

**KANSAS WORKERS COMPENSATION
FUND**
YEAR END REPORT
FY 2021



**KANSAS
INSURANCE**
DEPARTMENT

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Commissioner of Insurance

I. General Overview

The Kansas Workers Compensation Fund (“Fund”) was established in 1993 when the Legislature amended Kansas workers compensation laws. The 1993 changes abolished the Kansas Second Injury Fund. However, the Fund retained the liability for the existing Kansas Second Injury Fund cases. In addition, the Fund remains liable for cases in which an employer does not carry workers compensation insurance and is financially unable to pay for work injuries to its employees. The Fund is also liable for Director Certifications, which are reimbursements to insurance carriers or employers in cases when there has been an overpayment of benefits to a claimant for reasons such as fraud or mistake, or when a claim is found to be not compensable. An analysis of the liability for each of these claims is detailed below.

a. Second Injury Fund

The purpose behind the now dissolved Second Injury Fund was to incentivize employers to hire people with previous injuries or disabilities. Employers were understandably hesitant to hire someone with a previous injury because of the risk that the employee will suffer a second injury.

The Second Injury Fund was held partially or fully liable for claims if the employer could establish that it knowingly hired or retained a previously injured employee with knowledge of the preexisting injury, or when the employee intentionally misrepresented the existence of a preexisting injury and the employer hired them without knowledge of that condition.

b. Workers Compensation Fund

The 1993 legislative changes represented a significant policy shift. The Fund is no longer used to incentivize employers to hire previously injured employees. Instead, the Fund is now brought into a case (impleaded) when an injured worker’s employer is uninsured and unable to pay for the medical and disability payments or, in some cases, cannot be located.

The Fund essentially steps into the shoes of the employer when impleaded. If an Administrative Law Judge (ALJ) finds the injury is compensable, the employer was uninsured at the time of the accident, and the employer is unable to pay expenses related to the injury, the ALJ will order the Fund to begin making payments to the claimant for disability payments (for lost wages and loss of function) and to medical providers for medical treatment. Pursuant to K.S.A. 2020 Suppl. 44-532a(b), the Fund may seek reimbursement from the employer, in some cases, in a separate civil action with the District Court.

II. Federal Medicare and Americans with Disabilities Act Requirements affecting the Fund

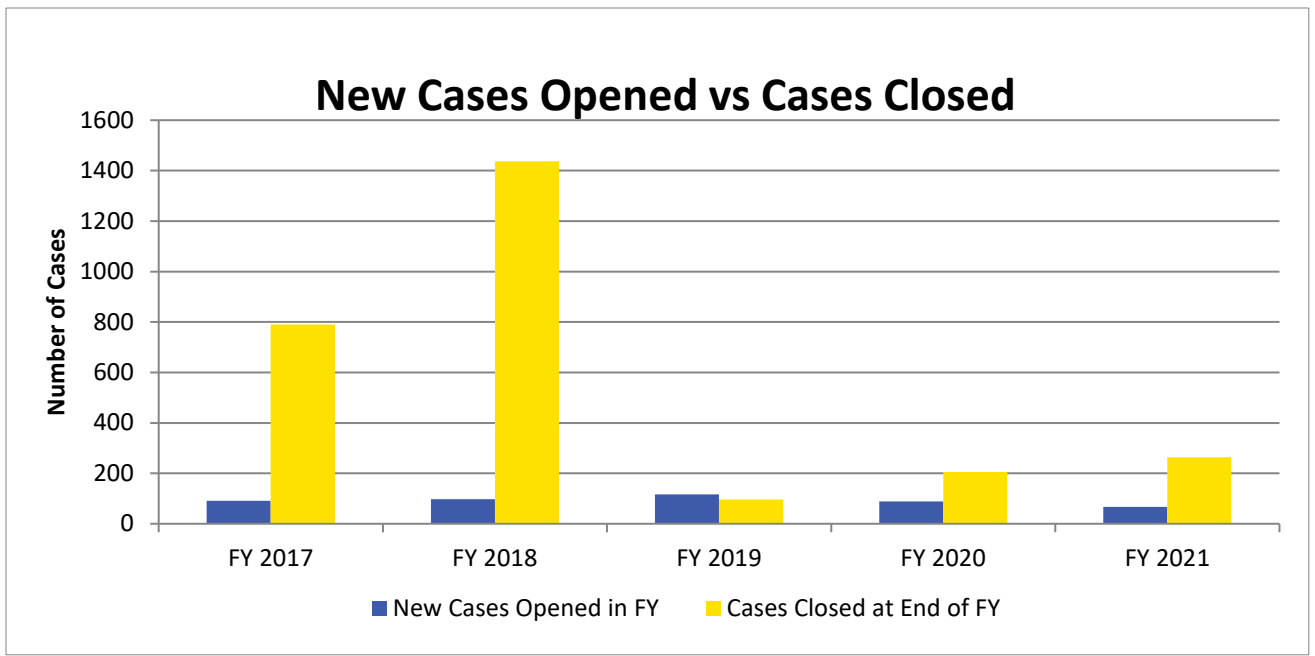
In instances where Medicare inadvertently pays for medical treatment related to an injury under the Workers Compensation Act, Medicare will seek reimbursement from the primary payer. The Fund is required by 42 U.S.C.A. 1395y to report claims where the injured employee is Medicare eligible to the Center for Medicare and Medicaid Services (CMS). The Fund met its reporting obligation and CMS has acknowledged receipt of the data. This year’s data submission identified 238 Medicare beneficiaries for whom the Fund has either a current or a permanent obligation to provide medical services.

