

FILE COPY

JOINT COMMITTEE ON
GOVERNMENT AND FINANCE

Materials Distributed

October 15, 2009

September 16, 2009

3:00 - 4:00 p.m.

Joint Committee on Government and Finance

Senate

Tomblin, Chair
Chafin
Helmick
Kessler
Plymale
Caruth
Deem

House

Thompson, Chair
Boggs
Caputo (absent)
Webster
White
Armstead
Border

President Tomblin, Cochair, presided.

1. Approval of Minutes

Upon motion by Speaker Thompson, properly adopted, the minutes of the August 12, 2009, meeting were approved.

2. Committee Reports/Requests:

Judiciary Subcommittee B - Joe Altizer

Upon motion by Speaker Thompson, properly adopted, the reimbursement for travel expenses not to exceed \$300 for Bridgette Courtet, was approved.

WV Law Institute - Senator Kessler

Upon motion by Senator Kessler, properly adopted, the proposed budget of up to \$56,000 for expenses to conduct a study of criminal sentencing reforms, was approved.

3. Lottery, General Revenue Reports and Unemployment Compensation Trust Fund

Distributed to members of the Committee were the following: Lottery Commission reports for the month ended July 31, 2009; General Revenue Fund report for the month ended August 31, 2009; and the Unemployment Compensation Trust Fund report as of July 31, 2009. Distributed with each of the reports were an analysis and a summary of the reports.

4. PEIA, BRIM and CHIP Reports

The following BRIM reports were distributed: An unaudited balance sheet and unaudited income statement for the period ending July 31, 2009. Secretary Ferguson said there are no unfunded liabilities.

The following reports from CHIP were distributed: A report of enrollment for August 2009 and financial statements for period ending July 31, 2009. Secretary Ferguson said the enrollment is at approximately 24,500.

The following monthly PEIA reports were distributed: Monthly Management Report and Prescription Drug Report for July 2009. Secretary Ferguson said medical claims are up 3% and prescription drugs are up 7% as compared to last year. A request was made regarding OPEB for Secretary Ferguson to get an opinion if there is some court prohibition against the county employees being considered state employees so the state could assume that obligation.

5. **Real Estate Report, Department of Administration**

A leasing report for August 1, 2009, through August 31, 2009, was distributed. Secretary Ferguson said the building downtown that is occupied by the Insurance Commissioner has been purchased for \$10 million by the State with a free and clear title.

6. **Departments of Health and Human Resources (DHHR) Monthly Reports**

A Medicaid report dated September 2009 was distributed. Patsy Hardy was introduced as the new Cabinet Secretary of DHHR.

7. **Monthly Report on the Pharmaceutical Cost Management Council**

A Pharmaceutical Cost Management Council Management Council report was distributed.

8. **Investment Management Board**

A Investment Management Board report dated July 31, 2009, was distributed. Craig Slaughter, Executive Director, said the month of July was up 6% and for the last 13 months is only down 9% versus almost 30% at the end of December 2008. Fixed income portfolio is up about almost 2%.

9. **Workers' Compensation**

A Workers' Compensation report dated September 16, 2009, was distributed. Jane Cline, Insurance Commissioner, said Workers' Comp old fund will get back \$43 million from Brickstreet. Mary Jane Pickens, General Counsel, will get for the Committee the citation of the federal law that allows insurance companies to issue checks made out to Medicaid and not to the plaintiff.

10. **Board of Treasury Investments Report Distribution**

A Board of Treasury Investments Report dated July 2009 was distributed.

11. **Other Business**

Jim Pitrolo, Governor's Legislative and Policy Director, said West Virginia has not spent a majority of their share of the stimulus money because they did not need to backfill their budget for the 2009 year like many other states have had to do. So far there has been 370 jobs created. As of September 1, 2009 \$130.4 million has been spent of the stimulus money.

The meeting was adjourned.

WEST VIRGINIA LEGISLATURE
Office of the Legislative Auditor

Budget Division
Building 1, Room 314-West Wing
1900 Kanawha Blvd. East
Charleston, WV 25305-0590



, 304-347-4870

October 8, 2009

Executive Summary of Lottery, Unemployment, General Revenue and State Road Fund Reports to Joint Committee

Lottery Commission as of August 31, 2009 :

Appears to be in good condition. Gross profit for the first two months of fiscal year 2009-2010 was 6.63% lower than for fiscal year 2008-2009.

General Revenue Fund as of September 30, 2009:

Collections were at 98.05% of the yearly estimate as of September 30, 2009. (FY 2009-2010)

State Road Fund as of September 30, 2009:

Fund collections were at 100.09 % of the yearly estimate. (FY 2009-2010)

Unemployment Compensation Trust as of August 31, 2009:

Regular benefits paid in the first two months of fiscal year 2010 were \$ 40.8 million more than in fiscal year 2009. Total revenues for those two months of 2010 were \$ 48.1 million more than in 2009.

Joint Committee on Government and Finance

WEST VIRGINIA LEGISLATURE
Office of the Legislative Auditor

*Budget Division
Building 1, Room 314-West Wing
1900 Kanawha Blvd. East
Charleston, WV 25305-0590*



. 304-347-4870

MEMORANDUM

To: Honorable Senate President Tomblin
Honorable House of Delegates Speaker Thompson
Honorable Members of the Joint Committee on Government and
Finance

From: Ellen Clark, CPA *EC*
Director Budget Division
Legislative Auditor's Office

Date: October 8, 2009

Re: Review of West Virginia Lottery Financial Information
As of August 31, 2009 (FY 2010)

We performed an analysis of the Statement of Revenues, Expenses and Retained Earnings for two months of fiscal year 2009-2010 from monthly unaudited financial reports furnished to our office by the West Virginia Lottery Commission. The results are as follows:

Lottery Revenues:

Gross lottery revenues are receipts from on-line games, instant games, table games and video lottery. These gross receipts totaled \$ 250,394,000.00 for fiscal year 2010. Table games accounted for \$5,676,000.00 of this total. These gross receipts were \$ 265,318,000.00 for July and August of the preceding fiscal year, 2008-2009. Gross lottery revenue is down by 5.62% from the preceding fiscal year. This number does not include commission and prize deductions. Gross profit (Gross revenues minus commissions and prize costs) for July - August was

Lottery

Joint Committee on Government and Finance

Lottery continued

\$110,075,000.00; for the previous July- August it was \$117,895,000.00. Expressed as a percentage, gross profit is 6.63% lower for fiscal year 2010 than for fiscal year 2009.

Operating Income:

Operating income was \$ 106,437,000.00 for July - August 2009. For the preceding July- August it was \$ 113,915,000.00. This was a decrease of 6.56%. After additions and subtractions of non-operating income and expenses, distributions to the state were \$105,202,000.00 for July- August 2009.

Operating Transfers to the State of West Virginia:

A total of \$105,202,000.00 has been accrued to the state of West Virginia for fiscal year 2009-2010. This is on an accrual basis and may not correspond to the actual cash transfers made during the same time period. (Amounts owed to the different accounts according to the Lottery Act are calculated monthly and accrued to the state; actual cash transfers are often made based upon actual cash flow needs of the day-to-day operation of the lottery.)

A schedule of cash transfers follows:

Bureau of Senior Services	\$ 25,110,000.00
Community and Technical College	-0-
Department of Education	\$ 15,080,000.00
Library Commission	\$ 4,915,000.00
Higher Education-Central Office	\$ 6,110,000.00
Tourism	\$ 3,340,000.00
Department of Natural Resources	\$ 1,515,000.00

Lottery

Lottery continued

Division of Culture and History	\$ 2,582,000.00
Department of Education and Arts	\$ 523,000.00
State Building Commission	\$ 2,000,000.00
School Building Authority	\$ 3,600,000.00
<u>SUBTOTAL BUDGETARY TRANSFERS</u>	\$ 64,775,000.00

Excess Lottery Fund

General Purpose Fund	-0-
Economic Development Fund	3,800,000.00
Excess Lottery Surplus	-0-
Education Improvement Fund	2,000,000.00
WV Infrastructure Council Fund	-0-
Higher Education Improvement Fund	11,193,000.00
State Park Improvement Fund	-0-
Refundable Credit	581,000.00
School Building Authority	2,242,000.00
TOTAL EXCESS LOTTERY FUND	\$19,816,000.00

Veterans Instant Ticket Fund 73,000.00

Table Games State Debt Reduction Fund 3,060,000.00

RACETRACK VIDEO LOTTERY TRANSFERS:	
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Lottery

Lottery continued

Tourism Promotion Fund 1.375%	\$1,937,000.00
Development Office Promo Fund	\$528,000.00
Research Challenge Fund .5%	\$705,000.00
Capitol Renovation and Improvement Fund .6875%	\$969,000.00
Parking Garage Fund .0625%	\$88,000.00
Parking Garage Fund 1%	\$500,000.00
Cultural Facilities and Cap. Resources Fund .5%	\$359,000.00
Capitol Dome & Cap. Improvements Fund .5%	\$550,000.00
Workers Compensation Debt Reduction Fund 7%	\$8,523,000.00
SUBTOTAL VIDEO LOTTERY TRANSFERS:	\$14,159,000.00
TOTAL TRANSFERS	*\$101,883,000.00

* CASH BASIS

Total Accrued last FY 2009:	202,184,000.00
Total Cash Distributions July-June :	101,883,000.00
Applied to FY 2009:	101,883,000.00
Total Applied to FY 2010	-0-
Accrued for FY 2009 as of August 31	100,301,000.00
Accrued for FY 2010 as of August 31	105,202,000.00

Lottery



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Joe Manchin III
Governor

John C. Musgrave
Director

MEMORANDUM

TO: Joint Committee on Government and Finance

FROM: John C. Musgrave, Director 

RE: Monthly Report on Lottery Operations
Month Ending August 31, 2009

DATE: September 18, 2009

This report of the Lottery operations is provided pursuant to the State Lottery Act.

Financial statements of the Lottery for the month ending August 31, 2009 are attached. Lottery revenue, which includes on-line, instant, video lottery sales and table games, was \$123,243,471 for the month of August.

Transfers of lottery revenue totaling \$49,248,521 made for the month of August to the designated state agencies per House Bill 2010, Veterans Instant Ticket Fund, Racetrack Video Lottery Act (§29-22A-10), and the Racetrack Table Games Act (§29-22C-27). The amount transferred to each agency is shown in Note 9 on pages 15 and 16 of the attached financial statements.

The number of traditional and limited retailers active as of August 31, 2009 was 1,560 and 1,603 respectively.

A listing of the names and amounts of prize winners has been provided to the Clerk of the Senate, the Clerk of the House and Legislative Services.

If any member of the Committee has questions concerning the Lottery, please call me. Also if any members of the Legislature wish to visit the Lottery offices, I would be pleased to show them our facilities and discuss the Lottery with them.

JCM/rd
Attachment

cc: Honorable Joe Manchin III
Virgil T. Helton, Cabinet Secretary – Dept. of Revenue
John Perdue, Treasurer
Glen B. Gainer III, Auditor
Members of the West Virginia Lottery Commission



WEST VIRGINIA LOTTERY

STATE OF WEST VIRGINIA

**FINANCIAL STATEMENTS
-UNAUDITED-**

August 31, 2009

LOTTERY ATTACHMENT AUGUST 2009 FINANCIALS (OCTOBER INTERIMS)

WEST VIRGINIA LOTTERY

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WEST VIRGINIA LOTTERY
BALANCE SHEETS
(In Thousands)
-Unaudited-

ASSETS	August 31, 2009	June 30, 2009
Current Assets:		
Cash and cash equivalents	\$ 222,342	\$ 225,355
Accounts receivable	37,606	33,311
Inventory	578	649
Current portion of investments held in trust	-	-
Other assets	<u>2,512</u>	<u>2,555</u>
Total Current Assets	<u>263,032</u>	<u>261,870</u>
Noncurrent Assets:		
Restricted cash and cash equivalents	69,888	69,870
Investments held in trust, less current portion	-	-
Capital assets	17,641	17,641
Less accumulated depreciation and amortization	<u>(14,670)</u>	<u>(14,335)</u>
Net Capital Assets	<u>2,971</u>	<u>3,306</u>
Total Noncurrent Assets	<u>72,859</u>	<u>73,176</u>
Total Assets	<u>\$ 335,891</u>	<u>\$ 335,046</u>
LIABILITIES AND NET ASSETS		
Current Liabilities:		
Accrued nonoperating distributions to the State of West Virginia	\$ 205,803	\$ 202,164
Estimated prize claims	12,818	12,939
Accounts payable	1,427	1,716
Other accrued liabilities	32,937	35,019
Current portion of deferred jackpot prize obligations	-	-
Total Current Liabilities	<u>252,685</u>	<u>251,838</u>
Deferred jackpot prize obligations, less current portion	-	-
Total Liabilities	<u>252,685</u>	<u>251,838</u>
Net Assets:		
Invested in capital assets	2,971	3,306
Unrestricted assets (deficit)	(2,471)	(2,806)
Unrestricted assets- Committed (see note 11)	12,818	12,818
Restricted assets (see note 10)	<u>69,888</u>	<u>69,870</u>
Total Net Assets	<u>83,206</u>	<u>83,168</u>
Total Liabilities and Net Assets	<u>\$ 335,891</u>	<u>\$ 335,046</u>

The accompanying notes are an integral part of these financial statements.

WEST VIRGINIA LOTTERY
STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN FUND NET ASSETS
FOR THE TWO MONTH PERIOD ENDED AUGUST 31, 2009

(In Thousands)
 -Unaudited-

	CURRENT MONTH		YEAR TO DATE	
	2009	2008	2009	2008
Lottery revenues				
On-line games	\$ 8,817	\$ 6,402	\$ 15,815	\$ 12,785
Instant games	8,362	9,574	15,974	19,042
Racetrack video lottery	71,045	80,353	146,536	159,070
Limited video lottery	32,294	34,412	66,393	68,986
Table games	2,725	2,715	5,676	5,435
	<u>123,243</u>	<u>133,459</u>	<u>250,394</u>	<u>265,318</u>
Less commissions				
On-line games	617	448	1,107	896
Instant games	585	671	1,118	1,333
Racetrack video lottery	40,240	43,513	82,998	90,097
Limited video lottery	15,824	16,862	32,533	33,803
Table games	1,071	1,068	2,231	2,138
	<u>58,337</u>	<u>64,562</u>	<u>119,987</u>	<u>128,267</u>
Less on-line prizes	4,542	3,197	7,882	6,403
Less instant prizes	5,665	4,999	10,847	11,543
Less ticket costs	111	128	231	233
Less vendor fees and costs	666	519	1,372	977
	<u>10,984</u>	<u>8,843</u>	<u>20,332</u>	<u>19,156</u>
Gross profit	<u>53,922</u>	<u>60,053</u>	<u>110,075</u>	<u>117,895</u>
Administrative expenses				
Advertising and promotions	577	584	1,001	1,560
Wages and related benefits	905	717	1,811	1,426
Telecommunications	8	240	203	438
Contractual and professional	632	432	945	843
Rental	71	64	125	122
Depreciation and amortization	168	167	335	335
Other administrative expenses	62	87	179	202
	<u>2,423</u>	<u>2,291</u>	<u>4,599</u>	<u>4,926</u>
Other Operating Income	<u>823</u>	<u>774</u>	<u>961</u>	<u>946</u>
Operating Income	<u>52,322</u>	<u>58,536</u>	<u>106,437</u>	<u>113,915</u>
Nonoperating income (expense)				
Investment income	34	490	84	932
Nonoperating income - OPFB	-	-	-	-
Interest expense	-	(1)	-	(2)
Distributions to municipalities and counties	(633)	(674)	(1,301)	(1,351)
Distributions to racetracks-capital reinvestment	-	-	-	-
Distributions to the State of West Virginia	(51,716)	(58,262)	(105,202)	(113,318)
	<u>(52,315)</u>	<u>(58,447)</u>	<u>(105,419)</u>	<u>(113,739)</u>
Net income	<u>7</u>	<u>89</u>	<u>18</u>	<u>176</u>
Net assets, beginning of period	<u>83,199</u>	<u>64,572</u>	<u>83,188</u>	<u>64,485</u>
Net assets, end of period	<u>\$ 83,206</u>	<u>\$ 64,661</u>	<u>\$ 83,206</u>	<u>\$ 64,661</u>

The accompanying notes are an integral part of these financial statements.

**WEST VIRGINIA LOTTERY
STATEMENTS OF CASH FLOWS
FOR THE TWO MONTH PERIOD ENDED AUGUST 31, 2009**

(In Thousands)
-Unaudited-

	2009	2008
Cash flows from operating activities:		
Cash received from customers and other sources	\$ 247,065	\$ 264,088
Cash payments for:		
Personnel costs	(1,810)	(1,426)
Suppliers	(2,714)	(4,116)
Other operating costs	(139,816)	(146,869)
Cash provided by operating activities	<u>102,725</u>	<u>111,677</u>
Cash flows from noncapital financing activities:		
Nonoperating distributions to the State of West Virginia	(101,883)	(102,807)
Distributions to municipalities and counties	(1,302)	(1,335)
Distributions to racetrack from racetrack cap. reinv. fund	(2,619)	-
Deferred jackpot prize obligations and related interest paid	-	(1)
Cash used in noncapital financing activities	<u>(105,804)</u>	<u>(104,143)</u>
Cash flows from capital and related financing activities:		
Purchases of capital assets	-	-
Cash flows from investing activities:		
Maturities of investments held in trust	-	137
Investment earnings received	84	932
Cash provided by investing activities	<u>84</u>	<u>1,069</u>
Increase (decrease) in cash and cash equivalents	(2,995)	8,603
Cash and cash equivalents - beginning of period	<u>295,225</u>	<u>238,949</u>
Cash and cash equivalents - end of period	<u>\$ 292,230</u>	<u>\$ 247,552</u>
Reconciliation of operating income to net cash provided by operating activities:		
Operating income	\$ 106,437	\$ 113,915
Adjustments to reconcile operating income to cash provided by operating activities:		
Depreciation and amortization	335	335
Changes in operating assets and liabilities:		
(Increase) decrease in accounts receivable	(4,289)	(2,176)
(Increase) decrease in inventory	70	(228)
(Increase) decrease in other assets	43	40
Increase (decrease) in estimated prize claims	(121)	(1,491)
Increase (decrease) in accounts payable	(289)	(1,801)
Increase (decrease) in other accrued liabilities	539	2,283
Cash provided by operating activities	<u>\$ 102,725</u>	<u>\$ 111,677</u>

The accompanying notes are an integral part of these financial statements.

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 1 - LEGISLATIVE ENACTMENT

The West Virginia Lottery (Lottery) was established by the State Lottery Act (Act) passed April 13, 1985, which created a special fund in the State Treasury designated as the "State Lottery Fund." The purpose of the Act was to establish and implement a state-operated lottery under the supervision of a state lottery commission (Commission) and a director. The Commission, consisting of seven members and the Director are appointed by the Governor. Under the Act, the Commission has certain powers and the duty to establish rules for conducting games, to select the type and number of gaming systems or games and to enter into contracts and agreements, and to do all acts necessary or incidental to the performance of its duties and exercise of its power and duty to operate the Lottery in a highly efficient manner. The Act provides that a minimum annual average of 45% of the gross amount received from each lottery shall be allocated for prizes and also provides for certain limitations on expenses necessary for operation and administration of the Lottery. To the extent available, remaining net profits are to be distributed to the State of West Virginia. As the State is able to impose its will over the Lottery, the Lottery is considered a component unit of the State and its financial statements are presented in the comprehensive annual financial report of the State as a blended proprietary fund component unit.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A summary of the significant accounting policies of the Lottery is presented below.

BASIS OF PRESENTATION – The West Virginia Lottery is a component unit of the State of West Virginia, and is accounted for as a proprietary fund special purpose government engaged in business type activities. In accordance with Governmental Accounting Standards Board (GASB) Statement No. 34, "Basic Financial Statements and Management's Discussion and Analysis for State and Local Governments," and with accounting principles generally accepted in the United States of America, the financial statements are prepared on the accrual basis of accounting which requires recognition of revenue when earned and expenses when incurred. As permitted by Governmental Accounting Standards Board (GASB) Statement No. 20, "*Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities That Use Proprietary Fund Accounting*," the Lottery has elected not to adopt Financial Accounting Standards Board (FASB) statements and interpretations issued after November 30, 1989 unless the GASB specifically adopts such FASB statements or interpretations.

The Lottery is included in the State's basic financial statements as a proprietary fund and business type activity using the accrual basis of accounting. Because of the Lottery's presentation in these financial statements as a special purpose government engaged in business type activities, there may be differences in presentation of amounts reported in these financial statements and the basic financial statements of the State as a result of major fund determination.

USE OF ESTIMATES – The preparation of the financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make certain estimates and develop assumptions that affect the amounts reported in the financial statements and related notes to financial statements. Actual results could differ from management's estimates.

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

LOTTERY GAME OPERATIONS – The West Virginia Lottery derives its revenues from four basic types of lottery games: instant, on-line, video type games, and table games. The Lottery develops multiple game themes and prize structures to comply with its enabling legislation, including aggregate annual minimum prize provisions. All bonded retailers and agents comprised principally of grocery and convenience stores serve as the primary distribution channel for instant and on-line lottery sales to the general public.

The Lottery has contracted with a private vendor to manufacture, distribute, and provide data processing support for instant and on-line games. Under the terms of the agreements, the Lottery pays a percentage of gross revenues or gross profits for the processing and manufacture of the games.

Revenue from instant games is recognized when game tickets are sold to the retailers, and the related prize expense is recorded based on the specific game prize structure. Instant ticket sales and related prizes do not include the value of free plays issued for the purpose of increasing the odds of winning a prize.

Sales of on-line lottery tickets are made by licensed agents to the public with the use of computerized terminals. On-line games include POWERBALL®, a multi-state “jackpot” game; HOT LOTTO®, a multi-state “lotto” game; Cash25 “lotto” game; Daily 3 and 4 “numbers” games; and Travel, a daily “keno” game. Revenue is recognized when the agent sells the tickets to the public. Prize expense is recognized on the basis of actual drawing results.

Commissions are paid to instant game retailers and on-line agents at the rate of seven percent of gross sales. A portion of the commission not to exceed one and one quarter percent of gross sales may be paid from unclaimed prize moneys. The amount paid from unclaimed prize moneys is credited against prize costs. In addition, retailers and agents are paid limited bonus incentives that include prize shares on winning tickets they sold and a ticket cashing bonus on winning tickets they cash. On a weekly basis, retailers and agents must remit amounts due to the Lottery. Retailers may not be able to order additional instant tickets if payment has not been made for the previous billing period, while an agent’s on-line terminal may be rendered inactive if payment is not received each week. No one retailer or agent accounts for a significant amount of the Lottery’s sales or accounts receivable. Historically credit losses have been nominal and no allowance for doubtful accounts receivable is considered necessary.

Racetrack video lottery is a self-activated video version of lottery games. The board-operated games allow a player to place bets for the chance to be awarded credits which can either be redeemed for cash or be replayed as additional bets. The coin operated games allow a player to use coins, currency, or tokens to place bets for the chance to receive coin or token awards which may be redeemed for cash or used for replay in the coin operated games. The racetrack video lottery games’ prize structures are designed to award prizes, or credits, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. The Lottery recognizes as racetrack video lottery revenue “gross terminal income” equivalent to all wagers, net of related prizes. Amounts required by statute to be paid to the private and local government entities are reported as commissions. Racetrack video lottery legislation has established specific requirements for racetrack video lottery and imposed certain restrictions limiting the licensing for operation of racetrack video lottery games to horse and dog

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

racetracks in West Virginia, subject to local county elections permitting the same. The legislation further stipulates the distribution of revenues from racetrack video lottery games, and requires any licensed racetrack to be responsible for acquiring the necessary equipment and bearing the risk associated with the costs of operating and marketing the games.

Limited video lottery is also a self-activated video version of lottery games, which were first placed in operation in December 2001, located in limited licensed retailer areas restricted for adult amusement. The games allow a player to use currency to place bets for the chance to receive free games or vouchers which may be redeemed for cash. The limited video lottery games' prize structures are designed to award prizes, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. The Lottery recognizes as limited video lottery revenue "gross terminal income" equivalent to all wagers, net of related prizes. Amounts required by statute to be paid to private entities are reported as commissions. Limited video lottery permit holders are statutorily responsible for acquiring equipment and bearing the risk associated with the costs of operating the games.

Table games are lotteries as each game involves consideration, the possibility of a prize, and their outcome is determined predominantly by chance, which the common law of West Virginia has long held are the three essential elements of a lottery. Table games are the exclusive intangible intellectual property of the state of West Virginia. Table games legislation has established specific requirements for table games and imposed certain restrictions limiting the licensing for operation of table games to horse and dog racetracks in West Virginia, subject to local county elections permitting the same. Each racetrack licensed as an agent of the Lottery Commission to operate West Virginia table games shall have written rules of play for each table game it operates which must be approved by the Commission. All wagers and pay-offs of winning wagers shall be made according to those rules of play. For the privilege of holding a table games license, there is levied a privilege tax of thirty-five percent of each licensee's adjusted gross receipts for the operation of West Virginia Lottery table games. Amounts required by statute to be paid to private and local government entities are reported as commissions. The legislation further stipulates the distribution of revenues from West Virginia table games, and requires any licensed racetrack to be responsible for acquiring the necessary equipment and bearing the risk associated with the costs of operating and marketing the games.

CASH AND CASH EQUIVALENTS - Cash and cash equivalents primarily consist of interest-earning deposits with the West Virginia Board of Treasury Investments (BTI) and are recorded at fair value.

INVENTORY - Inventory consists of instant game tickets available for sale to approved Lottery retailers and are carried at cost.

OTHER ASSETS - Other assets consist primarily of deposits restricted for payment of certain Multi-State Lottery Association activities.

CAPITAL ASSETS - The Lottery leases, under a cancelable operating lease, its office and warehouse facilities. The Lottery also leases various office equipment under agreements considered to be

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

cancelable operating leases. Rental expense for the year-to-date ended August 31, 2009 and August 31, 2008 approximated \$125,406 and \$121,614, respectively.

The Lottery has adopted a policy of capitalizing assets with individual amounts exceeding \$25,000. These assets include leasehold improvements, contributed and purchased equipment, comprised principally of technology property, office furnishings and equipment necessary to administer lottery games, are carried at cost. Depreciation is computed by the straight-line method using three to ten year lives.

COMPENSATED ABSENCES – The Lottery has accrued \$467,815 and \$371,165 of at June 30, 2009 and 2008, respectively, for estimated obligations that may arise in connection with compensated absences for vacation at the current rate of employee pay. Employees fully vest in all earned but unused vacation. To the extent that accumulated sick leave is expected to be converted to benefits on termination or retirement, the Lottery participates in an other postemployment benefits plan (see Note 14).

NET ASSETS – Net assets are presented as restricted, unrestricted and invested in capital assets which represents the net book value of all property and equipment of the Lottery.

OPERATING REVENUES AND EXPENSES – Operating revenues and expenses for proprietary funds such as the Lottery are revenues and expenses that result from providing services and producing and delivering goods and/or services. Operating revenues for the Lottery are derived from providing various types of lottery games. Operating expenses include commissions, prize costs, other direct costs of providing lottery games, and administrative expenses. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

NOTE 3 - CASH AND CASH EQUIVALENTS

At August 31, 2009 the carrying amounts of deposits (overdraft) with financial institutions were (\$97) thousand with a bank balance (overdraft) of (\$19) thousand. Of this balance \$100 thousand was covered by federal depository insurance with the remaining balance collateralized with securities held by the State of West Virginia's agent in the State's name.

A summary of the amount on deposit with the West Virginia Board of Treasury Investments (BTI) is as follows (in thousands):

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
 -Unaudited-

NOTE 3 - CASH AND CASH EQUIVALENTS (continued)

	<u>August 31, 2009</u>	<u>June 30, 2009</u>
Amount on deposit with the BTI	<u>\$292,327</u>	<u>\$295,248</u>

The deposits with the BTI are part of the State of West Virginia's consolidated investment cash liquidity pool and are not separately identifiable as to specific types of securities. Investment income is pro-rated to the Lottery at rates specified by the BTI based on the balance of the deposits maintained in relation to the total deposits of all state agencies participating in the pool. Such funds are available to the Lottery with overnight notice.

NOTE 4 - CAPITAL ASSETS

A summary of capital asset activity for the period ended August 31, 2009 is as follows (in thousands):

Capital Assets:

	<u>Historical Cost At June 30, 2009</u>	<u>Additions</u>	<u>Deletions</u>	<u>Historical Cost At August 31, 2009</u>
Construction in Progress	\$ -	\$ -	\$ -	\$ -
Improvements	1,170	-	-	1,170
Equipment	16,471	-	-	16,471
	<u>\$ 17,641</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 17,641</u>
Accumulated Depreciation:				
	<u>Historical Cost At June 30, 2009</u>	<u>Additions</u>	<u>Deletions</u>	<u>Historical Cost At August 31, 2009</u>
Improvements	\$ 1,080	\$ 15	\$ -	\$ 1,095
Equipment	13,255	320	-	13,575
	<u>\$ 14,335</u>	<u>\$ 335</u>	<u>\$ -</u>	<u>\$ 14,670</u>

NOTE 5 - PARTICIPATION IN THE MULTI-STATE LOTTERY

The Lottery is a member of the Multi-State Lottery (MUSL), which operates the semi-weekly POWERBALL® jackpot lotto game and HOT LOTTO® game, on behalf of participating state lotteries. Each MUSL member sells game tickets through its agents and makes weekly wire transfers to the MUSL in an amount equivalent to the total prize pool less the amount of prizes won in each state. Lesser prizes are paid directly to the winners by each member lottery. The prize pool for POWERBALL®, and HOT LOTTO® is 50% of each drawing period's sales, with minimum jackpot levels. Revenues derived from the Lottery's participation in the MUSL POWERBALL® jackpot game for the month and year-to-date periods ended August 31, 2009 were \$5,904,633 and \$9,754,781

WEST VIRGINIA LOTTERY
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NOTE 5 - PARTICIPATION IN THE MULTI-STATE LOTTERY (continued)

while related prize costs for the same periods were \$3,040,301 and \$4,914,975. Revenues derived from the Lottery's participation in the HOT LOTTO® game for the month and year-to-date periods ended August 31, 2009 were \$760,506 and \$1,501,249 while related prize costs for the same periods were \$393,780 and \$759,757.

MUSL places 2% of each POWERBALL® drawing period's sales in separate prize reserve funds that serve as a contingency reserve to protect the respective MUSL Product Groups from unforeseen prize liabilities. Currently, the MUSL Board of Directors has placed a \$75,000,000 limit on the POWERBALL® Prize Reserve Fund and a \$25,000,000 limit on the Set Prize Reserve Fund. These funds can only be used at the discretion of the respective MUSL Product Group. Once the prize reserve funds exceed the designated limit, the excess becomes part of that particular prize pool. Prize reserve fund monies are refundable to MUSL Product Group members if the MUSL disbands or, after one year, if a member leaves the MUSL. At August 31, 2009 the POWERBALL® prize reserve fund had a balance of \$106,061,893 of which the Lottery's share was \$2,374,112. The Lottery has charged amounts placed into the prize reserve funds to prize costs as the related sales have occurred.

NOTE 6 - RACETRACK VIDEO LOTTERY

The Racetrack Video Lottery legislation stipulates the distribution of racetrack video lottery revenues. This legislation has been amended since inception to restate revenue distribution based on revenue benchmarks. Initially, four percent (4%) of gross terminal revenue is allocated for lottery administrative costs. Sixty-six percent (66%) of net terminal revenue (gross less 4%) is allocated in lieu of commissions to: the racetracks (47%); other private entities associated with the racing industry (17%); and the local county and municipal governments (2%). The remaining revenues (34%) of net terminal revenue is allocated for distribution to State as specified in the Racetrack Video Lottery Act or subsequent State budget, as described in the Note 9 titled "Nonoperating Distributions to the State of West Virginia."

The first benchmark occurs when the current year net terminal revenue meets the fiscal year 1999 net terminal revenue. The counties and incorporated municipalities split 50/50 the two percent (2%) net terminal revenue.

The second benchmark occurs when the current year gross terminal revenue meets the fiscal year 2001 gross terminal revenue. The four percent (4%) is no longer allocated for lottery administrative costs; instead the State receives this for distribution as specified by legislation or the State budget.

The final benchmark occurs when the current year net terminal revenue meets the fiscal year 2001 net terminal revenue. At this point a 10% surcharge is applied to net terminal revenue, with 58% of the surcharge allocated for distribution to the State as specified by legislation or the State budget, and 42% of the surcharge allocated to separate capital reinvestment funds for each licensed racetrack. After deduction of the surcharge, 55% of net terminal revenue is allocated in lieu of commissions to: the racetracks (42%); other private entities associated with the racing industry (11%); and the local county and incorporated municipality governments (2%). The remaining net terminal revenue (45%) is

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 6 - RACETRACK VIDEO LOTTERY (continued)

allocated for distribution to the State as specified in the Racetrack Video Lottery Act or subsequent State budget, as described in Note 9. Amounts from the capital reinvestment fund may be distributed to each racetrack if qualifying expenditures are made within the statutory timeframe; otherwise amounts accumulated in the fund revert to the state excess lottery revenue fund.

The WV Lottery, along with the Rhode Island and Delaware lotteries, participate in Multi-Jurisdictional Wide Area Progressive (MWAP) video games. This allows each of the lotteries to offer a higher progressive jackpot than they could generate alone. MUSL manages the progressive games and charges each participant a MWAP contribution fee of 4% of the amount wagered. A summary of racetrack video lottery revenues for the month ended August 31, 2009 and year-to-date follows (in thousands):

	<u>Current</u> <u>2009</u>	<u>Month</u> <u>2008</u>	<u>Year- to -Date</u> <u>2009</u>	<u>2008</u>
Total credits played	\$ 727,404	\$ 828,620	\$ 1,493,898	\$ 1,632,229
Credits (prizes) won	(656,034)	(747,845)	(1,348,691)	(1,472,361)
Promotional credits played	(1)	-	(1)	-
MWAP Contributions	(324)	(420)	(670)	(798)
Gross terminal income	<u>71,045</u>	<u>80,355</u>	<u>146,536</u>	<u>159,070</u>
Administrative costs	(2,842)	(3,214)	(5,862)	(6,363)
Net Terminal Income	<u>68,203</u>	<u>77,141</u>	<u>140,674</u>	<u>152,707</u>
Less distribution to agents	(40,240)	(45,513)	(82,998)	(90,097)
Racetrack video lottery revenues	<u>\$ 27,963</u>	<u>\$ 31,628</u>	<u>\$ 57,676</u>	<u>\$ 62,610</u>

A summary of video lottery revenues paid or accrued for certain state funds to conform with the legislation follows (in thousands):

	<u>August 31, 2009</u>	<u>Year-to Date</u>
State Lottery Fund	\$ 20,461	\$ 42,203
State Excess Lottery Revenue Fund	-	-
Capital Reinvestment Fund	-	-
Tourism Promotion Fund 1.375%	938	1,934
Development Office Promotion Fund .375 %	256	528
Research Challenge Fund .5 %	341	703
Capitol Renovation & Improvement Fund .6875 %	469	967
Parking Garage Fund .0625 %	42	88
Parking Garage Fund 1 %	0	500
Cultural Facilities & Capitol Resources Fund .5 %	341	453
Capitol Dome & Capitol Improvements Fund .5 %	341	453
Worker's Compensation Debt Reduction Fund 7 %	4,774	9,847
Total nonoperating distributions	<u>\$27,963</u>	<u>\$57,676</u>

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
 -Unaudited-

NOTE 7 - LIMITED VIDEO LOTTERY

Limited video lottery legislation passed in 2001 has established specific requirements imposing certain restrictions limiting the licensing for the operation of limited video lottery games to 9,000 terminals placed in licensed retailers. These licensed retailers must hold a qualifying permit for the sale and consumption on premises of alcohol or non-intoxicating beer. The Lottery has been charged with the administration, monitoring and regulation of these machines. The legislation further stipulates the distribution of revenues from the limited video lottery games, and requires any licensees to comply with all related rules and regulations of the Lottery in order to continue its retailer status. The Limited Video Lottery legislation stipulates that 2% of gross terminal income be deposited into the state lottery fund for administrative costs. Then, the state share percentage of gross profit is to be transferred to the State Excess Lottery Revenue Fund. Such percentage is between 30 and 50 percent and is subject to change on a quarterly basis. Two percent is distributed to counties and incorporated municipalities in the manner prescribed by the statute. The remaining amount of gross profit is paid to retailers and/or operators as prescribed in the Act, and is recorded as limited video lottery commissions in the financial statements. Municipal and county distributions are accounted for as nonoperating expenses. A summary of limited video lottery revenues for the month ended August 31, 2009 and year-to-date follows (in thousands):

	<u>Current</u> <u>2009</u>	<u>Month</u> <u>2008</u>	<u>Year- to -Date</u> <u>2009</u>	<u>2008</u>
Total credits played	\$379,477	\$419,614	\$778,031	\$838,251
Credits (prizes) won	(347,183)	(385,202)	(711,638)	(769,265)
Gross terminal income	<u>\$32,294</u>	<u>\$34,412</u>	<u>\$66,393</u>	<u>\$68,986</u>
Administrative costs	(646)	(688)	(1,328)	(1,380)
Gross Profit	31,648	33,724	65,065	67,606
Commissions	(15,824)	(16,862)	(32,533)	(33,803)
Municipalities and Counties	(633)	(674)	(1,301)	(1,351)
Limited video lottery revenues	<u>\$15,191</u>	<u>\$16,188</u>	<u>\$31,231</u>	<u>\$32,452</u>

NOTE 8 -- TABLE GAMES

Table Games legislation passed in 2007 per House Bill 2718. Table games include blackjack, roulette, craps, and various types of poker. Each racetrack licensee is subject to a privilege tax of thirty five percent (35%) of adjusted gross receipts which will be deposited weekly into the Racetrack Table Games Fund.

From the gross amounts deposited into the Racetrack Table Games Fund, the Commission, on a monthly basis shall:

Retain 3% of the adjusted gross receipts for administrative expenses of which at least \$100,000 and not more than \$500,000 annually will be transferred to the Compulsive Gambling Treatment Fund. Transfer two and one-half percent of adjusted gross receipts from all thoroughbred racetracks with West Virginia

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 8 – TABLE GAMES (continued)

Lottery table games to the special funds established by each thoroughbred racetrack table games licensee for the payment of regular racetrack purses to be divided equally among each licensee and transfer two and one-half percent of adjusted gross receipts from all greyhound racetracks with West Virginia Lottery table games to the special funds established by each greyhound racetrack table games licensee for the payment of regular racetrack purses to be divided equally among each licensee. Transfer two percent of the adjusted gross receipts from all licensed racetracks to the Thoroughbred Development Fund and the Greyhound Breeding Development Fund to be divided pro rata among the development funds. Transfer one percent of the adjusted gross receipts from each licensed racetrack to the county commissions of the counties where racetracks with West Virginia Lottery table games are located to be divided pro rata among the counties. Transfer two percent of the adjusted gross receipts from each licensed racetrack to the governing bodies of municipalities within counties where racetracks with West Virginia Lottery table games are located as prescribed by statute. And transfer one-half of one percent of the adjusted gross receipts to the governing bodies of municipalities in which a racetrack table games licensee is located to be divided equally among the municipalities. The Commission will distribute the remaining amounts, hereinafter referred to as the net amounts in the Racetrack Table Games Funds as follows:

- 1) Transfer four percent into a special fund to be established by the Racing Commission to be used for payment into the pension plan for all employees of each licensed racing association;
- 2) Transfer ten percent, to be divided and paid in equal shares, to each county commission in the state where table games are not located;
- 3) Transfer ten percent, to be divided and paid in equal shares, to the governing bodies of each municipality in the state where table games are not located; and
- 4) Transfer seventy-six percent to the State Debt Reduction Fund.

The cash transferred to the State Debt Reduction Fund in the current month is included in Note 9- Nonoperating Distributions to the State of West Virginia. The table games adjusted gross receipts for the month and year-to-date periods ended August 31, 2009 were \$7,784,943 and \$16,216,152, respectively. The following table shows the month and year -to- date totals of the privilege tax and the accrued distributions (in thousands) to be transferred in the subsequent month:

	<u>Current</u>	<u>Month</u>	<u>Year- to -Date</u>	
	2009	2008	2009	2008
Table Games Privilege Tax	\$ 2,725	\$ 2,715	\$ 5,676	\$ 5,435
Interest on Table Games Fund	0	4	0	7
Administrative Costs	<u>(234)</u>	<u>(233)</u>	<u>(487)</u>	<u>(466)</u>
Total Available for Distribution	2,491	2,486	5,189	4,976
<u>Less Distributions:</u>				
Racetrack Purse Funds	194	194	405	388
Thoroughbred & Greyhound Development Funds	156	155	324	310
Racing Commission Pension Plan	75	75	156	150
Municipalities/Counties	<u>646</u>	<u>644</u>	<u>1,346</u>	<u>1,290</u>
Total Distributions	1,071	1,068	2,231	2,138
State Debt Reduction Fund	<u>\$ 1,420</u>	<u>\$ 1,418</u>	<u>\$ 2,958</u>	<u>\$ 2,838</u>

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
 -Unaudited-

NOTE 9- NONOPERATING DISTRIBUTIONS TO THE STATE OF WEST VIRGINIA

The Lottery periodically distributes surplus funds, exclusive of amounts incurred and derived from limited video lottery and a portion of racetrack video lottery funds, to the State of West Virginia in accordance with the legislation. For the year ending June 30, 2010 the State Legislature budgeted \$166,010,000 of estimated profits of the Lottery for distributions to designated special revenue accounts of the State of West Virginia. With regard to the State Lottery Fund, legislation stipulates that debt service payments be given a priority over all other transfers in instances where estimated profits are not sufficient to provide for payment of all appropriated distributions. Debt service payments of \$1,800,000 and \$1,000,000 per month for the first ten months of each fiscal year currently have such priority. Transfers made pursuant to the State Excess Lottery Revenue Fund have similar requirements; currently payments are \$3,920,843 per month for the first ten months of each fiscal year. In addition, Legislation provides that, if in any month, there is a shortage of funds in the State Excess Lottery Revenue Fund to make debt service payments, the necessary amount shall be transferred from the State Lottery Fund to cover such shortfall, after the State Lottery Fund debt service payments have been made. Repayments to the State Lottery Fund are required to be made in subsequent months as funds become available. During the month ended August 31, 2009 the Lottery made such distributions and accrued additional distributions of \$42,793,952. The Lottery is a non-appropriated state agency and therefore does not have a budget adopted by the Legislature. Since the enactment of the Racetrack Video Lottery Act, the Lottery is also statutorily required to distribute income from racetrack video lottery operations as described in Note 6. As of August 31, 2009 the Lottery accrued additional distributions relating to racetrack video lottery operations of \$2,081,192.

Note 7 describes the Limited Video Lottery Act and the statutory distributions required to be made from limited video lottery operations. Note 8 describes the Table Games Act and the statutory distributions required to be made from table games operations.

A summary of the cash distributions made to certain state agencies to conform to the legislation follows (in thousands):

<u>BUDGETARY DISTRIBUTIONS</u>	<u>August 31, 2009</u>	<u>Year-to-Date</u>
<u>State Lottery Fund:</u>		
Community and Technical College	\$ -	\$ -
Bureau of Senior Services	9,325	25,110
Department of Education	5,600	15,080
Library Commission	1,825	4,915
Higher Education-Policy Commission	2,269	6,110
Tourism	1,240	3,340
Natural Resources	563	1,515
Division of Culture & History	959	2,582
Department of Education & Arts	194	523
Building Commission	1,000	2,000
School Building Authority	1,800	3,600
Total State Lottery Fund	\$ 24,775	\$ 64,775

WEST VIRGINIA LOTTERY
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NOTE 9- NONOPERATING DISTRIBUTIONS TO THE STATE OF WEST VIRGINIA
(continued)

<u>State Excess Lottery Revenue Fund:</u>		
Economic Development Fund	\$ 1,900	\$ 3,800
Higher Education Improvement Fund	1,000	2,000
General Purpose Account	-	-
Higher Education Improvement Fund	11,193	11,193
State Park Improvement Fund	-	-
School Building Authority	1,421	2,242
Refundable Credit	581	581
Excess Lottery Surplus	-	-
West Va. Infrastructure Council	-	-
Total State Excess Lottery Revenue Fund	\$ 16,095	\$ 19,816
Total Budgetary distributions:	\$ 40,870	\$ 84,591
Veterans Instant Ticket Fund	\$ 26	\$ 73
<u>Other Racetrack Video Lottery distributions:</u>		
Tourism Promotion Fund 1.375%	\$ 851	\$ 1,937
Development Office Promotion Fund .375%	232	528
Research Challenge Fund .5%	310	705
Capitol Renovation & Improvement Fund .6875%	426	969
Parking Garage Fund .0625 %	39	88
Parking Garage Fund 1 %	0	500
Cultural Facilities & Cap. Resources Fund .5%	310	359
Capitol Dome & Cap. Improvements Fund .5%	309	550
Workers Compensation Debt Reduction Fund 7%	4,337	8,523
Total	\$ 6,814	\$ 14,159
Table Games State Debt Reduction Fund	\$ 1,538	3,060
Total nonoperating distributions to the State of West Virginia (cash basis)	\$ 49,248	\$ 101,883
Accrued nonoperating distributions, beginning	(203,035)	(202,184)
Accrued nonoperating distributions, end	205,503	205,503
Total nonoperating distributions to the State of West Virginia	\$ 51,716	\$ 105,202

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
 -Unaudited-

NOTE 10 – RESTRICTED NET ASSETS

On June 14, 2006, House Bill 106 was enacted by the West Virginia State Legislature to set aside unexpended administrative expenses of the Lottery up to the limits for such expenses established by the enabling legislation of traditional, racetrack video lottery, and limited video lottery games in an amount not to exceed \$20,000,000 beginning in fiscal year 2006 and each year through fiscal year 2012. These assets are to be set aside for the design and construction of a building for the use of the Lottery and certain other State of West Virginia governmental entities. The lottery contributed \$10,817,386 to the fund for fiscal year 2009 plus related interest of \$566,293.

NOTE 11 – COMMITMENTS

The Lottery Commission has set aside funds as unrestricted net assets for the acquisition of future assets. As of June 30, 2009, a balance of \$12,817,601 is available for this purpose.

NOTE 12 - RETIREMENT BENEFITS

All full-time Lottery employees are eligible to participate in the State of West Virginia Public Employees' Retirement System (PERS), a cost-sharing multiple-employer defined benefit public employee retirement system. The PERS is one of several plans administered by the West Virginia Consolidated Public Retirement (CPRB) under the direction of its Board of Trustees, which consists of the Governor, State Auditor, State Treasurer, Secretary of the Department of Administration, and nine members appointed by the Governor. CPRB prepares separately issued financial statements covering all retirement systems it administers, which can be obtained from Consolidated Public Retirement Board, Building 5, Room 1000, State Capitol Complex, Charleston, West Virginia 25305-0720.

Employees who retire at or after age sixty with five or more years of contributory service or who retire at or after age fifty-five and have completed twenty-five years of credited service with age and credited service equal to eighty or greater are eligible for retirement benefits as established by State statute. Retirement benefits are payable monthly for life, in the form of a straight-line annuity equal to two percent of the employee's average annual salary from the highest 36 consecutive months within the last 10 years of employment, multiplied by the number of years of the employee's credited service at the time of retirement. Covered employees are required to contribute 4.5% of their salary to the PERS. The Lottery is required to contribute 10.5% of covered employees' salaries to the PERS. The required employee and employer contribution percentages have been established and changed from time to time by action of the State Legislature. The required contributions are not actuarially determined; however, actuarial valuations are performed to assist the Legislature in determining appropriate contributions. The Lottery and employee contributions, for the period ending August 31, 2009 are as follows (in thousands):

	<u>August 31, 2009</u>	<u>Year-to-Date</u>
Lottery contributions	\$61	\$133
Employee contributions	25	55
Total contributions	\$86	\$188

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 13 - RISK MANAGEMENT

The Lottery is exposed to various risks of loss related to torts; theft of, or damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The Lottery participates in several risk management programs administered by the State of West Virginia. Each of these risk pools have issued separate audited financial reports on their operations. Those reports include the required supplementary information concerning the reconciliation of claims liabilities by type of contract and ten-year claim development information. Complete financial statements of the individual insurance enterprise funds can be obtained directly from their respective administrative offices.

WEST VIRGINIA WORKERS' COMPENSATION COMMISSION (WCC)

The State of West Virginia operated an exclusive state-managed workers' compensation insurance program (WCC) prior to December 31, 2005. A framework for the privatization of workers' compensation insurance in West Virginia was established with the passage of Senate Bill 1004 and the WCC trust fund was terminated effective December 31, 2005. A privatized business entity, BrickStreet Administrative Services (BAS), was established and became the administrator of the WCC Old Fund, beginning January 1, 2006, and thereafter for seven years, and will have all administrative and adjudicatory authority previously vested in the WCC trust fund in administering old law liabilities and otherwise processing and deciding old law claims. BAS will be paid a monthly administrative fee and rated premium to provide a prompt and equitable system for compensation for injury sustained in the course of and growing out of employment. The monthly administrative fee for the West Virginia Lottery has been set at a level consistent with prior year payments and the new rate or premium will be established on an experience rated basis. The West Virginia Lottery is required to participate in the new BrickStreet Administrative Services (BAS) experience rated pool, which is expected to be rate adjusted on a quarterly basis.

PUBLIC EMPLOYEES' INSURANCE AGENCY (PEIA)

The Lottery participates in the Public Employees' Insurance Agency which provides an employee benefit insurance program to employees. PEIA was established by the State of West Virginia for State agencies, institutions of higher education, Boards of Education and component units of the State. In addition, local governmental entities and certain charitable and public service organizations may request to be covered by PEIA. PEIA provides a base employee benefit insurance program which includes hospital, surgical, major medical, prescription drug and basic life and accidental death. Underwriting and rate setting policies are established by PEIA. The cost of all coverage as determined by PEIA shall be paid by the participants. Premiums are established by PEIA and are paid monthly, and are dependent upon, among other things, coverage required, number of dependents, state vs. non state employees and active employees vs. retired employees and level of compensation. Coverage under these programs is limited to \$1 million lifetime for health and \$10,000 of life insurance coverage.

The PEIA risk pool retains all risks for the health and prescription features of its indemnity plan. PEIA has fully transferred the risks of coverage to the Managed Care Organization (MCO) Plan to the plan provider, and has transferred the risks of the life insurance coverage to a third party insurer. PEIA presently charges equivalent premiums for participants in either the indemnity plan or the MCO Plan. Altogether, PEIA insures approximately 205,000 individuals, including participants and dependents.

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 13 - RISK MANAGEMENT (continued)

BOARD OF RISK AND INSURANCE MANAGEMENT (BRIM)

The Lottery participates in the West Virginia Board of Risk and Insurance Management (BRIM), a common risk pool currently operating as a common risk management and insurance program for all State agencies, component units, and other local governmental agencies who wish to participate. The Lottery pays an annual premium to BRIM for its general insurance coverage. Fund underwriting and rate setting policies are established by BRIM. The cost of all coverage as determined by BRIM shall be paid by the participants. The BRIM risk pool retains the risk of the first \$1 million per property event and purchases excess insurance on losses above that level. Excess coverage, through an outside insurer under this program is limited to \$200 million per event, subject to limits on certain property. BRIM has \$1 million per occurrence coverage maximum on all third-party liability claims.

NOTE 14- OTHER POSTEMPLOYMENT BENEFITS (OPEB)

The Lottery participates in the West Virginia Other Postemployment Benefits Plan (OPEB Plan) of the West Virginia Retiree Health Benefit Trust Fund (Trust), a cost-sharing multiple-employer defined benefit postemployment healthcare plan administered by the West Virginia Public Employee Insurance Agency (WVPEIA). The OPEB Plan provides retiree post-employment health care benefits for participating state and local government employers. The provisions of the Code of West Virginia, 1931, as amended (the Code), assigns the authority to establish and amend benefit provisions to the WVPEIA board of trustees. The WVPEIA issues a publicly available financial report that includes financial statements and required supplementary information for the OPEB Plan. That report may be obtained by writing to Public Employees Insurance Agency, 601 57th Street, South East, Suite 2, Charleston, West Virginia, or by calling 1-888-680-7342.

Funding Policy

The Code requires the OPEB Plan bill the participating employers 100% of the annual required contribution (ARC), an amount actuarially determined in accordance with the parameters of GASB Statement 45. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal cost each year and amortize any unfunded actuarial liabilities (or funding excess) of the plan over a period not to exceed thirty years. State of West Virginia plan employers are billed per active health policy per month.

The ARC rate is \$388 and \$461 per employee per month for the years ending June 30, 2009 and 2008 respectively. Through June 30, 2009 and 2008, the Lottery has paid premiums of \$185,563 and \$98,625. For year ended June 30, 2008 (initial year of the Lottery's participation in the Trust), the State of West Virginia, on the Lottery's behalf, paid \$472,247 towards the Annual Required Contribution. As of June 30, 2009 and 2008, the Lottery has recorded a liability of \$251,867 and \$10,073 on its balance sheet for OPEB.

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
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NOTE 15- NEW ACCOUNTING PRONOUNCEMENTS

The Governmental Accounting Standards Board (GASB) issued Statement No. 50, Pension Disclosures, an amendment of GASB Statements No. 25 and No. 27, in 2007. This Statement more closely aligns the financial reporting requirements for pensions with those for other postemployment benefits (OPEB) and, in doing so, enhances information disclosed in notes to the financial statements or presented as required supplementary information (RSI) by pension plans and by employers that provide pension benefits. The reporting changes required by this Statement amend applicable note disclosure and RSI requirements of Statements No. 25, Financial Reporting for Defined Benefit Pension Plans and Note Disclosures for Defined Contribution Plans, and No. 27, Accounting for Pensions by State and Local Governmental Employers, to conform with requirements of Statements No. 43, Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans, and No. 45, Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions. This Statement is effective for periods beginning after June 15, 2007, and management has not yet determined what impact, if any, it will have on the financial statements.

WEST VIRGINIA LEGISLATURE
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Building 1, Room 314-West Wing
1900 Kanawha Blvd. East
Charleston, WV 25305-0590*



, 304-347-4870

Memorandum

To: Honorable Senate President Tomblin
Honorable House of Delegates Speaker Thompson
Honorable Members of the Joint Committee on Government and
Finance

From: Ellen Clark, C.P.A. *EL*
Director Budget Division
Legislative Auditor's Office

Date: October 5, 2009

Re: Status of General Revenue Fund September 30, 2009

We have reviewed the cash revenue flows of the West Virginia general revenue fund for the months of July - September of fiscal year 2009-2010. The status of the fund collections are as follows:

The net collections were **98.05%** of the estimate for the fiscal year as of September 30, 2009. **The amount BELOW estimate was \$ 17.3 million for the year.**

Personal Income Tax collections were \$ 25.7 million under the estimate for the fiscal year.

Consumer sales and use tax collections were \$10 million under the estimate for the fiscal year.

Severance tax collections were \$10.4 million over the estimate for the fiscal year.

Joint Committee on Government and Finance

Corporate income and business franchise collections were \$ 14.1 million above the estimate for the year.

State Road Fund

The state road fund was collected at 100.09% of the estimate for the months of July - September 2009. Privilege tax collections were \$ 4 million under the estimate. Gasoline tax was \$ 4.2 million above the estimate. The entire fund was \$ 148 thousand above the estimate for the year.

Rainy Day and Personal Income Tax Reserve

Revenue Shortfall Reserve Fund A(Rainy Day Fund) had a cash balance of \$ \$264,174,082.04 as of September 30, 2009.

Balance July 1, 2009	236,619,572.54
Cash flow loan to General Revenue on July 1, 2009. To be repaid 90 days. This is a normal occurrence in July due to cash flow demands; repaid in September	- 56,000,000.00 + 56,000,000.00
Revenues July 1, 2008-June 30,2009 (Surplus from FY 2009 transferred in August 2009.)	11,067,940.23
Earnings	16,486,568.65
Balance September 30, 2009	264,174,082.04

Revenue Shortfall Reserve Fund B (Tobacco Settlement Monies) had a cash balance of \$ 259,301,564.96 as of September 30, 2009.

Balance July 1, 2009	291,275,042.97
Earnings	23,295,562.31
Balance September 30, 2009	259,301,564.96

The Special Income Tax Reserve Fund had a cash balance of \$45,019,319.21 as of September 30, 2009.

Balance July 1, 2009	45,019,319.21
Revenues	-0-

Gen Rev /State Road

Balance September 30, 2009	45,019,319.21
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MOTOR FUEL EXCISE TAX SHORTFALL RESERVE FUND

Motor Fuel Excise Tax Shortfall Reserve Fund had a cash balance of \$ 27,319,224.03 on September 30, 2009. This fund was created by HB 218 during the June 2008 special session to act as a reserve fund when the highways motor fuel excise tax fails to meet monthly revenue estimates.

Balance July 1, 2009 Appropriated by supplemental SB 2019, June 2008	\$ 27,319,224.03
Transfers out to Highways Fund	- 0-
Balance September 30, 2009	27,319,224.03

Monthly Revenue Estimates
as of September 30, 2009, WVFIMS

	MONTH ESTIMATES	NET MONTH COLLECTIONS	UNDER ESTIMATES VS ACTUAL COLLECTIONS	YTD ESTIMATES	NET YTD COLLECTIONS	YEARLY OVER UNDER ESTIMATES VS ACTUAL COLLECTIONS
Personal Income Tax	161,000,000	146,649,420	-14,350,580	379,100,000	353,399,772	-25,700,228
Consumer Sales Tax & Use Tax	90,200,000	91,410,423	1,210,423	287,700,000	277,692,602	-10,007,398
Corp Income /Business Franchise	51,000,000	60,924,699	9,924,699	58,000,000	72,132,729	14,132,729
Severance Tax	27,800,000	34,835,322	7,035,322	57,600,000	68,003,892	10,403,892
Business and Occupation	11,500,000	10,184,568	-1,315,432	32,200,000	31,212,575	-987,425
Cigarette Tax	9,000,000	9,229,560	229,560	28,200,000	29,073,727	873,727
Insurance Tax	400,000	-764,870	-1,164,870	25,700,000	24,085,881	-1,614,119
Interest Income	2,100,000	1,189,225	-910,775	6,200,000	3,499,622	-2,700,378
Liquor Profit Transfers	1,500,000	33,154	-1,466,846	3,800,000	2,162,452	-1,637,548
Property Transfer Tax	1,000,000	714,107	-285,893	3,100,000	2,271,814	-828,187
Departmental Collections	800,000	889,909	89,909	2,500,000	2,491,538	-8,462
Beer Tax and Licenses	600,000	730,396	130,396	2,150,000	2,259,127	109,127
Property Tax	1,700,000	1,779,926	79,926	2,100,000	2,218,285	118,285
Smokeless Tobacco Tax	500,000	1,072,480	572,480	1,450,000	1,848,530	398,530
Business Franchise Fees	40,000	54,568	14,568	600,000	501,041	-98,959
Miscellaneous Transfers	0	0	0	500,000	239,287	-260,713
Miscellaneous Receipts	150,000	100,869	-49,131	350,000	307,692	-42,308
Racing Fees	50,000	31,308	-18,692	190,000	74,608	-115,392
Refundable Credit Reim LTY	0	0	0	70,000	581,343	511,343
HB 102 - Lottery Transfers	0	0	0	0	0	0
Charter Tax	0	10,228	10,228	0	54,672	54,672
Telecommunications Tax	0	8,392	8,392	0	-41,581	-41,581
Estate and Inheritance Tax	0	0	0	0	0	0
Video Lottery Transfers	0	91,536	91,536	0	93,343	93,343
Special Revenue Transfer	0	0	0	0	0	0
Cash Flow Transfer	0	0	0	0	0	0
TOTALS	359,340,000	359,175,216	-164,784	891,510,000	874,162,952	-17,347,048
Minus Cash Flow Transfer	0	0	0	0	0	0
Percent of Estimates		99.95%				
TOTALS	359,340,000	359,175,216	-164,784	891,510,000	874,162,952	-17,347,048
Percent of Estimates		99.95%			98.05%	
Collections this day		21,124,438				

	MONTH ESTIMATES	NET MONTH COLLECTIONS	MONTHLY OVER UNDER ESTIMATES VS ACTUAL COLLECTIONS	YTD ESTIMATES	NET YTD COLLECTIONS	YEARLY OVER UNDER ESTIMATES VS ACTUAL COLLECTIONS
Gasoline & Motor Carrier Rd Tax	31,900,000	32,257,628	32,257,628	96,400,000	100,637,734	4,237,734
Privilege Tax	13,369,000	13,862,892	493,892	45,224,000	40,702,503	-4,521,497
Licenses & Registration	5,768,000	6,509,789	741,789	21,965,000	22,423,043	458,043
Highway Litter Control	109,000	134,532	25,532	415,000	389,039	-25,961
TOTALS	51,146,000	52,764,841	1,618,841	164,004,000	164,152,319	148,319

Percent of Estimates

103.17%

100.09%

Collections this day

17,658,807

**MOTOR FUEL EXCISE TAX SHORTFALL RESERVE FUND
 CASH BALANCE WITH TREASURER
 AS OF September 1, 2009: \$27,319,224.03**

REVENUE SHORTFALL RESERVE FUND A AS OF September 1, 2009 : \$202,858,897.30

REVENUE SHORTFALL RESERVE FUND B AS OF September 1, 2009 : \$251,786,390.36

PERSONAL INCOME TAX REFUND RESERVE FUND AS OF September 1, 2009: \$45,019,319.21

WEST VIRGINIA LEGISLATURE
Office of the Legislative Auditor

Budget Division
Building 1, Room 314-West Wing
1900 Kanawha Blvd. East
Charleston, WV 25305-0590



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To: Honorable Senate President Tomblin
Honorable House of Delegates Speaker Thompson
Honorable Members of the Joint Committee on Government
and Finance

From: Ellen Clark, C.P.A. *EC*
Director Budget Division
Legislative Auditor's Office

Date: October 5, 2009

Re: West Virginia Unemployment Compensation Trust Fund

We have reviewed the August 31, 2009 monthly report of the Unemployment Compensation Trust Fund we received from WorkForce West Virginia.

