



# **North Carolina Industrial Commission**

## **Fiscal Year 2012**

(July 1, 2011-June 30, 2012)

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# **The North Carolina Industrial Commission**

## **Mission Statement**

**The North Carolina Industrial Commission is an agency of the State of North Carolina, created by the General Assembly in 1929 to administer the North Carolina Workers' Compensation Act. In 1949, the Industrial Commission was also given authority by the General Assembly to administer the Tort Claims Act.**

**Additionally, the Industrial Commission is charged with efficiently administering the Law Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act; the Childhood Vaccine-Related Injury Compensation Program; and Compensation to Persons Erroneously Convicted of Felonies.**

**The Industrial Commission strives to effectively and fairly administer the Workers' Compensation Act and Tort Claims Act for the State of North Carolina and its citizens in the following manner:**

- **Providing reliable, accurate and efficient claims servicing;**
- **Providing quick resolutions to disputed issues in an administrative forum;**
- **Reviewing status of insurance coverage for employers subject to the Workers' Compensation Act;**
- **Promoting active resolution to disputes through mediation;**
- **Resolving controversies by rendering impartial and well-reasoned decisions;**
- **Facilitating high quality, effective medical care and rehabilitation for injured workers in complex medical/legal situations;**
- **Providing education and training to employers to reduce accident potential in the workplace;**
- **Providing prompt, efficient medical bill review in accordance with the Industrial Commission's Medical Fee Schedule;**
- **Investigating potential criminal violations of the Workers' Compensation Act, insuring compliance and confidence in our state's workers' compensation system.**

**North Carolina Industrial Commission**  
**Report for FY 2012**  
**(July 1, 2011 – June 30, 2012)<sup>1</sup>**

<b>Workers' Compensation Claims filed</b>	
<b>Form 26A <i>Employer's Admission of Employee's Right to Permanent Partial Disability</i> agreements filed</b>	<b>7,053</b>
<b>Individuals trained at Industrial Commission's Safety Education Courses delivered by safety consultant instructors</b>	<b>104,818</b>
<b>Non-Insured Cases Docketed</b>	<b>293</b>
<b>Fraud Cases Reported</b>	<b>955</b>
<b>Medical Bills Reviewed</b>	<b>16,478</b>
<b>Cases Handled by the Medical Rehabilitation Nurses Section</b>	<b>466</b>
<b>Compromise Settlement Agreements Handled by the Executive Secretary's Office</b>	<b>10,104</b>
<b>Form 24 <i>Application to Terminate or Suspend Payment of Compensation</i> motions filed with the Executive Secretary's Office</b>	<b>1,635</b>
<b>Form 23 <i>Application to Reinstate Payment of Disability Compensation</i> motions filed with the Executive Secretary's Office</b>	<b>189</b>
<b>Medical Motions filed with the Executive Secretary's Offices</b>	<b>1,558</b>
<b>Other Administrative Motions filed with the Executive Secretary's Office</b>	<b>6,054</b>
<b>Contested Claims Referred to Mediation</b>	<b>7,972</b>
<b>Mediation Settlement Rate</b>	<b>75.5%</b>
<b>Deputy Commissioner Hearings Scheduled</b>	<b>5,747</b>
<b>Deputy Commissioner Hearings cases settled by Compromise Settlement Agreements</b>	<b>1,935</b>
<b>Deputy Commissioner Pre-Trial Hearings Held</b>	<b>249</b>
<b>Deputy Commissioner Hearings Held</b>	<b>1,567</b>
<b>Cases Appealed to the Full Commission<sup>2</sup></b>	<b>548</b>

<sup>1</sup> The report is provided in accordance with N.C. Gen. Stat. § 97-78(e). The information sets forth the number of filings for the various documents for the fiscal year of 2011-2012.

<sup>2</sup> Total number reflects cases prepared for Full Commission review, administrative appeals of *Pro Se* inmate torts, and medical motion appeals.

## **Claims Administration Section**

### **Mission Statement**

The Claims Administration Section seeks to provide reliable, accurate and efficient claims servicing to injured workers, employers, insurance companies and the citizens of North Carolina.

### **What We Do**

The Claims Administration Section processes documents related to events occurring during the pendency of workers' compensation claims. Employees, employers, and insurers submit forms to open claims, report injuries, accept or deny claims and provide notification of changes in compensation payments, return to work status, and the amount of money paid on a claim.

The Claims Administration Section processes form agreements for payment of death benefits and permanent partial disability ratings. In addition, the Claims Administration Section facilitates certain aspects of occupational disease cases, monitors forms compliance, and generates reports regarding different aspects of a claim. The Claims Administration Section handles attorney representation letters, interim attorney fee requests, motions to extend the time to accept or deny a claim, and third party requests for documents.

The Claims Administration Section makes corrections on carrier information including updating addresses and coverage information. The Claims Administration Section assesses an administrative penalty to non-insured employers for not having workers compensation insurance pursuant to N.C.G.S. 97-94(b).

Finally, the Claims Administration Section is responsible for the assignment of Industrial Commission workers' compensation file numbers, verifying workers' compensation insurance coverage on new or pending claims and answering citizen questions about claim activity.

Below is a summary of work performed by the Claims Administration Section for the fiscal year of 2011-2012:

<b>Review of Report of Injuries</b>	
<b>Claims (Form 18 <i>Notice of Accident to Employer and Claim of Employee, Representative, or Dependent</i>)</b>	<b>21,193</b>
<b>Injury Reports (Form 19 <i>Employer's Report of Employee's Injury or Occupational Disease to the Industrial Commission</i>)</b>	<b>45,936</b>
<b>Total Claims and Injuries Reported ( Sum of Form 18s and Form 19s filed)</b>	<b>66,193<sup>3</sup></b>
<b>Review of Death Claims (Form 26D <i>Agreement for Payment of Unpaid Compensation in Unrelated Death Cases</i> and Form 30 <i>Agreement for Compensation for Death</i>)</b>	<b>90</b>
<b>Review of Form Agreement for Settlements (Form 26A <i>Employer's Admission of Employee's Right to Permanent Partial Disability</i>)</b>	
<b>Agreements Received</b>	<b>7,053</b>
<b>Agreements Approved</b>	<b>6,175</b>
<b>Telephone Calls Answered</b>	<b>41,982</b>

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<sup>3</sup> Some, but not all claims, have both a Form 18 and a Form 19 filed with the Industrial Commission. The multiple filings for the same claim would be reflected in the "Total Claims and Injuries Reported."

## **Forms Compliance:**<sup>4</sup>

The forms compliance process monitored by the Claims Administration Section has three components:

- The employer or carrier has thirty (30) days from notification of a claim by the Commission to file one of the following forms:
  - In accordance with N.C. Gen. Stat. § 97-18(b), file a Form 60 *Employer's Admission of Employee's Right to Compensation*, accepting the claim;
  - In accordance with N.C. Gen. Stat. § 97-18(c), file a Form 61 *Denial of Workers Compensation Claim*, denying the claim; or
  - In accordance with N.C. Gen. Stat. § 97-18(d), file a Form 63 *Notice to Employee of Payment of Compensation Without Prejudice or Payment of Medical Benefits Only Without Prejudice*, notification of payment of compensation and/or medical compensation without prejudice.
- Compliance with the filing requirement as set forth in N.C. Gen. Stat. § 97-18 is tracked by the Industrial Commission.
- In accordance with N.C. Gen. Stat. § 97-18(j), if an appropriate form is not received within 30 days, the employer or carrier is assessed a \$200.00 sanction.
  - If the employer or carrier fails to pay the \$200.00 sanction, the employer or carrier will be referred to the Industrial Commission's collections docket.

