

ALASKA WORKERS' COMPENSATION BOARD MEETING



May 13-14, 2021

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TAB 1

ALASKA WORKERS' COMPENSATION BOARD MEETING AGENDA

May 13-14, 2021

ALASKA DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

DIVISION OF WORKERS' COMPENSATION

Teleconference 833-548-0282, Meeting ID: 697 315 2079

Zoom Video Conference: <https://us02web.zoom.us/j/6973152079>

Thursday, May 13, 2021

- 9:00am** Call to order
Roll call establishment of quorum
Introduction of New Board Members
Introduction of Senior Staff
- 9:10am** Approval of Agenda
- 9:15am** Reading and approval of minutes from January 14, 2021 Board meeting
- 9:30am** Board Open Forum
- Issues for discussion
 - New Business Items
 - Ideas for the Director
 - Possible issues for MSRC
- 10:00am** Break
- 10:15am** Public Comment Period
- 11:15am** Director's Report
- Approval of Board Designees
 - Division Update (COA)
 - Legislative Update (Board Member confirmations, HB 30, HB 45, SB 131)
 - Policy Updates
- 12:00pm** Lunch Break
- 1:30pm** Reemployment 2020 Annual Report – Stacy Niwa
- 2:30pm** Old Business
- Update from Evidence Based Guidelines Working Group
 - Update from WC Fraud Working Group
 - Adoption of Regulations
 - 8 AAC 45.030 Fees
 - 8 AAC 45.032 Files
 - 8 AAC 45.092 Second independent medical evaluation
 - 8 AAC 45.093 Qualifying medical examinations for certain firefighters
 - 8 AAC 45.122 Rating of permanent impairment
 - 8 AAC 45.136 Notice of payment or modification of compensation
 - 8 AAC 45.174 Uninsured employers
 - 8 AAC 45.210 Weekly compensation rate
 - 8 AAC 45.220 Gross weekly earnings
 - 8 AAC 45.900 Definitions
- 3:00pm** Break
- 3:15pm** Old Business - Continued

AWCB Board Meeting Agenda, May 13-14, 2021

Page 1 of 2

- Adoption of Regulations
- 4:00pm** New Business – Open
- 8 AAC 45.185 – Rhonda Gerharz
- 5:00pm** Adjournment

TAB 2

Workers' Compensation Board Meeting Minutes

Jan 14, 2021

Thursday, January 14, 2021

I. Call to Order

Workers' Compensation Director Charles Collins called the Board to order at 9:04 am on Thursday, January 14, 2021. Due to concerns related to the COVID-19 public health disaster, the meeting was held by telephone and video conference.

II. Roll call

Director Collins conducted roll call. The following Board members were present:

Bradley Austin	Randy Beltz	Pamela Cline	Bob Doyle
Julie Duquette	Sara Faulkner	Bronson Frye	Christina Gilbert
Anthony Ladd	Sarah Lefebvre	Jason Motyka	Nancy Shaw
Robert Weel	Lake Williams		

Director Collins noted that member Jacob Howdeshell was excused, and member Justin Mack was absent. Member Julie Duquette arrived after lunch. Quorum was established.

Director Collins introduced senior staff present and the Division's new Department of Law attorneys Javier Diaz and Grace Lee.

III. Agenda Approval

A motion to approve the agenda was made by member Austin and seconded by member Beltz. The agenda was approved by unanimous vote.

IV. Approval of Meeting Minutes

A motion to adopt the minutes from the October 1-2, 2020 regular Board Meeting was made by member Beltz and seconded by member Austin. Member Cline asked that her attendance be updated from absent to excused. The amended minutes were adopted without objection.

V. Board Open Forum

Member Cline requested an update on COVID-19 statistics in the Alaska Workers' Compensation System. This item was deferred and later discussed as part of the Director's report.

Member Shaw proposed that the board take action on getting people back to work. This item was deferred and later discussed under New Business.

Member Faulkner proposed that the board discuss clarifying an employer's ability to waive the right to benefits vs electing to not cover themselves, regarding Limited

Liability Companies and S Corporations with greater than 10% ownership. Discussion of regulation 8 AAC 45.185 impacts upon certain businesses as insurance companies are now including officers automatically on policies and adjusting the premiums accordingly. Matter to be discussed in the fraud workgroup with recommendations to be brought before the full Board.

VI. Approval of Board Designees

Director Collins reviewed the list of Board Designees. He noted that Julie Kelley had joined the Division as a Workers' Compensation Officer I in the Anchorage venue. A motion to approve the board designees was made by member Austin and seconded by member Doyle. The board designees were approved without objection.

VII. Director's Report

Director Collins discussed active and upcoming legislation.

Break 9:40am-9:58am

Director Collins reminded board members to file their APOC reports, and discussed ethics disclosures and conflicts of interest.

Administrative Officer Alexis Hildebrand provided an update on the Division's Electronic Data Interchange program.

VIII. Public Comment Period 10:15am- 11:15am

Charles McKee - representing self

- Provided a document to the Board by fax.
- Commented on a specific case.

Malan Paquette - representing self

- Promoted free resources, such as the Federal Trade Co who give away bulk informationals regarding what to do in a data breach and identity theft.
- Praised the Division for their entry in the Directory of State Officials, the Division's website, public meeting notice, and for hosting a professional public meeting.
- Made suggestion regarding finding individuals in fraud cases.

Allison Leigh - representing self

- Requested that she be allowed to make public comment on January 15th, after hearing some of the board discussions. Director Collins denied her request, stating that the public comment period is held on January 14 from 10:15am - 11:15am.

IX. Director's Report Continued

Administrative Officer Alexis Hildebrand provided an update on the Division's Electronic Data Interchange program, an overview of Division staffing, and the FY21 budget performance year-to-date.

Director Collins presented Alaska Workers' Compensation COVID-19 statistics and gave an update on 2021 board member appointments.

X. Old Business

Member Lefebvre provided an update on the Drug Formulary Work Group. The work group has identified stakeholders in each state. The group has struggled with getting a response from stakeholders in 2020 but is diligently working and intends to provide a full report at the May Board meeting.

Member Faulkner provided an update on the Fraud Work Group. The group's goal is to simplify the compliance process for cooperative employers and enhance enforcement capability for employers who willfully ignore the law. The group is working on a board resolution proposal and intends to present it at the May Board meeting. Member Shaw added that the group is working with the Attorney General's office to draft the proposal.

Director Collins explained that the regulations that had been approved for public comment at the October 1-2, 2020 Board Meeting had not been published due to litigation between the Legislature and the Governor's office. Member Doyle proposed that the regulations be moved to public comment without being reopened by the Board. The Board agreed unanimously.

Acting Chief Ron Ringel commented that he would be retiring in May 2021.

XI. New Business

Director Collins directed the members to review the Board resolution 17-01. Member Williams motioned to begin the lunch period early to review the resolution. Member Beltz seconded. The motion passed unanimously.

Lunch Break 12:00pm-1:30pm

The board reviewed the draft Board Resolution 21-01, regarding reemployment benefits. Member Lefebvre motioned to approved Board Resolution 21-01 and member Beltz seconded. Director Collins provided history on the prior version of the resolution, 17-01, and the board discussed. Member Doyle motioned to amend number 2 of the resolution to increase the 90-day mandatory evaluation to 120 days. Member Lefebvre accepted the amendment and Member Austin seconded. The motion passed unanimously.

Repeal 8 AAC 45.184, relating to executive officer waivers. Member Faulkner moved to approve the amendment of 8 AAC 45.184. Member Weel seconded the motion. The motion passed unanimously.

Break 3:00pm-3:15pm

Director Collins reminded the Board members the next regular board meeting is May 13-14, 2021.

Motion to adjourn was made by Member Doyle. Member Beltz seconded the motion. The motion passed unanimously.

Meeting Adjourned 3:25pm

TAB 3

ALASKA WORKERS' COMPENSATION BOARD

Chair, Commissioner Dr. Tamika L. Ledbetter
Alaska Department of Labor and Workforce Development

Name	Seat	District	Affiliation
Charles Collins	Commissioner's Designee		
Brad Austin	Labor	1 st Judicial District	Plumbers and Pipe Fitters Local 262
Christina Gilbert	Industry	1 st Judicial District	Industry
Randy Beltz	Industry	3 rd Judicial District	Industry
Pamela Cline	Labor	3 rd Judicial District	Intl. Brotherhood of Electrical Workers LU 1547
Micheal Dennis	Industry	3 rd Judicial District	Industry
Bob Doyle	Industry	3 rd Judicial District	Industry
Sara Faulkner	Industry	3 rd Judicial District	Industry, Land's End Acquisition Corporation
Bronson Frye	Labor	3 rd Judicial District	Painters and Allied Trades Local 1959
Anthony Ladd	Labor	3 rd Judicial District	Labor
Jason Motyka	Industry	3 rd Judicial District	Industry
Nancy Shaw	Labor	3 rd Judicial District	Labor
Vacant	Industry	3 rd Judicial District	Industry
Julie Duquette	Industry	4 th Judicial District	Slayden Plumbing and Heating
Sarah Lefebvre	Industry	4 th Judicial District	Colaska dba Exclusive Paving / University Redi-Mix
Lake Williams	Labor	4 th Judicial District	Operating Engineers Local 302
Vacant	Labor	4 th Judicial District	Labor
David Talerico	Labor	At Large	Labor
Bob Weel	Industry	At Large	Industry

TAB 4



BOARD DESIGNEES – May 2021

The following staff members are appointment as Board designees to act on the Board's behalf in accordance with the Alaska Workers' Compensation Act and Regulations. (For example, the Board designee may conduct prehearing conferences, take action in connection with Board-ordered second independent medical examinations, and decide whether to continue or cancel scheduled Board hearings.)

<u>NAME</u>	<u>LOCATION</u>	<u>POSITION TITLE</u>
Charles Collins	Juneau	Director
William Soule	Anchorage	Acting Chief of Adjudications
Kathryn Setzer	Juneau	WC Hearing Officer II
Judy DeMarsh	Anchorage	WC Hearing Officer II
William Soule	Anchorage	WC Hearing Officer II
Janel Wright	Anchorage	WC Hearing Officer II
Jung Yeo	Anchorage	WC Hearing Officer II
Cassandra Tilly	Fairbanks	WC Hearing Officer II
Robert Vollmer	Fairbanks	WC Hearing Officer II
Vacant	Anchorage	WC Hearing Officer II
Dani Byers	Juneau	WC Officer II
Melody Kokrine	Fairbanks	WC Officer II
Felecia Baptista	Anchorage	WC Officer II
Grace Morfield	Anchorage	WC Officer II
Harvey Pullen	Anchorage	WC Officer II
Julie Kelley	Anchorage	WC Officer I
Elizabeth Pleitez	Anchorage	WC Officer I

TAB 5

2022 WORKERS' COMPENSATION HEARING CALENDAR

MONTH	JUNEAU	FAIRBANKS	ANCHORAGE			
	REG HRG	REG HRG	REG HRG	REG HRG	REG HRG	REG HRG
	TUE	TH	TUE	W	TH	FRI
JANUARY						
	4	6	4	5	6	
	18	20	11	12	13	14
			25	19	26	27
FEBRUARY						
	1		1	2	3	
	15	10	8	9	10	
		24	15	16	17	
				23		
MARCH						
	1		1	2	3	
	15	10	8	9	10	
		17	15	16	17	
		24	22	23	24	
				30		
APRIL						
	5	7	5	6	7	
	19	21	12	13	14	
			26	20	27	28
MAY						
		5	3	4	5	
	10	19	10	11	12	13
	24		24	18	25	26
JUNE						
		2		1	2	
	14	16	7	8	9	
	28	30	21	15	22	23
			28	22	29	30
JULY						
	12	14		6	8	
	26	28	12	13	14	
			19	20	21	
			26	27	28	
AUGUST						
	9	11	2	3	4	
			9	10	11	
		25	23	17	24	25
	30		30	24	31	
SEPTEMBER						
	13	8		7	1	
	27	22	13	14	15	
			20	21	22	
			27	28	29	
OCTOBER						
	11	6	4	5	6	
	25	20	11	12	13	14
		27	25	19	26	27
NOVEMBER						
	8	3	1	2	3	
	22	17	15	9	16	17
			29	16	30	
DECEMBER						
		1			1	
	6	15	6	7	8	
	20		20	14	21	22

NOTES: Hearings may be held twice in Ketchikan during 2021, as needed.
Jan. 13-14, May 12-13 and Oct. 13-14 are AWCB public board meetings, not hearing dates.

