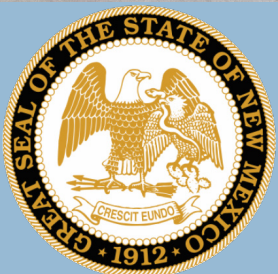


New Mexico Workers' Compensation Administration

ANNUAL REPORT



2023



State of New Mexico Workers' Compensation Administration

ONE TEAM ONE GOAL
A Better New Mexico for Workers and Employers

Michelle Lujan Grisham, Governor
Robert E. Doucette, Jr., Director

The 2023 New Mexico Workers' Compensation Administration Annual Report was produced through the Economic Research and Development Bureau and the Office of Public Information.

This report can be found at <https://www.workerscomp.nm.gov/Publications>.
Additional copies of this report may be obtained by calling (505) 841-6000,
or by writing to the Office of Public Information,
PO Box 27198, Albuquerque, NM 87125-7198, or by e-mailing WCA-PIO@state.nm.us.

Photos of balloons and other painted images are from the WCA mural painted by Mariana Jimenez.

Contents

01 Introduction4

| | |
|---------------------------|----|
| Director's Message..... | 7 |
| Our Agency..... | 8 |
| Key Metrics | 10 |
| Fund Dollars at Work | 22 |

02 System Statistics..... 29

| | |
|----------------------|----|
| Costs..... | 30 |
| Pharmaceuticals..... | 42 |
| Coverage | 50 |
| Claims..... | 54 |

03 Regulatory Changes... 63

| | |
|--------------------------|----|
| Legislative Session..... | 64 |
| Rule Changes..... | 66 |
| Court Decisions | 70 |
| Advisory Council | 72 |

04 Research Initiatives 73

| | |
|--------------------------|----|
| Temperature Analysis.... | 74 |
| RBRVS Analysis..... | 76 |
| Medical Cannabis..... | 77 |
| National Committees.... | 78 |

05 Organization.....79

| | |
|------------------------|----|
| Senior Management..... | 80 |
| Judges | 82 |

06 Appendices85

| | |
|------------------|----|
| Appendix A..... | 86 |
| Appendix B..... | 89 |
| Appendix C | 94 |





Roswell Business Operations Specialist Alicia Torrez and Field Office Manager Sarah Castro at an outreach event.

Agency staff conduct outreach statewide, providing workers and employers with the information they need to make informed decisions.

Introduction

01

New Mexico Workers' Compensation Administration Strategic Objectives



**Increase the
Number of
Insured**



**Decrease the
Number and
Severity of
Accidents**



**Resolve Disputes
Accurately and
Timely**



**Regulate
Stakeholders
per the Workers'
Compensation
Act**



Injured workers who file for workers' compensation insurance are central to all workers' compensation transactions.

While injured in the workplace, they have the right to reasonable medical care, and sometimes, wage replacement. After a workplace injury or illness, workers notify employers, which sets the system in motion for a workers' compensation claim. The WCA provides workers and employers with mediation services

and an administrative court system where cases can be heard if claims are disputed.

The WCA also ensures that required employers carry workers' compensation insurance. It provides information and assistance, free of charge, through its ombudsman program and through reports, publications, workshops and seminars. It provides safety training and assistance.

The WCA administers the Uninsured Employers' Fund, which provides monetary assistance to injured workers whose employers are illegally uninsured.

Since its inception, the agency has established six field offices in addition to its main headquarters in Albuquerque, to better serve all New Mexico's residents.



“

*“The agency is what it
is today because
of its people.”*

Director's Message

One Team. One Goal. A Better New Mexico for Workers and Employers

The commissioned mural painted in the Workers' Compensation Administration's south stairwell signifies the story of the agency, from past to present. Grounded in New Mexico and its people, the agency's staff have carried forth the mission and goals which were set from the ideas delineated in the 1980s. The mural's imagery can be found on this report's cover, and on pages throughout, reminding us all of the important ongoing work of workers' compensation in the state.

On behalf of the New Mexico Workers' Compensation Administration, I am pleased to present the 2023 Annual Report. The report provides an overview of the year's trends in injury characteristics, benefits and claims, indemnity and medical costs, legislative activity, recent case law, as well as information on the WCA's structure, performance, and budgetary outlook. The report strongly demonstrates that New Mexico's workers' compensation system is functional, stable and continues to further progress as needs change.

For the past year, we have ensured recent rule change information has been understood by stakeholders, and we have researched possible changes to streamline systems even further, all in aid of making a better system for all. A legislative task force is examining attorney fees for possible updates.

This year's report not only tells the story of the work we do, but also captures the story of the people who provide New Mexicans with a workers' compensation system. It is our staff, past and present, who provide needed services. They provide regulatory oversight as well as vital information for workers who suffer a

workplace injury, or employers who seek to conduct business. Our adjudication staff ensure disputes are mediated and if necessary, heard as formal cases. The many people who have dedicated themselves to the service of workers' compensation since the agency's inception decades ago have provided a stable enterprise for all New Mexicans.

The past is important to me, and so are the people. I commissioned a New Mexico-themed mural in one of the main office's stairwells, to highlight the story of the agency. The mural's New Mexico setting is the backdrop, and the many people who have dedicated 20 years or more, or who sadly passed on while working with the agency, are highlighted in the mural.

What we do comes down to the dedicated people who make this agency, as well as those in the past who have done the same. The Workers' Compensation Administration has its roots in New Mexico and in the people who have ensured a workers' compensation system. The system remains healthy and hale. I hope you enjoy the report and its new look. Feel free to contact me at any time.



"You have to honor the past."

Our Agency

The system strives to maintain a balance

The agency works as a fulcrum for workers and employers, striving to balance their needs.

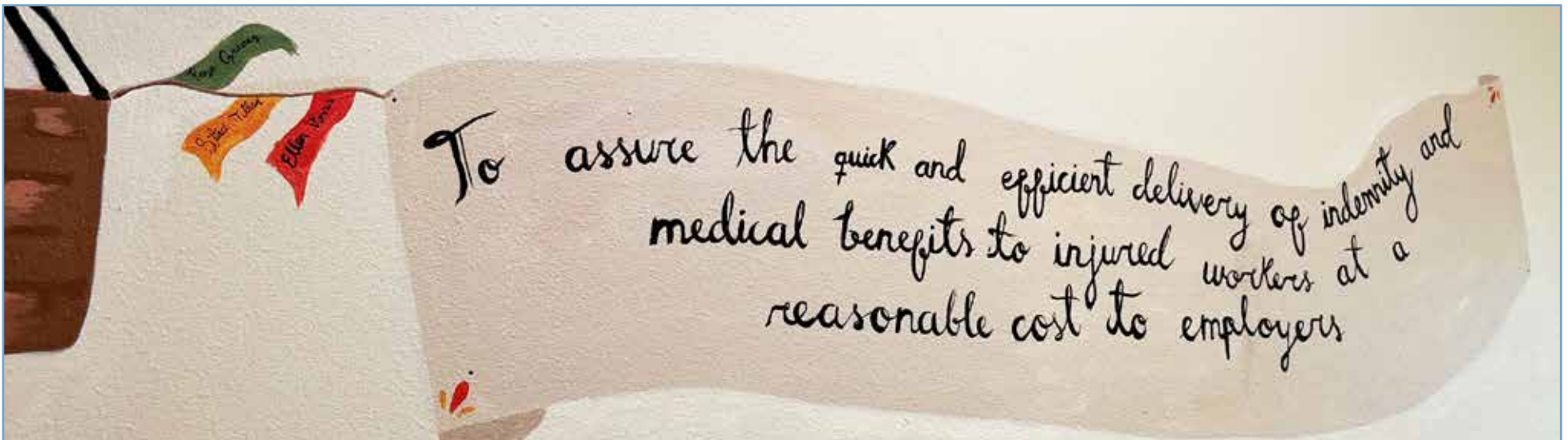
The New Mexico Workers' Compensation Administration's mission is to assure the quick and efficient delivery of benefits to injured workers at a reasonable cost to employers.

While the New Mexico Workers' Compensation Administration (WCA) **does not** provide workers' compensation insurance, it does ensure compliance with the statutes set down by the Workers' Compensation Act, as evidenced by the data in this report.

As an agency, we provide the information and resources needed by both workers and employers. This annual report opens the window to data that paints the most recent picture of our workers' compensation system. We hope the details provide an understanding of the year's trends and developments.

In 2023, a mural was commissioned for one of the stairwells of

our agency's main office located in Albuquerque. It contains a New Mexico motif, and scattered on its iconic hot air balloons are the names of agency staff who provided the WCA service for 20 or more years. The names of those who worked at the agency at the time of their deaths are also provided. Honoring those who came before to help build the agency as it presently exists was an important theme for the annual report. Readers will find images throughout of the agency's mural, along with the names of those dedicated civil servants who helped the state's workers' compensation system become what it is today.



Twenty Years or More

The following employees served the WCA for 20 years or more.

Some of their names can be found on the mural photos scattered through this report.

Yvette Aguirre
Khaled Ali
Stella Bacca
Joan Calcutt
Dana Chavez
Richard Crollett
Sherri Dale

Cyrette Edmon
Wayne Farmer
Laura Feight
Rose Graves
Gregory Griego
Sarada Gutierrez
Brenda Henderson

Amme Hogan
Janet Jaramillo
Sharron Johncox
Christopher Johnston
Terry Kramer
Mark Llewellyn
Salvador Lopez

Christine Lucero
Irene Lucero
Roger Ma
Alex Maestas
Henrietta Martinez
Leigh Martinez
Victor Martinez
Pauline Pacheco
Margaret Padilla
Elizabeth Peralta
Laura Rollman
Andy Romero
Charlene Roberts
Carmen Sanchez
Lucy Sanchez
Virginia Sanchez
Gertrude Sisneros
Cecilia Spinks
Peggy Tafoya
Nancy Tiano-Brown
Gina Torres
Elaine Trujillo
Staci Tullar
Richard Villafuerte
Ellen Voss
Thomas White



Past Employees

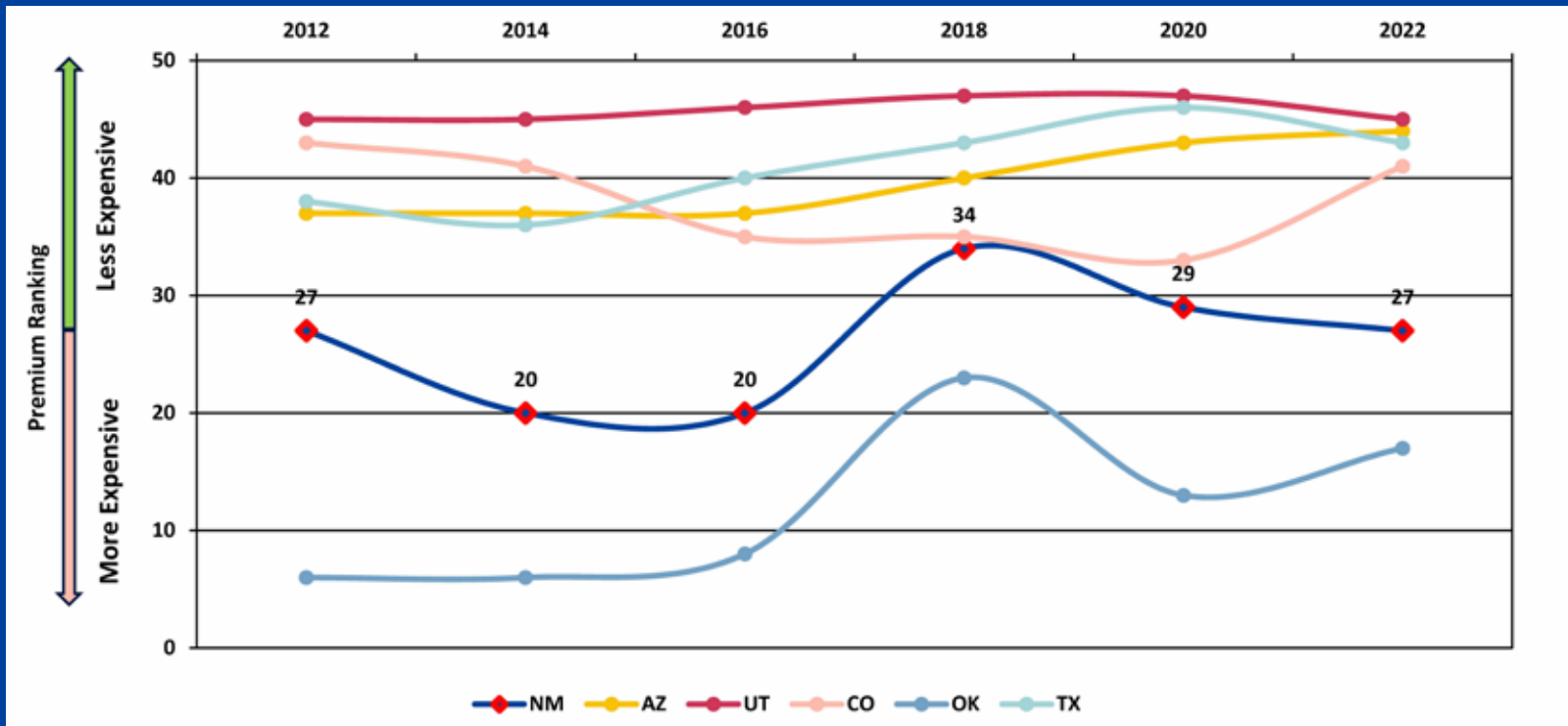
The following employees passed away while employed at the WCA:

Carolyn Ashmead
Kyle Benally
Tony Bostick
Phillip Hayes

Alicia Herrera
Lance Linares
Anita Mayberry
Ernest Trujillo

Key Metrics

Figure 1.1 Six-State Southwest Subregional Comparisons Based on Oregon Premium Rate Ranking, 2012- 2022



Source: Oregon Department of Consumer Business Services *Workers' Compensation Premium Rate Ranking Summary, 2012 - 2022*
 A higher number indicates less expensive industry-adjusted premium rates.

The Oregon Premium Rate Ranking Study



The Oregon Workers' Compensation Premium Rate Ranking study ranks all 50 states and the District of Columbia. The ranking is based on insurance premium rates for workers' compensation coverage. The study accounts for differences in types of industries among states when comparing rates. This allows for a fair comparison of rates. The study has been ongoing since 1986 and aims to provide a way to compare workers' compensation insurance costs across states.

New Mexico's Premium Rate Ranking Remained Stable at 27th

While there is annual variation in rankings, New Mexico's rates have remained similar following the rankings of 20th in both 2014 and 2016, and 34th in 2018.



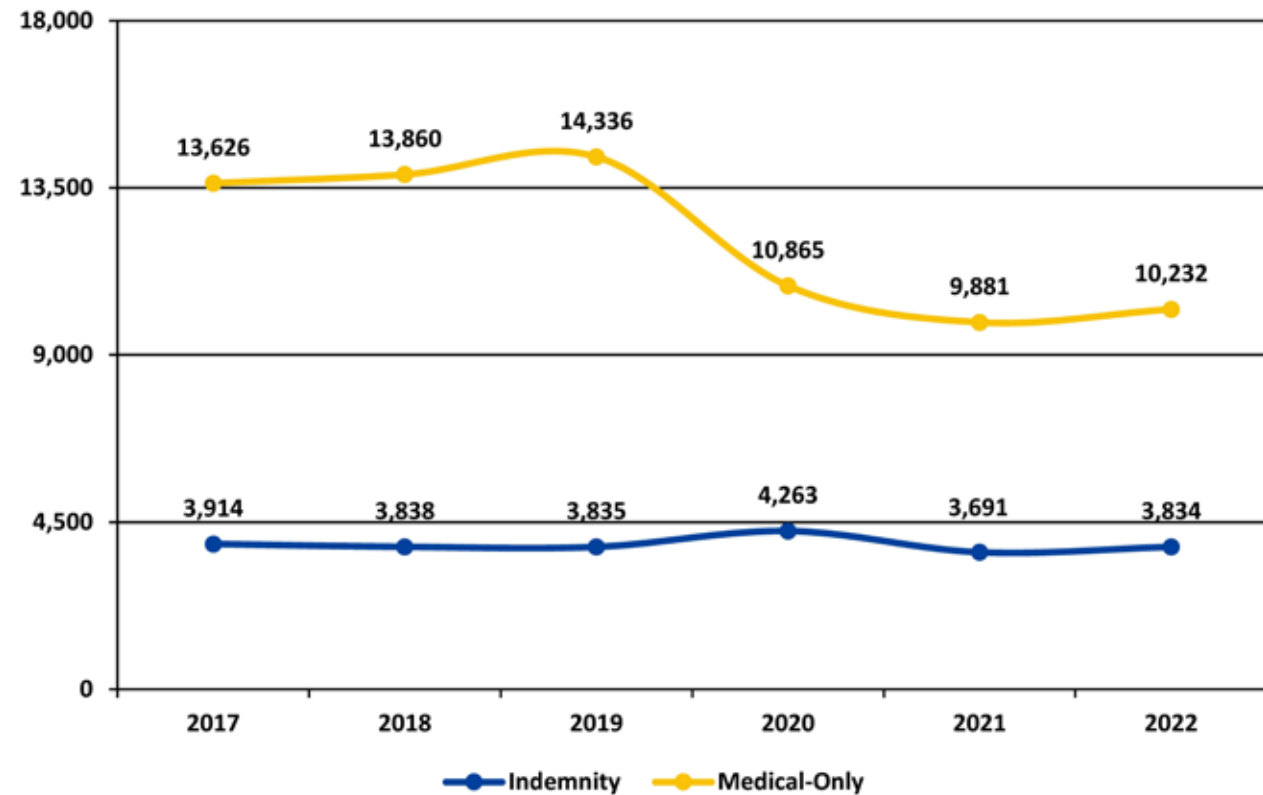
Indemnity vs. Medical-Only

Injured and sick workers receive two types of benefits from the workers' compensation system: medical and indemnity.

Medical payments are payments for medical care such as doctor visits, surgeries, medication, or rehabilitation. Medical-only claims are generally less serious claims where no indemnity benefits have been paid.

Indemnity benefits replace some of the wages that are lost if a worker can't work due to their injury or illness. Indemnity claims are more serious claims where a worker has been off work for at least seven days and received at least one indemnity benefits payment.

Figure 1.2 Total Annual Reported Claims by Claim Type, 2017 - 2021



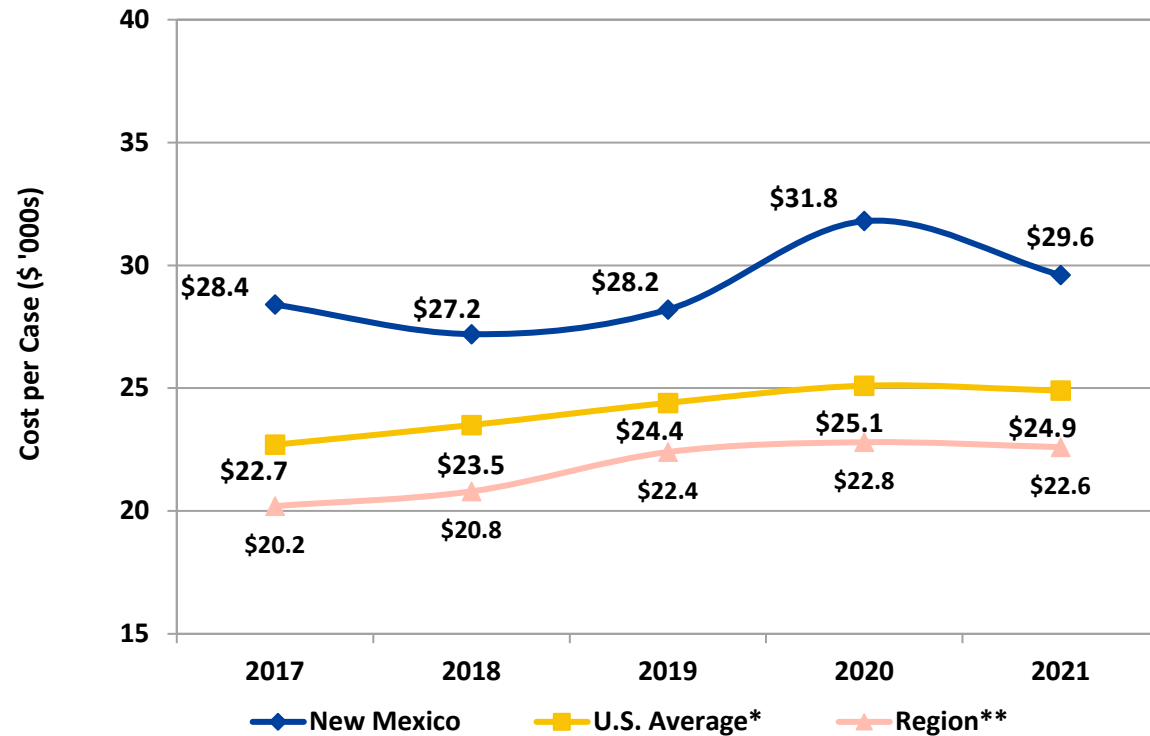
Claim Rates Remained Low in the Final Year of COVID-19 Restrictions

The COVID-19 pandemic resulted in significant workplace disruptions. In the New Mexico workers' compensation system, this resulted in a reduction in less serious medical-only claims. On the other hand, indemnity claim rates have mostly remained flat – but with changes in claim causes and the industry mix.

Indemnity Severity Returned to Normal

In 2020, New Mexico had a significant increase in lost-time severity related to COVID-19 disruptions. The increase was greater than that of both the U.S. and its region. That trend reversed in 2021. Average lost-time indemnity severity declined in New Mexico, the U.S., and the region. New Mexico experienced a greater decrease than either the nation or the region. Consequently, this brought New Mexico's lost-time indemnity severity more in line with the regional and national averages as compared to historical data.

Figure 1.3 New Mexico vs. National Lost-Time Indemnity Severity, Accident Year 2017 - 2021



2021 is the most recent year data is available

Source: National Council on Compensation Insurance (NCCI) *Frequency and Severity Results by State, 2017 - 2021*

*U.S. Average includes all states where NCCI provides ratemaking services

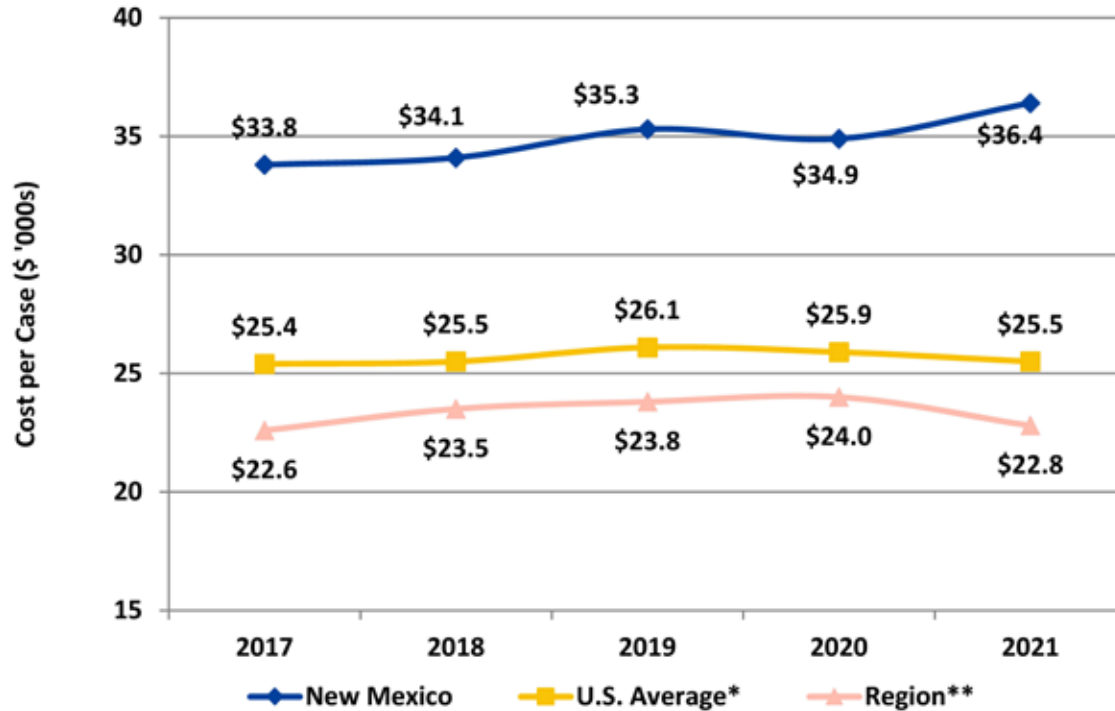
**Region includes Arizona, Colorado, Kansas, Nevada, Oklahoma, Texas and Utah



NCCI

The National Council on Compensation Insurance (NCCI) is a comprehensive source for workers' compensation data and conducts research on workers' compensation insurance issues. NCCI defines lost-time severity as "ultimate losses divided by ultimate lost-time claim counts". NCCI data includes only commercial insurance.

Figure 1.4 New Mexico vs. National Lost-Time Medical Severity, Accident Year 2017 - 2021



2021 is the most recent year data is available.

Source: National Council on Compensation Insurance (NCCI) *Frequency and Severity Results by State, 2017 - 2021*

*U.S. Average includes all states where NCCI provides ratemaking services

**Region includes Arizona, Colorado, Kansas, Nevada, Oklahoma, Texas and Utah

New Mexico’s lost-time medical severity increased slightly in 2021. This was in spite of decreases in both the national and regional averages. Please note that NCCI’s medical severity only includes the medical portion of indemnity claims, not medical-only claims. New Mexico’s lost-time medical severity has always been higher than the national average severity; however, the ratio of New Mexico’s severity to the nation and the region increased in 2021.

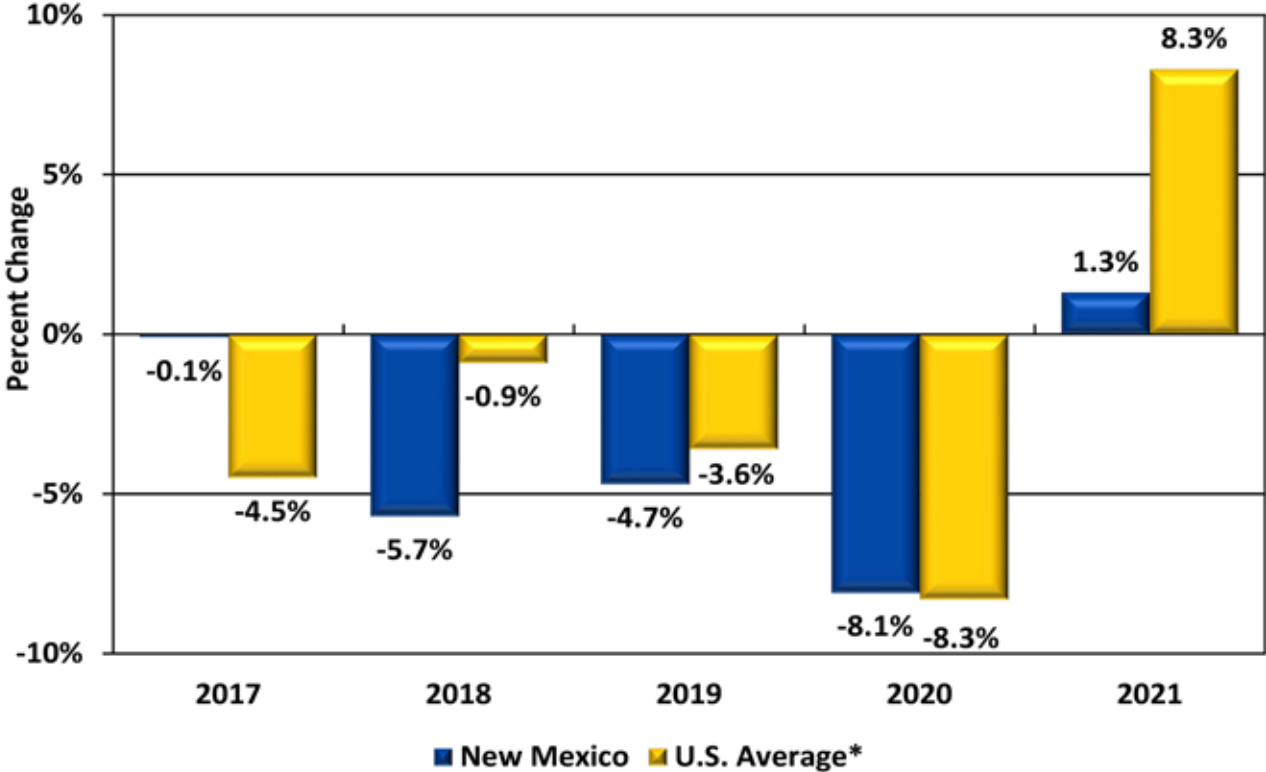


**Medical Severity
Increased in 2021**

Claims Frequency Was More Stable than National Standards

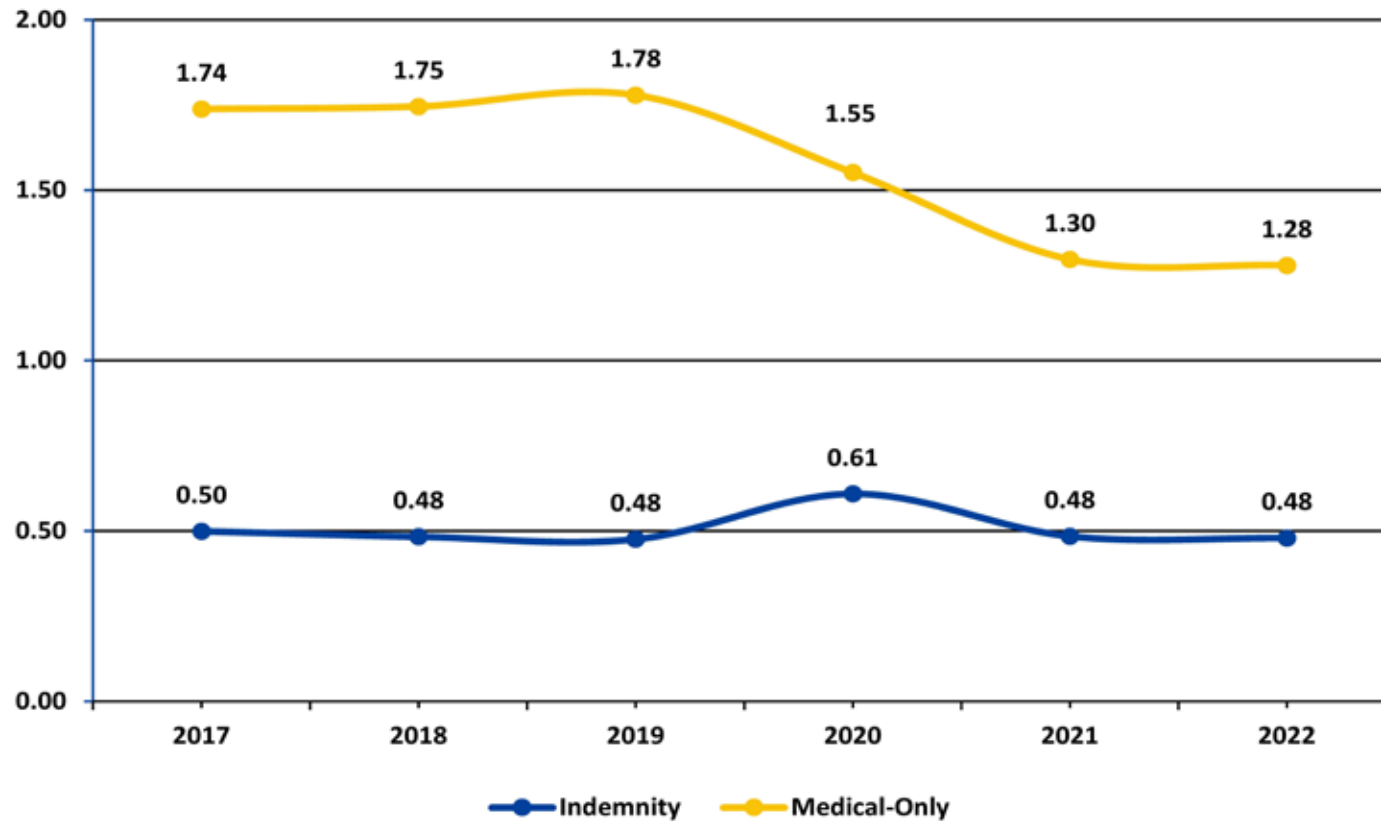
Lost-time claims frequency in New Mexico increased by 1.3%, which was much smaller than the national average of 8.3%. Historically, lost-time claim frequency has decreased over time. However, pandemic-era disruptions reversed the long-time trend.

