

KANSAS WORKERS COMPENSATION FUND

*FY 2024
YEAR END REPORT*



**KANSAS
DEPARTMENT
OF INSURANCE**



Kansas Department of Insurance

Commissioner Vicki Schmidt

Vicki Schmidt *Commissioner of Insurance*

Kansas State Capitol
300 SW 10th Street
Topeka, Kansas 66612

Members of the Committee:

Here is the FY 2024 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, 2024. Years prior to FY 2020 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 KSA § 44-523(f) when the claimant has received initial authorized benefits but later fails to seek further treatment and has had no contact with the employer.
3. The Fund recommends the Workers Compensation Act should be reviewed to require that the Fund be timely impleaded before the reimbursements to employers or carriers requests the reimbursement amount be certified by the Director, allowing the Fund an opportunity to defend against possible over charges of compensation, duplicate medical charges or case management costs.
4. There is no direct impact on the Fund this year from the Americans with Disabilities Act or the Amendments of 2009.

5. Partnerships with outside vendors should continue to realize efficiencies.
6. New strategies with Fund attorneys should continue to be developed to decrease costs and overall liabilities, and
7. Case Managers should be utilized for the more complex claims involving serious injuries to 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 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, generally for the lifetime of the claimant, in many instances, sharing responsibility for medical with the employer’s carrier.

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, the employer cannot be located, or when an employer or carrier requests reimbursement from the Fund due to an overpayment of benefits.

The Fund 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 (lost wages and loss of function) and to medical providers for authorized 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(b)(8) 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 210 Medicare beneficiaries for whom the Fund has either a current or a permanent obligation to provide medical services. Most of these

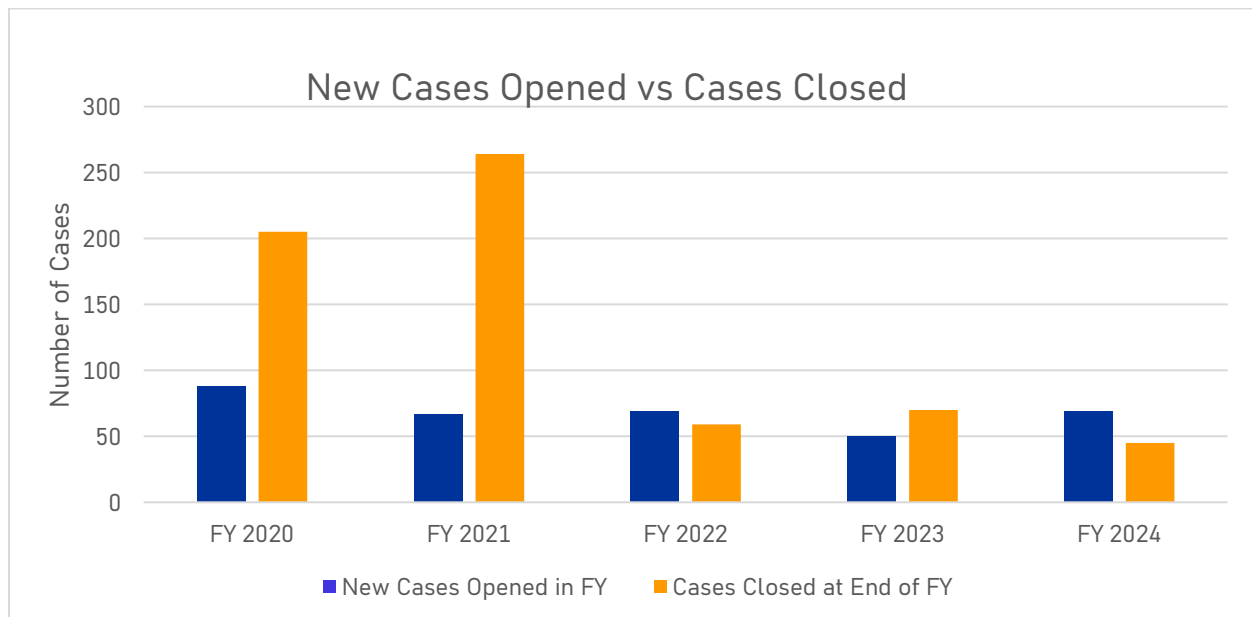
cases are related to the old Second Injury Fund.

