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# **Workers' Compensation Agency**

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## **2005 Annual Report**



**Jennifer M. Granholm, Governor**  
*State of Michigan*

Robert W. Swanson, Acting Director  
David Plawecki, Deputy Director  
*Department of Labor & Economic Growth*

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*Workers' Compensation Agency*

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## *Overview*

2005 marked the 93<sup>rd</sup> anniversary of workers' compensation law in Michigan. Prior to the initial enactment in 1912, a worker who was injured in the course of his or her employment could sue his or her employer in a civil or "tort" action. This was the same remedy available to any person injured under other circumstances. The tort remedy, however, has certain problems. It requires the worker prove that the injury occurred because the employer was negligent. The employer could then assert one or more of three important defenses: (1) that the worker was also negligent, (2) that the worker knew of the dangers involved and "assumed the risk," or (3) that the injury occurred because of the negligence of a "fellow employee." Under this system it was very difficult for workers to recover against their employers. If they did win, however, they could receive damages similar to other civil actions.

In 1912 Michigan, along with most other states, adopted a Workmen's Compensation Act. The new remedy was essentially a "no-fault" system under which a worker no longer had to prove negligence on the part of the employer, and the employer's three indicated defenses were eliminated. The intent of the new law was to require an employer to compensate a worker for any injury suffered on the job, regardless of the existence of any fault or whose it might be.

Workers' compensation law became Michigan's first "tort reform" legislation. In exchange for the simplified burden of proof and elimination of the common law tort defenses indicated above, injured workers are now entitled only to (1) certain wage loss benefits, (2) medical treatment subject to cost containment rules, and (3) limited vocational rehabilitation services. Recovery under workers' compensation is limited to these three areas, no matter how serious the injury. There is no pain and suffering compensation. There are no jury trials. The cases are adjudicated before an appointed Board of Magistrates and the first level of appeal is to another appointed body, the Workers' Compensation Appellate Commission. Appeals on the Court of Appeals and Supreme Court are only by leave granted. Employers are protected from most other injury claims by employees since the benefits under the Workers' Disability Compensation Act are deemed to be the employee's "exclusive remedy."

Nearly all employers in Michigan are covered by workers' compensation. This includes both public and private employers. In fact, when talking about workers' compensation, it is easier to discuss the exceptions. There are a few classes of workers who are covered by federal laws and are not covered by the Workers' Disability Compensation Act of Michigan. Employees of the federal government (such as postal workers, employees at a veteran's administration hospital, or members of the armed forces) are covered by federal laws. People who work on interstate railroads are covered by the Federal Employers Liability Act. Seamen on navigable waters are covered by the Merchant Marine Act of 1920, and people loading and unloading vessels are covered by the Longshoremen's and Harbor

Workers' Compensation Act. Virtually all other workers and employers are subject to Michigan's law.

Certain very small employers are exempt. If a private employer has three or more employees at any one time, or employs one or more workers for 35 or more hours per week for 13 or more weeks, the employer is subject to the Workers' Disability Compensation Act (Section 115).

## ***2005 Highlights***

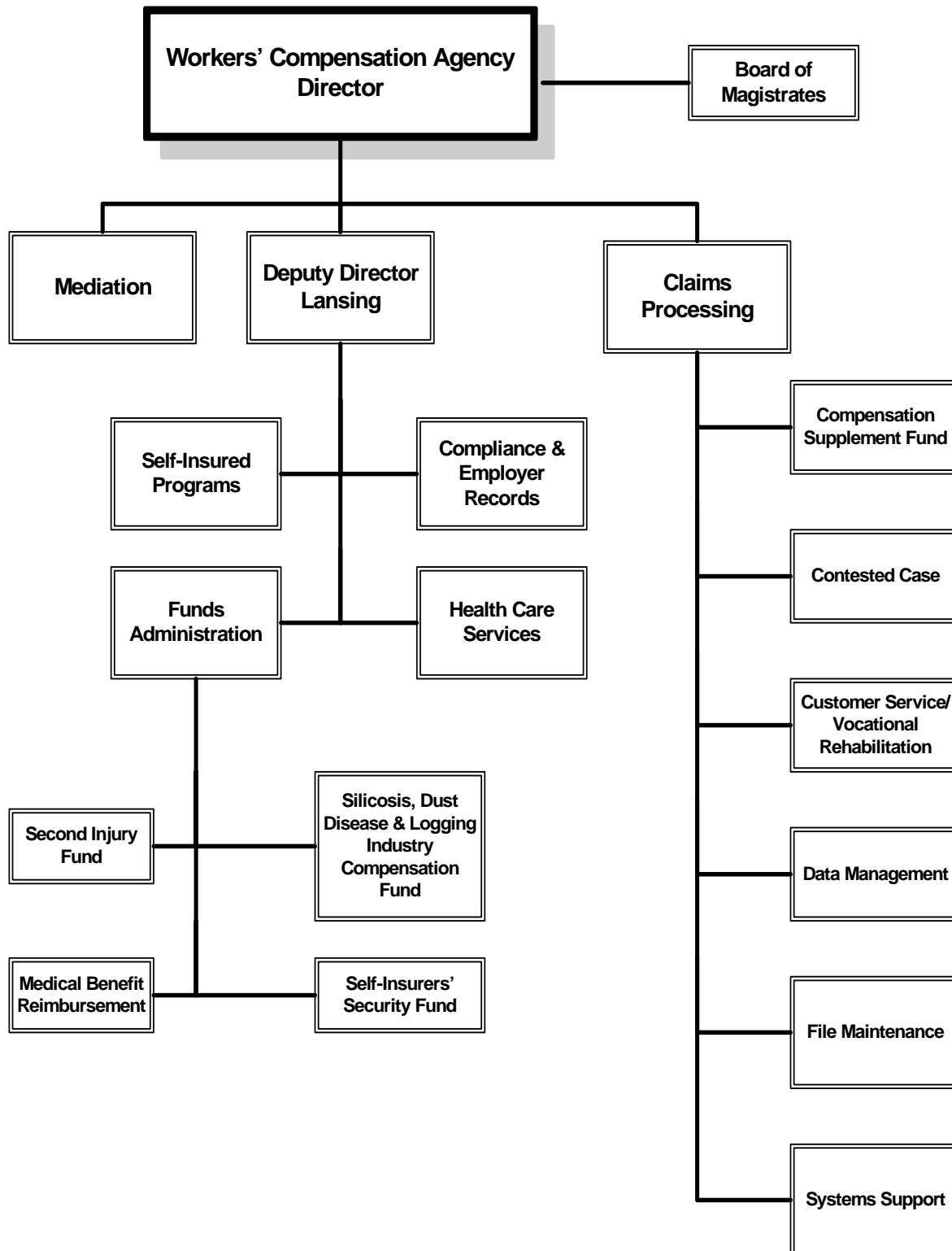
- ◆ Governor Granholm appointed Jack Nolish as Director of the Workers' Compensation Agency.
- ◆ On April 16, 2005, over 1.7 million records were lost on WCA's automated system as a result of the Department of Information Technology's failure to properly back up our database. Because this rendered the system virtually unusable, most of the contested case work has had to be processed manually. Since that time, the WCA staff has spent thousands of hours restoring critical missing data so that the system could once again be utilized. By the end of December, the pending contested cases had been recovered at all of the hearing sites except for Detroit and Pontiac, and those were completed around the end of February 2006. In spite of all of those obstacles, our customers were impacted very little.
- ◆ Implementation of new Vocational Rehabilitation database in order to better track rehabilitation efforts and provide feedback to stakeholders.
- ◆ Implementation of EDI for Proof of Coverage on May 31, 2005. The Compensation Advisory Organization of Michigan (CAOM) will electronically submit coverage data to the WCA based on information they receive from the carriers. The first carrier to implement was Michigan Farm Bureau Insurance, followed in November by Frankenmuth Mutual.
- ◆ An emergency rule was put in place for Group Self-Insurance; Employee Leasing. This rule accommodates business operations that choose to establish and use employee leasing arrangements setting forth under what circumstances, and the terms and conditions whereby an employee leasing firm will be permitted to participate in a group self-insurer.
- ◆ Retailers Fund, a Group Self-Insured, has now become Retailers Mutual Insurance Company.
- ◆ Implementation of a fee schedule for the freestanding surgical outpatient facilities (FSOF) based on Medicare +80%. The FSOF fee schedule is anticipated to produce cost savings for the carriers as most have been paying FSOF providers their charges resulting in reimbursements that were higher than those paid to hospitals for like services. Also enacted in 2005 was a laboratory fee schedule based upon Medicare +5%.
- ◆ The annual medical payment report showed that medical payments increased by 6% in 2004 as compared to 2003. This 6% increase in carrier-reported medical payments compares to 11-13% experienced by general health care for the same time period. Michigan's medical fee schedule for cost containment, based upon RBRVS (Resource Based Relative Value System), is annually updated. Michigan's health care rules and fees are considered progressive by other states and the application of these rules and fees allow for fair reimbursement for the medical services related to work injuries while assisting Michigan businesses in controlling medical costs relating to those injuries.
- ◆ The Funds Administration has worked in conjunction with the Compliance and Employer Records Division to collect fines from employers that have allowed their workers' compensation insurance coverage to lapse. Over \$430,000 was collected and paid into the workers' compensation administrative fund.

- ◆ Governor Granholm appointed Magistrate Murray Gorchow as Acting Chair of the Workers' Compensation Board of Magistrates, replacing Jack Nolish. The Governor also appointed Michael Barney, Michael Harris, Valencia Jarvis, Timothy McAree, Thomas Moher, Alexander Ornstein, Paul Purcell, John Rabaut, and Joy Turner to serve as magistrates.
- ◆ CompCollege05 was held, bringing together for the first time in many years, all the magistrates, appellate commissioners and mediators for wide ranging discussions of current workers' compensation law.

## *What to look for in 2006*

- ◆ Legislative changes to certain Chapter 5 provisions within the Workers' Disability Compensation Act of 1969 and Administrative Rules.
- ◆ All Workers' Compensation Agency meeting in March.
- ◆ The WCA will be working with additional carriers interested in submitting Proof of Coverage information electronically. It is our goal to move Accident Fund Insurance Company of America and Auto Owners Insurance Company into production in 2006.
- ◆ The agency is working with the Accident Fund Co of America, the largest writer of workers' compensation in Michigan, to implement EDI (Electronic Data Interchange) and expect completion by the end of 2006.
- ◆ Emergency rule for Group Self-Insurance; Employee Leasing to become a permanent rule.
- ◆ In 2006, medical providers will be reimbursed based upon either a facility or non-facility site of service. Also, all hospital services will be reimbursed at cost to charge methodology. In addition, a newly created fee schedule is planned to go into effect that will set fees for supplies and durable medical equipment at Medicare +5% and this method will be easier for carriers to administer. Health Care Services Division anticipates the 2006 rule updates to go into effect around early March. Health Care Services will provide informational seminars for all interested parties at the GOB to explain the rule changes.
- ◆ Michigan is scheduled to be included in a multi-state comparison of health care costs published by WCRI (estimated publication is June 2006).
- ◆ Upgrade of the Funds Administration Information System (FAIS) database from PowerBuilder 6.5 to PowerBuilder 10.2.
- ◆ Appointment of magistrates to fill openings on the Workers' Compensation Board of Magistrates.
- ◆ Appointment of a permanent chair of the Board of Magistrates.
- ◆ "CompCollege06" educational program in April for the mediators and members of the Board of Magistrates and Appellate Commission.

