

# 2021 Annual Report



**NORTH CAROLINA  
INDUSTRIAL COMMISSION**

# LETTER FROM THE CHAIR



On behalf of my fellow Commissioners, Deputy Commissioners, and the employees of the Commission, I am pleased to provide the Industrial Commission's Annual Report.

Established in 1929, the Industrial Commission adjudicates and administers the North Carolina Workers' Compensation Act. In 1949, the General Assembly authorized the Commission to adjudicate and administer the North Carolina State Tort Claims Act. In addition, the Commission has jurisdiction over the Public Safety Employees' Death Benefits Act, the Childhood Vaccine-Related Injury Compensation Program, and the Compensation to Persons Erroneously Convicted of Felonies statute.

This past year continued to present many challenges related to the COVID-19 pandemic. The Commission's dedicated and talented employees demonstrated tremendous resiliency and resolve in meeting these ongoing challenges. At the start of the pandemic, case hearings temporarily paused until the implementation of Webex hearing procedures. Once Webex hearings began, the backlog of cases was quickly addressed. Since then, the Commission has remained current on the hearing of all workers' compensation and tort claims at the Executive Secretary, Deputy Commissioner, and Full Commission levels. The Commission's other Sections and Divisions have likewise continued to administer the North Carolina Workers' Compensation Act, the State Tort Claims Act, and the other statutory responsibilities of the Commission efficiently and effectively.

The Commission advanced several important initiatives over the past year. The initial phases of development of our new case management system have been completed, and after in-depth testing and training, we expect to transition to the new system in the first quarter of 2022. The Commission successfully completed a project to digitize the images on deteriorating microfiche that are critical to researching pre-1995 insurance coverage. We also continued to make progress modernizing our rules by adopting new and modified rules through the Administrative Procedure Act in consultation with the Commission's stakeholders.

Finally, the Commission welcomed two new Commissioners, Wanda Blanche Taylor and Adrian A. Phillips, who were appointed by Governor Roy Cooper and confirmed by the North Carolina General Assembly. Both Commissioner Taylor and Commissioner Phillips have extensive workers' compensation experience, each having served as a Deputy Commissioner for over nineteen years. In addition, three Deputy Commissioners were reappointed to serve second terms, and five Deputy Commissioners were appointed to first terms. The new Deputy Commissioners bring a wealth of litigation experience and knowledge to the Commission, and two are North Carolina State Bar Board Certified Specialists in workers' compensation law.

As we emerge from the pandemic, the Commission is well positioned to continue serving the citizens and businesses of North Carolina.

Philip A. Baddour, III  
Chair  
North Carolina Industrial Commission

# NORTH CAROLINA INDUSTRIAL COMMISSION

**Philip A. Baddour, III**, Chair  
**Myra L. Griffin**, Vice-Chair  
**James C. Gillen**, Commissioner

**Kenneth L. Goodman**, Commissioner  
**Adrian A. Phillips**, Commissioner  
**Wanda Blanche Taylor**, Commissioner

**Pamela T. Young**, Chief Operating Officer  
**Meredith R. Henderson**, Executive Secretary  
**Tammy R. Nance**, Chief Deputy Commissioner  
**Robert J. Harris**, Senior Deputy Commissioner  
**Emily Baucom**, Clerk of the Industrial Commission  
**Shannon Wharry**, Director of Compliance Division  
**Sam Constance**, Chief, Criminal Investigations & Employee  
Classification Division  
**Catherine Ittermann**, Director of Employee Classification Section  
**Tammy R. Nance**, Acting Director of Claims Administration  
**John C. Schafer**, Dispute Resolution Coordinator  
**Tim Frost**, Chief Information Officer

# TABLE OF CONTENTS

A. North Carolina Industrial Commission Overview (including At a Glance Report, Full Commission Section Summary, and Major Activities and Initiatives) .....	5
B. Claims Administration Section .....	11
C. Clerk's Office.....	15
D. Compliance Division .....	17
E. Criminal Investigations & Employee Classification Division .....	20
F. Deputy Commissioner Section .....	24
G. Executive Secretary's Office.....	26
H. Workers' Compensation Information Specialists.....	27
I. Information Technology Section .....	28
J. Mediation Section .....	29
K. Medical Fees Section.....	31
L. Medical Rehabilitation Nurses Section .....	32

## North Carolina Industrial Commission – At a Glance Report for FY 2020-21

Workers' Compensation Claims Opened	60,661
Orders Issued on Medical Motions	1,959
Deputy Commissioner Section Hearings Held (Excluding Penalty and Contempt)	780
Penalty and Contempt Matters Docketed for Hearing	1,203
Total Appeals to the Full Commission	322
Cases Referred to Mediation	8,124
Orders on Compromise Settlement Agreements	11,274
Mediation Settlement Rate	73.25%
Form 26A <i>Employer's Admission of Employee's Right to Permanent Partial Disability</i> Agreements Received	5,922
Orders/Dispositions on Form 24 <i>Application to Terminate or Suspend Payment of Compensation</i>	1,518
Orders/Dispositions on Form 23 <i>Application to Reinstate Payment of Disability Compensation</i>	225
Cases Handled by Medical Rehabilitation Nurses Section	18
Medical Bills Processed	843
Fraud Cases Reported	12,762
Non-Insured Penalties Collected During FY 2020-21	\$3,028,994

# THE NORTH CAROLINA INDUSTRIAL COMMISSION

## Mission Statement

The employees of the North Carolina Industrial Commission are committed to providing excellent customer service through the efficient administration of claims, facilitation of dispute resolution, fair and impartial adjudication of contested cases, careful application of the law, and prompt and courteous responsiveness to all stakeholders.

## About the Commission

The North Carolina Industrial Commission is an agency of the State of North Carolina, created by the General Assembly in 1929 to administer the North Carolina Workers' Compensation Act. In 1949, the Industrial Commission also was given authority by the General Assembly to administer the Tort Claims Act. Additionally, the Industrial Commission is charged with efficiently administering the Public Safety Employees' Death Benefits Act, the Childhood Vaccine-Related Injury Compensation Program, and claims under N.C. Gen. Stat. § 148-82 *et seq.* for Compensation to Persons Erroneously Convicted of Felonies.

The Full Commission consists of six Commissioners who are required by statute to devote their entire time to the duties of the Industrial Commission. The Commissioners are appointed by the Governor for staggered six-year terms and confirmed by the General Assembly. The Commissioners sit in panels of three to review appeals from decisions made by Deputy Commissioners located throughout the State to hear workers' compensation and tort claims cases. The Full Commission conducts a *de novo* review of all appeals and, thus, is the ultimate fact-finding body at the Commission. Appeals from Full Commission decisions are heard by the North Carolina Court of Appeals.

## Full Commission Section Summary for FY 2020-21

Appeals in Workers' Compensation and Tort Claims	273
Interlocutory Appeals	38
Medical Motion Appeals	16
Total Appeals to Full Commission	322
Full Commission Orders	494

## Management and Operations

The Chair of the Full Commission is, by statute, the Chief Executive Officer and Chief Judicial Officer of the Industrial Commission. The Chair has the authority to direct and oversee the Industrial Commission and may delegate duties as needed for the proper management of the Industrial Commission.

## **Major Activities and Initiatives**

### **Case Management System**

Pursuant to Section 15.19 of Session Law 2017-57, the Commission is developing and implementing a new case management system. This new system utilizes modern, cloud-based, commercial applications.

The Commission has concluded the initial Statement of Work with its Implementation Partner and has begun work on Phase II of the project. Phase II has included enhancements to the original design and build, as well as improvements to the user interface. For example, the Commission has selected and implemented a new document creation tool for developing e-forms and letters, is in the process of creating training and help guides for both internal and external users, and is working on interfaces with external data providers.