The Industrial Commission has partnered with the State ITS to replace the Industrial Commission's current legacy system with a system that will permit case-specific data gathering, warehousing, and analysis. Significant progress has been made in this effort, resulting in the development of a state-of-the-art database system to track all required data elements for the forms compliance process. The third-generation release of this system went into production in September 2012. Ongoing efforts to enhance this system, replace our current system, and further develop reporting and analysis capabilities based on the new system will continue.

Below is a summary of the forms compliance for the fiscal year of 2011-2012:

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<sup>4</sup> In 2008, pursuant to the newly enacted N.C. Gen. Stat. § 97-78(f)(1), the North Carolina Industrial Commission promulgated a strategic plan for tracking and enforcing compliance with the provisions of N.C. Gen. Stat. § 97-18(b), (c), and (d), which require the filing of certain forms prescribed by the Commission. The changes reflected in this plan became effective on August 1, 2008.

<b>Forms Compliance Summary<sup>5</sup></b>	
<b>Injuries reported in FY 2011-2012</b>	<b>66,193</b>
<b>Claims filed in FY 2011-2012 (via Form 18 <i>Notice of Accident to Employer and Claim of Employee, Representative, or Dependent</i>)</b>	<b>19,772</b>
<b>Claims with timely forms compliance</b>	<b>7,135</b>
<b>Claims with untimely forms compliance</b>	<b>12,637</b>
<b>Claims with compliance 31+ days after claim notice</b>	<b>4,092</b>
<b>Claims with compliance 60+ days after claim notice</b>	<b>1,689</b>
<b>Claims with compliance 90+ days after claim notice</b>	<b>1,589</b>
<b>Claims not in compliance after 90 days</b>	<b>5,267</b>
<b>Claims with untimely compliance in which sanctions have been ordered</b>	<b>1,457<sup>6</sup></b>

\*\*Claims may not be in compliance after ninety days because of the following reasons:

- Duplicate files - Two or more files were created for the same injury. These files will be combined without deleting the file number from our database. Usually, one of the duplicate files has timely compliance.
- Combined files - The parties requested two or more files be combined because of similar issues. Although combined, both file numbers would remain in our database and the requisite form would appear in the primary file number.
- Settled claims - The claim settled prior to the expiration of the 30-day time period.
- Voluntary dismissal - The claimant filed a motion for voluntary dismissal without prejudice. These claims include claims filed in the wrong jurisdiction.
- Incorrect notification - The incorrect employer or insurance carrier received notification of the claim.
- Returned mail – The carrier address on file is incorrect.
- Asbestosis claims – Sanctions were not assessed in claims for asbestosis due to database system limitations. However, the September 2012 upgrade to the computer system will improve the ability to monitor and report compliance pursuant to the filing of a Form 18B *Claim by Employee, Representative, or Dependent for Benefits for Lung Disease*.

<sup>5</sup> The summary provided is in accordance with N.C. Gen. Stat. § 97-78(g)(1).

<sup>6</sup> If the employer or carrier fails to pay the \$200.00 sanction, the employer or carrier will be referred to the Industrial Commission's collections docket.



## **Safety Education Section**

### **Mission Statement**

The Safety Education Section of the North Carolina Industrial Commission was created as part of the original North Carolina Workers' Compensation Act of 1929 as an educational and training unit to promote safety and accident prevention in the industrial workplaces of the state of North Carolina. Our mission is to help employers reduce injury to employees through education and training, reduce pain and suffering and reduce costs resulting from accidents in these workplaces.

### **What We Do**

The accident prevention and safety services offered by the Safety Education Section of the Industrial Commission are established to provide competent, practical instruction in accident prevention and workers' compensation awareness. The workshops and training sessions are designed for both the supervisor and employee in the interest of reducing accidents and a business's potential insurance coverage costs in North Carolina. The Safety Education Section's schedules offers professional workshops/training sessions with experienced safety consultant instructors of the Industrial Commission and are designed to meet the needs of client companies. A Legislative Mandated Fee Schedule is now in effect, and may be obtained at <http://www.ic.nc.gov/safetyfees.html>.

The Safety Education Section offers a broad range of accident prevention and safety workshops/training sessions that range from single session targeted workshops/training sessions in a wide range of topics, to a thirty (30) hour Accident Prevention Certificate Awareness Program. The Safety Education Section continues to develop new Accident Prevention Programs to better serve the citizens of North Carolina. The latest management workshop/training session series, Safety Leadership workshop and Safety for Supervisors program, are designed to further assist employees, employers, and management in lowering both the number of injury claims and cost of accidents, and to raise safety awareness at management levels.

This approach to reducing workers' compensation claims and costs is proactive. The mission of the Safety Education Section of the Industrial Commission is to help employers reduce injury to employees as well as their workers' compensation costs through education and training. An injured employee can suffer a major disruption in his or her life, not only from the pain of an injury, but financial disruption as well. An injured employee, unable to work, is a cost to an employer. The best way to reduce accidents in the workplace is through active safety programs that include: (1) education and training for all personnel; (2) safety committees that touch all activities in the workplace; (3) following recognized good work practices; and (4) awareness of workplace safety and health standards.<sup>7</sup>

The Safety Education Section recommends that active safety programs are the best offense and defense against rising workers' compensation claims and costs. The programs offered are

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<sup>7</sup> The recommendations are provided in accordance with N.C. Gen. Stat. § 97-81(c).

beneficial for management, supervisors, and all employees of the company. The benefits received from safety education are best seen through the reduction of injuries and the reduction of employers' insurance premiums. The statements of success are offered by the companies that have undergone workshop and training sessions.<sup>8</sup> A comprehensive survey is being developed to capture accident information of the employers who receive safety workshop and training sessions to determine what specific benefits are occurring as a result of the safety programs.<sup>9</sup> The Industrial Commission has partnered with the State ITS to replace the Industrial Commission's current legacy system with a system that will permit case-specific data gathering, warehousing, and analysis. Significant progress has been made in this effort, resulting in the development of a state-of-the-art database system to track all required data elements for the forms compliance process. The third-generation release of this system went into production in September 2012. Ongoing efforts to enhance this system, replace our current system, and further develop reporting and analysis capabilities based on the new system will continue.

Below is a summary of the work performed by the Safety Education Section for the fiscal year of 2011-2012:

<b>Individuals Trained by Industrial Commission staff</b>	<b>104,818</b>
<b>Government Employees Trained (includes county, local government, state government, school systems and military employees)</b>	<b>58%<sup>8</sup></b>
<b>Private Sector Employees Trained</b>	<b>42%</b>
<b>Total Workshop and Training Session Hours</b>	<b>3,398</b>
<b>Total Number of Workshop and Training Sessions taught by Safety Consultant Instructors</b>	<b>2,579</b>

The Safety Education Section has tabulated the body parts injured in North Carolina for the fiscal year of 2011-2012. The Industrial Commission is currently in the process of developing an electronic data interchange (EDI) that will be available for submission of injury details. The information obtained through the EDI system will include nature of injury, cause of injury and part of body injured. The information provided will be standardized by definitions established by the International Association of Industrial Accident Boards and Commissions (IAIABC). The Safety Education Section projects that this information will provide substantial insight into the causes of workplace injuries. Below is a summary obtained through the current case management system of the Industrial Commission of the type of body parts injured during the fiscal year of 2011-2012<sup>10</sup>:

<sup>8</sup> Companies that have undergone training include, but are not limited to companies such as Mills Manufacturing Corp, International Paper, House of Raeford Farms.

