

STATE OF CONNECTICUT



*AUDITORS' REPORT
WORKERS' COMPENSATION COMMISSION
FISCAL YEARS ENDED JUNE 30, 2018 AND 2019*

AUDITORS OF PUBLIC ACCOUNTS
JOHN C. GERAGOSIAN ❖ ROBERT J. KANE

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June 17, 2020

EXECUTIVE SUMMARY

In accordance with the provisions of Section 2-90 of the Connecticut General Statutes, we have audited certain operations of the Workers' Compensation Commission. The objectives of this review were to evaluate the department's internal controls; compliance with policies and procedures, as well as certain legal provisions; and management practices and operations for the fiscal years ended June 30, 2018 and 2019.

The key finding and recommendation is presented below:

Page 7	The Workers' Compensation Commission did not have medical certificates on file for 5 out of 8 medical leaves of absence we reviewed. In addition, the commission did not maintain required FMLA documentation for one of these absences. The Workers' Compensation Commission should maintain adequate documentation to ensure that medical leave absences are supported in accordance with state personnel regulations and FMLA guidelines. (Recommendation 1.)
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STATE OF CONNECTICUT



AUDITORS OF PUBLIC ACCOUNTS

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ROBERT J. KANE

June 17, 2020

AUDITORS' REPORT

We have audited certain operations of the Workers' Compensation Commission in fulfillment of our duties under Section 2-90 of the Connecticut General Statutes. The scope of our audit included, but was not necessarily limited to, the years ended June 30, 2018 and 2019. The objectives of our audit were to:

1. Evaluate the commission's internal controls over significant management and financial functions;
2. Evaluate the commission's compliance with policies and procedures internal to the department or promulgated by other state agencies, as well as certain legal provisions; and
3. Evaluate the effectiveness, economy, and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing written policies and procedures, financial records, minutes of meetings, and other pertinent documents; interviewing various personnel of the department, and testing selected transactions. We obtained an understanding of internal controls that we deemed significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contracts, grant agreements, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Résumé of Operations is presented for informational purposes. This information was obtained from various available sources including, but not limited to, the

department's management and the state's information systems, and was not subjected to the procedures applied in our audit of the department. For the areas audited, we identified:

1. Deficiencies in internal controls;
2. Apparent noncompliance with policies and procedures or legal provisions; and
3. No need for improvement in management practices and procedures that we deemed to be reportable.

The State Auditors' Findings and Recommendations in the accompanying report presents any findings arising from our audit of the Workers' Compensation Commission.

COMMENTS

FOREWORD

The Workers' Compensation Commission operates generally under the provisions contained in Title 31, Chapter 568 of the General Statutes. The commission is responsible for administering Connecticut's workers' compensation laws with the ultimate goal of ensuring that workers injured on the job receive prompt payment of lost work time benefits and attendant medical expenses.

Workers' Compensation Commissioners

Section 31-276 of the General Statutes established the Workers' Compensation Commission. The commission consists of 16 workers' compensation commissioners, including one who serves as chairman. Commissioners are nominated by the Governor and appointed by the General Assembly for five-year terms. The Governor selects one of the 16 commissioners to serve as chairman of the commission, who then serves at the pleasure of the Governor. The commissioners, as of June 30, 2019 were as follows:

Stephen M. Morelli, Chairman	Jodi Murray Gregg
Scott A. Barton	Peter C. Mlynarczyk
Randy L. Cohen	Thomas J. Mullins
Carolyn M. Colangelo	David W. Schoolcraft
Brenda D. Jannotta	Pedro E. Segarra
Daniel E. Dilzer	Charles F. Senich
Maureen E. Driscoll	Micelle D. Truglia
Toni M. Fatone	William J. Watson III

John A. Mastropietro was appointed as chairman October 18, 1999, and served in that capacity until his retirement on May 1, 2018. He was replaced as chairman by Stephen M. Morelli. Nancy E. Salerno, Ernie Walker, Christine Engel and Robert D'Andrea also served as commissioners during the audited period.

Organization Structure

The chairman is responsible for administering the workers' compensation system and adopting the policies, rules and procedures necessary to implement workers' compensation laws in Connecticut. An advisory board, established under the provisions of Section 31-280a, advises the chairman on matters concerning policy for, and operation of, the commission. The advisory board has 8 members who are appointed by the Governor with the advice and consent of the General Assembly. The advisory board elects a 9th member to be its chairman. The board also interviews commissioners who are being considered for reappointment and makes a formal recommendation to the Governor.

