award. The Court specifically held that the BWC cannot be obligated to perform a duty that does not exist in law. Further, the Court found that a writ of mandamus would not be appropriate here because the law firm had an adequate remedy in the ordinary course of the law—namely, pursuing a claim against Ms. Baker based on the fee agreement that she executed with the firm.

State ex rel. Romero v. River City Drywall Supply, Inc., slip op. No. 2015-Ohio-1194

Moses Romero sustained a workplace injury in 2008, and in 2010, the Industrial Commission determined that he had a 6% permanent partial disability. In 2011, the Commission allowed an additional condition to his claim and increased his award by 4%, for a total of 10% permanent partial disability. In October 2011, the Commission again amended his claim to include an additional condition. Mr. Romero subsequently requested another increase in his PPD compensation based on this newly allowed condition.

After reviewing his medical file, Dr. V.P. Mannava opined that Mr. Romero had a whole-person impairment of only 5%. Conversely, Dr. Matt Murdock performed an independent medical review and concluded that Mr. Romero had a 14% whole-person impairment based solely on the newly allowed condition that, when combined with his previous award, resulted in a finding of a 24% whole-person impairment. Thereafter the DHO approved an increase of 4% impairment, for a total of 14% impairment, based on the reports of Dr. Mannava and Dr. Murdock. The SHO affirmed.

Mr. Romero then filed a complaint in mandamus, arguing that the Commission's decision to award only a 4% increase was not supported by the record. On appeal, the Supreme Court found that Mr. Romero had failed to establish that the Commission had abused its discretion.

Noting that the Commission has exclusive discretion to determine the weight and credibility of the evidence, the only issue before the Supreme Court was whether the Commission's order relied on "some evidence" in the record. Here, the Court found that the Commission had relied on the reports of Dr. Mannava and Dr. Murdock in reaching its decision to assign Mr. Romero a

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whole-person impairment of 14%. Specifically, the Court found that it was well within the Commission's discretion to choose a percentage of whole-person impairment within the range suggested by these doctors.

The Court also held that non-examining physicians are not required to name the examining physicians whose finding they relied on. As such, the Court found that Mr. Romero failed to establish that the Commission abused its discretion.

State ex rel. Turner Constr. Co. v. Indus. Comm., slip op No. 2015 Ohio 1202

Raymond Stevens had four separate workers compensation claims between February 1992 and July 2007, each arising from injuries sustained in the course of employment with different employers. This appeal involves his 2007 claim for a thoracic strain and major depressive disorder. He sustained these injuries while employed by Turner Construction Company.

After Mr. Stevens applied for PTD compensation in 2011, Dr. Donald Weinstein, a psychologist, evaluated Mr. Stevens on behalf of the Industrial Commission. Dr. Weinstein determined that Mr. Stevens was incapable of working due to the psychological condition caused by the July 2007 injury. The SHO thereafter granted his application and ordered PTD compensation to begin in September 2011.

Turner Construction objected, asserting that the entire award should not be assigned only to the 2007 claim given that Mr. Steven had three previous claims. The Commission found, however, that the 2007 claim was the only one to include a psychological condition and the only claim to which doctors had attributed Mr. Steven's inability to work. Turner Construction then filed a Complaint, alleging that the Commission's decision was not based on the evidence and thus constituted an abuse of discretion.

The Supreme Court held that, as long as the Commission's order is supported by some evidence in the record, there is no abuse of discretion. Noting that Mr. Steven's psychological condition was only allowed in his 2007 claim, and that there is no evidence that Mr. Stevens sought psychiatric care prior to the 2007 injury, the Supreme Court found that the record supported the Commission's finding. Further, because Dr. Weinstein opined that Mr. Stevens was incapable of returning to any form of employment due to his 2007 injury, the Commission did not abuse its discretion when attributing the entire award to this injury.

State ex rel. Alhamarshah v. Indus. Comm., slip op. No. 2015-Ohio-1357

On April 9, 2015, the Supreme Court of Ohio handed down this per curiam decision finding that Mustafa Alhamarshah could not seek relief from the Commission's order through a writ of mandamus because he had an adequate remedy at law—namely, the right to appeal under Ohio Revised Code Section 4123.512.

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Mr. Alhamarshah was injured in September 2009, when he fell while trying to cut a tree branch. On his application for workers' compensation benefits, he alleged that he sustained the injury during the course of his employment for Mohamed Salem. The BWC allowed the claim against Mr. Salem as the employer and ordered payment of medical benefits and TTD compensation. The order instructed the parties to contact "Jolene M." with any questions.