III. Case Information

The Fund continues to work to close cases that have been dormant for more than 10 years. A total of 264 cases were closed in FY 2021 and open cases continue to be reviewed to identify inactive status to investigate possible closure. This continued focus on closing claims will decrease overall Fund liability in the coming years.

OPEN CASE STATISTICS

Fiscal Year	New Cases Opened in FY	% Change from prior FY	Cases Closed at End of FY	% Change from Prior FY	Open Cases at End of FY	% Change from prior FY
FY 2017	91	-23.53%	790	+599%	3,250	-17.72%
FY 2018	97	+6.59%	1,437	+81.90%	1,920	-40.92%
FY 2019	116	+19.59%	96	-93.32%	1,948	1.46%
FY 2020	88	-24.14%	205	113.54%	1,837	-5.70%
FY 2021	67	-23.86%	264	28.78%	1,648	-10.29%



IV. Financial

The Fund receives income from three sources: (1) assessments of workers compensation carriers, self-insurers, and group-funded pools (“carriers”); (2) reimbursements from uninsured employers and (3) fines levied against uninsured employers by the Kansas Department of Labor’s Division of Workers Compensation. Assessments are based on a carrier’s total paid losses for the prior year. Paid losses are the amount of money expended in the payment of claims for a carrier. Fund liability results from three types of actions: 1) old second injury actions (pre-1993); 2) uninsured employer cases and 3) Director Certifications. These expenses are discussed in more detail below and listed in the following tables.

<u>Receipt Analysis</u>		<u>Disbursement of Expenditures</u>	
FY 2021 (July 2020- June 2021)		FY 2021	
Assessment Receipts	\$ 2,931,249.24	Court Costs	\$ 88,110.32
Gen. Fund Entitlement		Case Management	\$ 3,190.00
Fine & Penalties Receipts	\$ 110,976.59	Director's Certification	\$ 1,008,432.85
Misc. Reimbursements	\$ 251,125.05	Compensation Costs	\$ 657,958.87
TOTAL RECEIPTS	\$ 3,293,350.88	Medical Costs	\$ 803,124.39
LEGISLATIVE TRANSFER		Other Operating Costs	\$ 277,727.56
Previous Year Carryover	\$ 5,987,626.85	Attorney Fee Expenses	\$ 324,144.09
LEGISLATIVE SWEEP		Accounts Payable	\$ (9.07)
TOTAL FUNDS AVAILABLE	\$ 9,280,977.73	TOTAL EXPENDITURES	\$ 3,162,679.01
TOTAL END BALANCE	\$ 6,118,298.72		

<u>Receipt Analysis</u>		<u>Disbursement of Expenditures</u>	
FY 2020 (July 2019-June 2020)		FY 2020	
Assessment Receipts	\$ 1,546,886.02	Court Costs	\$ 121,391.50
Gen. Fund Entitlement	\$ -	Case Management	\$ 6,408.58
Fine & Penalties Receipts	\$ 96,929.15	Director's Certification	\$ 929,208.27
Misc. Reimbursements	\$ 234,236.30	Compensation Costs	\$ 868,702.24
TOTAL RECEIPTS	\$ 1,878,051.47	Medical Costs	\$ 1,130,251.02
LEGISLATIVE TRANSFER	\$ -	Other Operating Costs	\$ 258,108.38
Previous Year Carryover	\$ 7,964,043.87	Attorney Fee Expenses	\$ 538,280.26
LEGISLATIVE SWEEP	\$ -	Accounts Payable	\$ 2,118.24
TOTAL FUNDS AVAILABLE	\$ 9,842,095.34	TOTAL EXPENDITURES	\$ 3,854,468.49
TOTAL END BALANCE	\$ 5,987,626.85		

