



New Mexico  
Workers' Compensation  
Administration

2024

New Mexico Workers'  
Compensation Administration  
**ANNUAL REPORT**



# 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 2024 New Mexico Workers' Compensation Administration Annual Report was produced through the Economic Research and Policy Bureau and the Office of Public Information.

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# Contents

## 01 Introduction .....4

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

## 02 System Statistics..... 27

Costs.....	28
Coverage .....	40
Claims.....	44

## 03 Regulatory Changes.... 53

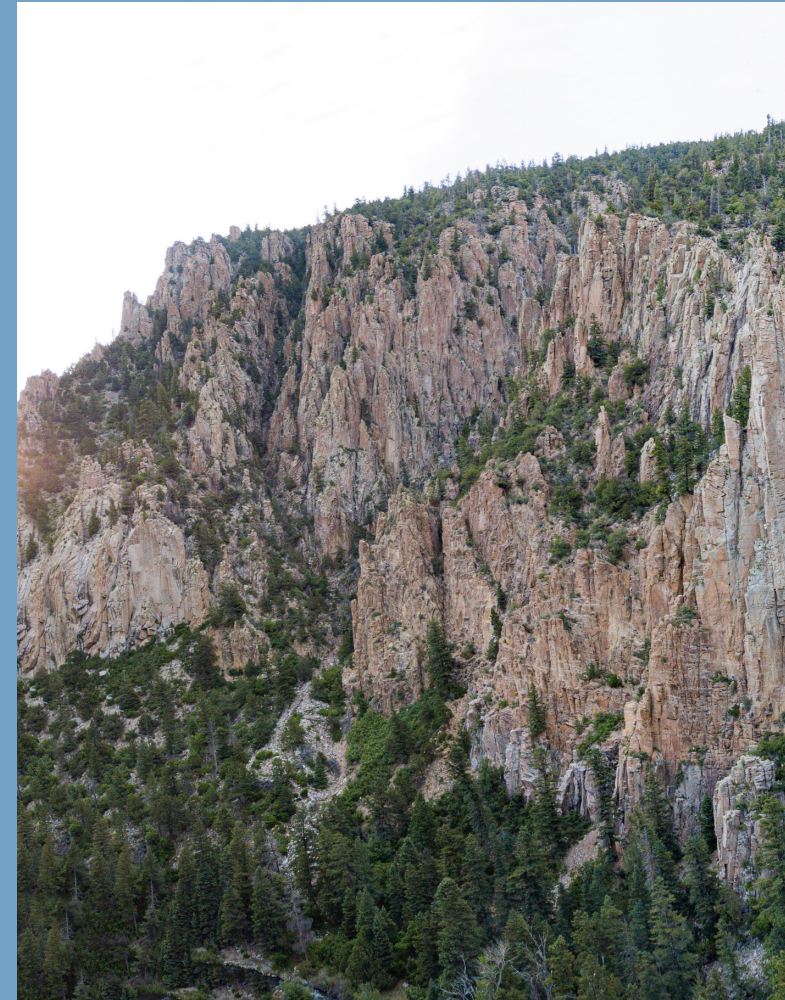
Court Decisions .....	54
Advisory Council .....	56
HM 83 Task Force .....	57

## 04 Organization..... 59

Senior Management.....	60
Judges .....	62

## 05 Appendices ..... 65

Appendix A.....	66
Appendix B.....	69
Appendix C.....	74





*The Cimarron Canyon State Park is located near Eagle Nest on the Enchanted Circle Scenic Byway. The park offers beautiful views, interesting geology, quiet camping, fly fishing, hiking, and equestrian trails. The wildlife viewing opportunities are amazing, as the park sits at the center of the Colin Neblett Wildlife Management Area.*

“New Mexico is home to so many beautiful state and national parks and monuments, many of which help to tell the story of our state’s history. The photos featured here are just a small sampling of the diverse landscapes you’ll find when you get out and explore New Mexico.”

– Gov. Michelle Lujan Grisham



# Introduction

# 01

## New Mexico Workers' Compensation Administration Strategic Objectives



**Increase the  
Number of  
Insured  
Employers**



**Decrease the  
Number and  
Severity of  
Accidents**




**Resolve Disputes  
Accurately and  
Timely**



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

*Conchas Lake State Park, northwest of Tucumcari, NM, features secluded coves, canyons and sandy beaches – a great destination for camping, boating and fishing.*



When injured in the workplace, injured workers 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 Workers' Compensation Administration (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 employers carry required 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.

This report features images of state and national parks and monuments located throughout New Mexico. Photo credit: New Mexico True.

La Ventana National Arch is located near Grants, N.M., within the El Malpais National Conservation area, managed by the U.S. Bureau of Land Management. It is the second largest natural arch located in New Mexico.



# Director's Message

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

While the first workers' compensation act was enacted in 1929, the New Mexico Legislature revisited the issue in 1986, creating the New Mexico Workers' Compensation Administration (WCA) mainly to address the lengthy dispute resolution process, which was handled in the state's district courts. Workers' compensation insurance premiums in the mid-1980s had skyrocketed with only a few companies willing to underwrite policies for injured worker claims and most of New Mexico's employers couldn't afford to pay the exorbitant fees.

The Legislature authorized preliminary staff and structure so that cases were ready to be heard as soon as the agency officially opened. The first appointed director, Martin Chavez, began organizing the WCA in the summer of 1986, appointing two administrative law judges – Gregory Griego and Edward Benavidez – who would be responsible for all workers' compensation cases filed with the Administration, and a total staff of about 23. By 1987, the workload increased enough to warrant a third judge, and a fourth by 1990. Today, the WCA has six full-time judges.

Meanwhile, the WCA began to create field offices in 1988 to broaden the coverage and service to workers and employers throughout the state, the first located in Lovington (which was moved to Hobbs in September 2017). Following creation of the first field office, the WCA opened offices in Las Cruces in 1989, Farmington and Las Vegas in 1991, and finally Santa Fe (February) and Roswell (November) in 2004.

By 1990, some of the same problems that led to the formation of the WCA resurfaced, with insurance availability dwindling and premiums again beginning to rise, prompting the Legislature to again intervene. The Legislature called out to the business and labor communities to collaborate on a solution, commonly referred to in the industry today as the "1990 reform." Out of that reform, the WCA's statutory duties were broadened to include the pursuit and prosecution of fraud in the system, regulation of

self-insured employers, a focus on providing safety guidance and inspections to certain employers and a dedicated bureau to assist workers and employers. A new early mediation also became part of the adjudication process. The Advisory Council on Workers' Compensation and Occupational Disease Disablement was established in 1991 with three members each to represent both business and labor to monitor the system and advise the agency director when changes to the system might be necessary.

By the 2000s, the WCA further refined its programs and operations. One problem that demanded attention was how to help injured workers whose employers were uninsured. So, in October 2003, the Uninsured Employers' Fund (UEF) was created to provide a safety net for injured workers whose employers are illegally uninsured.

Throughout the WCA's evolution of changes, its staff has been the backbone of the agency's success. Including me, there have been 10 directors over the last 38 years. During that time frame, about 23 individuals have served as WCA judges, five of whom served for at least 20 years. At its peak the number of staff had grown to 143. Like other government agencies, the WCA's operations and structure are budget dependent. An economic downturn in 2008 led to a restructuring in which the staff was downsized to the current level of 123. We've had nearly 50 employees serve the WCA for at least 20 years. The staff are the Workers' Compensation Administration. They undertake the day-to-day resolution of the cases and answer the many questions that arise each day. They sort the mail, schedule hearings and interpret data to make it meaningful for you, the workers and employers of the great state of New Mexico.



A handwritten signature in black ink, appearing to read "R. W. E. P. - 1".



# Our Agency

## The system strives to maintain a balance

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

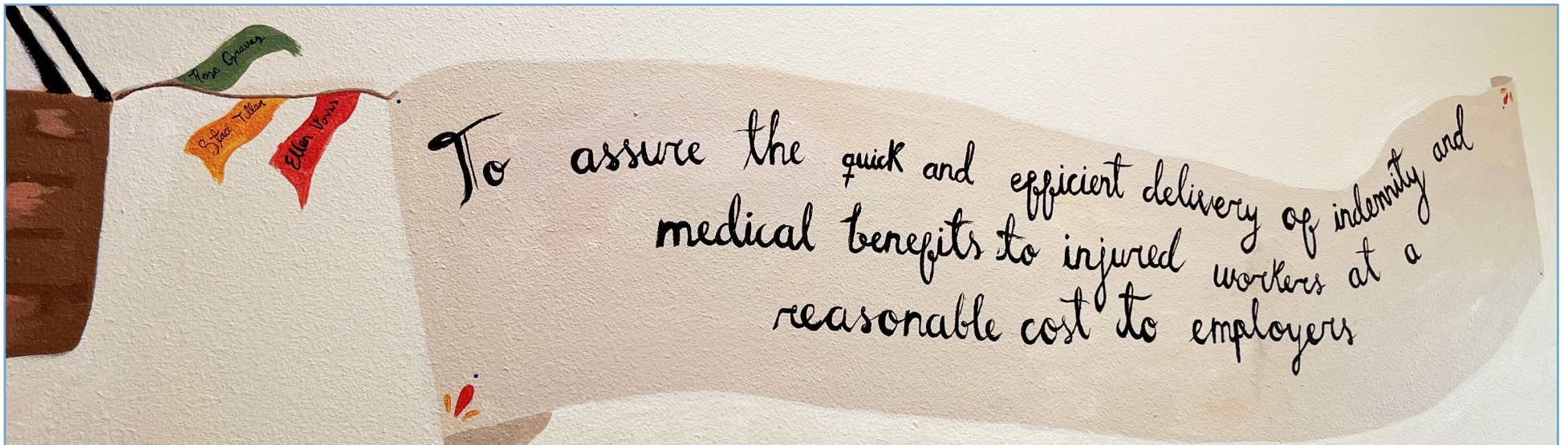
*The New Mexico Workers' Compensation Administration's mission is to assure the quick and efficient delivery of benefits to injured workers at a reasonable cost to employers.*

While the 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 understand-

ing 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 to honor staff who provided the WCA service for 20 or more years, as well as those who worked at the agency at the time of their deaths. In the Spring of 2024, the same artist was commissioned again to paint another mural to honor judges who have given 10 or more years of service to the WCA.



## Judges with 10 or More Years of Service

Gregory D. Griego  
Terry S. Kramer  
Shanon S. Riley

Reginald C. Woodard  
Leonard J. Padilla



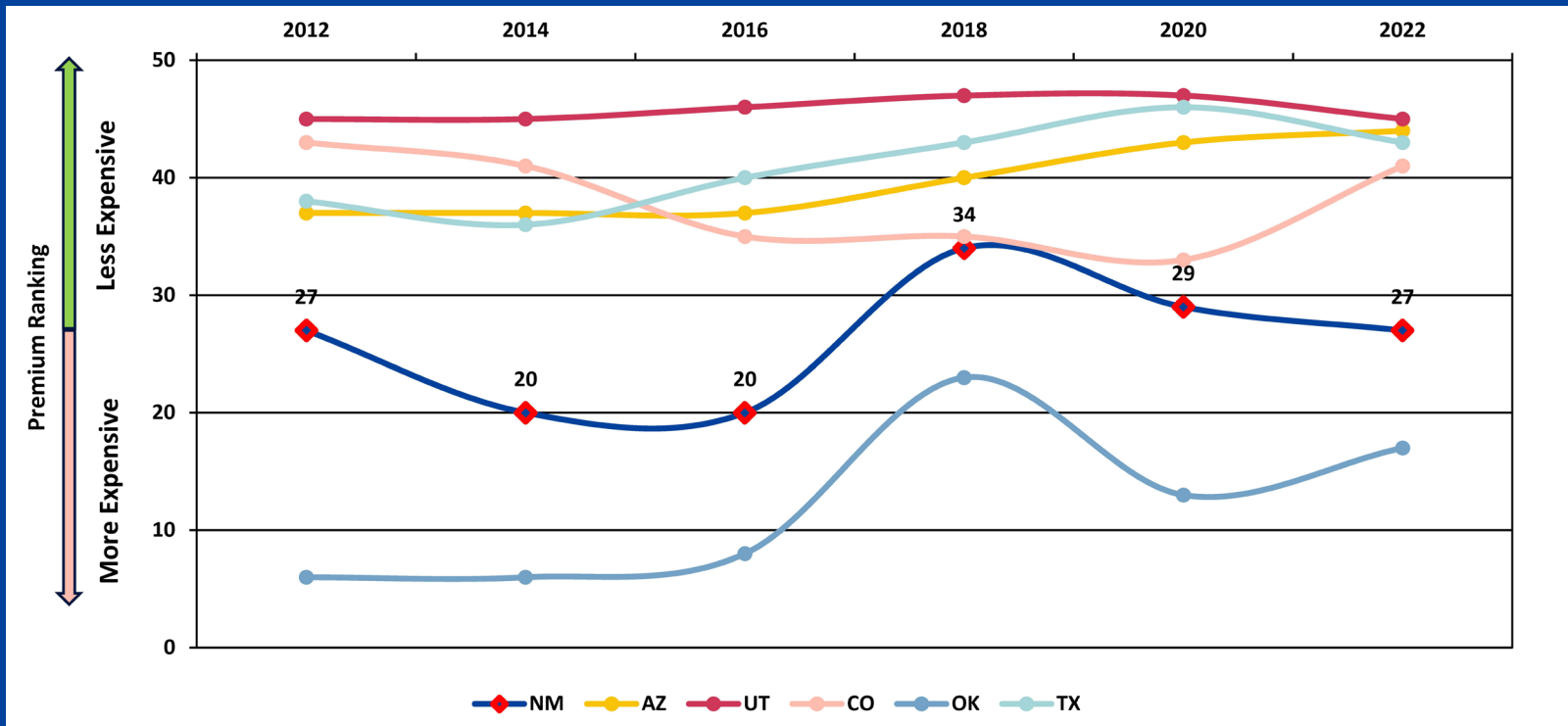
Gregory D. Griego  
Terry S. Kramer  
Shanon S. Riley  
Reginald C. Woodard  
Leonard J. Padilla



New Mexico  
Workers' Compensation  
Administration

# 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*

\*Latest even-numbered year report: the study findings are generally released in the fall.

## 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 held the line following some 20s in both 2014 and 2016.

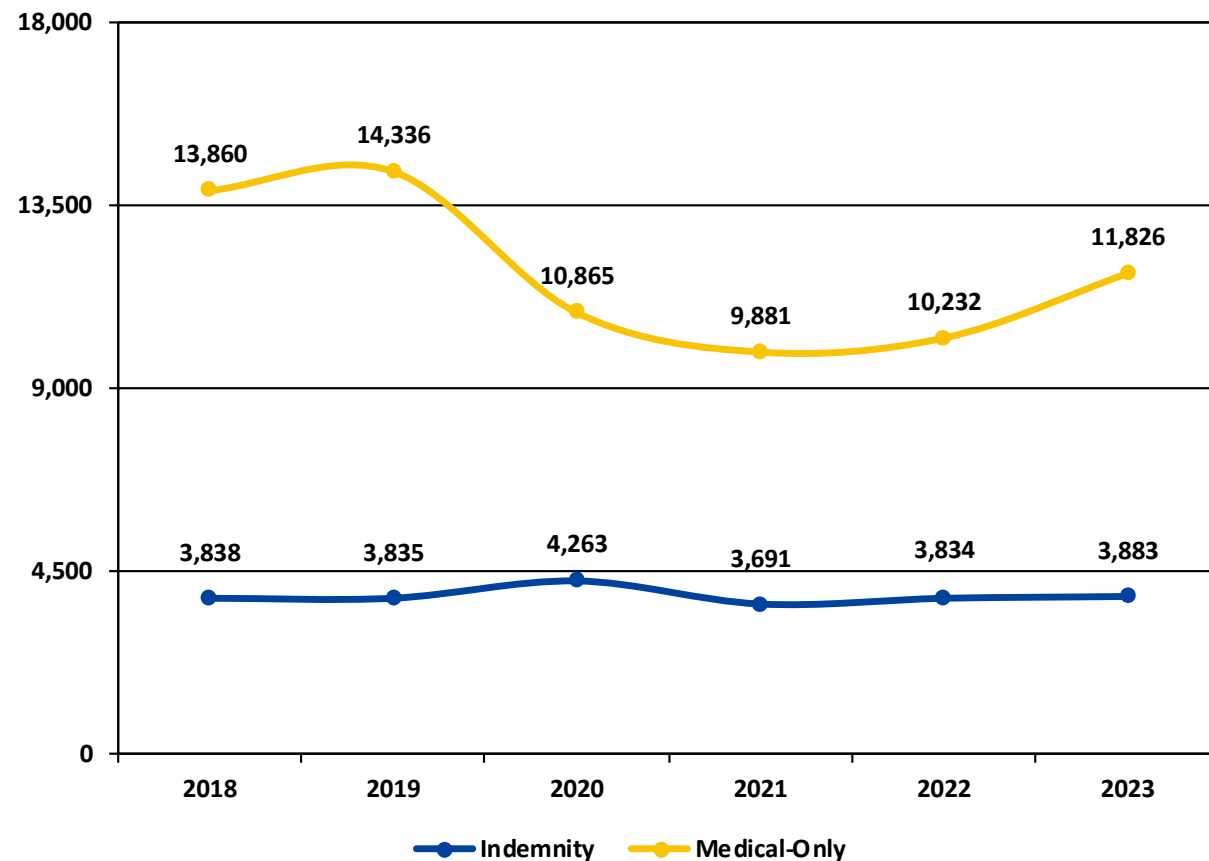
## Indemnity vs. Medical-Only

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, 2018 - 2023



## Claim Rates Remained Low but Started to Increase

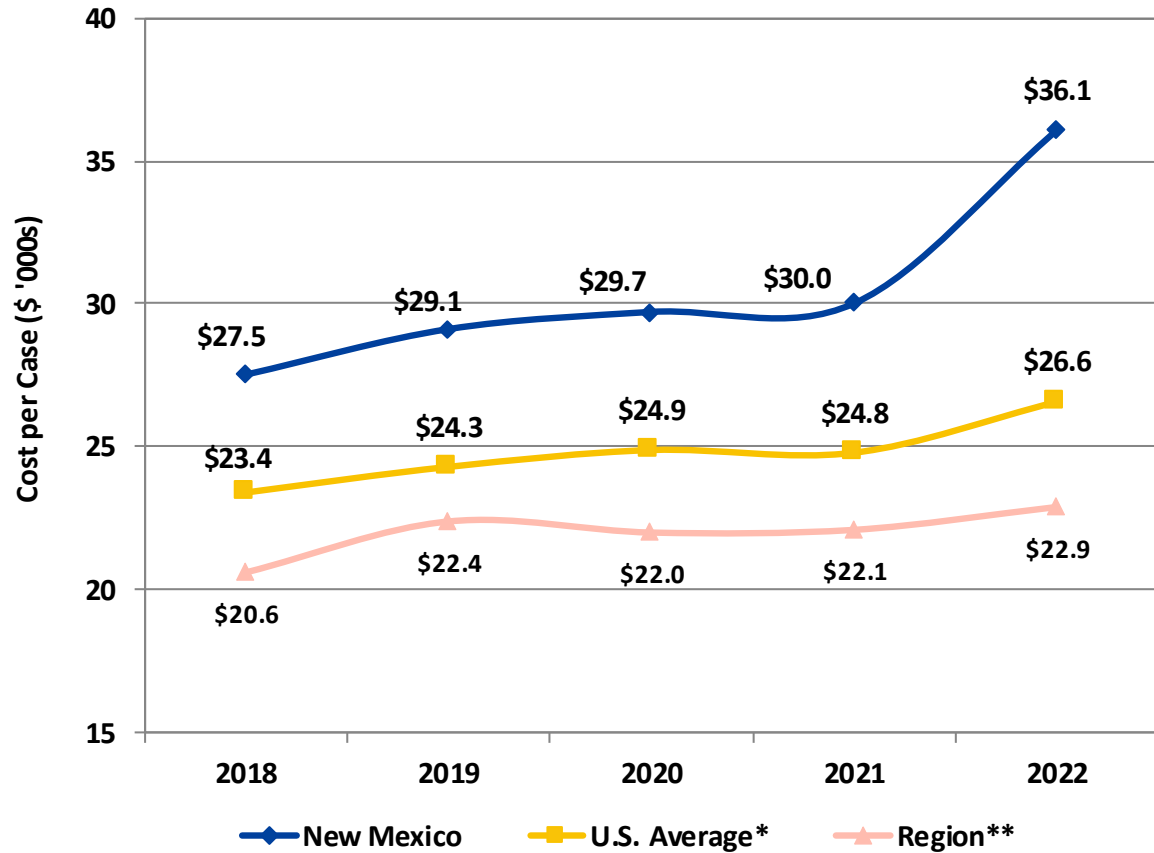
The COVID-19 pandemic resulted in significant workplace disruptions in the New Mexico workers' compensation system. This resulted in a reduction in less serious, medical-only claims. But the medical-only claims started to increase since 2022. On the other hand, indemnity claim rates have mostly remained flat — but with changes in claim causes and the industry mix.

# Indemnity Severity Increased Significantly

In 2022, New Mexico’s lost-time severity kept increasing and had a significant increase, +20.5%. The increase was greater than that of both the U.S. and its region. Average lost-time indemnity severity increased in New Mexico, the U.S., and the region. New Mexico experienced a greater increase than either the nation or the region. Consequently, this brought New Mexico’s lost-time indemnity severity more above line of the regional and national averages as compared to historical data.

The 2022 countrywide average change in indemnity severity is +7.2%. The higher average change in indemnity severity is largely driven by increased wages, which have risen significantly in recent years.

Figure 1.3 New Mexico vs. National Lost-Time Indemnity Severity, Accident Year 2018 - 2022



2022 is the most recent year data is available

Source: National Council on Compensation Insurance (NCCI) *Frequency and Severity Results by State, 2018 - 2022*

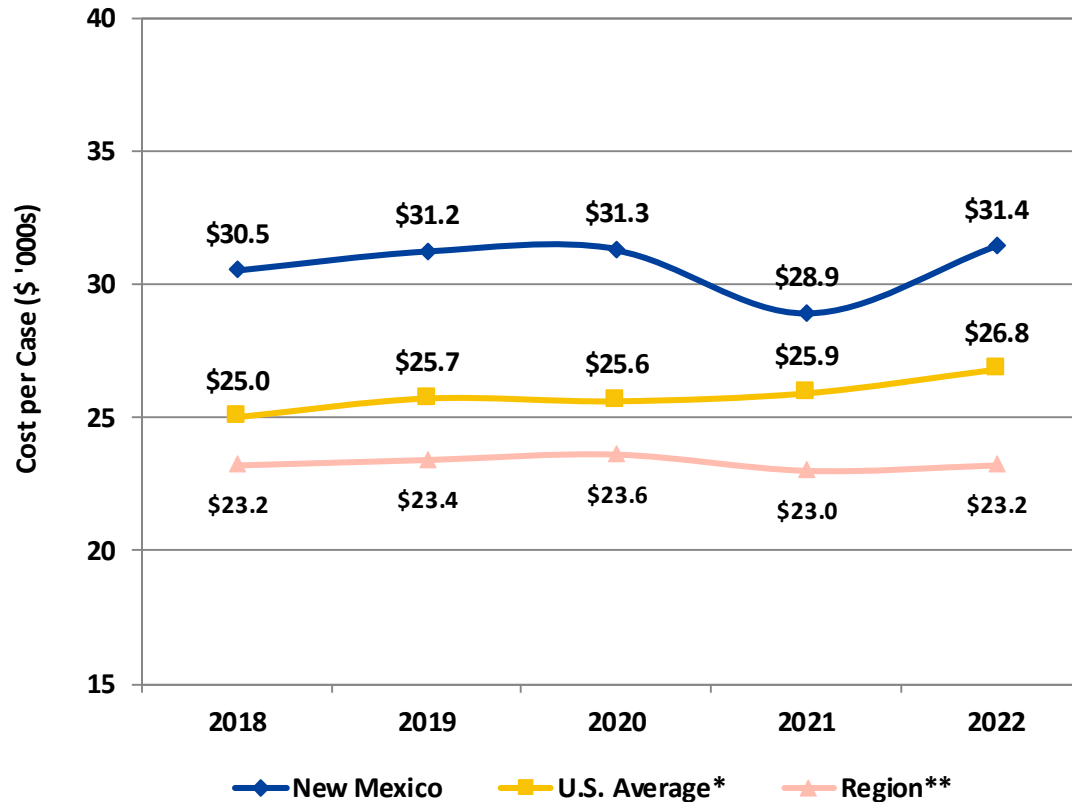
\*U.S. Average includes all states where NCCI provides ratemaking services

\*\*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. NCCI's annual update of frequency and severity results is based on data reported to NCCI on the Calendar-Accident Year Financial Data Call excluding COVID-19-related claims. The results are provided by individual jurisdiction, based on lost-time claim data valued as of year-end 2022.