<sup>9</sup> The recommendations are provided in accordance with N.C. Gen. Stat. § 97-81(c).

<sup>10</sup> The recommendations are provided in accordance with N.C. Gen. Stat. § 97-81(b).

- Back
- Knee
- Fingers
- Hands
- Feet
- Ribs
- Brain
- Skull
- Head
- Heart
- Heat Exposure
- Asbestos Exposure
- Eye
- Fatality
- Arm
- Shoulder
- Chest Pain
- Face
- Mouth
- Teeth
- Multiple body parts
- Moving Vehicle Accidents
- Carpel Tunnel Syndrome
- Respiratory
- Toes
- Wrist
- Burns
- Hernia
- Buttocks
- Testicles
- Abdomen
- Lungs
- Chemical exposure
- Rotator Cuff
- Hip
- Thumbs
- Strains
- Bites from animals/insects
- Contusions
- Stroke
- Allergic Reactions
- Amputations

## **Fraud Investigation Section**

### **Mission Statement**

The Fraud Investigation Section is composed of two units, the Non-Insured Compliance Unit and the Criminal Investigation Unit. The Fraud Investigation Section serves the citizens of North Carolina by investigating potential criminal violations of the Workers' Compensation Act and ensures compliance with the rules and regulations. The goal of the Fraud Investigation Section is to foster confidence in the workers' compensation system and compliance with the law.

### **What We Do**

The Non-Insured Compliance Unit handles civil cases involving employers who are operating as non-insured employers in violation of N.C. Gen. Stat. § 97-93 and N.C. Gen. Stat. § 97-94. An employer is considered non-insured if the employer does not carry workers' compensation insurance, is not self-insured, or cannot cover the medical costs and compensation due to the injured worker. The Non-Insured Compliance Unit compiles documentary evidence to ensure compliance, or for presentation during Industrial Commission non-insured penalty hearings. Once an investigation is complete and evidence is gathered, it is presented by the Office of the Attorney General during Industrial Commission's non-insured penalty hearings. Civil penalties can be assessed covering the entire time-frame that the employer is not insured. The Non-Insured Compliance Unit also assists the Office of the Attorney General with the enforcement and collection of penalty actions.

Below is a summary of non-insured cases for the fiscal year of 2011-2012:

Non-Insured Hearings Docketed before the Industrial Commission.	<b>293</b>
Non-Insured Cases Investigated Pursuant to a Form 33 ( <i>Request for Claim Be Assigned for Hearing</i> )	<b>176<sup>11</sup></b>
Non-Insured Cases Investigated Pursuant to a Form 18 ( <i>Notice of Accident and Claim of Employee, Representative, or Dependent</i> )	<b>285<sup>12</sup></b>
Non-Insured Cases Investigated with No Injury Reported category represents cases received and investigated by the Criminal Investigations Unit.	<b>331</b>

The Criminal Investigation Unit operates as a law enforcement agency and is responsible for conducting criminal investigations into cases of suspected workers' compensation fraud and violations related to workers' compensation claims involving employees, employers, insurers, health care providers, attorneys, and vocational rehabilitation providers. Fraud Investigators investigate all criminal complaints filed with the Industrial Commission regarding failure of employers to maintain workers' compensation insurance (N.C. Gen. Stat. §97-94(d)); fraud on the part of employees with regard to the collection or obtaining of workers' compensation benefits (N.C. Gen. Stat. §97-88.2); fraud on the part of employers with regard to payment or

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<sup>11</sup> Non-Insured Compliance Unit compiled documentary evidence for each of these claims.

<sup>12</sup> Non-Insured Compliance Unit compiled documentary evidence for each of these claims.

collection of workers' compensation premiums from employees' salaries (N.C. Gen. Stat. §97-21); medical payment fraud, and any other claims arising out of violations of Chapter 97 by employees or employers. The Criminal Investigation Unit works with Judicial Officials and other law enforcement agencies throughout the state to resolve the above investigations in criminal court.

Below is a summary of fraud cases for the fiscal year of 2011-2012:

<b>Persons Investigated for Fraud under the Workers' Compensation Act for the Fiscal Year of 2011-2012<sup>13</sup></b>							
	<b>Employees</b>	<b>Employers</b>	<b>Insurers</b>	<b>Health Care Providers</b>	<b>Attorneys</b>	<b>Rehabilitation Providers</b>	<b>Totals</b>
<b>Number of Fraud Cases Reported</b>	<b>161</b>	<b>792<sup>14</sup></b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>955<sup>15</sup></b>
<b>Number of Fraud Cases Pending</b>	<b>29</b>	<b>94</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>124</b>
<b>Number of Fraud Cases Closed</b>	<b>131</b>	<b>238</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>370</b>

<sup>13</sup> The summary is provided in accordance with N.C. Gen. Stat. § 97-88.2(e).

<sup>14</sup> The number of fraud cases reported for employers includes 461 cases investigated by the Non-Insured Compliance Unit pursuant to Form 33s and Form 18s, plus 331 cases filed directly with the Criminal Investigation Unit. The 331 cases addressed allegations of fraud such as insurance status of employer, unlawful deductions made by employers, and similar fraudulent activities.

<sup>15</sup> The total number of fraud cases reported includes 461 cases investigated by the Non-Insured Compliance Unit pursuant to Form 33s and Form 18s.

## **Information Technology Section**

### **Mission Statement**

The mission of the Information Technology Section is to facilitate and support the use of technology as an enabling agent for the work of the Industrial Commission. To accomplish this mission, the Information Technology Section has the following objectives:

- Provide excellent customer service to our internal and external customers
- Design, develop, deploy and support high-quality software solutions
- Safeguard the information and infrastructure of the Industrial Commission
- Develop and manage the information management strategy for the Industrial Commission

### **What We Do**

In support of these objectives, the Information Technology Section has the following responsibilities:

- Develop plans and procedures for technical and operational processes
- Develop software programs and upgrades
- Maintain agency software applications
- Manage software licenses
- Maintain and upgrade onsite hardware
- Administer databases
- Manage data security and access
- Provide technology training
- Provide end-user support for hardware, software and network issues
- Scanning, indexing, verification, storage and retrieval of agency documents

The staff consists of the CIO, an IT Operations Manager, a Project Manager from the Office of Information Technology Services, two Developers, a Business Analyst, a Testing Coordinator, four Systems Analysts, four Scanning Technicians, and several contractors.

### **Accomplishments**

- Designed and implemented claims processing software components for Comprehensive Case Management System (CCMS).
- Designed and began development on a comprehensive Electronic Data Interchange (EDI) system to permit outside stakeholders to submit claims information to the Commission electronically. The system will be phased into production over the next 18 months.
- Upgraded image processing hardware and software systems, and implemented significant process improvements in image processing to facilitate real-time electronic capture of incoming paper documents.

- Implemented automated testing processes and procedures to speed delivery of applications to end users and improve application quality.

