

# West Virginia Offices of the Insurance Commissioner



## 2019-20 Annual Report

James A. Dodrill  
Insurance Commissioner

The information in this report reflects the current financial condition and economic importance of the overall insurance industry in West Virginia.



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

**James A. Dodrill**  
Insurance Commissioner

October 23, 2020

The Honorable Jim Justice  
Governor of the State of West Virginia  
State Capitol  
Charleston, WV 25305

Dear Governor Justice:

The Annual Report of the Insurance Commissioner of the state of West Virginia for the calendar year 2019 is hereby submitted in accordance with Chapter 33, Article 2, Section 15, of the Code of West Virginia. An Executive Summary immediately follows this memorandum.

The information contained in this report reflects the economic importance and current financial condition of the insurance industry in our state. The included insurance entity statistics are compiled from the December 31, 2019 annual statements filed with this agency by the insurance companies licensed in this state. However, the financial information and statements in this report are from the most recent fiscal year which ended June 30, 2020. This report includes summaries of the 2019 and 2020 regular legislative session enacted bills.

Respectfully submitted,

James A. Dodrill  
Insurance Commissioner



## EXECUTIVE SUMMARY

This report to the Governor of West Virginia provides detail of the previous calendar year operations and activities of the West Virginia Offices of the Insurance Commissioner. The budgetary and financial data included within the report are on a fiscal year basis and includes the most recent fiscal year which ended on June 30, 2020. The report is divided into three major sections. Each section is detailed below.

**Section 1** of this report highlights the organization of our office and provides detail for its \$215.7M in total revenue collected from the previous year. It includes an interdepartmental organizational chart, historical list of insurance commissioners, and then proceeds to identify the individual revenue streams managed by the Offices of the Insurance Commissioner.

**Section 2** of this report further identifies the functional divisions of this office and enumerates each division's individual activities during the past year. A summarization of those activities follows:

- The **Board of Review** (Workers' Compensation) exercises exclusive jurisdiction over all appeals from decisions issued by the Workers' Compensation Office of Judges pursuant to West Virginia Code §23-5-11. During 2019, the Board held monthly hearings and issued written rulings on Petitions to Stay, motions, appeals, and Petitions for Award of Claimant's Attorney Fees and Costs.
- The **Claims Services Division** oversees management of the workers' compensation Old Fund. As of June 30, 2020, there were 10,597 open claims. More than 77.90% of old fund claims have been closed since January 31, 2008.
- The **Company Analysis and Examinations Division** is comprised of two (2) separate units. The summaries below outline each unit's activities during 2019.
  - The **Financial Conditions Unit** is responsible for the licensing, financial monitoring, and financial examinations of the insurance companies/entities admitted to do business in West Virginia, ensuring that policyholders are secure in purchasing insurance products from financially solvent and compliant insurance companies. This unit oversaw a total of 2,673 separate insurance entities transacting business in West Virginia during 2019. The unit has also been tasked with the -oversight process of the Network Adequacy of insurers as a result of 2020 legislation.
  - The **Market Conduct Unit** performs analysis and examinations of insurance companies doing business in West Virginia for the purpose of determining statutory compliance. In 2019, the unit conducted forty-one (41) level one and seventeen (17) level two analysis reviews of licensed companies relating to compliance. Nine (9) Agreed Orders were entered by the Insurance Commissioner with penalties totaling \$14,250.00 assessed as a result of violations discovered during examinations. The unit also participated in six (6) multi-state collaborative actions which resulted in \$86,185.10 in penalties and other assessments. The Market Conduct Unit completed four (4) comprehensive compliance audits of self-insured employers, resulting in penalties of \$16,750.00.
- The **Office of Consumer Advocacy** assisted consumers with first- and third-party complaints which yielded financial awards totaling \$90,246.64 in 2019. The Office of Consumer Advocacy also participated in the review of 145 Certificate of Need applications.

- The **Consumer Service Division** assists insurance consumers with questions and complaints. The Division received a total of 1,865 written complaints from insurance consumers in 2019. Over the course of the year, the Division responded to an average of 103 consumer inquiries per day.
- The **Employer Accounts Division** is comprised of three (3) workers' compensation units. This division receives, reviews, investigates, and processes applications for injured workers of uninsured employers. The separate units are Employer Coverage, Revenue Recovery and Self Insurance. The three (3) units encompass all OIC workers' compensation regulatory functions relating to employers.
  - The **Employer Coverage Unit** (Workers' Compensation) is responsible for reviewing and granting or denying requests for exemption applications that confirm the employer is statutorily exempt from workers' compensation coverage. Employer Coverage is the point of contact for other agencies regarding confirmation of workers' compensation compliance.
  - The **Revenue Recovery Unit** (Workers' Compensation) is responsible for the collection of all monies due the Uninsured Employers' Fund and the Old Fund, as well as the collection of fines imposed upon employers where workers' compensation coverage has been cancelled. The unit also collects from employers who have failed to maintain workers' compensation for monies expended by the state for an employee of the business who becomes injured while working.
  - The **Self-Insurance Unit** (Workers' Compensation) is responsible for regulating 56 employers that currently self-insure their workers' compensation coverage in West Virginia and approximately 110 employers who no longer self-insure but continue to administer claims incurred during their periods of self-insurance. No companies were approved for self-insured status in calendar year 2019.
- The **Financial Accounting Division** is responsible for the preparation of audited financial statements, monthly financial reports, the budget, management and administration of federal grant funds, daily cash management and investment processing which includes accounts payable and all agency cash receipts processing through the state's accounting system. The Division also contains the Tax Unit which collects premium taxes and surcharges for approximately 2,976 insurance companies and surplus lines licensees licensed in West Virginia. The Tax Unit also collects the examination assessment due July 1 of each year. In 2019, the Division received its fourteenth consecutive unmodified or "clean" opinion on the Audited Financial Statements.
- The **Health Policy Division** works toward the implementation of a Health Insurance Marketplace in West Virginia in conjunction with the Patient Protection and Affordable Care Act (ACA). In February 2013, West Virginia announced it would become a Partnership state, meaning that West Virginia consumers could utilize 'The Marketplace' as an online portal at [www.Healthcare.gov](http://www.Healthcare.gov) to compare information on available health plan options, enroll in health plans and receive subsidies, if financially eligible.
- The **Legal Division** provides legal counsel to the Insurance Commissioner and staff, drafts and promulgates statutes, investigates code/rule violations, responds to litigation, hearings and coordinates receivership activities. During 2019, the Division issued five (5) informational letters, was involved in or was a party to 18 civil actions, received 1,798 referrals to the Regulatory Compliance Unit which resulted in the issuance of 83 orders and held 27 hearings. This report includes 18 enacted bills from the 2019 Regular Legislative Session.

- The **Licensing and Education Division** presides over licensing, processing and maintaining records for more than 157,000 licensees transacting insurance business in West Virginia. In 2019, more than 234,000 company appointments and appointment cancellations were processed and monitored by this Division. The Licensing Division continues to see growth in the number of insurance adjusters licensed and maintained. The Division maintains ongoing compliance with all Federal Bureau of Investigation (FBI) and West Virginia State Police criminal background search requirements.
- The **Office of Judges** (Workers' Compensation) provides the first level of judicial review in workers' compensation litigation by processing appeals from initial workers' compensation claim management decisions. During 2019, this division ruled upon 7,478 written motions and issued 1,547 decisions.
- The **Rates and Forms Division** reviews and makes disposition on proposed insurance rates and forms for all regulated lines of insurance in West Virginia. During 2019, the Division received a total of 6,473 filings for all lines of insurance. Of the 6,473 new filings received, 42% (2,696) were property and casualty filings and 58% (3,777) were life and health filings.
- The **Special Investigations Division (Office of the Inspector General)** is responsible for facilitating a cooperative approach in the detection, investigation, and prosecution of insurance fraud. In 2019, the Division received a total of 621 insurance fraud referrals from the industry and public. The Special Investigations Division completed 82 field investigations, delivering investigative reports to State and Federal prosecutors, identifying more than \$2,800,000 in fraud, and resulting in 169 felony indictments.
- The **State Agency Workers' Compensation (SAWC) Program** is a group insurance policy that provides workers' compensation coverage for more than 100 state agencies and boards. The program includes over 900 locations throughout the state and provides coverage for approximately 25,000 state employees.

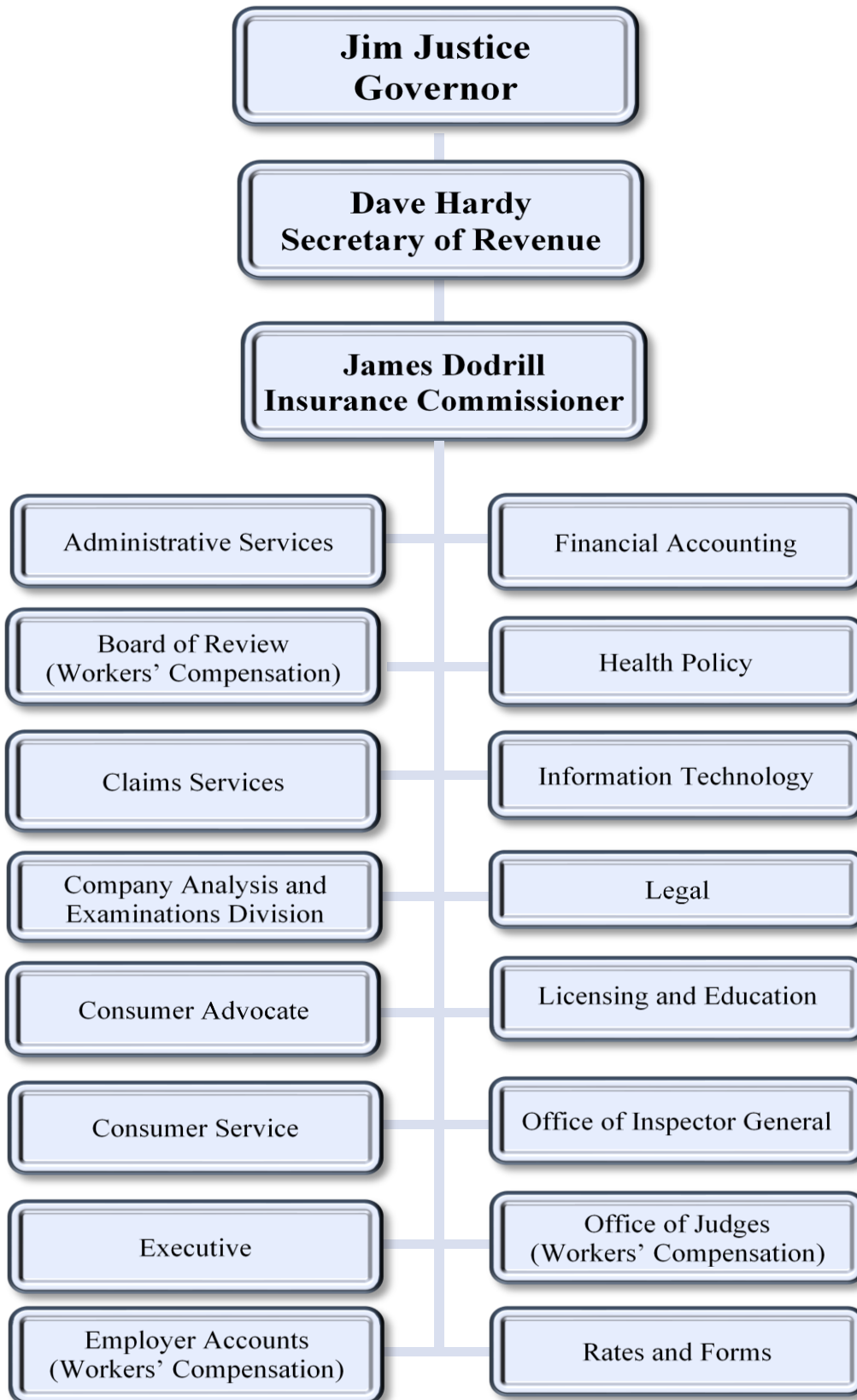
**Section 3** of this report provides enhanced detail from each regulated line of insurance. This section shows the premium, market share, losses and pure loss ratios from lines of insurance separated into categories for Property and Casualty, Life and Accident and Health.

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# SECTION 1: GENERAL

## ORGANIZATIONAL CHART



## WEST VIRGINIA INSURANCE COMMISSIONERS

<b>D. S. Butler</b>	July 1, 1947 to April 30, 1948
<b>Robert A. Crichton</b>	May 1, 1949 to June 30, 1952
<b>Hugh N. Mills</b>	July 1, 1952 to June 30, 1953
<b>Thomas J. Gillooly</b>	July 1, 1953 to September 30, 1956
<b>Louis Miller, Jr.</b>	October 1, 1956 to June 30, 1957
<b>Harold E. Neely</b>	July 1, 1957 to February 5, 1958
<b>C. Judson Pearson</b>	February 7, 1958 to January 15, 1961
<b>Hugh N. Mills</b>	January 16, 1961 to May 16, 1961
<b>Virginia Mae Brown</b>	May 17, 1961 to September 3, 1962
<b>Harlan Justice</b>	September 4, 1962 to January 15, 1966
<b>Frank Montgomery</b>	January 16, 1966 to September 30, 1968
<b>Robert J. Shipman</b>	October 1, 1968 to January 30, 1969
<b>Samuel H. Weese</b>	January 31, 1969 to January 16, 1975
<b>Donald W. Brown</b>	January 16, 1975 to January 14, 1977
<b>Richard G. Shaw</b>	January 17, 1977 to January 11, 1985
<b>Fred L. Wright</b>	February 21, 1985 to June 30, 1988
<b>Hanley C. Clark</b>	July 1, 1988 to January 17, 1989*
<b>Hanley C. Clark</b>	January 18, 1989 to January 15, 2001
<b>Jane L. Cline</b>	January 15, 2001 to June 30, 2011
<b>Michael D. Riley</b>	July 1, 2011 to January 8, 2012*
<b>Michael D. Riley</b>	January 9, 2012 to January 31, 2017
<b>Andrew R. Pauley</b>	February 1, 2017 to March 31, 2017*
<b>Allan L. McVey</b>	April 1, 2017 to January 24, 2019
<b>Erin K. Hunter</b>	January 25, 2019 to March 1, 2019*
<b>James A. Dodrill</b>	March 2, 2019 to present

*\*Acting Insurance Commissioner during interim period*



## FINANCIAL INFORMATION

### FEES AND TAXES COLLECTED DURING THE LAST 5 FISCAL YEARS

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>GENERAL REVENUE</b>					
INSURER EXAMINATION ASSESSMENT FEE	\$562,525	\$571,125	\$542,525	\$516,375	\$561,500
PENALTY FEE	\$288,810	\$538,560	\$594,853	\$541,348	\$368,470
<b>TOTAL FOR GENERAL REVENUE</b>	<b>\$851,335</b>	<b>\$1,109,685</b>	<b>\$1,137,378</b>	<b>\$1,057,723</b>	<b>\$929,970</b>
<b>SPECIAL REVENUE</b>					
*INSURANCE TAX FUND	\$116,588,197	\$119,635,733	\$123,661,383	\$128,049,651	\$129,116,290
INSURER EXAMINATION ASSESSMENT FEES	\$993,300	\$1,001,050	\$956,900	\$903,000	\$1,025,235
FEES & CHARGES	\$36,138,127	\$33,541,878	\$35,557,222	\$35,596,021	\$36,137,323
FIRE MARSHAL	\$1,298,879	\$609,178	\$2,075,092	\$2,130,494	\$2,184,470
MUN. PENSION & PROTECTION FUND	\$27,724,028	\$28,190,439	\$29,907,039	\$30,816,675	\$31,602,509
VOL. FIREMEN & TEACHERS RETIREMENT	\$13,328,521	\$13,539,015	\$14,536,542	\$14,965,354	\$14,738,860
<b>TOTAL FOR SPECIAL REVENUE</b>	<b>\$196,071,053</b>	<b>\$196,517,293</b>	<b>\$206,694,178</b>	<b>\$212,461,195</b>	<b>\$214,804,687</b>
<b>GRAND TOTAL COLLECTED</b>	<b>\$196,922,388</b>	<b>\$197,626,978</b>	<b>\$207,831,556</b>	<b>\$213,518,918</b>	<b>\$215,734,657</b>

\* Revenue is net of Tobacco Settlement loan repayment, medical malpractice and Federal Flood transfer

**APPROPRIATED EXPENDITURE SCHEDULE  
EXAMINATION FUND 7150  
FISCAL YEAR 2020  
JULY 1, 2019 - JUNE 30, 2020**

**APPROPRIATED**

Personal Services	541,186	
Increment	10,252	
Employee Benefits	197,326	
Other Expenses	<u>1,461,290</u>	
		<b><u>\$2,210,054</u></b>

**ACTUAL EXPENDITURES**

Personal Services	317,393	
Increment	5,220	
Employee Benefits	84,387	
Other Expenses	<u>646,440</u>	
TOTAL EXPENDITURES		1,053,440

**APPROPRIATION BALANCE**

Personal Services	223,793	
Increment	5,032	
Employee Benefits	112,939	
Other Expenses	814,850	
TOTAL FUNDS REMAINING		1,156,615
		<b><u>\$2,210,054</u></b>

**APPROPRIATED EXPENDITURE SCHEDULE  
 CONSUMER ADVOCATE FUND 7151  
 FISCAL YEAR 2020  
 JULY 1, 2019 - JUNE 30, 2020**

**APPROPRIATED**

Personal Services	399,865	
Increment	8,880	
Employee Benefits	163,231	
Other Expenses	<u>265,702</u>	
		<u>\$837,678</u>

**ACTUAL EXPENDITURES**

Personal Services	226,042	
Increment	3,780	
Employee Benefits	74,150	
Other Expenses	<u>59,510</u>	
TOTAL EXPENDITURES		363,482

**APPROPRIATION BALANCE**

Personal Services	173,823	
Increment	5,100	
Employee Benefits	89,081	
Other Expenses	<u>206,192</u>	
TOTAL FUNDS REMAINING		474,196
		<u>\$837,678</u>

**APPROPRIATED EXPENDITURE SCHEDULE  
INSURANCE COMMISSION FUND 7152  
FISCAL YEAR 2020  
JULY 1, 2019 - JUNE 30, 2020**

**APPROPRIATED**

Personal Services	16,195,061	
Increment	458,662	
Employee Benefits	7,515,298	
Other Expenses	<u>10,960,273</u>	
		<u>\$35,129,294</u>

**ACTUAL EXPENDITURES**

Personal Services	11,104,182	
Increment	241,173	
Employee Benefits	3,606,523	
Other Expenses	<u>5,205,095</u>	
TOTAL EXPENDITURES		20,156,973

**APPROPRIATION BALANCE**

Personal Services	5,090,879	
Increment	217,489	
Employee Benefits	3,908,775	
Other Expenses	<u>5,755,178</u>	
TOTAL FUNDS REMAINING		14,972,321
		<u>\$35,129,294</u>

## ***Financial Statements***

To view the OIC's FY2020 Financial Statements in their entirety, as well as access prior years' Financial Statements, please refer to the [OIC website](#).