# Organization Chart



## *How to Contact Us*

### *The agency is located at:*

Michigan Dept. of Labor & Economic Growth  
Workers' Compensation Agency  
7150 Harris Drive  
P.O. Box 30016  
Lansing, Michigan 48909

**Telephone (toll free):** 888-396-5041

**Website address:** [www.michigan.gov/wca](http://www.michigan.gov/wca)

## *Office Locations*

<b>LOCATION</b>	<b>ADDRESS</b>	<b>Telephone #</b>
<b>Detroit</b>	Cadillac Place, Ste. 3-700 3026 West Grand Blvd P.O. Box 02989, 48226	(313) 456-3650
<b>Escanaba</b>	State Office Building 305 Ludington, 49829	(906) 786-2081
<b>Flint</b>	Bristol West Center, Ste. 110 G-1388 W. Bristol Rd., 48507	(810) 760-2618
<b>Grand Rapids</b>	2942 Fuller Street NE, 49505	(616) 447-2680
<b>Kalamazoo</b>	940 N. 10 <sup>th</sup> Street, 49009	(269) 544-4440
<b>Lansing</b>	Ottawa State Office Building 611 W. Ottawa, Lansing P.O. Box 30016, 48909	(517) 241-9380
<b>Mt. Clemens</b>	Clemens Center 32 Market Street, 48043	(586) 463-6577
<b>Pontiac</b>	28 N. Saginaw, NBD Building Suite 1310, 48342	(248) 334-2497
<b>Saginaw</b>	State Office Building 411-K E. Genesee, 48607	(989) 758-1768

## *Administration*

The mission of the Workers' Compensation Agency is to efficiently administer the Workers' Disability Compensation Act of Michigan, which includes carrier and employer compliance, timely benefit payments and the prompt and fair adjudication of claims involving Michigan's injured workers.

### Goals:

- ◆ Ensure that employees that have suffered a work-related injury or occupational disease are provided correct wage loss replacement, medical and vocational rehabilitation services during periods of incapacity, and that these benefits are paid timely and accurately.
- ◆ Provide leadership to carry out a legislative agenda for more efficient regulation and delivery of workers' compensation benefits.
- ◆ Provide an informal and formal dispute resolution process for employers, insurance carriers, injured workers, and health care providers.
- ◆ Monitor medical care providers' compliance with the agency's Health Care Services Rules (cost containment fees) to ensure that the cost of providing health care services remains reasonable and that injured workers have access to quality health care statewide.
- ◆ Monitor the financial position of all individual and group self-insureds to ensure their ability to meet future payment of benefits on a timely basis.
- ◆ Maintain a historical insurance coverage record system for the more than 200,000 employers subject to the Workers' Disability Compensation Act.
- ◆ Monitor and enforce employers' compliance with the requirements for insurance coverage.
- ◆ Ensure carrier and employee rights to benefits or reimbursement, within Chapter 5-Funds of the Workers' Disability Compensation Act, are determined and paid in a timely and accurate manner.

There are several ongoing projects that not only cross divisions to affect the entire agency but will positively impact the agency's ability to provide information in a timely manner. We are currently working on EDI for insurance coverage forms. Once that is completed, programming for claims will begin. This will allow carriers, self-insureds and third party administrators (TPAs) to file their forms electronically.

The Workers' Compensation Agency has a website which contains a variety of information about the agency, the Board of Magistrates and the Workers' Compensation Appellate Commission. The address is [www.michigan.gov/wca](http://www.michigan.gov/wca).

## ***Claims Processing***

The Claims Processing Division maintains a current and historical claims/case records system. Its objective is to ensure that employees that have suffered work related injuries are provided correct wage loss replacement and that both voluntary claims and litigated cases are processed in a timely manner.

This division performs a wide variety of functions relating to workers' compensation claims. The program is broken down into six major sections:

***Compensation Supplement Fund.*** The Compensation Supplement Fund was established to provide a cost-of-living adjustment to workers who were injured between 9/1/65 and 12/31/79. The staff reviews and processes all applications for reimbursement, which are submitted by carriers on a quarterly basis. In 2005, the Compensation Supplement Fund reimbursed 3,088 claims, including \$849,166.83 in payments and \$5,122,893.02 in Single Business Tax Credits, for a total of \$5,972,062.85. The section is also responsible for collecting and auditing all redemption fees. In 2005, \$2,269,755.95 in Redemption Fees was collected and processed.

- ◆ ***Contested Case.*** The Contested Case staff screens and data enters all applications for mediation or hearing, creates case files, and schedules and mails out notices for the initial magistrate pre-trial or mediation hearing. In addition, the staff handles all mail related to litigated cases and data enters and mails orders. In 2005, the staff processed over 29,800 applications for mediation or hearing, 42,100 pieces of correspondence and carriers response forms, and 18,388 magistrate and mediator dispositive orders\*.
- ◆ ***Customer Service/Vocational Rehabilitation.*** The Customer Service Section is responsible for answering general claims questions received on the agency's toll free telephone line, and assisting customers by responding to general correspondence and other inquiries. The section is responsible for efficiently handling all first level Health Care Service Rule hearings via teleconference, and resolved 3,455 cases in 2005. The staff also investigates allegations of violations of the Act in accordance with R408.35 (Rule 5). In addition, the staff is responsible for ensuring that customers promptly receive any forms that are requested. In 2005, the agency received approximately 31,800 calls via the toll-free line.

This section is also responsible for ensuring that employers provide vocational rehabilitation services according to the provisions of the Act and that the injured employees accept such services. The VR staff provides information and assistance to all parties, approves rehabilitation facilities, monitors ongoing rehabilitation programs, and conducts periodic training seminars. The staff also conducts first level vocational rehabilitation hearings on behalf of the director and coordinates the 2nd level hearing process.

- ◆ **Data Management.** The Data Management section is responsible for reviewing, evaluating and data entering all claims forms required by the statute. The staff also manually audits all opinions, orders and voluntary pay agreements as well as certain forms that cannot be audited by the system. In addition, this section is responsible for microfilming all agency mail. The number of forms that were data entered in 2005 is not available.\*
- ◆ **File Maintenance.** The File Maintenance staff prepares all agency mail for microfilming (which includes automatic date stamping). The preparation includes opening, sorting, screening, and matching agency forms and correspondence. In 2005, the section processed 606,372 forms and correspondence relating to claim, case and insurance records. This section is also responsible for housing and maintaining workers' compensation cases that are in open payment status. In addition, the staff prepares closed files for Records Center and recalls them when necessary. In 2005, approximately 17,000 claims/cases were retired.\*\*
- ◆ **Systems Support.** The Systems Support staff is responsible for overseeing the agency's automated system, including scheduling of all mainframe jobs, creating and running all ad hoc reports, identifying and working with the programmers to fix all system problems, and designing and developing new applications. As a result of the massive data loss that occurred on April 16, 2005, the Systems Support staff has spent countless hours (including nights, holidays and weekends) restoring critical missing data so that other staff could once again use the system. By the end of December, the pending contested cases had been recovered at all of the hearing sites except for Detroit and Pontiac, and those will be completed around the end of February 2006.

\*Because of the system "crash" (see 3<sup>rd</sup> bullet under 2005 highlights), we were not able to generate a number of reports in 2005. The numbers that are available were manually compiled.

\*\*Not all of the files that were closed last year have been retired.

## ***Mediation***

The purpose of mediation is to resolve cases between employers and employees in an informal setting. Intervention of a mediator in a claim before it becomes a formal dispute could resolve claims short of costly litigation. These individuals are available to answer questions and try to assist workers, employers, insurance carriers, and health care providers in resolving problems without the necessity of going through the formal litigation process.

Mediation conferences are held by two methods: in person or by teleconference. Conferences held by mediators:

- ◆ *Statutory Mediation.* Section 223 of the statute provides for mediation in specific cases being disputed. They are: all applications for hearing filed by an injured employee without an attorney, all medical only disputes, all closed periods of disability being alleged and any other disputes that the agency believes would be assisted by mediation.
- ◆ *Vocational Rehabilitation Director Hearings.* Disputes concerning vocational rehabilitation are referred first to mediators as the director's representative. The goal of the mediator in a vocational rehabilitation hearing is to attempt to facilitate a voluntary agreement between the parties as to the most appropriate course of vocational rehabilitation for the injured worker.
- ◆ *Magistrate Referral Mediation.* These are cases on the magistrates' dockets that they believe mediation would be helpful in resolving the disputed claim. If the matter is not resolved before the mediator, then the claim goes back before the assigned magistrate for a hearing and decision.

## *Compliance and Employer Records*

The Compliance and Employer Records Division works to ensure that all employers subject to the Michigan Workers' Disability Compensation Act have complied with the requirements by securing workers' compensation coverage either through a policy of insurance or through approved self-insured authority.

The division maintains the current and historical record system for over 233,000 employers. This includes coverage records on self-insurers, employers with insurance, and employers who have excluded themselves from the Act. In addition, this division has the responsibility to enforce employers' compliance with insurance requirements of the statute.

The major objectives of this program are:

- ◆ To keep an accurate insurance coverage record;
- ◆ To identify the responsible insurance carriers for employers listed on applications for mediation or hearing;
- ◆ To communicate with those employers who fail to maintain insurance coverage, using the civil process to enforce such compliance if the employer fails to comply even after being advised of the requirements of the statute by division staff.

Since 1983, workers' compensation insurance premiums in Michigan have been set in the marketplace. This means that different insurance companies charge different premiums. Research done by the insurance commissioner suggests that employers should "shop around" for the best deal on insurance. All workers' compensation insurance policies provide the same coverage. However, some cost more than others and some companies provide more services than others. Employers should shop for the best price and the most service from their workers' compensation insurance company.

In addition, the agency has been penalizing employers when they allow their workers' compensation coverage to lapse. To date, the agency has collected \$1.6 million in fines as a result of these lapses in coverage.

## *Self-Insured Programs*

The Workers' Disability Compensation Act permits employers to request authority to self-insure and assume responsibility for direct payment of benefits to injured workers. The Act also permits providers of claims adjusting, underwriting and loss control services to apply and be approved by the agency to provide these services to approved self-insurers.

Two types of self-insured authority are permitted in the Act. Individual employers may be approved as self-insured or, two or more employers in the same industry can apply for group self-insured authority. Statutory requirements, administrative rules and agency policy require annual renewal applications and various monitoring and approval tasks throughout the year.

Self-Insured Programs conducts initial regulatory reviews on employer-generated self-insured applications and in the formation of group self-insured programs; provides guidance through the approval, formation, and review process; and issues decisions that detail the required security and exposure limiting devices based on statutory authority and the agency's established policy. Initial and annual regulatory reviews are also conducted on service company applications. The staff works to resolve all issues and disputes generated by self-insured employers by telephone or informal meetings and through the formal hearing process. The section also provides information to the public relevant to self-insured concepts and notifies self-insured employers and other interested parties of changes in statute, administrative rules, and departmental policy.

This division is also the final approval authority in surplus money being returned to the group membership. This process requires the review and assessment of financial statements, actuarial reports and independent claims and audit reports. Surplus return authorizations range between \$35,000,000 and \$90,000,000 annually.

## *Health Care Services*

The Health Care Services Division performs a wide variety of functions mandated in section 418.315 of the Workers' Disability Compensation Act of 1969, as amended. These functions include; (1) Rule Development, Review and Revision, (2) Evaluation, and (3) Information and Education. A brief summary that delineates the responsibilities of each category is below:

- ◆ *Rule Development, Review and Revision.* The Act and the Workers' Compensation Health Care Services Rules identify policies for coverage and reimbursement to health care providers. Health care trends and policies are researched and developed by staff and Health Care Services (HCS) Advisory Committee members in accordance with nationally recognized standards of practice and reimbursement methodologies. Practitioner reimbursement is based upon resource based relative value units (RBRVS).
- ◆ *Evaluation.* The evaluation process consists of compiling carrier data and analyzing charges, payments, health care procedures and medical diagnosis. The results of the data analysis are used to decide reimbursement levels, utilization parameters, and level of care diagnosis. Provider and carrier compliance is also monitored through the case samples and other reports provided by carriers. A carrier's professional review process is certified by staff to assure that appropriate medical review criteria are utilized according to Rule requirements. Carriers must also attest that professional review staff are licensed and certified as required by Workers' Compensation Health Care Services Rules.
- ◆ *Information and Education.* Staff responds to numerous telephone and written inquiries for information and clarification of the rules, assists in resolving differences between a carrier and a provider, meets with provider, carrier and employee organizations, professional review companies, attorneys, mediators, magistrates and legislators. Staff also provides educational seminars for providers, carriers and professional review agencies regarding the application of the rules, billing procedures, carrier and provider responsibilities and rights outlined in the rules. Staff also participates on panels and programs on workers' compensation health care.

