

KANSAS WORKERS COMPENSATION FUND

*FY 2023
YEAR END REPORT*



KANSAS
INSURANCE
DEPARTMENT

Vicki Schmidt
Commissioner of Insurance



Kansas Department of Insurance

Commissioner Vicki Schmidt

Kansas State Capitol

300 SW 10th Street

Topeka, Kansas 66612

Members of the Committee:

Here is the FY 2023 Annual Report of the Kansas Workers Compensation Fund (“Fund”). This report summarizes the activities of the Fund for the last five fiscal years through the period ending June 30, 2023. Years prior to FY 2019 are available upon request.

Pursuant to K.S.A § 44-566a(h), this report includes recommendations about the advisability of continuation or termination of the Workers Compensation Fund, suggested changes to the Workers Compensation Act relating to the Fund, an analysis on any changes in the Federal Americans with Disabilities Act that would impact the Fund, and recommendations on ways to reduce the claim and operational costs of the Fund.

As an overview, I propose the following recommendations:

1. The Fund should continue to provide benefits as provided by law.
2. The Fund recommends the Workers Compensation Act should be reviewed to determine if the Fund should provide reimbursements to employers seeking dismissal under K.S.A. § 44-523(f) when there has been no finding of an overpayment of benefits.
3. There is no direct impact on the Fund this year from the Americans with Disabilities Act or the Amendments of 2009.
4. Partnerships with outside vendors should continue to realize efficiencies.
5. New strategies with Fund attorneys should continue to be developed to decrease costs and overall liabilities, and
6. Case Managers should be utilized for the more complex claims involving serious injuries and monitor for efficient care and reaching maximum medical improvement under the *Official Disability Guidelines. -Treatment in Workers Compensation* (ODG).

A more detailed analysis of these recommendations is included in the following report. Upon further review, if you have questions or concerns, please do not hesitate to contact me personally at KDOI@ks.gov or at 785-291-3299.

Respectfully,

Vicki Schmidt

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. The Fund is also 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. The Fund still maintains cases from this period.

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, employer cannot be located, or when an employer or carrier makes a request for reimbursement due to an overpayment of benefits.

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. §44-532a(b), the Fund may seek reimbursement from the employer, in certain cases, by filing a separate civil action with the District Court.

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

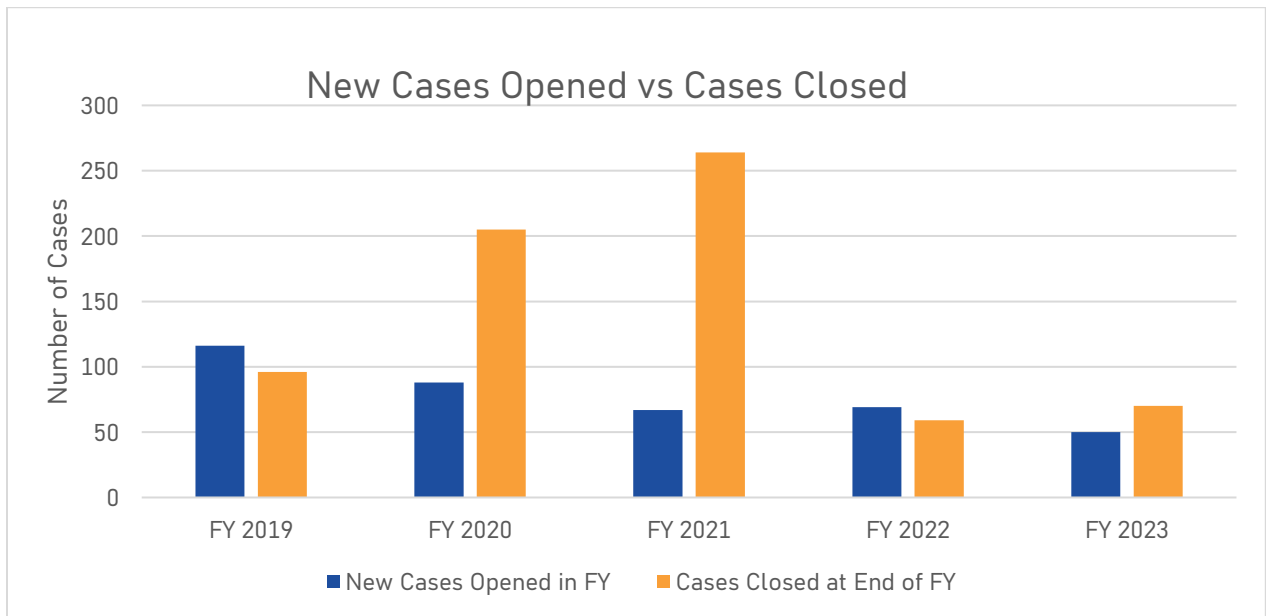
In instances where Medicare inadvertently pays for medical treatment related to an injury under the Workers Compensation Act, Medicare will seek reimbursement from the primary payer. The Fund is required by 42 U.S.C.A. 1395y to report claims where the injured employee is Medicare eligible to the Center 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 217 Medicare beneficiaries for whom the Fund has either a current or a permanent obligation to provide medical services. Most of these cases are related to the old Second Injury Fund.