For the fiscal year 2009-2010, the trust fund cash flow was as follows:

Trust Fund Beginning Cash Balance 7-1-2009	\$193,165,088.22
Receipts July 1, 2009 thru June 30, 2010	\$84,526,082.82
Disbursements July 1, 2009 thru June 30, 2010	\$95,727,596.64
Balance August 31, 2009	\$181,963,574.40

ITEMS OF NOTE:

Regular benefits paid for fiscal year 2009 - 2010 were \$40.8 million more than in fiscal year 2009.

Unemployment *Joint Committee on Government and Finance*

Total disbursements were \$ 63.6 million more than the same months of the preceding fiscal year.

Receipts in fiscal year 2009 -2010 were \$ 48.1 million more than in fiscal year 2009. Overall ending trust fund balance was \$ 74 million less on August 31, 2009 than on August 31, 2008. *

West Virginia's unemployment rate for the month of August 2009 was 8.6 percent. National unadjusted employment rate was 9.6 percent.

Seasonally adjusted unemployment rates were 9.0 percent for West Virginia and 9.7 percent nationally.

Since August 2008 employment has decreased by 25,200. Gains were 1,500 in educational and health services. Declines included 6,000 in trade, transportation, and utilities, 5,500 in manufacturing, 4,200 in mining and logging, 4,100 in construction, 2,400 in leisure and hospitality, 1,500 in financial services, 1,300 in professional and business services, 900 in information, 500 in other services, and 300 in government.

*Senate Bill 246 passed on April 11, 2009 addressed this declining balance in the Unemployment Trust Fund. On or before July 1, 2009, the Insurance Commissioner shall make a one time transfer of \$ 40 million dollars from Workers' Compensation Debt Reduction Fund to the Bureau of Employment Program's Commissioner for deposit to the Federal Unemployment Trust Fund. The bill also raised the wage threshold on which premiums are calculated from \$8,000.00 per year to \$ 12,000.00 per year when the balance of the Unemployment Trust Fund is below \$ 220 million on February 15, of each fiscal year.

Unemployment

**MONTHLY STATUS REPORT FOR THE JOINT COMMITTEE ON GOVERNMENT AND FINANCE
FOR THREE MONTHS STARTING JUNE 2008 AND JUNE 2009**

	<u>JUNE 08</u>	<u>JULY 08</u>	<u>AUGUST 08</u>	<u>JUNE 09</u>	<u>JULY 09</u>	<u>AUGUST 09</u>	<u>THREE MONTH TOTAL VARIANCE *</u>
Balance Forward	<u>\$280,118,108.63</u>	<u>\$281,821,729.58</u>	<u>\$248,084,822.17</u>	<u>\$188,380,768.98</u>	<u>\$193,185,088.22</u>	<u>\$184,720,216.07</u>	<u>(\$186,728,590.14)</u>
Add Receipts:							
1. Bond Assessment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2. Regular Contributions	\$973,651.38	\$12,859,363.81	\$17,624,207.39	\$1,941,208.73	\$24,811,164.34	\$30,862,319.99	\$28,937,468.35
3. Federal Extended Benefits (EUCOB)	\$0.00	\$0.00	\$8,373,028.00	\$13,477,688.00	\$9,448,600.00	\$10,668,319.00	\$28,211,468.00
4. Emergency Unemployment Funds (TEUC)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
5. Temp Federal Additional Comp (FAC)	\$0.00	\$0.00	\$0.00	\$4,688,639.00	\$3,888,169.00	\$3,922,171.00	\$12,472,909.00
6. UCBE (Federal Agencies)	\$88,900.00	\$62,800.00	\$88,900.00	\$134,718.38	\$146,698.78	\$222,641.89	\$316,688.83
7. Special Administrative Transfer **	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
8. Read Act Funds	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
9. Treasury Interest Credits	\$2,807,214.07	\$0.00	\$0.00	\$1,840,527.78	\$0.00	\$0.00	(\$966,686.32)
10. UCA (Military Agencies)	\$188,000.00	\$208,800.00	\$200,000.00	\$334,173.19	\$381,888.78	\$418,172.28	\$617,742.28
11. WV Insurance Committee-Senate Bill 246	\$0.00	\$0.00	\$0.00	\$40,000,000.00	\$0.00	\$0.00	\$40,000,000.00
Total Monthly Receipts	<u>\$4,127,765.45</u>	<u>13,110,463.91</u>	<u>\$28,253,127.39</u>	<u>\$62,493,851.05</u>	<u>\$39,462,458.89</u>	<u>\$46,073,623.93</u>	<u>\$198,518,677.12</u>
Less Disbursements:							
Debt Bond Repayment (Retired)		(Retired)	(Retired)	(Retired)	(Retired)	(Retired)	(Retired)
Regular Benefits	12,133,133.04	16,274,388.85	10,210,000.50	\$37,198,430.62	\$33,461,040.88	\$32,848,322.41	\$85,889,271.22
Federal Extended Benefits (EUCOB)	0.00	1,328,275.00	4,682,612.00	\$12,746,801.00	\$9,107,118.00	\$11,371,428.00	\$27,238,657.00
Emergency Benefits (TEUC)	(262.00)	(490.00)	(2,688.00)	(\$330.00)	(\$356.00)	(\$670.00)	\$2,083.00
Temp Federal Additional Comp (FAC)	0.00	0.00	0.00	\$4,393,011.00	\$3,778,505.00	\$4,188,648.00	\$12,335,668.00
UCBE (Federal Workers) Benefits	73,336.51	60,802.42	77,770.88	\$137,128.22	\$187,719.37	\$146,621.37	\$228,766.07
UCA (Military Workers) Benefits	217,226.97	208,385.03	240,138.19	\$343,348.95	\$380,284.88	\$288,762.88	\$358,607.28
Read Act Funds	689.88	0.00	87,457.00	\$885,177.57	\$0.00	\$0.00	\$827,020.59
Special Administrative Transfer**	\$0.00	\$0.00	\$0.00	\$8,880.42	\$8,042.21	\$10,088.16	\$28,967.79
Total Monthly Disbursements	<u>\$12,424,144.80</u>	<u>18,887,371.32</u>	<u>\$18,255,182.66</u>	<u>\$95,719,528.78</u>	<u>\$46,897,331.04</u>	<u>\$48,830,286.60</u>	<u>\$108,900,428.95</u>
Trust Fund Balance	<u>\$281,821,729.58</u>	<u>248,084,822.17</u>	<u>\$248,072,789.81</u>	<u>\$193,168,088.22</u>	<u>\$184,720,216.07</u>	<u>\$184,983,674.40</u>	<u>(\$188,410,439.97)</u>

* Three month total variance column is the difference between the sum of the previous year's three months data for each category and the current year's three months data. The purpose of the report is to show significant changes in receipts, disbursements, or balances.

**The Assistance for Unemployed Workers and Struggling Families Act, Title II of Division B of Public Law No. 111-5, enacted February 17, 2009, provided a special administrative transfer to states' accounts of \$500 million to be used for certain administrative purposes. On February 27, 2009, the U.S. Treasury distributed West Virginia's amount of \$2,369,759 to the Unemployment Insurance Trust Fund. Attachment IV to the Unemployment Insurance Program Letter No. 14-09 issued by the U.S. Department of Labor on February 26, 2009 specifies the permissible uses of the administrative transfer. The special administrative transfer is not available for the payment of

*Unemployment Compensation (UC) benefits; therefore the Trust Fund Balance must be reduced by the Special Administrative Transfer on line 7 to obtain the balance available for UC benefits.



Prescription Drug Report August 2009

*West Virginia Legislative Interims
October 2009*

WV PEIA - Monthly Trend

Plan Demographics	Jul-09	Aug-09	2009 - 2010 Fiscal	2009 - 2009 Fiscal	Percent Change
Total Drug Cost	\$12,468,288	\$13,273,177	\$25,741,468	\$24,184,838	6.57%
Amount Paid by Plan Sponsor	\$7,718,087	\$10,139,864	\$17,884,741	\$18,418,300	8.75%
Amount Paid by Members	\$4,753,201	\$3,133,313	\$7,856,727	\$7,766,538	1.85%
Total Claims	198,473	204,707	401,180	378,858	6.89%
Average Eligible Member	162,228	162,481	162,338	157,584	3.02%
Average # of Rx's Per Member Per Month	1.21	1.28	1.24	1.20	2.78%
Plan Paid Per Member Per Month (PMPM)	\$47.58	\$62.42	\$54.89	\$82.09	5.56%
Average Eligible Enrollees	74,891	74,887	74,629	72,471	2.98%
Average # of Rx's Per Enrollee Per Month	2.63	2.74	2.69	2.61	2.83%
Plan Paid Per Enrollee Per Month (PEPM)	\$103.43	\$138.80	\$119.82	\$113.28	5.80%
Rx Cost Share					
Avg. Claim Cost to Plan	\$38.27	\$49.53	\$44.61	\$43.34	2.70%
Avg. Member Cost/Claim	\$24.19	\$15.31	\$19.88	\$20.42	-3.73%
Percent member Cost Share	38.1%	23.6%	30.6%	32.0%	-4.34%
Average Ingredient Costs					
Single Source (no generics available)	\$189.58	\$181.84	\$180.73	\$172.74	10.41%
Multi-Source Brand (generics available)	\$83.18	\$68.08	\$69.87	\$45.14	32.62%
Generic Drugs	\$18.42	\$19.50	\$19.48	\$19.34	0.82%
Brand/Generic Dispensing Rates					
Single Source (no generics)	24.85%	25.21%	25.03%	27.75%	-9.76%
Multi-Source Brand % (generics available)	0.85%	0.88%	0.96%	0.89%	-2.70%
Generic Drug	74.21%	73.81%	74.01%	71.26%	3.85%
Generics Dispensed when available	88.74%	88.69%	88.71%	88.63%	0.09%
Percent of Plan Cost for Single Source	85.42%	81.44%	83.16%	83.82%	-0.65%
Retail Pharmacy Program					
Avg. Day Supply	33.1	33.8	33.8	32.8	1.68%
Avg. Plan Cost/Day Supply	\$1.17	\$1.45	\$1.32	\$1.31	0.78%
Avg. Claim Cost to Plan	\$38.87	\$49.08	\$44.08	\$42.84	2.67%
Avg. Member Cost / Claim	\$24.04	\$15.17	\$19.51	\$20.28	-3.84%
Percent Member Cost Share	38.21%	23.61%	30.68%	32.09%	-4.39%
Special Maint Netwk (% of claims filed)	11.68%	12.50%	12.09%	11.81%	5.05%
Other Maint (% of claims filed)	0.66%	0.72%	0.69%	0.61%	12.95%
Avg. Days Supply for Maint. Netwks	87.3	87.3	87.3	87.5	-0.19%
Total # Claims Fills 1-34 Days Supply	168,168	173,480	341,628	327,100	4.44%
Total # Claims Fills 35-60 Day Supply	1,544	1,665	3,208	2,684	19.58%
Total # Claims Fills 61-90 Day Supply	24,663	27,458	52,109	45,804	14.26%
Total # Claims Fills 91+ Day Supply	37	61	88	9	877.78%
Mail Service Program					
Avg. Days Supply	71.8	71.5	71.7	74.8	-4.18%
Avg. Plan Cost/Days Supply	\$1.08	\$1.31	\$1.19	\$1.18	2.43%
Avg. Cost to Plan	\$78.39	\$93.88	\$88.03	\$88.84	-1.88%
Avg. Member Cost/Claim	\$38.88	\$28.80	\$33.82	\$34.58	-2.14%
Percent Member Cost Share	33.72%	23.51%	28.48%	28.82%	-0.21%
Total # Claims Fill 1-34 Days Supply	603	618	1,219	858	42.41%
Total # Claims Fills 35-60 Days Supply	11	8	19	11	72.73%
Total # Claims Fills 61-90 Days Supply	1,469	1,451	2,910	2,694	12.18%
Total # Claims Fills 91+ Day Supply	0	0	-	-	-
Formulary Program					
S/S Formulary Drugs (% by claim)	20.24%	20.63%	20.44%	22.81%	-10.38%
S/S Non-Formulary Drugs (% by claim)	4.81%	4.58%	4.59%	4.94%	-7.04%
S/S Drugs (% by claim)	0.85%	0.98%	0.96%	0.89%	-2.70%
Generic Drugs (% by Claim)	74.21%	73.81%	74.01%	71.26%	3.85%
S/S Formulary Drugs (% by \$)	78.30%	72.28%	74.02%	78.04%	-2.68%
S/S non-Formulary Drugs (% by \$)	9.12%	9.16%	9.14%	7.58%	20.65%
S/S Drugs (% by \$)	0.82%	0.73%	0.84%	0.41%	57.78%
Generic Drugs (% by \$)	14.06%	17.83%	18.20%	18.97%	1.41%
Specialty Drugs					
Total Drug Cost	\$1,474,047	\$1,524,133	\$2,998,180	\$2,594,482	15.56%
Amount Paid by Plan Sponsor	\$1,408,890	\$1,484,691	\$2,893,281	\$2,496,971	18.92%
Amount Paid by Members	\$65,457	\$39,442	\$104,899	\$98,511	8.48%
Total Claims	748	720	1,488	1,382	6.22%
Avg # of Rx's per Member per Month	0.00	0.00	0.006	0.004	3.11%
Plan Paid Per Member Per Month (PMPM)	\$8.68	\$9.14	\$8.91	\$7.82	12.52%
Avg Claim Cost to Plan	\$1,883.14	\$2,062.07	\$1,870.90	\$1,806.08	8.13%
Avg Claim Cost to Member	\$87.51	\$54.78	\$71.48	\$71.28	0.25%
Percent of Member Cost Share	4.44%	2.59%	3.50%	3.60%	-7.85%
Percent of Overall Drug Spend	11.82%	11.48%	11.85%	10.74%	8.44%



Key Performance Indicators
Comprehensive Indicators
WVA - WV Public Employees Ins

Current Period: 08/2009 - 08/2009
Previous Period: 08/2008 - 08/2008

	Current Period	Previous Period	% Change
Overall Performance			
Plan Cost PMPM	\$62.69	\$58.87	6.5 %
Average Mbrs/Month	162,451	157,666	3.0 %
Average Subs/Month	74,667	72,525	3.0 %
% Utilizing Members	43.9 %	43.0 %	2.3 %
% Retail Utilizing Members	43.6 %	42.7 %	2.2 %
% Mail Utilizing Members	0.6 %	0.5 %	13.2 %
Rx Measures			
Rxs PMPM	1.27	1.22	3.5 %
Retail Rxs PMPM	1.25	1.21	3.4 %
Mail Rxs PMPM	0.01	0.01	15.1 %
Average Admin Fee/Rx	\$0.00	\$0.01	-97.8 %
Avg Retail Admin Fee/Rx	\$0.00	\$0.01	-97.8 %
Avg Mail Admin Fee/Rx	\$0.00	\$0.00	0.0 %
Average Plan Cost/Rx	\$49.51	\$48.09	2.9 %
Avg Retail Plan Cost/Rx	\$49.05	\$47.74	2.7 %
Avg Mail Plan Cost/Rx	\$93.68	\$86.38	8.4 %
Average Mbr Contrib/Rx	\$15.35	\$15.70	-2.2 %
Avg Retail Mbr Contrib/Rx	\$15.22	\$15.57	-2.3 %
Avg Mail Mbr Contrib/Rx	\$28.82	\$29.49	-2.3 %
Average Ing Cost/Rx	\$63.42	\$62.20	2.0 %
Avg Retail Ing Cost/Rx	\$62.82	\$61.71	1.8 %
Avg Mail Ing Cost/Rx	\$122.49	\$115.86	5.7 %
Average AWP/Rx	\$119.34	\$111.23	7.3 %
Avg Retail AWP/Rx	\$118.16	\$110.26	7.2 %
Avg Mail AWP/Rx	\$234.79	\$217.64	7.9 %
Average Days Supply/Rx	34.2	33.7	1.6 %
Avg Retail Days/Rx	33.8	33.3	1.6 %
Avg Mail Days/Rx	71.5	73.6	-2.9 %
Average Plan Cost/Day	\$1.45	\$1.43	1.3 %
Avg Retail Plan Cost/Day	\$1.45	\$1.43	1.2 %
Avg Mail Plan Cost/Day	\$1.31	\$1.17	11.7 %
% Plan Cost	76.3 %	75.4 %	1.2 %
% Member Contribution	23.7 %	24.6 %	-3.8 %
% Retail Plan Cost	76.3 %	75.4 %	1.2 %
% Retail Mbr Contrib	23.7 %	24.6 %	-3.7 %
% Mail Plan Cost	76.5 %	74.8 %	2.6 %
% Mail Member Contrib	23.5 %	25.4 %	-7.6 %



Key Performance Indicators

Comprehensive Indicators

WVA - WV Public Employees Ins

Current Period: 08/2009 - 08/2009

Previous Period: 08/2008 - 08/2008

	Current Period	Previous Period	% Change
Rx Sources			
% Mail Rxs	1.0 %	0.9 %	11.3 %
% Retail Rxs	99.0 %	99.1 %	-0.1 %
% Member Submit Rxs	0.0 %	0.0 %	-89.3 %
Rx Types			
Avg SSB Plan Cost/Rx	\$159.61	\$140.88	13.3 %
Avg Retail SSB Plan Cost/Rx	\$158.55	\$140.21	13.1 %
Avg Mail SSB Plan Cost/Rx	\$247.20	\$201.92	22.4 %
Avg MSB Plan Cost/Rx	\$37.34	\$14.36	159.9 %
Avg Retail MSB Plan Cost/Rx	\$37.09	\$13.95	165.8 %
Avg Mail MSB Plan Cost/Rx	\$61.39	\$47.44	29.4 %
Avg GEN Plan Cost/Rx	\$11.96	\$12.29	-2.6 %
Avg Retail GEN Plan Cost/Rx	\$11.81	\$12.16	-2.9 %
Avg Mail GEN Plan Cost/Rx	\$28.11	\$27.83	1.0 %
% Single-Source Brand Rxs	25.3 %	27.8 %	-9.2 %
% Multi-Source Brand Rxs	1.0 %	1.0 %	2.0 %
% Generic Rxs	73.8 %	71.2 %	3.6 %
% Retail Single-Source Brand	25.2 %	27.8 %	-9.2 %
% Retail Multi-Source Brand	1.0 %	1.0 %	2.3 %
% Retail Generic	73.8 %	71.3 %	3.6 %
% Mail Single-Source Brand	29.8 %	33.5 %	-11.1 %
% Mail Multi-Source Brand	1.0 %	1.3 %	-23.0 %
% Mail Generic	69.2 %	65.2 %	6.2 %
% Formulary Rxs	94.1 %	93.6 %	0.5 %
% Retail Formulary Rxs	94.1 %	93.7 %	0.5 %
% Mail Formulary Rxs	93.2 %	92.8 %	0.5 %
% DAW Rxs	0.5 %	0.6 %	-10.4 %
% Retail DAW Rxs	0.5 %	0.6 %	-10.0 %
% Mail DAW Rxs	0.8 %	1.2 %	-35.8 %
% Generic Conversion	98.7 %	98.7 %	0.0 %
% Retail GEN Conversion	98.7 %	98.7 %	0.0 %
% Mail GEN Conversion	98.6 %	98.0 %	0.5 %
Period Totals			
Total Plan Cost	\$10,184,112.19	\$9,281,563.66	9.7 %
Retail Plan Cost	\$9,989,354.78	\$9,130,140.16	9.4 %
Mail Plan Cost	\$194,757.41	\$151,423.50	28.6 %
Total Member Contribution	\$3,158,624.06	\$3,029,522.02	4.3 %

Key Performance Indicators
 Comprehensive Indicators
 WVA - WV Public Employees Ins

 Current Period: 08/2009 - 08/2009
 Previous Period: 08/2008 - 08/2008

	Current Period	Previous Period	
Retail Member Contrib	\$3,098,704.12	\$2,977,830.26	4.1 %
Mail Member Contrib	\$59,919.94	\$51,691.76	15.9 %
Total Rx Count	205,717	192,985	6.6 %
Retail Rx Count	203,629	191,153	6.5 %
Member Submit Rxs	9	79	-88.6 %
Mail Rx Count	2,079	1,753	18.6 %
Total Admin Fee	\$22.50	\$972.00	-97.7 %
Total UC Savings	\$9,546,867.55	\$7,156,110.39	33.4 %
Total Lost Savings	\$21,692.45	\$11,405.12	90.2 %
Demographics			
Average Age	38.7	38.8	-0.2 %
% Male Members	46.6 %	46.5 %	0.2 %
% Female Members	53.4 %	53.5 %	-0.1 %

Graphs based on Current Period: 08/2009 - 08/2009

Claim Source by Rx Count



■ Mail □ Mem... ■ Retail

Drug Type by Plan Cost



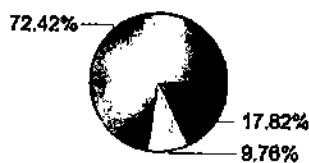
■ Gen... □ MS ... ■ SS ...

Formulary Status by Rx Count



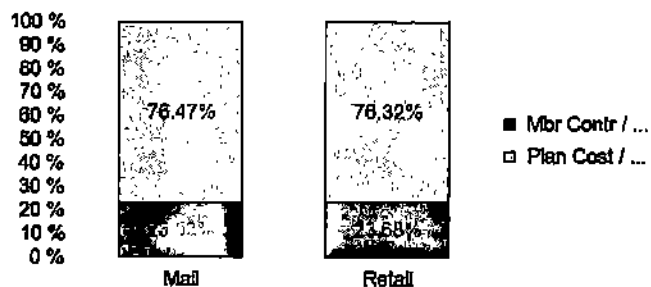
■ For... □ Non...

Drug Formulary Status by Plan Cost



■ Bra... □ Bra... ■ Gen...

Cost Share Distribution by Claim Source



Utilization Report by Population Level

WVA - WV Public Employees Ins

Prescriptions Filled From 08/2009 - 08/2009



Reporting Level 2	Avg Mbr Count	Avg Util Mbr/Mnth	Rx Count	Plan Cost	Member Conir/Rx	Plan Cost/Rx	Mail % Rxs	Gen % Rxs	Form % Rxs	Gen Conv %	PMPM Plan Cost
COBRA (COBRA)	394	212	750	\$50,745	\$14.48	\$67.86	3.6 %	70.5 %	93.3 %	88.8 %	\$128.80
NON STATE AGENCIES (02)	18,889	7,856	22,884	\$1,022,830	\$14.57	\$45.09	1.0 %	75.2 %	94.8 %	99.0 %	\$54.12
NON STATE AGENCIES PLAN B (02B)	3,738	1,376	3,474	\$115,241	\$20.59	\$33.17	5.4 %	78.9 %	95.4 %	99.2 %	\$30.85
NON STATE RETIREES (08)	1,222	768	2,822	\$146,065	\$13.70	\$61.76	1.4 %	73.4 %	95.0 %	99.0 %	\$119.53
NON STATE RETIREES 60 (0860)	8	5	28	\$1,475	\$7.49	\$52.68	0.0 %	85.7 %	100.0 %	100.0 %	\$163.91
STATE AGENCIES (01)	120,359	61,241	143,091	\$7,140,853	\$15.38	\$49.90	0.8 %	73.7 %	93.8 %	98.6 %	\$59.33
STATE AGENCIES (01B)	4,171	1,116	2,397	\$71,338	\$22.35	\$29.76	1.2 %	77.9 %	93.5 %	98.8 %	\$17.10
STATE RETIREES (07)	13,824	6,784	30,321	\$1,629,153	\$14.89	\$63.73	1.1 %	72.2 %	94.1 %	98.6 %	\$119.58
STATE RETIREES ASST 60 (0760)	36	32	150	\$8,414	\$9.49	\$42.76	0.0 %	76.0 %	97.3 %	100.0 %	\$178.16
TEST GROUP (17022)	1	NA	NA	\$0	NA	NA	NA	NA	NA	NA	NA
Grand Total	162,451		205,717	\$10,184,112	\$15.35	\$49.51	1.0 %	73.8 %	94.1 %	93.7 %	\$62.69



**Monthly Management Report
Total Claims
August 2009**

*West Virginia Legislative Interims
October 2009*

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY
MONTHLY MANAGEMENT REPORT
TOTAL CLAIMS
AUGUST 2009

Page: 1 of 2

Reporting Category	Type of Service	Current Period	Current	12 Months Prior	Current Fiscal Yr	Previous Fiscal Yr
		PEIA Payments	Rolling Avg PEIA Payments	Rolling Avg PEIA Payments	PEIA Payments	PEIA Payments
INPATIENT HOSPITAL FACILITY	BEHAVIORAL	67,717.30	198,327.79	220,947.74	145,592.93	231,230.68
	MATERNITY	112,853.03	163,906.47	157,955.06	160,718.98	273,904.98
	MEDICAL AND SURGICAL	3,192,993.82	6,406,694.87	6,884,959.16	6,169,734.51	11,165,433.18
	NEONATAL COMPLICATIONS	1,611.55	36,957.52	48,707.99	39,075.51	16,308.73

sum		3,375,175.70	6,805,886.66	7,312,569.95	6,515,121.93	11,686,877.57
OUTPATIENT HOSPITAL FACILITY	BEHAVIORAL	33,725.27	44,979.37	51,377.00	37,561.45	87,632.23
	DIALYSIS	76,375.54	126,973.23	111,686.90	142,011.91	253,057.73
	EMERGENCY ROOM	305,506.30	530,455.20	437,691.73	449,976.47	844,770.59
	MATERNITY	25,871.69	44,966.14	44,072.33	45,191.26	62,919.04
	MEDICAL AND SURGICAL	4,974,235.32	8,274,670.26	8,353,757.46	7,466,611.52	13,967,825.74

sum		5,415,714.12	9,022,044.20	8,998,585.42	8,141,352.60	15,216,205.33
PHARMACY	PRESCRIPTION DRUGS	8,893,662.08	10,339,837.96	8,345,312.41	9,912,250.48	18,893,576.84

sum		8,893,662.08	10,339,837.96	8,345,312.41	9,912,250.48	18,893,576.84
PROFESSIONAL SERVICES	ADVANCED IMAGING	260,261.96	505,817.98	529,777.98	548,594.20	716,382.06
	AMBULANCE	121,192.06	198,184.03	276,211.47	183,458.56	310,957.32
	ANESTHESIA	474,589.24	695,255.38	696,631.81	679,614.42	1,345,933.62
	BEHAVIORAL	189,526.60	325,200.00	240,546.85	320,365.11	521,351.01
	CARDIOVASCULAR MEDICINE	246,362.83	364,894.23	368,582.89	368,308.32	616,874.68
	CERVICAL CANCER SCREENING	16,627.07	18,081.38	25,222.16	21,469.78	40,048.16
	DIALYSIS	12,562.43	8,736.80	10,627.60	4,675.70	24,418.94
	DME	246,161.93	424,966.37	361,785.34	395,462.51	723,368.54

SOURCE: WELLS FARGO AND EXPRESS SCRIPTS PAID CLAIMS TAPES
NOTE: CLAIMS LISTED ARE ON A PAID BASIS
NOTE: DOES NOT INCLUDE REBATES, PHARMACY ADMINISTRATIVE FEES, OR RECOVERIES

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY
 MONTHLY MANAGEMENT REPORT
 TOTAL CLAIMS
 AUGUST 2009
 Page: 2 of 2

Reporting Category	Type of Service	Current	Current	12 Months Prior	12 Months Prior	Current Fiscal Yr	Previous Fiscal Yr
		Current Period PEIA Payments	Rolling Avg PEIA Payments	12 Months Prior PEIA Payments	Rolling Avg PEIA Payments	Current Fiscal Yr PEIA Payments	Previous Fiscal Yr PEIA Payments
PROFESSIONAL SERVICES	EVALUATION AND MANAGEMENT	4,020,475.43	4,723,494.10	4,816,202.71	4,370,804.82	9,217,346.36	8,527,766.95
	IMMUNIZATION	236,168.72	308,271.76	319,382.09	299,631.87	502,101.34	543,378.22
	INJECTION	477,377.56	756,360.57	704,353.80	708,318.16	1,124,634.21	1,326,287.33
	LAB AND PATHOLOGY	413,278.17	722,633.08	570,464.77	650,851.09	1,283,189.31	1,178,123.04
	MAMMOGRAPHY	64,693.96	76,864.30	101,972.34	90,874.54	144,543.28	184,091.92
	OTHER	359,047.55	456,744.26	534,103.08	391,819.14	940,147.68	946,920.00
	OTHER IMAGING	539,765.11	762,874.57	661,367.21	787,992.20	1,259,344.20	1,299,987.89
	OTHER MEDICINE	305,423.80	727,718.67	523,110.52	687,594.95	1,397,620.29	1,415,952.60
	PHYSICAL MEDICINE	390,895.74	637,124.30	564,075.68	571,983.46	1,030,108.58	984,529.46
	PROSTATE CANCER SCREENING	5,276.15	16,494.54	16,975.18	14,795.22	29,017.62	32,054.70
	SURGICAL	1,779,107.00	2,495,580.36	2,566,986.77	2,480,747.04	4,698,720.48	4,987,363.61
***** SUM		10,158,793.31	14,225,296.64	13,888,380.25	13,577,361.07	25,926,107.68	26,399,860.85
 SUM		27,843,345.21	40,393,065.46	38,544,848.03	38,146,086.08	71,722,767.42	73,862,541.20

SOURCE: WELLS FARGO AND EXPRESS SCRIPTS PAID CLAIMS TAPES
 NOTE: CLAIMS LISTED ARE ON A PAID BASIS
 NOTE: DOES NOT INCLUDE REBATES, PHARMACY ADMINISTRATIVE FEES, OR RECOVERIES



**Monthly Management Report
Per Capita Claims
August 2009**

*West Virginia Legislative Interims
October 2009*

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY
 MONTHLY MANAGEMENT REPORT
 PER CAPITA CLAIMS
 AUGUST 2009

Page: 1 OF 2

Reporting Category	Type of Service	Current Period	Current	12 Months Prior	12 Months Prior	Current Fiscal Yr	Previous Fiscal Yr
		PEIA Payments	Rolling Avg PEIA Payments	PEIA Payments	Rolling Avg PEIA Payments	PEIA Payments	PEIA Payments
INPATIENT HOSPITAL FACILITY	BEHAVIORAL	.4223	1.3230	1.4436	1.0035	1.4425	2.2523
	MATERNITY	.7037	1.0924	1.0320	1.1071	1.7087	2.1240
	MEDICAL AND SURGICAL	19.9100	42.6999	44.9830	42.5006	69.6544	86.4547
	NEONATAL COMPLICATIONS	.0100	.2475	.3182	.2688	.1017	.7167

sum		21.0460	45.3628	47.7768	44.8801	72.9074	91.5478
OUTPATIENT HOSPITAL FACILITY	BEHAVIORAL	.2103	.2998	.3357	.2587	.5467	.5646
	DIALYSIS	.4762	.8452	.7297	.9785	1.6787	1.6634
	EMERGENCY ROOM	1.9050	3.5335	2.8597	3.1003	5.2700	5.1394
	MATERNITY	.1613	.3000	.2879	.3114	.3925	.4594
	MEDICAL AND SURGICAL	31.0170	55.1342	54.5794	51.4387	87.1369	97.3713

sum		33.7699	60.1127	58.7924	56.0876	94.9248	105.1981
PHARMACY	PRESCRIPTION DRUGS	55.4568	68.9423	54.5242	68.3132	117.8657	113.4748

sum		55.4568	68.9423	54.5242	68.3132	117.8657	113.4748
PROFESSIONAL SERVICES	ADVANCED IMAGING	1.6229	3.3743	3.4613	3.7800	4.4691	6.8802
	AMBULANCE	.7557	1.3219	1.8046	1.2647	1.9399	2.7420
	ANESTHESIA	2.9593	4.6335	4.5515	4.6841	8.3965	9.3840
	BEHAVIORAL	1.1818	2.1669	1.5716	2.2071	3.2524	3.2588
	CARDIOVASCULAR MEDICINE	1.5362	2.4323	2.4081	2.5370	3.8483	4.7641
	CERVICAL CANCER SCREENING	.1037	.1207	.1648	.1482	.2498	.2910
	DIALYSIS	.0783	.0581	.0694	.0323	.1523	.0923
	DME	1.5350	2.8312	2.3637	2.7239	4.5127	5.0942

	sum						

SOURCE: WELLS FARGO AND EXPRESS SCRIPTS PAID CLAIMS TAPES

NOTE: CLAIMS LISTED ARE ON A PAID BASIS

NOTE: DOES NOT INCLUDE REBATES, PHARMACY ADMINISTRATIVE FEES, OR RECOVERIES

WEST VIRGINIA PUBLIC EMPLOYERS INSURANCE AGENCY
 MONTHLY MANAGEMENT REPORT
 PER CAPITA CLAIMS
 AUGUST 2009
 Page: 2 OF 2

Reporting Category	Type of Service	Current	Current	12 Months Prior	12 Months Prior	Current Fiscal Yr	Previous Fiscal Yr
		Current Period PEIA Payments	Rolling Avg PEIA Payments	12 Months Prior PEIA Payments	Rolling Avg PEIA Payments	Current Fiscal Yr PEIA Payments	Previous Fiscal Yr PEIA Payments
PROFESSIONAL SERVICES	EVALUATION AND MANAGEMENT	25.0698	31.4881	31.4667	30.1288	57.5015	55.7383
	IMMUNIZATION	1.4726	2.0577	2.0867	2.0687	3.1323	3.5516
	INJECTION	2.9767	5.0453	4.6019	4.8817	7.0159	8.6687
	LAB AND PATHOLOGY	2.5770	4.8118	3.7271	4.4821	8.0050	7.7003
	MAMMOGRAPHY	.4034	.5131	.6662	.6275	.9017	1.2032
	OTHER	2.2389	3.0450	3.4896	2.7013	5.8650	6.1892
	OTHER IMAGING	3.3657	5.0832	4.3211	5.4320	7.8563	8.4968
	OTHER MEDICINE	1.9045	4.8453	3.4177	4.7336	8.7189	9.2548
	PHYSICAL MEDICINE	2.4374	4.2454	3.6854	3.9418	6.4262	6.4350
	PROSTATE CANCER SCREENING	.0329	.1099	.1109	.1019	.1810	.2095
	SURGICAL	11.0937	16.6322	16.7714	17.0950	29.3125	32.5979
***** sum		63.3456	94.8159	90.7399	93.5714	161.7374	172.5521
sum		173.6183	269.2338	251.8333	262.8523	447.4353	482.7728

SOURCE: WELLS FARGO AND EXPRESS SCRIPTS PAID CLAIMS TAPES
 NOTE: CLAIMS LISTED ARE ON A PAID BASIS
 NOTE: DOES NOT INCLUDE REBATES, PHARMACY ADMINISTRATIVE FEES, OR RECOVERIES



**Monthly Management Report
Per Capita Utilization
August 2009**

*West Virginia Legislative Interims
October 2009*

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY
 MONTHLY MANAGEMENT REPORT
 PER CAPITA UTILIZATION
 AUGUST 2009

Page: 1 of 2

Reporting Category	Type of Service	Current Period Encounters	12 Months Prior Encounters	Current Fiscal Yr Encounters	Previous Fiscal Yr Encounters
INPATIENT HOSPITAL FACILITY	BEHAVIORAL	.0002	.0005	.0010	.0008
	MATERNITY	.0005	.0010	.0013	.0017
	MEDICAL AND SURGICAL	.0047	.0091	.0132	.0161
	NEONATAL COMPLICATIONS	.0000	.0004	.0001	.0007

sum		.0058	.0109	.0156	.0193
OUTPATIENT HOSPITAL FACILITY	BEHAVIORAL	.0033	.0033	.0069	.0054
	DIALYSIS	.0027	.0024	.0067	.0050
	EMERGENCY ROOM	.0151	.0270	.0386	.0445
	MATERNITY	.0016	.0025	.0037	.0041
	MEDICAL AND SURGICAL	.1535	.2438	.3676	.4092

sum		.1762	.2790	.4235	.4681
PHARMACY	PRESCRIPTION DRUGS	.8115	.7925	1.8178	1.7711

sum		.8115	.7925	1.8178	1.7711
PROFESSIONAL SERVICES	ADVANCED IMAGING	.0170	.0260	.0392	.0472
	AMBULANCE	.0027	.0048	.0062	.0076
	ANESTHESIA	.0135	.0199	.0362	.0387
	BEHAVIORAL	.0307	.0421	.0750	.0756
	CARDIOVASCULAR MEDICINE	.0284	.0396	.0629	.0705
	CERVICAL CANCER SCREENING	.0040	.0068	.0096	.0117
	DIALYSIS	.0006	.0003	.0010	.0006
	DME	.0183	.0264	.0403	.0482
	EVALUATION AND MANAGEMENT	.4002	.5282	.9106	.9293
	IMMUNIZATION	.0161	.0230	.0349	.0392

SOURCE: WELLS FARGO AND EXPRESS SCRIPTS PAID CLAIMS TAPES
 NOTE: CLAIMS LISTED ARE ON A PAID BASIS

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY
 MONTHLY MANAGEMENT REPORT
 PER CAPITA UTILIZATION
 AUGUST 2009

Page: 2 of 2

Reporting Category	Type of Service	Current Period Encounters	12 Months Prior Encounters	Current Fiscal Yr Encounters	Previous Fiscal Yr Encounters
PROFESSIONAL SERVICES	INJECTION	.0214	.0287	.0493	.0509
	LAB AND PATHOLOGY	.1394	.1795	.3242	.3185
	MAMMOGRAPHY	.0165	.0218	.0351	.0384
	OTHER	.0317	.0371	.0726	.0676
	OTHER IMAGING	.0805	.1045	.1794	.1878
	OTHER MEDICINE	.0620	.0874	.1408	.1515
	PHYSICAL MEDICINE	.0859	.1238	.2013	.2130
	PROSTATE CANCER SCREENING	.0037	.0080	.0117	.0139
	SURGICAL	.0664	.0930	.1558	.1670
***** sum		1.0388	1.4011	2.3862	2.4770
sum		2.0320	2.4836	4.6431	4.7356

SOURCE: WELLS FARGO AND EXPRESS SCRIPTS PAID CLAIMS TAPES
 NOTE: CLAIMS LISTED ARE ON A PAID BASIS

**West Virginia Board of Risk and Insurance Management
UNAUDITED BALANCE SHEET**

DRAFT

	August 31	
	2009	2008
	(In thousands)	
ASSETS		
Short Term Assets		
Cash and Equivalents	\$ 27,581	\$ 30,123
Advance Deposit with Carrier/Trustee	179,361	164,909
Receivables - Net	2,217	2,116
Prepaid Insurance	2,997	2,948
Total Short Term Assets	212,156	200,096
Long Term Assets		
Investments	112,120	107,714
Total Long Term Assets	112,120	107,714
TOTAL ASSETS	324,276	307,810
LIABILITIES		
Short Term Liabilities		
Accounts payable	950	1,652
Claims Payable	556	306
OPEB Liability	87	35
Agents Commissions Payable	1,455	1,891
Unearned Revenue	7,058	12,572
Current Estimated Claim Reserve	48,650	50,693
Total Short Term Liabilities	58,756	67,149
Long Term Liabilities		
Compensated Absences	58	52
Estimated Noncurrent Claim Reserve	104,083	111,536
Total Long Term Liabilities	104,141	111,587
TOTAL LIABILITIES	162,897	178,736
Prior Year Net Assets	150,958	127,630
Current Year Earnings	10,421	1,444
TOTAL NET ASSETS	161,379	129,074
TOTAL LIABILITIES AND RETAINED EARNINGS	\$ 324,276	\$ 307,810

DRAFT - Unaudited - Management Purposes Only

West Virginia Board of Risk and Insurance Management
UNAUDITED INCOME STATEMENT
For the two months ending

DRAFT

	August 31	
	2009	2008
	(In thousands)	
Operating Revenues		
Premium Revenues	\$ 10,163	\$ 10,797
Less - Excess Insurance	(1,043)	(1,016)
Total Operating Revenues	9,120	9,781
Operating Expenses		
Claims Expense	5,320	6,781
Property & MS Claims Expense	1,323	1,124
Personal Services	226	221
General & Administrative Expense	413	429
Total Operating Expenses	7,282	8,555
Operating Income	1,838	1,226
Nonoperating Revenues		
Court Fees	7	7
Investment Income	8,576	211
Total Nonoperating Revenues	8,583	218
Net Income	10,421	1,444

DRAFT - Unaudited - Management Purposes Only



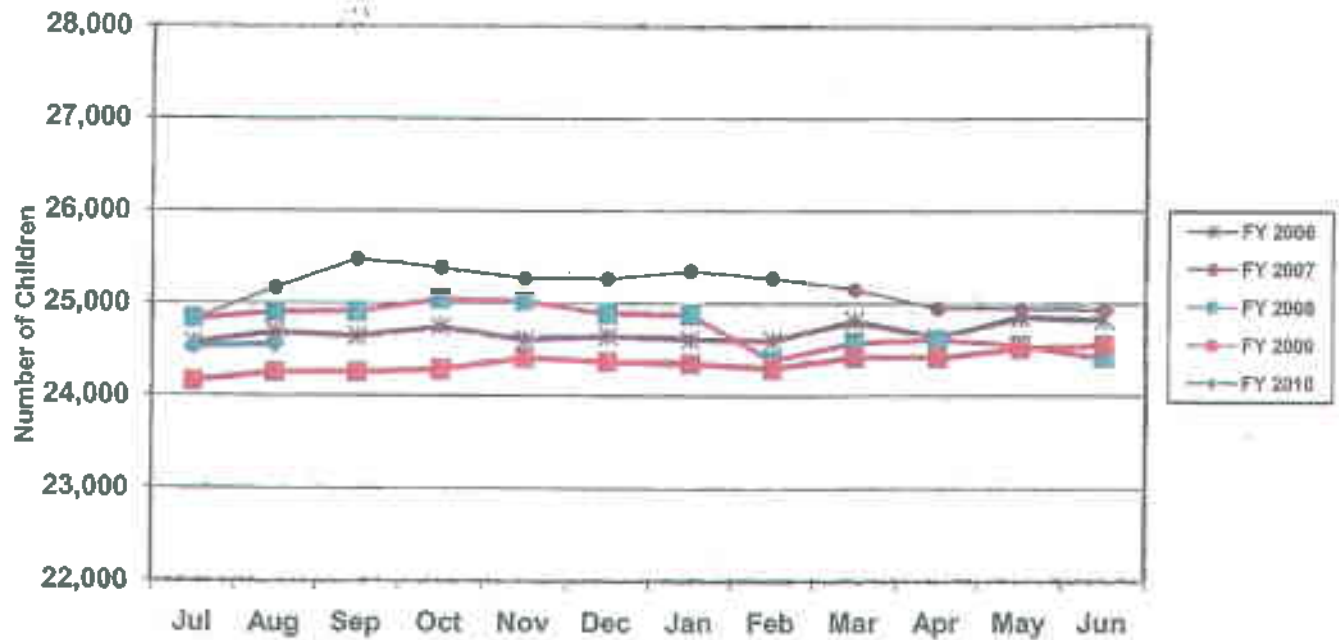
**West Virginia
Children's Health Insurance Program
1018 Kanawha Boulevard East
Suite 209
Charleston, WV 25301**

**Phone: 304-558-2732
Toll-Free: 1-877-WVA CHIP
Fax: 304-558-2741
www.wvchip.org**

Joint Committee on Government and Finance Report

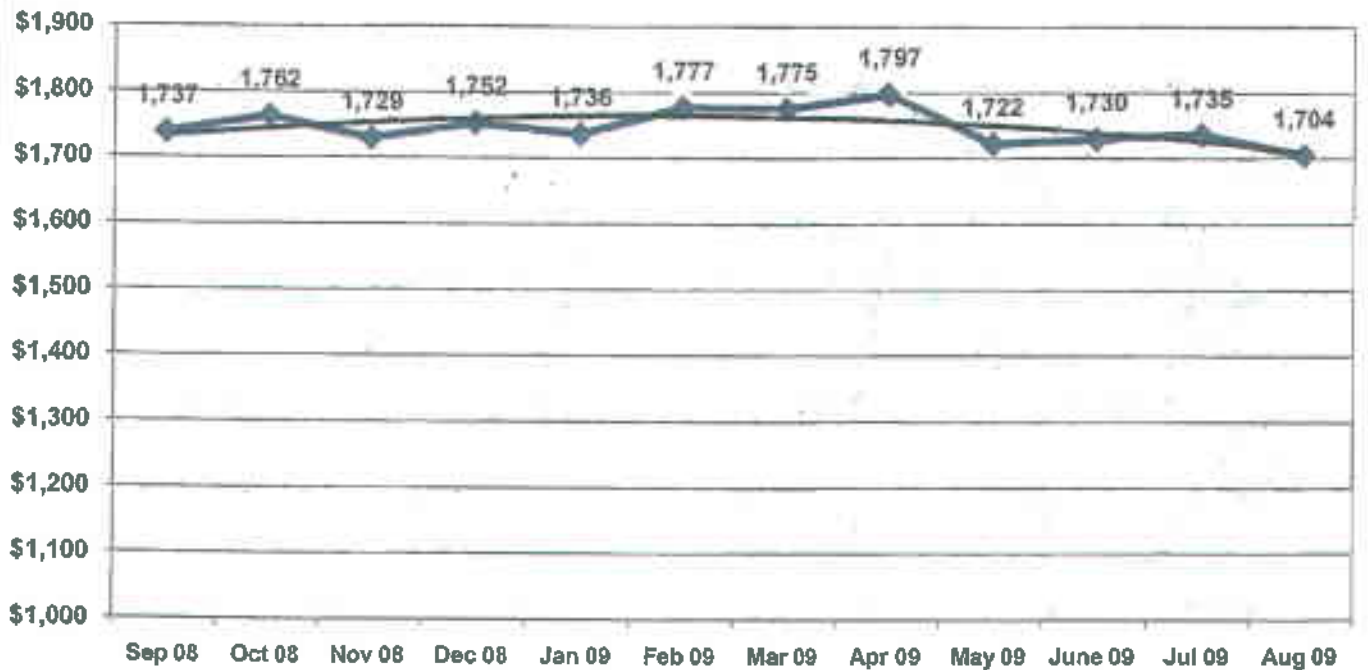
October 2009

WV CHIP Enrollment



September 30, 2009 Enrollment 24,778

Annualized Health Care Expenditures (Cost per Child)



**West Virginia Children's Health Insurance Program
Comparative Balance Sheet
August 2009 and 2008
(Accrual Basis)**

	August 31, 2009	August 31, 2008	Variance	
Assets:				
Cash & Cash Equivalents	\$11,893,246	\$8,416,580	\$3,476,666	41%
Due From Federal Government	\$3,367,341	\$2,907,462	\$459,879	16%
Due From Other Funds	\$758,797	\$639,088	\$119,709	19%
Accrued Interest Receivable	\$1,388	\$18,409	(\$17,021)	-92%
Fixed Assets, at Historical Cost	<u>\$70,282</u>	<u>\$67,286</u>	<u>\$2,996</u>	<u>4%</u>
Total Assets	<u>\$16,091,054</u>	<u>\$12,048,825</u>	<u>\$4,042,229</u>	<u>34%</u>
Liabilities:				
Due to Other Funds	\$346,138	\$276,550	\$69,588	25%
Deferred Revenue	\$2,847,518	\$735,200	\$2,112,318	287%
Unpaid Insurance Claims Liability	<u>\$3,780,000</u>	<u>\$3,270,000</u>	<u>\$510,000</u>	<u>16%</u>
Total Liabilities	<u>\$6,973,657</u>	<u>\$4,281,750</u>	<u>\$2,691,907</u>	<u>63%</u>
Fund Equity	<u>\$9,117,397</u>	<u>\$7,767,075</u>	<u>\$1,350,322</u>	<u>17%</u>
Total Liabilities and Fund Equity	<u>\$16,091,054</u>	<u>\$12,048,825</u>	<u>\$4,042,229</u>	<u>34%</u>

PRELIMINARY FINANCIAL STATEMENTS

Unaudited - For Management Purposes Only - Unaudited

West Virginia Children's Health Insurance Program
Comparative Statement of Revenues, Expenditures and Changes in Fund Balances
For the Two Months Ending August 31, 2009 and August 31, 2008
(Modified Accrual Basis)

	August 31, 2009	August 31, 2008	Variance	
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Total Operating Revenues	<u>8,038,502</u>	<u>8,110,115</u>	<u>(71,613)</u>	<u>-1%</u>
Operating Expenditures:				
Claims:				
Outpatient Services	1,824,024	1,697,416	126,608	7%
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Vision	95,287	111,252	(15,965)	-14%
Therapy	92,499	55,229	37,270	67%
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Medical Transportation	36,420	78,386	(41,966)	-54%
Other Services	12,719	21,100	(8,381)	-40%
Less: Collections*	<u>(96,075)</u>	<u>(154,225)</u>	<u>58,150</u>	<u>-38%</u>
Total Claims	<u>6,440,433</u>	<u>6,656,582</u>	<u>(216,149)</u>	<u>-3%</u>
General and Admin Expenses:				
Salaries and Benefits	88,659	84,791	3,868	5%
Program Administration	508,713	317,132	191,581	60%
Eligibility	62,335	60,572	1,763	3%
Outreach & Health Promotion	53,983	31,966	22,017	69%
Current	<u>21,010</u>	<u>17,810</u>	<u>3,200</u>	<u>18%</u>
Total Administrative	<u>734,700</u>	<u>512,271</u>	<u>222,429</u>	<u>43%</u>
Total Expenditures	<u>7,175,133</u>	<u>7,168,853</u>	<u>6,280</u>	<u>0%</u>
Excess of Revenues Over (Under) Expenditures	863,369	941,262	(77,893)	-8%
Fund Equity, Beginning	<u>8,254,028</u>	<u>6,825,813</u>	<u>1,428,215</u>	<u>21%</u>
Fund Equity, Ending	<u>9,117,397</u>	<u>7,767,075</u>	<u>1,350,322</u>	<u>17%</u>

* Collections are primarily drug rebates and subrogation

PRELIMINARY FINANCIAL STATEMENTS

Unaudited - For Management Purposes Only - Unaudited

West Virginia Children's Health Insurance Program
 Budget to Actual Statement
 State Fiscal Year 2010
 For the Two Months Ended August 31, 2009

	Budgeted for Year	Year to Date Budgeted Amt	Year to Date Actual Amt	Year to Date Variance*		Monthly Budgeted Amt	Aug-09	Jul-09
Projected Cost	\$48,693,584	\$8,115,597	\$6,319,945	\$1,795,652	22%	\$4,057,799	\$2,669,339	\$3,650,607
Premiums	305,826	50,971	45,178	\$5,793	-11%	25,486	22,984	22,194
Subrogation & Rebates	<u>623,650</u>	<u>103,942</u>	<u>96,075</u>	<u>7,866</u>	<u>-8%</u>	<u>51,971</u>	<u>47,699</u>	<u>48,376</u>
Net Benefit Cost	47,764,108	\$7,960,685	\$6,178,692	\$1,781,993	22%	3,980,342	2,598,655	3,580,037
		\$0						
Salaries & Benefits	\$581,411	\$96,902	\$88,659	\$8,243	9%	\$48,451	\$40,111	\$48,548
Program Administration	2,665,833	444,306	422,939	21,367	5%	222,153	244,220	178,719
Eligibility	295,243	49,207	27,173	22,034	45%	24,604	27,173	0
Outreach	300,000	50,000	47,183	2,817	6%	25,000	16,037	31,146
Current Expense	<u>352,772</u>	<u>58,795</u>	<u>59,243</u>	<u>(448)</u>	<u>-1%</u>	<u>29,398</u>	<u>10,312</u>	<u>48,931</u>
Total Admin Cost	\$4,195,259	\$699,210	\$645,197	\$54,013	8%	\$349,605	\$337,853	\$307,344
		0.00%						
Total Program Cost	<u>\$51,959,367</u>	<u>\$8,659,895</u>	<u>\$6,823,889</u>	<u>\$1,836,006</u>	<u>21%</u>	<u>\$4,329,947</u>	<u>\$2,936,508</u>	<u>\$3,887,381</u>
Federal Share 81.83%	42,489,772	\$7,081,629	\$5,579,841	1,501,788	21%	3,540,814	2,407,349	3,172,491
State Share 18.17%	<u>9,469,595</u>	<u>\$1,578,266</u>	<u>\$1,244,048</u>	<u>334,218</u>	<u>21%</u>	<u>789,133</u>	<u>529,159</u>	<u>714,889</u>
Total Program Cost **	<u>\$51,959,367</u>	<u>\$8,659,895</u>	<u>\$6,823,889</u>	<u>\$1,836,006</u>	<u>21%</u>	<u>\$4,329,947</u>	<u>\$2,936,508</u>	<u>\$3,887,381</u>

* Positive percentages indicate favorable variances

** Budgeted Year Based on CCRC Actuary 6/30/2009 Report

Unaudited - Cash Basis For Management Purposes Only - Unaudited

Memo for Calculations Above:

Notes:

1/ Total budgeted for Year Program costs are CCRC Actuary's Base Line Scenario dated 6/30/09 Final worksheet Net Paid Program Costs.

2/ Federal Share for FFY 2009 is 81.61%. Federal Share for FFY 2010 (10/1/09 - 9/30/10) is set at 81.83%.

WVCHIP Enrollment Report

ATTACHMENT 1

September 2009

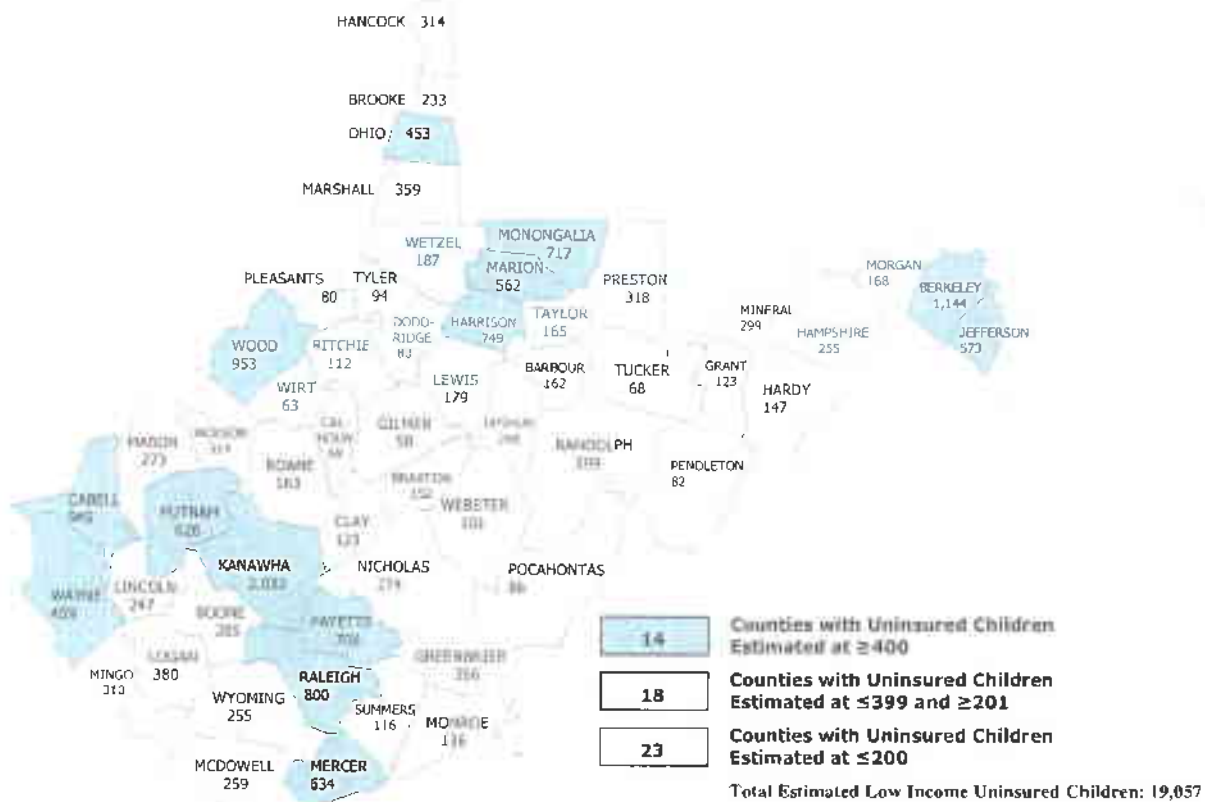
County	County Pop. 2005 Est. (0-18 Yrs)	Total CHIP Enrollment Sep-09	Total Medicaid Enrollment Sep-09	Total CHIP/Medicaid Enrollment	CHIP/Medicaid Enrollment % of Population	2009 Est. Uninsured 5%	2009 # Children Uninsured Ranking*
Kanawha	40,647	2,243	16,626	18,869	46.4%	2,032	1
Berkeley	22,882	1,303	6,970	8,273	36.2%	1,144	2
Wood	19,063	1,118	8,006	9,124	47.9%	953	3
Cabell	18,900	1,019	8,175	9,194	48.6%	945	4
Raleigh	15,992	1,307	7,179	8,486	53.1%	800	5
Harrison	14,973	938	5,814	6,752	45.1%	749	6
Monongalia	14,346	711	4,141	4,852	33.8%	717	7
Mercer	12,687	1,109	6,595	7,704	60.7%	634	8
Putnam	12,522	717	3,218	3,935	31.4%	626	9
Jefferson	11,465	421	2,486	2,907	25.4%	573	10
Marion	11,245	739	4,341	5,080	45.2%	562	11
Fayette	9,692	895	4,723	5,618	58.0%	485	12
Wayne	9,176	547	4,066	4,613	50.3%	459	13
Ohio	9,068	546	3,015	3,561	39.3%	453	14
Logan	7,610	576	3,930	4,506	59.2%	380	15
Marshall	7,176	366	2,686	3,052	42.5%	359	16
Greenbrier	7,110	586	2,841	3,427	48.2%	356	17
Preston	6,354	470	2,364	2,834	44.6%	318	18
Jackson	6,277	394	2,603	2,997	47.7%	314	19
Hancock	6,270	372	2,330	2,702	43.1%	314	20
Mingo	6,204	416	3,091	3,507	56.5%	310	21
Mineral	5,973	293	2,031	2,324	38.9%	299	22
Randolph	5,971	413	2,568	2,981	49.9%	299	23
Boone	5,706	325	2,549	2,874	50.4%	285	24
Nicholas	5,478	426	2,577	3,003	54.8%	274	25
Mason	5,461	278	2,549	2,827	51.8%	273	26
McDowell	5,170	357	3,300	3,657	70.7%	259	27
Hampshire	5,110	277	2,050	2,327	45.5%	255	28
Wyoming	5,092	432	2,621	3,053	60.0%	255	29
Upshur	4,956	427	2,241	2,668	53.8%	248	30
Lincoln	4,945	396	2,655	3,051	61.7%	247	31
Brooke	4,658	319	1,495	1,814	38.9%	233	32
Wetzel	3,732	192	1,665	1,857	49.8%	187	33
Lewis	3,577	301	1,741	2,042	57.1%	179	34
Morgan	3,365	236	1,175	1,411	41.9%	168	35
Taylor	3,307	233	1,378	1,611	48.7%	165	36
Roane	3,266	271	1,710	1,981	60.6%	163	37
Barbour	3,248	272	1,567	1,839	56.6%	162	38
Braxton	3,044	234	1,522	1,756	57.7%	152	39
Hardy	2,950	159	1,174	1,333	45.2%	147	40
Monroe	2,728	203	1,050	1,253	45.9%	136	41
Grant	2,463	162	902	1,064	43.2%	123	42
Clay	2,454	199	1,370	1,569	63.9%	123	43
Summers	2,322	201	1,157	1,358	58.5%	116	44
Ritchie	2,234	132	956	1,088	48.7%	112	45
Webster	2,020	167	1,182	1,349	66.8%	101	46
Tyler	1,887	136	745	881	46.7%	94	47
Pocahontas	1,717	144	674	818	47.6%	86	48

WVCHIP Enrollment Report

September 2009

ATTACHMENT 1

County	County Pop 2005 Est. (0-18 Yrs)	Total CHIP Enrollment Sep-09	Total Medicaid Enrollment Sep-09	Total CHIP/Medicaid Enrollment	CHIP/Medicaid Enrollment % of Population	2009 Est Uninsured 5%	2009 # Children Uninsured Ranking*
Pendleton	1,632	96	480	576	35.3%	82	49
Doddridge	1,607	132	743	875	54.4%	80	50
Pleasants	1,593	98	549	647	40.6%	80	51
Calhoun	1,389	129	864	993	71.5%	69	52
Tucker	1,354	147	493	640	47.3%	68	53
Wirt	1,268	113	562	675	53.2%	63	54
Gilmer	1,154	85	599	684	59.3%	58	55
Totals	382,490	24,778	156,094	180,872	47.3%	19,125	



Note 1: The most recent estimate for all uninsured children statewide from the US Census Current Population Survey is 4.6%. It should be noted that even this five percent extrapolation to the county level could vary significantly from county to county depending on the availability of employee sponsored insurance. However, it remains our best gross estimate of the remaining uninsured children.