## *Funds Administration*

The Funds Administration Division, consisting of the Second Injury Fund; Silicosis, Dust Disease and Logging Industry Compensation Fund; and the Self-Insurers' Security Fund is managed by a board of three trustees. Two trustees are appointed by the Governor with the advice and consent of the Senate. One represents employers authorized to act as self-insurers in Michigan and the second represents the insurance industry. The third trustee is the director of the Workers' Compensation Agency.

Responsibilities of the Funds Administration are defined within the Workers' Disability Compensation Act. The applicable sections of the Act are 351, 356(1), 361(3), 372, and 862. The applicable chapters of the Act are 5 and 9.

The Funds Administration is funded 100% by insurers who write workers' compensation policies in the State of Michigan, and employers who self-insure their workers' compensation risks. These assessments cover all benefits paid by the Funds Administration, and all administrative costs.

The Funds Administration handled approximately 3,895 cases during 2005. At the close of the calendar year, the Funds Administration had 2,691 open files. The total expenditures for the Funds Administration during 2005 were \$27,396,108. Benefit payments were \$22,599,994, and administrative costs including the costs of litigation equaled \$4,796,144. Complete fiscal and calendar year accounting may be obtained from the Funds Administration office. Detailed information regarding the Funds Administration Division can be found in the Funds Administration Overview located on the Workers' Compensation Agency's web site at [www.michigan.gov/wca](http://www.michigan.gov/wca).

The Medical Benefit Reimbursement Provision [MCL 418.862(2)] is also administered by the Funds Administration. The funds for this provision, however, come through the State of Michigan General Fund.

## *Board of Magistrates*

Section 213 of Public Act 103 of 1985 authorizes the Workers' Compensation Board of Magistrates. By statute, the Board of Magistrates originally consisted of 30 members that are appointed by the Governor and confirmed by the Senate, and responsible for hearing and deciding contested cases filed after March 31, 1986. The number of magistrates was reduced to 26 by the December 2003 Executive Reorganization Order 2003-1. Each magistrate must be a licensed attorney in Michigan, and either pass an exam or have five years of experience in workers' compensation. A magistrate cannot be reappointed after serving a total of 12 years.

Magistrates decide claims at the formal hearing level of the contested claims process of the workers' compensation system. All resolutions require a formal written order or opinion with findings of fact and conclusions of law. Parties to a decision may stipulate to modify or correct a decision within 30 days. Additionally, the board is responsible for hearing any dispute meeting the requirements for the Small Claims Division established under Section 841 of Public Act 103 of 1985. The magistrates must also approve the settlement of Workers' Compensation claims by conducting Redemption hearings.

In February 2005, six new magistrates were appointed to fill terms that had expired: Timothy McAree (assigned to Pontiac and Traverse City); Thomas Mohrer (Sault Ste. Marie); Alexander Ornstein (Flint); Paul Purcell (Saginaw); John Rabaut (Detroit); and Joy Turner (Detroit).

In March 2005, on the campus of Oakland University, a two day program was held for the magistrates, appellate commissioners and mediators, called "CompCollege05." This highly informative event was the first full staff gathering in many years. The participants had the opportunity to hear from many experts in various areas of Workers' Compensation law in a collegial setting with wide-ranging discussions of the pressing and current events in the law.

In December, when Board Chair Jack Nolish was appointed to serve as Director of the Workers' Compensation Agency, Governor Granholm appointed Magistrate Murray Gorchow to serve as Acting Chairperson of the Board of Magistrates. Acting Chair Gorchow, like former Chair Nolish, is committed to the general goal for the Board of Magistrates: "Certainty of Trial; Certainty of Adjudication" as the best way to serve the interests of all the participants in the area of contested Workers' Compensation cases.

Due to both the reduction in the number of magistrates and the continuing decline in the number of pending cases, the Jackson hearing office was closed. Magistrate Grattan was moved from Jackson to Lansing on a full time basis and the Jackson case files were consolidated into the Lansing docket. Additional

closures and consolidations of other hearings offices will be considered if warranted.

As the year drew to a close, the Qualifications Advisory Committee provided the Governor with a list of the candidates it found qualified to fill the magistrate positions opening up with the expiration of the terms of 10 magistrates on January 26, 2006. An additional vacancy occurred in December, when Governor Granholm appointed Magistrate Michael Thiele (Saginaw) to the Circuit Court.

New statutory changes, regarding the enforcement of child support liens and Medicaid reimbursement claims, became effective as 2005 opened. As expected, these statutory changes did impact the length of time involved in resolution of cases. Lengthy delays also result from the claims by Medicare under the federal Medicare Secondary Payer Act. Such delays have now been compounded by new Medicare rules, announced 12/30/05, resulting from the implementation of the Medicare Part D prescription drug benefit. The Chair of the Board of Magistrates will continue working together with the Director of the Workers' Compensation Agency in an effort to bring these delays under control.

In the Governor's continuing effort to bring diversity to the practice of Workers' Compensation Law, the Workers' Compensation Agency in conjunction with the Workers' Compensation Law Section of the State Bar of Michigan, conducted a highly successful public educational series. The program was well received and attended by a highly diverse group of professionals and others interested in the practice area.

## *Appellate Commission*

The Workers' Compensation Appellate Commission (commission) is a body of five attorneys, seated by the Governor with advice and consent of the Senate to serve 4-year terms (3-term limit). The Worker's Disability Compensation Act (Act) MCL 418.101 *et seq.*; provides general policies for administration, gives the chairperson appointing and work assignment authority, grants rule-making authority to the commission as a body, sets out the scope of review, and provides procedures for employers, employees, insurance carriers, and attorneys seeking review of a hearing officer's decision. The primary legal basis for the commission is found in §274 and §861 of the Act.

In January of 2005, William G. Reamon, Jr. served as chairperson, with seated Commissioners Martha M. Glaser, James J. Kent, Rodger G. Will and one vacant seat. Chairperson Reamon resigned effective April 16, 2005, to accept a position as a federal administrative law judge, leaving two vacancies at the commission. Martha M. Glaser was appointed as Acting Chairperson in April of 2005 and appointed permanent chair in August of 2005. The vacancies were filled in May of 2005 by the appointment of Commissioners Gregory A Przybylo and Granner S. Ries.

By providing expeditious, impartial and judicial review of contested claims for workers' compensation benefits, the commission serves to minimize undue monetary suffering of employees and reduce costs to employers in the state of Michigan. Created as an independent body, the commission has the power and authority to review decisions written and issued by the Workers' Compensation Agency and the Board of Magistrates regarding benefits for work-related disabilities and related issues. The commission also acts as a buffer to prevent an influx of claims to the state Court of Appeals.

When Decisions issued by the Workers' Compensation Agency and Board of Magistrates are disputed and appealed, the commission's caseload is created. By law, commissioners are required to review the relevant record of a case, and are expected to publish scholarly and concise opinions that reflect relevant statutory and case law. To accomplish this, the commission strives to promptly review cases and write dispute-resolving opinions that comply with the requirements set forth in MCL 418.861(a). Decisions on legal points provide guidance to the agency, magistrates, attorneys, employers, employees and insurance carriers regarding benefit entitlement and hearing procedures.

For administrative efficiency, the commission utilizes administrative support staff that assist commissioners by docketing transcripts and briefs, typing and formatting draft and final opinions, and processing routine correspondence, thus ensuring excellence in the final published product, and providing top-quality customer service. The commission's support staff includes: one executive secretary, four legal secretaries and one word processor.

commission opinions continue to be published online at:  
<http://www.michigan.gov/wca>.

The average “shelf life” of case files (the time span between when a case is ready for review and when it is actually decided) has been reduced to approximately seven months.

The commission continues to accept electronic filings, such as, transcript extensions, brief extensions and motions.

The commission created and maintained a website section to post new policies and procedures.

The commission continues to encourage Oral Arguments, having held eight such arguments in 2005.

During 2005, the commission received 374 new claims. Including reconsiderations and remands from higher courts the total incoming caseload was 382 for the year. The commission published 289 opinions (255 dispositive and 34 non-dispositive). There were 61 dissent and concurral opinions written. 180 other dispositive actions were processed, consisting of 70 redemptions, 35 withdrawals and 75 orders. 325 non-dispositive orders were issued, for a total production of 855 dispositions.

The caseload is tracked to document the number of perfected appeals (all required transcripts and briefs have been filed). At the beginning of 2005 there were a total of 210 perfected appeals. At the 2005 year-end, the number of perfected appeals increased to 224.

The commission was affected somewhat by the informational system meltdown which occurred in April of 2005. It was additional work for the administrative staff, as much of the input of data was tracked manually. There was some delay in moving files between the agency and the commission. Statistics were not able to be published on a monthly basis as they had in the past.

## ***Qualifications Advisory Committee (QAC)***

The Qualifications Advisory Committee (QAC) consists of 10 individuals appointed by the Governor to oversee the appointment process for the Workers' Compensation Board of Magistrates and Appellate Commission. Its duties include recommending candidates to the Governor for the board and commission, evaluating the performance of individuals appointed to those positions, and reviewing caseloads and making recommendations to the Governor concerning reductions or increases in the number of magistrates and appellate commissioners. The QAC members are appointed for four-year terms and serve at the pleasure of the Governor.

The Qualifications Advisory Committee members include Libby Child, Sherisse Fiorvento, Phillip Gilliam, Regina Meo, David Radtke, Marya Sieminski., Jeffery Stuckey, Cynthia Westerhof, and Richard Zapala.

During 2005, the Qualifications Advisory Committee met seven times. They interviewed 20 applicants for the Appellate Commission, 28 applicants for the Board of Magistrates, and 6 incumbent magistrates. The QAC also reviewed and evaluated the work performance of 4 appellate commissioners and 14 magistrates.

# *Statistics & Charts*

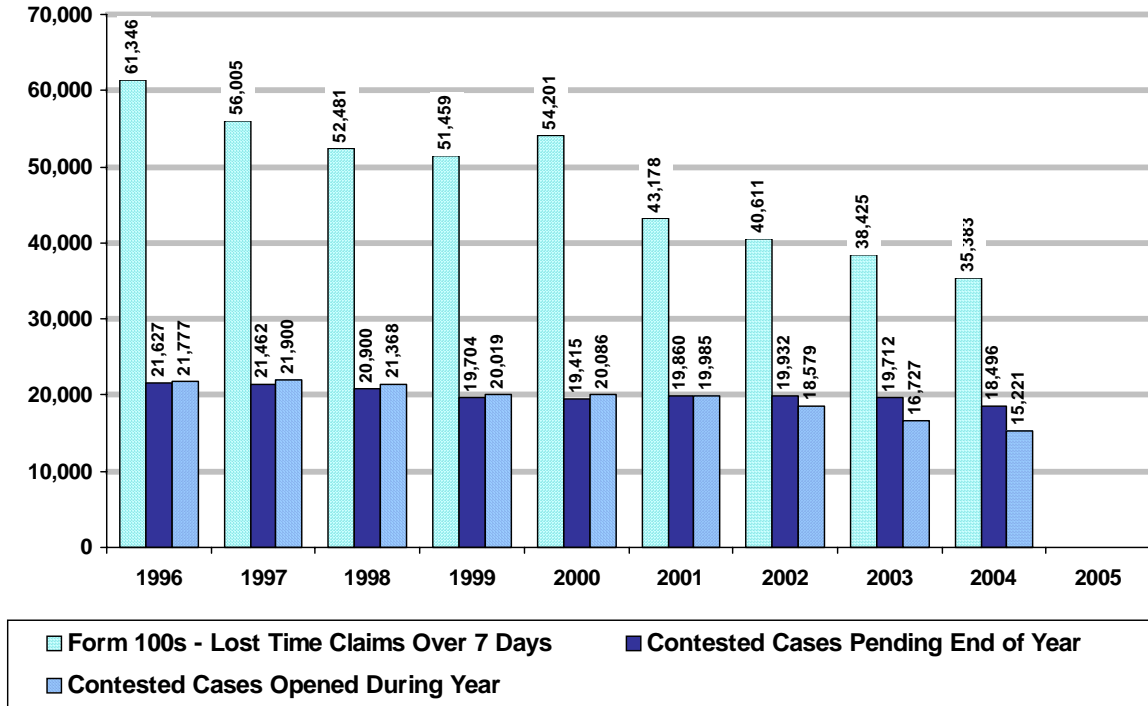
## State Average Weekly Wage & Maximum Benefit Amounts