**West Virginia Offices of the Insurance Commissioner**  
**Statement of Net Position**  
**June 30, 2020 ( In Thousands)**

	Primary Government		
	Governmental Activities	Business-Type Activities	Total
<b>ASSETS</b>			
Current Assets			
Cash and Cash Equivalents	\$ 23,919	\$ 1,364,366	\$ 1,388,285
Receivables, Net:			
Statutory Allocations	-	6	6
Assessments	240	37	277
Employer Surcharge	3,571	-	3,571
Premiums	-	113	113
Other	11	49	60
Prepaid Assets	-	1,087	1,087
Loss Reserve Fund	-	12,534	12,534
Total Current Assets	<u>27,741</u>	<u>1,378,192</u>	<u>1,405,933</u>
Noncurrent Assets			
Other Receivables	158	-	158
Capital Assets, Net	174	-	174
Total Noncurrent Assets	<u>332</u>	<u>-</u>	<u>332</u>
 Total Assets	 <u>28,073</u>	 <u>1,378,192</u>	 <u>1,406,265</u>
Deferred Outflows of Resources			
Deferred outflows related to pension	1,197	-	1,197
Deferred outflows related to other post-employment benefit	479	-	479
Total Deferred Outflows of Resources	<u>1,676</u>	<u>-</u>	<u>1,676</u>
 Total Assets and Deferred Outflows of Resources	 <u>29,749</u>	 <u>1,378,192</u>	 <u>1,407,941</u>
<b>LIABILITIES</b>			
Current Liabilities			
Estimated Liability for Unpaid Claims and Claim			
Adjustment Expense	-	143,700	143,700
Compensated Absences	544	-	544
Accrued Expenses and Other Liabilities	1,214	9,371	10,585
Total Current Liabilities	<u>1,758</u>	<u>153,071</u>	<u>154,829</u>
Noncurrent Liabilities			
Estimated Liability for Unpaid Claims and Claim			
Adjustment Expense	-	1,205,800	1,205,800
Net Pension Liability	1,631	-	1,631
Compensated Absences	572	-	572
OPEB Liability	4,043	-	4,043
Total Noncurrent Liabilities	<u>6,246</u>	<u>1,205,800</u>	<u>1,212,046</u>
 Total Liabilities	 <u>8,004</u>	 <u>1,358,871</u>	 <u>1,366,875</u>
Deferred Inflows of Resources			
Deferred inflows related to pension	1,329	-	1,329
Deferred inflows related to other post-employment benefit	2,117	-	2,117
Total Deferred Inflows of Resources	<u>3,446</u>	<u>-</u>	<u>3,446</u>
 Total Liabilities and Deferred Inflows of Resources	 <u>11,450</u>	 <u>1,358,871</u>	 <u>1,370,321</u>
Net Position			
Invested in Capital Assets, Net of Related Debt	174	-	174
Restricted for:			
Coal Workers' Pneumoconiosis	-	16,283	16,283
Uninsured Fund	-	13,548	13,548
Self-Insured Funds	-	38,522	38,522
State Entities Workers' Compensation			
Program Fund	-	14,733	14,733
Unrestricted (Deficit)	<u>18,125</u>	<u>(63,765)</u>	<u>(45,640)</u>
 Total Net Position	 <u>\$ 18,299</u>	 <u>\$ 19,321</u>	 <u>\$ 37,620</u>

**West Virginia Offices of the Insurance Commissioner**  
**Statement of Activities**  
**For the Fiscal Year Ended June 30, 2020 (In Thousands)**

Functions/Programs	Expenses and Claims Provisions	Program Revenues	Net (Expense) Revenue and Changes in Net Position		
		Charges for Services	Governmental Activities	Business-Type Activities	Totals
Primary Government					
Governmental Activities					
General Government	\$ 20,717	\$ 35,917	\$ 15,200	\$ -	\$ 15,200
Depreciation, Unallocated	14	-	(14)	-	(14)
Total Governmental Activities	<u>20,731</u>	<u>35,917</u>	<u>15,186</u>	<u>-</u>	<u>15,186</u>
Business-type Activities					
Workers' Compensation	59,151	1,827	-	(57,324)	(57,324)
State Entities Workers' Compensation Program Fund	10,697	7,474	-	(3,223)	(3,223)
Total Business-Type Activities	<u>69,848</u>	<u>9,301</u>	<u>-</u>	<u>(60,547)</u>	<u>(60,547)</u>
Total Primary Government	<u>\$ 90,579</u>	<u>\$ 45,218</u>	<u>15,186</u>	<u>(60,547)</u>	<u>(45,361)</u>
General Revenues:					
Investment Earnings			9	53,515	53,524
Severance Tax			-	(2,255)	(2,255)
Total General Revenues			<u>9</u>	<u>51,260</u>	<u>51,269</u>
Change in Net Position Before Reappropriations/Interfund Transfers			15,195	(9,287)	5,908
Reappropriation to State of West Virginia General Revenue Payments on Behalf of the WWOIC			(15,000) <u>245</u>	- <u>-</u>	(15,000) <u>245</u>
Change in Net Position			440	(9,287)	(8,847)
Net Position, Beginning of year			<u>17,859</u>	<u>28,608</u>	<u>46,467</u>
Net Position, End of Year			<u>\$ 18,299</u>	<u>\$ 19,321</u>	<u>\$ 37,620</u>

## SECTION 2: DIVISION REPORTS

### BOARD OF REVIEW (WORKERS' COMPENSATION)

The statutory role of the Workers' Compensation Board of Review is set forth in West Virginia Code § 23-5-12, which provides as follows: "Any employer, employee, claimant or dependent who shall feel aggrieved at any final action of the administrative law judge taken after a hearing held in accordance with the provisions of section nine of this article shall have the right to appeal to the board created in section eleven of this article for a review of such action. The Workers' Compensation Commission, the successor to the commission, other private insurance carriers and self-insured employers, whichever is applicable, shall likewise have the right to appeal to the board any final action taken by the administrative law judge." The primary goal at the Board of Review is to resolve appeals in a fair, efficient, and timely manner. The Board of Review is governed by procedural rules found in 102 CSR 1, Rules of Practice and Procedure.

During the course of an appeal, motions are submitted by the parties and the Board issues timely rulings in response to the motions. In addition to motions, the parties submit briefs and may present oral argument to the Board in accordance with West Virginia Code § 23-5-12(b). At the conclusion of the appeal process, the Board issues a written decision that is appealable to the Supreme Court of Appeals as set forth in West Virginia Code § 23-5-15.

When a claimant successfully appeals the denial of medical benefits, the claimant's attorney may file a Petition for Award of Claimant's Attorney Fees and Costs if the claimant meets the criteria set forth in West Virginia Code § 23-5-16(c). The Petition is submitted to the Board of Review if the final decision on the issue is entered by the Board. At the appropriate time, the Board issues a ruling on the Petition.

A statistical report is provided to the Workers' Compensation Industrial Council every month. This report includes information regarding incoming appeals, such as the issues being appealed and the parties filing the appeals. Additionally, the report provides data regarding the Board's decisions.

The Board and staff are committed to rendering the appeal process in a manner that provides a fair and efficient system to resolve appeals. In order to promote quicker resolution of claims for the parties and to provide consistent decisions, the Board at times consolidates the appeals in a claim for decision purposes. When this happens, the Board issues one order addressing multiple issues involved in a single injury.

Effective August 31, 2020, Board member Rita Hedrick-Helmick resigned. It is anticipated the Governor's appointee will be announced soon and will join current members, Patricia Jennings and Nick Casey.



## CLAIMS SERVICES DIVISION

The Claims Services Division provide oversight of the Old Fund Program; the legacy claims liability that existed upon the privatization of workers’ compensation and the Document and Imaging Unit that was transitioned to the Claims Services Division in February 2019. In addition, this Division provides claims oversight of the Uninsured Employer Fund (UEF), the Federal Black Lung Program with dates of last exposure prior to January 1, 2006, Guarantee and Security Funds, and the State Agency Workers’ Compensation (SAWC) Program. Its primary objectives are to ensure claims are properly reserved and administered to the Best Claims Practice standards and are handled in compliance with statutory and regulatory provisions. The Claims Services Division is responsible for additional internal controls assuring proper management of these claims which include the Best Claims Practice Reviews conducted on-site, on-going quality assurance reviews which includes pharmacy expenditure review and lung transplant claims reviews by an on-staff Registered Nurse, large loss review staffing with each third-party administrator (TPA), indemnity payment approval threshold of \$25,000.00 or greater, and the settlement initiative. Regulatory duties of this Division include maintaining the Occupational Pneumoconiosis (OP) Board and the Permanent Total Disability Review Board (PTDRB) dockets, the Claims Index, maintaining the maximum allowable fee schedule, and the Electronic Data Interchange (EDI) program. The Claims Services Division coordinates with the West Virginia State Auditor’s Office and the TPAs to establish Electronic Fund Transfers (EFTs) for injured workers or their dependents who receive benefits.

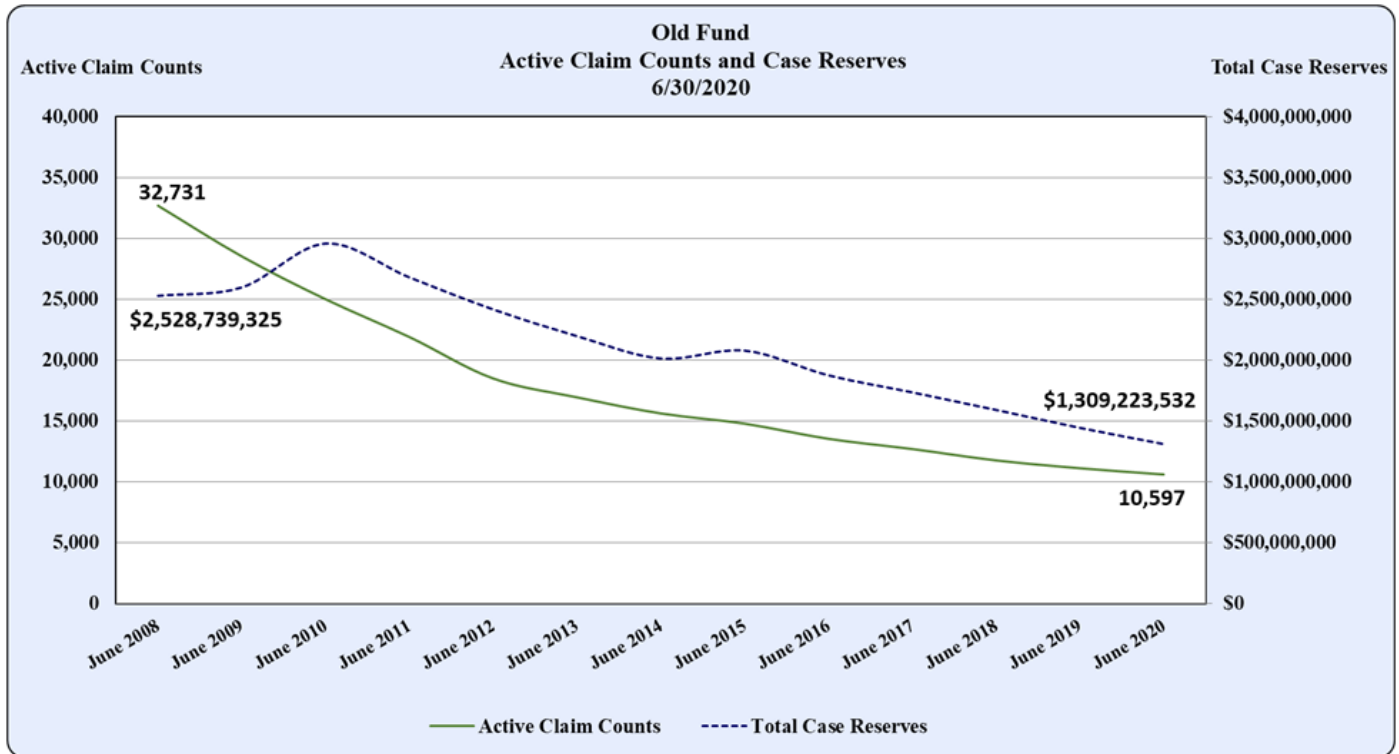
### CLAIMS STATISTICS

On December 1, 2007, the OIC officially began managing 47,961 active old fund claims. Since that time, through proper claims handling utilizing industry accepted standards and a focused settlement initiative, approximately 77.90% of the active claim load has been closed. With the passage of SB 531, which went into effect June 4, 2019, we predict this will have a positive impact on the reduction of hearing loss claims through full and final settlement negotiations to further reduce the active claim count.

Annual active old fund claims counts for the TPAs are as follows:

Counts as of	Sedgwick	HealthSmart	American Mining	Totals	Closed
1/31/2008	39,227	4,750	3,984	47,961	-
6/30/2008	25,484	3,455	3,792	32,731	31.75%
6/30/2009	22,425	2,894	3,237	28,556	40.46%
6/30/2010	19,837	2,373	2,814	25,024	47.82%
6/30/2011	17,346	2,188	2,381	21,915	54.31%
6/30/2012	15,451	1,871	1,179	18,501	61.42%
6/30/2013	14,075	1,775	1,101	16,951	64.66%
6/30/2014	13,114	2,512	-0-	15,626	67.42%
6/30/2015	12,376	2,406	-0-	14,782	69.18%
6/30/2016	11,236	2,298	-0-	13,534	71.78%
6/30/2017	10,485	2,209	-0-	12,694	73.53%
6/30/2018	9,687	2,071	-0-	11,758	75.48%
6/30/2019	9,213	1,897	-0-	11,110	76.84%
6/30/2020	8,866	1,731	-0-	10,597	77.90%

A graphical representation of the Old Fund claim changes and total reserves is shown below.



## QUALITY MEDICAL CARE AND COST CONTAINMENT INITIATIVES

The TPAs have contracted with Coventry, a managed care organization, on the Old Fund, UEF, Guaranty and Security Fund claims. This allows the OIC to monitor the quality of the care and provider efficiency in a cost effective manner. SmartCasualty Claims, formerly HealthSmart, is utilizing the HealthSmart Care Management Solutions transplant network, which has resulted in better care for claimants in a cost effective manner. Sedgwick is utilizing the OneCall Network for efficient and cost-effective services for the hearing loss claimants.

## OCCUPATIONAL DISEASE CLAIMS

Please note that new occupational disease claims, such as Occupational Pneumoconiosis (OP) and Hearing Loss (HL) claims, are submitted to the Claims Services Division for entry and establishment of a new claim. The claim(s) is(are) then assigned to a TPA for administration. These applications have a date of last exposure prior to July 1, 2005. The State OP claims are part of the Old Fund liability. We have two other separate and distinct funds in which we receive new claim filings. The Uninsured Employer Fund (UEF), as previously indicated, commenced as of January 1, 2006. The Claims Services Division establishes these claims and assigns them to a TPA for administration. In addition, new claims for Federal Black Lung (FBL) benefits where the date of last exposure must be prior to January 1, 2006, are filed with this Division. The FBL claims are paid via the Coal Workers’ Pneumoconiosis Fund (CWPF).

<b>New Claim Filings</b>	<b>FY2016</b>	<b>FY2017</b>	<b>FY2018</b>	<b>FY2019</b>	<b>FY2020</b>
State OP	116	134	62	53	41
HL and OD	8	11	5	6	1
Uninsured Employer Fund	12	11	10	4	5
FBL	385	400	416	448	392

## REGULATORY BOARDS

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As stated previously, regulatory duties of the Claims Services Division include maintaining the Occupational Pneumoconiosis (OP) Board and the Permanent Total Disability Review Board (PTDRB) dockets. We prepare the files and maintains the docket for the OP Board and prepares the files for hearings before the Office of Judges. In FY2020, there were 375 examinations scheduled before the OP Board and 30 fatality reviews. This Division has additionally provided PTDRB docket oversight since October 2008. In FY2020, the PTDRB had 14 reviews, including initial, remand, and final reviews. Applications are received for the Old Fund, new insurers and self-insured employers.

<b>Regulatory Board</b>	<b>FY2016</b>	<b>FY2017</b>	<b>FY2018</b>	<b>FY2019</b>	<b>FY2020</b>
OP Board Examinations	724	1,064	950	561	375
OP Board Fatal Reviews	66	46	53	44	30
PTDRB Reviews	17	23	29	10	14

## ELECTRONIC DATA INTERCHANGE (EDI) PROGRAM

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The implementation of the Electronic Data Interchange (EDI) program resulted from the passage of §Title 85, Series 2, Workers' Compensation Claims Index. The purpose of EDI is to provide a consistent method for insurers or self-insured employers to report claims to the OIC. Any workers' compensation claim that is filed in the state of West Virginia is captured on the Claims Index System. Pursuant to regulations, the First Report of Injury (FROI) and Second Report of Injury (SROI) must be submitted electronically within 10 days of notification that an injury has occurred, using the Release 3 EDI standards as adopted by the International Association of Industrial Accident Boards and Commissions (IAIABC). The OIC's public website contains information and links to the EDI Implementation Guide. In addition, we provide the procedural steps on how to apply for a trading partner profile and become eligible to file as a Carrier/TPA/Self-Insured Employer through the EDI. The program has continued to positively evolve and EDI transaction errors are trending downward.

## CLAIMS INDEX

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The Claims Services Division also reviews applications for access to the Workers' Compensation Claims Index. The Claims Index is a legislatively mandated uniform system of gathering workers' compensation claim information through EDI and allows access to the information by approved participants. The Index contains basic demographic data to assist insurers in obtaining information from other insurers regarding previously filed workers' compensation claims by particular claimants.

## DOCUMENT AND IMAGING UNIT

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This unit is the repository of workers' compensation claim records, x-rays, etc. and distributes copies of records upon proper validation of the requests. It is imperative that internal controls are in place and executed when relinquishing the records, including the redaction of sensitive information (PII), as well as psychiatric records. A conversion project of the records is currently in progress. All records have been sent to a third party vendor for conversion of the microfiche, x-rays and CDs. Once converted, the records are placed on a hard drive by Iron Mountain and returned to the OIC for utilization and storage. This project allows for proper preservation of the records to eliminate the continued loss of images. In addition, this project has allowed the Document and Imaging staff to relocate to the Lottery Building with the other Claims Services staff, eliminating additional rental space.

## COMPANY ANALYSIS AND EXAMINATIONS DIVISION

In 2019 the Company Analysis and Examinations Division was created by combining two (2) units that were previously separate but similar in function. The Company Analysis and Examinations Division is responsible for the financial regulation and market conduct examinations of all insurers admitted to transact insurance business in West Virginia. The Company Analysis and Examinations Division includes the following units:

- Financial Conditions Unit - responsible for the licensing, financial monitoring and financial examinations of insurance companies and entities.
- Market Conduct Unit – performs examinations of insurance companies and self-insured employers doing business in West Virginia for the purpose of determining statutory compliance.

### FINANCIAL CONDITIONS UNIT

The primary functions of the Unit include, but are not limited to:

- Licensing/Registration of Insurance Risk-Bearing Entities
- Financial Analysis/Surveillance of Admitted Insurance Companies
- Financial Examinations of Domestic Insurance Companies

The types of insurance companies/entities licensed and monitored include, but are not limited to, traditional Life and Health and Property and Casualty insurers as well as health care corporations such as Blue Cross/Blue Shield plans and Health Maintenance Organizations (HMOs). The Unit is also responsible for registering, licensing and/or monitoring Risk Retention Groups, Risk Purchasing Groups, Managing General Agents, Third-Party Administrators, Reinsurance Intermediaries, Viatical Settlement Providers, Discount Medical Plans, Discount Prescription Drug Plans, Professional Employer Organizations, Charitable Gift Annuities, Pharmacy Benefit Managers and Surplus Lines Insurers planning to do business in the State of West Virginia.

Prior to being admitted, companies must file an application with the West Virginia Offices of the Insurance Commissioner. The Unit utilizes the National Association of Insurance Commissioners (NAIC) Uniform Certificate of Authority Application (UCAA) process which is designed to allow insurers to file copies of the same application for admission in numerous jurisdictions. These applications, either foreign or domestic, are reviewed by the Unit to ensure that all applicable insurance laws and regulations have been satisfied regarding the companies' general corporate organization and financial strength. Recommendations are then made to the Commissioner as to the admissibility of the applicant companies.

Companies admitted by the WVOIC are then monitored by the Unit to ensure they maintain financial stability and solvency requirements necessary for the protection of West Virginia policyholders. Monitoring of the insurance industry is effectuated through complex analysis and/or financial examinations performed by financial analysts and certified financial examiners.

The Unit is also responsible for processing various corporate amendments submitted by a licensed entity. Corporate amendments include, but are not limited to, name changes, re-domestications, mergers, and amendments to articles of incorporation or bylaws.

2019 TOTAL CORPORATE AMENDMENTS	
Expansion Applications	30
New Applications	78
Extension of Authority	7
Mergers	8
Acquisitions (Change of Control)	70
Name Changes	48
Redomestications	31
Suspensions/Revocations/Fines	1
Withdrawal/Deletion of lines of authority	31
Amended By-Laws/Articles	68
Assumptions	0
Modifications/Address Changes	97
Service Area Expansion (HMO)	1
Conversions	0

### MARKET CONDUCT UNIT

The Market Conduct Unit performs market-wide research, analysis and examinations of insurance entities regulated by the West Virginia Offices of the Insurance Commissioner. The Market Conduct Unit executes its primary activities, along with the Financial Conditions Unit, in a coordinated effort within the Company Analysis and Examinations Division.

The market conduct examiners are charged with reviewing insurers on a regular basis as well as reacting to developments in the marketplace. Examiners validate the business operations of insurers to ensure compliance with all applicable laws and rules.

Market Analysis consists generally of gathering large volumes of data from insurers that reveals how the insurer is behaving in our marketplace and, from that data, determining which companies may need further analysis or review. West Virginia cooperates with other jurisdictions in this process to foster possible collaborative actions.

Nine (9) agreed orders were entered by the Insurance Commissioner in 2019 as a result of market conduct examinations conducted in accordance with W. Va. Code §33-2-9. Penalties totaling \$14,250.00 were assessed as a result of violations discovered during these market conduct examinations. West Virginia also participated in six (6) multi-state collaborative actions, resulting in \$86,185.10 in penalties and other assessments. Furthermore, the Market Conduct Unit completed four (4) comprehensive compliance examinations of employers which are self-insured for workers' compensation, resulting in penalties totaling \$16,750.00.

Additionally, the Market Conduct Unit conducted forty one (41) level one and seventeen (17) level two analysis reviews on licensed companies concerning compliance with the West Virginia Code and the West Virginia Code of State Rules, as well as claims compliance analysis of employers that are actively self-insured for workers' compensation, which included desk exams performed on twenty seven (27) specific employers.

The West Virginia Offices of the Insurance Commissioner also received a total of 546 market conduct annual statements per the National Association of Insurance Commissioners' (NAIC) guidelines, further broken down by the following lines of business: Private Passenger Auto, 74 filings; Homeowners, 79 filings; Life, 186 filings; Annuity, 102 filings; Long-Term Care, 76 filings; Health 16 filings; and Lender-Placed Insurance (LPI), 13 filings.

## CONSUMER ADVOCATE DIVISION

In 2019, the Office of Consumer Advocate served the interests of the West Virginia insurance consumer and fulfilled the expanded duties conferred upon the Office in the tort reform measures passed in 2005 in Senate Bill 418. A large portion of the Office of the Consumer Advocate's time and resources was devoted to first- and third-party administrative cases.

During 2019, the efforts of the Office of the Consumer Advocate on behalf of West Virginia insurance consumers yielded financial awards totaling \$90,246.64 which go directly into the pocket of the consumer as well as several other important actions directly benefiting the West Virginia insurance consumer.

During the entirety of the undersigned's tenure, the Office of the Consumer Advocate has been involved in obtaining financial settlements totaling \$3,922,692.53 on behalf of West Virginia insurance consumers. These awards go directly into the pocket of the consumer.

In the health care arena in 2019, the Office of the Consumer Advocate reviewed 145 Certificate of Need Applications. The Office of the Consumer Advocate was also previously charged with reviewing Rate Review Applications before the West Virginia Health Care Authority. Subsequent to passage of SB 68, the WV Health Care Authority's ability to establish and regulate hospital rates ceased in 2017. As such, the Office of the Consumer Advocate did not review Rate Review Applications last year.

The Office of the Consumer Advocate attended many State conferences and State festivals as a means of interacting with and disseminating information to West Virginia insurance consumers. State festivals attended in 2019 include the WV Social Workers Conference, Older American Event, the State Fair, the Pumpkin Festival, the Forest Festival, and the WV Hunting and Fishing Show.

