



**What's Inside:**

|                              |   |
|------------------------------|---|
| Enforcement Bureau Chief     | 2 |
| Changes to AMA Guides        | 2 |
| AMA Guides Announcement      | 2 |
| New Mediator Joins WCA       | 3 |
| Employee of Quarter          | 3 |
| Early Return to Work Program | 4 |
| COVID-19 Data Update         | 5 |
| WCA Contact Information      | 6 |

**MEETING NOTICE:**

The Advisory Council on Workers' Compensation and Occupational Disease Disablement will conduct a virtual meeting at 2 p.m., August 12, 2021. Visit <https://workerscomp.nm.gov/Advisory-Council> for information.

**NMWCA Offices Have Re-Opened to Public and Business Has Continued**

By Aileen O’Catherine

In March 2020 the COVID-19 pandemic prompted Governor Michelle Lujan-Grisham to shut down all but essential services at state agencies in order to minimize risk of exposure. At the New Mexico Workers' Compensation Administration's seven offices, work continued thanks to the addition of technological features that allowed for staff to communicate and telework. Although the majority of interactions with the public could not occur in person, the agency's work carried on. The Clerk of the Court, for example, continued to work with the workers' compensation community to process and file 38,751 legal pleadings in 2020, which included recommended resolutions, motions, entries of appearance and orders. There were 3,577 applications, complaints and lump-sum petitions filed with the Clerk of the Court despite the pandemic affecting the state's workforce.

In 2020, 2,586 cases were filed and 2,552 cases were closed. In 2020, 63.2% of disputes were closed in a 90-day time period, the second highest percentage of closed cases within a 90-day time frame since 2016.

Mediators linked virtually to workers, attorneys and employer insurers to discuss differences and write recommended resolutions (RRs). In 2020, mediators wrote 1,400 RRs, and the median number of days it took to file an RR decreased to 50 days, which was three days fewer than in 2019.

Of the 1,400 complaints that went through the mediation process, 33 were disposed through a formal trial. Judges moved to their home offices but continued to hear cases and make determinations, thanks to a coordinated staff effort to work remotely and conduct proceedings virtually.

The Medical Cost Containment Bureau informally resolved 300 billing disputes in 2020, including 17 carried over from 2019. Economic Research and Policy Bureau staff continued to collect and analyze information. The Advisory Council met virtually to stay abreast of ongoing issues and concerns. Outreach continued in the form of virtual workshops and educational venues. Ombudsmen continued to assist those who had questions. Everyone became well acquainted with a variety of virtual meeting platforms and the capacity of technology to not work quite right, or to fail.

The NMWCA re-opened its offices for walk-in business on July 12, 2021, with the majority of staff returning to the office.

To find out more about the agency's work during 2020, read the Return-to-Work article on page 4 of this newsletter, and look for updates in the agency's upcoming Annual Report.

Read about COVID-19's effect on New Mexico's workforce on page 6.

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## Sandra Gardner to Lead Enforcement Bureau

By Aileen O’Catherine

With extensive experience in litigation, time in private practice, and enforcing the law in civil court, Sandra Gardner brings a wide and varied background in law to her position as the WCA’s new Enforcement Bureau Chief. Gardner served as a manager/mediator at the Albuquerque Metro Court and spent five years with the New Mexico Children, Youth and Families Division where she worked on abuse and neglect cases. Her focus while in private practice was on family law.

Gardner has lived in New Mexico since she was 5 years old and grew up in Santa Fe. She earned her undergraduate

degree in psychology at Northern Arizona University. “I find having that background has been very useful in law,” she said, “especially in family law.” Gardner obtained her law degree from the University of New Mexico and now looks forward to working in the area of workers’ compensation law. “I look forward to being a part of the agency and the workers’ compensation community,” Gardner said. Her love of the outdoors, which she developed while living in Santa Fe, continues with biking and hiking. “We all look forward to working with Sandra,” said General Counsel Michael Holt. “She is a great addition to the agency.”



Sandra Gardner

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## Changes to the American Medical Association Guides for Evaluating Impairment

By Jessica Sanchez

According to the New Mexico Workers’ Compensation Act 52-1-24 NMSA 1978 A, impairment is “based upon the most recent edition of the American Medical Association’s (AMA) Guide (the Guides) to the Evaluation of Permanent Impairment.” This reference can also be found in Workers’ Compensation

Administration (WCA) Rules 11.4.7.7 V and 11.4.7.9 G.