Additional hearing days will be added as necessary.
 Additional board meetings will be added as necessary.

2022 calendar, 05/07/2021

TAB 6

Charles Collins
Director
PCN 07-3001
JNU XE

Alexis Hildebrand
Admin Officer II
Rg 19 PCN 07-3026
JNU SU

Stacy Niwa
RBA
Rg 22 PCN 07-3047
ANC XE

Rhonda Gerharz
Investigator IV
Rg 20 PCN 07-4557
ANC SU

William Soule
Acting Chief of Adj
Rg 24 PCN 07-3005
ANC XE

Velma Thomas
Program Coordinator
Rg 18 PCN 07-1026
JNU SU

Michael Christenson
 Project Assistant
 Rg 16 PCN 07-5527
 JNU GG

Deborah Torgerson
 WC Officer II
 Rg 18 PCN 07-3007
 ANC GG

Nick Weyrick
 Investigator II
 Rg 16 PCN 07-3064
 ANC GG

Grace Morfield
WC Officer II
Rg 18 PCN 07-3058
ANC SU

Kathryn Setzer
 WC Hearing Off II
 Rg 22 PCN 07-3061
 JNU GG

William Soule
 WC Hearing Off II
 Rg 22 PCN 07-3060
 ANC GG

Nanette Ferrer
 WC Tech - FF
 Rg 12 PCN 07-3028
 JNU GG

Rachel Michaud
Admin Assistant II
Rg 14 PCN 07-3055
JNU SU

Penny Helgeson
 WC Officer II
 Rg 18 PCN 07-3012
 ANC GG

Christine Christensen
 Investigator III
 Rg 18 PCN 07-3070
 ANC GG

Kim Weaver
 Office Asst II
 Rg 10 PCN 07-3037
 ANC GG

Cassandra Tilly
 WC Hearing Off II
 Rg 22 PCN 07-3042
 FBKS GG

Janel Wright
 WC Hearing Off II
 Rg 22 PCN 07-3059
 ANC GG

Mark Abril
 WC Tech - FF
 Rg 12 PCN 07-1027
 JNU GG

Vacant
 Office Asst I
 Rg 8 PCN 07-3003
 JNU GG

Darlene Charles
 WC Tech
 Rg 12 PCN 07-3030
 ANC GG

Douglas Love
 Investigator III
 Rg 18 PCN 07-3072
 ANC GG

Rachel Story
 Office Asst I
 Rg 8 PCN 07-3052
 ANC GG

Robert Vollmer
 WC Hearing Off II
 Rg 22 PCN 07-3044
 FBKS GG

Judy DeMarsh
 WC Hearing Off II
 Rg 22 PCN 07-3043
 ANC GG

018

Ted Burkhart
 WC Officer I
 Rg 16 PCN 07-3046
 JNU GG

Marcus Schaufele
 Office Asst II
 Rg 10 PCN 07-3014
 JNU GG

Rose DeHusson
 Office Asst I
 Rg 8 PCN 07-3071
 ANC GG

Wayne Harger
 Investigator III
 Rg 18 PCN 07-3069
 FBKS GG

Pamela Hardy
 Office Asst I
 Rg 8 PCN 07-3011
 ANC GG

Jung Yeo
 WC Hearing Off II
 Rg 22 PCN 07-3013
 ANC GG

Vacant
 WC Hearing Off II
 Rg 22 PCN 07-3051
 ANC GG

Erwin Fariolan
 Collections Officer
 Rg 16 PCN 21-3047
 JNU GG

Danielle Kalmakoff
 Office Asst I
 Rg 8 PCN 07-3010
 JNU GG

Deirdre Ford
Chair, WC Appeals
Commission
Rg 27 PCN 07-X001
ANC XE

David Price
 Investigator III
 Rg 18 PCN 07-3068
 JNU GG

Charlotte Corriveau
 WC Tech
 Rg 12 PCN 07-3025
 ANC GG

Dani Byers
WC Officer II
Rg 18 PCN 07-3009
JNU SU

Felecia Baptista
 WC Officer II
 Rg 18 PCN 07-3040
 ANC GG

Aldwyn McCuiston
 Office Asst I
 Rg 8 PCN 07-3062
 JNU GG

Kathleen Morrison
 Law Office Assistant II
 Rg 13 PCN 07-3067
 ANC GG

Wayne Harger
 Investigator III
 Rg 18 PCN 07-3069
 FBKS GG

Nenita Farmer
 Office Asst I
 Rg 8 PCN 07-7005
 ANC GG

Krystal Gray
 WC Tech
 Rg 12 PCN 07-3004
 JNU GG

Harvey Pullen
 WC Officer II
 Rg 18 PCN 07-3027
 ANC GG

Vacant
 Student Intern I
 Rg 6 PCN 07IN1901
 JNU GG

Ginalyn Del Rosario
 Office Asst I
 Rg 8 PCN 07-1720
 JNU GG

Elizabeth Pleitez
 WC Officer I
 Rg 16 PCN 07-3031
 ANC GG

Melody Kokrine
WC Officer II
Rg 18 PCN 07-3024
FBKS SU

Julie Kelley
 WC Officer I
 Rg 16 PCN 07-3056
 ANC GG

Mahogany Mitchell
 WC Technician
 Rg 12 PCN 07-3063
 FBKS GG

Ron Heselton
 Office Asst II
 Rg 10 PCN 07-3036
 FBKS GG

Vacant
 Student Intern I
 Rg 6 PCN 07IN1902
 ANC GG

Department of Labor and Workforce Development

Division of Workers' Compensation

5/7/21

Pay Periods processed	22
Pay Periods Remaining	4
Total	26

PPE: 4/18/2021

Monthly Status Report as of:

5/6/2021	Q3	FY2021
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2:52 PM

Summary:

Program	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget	5/6/2021		Current Balance	Exp Adj Needed	Projected Expend	Total Expend	Projected Balance	% Expend To-date
						Expend	Encumb						
Workers' Compensation	5,801,500	0	0	0	5,801,500	4,388,162	237,848	1,175,490	0	783,445	5,409,455	392,045	79.7%
WC Appeals Commission	425,900	0	0	0	425,900	266,073	1,714	158,113	0	61,746	329,533	96,367	62.9%
WC Benefits Guaranty Fund	779,600	0	0	0	779,600	525,201	103,642	150,758	0	52,378	681,221	98,379	80.7%
Second Injury Fund	2,852,100	0	0	0	2,852,100	1,975,985	247	875,868	0	215,608	2,191,840	660,260	69.3%
Fishermen's Fund	1,409,900	0	0	0	1,409,900	467,545	171,845	770,510	0	73,852	713,243	696,657	45.4%
Division Total	11,269,000	0	0	0	11,269,000	7,622,965	515,296	3,130,739	0	1,187,030	9,325,291	1,943,709	72.2%

Program Revenue	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget
Revenue Type Workers' Safety	6,227,400	0	0	0	6,227,400
Revenue Type: Benefits Guaranty Fund	779,600	0	0	0	779,600
Revenue Type Second Injury Fund	2,852,100	0	0	0	2,852,100
Revenue Type Fishermen's Fund	1,409,900	0	0	0	1,409,900
General Funds					
Total Program Funding	11,269,000	0	0	0	11,269,000

Projection Assumptions:

Personal services based on PCN by PCN projections for remainder of year; includes vacancies

Travel is based on anticipated travel

Services is based on most recent indirect rate, core services and lease costs

Commodities is based on anticipated subscription and business supply costs

Benefits are straight line projections

Department of Labor and Workforce Development

Division of Workers' Compensation

Monthly Status Report as of:

5/6/2021	Q3	FY2021
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Pay Periods processed	22
Pay Periods Remaining	4
Total	26

PPE: 4/18/2021

Workers' Compensation

AR Unit: 073100060

Program Expenditures	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget	5/6/2021		Current Balance	Exp Adj Needed	Projected Expend	Total Expend	Projected Balance	% Expend To Date	FY20 Actuals	FY19 Actuals	FY18 Actuals
						Expend	Encumb									
Personal Services	4,538,600.00	0.00	0.00	0.00	4,538,600.00	3,609,240.28	0.00	929,359.72	0.00	710,948.39	4,320,188.67	218,411.33	79.5%	4,284,821	4,223,012	4,223,999
Travel	49,100.00	0.00	0.00	0.00	49,100.00	1,777.27	0.00	47,322.73	0.00	3,000.00	4,777.27	44,322.73	3.6%	22,021	30,176	17,641
Services	1,114,900.00	0.00	0.00	0.00	1,114,900.00	672,905.30	228,221.49	213,773.21	0.00	64,496.88	965,623.67	149,276.33	80.8%	944,246	1,011,186	1,163,903
Commodities	80,900.00	0.00	0.00	0.00	80,900.00	94,488.41	7,676.44	-21,264.85	0.00	5,000.00	107,164.85	-26,264.85	126.3%	67,263	83,877	84,990
Equipment	6,000.00	0.00	0.00	0.00	6,000.00	0.00	0.00	6,000.00	0.00	0.00	0.00	6,000.00	0.0%	0	0	0
NPS Subtotal	1,250,900.00	0.00	0.00	0.00	1,250,900.00	769,170.98	235,897.93	245,831.09	0.00	72,496.88	1,077,565.79	173,334.21	80.3%	1,033,530	1,125,239	1,266,534
Grants	12,000.00	0.00	0.00	0.00	12,000.00	9,750.40	1,950.08	299.52	0.00	0.00	11,700.48	299.52	97.5%	11,700	20,671	21,350
Total Program Expenditures	5,801,500.00	0.00	0.00	0.00	5,801,500.00	4,388,161.66	237,848.01	1,175,490.33	0.00	783,445.27	5,409,454.94	392,045.06	79.7%	5,330,051	5,368,923	5,511,883

Program Revenue	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Projected Revenue
GF Program Receipts					
Revenue Type Workers' Safety	5,801,500.00	0.00			5,801,500.00
Interagency Receipts					
General Funds					0.00
Total Program Funding	5,801,500.00	0.00	0.00	0.00	5,801,500.00

FY20 Actuals	FY19 Actuals	FY18 Actuals
5,330,051	5,368,923	5,511,883
5,330,051	5,368,923	5,511,883

Program Notes

- 1000 Personal Services is based on PCN by PCN projection, including vacancies.
- 2000 Travel is based on anticipated travel.
- 3000 Services is based on most recent indirect rate, core services and lease costs.
- 4000 Commodities is based on anticipated subscription and business supply costs.
- 5000 No Capital Outlay anticipated.
- 7000 Benefits based on known case info.