III. Case Information

The Fund continues to work to close cases that have been dormant for more than 10 years. A total of 45 cases were closed in FY 2024 and open cases continue to be reviewed to identify inactive status for possible closure. This continued focus on closing claims remains an ongoing process and 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 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%
FY 2024	69	38%	45	-35.71%	1,678	1.76%



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, 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 prior to 1993, 2) uninsured employer cases, and 3) Director Certifications.

These income sources and expenses are discussed in more detail below and listed in the following tables.

Receipt Analysis		Disbursement of Expenditures	
FY 2024 (July 2023-June 2024)		FY 2024	
Assessment Receipts	\$ 957,273.75	Court Costs	\$ 58,319.65
Gen. Fund Entitlement	\$ -	Case Management	
Fine & Penalties Receipts	\$ 184,970.63	Director's Certification	\$ 554,449.87
Misc. Reimbursements	\$ 105,433.45	Compensation Costs	\$ 800,956.00
TOTAL RECEIPTS	\$ <u>1,247,677.83</u>	Medical Costs	\$ 632,049.23
LEGISLATIVE TRANSFER	\$ -	Other Operating Costs	\$ 281,529.17
Previous Year Carryover	\$ 6,917,080.95	Attorney Fee Expenses	\$ 294,875.73
LEGISLATIVE SWEEP	\$ <u>-</u>	Accounts Payable	\$ <u>302.88</u>
TOTAL FUNDS AVAILABLE	\$ 8,164,758.78	TOTAL EXPENDITURES	\$ 2,622,482.53
	\$		
TOTAL END BALANCE	5,542,276.25		

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	\$ 6,917,080.95		

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	\$ 251,125.05	Compensation Costs	\$ 657,958.87
TOTAL RECEIPTS	\$ <u>3,293,350.88</u>	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		

a. Liabilities

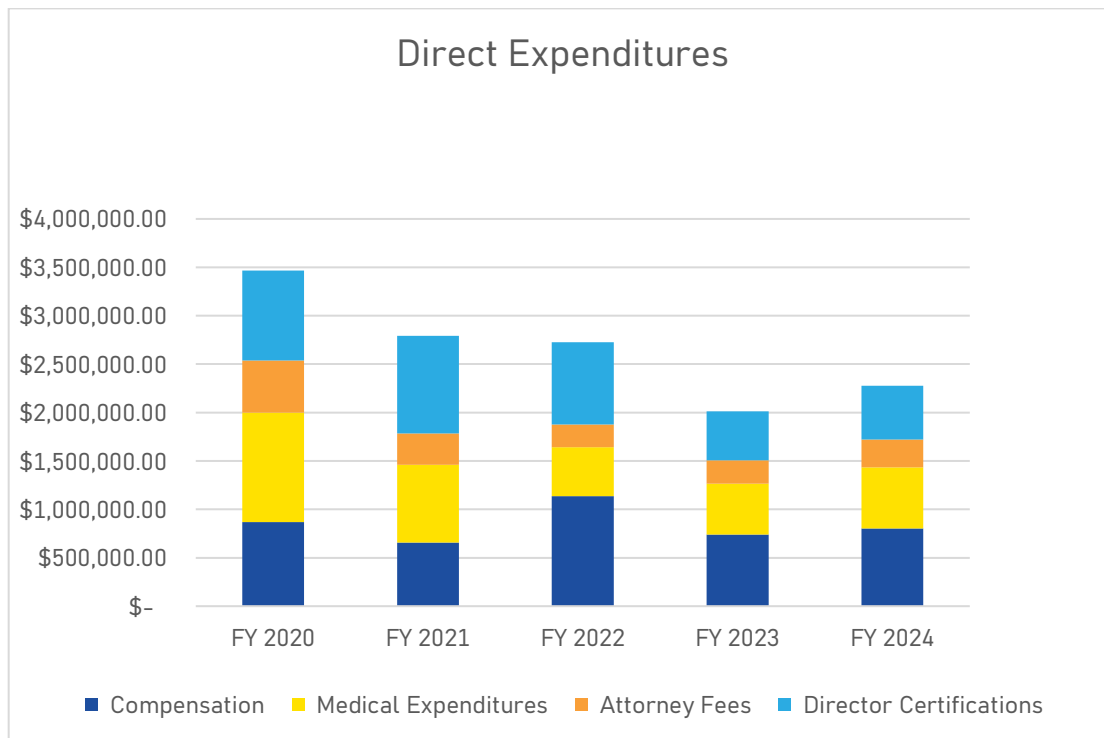
In FY 2024, there was an increase of 13% in total liabilities over the prior fiscal year, stabilizing the overall liabilities. Although each category of the Fund's expenditures increased, total liabilities were well below the average expenditures over the past five fiscal years. Expenditures in the Director Certification and compensation categories accounted for the lowest rate increase, while attorney fees and medical expenditures accounted for the greater percentage increase. These trends will be discussed below in subparagraphs i. – iii.

