

KANSAS WORKERS COMPENSATION FUND

YEAR END REPORT

FY 2017



Ken Selzer, CPA

Commissioner of Insurance



Kansas Insurance Department

Ken Selzer, CPA, Commissioner of Insurance

Kansas State Capitol
300 SW 10th Street
Topeka, Kansas 66612

Members of the Committee:

I am pleased to present to you the 2016 Annual Report of the Kansas Workers Compensation Fund (Fund). This report summarizes the activities of the Fund through the period ending July 1, 2017.

K.S.A § 44-566a(h) requires us to provide recommendations about the advisability of continuation or termination of the Workers Compensation Fund, provide suggested changes to the Workers Compensation Act relating to the Fund, provide an analysis on changes in the Federal Americans with Disabilities Act that would impact the Fund, and provide recommendations on ways to reduce the claim and operational costs of the Fund.

Therefore, we make the following recommendations:

1. The Fund should continue to provide benefits as provided by law;
2. The Fund is not recommending any changes to the Workers Compensation Act at this time;
3. There is no direct impact on the Fund this year from the Americans with Disabilities Act or the Amendments of 2009; and
4. New partnerships with outside vendors are being formed to decrease costs and overall expenditures.

A more detailed analysis of these recommendations is included in the following report. Upon further review, if you have questions or concerns, please do not hesitate to contact me personally at KSelzer@ksinsurance.org or at 785-296-3071.

Sincerely yours,

Ken Selzer, CPA
Commissioner of Insurance
Kansas Insurance Department
420 S.W. 9th St.
Topeka, KS 66612

I. General Overview

Overall, the Kansas Workers Compensation Fund had a terrific year. It **closed 790 open cases** in FY 2017, a +599% change from the current year. In addition, it decreased its total expenditures, including its disability compensation payments, medical expenditures, and attorney fees. This amounted to a **total savings of \$317,875.44** or 9.4% of the total FY 2017 Fund expenditures. The Fund is dedicated to continuing this progress into FY 2018 and has implemented new procedures, which will be discussed below, in order to achieve its goals.

a. Second Injury Fund: Old Liability, Old Laws

The Kansas Workers Compensation Fund (“Fund”) was established in 1993 when the Legislature made sweeping changes to the workers compensation laws. The 1993 changes abolished the Kansas Second Injury Fund and transferred the existing liability to the Kansas Workers Compensation Fund.

The purpose behind the now dissolved Second Injury Fund was to incentivize employers to hire people with previous injuries or disabilities. Employers were hesitant, and rationally so, to hire someone with a previous injury because that employee had a greater risk of a second injury.

The Second Injury Fund would be partially or fully liable for the claims of an injured employee if the employer could establish that it hired or retained a handicapped employee (a person who had a pre-existing injury) after acquiring knowledge of the preexisting handicap or upon a finding that the employee intentionally misrepresented the existence of the handicap and the employer hired them without knowledge of that handicap.

b. WCF: Insolvent/Uninsured Employer, Current Law

The 1993 legislative changes represented a significant policy shift. No longer would the Fund be used to incentivize employers to hire previously injured employees, now the Fund is brought into a

case where an injured workers employer is uninsured and unable to pay for the medical and disability payments or, in some cases, cannot be located.

Impleading the Fund into a case does not automatically require the Fund to begin making payments. The Fund will essentially step into the shoes of the employer. If an administrative law judge (ALJ) finds that the injury is compensable, that the employer was uninsured at the time of the accident, and that the employer is currently unable to pay expenses related to the injury, then the Fund, upon order from the court will begin making payments. The Fund may then seek reimbursement from the employer in a separate civil action.

c. Reimbursement: Director Certifications

The works compensation statutes also provide Director Certifications should be paid by the Fund. Authority for Director Certifications is given pursuant to K.S.A. §44-556(d). This statute states, in pertinent part, that if compensation is paid by the employer or the employer's insurance carrier and after a full hearing it is determined that the amount of compensation paid was greater than the amount the employee is entitled the employer or the employer's insurance carrier shall be reimbursed by the Workers Compensation Fund.

The Director of Workers Compensation ("Director") must certify the amount of overpayment after a request has been made by the employer or employer's insurance carrier. The Director has discretion only to the amount of overpayment that will be certified, not to the validity of the certification request, assuming the above stated criterion has been met. Once a claim has been certified, the Director will send notice to the Fund that reimbursement should be issued and the Fund must immediately make payment. The Fund is not usually brought into the underlying case but retains liability for the overpayment.

II. New Federal Medicare and ADA Requirements affecting the Fund

The federal Medicare program that pays for health care costs provided to individuals age 65 and older, disabled individuals, and individuals with permanent kidney failure is aggressively enforcing the Medicare as Secondary Payer (MSP) provisions of 42 U.S.C.A. 1395y by using Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA Section 111). The purpose of the MMSEA Section 111 reporting requirements is to enable the Center for Medicare and Medicaid services (CMS) to pay appropriate charges for Medicare covered items and services furnished to Medicare beneficiaries by determining primary versus secondary payer responsibility and requiring financial responsibility by primary payers as necessary.

In cases where Medicare has paid for medical services for workers injured on the job or suffering on occupational illness, Medicare will seek to reimbursement for those expenses to compensable providers, including workers compensation plans such as the Fund.

