



Maryland

WORKERS' COMPENSATION
COMMISSION

2020 ANNUAL REPORT



Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

R. Karl Aumann, Chairman
Mary K. Ahearn, Chief Executive Officer

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MISSION

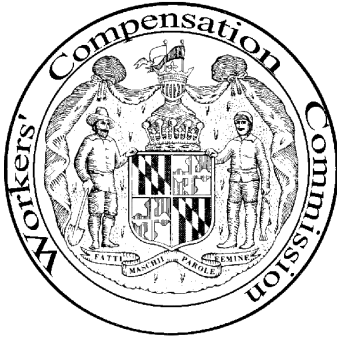
The Maryland Workers' Compensation Commission seeks to secure the equitable and timely administration of the provisions of the Maryland Workers' Compensation law on behalf of its customers, the injured workers and their employers, by providing an efficient forum for the resolution of individual claims.

VISION

The Workers' Compensation Commission envisions a state wherein injured workers and employers are empowered to create an equitable partnership to facilitate prompt and fair resolution of workers' compensation matters.

Equal Opportunity Employer

The Workers' Compensation Commission continues to acknowledge and accept its commitment to equal opportunity for all current and prospective employees as well as its clients.



LETTER FROM THE CHAIRMAN

To say this has been a year like no other would be an understatement. The continuing effects of the Covid-19 pandemic has given the Commission challenges none of us thought imaginable. In spite of the difficulties, I am pleased to present the 2020 Annual Report of the Maryland Workers' Compensation Commission. This comprehensive publication fulfills our legislative mandate in LE 9-312 and covers the fiscal year running from July 1, 2019 through June 30, 2020.

The Commission is committed to its efforts to perform our responsibilities with professionalism and efficiency. We are striving to keep Maryland's workers' compensation system among the finest in the United States.

This report is an excellent resource for every stakeholder, and it is included on our website to maximize its availability to the public. The data collected and presented is extensive and highlights the facts and trends affecting Maryland workers, employers, and insurers. Amy S. Lackington and her colleagues deserve enormous credit for their work in making this publication possible.

On behalf of all the Commissioners and everyone at the WCC, I extend my gratitude to our indispensable partners and leaders in government. Governor Larry Hogan and the General Assembly have been unwavering supporters. I also deeply appreciate the help from the Legislative Oversight Committee, the Maryland Workers' Compensation Educational Association, the Medical Fee Guide Committee, and the Budget Advisory Committee. Collectively, we are able to better serve the entire community.

Sincerely yours,

A handwritten signature in black ink, appearing to read "R. Karl Aumann".

R. Karl Aumann

THE COMMISSION AT A GLANCE

The Maryland Workers' Compensation Commission (the "Commission" or "WCC") is an Independent Agency within the Executive Branch of Maryland State Government. *See generally*, Md. Code Ann., Labor and Employment Article ("LE"), §§ 9-101 - 9-1201. Appointed by the Governor with Senate advice and consent, the Commission's ten members serve twelve-year terms. LE § 9-302. The Governor names the chair. LE § 9-303.

Under Administration, work of the WCC is carried out by three departments: Finance, Information Technology, and Operations.

- a. Finance oversees Fiscal Services; Insurance Programs, Compliance and Reporting; Personnel, and Document Processing, and is aided by the Budget Advisory Committee.
- b. Information Technology oversees Software and Database Development, Systems and Networks, Information Security, Datacenters and Technical Customer Support.
- c. Operations oversees Court Reporting, Hearings, Claims Processing, Interpreter Services, Public Service, Appeals and Support Services (Medical Fee Guide Publisher, Vocational Rehabilitation Certification and Registry).
- d. WCC also is aided by the Advisory Committee on the Registration of Rehabilitation Practitioners, and the Medical Fee Guide Revision Committee.

The WCC administers the Workers' Compensation Law and adjudicates claims for compensation arising under the law. *See generally*, Md. Code Ann., Labor and Employment Article ("LE"), §§ 9-301—9-316. Claims are filed and processed by the WCC which hears contested cases throughout the State. Claimants requiring rehabilitation are referred by the Commission to appropriate rehabilitation service providers.

Employers file a First Report of Injury form with the Commission after a qualifying employee injury occurs. If the injured worker files a claim for benefits within the statutory time limits, an Employee Claim file is created. Employee Claims for benefits may also be filed for occupational disease under specialized statutory definitions. Although not directly subject to HIPAA as a covered entity or trading partner, WCC adheres to strict data privacy protections. Access to non-public data and document images is restricted.

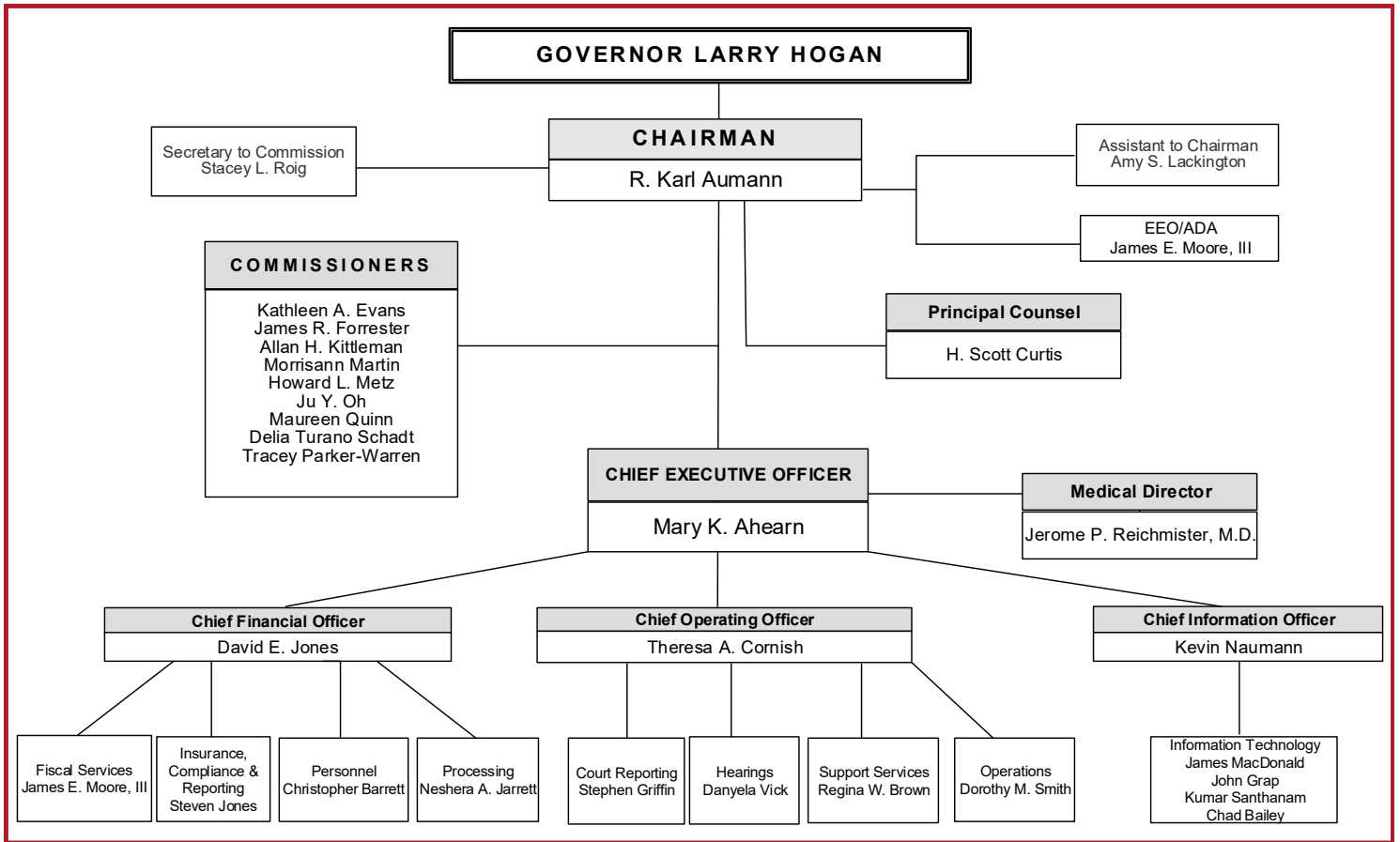
The Commission functions similarly to a judicial system in adjudicating the disputed claims of injured workers in Maryland. A case may be set for one or more hearings before a Commissioner. The Commissioner makes decisions based on issues raised and creates Commission orders. Appeals of Commission decisions are sent to one of Maryland's 24 county or municipal circuit courts. The WCC is required to provide certain notifications to parties and, on request, case related documents to the circuit courts.

The WCC schedules and conducts hearings at multiple hearing sites strategically located across the State. Hearing sites are located in Abingdon, Baltimore City, Beltsville, Cambridge, Cumberland, Frederick, and LaPlata. Commissioners rotate among the hearing locations. The WCC coordinates and schedules language and hearing interpreters for case hearings. The interpreter service is available upon request by a party in the case at no charge to the parties. Interpreters are sourced from a combination of in-house and outside services.