The Office of the Consumer Advocate participated in mandatory continuing legal education with a focus on insurance and consumer related education.

The Office of the Consumer Advocate maintained progress toward the ongoing goal of consumer outreach and education. The Office achieved progress by fielding hundreds of calls and contacts from consumers.

### REPRESENTATION IN FIRST- AND THIRD-PARTY ADMINISTRATIVE HEARINGS

In 2019, the Office of the Consumer Advocate provided formal representation to insurance consumers in twenty-eight (28) consumer complaints before the West Virginia Insurance Commission. Twenty-four (24) of these consumer complaints were third party complaints and the remaining four (4) consumer complaint were first party complaints. First party complaints are complaints filed by a consumer against their own insurer, while third party complaints are complaints filed by a consumer against another person's insurer. In addition to formal representation, the Office of the Consumer Advocate assisted and advised hundreds of West Virginia consumers throughout the year be it via email inquiries, telephonic inquiries, office visits, or other means. This assistance has directly benefited those consumers and in many cases has resolved the consumers' insurance issues or queries without requiring the filing of an actual consumer complaint with the WVOIC.



### **First Party Complaints**

The Office of the Consumer Advocate actively worked four (4) first party cases in 2019. The results of said cases are as follows:

- A total of \$6,000 was awarded directly to West Virginia consumers in the form of settlements in one (1) of the consumer complaint cases.
- In two (2) of the consumer complaint cases, the WVOIC legal division reviewed the merits and then declined to set the case for hearing.
- In one (1) consumer complaint case, the matters are still pending and are either awaiting hearing or are awaiting final order or appealed to the Circuit Court.

### **Third Party Complaints**

The Office of the Consumer Advocate actively worked 24 third party cases in 2019. The results of said cases are as follows:

- A total of \$84,246.64 was awarded directly to West Virginia consumers in the form of settlements in seven (7) of the consumer complaints.
- In six (6) consumer complaint cases, the consumer opted to obtain private counsel for representation.
- In two (2) consumer complaint cases, the cases went to hearings before a WVOIC Hearing Examiner where violation(s) of the Unfair Trade Practice Act was found and ordered additional investigation by the WVOIC.
- In six (6) consumer complaint cases, the consumer failed or declined to request representation.
- In three (3) consumer complaint cases, the matters are still pending and awaiting hearing.

### **Certificate of Need Reviews**

The Office of the Consumer Advocate participated in the review of Certificate of Need (CON) applications before the Health Care Authority. All health care providers must obtain a CON from the West Virginia Health Care Authority to develop, add, or acquire new health care facilities and equipment. The Office of the Consumer Advocate reviews all CON applications and may intervene for the interests of West Virginia residents in the Health Care Authority's CON review process. In 2019, the Office of the Consumer Advocate carefully reviewed and considered 145 CON applications.

## CONSUMER SERVICE DIVISION

The Consumer Service Division is responsible for the review of facts surrounding complaints received against insurance companies, adjusters, and agents. It is the division's aim to evaluate the facts of each complaint received to ensure compliance with the West Virginia Insurance Laws and contract in question. The division facilitates a fair resolution of each complaint and provides a better understanding among the parties of their rights and responsibilities.

The division also educates the public regarding insurance topics through presentations at schools and civic organizations. The division staff identifies problem areas and trends by collecting information gathered from complaints. It performs research and surveys about areas that need special attention. The division is thus uniquely able to inform the Insurance Commissioner, lawmakers and other public policymakers about the impact decisions may have on insurance consumers.

### ORGANIZATION AND ACTIVITIES

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The Consumer Service Division receives consumer inquiries by postal mail, webmail, email, telephone, an online complaint form, and walk-in visits from the public. A complaint file is set up for each written inquiry. A total of 1,865 written inquiries were received by the division in 2019. In addition, we received 141 walk-in clients and 23,532 telephone calls. On average, the division handles 103 consumer inquiries per day. In 2019, complaint files were concluded in an average of 36 days.

The Consumer Service Division handled 262 third party liability complaints during 2019, 148 were not resolved during the cure period resulting in those files being referred to our Legal Division for a determination of merit.

Our division participated in the Insurance Commissioner's Public Outreach Initiative by attending fairs, festivals, presentations and other events reaching more than 75,000 consumers.

**CONSUMER SERVICE DIVISION  
COMPLAINTS  
CALENDAR YEAR 2019**

<b>Files Opened</b> .....	1,865
Life, Accident and Sickness .....	857
Property and Casualty .....	754
Workers' Compensation .....	254
<b>Telephone Activity</b> .....	23,532
Life, Accident and Sickness .....	5,878
Property and Casualty .....	5,139
Workers' Compensation .....	4,233
Clerical .....	8,282
<b>Office Visits</b> .....	141
Life, Accident and Sickness .....	49
Property and Casualty .....	37
Workers' Compensation .....	10
Clerical (Other Divisions) .....	45

**CONSUMER SERVICE COMPLAINTS  
CALENDAR YEAR 2019**

**PROPERTY AND CASUALTY COMPANIES WITH TEN OR MORE COMPLAINTS**

<b>COMPANY NAME</b>	<b># COMPLAINTS</b>
State Farm Mutual Automobile Insurance Company	93
Erie Insurance Property and Casualty Company	36
State Farm Fire and Casualty Company	35
Allstate Property and Casualty Insurance Company	29
Progressive Max Insurance Company	26
Nationwide Mutual Insurance Company	20
Safeco Insurance Company of American	19
GEICO Advantage Insurance Company	18
Nationwide Insurance Company of America	17
Trumbull Insurance Company	17
Allstate Insurance Company	14
Farmers and Mechanics Mutual Insurance Company of WV	11
Westfield Insurance Company	11
13 Companies	346 Complaints

**WORKERS' COMPENSATION COMPANIES AND  
THIRD PARTY ADMINISTRATORS WITH TEN OR MORE COMPLAINTS**

<b>COMPANY NAME</b>	<b># COMPLAINTS</b>
Sedgwick Claims Management Services, Inc.	43
Gallagher Bassett Services, Inc.	26
BrickStreet Mutual Insurance Company	15
HealthSmart Benefit Solutions, Inc.	14
New Hampshire Insurance Company	14
5 Companies	112 Complaints

**LIFE, ACCIDENT AND SICKNESS COMPANIES AND HEALTH MAINTENANCE ORGANIZATIONS WITH TEN OR MORE COMPLAINTS**

<b>COMPANY NAME</b>	<b># COMPLAINTS</b>
Highmark West Virginia Inc.	108
CareSource West Virginia Co.	56
UnitedHealthcare Insurance Company	45
Humana Insurance Company	37
PEIA	30
Aetna Life Insurance Company	27
Metropolitan Life Insurance Company	25
The Health Plan of West Virginia, Inc.	25
American General Life Insurance Company	18
WV Dept Of Health and Human Resources	18
UniCare Health Plan of West Virginia, Inc.	15
Bankers Life & Casualty Company	14
Cigna Health and Life Insurance Company	14
Transamerica Premier Life Insurance Company	11
American Income Life Insurance Company	11
15 Companies	454 Complaints

**TOP FIVE INSURANCE COVERAGE TYPES FOR COMPLAINTS**

<b>COVERAGE TYPES</b>	<b># COMPLAINTS</b>
Individual Accident & Health	532
Private Passenger Auto	453
Individual Life & Annuity	242
Workers' Compensation	227
Group Accident & Health	225
5 Coverage Types	1,679 Complaints

**TOP FIVE INSURANCE REASONS FOR COMPLAINTS**

<b>COMPLAINT REASONS</b>	<b># COMPLAINTS</b>
Accident and Health Claim Handling - Denial of Claim	240
Accident and Health Claim Handling - Delays	145
Workers' Compensation Claim Handling - Delays	130
Auto Claim Handling - Denial of Claim	116
Accident and Health Claim Handling – Unsatisfactory Offer	100
5 Complaint Reasons	731 Complaints

## EMPLOYER ACCOUNTS DIVISION (WORKERS' COMPENSATION)

In 2018 the Employer Accounts Division was created by combining three (3) units that were previously separate but similar in function. The Employer Accounts Division is responsible for the workers' compensation regulation of West Virginia employers and includes the following units:

- Employer Coverage Unit - ensures employers are compliant with current workers' compensation laws as related to requirements for mandatory coverage.
- Revenue Recovery Unit – calculates and collects fines in addition to the costs associated with claims administered by the Uninsured Employer Fund, from uninsured employers who are out of compliance with mandatory workers' compensation coverage requirements.
- Self-Insurance Unit – regulates self-insured employers and ensures compliance with West Virginia Code as well as monitors employers who no longer self-insure but continue to administer claims incurred during their periods of self-insurance.

### EMPLOYER COVERAGE UNIT

The Employer Coverage Unit works with West Virginia employers to ensure they are compliant with current workers' compensation laws as they relate to requirements for coverage.

While there is not a perfect art to verify compliance, the unit endeavors to ensure all employers required to carry workers' compensation comply with the law. This is done by extracting expired policy data provided by the National Council on Compensation Insurance (NCCI) and comparing to other agency information to determine if coverage is needed. If an employer is found to be non-compliant, the unit establishes a system account to assess the employer a fine. In 2019, the Unit was responsible for establishing 295 of these accounts.

Employer Coverage also has the task of overseeing insurer compliance within the Proof of Coverage (POC) system. Insurers that fail to report information timely as required by the POC guidelines are reported to OIC Legal for further review.

Employer Coverage reviews requests for exemptions from coverage from employers and makes the appropriate determination of exemption. State law does not require that exempt employers file for an exemption, but there are a few classifications that may be granted exemption from coverage such as, an employer of domestic services, some employers in the agricultural service, an employer who is deemed to be a casual employer, an employer who is a church, an employer engaged in professional sports activities, a volunteer rescue squad or volunteer police auxiliary, and an employer who are provided coverage of benefits under the Long Shore and Harbor Workers' Compensation Act. In these cases, the ECU issues letters of opinion to employers stating whether they are required to carry workers' compensation insurance under current law. In 2019, the Unit processed 307 exemption applications, of which 54 exemptions were granted. These exemptions were entered into the West Virginia Offices of the Insurance Commissioner's Proof of Coverage (POC) system in order to include these employers for automated compliance purposes.

In addition to providing public support for coverage verification, ECU is responsible for maintaining the POC system which is widely used for statutory coverage verification. In 2019, the ECU worked with several agencies to provide access to certain employees of the agency to be able to check compliance using POC. This speeds up verification while freeing up ECU FTE's to be more compliance focused.

The unit works hand in hand with the Revenue Recovery Unit and the OIC's Legal Division to identify employers not carrying the mandatory coverage.

<b>CY2019 Exemption Summary</b>	
Total Exemptions Issued	54
Total Denials	253
Number of Applications Received	307

<b>CY2019 Statistics</b>	
Compliance Requests Completed	1,341
DOL Reports Investigated	368
Uninsured Employer Account Set-ups	295

### REVENUE RECOVERY UNIT

The Revenue Recovery Unit is responsible for the following:

- Collection of fines imposed on employers who fail to maintain mandatory workers' compensation coverage
- Collection from the employer when reimbursement is due the Uninsured Employer's Fund (UEF) for workers' compensation claims paid by the UEF
- Collection from the employer of all monies due to the Old Fund

The Unit contacts employers that have defaulted on their workers' compensation premium payments, and may take actions such as:

- Placement of employer on the Employer Violator System (EVS), and the Defaulted Employer Database
- Compliance Posting (notice to inform employees of the employer's default on workers' compensation coverage)
- File liens (for fines owed) against the business and its individual owners, officers, partners or members
- Request revocation of state issued licenses
- Seek to enjoin the employer's operations

The Revenue Recovery Unit also works with the Insurance Commission's Regulatory Compliance (Legal) Division and with the Employer Coverage Unit to enforce employer compliance with West Virginia workers' compensation laws and regulations.

## DEFAULT NOTIFICATIONS AND EMPLOYER CONTACT

The Unit sends letters of notification to all employers that are reported as not having mandatory workers' compensation insurance. In 2019, there were 1,420 such notices sent to employers. There were over 4,000 contacts, both by telephone and in-person, between Revenue Recovery and uninsured employers.

## EMPLOYER VIOLATOR SYSTEM (EVS)

The Unit reviews all employers reported to not have workers' compensation insurance and places the uninsured employer and its individual owners, officers, partners or members of the business on the EVS listing. This electronic report allows other state agencies to search for and identify a business and the individual officers, owners, partners or members associated with the business that may apply for other state licensure or permits. If the employer and its associated individual owners, officers, partners or members are on EVS, other agencies may not grant licensure or permits until the default is cured and the business is appropriately insured. In 2019, there were an average of 2,600 businesses along with the individual owners, officers, partners and members listed on EVS every month.

## LIENS, INJUNCTIONS, AND REGULATORY COMPLIANCE

Liens are filed when an employer has not cured the fine caused by defaulting on its workers' compensation obligations and the lien releases are filed when the debt owed is cured. The Unit prepared and mailed 611 liens to the West Virginia county clerks in 2019. The liens were placed on the businesses as well as the individual owners, officers, partners or the members of the business as is listed on the West Virginia Secretary of State's website. During the same timeframe, 301 lien releases were prepared and mailed to the county clerk offices.

## REVENUE RECOVERY COLLECTIONS

Collections in 2019	
January	\$52,663.92
February	\$48,694.35
March	\$38,250.91
April	\$42,548.21
May	\$40,504.36
June	\$39,801.24
July	\$54,915.23
August	\$32,971.99
September	\$32,382.50
October	\$38,015.03
November	\$34,978.11
December	\$104,266.94
Total	\$559,992.79



## SELF-INSURANCE

The Workers' Compensation Self-Insurance Unit is responsible for regulating 56 employers that currently self-insure their workers' compensation coverage in West Virginia and the 110 or so employers that no longer self-insure but continue to administer claims incurred during their periods of self-insurance. No companies were approved for self-insured status in calendar year 2019 nor during the first six months of 2020.

Self-insured employers in West Virginia self-administer their claims. Ordinarily, the employer hires a third-party administrator (TPA) to manage and process claims, although a small number of employers truly self-administer through an internal claim management department or a subsidiary company. Self-administration provides the self-insured employer with a greater degree of control over the claim management process than participation in guaranty cost or deductible programs.

Regulation of the self-insured employers focuses primarily on two areas: maintenance of the risk pools and annual financial condition reviews. W. Va. Code St. R. § 85-19-1 et seq. establishes two risk pools in which the self-insured employers participate: the Security Risk Pool that covers claims with dates of injury, last exposure or death prior to July 1, 2004 (the date self-administration began) and the Guaranty Risk Pool that covers claims with dates of injury, last exposure or death on or after July 1, 2004. Active and inactive self-insured employers participate in the pools dependent upon each employer's exposure base since self-insured employers are joint and severally liable for defaults of other self-insured employers. The purpose of the risk pools is to provide the means to pay claims for defaulted self-insured employers without placing the burden on the taxpayers of West Virginia.

## FINANCIAL ACCOUNTING DIVISION

The Financial Accounting (FA) Division is responsible for the preparation of the annual audited financial statements for the OIC which includes preparation of the trial balance, footnotes, required supplementary information, and other disclosures as required by Generally Accepted Accounting Principles (GAAP.) The FA Division works closely with consulting actuaries to assist with the annual reserve study of the OIC's claims liabilities. Work performed includes the preparation and coordination of data and the preliminary review and analysis of actuarial indications. The FA Division coordinates the information for the independent auditors and provides all supporting documentation for the financial statement.

The FA Division performs all daily cash management and investing activities of the OIC, and serves as the liaison with the Treasurer's Office, the Auditor's Office, the WV Investment Management Board, and the Board of Treasury Investments. The FA Division monitors investment performance and performs monthly investment analysis for all invested assets held by the OIC.

Daily operations of the FA Division include accounts payable processing through the State's accounting system. The FA Division coordinates with the OIC's contracted Third Party Administrators and claims services to disburse the claims payments to beneficiaries of the insurance programs administered by the OIC, including the workers' compensation related funds. The FA Division is also responsible for handling and processing all agency cash receipts processing for all units of the OIC through the State's accounting system and for depositing all non-lockbox checks with the Treasurer's Office.

The FA Division prepares and submits the OIC annual budget and budget narrative, as well as the appropriation and expenditure schedules as required for all OIC funds. The FA Division prepares and monitors budgets for fourteen separate OIC funds. An analysis of budget to actual expenditures is also prepared and analyzed.

The FA Division prepares and distributes monthly financial reports to the Commissioner. The OIC funds reported on a monthly basis consist of the Old fund, the State Entities Workers' Compensation fund, the Coal Workers' Pneumoconiosis fund, the Self-Insured Guaranty fund, the Self-Insured Security fund, the Uninsured fund, the Operating fund, the AccessWV fund, the Consolidated Federal funds, and the Closed Estate fund. These reports are used for internal analysis and for use at the legislative interim meetings.

The FA Division is responsible for the management and administration of federal funds for the agency including preparation of required reports and the drawing down of funds on the federal payment management system.

The Tax Unit in the FA Division is responsible for ensuring that insurance companies and brokers operating in West Virginia report and pay the appropriate taxes levied by West Virginia statutes. This process involves the reconciliation of companies' quarterly reports and payments to their year-end tax returns. This function also includes the tracking and collection of taxes generated by the surplus lines market. Surplus lines refer to business placed with companies that are not admitted in West Virginia. This occurs when certain lines of business are not readily available with companies licensed in West Virginia. Coverage is written with these surplus lines insurers by a licensed insurance broker that has obtained an excess lines broker's license from the Licensing and Education division. The surplus lines licensee must provide reports to the Tax Unit on individual policies written and remit the appropriate tax payment as detailed by the West Virginia code.

The Tax Unit is responsible for the collection of the examination assessment which covers the cost of examining the activities, operations, financial conditions and affairs of all persons transacting the business of insurance in WV and all persons otherwise subject to the jurisdiction of the commissioner. The assessment must be paid by July 1<sup>st</sup> of each year. This examination is performed in accordance with the guidelines set by the National Association of Insurance Commissioners (“NAIC”).

#### FINANCIAL ACCOUNTING ACCOMPLISHMENTS FOR 2019 - 2020

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- Received a fourteenth consecutive unmodified or “clean” opinion on the OIC’s financial statements.
- Performed year end work on an interim basis when possible to do so and greatly reduced the amount of time necessary for the completion of the annual financial statement preparation.
- Prepared and distributed monthly financial reports for all OIC funds on a timely basis.
- Prepared the annual budget and all related documents on a timely basis.
- Completed all tax audits (not awaiting hearing decisions) for calendar year 2018 on a timely basis.
- Collected \$389,805 for underpayment of taxes and \$124,956.08 in penalties and interest in 2019 for calendar year 2018.
- Achieved all formal staff training goals and objectives.

## OFFICE OF INSPECTOR GENERAL - SPECIAL INVESTIGATIONS DIVISION

The Special Investigations Division (formerly the Fraud Unit) was created under legislation passed by the WV Legislature during its 2004 regular session. The Special Investigations Division (SID) is responsible for facilitating a cooperative approach in the detection, investigation, and prosecution of insurance fraud, as well as making the public aware of insurance fraud and providing a way to report instances of suspected insurance fraud. Further, the SID is tasked with investigating persons suspected of engaging in insurance fraud and referring cases with merit to the appropriate authorities for criminal prosecution.

The SID currently consists of twenty-two (22) allocated investigative positions, consisting of fifteen (15) Special Agents, four (4) Regional Special Agents In Charge, one (1) Special Agent In Charge of Operations, two (2) WV State Police Troopers and thirteen (13) positions allocated for forensic analyst and support positions, one (1) Director and one (1) Inspector General. Special Agents currently occupy offices in the following cities:

- Beckley
- Charleston
- Fairmont
- Martinsburg
- Wheeling

The geographic locations of these field offices allow Special Agents to respond quickly to reports of alleged insurance fraud. It also allows investigators to foster relationships with local law enforcement and prosecutors that the SID relies on and works with to bring about successful prosecutions.

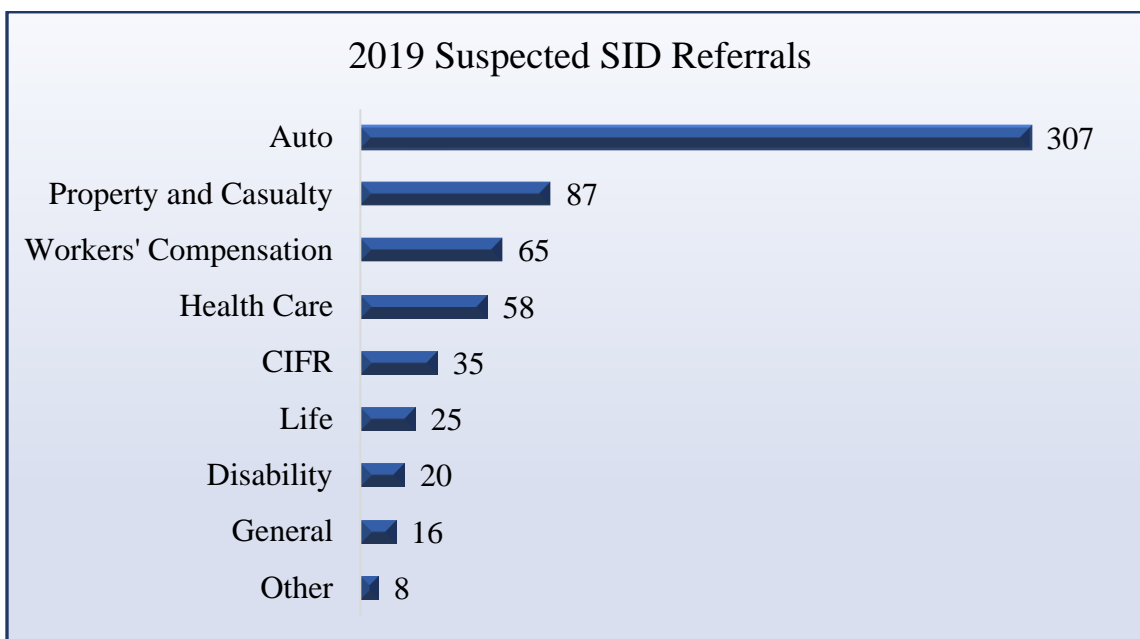
There are four ways in which the public and the insurance industry can report suspected insurance fraud to the SID:

- by calling toll free at 1-800-779-6853
- online reporting at [www.wvinsurance.gov](http://www.wvinsurance.gov)
- and by correspondence at P.O. Box 2901; Charleston, WV; 25301-2901
- contacting the Regional Office via telephone

The SID's case management and reporting application has been recognized as one of the premier systems in the nation for its ability to manage cases, detect trends in fraud, and create investigative reports suitable for immediate presentation to prosecutors for review. It has also been designed to receive referrals directly from the online reporting function and is integrated with the National Association of Insurance Commissioners (NAIC) online reporting tool.