The Commission plans to go live with its new case management system in February of 2022, at which time full internal and limited external functions will be operational. Following the Commission's initial transition and adjustment to the new case management system, additional system features will be made available to external users to enable them to access their case data and documents. This will greatly enhance the Commission's ability to further carry out its mission to provide excellent customer service to its stakeholders.

### **Microfiche Digitization Project**

Historically, the Industrial Commission performed insurance coverage research for pre-1995 coverage using microfiche from the North Carolina Rate Bureau. This insurance coverage data is crucial to determining the proper party or parties on the risk in workers' compensation claims, particularly in occupational disease claims where the last injurious exposure may have occurred decades ago. Over time, the microfiche has become increasingly fragile and at risk for deterioration. Therefore, the Commission undertook and completed a microfiche digitization project, which has resulted not only in the preservation of this important data but also in improved document images and better document access through indexing.

### **COVID-19 Pandemic Response**

The Industrial Commission has continued to timely hear and decide cases at the administrative, Deputy Commissioner, and Full Commission levels over the past year despite the ongoing pandemic. The Commission has utilized both remote and in-person hearings to best serve the parties and to avoid a backlog of cases.

The Commission's Information Technology Section has facilitated and supported the successful use of remote technology by Commission employees, where appropriate. Additionally, the Commission has utilized onsite staff to receive hand-delivered filings and perform other essential duties requiring onsite work. This combination of remote and onsite staffing has enabled the Commission to fully and efficiently function throughout the pandemic.

### **Stakeholder Outreach and Communication**

The Commission has continued to reach out to its stakeholders for input and feedback and has encouraged its stakeholders to freely contact the Commission with all questions, concerns, and comments. The Commission believes it can best serve all North Carolina citizens and businesses when made aware of issues as soon as they arise and when given the opportunity to hear from all its stakeholders.

The Commission also has worked hard to clearly and timely communicate agency updates that

affect its stakeholders through email blasts, website announcements, the publication of Industrial Commission Quarterly Reports, and the updating of the Industrial Commission Bulletin.

Additionally, the Commission has participated in webinars for small businesses and litigants and has created tutorials on its website to assist parties who have questions about the remote hearing process.

## **Notable Legislation**

### ***Session Law 2020-78, Section 16.1(a)***

The General Assembly amended N.C. Gen. Stat. § 143-293 to allow the Industrial Commission to serve a Decision and Award of the Full Commission via electronic mail, in addition to the other methods set forth in the statute.

### ***Session Law 2021-60, Section 1.1***

The General Assembly amended N.C. Gen. Stat. § 84-4.1 to specify that a motion by an out-of-state attorney to be admitted to practice in a North Carolina forum, including the Industrial Commission, for the purpose of appearing for a client in a proceeding before that forum, should be filed with the relevant forum. The General Assembly also amended the statute to specify how to pay fees owed by the out-of-state attorney to the General Court of Justice and to the North Carolina State Bar.

### ***Session Law 2021-78, Section 10***

The General Assembly amended the definition of “employment” in N.C. Gen. Stat. § 97-2(1) to specify that for the purposes of this section of the Act, “agriculture” has the same meaning as in N.C. Gen. Stat. § 106-581.1.

## **Recommendations**

The following legislative recommendations are provided in accordance with N.C. Gen. Stat. § 97-78(e):

- The Industrial Commission recommends that the General Assembly consider amending N.C. Gen. Stat. § 97-88.2 to specify that the sworn law enforcement officers who are employed to conduct the investigations mandated by N.C. Gen. Stat. § 97-88.2 have full law enforcement authority so they can safely and effectively carry out their investigations and take actions to protect their safety and the safety of others.
- The Industrial Commission recommends removing the two-term limit for Deputy Commissioners in N.C. Gen. Stat. § 97-79(b) so that experienced Deputy Commissioners may be reappointed to serve beyond twelve years.
- The Industrial Commission recommends that there be parity and consistency in the way business entities are treated in N.C. Gen. Stat. § 97-2(2) regarding individuals who count as an “employee.” This will alleviate confusion and make compliance with the workers’ compensation laws easier to determine and enforce.

## **Rulemaking Update**

The Commission initiated and completed emergency, temporary, and permanent rulemaking during Fiscal Year 2020-21. All rulemaking was done pursuant to the requirements of the Administrative Procedure Act.

***Adoption of Rule 11 NCAC 23B .0106 and Amendments to Rules 11 NCAC 23A .0104, .0408, .0409, .0501, .0903, 11 NCAC 23E .0104, and 11 NCAC 23L .0103, Eff. December 1, 2020; Amendments to Rules 11 NCAC 23A .0108, .0109, .0302, 11 NCAC 23B .0104, .0105, 11 NCAC 23L .0101, .0102, .0103, and .0105, Eff. March 1, 2021.***

On September 24, 2020, the Full Commission adopted one new permanent rule and adopted permanent amendments to sixteen rules. On November 19, 2020, the Rules Review Commission approved the newly adopted rule and the sixteen rule amendments.

The newly adopted rule, 11 NCAC 23B .0106, is a Tort Claims Act rule which, consistent with the July 1, 2020 legislative amendments to G.S. § 143-293, allows the Full Commission to serve its Decisions and Orders in tort claims via email, in addition to the other methods of service set forth in the statute.

The sixteen rule amendments include an amendment to Rule 104 of the Workers' Compensation Rules (11 NCAC 23A .0104), which increased the threshold dollar amount that triggers the requirement to file a Form 19 when an employee has not been absent from work for more than one day from \$2,000 to \$4,000; an amendment to Rule 903 of the Workers' Compensation Rules (11 NCAC 23A .0903), which created an exception to the automatic reinstatement provision of the rule, thereby eliminating an unintended consequence of the rule; and an amendment to Rule 104 of the Administrative Rules (11 NCAC 23E .0104), which allows an additional 12-week period of secure leave for the birth or adoption of an attorney's child.

***Permanent Amendments to Rules 11 NCAC 23A .0109, 11 NCAC 23B .0105, and 11 NCAC 23G .0104; Eff. March 1, 2021***

On January 7, 2021, the Full Commission adopted permanent amendments to three rules, and the three permanent rule amendments were approved by the Rules Review Commission on February 18, 2021.

The permanent amendments to Mediation Rule 104 (11 NCAC 23G .0104) followed rule temporary amendments, which had gone into effect August 28, 2020 after having been adopted by the Industrial Commission on August 6, 2020, and approved by the Rules Review Commission on August 20, 2020.

The most significant permanent amendment to Mediation Rule 104 was the addition of language defining "attendance" at an Industrial Commission mediation to mirror the current attendance requirement approved by the North Carolina Supreme Court for Superior Court mediations. This amendment complies with N.C. Gen. Stat. § 97-80(c), which requires the Industrial Commission's mediation rules to be substantially similar to the rules approved by the North Carolina Supreme Court for use in the Superior Court division. The need for this rule amendment came about when the North Carolina Supreme Court, in response to health and safety concerns surrounding the COVID-19 pandemic, changed the attendance requirement for Superior Court mediations from default in-person attendance to default remote attendance. Because Mediation Rule 104 now automatically tracks the Superior Court division rule, when the North Carolina Supreme Court changes the attendance requirement for Superior Court mediations back to default in-person attendance, no further rulemaking will be required by the Industrial Commission.

***Adoption of Rule 11 NCAC 23E .0302, Eff. August 1, 2021***

On June 17, 2021, the Full Commission adopted a new permanent administrative rule, 11 NCAC 23E .0302, and on July 15, 2021 the Rules Review Commission approved the rule. This rule allows the Industrial Commission to waive or modify any of its rules, in whole or part, in order to

bring its rules in conformity with an emergency order or directive of the Chief Justice of the North Carolina Supreme Court.