III. Case Information

The Fund continues to work to close cases that have been dormant for more than 10 years. A total of 70 cases were closed in FY 2023 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 2019	116	+19.59%	96	+81.90%	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%
FY 2022	69	+2.99%	59	-77.65%	1,660	0.73%
FY 2023	50	-28%	70	18.64%	1,649	-0.66%



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.

Receipt Analysis		Disbursement of Expenditures	
FY 2023 (July 2022-June 2023)		FY 2023	
Assessment Receipts	\$ 1,496,423.92	Court Costs	\$ 51,420.97
Gen. Fund Entitlement	\$ -	Case Management	\$ 1,995.50
Fine & Penalties Receipts	\$ 326,232.53	Director's Certification	\$ 505,363.00
Misc. Reimbursements	\$ 606,962.35	Compensation Costs	\$ 740,343.68
TOTAL RECEIPTS	\$ <u>2,429,618.80</u>	Medical Costs	\$ 525,755.09
LEGISLATIVE TRANSFER	\$ -	Other Operating Costs	\$ 263,099.91
Previous Year Carryover	\$ 6,816,711.14	Attorney Fee Expenses	\$ 241,374.47
LEGISLATIVE SWEEP	\$ <u>-</u>	Accounts Payable	\$ <u>(103.63)</u>
TOTAL FUNDS AVAILABLE	\$ 9,246,329.94	TOTAL EXPENDITURES	\$ 2,329,248.99
TOTAL END BALANCE	\$ <u>6,917,080.95</u>		

Receipt Analysis		Disbursement of Expenditures	
FY 2022 (July 2021-June 2022)		FY 2022	
Assessment Receipts	\$ 3,132,306.28	Court Costs	\$ 30,875.82
Gen. Fund Entitlement	\$ -	Case Management	\$ 2,200.50
Fine & Penalties Receipts	\$ 198,416.29	Director's Certification	\$ 849,503.58
Misc. Reimbursements	\$ <u>333,140.78</u>	Compensation Costs	\$ 1,136,739.09
TOTAL RECEIPTS	\$ 3,663,863.35	Medical Costs	\$ 506,569.71
LEGISLATIVE TRANSFER	\$ -	Other Operating Costs	\$ 205,893.23
Previous Year Carryover	\$ 6,118,298.72	Attorney Fee Expenses	\$ 233,836.86
LEGISLATIVE SWEEP	\$ <u>-</u>	Accounts Payable	\$ <u>(167.86)</u>
TOTAL FUNDS AVAILABLE	\$ 9,782,162.07	TOTAL EXPENDITURES	\$ 2,965,618.79
TOTAL END BALANCE	\$ 6,816,543.28		

Receipt Analysis		Disbursement of Expenditures	
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	\$ <u>251,125.05</u>	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	\$ <u>-</u>	Accounts Payable	\$ <u>(9.07)</u>
TOTAL FUNDS AVAILABLE	\$ 9,280,977.73	TOTAL EXPENDITURES	\$ 3,162,679.01
TOTAL END BALANCE	\$ 6,118,298.72		

Receipt Analysis		Disbursement of Expenditures	
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	\$ <u>234,236.30</u>	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	\$ <u>-</u>	Accounts Payable	\$ <u>2,118.24</u>
TOTAL FUNDS AVAILABLE	\$ 9,842,095.34	TOTAL EXPENDITURES	\$ 3,854,468.49
TOTAL END BALANCE	\$ 5,987,626.85		

Receipt Analysis		Disbursement of Expenditures	
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	\$ <u>429,519.69</u>
LEGISLATIVE SWEEP	\$ <u>-</u>		
TOTAL FUNDS AVAILABLE	\$ 11,633,684.54	TOTAL EXPENDITURES	\$ 3,669,640.67
TOTAL END BALANCE	\$ 7,964,043.87		

a. Liabilities

In FY 2023, there was a decrease of 26% in total liabilities over the prior fiscal year, stabilizing the overall liabilities. Expenditures in the Director Certification and compensation categories accounted for the greatest decrease, while there was a slight increase in attorney fees and medical expenditures. These trends will be discussed below in subparagraphs i. – iii.

