

# Annual Report



**FISCAL YEAR 2015**

(JULY 1, 2014 - JUNE 30, 2015)



SM

*Industrial Commission*

# LETTER FROM THE CHAIRMAN



The North Carolina Industrial Commission has been administering the Workers' Compensation Act since 1929. Workers' compensation impacts almost every business and worker in the state, and annual written premiums for North Carolina workers' compensation insurance total approximately \$1.4 billion. North Carolina also has a robust number of self-insured employers that are subject to the Act, including the State itself. I was greatly honored when Governor McCrory appointed me as Chairman of the Commission in May 2013, and I have strived to be a good steward of the workers' compensation system.

In summer 2013, the Commission established an informal advisory council composed of representatives of workers, employers, medical providers, attorneys, insurance carriers and other industry leaders. The Commission hired dynamic and hard-working employees in key positions to supplement the existing dedicated and skilled Commission staff. Working with this team and the advisory council, the Commission identified ways to improve the North Carolina workers' compensation system, and set out in earnest to make those changes, focusing on customer service consistent with Governor McCrory's vision for effectively managing state government. We also sought to reduce system costs without disturbing the benefits to injured workers. We called this the "BEST" initiative,

and challenged our employees to find ways to make our system better through Best practices, Efficiency, customer Service and Teamwork.

In the past fiscal year, many of the projects we began in 2013 have seen considerable progress. The Commission revised its Medical Fee Schedule, which sets the maximum reimbursement rates for medical providers. These fee schedule changes are projected to save the system \$27 million annually while increasing injured workers' access to excellent physicians. We brought to the General Assembly's attention the need to reform physician-dispensed drugs, a practice that inflated costs in the workers' compensation system by marking up the charges for common medications. Legislation passed in 2014 and 2015 will appropriately limit this practice, resulting in additional significant cost savings and more effective care for injured workers.

Additionally, the Commission revised its rules to eliminate many of its litigation costs and fees, and split the remaining fees equitably between the parties. We also eliminated the backlog of thousands of unprocessed claims, and put in place policies that are designed to significantly reduce the time it takes our judges to render opinions in disputed cases, ensuring that each claim is swiftly heard and decided.

The Commission's efforts have, at least in part, translated into tangible system-wide savings. Following a workers' compensation insurance loss costs increase in 2014, the loss costs fell an average of 3.4% effective April 2015. Looking toward the upcoming rate changes effective April 2016, the North Carolina Rate Bureau has filed advisory loss costs with the Department of Insurance for approval showing an average 10.2% decrease from loss costs approved last April. In the same filing, the Rate Bureau specifically indicated that the Commission's changes to the Medical Fee Schedule, standing alone, were projected to result in a 1.5% reduction in system costs. For FY 2013-2014 and FY 2014-2015, the number of workers' compensation claims has actually increased, and the percentage of denied claims has remained virtually unchanged.

The Commission's greatest achievements have come in the way of fighting fraud and reducing employer noncompliance. This has been achieved through partnering with other state agencies and SAS Institute, Inc., to develop the Noncompliant Employer Targeting System or "NETS" which enables us to identify and penalize noncompliant employers before injuries occur. Since NETS was implemented in April 2014, over 800 businesses have come into compliance, and thousands of workers are now insured against potentially devastating workplace injuries. Additionally, the Commission collected nearly \$1 million in penalties assessed against noncompliant employers in the past fiscal year. This figure represents a 290% increase from FY 2013-2014 and a 568% increase from FY 2012-2013. The clear proceeds of these penalties go to the Civil Penalty and Forfeiture Fund which benefits North Carolina public schools.

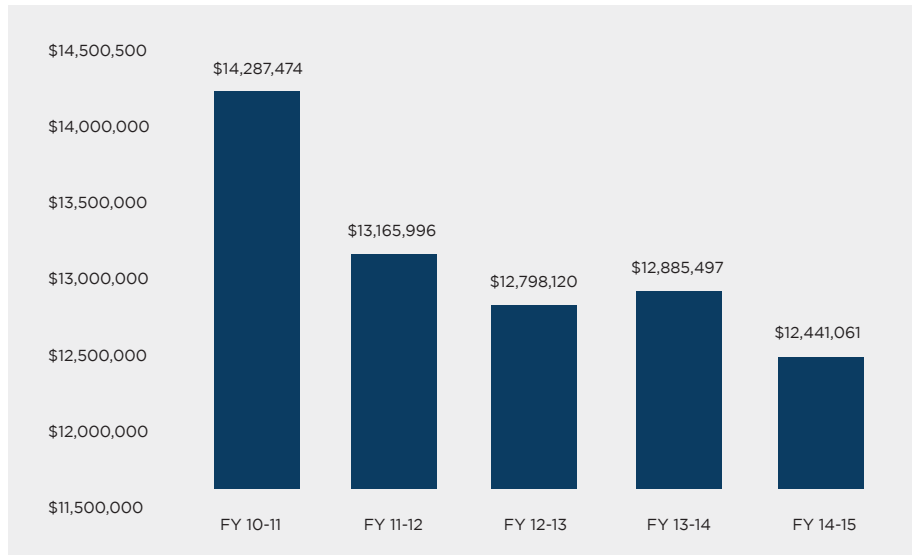
Operationally, the Commission has worked hard to do more with less and has produced great results while still reducing the burden to the taxpayer. In FY 2014-2015, Commission expenditures were the lowest they have been in the past five fiscal years, paving the way to allow the General Assembly to cut the Commission's appropriated budget by more than 7% for the 2015-2017 biennium.