The SID has been proactive in its approach to educate the public on what constitutes insurance fraud as well as the costs associated with insurance fraud. A brochure explaining the types of fraud, what the penalties are and what happens when someone reports suspected fraud was developed and is given out at fairs and festivals across the state as well as distributed to each WV State Police Detachment. Additionally, representatives from the SID appear at various functions, events, and meetings statewide taking the message to the general public that insurance fraud is not a victimless crime, but one that victimizes everyone in the form of higher costs for goods and services.

The West Virginia Insurance Commission SID received 621 referrals or reports of suspected insurance fraud in 2019 from the insurance industry, the public and law enforcement. The following chart breaks down the referrals received:



In addition to the 621 referrals, investigators identified and opened an additional 98 investigations on top of the initial 621 referrals received, effectively bringing total cases reviewed and investigated to 719 cases. Successful investigations resulting in prosecutions were conducted in numerous counties throughout the state. Prosecutions involved such activity as workers compensation fraud, conventional insurance claimant fraud, staged motor vehicle crashes, fraudulent “slip, trip, and fall” claims against businesses, insurance fraud by means of arson, and embezzlement of policyholder premium funds by insurance industry personnel. Such successful prosecutions were the result of working in cooperation with local and state law enforcement agencies and locally elected prosecutors as well as the two (2) U.S. Attorney Offices.

As a result of thorough investigations and well-prepared reports, along with efficient case management of referrals, many successful prosecutions were realized. The SID completed eighty two (82) field investigations resulting in fifteen (15) reports being submitted to State and Federal Prosecutors with an identified fraudulent dollar amount totaling over \$2.8 million, resulting in one hundred sixty nine (169) felony indictments on eighteen (18) individuals.

The SID Special Agents maintained an average of one-hundred eighty-five (185) open investigations throughout 2019. The SID opened thirty-five (35) cooperative investigations with, and at the request of Federal and State agencies on various insurance fraud cases including arson, public corruption, falsified claims, staged accidents (crash rings), workers compensation and health care fraud. Cooperative Investigations often expand parameters of criminal investigations to include parallel insurance frauds.

## HEALTH POLICY DIVISION

The Health Policy (HP) Division of the OIC was formed in 2009 to begin research for a Health Insurance Exchange. In September 2009, West Virginia was awarded the State Health Access Program (SHAP) grant by Health Resources and Services Administration (HRSA). The SHAP grant gave the State its initial ability to utilize resources for research and concept development for the State's health reform plans.

The HP Division also assists other OIC divisions in communications with the Federal government, interpretation of the ACA Federal statute and regulations, Qualified Health Plan (QHP) review and certification decisions throughout the process. The Division conducts annual training for agents and assisters on West Virginia QHP products to be offered each year. The HP Division is an available resource for QHP questions and training.

### FEDERALLY FACILITATED EXCHANGE PARTNERSHIP

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The Patient Protection and Affordable Care Act (ACA) was signed to law on March 23, 2010. Its stated purpose was to increase quality and affordability of health insurance and lower the uninsured rate by expanding public and private insurance coverage. The law introduced mandates, subsidies and insurance marketplaces. Each state was required to establish a Federal, a Partnership or a State Based Exchange.

In February 2013, West Virginia announced that it would become a Partnership state, meaning that the State has chosen to take on the functionalities of Consumer Assistance (through education and outreach) and Plan Management (prior approval on rates and forms) related to the Marketplace.

As a Partnership State, West Virginia consumers experience "The Marketplace" through the federal online portal at [www.Healthcare.gov](http://www.Healthcare.gov) to compare information on available health plan options, enroll in health plans, and receive advanced premium tax credits (APTC) and cost sharing reductions (CSR), if financially eligible.

### CONSUMER ASSISTANCE

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The Consumer Assistance function required the State to develop an In-Person Assistance (IPA) program to help individuals with the enrollment process. The IPA is an impartial and free service to consumers. Primarily functioning as community-based outreach and education to ensure a smooth and seamless Marketplace experience. The IPA program was funded through federal grants for 2014 and 2015.

The Centers for Medicare and Medicaid Services (CMS) established the Certified Application Counselor (CAC) program for organizations that are community health centers or other health care providers, hospitals, non-federal governmental or non-profit social service agencies that would like to help by training their staff and volunteers to assist consumers. The CAC program is active throughout West Virginia.

Additional support provided directly to West Virginia from CMS includes Navigators. Through a review and application process at the federal level, various organizations competed for consideration as a State based Navigator. Each year since 2014, West Virginia has had one to three Navigator organizations that operate statewide to educate and enroll consumers in health insurance.

Licensed health insurance agents and brokers may enroll individuals in coverage through the Marketplace. Federal training and certification requirements apply to agents and brokers who enroll or assist consumers in the Marketplace. The OIC supplements the federal training with state specific training.

In addition to the Agents, IPAs, CACs and Navigators, the OIC’s Consumer Service Division is available to assist consumers with health insurance.

## PLAN MANAGEMENT

West Virginia is a prior approval state. This means policy rates, rules and forms must be approved by the West Virginia Insurance Commissioner prior to marketing plans to West Virginia consumers. W. Va. Code §33-6-8, 33-15-1b and 33-16B-1, is the primary authority for West Virginia to review and recommend Qualified Health Plans (QHPs) for certification.

Once the plans are reviewed and approved at the OIC level, QHPs being offered “Off Marketplace” receive final approval from the State. The QHP plans to be offered “On Marketplace” are sent to CMS. CMS then reviews the plan and finalizes it as a “Certified QHP” to be a Marketplace plan listed on [www.Healthcare.gov](http://www.Healthcare.gov). Upon certification, contracts are sent from CMS to each issuer to sign to have their plans on the Marketplace.

The certified QHPs offered through the Marketplace at [www.Healthcare.gov](http://www.Healthcare.gov), enable individuals who qualify to receive APTCs and cost sharing reductions. QHPs purchased “Off” Marketplace are available for individuals to purchase, but do not allow for APTCs or cost sharing.

## WEST VIRGINIA MARKETPLACE ENROLLMENT FOR 2014 - 2019

	2014	2015	2016	2017	2018	2019
Received Advanced Premium Tax Credits (APTC)	87%	87%	88%	84%	86%	88%
Received Cost Sharing Reduction (CSR) Payments*	56%	54%	52%	59%	55%	48%
Did not receive premium assistance	13%	13%	12%	16%	14%	12%
Total Enrollment	19,856	33,421	37,284	34,045	27,409	22,599

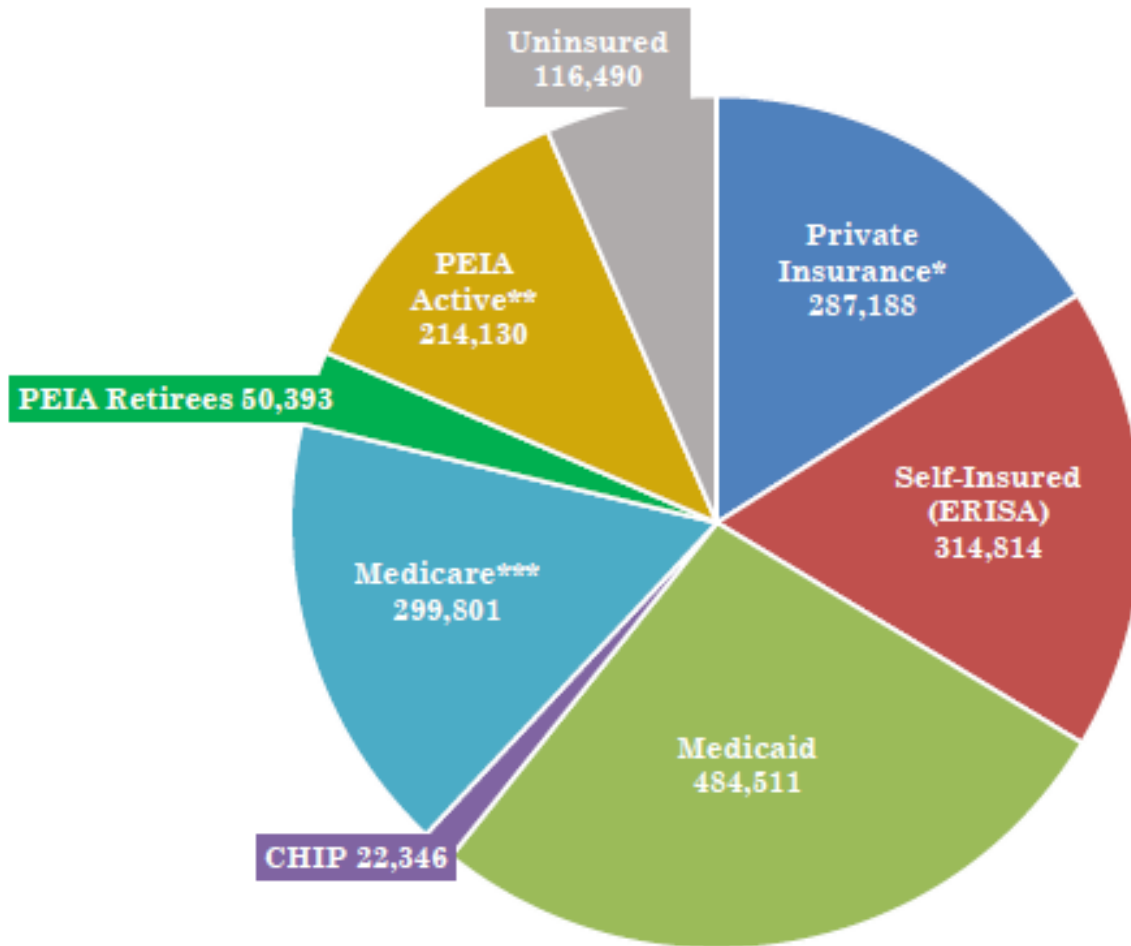
\* All that received CSRs also received APTCs

## INSURANCE COMPANIES OFFERING COVERAGE ON THE MARKETPLACE

Company	2019	2018	2017	2016	2015	2014
Highmark WV	Statewide	Statewide	Statewide	Statewide	Statewide	Statewide
CareSource WV*	32 Counties	32 Counties	32 Counties	10 Counties	N/A	N/A

\* CareSource WV will be offering statewide coverage effective January 1, 2021.

2019 Covered Lives



**2019 Population in West Virginia 1,792,147 (as of July 1, 2019)**

\*The WVOIC regulates 287,188 insurance policies (195,886 Private Policies + 91,302 Medicare Supplement Plans).

\*\*PEIA total is 220,916 – 6,786 (covered by the Health Plan and included in the private insurance count) = 214,130.

\*\*\*Medicare: 290,466 (Traditional Medicare) + 150,030 (Medicare Advantage Plans) – 91,302 (Medicare Supplement Plans) – 50,393 (PEIA Retirees Medicare Advantage Plans) = 299,801



## Comparison of Public and Private Health Insurance Number of Covered Lives by Year

Type	2019	2018	2017	2016	2015	2010
Private Insurance	195,886	197,223	210,125	229,637	238,310	252,000
Medicare Supplement Plans	91,302	87,431	87,151	91,339	89,152	88,748
Policy Regulated by WVOIC	<b>287,188</b>	<b>284,654</b>	<b>297,276</b>	<b>320,976</b>	<b>327,462</b>	<b>340,748</b>
Traditional Medicare and Advantage Plans	299,801	299,760	296,793	286,117	282,949	251,252
Self-Insured (ERISA)	314,814	306,763	319,590	294,278	299,622	267,084
Medicaid	484,511	498,705	528,748	536,235	548,380	334,000
CHIP	22,346	33,631	21,214	30,829	34,729	38,000
PEIA*	214,130	212,619	170,483	176,184	170,558	150,000
PEIA Retirees	50,393	49,013	47,387	48,479	45,201	38,000
Uninsured	116,490	144,467	131,000	104,000	116,000	271,000
<b>Total Reported</b>	<b>1,789,673</b>	<b>1,829,612</b>	<b>1,812,491</b>	<b>1,797,098</b>	<b>1,824,901</b>	<b>1,690,084</b>
WV Population	1,792,147	1,805,832	1,815,857	1,830,000	1,844,000	1,853,000

\*PEIA made a correction to the 2019 and 2018 data this year.

For total Medicare lives add the following together: Medicare Supplement Plans, Traditional Medicare and Advantage Plans and PEIA Retirees

## LEGAL DIVISION

The OIC's Legal Division performs many functions including providing legal counsel to the Insurance Commissioner and all associated divisions thereof, as well as carrying out many day-to-day legal responsibilities entrusted to the Insurance Commissioner by the West Virginia Legislature. Responsibilities of the Legal Division include:

**LEGAL SUPPORT FOR ASSOCIATED DIVISIONS** - The Legal Division provides general legal support for all other divisions of the OIC, including all insurance and workers' compensation related regulatory functions. This involves attending meetings with the directors and staff of other divisions, consulting on legal issues relating to activities of other divisions, and assisting with legal interpretations of statutes, case law, etc., as appropriate.

**LEGISLATION AND RULES** - The Legal Division consults, researches and drafts proposed legislation and legislative rules that are submitted for Legislative approval. Some bills and rules are based on models promulgated by the National Association of Insurance Commissioners ("NAIC") and others are custom drafted. Further, the Legal Division drafts legislative exempt workers' compensation rules that are submitted to the Workers' Compensation Industrial Council for review and approval. During the legislative sessions, Legal Division attorneys attend committee meetings to respond to questions relating to the proposed bills and rules. During the rule-making process, Legal Division attorneys receive and respond to public comments, and staff ensures that all steps in the process are correctly performed.

**INSURANCE BULLETINS** - When the Insurance Commissioner needs to provide information to the public and to regulated entities, an Insurance Bulletin, formerly called an Informational Letter, is drafted by the Legal Division. Insurance Bulletins are issued for many reasons, including the provision of guidance for compliance with laws or rules, or the introduction of clarity to an area that may be subject to differing legal interpretations. Other means of dissemination of policy and legal guidance from the Insurance Commissioner may also be drafted in the Legal Division.

**ADMINISTRATIVE HEARINGS** - The Legal Division is responsible for reviewing and ascertaining need for administrative hearings in First- and Third-Party Unfair Trade Practice issues or other issues as required by the West Virginia Code. The process is described respectively in W.Va. Code of State R. §114-13-1, *et seq.* (First and Third Party) and §114-76-1, *et seq.* (Third Party supplemental rule).

The Legal Division schedules hearings, engages court reporters and hearing examiners, and provides the venue for hearings relating to consumer complaints that were not resolved in the Consumer Service Division. The Legal Division also investigates complaints relating to alleged violations of unfair claims settlement practices provisions of the Unfair Trade Practices Act or other alleged violations of the West Virginia Code, and determines whether merit exists to proceed with hearing on the complaint.

**INVESTIGATIONS** - The Legal Division investigates complaints dealing with all aspects of insurance compliance contained in Chapters 33 and 23 of the West Virginia Code. The Legal Division receives referrals from various sources including the public, the insurance industry, and other divisions within the Insurance Commission, relating to possible misconduct by insurance industry representatives, insurance producers, and unauthorized insurers. These allegations are investigated to determine if West Virginia insurance laws or rules have been violated, and if so, the investigation will result in administrative action against the target of the investigation.

**ADMINISTRATIVE ACTIONS** - At the conclusion of an investigation in which it has been determined that there has been a violation of insurance laws, or when the Insurance Commissioner is informed that an insurer is in hazardous financial condition, the Legal Division files an administrative complaint against insurance companies seeking penalties and/or suspension or revocation of the Certificate of Authority, as appropriate. Administrative complaints may also be filed before the Insurance Commissioner to penalize an unauthorized insurer, or injunctive relief may be sought in Circuit Court to end the illegal operations of these entities. Administrative action may also be taken against insurance producers, professional employer organizations (PEOs), third-party administrators, pharmacy benefit managers and other entities regulated by Chapter 33 of the West Virginia Code when violations of statutes or rules have been committed.

**LICENSURE ACTIONS** - The Legal Division assists in license suspensions, revocations and/or fines regarding insurance producers and other licensees including, but not limited to, insurers that are found to be financially insolvent or found to be in such hazardous financial condition as to render their continued transaction of insurance business hazardous to their policyholders or the people of West Virginia.

**APPEALS AND LITIGATION** - On some occasions, an order entered by the Insurance Commissioner in either a consumer complaint proceeding, or other administrative proceeding is appealed. When this occurs, the Legal Division sends the record of the administrative proceeding to the Circuit Court of Kanawha County. If the administrative proceeding was being pursued by the Insurance Commissioner, a Legal Division attorney may appear to defend the actions taken before the Insurance Commissioner. Otherwise, support will be given to outside counsel. The Legal Division also files actions in the Circuit Court of Kanawha County against employers who fail to maintain workers' compensation insurance in order to enjoin the employer from operating until it complies with the law.

**FRAUD PROSECUTION** - The Legal Division can directly represent the OIC in prosecution of fraudulent insurance activity or who provide support in an advisory role with state and federal prosecutors on similar criminal issues. When called upon to assist as a special assistant prosecutor, an OIC attorney will perform various functions depending upon the level of assistance requested by the state or federal prosecutor.

**WORKERS' COMPENSATION PRIVATIZATION** - The Legal Division supports the "Old Fund" as created by privatization legislation in 2005, as well as open market issues. Assistance includes working with claimants and their counsel, defense counsel, third party administrators in all tribunals and courts including West Virginia circuit courts, the Office of Judges, the Board of Review and the West Virginia Supreme Court of Appeals.

**CONSUMER, INDUSTRY AND OTHER STAKEHOLDER INQUIRIES** - While the Legal Division cannot provide legal advice to outside parties, it does endeavor to point inquiries in the appropriate direction where possible or provide analysis for the market as a whole, and opines on issues of broad importance.

**FREEDOM OF INFORMATION ACT (FOIA) REQUESTS** - All FOIA requests are directed to, and processed by, the Legal Division. Legal Division staff gathers all public records that are responsive to the request and provides them to the requester, pursuant to and in compliance with the Act.

Some of the major activities of the Legal Division are discussed in more detail below.

## **LEGISLATION**

The following is a brief synopsis of the significant legislation enacted during the 2019 regular sessions of the West Virginia Legislature. This information is not to be construed as inclusive of all legislation which may affect the insurance industry or insurance consumer, nor should it be construed as a comprehensive explanation of the bills addressed. Rather, the information provided is intended to highlight the bills significantly affecting the insurance community at large.

### **BILLS**

#### **2019 REGULAR SESSION**

##### ***Senate Bill 30 – Eliminating tax on annuity considerations collected by life insurer (Effective June 7, 2019)***

The legislation amends W.Va. Code § 33-5-15 to repeal the premium tax on life insurance annuity products, effective January 1, 2021. Presently, the tax imposed is 1%.

##### ***Senate Bill 240 – Repealing certain legislative rules no longer authorized or obsolete (Effective February 11, 2019)***

The bill repeals certain legislative rules that are no longer authorized or are considered obsolete. The legislation repeals the following Insurance Commissioner rules:

114 CSR 29 - Health Insurance Benefits for Temporomandibular and Craniomandibular Disorders

114 CSR 31 - Guaranteed Loss Ratios as Applied to Individual Sickness and Accident Insurance Policies

114 CSR 58 - External Review of Coverage Denials

114 CSR 73 - Small Employer Eligibility Requirements

##### ***Senate Bill 310 – Establishing certain requirements for dental insurance (Effective July 1, 2019)***

The bill prohibits insurers from requiring dentists to provide a discount on noncovered services, prohibits dentists from charging covered persons more for noncovered services than their customary or usual rate for the services; and mandates that insurers may not provide for a nominal reimbursement for a dental service or material to claim that the service or material is covered. The new provisions will apply to dental plans, contracts and participating provider agreements which take effect or are renewed on or after July 1, 2019.

##### ***Senate Bill 340 – Repealing obsolete provisions of code relating to WV Physicians Mutual Insurance Company (Effective June 6, 2019)***

The legislation repeals Article 20F, Chapter 33 of the West Virginia Code with respect to the formation and operation of the West Virginia Physicians' Mutual Insurance Company (the "Company"). The provisions being repealed were enacted in 2001 in response to a crisis relating to the cost and availability of medical malpractice insurance. The Company is now operating, and is being regulated by the Insurance Commissioner, in the same manner as other casualty insurance carriers issuing similar policies in the state.

***Senate Bill 485 – Clarifying notification requirements for property insurance purposes (Effective March 7, 2019)***

The bill provides that when a homeowners insurer intends to transfer a policyholder between companies within the same insurance group, the insurer must provide notice to the policyholder of such intention and include an explanation of the reason(s) for the transfer. The legislation further states that when an insurer seeks to renew a property insurance policy with a new policy which includes changes made by the insurer resulting in the removal of coverage, diminution in the scope or reduction in coverage, change in deductible or addition of an exclusion, the insurer must provide such notice to the policyholder of such intention and include an explanation of the changes expected to be made by the insurer. This requirement does not apply to any change, reduction or elimination of coverage made at the request of the insured, any correction of typographical or scrivener's errors or the application of mandated legislative changes.