Note 2: It has been estimated that 7 of 10 uninsured children qualify or may have qualified for CHIP or Medicaid in the past. WVCHIP uses the 5% uninsured estimate as a target number for outreach.

Legislative Oversight Commission on
Health and Human Resources Accountability

OCTOBER 2009

Department of Administration

State Children's Health Insurance Program
UPDATE



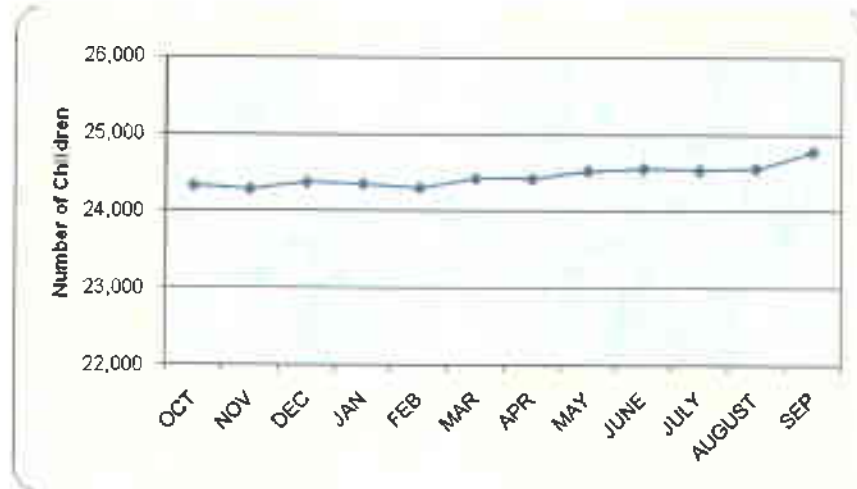
WV CHILDREN'S HEALTH INSURANCE AGENCY

REPORT FOR OCTOBER 2009

I. Enrollment on September 2009: 24,778

See Attachment 1 for enrollment by county.

Current 12-Month Enrollment Period: October 2008 through September 2009



Enrollee Totals: July 2009 to September 2009

Month	Total	1 Year	Total
July	1,609	Average	1,774
August	1,770	High	2,074
September	1,975	Low	1,474

New Enrollee (Never Before on CHIP) Totals: July 2009 to September 2009

Month	Total	1 Year	Total
July	639	Average	721
August	705	High	812
September	734	Low	630

II. Re-enrollment for 3 Month Period: June 2009 to August 2009

Total Forms Mailed		Enrolled within Notice Period		Reopened Cases After Closure		Final Closures	
Month	Total	#	%	#	%	#	%
June	1,714	1,052	61%	129	8%	496	29%
July	1,983	1,067	54%	240	12%	496	31%
August	1,925	1,159	60%	190	10%	517	27%

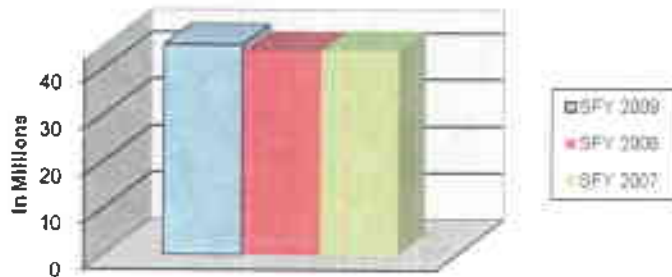
III. Financial Activity

Please see this month's financial statement at Attachment 2.

The average annualized claims cost per child for the month ended August 2009 was \$1,848.

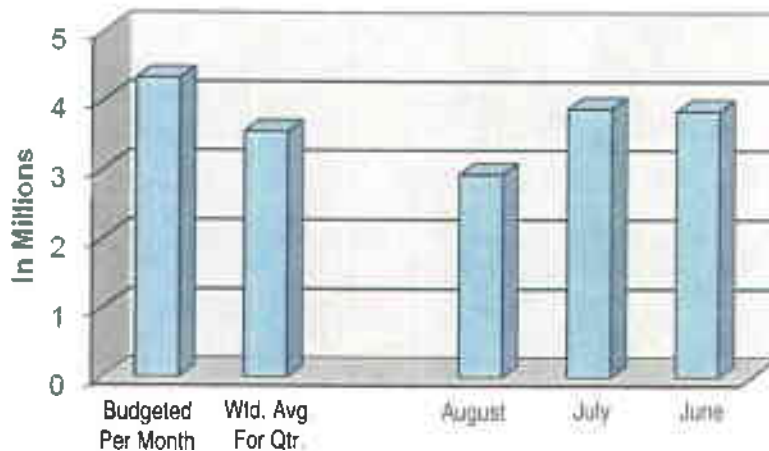
Annual Expenditures for a 3 Year Period: SFY 2007 – SFY 2009

	SFY 2009	FFP% 2009	SFY 2008	FFP% 2008	SFY 2007	FFP% 2007
Federal	37,550,029	81.61	35,626,232	81.98	35,472,537	80.97
State	8,417,193	18.39	7,947,861	18.02	8,336,944	19.03
Total Costs	45,967,222	100.00	43,574,093	100.00	43,809,481	100.00



Monthly Budgeted and Current 3 Month Period: June 2009 – August 2009

	Budgeted Per Month	Wtd. Avg. For Qtr.	Actual		
			August 2009	July 2009	June 2009
Federal	3,540,814	2,907,411	2,407,349	3,172,491	3,142,392
State	789,133	650,718	529,159	714,889	708,107
Total	4,329,947	3,558,129	2,936,508	3,887,380	3,850,499



IV. Other Highlights

- ◆ On September 30, WVCHIP ended Federal Fiscal Year 2009 having spent \$25.3 million of its \$43.26 million 2009 allotment leaving a carry forward balance of \$17.9 million. Any 2009 federal funds unused by September 30, 2010, must be returned for a special CHIPRA federal fund for other states with shortfalls.
- ◆ The advertising campaign for WVCHIP Premium concluded at the end of September. Premium enrollment grew from 473 in April when the campaign started to 960, or an increase of 103%.
- ◆ A coalition of community groups led by the West Virginia Alliance for Sustainable Families has been awarded a grant of \$330,700 from the United States Department of Health and Human Services under the CHIPRA Outreach and Enrollment grant funds. WVCHIP and DHHR will provide data and some technical support as part of this effort.

WVCHIP Enrollment Report

ATTACHMENT 1

September 2009

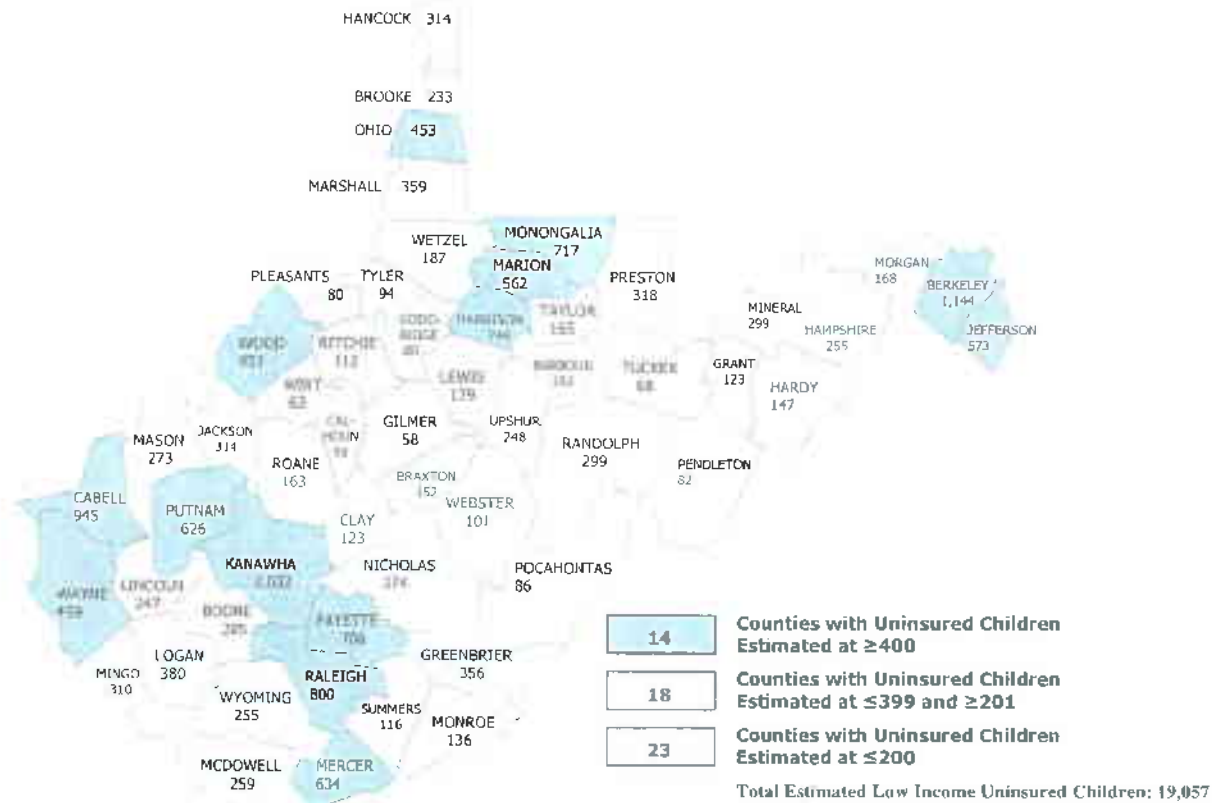
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WVCHIP Enrollment Report

ATTACHMENT 1

September 2009

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Vision	95,287	111,252	(15,965)	-14%
Therapy	92,499	55,229	37,270	67%
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Medical Transportation	36,420	78,386	(41,966)	-54%
Other Services	12,719	21,100	(8,381)	-40%
Less: Collections*	<u>(96,075)</u>	<u>(154,225)</u>	<u>58,150</u>	-38%
Total Claims	<u>6,440,433</u>	<u>6,656,582</u>	<u>(216,149)</u>	-3%
General and Admin Expenses:				
Salaries and Benefits	88,659	84,791	3,868	5%
Program Administration	508,713	317,132	191,581	60%
Eligibility	62,335	60,572	1,763	3%
Outreach & Health Promotion	53,983	31,966	22,017	69%
Current	<u>21,010</u>	<u>17,810</u>	<u>3,200</u>	<u>18%</u>
Total Administrative	<u>734,700</u>	<u>512,271</u>	<u>222,429</u>	<u>43%</u>
Total Expenditures	<u>7,175,133</u>	<u>7,168,853</u>	<u>6,280</u>	<u>0%</u>
Excess of Revenues				
Over (Under) Expenditures	863,369	941,262	(77,893)	-8%
Fund Equity, Beginning	<u>8,254,028</u>	<u>6,825,813</u>	<u>1,428,215</u>	<u>21%</u>
Fund Equity, Ending	<u>9,117,397</u>	<u>7,767,075</u>	<u>1,350,322</u>	<u>17%</u>

* Collections are primarily drug rebates and subrogation

PRELIMINARY FINANCIAL STATEMENTS

Unaudited - For Management Purposes Only - Unaudited

**West Virginia Children's Health Insurance Program
Comparative Balance Sheet
August 2009 and 2008
(Accrual Basis)**

	August 31, 2009	August 31, 2008	Variance	
Assets:				
Cash & Cash Equivalents	\$11,893,246	\$8,416,580	\$3,476,666	41%
Due From Federal Government	\$3,367,341	\$2,907,462	\$459,879	16%
Due From Other Funds	\$758,797	\$639,088	\$119,709	19%
Accrued Interest Receivable	\$1,388	\$18,409	(\$17,021)	-92%
Fixed Assets, at Historical Cost	<u>\$70,282</u>	<u>\$67,286</u>	<u>\$2,996</u>	<u>4%</u>
Total Assets	<u>\$16,091,054</u>	<u>\$12,048,825</u>	<u>\$4,042,229</u>	<u>34%</u>
Liabilities:				
Due to Other Funds	\$346,138	\$276,550	\$69,588	25%
Deferred Revenue	\$2,847,518	\$735,200	\$2,112,318	287%
Unpaid Insurance Claims Liability	<u>\$3,780,000</u>	<u>\$3,270,000</u>	<u>\$510,000</u>	<u>16%</u>
Total Liabilities	<u>\$6,973,657</u>	<u>\$4,281,750</u>	<u>\$2,691,907</u>	<u>63%</u>
Fund Equity	<u>\$9,117,397</u>	<u>\$7,767,075</u>	<u>\$1,350,322</u>	<u>17%</u>
Total Liabilities and Fund Equity	<u>\$16,091,054</u>	<u>\$12,048,825</u>	<u>\$4,042,229</u>	<u>34%</u>

PRELIMINARY FINANCIAL STATEMENTS

Unaudited - For Management Purposes Only - Unaudited

West Virginia Children's Health Insurance Program
WVFIMS Fund 2154
For the Month Ended August 31, 2009
(Accrual Basis)

Investment Account

Funds Invested	\$11,783,707
Interest Earned	<u>1,388</u>
Total	<u>\$11,785,095</u>

Unaudited - For Management Purposes Only - Unaudited

Department of Administration Real Estate Division Leasing Report
For the period of September 1, 2009 through September 30, 2009

NEW CONTRACT OF LEASE

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

HHR-197 New contract of lease for 3 years containing 200 square feet of warehousing/storage space at the rate of \$92.00 per month, in the City of Williamson, Mingo County, West Virginia.

HHR-198 New contract of lease for 3 years containing 600 square feet of warehousing/storage space at the rate of \$370.00 per month, in the City of Fairmont, Marion County, West Virginia.

NEW RIVER COMMUNITY AND TECHNICAL COLLEGE

NRC-016 New contract of lease for 5 years consisting of 120 square feet of office space, at the rate of \$300.00 per month, full service, in the City of Marlinton, Pocahontas County, West Virginia.

WEST VIRGINIA DEVELOPMENT OFFICE

CID-008 New contract of lease for 1 year containing 384 square feet of office space, at the rate of \$384.00 per month, full service, in the City of Moorefield, Hardy County, West Virginia.

STRAIGHT RENEWALS

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

HHR-171 Renewal for 3 years containing 1,940 square feet of office space, at the current annual PSF rate of \$8.79, full service, in the City of Wheeling, Ohio County, West Virginia.

HHR-144 Renewal for 1 year containing 3,837 square feet of classroom space, at the current annual PSF rate of \$6.63, full service, in the City of Clarksburg, Harrison County, West Virginia.

HHR-129 Renewal for 5 years consisting of an antenna site, at the current rate of \$125.00 per month, in the City of Elkins, Randolph County, West Virginia.

HHR-130 Renewal for 3 years containing 250 square feet of storage space, at the current rate of \$75.00 per month, in the City of Fairmont, Marion County, West Virginia.

CONTINUATION OF STRAIGHT RENEWALS

HHR-143 Renewal for 3 years containing 100 square feet of storage space, at the current rate of \$50.00 per month, in the City of Princeton, mercer county, West Virginia.

HHR-175 Renewal for 5 years containing 1,000 square feet of storage space, at the current annual PSF rate of \$3.00, in the City of Big Chimney, Kanawha County, West Virginia.

HHR-177 Renewal for 1 year containing 14,000 square feet of office space, at the current annual PSF rate of \$11.71, in the City of Clarksburg, Harrison County, West Virginia.

WEST VIRGINIA CONSERVATION AGENCY

SCC-004 Renewal for 1 year containing 303 square feet of office space, at the current rate of \$198.21 per month, full service, in the City of Gassaway, Braxton County, West Virginia.

EDUCATIONAL BROADCASTING AUTHORITY

EBA-019 Renewal for 10 years containing 100 square feet of ground for tower/monitoring space, at the current annual rate of \$1.00, in the City of Kirkwood Heights, Shelby County, Ohio.

DIVISION OF VETERANS AFFAIRS

VET-025 Renewal for 1 year containing 646 square feet of office space, at the current annual PSF rate of \$5.57, full service with parking, in the City of Elkins, Randolph County, West Virginia.

DIVISION OF FORESTRY

FOR-040 Renewal for 3 years containing 168 square feet of office space, at the current rate of \$125.00 per month, including water, sewer and electrical services, in the city of Marlinton, Pocahontas County, West Virginia.

COAL HERITAGE HIGHWAY AUTHORITY

CHH-001 Renewal for 1 year containing 1,450 square feet of office space at the current annual PSF rate of \$6.99, full service excluding natural gas, in the City of Beckley, Raleigh County, West Virginia.

NEW CONTRACT OF LEASE-DOA/RED OWNED BUILDINGS

WV GEOLOGICAL AND ECONOMIC SURVEY

GES-002 New contract of lease for 1 year containing 1,188 square feet of office space, at the annual PSF rate of \$14.50, full service, in the City of Charleston, Kanawha County, West Virginia.

STATE TAX DEPARTMENT

TAX-054 New contract of lease for 1 year containing 17,503 square feet of office space, at the annual PSF rate of \$14.50, full service in the City of Charleston, Kanawha County, West Virginia.

INSURANCE COMMISSION

INS-029 New Contract of lease for 1 year containing 3,369 square feet of office space, at the annual PSF rate of \$14.50, full service, in the City of Charleston, Kanawha County, West Virginia.

INS-028 New Contract of Lease for 1 year, containing 43,926 square feet of office space, at the annual PSF rate of \$14.50, full service, in the City of Charleston, Kanawha County, West Virginia.

STRAIGHT RENEWALS-DOA/RED OWNED BUILDINGS

WORKFORCE WEST VIRGINIA

WWV-007 Renewal for 1 year containing 67,937 square feet of office space, at the current annual PSF rate of \$9.03, full service, in the City of Charleston, Kanawha County, West Virginia.

GOVERNOR JOE MANCHIN, III

MAN-001 Renewal for 1 consisting of warehousing/storage space, at the current rate of \$115.00 per month, full service, in the City of Charleston, Kanawha County, West Virginia.

MARSHALL UNIVERSITY

MAR-024 Renewal for 1 year containing 282 square feet of office space, at the current rate of \$305.50 per month, full service with parking, in the City of Weirton, Hancock County, West Virginia.

CONTINUATION OF STRAIGHT RENEWALS-DOA/RED OWNED BUILDINGS

DIVISION OF MOTOR VEHICLES

DMV-013 Renewal for 1 year containing 31,600 square feet of office space, at the current annual PSF rate of \$9.50, full service, in the City of Charleston, Kanawha County, West Virginia.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

HHR-133 Renewal for 1 year containing 30,902 square feet of office space, at the current annual PSF rate of \$14.75, full service, in the City of Beckley, Raleigh County, West Virginia.

DIVISION OF CORRECTIONS

COR-015 Renewal for 1 year containing 11,301 square feet of office space, at the annual PSF rate of \$8.50, full service, in the City of Charleston, Kanawha County, West Virginia.

CANCELLATION

OFFICE OF THE ADJUTANT GENERAL

ADG-018 Lease cancellation effective October 31, 2009 containing 3,588 square feet of classroom space in the City of Martinsburg, Berkeley County, West Virginia.

WEST VIRGINIA GEOLOGICAL AND ECONOMIC SURVEY

GES-001 Lease cancellation effective September 10, 2009 containing 1,188 square feet of office space in the City of Charleston, Kanawha County, West Virginia.

STATE TAX DEPARTMENT

TAX-044 Lease cancellation effective September 10, 2009 containing 17,503 square feet of office space in the City of Charleston, Kanawha County, West Virginia.

INSURANCE COMMISSION

INS-025 Lease cancellation effective September 10, 2009 containing 3,369 square feet of office space in the City of Charleston, Kanawha County, West Virginia.

INS-004 Lease cancellation effective September 10, 2009 containing 43,926 square feet of office space in the City of Charleston, Kanawha County, West Virginia.

Joint Committee on Government and Finance

October 2009

Department of Health and Human Resources

MEDICAID REPORT

August 2009 Data

WV DEPARTMENT OF HEALTH AND HUMAN RESOURCES
 BUREAU FOR MEDICAL SERVICES
 EXPENDITURES BY PROVIDER TYPE
 SFY2010

MONTH OF AUGUST 2009	ACTUALS	TOTAL	ACTUALS	ESTIMATE	ACTUALS	PROJECTED
	SFY2009	SFY2010	Current Month Aug-09	Current Month Aug-09	Year To-Date Thru 8/31/09	9/1/09 Thru 08/30/10
EXPENDITURES:						
Inpatient Hospital Services	260,948,891	261,333,909	14,363,921	11,653,723	42,005,090	209,328,819
Inpatient Hospital Services - DSH Adjustment Payments	54,483,643	55,411,879	13,637,185	13,882,920	13,637,185	41,774,494
Mental Health Facilities	47,960,442	55,723,241	3,722,858	4,290,260	8,991,468	48,731,783
Mental Health Facilities - DSH Adjustment Payments	18,768,469	19,055,764	4,631,762	4,783,938	4,631,762	14,423,992
Nursing Facility Services	464,023,240	491,140,076	38,777,595	40,905,978	76,780,268	414,369,778
Intermediate Care Facilities - Public Providers	-	-	-	-	-	-
Intermediate Care Facilities - Private Providers	63,246,071	63,402,719	6,473,360	5,283,560	10,718,584	52,686,136
Physicians Services	143,420,126	148,725,647	9,621,067	10,144,000	27,331,655	121,394,092
Outpatient Hospital Services	120,824,371	118,210,034	9,607,221	9,109,368	22,372,525	95,837,509
Prescribed Drugs ***	341,993,862	367,903,203	24,213,761	28,579,468	58,734,115	311,169,088
Drug Rebate Offset - National Agreement	(130,851,220)	(128,794,904)	(811,245)	(2,273,603)	(26,654,277)	(100,140,627)
Drug Rebate Offset - State Sidebar Agreement	(30,810,728)	(30,333,652)	(164,692)	(344,401)	(4,818,600)	(25,814,782)
Dental Services ***	40,380,098	48,910,914	3,260,858	3,771,696	7,230,608	41,680,006
Other Practitioners Services	22,381,183	16,654,860	1,791,303	1,357,608	4,103,613	12,851,287
Clinic Services	39,855,489	47,368,723	3,708,577	3,656,132	11,605,615	35,863,108
Lab & Radiological Services	10,177,238	10,861,703	824,847	869,020	2,059,056	8,802,647
Home Health Services	32,681,694	36,714,202	2,922,194	2,884,444	8,004,016	28,710,188
Hysterectomies/Sterilizations	516,259	674,162	40,810	44,266	85,921	483,231
Pregnancy Terminations	-	-	-	-	-	-
EPSDT Services	2,247,631	2,600,158	156,698	200,462	348,785	2,263,400
Rural Health Clinic Services	7,793,506	8,543,403	893,420	862,740	1,164,118	7,379,287
Medicare Health Insurance Payments - Part A Premiums	14,821,458	19,088,438	1,408,878	1,690,703	2,809,053	16,279,383
Medicare Health Insurance Payments - Part B Premiums	70,371,344	82,278,341	6,862,864	6,866,362	11,726,819	70,549,522
120% - 134% Of Poverty	4,405,674	72,272	401,766	5,660	795,396	(723,124)
135% - 175% Of Poverty	-	-	-	-	-	-
Coinurance And Deductibles	-	-	-	-	-	-
Medicaid Health Insurance Payments: Managed Care Organizations (MCO)	294,697,012	295,059,331	24,884,263	22,088,278	83,739,345	211,319,888
Medicaid Health Insurance Payments: Group Health Plan Payments	393,790	415,652	38,719	31,888	72,000	343,852
Home & Community-Based Services (MR/DD)	233,468,653	256,020,150	20,334,498	19,763,160	41,453,921	215,466,229
Home & Community-Based Services (Aged/Disabled)	80,034,343	89,764,024	7,085,776	6,907,232	15,223,200	74,670,824
Community Supported Living Services	-	-	-	-	-	-
Programs Of All-Inclusive Care Elderly	-	-	-	-	-	-
Personal Care Services	37,673,665	42,560,034	3,223,584	3,277,420	6,735,513	35,844,521
Targeted Case Management Services	4,309,095	5,616,714	316,741	436,720	641,863	4,974,891
Primary Care Case Management Services	609,744	691,427	38,253	53,188	79,369	615,038
Hospice Benefits	14,499,070	15,246,730	1,033,785	1,172,824	2,360,234	12,886,498
Emergency Services Undocumented Aliens	69,318	-	12,808	-	46,180	(46,180)
Federally Qualified Health Center	18,781,540	20,217,292	1,241,104	1,585,244	2,865,747	17,361,645
Other Care Services	128,150,632	130,656,164	11,844,821	10,180,812	24,861,438	105,998,726
Less: Recoupments	-	-	(275,858)	-	(430,505)	430,505
NET EXPENDITURES:	2,410,198,304	2,518,142,805	213,876,943	213,118,170	429,203,984	2,088,936,821
Collections: Third Party Liability (line 9A on CMS-64)	(6,038,342)	-	-	-	-	-
Collections: Probate (line 9B on CMS-64)	(122,220)	-	-	-	-	-
Collections: Identified Through Fraud & Abuse Effort (line 9C on CMS-64)	(13,769)	-	-	-	-	-
Collections: Other (line 9D on CMS-64)	(6,609,009)	-	-	-	-	-

NET EXPENDITURES and CMS-64 ADJUSTMENTS:

Plus: Medicaid Part D Expenditures
 Plus: State Only Medicaid Expenditures

2,398,512,984	2,515,142,805	213,875,543	213,118,170	429,203,984	2,085,838,821
27,747,852	31,999,237	2,678,689	2,461,460	7,857,493	24,141,744
4,583,431	3,846,891	455,428	289,548	891,886	2,959,025

TOTAL MEDICAID EXPENDITURES

2,430,844,047	\$2,550,988,733	\$217,007,840	\$215,869,198	\$437,953,343	\$2,113,035,390
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Plus: Reimbursables ⁽¹⁾

4,329,882	4,787,584	357,830	335,665	908,421	3,878,142
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TOTAL EXPENDITURES

\$2,435,173,930	\$2,558,778,296	\$217,365,671	\$216,204,863	\$438,861,764	\$2,116,914,532
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(1) This amount will revert to State Only if not reimbursed.

*** CMS is currently reviewing portions of these payments. Until review is completed these expenses will be classified as state-only on the CMS-64. With all outside reviews, there is a potential for a portion of these costs to remain state-only if any of them are disallowed.

WV DEPARTMENT OF HEALTH AND HUMAN RESOURCES
 BUREAU FOR MEDICAL SERVICES
 MEDICAID CASH REPORT
 SFY2010

MONTH OF AUGUST 2009

	ACTUALS	ACTUALS	ACTUALS	PROJECTED	TOTAL
	SFY2009	Current Month Ended 8/31/09	Year-To-Date Thru 8/31/09	9/1/2009 Thru 6/30/10	SFY2010
REVENUE SOURCES					
Beg. Bal. (5084/1020 prior mth)	34,933,056	105,043,437	\$116,583,948	0	\$116,583,948
MATCHING FUNDS					
General Revenue (0403/189)	393,705,687	13,688,998	27,337,997	239,977,571	267,315,568
MRDD Waiver (0403/466)	-	5,356,889	10,713,798	69,639,685	80,353,483
Rural Hospitals Under 150 Beds (0403/940)	2,596,000	216,333	432,687	2,163,333	2,596,000
Tertiary Funding (0403/547)	4,856,000	529,687	1,059,334	5,296,668	6,356,000
Lottery Waiver (Less 550,000) (5405/539)	23,272,578	6,450,000	6,450,000	16,822,578	23,272,578
Lottery Transfer (5405/871)	10,300,000	2,500,000	2,500,000	8,170,000	8,670,000
Trust Fund Appropriation (5185/189)	19,784,219		0	30,556,594	30,556,594
Provider Tax (5090/189)	165,400,000	14,100,000	26,100,000	138,558,290	164,658,290
Certified Match	19,399,722	1,373,492	3,558,186	12,274,154	15,830,340
Reimbursables - Amount Reimbursed	4,348,906	353,003	503,313	4,284,251	4,787,564
Other Revenue (MWIN, Escheated Warrants, etc.) 5084/4010 & 4011	428,344	39,313	78,182	(78,182)	0
CMS - 84 Adjustments	1,098,690		0	0	0
TOTAL MATCHING FUNDS	680,123,202	\$149,631,142	\$185,315,425	\$ 526,664,940	\$720,980,365
FEDERAL FUNDS	1,874,489,691	\$177,285,786	\$353,151,676	\$ 1,740,145,460	\$2,093,297,135
TOTAL REVENUE SOURCES	2,554,612,693	\$326,626,928	\$548,467,101	\$ 2,265,810,400	\$2,814,277,500
TOTAL EXPENDITURES:					
Provider Payments	2,435,173,930	\$217,365,671	\$438,861,764	\$ 2,116,914,532	\$2,555,776,296
TOTAL	119,438,964	\$109,561,257	\$109,605,336	148,895,868	\$258,501,204

Note: FMAP (09' - 83.05% applicable July - Sept. 2009) (10' - 83.05% applicable Oct. 2009 - June 2010)
 (1) This amount will revert to State Only if not reimbursed.



**West Virginia
Pharmaceutical Cost Management Council**

LEGISLATIVE

SEP 24 2009

MEMORANDUM

MANAGER

**TO: Joint Committee on Government and Finance
Committee Members**

**FROM: Shana Kay Phares
Former Chairperson and Acting Pharmaceutical Advocate**

RE: 2008 Prescription Drug Advertising Expense Report - Data Summary

DATE: September 24, 2009

Enclosed is the West Virginia Pharmaceutical Cost Management Council's 2008 Prescription Drug Advertising Expense Report - Data Summary. Because of legislative changes, this will be the final report filed by the Council. Thank you.

SKP:dkw

Enclosure

The West Virginia Pharmaceutical Cost Management Council

2008 Prescription Drug Advertising Expense Report

Data Summary

On April 14, 2008, the Prescription Drug Advertising Expense Reporting Rule, WV CSR 206-1, became a permanent rule following passage by the Legislature during the regular 2008 Legislative Session, signature by the Governor and final filing by the agency.

Contextual facts to understand the data:

- The reporting period covers calendar year 2008.
- 126 pharmaceutical manufacturers and labelers filed reports, several on behalf of a larger corporate group, as permitted in the Legislative Rule.
- The West Virginia Board of Medicine reports that there are 3,830 medical doctors and podiatrists licensed and practicing in West Virginia. The West Virginia Board of Osteopathy reports that there are 745 osteopathic doctors practicing in West Virginia. The West Virginia Board of Nursing reports that there are 577 nurse practitioners with prescribing authority in West Virginia.
- Under both the statute (W.Va. Code 5A-3C-13) and Legislative Rule (CSR 201-1), only aggregated data may be disclosed to the public.
- Last year, the reporting period covered six months, from July – December 2007.

Aggregated data:

- 126 manufacturers and labelers filed reports under the Legislative Rule with 94 reports indicating spending activities in West Virginia. Last year, 111 companies reported.
- Companies reported making 15,956 gifts, grants, or payments to West Virginia prescribers from January – December 2008. Companies reported a cumulative gift, grant and payment amount for the annual period so a

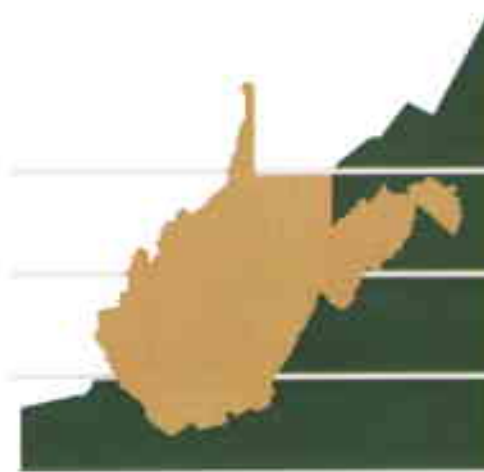
prescriber may have received several payments from the individual company that result in the amount reported. Prescribers may also have received payments from multiple companies. Payments, as discussed in this summary, mean the total amount of money from an individual company to a prescriber during the reporting period. Last year, companies reported making payments to **14,933** prescribers in the over the six month reporting period of 2007.

- There are **4,575** doctors and **577** nurse practitioners with prescribing authority and **15,380** payments were made; therefore some prescribers received payments from multiple companies and some prescribers may have not received any payments. **The average number of reportable payments for each prescriber is nearly 3.**
- The highest amount paid to an individual prescriber by a single company in the annual reporting period fell in the **\$125,001 - \$127,500** payment category. One prescriber received this level of payment. **A total of 4 West Virginia prescribers received more than \$100,000 from single companies in 2008.** Since the reports do not identify the prescriber, the actual highest amount received by a West Virginia prescriber from reporting companies is unknown. It is possible that some of these prescribers received funds from multiple companies, which would make these totals larger.
- **45** payments of more than **\$20,000** were made to prescribers from individual companies.
- **598** payments of **\$2,500** or more were made to prescribers from individual companies.
- **15,358** payments were made from individual companies to prescribers in the lowest payment category of **\$100 - \$2,500.**
- Total reported payments to pharmacies: **\$99,798.** In 2007, \$13,469.10 was reported in the six month reporting period.
- Total reported payments to patient advocacy groups operating in West Virginia: **\$11,500** (payment from 1 company to 1 group). In 2007, \$31,675 was reported in the six month reporting period.
- Total reported direct-to-consumer (DTC) advertising and reportable expenses targeting West Virginians: **\$33,254,788.** Last year, total DTC and reportable expenses totaled \$16,019,154 in the six month reporting period. DTC spending in West Virginia appears to be continuing at a rate similar to 2007.

- **DTC advertising was highly concentrated in a small number of drugs, with about 20 drugs receiving the vast majority of DTC expenditures.**

Notes on reporting issues:

- **Most companies made good faith efforts to report the data; a very small number of companies (less than 5) made less than complete reports and were asked to supplement. A few companies took excessively narrow reporting positions on certain categories, which might require additional guidance to ensure fair and accurate reporting.**
- **Large drug companies are now tracking all payments in excess of \$100 under the PhRMA Code.**
- **Many companies did not report indirect payments to prescribers, often channeled through medical education or market research companies. These amounts appear to be significant in some cases.**



West Virginia Investment Management Board
Monthly Performance Report
August 31, 2009

West Virginia Investment Management Board

Participant Plans Allocation & Performance

As of August 31, 2009

	Asset \$	%	Performance %							
			1 Month	3 Month	FYTD	1 Year	3 Year	5 Year	10 Year	
WVIMB Fund Assets	9,933,610,492	100.0								
Pension Assets	7,978,119,302	80.3								
Public Employees' Retirement System	3,523,069,268	35.5	3.0	10.2	9.1	-6.1	-0.5	4.3	4.6	
Teachers' Retirement System	3,792,982,117	38.2	2.9	9.7	8.8	-6.9	-1.2	3.9	4.4	
Teachers' Employers Cont. Collection A/C	26,638,571	0.3	0.0	0.1	0.0	0.7	-	-	-	
EMS Retirement System	19,049,975	0.2	3.0	10.0	9.0	-5.7	-	-	-	
Public Safety Retirement System	391,417,518	3.9	3.0	10.1	9.1	-6.2	-0.5	4.2	4.7	
Judges' Retirement System	95,715,390	1.0	3.0	10.1	9.1	-6.1	-0.5	4.2	4.6	
State Police Retirement System	44,757,053	0.5	3.0	10.1	9.0	-5.8	-0.4	4.3	4.6	
Deputy Sheriffs' Retirement System	84,489,410	0.9	3.0	10.1	9.1	-6.0	-0.4	4.3	4.7	
Insurance Assets	1,406,424,377	14.2								
Workers' Compensation Old Fund	709,198,644	7.1	2.3	8.0	6.8	-1.9	1.5	-	-	
Workers' Comp. Self-Insured Guaranty Risk Pool	7,178,734	0.1	0.0	0.1	0.0	0.7	3.3	-	-	
Workers' Comp. Uninsured Employers Fund	8,611,294	0.1	0.0	0.1	0.0	0.7	3.3	-	-	
Pnuemoconiosis	236,192,791	2.4	2.0	7.5	6.1	-0.4	1.9	-	-	
Board of Risk & Insurance Mgmt.	112,120,225	1.1	2.1	7.8	6.3	3.7	3.2	-	-	
Public Employees' Insurance Agency	121,866,667	1.2	1.9	7.4	5.9	1.1	2.4	-	-	
WV Retiree Health Benefit Trust Fund	211,256,022	2.1	1.7	7.0	5.3	7.1	-	-	-	
Endowment Assets	549,066,813	5.5								
Wildlife Fund	33,892,054	0.3	3.0	10.2	9.1	-6.0	-0.4	4.3	5.4	
Prepaid Tuition Trust	76,924,156	0.8	3.3	11.4	10.3	-2.4	0.9	5.1	5.5	
Prepaid Tuition Trust Escrow	11,520	0.0	-	-	-	-	-	-	-	
Revenue Shortfall Reserve Fund	178,937,518	1.8	3.1	10.2	9.3	-8.0	-1.3	-	-	
Revenue Shortfall Reserve Fund - Part B	259,301,565	2.6	3.0	10.0	9.0	-8.5	-1.3	-	-	

West Virginia Investment Management Board

Composite Asset Allocation & Performance Net of Fees

As of August 31, 2009

	Asset \$	%	Performance %							
			1 Month	3 Month	FYTD	1 Year	3 Year	5 Year	10 Year	
Investment Pools Composite	9,938,348,827	100.00								
Total Equity Composite	4,830,742,683	48.61	4.37	14.16	13.66	-12.81	-3.60	4.20	3.39	
<i>Total Equity Policy Index</i>			3.65	12.35	12.76	-16.15	-4.97	3.27	2.31	
Excess Return			0.72	1.81	0.90	3.34	1.37	0.93	1.08	
US Equity Composite	2,329,103,517	23.44	3.32	12.18	11.39	-19.43	-6.07	1.34	1.72	
<i>Russell 3000 Index</i>			3.57	12.01	11.63	-18.62	-5.66	1.04	0.06	
Excess Return			-0.25	0.17	-0.24	-0.81	-0.41	0.30	1.66	
Large Cap Composite	1,961,494,601	19.74	3.57	12.41	11.50	-18.97	-6.03	0.63	-0.82	
<i>S&P 500</i>			3.61	11.67	11.45	-18.25	-5.78	0.49	-0.79	
Excess Return			-0.04	0.74	0.05	-0.72	-0.25	0.14	-0.03	
Non-Large Cap Composite	367,608,916	3.70	2.00	11.00	10.81	-21.43	-6.31	2.28	5.94	
<i>Russell 2500 Index</i>			4.09	14.76	13.48	-19.71	-5.19	2.89	5.53	
Excess Return			-2.09	-3.76	-2.67	-1.72	-1.12	-0.61	0.41	
International Equity Composite	2,501,639,166	25.17	5.36	16.08	15.85	-6.04	0.04	9.06	6.34	
<i>MSCI AC World ex USA</i>			3.72	12.67	13.89	-13.96	-2.41	8.18	4.01	
Excess Return			1.64	3.41	1.96	7.92	2.45	0.88	2.33	
Fixed Income Composite	2,851,323,381	28.69	1.62	7.26	5.36	5.85	4.07	4.15	6.55	
<i>Fixed Income Policy</i>			1.16	3.86	3.08	7.38	6.19	4.87	6.26	
Excess Return			0.46	3.40	2.28	-1.53	-2.12	-0.72	0.29	
TRS Annuity	200,408,245	2.02	0.37	1.12	0.75					
Cash Composite	206,982,709	2.08	0.02	0.06	0.03	0.79	3.26	3.38	3.30	
<i>Citigroup 90 Day T-Bill + 15bps</i>			0.02	0.07	0.04	0.66	2.92	3.14	3.22	
Excess Return			0.00	-0.01	-0.01	0.13	0.34	0.24	0.08	
Private Equity Composite	619,753,723	6.24	1.81	4.05	3.67	-19.25				
Real Estate Composite	37,780,688	0.38	0.20	0.72	0.87	-14.37				
Hedge Funds Composite	1,191,357,399	11.99	1.30	5.08	3.37	-2.03				

West Virginia Investment Management Board

Participant Plans Allocation vs. Targets

As of August 31, 2009

	Large Cap		Non-Large Cap		Int'l Equity		Fixed Income		Private Equity		Real Estate		Hedge Funds		Cash	
	Actual %	Target %	Actual %	Target %	Actual %	Target %	Actual %	Target %	Actual %	Target %	Actual %	Target %	Actual %	Target %	Actual %	Target %
Pension Assets																
Public Employees' Retirement System	21.0	21.3	4.0	3.8	27.3	25.0	27.6	30.0	7.5	10.0	0.5	0.0	11.3	10.0	0.7	0.0
Teachers' Retirement System	21.6	21.3	4.1	3.8	27.0	25.0	27.4	30.0	7.7	10.0	0.4	0.0	11.1	10.0	0.7	0.0
Teachers' Employers Cont. Collection A/C	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	100.0	100.0
EMS Retirement System	21.1	21.3	4.0	3.8	25.8	25.0	28.4	30.0	9.1	10.0	0.4	0.0	9.2	10.0	2.0	0.0
Public Safety Retirement System	21.6	21.3	4.1	3.8	26.8	25.0	27.6	30.0	9.5	10.0	0.5	0.0	9.5	10.0	0.4	0.0
Judges' Retirement System	21.5	21.3	4.1	3.8	26.7	25.0	28.0	30.0	9.5	10.0	0.5	0.0	9.5	10.0	0.2	0.0
State Police Retirement System	21.6	21.3	4.0	3.8	26.1	25.0	27.7	30.0	9.2	10.0	0.5	0.0	9.3	10.0	1.6	0.0
Deputy Sheriffs' Retirement System	21.5	21.3	4.0	3.8	26.5	25.0	27.8	30.0	9.4	10.0	0.5	0.0	9.5	10.0	0.7	0.0
Insurance Assets																
Workers' Compensation Old Fund	13.3	12.8	2.4	2.3	16.8	15.0	39.5	40.0	0.0	0.0	0.0	0.0	19.5	20.0	8.5	10.0
Workers' Comp. Self-Insured Guaranty Risk Pool	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	100.0	100.0
Workers' Comp. Uninsured Employers Fund	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	100.0	100.0
Pnuemoconiosis	8.8	8.5	1.7	1.5	11.1	10.0	54.5	55.0	0.0	0.0	0.0	0.0	19.6	20.0	4.3	5.0
Board of Risk & Insurance Mgmt	8.8	8.5	1.7	1.5	10.9	10.0	59.3	60.0	0.0	0.0	0.0	0.0	19.4	20.0	0.0	0.0
Public Employees' Insurance Agency	6.6	6.4	1.2	1.1	8.3	7.5	64.3	65.0	0.0	0.0	0.0	0.0	19.5	20.0	0.0	0.0
WV Retiree Health Benefit Trust Fund	2.2	2.1	0.4	0.3	2.8	2.5	94.6	95.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Endowment Assets																
Wildlife Fund	20.8	21.3	3.9	3.8	26.0	25.0	27.2	30.0	9.1	10.0	0.5	0.0	9.2	10.0	3.1	0.0
Prepaid Tuition Trust	24.2	25.5	4.7	4.5	32.9	30.0	36.9	40.0	0.0	0.0	0.0	0.0	0.0	0.0	1.3	0.0
Prepaid Tuition Trust Escrow	0.0	0.0	0.0	0.0	0.0	0.0	0.0	100.0	0.0	0.0	0.0	0.0	0.0	0.0	100.0	0.0
Revenue Shortfall Reserve Fund	23.4	25.5	3.5	4.5	31.8	30.0	16.3	20.0	0.0	0.0	0.0	0.0	17.5	20.0	7.6	0.0
Revenue Shortfall Reserve Fund - Part B	22.5	25.5	3.3	4.5	31.1	30.0	16.3	20.0	0.0	0.0	0.0	0.0	17.5	20.0	9.3	0.0

Statutory Limitations

- Public Equity - 75%
- International Equity - 30%
- Real Estate - 25%
- Private Equity and Hedge Funds - 20% in aggregate

West Virginia Investment Management Board

Footnotes

As of August 31, 2009

PERS Policy is 30% Russell 3000, 30% MSCI ACW ex USA, and 40% Barclays Capital Universal as of 4/1/08. Prior periods, 42% Russell 3000, 18% MSCI ACW ex USA, and 40% Barclays Capital Aggregate.

Total Equity Policy is 50% Russell 3000 and 50% MSCI ACW ex USA as of April 2008. Prior periods were 40% S&P 500, 30% Russell 2500, and 30% MSCI ACW ex USA.

Fixed Income Policy is 100% Barclays Capital Universal as of April 2008. Prior periods were the Barclays Capital Aggregate.

AXA Policy Index is 100% S&P Developed ex USA Small Cap as of April 2007. Prior periods were 100% MSCI World ex USA Small Cap.

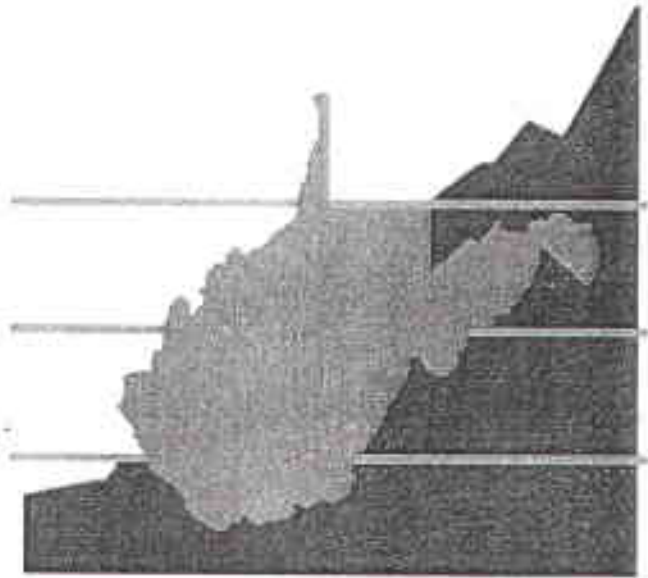
Western Policy Index is 100% Barclays Capital Universal as of April 2008. Prior periods were a custom index.

Returns are net of manager fees. Returns shorter than one year are unannualized.

DISCLAIMER

Summit Strategies Group (Summit) has prepared this report for the exclusive use by the client for which it was prepared. The information herein was obtained from various sources, such as the client's custodian(s) accounting statements, commercially available databases, and other economic and financial market data sources. While Summit believes these sources to be reliable, Summit does not guarantee nor shall be liable for the market values, returns or other information contained in this report. The market commentary, portfolio holdings and characteristics are as of the date shown and are subject to change. Past performance is not an indication of future performance. No graph, chart, or formula can, in and of itself, be used to determine which securities or investments to buy or sell. Any forward-looking projection contained herein is based on assumptions that Summit believes may be reasonable, but are subject to a wide range of risks, uncertainties, and the possibility of loss. Accordingly, there is no assurance that any estimated performance figures will occur in the amounts and during the periods indicated, or at all. Actual results and performance will differ from those expressed or implied by such forward-looking projections. Any information contained in this report is for informational purposes only and should not be construed to be an offer to buy or sell any securities, investment consulting, or investment management services.

West Virginia
Investment Management Board



2009 Schedule of
Investment Performance



Summit Strategies Group

August 24, 2009

Board of Trustees
West Virginia Investment Management Board

We have conducted a performance audit of the accompanying Schedule of Investment Performance (the "Schedule") of the individual investment pools operated by the West Virginia Investment Management Board (WVIMB). The audit was conducted in accordance with Article 6 of the West Virginia State Board of Investments (Section 12-6-6 (d)) for the year ending June 30, 2009.

Our examination included such testing, as we believed adequate, to verify that the performance information provided in the Schedule has been prepared and fairly presented in accordance with the Performance Presentation Standards as detailed in the footnotes to the Schedule.

This Schedule is the responsibility of WVIMB's management. Our responsibility is to express an opinion on the Schedule based on our audit.

In our opinion, the Schedule referred to above presents fairly, in all material respects, the performance of the individual investment pools as of June 30, 2009, in conformity with the Performance Presentation Standards as detailed in the footnotes to the Schedule.

Summit Strategies, Inc.

Summit Strategies, Inc.

Schedule of Investment Performance
West Virginia Investment Management Board
For the Period July 1, 2008 to June 30, 2009

Trust Accounts

	Total Rate of Return*
Public Employees' Retirement System	(15.6)%
Teachers' Retirement System	(16.1)%
Teachers' Employers Contribution Collection Account	1.1
Emergency Medical Services Retirement System	(15.1)%
State Police, Death, Disability, and Retirement Fund	(15.6)%
Deputy Sheriffs Retirement System	(15.4)%
Judges' Retirement System	(15.5)%
State Police Retirement System	(15.2)%
Workers' Compensation Old Fund	(9.4)%
Workers' Compensation Self-Insured Guaranty Risk Pool	1.1%
Workers' Compensation Uninsured Employers Fund	1.1%
Coal Workers' Pneumoconiosis Fund	(7.5)%
Board of Risk and Insurance Management	(3.9)%
Public Employees Insurance Agency	(5.9)%
Retiree Health Benefit Trust Fund	0.6%
Wildlife Endowment Fund	(15.6)%
Revenue Shortfall Reserve Fund	(17.5)%
Revenue Shortfall Reserve Fund B	(17.9)%
Prepaid Tuition Trust Fund	(13.2)%

** - Returns are net of all fees. See Note 2.*

Schedule of Investment Performance
West Virginia Investment Management Board
For the Period July 1, 2008 to June 30, 2009

Investment Pools

	Total Rates of Return		
	<u>Gross of all fees</u>	<u>Net of manager fees</u>	<u>Net of all fees</u>
Large Cap Domestic Equity Pool	(27.2)%	(27.3)%	(27.3)%
Non-Large Cap Domestic Equity Pool	(29.7)	(30.1)	(30.1)
International Qualified Equity Pool	(11.1)	(11.6)	(11.6)
International Non-Qualified Equity Pool	(11.4)	(12.0)	(12.1)
International Equity Pool	(28.7)	(29.1)	(29.2)
Total Return Fixed Income Pool	0.4	0.2	0.1
Core Fixed Income Pool (a)	2.1	2.1	2.1
Fixed Income Qualified Pool (b)	(7.6)	(7.7)	(7.7)
Fixed Income Non-Qualified Pool (b)	(1.9)	(1.9)	(2.0)
Short-Term Fixed Income Pool	1.2	1.1	1.0
TRS Annuity Pool (c)	2.5	2.5	2.5
Private Equity Pool	(22.0)	(22.0)	(22.1)
Private Real Estate Pool	(19.9)	(19.9)	(20.9)
Hedge Fund Pool	(7.3)	(7.3)	(7.4)

(a) For the period March 2, 2009 through June 30, 2009

(b) For the period July 1, 2008 through February 27, 2009

(c) For the Period December 10, 2008 through June 30, 2009

Monthly Money Market Yield (annualized %)
(See Note 3)

	<u>Short-Term Fixed Income Pool</u>
July 2007	2.2%
August 2007	2.2
September 2007	2.4
October 2007	1.4
November 2007	1.1
December 2007	1.0
January 2008	0.7
February 2008	0.5
March 2008	0.5
April 2008	0.3
May 2008	0.2
June 2008	0.2

Schedule of Investment Performance
West Virginia Investment Management Board
For the Period July 1, 2008 to June 30, 2009

Note 1

This report represents the performance returns of the West Virginia Investment Management Board (IMB). It is prepared to comply with *West Virginia Code § 12-6-6(d)*, and is intended solely as an attestation of the returns for the periods indicated. For a more in depth discussion of the investment pools and participant plans, including returns for additional time periods, please refer to the IMB's annual report which may requested directly from the IMB at 500 Virginia Street East, Suite 200, Charleston, WV 25301 or on the web at www.wvimb.org.

Note 2

The Total Rate of Return for the investment pools is calculated using the Modified Dietz time weighted rate of return method. The Modified Dietz method weights each cash flow by the amount of time it is held in the portfolio. The formula for the Modified Dietz method is:

$$RDIETZ = \frac{MVE - MVB - F}{MVB + FW}$$

Note 3

The monthly money market yield represents the rate of income, net of expenses, earned during the respective month. The return is annualized over a 365-day or 366-day year, assuming no reinvestment of earnings.



Status Report Workers' Compensation

Joint Committee on
Government & Finance

10/15/09

Provided by the West Virginia Offices of the Insurance Commissioner



OLD FUND / DEBT REDUCTION

FY2010 – FY2009
Comparison
September FY2010

YEAR TO DATE

	FY2010	FY2009	Change	FY2009 Annual
Revenues				
Personal Income Tax	-	-	-	95,400,000
Severance Tax	19,561,317	24,993,232	(5,431,915)	125,672,963
Debt Reduction Surcharge	7,949,567	10,175,454	(2,225,888)	40,115,329
Self-Insured Debt Reduction Surcharge	1,335,879	2,086,289	(750,409)	6,568,235
Video Lottery	11,000,000	11,000,000	-	11,000,000
Employer Premium	567,689	969,178	(401,489)	2,945,070
Other Income - Return of Unclaimed Property	-	14,898	(14,898)	39,392
Total Revenues	40,414,452	49,239,052	(8,824,599)	281,740,989
Surplus Note Principal Payments	43,500,000	60,000,000	(16,500,000)	145,000,000
Investment / Interest Earnings (Losses)	52,210,253	(28,444,512)	80,654,765	(94,861,549)
Expenditures				
Public Employees Insurance	7,937	30,681	(22,744)	105,117
Payment of Claims	65,253,474	64,946,907	306,567	251,860,952
Contractual/Professional	5,065,476	5,079,709	(14,232)	20,185,265
Total Expenditures	70,326,887	70,057,296	269,591	272,151,333
Excess (Deficiency) of Revenues over Expenditures	65,797,818	10,737,244	55,060,574	59,728,107
Cash Beginning Balances	795,869,972	734,195,514	61,674,458	734,195,513
Cash Ending Balances	861,667,790	746,879,109	114,788,682	795,869,970

**Old Fund / Debt Reduction
Quarterly Summary
September FY2010**

	1st Quarter	Y-T-D FY2010	Y-T-D FY2009	Change
Revenues				
Personal Income Tax	-	-	-	-
Severance Tax	19,561,317	19,561,317	24,993,232	(5,431,915)
Debt Reduction Surcharge	7,949,567	7,949,567	10,175,454	(2,225,888)
Self-Insured Debt Reduction Surcharge	1,335,879	1,335,879	2,086,289	(750,409)
Video Lottery	11,000,000	11,000,000	11,000,000	-
Employer Premium	567,689	567,689	969,178	(401,489)
Other Income - Return of Unclaimed Property	-	-	14,898	(14,898)
Total Revenues	40,414,452	40,414,452	49,239,052	(8,824,599)
Surplus Note Principal Payments	43,500,000	43,500,000	60,000,000	(16,500,000)
Investment / Interest Earnings (Losses)	52,210,253	52,210,253	(28,444,512)	80,654,765
Expenditures				
Public Employees Insurance	7,937	7,937	30,681	(22,744)
Payment of Claims	65,253,474	65,253,474	64,946,907	306,567
Contractual/Professional	5,065,476	5,065,476	5,079,709	(14,232)
Total Expenditures	70,326,887	70,326,887	70,057,296	269,591
Excess (Deficiency) of Revenues over Expenditures	65,797,818	65,797,818	12,683,595	55,060,574
Cash Beginning Balances	795,869,972	795,869,972		
Cash Ending Balances	861,667,790	861,667,790		

**WEST VIRGINIA
OFFICES OF THE INSURANCE COMMISSIONER
SCHEDULE OF NET ASSETS
Workers' Compensation Old Fund - Debt Reduction
(In Thousands)**

September, FY2010

	June 30, 2009	September 30, 2009	Change
Assets:			
Cash and Cash Equivalents	795,870	861,668	65,798
Receivables, Net:	24,256	24,256	0
Surplus Note	17,759	17,759	0
Total Assets	<u>837,885</u>	<u>903,683</u>	<u>65,798</u>
Liabilities:			
Estimated Liability for Unpaid Claims and Claim Adjustment Expense	2,269,918	2,232,120	(37,798)
Other Liabilities	490	490	0
Total Liabilities	<u>2,270,408</u>	<u>2,232,610</u>	<u>(37,798)</u>
Net Assets:			
Unrestricted	<u>(1,432,523)</u>	<u>(1,328,927)</u>	<u>103,596</u>
Total Net Assets	<u>(1,432,523)</u>	<u>(1,328,927)</u>	<u>103,596</u>

*Debt Reduction estimates are updated on a monthly basis. See note on "Old Fund Liability Estimate" sheet.

Old Fund Liability Estimate
(excluding LAE)
(discounted)
September FY2010

	FY2010	September
Beginning Reserve Amount		2,244,433,399
Claim Payments		21,414,374
Estimated Ending Reserve Amount		2,232,119,547

Note:

The interim estimate of the Old Fund liabilities is derived using a formula that reduces the reserve amount at the beginning of each month by the amount of claims payments made during the month.

The formula makes an adjustment for the time value of money, assuming that claim payments are evenly distributed through the month. The estimate is updated monthly.