The Commission and its staff will continue to build on these recent successes, and we have included several recommendations on page seven of this report. I look forward to working with the system's stakeholders, Governor McCrory and the General Assembly to further improve both the Commission and the North Carolina workers' compensation system.

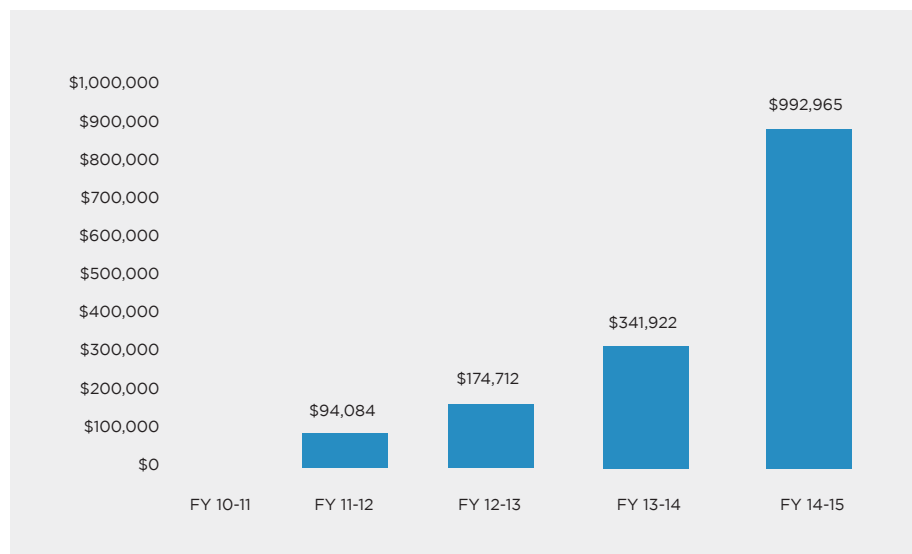
A handwritten signature in black ink, appearing to read "Andrew T. Heath".

Andrew T. Heath  
Chairman, North Carolina Industrial Commission

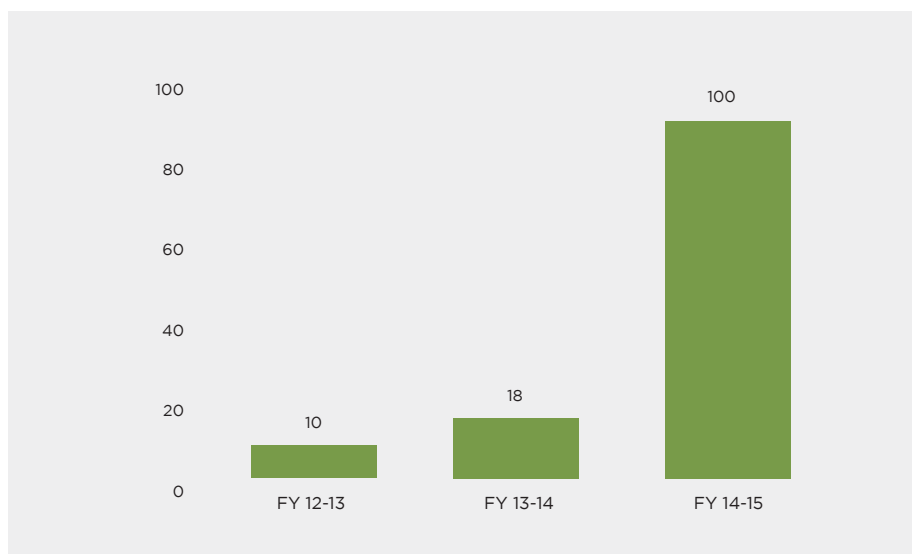
## NC Industrial Commission Expenditures



## NC Industrial Commission Compliance/Fraud Penalties Collected



## Criminal Charges Filed Against Noncompliant Employers



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# North Carolina Industrial Commission – At a Glance

## REPORT FOR FY 2015

(JULY 1, 2014 – JUNE 30, 2015)

Workers' Compensation Claims Filed	75,686
Orders Issued on Medical Motions	1,857 <sup>1</sup>
Deputy Commissioner Hearings Held	1,736 <sup>2</sup>
Cases Appealed to the Full Commission	466 <sup>3</sup>
Cases Referred to Mediation	9,380
Orders on Compromise Settlement Agreements	12,204
Mediation Settlement Rate	76.9%
Form 26A <i>Employer's Admission of Employee's Right to Permanent Partial Disability</i> Agreements received	6,459
Orders filed on Forms 24 <i>Application to Terminate or Suspend Payment of Compensation</i>	1,420
Orders filed on Forms 23 <i>Application to Reinstate Payment of Disability Compensation</i>	243
Cases Handled by the Medical Rehabilitation Nurses Section	314
Medical Bills Reviewed	4,068
Individuals trained at Industrial Commission's Safety Education Courses	8,138
Fraud Cases Reported	1,474
Penalties Collected	\$1,298,475 <sup>4</sup>

<sup>1</sup> Includes medical motions filed with the Deputy Commissioners Section and the Executive Secretary. Pursuant to N.C. Gen. Stat. § 97-78(g)(2), of the 1,857 medical motions filed, 1,843 were ruled upon within the statutory time frame.