(1982 – Present)

Year	SAWW	90% of SAWW (Maximum)	2/3 of SAWW*	50% of SAWW (Minimum Benefit for Death Cases)	25% of SAWW (Minimum Benefit for Specific Loss and T&P)
2006	\$784.31	\$706.00	\$522.87	\$392.16	\$196.08
2005	\$765.12	\$689.00	\$510.08	\$382.56	\$191.28
2004	\$744.49	\$671.00	\$496.33	\$372.25	\$186.12
2003	\$724.96	\$653.00	\$483.31	\$362.48	\$181.24
2002	\$715.11	\$644.00	\$476.74	\$357.56	\$178.78
2001	\$714.46	\$644.00	\$476.31	\$357.23	\$178.62
2000	\$678.23	\$611.00	\$452.15	\$339.12	\$169.56
1999	\$644.06	\$580.00	\$429.37	\$322.03	\$161.02
1998	\$614.10	\$553.00	\$409.40	\$307.05	\$153.53
1997	\$591.18	\$533.00	\$394.12	\$295.59	\$147.80
1996	\$581.39	\$524.00	\$387.59	\$290.70	\$145.35
1995	\$554.22	\$499.00	\$369.48	\$277.11	\$138.56
1994	\$527.29	\$475.00	\$351.53	\$263.65	\$131.82
1993	\$506.80	\$457.00	\$337.87	\$253.40	\$126.70
1992	\$489.01	\$441.00	\$326.01	\$244.51	\$122.25
1991	\$477.40	\$430.00	\$318.27	\$238.70	\$119.35
1990	\$474.22	\$427.00	\$316.15	\$237.11	\$118.56
1989	\$454.15	\$409.00	\$302.77	\$227.08	\$113.54
1988	\$440.77	\$397.00	\$293.85	\$220.39	\$110.19
1987	\$433.91	\$391.00	\$289.27	\$216.96	\$108.48
1986	\$414.70	\$374.00	\$276.47	\$207.35	\$103.68
1985	\$397.48	\$358.00	\$264.99	\$198.74	\$99.37
1984	\$370.65	\$334.00	\$247.10	\$185.33	\$92.66
1983	\$358.89	\$324.00	\$239.26	\$179.45	\$89.72
1982	\$340.45	\$307.00	\$226.97	\$170.23	\$85.11

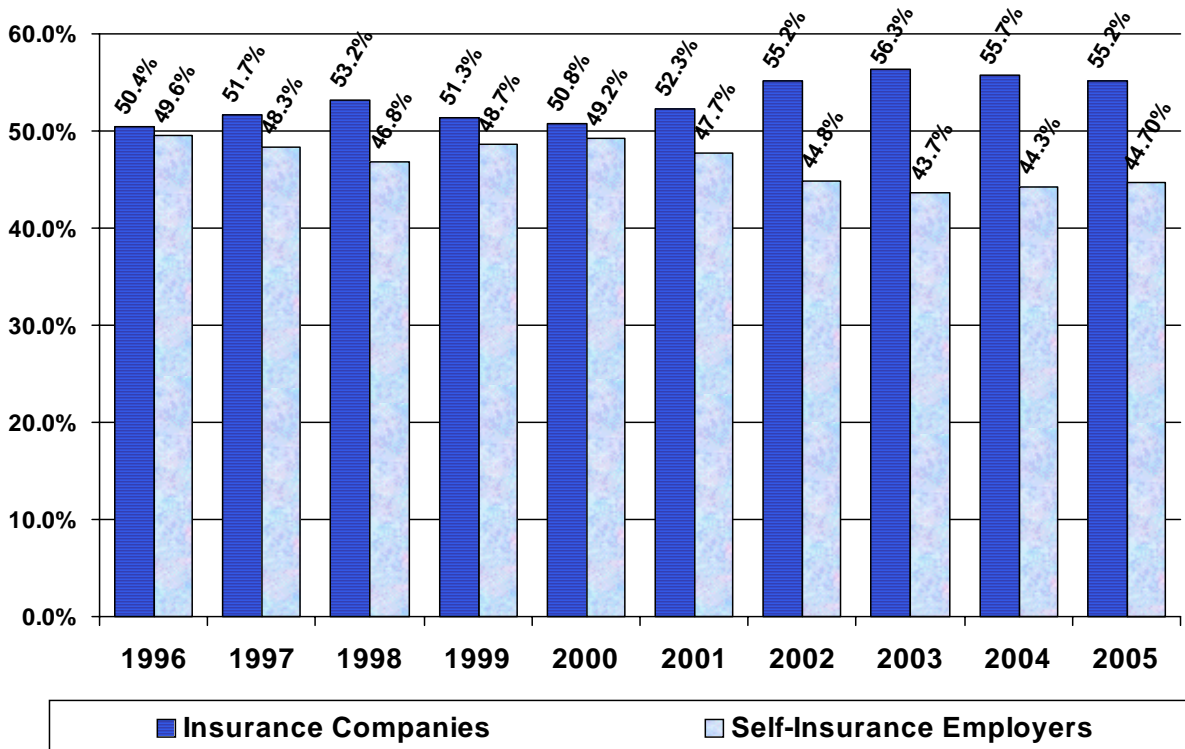
- Discontinued fringe benefits may not be used to raise the weekly benefits above this amount. Attorney fees may not be based on a benefit rate higher than this amount.

# Claim/Case Trends

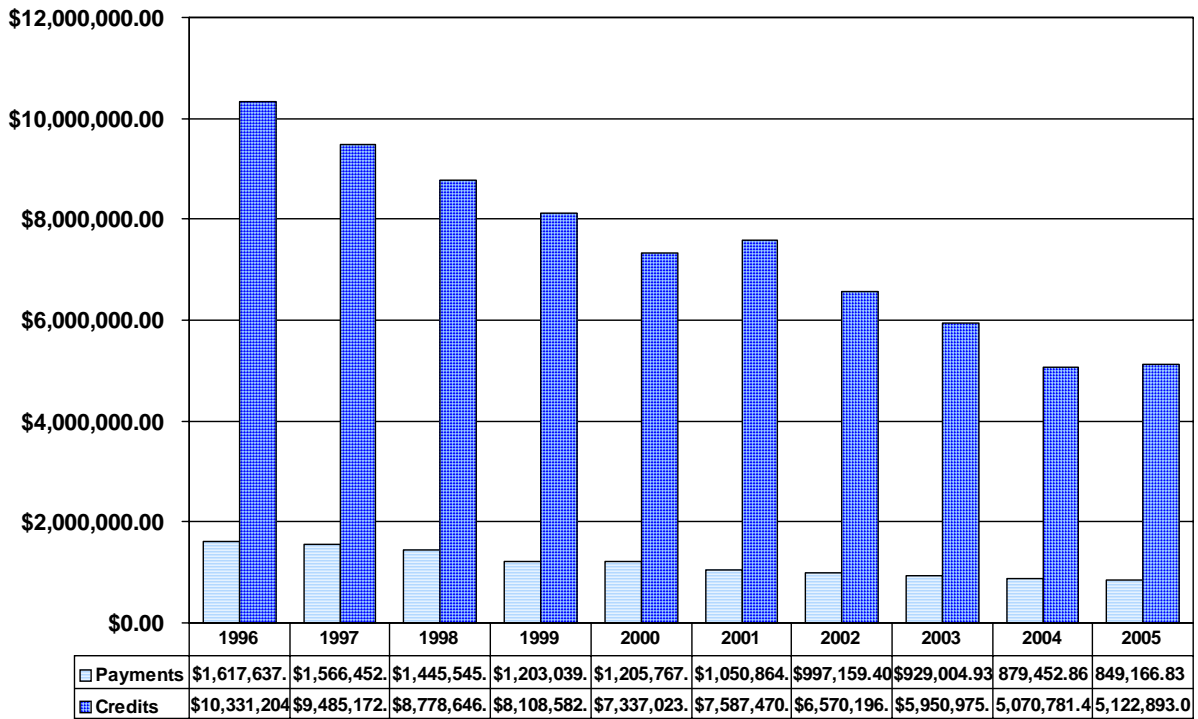


**NOTE: 2005 figures not available due to system "crash." See bullet 2 under 2005 Highlights.**

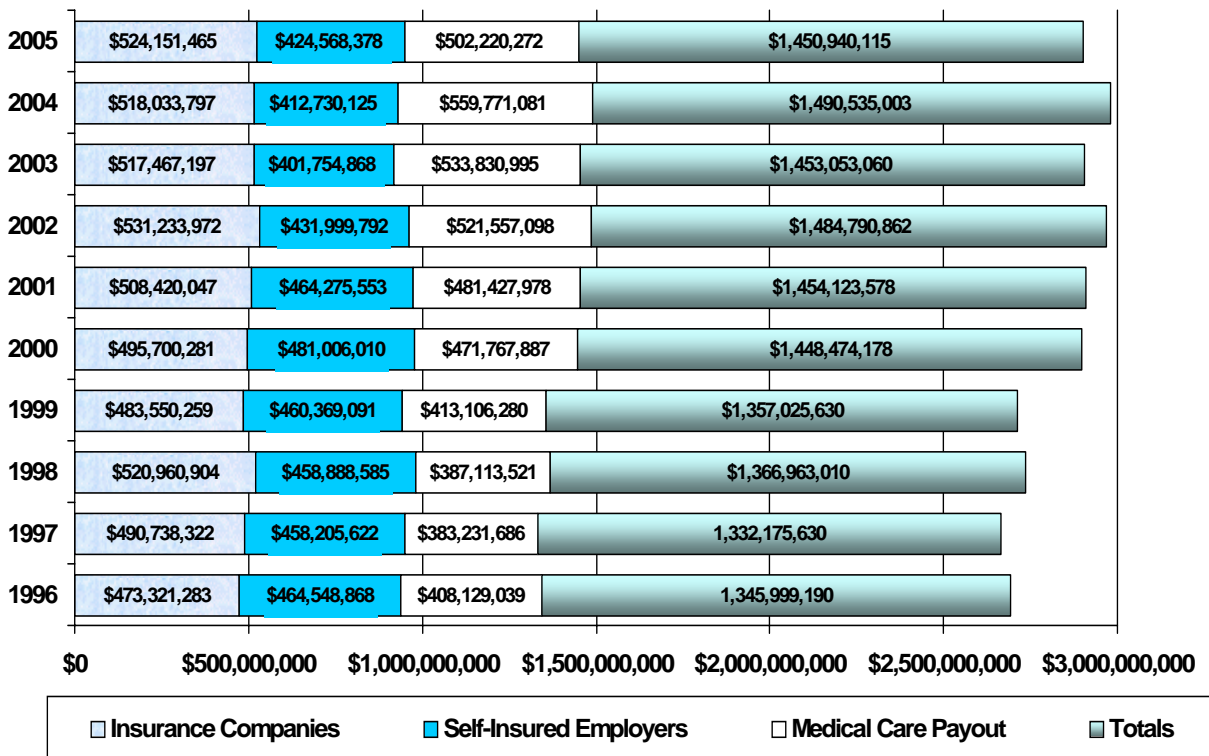
# Indemnity Payments



# Compensation Supplement Fund Reimbursements



# Payout in Workers' Compensation Benefits and Medical Care



# Magistrate Case Dispositions

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
<b>Redemptions</b>	15,070	14,085	13,696	13,152	12,928	12,332	11,528	10,803	11,425	9,486
<b>Opinions</b>	1,363	1,172	1,079	916	812	817	860	769	792	702
<b>Other Dispositions</b>	6,568	6,329	6,282	5,863	5,689	5,868	5,839	5,707	6,103	4,405
<b>Total Dispositions</b>	23,001	21,586	21,057	19,931	19,429	19,017	18,227	17,279	18,320	14,593