Figure 1.5 New Mexico vs. National Lost-Time Claim Frequency Changes, Accident Years 2017 - 2021



2021 is the most recent year data is available; data represents claims for insurance carriers only
 Lost-Time Claim Frequency - Claims per \$1M Per Premium, Private Carriers and State Funds - NCCI States
 Source: National Council on Compensation Insurance (NCCI) Frequency and Severity Results by State, 2017 - 2021
 *U.S. average includes all states where NCCI provides ratemaking services

Figure 1.6 New Claims per 100 Workers by Claim Type, 2017 - 2022



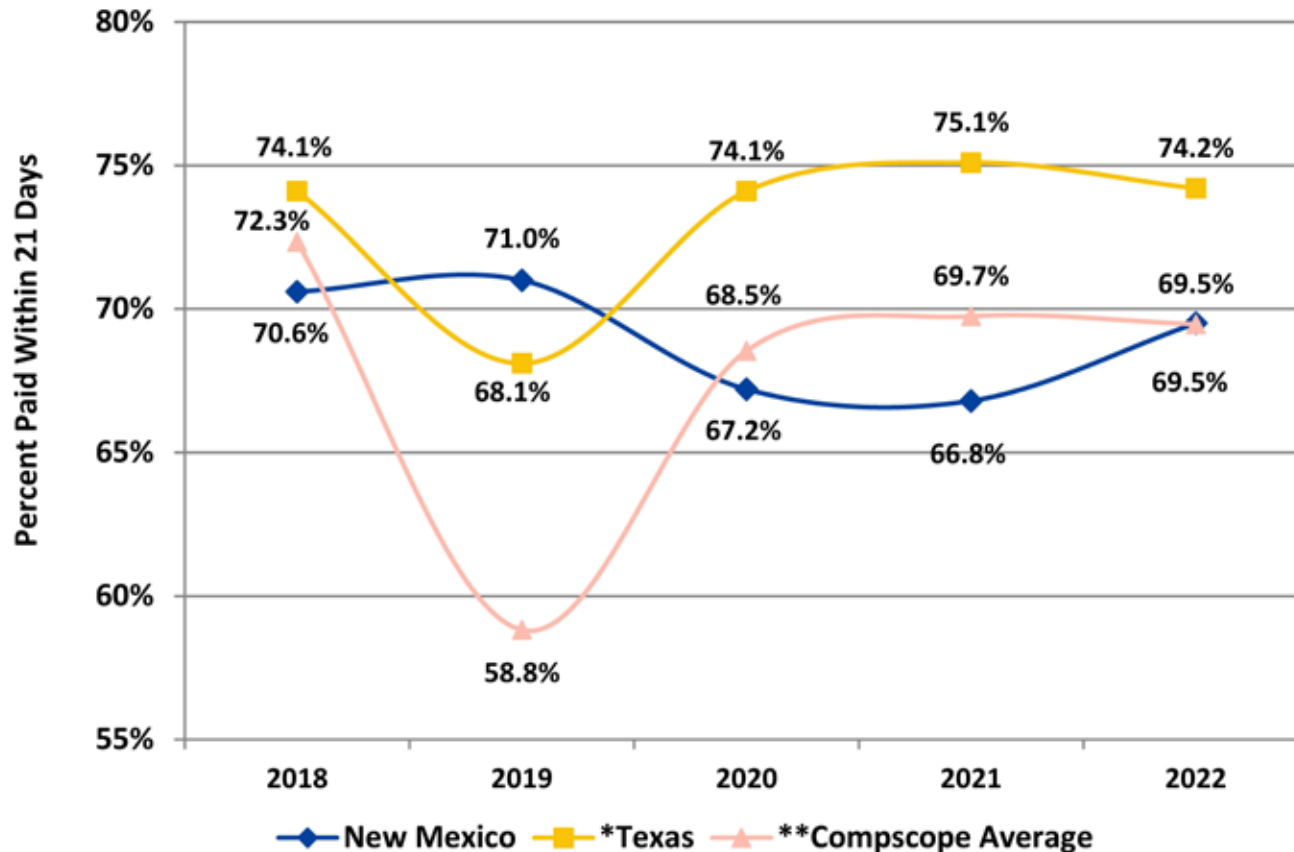
Source: New Mexico Department of Workforce Solutions, *Quarterly Census of Employment and Wages, 2nd Quarter, 2017 - 2022*

New indemnity claims reported to the WCA per 100 covered workers went down slightly in 2022, continuing a three-year trend. New medical-only claims per 100 covered workers remained flat compared to both 2021 and historical norms.

**Indemnity Claims Per
100 Workers
Remained Low, and
Medical-Only Claims
Remained Stable**

First Payment Timeliness Improved Relative to National Standards

Figure 1.7 Percent of Indemnity Claims Paid Within 21 Days of Date of Disability, 2018 - 2022



Texas data is presented due to the state being the only geographically adjacent WCRI CompScope state to New Mexico
 The WCRI CompScope average represents the average of all states included in the WCRI CompScope Benchmark studies
 Source: New Mexico Data: New Mexico Workers' Compensation Administration, Claims Data
 Source: WCRI CompScope Average & Texas: WCRI CompScope Benchmarks (19th through 23rd Editions)

WCRI publishes data on the ratio of claims with a first payment made within 21 days of the date of disability. The date of disability is the first day that a work-related injury or illness resulted in lost wages. New Mexico's payment timeliness improved in 2022 compared to the CompScope average and the nearest CompScope state. While it still has not returned to its pre-pandemic high, payment processing timeliness is returning to normal.

WCRI CompScope Benchmarks



The Workers' Compensation Research Institute (WCRI) is a nonprofit organization that provides objective research about workers' compensation systems. CompScope Benchmarks are annual studies produced by WCRI for each of 18 states and include a variety of useful data points regarding those states' workers' compensation systems.

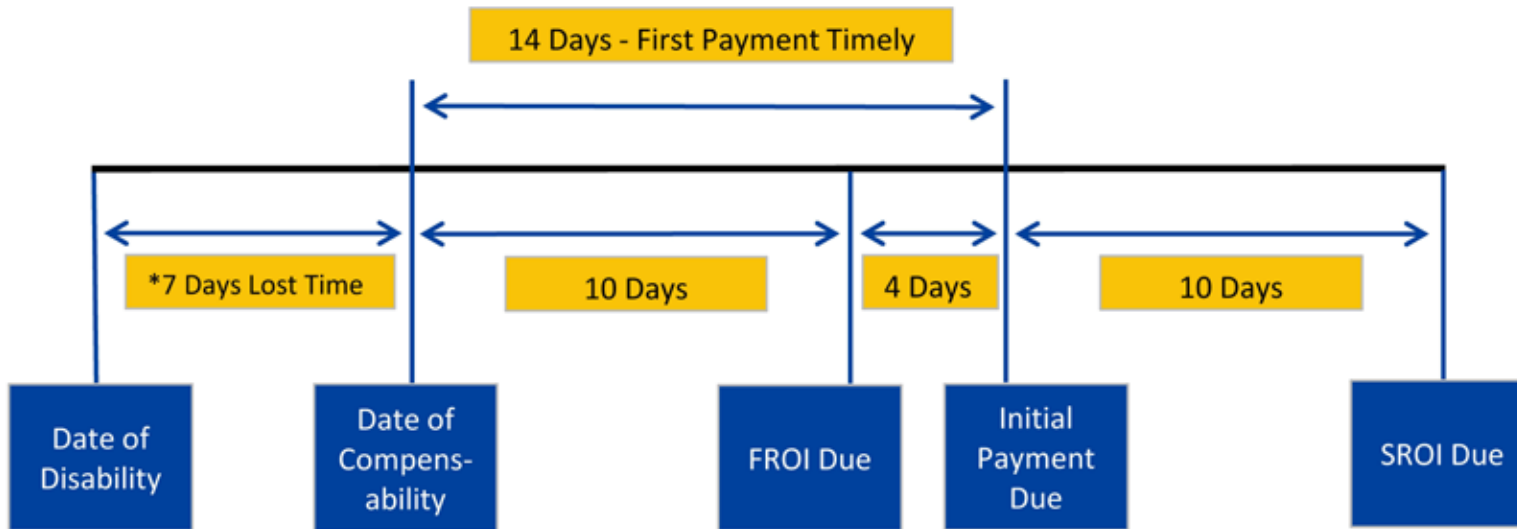
Table 1.1 Timeliness of Filing First Report of Injury or Illness (FROI), 2022

| Insurer Type | Median Days per Filing | Days from Employer Notice to Filing of FROI for Indemnity Claims Filed in 2022 | | | | | | | | | | Total FROI Filed by Insurer Type |
|--------------------|------------------------|--|--------------|--------------|--------------|---------------|--------------|---------------|--------------|--------------|--------------|----------------------------------|
| | | 0 to 7 days | | 8 to 14 Days | | 15 to 21 Days | | 22 to 28 Days | | Over 28 Days | | |
| | | Filings | % | Filings | % | Filings | % | Filings | % | Filings | % | |
| Insurance Carriers | 15 | 655 | 25.9% | 541 | 21.4% | 383 | 15.2% | 253 | 10.0% | 695 | 27.5% | 2,527 |
| Self-Insurers | 17 | 203 | 17.7% | 277 | 24.2% | 200 | 17.5% | 117 | 10.2% | 348 | 30.4% | 1,145 |
| Totals | 16 | 804 | 23.7% | 774 | 22.8% | 554 | 16.3% | 341 | 10.1% | 919 | 27.1% | 3,392 |

This table previously included only Temporary Total Disability and Permanent Total Disability claims. It has been expanded to include all payment types

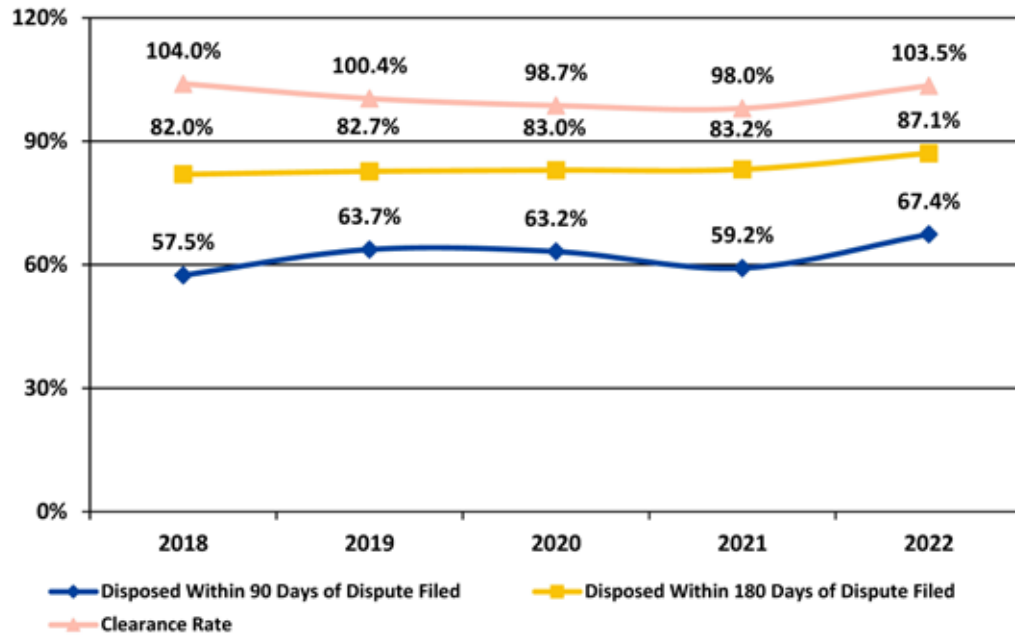
Figure 1.8 Timeline of Claims Processing Deadlines

Filing and Initial Payment Timeline



*The actual number of days between the date of disability and date of compensability can vary, depending on work schedule, intermittent ability to work and other factors

Figure 1.9 Dispute Resolution Clearance Rates, 2018 - 2022



2022: Unprecedented Dispute Resolution

Δ 90-Day Disposed: All-Time High

Δ 180-Day Disposed: All-Time High

Δ Clearance Rate: 4-Year High

Average Settings Per Case Reached an All-Time Low

The average number of settings per case refers to the number of times that a trial is set and then reset before an actual trial is held. Resetting is often due to activity on the part of the parties that is outside of the WCA's control. That said, a lower number of settings typically represents a more efficient dispute resolution process.

Figure 1.10 Average Number of Settings Compared, 2018 - 2022

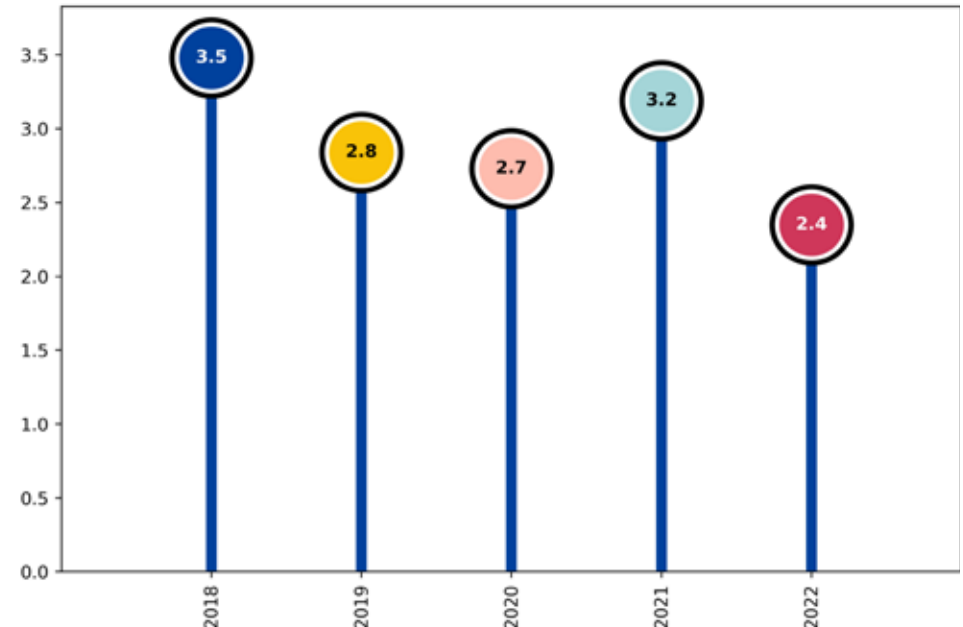
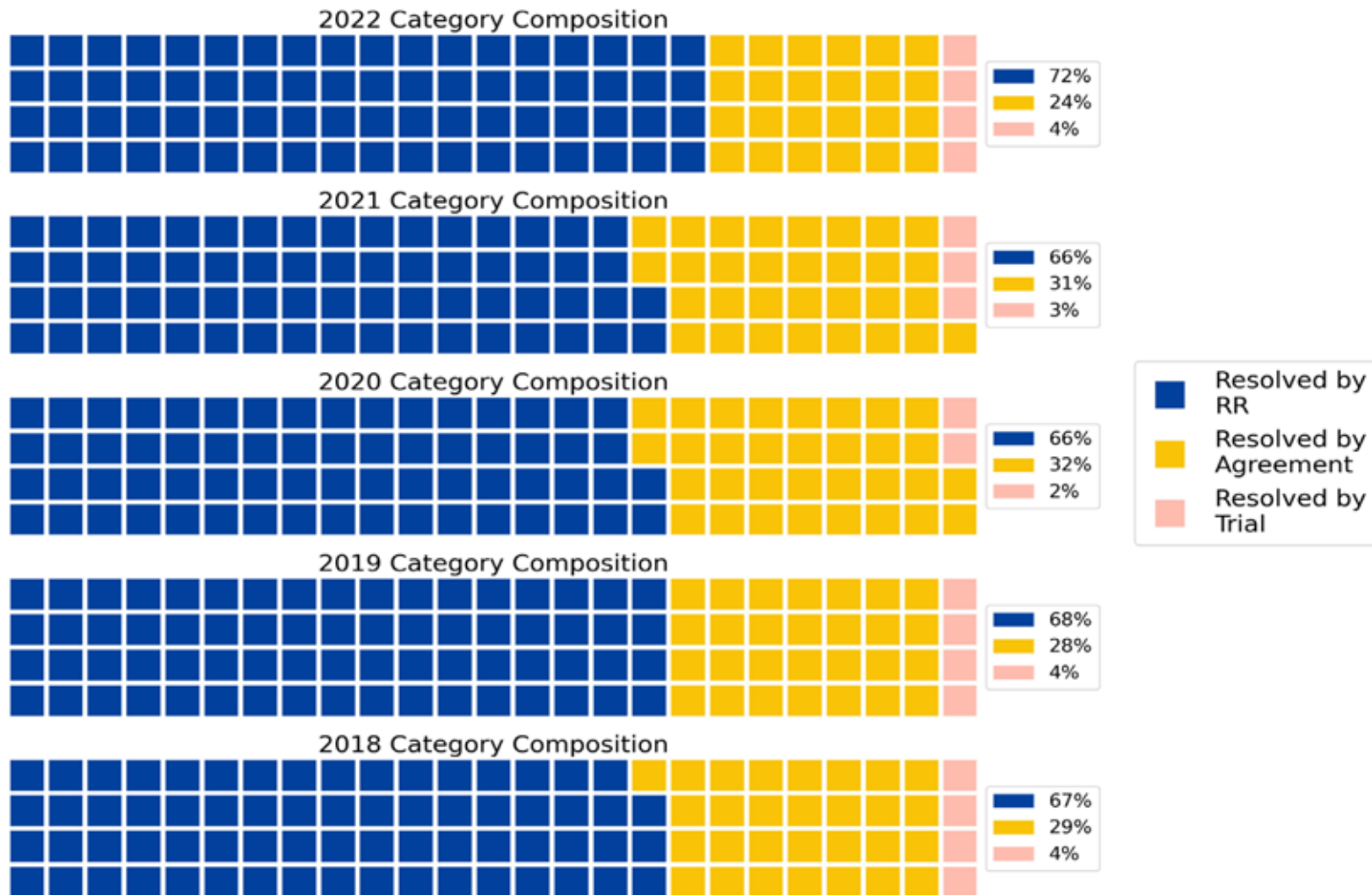


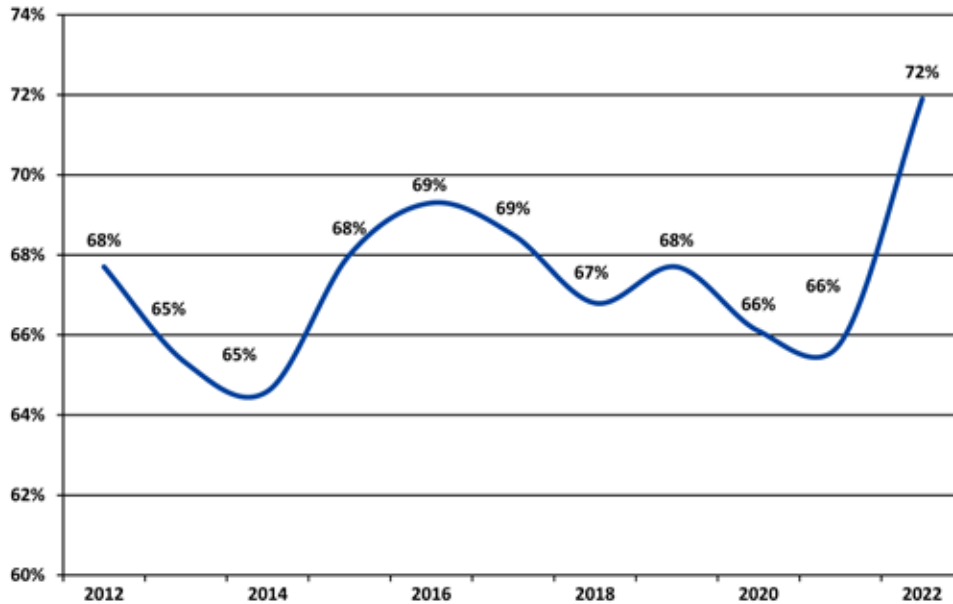
Figure 1.11 Dispute Resolution by Accepted RR, Agreement¹ and Trial, 2020 - 2022



¹Not every case scheduled for trial is resolved by trial; some may be resolved by agreement
 One chart square equals 1% rounded

**Disposition
 Composition
 Remained Stable**

Figure 1.12 New Mexico WCA Recommended Resolution (RR) Acceptance Rate, 2012 - 2022



Mediation performance is measured by two numbers. The accepted recommended resolution rate shows how often the mediation process was “successful.” The median number of days it took for a recommended resolution filing shows how long the process took. Both outperformed all previous years. Together, they show a dramatic increase in mediation efficiency.

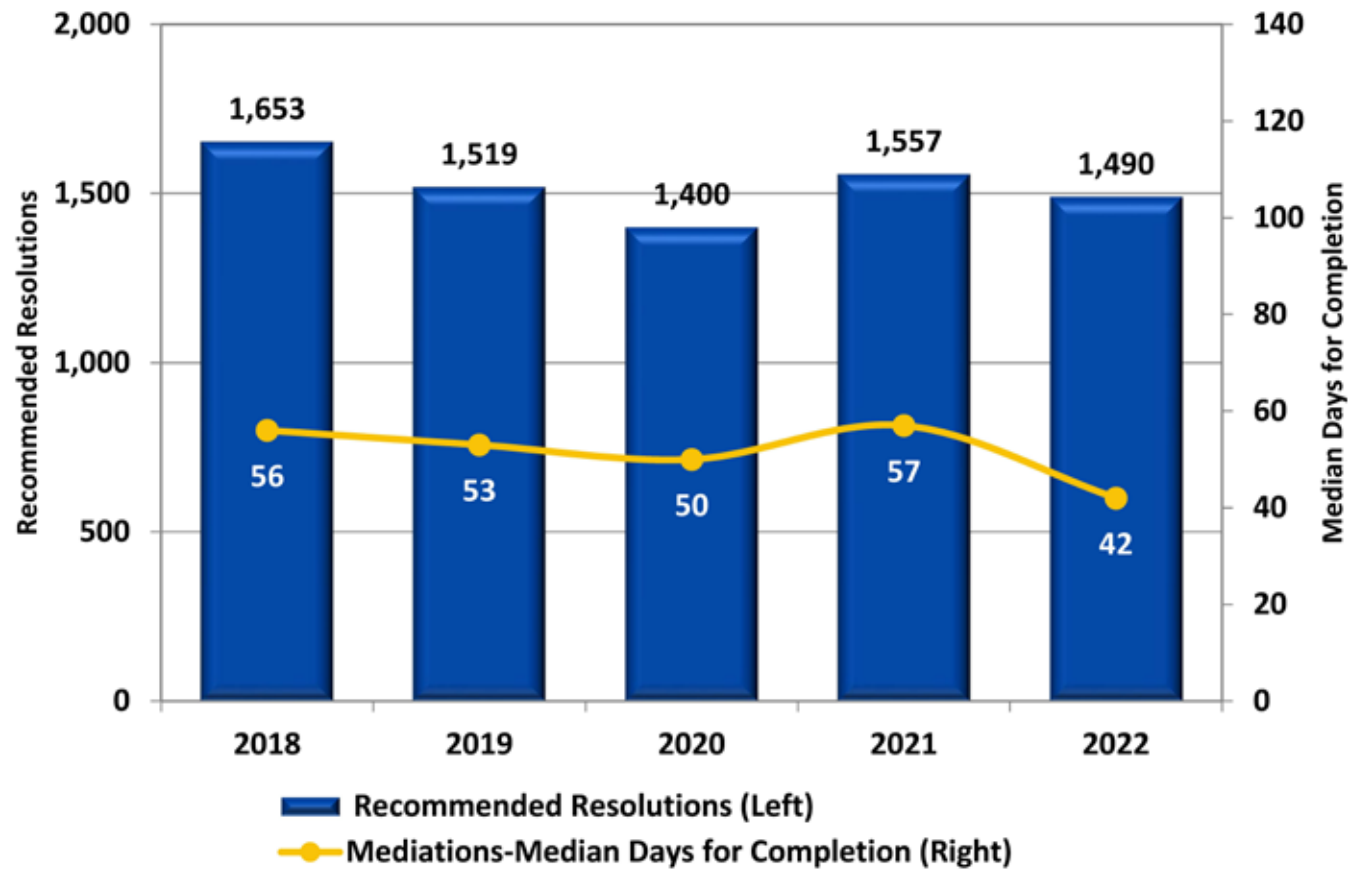
**72%: All-Time High
Recommended
Resolution
Acceptance Rate**



Median Days for Mediation Completion Reached an All-Time Low

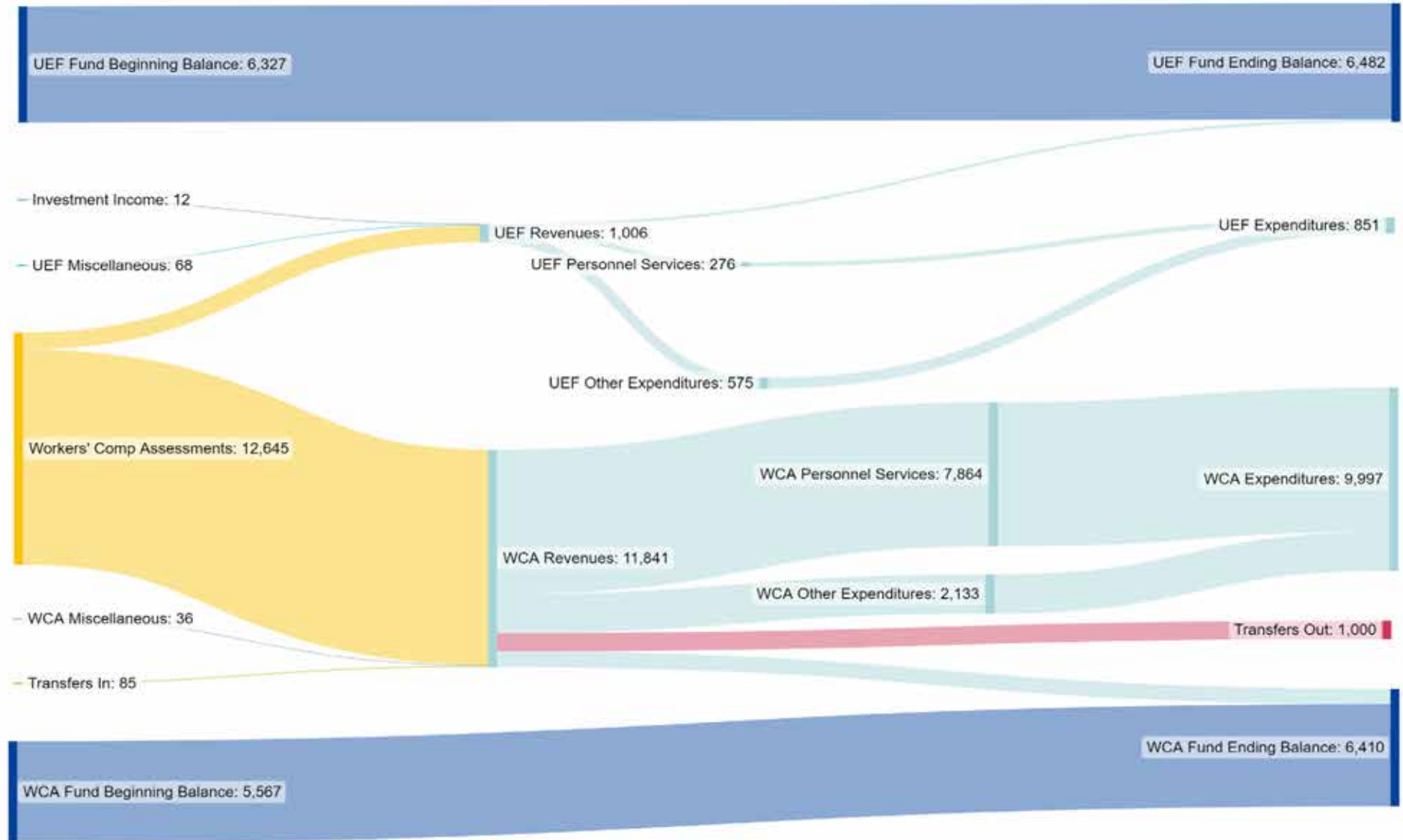


Figure 1.13 Mediation Resolutions & Median Days for Completion, 2018 - 2022



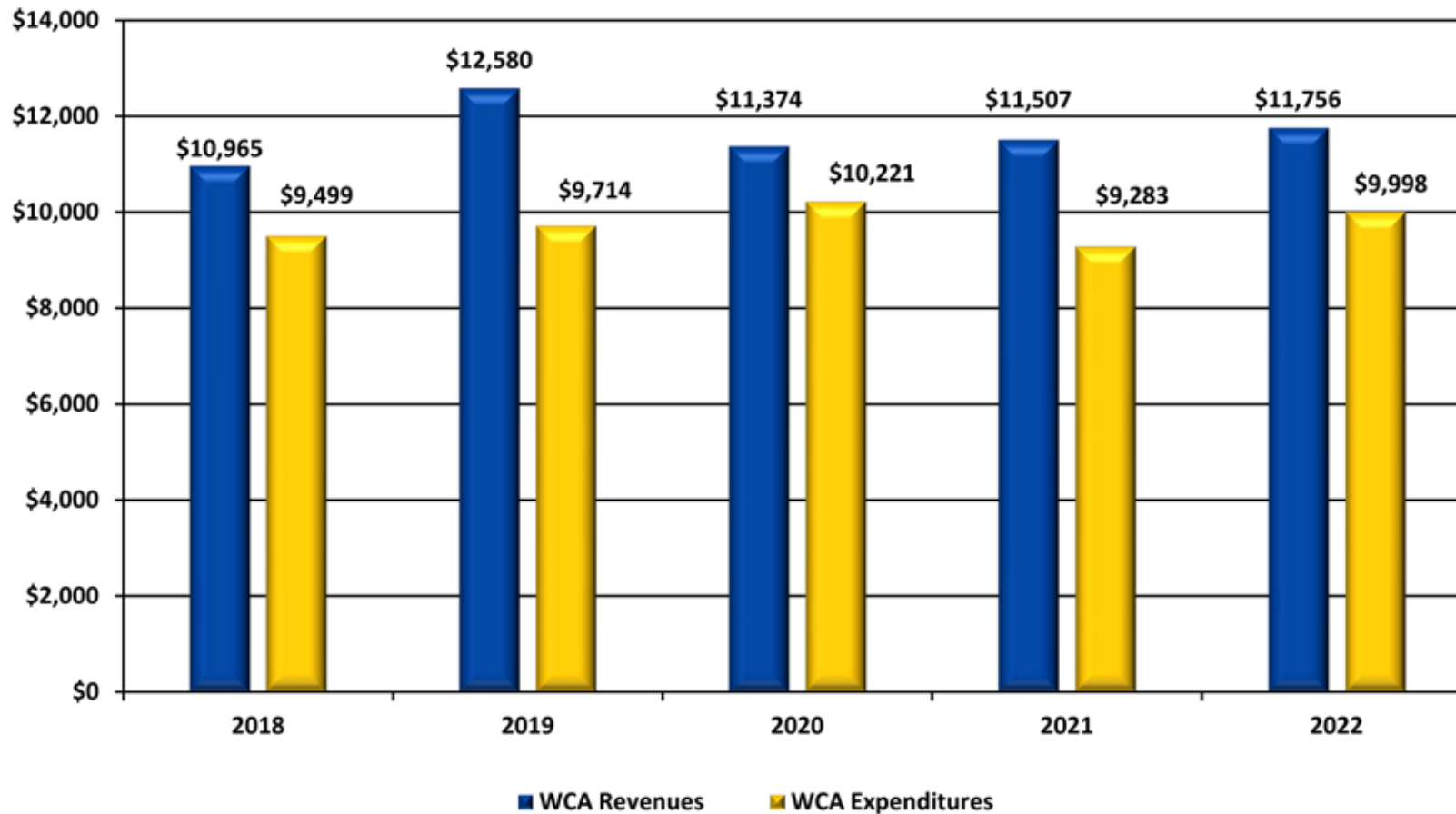
Fund Dollars at Work

Figure 1.14 WCA & UEF Cash Flows - FY 2022 (thousands)



¹Source: New Mexico Workers' Compensation Audited Financial Statements, FY 2022

Figure 1.15 WCA Revenue and Administrative Expenditures, 2018 - 2022 (thousands)



¹Source: NM Workers' Compensation Audited Financial Statements, FY 2018 - FY 2022

WCA Operations Remained Stable in 2022

The WCA's operations remained strong in 2022 both in absolute terms and with a stable cost-to-revenue ratio (CRR). As of FY 2022, the WCA Fund ending balance was \$6.5 million and the CRR was 85%. Financial projections based on proposed budgets anticipate that the agency operating fund will continue to operate at a surplus at least until the end of FY 2025, barring excessive fund transfers.