Effective July 1, 2021, the AMA considers *AMA Guides Sixth 2021* to be the most current version of *AMA Guides Sixth*. Going forward, the *AMA Guides* will be maintained exclusively online at <https://www.amaguides.com>

Other Resources provided by the AMA:

### AMA Guides Are Changing Q&A

•AMA Guides to the Evaluation of Permanent Impairment: **Frequently Asked Questions**

•The evolution of the **AMA Guides**

•Stay informed about **AMA Guides Editorial Panel Meetings**

•Learn more about the **AMA Guides Digital**

•Learn more about the **2021 update at AMA EdHub™**

•The **AMA Guides Newsletter**

•**Education Module w/ free CME**

•**Summary of Changes**

•**AMA Guides Sixth 2021 Information**

•**Medical Seminar Recording:** A seminar was held on April 15.

*Jessica Sanchez is the Medical Cost Containment Bureau Chief*

### Announcement:

Proposals to update the neurology content (chapter 13) of the AMA Guides are being considered. The public comment period is tentatively scheduled for August 2-27. Comments can be submitted to the Editorial Panel for consideration. For more information, email [guidesproposals@ama-Assn.org](mailto:guidesproposals@ama-Assn.org) with full name and title; name of organization; summary of interest.

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### NM Workers’ Comp. Adm. Quarterly Bulletin

Leigh Martinez, Acting Director

Diana Sandoval-Tapia, Public Information Officer

Aileen O’Catherine, Public Relations Specialist

The Bulletin is electronically published in January, April, July and October by the Public Information Office of the New Mexico Workers’ Compensation Administration. The Bulletin is available free of charge. Send changes of e-mail address and requests to receive the Bulletin to Diana Sandoval-Tapia in the Public Information Office, New Workers’ Compensation Administration, WCA-PIO@state.nm.us.

Suggestions for articles are welcome. Call Diana Sandoval-Tapia at (505) 841-6052.

Recent issues of the Quarterly Bulletin can be viewed on the Internet at <https://workerscomp.nm.gov/NMWCA-Publications>.

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### What is the Advisory Council?

The Advisory Council on Workers’ Compensation and Occupational Disease Disablement is a task force created by statute, comprised of six members, three representing workers and three representing employers. The primary role of the Council is to advise the governor and legislature on the status of the workers’ compensation system in New Mexico. The Advisory Council is required to meet at least twice annually. Scheduled meetings of the Council are announced on the WCA website, <https://www.workerscomp.nm.gov/Advisory-Council>.

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## Sheila Hurley Joins Mediation Bureau

By Aileen O’Catherine

Joining the WCA’s Mediation Bureau represents a perfect alignment and culmination of new mediator Sheila Hurley’s long-term interest and experience in both employment and health care law. It is also a new southwest adventure for Hurley. In 2017, having spent many years practicing employment law in New York, both in the city and the Hudson Valley, Hurley decided it was time for a change and accepted a contract position in New Mexico with the Social Security Administration (SSA). Moving to Albuquerque was a big change, but she looked forward to experiencing new cultures and viewed the move as an enriching experience for her youngest child, a daughter, who joined her. They both quickly fell in love with Albuquerque and its people and diversity of landscapes. “I love that you can drive from the mountains to downtown in about 20 minutes,” Hurley said. Hurley’s father traveled extensively for his career, and Hurley

was raised primarily in England, before the family returned to the U.S. and New York City. As an undergraduate, she enjoyed the diversity of New York City, and earned a degree in anthropology and biology from Hunter College, and subsequently a law degree from Fordham Law School. Post-law school, she practiced health care and employment law at Epstein, Becker Green in New York City, and employment law at a small firm on Long Island, until the events of 9/11. “That threw everything into chaos for quite a long time,” she said. She moved to upstate New York and the peace of the Hudson Valley, where she opened her own practice in employment and family law. She raised a family, and for over ten years practiced law and lived a semi-rural life with horses and chickens in Saugerties (which is not too far from Woodstock and right along the Hudson River). By 2017, she was ready to explore new opportunities and accepted the contract offer from



Sheila Hurley

the SSA in New Mexico. Hurley has since obtained a limited New Mexico license to practice law with the State of New Mexico. Prior to the WCA, she worked at the Children, Youth and Families Department, and enjoyed the opportunity while there to help people make good decisions. In her position at the WCA, she thoroughly enjoys mediating, her co-workers and getting to know the workers’ compensation community. Along with a daughter, Hurley also has two adult sons.