Typically, Director Certifications 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.

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.

TOTAL DIRECT LIABILITIES					
Fiscal Year	Compensation	Medical Expenditures	Attorney Fees	Director Certifications	Total
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
FY 2024	\$800,956.00	\$ 632,049.23	\$ 288,660.73	\$ 554,449.87	\$ 2,276,115.83

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



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 2024, the Fund experienced an overall .07% decrease in total disability compensation paid. This decrease was due in part to a significant decrease in Temporary Total Disability and Permanent Total Disability payments made in FY 2024 as compared to FY 2023. Permanent Partial Disability payments remained stable in FY 2024 compared to the previous fiscal year.

In FY 2024, there was a significant increase in lump sum payments made. Lump sum payments are generally made for settlements that limit future payment for medical expenses and attorney fees. This increase is likely due to settlement of pending claims that carried over from FY 2023 into FY 2024 and for an increase in the number of negotiated settlements in FY 2024. Claims continue to be reviewed to identify possible settlement opportunities, which are likely to reduce the Fund's overall expenditures in long term disability payments in the future.

YEARLY COMPENSATION PAYMENTS							
Payment Types							
Fiscal Year	Lump Sum	Permanent Partial Disability	Permanent Total Disability	Temporary Partial Disability	Temporary Total Disability	Total Compensation Paid	
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	
2024	\$ 646,158.46	\$ 1,710.32	\$ 39,542.20	\$ -	\$ 194,433.52	\$ 881,844.50	

ii. Medical Expenditures

In FY 2024, the Fund increased its medical expenditures by 34.10% from the previous year. The Fund continues to utilize a third-party administrator (TPA) in the oversight and

management of claims and bill review. The TPA has assisted the Fund with bill review by ensuring submitted claims are relevant to the work-related injury, utilizing reductions per the 2019 Kansas Medical Fee Schedule (through May 2, 2024) and the 2024 Schedule of Medical Fees for Kansas, effective May 3, 2024. The TPA has also provided cost-savings to the Fund by implementing other best practices, such as the use of: (1) preferred provider network, (2) pharmacy card program, and (3) nurse case managers when requested by the Fund. With the use of these tools, the Fund will continue to stabilize medical expenditures in the coming years, even with increased costs of medical care.