A Portion of the WCA Fund is Earmarked

The WCA's ending FY 22 fund balance stood at \$6.5 million, approximately half of its 2022 annual budget of \$12.6 million. However, it's important to note that a portion of the fund is already allocated to ongoing projects, which notably includes an important claims standards modernization project. After accounting for these earmarked projects, the WCA fund balance equals just under a third of its annual budget as unallocated funds.

Figure 1.16 WCA Fund Unallocated Balance Compared to Monthly Budget (thousands)

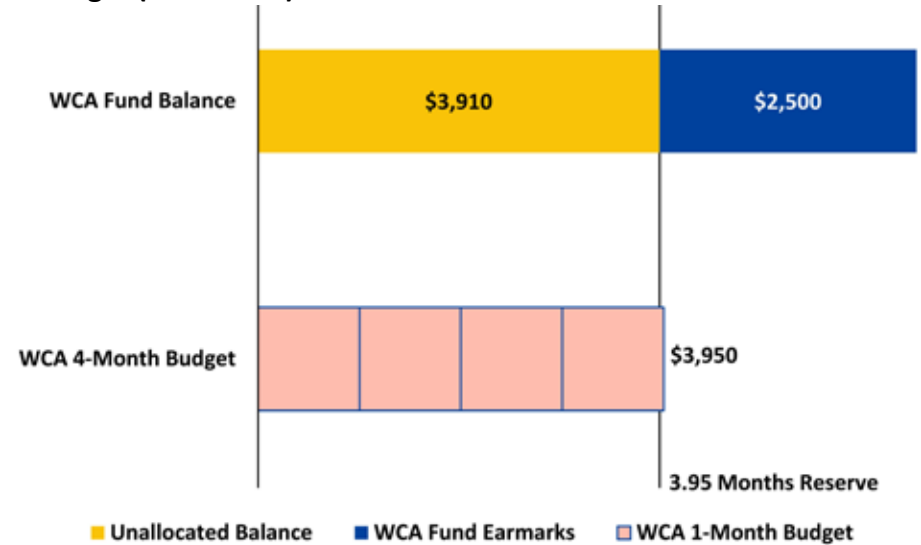
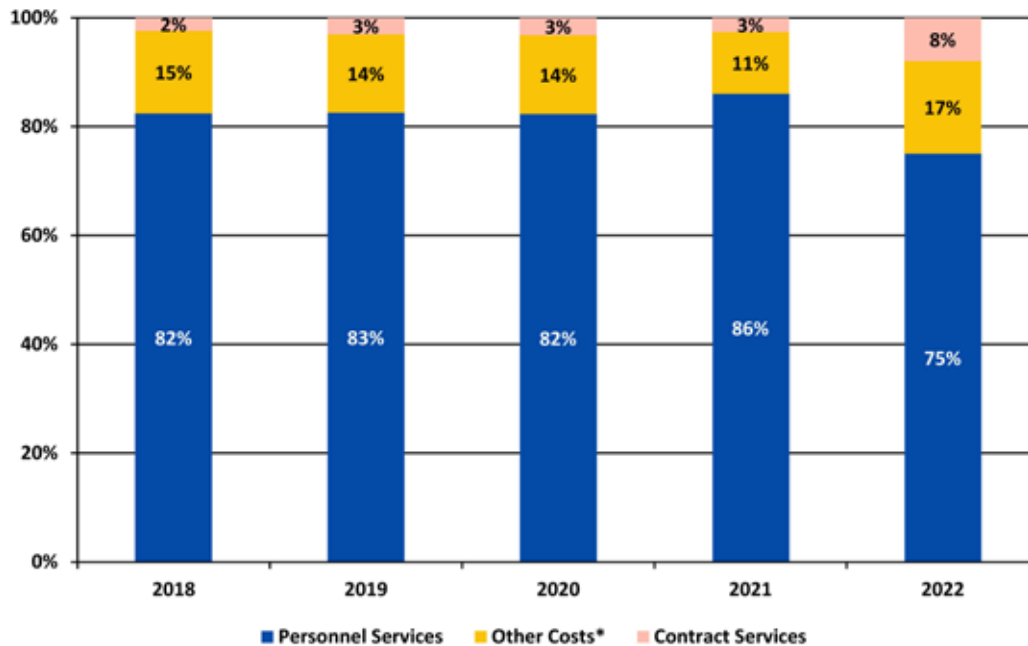


Figure 1.17 WCA Expenditures, FY 2018 - FY 2022



Source: NM Workers' Compensation Audited Financial Statements FY 2018 - FY 2022

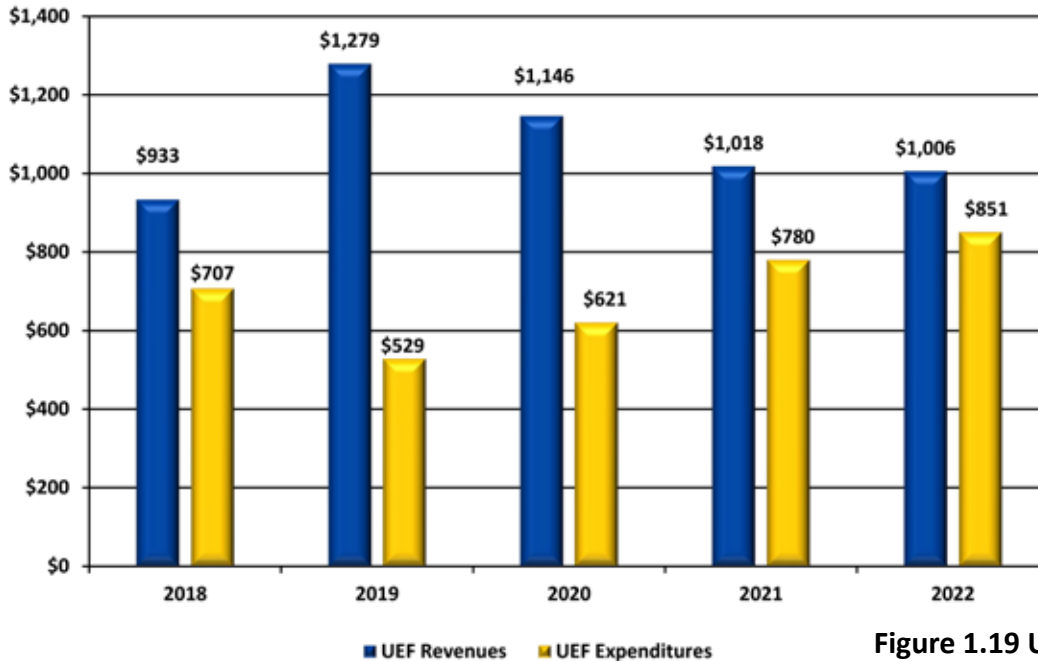
*The Other Costs Category for includes expenditures for supplies and other operating expenses such as travel, training, building maintenance, utilities and capital outlays

Source: NM Workers' Compensation Audited Financial Statements, FY 2022

Costs are Increasing

In 2022, the WCA's spending shifted due to an increase in labor demand and rising inflation. Both contract services and other costs increased substantially, in terms of their share of the budget and also in absolute dollar amounts. While relative spending on salaries decreased, the total dollar amount spent on staff only experienced a slight reduction. This was primarily because of an increase in unfilled positions coupled with higher salary costs for the remaining roles. Staff spending will likely increase as the WCA works to fill staff vacancies.

Figure 1.18 UEF Revenue and Administrative Expenditures, 2018 - 2022 (thousands)



UEF Operating Margins Decreased

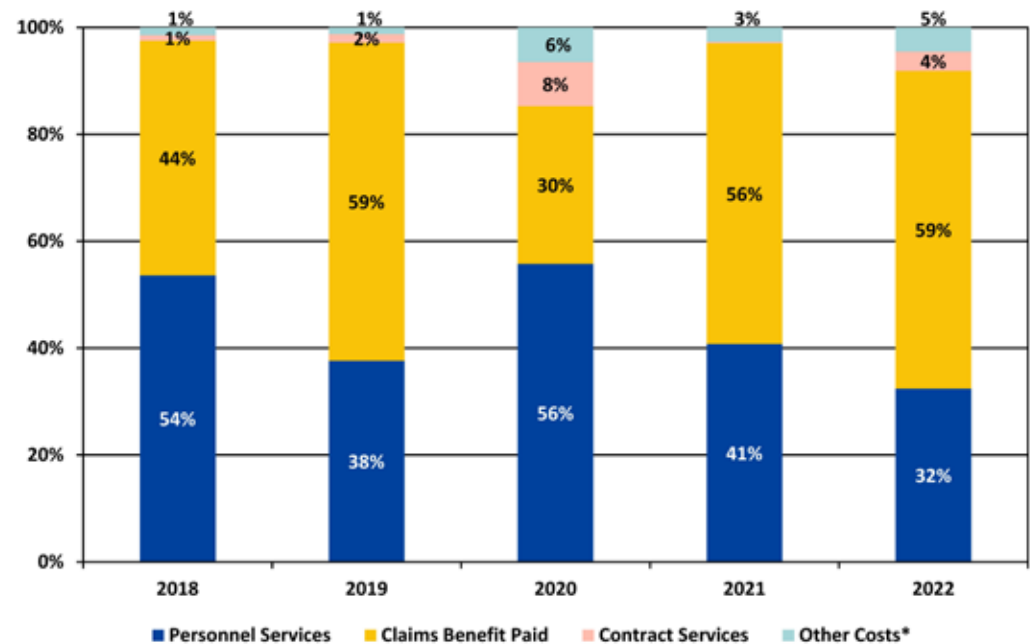
Uninsured Employers' Fund (UEF) margins decreased in 2022, continuing a four-year trend that is driven by a combination of decreasing revenues and increasing costs.

Source: NM Workers' Compensation Audited Financial Statements (FY 2018 - FY 2022)

The UEF saw a rise in expenditures for contract services, claims benefits paid, and other costs, while spending on personnel services declined slightly. This led to a moderate overall increase in UEF expenditures.

Claims benefits paid is expected to increase slightly in FY 2023. This is linked to a planned benefit cap increase from \$40,000 to \$60,000 effective July 1, 2023. An additional fee cap increase is slated for implementation in 2025.

Figure 1.19 UEF Distribution of Expenditures, FY 2018 - FY 2022



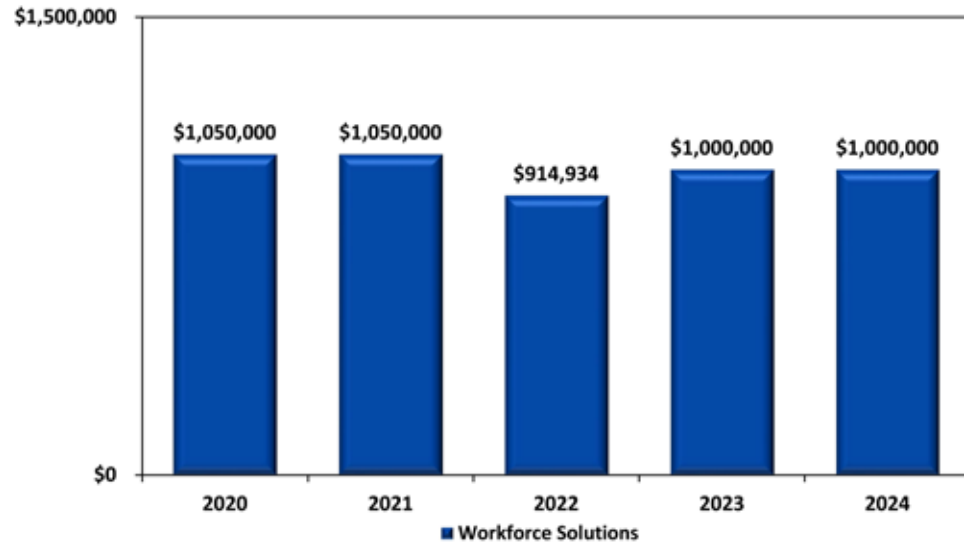
Source: NM Workers' Compensation Audited Financial Statements FY 2018 - FY 2022

*The Other Costs Category includes expenditures for supplies and other operating expenses such as travel, training, building maintenance, utilities and capital outlays

WCA Fund Transfers Overview

In the past five years, over \$5 million has been transferred from the WCA to the New Mexico Department of Workforce Solutions (DWS). Notably, this sum surpasses the unallocated balance of the WCA Fund. However, this budget sweep was reintroduced in the final budget appropriation, and \$1 million was transferred. Neither the WCA nor DWS included a transfer of money in their respective 2023 budget proposals.

Figure 1.20 Funds Transferred from the WCA by Year, FY 2020 - FY 2024



Source: NM Workers' Compensation Audited Financial Statements, FY 2020 - FY 2024
NM Legislature General Appropriation Acts, 2019 - 2023

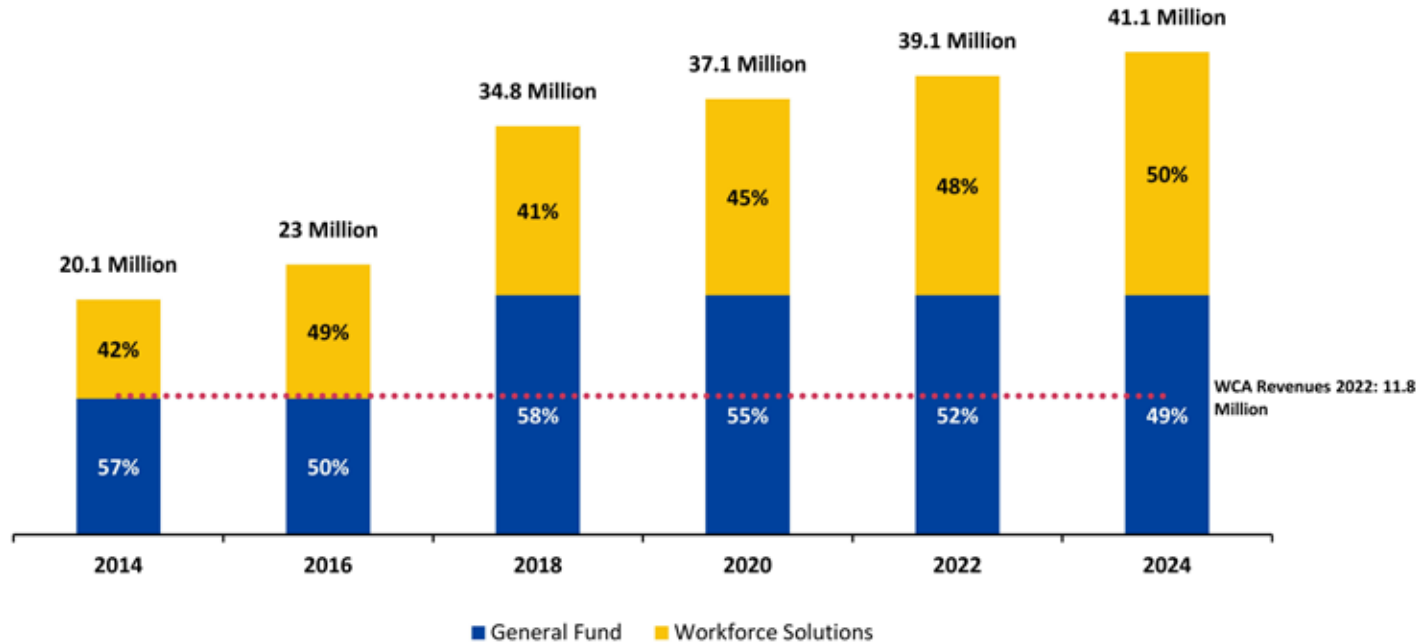


Cumulative budget transfers over the past two decades will exceed \$41,000,000 after the most recent budget appropriation — nearly four times the WCA's annual operating budget

Evolving Conditions: A Prompt for Re-evaluating the Inter-Fund Transfers

Projected increases in WCA costs, along with a portion of the WCA Fund having been designated for ongoing projects, present a significant consideration. The potential for further revenue growth is tied to WCA assessments, which are reliant on population growth and employment levels. Given that the state is at or near full employment, this key driver of revenue growth is approaching its limit, heightening the risk of the fund dipping into a deficit in the future. If the practice of transferring funds out of the WCA Fund continues under these circumstances, it could affect the agency’s future budget. That in turn may necessitate more substantial future interventions such as raising WCA assessments.

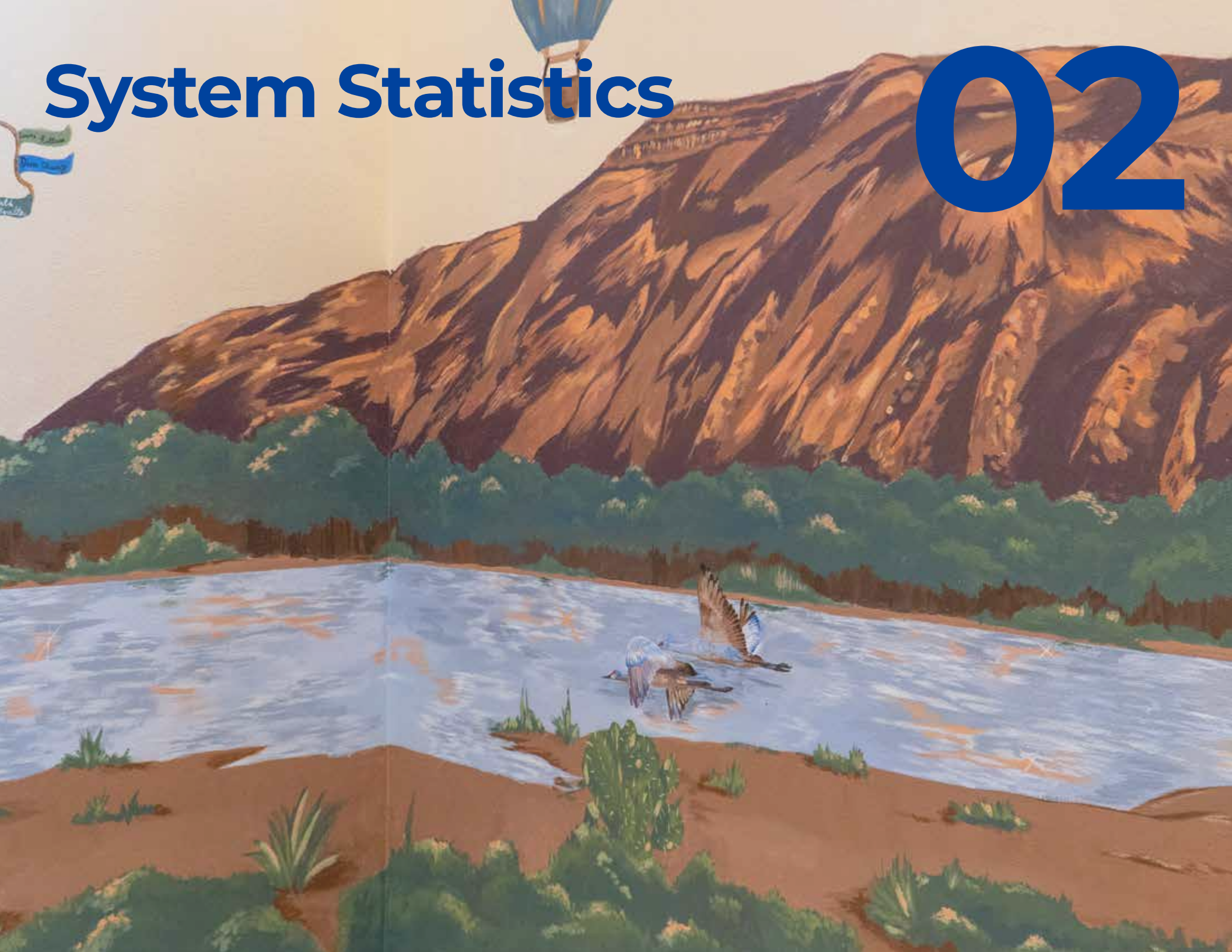
Figure 1.21 Cumulative Transfers from the WCA Fund, FY 2014 - FY 2023



A \$200,000 transfer to the NM Public Regulation Commission predating 2014 represents the missing 1% of cumulative transfers. It was excluded to avoid chart clutter. Source: NM Workers’ Compensation, *Audited Financial Statements, FY 2014 - FY 2023* NM Legislature *General Appropriation Acts, 2019 - 2023*

System Statistics

02



Costs

2022 Expenditures Stabilized After Declining During COVID

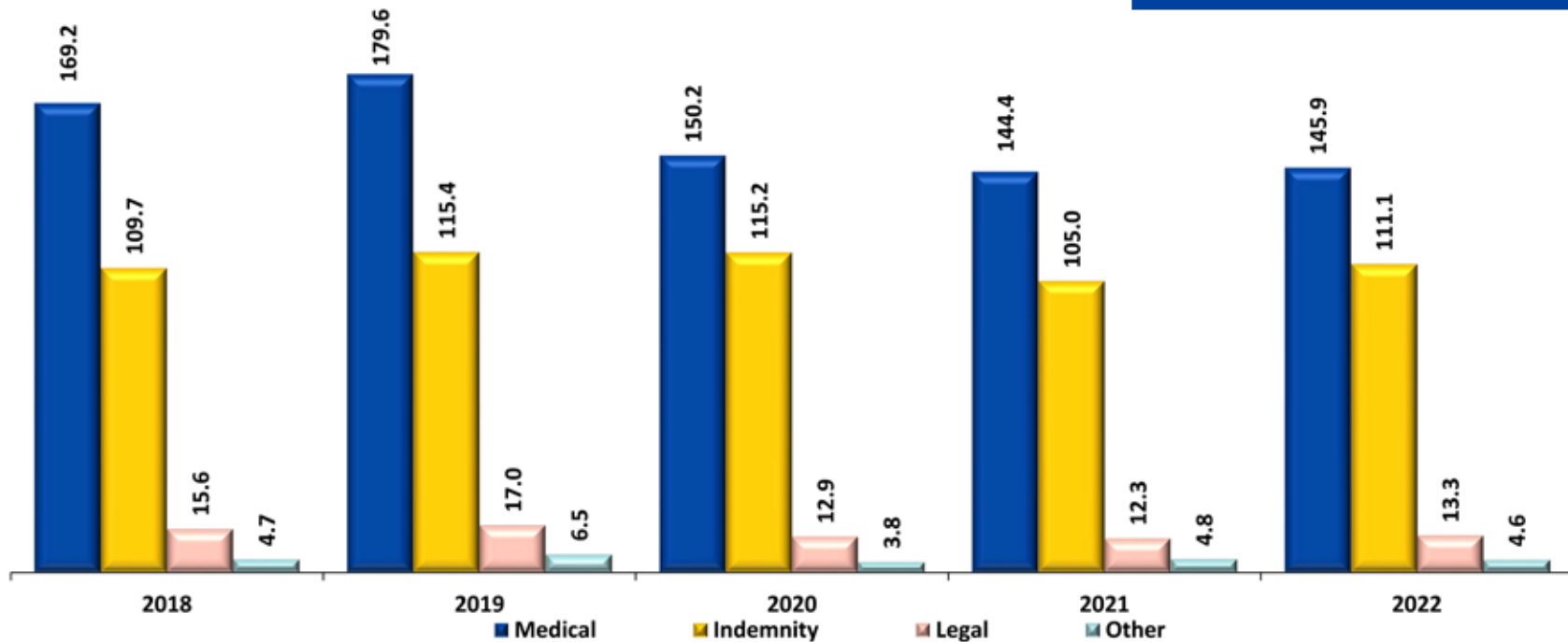
The first year of COVID-19 saw a drop in total claims expenditures, with the largest decrease coming from medical spending. This initial drop was followed by a stabilization of total expenditures at this lower level throughout the remainder of the COVID-19 restrictions. Now, with the final pandemic restrictions having ended in 2023, it remains to be seen if the lower spending level is a new normal, or if costs will return to the higher expenditure levels seen prior to COVID-19.



Annual Expenditure Report (AER)

Every year, from January 1 to February 15, insurance carriers and self-insurers in New Mexico send their annual spending reports to the Workers' Compensation Administration's Economic Research and Policy Bureau (ERP). These reports are the main source of information about spending in the New Mexico compensation system.

Figure 2.1 Total Expenditures by Category, 2018 - 2022 (\$ in millions)



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2018 - 2022*

Table 2.1 Carrier and Self-Insurer Paid Losses and Total Claims by Calendar Year

| Year | Total Expenditures | Total Claims | Carrier Expenditures | Self-Insured Expenditures | Average Per Claim Expenditure |
|------|--------------------|--------------|----------------------|---------------------------|-------------------------------|
| 2018 | \$299,177,013 | 40,636 | \$204,840,262 | \$94,336,751 | \$7,362 |
| 2019 | \$318,521,473 | 40,311 | \$213,550,822 | \$104,970,651 | \$7,902 |
| 2020 | \$282,112,750 | 35,661 | \$196,154,196 | \$85,958,554 | \$7,911 |
| 2021 | \$266,450,637 | 32,540 | \$183,834,357 | \$82,616,280 | \$8,188 |
| 2022 | \$274,854,501 | 31,174 | \$191,932,038 | \$82,922,463 | \$8,817 |

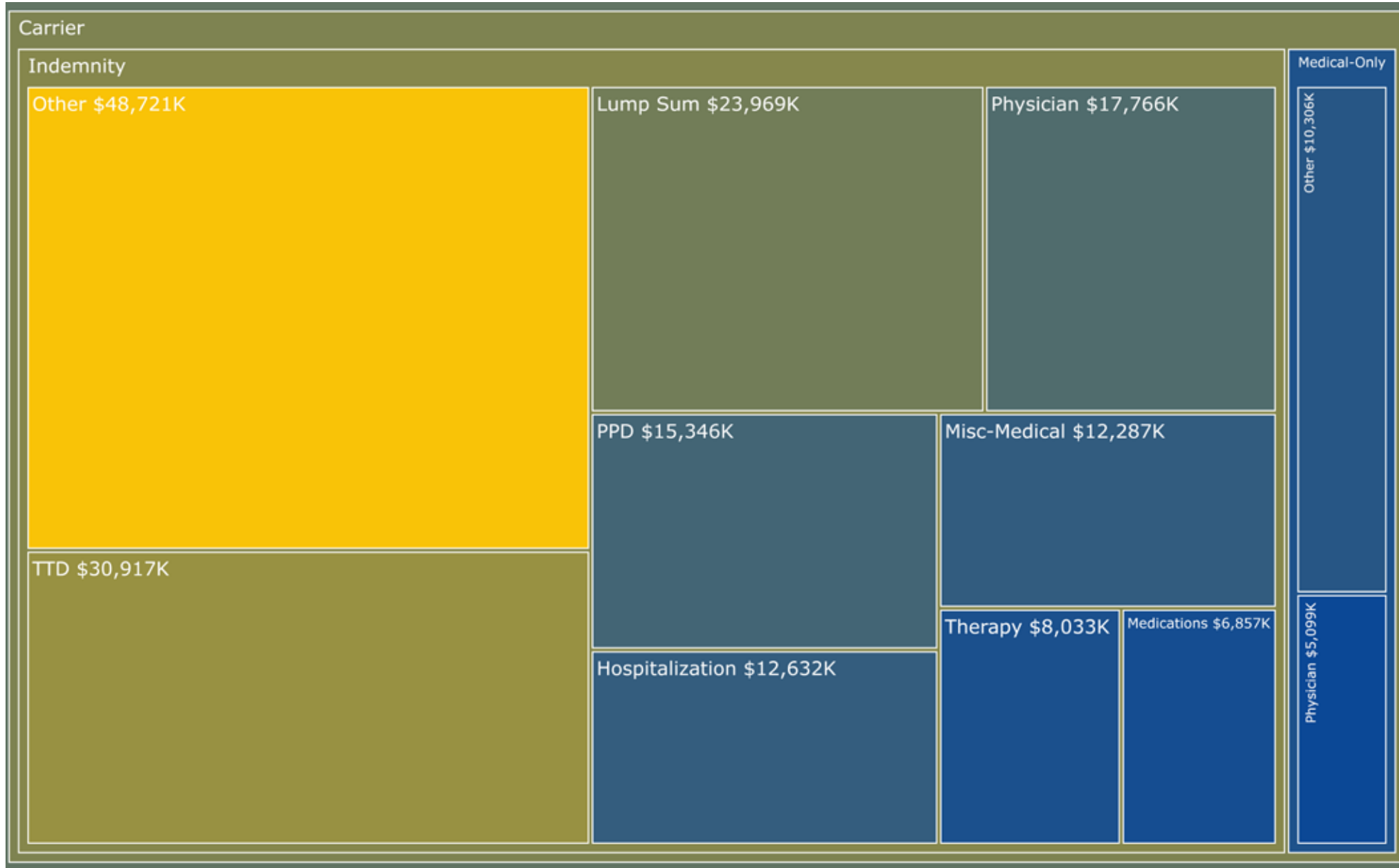
Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2018 - 2022*

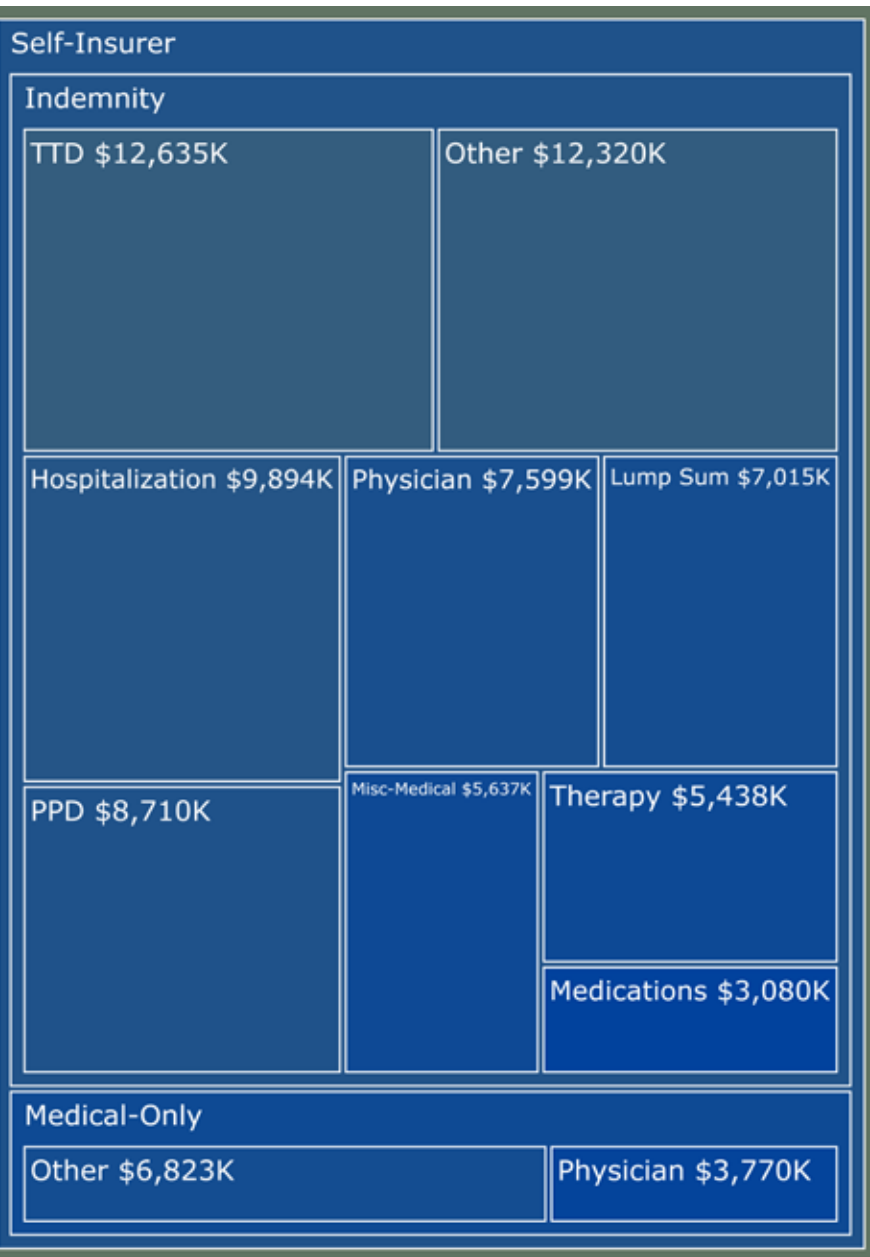


Total expenditure trends were particularly notable from 2018 to 2022. After reaching a high of \$318.5 million in 2019, total expenditures dipped to a low of \$266 million in 2021. In 2022, expenditures rebounded slightly to nearly \$275 million. During the same period, claim counts decreased continuously, while average per claim expenditures saw consistent growth from \$7,362 in 2018 to \$8,817 in 2022.

The expenditure trends highlight the ongoing impact of decreasing claim volume and increasing claim costs in the New Mexico compensation system during the COVID-19 pandemic.