The Kansas Workers Compensation Fund, as a Responsible Reporting Entity (RRE) under MMSEA Section 111, is subject to the reporting requirements specified by 42 U.S.C.A. 1395y. RRE's are required to electronically submit specific information on Medicare beneficiaries, that the Fund has a medical responsibility for, to the Secretary of Health and Human Services (HHS) in a form and frequency specified by the Secretary. To date, the Department of Insurance has met its reporting obligation in compliance with the MMSEA Section 111, 2007 Act. Receipt of the data has been acknowledged. This year's data submission identified 210 Medicare beneficiaries that the Fund has either a current or permanent obligation to provide medical services for work related accidents or injuries.

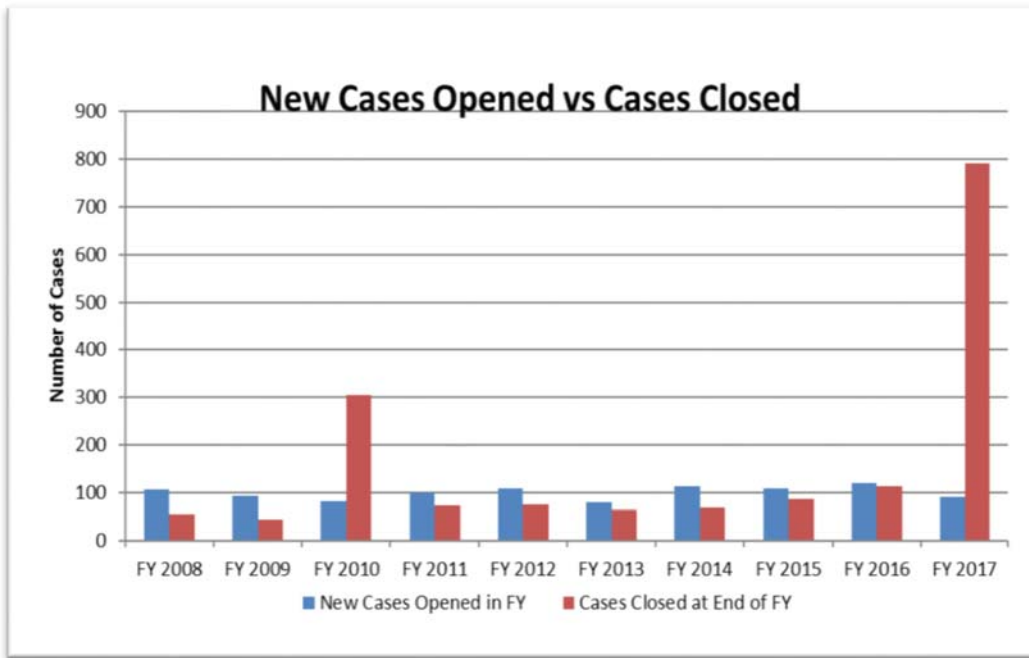
III. Case Information

The Fund made a significant push in FY 2017 to close out cases that had been dormant for over 10 years. Additionally, it looked to settle older cases through Medicare Set Aside arrangements. In these arrangements, the Fund agrees to fund an annuity to pay for the expected lifetime future medical costs. If the arrangement is approved by Medicare, and the medical costs are more than expected, Medicare will pay the overage amount. This relieves the Fund of all liability in the underlying claim. Due to the age of many of our cases, the amount spent on these arrangements was fairly small.

In FY 2017, the Fund closed 790 cases, representing a 599.12% increase in the number of cases closed from the prior year and a 17.72% decrease in the number of overall cases. This effort has and will continue into the next fiscal year.

Open Case Statistics

<i>Fiscal Year</i>	<i>New Cases Opened in FY</i>	<i>% Change from prior YR</i>	<i>Cases Closed at End of FY</i>	<i>% Change from Prior YR</i>	<i>Open Cases at End of FY</i>	<i>% Change from prior YR</i>
<i>FY 2008</i>	106	-7.83%	55	-2.53%	3943	+1.27%
<i>FY 2009</i>	93	-12.26%	44	-20.00%	3991	+1.22%
<i>FY 2010</i>	82	+11.83%	303	+588.63%	3779	-5.31%
<i>FY 2011</i>	100	+21.95%	72	-76.24%	3809	+7.90%
<i>FY 2012</i>	109	+9.00%	74	+2.78%	3853	+1.15%
<i>FY 2013</i>	78	-28.44%	63	-14.86%	3866	>+0.01%
<i>FY 2014</i>	113	+44.87%	68	+7.94%	3914	>+0.013%
<i>FY 2015</i>	107	+5.31%	85	+25.00%	3940	>+0.007%
<i>FY 2016</i>	119	+11.22%	113	+32.95%	3950	>+0.003%
<i>FY 2017</i>	91	-23.53%	790	+599.12%	3250	-17.72%



IV. Financial

The Kansas Workers Compensation Fund is primarily funded by assessments paid by self-insurers, insurance carriers, and group funded pools. The yearly assessment is based on the carriers' workers compensation paid losses from the prior year. Some additional money comes to the Fund from reimbursements from uninsured employers as well as fines collected by the Division of Workers Compensation against uninsured employers.

The Fund has three basic sources of liabilities under the Kansas Workers Compensation Act: 1) liability assumed by the Workers Compensation Fund for Second Injury Cases when the Second Injury Fund was eliminated in 1993; 2) Insolvent/uninsured employer cases; and 3) Reimbursement to employers on an overpayment of benefits. The following data provides financial information regarding the Fund since FY 2008.

