

STATE OF NEW MEXICO



Workers' Compensation Administration

ONE TEAM / ONE GOAL

A better New Mexico for workers and employers

ROBERT DOUCETTE JR., WCA DIRECTOR

Agency Mission



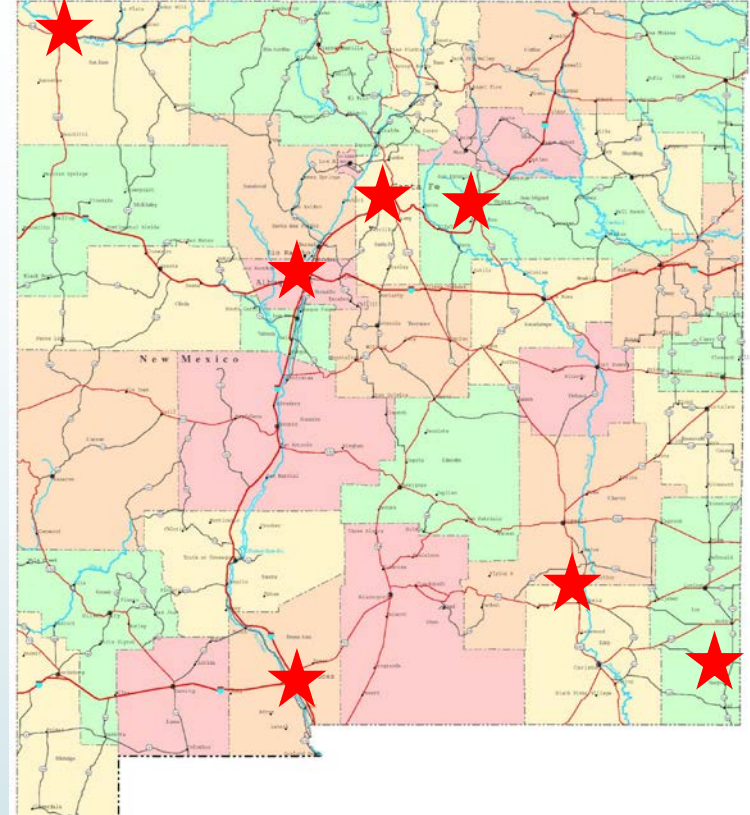
To assure the quick and efficient delivery of indemnity and medical benefits to injured workers at a reasonable cost to employers.

Agency Bureaus

- Adjudication
- Clerk of the Court
- Compliance
- Economic Research
- Enforcement
- Facilities
- Field Programs
- Financial Management
- General Counsel
- Human Resources
- Information Technologies
- Mediation
- Medical Cost Containment
- Ombudsman
- PIO
- Safety
- Self Insurance
- Uninsured Employers Fund

Field Offices

- Albuquerque (main office)
- Farmington
- Hobbs
- Las Cruces
- Las Vegas
- Roswell
- Santa Fe



Each field office has a Field Office Manager and, by statute, an Ombudsman. Other programs represented may include Compliance, Safety, and Return to Work.

Dispute Resolution: Clerk of the Court, Mediation, and Adjudication



THE CLERK'S OFFICE IS RESPONSIBLE FOR FILING AND MAINTAINING LEGAL DOCUMENTS THAT BECOME THE OFFICIAL COURT RECORD FOR WORKERS' COMPENSATION CASES.



THE MEDIATION BUREAU CONDUCTS INFORMAL SETTLEMENT CONFERENCES TO TRY TO RESOLVE ISSUES RAISED IN THE COMPLAINT FILED IN THE CLERK'S OFFICE.



IF THE PARTIES ARE UNABLE TO REACH A SETTLEMENT AT MEDIATION, THE CASE WILL BE ASSIGNED TO ONE OF SIX APPOINTED JUDGES FOR FORMAL ADJUDICATION OF THE DISPUTED ISSUES.