<u>Receipt Analysis</u>		<u>Disbursement of Expenditures</u>	
FY 2019 (July 2018-June 2019)		FY 2019	
Assessment Receipts	\$ 791,509.69	Court Costs	\$ 49,869.69
Gen. Fund Entitlement	\$ -	Case Management	\$ 8,121.68
Fine & Penalties Receipts	\$ 113,632.33	Director's Certification	\$ 1,675,524.89
Misc. Reimbursements	\$ 103,389.63	Compensation Costs	\$ 721,531.90
TOTAL RECEIPTS	\$ 1,008,531.65	Medical Costs	\$ 530,235.49
LEGISLATIVE TRANSFER	\$ -	Other Operating Costs	\$ 254,837.33
Previous Year Carryover	\$ 10,625,152.89	Attorney Fee Expenses	\$ 429,519.69
LEGISLATIVE SWEEP	\$ -		
TOTAL FUNDS AVAILABLE	\$ 11,633,684.54	TOTAL EXPENDITURES	\$ 3,669,640.67
TOTAL END BALANCE	\$ 7,964,043.87		

<u>Receipt Analysis</u>		<u>Disbursement of Expenditures</u>	
FY 2018 (July 2017-June 2018)		FY 2018	
Assessment Receipts	\$ 2,653,115.81	Court Costs	\$ 48,108.83
Gen. Fund Entitlement	\$ -	Vocational Rehabilitation	\$ -
Fine & Penalties Receipts	\$ 112,895.78	Director's Certification	\$ 3,304,859.68
Misc. Reimbursements	\$ 190,975.30	Compensation Costs	\$ 781,209.78
TOTAL RECEIPTS	\$ 2,956,986.89	Medical Costs	\$ 654,586.40
LEGISLATIVE TRANSFER	\$ 2,355,000.00	Other Operating Costs	\$ 203,672.96
Previous Year Carryover	\$ 10,615,364.55	Attorney Fee Expenses	\$ 309,396.41
LEGISLATIVE SWEEP	\$ -		
TOTAL FUNDS AVAILABLE	\$ 15,927,351.44	TOTAL EXPENDITURES	\$ 5,301,834.06
TOTAL END BALANCE	\$ 10,625,152.89		

<u>Receipt Analysis</u>		<u>Disbursement of Expenditures</u>	
FY 2017 (July 2016-June 2017)		FY 2017	
Assessment Receipts	\$ 3,650,561.03	Court Costs	\$ 48,680.14
Gen. Fund Entitlement	\$ -	Vocational Rehabilitation	\$ 4,875.77
Fine & Penalties Receipts	\$ 192,982.12	Director's Certification	\$ 1,434,120.88
Misc. Reimbursements	\$ 110,813.48	Compensation Costs	\$ 659,449.45
TOTAL RECEIPTS	\$ 3,954,356.63	Medical Costs	\$ 757,177.33
LEGISLATIVE TRANSFER	\$ -	Other Operating Costs	\$ 202,279.06
Previous Year Carryover	\$ 10,030,389.47	Attorney Fee Expenses	\$ 262,984.55
LEGISLATIVE SWEEP	\$ -		\$ -
TOTAL FUNDS AVAILABLE	\$ 13,984,746.10	TOTAL EXPENDITURES	\$ 3,369,567.18
TOTAL END BALANCE	\$ 10,615,364.55		