<sup>2</sup> Includes Workers' Compensation Cases, Tort Claims, Eugenics Claims, Penalty and Contempt hearings.

<sup>3</sup> Includes Workers' Compensation cases, Tort Claims, Medical Motions, etc.

<sup>4</sup> The penalties collected figure included in the 2012-2013 Annual Report should have been \$474,805. It was understated due to not including the penalties collected by the NCIC through the Claims Section.

# THE NORTH CAROLINA INDUSTRIAL COMMISSION

## Mission Statement

The employees of the North Carolina Industrial Commission are committed to providing excellent customer service through the efficient administration of claims, facilitation of dispute resolution, fair and impartial adjudication of contested cases, careful application of the law, and prompt and courteous responsiveness to all stakeholders.

## About the Commission

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; claims under N.C. Gen. Stat. § 148-82 *et seq.* for Compensation to Persons Erroneously Convicted of Felonies; and the Eugenics Asexualization and Sterilization Compensation Program.

The Full Commission consists of six Commissioners who are required by statute to devote their entire time to the duties of the Commission. The Commissioners are appointed by the Governor for staggered six-year terms, and confirmed by the General Assembly. No more than three of the Commissioners can be representatives of employers and no more than three can be representatives of employees.

The Commissioners sit in panels of three to review appeals from decisions made by Deputy Commissioners located throughout the state to hear workers' compensation and tort claims cases. 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.

## Full Commission Section Summary for FY 2014-15

Appeals in Workers' Compensation and Tort Claims	444
Medical Motion Appeals	22
Total Appeals to Full Commission	466

## Management and Operations

The Chairman of the Full Commission is, by statute, the Chief Executive Officer and Chief Judicial Officer of the Industrial Commission. The Chairman has the authority to direct and oversee the Industrial Commission and may delegate duties as needed for proper management of the Commission.

## Major Activities and Initiatives

### Strategic Geographic Relocation

In late 2014, the Industrial Commission began decentralizing its judicial staff into five regional offices located throughout the state. Previously, all Deputy Commissioners were based in Raleigh and traveled to local hearing locations several times a month. Each new regional office will have at least two Deputy Commissioners, a legal assistant, and a fraud investigator. This reorganization is projected to reduce costs and unnecessary travel, increase employee productivity, and enhance customer service at the local level. The Industrial Commission has already opened regional offices in Asheville and Charlotte, and expects to open additional offices in Elizabethtown, Greenville, and Winston-Salem by the end of 2015.



## Electronic Filing

The Commission made significant improvements to its Electronic Document Filing Portal (“EDFP”) over the course of FY 2014-15. As a result of these improvements, outside stakeholders are now able to submit 29 types of Forms and other documents to the Commission via EDFP, as compared to 5 types prior to the improvements. Providing a single, electronic means of submitting documents will increase efficiency for outside stakeholders who previously submitted documents to multiple e-mail addresses and/or via U.S. Mail. The new electronic date stamp and e-mail confirmation features of EDFP will further benefit outside stakeholders by reducing uncertainty regarding whether or when a document was filed. The improvements to EDFP will also boost efficiency within the Commission by reducing time spent routing and processing duplicate documents and by enabling staff to automatically upload documents to the Commission’s electronic document repository which previously had to be manually scanned. In order to ensure that these gains in efficiency are achieved, the Commission has proposed a new rule and amendments to several existing rules which would require filing via EDFP of certain documents and provide outside stakeholders with specific guidelines for filing all types of documents with the Commission.

## Eugenics Claims

Session Law 2013-360 tasked the Industrial Commission with determining claimants’ eligibility for compensation under the Eugenics Asexualization and Sterilization Compensation Program. Under the law, the Full Commission is responsible for reviewing appeals from determinations of eligibility made by Deputy Commissioners. During FY 2014-15, the Full Commission reviewed appeals and issued decisions in claims for compensation for asexualization or sterilization and collaborated with representatives of the North Carolina Court of Appeals to develop a procedure for claimants to appeal eligibility determinations made by the Full Commission to the North Carolina Court of Appeals.

## Notable Legislation

### **Senate Bill 744, Session Law 2014-100 (Eff. August 7, 2014):**

- Amends N.C. Gen. Stat. § 97-79(b) to make Industrial Commission Deputy Commissioners subject to appointment to six-year terms. Deputy Commissioners are no longer covered under the State Personnel System and are now appointed by the Chairman.
- Limits reimbursement of physician-dispensed medications in workers’ compensation cases to 95% of average wholesale price and restricts the dispensing of Schedule II and III controlled substances to an initial five-day supply.
- Eliminates costs assessed for hearings before Deputy Commissioners and the Full Commission, and for processing fees for the *Agreement for Compensation for Disability* (Form 21), *Employer’s Admission of Employee’s Right to Permanent Partial Disability* (Form 26A), and *Supplemental Agreement as to Payment of Compensation* (Form 26) (Eff. July 1, 2015). Remaining costs are split between the parties in a more equitable manner.