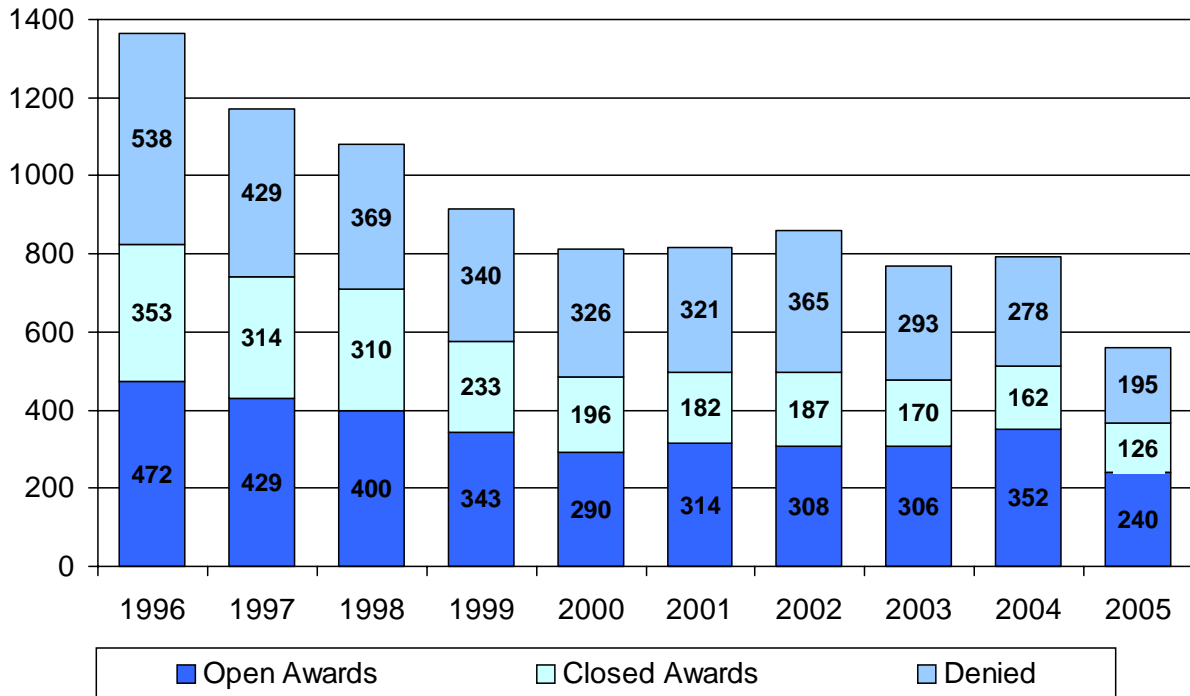
These statistics are based on a manual count corresponding to the order mailed date and may be subject to revision. The numbers should not be compared to our system-generated reports from previous and/or future years because those are based on file received dates rather than mailed dates.

## Magistrate Aged Case Distribution Chart

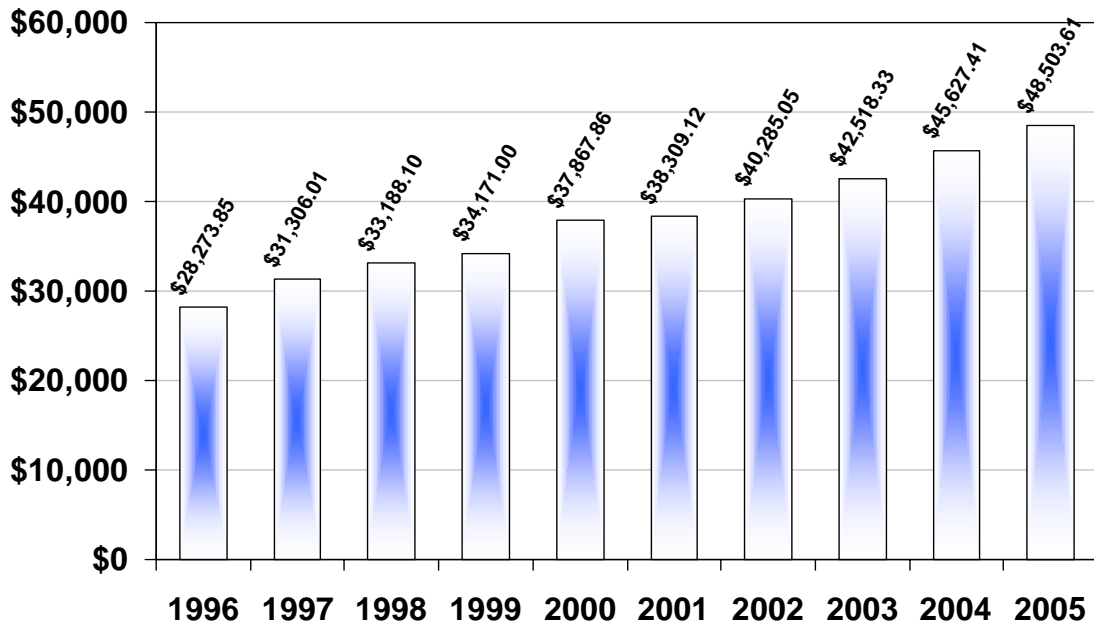
	1996	1997	1998	1999	2000	2001	2002	2003	2004
<b>0 – 12 Months</b>	13,152	12,785	12,502	11,831	12,698	12,999	13,533	12,742	11,326
<b>13 – 18 Months</b>	2,677	2,619	2,622	2,406	2,466	2,745	3,190	3,370	2,954
<b>19 – 24 Months</b>	1,155	1,104	958	947	761	823	997	1,462	1,019
<b>Over 24 Months</b>	778	650	484	408	285	160	222	418	366
<b>Total Docket Load</b>	17,762	17,158	16,566	15,592	16,210	16,727	17,942	17,992	15,665

**NOTE: 2005 figures not available due to system “crash.” See bullet 2 under 2005 Highlights.**

# Workers' Compensation Trends



# Average Redemption Amounts

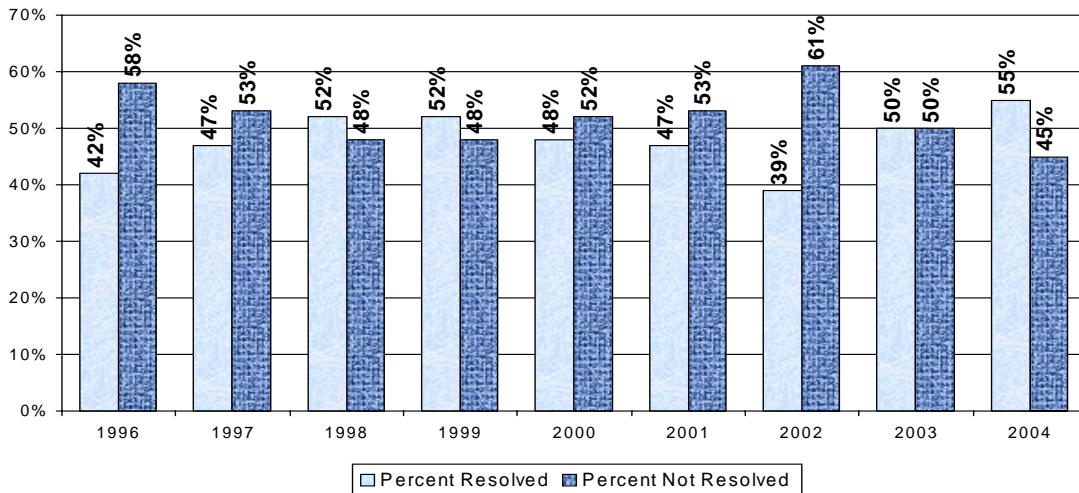


These statistics are based on a manual count corresponding to the order mailed date and may be subject to revision. The numbers should not be compared to our system-generated reports from previous and/or future years because those are based on file received dates rather than mailed dates.

# Statutory Mediation Dispositions

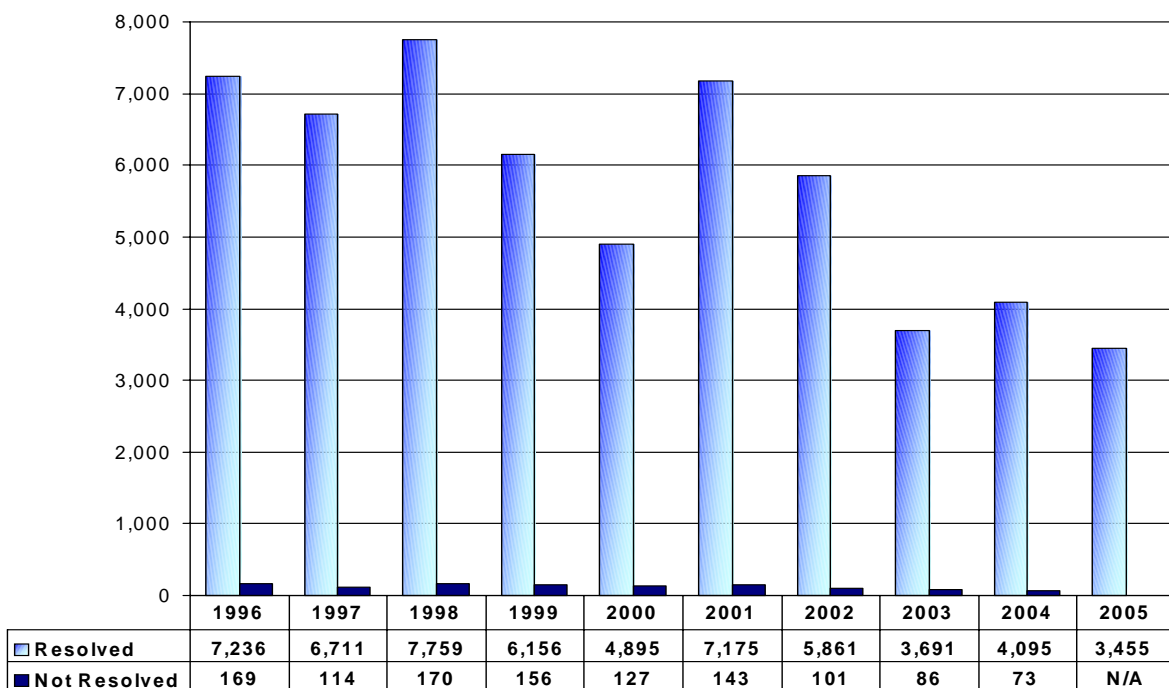
(Not including VR & Health Care Rule Hearings)

	1996	1997	1998	1999	2000	2001	2002	2003	2004
Resolved	3,686	3,757	3,958	4,402	3,926	3,255	2,631	1,628	1,579
Not Resolved	5,044	4,258	3,667	4,030	4,228	3,689	4,143	1,635	1,294