a. Liabilities

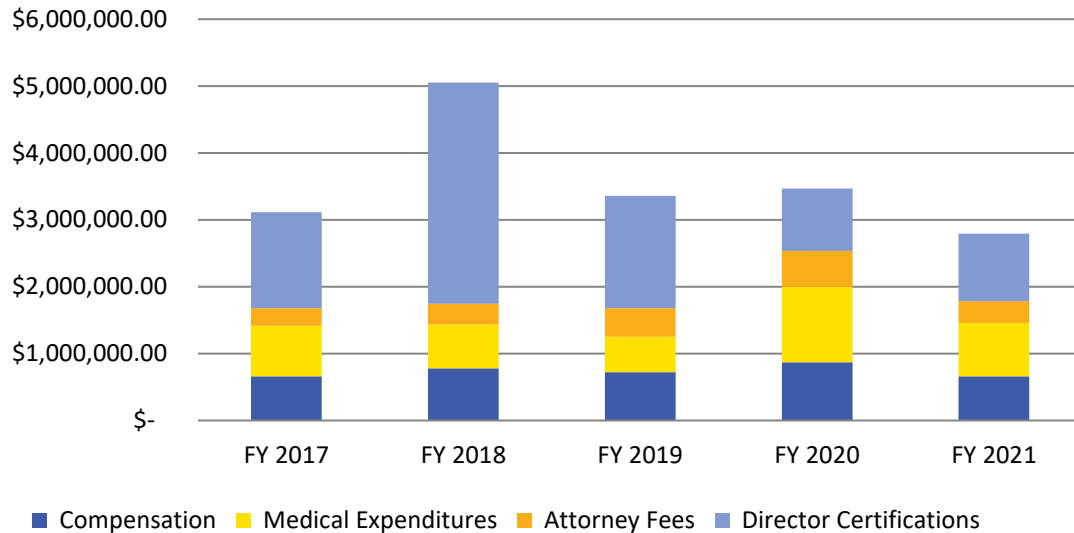
In FY 2021, there was a decrease of 17.95% in total liabilities over the prior fiscal year. While expenditures in most categories decreased, including attorney fees, there was an increase in Director Certification expenditures due to payments that were pended in FY 2020 during litigation on certifications issued in dismissal cases. Those pended payments were made in FY 2021. Director Certifications continue to be one of the largest Fund Expenditures yearly. Director Certifications represent the Fund's statutory¹ obligation to reimburse an insurance carrier or employer for money expended during the case that is over the amount ultimately determined to be owed. This is discussed in further detail below.

TOTAL DIRECT LIABILITIES					
Fiscal Year	Compensation	Medical Expenditures	Attorney Fees	Director Certifications	Total
FY 2017	\$ 659,449.45	\$ 757,177.33	\$ 262,984.55	\$ 1,434,120.88	\$ 3,113,732.21
FY 2018	\$ 781,209.78	\$ 654,586.40	\$ 309,396.41	\$ 3,304,859.68	\$ 5,050,052.27
FY 2019	\$ 721,531.90	\$ 530,235.49	\$ 429,519.69	\$ 1,675,524.89	\$ 3,356,811.97
FY 2020	\$ 868,702.24	\$ 1,130,251.02	\$ 538,280.26	\$ 929,208.27	\$ 3,466,411.79
FY 2021	\$ 657,958.87	\$ 803,124.39	\$ 324,144.09	\$ 1,008,432.85	\$ 2,793,660.20

*Note: These figures do not include court costs, case management, operating costs, and other accounts payable.

¹ See K.S.A. 44-534a(b), K.S.A. 44-556(d), K.S.A. 44-566a and K.S.A. 44-569a.

Direct Expenditures



i. Disability Compensation

The purpose of disability compensation is twofold. First, it aims to compensate a person for the loss in function of a body part or psychological trauma. Second, it compensates an injured person for his or her inability to work. In FY 2021, the Fund experienced a 10.49% decrease in total disability compensation paid. The decrease was due in part to a reduction in both Temporary and Permanent Partial Disability payments as well as lower lump sum payments made in FY 2021. Lump sum payments are generally made for settlements that limit future payment for medical expenses and attorney fees. Claims continue to be reviewed to identify possible settlement opportunities, thus, likely reducing the Fund's expenditures in this area.

In FY 2021, there was an increase in Temporary and Permanent Total Disability paid. This increase may be due to ongoing litigated claims from FY 2020 into FY 2021 before a final award was approved and as previously mentioned due in part to pended litigation from Directors Certifications not paid until FY 2021.

A definitive study on the COVID-19 pandemic’s effect on workers compensation payments has not been released, but several have suggested that the overall impact is less compensation paid.

YEARLY COMPENSATION PAYMENTS							
Payment Types							
Fiscal Year	Lump Sum	Permanent Partial Disability	Permanent Total Disability	Temporary Partial Disability	Temporary Total Disability	Total Compensation Paid	
2017	\$ 283,634.00	\$ 69,893.37	\$ 76,366.07	\$ 7,119.40	\$ 465,900.31	\$ 902,913.15	
2018	\$ 345,791.07	\$ 48,066.49	\$ 40,895.51	\$ 697.73	\$ 772,155.93	\$ 1,207,606.73	
2019	\$ 396,261.99	\$ 65,454.88	\$ 27,313.36	\$ 629.17	\$ 519,014.59	\$ 1,008,673.99	
2020	\$ 596,354.41	\$ 101,439.12	\$ 23,318.21	\$ 9,757.63	\$ 352,066.45	\$ 1,082,935.82	
2021	\$ 480,143.61	\$ 33,806.70	\$ 42,004.72	\$ -	\$ 413,354.49	\$ 969,309.52	

ii. Medical Expenditures

In FY 2021, the Fund decreased its medical expenditures by 19.03% from the previous year. The Fund utilizes a third-party administrator (TPA) in the oversight and management of claims. The TPA has assisted the Fund with bill review, ensuring submitted claims are related to the work-related injury, utilizing reductions per the 2019 Kansas Medical Fee Schedule, and implementing other best practices, such as use of: (1) a preferred provider network; (2) a pharmacy card program and (3) nurse case managers. With the use of these tools, the Fund should be able to continue to stabilize medical expenditures in the coming years.