## Rulemaking Update

In 2014, eight proposed Industrial Commission rules were disapproved by Senate Bill 794, Session Law 2014-77. This legislation also directed the Commission to revise two other rules to reflect the statutory elimination of workers’ compensation hearing costs and other fees. In accordance with this directive, the Commission submitted these ten rules to the Rules Review Commission. All ten rules became effective on November 1, 2014. In addition, rules revised by the Commission in 2012 in response to House Bill 709, Session Law 2011-287, that had been held in abeyance due to ongoing rulemaking became effective July 1, 2014, and November 1, 2014.

House Bill 92, Session Law 2013-410, directed the Industrial Commission to revise its Medical Fee Schedule and base healthcare provider reimbursement rates on applicable Medicare payment methodologies. In August 2014, the Industrial Commission met with various stakeholders to develop consensus revisions. On November 17, 2014, the Industrial Commission published the following Medical Fee Schedule rules with the Rules Review Commission:

- 1. 04 NCAC 10J .0101 (GENERAL PROVISIONS) (Eff. April 1, 2015)**
- 2. 04 NCAC 10J .0102 (FEES FOR PROFESSIONAL SERVICES) (Eff. April 1, 2015)**
- 3. 04 NCAC 10J .0102 (FEES FOR PROFESSIONAL SERVICES) (Eff. July 1, 2015)**
- 4. 04 NCAC 10J .0103 (FEES FOR INSTITUTIONAL SERVICES) (Eff. April 1, 2015)**

The Industrial Commission held a public hearing on December 17, 2014, and the Rules Review Commission approved the above rules at its February 2015 meeting. The National Council on Compensation Insurance (NCCI) projects that the new Medical Fee Schedule will result in approximately \$27 million in annual savings to the North Carolina workers' compensation system.

On September 15, 2015, the Rules Review Commission published the Industrial Commission's proposed electronic filing rules in the *North Carolina Register*. These rules will be the subject of a public hearing scheduled for October 20, 2015 and are expected to be effective starting February 1, 2016.

## Recommendations

The following legislative recommendations are provided in accordance with N.C. Gen. Stat. § 97-78(e):

- The Industrial Commission recommends that the General Assembly direct the Commission to adopt a nationally-recognized, and peer-reviewed drug formulary as well as evidence-based medical treatment guidelines via administrative rulemaking. Implementing such treatment guidelines for use in workers' compensation cases is projected to reduce medical costs, expedite medical treatment, and ensure that insured workers receive the most effective treatment possible.
- As discussed in the annual report, the Industrial Commission is responsible for administering a wide variety of claims. The records produced from these claims are subject to differing record retention requirements and laws. The Commission recommends that the Program Evaluation Division conduct a program evaluation to determine the extent of any problems that may exist and provide funding for the development of an agency-wide case management system.
- The Industrial Commission recommends that the General Assembly clarify the Commission's authority 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 recommends that the General Assembly consider employee misclassification reform that is designed to do the following:
  - Specifically prohibit employee misclassification and create a new civil penalty for "employee misclassification";
  - Increase inter-agency information sharing by creating a dedicated sub-agency within state government to: 1) receive and fully investigate all reports of employee misclassification, 2) assess civil penalties in instances of employee misclassification, and 3) share any such reports with all relevant state agencies for further investigation and enforcement action;
  - Require all applicants for state occupational licenses to certify on the application that the applicant has read and understands an employee misclassification notice;



- Increase inter-agency information sharing by creating a dedicated sub-agency within state government to: 1) receive and fully investigate all reports of employee misclassification, 2) assess civil penalties in instances of employee misclassification, and 3) share any such reports with all relevant state agencies for further investigation and enforcement action;
- Require all applicants for state occupational licenses to certify on the application that the applicant has read and understands an employee misclassification notice;
- Prohibit businesses that have engaged in employee misclassification from contracting with the state, (“debarment”); and
- Empower state licensing boards to revoke the licenses of individuals who misclassify their employees.

# CLAIMS ADMINISTRATION SECTION

## Mission Statement

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

## About the Claims Administration Section

The Claims Administration Section processes documents related to events at the inception of a workers' compensation claim and during its pendency. At the outset of a new claim, Claims Administration is responsible for researching insurance coverage, assigning Industrial Commission file numbers, identifying any discrepancies in information provided by employers, insurers, and/or injured workers, and notifying injured workers of their rights under the Workers' Compensation Act. As the claim progresses, Claims Administration processes forms sent in by insurers and employers relative to the acceptance or denial of claims, initiation and termination of benefits, and return to work status. Claims Administration responds to inquiries from injured workers, employers, attorneys and insurers concerning file copy requests, appropriate form filing, and the status of pending agreements, to name a few responsibilities.

Additionally, Claims Administration processes form agreements for payment of death, disfigurement, and permanent partial disability benefits. Claims Administration handles occupational disease claims, including the initiation of those claims and research on multiple employer/insurer situations. Claims Administration assesses penalties against employers and/or carriers who fail to timely file forms required by statute.

## Most Frequently Processed Claims Administration-Related Forms

A Form 18 is the *Notice of Accident to Employer and Claims of Employee, Representative, or Dependent*. This is to be filed by an injured worker or his/her representative within two years of the date of injury or occupational disease, or the claim may be barred.

A Form 18B is a *Claim by Employee, Representative, or Dependent for Lung Disease, Including Asbestosis, Silicosis, and Byssinosis*. It is not to be used for other occupational disease claims, or for injuries by accident.