Prior to initiating permanent rulemaking for this rule, the Industrial Commission adopted a substantially similar emergency rule, which was approved by the Codifier of Rules effective November 6, 2020, and simultaneously initiated temporary rulemaking, as required by the Administrative Procedure Act. The temporary rule was adopted by the Full Commission on January 7, 2021, and approved by the Rules Review Commission on January 21, 2021.

# CLAIMS ADMINISTRATION SECTION

## Mission Statement

The Claims Administration Section seeks to provide prompt, accurate, and efficient claims service to employees, employers, insurance companies, third party administrators, and the citizens of North Carolina.

## About the Claims Administration Section

The Claims Administration Section processes documents filed at the inception of a workers' compensation claim and during its pendency. At the outset of a new claim, the Claims Administration Section is responsible for researching insurance coverage, assigning Industrial Commission file numbers, identifying any discrepancies in information provided by employers, insurers, and/or injured workers, and notifying injured workers of their rights under the Workers' Compensation Act. As the claim progresses, the Claims Administration Section processes forms filed by insurers and employers relative to the acceptance or denial of claims, initiation and termination of benefits, and return to work status. The Claims Administration Section also processes occupational disease claims, including conducting research necessary to identify insurance coverage in claims with multiple employers.

Additionally, the Claims Administration Section reviews form agreements for payment of death benefits, compensation for disfigurement, and permanent partial disability compensation. In conjunction with those agreements, the section also reviews applications for lump sum payments. At the request of the parties, the Claims Administration Section will provide an advisory opinion in disfigurement claims to assist the parties in reaching agreement on fair and equitable compensation for disfigurement. The section also handles attorney representation letters, requests for copies of files, interim attorney fee requests, Forms 51, and motions to extend the time to accept or deny a claim. In addition, the Claims Administration Section assesses penalties against employers/insurers who fail to file a Form 60, 61, or 63 within 30 days of receipt of notice by the Industrial Commission of the filing of a Form 18.

The Claims Administration Section provides monthly "action" reports to every carrier/third party administrator/self-insured employer who has complied with Rule 302 by providing the Industrial Commission with their contact information. This monthly report lists all of the entity's claims in which either a Form 18, 19, 60, 61, or 63 was filed during the preceding month. In addition, a separate monthly report of workplace fatalities is provided to the North Carolina Department of Labor. Finally, the Claims Administration Section also operates as a call center to answer inquiries from injured workers, employers/insurers, and attorneys concerning proper form filing, insurance coverage, the status of pending form agreements, and other general questions regarding the Workers' Compensation Act.

## Most Frequently Processed Claims Administration-Related Forms

Employers/insurers are required to file a Form 19 First Report of Injury (FROI) when an injured worker is out of work more than one day OR when more than \$4,000 has been paid in medical benefits. All FROI's must be filed electronically via the Electronic Data Interchange (EDI).

A Form 18 is entitled a *Notice of Accident to Employer and Claim of Employee, Representative, or Dependent*. A Form 18 must be filed by the injured worker or his/her legal representative within two years after the injury by accident (or, in cases of an occupational disease, within two years after death, disability, or disablement and being advised by competent medical authority that the employee has an occupationally-related disease, whichever occurs last), or within two years of

the last payment of medical compensation when no other compensation has been paid, or the claim may be barred.

A Form 18B is entitled a *Claim by Employee, Representative, or Dependent for Benefits for Lung Disease*. It is not to be used for other occupational disease claims or for injuries by accident.

A Form 26A is entitled an *Employer's Admission of Employee's Right to Permanent Partial Disability*. This form is used when the parties agree on the amount of permanent partial disability benefits to be paid to the employee pursuant to N.C. Gen. Stat. § 97-31 once he/she reaches maximum medical improvement.

A Form 60, 61, or 63 is filed by an employer/insurer in response to a claim for benefits made by an injured worker or his/her representative. One of these three forms must be filed with the Commission via the Electronic Document Filing Portal (EDFP) to admit, deny, or pay without prejudice within 30 days following notice from the Commission of the filing of a Form 18. Failure to file a Form 60, 61, or 63 within 30 days will result in the imposition of sanctions pursuant to N.C. Gen. Stat. § 97-18(j).

### **Compliance with N.C. Gen. Stat. § 97-18(j)**

When the Claims Administration Section processes a Form 18, it sends a letter to the insurer/third party administrator or self-insured employer advising that it has 30 days to file a Form 60, 61, or 63. The Industrial Commission tracks the filing of these forms, and if the defendants fail to file a Form 60, 61, or 63 within 30 days following notice that a Form 18 was filed, the Claims Administration Section will enter an Order directing defendants: (1) to file a Form 60, 61, or 63; and (2) to pay a sanction in the amount of \$400. Failure to comply with this Order within 30 days results in the imposition of further sanctions, including assessment of an additional \$200 penalty.

If defendants believe that the sanction was assessed in error, the Claims Administration Section conducts further investigation to determine whether the sanction is, indeed, warranted. If it is found that defendants, in fact, complied with N.C. Gen. Stat. § 97-18(j), the sanctions Order is rescinded. The most common reason for erroneous assessment of a sanction is the existence of duplicate files, which occurs when two or more claims are created for the same injury due to variations in information provided by the parties at the outset of the claim. Once discovered, these files are merged under one Industrial Commission file number. If examination of the duplicate file shows that a Form 60, 61, or 63 was timely filed, the sanction Order is rescinded.

### **Industrial Commission Form Filings Trends Since Beginning of COVID-19 Pandemic**

The Claims Administration Section has noted a decrease in the number of certain claims forms filed with the Industrial Commission since the COVID-19 pandemic began, as compared to pre-pandemic times. The decrease that was noted during Fiscal Year 2019-20 once the pandemic began has continued with relatively little change throughout Fiscal Year 2020-21.

The total number of claims opened by the Claims Administration Section was 60,661 in Fiscal Year 2020-21 and 59,410 in Fiscal Year 2019-20. The total number of Forms 18 filed in Fiscal Year 2020-21 was 16,335 and 17,710 in Fiscal Year 2019-20; the total number of Forms 19 filed in Fiscal Year 2020-21 was 110,789 and 110,043 in Fiscal Year 2019-20; and the total number of Forms 60, 61 or 63 processed in Fiscal Year 2020-21 was 48,558 and 46,655 in Fiscal Year 2019-20.

By comparison, Fiscal Year of 2018-19, which was completely pre-pandemic, saw the following

numbers of filings: 19,280 Forms 18 filed; 107,894 Forms 19 filed; and 54,483 Forms 60, 61 or 63 filed.

## Claims Administration Section Summary FY 2020-21

Total Claims Opened	60,661
Claims Opened via Form 18 Filing	7,074
Total Forms 18 Filed	16,335
Claims Opened via Form 19 Filing	53,587
Total Forms 19 Filed	110,789
Forms 60, 61, or 63 Processed	52,647
Forms 60 Processed	9,712
Forms 61 Processed	19,158
Forms 63 (Indemnity) Processed	8,467
Forms 63 (Medical Only) Processed	11,221
Forms 26A Received	5,922
Forms 26A Approved	5,408
Death Claims Filed	225
Telephone Calls Answered	20,910
Sanctions Collected for Violation of N.C. Gen. Stat. § 97-18(j)	\$552,200