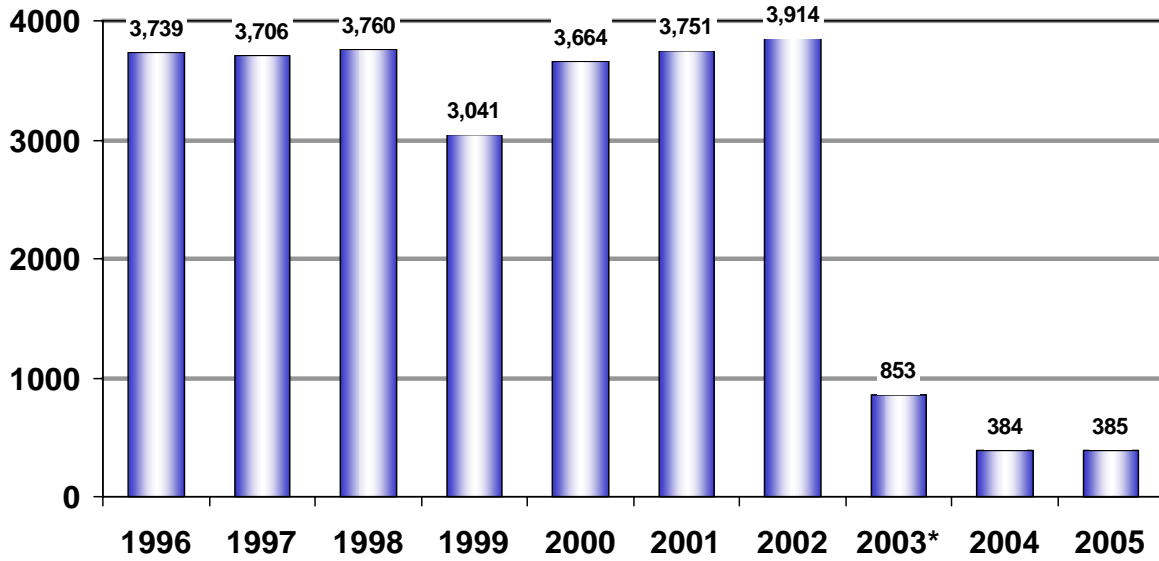
**NOTE: 2005 figures not available due to system "crash." See bullet 2 under 2005 Highlights.**

# Health Care Rule Dispositions



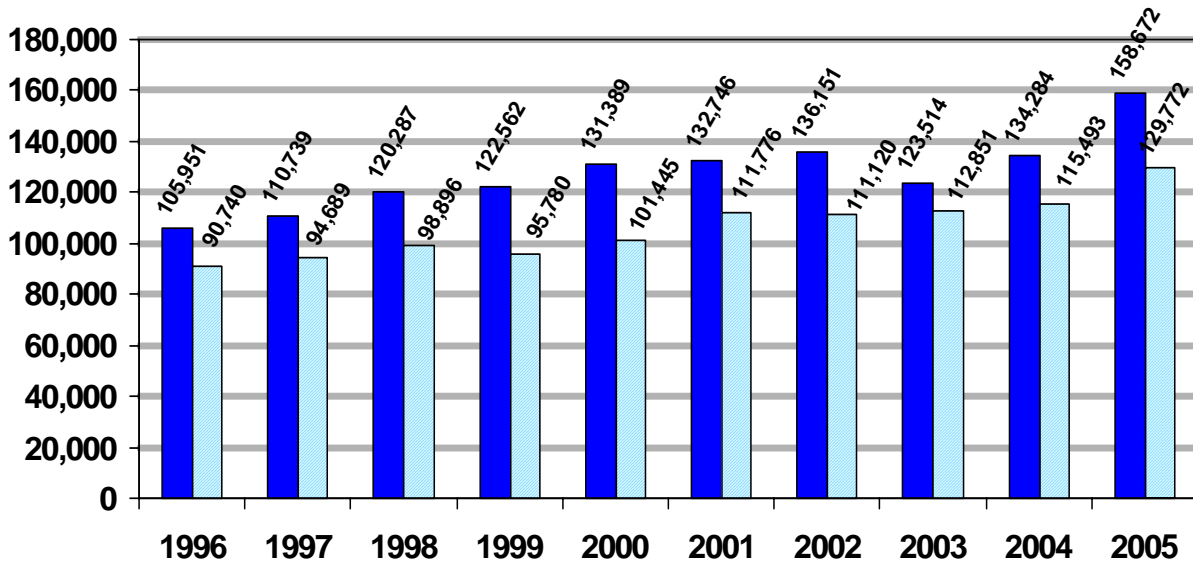
**NOTE: 2005 figures not available due to system "crash." See bullet 2 under 2005 Highlights.**

# Vocational Rehabilitation Programs Closed by Return to Work

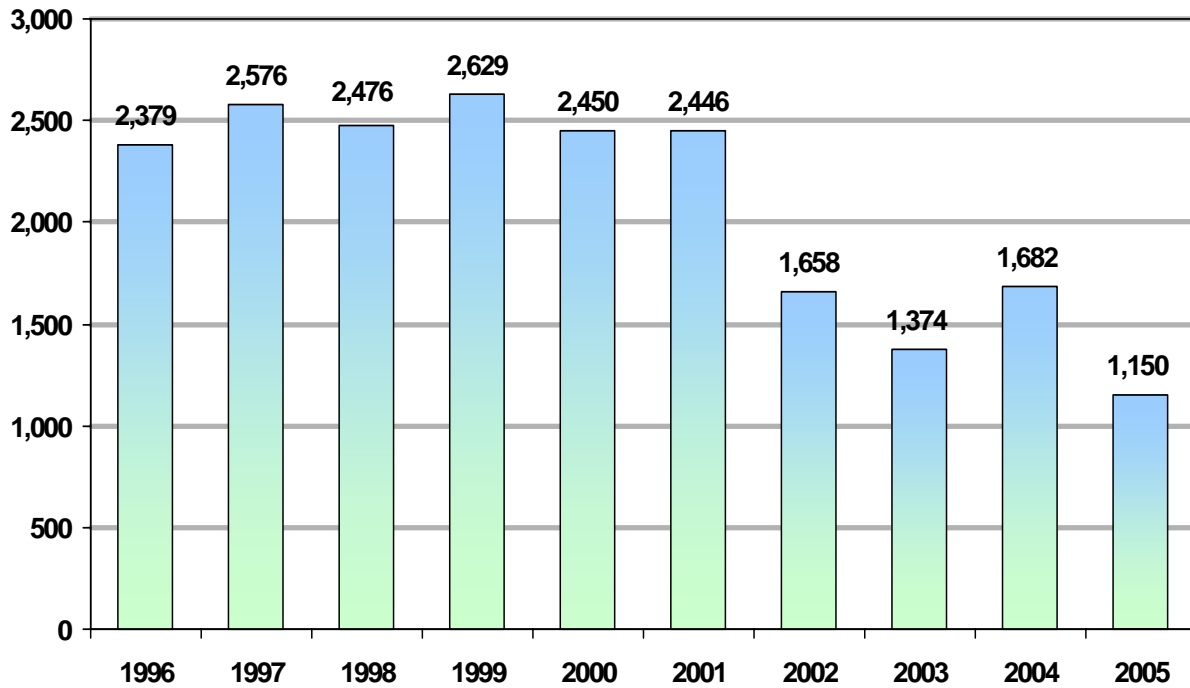


\*Implemented new VR reporting system in 2003 and separated vocational rehabilitation statistics from medical management cases. Stats after 2003 include VR cases only.