***Senate Bill 489 – Relating to the Pharmacy Audit Integrity Act (Effective February 26, 2019)***

The legislation requires pharmacy benefit managers (PBMs) to obtain a license from the Insurance Commissioner. An application for licensure must be submitted within six months after the Insurance Commissioner promulgates a legislative rule that addresses the required qualifications of PBMs and sets forth penalties and fines for violations of applicable law or rule provisions. The bill mandates certain information that the application must capture and provides that the license is valid for two years. The application for licensure, and subsequent renewal application, must be accompanied by evidence of financial responsibility of \$1 Million.

The bill further requires a PBM to provide the Insurance Commissioner with a report describing the PBM's network. The network may not be comprised of only mail-order benefits but must have a mix of mail-order benefits and physical stores in the state. Failure to provide a timely network report is grounds for suspension or revocation of a PBM's license.

The OIC may examine or audit a PBM's books and records to determine if the PBM is following applicable law. Any information or data acquired during an examination or audit of the PBM is deemed proprietary, confidential, and exempt from disclosure under the Freedom of Information Act.

The bill further provides that a PBM which reimburses a 340B entity for drugs that are subject to an agreement under 42 U.S.C. § 256b shall not reimburse the 340B entity for pharmacy-dispensed drugs at a rate lower than that paid for the same drug to pharmacies similar in prescription volume that are not 340B entities. A PBM may not discriminate against a 340B entity in a manner that prevents or interferes with the patient's choice to receive such drugs from the 340B entity. A 340B entity is "an entity participating in the federal 340B drug discount program, as described in 42 U.S.C. § 256b, including its pharmacy or pharmacies, or any pharmacy or pharmacies, contracted with the participating entity to dispense drugs purchased through such program."

The legislation also defines when an auditing entity may seek a fee, charge-back, recoupment or other adjustment for a dispensed product or any portion of a dispensed product. Any such fee, charge-back, recoupment or other adjustment is limited to the actual financial harm associated with the dispensed product or the actual underpayment or overpayment.

***Senate Bill 531 – Relating generally to workers' compensation claims (Effective June 4, 2019)***

The bill amends W. Va. Code § 23-5-7 relating to the compromise and settlement of workers' compensation claims. The law currently provides that the claimant may negotiate a final settlement of any and all issues in a claim, provided that in the settlement of medical benefits for non-orthopedic occupational disease claims, the claimant must be represented by legal counsel. The subject bill amends W.Va. Code § 23-5-7 to provide that, for the purposes of that code section only, the term “non-orthopedic occupational disease” claim does not include an occupational hearing loss or hearing impairment claim.

***Senate Bill 545 – Relating to HIV testing (Effective March 2, 2019)***

The bill eliminates the specific HIV/AIDS testing protocols required to be used by insurers in connection with applications for life and health insurance policies, as set forth in 114 CSR 27. The effect of the amendment is that insurers must use an acceptable testing protocol to deny coverage or rate a substandard risk, including the use of FDA-licensed tests, but are not required to follow any specific testing protocol set forth by the Commissioner.

***House Bill 2351 – Relating to regulating prior authorizations (Effective February 20, 2019)***

The legislation requires the Public Employees Insurance Agency, managed care organizations and private commercial health insurers (collectively referred to herein as the “Subject Entities”) to develop prior authorization forms by October 1, 2019. The forms must include (1) instructions for the submission of clinical documentation; (2) an electronic notification confirming receipt of the prior authorization request if the forms are submitted electronically; (3) a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment, and anything else requiring a prior authorization; and (4) a notice to the patient if the Subject Entity requires a plan member to use step therapy protocols.

The Subject Entities must be prepared to accept electronic prior authorization requests, and respond to the requests through electronic means, by July 1, 2020. If the Subject Entity is currently accepting electronic prior authorization requests, it must implement the provisions of the bill by January 1, 2020. A response to an electronic prior authorization request must be provided seven days from receipt. A two-day response is mandated if the request is for medical care or other services for a condition in which a seven-day response could either seriously jeopardize the life, health, or safety of the patient or others, or subject the patient, in the opinion of a health care practitioner, to adverse health consequences without the requested care or treatment.

If a prior authorization request is incomplete, the Subject Entity shall identify all deficiencies and return the prior authorization to the health care practitioner within two business days from the date of the electronic receipt of the request. The health care practitioner must provide the additional information requested within three business days from the date the return request is received, or the request is deemed denied and a new request must be submitted.

The Subject Entities must use national best practice guidelines to evaluate a prior authorization request. If a prior authorization request is rejected and the health care practitioner who submitted the request asks for an appeal by peer review, the peer review shall be with a health care practitioner similar in specialty, education, and background. However, the Subject Entity's medical director may ultimately decide the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. The timeframe regarding the appeal process must not take longer than thirty days.

If a health care practitioner has performed an average of thirty procedures per year and in a six-month time period has received a 100% prior approval rating, the bill provides that a Subject Entity shall not require the practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month timeframe, the exemption must be reviewed prior to renewal. This exemption may be rescinded if the Subject Entity determines the health care practitioner is not performing the procedure in conformity with the insurance contract or plan.

The timeframes set forth in the bill are not applicable to prior authorization requests submitted through telephone, mail, or fax.

***House Bill 2474 – Relating to a reserving methodology for health insurance and annuity contracts (Effective June 7, 2019)***

The bill amends West Virginia’s “Standard Valuation Law,” which authorizes a principle-based reserving methodology for life, annuity and health policies. West Virginia amended its Standard Valuation Law in 2014 to provide for a principle based reserving methodology for life, annuity and health policies. The 2019 revisions to West Virginia’s “Standard Valuation Law,” clarify that the principle based reserving methodology is to be applied to accident and health insurance contracts.

***House Bill 2476 – Relating to the valuation of a motor vehicle involved in an insurance claim (Effective June 2, 2019)***

The legislation updates W. Va. Code § 33-6-33 by striking the reference to the 5% excise tax and replacing it with language referring to the consumer sales tax in W. Va. Code § 11-15-3c(b). W. Va. Code § 33-6-33 currently provides that, upon the total loss of a motor vehicle, the insurer must include a payment equal to 5% of the cash settlement value as reimbursement to the claimant for the excise tax imposed by W. Va. Code § 17A-3-4. The excise tax on the purchase of a motor vehicle was abolished and replaced with a sales tax, currently 6%. This legislation does not increase any tax but updates the code language to refer to the tax that is currently imposed.

***House Bill 2479 – Corporate Governance Annual Disclosure Act (Effective June 7, 2019)***

The bill requires insurers writing more than \$500 Million or insurance groups writing more than \$1 Billion in annual premium to maintain an internal audit function providing independent, objective and reasonable assurance to the audit committee and insurer management regarding the insurer’s governance, risk management and internal controls. An “audit committee” is a committee or equivalent body established by the Board of Directors of an insurer or insurer group for the purpose of overseeing the accounting and financial reporting processes of the insurer or insurer group.

The legislation also requires an insurer or insurer group to provide confidential disclosures regarding its corporate governance practices to the lead state and/or domestic regulator annually by June 1. The annual disclosure will include the board or other entity responsible for overseeing the insurer or insurer group and the levels at which that oversight occurs. The insurer or group insurer will also be required to report, among other things, its processes for performance evaluation, compensation and corrective action to ensure effective senior management throughout the organization.

***House Bill 2480 – Relating to the regulation of an internationally active insurance group (Effective June 6, 2019)***

The bill revises the West Virginia Insurance Holding Company Systems Act. The amendments provide authority to a designated state to act as a group-wide supervisor for an internationally active insurance group (“IAIG”). For a holding company group to be considered an IAIG, it must meet various criteria, including premiums written in at least three countries, at least 10% of premiums written outside the United States, and total assets greater than \$50 Billion or total premiums greater than \$10 Billion. A group-wide supervisor may request group-level information from an IAIG, assess the enterprise risks affecting the group, compel the development and implementation of reasonable measures to recognize and mitigate enterprise risks, and communicate and share group-wide information with other regulators.

***House Bill 2617 – Relating to the form for making offer of optional uninsured and underinsured coverage by insurers (Effective June 5, 2019)***

This legislation provides that insurers are permitted to make the required offers of uninsured motor vehicle coverage and underinsured motor vehicle coverage via electronic means and allows for electronic signatures in conformity with the Uniform Electronic Transactions Act. Delivery by electronic means is not required and is only permitted if the policyholder has consented. The bill also requires an insurer, when offering to place an insured with an affiliate of the insurer, to make available a new uninsured and underinsured motorist coverage offer form.

***House Bill 2647 – Self Storage Limited License Act (Effective June 5, 2019)***

The legislation establishes a limited lines producer license for self-service storage providers. The bill permits the Commissioner to provide a limited lines license to an owner or operator of a self-service storage facility for the purpose of soliciting and selling self-service storage insurance. Such insurance is defined as “personal property insurance offered in connection with and incidental to the lease or rental of leased space at a self-service storage facility that provides coverage to occupants at the self-service storage facility where the insurance is transacted for the loss of or damage to personal property that occurs at that facility or when the property is in transit to or from that facility during the period of the rental agreement.”

The subject license would apply to the owner’s employees and authorized representatives. A licensee would not be subject to the agent pre-licensing education, examination or continuing education requirements provided in W. Va. Code § 33-12-1 *et seq.* However, the insurer issuing the self-service storage coverage must appoint a supervising entity to supervise the administration of the program that includes development of a training regimen for employees and authorized representatives. The bill requires the owner to provide certain disclosures to a prospective purchaser of the subject insurance, including that the insurance may present a duplication of insurance already provided by the prospective purchaser’s homeowners or renters insurance and that the purchase of the insurance is not required in order to rent space from the owner. The owner must also summarize the material terms of the insurance coverage and inform the prospective purchaser that he or she may cancel the coverage at any time. Employees and authorized representatives may receive compensation for enrolling occupants for the coverage if the compensation for those activities is incidental to their overall compensation.

The Commissioner may impose a fine not to exceed \$500 per violation or \$5,000 in the aggregate, and impose other discretionary penalties, for violations of the bill’s provisions by an owner or its employees or authorized representatives. A supervising entity may be subject to administrative actions provided by W. Va. Code § 33-12-24 if the Commissioner determines that the entity has not performed its required duties under the legislation.



***House Bill 2690 – Relating to guaranty associations (Effective May 29, 2019)***

The bill updates Chapter 33, Article 26A, West Virginia Life and Health Insurance Guaranty Association Act (the “Act”). The legislation removes the requirement that the Insurance Commissioner promulgate a rule establishing the form and content of a disclaimer that describes the general purposes and current limitations of the Act. Under the law’s revision, the Commissioner simply needs to establish the form and content of the disclaimer. The disclaimer must be provided by life and health insurers to their insureds at the time of delivery of the policy or contract. The bill requires an insurer to retain evidence of delivery of the disclaimer to an insured for so long as the policy or contract remains in effect.

The bill further eliminates the mandate for the Insurance Commissioner to promulgate a rule creating a notice of non-coverage to be used by life and health insurers and removes the requirement that life and health insurers provide that notice of non-coverage to their insureds.

***House Bill 2770 – Fairness in Cost-Sharing Calculation Act (Effective June 7, 2019)***

The legislation creates the Fairness in Cost Sharing Calculation Act by establishing cost sharing calculations for health insurance plans and pharmacy benefits. The bill provides that when an insured’s contribution to an applicable cost sharing requirement is calculated, the insurer and pharmacy benefits manager must include any cost sharing amounts paid by the insured or on behalf of the insured by another person. Cost sharing means any copayment, coinsurance or deductible required by or on behalf of an insured in order to receive a specific health care item or service covered by a health plan. The new provisions are effective for policies, contracts, plans, or agreements issued or renewed on or after January 1, 2020.

***House Bill 2954 – Defining certain terms used in insurance (Effective June 5, 2019)***

The bill amends the definition of “provider” in W. Va. Code §33-45-1(10) to include a person or other entity who desires to provide medical services in this state and holds a valid temporary license or permit issued pursuant to Chapter 30 of the West Virginia Code. The legislation further clarifies that an insurer is obligated to pay a medical provider for services rendered during the provider’s credentialing period, and that an insurer may obtain a refund of overpayments should the provider fail to become credentialed.

**INFORMATIONAL LETTERS**

Five (5) Informational Letters were issued in 2019:

Informational Letter No. 202 - Permissible Duties of Unlicensed Customer Service Representatives

Informational Letter No. 203 - Summary of 2019 Legislation

Informational Letter No. 204 - West Virginia Life and Health Insurance Guaranty Association Act Summary Document

Informational Letter No. 205 - Guidance on Rebating and Value-Added Products and Services

Informational Letter No. 206 - Mandatory Reporting of Known Suspected Insurance Fraud & Related Criminal Activity; Potential Consequences for Failure to Report

## **FREEDOM OF INFORMATION REQUESTS AND RESPONSES**

One hundred fifteen (115) requests for information were received and responded to by the Legal Division in accordance with the Freedom of Information Act in 2019.

### **EMERGENCY ORDERS**

There were no emergency orders issued by the Insurance Commissioner in 2019.

### **LITIGATION**

The Insurance Commissioner was a party to or involved in the following civil actions in the year 2019 regarding insurance or workers' compensation regulatory matters:

State of WV ex rel. Offices of WV Insurance Commissioner v. Mountaineer Landscape Supply LLC. Civil Action No. 19-C-110

State of WV ex rel. Offices of WV Insurance Commissioner v. Michael Rodoussakis. Civil Action No. 19-C-109

State of WV ex rel. Offices of WV Insurance Commissioner v. Terry Hinchman Jr. Civil Action No. 19-C-105

State of WV ex rel. Offices of WV Insurance Commissioner v. D&A Entertainment LLC. Civil Action No. 19-C-108

State of WV ex rel. Offices of WV Insurance Commissioner v. Betty L. Edwards. Civil Action No. 19-C-303

State of WV ex rel. Offices of WV Insurance Commissioner v. Apanowicz Enterprises Inc. Civil Action No. 19-C-385

State of WV ex rel. Offices of WV Insurance Commissioner v. Frank Sutherland and Daniel Windley. Civil Action No. 19-C-621

State of WV ex rel. Offices of WV Insurance Commissioner v. Justin Kiser. Civil Action No. 19-C-622

State of WV ex rel. Offices of WV Insurance Commissioner v. Kimberly Tomblin. Civil Action No. 19-C-775

State of WV ex rel. Offices of WV Insurance Commissioner v. Perkins Management Services Co. Civil Action No. 19-C-1110

State of WV ex rel. Offices of WV Insurance Commissioner v. Robert Tranvinski dba The Carpet Center. Civil Action No. 19-C-1194

State of WV ex rel. Offices of WV Insurance Commissioner v. Cardinal Psychological Services LLC. Civil Action No. 19-C-1192

State of WV ex rel. Offices of WV Insurance Commissioner v. Alannah Parsons dba Silvermine Logging.  
Civil Action No. 19-C-1188

State of West Virginia ex rel. West Virginia Offices of the Insurance Commissioner v. Professional Payroll Concepts, Inc., dba Personnel Management of WV, Krista G. Chitwood, in her individual capacity and in her capacity as President and Owner of Professional Payroll Concepts, Inc., and Andrew Rude, in his individual capacity and as Treasurer of Professional Payroll Concepts, Inc.; Civil Action No. 19-C-432

State of West Virginia ex rel. West Virginia Offices of the Insurance Commissioner v. Russell R. Rucker, III, in his individual capacity and in his capacity as President and Owner of Rucker, Billups & Fowler, Inc.; Civil Action No. 19-P-434

Adam Reeves v. Insurance Commissioner, State of West Virginia, Circuit Court of Marion County, Case No. 18-AA-1

Adam Ray Reeves v. Insurance Commissioner, State of West Virginia, Circuit Court of Kanawha County, Case No. 19-AA-20

Norman P. Jefferson, Sr. v. QBE Insurance Corp., American Home Insurance Agency and State of West Virginia Offices of the Insurance Commissioner, Civil Action No. 18-AA-233

### **REFERRALS OPENED**

A total of one thousand seven hundred ninety-eight (1,798) referrals were opened by the Regulatory Compliance Unit of the Legal Division in 2019. A referral is an issue referred to the Regulatory Compliance Unit of the Legal Division from various divisions within the OIC, the public, or outside state or federal agencies, including the Division of Labor or State Auditor's Office. Below is a breakdown of the different types of referral received in 2019.

<b>TYPE OF REFERRAL</b>	<b>NUMBER OF REFERRALS</b>
Company	9
Company - Rates and Forms	0
Company - Surplus Lines	0
Company - Unauthorized Agency	1
Company - Unlicensed Business Entity	0
Company – Financial Conditions	16
Company – Financial Conditions – PEO	1
Company - Financial Conditions – Third Party Admin.	1
Company – Tax Division	2
Company - Delinquent Taxes	2
Financial Conditions – Managing General Agent	1
First Party	55
First Party - Rates & Form	0
General Inquiries	0
Market Conduct - Analysis	1

<b>TYPE OF REFERRAL</b>	<b>NUMBER OF REFERRALS</b>
Market Conduct - Class Action	11
Market Conduct - Continuum	0
Market Conduct - External Review Application	0
Market Conduct - Multi State Collaborative - Informal	0
Market Conduct - Multi State Collaborative - National	0
Market Conduct - Multi State Collaborative - National Advisory Organization	1
Market Conduct - Multi State Collaborative -Regional	0
Market Conduct- Multi State Collaborative-Targeted Exam	3
Market Conduct - Self Insured	0
Market Conduct - Specialized	0
Market Conduct - Statutory	0
Market Conduct - Targeted	0
Market Conduct - Third Party	1
Other Litigation - Company	1
Other Litigation - Complaint	0
Other Litigation - First Party	1
Other Litigation - Other Litigation	0
Other Litigation - Subpoenas	0
Other Litigation - Third Party	1
Other Litigation - Workers' Compensation	0
Producer Licensing - Administrative Action	16
Producer Licensing - Agency	1
Producer Licensing - Application	11
Producer Licensing - Clearance	67
Producer Licensing - Unauthorized Agent	0
Third Party	159
WC Claims - Litigation	0
WC Claims - Settlement Review	37
WCC Compliance - Private Carrier - Audit Appeal	0
WCC Compliance - Collection	0
WCC Compliance - Contempt	1
WCC Compliance - General Referral	1
WCC Compliance - Failure to Timely Act	32
WCC Compliance - Injunctions	26
WCC Compliance - Injunction Investigations	4
WCC Compliance - Investigation	8
WCC Compliance - Pending Account/Compliance Check	1,314
WCC Compliance - Postings	13
<b>TOTAL</b>	<b>1,798</b>

### **ADMINISTRATIVE PROCEEDING CASES OPENED**

A total of two hundred forty-two (242) administrative proceeding cases were opened by the Regulatory Compliance Unit of the Legal Division in 2019. An administrative proceeding is a case in which an action is being taken. Below is a breakdown of the different type of administrative proceedings with the number opened for 2019.

<b>TYPE OF REFERRAL</b>	<b># CASES OPENED</b>
Administrative Proceeding - Producer Licensing	14
Administrative Proceeding - Company	7
Administrative Proceeding - Company - Rates & Forms	0
Administrative Proceeding - First Party	5
Administrative Proceeding – Financial Conditions	16
Administrative Proceeding - Failure to Timely Act	32
Administrative Proceeding - General Referral	0
Administrative Proceeding - Market Conduct	8
Administrative Proceeding - Market Conduct - Self Insured	4
Administrative Proceeding - Third Party	156
<b>TOTAL</b>	<b>242</b>

### **ADMINISTRATIVE PROCEEDING CASES CLOSED**

A total of two hundred five (205) administrative proceeding cases were closed by the Regulatory Compliance Unit of the Legal Division in 2019. Below is a breakdown of the different type of administrative proceedings with the number closed for 2019.

<b>TYPE OF REFERRAL</b>	<b># CASES CLOSED</b>
Administrative Proceeding - Producer Licensing	6
Administrative Proceeding - First Party	5
Administrative Proceeding - Company	1
Administrative Proceeding – Financial Conditions	10
Administrative Proceeding - Failure to Timely Act	31
Administrative Proceeding - Market Conduct	6
Administrative Proceeding - Market Conduct – Self Insured	0
Administrative Proceeding - Rates and Forms	0
Administrative Proceeding - Third Party	146
<b>TOTAL</b>	<b>205</b>

## HEARINGS

A total of twenty-seven (27) hearings were held in 2019. Below is a breakdown of the different types of hearings held in 2019. The WC Contempt and WC Injunction hearings were held in Circuit Court.

<b>TYPE OF HEARINGS</b>	<b># HEARINGS SCHEDULED</b>	<b># HEARINGS HELD</b>
1033 Committee Hearing	0	0
Appeal - Third Party	0	0
Company	0	0
Company - PEO	3	1
Company - Tax	6	2
Financial Conditions	0	0
First Party	6	0
General Inquiries	2	1
Producer Licensing	18	9
Restitution Hearing	2	0
Third Party	27	6
Third Party - Initial	154	0
WC Contempt	1	1
WC Injunction	16	3
WCC Compliance Rule 11	4	4
<b>TOTAL</b>	<b>239</b>	<b>27</b>

## INVESTIGATIONS OPENED

A total of one thousand five hundred twenty-two (1,522) investigations on all matters were opened by the Regulatory Compliance Unit of the Legal Division in 2019. Below is a breakdown of the different types of investigations opened during 2019.

