

2020 Annual Report:

Advisory Council on Workers' Compensation and Occupational Disease Disablement

Presented to:

The Honorable
Michelle Lujan Grisham, Governor

The Honorable Russell Toal,
Superintendent of Insurance

and

Senate President Pro – Tempore
Speaker of the House
Senate Majority Floor Leader
House Majority Floor Leader
Senate Minority Floor Leader
House Minority Floor Leader
Chair, Senate Finance Committee
Chair, Senate Judiciary
Chair, Senate Corporations and
Transportation Committee
Chair, House Appropriations and
Finance Committee
Chair, House Commerce & Economic
Development Committee
Chair, House Judiciary



Submitted by:
Courtenay Eichhorst, Chair
Kevin J. McGinley, Vice Chair
Darrell Deaguero, Member
Sharon Pedroncelli, Member
Sara Ranney, Member
Lillian Santillanes, Member

Annual Report of the Advisory Council on Workers' Compensation and Occupational Disease Disablement - 2020

The Advisory Council on Workers' Compensation and Occupational Disease Disablement is a statutory body created by the Workers' Compensation Law of New Mexico. Members are appointed by the Governor to represent both employers and workers. Our duty is to report annually to the Governor and Legislature concerning the state of the workers' compensation system and to make recommendations regarding rules and legislation.

Mission

The mission of the Advisory Council on Workers' Compensation and Occupational Disease Disablement is:

- to monitor the performance of the workers' compensation and occupational disease and disablement system;
- to make recommendations to the Governor, Legislature, regulatory agencies and participating industries, related to the adoption of rules and legislation and the method and form of statistical data collection;
- to ensure the quick and efficient delivery of indemnity and medical benefits to injured and disabled workers at a reasonable cost to employers.

Council Members

The Workers' Compensation Act requires that the Advisory Council on Workers' Compensation and Occupational Disease Disablement consist of three employer representatives and three worker representatives. It is important that appointments to the Workers' Compensation Advisory Council comply with the Workers' Compensation Act in identifying qualified leadership and in maintaining the essential balance between employer and worker interests in order to ensure the long-term integrity of the workers' compensation system for New Mexico.

In addition to the six appointed members, the Director of the Workers' Compensation Administration serves as an ex officio, non-voting member.

Courtenay Eichorst, Darrell Deaguero and Sara Ranney represent labor, while Kevin McGinley, Sharon Pedroncelli and Lillian Santillanes represent business. Deaguero is president of Laborers Union, Local 16, the construction workers' union. Ranney is with the International Association of Firefighters Local 244, and is an engine company lieutenant. Pedroncelli is president and chief financial officer at McDade-Woodcock, Inc., a commercial electrical, instrumentation and control contractor. Santillanes is vice president of Structural Services, Inc., a steel erection firm.

Council Chair Eichorst is business manager of U.A. Local 412 and Council Vice Chair McGinley is president of McGinley Construction, Inc., a residential and commercial remodeling firm.

Status of the Workers' Compensation Administration

The New Mexico Workers' Compensation Administration (WCA) has been fully engaged to meet its primary goal of making a better workplace for New Mexico through responsive and effective services. The WCA's mission is: *To assure the quick and efficient delivery of indemnity and medical benefits to injured workers at a reasonable cost to employers.*

Council Activity

The Advisory Council has met virtually through most of 2020 because of the COVID-19 pandemic. During a September meeting, WCA Director Loretta Lopez advised the Council regarding the Administration's continuing efforts to serve its statutory functions, albeit in a new teleworking environment for most WCA staff in the main Albuquerque and all six field offices. Director Lopez also updated the Council on workers' compensation COVID-related claims submitted thus far.

At its November meeting, the Council members heard a presentation from WCA Judge Tony Couture on the history of workers' compensation. The four newest members of the Council, Deaguero, Pedroncelli, Ranney, and Santillanes, appointed by Gov. Michelle Lujan Grisham in 2018, particularly expressed appreciation for the educational opportunity.

2020 and 2021 Legislative Efforts

There were no significant workers compensation bills introduced during the 2020 Regular or Special Legislative Sessions.

Looking forward to the 2021 Regular 60-day Legislative Session, the Council has formed an Ad Hoc Legislative Committee with Vice Chair McGinley and members Ranney and Pedroncelli. The committee will work with workers' compensation stake holders from both the business and labor community to monitor any legislative proposals as well as to offer support to the Workers' Compensation Administration Director.

Reallocation of Funds

Over the last 15 years, more than \$37 million has been transferred out of the WCA to other agency funds (according to WCA audited financial statements, 2005-2019). The Council continues to oppose the issue of reallocating funds taken from the workers' compensation assessment, which is supposed to be for purposes of funding the workers' compensation system. For FY 2020, the legislature approved a \$1.05 million transfer to DWS, and has approved \$1 million to be transferred from the WCA fund to DWS for FY 2021. This follows a long pattern of fund sweeps. In Fiscal Year 2019, \$1.25 million was transferred to the New Mexico Department of Workforce Solutions (DWS); in 2018, \$1.5 million was transferred. In FY 2017, legislative transfers included \$1.5 million to DWS, and \$8.75 million to the State General Fund. In FY 2016, the WCA was directed to transfer \$2,048,200 dollars from its operational budget to the Department of Workforce Solutions (DWFS), representing an increase of \$1,148,200 over the transfer in FY 2015. (*Source: NM WCA 2020, 2019, 2018, 2017 annual reports*).

The Advisory Council stands firm in its belief the fund should be exclusively reserved and not be diverted from its intended purpose to support the workers and employers of New Mexico through the

Workers' Compensation Administration. These funds are raised through assessments on workers and employers and the Council feel strongly the money should stay with WCA for the betterment of both workers and employers. While we understand that at the start of the recession it may have been necessary, this should have been a temporary necessity. We respectfully request that these transfers stop this next budget year.

Conclusion

The New Mexico Workers' Compensation Administration is stable at this time. We, the members of the Advisory Council on Workers' Compensation and Occupational Disease Disablement are dedicated to remaining responsive to the dynamic challenges of the overall system.

This report was approved via email communication on December 21, 2020.

Respectfully submitted:

Courtenay Eichhorst



Kevin J. McGinley



Darrell Deaguero



Sharon Pedroncelli



Sara Ranney



Lillian Santillanes