# Medical Severity Increases

Figure 1.4 New Mexico vs. National Lost-Time Medical Severity, Accident Year 2018 - 2022



2022 is the most recent year data is available.

Source: National Council on Compensation Insurance (NCCI) *Frequency and Severity Results by State, 2018 - 2022*

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

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

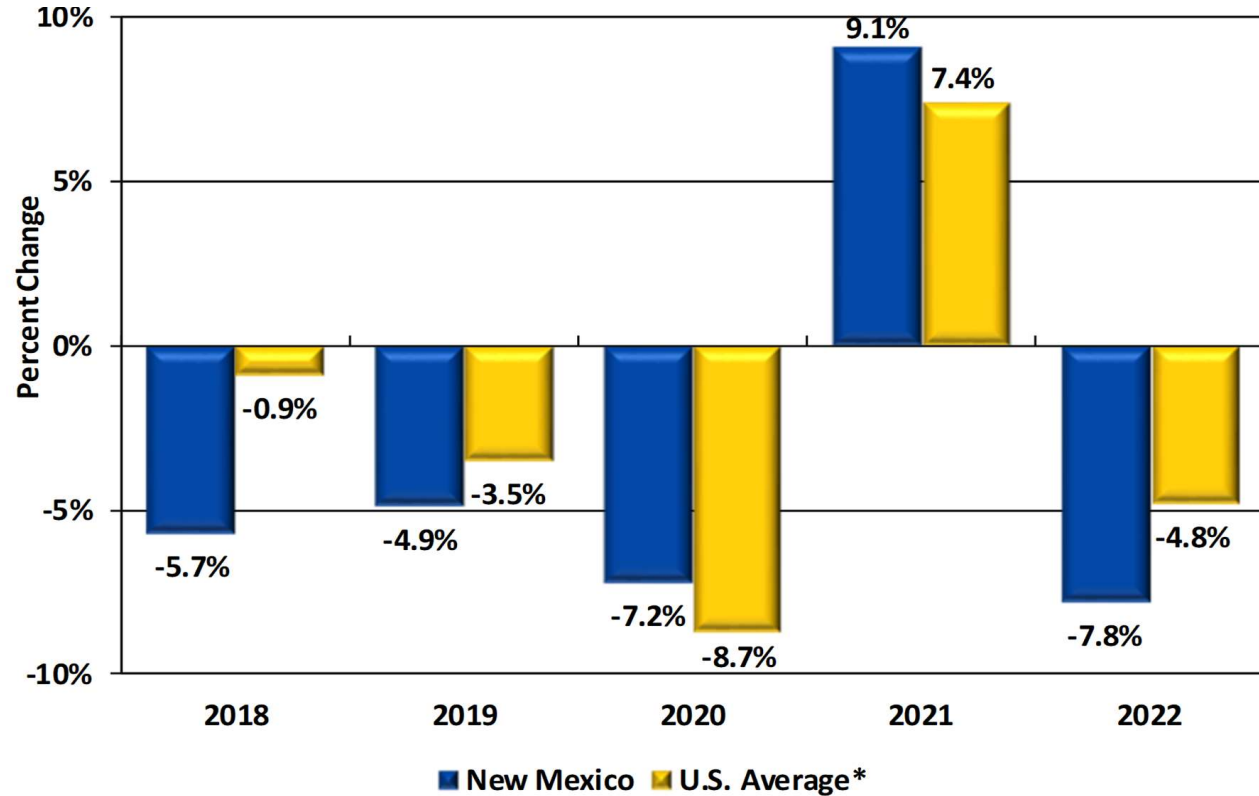
New Mexico’s lost-time medical severity has always been higher than the national average severity. It increased by 8.7% in 2022 compared to 2021. Both the national and regional averages increased slightly. Please note that NCCI’s medical severity only includes the medical portion of indemnity claims, not medical-only claims.

The 2022 countrywide average change in medical severities is +3.5%. Relative to indemnity, the average change in medical severity in the latest year has been more moderate. This change is in line with recent medical inflation price indices.

# Lost Time Claims Frequency Was More Stable than National Standards

2022 Lost-time claims frequency in New Mexico decreased by 7.8%, and the national average decreased by 4.8%. On average, both New Mexico and countrywide lost-time claim frequency decreased over the most recent five-year period. After some volatility during the COVID-19 pandemic, the 2022 countrywide average change in lost-time claim frequency has returned to the long-term pattern of decline.

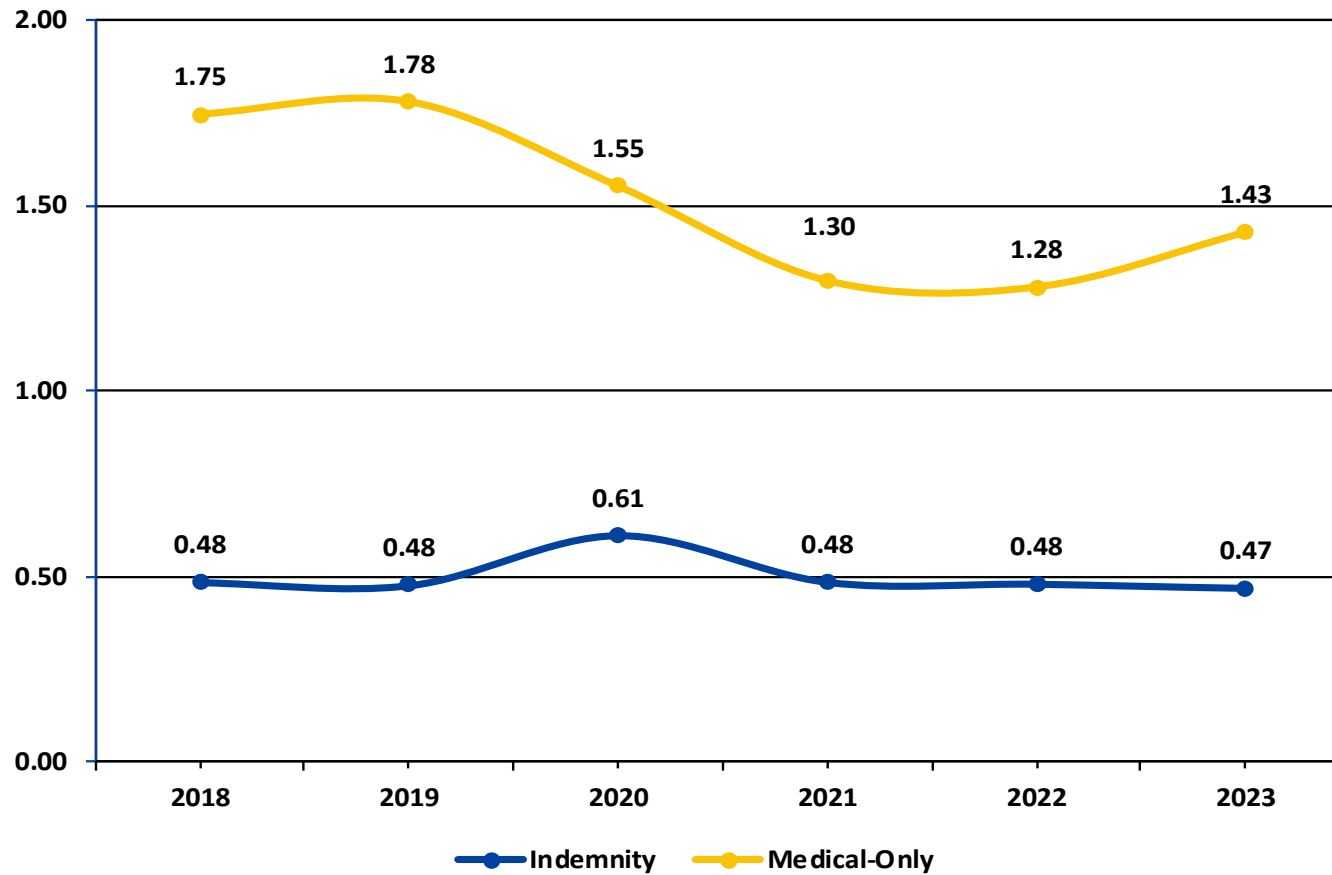
Figure 1.5 New Mexico vs. National Lost-Time Claim Frequency Changes, Accident Years 2018 - 2022



2022 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, 2018 - 2022*  
 \*U.S. average includes all states where NCCI provides ratemaking services

## Indemnity Claims Per 100 Workers Remained Low, and Medical-Only Claims Per 100 Workers Increased

Figure 1.6 New Claims per 100 Workers by Claim Type, 2018 - 2023



New indemnity claims reported to the WCA per 100 covered workers went down slightly in 2023 and remained low. New medical-only claims per 100 covered workers increased in 2023, ending a three-year decrease trend.

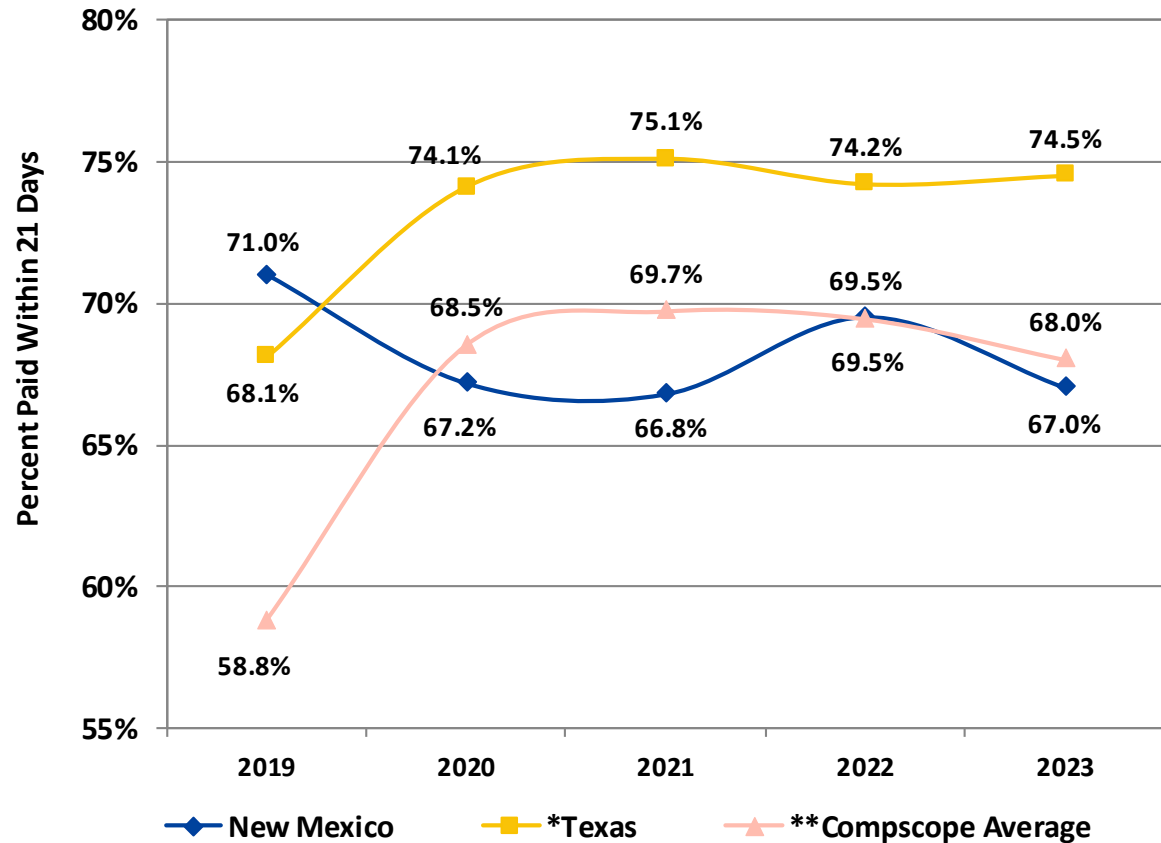
Source: New Mexico Department of Workforce Solutions, *Quarterly Census of Employment and Wages, 2nd Quarter, 2018 - 2023*



# First Payment Timeliness Rate Declined

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. In 2023, New Mexico payers' timeliness rate for indemnity payments declined to 67.0% from 69.5% in 2022. The CompScope average declined too.

Figure 1.7 Percent of Indemnity Claims Paid Within 21 Days of Date of Disability, 2019 - 2023



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 (20th through 24th Editions)



**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.

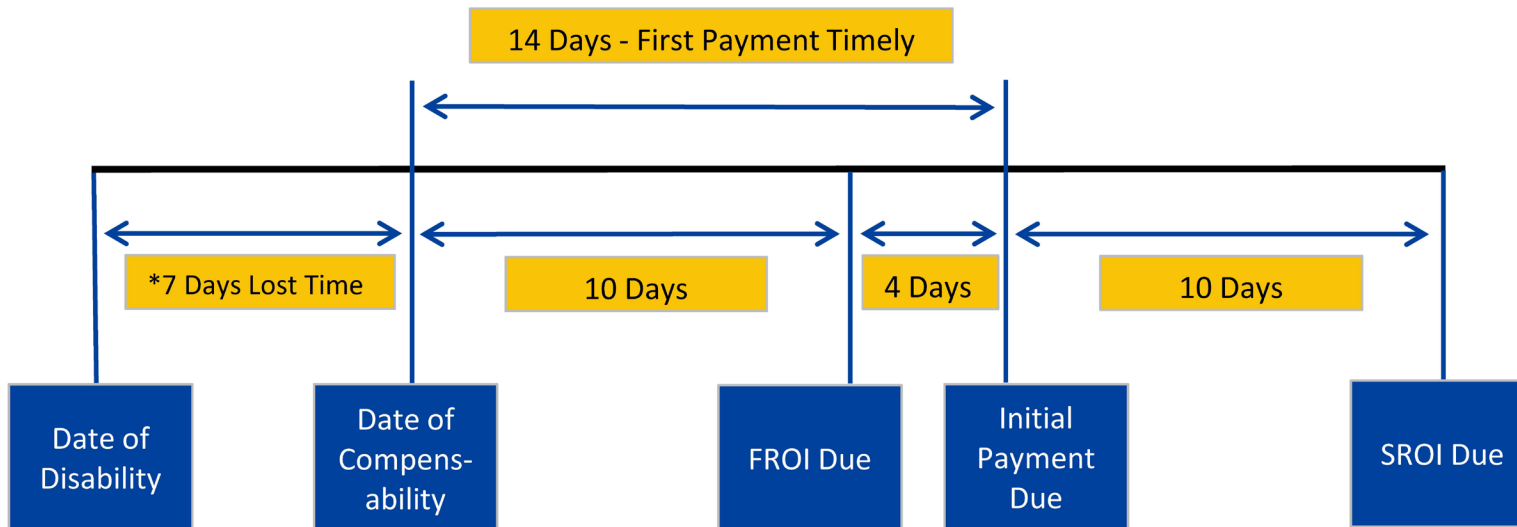
**Table 1.1 Timeliness of Filing First Report of Injury or Illness (FROI), 2023**

Insurer Type	Median Days per Filing	Days from Employer Notice to Filing of FROI for Indemnity Claims Filed in 2023										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	16	659	25.2%	560	21.4%	397	15.2%	235	9.0%	760	29.1%	<b>2,611</b>
Self-Insurers	17	250	20.9%	276	23.1%	203	17.0%	135	11.3%	331	27.7%	<b>1,195</b>
<b>Totals</b>	<b>16</b>	<b>909</b>	<b>23.9%</b>	<b>836</b>	<b>22.0%</b>	<b>600</b>	<b>15.8%</b>	<b>370</b>	<b>9.7%</b>	<b>1,091</b>	<b>28.7%</b>	<b>3,806</b>

This table previously included only Temporary Total Disability and Permanent Total Disability claims. It has been expanded to include all payment types since 2022.

**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

## 2023: Unprecedented Dispute Resolution Efficiency

Figure 1.9 Dispute Resolution Clearance Rates, 2019 - 2023

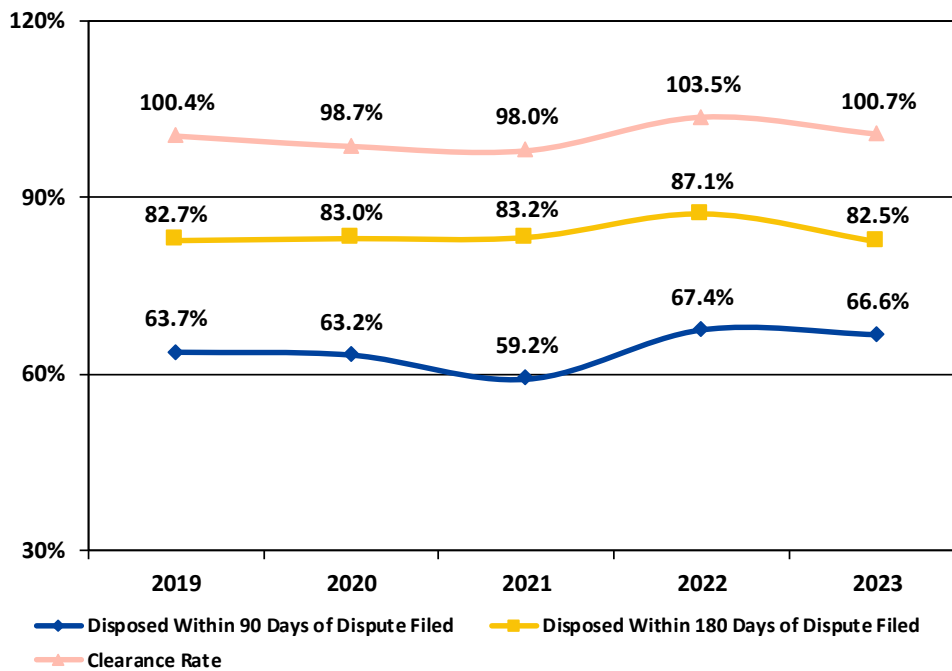
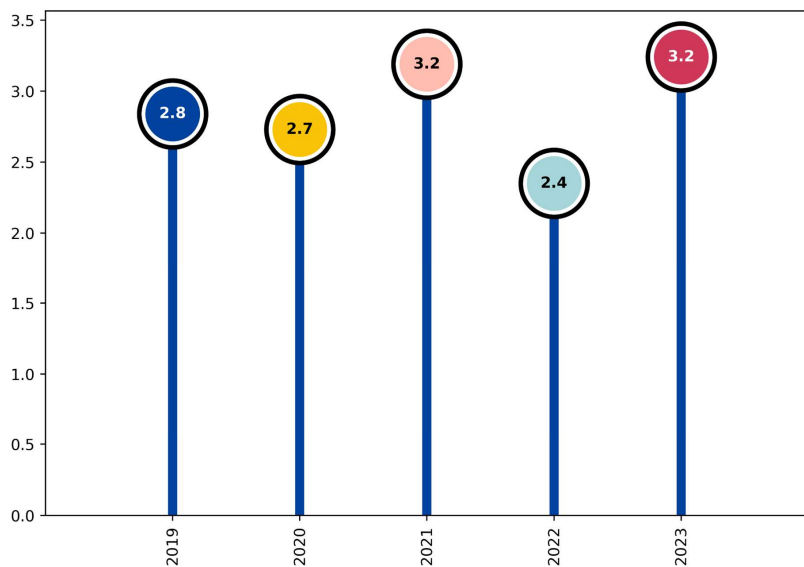


Figure 1.10 Average Number of Settings Compared, 2019 - 2023

Figure 1.10 Average Number of Settings Compared, 2019 - 2023

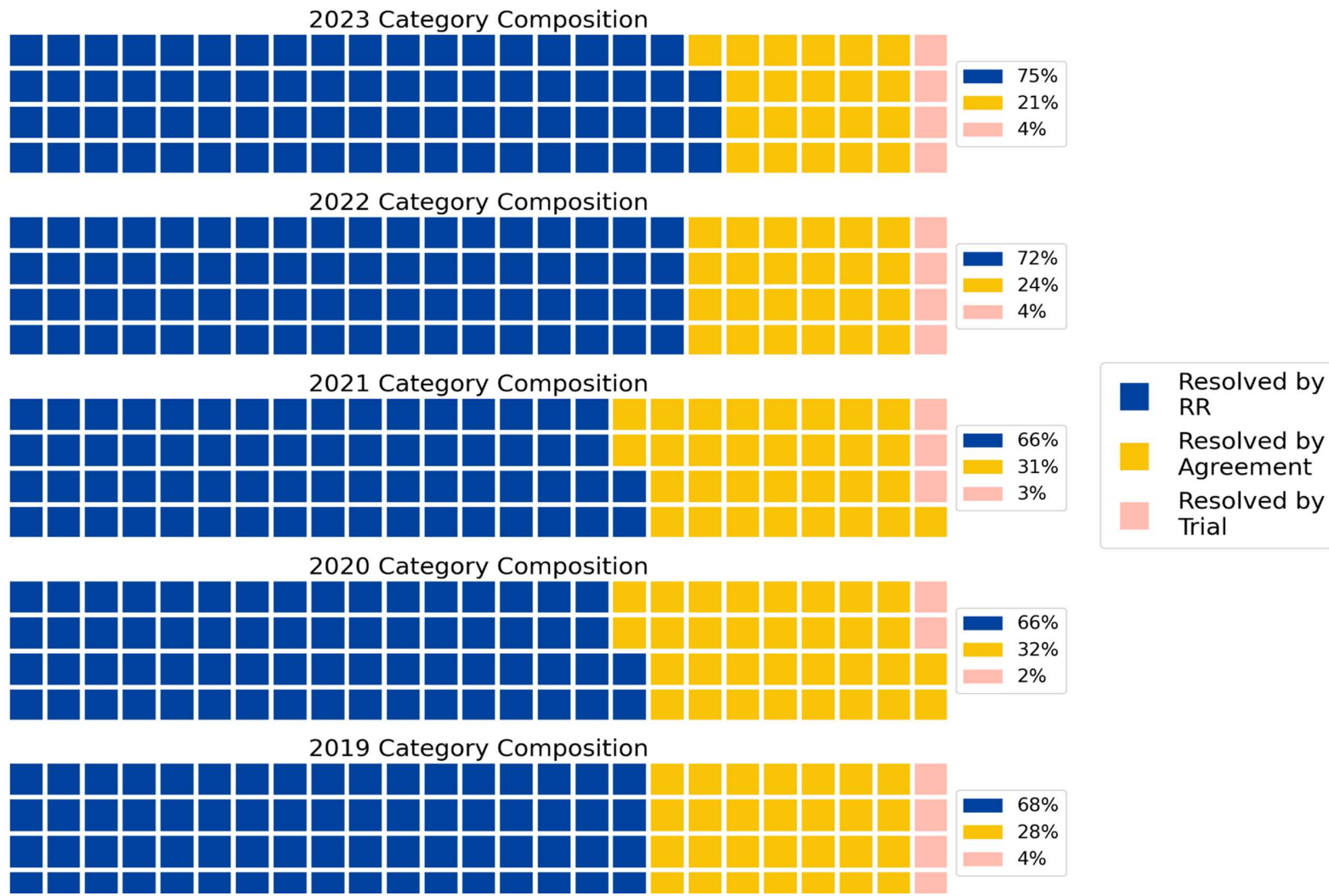


## Average Settings Per Case Reached an All-Time High

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.