<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>
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%
2024	\$ 181,575.05	\$ 195,351.83	\$ 51,676.15	\$ -	\$ 676,702.57	\$ 1,105,305.60	34.10%

iii. Litigation Costs

This category includes attorney fees as well as court reporter and deposition fees. The Fund assigns attorneys who specialize in defense of workers compensations claims to manage costs and increase efficiency. In FY 2024, the Fund had 10 attorneys accepting new assignments. Attorney fees increased by 20% in FY 2024, due in part to an increase in new cases filed, post-award litigation, appeals, and an increase of in-person hearings. In FY 2024, payment of claimant attorney fees was \$6,215.00 total paid as opposed to zero dollars paid in FY 2023, which also contributed to the 20% increase in this category.

The Courts continue to utilize a hybrid system of in-person hearings and secure video conferencing to hear cases in FY 2024 and into FY 2025. However, most courts have returned to in-person hearings. In other areas of litigation costs, seven of the ten Fund attorneys continued to use paralegals to help reduce the billing costs for each case assigned, while the other three are sole practitioners. The Fund will continue to analyze billing and will work to find ways to increase efficiency and try to reduce the expenditure 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 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
FY 2024	2,049.4	\$ 288,965.73	\$ 6,215.00	\$ 295,180.73

iv. Director Certifications

Currently, Director Certifications represent 21.14% of the Fund’s overall expenses and are highly unpredictable from year to year as demonstrated in the table below. The dollar amount reimbursed to employers and insurance carriers substantially increased in FY 2021 from the previous fiscal year and decreased slightly in FY 2022. FY 2023 saw a significant decrease from 28.65% to 21.70%. In FY 2024, there was an increase in the dollar amount of Director Certifications from FY 2023, but still shows an overall decrease compared to total expenditures for FY 2024. It appears that the Director Certifications have been relatively stable the last two fiscal years. The Fund will continue to watch this trend into FY 2025, given that Director Certifications are unpredictable from year to year and due to the changes to the Kansas

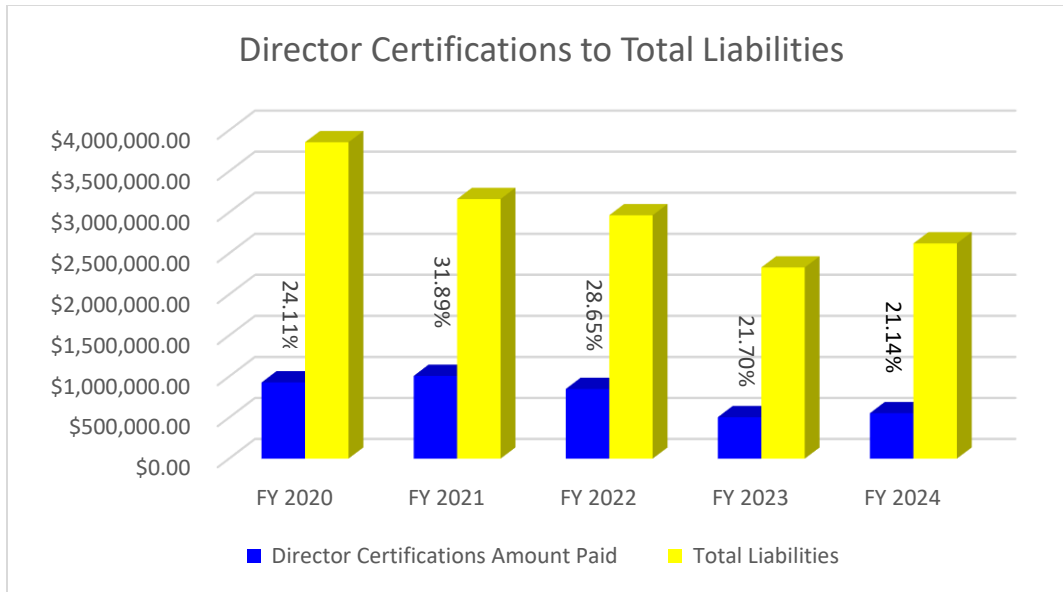
Workers Compensation Act effective July 1, 2025.