<i>Fiscal Year</i>	<i>Physicians</i>	<i>Hospitals</i>	<i>Prescriptions</i>	<i>Medical Supplies and Equipment</i>	<i>Medical Reimbursements</i>	<i>Total Medical Expenditures</i>	<i>% Change from Prior FY</i>
2017	\$ 225,840.55	\$ 179,136.84	\$107,516.53	\$ 64,267.75	\$ 1,371,072.84	\$ 1,947,834.51	-4.66%
2018	\$ 189,988.47	\$ 164,691.88	\$ 76,785.62	\$ 20,738.97	\$ 3,080,844.19	\$ 3,533,049.13	+81.38%
2019	\$ 213,304.70	\$ 189,212.32	\$ 86,014.22	\$ 5,470.81	\$ 1,424,616.24	\$ 1,918,618.29	-45.70%
2020	\$ 387,073.44	\$ 450,177.14	\$ 95,576.77	\$ 37,834.67	\$ 882,017.70	\$ 1,852,679.72	-3.44%
2021	\$ 404,320.50	\$ 173,436.79	\$ 55,487.87	\$ 22.11	\$ 866,939.32	\$ 1,500,206.59	-5.96%

iii. Litigation Costs

This category includes attorney fees as well as court reporter and deposition fees. The Fund contracts with attorneys to manage costs and increase efficiency. Currently, the Fund has 13 attorneys accepting new assignments. In FY 2021, attorney fees decreased by 39.78%. While the Fund continued to litigate several complex claims in FY 2021, the overall fees decreased due to the courts being closed for the majority of FY 2021. Hearings were held via secure electronic video conferencing or by telephone, thus saving the Fund in Fund Attorney billable hours and fees paid for travel to and from court. The Courts continue to hear cases through secure electronic media and the trend for stabilization in this area through the next FY is most likely to occur. In other areas of litigation costs, the Fund will continue to analyze billing and will work to find ways to increase efficiencies to try to reduce the growth in this expenditure category.

DOLLARS OF COMPENSATION PAID PER DOLLAR OF ATTORNEY FEES				
Fiscal Year	Fund Attorney Hours Paid	Fund Attorney Fees Paid	Claimant Attorney Fees Paid	Total Attorney Fees
FY 2017	2,505	\$ 262,984.55	\$ -	\$ 262,984.55
FY 2018	2,947	\$ 306,278.91	\$ 3,117.50	\$ 309,396.41
FY 2019	3,436	\$ 429,519.69	\$ -	\$ 429,519.69
FY 2020	4,280	\$ 535,060.26	\$ 3,220.00	\$ 538,280.26
FY 2021	2,566	\$ 320,735.96	\$ 3,408.13	\$ 324,144.09

iv. Director Certifications

Currently, Director Certifications represent 31.89% of the Fund's overall expenses. As seen in the following table, the dollar amount reimbursed to employers and insurance carriers substantially increased in FY 2018 and is highly unpredictable from year to year. Director Certifications in FY 2020 decreased significantly from FY 2019 and FY 2018, but, as previously discussed, some certifications that were pending in FY 2020 were not paid until FY 2021, causing these figures to skew upwards for FY 2021.

Director Certifications represent the Fund’s statutory obligation to reimburse an insurance carrier or employer for money expended on the claim that is over the amount ultimately determined to be owed.

Typically, this occurs when an employer or insurance carrier pays benefits up front either voluntarily or pursuant to a preliminary hearing order, then months or in some cases years later it is determined that the claim was not compensable, there was an overpayment or that the employee failed to pursue the claim, the Fund is ordered to reimburse the employer or carrier. Many times, the Fund is not a party to the underlying claim until later in the case and the money expended during the pendency of the case accumulates until the final order or dismissal. The Fund has not yet successfully asserted a right to appeal a Director Certification due to the language in K.S.A. 44-534a(b).

Further, when a case is dismissed pursuant to K.S.A. 44-523(f)(1) it is considered a final disposition on the matter as required by K.S.A. 44-534a(b). Thus, the Fund is precluded from seeking reimbursement from the employer. The Fund is required to pay the full amount regardless of whether the claimant was entitled to the compensation initially. The Fund will continue to explore avenues to assert its right for reimbursement for Director Certification expenditures.