# Disposition Composition Remained Stable

Figure 1.11 Dispute Resolution by Accepted RR, Agreement<sup>1</sup> and Trial, 2019 - 2023



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



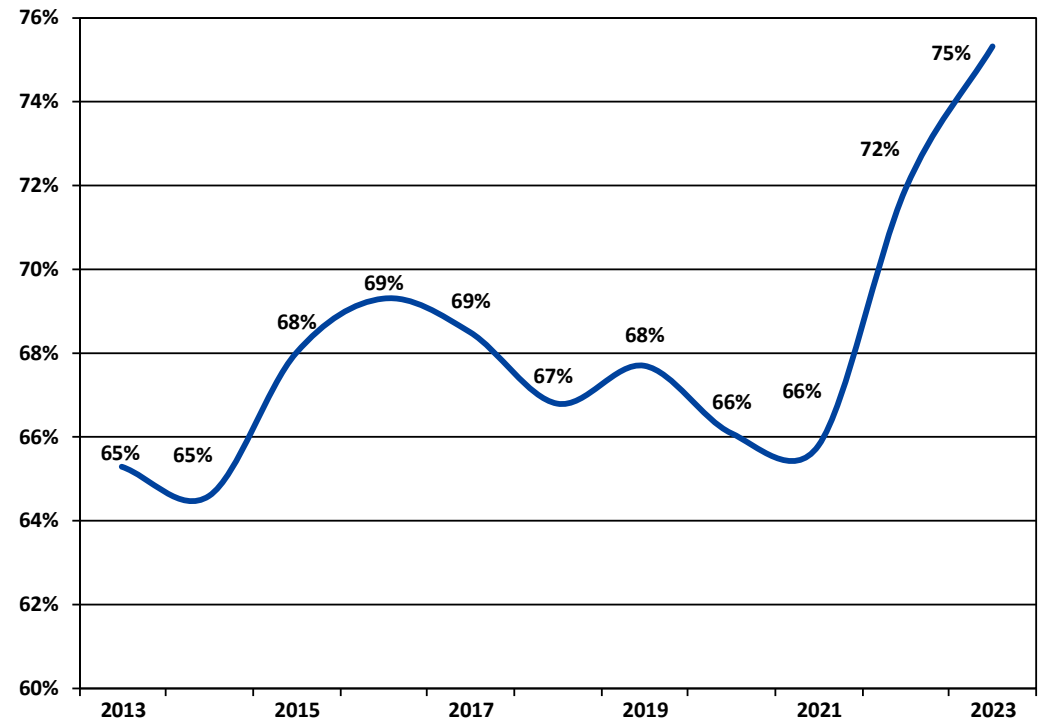
Mediation performance is measured by two numbers. The accepted recommended resolution rate shows how often the mediation process was “successful.” The median number of days it took for a recommended resolution filing shows how long the process took.

**75%: All-Time High  
Recommended  
Resolution  
Acceptance Rate**



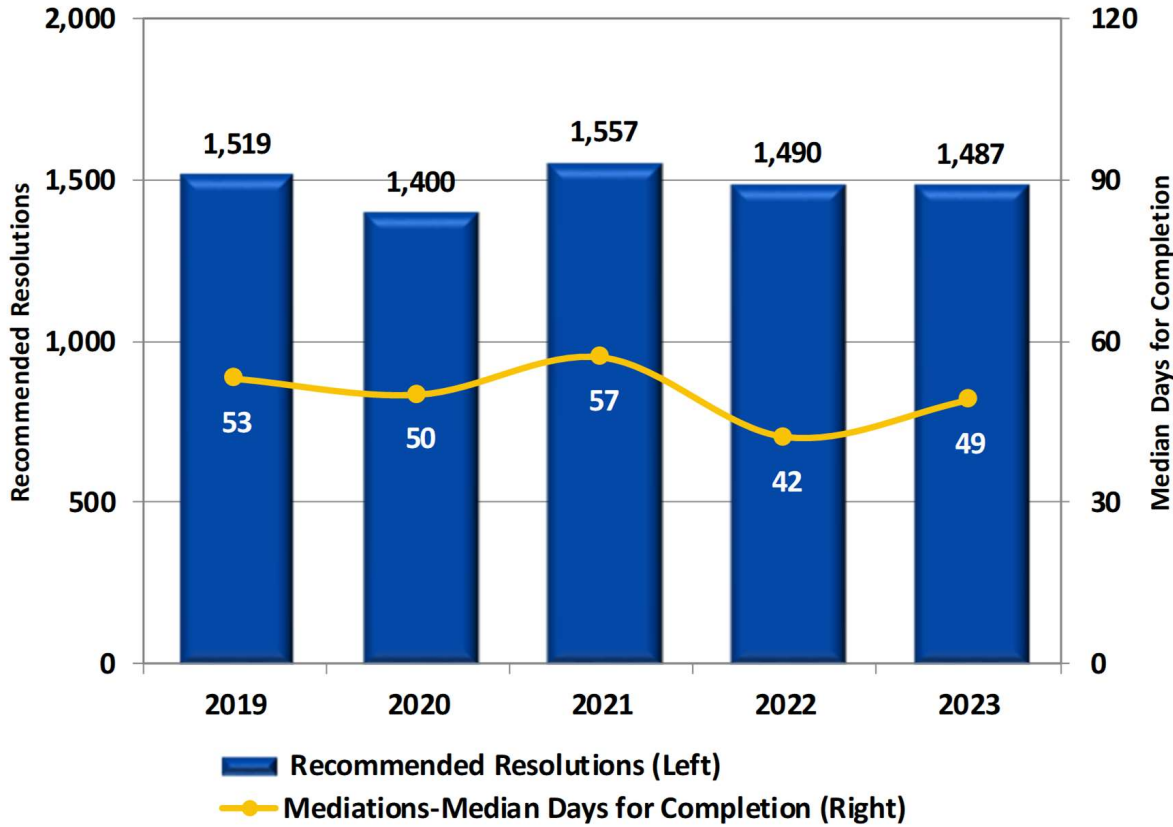
**New Mexico**  
Workers' Compensation  
Administration

**Figure 1.12 New Mexico WCA Recommended Resolution (RR) Acceptance Rate, 2013 - 2023**



# Median Days for Mediation Completion Reached the 2nd Lowest

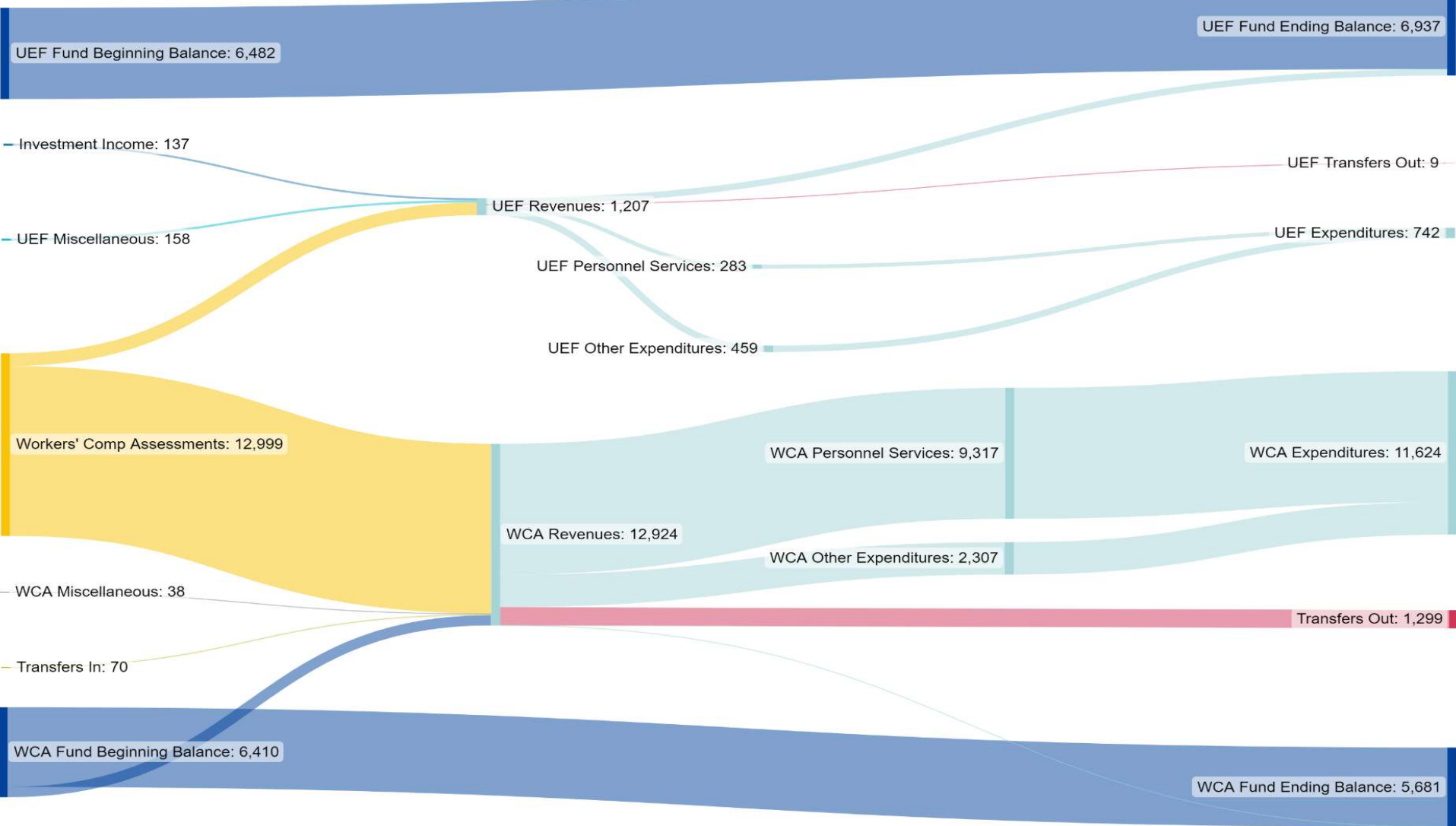
Figure 1.13 Mediation Resolutions & Median Days for Completion, 2019 - 2023



*Bosque del Apache National Wildlife Refuge is located 20 miles south of Socorro, N.M., and is the winter home of thousands of sandhill cranes, snow geese, ducks and other waterfowl*

# Fund Dollars at Work

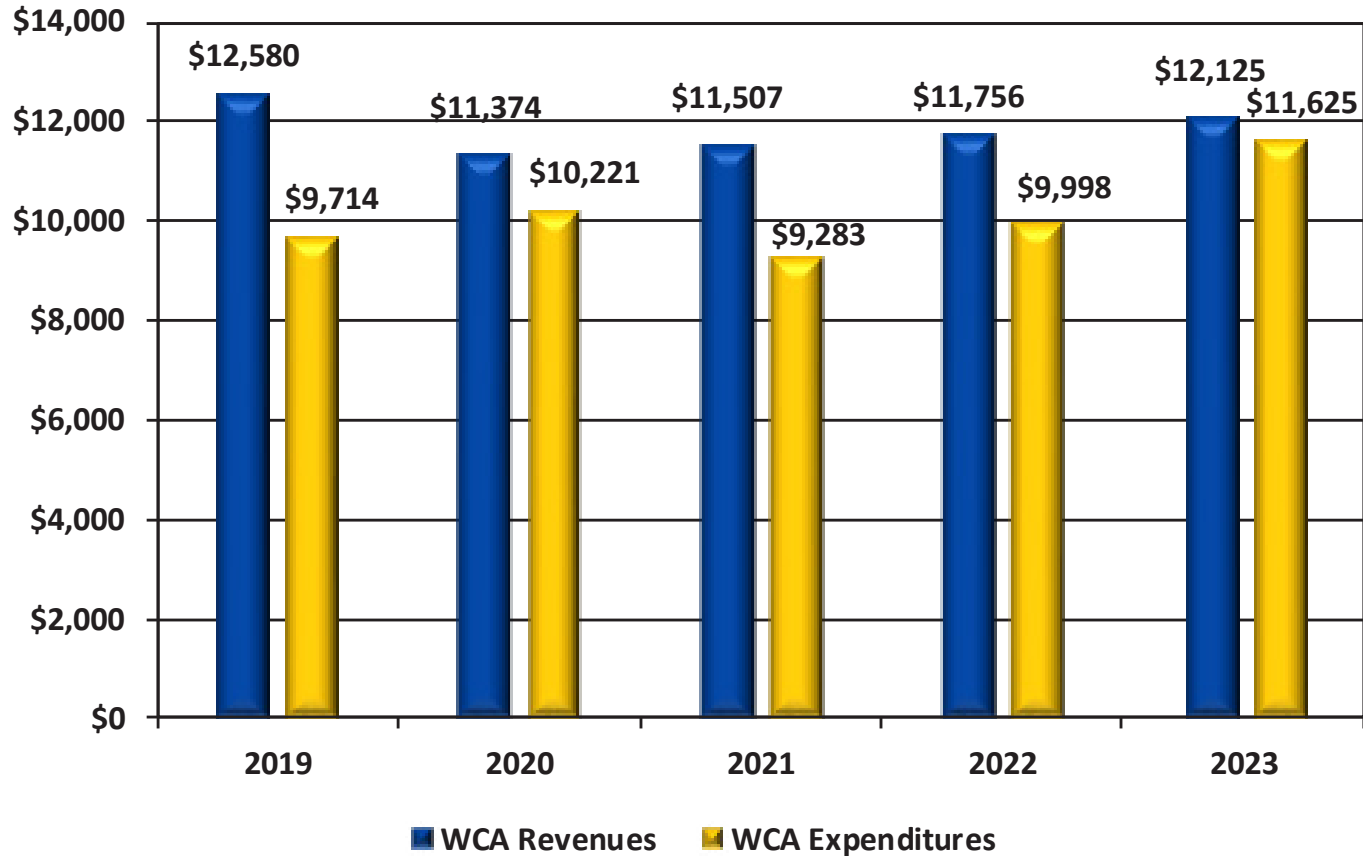
Figure 1.14 WCA & UEF Cash Flows - FY 2023 (thousands)



<sup>1</sup>Source: New Mexico Workers' Compensation Audited Financial Statements, FY 2023

# Both WCA Fund and Expenditures Increased in FY 2023

Figure 1.15 WCA Revenue and Administrative Expenditures, FY 2019 - 2023 (thousands)



As of FY 2023, the WCA Fund ending balance was \$5.7 million, 11.4% lower than \$6.5 million in FY 2022. The cost-to-revenue ratio (CRR) increased dramatically to 95.9% from 85.0% in FY 2022. Financial projections based on proposed budgets anticipate that the agency operating fund will start to operate at a deficit at the end of FY 2024, barring excessive fund transfers.

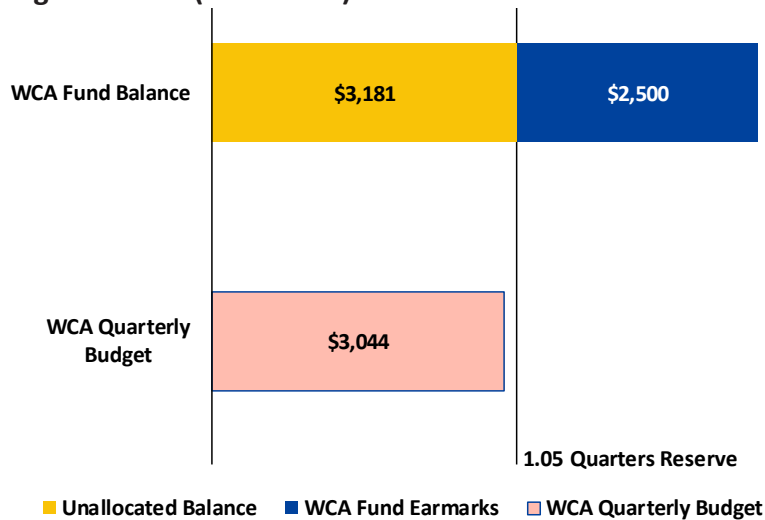
<sup>1</sup>Source: NM Workers' Compensation Audited Financial Statements, FY 2019 - FY 2023



## A Portion of the WCA Fund is Earmarked

The WCA’s ending FY 2023 fund balance stood at \$5.7 million, less than half of its FY 2023 annual budget of \$13.6 million. However, it’s important to note that a portion of the fund is already allocated to ongoing projects, notably including an important claims standards modernization project. After accounting for these earmarked projects, the WCA is left with just above a fourth of its annual budget as unallocated funds.

Figure 1.16 WCA Fund Unallocated Balance Compared to Monthly Budget FY 2023 (thousands)

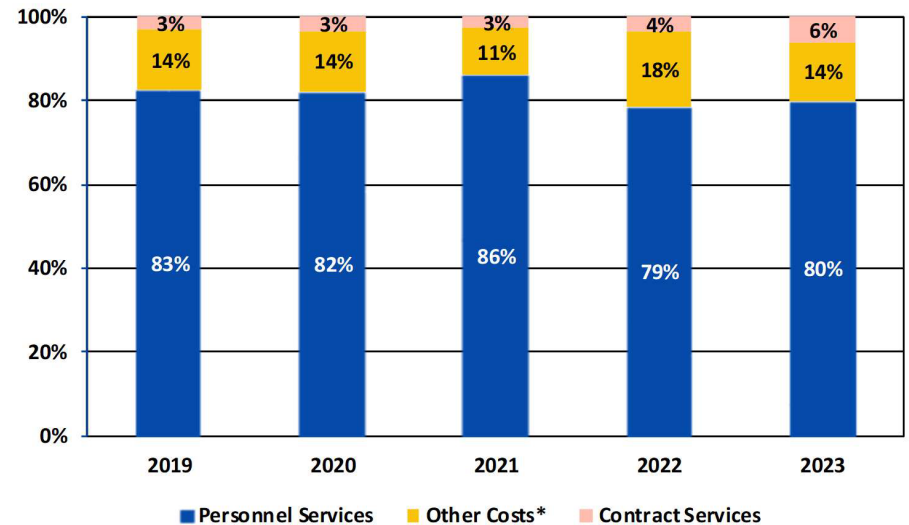


Source: NM Workers’ Compensation Audited Financial Statements, FY 2023

## Costs Continue to Increase

In FY 2023, the WCA’s expenditures increased 16.3% compared to FY 2022. Both personnel services and contract services increased substantially, in terms of their share of the budget and also in absolute dollar amounts. The total dollar amount spent on staff experienced an approximately 18.5% growth compared to FY 2022.

Figure 1.17 WCA Expenditures, FY 2019 - 2023

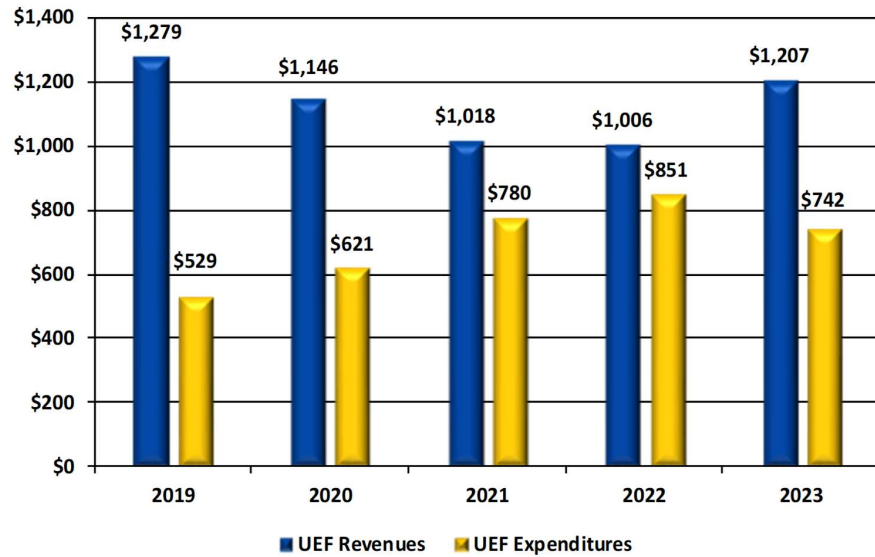


Source: NM Workers’ Compensation Audited Financial Statements FY 2019 - FY 2023

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

# UEF Operating Margins Increased

Figure 1.18 UEF Revenue and Administrative Expenditures, FY 2019 - 2023 (thousands)

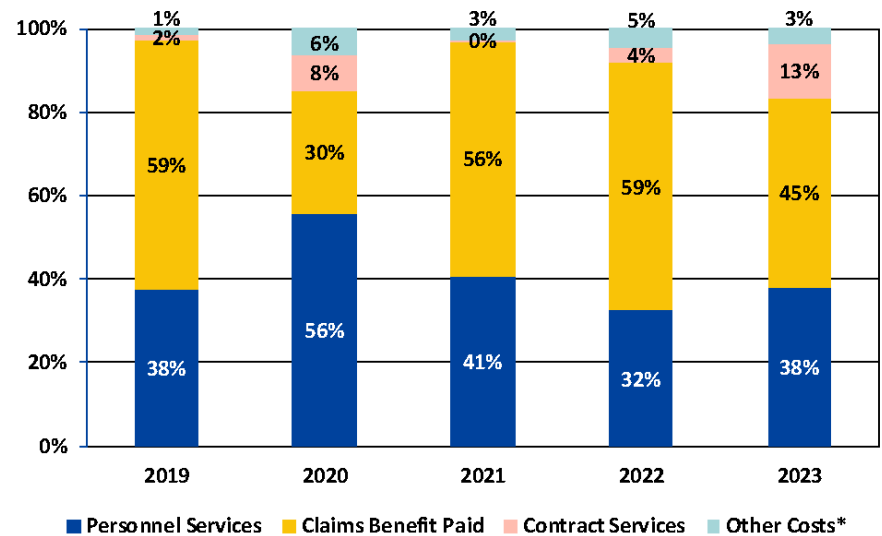


Source: NM Workers' Compensation Audited Financial Statements FY 2019 - 2023

The UEF saw a rise in expenditures for personnel services and contract services; however, spending on claims benefit paid and other costs declined. This led to about 12.7% overall decrease in UEF expenditures.

UEF margins increased in FY 2023 driven by a combination of increasing revenues and decreasing costs. This reversed the last four-year decreasing trend.