**Workers' Compensation Old Fund Balances
Cash Basis**

September 2009 Report

	Calendar Year 2006	Calendar Year 2007	Calendar Year 2008	Calendar Year 2009 January 1 - September 30
Revenue				
Statutory Transfers*	\$ 266,613,362	\$ 261,975,877	\$ 287,088,650	\$ 340,840,562
Collections	8,316,798	1,041,116	3,265,870	1,222,434
Investment Income	50,201,026	40,659,223	(168,342,828)	121,973,484
Total Revenue	<u>\$ 325,131,186</u>	<u>\$ 303,676,215</u>	<u>\$ 122,011,692</u>	<u>\$ 464,036,480</u>
Expenditures				
Claim Payments	\$ (355,245,366)	\$ (284,445,313)	\$ (249,839,063)	\$ (189,753,966)
Administrative/Other Expense	\$ (21,630,179)	\$ (24,710,582)	\$ (23,576,238)	\$ (15,223,255)
Total Expenditures	<u>\$ (376,875,545)</u>	<u>\$ (309,155,895)</u>	<u>\$ (273,415,301)</u>	<u>\$ (204,977,220)</u>
* Workers' Compensation Commission Initial fund transfer January 2006	711,094,830			
* Payments on Surplus Note		8,841,297	102,782,602	130,593,151
Invested Balance with WVIMB at year end	647,444,812	635,908,034	591,375,200	709,198,644
Invested Balance with BTI at year end				146,754,541

Workers' Compensation Old Fund Benefit Payments
Average Monthly Payments

September 2009 Report

	7/1/07 : 6/30/08	7/1/08 : 6/30/09	7/1/09 : 6/30/10
	Previous 12 month period	Current 12 month period	Current 12 month period.
Claims benefits paid:			
Medical	4,216,466.10	4,296,649.61	4,572,363.86
Permanent Total Disability	12,705,096.33	12,512,742.53	12,493,935.05
Permanent Partial Disability	1,251,457.90	680,987.68	480,833.68
Temporary Total Disability	274,448.93	169,475.85	173,202.29
Settlement Agreements	371,246.66	268,303.45	1,064,567.26
Fatals	2,831,376.60	2,711,468.71	2,658,514.55
104 weeks	435,527.13	551,281.78	516,441.86
Total	22,085,619.64	21,190,909.62	21,959,858.56
Claims credits and overpayments	(369,925.10)	(217,740.97)	(208,700.58)
Total claims paid	21,715,694.54	20,973,168.65	21,751,157.98

Coal Workers Fund
 Quarterly Summary
 September FY2010

	1st Quarter	YTD FY 2010	YTD FY 2009	Change
Revenues				
Investment Earnings (Losses)	16,196,622	16,196,622	(9,601,885)	25,798,507
Other Income - Return of Unclaimed Property	-	-	-	
Total Revenues	16,196,622	16,196,622	(9,601,885)	25,798,507
Expenditures				
Payment of Claims	2,468,123	2,468,123	3,259,857	(791,734)
Contractual / Professional	15,011	15,011	-	15,011
Total Expenditures	2,483,133	2,483,133	3,259,857	(776,723)
Excess (Deficiency) of Revenues over Expenditures	13,713,489	13,713,489	(12,861,742)	26,575,231
Cash Beginning Balances	221,866,212	221,866,212		
Cash Ending Balances	235,579,701	235,579,701		

SELF-INSURED FUND
Quarterly Summary
September FY2010

	1st Quarter	YTD FY 2010	YTD FY 2009	Change
Revenues				
Guaranty Risk Pool Assessments	281,149	281,149	461,231	(180,081)
Investment Earnings (Losses)	3,510	3,510	29,366	(25,856)
Total Revenues	284,660	284,660	490,597	(205,937)
Expenditures				
Payment of Claims	6,352	6,352	18,982	(12,630)
Contractual / Professional	5,672	5,672	-	5,672
Total Expenditures	12,025	12,025	18,982	(12,630)
Excess (Deficiency) of Revenues over Expenditures	272,635	272,635	471,615	(193,307)
Cash Beginning Balances	6,969,308	6,969,308		
Cash Ending Balances	7,241,943	7,241,943		

UNINSURED
Quarterly Summary
September FY2010

	1st Quarter	YTD FY 2010	YTD FY 2009	Change
Revenues				
Fines and Penalties	253,742	253,742	270,014	(16,271)
Investment Earnings (Losses)	4,325	4,325	45,653	(41,328)
Total Revenues	258,068	258,068	315,666	(57,599)
Expenditures				
Payment of Claims	93,185	93,185	184,161	(90,976)
Contractual/Professional	3,137	3,137	-	3,137
Total Expenditures	96,322	96,322	184,161	(90,976)
Excess (Deficiency) of Revenues over Expenditures	161,745	161,745	131,505	33,377
Cash Beginning Balances	8,588,268	8,588,268		
Cash Ending Balances	8,750,014	8,750,014		

OFFICE OF JUDGES' REPORT TO INDUSTRIAL COUNCIL

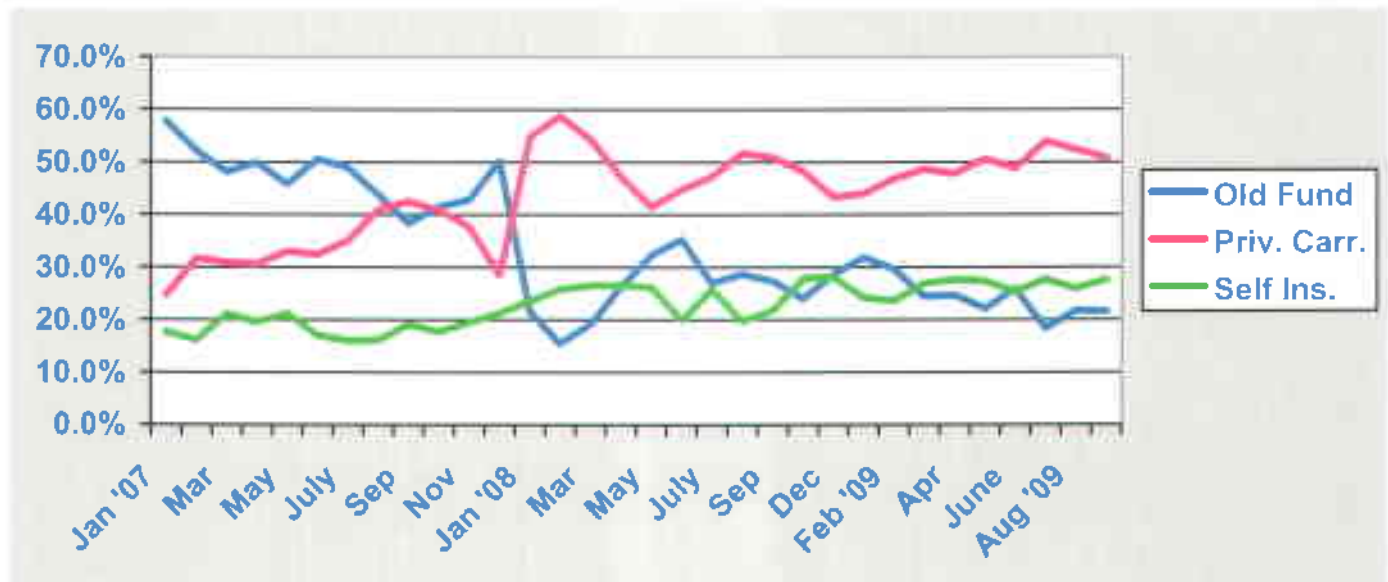
September 2009

I. Statistical Analysis

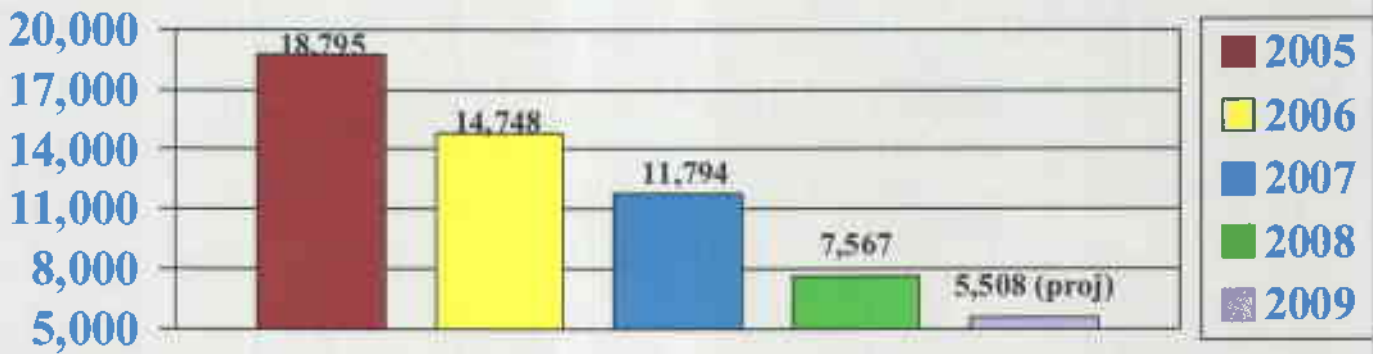
A. Protests Acknowledged: 2008 Sept. 2009
7567 458 4886

Fund Involved:

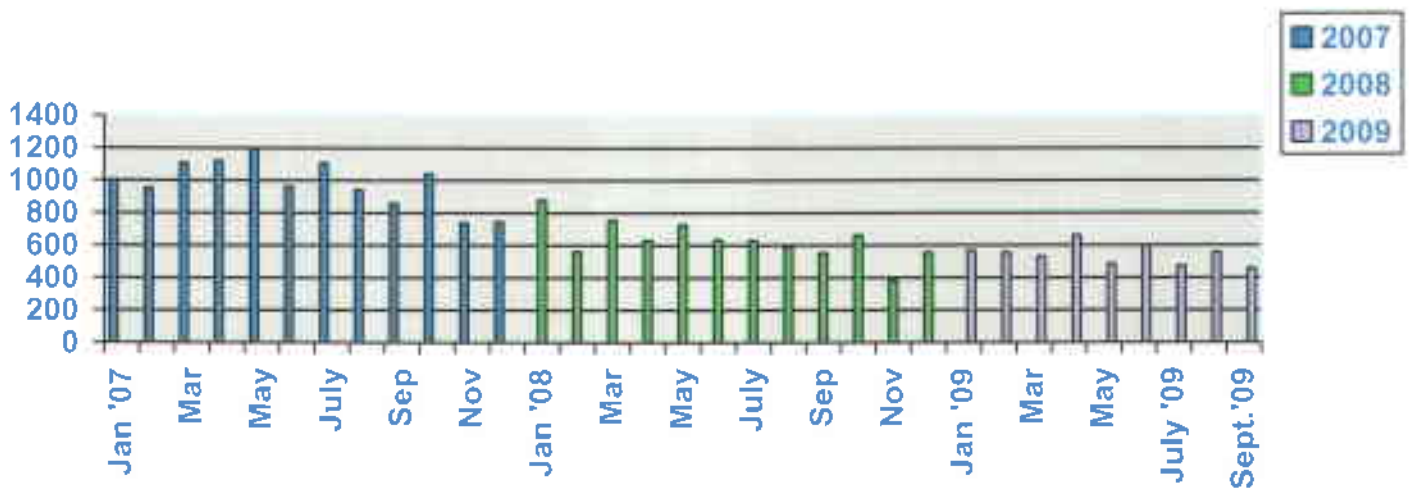
FUND	2006	2007	% of protests	2008	% of protests	Sept '09	% of protests	2009	% of protests
Old Fund	8,146	4,433	56.68%	1,592	26.18%	85	21.52%	1008	24.62%
Priv. Carrier	2,207	3,370	25.13%	2,971	48.86%	201	50.89%	2015	49.22%
Others									
Self-Insured	2,264	1,772	18.19%	1,518	24.96%	109	27.59%	1071	26.16%
Subtotal	12,617	9,575		6,081		395		4094	
Temporary	2,131	2,219		1,486		63		792	
Total	14,748	11,794		7,567		458		4886	



PROTESTS PER CALENDAR YEAR



PROTESTS BY MONTH

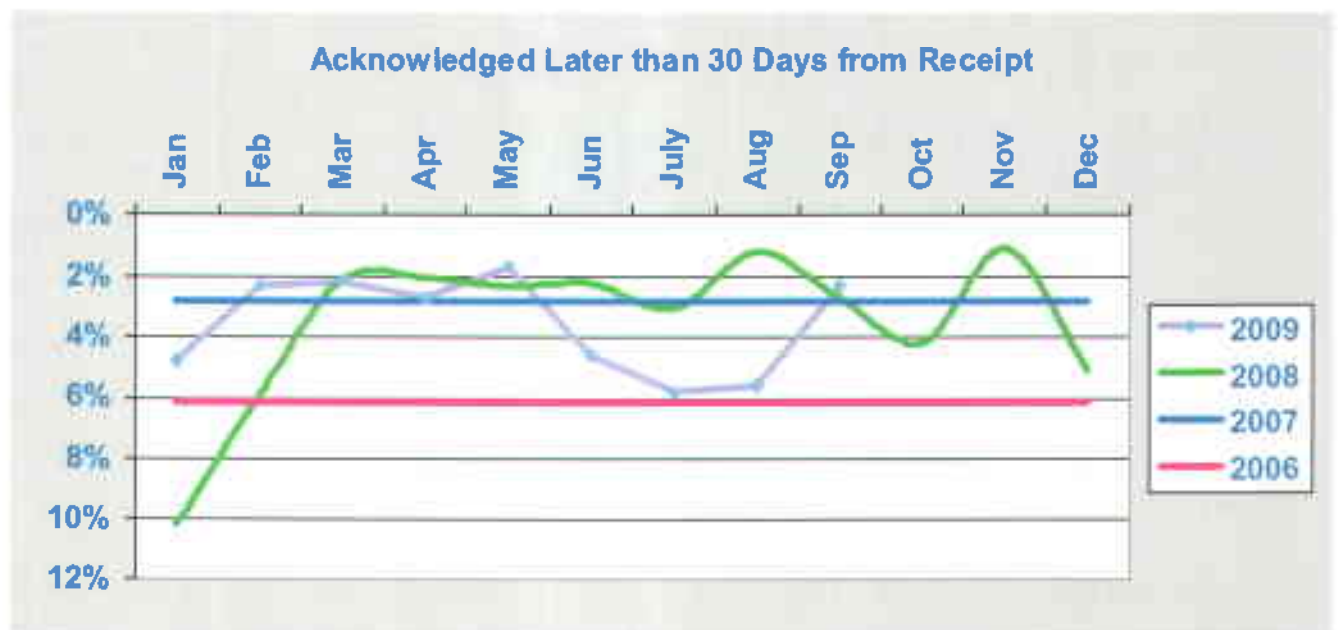


B. Issues Resolved: 2008 Sept. 2009
 8,094 455 4409

C. Pending Caseload Report

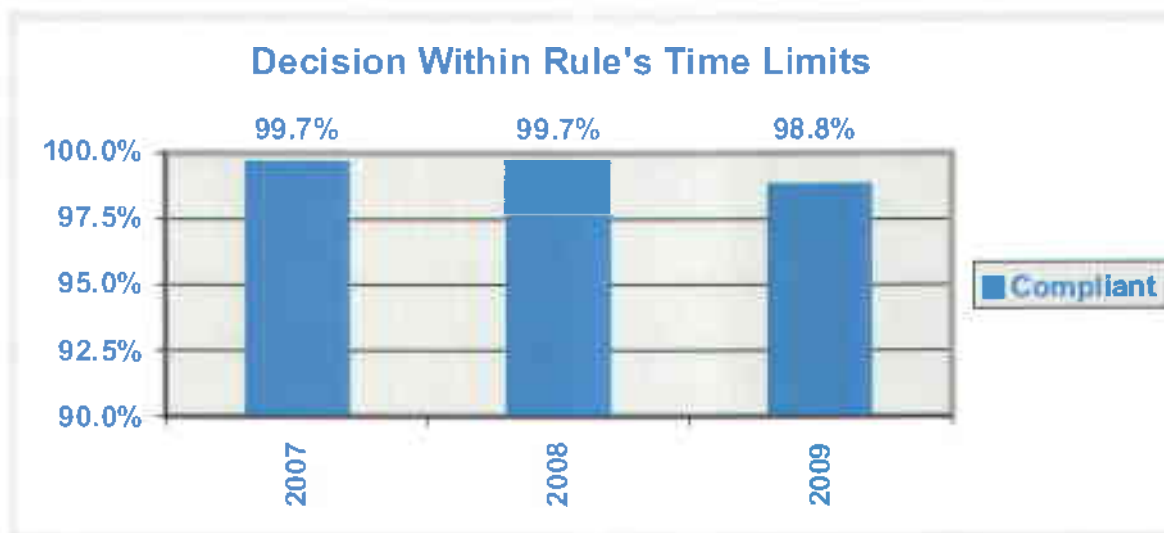
PENDING END OF SEPTEMBER	4,125
PENDING 1 MONTH BEFORE	4,197
PENDING 2 MONTHS BEFORE	4,113
PENDING 3 MONTHS BEFORE	4,173
PENDING 6 MONTHS BEFORE	4,132
PENDING 12 MONTHS BEFORE	4.837

D. Acknowledgment Timeliness:	2008	Sept.	YTD
1. Protest Ackn. >30 days	3.6%	2.3%	3.6%
2. Protest Ackn. 24-30 days	2.3%	1.3%	2.3%
3. Protest Ackn. 11-23 days	19.0%	21.0%	22.1%
4. Protest Ackn. <11 days	75.1%	75.4%	72.0%



E. Protests Resolved:	Sept. '09	2009
1. Protests decided:	275	2911
2. Withdrawals:	68	660
3. "No Evidence" Dismissals:	87	555

F. Final Decision Timeliness	<u>2008</u>	<u>Sept.</u>	<u>2009</u>
1. <30 days:	59.6%	54.1%	51.8%
2. 30-60 days:	26.2%	18.3%	30.2%
3. 60-90 days:	13.9%	27.6%	16.8%
4. +90 days:	0.3%	0.0%	1.2%



G. Time Standard Compliance	<u>2008</u>	<u>Sept.</u>	<u>2009</u>
	91.2%	88.4%	84.9%

Thursday, October 01, 2009

Time Standard Compliance

Report Dates: From 9/1/2009 thru 9/30/2009

Time Standard	Total Closed	Timely		Late	
		Count	Percent	Count	Percent
COMPENSABILITY	31	26	83.9%	5	16.1%
OPBD	12	10	83.3%	2	16.7%
REOPENING	14	11	78.6%	3	21.4%
TRMT/EQUIP CL	69	58	84.1%	11	15.9%
IEB DETERMINATION	1	1	100%	0	0%
OP NON-MED	1	1	100%	0	0%
PPD	48	48	100%	0	0%
PTD ENTITLEMENT	4	3	75%	1	25%
TTD	23	21	91.3%	2	8.7%
TOTAL	203	179	88.4%	24	11.6%

Final Decision Compliance

Report Dates: From 9/1/2009 thru 9/30/2009

Description	Issues Resolved	Days to Decision							
		< 30 Days		30 - 60		61 - 90		> 90	
		Count	%	Count	%	Count	%	Count	%
COMPENSABILITY	55	27	49.1%	10	18.2%	18	32.7%	0	0.0%
DEP BEN FATAL	1	0	0.0%	0	0.0%	1	100.0%	0	0.0%
OPBD	17	14	82.4%	1	5.9%	2	11.8%	0	0.0%
PPD	51	29	56.9%	4	7.8%	18	35.3%	0	0.0%
BENEFIT OVERPAYMENT	1	0	0.0%	0	0.0%	1	100.0%	0	0.0%
OP NON-MED	2	1	50.0%	1	50.0%	0	0.0%	0	0.0%
PTD ENTITLEMENT	3	0	0.0%	1	33.3%	2	66.7%	0	0.0%
REHABILITATION	1	0	0.0%	1	100.0%	0	0.0%	0	0.0%
REOPENING	17	8	47.1%	5	29.4%	4	23.5%	0	0.0%
TRMT/EQUIP CL	101	56	55.4%	22	21.8%	23	22.8%	0	0.0%
TTD	30	16	53.3%	6	20.0%	8	26.7%	0	0.0%
Totals	279	151	54.1%	51	18.3%	77	27.6%	0	0.0%

Motion Resolution Compliance

Report Dates: From 9/1/2009 thru 9/30/2009

Time Standard	Total Motions	Timely *		Late **	
		Count	Percent	Count	Percent
APPLICATION THRESHOLD	1	1	100%	0	0%
BENEFIT RATE	3	3	100%	0	0%
IEB DETERMINATION	8	8	100%	0	0%
OP NON-MED	15	14	93.3%	1	6.7%
OPBD	66	58	87.9%	8	12.1%
PPD	201	197	98%	4	2%
PTD ENTITLEMENT	19	19	100%	0	0%
REOPENING	63	63	100%	0	0%
TEMP	7	6	85.7%	1	14.3%
BENEFIT OVERPAYMENT	2	2	100%	0	0%
COMPENSABILITY	239	228	95.4%	11	4.6%
DEP BEN FATAL	28	25	89.3%	3	10.7%
TRMT/EQUIP CL	179	163	91.1%	16	8.9%
TTD	100	96	96%	4	4%
Total Motions	931	883	95.4%	48	4.6%

* Action Date < Motion Date

** Action Date > Motion Date

Acknowledgement Goal

Report Dates: From 9/1/2009 thru 9/30/2009

Description	Protests Acknowledged	Days to Acknowledge Protests							
		> 30		30-24		23-11		< 11	
		Count	Percent	Count	Percent	Count	Percent	Count	Percent
APPLICATION THRESHOLD	Total: 3	0	0.0%	0	0.0%	1	33.3%	2	66.7%
CFA - CL APP.THRESHOLD	3	0	0.0%	0	0.0%	1	33.3%	2	66.7%
BENEFIT OVERPAYMENT	Total: 2	0	0.0%	0	0.0%	1	50.0%	1	50.0%
CBO - CL BEN. OVERPAYMENT	2	0	0.0%	0	0.0%	1	50.0%	1	50.0%
BENEFIT RATE	Total: 1	0	0.0%	1	100.0%	0	0.0%	0	0.0%
CBR - CL PRSTS BEN RATE	1	0	0.0%	1	100.0%	0	0.0%	0	0.0%
COMPENSABILITY	Total: 73	1	1.4%	2	2.7%	21	28.8%	49	67.1%
CCS - CL SEC CONDITION	12	0	0.0%	1	8.3%	2	16.7%	9	75.0%
CHC - CL COMPENSABILITY	7	0	0.0%	0	0.0%	2	28.6%	5	71.4%
CIM - CL SI COMPENSABLE	2	0	0.0%	0	0.0%	0	0.0%	2	100.0%
CIS - CL SI SEC.CONDITION	3	0	0.0%	0	0.0%	0	0.0%	3	100.0%
CPI - CL SI REJECT CLAIM	9	0	0.0%	0	0.0%	2	22.2%	7	77.8%
CPJ - CL REJECT CLAIM	37	1	2.7%	1	2.7%	14	37.8%	21	56.8%
CRZ - CL REJ OCC DISEASE	3	0	0.0%	0	0.0%	1	33.3%	2	66.7%
DEP BEN FATAL	Total: 5	0	0.0%	0	0.0%	2	40.0%	3	60.0%
CDF - CL DENY/GRNT DTH BEN	2	0	0.0%	0	0.0%	0	0.0%	2	100.0%
CIF - CL SI DY/GNT DTH BEN	2	0	0.0%	0	0.0%	1	50.0%	1	50.0%
EIF - EM SI DY/GNT DTH BEN	1	0	0.0%	0	0.0%	1	100.0%	0	0.0%
FAILURE TO ACT 15 DAY	Total: 3	1	33.3%	0	0.0%	2	66.7%	0	0.0%
C01 - CL FTA INJ COMPENSAB	1	0	0.0%	0	0.0%	1	100.0%	0	0.0%
C03 - CL FTA TREATMENT	1	1	100.0%	0	0.0%	0	0.0%	0	0.0%
C7C - CL FTA PAYMENT PPD	1	0	0.0%	0	0.0%	1	100.0%	0	0.0%
FAILURE TO ACT 30 DAY	Total: 1	0	0.0%	0	0.0%	0	0.0%	1	100.0%
C7E - CL FTA CPLY OJ/BR/SC	1	0	0.0%	0	0.0%	0	0.0%	1	100.0%
IEB DETERMINATION	Total: 2	0	0.0%	0	0.0%	2	100.0%	0	0.0%
CEB - CL IEB DETERMINATION	1	0	0.0%	0	0.0%	1	100.0%	0	0.0%
CZB - CL SI IEB DETRM'TION	1	0	0.0%	0	0.0%	1	100.0%	0	0.0%
OP NON-MED	Total: 7	0	0.0%	0	0.0%	2	28.6%	5	71.4%
CIR - CL SI NON-MED ORDER	3	0	0.0%	0	0.0%	1	33.3%	2	66.7%

Description	Protests Acknowledged	Days to Acknowledge Protests							
		> 30		30-24		23-11		< 11	
		Count	Percent	Count	Percent	Count	Percent	Count	Percent
CNR - CL NON-MED ORDER	4	0	0.0%	0	0.0%	1	25.0%	3	75.0%
OPBD	Total: 29	0	0.0%	1	3.4%	6	20.7%	22	75.9%
CAO - CL ADD BOARD FINDING	9	0	0.0%	1	11.1%	2	22.2%	6	66.7%
CBF - CL % BOARD FINDING	8	0	0.0%	0	0.0%	1	12.5%	7	87.5%
CSF - CL% SI BOARD FINDING	6	0	0.0%	0	0.0%	1	16.7%	5	83.3%
CSO - CL SI AD BRD FINDING	3	0	0.0%	0	0.0%	2	66.7%	1	33.3%
EAO - EM ADD BOARD FINDING	1	0	0.0%	0	0.0%	0	0.0%	1	100.0%
EBF - EM % BOARD FINDING	1	0	0.0%	0	0.0%	0	0.0%	1	100.0%
ESO - EM SI AD BRD FINDING	1	0	0.0%	0	0.0%	0	0.0%	1	100.0%
PPD	Total: 106	3	2.8%	0	0.0%	20	18.9%	83	78.3%
CAA - CL ADDL % AWARD D/G	15	0	0.0%	0	0.0%	2	13.3%	13	86.7%
CAD - CL % AWARD DENY/GRNT	69	1	1.4%	0	0.0%	13	18.8%	55	79.7%
CIE - CL SI ADD% AWARD D/G	3	0	0.0%	0	0.0%	1	33.3%	2	66.7%
CIG - CL SI %AWARD DNY/GNT	19	2	10.5%	0	0.0%	4	21.1%	13	68.4%
REHABILITATION	Total: 1	0	0.0%	0	0.0%	1	100.0%	0	0.0%
CIB - CL SI G/D VOC REHAB	1	0	0.0%	0	0.0%	1	100.0%	0	0.0%
REOPENING	Total: 23	1	4.3%	0	0.0%	2	8.7%	20	87.0%
CIQ - CL SI DY/GNT R/O PPD	2	0	0.0%	0	0.0%	0	0.0%	2	100.0%
CIY - CL SI DY/GNT R/O TTD	1	0	0.0%	0	0.0%	0	0.0%	1	100.0%
CJV - CL DNY/GRNT R/O PPD	8	0	0.0%	0	0.0%	0	0.0%	8	100.0%
CLH - CL DNY/GRNT R/O PTD	3	0	0.0%	0	0.0%	1	33.3%	2	66.7%
CRD - CL DENY/GRNT R/O TTD	8	1	12.5%	0	0.0%	0	0.0%	7	87.5%
CRO - CL DY/GRNT R/O TRTMT	1	0	0.0%	0	0.0%	1	100.0%	0	0.0%
TRMT/EQUIP CL	Total: 87	3	3.4%	1	1.1%	13	14.9%	70	80.5%
C1Y - CL SI TRMT GRANT	1	0	0.0%	0	0.0%	0	0.0%	1	100.0%
CBX - CL TRMT DENY	43	1	2.3%	0	0.0%	5	11.6%	37	86.0%
CSX - CL SI TRMT DENY	43	2	4.7%	1	2.3%	8	18.6%	32	74.4%
TTD	Total: 52	0	0.0%	0	0.0%	10	19.2%	42	80.8%
CCC - CL CLOSING THE CLAIM	39	0	0.0%	0	0.0%	6	15.4%	33	84.6%
CIC - CL SI CLSING THE CLM	8	0	0.0%	0	0.0%	1	12.5%	7	87.5%
CJS - CL TTD	2	0	0.0%	0	0.0%	1	50.0%	1	50.0%
CPX - CL INITIAL TTD	3	0	0.0%	0	0.0%	2	66.7%	1	33.3%
Totals:	395	9	2.3%	5	1.3%	83	21.0%	298	75.4%

Thursday, October 01, 2009

Resolution of Issues

Report Dates: Decision Date from 9/1/2009 thru 9/30/2009

Time Standard Categories	Decisions Issued	Reversed		Affirmed		Affirmed by Rule		Dismissed		Modified		Moot		Other		Remanded	
		Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%
PTD ENTITLEMENT	7	1	14.3	2	28.6	1	14.3	3	42.9	0	0	0	0	0	0	0	0
REHABILITATION	1	1	100	0	0	0	0	0	0	0	0	0	0	0	0	0	0
BENEFIT	1	1	100	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OVERPAYMENT	73	21	28.8	30	41.1	15	20.5	3	4.1	2	2.7	2	2.7	0	0	0	0
COMPENSABILITY	4	0	0	1	25	1	25	2	50	0	0	0	0	0	0	0	0
DEP BEN FATAL	1	0	0	0	0	0	0	0	0	0	0	1	100	0	0	0	0
IEB DETERMINATION	7	0	0	1	14.3	0	0	5	71.4	1	14.3	0	0	0	0	0	0
OP NON-MED	31	3	9.7	14	45.2	3	9.7	10	32.3	0	0	1	3.2	0	0	0	0
OPBD	109	20	18.3	30	27.5	26	23.9	29	26.6	1	0.9	3	2.8	0	0	0	0
PPD	31	8	25.8	10	32.3	8	25.8	5	16.1	0	0	0	0	0	0	0	0
REOPENING	134	35	26.1	59	44	21	15.7	14	10.4	4	3	1	0.7	0	0	0	0
TRMT/EQUIP CL	56	10	17.9	17	30.4	12	21.4	15	26.8	0	0	1	1.8	1	1.8	0	0
TTD																	
Totals	455	100	22	164	36	87	19.1	86	18.9	8	1.8	9	2	1	0.2	0	0

OOJ – Petition for Attorney Fees for Unreasonable Denial

Petitions received 9/1/2005 through 9/30/09	34
Petitions denied on face:	13
Petitions denied by ALJ Decision:	13
Petitions granted:	4
Petitions withdrawn through settlement:	2
Petitions currently pending:	2

Failure to Timely Act Process

Petitions filed 9/1/05 through 9/30/09

Filed:	115
Denied/dismissed:	50
Withdrawn:	8
Reports to OIC:	40
Pending:	17

Expedited Hearings Scheduled

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	TOTAL
2005	13	13	14	25	16	9	9	19	11	10	16	4	159
2006	7	0	2	1	7	4	8	2	5	7	6	3	52
2007	12	4	5	5	1	12	9	4	5	5	4	2	68
2008	3	2	1	11	1	6	11	8	6	4	8	4	65
2009	5	6	5	4	10	14	10	6	12	4			76

Joe Manchin, III
Governor

James D. Gray
Chairman

W. Jack Stevens
Member

Rita Hedrick-Helmick
Member

Workers' Compensation Board of Review

Offices located at 1207 Quarrier St, Charleston
All communications should be addressed to the Board of Review
at the address shown at the bottom of this page.
an equal opportunity/affirmative action employer

MEMORANDUM

To: Jane L. Cline, Commissioner
Charles Bayless, Chairman
Dan Marshall
Bill Dean
Walter Pellish
Honorable Carrie Webster, House Judiciary Chair
Honorable Brooks McCabe
Honorable Nancy Peoples Guthrie
Senator Don Caruth

From: James D. Gray, Chairman

Date: October 1, 2009

Re: Workers' Compensation Board of Review Monthly Report

Attached, please find the Board of Review's September 2009 monthly report.

A number of changes have been made to the Board's reports. You will find a total of eight reports as opposed to the two reports you previously received. These reports include the following:

1. Monthly Report of Appeals Received
2. Yearly Report of Appeals Received
3. Monthly Report of Appeals Received by Issue
4. Yearly Report of Appeals Received by Issue
5. Monthly Appeals Received by Issue and Appellant
6. Monthly Summary of Dispositions by Party
7. Monthly Summary of Dispositions by Issue
8. Yearly Summary of Dispositions by Issue

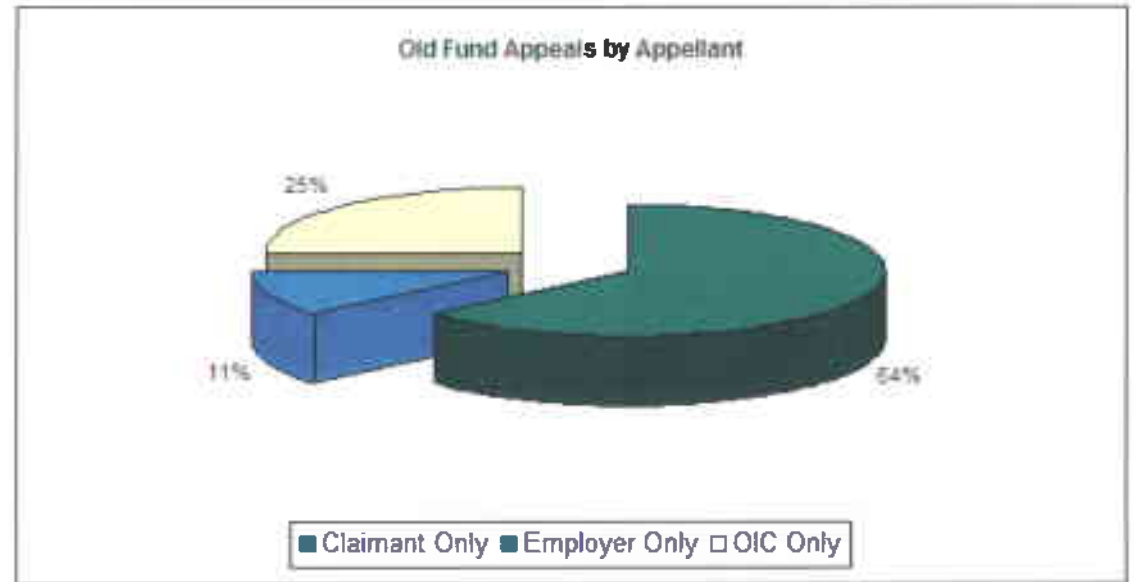
Please do not hesitate to contact me in the event of any questions.

APPEALS RECEIVED

From September 1, 2009 Thru September 30, 2009

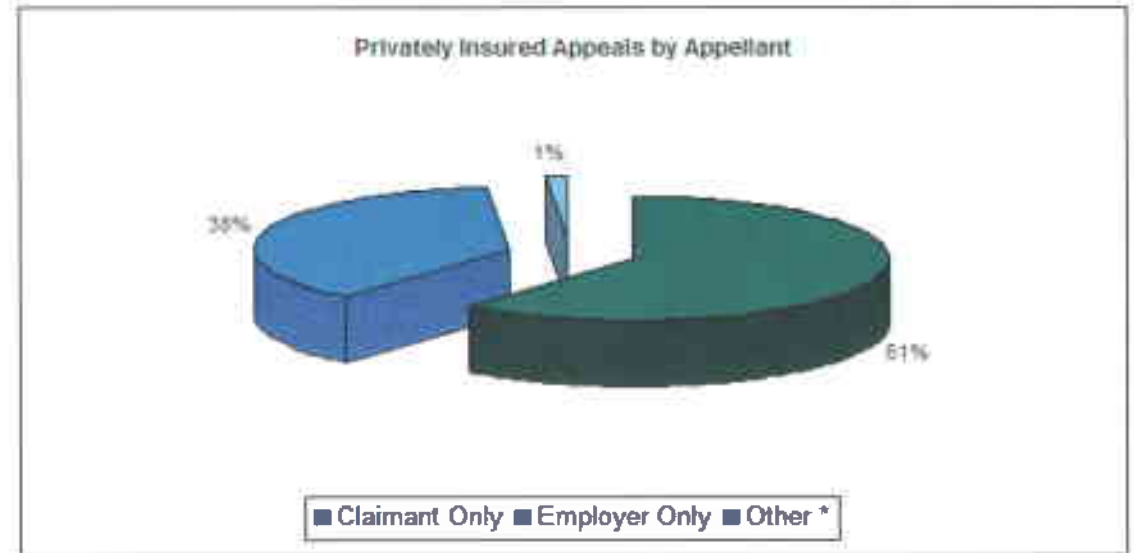
Old Fund Appeals (DOI < Jul-1-2005)

Appellant	Count
Claimant Only	28
Employer Only	5
OIC Only	11
Old Fund Total	44



New Fund Appeals (DOI > Jun-30-2005)

Appellant	Count
Claimant Only	44
Employer Only	27
Other *	1
New Fund Total	72
Total Appeals	116

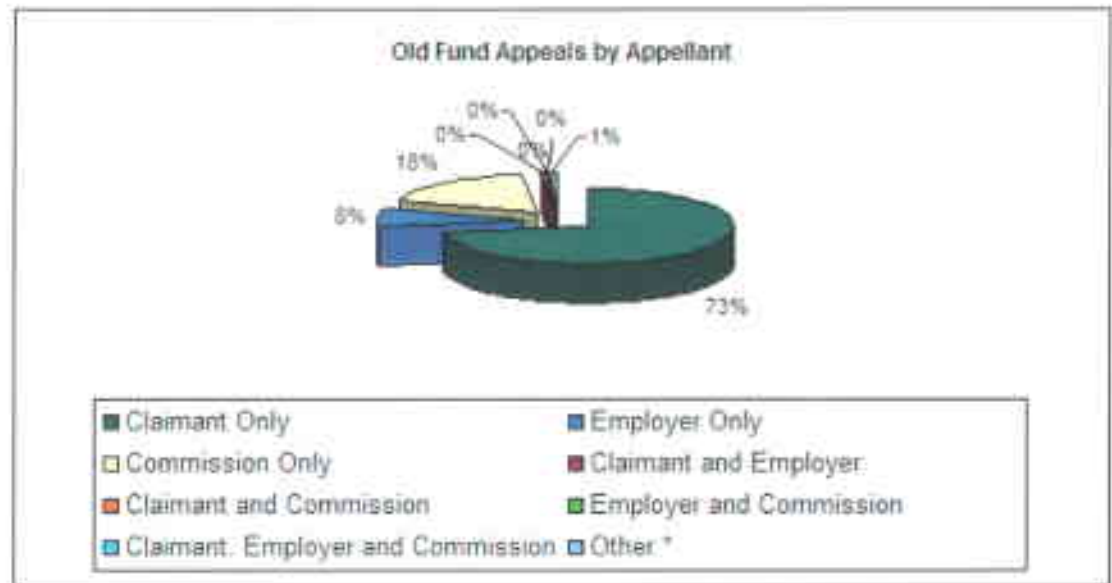


* Appeals requiring research

Yearly Appeals Received From June 1, 2008 Thru September 30, 2009

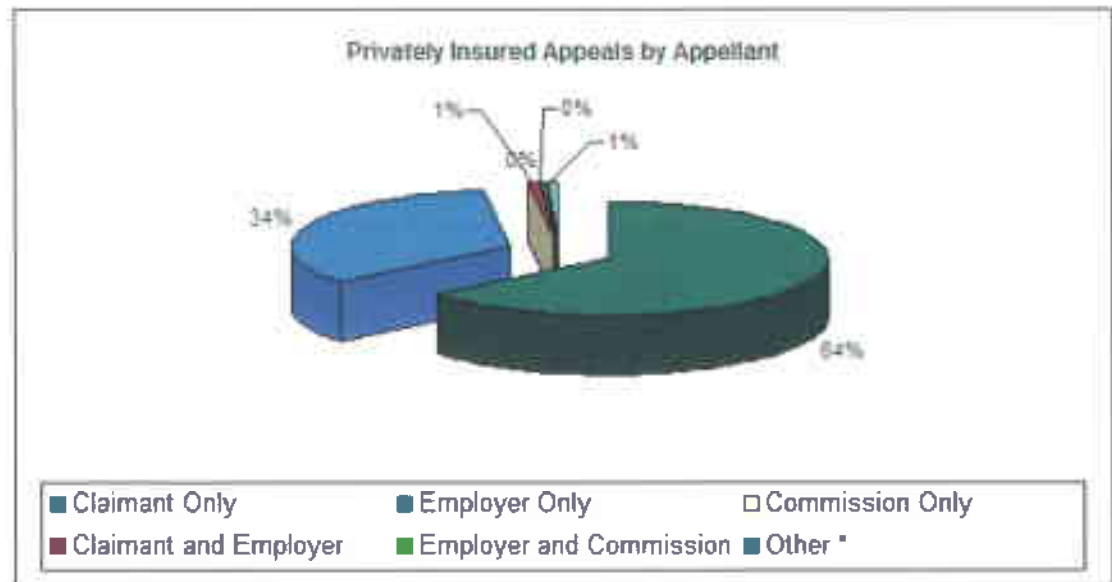
Old Fund Appeals (DOI < Jul-1-2005)

Appellant	Count
Claimant Only	842
Employer Only	95
Commission Only	210
Claimant and Employer	5
Claimant and Commission	3
Employer and Commission	1
Claimant, Employer and Commission	1
Other *	11
Old Fund Total	1168



New Fund Appeals (DOI > Jun-30-2005)

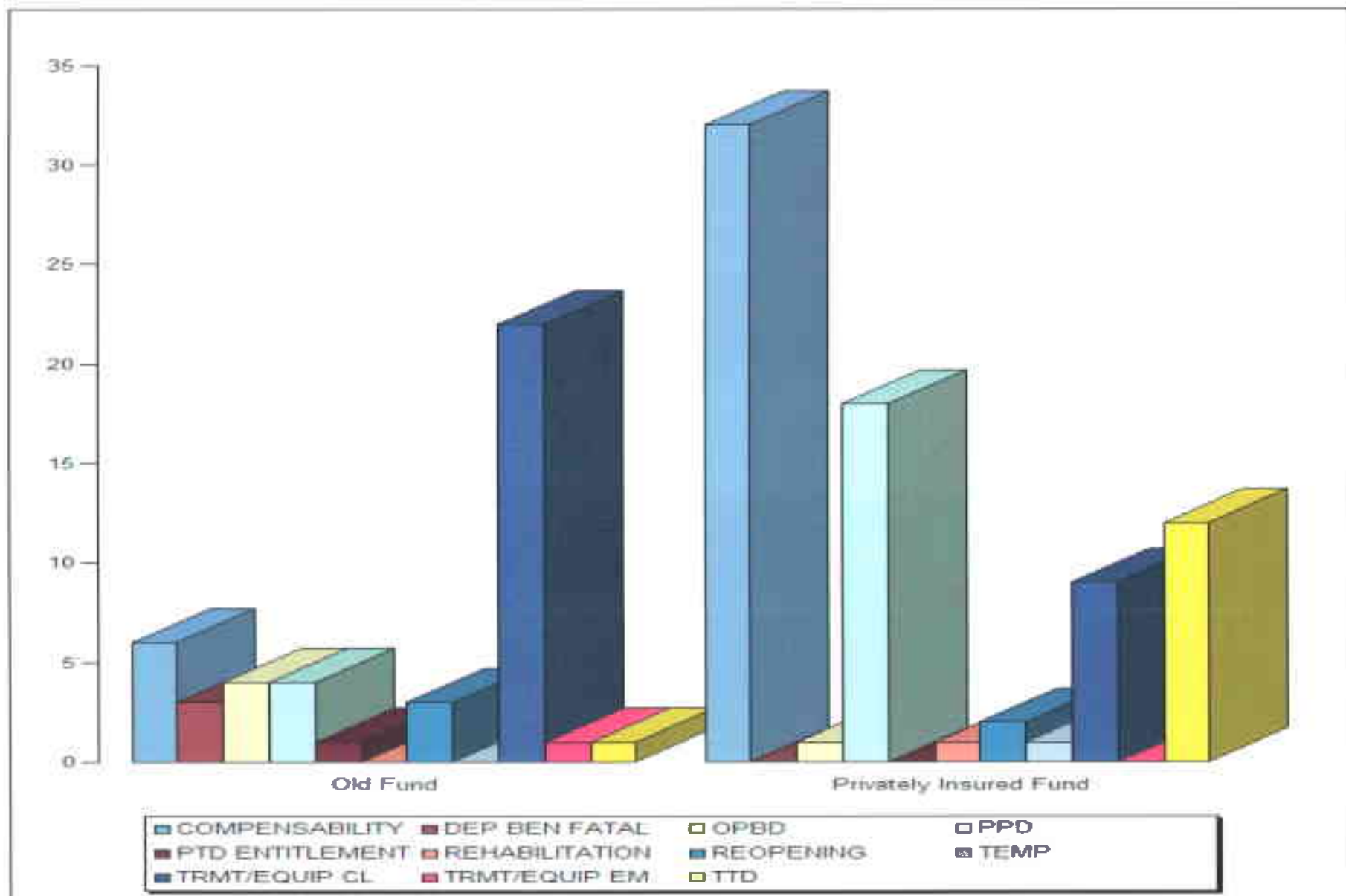
Appellant	Count
Claimant Only	780
Employer Only	411
Commission Only	2
Claimant and Employer	10
Employer and Commission	1
Other *	11
New Fund Total	1215
Total Appeals	2383



* Appeals requiring research

Appeals counted more than once: 4

Appeals Received By Issue
Old Fund Appeals (DOI < July 1, 2005) vs New Fund Appeals (DOI > June 30, 2005)
From September 1, 2009 Thru September 30, 2009



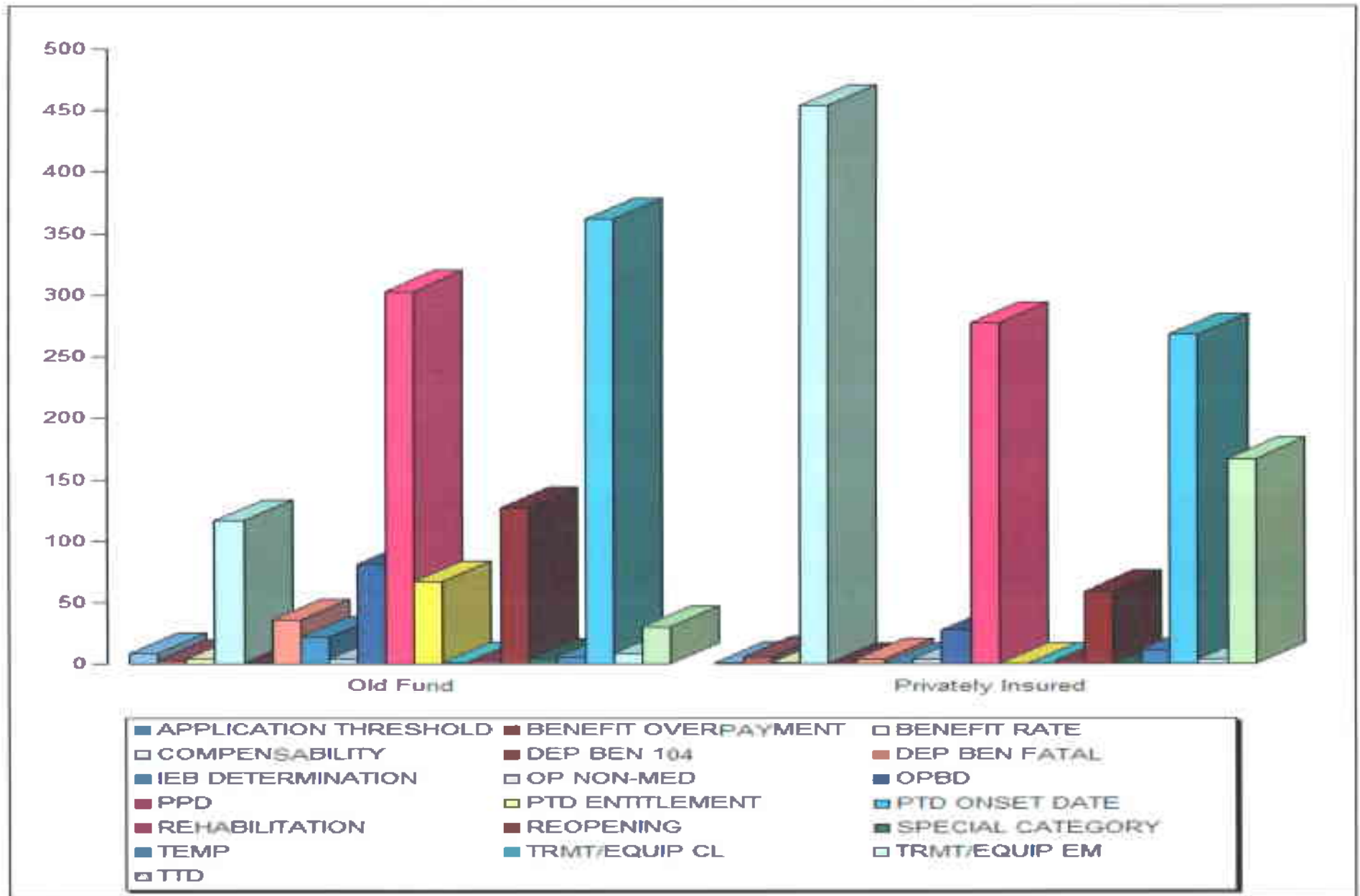
Appeals Received By Issue
Old Fund Appeals (DOI < July 1, 2005) vs New Fund Appeals (DOI > June 30, 2005)
From September 1, 2009 Thru September 30, 2009

Type of Issue	Total Issues	Old Fund		Privately Insured	
		#	%	#	%
COMPENSABILITY	38	6	15.8	32	84.2
DEP BEN FATAL	3	3	100.0	0	0.0
OPBD	5	4	80.0	1	20.0
PPD	22	4	18.2	18	81.8
PTD ENTITLEMENT	1	1	100.0	0	0.0
REHABILITATION	1	0	0.0	1	100.0
REOPENING	5	3	60.0	2	40.0
TEMP	1	0	0.0	1	100.0
TRMT/EQUIP CL	31	22	71.0	9	29.0
TRMT/EQUIP EM	1	1	100.0	0	0.0
TTD	13	1	7.7	12	92.3
Totals	121	45	37.2	76	62.8

Appeals counted more than once:

- 2043479 (2009055977 DOI: 10/19/2006 COMPENSABILITY)
- 2043479 (2009055977 DOI: 10/19/2006 TRMT/EQUIP CL)
- 2043481 (2009057823 DOI: 08/23/2008 TRMT/EQUIP CL)
- 2043481 (2009057823 DOI: 08/23/2008 TTD)
- 2043513 (2009057855 DOI: 08/18/2008 COMPENSABILITY)
- 2043513 (2009057855 DOI: 08/18/2008 TRMT/EQUIP CL)
- 2043550 (2007002484 DOI: 01/24/2007 COMPENSABILITY)
- 2043550 (2007002484 DOI: 01/24/2007 TTD)
- 2043583 (2001041722 DOI: 02/27/2001 COMPENSABILITY)
- 2043583 (2001041722 DOI: 02/27/2001 TRMT/EQUIP CL)

Yearly Appeals Received By Issue
Old Fund Appeals (DOI < July 1, 2005) vs New Fund Appeals (DOI > June 30, 2005)
From June 1, 2008 Thru September 30, 2009

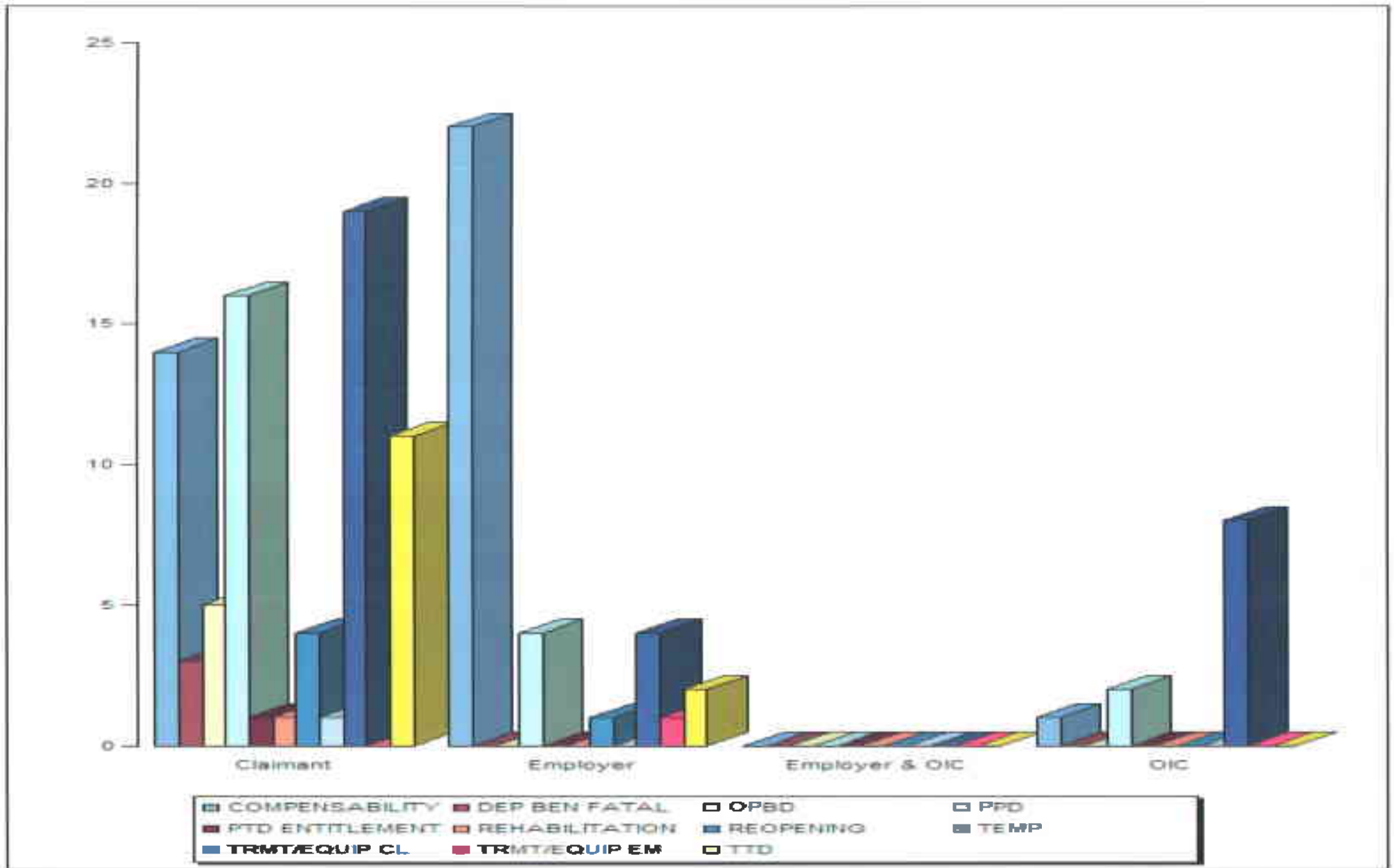


Yearly Appeals Received By Issue
Old Fund Appeals (DOI < July 1, 2005) vs New Fund Appeals (DOI > June 30, 2005)
From June 1, 2008 Thru September 30, 2009

Type of Issue	Total Issues	Old Fund		New Fund	
		#	%	#	%
APPLICATION THRESHOLD	10	9	90.0	1	10.0
BENEFIT OVERPAYMENT	9	3	33.3	6	66.7
BENEFIT RATE	5	4	80.0	1	20.0
COMPENSABILITY	571	117	20.5	454	79.5
DEP BEN 104	1	1	100.0	0	0.0
DEP BEN FATAL	40	36	90.0	4	10.0
IEB DETERMINATION	22	22	100.0	0	0.0
OP NON-MED	8	4	50.0	4	50.0
OPBD	109	81	74.3	28	25.7
PPD	580	303	52.2	277	47.8
PTD ENTITLEMENT	67	67	100.0	0	0.0
PTD ONSET DATE	1	1	100.0	0	0.0
REHABILITATION	6	3	50.0	3	50.0
REOPENING	186	127	68.3	59	31.7
SPECIAL CATEGORY	4	4	100.0	0	0.0
TEMP	18	6	33.3	12	66.7
TRMT/EQUIP CL	630	362	57.5	268	42.5
TRMT/EQUIP EM	13	9	69.2	4	30.8
TTD	197	30	15.2	167	84.8
Totals	2477	1189	48.0	1288	52.0

Appeals Received By Issue

From September 1, 2009 Thru September 30, 2009



Appeals Received By Issue
From September 1, 2009 Thru September 30, 2009

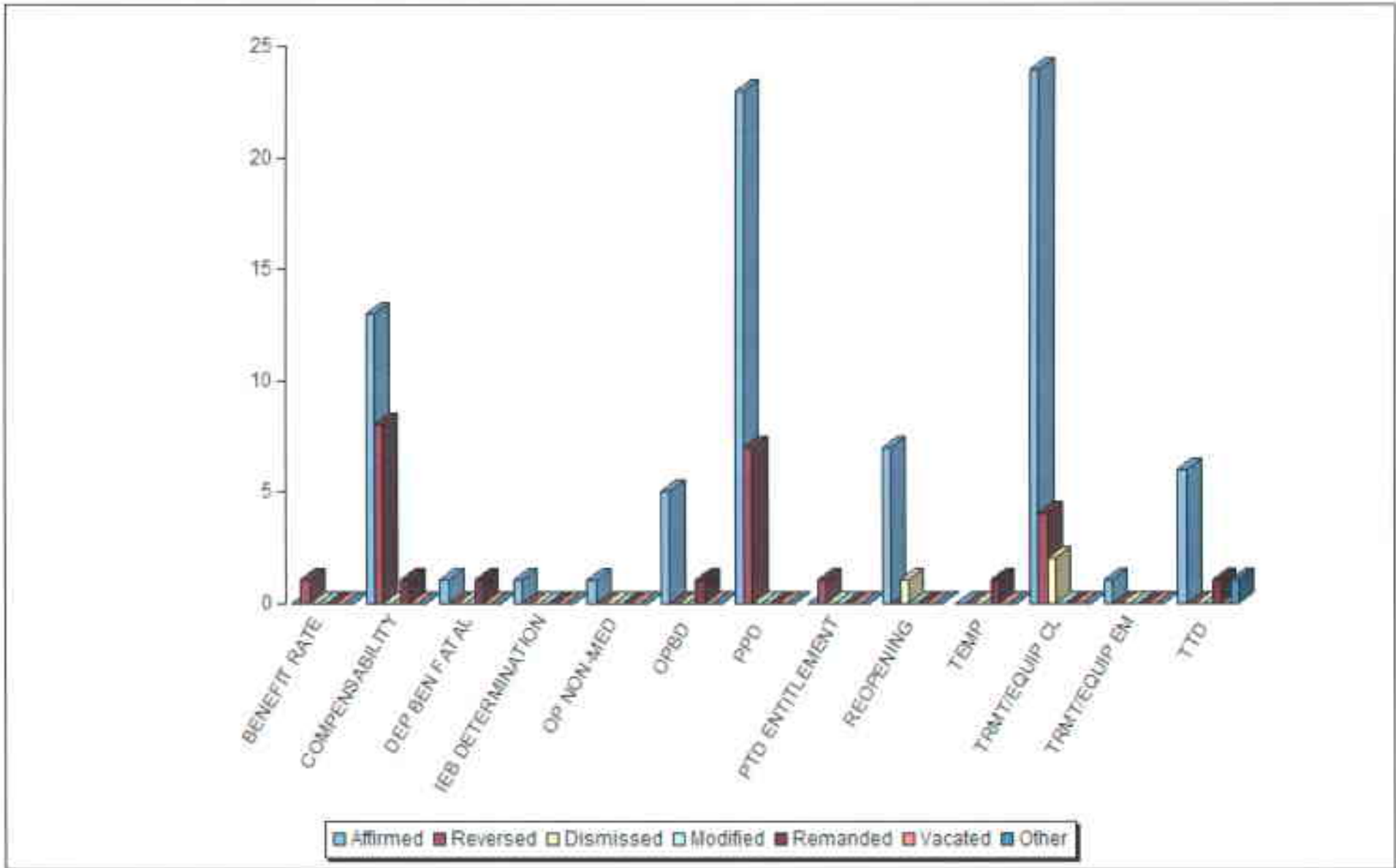
Type of Issue	Total Issues	Claimant		Employer		OIC		Emp and OIC	
		#	%	#	%	#	%	#	%
COMPENSABILITY	37	14	37.8	22	59.5	0	0.0	1	2.7
DEP BEN FATAL	3	3	100.0	0	0.0	0	0.0	0	0.0
OPBD	5	5	100.0	0	0.0	0	0.0	0	0.0
PPD	22	16	72.7	4	18.2	0	0.0	2	9.1
PTD									
ENTITLEMENT	1	1	100.0	0	0.0	0	0.0	0	0.0
REHABILITATION	1	1	100.0	0	0.0	0	0.0	0	0.0
REOPENING	5	4	80.0	1	20.0	0	0.0	0	0.0
TEMP	1	1	100.0	0	0.0	0	0.0	0	0.0
TRMT/EQUIP CL	31	19	61.3	4	12.9	0	0.0	8	25.8
TRMT/EQUIP EM	1	0	0.0	1	100.0	0	0.0	0	0.0
TTD	13	11	84.6	2	15.4	0	0.0	0	0.0
Totals	120	75	62.5	34	28.3	0	0.0	11	9.2

Appeals counted more than once:

WORKERS' COMPENSATION BOARD OF REVIEW FOR SEPTEMBER 2009

Appealed By	BOR Disposition	Disposition Count	Disp %	Total %	Year to Date	Disp %	Total %
CLAIMANT	AFFIRMED	55	85.9%	51.4%	834	89.2%	59.1%
	DISMISSED				4	0.4%	0.3%
	MODIFY				2	0.2%	0.1%
	MOOT				2	0.2%	0.1%
	REMAND	4	6.3%	3.7%	30	3.2%	2.1%
	REVERSE	5	7.8%	4.7%	62	6.6%	4.4%
	VACATE				1	0.1%	0.1%
	Total Dispositions	64			935		
CLAIMANT/EMPLOYER	AFFIRMED				8	72.7%	0.6%
	DISMISSED				1	9.1%	0.1%
	REVERSE				2	18.2%	0.1%
	Total Dispositions				11		
EMPLOYER	ABEYANCE				1	0.3%	0.1%
	AFFIRMED	17	60.7%	15.9%	227	71.8%	16.1%
	DISMISSED	1	3.6%	0.9%	5	1.6%	0.4%
	MODIFY				3	0.9%	0.2%
	MOOT				1	0.3%	0.1%
	REMAND				6	1.9%	0.4%
	REVERSE	10	35.7%	9.3%	73	23.1%	5.2%
	Total Dispositions	28			316		
DIVISION/OIC	ABEYANCE	1	6.7%	0.9%	2	1.4%	0.1%
	AFFIRMED	7	46.7%	6.5%	78	52.7%	5.5%
	MODIFY				2	1.4%	0.1%
	REMAND	1	6.7%	0.9%	5	3.4%	0.4%
	REVERSE	6	40.0%	5.6%	60	40.5%	4.3%
	VACATE				1	0.7%	0.1%
	Total Dispositions	15			148		
Grand Totals		107			1410		

Dispositions By Issues
BOR Orders Mailed From September 1, 2009 Thru September 30, 2009

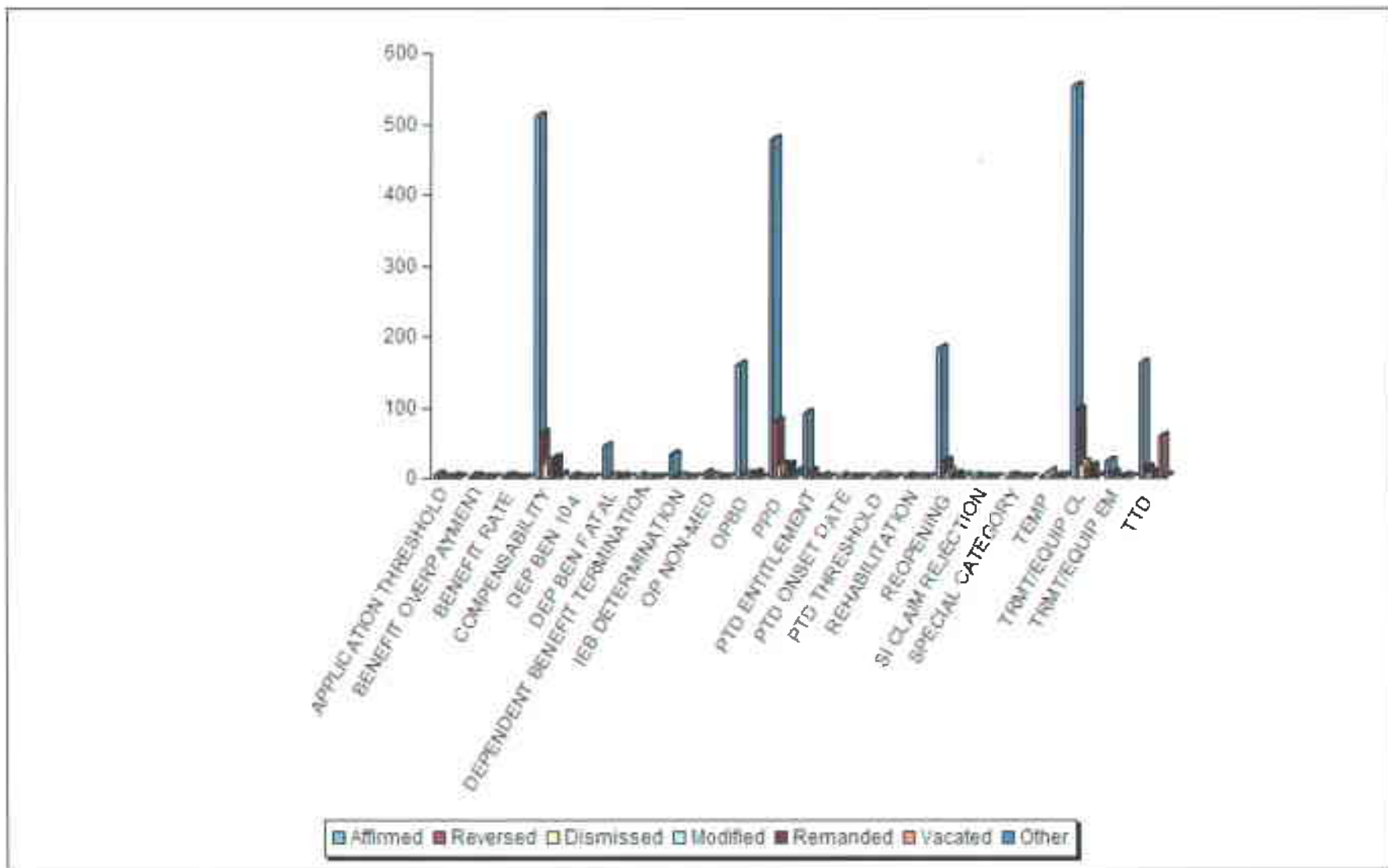


Dispositions By Issues
BOR Orders Mailed From September 1, 2009 Thru September 30, 2009

Type of Issue	Issues	Affirmed		Reversed		Dismissed		Modified		Remanded		Vacated		Other	
		#	%	#	%	#	%	#	%	#	%	#	%	#	%
BENEFIT RATE	1	0	0.0	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
COMPENSABILITY	22	13	59.1	8	36.4	0	0.0	0	0.0	1	4.5	0	0.0	0	0.0
DEP BEN FATAL	2	1	50.0	0	0.0	0	0.0	0	0.0	1	50.0	0	0.0	0	0.0
IEB DETERMINATION	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
OP NON-MED	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
OPBD	6	5	83.3	0	0.0	0	0.0	0	0.0	1	16.7	0	0.0	0	0.0
PPD	30	23	76.7	7	23.3	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
PTD ENTITLEMENT	1	0	0.0	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
REOPENING	8	7	87.5	0	0.0	1	12.5	0	0.0	0	0.0	0	0.0	0	0.0
TEMP	1	0	0.0	0	0.0	0	0.0	0	0.0	1	100.0	0	0.0	0	0.0
TRMT/EQUIP CL	30	24	80.0	4	13.3	2	6.7	0	0.0	0	0.0	0	0.0	0	0.0
TRMT/EQUIP EM	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
TTD	8	6	75.0	0	0.0	0	0.0	0	0.0	1	12.5	0	0.0	1	12.5
Totals	112	82	73.2	21	18.8	3	2.7	0	0.0	5	4.5	0	0.0	1	0.9

Appeals counted in multiple categories: 3

Yearly Dispositions By Issues
BOR Orders Mailed From June 1, 2008 Thru September 30, 2009



Yearly Dispositions By Issues
BOR Orders Mailed From June 1, 2008 Thru September 30, 2009

Type of Issue	Issues	Affirmed		Reversed		Dismissed		Modified		Remanded		Vacated		Other	
		#	%	#	%	#	%	#	%	#	%	#	%	#	%
APPLICATION THRESHOLD	6	5	83.3	0	0.0	0	0.0	0	0.0	1	16.7	0	0.0	0	0.0
BENEFIT OVERPAYMENT	4	1	25.0	3	75.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
BENEFIT RATE	5	2	40.0	3	60.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
COMPENSABILITY	637	510	80.1	63	9.9	22	3.5	7	1.1	29	4.6	1	0.2	4	0.6
DEP BEN 104	2	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
DEP BEN FATAL	49	45	91.8	1	2.0	1	2.0	0	0.0	2	4.1	0	0.0	0	0.0
DEPENDENT BENEFIT															
TERMINATION	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
IEB DETERMINATION	36	33	91.7	2	5.6	1	2.8	0	0.0	0	0.0	0	0.0	0	0.0
OP NON-MED	9	7	77.8	1	11.1	1	11.1	0	0.0	0	0.0	0	0.0	0	0.0
OPBD	175	159	90.9	5	2.9	5	2.9	0	0.0	6	3.4	0	0.0	0	0.0
PPD	604	478	79.1	79	13.1	18	3.0	2	0.3	18	3.0	1	0.2	8	1.3
PTD ENTITLEMENT	101	92	91.1	8	7.9	0	0.0	0	0.0	1	1.0	0	0.0	0	0.0
PTD ONSET DATE	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
PTD THRESHOLD	2	0	0.0	1	50.0	1	50.0	0	0.0	0	0.0	0	0.0	0	0.0
REHABILITATION	3	3	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
REOPENING	223	183	82.1	23	10.3	8	3.6	2	0.9	5	2.2	0	0.0	2	0.9
SI CLAIM REJECTION	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
SPECIAL CATEGORY	2	1	50.0	1	50.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
TEMP	14	0	0.0	2	14.3	8	57.1	0	0.0	1	7.1	1	7.1	2	14.3
TRMT/EQUIP CL	689	553	80.3	96	13.9	20	2.9	0	0.0	15	2.2	0	0.0	3	0.4
TRMT/EQUIP EM	32	23	71.9	7	21.9	0	0.0	0	0.0	2	6.3	0	0.0	0	0.0
TTD	252	162	64.3	14	5.6	6	2.4	1	0.4	9	3.6	58	23.0	2	0.8
Totals	2848	2262	79.4	309	10.8	91	3.2	12	0.4	89	3.1	61	2.1	21	0.7

Revenue Recovery Activity	August 2009
COLLECTION ACTIVITY	
Receipts - Old Fund (Employer out of business)	\$ 242,060.25
Receipts - PC & NU (Private Carrier Cancellation & Rogue Employers)	\$ 55,446.01
Receipts - Payment Agreements	\$ 16,393.78
Receipts - Collection Agency	\$ -
# of active accounts uninsured (cumulative)	992
\$ of active accounts uninsured (cumulative)	\$ 2,954,296.31
Telephone contacts	2,113
Waik-ins	12
LIENS	
Liens sent to county clerks for recordation	73
Liens sent to county clerks for release	7
Intent to lien letters sent to employer/owner/officer/member	107
INJUNCTIONS	
Affidavits for Injunction submitted to legal	18
Hearings attended	7
# of Injunction complaints filed	18
# of Injunctions granted	5
# of agreed orders entered	1
PAYMENT AGREEMENTS	
# of repayment agreements applications	7
Agreements set up	10
Total # of agreements on system (cumulative)	103
Intent to void letters mailed	5
Agreements voided	3
MISCELLANEOUS	
Terminations Processed	199
Rule 11 Letters Mailed	414
Rule 11 hearings	1
Uninsured Policies Resolved	268
All Cash Receipts from WC accounts	\$ 313,900.04

Workers' Compensation Rules Update

At the Industrial Councils' Meeting on September 24, 2009, the Council voted to approve final filing of Title 85, Series 1 – "Claims Management and Administration," Series 9 – "Workers' Compensation Uninsured Employers' Fund," and Series 32 – "State Agency Revocation or Refusal to Grant, Issue or Renew Contracts, Licenses, Permits, Certificates or Other Authority To Conduct A Trade, Profession Or Business To Or With An Employing Unit In Default Of Its Workers' Compensation Obligations."

Medicare Secondary Payer Laws
West Virginia Offices of the Insurance Commissioner
October 15, 2009

- What is a “conditional payment?”
 - o A “**conditional payment**” is a payment for medical services made by Medicare under the condition that Medicare will be reimbursed. Medicare will make a conditional payment for Medicare covered services in liability, no-fault, and workers’ compensation situations where another payer is responsible for payment and the claim is not expected to be paid within a prompt period. Medicare makes conditional payments to prevent the claimant from using his or her own money to pay the claim.
 - o Conditional payments may be made by Medicare in liability cases when the Medicare beneficiary has filed a claim with a liability insurer and the Medicare contractor determines that the insurer will not pay within 120 days of receipt of the claim.
- Federal regulations at 42 C.F.R. 411.21 contains other relevant definitions:
 - o “**Primary payer**” is defined as “any entity that is or was required or responsible to make payment with respect to an item or service (or any portion thereof) under a primary plan. These entities include, but are not limited to, insurers or self insurers, third party administrators, and all employers that sponsor or contribute to group health plans or large group health plans.”
 - o “**Primary plan**” is defined as “a group health plan or large group health plan, a workers’ compensation law or plan, an automobile or liability insurance policy or plan (including a self-insured plan), or no-fault insurance.”
 - o “**Primary payment**” is defined as “payment by a primary payer for services that are also covered under Medicare.”
- The Medicare Secondary Payer (“MSP”) statute¹ states in pertinent part that when Medicare makes a conditional payment for medical services received as a result of an injury caused by another party, the government has a right of recovery for the conditional payment amount against any entity responsible

¹ 42 U.S.C. §1395y(b)(2)(B)(ii), or Section 1395y(b)(2)(B)(ii) of the Social Security Act.

for making the primary payment² (e.g. liability insurers and workers' compensation insurers/funds).

- The Centers for Medicare and Medicaid ("CMS") has published a manual on Contractor MSP Recovery Rules which sets forth the enforcement positions of CMS and instructions for recovery of conditional payments. The manual, in Chapter 7, section 50.5.3, regarding "Recovery from Liability Insurers," states that "[t]he fact that a settlement has been made between the beneficiary and the liable party does not, necessarily, bind Medicare to that settlement. If the liability insurer was aware of Medicare's interest, but Medicare was not consulted in the settlement, Medicare may pursue the balance of its claim, over and above any amount granted to it in the settlement, against the liability insurer." (See 42 CFR 411.24(i).)
- This section of the manual goes on to state that, "[t]he statute as amended in 1984 gives the Government the right to recover Medicare payments from liability insurers without regard to whether the insurer has already made a liability insurance payment. If the liability insurer does not properly pay Medicare, Medicare has the right to take legal action against the insurer and to collect double damages."
- Section 50.5.4.3 of the manual discusses multiple-party settlement checks and how they are to be used by Medicare to recover conditional payments.³ If a liability insurer sends the Medicare contractor a check intended to include repayment of conditional payments that is made out jointly to the contractor (or Medicare) and to the beneficiary and representing attorney, the contractor then requests the other parties to endorse the check and return it to the contractor. The manual instructs that the contractor will not endorse the check before endorsement of the other payees. Medicare then deposits the check in an interest bearing account and will disperse the appropriate amounts to the other parties.
- Section 1862(b) of the MSP Act grants Medicare a priority right of recovery, which is much stronger than subrogation rights. The priority right of recovery means that Medicare's right to recovery takes precedence over the claims of any other party, including Medicaid, according to section 50.1 of the manual.
- The delay in receiving payment of non-MSP monies from Medicare after the use of a multiple-party check has been held not to be unconstitutional on the

² There is 4th Circuit law on this point. "When such a conditional payment is made for medical care, the government has a direct right of recovery for the entire amount conditionally paid from any entity responsible for making primary payment." Cox v. Shalala, 112 F.3d 151, 154 (4th Cir. 1997).

³ While there is no requirement that multiple party checks be issued in settlement by liability insurers, the CMS manual clearly contemplates them in situations where the conditional payment amount has not been determined and agreed upon prior to the settlement. The manual provides a specific process for handling them.

basis of a lack of pre-deprivation due process. In a case brought as a potential class action, the Court considered the allegation that Medicare was allowed to unlawfully take possession of and retain, indefinitely (by use of a multiple-party check), beneficiaries' third party personal injury settlement proceeds under the guise of a MSP claim and without reasonable cause to believe the proceeds were related to a MSP claim. The Court concluded that while MSP law will inevitably result in instances of Medicare's retention of non-MSP monies for a period of time, the MSP laws and procedures withstand due process attack. *Wall v. Leavitt*, 2008 U.S. Dist. LEXIS 89880 (E.D. Cal.), attached hereto.

- The *Wall* case also involved argument as to whether Medicare requires that it be inserted on a third party claim settlement check as a payee. The Court found all evidence on this point to be immaterial, finding that for all practical purposes in any case where it is not possible to make an "initial determination"⁴ prior to issuance of a settlement check, "any insurance company paying a third party claim by a Medicare beneficiary, who received medical payments by Medicare as a result of the incident giving rise to the third party claim, would understand that it should, as a practical necessity, name Medicare as a payee on a third party settlement check in order to stave off significant penalties and interest in the event that the Medicare beneficiary refused to reimburse Medicare in whole or in part." *Id.*
- The Court in *Wall* further found as undisputed that the law does not expressly require the addition of Medicare as a payee on checks but added that it found a "clear, de facto government policy of 'encouraging' Medicare being named as a payee on third party checks that was operating in this case (and inferentially nation-wide)." *Id.*
- An insurer will write two settlement checks when an initial determination has been made by Medicare as to conditional payments and the beneficiary has agreed to or negotiated the amounts with Medicare prior to issuance of the settlement check. The beneficiary's attorney should obtain a release from the client/beneficiary in anticipation of settlement with the insurer, and request the conditional payment data from Medicare. A period of 45 days is reserved by Medicare to provide the information, which consists of CPT codes and dates of service that relate to the injuries reported. When received, the amounts can be disputed or negotiated with the appropriate Medicare personnel.
- In *Cox v. Shalala*, 112 F.2d 151 (4th Cir., N.C., 1997), the Fourth Circuit Court of Appeals held that North Carolina's statute establishing a \$1500 cap on recovery by insurers and Medicare from a wrongful death lawsuit was

⁴ An "initial determination" is made by Medicare often after preliminary or tentative calculations are made as to the amount of conditional payments to be reimbursed. The initial determination is subject to formal due process procedures and further negotiations as to the accurate amount due in reimbursement.

preempted by federal MSP statutes. The Court noted that even though the North Carolina wrongful death act is a probate statute, when a state statute sharply interferes with, or is directly contrary to federal law, the state statute must yield.

- The U.S. District Court for the Northern District of WV has held that a plaintiff's attorney is personally liable to Medicare for damages plus interest in connection with his representation of a Medicare beneficiary in a personal injury lawsuit that resulted in settlement. [*U.S. v. Harris*, CA No. 5:08CV102 (N.D. W.Va. March 26, 2009)], attached hereto. In that case, Medicare had paid over \$22,000.00 in conditional payments for medical services provided to the plaintiff. The lawsuit against the tortfeasor was settled for \$25,000.000. Attorney Harris provided information to Medicare on the settlement, in addition to his fees and costs. Medicare subtracted the fees and costs from its claim and determined that it was owed approximately \$10,000.00 (i.e., the "initial determination). Neither Attorney Harris nor the plaintiff requested reconsideration of the initial determination, and neither repaid the conditional payments to Medicare. The Court held that Attorney Harris was individually liable for reimbursing Medicare under the applicable federal law.
- Attached to this document, in addition to orders in the *Wall* and *Harris* cases, is instructional material found on the CMS website entitled "MSP Laws and Third Party Payers – Fact Sheet for Attorneys" and a 4 page document describing the responsibilities under MSP of beneficiaries, providers, employers, group health plans, attorneys, and liability insurers.

Westlaw

Slip Copy
Slip Copy, 2008 WL 4737164 (E.D.Cal.), Med & Med GD (CCH) P 302,663
(Cite as: 2008 WL 4737164 (E.D.Cal.))

¶1
United States District Court, E.D. California.
Pamela WALL, ^{¶1} individually and on behalf of all
those similarly situated, Plaintiff,

¶1, Former plaintiff CARES, Inc. was
dismissed by stipulated order on November
1, 2007.

v.
Michael O. LEAVITT, Defendant.
Civ. No. S-05-2853 FCD GGH.

Oct. 29, 2008.

West KeySummary
Constitutional Law 92 ⇨4127

92 Constitutional Law
92XXVII Due Process
92XXVII(G) Particular Issues and Applica-
tions
92XXVII(G)5 Social Security, Welfare,
and Other Public Payments
92k4124 Medical Assistance
92k4127 k. Medicare. Most Cited

Cases

Health 198H ⇨535(1)

198H Health
198HIII Government Assistance
198HIII(C) Federal Medical Assistance to the
Elderly (Medicare)
198Hk532 Providers
198Hk535 Reimbursement
198Hk535(1) k. In General. Most

Cited Cases

Medicare's procedure for dealing with the rein-
bursement of payments made by "primary payers"
under the Medicare Secondary Payment Act (MSP)
did not violate due process. The nature of MSP mon-
ies reimbursable to Medicare, as opposed to non-
MSP monies to which Medicare was not entitled, was
not always discernible with pinpoint accuracy at the
time a Medicare beneficiary became entitled to a set-
tlement check or some other source of income. As a

result, Medicare retained disputed MSP monies, over
which it had a possible claim for reimbursement,
prior to the time formal due process procedures were
available. This practice did not violate due process
because Medicare's interests in maintaining a solvent
medical care system for all senior Americans out-
weighed the temporary upset to individual beneficiar-
ies. There was some administrative grace period for
the government to perform its duties. U.S.C.A.
Const. Amend. 5.

Martha Bronson, Bronson and Associates, for Plain-
tiff.

Kelli L. Taylor, United States Attorney's Office, Sac-
ramento, CA, Robert A. Jackson, US Department of
Health and Human Services, San Francisco, CA, for
Defendant.

FINDINGS AND RECOMMENDATIONS; ORDER

GREGORY G. HOLLOWS, United States Magistrate
Judge.

Introduction and Summary

*1 This case brought as a potential class action, in-
volving the reimbursement of Medicare from pay-
ments made by "primary payers" under the Medicare
Secondary Payment Act (MSP), has been referred to
the undersigned pursuant to E.D. Local Rule 72-
302(a). Previously pending on this court's law and
motion calendar for September 18, 2008, was defen-
dant's motion for summary judgment, filed August 1,
2008. Kelli Taylor appeared on behalf of defendant.
Martha Bronson represented plaintiff.

The procedural path of this case to this point has not
been easily traversed; a complete explanation will be
given *infra* as to how this case has arrived at this
point, as this explanation will aid in determining
where the case goes from here. In sum, by Order of
March 18, 2008, this initial stage of the summary
judgment process was limited to the following issues:

Whether the Secretary (Medicare) has any policies
as described above which permit him to deprive
Medicare beneficiaries of their monies received

from [non-Medicare sources, aka "primary payer"].^{FN2} not subject to Medicare reimbursement, prior to the occurrence of meaningful due process; and

^{FN2}. The court and Medicare have used different terminology for those persons/entities who make payments to persons, part or all of which are subject to the Medicare Secondary Payer statute. Previously, the undersigned referred to them as "secondary payers," and the Secretary refers to them as "primary payers." The undersigned will adopt the Secretary's terminology herein.

Whether any [formal] pre-deprivation due process is necessary in any event.

The parties have understandably and correctly interpreted the scope of the above directive insofar as the parties recognize that the nature of MSP monies reimbursable to Medicare, as opposed to non-MSP monies to which Medicare is not entitled, is not always discernible with pinpoint accuracy at the time a Medicare beneficiary becomes entitled to a settlement check (or some other source of income) which in whole or in part is meant to encompass medical expenses previously "conditionally" paid by Medicare. Thus, this motion for summary judgment involves the acquisition and retention by Medicare of: (1) disputed MSP monies, i.e., monies over which Medicare has a possible claim for reimbursement and (2) non-MSP monies, i.e., monies recovered in settlement or elsewhere over which there could be no reasonable contention that Medicare has some claim, yet nevertheless retained by Medicare, prior to the time formal due process procedures are available. This motion therefore involves the Third Cause of Action in the complaint, and parts of the First Cause of Action.^{FN3}

^{FN3}. The Third Cause of Action sets forth at para. 61:

The defendant Secretary unlawfully allowed and allows... [Medicare] to take possession of and retain, indefinitely, medicare beneficiaries' third party proceeds under the guise of an MSP claim and without reasonable cause to believe the proceeds are related to a MSP claim.

The undersigned finds herein that plaintiff has raised an arguable due process claim, but ultimately finds that the Secretary's MSP procedures involved in plaintiff's case are *not* unconstitutional from a due process standpoint. Partial summary judgment should be awarded to the Secretary, i.e., on the Third Cause of Action, and part of the First Cause of Action.

Procedural Facts

This case involves a proposed class action lawsuit filed on December 15, 2005, wherein plaintiff Wall^{FN4} seeks to represent those individuals who have had problems obtaining return of their third party personal injury settlement proceeds which they claim are being unlawfully retained and used by Medicare. The gist of the Third Cause of Action (the heart of this case) alleged that when Medicare believed that it was entitled to reimbursement from beneficiaries or their payment sources, on account of medical benefits paid or "advanced" by Medicare (which ought to have been paid by the payment source), it compelled the payment source or beneficiary to turn over all of the monies received from the payment source regardless of the monies ultimate potential for reimbursement. In other words, as alleged, Medicare had a "give it all the money first, and we will finally figure it out later approach." In the remaining causes of action, plaintiff also alleges problems in the informal and formal due process procedures as applied. She seeks to enjoin the Secretary from certain pre and post-deprivation due process practices in regard to this Medicare reimbursement program, or at least have them declared invalid. The Complaint does *not* seek back benefits, future benefits, or damages.

^{FN4}. Hereafter, all references to plaintiff pertain to Pamela Wall.

^{*2} Because district courts generally have jurisdiction only to review "final," i.e., fully exhausted, claims against the Secretary, a lengthy process ensued to determine the court's jurisdiction. In Findings and Recommendations (F & Rs) dated July 11, 2007, the undersigned found that *based on the allegations of the complaint*, plaintiff was primarily attacking Medicare reimbursement policies and procedures-she was not seeking entitlement to benefits either past or prospective. The Honorable Frank Dammrell adopted these Findings on August 16, 2007. The undersigned

also finds that the issues presented by *this* motion are not moot.^{FNS}

FNS. At least with respect to the issues on this summary judgment, the court finds that plaintiff's case is not moot, which issue is controlled by cases such as *Gerstein v. Pugh*, 420 U.S. 103, 95 S.Ct. 854, 43 L.Ed.2d 54 (1975). In *Gerstein*, a case brought as a class action involving the need for a judicial determination of probable cause for pretrial detention, the Supreme Court found at 420 U.S. at 110, n. 11, 95 S.Ct. at 861, n. 11:

The claim, in short, is one that is distinctly 'capable of repetition, yet evading review.' At the time the complaint was filed, the named respondents were members of a class of persons detained without a judicial probable cause determination, but the record does not indicate whether any of them were still in custody awaiting trial when the District Court certified the class. Such a showing ordinarily would be required to avoid mootness under *Sosna*. But this case is a suitable exception to that requirement. See *Sosna supra*, 419 U.S. at 402 n. 11, 95 S.Ct. at 559 n. 11; cf. *Rivera v. Freeman*, 469 F.2d 1159, 1162-1163 (C.A.9 1972). The length of pretrial custody cannot be ascertained at the outset, and it may be ended at any time by release on recognizance, dismissal of the charges, or a guilty plea, as well as by acquittal or conviction after trial. It is by no means certain that any given individual, named as plaintiff, would be in pretrial custody long enough for a district judge to certify the class. Moreover, in this case the constant existence of a class of persons suffering the deprivation is certain. The attorney representing the named respondents is a public defender, and we can safely assume that he has other clients with a continuing live interest in the case.

This case is similar in that if Medicare has a "take-it-all-now-give-back-some-later" policy, such is certain to reoccur on a daily basis. Nevertheless, it would be dif-

ficult for these people to get into court before mootness would again arise. See also *United States v. Howard*, 480 F.3d 1005, 1010 (9th Cir.2007) (involving shackling of pre-trial detainees in court proceedings).

At one point, it became necessary to rule on plaintiff's counsel's (Bronson's) ability to continue with the case in that she was a witness to conversations which took place between her and the Medicare contractor (UGS) personnel, especially Brent Price. In order to remain in the case as lawyer, plaintiff's counsel agreed (1) to strike paragraph 39 from the complaint in which characterizations of the counsel/Price conversations appear; (2) to be prohibited herself from rebutting Brent Price's testimony; (3) plaintiff's counsel letters could only be used by plaintiff for purposes of showing notice, but not in regard to the letters' substance. Order filed November 29, 2007. This order has significant effect when dealing with the Price declaration. It is effectively unrebutted insofar as his dealings with plaintiff's counsel.

The case thereafter proceeded with much difficulty on its way to an initial class certification motion. When the motion was finally heard, the undersigned ultimately found that the motion was not well supported, but in all probability, the post-deprivation due process issues were not susceptible of class treatment, i.e., the regulations "as-applied" due process claims would be based on highly different facts. Order filed March 18, 2008. Rather than permit an immediate second go at establishing the class action prerequisites, the undersigned believed that it would be more efficient to determine whether the facial pre-deprivation due process claims, the ones most likely susceptible to class action treatment, could survive a motion for summary judgment. If the claims could not, the need for a further class action hearing could well evaporate.

Counsel for plaintiff was given initial deadlines to file for summary judgment and extensions of time with respect to the deadlines. Nevertheless, as set forth in Order of August 19, 2008, the undersigned was compelled to strike plaintiff's tardy and non-compliant motion for summary judgment. Plaintiff then attempted to file a "motion for injunctive relief" in its place, but as this was simply a summary judgment motion in disguise, this motion too was

stricken. Order filed September 5, 2008. The case then proceeded on the Secretary's motion for summary judgment.^{FN6}

FN6. Plaintiff was not precluded from opposing the Secretary's motion by virtue of plaintiff's affirmative motions being stricken. Because the undersigned recommends that the Secretary's motion be granted, the striking of plaintiff's motions has little practical effect. Hopefully, it sends a message to plaintiff's counsel that repeated non-compliance with a court's orders will not be tolerated.

Legal Standards for Summary Judgment Motions

The "purpose of summary judgment is to 'pierce the pleadings and to assess the proof in order to see whether there is a genuine need for trial.'" *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587, 106 S.Ct. 1348, 1356, 89 L.Ed.2d 538 (1986) (quoting Fed.R.Civ.P. 56(e) advisory committee note to 1963 amendment). Summary judgment is appropriate "if ... there is no genuine issue as to any material fact, and ... the moving party is entitled to judgment as a matter of law." Rule 56(e). Disputed facts must be material (affecting the outcome of the suit under the governing law), and genuine (supported by evidence permitting a reasonable jury to return a favorable verdict). *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 106 S.Ct. 2505, 2510, 91 L.Ed.2d 202 (1986).

*3 The moving party:

[A]lways bears the initial responsibility of informing the district court of the basis for its motion, and identifying those portions of "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any," which it believes demonstrate the absence of a genuine issue of material fact.

Celotex Corp. v. Catrett, 477 U.S. 317, 323, 106 S.Ct. 2548, 2553, 91 L.Ed.2d 265 (1986) (quoting Rule 56(c)).

The moving party without the burden of proof at trial may rely "solely on the pleadings, depositions, an-

swers to interrogatories, and admissions on file." *Id.* (citations omitted.) That party need only point to the absence of a genuine material factual issue, and is not required to produce evidence negating the opponent's claim. *Id.* at 323-24; *Lujan v. National Wildlife Fed'n*, 497 U.S. 871, 885, 110 S.Ct. 3177, 3187, 111 L.Ed.2d 695 (1990).

When the moving party meets its responsibility, the burden shifts to the opposing party. *Matsushita*, 475 U.S. at 586, 106 S.Ct. at 1356. The opposing party then must submit "significant probative evidence" on each element of his claims on which he bears the burden at trial.^{FN7} *Barnett v. Cernoni*, 31 F.3d 813, 815 (9th Cir.1994). Unverified denials in pleadings are insufficient. Neither can conclusory statements defeat a properly supported motion. *Scott v. Rosenberg*, 702 F.2d 1263, 1271-72 (9th Cir.1983). Rather, specific facts in the form of affidavits or admissible discovery material must be submitted. Rule 56(e); *Matsushita*, 475 U.S. at 586 n. 11, 106 S.Ct. at 1356 n. 11.

FN7. "[A] complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial." *Celotex*, 477 U.S. at 322.

The opposing party need not conclusively establish any fact. To demonstrate a genuine dispute, however, the opposing party "must do more than simply show that there is some metaphysical doubt as to the material facts.... Where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no genuine issue for trial." *Matsushita*, 475 U.S. at 587, 106 S.Ct. at 1356 (citation omitted). In other words, the evidence must demonstrate that a trial is required to resolve the parties' differing versions of the truth. *T.W. Elec. Serv., Inc. v. Pacific Elec. Contractors Ass'n*, 809 F.2d 626, 631 (9th Cir.1987).

The court believes the evidence of the opposing party, *Anderson*, 477 U.S. at 255, 106 S.Ct. at 2513, and draws all reasonable inferences in its favor, *Matsushita*, 475 U.S. at 587, 106 S.Ct. at 1356. Nevertheless, inferences are not drawn out of the air, and the opposing party must produce a factual predicate from which to draw an inference. *Richards v. Nielsen Freight Lines*, 602 F.Supp. 1224, 1244-45 (E.D.Cal.1985).

Discussion

A. Evidentiary Objections

Both parties object to the other's evidence and then some. Plaintiff objects to numerous exhibits which were part of the administrative record in this case unless it had been written by plaintiff's counsel. The Secretary seeks to obliterate any evidence produced by plaintiff.

*4 Those objections have been considered. For the reasons set forth by the Secretary in opposition to plaintiff's objections, each is overruled. Moreover, this court previously ruled that the Secretary was authorized to use certain letters and case documents without challenge because the Secretary was precluded from deposing plaintiff's counsel. Order, filed November 29, 2007, at 4. Plaintiff was permitted to use certain letters which would normally require counsel's deposition for the purpose only of giving notice or indication of demands made, but for no other substantive purpose. *Id.*

The Secretary's primary objection to plaintiff's evidence concerns the declaration of Randy Singleton. The Secretary first alleges lack of disclosure of this witness as an expert witness. However, the undersigned will not strike the declaration on this basis. For the most part, Singleton recounted his knowledge of Medicare policies and procedures with which he was familiar having worked at the MSPRC in the aspect of recovering "overpayments" from beneficiaries whose medical bills had been paid for by Medicare, but who had received payment from a primary insurer/entity for such expenses. It is arguable that simply explaining what one learned as an agency employee is not the type of testimony for which expert disclosure is necessary. Certainly, the Secretary's declarants, especially Thomas Bosserman, do the same thing.

The Secretary's objections to Singleton's relevance as a witness have more merit. Singleton worked for an unknown time with the MSPRC, which was a national contractor involved in recovering monies under the MSP program, and which took over all of this business from the regional contractors (such as the one involving plaintiff-UGS) in October 2006. Thus, not all the policies and practice of MSPRC are neces-

sarily pertinent to what UGS was doing in 2004-2005; in any event, Singleton would lack foundation to discuss the "old policies." The undersigned has discounted Singleton's testimony in the text on this basis where appropriate.

Plaintiff Wall's declaration also has some problems in that her level of knowledge and sophistication with respect to Medicare procedures certainly "improved" from that evident in her deposition. There are parts of the declaration which were written to take the place of counsel's substantive declaration because counsel has been prohibited from testifying in this case. However, for the reasons set forth in the text, the Wall declaration is not additive in light of the other evidence in the case, or is otherwise immaterial to the issues discussed herein. The undersigned has not utilized the declaration for any dispositive purpose.

Finally, the numerous "me too" attorney declarations filed by plaintiff, acquired from attorneys around the country, are conclusory at best, and not instructive to the issues discussed herein. For the reasons discussed in the text, they are completely discounted.

*5 Unless otherwise noted herein, any other of the Secretary's objections are overruled.^{FN8}

^{FN8}. The court does not include the Secretary's characterization of plaintiff's counsel's "argument" of disputed facts as an objection. It is true that many of the "disputed" facts are not disputed at all; rather, plaintiff's counsel argues different slants or additions to the facts and then calls the basic fact "disputed." The undersigned will not be held hostage to unreasonable allegations of disputed facts, but there is no need to tediously list all of those here.

B. Facts Related to Plaintiff Wall's Pre-Deprivation Due Process Claim

As set forth previously, the court has required that this summary judgment motion be made specific to plaintiff herself. Of course, findings here may have great implication for potential class issues involving the same subject, if not dispositive significance for the putative class. It may be that assuming certain issues in plaintiff's favor, plaintiff cannot prevail as a matter of law, which would be determinative of any

similarly situated class member regardless of whether a class had been previously certified. In the abstract, it is possible when adjudicating the named plaintiff's claim first, that a resolution would simply allow the case to proceed to finally determine the claim on a class-wide basis. Thus, the court will make findings specific to this case, unless otherwise stated in the discussion, and the undersigned will detail the significance of the findings to the case as a whole.

Wall was a Medicare beneficiary and was injured in a car accident on September 18, 2003. Pursuant to the Medicare Secondary Payer provisions ("MSP"), Medicare funded, in part, plaintiff's accident related medical expenses because the insurer for the other driver, Explorer, was not expected to pay promptly, or possibly at all. Although it is not precisely known how Medicare was contacted about plaintiff's accident related medical expenses or the prospect of primary payment by Explorer, in all probability, a provider contacted Medicare as Medicare was billed and there may well be payment penalties if the providers do not. Medicare's contractor, United Government Services, Inc. ("UGS"), in or about September 2004 informed plaintiff that due to the Medicare accident related payments made, it "conditionally" had a claim of \$2106.78, *see* Secretary Exhibit 4 and UMF 11^{FN9}, against any proceeds she received from a third party liability award. Plaintiff executed a settlement agreement with Explorer on or about November 14, 2004. UMF 15; Secretary Exhibits 8 and 11.^{FN10} Plaintiff's counsel requested the insurer, by letter of November 19, 2004, not to have Medicare included as a payee on the check, Exhibit 11; nevertheless, it is undisputed that Medicare was placed as a payee on the check (*see* Secretary Exhibit 12). Explorer issued the settlement check for \$15,000^{FN11} on or about November 19, 2004. Up to the latter part of December 2004, attempts were made to work out amounts due to Medicare, but the parties take irreconcilable positions on the efficacy of such attempts. Secretary Exhibits 5, 14.^{FN12}

^{FN9}. The precise amount is disputed, but appears to be \$2106.78

^{FN10}. Plaintiff signed a release of all claims on this date; whether the "settlement" was executed precisely on the 14th is immaterial.

^{FN11}. The check listed four co-payees:

Pamela and Mark Wall, Bronson & Associates, and Medicare.

^{FN12}. The court supplies the following information taken from the Secretary's papers. The chronology is supported by exhibits and the Price declaration, which is effectively unrefuted in these specifics. The chronology demonstrates that quite a bit of back-and-forth took place.

In September, 2004, Medicare provided plaintiff with a Payment Summary which itemized conditional payments, including provider name, dates of service, diagnosis codes, total charges, Part A and B reimbursements, and total to be reimbursed. Def.'s Ex. 4. Plaintiff was informed in September and November, 2004, how to challenge conditional payments but did not make a proper written challenge. Def.'s Ex. 5. She also did not request an updated Payment Summary before she settled with Explorer. Def.'s Ex. 5, p. 1. When plaintiff executed the settlement agreement with Explorer, she did not make any changes to it, but only requested that Medicare not be named a payee on the check after the agreement was executed. Def.'s Ex. 11. Plaintiff did not notify Medicare of the settlement until December 2, 2004, more than two weeks after the November 14, 2004 settlement date. Def.'s Exs. 8, 12. Between December 2 and 29, 2004, Medicare recorded more than twenty entries of discussions between plaintiff and defendant in regard to plaintiff's case. Def.'s Ex. 5. Medicare issued its initial determination on December 29, 2004.

Plaintiff supplied information regarding the settlement to UGS on December 2, 2004, Secretary Exhibit 12, and further information on December 7, 2004. Secretary Exhibit 13. Within 30 days of receipt of even the initial information, UGS issued its non-conditional "initial determination" [of monies owed to Medicare]^{FN13} on or about December 29, 2004, and now claimed \$6,319.53 in conditional payments, reduced by formula on account of attorneys' fees to a requested payment of \$4,199.33. Secretary Exhibits

16, 18. Clearly, appellate rights information was included in the December 29, 2004 letter from UGS to plaintiff's counsel. As explained in the December 29 letter and legal discussion, *infra*, payment on the MSP claim was due within 60 days thereafter.

FN13. "Initial determination" is a term of art here. Up to the time an "initial" determination is made, the Medicare contractor will have been making preliminary, tentative calculations as to what may ultimately be owed to Medicare. One might think generally (but erroneously) that these comprise the initial determinations. However, these preliminary calculations are just that—often incomplete/disputed, and in any event, the final settlement information will not have been transmitted to the contractor for purposes of the "initial" determination. The "initial" determination is actually a final determination subject to change because of further negotiations or formal due process procedures.

*6 In order to make a summary judgment motion nearly impossible, and continue this action into the next decade, the parties make mole hills out of a mountain of much immaterial evidence regarding the partially case dispositive issue of whether Medicare, through its contractor or otherwise, "requires" Medicare to be inserted on a third party claim settlement check as a payee. Sifting through all this paper, and in conformance with the legal discussion, *infra*, the undersigned finds that for all practical purposes in any case where it is not possible to make an "initial determination" prior to issuance of a settlement check (this case), any insurance company paying a third party claim by a Medicare beneficiary, who received medical payments by Medicare as a result of the incident giving rise to the third party claim, would understand that it should, as a practical necessity, name Medicare as a payee on a third party settlement check in order to stave off significant penalties and interest in the event that the Medicare beneficiary refused to reimburse Medicare in whole or in part. See legal discussion, *infra*; see also September 14, 2004 letters sent to Explorer Insurance Co. and plaintiff's counsel by CMS (Centers for Medicare and Medicaid Services) regarding Explorer's obligations: "Medicare's claim must be paid up front out of settlement proceeds before any distribution occurs. September 14, 2004 letters to Explorer and plaintiff's counsel at-

tached (without tabbing) in the "Declaration of Martha" filed August 22, 2008 (emphasis added) (the same letter included in Secretary Exhibit 3; Singleton Declaration at para. 13; Secretary Exhibit 10 (letter from Explorer to plaintiff's counsel: "We are required to name Medicare on the check since they have asserted a lien." (emphasis added)) For purposes of this motion with this plaintiff, the undersigned finds as undisputed that, although the law does not expressly require the addition of Medicare as a payee on checks, Medicare was inexorably added as a payee due to the legal implications accruing to "primary payers" if they do not do so. In other words, given the legal constraints on primary payers, and what is clearly communicated to them by Medicare operatives, the court finds a clear de facto, government policy of "encouraging" Medicare being named as a payee on third party checks that was operating in this case (and inferentially nation-wide). It is undisputed in this case that Explorer followed that policy in this case, Secretary Exhibit 9, and the instant summary judgment motion involves this case.^{FN14}

FN14. In those situations where Medicare and the Medicare beneficiary have completely agreed what is owed to Medicare prior to the issuance of an insurance check, i.e., the parties have agreed on the "initial" determination, it may well be possible to have two checks issued: one to Medicare and one to the beneficiary. This case does not involve that situation.

Nevertheless, despite the check having been issued in November of 2004, and the "initial" determination being issued on December 29, 2004, plaintiff's attorney did not further communicate with UGS until her letter of April 11, 2005 in which she further attempted to negotiate an appropriate amount that was due to MSP reimbursement. Secretary Exhibit 19. The record does not reflect the precise reason why plaintiff delayed for this 4 1/2 month period in further communicating, or in holding the check. Perhaps plaintiff and her counsel were upset with Medicare/UGS, but this delay cannot be laid upon the Secretary. Becoming concerned that the settlement check would not be negotiable, plaintiff then forwarded the plaintiff-endorsed check to UGS to be cashed by Medicare on April 21, 2005. Secretary Exhibit 20. UGS sent a refund check of \$10,674.69 in non-MSP monies approximately two weeks later on May 3,

2005. It is undisputed that Medicare, if only for this relatively short time period, had actual possession of the entire \$15,000 settlement-MSP monies and non-MSP monies alike.

*7 The parties then engaged in further post-deprivation procedures which resulted in further refunds to plaintiff during the year 2005. At worst, plaintiff contends now that a little over \$9 is owed to her (but she is not seeking damages).

C. The Controlling Law

42 U.S.C. § 1395y defines exclusions from Medicare coverage and Medicare's rights as a secondary payer. The primary payer of the beneficiary, or the other party liable to the beneficiary in this case, is the private insurer/entity responsible for the payment; however, if that insurer is not expected to pay promptly, Medicare will make payments for medical expenses, "conditioned on reimbursement to [Medicare] in accordance with" the other provisions of the statute. 42 U.S.C. § 1395v(b)(2)(B)(i). The primary plan is required to reimburse Medicare for payments made on its behalf. 42 U.S.C. § 1395v(b)(2)(B)(ii). The language of the statute is mandatory. The primary plan "shall reimburse" the Secretary. *Id.* Medicare's right to reimbursement accrues when information regarding the settlement ^{FN15} has been transmitted to Medicare (or its contractor), and a "final" calculation of monies to be reimbursed to Medicare is made, aka, the "initial" determination, and the reimbursement is due within 60 days of this date. 42 U.S.C. § 1395v(b)(2)(B)(ii); 42 C.F.R. § 411.24(h). ^{FN16} In fact, if payment is not made before the sixty day period for doing so expires, the Secretary may charge interest until reimbursement is made. *Id.* The government has a right of action against "any and all entities" responsible to make payment under a primary plan, and may recover double damages from any entity which has thwarted this governmental right. ^{FN17} 42 U.S.C. § 1395v(b)(2)(B)(iii). The United States also has subrogation rights which extend to the beneficiary's right to recover from the primary payer, and to any judgments or settlements related to injuries for which Medicare has paid medical costs. 42 U.S.C. § 1395v(b)(2)(B)(iv); 42 C.F.R. § 411.37 (2006).

^{FN15}. Settlement would encompass any type of agreed payment by a primary insurer and could also include an arbitration or court

judgment. For the purposes of this case "settlement" will be used.

^{FN16}. There is some confusion about the accrual of the 60 day deadline. The Secretary sets forth in his brief at page 4 that "[b]eneficiaries are instructed not to send monies until the initial determination is issued," and that "The MSP reimbursement is not due until 60 days after the initial determination and third party payment are received." Well, which is it? The third party payment in this case was known to the primary payer and received by the beneficiary about a month prior to the issuance of the initial determination. The controlling statutory provision and regulation would indicate that reimbursement is due either based on the date the primary payer receives information about the settlement's terms, or the date the beneficiary receives the settlement; the authority does not reference the "initial" determination.

A primary plan's responsibility for such payment may be demonstrated by a judgment, a payment conditioned upon the recipient's compromise, waiver, or release (whether or not there is a determination or admission of liability) of payment for items or services included in a claim against the primary plan or the primary plan's insured, or by other means. If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date notice of, or information related to, a primary plan's responsibility for such payment or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).

42 U.S.C. § 1395v(b)(2)(B)(ii).

* * *

(h) Reimbursement to Medicare. If the beneficiary or other party receives a primary payment, the beneficiary or other party must reimburse Medicare within 60 days.

42 C.F.R. § 411.24(h).

However, there is no need to finally determine this oddity as the issue is not controlling on this motion.

FN17. There is also a private right of action. 42 U.S.C. § 1395v(b) (3)(A).

The subrogation rights at issue constitute a lien on proceeds received from a tortfeasor or insurance of a tortfeasor. *Walters v. Leavitt*, 376 F.Supp.2d 746, 750 (E.D.Mich.2005) (referring to the MSP right as a "subrogation lien" ^{FN16}); *Steinfeld v. Gullatte*, 2006 WL 1663842 (S.D.Ind.2006). Indeed the lien is superior to any other claim. *United States v. Geter*, 816 F.Supp. 1332 (W.D.Wis.1993). This law tracks the nearly universal law that a right to subrogation, even without a contract, creates an equitable lien. See *Sareboff v. Mid Atlantic Medical Services*, 547 U.S. 356, 368, 126 S.Ct. 1869, 1877, 164 L.Ed.2d 612 (2006) ("A subrogation lien 'is not an express lien based on agreement, but instead is an equitable lien impressed on moneys on the ground that they ought to go to the insurer'"); *Allstate Ins. Co. v. Hughes*, 358 F.3d 1089, 1092 (9th Cir.2004) (interpreting Washington law: "[S]ubrogation creates in the insurer, by contract or equity, a right to be reimbursed. The enforcement of the interest [is] by a type of lien against the subrogor/insured's recovery from a tortfeasor or by an action by the subrogee/insurer in the name of the insured against the tortfeasor.")

FN18. For the reasons expressed in previous proceedings herein, the exhaustion question in that case was decided inconsistently with Ninth Circuit law.

*8 It is a statutory requirement that an insurer or group health plan report new MSP occurrences to Medicare based upon both its direct priority right of recovery and its subrogation rights. 42 U.S.C. § 1395y(b)(7). Furthermore, if the claim is resolved through a settlement, judgment, award or the like, the insurer must submit the information to Medicare

when final resolution is reached. 42 U.S.C. § 1395y(b)(8).

Thus, it is only through the exercise of an extreme formalism, even stubbornness, that the Secretary can state that Medicare is not "required" to be named as a payee on third-party settlement checks in a situation where the settlement check will be issued prior to an initial determination. In this case, Explorer was told that Medicare had a right to the money *before* distribution of any proceeds, Explorer believed that it was "required" by law to place Medicare on the check as a payee, and the provisions of the law, *supra*, require the conclusion that any insurer with an ounce of business sense would include the lienholder Medicare as a payee on the one check when it has been notified of an MSP situation. Because in a great many cases the settlement check will be issued before the initial determination, there is no practical way to issue two checks—one to Medicare for the "TBA" initial determination amount, and the remainder to the Medicare beneficiary. It follows then that Medicare, indisputably in this case, and assuredly in a great many cases, obtains actual or constructive control of the entire amount of settlement proceeds because the check cannot be cashed until the last endorsee, Medicare, has signed off on the check. ^{FN19} See MSP Manual, Chapter 7, § 50.5.4.3.B, Docket # 180 at 83-84 ("If a liability insurer sends the Medicare contractor a check intended to repay Medicare benefits paid on the beneficiary's behalf, but which is made out jointly to the contractor (or Medicare) and to other parties, such as the beneficiary or representing attorney, the contractor sends a note to the other payee(s) asking them to endorse the check and return it to the Medicare contractor. It does not endorse the check before the endorsement of the other payee(s) is received.... If ... the other payee(s) refuses to endorse the check and return it to Medicare, the contractor refers the check to the RO."); www.msprc.info (same)

FN19. Again, there are conceivable situations where the settlement check is not issued prior to the time Medicare could issue its "initial" determination; in such a case two checks could be issued, if the Medicare beneficiary accepted the determination, or just decided to fight it later. Those situations are not at issue in this case.

D. Pre-Deprivation Due Process

Plaintiff does not contend that Medicare was not entitled to MSP reimbursement at the earliest practical opportunity; she claims that Medicare's procedures require the "handing over" of non-MSP monies to Medicare, monies which no one contends Medicare is entitled to, prior to any meaningful due process. Given that Medicare obtained non-MSP monies from plaintiff's settlement, for however long or short, the issue becomes can Medicare constitutionally do this. The claim actually involves two interrelated aspects: (1) the determination of an MSP amount and the taking of that MSP amount subject to later negotiation/appeal; (2) the taking of indisputably non-MSP monies and holding them, as in this case for a short while, prior to return of such monies to the Medicare beneficiary.

*9 To state a procedural due process claim, plaintiffs must allege: (1) a liberty or property interest protected by the Constitution; (2) a deprivation of the interest by the government; and (3) lack of process. See *Wright v. Rivaland*, 219 F.3d 905, 913 (9th Cir.2000).

In analyzing a claim for violation of the right to procedural due process, the threshold inquiry is whether defendant's conduct infringed a protected interest. Once this initial test is met, the court must then assess whether the process provided by defendants was constitutionally adequate. See *Hewitt v. Helms*, 459 U.S. 460, 468, 103 S.Ct. 864, 74 L.Ed.2d 675 (1983); *Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S.Ct. 893, 903, 47 L.Ed.2d 18 (1976). "An important government interest, accompanied by a substantial assurance that the deprivation is not baseless or unwarranted, may in limited cases demanding prompt action justify postponing the opportunity to be heard until after the initial deprivation." *Fed. Deposit Ins. Corp. v. Mallen*, 486 U.S. 230, 240, 108 S.Ct. 1780, 1787-88, 100 L.Ed.2d 265 (1988). "[W]here pre-deprivation process is feasible, it must be afforded before a person may be deprived of a protected interest." *Finkelstein v. Bergna*, 924 F.2d 1449, 1452 (9th Cir.1991).

The Supreme Court has ruled that pre-deprivation procedures need not be elaborate and are satisfactory if there is the opportunity "to present reasons, either in person or in writing, why proposed action should not be taken...." *Cleveland Bd. of Educ. v. Louder-*

mill, 470 U.S. 532, 545, 105 S.Ct. 1487, 1495, 84 L.Ed.2d 494 (1985). When a full post-termination hearing is available, the pre-termination hearing may be highly informal. *Loudermill*, 470 U.S. at 546, 105 S.Ct. at 1495. Thus, *Loudermill's* requirement of a meaningful opportunity to respond in a predeprivation context entails merely the right to be informed of the "substance of the relevant supporting evidence." *Brock v. Roadway Express, Inc.*, 481 U.S. 252, 264, 107 S.Ct. 1740, 1748, 95 L.Ed.2d 239 (1987) (plurality opinion). Moreover, the predeprivation hearing "need not definitely resolve the propriety of the [deprivation], but should be an initial check against mistaken decisions..." *Loudermill*, 470 U.S. at 545, 105 S.Ct. at 1495. See also *Levine v. City of Alameda*, 525 F.3d 903, 906 (9th Cir. May 13, 2008) (finding full post-termination hearing required because plaintiff given no opportunity to respond prior to termination and citing to *Loudermill* which noted that "adequacy of pretermination and post-termination hearings are interrelated and that the scope of one affects the scope of the other").

The three part test to be considered in determining whether administrative procedures are constitutionally sufficient before a property deprivation occurs was set forth in *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). It requires consideration of "(1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and probable value, if any, of additional procedural safeguards; and (3) the Government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail." *Id.* at 321. Avoidance of extra costs associated with pre-deprivation hearings, as well as the government's interest in assuring safe health care for the public, have been held to be compelling governmental interests. *Varandani v. Bowen*, 824 F.2d 307, 311 (4th Cir.1987). Also held to be compelling is the government's interest in collecting revenues. *Fuentes v. Shevin*, 407 U.S. 67, 92 S.Ct. 1983, 2000, 32 L.Ed.2d 556 (1972).

*10 Turning to the threshold "property interest" inquiry, to the extent that the Secretary contends that non-MSP monies are not a property interest of plaintiff, the contention is frivolous. See *Goldberg v. Kelly*, 397 U.S. 254, 90 S.Ct. 1011, 25 L.Ed.2d 287 (1970). The Secretary appears to believe that money

is not property, or that deprivation of someone else's property, if only for a short while, is absolutely lawful without question. No authority is cited for such propositions. It would be as if to say that in a house sale, the seller has no property interest in the proceeds of sale over and above what is owed to the lienholder, and that the lienholder can retain the entire proceeds for whatever time period suits the lienholder.

To the extent that the Secretary contends that plaintiff has no property interest in the MSP monies, such a contention turns on the notion of what subrogation means in terms of MSP monies being an equitable lien, i.e., does the lien extinguish a Medicare beneficiary's right, title, or interest in the monies which are earmarked to be paid to Medicare. It is not the function of this motion for summary judgment to precisely define the legal extent of the "equitable lien," suffice it to say, that in the absence of an express assignment, legal title often remains in the hands of the person entitled to it by the face of the property at issue. Cretcher-Lynch v. National Council on Compensation, 149 F.3d 817, 819 (8th Cir.1998); Fed. Deposit Ins. Co. v. Mademoiselle of Cal. 379 F.2d 660, 665 (9th Cir.1967). This legal title would certainly constitute a property interest. The matter is further complicated in that the equitable lien in this case (as it will be in many cases) is inchoate at the time the settlement check is issued—the precise amount owed as MSP monies is not known. The Secretary cannot logically contend that the portion of the initial demand subsequently determined to be non-MSP, on account of a determined error in the initial demand, was not all along property in which the beneficiary had a property interest.

Therefore, the undersigned concludes that plaintiff has a property interest (to varying degrees) in the total amount of the settlement at the time the tortfeasor's insurance company pays the settlement amount. This brings the due process analysis to the nature of the government's interest in utilizing the procedures which it does, the nature of the harm to plaintiff, and the nature of the pre-deprivation and post-deprivation procedures.

Given the legal discussion above concerning the need for the MSP legislation exhibited thereby, the compelling interest of the government in ensuring the solvency of the Medicare program (especially today

where we are often warned that Medicare will run out of money in the near future) can hardly be doubted.
FN20

FN20. See e.g., *Medicare's Insolvency Creeps Closer*, www.webmd.com/medicine/news/20060502: "Medicare's trust fund will run out of money in 2018, two years earlier than previously expected, the program's trustees reported Monday."

The Secretary has carefully set forth the policy behind this statute. In 2002, when testimony was taken before the Senate Finance Committee in regard to regulation of Medicare, it was revealed that in that year alone Medicare planned to pay approximately \$240 billion for health care of almost 40 million beneficiaries. Def.'s Request for Judicial Notice ("RJN"), Ex. C. Therefore, the financial viability of Medicare is dependent on its being reimbursed. The Medicare Secondary Payer Statute^{FN21} was enacted in order to preserve Medicare's financial integrity, curb skyrocketing Medicare costs, and reverse the payment order so that liability insurers and others are the primary payers where there is overlapping insurance coverage, rather than Medicare. Zimmerman v. Shalala, 67 F.3d 841, 843 (9th Cir.1995). Where it is clear that an insurance company will pay for these costs, the government should not pay the medical bills. Evanston Hosp. v. Hauck, 1 F.3d 540, 544 (7th Cir.1993). See also Thompson v. Goetzmann, 337 F.3d 489, 495 (5th Cir.2003) (defining purpose of Medicare Act to "reduce Medicare costs by making the government a secondary provider of medical insurance coverage when a Medicare recipient has other sources of primary insurance coverage"). If Medicare does provide coverage conditionally on behalf of another payer, this coverage is conditioned on reimbursement. 42 U.S.C. § 1395v(b)(2)(B)(i).

FN21. The statute is codified at 42 U.S.C. § 1395v.

*11 The importance of the MSP provisions were also set out in United States v. Grter, *supra* at 816 F.Supp. 1332. The legislative history referenced therein strikingly supports the importance of the MSP statutory scheme. Indeed, if as the court held, the MSP subrogation entitles Medicare to a priority of recovery over all other liens as a matter of federal preemption, it is

difficult to overstate the Congressional intent to find a compelling need to seek reimbursement of all monies possible under the law.

This is not to say that a Medicare beneficiary's interests are unimportant, especially with respect to the amount of non-MSP money that was effectively withheld. Tort settlements often pay non-Medicare paid medical bills, not to mention a host of other conceivable expenses. If the non-MSP money is withheld for any significant length of time, significant hardship may result. Such may not have been the case in plaintiff's situation, as she perversely held onto the check almost to the point of its expiration before making any attempt to get reimbursed for any non-MSP money.

However, in assessing the weight of the interests involved, Medicare's interests in maintaining a solvent medical care system for all senior Americans outweighs the temporary upset to individual beneficiaries. Obviously, when necessary, Medicare opts for a "take now, figure out final resolution later," approach as it beggars common sense not to understand that the collection difficulties for Medicare would be *much* more difficult and *much* less efficacious if beneficiaries were given complete freedom to spend all their settlements, if even for legitimate bills, prior to the time Medicare *might* get repaid. Plaintiff's "pay later" approach would completely negate the legal priority of Medicare's rights to MSP monies included within a tort settlement, *Grier, supra*. Requiring a full evidentiary hearing prior to relinquishing third party proceeds to Medicare would place an enormous financial and administrative burden on the government which is not justified in light of the compelling government interest. See *Nelson v. Diversified Collection Services Inc.*, 961 F.Supp. 863, 870 (D.Md.1997). As the statute makes clear, Medicare beneficiaries agree when they choose to accept benefits that MSP payments are conditioned on reimbursement to the Trust Fund. 42 U.S.C. § 1395y(b)(2)(B).

While recognizing in many cases, that including Medicare as a payee on one check (which realistically means that Medicare must ultimately negotiate the check and place all the MSP and non-MSP money in its accounts), will inevitably cause a delay in return of non-MSP monies to a beneficiary, there appears to be no other viable mechanism with which to retain Medicare's priority of recovery on MSP mon-

ies.^{FN22} In this case, plaintiff sent the settlement check (issued by Explorer in December 2004 prior to an "initial" determination) to Medicare on April 22, 2005; it was received by UGS (Medicare contractor) on April 25, 2005, and a reimbursement check for those monies which neither party contended were subject to an MSP lien was sent to plaintiff on May 3, 2005. Due process must recognize some administrative grace period in which the government must perform its mandatory duties. A time period for return of undisputed non-MSP monies of up to 30 days from time of check receipt by Medicare would not be unreasonable from a due process standpoint.