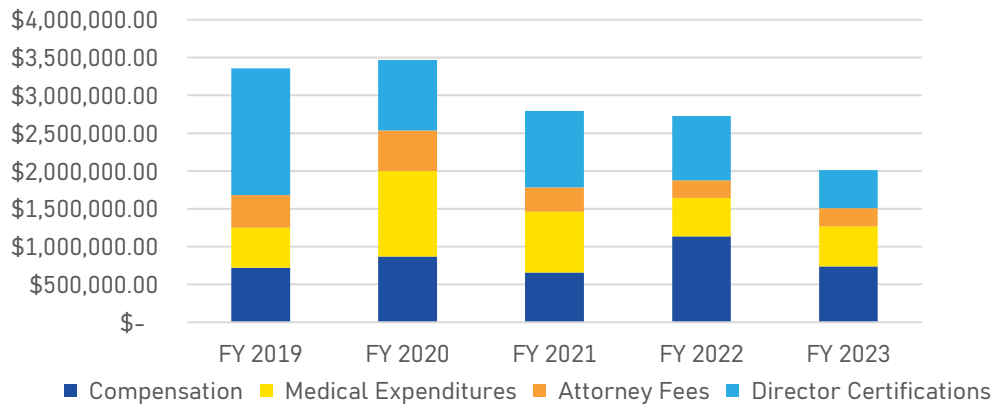
Director Certifications typically are one of the largest Fund Expenditures yearly.

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 in subparagraph iv.

TOTAL DIRECT LIABILITIES					
Fiscal Year	Compensation	Medical Expenditures	Attorney Fees	Director Certifications	Total
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	\$3,466,441.79
FY 2021	\$657,958.87	\$803,124.39	\$324,144.09	\$1,008,432.85	\$2,793,660.20
FY 2022	\$1,136,739.09	\$506,569.71	\$233,836.86	\$849,503.58	\$2,726,649.24
FY 2023	\$740,343.68	\$525,755.09	\$241,374.47	\$505,363.00	\$2,012,836.24

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

Direct Expenditures



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.

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 2023, the Fund experienced an overall 28.40% decrease in total disability compensation paid. This decrease was due to a significant decrease in lump sum payments and a slight decrease in Temporary Total Disability payments made in FY 2023. 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 the future.

In FY 2023, there was a significant increase in Permanent Total Disability paid. This increase is likely due to ongoing payments in catastrophic claims. Temporary Partial Disability slightly increased, however, even with these increases, the overall expenditures in this area decreased from the previous fiscal year.

YEARLY COMPENSATION PAYMENTS						
Payment Types						
Fiscal Year	Lump Sum	Permanent Partial Disability	Permanent Total Disability	Temporary Partial Disability	Temporary Total Disability	Total Compensation Paid
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
2022	\$ 808,067.26	\$ 1,705.46	\$ 34,217.08	\$ 2,598.82	\$ 476,381.10	\$ 1,322,969.72
2023	\$ 438,964.12	\$ 1,705.46	\$ 73,179.11	\$ 3,218.92	\$ 430,169.26	\$ 947,236.87

ii. Medical Expenditures

In FY 2023, the Fund decreased its medical expenditures by 27.88% from the previous year. The Fund utilizes a third-party administrator (TPA) in the oversight and management of claims and bill review. 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 the 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 will most likely 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>
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%
2022	\$ 257,794.24	\$ 118,219.18	\$ 78,278.75	\$ -	\$ 688,550.53	\$ 1,142,842.70	-23.82%
2023	\$ 233,659.32	\$ 20,948.16	\$ 49,335.79	\$ 258.72	\$ 520,022.91	\$ 824,224.90	-27.88%

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 10 attorneys accepting new assignments. In FY 2023, attorney fees increased slightly by 0.03%. No claimant attorney fees were paid in FY 2023. This slight increase is due in part to a raise provided to the outside Fund attorneys to retain experienced attorneys and to be competitive with other state agencies utilizing outside counsel.