Figure 2.2 Total Reported Payments - 2022 Annual Expenditure Report (Values in Thousands)





Amount (Thousands)

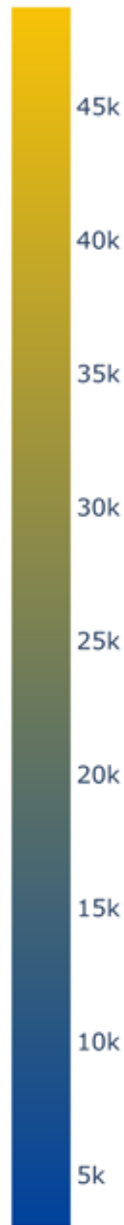


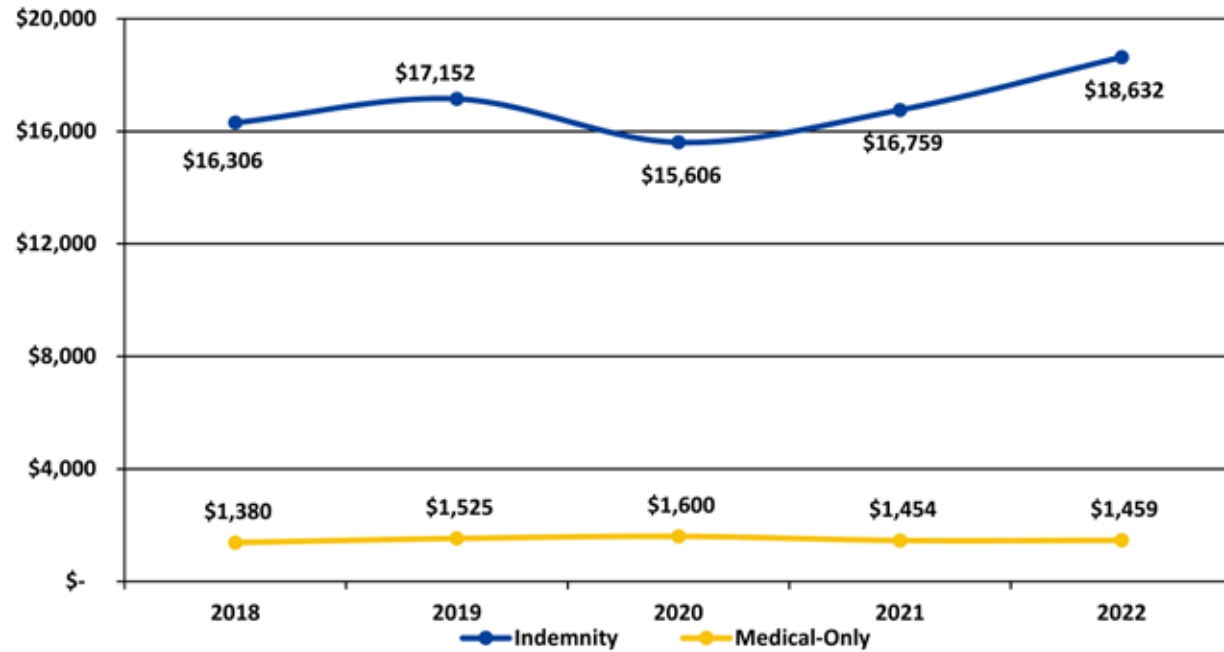
Figure 2.2 shows how total payments were spread out in the 2022 Annual Expenditure Report. The payments are split into two main groups: those from insurance carriers and those from self-insurers. Each of these groups is then broken down into type of claims (indemnity & medical-only) and type of cost. Both the size and color of each section reflect how much was spent in each category.

Indemnity Abbreviations

- TTD - Temporary Total Disability
- TPD - Temporary Partial Disability
- PTD - Permanent Total Disability
- PPD - Permanent Partial Disability

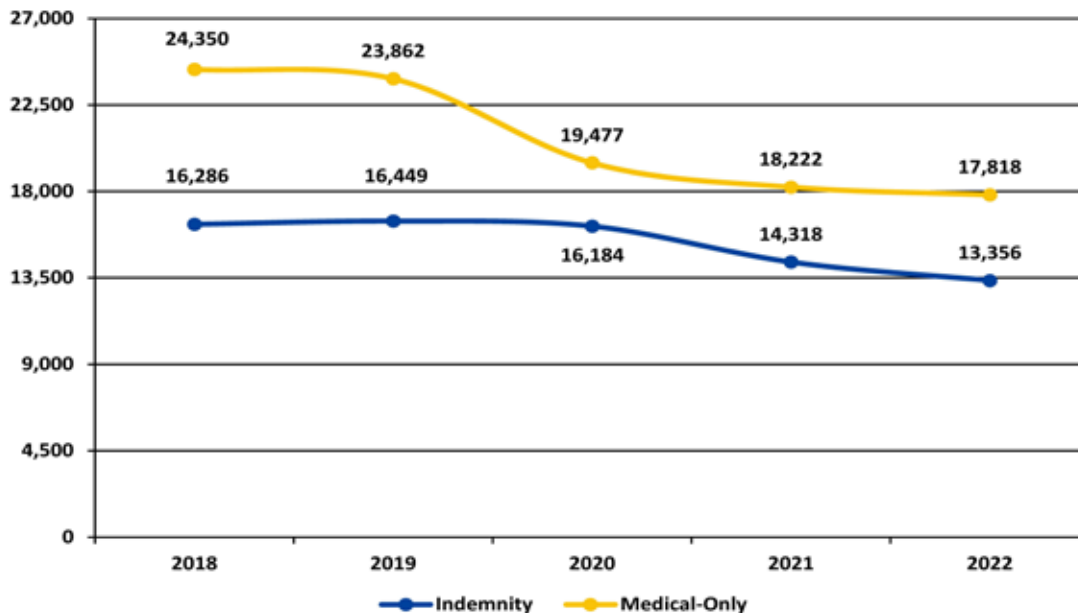
Per-Claim Costs are Rising for Indemnity and Stable for Medical-Only

Figure 2.3 Costs per Claim by Claim Type, 2018 - 2022



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2018 - 2022*

Figure 2.4 Active Claims by Claim Type, 2018 - 2022



“Active claims” refers to the number of claims that had a benefit payment made for them in 2022, regardless of when the claim first opened. Figure 2.4 shows that the number of active claims decreased in 2022 for both indemnity and medical-only claims. The decrease was more pronounced for indemnity claims.

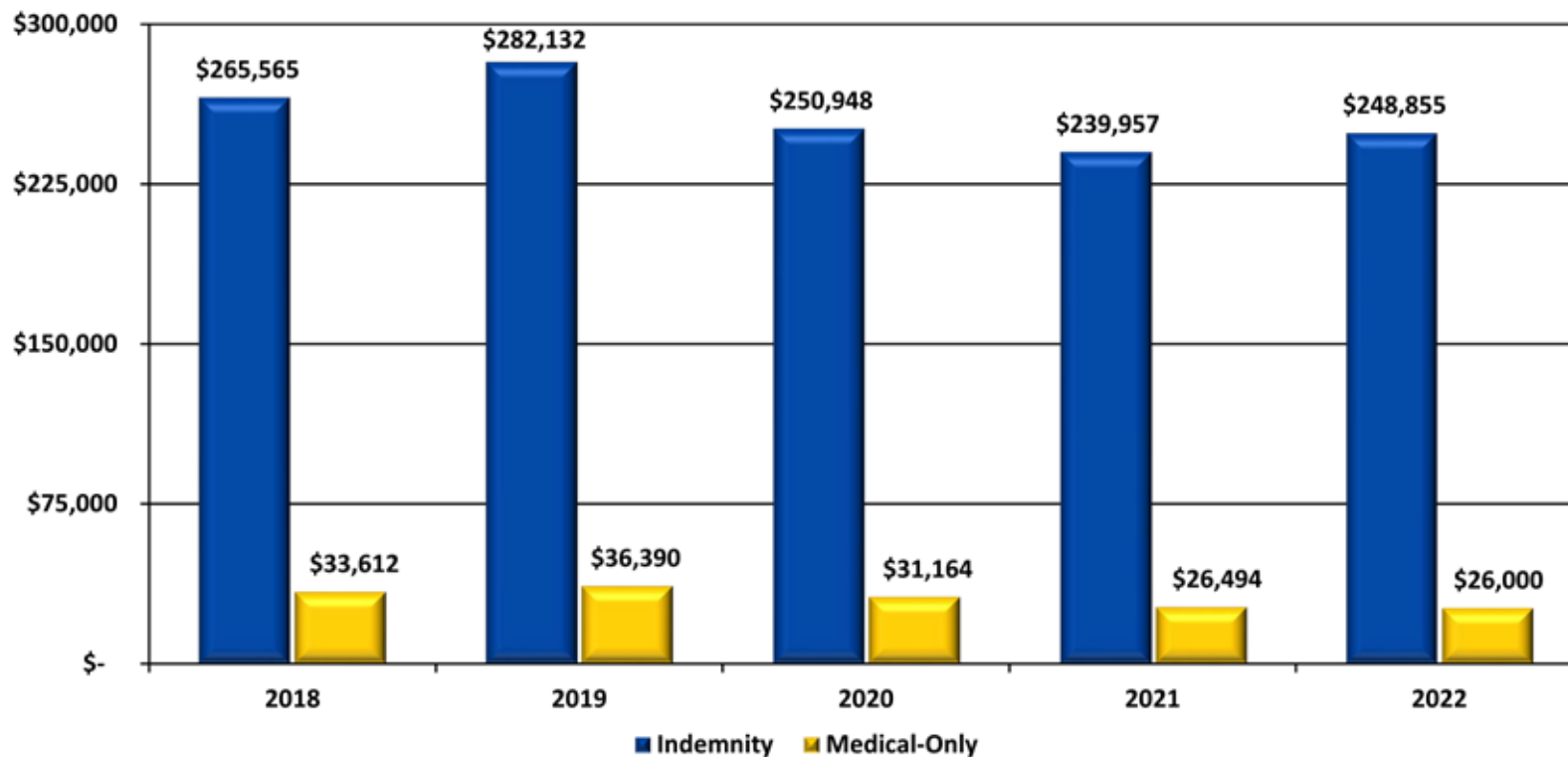
Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2018 - 2022*

Falling Claim Rates are Countering Rising Indemnity Costs

Indemnity claims costs rebounded slightly to \$248 million in 2022, although they remained below the levels observed prior to the pandemic. The increase was driven by a decrease in the number of active indemnity claims being offset by a moderate increase in per-claim costs.

Medical-only claim costs declined slightly to \$26 million, continuing a trend observed over the past four years. This decrease was influenced by a marginal decrease in the number of active medical-only claims and slight increase the average expenditure per claim.

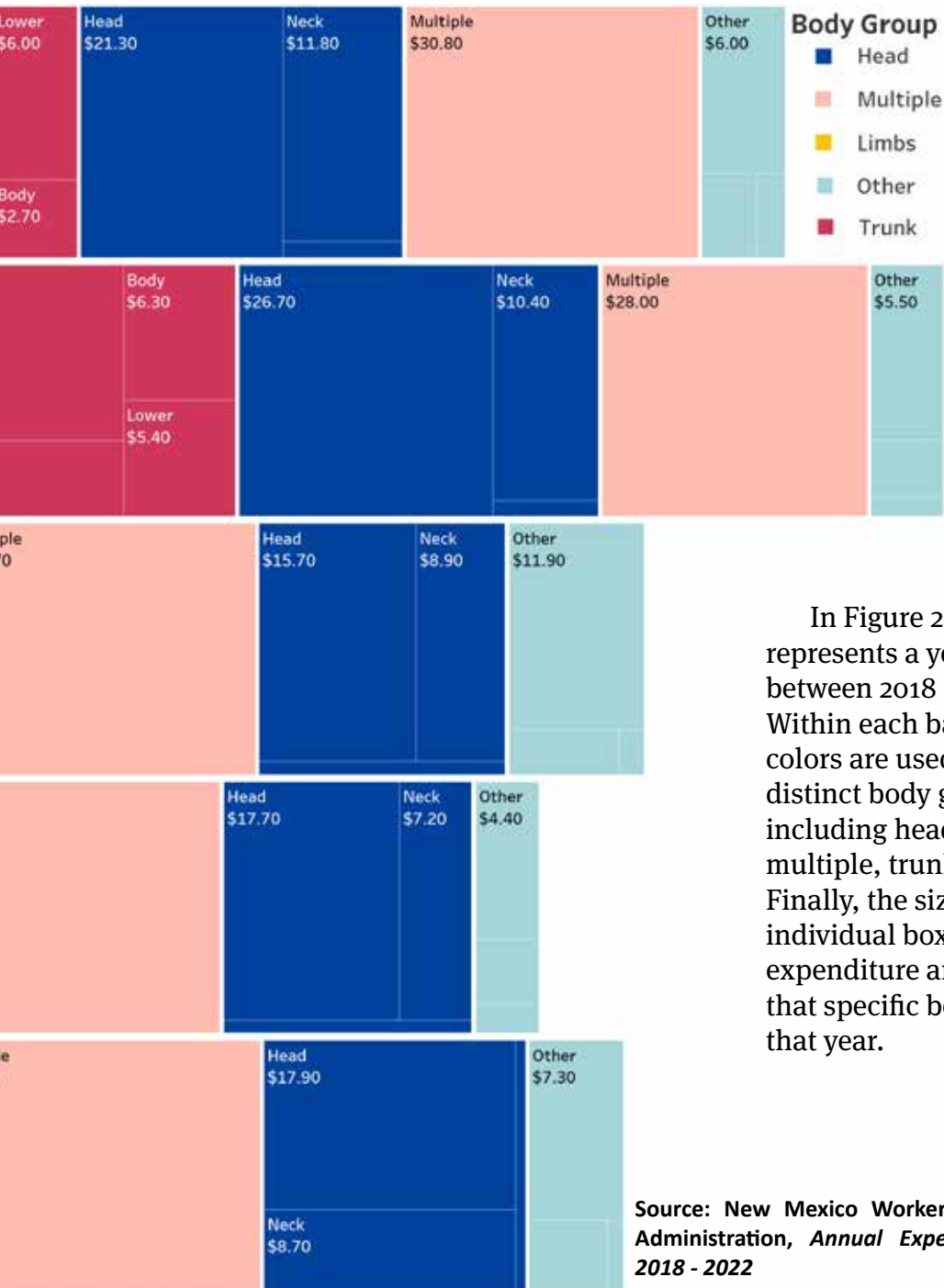
Figure 2.5 Total System Costs by Claim Type, 2018 - 2022 (thousands)



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2018 - 2022*

Figure 2.6 Indemnity Claim Distribution of Expenditures by Expenditure Part of Body





In Figure 2.6, each bar represents a year between 2018 and 2022. Within each bar, different colors are used to signify distinct body groups including head, limbs, multiple, trunk, and other. Finally, the size of each individual box reflects the expenditure amount for that specific body part in that year.

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2018 - 2022*

Back Costs Rebounded

Following a sharp decline at the beginning of the COVID-19 pandemic, back costs rebounded to \$40 million. Notably, this remained below pre-pandemic levels

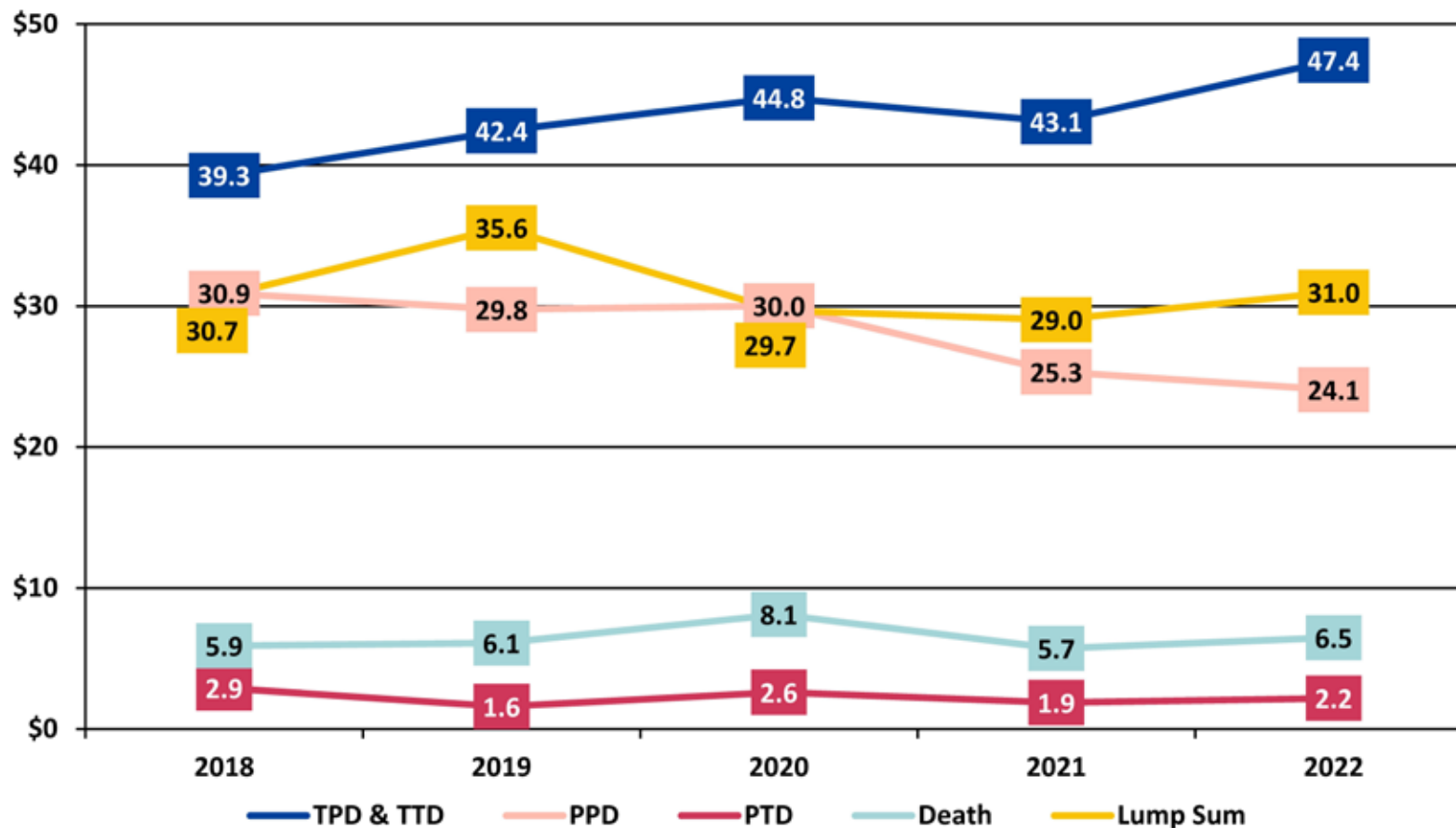
Shoulder Costs Decreased to a Series Low

Shoulder costs decreased to \$28 million, reaching the lowest level they have been since at least before 2018

Knee Costs Increased

Costs related to knee injuries increased to \$25.6 million, which was near the series-high of \$26 million

Figure 2.7 Summary of Indemnity Expenditures, 2018 - 2022 (\$ in Millions)



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2018 -2022*

Indemnity costs went up in 2022 in almost all areas. The biggest increase was seen in TPD & TTD, which reached \$47.4 million. The main exception was PPD payments, which decreased to \$24.1 million. Please note that the WCA categorizes lump-sum payments in the AER under the category of indemnity payments. This includes money paid to settle medical claims. Though these medical settlements usually make up only a small part of this category, the WCA doesn't have the information needed to break these costs out into their own separate group.

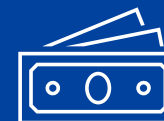
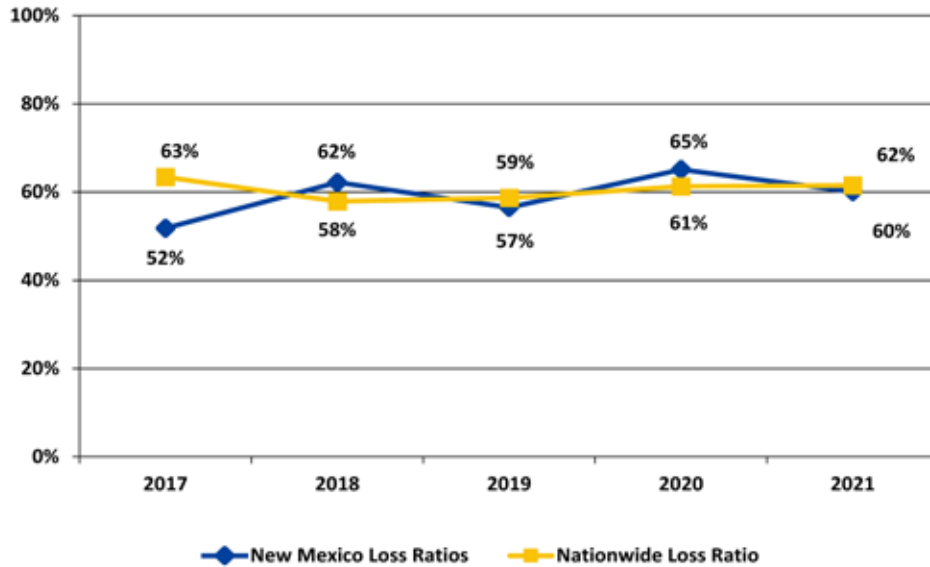
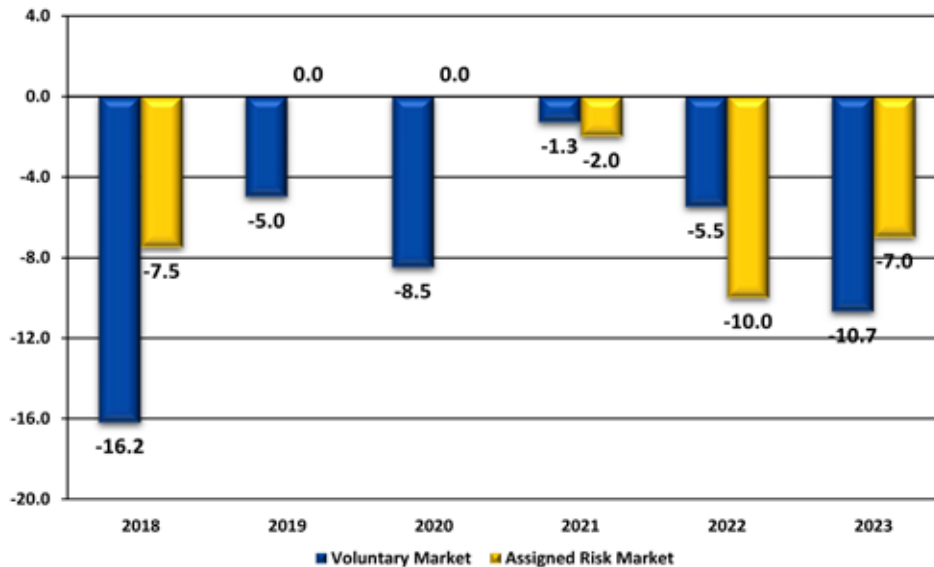


Figure 2.8 Nationwide vs. New Mexico Adjusted Loss Ratios by Percent of Earned Premiums



Source: National Association of Insurance Commissioners, *Profitability Report by Line by State, 2017 - 2021*

Figure 2.9 New Mexico Annual Premium Change by Policy Year, 2018 - 2022



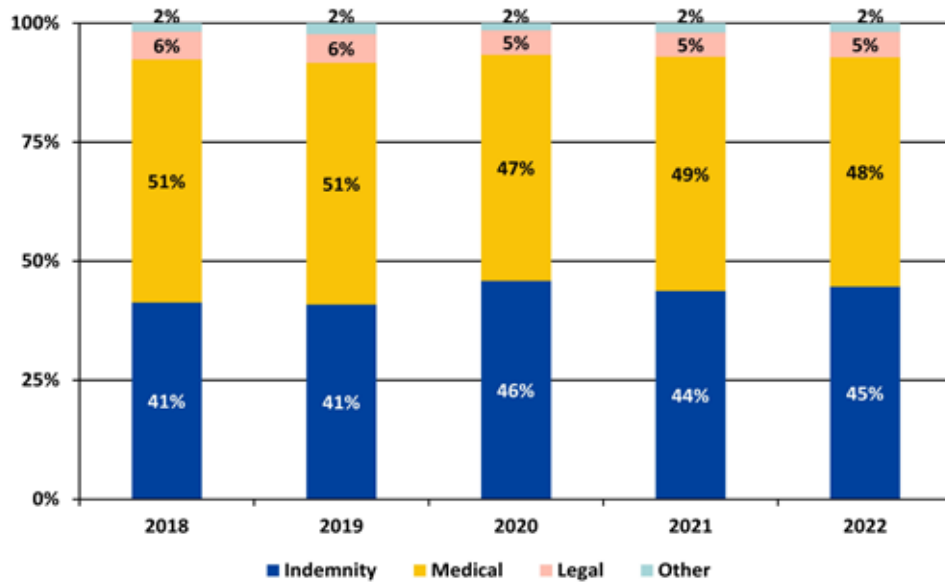
Source: National Council on Compensation Insurance, *New Mexico State Advisory Forums, 2018 - 2022*

Sustainable Rate Reduction

Loss ratios are a vital measure of the balance between premiums collected and claims paid out. Between 2017 and 2021, New Mexico’s loss ratios for workers’ compensation insurance remained aligned with nationwide standards.

In 2021, New Mexico’s loss ratio was 60%, lower than the national loss ratio of 62% and reflecting the stability in New Mexico’s loss ratio. Further, New Mexico’s annual premiums decreased for both the voluntary and assigned risk markets. This decrease, considered along with a stable loss ratio, suggests that workers’ compensation insurance is becoming more affordable without sacrificing industry stability.

Figure 2.10 Indemnity Claim Distribution of Expenditures



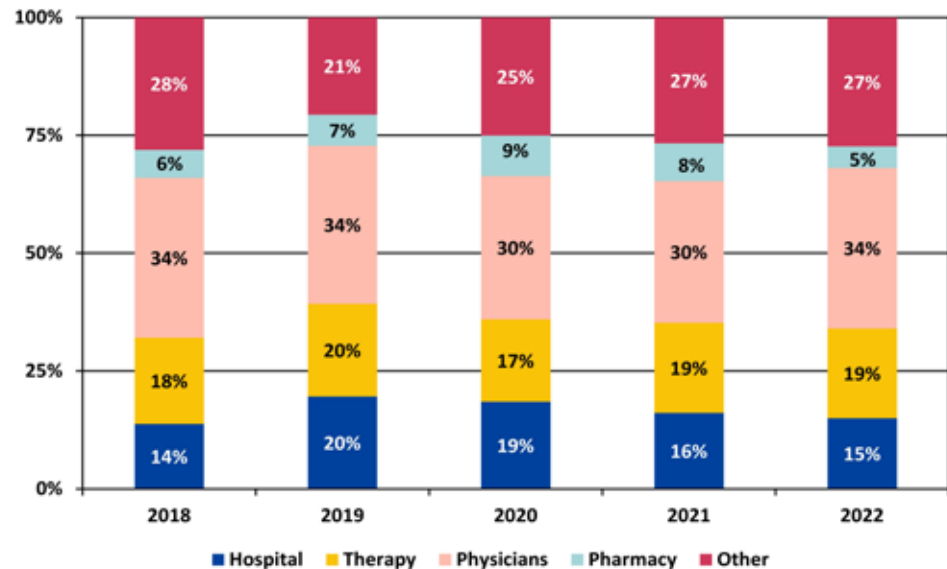
Expenditure Distribution Remained Stable

Cannabis Trends Reversed Following Recreational Legalization

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2018 - 2022*

Claim expenditure distributions from 2018 to 2022 show that the expenditure distribution remained mostly stable. Indemnity and non-indemnity claims reveal only slight variations in categories such as medical, legal, hospital and pharmacy expenses. Even though there were minor fluctuations such as a brief peak in pharmacy costs in 2020, the overall stability in these distributions indicates a consistent approach to workers' compensation.

Figure 2.11 Non-Indemnity Claim Distribution of Expenditures



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2018 - 2022*

Table 2.2 Medical Cannabis Reimbursements, 2016 - 2022

| Cannabis Reimbursements Details | Year of Reimbursement | | | | | | |
|---|-----------------------|----------|----------|-----------|-----------|-----------|-----------|
| | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
| Total Reimbursement (All Payers) | \$46,826 | \$58,401 | \$86,850 | \$177,594 | \$191,874 | \$201,343 | \$170,794 |
| Maximum Allowable Reimbursements | \$11,058 | \$11,058 | \$11,058 | \$11,058 | \$11,058 | \$11,058 | \$10,865 |
| Average Per Claim Reimbursement: | \$2,465 | \$1,168 | \$1,639 | \$2,819 | \$3,095 | \$3,413 | \$3,163 |
| Total Reimbursement Claimants: | 19 | 50 | 53 | 63 | 62 | 59 | 54 |

Notes: Reimbursement Rate Per Unit: \$11.81

Maximum Annual Quantity: 920 Units, 1 Unit = 1 gram dry weight equivalent

Maximum quantity per calendar quarter = 230 units (\$2,716.30)

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2016 - 2022*

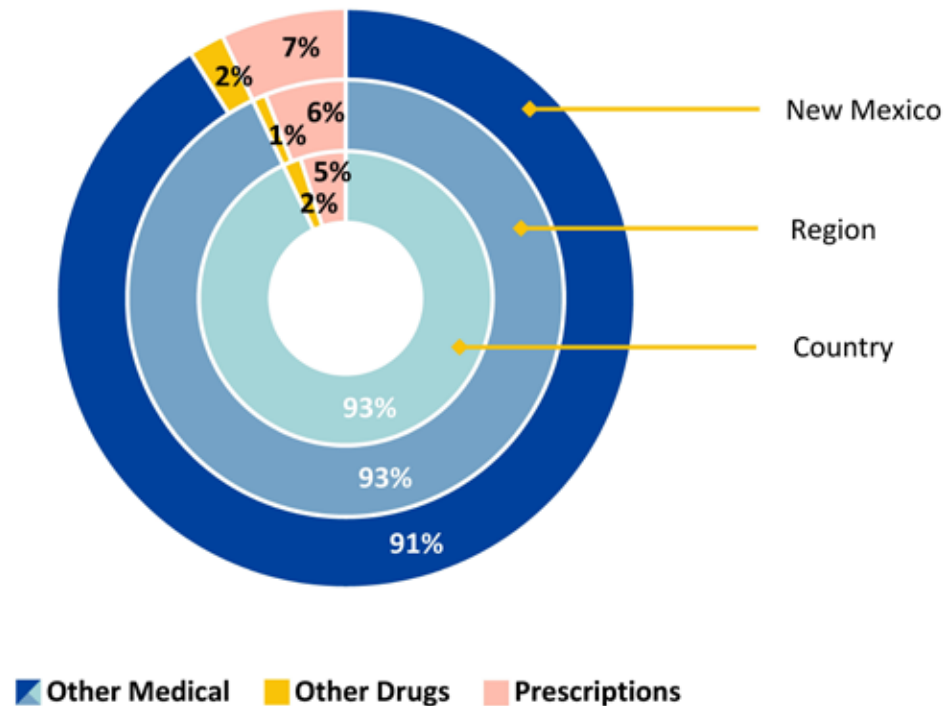


In 2022, New Mexico’s workers’ compensation system saw key changes in medical cannabis reimbursements. After the initial year of data collection in 2016, there was a steady rise in total reimbursements and the average amount paid per claim, until 2021. But in 2022, these trends reversed. Total reimbursements fell to \$170,794, the average reimbursement per claim went down to \$3,163, and the number of claimants dropped to 54.

While the maximum allowable reimbursement also dropped to \$10,865, down from \$11,058 in previous years, average per-claim reimbursements have been consistently below the maximum, indicating that this was likely not responsible for the trends reversal. Rather, these changes happened at the same time as recreational cannabis was legalized in New Mexico. This new law may have caused the shifts. The data from 2022 marks a big change from previous years, and it will need careful study to make sure the workers’ compensation system continues to meet stakeholder needs.