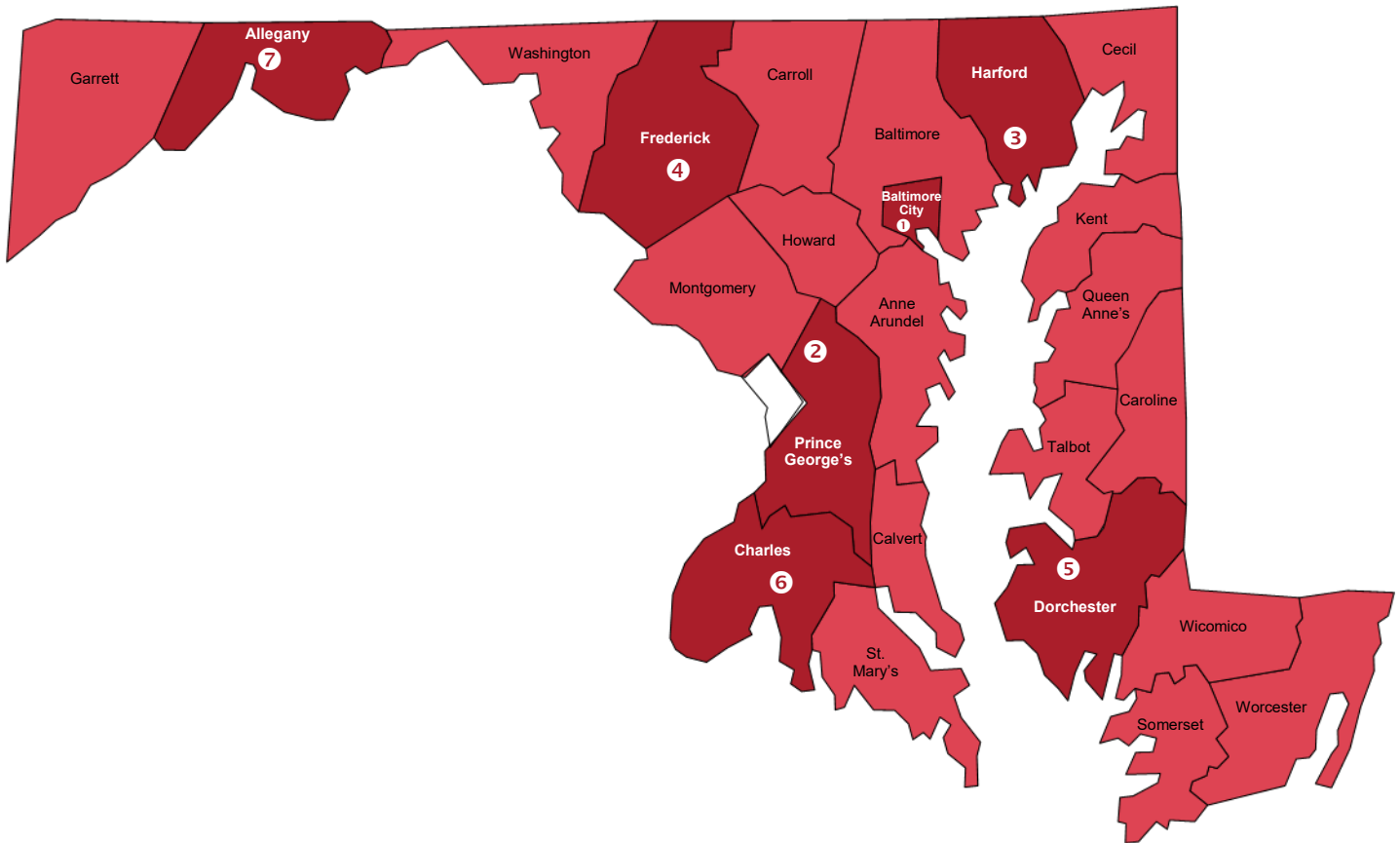
The Commission also:

- Tracks and orders employer compliance with workers' compensation insurance requirements.
- Processes attorney registrations for admission to worker's compensation law practice in Maryland.
- Assesses insurers for amounts based on the size of employer payrolls in Maryland for which they have written workers' compensation insurance policies.
- Oversees the self-insurance program and tracks the financial health of self-insured employers and establishes security deposit requirements.
- Registers and certifies vocational rehabilitation practitioners and providers, and tracks their continuing education.
- Updates and publishes an annual medical fee guide and handles medical fee dispute resolution. The Commission maintains internal subject matter expertise and internal consultative services on workplace injury related medical topics.

ORGANIZATIONAL CHART
Workers' Compensation Commission



HEARING SITE LOCATIONS



- 1. BALTIMORE CITY
Commission Headquarters and Hearing Rooms
10 East Baltimore Street, 4th Floor
Baltimore, MD 21202
- 2. CENTRAL REGIONAL
4780 Corridor Place, Suite D
Beltsville, MD 20705
- 3. NORTH EAST REGIONAL
3465 Box Hill Corporate Center Drive, Suite E
Abingdon, MD 21009
- 4. NORTH WEST REGIONAL
1890 N. Market Street, Suite 200
Frederick, MD 21701

- 5. EASTERN REGIONAL
828 Airpax Road, Building B, Suite 400
Cambridge, MD 21613
- 6. SOUTHERN REGIONAL
403 East Charles Street
La Plata, MD 20646
- 7. WESTERN MARYLAND
Comfort Inn & Suites
1216 National Highway
Lavale, MD 21502

BIOGRAPHIES

R. Karl Aumann, *Chairman*



R. Karl Aumann was appointed to the Maryland Workers' Compensation Commission in February 2005, and subsequently named Chairman in October of that year. Initially appointed by Governor Robert Ehrlich, in 2017 he was reappointed by Governor Larry Hogan. Immediately prior to this appointment, he served as Maryland's Secretary of State. He earned a B.A. from Loyola University in Maryland in 1982 and his J.D. in 1985 from the University of Baltimore, School of Law. Chairman Aumann was an associate with the Towson firm of Power & Mosner and later with the Baltimore office of Miles & Stockbridge. In 1991, President George H.W. Bush appointed

him Counsel and Senior Policy Advisor to the Appalachian Regional Commission. From 1994 until 2003, Chairman Aumann served as Chief Administrator and District Director for Congressman Robert Ehrlich. He is a Board member and past-president of SAWCA and is chair of the International Committee of the IAIABC. Elected as a Fellow of the College of Workers' Compensation Lawyers in 2015, he has also served since 2010 on the board of the National Association of Workers' Compensation Judiciary, and since 2006 on the Maryland Workers' Compensation Educational Association board of directors.

Mary K. Ahearn, *Chief Executive Officer*



Mary Ahearn was appointed Executive Director of the Workers' Compensation Commission in 2003, and has been a member since 1999. She graduated summa cum laude from the College of Notre Dame with a Bachelor of Arts in Business with a dual emphasis in Management and Human Resource Management. She served for several years as a Board member of the Maryland Chapter of the Juvenile Diabetes Research Foundation. She is a past president

of the Southern Association of Workers' Compensation Administrators (SAWCA) and is a past president of the International Association of Industrial Accident Boards & Commissions (IAIABC). In 2013, she served on the Governor's Task Force to Study Temporary Disability Insurance Programs & the Process for Assisting Individuals with Disabilities at Local Departments of Social Services.

BIOGRAPHIES

Kathleen A. Evans, *Commissioner*



Kathleen A. Evans was appointed a member of the Maryland Workers' Compensation Commission by Governor Lawrence J. Hogan, Jr., in 2015. She received her Bachelor of Arts from the University of Maryland in 1979 and earned her Juris Doctorate from the University of Baltimore Law School in 1982. Commissioner Evans served as a prosecutor in both Anne Arundel County and Prince George's County for 19 years. During her tenure as an Assistant State's Attorney, Commissioner Evans prosecuted all major violent crime felonies occurring throughout Anne Arundel County and Prince George's County including homicides, armed robberies, attempted murders and serious assaults, and related firearms, weapons, and drug felonies. She

served as the Assistant Division Chief of the Homicide and Narcotics Division in Prince George's County, Chief of the District Court Division in Anne Arundel County, and Chief of the Narcotics Unit in Prince George's County. Commissioner Evans is a member of the Maryland State Bar Association, the Maryland State's Attorney's Association, the Anne Arundel County Bar Association, and the Women's Bar Association, to name a few. She actively participates in many business and civic organizations and has been the recipient of numerous federal, state and local level awards for her work as a prosecutor. Commissioner Evans has been a frequent speaker for over 20 years on criminal and law enforcement related matters.

James R. Forrester, *Commissioner*



James R. Forrester was appointed a member of the Maryland Workers' Compensation Commission in 2018 by Governor Lawrence J. Hogan, Jr. He is a graduate of Randolph-Macon College and the University of Baltimore's Merrick School of Business and School of Law. He earned a Master of Business Administration in 1995 and a Juris Doctor in 1998, with honors. In 1999, he joined the Law Offices of Ileen M. Ticer as an Associate Claims Attorney. Thereafter, he joined Semmes Bowen & Semmes, P.C. in the firm's Workers' Compensation and Employers' Liability Department, having been elected a Principal in 2009.

Throughout his years in legal practice, Commissioner Forrester has concentrated in the area of workers' compensation, appearing before all levels of the judiciary in the State of Maryland. He is also licensed and practiced in the District of Columbia. He served as President and Member of the Executive Board of the Baltimore Claims Association as well as the Co-Chair of the Workers' Compensation Section of the Maryland Defense Counsel. He also serves in a leadership role with several civic organizations.

BIOGRAPHIES

Allan H. Kittleman, *Commissioner*



On November 28, 2018 Governor Larry Hogan announced the appointment of Allan H. Kittleman to the Maryland Workers' Compensation Commission. Commissioner Kittleman graduated with honors from the University of Maryland School of Law with a J.D. in 1988. He received his bachelor's degree in political science from the University of Maryland, Baltimore County in 1981. After receiving his J.D. degree, he joined Smith, Somerville & Case. In 1991, he joined Herwig & Humphreys where he

became a partner. Subsequently, he became "of counsel" at Godwin, Erlandson, Vernon and Daney. Throughout his 25 years in legal practice, Commissioner Kittleman concentrated his practice in the defense of workers' compensation claims in Maryland and the District of Columbia. Commissioner Kittleman also previously served on the Howard County Council (1998-2004), in the Maryland State Senate (2004-2014) and as the Howard County Executive (2014-2018).

Morrisann Martin, *Commissioner*



Morrisann Martin was appointed a member of the Maryland Workers' Compensation Commission in September 2019. Commissioner Martin is a graduate of Goucher College, and earned her Juris Doctor from the University of Baltimore School of Law. She was previously a partner at Tostanoski & Martin, and a partner at the firm of Downs, Ward, Bender, Hauptmann, and Herzog, P.A. (formerly Morgan Carlo Downs, P.A.) After having spent 10 years in the insurance industry as an adjuster, claims supervisor, and home office examiner, her legal career was in private practice

representing employers, insurers, uninsured employers, and self-insured employers before the Maryland Workers' Compensation Commission and Circuit Courts. She is a member of the Maryland State Bar Association's Negligence, Insurance, and Workers' Compensation Section, as well as the Workers' Compensation Section of Maryland Defense Counsel, Inc. She served numerous years on the board of MSIECA (Maryland Self-Insurers' and Employers' Compensation Association, Inc.), and has been a lecturer and presenter at the MWCEA annual conference.