### **Information Technology Strategy**

- Continue multi-year program of development for Comprehensive Case Management System (CCMS).
- Migrate all data from mainframe to CCMS database and replace the mainframe applications.
- Review existing Information Management and related policies and procedures, and recommend updates and additions to these policies and procedures where necessary.
- Develop comprehensive internal staff IT training plan, and facilitate assessment of training needs, development of curriculum, and delivery of necessary and beneficial technology training to internal staff.
- Planned IT initiatives:
  - Implement an EDI solution for submission of reports of injury and required reporting related to medical billing.
  - Upgrade web-based electronic document and fee payment portal system to facilitate payment after document submission.
  - Complete implementation of case processing system for Claims Administration Section.
  - Implement advanced image processing solution to facilitate data capture from scanned and electronic document images.

## **Medical Fees Section**

### **Mission Statement**

The Medical Fees Section is committed to providing prompt and efficient service to all workers' compensation clients, ensuring timely and accurate bill processing. We serve all customers by answering inquiries regarding the Industrial Commission's Medical Fee Schedule and resolving medical fee disputes.

### **What We Do**

The Medical Fees Section is responsible for processing bills for medical services provided as a result of a workers' compensation claim. Medical bills are reviewed and where necessary adjusted in accordance with the Industrial Commission's Medical Fee Schedule and then mailed to the insurance carrier, third-party administrators, or self-insured employer handling the claim. It responds to medical inquiries, resolves medical fee disputes and assists in the review and updates of the Medical Fee Schedule. In accordance with N.C. Gen. Stat. § 97-26(i), the Industrial Commission has adopted a new Medical Provider Fee Dispute Resolution Procedure. A copy of the procedures to address medical provider fee disputes may be obtained at <http://www.ic.nc.gov/ncic/pages/MedProvDRP.pdf>.

Below is a summary of the work performed by the Medical Fees Section for the fiscal year of 2011-2012:

<b>Bills Keyed</b>	<b>16,478</b>
<b>Inpatient Hospital</b>	<b>4,690</b>
<b>Physician</b>	<b>11,592</b>
<b>Miscellaneous, Dental &amp; Chiropractic</b>	<b>196</b>
<b>Bills Sent to Advisory Committee</b>	<b>0</b>
<b>Bills Awaiting a Response</b>	<b>0</b>
<b>Overview of Completed Work</b>	
<b>Average for Bills Keyed Monthly</b>	<b>1,373</b>
<b>Average for Bills Keyed Weekly</b>	<b>317</b>
<b>Average for Bills Keyed Daily</b>	<b>63</b>

<b>Summary of Medical Provider Fee Dispute Cases Reviewed</b>	
<b>Total Cases Filed for Medical Provider Fee Dispute Resolution</b>	<b>88</b>
<b>Pending</b>	<b>5</b>
<b>Paid</b>	<b>65</b>
<b>Substantially Resolved</b>	<b>3</b>
<b>Referred</b>	<b>0</b>
<b>Unfounded</b>	<b>15</b>
<b>Closed</b>	<b>0</b>
<b>Closed-Referred</b>	<b>0</b>



## **Medical Rehabilitation Nurses Section**

### **Mission Statement**

The Industrial Commission's Medical Rehabilitation Nurses Section employs five registered nurses who are responsible for different geographic segments of the state. These nurses provide medical rehabilitation consultative services to a variety of workers' compensation audiences, including injured workers, insurance carriers, attorneys, rehabilitation professionals, health care providers, and when ordered by Industrial Commission's hearing officers. They assist with case management and medical rehabilitation needs in the event difficulties arise in areas of communication, trust, confusion, misunderstanding, or any other problem that interferes with the ongoing progress of returning injured workers to their maximum functional capabilities. The Nurse Consultants seek to collaboratively facilitate and coordinate high quality and effective medical care and rehabilitation such that an injured worker's maximum level of functionality is optimized, both physically and mentally.

### **What We Do**

Ongoing rehabilitation case management of injured workers covered by the Workers' Compensation Act is usually provided by Medical and Vocational Rehabilitation Professionals employed in private industry. The Industrial Commission's Medical Rehabilitation Nurse Consultants are available to assist with difficult cases temporarily, promoting ongoing case management within the private industry. The Nurse Consultants also perform specific rehabilitation activities as ordered by hearing officers within the Industrial Commission. The Industrial Commission's Medical Rehabilitation Nurses Section services are available to anyone who wishes to express concern regarding an injured worker's care or rehabilitation.

Effective July 1, 2011, every Rehabilitation Professional providing rehabilitation services has been required by the Industrial Commission to complete a comprehensive course entitled *Workers' Compensation Case Management in NC: A Basic Primer for Medical and Vocational Case Managers*, in order to be recognized as "Qualified" per the Industrial Commission's Rules for Rehabilitation Professionals. The mandatory educational presentations have been available for attendance in Greenville, Charlotte, Raleigh, and Lakeland, FL. For the fiscal year of 2011-2012, 11 educational programs with 399 attendees have been presented by the Director of the Medical Rehabilitation Nurses Section.

Below is a summary of the work performed by the Medical Rehabilitation Nurses Section for the fiscal year of 2011-2012:

	Existing Claims as of 7/1/2011	Claims Referred During FY 11-12	Claims Closed During FY 11-12	Existing Claims as of 6/30/2012
<b>1. Back</b>	<b>74</b>	<b>50</b>	<b>50</b>	<b>74</b>
<b>2. Burn Injuries</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>
<b>3. Extremity Injuries</b>				
<b>A. One Upper Extremity</b>	<b>92</b>	<b>36</b>	<b>30</b>	<b>98</b>
<b>B. One Lower Extremity</b>	<b>61</b>	<b>18</b>	<b>25</b>	<b>54</b>
<b>C. Two or More Extremities</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>2</b>
<b>4. Head Injuries</b>	<b>14</b>	<b>6</b>	<b>5</b>	<b>15</b>
<b>5. Other Injuries/Occupational Diseases</b>	<b>3</b>	<b>11</b>	<b>6</b>	<b>8</b>
<b>6. Paraplegia</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>7. Quadriplegia</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>4</b>
<b>8. Multi Defects</b>	<b>42</b>	<b>45</b>	<b>36</b>	<b>51</b>
<b>TOTALS<sup>16</sup></b>	<b>295</b>	<b>171</b>	<b>158</b>	<b>308</b>

<b>Source of Referrals</b>	
<b>Intradepartmental</b>	<b>61</b>
<b>Hospitals and Doctors</b>	<b>2</b>
<b>Carriers</b>	<b>2</b>
<b>Attorneys</b>	<b>96</b>
<b>Rehabilitation Professionals</b>	<b>1</b>
<b>Injured Workers</b>	<b>9</b>
<b>TOTAL Referrals</b>	<b>171</b>

<b>Communications and Contacts Made by the Medical Rehabilitation Nurses Section<sup>17</sup></b>	
<b>Written/Verbal Contacts</b>	<b>17,708</b>
<b>Acknowledged Form 25N <i>Notice to the Commission of Assignment of Rehabilitation Professional</i></b>	<b>19,968</b>
<b>TOTAL Contacts Made</b>	<b>37,676</b>

<sup>16</sup> A total of 466 claims were handled by the Medical Rehabilitation Nurses Section for the fiscal year of 2011-2012, which is comprised of the outstanding claims from the fiscal year of 2010-2011 and the new referred claims for the fiscal year of 2011-2012.

<sup>17</sup> The Medical Rehabilitation Nurses Section works diligently to maintain open communication with all necessary parties, which necessitates numerous phone calls and emails. The Section is also responsible for acknowledging receipt of the Form 25N *Notice to the Commission of Assignment of Rehabilitation Professional*.