Thereafter, Mr. Salem contacted Jolene via telephone and faxed documents, addressed to "Jolin," that allegedly disproved any employer/employee relationship. Although the cover sheet identified the subject as "Mustafa Alhamarshah – Mohammad Salem," it did not include the claim number or date of the order being appealed. Nevertheless, a BWC employee apparently marked the documents with the words "construe as appeal" and forwarded them to the appeals section of the Commission. The Commission ultimately concluded that this appeal substantially complied with the statutory requirements.

After the Commission disallowed the claim, finding that Mr. Alhamarshah was not employed by Mr. Salem, Mr. Alhamarshah filed an appeal in the Franklin County Court of Common Pleas. While this appeal was pending, he also filed a complaint for a writ of mandamus, alleging that the Commission's order determining that Mr. Salem's administrative appeal was valid was an abuse of discretion.

The Supreme Court here first noted that Mr. Alhamarshah, like any party, could appeal the Commission's final order to the Court of Common Pleas. The Court further noted that a party must lack an adequate remedy in the ordinary course of law as a prerequisite for relief in mandamus. Finally, the Court noted that, when a party has an adequate remedy at law by way of appeal, as here, courts lack authority to exercise jurisdictional discretion regardless of whether the remedy was used.

Here, the Commission determined that Mr. Salem had substantially complied with the statutory requirements for a notice of appeal of the BWC's initial order. This conferred jurisdiction on the Commission to consider the merits of the appeal. Therefore, because Mr. Alhamarshah had an adequate remedy at law by way of an appeal under R.C. § 4123.512 regarding the issue raised in this case, he was not entitled to relief in mandamus.

State ex rel. Metz v. GTC, Inc., slip op. No. 2015-Ohio-1348

On April 9, 2015, the Supreme Court of Ohio issued this per curiam decision, finding that Claimant Joseph Metz ("Claimant") had not met his burden in seeking a writ of mandamus. As such, the Supreme Court found that the appellate court had abused its discretion in granting a limited writ.

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Claimant sustained a workplace injury in May 2005, and he has not worked since that day. In February 2011, he filed an application for PTD benefits. In response, the Commission submitted two reports that the SHO ultimately relied on in denying the requested PTD benefits. This included (1) a report from physician Dr. Karl Metz, concluding that Claimant's physical condition had reached MMI and that he was capable of returning to sedentary work; and (2) a report from psychologist Dr. Steven Van Auken, concluding that Claimant's depression had reached MMI and he was restricted to working in environments "that offered no more than moderate demands in terms of deadline pressures, productivity requirements, the need for frequent decision making and frequency of contact with the general public." Using these reports, the SHO determined that, because Claimant could perform sedentary work in a non-stressful environment, he was not permanently and totally disabled.

Claimant thereafter filed a complaint for a writ of mandamus, alleging that the Commission abused its discretion by failing to consider the additional restrictions Dr. Metz and Dr. Van Auken had placed on him. The Tenth District Court of Appeals granted a limited writ of mandamus, ordering the Commission to clarify the opinion of Dr. Metz or obtain additional medical evidence.

On appeal, the Supreme Court reiterated the well-established position that the Commission is not required to list all evidence *considered* in issuing its order, but only that which was *relied upon* to reach its conclusion. Here, the SHO explicitly stated that his decision was "based upon the limited physical restrictions indicated by Dr. Metz." This indicates that the SHO considered Dr. Metz's suggested restrictions and found them to be consistent with sedentary employment. Additionally, although Claimant asserted that the Commission failed to address the alleged conflict between Dr. Metz's restrictions and the definition of "sedentary work," the Court found that the no such conflict existed. Further, Claimant did not provide evidence to overcome the presumption that the Commission considered all the evidence before it. As such, the Court concluded that his assertion lacked merit.

The Court also determined that Claimant's cross-appeal alleging that the court of appeals failed to address the psychological restrictions imposed in the medical report of Dr. Van Auken lacked merit. Specifically, the appellate court had found that the Commission's order had referenced Dr. Van Auken's restrictions. This claim is therefore baseless.

The Court concluded that, because the Claimant did not meet his burden in seeking a writ of mandamus, the court of appeals abused its discretion in issuing a limited writ. Therefore, the Supreme Court reversed the lower court's ruling and denied the writ.

State ex rel. Stevens v. Indus. Comm., slip op. No. 2015-Ohio-1352

Sophia Stevens fell while working as a nursing assistant in 1979. Thirty years later, in 2009, she filed a motion for PTD compensation. The award was initially granted. However, the BWC

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thereafter requested that the Commission reconsider the decision on the basis that the SHO had failed to consider evidence that Ms. Stevens had voluntarily abandoned the workforce. Such evidence speaks directly to the issue of whether a Claimant is eligible for PTD benefits.