The Courts continue to utilize a hybrid system of in-person hearings and secure video conferencing to hear cases in FY 2023 and into FY 2024. However, as more courts return to in-person hearings, the Fund may see a slight increase in litigation costs through the next FY because of travel time to and from in-person court hearings. In other areas of litigation costs, most Fund attorneys continue to use paralegals to help reduce the billing costs for each case assigned. The Fund will continue to analyze billing and will work to find ways to increase efficiencies and try to reduce the expenditures in this 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 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
FY 2022	1,545	\$ 231,810.63	\$ 2,026.23	\$ 233,836.86
FY 2023	1,706	\$ 241,374.47	\$ -	\$ 241,374.47

iv. Director Certifications

Currently, Director Certifications represent 21.70% of the Fund’s overall expenses. As seen in the following table, the dollar amount reimbursed to employers and insurance carriers substantially decreased in FY 2020 from the previous fiscal year and is highly unpredictable from year to year as demonstrated by the table below. Director Certifications increased significantly in FY 2021 but decreased again in FY 2022 and FY 2023. However, as discussed in the previous Annual Report for FY 2021, some certifications that were pended in FY 2020 due to ongoing litigation were not paid until FY 2021, causing these figures for FY 2021 to skew upwards indicating an increase for FY 2021. Director Certifications

decreased in FY 2022 from FY 2021, but again, this may be due in part to the FY 2021 skewed figures discussed above, and it appears the Director Certifications have stabilized the last two years. The Fund will continue to watch this trend into FY 2024, given that Director Certifications are highly unpredictable from year to year.

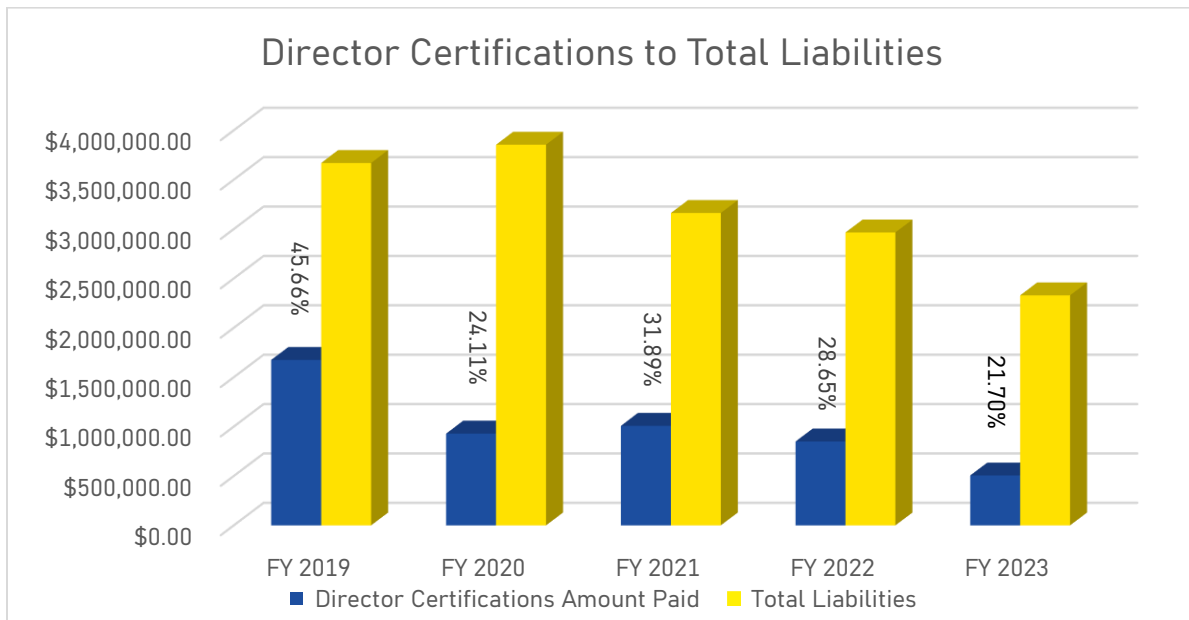
Director Certifications represent the Fund's statutory obligation to reimburse an insurance carrier or employer for money expended on the claim that is over the amount ultimately determined to be owed. Typically, this occurs when an employer or insurance carrier pays benefits up front either voluntarily or pursuant to a preliminary hearing order, then months or in some cases years later the court has determined that the claim was not compensable, there was an overpayment or that the employee failed to pursue the claim within the statutory timeframe. The Fund is then ordered to reimburse the employer or carrier. Many times, the Fund is not a party to the underlying claim until much later in the case when the litigation is complete and a Motion to Dismiss is filed by the carrier. 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).