## **Executive Secretary's Office**

### **Mission Statement**

The mission of the Executive Secretary's Office is to efficiently and effectively address, handle and rule on administrative filings in as summary and simple a manner as feasible and in as quick a manner as possible. The shared mission of the Executive Secretary, Special Deputy Commissioners, Workers' Compensation Information Specialists and support staff is to assist all parties in the field of workers' compensation in a professional manner through informed administrative rulings and responses, streamlined processes and consistent practices, communications with the parties, and responsiveness on all matters with which we come into contact.

### **What We Do**

The Executive Secretary's Office handles administrative review of issues for the Industrial Commission. This office is responsible for the review, approval, or disapproval of the vast majority of Compromise Settlement Agreements filed with the Industrial Commission. This section is responsible for the review, disposition of and issuing of Orders on Form 24 *Applications to Terminate or Suspend Payment of Compensation* and Form 23 *Applications to Reinstate Payment of Disability Compensation*. Telephone hearings are often held in regard to these applications. In addition, Orders are issued after review of Medical Motions, Administrative Motions, Third Party Settlements and a variety of other issues such as Requests for Attorney Withdrawal.

Below is a summary of the work performed by the Executive Secretary's Office for the fiscal year of 2011-2012:

<b>Orders on Compromise Settlement Agreements</b>	<b>10,104</b>
<b>Orders on Third Party Distributions</b>	<b>695</b>
<b>Orders/Disposition on Form 24 <i>Application to Terminate or Suspend Payment of Compensation</i> motions</b>	<b>1,635</b>
<b>Orders/Disposition on Form 23 <i>Application to Reinstate Payment of Disability</i></b>	<b>189</b>
<b>Orders on Medical Motions</b>	<b>1,558</b>
<b>Orders/Disposition on Administrative Motions by Executive Secretary</b>	<b>4,005</b>
<b>Total number of calls and voicemails answered by Executive Secretary's Assistant</b>	<b>3,773</b>
<b>Attorney Withdrawal Orders</b>	<b>1,354</b>
<b>Certified copies of files</b>	<b>39</b>

**Expeditious resolution by the Executive Secretary's Office's for resolving requests for, or disputes involving, medical compensation:<sup>18 19</sup>**

The Executive Secretary's Office ruled upon 1,558 medical motions for the fiscal year of 2011-2012. 14 of the 1,558 medical motions exceeded a filing date of 45 days after the filing of the motion requesting relief. There are various reasons that a final disposition may be filed beyond 45 days, including, but not limited to, parties' joint request to submit additional medical evidence or problems with service on the parties.

Below is a summary of the of the 14 medical motions filed by the Executive Secretary's Office 45 days after the filing of the motion requesting relief for the fiscal year of 2011-2012:

<b>I.C. File No.</b>	<b>Date Motion filed</b>	<b>Date Order filed</b>
990639	7/26/11	9/14/11
W02879	7/28/11	9/15/11
X49750	8/11/11	9/27/11
W73542	8/12/11	9/28/11
912264	9/29/11	11/14/11
649526	10/7/11	11/29/11
014774	10/12/11	11/29/11
W42464	10/13/11	12/1/11
805453	10/21/11	12/5/11
522175	11/4/11	12/20/11
W57029	10/31/11	12/19/11
X02700, 467232	12/30/11	2/29/12
X70627	3/30/12	6/6/12
X36341	4/10/12	6/12/12

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<sup>18</sup> In 2008, pursuant to the newly enacted N.C. Gen. Stat. § 97-78(f)(2), the North Carolina Industrial Commission promulgated a strategic plan for expeditious resolution of requests for medical compensation pursuant to N.C. Gen. Stat. § 97-25. Timeframes were shortened at various levels of litigation regarding medical issues and the emergency medical motion procedure was formalized. The changes reflected in this plan became effective on August 1, 2008.

<sup>19</sup> The report is provided in accordance with N.C. Gen. Stat. § 97-78(g)(2).

## **Workers' Compensation Information Specialists**

**(Subsection of the Executive Secretary's Office)**

### **What We Do**

The Industrial Commission created the Workers' Compensation Information Specialists Program (formerly the Ombudsman Program) in accordance with N.C. Gen. Stat. §97-79 (f) to assist claimants who are not represented by an attorney, employers, or other parties in protecting their rights. In addition, the Workers' Compensation Information Specialists serve as the information source for the Industrial Commission, and answer questions pertaining to all aspects of the Workers' Compensation Act, tort claims against State departments and agencies and other statutes under the jurisdiction of the Industrial Commission and related rules. Telephone calls to the Workers' Compensation Information Specialists are monitored for quality assurance; however, the calls are confidential. The Workers' Compensation Information Specialists strive to provide callers and visitors with accurate and knowledgeable information in a prompt and courteous manner. The Workers' Compensation Information Specialists do not provide legal advice or advocate for any party.

Below is a summary of work performed by the Workers' Compensation Information Specialists for the fiscal year of 2011-2012:

<b>Number of Calls Answered and Returned (English)</b>	<b>19,574<sup>20</sup></b>
<b>Number of Calls Answered and Returned (Spanish)</b>	<b>1,043</b>
<b>Total Calls Answered</b>	<b>20,617</b>
<b>Number of Walk-Ins Assisted</b>	<b>65</b>
<b>Correspondence (letters &amp; e-mails) Answered</b>	<b>1,759</b>
<b>Mail Outs (envelopes containing Form Packets/Annual Bulletin)</b>	<b>1,108</b>

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<sup>20</sup> The number of English calls answered and returned includes calls to the Fraud hotline for the fiscal year of 2011-2012.

## **Docket Section**

### **Mission Statement**

The mission of the Docket Section is to ensure that cases to be heard by the Industrial Commission are placed on the docket in a timely manner and move through the system as efficiently and expeditiously as possible. These cases include claims filed under the (1) Workers' Compensation Act; (2) the Tort Claims Act; (3) the Law Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act; (4) the Childhood Vaccine-Related Injury Compensation Program; and (5) Compensation to Persons Erroneously Convicted of Felonies. The mission will be accomplished to the highest degree possible by adhering to Industrial Commission rules, policies and procedures; by being accessible; and by providing all parties and the Industrial Commission staff with respectful, responsive and reliable service.

### **What We Do**

The Docket Section's primary responsibility is to place cases to be heard by the Industrial Commission on the appropriate hearing docket. This responsibility includes processing requests for hearings, appeals, and related documents filed in all types of cases administered by the Industrial Commission, including workers' compensation claims and claims under the State Tort Claims Act.

For cases appealed to the Full Commission, the Docket Section organizes the evidence and orders an official hearing transcript. The section assembles specific documents into working files for each member of the Full Commission panel assigned to review the case on appeal and prepares and distributes the Full Commission hearing calendars.

The section serves as custodian of recordings of Industrial Commission hearings and coordinates assignments of court reporters for hearings before the Deputy Commissioners. The section also maintains the Industrial Commission's attorney database by adding new attorneys and updating contact information in the mainframe. The section assigns Industrial Commission file numbers for claims filed under the State Tort Claims Act; for claims filed under the Law Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act; and for Erroneous Conviction cases. The Docket Section also oversees File Room activities.