Financial Statistics

FY 2017 (July 2015-June 2016)

Receipt Analysis		Disbursement of Expenditures	
Assessment Receipts	\$ 3,650,561.03	Court Costs	\$ 48,680.14
Gen. Fund Entitlement		Vocational Rehabilitation	\$ 4,875.77
Fine & Penalties Receipts	\$ 192,982.12	Director's Certification	\$ 1,434,120.88
Misc. Reimbursements	\$ 110,813.48	Compensation Costs	\$ 659,449.45
TOTAL RECEIPTS	\$ 3,954,356.63	Medical Costs	\$ 757,177.33
Previous Year Carryover	\$ 10,030,389.47	Other Operating Costs	\$ 202,279.06
		Attorney Fee Expenses	\$ 262,984.55
LEGISLATIVE SWEEP			\$ -
TOTAL FUNDS AVAILABLE	\$ 13,984,746.10	TOTAL EXPENDITURES	\$ 3,369,567.18
TOTAL END BALANCE	\$ 10,615,364.55		

FY 2016 (July 2015-June 2016)

Receipt Analysis		Disbursement of Expenditures	
Assessment Receipts	\$ 3,143,617.45	Court Costs	\$ 41,122.69
Gen. Fund Entitlement	\$ -	Vocational Rehabilitation	\$ 208.16
Fine & Penalties Receipts	\$ 148,434.14	Director's Certification	\$ 1,255,844.80
Misc. Reimbursements	\$ 65,266.66	Compensation Costs	\$ 690,908.30
TOTAL RECEIPTS	\$ 3,357,318.25	Medical Costs	\$ 1,201,418.52
Previous Year Carryover	\$ 10,360,511.77	Other Operating Costs	\$ 186,561.44
		Attorney Fee Expenses	\$ 311,378.71
LEGISLATIVE SWEEP	\$ -		\$ -
TOTAL FUNDS AVAILABLE	\$ 13,717,830.02	TOTAL EXPENDITURES	\$ 3,687,442.62
TOTAL END BALANCE	\$ 10,030,389.47		

FY 2015 (July 2014-June 2015)

Receipt Analysis		Disbursement of Expenditures	
Assessment Receipts	\$ 7,169,682.03	Court Costs	\$ 29,235.91
Gen. Fund Entitlement	\$ -	Vocational Rehabilitation	\$ 7,700.58
Fine & Penalties Receipts	\$ 209,038.29	Director's Certification	\$ 1,288,238.71
Misc. Reimbursements	\$ 411,632.56	Compensation Costs	\$ 732,069.07
TOTAL RECEIPTS	\$ 7,790,352.88	Medical Costs	\$ 1,149,710.94
Previous Year Carryover	\$ 6,185,611.77	Other Operating Costs	\$ 187,672.87
		Attorney Fee Expenses	\$ 220,809.94
LEGISLATIVE SWEEP	\$ -		\$ -
TOTAL FUNDS AVAILABLE	\$ 13,975,964.65	TOTAL EXPENDITURES	\$ 3,615,438.02
TOTAL END BALANCE	\$ 10,360,511.77		

FY 2014 (July 2013-June 2014)**Receipt Analysis**

Assessment Receipts	\$	5,053,571.42
Gen. Fund Entitlement	\$	-
Fine & Penalties Receipts	\$	202,052.59
Misc. Reimbursements	\$	166,453.29
TOTAL RECEIPTS	\$	5,422,077.30
Previous Year Carryover	\$	7,373,498.70
LEGISLATIVE SWEEP	\$	-
TOTAL FUNDS AVAILABLE	\$	12,795,576.00
TOTAL END BALANCE	\$	6,185,611.77

Disbursement of Expenditures

Court Costs	\$	38,537.17
Vocational Rehabilitation	\$	8,047.33
Director's Certification	\$	2,842,437.03
Compensation Costs	\$	1,250,239.37
Medical Costs	\$	1,856,095.87
Other Operating Costs	\$	374,596.72
Attorney Fee Expenses	\$	248,200.61
TOTAL EXPENDITURES	\$	6,618,154.10

FY 2013 (July 2012-June 2013)**Receipt Analysis**

Assessment Receipts	\$	1,434,289.17
Gen. Fund Entitlement	\$	-
Fine & Penalties Receipts	\$	104,054.15
Misc. Reimbursements	\$	31,075.71
TOTAL RECEIPTS	\$	1,569,419.03
Previous Year Carryover	\$	9,448,671.30
LEGISLATIVE SWEEP	\$	-
TOTAL FUNDS AVAILABLE	\$	11,018,090.33
TOTAL END BALANCE	\$	7,373,498.70

Disbursement of Expenditures

Court Costs	\$	38,661.29
Vocational Rehabilitation	\$	7,705.86
Director's Certification	\$	906,437.06
Compensation Costs	\$	995,757.29
Medical Costs	\$	1,221,779.22
Other Operating Costs	\$	176,853.79
Attorney Fee Expenses	\$	276,162.88
TOTAL EXPENDITURES	\$	3,623,357.39

FY 2012 (July 2011-June 2012)**Receipt Analysis**

Assessment Receipts	\$	4,749,672.29
Gen. Fund Entitlement	\$	-
Fine & Penalties Receipts	\$	181,833.62
Misc. Reimbursements	\$	103,412.30
TOTAL RECEIPTS	\$	5,034,918.21
Previous Year Carryover	\$	9,072,223.97
LEGISLATIVE SWEEP	\$	-
TOTAL FUNDS AVAILABLE	\$	14,107,142.18
TOTAL END BALANCE	\$	9,448,671.30