BIOGRAPHIES

Howard L. Metz, *Commissioner*



On November 28, 2018 Governor Larry Hogan announced the appointment of Howard L. Metz to the Maryland Workers' Compensation Commission. Commissioner Metz graduated from the State University of New Jersey School of Law in 1985. He received his bachelor's degree from The American University in 1982. Mr. Metz has over 30 years of experience in workers' compensation and as a litigation attorney representing clients in trials before the Maryland Circuit and District Courts and U.S. District Court including courts in Pennsylvania and New Jersey. He has briefed and argued cases before the Maryland

Court of Appeals, Court of Special Appeals and U.S. Court of Appeals for the Fourth Circuit. In addition to practicing before the Maryland Workers' Compensation Commission, Mr. Metz has appeared before the Social Security Administration and other State and Federal Agencies. He has been a court appointed mediator for the Circuit Court for Frederick County since 2000 and for the Circuit Court for Washington County since 2008. He frequently lectures and is a continuing legal education instruction in the areas of Workers' Compensation law and mediation practice.

Ju Y. Oh, *Commissioner*



Ju Y. Oh was appointed to the Maryland Workers' Compensation Commission by Governor Larry Hogan on July 1, 2019. Formerly a Partner at Humphreys, McLaughlin & McAleer, LLC, Commissioner Oh represented employers, insurers and policyholders before all levels of

the Maryland judicial system. Ms. Oh also appeared before the District of Columbia Office of Workers' Compensation. She has been a practicing member of the Maryland State Bar since 2004, and received her J.D. from the University of Baltimore School of Law in 2004.

Maureen Quinn, *Commissioner*



Maureen Quinn was appointed a member of the Maryland Workers' Compensation Commission in 2002 by Governor Parris N. Glendening. She graduated from Temple University School of Law with a J.D. in 1987. Commissioner Quinn received her bachelor's degree in 1982 from American University, where she was a recipient of the Stafford Cassell Award for Governmental

Leadership. She was engaged in the private practice of law as a trial attorney from 1987 until 2002. She established her own law firm in 1995 and was primarily focused on general civil litigation. Commissioner Quinn is an adjunct professor at the University of Maryland University College where she teaches Business Ethics.

BIOGRAPHIES

Delia Turano Schadt, *Commissioner*



Delia Turano Schadt was appointed a member of the Maryland Workers' Compensation Commission in November 2011. A native of Cumberland, Maryland, she is a graduate of James Madison University, and she earned her Juris Doctor from The University of Dayton School of Law. She served as judicial clerk to The Honorable J. Frederick Sharer and The Honorable Gary G. Leasure in the Circuit Court for Allegany County. Commissioner Schadt practiced workers' compensation law as a trial attorney with the Injured Workers' Insurance Fund, until she was appointed an Assistant Attorney General with the Maryland Office of the Attorney General.

She served as Board Counsel to several health occupation licensing boards with the Department of Health and Mental Hygiene until her appointment to the Commission. Commissioner Schadt is the Commissioners' representative to the Maryland State Bar Association's Negligence, Insurance, and Workers' Compensation Section. She serves on the International Association of Industrial Accident Boards & Commissions' (IAIABC) Medical Issues Committee and is a member of the National Association of Workers' Compensation Judiciary. She has lectured extensively on various workers compensation matters over the years.

Tracey Parker-Warren, *Commissioner*



Tracey Warren was appointed a member of the Maryland Workers' Compensation Commission in June 2016 by Governor Lawrence J. Hogan, Jr. Immediately prior to this appointment, she served as an Administrative Law Judge in the Office of Administrative Hearings. She graduated *cum laude* from the University of Baltimore School of Law. Commissioner Warren subsequently clerked for The Honorable Arrie W. Davis (Ret.), Court of Special

Appeals of Maryland, and through the US Attorney General's Honors Program, she served as Attorney Advisor for the Department of Justice. She was also an attorney with the US Department of Veterans Affairs. She is a member of the Board of Regents for Morgan State University and a member of the Appellate Judicial Nominating Commission. She is a member of the bars of Maryland, the District of Columbia, and the Supreme Court of the United States.

AGENCY HIGHLIGHTS AND PROCESS IMPROVEMENTS

PERSONNEL IN THE NEWS

New Commissioners

In Fiscal Year 20 the Commission welcomed two new Commissioners:

Ju Y. Oh, Esq. Appointed to the Commission on July 1, 2019, Commissioner Oh earned her J.D. from the University of Baltimore School of Law in 2004.

Morrisann Martin, Esq. Appointed to the Commission on September 10, 2019, Commissioner Martin is a graduate of Goucher College, and earned her Juris Doctor from the University of Baltimore School of Law.

Retirements

After many years of dedicated service with the State of Maryland and the Workers' Compensation Commission, the following employees are now retired. We wish the best of luck in this new chapter of life!

	<u>Dates of Service</u>
Millette Murry-Wright Commissioner Assistant	3/27/1990—10/31/2019
Lauren Sfekas Godwin Commissioner	1/2/1996—6/30/2019
Cynthia Miraglia Commissioner	1/11/1999—8/31/2019
Joyce McNemar Director—IT Division	6/7/2006—11/30/2019

WORKERS' COMPENSATION PROFESSIONAL ASSOCIATIONS

The success of the Maryland Workers' Compensation Commission rests largely on a strong foundation of highly talented and knowledgeable Commissioners and staff. Continuing professional development for both is one of the key elements in the Commission's quest to provide a smooth process and positive outcome in claims adjudication. Each year the Commissioners and staff are actively involved in educational opportunities sponsored by local, national and international workers' compensation professional associations.

American Bar Association.
www.americanbar.org

College of Workers' Compensation Lawyers
www.cwclawyers.org

International Association of Industrial Accident Boards and Commissions (IAIABC).
<http://www.iaiaabc.org>

Maryland Workers' Compensation Educational Association (MWCEA)
<http://mwcea.com>

National Association of Workers' Compensation Judiciary, Inc. (NAWCJ)
www.nawcj.org

Southern Association of Workers' Compensation Administrators (SAWCA) and Roger L. Williams National Regulators College
<http://www.sawca.com>

NEW FORMS, REVISION, AND REPRINTED

- Controversion of Medical Claim (WCC H32 - 4/2020)
- Settlement Worksheet (H-07R - 3/2020)
- Claim for Medical Services (C-51 - 4/2020)
- Request for Document Correction (C90R - 10/2019)
- Request for Action on Filed Issues (H25R - 7/2019)
- Electronic Request for Action on Filed Issues (EH254) - 7/2019)
- Sole Proprietor's Status as a Covered Employee (IC02 - 9/2019)
- Joint Election Form (IC03 - 9/2019)
- Exclusion Form (IC16 - 9/2019)
- Inclusion Form (IC15 - 9/2019)
- Claimant's Consent to Pay Fees & Costs (EX 04 - electronically enabled FY2020)
- Claimant's Affidavit (H05 - electronically enabled FY2020)
- New Form: Exhibits (electronic submission 4/2020)

HIGHLIGHTS AND PROCESS IMPROVEMENTS

- Insurance, Compliance, & Reporting**
- 538 Show Cause hearings were scheduled for those employers whose workers' compensation policies have lapsed and/or cancelled without corresponding new coverage.
 - 140 penalty orders were issued to employers who were found to be operating without workers'

AGENCY HIGHLIGHTS AND PROCESS IMPROVEMENTS

compensation insurance, including fines totaling approximately \$900,000.

- 145,236 searches were performed using the Coverage Verification mobile app and employer details were provided on 75,872 searches.
- Twenty-six self-insured employers were audited to verify the accuracy and validity of their reporting to the Commission. Payroll covered by these audits totaled approximately \$8.2 billion.

Processing

- The Processing Division processed 253,153 documents in FY20. As a result of the continuing implementation of electronic filing capabilities and COVID-19, this is a 7% decrease or 20,094 fewer documents processed compared to FY19. In total, more than 1.6 million pages were scanned into the system, a decrease of 20%.
- The Mail Services department received 60,735 incoming pieces of mail (approximately 10% more than FY19) and in turn mailed out 567,627 pieces of mail (a decrease of approximately 8% from FY19).

Fiscal

- In December 2019, the Commission entered into the final year of the lease agreement for its principal office in Baltimore City and is in negotiations on this lease renewal.
- In accordance with new legislation requiring mandatory sexual harassment prevention training for all State employees, in November 2019 all Commission employees and contract workers were trained during sessions conducted by staff in the Personnel Division, the Director of EEO/ADA, and the agency's Principal Counsel. This training will continue to be conducted periodically to ensure compliance with this new mandate which requires existing employees to be trained every two years and new hires to be trained within six months of hire date.

Docketing

There were 40,111 cases set for hearing this fiscal year compared to 42,859 in FY2019. The 6% decrease may be partially due to the impact of COVID-19 on the Commission's normal operating structure. The Commission was forced to cancel 315 dockets during the months of March to early June. During FY2020, 16,857 cases were postponed and issues were withdrawn in an additional 9,650 cases. To continue to serve the community and ensure that the injured workers requiring

emergency services, treatments and payments were not delayed, the Commission implemented the use of video remote hearings. From early May through the end of the fiscal year, there were a total of 56 video remote hearings held. The Commission resumed face-to-face hearings in early June utilizing a staggered structure to aid in its ability to maintain social distancing requirements and ensure the safety of the community and its staff.

Interpreter Program

The Interpreter program received 2,635 requests for interpreter services for this fiscal year compared to 2,860 in FY2019; an 8% decrease primarily due to the number of continuances received during the last quarter of the fiscal year. This was an average of 220 requests processed monthly. The number of Spanish interpretations totaled 88.1%. In addition, the Commission provided interpreter services to 30 languages other than Spanish. To accommodate languages other than Spanish during the video remote hearings that were held, the Commission utilized telephonic interpretation services from Language Line.

Settlements

The Commission approved 6,487 settlements for this fiscal year compared to 6,275 in FY2019, an increase of three percent. Of the total number of settlements submitted to the Commission, there were 633 settlements rejected at the intake stage due to missing or incorrect information.