Thereafter, the Commission determined that the SHO's failure to address the issue of voluntary abandonment was a mistake of law that authorized the Commission to conduct a new hearing. After reviewing the evidence, the Commission denied Ms. Stevens's request for benefits. Ms. Stevens then filed a complaint for a writ of mandamus, alleging that the Commission abused its discretion in denying her application.

This matter came before the Supreme Court on appeal regarding three issues. First, Ms. Stevens argued that the Commission abused its discretion by exercising its continuing jurisdiction over her application for PTD compensation. However, a party may request the Commission exercise its continuing jurisdiction if there is a clear mistake of law that requires reconsideration. Accordingly, because voluntary abandonment is a critical issue to the determination of PTD compensation eligibility, a hearing officer's failure to address the issue once it is raised, as here, constitutes a mistake of law. As such, the Commission did not abuse its discretion in exercising its continuing jurisdiction.

Second, Ms. Stevens initially argued that she was deprived of due process of law because one of the three voting Commissioners did not attend the hearing. However, while this appeal was pending, the Supreme Court issued its decision in *Sigler v. Lubrizol Corp.*, finding that a voting Commissioner need not attend the hearing so long as the Commissioner conducts a meaningful review of the evidence before casting a vote. In a reply brief, Ms. Stevens conceded that the absent Commissioner here had stated that he reviewed all the evidence in the claim file and thoroughly discussed the matter with the SHO who was present at the hearing in question. She therefore conceded that, as per *Sigler*, she was not denied due process of law.

Finally, Ms. Stevens argued that the Commission abused its discretion when it denied her application for PTD. Here, however, the Court found that the Commission relied on medical evidence demonstrating that Ms. Stevens had both the physical and intellectual capacity to work. Accordingly, the Court determined that the Commission did not abuse its discretion in denying the requested PTD compensation.

Disciplinary Counsel v. Grubb, slip op. No. 2015-Ohio-1349

On April 8, 2015, the Ohio Supreme Court handed down this per curiam decision adopting the Board of Commissioners on Grievances and Discipline's ("Board") recommended sanction of a six-month stayed suspension for Attorney Natalie Ference Grubb.

Attorney Grubb had represented injured worker Tracie Lytle in workers' compensation matters from 2005 through 2010. Between February and July 2007, Ms. Lytle received TTD

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compensation based on a determination that she was unable to work. However, during that time period, Attorney Grubb also provided funds to Ms. Lytle, including reimbursements for mileage to attend court hearings and doctors' appointments, as well as to take Attorney Grubb's mother to lunch. After Attorney Grubb assisted Ms. Lytle in refunding overpayments from the BWC, the BWC commenced an investigation into the possibility that Attorney Grubb was improperly employing Ms. Lytle while she collected TTD compensation.

Prior to being charged with any crime, Attorney Grubb entered a plea agreement with the Ohio Attorney General's office in which she agreed to plead guilty to complicity to commit workers' compensation fraud. She also paid restitution to the BWC in the amount of the TTD benefits Ms. Lytle had collected during the period in issue and paid the costs for the BWC's investigation.

During the disciplinary hearing, the parties stipulated, and the Board found, that Attorney Grubb had violated the Rules of Professional Conduct.

When imposing sanctions for attorney misconduct, the Supreme Court will consider all the relevant evidence, including any aggravating or mitigating factors. Here, the Board found several mitigating factors—such as absence of prior discipline, cooperation in the disciplinary process, payment of restitution, and evidence of good character and reputation—and no aggravating factors.

Having considered Ms. Grubb's misconduct, the mitigating factors, and the sanctions imposed in comparable cases, the Court here adopted the Board's recommended sanction. Accordingly, Ms. Grubb was suspended from the practice of law in Ohio for six months, with the entire suspension stayed on the condition that she commit no further misconduct.

Safety & Workers' Compensation

New BWC Billing System Effective July 1 for Private Employers

As part of its move to a new prospective billing system, the Ohio Bureau of Workers' Compensation (BWC) board of directors last week approved a plan to allow private employers to pay for their annual workers' compensation premiums in two, four, six or twelve installments for more flexibility.

Under the new system, businesses will be billed prior to receiving coverage instead of the previous system of billing employers after they have received coverage.

Businesses can expect to receive their first notice of estimated annual premium in early June for the 2015 policy year. Beginning July 1, businesses will pay an estimated premium for the upcoming coverage year and undergo a payroll "true-up" process after the policy year ends to ensure the proper premium was paid.

To ease transition costs for employers, BWC will pay employers' premium obligation for January 1 to June 30, 2015, or final payroll report under the old system, as well as the first two months of the 2015 policy year premium (July and August). Therefore, the first payment employers will pay under prospective billing won't be due until August 31.