Pharmaceuticals

Figure 2.12 Breakdown of Total Medical Payments - Pharmaceuticals vs. Other Medical, 2021

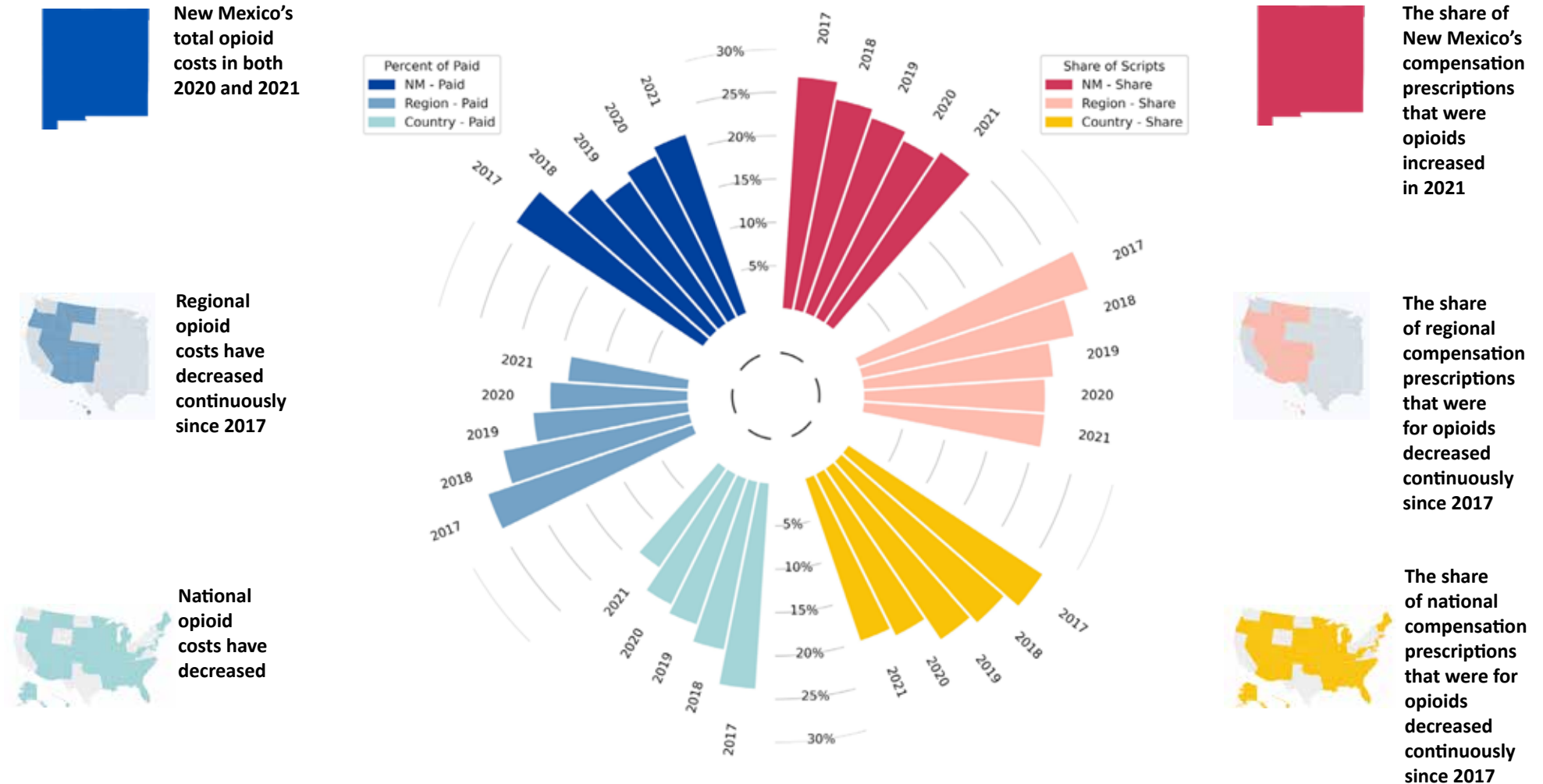


Source: NCCI New Mexico Medical Data Reports, *Opioid Utilization Supplements 2021*

New Mexico's share of pharmaceuticals as a percentage of medical costs exceeds that of either its geographic region or the country

In New Mexico, both the percentage of costs paid for opioid prescriptions and the share of prescriptions are on the rise. This contrasts with the rest of the country and region, where these numbers are decreasing.

2.13 Opioids as a Percentage of Pharmaceuticals, State, Regional and National Comparison, 2017 -2021

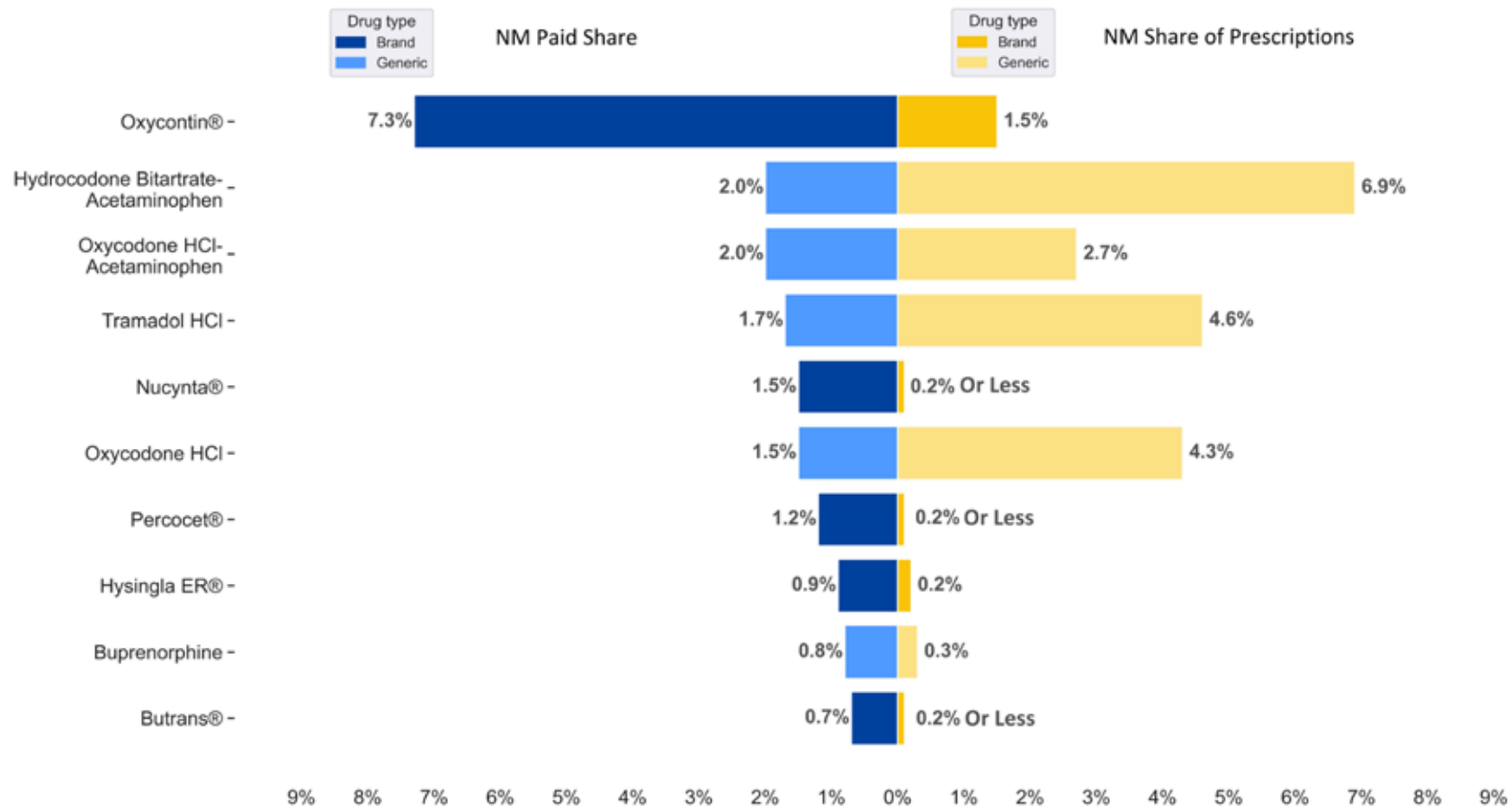


Source: NCCI New Mexico Medical Data Reports, *Opioid Utilization Supplements, 2017 - 2021*

Brand Name Drugs Disproportionately Drive Costs

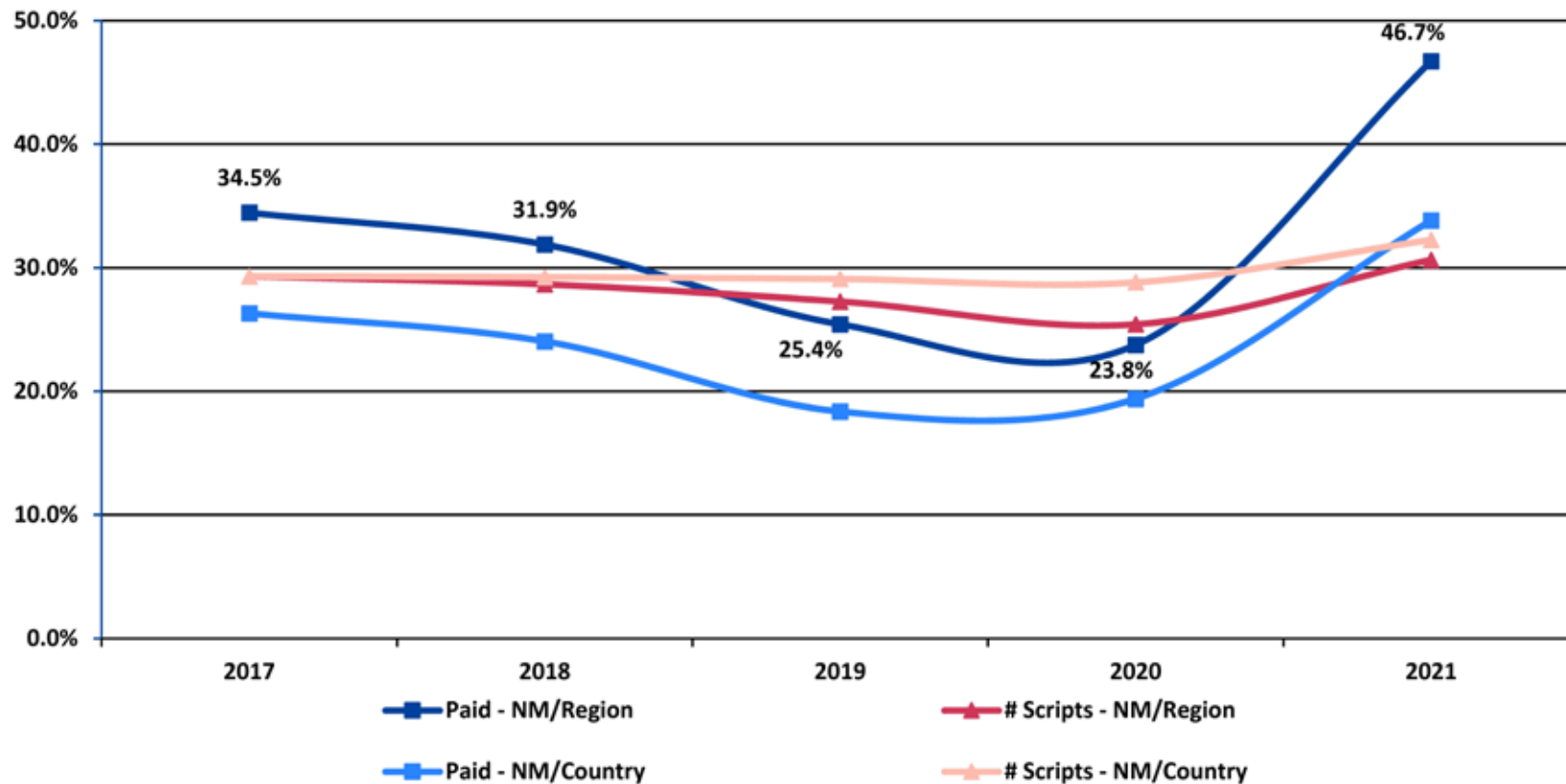
In Figure 2.14, darker colors represent brand name drugs, and lighter colors represent generics. Bars on the left show the amount of total payments made for each drug, and bars on the right show the share of prescriptions for each drug. The chart clearly shows that brand name drugs cost far more than generics relative to their share of prescriptions. Most brand name drugs have a generic alternative.

Figure 2.14 Opioids as a Percentage of Pharmaceutical Payments, State, Regional and National Comparison, 2017 - 2021



Source: NCCI New Mexico Medical Data Reports, *Opioid Utilization Supplements, 2017- 2021*

Figure 2.15 Ratio of Number of Prescriptions Per Claim and Paid Per Prescription for Opioids, New Mexico Compared to Region and Country, 2017 - 2021



Source: NCCI New Mexico Medical Data Reports, *Opioid Utilization Supplements, 2017 - 2021*

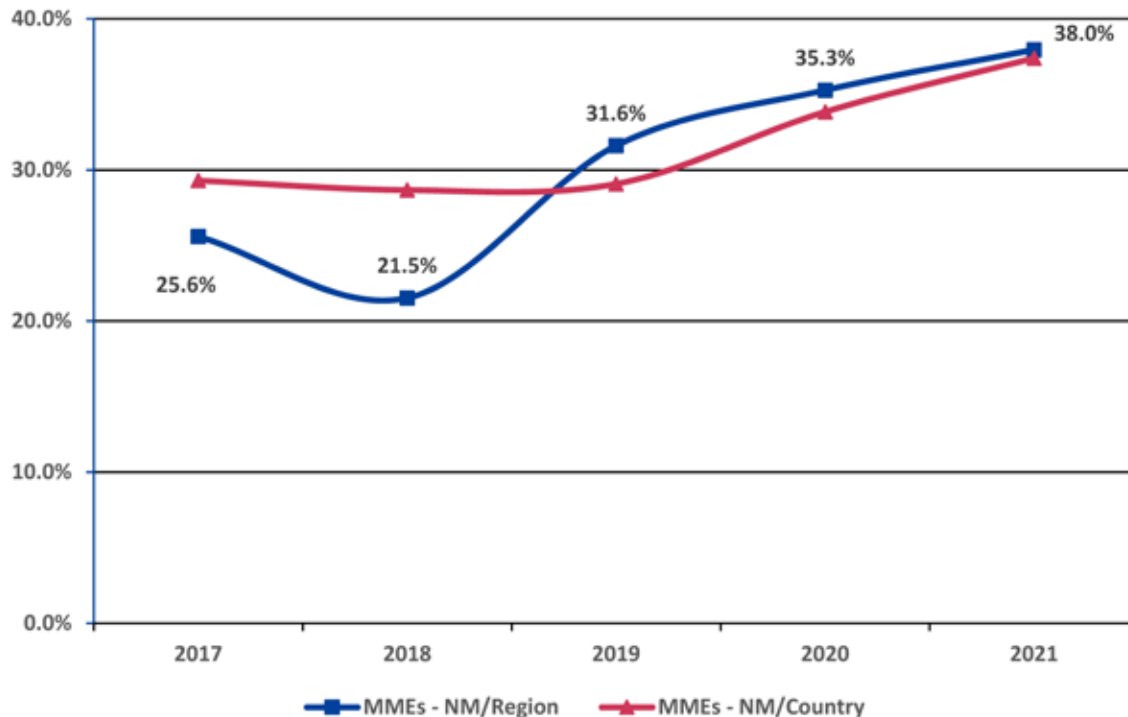
The Relative Amount Paid Per Opioid Claim Greatly Increased

From 2017 to 2021, opioid prescription trends in New Mexico showed a rise in the money paid per prescription compared to the region and country. Figure 2.15 shows that New Mexico has always paid more per prescription and had more prescriptions per claim than the region. However, the difference in the money paid per prescription grew sharply in 2021. This happened because New Mexico's cost per opioid prescription went up, while the cost in the region and the country went down.

New Mexico's per prescription MME level relative to the country and region is increasing.

MMEs were 38% higher than the region in 2021.

Figure 2.16 Relative Morphine Milligram Equivalents Per Prescription, New Mexico Compared to Region and Country, 2017 - 2021

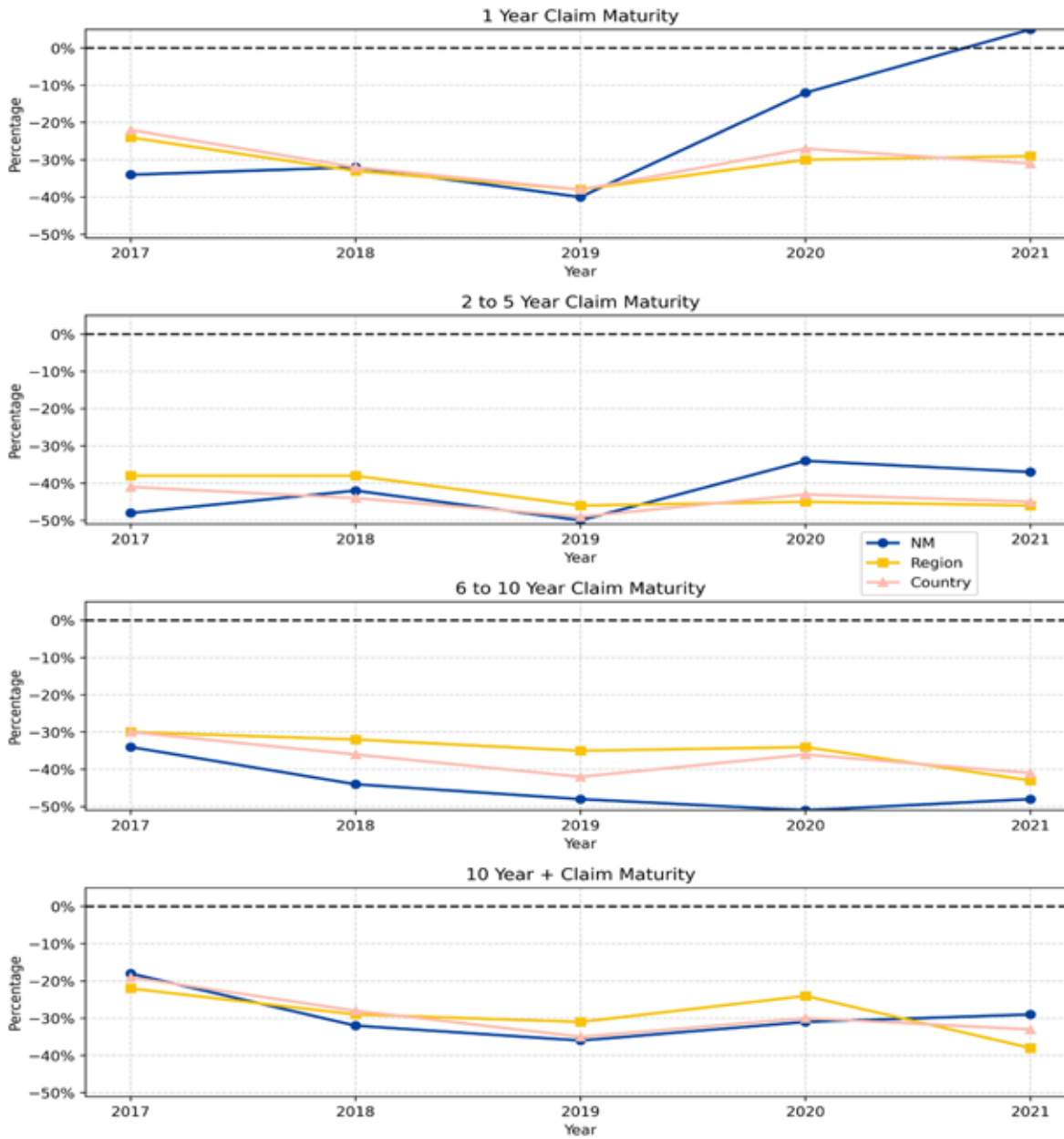


Morphine Milligram Equivalents (MME)

Morphine Milligram Equivalents (MME) is a method used to measure the strength of various opioid medications by comparing them to morphine. Since opioids come in different types, each with unique strengths and effects, a standard scale like MME is necessary. Morphine is typically the baseline for this scale. Other opioids are measured against it to determine their relative potency. This way, health care providers can understand how powerful an opioid is compared to morphine.

Source: NCCI New Mexico Medical Data Reports, *Opioid Utilization Supplements, 2017 - 2021*

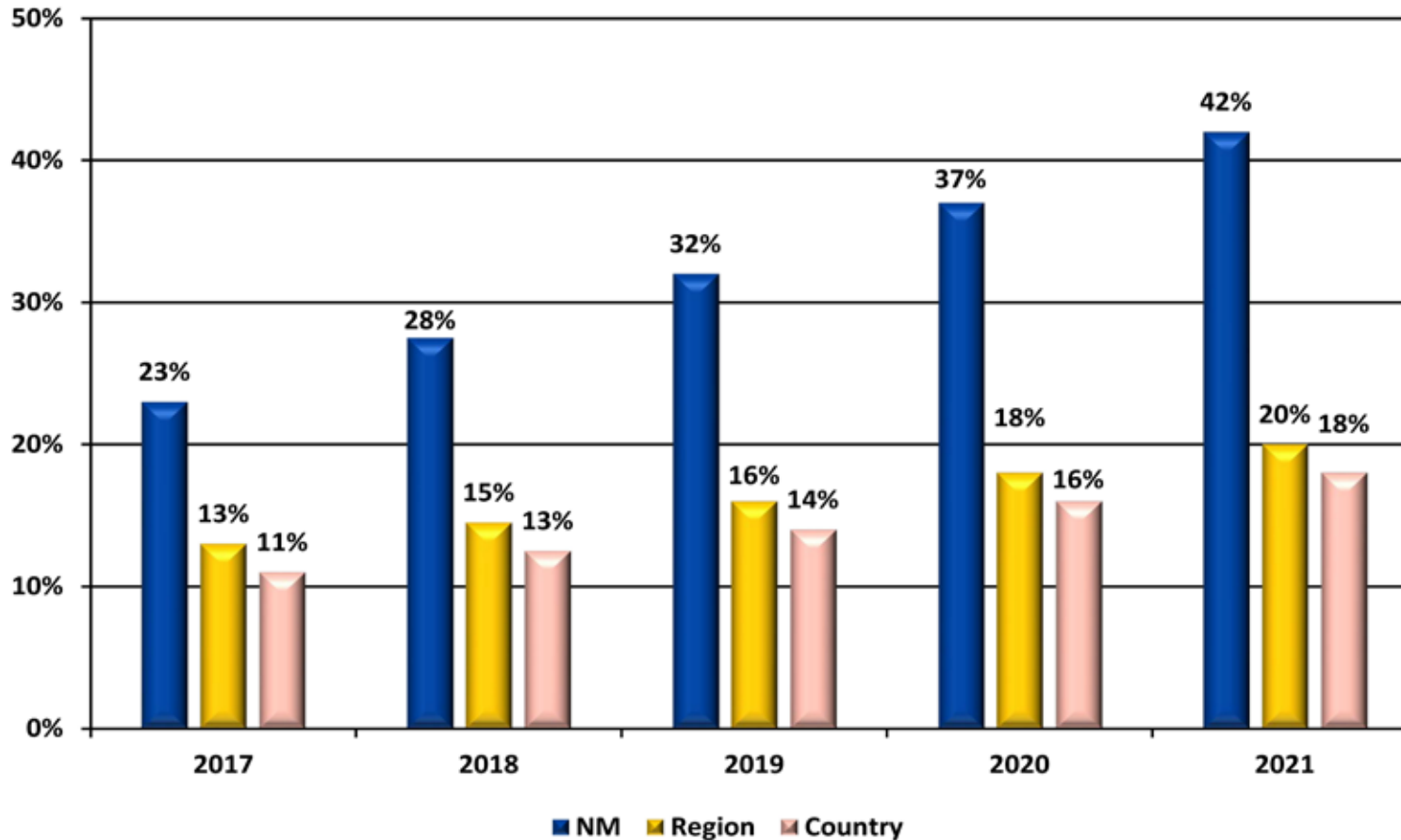
Figure 2.17 Claim MME Levels Change in Time by Claim Maturity, New Mexico Compared to Region and Country



Changes in MME levels prescribed show that New Mexico is not reducing opioid levels per prescription as quickly as the surrounding region and country. Furthermore, in the case of new claims, opioid levels per prescription actually rose in 2021.

Source: NCCI New Mexico Medical Data Reports, *Opioid Utilization Supplements, 2017 - 2022*

Figure 2.18 Opioid Claim Maturity - Claims Over 10 Years in Age, New Mexico, Region and Country, 2017 - 2021



Source: NCCI New Mexico Medical Data Reports, *Opioid Utilization Supplements, 2017 - 2021*

New Mexico's Share of Opioid Claims Over 10 Years Old is Rising

In New Mexico, the percentage of opioid claims that are over 10 years old is growing at a much faster rate than in the region or in the rest of the country. While there is insufficient data to compare claims maturity to MME levels prescribed, these older claims may have more Morphine Milligram Equivalents (MME) resulting from higher injury and severity and tolerance.

New Mexico's Opioid Trends

New Mexico's share of opioids as a percentage of pharmaceutical costs has seen a consistent increase in both 2020 and 2021. This increase is alarming when juxtaposed against continuous regional and national decreases in opioid benchmarks since 2017. The relative ratios of opioid prescription trends from 2017 to 2021 in New Mexico reveal a concerning escalation in both costs per prescription and number of units prescribed relative to the region and country. The widening differential in the growth for the amount paid per script in 2021 in particular points to a complex interplay between the amount paid per opioid unit and the number of units prescribed.



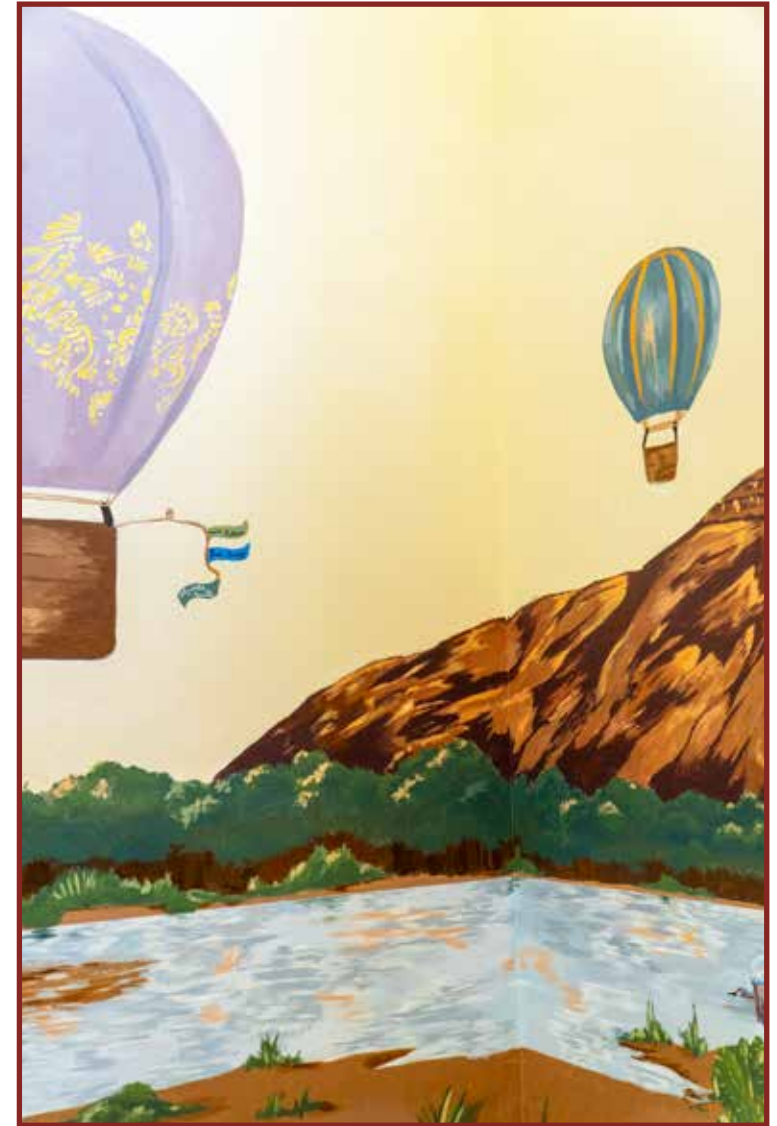
Brand Name vs. Generic Drugs

Figure 2.14 (p. 44) highlights the discrepancy in costs between brand name and generic drugs. Most brand name drugs have a generic alternative, yet the cost difference is substantial. This indicates a possible shift in prescribing patterns toward brand name pharmaceuticals, impacting the amount paid per opioid unit in New Mexico. It begs a strategic response; promoting the use of generic alternatives could reconcile fiscal responsibility with patient care without significant compromises.



Prescription MME Level and Aging Claims

New Mexico's per prescription MME levels are not reducing at pace with the surrounding region and country. Moreover, the increase in opioid levels per prescription for new claims in 2021 underscores a shift in prescription practices. The level of per-claim MMEs for newer claims is increasing. Furthermore, the growing share of total opioid claims with maturity over 10 years — a rate higher than the region or country — may be at least partially responsible for the increase in MME levels. These significant trends require further investigation and careful monitoring.



Coverage

Workers' compensation insurance comes in three main types: the voluntary market, the assigned risk market, and through self-insurance. In the voluntary market, employers buy the insurance directly from insurance companies. Some employers can't get this kind of insurance because they're a new business, work in a high-risk industry, or have had many claims before. These employers can get coverage through the assigned risk market. Finally, some larger employers may choose to self-insure in an effort to control costs. This means the employer covers the cost of workers' compensation benefits themselves, instead of going through an insurance company.

Table 2.3 Estimated Covered Workforce and Employers by Type of Insurance, 2018 - 2022

| Year | Voluntary & Assigned-Risk Markets | | Self-Insurance | | Adj. Covered Workforce ⁵ |
|------|-----------------------------------|------------------------------|--------------------------------|------------------------------|-------------------------------------|
| | Active Carriers ¹ | Covered Workers ² | Covered Employers ³ | Covered Workers ⁴ | |
| 2018 | 254 | 442,781 | 2,384 | 271,623 | 714,404 |
| 2019 | 269 | 453,009 | 2,443 | 272,114 | 725,123 |
| 2020 | 273 | 359,815 | 2,296 | 270,310 | 630,125 |
| 2021 | 282 | 434,619 | 2,593 | 250,814 | 685,433 |
| 2022 | 291 ^P | 479,839 | 2,178 | 239,677 | 719,516 |

^PPreliminary Data

¹Source: National Association of Insurance Commissioners, *Annual Statement Data, New Mexico Market Share Reports, 2018 - 2022*

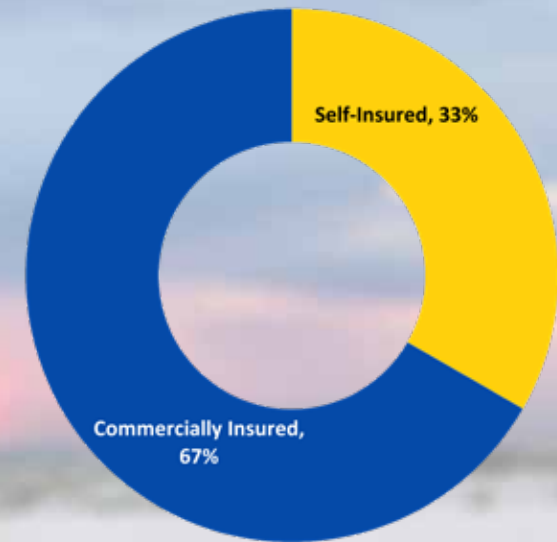
²Total covered workforce minus self-insured workers

³Source: NMWCA Self-Insurance Bureau

⁴Source: NMWCA *Annual Expenditure Report*

⁵Source: New Mexico DWS, *Quarterly Census of Employment and Wages* (excludes workers not subject to the Act)

Figure 2.19 Percentage Covered Workforce by Coverage Type, 2022



Sources: New Mexico Department of Workforce Solutions (DWFS), *Quarterly Census of Employment Wages, 2022*
New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2022*

About one-third of the New Mexico workforce was covered by employers who opted for self-insurance, and two-thirds were covered through commercial insurance. Between 2018 and 2022, there was a gradual increase in the number of insurance carriers in the voluntary and assigned-risk markets. The number of workers covered by commercial insurance took a significant hit in 2020, likely due to the COVID-19 pandemic, but has recovered in the years following. Meanwhile, the number of workers covered by self-insured employers remained relatively stable until 2020 but has been declining since then.