## Barbara Garcia Named Employee of the Quarter

Compliance Officer Barbara Garcia has been named the WCA Employee of the Quarter for the second quarter of 2021. The quarterly award recognizes agency employees who exemplify excellence in the workplace. Garcia, who has been with the WCA since January 2006, is in the Employer Compliance Bureau and was nominated by Trey Flynt, her bureau chief.

“Ms. Garcia is a long-time employee of the agency and the longest tenured

compliance officer in our bureau,” said Trey Flynt. “Besides being one of the hardest working people in the agency, and one who always meets and exceeds her case quota, she is helpful to her coworkers, sharing her experience and helping everyone (including myself).”

Flynt noted that during the pandemic, Garcia continued to excel at her job even though it required her learning how to use a “hot spot” and a laptop in order to work from home. She also recently grappled with a household addition

when her granddaughter and great-grandson returned to the country to live with her. “Even with these big changes in her life, she continues to work each day, doing a great job, and helping the public. Ms. Garcia is a great worker who is well deserving of this honor,” Flynt wrote in his nomination.

For her part, Garcia believes there are so many hard working WCA employees. “We are all deserving and I’m proud to be part of the hard working WCA team,” she said.

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## Early Return-to-Work Initiative

By Marietta Valdez and Jessica Sanchez

Her job title is “Return-to-Work (RTW) Specialist,” but during this past year, when employers were furloughing and laying people off rather than having them return to work, and when all the “normal” outreach venues and practices to employers were cut off, the WCA’s RTW specialist found that learning how to work during COVID-19 meant having a lot of patience and resilience. In her own words, Return-to-Work Specialist Marietta Valdez describes how the strain of COVID-19 has been an exercise in both resilience and empathy--*Jessica Sanchez, WCA Medical Cost Containment Bureau Chief.*

*From Marietta Valdez, WCA Return-to-Work Specialist:* After my seven-week crash course on workers’ compensation policy, our agency was suddenly thrust into this new, unfamiliar world of teleworking.

I started as the RTW Specialist on January 27, 2020 in the Las Cruces Workers’ Compensation Administration office. I am new to the workers’ compensation realm, but after working as a job developer and business consultant for 22 years, I felt my strengths as a case manager who cultivated employer relations and job matching for individuals seeking employment were a good match. Those skills were put to the test when we, as a nation, got hit with the pandemic that sent many people spiraling into the new world of telework, and unfortunately, record numbers of unemployment, due to mass business shutdowns.

Talk about feeling lost in this unfamiliar environment! I began to relate to what our own injured workers face throughout their recovery process. The feeling of loss when you lose your normal daily routine can be overwhelming. Zoom, email and text messages were the only way I could stay connected to my co-workers and network throughout the state. Being able

to ask questions and get feedback while teleworking made me feel like I was not alone, and even if I did not know everything about workers’ comp yet, my presence and input mattered. I can see how someone who does not have that support system might give up. Getting up and going to work fulfills that sense of purpose that many of us focus on, and when the injured worker loses that, who or what helps them stay connected?

The new term that emerged during the pandemic was ‘pivot’ and boy did we pivot! I was not new to the world of Zoom, but pivoting to networking online can be overwhelming. Trying to keep a virtual audience engaged when we cannot see their faces is hard. Being able to have a dialogue back and forth in person helps keep the audience engaged. However, attendees online can quietly hide behind the screen and instead zone out. This is not true of every attendee or every meeting, but it is something to keep in mind when you get no response or feedback from your virtual audience.

Part of my job is to conduct outreach to inform employers on how they can support their recovering workers through the workers’ compensation process and maximize positive recovery outcomes with an effective RTW program. Trying to be creative to adapting to work from home and still conduct outreach, I began by reaching out to the New Mexico Department of Workforce Solutions (DWS), community agencies, and the nearby community college to make sure I would still get their emails and invitations as part of advisory committees and job fairs. Zoom allowed me the flexibility to present in Hobbs early in the morning and conduct another presentation in another part of the state just an hour later. However, online networking is dull in comparison to face-to-face interactions.

I am glad to be back in the office and attending in-person events. I am also grateful for my pandemic lessons.

Virtual meetings and phone calls can be effective for planning events, creating strategies with partner agencies, and conducting follow ups with employers because you all have the same goal. Conducting outreach and getting ‘buy-in’ from stakeholders is better done in person, where you can get a real sense of the employers’ values, goals, and their current return-to-work program policies.