Below is a summary of the work performed by the Docket Section for the fiscal year of 2011-2012:

<b>Form 33 <i>Request that Claim be Assigned for Hearing</i> Received</b>	<b>7,972</b>
<b>Form 33 <i>Request that Claim be Assigned for Hearing</i> for Non-Insured Cases</b>	<b>186</b>
<b>Expedited Medical Motions before Deputy Commissioners</b>	<b>1020</b>
<b>Administrative Appeals to Deputy Commissioners</b>	<b>492</b>
<b>Form 33R Response to Request that Claim be Assigned for Hearing Received</b>	<b>6,451</b>
<b>Correspondence</b>	<b>4,997</b>
<b>Tort Claims Filed</b>	<b>646</b>
<b>Requests for Recordings of Hearings</b>	<b>839</b>
<b>Number of Hearing Tapes/CDs Copied</b>	<b>857</b>
<b>Appeals to Full Commission</b>	<b>622</b>
<b>Cases Sent for Transcription</b>	<b>519</b>
<b>Transcripts Provided to Parties</b>	<b>536</b>
<b>Cases Prepared for Full Commission Review</b>	<b>548</b>
<b><i>Pro Se</i> Inmate Tort Appeals Heard Administratively by the Full Commission</b>	<b>82</b>
<b>Medical Motion Appeals to the Full Commission</b>	<b>63</b>

## **Mediation Section**

### **Mission Statement**

The Mediation Section is responsible for effectively, fairly and efficiently administering the Industrial Commission's mediation program, with the goal of empowering the parties in pending cases to take an active role in the resolution of their disputes, to minimize the need for hearings and appeals, to expedite the dispute resolution process, and to enable the Industrial Commission to devote its adjudicatory resources to those cases not conducive to settlement.

### **What We Do**

When a claim is contested, the parties are generally referred to mediation as a way of resolving the claim without a formal hearing. When an injured worker is not represented by an attorney, the case usually bypasses mediation. The Mediation Section oversees this process by educating the stakeholders concerning mediation theories and procedures, ruling on any motions related to mediation, and by ensuring that the parties and mediators adhere to certain timelines, move the case forward, and submits the required forms and reports. While the mediators who serve in these cases are generally not state employees, the mediators on the Industrial Commission's appointed list must complete a formal mediation training program, and be certified by the Dispute Resolution Commission.

Below is a summary of the work performed by the Mediation Section for the fiscal year of 2011-2012:

<b>Hearings Requested for a Claim</b>	<b>7,972<sup>21</sup></b>
<b>Claims referred to Mediation</b>	<b>8,523<sup>22 23</sup></b>
<b>Mediation Settlement Rates</b>	
<b>A settlement conference is convened and the parties reach the terms of a settlement agreement</b>	<b>70.4%</b>
<b>Prior to convening of a settlement conference, the parties reach the terms of a settlement agreement</b>	<b>4.1%</b>
<b>Total Percentage of Mediated Claims that Settle</b>	<b>75.5%<sup>24</sup></b>

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<sup>21</sup> The total number of claims requesting a hearing does not include the Form 33 *Request that Claim be Assigned for Hearing* filed for requests to resolve disputes involving medical compensation. Those Form 33s are processed in an expeditious manner under N.C. Gen. Stat. § 97-25 and are not automatically referred the Mediation Section.

<sup>22</sup> This number of claims referred to mediation is greater than the number of claims requesting a hearing, as the parties for a pending claim may jointly agree to attend mediation without filing a Form 33 *Request that Claim be Assigned for Hearing*, or alternatively, a party may file a motion to compel participation in mediation with the Mediation Section, or the Industrial Commission may otherwise order the parties to participate in the mediation process.

<sup>23</sup> More than 8,500 cases were referred to mediation for the 11<sup>th</sup> straight fiscal year.

<sup>24</sup> Anecdotal evidence indicates that an additional portion of the remaining 24.5% of mediated claims do settle prior to hearings before Deputy Commissioners, but the Industrial Commission is unable to capture that information at this time. The Industrial Commission is reviewing methods to determine this information.



## **Deputy Commissioners Section**

### **Mission Statement**

The mission of the Deputy Commissioners Section is to provide the highest quality of legally sound, courteous, professional, ethical and expeditious service to the citizens of North Carolina by rendering impartial and well-reasoned decisions in their workers' compensation and state tort claim controversies.

### **What We Do**

Deputy Commissioners expeditiously resolve all controversies between injured workers, employers, carriers, providers, various citizens of the State of North Carolina and the State of North Carolina that arise under the Workers' Compensation Act and the State Tort Claims Act. We provide citizens an opportunity to be heard in a professional, ethical and courteous manner and render legally sound and impartial decisions after thoroughly considering the positions of all parties and the law.

We seek to promote the goals and maintain the integrity of the Workers' Compensation Act and the State Tort Claims Act and promote their administration. Deputy Commissioners conduct full evidentiary hearings throughout the State, hear administrative motions, conduct administrative appeal hearings, perform extensive review of complex form agreements, review settlement agreements and handle other matters.

Typically litigants do not have contact with the Deputy Commissioners' Section until a claim is assigned to an individual Deputy Commissioner. The Deputy Commissioners are judicial officers and the Deputy Commissioners' Section does not provide legal advice or advocate for any party.

Beginning in May of 2012, the Industrial Commission introduced the Penalty and Contempt Dockets. In addition to the regular non-insured docket, the Industrial Commission began the Penalty and Contempt dockets in May of 2012. The Contempt Hearing procedures have been under development by the Industrial Commission since 2009. As a result of the planning process, the Industrial Commission conducted the additional following types of hearings that could be brought before a Deputy Commissioner for relief:

- Administrative Hearing on Administrative Assessment of N.C. Gen. Stat. §97-94(b) penalty
- Administrative Hearing on Enforcement of N.C. Gen. Stat. §97-94 (b) & (d) penalties
- Regularly docketed Non-insured Hearing on workers' compensation claim and penalty
- Hearing of Right pursuant to N.C. Gen. Stat. § 97-94(b) after Administrative Assessment
- Contempt Hearing for failure to abide by Orders of the Industrial Commission

Below is a summary of the work performed by the Deputy Commissioner Section for the fiscal year of 2011-2012:

<b>Hearing Days Conducted by Deputy Commissioners</b>	<b>818<sup>25</sup></b>
<b>Total Number of Claims Docketed for Hearings</b>	<b>5,747<sup>26</sup></b>
<b>Disposition of Claims Set For Hearings<sup>27</sup></b>	
<b>Pre-Trial Hearings Held by Deputy Commissioners</b>	<b>249</b>
<b>Cases Heard</b>	<b>1,567</b>
<b>Continued/Removed</b>	<b>1,916</b>
<b>Cases Dismissed With Prejudice</b>	<b>40</b>
<b>Cases Dismissed Without Prejudice</b>	<b>142</b>
<b>Cases Settled</b>	<b>1,970</b>
<b>Summary of Decisions Rendered, Cases Settled and Pre-Trial Orders Issued</b>	
<b>Opinion and Awards or Decision and Orders Filed</b>	<b>1,004</b>
<b>Compromise Settlement Agreements Approved</b>	<b>1,935</b>
<b>Pre-Trial Orders Issued</b>	<b>256</b>
<b>Total Cases</b>	<b>3,195</b>
<b>Medical Motions</b>	
<b>Expedited Medical Motions Filed</b>	<b>1020</b>
<b>Emergency Medical Motions Filed</b>	<b>14</b>
<b>Total Medical Motions</b>	<b>1034</b>
<b>Penalty Hearings</b>	
<b>Penalty Assessment</b>	<b>118</b>
<b>Penalty Enforcement</b>	<b>142</b>
<b>Contempt</b>	<b>38</b>
<b>Total Penalty Hearings</b>	<b>298<sup>28</sup></b>

<b>Number of Deputy Commissioners' Hearing Hours Per Month<sup>29</sup></b>											
<b>July</b>	<b>Aug</b>	<b>Sept</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>April</b>	<b>May</b>	<b>June</b>
<b>244</b>	<b>320.25</b>	<b>323.25</b>	<b>274.50</b>	<b>318.75</b>	<b>285.75</b>	<b>325.45</b>	<b>251.75</b>	<b>326</b>	<b>290.25</b>	<b>349.50</b>	<b>381.25</b>
<b>Total Hours: 3,690.70 Hours</b>											

<sup>25</sup> The Industrial Commission has attempted to compress the number of hearing days to decrease travel expenses.