## Forms Compliance Summary Pursuant to N.C. Gen. Stat. § 97-78(g) for FY 2020-21

Total of Forms 18 Processed	14,343
<hr style="border-top: 1px dashed #000;"/>	
Forms 60, 61 or 63 Processed before Form 18 Filed	4,340
Forms 60, 61 or 63 Filed within 30 Days of Notice of Form 18	<u>6,634</u>
<b>Total Number of Compliant Forms</b>	<b>10,974</b>
<hr style="border-top: 1px dashed #000;"/>	
Forms 60, 61 or 63 Filed between 31 and 60 Days of Notice of Form 18	1,017
Forms 60, 61 or 63 Filed between 61 and 90 Days of Notice of Form 18	430
Forms 60, 61 or 63 Filed 91 or More Days after Notice of Form 18	427
Forms 18 with no Forms 60, 61 or 63 Processed by End of FY 2020-21	<u>1,495</u>
<b>Total Number of Claims Not in Compliance</b> <i>(See Addendum A for specific claim information)</i>	<b>3,369</b>

## Forms Compliance Summary Pursuant to N.C. Gen. Stat. § 97-78(g) for Calendar Year 2020

Total of Forms 18 Processed Calendar Year 2020	13,819
<hr style="border-top: 1px dashed #000;"/>	
Forms 60, 61 or 63 Processed before Form 18 Filed	3,926
Forms 60, 61 or 63 Filed within 30 Days of Notice of Form 18	<u>6,518</u>
<b>Total Number of Compliant Forms</b>	<b>10,444</b>
<hr style="border-top: 1px dashed #000;"/>	
Forms 60, 61 or 63 Filed between 31 and 60 Days of Notice of Form 18	1,121
Forms 60, 61 or 63 Filed between 61 and 90 Days of Notice of Form 18	445
Forms 60, 61 or 63 Filed 91 or More Days after Notice of Form 18	420
Forms 18 with no Forms 60, 61 or 63 Processed by End of Calendar Year 2020	<u>1,389</u>
<b>Total Number of Claims Not in Compliance</b> <i>(See Addendum B for specific claim information)</i>	<b>3,375</b>

# CLERK'S OFFICE

## **Mission Statement**

The Clerk's Office seeks to ensure all filings intended for the Executive Secretary's Office, the Deputy Commissioner Section, and the Full Commission are promptly and appropriately catalogued in the Commission's electronic document repository and routed to the appropriate Commission staff. All cases to be heard by the Commission are timely placed on a docket and moved through the system efficiently and expeditiously.

## **About the Clerk's Office**

The Clerk's Office was established to be the clearinghouse for documents filed pursuant to the Commission's filing Rule 11 NCAC 23A .0108, which requires most documents filed with the Commission to be transmitted electronically. The section processes workers' compensation claims, State tort claims, claims filed under the Public Safety Employees' Death Benefits Act, and claims filed under the Compensation to Persons Erroneously Convicted of Felonies statute. The Clerk's Office also processes requests for copies of files and certified copies of files.

The Clerk's Office ensures filings are properly identified and delivered electronically to the appropriate Commission staff. The Clerk's Office is also responsible for filing and serving all Full Commission decisions, as well as some decisions from the Deputy Commissioner Section. In addition, the Clerk's Office provides customer support to stakeholders who have questions about filing procedures or who may initially misfile documents. Ultimately, the Clerk's Office is responsible for the integrity of the Commission's files. In addition to overseeing the Clerk's Office and administering Rule 11 NCAC 23A .0108, the Clerk of the Commission acknowledges appeals to the Court of Appeals and rules on various administrative motions, including motions to withdraw requests for hearing and motions to consolidate cases for hearing. It is now mandatory for attorneys to use EDFP, the Commission's Electronic Data Filing Portal, to file documents in claims filed under the State Tort Claims Act.

Docketing responsibilities of the Clerk's Office include processing requests for hearings and appeals, as well as processing related documents filed in all types of cases administered by the Commission, including workers' compensation and State tort claims. For cases appealed to the Full Commission, the Clerk's Office organizes the evidentiary exhibits of record, orders official hearing transcripts, and provides copies of the transcripts to the parties. The section assembles exhibits and filings into electronic working files for each case on appeal and prepares and electronically distributes the Full Commission hearing calendars. The section also serves as the custodian for recordings of Commission hearings and coordinates assignments of court reporters for hearings before the Deputy Commissioners and the Full Commission. In addition, the Clerk's Office provides trial court administration for workers' compensation cases for the Deputy Commissioner Section. Finally, the Clerk's Office maintains the Commission's attorney database by adding new attorneys and updating attorney contact information upon receipt.

The Clerk's Office continues to support the Commission's goal of becoming a paperless organization. Since most documents are filed with the Commission electronically, there has been a dramatic decrease in the amount of incoming paper documents required to be scanned by the Clerk's Office's scanning department. This change has allowed staff to allocate more time to projects scanning older paper files to decrease the Commission's paper storage space, with the goal of a future cost savings. Again, this fiscal year, the Clerk has been part of the core team focused on the implementation of a new case management system which will improve customer service and allow for new claims to be filed electronically.

## Clerk's Office Summary for FY 2020-21

Requests that Claim be Assigned for Hearing	5,949
Requests for Hearing in Non-Insured Cases	143
Amended Requests that Claim be Assigned for Hearing	265
Administrative Appeals to Deputy Commissioners	354
Appeals (Requests for Hearing) in Penalty Assessment Cases	43
Responses to Hearing Requests	5,571
Attorney Representation Letters and Other Correspondence	13,200
Requests for Copies of Files	8,730
Tort Claims Filed	753
Appeals to the Full Commission	321
Medical Motion Appeals	15
Cases Sent for Transcription	226
Full Commission Calendars Generated	48
Certified Copies of Files	29
Scanned Documents Uploaded to Electronic Case Files	13,398

# COMPLIANCE DIVISION

## **Mission Statement**

The Compliance Division seeks to effectively work with businesses operating in North Carolina to ensure compliance with the insurance requirements of the North Carolina Workers' Compensation Act.

## **About the Compliance Division**

The Compliance Division identifies and investigates cases involving employers who are operating as non-insured employers in violation of N.C. Gen. Stat. § 97-93 and N.C. Gen. Stat. § 97-94. An employer is non-insured if the employer is subject to the North Carolina Workers' Compensation Act but does not carry workers' compensation insurance and does not obtain a license from the Commissioner of Insurance as a self-insured employer. The Compliance Division investigates referrals to determine whether an employer is subject to the Workers' Compensation Act and, if so, whether the employer is compliant in terms of insurance requirements. An administrative penalty can be assessed for a period that the employer was subject to the Act but not compliant with insurance requirements. The Compliance Division also assists the North Carolina Department of Justice with the enforcement and collection of penalty assessments and facilitates adjudication of contested penalty cases and settlements.

The Compliance Division uses a database known as the Noncompliant Employer Tracking System (NETS). NETS is a software tool that analyzes data sources from other State agencies to identify potential non-compliant employers who may be in violation of the North Carolina Workers' Compensation Act's requirement to maintain workers' compensation insurance coverage. The Compliance Division also receives alerts from the Industrial Commission's Employee Classification Section that are generated by the Employee Classification Application (ECA), which is a computer application that also utilizes data from multiple State agencies.

As a result of the leads generated by the NETS system, the Industrial Commission initially assessed \$9,382,066 in penalties for Fiscal Year 2020-21. This amount includes penalties assessed as a result of alerts referred by the Employee Classification Section to the Compliance Division and investigated by the Compliance Division and Criminal Investigations Division. After alternative penalties were calculated under N.C. Gen. Stat. § 97-94(b2), the amount assessed was reduced by \$3,472,731, thus resulting in a modified assessed amount of \$5,909,335 in penalties for Fiscal Year 2020-21.

The Industrial Commission's collection of penalties in Fiscal Year 2020-21 totaled \$3,028,994. This amount includes penalties collected from alerts referred by the Employee Classification Section to the Compliance Division and investigated by the Compliance Division and Criminal Investigations Division. This total also includes amounts collected during Fiscal Year 2020-21 due to penalties assessed in prior fiscal years.