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 and is due only to (1) not proceeding to a regular hearing, settlement hearing or agreed award within three years of filing an application for hearing; or (2) not proceeding to a regular hearing after one year of a preliminary hearing order denying compensation.

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 by a preliminary hearing order. The Fund will continue to explore avenues to assert its right for reimbursement for Director Certification expenditures, especially in cases where the claimant receives authorized treatment initially, then fails to further participate in the litigation.

Director Certifications		
<i>Fiscal Year</i>	<i>Director Certifications Amount Paid</i>	<i>Number of Certifications</i>
FY 2019	\$ 1,675,524.89	26
FY 2020	\$ 929,208.27	20
FY 2021	\$ 1,008,432.85	29
FY 2022	\$ 849,503.58	15
FY 2023	\$ 505,363.00	15

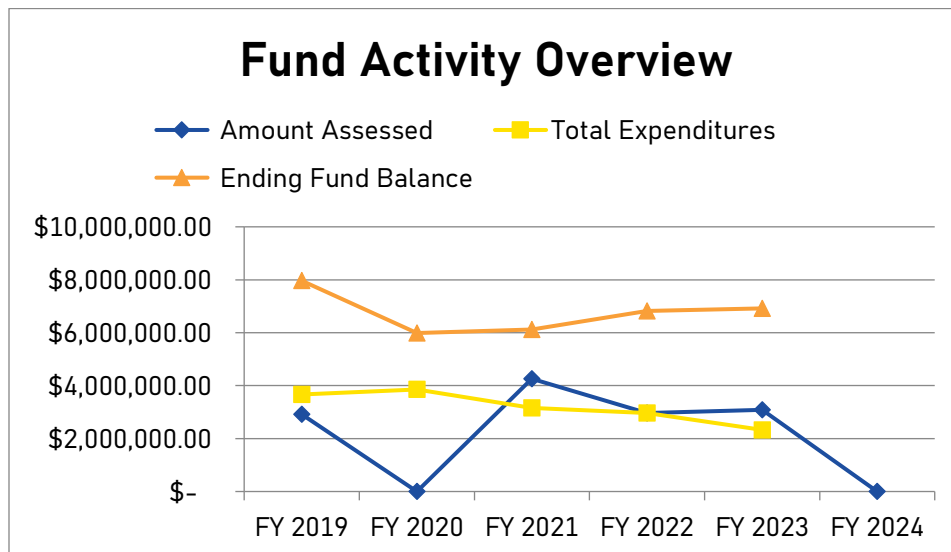
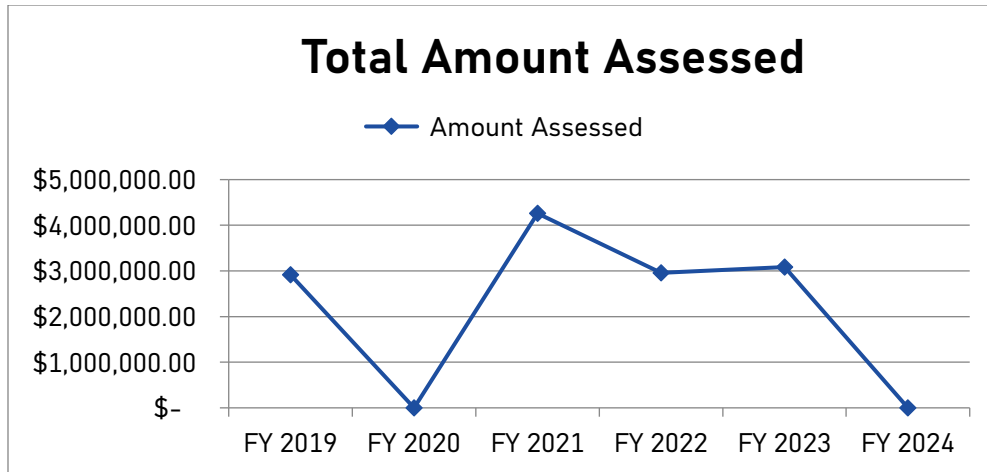


b. Revenue Sources

<i>Annual Workers' Compensations Assessments</i>			
Fiscal Year	Number of Assessed Entities	Assessment Rate	Amount Assessed
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	0.75%	\$ 2,958,817.54
FY 2023	440	0.75%	\$ 3,087,439.70
FY 2024	0	0.00%	\$ 0.00