<b>TYPE OF INVESTIGATIONS</b>	<b># CASES OPENED</b>
Producer Licensing	93
Company	5
First Party	43
General Referral	0
Third Party	158
WC Contempt	0
WC General Referral	0
WC Injunction Investigation	4
WC Investigation	8
WC Compliance Checks	1,201
WC Posting	10
<b>TOTAL</b>	<b>1,522</b>

## INVESTIGATIONS CLOSED

A total of one thousand four hundred sixty-eight (1,468) investigations on all matters were closed by the Regulatory Compliance Unit of the Legal Division in 2019. Below is a breakdown of the different types of investigations closed during 2019.

<b>TYPE OF INVESTIONS</b>	<b># CASES CLOSED</b>
Producer Licensing	97
Company	8
First Party	13
General Referral	0
Third Party	143
WC Contempt	0
WC General Referrals	0
WC Injunction Investigation	4
WC Investigation	9
WC Compliance Checks	1,184
WC Postings	10
<b>TOTAL</b>	<b>1,468</b>

## POSTINGS AND COMPLIANCE CHECKS

One thousand two hundred ten (1,210) referrals were made to the Regulatory Compliance Unit of the Legal Division for employer postings or employer compliance checks in regard to employers that failed to maintain mandatory workers' compensation coverage, or were suspected of having lapsed workers' compensation coverage, in 2019. Three hundred thirty-seven (337) employers were formally posted by the Regulatory Compliance Unit. Eight hundred seventy-three (873) postings and compliance checks were attempted but could not be completed due to various reasons (e.g. employer was no longer in business or the employer was no longer at the address on file). The remainder of referrals were resolved through compliance checks with the employers and/or other resolution of their accounts.

## ORDERS AND COLLABORATIVE ACTIONS

A total of eighty-three (83) orders were prepared by the Regulatory Compliance Unit (RCU) of the Legal Division in 2019 and two (2) collaborative actions were entered into as a result of market conduct actions concerning issues with multistate insurers in 2019. Below is a breakdown of the types of orders prepared by the RCU, collaborative actions and fine and restitution amounts for 2019.

<b>TYPE OF CASE</b>	<b>FINAL ORDERS PREPARED BY RCU</b>	<b>COLLABORATIVE ACTION</b>	<b>FINE AMOUNT</b>	<b>RESTITUTION AMOUNT</b>
Company	0	0	\$0.00	\$0.00
Company - Rates & Forms	0	0	\$0.00	\$0.00
Company-Financial Conditions	12	0	\$3,000.00	\$0.00

TYPE OF CASE	FINAL ORDERS PREPARED BY RCU	COLLABORATIVE ACTION	FINE AMOUNT	RESTITUTION AMOUNT
First Party	1	0	\$0.00	\$0.00
Market Conduct -Multi State Collaborative Action	0	2	\$0.00	\$83,088.10
Market Conduct - Statutory	8	0	\$24,000.00	\$0.00
Market Conduct - Third Party	3	0	\$11,250.00	\$0.00
Market Conduct - Self Insured	4	0	\$16,750.00	\$0.00
Producer Licensing	8	0	\$25,000.00	\$0.00
Third Party	7	0	\$0.00	\$1,560.82
WCC Compliance - Contempt	0	0	\$0.00	\$0.00
WCC - Failure to Timely Act	29	0	\$11,000.00	\$0.00
WCC Compliance - Injunctions	11	0	\$3,442.00	\$0.00
	<b>83</b>	<b>2</b>	<b>\$94,442.00</b>	<b>\$84,648.92</b>

### DISPOSITIONS OF CASES

A total of three hundred eighty-four (384) cases were closed by the Regulatory Compliance Unit of the Legal Division in 2019. A disposition is the outcome of the case. The information below reflects the number of each type of case, the specific issue and the number for that issue.

TYPE OF CASE	# CASES
FINCON - COA Revoked	0
FINCON COA - Suspended	1
AGENT LICENSING - Revoked	13
AGENT LICENSING - Suspended	0
FINCON - Final Report Adopted	8
MARKET CONDUCT - Final Report Adopted	5
WC POSTINGS/COMPLINCE CHECKS - Posted	337
WC INJUNCTIONS - Injunctions Granted	12
WC CONTEMPT – Co/tempt Granted	8
<b>Total</b>	<b>384</b>



## APPEALS OPENED

No appeal cases were opened by the Regulatory Compliance Unit of the Legal Division in 2019.

## DISCIPLINARY ACTIONS

### INSURANCE PRODUCERS:

During the year 2019, \$25,000 in penalties were assessed as a result of disciplinary actions taken against individual insurance producers for violation of, and in accordance with W. Va. Code §33-12-12(a)(1), the person is currently licensed as a resident and in good standing in his or her home state; §33-12-12(e), if the insurance department of the nonresident insurance producer's resident state suspends, terminates, or revokes the producer's insurance license in that state, the nonresident insurance producer shall notify the commissioner and shall return the West Virginia nonresident license; §33-12-24(b)(1), providing incorrect, misleading, incomplete or materially untrue information in the license application; §33-12-24(b)(2), violating any insurance laws, or violating any regulation, subpoena or order of the Insurance Commissioner or of another state's Insurance Commissioner; §33-12-24(b)(4), improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business; §33-12-24(b)(7), having been convicted of or pleaded nolo contendere to a misdemeanor in connection with his or her activities as an agent, solicitor, or excess line broker; §33-12-24(b)(9), using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere; §33-12-34(a), failure to report to the insurance commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter, including a copy of the order, consent to order or other relevant legal documents; and §33-12-34(b), failure to report to the Insurance Commissioner within thirty days of the initial pretrial hearing date, any criminal prosecution of the producer taken in any jurisdiction, including a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

The licenses of 13 individual insurance producers were revoked in 2019 (Disposition of Cases/License Revoked) for violation of and in accordance with W. Va. Code §33-12-12(a)(1), the person is currently licensed as a resident and in good standing in his or her home state; §33-12-12(e), if the insurance department of the nonresident insurance producer's resident state suspends, terminates, or revokes the producer's insurance license in that state, the nonresident insurance producer shall notify the commissioner and shall return the West Virginia nonresident license; §33-12-24(b)(1), providing incorrect, misleading, incomplete or materially untrue information in the license application; §33-12-24(b)(2), violating any insurance laws, or violating any regulation, subpoena or order of the Insurance Commissioner or of another state's Insurance Commissioner; §33-12-24(b)(4), improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business; §33-12-24(b)(7), having been convicted of or pleaded nolo contendere to a misdemeanor in connection with his or her activities as an agent, solicitor, or excess line broker; §33-12-24(b)(9), using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere; §33-12-34(a), failure to report to the insurance commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter, including a copy of the order, consent to order or other relevant legal documents; and §33-12-34(b), failure to report to the Insurance Commissioner within thirty days of the initial pretrial hearing date, any criminal prosecution of the producer taken in any jurisdiction, including a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

## INSURERS:

During the year 2019, \$3,000.00 in penalties and fees were assessed as a result of disciplinary actions taken against insurers in accordance with and for violation of W. Va. Code §33-2-9(i)(3), the refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension, revocation, refusal or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction; and §33-4-14(d), each domestic, foreign and alien insurer, organization or corporation that is subject to the requirements of this section shall annually, on or before March 1 each year, and forty-five days after the end of the first, second and third calendar quarters, file with the National Association of Insurance Commissioners a copy of its annual statement convention blank and the quarterly statement blanks, along with such additional filings as prescribed by the commissioner and shall pay the fee established by the National Association of Insurance Commissioners for filing, review or processing of the information. The information filed with the National Association of Insurance Commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and any other required information. Any amendments and addenda to the annual statement filing and quarterly statement filings subsequently filed with the commissioner shall also be filed with the National Association of Insurance Commissioners.

\$11,000.00 in penalties were assessed as a result of Reports to the Insurance Commissioner Upon Petition Alleging Failure to Timely Act, for violation of time standards set forth in W. Va. Code §23-4-1c(b), §23-4-8(a), and W. Va. Code of State Rules §85-1-10.2, §85-1-10.3, §85-1-10.7, and §85-21-10.2.c. \$12,500.00 in penalties were assessed as a result of actions taken by the Insurance Commission's Market Conduct Unit for violations discovered during market conduct examinations conducted in accordance with W. Va. Code §33-2-9. West Virginia also participated in 11 Market Conduct Multi-State Collaborative Actions which resulted in \$39,824.04 in penalties and other assessments.

The certificate of authority of one (1) insurer was suspended in accordance with and under the authority of W. Va. Code §33-3-10(b), insurer no longer meets the requirements for the license originally granted, because of deficiency of assets or otherwise; and §33-3-11(a)(4), insurer is found by the Commissioner to be in an unsound condition or in such condition as to render its further transaction of insurance in West Virginia hazardous to its policyholders or the people of West Virginia.

## **WORKERS' COMPENSATION SUBROGATION**

Workers' Compensation Subrogation Liens -- With respect to workers who suffered compensable injuries prior to July 1, 2005, resulting from the negligence of third parties, W. Va. Code §23-2A-1 creates subrogation liens in favor of the Insurance Commissioner against any amounts recovered by these workers from such third parties to the extent of medical benefits paid by the Old Fund. The statute required that workers or their attorneys inform the OIC when such third-party actions result in recoveries. In 2019, the OIC opened three (3) and closed two (2) cases and collected \$156,503.09 from settlements or awards.

## **PERMANENT TOTAL DISABILITY REVIEW BOARD**

The Permanent Total Disability Review Board (“PTDRB”) reviews claims of injured workers to determine whether the worker has met the threshold for permanent and total disability. Once the PTDRB determines a claimant has met the appropriate statutory thresholds for a permanent total disability (“PTD”) award, the Board will evaluate the case to determine whether the injured worker has rehabilitation potential to return to the workforce or if the worker should receive a PTD award. The Board is staffed with three medical physicians, and two vocational rehabilitation experts.

The PTDRB meets every other month. For calendar year 2019, the PTDRB recommended granting four (4) PTD awards and denying four (4) PTD requests.

One (1) PTD claim was remanded to the PTDRB from judicial entities (the Workers’ Compensation Office of Judges, the Workers’ Compensation Board of Review or the Supreme Court of Appeals of West Virginia) for consideration.

One (1) PTD request was settled by the parties (thus, removing the issue from the PTDRB).

At the end of 2019, one (1) Recommendation granting benefits and one (1) Recommendation denying benefits were awaiting review and approval by the PTDRB.

## LICENSING AND EDUCATION DIVISION

The Licensing and Education Division is responsible for processing and maintaining records on individual producers licensed to transact business in West Virginia. Licensees include residents who must complete educational and testing requirements to obtain a license. Residents of other states who have completed similar requirements in their states of domicile may apply for a West Virginia non-resident license by submitting the appropriate application and documentation for review. In addition to licensing of individual producers, the division oversees the licensing of Adjusters, Surplus Lines Licensees, Business Entities, Viatical Settlement Brokers, Viatical Settlement Business Entities and Travel Insurance Business Entities.

Producers must be appointed to represent each insurance company for which they are transacting business in West Virginia. Insurance companies are responsible for submitting appointment information and fees to our Licensing and Education Division for processing.

Monies generated through licensing and appointment fees, letters of certification and letters of clearance are deposited into the Offices of the Insurance Commissioner's Special Revenue account.

Resident producers must periodically complete continuing education to maintain their licenses. The continuing education program is governed by a six-member board appointed by the Insurance Commissioner. The representatives (all of whom are West Virginia resident insurance producers) of this Board represent various areas of the insurance industry as prescribed by law.

Administrative functions for the continuing education program are handled by Prometric. Prometric reviews provider and course applications under guidelines established by the Board of Insurance Agent Education. Additionally, Prometric banks the continuing education credits to the producers' records and, at compliance time, provides the Insurance Commissioner with data on compliant and noncompliant producers.

The Division continues to see an increase in adjusters applying for and obtaining the various adjuster license types. The Division continues to follow FBI and West Virginia State Police background requirements. The Division in 2019 also added a fourth licensing specialist due in increasing licensed holders and applications.

The licensing and education division updated the emergency adjuster application process to an all-electronic process. The division continues to move toward more electronic application and less paper. In 2019, over 97% of applications were processed electronically. Also occurring in 2019, a new self-storage insurance license was implemented and is now offered.

The following tables and graphs are current statistics for the various aspects of the Licensing and Education Division.

## LICENSING ACTIVITY

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<b>NEW LICENSES ISSUED</b>	<b>2019</b>
Resident Agent	874
Non-Resident Agent	22,927
Surplus Lines	146
Adjuster	6,319
Viatical Settlement Broker	7
Business Entities (Includes all Types)	755
<b>TOTAL</b>	<b>31,028</b>

<b>LICENSING TRANSACTIONS</b>	<b>2019</b>
Renewed Licenses	55,786
Companies' Appointments of Agent	163,047
Cancellation of Agents' Appointments	71,948
Licenses Denied	298
Revocations	6
<b>TOTAL</b>	<b>291,085</b>

<b>LICENSING CONTACT</b>	<b>2019</b>
Telephone Activity	7,623
Office Visits	76
<b>TOTAL</b>	<b>7,699</b>

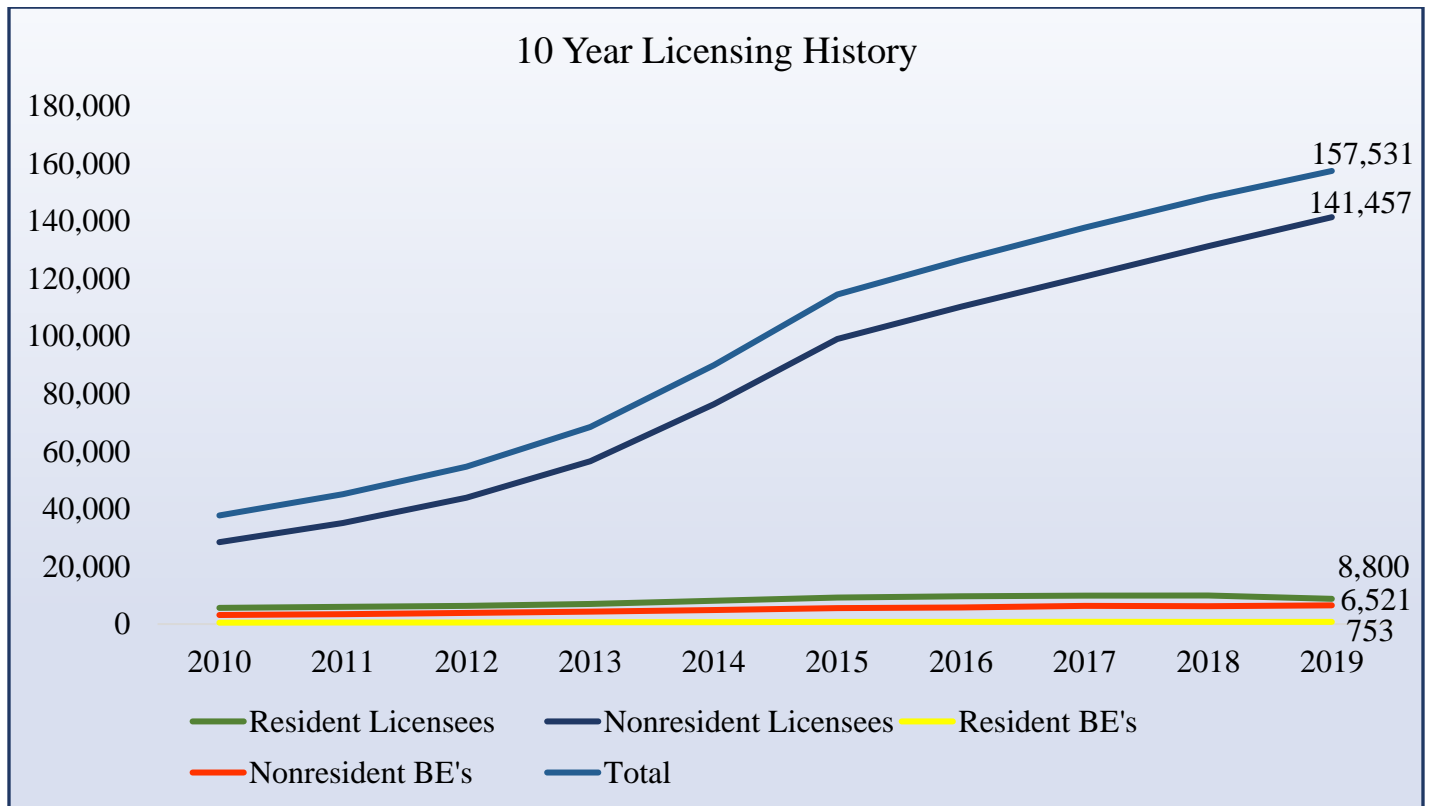
<b>CONTINUING EDUCATION</b>	<b>2019</b>
Total Required to be Compliant	4,218
Total Suspended	1,007
Total Compliant	3,211

## LICENSING EXAMINATION SUMMARY

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<b>TYPE OF EXAM</b>	<b>2019 Tested</b>	<b>2019 Passed</b>	<b>Percent Passed</b>
Life	1,061	596	56.2%
Accident and Sickness	646	465	72.0%
Property and Casualty	599	279	46.6%
Property	2	2	100.0%
Casualty	3	1	33.3%
Company Adjuster	203	99	48.8%
Surplus Lines	3	1	33.3%
Public Adjuster	3	1	33.3%
Personal Lines	6	6	100.0%
<b>TOTAL</b>	<b>2,526</b>	<b>1,450</b>	<b>57.4%</b>

## TEN YEAR LICENSING HISTORY



## OFFICE OF JUDGES DIVISION (WORKERS' COMPENSATION)

The primary responsibility of the Office of Judges is to process initial appeals, commonly referred to as "protests," from workers' compensation claim management decisions made by insurers or their agents. Jurisdiction of the Office of Judges commenced on July 1, 1991. Early in the history of the office, the sole responsibility was to perform judicial review of actions of the Administrative Agency, the Workers' Compensation Division. Since privatization of the workers' compensation market in 2005, the Office of Judges reviews claim management decisions from private insurance carriers, self-insured employers, as well as claim management decisions from third-party administrators, which administer the legacy claims of the former Workers' Compensation Commission. Our goal is to resolve these protests in a fair, efficient and timely manner.

In addition to the Chief Administrative Law Judge, two Deputy Chief Administrative Law Judges and nine Administrative Law Judges, the Office of Judges currently maintains a staff of 23 support personnel. The operation is housed in two locations including Charleston and Beckley. Additionally, evidentiary hearings are conducted in seven venues across the State, including Charleston, Beckley, Fairmont, Parkersburg, Wheeling, Elkins and Charles Town.

The issues in litigation traditionally arise under Chapter 23 of the West Virginia Code, as well as Workers' Compensation Rules found in Title 85 of the Code of State Rules. The Office of Judges is governed by procedural rules found in W.Va. C.S.R. § 93-1, Litigation of Protests, and W.Va. C.S.R. § 93-2, Time Standard Rules. Pursuant to rule, the Office of Judges establishes a deadline for the filing of evidence by the parties. After all parties have been allowed an opportunity to submit evidence and argument to the Office of Judges, a written decision is issued by an Administrative Law Judge. Decisions from the Office of Judges may be appealed to the Workers' Compensation Board of Review.

In addition to traditional workers' compensation appeals, the Office of Judges also conducts hearings or review of other legal matter, including the following:

*Failure to Timely Act or Rule on a Claim Request:* The Offices of the Insurance Commissioner ("OIC") has jurisdiction to hear complaints that an insurer has failed to perform an act required by Statute or rule within the time limits set by law. The OIC assigns the hearing of these matters to the Office of Judges.

*Award of Attorney Fees for Unreasonable Denial of Benefits by the Insurance Carrier:* W.Va. Code § 23-2C-21(c) provides that the Office of Judges may order a self-insured employer, or any private insurance carrier, to pay reasonable attorney fees and expenses to claimants when the Office of Judges determines that the original denial of a claim or treatment request was unreasonable.

*Award of Claimant's Attorney Fees and Expenses:* W.Va. Code § 23-5-16(c) provides that an attorney's fee for successful recovery of denied medical benefits may be charged or received by an attorney, and paid by the private carrier or self-insured employer for a claimant or dependent.

*Unconscionable Settlement Review:* In accordance with the provisions of W.Va. Code § 23-5-7, the Insurance Commissioner may review any workers' compensation settlement entered into between an unrepresented claimant and their responsible insurance carrier and may declare any such settlement void if the Insurance Commissioner determines the settlement to be unconscionable pursuant to criteria set forth in W.Va. C.S.R. § 85-12. The Office of Judges has been designated as the entity to review requests for settlement review by the OIC.

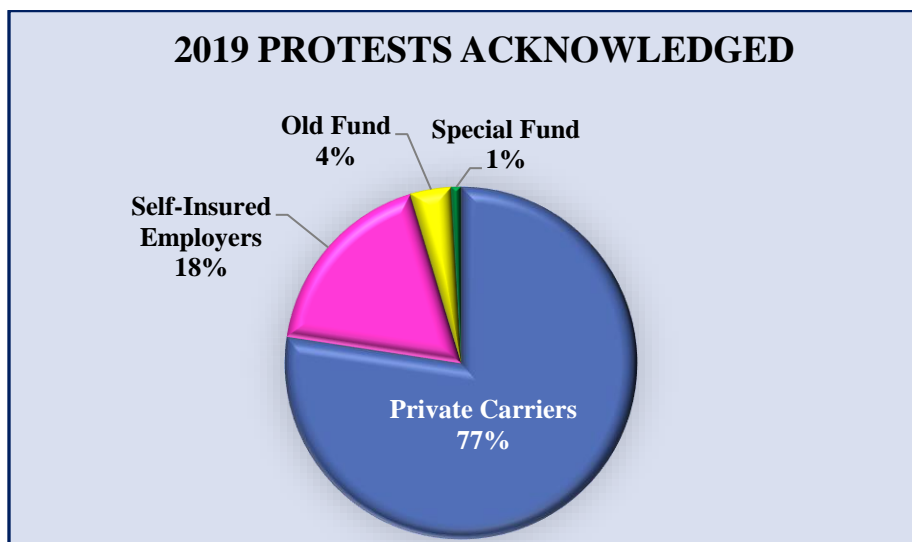
Workers' Compensation Default List: An employer that fails to provide statutorily required workers' compensation insurance may be liable to the OIC for all medical and indemnity payments, administrative expenses, attorney fees and interest. The employer will remain on the default list until all payments are current and can be fined up to \$10,000.00. The Office of Judges has been designated as the entity to review final decisions by the OIC regarding placement of an employer on the Workers' Compensation Default List. Review by the Office of Judges must be conducted in accordance with the West Virginia Administrative Procedures Act.