Programs- Compliance, Ombudsman, Return-to-Work, Safety



Compliance enforces the statutory requirements of the act by working with business owners to help them obtain workers' compensation insurance if required.



Ombudsman assist unrepresented parties by encouraging communication between parties to resolve disputes. They also provide information about the workers' compensation process without providing legal advice.



Return-to-Work helps employers with accommodation issues to help injured workers return to work by customizing initiatives for employer's needs.



Safety provides consultations, inspections, and works with high-risk businesses to eliminate occupational hazards to prevent workplace accidents.

Additional Services

Enforcement prosecutes violators of the WC Act including businesses that do not obtain a WC policy, fraud, bad faith, and unfair claims practices.

Medical Cost Containment assists in the annual update of the Medical Fee Schedule, reviews billing disputes, coordinates nurse case management and utilization review, and supports the Directors Medical Advisory and Independent Medical Examination Committees.

Self-Insurance conducts audits of employers approved to be self-insured. This involves assessing the risk of the employer, their solvency, and reviewing claims. They also maintain the NM Self-Insured Guarantee Fund and report to the Guarantee Fund Board.

Uninsured Employers Fund is to provide medical and indemnity benefits to injured workers when an employer is required to have a WC policy and does not.



Workers' Compensation Provisions

Judge Tony Couture

History and Facts of the WCA

- The New Mexico Legislature created the WCA in 1986
- In 2003, the New Mexico Legislature created the Uninsured Employers' Fund (UEF)
- We administer and regulate the Workers' Compensation law
- We operate a fully functional court
- We are self-funded by a quarterly assessment fee of \$4.30
 - \$2.00 by each worker
 - \$2.30 by each employer for each worker (\$.30 goes to the UEF)



Compensability

Course and Scope

Notice

Statute of Limitations

- Disability/Injury

Court Processes



Mandatory Mediation

Only 10% of injuries result in a dispute in our court

- Of that our mediators resolve about 76% at mediation



Adjudication

General Process

Timelines

Appeals

Medical Benefits



REASONABLE, NECESSARY,
AND RELATED



CHOICE OF HEALTH CARE
PROVIDER



PAYMENT

Indemnity Benefits

- Lost Time
- Average Weekly Wage
- TTD, TPD, PPD, PTD, SIB (WHAT IS THIS???)
- Formula Benefits
- Scheduled Benefits
- Death Benefits



Attorney Fees

- How fees are determined
 - Statutory cap
 - Case Law-Fryar





House Memorial 83 Attorney Fee Cap Task Force

Mike Holt, WCA General Counsel

HM 83-2023 Legislative Session

- Established a task force to study the impact and effect of attorney fees and fee caps within the WC system
- Gather information, identify issues, make recommendations
- The Task Force was to include:
 - WC Director's designee
 - 2 worker attorneys, 2 employer attorneys
 - 2 employer reps
 - 2 insurance reps
 - 2 labor or union reps
 - 2 workers who have filed WC claims

Task Force



The task force met 8 times



History of the attorney fee cap:

1990 fee cap was \$12,500
2003 fee cap was \$16,500
2013 was the last time the fee cap was raised to \$22,500



WC Economic Research Bureau conducted a data call



A survey of attorney sentiment regarding the attorney fee cap was conducted



Analysis of existing court records

Task Force cont'd



Focus was on attorney fee cap



Other issues:

Judicial discretion to go above established fee cap

Separate award for appellate work

Director authority vs. Legislative authority to adjust fee cap for inflation

Employer paid discovery advance limit of \$3,000

Task Force Recommendations



Raise the existing fee cap from \$22,500 to \$30,000



Increase the discovery advance from \$3,000 to \$3,500



No judicial discretion to award fees above the cap



No separate fee for appellate work



Legislature retains sole authority over future increases

Conclusions

- The attorney fee cap increase, and discovery advance increase will only require changes of **four** numbers in **two** statutes.
 - The Workers' Compensation Act
 - The Occupational Disease and Disablement Act