Electronic Claims Filing System

By the end of FY2020, the electronic claim form usage rate increased to 88%. This electronic form provides for a more expedient turnaround time in claims processing. Attorneys are required to use the online filing system for reporting claims. However, while not required for claimants, the claimant's usage has increased as well.

Appeals

Total appeals processed was 1,520, a 22% reduction from FY2019. This reduction may be attributed to the modified operating structure of the higher court system due to COVID-19. The Commission continues to see a reduction in the number of appeal cases printed; from 223 cases printed in FY19 to 170 cases printed in FY20.

AGENCY HIGHLIGHTS AND PROCESS IMPROVEMENTS

Information Technology

Hardware/Software

All unsupported desktop computers and laptops throughout the Commission running unsupported operating versions have been replaced with new fully supported computers and laptops running Windows 10. Windows 10 improves speed, security, interface ease of use, compatibility, and software tools.

Security

Improved the Commission's security posture with next generation firewall devices, antivirus, and anti-malware protection, better identity management and multifactor authentication. Eliminated potential security vulnerabilities by conducting security assessments and applying vendor patches, enhancing internal controls, and implementing more secure encryption algorithms.

Enhancements

Developed new mini-docketing system to support the dynamic scheduling needs for hearings to be held in person and virtually due to the COVID-19 pandemic.

Developed new internal tools to automate data cleanup processes in legacy systems for internal Commission staff. The newly developed tools allow erroneous and duplicate data to be resolved in a single window rather than going to each individual database record to make the change.

Implemented several new WFMS online forms which allow hearing documents to be electronically submitted including Claimant's Consent to Pay Fees & Costs and Exhibits which eliminates the need for staff to scan physical documents. Rehearing requests can also now be submitted electronically.

A guest Wi-Fi network has been installed in the Baltimore office which provides high speed internet access to hearing guests and participants. Hearing guests and participants routinely made complaints regarding the lack of cellular service in areas within the building.

Secure video conferencing capabilities are now available to the Commission which allow hearings to be conducted remotely.

New productivity tools and applications have been implemented throughout the Commission to streamline collaboration and improve overall operations onsite and remotely.

Enterprise Modernization

The Enterprise Modernization team has completed and deployed into pre-production (testing and training) release 8 of 20 development releases and is currently working on release 9. Beta testing started in April and is still in progress. Currently, more than 80 business processes have been created, tested, and certified for release, with an additional 62 business processes being developed as part of release cycle 9 and 10 (Fall 2020).

Report on Fraud Unit

Labor and Employment Article, § 9-310.2, Annotated Code of Maryland, requires the Commission to refer to the Insurance Fraud Division of the Maryland Insurance Administration any case in which it is established by a preponderance of the evidence, after a hearing, that a person knowingly affected or knowingly attempted to affect the payment of compensation benefits, fees or expenses under the Workers' Compensation Act by means of a fraudulent representation. During fiscal year 2020, the Commission continued to review cases for possible referral to the Insurance Fraud Division and referred two files for investigation.

Additionally, the Commission receives frequent anonymous allegations of fraudulent activity including the improper collection of benefits and failure to maintain workers' compensation insurance. In such instances there is generally insufficient information to positively identify the individual allegedly committing fraud. If sufficient information does exist, the matter is forwarded to all of the parties in the claim or to the Insurance Fraud Division for further investigation. Most insurance carriers and self-insured employers report alleged fraud directly to the Maryland Insurance Administration.

AGENCY HIGHLIGHTS AND PROCESS IMPROVEMENTS

Commission Response to COVID-19 Pandemic

In early March, 2020, Governor Hogan declared a state of emergency when cases of the novel corona virus showed up in Maryland. Shortly thereafter the State saw the first instances of community transmission. Proactive steps were taken to minimize the impact of Covid-19 across the state. Eventually, in addition to the closure of schools, non-essential businesses and public access to State offices, all State agencies moved to a mandatory teleworking for non-essential employees.

In accordance with the Governor's Executive Order and following the Court's example, the Commission quickly canceled scheduled hearings beginning March 16 and eventually through June 5, 2020. There were limited employees on-site to process mail, settlements, and to support the continued operations of the Commission. In addition to several operational challenges such as deploying adequate laptops and VPN service so that additional employees could telework, the Commission quickly undertook development of video hearing capability and a mechanism to submit hearing exhibits electronically.

In April, the Commission began accepting requests for Video Remote Hearings where there was agreement by the parties. Staff were quickly trained on the new technology, and the first video hearing was held on May 8, 2020. The community became comfortable with the technology and the number of requests rapidly grew.

As the State began to reopen in June, the Commission resumed in-person hearings and some additional on-site

work functions on June 8, 2020. Resumption of operations was vastly different than previously and occurred in a cautious manner with the health and safety of employees and customers of utmost concern. The resumption of in-person hearings included many changes such as the staggering and scheduling of specific hearing times for each case and the rearrangement of the hearing rooms to ensure maximum distancing of all participants. All attendees were required to wear masks, appear just before hearing time and depart immediately after the hearing, maintain physical distance and have their temperature taken upon arrival. The Commission also commenced the use of oral screening questionnaires and capturing of contact tracing information for all attendees. Tables and chairs in the hearing rooms were disinfected in-between each case.

With the return to in-person hearings, the Commission continued with the option of video hearings and was quickly able to reduce the backlog of cases pending a hearing. Despite the difficulties experienced due to Covid-19, through the use of remote meeting capabilities, the Enterprise Modernization project progressed on schedule. While in-person hearings have not hit pre-COVID volume, the Commission workload is manageable, and we continue to move forward with care. During these difficult times, the workers' compensation community has worked together to ensure that the important work that we do continued in an efficient and effective manner. The Commission continues to monitor health trends and to keep staff, the public and the community apprised of any changes.



AGENCY PERFORMANCE

TABLES AND CHARTS

FIGURE 1 • Filed Claims

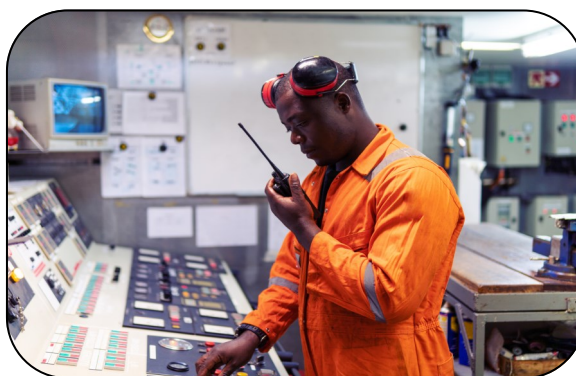
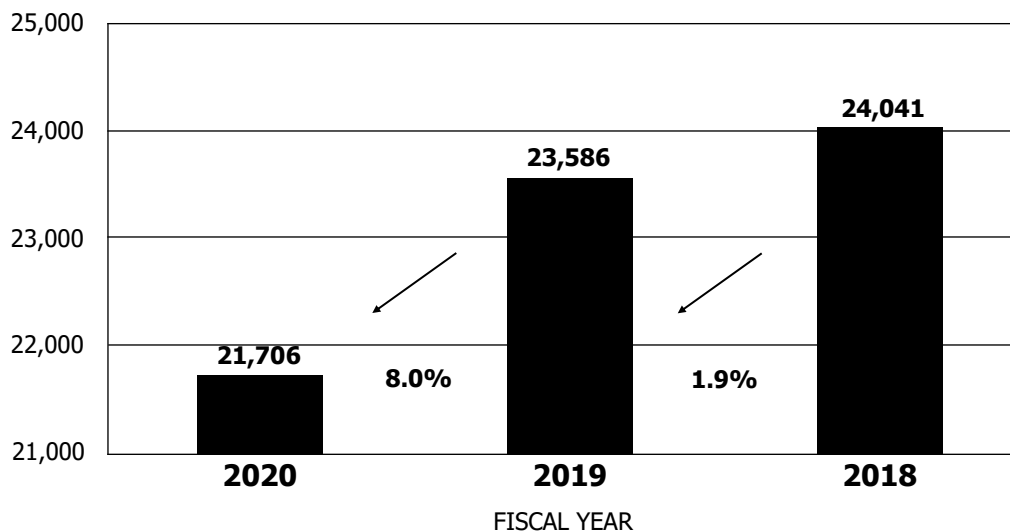


FIGURE 2 • Filed Claims by Industry

INDUSTRIES WITH MORE THAN 100 FILED CLAIMS	FISCAL YEAR					
	2020		2019		2018	
	Count	Percent	Count	Percent	Count	Percent
Policemen - Security	1,941	8.9%	2,044	8.7%	2,041	8.5%
Colleges Or Schools Incl. Day Care	1,209	5.6%	1,404	5.9%	1,422	5.9%
Municipal Township County Or State Employees N.O.C.	935	4.3%	934	4.0%	1,237	5.1%
TOP 3 INDUSTRIES IN FILED CLAIMS	4,085	18.8%	4,382	18.6%	4,700	19.5%
Truckmen N.O.C.	1,026	4.7%	939	4.0%	815	3.4%
Hospitals - All Other Employees	812	3.7%	840	3.6%	946	3.9%
Storage Warehouses General Merchandise N.O.C.	779	3.6%	736	3.1%	624	2.6%
Convalescent Or Nursing Homes All Employees	732	3.4%	683	2.9%	635	2.6%
Firemen Incl. Volunteer Dept & Ambulance Service	687	3.2%	668	2.8%	729	3.0%
Taxicab And Bus Companies	679	3.1%	650	2.8%	491	2.0%
Hotels, Restaurants, Bars & Nightclubs	638	2.9%	694	2.9%	752	3.1%
Building, Raising Or Moving - General Construction	545	2.5%	675	2.9%	695	2.9%
Meat Combined Grocery And Provision Stores Retail	509	2.3%	436	1.8%	502	2.1%
Buildings Operation By Contractors	401	1.8%	426	1.8%	269	1.1%
Automobile Garages Or Repair Shops Inc. Dealers	359	1.7%	415	1.8%	423	1.8%
Mail & Parcel Delivery Employees, Salespersons & Drivers	280	1.3%	253	1.1%	224	0.9%
Physicians Incl. Clerical	277	1.3%	226	1.0%	199	0.8%
Clerical Office Employees N.O.C.	264	1.2%	371	1.6%	309	1.3%
Unclassified (Insufficient Data)	246	1.1%	340	1.4%	224	0.9%
Store Risks Wholesale Or Combined N.O.C. K-MART	245	1.1%	249	1.0%	248	1.0%
Charitable Organizations (Goodwill)	244	1.1%	289	1.2%	267	1.1%
Aircraft Operation All Other Employees	208	1.0%	266	1.1%	238	1.0%
Employment Agencies	171	0.8%	163	0.7%	169	0.7%
Landscape & Tree Surgery	154	0.7%	158	0.7%	175	0.7%
Carpentry N.O.C. - Renovations	146	0.7%	154	0.6%	153	0.6%
Clothing Or Dry Goods Stores Retail	132	0.6%	165	0.7%	156	0.6%
Garbage Refuse Collecting	131	0.6%	133	0.6%	162	0.7%
Sheet Metal Work Incl. Air Conditioning & Refrigeration	123	0.6%	141	0.6%	146	0.6%
Plumbing-Steam Fitting	108	0.5%	103	0.4%	104	0.4%
Housing Authorities - Apts & Condos Incl. Real Estate	N/A		N/A		148	0.6%
Hardware Stores - Locksmiths	N/A		N/A		104	0.4%
Electrical Wiring In Buildings	N/A		N/A		139	0.6%
Athletic Teams of Parks	N/A		139	0.6%	116	0.5%
Industries With More Than 100 Filed Claims	9,896	45.6%	10,312	43.7%	9,771	42.3%
Number Of Industry Groups Represented	28		29		32	
All Other	7,725	35.6%	8,892	37.7%	9,179	38.2%
TOTAL	21,706	100.0%	23,586	100.0%	24,041	100.0%