Disbursement of Expenditures

Court Costs	\$	42,610.75
Vocational Rehabilitation	\$	18,129.43
Director's Certification	\$	1,589,403.83
Compensation Costs	\$	884,217.72
Medical Costs	\$	1,585,464.54
Other Operating Costs	\$	231,213.74
Attorney Fee Expenses	\$	294,363.16
TOTAL EXPENDITURES	\$	4,645,403.17

FY 2011 (July 2010-June 2011)			
Receipt Analysis		Disbursement of Expenditures	
Assessment Receipts	\$ 8,768,448.24	Court Costs	\$ 46,149.67
Gen. Fund Entitlement	\$ -	Vocational Rehabilitation	\$ 15,749.48
Fine & Penalties Receipts	\$ 236,023.02	Director's Certification	\$ 969,458.13
Misc. Reimbursements	\$ 65,394.53	Compensation Costs	\$ 1,635,679.08
TOTAL RECEIPTS	\$ 9,069,865.79	Medical Costs	\$ 1,956,159.79
Previous Year Carryover	\$ 5,154,857.39	Other Operating Costs	\$ 202,809.58
		Attorney Fee Expenses	\$ 323,057.68
LEGISLATIVE SWEEP	\$ -		\$ -
TOTAL FUNDS AVAILABLE	\$ 14,224,723.18	TOTAL EXPENDITURES	\$ 5,149,063.41
TOTAL END BALANCE	\$ 9,072,223.97		

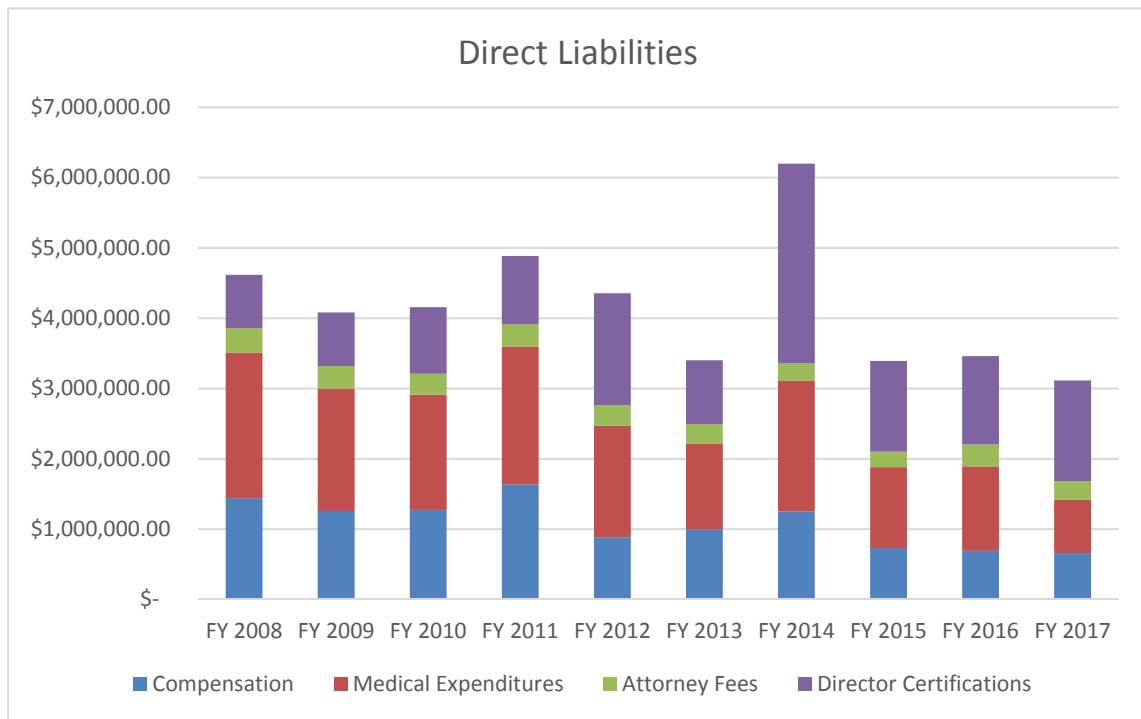
FY 2010 (July 2009-June 2010)			
Receipt Analysis		Disbursement of Expenditures	
Assessment Receipts	\$ 2,913,157.56	Court Costs	\$ 36,715.19
Gen. Fund Entitlement	\$ -	Vocational Rehabilitation	\$ 24,466.46
Fine & Penalties Receipts	\$ 235,227.10	Director's Certification	\$ 945,350.66
Misc. Reimbursements	\$ 106,071.65	Compensation Costs	\$ 1,272,968.72
TOTAL RECEIPTS	\$ 3,254,456.31	Medical Costs	\$ 1,639,601.75
Previous Year Carryover	\$ 6,406,717.68	Other Operating Costs	\$ 287,796.15
		Attorney Fee Expenses	\$ 298,113.67
LEGISLATIVE SWEEP	\$ -		\$ -
TOTAL FUNDS AVAILABLE	\$ 9,661,173.99	TOTAL EXPENDITURES	\$ 4,505,012.60
TOTAL END BALANCE	\$ 5,154,857.39		