Table 2.4 Market Share by Direct Written Premium, Largest Insurance Carriers in New Mexico, 2018 - 2022

| WC Insurance Carrier | 2018 | 2019 | 2020 | 2021 ^r | 2022 ^p |
|-----------------------------------|------|------|------|-------------------|-------------------|
| New Mexico Mutual Casualty | 36% | 34% | 36% | 36% | 34% |
| The Travelers Companies | 9% | 8% | 9% | 6% | 6% |
| Liberty Mutual Group | 6% | 5% | 5% | 4% | 4% |
| Hartford Fire and Insurance Group | 6% | 6% | 6% | 6% | 6% |
| Zurich Financial Services | 5% | 5% | 5% | 6% | 6% |
| Other | 39% | 41% | 40% | 43% | 44% |

The Largest Insurance Carriers Remained Stable in 2022

^pPreliminary Data

^rRevised to reflect final NAIC figures published in 2022

Source: National Association of Insurance Commissioners (NAIC), *Annual Statement Data, 2018 - 2022*

Figure 2.20 Percentage of Total Referrals Identifying New Mexico Employers Who Need Insurance, 2018 - 2022

The Employer Compliance Bureau (ECB) is responsible for making sure employers follow the rules for workers' compensation insurance. In 2022, the ECB opened 5,578 cases and closed 5,614, which gives a closure rate of 100.6%. Of the employers referred to the ECB, 9.7% were not meeting the requirements for workers' compensation insurance that year. This was a small drop compared to 2021. It's important to note that these numbers only represent employers who were specifically referred to the ECB, not all employers.

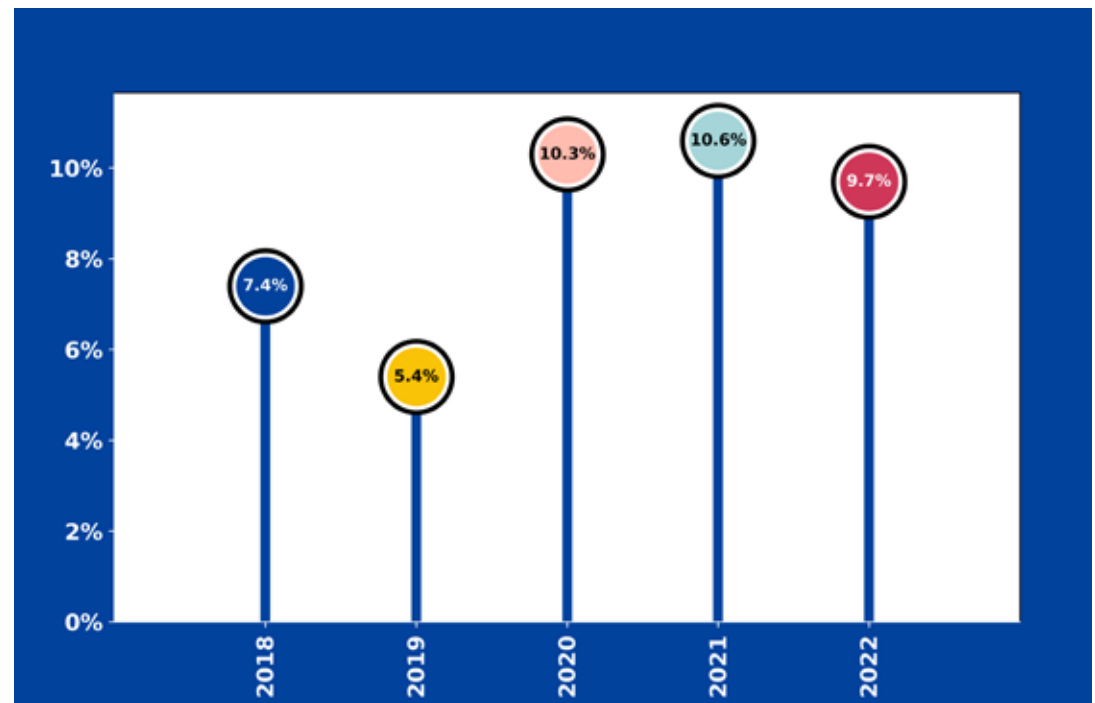
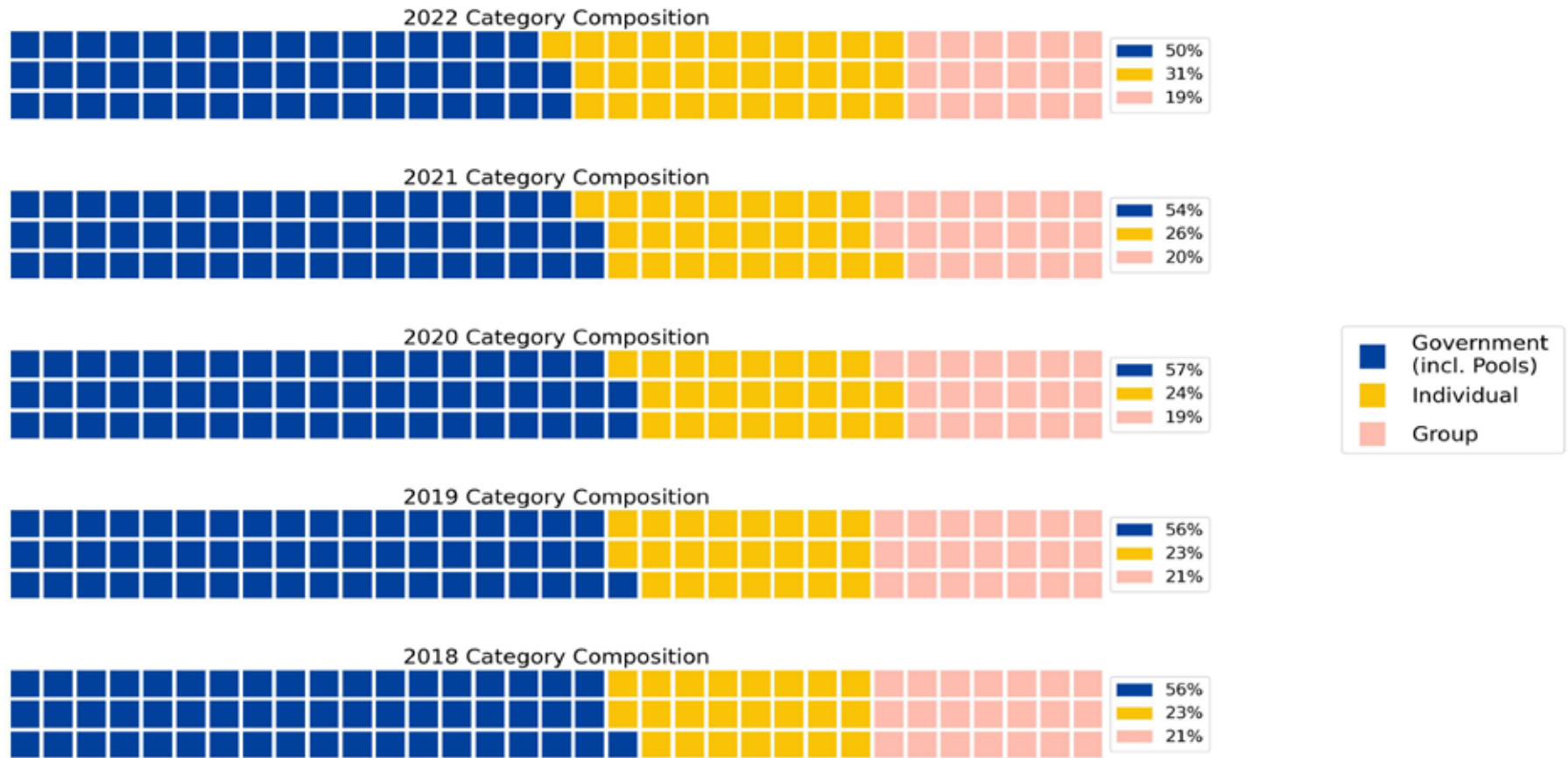


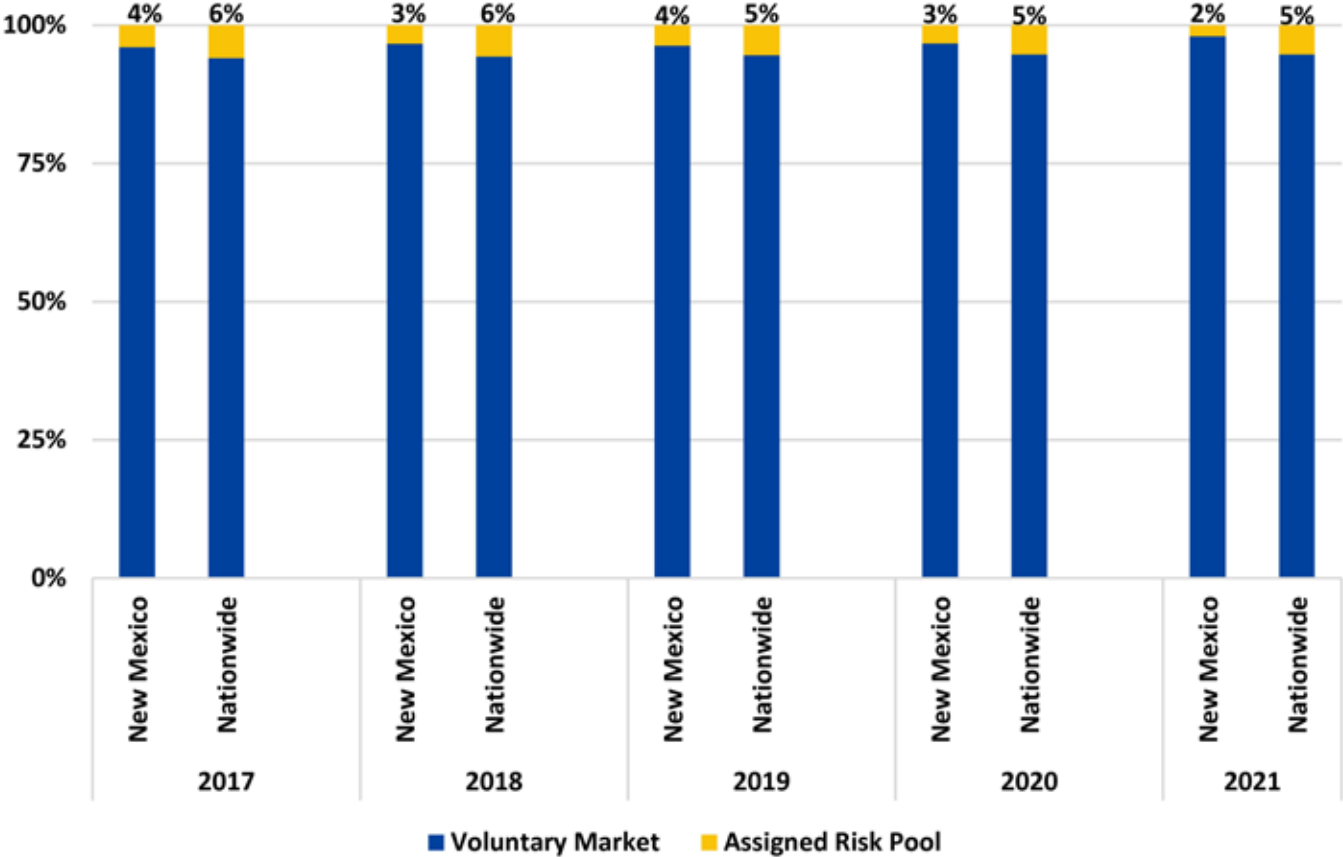
Figure 2.21 Self-Insured Workforce by Self-Insured Type, 2018 - 2022



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2018 - 2022*

The percentage of covered workers under self-insured programs in New Mexico was largely stable between 2018 and 2021. In 2022, the balance between government and individual plans shifted, with government covered workforce dropping from 54% to 50% of the covered self-insured workforce, and individual increasing from 26% to 31%. The percentage of the workforce covered under group plans remained stable at 19%.

Figure 2.22 Assigned Risk Pool Market Share - New Mexico vs. Nationwide



2022 data was unavailable at the time of publication. 2021 data is preliminary
 Source: National Council on Compensation Insurance (NCCI) *Residual Market Management Summaries, 2017 - 2021*

The percentage of the commercial insurance market that purchases insurance through New Mexico’s assigned risk pool went down to 2% in 2022, a five-year low. In contrast, the percentage of the national commercial insurance market that purchased insurance from an assigned risk pool remained stable at 5%.

Characteristics of Claims

Table 2.5 Injuries and Claims Reported to the WCA, 2018 - 2022

| YEAR | EMPLOYMENT | FROI | FROI PER 100 WORKERS | SROI | SROI PER 100 WORKERS | MEDICAL-ONLY CLAIMS | MEDICAL-ONLY PER 100 WORKERS | INDEMNITY CLAIMS | INDEMNITY PER 100 WORKERS |
|------|------------|--------|----------------------|--------|----------------------|---------------------|------------------------------|------------------|---------------------------|
| 2018 | 793,782 | 24,298 | 3.06 | 17,698 | 2.23 | 13,860 | 1.75 | 3,838 | 0.48 |
| 2019 | 805,692 | 25,040 | 3.11 | 18,171 | 2.26 | 14,336 | 1.78 | 3,835 | 0.48 |
| 2020 | 700,139 | 21,198 | 3.03 | 15,128 | 2.16 | 10,865 | 1.55 | 4,263 | 0.61 |
| 2021 | 761,592 | 20,469 | 2.69 | 13,572 | 1.78 | 9,881 | 1.30 | 3,691 | 0.48 |
| 2022 | 799,462 | 19,923 | 2.49 | 14,066 | 1.76 | 10,232 | 1.28 | 3,834 | 0.48 |

Rates represent the number of claims per 100 covered workers

Source: Covered employment statistics are based on the *Quarterly Census of Employment and Wages, Second Quarter, 2018 - 2022*, New Mexico Department of Workforce Solutions

The number of First Reports of Injury (FROI) filed with the WCA decreased in 2022, in spite of an increase in statewide employment. This continued a three-year trend beginning with the start of the COVID-19 pandemic.

Subsequent Report of Injury (SROI) claims increased across the board, including increases to both indemnity and medical-only claims. However, this was caused by an increase in covered employment rather than an increase in injury rates. Both types of SROI claims decreased on a per-worker basis.



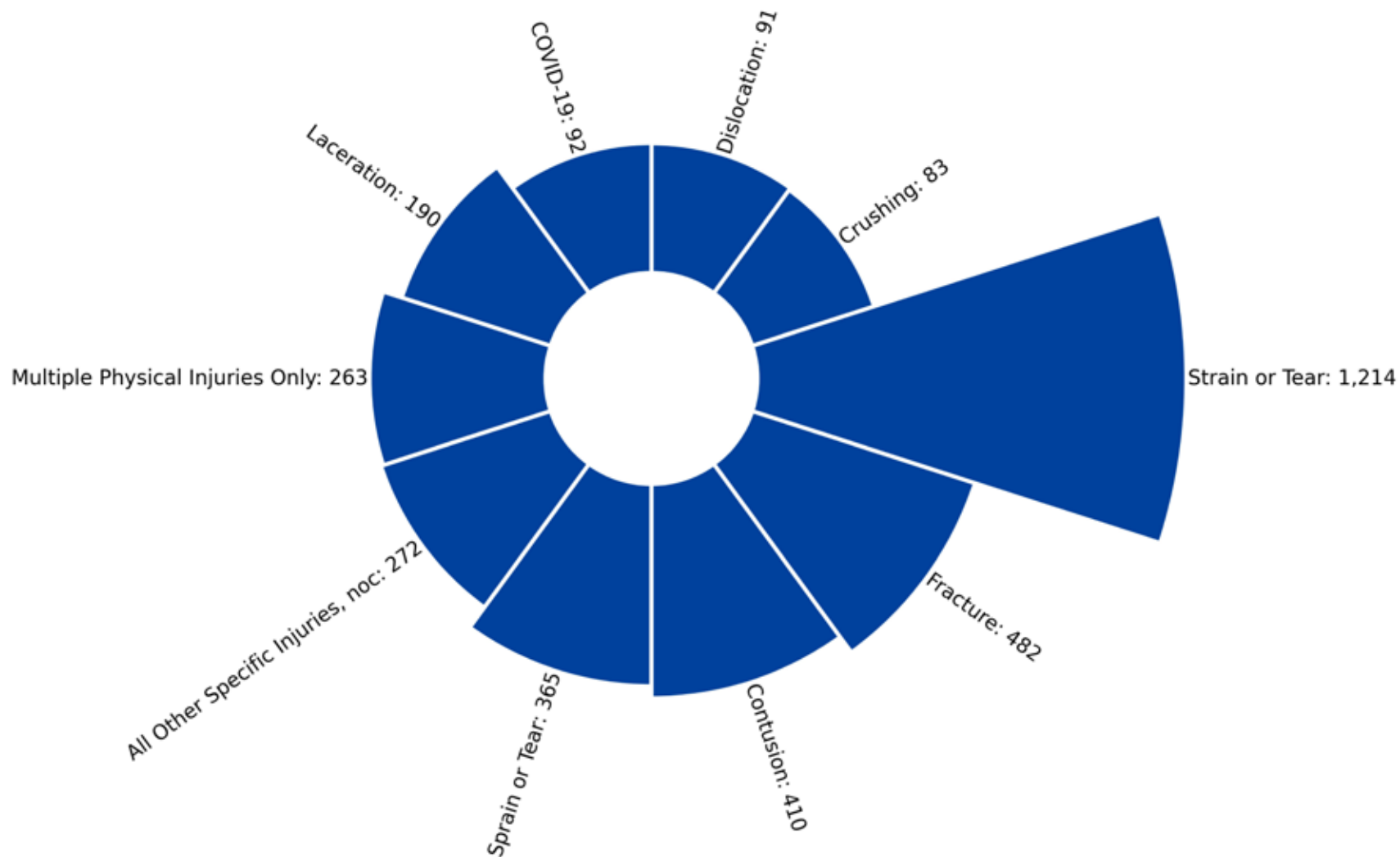
FROI and SROI

A First Report of Injury (FROI) is the initial report filed with the WCA when an employee experiences a work-related injury or illness. Not all injuries turn into workers' compensation claims. This category includes less serious injuries that don't turn into a claim or aren't serious enough to reach \$300 in medical debts.

A Subsequent Report of Injury (SROI) must be filed with the WCA under certain conditions including initial payment of indemnity benefits, when cumulative medical benefits reach at least \$300, when there is a substantive change in benefits, or after a final payment has been made. SROIs represent injuries that led to a workers' compensation claim.

Table 2.5 shows data about FROIs and SROIs filed with the WCA between 2018 and 2022. SROI data represents a summary of claims that have filed at least one SROI. Claims with multiple SROI filings are represented as a single claim. Indemnity & Medical-Only are each subsets of total SROI claims, while SROI claims are a subset of FROI claims.

Figure 2.23 Indemnity Claims by Nature of Injury, 2022 (Top Ten Categories)

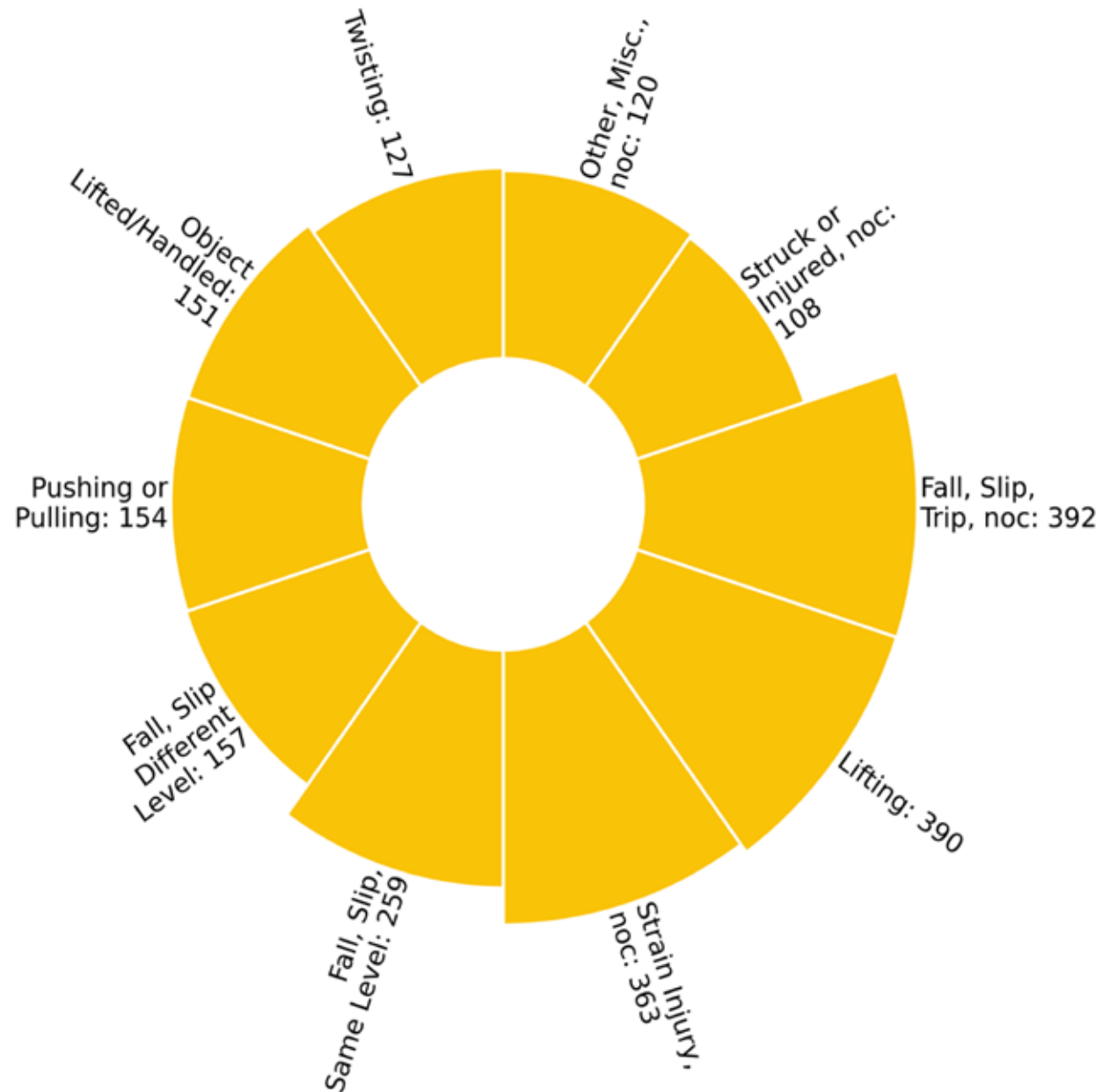


noc = Not Otherwise Classified

As was the case in previous years, “Strain or Tear” was by far the most common nature of injury in the New Mexico workers’ compensation system, representing 32% of total claims in 2022. This was followed by “Fracture” representing 13% of claims, and then by “Contusion” representing 11% of claims.

“Fall, Slip or Trip, not otherwise classified” was the most common cause of injury in 2022, representing 10% of total claims. This was closely followed by “Lifting,” also representing 10% of claims, and then by “Strain or Injury By, not otherwise classified,” which represented 9% of total claims.

Figure 2.24 Indemnity Claims by Cause of Injury, 2022 (Top Ten Categories)



noc = Not Otherwise Classified

Figure 2.25 shows a visualization of an interesting trend in claims composition. Specifically, indemnity claims follow a fairly normal distribution for female workers; however, indemnity claims for male workers spike in the 25 - 35 age group and then drop precipitously for 65 - 74 year olds.

Figure 2.25 Indemnity Claims by Age and Gender of Injured Worker, 2022

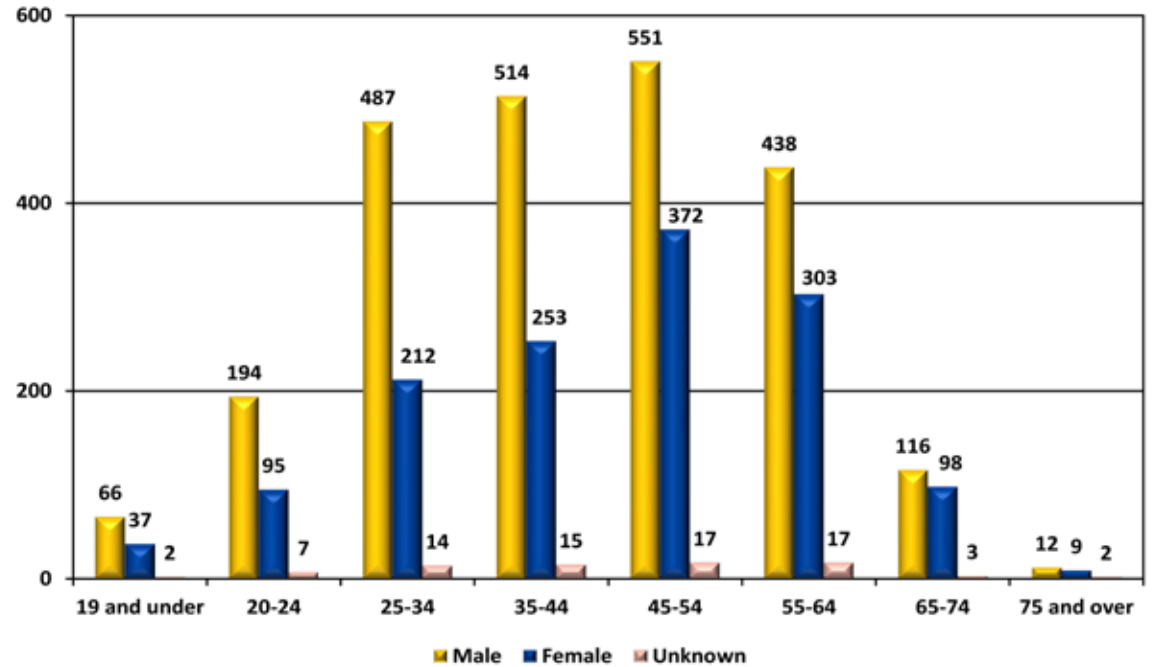
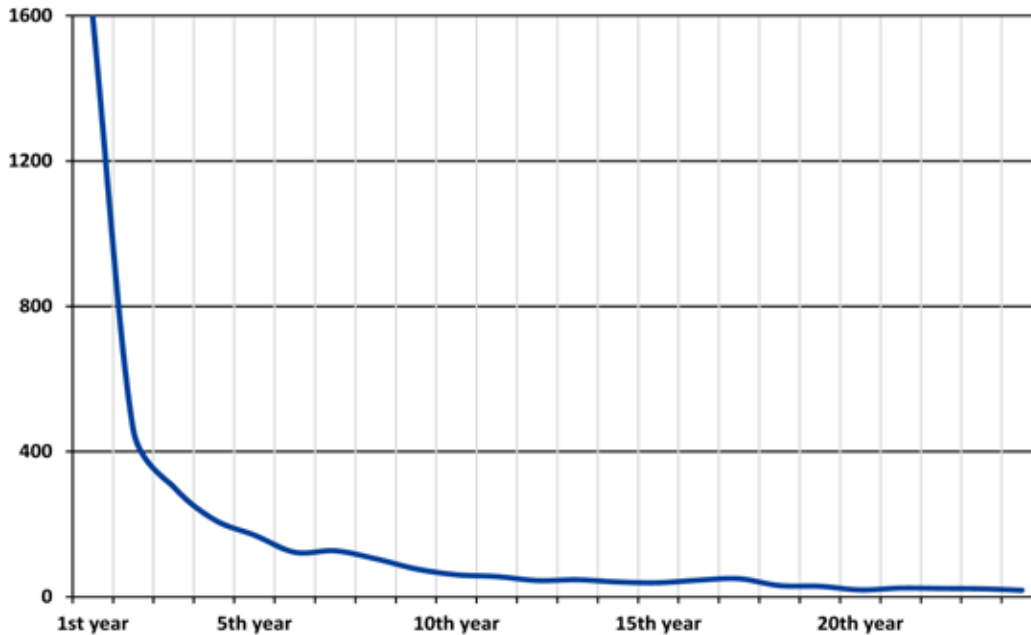
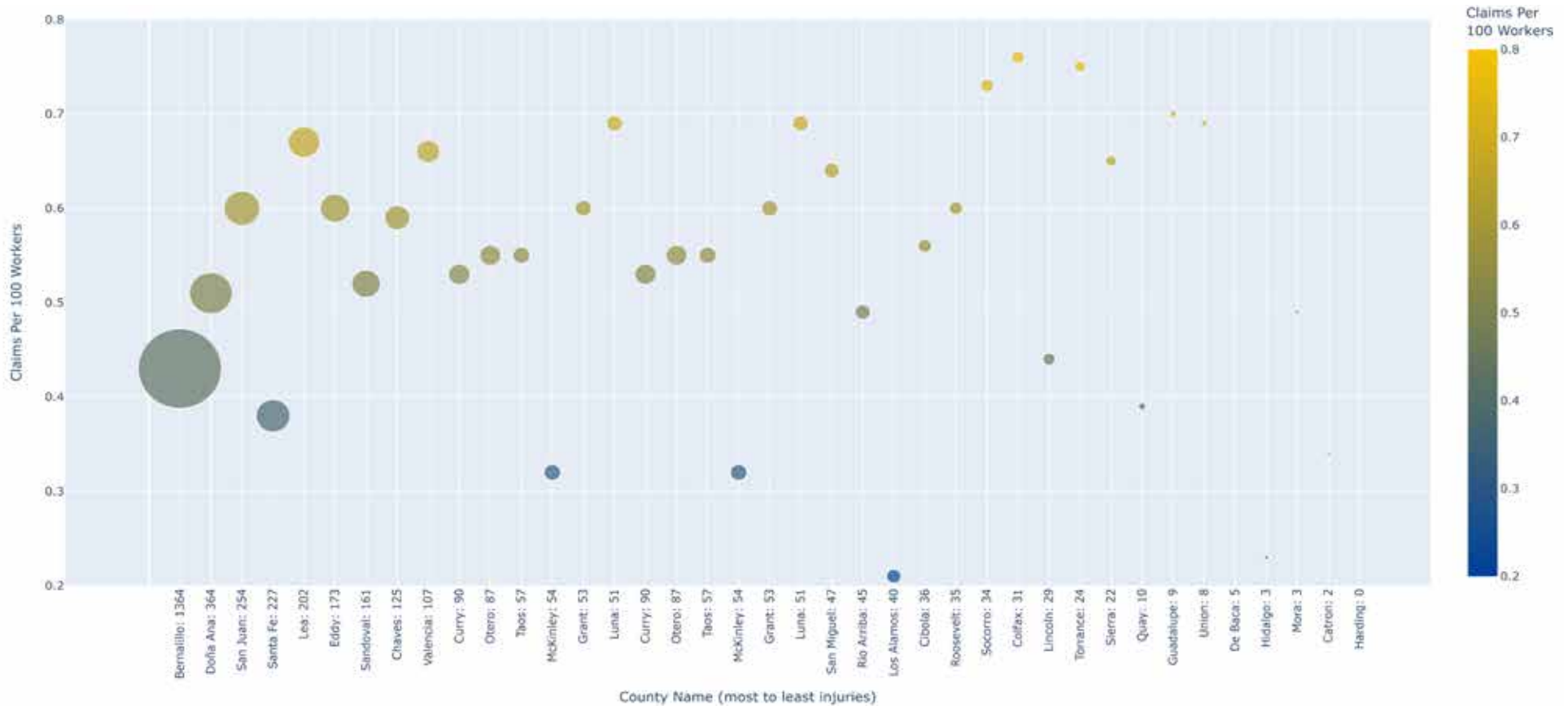


Figure 2.26 Indemnity Claims by Number of Years on the Job



Workers are significantly more prone to injury the less time they have accrued on the job. The higher vulnerability is likely because of several factors, including lack of experience, lack of training and unfamiliarity with the environment, among others.

Figure 2.27 Indemnity Claims by County Size Representing Total Claims, Color Representing Claims per 100 Covered Workers



De Baca County was excluded from the 2.24 figure visualization as a significant outlier on a per-worker basis that was outside the chart range. It is still listed in the X-axis. Data on De Baca County is included in the following visualization seen on Figure 2.25.

Figure 2.27 compares the total number of claims and the rate of claims on a per worker basis. The size of each bubble and the X axis represent the total number of claims, and the color of the claim and the Y axis represent the per worker claims rate.

As would be expected based on population size, Bernalillo County had the most claims by a significant margin, followed by Doña Ana County, and then San Juan County.