The Compliance Division brought 679 non-insured employers into compliance in Fiscal Year 2020-21 by ensuring that these employers obtained workers' compensation insurance coverage.

## **Response to Session Law 2020-3, Section 4.38 and Session Law 2020-97, Section 3.20.(b)**

In response to Session Law 2020-3, Section 4.38 and Session Law 2020-97, Section 3.20.(b), the

Compliance Division enacted specific procedures to ensure the economic well-being of the citizens and businesses of North Carolina. These procedures included delaying the collection of fines assessed under N.C. Gen. Stat. § 97-94 and delaying the accrual of interest associated with these fines.

Specifically, the Compliance Division undertook the following actions:

- Employers were provided with considerable leeway with deadlines to obtain a workers' compensation insurance policy and present the required Certificate of Insurance before being referred to the Criminal Investigations Division, which could result in criminal sanctions in addition to the civil penalty.
- Employers were provided with a 90-day extension on their non-insured penalty due date upon request. Employers also were able to obtain additional extensions in 90-day increments after their initial extension, if necessary.
- Employers were provided with a simple, no hassle process to request an extension to make payments. Employers were only asked to request the extension in writing (email, fax, or mail) and state the reason for the request. Employers were not required to submit financial statements or other documentation to support their request.
- Employers with outstanding penalties were not referred to the North Carolina Department of Justice for collection, which would have resulted in additional interest charges.
- Third-party collection agency efforts were halted on existing accounts and no new employer accounts were sent to third-party collection.

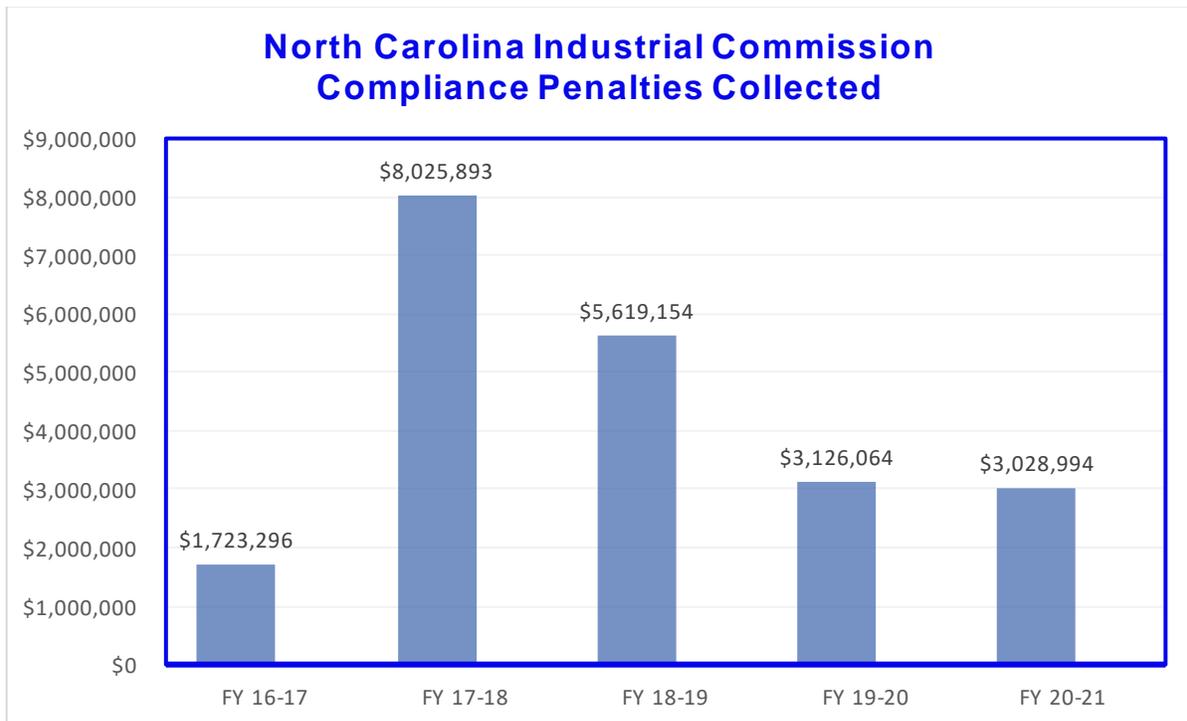
## Non-Insured Cases for FY 2020-21

Non-Insured Hearings Docketed before the Industrial Commission 226

---

Non-Insured Cases Resolved by Compliance Division  
(Penalties Assessed or Cases Otherwise Closed) 2,426

---



# CRIMINAL INVESTIGATIONS AND EMPLOYEE CLASSIFICATION DIVISION

## **Mission Statement**

The Criminal Investigations and Employee Classification Division serves the citizens of North Carolina by investigating potential criminal violations of the Workers' Compensation Act and by identifying and investigating businesses that engage in employee misclassification.

## **About the Criminal Investigations and Employee Classification Division**

In Fiscal Year 2020-21, the Industrial Commission's Criminal Investigations and Employee Classification Division initiated 6,848 investigations into potential violations of the Workers' Compensation Act and Employee Fair Classification Act. This represents a 51% increase from the previous fiscal year.

## CRIMINAL INVESTIGATIONS

### **About Criminal Investigations**

Criminal Investigations operates as a law enforcement agency and is responsible for conducting criminal investigations in cases of suspected workers' compensation fraud and violations related to workers' compensation claims involving employees, employers, insurers, health care providers, attorneys, and vocational rehabilitation providers. Investigators examine all criminal complaints filed with the Industrial Commission regarding failure of employers to maintain workers' compensation insurance coverage (N.C. Gen. Stat. § 97-94(d)); fraud on the part of employees with regard to obtaining workers' compensation benefits (N.C. Gen. Stat. § 97-88.2); fraud on the part of employers with regard to deducting workers' compensation premiums from employees' salaries (N.C. Gen. Stat. § 97-21); medical payment fraud; and any other claims arising out of violations of Chapter 97 by employees or employers. Criminal Investigations works with judicial officials and other law enforcement agencies throughout the State to resolve cases related to the above matters in criminal court.

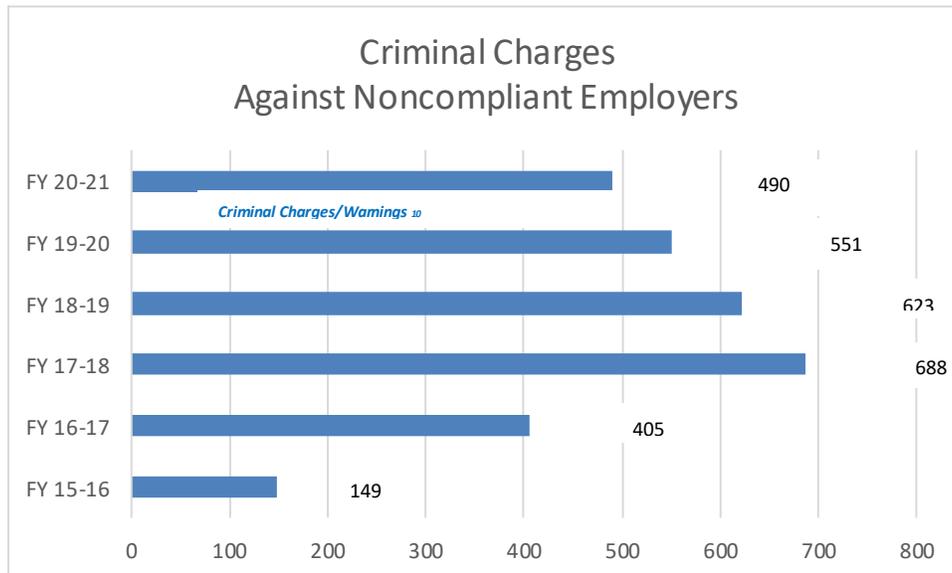
The Criminal Investigations staff consists of six sworn law enforcement officers and two administrative positions. During Fiscal Year 2020-21, Criminal Investigations processed a total of 12,762 cases, including 147 misdemeanor charges for failure to maintain workers' compensation insurance in violation of N.C. Gen. Stat. § 97-94(d). In addition, 343 employers were issued warnings for failure to maintain workers' compensation insurance coverage in violation of N.C. Gen. Stat. § 97-94(d) and were brought into compliance. Two felony charges of workers' compensation fraud in violation of N.C. Gen. Stat. § 97-88.2 were made. These cases were pursued through field investigations and administrative analysis of data utilizing the Noncompliant Employer Tracking System (NETS), the Employment Classification Application (ECA), and other available technology.