The switch to prospective billing is expected to provide an overall base rate reduction of 2.4% for private employers and increased ability for BWC to detect employer non-compliance and fraud.

BWC continues to have available dates for [free prospective billing seminars](#). 4/24/2015

We're Talking Marijuana at May 5 OMA Meeting

The OMA Safety & Workers' Compensation Committee meeting is [Tuesday, May 5](#) from 10:00 a.m. until 1:00 p.m. in the [OMA offices](#) (includes lunch provided by the OMA).

Among the agenda items we have planned, [Joëlle C. Khouzam](#), attorney with Bricker & Eckler LLP will discuss marijuana in the workplace, including: 1) other states' legalization laws; 2) Ohio fall ballot initiatives; and 3) employer impacts of marijuana legalization. There will also be an update on [Senate Bill 5](#), a measure that would allow a workers' compensation claim for posttraumatic stress disorder

for Ohio's first responders, even when no physical injury or illness occurs.

A call-in option will be available at: (866) 362-9768, 552-970-8972#. If you haven't already, please [register here](#) for in-person or call-in attendance. Or email [Denise Locke](#) or call us at (800) 662-4463. 4/30/2015

Senate Still Ponders Coverage for Mental Conditions in Workers' Comp

This week the Senate Finance Committee delayed a vote on [SB 5](#), which would allow for posttraumatic stress disorder (PTSD) claims for first responders without physical injuries. According to actuaries at the Ohio Bureau of Workers' Compensation, the bill would cost local governments \$182 million a year, about doubling rates for coverage.

Senate apparently is gearing up for a vote. [Senate President Keith Faber](#) (R-Celina) is quoted in the media as saying that the state should not discriminate against those with mental illness in the workers' comp system.

The OMA and the rest of the business community oppose the bill. 4/23/2015

Countdown to BWC's New Payment Plan

In late May, BWC will mail all private employers a notice of estimated annual premium ([like this sample](#)). This notice will be based on your reported payroll for July 1, 2013 to June 30, 2014. It is not a bill, but please review it for accuracy and contact BWC if you feel something is incorrect.

Additional information on prospective billing, including timelines, frequently asked questions and key dates to remember, is [available here](#). 4/17/2015

Questions about BWC's Drug-Free Safety Program?

OMA Connections Partner, Working Partners @, answers questions about the Bureau of Workers' Compensation (BWC) Drug-Free Safety Program in this [fact sheet](#). The current enrollment period ends May 29. 4/17/2015

May 12 Webinar: Marijuana Legalization and Business Impacts

On Tuesday, May 12, OMA Connections Partner, Working Partners®, will hold a no-charge webinar from 1-2:30 p.m. EST: **Marijuana Legalization and Its Impact on Business Operation**. The presenters are:

- Dee Mason, president, *Working Partners®*, with 23 years providing drug-free workplace program management services to employers and systems.
- Kevin Griffith, J.D., Littler Mendelson LPA, with primary practice in the areas of business competition litigation and employment litigation, with more than 30 years' experience working with clients implementing drug free workplace programs.

[Read more and register.](#) 4/10/2015

BWC's 'Destination: Excellence' Enrollment Deadline is May 29

Enrollment is currently underway for employers to sign up for several of the Destination: Excellence programs. Destination: Excellence is a bundle of programs BWC offers that help businesses improve workplace safety, enhance injured worker care and save money on workers' compensation costs.

Sign up with the BWC between now and May 29 for these programs:

- **Industry-Specific Safety Program**, a 3 percent premium rebate for completing loss-prevention activities;
- **Drug-Free Safety Program**, a 4 or 7 percent premium rebate for incorporating an alcohol and drug testing and education program;
- **Transitional Work Bonus Program**, a 10 percent premium rebate for successfully returning an injured worker released with restrictions back to work.

BWC's new [Destination: Excellence brochure](#) includes more details about the programs and enrollment deadlines. [Here is a tool](#) OMA created to help employers understand their Destination: Excellence eligibility.

And, all OMA members who buy their workers' comp services from OMA can log into [My OMA](#) to see your company's Destination: Excellence saving report. Need help? Contact [Barb](#), [Georgia](#) or [Denny](#). 4/15/2015

OMA Members Recognized for Safety

This week the Ohio Bureau of Workers' Compensation (BWC) awarded 35 employers in the Cincinnati area its Special Award for Safety at an annual awards ceremony of the Greater Cincinnati Safety Council.

The award recognizes businesses that have gone at least 500,000 hours and at least six months without an injury resulting in a day or more away from work. OMA members recognized include: INEOS ABS (USA) Corp - 911,836 hours worked; and Sur-Seal Gasket & Packaging Inc. - 1,319,900 hours worked.