My big take away after 15 months of being isolated at home is the importance of putting myself in the recovering worker’s shoes. The worker is suddenly disconnected from a daily routine and loses income, all while dealing with an injury. Without the proper support from the employer, health care provider and insurer, navigating this confusing system can make or break the recovering employee’s outcome. The WCA Early RTW Initiative wants to be there to support the employer to help them return their injured worker to work as quickly and safely as possible.

*From Jessica Sanchez:* The Early RTW Initiative is a voluntary educational program created five years ago. The previous steady growth in interest in our Early RTW Initiative has continued, with Marietta Valdez and myself doing virtual outreach at every opportunity. From March 2020 until July 2021, Marietta and I virtually conducted 37 larger outreach events, conducted 43 informational meetings, wrote 17 articles for publications in e-newsletters or other publications and reached 2,951 people to educate on RTW and strong workers’ compensation practices. We presented at places such as the Inter-agency Council of Doña Ana County, the Doña Ana Community College Office of Administration Technology advisory council, the Business 2 Business (B2B) Mastermind Event, Hobbs Chamber of Commerce, American Society of Safety professionals (ASSP) Conference, City of Las Cruces Small Business Resource

Continued on page 6

# New Mexico COVID-19 Workplace Data Update

By Aileen O’Catherine and Ruili Yan

Data extracted from the WCA database on June 30, 2021 provides ongoing insight into COVID-19’s impact on the workplace in New Mexico. To that date, there were 3,697 First Reports of Injury (FROIs) filed with the WCA that were coded to indicate COVID-19.

Of the total 3,697 submitted claims for COVID-19 in the workplace, 2,479 were for females (67.1%), and 1,178 (31.0%) were for males. Forty, or about 1%, were undeclared for the gender category.

There were 1,013 Subsequent Reports of Injury (SROIs) filed which listed coronavirus as the cause of illness. The filing of a SROI indicates that either a medical or indemnity payment has been made by the insurer. Of the 1,013 SROIs, 929 were indemnity claims. Detailed demographic information indicating occupation and other markers was available for 923 of these claims.

The WCA received its first pandemic-related SROIs in April, 2020, with the highest number submitted in November and December 2020, followed by January 2021. December had the largest number of SROIs filed,

189, of which 185 were indemnity claims. It is possible that some non-indemnity claims may become indemnity claims in the future.

Data collected for age indicated the age group 25-34 had the largest number of claimants at 1,117, followed by the age group 35-44 with 814 claims.

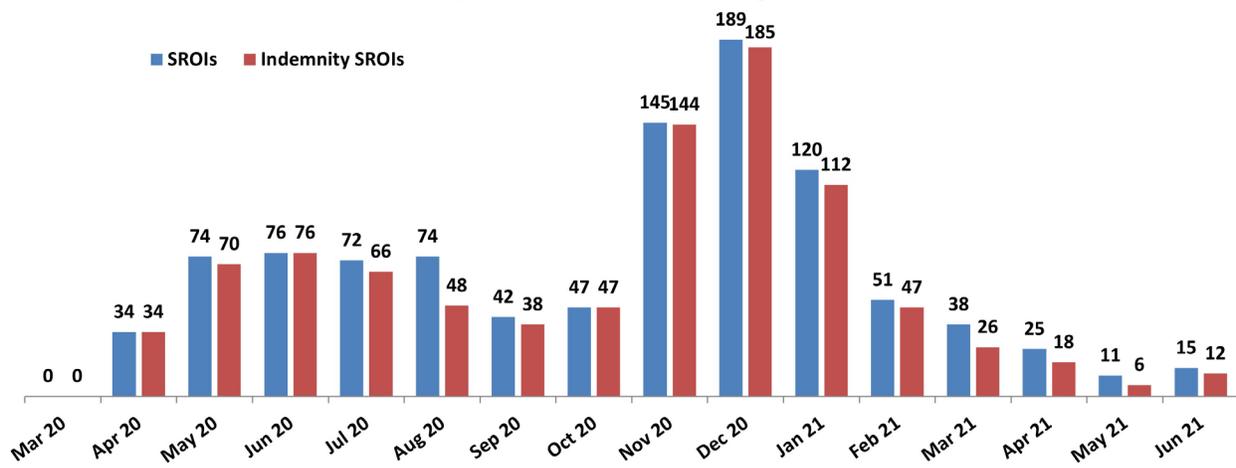
The largest percentage of indemnity claims for the pandemic occurred in the field titled Health Care & Social Assistance (80.7%). This was followed by Administrative & Support, and Waste Management & Remediation Services (11.9%). Occupations most affected by the coronavirus in the workplace fell into the category of Health Care Practitioner & Technical Occupations (42.4%), followed by Health Care Support Occupations (25.8%). Not all affected occupations were health-related, albeit their numbers are smaller. For example, Protective Service Occupations made up 8.6% of this pool of claims, and Office and Administrative Support occupations made up 4.9%.