The chairman of the commission also designates workers' compensation districts throughout the state and assigns compensation commissioners to those districts according to claim volume. Commissioners are responsible for holding hearings, mediating and arbitrating disputes and enforcing agreements and awards. Administrative functions of the districts are performed by professional staff assigned to those districts. There are eight districts in addition to the chairman's office.

The Compensation Review Board (CRB) within the commission is authorized by Section 31-280b of the General Statutes. CRB is responsible for reviewing appeals of decisions made by commissioners. CRB consists of the chairman of the commission, who serves as its chief, and two compensation commissioners selected by the chairman who serve one-year terms.

Programs and Services

In addition to its quasi-judicial duties, the commission provides programs and services related to education, safety and health, statistics, licensing, and the investigation of fraud.

Education Services provides information about the workers' compensation system through a website, a toll-free telephone information service, publications, educational conferences and seminars.

Safety and Health Services assists employers with implementation of the workers' compensation regulations as well as establishing and administering safety and health committees at work sites.

The **Statistical Division** measures and monitors the commission's caseload and performance as well as researches insurance coverage and injury and claims data.

Licensing grants the right to operate an approved medical care plan (sometimes called a preferred provider organization or PPO) to qualified Connecticut employers to provide medical treatment for employee work-related injuries and illnesses. It also reviews and approves applications for self-insurance plans in which employers self-insure their workers' compensation liabilities, rather than purchasing coverage from commercial insurance carriers.

The **Fraud Unit**, within the Office of the Chief State's Attorney, investigates complaints of workers' compensation fraud. The cost of the unit is borne by the Workers' Compensation Commission. The Workers' Compensation Administration Fund also provides funding to support services the State Department of Aging and Disability Services provides to injured workers.

The Department of Labor, under its Occupational Health Clinics appropriation, provides a grant to the commission to operate its Occupational Disease Surveillance System in accordance with Sections 31-396 to 31-403 of the General Statutes.

New Legislation

Public Act 19-17, effective July 1, 2019, allowed police officers, parole officers, and firefighters to receive certain workers' compensation benefits for post-traumatic stress disorder caused by certain qualifying events.

RÉSUMÉ OF OPERATIONS

Workers' Compensation Administration Fund

The administrative expenses of the commission are primarily financed by annual assessments made against companies writing workers' compensation insurance and self-insured employers in Connecticut. Section 31-344a of the General Statutes established the Workers' Compensation Administration Fund. The fund was established to separately account for the funding and costs of administering the Workers' Compensation Act.

The chairman annually determines a budget for the commission's operation. The budget is finalized through the state's budget process. The commission can only spend amounts in the fund in accordance with appropriations approved by the General Assembly. The chairman, in consultation with the Office of the State Comptroller, determines the assessment rate needed to fund the commission's operating costs. Section 31-345 of the General Statutes directs the State Treasurer to assess and collect from insurers and self-insured employers amounts sufficient to meet such costs. The collections are deposited in the Workers' Compensation Administration Fund.

Excess funds may remain at the close of each fiscal year as the result of budget surpluses that accrue to the fund. Up to one-half of the prior year's expenses can remain in the fund. The commission returns any balance (above one-half) to insurers and employers via a reduced assessment in the following fiscal year.

Revenue and Receipts

Revenues for the Workers' Compensation Commission for the fiscal years ended June 30, 2017, 2018 and 2019, are summarized below by fund:

	<u>2016-2017</u>	<u>2017-2018</u>	<u>2018-2019</u>
Workers' Compensation	\$ 24,126,835	\$ 18,528,769	\$ 21,763,993
Federal and Other Restricted Accounts Fund	103,072	102,945	103,072
Total Revenues Listed by Fund	\$ 24,229,907	\$ 18,631,714	\$ 21,867,065

Revenues by account for the Workers' Compensation Commission for the fiscal years ended June 30, 2017, 2018, and 2019, are summarized below:

	<u>2016-2017</u>	<u>2017-2018</u>	<u>2018-2019</u>
Receipts from Assessments	\$ 23,898,154	\$ 18,095,352	\$ 21,038,264
Restricted State Aid	103,072	102,945	103,072
Investment Interest	212,062	415,881	709,451
Other	16,619	17,536	16,278
Total Revenues Listed by Account	\$ 24,229,907	\$ 18,631,714	\$ 21,867,065

Assessments collected by the State Treasurer account for the majority of the commission's revenue and are subject to examination as part of our audit of the Office of the State Treasurer. Fluctuations in assessment revenues are expected year-to-year as the operating needs of the commission change. The commission earns interest on its fund balance from the State Treasurer's interest credit program. During the last few years, interest rates have increased, leading to additional interest income. Other commission receipts were primarily for photocopying and archive retrieval fees.