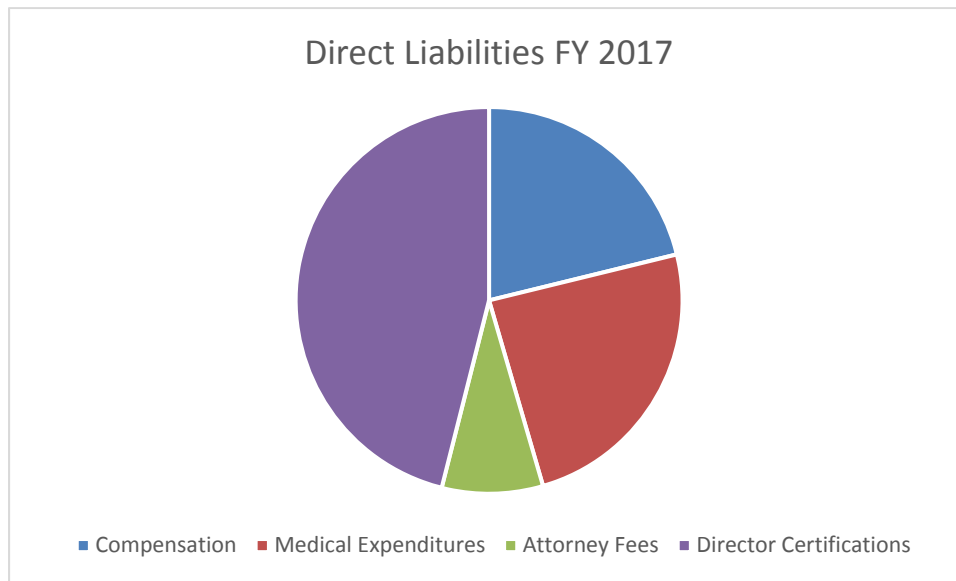
FY 2009 (July 2008-June 2009)			
Receipt Analysis		Disbursement of Expenditures	
Assessment Receipts	\$ 3,781,389.04	Court Costs	\$ 49,378.25
Gen. Fund Entitlement	\$ -	Vocational Rehabilitation	\$ 19,865.48
Fine & Penalties Receipts	\$ 267,504.32	Director's Certification	\$ 763,208.17
Misc. Reimbursements	\$ 29,248.28	Compensation Costs	\$ 1,257,651.94
TOTAL RECEIPTS	\$ 4,078,141.67	Medical Costs	\$ 1,740,315.62
Previous Year Carryover	\$ 9,122,783.87	Other Operating Costs	\$ 279,431.90
		Attorney Fee Expenses	\$ 320,001.24
LEGISLATIVE SWEEP	\$ (2,355,000.00)		\$ -
TOTAL FUNDS AVAILABLE	\$ 10,865,925.54	TOTAL EXPENDITURES	\$ 4,429,852.60
TOTAL END BALANCE	\$ 6,406,717.68		

a. Liabilities

In FY 2017, the Fund decreased the amount paid in compensation, medical expenditures, and attorney fees. Together, this represented a \$342,818.12 decrease in the amount spent in the previous FY. Specific comments regarding each direct liability can be found in the paragraphs below.

<i>Total Direct Liabilities</i>					
Fiscal Year	Compensation	Medical Expenditures	Attorney Fees	Director Certifications	Total
FY 2008	\$1,440,652.39	\$2,063,809.69	\$ 353,101.68	\$ 758,175.80	\$4,615,739.56
FY 2009	\$1,257,651.94	\$1,740,315.62	\$ 320,001.24	\$ 763,208.17	\$4,081,176.97
FY 2010	\$1,272,968.72	\$1,639,601.75	\$ 298,113.67	\$ 945,350.66	\$4,156,034.80
FY 2011	\$1,635,679.08	\$1,956,159.79	\$ 323,057.68	\$ 969,458.13	\$4,884,354.68
FY 2012	\$ 884,217.72	\$1,585,464.54	\$ 294,363.16	\$1,589,403.83	\$4,353,449.25
FY 2013	\$ 995,757.29	\$1,221,779.22	\$ 276,162.88	\$ 906,437.06	\$3,400,136.45
FY 2014	\$1,250,239.37	\$1,856,095.87	\$ 248,200.61	\$2,842,437.03	\$6,196,972.88
FY 2015	\$ 732,069.07	\$1,149,710.94	\$ 220,809.94	\$1,288,238.71	\$3,390,828.66
FY 2016	\$ 690,908.30	\$1,201,418.52	\$ 311,378.71	\$1,255,844.80	\$3,459,550.33
FY 2017	\$ 659,449.45	\$757,177.33	\$ 262,984.55	\$1,434,120.88	\$3,113,732.21





i. Disability Compensation

The purpose of disability compensation is twofold. Firstly, it aims to monetarily compensate a person for the loss in function of a body part or psychological trauma. Secondly, it compensates an injured person for his or her inability to work. In FY 2017, the Fund saw the lowest dollar amount spent on compensation payments in the last 10 years. With the continued focus on closing claims the Fund anticipates a sustained decrease to this liability in the next fiscal year.