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 many 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 may accumulate 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 from the preliminary hearing order denying compensation. For example, many times, medical will be authorized or ordered to be paid initially, then once the claimant receives medical treatment or temporary compensation, he or she may choose not to participate in any further hearings. In this scenario, the Fund must still reimburse the carrier or employer under K.S.A. §44-523(f)(1).

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 benefits initially by a preliminary hearing order. The Fund will continue to explore avenues to assert its right for reimbursement in Director Certification expenditures, especially in cases where the claimant receives authorized treatment initially, then fails to further participate in the litigation, or the Fund is not impleaded prior to the Director Certification.

Director Certifications		
<i>Fiscal Year</i>	<i>Director Certifications Amount Paid</i>	<i>Number of Certifications</i>
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
FY 2024	\$ 554,449.87	12



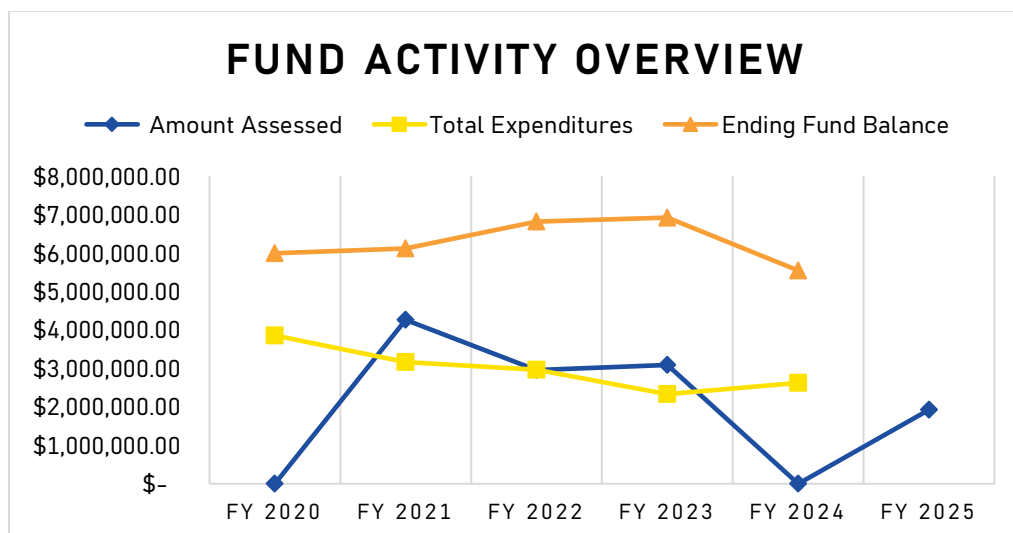
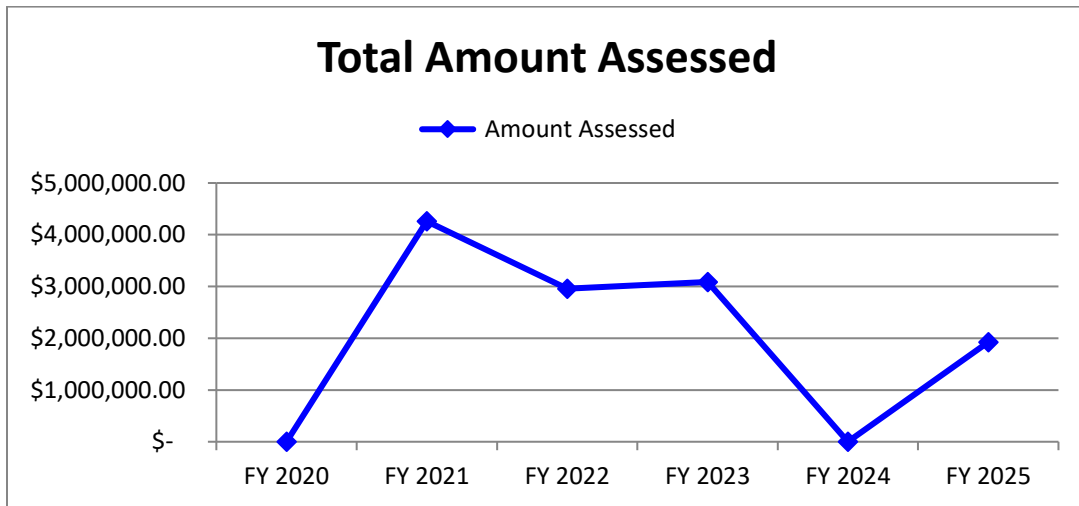
b. Revenue Sources