In the FY 2020 Annual report, the Fund discussed that the increase in Director Certification expenditures may be explained by the Kansas Court of Appeals ruling in October 2018, of *Travelers Casualty Insurance v. Larry G. Karns*², hereinafter referred to as *Travelers I*, in that “the Fund must be impleaded, as provided in K.S.A. 2017 Supp. 44-566a(c)(1), if it may be responsible for reimbursing benefits.” The Court remanded the proceeding to the Workers Compensation Board³ for a determination, among other issues, of whether “the Fund should be impleaded consistent with K.S.A. 2017 Supp. 44-566a(c)(1), given the various arguments that it might be liable for preliminary medical benefits.” The Board confirmed the Fund should be impleaded since the Director already impleaded the Fund and per

² *Travelers Casualty Insurance v. Larry G. Karns*, 56 Kan.App.2d 388,431 P.3d 301 (2018).

³ *Travelers Casualty Insurance v. Larry G. Karns, et al.*, Docket No. AP-00-0430-995, Kansas Workers Compensation Board, (2019).

K.S.A. 2017 Supp. 44-566a(c)(1). However, the Board also discussed its concern that *Travelers I* was being interpreted as requiring the Fund to be brought into all cases in which it might possibly have to pay benefits (emphasis added) and stated that should not be the case. The Board distinguished that K.S.A. 44-556(e) might be the sort of proceeding requiring the Fund to contest liability but if the Fund cannot litigate K.S.A. 44-534a(b) reimbursement, impleading into similar situations seems wholly unnecessary. The case was again appealed by Travelers Casualty Insurance to the Kansas Court of Appeals. The Fund continued to be impleaded in these types of cases, while the decision was pending. Whether there is a decrease in impleading the Fund in cases where there is a solvent employer or who can pay compensation and medical claims will be monitored.

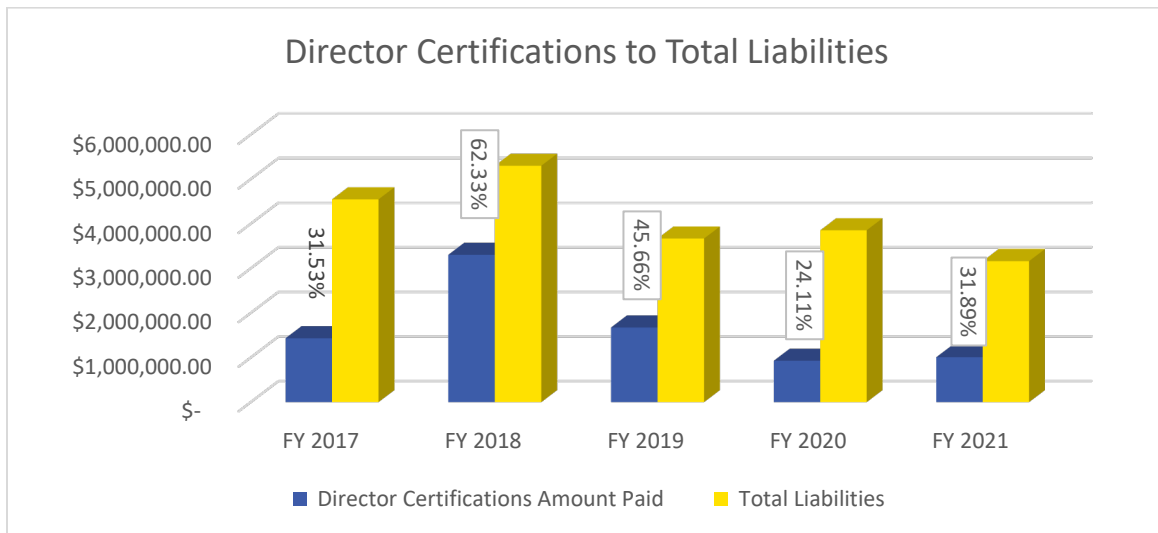
As FY 2022 began, a second decision was rendered by the Kansas Court of Appeals in *Travelers Casualty Insurance v. Larry G. Karns, et al.*⁴, hereinafter referred to as *Travelers II*. In *Travelers II*, the Kansas Court of Appeals discussed the stages of the first appeal in detail and the first Court of Appeals panel's decision remanding the case back to the Kansas Workers Compensation Board to determine reimbursement between the two insurance carriers and whether the Fund should be impleaded. Although the majority of *Travelers II* panel may not have agreed with each point in the previous panel's decision in *Travelers I*, the second panel held it could not overturn a prior panel's decision and dismissed *Travelers II* for lack of jurisdiction. Thus, essentially leaving the Kansas Workers Compensation Board's decision from the *Travelers I* remand unchanged.