Department of Labor and Workforce Development

Division of Workers' Compensation

Monthly Status Report as of:

5/6/2021	Q3	FY2021
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Pay Periods processed	22
Pay Periods Remaining	4
Total	26

PPE: 4/18/2021

WC Appeals Commission

AR Unit: 073200060

Program Expenditures

	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget	5/6/2021		Current Balance	Exp Adj Needed	Projected Expend	Total Expend	Projected Balance	% Expend To-date	FY20 Actuals	FY19 Actuals	FY18 Actuals
						Expend	Encumb									
Personal Services	281,400.00	0.00	0.00	0.00	281,400.00	231,100.90	0.00	50,299.10	0.00	54,222.41	285,323.31	-3,923.31	82.1%	294,007	271,585	253,925
Travel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%	702	0	0
Services	139,500.00	0.00	0.00	0.00	139,500.00	32,786.68	1,714.29	104,999.03	0.00	6,523.58	41,024.55	98,475.45	24.7%	43,953	46,998	45,513
Commodities	5,000.00	0.00	0.00	0.00	5,000.00	2,185.52	0.00	2,814.48	0.00	1,000.00	3,185.52	1,814.48	43.7%	6,272	4,458	2,301
Equipment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%	0	0	0
NPS Subtotal	144,500.00	0.00	0.00	0.00	144,500.00	34,972.20	1,714.29	107,813.51	0.00	7,523.58	44,210.07	100,289.93	25.4%	50,927	51,456	47,813
Grants	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%			
Total Program Expenditures	425,900.00	0.00	0.00	0.00	425,900.00	266,073.10	1,714.29	158,112.61	0.00	61,745.99	329,533.38	96,366.62	62.9%	344,934	323,041	301,739

Program Revenue

	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Projected Revenue
GF Program Receipts					
Revenue Type: Workers Safety	425,900.00	0.00			425,900.00
Interagency Receipts					
General Funds					
Total Program Funding	425,900.00	0.00	0.00	0.00	425,900.00

FY20 Actuals	FY19 Actuals	FY18 Actuals
344,934	323,041	301,739

Program Notes

- 1000 Personal Services is based on PCN by PCN projection, including vacancies.
- 2000 -
- 3000 Services is based on most recent indirect rate, core services and lease costs.
- 4000 Commodities is based on anticipated subscription and business supply costs.
- 5000 -
- 7000 -

Department of Labor and Workforce Development

Division of Workers' Compensation

Monthly Status Report as of:

5/6/2021	Q3	FY2021
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Pay Periods processed	22
Pay Periods Remaining	4
Total	26

PPE: 4/18/2021

Benefits Guaranty Fund

AR Unit: 073300061

Program Expenditures	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget	5/6/2021		Current Balance	Exp Adj Needed	Projected Expend	Total Expend	Projected Balance	% Expend To-date	FY20 Actuals	FY19 Actuals	FY18 Actuals
						Expend	Encumb									
Personal Services	95,100.00	0.00	0.00	0.00	95,100.00	74,774.69	0.00	20,325.31	0.00	15,115.45	89,890.14	5,209.86	78.6%	91,860	82,910	89,118
Travel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%	0	0	0
Services	249,800.00	0.00	0.00	0.00	249,800.00	105,939.96	103,641.62	40,218.42	0.00	1,315.41	210,896.99	38,903.01	83.9%	141,874	107,233	157,343
Commodities	2,000.00	0.00	0.00	0.00	2,000.00	10.00	0.00	1,990.00	0.00	1,500.00	1,510.00	490.00	0.5%	1,914	155	0
Equipment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%	0	0	0
NPS Subtotal	251,800.00	0.00	0.00	0.00	251,800.00	105,949.96	103,641.62	42,208.42	0.00	2,815.41	212,406.99	39,393.01	83.2%	143,788	107,388	157,343
Grants	432,700.00	0.00	0.00	0.00	432,700.00	344,475.99	0.00	88,224.01	0.00	34,447.60	378,923.59	53,776.41	79.6%	432,700	366,600	300,217
Total Program Expenditures	779,600.00	0.00	0.00	0.00	779,600.00	525,200.64	103,641.62	150,757.74	0.00	52,378.46	681,220.72	98,379.28	80.7%	668,348	556,897	546,677

Program Revenue	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Projected Revenue
GF Program Receipts					
Revenue Type: Benefits Guaranty Fund	779,600.00	0.00			779,600.00
Interagency Receipts					
General Funds					
Total Program Funding	779,600.00	0.00	0.00	0.00	779,600.00

FY20 Actuals	FY19 Actuals	FY18 Actuals
668,348	556,897	546,677
668,348	556,897	546,677

Program Notes

- 1000 Personal Services is based on PCN by PCN projection, including vacancies.
- 2000 -
- 3000 Services is based on most recent indirect rate, core services and lease costs.
- 4000 Commodities is based on anticipated subscription and business supply costs.
- 5000 -
- 7000 Straight Line projection.

Department of Labor and Workforce Development

Division of Workers' Compensation

Monthly Status Report as of:

5/6/2021	Q3	FY2021
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Pay Periods processed	22
Pay Periods Remaining	4
Total	26

PPE: 4/18/2021

Second Injury Fund

AR Unit: 073400062

Program Expenditures	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget	5/6/2021		Current Balance	Exp Adj Needed	Projected Expend	Total Expend	Projected Balance	% Expend To-date	FY20 Actuals	FY19 Actuals	FY18 Actuals
						Expend	Encumb									
Personal Services	196,400.00	0.00	0.00	0.00	196,400.00	148,868.47	0.00	47,531.53	0.00	30,917.13	179,785.60	16,614.40	75.8%	194,828	191,084	188,046
Travel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%	0	0	0
Services	83,100.00	0.00	0.00	0.00	83,100.00	27,226.21	246.96	55,626.83	0.00	2,713.19	30,186.36	52,913.64	33.1%	31,080	32,237	44,763
Commodities	4,300.00	0.00	0.00	0.00	4,300.00	114.99	0.00	4,185.01	0.00	2,000.00	2,114.99	2,185.01	2.7%	321	607	3,058
Equipment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%	0	0	0
NPS Subtotal	87,400.00	0.00	0.00	0.00	87,400.00	27,341.20	246.96	59,811.84	0.00	4,713.19	32,301.35	55,098.65	31.6%	31,401	32,844	47,821
Grants	2,568,300.00	0.00	0.00	0.00	2,568,300.00	1,799,775.08	0.00	768,524.92	0.00	179,977.51	1,979,752.59	588,547.41	70.1%	2,526,796	2,256,245	2,408,649
Total Program Expenditures	2,852,100.00	0.00	0.00	0.00	2,852,100.00	1,975,984.75	246.96	875,868.29	0.00	215,607.83	2,191,839.54	660,260.46	69.3%	2,753,025	2,480,172	2,644,516

Program Revenue	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget
GF Program Receipts					
Revenue Type Second Injury Fund	2,852,100.00				2,852,100.00
Interagency Receipts					
General Funds					
Total Program Funding	2,852,100.00	0.00	0.00	0.00	2,852,100.00

FY20 Actuals	FY19 Actuals	FY18 Actuals
2,753,025	2,480,172	2,644,516
2,753,025	2,480,172	2,644,516

Program Notes

- 1000 Personal Services is based on PCN by PCN projection, including vacancies.
- 2000 -
- 3000 Services is based on most recent indirect rate, core services and lease costs.
- 4000 Commodities is based on anticipated subscription and business supply costs.
- 5000 -
- 7000 Straight Line projection.

Department of Labor and Workforce Development

Division of Workers' Compensation

Monthly Status Report as of:

5/6/2021	Q3	FY2021
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Pay Periods processed	22
Pay Periods Remaining	4
Total	26

PPE: 4/18/2021

Fishermen's Fund

AR Unit: 073500063

Program Expenditures	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget	5/6/2021		Current Balance	Exp Adj Needed	Projected Expend	Total Expend	Projected Balance	% Expend To-date	FY20 Actuals	FY19 Actuals	FY18 Actuals
						Expend	Encumb									
Personal Services	255,900.00	0.00	0.00	0.00	255,900.00	143,193.39	0.00	112,706.61	0.00	40,023.66	183,217.05	72,682.95	56.0%	174,545	238,516	170,690
Travel	11,000.00	0.00	0.00	0.00	11,000.00	0.00	0.00	11,000.00	0.00	0.00	0.00	11,000.00	0.0%	5,736	8,144	9,069
Services	217,200.00	0.00	0.00	0.00	217,200.00	35,749.54	171,845.44	9,605.02	0.00	24.02	207,619.00	9,581.00	95.6%	44,613	58,585	88,182
Commodities	9,700.00	0.00	0.00	0.00	9,700.00	557.11	0.00	9,142.89	0.00	5,000.00	5,557.11	4,142.89	5.7%	1,622	3,998	5,241
Equipment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0%	0	0	0
NPS Subtotal	237,900.00	0.00	0.00	0.00	237,900.00	36,306.65	171,845.44	29,747.91	0.00	5,024.02	213,176.11	24,723.89	87.5%	51,971	70,727	102,491
Grants	916,100.00	0.00	0.00	0.00	916,100.00	288,044.90	0.00	628,055.10	0.00	28,804.49	316,849.39	599,250.61	31.4%	513,425	695,084	551,423
Total Program Expenditures	1,409,900.00	0.00	0.00	0.00	1,409,900.00	467,544.94	171,845.44	770,509.62	0.00	73,852.18	713,242.56	696,657.44	45.4%	739,941	1,004,327	824,604

Program Revenue	Initial Auth	Revised Program	Avail Auth	Adjust Needed	Revised Budget
GF Program Receipts					
Revenue Type Fishermen's Fund	1,409,900.00				1,409,900.00
Interagency Receipts					
General Funds					
Total Program Funding	1,409,900.00	0.00	0.00	0.00	1,409,900.00

* Additional authority added for vessel owner benefits under SB61 (\$16,100)