Figure 2.28 Indemnity Claims per 100 Workers by County

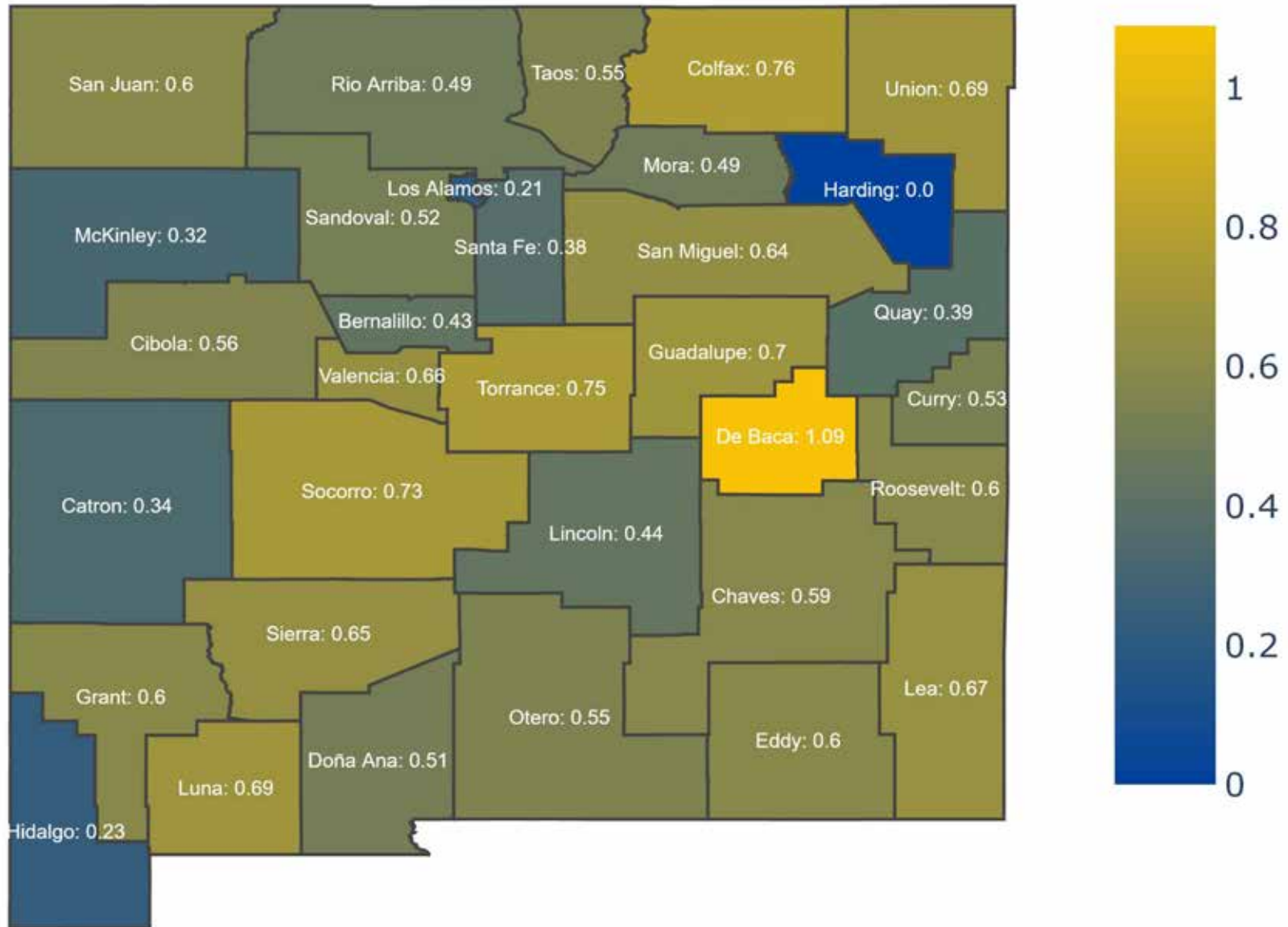


Figure 2.28 presents claims per 100 workers by county in 2022, with color representing the rate of claims. Counties with more yellow represent higher claims rates, and counties with more blue represent lower claims rates, on a per worker basis.

De Baca County had by far the highest claims rate in 2022 on a per worker basis, likely because of its small sample size. The next highest counties by claims rates were Colfax, followed by Torrance and Socorro.

Figure 2.29 Percent of Indemnity Claims by Occupation of Injured Worker, 2022 (Top 12 Categories)

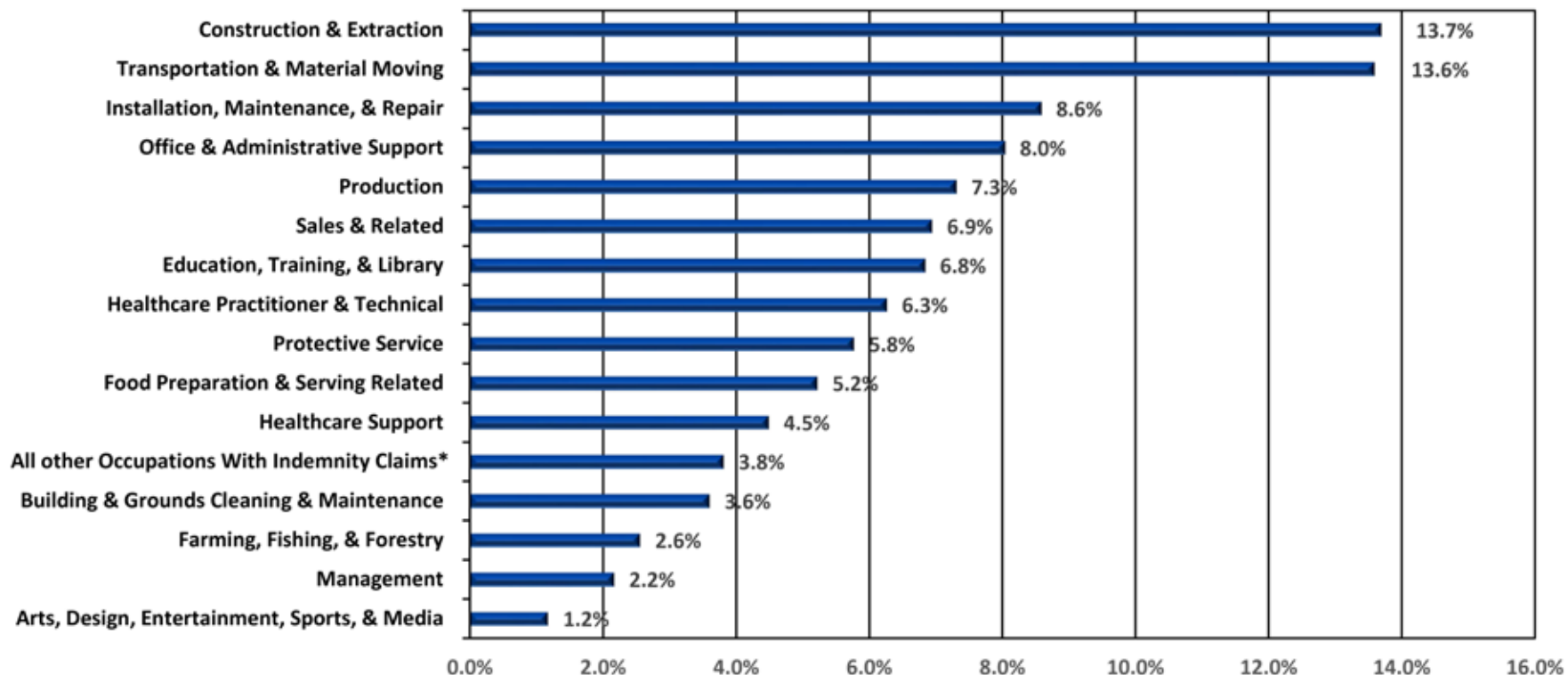


Figure 2.29 shows the percentage of indemnity claims represented by each occupation reported to the WCA. The number one and number two occupations were “Construction & Extraction” and “Transportation & Material Moving,” both of which were similar to each other at 13.7% and 13.6% respectively. Each of these two categories was significantly higher than the following category, “Installation, Maintenance & Repair,” with 8.6% of total claims. Further categories decreased from that point normally.



“Construction & Extraction” and “Transportation & Material Moving” were by far the occupations with the most indemnity claims in 2022

Table 2.6 shows the primary drivers of work-related fatalities between 2018 and 2022. There were 43 fatalities related to workplace injuries and illnesses in 2022. The primary observation in 2022 was an increase in the number of motor vehicle accidents, signaling a return to pre-COVID-19 rates of motor vehicle fatalities.

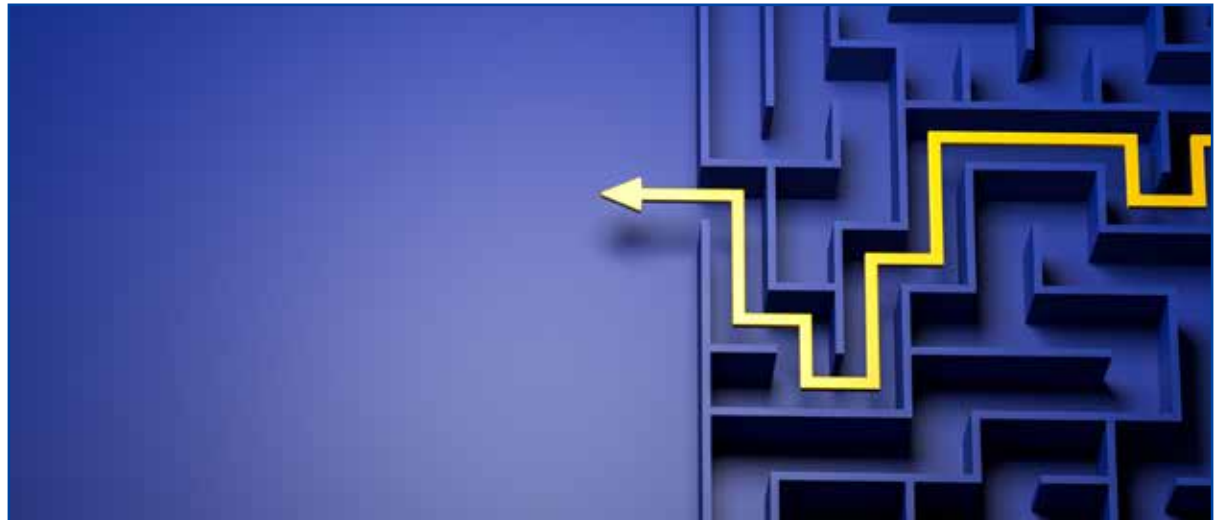


Table 2.6 Causes of Work-Related Fatalities, 2018 - 2022

| Cause of Death | Year of Injury | | | | |
|---|----------------|-----------|-----------|-----------|-----------|
| | 2018 | 2019 | 2020 | 2021 | 2022 |
| Miscellaneous Causes | 11 | 13 | 22 | 25 | 17 |
| Motor Vehicle | 21 | 19 | 7 | 9 | 18 |
| Struck or Injured By | 4 | 6 | 6 | 3 | 4 |
| Fall, Slip or Trip Injury | 4 | 3 | 2 | 4 | 2 |
| Burn or Scald, Heat or Cold Exposures, Contact With | 0 | 4 | 3 | 0 | 0 |
| Caught In, Under or Between | 0 | 0 | 4 | 1 | 2 |
| Strain or Injury By | 2 | 0 | 2 | 1 | 0 |
| Striking Against or Stepping On | 0 | 0 | 0 | 1 | 0 |
| Grand Total | 42 | 45 | 46 | 44 | 43 |
| Workforce | 793,782 | 805,692 | 700,139 | 761,592 | 799,462 |
| Covered Fatalities Per 100,000 Workers | 5.3 | 5.6 | 6.6 | 5.8 | 5.4 |

Notes: Previously published statistics are subject to revision because of updated fatality information

Regulatory Developments

03



Legislative Session

In the 2023 60-day legislative session, there were several bills related to workers' compensation.

House Memorial 83 — Workers' Compensation Attorney Fees Task Force

HM 83, introduced by Rep. Pamelya Herndon (D-Bernalillo) created a task force to study the workers' attorney fee cap, the number of claims in reaching the cap, the average attorney fee received per claim and the impact of a fee cap on access to justice. HM 83 passed. The Memorial requested that the WCA Director convene a task force by May 1, 2023.

Task force members include:

- NMWCA Designee: General Counsel
- Two Workers' Attorneys
- Two Employers/Insurers Attorneys
- Two Employer Representatives
- Two Labor Union Representatives
- Insurance Carrier Representative
- Self Insurer Group Representative
- Two Injured Workers

The task force will present a report of findings and recommendations to the WCA Advisory Council by April 30, 2024.

HM 83: The NMWCA will convene a task force to study attorney fees

Several bills were proposed that did not pass:

House Bill 455 — Increase Discovery Amounts and Increase Limits on Attorney Fees

HB 455, introduced by Rep. Pamelya Herndon (D-Bernalillo) would allow for an increase in the amount of money an employer should advance for discovery, per §52-1-54. Certain limits on attorney fees were increased and there was a change in procedures for providing an additional discretionary attorney fees. A penalty was removed. The bill died in a House committee.

House Bill 329 — Workers' Compensation Violations Penalties

HB 329, introduced by Rep. Tara L. Lujan (D-Santa Fe) would allow for an increase in penalty amounts for violations of the Workers' Compensation Act. The bill died in committee.

House Bill 330 — Farm and Ranch Labor in Workers' Compensation Act

HB 330, sponsored by Reps. Tara L. Lujan (D-Santa Fe) and Patricia Roybal Caballero (D-Bernalillo), would remove the language that exempts employers of farm and ranch laborers from the requirement to carry workers' compensation insurance. The exemption was removed in 2016, when the New Mexico Supreme Court ruled that the provision that excluded agricultural laborers was unconstitutional, §52-1-6(A). The removal of the exemption would allow the statute to reflect current law. The bill passed the House and died in the Senate.

Senate Bill 369 — Firefighter Workers' Compensation Conditions

SB 369, sponsored by Senator Harold Pope (D-Bernalillo), would have amended the New Mexico Occupational Disease Disablement Law, Article 3 by adding new medical conditions that are rebuttally presumed to be related to a firefighter's job duties, such as lung cancer. The bill died in the Senate Judiciary committee.

House Bill 427 — First Responder PTSD

HB 427, sponsored by Rep. Eliseo Lee Alcon (D-Cibola & McKinley) would have amended the New Mexico Occupational Disease Disablement Law, Article 3, to give law enforcement and other "first responders" a rebuttable presumption of causation, akin to firefighters, relative to a diagnosis of PTSD. The bill died in a House committee.

Despite the longer 60-day legislative session, the year's proposed bills related to workers' compensation did not get through committees



Rule Changes

New WCA Rules, Effective January 1, 2023

Full WCA Rules are available at workerscomp.nm.gov/WCA-Rules-and-Statutes.

Rule Adoption Timeline, Prior to Rule Changes (2022):

March 1, 2022: Solicited input from workers' comp community on suggested rule changes.

April 15, 2022: Sent/posted draft of rule changes to general public.

May 16, July 19, 2022: Held two informal Zoom meetings to receive general public input on draft rules.

October 21, 2022: Public Comment hearing.

December 8, 2022: Director, Robert E. Doucette, Jr., formally adopted the rules.

January 1, 2023: Rules became effective.

Part 1 — General Provisions: Minor Changes

Part 5 — Enforcement and Administrative Investigations:

- Specifies that service of initial pleadings in an enforcement proceeding must follow the New Mexico Rules of Civil Procedure, unless the Director orders otherwise.
- Clarifies that the New Mexico Rules of Evidence DO NOT apply to administrative enforcement hearings before the Director. However, rules of privilege shall apply to the extent recognized in a district court civil action.
- At administrative hearings, evidence is now considered admissible if it's relevant, reasonably reliable and authentic, and will help the Director decide a factual issue. Formal rules of evidence no longer determine the admissibility of evidence.
- Rationale: Resolve hearings on merits, not turn on evidence rules.
- Pro se workers can have their day in court.

Part 6 — Judicial Selection

- Clarifies the process by which the Director reappoints an incumbent workers' compensation judge.
- Upon the Director's receipt of the incumbent's application for reappointment (due 110 days from term expiration), the WCA will open a two-week public comment period with all comments directed to the WCA General Counsel office.
- Information obtained during reappointment processes are NOT public records under the Inspection Public Record Act.
- Once public comment has ended, the Office of General Counsel will compile the public comment and provide it to the Director without identifying information.
- No public comment will be provided to the incumbent judge or, if provided, all personal identifying information will be redacted.

Rule Changes

New WCA Rules, Effective January 1, 2023, continued

Part 12 – The Uninsured Employers’ Fund

- Clarifies determinations of “eligibility” and “compensability” of a claim are to be made in accordance with applicable law.
- Raises the cap on benefits for indemnity and medical from the current cap of \$40,000 to \$60,000 relative to accident dates occurring on and after July 1, 2023.
- A further raise to \$75,000 for each cap will occur relative to accident dates occurring on and after July 1, 2025.
- The existing caps remain in effect for accident dates occurring on or before June 30, 2023.
- Clarified rule language to bolster the rights of the UEF to collect penalties and reimbursement from the uninsured employer.

Part 13 – Owner-Controlled Insurance Plans: Minor Changes

Part 4 (Repealed and Replaced)

Ombudsman

- Assistance of an ombudsman must stop once a rejection of a recommended resolution (RR) is filed.

E-Filing

- Non-participants in the e-filing system are now required to keep the WCA Clerk of the Court informed of any change in mailing address.
- Insurers using the e-filing system must annually confirm their contact information with the WCA within the first two weeks of January to prevent missed mediation appointments; failure to comply may result in a referral to the WCA’s Enforcement Bureau.

Mediation

- Added items to the list of mandatory production to enhance the mediation process, including an average weekly wage calculation; a job description; information regarding the initial selection of HCP; and indemnity and payment ledgers.
- A rescheduling request is subject to the bureau calendar. A request to reschedule means that the parties are stipulating to waiving the 60-day requirement for the WCA to issue a RR. Requests by the parties to reschedule within five days of setting will be at the discretion of Mediation Bureau Chief.
- Conferences conducted via online web platform and/or by a telephone, unless in-person conference requested. In-person mediations may be requested by any party at least five days before the scheduled conference, provided that all parties agree, or it is otherwise approved by the Director or Director’s designee.
- Recording of mediation conferences is prohibited.
- If a settlement is reached before set conference, the parties should use the WCA’s stipulated RR form. If the mediator adopts the stipulated agreement, it will be filed with the Clerk of the Court and the scheduled conference vacated.
- Mediations can only be vacated at the direction of the assigned Mediator or Bureau Chief.

Rule Changes

New WCA Rules, Effective January 1, 2023, continued

Recommended Resolutions

- Clarified that the 30-day period to file with the Clerk of the Court an acceptance or rejection of a recommended resolution (RR), begins with a party's receipt of the RR, as opposed to the prior reference to the transmission of the RR.
- Reaffirmed by rule that a RR and its terms are not binding and do not reflect an agreement between the parties until all parties have accepted the RR or fail to timely reject it.

Adjudication

- Revised language regarding admissibility of evidence giving a judge discretion to admit all evidence, including the specific listed documentary evidence in subparagraphs (a) through (h), assuming the other conditions of the introductory paragraph are met, i.e., relevancy; reliability; authenticity; and assisting the judge in his/her determination.

Part 7 (Repealed and Replaced)

11.4.7.7 – Definitions:

- By-Report
- Corrected Claim
- Health Care Common Procedure Coding System
- HCP Fee Schedule
- Provider's Report of Physical Ability
- Telemedicine Services and
- Telephonic Services

**Part 7 Deals with Claims,
Provider Qualifications and
Case Management**

Rule Changes

New WCA Rules, Effective January 1, 2023, continued

The agency made other, minor revisions to existing definitions.

11.4.7.8 – Ground Rules for Billing and Payment:

- Clarifies that the payer communicate its pre-authorization or denial within the deadlines imposed by the rules. In the case of a payer's untimely response, the procedure is deemed to be authorized.
- Initial billing for outpatient services is extended to 60 days from the date on which services were performed.
- Establishes that a Health Care Provider's ("HCP") documented, good-faith effort to submit billing within the time limits provided by these rules shall not constitute untimely filing.
- HCP's failure to submit billing, or to demonstrate a good-faith effort to submit billing within the time limits established by rule absolves the employer of financial responsibility for the bill.
- Adds "corrected claims" to the provider's 30-day timeline from receipt of the payer's written disposition.

11.4.7.10 – Qualifications of Out of State Health Care Providers:

- Adds a provision that permits a payer to accept an Out of State Health Care Provider Affidavit from an HCP licensed in their state and in good standing, in lieu of submitting a formal application to the Director seeking approval.

11.4.7.12 – Inpatient Admissions, Case Management and Utilization Review:

- Clarifies that utilization review is only appropriate for one treatment.
- 11.4.7.13 – Non-Clinical Services.
- With certain enumerated exceptions, both paper and electronic copies of medical records and reports requested for the purpose of investigating or administering a workers' compensation claim shall be reimbursed according to the HCP fee schedule.

Recent Court Decisions



The following selection of appellate case summaries is provided for informational purposes only, and should not be considered as legal precedent. Interested parties should read the full case opinions published by the court and/or rely on the advice of legal counsel when evaluating their rights and obligations under the law.

New Mexico Court of Appeals

Cardenas v. Aztec Municipal Schools and CCMSI, 2022-NMCA- 038 (Filed January 24, 2022)

The worker had a compensable knee injury and developed a secondary mental impairment that was caused by the work-related physical injury. The question presented was whether §52-1-41(C) and §52-1-42(A)(4) violate the Equal Protection Clause of the New Mexico Constitution, because statute limits the duration of total disability benefits for secondary mental impairment. This is fixed by the Workers' Compensation Act for the primary scheduled injury. The worker argued the statute

does not limit the duration of the secondary physical injury in the same way and was therefore discriminatory. The Court of Appeals relied on the reasoning in *Breen v. Carlsbad Municipal Schools, 2005-NMSC-028*. The COA determined that workers with a secondary mental impairment are treated differently, and less favorably, than similarly situated workers with a secondary physical impairment. Workers with a mental impairment are a sensitive class meriting “intermediate scrutiny.” Classification is not substantially related to an important government interest as required by this level of scrutiny. The COA ruled that §52-1-41(C) and §52-142(A)(4) are in violation of the Equal Protection Clause of the New Mexico Constitution.

The NMSC accepted certiorari and heard oral arguments in July 2023. The court issued an order on August 15, 2023, stating they intend to issue a written opinion affirming the COA decision. No opinion had yet been issued when this report was sent to press.



Barrozo v. Albertson’s Inc. & Ace American Insurance Company, No. A-1-CA 39001 (Filed October 11, 2022)

The worker suffered a work-related injury for which he purchased medical cannabis in the amount of \$453.05. The employer/insurer limited reimbursement to worker in the amount of \$108.18. Worker claimed he was entitled to full reimbursement and not the lesser fee-schedule-based payment received. The COA affirmed the WCJ decision and rejected worker’s argument that §52-1-49 (A), which requires an employer

to provide worker with reasonable and necessary medical care, mandated full reimbursement to worker. Instead, the court found more persuasive the argument of the employer/insurer that other provisions of the Act, namely, §52-4-5(A), and agency regulation found at 11.4.7.9 (D) NMAC, authorized the lower reimbursement figure as those provisions establish a permitted schedule for reimbursement of medical cannabis.

Advisory Council

The Advisory Council on Workers' Compensation and Occupational Disease Disablement

Created by statute, the Advisory Council on Workers' Compensation and Occupational Disease Disablement monitors the workers' compensation system and makes 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.

The Governor appoints six voting members of the council. Three members represent employers and three members represent workers. The WCA director serves as an ex-officio (non-voting) seventh member. Meetings take place on an as-needed basis at least twice a year, following an open-meeting format which the public and interested parties can attend. The Council's role is an advisory one, so members do not make rulings or recommendations on individual cases. The all-volunteer Council reports annually to the Governor, the Superintendent of Insurance, and the legislative leadership on the status of the state's workers' compensation system.

The Council appoints members to the panel of professionals who select Independent Medical Examiners. The Council can also give its endorsement of proposed workers' compensation legislation.

Council members include:

- Darrell Deaguero, Labor, President of the Laborers' International Union of North America, Local 16 in New Mexico
- Courtenay Eichorst, Labor, Business Manager of U.A. Local 412
- Marni Goodrich, Chair, Business, Business Manager at Yearout Mechanical, an HVAC company
- Buffy Jackson, Business, Owner of Home Instead Senior Care in Las Cruces, and Buffy Johnson Consulting
- Sara Ranney, Vice-Chair, Labor, International Association of Firefighters Local 244, engine company lieutenant

The seat for a third business representative is currently vacant.



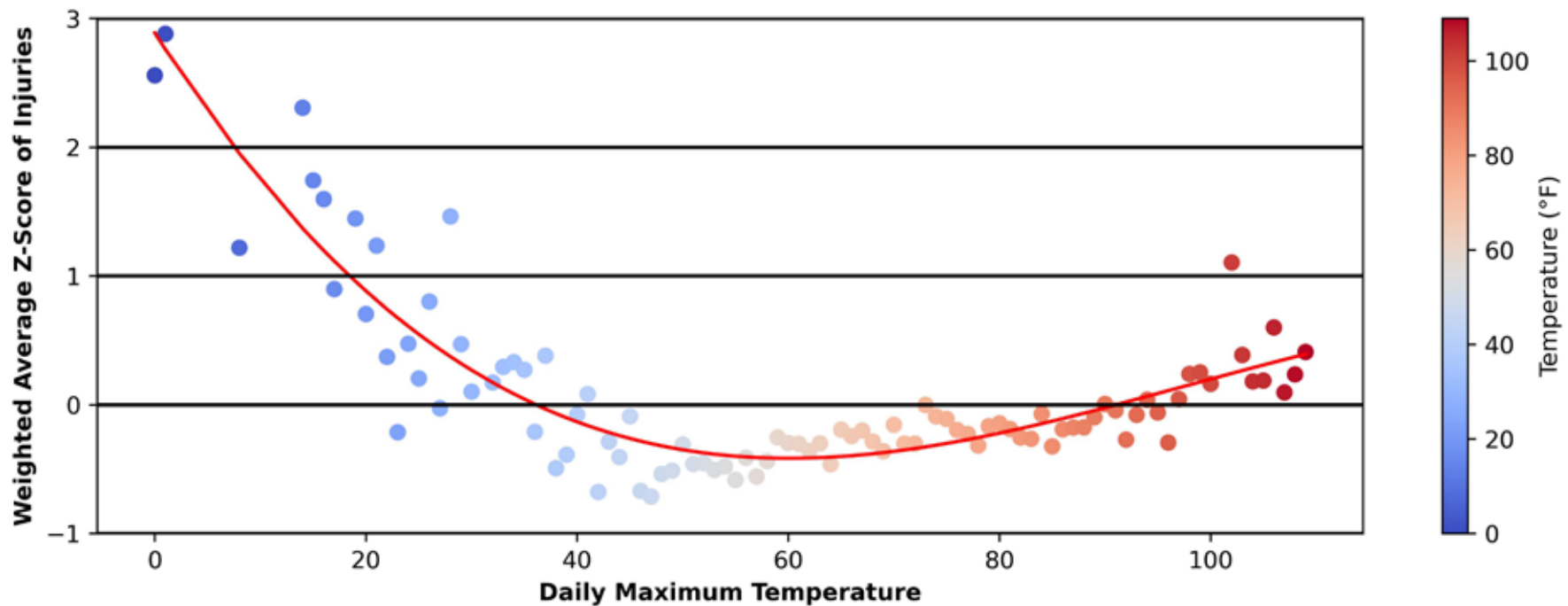
Research Initiatives

04



Temperature & Work-Related Illness and Injury Study

Figure 4.1 New Mexico Standardized Daily Injury Score vs. Temperature, 2005 - 2019



Source: Temperature data gathered from the National Oceanic and Atmospheric Administration. Remaining data is WCA claims data. Extreme outliers were removed using statistical techniques to improve analysis.

A WCA research group has made notable progress in exploring the link between temperature changes and job-related injuries in New Mexico. Utilizing a dataset that combines WCA injury reports and weather information from the National Oceanic and Atmospheric Administration, the study uses statistical techniques to investigate the connection between temperature and work-related injuries and illnesses. The findings show a robust link between extreme heat and the occurrence of workplace injuries in New Mexico.

This study has vital practical implications. As global warming leads to more temperature extremes, understanding these trends allows New Mexico to foresee future hazards and take proactive steps to safeguard worker health. Decision-makers can apply this knowledge to develop more focused and efficient safety guidelines, thus enhancing worker wellness and output. The research acts as a foundational piece for future studies and initiatives, signifying a meaningful advance in our dedication to creating safer and fairer work environments.

Figure 4.1 displays “Daily Maximum Temperature” on the X axis and what is termed as a “weighted average Z-score” on the Y axis. In layman’s terms, this Z-score shows the average count of injuries happening on a specific day at each temperature throughout the state. The graph offers a straightforward visual indicating that as temperatures soar, the risk of workplace injuries rises. The chart also hints that colder temperatures might be linked to a higher risk, although greater variability makes this inference less certain. Temperature is graphically indicated by a color transition from cool blue to warm red, highlighting the temperature shifts and their direct impact on work-related injuries.

Research findings show a robust link between extreme heat and the occurrence of workplace injuries in New Mexico



RBRVS Medical Fee Schedule Transition Analysis

The Economic Research and Policy Bureau has carried out extensive studies to update the Health Care Provider's Medical Fee Schedule (fee schedule) maximum rate-setting approach. The Resource-Based Relative Value Scale (RBRVS) is a technique employed by the Center for Medicare and Medicaid Services to decide the payment amounts for medical providers for various services. This method is also used by over 75% of all non-Medicare payers to set fees or ceiling rates for services. While determining rates using an RBRVS-based approach is fairly simple, the shift from the current rate-setting method to an RBRVS-based system is considerably more complex. Using sophisticated data analysis, the bureau has introduced a new model to aid in this transition.

The model was subjected to thorough testing and verification, proving its reliability and efficacy in meeting its set objectives. This progress signifies a major improvement in the functionality of the workers' compensation system and offers a route toward a clear and fair fee structure. The Workers' Compensation Administration is contemplating proceeding with this transition for the fee schedule, slated to start on January 1, 2025, pending public input and reviews. Additional details can be accessed on the WCA's YouTube page: <https://www.youtube.com/@newmexicoworkerscompensati4248>.



Medical Cannabis Market Research in the New Mexico System

In 2014 and 2015, key rulings by New Mexico’s Appellate Court set in motion changes to the status of medical cannabis in the New Mexico workers’ compensation system. The decisions required employers and insurance providers to pay for medical cannabis treatments for qualified injured workers when such treatment is found to be “reasonable and necessary.” However, the court did not specify how medical cannabis would be distributed and paid for, particularly given that cannabis is illegal under federal law.

Insurance companies were concerned that directly reimbursing dispensaries for medical cannabis treatment could expose them to federal legal liability. To mitigate this risk, the WCA proposed that injured workers would purchase their own cannabis and insurance companies would reimburse them. Implementing this proposal required a regulatory framework to prevent the potential for unregulated and unlimited cannabis reimbursements.

The WCA’s Economic Research and Policy Bureau (ERPB) was tasked with addressing the need for a maximum rate on cannabis reimbursements. At this time, the state limited the number of dispensary licenses it granted, creating a market that was similar to an oligopoly. Based on this assumption, the Cournot Oligopoly model was an appropriate way to calculate the market price for medical cannabis in New Mexico.

Using the Cournot Oligopoly model, ERPB calculated the maximum rate of a unit of medical cannabis for its Health Care Providers’ Medical Fee Schedule and Billing Instructions (fee schedule). This made New Mexico the first state in the US to establish a fee schedule rate of its kind for medical cannabis. Rules were also established to ensure compliance with the Lynn and Erin Compassionate Use Act and to prevent arbitrary price-setting. This reimbursement rate has been published in the fee schedule since 2016.

In 2021, the Cannabis Regulation Act allowed the distribution of cannabis in New Mexico for recreational purposes beginning on April 1, 2022. Cannabis dispensaries in New Mexico now sell to both recreational and medical customers, and there are far more dispensaries operating in the state. Because the market no longer qualifies as an oligopoly, ERPB has revised its original assumptions and updated the rate calculation model. The proposed medical cannabis reimbursement rate for 2022 and beyond is based on the Average Sales Prices (ASP) Model used by the US Centers for Medicare Services (CMS).

Under the new model, the rate is calculated as $P_m = (ASP) (1+H)$, where P_m is the maximum allowable rate, ASP is the Licensed provider’s (LP) average dry-weight medical cannabis sales per gram weighted by LP market share, and H is the percentage overhead laid out in the CMS ASP Model. Temporary adjustments were applied to the maximum rates to account for market conditions during the transition. Future updates will phase out those adjustments and reflect changes in market conditions.



National Committees and Boards

WCA employees participate in national conferences and committees to stay abreast of trends, initiatives and regulations in the workers' compensation field. Staff also share their expertise with workers' compensation professionals from other states, through both regional and national conferences.

International Association of Industrial Accident Boards and Commissions (IAIABC)

The International Association of Industrial Accident Boards and Commissions (IAIABC) educates and connects the global workers' compensation community in order to reduce harm and aid recovery from work illnesses and injuries.

Director Robert E. Doucette, Jr., has been on the IAIABC Board of Directors since 2018 and was chosen to be President of the board for the 2023-2024 term. The IAIABC Board of Directors is the organization's governing body.