Yearly Compensation Payments

Fiscal Year	Payment Types					
	Lump Sum	Permanent Partial Disability	Permanent Total Disability	Temporary Partial Disability	Temporary Total Disability	Total Compensation Paid
2008	\$ 769,396.98	\$ 199,303.27	\$ 250,530.00	\$ -	\$ 623,065.31	\$ 1,842,295.56
2009	\$ 713,039.72	\$ 94,231.05	\$ 128,966.05	\$ 7,549.36	\$ 484,086.55	\$ 1,427,872.73
2010	\$ 777,195.45	\$ 135,152.16	\$ 117,053.67	\$ -	\$ 545,068.48	\$ 1,574,469.76
2011	\$ 1,018,111.36	\$ 150,243.60	\$ 123,448.42	\$ -	\$ 572,486.03	\$ 1,864,289.41
2012	\$ 396,134.12	\$ 131,958.78	\$ 115,018.95	\$ 8,333.72	\$ 645,212.05	\$ 1,296,657.62
2013	\$ 500,213.27	\$ 67,060.03	\$ 127,713.73	\$ -	\$ 551,451.19	\$ 1,246,438.22
2014	\$ 865,338.08	\$ 100,947.61	\$ 116,793.61	\$ -	\$ 713,637.54	\$ 1,755,540.58
2015	\$ 329,730.35	\$ 118,197.66	\$ 112,999.11	\$ 2,534.96	\$ 433,827.80	\$ 997,289.88
2016	\$ 244,246.98	\$ 72,504.32	\$ 125,299.01	\$ 1,242.54	\$ 661,715.44	\$ 1,105,008.29
2017	\$ 283,634.00	\$ 69,893.37	\$ 76,366.07	\$ 7,119.40	\$ 465,900.31	\$ 902,913.15

ii. Medical Expenditures

The Fund has decreased its expenditures for medical treatment for the third consecutive fiscal year. Additionally, the Fund is in the process of reviewing all cases for appropriateness of treatment. The Fund has initiated contract negotiations with a Third Party Administrator (TPA) to increase the daily scrutiny paid to medical invoices and appropriateness of treatment. This should decrease the medical expenditures paid in the upcoming years.

Yearly Medical Expenditures

Fiscal Year	Physicians and Other Professionals	Hospitals	Prescriptions	Medical Supplies and Equipment	Medical Reimbursements	Total Medical Expenditures	% Change from Prior FY
2008	\$327,542.27	\$1,079,626.07	\$132,504.61	\$117,169.18	\$ 763,500.19	\$ 2,420,342.32	+23.22%
2009	\$296,926.45	\$1,026,932.54	\$172,654.73	\$ 38,398.60	\$ 798,390.68	\$ 2,333,303.00	-3.60%
2010	\$269,865.28	\$ 819,877.86	\$140,423.74	\$ 27,727.56	\$ 1,025,556.93	\$ 2,283,451.37	-2.14%
2011	\$402,048.41	\$1,133,102.23	\$141,254.93	\$ 36,812.18	\$ 983,789.84	\$ 2,697,007.59	+18.11%
2012	\$258,138.64	\$ 899,395.99	\$197,928.13	\$ 69,150.61	\$ 1,337,815.10	\$ 2,762,428.47	+4.50%
2013	\$321,402.41	\$ 427,151.26	\$163,020.79	\$ 31,743.47	\$ 934,787.42	\$ 1,877,535.35	-32.03%
2014	\$329,062.75	\$1,013,047.04	\$114,716.17	\$ 79,905.89	\$ 2,810,203.62	\$ 4,193,231.69	+123.34%
2015	\$217,169.13	\$ 426,865.82	\$134,584.17	\$ 55,585.92	\$ 1,338,523.80	\$ 2,172,728.84	-48.19%
2016	\$161,551.63	\$ 495,112.26	\$119,058.15	\$ 78,325.70	\$ 1,189,115.59	\$ 2,043,163.33	-5.96%
2017	\$225,840.55	\$ 179,136.84	\$107,516.53	\$ 64,267.75	\$ 1,371,072.84	\$ 1,947,834.51	-4.66%

iii. Attorney Fees

The Fund utilizes contract attorneys in order to keep costs down and increase efficiency. Currently, the Fund has 13 active attorneys. Due to increased oversight, the number of hours spent on each case decreased by. This translated into a \$48,394.16 savings to the fund, or a 15.5% change from the prior year.

Dollars of Compensation Paid Per Dollar of Attorney Fees

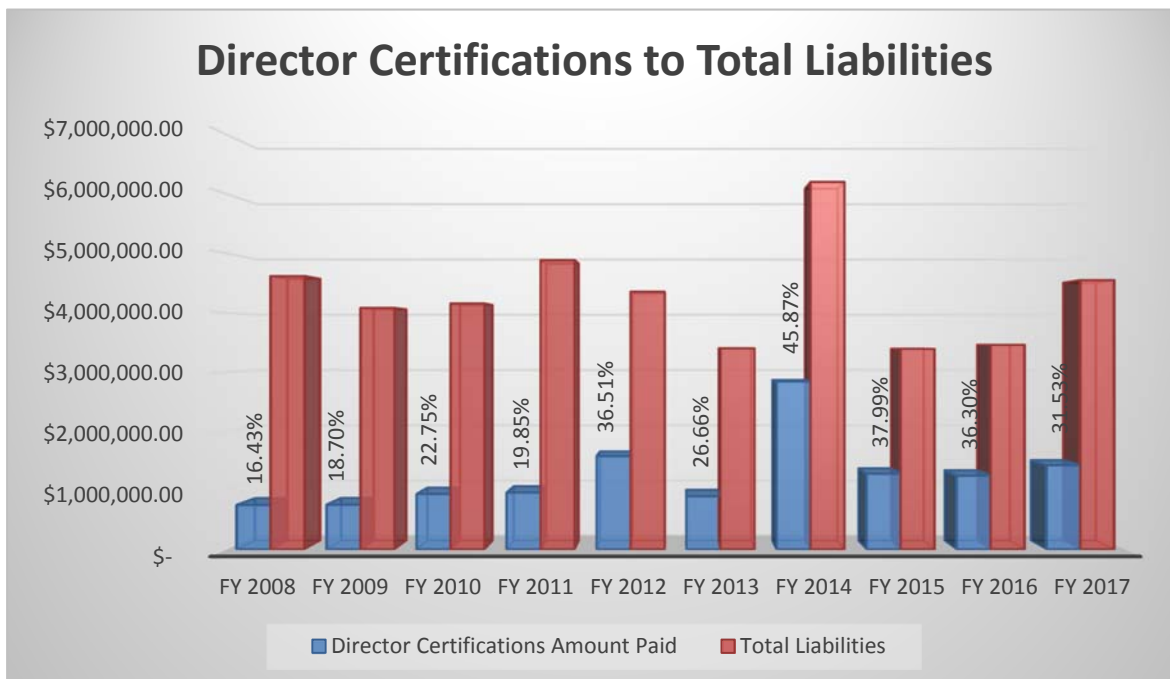
Fiscal Year	Attorney Hours Paid	Fund Attorney Fees Paid	Claimant Attorney Fees Paid	Total Attorney Fees
FY 2008	4,119	\$ 350,151.68	\$ 2,950.00	\$ 353,101.68
FY 2009	3,606	\$ 306,533.60	\$ 13,467.64	\$ 320,001.24
FY 2010	3,492	\$ 296,820.32	\$ 1,293.35	\$ 298,113.67
FY 2011	3,710	\$ 315,343.59	\$ 7,714.09	\$ 323,057.68
FY 2012	3,217	\$ 273,517.35	\$ 20,845.81	\$ 294,363.16
FY 2013	3,248	\$ 265,442.78	\$ 10,720.10	\$ 276,162.88
FY 2014	2,920	\$ 242,601.98	\$ 5,598.63	\$ 248,200.61
FY 2015	2,598	\$ 212,714.94	\$ 8,095.00	\$ 220,809.94
FY 2016	3,663	\$ 311,378.71	\$ -	\$ 311,378.71
FY 2017	2,505	\$ 262,984.55	\$ -	\$ 262,984.55