Employers are required to file a first report of injury (FROI) when the injured worker has missed 1 or more days of work, OR where more than \$2,000 in medical benefits have been incurred. Effective June 1, 2014, all FROI's for injuries occurring after April 1, 1997 must be filed electronically via the Electronic Data Interchange (EDI).

A Form 26A is the *Employer's Admission of the Employee's Right to Permanent Partial Disability* pursuant to N.C. Gen. Stat. § 97-31. The form is used when the parties agree the employer will pay the injured worker the permanent partial disability rating assigned once the injured worker reaches maximum medical improvement.

A Form 60 is filed when an employer/insurer admits the injured worker's right to compensation.

A Form 61 is filed by the employer/insurer when the employer denies the injured worker's right to compensation.

A Form 63 is filed when the employer or insurer is paying compensation without prejudice or in "medical only" claims where no indemnity compensation is owed. In claims where the employer or insurer agrees to pay compensation without prejudice, the employer or insurer has 90 days (with a possible 30 day extension) to investigate the injured worker's claim. During this period, the employer or insurer may admit liability, contest the claim, or waive the right to contest the claim.

## Compliance with N.C. Gen. Stat. § 97-18

When an injured worker files a claim for compensation with the Industrial Commission, the Industrial Commission may order reasonable sanctions against an employer or insurer which does not, within 30 days following notice from the Industrial Commission of the filing of a claim, or within such reasonable additional time as the Industrial Commission may allow, file a Form 60, 61, or 63 with the Industrial Commission and the injured worker.

Claims Administration keeps track of all Form 18's filed and Form 60, 61, and 63's filed with respect to various claims. If an employer or insurer has failed to comply with N.C. Gen. Stat. § 97-18, Claims Administration is tasked with assessing a \$200.00 penalty against the employer and insurer. If an employer and/or insurer feels the penalty has been assessed in error, Claims Administration investigates the claim and corresponds with the inquiring party in order to determine whether the penalty is indeed warranted. There are certain circumstances in which a claim may be reported as not being in compliance with N.C. Gen. Stat. § 97-18 and/or why a penalty may be waived. These include:

- **Duplicate files:** Two or more files were created for the same injury due to variations in key information provided by the parties at the outset of the claim. These files will be combined, with one number deleted from the NCIC database.
- **Combined files:** The parties requested the combination of two or more files because of similar issues. Although combined, both file numbers would remain in our database.
- **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.

## Claims Administration Section Summary FY 2014-15

Claims Opened via Form 18 Filing	9,227
Claims Opened via Form 19 Filing	66,459
<b>Total Claims Opened</b>	<b>75,686</b>
Forms 60, 61, 63 Filed <sup>1</sup>	52,179
Death Claims Filed	176
Form Agreements (Form 26A) Received <sup>2</sup>	6,459
Form Agreements (Form 26A) Approved	6,194
Telephone Calls Answered	12,822

### Forms Compliance Summary Pursuant to N.C. Gen. Stat. § 97-78(g)

Total of Form 18's Processed FY 2014-15	19,487
Forms 60, 61 or 63 Processed Before Form 18 Filed	4,959
Forms 60, 61 or 63 Filed within 30 days of Form 18	9,063
<b>Total Number of Compliant Forms</b>	<b>14,022</b>
Forms 60, 61 or 63 Filed between 31 and 60 days of Form 18	2,131
Forms 60, 61 or 63 Filed between 61 and 90 days of Form 18	598
Forms 60, 61 or 63 Filed 91 or more days after Form 18	1,323
Form 18 with no Forms 60, 61 or 63 Processed by end of FY 2014-15	1,773
<b>Total Number of claims not in compliance<sup>3</sup></b>	<b>5,825</b>

<sup>1</sup> The total number of Form 6x (60, 61, 63) filed in FY 2014-15 differs significantly from FY 2013-14 because in FY 2013-14, carriers were permitted to submit Form 6x via Electronic Data Interchange (EDI) for part of the fiscal year. After a system limitation was identified, insurers later sent in Form 6x on paper, which resulted in multiple Form 6x being received on the same claim. This was remedied several months into FY 2013-14 and accordingly, the numbers for FY 2013-14 were significantly greater compared to FY 2012-13 and FY 2014-15.

<sup>2</sup> Each fiscal year, there is a slight discrepancy between number of form agreements received and the number of form agreements approved because some agreements may have been received in one fiscal year and approved in the next fiscal year.

<sup>3</sup> No Form 6x filed, or Form 6x filed greater than 30 days after the filing of the Form 18.

# COMPLIANCE AND FRAUD INVESTIGATION SECTION

## Mission Statement

The Compliance and Fraud Investigation Section works with businesses operating in North Carolina to ensure compliance with the Workers' Compensation Act's requirement to maintain adequate insurance and to enforce the rules and regulations of the North Carolina Industrial Commission.

## About the Compliance and Fraud Investigation Section

The Compliance and Fraud Investigation Section is divided into two units:

**1) the Compliance Unit; and 2) the Criminal Investigation Unit.**

## Compliance Unit

The 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. 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 Compliance Unit also assists the Office of the Attorney General with the enforcement and collection of penalty actions.