^{FN22} Again, the Secretary is correct that in *some* cases, the settlement amount may be known sufficiently before a settlement check is issued, that the check issuer can be informed of the undisputed non-MSP amount such that two checks can be issued—one for the alleged MSP amount owing and the undisputed non-MSP amount (in which Medicare would not be named as a payee). In such a situation, Medicare will never have possession of the undisputed non-MSP monies. However, there obviously exist a significant number of cases, such as the one involving plaintiff, where timing logistics do not permit the issuance of two checks.

*12 "Property rights must yield provisionally to governmental need." *Phillips v. CIR*, 283 U.S. 589, 595, 51 S.Ct. 608, 611, 75 L.Ed. 1289 (1931) (involving collection of tax monies prior to a hearing). Clearly, in tax situations the government retains monies to which it, in actuality, was never entitled. An example familiar to most Americans would be the withholding of income for tax purposes. For events beyond either party's control, e.g., a layoff from employment, the government may retain collected monies prior to the layoff which will indisputably be over and above any potential tax liability for the entire year. As we all know, no refund is issued until the next tax season. No reasonable person contends, however, that the government has violated due process in such a withholding situation. See also e.g., *Lujan v. G & G Fire Sprinklers, Inc.*, 532 U.S. 189, 121 S.Ct. 1446, 149 L.Ed.2d 391 (2001) (permitting the retention of wages and penalties by state government assertedly owed pending legal resolution.

Finally, plaintiff purports to attack the pre-deprivation policies as applied by referring to delayed refund problems encountered by an attorney in Mississippi (Fewell). No class action has been certified, but the alleged problems demonstrate the paucity of merit to the ultimate due process *polley* problems asserted by plaintiff herein. The Fewell evidence has all the earmarks of special problems in a special case that has nothing to do with policies applied across the board to Medicare recipients, and nothing to do with plaintiff's situation herein in which she was issued a refund of undisputed non-MSP monies 8 days after receipt by UGS. Plaintiff's action cannot remain viable simply because of potential bureaucratic problems of unknown origin involving others.^{FN21}

^{FN21} And, of course, a class action would not be certified for a myriad of individual problems in dealing with Medicare contractors.

The ultimate balance of these interests depends on the nature of the proceedings in which resolution of disputes concerning the reimbursement monies is made. Taking the formal post-initial determination procedures first, no real issue exists. Plaintiff does not attack the availability of meaningful post-deprivation procedures as they *facially* appear. After the initial determination, the beneficiary may request reconsideration. After the reconsideration, the beneficiary may request a hearing before an ALJ, and thereafter appeal to the Medicare Appeals Council, followed by the filing of a lawsuit in federal court. 42 U.S.C. § 1395ff(b) (1); 42 C.F.R. § 405.904(a). The appeals process, including a request to waive all of the MSP repayment, is spelled out in the initial determination letter. Secretary Exhibit 18. Plaintiff could not legitimately contend that the facial provisions for "afterwards" review are insufficient.

The actual chronology and effectiveness of these procedures in plaintiff's case is beyond the scope of this summary judgment. However, even assuming that they were ill applied in plaintiff's case, and in other cases, the remedy is an injunction to enforce the facially satisfactory procedures, not to change the entire structure of the MSP program with respect to priority of MSP reimbursement.

*13 The issue of pre-deprivation due process is a bit more difficult to decide on summary judgment. As

set forth above in the legal discussion, pre-deprivation due process procedures must also be available if they can be feasibly implemented. *Feinkalstein, supra*. However, these procedures need not be elaborate or formal. See *Memphis Light, Gas and Water Division v. Craft*, 436 U.S. 1, 16 n. 17, 98 S.Ct. 1554, 1564 n. 17, 56 L.Ed.2d 30 (1978) (finding requirement of pre-deprivation hearing satisfied by "opportunity for informal consultation with designated personnel empowered to correct a mistaken determination").

Although many difficulties exist in setting up a pre-deprivation due process mechanism, e.g., the amount owed in reimbursement is often a moving target prior to the issuance of the initial determination, given the length of time involved prior to issuance of an initial determination, opportunities for informal contact exist. The Secretary does not dispute this; indeed, the Secretary heralds its ability to correct mistakes prior to issuance of the initial determination. When a possible MSP claim is identified by Medicare, a file is opened, and the beneficiary is sent a notification letter reminding the beneficiary of his or her rights and obligations. Conditional payment information ("Payment Summary"^{FN24}), to the extent available, may be provided to the beneficiary at this time. Price Decl. ¶ 4. Such a summary, dated September 21, 2004, was provided to plaintiff. Def.'s Ex. 4. Medicare responds to challenges of included expenses at any time. Price Decl., ¶ 4. According to the Price declaration, "[u]pon request, interim letters are sent with an updated Payment Summary whether or not settlement is imminent. Beneficiaries can challenge conditional expenses upon receipt of the interim letters and payment summary. UGS investigators, including myself, would adjudicate challenges upon receipt. UGS strived to respond to inquiries within 45 days." *Id.* The MSP manual confirms that "contractors shall acknowledge and respond to all correspondence within 45 calendar days from the date of receipt ... absent instructions to the contrary..." (Def.'s RJN Ex. B 41). Beneficiaries can also access their account information at any time by going to www.mymedicare.gov.^{FN25} As set forth earlier, plaintiff does not (and cannot) directly dispute these facts.

^{FN24} Payment summaries itemize all conditional payments, including provider name, dates of service, diagnosis codes, total charges, Part A and B reimbursements, and

total to be reimbursed. Price Decl., ¶ 4.

FN25. Defendant's facts indicate that plaintiff wrote a letter to Medicare on December 2, 2004 attempting to resolve disputes but did not comply with instructions given. Def.'s Exs. 5, 12. On December 3, 2004, UGS called plaintiff regarding her letter. Def.'s Ex. 5. On December 9, 2004, plaintiff's attorney called UGS, saying "it wasn't worth the effort" to send us 'all' the settlement details I explained to her we needed to be able to send a demand." *Id.* Plaintiff's attorney sent a letter with information needed to finalize the MSP claim but did not challenge conditional payments. Def.'s Ex. 15. On December 27, 2004, UGS sent plaintiff a letter for her review, with its revised conditional payment, and attached a list of claims used to arrive at the revised amount. Plaintiff was requested to respond if the information was incorrect. Def.'s Ex. 16. On December 28, 2004, plaintiff and UGS had a phone conversation wherein UGS declined to remove certain expenses, but plaintiff's counsel stated that although she disagreed with some of the claims, she wanted UGS to issue the demand. Def.'s Ex. 5 at 2.

Superficially, plaintiff presents facts to counter the Secretary's showing, but on thorough analysis, material issues of fact are not presented.

The court accepts, for the purposes of this motion, plaintiffs' evidence that Medicare attempts to match medical entries to be included in an MSP claim by using computer generated matching processes, and that case analysts are not instructed to analyze what entries should or should not be included in an MSP claim. Singleton Decl., ¶ 12 (Docket # 179). The criteria for computer determination is based on medical diagnosis codes and payment date after the MSP incident. *Id.*, ¶ 7. *See also* MSP Manual, Chapter 6, §§ 40.1, 40.2 (Docket # 180 at 111-12.) It is readily apparent from plaintiff's records that Medicare initially did deprive plaintiff of property that was clearly hers. For example, the payment summary issued to plaintiff on December 20, 2004 indicates entries for "(1) tobacco disorder; (2) diabetes; (3) vaginitis; (4) interstitial cystitis; (5) eyelid inflammation; (6) sinus; and (7) a suspected heart attack hospitalization

which occurred eight months post 9/18/03 accident." Singleton Decl., ¶ 11. In other words, in plaintiff's case, as in many cases, initial over-retention of non-MSP monies is going to occur. These type of mistakes require a process whereby a beneficiary gets to informally complain that Medicare is "over-relating" ailments to accidents such that, if not corrected, Medicare will receive reimbursement to which it is not entitled-at least for a time period.

*14 Plaintiff then further posits the Singleton declaration which provides at 7: "With respect to the timing of making corrections to the MSP claim that would be brought to MSPRCS [Medicare national contractor] attention through correspondence and phone calls, we were told by MSPRC that no corrections are to be made until *after* an initial determination on the MSP amount (Demand letter) is made." The problem with this declaration is that Singleton did not work for UGS, and the years that he worked as a Medicare contractor employee for another contractor is unknown from his declaration. ^{FN26} On the other hand, declarant Price worked for UGS (the contractor at issue here), and had personal knowledge of the Wall case. That *Wall* had access to pre-deprivation due process remains undisputed. *See also* Secretary Exhibit 5 which corroborates the Price declaration at least with respect to advising plaintiff's attorney to submit her diagnosis-relation-to-accident disputes in writing. The fact that no resolution was reached pre-determination in plaintiff's case is not controlling; the fact that plaintiff had access to and participated in informal procedures is controlling.

FN26. However, given the fact that MSPRC was not created until October 2006, Singleton's work would have been performed well after plaintiff's case was handled by UGS.

Moreover, *plaintiff's own exhibit* attached to the Martha [Bronson] declaration, although it assists in raising a superficial question concerning Price's authority to negotiate anything with respect to reimbursement dispositively rebuts plaintiff's contention that no informal contact with anyone working for Medicare for the purpose of pre-initial determination reimbursement negotiation is permitted:

50.4.2-Pre-Settlement Negotiations, Compromises, and Discussions with Beneficiaries/Attorneys

(Rev. I, 10-01-03)

The Federal Claims Collection Act grants Medicare the right to compromise its claims, or to suspend or terminate its recovery action. However, only CMS claims collections officers may take this action. Consequently, contractors may not, under any circumstances, enter into negotiations (either pre- or post settlement) with beneficiaries, or their attorneys or representatives, to compromise Medicare's claim. If beneficiaries, or their attorneys or representatives, wish to discuss arrangements by which Medicare's claim might be reduced (outside of a formal request for Medicare to waive its claim), the contractor either:

> Instructs the party to either make its request for compromise in writing, in which case the contractor forwards the request to its RO, or

> Refers the party directly to the appropriate RO staff person (emphasis added) ^{FN27}

^{FN27} Attorney Brunson did not reference this exhibit in her authentication declaration. However, the undersigned has confirmed that it is part of the Medicare Secondary Payments (MSP) Manual. See www.cms.hhs.gov/manuals, *Medicare Secondary Payments Manual (MSP)*, Chapter 7, section 50.4.2. The undersigned will take judicial notice of it.

The precise meaning of the words "Medicare's claim" is not clear. It could include any part of the diagnosis relation-to-accident negotiation, or it may well mean only negotiation of the total monetary amount of Medicare paid medical bills based upon undisputed diagnosis relation. The Secretary does not refer to this section, and plaintiff fails to explain it. However, in either case, the manual clearly authorizes pre-deprivation negotiation in an informal manner, albeit the negotiator with authority may be in dispute. ^{FN28}

^{FN28} The several "me too" declarations filed by the attorneys of Medicare beneficiaries attesting to several MSP bureaucratic snafus (occurring for unknown reasons) around the nation add nothing to Wall's

case, and fail to take into account officially published pre-deprivation due process procedures.

*15 In addition to challenging the initial determination any time prior to its issuance, as well as within 60 days after it is made; 42 U.S.C. § 1395y(b)(2)(B)(ii); 42 C.F.R. § 411.24(h); a Medicare beneficiary has the opportunity to take advantage of another pre-deprivation remedy-to request a waiver of the MSP claim under the statute. See 42 U.S.C. § 1395(b)(2)(B)(v) ("the Secretary may waive (in whole or in part) the provisions of this subparagraph in the case of an individual claim if the Secretary determines that the waiver is in the best interests of the program established under this subchapter"). The court is unaware of any authority which precludes a waiver request from being developed prior to the issuance of the initial determination. In sum, adequate pre-deprivation procedures exist such that the initial retention of MSP and Non-MSP monies does not violate due process.

One other non-meritorious due process attack is made. Plaintiff also claims that defendant's policy which requires the beneficiary to prove that the medicals that defendant claims in its "Payment Summary Form" are not related to an MSP case results in an unconstitutional shifting of the burden of proof to plaintiff. ^{FN29} In support, plaintiff cites *Estate of Ursa v. Thompson*, 309 F.Supp.2d 253 (D.Conn.2004). The Secretary is correct in the reading of that case which states that although the Secretary maintains the ultimate burden on the issue of whether Medicare's reimbursement request is overinclusive, plaintiff is "in a better position as an initial matter to evaluate the reimbursement claim and to assess whether a payment made by Medicare was truly for an item or service that was ultimately paid by a primary plan." *Id.* at 260. The court implied that it made sense for the plaintiff to have the initial burden to make a prima facie case. *Id.* This procedure is not unlike Social Security disability cases where plaintiff has the initial burden to come forward with medical evidence to support her claim for benefits because she has greater access to her medical records. See *Bowen v. Yuckert*, 482 U.S. 137, 146 n. 5, 107 S.Ct. 2287, 2294 n. 5, 96 L.Ed.2d 119 (1987) (holding that plaintiff bears the burden of proof in the first four steps of the sequential evaluation process, and the Commissioner bears the burden if the sequential

evaluation process proceeds to step five). The court concludes that no unconstitutional shifting of burdens takes place as a result of plaintiff having to evaluate whether a medical service was unrelated and taking some steps to correct the mistake.

FN29. The declaration of Randy Singleton confirms this policy. It states that case handlers are instructed to inform the beneficiary that he or she must submit documentation establishing that claims are not related. (Docket # 179, ¶ 15).

E. Conclusion to Due Process Claim (Third Cause of Action)

Medicare MSP law and regulations set up a situation which inevitably will result in many situations of Medicare's retention of undisputed, and/or ultimately determined, non-MSP monies. Although such raises a specter of unlawful governmental detention of property, for the reasons stated herein, Medicare's Secondary Payment law, policies, and procedures withstand facial due process attack in plaintiff's Wall's case, and generally.

Remaining Causes of Action

A. First Cause of Action

*16 Plaintiff's first cause of action is that defendant violated the requirements for initial determinations by failing to require UGS to provide timely, written and accurate initial determinations on MSP claims in California, thus violating the Medicare statute and regulations and procedural due process. Compl. ¶¶ 53, 56. Plaintiff explains that even though she found errors in unrelated medicals from before the subject accident, UGS was not permitted to correct them until after settlement was reached. As a result, plaintiff claims that beneficiaries are "without any recourse unless and until the case settles and payment is made."

To the extent that plaintiff is alleging here that no avenues for informal consideration and rectification exist for erroneous conditional payment information (pre-issuance of an initial determination), for the reasons expressed above, summary judgment should be granted.

To the extent that plaintiff is alleging some violation of regulations and policies in the processing of her claim, the undersigned has not ruled upon that claim herein. However, in further proceedings, because plaintiff is not seeking monetary recompense for any alleged violation, plaintiff will be tasked with showing why the remainder of the First Cause of Action:

(1) is not moot;

(2) whether plaintiff finally exhausted her own particular complaints in this regard;

(3) a policy of action or inaction that may need to be corrected such that maintenance of a class action is appropriate; issues of fact on a policy cannot be shown by a potpourri of attorney declarations which merely conclude that such a policy, *de jure* or *de facto* exists because of their "past experience," nor can it be demonstrated by unexplained incidents in which delay or some other problem was encountered.

B. Second, Fourth, Fifth, Sixth Causes of Action

Defendant contends that these claims concern post-deprivation issues that the court already found were not appropriate for class consideration. See Order, filed March 18, 2008. The undersigned did not go so far as to make a definitive ruling.

The Second Cause of Action concerns "violation of requirements for reconsideration requests." The Fourth Cause of Action contends a "violation of requirement to send waiver forms and information upon written request." The Fifth Cause of Action alleges "violation of requirement to provide correct appeal information." Finally, the Sixth Cause of Action indicts the Secretary for "fraudulent back dating of initial determinations," thus shortening the beneficiary's appeal period.

Plaintiff cannot legitimately contend that adequate administrative procedures to resolve post-deprivation issues do not factually exist. Therefore, in further proceedings, because plaintiff is not seeking monetary recompense for any alleged violation, plaintiff will be tasked with showing why the above identified causes of action:

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(1) are not moot;

*17 (2) whether plaintiff finally exhausted her own particular complaints;

(1) a *policy* of action or inaction that may need to be corrected such that maintenance of a class action is appropriate; issues of fact on a policy cannot be shown by a *postpari* of attorney declarations which merely conclude that such a policy, *de jure* or *de facto* exists because of their "past experience," nor can they be demonstrated by unexplained incidents in which delay or some other problem was encountered.

CONCLUSION

Accordingly, IT IS RECOMMENDED that defendant's motion for partial summary judgment motion, filed August 1, 2008, (docket # 166), be granted as to the Third Cause of Action, and the First Cause of Action insofar as it alleges the non-existence of informal procedures for challenging and rectifying a tentative requirement to repay Medicare for conditional payments made prior to payment by a primary payer. (These Findings and Recommendations resolve the entire Docket # 166).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within ten (10) days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections shall be served and filed within ten (10) days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

IT IS HEREBY ORDERED: that the parties individually submit a proposed scheduling for disposition of the remaining Causes of Action (Claims) in this lawsuit no later than November 17, 2008. The pretrial conference previously scheduled is vacated, as is the previously scheduled trial date of February 24, 2009.

E.D.Cal., 2008.

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Action No. 5:08CV102
(STAMP)

PAUL J. HARRIS,

Defendant.

MEMORANDUM OPINION AND ORDER
GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND
DENYING AS MOOT PLAINTIFF'S MOTION TO STAY DISCOVERY

I. Procedural History

The plaintiff, the United States of America, filed a complaint against the defendant, Paul J. Harris, for declaratory judgment and money damages owed to the Centers for Medicare and Medicaid Services by virtue of third-party payments made to a Medicare beneficiary. On November 13, 2008, this Court denied the defendant's motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure. Currently before this Court is the plaintiff's motion for summary judgment, which has been fully briefed by the parties and is ready for disposition by this Court. In addition, the plaintiff has filed a motion to stay discovery pending this Court's decision on its motion for summary judgment. The defendant did not file a response. For the reasons set forth below, this Court grants the plaintiff's motion for summary judgment, and denies as moot the plaintiff's motion to stay discovery.

II. Facts

On or about May 22, 2002, Mr. James Ritchea ("Mr. Ritchea"), a Medicare beneficiary, sustained injuries when he fell off a ladder purchased from a local retailer. As a result, because Mr. Ritchea was eligible for benefits through the Medicare health care benefit program, the Centers for Medicare and Medicaid Services ("CMS") paid approximately \$22,549.67 in Medicare claims submitted on behalf of Mr. Ritchea for medical services.

Thereafter, Mr. Ritchea and his wife retained the defendant, Paul J. Harris ("Mr. Harris"), as their attorney to sue the ladder retailer, alleging that the retailer was liable for Mr. Ritchea's injuries. The action was settled in July 2005, and as part of this settlement, the Ritcheas and Mr. Harris received a sum of \$25,000.00.

Mr. Harris admits that he forwarded to Medicare details of this settlement payment, as well as his attorney's fees and costs. Based upon this information provided by Mr. Harris, Medicare calculated that it was owed approximately \$10,253.59 out of the \$25,000.00 settlement, determined by Mr. Harris's share of the attorney's fees and costs subtracted from the total medical payment. CMS informed Mr. Harris of this decision by letter dated December 13, 2005. That letter also informed Mr. Harris of the applicable appeal rights, advising Mr. Harris that if his client disagreed with the amount of overpayment, an appeal must be filed within 120 days of receipt of CMS's letter. Neither Mr. Harris nor

his clients filed an appeal and, to date, the debt has not been paid.

Now, because this amount has not been repaid to Medicare within the statutorily-required sixty-day time period, CMS claims that it is entitled to its calculated share of the settlement plus interest, and that it will not pay its full share of attorney's fees and costs. Accordingly, CMS is seeking total payment of \$11,367.78 plus interest from Mr. Harris for the Medicare claims paid on behalf of the defendant's client, Mr. Ritchea.

III. Applicable Law

Under Federal Rule of Civil Procedure 56(c), summary judgment should be granted if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." The party seeking summary judgment bears the initial burden of showing the absence of any genuine issues of material fact. See Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986). "The burden then shifts to the nonmoving party to come forward with facts sufficient to create a triable issue of fact." Temkin v. Frederick County Comm'rs, 945 F.2d 716, 718 (4th Cir. 1991), cert. denied, 502 U.S. 1095 (1992) (citing Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-48 (1986)).

"[A] party opposing a properly supported motion for summary judgment may not rest upon the mere allegations or denials of his

pleading, but . . . must set forth specific facts showing that there is a genuine issue for trial." Anderson, 477 U.S. at 256. The Court must perform a threshold inquiry to determine whether a trial is needed -- whether, in other words, "there are any genuine factual issues that properly can be resolved only by a finder of fact because they may reasonably be resolved in favor of either party." Id. at 250; see also Charbonnages de France v. Smith, 597 F.2d 406, 414 (4th Cir. 1979) (Summary judgment "should be granted only in those cases where it is perfectly clear that no issue of fact is involved and inquiry into the facts is not desirable to clarify the application of the law.") (citing Stevens v. Howard D. Johnson Co., 181 F.2d 390, 394 (4th Cir. 1950)).

*[T]he plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." Celotex, 477 U.S. at 322. Summary judgment is not appropriate until after the non-moving party has had sufficient opportunity for discovery. See Oksanen v. Page Mem'l Hosp., 912 F.2d 73, 78 (4th Cir. 1990), cert. denied, 502 U.S. 1074 (1992). In reviewing the supported underlying facts, all inferences must be viewed in the light most favorable to the party opposing the motion. See Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986).

IV. Discussion

A. Plaintiff's Motion for Summary Judgment

Section 1395y(b)(2)(B)(ii) of the Social Security Act, commonly known as the Medicare Secondary Payer Statute ("MSPS"), states, in pertinent part, that when Medicare makes a conditional payment for medical services received as a result of an injury caused by another party, the government has a right of recovery for the conditional payment amount against any entity responsible for making the primary payment:

Repayment required. A primary plan, and an entity that receives payment from a primary plan, shall reimburse the appropriate Trust Fund for any payment made by the secretary under this title . . . with respect to an item or service if it is demonstrated that such primary plan has or had a responsibility to make payment with respect to such item or service. A primary plan's responsibility for such payment may be demonstrated by a judgment, a payment conditioned upon the recipient's compromise, waiver, or release (whether or not there is a determination or admission of liability) of payment for items or services included in a claim against the primary plan or the primary plan's insured, or by other means.

42 U.S.C. § 1395y(b)(2)(B)(ii). See also Cox v. Shalala, 112 F.3d 151, 154 (4th Cir. 1997) ("When such a conditional payment is made for medical care, the government has a direct right of recovery for the entire amount conditionally paid from any entity responsible for making primary payment.").

To recover payment, the government may "bring an action against any or all entities that are or were required or responsible . . . to make payment with respect to the same item or service . . . under a primary plan." 42 U.S.C.

§ 1395y(b)(2)(B)(iii). Alternatively, the government "may recover under this clause from any entity that has received payment from a primary plan or from the proceeds of a primary plan's payment to any entity." Id. (emphasis added). See also Cox, 112 F.3d at 154 ("In the alternative, the government's right of recovery is subrogated to the rights of an individual or entity which has received a payment from the responsible party."). The federal regulations implementing the MSPS provide the entities in which the government can recover primary payments:

Recovery from parties that receive primary payments. CMS has a right of action to recover its payments from any entity, including a beneficiary provider, supplier, physician, attorney, State agency or private insurer that has received a primary payment.

42 C.F.R. § 411.24(g) (emphasis added).

A party who does not agree with CMS's determination of the amount of reimbursement has recourse through an administrative appeals process. "Any individual dissatisfied with any initial determination shall be entitled to reconsideration of the determination, and . . . a hearing thereon by the Secretary [of Health and Human Services] . . . and to judicial review of the Secretary's final decision after such hearing." 42 U.S.C. § 1395ff(b)(1)(A). See also 42 C.F.R. §§ 405.940, 405.960, 405.1000, 405.1100. The party has 120 days after receiving CMS's initial determination to appeal. 42 U.S.C. § 1395ff(a)(3)(C)(I).¹

¹A detailed description of the appeals process can be located in Chapter 29 of the Medicare Claims Processing Manual, Appeals of Claims Decisions, at <http://www.cms.hhs.gov/manuals/downloads/>

In its motion, the government contends that summary judgment is appropriate because under the applicable statute and regulations, the United States is entitled to recover the amount due from Mr. Harris. Specifically, the government argues that Mr. Harris has waived any challenge to the amount or existence of the debt at issue in this suit because the time for appealing that determination has passed. In response, Mr. Harris asserts that he must be permitted to engage in discovery on the issues of liability and damages, as well as his affirmative defenses of estoppel and consortium.

This Court finds that the government is entitled to judgment as a matter of law. In this case, the Ritcheas and the defendant received a \$25,000.00 settlement and primary payment in the underlying personal injury action from the ladder retailer. Because the ladder retailer took responsibility for the payment of Mr. Ritchea's medical services, demonstrated by "a payment conditioned upon the recipient's compromise, waiver, or release (whether or not there is a determination or admission of liability) of payment for items or services included in a claim against the primary plan or the primary plan's insured," the government can now receive reimbursement for the medical services paid for by Medicare. 42 U.S.C. § 1395y(b)(2)(B)(iii). Furthermore, this Court holds that Mr. Harris is individually liable for reimbursing Medicare in this case because the government can recover "from any

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entity that has received payment from a primary plan," including an attorney. 42 C.F.R. § 411.24(g) (emphasis added).

Moreover, this Court agrees with the government that Mr. Harris's failure to pursue available administrative remedies precludes him from challenging CMS's reimbursement determination. As stated in Ulman v. United States, 558 F.2d 1, 7-8 (Ct. Cl. 1977):

Where an administrative appeal is compulsory prior to invoking the aid of a court, it does not matter that the party who failed to pursue said appeal is petitioning the Court for relief or defending an action brought against him. In either situation the failure to pursue the prescribed administrative course effectively prohibits his claim or defense which could have been entertained administratively in the first instance.

In United States v. Savarese, 515 F. Supp. 533 (S.D. Fla. 1981), the government determined that the defendant physician had been overpaid approximately \$108,720.42 under the Medicare program.² When the defendant failed to repay Medicare the alleged overpayment, a claim was filed against the defendant's estate.³ Id. at 535. The defendant's estate did not administratively appeal the overpayment calculation. Later during suit, however, the defendant's personal representative stated that although she would not contest the amount of the alleged overpayments, she "question[ed] the allegation that Dr. Savarese . . . received

²This amount was later reduced to \$108,290.82 when a total of \$429.60 due to the doctor was offset against the overpayment.

³The defendant passed away prior to reimbursing the government.

\$108,290.82 in excess of the amount due him by the Medicare Program." Id. at 536. The government contended in its cross-motion for summary judgment that the decedent waived his right to judicial review of the overpayment determination because he did not utilize the administrative appeals process and that therefore, it was entitled to a judgment of a matter of law. The court agreed and held that "[d]efendant's failure to pursue administrative remedies precludes any questions regarding the amount of the overpayments received." Id. at 536.

Other courts have reached similar conclusions. See United States v. Home Health Agency, Inc., 862 F. Supp. 129, 134 (N.D. Tex. 1994) (The defendant's "failure to exhaust the administrative appellate procedure precludes it from challenging the overpayment determination which the government seeks to recover."); United States v. Total Patient Care, Inc. of Jacksonville, Florida, 780 F. Supp. 1371, 1373 (M.D. Fla. 1991) ("[T]he Court finds that defendant's failure to pursue available administrative remedies precludes judicial review of the defendant's claim concerning the propriety of the calculation of the overpayment. Exhaustion of administrative remedies is a prerequisite to any judicial review of defendant's claim under the Social Security Act.").

After careful consideration, this Court finds this authority persuasive in granting the government's motion for summary judgment. Indeed, any qualms that Mr. Harris had concerning the extent of his liability under the MSPS should have been challenged

through the administrative appeals process. By letter, dated December 13, 2005, CMS advised Mr. Harris of the amount of the reimbursement, as well as the procedures to appeal the reimbursement determination. Neither Mr. Harris nor his clients filed an appeal. Therefore, because he did not avail himself of the administrative process, Mr. Harris is now precluded from contesting the reimbursement determination that the government is seeking to recover. Accordingly, this Court finds that summary judgment in favor of the government is appropriate. See United States v. Weinberg, 2002 WL 32356399 (E.D. Pa. 2002) (granting United States partial summary judgment under MSPS and holding that United States is entitled to recover MSPS debt from beneficiary's attorney); United States v. Sosnowski, 822 F. Supp. 570 (W.D. Wis. 1993) (granting, in part, the United States' motion for judgment on the pleadings under MSPS and holding that the United States is entitled to recover MSPS debt from beneficiary and his attorney).

The judgment awarded to the government is \$11,367.78, in accordance with 42 C.F.R. § 411.37(e)(2), which represents the total settlement amount minus the party's total procurement costs. The government is also entitled to recover interest on the total amount of reimbursement. See 42 C.F.R. § 405.378 ("CMS will charge interest in overpayments . . . to providers and suppliers of services."). That regulation also sets forth the rate of interest. See 42 C.F.R. § 405.378(d). Since no amount of interest has previously been presented to this Court, the parties shall confer

and attempt to agree upon the amount of interest to be awarded. The parties shall then present a stipulated amount to this Court within ten (10) days from the date of this memorandum opinion and order. If the parties cannot agree as to the amount of interest, then each party shall, within fifteen (15) days from the date of this memorandum opinion and order, present to this Court a written statement as to that party's detailed calculation of the amount of interest that that party contends shall be awarded.

B. Plaintiff's Motion to Stay Discovery

In light of this Court's holding on the plaintiff's motion for summary judgment, the plaintiff's motion to stay discovery is denied as moot.

V. Conclusion

For the above-stated reasons, the plaintiff's motion for summary judgment is GRANTED, and the plaintiff's motion to stay discovery is DENIED AS MOOT. The plaintiff is entitled to judgment in the amount of \$11,367.78 plus the amount of interest thereon which will be calculated. This Court will defer entry of judgment pursuant to Federal Rule of Civil Procedure 58 until the interest has been calculated as provided above.

IT IS SO ORDERED.

The Clerk is directed to transmit a copy of this memorandum opinion and order to counsel of record herein.

DATED: March 26, 2009

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE

COB Fact Sheets: MSP Laws and Third Party Payers Fact Sheet for Attorneys

The purposes of the Medicare Coordination of Benefits (COB) program are to identify the health benefits available to a Medicare beneficiary and to coordinate the payment process to prevent mistaken payment of Medicare benefits. The COB Contractor (COBC) collects, manages, and reports other insurance coverage. The COBC must be notified of situations where medical services rendered to a beneficiary are related to a workers' compensation injury, automobile accident, or other liability because in these instances, another payer has the primary responsibility for payment of medical claims related to the injury. Both you and your client have significant responsibilities and obligations under the Medicare Secondary Payer (MSP) laws to report these situations, and your participation is vital in ensuring the integrity of the Medicare Trust Funds.

MSP Laws and Third Party Payers

MSP laws are applicable to situations where a beneficiary may file a claim and/or a civil action against a third party seeking damages for injuries received and medical expenses incurred as a result of that illness/injury. Per 42 U.S.C. 1395y(b) (2) and 1862 (b) (2)(A)(ii) of the Act, Medicare is precluded from paying for a beneficiary's medical expenses when payment "has been made or can reasonably be expected to be made under a workers' compensation (WC) plan, an automobile or liability insurance policy or plan (including a self-insured plan), or under no-fault insurance."

Medicare may pay for a beneficiary's covered medical expenses conditioned on reimbursement to Medicare from proceeds received pursuant to a third party liability settlement, award, judgement, or recovery. In these instances, a pro rata share of procurement costs reduces Medicare's reimbursement. This conditional payment is made if it is determined that the liability or no-fault insurer will not pay "promptly."

Implementing regulations of the Centers for Medicare & Medicaid Services (CMS), formerly the Health Care Financing Administration, establish that "promptly" means 120 days from (1) the date a claim is filed with an insurer or a lien is filed against a potential liability settlement or (2) the date the service was furnished or the date of a hospital discharge. See 42 C.F.R. §411.50(b).

If an MSP liability situation is identified after the Medicare claim is paid primary, the beneficiary may be required to reimburse Medicare. The claim may be reprocessed or adjusted to reflect Medicare as the secondary payer.

It is in your client's best interest to keep Medicare's claims interest in mind during the negotiation and settlement process with the third party. Medicare's claim must be paid up front out of settlement proceeds before any distribution occurs. Moreover, Medicare must be paid within 60 days of receipt of proceeds from the third party. If Medicare is not repaid in a timely manner, interest may be assessed.

Notifying Medicare of Other Insurance

Medicare must be notified when the possibility exists that another insurer may have the responsibility of primary payer for your client's health care costs. All MSP inquiries including the reporting of potential MSP situations, invalid insurance information, and general MSP questions/concerns should be directed to the COBC's office. Use our toll-free lines: 1-800-999-1118 or TTY/TDD: 1-800-318-8782 for the hearing and speech impaired. Customer Service Representatives are available to assist you from 8 a.m. to 8 p.m., Monday through Friday, Eastern Time, except holidays. Written correspondence should be addressed to: Medicare-COB, MSP Claims Investigation Project, P.O. Box 5041, New York, New York 10274-5041.

When contacting the COBC, please provide the following:

- Your client's name
- Your client's Medicare Health Insurance Claim Number (HICN) or Social Security number (SSN)
- Date of accident/incident
- Description of illness/injury
- Name and address of the other insurance (e.g., workers' compensation carrier, auto/no-fault insurance carrier, etc.)
- Name and address of legal representative
- Name of insured
- Policy/Claim Number

The above information will provide the COBC with the information necessary to expedite the MSP Claims Investigation process. Upon receipt of this information, the COBC will apply it to your client's Medicare record, assign the case to a Medicare contractor, and inform you and your client of the applicability of the MSP program and Medicare's recovery rights. You will receive a notice advising you of the Medicare contractor assigned to handle the specifics of the case to recovery (i.e., the lead contractor), Medicare's right of recovery, and a beneficiary consent to release form. The consent form and any case related documents should be returned to the lead contractor identified.

Once this process is complete, all further inquiries are made through the lead contractor.

In order to gather Medicare's claim payment summary, the lead contractor canvasses, as necessary, with other Medicare contractors to identify claims they have paid for your client. This process requires adequate time for the Medicare contractors to search their claims history and respond to the inquiry. Therefore, the sooner you notify Medicare of the incident, the faster Medicare can serve you and your client. Medicare's interest cannot be determined until the beneficiary's record has been annotated with the specifics of the case.

Notifying Medicare of a Settlement

If a settlement has already been reached, the following information must be provided to the lead contractor:

1. Authorization from your client to release Medicare specific paid claims data. If you do not have a release on file, a release form can be obtained from the COBC. Both you and your client must sign the release form. Please note that a release must be returned even if a settlement has not been reached.
2. A copy of the settlement agreement indicating the settlement date and total amount of the award.
3. An itemized statement of attorney fees and procurement costs.
4. The name, address, and telephone number of the automobile or liability insurer involved, and if available, the policy number, claim number, and adjuster's name.
5. If monies are available through personal injury/med-pay or another form of coverage, indicate the total coverage amount and an itemization of benefits paid.

Visit the COBC Web Site

For more information about the COBC and the MSP Claims Investigation Project, visit our Web site at <http://cms.hhs.gov/medicare/cob>.

Centers for Medicare & Medicaid Services

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Overview

This section will provide you with information on Medicare Secondary Payer (MSP) laws and the various methods employed by the Centers for Medicare & Medicaid Services (CMS), formerly the Health Care Financing Administration, to gather data on other insurance that may be primary to Medicare.

Medicare Secondary Payer (MSP) is the term used by Medicare when Medicare is not responsible for paying first. (The private insurance industry generally talks about "Coordination of Benefits" when assigning responsibility for first and second payment.)

The term "**Medicare Secondary Payer**" is sometimes confused with **Medicare supplement**. A **Medicare supplement (Medigap)** policy is a private health insurance policy designed specifically to fill in some of the "gaps" in Medicare's coverage when Medicare is the *primary payer*. Medicare supplement policies typically pay for expenses that Medicare does not pay because of deductible or coinsurance amounts or other limits under the Medicare program.

Precedence of Federal Law

Federal law takes precedence over State law and private contracts. Thus, for the categories of people described below, Medicare is the secondary payer regardless of state law or plan provisions. These Federal requirements are found in Section 1862(b) of the Social Security Act (42 USC Section 1395y(b)(5)). Applicable regulations are found at 42 CFR Part 411 (1990).

More information on MSP laws and regulations is available through the CMS Laws and Regulations Portal. The link to the CMS Laws and Regulations Portal is located below.

Responsibilities of Beneficiaries Under MSP

As a beneficiary, we advise you to:

- Respond to Initial Enrollment Questionnaire (IEQ) and MSP claims development letters in a timely manner to ensure correct payment of your Medicare claims,
- Be aware that changes in employment, including retirement and changes in health insurance companies may affect your claims payment,
- When you receive health care services, tell your doctor and other providers and the Coordination of Benefits (COB) Contractor about any changes in your health insurance due to you, your spouse, or a family member's current employment or coverage changes,
- Contact the COB Contractor if you take legal action or an attorney takes legal action on your behalf for a medical claim,
- Contact the COB Contractor if you are involved in an automobile accident, and
- Contact the COB Contractor if you are involved in a workers' compensation case.

Responsibilities of Providers Under MSP

As a Part A Institutional provider (i.e. hospitals), you should:

- Obtain billing information prior to providing hospital services. It is recommended that you use the Centers for Medicare & Medicaid Services' (CMS') questionnaire, or a questionnaire that asks similar types of questions; and
- Submit any MSP information to the intermediary using condition and occurrence codes on the claim.

As a Part B provider (i.e. physicians and suppliers)

- Follow the proper claim rules to obtain MSP information such as group health coverage through employment or non-group health coverage resulting from an injury or illness;
- Inquire with the beneficiary at the time of the visit if he/she is taking legal action in conjunction with the services performed; and,
- Submit an Explanation of Benefits (EOB) form with all appropriate MSP information to the designated carrier. If submitting an electronic claim, provide the necessary fields, loops, and segments needed to process an MSP claim.

Responsibilities of Employers Under MSP

As an employer, you must:

- Assure that your plans identify those individuals to whom the MSP requirement applies;
- Assure that your plans provide for proper primary payments where by law Medicare is the secondary payer;
- Assure that your plans do not discriminate against employees and employees' spouses age 65 or over, people who suffer from permanent kidney failure, and disabled Medicare beneficiaries for whom Medicare is secondary payer; and,
- Accurately complete and submit Data Match reports timely on identified employees.

Group Health Plans (GHP)

An employer cannot offer, subsidize, or be involved in the arrangement of a Medicare supplement policy where the law makes Medicare the secondary payer. Even if the employer does not contribute to the premium, but merely collects it and forwards it to the appropriate individual's insurance company, the GHP policy is the primary payer to Medicare.

Responsibilities of Attorneys Under MSP

As an Attorney, you must:

- Immediately, upon taking a case, that involves a Medicare beneficiary, inform the COB Contractor about a potential liability lawsuit, and
- Contact the assigned lead contractor regarding Medicare's interest in a liability, auto/no-fault, or workers' compensation lawsuit.

Responsibilities of Insurers Under MSP

As a GHP Insurer, you must:

- Report to the COB Contractor if you find that CMS has paid primary when you are primary to Medicare (i.e. 411.25).

As a Non-GHP Auto/Liability Insurer, you must:

- Contact the COB Contractor immediately when the individual you insure is a Medicare beneficiary.

Medicare Secondary Payer (MSP) Claims Investigation

Effective January 8, 2001, the COB Contractor assumed responsibility for virtually all initial MSP development activities formerly performed by Medicare intermediaries and carriers. This means the COB Contractor is charged with ensuring the accuracy and timely update of data populated on Medicare's eligibility database regarding other health insurance that is primary to Medicare. The COB Contractor also handles MSP-related inquiries, including those seeking general MSP information, *but not those related to specific claims or recoveries.*

The COB Contractor is primarily an information gathering entity. A variety of methods and programs are used to identify situations in which Medicare beneficiaries have other health insurance that is primary to Medicare:

Secondary Claim Development: When a claim is submitted with an explanation of benefits (EOB) attached from an insurer other than Medicare, a questionnaire is sent to the beneficiary to collect information on the existence of other insurance that may be primary to Medicare.

Self-Report Development: A self-report covers the full spectrum of MSP situations. Any source that contacts the COB Contractor initiates this type of development process in order to address these inquiries and to assure that the information provided is accurate.

Trauma Development: When a diagnosis appears on a claim that information is received through correspondence or on a claim that indicates a traumatic accident, injury, or illness, which might form the basis of MSP, a questionnaire is sent to collect information on the existence of other insurance that may be primary to Medicare. This questionnaire may be sent to the beneficiary, provider, attorney, or insurer.

CFR 411.25: This process confirms MSP information received from a third party payer.

The goal of these MSP information-gathering activities is to identify MSP situations rapidly, thus ensuring correct primary and secondary payments by the responsible party. Providers, physicians, and other suppliers benefit from this activity because the total payments received for services provided to Medicare beneficiaries are greater when Medicare is a secondary payer to a GHP than when Medicare is the primary payer.

If you have any questions regarding the COB MSP Claims Investigation process, please contact the COB Customer Service Department toll-free at 1-800-999-1118 or TTY/TDD: 1-800-318-8782 for the hearing and speech impaired. Customer Service Representatives are available to assist you Monday through Friday, from 8:00 a.m. to 8:00 p.m., Eastern Time, except

holidays.

Downloads

There are no Downloads

Related Links Inside CMS

COB - General Information

Beneficiary & Advocate Services

Related Links Outside CMS

There are no Related Links Outside CMS

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STATE OF WEST VIRGINIA

Offices of the Insurance Commissioner

JOE MANCHIN III
Governor

JANE L. CLINE
Insurance Commissioner

September 14, 2009

The Honorable Earl Ray Tomblin
Senate President and Lieutenant Governor
State Capitol Complex
Bldg 1, Rm 227M
Charleston, WV 25305

LEGISLATIVE

SEP 15 2009

The Honorable Richard Thompson
Speaker of the House
State Capitol
Bldg 1, Rm. 234M
Charleston, WV 25305

MANAGER

Re: Occupational Pneumoconiosis Board 2008-2009 Annual Report

Dear President Tomblin & Speaker Thompson:

Pursuant to West Virginia Code §23-1-17, I am submitting to you the Occupational Pneumoconiosis Board 2008-2009 Annual Report.

Should you have any questions, please feel free to contact Mary Jane Pickens, General Counsel, at (304) 558-0401.

Sincerely,


Jane L. Cline
Commissioner

JLC/fz

enclosure

cc: Members of the House & Senate
Members of the Occupational Pneumoconiosis Board
Aaron Allred, Legislative Manager
Darrell E. Holmes, Clerk, WV State Senate
Gregory M. Gray, Clerk, WV House of Delegates



**Occupational
Pneumoconiosis
Board**



2008 – 2009

Annual Report

Occupational Pneumoconiosis Board

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Internal Medicine
Chairman

Bradley Henry, M.D.
Internal Medicine

Thomas M. Hayes, M.D.
Radiologist – B Reader

Mahendra M. Patel, M.D.
Internal / Pulmonary Medicine

Johnsey Lee Leef, Jr., M.D.
Radiologist – B Reader

Occupational Pneumoconiosis Board

Overview

The Occupational Pneumoconiosis Board schedules examinations for all persons filing occupational pneumoconiosis claims with the Insurance Commission. The Board makes impairment determinations based on available claim related medical evidence.

The Board obtains a complete medical history of the claimant, including any treatment for heart and lung disorders and other conditions that restrict the persons' activity. The medical history includes current and past tobacco use and to what extent. Clinical members of the Board conduct a physical examination of the claimant, giving special attention to heart and lungs, as well as any disabling injuries. Under close supervision, claimants able to exercise safely, perform a simple, standardized exercise test.

Chest X-rays are made under the supervision of the radiologist members of the Board, following film quality and technical standards established by the *Federal Coal Mine Health and Safety Act of 1969* to detect even minute changes possibly due to pneumoconiosis.

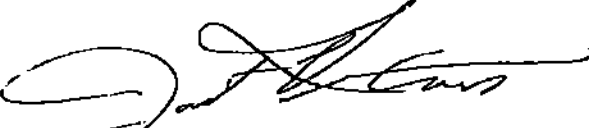
Board members are thoroughly familiar with identifiable diagnostic changes shown by X-rays of the claimant for evidence of changes occurring over time.

The Occupational Lung Center at Charleston Area Medical Center performs pulmonary diagnostic testing for the Board and reports on loss of lung function and to the extent to which lost lung function impairs the claimant's ability to work.

The 2008 / 2009 Occupational Pneumoconiosis Board Annual Report

Activity	July 1, 2007 to June 30, 2008	July 1, 2008 to June 30, 2009
Total Number of Claimants Examined	700	602
First Time Claimants	273 (39%)	155 (26%)
First Time Claimants Receiving No Diagnosis	175 (64%)	94 (61%)
First Time Claimants Receiving Initial Award	98 (36%)	61 (39%)
Total Number of Cancels / No Shows	150	110
First Time Claimants Receiving OP/O (no award)	24	8
Repeat Claimants Receiving OP/O (first time-no award)	9	6
Total Claimants Receiving OP/O	33	14
Claimants Receiving Repeat Examination	427 (61%)	447 (74%)
Repeat Exam of Claimants Receiving No Additional Award	356 (83%)	335 (75%)
Repeat Exam of Claimants Receiving Additional Award	71 (17%)	112 (25%)
Total Number of Fatal Claims Reviewed	91	124
Fatal Claims Due to Occupational Pneumoconiosis	18 (20%)	30 (24%)
Fatal Claims Not Due to Occupational Pneumoconiosis	73 (80%)	94 (76%)
Out of Town Reviews Examined	5	2
Out of Town Reviews Receiving No Diagnosis	4 (80%)	1 (50%)
Out of Town Reviews Receiving an Award	1 (20%)	1 (50%)

Physicians at the Occupational Lung Center in Charleston, West Virginia examined 602 occupational pneumoconiosis claimants during the reporting period. An additional 124 fatal claims and 2 off-site or remote claims were reviewed.



Jack L. Kinder, M.D.
Chairman

BOARD OF TREASURY INVESTMENTS

OPERATING REPORT LEGISLATIVE

AUGUST 2009

OCT - 1 2009

MANAGER

CALENDAR NOTES

Special Board Meeting

September 01, 2009

CD Auction

October 14, 2009

Quarterly Board Meeting

October 29, 2009

Board of Treasury Investments

1900 Kanawha Boulevard East
Suite E-122
Charleston WV 25305

(304) 340-1578

www.wvbti.com

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Esq. Attorney
Appointed by
the Governor

Jack Rossi, CPA
Appointed by
the Governor

Executive Staff

Executive Director
Glenda Probst,
CPA, CTP

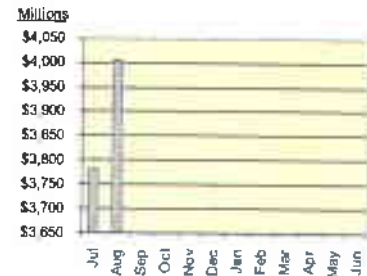
Chief Financial Officer
Kara K. Brewer,
CPA, MBA

Total Net Assets Under Management

\$4,005,761,000

Last Month
\$3,779,494,000

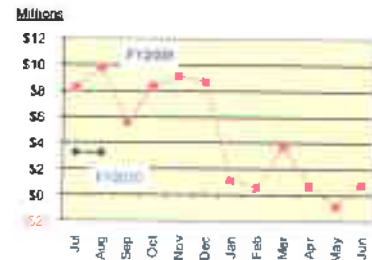
Beginning of Fiscal Year
\$3,663,992,000



9.3% Growth This Fiscal Year

Total Net Income & Gains

Fiscal Year
\$6,431,000



Fiscal Year Comparison

Money Market Pools

As of August 31, 2009

Pool	1-Day Yield *	7-Day Yield *	30-Day Avg. Yield *	W.A.M. **	Net Assets
WV Money Market	.1180%	.1294%	.1444%	47 Days	\$2.8 Billion
WV Gov't Money Market	.0672%	.0500%	.0528%	54 Days	\$320.2 Million

* Yields represent the simple money market yield net of fees.

** W.A.M. is the weighted average maturity.

WEST VIRGINIA BOARD OF TREASURY INVESTMENTS

THE ECONOMIC STATE

AUGUST 2009

Economy Is at a Crossroads

The economy now stands at what appears to be a “crossroads.” While not yet “official”, the worst recession in the lifetime of the baby-boomer generation appears to have ended sometime in June with many pointing to the expansion of U.S. economic activity since June 30th as evidence. The “crossroads” facing the economy currently revolve around the sustainability of the economic expansion. While data does in fact point to the end of the recession, some of the data remains mixed and questions abound with respect to future growth of top-line sales.

- With the Institute of Supply Management (ISM) Manufacturing Index up to 52.9% in August, it would appear the manufacturing sector is now expanding.
- Pending home sales rose in July by 3.2%, marking the sixth consecutive monthly increase.
- Leading economic indicators rose 0.6% in July following a revised increase of 0.8% in June.
- The Consumer Confidence Index rose for the first time in three months to a level of 54.1 beating forecasts, largely due to the “Cash for Clunkers” program and the extension of unemployment benefits.
- Inflation was flat in August with the CPI reported at 0.0, following a spike up of 0.7% the prior month, and remains of little concern short-term.

However,

- Retail sales fell 0.1% for the first time in three months indicating consumer demand will most likely remain weak, as consumers choose to build savings and pay down debt.
- While the average workweek remained unchanged in August at 33.1 hours, reflecting the fact that companies have stopped cutting back on hours (a rise in this statistic usually precedes a return to job growth) the unemployment rate inched higher to 9.7% marking the highest level in some 26 years and reflecting approximately 14.9 million individuals out of work.

GDP growth in 2010 is expected to be 1%-2%, a level far below average. With companies reporting smaller earnings declines or “fewer losses” due to aggressive cost cutting, it is important to note that cost cutting can only do so much. The “crossroads” issue is how to grow sales.

Interest rates continued to move lower across the yield curve in August, despite the high level of Treasury debt issuance, strong results from the equity markets, and growing confidence over the end of the recession.

Maturities ranging from 2 to 7 years experienced the sharpest declines, falling between 10 and 14 basis points. Shorter-term rates were 2 to 5 basis points lower while longer-term rates were 8 to 12 basis points lower.

At month end, the yield on the 10-year note was 8 basis points lower at 3.40% and the 30-year bond was 12 basis points lower at 4.18%. The 2-30 year spread stood at an elevated level of 3.21%. While inflation does not appear to be an issue, based on the futures market, investors are predicting the Fed will keep the Fed Funds rate in its current 0.00% - 0.25% range into next year.

The Barclays Capital Aggregate Index returned 1.04% during August, and, like last month, spread sectors outperformed their same-duration Treasury securities across the curve. The CMBS and ABS sectors fared the best amid continued support from the Government’s TALF program.

The Merrill Lynch 3-Month T-Bill Index returned 0.02% in August trailing the 0.50% return of the Merrill Lynch 1-3 Year Government / Corporate A+ Index. Year-to-date, the 3-Month T-Bills returned 0.14% while the 1-3 Year Government / Corporate Index A+ returned 2.16%.

West Virginia Board of Treasury Investments Financial Highlights as of August 31, 2009

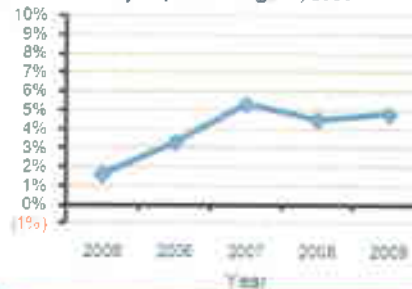
WV Short Term Bond Pool

Rates of Return for the Past 12 Months *Net of All Fees*

Sept. 1, 2008 - Aug. 31, 2009	Return	Net Assets At Aug. 31 <i>(In Millions)</i>
2009	4.8%	\$ 342.3
2008	4.5%	\$ 359.2
2007	5.3%	\$ 233.0
2006	3.3%	\$ 270.9
2005	1.6%	\$ 262.2

WV Short Term Bond Pool Rates of Return

*Past 12 Months
Sept. 1, 2008 - Aug. 31, 2009*



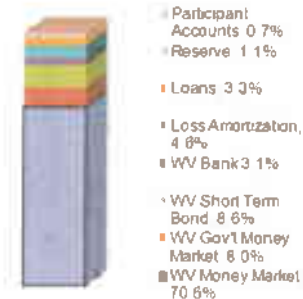
Prior to July 2007, the WV Short Term Bond Pool was known as the Enhanced Yield Pool

Summary of Value and Earnings *(In Thousands)*

Pool	Net Asset Value	August Net Income <i>(Loss)</i>	Fiscal YTD Net Income <i>(Loss)</i>
WV Money Market	\$ 2,828,556	\$ 338	\$ 802
WV Gov't Money Market	320,151	25	58
WV Short Term Bond	342,255	2,340	4,299
WV Bank	125,257	65	127
Loss Amortization	185,142	726	1,035
Loans *	132,993	(408)	(96)
Reserve	45,727	39	77
Participant Accounts	25,680	71	129
	<u>\$ 4,005,761</u>	<u>\$ 3,196</u>	<u>\$ 6,431</u>

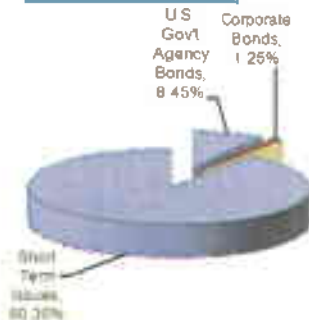
* Losses in the Loan Pool were caused by \$700,000 in writedowns on venture capital loans

Percent of Total Net Asset Value

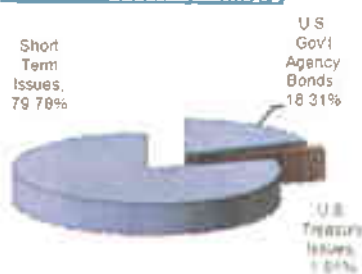


Securities by Type for Operating Pools *(Percentage of Asset Value)*

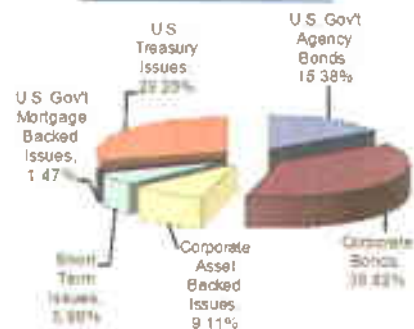
WV Money Market



WV Gov't Money Market



WV Short Term Bond



WEST VIRGINIA BOARD OF TREASURY INVESTMENTS
SCHEDULE OF NET ASSETS, OPERATIONS & CHANGES IN NET ASSETS – UNAUDITED

AUGUST 31, 2009

(IN THOUSANDS)

	WV Money Market Pool	WV Government Money Market Pool	WV Short Term Bond Pool	WV Bank Pool	Other Pools	Participant Directed Accounts
Assets						
Investments:						
At amortized cost	\$ 2,828,216	\$ 320,143		\$ 125,000	\$ 178,360	\$ 22,301
At fair value			\$ 337,576		185,142	3,144
Cash						
Collateral for securities loaned	183,375		119,692			
Other assets	569	39	5,899	257	364	236
Total assets	3,012,160	320,182	463,167	125,257	363,866	25,681
Liabilities						
Payable for securities loaned	183,375	-	119,692			
Other liabilities	229	31	1,220		4	1
Total liabilities	183,604	31	120,912		4	1
Net Assets	\$ 2,828,556	\$ 320,151	\$ 342,255	\$ 125,257	\$ 363,862	\$ 25,680
Investment Income						
Interest and dividends	\$ 297	\$ 40	\$ 981	\$ 65	\$ 335	\$ 63
Securities lending income						
Provision for securities lending loss	(222)	(38)	-		(700)	
Net accretion (amortization)	426	30	(130)		386	(13)
Provision for uncollectible loans						
Total investment income	501	32	851	65	221	50
Expenses						
Fees	164	19	37		4	1
Securities lending borrower rebates						
Bad debt expense						
Total expenses	164	19	37		4	1
Net investment income	337	13	814	65	217	49
Net realized gain (loss) from investments		12	343			
Net increase (decrease) in fair value of investments			1,183		140	22
Net gain (loss) from investments	1	12	1,526		140	22
Net increase (decrease) in net assets from operations	338	25	2,340	65	357	71
Distributions to participants	337	38	1,165		(369)	
Participant activity						
Purchases, reinvestment of units and contributions	839,738	65,762	1,244	66	9,398	27
Redemptions and withdrawals	663,284	27,880			719	44
Inter-pool transfers in				25,000		
Inter-pool transfers out	25,000					
Net increase (decrease) in net assets from participant activity	151,454	37,882	1,244	25,066	8,679	(17)
Increase (decrease) in net assets	151,455	37,869	2,419	25,065	9,405	54
Net assets at beginning of period	2,677,101	282,282	339,836	100,192	354,457	25,626
Net assets at end of period	\$ 2,828,556	\$ 320,151	\$ 342,255	\$ 125,257	\$ 363,862	\$ 25,680

WEST VIRGINIA
**BOARD OF TREASURY
 INVESTMENTS**

Investing Local, County and State Funds for West Virginia

AUGUST 31, 2009 ASSETS

By Pool (In Thousands)

West Virginia Money Market	\$	2,828,556
West Virginia Government Money Market		320,151
Short-Term Bond		342,255
Bank		125,257
Loss Amortization		185,142
Loans		132,993
Reserve		45,727
Participant Accounts		25,680
TOTAL:	\$	4,005,761

MONTHLY RETURNS

Month	Money Market Pool	Gov't Money Market Pool	Short-Term Bond Pool
July 2007	5.18%	5.11%	5.41%
July 2008	2.43%	2.25%	4.56%
July 2009	0.21%	0.10%	4.59%
August 2009	0.15%	0.05%	4.79%

NOTES:

West Virginia Money Market Pool -- Simple Money Market Yield

West Virginia Government Money Market Pool -- Simple Money Market Yield

West Virginia Sort-Term Bond Pool -- Previous 12- Month Rate of Return



WEST VIRGINIA

BOARD OF TREASURY INVESTMENTS

A COMPONENT UNIT OF THE STATE OF WEST VIRGINIA

AUDITED FINANCIAL STATEMENTS
WITH SUPPLEMENTARY & OTHER
FINANCIAL INFORMATION

YEAR ENDED JUNE 30, 2009

**Audited Financial Statements
With Supplementary Information
& Other Financial Information**

**West Virginia Board of Treasury Investments
Year Ended June 30, 2009**

LEGISLATIVE

SEP - 3 2009

MANAGER

West Virginia Board of Treasury Investments

Financial Statements with Supplementary Information and Other Financial Information for the Year Ended June 30, 2009

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INDEPENDENT AUDITORS' REPORT

To the West Virginia Board of Treasury Investments
Charleston, West Virginia

We have audited the accompanying financial statements of the proprietary and fiduciary funds of the West Virginia Board of Treasury Investments (the BTI), a component unit of the State of West Virginia, which collectively comprise the BTI's basic financial statements, the combining and individual fund financial statements, and the schedule of investments in securities as listed in the table of contents as of and for the year ended June 30, 2009. These financial statements are the responsibility of the BTI's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the proprietary and fiduciary funds of the BTI as of June 30, 2009, and the respective results of their operations and changes in their net assets and, where applicable, cash flows thereof, for the year then ended, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, the combining and individual fund financial statements and schedule of investments referred to above present fairly, in all material respects, the financial position of each of the individual funds and schedule of investments as of June 30, 2009, and the changes in net assets of such funds for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated August 27, 2009, on our consideration of the BTI's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

The management's discussion and analysis on pages 5 to 12 is not a required part of the basic financial statements but is supplementary information required by accounting principles generally accepted in the United States of America. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was conducted for the purpose of forming an opinion on the financial statements taken as a whole. The other financial information included on pages 52 to 57 is presented for purposes of additional analysis and is not a required part of the financial statements. Such information has not been subjected to the auditing procedures applied in the audit of the financial statements, and, accordingly, we express no opinion on it.

Johnson & Kawash

August 27, 2009

West Virginia Board of Treasury Investments

Management's Discussion and Analysis

June 30, 2009

As management of the West Virginia Board of Treasury Investments (the "BTI"), we offer readers of the financial statements of the BTI this discussion and analysis of the BTI's financial performance for the fiscal year ended June 30, 2009. We encourage readers to consider the information presented in this section in conjunction with the BTI's financial statements, including notes to the financial statements, which follow this section.

