

# 2017 Annual Report:

## Advisory Council on Workers' Compensation and Occupational Disease Disablement

Presented to:

The Honorable Susana Martinez,  
Governor

The Honorable John. G. Franchini,  
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 Business and Employment

Committee

Chair, House Judiciary



Submitted by:

James Magoffe, Chair

Kevin J. McGinley, Vice Chair

Courtenay Eichhorst, Member

Taylor Horst, Member

Dain Symes, Member

# Annual Report of the Advisory Council on Workers' Compensation and Occupational Disease Disablement - 2017

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 collections;
- 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 Council currently has six appointed members. The Director of the Workers' Compensation Administration serves as an ex officio, non-voting member. The Council is made up of three representatives from labor and three representatives from the business community. There was one employer vacancy for much of the year, which was filled in early December.

## **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.*

## 2017 Legislative efforts

### Senate Bill 155 - WORKERS' COMPENSATION BENEFIT CLARIFICATION

Sponsored by Sen. Jacob Candelaria (D-Bernalillo) SB 155 attempts to clarify a worker's entitlement to disability benefits when an injured worker unreasonably refuses a post-injury return to work offer, or is terminated for misconduct after returning to work post-injury. The bill would also allow for fines of up to \$10,000 against employers who terminate workers for pretextual reasons in order to avoid payment of benefits to the worker, or as retaliation against the worker for simply seeking benefits. With endorsement from the Advisory Council on Workers' Compensation and Occupational Disease Disablement, the bill passed both chambers of the Legislature and was signed by Gov. Susana Martinez on April 5, 2017, to become effective June 16, 2017.

### Reallocation of Funds

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. Over the last 10-plus years, nearly \$30 million has been transferred out of the WCA to other agency funds (according to WCA audited financial statements, 2005-2016). 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. In FY 2017, legislative transfers included \$1.5 million to DWS, and \$8.75 million to the State General Fund (*Source: NM WCA 2017 Annual Report*).

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. To support that belief the Advisory Council will be supporting introduction of legislation this year related to collected fees, and a Memorial supporting a system study in 2018 and a minimum of every five years thereafter.

### 2018 Legislative Initiatives

The Advisory Council plans to introduce an amendment to the Workers' Compensation Act reducing the quarterly workers' compensation assessment fee imposed on employees in an effort to restrict the use of money in the workers' compensation administration fund solely for the purposes of the Workers' Compensation Administration in regulating the system. Additionally, the Council plans to introduce a Memorial requesting that the workers' compensation administration commission an independent study in 2018 and at least every five years thereafter to review other states' workers' compensation trends and initiatives and to develop recommendations for improving the workers' compensation system in New Mexico.

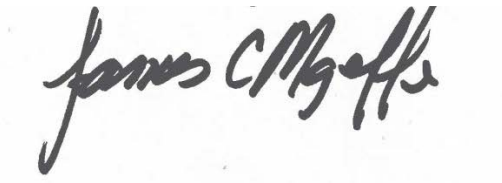
**Conclusion**

The New Mexico Workers' Compensation Administration is stable and working on initiatives to remain responsive to the dynamic challenges of the overall system.

This report was approved by the Advisory Council on Workers' Compensation and Occupational Disease Disablement via email communication on December 28, 2017.

Respectfully submitted:

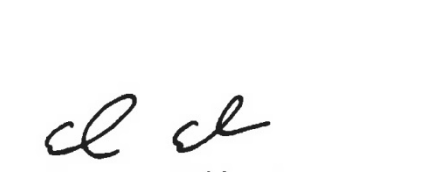
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