BWC's Division of Safety & Hygiene sponsors [82 safety councils](#) across the state. 4/16/2015

Hosting Recreational Events without Inviting Workers' Compensation Claims

The potential for workers' compensation liability for injuries occurring during employer-sponsored recreational activities, such as on-site basketball games, sports leagues, competitions and parties, often discourages employers from providing such activities. But this need not be the case. [Read advice](#) from OMA Connections Partner, Bricker & Eckler LLP, for having fun while minimizing liability. 4/15/2015

Expansion of Workers' Comp Coverage Costly & Risky

The Ohio Senate is considering [Senate Bill 5](#) (SB 5), which would allow workers' compensation claims for posttraumatic stress disorder (PTSD) for first responders where there are no physical injuries.

Ohio Bureau of Workers' Compensation (BWC) Administrator Steve Buehrer [testified](#) that the bill would cost local governments \$182 million a year, nearly double the local governments' total current workers' compensation costs for that coverage.

Cost increases will be passed along to local taxpayers, and, critically, the expansion of benefits to public employees will establish a precedent for expansion of benefits to private employers in the future. Should this happen, workers' compensation premiums for Ohio manufacturers would increase dramatically.

Buehrer told a Senate committee that, in the long history, of workers' compensation in Ohio, mental conditions have only been allowed when coincident

with physical injuries or illnesses. He explained that such conditions are covered in health insurance, not workers' compensation. And, he noted that other types of occupations beyond police and fire fighters witness trauma and will inevitably push for the same benefit. In spite of these concerns, a majority of senators seem to favor passage.

The OMA, together with all other major Ohio business organizations, opposes SB 5. Here's a [joint letter](#) from business groups to the Senate.

You can quickly and easily email your Ohio senator at [OMA's Manufacturing Advocacy Center](#) to ask him or her to oppose this measure. 4/2/2015

BWC Safety Innovation Finalists Named

Five finalist companies split a pot of \$17,000 in prize money in the Ohio Bureau of Workers' Compensation (BWC) Safety Innovations Competition, which recognizes Ohio employers that have developed innovative solutions to reduce workplace injuries and illnesses. The award was presented during the Safety Congress & Expo 2015, BWC's annual three-day occupational safety, health and workers' compensation conference.

Twelve semifinalists were selected from the 53 companies that entered the competition and the five finalists showcased their innovations at Safety Congress this week. A panel of independent judges evaluated and scored the innovations based on a number of criteria, including risk reduction, innovation, return on investment, potential for the innovation to be utilized by other employers, and presentation quality.

Congratulations to all competitors and finalists, and a special shout-out to OMA member, Mansfield Engineered Components. The finalists:

- 1st place (\$7,000 award): Bemis North America, of Fremont (Sandusky Co.)
- 2nd place (\$5,000 award): First Solar Inc., Perrysburg (Wood Co.)
- 3rd place (\$3,000 award): FORJAK Industrial, Columbus (Franklin Co.)
- 4th place (\$1,000 award): Mansfield Engineered Components, Mansfield (Richland Co.)
- 5th place (\$1,000 award): Harmony Systems and Service Inc., Piqua (Miami Co.) 4/2/2015

BWC: Flexible Payment Plans Coming with Prospective Billing

The Ohio Bureau of Workers' Compensation (BWC) took another step toward modernizing its billing process by presenting its board of directors with a plan to offer flexible payment options for Ohio businesses. If approved by the board next month, businesses will be able to pay for their annual workers' compensation premiums in two, four, six or twelve installments. The proposal is part of the BWC's move to prospective billing, in which business will be billed prior to receiving coverage.

Under prospective billing, which will take effect July 1 for private employers, businesses will pay an estimated premium for the upcoming coverage year and undergo a "true-up" process after the policy year ends to ensure the proper premium was paid. Premium is based on a number of factors, including the employers' payroll and risk of having a workplace injury.

Businesses can expect to receive their first notice of estimated premium in early June for the 2015 policy year, which begins July 1, 2015. BWC is picking up the cost of the first two months of 2015 coverage, meaning the first payment under prospective billing won't be due until August 31, 2015. In addition, BWC is paying businesses' previous six months coverage, or final payroll report, under the retrospective system. These credits are part of a \$1.2 billion plan approved by the BWC board last year to ease transition costs for employers.

Employers can prepare for the new system by visiting [BWC's website](#) and/or signing up for one BWC's [free prospective billing seminars](#) being held throughout the state in April.