WV Health Care Authority: Pursuant to Executive Order No. 3-99, the Office of Judges is designated as the entity to review final decisions of the West Virginia Health Care Authority with regard to their final written decisions on matters relative to certificates of need for new institutional health services and to rate setting of hospitals pursuant to W.Va. Code § 16-2D-1, *et. seq.* and § 16-29B-1, *et. seq.* The review is conducted in accordance with the West Virginia Administrative Procedures Act.

## PROTESTS ACKNOWLEDGED

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In calendar year 2019, the Office of Judges acknowledged 2,625 protests. The breakdown of protests is as follows: 2,032 protests from private carrier market, 472 protests from the self-insured market, 99 protests arising from the Old Fund, and 22 protests arising from Special Fund claims.



## TIME STANDARD COMPLIANCE

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Pursuant to regulation, the Office of Judges is required to process protests in a timely manner in order that the parties to litigation may receive decisions without unreasonable delay. Additionally, on an annual basis, the Office of Judges is required to report on “the degree of compliance” with the time limitations set forth in the Rule. The following statistical analysis reflects the performance of the Office of Judges for calendar year 2019.



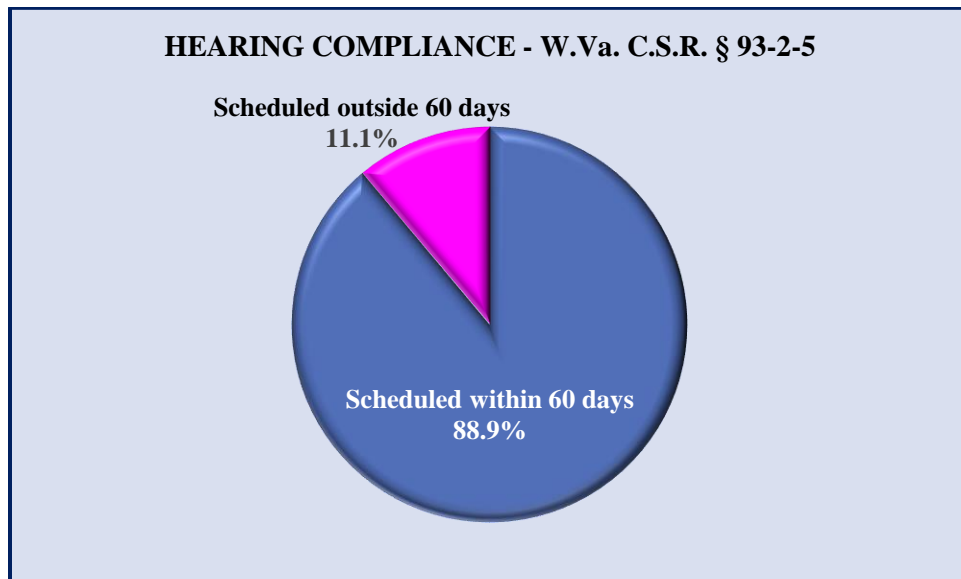
A. W.VA. C.S.R. § 93-2-4 MOTIONS

The Rule requires the Office of Judges to act upon a motion “within 45 days of the date of submission” of the motion or on the date of the final decision, whichever is earlier. Of the 7,478 written motions ruled upon in the 2019 calendar year, 98.8% were issued in compliance with the time standard.



B. W.VA. C.S.R. § 93-2-5 HEARINGS

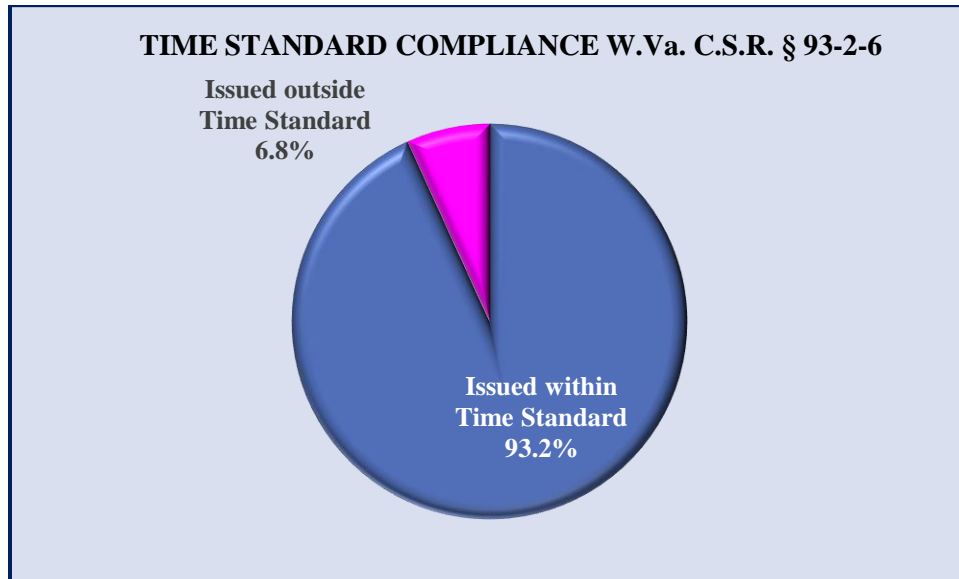
The Rule requires the Office of Judges to schedule a hearing “within 60 days from the receipt of the request for hearing.” Of the 477\* hearings scheduled from motions in calendar year 2019, 88.9% were scheduled in compliance with the time standard.



\* The Office of Judges scheduled a total of 726 hearings in calendar year 2019, including 249 hearings that did not require a motion.

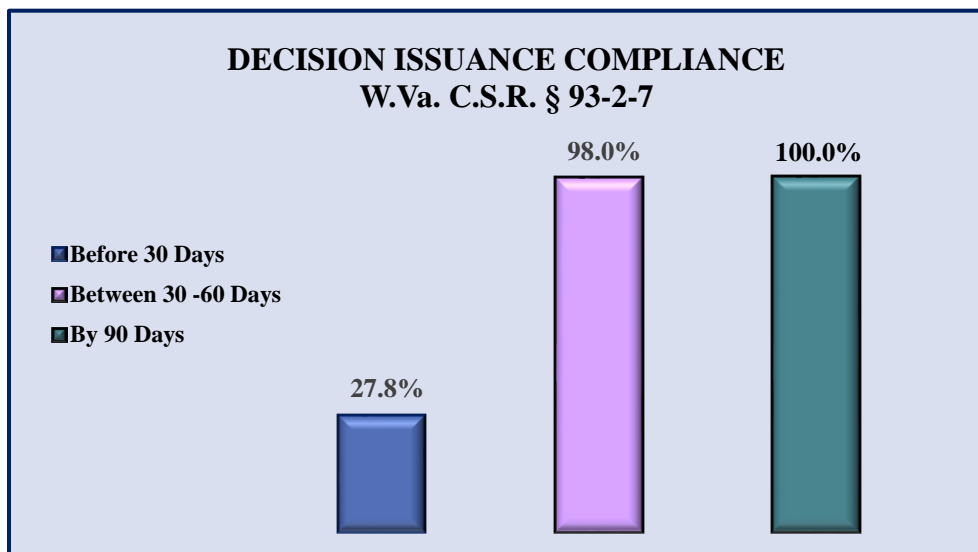
### C. W.VA. C.S.R. § 93-2-6 TIME STANDARDS

The Rule requires the Office of Judges to issue a final decision within various time limits depending upon the issue involved (measuring time from the date of receipt of the protest to issuance of the decision). Pursuant to W.Va. C.S.R. § 93-2-3.1, the percentage of final decisions that must be at or under the applicable time standards as provided in W.Va. C.S.R. § 93-2-6 is 80%. In 2019, the Office of Judges issued 93.2% of its decisions within the time standard.



### D. W.VA. C.S.R. § 93-2-7 ISSUANCE OF DECISIONS

The Rule requires the Office of Judges to issue 60% of its decisions within 30 days of the Order to Submit; 80% of its decisions within 60 days of the Order to Submit; and 100% of its decisions within 90 days of the Order to Submit. Of the 1,547 decisions issued in calendar year 2019, 27.8% were issued in less than 30 days, 98.0% were issued within 60 days and 100.0% were issued within 90 days of the Order to Submit.



## RATES AND FORMS DIVISION

The Rates and Forms Division analyzes all rate, rule, form and advertising filings proposed by licensed insurance companies for use in the West Virginia insurance markets. Analysts review all such filings for automobile, homeowners, motorcycle, mobile homes, umbrella, business owners, inland marine, medical malpractice, credit, workers' compensation products, group and individual accident and sickness, life, disability, Medicare supplements, long term care, and annuities products. Filings are submitted through the System for Electronic Rate and Form Filings (SERFF) and divided among the OIC's analysts. West Virginia is a "prior approval" state, which means policy rates, rules and forms must be approved by the West Virginia Insurance Commissioner prior to marketing plans to West Virginia consumers for most product lines.

In addition, analysts review binders as submitted by major medical and dental companies as part of the certification process for Qualified Health Plans (QHPs) within the statutes of the Patient Protection and Affordable Care Act (ACA). Binders are also submitted through SERFF and consist of a series of templates that are used to transfer the plan data to the federal marketplace ([www.Healthcare.gov](http://www.Healthcare.gov)). W. Va. Code §33-6-8, 33-15-1b and 33-16B-1, is the primary authority for West Virginia to review and recommend Qualified Health Plans (QHPs) for certification.

The OIC has established a certification "checklist" or set of standards against which QHP applications are evaluated. Reviews of QHP applications are performed by the Rates and Forms Division, in coordination and cooperation with other divisions within the OIC, such as Consumer Services, Financial Conditions, Health Policy, and Market Conduct, as necessary. SERFF is the primary technical system used to manage all steps in these business processes, including communications between the OIC and issuers during the evaluation and revisions to the plans.

Once the plans are reviewed and approved by the OIC, QHPs offered "Off Marketplace" receive final approval from the State. QHPs to be offered "On Marketplace" are sent to CMS/HHS via transmission from the SERFF binder through the Health Insurance Oversight System (HIOS). CMS/HHS then reviews the plan and finalizes it as a "Certified QHP" to be a Marketplace plan listed on [www.Healthcare.gov](http://www.Healthcare.gov). The final step of certification is a contract between CMS and the issuer, which must be signed, countersigned and distributed to states prior to the plans being included on the marketplace.

Analysts participate on various committees with the NAIC to work on national solutions to issues that span more than West Virginia. For example, the Life and Health Team joined the NAIC's Long-Term Care Executive Task Force, along with Commissioner Dodrill. This Task Force is working on the tough issues surrounding long-term care using a multifaceted approach, and its efforts will affect and, hopefully, benefit West Virginia Long-Term Care Insurance consumers as they continue to be plagued by extraordinary rate increases.

Filings for noncommercial lines must be filed with the Division no less than 60 days in advance of the desired effective date per Code §33-6-8(b)(1) and §33-16B-1, and unless more information is requested from the insurance company, will be deemed approved at the end of the 60-day timeframe. Commercial lines and casualty risks, as well as any mass-marketed life and health product offered to members of an association must be filed with the Division as noted in Code §33-6-8(b)(2). However, there is no OIC prior approval needed before an insurer can implement the filing. The Commissioner may take action on such forms within 30 days. Code 33-6-9(e) requires the Insurance Commissioner to disapprove a form "if the coverages provided therein are not sufficiently broad to be in the public interest." As of June 2018, certain commercial lines of insurance are excluded from rate filing requirements pursuant to SB 495.

Property and Casualty		Life and Health	
<b>Total Received</b>	<b>2,696</b>	<b>Total Received</b>	<b>3,777</b>
Acknowledged	112	Acknowledged	605
Approved	2,703	Approved	2,273
Disapproved	5	Disapproved	5
Withdrawn	42	Withdrawn	120
<b>Total Resolved</b>	<b>2,862</b>	<b>Total Resolved</b>	<b>3,003</b>

Although the majority of filings are ultimately approved, we regularly require additional information, data and time to complete a comprehensive review. Several parties are involved in the rate review process. We also rely on evaluations by consulting actuaries and opinions from our Legal Department before a final determination is made.

There are 301 insurers eligible to write workers' compensation insurance in West Virginia. Of the 301 carriers, 242 are writing at least one policy. That represents 80.4% of eligible insurers that are actively writing policies in West Virginia. As of December 31, 2019, the West Virginia residual market had 1,966 policies with a premium volume of \$9,429,738. The residual market share is 4.5% of the overall market.

There have been sixteen (16) consecutive annual workers' compensation loss cost decreases filed since the privatization in 2006. These decreases represent an overall premium savings to West Virginia employers of approximately \$417 million or 78.2%.

APPROVED RATE CHANGES

<b><u>Approved Rate Change History of Top 5 Carriers in the Market</u></b>					
<b><i>Private Passenger Auto</i></b>					
<b>Market Share as of 2019</b>	<b>Company</b>	<b>Effective Date</b>	<b>% Requested</b>	<b>% Granted</b>	<b>WV File #:</b>
<b>23.70%</b>	<b><i>State Farm Mutual Auto Ins Co</i></b>	1/4/2020	0.00%	0.00%	100051393
		5/27/2019	(5.80%)	(5.80%)	100049641
		1/1/2019	0.10%	0.10%	100048678
		10/15/2018	(2.40%)	(2.40%)	100047985
		8/20/2018	(2.90%)	(2.90%)	100047453
		5/7/2018	(2.90%)	(2.90%)	100046984
		1/1/2018	0.00%	0.00%	100045528
		12/11/2017	(0.30%)	(0.30%)	100045037
		1/1/2017	0.00%	0.00%	100040811
		4/25/2016	(0.70%)	(0.70%)	100036061
<b>15.40%</b>	<b><i>Erie Ins Property &amp; Casualty</i></b>	1/1/2020	1.10%	1.10%	100051112
		1/1/2018	1.00%	1.00%	100045111
		1/1/2017	(0.10%)	(0.10%)	100043697
		1/1/2017	0.00%	0.00%	100040047
		1/1/2016	0.00%	0.00%	100034414
<b>5.50%</b>	<b><i>Nationwide Mutual Insurance Company</i></b>	11/7/2018	1.10%	1.10%	100046860
		9/23/2017	0.00%	0.00%	100042248
		3/23/2017	0.00%	0.00%	100041070
		9/23/2016	2.90%	2.90%	100038244
		9/23/2015	0.00%	0.00%	100032839
		3/23/2015	0.00%	0.00%	100029646
		8/27/2014	0.00%	0.00%	100025959
		2/27/2013	1.30%	1.30%	100017236
<b>4.80%</b>	<b><i>GEICO Advantage Insurance Company</i></b>	12/29/2017	4.2%	4.2%	100046350
		6/15/2017	3.9%	3.9%	100043003
		8/18/2016	1.6%	1.6%	100039242
		7/23/2015	1.4%	1.4%	100032504

**Approved Rate Change History of Top 5 Carriers in the Market**

***Private Passenger Auto (Continued)***

<b>Market Share as of 2019</b>	<b>Company</b>	<b>Effective Date</b>	<b>% Requested</b>	<b>% Granted</b>	<b>WV File #:</b>
<b>4.80%</b>	<b><i>Nationwide Ins Co of America</i></b>	4/28/2019	(1.70%)	(1.70%)	100049390
		11/7/2018	1.10%	1.10%	100046860
		9/23/2017	0.00%	0.00%	100042248
		3/23/2017	0.00%	0.00%	100041070
		9/23/2016	3.00%	3.00%	100038244
		9/23/2015	(1.40%)	(1.40%)	100032839
		3/23/2015	0.00%	0.00%	100029646
		8/27/2014	(2.80%)	(2.80%)	100025959

**Approved Rate Change History of Top Carriers in the Market**

***Comprehensive Major Medical - Individual***

<b>2019 Market Share</b>	<b>Company</b>	<b>Eff Date</b>	<b>SERFF #</b>
77.54%	<b><i>Highmark West Virginia, Inc.</i></b>	1/1/2019	MSBC-131476318
21.68%	<b><i>CareSource</i></b>	1/1/2019	CASO-131495410

**Approved Rate Change History of Top Carriers in the Market**

***Comprehensive Major Medical - Group***

<b>2019 Market Share</b>	<b>Company</b>	<b>Eff Date</b>	<b>SERFF #</b>
81.66%	<b><i>Highmark West Virginia, Inc.</i></b>	1/1/2019	MSBS-131529068
16.09%	<b><i>United Healthcare Insurance</i></b>	1/1/2019	UHLC-131548614
13.11%	<b><i>The Health Plan of the Upper Ohio Valley, Inc.</i></b>	1/1/2019	THPI-131560131
4.80%	<b><i>THP</i></b>	1/1/2019	THPI-131560277

## STATE AGENCY WORKERS' COMPENSATION (SAWC) PROGRAM

As the State Agency Workers' Compensation Program (SAWC) enters the tenth policy year, the program has had some volatility but, in general, continues to experience a positive trend with decreased frequency and severity of claims and losses. The program currently includes more than 100 agencies, boards and commissions with over 900 locations across our state. It is estimated that approximately 25,000 public employees are covered under this consolidated policy. As the plan administrator, the West Virginia Offices of the Insurance Commissioner (WVOIC) continually monitors and evaluates loss trends and exposures to determine if they are being properly addressed as well as make safety recommendations to mitigate workplace injuries. This report outlines specific portions of the program's administration including safety visits and recommendations, policy experience rating factors, claims trending and summaries, and future focus areas for specific agencies. Zurich Insurance Company was the SAWC policy coverage provider from October 2011 through June 2017. Effective July 1, 2017 the SAWC policy transitioned to the Encova Insurance Group (formerly BrickStreet Mutual Insurance Company).

### SAFETY VISIT SUMMARY

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Safety visits and evaluations continue to play an important role in all aspects of the SAWC Program. During the first SAWC policy year (October 2011), all plan members were visited by a safety professional. After the initial visitations to all agencies and follow-up reports were evaluated, it was determined that future safety resources should be focused on agencies with a higher frequency and severity of losses. The table below outlines the number of visits performed by policy year by Zurich (2011 -2016) and Encova (2017 - 2019) safety teams as well as the OIC Program Manager.

<b>Policy Year</b>	<b>Number of Visits</b>
2011	109
2012	102
2013	81
2014	90
2015	93
2016	90
2017	200
2018	173
2019	161
<b>Total</b>	<b>1,099</b>

## SAFETY AND RETURN TO WORK INITIATIVES

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Many of the SAWC Program members have welcomed the safety initiatives and have worked diligently in implementing suggestions for improvement from the safety professionals. These initiatives include:

- Establishing safety committees
- Using slip resistant shoes to reduce slips, trips and falls
- Implementing an exercise program (stretch and flex) prior to beginning strenuous job duties
- Establishing transitional work assignments that provide employees the opportunity to return to work on a limited basis (Return to Work Program)
- Ergonomic assessments of employees performing repetitive functions
- Providing safety information related to using chain saws, log splitters, lawn mowers, and weed eaters
- Incident and accident investigation training
- Defensive drivers' training
- Developing Emergency Action Plans
- Training on safe lifting techniques
- Fire prevention and fire safety training
- Using floor scrubbers with degreasers to reduce slips, trips and falls
- Repairing flooring to decrease the number of slips, trips and falls
- Workplace violence training
- Enhanced patient observation by using cameras to reduce workplace violence
- Industrial hygiene studies were completed to address noise and air quality
- Industrial hygiene survey was completed related to airborne contaminants
- BRIM and OIC site visits to agencies to discuss strategies for reducing Motor Vehicle Accidents (MVA)

Many state agencies have already implemented safety programs or are in the process of implementing safety committees, policies and procedures. Some notable safety initiatives that have been developed and implemented include:

- **Department of Health and Human Resources** – Workplace Violence Prevention Training, Return to Work Program, and installation of video cameras in some locations. The agency is conducting weekly employee injury meetings in an effort to prevent injuries.
- **Department of Veterans Assistance** – Workplace Violence Prevention Training and Return to Work Program.
- **Department of Military Affairs** – The Division of Corrections, Division of Juvenile Services and the Regional Jail and Correctional Facility Authority have combined resources in the past to focus on workplace and employee safety programs by forming a multi-Agency Shared Services Committee on Safety, Workplace Violence Prevention Training, and Return to Work Programs. Effective July 2018, HB 4338 merged these agencies into a single entity called the Department of Corrections and Rehabilitation (DCR). DCR will share a centralized safety and health program and return-to-work program. DCR is in the process of hiring a return-to-work coordinator.
- **Division of Highways** – Slip, Trip and Fall Training, Confined Space Training, Silica Training, and additional OSHA training. DoT is also conducting additional training for safety in construction zones.



The WVOIC has worked extensively with SAWC Program members to develop Return to Work programs. The Return to Work programs have been finalized and implemented by several SAWC Program members. SAWC Program members have implemented functional Return to Work programs and continue to look for ways to improve the process for returning injured workers to the workplace. This is a critical area of success for the program and all agencies are encouraged to focus on implementing and maintaining an effective return to work program. The SAWC Program Manager is continuously monitoring the success of the program and is providing support to agencies that face challenges related to return to work program implementation.