FY 2014-15 was the first full year the Compliance Unit used the new database known as the Noncompliant Employer Tracking System (NETS). NETS is a software tool that analyzes data sources from various state agencies and identifies potentially noncompliant employers who may be in violation of the N.C. Workers' Compensation Act. As a result of the NETS system and our expanded staff, we were able to investigate and close 1,873 cases. Of those cases, 535 non-compliant employers came into compliance by obtaining workers' compensation coverage.

Below is a summary of non-insured cases for FY 2014-15:

Non-Insured Hearings Docketed before the Industrial Commission	330
Non-Insured Cases Investigated Pursuant to a Form 33 ( <i>Request for Claim Be Assigned for Hearing</i> )	201
Non-Insured Cases Investigated Pursuant to a Form 18 ( <i>Notice of Accident and Claim of Employee, Representative, or Dependent</i> )	365
Non-Insured Cases with No Injury Reported and investigated by the Compliance Officer	1,970 <sup>1</sup>
Non-Insured Cases with No Injury Reported and investigated by the Criminal Investigations Unit	1,336 <sup>2</sup>

<sup>1</sup> The 1,970 cases include 1,873 cases that were investigated and closed using the new Noncompliant Employer Tracking System (NETS) database tool which went online April 14, 2014.

<sup>2</sup> The 1,336 cases addressed allegations of fraud such as insurance status of employer, unlawful deductions made by employers, and similar fraudulent activities.

## Criminal Investigation Unit

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 collecting or obtaining workers' compensation benefits (N.C. Gen. Stat. § 97-88.2); fraud on the part of employers with regard to payment or 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.

The expansion of our Law Enforcement staff from three to six staff members has had an enormous impact on our ability to pursue non-compliant employers. During FY 2014-15 we issued misdemeanor charges against 100 business owners for Failure to Maintain Workers' Compensation Insurance in violation of N.C. Gen. Stat. § 97-94(d), and one charge of Obtaining Property by False Pretense and Obtaining Benefits after Making a Material Misrepresentation in violation of N.C. Gen. Stat. § 97-88.2 against an employee.

Below is a summary of the total number of fraud cases for FY 2014-15:

### Persons Investigated for Fraud under the Workers' Compensation Act for FY 2014-15

	Employees	Employers	Insurers	Health Care Providers	Attorneys	Rehabilitation Providers	Totals
<b>Number of Fraud Cases Reported</b>	129	1336	6	1	2	0	1474
<b>Number of Fraud Cases Pending</b>	53	36	0	0	0	0	89
<b>Number of Fraud Cases Closed</b>	76	1300	6	0	2	1	1385



# DEPUTY COMMISSIONERS SECTION

## Mission Statement

The Deputy Commissioners, Special Deputy Commissioners, Paralegals, and Legal Assistants of the North Carolina Industrial Commission endeavor to fairly, impartially, and efficiently adjudicate contested claims by careful application of the law; by adherence to rules and procedures; by encouraging settlement wherever possible; and by providing timely and excellent customer service to all parties.

## About the Deputy Commissioners Section

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, the State Tort Claims Act, and the Eugenics Compensation Program. The Deputy Commissioners 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.

Deputy Commissioners conduct full evidentiary hearings throughout the State, hear administrative motions, conduct administrative appeal hearings, review complex form agreements, review settlement agreements, and handle other matters. In addition to the cases described in the tables below, the Deputy Commissioners Section reviewed 922<sup>1</sup> Form 26A agreements and made 5 Law Enforcement Officer Death Benefit Act Determinations.

## Disposition of Claims Set for Hearings

Total Number of Claims Docketed for Hearings	5,325 <sup>2</sup>
Cases Settled	2,121
Cases Continued and/or Removed from the Hearing Docket	1,553
Cases Heard	1,312
Cases Dismissed With Prejudice	180
Cases Dismissed Without Prejudice	156
Other	3

## Summary of Final Determinations Entered and Cases Settled

Compromise Settlement Agreements Approved	2,172
Final Determinations Entered (Opinion & Awards and Decision & Orders)	797
<b>Total Cases</b>	<b>2,969</b>

<sup>1</sup> Form 26A Agreements reviewed by the Deputy Commissioners Section make up a portion of the total Form 26A Agreements received by the Claims Administration Section.

<sup>2</sup> Excludes Penalty and Contempt hearings.

## Employer Non-Compliance

To address non-compliance by employers with insurance coverage requirements of the Workers' Compensation Act, from 2013-2015 the Industrial Commission substantially increased the number of Penalty Enforcement and Contempt Dockets. In 2014, the Deputy Commissioners Section combined the Penalty Enforcement and Penalty Assessment appeals into one docket. To further address non-compliance with Orders filed by the Industrial Commission, effective July 1, 2015, the Deputy Commissioners Section began to hear Contempt matters on a monthly basis. In FY 2014-15, the Deputy Commissioners Section conducted a total of 424 penalty and contempt hearings.

## Expeditious Resolution of Emergency and Expedited Motions and Appeals of Disputes Involving Medical Compensation

Pursuant to SB 794, effective July 22, 2014, the Deputy Commissioners Section heard and ruled upon 295 Emergency and Expedited Medical Motions and Appeals. N.C. Gen. Stat. § 97-25 requires that Expedited Medical Motions be fully resolved within 75 days of filing, including calendaring and conducting a full evidentiary hearing, completion of all discovery, and the filing of an Opinion and Award. Importantly, the statute further requires that the discovery phase, including depositions of physicians and experts, be completed within 60 days of filing. This brief timeframe for discovery regularly presents scheduling challenges for medical providers who agree to handle Workers' Compensation patients. During this period, Deputy Commissioners disposed of 282 Emergency and Expedited Medical Motions within the statutory timeframes.