Private employers must be in an active status on July 1 to receive the transition credit. 3/26/2015

Ohio Safety Congress & Expo Starts March 31

It's not too late to register for the [2015 Ohio Safety Congress & Expo](#) (OSC15), the largest regional safety and health conference in the U.S. This year's event will be held March 31 to April 2 at the Greater Columbus Convention Center. 3/16/2015

Buehrer Inducted into Ohio Association of Commodores

Steve Buehrer, Administrator/CEO of the Ohio Bureau of Workers' Compensation (BWC), has been inducted into the Ohio Association of Commodores after being appointed by Governor Kasich.

The Ohio Commodores was formed in 1966 by Governor James A. Rhodes to assist in advancing the growth and development of the state and prosperity of its citizens. Its members are recognized by the governor with *The Executive Order of the Ohio Commodore* for their business accomplishment, acumen and leadership.

The Ohio Association of Commodores consists of 300 members including government officials, university presidents and administrators; banking and legal professionals; leaders of trade organizations; chambers and economic development organizations; and senior management executives of large, medium and small manufacturers from across Ohio in a wide variety of industries.

Buehrer is a native of Northwest Ohio and a former legislator who served in both the Ohio House and Senate. As Administrator/CEO of BWC, he leads the largest state-fund workers' compensation insurance system in the nation. Since his appointment by Governor Kasich in 2011, he has focused on the agency's mission of preventing workplace accidents and caring for Ohioans who are injured on the job, while working closely with stakeholders to improve service to employers and injured workers.

A photo from the ceremony is available [here](#). 3/18/2015

Cuyahoga County Judge Strikes Down Workers' Comp Statute, Hinders Employers Challenging Claims in Court

OMA Connections Partner, Roetzel, reports that the Cuyahoga County Court of Common Pleas recently made it more difficult for Ohio employers to challenge workers' compensation claims in court.

In *Shannon Ferguson v. State of Ohio*, the court ruled the Ohio statute prohibiting a claimant from voluntarily dismissing his or her complaint without the employer's consent when the employer filed the appeal was unconstitutional.

According to Roetzel, "The court's decision will place a significant burden on employers challenging workers' compensation claims in court. If an employer appeals to court, there can be up to one year before a trial is held. If the claimant dismisses the complaint before trial, there can be another year before the case is re-filed and yet another year before the trial arrives. A claimant can thus extend benefits for up three years before being forced to litigate a case that could result in a complete disallowance of the claim. Even if the employer is ultimately successful, in reality it may be difficult to recover the payment of all those benefits. The net result is either a significant direct cost to self-

insured employers or increased premiums to state-funded employers." [Read more](#) 3/12/2015

Workers' Comp Budget Cruises Through the House

This week the Bureau of Workers' Compensation (BWC) budget, [HB 52](#), was voted unanimously off the House floor 96-0. The bill which funds the agency for the next two years received support from numerous organizations within the business community including the OMA.

In a [letter](#) to [Chairman Bob Hackett](#) (R - London) of the House Insurance Committee, Rob Brundrett, Director, Public Policy Services wrote, "In recent years, the BWC has increased its investments in employer safety programs, returned dollars generated by its investments to employers in a prudent fashion, reduced base premium rates, initiated medical management model improvements, and implemented projects that continue to modernize the operations. BWC is now proposing a biennial budget that is less than its last budget, while continuing important strategic programs."

The bill moves on to the Senate for what is expected to be a speedy approval. 3/12/2015

BWC Funding Workplace Safety Research

The Ohio Bureau of Workers' Compensation (BWC) and Ohio Board of Regents are awarding six higher education institutions in Ohio for \$2 million in funding for [nine research proposals](#).

BWC created the research grant program as a part of the *Another Billion Back* plan that returned \$1 billion to Ohio public and private employers last summer. The program is designed to support advanced research and promote innovation in the areas of workplace safety and health. BWC's Division of Safety and Hygiene, assisted by the National Institute of Occupational Safety and Health, scored applications and selected nine proposals. The Board of Regents assisted BWC in drafting the program guidelines and soliciting proposals from universities.

The institutions selected for funding include Bowling Green State University, Case Western Reserve University, Cleveland State University, Ohio University, the Ohio State University, and University of Cincinnati. The projects cover a variety of topics, including:

- Standards and guidelines for pushing and pulling, Ohio State University, \$249,268

- Standards and guidelines for torque wrenches, Ohio State University, \$248,931
- Total worker health and wellness, Case Western Reserve University, \$250,000
- Safety and Six Sigma, Ohio University, \$244,981

3/10/2015

\$1.5M Approved for BWC Safety Grants

Last week Ohio Bureau of Workers' Compensation (BWC) [Administrator/CEO Steve Buehrer announced](#) Ohio employers were approved for 54 Safety Intervention Grants totaling \$1.5 million.

The safety grant program assists Ohio employers in reducing illnesses and injuries and creates a partnership with them to establish best practices for accident and injury prevention.