While the Fund generally monitors these cases in-house, an increase in resources and expenses may be seen if there is not clarifying case law or statutory changes in the future.

One of the largest concerns for the Fund is paying certifications issued when a case is dismissed pursuant to K.S.A. 44-523(f) when there is no finding of an overpayment of benefits.

⁴ *Travelers Casualty Insurance v. Larry G. Karns, et al.*, Docket No. 121,344 (2021), 2021 WL 4217506, ___P.3d ___ September 17, 2021, Court of Appeals of Kansas.

Director Certifications		
Fiscal Year	Director Certifications Amount Paid	Number of Certifications
FY 2017	\$ 1,434,120.88	47
FY 2018	\$ 3,304,859.68	47
FY 2019	\$ 1,675,524.89	26
FY 2020	\$ 929,208.27	20
FY 2021	\$ 1,008,432.85	29



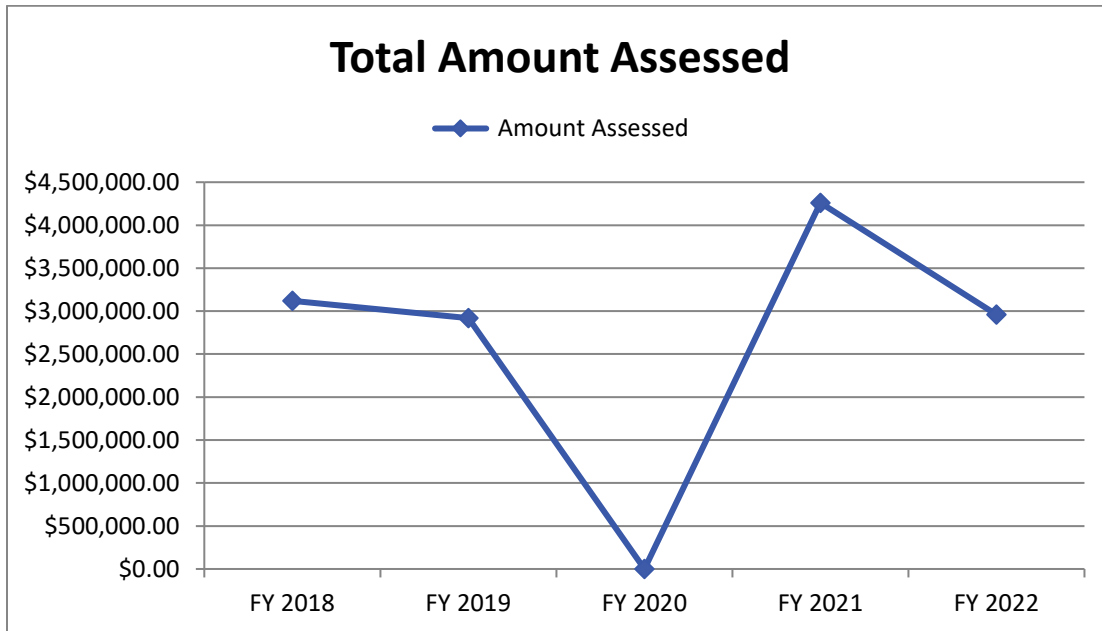
b. Revenue Sources

Annual Workers' Compensations Assessments			
Fiscal Year	Number of Assessed Entities	Assessment Rate	Amount Assessed
FY 2018	481	0.75%	\$3,121,389.43
FY 2019	469	0.75%	\$2,917,645.55
FY 2020	0	0.00%	\$0.00
FY 2021	447	1.00%	\$4,259,791.63
FY 2022	441	.75%	\$2,958,817.54

i. Annual Assessment

Pursuant to K.S.A. 44-566a, the fees assessed from self-insurers, insurance carriers, and group funded pools are due every year on July 1. The rate of the assessment should be “equal to the amount sufficient, in the opinion of the Commissioner of Insurance, to pay all amounts, including attorney fees

and costs, which may be required to be paid from such fund during the current fiscal year.” After analyzing the Fund balance and estimated liabilities, the Commissioner issued an assessment of .75% that was due July 1, 2021 (for FY 2022). The amount collected from the assessment totaled \$ 2,958,817.54.