### Full Evidentiary Medical Motion Hearings / Emergency Medical Motions

Expedited Medical Motions	223
Emergency Medical Motions	72
<b>Total Medical Motions</b>	<b>295</b>

# 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 timely and move through the system as efficiently and expeditiously as possible. The mission will be accomplished by adhering to Industrial Commission Rules, policies and procedures; by being accessible; and by providing all parties and Industrial Commission staff with respectful, responsive and reliable service.

## About the Docket Section

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 and State Tort Claims.

For cases appealed to the Full Commission, the Docket Section organizes the evidence, orders an official hearing transcript, and provides a copy to each party. 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 and Full Commission. The section 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 State Tort Claims, for claims filed under the Law Enforcement Death Benefits Act, and for Erroneous Conviction cases. The Docket Section also processes requests for copies of files and oversees File Room activities.

## Docket Section Summary for FY 2014-15

Requests That Claim be Assigned for Hearing	8,389
Requests for Hearing in Non-Insured Cases	172
Amended Requests that Claim be Assigned for Hearing	307
Administrative Appeals to Deputy Commissioners	469
Appeals (Requests for Hearing) in Penalty Assessment Cases	193
Responses to Hearing Requests (Forms 33R)	6,233
Attorney Representation Letters and Other Correspondence	7,548
Requests for Copies of Files	4,848
Tort Claims Filed	722
Appeals to Full Commission	444 <sup>1</sup>
Medical Motion Appeals	22
Cases Sent for Transcription	377
Full Commission Calendars Generated	46

<sup>1</sup> Includes Workers' Compensation cases and Tort Claims.

# EXECUTIVE SECRETARY'S OFFICE

## Mission Statement

The Executive Secretary's Office is committed to assisting all parties to workers' compensation claims in a professional manner through informed administrative rulings, consistent processes, and prompt and courteous communication.

## What We Do

The Executive Secretary's Office handles administrative review of issues for the Industrial Commission. This office is responsible for the review and approval or disapproval of the vast majority of Compromise Settlement Agreements filed with the Industrial Commission. This section is responsible for reviewing and deciding 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 Administrative Motions, Third Party Settlements and a variety of other issues such as Requests for Attorney Withdrawal. Based on a change in the law, review of Medical Motions moved from the Deputy Commissioner Section to the Executive Secretary's Office as of July 22, 2014.

Orders on Compromise Settlement Agreements	10,032
Orders on Third Party Distributions	553
Orders/Dispositions on Form 24 Applications to Terminate or Suspend Payment of Compensation	1,420
Orders/Dispositions on Form 23 Applications to Reinstate Payment of Disability Compensation	243
Attorney Withdrawal Orders	1,256
Orders on Medical Motions	1,562
Orders/Dispositions on Administrative Motions	3,488
<b>Total Orders</b>	<b>18,554</b>
Total Number of Calls and Voicemails Answered by Executive Secretary's Assistant	2,227
Certified Copies of Files	19

## REPORT PURSUANT TO N.C. GEN. STAT. § 97-78(g)(2) REGARDING EXPEDITIOUS RESOLUTION OF DISPUTES FOR MEDICAL COMPENSATION

The Executive Secretary's Office issued 1,562 Administrative Medical Orders for FY 2014-15. Of the 1,562 medical orders issued, only one order was filed more than 75 days after the filing of the motion requesting relief.

# EXECUTIVE SECRETARY WORKERS' COMPENSATION INFORMATION SPECIALISTS

## Mission Statement

The Information Specialists strive to provide callers and visitors with accurate and knowledgeable information in a prompt and courteous manner.

## What We Do

The Executive Secretary's Office also includes the Information Specialists Program (formerly the Ombudsman Program), which is operated 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 can provide information regarding Tort Claims against State Departments and Agencies and other matters under the jurisdiction of the Industrial Commission and related statutes and rules.

Number of Calls Answered and Returned (English)	34,384
Number of Calls Answered and Returned (Spanish)	922
Total Calls Answered	35,306
Number of Walk-Ins Assisted	40
Correspondence (letters & e-mails) Answered	2561
Informational Packets Mailed to Citizens	783

# INFORMATION TECHNOLOGY SECTION

## **Mission Statement**

The mission of the Information Technology Section is to support the use of technology as an enabling agent for the work of the Commission.

## **What We Do**

The Information Technology section provides support for the agency's hardware, software, and network connections; develops and implements procedures for technical and operations processes; develops, implements, and upgrades software to support the Commission's workflows; administers the Commission's information databases; and provides scanning, indexing, validation, storage, and retrieval of the agency's documents.

## **Accomplishment Summary for FY 2014-15**

- Completed agency-wide upgrades for desktop computing hardware and software.
- Completed the second phase implementation of the Electronic Data Interchange system which enables external stakeholders to submit claims information and medical billing information to the Commission electronically.
- Implemented ongoing enhancements to the agency's claims processing system and the electronic document upload and retrieval systems.
- Assisted in establishing two regional offices in Asheville and Charlotte.