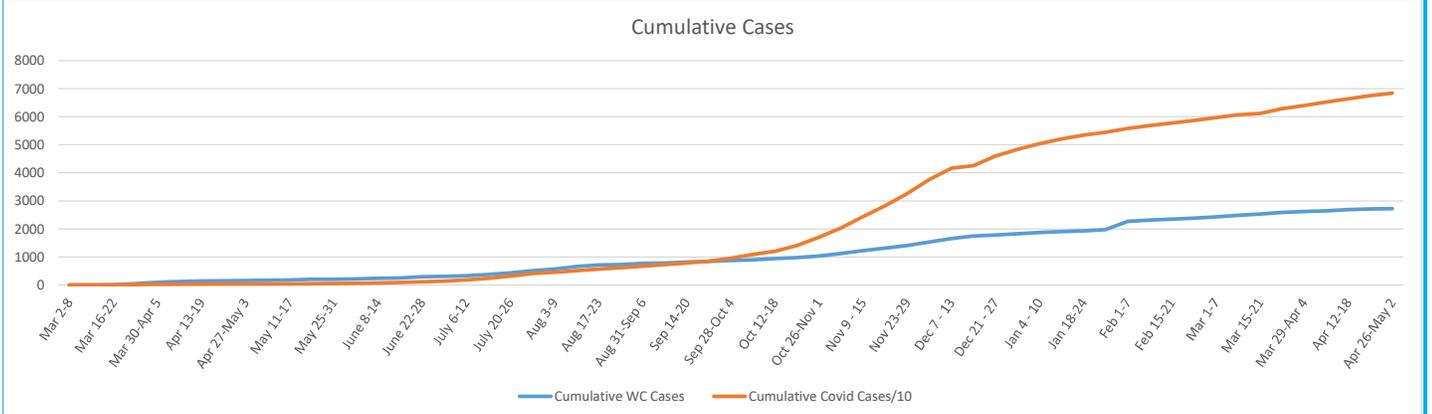
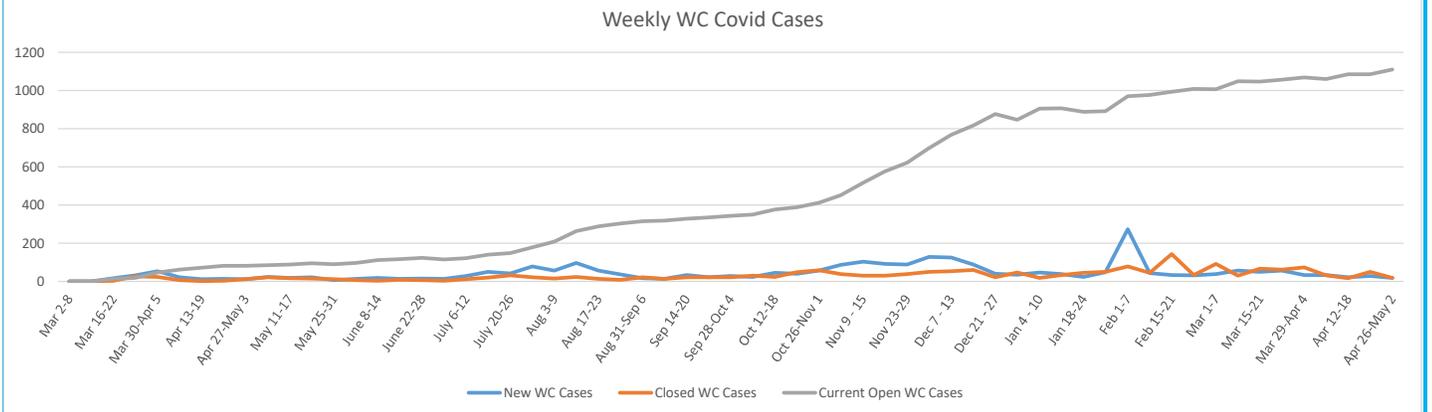
FY20 Actuals	FY19 Actuals	FY18 Actuals
739,941	1,004,327	824,604
739,941	1,004,327	824,604

Program Notes

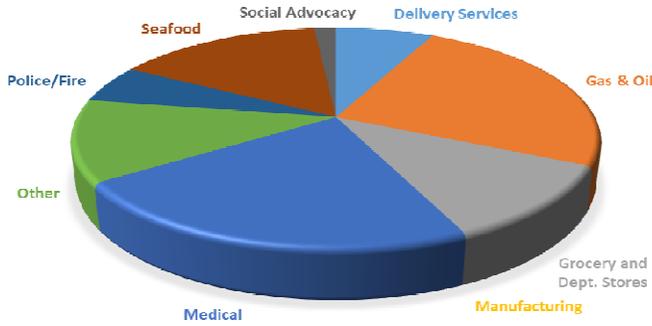
- 1000 Personal Services is based on PCN by PCN projection, including vacancies.
- 2000 No travel anticipated.
- 3000 Services is based on most recent indirect rate, core services and lease costs.
- 4000 Commodities is based on anticipated subscription and business supply costs.
- 5000 -
- 7000 Straight Line projection.

Opened	Closed	Current	Paid	BTC to date	OBT to date	EP to Date	Denials (04)
2738	1626	1112	1084	\$1,311,730.32	\$602,183.67	\$488,093.12	303

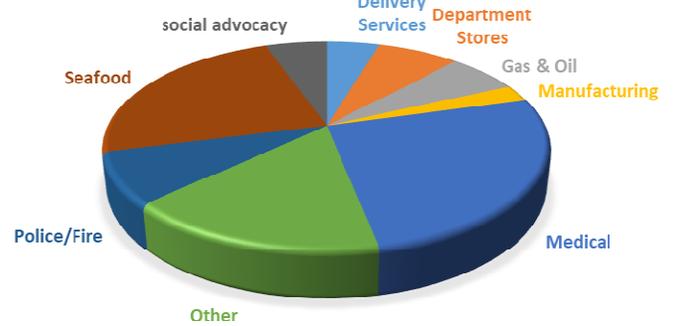
As of 5/4/2021



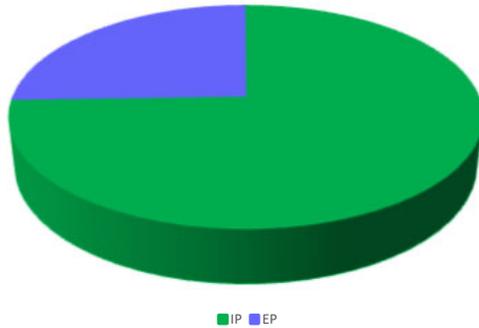
APRIL CASES BY INDUSTRY



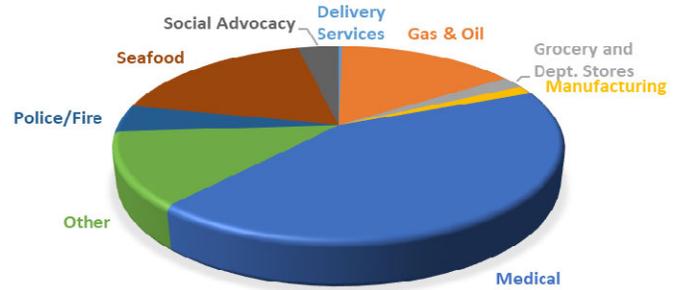
CLAIMS TO DATE BY INDUSTRY



Initial Payment v. Employer Payment



YTD PAID BY INDUSTRY



Region	Pop (2019 est.)[1]	% Pop	Covid Cases [2]	% Cases	WC Claims[3]	% Claims	WC Payments[3]	% Pymts
Anchorage / Mat-Su Region	398,283	54%	41610	61%	1482	54%	\$ 1,005,047.58	58%
Anchorage, Municipality of	291,845	40%	30206	44%	1330	49%	\$ 861,570.80	50%
Matanuska-Susitna Borough	106,438	15%	11404	17%	152	6%	\$ 143,476.78	8%
Gulf Coast Region	80,866	11%	4808	7%	111	4%	\$ 23,961.72	1%
Interior Region	109,847	15%	9447	14%	181	7%	\$ 25,021.94	1%
Northern Region	27,432	4%	2042	3%	181	7%	\$ 345,047.53	20%
Southeast Region	72,373	10%	2641	4%	161	6%	\$ 50,338.70	3%
Southwest Region	42,206	6%	7404	11%	592	22%	\$ 255,495.91	15%
Out-of State/Other			286	0%	31	1%	\$ 20,269.86	1%
Total	731,007		68238		2739		\$ 1,725,183.24	

[1] Alaska Department of Labor and Workforce Development, Research and Analysis Section

[2] Alaska Department of Health and Social Services Coronavirus Response (4/30/2021)

[3] ADOL-WD, Division of Workers' Compensation (ICERS, 4/30/2021)

TAB 7

2021 Medicare Fee Schedules and Workers Compensation



By [Jon Sinclair](#) and [Gustav Van Rooyen](#)

March 04, 2021

The Centers for Medicare & Medicaid Services (CMS) made significant changes to reimbursement rules and rates for medical services in 2021 that will likely impact workers compensation (WC) fee schedules, with some already in effect. This article describes the changes that are most pertinent to the industry and their potential impact on medical costs.

INTRODUCTION

∞ Most states have medical fee schedules that establish maximum allowable reimbursements (MARs) for payments of medical services in WC. Fee schedules vary across states in many ways, from the services they address, to the MARs for those services, and even to the methodologies for setting those MARs. States often rely to some degree on rules and payment rates the CMS publishes and will annually update their fee schedules to reflect the CMS changes.

The CMS published its 2021 final physician fee schedule (PFS) on December 2, 2020, which included notable changes that may significantly impact many states' WC fee schedules. Then, in response to the "Consolidated Appropriations Act, 2021," the CMS published an update to the PFS on December 27, 2020.

This article discusses these modifications:

- CMS physician fee schedule changes
 - Significant increases to payment rates for evaluation and management (E/M) services
 - Expanded services approved to be delivered via telemedicine
- CMS facility fee schedule changes

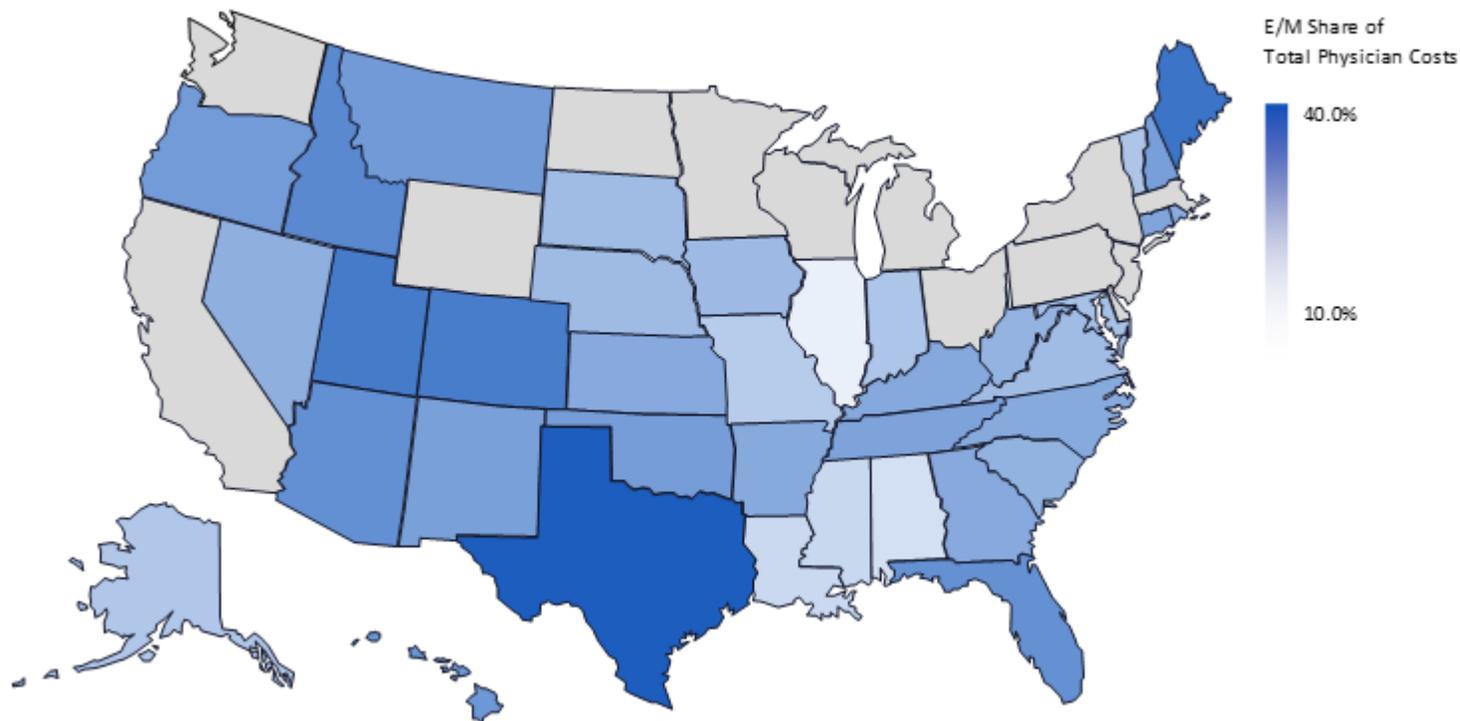
- Expanded treatments allowed in an outpatient setting by removing procedures from the inpatient-only procedures list
- Increased ambulatory surgical center (ASC) flexibility to offer inpatient services

PHYSICIAN FEE SCHEDULE CHANGES

Evaluation and Management

Payments for E/M services represent about 25% of countrywide¹ physician costs in WC. The figure below shows the share of E/M services by state for services provided in 2019.