<sup>26</sup> Number does not reflect docketing and hearing statistics for Expedited and Emergency Medical Motions. There were 1034 Expedited and Emergency Medical Motions disposed of by the Deputy Commissioner Section during Fiscal Year 2010- 2011.

<sup>27</sup> Claims disposed of are greater than claims docketed for hearings as a claim may be resolved by a Deputy Commissioner prior to being docketed on a calendar.

<sup>28</sup> The Total Penalty Hearings were held by the Industrial Commission exclusively in May and June of 2012.

<sup>29</sup> Numbers do not reflect docketing and hearing statistics for Expedited and Emergency Medical Motions. There were 1034 Expedited and Emergency Medical Motions disposed of by the Deputy Commissioner Section during Fiscal Year 2010- 2011.

**Expeditious resolution by the Deputy Commissioner Section for resolving requests for, or disputes involving, medical compensation:<sup>30</sup> <sup>31</sup>**

The Deputy Commissioner Section ruled upon 1034 medical motions for the fiscal year of 2011-2012. No medical motion exceeded a filing date of 45 days after the filing of the motion requesting relief.

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<sup>30</sup> In 2008, pursuant to the newly enacted N.C. Gen. Stat. § 97-78(f)(2), the North Carolina Industrial Commission promulgated a strategic plan for expeditious resolution of requests for medical compensation pursuant to N.C. Gen. Stat. § 97-25. Timeframes were shortened at various levels of litigation regarding medical issues and the emergency medical motion procedure was formalized. The changes reflected in this plan became effective on August 1, 2008.

<sup>31</sup> The report is provided in accordance with N.C. Gen. Stat. § 97-78(g)(2).

## **Full Commission Section**

For the fiscal year 2011-2012, and in accordance with N.C. Gen. Stat. § 97-77, Full Commission consisted of seven Commissioners “who shall devote their entire time to the duties of the Commission.”<sup>32</sup> The Commissioners are appointed by the Governor for staggered 6-year terms. No more than three of the Commissioners can be representatives of employers and no more than three can be representatives of employees. The Industrial Commission administers and adjudicates not only the Workers’ Compensation Act, but also the Tort Claims Act, the Childhood Vaccine-Related Injury Act, the Law Enforcement Officers’, Firemen’s, Rescue Squad Workers’, and Civil Air Patrol Members’ Death Benefit Act, and the Act to Compensate Individuals Erroneously Convicted of Felonies. The main focus of the Industrial Commission involves workers’ compensation cases. The stated public policy behind the Workers’ Compensation Act is to provide certain and speedy relief to injured employees. The Industrial Commission is a special or limited tribunal and is vested with certain judicial functions and possesses the powers and incidents of a court, within the provisions of the Workers’ Compensation Act, as are necessary to determine matters in dispute between employees and employers/insurance carriers.

### **Quasi-Judicial Function**

The Commissioners have many job duties. The most highly visible part of the job is the quasi-judicial function in which the Commissioners sit in panels of three to review appeals from approximately 40% of the decisions made by Deputy Commissioners who travel across the state hearing workers’ compensation and tort claims cases. By statute, Commissioners may reconsider the evidence, receive further evidence, rehear the parties or amend in any way the decision by the Deputy Commissioner. N.C. Gen. Stat. § 97-85. The Full Commission is the ultimate fact-finding body of the Industrial Commission and, therefore, only the findings of the Commissioners and not those of the Deputy Commissioners are deemed conclusive on appeal to the higher courts if supported by the evidence.

Below is a summary of the work performed by the Full Commission Section for the fiscal year of 2011-2012:

<b>Cases Prepared for Full Commission Review</b>	<b>548</b>
<b><i>Pro Se</i> Inmate Torts Appeals Heard Administratively</b>	<b>82</b>
<b>Medical Motion Appeals</b>	<b>63</b>

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<sup>32</sup> House Bill 709, now known as Ch. SL 2011-287, effective as of June 24, 2011, reduced the number of Commissioners from seven (7) to six (6). The reduction was accomplished by not reappointing a seventh Commissioner for the term that expired on June 20, 2012. Therefore, for the fiscal year of 2011-2012, the Industrial Commission functioned with seven (7) Commissioners.

## **Management and Operations**

The Chair of the Full Commission is, by statute, the chief judicial officer and chief executive officer of the Industrial Commission. The Chair has the authority to direct and oversee the Industrial Commission and may delegate duties as needed for proper management of the Commission. The Chair and the other Commissioners meet monthly and often more frequently to set the goals, and operating procedures for the entire agency, as well as to address administrative issues, judicial/legal issues, computer system issues, case management by Deputy Commissioners and Commissioners, and oversight of all sections of the Industrial Commission. Another duty of Commissioners is serving as liaison with all sections of the Industrial Commission, which involves frequent communication between section heads and the other Commissioners to evaluate the effectiveness and efficiency of the Industrial Commission's operations and to assure that ongoing issues are addressed by the Commissioners.

## **Other Duties for Commissioners**

Each Commissioner also is assigned additional duties. One Commissioner oversees the case management for tort claims, serving as the clerk of court for tort claims as well as reviewing and approving settlements of tort cases such as school bus accidents and other negligence claims against the State. Another Commissioner oversees the management of the appeal process to the Court of Appeals. One Commissioner plans and organizes the program and multiple events surrounding the Commission's annual education conference, which provides continuing education for all parties involved in the workers' compensation system, including insurance adjusters, human resource and safety directors and other employer representatives, plaintiff and defense attorneys, vocational rehabilitation workers, nurses, and others. Commissioners also routinely review settlement agreements submitted by the parties which must be approved by the Commission.

**Expeditious resolution by the Full Commission for resolving requests for, or disputes involving, medical compensation:**<sup>33</sup> <sup>34</sup>

The Full Commission ruled upon 63 medical motions for the fiscal year of 2011-2012. 1 of the 63 medical motions exceeded a filing date of 45 days after the filing of the motion requesting relief. For the 1 claim in which the order was filed 45 days after the filing of the motion requesting relief, the parties sought and were granted the opportunity to submit additional medical evidence.

Below is a summary of the of the 1 medical motion filed by the Full Commission 45 days after the filing of the motion requesting relief for the fiscal year of 2011-2012:

<b>I.C. File No.</b>	<b>Date Motion filed</b>	<b>Date Order filed</b>
X44904	1/30/12	4/2/12

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<sup>33</sup> In 2008, pursuant to the newly enacted N.C. Gen. Stat. § 97-78(f)(2), the North Carolina Industrial Commission promulgated a strategic plan for expeditious resolution of requests for medical compensation pursuant to N.C. Gen. Stat. § 97-25. Timeframes were shortened at various levels of litigation regarding medical issues and the emergency medical motion procedure was formalized. The changes reflected in this plan became effective on August 1, 2008.