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 did not issue an assessment for FY 2024. (The average assessment collected in FY 2022 and FY2023 was roughly \$3,000,000.00 each year). Because of the Fund’s effective management of receipts and expenditures the previous two fiscal years and FY 2023 balance of \$6,917,080.95, the Commissioner was able to forego an assessment on July 1, 2023. This was the second time Commissioner Schmidt did not issue an assessment.



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 stages 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 such as dissolving the company name, leaving the area, or refusing service of process. The Fund continues to work with employers to find ways to increase collections in this area.

In FY 2023 there was an increase in collections over FY 2022 in the number of cases the Fund has 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.

During the calendar year 2023, four employers completed their reimbursement obligation to the Fund, a 50% increase from calendar year 2022, while four additional employers entered into reimbursement agreements with the Fund. In addition to reimbursement agreements, the Fund will continue to utilize additional tools for collections through the State Setoff Program or Federal Offset Program when other avenues have been exhausted. 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 Setoff or Federal Offset Programs, provided the employer is located.

Reimbursement Collected from Employers		
<i>Fiscal Year</i>	<i>Amount of Reimbursement</i>	<i>Number of Cases</i>
<i>FY 2019</i>	\$ 103,389.63	18
<i>FY 2020</i>	\$ 234,236.30	29
<i>FY 2021</i>	\$ 251,125.05	26
<i>FY 2022</i>	\$ 333,140.78	28
<i>FY 2023</i>	\$ 606,962.35	20

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 (KDOL) 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 greater².

Civil penalties collected are credited to the Kansas Workers Compensation Fund. The Fund has and will continue to notify the KDOL 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 2019	\$ 113,632.33	46
FY 2020	\$ 96,929.15	32
FY 2021	\$ 110,976.59	27
FY 2022	\$ 198,416.29	53
FY 2023	\$ 326,232.53	69

²See K.S.A. §44-532(d)

V. Claim and Operational Cost Efficiencies

The Fund continues to utilize a revamped system for claims handling 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, and filing reimbursement cases. The Fund Attorneys were also tasked with negotiating fees for medical providers and reviewing medical invoices, etc. The latter tasks are now performed utilizing a contracted administrator for specialized medical review, use of PPO Network, pharmacy management, negotiated fees for bill payments, and case managers. By utilizing the third-party bill reviewer, the Fund continues to see a decrease in medical expenditures. Additionally, 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 \$150.00 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. The Fund continues to review cases that are inactive or can be dismissed. Those that are still open but have not had any activity in 10 years managed by an outside Fund attorney, are brought in-house to be monitored by the 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 continues to be streamlined to reduce unnecessary billing. The Fund Staff Attorney also reviews all medical invoices to ensure treatment received by claimants are related to the present injury and that the

correct diagnosis codes are included in billings prior to submission to the contracted medical bill reviewer. The Fund Staff Attorney is currently conducting a study on three long-term claims assigned a Nurse Case Manager, comparing three similarly situated claims without a Nurse Case Manager to determine whether claimants reach MMI within the *Official Disability Guidelines*. - *Treatment in Workers Compensation* (ODG) or able to return to work within a shorter period. The Fund will report the outcome of this study in a future FY Annual Report and will be dependent upon claimant and claimant's counsel's cooperation in allowing the Nurse case Manager contact with the claimant for coordination of care.

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 2019 there were 1,948 open claims. That number has gradually declined to 1,649 open claims in FY 2023. As cases are further reviewed, there is a real possibility the number of open claims could reach less than 1,300 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 and a stabilization in the Annual Assessments.

It appears that the Fund is continuing to be implemented in the spirit of the *Travelers I* Kansas Workers Compensation Board's concerns discussed in the FY 2022 Annual Report, by implementing the Fund when the employer is insolvent, does not have workers compensation insurance, or cannot be found, thereby stabilizing the rate of new and open cases.

The Commissioner of Insurance is committed to continued improvement and fiscally sound administration of the Kansas Workers Compensation Fund in all areas. The overall management of the Fund's decrease in expenditures in FY 2023 and the zero percent assessment for FY 2024 is demonstrative of this philosophy.