Source: Commission Data, July 2020

Note: Chart represents filed claims in which an award has been ordered.

NOC: Not Otherwise Classified

FIGURE 3 • Awards According to Weeks of Disability and Body Part

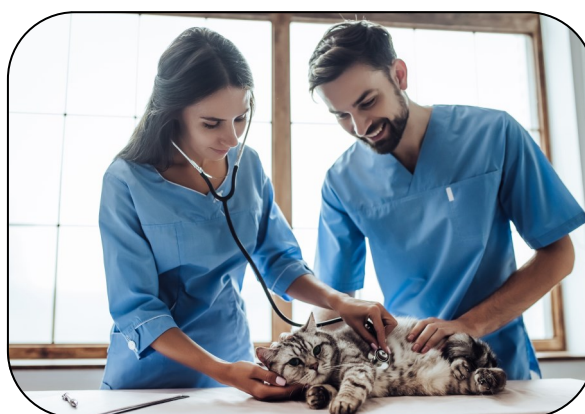
FISCAL YEAR 2020					
TOP TEN BODY PARTS DISABLED					
BODY PART	0—74 Weeks	75—249 Weeks	Greater than 249 Weeks	Total	Percent of Total
Thorax-Lower (Back)	1,177	275	16	1,468	21.3%
Shoulders	661	556	18	1,235	18.0%
Knees	769	256	5	1,030	15.0%
Neck	646	188	6	840	12.2%
Spinal Cord	394	126	6	526	7.7%
Hands	350	58	1	409	5.9%
Ankle or Ankle and Leg	302	78	2	382	5.6%
Wrists	311	67	0	378	5.5%
Legs	249	92	2	343	5.0%
Arms	194	64	6	264	3.8%
TOTAL	5,053	1,760	62	6,875	100.0%
PERCENT OF TOTAL	73.5%	25.6%	0.9%	100.0%	

Source: Commission Data, July 2020

FIGURE 4 • Permanency Awards According to Weeks of Disability

FISCAL YEAR	0—74 Weeks	75—249 Weeks	Greater than 249 Weeks	Total
2020	6,698	2,142	100	8,940
	74.9%	24.0%	1.1%	100.0%
2019	7,378	2,814	155	10,347
	71.3%	27.2%	1.5%	100.0%
2018	7,088	2,981	184	10,253
	69.1%	29.1%	1.8%	100.0%

Source: Commission Data, July 2020



MARYLAND WORKERS' COMPENSATION COMMISSION

FIGURE 5 • Permanency, Fatality, and Compromise Awards by Type of Award

TYPE	FISCAL YEAR								
	2020			2019			2018		
	Count	Amount	Average	Count	Amount	Average	Count	Amount	Average
Permanent Total Percent Change - Prior Year	25 -49.0%	\$1,904,291 -64.3%	\$76,172 -28.3%	49 13.9%	\$5,204,891 21.3%	\$106,222 6.5%	43 -24.6%	\$4,289,418 -20.4%	\$99,754 5.6%
Permanent Partial Percent Change - Prior Year	8,937 -13.6%	159,977,297 -19.9%	17,901 -7.2%	10,347 0.9%	199,629,685 -2.1%	19,293 -3.0%	10,253 1.1%	203,997,650 5.0%	19,896 3.9%
Fatality Percent Change - Prior Year	39 -13.3%	9,912,065 27.0%	254,156 46.5%	45 -8.1%	7,806,096 -11.4%	173,469 -3.5%	49 8.9%	8,806,429 2.3%	179,723 -6.0%
Compromise Percent Change - Prior Year	6,487 -0.1%	199,035,821 18.9%	31,739 18.9%	6,275 -0.3%	167,465,778 -5.5%	26,688 -5.1%	6,296 -2.7%	177,154,264 -0.8%	28,138 1.9%
Total Percent Change - Prior Year	15,272 -8.6%	370,829,474 -2.4%	24,282 6.8%	16,716 0.4%	380,106,450 -3.6%	22,739 -4.0%	16,641 -0.4%	394,247,761 1.9%	23,691 2.3%
Compromise as a Percent of Permanent Partials		121.4%	177.3%		83.9%	138.3%		86.8%	141.4%

Source: Commission Data, July 2020

FIGURE 6 • Commission Claims Data

COMMISSION CLAIM ACTIONS	FISCAL YEAR					
	2020		2019		2018	
	Count	Percent	Count	Percent	Count	Percent
First Reports of Injury	89,012		125,316**		92,483	
Total Filed Claims	21,706		23,586		24,041	
Disputed Accidental Injury Claims	10,120	46.6%	10,023	42.5%	10,318	42.9%
Temporary Total Awards	13,588	62.6%	14,204	60.2%	12,663	52.7%
Claims Settled	6,487	29.9%	6,275	26.6%	6,296	26.2%
Claims Deferred	5,842	26.9%	6,006	25.5%	7,908	32.9%
Claims Disallowed by Commission	464	2.1%	562	2.4%	619	2.6%

Source: Commission Data, July 2020

**Due to an insurer oversight, the number of First Reports of Injury (FROI) for FY19 includes 27,355 FROI's submitted in FY19 with a date of injury prior to FY19. In summary, there were 125,316 FROI's filed with the Commission in FY19 and 27,355 of them relate to a date of injury prior to FY19.

FIGURE 7 • Fatalities by Industry Grouping

INDUSTRY GROUP	Employment ⁽¹⁾	FISCAL YEAR		
		Fatalities ⁽²⁾		
		2020	2019	2018
STATE GOVERNMENT	101,456	3	1	1
LOCAL GOVERNMENT	255,916	19	19	19
GOVERNMENT SECTOR TOTAL	357,372	22	20	20
GOOD PRODUCING				
Natural Resources and Mining	7,088	2	2	0
Construction	167,838	8	7	6
Manufacturing	113,182	0	5	2
SERVICE PROVIDING				
Trades, Transportation , and Utilities	478,018	1	5	3
Information Technology	35,737	0	1	0
Telecommunications	11,753	0	0	0
Financial Activities	134,651	0	0	0
Professional and Business Services	465,019	0	0	1
Education and Health Services	455,519	3	3	0
Leisure and Hospitality	276,627	0	0	1
Other Services	95,073	0	4	2
UNCLASSIFIED	91	8	16	10
PRIVATE SECTOR TOTAL ALL INDUSTRIES	2,240,596	22	43	25
TOTAL EMPLOYMENT/FATALITIES	2,597,968	44	63	45

Source: ⁽¹⁾ DLLR 4th Quarter 2019

⁽²⁾ Commission Data, July 2020

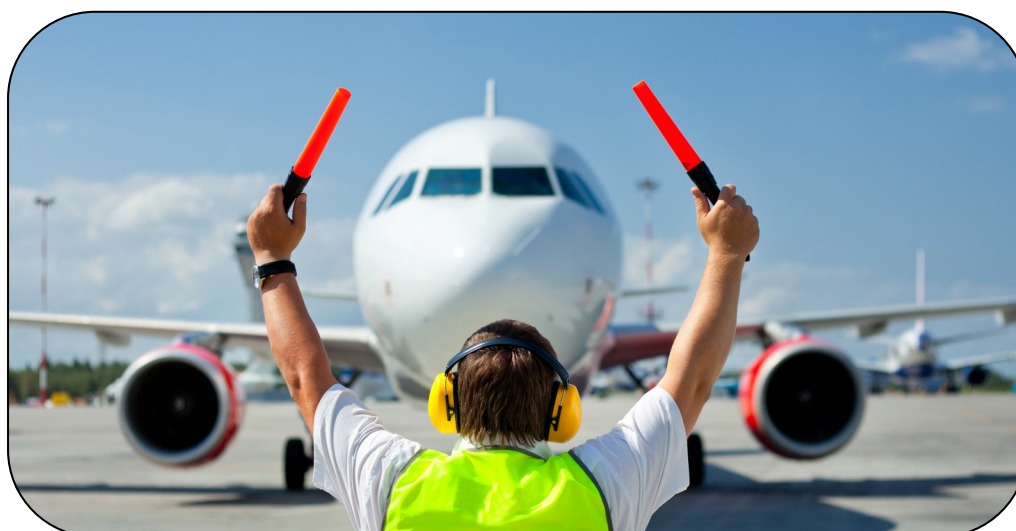


FIGURE 8 • Filed Claims by Gender and Age

FISCAL YEAR 2020			
Gender	Age Group	Claims Filed	Percent
Male	Unknown	2	0.0%
Male	10 - 19	186	0.9%
Male	20 - 29	2,178	10.0%
Male	30 - 39	3,225	14.9%
Male	40 - 49	2,812	13.0%
Male	50 - 59	2,938	13.5%
Male	60 - 69	1,464	6.7%
Male	70 - 79	262	1.2%
Male	80 - 89	47	0.2%
		Total 13,114	60.4%
Female	Unknown	1	0.0%
Female	10 - 19	108	0.5%
Female	20 - 29	1,349	6.2%
Female	30 - 39	1,804	8.3%
Female	40 - 49	1,846	8.5%
Female	50 - 59	2,257	10.4%
Female	60 - 69	1,057	4.9%
Female	70 - 79	155	0.7%
Female	80 - 89	15	0.1%
		Total 8,592	39.6%
		Total Filed Claims 21,706	100.0%