The information on the next page is provided pursuant to N.C. Gen. Stat. § 97-88.2(e). The 12,626 reported cases of employer fraud included allegations of employers not carrying workers' compensation insurance and allegations of employers making unlawful payroll deductions. These cases were generated from various sources, including NETS and ECA technology, calls received on the Criminal Investigations & Employee Classification Division hotline, and proactive enforcement operations.

## Persons Investigated for Fraud under the Workers' Compensation Act for FY 2020-21

	Employees	Employers	Insurers	Health Care Providers	Attorneys	Rehabilitation Providers	Totals
<b>Number of Fraud Cases Reported</b>	123	12,626	6	4	3	0	12,762
<b>Number of Fraud Cases Pending</b>	37	359	5	1	0	0	402
<b>Number of Fraud Cases Closed</b>	86	12,267	1	3	3	0	12,360

NOTE: The information below for Fiscal Year 2020-21 represents both charges and warnings issued to employers because, in response to Session Law 2020-3, Section 4.38 and Session Law 2020-97, Section 3.20.(b), the Industrial Commission enacted specific procedures to ensure the economic well-being of North Carolina citizens and businesses, which included delaying the issuance of criminal charges.



# EMPLOYEE CLASSIFICATION

## About the Employee Classification Section

Employee misclassification is defined in N.C. Gen. Stat. § 143-786(a)(5) as avoiding tax liabilities and other obligations imposed by Chapters 95, 96, 97, 105, or 143 of the North Carolina General Statutes by misclassifying an employee as an independent contractor. Pursuant to Session Law 2017-203, the Employee Classification Section was established within the Industrial Commission under the Employee Fair Classification Act. The Employee Classification Section's statutory mandate includes, among other duties, receiving and investigating reports of employee misclassification; coordinating with and assisting all relevant State agencies in recovering any back taxes, wages, benefits, penalties, or other monies owed as a result of an employer engaging in employee misclassification; coordinating with relevant State agencies and district attorneys' offices in the prosecution of employers and individuals who fail to pay civil assessments or penalties assessed as a result of an employer's or individual's involvement in employee misclassification; and providing all relevant information pertaining to each instance of reported employee misclassification to the North Carolina Department of Labor, North Carolina Division of Employment Security, North Carolina Department of Revenue, and North Carolina Industrial Commission to facilitate investigation of potential violations of Chapters 95, 96, 97, 105, or 143 of the North Carolina General Statutes.

The Employee Classification Section collaborates with the Criminal Investigations and Compliance Divisions of the Industrial Commission, as well as with other State agencies, and utilizes the Employee Classification Application (ECA) to identify and investigate potential employee misclassification. The ECA was developed in collaboration with SAS, Inc., the Government Data Analytics Center (GDAC), and other State agencies.

## Employee Classification Section Statistics

In Fiscal Year 2020-21, a total of 5,189 employee misclassification reports/alerts came through the ECA.

The Criminal Investigations & Employee Classification Division, along with the Compliance Division of the Industrial Commission, investigated and resolved 6,848 reports/alerts that came through the ECA either in Fiscal Year 2020-21 or in prior fiscal years. Of the 6,848 reports/alerts resolved, 1,861 employers were found to be subject to the Workers' Compensation Act, non-insured, and brought into compliance. Of these 1,861 non-insured employers, 279 were referred by the Compliance Division to the Commission's Deputy Commissioner Section for consideration of a penalty assessment.

A total of \$4,488,040.00 in penalty assessments initially was made by the Industrial Commission against non-insured employers based upon referrals from the Employee Classification Section. After alternative penalties were calculated under N.C. Gen. Stat. § 97-94(b2), the amount assessed was reduced by \$2,300,705.71, thus resulting in a modified assessed amount of \$2,187,334.29 in penalties for Fiscal Year 2020-21 based upon referrals from the Employee Classification Section.

A total of \$422,859.8210 in penalty collections was made by the Industrial Commission from non-insured employers in Fiscal Year 2020-21, based upon referrals from the Employee Classification Section. (This amount is included in the Compliance Division's total penalties collected for Fiscal Year 2020-21). It should be noted that, in response to Session Law 2020-3, Section 4.38 and Session Law 2020-97, Section 3.20.(b), the Industrial Commission enacted

specific procedures, including delaying the collection of fines and delaying the accrual of interest associated with fines, to ensure the economic well-being of North Carolina citizens and businesses, thereby resulting in lower penalty collections as compared with prior fiscal years.

### **North Carolina Division of Employment Security Statistics Related to Employee Misclassification**

The Criminal Investigations & Employee Classification Division shares information of employee misclassification identified during field investigations and reports/alerts through the ECA with the North Carolina Division of Employee Security.

As a result of audits performed by the North Carolina Division of Employment Security, 7,741 workers were found by the Division of Employment Security to be misclassified from the third quarter of 2020 through the second quarter of 2021. This resulted in \$648,874.00 in taxes assessed by the Division of Employment Security.

### **North Carolina Department of Labor Statistics Related to Employee Misclassification**

The North Carolina Department of Labor shared information from 107 of their investigations involving suspected employee misclassification to be entered into the ECA by the Employee Classification Section. Additionally, the North Carolina Department of Labor Wage and Hour Bureau referred 55 complaints to the Employee Classification Section.

As a result of investigations performed by the North Carolina Department of Labor, \$42,811 in wages were found to be due to employees who were found by the Department of Labor to be misclassified, \$30,161 in wages were paid to employees who were found by the Department of Labor to be misclassified, \$7,952 in penalties were assessed by the Department of Labor in these cases, and \$3,951 in penalties were collected by the Department of Labor in these cases.

*NCDOL DISCLAIMER: All amounts are subject to change since issued penalties are not always paid in a timely manner; penalties that are not paid are sent out for collection. Further, any wages noted to be owed to an employee may not be immediately collected. All efforts are made to provide the most accurate information possible at the time the report is submitted, but the final totals may change as penalties or wages may be paid after the close of the fiscal year.*

### **North Carolina Department of Revenue Statistics Related to Employee Misclassification**

The North Carolina Department of Revenue currently does not have initiatives that are specifically designed to identify cases of employee misclassification. However, the Department of Revenue's Schedule C Initiative and 4% ITIN Withholding Initiative may identify employers who are misclassifying workers as independent contractors. The Department of Revenue may attempt to reclassify the workers, depending on the facts of the case. The Schedule C Initiative performs audits of taxpayers who have overstated expenses or understated income based upon their Federal Schedule C. The 4% ITIN Withholding Initiative identifies and audits taxpayers who have made payment to an ITIN holder under a 1099-Misc but have failed to withhold 4% in income tax. In Fiscal Year 2020-21, the Department of Revenue's 4% ITIN Withholding audits resulted in \$6,834,060 in additional tax, penalties and interest due, and its Schedule C Initiative audits resulted in \$10,890,400 in additional tax, penalties, and interest due.