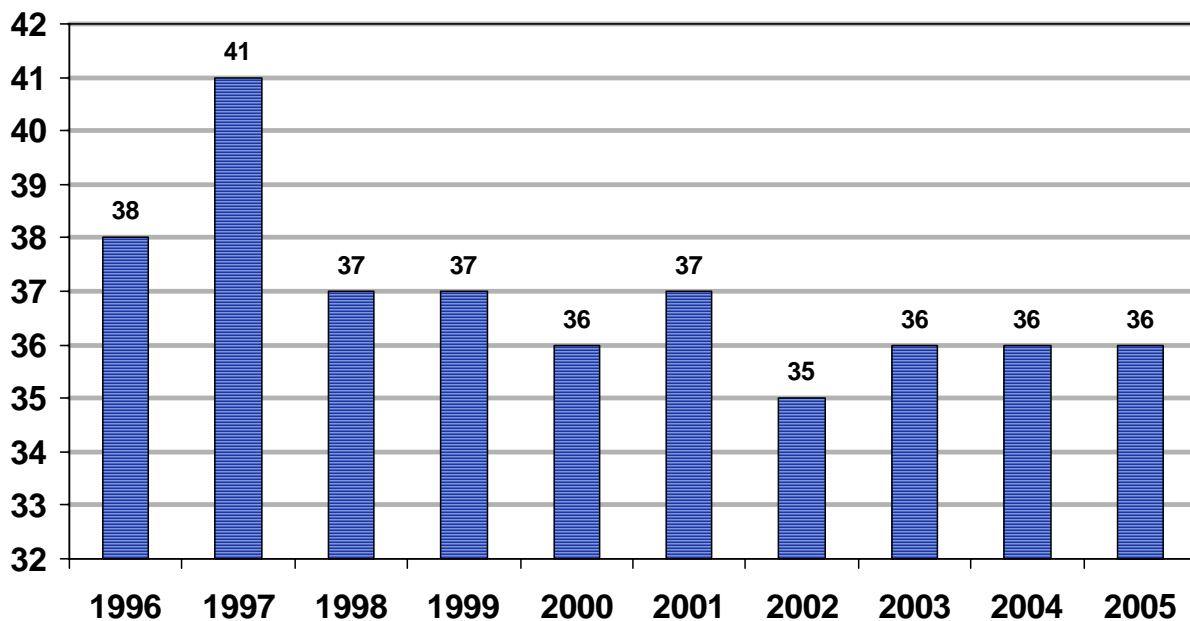
# Forms 400 & 401 Received



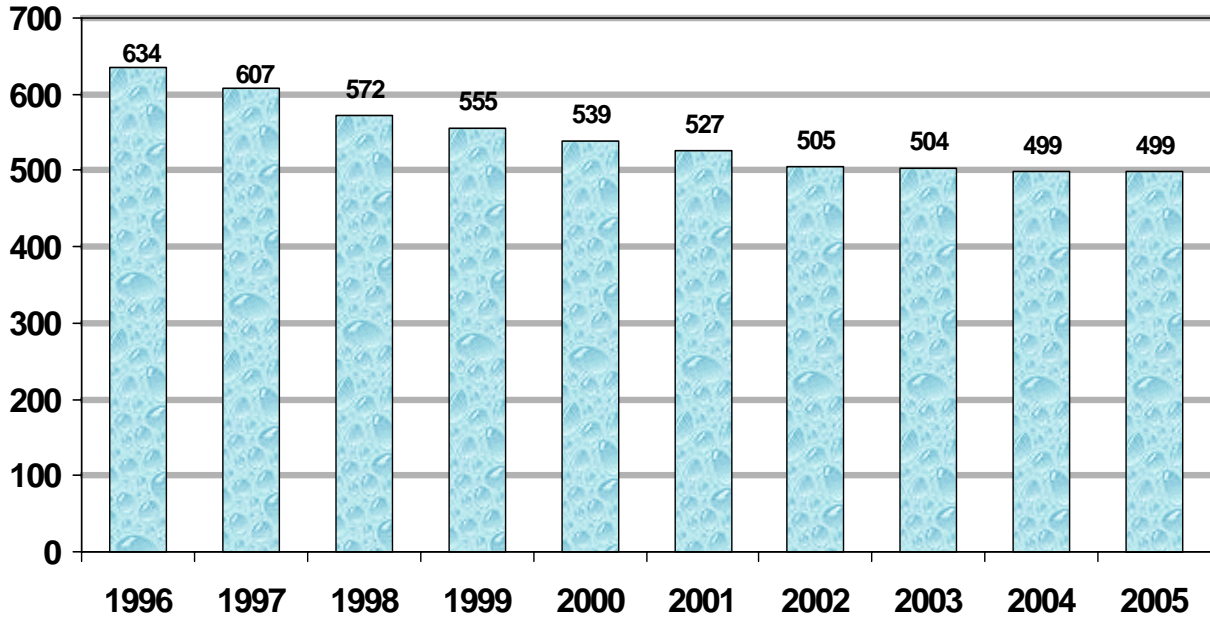
# Exclusion Forms Processed



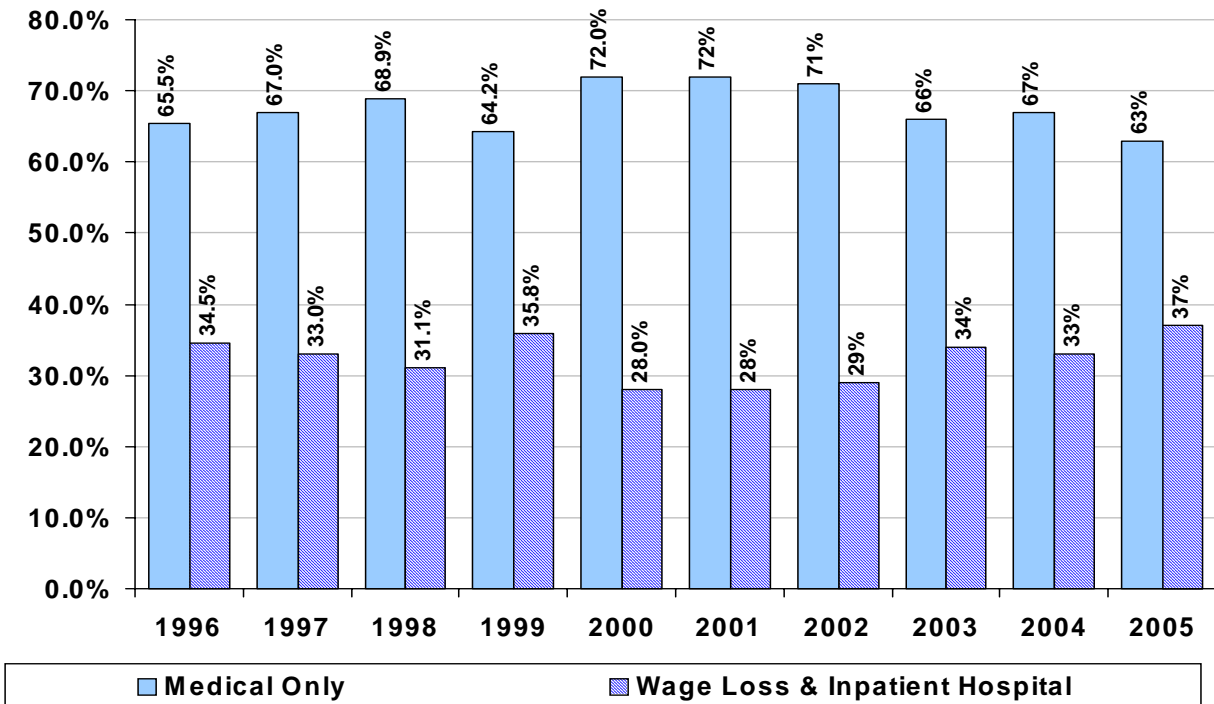
# Number of Approved Self-Insured Groups



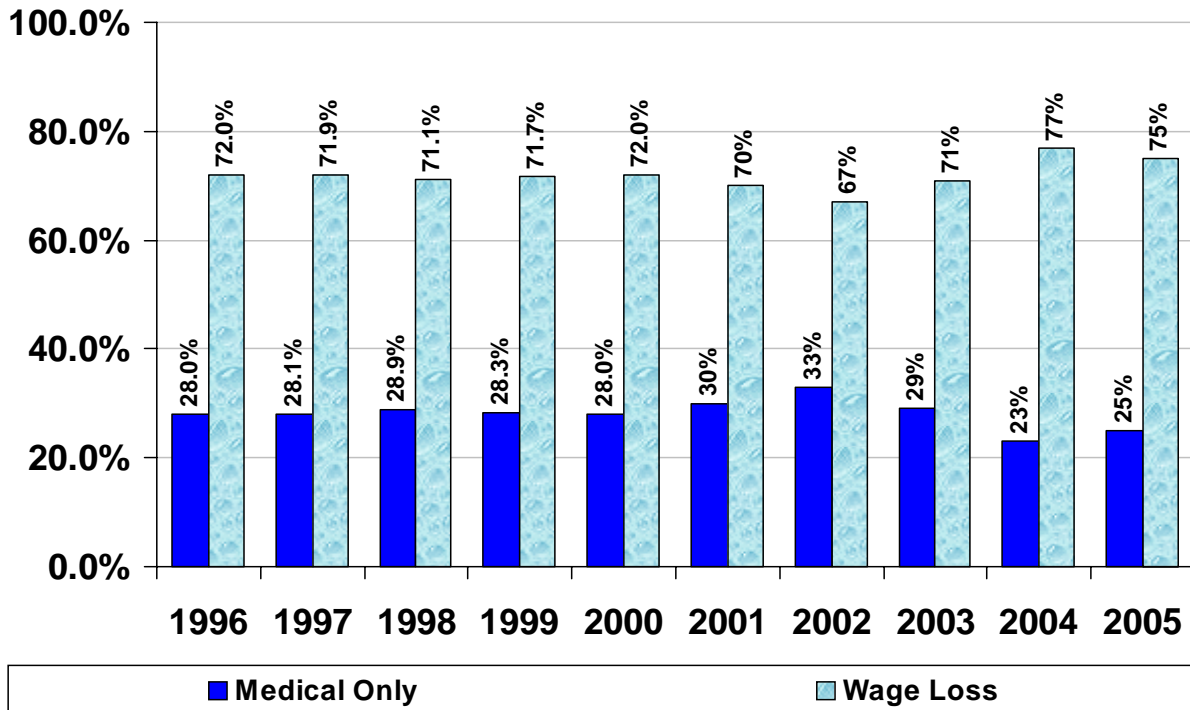
# Number of Approved Individual Self-Insured Employers



# Health Care Costs - Number of Cases

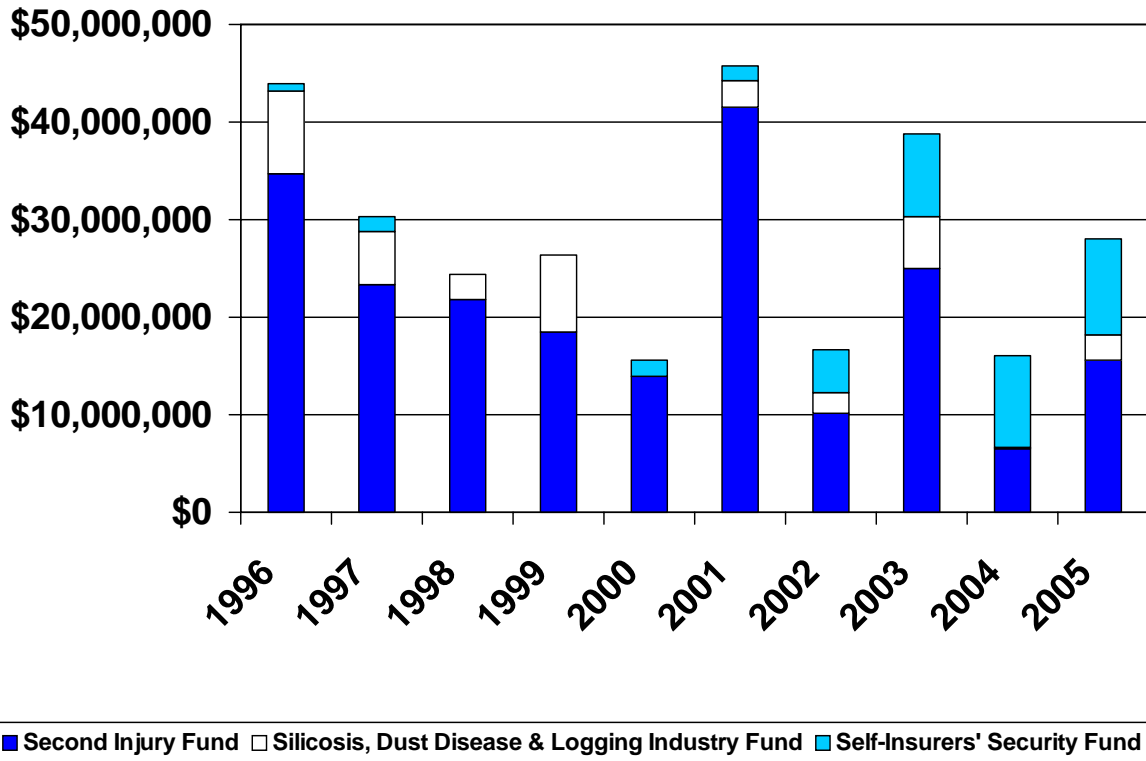


# Health Care Costs - Amount Paid

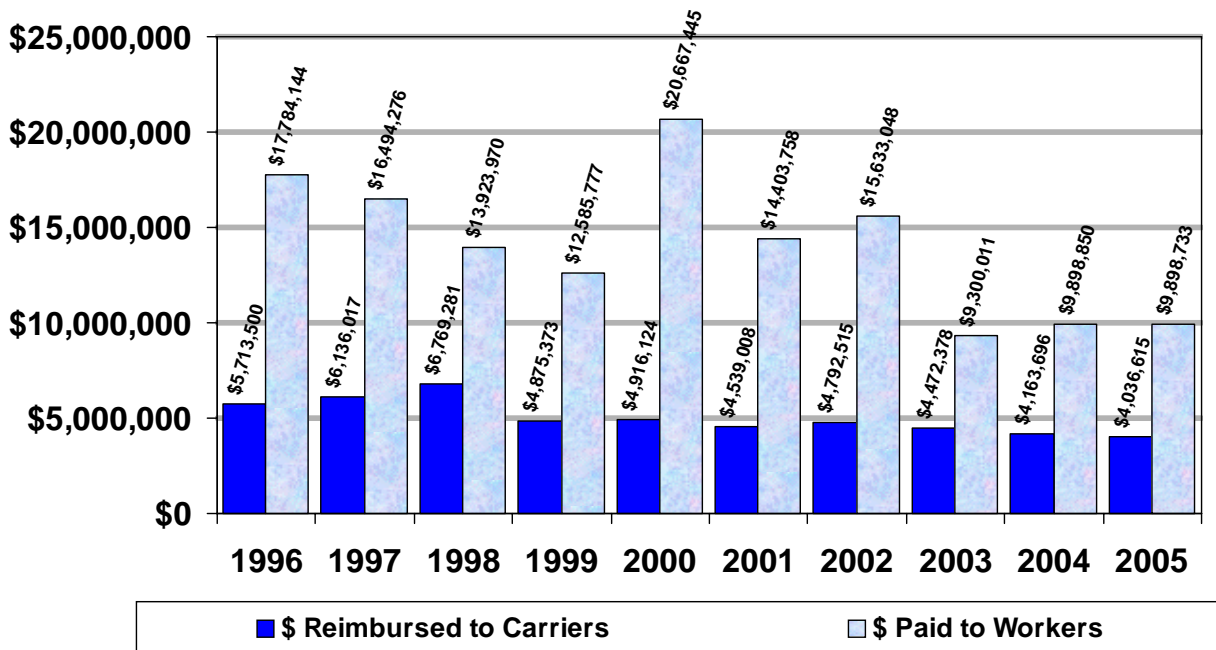


<b>WORKERS' COMPENSATION AGENCY ANNUAL HEALTH CARE COSTS 2002-2005</b>					
<b>TYPE OF CASE</b>	<b>JAN-DEC 2002</b>	<b>JAN-DEC 2003</b>	<b>JAN-DEC 2004</b>	<b>JAN-DEC 2005</b>	
<b>Medical Only</b>					
Number of Cases	262,980	228,540	230,198	229,711	
Amount Paid	\$172,959,266	\$155,305,063	\$129,441,688	\$124,461,364	
Cost/Case	\$658	\$680	\$562	\$542	
<b>Wage Loss</b>					
Number of Cases	104,883	120,010	113,913	135,748	
Amount Paid	\$348,597,832	\$378,525,932	\$430,329,393	\$377,758,909	
Cost/Case	\$3,324	\$3,154	\$3,778	\$2,783	
<b>TOTAL</b>					
Number of Cases	367,863	348,550	344,111	364,984	
Amount Paid	\$521,557,098	\$533,830,995	\$559,771,081	\$502,220,272	
Cost/Case	\$1,418	\$1,532	\$1,627	\$1,376	
<b>% Of Total Cases-Med Only</b>	71%	66%	67%	63%	
<b>% Of Total Cases-Wage Loss</b>	29%	34%	33%	37%	
<b>% Of Total Cost-Med Only</b>	33%	29%	23%	25%	
<b>% Of Total Costs-Wage Loss</b>	67%	71%	77%	75%	
<b>FIGURES REPRESENT PAYMENTS MADE IN ANY GIVEN ANNUAL REPORT PERIOD</b>					
Revised 03/06/06					