E/M Payments as a Percentage of Total Physician Costs by State*



*NCCI does not provide ratemaking services to the states in gray; therefore, these are not included in the analysis.

The 2021 CMS PFS has changes that directly impact E/M services and may indirectly affect other physician services. To understand these impacts, it is important to understand how the CMS sets individual payment rates and how changes to individual payment rates can impact reimbursements for other unrelated services.

Below on the left is the standard formula the CMS uses to calculate the payment rates for individual physician services. On the right is a simplified version, which combines the Relative Value Unit (RVU) terms and excludes the components involving Geographical Practice Cost Indices (GPCIs). The simplified version is helpful to illustrate the potential impacts of the PFS changes.

$$\begin{array}{c}
 \text{RVU work x GPCI work} \\
 + \\
 \text{RVU practice expense x GPCI practice expense} \\
 + \\
 \text{RVU malpractice x GPCI malpractice} \\
 \times \\
 \text{Conversion Factor} \\
 =
 \end{array}$$

Standard Payment Rate Formula

$$\begin{array}{c}
 \text{RVU} \\
 \times \\
 \text{Conversion Factor} \\
 =
 \end{array}$$

Simplified Payment Rate Formula

RVU: The relative value of resources needed to provide a specific medical service.

GPCI: A factor reflecting the relative cost of medical services by location. Larger states have multiple GPCIs.

Conversion Factor: A factor to convert RVUs into dollars.

RVUs vary by service and may also differ depending on whether the service takes place in a facility or practitioner's office. The conversion factor does not vary by service. The final 2021 CMS PFS includes increases to the RVUs for E/M services. The table below

displays a year-over-year comparison of the CMS's national practitioner's office RVUs for the most commonly provided E/M services. These services account for more than 75% of the total WC E/M transactions countrywide.

National Practitioner's Office RVUs for the Most Commonly Provided E/M Services

CPT Code ²	Description	2020 RVU	2021 RVU	Percent Change
99203	New patient, low severity, 30–44 minutes	3.03	3.26	+8%
99204	New patient, moderate severity, 45–59 minutes	4.63	4.87	+5%
99213	Established patient, low severity, 20–29 minutes	2.11	2.65	+26%
99214	Established patient, moderate severity, 30–39 minutes	3.06	3.76	+23%

The CMS included these RVU increases to “recognize shifts in medical practice and appropriately reflect resources involved in providing these services, particularly primary care, to manage chronic disease.”³ All else equal, a significant increase to E/M RVUs would cause a notable increase in E/M payment rates and a potential increase in overall Medicare spending. The CMS initially mitigated the impact on total Medicare spending of increases in individual RVUs through a –10.2% offsetting adjustment to the 2021 conversion factor. However, based on modifications in the “Consolidated Appropriations Act, 2021,” the CMS published an update to the 2021 conversion factor resulting in a smaller impact equal to –3.3%.

The impact on WC medical costs due to the changes in the E/M RVUs and the conversion factor will vary across states—depending on how each state's WC fee schedule interacts with the CMS PFS and recognizing the effect of any state-specific regulatory action that has occurred. Although there are many variations to how states determine MARs, we will generalize these methodologies for this discussion into three categories based on each state's reliance on the maximum rates the CMS publishes. Note that states without physician fee schedules are not included in the below categories.

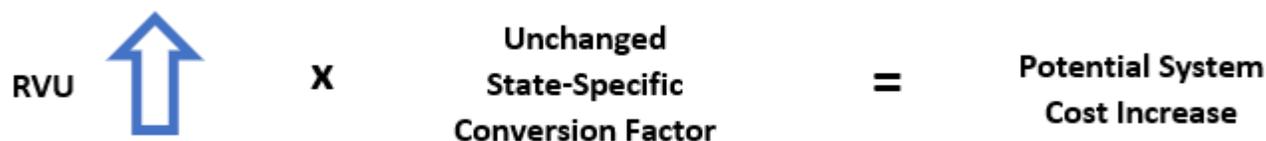
<h3>State-Specific</h3>	<p>These states set their MARs without explicit reliance on the CMS. For example, they may rely on their own experience when establishing MARs.</p>	<ul style="list-style-type: none"> Alabama Illinois Kentucky Louisiana Nevada New Mexico Oregon Rhode Island South Dakota Vermont Virginia
<h3>Partially Medicare-Based</h3>	<p>These states use some combination of inputs from the CMS along with state-specific factors to set MARs. For example, a state may adopt all of the RVUs in the CMS PFS but elect to set a different conversion factor.</p>	<ul style="list-style-type: none"> Alaska Arizona Arkansas Colorado Connecticut Georgia Hawaii Idaho Kansas Maine Maryland Mississippi Montana Nebraska Oklahoma South Carolina Texas Utah
<h3>Medicare-Based</h3>	<p>These states set their MARs as a percentage of the payment rate the CMS publishes, with very few, if any, modifications made outside of the percentage multiplier.</p>	<ul style="list-style-type: none"> District of Columbia Florida North Carolina Tennessee West Virginia

032

The CMS changes will not directly impact state-specific fee schedules. However, to the extent that such fee schedules depend on factors the CMS changes impact (e.g., neighboring state MARs), an impact could occur to those states' fee schedules as well.

When states update their Medicare-based or partially Medicare-based fee schedules, they incorporate the most recent CMS changes. Most of these states update their WC fee schedule annually, though some have less frequent updates.

States with partially Medicare-based fee schedules may see significant impacts. In most instances, the state may utilize the higher RVUs the CMS provides and apply its state-specific conversion factors to calculate the final MAR. Even if the state-specific conversion factors remain unchanged, the state's system costs could potentially increase due to the change in the E/M RVUs.



Estimated impacts due to the increased E/M RVUs range from **+1%** to **+2%** on total medical costs in the states with partially Medicare-based fee schedules.

For states with Medicare-based fee schedules, the 3.3% reduction to the conversion factor would impact MARs for all services. This would slightly temper the increase in E/M MARs and would put downward pressure on MARs in all other cost categories. States with Medicare-based fee schedules should still expect medical cost increases, but they will likely be less significant than those possibly expected in states with partially Medicare-based fee schedules.

In addition to increasing RVUs and the corresponding conversion factor decrease, the CMS has adopted the following changes to E/M services:

- Simplified code level selection
- Deletion of level 1 new patient code

The extent of these changes may vary as individual state regulations require different rules for documentation.

For additional information, please see NCCI's 2019 review of the CMS proposed changes to E/M services in "[Evaluation and Management Costs in Workers Compensation](#)."

Telemedicine

The CMS expanded its lists of telehealth services due to the unprecedented growth in telemedicine as a result of the COVID-19 pandemic. The CMS has permanently added some codes to the telehealth services list, while others are temporary additions.

Permanent additions of services to the CMS's telehealth list relevant to WC include:

- Group Psychotherapy—CPT code 90853
- Psychological and Neuropsychological Testing—CPT code 96121

Any long-term impacts from these changes are unclear at this time. NCCI will continue to monitor changes in telemedicine usage and how the utilization of telemedicine may impact the delivery of WC medical services.

Additional information on COVID-19 and telehealth services may be found in NCCI's article "[Telemedicine—Covid-19 Affects Medical Service Delivery in 2020.](#)"

FACILITY FEE SCHEDULE CHANGES

Facility costs account for about 40% of WC medical expenditures and were a significant cost driver in recent years. The CMS implemented several amendments that are likely to impact the utilization of different types of facilities and their corresponding costs in WC. The CMS carried out these changes to increase choices and options while seeking to reduce overall costs.

Elimination of the Inpatient-Only List

The inpatient-only list comprises procedures which Medicare would only reimburse when performed in a hospital inpatient setting. The CMS will eliminate the inpatient-only list during a three-year transitional period ending in Calendar Year (CY) 2024.⁴ Of the approximately 1,700 procedures on the inpatient-only list, the CMS removed about 300 musculoskeletal-related procedures in CY 2021.

Of the musculoskeletal procedures removed from the inpatient-only list in CY 2021, the most commonly performed WC procedure in Service Year 2019 was CPT code 22558 (lumbar spinal fusion), which is a procedure commonly performed on workers diagnosed with lumbar spinal degeneration. Ultimate cost impacts and extents will depend on several factors, including:

- Whether the procedures can be performed safely in an outpatient setting
- Current state experience for the impacted procedures
- The availability of alternative places of service (e.g., ASCs and hospital outpatient surgery centers)
- Surgeon, patient, and insurer behavioral changes

Ambulatory Surgical Center Flexibility

To assist hospitals with stressed capacity from COVID-19 patients, the CMS has outlined a strategy for enabling ASCs to perform procedures commonly conducted in a hospital inpatient setting.

Under these provisions, some ASCs can temporarily register for the CMS to certify them as hospitals. These ASCs could then perform services on patients who would have otherwise gone to a hospital for such services. If an eligible ASC chooses to register as a hospital, the CMS will temporarily deregister it as an ASC during this time frame—meaning that it will receive payments according to hospital reimbursement rules rather than ASC reimbursement rules under the CMS fee schedules.⁵

This flexibility is available to any of the 5,732 ASC centers throughout the country and will immediately go into effect in 85 ASCs participating in the CMS' Hospital Without Walls program.⁶ The extent to which this may impact WC changes is uncertain as regulatory adjustments and insurance carrier experience may be influenced.

CONCLUSION

The CMS has made substantial changes impacting the physician and facility fee schedules. The largest WC impacts are expected to come from 2021 CMS PFS revisions to RVUs for E/M services and the accompanying 3.3% decrease to the conversion factor. These changes will have varying impacts on individual states depending on their reliance on the CMS fee schedule.

OS The CMS also adjusted facility fee schedules. It will phase out the inpatient-only list over the next few years, which will increase flexibility and provide some patients with access to new procedures in an outpatient setting. The CMS will also temporarily allow ASCs to register as hospitals and perform hospital inpatient procedures to free up capacity at traditional hospitals that may become strained from the volume of services being provided to COVID-19 patients.

NCCI will continue to monitor these and other pertinent changes in Medicare reimbursement rules and how they may impact WC medical cost trends.

This article is provided solely as a reference tool to be used for informational purposes only. The information in this article shall not be construed or interpreted as providing legal or any other advice. Use of this article for any purpose other than as set forth herein is strictly prohibited.

¹Based on NCCI's Medical Data Call, Service Year 2019. Includes data from the following states: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, and WV. Unless stated otherwise, statistics are for Service Year 2019 WC data.

²Current Procedural Terminology (CPT) Copyright 2021 American Medical Association. All rights reserved. CPT is a registered

trademark of the American Medical Association.