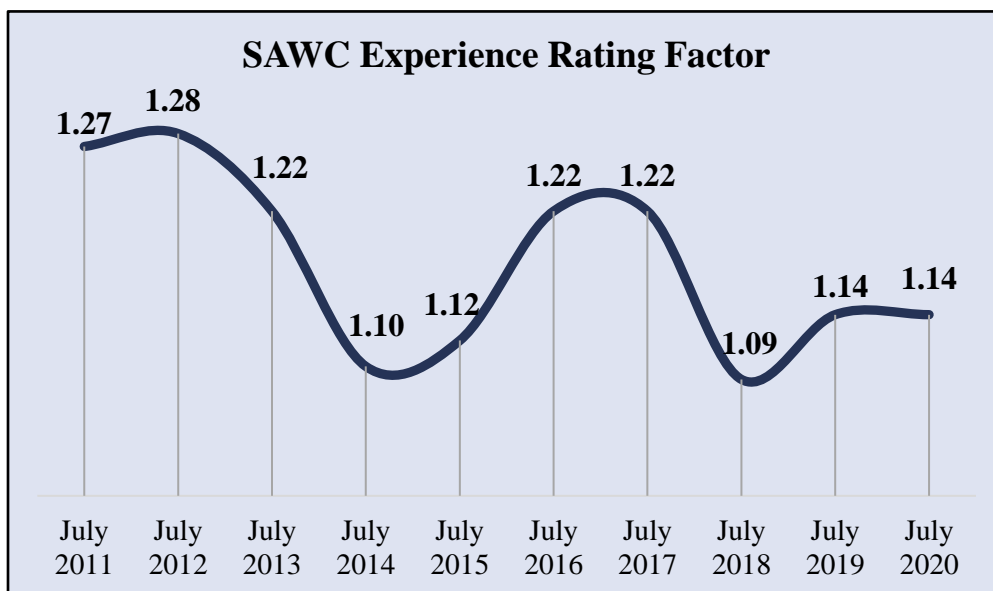
### SAWC EXPERIENCE RATING FACTOR (EMOD)

An experience rating factor (emod) is an industry standard calculation that compares a policy’s expected losses to actual losses for a three (3) year period. An emod can increase or decrease premium based on a policy’s loss experience. If an insured has actual losses that are greater than the expected losses, a debit emod is applied to the policy. If an insured has fewer actual losses than expected losses, a credit emod is applied. The chart below illustrates how an experience rating factor impacts final premium.

Premium Component	Agency A	Agency B
Payroll	\$1,000,000	\$1,000,000
Rate	\$3.50	\$3.50
Manual Premium	\$35,000	\$35,000
Experience Rating Factor	1.10	0.90
Modified Premium	\$38,500	\$31,500
Schedule Rating Credit	25%	25%
Standard Premium	\$28,875	\$23,625

Through the hard work of agencies and WVOIC employees, the SAWC Program emod has decreased from 1.27 on the July 2011 policy to 1.14 for the July 2020 policy. The emod increase from the July 2014 policy includes the claim and loss effects from the 2012 derecho and 2012 Superstorm Sandy as well as several fatal claims and severe motor vehicle accidents. We are monitoring the emod increases of the latest policies and are working with Encova to ensure the safety of all State employees is the number one priority.

The chart below shows the experience rating factor progression throughout the SAWC Program by policy year:



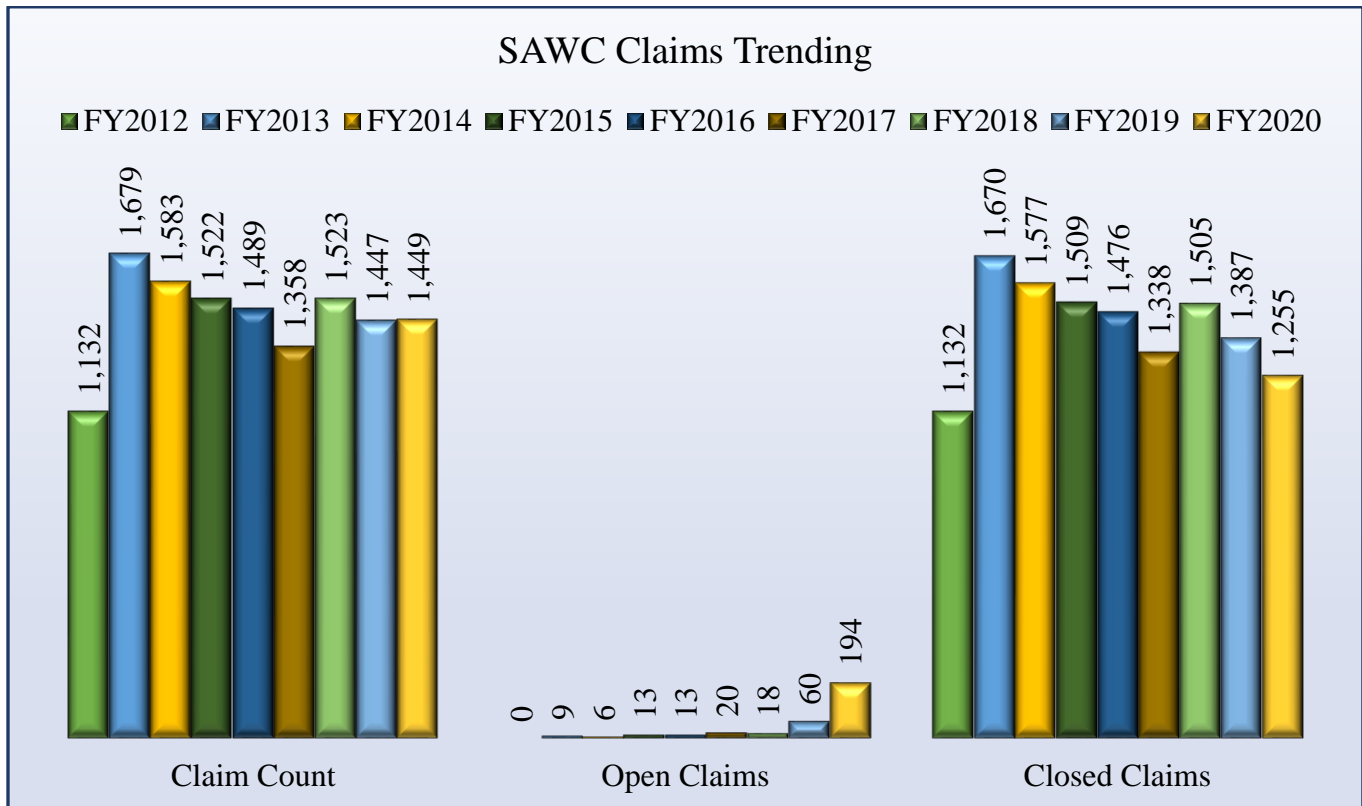
The aggregate policy emod is shown above and individual agency emods are calculated to allocate the premium by the risk and loss experience that each agency provides to the program. For the July 2020 policy, the individual agency emods summary is as follows:

Emod Range	Agency Count
Less than 1.00	25
Equal to 1.00	54
Greater than 1.00	21

The agencies with the lowest emods are the Department of Environmental Protection (0.50) and the Department of Education (0.58). The agencies with the highest emods are Mildred Mitchell Bateman Hospital (3.34) and Regional Jail Authority (2.11).

### SAWC CLAIMS SUMMARY

As of July 31, 2020, there have been 8,763 SAWC claims submitted to Zurich with dates of injury between October 2011 and June 2017. There have been 4,419 SAWC claims submitted to Encova with dates of injury between July 2017 and June 2020 for a total SAWC claim count of 13,182. The charts below represent claims trending analysis by fiscal year:



Data as of July 31, 2020

FY2012 from October 2011 – June 2012  
 FY2012 – FY2017 are Zurich claims; FY2018 – FY2020 are Encova claims

### SAWC Claims Trending

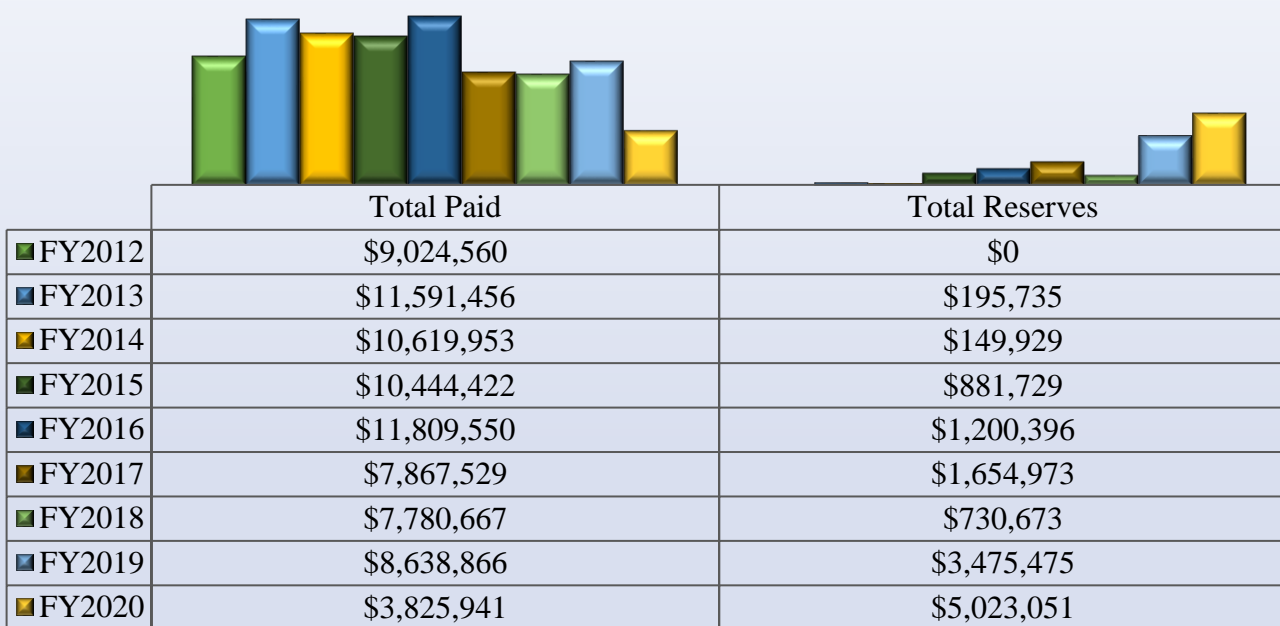
■ FY2012 ■ FY2013 ■ FY2014 ■ FY2015 ■ FY2016 ■ FY2017 ■ FY2018 ■ FY2019 ■ FY2020



Of the 13,182 total claims reported to Zurich and Encova 2,224 (17%) have resulted in being closed with no payments (incidents).

### SAWC Claims Trending

■ FY2012 ■ FY2013 ■ FY2014 ■ FY2015 ■ FY2016 ■ FY2017 ■ FY2018 ■ FY2019 ■ FY2020



Data as of July 31, 2020

FY2012 from October 2011 – June 2012

FY2012 – FY2017 are Zurich claims; FY2018 – FY2020 are Encova claims

As indicated by the trending charts, the SAWC Program realized decreasing frequency from FY2013 through FY2017. However, FY2018 had a 12% frequency increase over FY2017. The frequency declined by 5% in FY2019 and remained static for FY2020. The severity continues to be volatile with significant fluctuations. The severity increased dramatically from FY2018 to FY2019 resulting in a 50% increase due to large loss claims. However, in FY2020 the severity decreased more than 27% over the FY2019 results even with a slightly higher frequency. This indicates the safety initiatives implemented to address the more severe injuries were successful and will continue to be utilized by state employees and agencies.

There are currently 21 claims in excess of the \$250,000 deductible per claim limit. These 21 claims have a total incurred claims cost of \$13,569,606.

Further claims analysis of the SAWC Program shows there are 26 employees with seven (7) or more claims each between October 2011 and June 2020. The total incurred claims cost for these multiple claimants is \$1,038,056. A claimant review is below:

- Three employees have 11 claims each for a total incurred cost of \$90,819
- Two employees have 10 claims each for a total incurred cost of \$204,617
- Two employees have nine claims each for a total incurred cost of \$196,342
- Four employees have eight claims for a total incurred cost of \$15,876
- 15 employees have seven claims each for a total incurred cost of \$530,402

## CONCLUSION

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The SAWC Program has a complex workforce doing tasks that at times place employees in danger. Our employees are our greatest asset and their safety is of the utmost importance. Safety policies and procedures have been developed for employees to follow to minimize these risks. Efforts have been made in all agencies to ensure that policies and procedures are in place and are being followed by all employees to prevent workplace injuries. This task has been hindered due to employee turnover in State agencies, adversely impacting implementation of safety programs, initiatives and return to work programs.

Major training campaigns will continue throughout 2020 for motor vehicle accident (MVA) prevention strategies, defensive driving training, Return to Work Implementation, workplace violence, sprain and strain reduction as well as fall prevention.

The OIC has partnered with BRIM in a shared services approach to provide motor vehicle accident prevention techniques and strategies to agencies with a goal of reducing the frequency and severity of MVAs. For the FY2018 through FY2020 policies written by Encova, MVAs accounted for 114 of the total 4,421 claims or ~2.6% of the claims frequency. Those 114 claims accounted for \$1,006,982 of the total incurred costs or ~3.4% of the claims severity.

The SAWC Program will continue to host its annual conference outlining the state of the Program, ongoing commitments and processes in place to reduce costs and prevent workplace injuries, as well as demonstrate effective Return to Work programs for agencies to implement and administer.

## SECTION 3: INSURANCE BUSINESS IN WEST VIRGINIA

### 2019 WEST VIRGINIA PROPERTY AND CASUALTY SUMMARY REPORT

Line of Business	Direct Premiums Written	Market Share	Direct Premiums Earned	Direct Losses Incurred	Pure Direct Loss Ratio
Other private passenger auto liability	\$697,344,571	22.8%	\$697,769,457	\$413,319,084	59.2%
Private passenger auto physical damage	\$588,458,469	19.3%	\$582,662,887	\$359,360,068	61.7%
Homeowners multiple peril	\$462,188,292	15.1%	\$458,921,858	\$251,563,928	54.8%
Workers' compensation	\$268,051,111	8.8%	\$269,202,716	\$99,550,761	37.0%
Other liability - occurrence	\$152,991,143	5.0%	\$150,408,089	\$128,034,695	85.1%
Other commercial auto liability	\$149,181,722	4.9%	\$144,538,919	\$96,004,546	66.4%
Commercial multiple peril (non-liability portion)	\$132,185,586	4.3%	\$129,530,430	\$73,467,632	56.7%
Inland marine	\$87,436,398	2.9%	\$86,239,705	\$34,040,473	39.5%
Medical professional liability	\$78,509,920	2.6%	\$79,973,195	\$42,580,869	53.2%
Commercial multiple peril (liability portion)	\$72,488,085	2.4%	\$71,361,905	\$25,316,951	35.5%
Commercial auto physical damage	\$57,420,849	1.9%	\$55,251,896	\$30,042,797	54.4%
Fire	\$55,164,443	1.8%	\$54,448,952	\$21,026,999	38.6%
Surety	\$49,095,322	1.6%	\$46,141,734	(\$1,420,615)	(3.1%)
Other liability - claims-made	\$43,668,853	1.4%	\$42,841,937	\$14,456,629	33.7%
Allied lines	\$34,347,998	1.1%	\$33,863,771	\$5,622,514	16.6%
Group accident and health	\$18,290,192	0.6%	\$17,146,484	\$15,649,646	91.3%
Farmowners multiple peril	\$17,030,278	0.6%	\$16,617,079	\$7,309,278	44.0%
Mortgage guaranty	\$14,515,772	0.5%	\$15,096,737	\$2,054,506	13.6%
Federal flood	\$12,525,468	0.4%	\$12,526,547	\$134,852	1.1%
Products liability	\$8,439,485	0.3%	\$7,366,324	\$3,323,961	45.1%
Guaranteed renewable A&H	\$8,055,407	0.3%	\$7,987,993	\$6,489,192	81.2%
Credit	\$7,637,768	0.3%	\$7,585,534	\$3,083,128	40.6%
Boiler and machinery	\$6,655,223	0.2%	\$6,673,907	(\$1,834,681)	(27.5%)

Line of Business	Direct Premiums Written	Market Share	Direct Premiums Earned	Direct Losses Incurred	Pure Direct Loss Ratio
Excess workers' compensation	\$5,033,787	0.2%	\$5,054,339	(\$592,589)	(11.7%)
Warranty	\$4,588,665	0.2%	\$3,424,032	\$2,281,037	66.6%
Aggregate write-ins for other lines of business	\$3,942,451	0.1%	\$3,489,972	\$800,900	22.9%
Fidelity	\$3,889,829	0.1%	\$3,779,228	\$183,629	4.9%
Ocean marine	\$3,433,627	0.1%	\$3,177,132	\$546,407	17.2%
Multiple peril crop	\$2,941,651	0.1%	\$1,540,823	\$1,702,886	110.5%
Aircraft (all perils)	\$2,872,960	0.1%	\$3,142,989	\$8,009,885	254.8%
Private flood	\$1,423,845	0.0%	\$1,362,257	(\$248,970)	(18.3%)
Earthquake	\$1,106,071	0.0%	\$1,079,483	(\$19,952)	(1.8%)
Burglary and theft	\$1,102,990	0.0%	\$956,611	\$338,456	35.4%
All other A&H	\$1,048,818	0.0%	\$1,050,943	\$579,716	55.2%
Other accident only	\$346,677	0.0%	\$346,874	\$216,862	62.5%
Non-renewable for stated reasons only	\$227,305	0.0%	\$230,966	\$67,480	29.2%
Credit A&H (group and individual)	\$42,264	0.0%	\$52,639	(\$8,455)	(16.1%)
Commercial auto no-fault (personal injury protection)	\$25,648	0.0%	\$34,943	\$68,091	194.9%
Private crop	\$6,980	0.0%	\$6,980	\$1,668	23.9%
Non-cancelable A&H	\$118	0.0%	\$6,418	\$0	0.0%
Collectively renewable A&H	\$0	0.0%	\$0	\$0	0.0%
Federal employees health benefits plan premium	\$0	0.0%	\$0	\$0	0.0%
International	\$0	0.0%	\$0	\$0	0.0%
Medicare Title XVIII	\$0	0.0%	\$0	\$0	0.0%
Private passenger auto no-fault (personal injury protection)	(\$225)	0.0%	(\$452)	\$1,010,204	(223496.5%)
Financial guaranty	(\$415)	0.0%	\$342,880	(\$4)	(0.0%)

WV Totals for all Property and Casualty Business      \$3,053,715,401    100.0%    \$3,023,237,113    \$1,644,114,464    54.4%

2019 WEST VIRGINIA LIFE SUMMARY REPORT

Line of Business	Direct Premiums Written	Market Share	Direct Losses Paid	Pure Direct Loss Ratio*
Ordinary Life (Total Life and Annuity Considerations)	\$1,492,220,711	48.47%	\$1,692,181,045	113.4%
Group Life (Total Life and Annuity Considerations)	\$697,736,406	22.66%	\$762,938,321	109.3%
Group A&H	\$513,312,590	16.67%	\$402,533,259	78.4%
Guaranteed Renewable A&H	\$170,397,441	5.53%	\$119,447,701	70.1%
Medicare Title XVIII	\$165,285,755	5.37%	\$137,190,376	83.0%
Non-cancelable A&H	\$19,923,856	0.65%	\$16,977,789	85.2%
Credit Life (Total Life and Annuity Considerations)	\$5,895,051	0.19%	\$2,079,860	35.3%
Federal Employee Health Benefit Program	\$5,285,398	0.17%	\$3,970,686	75.1%
Credit A&H	\$4,863,572	0.16%	\$1,944,626	40.0%
All Other A&H	\$2,219,131	0.07%	\$1,225,606	55.2%
Non-renewable A&H	\$992,554	0.03%	\$364,467	36.7%
Other Accident	\$667,715	0.02%	\$204,939	30.7%
Collectively Renewable A&H	\$67,004	0.00%	\$36,989	55.2%
Industrial Life (Total Life and Annuity Considerations)	\$24,908	0.00%	\$2,589,296	10395.4%

WV Totals for all Life Business \$3,078,892,092      100%      \$3,143,684,960      102.1%

\* Pure Direct Loss Ratio is generally calculated by dividing direct losses by earned premium. This summary uses direct losses divided by written premium due to reporting requirements.

2019 WEST VIRGINIA ACCIDENT AND HEALTH SUMMARY REPORT

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Line of Business	Direct Premiums Written	Market Share	Direct Premiums Earned	Direct Claims Incurred	Pure Direct Loss Ratio
Title XVIII Medicare	\$1,586,361,259	32.9%	\$1,584,781,206	\$1,358,718,798	85.7%
Title XIX Medicaid	\$1,530,494,409	31.8%	\$1,533,273,112	\$1,400,618,268	91.3%
Group Comprehensive	\$650,572,791	13.5%	\$650,572,792	\$543,106,768	83.5%
Federal Employees Health	\$403,238,433	8.4%	\$407,306,123	\$388,000,087	95.3%
Individual Comprehensive	\$240,526,127	5.0%	\$240,526,127	\$181,977,526	75.7%
Medicare Supplement	\$210,929,650	4.4%	\$210,929,650	\$128,808,102	61.1%
Other	\$122,586,388	2.5%	\$122,150,211	\$92,394,626	75.6%
Dental Only	\$36,503,573	0.8%	\$36,374,603	\$24,878,901	68.4%
Long Term Care	\$31,395,104	0.7%	\$31,395,104	\$25,239,316	80.4%
Vision Only	\$6,168,104	0.1%	\$6,167,837	\$4,349,770	70.5%

WV Totals for all A&H Business                      \$4,818,775,838                      100.0%                      \$4,823,476,765                      \$4,148,092,162                      86.0%