<i>Annual Workers' Compensations Assessments</i>			
Fiscal Year	Number of Assessed Entities	Assessment Rate	Amount Assessed
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
FY 2025	451	0.45%	\$ 1,924,213.93

i. Annual Assessment

Pursuant to K.S.A. §44-566a(b)(1), the fees assessed from self-insurers, insurance carriers, and group funded pools are due every year on July 1. The rate of the assessment “shall 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 0.45% for FY 2025, which is just below the five-year average assessment of 0.50%. The amount collected from this assessment totaled \$1,924,213.93.



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 may proceed with a civil action in District Court 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 2024, the Fund continued to collect from 25 active payment agreements between employers and the Fund in 24 cases. Seven employers completed their reimbursement agreements with the Fund, between July 1, 2023, and June 20, 2024, a 75% increase from the previous year. Leaving the Fund with 17 active payment reimbursement agreements with 18 employers.

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 or not in bankruptcy.

Reimbursement Collected from Employers		
<i>Fiscal Year</i>	<i>Amount of Reimbursement</i>	<i>Number of Cases</i>
<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
<i>FY 2024</i>	\$ 105,233.45	18

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 as it relates to employers 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 2020	\$ 96,929.15	32
FY 2021	\$ 110,976.59	27
FY 2022	\$ 198,416.29	53
FY 2023	\$ 326,232.53	69
FY 2024	\$ 186,004.63	42

²See K.S.A. §44-532(d)

V. Claim and Operational Cost Efficiencies

The Fund continues to utilize its current 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, filing Civil cases for reimbursements/collections, reviewing medical invoices, and negotiating fees with medical providers. The latter tasks are now performed utilizing a contracted administrator for specialized medical bill review, use of PPO Network, pharmacy management, negotiated fees for bill payments, and the use of nurse case managers. By utilizing the third-party bill reviewer, the Fund saw a savings in medical expenditures by approximately 40%.

To control claims and operational costs, the Fund staff reviews all invoices for attorney fees and an annual audit of attorney fee billings is completed. The Fund current fee structure for its outside counsel is \$150.00 per hour 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 medicals received by claimants are related to the present work comp injury and that the correct diagnosis codes are included in billings prior to submission to the TPA.

The Fund Staff Attorney continues its 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 cooperation with the claimant and his or her counsel 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 to reduce expenditures and increase efficiencies.

In FY 2020 there were 1,837 open claims. That number gradually declined to 1,649 open cases in FY 2023 and experienced a slight increase to 1,678 open claims in FY 2024. As older open cases are further reviewed for inactivity and possible closure, the number of open claims could significantly be reduced over the next few years. So long as the Fund continues to be impleaded only when the employer does not have work comp insurance and cannot pay for employee benefits, is insolvent, or cannot be located, or impleaded prior to reimbursement requests by carriers or employers, the rate of new cases should stabilize, thus allowing the Fund a more concerted effort to close old inactive claims that meet the criteria for closures.

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.

The Commissioner of Insurance is committed to continued improvement and fiscally sound administration of the Kansas Workers Compensation Fund in all areas.