³www.cms.gov/files/document/mln-understanding-4-key-topics-call.pdf

⁴www.cms.gov/newsroom/fact-sheets/cy-2021-medicare-hospital-outpatient-prospective-payment-system-and-ambulatory-surgical-center

⁵www.cms.gov/files/document/qso-20-24-asc-revised.pdf

⁶www.cms.gov/newsroom/press-releases/cms-announces-comprehensive-strategy-enhance-hospital-capacity-amid-covid-19-surge

2020 Oregon Workers' Compensation Premium Rate Ranking Summary

January 2021

AUTHORS

- Chris Day, 8/21/72 – 6/1/2020
- Jay Dotter

Table 1. Oregon's ranking in the top 10 classifications

Occupation	Ranking
Clerical office employees not otherwise coded	45
College: professional employees and clerical	42
Salespersons or collectors – outside	44
Physician and clerical	38
Restaurant and drivers	40
Hospital: professional employees	41
Store: retail not otherwise coded	48
Automobile service or repair center and drivers	40
Trucking: not otherwise coded – all employees and drivers	36
Social services organization – all employees and drivers not otherwise coded	37

Oregon employers in the voluntary market pay, on average, the 45th highest workers' compensation premium rates in the nation. Oregon's rates are 31 percent below those of the median state in the study.

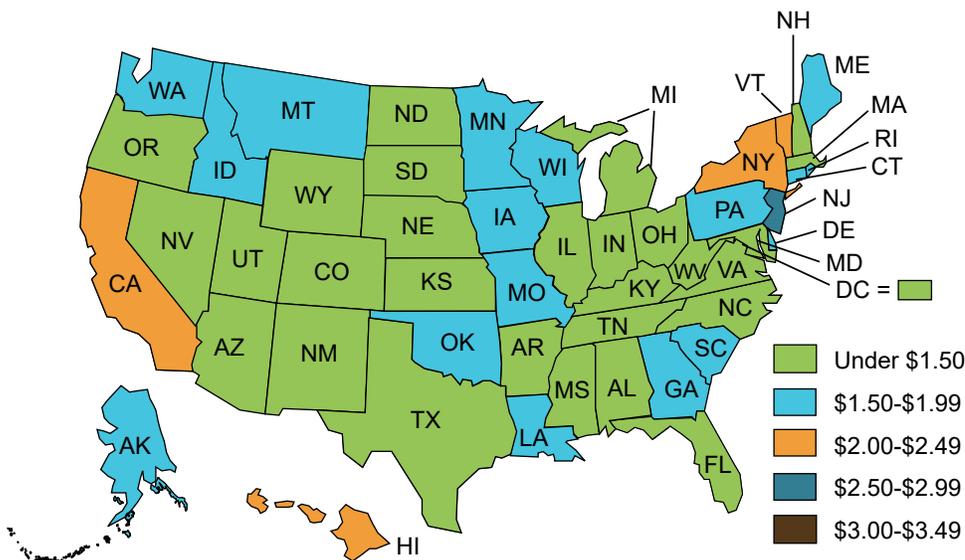
Premium rate indices are calculated based on data from 51 jurisdictions, for rates in effect as of Jan. 1, 2020. The 2020 median value is \$1.44, which is a drop of 15.3 percent from the \$1.70 median of the 2018 study. This is the largest drop in the

study median since 2000. Oregon's premium rate index is \$1.00 per \$100 of payroll, or 69 percent of the national median. National premium rate indices range from a low of \$0.67 in North Dakota to a high of \$2.52 in New Jersey. Fourteen states had an index rate that was within plus or minus 10 percent of this benchmark value. In the upper part of the rate distribution, 17 states had index rates higher than 110 percent of the median, while 20 states were below 90 percent of the median.

The study is based on methods that put states' workers' compensation rates on a comparable basis using a constant set of risk classifications for each state. This study used classification codes from the National

Council on Compensation Insurance (NCCI). Of approximately 430 active classes in Oregon, 50 were selected based on relative importance as measured by share of losses in Oregon. To control for differences in industry distributions, each state's rates were weighted by 2014-2016 Oregon payroll to obtain an average manual rate for that state. Listed in Table 1 are Oregon's rankings in the top 10 of the 50 classifications used.

Figure 1. 2020 Workers' compensation premium index rates



Dedicated to CONSUMER and WORKER PROTECTION



Table 2. Workers' compensation premium rate ranking

2020 Ranking	2018 Ranking	State	Index Rate	Percent of study median	Effective Date	Percent of 2018 study median
1	3	New Jersey	2.52	175%	January 1, 2020	167%
2	1	New York	2.23	155%	October 1, 2019	181%
3	9	Vermont	2.21	153%	April 1, 2019	123%
4	2	California	2.16	150%	January 1, 2020	169%
5	13	Hawaii	2.08	144%	January 1, 2020	118%
6	8	Connecticut	1.99	138%	January 1, 2020	129%
7	4	Delaware	1.97	137%	December 1, 2019	148%
8	10	Louisiana	1.95	135%	January 1, 2019	121%
9	7	Rhode Island	1.93	134%	August 1, 2019	132%
10	5	Alaska	1.86	129%	January 1, 2020	148%
11	12	Wisconsin	1.74	121%	October 1, 2019	119%
12	11	Montana	1.69	117%	July 1, 2019	119%
13	23	Oklahoma	1.66	115%	January 1, 2020	103%
14	25	Missouri	1.65	115%	January 1, 2020	101%
15	6	Georgia	1.64	114%	July 1, 2019	134%
16	19	Maine	1.62	113%	January 1, 2020	108%
17	28	Minnesota	1.61	112%	January 1, 2020	98%
19	21	Idaho	1.56	108%	January 1, 2020	106%
19	14	South Carolina	1.56	108%	April 1, 2019	115%
20	17	Pennsylvania	1.55	108%	April 1, 2019	109%
21	30	Iowa	1.54	107%	January 1, 2020	96%
22	16	Washington	1.53	106%	January 1, 2020	110%
23	24	South Dakota	1.48	103%	July 1, 2019	102%
24	22	Illinois	1.46	101%	January 1, 2020	106%
26	16	Wyoming	1.44	100%	January 1, 2020	110%
26	27	Nebraska	1.44	100%	February 1, 2019	100%
27	21	Florida	1.41	98%	January 1, 2020	106%
28	27	New Hampshire	1.37	95%	January 1, 2020	100%
29	34	New Mexico	1.34	93%	January 1, 2020	88%
30	29	Alabama	1.33	92%	March 1, 2019	97%
31	19	North Carolina	1.31	91%	April 1, 2019	108%
32	41	Virginia	1.28	89%	April 1, 2019	76%
33	35	Colorado	1.25	87%	January 1, 2020	84%
34	31	Mississippi	1.20	83%	March 1, 2019	91%
35	38	Massachusetts	1.17	81%	July 1, 2018	81%
37	37	Michigan	1.14	79%	January 1, 2020	81%
37	39	Maryland	1.14	79%	January 1, 2020	78%
38	33	Kentucky	1.13	78%	October 1, 2019	89%
39	46	Kansas	1.12	78%	January 1, 2020	68%
40	36	Ohio	1.11	77%	July 1, 2019	82%
41	32	Tennessee	1.09	76%	March 1, 2019	89%
42	44	Nevada	1.07	74%	September 1, 2019	70%
43	40	Arizona	1.05	73%	January 1, 2020	78%
44	42	District of Columbia	1.04	72%	November 1, 2019	74%
45	46	Oregon	1.00	69%	January 1, 2020	68%
46	43	Texas	0.98	68%	July 1, 2019	71%
47	47	Utah	0.85	59%	January 1, 2020	62%
48	48	West Virginia	0.79	55%	November 1, 2019	59%
49	50	Indiana	0.77	53%	January 1, 2020	51%
50	49	Arkansas	0.72	50%	July 1, 2019	53%
51	51	North Dakota	0.67	47%	July 1, 2019	48%

Notes: Starting with the 2008 study, when two or more states' Index Rate values are the same, they are assigned the same ranking. The index rates reflect adjustments for the characteristics of each individual state's residual market. Rates vary by classification and insurer in each state. Actual cost to an employer can be adjusted by the employer's experience rating, premium discount, retrospective rating, and dividends. [Previous reports and summaries.](#)

Employers can reduce their workers' compensation rates through accident prevention, safety training, and by helping injured workers return to work quickly.

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In memoriam

Our colleague and friend Chris Day died in June 2020. Among a multitude of projects, he completed the 2016, 2018, and much of the 2020 premium rate ranking studies. We miss him dearly.



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TAB 8



STATE OF ALASKA DIVISION OF WORKERS' COMPENSATION

REEMPLOYMENT BENEFITS ANNUAL REPORT Calendar Year 2020

**Stacy Niwa
Reemployment Benefits Administrator**



Reemployment Benefits Section

Department of Labor and
Workforce Development
DIVISION OF WORKERS'
COMPENSATION
Web: <http://labor.state.ak.us/wc>

- Provides information about reemployment benefits
- Notifies employees of their reemployment benefits rights
- Processes requests for, and stipulations to, eligibility evaluations
- Makes eligibility determinations after review of rehabilitation specialist recommendations
- Processes and serves employee elections of reemployment benefits or job dislocation benefits
- Processes assignment of eligible employees to rehabilitation specialists for plan development
- Reviews reemployment benefits plans upon request



2020 By the Numbers

- 478 injured workers were referred for evaluations for eligibility for reemployment benefits.
- 1085 eligibility evaluation reports were reviewed.
- 509 eligibility determinations were made.
- 95 injured workers were found eligible for reemployment benefits.
- 33 injured workers elected to receive a job dislocation benefit.
- 49 elected to pursue reemployment benefits.