Figure 1.19 UEF Distribution of Expenditures, FY 2019 - 2023

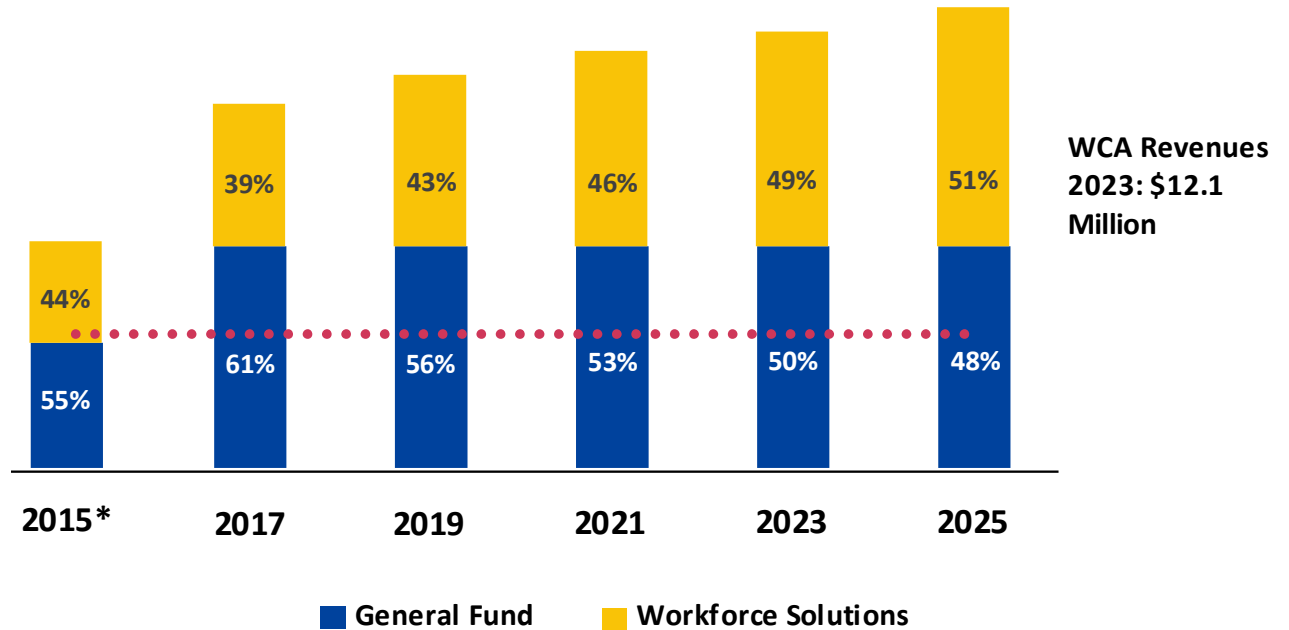


Source: NM Workers' Compensation Audited Financial Statements FY 2019 - FY 2023

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

Figure 1.21 Cumulative Transfers from the WCA Fund, FY 2005 - 2025

21 Million    33.3 Million    36 Million    38.1 Million    40.4 Million    42.4 Million



\*Includes the total cumulative transfers beginning 2005.

Three transfers representing the remaining 1% of cumulative transfers were excluded to avoid chart clutter:

- (1) a transfer of \$200,000 to the Public Regulation Commission predating 2014;
- (2) a transfer of \$308,368 to the General Services Department in 2023;
- (3) a transfer of \$42,478 to the General Services Department in 2024;

Source: NM Workers' Compensation, Audited Financial Statements, FY 2014-2023

NM Legislature General Appropriation Acts, 2023-2024



*Bandelier National Monument is in Los Alamos, NM. There, you'll find one of the largest concentrations of Ancestral Pueblo archaeological sites in the American Southwest.*

# System Statistics

# 02

*Fourth of July Canyon is located southeast of Albuquerque, N.M., in the Manzano Mountains, part of the Cibola National Forest. It gets its name from the fireworks of color its trees display in Autumn.*



# Costs

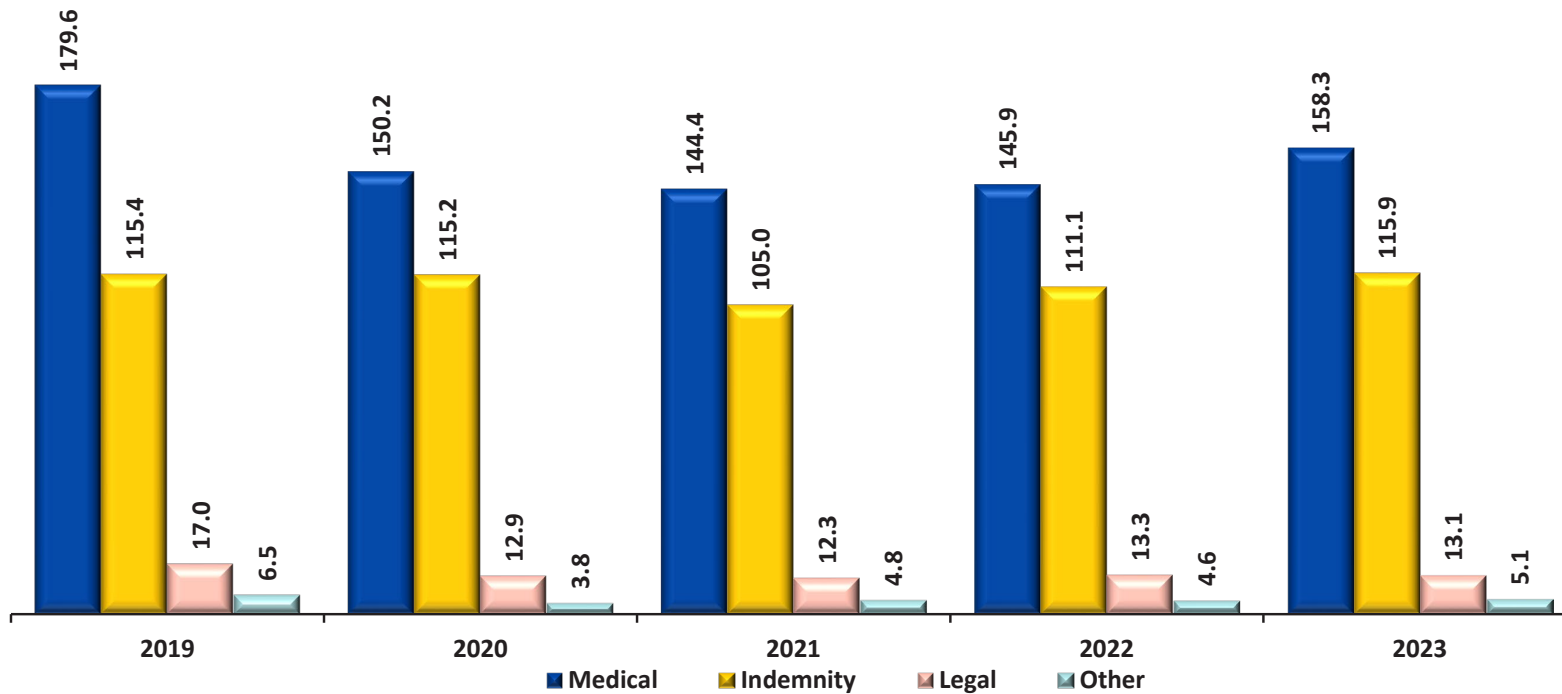
## Medical costs continue to lead workers' compensation expenditures

Figure 2.1 represents four categories of expenditures. Medical costs have consistently dominated workers' compensation expenditures compared to other categories. In 2023, medical costs amounted to approximately \$158.3 million. Indemnity expenditure remained in second place, with a slight increase from \$111.1 million to \$115.9 million. Legal costs remained in a distant third place, experiencing a slight reduction to \$13.1 million. Other expenditures remained very small but saw a marginal increase from \$4.6 million to \$5.1 million in 2023.

### 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 WCA'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, 2019 - 2023 (\$ in millions)



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2019 - 2023*

**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
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
2023	\$292,296,943	33,482	\$202,444,473	\$89,852,470	\$8,730

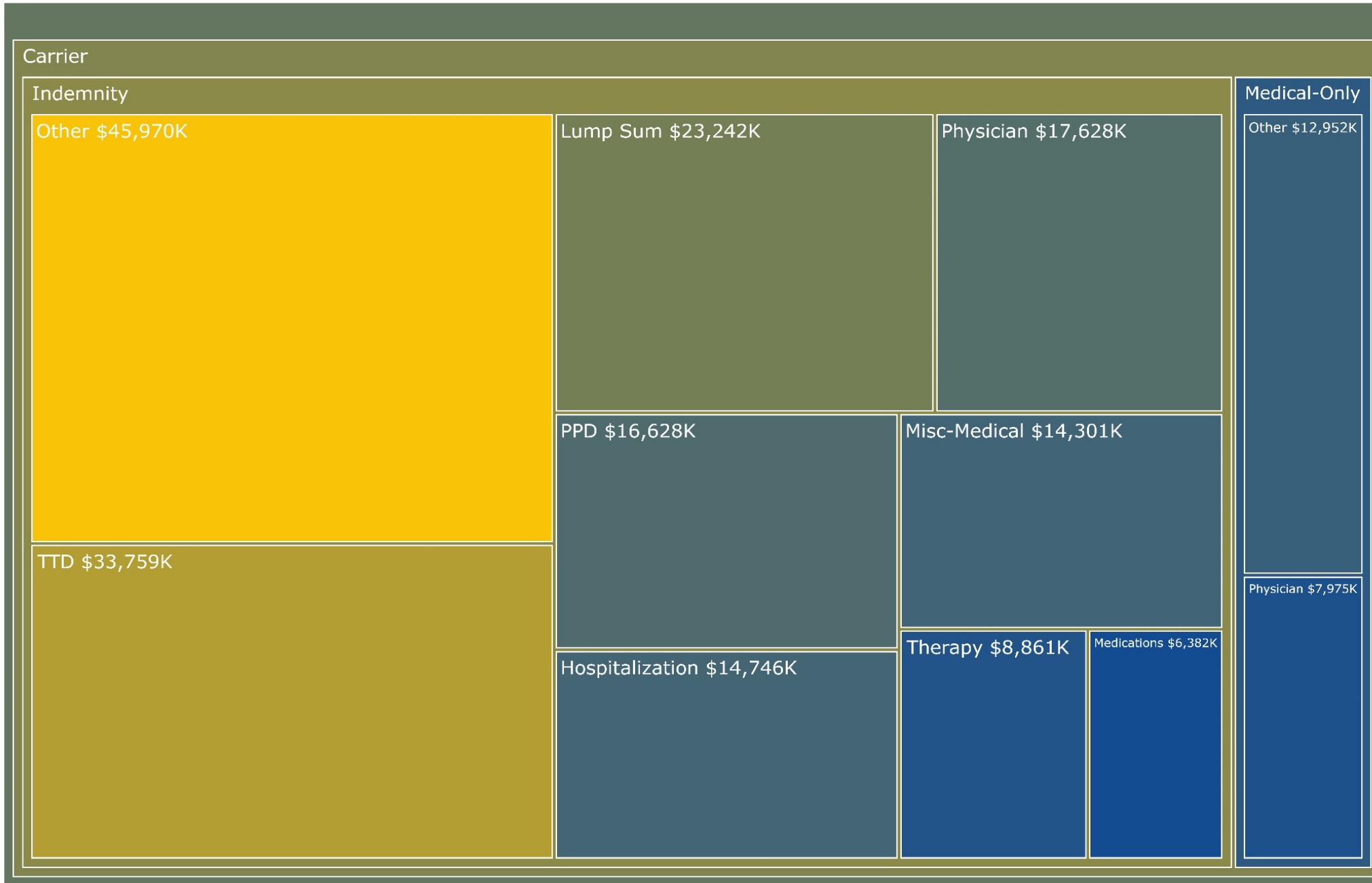
Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2019 - 2023*



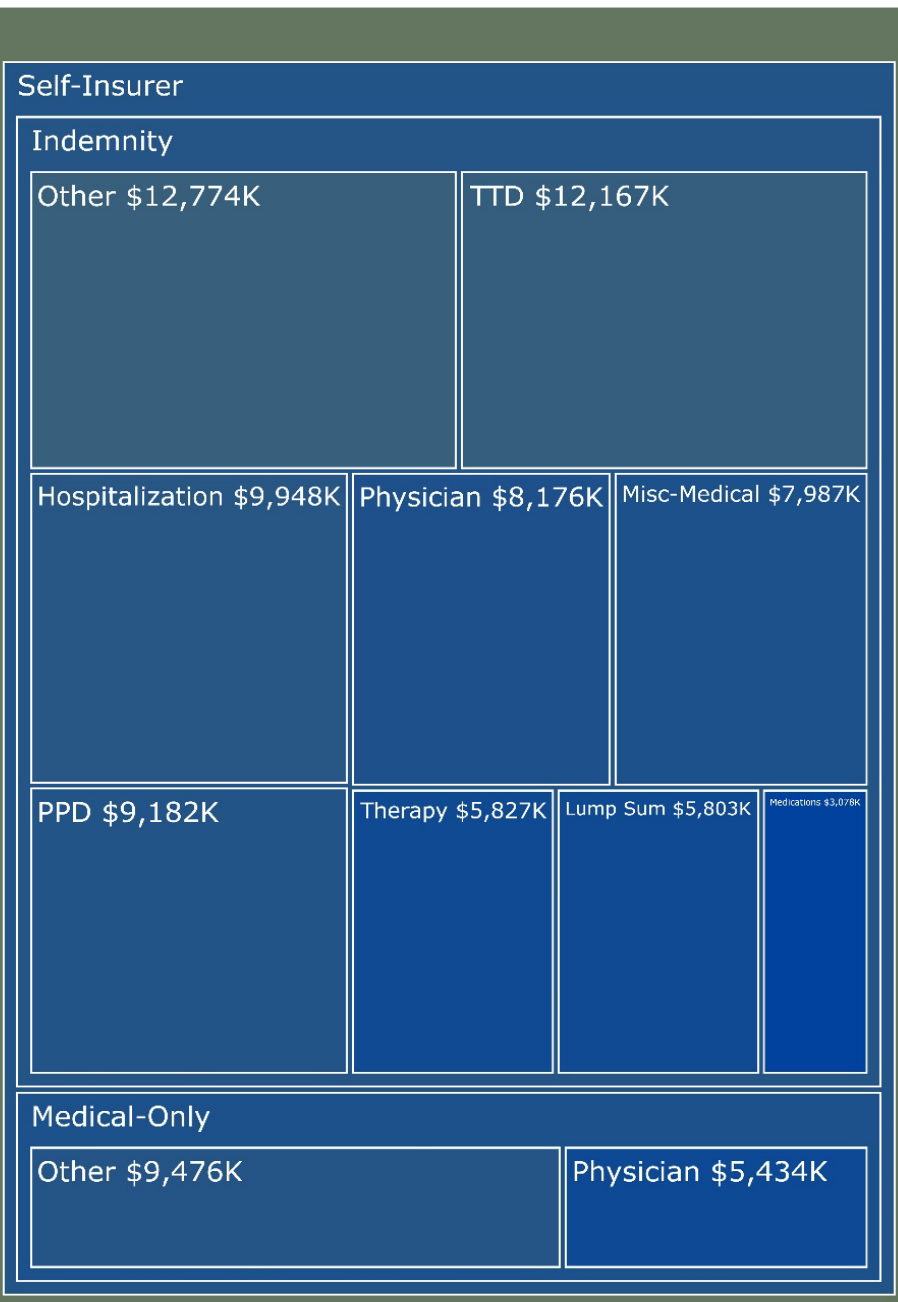
*Pecos National Historical Park, near Santa Fe, N.M., preserves an ancestral pueblo and the remains of an adobe mission stand, a reminder of people who once lived here. Additionally, the site is where the Battle of Glorieta Pass took place during the Civil War.*

Table 2.1 provides detailed information on annual expenditures and total claims from 2019 to 2023. Total expenditures decreased from \$318 million in 2019 to \$266.5 million in 2021, then experienced a slight increase to \$292.3 million in 2023. Total claims decreased consistently from 40,311 in 2019 to 31,174 in 2022, before increasing slightly to 33,482 in 2023. Total expenditures are divided between carrier and self-insured payments, both showing similar trends of initial decline and subsequent rise. Average per-claim expenditure fluctuated, starting at \$7,902 in 2019, reaching a low of \$7,911 in 2020, peaking at \$8,817 in 2022, and slightly decreasing to \$8,730 in 2023.

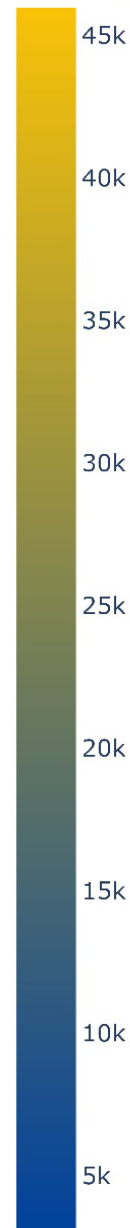
Figure 2.2 Total Reported Payments - 2023 Annual Expenditure Report (Values in Thousands)



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2023*



Amount (thousands)



The size and color of each section represents the amount spent in each category.

Figure 2.2 illustrates the distribution of total payments in the 2023 Annual Expenditure Report. The payments are categorized into two main groups: those from insurance carriers and those from self-insurers. Each group is further divided based on the type of claims (indemnity & medical-only) and type of cost.

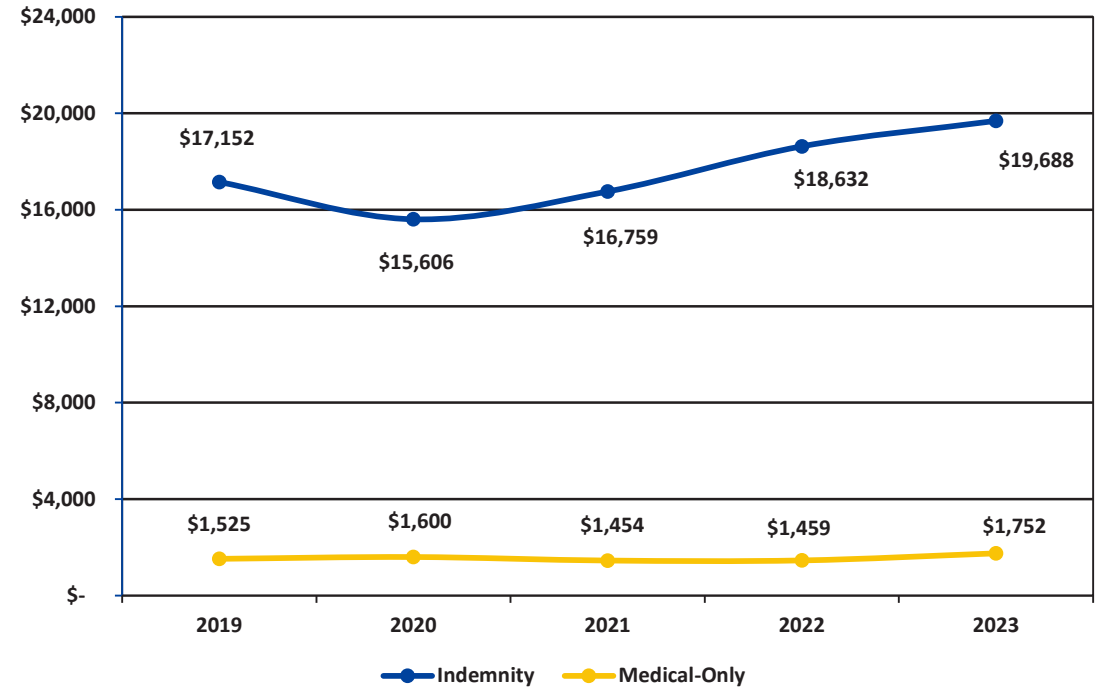
### Indemnity Abbreviations

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



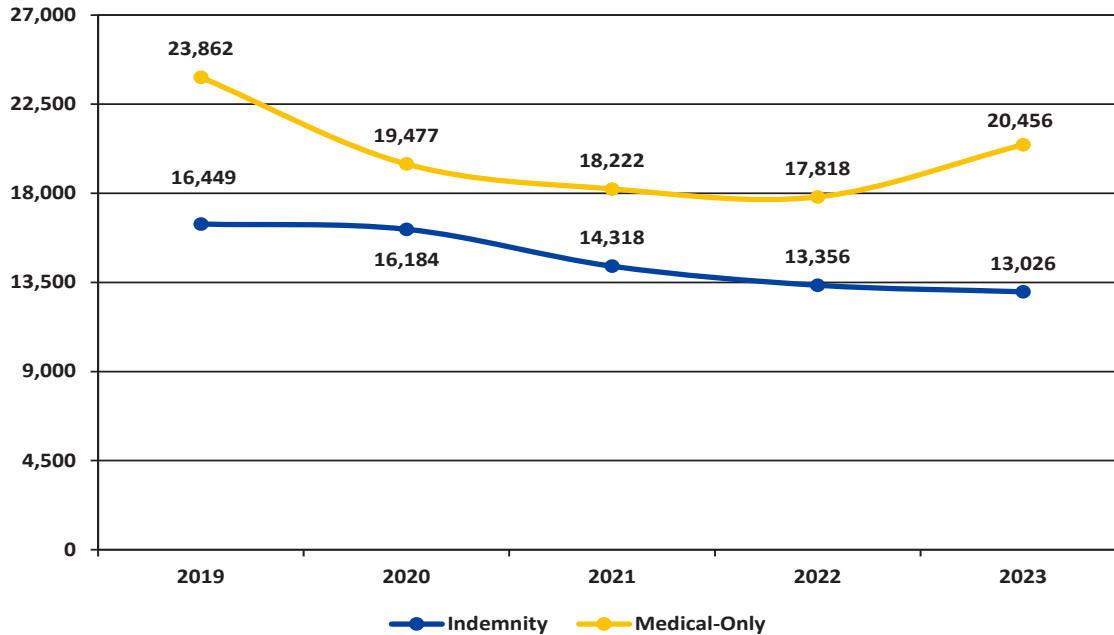
# Per-Claim Costs are Rising for both Indemnity and Medical-Only

Figure 2.3 Costs per Claim by Claim Type, 2019 - 2023



Source: New Mexico Workers' Compensation Administration, Annual Expenditure Reports, 2019 - 2023

Figure 2.4 Active Claims by Claim Type, 2019 - 2023

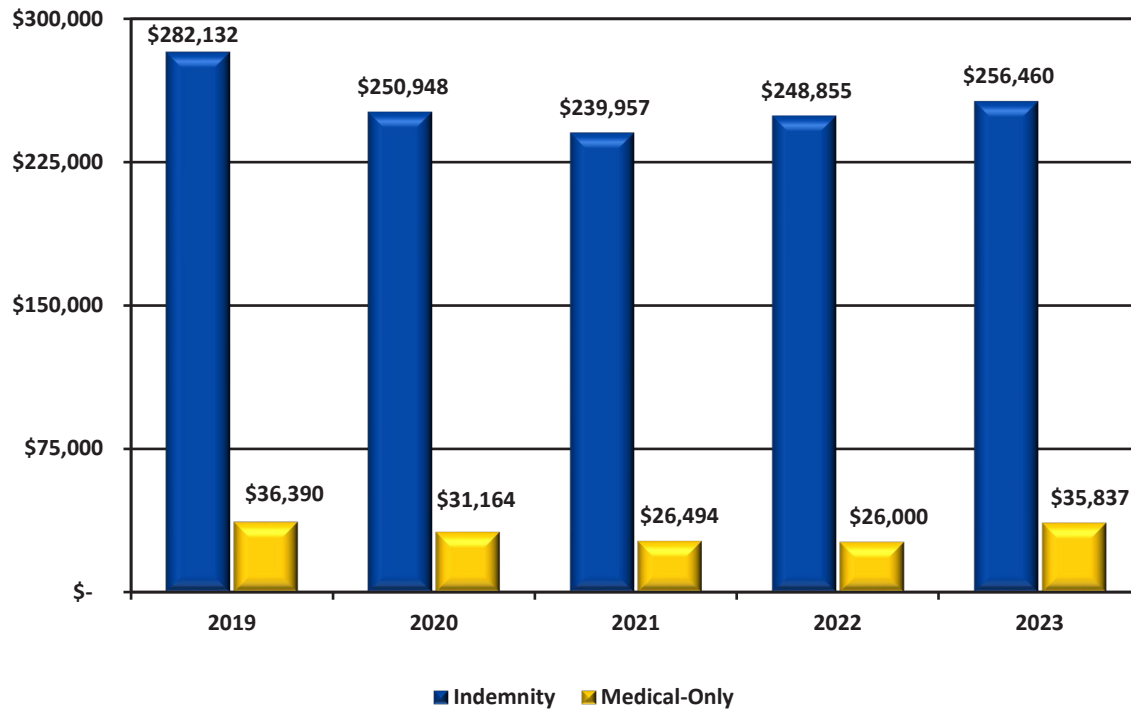


Source: New Mexico Workers' Compensation Administration, Annual Expenditure Reports, 2019 - 2023

“Active claims” are the claims that received a benefit payment in 2023, regardless of when they were initially filed. Figure 2.4 illustrates that the number of active indemnity claims decreased in 2023. However, medical-only claims saw an increase in 2023.