iv. Directors Certifications

As stated above, Director Certifications represent the Fund’s obligation to reimburse an insurance carrier/employer for money expended during a workers compensation case over and above the amount legally required. The typical scenario includes an employer who pays benefits up front and then it is later found the claim was not compensable or the employee failed to continue his pursuit of the claim. The Fund is usually not a party to the underlying claim and does not have the right to appeal a Director’s Certification. Currently, Director Certifications represent 31.5% of Funds expenses. As can be seen in the graph below, the dollar amount reimbursed to employers and insurance carriers is fairly unpredictable from year to year.

Director's Certifications

Fiscal Year	Amount Paid	Number of Certifications
FY 2008	\$ 758,175.80	30
FY 2009	\$ 763,208.17	15
FY 2010	\$ 945,350.66	24
FY 2011	\$ 969,458.13	33
FY 2012	\$ 1,589,403.03	44
FY 2013	\$ 906,437.06	24
FY 2014	\$ 2,842,437.03	58
FY 2015	\$ 1,288,238.71	44
FY 2016	\$ 1,255,844.80	52
FY 2017	\$ 1,434,120.88	47

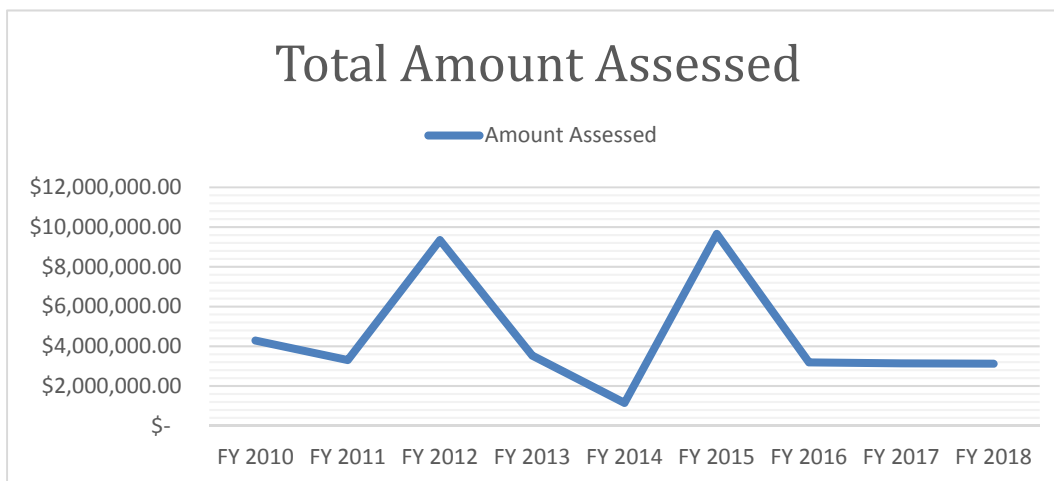


b. Sources to Replenish the Fund

i. Assessment

Pursuant to K.S.A. § 44-566a, the assessment of self-insurers, insurance carriers, and group funded pools is due every year on July 1. The rate of the assessment should be “equal to the amount sufficient, in the opinion of the Commissioner of Insurance, to pay all amounts, including attorney fees and costs, which may be required to be paid from such fund during the current fiscal year.” K.S.A. § 44-566a. The Commissioner understands the need to keep a consistent assessment rate to aid in the yearly budgeting process for Kansas companies. In FY 2016 and FY 2017 the rate was set at .75% of all paid losses. A paid loss is essentially the amount of money expended to pay claims by one of the aforementioned groups in a fiscal year.