042

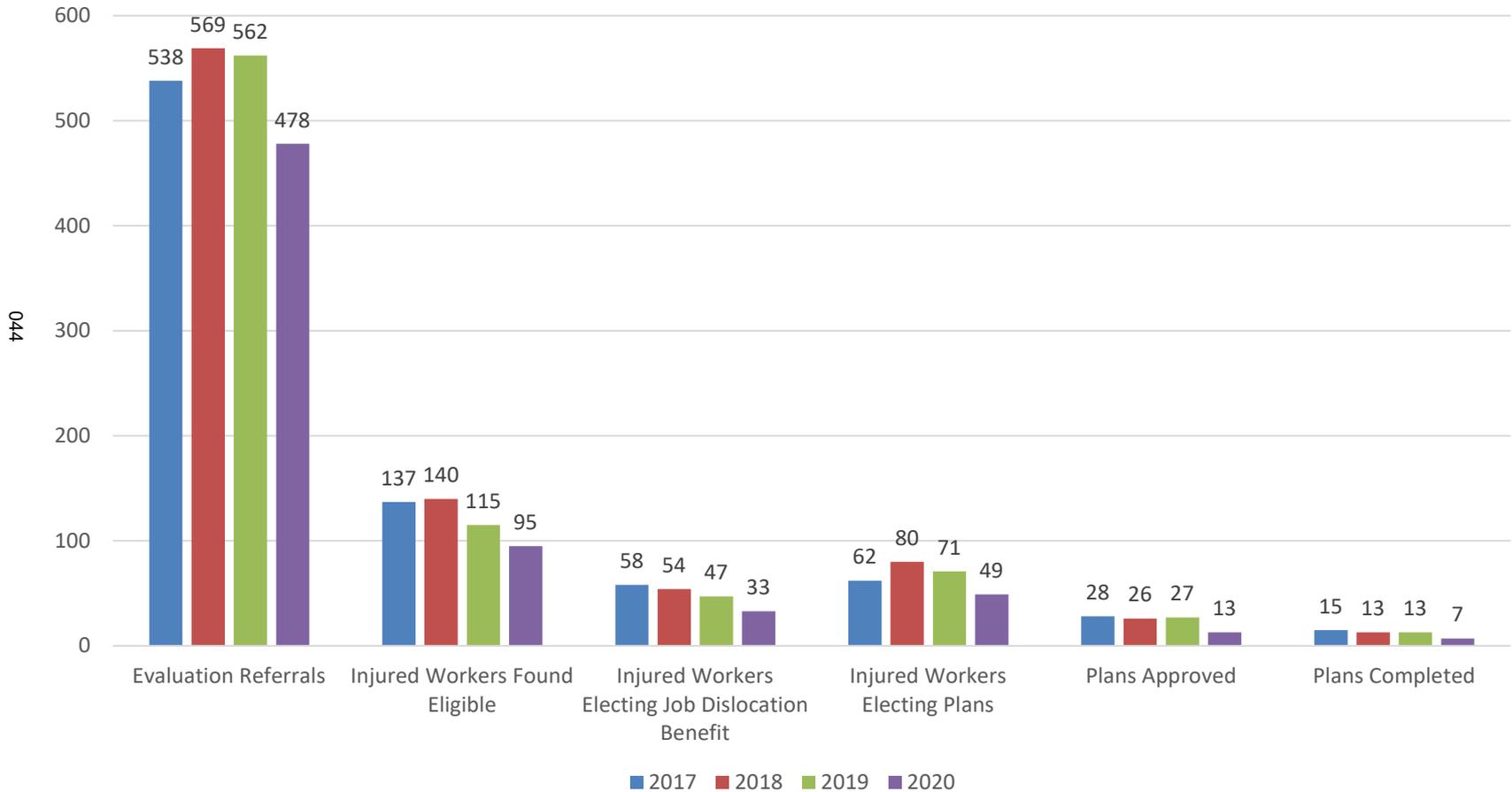


2020 By the Numbers, Cont.

- 37 reemployment plans were submitted.
- 13 plans were signed by all parties and moved forward as agreed upon plans.
- 4 plan reviews were completed.
- 8 informal rehabilitation conferences were held to assist the parties in moving forward with reemployment benefits.
- 7 injured workers completed reemployment plans.



Reemployment Trends





Reemployment Benefit Plans

- 111 injured workers were in the plan process at some point during 2020.
- 42 injured workers were referred for plan development in 2020.
- 39 injured workers exited the process through a Compromise and Release after plan referral and before plan completion.
- 21 injured workers were in an approved plan at year end.
- 29 injured workers were in plan development and 19 plans were pending approval at year end.
- 8 injured workers successfully completed plans with an average plan length of 31 months from plan approval to plan completion. **One case was delayed due to medical reasons thus causing the average time to be more than the statutorily allowable 24 months for a plan**



Reemployment Benefit Plans, Cont.

- 34 plans were stalled or exited for various reasons.
 - 5 injured workers' plan process was medically suspended.
 - 1 injured worker changed their election from retraining to a job dislocation benefit.
 - 11 injured workers exited through a Compromise and Release agreement.
 - 12 plans were controverted or a petition to terminate reemployment benefits was filed.
 - 2 plans were unable to be developed to meet statutory requirements.
 - 1 plan process was halted because the injured worker was non-participatory.
 - 2 plans were unsuccessful because the time had expired.



Outcomes for Workers Completing Plans

- The Reemployment Benefits Section attempted to contact 35 injured workers that had completed plans between 2018 and 2020.
- 20 injured workers responded.
- 11 injured workers had returned to the workforce.
- 6 reported they were working in the plan goal or related.
- 9 injured workers reported they had not returned to work.
 - 1 injured worker is deceased
 - 1 reported they are retired
 - 1 reported they were looking for work in the plan goal
 - 6 stated COVID-19 impacted their ability to work or obtain employment

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Reemployment Benefit Costs

Department of Labor and
Workforce Development
DIVISION OF WORKERS'
COMPENSATION
Web: <http://labor.state.ak.us/wc>

	2018	2019	2020
Evaluation Costs	\$2,033,729	\$2,118,256	\$1,549,177
Reemployment Specialist Plan Fees	\$505,711	\$755,065	\$705,287
Plan Costs	\$781,518	\$617,835	\$527,164
Wage Benefits (AS 23.30.041(k))	\$2,359,873	\$2,635,051	\$2,139,626
Job Dislocation Benefits (AS 23.30.041(g))	\$2,065,131	\$1,601,142	\$3,075,679
TOTALS	\$7,745,962	\$7,727,349	\$7,996,934
% Change	-33.39%	-0.24%	3.49%

048



Reemployment Benefits in Settlements

Impact of settlements on reemployment benefits in 2020

- 149 injured workers exited the reemployment benefits process through Compromise and Release agreements.
- 75 injured workers had funds designated for reemployment benefits included in settlements approved in 2020, increasing reemployment benefit costs.
 - 37 of these injured workers had never been determined eligible for reemployment benefits, many had never entered the reemployment process or had been found not eligible for reemployment benefits.
- 78 injured workers exited the reemployment process through a settlement after a determination of eligibility, significantly reducing the number of injured workers available for plan completion.



Rehabilitation Specialists

- 18 Alaska Rehabilitation Specialists accepted 478 referrals for eligibility evaluations; 92 evaluations were referred to 43 specialists out of state.
- 2 Alaska specialists retired in 2020.
- For Alaska Based Specialists:
 - 330 or 69% of the first reports were submitted within 60 days of the referral.
 - 157 or 33% of the evaluations were completed on the first report submission.
 - 207 or 43% of the evaluations were completed prior to a suspension letter from a Reemployment Benefits Administrator Designee.
 - 447 reports did not meet statutory/regulatory requirements.
- Continued improvements in our process are being made to ensure all work is in compliance with statutory and regulatory requirements through suspension letters, discussions, plans of correction and disqualification from providing services under AS 23.30.041.



Rehabilitation Specialist Performance

Department of Labor and
Workforce Development
DIVISION OF WORKERS'
COMPENSATION
Web: <http://labor.state.ak.us/wc>

2020 Reemployment Benefit Eligibility Evaluations

Rehabilitation Specialist	# of Referrals recv'd	Average # days to 1 st report	Complete on 1 st report or w/o suspension letter	# of late 1 st reports	# 60 day gaps in reporting	# reports not meeting stat/reg	Median # days to determ
L. Cortis	15	54	8	7	9	14	60
J. Cranston	34	37	12	33	4	65	62
G Cusack	3	59	1	2	1	3	106
K. Davis	23	35	18	15	1	22	50
J. Doerner	34	31	19	19	1	43	47
P. Harmon	20	36	8	15	2	39	46
R. Hoover	34	32	22	31	0	46	33
T. Hutto	19	43	13	12	2	21	53
S. Krier	6	32	3	3	0	3	41

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Rehabilitation Specialist Performance

Department of Labor and
Workforce Development
DIVISION OF WORKERS'
COMPENSATION
Web: <http://labor.state.ak.us/wc>

2020 Reemployment Benefit Eligibility Evaluations

Rehabilitation Specialist	# of Referrals recv'd	Average # days to 1 st report	Complete on 1 st report or w/o suspension letter	# of late 1 st reports	# 60 day gaps in reporting	# reports not meeting stat/reg	Median # days to determ
D. LaBrosse	22	29	8	8	7	35	53
B. Lees	7	30	7	0	0	0	26
C. Robbins	34	35	30	8	5	18	32
B. Roberts	2	33	0	2	0	4	97
J. Shipman	19	26	15	0	0	0	29
N. Silta	24	31	10	7	1	27	61
T. Torvie	28	31	17	15	0	37	37
P. Vargas	24	45	16	7	7	20	56
A. White	32	26	1	8	1	50	62

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QUESTIONS?

TAB 9

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8 AAC 45.030(a)(2) is amended to read:

(2) reasonable duplication fees may be charged for copying hearing **recordings**

[TAPES];

(In effect before 7/28/59; am 5/28/83, Register 86; am ___/___/___, Register ___)

Authority: AS 23.30.005

8 AAC 45.032 is amended to read:

(a) Upon receiving written notice of an injury, the division will

8 AAC 45.032 is amended by adding a new subsection to read:

(b) Upon initiating a failure to insure investigation, the division's special investigations unit will set up a computer record of the investigation and obtain a case number in the division's case management system. The board will use the established case number for official filings requesting board action. (Eff. 7/20/97, Register 143; am 2/27/2000, Register 153; am 4/9/2016, Register 218; am ___/___/___, Register ___)

Authority: AS 23.30.005 AS 23.30.100 AS 23.30.105

AS 23.30.070

8 AAC 45.092(b)(1) is amended to read:

(1) The board or its designee will ask the Alaska Chiropractic Society, Alaska Dental Society, Alaska Optometric **Association** [SOCIETY], and Alaska State Medical Association to make recommendations from within their respective specialty. The

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recommendations must be received by the board on or before November 1, 1989 and on or before November 1 of each year after that.

8 AAC 45.092(b)(2) is amended to read:

(2) Not later than December 15 of each year, the board will publish a bulletin listing the names of the physicians recommended by the Alaska Chiropractic Society, the Alaska Dental Society, the Alaska Optometric **Association** [SOCIETY], and the Alaska State Medical Association as well as the names of second independent medical examiners.

(Eff. 7/1/88, Register 107; am 10/28/88, Register 108; am 3/16/90, Register 113; am 7/20/97, Register 143; am 7/2/98, Register 146; am 2/27/2000, Register 153; am 3/13/2004, Register 169; am 2/28/2010, Register 193; am 4/1/2017, Register 221; am 7/27/2017, Register 223; am 5/12/2019, Register 230; am ___/___/___, Register ___)

Authority: AS 23.30.005 AS 23.30.095 AS 23.30.110

8 AAC 45.093(b)(1) is amended to read:

(1) a medical history, on **form 07-6176** [A FORM PRESCRIBED BY THE DEPARTMENT], completed by the firefighter, and reviewed by the examining physician;

8 AAC 45.093(b)(2) is amended to read:

(2) measurement of the levels of the nicotine by-product cotinine in the blood of the firefighter being examined, and documentation of the measurement on **form 07-6177** [A FORM PRESCRIBED BY THE DEPARTMENT AND] completed by the examining physician;

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8 AAC 45.093(b)(3) is amended to read:

(3) a lung examination, documented on **form 07-6177** [A FORM PRESCRIBED BY THE DEPARTMENT AND] completed by the examining physician; the lung examination must include

8 AAC 45.093(b)(4) is amended to read:

(4) a cardiac examination, documented on **form 07-6177** [A FORM PRESCRIBED BY THE DEPARTMENT AND] completed by the examining physician; the cardiac examination must include

8 AAC 45.093(c) is amended to read:

(c) In addition to meeting the requirements of (b) of this section, a qualifying medical examination under AS 23.30.121(b)(3)(A) must include an initial screening for the cancers listed in AS 23.30.121(b)(1)(C). The screening must include a comprehensive history, complete physical and neurological examinations, blood chemistries, complete blood counts, urinalysis, and other diagnostic tests as indicated to screen for these cancers, each documented on **form 07-6177** [A FORM PRESCRIBED BY THE DEPARTMENT AND] completed by the examining physician.