# Indemnity Costs Increasing

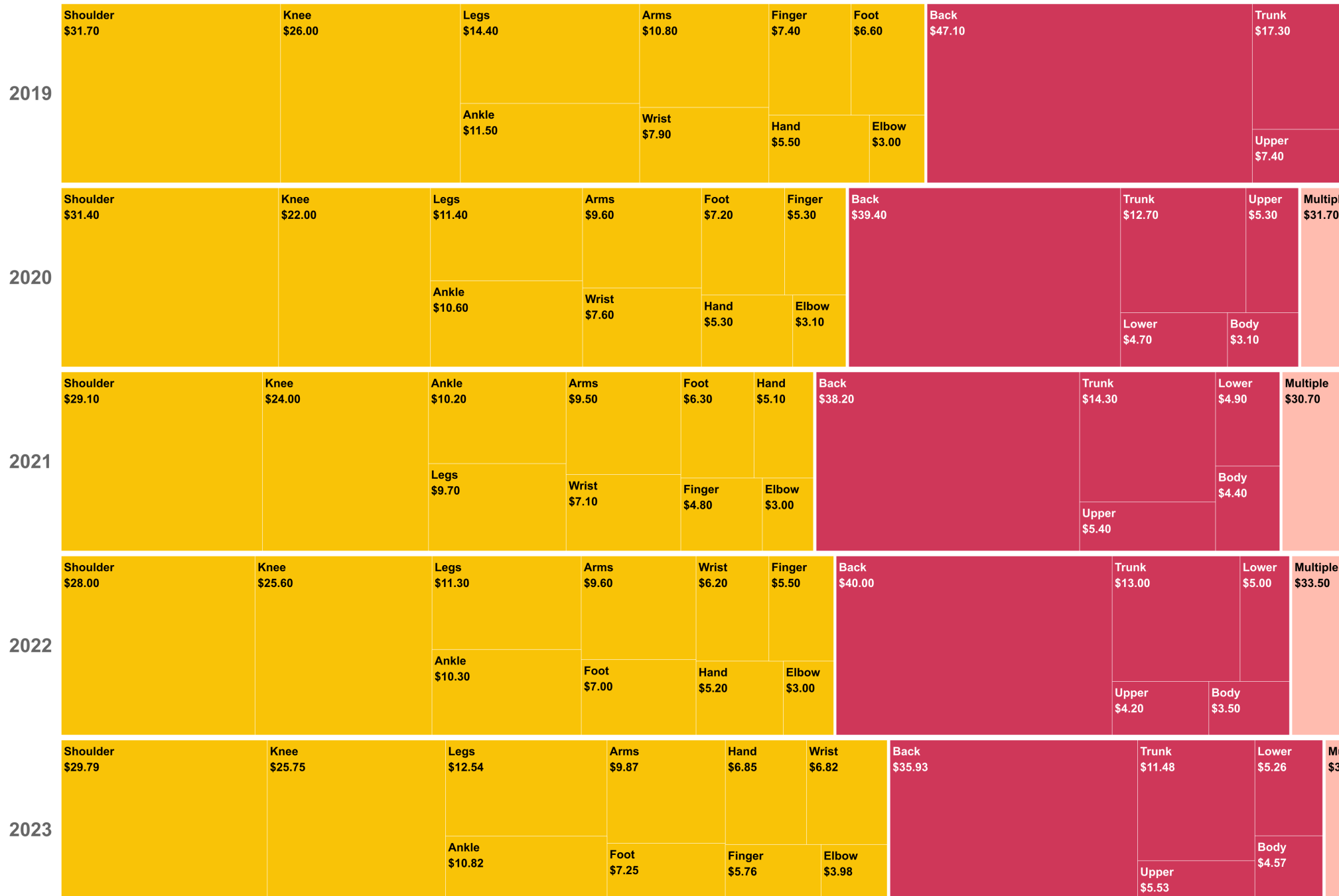
Figure 2.5 Total System Costs by Claim Type, 2018 - 2022 (thousands)



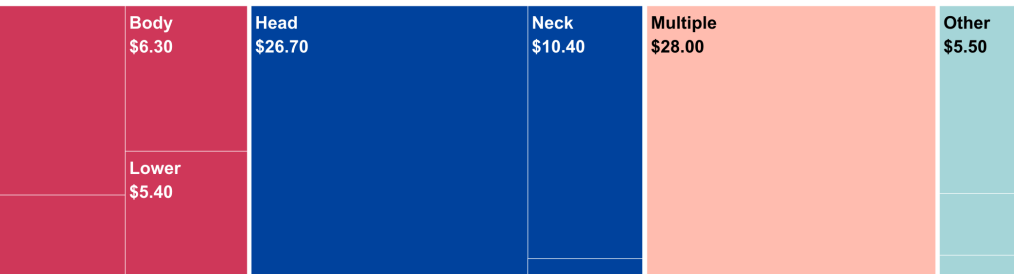
Indemnity claims costs decreased from \$282.1 million in 2019 to \$240.0 million in 2021, followed by an increase to \$256.5 million in 2023. Medical-only claims costs decreased gradually from 36.4 million in 2019 to 26.0 million in 2022, before rebounding to 35.8 million in 2023. The marginal rise in expenses associated with indemnity claims can be explained by the rise in costs per claim counterbalancing the slight decline of active claims. The average cost per claim as well as the number of active cases increased, which contributed to the increase in the expenses of medical-only claims

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2019 - 2023*

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

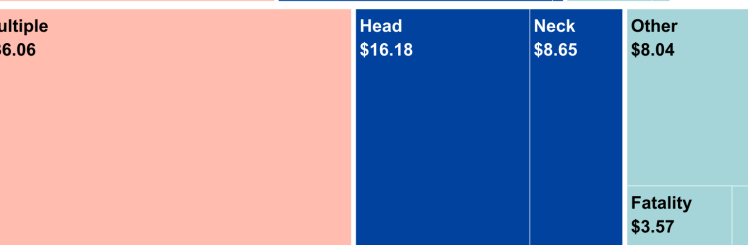
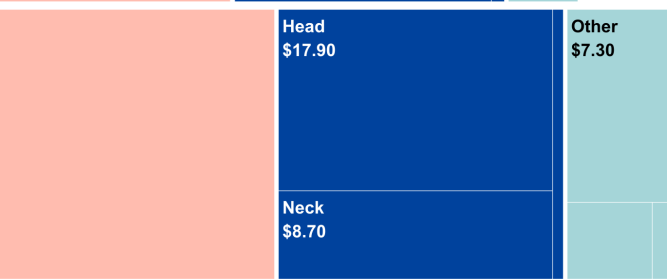
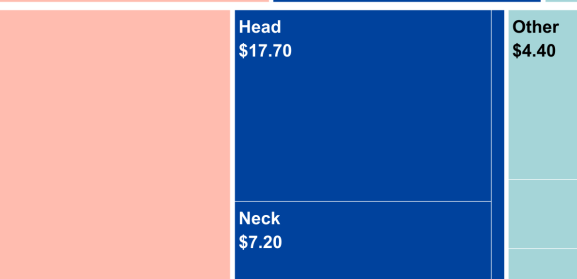


Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2019 - 2023*



**Body Group**

- Head
- Multiple
- Limbs
- Other
- Trunk



**Figure 2. 6 Expenditure Amount for Specific Body Parts in That Year Based on Size of the Box.**

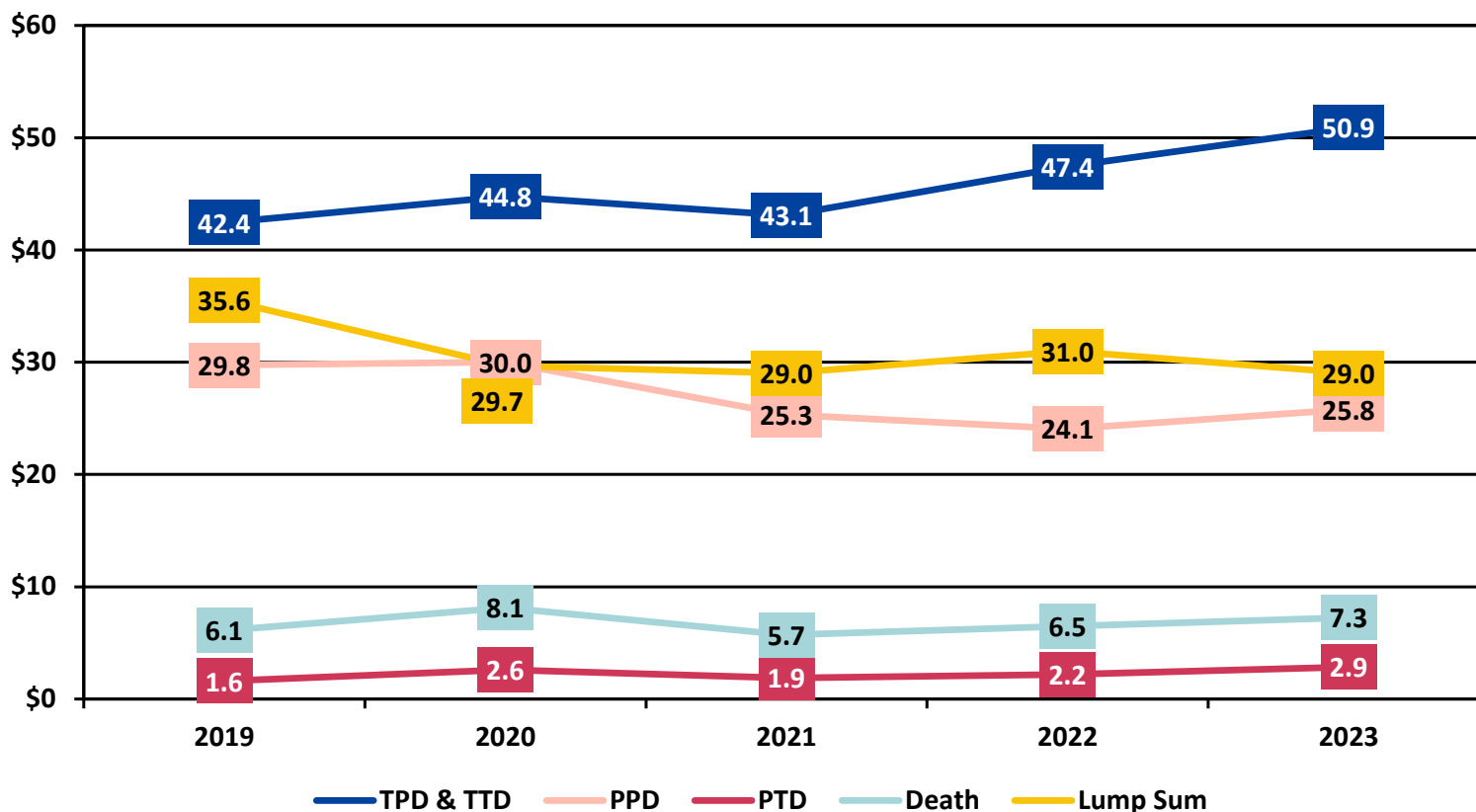
In Figure 2.6, each bar represents a year between 2019 and 2023. Within each bar, different colors are used to represent several body groupings including head, limbs, multiple, trunk, and others.

**Shoulder Costs slightly Increased**

**Back Costs Declined**

**Head Costs continue to decrease**

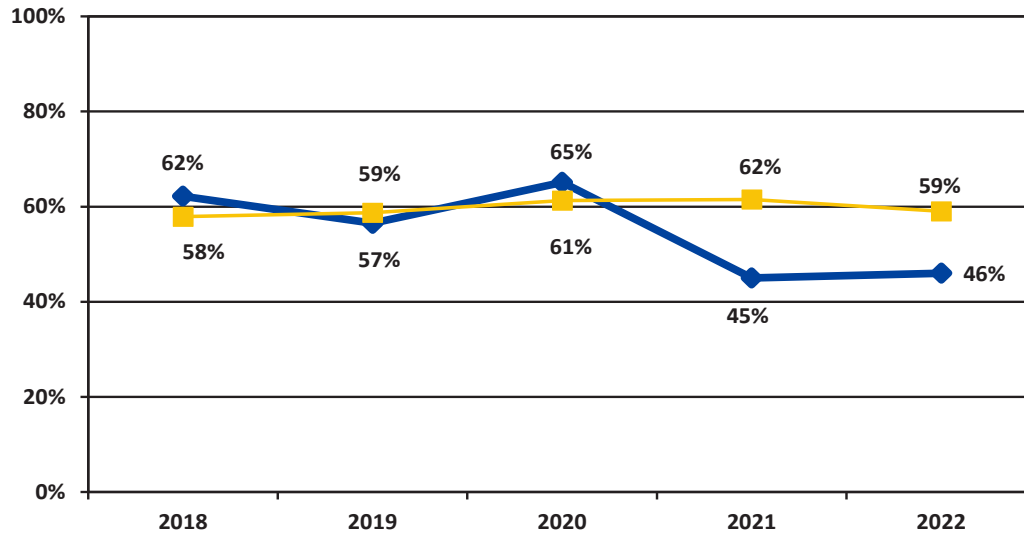
Figure 2.7 Summary of Indemnity Expenditures, 2019 - 2023 (\$ in Millions)



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2019 -2023*

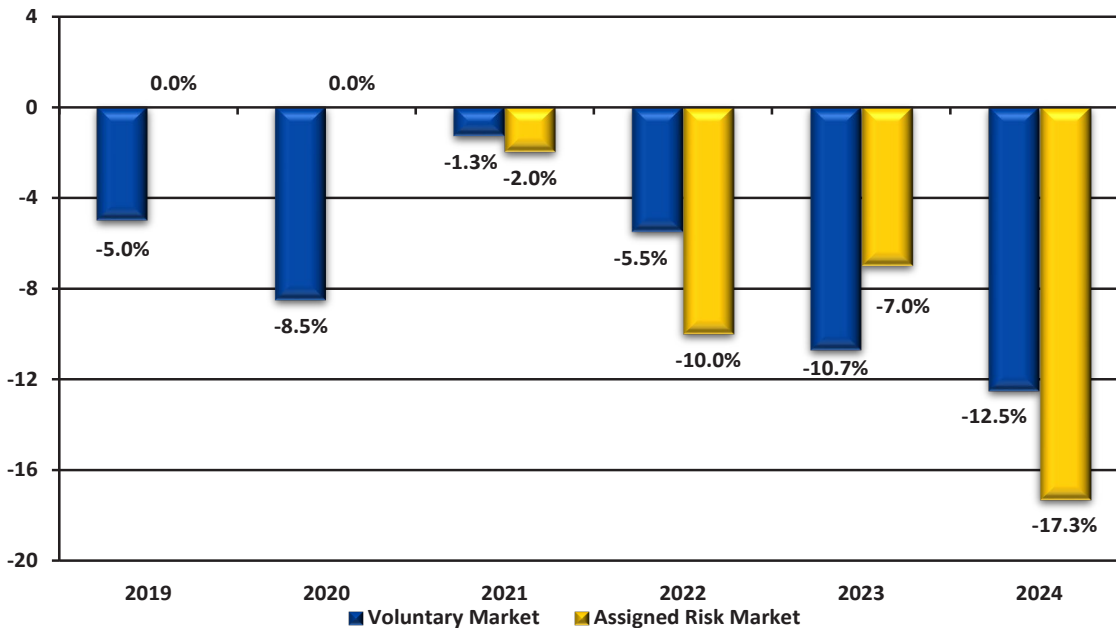
Indemnity costs grew in 2023 in all areas except for lump sum payments, where costs fell from 31 million to 29 million. The largest increase was in TPD & TTD, which reached \$50.9 million. *Please note that the WCA categorizes lump-sum payments in the AER under the category of indemnity payments. This includes money paid to settle medical claims. Though these medical settlements usually make up only a small part of this category, the WCA does not 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, 2018 - 2022*  
 Note: The New Mexico Loss Ratio for 2021 was incorrectly reported as 60%. The correct value should be 45%.

Figure 2.9 New Mexico Annual Premium Change by Policy Year, 2019 - 2024



Source: National Council on Compensation Insurance, *New Mexico State Advisory Forums, 2019 - 2024*

## Sustainable Rate Reduction

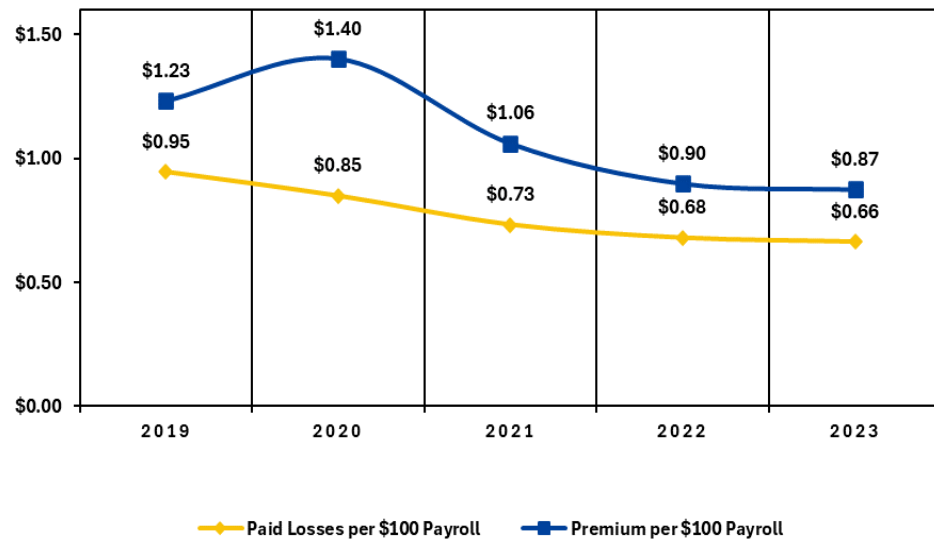
A crucial indicator of the equilibrium between premiums collected and claims paid out is the loss ratio. New Mexico’s workers’ compensation insurance loss ratios between 2018 and 2020 were in line with national compensation insurance loss ratios. In 2021 and 2022, New Mexico’s workers’ compensation insurance loss percentages were below the national average.

New Mexico’s loss ratio in 2022 was 46%, which was less than the 59% national loss ratio and indicated the state maintained a similarly low level compared to 2021.

In addition, New Mexico’s annual premiums for both the voluntary market and the assigned risk pool decreased, continuing a long-time trend. When paired with a stable loss ratio, these statistics indicate that the New Mexico workers’ compensation insurance market is healthy when compared to national standards.

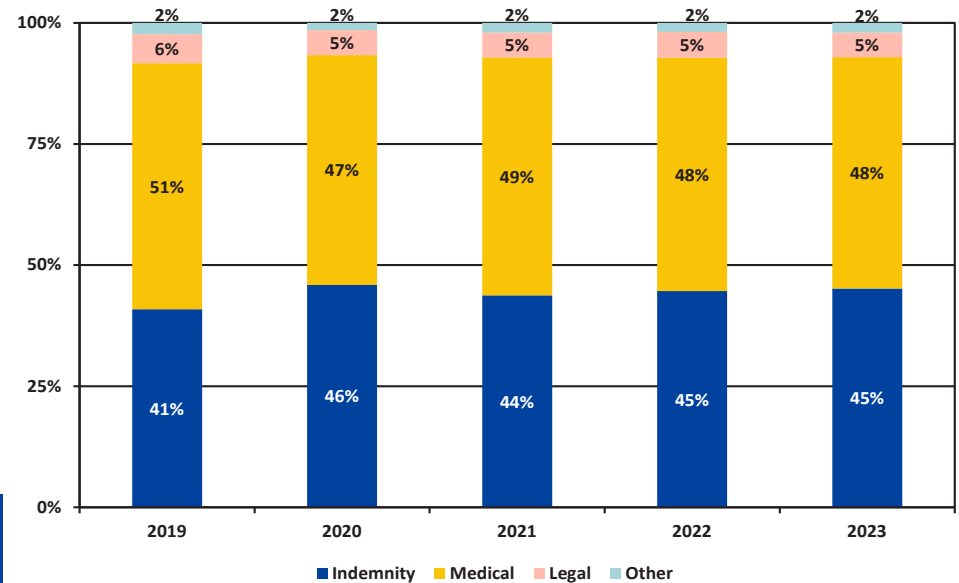
Premiums are billed based on loss costs filed by NCCI and approved by the Office of the Superintendent of Insurance (OSI). Premiums vary widely based on industry and job classifications of workers. Direct written premiums in 2023 for New Mexico totaled \$263,675,000, based on the most recent market share data from the National Association of Insurance Commissioners (NAIC). In 2023, the expected average premium per \$100 of payroll was \$0.87, while the estimated paid losses per \$100 of payroll were \$0.66, resulting in a margin of \$0.21 per \$100 of payroll. When compared to prior margins, we can conclude that the insurance industry is more efficient.

**Figure 2.10 Estimated Payroll Costs: Premium Compared to Paid Losses (per \$100 payroll)**



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2019 - 2023*  
 National Association of Insurance Commissioners (NAIC), *Preliminary NAIC Annual Statement Data, 2023*.  
 NMSA 52-5-19 Assessment Revenues, 2019-2024 (covered employment estimates)  
 New Mexico Department of Workforce Solutions State Average Weekly Wage Calculation

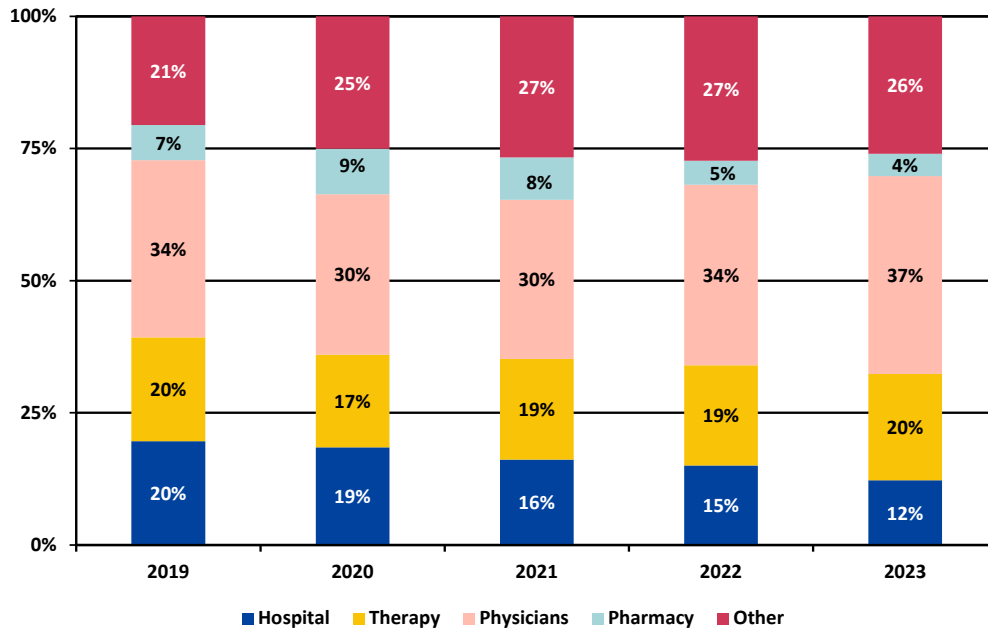
**Figure 2.11 Non-Indemnity Claim Distribution of Expenditures by Expenditure Type**



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2019 - 2023*

Claim expenditure distributions from 2019 to 2023 remained mostly stable. Indemnity and non-indemnity claims reveal only slight variations in categories such as hospital, therapy, and pharmacy expenses. Even though there were fluctuations such as an increase in physicians' costs in 2023, the overall stability in these distributions indicates a consistent approach to workers' compensation.