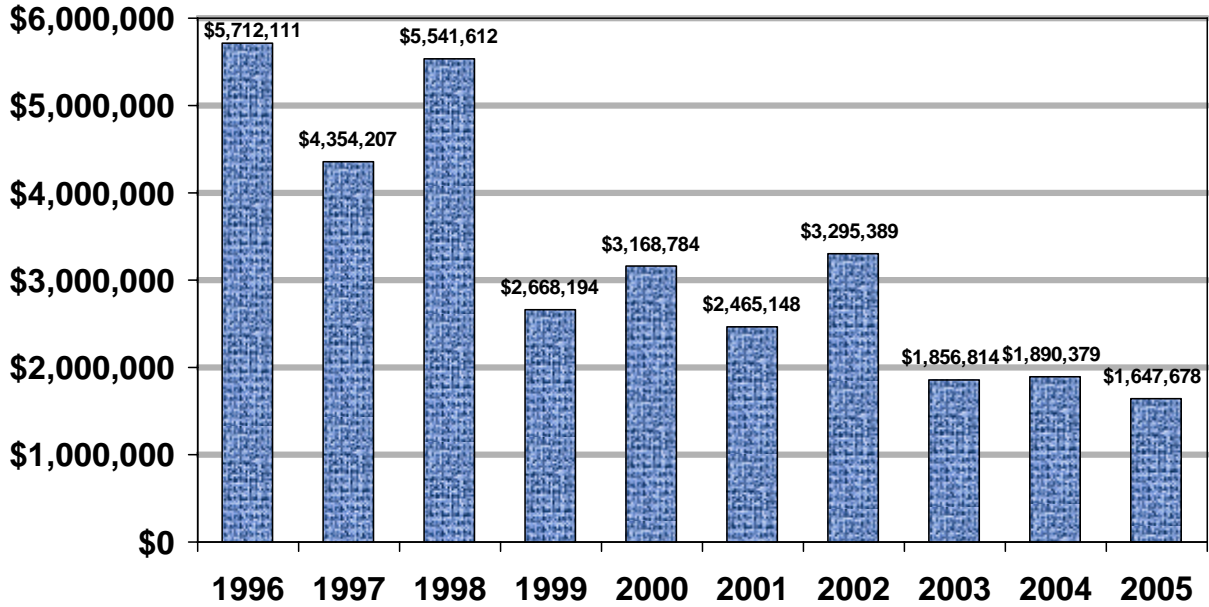
# Funds Administration Assessments



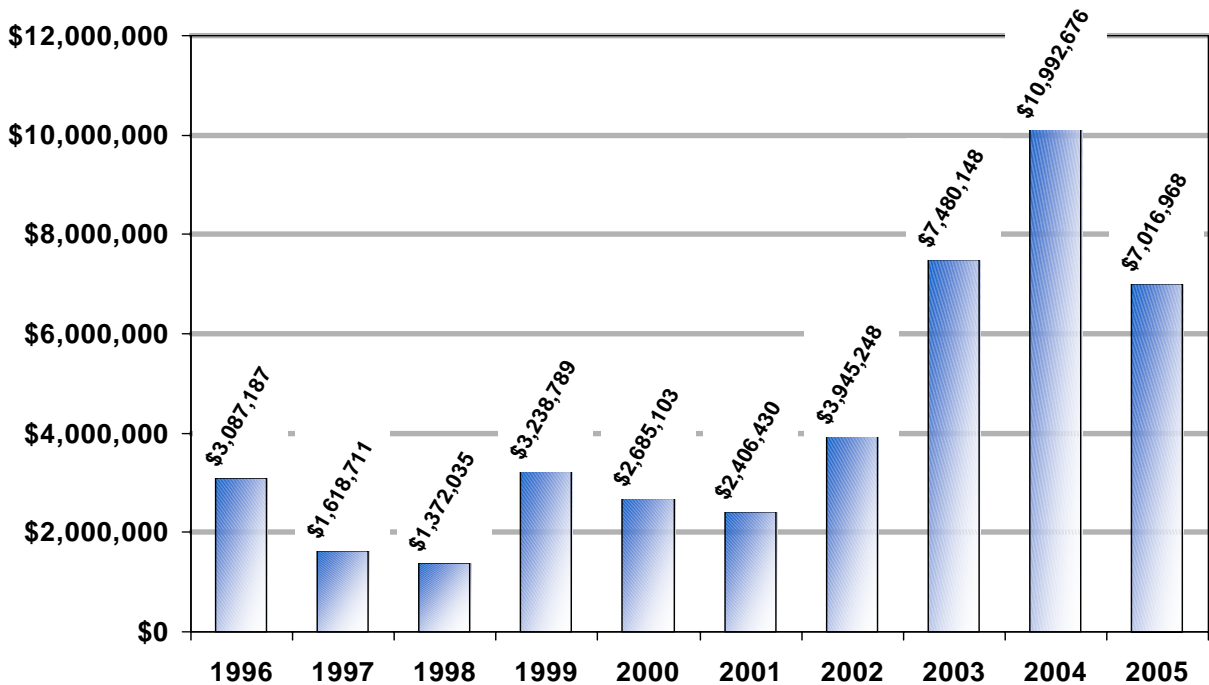
# Benefits Paid Out by Second Injury Fund



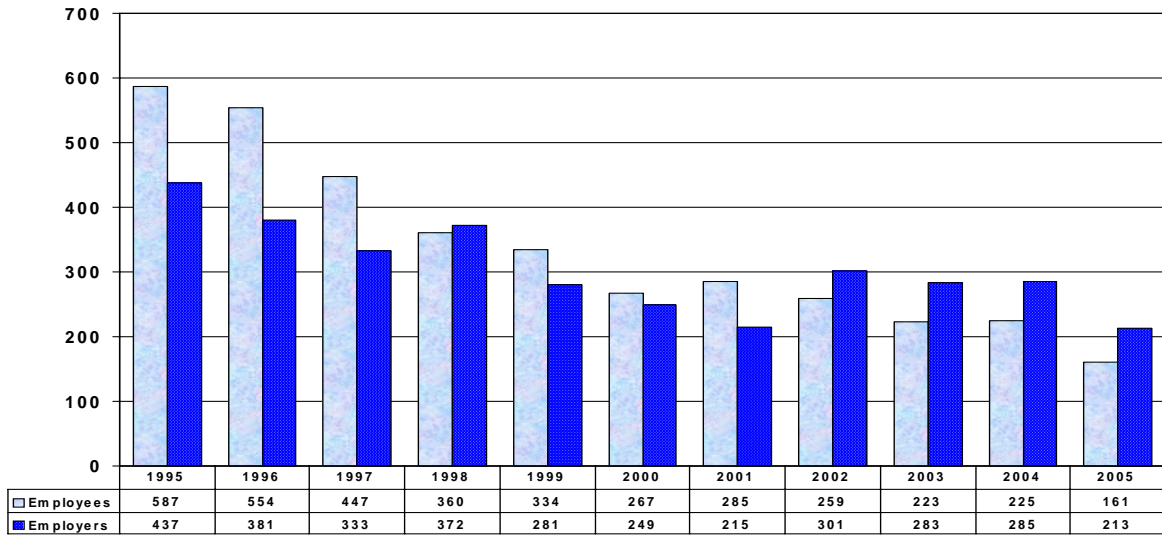
## Benefits Reimbursed to Carriers and Redemptions by the Silicosis, Dust Disease and Logging Industry Compensation Fund



## Benefits Paid to Workers by the Self-Insurers' Security Fund



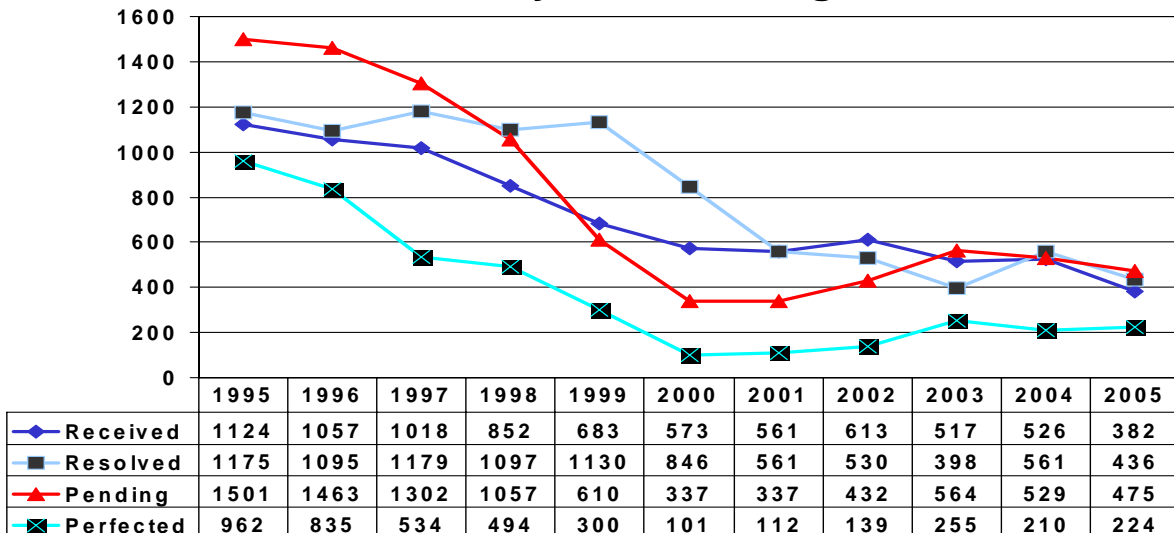
## Worker's Compensation Appellate Commission New Claims Filed by Employees/Employers



### New Claims Filed by Employees/Employers

The number of claims filed by employees and employers is represented in this illustration. The number of employee and employer claims received in 2005 versus 2004 decreased considerably, by 136 claims. The number of employee claims received in 1995 of 587 versus the number received in 2005 of 161, shows a decrease of 73%. Employer filed claims in 1995 of 437 versus the number received in 2005 of 213, shows a decrease of 51%.

## Workers' Compensation Appellate Commission Claim Activity: 1995 through 2005



**Received:** Includes all new claims filed with the Commission as well as reinstatements and remands from the Michigan Court of Appeals and the Michigan Supreme Court.

**Resolved:** Includes all dispositive opinions, orders, redemptions and withdrawals.

**Pending:** This figure includes all pending appeals before the Commission at the end of 2005, including active appeals (claims received prior to 2005 and new claims received in 2005), higher court reinstatements, remanded cases where the Commission retained jurisdiction.

**Perfected:** All cases ready for review pending before the Commission (all required transcripts and briefs have been filed) awaiting disposition.

## ***Publications***

<b>Publication</b>	<b>Printed Copies Available from Agency</b>	<b>Information Available on Website</b>
Workers' Disability Compensation Act	X	X
Administrative Rules	X	X
1997 – 2005 Annual Reports	X	X
1996 and Prior Year Annual Reports	X	
Overview of Workers' Compensation in Michigan	X	X
A Summary of Your Rights and Responsibilities Under Workers' Disability Compensation (Pamphlet)	X	X
Coverage Questions for Subcontractors, General Contractors, and Independent Contractors	X	X
Vocational Rehabilitation for Injured Workers (Pamphlet)	X	X
Approved Vocational Rehabilitation Facilities	X	X
Health Care Services Rules Order Form	X	X
2004 Weekly Benefit Rate Book	X	X
Calculation Program	X	X
Individual Self-Insured Employer List	X	X
Self-Insured Group List	X	X
Service Company List	X	X
Workers' Compensation Appellate Commission Opinions	X	X
Michigan Workers' Compensation Forms	X	Most forms
Funds Administration Overview	X	X
Website address: <a href="http://www.michigan.gov/wca">www.michigan.gov/wca</a> Request forms at: 888-396-5041		