<i>Annual Workers' Compensations Assessments</i>			
Fiscal Year	Number of Assessed Entities	Assessment Rate	Amount Assessed
FY 2009	501	1.15%	\$ 4,808,482.00
FY 2010	502	1.00%	\$ 4,290,288.00
FY 2011	503	0.75%	\$ 3,308,576.00
FY 2012	468	2.00%	\$ 9,344,294.00
FY 2013	479	0.75%	\$ 3,537,409.00
FY 2014	477	0.25%	\$ 1,150,543.00
FY 2015	477	2.25%	\$ 9,657,729.00
FY 2016	471	0.75%	\$ 3,184,806.00
FY 2017	478	0.75%	\$ 3,135,907.92
Y 2018	481	0.75%	\$ 3,121,389.43



ii. Reimbursements from Employers

The Fund has the right to be reimbursed all money expended on behalf of an uninsured employer in the course of litigation. The Fund always seeks to obtain reimbursement from the uninsured employer. Fund attorneys attempt to enter into voluntary reimbursement agreements and promissory notes with the employers at any stage of the case. If by the end of the case an employer refuses to enter into an agreement, the Fund attorney will proceed with a civil action against the employer. Unfortunately, at this stage, many employers have entered into bankruptcy proceedings or have disappeared. In order to track down and collect on employers, the Fund engaged a collection firm who possess extensive skip tracing capabilities. In addition, the Fund has employed new, specialized, collection law firms to recover a greater proportion of its funds expended.

Reimbursement Collected from Employers		
Fiscal Year	Amount of Reimbursement	Number of Cases
<i>FY 2008</i>	\$ 124,250.09	22
<i>FY 2009</i>	\$ 29,248.28	23
<i>FY 2010</i>	\$ 101,296.94	22
<i>FY 2011</i>	\$ 65,394.53	26
<i>FY 2012</i>	\$ 103,412.30	22
<i>FY 2013</i>	\$ 31,075.71	19
<i>FY 2014</i>	\$ 166,453.29	22
<i>FY 2015</i>	\$ 411,632.56	25
<i>FY 2016</i>	\$ 65,266.66	25
<i>FY 2017</i>	\$ 110,813.48	25

iii. Fraud and Abuse by Employers

K.S.A. §44-505 provides that every employer with “a total gross annual payroll for the proceeding calendar year of not more than \$20,000 for all employees and wherein the employer reasonably estimates that such employer will not have a total gross annual payroll for the current

calendar year of more than \$20,000¹ is not subject to the Workers Compensation Act. All employers who are subject to the act must obtain workers compensation insurance, qualify as self-insured or belong to a qualified group funded pool under K.S.A §44-532(b).

If an employer knowingly fails to secure payment of workers compensation through one of these three methods the Director of the Division of Workers Compensation may assess a civil penalty in the amount equal to twice the annual premium the employer would have paid had such employer been insured or \$25,000, whichever amount is greater. See K.S.A §44-532(d). All moneys received shall be credited back to the Workers Compensation Fund. In order to assist in the fight against this type of abuse, the Fund has and will continue to notify the Division of Workers Compensation about possible fraud and abuse, and provide whatever assistance the Division requires in their investigation of these claims.

Section 44-532 Fines Deposited with Fund		
<i>Fiscal Year</i>	<i>Amount of Deposited</i>	<i>Journal Entries</i>
<i>FY 2008</i>	\$249,091.14	69
<i>FY 2009</i>	\$267,504.35	88
<i>FY 2010</i>	\$235,627.10	72
<i>FY 2011</i>	\$236,023.02	56
<i>FY 2012</i>	\$181,833.62	58
<i>FY 2013</i>	\$104,054.15	41
<i>FY 2014</i>	\$202,052.59	48
<i>FY 2015</i>	\$209,038.29	61
<i>FY 2016</i>	\$148,434.14	47
<i>FY 2016</i>	\$192,982.12	33

¹ No wages paid to an employee who is a member of the employer’s family by marriage or consanguinity shall be included as part of the total gross annual payroll. Additionally, all employment in agricultural pursuits, all firemen who are members of any fireman’s relief association and qualified real estate agents as independent contractors fall under the Act.

V. Ways the WCF is Reducing Claim and Operational Costs

a. Restructuring the Claims Process

During FY 2017, the Fund began to develop a new system for claims handling. This new system should cut costs and increase its reimbursement ratio. Under the previous system, Fund Attorneys were tasked with performing all aspects of claim management, including: litigating the underlying workers compensation claim, filing reimbursement cases, negotiating fees for medical providers, reviewing medical invoices, etc. Many of these tasks can be performed by other providers at a lower overall cost to the Fund. Instead of a singular attorney handling the case from beginning until end, a team of vendors will be used, each specializing in a specific part of the process. These providers include workers compensation attorneys, civil collection attorneys, investigators, claims managers, and third party medical administrators. To date, the Fund has initiated new relationships with collections attorneys, collections firms, and claims managers. The Fund has begun the process of securely transferring files to the third party provider/claims manager for initial assessment. This assessment will review each clients prescription and medical treatment plan and determine what cost efficiencies can be applied. This assessment will be repeated on an annual basis going forward.

b. Review Attorney Bills Closely

In order to keep the claim and operational costs low, all Attorney bills are systematically reviewed by fund staff at the Kansas Insurance Department and an annual audit is completed. The Fund pays a flat rate hourly fee of \$125.00 to all outside counsel to handle its cases. Additionally, in order to keep costs down, Fund staff will begin in house representation in certain situations.

VI. Conclusion

The Commissioner of Insurance has been and will continue to be committed to improving the administration of the Kansas Workers Compensation Fund in all areas of concern.