**Figure 2.12 Non-Indemnity Claim Distribution of Expenditures**



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2019 - 2023*

In 2023, New Mexico's workers' compensation system saw significant changes in medical cannabis reimbursements. Following the initial data collection in 2016, there was a steady rise in both total reimbursements and the average amount paid per claim until 2021. However, these trends reversed in 2022. Total reimbursements fell to \$170,794, the average reimbursement per claim decreased to \$3,163, and the number of claimants dropped to 54.

In 2023, after revising the calculation of the maximum quantity subject to reimbursement, total reimbursements increased to \$180,740, despite the number of claimants further dropping to 46. Additionally, both the maximum allowable reimbursements and the average reimbursement per claim reached all-time highs of \$19,720 and \$3,929, respectively.



**Table 2.2 Medical Cannabis Reimbursements, 2016 - 2023**

Cannabis Reimbursements Details	Year of Reimbursement							
	2016	2017	2018	2019	2020	2021	2022	2023
<b>Total Reimbursement (All Payers)</b>	\$46,826	\$58,401	\$86,850	\$177,594	\$191,874	\$201,343	\$170,794	\$180,740
<b>Maximum Allowable Reimbursements</b>	\$11,058	\$11,058	\$11,058	\$11,058	\$11,058	\$11,058	\$10,865	\$19,720
<b>Average Per Claim Reimbursement:</b>	\$2,465	\$1,168	\$1,639	\$2,819	\$3,095	\$3,413	\$3,163	\$3,929
<b>Total Reimbursement Claimants:</b>	19	50	53	63	62	59	54	46

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 - 2023*



# Coverage

There are three types of workers' compensation insurance: voluntary, assigned risk, and self-insurance. In the voluntary market, employers purchase insurance directly from insurance firms. Some employers are unable to obtain this type of insurance because they are new to the business, work in a high-risk field, or have already filed numerous claims. These employers can obtain coverage via the assigned risk market. Finally, some larger firms may opt to self-insure in order to cut costs. This means that the employer pays for workers' compensation benefits directly, rather than through an insurance provider.

In 2023, the Economic Research and Policy Bureau revised the method for calculating the covered workforce. Previously, the Adjusted Covered Workforce was determined using data from the New Mexico Department of Workforce Solutions' Quarterly Census of Employment and Wages. The new method, Estimated Covered Workforce, is calculated by dividing the annual total workers' compensation assessment by 17.2 (four quarters and multiplying by the \$4.30 assessment fee). We believe this method more accurately represents the covered employment as it reflects the actual number of covered employees working within a specific year.

Table 2.3 presents the insurance categories and coverage from 2019 to 2023. According to Table 2.3, the adjusted covered workforce increased from 787,253 in 2022 to 812,875 in 2023, marking a record high since 2018. This increase can be attributed to employers' efforts to enhance insurance coverage for workers in New Mexico.

Table 2.3 Estimated Covered Workforce and Employers by Type of Insurance, 2019 - 2023

Year	Voluntary & Assigned-Risk Markets		Self-Insurance		Est. Covered Workforce <sup>5</sup>
	Active Carriers <sup>1</sup>	Covered Workers <sup>2</sup>	Covered Employers <sup>3</sup>	Covered Workers <sup>4</sup>	
2019	269	453,009	2,443	272,114	782,321
2020	273	453,002	2,296	270,310	723,312
2021	282	489,240	2,593	250,814	740,054
2022	231 <sup>r1</sup>	519,812	2,178	239,677	787,253
2023	230 <sup>P</sup>	556,558	2,095	256,317	812,875

<sup>P</sup> Preliminary Data

<sup>r1</sup> Revised to reflect final NAIC figures published in 2023

<sup>1</sup> Source: National Association of Insurance Commissioners (NAIC), Annual Statement Data *New Mexico Market Share Report, (2019-2023)*

<sup>2</sup> Total covered workforce minus self-insured workers

<sup>3</sup> Source: NMWCA Self-Insurance Bureau

<sup>4</sup> Source: NMWCA Annual Expenditure Report

<sup>5</sup> Source: NMSA 52-5-19 Assessment Revenues, 2019-2024 divided by 17.2 (4 quarters multiplied by \$4.30 assessment fee)

Figure 2.19 Percentage Covered Workforce by Coverage Type, 2023

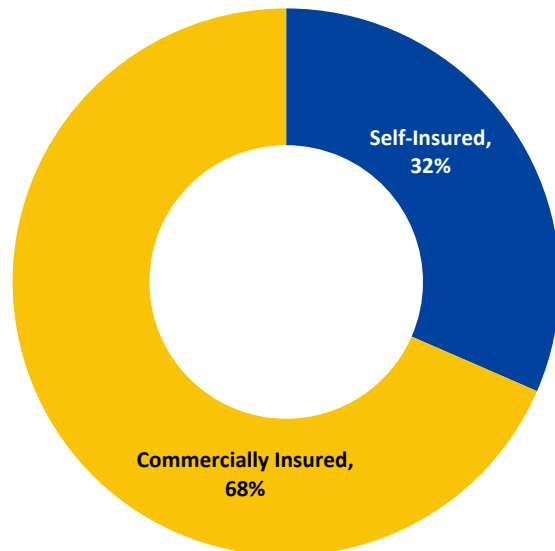


Figure 2.19 illustrates that firms opting for self-insurance covered 32% of the New Mexico workforce, while commercial insurance covered the remaining 68%.

Sources: New Mexico Department of Workforce Solutions (DWS), NMSA 52-5-19 Assessment Revenues, 2019-2024 (covered employment estimates) New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2023*

**Table 2.4 Market Share by Direct Written Premium, Largest Insurance Carriers in New Mexico, 2019 - 2023**

WC Insurance Carrier	2019	2020	2021	2022 <sup>r</sup>	2023 <sup>p</sup>
New Mexico Mutual Casualty	34%	36%	36%	36%	37%
The Travelers Companies	8%	9%	6%	6%	7%
Liberty Mutual Group	5%	5%	4%	4%	3%
Hartford Fire and Insurance Group	6%	6%	6%	6%	5%
Zurich Financial Services	5%	5%	6%	7%	7%
Other	41%	40%	43%	41%	41%

Based on preliminary figures from the National Association of Insurance Commissioners (NAIC), of the 230 active insurance carriers in New Mexico, New Mexico Mutual held the position as the highest insurance carrier with 37% of the 2023 commercial workers' compensation market (based on direct written premium). The next four highest volume carriers comprised 22% of the market and they are The Travelers Companies (7%), Zurich Financial Services (7%), Hartford Fire and Insurance Group (5%), and Liberty Mutual Group (3%). Other carriers with lower percentages of volume were responsible for 41% of 2023's direct premiums earned in New Mexico. Table 2.4 shows more data for the years 2019 through 2023.

<sup>p</sup> Preliminary Data

<sup>r</sup> Revised to reflect final NAIC figures published in 2023

Source: National Association of Insurance Commissioners (NAIC), Annual Statement Data, 2019 – 2023

The Employer Compliance Bureau (ECB) of the New Mexico Workers' Compensation Administration is in charge of ensuring that employers comply with workers' compensation insurance regulations. The ECB opened 4,438 and closed 4,446 cases in 2023, representing a clearance rate of 100.2%. 6.2% of the employers with referrals submitted to the ECB did not meet the workers' compensation insurance requirements that year. This was a minor decrease compared to 2022. *[Please note that these figures only include employers who were directly referred to the ECB, not all non-compliant employers].*

**Figure 2.20 Percentage of Total Referrals Identifying New Mexico Employers Who Need Insurance, 2019 - 2023**

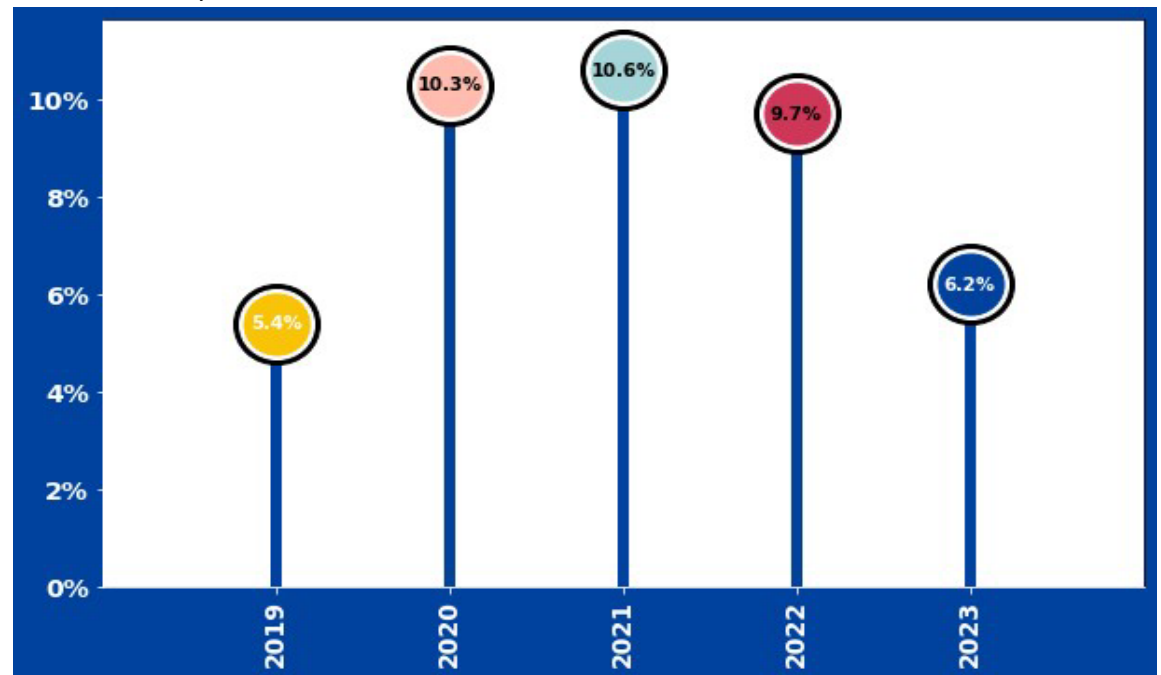
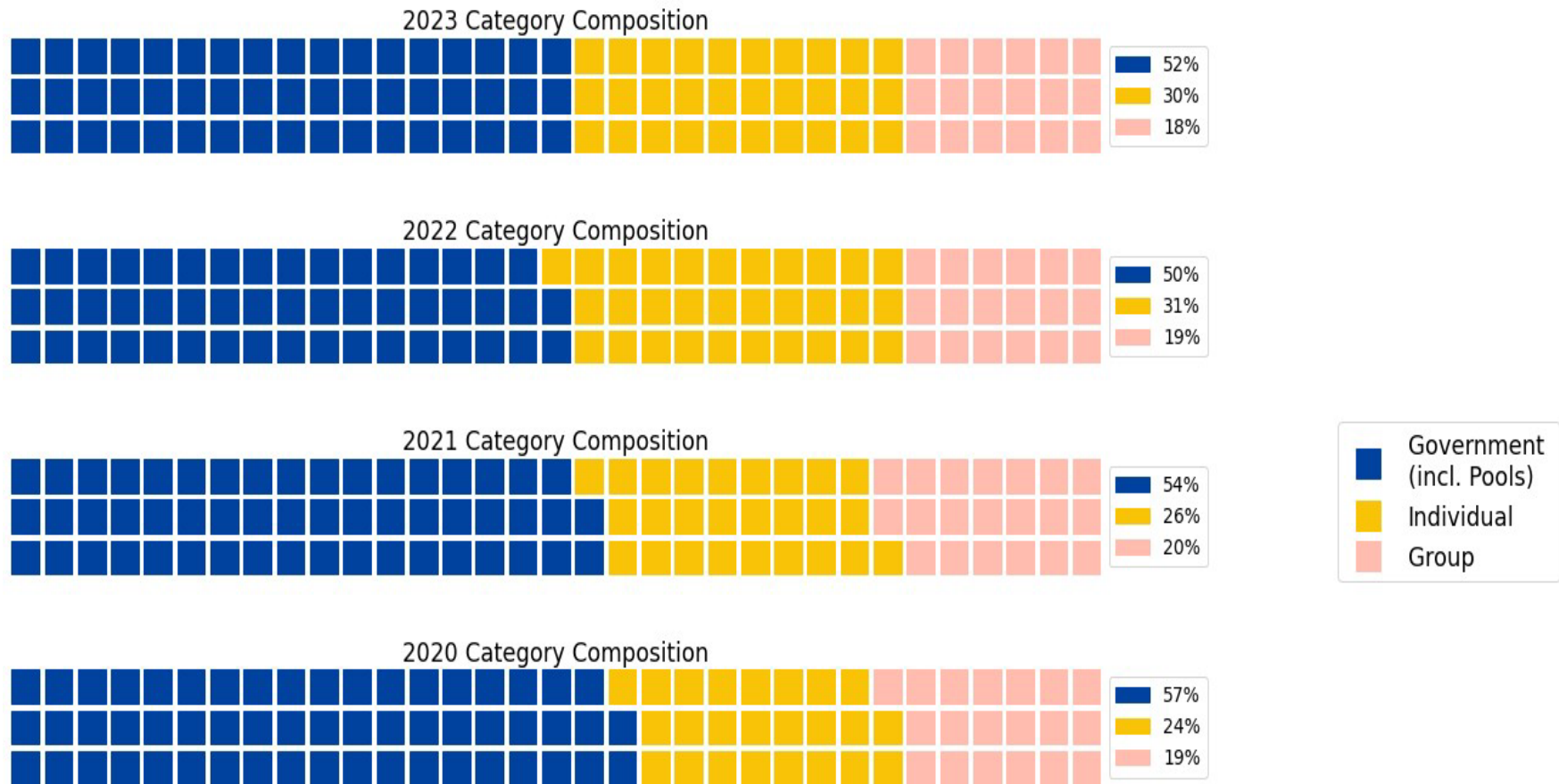


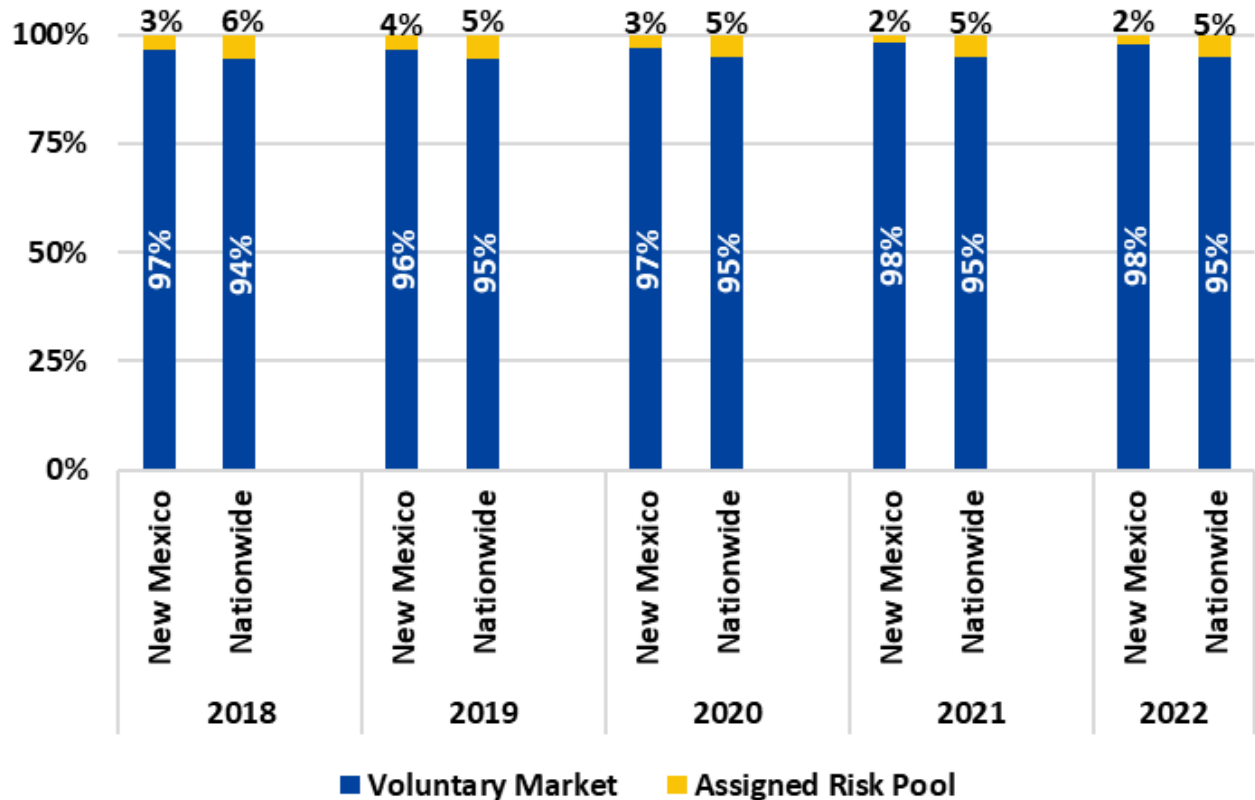
Figure 2.21 Self-Insured Workforce by Self-Insured Type, 2019 - 2023



Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Reports, 2019 - 2023*

Between 2019 and 2023, the percentage of covered workers in New Mexico's self-insured programs remained relatively steady. In 2023, the balance between government and individual plans shifted, with the government-covered workforce increasing from 50% to 52% of the covered self-insured workforce and the individual workforce decreasing from 31% to 30%. The percentage of workers insured by group plans also decreased from 19% to 18%.

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



2023 data was unavailable at the time of publication. 2022 data is preliminary

Source: National Council on Compensation Insurance (NCCI) *Residual Market Management Summaries, 2018 - 2022*

Figure 2.22 shows that the share of the commercial insurance market that acquired insurance through New Mexico’s voluntary market and assigned risk pool remained unchanged at 98% and 2%, respectively from 2021 to 2022. When compared to the national average, New Mexico’s assigned risk pool is lower, indicating that the state’s workers’ compensation insurance market is functioning properly, with businesses finding adequate and affordable coverage options in the standard market rather than relying on the assigned risk pool.

# Characteristics of Claims

Table 2.5 Injuries and Claims Reported to the WCA, 2019 - 2023

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
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
2023	828,840	21,806	2.63	15,709	1.90	11,826	1.43	3,883	0.47

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, 2019 - 2023*, New Mexico Department of Workforce Solutions

The number of First Reports of Injury (FROI) filed with the WCA increased in 2023 to their highest level since the beginning of the COVID-19 pandemic. This increase was expected as employment returns to normal levels and other pandemic-era disruptions normalize.

Subsequent Reports of Injury (SROI) claims increased, including increases in both indemnity and medical-only claims. On a per-100 workers basis, medical-only claim rates increased, while indemnity claim rates decreased.

On average, medical-only and FROI-only claims are significantly less serious than indemnity claims. Since less serious claim types increased per 100 workers, while indemnity claims per 100 workers decreased, this indicates that average per-claim severity decreased in 2023. However, since indemnity claims only decreased very slightly, while other claim types increased by a greater amount, the expected impact is an increase in total costs in 2023.

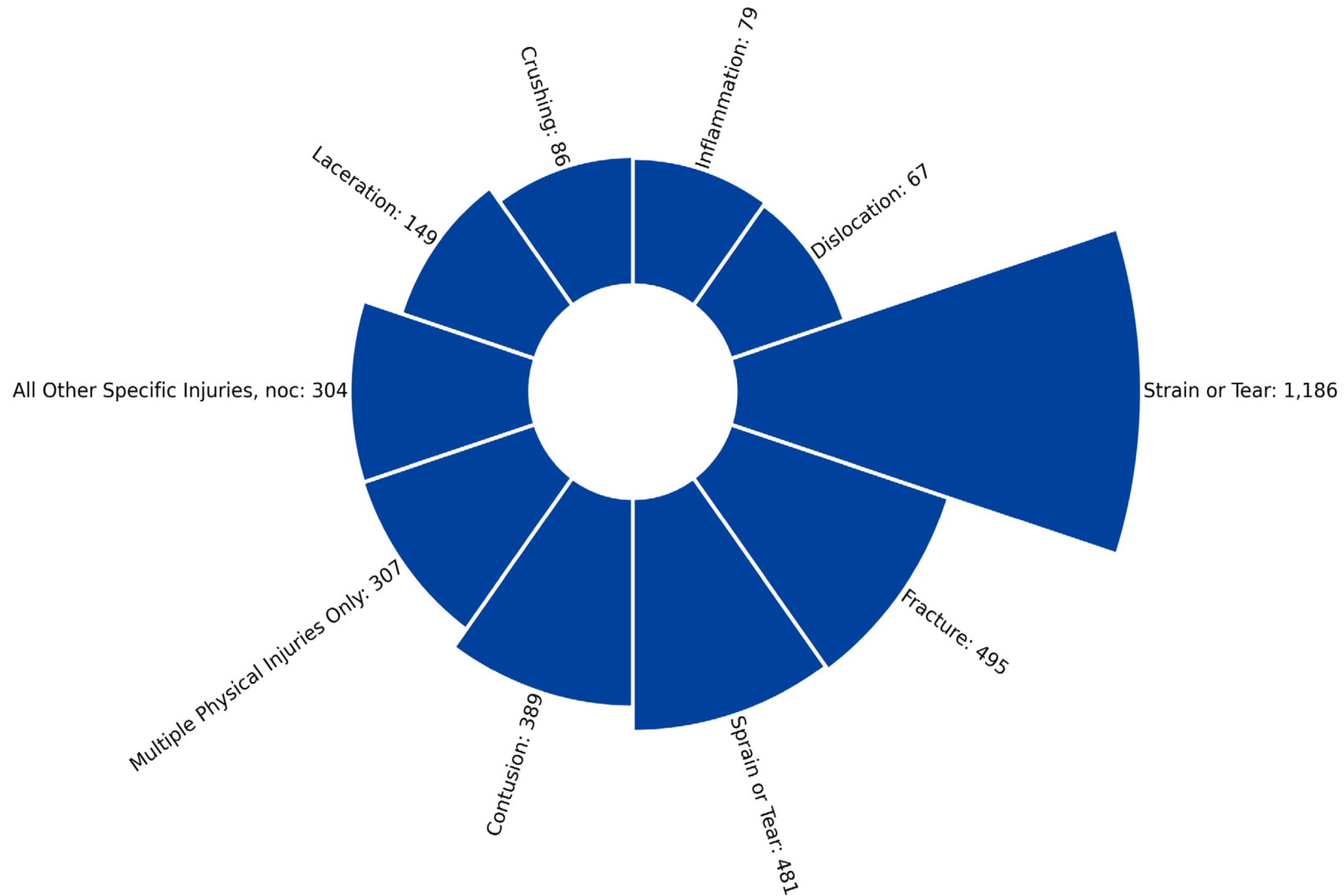
## FROI and SROI

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 are not serious enough to reach \$300 in medical debts.