Among the [recipients](#) was OMA member Ballreich Brothers in Tiffin, Ohio. The BWC approved \$23,064 to purchase a washing and sanitizing system and a gas booster heater to reduce the risk of injury to the hands, wrists, shoulders, arms and lower extremities related to awkward postures, hand force and manual materials handling load. These interventions will improve the sacking machine and dishwashing processes.

Ohio employers are eligible for [safety intervention grants](#), which include a 3-to-1 matching amount up to a maximum of \$40,000. Quarterly data reports and follow-up case studies help BWC determine the effectiveness of employers' safety interventions and establish best practices. 3/5/2015

BWC Offers "Prospective Billing" Resources for Employers

BWC is offering [free prospective billing and safety seminars](#) at BWC service offices around the state during the month of April.

Topics covered during these seminars will include the reason for the transition, how it will benefit employers, the transition credit to cover the cost of the change, and essential information and new requirements for payroll reporting.

Prospective billing starts in July 2015 for private employers..

In late May, each private employer will receive a notice of estimated annual premium, which will be based on reported payroll for July 1, 2013 to June 30,

2014. *It is not a bill.* Please review it for accuracy and contact BWC if you feel something is wrong with the estimate. A sample notice of estimated premium is available by [clicking here](#).

Prospective billing timelines and other resources about prospective billing are available [here](#).

To register for an upcoming prospective billing seminar, [click here](#). 3/12/2015

BWC Board Approves 10.8% Rate Decrease

As expected, the Bureau of Workers' Compensation (BWC) board of directors [voted last week](#) to adopt a 10.8% overall rate reduction for Ohio private employers. The change is effective July 1.

The reduction is possible due to a number of factors, including lower expected claim frequency, as well as the upcoming adoption of a prospective billing system.

The reduction is an overall statewide average. The actual premium paid by an employer will depend on expected future costs in their industry segment, their recent claims history, and participation in various premium credit and savings programs. 2/27/2015

Costly WC Bill Backspins

Last week we reported that the Senate Transportation, Commerce and Labor Committee passed out SB 5, which would allow for posttraumatic stress disorder (PTSD) claims for first responders without physical injuries, right after Ohio Bureau of Workers' Compensation Administrator & CEO Steve Buehrer testified that it would cost local governments \$182 million a year. This amount, he stated, would nearly double the local governments' total current workers' compensation costs for that coverage.

The bill appeared on a fast track. Well, something's changed. Instead of going to the Senate floor, the bill has been re-referred by leadership to the Senate Finance Committee, where additional hearings are expected.

Good news. The OMA opposes the bill. 3/5/2015

BWC Offers Seminars on Switch to Prospective Premium Payment

This week the Bureau of Workers' Compensation (BWC) will be sending Prospective Billing seminar invitations via e-mail to all employers that are participating in BWC programs. Although invitations

are only being sent to program participants, any employer may attend the seminars.

The regional seminars will cover:

- The reason for the transition and its benefits to employers;
- How BWC will cover the costs of this change with a transition credit;
- Transition timelines and important dates to remember;
- Essential information and new requirements for payroll reporting;
- Changes to deadlines for rating plans and BWC programs.

The BWC will give safety training credit to employers who attend.

Information about the seminars and how to register [can be found here](#). 2/27/2015

BWC Gives First Look at Sample Premium Notice under Prospective Billing

Here is a [sample of the Notice of Estimated Annual Premium](#) that the Bureau of Workers' Compensation (BWC) will be sending to employers at the end of May. It contains information about the process and timing that employers can expect. 2/27/2015

BWC Notifies Employers in Lapsed Status to Preserve Transition Credit

On March 4, the Bureau of Workers' Compensation (BWC) sent letters to employers that are in a lapsed status since March 1, 2013 with a balance greater than \$200.

The purpose of this effort is to get as many employers in compliance as possible so they are able to receive the prospective payment transition credit equal to eight months of premium. To receive this credit, coverage must be reinstated and in an active status by July 1, 2015.

Questions about compliance can be directed to (800) 644-6292 or this [email](#). 2/27/2015

Senate Committee Passes Costly WC Bill

Ohio Bureau of Workers' Compensation (BWC) Administrator Steve Buehrer [testified](#) to the Senate Transportation, Commerce and Labor Committee that SB 5, which would allow for posttraumatic stress disorder (PTSD) claims for first responders without physical injuries, would cost local governments \$182

million a year. This would nearly double the local governments' total current workers' compensation costs for that coverage.

Buehrer told the committee that, in the long history, of workers' compensation in Ohio, mental conditions have only been allowed when coincident with physical injuries or illnesses. He explained that such conditions are covered in health insurance, not workers' compensation. And, he noted that other types of occupations beyond police and fire fighters witness trauma and will inevitably push for the same benefit.