# MEDIATION SECTION

## Mission Statement

The Mediation Section is responsible for effectively, fairly and efficiently administering the 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 Commission to devote its adjudicatory resources to those cases not conducive to settlement.

## About the Mediation Section

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 submit 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. On November 1, 2014, pursuant to Rule 04 NCAC 10E .0203, the Mediation Section began issuing \$200.00 fee invoices for the processing of the *Report of Mediator* form. The Commission collected \$815,200 in processing fees for this form in FY 2014-15.

## Mediation Section Summary for FY 2014-15

Cases Referred to Mediation <sup>1</sup>	9,380
Settlement Rate at Mediation Conferences <sup>2</sup>	73.70%
Overall Settlement Rate	76.94%

<sup>1</sup> More than 8,500 cases were referred to mediation for the 14th straight fiscal year.

<sup>2</sup> Industrial Commission Mediation Program's highest annual settlement rate ever recorded.

# MEDICAL FEES SECTION

## Mission Statement

The Medical Fees Section is committed to providing prompt and efficient service by performing timely and accurate bill processing when needed, answering inquiries regarding the Industrial Commission's Medical Fee Schedule, and assisting with the resolution of medical fee disputes.

## What We Do

The Medical Fees Section reviews bills for medical services provided as a result of a workers' compensation claim when a carrier or employer needs assistance. Medical bills are reviewed and adjusted in accordance with the Industrial Commission's Medical Fee Schedule and then returned to the insurance carrier, third-party administrators, or self-insurer handling the claim. The Medical Fees Section also responds to medical bill inquiries, resolves medical fee disputes, and assists in updating the Medical Fee Schedule. In accordance with N.C. Gen. Stat. § 97-26(i), the Industrial Commission has adopted a Medical Provider Fee Dispute Resolution Procedure by rule (04 NCAC 10A .0614).

Below is a summary of the work performed by the Medical Fees Section for FY 2014-15:

## Medical Bills Processed

<b>Total Bills Processed</b>	<b>4,068</b>
Inpatient Hospital	1,584
Physician	2,389
Miscellaneous, Dental, & Chiropractic	95
Bills Awaiting a Response	0

## Summary of Medical Provider Fee Disputes Processed

<b>Total Cases Received</b>	<b>137</b>
Paid	47
Resolved, payment pending	20
Referred for legal review	0
Unfounded	55
Closed	5
Pending	10

Amount Paid to Providers following fee dispute resolution (may include payments from disputes filed in prior fiscal years)	\$167,444.53
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# MEDICAL REHABILITATION NURSES SECTION

## Mission Statement

The North Carolina Industrial Commission Medical Rehabilitation Nurses Section seeks 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

The Medical Rehabilitation Nurses Section has employed registered nurses to provide medical rehabilitation consultative services to a variety of NC Workers' Compensation audiences, including injured workers, insurance carriers, attorneys, rehabilitation professionals, and health care providers when ordered. They have assisted with case management and medical rehabilitation needs in the event difficulties interfere with the ongoing progress of returning injured workers to their maximum functional capabilities.

Ongoing rehabilitation case management of injured workers covered by the North Carolina Workers' Compensation Act is usually provided by Medical and Vocational Rehabilitation Professionals employed in private industry. The Medical Rehabilitation Nurses have been available to assist with difficult cases temporarily, promoting ongoing case management within the private industry. They have also performed specific rehabilitation activities as ordered by the Commission.

During FY 2014-15, new referrals decreased by 36% and the total number of cases decreased by 33%. With the retirement of another nurse, the number of available Rehabilitation Nurse Consultants decreased from three to two, and both nurses had increased territory coverage.

Effective July 1, 2011, every Rehabilitation Professional providing rehabilitation services has been required by the Industrial Commission to complete a comprehensive educational course, in order to be "Qualified" per the Industrial Commission's rules for Rehabilitation Professionals. Three educational presentations on the NCIC Rehabilitation Rules were conducted via recorded webinar, and four live classes were conducted in Raleigh and Greensboro. A total of 243 Rehabilitation Professionals attended these presentations and over \$18,000 in fees were collected.

## Communications and Contacts Made

In-Person Contacts (Injured Workers, Physicians, Other Providers, Attorneys)	364
Acknowledged Form 25N's (Notice of Assignment of Rehab Professional)	15,589 <sup>1</sup>
<b>Total Contacts Made</b>	<b>15,953</b>

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<sup>1</sup> Form 25N filings decreased by 26% from the 2013-2014 fiscal year.

# SAFETY EDUCATION SECTION

## **Mission Statement**

The Workers' Compensation Act of 1929 created the Safety Education Section of the North Carolina Industrial Commission. Our mission includes education, training, and public outreach to promote safety and accident prevention in the industrial workplace. We strive to help employers reduce injuries and their costs resulting from accidents.

## **What We Do**

Our workshops and training sessions provide competent, practical instruction in the area of workplace accident prevention. Our instructors are experienced safety consultants who are employed full-time by the Industrial Commission and travel across the state conducting safety training and instruction at the request of various companies. Workshops and training sessions are specifically designed to meet the production needs of client companies. This approach to reducing Workers' Compensation claims and costs is, at its core, proactive. The employees of this section trained approximately 8,000 employees and collected over \$173,000 in fees from the safety training classes in FY 2014-15.











*Industrial Commission*

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