Twelve COVID-related worker deaths had been reported to the WCA at the time the data was drawn. They occurred from March 2020 through

June 2021. The highest incidence of fatality was during the month of November 2020, when there were three deaths. There were two deaths in April and two in May 2020. One death occurred in the months of March and December, February and again in June 2021.

The data does not provide a comprehensive picture of the COVID-19 virus’ impact on New Mexico workers. There may be some workers whose illness goes unreported at the WCA if workers receive time off with sick pay to cover for the loss of work time. Other employers may opt not to enter a claim because a worker is not in the health care field. However, the data provided to the WCA does provide a clear picture to be drawn on the data available. The WCA plans to continue to study information and trends, and updates will be made available as more information is gathered. Look for more information in our 2021 Annual Report when it publishes later in the year.

SROIs (E6) Filed/Received by Month



## Return-to-Work Program (cont'd.)

Continued from page 4

Fair, Society of Human Resource Management (SHRM) Conference, the NM State University (NMSU), Department of Workforce Solutions (DWS) Employ New Mexico Fair and the NM Workers' Compensation Association Virtual Conference, to name just a few.

Unfortunately, we did not have any new employers enroll in the RTW consults, but we did assist with 32 inquires/specific issue consults. More than anything, we used the pandemic time as a learning opportunity and are now trying to get out there again and begin the in-person outreach that was

previously taking off.

We have seen a renewed interest in everything RTW-related and just attended our first in-person state-wide conference which happened to be for school administrative professionals. We have learned to take pride in small victories when we hear of employers using RTW materials we have provided on the website and telling us how important RTW was. Five years ago, when we began talking to this same audience, no one raised their hand when we asked if they knew what a RTW program was. We are letting employers know that in this job-seeker

market, it pays to retain workers even if they get injured. We can help them in that area. We still accept referrals from anyone for our RTW consults and have wonderful tools on our WCA website at: <https://workerscomp.nm.gov/Return-To-Work>

Going forward, we want to expand and employ what we learned under COVID-19--that we are now more empathetic toward those we are trying to help.

*Jessica Sanchez is the WCA Medical Cost Containment Bureau Chief and Marietta Valdez is the WCA Return-to-Work Program Specialist*

### HOLIDAY CLOSURE

The Workers' Compensation offices in Albuquerque and all its field offices will be closed on the following upcoming holidays:

**Labor Day, Monday,**

**September 6**

**Indigenous Peoples' Day,**

**Monday, October 11**



## New Mexico Workers' Compensation Administration Offices:

### MAIN OFFICE

#### Location & Main Mail Address:

2410 Centre Ave. SE  
Albuquerque, NM 87106-4190

#### Alternate Mailing Address:

PO Box 27198  
Albuquerque, NM 87125-7198

#### Phone Numbers:

Phone: (505) 841-6000  
In state toll-free phone:  
1-800-255-7965  
Fax Clerk of the Court:  
(505) 841-6060  
Director's Fax: (505) 841-6009

### Regional Offices

#### Farmington:

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

#### Hobbs:

James M. Murray Building  
2120 North Alto, Unit 3  
Hobbs, NM 88240  
Phone: (575) 397-3425  
In state toll-free phone:  
1-800-934-2450

#### Las Cruces:

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

#### Las Vegas:

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

#### Roswell:

Penn Plaza Building  
400 N. Pennsylvania Ave., Ste. 425  
Roswell, NM 88201  
Phone: (575) 623-3781  
In state toll-free phone:  
1-866-311-8587  
Fax: (575) 623-0078

#### Santa Fe:

Aspen Plaza  
1596 Pacheco, St. #202  
Santa Fe, NM 87505  
Phone: (505) 476-7381  
Fax: (505) 476-7390

**WCA Helpline-Hotline: (toll free in New Mexico)**

1-866-WORKOMP 1-866-967-5667

**WCA Website:**

<https://workerscomp.nm.gov>