(Eff. 2/20/2011, Register 197; am ___/___/___, Register ___)

Authority: AS 23.30.005 AS 23.30.121

8 AAC 45.122(a) is amended to read:

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(a) The board will give public notice of the edition of the *American Medical Association Guides to the Evaluation of Permanent Impairment* and effective date for using the edition by publishing a notice in a newspaper of general circulation in Anchorage, Fairbanks, and Juneau; as well as **issuing a bulletin published on the division's website** [ISSUE A BULLETIN FOR THE "WORKERS' COMPENSATION MANUAL", PUBLISHED BY THE DEPARTMENT]. (Eff. 12/14/86, Register 100; am 3/16/90, Register 113; am 4/21/96, Register 138; am 7/20/97, Register 143; am 7/2/98, Register 146; am ___/___/___, Register ____)

Authority: AS 23.30.005 AS 23.30.095 AS 23.30.190

8 AAC 45.136(a) is amended to read:

(a) When the employer or carrier begins, increases, reduces, terminates, suspends or otherwise modifies compensation payments to the employee, the employer or carrier shall notify the **division** [BOARD AND THE EMPLOYEE] of the nature and substance of the commencement or change within 28 days after the commencement or change by filing **electronically a subsequent report of injury (SROI). The notice shall be filed electronically through Electronic Data Interchange (EDI). The division will notify the employee of the commencement, termination and any other modification of compensation payments.**

[FORM 07-6104. THE ORIGINAL OF FORM 07-6104 MUST BE FILED WITH THE EMPLOYEE AND A COPY FILED WITH THE BOARD.]

8 AAC 45.136(b) is amended to read:

(b) For purposes of this section and AS 23.30.155(c), “filed” **submitted through EDI and followed by a Transaction Accepted acknowledgement from the jurisdiction** [MEANS DEPOSITED IN THE MAIL OR PERSONALLY DELIVERED].

8 AAC 45.136(c)(1) is amended to read:

(1) **submitted through EDI and followed by a Transaction Accepted acknowledgement from the jurisdiction; and** [THE BOARD’S CASE NUMBER IS LISTED FOR AT LEAST 99 PERCENT OF ALL THE CASES FOR WHICH THE EMPLOYER OR CARRIER HAS PAID COMPENSATION IN THE PRECEEDING CALDEAR YEAR;]

8 AAC 45.136(c)(2) is amended to read:

(2) the difference, if any, between the amount listed as paid in each payment category is no greater than 10 percent of the amount reported to the board **as** [ON THE COMPENSATION REPORTS] filed under **this section and** AS 23.30.155(c) in the preceding year; [IF A PAYMENT WAS NOT MADE IN A PARTICULAR PAYMENT CATEGORY, THE ANNUAL REPORT MUST BE COMPLETED WITH A ZERO IN THAT CATEGORY;]

8 AAC 45.136(c)(3) is repealed:

(3) Repealed ___/___/___.

8 AAC 45.136(c)(4) is repealed:

(4) Repealed ___/___/___.

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8 AAC 45.136(c)(5) is repealed:

(5) Repealed ___/___/____.

8 AAC 45.136(d) is amended to read:

(d) The division will compare the amount listed for each payment category [AND CASE NUMBERS LISTED] on the annual report with the board's records to determine if the annual report is complete. The division will serve the employer or carrier written notice [BY MAIL] that the annual report was incomplete, based on the differences. Within 30 days after the date notice is served, the employer or carrier must respond in writing to the board and provide documentation that the board's records are in error and the annual report was complete as initially filed. If the employer or carrier fails to timely respond in accordance with this section or the evidence submitted in the response does not prove the error was in the board's records, the annual report is incomplete for purposes of AS 23.30.155(m).

8 AAC 45.136(e) is repealed:

(e) Repealed ___/___/____.

(Eff. 5/28/83, Register 86; am 12/14/86, Register 100; am 3/16/90, Register 113, am 7/20/97, Register 143; am 4/15/99, Register 150; am ___/___/____, Register ___)

Authority: AS 23.30.005 AS 23.30.155

8 AAC 45.174(a) is amended to read:

(a) Upon the verified petition of a person or upon its own motion, the **division** [DEPARTMENT] will investigate an employer who is alleged to be in violation of AS 23.30.075.

8 AAC 45.174(b) is amended to read:

(b) At the request of the division and after a hearing, if the board finds an employer is in violation of AS 23.30.075, the board may issue a stop order prohibiting the use of employee labor by the employer. The order will be personally served upon the employer or his agent. A person authorized or designated by the commissioner to serve process in department proceedings, **including a division investigator duly appointed as a Limited Special Officer by the Commissioner of Public Safety,** may serve an order issued by the board under this section.

8 AAC 45.174(c) is amended to read:

(c) At the request of the **division** [DEPARTMENT] and after investigation, if the director finds substantial evidence that an employer is in violation of AS 23.30.075, the director may issue a stop order prohibiting the use of employee labor by the employer. The order will be personally served upon the employer or his agent. A person authorized or designated by the commissioner to serve process in department proceedings, **including a division investigator duly appointed as a Limited Special Officer by the Commissioner of Public Safety,** may serve an order issued by the board under this section.

8 AAC 45.174(e) is amended to read:

(e) **An employer may challenge issuance of a stop order by filing a petition requesting a board hearing.** A hearing to determine if an employer failed to comply with a stop order issued under this section and should be assessed a civil penalty is a continuation of the administrative proceeding that began with the issuance of the stop order.

8 AAC 45.174(f) is amended to read:

(f) The conducting of proceedings under this section does not affect the right of the **division** [DEPARTMENT] to seek criminal penalties against the employer under AS 23.30.075(b).

(Eff. 5/28/83, Register 86; am 12/2/2012, Register 204; am ___/___/___, Register ___)

Authority: AS 23.30.005 AS 23.30.080

8 AAC 45.184 is repealed:

8 AAC 45.184. Executive officer waivers. Repealed (Eff. 5/28/83, Register 86; am 3/16/90, Register 113; am 7/20/97, Register 143; repealed ___/___/___, Register ___)

8 AAC 45.210(e) is amended to read:

(e) For purposes of AS 23.30.175(a) [FOR INJURIES ON OR AFTER SEPTEMBER 4, 1995,] an employee has furnished documentary proof of the employee's wages if **the employee gives the employer a written earnings statement, prepared by an employer, or a copy of a tax return filed with the Internal Revenue Service showing the employee's earnings for the proper time period for purposes of making the calculations under the appropriate paragraph of AS 23.30.220(a).**

8 AAC 45.210(e)(1) is repealed:

(1) Repealed ___/___/____.

8 AAC 45.210(e)(2) is repealed:

(2) Repealed ___/___/____.

8 AAC 45.210(f) is amended to read:

(f) After an employee furnishes documentary proof of the employee's wages in accordance with (e) of this section, the employer may reduce the employee's weekly compensation rate without a board order to a rate equal to the employee's spendable weekly wages, but not less than \$110 a week, if the employer files a **subsequent report of injury (SROI)** [COMPENSATION REPORT] in accordance with AS 23.30.155(c) together with

...

(Eff. 12/14/86, Register 100; am 3/16/90, Register 113; am 7/2/98, Register 146; am 2/3/2001, Register 157; am ___/___/____, Register _____)

Authority: AS 23.30.005 AS 23.30.175 AS 23.30.220
AS 23.30.155

8 AAC 45.220(5) is repealed:

(5) Repealed ___/___/____.

8 AAC 45.220(6) is amended to read:

(6) **“earnings” and “usual wage”** under AS 23.30.220(a)(5);

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8 AAC 45.220(8) is amended to read:

(8) “earnings” under AS 23.30.220(a)(7), **(9) or (10)**.

8 AAC 45.220(c)(3) is amended to read:

(3) the terms set out in (b) of this section do not include as periodic payments

irregular bonuses, reimbursement of expenses, and expense allowances.[:]

8 AAC 45.220(c)(3)(A) is repealed.

(A) Repealed ___/___/___.

8 AAC 45.220(c)(3)(B) is repealed.

(B) Repealed ___/___/___.

(Eff. 12/14/86, Register 100; am 7/2/98, Register 146; am 2/3/2001, Register 157; am

___/___/___, Register ___)

Authority: AS 23.30.005 AS 23.30.220

8 AAC 45.900(a)(2) is amended to read:

(2) “board” means **any single hearing officer under 8 AAC 45.071, and** any

single three-member panel, or a quorum thereof, of the Alaska Workers' Compensation Board;

8 AAC 45.900(a)(4) is amended to read:

(4) “chair[MAN]” means the commissioner or any person designated by the

commissioner to preside as board chair[MAN] in a particular proceeding;

8 AAC 45.900(a)(15) is amended to read:

(15) “provider,”[,], unless the statutory context requires otherwise,

8 AAC 45.900 is amended by adding a new subsection to read:

(16) “failure to insure” means a person, business or entity utilizing employee labor while uninsured.

8 AAC 45.900(d) is amended to read:

(d) In AS 23.30.395(22) [AS 23.30.265(15)], “irregular bonus” means a payment received by the employee from the employer, to which there is no fixed right or entitlement under the employment agreement between employee and employer.

8 AAC 45.900(h)(1) is amended to read:

(1) “physical capacities” as that term is defined in AS 23.30.041(r)[(P)](4);

8 AAC 45.900(h)(2) is amended to read:

(2) ability to perform a job’s “physical demands” as that term is defined in AS 23.30.041(r)[(P)](5); or

8 AAC 45.900 is amended by adding a new subsection to read:

(k) In AS 23.30.250,

(1) “misclassified” means

(A) falsifying or misrepresenting employee job duties to an insurance carrier;

(B) willfully misrepresenting employee as an independent contractor;

(C) concealing some or all compensation paid in currency, negotiable instruments, or in kind for work performed;

(D) willfully designating an employee as a partner, limited liability member, director, or officer without documented significant ownership interest, or without sharing in profits and losses, or without decision-making authority, or any combination thereof;

(2) “deceptive leasing practices” means a person, business, or professional employer organization engaged in the business of leasing employee labor to one or more clients that

(A) purports to be the sole employer of the covered employee;

(B) fails to report client names and effective coverage dates for the insurance carrier and the division pursuant to AS 23.30.085.

(Eff. 5/28/83, Register 86; am 12/14/86, Register 100; am 7/1/88, Register 107; am 3/16/90, Register 113; am 7/20/97, Register 143; am 7/2/98, Register 146; am 4/16/2010, Register 194; am 12/22/2011, Register 200; am 12/1/2015, Register 216; am 7/27/2017, Register 223; am ___/___/___, Register ___)

Authority:	AS 23.30.005	AS 23.30.097	AS 23.30.240
	AS 23.30.030	AS 23.30.175	AS 23.30.395
	AS 23.30.041	AS 23.30.220	
	AS 23.30.090	AS 23.30.230	

8 AAC 45 is amended by adding a new section to read:

8 AAC 45.185. Corporate officers and members of limited liability companies. (a)

For the purposes of AS 23.30.240, “owns” includes a person’s ownership interest in a corporation or limited liability company as, (1) a beneficiary of a revocable trust that owns a corporation or limited liability company; or (2) an owner of another corporation or limited liability company that owns a corporation or limited liability company.

(b) A person who is an executive officer of a corporation or a member of a limited liability company is not an employee under the Act if the person owns at least 10 percent of the corporation or limited liability company through the person’s documented ownership interest in a revocable trust, corporation, or limited liability company. (Eff. 1/10/2021, Register 237)

Authority: AS 23.30.005 AS 23.30.240