The BTI serves as an investment vehicle for the operating cash of West Virginia State agencies and authorities, local governments such as cities and counties, and other political subdivisions throughout the State. The various investment pools and individual investment accounts managed by the BTI are collectively known as the Consolidated Fund. The Consolidated Fund's investment pools and accounts contain short-term fixed income instruments that are managed for the sole benefit of the participants.

Financial Highlights

Net Assets of the Consolidated Fund increased \$299 million for the fiscal year ended June 30, 2009. The increase in net assets was the result of the BTI's continued focus on gaining new participants through its marketing plan. Given the challenging economic environment, the BTI was able to increase its client base as the majority of participants sought safety over return.

The investment portfolio of the Consolidated Fund's WV Money Market, WV Government Money Market, and WV Short Term Bond Pool had returns of 1.29%, 1.13%, and 4.35% respectively, for the year ended June 30, 2009. The WV Money Market Pool is structured as a money market fund with the goal of preservation of principal. The portfolio outperformed its investment policy benchmark by 38 basis points for the fiscal year to date.

The WV Government Money Market's objective is to preserve capital and maintain sufficient liquidity to meet the daily disbursements of participants, while earning a return above inflation. The portfolio outperformed its investment policy benchmark by 37 basis points for the fiscal year to date.

The WV Short Term Bond Pool is structured as a mutual fund with the objective of asset growth rather than current income. The portfolio underperformed its investment policy benchmark by 38 basis points for the fiscal year. The primary cause of this underperformance remains the deterioration of the credit markets as a whole. In October 2008, the BTI hired Federated Investors to take over management of this pool. The pool was previously managed by Standish Mellon.

Overview of the Financial Statements

This report presents the operating results and financial position of the BTI, which is composed of a proprietary fund and fiduciary fund. The proprietary fund is an internal service fund, or operating fund, used to account for activities that provide investment and administrative services on behalf of the State and other participants in the Consolidated Fund. The fiduciary fund is used to account for the activities of the Consolidated Fund, which is made up of twelve legally separate investment pools and accounts. There are four external investment pools, three special-purpose internal investment pools, and five individual investment accounts, all of which are included in the fiduciary fund. The BTI is the trustee, or fiduciary, for participants in the Consolidated Fund. Financial statements for the proprietary fund and the

West Virginia Board of Treasury Investments
Management's Discussion and Analysis (Continued)

fiduciary funds are reported using the economic resources measurement focus and the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America ("GAAP") for governmental entities.

The Statement of Net Assets presents information on the proprietary fund's assets and liabilities, with the difference between the two reported as net assets. This statement is categorized into current and non-current assets and liabilities. For purposes of the financial statements, current assets and liabilities are those assets and liabilities with immediate liquidity or which are collectible or becoming due within 12 months of the statement's date.

The Statement of Revenues, Expenses and Changes in Fund Net Assets reflects the operating and non-operating revenues and expenses of the proprietary fund for the operating year. Operating revenues primarily consist of investment service fees charged to the Consolidated Fund with significant operating expenses composed of salaries and benefits, investment advisor fees, investment management system expenses, professional service fees, and fiduciary bond fees.

The Statement of Cash Flows reflects the proprietary fund's cash flows from operating, noncapital financing, and investing activities. Cash collections and payments are reflected in this statement to arrive at the net increase or decrease in cash and cash equivalents for the year.

The Statement of Fiduciary Net Assets presents information on the fiduciary fund's assets and liabilities, with the difference between the two reported as net assets held in trust for investment pool participants and individual investment account holders.

The Statement of Changes in Fiduciary Net Assets reports the additions and deductions to the fiduciary fund for the year. Additions are composed of investment income, such as interest, dividends, securities lending income, and accretion; investment expenses such as investment advisor fees, custodian bank fees, administrative fees, and securities lending activity fees; and purchases of pool units, reinvestments of pool distributions; and contributions to individual investment accounts. Deductions represent distributions to pool participants, redemption of units by pool participants, and withdrawals from individual investment accounts.

The State of West Virginia reports the proprietary fund as an internal service fund in its Comprehensive Annual Financial Report ("CAFR"). An internal service fund is used to report any activity that provides goods or services to other funds, departments, or agencies of the State and its component units, or to other governments, on a cost-reimbursement basis. The State reports the portions of the Consolidated Fund pools and accounts held by state agencies and component units as investment holdings of those entities within the appropriate fund reporting categories for those entities. The State reports the portions of the Consolidated Fund held by local governments, municipalities, and other political subdivisions as investment trust funds, a type of fiduciary fund. Fiduciary fund reporting is used to account for resources held for the benefit of parties outside the governmental entity, and those resources are not available to support operations of that entity.

Financial Analysis of the Operating Fund

Net assets. The following is the condensed Statement of Net Assets of the proprietary fund, which represents the assets, liabilities, and net assets generated by the operating activities of the BTI, as of June 30, 2009 and 2008 (in thousands).

	2009	2008
Current assets	\$ 1,054	\$ 1,271
Noncurrent assets	4	10
Total assets	1,058	1,281
Current liabilities	397	521
Total liabilities	397	521
Net assets:		
Invested in capital assets	4	10
Unrestricted	657	750
Total net assets	\$ 661	\$ 760

Net assets of the Operating Fund decreased \$99,000 from the prior year. This decrease was primarily due to a decrease in cash of \$250,000, an increase in accounts receivable of \$33,000, an increase in accumulated depreciation of \$6,000, and a decrease in accounts payable of \$124,000.

The majority of the proprietary fund's net assets consist of current assets. Approximately \$644,000 of \$1,054,000 in current assets consists of cash and cash equivalents that will be used to pay investment advisor, custodian, and administrative costs. The decrease in cash for the current year was due to a reduction in fees charged for custodian and administrative fees. The BTI successfully negotiated reduced fees for BNY Mellon during the last quarter of fiscal year 2008. A full year of this reduction in cost was not realized until fiscal year 2009.

The administrative fees charged against the pools are expensed based on a flat basis point. The BTI adopted a policy such that one-half of excess funds remaining in the administrative fee account at the end of the prior fiscal year be used to reduce expenses for the subsequent year. In fiscal year 2008, the BTI was under budget by \$163,000. One-half of this amount was used to reduce administrative fees for fiscal year 2009.

Approximately \$410,000 of current assets consists of accounts receivable at June 30, 2009. The accounts receivable balance represents fees that have not been withdrawn from the investment pools at June 30, 2009 to pay investment advisor, custodian, and administrative costs. In accordance with *WV State Code §12-6C-19*, the Board may charge fees to the pools for reasonable and necessary expenses incurred for rendering services. The fees charged to the pools are categorized into direct expenses (investment advisor and custodian fees) and indirect expenses (administrative costs). As part of the BTI monthly operations, the fees are transferred from the pools to the BTI's operating fund to pay for all necessary and reasonable expenses. These transfers occur one month in arrears, resulting in an accounts receivable balance.

Approximately \$345,000 of current liabilities represents accounts payable at June 30, 2009. The majority of the accounts payable balance represents services received from investment advisors for the final quarter of fiscal year 2009, custodian fees for the month of June 2009, and administrative fees not yet paid. Due to the reduction in both custodian fees and administrative fees, the accounts payable balance at June 30, 2009 was significantly smaller from the prior year. The remaining \$52,000 in accounts payable

West Virginia Board of Treasury Investments
 Management's Discussion and Analysis (Continued)

represents reimbursements due to the West Virginia State Treasurer's Office for goods and services provided to the BTL.

Net assets of the BTL's proprietary fund are composed of investments in capital assets net of accumulated depreciation and unrestricted net assets. Capital asset expenditures of \$1,000 or more are capitalized at cost and reported net of accumulated depreciation. Unrestricted net assets represent net assets not restricted to their use by legal, contractual or enabling legislation constraints.

Changes in fund net assets. The following is a condensed Statement of Revenues, Expenses and Changes in Fund Net Assets of the operating fund for the periods ended June 30, 2009 and 2008 (in thousands).

	<u>2009</u>	<u>2008</u>
Revenues		
Operating revenues:		
Management services	\$ 1,210	\$ 1,257
Advisor and custodian services	<u>1,243</u>	<u>1,169</u>
	2,453	2,426
Nonoperating revenues	-	14
Total revenues	<u>2,453</u>	<u>2,440</u>
Expenses		
Operating expenses:		
General and administrative	1,303	1,083
Advisor and custodian fees	1,243	1,169
Depreciation	<u>6</u>	<u>13</u>
Total expenses	<u>2,552</u>	<u>2,265</u>
(Decrease) increase in net assets before special item	(99)	175
Special item: Gain from elimination of compensated absences and other postemployment benefits	<u>-</u>	<u>38</u>
(Decrease) increase in net assets	(99)	213
Net assets at beginning of year	760	519
Effect of adopting GASB 45 in Fiscal Year 2008	<u>-</u>	<u>28</u>
Net assets at beginning of year	<u>760</u>	<u>547</u>
Net assets at end of year	<u>\$ 661</u>	<u>\$ 760</u>

Operating revenues at June 30, 2009 consist of investment advisor, custodian, and administrative fees billed to the pools by the operating fund to cover the cost of providing investment management services. The fees charged to the pools are categorized into direct or indirect expenses. All direct fees, investment advisor and custodian, are charged directly to the pools as the fee is incurred. All indirect expenses, i.e. insurance, staff costs, and rent, are charged to the pools based upon a fixed basis point against the net asset value of the pool. The fees collected are deposited in a special account in the State Treasurer's Office created and designated the Board of Treasury Investments Fee Fund in accordance with *West Virginia Code §12-6C-19*.

Operating revenues for fiscal year 2009 increased by approximately \$27,000. This growth in revenue consisted of a \$98,000 increase in advisor fee revenues, and a corresponding decrease of \$47,000 in management fees and \$24,000 in custodian fees charged to the pool.

In October 2008, the BTI hired Federated Investors to manage the Short Term Bond Pool. The advisor fee charged to this pool increased by 4 basis points on the monthly net asset value. As previously stated, the BTI significantly reduced its administrative fees and concluded the 2008 fiscal year under budget by \$163,000. One-half of this savings was used to reduce fees for fiscal year 2009. Additionally, the BTI negotiated a reduction of \$35,000 per year in custodian fees.

Total operating expenses for the year increased by approximately \$287,000. This includes an increase in general and administrative expenses of \$220,000, an increase in advisor and custodian fees of \$74,000, and a decrease in depreciation of \$7,000.

General and administrative expenses represent costs associated with operating the BTI but not considered directly applicable to investment management. The general and administrative expenses represent the largest expenses this year, an increase of \$220,000. Within general and administrative expenses, there was an increase of \$149,000 in salary expense due to the Internal Auditor's salary being charged full-time to the BTI as well as hiring another investment accountant during fiscal year 2009. Professional service fees are classified under general and administrative expenses and represent investment consulting services and external auditing fees. In March 2008, the BTI hired Mercer Investment Consulting ("Mercer") to replace their predecessor, Summit Strategies. Due to the ongoing financial crisis, the BTI required additional securities lending consulting services from Mercer. Total professional services increased by \$123,000 over the prior year.

Other significant expenses categorized as general and administrative in the prior year were for compensated absences and other postemployment benefits. In March 2008, the BTI transferred its staff to the State Treasurer's Office to manage the BTI. As such, all compensated absences and other postemployment benefits became an expense of the STO resulting in a reduction in expenses of \$46,000 from the prior year.

A large portion of BTI expenses represent investment advisor fees. The current investment advisors consist of JP Morgan Asset Management, Federated Investors, and UBS Global Asset Management. All investment decisions and trade executions are performed by the investment advisors. Total investment advisor fees for fiscal year 2009 were \$1,158,000, representing a \$98,000 increase from the previous year. The majority of this increase is due to increased fees in the Short Term Bond Pool and an overall increase in net asset value of the Consolidated Fund.

Custodian fees decreased \$24,000 during fiscal year 2009. This reduction was due to the BTI negotiating contract fee reductions during the last quarter of fiscal year 2008.

West Virginia Board of Treasury Investments
Management's Discussion and Analysis (Continued)

Financial Analysis of the Consolidated Fund

Net assets. The following are combined, condensed Statements of Fiduciary Net Assets of the Consolidated Fund fiduciary funds as of June 30, 2009 and 2008 (in thousands).

	<u>2009</u>	<u>2008</u>
Assets		
Investments	\$ 3,649,763	\$ 3,355,799
Securities lending collateral	360,184	275,443
Receivables	14,247	9,522
Total assets	<u>4,024,194</u>	<u>3,640,764</u>
Liabilities		
Accrued expenses	410	377
Dividends and purchases payable	308	410
Securities lending payable	360,184	275,443
Total liabilities	<u>360,902</u>	<u>276,230</u>
Net Assets		
Held in trust for investment pool participants	3,638,551	3,321,371
Held in trust for individual investment account holders	24,741	43,163
Net assets	<u>\$ 3,663,292</u>	<u>\$ 3,364,534</u>

The Consolidated Fund's total assets as of June 30, 2009 were more than \$4 billion and were composed mainly of investments and invested securities lending collateral. Total assets increased over \$383 million or 11% from the prior year primarily due to an increase in contributions and the amount of securities available for loan and collateralized at June 30, 2009. Although the Board moved to "unwind" from the securities lending program, the amount on loan at June 30, 2009 still exceeded the prior year's amount.

Total liabilities as of June 30, 2009 were \$361 million and were composed mainly of securities lending collateral payable. Total liabilities increased \$85 million or 31% from the prior year primarily due to the increase in securities lending collateral at year-end.

Net assets are the excess of total assets over total liabilities. The Consolidated Fund had total net assets of nearly \$3.7 billion at the close of fiscal year 2009. The net assets consist of both funds held in trust for investment pool participants and individual account holders. Investment pool participants are those participants investing in the WV Money Market, WV Government Money Market, WV Short Term Bond, WV Bank, Reserve, Loan, and Loss Amortization Pools. Net assets for investment pool participants increased approximately 10% from the prior year primarily due to an increase in investments for the WV Money Market and WV Government Money Market Pool. During fiscal year 2009, the BTI created the Reserve Pool. The objective of the pool is to provide an added layer of security for the WV Money Market and WV Government Money Market Pools to ensure the net asset level does not fall below .9975.

Net assets held in trust for individual account holders represent individual state agency accounts with specific investment needs. Each agency has 100% ownership of the underlying investments in its pool and is solely responsible for the investment decisions in accordance with the legal restrictions applicable to those assets. Net assets for individual account holders decreased 43% from the prior year. This decrease was due to the closing of both the Lottery Defeasance and Department of Highways Accounts.

West Virginia Board of Treasury Investments
Management's Discussion and Analysis (Continued)

The Lottery Defeasance held a Coupon Treasury Receipt maturing in August 2008. The Department of Highways completed their last drawdown in March 2009 for their Flex Repurchase Agreement. The closings of these pools were not due to the financial crisis.

Changes in net assets. The following is a combined, condensed Statement of Changes in Fiduciary Net Assets of the Consolidated Fund fiduciary funds for the years ended June 30, 2009 and 2008 (in thousands).

	Year Ended June 30,	
	2009	2008
Additions		
Net investment income	\$ 48,311	\$ 134,500
Net realized (loss) gain	(1,578)	3,603
Net increase in fair value of investments	8,560	11,033
Unit purchases and contributions	10,372,383	10,449,892
Total additions	10,427,676	10,599,028
Deductions		
Distributions	39,210	126,854
Unit redemptions and withdrawals	10,089,708	10,030,812
Total deductions	10,128,918	10,157,666
Increase in net assets	298,758	441,362
Net assets at beginning of year	3,364,534	2,923,172
Net assets at end of year	\$ 3,663,292	\$ 3,364,534

Net investment income for the Consolidated Fund decreased by \$86 million or 64% below the previous year. This decrease was due to short-term interest rates dropping significantly during fiscal year 2009. The Federal funds rate went from 2% at the beginning of fiscal year 2009 to its current level of 0%. These low rates were due to the Federal Reserve making adjustments for the subprime mortgage crisis. The subprime mortgage crisis was triggered by a dramatic rise in mortgage delinquencies and foreclosures in the United States, with major adverse consequences for banks and financial markets around the globe.

A net realized loss of \$1.6 million was incurred primarily due to sale of securities in the WV Short Term Bond Pool. The most notable losses were due to corporate bonds which were financially distressed and significantly downgraded by the rating agencies. Federated Investors continue to monitor the credit standing of the pool and work with management to develop strategies for optimal return.

The fair value of investments decreased by \$2.5 million, again, primarily due to the ongoing financial crisis associated with mortgage-backed securities which exposed weaknesses in financial industry regulation and the global financial system.

Unit purchases and contributions to the Consolidated Fund decreased \$77.5 million from the previous fiscal year, while unit redemptions and withdrawals to participants increased \$59 million.

Economic Factors

The Consolidated Fund is designed to address the short-term liquidity needs of the participants which focus on safety of principal, maximization of yield, and conformance with state law and other pertinent legal restrictions. The Board recognizes that risk, volatility, and the possibility of loss in purchasing

power are present to some degree in all types of investments. However, the Investment Policy of the BTI invests assets in a manner that strives for maximum safety with the primary objectives of safety and liquidity.

The overall performance of the BTI Consolidated Fund relative to its benchmark was favorable. Both the WV Money Market and WV Government Money Market Pools exceeded their benchmarks on a fiscal year to date basis. Although rates have been low, the BTI managed to provide safety and liquidity to participants. In addition, the Reserve Pool was created to provide an extra layer of security to both money market pools. The objective of the pool is to ensure the net asset level of the money market pools do not fall below .9975 or "break the buck".

Economically, the ongoing credit crisis has resulted in a contraction of the American economy that may last several more months. Since the crisis began in September 2008, the Federal Reserve has reduced interest rates to zero and announced a variety of measures to flood the economy with cash. This action was taken to ease pressure on the balance sheets of American companies, banks and households. Fiscal year 2009 has been marked by a dramatic slowdown in economic activity, as well as by rising unemployment, additional declines in U.S. stock prices, and constant volatility. As stated by our investment consultant, the phrase "less worse" is now used as a basis for economic optimism. While things appear to be "less worse" or "moderating," the U.S. will continue to face many hurdles to economic recovery which will directly impact the operations of the BTI.

Requests for Information

This financial report is designed to provide a general overview of the BTI's operations. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to Chief Financial Officer, West Virginia Board of Treasury Investments, 1900 Kanawha Boulevard East, Charleston WV 25305.

West Virginia Board of Treasury Investments
Statement of Net Assets
Proprietary Fund

June 30, 2009

(In Thousands)

Assets	
Current assets:	
Cash	\$ 644
Receivables	410
Total current assets	<u>1,054</u>
Noncurrent assets:	
Capital assets, net of accumulated depreciation	4
Total assets	<u>1,058</u>
 Liabilities	
Current liabilities:	
Accounts payable	397
Total liabilities	<u>397</u>
 Net assets	
Invested in capital assets	4
Unrestricted	657
Total net assets	<u>\$ 661</u>

See accompanying notes to financial statements.

West Virginia Board of Treasury Investments
Statement of Revenues, Expenses and Changes in Fund Net Assets
Proprietary Fund

For the Year Ended June 30, 2009

(In Thousands)

Operating revenues	
Management services	\$ 1,210
Advisor services	1,158
Custodian services	<u>85</u>
Total operating revenues	2,453
Operating expenses	
Advisor fees	1,158
Management fees	598
Professional service fees	319
Fiduciary bond	155
Custodian fees	85
General and administrative	231
Depreciation	<u>6</u>
Total operating expenses	2,552
Operating income	<u>(99)</u>
Change in net assets	(99)
Net assets at beginning of period	<u>760</u>
Net assets at end of period	<u>\$ 661</u>

See accompanying notes to financial statements.

West Virginia Board of Treasury Investments
Statement of Cash Flows
Proprietary Fund

For the Year Ended June 30, 2009

(In Thousands)

Cash flows from operating activities	
Cash received for services	\$ 2,421
Payments to vendors	<u>(2,671)</u>
Net cash provided by operating activities	(250)
Cash at beginning of period	<u>894</u>
Cash at end of period	<u>\$ 644</u>
Reconciliation of operating income to net cash provided by operating activities	
Operating income	\$ (99)
Adjustments to reconcile operating income to net cash provided by operating activities:	
Depreciation	6
Changes in assets and liabilities:	
Receivables	(33)
Accounts payable	<u>(124)</u>
Net cash provided by operating activities	<u>\$ (250)</u>

See accompanying notes to financial statements.

**West Virginia Board of Treasury Investments
 Combined Statement of Fiduciary Net Assets
 Fiduciary Funds**

June 30, 2009

(In Thousands)

Assets	
Investments:	
At amortized cost	\$3,147,656
At fair value	<u>502,107</u>
Total investments	3,649,763
Collateral for securities loaned, at fair value <i>(See Note 4)</i>	360,184
Receivables:	
Accrued interest	4,255
Dividends	92
Investments sold	9,795
Securities lending income	<u>105</u>
Total receivables	14,247
Total assets	4,024,194
 Liabilities	
Accrued expenses	410
Dividends payable	308
Payable upon return of securities loaned <i>(See Note 4)</i>	<u>360,184</u>
Total liabilities	<u>360,902</u>
 Net Assets	
Held in trust for investment pool participants	3,638,551
Held in trust for individual investment account holders	<u>24,741</u>
Total net assets	<u>\$3,663,292</u>

See accompanying notes to financial statements.

**West Virginia Board of Treasury Investments
 Combined Statement of Changes in Fiduciary Net Assets
 Fiduciary Funds**

For the Year Ended June 30, 2009

(In Thousands)

Additions	
Investment income:	
Interest	\$ 35,328
Dividends	2,794
Securities lending income	2,956
Net accretion	25,918
Provision for securities lending loss	(6,837)
Provision for uncollectible loans	<u>(7,117)</u>
Total investment income	53,042
Investment expenses:	
Investment advisor fees	1,157
Custodian bank fees	86
Administrative fees	1,208
Securities lending agent fees	226
Securities lending borrower rebates	<u>2,054</u>
Total investment expenses	<u>4,731</u>
Net investment income	48,311
Net realized loss from investments	(1,578)
Net increase in fair value of investments	<u>8,560</u>
Net increase in net assets from operations	55,293
Participant transactions:	
Purchase of pool units by participants	10,316,680
Reinvestment of pool distributions	48,995
Contributions to individual investment accounts	<u>6,708</u>
Total participant transactions	<u>10,372,383</u>
Total additions	10,427,676
Deductions	
Distributions to pool participants:	
Net investment income	40,788
Net realized loss from investments	<u>(1,578)</u>
Total distributions to pool participants	39,210
Participant transactions:	
Redemption of pool units by participants	10,063,667
Withdrawals from individual investment accounts	<u>26,041</u>
Total participant transactions	<u>10,089,708</u>
Total deductions	<u>10,128,918</u>
Change in net assets	298,758
Net assets at beginning of period	<u>3,364,534</u>
Net assets at end of period	<u>\$3,663,292</u>

See accompanying notes to financial statements.

West Virginia Board of Treasury Investments

Notes to Financial Statements

June 30, 2009

1. Organization and Operations

The West Virginia Board of Treasury Investments (the "BTI") is charged with managing the individual investment pools and accounts of the Consolidated Fund under authority of West Virginia State Code Chapter 12, Article 6C, West Virginia Treasury Investments Act. The 2005 West Virginia Legislature established the BTI, effective July 8, 2005, as a public corporation of the State of West Virginia, to make short-term operating funds of the state more accessible to state government and to allow the West Virginia Investment Management Board (the "IMB"), which had managed the Consolidated Fund, to focus on the state's long-term trust investments. The BTI operates on a fiscal year that begins July 1 and ends June 30.

The accompanying financial statements include the operations of the BTI as well as investment balances and transactions of the individual investment pools and accounts of the Consolidated Fund under management of the BTI. The BTI administers and manages the Consolidated Fund. The BTI provides a business-type activity that charges fees on a cost-reimbursement basis and is shown in the separate proprietary fund financial statements. Investment activities of the Consolidated Fund are shown in the separate fiduciary fund financial statements.

The West Virginia State Treasurer's Office provides direct administrative and management services to the BTI. The BTI does not employ a staff, but reimburses the Treasurer's Office for all personnel expenses of Treasury employees assigned to administer and manage the BTI. The Treasurer's Office also provides various supplementary administrative services. A five-member Board of Directors governs the BTI. The State Governor, State Treasurer, and State Auditor serve as ex officio members of the Board. The Governor appoints the two remaining members subject to the advice and consent of the State Senate. Of the two members appointed by the Governor, one shall be a certified public accountant and one shall be an attorney, and both shall have experience in finance, investing and management. The State Treasurer is Chairman of the Board.

The Consolidated Fund provides for the investment of moneys not currently needed to fund state governmental operations, as well as providing the opportunity for local governments to participate in large investment pools, and for those funds statutorily required to be invested in the Consolidated Fund. The following investment pools and accounts make up the Consolidated Fund:

WV Money Market – This pool consists of the operating funds of the State, funds held by State agencies, and funds from local governments who desire the opportunity to invest with the State. Its purpose is to provide for the investment of all surplus funds and to supply the daily cash needs of the State. The pool is co-managed by JP Morgan Asset Management and UBS Global Asset Management.

WV Government Money Market – This pool consists of investors who wish to invest in a pool that restricts its investments to U.S. Government Obligations, U.S. Government Agency Obligations, or repurchase agreements. The pool is managed by UBS Global Asset Management.

WV Short Term Bond – This pool consists of the operating funds of the State that are not needed immediately to fund the State’s liquidity requirements. The pool is managed by Federated Investors.

WV Bank – This pool consists of certificates of deposit purchased by the State through the BidWV auction program. The program purchases CDs from state banks and depositories to make state investment funds available for consumer and business loans within the state.

Loss Amortization – This pool was created to account for those participant claims on the general operating funds of the State that exceeded the underlying assets of the other pools. This excess of participant claims on net assets over underlying assets occurred as a result of the distribution of earnings to participants in various BTI investment pools, principally the Unrestricted Pool (predecessor to the WV Money Market Pool), in excess of the true investment income experience of the pools, principally in 1987 and 1988.

Loans – This pool is composed of loans made by the State. The \$1 unit price is used for accounting purposes only. The State is the sole participant in this pool. Within the Loan Pool is a non-recourse loan made by the West Virginia Economic Development Authority (the “WVEDA”) to the West Virginia Enterprise Advancement Corporation (the “WVEAC”), which in turn invests the funds in the West Virginia Enterprise Capital Fund, LLC (the “WVECF”), which then invests the money in venture capital funds. The WVEAC is a non-profit corporation that has a common board of directors with the WVEDA. The non-recourse loan program was authorized pursuant to WV Code §12-6-9, which requires the BTI to transfer up to \$25,000,000 in State funds to the WVEDA. The funds transferred by the BTI are to be repaid with proceeds received by the WVEDA from the WVEAC, which will make repayment to the WVEDA from the proceeds it receives from the WVECF. The Loan Pool is restricted by statute to receiving 3% earnings on the funds transferred to the WVEDA. Although the non-recourse loan made by the WVEDA may earn an excess of 3%, only 3% will be given to the Loan Pool, and the WVEDA will retain the rest. The BTI is not responsible for exercising any discretion over or making any decisions in regard to the lending, investing and repayment activities of the non-recourse loan program, or for any other loans in the Loan Pool. The WVEDA provides all bookkeeping and accounting records of the non-recourse loan program. The BTI’s role is to transfer the funds to the WVEDA when requested and to maintain an accounting for the loans within the Loan Pool based on information provided by the WVEDA.

Reserve – This pool is composed of an interest-bearing depository account with BB&T. The pool was created to provide an added layer of security for the WV Money Market and WV Government Money Market Pools. The objective of this pool is to provide support for the WV Money Market and WV Government Money Market Pools to ensure their unit net asset levels do not fall below \$0.9975. The State is the sole participant in this pool.

Participant Directed Accounts – The BTI also maintains pools for individual State agencies with specific investment needs. These pools are collectively referred to as Participant Directed Accounts, and include the following: Municipal Bond Commission, Lottery Defeasance (closed in August 2008), School Fund, Economic Development Authority – American Woodmark (“EDA – AW”), and Department of Highways (closed in March 2009). Each agency is the sole owner of the investments in its pool and is responsible for the investment decisions in accordance with the legal restrictions applicable to those assets. The BTI serves as custodian of these pools and has no discretion over investment and financial decisions made for them.

The BTI is authorized by West Virginia Code Chapter 12, Article 6C, Section 9, to invest in United States government and agency obligations, commercial paper, corporate bonds, repurchase agreements, asset-

backed securities, and investments in accordance with the Linked Deposit Program, which is a program using financial institutions in the state to reduce loan costs to small businesses by offsetting interest reductions on the loans with certificates of deposit, loans approved by the Legislature, and any other programs authorized by the Legislature. In addition to the restrictions in investment types, at no time shall more than seventy-five percent of the Consolidated Fund be invested in any bond, note, debenture, commercial paper or other evidence of indebtedness of any private corporation or association and at no time shall more than five percent be invested in securities issued by a single private corporation or association. Further, no less than fifteen percent of the Consolidated Fund shall be invested in any direct obligation of or obligation guaranteed by the United States government.

2. Significant Accounting Policies

Basis of Accounting

The financial statements of the BTI are reported using the economic resources measurement focus and the accrual basis of accounting in conformity with accounting principles generally accepted in the United States of America. Under this method of accounting, revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows.

An internal service fund, which is a type of proprietary fund, is used to account for investment management services provided by the BTI on a cost-reimbursement basis. An investment trust fund, which is a type of fiduciary fund, is used to account for each of the investment pools and accounts of the Consolidated Fund. The Consolidated Fund is composed of four external investment pools (WV Money Market, WV Government Money Market, WV Short Term Bond, and WV Bank), three internal investment pools (Loss Amortization, Loans, and Reserve) and five individual investment accounts (Municipal Bond Commission, Lottery Defeasance, School Fund, Economic Development Authority – American Woodmark, and Department of Highways).

Budgetary Information

The Board's annual operating budget is appropriated by the Legislature from fees collected by the BTI.

Cash Equivalents

Cash equivalents are short-term investments with maturities when acquired of 90 days or less.

Capital Assets

Capital asset expenditures of \$1,000 or more with a useful life greater than one year are capitalized at cost and reported net of accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful lives of the assets. The estimated useful lives are three years.

Wages, Compensated Absences, Retirement Plan and Other Postemployment Benefits

The BTI transferred all of its employees effective March 1, 2008, to the State Treasurer's Office to provide administrative and management services to the BTI. As a consequence of the release of its employees, the BTI no longer accrues for compensated absences and other postemployment benefits and no longer makes payments into the state retirement plan. Management services provided by the former employees are now recorded as management fees paid to the State Treasurer's Office.

Income Taxes

The BTI is a public corporation organized under laws of the State of West Virginia and, as such, is exempt from federal and state taxation. Accordingly, the financial statements have been prepared recognizing that the BTI is not subject to federal or state income taxes.

Revenues and expenses – Proprietary fund

Operating revenues of the BTI's proprietary fund come from services provided to the investment pools and accounts of the Consolidated Fund. Revenues of the proprietary fund also are derived from vendor fees charged directly to the investment pools and accounts and paid by the proprietary fund, such as investment advisor fees and custodian fees. Operating expenses of the proprietary fund represent payments for services provided under contract, such as investment advisors and consultants, fiduciary bond fees, and custodian fees; general and administrative expenses of the BTI, such as administrative and management services, office equipment, office supplies, and office space; and depreciation of capital assets. Revenues and expenses are recorded when earned and incurred in accordance with the economic resources measurement focus and the accrual basis of accounting.

Net Assets – Proprietary fund

Net assets of the BTI's proprietary fund are composed of investments in capital assets net of depreciation, and unrestricted net assets, which represent net assets not restricted to their use by legal, contractual or enabling legislation constraints.

Use of Estimates

The preparation of the financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

Investment Accounting

Investment Valuation The BTI is an investment vehicle of the State and its component units, all of which are government entities. The investments of the WV Money Market, WV Government Money Market, WV Bank, Loan, Reserve, and Municipal Bond Commission pools or accounts are, as permissible under Government Accounting Standards Board ("GASB") Statement Number 31, carried at amortized cost. The WV Money Market and WV Government Money Market pools are considered "2a7-like" investment pools and, as such, are reported at amortized cost, which approximates fair value. A 2a7-like pool operates in a manner consistent with the Securities and Exchange Commission (the "SEC") Rule 2a7 of the Investment Company Act of 1940, which allows money market mutual funds to use amortized cost to report net assets. A 2a7-like pool is not necessarily registered with the SEC as an investment company, but it would qualify as a money market fund should it be registered. The specific GASB 31 exceptions to fair value reporting for the other pools are as follows:

Pool	Exception
WV Bank	Nonnegotiable certificates of deposit with redemption terms that do not consider market rates
Loan	Loans receivable arising from real estate lending activities
Reserve	Nonparticipating investment contract with redemption terms that do not consider market rates
Municipal Bond Commission	Irrevocable trust meeting the requirements of a legal or in-substance defeasance

The investments of the remaining pools are reported at fair value, which is determined by a third party pricing service based on asset portfolio pricing models and other sources. The BTI determines fair value at the end of each month. Investments in commingled investment pools are valued at the reported unit values of the individual funds. Commissions on the purchases of securities by the BTI are a component of the security price quoted by the seller and are included in the investment cost.

As permitted by GASB Statement No. 20, *Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities That Use Proprietary Fund Accounting*, the BTI has elected not to adopt Financial Accounting Standards Board ("FASB") statements and interpretations issued after November 30, 1989, unless the GASB specifically adopts such FASB statements or interpretations.

Repurchase Agreements The BTI uses only tri-party repurchase agreements. Under the terms of a tri-party repurchase agreement, the seller transfers collateral securities to an account of the BTI's manager/agent at the seller's custodian bank. This arrangement perfects the BTI's lien on the collateral and effectively protects the BTI from a default by the seller. The BTI requires sellers in repurchase transactions to pledge collateral of at least 102% of the cash borrowed from the BTI. If the seller defaults and the fair value of the collateral declines, realization of the collateral by the BTI may be delayed or limited.

Securities Lending GASB Statement No. 28, *Accounting and Financial Reporting for Securities Lending Transactions*, requires governmental entities to report securities loaned as assets in their statements of net assets. The statement also requires the costs of the securities lending transactions be reported as expenses separately from income received. The BTI Board has authorized the BTI securities lending program. The BTI through its custodial agent, BNY Mellon, loans U.S. securities to various brokers on a temporary basis. Each transaction for U.S. securities is secured by collateral of at least 102% of the market value of the securities loaned. The BTI will accept only the following as collateral: cash; U.S. Treasury obligations or U.S. Government Agency obligations; and irrevocable letters of credit issued by banks rated A1 or P1, independent of borrowers. Cash collateral received is invested in a collateral pool. Neither the BTI nor BNY Mellon matches maturities of investments made with cash collateral to maturities of securities loaned. Non-cash collateral cannot be pledged or sold unless the borrower defaults. The BTI receives a portion of the income from the investment of the collateral. The BTI also continues to receive interest or dividends on the securities loaned. Gains and losses in the fair value of the securities loaned that may occur during the term of the loans are reflected in the various investment pools. BNY Mellon indemnifies the BTI against loss from borrower failure, which means that

the BTI will receive contractual settlement regardless of whether the borrower returns securities loaned. BNY Mellon also indemnifies the BTI against operational errors. The BTI is exposed to cash reinvestment risk, which is the risk that the cash reinvestment assets would not be sufficient to cover the liabilities due the borrowing brokers.

Due to losses incurred in the BTI's securities lending program arising from the failure of Sigma Finance and the devaluing of its securities, the BTI is winding down its securities lending program. The unwinding represents a controlled withdrawal from the securities lending program to reduce risk and minimize losses. This strategy allows the BTI to incorporate a more conservative collateral reinvestment policy, cap the program at a more manageable level, and raise cash for liquidity. The BTI does not believe the increased risk of a securities lending program justifies its continuing participation in the program. See Note 4 for further details.

Asset-Backed Securities Certain pools invest in various asset-backed securities and structured corporate debt. The securities are reported at fair value. The pools invest in these securities to enhance yields on investments. Changes in market interest rates affect the cash flows of these securities and may result in changes in fair value. The overall return or yield on these securities depends on the changes in the interest and principal payment pattern and market value of the underlying assets.

Investment Transactions Investment transactions are accounted for on a trade date basis.

Investment Gains and Losses Gains and losses on the sale of investment securities are recognized at the time of sale by the average cost method. The calculation of realized gains and losses is independent of the calculation of the net increase in the fair value of investments. Realized gains and losses on investments held in more than one fiscal year and sold in the current year may have been recognized as an increase or decrease in the fair value of investments reported in the prior year.

Interest Income Interest income is recognized as earned on the accrual method with one exception. The cash received method of income recognition is used for the interest on the WVEDA Non-Recourse Loan held by the Loan Pool. Under this method, income is recognized when received.

Dividend Income Dividend income is recognized on the ex-dividend date.

Amortization Discounts and premiums on securities purchased are amortized over the life of the respective securities using the scientific method of amortization. This method maintains a constant book yield over the life of the security. The amortization of asset-backed securities considers the effect of prepayments on the life of the security. Historical prepayment speeds are obtained from market data vendors and are updated annually. The effect of changing prepayment assumptions is reported in the Combined Statement of Changes in Fiduciary Net Assets in the year of the change.

Allowance for Loan Losses The allowance for loan losses is available to absorb future loan losses. The allowance is increased by provisions charged against operations and reduced by charge-offs (losses), net of recoveries. The provision is based on several factors including: analytical reviews of loan loss experience in relationship to outstanding loans; a continuing review of problem loans and overall portfolio quality, including analysis of the quality of the underlying collateral; and management's judgment on the impact of current and expected economic conditions on the portfolio. At June 30, 2009, the Loan Pool had an allowance for uncollectible loans of \$17,074,593.

Distributions to Participants The net income of the WV Money Market and WV Government Money Market Pools are declared as dividends and distributed daily to the participants based upon their pro rata participation in the pools. The distributions of net investment income are credited to the participants'

accounts in the form of dividend reinvestments in the pool and have been included in distributions to participants and reinvestment of distributions as presented on the Statement of Changes in Fiduciary Net Assets.

The monthly net income of the WV Short Term Bond Pool is declared as a dividend on the last day of the month and distributed to the participants in the pool on the first day of the following month. Distributions are paid in the form of reinvestments in the pools and have been included in distributions to participants and reinvestment of distributions as presented on the Statement of Changes in Fiduciary Net Assets.

The net income of the WV Bank Pool is determined monthly and reinvested in the pool. The earnings are transferred periodically to the WV Money Market Pool for distribution to participants because the WV Bank Pool functions as a vehicle for the BidWV auction program and is not open to participants.

The net income of the Loan Pool is determined monthly and distributed to the participant on the last day of the month. Distributions are paid in the form of reinvestments in the pool and have been included in distributions to participants and reinvestment of distributions as presented on the Statement of Changes in Fiduciary Net Assets.

The monthly net income of the Loss Amortization Pool is used to reduce the undistributed net losses recorded in the portfolio.

The net income of the Reserve Pool is declared as a dividend and distributed on the last day of the month. If the pool incurs a loss resulting in negative income, the loss will be distributed on the last day of the month.

Expenses Each pool is charged for its direct investment-related cost and for its allocated share of other expenses. The other expenses are allocated to the pools based on asset size. Certain pools cannot be charged expenses or must be charged a reduced expense. The BTI pays all expenses on behalf of the pools.

3. Cash and Cash Equivalents

The internal service fund's cash on deposit with the State Treasurer's Office was approximately \$644,000 at June 30, 2009. The cash is pooled with other deposits from the State's agencies, departments, boards and commissions and is subject to coverage by the Federal Deposit Insurance Corporation ("FDIC") or collateralized by securities held by the State or its agents in the State's name. Cash equivalents are short-term, highly liquid investments having original maturities of 90 days or less. The internal service fund did not hold any cash equivalents at June 30, 2009.

Custodial credit risk of cash deposits is the risk that in the event of failure of a depository financial institution, a government will not be able to recover deposits or will not be able to recover collateral securities that are in the possession of an outside party. The BTI does not have a deposit policy for custodial credit risk. BTI management does not believe any of its operating fund's deposits are exposed to custodial credit risk.

4. Investments and deposits

The BTI has adopted an investment policy in accordance with the "Uniform Prudent Investor Act." The "prudent investor rule" guides those with responsibility for investing the money for others. Such fiduciaries must act as a prudent person would be expected to act, with discretion and intelligence, to seek reasonable income, preserve capital, and, in general, avoid speculative investments. The BTI's

West Virginia Board of Treasury Investments
Notes to Financial Statements (Continued)

investment policy to invest assets in a manner that strives for maximum safety, provides adequate liquidity to meet all operating requirements, and achieves the highest possible investment return consistent with the primary objectives of safety and liquidity. The BTI recognizes that risk, volatility, and the possibility of loss in purchasing power are present to some degree in all types of investments. Due to the short-term nature of the Consolidated Fund, the BTI believes that it is imperative to review and adjust the investment policy in reaction to interest rate market fluctuations/trends on a regular basis and has adopted a formal review schedule. Investment policies have been established for each investment pool and account of the Consolidated Fund.

Credit Risk

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. Two of the BTI's pools, the WV Money Market and WV Government Money Market Pools have been rated AAAM by Standard & Poor's. A fund rated "AAAM" has extremely strong capacity to maintain principal stability and to limit exposure to principal losses due to credit, market, and/or liquidity risks. "AAAM" is the highest principal stability fund rating assigned by Standard & Poor's. Neither the BTI itself nor any of the other Consolidated Fund pools or accounts has been rated for credit risk by any organization. Of the Consolidated Fund pools and accounts, five are subject to credit risk: WV Money Market Pool, WV Government Money Market Pool, WV Short Term Bond Pool, Loan Pool, and School Fund Account Account.

The BTI limits the exposure to credit risk in the WV Money Market Pool by requiring all corporate bonds to be rated AA- by Standard & Poor's (or its equivalent) or higher. Commercial paper must be rated at least A-1 by Standard & Poor's and P1 by Moody's. The pool must have at least 15% of its assets in U.S. Treasury issues. The following table provides information on the credit ratings of the WV Money Market Pool's investments (in thousands):

Security Type	Credit Rating		Carrying Value	Percent of Pool Assets
	Moody's	S&P		
Commercial paper	P1	A-1	\$ 592,479	23.05%
Corporate bonds and notes	Aaa	AAA	10,000	0.39
	Aa1	AA	7,000	0.27
	Aa2	AA	10,000	0.39
	Aa3	AA	15,503	0.60
	A1	AA	19,309	0.75
	A1	A	12,000	0.47
Total corporate bonds and notes			73,812	2.87
U.S. agency bonds	Aaa	AAA	294,019	11.44
U.S. Treasury bills *	Aaa	AAA	483,714	18.82
Negotiable certificates of deposit	P1	A-1	128,402	5.00
U.S. agency discount notes	P1	A-1	635,602	24.73
Money market funds	Aaa	AAA	150,223	5.84
Repurchase agreements (underlying securities):				
U.S. Treasury notes *	Aaa	AAA	165,110	6.43
U.S. agency notes	Aaa	AAA	46,900	1.82
Total repurchase agreements			212,010	8.25
			<u>\$ 2,570,261</u>	<u>100.00%</u>

* U.S. Treasury issues are explicitly guaranteed by the United States government and are not subject to credit risk.

West Virginia Board of Treasury Investments
Notes to Financial Statements (Continued)

The BTI limits the exposure to credit risk in the WV Government Money Market Pool by limiting the pool to U.S. Treasury issues, U.S. government agency issues, money market funds investing in U.S. Treasury issues and U.S. government agency issues, and repurchase agreements collateralized by U.S. Treasury issues and U.S. government agency issues. The pool must have at least 15% of its assets in U.S. Treasury issues. The following table provides information on the credit ratings of the WV Government Money Market Pool's investments (in thousands):

Security Type	Credit Rating		Carrying Value	Percent of Pool Assets
	Moody's	S&P		
U.S. agency bonds	Aaa	AAA	\$ 68,608	24.17%
U.S. Treasury bills *	Aaa	AAA	74,424	26.22
U.S. agency discount notes	P1	A-1	87,662	30.89
Money market funds	Aaa	AAA	132	0.05
Repurchase agreements (underlying securities):				
U.S. agency notes	Aaa	AAA	53,000	18.67
			<u>\$ 283,826</u>	<u>100.00%</u>

* U.S. Treasury issues are explicitly guaranteed by the United States government and are not subject to credit risk.

West Virginia Board of Treasury Investments
Notes to Financial Statements (Continued)

The BTI limits the exposure to credit risk in the WV Short Term Bond Pool by requiring all corporate bonds to be rated A by Standard & Poor's (or its equivalent) or higher. Commercial paper must be rated at least A-1 by Standard & Poor's and P1 by Moody's. The following table provides information on the credit ratings of the WV Short Term Bond Pool's investments (in thousands):

Security Type	Credit Rating		Carrying Value	Percent of Pool Assets
	Moody's	S&P		
Corporate asset backed securities	Aaa	AAA	16,402	5.21
	Aaa	NR*	5,136	1.63
	Aa3	AAA	223	0.07
	Aa2	AAA	461	0.15
	A3	AAA	273	0.09
	Baa2	AAA	831	0.26
	Baa1	BBB **	332	0.10
	Baa2	BBB **	1,376	0.44
	Ba3	AAA	645	0.20
	B1	AAA	779	0.25
	B2	B **	493	0.16
	B2	CCC **	539	0.17
	B3	AAA	949	0.30
	Caa1	BB **	254	0.08
	NR	AAA	679	0.22
Total corporate asset backed securities			29,372	9.33
Corporate bonds and notes	Aaa	AAA	47,204	14.99
	Aa1	AA	4,445	1.41
	Aa1	A	2,052	0.65
	Aa2	AAA	3,040	0.96
	Aa2	AA	9,066	2.88
	Aa3	A	7,831	2.49
	A1	AA	4,813	1.53
	A1	A	5,522	1.75
	A2	A	32,040	10.17
	A3	A	7,024	2.23
	Baa3	A	2,067	0.66
Total corporate bonds and notes			125,104	39.72
U.S. agency bonds	Aaa	AAA	60,250	19.13
U.S. Treasury notes ***	Aaa	AAA	88,805	28.20
U.S. agency mortgage backed securities ****	Aaa	AAA	4,975	1.58
Money market funds	Aaa	AAA	6,426	2.04
			<u>\$ 314,932</u>	<u>100.00%</u>

* NR = Not Rated

** These securities were not in compliance with BTI Investment Policy at June 30, 2009. The securities were in compliance when originally acquired, but were subsequently downgraded. BTI management and its investment advisors have determined that it is in the best interests of the participants to hold the securities for optimal outcome.

*** U.S. Treasury issues are explicitly guaranteed by the United States government and are not subject to credit risk.

**** U.S. agency mortgage backed securities are issued by the Government National Mortgage Association and are explicitly guaranteed by the United States government and are not subject to credit risk.

The Loan Pool is composed of loans made by the State. The pool holds intergovernmental loans and an investment in a money market mutual fund of approximately \$582,000. The mutual fund is rated AAA by Standard & Poor's and Aaa by Moody's. The loans are not rated; however, because there is the potential for defaults on the loans, the pool is subject to credit risk related to the loans. The BTI addresses this credit risk by establishing and regularly evaluating a reserve for uncollectible loans.

The School Fund Account holds only an interest in a money market mutual fund valued at approximately \$1,307,000. The mutual fund is rated AAA by Standard & Poor's and Aaa by Moody's. The BTI does not have a policy specifically addressing credit risk in the School Fund Account.

The Federal Transaction Account Guarantee Program provides that the Federal Deposit Insurance Corporation (the "FDIC") will insure 100% of all funds left in non-interest bearing transaction accounts. The coverage applies to Consolidated Fund balances at BNY Mellon that have not been swept into money market funds. The protection ends December 31, 2009.

The Federal Temporary Liquidity Guarantee Program provides that three issuances in the Short Term Bond Pool are guaranteed by the FDIC through maturity. The issuances are as follows:

- General Electric Capital Corp. Note, 1.800% coupon rate, par value \$10,000,000, due 3/11/2011
- Goldman Sachs Group Inc. Note, 1.625% coupon rate, par value \$10,000,000, due 7/15/2011
- Goldman Sachs Group Inc. Note, 2.150% coupon rate, par value \$10,000,000, due 3/15/2012

The Federal Temporary Guarantee Program for Money Market Funds provides that three issuances in the WV Money Market Pool are guaranteed by the FDIC based on share balances as of September 19, 2008. The guarantee expires September 18, 2009. The issuances are as follows:

- UBS Select – Covered up to \$150,000,000
- JP Morgan Prime – Covered up to \$1,151
- UBS Dreyfus – Covered up to \$1,202,835

Interest Rate Risk

Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. All Consolidated Fund pools and accounts are subject to interest rate risk.

The overall weighted average maturity of the investments of the WV Money Market Pool cannot exceed 60 days. Maximum maturity of individual securities cannot exceed 397 days from date of purchase. The following table provides information on the weighted average maturities for the various asset types in the WV Money Market Pool:

West Virginia Board of Treasury Investments
Notes to Financial Statements (Continued)

Security Type	Carrying Value (In Thousands)	WAM (Days)
Repurchase agreements	\$ 212,010	1
U.S. Treasury bills	483,714	69
Commercial paper	592,479	32
Certificates of deposit	128,402	56
U.S. agency discount notes	635,602	57
Corporate bonds and notes	73,812	38
U.S. agency bonds/notes	294,019	70
Money market funds	150,223	1
	<u>\$ 2,570,261</u>	47

The overall weighted average maturity of the investments of the WV Government Money Market Pool cannot exceed 60 days. Maximum maturity of individual securities cannot exceed 397 days from date of purchase. The following table provides information on the weighted average maturities for the various asset types in the WV Government Money Market Pool:

Security Type	Carrying Value (In Thousands)	WAM (Days)
Repurchase agreements	\$ 53,000	1
U.S. Treasury bills	74,424	94
U.S. agency discount notes	87,662	55
U.S. agency bonds/notes	68,608	37
Money market funds	132	1
	<u>\$ 283,826</u>	51

The overall effective duration of the investments of the WV Short Term Bond Pool cannot exceed 731 days. Maximum maturity of individual securities cannot exceed 1,827 days (five years) from date of purchase. The following table provides information on the effective duration for the various asset types in the WV Short Term Bond Pool:

Security Type	Carrying Value (In Thousands)	Effective Duration (Days)
U.S. Treasury bonds/notes	\$ 88,805	917
Corporate notes	125,104	559
Corporate asset backed securities	29,372	622
U.S. agency bonds/notes	60,250	752
U.S. agency mortgage backed securities	4,975	540
Money market funds	6,426	1
	<u>\$ 314,932</u>	691

The West Virginia Bank Pool holds nonnegotiable certificates of deposit totaling \$100,000,000 with maturity dates ranging from July 2009 to November 2009. The BTI's policy does not specifically address maturity restrictions as a means of managing exposure to fair value losses in this pool arising from increasing interest rates.

The Loss Amortization Pool holds a U.S. Treasury strip valued at approximately \$184,107,000 that matures on August 15, 2011. The BTI's policy does not specifically address maturity restrictions as a means of managing exposure to fair value losses in this pool arising from increasing interest rates. However, it is the intent of the BTI to hold this security to maturity.

The Loan Pool holds an interest in a money market mutual fund in the amount of approximately \$582,000 with a weighted average maturity of one day. The BTI's policy does not specifically address maturity restrictions as a means of managing exposure to fair value losses in this pool arising from increasing interest rates.

The Reserve Pool maintains funds totaling approximately \$44,755,000 in a bank depository account that matures in December 2009. The BTI's policy does not specifically address maturity restrictions as a means of managing exposure to fair value losses in this pool arising from increasing interest rates.

The BTI's policy does not specifically address maturity restrictions as a means of managing exposure to fair value losses in the Municipal Bond Commission Account arising from increasing interest rates. The following table provides information on the weighted average maturities for the various asset types in the Municipal Bond Commission Account:

Security Type	Carrying Value (In Thousands)	WAM (Days)
U.S. Treasury bills	\$ 99	142
U.S. Treasury strips	5,681	1,242
U.S. Treasury bonds/notes	5,309	2,917
State and local government securities	10,380	316
	\$ 21,469	1,203

The School Fund Account holds only an interest in a money market mutual fund valued at approximately \$1,307,000 with a weighted average maturity of one day. The BTI's policy does not specifically address maturity restrictions as a means of managing exposure to fair value losses in this pool arising from increasing interest rates.

The EDA-AW Account holds only a U.S. Treasury bond valued at approximately \$1,761,000 that matures August 15, 2023. The BTI's policy does not specifically address maturity restrictions as a means of managing exposure to fair value losses in this pool arising from increasing interest rates.

Other Risks of Investing

Other risks of investing can include concentration of credit risk, custodial credit risk, and foreign currency risk. None of the Consolidated Fund's investment pools or accounts is exposed to these risks as described below.

West Virginia Board of Treasury Investments
Notes to Financial Statements (Continued)

Concentration of credit risk is the risk of loss attributed to the magnitude of a Consolidated Fund pool or account's investment in a single corporate issuer. The BTI investment policy prohibits those pools and accounts permitted to hold corporate securities from investing more than 5% of their assets in any one corporate name or one corporate issue.

The custodial credit risk for investments is the risk that, in the event of the failure of the counterparty to a transaction, the BTI will not be able to recover the value of investment or collateral securities that are in the possession of an outside party. Repurchase agreements are required to be collateralized by at least 102% of their value, and the collateral is held in the name of the BTI. Securities lending collateral that is reported on the Statement of Fiduciary Net Assets is invested in the lending agent's money market fund in the BTI's name. In all transactions, the BTI or its agent does not release cash or securities until the counterparty delivers its side of the transaction.

Foreign currency risk is the risk that changes in exchange rates will adversely affect the fair value of an investment or a deposit. None of the Consolidated Fund's investment pools or accounts holds interests in foreign currency or interests valued in foreign currency.

Securities Lending

At June 30, 2009, the fair value of securities on loan and the collateral held by the pools of the BTI are as follows. Of the collateral held, \$360,183,567 was received as cash. The collateral received as cash is invested in a collateral pool. For securities loaned at June 30, 2009, the BTI has no credit risk exposure to borrowers because the amount the BTI owes the borrowers exceeds the amounts the borrowers owe the BTI. There were no losses during the year resulting from borrower default, and there were no significant violations of legal or contractual provisions. The BTI is exposed to cash reinvestment risk, which is the risk that the cash reinvestment assets would not be sufficient to cover the liabilities due the borrowing brokers.

Maturities of investments made with cash collateral are not matched to maturities of securities loaned.

	Fair Value of Securities on Loan	Collateral Held
WV Money Market Pool	\$ 242,130,709	\$ 246,999,999
WV Short Term Bond Pool	110,914,770	113,183,568
	<u>\$ 353,045,479</u>	<u>\$ 360,183,567</u>

As discussed in Note 2, the BTI is winding down its securities lending program because of realized losses incurred from securities of Sigma Finance. On September 30, 2008, the Sigma Finance securities held in the securities lending collateral pool were moved to a liquidating trust pool. Sigma Finance has been placed in receivership. The BTI was notified by BNY Mellon that Sigma Finance had ceased business operations and the BTI's potential share of the loss would be approximately \$11.7 million.

Deposits

Custodial credit risk of deposits is the risk that in the event of failure of a depository financial institution, a government will not be able to recover deposits or will not be able to recover collateral securities that are in the possession of an outside party. Deposits include nonnegotiable certificates of deposit. The WV Bank Pool contains nonnegotiable certificates of deposit valued at \$100,000,000. The Reserve Pool contains funds totaling approximately \$44,755,000 in a bank depository account. The BTI does not have a deposit policy for custodial credit risk.

5. Capital Assets

Capital asset activity for the year ended June 30, 2009, was as follows (in thousands):

	June 30, 2008	Increases	Decreases	June 30, 2009
Equipment	\$ 31	\$ -	-	\$ 31
Accumulated depreciation	(21)	(6)	-	(27)
Equipment, net of accumulated depreciation	\$ 10	\$ (6)	-	\$ 4

6. Related Party Transactions

Intergovernmental Investments

The BTI is required by law to enter into certain investment transactions with other state entities. At June 30, 2009, the BTI's intergovernmental investments included the following:

- a. The "WVEDA Revolving Loan" is an obligation of the West Virginia Economic Development Authority (WVEDA). The terms of the loan program require the BTI to make available on a revolving basis up to \$175,000,000 for the WVEDA to use to fund economic development initiatives. The interest rate is reset on July 1 of each year and is based on the twelve month return of the WV Money Market Pool. The rate for the year ending June 30, 2009, was 4.17%. The rate has a 1% annual adjustment cap. The WVEDA makes monthly principal and interest payments calculated on a one hundred twenty month amortization of the outstanding balance. At June 30, 2009, the outstanding balance was \$120,900,020.
- b. The "WVEDA Non-recourse Loan" represents an obligation of the WVEDA. The BTI assumed the loan as of July 8, 2005. The loan was originally entered into with the West Virginia Investment Management Board on April 9, 2002. The terms of the loan allow for the WVEDA to borrow through June 29, 2012, up to \$25,000,000 from the BTL. The funds borrowed by the WVEDA are to be loaned, without recourse, to the West Virginia Enterprise Advancement Corporation (WVEAC), for investment in the West Virginia Enterprise Capital Fund, to fund certain venture capital initiatives. The loan earns interest at 3%, which is fixed for the term of the loan. The WVEDA is required to make annual principal payments of \$10,000 plus accrued interest for the first ten years. However, in the event the WVEDA has not received any returns from the investment with the WVEAC, these payments may be deferred through June 30, 2012. Beginning June 30, 2013, the WVEDA is expected to make principal and interest payments sufficient to repay all outstanding principal and accrued interest in full by June 30, 2022. At June 30, 2009, \$22,930,000 of principal was outstanding.

Because of the uncertain collectibility of this loan, the BTI has elected to recognize income when the cash is received. Additionally, a valuation reserve of \$17,074,593 has been accrued at June 30, 2009.

The following table details the amount of interest that has not been recognized as income and the expected receipt of which has been deferred in accordance with the provisions of the loan.

West Virginia Board of Treasury Investments
Notes to Financial Statements (Continued)

Fiscal Year 2006 interest deferred	\$ 456,747
Fiscal Year 2007 interest deferred	563,704
Fiscal Year 2008 interest deferred	593,158
Fiscal Year 2009 interest deferred	657,953
Total interest deferred	<u>\$ 2,271,562</u>

Transactions with State Treasurer's Office

The State Treasurer's Office provides various services to the BTI, some of which are reimbursed by the BTI, and others of which the Treasurer provides at no cost to the BTI. During the year ended June 30, 2009, the BTI reimbursed the Treasurer's Office \$808,000 for services, which includes \$598,000 for management services provided by Treasurer's Office employees. Also during the year, the Treasurer's Office provided services valued at approximately \$19,000 at no cost to the BTI.

7. Risk Management

The BTI is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to and illnesses of employees; and natural disasters.

Board members are covered by a \$5 million blanket bond and general liability and property coverage of \$1 million per occurrence through the West Virginia State Board of Risk and Insurance Management ("BRIM"). The Board has obtained additional coverage of \$45 million faithful performance bond through an outside underwriter. There have been no claims since the inception of the BTI.

8. Effect of New Accounting Pronouncements

The GASB has issued Statement No. 53, *Accounting and Financial Reporting for Derivative Instruments*, which addresses the recognition, measurement, and disclosure of information regarding derivative instruments entered into by state and local governments. The requirements of this statement will be effective for the BTI in the fiscal year beginning July 1, 2009. BTI management has not yet determined whether these new requirements might significantly affect the BTI's financial position or results of operations for that fiscal year.

Supplementary Information

West Virginia Board of Treasury Investments
Combining Statement of Fiduciary Net Assets
Fiduciary Funds

June 30, 2009

(In Thousands)

	<u>WV Money Market Pool</u>	<u>WV Government Money Market Pool</u>	<u>WV Short Term Bond Pool</u>	<u>WV Bank Pool</u>	<u>Loss Amortization Pool</u>
Assets					
Investments:					
At amortized cost	\$ 2,570,261	\$ 283,826	\$ -	\$100,000	\$ -
At fair value	-	-	314,932	-	184,107
Collateral for securities loaned, at fair value (Note 4)	247,000	-	113,184	-	-
Receivables:					
Accrued interest	777	70	2,600	215	-
Dividends	52	-	3	-	-
Investments sold	-	-	9,795	-	-
Securities lending income	67	-	38	-	-
Total receivables	<u>896</u>	<u>70</u>	<u>12,436</u>	<u>215</u>	<u>-</u>
Total assets	<u>2,818,157</u>	<u>283,896</u>	<u>440,552</u>	<u>100,215</u>	<u>184,107</u>
Liabilities					
Accrued expenses	282	38	84	-	-
Dividends payable	-	-	308	-	-
Payable upon return of securities loaned (Note 4)	247,000	-	113,184	-	-
Total liabilities	<u>247,282</u>	<u>38</u>	<u>113,576</u>	<u>-</u>	<u>-</u>
Net Assets					
Held in trust for investment pool participants	2,570,875	283,858	326,976	100,215	184,107
Held in trust for individual investment account holders	-	-	-	-	-
Total net assets	<u>\$ 2,570,875</u>	<u>\$ 283,858</u>	<u>\$326,976</u>	<u>\$100,215</u>	<u>\$ 184,107</u>

* Closed in August 2008

** Closed in March 2009

See accompanying notes to financial statements.