Source: Commission Data, July 2020



FIGURE 9 • Source of Appeals

SOURCE	FISCAL YEAR		
	2020	2019	2018
Claimant	902	1,098	1,018
Employer/Insurer	566	797	866
Subsequent Injury Fund	38	35	60
Uninsured Employers' Fund	10	23	12
Other Party	4	2	3
TOTAL	1,520	1,955	1,959

Source: Commission Data, July 2020

FIGURE 10 • Hearing Transcripts

CATEGORY	FISCAL YEAR		
	2020	2019	2018
Non Appeal Transcripts	985	1,193	1,226
Appeal Transcripts	1,288	1,570	1,475

Source: Commission Data, July 2020



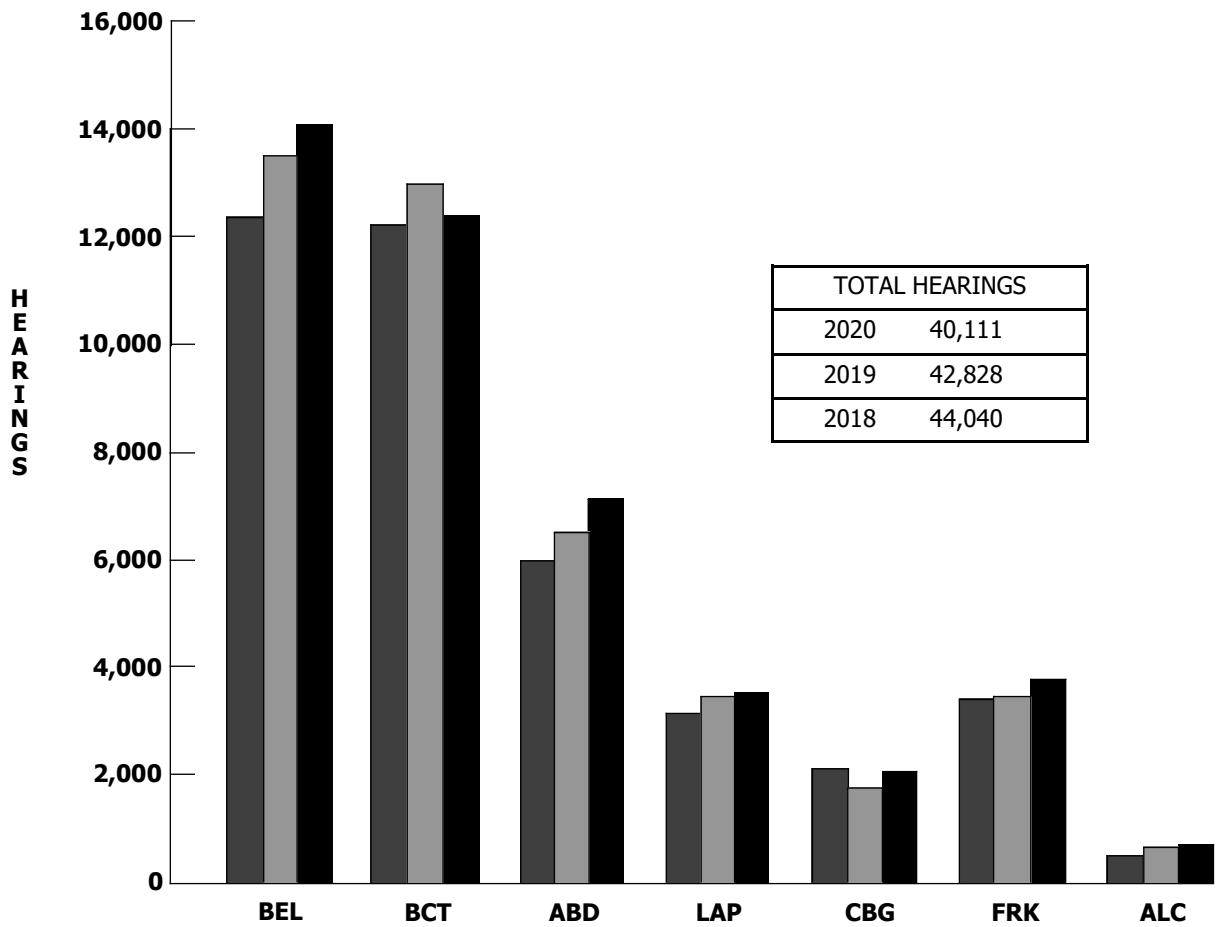
MARYLAND WORKERS' COMPENSATION COMMISSION

FIGURE 11 • Source of Claims and Appeals by Political Subdivision

JURISDICTIONS	FISCAL YEAR					
	2020		2019		2018	
	Claims	Appeals	Claims	Appeals	Claims	Appeals
Baltimore County	3,856	264	4,235	320	4,152	310
Baltimore City	3,110	166	3,303	236	3,440	207
Prince George's County	2,692	162	2,976	286	3,106	313
Montgomery County	2,042	139	2,247	214	2,243	202
Anne Arundel County	1,698	126	1,935	146	2,008	148
Harford County	888	57	942	97	978	84
SIX MAJOR METRO AREAS - COUNT	14,286	914	15,638	1,299	15,927	1,264
Percent of Total Filed Claims	65.8%	60.1%	66.3%	66.4%	66.2%	64.5%
Frederick County	913	56	944	64	924	71
Howard County	635	28	731	40	679	69
Washington County	551	37	581	30	538	43
Carroll County	527	34	620	50	575	38
Charles County	455	41	553	62	556	64
Calvert County	362	30	357	33	394	23
Wicomico County	351	18	387	24	375	15
Allegany County	215	18	234	21	272	22
St. Mary's County	215	21	239	26	309	39
Caroline County	193	18	220	17	194	20
Queen Anne's County	178	16	173	13	204	17
Dorchester County	161	14	138	5	133	9
Worcester County	159	18	152	17	163	9
Cecil County	114	15	175	16	191	23
Talbot County	90	7	84	8	111	10
Garrett County	82	2	90	8	110	5
Somerset County	80	7	81	5	70	5
Kent County	45	2	43	4	50	3
EIGHTEEN NON-METRO AREAS - COUNT	5,326	382	5,802	443	5,848	485
Percent of Total Filed Claims/Appeals	24.5%	25.1%	24.6%	22.7%	24.3%	24.8%
OUT OF STATE CLAIMS - COUNT	2,094	224	2,146	213	2,266	210
Percent of Total Filed Claims	9.6%	14.7%	9.1%	10.9%	9.4%	10.7%
TOTAL	21,706	1,520	23,586	1,955	24,041	1,959
PERCENT OF CLAIMS APPEALED		7.0%		8.3%		8.1%

Source: Commission Data, July 2020

FIGURE 12 • Scheduled Hearing Distribution



REGIONAL SITES							
	BELTSVILLE	BALTIMORE CITY	ABINGDON	LA PLATA	CAMBRIDGE	FREDERICK	CUMBERLAND
	BEL	BCT	ABD	LAP	CBG	FRK	ALC
2020	12,367	12,253**	6,001	3,139	2,225	3,514	612
2019	13,588	12,977	6,558	3,571	1,896	3,526	712
2018	14,112	12,380	7,274	3,603	2,132	3,781	758

**201 virtual hearings were conducted in FY2020 and are included in Baltimore City hearings for reporting purposes.

FIGURE 13 • Interpreter Office Program Statistics

ITEM	FISCAL YEAR		
	2020	2019	Change
Requests	2,635	2,860	-7.9%
Interpretations Provided	1,304	1,174	11.1%
Requests Continued or Withdrawn	1,331	1,686	-21.1%
Spanish Interpretations	1,149	920	24.9%
All Other Interpretations	155	254	-39.0%
Percent Spanish	88.1%	78.3%	9.8%
Number Of Languages Provided	31	48	-35.4%

Source: Commission Data, July 2020

FIGURE 14 • Vocational Rehabilitation Case Management

FISCAL YEAR 2020		
	Count	Percent
Return to Work		
Same Employer, Same Job	998	63.7%
Same Employer, Different Job	74	4.7%
New Employer, Same Occupation	52	3.3%
New Employer, Different Occupation	195	12.5%
Self-Employment	4	0.3%
Medical Issues, Not Employed	130	8.3%
Subtotal	1,453	92.8%
Employment Status Unknown		
Rehabilitation Services Declined	46	2.9%
Rehabilitation Program Dropout	48	3.1%
Claimant Moved Out of State	12	0.8%
Claimant Declined Job Offers	7	0.4%
Subtotal	113	7.2%
Total Vocational Rehabilitation Case Dispositions	1,566	100.0%

Source: Commission Data, July 2020

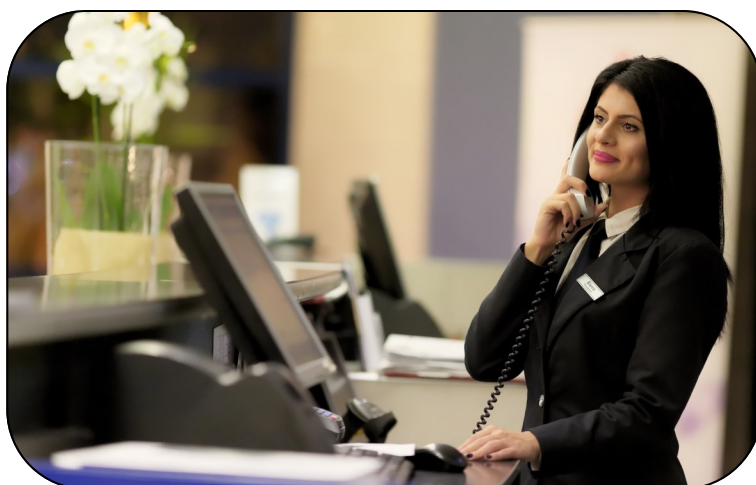
FIGURE 15 • Self-Insurance Program

ITEM	FISCAL YEAR		
	2020	2019	2018
Individual Self-Insurers and 1 Group	89	92	94
Covered Self-Insured Employees ⁽¹⁾	462.0 k	409.0 k	420.5 k
Covered Self-Insured Payroll ⁽¹⁾	\$27.1 B	\$27.3 B	\$24.7 B
Self-Insured Payroll as Percent of All Covered Payroll	15.9%	17.1%	15.6%
Security Held ⁽¹⁾	\$243.4 M	\$228.8 M	\$225.1 M
Commission Orders ⁽²⁾	9	16	16

k = Thousand, M = Million, B = Billion

⁽¹⁾ Source: A-01/IC-1 Report 2017 - 2019 Note: Security includes active self-insurers only.