The 109th IAIABC conference was held in Denver, Colo. and attended by several WCA employees. Economic Research and Policy Bureau Chief Richard Adu-Asamoah, Ph.D., has served on the IAIABC's Research and Standards Committee since 2013 and its Regulations Committee since 2022.

Economist Charles Cordova presented for the Medical Issues Committee forum in 2023, where he spoke on artificial intelligence in workers' compensation. Cordova has been a member of the IAIABC Research and Standards Committee since May of 2022 and the Medical Issues Committee since December of 2022. He serves as a New Mexico representative for the Western Association of Workers' Compensation Boards (WAWCB).

Santa Fe Field Office Manager Charlene Cde Baca also attended the 2023 conference.

Southern Association of Workers' Compensation Administrators (SAWCA)

The Southern Association of Workers' Compensation Administrators (SAWCA) is comprised of regulatory decision makers who share ideas and concerns designed to improve workers' compensation for all.

Director Robert Doucette, Jr., has been a member of the SAWCA Board of Directors since 2022. He moderated the service provider roundtable panel at the 2023 SAWCA conference.

Chief Judge Shanon Riley was a legal forum panelist at the 2023 SAWCA conference. The panel addressed issues with medical treatment, dealing with pro se claimants, security concerns and other adjudication topics. Judge Sonya Carrasco-Trujillo also attended.

Executive Deputy Director Leigh Martinez was a panelist at the SAWCA Regulators College. The program is designed for workers' compensation regulators, elected and state officials and legislators. Court and Programs Administrator Heather Jordan also attended.

Organization

05



Senior Management



Robert E. Doucette, Jr., Director

Robert E. Doucette, Jr., began his term December 6, 2021. Doucette worked at the WCA from April, 2011 to May, 2015, overseeing the agency's operations and support functions. He has served as deputy manager of Sandoval County and was deputy superintendent of insurance for New Mexico from 2015 to 2021. He has held various management positions within Bernalillo County. Doucette graduated with a Bachelor of Science in English in 1998 from Black Hills State University and was commissioned into the U.S. Army as an air defense officer. He obtained his Master of Arts degree in management and leadership in 2004 from Webster University. He also currently serves as Cabinet Secretary of New Mexico's General Services Department.



Leigh Martinez, Executive Deputy Director

Leigh Martinez has been an employee of the WCA since 1996, working as a financial auditor in the Self Insurance Bureau and then as an economist in the agency's Economic Research and Policy Bureau. Prior to joining the WCA, Martinez was financial manager for Sandia Casino. She has a bachelor's degree in business administration, with a concentration in accounting from the University of New Mexico. Martinez oversees the WCA's support services, which includes the bureaus of Finance, Field Programs, Facilities, Economic Research, Information Systems and Self-Insurance.



Heather Jordan, Court and Programs Administrator

Heather Jordan served as the WCA's clerk of the court and custodian of records since 2015. Prior to joining the WCA, she worked for 20 years overseeing inmate records, booking functions and visitations at the Bernalillo County Metropolitan Detention Center. She earned a Bachelor of Arts in Criminal Justice in 2014. Jordan oversees the Clerk of the Court, Employer Compliance, Mediation, Medical Cost Containment, Ombudsman and Safety bureaus.

Senior Management



Michael Holt, General Counsel

Michael Holt graduated from Northern Arizona University in 1984 with a degree in geology and received his law degree from the Marshall Law School in Chicago in 1990. Holt was in private litigation practice in Illinois for 27 years with a focus on workers' compensation and personal injury. Prior to his promotion to General Counsel in February, 2021, Holt was the WCA Enforcement Bureau Chief.



Shanon Riley, Chief Judge

Chief Judge Shanon Riley practiced law in New Mexico for 10 years prior to joining the WCA as a judge in August 2011. Riley had been serving as assistant district attorney in the 1st Judicial District Court in Santa Fe and spent three years as the general counsel for the New Mexico Department of Military Affairs. She also worked as an analyst for the House Judiciary Committee; as an associate attorney with a private law firm; and associate trial attorney for the 2nd Judicial District Attorney's Office. She earned a Bachelor of Arts degree in criminal justice in 1993 from the University of New Mexico, and a Juris Doctor degree in 2001 from the University of New Mexico School of Law.

Judges



Shanon Riley

Chief Judge Shanon Riley practiced law in New Mexico for 10 years prior to joining the WCA as a judge in August 2011. Riley had been serving as assistant district attorney in the 1st Judicial District Court in Santa Fe and spent three years as the general counsel for the New Mexico Department of Military Affairs. She also worked as an analyst for the House Judiciary Committee; as an associate attorney with a private law firm; and associate trial attorney for the 2nd Judicial District Attorney's Office. She earned a Bachelor of Arts degree in criminal justice in 1993 from the University of New Mexico, and a Juris Doctor degree in 2001 from the University of New Mexico School of Law.



Reg. C. Woodard

Judge Reg. C. Woodard had more than 35 years of legal experience, prior to his appointment in November 2012. Woodard practiced in the area of workers' compensation law for more than 16 years. He had been a recognized certified specialist in workers' compensation law by the New Mexico Board of Legal Specialization since 2005. Woodard came to the WCA from the law firm of Woodard and Associates, PC., where he was a sole proprietor since 2004. Prior to that he was affiliated with Sturges, Houston & Sexton, PC. He has also been in-house counsel for CIGNA Insurance Companies. Woodard earned a Bachelor of Undergraduate Studies degree from the University of New Mexico in 1974. He earned his Juris Doctor degree in 1977 from the University of New Mexico School of Law. (Judge Woodard declined to seek reappointment and departed the agency in October, 2023).



Leonard Padilla

Judge Leonard Padilla brought more than 25 years of legal experience to the WCA when he was appointed in August 2013. He previously worked in both private practice and public service, including 16 years of experience in workers' compensation law. From 1992 through 1997 he was recognized as a certified specialist in workers' compensation law by the New Mexico Board of Legal Specialization. Before joining the WCA, Padilla served nine years as chief administrative law judge for the New Mexico State Personnel Office. He earned a Bachelor of Science degree in education in 1979 from Eastern New Mexico University, and received a Juris Doctor degree in 1988 from Southern Methodist University in Dallas, Texas.

Judges



Anthony Couture

Judge Tony Couture graduated from the University of New Mexico School of Law in 2007. He was in private practice in the areas of workers' compensation, general liability and complex civil litigation. Before entering the legal field, he was a registered nurse and computer scientist. His nursing experience has helped him have a deep understanding of the complicated medical issues that often accompany workers' compensation matters. Couture is passionate about working to advance the New Mexico Workers' Compensation Administration's mission to assure the timely delivery of benefits to injured workers at a reasonable cost to employers. Couture is a member of the State Bar of New Mexico and the American Bar Association.



David Skinner

Judge David Skinner has practiced in the area of New Mexico workers' compensation law for more than 35 years. He was recognized as a specialist in workers' compensation law by the State Bar of New Mexico prior to his initial WCA judge appointment in 2011. Skinner has taught New Mexico workers' compensation law at numerous accredited Continuing Legal Education seminars. He graduated from Mesa State College, Grand Junction, Colo., in 1981 with a bachelor of science degree in agronomy and received his juris doctorate degree cum laude from the University of New Mexico School of Law in 1987. Skinner previously worked as a WCA judge from 2011 to 2017. Since July 2022, he has served as a judge pro tempore for the WCA, handling lump-sum settlement and Director's Enforcement hearings.



Sonya Carrasco-Trujillo

Judge Sonya Carrasco-Trujillo has had a long career in public service, having most recently served as general counsel for the New Mexico Department of Military Affairs. She is a major in the New Mexico Army National Guard, serving as the Brigade Judge Advocate for the 111th Sustainment Brigade in Rio Rancho. She was a public policy advisor and deputy chief of staff for former Lt. Gov. Diane Denish and deputy director of legislative affairs for former Gov. Bill Richardson. She was assistant general counsel at the New Mexico Department of Public Safety and was the first attorney to be appointed as an interim court judge for the City of Santa Fe. Carrasco-Trujillo earned a bachelor's degree in government and sociology at Georgetown University and her Juris Doctor degree from the University of New Mexico School of Law.

Appendix

06



Appendix A: References

National Association of Insurance Commissioners (NAIC). (2017-2021). *Profitability by Line by State*. Retrieved from: http://naic.org/prod_serv_publications.htm

National Association of Insurance Commissioners (NAIC). (2018-2022). *Market Share Reports*. Retrieved from: http://naic.org/prod_serv_publications.htm

National Association of Insurance Commissioners (NAIC). (2018-2022). *NAIC Annual Statement Data*. Unpublished.

National Council on Compensation Insurance (NCCI). (2017-2021). *Frequency and Severity Results by State*. Retrieved from: https://www.ncci.com/Articles/Pages/II_Frequency-Severity.aspx

National Council on Compensation Insurance (NCCI). (2017-2021). *New Mexico Medical Data Reports: Opioid Utilization Supplement*.

National Council on Compensation Insurance. (2018-2022). *New Mexico State Advisory Forums*. Albuquerque, NM. National Council on Compensation Insurance.

National Council on Compensation Insurance (NCCI). (2017-2021). *Residual Market Management Summary*. Retrieved from: https://www.ncci.com/pages/residual_markets.aspx

National Oceanic and Atmospheric Administration (NOAA) – National Centers for Environmental Information. Retrieved from: <https://www.ncei.noaa.gov/>

New Mexico Department of Workforce Solutions. (2017-2022). *Quarterly Census of Employment and Wages*. Albuquerque, NM. Retrieved from: <https://www.dws.state.nm.us/en-us/Labor-Market-Information/Data-Statistics-Dashboards/Employment-Industry>

New Mexico Legislature. (2019-2023). *New Mexico General Appropriation Acts*. Santa Fe, NM. Retrieved from: <https://www.nmlegis.gov/Search>

New Mexico Workers' Compensation Administration. (2018 - 2022). *Annual Expenditure Reports*.

Office of the State Auditor (FY 2014 - FY2023). *NM Workers' Compensation Administration Audited Financial Statements*. Retrieved from: <https://www.osa-app.org/auditreportsearch.aspx>

Oregon Department of Consumer and Business Services (DCBS) (2012-2022). *Oregon Workers' Compensation Premium Rate Ranking*.

U.S. Bureau of Labor Statistics. (2022). *Quarterly Census of Employment and Wages*. Retrieved from: [Databases, Tables & Calculators by Subject \(bls.gov\)](https://www.bls.gov/databases-tables-calculators-by-subject)

Workers Compensation Research Institute (WCRI) (2018-2022). *CompScope Benchmarks*. Retrieved from: <https://www.wcrint.org/areas-of-research/annual-state-compscope-benchmarks/>

New Mexico Workers' Compensation Administration. *Review of 2023 Legislative Session and New WCA Rules Overview*. Holt, Michael and Sanchez, Jessica, 2023.

Abbreviations

For ease of reference, the following abbreviations have been used in this report:

GROUP AND ORGANIZATION NAMES

| | |
|--|--------|
| NM Workers' Compensation Administration | WCA |
| NM Department of Workforce Solutions | DWS |
| US Center for Medicare Services | CMS |
| Economic Research and Policy Bureau | ERPB |
| Employer Compliance Bureau | ECB |
| Intl. Assn. Industrial Accident Brds & Commissions | IAIABC |
| National Association of Insurance Commissioners | NAIC |
| National Council on Compensation Insurance | NCCI |
| Southern Assn. of Workers' Compensation Admins. | SAWCA |
| Uninsured Employers' Fund | UEF |
| Western Assn. Workers' Compensation Boards | WAWCB |
| Workers' Compensation Research Institute | WCRI |

GENERAL & WORKERS' COMPENSATION TERMINOLOGY

| | |
|---------------------------------------|--------------|
| Annual Expenditure Report | AER |
| Average Sales Prices | ASP |
| Average Weekly Wage | AWW |
| Construction Industries Licensing Act | CILA |
| Cost to Revenue Ratio | CRR |
| Court of Appeal | COA |
| Coronavirus Disease 2019 | COVID |
| Electronic Data Interchange | EDI |
| First Report of Injury or Illness | FROI |
| Health Care Provider | HCP |
| Healthcare Providers' Fee Schedule | Fee Schedule |
| House Memorial | HM |
| House Bill | HB |
| Licensed Provider | LP |
| Lump-Sum Settlement | LSS |
| Maximum Medical Improvement | MMI |

Abbreviations

| | |
|--------------------------------------|---------|
| Morphine Milligram Equivalents | MME |
| New Mexico Administrative Code | NMAC |
| New Mexico Statutes 1978 Annotated | NMSA |
| New Mexico Supreme Court | NMSC |
| New Mexico Workers' Compensation Act | The Act |
| Not Otherwise Classified | NOC |
| Permanent Partial Disability | PPD |
| Permanent Total Disability | PTD |
| Post-Traumatic Stress Disorder | PTSD |
| Proof of Coverage | POC |
| Recommended Resolution | RR |
| Resource-Based Relative Value Scale | RBRVS |
| Return to Work | RTW |
| Senate Bill | SB |
| Service Year | SY |
| Subsequent Report of Injury | SROI |
| Temporary Partial Disability | TPD |
| Temporary Total Disability | TTD |
| Third Party Administrator | TPA |
| Uninsured Employers' Fund | UEF |
| Workers' Compensation Judge | WCJ |

Appendix B

Table B.1 Insurance Carriers: Medical Costs Associated with Indemnity Claims, 2018 - 2022

| Insurance Carrier Medical Costs Associated with Indemnity Claims | | | | | |
|--|--------------|--------------|--------------|--------------|--------------|
| | 2018 | 2019 | 2020 | 2021 | 2022 |
| Facility | \$20,833,099 | \$22,651,458 | \$16,038,628 | \$14,035,905 | \$12,631,630 |
| Avg. Cost per Claim | \$1,975 | \$2,189 | \$1,519 | \$1,579 | \$1,395 |
| Physicians | \$19,794,936 | \$19,841,720 | \$19,225,947 | \$16,116,463 | \$17,766,010 |
| Avg. Cost per Claim | \$1,877 | \$1,917 | \$1,820 | \$1,813 | \$1,962 |
| Therapy | \$8,891,358 | \$10,200,338 | \$8,107,163 | \$8,320,160 | \$8,032,737 |
| Avg. Cost per Claim | \$843 | \$986 | \$768 | \$936 | \$887 |
| Medication | \$10,541,076 | \$8,963,796 | \$10,558,249 | \$7,393,349 | \$6,857,384 |
| Avg. Cost per Claim | \$999 | \$866 | \$1,000 | \$832 | \$757 |
| Vocational Rehab | \$463,601 | \$1,168,809 | \$248,003 | \$110,294 | \$515,354 |
| Avg. Cost per Claim | \$44 | \$113 | \$23 | \$12 | \$57 |
| Other | \$32,301,363 | \$35,169,967 | \$30,578,738 | \$37,353,002 | \$38,680,944 |
| Avg. Cost per Claim | \$3,062 | \$3,398 | \$2,895 | \$4,201 | \$4,271 |
| Grand Total for Year | \$92,825,433 | \$97,996,088 | \$84,756,728 | \$83,329,173 | \$84,484,059 |
| Total No. of Claims | 10,548 | 10,349 | 10,562 | 8,891 | 9,057 |
| Avg. Cost per Claim | \$8,800 | \$9,469 | \$8,025 | \$9,372 | \$9,328 |

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2018 - 2022*

Table B.2 Self-Insurers: Medical Costs Associated with Indemnity Claims, 2018 - 2022

| Self-Insurer Medical Costs Associated with Indemnity Claims | | | | | |
|--|---------------------|---------------------|---------------------|---------------------|---------------------|
| | 2018 | 2019 | 2020 | 2021 | 2022 |
| Facility | \$13,271,689 | \$13,333,145 | \$8,558,630 | \$8,441,309 | \$9,893,859 |
| Avg. Cost per Claim | \$2,313 | \$2,186 | \$1,522 | \$1,555 | \$2,301 |
| Physicians | \$7,526,326 | \$7,436,596 | \$6,506,951 | \$7,414,582 | \$7,599,353 |
| Avg. Cost per Claim | \$1,312 | \$1,219 | \$1,157 | \$1,366 | \$1,768 |
| Therapy | \$5,597,374 | \$6,214,573 | \$5,113,988 | \$5,386,209 | \$5,437,938 |
| Avg. Cost per Claim | \$975 | \$1,019 | \$910 | \$992 | \$1,265 |
| Medication | \$5,179,900 | \$5,335,476 | \$4,038,474 | \$3,488,347 | \$3,079,885 |
| Avg. Cost per Claim | \$903 | \$875 | \$718 | \$643 | \$716 |
| Vocational Rehab | \$103,609 | \$163,740 | \$234,367 | \$160,294 | \$120,396 |
| Avg. Cost per Claim | \$18 | \$27 | \$42 | \$30 | \$28 |
| Other | \$11,615,121 | \$14,070,032 | \$10,345,436 | \$9,946,606 | \$9,893,149 |
| Avg. Cost per Claim | \$2,024 | \$2,307 | \$1,840 | \$1,833 | \$2,301 |
| Grand Total for Year | \$43,294,018 | \$46,553,560 | \$34,797,847 | \$34,837,346 | \$35,904,184 |
| Total No. of Claims | 5,738 | 6,100 | 5,622 | 5,427 | 4,299 |
| Avg. Cost per Claim | \$7,545 | \$7,632 | \$6,190 | \$6,419 | \$8,352 |

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2018 - 2022*

Table B.3 Insurance Carriers: Workers' Compensation Insurance Paid Losses, 2018 - 2022

| Loss Category & Claims Count | | | | | |
|---|---------------|---------------|---------------|---------------|---------------|
| INDEMNITY Claims | 2018 | 2019 | 2020 | 2021 | 2022 |
| A. Wage Replacement Benefits | \$78,081,232 | \$82,089,343 | \$84,141,598 | \$75,879,492 | \$80,512,142 |
| B. Medical Costs ¹ | \$92,361,832 | \$96,827,279 | \$84,508,725 | \$83,218,879 | \$83,968,705 |
| C. Attorney Fees | \$10,393,349 | \$12,209,463 | \$8,572,597 | \$8,110,863 | \$9,420,449 |
| D. Vocational Rehab Costs | \$463,601 | \$1,168,809 | \$248,003 | \$110,294 | \$515,354 |
| E. Other Benefits ² | \$2,244,270 | \$2,483,295 | \$2,119,799 | \$3,130,943 | \$2,109,373 |
| F. Indemnity Claims Subtotal | \$183,544,283 | \$194,778,189 | \$179,590,722 | \$170,450,470 | \$176,526,023 |
| G. No. of Indemnity Claims | 10,548 | 10,349 | 10,562 | 8,891 | 9,057 |
| MEDICAL-ONLY Claims | | | | | |
| H. Medical Costs Subtotal | \$21,295,977 | \$18,772,634 | \$16,563,474 | \$13,383,887 | \$15,406,015 |
| I. No. of Medical-Only Claims | 13,683 | 13,499 | 11,480 | 9,738 | 10,047 |
| J. Grand Total: Paid Losses | \$204,840,260 | \$213,550,822 | \$196,154,196 | \$183,834,358 | \$191,932,038 |
| K. Grand Total : No. of Claims | 24,231 | 23,848 | 22,042 | 18,629 | 19,104 |
| L. Average Loss per Indemnity ' Claim = F/G | \$17,401 | \$18,821 | \$17,003 | \$19,171 | \$19,491 |
| M. Average Loss per Medical-Only ' Claim = H/I | \$1,556 | \$1,391 | \$1,443 | \$1,374 | \$1,533 |
| N. Average Loss per Carrier ' Claim = J/K | \$8,454 | \$8,955 | \$8,899 | \$9,868 | \$10,047 |

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2018 - 2022*

¹Grand Total for Year from B.1 Less Vocational Rehab Costs

²Includes Miscellaneous Administrative and Funeral Benefits

Table B.4 Self-Insurers: Workers' Compensation Insurance Paid Losses, 2018 - 2022

| Loss Category & Claims Count | | | | | |
|---|--------------|---------------|--------------|---------------|---------------|
| INDEMNITY Claims | 2018 | 2019 | 2020 | 2021 | 2022 |
| A. Wage Replacement Benefits | \$31,638,316 | \$33,344,394 | \$31,069,936 | \$29,149,634 | \$30,632,844 |
| B. Medical Costs¹ | \$43,190,409 | \$46,389,821 | \$34,563,479 | \$34,677,052 | \$35,904,185 |
| C. Attorney Fees | \$5,216,834 | \$4,770,132 | \$4,327,068 | \$4,141,728 | \$3,861,324 |
| D. Vocational Rehab Costs | \$103,609 | \$163,740 | \$234,367 | \$160,294 | \$120,396 |
| E. Other Benefits² | \$1,871,188 | \$2,685,318 | \$1,162,728 | \$1,377,578 | \$1,809,916 |
| F. Indemnity Claims Subtotal | \$82,020,356 | \$87,353,404 | \$71,357,578 | \$69,506,286 | \$72,328,665 |
| G. No. of Indemnity Claims | 5,738 | 6,100 | 5,622 | 5,427 | 4,299 |
| MEDICAL-ONLY Claims | | | | | |
| H. Medical Costs Subtotal | 12,316,395 | 17,617,246 | 14,600,976 | \$ 13,109,994 | \$ 10,593,798 |
| I. No. of Medical-Only Claims | 10,667 | 10,363 | 7,997 | 8,484 | 7,771 |
| J. Grand Total: Paid Losses | \$94,336,751 | \$104,970,651 | \$85,958,554 | \$82,616,280 | \$82,922,463 |
| K. Grand Total : No. of Claims | 16,405 | 16,463 | 13,619 | 13,911 | 12,070 |
| L. Average Loss per Indemnity ' Claim = F/G | \$14,294 | \$14,320 | \$12,693 | \$12,807 | \$16,825 |
| M. Average Loss per Medical-Only ' Claim = H/I | \$1,155 | \$1,700 | \$1,826 | \$1,545 | \$1,363 |
| N. Average Loss per Carrier ' Claim = J/K | \$5,750 | \$6,376 | \$6,312 | \$5,939 | \$6,870 |

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2018 - 2022*

¹Grand Total for Year from B.1 Less Vocational Rehab Costs

²Includes Miscellaneous Administrative and Funeral Benefits

Table B.5 Self-Insured State Government Workers' Compensation Insurance Losses & Claims, 2022

| Organization | Losses | | | | Number of Claims | | | |
|--|-------------------|---------------------|------------------|--------------|------------------|--------------------|--------|--------|
| | Employees Covered | Medical-Only Claims | Indemnity Claims | Total | | With Benefits Paid | Opened | Closed |
| Albuquerque Public School | 11,282 | \$968,566 | \$3,831,929 | \$4,800,495 | Med-Only | 532 | 95 | 389 |
| | | | | | Indemnity | 297 | 37 | 87 |
| Albuquerque Bernalillo Co. Water Utility Auth. | 650 | \$119,080 | \$571,446 | \$690,525 | Med-Only | 61 | 9 | 46 |
| | | | | | Indemnity | 27 | 3 | 4 |
| City of Albuquerque | 7,245 | \$1,020,764 | \$4,212,793 | \$5,233,557 | Med-Only | 833 | 445 | 628 |
| | | | | | Indemnity | 188 | 64 | 104 |
| City of Carlsbad | 469 | \$45,608 | \$437,757 | \$483,365 | Med-Only | 33 | 1 | 29 |
| | | | | | Indemnity | 26 | 4 | 6 |
| City of Farmington | 955 | \$122,542 | \$829,928 | \$952,469 | Med-Only | 115 | 13 | 93 |
| | | | | | Indemnity | 54 | 8 | 13 |
| City of Las Cruces | 1,657 | \$192,144 | \$1,522,736 | \$1,714,880 | Med-Only | 137 | 24 | 95 |
| | | | | | Indemnity | 66 | 11 | 15 |
| City of Santa Fe | 1,300 | \$236,821 | \$951,996 | \$1,188,817 | Med-Only | 128 | 24 | 89 |
| | | | | | Indemnity | 71 | 7 | 19 |
| NM County Insurance Authority | 10,064 | \$569,552 | \$6,767,275 | \$7,336,827 | Med-Only | 849 | 551 | 436 |
| | | | | | Indemnity | 514 | 127 | 168 |
| NM Public Schools Ins. Authority | 41,770 | \$1,624,797 | \$8,119,871 | \$9,744,668 | Med-Only | 1359 | 217 | 894 |
| | | | | | Indemnity | 827 | 80 | 203 |
| NM Self-Insurer's Fund (Municipal League) | 7,100 | \$901,566 | \$3,580,036 | \$4,481,602 | Med-Only | 353 | 198 | 216 |
| | | | | | Indemnity | 53 | 46 | 7 |
| State of New Mexico | 46,771 | \$1,496,474 | \$11,244,305 | \$12,740,780 | Med-Only | 451 | 451 | 527 |
| | | | | | Indemnity | 151 | 151 | 189 |

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2022*

Appendix C

C.1 Summary of Common Workers' Compensation Benefits

DISABILITY COMPENSATION RATE

Maximum: The rate of compensation is 66-2/3% of the worker's average weekly wage up to a maximum of 100% of the state average weekly wage for injuries:

| | | |
|-----------------------------|-----------------------------|-------------------------------|
| 2019 max benefit = \$814.64 | 2020 max benefit = \$845.10 | 2021 max benefit = \$883.06 |
| 2022 max benefit = \$944.84 | 2023 max benefit = \$987.16 | 2024 max benefit = \$1,041.79 |

Minimum: The minimum weekly benefit is \$36.

TEMPORARY TOTAL DISABILITY (TTD)

Amount: TTD benefits are paid for work-related injuries involving more than seven days of lost work time. If prior to the date of maximum medical improvement (MMI) the worker is not released by the health care provider to return to work, benefits are paid at the workers' compensation rate. If the worker is released to return to work prior to MMI and the employer offers work at less than the pre-injury wage, the benefit is paid at 2/3 of the difference between pre- and post-injury wage.

Duration: TTD benefits are paid through the day prior to MMI. For disabilities lasting more than 28 days, compensation is also paid for the first seven days of lost time, and up to a maximum of 700 weeks.

PERMANENT PARTIAL DISABILITY (PPD)

Whole Body Amount: PPD benefits begin on the MMI date.

PPD is paid for injuries to parts of the body not listed as a scheduled injury (e.g., back, etc.). To be eligible, a worker must have a permanent impairment for which a health care provider has given an impairment rating based on the AMA Guides to the Evaluation of Permanent Impairment. The benefit amount is adjusted according to the worker's pre- and post-MMI earnings. If worker's post-MMI wage is less than the pre-injury wage, benefits are a percentage of the compensation rate calculated according to a formula, including the impairment rating and modifiers for the worker's age, education, specific vocational preparation, training and residual physical capacity (§§52-1-26.1, .2 and .3). If worker's post-MMI wage is equal to or greater than pre-injury wage, benefits are limited to the percentage of impairment.

Whole Body Duration: For whole body injuries, including those based on primary mental impairment, benefits are paid for 500 weeks if the disability rating is less than 80 percent; and for 700 weeks if the disability rating is equal to or greater than 80 percent. The number of weeks for PPD benefits is reduced by the number of weeks a worker receives TTD.

Scheduled Benefits are paid for the loss or loss of use of body members, including an arm, hand, finger, leg, foot, toe, sight or hearing, and

Injury Amount: are paid as a percentage of the compensation rate computed from the loss of use percentage. The loss of use is not the same as impairment.

Scheduled Injury Benefits are paid for the number of weeks specified in the statute for that body member (§52-1-43). The payment period for

Duration: scheduled injury benefits is not reduced where TTD benefits were paid.

PERMANENT TOTAL DISABILITY (PTD)

Amount: For the permanent and total loss of or loss of use of both arms, hands, legs, feet, eyes or any combination of two; or a brain injury which by itself results in an impairment rating of 30 percent or more. PTD benefits are paid at the compensation rate.

Duration: Benefits are paid for the worker's lifetime.

DEATH

Funeral Expenses: If an accidental injury results in death within two years, up to a maximum of \$7,500.

Indemnity Amount: Benefits are paid to the worker's dependents up to the full compensation rate, contingent upon the dependent's relationship to the worker and the number of eligible dependents (§52-1-46).

Duration: Benefits are paid up to a maximum of 700 weeks.

C.2 Miscellaneous Provisions of the Workers' Compensation Act

CHOICE OF HEALTH CARE PROVIDER

The employer shall initially either select the health care provider for the injured worker or permit the injured worker to make the selection. The employer must notify the worker in writing. After 60 days, the party who did not make the initial selection may select a health care provider. The other party must be notified of the change at least 10 days before treatment begins. If one party objects, that party must file a notice of objection with the WCA within three days of receipt of the change notice (§52-1-49).

RE-EMPLOYMENT OF INJURED WORKER

The employer is required to rehire an injured worker if: (1) the former job or similar modified job is available, (2) the health care provider certifies that the injured worker is fit to perform the work without significant risk of injury, and (3) the injured worker applies for the job (§52-1-50.1).

LUMP-SUM SETTLEMENTS

Provisions for lump-sum settlement of benefits: (1) A worker may elect to receive a lump-sum settlement of indemnity benefits after returning to work for at least six months and earning at least 80 percent of the pre-injury wage; (2) After reaching MMI, a worker may elect to receive a partial lump-sum settlement of indemnity benefits for the purpose of paying debts accumulated during the disability; (3) The worker and employer may also elect to resolve a claim for injury with a lump-sum payment to worker for all or a portion of past, present and future payments of compensation benefits, medical benefits or both in exchange for a release of the employer from liability for such compromised benefits. Lump-sum payment agreements must be submitted to a WCA judge for approval (§52-5-12,13,14).

ATTORNEY FEE CAP

Attorneys' fees including, but not limited to, representation before the WCA and courts on appeal, costs for paralegal services, legal clerk services and related services on behalf of a worker or an employer for a single claim shall not exceed \$22,500. The limitation applies whether or not multiple attorneys represent the claimant or employer. A WCA judge reviews and approves the worker's attorney fees. Usually, half the worker's attorney fees are paid by the worker and half by the employer (§52-1-54).

EMPLOYER PENALTIES

Worker may be entitled to a 10-percent increase in indemnity benefits if the employer failed to provide a safety device and that failure resulted in the accident or increased the severity of injury (§52-1-10). The worker may be entitled to an increase in indemnity benefits up to 25 percent if the employer or insurer acted in bad faith or committed unfair claims practices. The director may also impose administrative penalties for retaliatory firing, unfair claims processing, oppressive conduct, late reporting of injuries or late payment of benefits. Any employer found by a WCJ to have terminated a worker to avoid paying benefits, or retaliation for filing a workers' compensation claim could be fined up to \$10,000.

WORKER PENALTIES

Indemnity benefits may be reduced by 10 percent if the worker failed to use safety devices provided or failed to observe statutory regulations pertaining to safe conduct (§52-1-10). A worker can lose 10 to 90 percent of non-medical benefits depending on the degree worker's impairment by alcohol or drugs contributes to the accident (§52-1-12.1, amendments effective as of May 18, 2016). The director may also impose administrative penalties against a worker for bad



New Mexico Workers' Compensation Administration Offices



Location & Main Mail Address

2410 Centre Ave. SE
Albuquerque, NM 87106-4190

Alternate Mailing Address

PO Box 27198
Albuquerque, NM 87125-7198

Phone Numbers

Phone: (505) 841-6000
In state toll-free phone:
1-800-255-7965
Fax Clerk of the Court:
(505) 841-6060

Farmington

2700 Farmington Ave., Bldg. E, Ste.2
Farmington, NM 87401
Phone: (505) 599-9746
In state toll-free phone:
1-800-568-7310
Fax: (505) 599-9753

Las Cruces

2407 W. Picacho, Ste. D
Las Cruces, NM 88007
Phone: (575) 524-6246
In state toll-free phone:
1-800-870-6826
Fax: (575) 524-6249

Las Vegas

32 NM 65
Las Vegas, NM 87701
Phone: (505) 454-9251
In state toll-free phone:
1-800-281-7889
Fax: (505) 454-9248

Hobbs

2120 North Alto, Unit 3
Hobbs, NM 88240
Phone: 575-397-3425
In state toll-free phone:
1-800-934-2450
Fax: (575) 397-3431

Roswell

Penn Plaza Building
400 N. Pennsylvania Ave.,
Ste. 425 Roswell, NM 88201
Phone: (575) 623-3997
In state toll-free phone:
1-866-311-8587
Fax: (575) 623-0078

Santa Fe

Aspen Plaza
1596 Pacheco, Ste. 202
Santa Fe, NM 87505
Phone: (505) 476-7381

WCA Helpline/Hotline (toll free in New Mexico)

1-866-WORKCOMP
1-866-967-5667

WCA Website

www.workerscomp.nm.gov