Despite the costs, the committee passed the bill.

The OMA, together with all other major business organizations, opposes SB 5. 2/25/2015

BWC Advice for State-Fund Employers as Prospective Premium Payment Practice Begins

Paying your premiums in a timely manner will keep your workers' compensation coverage in effect, and it can save you from having to pay costly non-compliance fees as well as preserve your eligibility to participate in money-saving rating and discount programs.

In May, you'll receive your notice of estimated annual premium, which will be based on your reported payroll for July 1, 2013 to June 30, 2014. It is not a bill. Please review it for accuracy and contact Bureau of Workers' Compensation (BWC) if you feel something is wrong with the estimate.

The first invoice you will receive will come in August (as part of the transition credit, BWC will make your June invoice payment on your behalf). You'll also need to report payroll for the January to June 2015 period, but BWC will pay that premium with the transition credit as well. Transition credits will not be granted to employers with lapsed coverage or employers who have not reported their January to June 2015 payroll.

BWC's switch to prospective billing also means new deadlines for rating plans and programs. The deadline for programs of Destination: Excellence is now the last business day of May.

A private employer timeline and [other resources](#) about prospective billing are available at [this link](#). BWC is also offering free seminars around Ohio to answer questions and provide details about prospective billing to private employers. To register, [click here](#).

Questions? You can contact your local [BWC customer service office](#), call (800) 644-6292, or [email BWC](#). Or contact [OMA](#). 2/17/2015

BWC Prescription "First-Fill" Goes into Effect

A new rule allows for the immediate fill of necessary medications related to new workplace injuries. The first fill rule gives Bureau of Workers' Compensation (BWC) the ability to care for injured workers more quickly, even before formally approving claims.

The rule, approved late last year by BWC's Board of Directors and the Joint Committee on Agency Rule Review, became effective February 1.

Medication covered under this new rule must be for a period of 10 days or less at the most commonly prescribed dosing schedule.

In cases where a prescription is filled for an injured worker of a state fund employer, but the claim is ultimately denied by BWC, the medication payment will be charged to BWC's surplus fund account and not to the employer associated with the disallowed claim. 2/17/2015

Senate Hears Testimony on "Mental / Mental"

This week the [Senate Transportation Commerce and Labor Committee](#) heard proponent testimony on Senate Bill 5. (Click the link to see committee members and scroll to view testimony documents.) Senate Bill 5 would make peace officers, firefighters, and emergency medical workers diagnosed with post-traumatic stress disorder arising from employment – without an accompanying compensable physical injury – eligible for compensation and benefits under Ohio's workers' compensation law.

"Mental/mental," as the provision is called, would go against the workers' compensation principle that benefits must be tied to a compensable physical illness or injury. The measure would increase complexity and cost for public employers and allow certain employees to receive benefits not available to others. It also would have been a terrible precedent facing private sector employers.

The OMA and allies weighed in with elected officials last year to prevent the measure from going forward, but the proposal is back in the new 131st General Assembly. 2/19/2015

Workers' Compensation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on May 4, 2015

- HB51** **INDUSTRIAL COMMISSION BUDGET** (HACKETT R) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of Commission programs.
Current Status: 4/22/2015 - Senate Transportation, Commerce and Labor, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-51>
- HB52** **WORKERS' COMPENSATION BUDGET** (HACKETT R) To make changes to the Workers' Compensation Law, to make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of the Bureau's programs.
Current Status: 4/22/2015 - Senate Transportation, Commerce and Labor, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-52>
- HB64** **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.
Current Status: 5/7/2015 - Senate Medicaid, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- SB5** **WORKERS' COMPENSATION-PTSD** (PATTON T, BROWN E) To make peace officers, firefighters, and emergency medical workers diagnosed with post-traumatic stress disorder arising from employment without an accompanying physical injury eligible for compensation and benefits under Ohio's Workers' Compensation Law.
Current Status: 4/22/2015 - Senate Finance, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-5>
- SB27** **WORKERS' COMPENSATION-FIREFIGHTER CANCER** (PATTON T) To provide that a firefighter who is disabled as a result of specified types of cancer is presumed for purposes of the laws governing workers' compensation and the Ohio Police and Fire Pension Fund to have incurred the cancer while performing official duties as a firefighter.
Current Status: 2/17/2015 - Senate Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-27>
- SB149** **WORKERS' COMPENSATION-BRAIN-SPINAL CORD INJURY** (SCHIAVONI J) To make an individual who has lost the use of a body part due to a brain injury or spinal cord injury eligible for partial disability and permanent total disability compensation under the Workers' Compensation Law.
Current Status: 4/22/2015 - Referred to Committee Senate Transportation, Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-149>