<sup>34</sup> The report is provided in accordance with N.C. Gen. Stat. § 97-78(g)(2).

## **Rules Review Committee**

In accordance with House Bill 709, now known as Ch. SL 2011-287, effective as of June 24, 2011, the Industrial Commission began working diligently on the prospect of being subject to the Administrative Procedure Act, even prior to ratification of the legislation. In addition to the passage of House Bill 709, the Industrial Commission became subject to Senate Bill 781, now known as Ch. SL 2011-398, effective as of July 25, 2011. The Industrial Commission took aggressive steps to understand the implications of Senate Bill 781 and its requirements for compliance with House Bill 709 and Senate Bill 781.

A Rules Review Committee was created within the Industrial Commission at the end of July 2011. The first Rules Review Committee meeting was held on August 3, 2011. One of the first steps taken by the Rules Review Committee was to seek outside input on the rules from both external stakeholders and internal stakeholders, requesting parties to propose changes to existing rules and to propose changes made necessary by House Bill 709. Upon receipt of all proposals, the information was compiled and the committee met on a weekly basis to review every rule found in existence in the statute. The Industrial Commission continued to correspond with the Office of Administrative Hearings (OAH) and Office of State Budget and Management (OSBM), as was necessary for furthering their understanding of the process, even meeting with OAH in early September of 2011. The Rules Review Committee, along with various other individuals within the Industrial Commission, attended a CLE offered by OAH and OSBM to ensure a proper understanding of the process and procedures for rule adoption under House Bill 709 and Senate Bill 781. Furthermore, all of the rules as revised by the Rules Review Committee underwent a preliminary review with OAH prior to completion of fiscal notes to minimize errors. The Commission finalized the fiscal notes and a packet was submitted to OSBM for review in accordance with Senate Bill 781. On July 16, 2012, the Industrial Commission published the Notice of Rulemaking, the text of the proposed rules, and the fiscal impact analysis. A public hearing was held on August 6, 2012, and the Industrial Commission received public comments through September 14, 2012. On September 20, 2012, the Industrial Commission adopted rules, which were submitted to the Rules Review Commission of OAH for review.

The Industrial Commission has complied with House Bill 709. The following provides a summary of the rules adopted by the Industrial Commission on September 20, 2012:

**ADOPTION:** 04 NCAC 10A .0106-.0107, .0410, .0618-.0619, .0704, .1001; 04 NCAC 10B .0208; 04 NCAC 10C .0201-.0202; 04 NCAC 10D .0111; 04 NCAC 10E .0102, .0201-.0204, .0301-.0302; 04 NCAC 10F .0101, .0104-.0109; 04 NCAC 10H .0206-.0207; 04 NCAC 10I .0204-.0205

**AMENDMENT:** 04 NCAC 10A .0101-.0105, .0201, .0301-.0302, .0401-.0406, .0408-.0409, .0501-.0503, .0601-.0617, .0701-.0703, .0801-.0802, .0901-.0902; 04 NCAC 10B .0101-.0104, .0201-.0207, .0301-.0303, .0305, .0307-.0308, .0310, .0401-.0404, .0501, .0503; 04 NCAC 10C .0101, .0103, .0105-.0110; 04 NCAC 10D .0101-.0102, .0104-.0110; 04 NCAC 10E .0101; 04 NCAC 10F .0102-.0103; 04 NCAC 10G .0101-.0112; 04 NCAC 10H .0101, .0201-.0205; 04 NCAC 10I .0101-.0102, 04 NCAC 10I .0201-.0203; 04 NCAC 10J .0101

**REPEAL:** 04 NCAC 10A .0407, .0803; 04 NCAC 10B .0304, .0306, .0309, .0502; 04 NCAC 10C .0102; 04 NCAC 10D .0103

Senate Bill 781 also requires the Industrial Commission to deliver to the Joint Select Regulatory Reform Committee of the General Assembly no later than October 1 of every year, a list of all permanent rules adopted by the body that includes for each rule the following information:

- (1) Whether the rule is mandated by a federal law or regulation.
- (2) If the rule is not mandated by a federal law or regulation, whether there is a federal regulation that is analogous to the rule. For purposes of this subdivision, "analogous" means the federal regulation regulates the same conduct or activity as the State regulation.
- (3) If there is a federal statute or regulation analogous to the rule, whether the rule is more stringent than the federal law or regulation.

The Industrial Commission reports that, after a review of our rules and the applicable statutory authority, no rules promulgated by the Industrial Commission are mandated by federal law or regulation; are analogous to a federal law or regulation; or result in a rule more stringent than federal law or regulation.<sup>35</sup>

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<sup>35</sup> The summary is provided in accordance with Section 57 of Senate Bill 781, now known as Ch. SL 2011-398.



## **Continuing and Ongoing Recommendations**

The Industrial Commission administers the Workers' Compensation Act, the Tort Claims Act, the Childhood Vaccine-Related Injury Act, the Law Enforcement Officers', Firemen's, Rescue Squad Workers', and Civil Air Patrol Members' Death Benefit Act, and the Act to Compensate Individuals Erroneously Convicted of Felonies. Our mission is to ensure all parties are treated fairly and equally in accordance with North Carolina State Law. In order to accomplish our expansive mission, the Industrial Commission makes the following recommendations:<sup>36</sup>

- The ability for the Industrial Commission to retain unexpended and unencumbered additional revenue generated as a result of an increase in the fee charged to parties for the filing of compromise settlements. The unexpended and unencumbered funds are critical as the Industrial Commission continues to develop and implement an updated database and case management system.
- An appropriations from the General Fund to the Industrial Commission of \$500,000.00, to fund five investigator positions, which shall be sworn law enforcement officers, and three paralegal positions, which shall be certified as paralegals, to investigate the insurance coverage status of employers with the State of North Carolina.
- Authorize the Industrial Commission to issue a cease and desist order requiring any employer who is engaged in business and does not have workers' compensation insurance or has a workers' compensation policy which has lapsed, to cease operating the business until such time as a workers' compensation policy with proper limits and coverage is in full force and effect.
- Clarification as to the authority of the Industrial Commission to hold parties in civil and criminal (both direct and indirect) contempt and the relative specific authorities and responsibilities of the Industrial Commission, General Courts of Justice, magistrates and law enforcement to effect service, issue orders for arrest, take into custody, transport, set bail, set terms to purge, imprison and adjudicate contempt in each specific type of contempt.
- The Industrial Commission, through the Chair, may request assistance from the Department of Insurance in the investigation of claims of suspected fraud and all violations relevant to workers' compensation claims. Upon the request of the Industrial Commission, the Department of Insurance must provide any investigatory assistance required by the Industrial Commission.
- Forge a partnership among the following agencies for the purpose of facilitation, accessing and sharing information to assist the Industrial Commission's investigation of the status of employers' insurance coverage: Department of Insurance, Secretary of State, Employment Security Commission, Department of Revenue, Office of the State Controller, Rate Bureau, Department of Public Safety, Office of the Attorney General, and Department of Labor, among others.
- Additional resources to implement recommendations set forth by the Governor's Task Force on Misclassification of Employees pursuant to Executive Order No. 125.

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<sup>36</sup> The recommendations are provided in accordance with N.C. Gen. Stat. § 97-78(e).