<u>Loan Pool</u>	<u>Reserve Pool</u>	<u>Municipal Bond Commission Account</u>	<u>Lottery Defeasance Account *</u>	<u>School Fund Account</u>	<u>Economic Development Authority - American Woodmark Account</u>	<u>Department of Highways Account **</u>	<u>Total</u>
\$ 127,345	\$ 44,755	\$ 21,469	\$ -	\$ -	\$ -	\$ -	\$3,147,656
-	-	-	-	1,307	1,761	-	502,107
-	-	-	-	-	-	-	360,184
387	-	172	-	-	34	-	4,255
-	37	-	-	-	-	-	92
-	-	-	-	-	-	-	9,795
-	-	-	-	-	-	-	105
<u>387</u>	<u>37</u>	<u>172</u>	<u>-</u>	<u>-</u>	<u>34</u>	<u>-</u>	<u>14,247</u>
127,732	44,792	21,641	-	1,307	1,795	-	4,024,194
4	-	1	-	-	1	-	410
-	-	-	-	-	-	-	308
-	-	-	-	-	-	-	360,184
<u>4</u>	<u>-</u>	<u>1</u>	<u>-</u>	<u>-</u>	<u>1</u>	<u>-</u>	<u>360,902</u>
127,728	44,792	-	-	-	-	-	3,638,551
-	-	21,640	-	1,307	1,794	-	24,741
<u>\$ 127,728</u>	<u>\$ 44,792</u>	<u>\$ 21,640</u>	<u>\$ -</u>	<u>\$ 1,307</u>	<u>\$ 1,794</u>	<u>\$ -</u>	<u>\$3,663,292</u>

West Virginia Board of Treasury Investments
Combining Statement of Changes in Fiduciary Net Assets
Fiduciary Funds

For the Year Ended June 30, 2009

(In Thousands)

	WV Money Market Pool	WV Government Money Market Pool	WV Short Term Bond Pool	WV Bank Pool	Loss Amortization Pool
Additions					
Investment income					
Interest	\$ 13,430	\$ 1,631	\$ 12,312	\$ 2,033	\$ -
Dividends	2,428	2	188	-	-
Securities lending income	2,241	151	564	-	-
Net accretion (amortization)	19,502	1,435	(1,727)	-	6,861
Provision for securities lending loss	(4,434)	(557)	(1,846)	-	-
Provision for uncollectible loans	-	-	-	-	-
Total investment income	33,167	2,662	9,491	2,033	6,861
Investment expenses					
Investment advisor fees	812	90	255	-	-
Custodian bank fees	64	11	11	-	-
Administrative fees	943	94	118	-	-
Securities lending agent fees	183	13	30	-	-
Securities lending borrower rebates	1,509	101	444	-	-
Total investment expenses	3,511	309	858	-	-
Net investment income	29,656	2,353	8,633	2,033	6,861
Net realized gain (loss) from investments	276	20	(1,874)	-	-
Net increase (decrease) in fair value of investments	-	-	3,342	-	5,169
Net increase (decrease) in net assets from operations	29,932	2,373	10,101	2,033	12,030
Participant transactions					
Purchase of pool units by participants	9,541,732	656,955	40,735	-	-
Reinvestment of pool distributions	29,921	2,373	10,943	2,033	-
Contributions to individual investment accounts	-	-	-	-	-
Total participant transactions	9,571,653	659,328	51,678	2,033	-
Total additions	9,601,585	661,701	61,779	4,066	12,030
Deductions					
Distributions to pool participants					
Net investment income	29,401	2,290	8,451	2,033	-
Net realized gain (loss) from investments	276	20	(1,874)	-	-
Total distributions to pool participants	29,677	2,310	6,577	2,033	-
Participant transactions					
Redemption of pool units by participants	9,391,396	562,824	84,936	-	-
Withdrawals from individual investment accounts	-	-	-	-	-
Total participant transactions	9,391,396	562,824	84,936	-	-
Total deductions	9,421,073	565,134	91,513	2,033	-
Net increase (decrease) in net assets from operations	180,512	96,567	(29,734)	2,033	12,030
Inter-pool transfers in					
Inter-pool transfers in	203,530	-	-	175,000	-
Inter-pool transfers out					
Inter-pool transfers out	(175,000)	-	-	(203,530)	-
Net inter-pool transfers in (out)	28,530	-	-	(28,530)	-
Change in net assets	209,042	96,567	(29,734)	(26,497)	12,030
Net assets at beginning of period	2,361,833	187,291	356,710	126,712	172,077
Net assets at end of period	\$ 2,570,875	\$ 283,858	\$ 326,976	\$ 100,215	\$ 184,107

* Closed in August 2008

** Closed in March 2009

See accompanying notes to financial statements.

<u>Loan Pool</u>	<u>Reserve Pool</u>	<u>Municipal Bond Commission Account</u>	<u>Lottery Defeasance Account *</u>	<u>School Fund Account</u>	<u>Economic Development Authority - American Woodmark Account</u>	<u>Department of Highways **</u>	<u>Total</u>
\$ 4,896	\$ 12	\$ 762	\$ -	\$ -	\$ 90	\$ 162	\$ 35,328
9	158	-	-	9	-	-	2,794
-	-	-	-	-	-	-	2,956
-	-	(145)	1	-	(9)	-	25,918
-	-	-	-	-	-	-	(6,837)
(7,117)	-	-	-	-	-	-	(7,117)
<u>(2,212)</u>	<u>170</u>	<u>617</u>	<u>1</u>	<u>9</u>	<u>81</u>	<u>162</u>	<u>53,042</u>
-	-	-	-	-	-	-	1,157
-	-	-	-	-	-	-	86
45	-	-	-	-	-	-	1,208
-	-	-	-	-	-	-	226
-	-	-	-	-	-	-	<u>2,054</u>
<u>45</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>1</u>	<u>-</u>	<u>4,731</u>
(2,257)	170	610	1	9	80	162	48,311
-	-	-	-	-	-	-	(1,578)
-	-	-	(1)	-	(5)	-	<u>8,500</u>
(2,257)	170	610	-	8	130	162	55,293
32,636	44,622	-	-	-	-	-	10,316,680
3,555	170	-	-	-	-	-	48,995
-	-	8,376	-	332	-	-	6,708
<u>36,191</u>	<u>44,792</u>	<u>8,376</u>	<u>-</u>	<u>332</u>	<u>-</u>	<u>-</u>	<u>10,372,383</u>
33,934	44,962	6,986	-	341	130	162	10,427,676
(1,537)	170	-	-	-	-	-	40,788
-	-	-	-	-	-	-	(1,578)
<u>(1,537)</u>	<u>170</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>39,210</u>
24,511	-	-	-	-	-	-	10,063,667
-	-	10,123	136	705	90	14,987	26,041
<u>24,511</u>	<u>-</u>	<u>10,123</u>	<u>136</u>	<u>705</u>	<u>90</u>	<u>14,987</u>	<u>10,089,708</u>
<u>(22,894)</u>	<u>170</u>	<u>10,123</u>	<u>136</u>	<u>705</u>	<u>90</u>	<u>14,987</u>	<u>10,128,918</u>
10,980	44,792	(3,137)	(136)	(364)	40	(14,825)	298,758
-	-	-	-	-	-	-	378,530
-	-	-	-	-	-	-	<u>(378,530)</u>
10,980	44,792	(3,137)	(136)	(364)	40	(14,825)	298,758
116,748	-	24,777	136	(1,871)	1,754	14,825	3,364,534
<u>\$ 127,728</u>	<u>\$ 44,792</u>	<u>\$ 21,640</u>	<u>\$ -</u>	<u>\$ 1,307</u>	<u>\$ 1,794</u>	<u>\$ -</u>	<u>\$ 3,661,292</u>

West Virginia Board of Treasury Investments
Schedule of Investments in Securities
June 30, 2009
(Dollars in thousands, except for Share Data)

WEST VIRGINIA MONEY MARKET POOL

<u>SECURITY NAME</u>	<u>% of</u> <u>POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE</u> <u>or SHARES</u>	<u>AMORTIZED</u> <u>COST</u>	<u>FAIR</u> <u>VALUE*</u>
U. S. Government Agency Bonds							
Federal Home Loan Bank	2.820	%	2.821	07/10/2009	\$ 10,000	\$ 10,000	\$ 10,006
Federal Farm Credit Bank	0.320	F	0.320	07/22/2009	20,000	20,000	19,998
Federal National Mortgage Assn	0.913	F	0.941	07/28/2009	20,000	20,000	20,008
Federal Home Loan Bank	0.245	F	0.360	08/21/2009	15,000	14,998	14,999
Federal National Mortgage Assn	0.410	F	0.410	09/03/2009	18,000	18,000	18,005
Federal Home Loan Mort Corp	0.238	F	0.273	09/28/2009	10,000	9,999	10,001
Federal Home Loan Bank	3.750		1.164	01/08/2010	5,000	5,067	5,088
Federal Home Loan Mort Corp	0.630	F	0.630	01/08/2010	30,000	30,000	30,081
Federal Home Loan Mort Corp	0.630	F	0.630	01/08/2010	16,000	16,000	16,043
Federal Home Loan Bank	0.870		0.961	01/26/2010	7,000	6,996	7,019
Federal Home Loan Bank	0.960		1.069	02/04/2010	10,000	9,994	10,033
Federal Home Loan Bank	1.050		1.166	02/23/2010	12,000	11,991	12,051
Federal Home Loan Bank	0.650		0.718	06/15/2010	15,000	14,990	15,026
Federal Home Loan Bank	0.600		0.678	06/21/2010	15,000	14,989	15,019
Federal Home Loan Mort Corp	1.039	F	1.031	07/12/2010	20,000	20,000	20,031
Federal Home Loan Bank	0.499	F	0.499	07/13/2010	10,000	10,000	10,018
Federal National Mortgage Assn	1.029	F	1.060	07/13/2010	15,000	15,000	15,013
Federal National Mortgage Assn	0.966	F	0.993	08/05/2010	15,000	14,994	15,025
Federal National Mortgage Assn	0.730	F	0.720	10/22/2010	10,000	10,001	10,040
Federal Home Loan Bank	0.345	F	0.345	12/06/2010	21,000	21,000	21,000
Total U. S. Government Agency Bonds	11.4%					294,019	294,504
Corporate Bonds							
Rabobank Nederland	0.948	F	1.148	07/09/2009	10,000	10,000	10,001
Bank of America	1.207	F	1.207	08/06/2009	12,500	12,500	12,487
Lloyds TSB Group PLC	1.286	F	1.286	08/07/2009	12,000	12,000	12,003
Wells Fargo Bank NA	0.413	F	0.413	08/19/2009	10,000	10,000	9,990
HSBC Bank USA	3.875		3.326	09/15/2009	3,000	3,003	3,014
Wells Fargo & Company	0.782	F	0.370	09/23/2009	9,300	9,309	9,309
Nordea Bank AB	1.449	F	1.369	09/24/2009	7,000	7,000	6,979
HSBC Bank USA Inc	1.559	F	1.562	10/15/2009	10,000	10,000	9,930
Total Corporate Bonds	2.9%					73,812	73,713
Short Term Issues							
Bank of America Repurchase Agreement	0.020		0.020	07/01/2009	165,110	165,110	165,110
Deutsche Bank Repurchase Agreement	0.080		0.080	07/01/2009	46,900	46,900	46,900
Amsterdam Funding Corp	0.000		0.864	07/01/2009	10,000	10,000	10,000
Calyon North America	0.000		0.274	07/01/2009	35,000	35,000	35,000
Chariot Funding LLC	0.000		0.284	07/01/2009	10,000	10,000	10,000
Federal National Mortgage Assn	0.000		0.279	07/01/2009	37,000	37,000	37,000
RBS Holdings USA	0.000		0.101	07/01/2009	15,000	15,000	15,000
Thunder Bay Funding Inc	0.000		0.508	07/01/2009	15,000	15,000	15,000
Rabobank Nederland NV NY	0.700		0.700	07/02/2009	15,000	15,000	15,000

(Continued on Next Page)

F - Floating rate note security

* The fair value is not determined for loans. The fair value reported equals amortized cost

** Rate represents last business day of the month

See accompanying notes to financial statements

**West Virginia Board of Treasury Investments
Schedule of Investments in Securities (Continued)**

June 30, 2009

(Dollars in thousands, except for Share Data)

WEST VIRGINIA MONEY MARKET POOL (Continued)

<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
Barton Capital Corp		0.000	0.243	07/02/2009	15,000	15,000	15,000
Dexia Delaware LLC		0.000	0.355	07/02/2009	10,000	10,000	10,000
United States Treasury Bill		0.000	1.209	07/02/2009	30,000	29,999	29,999
CBA Finance Inc		0.000	0.406	07/06/2009	10,000	9,999	9,999
Fairway Finance Corp		0.000	0.619	07/06/2009	10,000	9,999	9,999
National Australia Funding		0.000	0.558	07/06/2009	15,000	14,999	14,999
Thames Asset Global Sec		0.000	0.264	07/06/2009	10,000	10,000	10,000
Natixis		0.950	0.950	07/07/2009	10,000	10,000	10,000
Societe Generale NA		0.000	0.243	07/07/2009	38,000	37,998	37,998
Federal Home Loan Bank		0.000	0.152	07/08/2009	15,000	15,000	15,000
Old Line Funding Corp		0.000	0.325	07/08/2009	15,000	14,999	14,999
Westpac Banking Corp		0.000	0.528	07/09/2009	10,000	9,999	9,999
Royal Bank of Scotland NY		0.330	0.330	07/10/2009	15,000	15,000	15,000
Federal Home Loan Bank		0.000	0.457	07/13/2009	15,000	14,998	14,998
Federal National Mortgage Assn		0.000	0.162	07/13/2009	39,000	38,998	38,998
Svenska Handelsbanken NY		1.459	F	07/13/2009	5,000	5,000	5,000
Ranger Funding Co LLC		0.000	0.284	07/14/2009	14,512	14,511	14,511
Federal Home Loan Bank		0.000	0.162	07/15/2009	20,000	19,999	19,999
Old Line Funding Corp		0.000	0.477	07/15/2009	15,000	14,997	14,997
Thames Asset Global Sec		0.000	0.304	07/15/2009	10,000	9,999	9,999
Federal Home Loan Bank		0.000	0.152	07/16/2009	40,000	39,997	39,997
Nordea NA Inc		0.000	0.579	07/16/2009	5,000	4,999	4,999
Toronto Dominion Holdings USA		0.000	0.254	07/16/2009	20,000	19,998	19,998
Danske Corporation		0.000	0.314	07/17/2009	15,000	14,998	14,998
Societe Generale NA		0.000	0.660	07/17/2009	10,000	9,997	9,997
Federal Home Loan Mort Corp		0.000	1.381	07/20/2009	33,000	32,976	32,976
Jupiter Securitization Co LLC		0.000	0.284	07/20/2009	15,000	14,998	14,998
Ranger Funding Co LLC		0.000	0.294	07/20/2009	10,196	10,194	10,194
Regency Markets No 1 LLC		0.000	0.335	07/20/2009	10,000	9,998	9,998
Kitty Hawk Funding Corp		0.000	0.457	07/21/2009	10,000	9,997	9,997
Federal National Mortgage Assn		0.000	0.427	07/22/2009	35,000	34,991	34,991
Market Street Funding LLC		0.000	0.325	07/22/2009	15,000	14,997	14,997
Falcon Asset Sec Corp		0.000	0.284	07/23/2009	15,000	14,997	14,997
Federal National Mortgage Assn		0.000	0.172	07/23/2009	35,000	34,996	34,996
Toyota Motor Credit Corp		0.000	0.304	07/23/2009	15,000	14,997	14,997
United States Treasury Bill		0.000	0.141	07/23/2009	211,000	210,982	210,982
Fortis Bank NY		0.380	0.380	07/24/2009	10,000	10,000	10,000
Deutsche Bank NY		0.610	0.610	07/27/2009	10,000	10,000	10,000
Atlantic Asset Securities Corp		0.000	0.457	07/27/2009	10,000	9,997	9,997
ING Funding LLC		0.000	0.640	07/28/2009	10,000	9,995	9,995
Calyon North America		0.000	1.038	07/29/2009	10,000	9,992	9,992
Federal Home Loan Bank		0.000	0.203	07/29/2009	24,000	23,996	23,996
Bank of Tokyo-Mitsubishi UFJ		0.300	0.300	07/30/2009	15,000	15,000	15,000
ING Funding LLC		0.000	0.660	07/30/2009	15,000	14,992	14,992
United States Treasury Bill		0.000	1.071	07/30/2009	15,000	14,987	14,987
DNB Nor Bank ASA		0.000	1.017	08/04/2009	10,000	9,991	9,991
Svenska Handelsbank Inc		0.000	0.548	08/05/2009	5,000	4,997	4,997
ANZ National (INTL) LTD		0.000	0.508	08/10/2009	5,000	4,997	4,997
Amsterdam Funding Corp		0.000	0.508	08/10/2009	10,000	9,994	9,994

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F - Floating rate note security

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** Rate represents last business day of the month

See accompanying notes to financial statements

West Virginia Board of Treasury Investments
Schedule of Investments in Securities (Continued)
June 30, 2009

(Dollars in thousands, except for Share Data)

WEST VIRGINIA MONEY MARKET POOL (Continued)

<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
Federal Home Loan Bank	0.000		0.223	08/10/2009	25,000	24,994	24,994
BNP Paribas YKCD	0.470		0.470	08/12/2009	10,000	10,000	10,000
Atlantic Asset Securities Corp	0.000		0.386	08/12/2009	10,000	9,996	9,996
United States Treasury Bill	0.000		0.198	08/13/2009	15,000	14,997	14,997
Amsterdam Funding Corp	0.000		0.396	08/14/2009	10,000	9,995	9,995
Federal Home Loan Mort Corp	0.000		0.188	08/17/2009	30,000	29,993	29,993
Federal Home Loan Bank	0.000		0.213	08/19/2009	15,000	14,996	14,996
Toronto Dominion Bank NY	1.150		1.000	08/20/2009	10,000	10,002	10,002
United States Treasury Bill	0.000		0.166	08/20/2009	48,000	47,989	47,989
Nordea NA Inc	0.000		0.284	08/24/2009	25,000	24,990	24,990
Federal National Mortgage Assn	0.000		0.233	08/28/2009	15,000	14,994	14,994
Calyon North America	0.000		0.406	09/01/2009	10,000	9,993	9,993
Federal Home Loan Mort Corp	0.000		0.631	09/01/2009	12,000	11,987	11,997
Federal Home Loan Bank	0.000		0.213	09/02/2009	24,000	23,991	23,992
ANZ National (INTL) LTD	0.000		0.579	09/08/2009	5,000	4,995	4,995
Enterprise Funding Corp	0.000		0.386	09/08/2009	18,027	18,014	18,014
Bank of America	0.400		0.400	09/10/2009	10,000	10,000	10,000
Federal National Mortgage Assn	0.000		0.213	09/17/2009	35,000	34,984	34,987
Federal Home Loan Mort Corp	0.000		0.610	09/21/2009	13,000	12,982	12,994
United States Treasury Bill	0.000		0.270	09/24/2009	40,000	39,975	39,984
Federal Home Loan Bank	0.000		0.457	09/25/2009	13,000	12,986	12,993
Federal Home Loan Mort Corp	0.000		0.213	10/02/2009	35,000	34,981	34,985
Federal National Mortgage Assn	0.000		0.641	10/07/2009	10,000	9,983	9,994
Federal Home Loan Bank	0.000		0.467	10/09/2009	20,000	19,975	19,989
Federal Home Loan Mort Corp	0.000		0.355	10/13/2009	15,000	14,985	14,989
Federal Home Loan Mort Corp	0.000		0.254	10/19/2009	18,000	17,986	17,990
Federal Home Loan Bank	0.000		0.324	10/28/2009	13,000	12,986	12,991
United States Treasury Bill	0.000		0.310	10/29/2009	50,000	49,949	49,968
Westpac Banking Corp	0.000		0.559	11/16/2009	10,000	9,979	9,979
Bank of Nova Scotia	0.000		0.437	11/17/2009	10,000	9,983	9,983
United States Treasury Bill	0.000		0.294	12/03/2009	25,000	24,969	24,971
Federal Home Loan Bank	0.000		1.145	12/04/2009	16,000	15,922	15,980
Rabobank Nederland NV NY	0.520		0.520	12/07/2009	10,000	10,000	10,000
United States Treasury Bill	0.000		0.325	12/10/2009	20,000	19,971	19,973
Federal Home Loan Mort Corp	0.000		0.376	12/29/2009	19,000	18,965	18,969
Federal Home Loan Mort Corp	0.000		0.508	01/06/2010	15,000	14,961	14,974
Nestle Capital Corp	0.000		0.662	02/16/2010	22,000	21,909	21,909
United States Treasury	0.000		0.464	04/01/2010	30,000	29,896	29,899
Bank of Nova Scotia	1.100		1.100	05/11/2010	8,400	8,400	8,400
UBS Select	0.400	**			150,000	150,000	150,000
JP Morgan Prime	0.450	**			1	1	1
Dreyfus Cash Management	0.410	**			222	222	222
Total Short Term Issues	85.7%					2,202,430	2,202,615
Total Money Market Pool	100.0%					\$ 2,570,261	\$ 2,570,832

(Continued on Next Page)

F - Floating rate note security.

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** Rate represents last business day of the month.

See accompanying notes to financial statements.

West Virginia Board of Treasury Investments
Schedule of Investments in Securities (Continued)

June 30, 2009

(Dollars in thousands, except for Share Data)

WEST VIRGINIA GOVERNMENT MONEY MARKET POOL

<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
U. S. Government Agency Bonds							
Federal Home Loan Bank	0.964	% F	0.923	%	07/14/2009	\$ 5,000	\$ 5,000
Federal National Mortgage Assn	0.913	F	0.941		07/28/2009	2,500	2,501
Federal Home Loan Bank	0.245	F	0.360		08/21/2009	5,000	4,999
Federal National Mortgage Assn	0.410	F	0.410		09/03/2009	3,250	3,251
Federal Home Loan Bank	0.650	F	0.240		09/10/2009	5,000	5,004
Federal Home Loan Mort Corp	0.288	F	0.260		09/18/2009	7,350	7,350
Federal Home Loan Mort Corp	0.238	F	0.273		09/28/2009	5,000	5,001
Federal Farm Credit Bank	0.411	F	0.411		10/26/2009	5,000	5,002
Federal National Mortgage Assn	1.192	F	1.818		10/27/2009	5,000	5,008
Federal Home Loan Mort Corp	0.630	F	0.630		01/08/2010	4,000	4,011
Federal Home Loan Bank	0.600		0.678		06/21/2010	3,000	2,998
Federal Home Loan Bank	0.999	F	0.899		07/09/2010	7,000	7,007
Federal Home Loan Bank	0.499	F	0.499		07/13/2010	2,500	2,505
Federal National Mortgage Assn	1.029	F	1.060		07/13/2010	4,000	4,003
Federal Home Loan Bank	0.849	F	0.843		10/29/2010	5,000	4,999
Total U. S. Government Agency Bonds	24.2%					68,608	68,642
Short Term Issues							
Deutsche Bank Repurchase Agreement	0.080		0.080		07/01/2009	53,000	53,000
Federal Home Loan Mort Corp	0.000		0.559		01/06/2010	2,500	2,493
Federal Home Loan Mort Corp	0.000		0.355		10/13/2009	2,500	2,498
Federal Home Loan Bank	0.000		0.433		10/02/2009	3,750	3,748
Federal Home Loan Bank	0.000		0.355		10/21/2009	2,500	2,498
United States Treasury Bill	0.000		0.310		10/29/2009	5,500	5,497
Federal National Mortgage Assn	0.000		0.529		10/07/2009	5,000	4,993
United States Treasury Bill	0.000		0.294		12/03/2009	10,000	9,988
United States Treasury Bill	0.000		0.450		04/01/2010	5,000	4,983
Federal National Mortgage Assn	0.000		0.437		07/01/2009	3,000	3,000
Federal Home Loan Bank	0.000		0.457		07/13/2009	2,500	2,500
Federal National Mortgage Assn	0.000		2.927		07/02/2009	2,500	2,500
United States Treasury Bill	0.000		0.294		07/02/2009	2,500	2,500
Federal Home Loan Mort Corp	0.000		1.668		07/20/2009	5,000	4,996
Federal Home Loan Bank	0.000		0.162		07/24/2009	5,000	4,999
United States Treasury Bill	0.000		1.071		07/30/2009	2,500	2,498
Federal Home Loan Bank	0.000		0.223		08/10/2009	5,000	4,999
Federal Home Loan Bank	0.000		0.223		08/11/2009	4,250	4,249
United States Treasury Bill	0.000		0.198		08/13/2009	5,000	4,999
Federal Home Loan Mort Corp	0.000		3.006		08/17/2009	2,500	2,490
Federal Home Loan Bank	0.000		0.213		08/19/2009	5,000	4,999
Federal National Mortgage Assn	0.000		0.162		08/19/2009	5,000	4,999
United States Treasury Bill	0.000		0.165		08/20/2009	9,000	8,998
Federal Home Loan Bank	0.000		0.198		08/21/2009	5,000	4,999
United States Treasury Bill	0.000		1.715		08/27/2009	5,000	4,987
Federal Home Loan Mort Corp	0.000		0.261		08/03/2009	9,300	9,298

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F - Floating rate note security

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See accompanying notes to financial statements.

West Virginia Board of Treasury Investments
Schedule of Investments in Securities (Continued)
June 30, 2009

(Dollars in thousands, except for Share Data)

WEST VIRGINIA GOVERNMENT MONEY MARKET POOL (Continued)

<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
Federal Home Loan Bank		0.000	0.213	08/05/2009	5,000	4,999	4,999
United States Treasury Bill		0.000	0.407	09/10/2009	5,000	4,996	4,998
Federal Home Loan Mort Corp		0.000	0.529	09/14/2009	5,000	4,994	4,998
Federal National Mortgage Assn		0.000	0.549	09/15/2009	2,224	2,221	2,223
United States Treasury Bill		0.000	0.355	09/15/2009	10,000	9,993	9,997
United States Treasury Bill		0.000	0.437	09/17/2009	5,000	4,995	4,998
Federal Home Loan Bank		0.000	0.457	09/18/2009	2,500	2,497	2,499
United States Treasury Bill		0.000	0.294	09/24/2009	10,000	9,993	9,996
Federal National Mortgage Assn		0.000	0.631	09/04/2009	2,700	2,697	2,699
Dreyfus Cash Management		0.040 **			132	132	132
Total Short Term Issues	75.8%					215,218	215,254
Total Government Money Market Pool	100.0%					\$ 283,826	\$ 283,896

WEST VIRGINIA SHORT TERM BOND POOL

<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
U. S. Treasury Issues							
United States Treasury Note		4.625 %	2.809 %	11/15/2009	\$ 10,000	\$ 10,067	\$ 10,163
United States Treasury Note		1.250	0.891	11/30/2010	1,200	1,206	1,209
United States Treasury Note		0.875	0.931	04/30/2011	20,000	19,980	19,948
United States Treasury Note		4.875	2.753	04/30/2011	12,200	12,659	13,046
United States Treasury Note		4.625	2.012	08/31/2011	4,000	4,220	4,290
United States Treasury Note		1.375	1.465	02/15/2012	10,000	9,977	9,995
United States Treasury Inflation Index Note		2.000	0.950	04/15/2012	5,254	5,405	5,410
United States Treasury Note		1.750	1.905	01/31/2014	7,500	7,449	7,291
United States Treasury Note		1.750	1.739	03/31/2014	6,000	6,003	5,805
United States Treasury Note		1.875	2.036	04/30/2014	12,000	11,911	11,648
Total U. S. Treasury Issues	28.2%					88,877	88,805
U. S. Government Agency Bonds							
Federal Home Loan Mort Corp		5.625	3.593	03/15/2011	14,000	14,466	15,070
Federal National Mortgage Assn		3.375	3.831	05/19/2011	25,000	24,795	26,035
Federal Home Loan Bank		3.625	3.676	07/01/2011	8,000	7,992	8,361
Federal Home Loan Mort Corp		4.500	3.456	01/15/2013	10,000	10,345	10,784
Total U. S. Government Agency Bonds	19.1%					57,598	60,250
Mortgage Backed							
Government National Mortgage Association		4.054	4.441	01/16/2048	807	785	822
Government National Mortgage Association		4.175	5.871	04/16/2028	960	944	984

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F - Floating rate note security

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See accompanying notes to financial statements.

**West Virginia Board of Treasury Investments
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(Dollars in thousands, except for Share Data)

WEST VIRGINIA SHORT TERM BOND POOL (Continued)

<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
Government National Mortgage Association		4.512	4.702	10/16/2028	994	980	1,018
Government National Mortgage Association		3.301	3.705	10/16/2029	708	684	717
Government National Mortgage Association		4.087	4.310	08/16/2030	651	639	666
Government National Mortgage Association		4.253	4.496	10/16/2030	748	733	768
Total Government Mortgage Backed Issues	1.6%					4,765	4,975
Corporate Issues							
Corporate Bonds							
Canadian National Railways		4.250	5.040	08/01/2009	845	844	847
BellSouth Corporation		4.200	4.328	09/15/2009	2,690	2,689	2,704
National Westminster		7.375	4.756	10/01/2009	2,090	2,103	2,067
General Electric Capital Corp		5.250	5.007	10/27/2009	1,820	1,821	1,841
Arrgen Inc		4.000	3.796	11/18/2009	1,935	1,936	1,961
World Savings Bank FSB		4.125	4.955	12/15/2009	1,335	1,330	1,347
Berkshire Hathaway Finance		4.125	2.920	01/15/2010	1,700	1,711	1,730
Wells Fargo & Company		4.200	4.052	01/15/2010	3,000	3,002	3,035
Citigroup Inc		4.125	4.816	02/22/2010	2,000	1,991	2,001
Honeywell International Inc		7.500	3.385	03/01/2010	1,800	1,848	1,880
Simon Property Group Inc		4.875	5.462	03/18/2010	695	692	700
duPont El de Nemours Co		4.125	3.354	04/30/2010	2,500	2,516	2,554
US Bancorp		1.407	F 1.407	05/06/2010	3,400	3,400	3,409
GlaxoSmithKline Cap Inc		1.545	F 1.545	05/13/2010	2,000	2,000	2,014
Florida Power Corporation		4.500	3.387	06/01/2010	2,100	2,121	2,153
Caterpillar Fin Serv Crp		4.300	4.397	06/01/2010	2,200	2,198	2,257
Wal-Mart Stores		4.130	3.408	07/01/2010	2,500	2,517	2,561
Bank Of America Corp		4.500	4.055	08/01/2010	4,870	4,893	4,894
General Dynamics Corp		4.500	3.489	08/15/2010	2,600	2,629	2,688
Met Life Global		4.625	5.018	08/19/2010	900	896	906
Swedish Export Credit		4.500	2.697	09/27/2010	4,290	4,384	4,445
Deutsche Bank London		5.000	4.007	10/12/2010	2,000	2,025	2,052
Halliburton Company		5.500	3.975	10/15/2010	1,890	1,926	1,977
Bear Stearns Companies Inc		4.500	5.974	10/28/2010	600	589	614
Unilever Capital Corp		7.125	4.329	11/01/2010	1,650	1,709	1,762
General Electric Capital Corp		6.875	4.542	11/15/2010	1,580	1,628	1,648
Berkshire Hathaway Finance		4.200	3.516	12/15/2010	1,270	1,282	1,309
Avon Products Inc		5.125	4.485	01/15/2011	2,000	2,019	2,087
Oracle Corp		5.000	3.954	01/15/2011	1,500	1,523	1,572
JPMorgan Chase & Co		4.600	4.014	01/17/2011	3,700	3,732	3,808
European Investment Bank		3.250	3.329	02/15/2011	2,000	1,998	2,063
Campbell Soup Co		6.750	4.519	02/15/2011	885	916	957
JP Morgan Chase & Co		1.650	1.286	02/23/2011	10,000	10,059	10,085
Boeing Capital Corp		6.100	4.230	03/01/2011	2,320	2,389	2,471
General Electric Capital Corp		1.800	1.347	03/11/2011	10,000	10,076	10,090
American Home Products		6.950	4.780	03/15/2011	1,400	1,449	1,516
Abbott Laboratories		5.600	4.056	05/15/2011	1,665	1,711	1,779
Goldman Sachs Group Inc		1.625	1.417	07/15/2011	10,000	10,042	10,054
Disney Walt Company		5.700	3.958	07/15/2011	1,400	1,447	1,498

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(Dollars in thousands, except for Share Data)

WEST VIRGINIA SHORT TERM BOND POOL (Continued)

<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
Conoco Funding Co	6.350		4.119	10/15/2011	1,600	1,677	1,746
Goldman Sachs Group Inc	2.150		2.240	03/15/2012	10,000	9,976	10,085
MBNA Corp	7.500		5.720	03/15/2012	750	783	788
Honeywell International Inc	5.625		4.439	08/01/2012	1,425	1,473	1,560
Inter-American Development Bk	3.500		3.500	03/15/2013	1,500	1,500	1,540
Met Life Funding	5.125		5.142	04/10/2013	750	750	763
Kredit Wiederauf	3.500		3.600	05/16/2013	3,200	3,189	3,286
Total U. S. Corporate Bonds	39.7%					123,389	125,104
Corporate Asset Backed Issues							
Bank of America Sec Auto Trust	5.180		4.354	06/18/2010	128	129	128
Daimler Chrysler Auto Trust	5.330		4.552	08/08/2010	105	106	105
Ford Credit Auto Owner Trust	5.260		3.597	10/15/2010	146	146	146
USAA Auto Owner Trust	5.360		4.795	02/15/2011	237	239	238
Nissan Auto Receivables Owner	4.770		5.294	07/15/2011	563	561	571
Carmax Auto Owner Trust	5.240		4.636	07/15/2011	1,158	1,166	1,176
Americredit Auto Rec Trust	5.560		5.828	09/06/2011	222	222	223
BMW Vehicle Lease Trust	2.910		2.851	03/15/2012	3,500	3,500	3,520
Huntington Auto Trust	4.810		5.988	04/16/2012	3,000	2,954	3,079
Advanta Business Card Master	5.300		5.622	05/21/2012	1,559	1,553	1,376
National City CC Master Trust	0.369	F	5.624	08/15/2012	2,500	2,304	2,442
Hyundai Auto Receivables Trust	5.150		10.468	05/15/2013	1,185	1,119	1,199
BMW Vehicle Lease Trust	0.559	F	3.517	08/15/2013	669	628	669
Harley-Davidson Motorcycle Tru	3.190		3.212	11/15/2013	1,000	1,000	1,006
JP Morgan Commercial Mortgage	7.371		6.880	08/15/2032	802	841	810
Equity One ABS Inc	4.145		4.253	04/25/2034	654	648	437
Optimum Mortgage Acceptance Co	5.640		5.805	12/25/2035	992	979	779
Citigroup Mortgage Loan Trust	5.735		5.760	05/25/2036	62	62	61
Citigroup Mortgage Loan Trust	5.852		5.886	05/25/2036	900	900	539
Banc of America Com Mortgage	3.878		4.115	09/11/2036	682	666	679
Citicorp Residential Mort Sec	5.557		5.587	09/25/2036	165	165	163
Bank of America Alternative Ln	5.707		5.740	10/25/2036	725	725	559
Banc of America Funding Corp	5.791		5.824	10/25/2036	388	388	332
JP Morgan Alternative Ln Trust	5.550		5.610	10/25/2036	37	37	35
Morgan Stanley Mort Loan Trust	5.798		5.833	10/25/2036	1,250	1,250	493
Renaissance Home Equity Loan	5.580		5.655	11/25/2036	700	697	592
CSAB Mortgage Backed Trust	6.000		6.005	11/25/2036	277	277	239
JP Morgan Alternative Ln Trust	5.400		5.468	12/25/2036	88	88	81
JP Morgan Alternative Ln Trust	5.440		5.502	12/25/2036	371	371	345
CSAB Mortgage Backed Trust	5.868		5.892	12/25/2036	305	306	273
Credit-Based Asset Servicing	5.891		5.953	02/25/2037	487	486	391
Credit Suisse Mon Capital	5.942		5.958	02/25/2037	412	413	255
Countrywide Certificates	5.530		5.561	03/25/2037	1,000	1,000	645
CS First Boston Mortgage Sec	5.014		6.443	02/15/2038	5,000	4,326	4,221
Bear Stearns CMBS	5.546		5.548	09/11/2038	468	470	476
JP Morgan Chase CMBS	6.023	F	6.059	04/15/2045	455	456	462
Citigroup/Deutsche Bank	4.977		5.019	12/11/2049	625	625	630
Total Corporate Asset Backed Issues	9.3%					31,797	29,372
Total Corporate Issues	49.1%					155,186	154,476

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(Dollars in thousands, except for Share Data)

WEST VIRGINIA SHORT TERM BOND POOL (Continued)							
<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
<i>Short Term Issues</i>							
Dreyfus Cash Management Institutional Fund		0.410 ^{**}			6,426	6,426	6,426
Total Short Term Issues	<u>2.0%</u>					6,426	6,426
Total Short Term Bond Pool	<u>149.05%</u>					\$ 312,852	\$ 314,932

WEST VIRGINIA BANK POOL							
<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
<i>Short Term Issues</i>							
Clear Mountain Bank		0.750 %	0.750 %	07/09/2009	\$ 1,000	\$ 1,000	\$ 1,000
Freedom Bank Inc - Beington		0.750	0.750	07/09/2009	2,000	2,000	2,000
WesBanco Bank - Wheeling		0.750	0.750	07/09/2009	5,000	5,000	5,000
Main Street Bank - Wheeling		0.650	0.650	07/09/2009	2,000	2,000	2,000
Citizens Natl Bk - Berkeley Sp		0.659	0.659	07/09/2009	2,000	2,000	2,000
First Community Bk - Bluefield		0.660	0.660	07/09/2009	5,000	5,000	5,000
BB&T - Charleston		0.675	0.675	07/09/2009	5,000	5,000	5,000
Freedom Bank Inc - Beington		0.800	0.800	07/09/2009	1,000	1,000	1,000
Freedom Bank Inc - Beington		0.850	0.850	07/09/2009	2,000	2,000	2,000
Monongahela Valley Bank		0.750	0.750	09/10/2009	2,500	2,500	2,500
WesBanco Bank - Wheeling		0.750	0.750	09/10/2009	5,000	5,000	5,000
BB&T - Charleston		0.775	0.775	09/10/2009	3,000	3,000	3,000
Monongahela Valley Bank		0.800	0.800	09/10/2009	2,500	2,500	2,500
Main Street Bank - Wheeling		0.890	0.890	09/10/2009	5,000	5,000	5,000
BB&T - Charleston		0.895	0.895	09/10/2009	1,000	1,000	1,000
BB&T - Charleston		0.900	0.900	09/10/2009	1,000	1,000	1,000
Fifth Third Bank - Huntington		1.000	1.000	09/10/2009	5,000	5,000	5,000
United Bank Inc - Parkersburg		0.780	0.780	10/15/2009	5,000	5,000	5,000
Main Street Bank - Wheeling		0.785	0.785	10/15/2009	5,000	5,000	5,000
Freedom Bank Inc - Beington		0.800	0.800	10/15/2009	5,000	5,000	5,000
WesBanco Bank - Wheeling		0.800	0.800	10/15/2009	5,000	5,000	5,000
Fifth Third Bank - Huntington		1.000	1.000	10/15/2009	5,000	5,000	5,000
First Community Bk - Bluefield		0.500	0.500	11/12/2009	1,000	1,000	1,000
Fifth Third Bank - Huntington		0.750	0.750	11/12/2009	5,000	5,000	5,000
BB&T - Charleston		0.875	0.875	11/12/2009	2,000	2,000	2,000
Citizens Natl Bk - Berkeley Sp		0.508	0.508	11/12/2009	5,000	5,000	5,000
Huntington Natl Bk - Charleston		0.560	0.560	11/12/2009	2,000	2,000	2,000
Huntington Natl Bk - Charleston		0.650	0.650	11/12/2009	2,000	2,000	2,000
WesBanco Bank - Wheeling		0.650	0.650	11/12/2009	5,000	5,000	5,000
BB&T - Charleston		0.810	0.810	11/12/2009	2,000	2,000	2,000
BB&T - Charleston		0.830	0.830	11/12/2009	1,000	1,000	1,000
Total Short Term Issues	<u>100.0%</u>					100,000	100,000
Total West Virginia Bank Pool	<u>100.0%</u>					\$ 100,000	\$ 100,000

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(Dollars in thousands, except for Share Data)

LOSS AMORTIZATION

<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
<i>U. S. Treasury Issues</i>							
United States Treasury Strip - Principal		0.000 %	4.087 %	08/15/2011	\$ 188,557	\$ 173,044	\$ 184,107
Total U. S. Treasury Issues	<u>100.0%</u>					<u>173,044</u>	<u>184,107</u>
Total Loss Amortization Pool	<u>100.0%</u>					<u>\$ 173,044</u>	<u>\$ 184,107</u>

LOAN POOL

<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
<i>Loans and Mortgages</i>							
<i>Intergovernmental Loans</i>							
WVEDA Revolving Loan		4.170 %		12/31/2013	\$ 120,900	\$ 120,900	\$ 120,900
WVEDA Non-Recourse Loan		3.000		06/30/2022	22,930	22,930	22,930
Total Intergovernmental Loans						<u>143,830</u>	<u>143,830</u>
<i>FHA/VA Mortgages</i>							
BB&T		8.500		05/01/2014	8	8	8
Total FHA/VA Mortgages						<u>8</u>	<u>8</u>
Total Loans and Mortgages						<u>143,838</u>	<u>143,838</u>
Reserve for uncollectable loans						<u>17,075</u>	<u>17,075</u>
Loans and Mortgages, net of reserve for uncollectable loans	<u>99.5%</u>					<u>126,763</u>	<u>126,763</u>
<i>Short Term Issues</i>							
Dreyfus Cash Management Treasury Institutional Fund		0.040**			582	582	582
Total Short Term Issues	<u>0.5%</u>					<u>582</u>	<u>582</u>
Total State Loan Pool	<u>100.0%</u>					<u>\$ 127,345</u>	<u>\$ 127,345</u>

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MUNICIPAL BOND COMMISSION

<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
<i>U. S. Treasury Issues</i>							
State & Local Government		6.090 %	6.090 %	07/01/2009	\$ 1,686	\$ 1,686	\$ 1,686
State & Local Government		4.550	4.550	10/01/2009	3,294	3,294	3,294
State & Local Government		1.930	1.930	10/01/2009	36	36	36
State & Local Government		4.360	4.360	12/01/2009	4	4	4
State & Local Government		4.530	4.530	04/01/2010	3,905	3,905	3,905
State & Local Government		2.000	2.000	04/01/2010	2	2	2
United States Treasury Strip - Interest		0.000	0.000	05/15/2010	932	932	930
State & Local Government		4.360	4.360	06/01/2010	49	49	49
State & Local Government		2.100	2.100	10/01/2010	37	37	37
State & Local Government		4.360	4.360	12/01/2010	4	4	4
State & Local Government		2.230	2.230	04/01/2011	2	2	2
United States Treasury Strip - Interest		0.000	0.000	05/15/2011	934	934	919
State & Local Government		4.360	4.360	06/01/2011	49	49	49
State & Local Government		2.370	2.370	10/01/2011	39	39	39
State & Local Government		4.360	4.360	12/01/2011	4	4	4
United States Treasury Strip - Interest		0.000	0.000	05/15/2012	938	938	899
State & Local Government		4.370	4.370	06/01/2012	49	49	49
State & Local Government		2.690	2.690	10/01/2012	41	41	41
State & Local Government		4.370	4.370	12/01/2012	4	4	4
United States Treasury Strip - Interest		0.000	0.000	05/15/2013	941	941	863
State & Local Government		4.380	4.380	06/01/2013	1,175	1,175	1,175
United States Treasury Strip - Interest		0.000	0.000	05/15/2014	963	963	841
United States Treasury Strip - Interest		0.000	0.000	05/15/2015	973	973	814
United States Treasury Bonds		7.250	0.001	05/15/2016	980	1,468	1,229
United States Treasury Bonds		8.750	0.001	05/15/2017	1,055	1,782	1,445
United States Treasury Bonds		9.125	0.001	05/15/2018	1,138	2,059	1,630
Total U. S. Treasury Issues	99.5%					21,370	19,950
<i>Short Term Issues</i>							
United States Treasury Bill		0.000	0.000	11/19/2009	99	99	99
Total Short Term Issues	0.5%					99	99
Total Municipal Bond Commission Pool	100.0%					\$ 21,469	\$ 20,049

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SCHOOL FUND

<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
<i>Short Term Issues</i>							
Dreyfus Cash Management Treasury Institutional Fund		0.040**			\$ 1,307	\$ 1,307	\$ 1,307
Total Short Term Issues	<u>100.0%</u>					<u>1,307</u>	<u>1,307</u>
Total School Fund	<u>100.0%</u>					<u>\$ 1,307</u>	<u>\$ 1,307</u>

EDA - AW

<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
<i>U. S. Treasury Issues</i>							
United States Treasury Bond		6.250 %	4.929 %	08/15/2023	\$ 1,445	\$ 1,638	\$ 1,761
Total U. S. Treasury Issues	<u>100.0%</u>					<u>1,638</u>	<u>1,761</u>
Total EDA-AW	<u>100.0%</u>					<u>\$ 1,638</u>	<u>\$ 1,761</u>

RESERVE POOL

<u>SECURITY NAME</u>	<u>% of POOL</u>	<u>COUPON</u>	<u>YIELD</u>	<u>MATURITY</u>	<u>PAR VALUE or SHARES</u>	<u>AMORTIZED COST</u>	<u>FAIR VALUE*</u>
<i>Short Term Issues</i>							
Reserve Pool Depository Account		1.000 %	1.000 %		\$ 44,755	\$ 44,755	\$ 44,755
Total Short Term Issues	<u>100.0%</u>					<u>44,755</u>	<u>44,755</u>
Total Reserve Pool	<u>100.0%</u>					<u>\$ 44,755</u>	<u>\$ 44,755</u>

F - Floating rate note security

* The fair value is not determined for loans. The fair value reported equals amortized cost.

** Rate represents last business day of the month.

See accompanying notes to financial statements.

Other Financial Information

WEST VIRGINIA BOARD OF TREASURY INVESTMENTS

SCHEDULE OF NET ASSETS

JUNE 30, 2009

(IN THOUSANDS EXCEPT FOR INVESTMENT UNIT DATA)

	WV Money Market Pool	WV Government Money Market Pool	WV Short Term Bond Pool	WV Bank Pool	Loss Amortization Pool	Loan Pool	Reserve Pool
Paid-in capital	\$ 2,570,620	\$ 283,795	\$ 331,340	\$ 100,215	\$ 183,415	\$ 127,728	\$ 44,792
Accumulated undistributed net investment income (loss)	-	-	-	-	-	-	-
Accumulated undistributed net realized gain (loss)	-	-	(6,622)	-	(10,371)	-	-
Unrealized net appreciation (depreciation) of investments	-	-	2,077	-	11,063	-	-
Accumulated undistributed securities lending income	255	63	181	-	-	-	-
Net assets at value	<u>\$ 2,570,875</u>	<u>\$ 283,858</u>	<u>\$ 326,976</u>	<u>\$ 100,215</u>	<u>\$ 184,107</u>	<u>\$ 127,728</u>	<u>\$ 44,792</u>
Investment unit data:							
Units outstanding	2,570,619,561	283,795,082	3,250,628	100,215,306	183,415,000	127,728,000	44,791,675
Net asset value, unit price	\$ 1.00	\$ 1.00	\$ 100.59	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00

WEST VIRGINIA BOARD OF TREASURY INVESTMENTS

PORTFOLIO STATISTICS

JUNE 30, 2009

	<u>West Virginia Money Market Pool</u>	<u>West Virginia Government Money Market Pool</u>	<u>WV Short Term Bond Pool</u>
Weighted Average Days to Maturity	47	51	N/A
Maximum Weighted Average Investment Maturity Term Per Board Guidelines	60 days	60 days	N/A
Weighted Average Effective Duration	N/A	N/A	662 days
Maximum Weighted Average Effective Duration Per Board Guidelines	N/A	N/A	731 days
Money Market Yield - Monthly	0.30%	0.16%	

The money market yield represents the rate of income, net of expenses, earned over the past month and is not intended to indicate future performance. The return is annualized over a 365-day year, assuming no reinvestment of earnings.

WEST VIRGINIA BOARD OF TREASURY INVESTMENTS

PARTICIPANT NET ASSET VALUES

JUNE 30, 2009

(IN THOUSANDS)

WV Money Market Pool	
State Agencies:	
WV State Treasurer's Office:	
Banking Services	\$ 483,118
State Participation	456,915
Safeskeeping	5,805
Prepaid Tuition Trust Escrow	3,360
Veteran's Lottery	2,940
Deferred Compensation Matching	2,706
Soft Road Bonds	12
Total WV State Treasurer's Office	956,856
WV Lottery Commission	273,141
Higher Education Policy Commission	256,275
Department of Environmental Protection	221,258
Public Employees Insurance Agency	200,436
Department of Transportation	128,533
Department of Health and Human Resources	108,472
West Virginia University	66,243
Regional Jail Authority	38,466
Board of Risk and Insurance Management	34,943
Division of Administration	29,633
Division of Natural Resources	25,091
Water Development Authority	19,002
Department of Revenue	18,162
Criminal Justice	16,352
West Virginia State Police	16,249
WV Economic Development Authority	15,903
Insurance Commission	14,919
WV Jobs Investment Trust	9,861
WV State Auditor's Office	6,446
WV Gear Up	5,013
WV Certified Development Corporation	1,373
WV Affordable Housing Trust Fund	1,167
WV Housing Development Fund	1,014
Performance and wage bond accounts	15,342
Other	7,865
Total State Agencies	2,488,015
Local Governments:	
Boone County Commission	13,716
Fayette County Board of Education	11,247
Mercer County Board of Education	7,973
Greenbrier County Board of Education	5,833
Parkersburg Utility Board	5,422
Fayette County Commission	4,833
Marshall County Board of Education	3,174
Logan County Board of Education	2,692
City of Parkersburg	2,362
Mingo County Commission	2,313
Braxton County Board of Education	2,141
Putnam Public Service District	2,012
Kanawha County Emergency Ambulance Authority	1,967
Lincoln County Board of Education	1,680
Barbour County Board of Education	1,548
Lewis County Board of Education	1,455
Wyoming County Board of Education	1,022
Roane County Board of Education	1,006
Other	10,209
Total Local Governments	82,605
Accumulated undistributed securities lending income	255
Total net assets	\$2,570,875

WV Government Money Market Pool	
State Agencies:	
Municipal Bond Commission	\$ 149,400
Department of Transportation	57,564
WV Housing Development Fund	17,072
WV Economic Development Authority	9,210
Insurance Commission	7,000
Other	8,598
Total State Agencies	248,844
Local Governments:	
Braxton County Board of Education	15,308
Kanawha County Sheriff	9,130
Jefferson County Board of Education	4,230
Greenbrier County Board of Education	3,061
Hancock County Commission	1,093
Randolph County Board of Education	1,002
Other	1,127
Total Local Governments	34,951
Accumulated undistributed securities lending income	63
Total net assets	\$ 283,858

WV Short Term Bond Pool	
State Agencies:	
WV State Treasurer's Office - State Participation	\$ 238,907
WV State Treasurer's Office - Banking Services	40,142
WV Economic Development Authority	15,515
West Virginia University	12,689
Department of Transportation	5,944
WV Court of Claims	5,382
Higher Education Policy Commission	5,150
Division of Culture and History	2,063
Other	724
Total State Agencies	326,516
Local Governments	460
Total net assets	\$ 326,976

Glossary of Financial and Investment Terms

- Agency Securities** - Securities issued by U.S. Government agencies, such as the Federal Home Loan Bank. These securities have high credit ratings but are not backed by the full faith and credit of the U.S. Government.
- Asset-Backed Notes** - Financial instruments collateralized by one or more types of assets including real property, mortgages, and receivables.
- Banker's Acceptance** - A high quality, short-term negotiable discount note drawn on and accepted by banks that are obligated to pay the face amount at maturity.
- Basis Point** - The smallest measure used in quoting yields or returns. One basis point is 0.01% of yield. One hundred basis points equals 1%. For example, a yield that changed from 8.75% to 9.50% increased by 75 basis points.
- Benchmark** - A standard unit used as the basis of comparison; a universal unit that is identified with sufficient detail so that other similar classifications can be compared as being above, below, or comparable to the benchmark.
- Capital Gain (Loss)** - Also known as capital appreciation (depreciation), capital gain (loss) measures the increase (decrease) in value of an asset over time.
- Certificates of Deposit (CDs)** - A debt instrument issued by banks, usually paying interest, with maturities ranging from seven days to several years.
- Commercial Paper** - Short-term obligations with maturities ranging from one to 270 days. They are issued by banks, corporations, and other borrowers to investors with temporarily idle cash.
- Compounded Annual Total Return** - Compounded annual total return measures the implicit annual percentage change in value of an investment, assuming reinvestment of dividends, interest, and realized capital gains, including those attributable to currency fluctuations. In effect, compounded annual total return smoothes fluctuations in long-term investment returns to derive an implied year-to-year annual return.
- Consumer Price Index (CPI)** - A measure of change in consumer prices, as determined by a monthly survey of the U.S. Bureau of Labor Statistics. Components of the CI include housing costs, food, transportation, electricity, etc.
- Cumulative Rate of Return** - A measure of the total return earned for a particular time period. This calculation measures the absolute percentage change in value of an investment over a specified period, assuming reinvestment of dividends, interest income, and realized capital gains. For example, if a \$100 investment grew to \$120 in a two-year period, the cumulative rate of return would be 20%.
- Derivative** - Derivatives are generally defined as contracts whose value depends on, or derives from, the value of an underlying asset, reference rate, or index. For example, an option is a derivative instrument because its value derives from an underlying stock, stock index, or future.

Discount Rate - The interest rate that the Federal Reserve charges banks for loans, using government securities or eligible paper as collateral.

Expense Ratio - The amount, expressed as a percentage of total investment, that shareholders pay for mutual fund operating expenses and management fees.

Federal Funds Rate - The interest rate charged by banks with excess reserves at a Federal Reserve district bank to banks needing overnight loans to meet reserve requirements. The federal funds rate is one of the most sensitive indicators of the direction of interest rates because it is set daily by the market.

Federal Reserve Board - The governing body of the Federal Reserve System (twelve regional Federal banks monitoring the commercial and savings banks in their regions). The board establishes FRS policies on such key matters as reserve requirements and other regulations, sets the discount rate, and tightens or loosens the availability of credit in the economy.

Gross Domestic Product (GDP) - Total final value of goods and services produced in the United States over a particular period or time, usually one year. The GDP growth rate is the primary indicator of the health of the economy.

Index - A benchmark used in executing investment strategy which is viewed as an independent representation of market performance. An index implicitly assumes cost-free transactions; some assume reinvestment of income. Examples: S&P Index, Lehman Brothers Aggregate Index, Russell 2000 Index.

Inflation - A measure of the rise in price of goods and services, as happens when spending increases relative to the supply of goods on the market, i.e. too much money chasing too few goods.

Investment Income - The equity dividends, bond interest, and/or cash interest paid on an investment.

Market Value - Also known as fair value. The price at which buyers and sellers trade similar items in an open marketplace. Stocks and bonds are valued at a market price. Real estate is valued on an appraised basis.

Maturity Date - The date on which the principal amount of a bond or other debt instrument becomes payable or due.

Money Market Fund - An open-ended mutual fund that invests in commercial paper, bankers' acceptances, repurchase agreements, government securities, certificates of deposit, and other highly liquid and safe securities and pays money market rates of interest. The fund's net asset value remains a constant \$1 per share - only the interest rate goes up or down.

Net Asset Value (NAV) - The total assets minus total liabilities, including any valuation gains or losses on investments or currencies, and any accrued income or expense.

Par Value - The stated or face value of a stock or bond. It has little significance for common stocks; however, for bonds it specifies the payment amount at maturity.

- Principal** - Face value of an obligation, such as a bond or a loan, that must be repaid at maturity.
- Realized Gain (Loss)** - A gain (loss) that has occurred financially. The difference between the principal amount received and the cost basis of an asset realized at sale.
- Repurchase Agreements (Repos)** - An agreement to purchase securities from an entity for a specified amount of cash and to resell the securities to the entity at an agreed upon price and time. Repos are widely used as a money market instrument.
- Reverse Repurchase Agreements (Reverse Repos)** - An agreement to sell securities to an entity for a specified amount of cash and to repurchase the securities from the entity at an agreed upon price and time.
- Treasury Bill (T-Bill)** - Short-term, highly liquid government securities issued at a discount from the face value and returning the face amount at maturity.
- Treasury Bond or Note** - Debt obligations of the Federal government that make semi-annual coupon payments and are sold at or near par value in denominations of \$1,000 or more.
- Turnover** - The minimum of security purchases or sales divided by the fiscal year's beginning and ending market value for a given portfolio.
- Unrealized Gain (Loss)** - A profit (loss) that has not been realized through the sale of a security. The gain (loss) is realized when a security or futures contract is actually sold or settled.
- Variable Rate Note** - Floating rate notes with a coupon rate adjusted at set intervals, such as daily, weekly, or monthly, based on different interest rate indices, such as LIBOR, Fed Funds, and Treasury Bills.
- Volatility** - A statistical measure of the tendency of a market price or yield to vary over time. Volatility is said to be high if the price, yield, or return typically changes dramatically in a short period of time.
- Yield** - The return on an investor's capital investment.

**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING
AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF
FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH
GOVERNMENT AUDITING STANDARDS**

To the West Virginia Board of Treasury Investments
Charleston, West Virginia

We have audited the financial statements of the West Virginia Board of Treasury Investments (the BTI) as of and for the year ended June 30, 2009, and have issued our report thereon dated August 27, 2009. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control over Financial Reporting

In planning and performing our audit, we considered the BTI's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the BTI's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the BTI's internal control over financial reporting.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the BTY's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of the State of West Virginia, the Audit Committee, Board of Directors, management and others within the entity, and is not intended to be and should not be used by anyone other than these specified parties.

Gibbons & Kawash

August 27, 2009

(Speaker Thompson presides)

AGENDA
JOINT COMMITTEE ON GOVERNMENT AND FINANCE
October 15, 2009

3:00 - 4:00 p.m.

Senate Finance Room

1. Approval of September 16, 2009, minutes

2. Committee Reports/Requests:

Parks, Recreation and Natural Resources Subcommittee (Senator Fanning, Chair; Delegate Eldridge, Chair) *Requests expense reimbursement for site visitations to Hawks Nest Resort State Park, Babcock State Park, Carnifex Ferry Battlefield State Park and New River Gorge National River on October 18, 19 and 20, 2009. - John Homburg*

MOVE that expense reimbursement be approved for site visitations for the Parks, Recreation and Natural Resources Subcommittee members.

3. Monthly/Quarterly Reports Distribution:

Status Reports on the Lottery Commission, Unemployment Compensation Trust Fund, and General Revenue Fund

4. Monthly/Quarterly Reports Distribution: Robert Ferguson, Cabinet Secretary

PEIA
BRIM
CHIP
Real Estate Report

5. Monthly/Quarterly Report Distribution from Department of Health and Human Resources: Patsy Hardy, Cabinet Secretary

Medicaid Report

6. Pharmaceutical Cost Management Council's Final Distribution

7. Investment Management Board Distribution: Craig Slaughter

8. Workers' Compensation: Jane Cline, Insurance Commissioner

9. Board of Treasury Report Distribution

10. Glenville State College Lease/Purchase Contract for Student Housing

11. **Other Business**

12. **Scheduled Interim Dates:** November 17-19 (Tuesday, Wednesday, and Thursday)
December 7-9 (Monday, Tuesday, and Wednesday)
January 10-12 (Sunday, Monday, and Tuesday)

13. **Adjournment**