⁽²⁾ Commission Data 2018 - 2020



MARYLAND WORKERS' COMPENSATION COMMISSION

FIGURE 16 • Workers' Compensation Premium Rate Ranking

2018 Ranking	2016 Ranking	2014 Ranking	State	Median Index Rate	State % of Median
1	3	4	New York	3.08	181%
2	1	1	California	2.87	169%
3	2	3	New Jersey	2.84	167%
4	5	5	Alaska	2.51	148%
5	6	9	Delaware	2.50	147%
6	27	32	Georgia	2.27	134%
7	5	2	Connecticut	2.20	129%
8	9	20	Rhode Island	2.19	129%
9	14	8	Vermont	2.09	123%
10	10	10	Louisiana	2.05	121%
11	12	23	Wisconsin	2.02	119%
13	11	27	Hawaii	2.01	118%
13	11	11	Montana	2.01	118%
14	14	17	South Carolina	1.95	115%
16	15	17	Washington	1.87	110%
16	23	31	Wyoming	1.87	110%
17	26	17	Pennsylvania	1.85	109%
19	22	27	North Carolina	1.84	108%
19	14	13	Maine	1.84	108%
21	28	14	Idaho	1.81	106%
21	33	28	Florida	1.81	106%
22	8	7	Illinois	1.80	106%
23	32	25	South Dakota	1.73	102%
24	8	6	Oklahoma	1.71	101%
26	17	12	New Hampshire	1.70	100%
26	32	30	Nebraska	1.70	100%
27	20	21	Missouri	1.68	99%
28	22	20	Minnesota	1.67	98%
29	25	29	Alabama	1.65	97%
30	24	24	Iowa	1.64	96%
31	29	38	Mississippi	1.54	91%
32	30	22	Tennessee	1.52	89%
33	30	40	Kentucky	1.51	89%
34	20	20	New Mexico	1.50	88%
35	35	41	Colorado	1.43	84%
36	40	33	Ohio	1.40	82%
37	34	34	Michigan	1.38	81%
38	44	35	Massachusetts	1.50	82%
39	38	35	Maryland	1.33	78%
40	38	37	Arizona	1.30	76%
41	47	48	Virginia	1.28	75%
42	42	45	District of Columbia	1.25	74%
43	40	36	Texas	1.21	71%
44	43	46	Nevada	1.18	69%
46	41	39	Kansas	1.15	68%
46	45	43	Oregon	1.15	68%
47	46	45	Utah	1.06	62%
48	48	42	West Virginia	1.01	59%
49	49	49	Arkansas	0.90	53%
50	50	50	Indiana	0.87	51%
51	51	51	North Dakota	0.82	48%

Source: Research and Analysis Section, Oregon Department of Consumer and Business Services (Rev. 10/2018)

Notes: 1. Starting with the 2008 study, when two or more states' Index Rate are the same, they now are assigned the same ranking.

FIGURE 17 • Licensed Insurers Writing Workers' Compensation Insurance

Fiscal Year	Licensed Insurers ⁽¹⁾	Licensed Insurers Billed	Percentage of Licensed WC Insurers
2020	659	342	51.9%
2019	721	336	46.6%
2018	678	330	48.7%

Source: Commission Data, July 2020

⁽¹⁾ Includes Self-Insurers

FIGURE 18 • Insurer Assessments, Safety/Fraud Costs and Commission Expenses

Fiscal Year	Assessment Base Insured Payroll	Total Insurer Assessments	Safety and Fraud Program Cost	WCC Cost	Assessment per \$1000 of Payroll
2020	\$130,534,710,479	\$31,015,543	\$12,693,830	\$18,321,713	0.239
2019	\$126,224,923,601	\$28,002,836	\$11,345,628	\$16,657,208	0.221
2018	\$144,091,230,632	\$25,330,777	\$10,866,738	\$14,475,134	0.175

Source: Commission Data, July 2020



REVENUES/EXPENDITURES

The Commission collects an assessment from licensed workers' compensation insurers and self-insurers for the operating budget of the Commission as well as the Occupational Safety and Health Program and the Workplace Fraud Act within the Department of Labor, Licensing and Regulation (DLLR). During this fiscal year, \$31,274,803 was assessed and collected with \$12,693,830 being transferred to DLLR for its safety program and workplace fraud initiative. The remaining funds were retained in the Workers' Compensation Fund and were disbursed as Commission operating expenditures as appropriated. The fiscal year 2020

Legislative Appropriation for the Commission's operating expenditures totaled \$18,687,273. Approximately 66 percent of this budget provided for the Commission's allotment of 115.0 full-time equivalent permanent position salaries and 11.25 full-time equivalent contractual position salaries, 9 percent for fixed costs to include lease agreements and lease escalations, 21 percent for contractual services to include computer software and hardware maintenance contracts, 2 percent for communications and postage, and 2 percent for travel expenses, supplies and equipment.

REGULATORY/LEGAL UPDATE

Legislation

SB0008/CH0495

Subsequent Injury Fund and Uninsured Employers' Fund - Assessment on Award and Settlements - Amount

This Act alters the percentage of assessments imposed by the Workers' Compensation Commission payable to the Subsequent Injury Fund and the Uninsured Employers' Fund. This Act takes effect July 1, 2020. It shall remain effective for a period of 1 year and, at the end of June 30, 2020, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. (Effective: 7/1/20)

SB0784/CH0582

Workers' Compensation - Hernia Claims

This Act alters the time period within which a covered employee must report to the employer a hernia caused by an accidental injury from 30 to 45 days after its occurrence. If the covered employee fails to file a claim within the time period required under § 9-709(A), the covered employee may file the claim within 2 years after the date of the injury unless the employer or insurer has been prejudiced by the failure. (Effective: 10/1/20)

HB0685/CH0303

Harford County - Workers' Compensation - Permanent Partial Disability - Detention and Correctional Officers and Deputy Sheriffs

This Act provides for enhanced workers' compensation benefits for a Harford County deputy sheriff, correctional officer, and a detention center officer for a compensable permanent partial disability award of less than 75 weeks. (Effective: 10/1/20)

HB0810/CH0332

Workers' Compensation - Washington County - Volunteer Company - Fire and Rescue Academy Student

This Act provides that a member of a volunteer company in Washington County is a covered employee if the individual is at least 15 years old and is enrolled in the Fire and Rescue Academy Program operated by the Washington County Board of Education. (Effective Date: 7/1/20)

Regulatory Updates

14.09.08 - Guide of Medical and Surgical Fees .01 and .02

This action was taken to update outdated code references and to emphasize that in the case of a discrepancy, rates for hospital services set by the Health Services Cost Review Commission will prevail over those set by the Workers' Compensation Commission. (Effective: 2/24/20)

14.09.12 - Responsibilities of Insurers .07

This action was taken to eliminate the requirement that notices of cancellation contain certain information. (Effective: 2/24/20)

14.09.13 - Individual Employer Self-Insurer .07

This action authorizes the Commission to require more complete documentation of insurance risks for applicants for self-insurance. (Effective: 2/10/20)

14.09.04 - Legal Representation and Fees .03

This action clarifies the awarding of attorney fees when a last award of compensation for permanent partial disability is increased under COMAR 14.09.04.03. (Effective: 10/7/19)

14.09.11 - Petition for Judicial Review .01

This action clarifies the regulation to require judicial review in accordance with Maryland Rule 7-206.1(b). (Effective: 7/15/19)

Appellate Opinions

Montgomery County, Maryland v. John T. Maloney

Court of Special Appeals No. 632

September Term, 2018

Opinion by Kehoe, J. (April 7, 2020)

When a party seeks judicial review of an unfavorable decision by the Workers' Compensation Commission, his opponent is not inescapably bound by the appealing party's procedural preference. The language of Md. Code, Lab. & Empl. § 9-745(d), makes plain that "any party" can request, "in accordance with the practice in civil cases," a *de novo* review of "any question of fact involved in the case."

Review by "essentially" *de novo* trial is available only for issues of fact actually decided by the Commission. Whether an injury arises "out of" and "in the course of" employment is a factual question—or a "mixed" question of law and fact—able to be considered afresh by the circuit court if there are facts in dispute or if opposing inferences can reasonably be drawn from undisputed facts.

Harford County, Maryland v. Gary E. Mitchell, Sr.

Court of Special Appeals No. 3456

September Term, 2018

Opinion by Beachley, J. (April 2, 2020)

The Court held that offset in LE § 9-503(e)(2) is calculated based on the claimant's "weekly salary." "Average weekly wage" is a term of art defined by LE § 9-602, calculated based on the claimant's earnings at the time of injury or last injurious exposure to the hazards of an occupational disease. The Court concludes that the legislature's use of "weekly salary" rather than "average weekly wage" was intentional. Because the employee is generally entitled to receive both workers' compensation and retirement benefits, and construing the statute in accordance with its benevolent purpose, "weekly salary" refers to the claimant's salary at the time of retirement for purposes of calculating the offset.