ii. Reimbursements from Employers

The Fund has the right to reimbursement of all money paid on behalf of an uninsured employer during the ongoing litigation. The Fund continues to seek reimbursement from the uninsured employer. Fund attorneys attempt to enter into a voluntary reimbursement agreement with the employer during earlier stage of the case. If, by the end of the case, an employer refuses to enter into an agreement, the Fund attorney will proceed with a civil action against the employer. Unfortunately, at this stage, many employers have entered bankruptcy proceedings or have taken other actions to make collection difficult. The Fund continues to work with employers to find ways to increase collections in this area. In FY 2021 there was a slight increase in collections over FY 2020 in the number of cases we have been able to collect on and in the total amount collected. This is due in part to implementing payment agreements between the respondent and the Fund prior to resolution of the case. For the coming year, the Fund will implement

an additional tool for collections through the State Set-off Program. Once three attempts have been made to collect on the debt, through either a signed agreement between the uninsured employer and the Fund, demand letters or by filing a civil action in the District Court, the Fund will attempt to collect reimbursement through the state set-off or federal off-set program.

Reimbursement Collected from Employers		
<i>Fiscal Year</i>	<i>Amount of Reimbursement</i>	<i>Number of Cases</i>
<i>FY 2017</i>	\$ 110,813.48	25
<i>FY 2018</i>	\$ 190,975.30	23
<i>FY 2019</i>	\$ 103,389.63	18
<i>FY 2020</i>	\$ 234,236.30	29
<i>FY 2021</i>	\$ 251,125.05	26

iii. Fraud and Abuse Fines

All employers who are subject to the Act must obtain workers compensation insurance, qualify as self-insured, or belong to a qualified group-funded pool under K.S.A 44-532(b). If an employer knowingly fails to secure payment of workers compensation through one of these three methods, the Kansas Department of Labor’s Division of Workers Compensation may assess a civil penalty in the amount equal to twice the annual premium the employer would have paid had such employer been insured or \$25,000.00 whichever amount is greater⁵. Civil penalties collected are credited to the Workers Compensation Fund. The Fund has and will continue to notify the Division of Workers Compensation about possible fraud and abuse and provide the assistance as the Division requires in their investigations.

Section 44-532 Fines Deposited with Fund		
Fiscal Year	Amount of Deposited	Fined Employers
FY 2017	\$ 192,982.12	33
FY 2018	\$ 112,895.78	34
FY 2019	\$ 113,632.33	46
FY 2020	\$ 96,929.15	32
FY 2021	\$ 110,976.59	27

⁵ See K.S.A. 44-532(d).

V. Claim and Operational Cost Efficiencies

During FY 2017, the Fund began to develop a new system for claims handling in an effort to reduce costs and increase the Fund's reimbursement ratio. Under the previous claims-handling system, Fund attorneys were tasked with performing all aspects of claim management, including litigating the underlying workers compensation claim, filing reimbursement cases, negotiating fees for medical providers, reviewing medical invoices, etc. Many of these tasks can be performed by other providers at a lower overall cost to the Fund. The Fund utilizes a contracted administrator for specialized medical review. This has helped the Fund continue to see a decrease in medical expenditures. In addition, the Fund continues to explore ways to improve the collection process to increase reimbursements from employers in cases where resources or assets are available.

To control claims and operational costs, Fund staff reviews all invoices for attorney fees and an annual audit of attorney fee billings is completed. The Fund pays a fee of \$125.00 per hour to outside counsel to handle its cases. To keep legal costs contained, the Fund Staff Attorney continues in-house representation in certain cases. As mentioned previously, the Fund will review cases that are inactive or can be dismissed. Those that are still pending but have not had any activity in 10 years managed by an outside Fund attorney, will bring those cases in to be monitored by the in-house Fund Staff Attorney. In addition, the Fund continues to require the use of billing coding so that data can be analyzed and help identify possible inefficiencies. Case reporting has also been adjusted to reduce unnecessary billing.

VI. Conclusion

The data contained within this report illustrates the Kansas Workers Compensation Fund reforms continue to work and help reduce expenditures and increase efficiencies. In FY 2017 there were 3,250 open claims. That number has gradually declined to 1,648 open claims in FY 2021. As cases are further reviewed, there is a real possibility the number of open claims could reach less than 1,000 over

the next three years which would be a significant accomplishment for the Fund. In addition, recent reforms have ensured medical claims are vetted and not erroneously paid – leading to a better financial position for the Fund. The Fund would like to see clarifying language in the Workers Compensation Act as to when the Fund shall be implemented, as outlined by the Board’s concerns in the *Travelers I* remand. The Commissioner of Insurance is committed to continued improvement and fiscally sound administration of the Kansas Workers Compensation Fund in all areas.