# DEPUTY COMMISSIONER SECTION

## Mission Statement

The Deputy Commissioners, Special Deputy Commissioners, paralegals, and legal assistants of the North Carolina Industrial Commission endeavor to fairly, impartially, and efficiently adjudicate contested claims by careful application of the law, by adherence to rules and procedures, and by providing timely and exemplary customer service to all parties.

## About the Deputy Commissioner Section

Deputy Commissioners expeditiously resolve all controversies between injured workers, employers, insurance carriers, citizens of the State of North Carolina, and the State of North Carolina that arise primarily under the Workers' Compensation Act and the State Tort Claims Act. The Deputy Commissioners provide citizens an opportunity to be heard in a professional and courteous manner, and they render legally sound and impartial decisions after thoroughly considering the positions of all parties and applying the law.

Deputy Commissioners conduct full evidentiary hearings throughout the State, hear administrative motions, conduct administrative appeal hearings, review complex form agreements, review settlement agreements, and handle other matters.

## Claims Set for Hearings

Number of Claims Docketed for Hearings (excluding penalty and contempt)	5,023
---	-------

---

Cases Heard (excluding penalty and contempt)	780
--	-----

---

## Summary of Final Determinations Entered and Cases Settled

Compromise Settlement Agreements Approved	1,738
---	-------

---

Final Determinations Entered (Opinion & Awards and Decisions & Orders)	372
--	-----

---

Cases Dismissed with Prejudice	263
--------------------------------	-----

---

Cases Dismissed without Prejudice	124
-----------------------------------	-----

---

Cases Continued and/or Removed from the Hearing Docket	2,575
--	-------

---

Public Safety Employees' Death Benefits Act Determinations	9
--	---

---

Compensation to Persons Erroneously Convicted of Felonies Determinations	6
--	---

---

## Employer Noncompliance and Contempt

In FY 2020-21, the Deputy Commissioner Section assessed 664 penalties against non-insured businesses. In addition, the Deputy Commissioner Section disposed of 11 matters in contempt proceedings.

### Penalty & Contempt Proceedings

Penalties Assessed	664
<hr/>	
Penalty Matters Docketed for Hearing	1,192
<hr/>	
Contempt Matters Docketed for Hearing	11
<hr/>	

### REPORT PURSUANT TO N.C. GEN. STAT. § 97-78(g)(2) REGARDING EXPEDITIOUS RESOLUTION OF DISPUTES FOR MEDICAL COMPENSATION

#### Expeditious Resolution of Emergency and Expedited Medical Motions

The Deputy Commissioner Section disposed of 256 Emergency and Expedited Medical Motions in FY 2020-21. N.C. Gen. Stat. § 97-25 requires that Expedited Medical Motions be fully resolved within 75 days of filing, including calendaring, conducting a full evidentiary hearing, completing all discovery, and the filing of an Opinion and Award. Importantly, the statute further requires that the discovery phase, including depositions of physicians and experts, be completed within 60 days of filing the Motion. Deputy Commissioners disposed of 256 Emergency and Expedited Medical Motions within the statutorily mandated time frames and none outside the statutorily mandated time frames.

### Full Evidentiary Medical Motions/Emergency Medical Motions

Expedited Medical Motions	214
<hr/>	
Emergency Medical Motions	42
<hr/>	
<b>Total Medical Motions</b>	<b>256</b>

# EXECUTIVE SECRETARY'S OFFICE

## Mission Statement

The Executive Secretary's Office is committed to assisting all parties to workers' compensation claims in a professional manner through informed administrative rulings, consistent processes, and prompt and courteous communication.

## About the Executive Secretary's Office

The Executive Secretary's Office handles administrative review of issues for the Industrial Commission. The office is responsible for the review and approval or disapproval of the vast majority of Compromise Settlement Agreements filed with the Industrial Commission. The Executive Secretary's Office also is responsible for reviewing and deciding the Form 24 *Application to Terminate or Suspend Payment of Compensation* and the Form 23 *Application to Reinstate Payment of Disability Compensation*. Telephone hearings are often held regarding these applications. In addition, Orders are issued after review of Administrative Motions, Third Party Settlements, and a variety of other issues.

## Executive Secretary's Office Summary for FY 2020-21

Orders on Compromise Settlement Agreements	9,536
Orders on Third Party Distributions	714
Orders/Dispositions on Forms 24 <i>Application to Terminate or Suspend Payment of Compensation</i>	1,518
Orders/Dispositions on Forms 23 <i>Application to Reinstate Payment of Disability Compensation</i>	225
Orders on Medical Motions	1,703
Orders/Dispositions on Administrative Motions	3,910
Orders on Motions to Withdraw as Counsel	1,350
<b>Total Orders/Dispositions</b>	<b>18,956</b>

## REPORT PURSUANT TO N.C. GEN. STAT. § 97-78(g)(2) REGARDING EXPEDITIOUS RESOLUTION OF DISPUTES FOR MEDICAL COMPENSATION

The Executive Secretary's Office issued 1,703 Orders on Medical Motions in FY 2020-21. None of the Orders was filed more than 75 days after the filing of the motion requesting relief.

# WORKERS' COMPENSATION INFORMATION SPECIALISTS

## Mission Statement

The Information Specialists strive to provide callers and visitors with accurate and helpful information in a prompt and courteous manner.

## About the Workers' Compensation Information Specialists

The Ombudsman Program, whose staff are referred to as "Information Specialists," is operated in accordance with N.C. Gen. Stat. § 97-79(f) to provide unrepresented claimants, employers, and other parties with information about Industrial Commission policies and procedures regarding workers' compensation. In addition, the Information Specialists provide information regarding tort claims against State agencies and other matters under the jurisdiction of the Industrial Commission.

Number of Calls Answered (English)	5,421
Number of Calls Answered (Spanish)	759
Total Calls Answered and Returned	6,180
Number of Walk-Ins	0
Correspondence (Letters & E-mails) Answered	2,306
Informational Packets Mailed	56

# INFORMATION TECHNOLOGY SECTION

## **Mission Statement**

The Information Technology (“IT”) Section seeks to identify, facilitate, innovate, implement, and support the information systems technology hardware and software solutions that enable the Commission to fulfill all aspects of its operations.

## **What We Do**

To accomplish its mission, the IT Section has the following objectives:

- Provide excellent customer service to the Commission’s internal and external users;
- Identify, design, facilitate, innovate, implement, and support hardware and software solutions;
- Safeguard the information, information systems, and information systems infrastructure of the Commission; and
- Design, develop, manage, and maintain the information technology systems management and strategies for the Commission.

In support of these objectives, the IT Section has the following responsibilities:

- Develop plans and procedures for technical and operational processes;
- Develop software programs and upgrades;
- Manage and maintain agency software applications and software licenses;
- Maintain and upgrade information systems technology hardware;
- Administer databases;
- Manage data security and access; and
- Provide technology training and internal end-user hardware, software, and network support.

## **Accomplishment Summary for FY 2020-21**

The IT Section works with each Commission Section to anticipate, innovate, identify, and address each Section’s information systems technology hardware and software needs and solutions. The IT Section works to improve and enhance information technology services for Industrial Commission internal and external users.

### ***Case Management System Project***

Implementation of the Commission’s new, consolidated case management system continues to move forward. During testing and review of the initial system, as delivered by the Commission’s Implementation Partner, the IT Section identified several enhancements and additional functionality to improve the user experience for all stakeholders. A revised go-live date for the new system was established so that those improvements could be developed and implemented.

The new case management system is replacing several old mainframe and client-server systems (which were developed in-house and are running on State-owned hardware) with a new cloud-based solution. The new system will improve operating efficiency, provide new functionality, and give both internal and external users an improved and modernized experience.

### ***Website Modernization Project***

The effort to redesign and modernize the Industrial Commission’s website continues. The new design will follow the guidelines of the State of North Carolina’s Digital Commons initiative. Plans to relocate or duplicate some website content on the new case management system portal has extended this effort.