A Subsequent Report of Injury (SROI) must be filed with the WCA under certain conditions including any 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 2019 and 2023. 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, 2023 (Top Ten Categories)

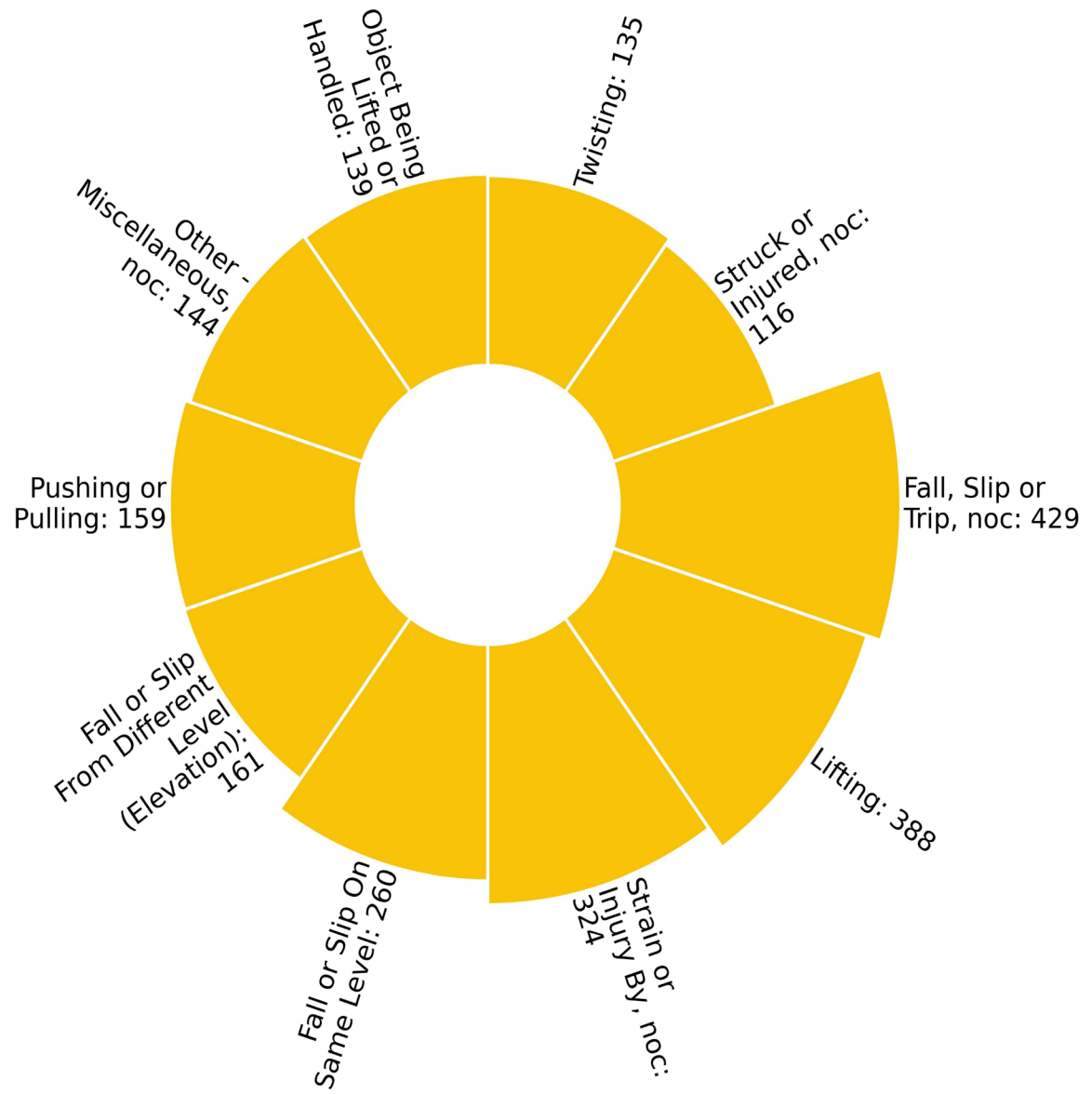


noc = Not Otherwise Classified

“Strain or Tear” was the leading type of injury in 2023, representing 31% of all claims. “Fracture” was the second most common, representing 13% of claims, followed by “Sprain or Tear” at 12%. These figures are similar to those that were observed in previous years.

Figure 2.24 Indemnity Claims by Cause of Injury, 2023 (Top Ten Categories)

In 2023, "Fall, Slip or Trip, not otherwise classified" was the most common cause of injury, accounting for 11% of total claims. This was closely followed by "Lifting," which represented 10% of claims, and "Strain or Injury By, not otherwise classified," which made up 8% of total claims.



noc = Not Otherwise Classified

Figure 2.25 updates 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. This relationship has been observed over multiple years of analysis.

Figure 2.25 Indemnity Claims by Age and Gender of Injured Worker, 2023

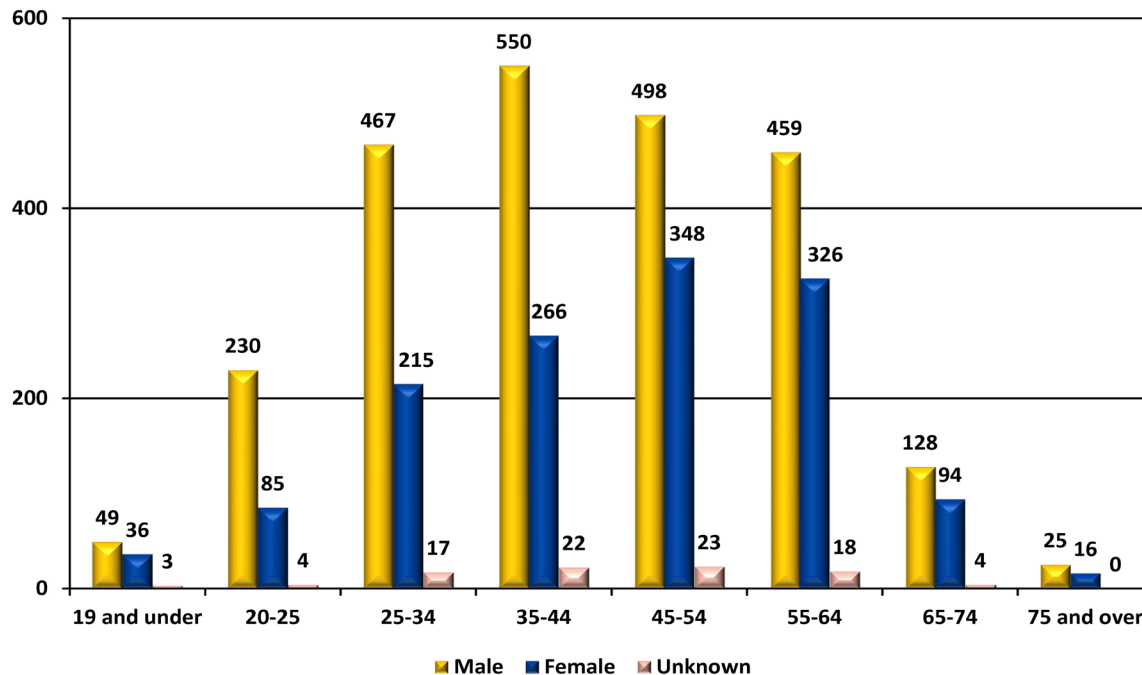
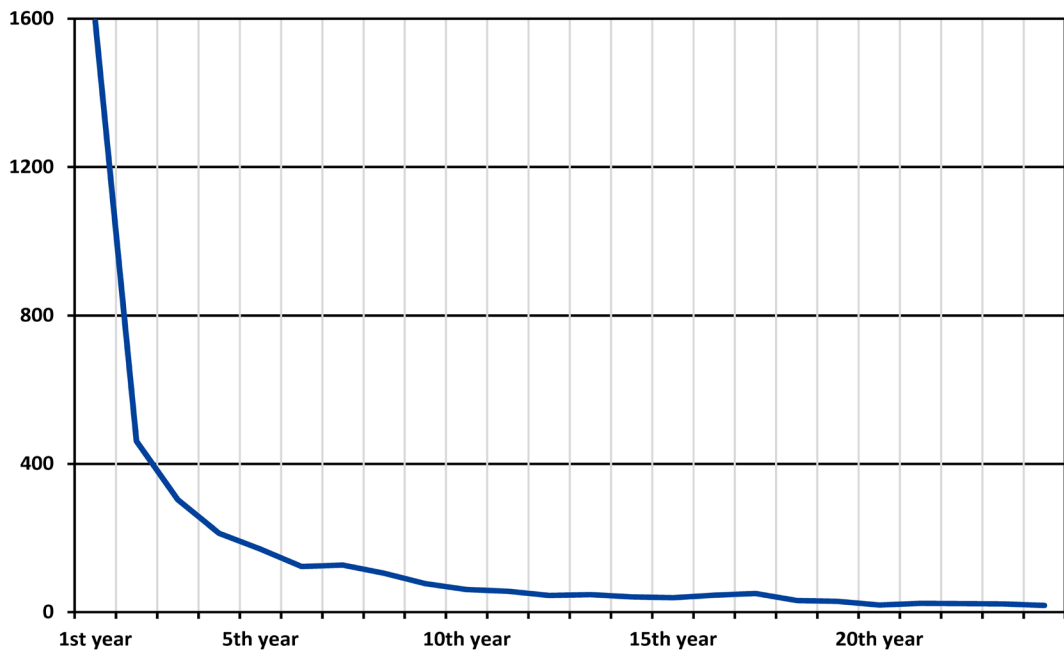


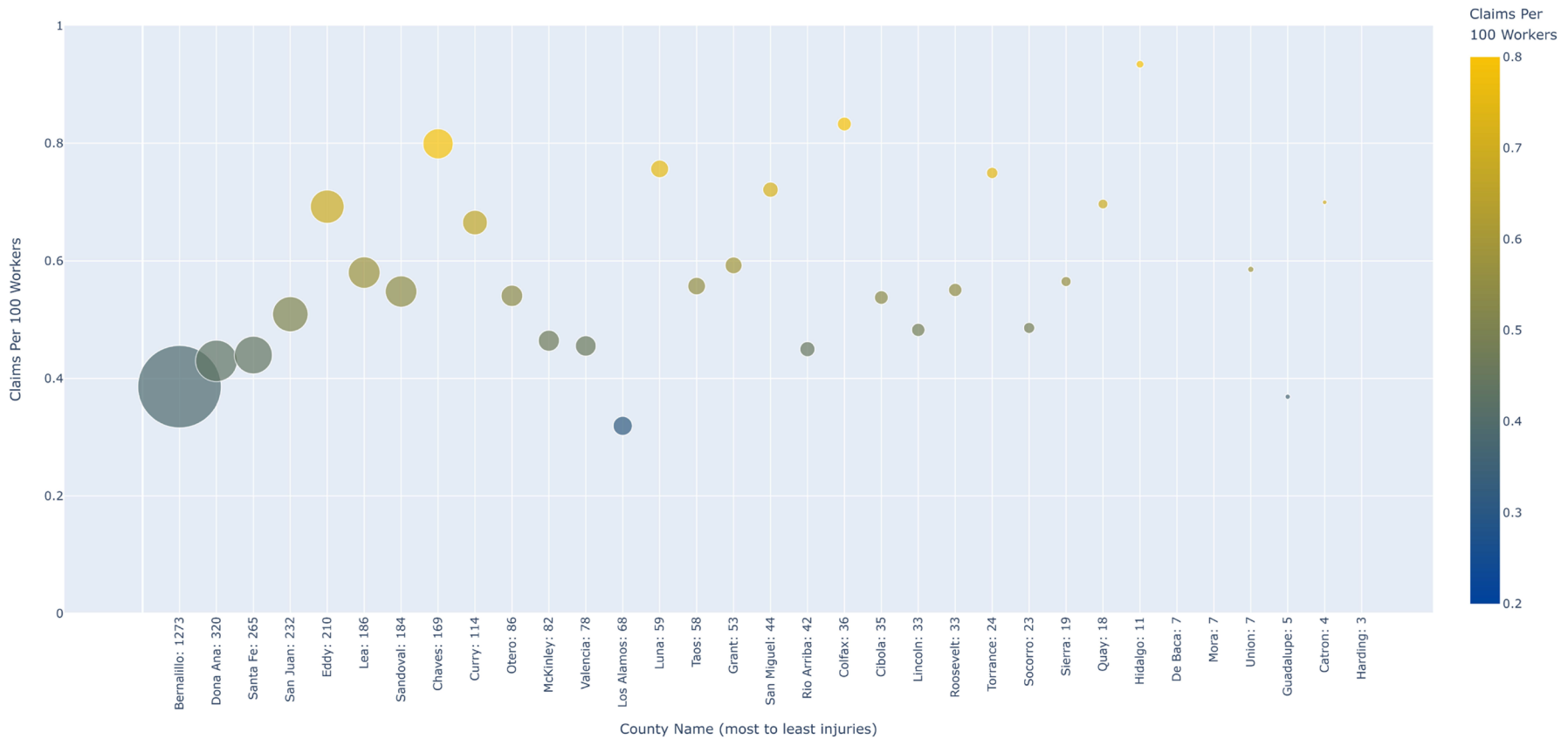
Figure 2.26 Indemnity Claims by Number of Years on the Job



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**



County outliers with greater than 1.0 injuries per 100 workers are excluded from the chart range. In 2023, these included: Harding (3 injuries, 2.18 per 100 workers), De Baca (7 injuries, 1.52 per 100 workers), and Mora (7 injuries, 1.09 per 100 workers).

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 Santa Fe County.

**Figure 2.28 Indemnity Claims per 100 Workers by County**

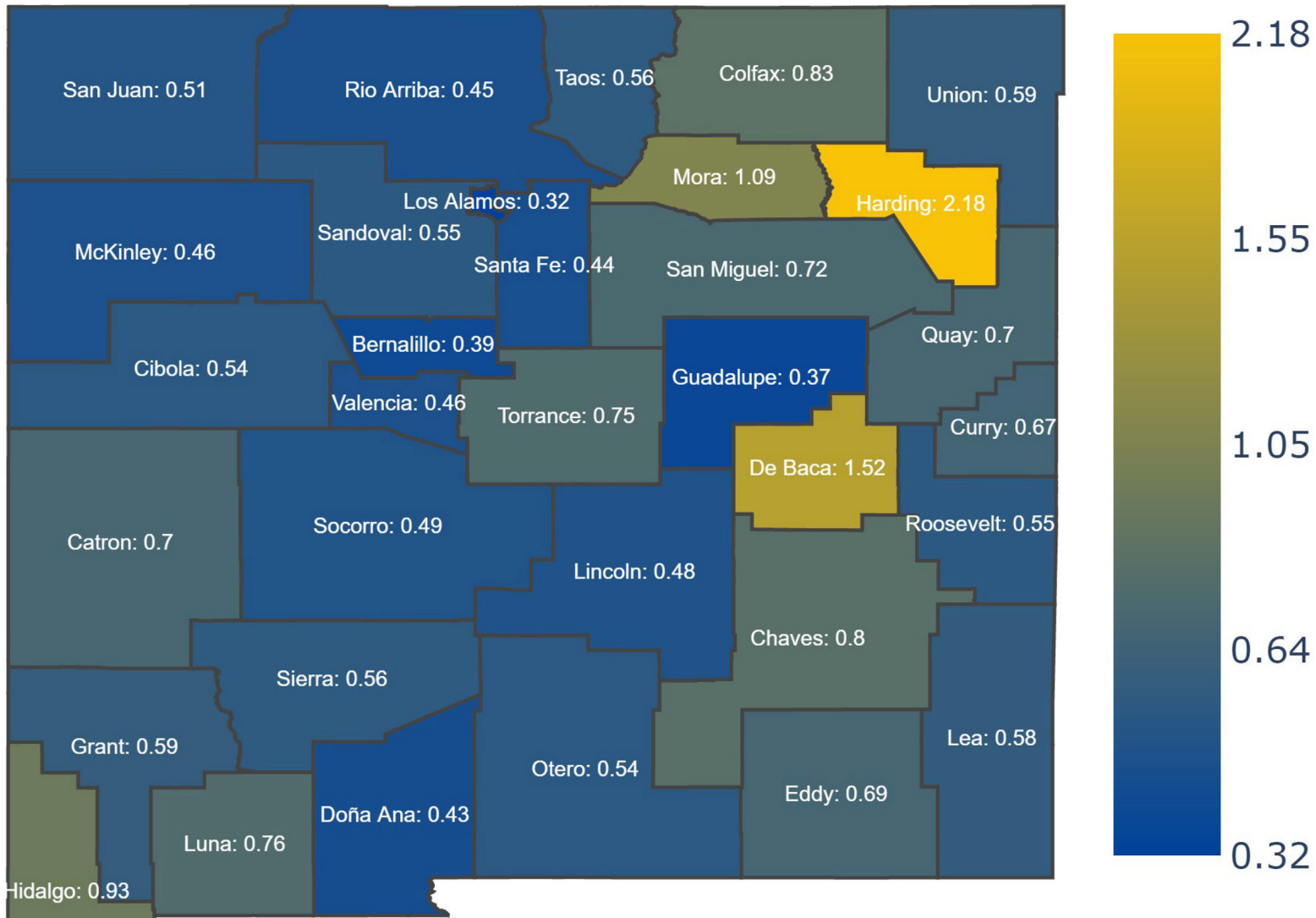


Figure 2.28 presents claims per 100 workers by county in 2023, with color representing the rate of claims. Counties with more yellow represent higher claims rates, and counties with more blue represent lower claims rates, on a per worker basis.

In 2023, Harding, De Baca, and Mora counties had the highest number of indemnity injuries on a per-worker basis. It's important to note that these are smaller, rural counties with small sample sizes, which leads to higher variance compared to larger counties.

Figure 2.29 Percent of Indemnity Claims by Occupation of Injured Worker, 2023 (Top 12 Categories)

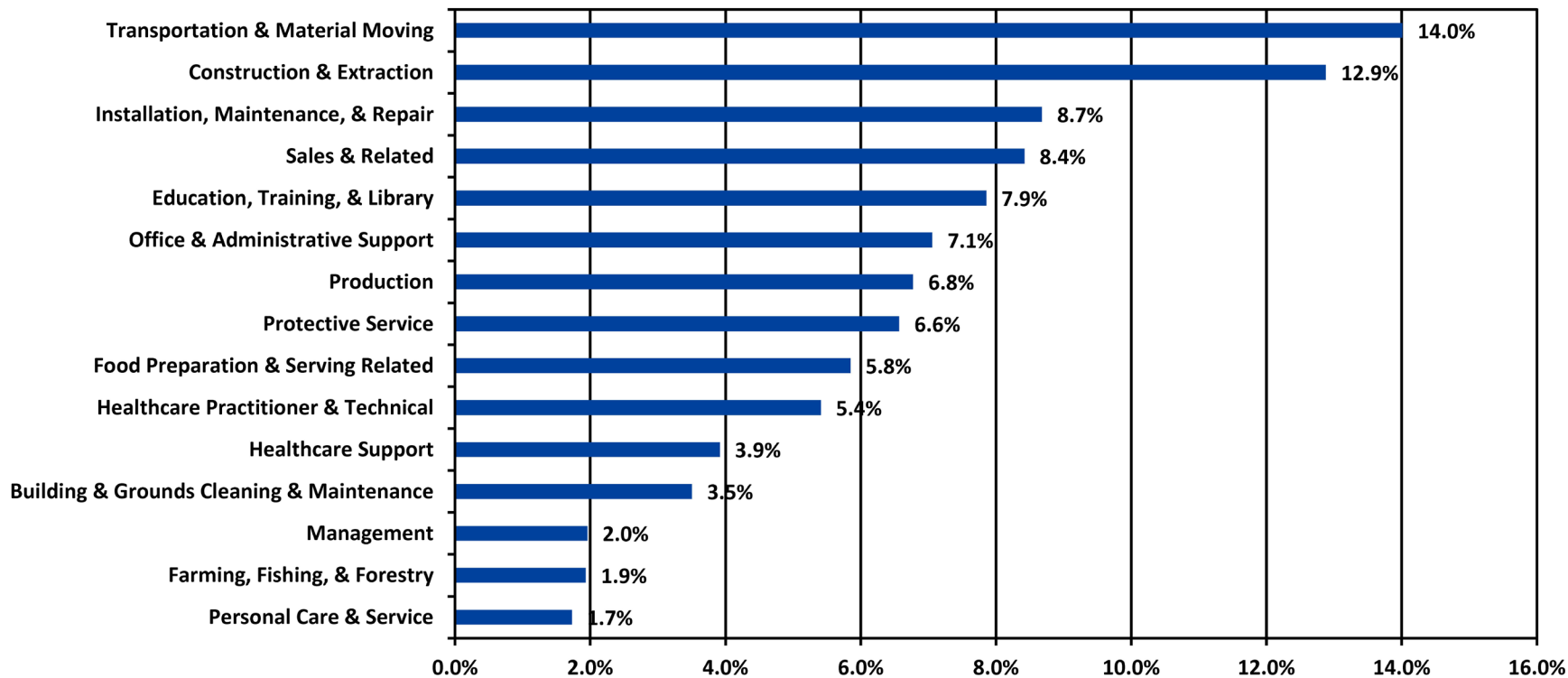


Figure 2.29 shows the percentage of indemnity claims represented by each occupation reported to the WCA. This year, “Transportation & Material Moving” leads at 14.0%, up from 13.6% last year, indicating a slight increase. “Construction & Extraction” follows at 12.9%, down from 13.7%, showing a small decrease. “Installation, Maintenance & Repair” remains third, with a minor increase from 8.6% to 8.7%. Overall, these top three occupations show minor shifts, reflecting slight changes in claims or reporting, while other categories decrease normally beyond these top three, maintaining a consistent pattern from the previous year.

“Transportation & Material Moving” and “Construction & Extraction” were once again the occupations with the most indemnity claims in 2023

**Table 2.6 Causes of Work-Related Fatalities, 2019 - 2023**

Cause of Death	Year of Injury				
	2019	2020	2021	2022	2023
Motor Vehicle	19	7	9	20	14
Miscellaneous Causes	13	23	26	18	12
Struck or Injured By	6	6	3	4	5
Caught In, Under or Between	0	4	2	2	2
Cut, Puncture, Scrape Injured By	0	0	0	0	2
Fall, Slip or Trip Injury	3	3	5	2	1
Burn or Scald, Heat or Cold Exposures, Contact With	4	3	0	0	1
Strain or Injury By	0	2	1	0	0
Striking Against or Stepping On	0	0	1	0	0
<b>Grand Total</b>	<b>45</b>	<b>48</b>	<b>47</b>	<b>46</b>	<b>37</b>
<b>Workforce</b>	805,692	700,139	761,592	799,462	828,840
<b>Covered Fatalities Per 100,000 Workers</b>	5.6	6.9	6.2	5.8	4.5

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

Table 2.6 shows the frequency of work-related fatalities between 2019 and 2023 by cause. There were 37 fatalities related to workplace injuries and illnesses in 2023, fewer than in previous years both in total and by frequency. The most significant decreases were in motor vehicle fatalities and fatalities due to miscellaneous causes.