Baltimore County, Maryland v. Charles Ulrich

244 Md.App. 410 (2020)

If a person other than an employer is liable for a work-related injury, the employee may bring a claim under the Workers' Compensation Act against the employer or may bring an action for damages against the third-party tortfeasor. Md. Code (1991, 2016 Repl. Vol.), § 9-901 of the Labor and Employment Article. When an employee

pursues a claim for workers' compensation benefits and also sues the third party for damages, the employer retains a subrogation interest in the reimbursement of benefits that it paid under the Act, including medical expenses. This subrogation interest acts as a statutory lien on the employee's recovery of damages from a third-party tortfeasor. See *id.* § 9-902(e).

A third-party healthcare provider that merely treats an employee's work-related injury is not liable for that injury, but only for the additional harm resulting from negligent treatment. Accordingly, where an employer has paid for medical services exclusively to treat the compensable injury (not to treat the additional harm from medical negligence), the employer has no subrogation interest in the reimbursement of those medical expenses out of the damages recovered by an employee for the alleged negligent treatment.

Uninsured Employers' Fund v. Tyson Farms, Inc., et al.

243 Md.App. 406 (2019)

In a case where a party is employed by a landowner to manage his property, the landowner's status as an employer may be coextensive with another person or entity, if such person or entity exercises an appropriate degree of control over the party. Relevant to the determination of co-employment is the degree of control exercised by the landowner over the employee relative to that of the other person or entity. Where, as here, a landowner exercises minimal control over an employee, and a separate person or entity maintains substantial control over the day-to-day functions of that employee, that other person or entity may be properly determined to be a co-employer, and consequently falls subject to the level of legal responsibility commensurate with that designation.

Montgomery County, Maryland v. Anthony G. Cochran and Andrew Bowen

243 Md.App. 102 (2019)

Workers' Compensation – Occupational Deafness – Calculation of Total Average Hearing Loss – Meaning of "Lowest Measured Losses" in LE § 9-650(b)(2)(i)
Retired firefighter filed for compensation for occupational deafness. Two audiograms were performed. The earlier-in-time audiogram showed more hearing loss than the later one. The Maryland Workers' Compensation Commission (the "Commission") did not err in calculating firefighter's

total average hearing loss under LE § 9-650(b)(2)(i) by using the results of the earlier-in-time audiogram. The term “lowest measured losses” in LE § 9-650(b)(2)(i) does not direct the Commission to use the lowest hearing losses ever tested and recorded for an occupational deafness claimant. Instead, it sets forth a procedure and formula for calculating the level of a claimant’s hearing loss during a single audiogram, and doesn’t dictate which results among multiple audiograms the Commission must select.

Workers’ Compensation – Occupational Deafness – Calculation of Total Average Hearing Loss – Calculation of Deduction for “Each Year of the Covered Employee’s Age Over 50 at the Time of The Last Exposure to Industrial Noise” Under LE § 9-650(b)(3)

Retired firefighters filed for workers’ compensation for occupational deafness. The Commission did not err in calculating the deduction under LE § 9-650(b)(3) from each firefighter’s total average hearing loss by counting the number of years between each firefighter’s 50th birthday and the respective dates each retired. The date of a claimant’s “last exposure to industrial noise” under LE § 9-650(b)(3) is not the date his audiogram was performed, under the plain language of the statute. Instead, it is the date of his last exposure to harmful noise at work, and the Commission did not err in determining that date to be the firefighters’ respective retirement dates.

Workers’ Compensation – Permanent Partial Disability Benefits – Occupational Disease – Disablement Requirement Under LE § 9-502 – Tinnitus – “Other Cases” Loss Under LE § 9-627(k)

Retired firefighter filed for workers’ compensation for tinnitus, commonly known as a ringing in the ears. The Commission erred in awarding permanent partial disability benefits to the firefighter. Whereas compensation for occupational deafness may be awarded

without a showing of disablement, a showing of disablement is required for compensation for other occupational diseases. Because tinnitus is not compensable as part of occupational deafness under LE § 9-505 and § 9-650 under the plain language of those statutes and because the firefighter made no showing of disablement from his tinnitus, the Commission erred in awarding permanent partial disability benefits. But the Commission’s categorization of tinnitus as an “unscheduled” or “other cases” loss under LE § 9-627(k) was not in error.

Baltimore County, Maryland v. Michael Quinlan
238 Md.App. 486 (2018)

Pursuant to Maryland Code Ann. (1991, 2016 Repl. Vol.), § 9- 502(d) of the Labor and Employment Article (“LE”), an occupational disease is only compensable if: (1) it is “due to the nature of an employment in which hazards of the occupational disease exist”; and (2) “it reasonably may be concluded that the occupational disease was incurred as a result of the employment of the covered employee.” Here, the record contained evidence that the nature of the job of a paramedic/firefighter involved hazards that place an employee at greater risk for degenerative knee conditions than those faced by the general public. The employee, Michael Quinlan (“Quinlan”), was a paramedic, and was required to engage in the activities that account for this increased risk. Moreover, he engaged in these activities repetitively over 24 years of employment. This claim was not shown to involve a concomitant preexisting condition. Therefore, as a matter of law, the degenerative meniscal tears could be considered an occupational disease, and there was sufficient evidence for the jury to reasonably conclude that Quinlan’s degenerative knee tears were compensable.

COMMITTEES

Maryland General Assembly Workers' Compensation Benefit and Insurance Oversight Committee

Chapters 590 and 591 of the Acts of 1987 established the Maryland General Assembly Workers' Compensation Benefit and Insurance Oversight Committee. Chapter 5 of the Acts of 2011 expanded the membership to include a representative from a self-insured local government entity. The Oversight Committee was developed to:

- Examine and evaluate the condition of the workers' compensation benefit and insurance structure in Maryland and the impact these laws have on that structure.
- Review, with respect to adequacy and appropriateness, the changes made to the permanent partial benefits laws and make recommendations for necessary changes.
- Report to the Governor and the Legislative Policy Committee on December 31 of each year.
- Monitor, review and comment on salient workers' compensation issues for the Maryland Legislature.

The Oversight Committee membership includes representatives from the legislative, medical, legal, labor, business, insurance, rehabilitation sectors, and self-insured local government, as well as the general public. The Committee is co-chaired by an appointed State Senator and a House of Delegates member.

2020 Committee Roster

Katherine A. Klausmeier, Senate Chair
Kriselda Valderrama, House Chair
Senator Brian J. Feldman
One Vacancy

Representative of Maryland Business Community:
Mary Anne Reuschling

Representative of the Maryland Labor Organization:
Hank Sorenson

Representative of Maryland Building and Construction Labor Organization:
Thomas W. Hayes

Two Members of the Public:
Debora Fajer-Smith
Michael G. Comeau

Member of the Insurance Industry:
Thomas J. Phelan

Member of a Workers' Compensation Rating Organization:
David Benedict

Member of Medical and Chirurgical Faculty of Maryland:
Gary W. Pushkin M.D.

Members of the Bar:
Rudolph L. Rose, Defense Lawyer
P. Matthew Darby, Plaintiff Lawyer

Maryland Certified Rehabilitation Service Provider:
Jody Malcolm

Self-Insured Local Government Entity
Ronald J. Travers

Workers' Compensation Commission—Ex Officio:
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Department of Legislative Services

Governor's Advisory Committee on Budget of State Workers' Compensation Commission

Pursuant to the requirements of Labor and Employment Article §§ 9-317 and 9-318, a Budget Advisory Committee was established to review the annual proposed operating budget of the Workers' Compensation Commission and make recommendations to the Commission. The Budget Advisory Committee will perform this review and make its recommendations by November 1 of each year. The Committee submits its annual report and recommendations to the Governor and Legislature by December 1 of each year. A meeting of the Committee was held on October 8, 2019.

2020 Committee Roster

Heather H. Kraus, Esq., Chair	Melinda L. Hayes, MS, CRC, CDMS
Nathan J. Cavey, Jr.	Mary C. Larkin
Michael G. Comeau, Esq.	Adrienne M. Ray
Carmine G. D'Alessandro, Esq.	Patrick A. Roberson, Esq.
Sandra I. Dorsey	Lisa Yvette Settles, Esq.
Kevin P. Foy, Esq.	Matthew D. Trollinger, Esq.

COMMITTEES

Advisory Committee on the Registration of Rehabilitation Practitioners

The Advisory Committee on the Registration of Rehabilitation Practitioners was formed by the Workers' Compensation Commission in 1997. The Committee's role is to review, evaluate and provide recommendations to the Commission regarding a vocational rehabilitation practitioner's application where questions or clarifications are needed. Members are appointed to a three-year term by the Workers' Compensation Commission. The Committee consists of seven members who are certified rehabilitation practitioners (Labor and Employment Article, Section 9-6A-05).

2020 Committee Roster

- Janet Spry, Ph.D., CRC, LPC, MCRSP
Committee Chair
- Susan Budden, MS, CRC, MCRSP
- Mary Sevinsky, MS, CRC, CCM, MCRSP
- Kathy M. Stone, MS, CDMS, CCM, MCRSP
- Carole Stole-Upman, MA, RN, CCM, CRC, CDMS, CNLCP, WCCM, MCRSP
- Cathryn Winslow, RN, WCCM, MCRSP
- Julie Howar, O.T.

Medical Fee Guide Revision Committee

The Medical Fee Guide Revision Committee (MFGRC) was established in response to Labor and Employment Article § 9-663(b)(3). It reviews medical and surgical fees for completeness and reasonableness as well as provides a forum for discussing the fee guide. Recommendations are then made to the full Commission. The MFGRC, whose membership consists of an equal number of payers and receivers of workers' compensation medical benefits, engages in an ongoing analysis of reimbursement rates and recommends modifications to the Commission. In 2008, the Medical Fee Guide was fully incorporated into COMAR and was updated to include an annual adjustment factor that will help reimbursement rates stay current. The Committee met virtually on June 8, 2020.

2020 Committee Roster

- Commissioner Allan Kittleman, Committee Chair
- Jerome P. Reichmister, M.D., Physician Adviser, WCC
- Janet Vanderpuije, Committee Secretary, WCC

Payers

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- Nimisha Kalia, M.D.
- Antonio R. Lopez, Esq.
- Rudolph Rose, Esq.
- Craig J. Ross, M.D.

Receivers

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