# MEDIATION SECTION

## Mission Statement

The Mediation Section endeavors to administer the Industrial Commission's mediation program effectively, fairly, and efficiently, with the goal of empowering the parties in pending cases to take an active role in the resolution of their disputes to minimize the need for hearings and appeals, expedite the dispute resolution process, and enable the Industrial Commission to devote its adjudicatory resources to those cases not conducive to settlement.

## About the Mediation Section

When a claim is contested, the parties are generally referred to mediation as a way of resolving the claim without a formal hearing. Cases usually bypass mediation when an injured worker is not represented by an attorney. The Mediation Section oversees this process by educating the stakeholders concerning mediation theories and procedures, ruling on any motions related to mediation, and ensuring that the parties and mediators adhere to certain timelines, move the case forward, and submit the required forms and reports. While the mediators who serve in these cases are generally not State employees, they must complete a formal mediation training program and be certified by the Dispute Resolution Commission. Pursuant to Rule 11 NCAC 23E .0203, the Mediation Section issues \$200.00 fee invoices for the processing of the *Report of Mediator* form in workers' compensation cases.

All Industrial Commission mediations are currently being conducted remotely, unless all parties and persons required to attend the mediation, including the mediator, agree to conduct the mediation in person, or unless the Commission orders that the mediation shall be conducted in-person following a motion filed with the Dispute Resolution Coordinator. Pursuant to Rule 11 NCAC 23G.0104(b), the default attendance requirement will once again be in-person attendance at such time as the attendance requirement in the North Carolina Superior Court division changes back to in-person attendance as the default in that program.

Over many years, the Commission's mediation program has been successful despite a wide variety of changes in the workers' compensation field. However, the changes have never been as challenging as the present. Despite the pandemic, workers' compensation settlement rates have remained high.

For the 7<sup>th</sup> straight fiscal year, the settlement rate at mediation exceeded 72.5%. Prior to the 2014-15 fiscal year, the annual settlement rate at mediation conferences had exceeded 72.5% only once during the initial 20 years of the program. The settlement rate at mediation increased from 73.19% in the 2019-20 fiscal year to 73.25% in the 2020-21 fiscal year. Likewise, the overall settlement rate, which includes those cases that are resolved prior to convening mediation conferences, increased from 76.71% to 77.02%. This is the mediation program's highest settlement rate in the past 17 years.

The pandemic conditions caused a 16% decrease in the number of cases referred to mediation during the 2020-21 fiscal year. However, as a result of improved efficiencies in the invoicing process, there was only a 6.94% decrease in the total amount of Report of Mediator fees collected during the year.

## Mediation Section Summary for FY 2020-21

Cases Referred to Mediation	8,124
Settlement Rate at Mediation Conferences	73.25%
Overall Settlement Rate	77.02%
Report of Mediator Processing Fees	\$1,617,600

# MEDICAL FEES SECTION

## Mission Statement

The Medical Fees Section is committed to providing prompt and efficient service by performing timely and accurate bill processing, answering inquiries regarding the Industrial Commission's Medical Fee Schedule, and assisting with the resolution of medical fee disputes.

## About the Medical Fees Section

The Medical Fees Section reviews bills for medical services provided as a result of a workers' compensation claim when a carrier or employer needs assistance. Medical bills are reviewed and adjusted in accordance with the Industrial Commission's Medical Fee Schedule and then returned to the insurance carrier, third-party administrator, or self-insurer handling the claim. The Medical Fees Section also responds to medical bill inquiries, resolves medical fee disputes, and assists in updating the Medical Fee Schedule. In accordance with N.C. Gen. Stat. § 97 -26(i), the Industrial Commission has adopted a Medical Provider Fee Dispute Resolution Procedure by rule (Rule 11 NCAC 23A .0614).

## Medical Bills Processed

<b>Total Bills Processed</b>	<b>843</b>
Inpatient Hospital	372
Physician	440
Miscellaneous, Dental, and Chiropractic	31
Bills Awaiting a Response	0

## Summary of Medical Provider Fee Disputes Processed

<b>Total Cases Received</b>	<b>150</b>
Paid	85
Resolved, Payment Pending	10
Referred for Legal Review	0
Unfounded	30
Closed	0
Pending	25
Amount Paid to Providers Following Fee Dispute Resolution	\$127,599.96

# MEDICAL REHABILITATION NURSES SECTION

## Mission Statement

The North Carolina Industrial Commission Medical Rehabilitation Nurses Section administers the mandatory training courses for Rehabilitation Professionals and collaboratively facilitates and coordinates high quality and effective medical care and rehabilitation such that an injured worker's maximum level of functionality is optimized, both physically and mentally.

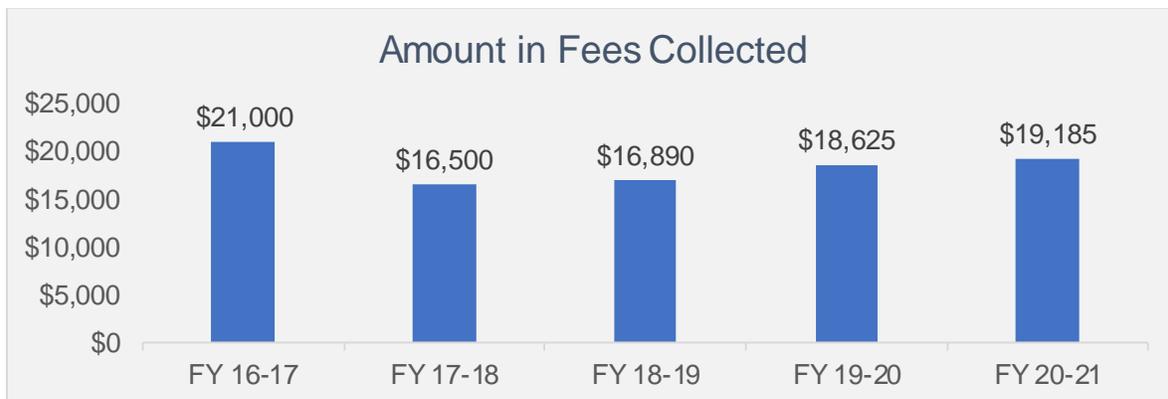
## About the Medical Rehabilitation Nurses Section

The Nurses Section is responsible for the provision of Industrial Commission Mandatory Rehabilitation Professional Training, acknowledgment of the Form 25N *Notice of Assignment of Rehabilitation Professional*, and the maintenance of the Industrial Commission's Registry of Workers' Compensation Rehabilitation Professionals. The mandatory training is required for all Rehabilitation Professionals who work on workers' compensation cases in North Carolina. The mandate requires a comprehensive initial training course for all Rehabilitation Professionals and a "refresher" course that must be taken every five years to maintain "Qualified" status.

The Nurses Section also is tasked with providing medical rehabilitation consultative services to a variety of North Carolina workers' compensation audiences, including injured workers, insurance carriers, attorneys, Rehabilitation Professionals, and health care providers when ordered or requested. The Nurses Section assists with case management and medical rehabilitation needs in the event issues arise regarding returning injured workers to their maximum functional capabilities.

## Nurses Section Summary of FY 2020-21

Total Cases	18
Acknowledged Forms 25N ( <i>Notice of Assignment of Rehabilitation Professional</i> )	13,070
Rehabilitation Professionals Trained	319



## Industrial Commission

Street Address: 430 N. Salisbury Street, Raleigh, North Carolina 27603  
Mailing Address: 1240 Mail Service Center, Raleigh, North Carolina 27699-1240  
Phone: 919-807-2501

[WWW.IC.NC.GOV](http://WWW.IC.NC.GOV)