*Located 17 miles north of Tularosa, N.M., Three Rivers Petroglyph site is one of the largest petroglyphs sites in the Southwest. More than 21,000 glyphs of everything from birds to humans and animals, as well a number of other abstract designs, are scattered over 50 acres of New Mexico's northern Chihuahuan Desert. The petroglyphs here date back to between about 900 and 1400 AD, and were created by Jornada Mogollon people.*





# Regulatory Developments

# 03

Carlsbad Cavern, located in southeast New Mexico, is one of over 300 limestone caves in a fossil reef laid down by an inland sea about 265 million years ago. It was originally designated as a national monument in 1923, then earned its status as a national park in 1930. The Cavern's largest cave chamber, the Big Room, is almost 4,000 feet long, 625 feet wide, and 255 feet high at the highest point. The Big Room is the third-largest chamber in North America and the seventh-largest in the world.



# 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**

### **Martin v. New Mexico Mutual Casualty Co., 2024-NMCA-036 (Filed December 21, 2023)**

Worker alleged an October 2017 repetitive-use work injury against Employer. Worker continued working with Employer, but performance-related issues arose with Worker. In July 2018, Employer terminated Worker for cause. Post termination, Worker filed for and received unemployment benefits. A primary issue at the workers compensation trial was whether

Worker's termination amounted to "misconduct," an undefined term within the Workers' Compensation Act. If Workers' termination amounted to misconduct, Worker would be ineligible, pursuant to 2017 amendments to the Act, to receive TTD and PPD modifier benefits. The amendments did not preclude such a worker from receiving medical or PPD benefits without modifiers. The workers' compensation judge agreed with employer's interpretation of misconduct, and this determination reduced Worker's benefits that she otherwise would have received. On appeal, the appellate court held that the term misconduct was to be given a plain, ordinary meaning, namely, "improper behavior." The appellate court rejected Worker's invitation to construe "misconduct" to mean "willful misconduct," a higher standard used to determine eligibility for unemployment compensation benefits. The decision of the workers' compensation judge was affirmed.



## New Mexico Workers' Compensation Administration

### **Nixon v. Hydrotech Services, 2023 N.M. App. Unpub. Lexis 231 (Filed June 29, 2023)**

In August 2013, Worker suffered a serious work injury. Employer did not timely or consistently pay benefits. Worker's complaint for benefits filed in November 2017 alleged 15 counts of unfair claims processing and bad faith. The workers' compensation judge determined that both the employer and insurer committed multiple acts of unfair claims processing, but no bad faith occurred. The judge assessed a penalty of \$1,008.61 against the employer and \$2,172.20 against the insurer. Worker appealed and alleged that the judge erred (1) by not awarding common law

bad faith penalties, and (2) by failing to award statutory penalties pursuant to section 52-1-28.1(B) on a per occurrence basis such that each separate act of unfair claims practices or bad faith triggered a separate penalty award. On appeal, the appellate court affirmed the workers' compensation judge. It held that section 52-1-28.1(B) assesses penalties for unfair claims practices or bad faith based on the handling of a particular claim and not the specific number of individual, improper acts. According to the appellate court, if the legislature wanted to tie the award of penalties in section 52-1-28.1(B) to each specific act of unfair claims practice or bad faith, it would have used language to that effect.



# 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. *(There were no workers' compensation-related proposals during the 30-day session of the 2024 New Mexico Legislative session.)*

Current 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
- Annie Scoggin, president of Scoggin Mechanical Industries, Inc.



*The Greater Roadrunner, New Mexico's state bird, is one of 40 species of animals who call the Living Desert State Park home. The park is located in Carlsbad, N.M.*

# House Memorial 83

## Attorney Fee Cap Task Force

During the 2023 60-day legislative session, House Bill 455 (HB 455) was introduced with proposals to 1) raise the \$22,500 attorney fee cap to \$32,500; increase the \$3,000 employer-paid discovery advance to \$10,000; and 3) provide new discretionary authority to workers' compensation judges to exceed the proposed \$32,000 cap by as much as \$10,000 when there is "good cause," such as in cases when the worker sustained "serious" injuries, suffered permanent and total disability, or when a case involves additional litigation or appeals. The bill did not advance beyond initial hearings.

Also during the same session, Rep. Pamela Herndon (D-Albuquerque) introduced House Memorial 83 (HM 83), which called for creation of a task force to study the very issues addressed in HB 455. The work of the task force was to be administered by the WCA director or his designee, and was to include two representatives from the various system stakeholders, namely: (2) defense and (2) plaintiff attorneys, (2) insurers (one representative from a commercial insurer and one from a self-insurance group), (2) employer representatives, (2) labor group representatives and two injured workers whose cases had been closed.

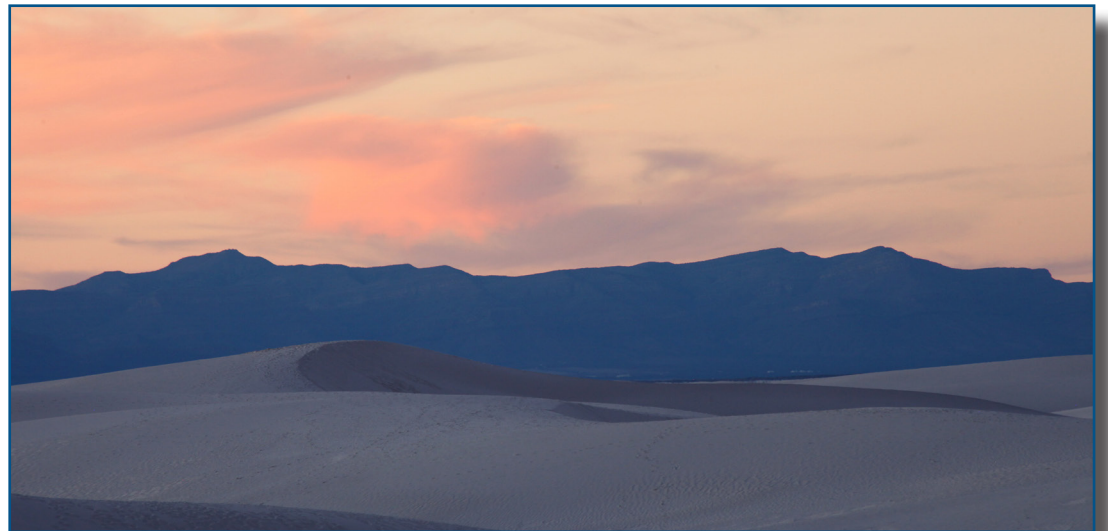
Over the course of about a year (May 2023 to April 2024), the task force worked to evaluate and analyze the attorney fee cap and related issues.

The Final Report of the Task Force was presented to the Advisory Council in a public meeting on May 2, 2024. The Report recommendations include:

1. Raise the attorney fee cap from \$22,500 to \$30,000
2. Increase the discovery cost advance from \$3,000 to \$3,500
3. Apply all statutory updates to both NMSA 52-1-54 and 52-3-47
4. Application of the increased attorney fee cap to pending cases
5. More frequent legislative updates of the fee cap
6. No automatic fee cap inflation adjustments; no new rule-making authority to adjust the fee cap for the WCA director
7. No new judicial discretion toward additional attorneys' fees beyond the cap.
8. No additional attorneys' fees on appeal

The complete report with more discussion of each of the Task Force's eight recommendations can be found on the WCA's website at <https://workerscomp.nm.gov/Attorney-Fee-Cap-Task-Force>.

*Covering approximately 275 square miles near Tularosa, N.M., is White Sands National Park, the largest gypsum dunefield in the world. It is also the home of White Sands Missile Range Museum and Trinity Site, the place where the first atomic bomb was tested in 1945.*





# Organization

# 05

**Fenton Lake State Park is nestled in the Jemez Mountains of northern New Mexico. At 7,650 feet elevation, the park provides year-round fishing and other outdoor activity options like hiking, boating, camping in summer and cross-country skiing and snoeshoeing in winter. The 37-acre lake and surrounding 700 acre area was established as a state park in 1984.**

# 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.



## **Heather Jordan, Executive Deputy Director**

Heather Jordan originally served as the WCA's clerk of the court and custodian of records beginning in 2015 and was promoted to court and programs administrator in 2022. 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 degree in criminal justice in 2014. Jordan oversees the Facilities, Financial Management, Economic Research & Policy, Information Systems, Safety and Self-Insurance/Audit bureaus.



## **David Mora, Operations Administrator**

Prior to joining the WCA's senior management team in August 2024, David Mora supervised and mentored a team of senior and staff investigative auditors at the New Mexico Office of the State Auditor. Previously, Mora was a consumer industry manager and senior financial examiner at the state Regulation & Licensing Department's Financial Institutions Division. He holds Bachelor's (University of New Mexico) and Master's (New Mexico Highlands University) degrees in business administration. Mora is certified as a fraud examiner and government financial manager. He oversees the WCA's Clerk of Court, Field Programs, including Employer Compliance and Ombudsman, Mediation and Medical Cost Containment 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.



## **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.

# Judges



## **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.



## **Ned Fuller**

Judge Fuller previously served as an assistant director from March 2000 to March 2001, and WCA judge from March 2001 to December 2003, then returned to the WCA as Director in January 2011. Fuller left the WCA Director's Office in December 2013 to work at New Mexico General Services Department (GSD), first as litigation bureau chief of GSD's Risk Management Division, then as acting cabinet secretary until December 2018. More recently, Fuller has served as a deputy district attorney for New Mexico's 11th Judicial District in Farmington, N.M.





# Appendix

# 06

Located about halfway between Silver City and Deming, City of Rocks State Park encompasses a one square mile area in the Chihuahuan desert region of southwestern New Mexico. The park's geology is made up of large, sculptured rock columns, or pinnacles formed about 35 million years ago following a volcanic eruption. The formations rise as high as 40 feet and are separated by paths or lanes resembling city streets. The area offers camping, hiking, biking and other outdoor activities, with a visitor center that has modern restrooms and hot showers.



# Appendix A: References

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# Abbreviations

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

## GROUP AND ORGANIZATION NAMES

American Medical Association	AMA
NM Workers' Compensation Administration	WCA
NM Department of Workforce Solutions	DWS
Economic Research and Policy Bureau	ERPB
Employer Compliance Bureau	ECB
National Association of Insurance Commissioners	NAIC
National Council on Compensation Insurance	NCCI
Workers' Compensation Research Institute	WCRI

## GENERAL & WORKERS' COMPENSATION TERMINOLOGY

Annual Expenditure Report	AER
Cost to Revenue Ratio	CRR
Court of Appeal	COA
Coronavirus Disease 2019	COVID
Electronic Data Interchange	EDI
First Report of Injury or Illness	FROI
Fiscal Year	FY
Health Care Provider	HCP
Heating, Ventilation, and Air Conditioning	HVAC
House Memorial	HM
House Bill	HB
Maximum Medical Improvement	MMI
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



*Rockhound State Park was established in 1965 and is located seven miles southeast of Deming, N.M., in the southwest part of the state. Within the Little Florida Mountains, the area was once covered in volcanic ash more than 33 million years ago. The park earned its name from the abundant minerals found in the area, which include quartz crystals, geodes, jasper and perlite. It was the first park in the country to allow collection of rocks for personal use.*

# Abbreviations

Post-Traumatic Stress Disorder  
Proof of Coverage  
Recommended Resolution  
Resource-Based Relative Value Scale  
Return to Work  
Senate Bill  
Subsequent Report of Injury  
Temporary Partial Disability  
Temporary Total Disability  
Third Party Administrator  
Uninsured Employers' Fund

PTSD  
POC  
RR  
RBRVS  
RTW  
SB  
SROI  
TPD  
TTD  
TPA  
UEF

*The Valles Caldera is a 13.7-mile wide volcanic caldera in the Jemez mountains, located in northern New Mexico. It was first designated as a Natural National Landmark in 1975. Then in 2000, the federal government established the Valles Caldera National Preserve, which was overseen by a board of trustees appointed by the U.S. President. It was designated as a unit of the national park system in 2014, with the National Park Service assuming day-to-day management in October 2015.*



# Appendix B

Table B.1 Insurance Carriers: Medical Costs Associated with Indemnity Claims, 2019 - 2023

Insurance Carrier Medical Costs Associated with Indemnity Claims					
	2019	2020	2021	2022	2023
<b>Facility</b>	\$22,651,458	\$16,038,628	\$14,035,905	\$12,631,630	\$14,746,298
Avg. Cost per Claim	\$2,189	\$1,519	\$1,579	\$1,395	\$1,682
<b>Physicians</b>	\$19,841,720	\$19,225,947	\$16,116,463	\$17,766,010	\$17,627,582
Avg. Cost per Claim	\$1,917	\$1,820	\$1,813	\$1,962	\$2,010
<b>Therapy</b>	\$10,200,338	\$8,107,163	\$8,320,160	\$8,032,737	\$8,860,842
Avg. Cost per Claim	\$986	\$768	\$936	\$887	\$1,010
<b>Medication</b>	\$8,963,796	\$10,558,249	\$7,393,349	\$6,857,384	\$6,381,726
Avg. Cost per Claim	\$866	\$1,000	\$832	\$757	\$728
<b>Vocational Rehab</b>	\$1,168,809	\$248,003	\$110,294	\$515,354	\$405,044
Avg. Cost per Claim	\$113	\$23	\$12	\$57	\$46
<b>Other</b>	\$35,169,967	\$30,578,738	\$37,353,002	\$38,680,944	\$35,429,486
Avg. Cost per Claim	\$3,398	\$2,895	\$4,201	\$4,271	\$4,040
<b>Grand Total for Year</b>	\$97,996,088	\$84,756,728	\$83,329,173	\$84,484,059	\$83,450,978
<b>Total No. of Claims</b>	10,349	10,562	8,891	9,057	8,769
<b>Avg. Cost per Claim</b>	\$9,469	\$8,025	\$9,372	\$9,328	\$9,517

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2019 - 2023*

Table B.2 Self-Insurers: Medical Costs Associated with Indemnity Claims, 2019 - 2023

<b>Self-Insurer Medical Costs Associated with Indemnity Claims</b>					
	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
<b>Facility</b>	\$13,333,145	\$8,558,630	\$8,441,309	\$9,893,859	\$9,948,453
Avg. Cost per Claim	\$2,186	\$1,522	\$1,555	\$2,301	\$2,337
<b>Physicians</b>	\$7,436,596	\$6,506,951	\$7,414,582	\$7,599,353	\$8,176,320
Avg. Cost per Claim	\$1,219	\$1,157	\$1,366	\$1,768	\$1,921
<b>Therapy</b>	\$6,214,573	\$5,113,988	\$5,386,209	\$5,437,938	\$5,827,099
Avg. Cost per Claim	\$1,019	\$910	\$992	\$1,265	\$1,369
<b>Medication</b>	\$5,335,476	\$4,038,474	\$3,488,347	\$3,079,885	\$3,078,144
Avg. Cost per Claim	\$875	\$718	\$643	\$716	\$723
<b>Vocational Rehab</b>	\$163,740	\$234,367	\$160,294	\$120,396	\$148,314
Avg. Cost per Claim	\$27	\$42	\$30	\$28	\$35
<b>Other</b>	\$14,070,032	\$10,345,436	\$9,946,606	\$9,893,149	\$12,361,448
Avg. Cost per Claim	\$2,307	\$1,840	\$1,833	\$2,301	\$2,904
<b>Grand Total for Year</b>	\$46,553,560	\$34,797,847	\$34,837,346	\$36,024,580	\$39,539,778
<b>Total No. of Claims</b>	6,100	5,622	5,427	4,299	4,257
<b>Avg. Cost per Claim</b>	\$7,632	\$6,190	\$6,419	\$8,380	\$9,288

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2019 - 2023*

**Table B.3 Insurance Carriers: Workers' Compensation Insurance Paid Losses, 2019 - 2023**

<b>Loss Category &amp; Claims Count</b>					
<b>INDEMNITY Claims</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
<b>A. Wage Replacement Benefits</b>	\$82,089,343	\$84,141,598	\$75,879,492	\$80,512,142	\$86,172,405
<b>B. Medical Costs<sup>1</sup></b>	\$96,827,279	\$84,508,725	\$83,218,879	\$83,968,705	\$83,045,934
<b>C. Attorney Fees</b>	\$12,209,463	\$8,572,597	\$8,110,863	\$9,420,449	\$9,071,829
<b>D. Vocational Rehab Costs</b>	\$1,168,809	\$248,003	\$110,294	\$515,354	\$405,044
<b>E. Other Benefits<sup>2</sup></b>	\$2,483,295	\$2,119,799	\$3,130,943	\$2,109,373	\$2,822,563
<b>F. Indemnity Claims Subtotal</b>	\$194,778,189	\$179,590,722	\$170,450,470	\$176,526,023	\$181,517,775
<b>G. No. of Indemnity Claims</b>	10,349	10,562	8,891	9,057	8,769
<b>MEDICAL-ONLY Claims</b>					
<b>H. Medical Costs Subtotal</b>	\$18,772,634	\$16,563,474	\$13,383,887	\$15,406,015	\$20,926,697
<b>I. No. of Medical-Only Claims</b>	13,499	11,480	9,738	10,047	11,096
<b>J. Grand Total: Paid Losses</b>	\$213,550,822	\$196,154,196	\$183,834,358	\$191,932,038	\$202,444,472
<b>K. Grand Total : No. of Claims</b>	23,848	22,042	18,629	19,104	19,865
<b>L. Average Loss per Indemnity</b>					
' Claim = F/G	\$18,821	\$17,003	\$19,171	\$19,491	\$20,700
<b>M. Average Loss per Medical-Only</b>					
' Claim = H/I	\$1,391	\$1,443	\$1,374	\$1,533	\$1,886
<b>N. Average Loss per Carrier</b>					
' Claim = J/K	\$8,955	\$8,899	\$9,868	\$10,047	\$10,191

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2018 - 2023*

<sup>1</sup>Grand Total for Year from B.1 Less Vocational Rehab Costs

<sup>2</sup>Includes Miscellaneous Administrative and Funeral Benefits



**Table B.4 Self-Insurers: Workers' Compensation Insurance Paid Losses, 2019 - 2023**

<b>Loss Category &amp; Claims Count</b>					
<b>INDEMNITY Claims</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
<b>A. Wage Replacement Benefits</b>	\$33,344,394	\$31,069,936	\$29,149,634	\$30,632,844	\$29,692,091
<b>B. Medical Costs<sup>1</sup></b>	\$46,389,821	\$34,563,479	\$34,677,052	\$35,904,184	\$39,391,464
<b>C. Attorney Fees</b>	\$4,770,132	\$4,327,068	\$4,141,728	\$3,861,324	\$4,003,663
<b>D. Vocational Rehab Costs</b>	\$163,740	\$234,367	\$160,294	\$120,396	\$148,314
<b>E. Other Benefits<sup>2</sup></b>	\$2,685,318	\$1,162,728	\$1,377,578	\$1,809,916	\$1,706,804
<b>F. Indemnity Claims Subtotal</b>	\$87,353,404	\$71,357,578	\$69,506,286	\$72,328,664	\$74,942,336
<b>G. No. of Indemnity Claims</b>	6,100	5,622	5,427	4,299	4,257
<b>MEDICAL-ONLY Claims</b>					
<b>H. Medical Costs Subtotal</b>	17,617,246	14,600,976	13,109,994	\$ 10,593,798	\$ 14,910,135
<b>I. No. of Medical-Only Claims</b>	10,363	7,997	8,484	7,771	9,360
<b>J. Grand Total: Paid Losses</b>	\$104,970,651	\$85,958,554	\$82,616,280	\$82,922,462	\$89,852,471
<b>K. Grand Total : No. of Claims</b>	16,463	13,619	13,911	12,070	13,617
<b>L. Average Loss per Indemnity</b>					
' Claim = F/G	\$14,320	\$12,693	\$12,807	\$16,825	\$17,604
<b>M. Average Loss per Medical-Only</b>					
' Claim = H/I	\$1,700	\$1,826	\$1,545	\$1,363	\$1,593
<b>N. Average Loss per Carrier</b>					
' Claim = J/K	\$6,376	\$6,312	\$5,939	\$6,870	\$6,599

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2019 - 2023*

<sup>1</sup>Grand Total for Year from B.1 Less Vocational Rehab Costs

<sup>2</sup>Includes Miscellaneous Administrative and Funeral Benefits

**Table B.5 Self-Insured State Government Workers' Compensation Insurance Losses & Claims, 2023**

Organization	Losses				Number of Claims		
	Employees Covered	Medical-Only Claims	Indemnity Claims	Total	With Benefits Paid	Opened	Closed
Albuquerque Public School	11,730	\$1,331,291	\$3,487,149	\$4,818,440	Med-Only 628 Indemnity 301	83 38	499 68
Albuquerque Bernalillo Co. Water Utility Auth.	636	\$77,930	\$590,069	\$667,999	Med-Only 55 Indemnity 24	12 0	35 5
City of Albuquerque	9,434	\$1,030,875	\$4,546,161	\$5,577,036	Med-Only 699 Indemnity 144	559 67	443 87
City of Carlsbad	465	\$20,433	\$599,030	\$619,463	Med-Only 38 Indemnity 38	6 8	27 13
City of Farmington	1,040	\$118,378	\$1,079,379	\$1,197,756	Med-Only 124 Indemnity 54	21 11	92 9
City of Las Cruces	1,471	\$300,020	\$907,275	\$1,207,295	Med-Only 201 Indemnity 67	26 7	129 15
City of Santa Fe	1,343	\$286,390	\$836,989	\$1,123,379	Med-Only 141 Indemnity 69	27 4	104 17
NM County Insurance Authority	10,008	\$939,978	\$7,650,358	\$8,590,336	Med-Only 1386 Indemnity 488	689 85	741 150
NM Public Schools Ins. Authority	40,963	\$1,901,089	\$8,779,790	\$10,680,879	Med-Only 1711 Indemnity 894	334 105	1075 261
NM Self-Insurer's Fund (Municipal League)	7,100	\$2,942,995	\$3,105,205	\$6,048,200	Med-Only 415 Indemnity 88	120 35	122 16
State of New Mexico	58,739	\$1,693,821	\$11,650,369	\$13,344,190	Med-Only 462 Indemnity 154	462 154	517 177

Source: New Mexico Workers' Compensation Administration, *Annual Expenditure Report, 2023*

# 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:

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	2025 max benefit = \$1,093.83

*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 faith, unfair claims process, or other violations of law. A worker who commits fraud can also be criminally prosecuted.



# New Mexico Workers' Compensation Administration Offices

## Location & Main Mail Address

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Albuquerque, NM 87106-4190

## Alternate Mailing Address

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Albuquerque, NM 87125-7198

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1-800-255-7965  
Fax Clerk of the Court:  
(505) 841-6060

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Farmington, NM 87401  
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## Las Vegas

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Las Vegas, NM 87701  
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Fax: (505) 454-9248

## Hobbs

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Hobbs, NM 88240  
Phone: 575-397-3425  
In state toll-free phone:  
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## Roswell

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400 N. Pennsylvania Ave.,  
Ste. 425 Roswell, NM 88201  
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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



# New Mexico Workers' Compensation Administration

## WCA Helpline/Hotline (toll free in New Mexico)

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

## WCA Website

[www.workerscomp.nm.gov](http://www.workerscomp.nm.gov)

COVER PHOTO: New Mexico's largest state park, Elephant Butte State Park surrounds a 36,000-acre reservoir, is 40 miles long with more than 200 miles of shoreline. Named for a rock formation that resembles an elephant, it is located 7 miles north of Truth or Consequences and offers outdoor recreation including camping, fishing and boating.