Expenditures

Expenditures by fund for the Workers' Compensation Commission for the fiscal years ended June 30, 2017, 2018, and 2019, are summarized below:

	<u>2016-2017</u>	<u>2017-2018</u>	<u>2018-2019</u>
Workers' Compensation	\$ 18,440,458	\$ 18,662,338	\$ 20,060,266
Federal and Other Restricted Accounts Fund	103,072	102,945	103,072
Total Expenditures Listed by Fund	\$ 18,543,530	\$ 18,765,283	\$ 20,163,338

Expenditures by account for the Workers' Compensation Commission for the fiscal years ended June 30, 2017, 2018, and 2019, are summarized below:

	<u>2016-2017</u>	<u>2017-2018</u>	<u>2018-2019</u>
Personal Services & Employee Benefits	\$ 15,877,222	\$ 16,200,428	\$ 17,854,234
Premises and Property Expenses	1,582,284	1,571,500	1,591,443
Purchased & Contracted Services	349,100	283,789	316,720
Indirect Overhead and Reimbursements	398,322	310,526	81,266
Information Technology	203,334	302,707	257,081
Other Expenditures	133,268	96,333	62,594
Total Expenditures Listed by Account	\$ 18,543,530	\$ 18,765,283	\$ 20,163,338

The 7.5% increase of total expenditures during the fiscal year ended June 30, 2019 was primarily due to the hiring of 6 employees, which increased the total position count from 101 as of June 30, 2018, to 107 as of June 30, 2019.

Fund Balance

The fund balance of the Workers' Compensation Administration Fund totaled \$15,002,879 and \$13,747,795 as of June 30, 2018 and 2019, respectively. The \$1,255,084 fund balance decrease during the fiscal year ended June 30, 2019 was attributable to the increase in personnel expenses.

Federal and Other Restricted Accounts Fund

Federal and Other Restricted Accounts Fund receipts totaled \$102,945 and \$103,072 for the fiscal years ended June 30, 2018 and 2019, respectively. The Department of Labor provided these amounts through Occupational Health Clinics grants. The commission used these resources to pay personal service costs in the current year through a memorandum of agreement. It also used these funds to operate its Occupational Disease Surveillance program in accordance with Sections 31-396 to 31-403 of the General Statutes. The commission receives and coordinates data from occupational health clinics, auxiliary occupational health clinics, and other occupational illness and injury databases and medical sources at various sites, related to several occupations. The commission uses this data to educate unions, employers, and individual workers on the use of the surveillance system. The commission expended the total amount of the grants received in each of the fiscal years.

STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

Our examination of the records of Workers' Compensation Commission disclosed the following finding and recommendation:

Inadequate Documentation Supporting Medical Leave

Criteria: Section 5-247-11 of the State Regulations requires the submission of an acceptable medical certificate signed by a licensed physician or other practitioner whose method of healing is recognized by the state to substantiate the use of sick leave for more than 5 consecutive working days.

The statewide Family and Medical Leave Policy sets forth procedures for requesting leave under the Family and Medical Leave Act (FMLA). The policy outlines the required forms and submission deadlines to document and support the leave request, eligibility, approval, and employee's return to work.

Condition: The commission did not have medical certificates on file for 5 out of 8 medical leaves of absence we reviewed. In addition, the commission did not maintain required FMLA documentation for one of these absences.

Context: There were 19 employees on medical leave for more than 5 consecutive days during the fiscal years ended June 30, 2018 and 2019.

Effect: The commission did not comply with Section 5-247-11 of the state regulations and the statewide FMLA policy. In addition, there is an increased risk that sick leave abuse may go undetected.

Cause: It appears that the commission's Human Resources Department did not properly monitor this issue.

Prior Audit Finding: This finding has not been previously reported.

Recommendation: The Workers' Compensation Commission should maintain adequate documentation to ensure that medical leave absences are supported in accordance with state personnel regulations and FMLA guidelines. (See Recommendation 1.)

Agency's Response: "The agency agrees with the auditor's finding. Traditionally, it has been difficult to enforce this requirement with employees. It should be noted that doctors' offices are frequently unwilling to complete these forms. Employees have reported that doctors are charging fees ranging from \$25 to \$75 dollars, which is of course not covered by health insurance plans. In an attempt to achieve more success in the future, the human

resources director has issued a memorandum to all staff reminding them that the medical certificate requirement exists and that the consequences of non-compliance may be the denial of use of paid sick leave until the appropriate documentation is provided.”

RECOMMENDATIONS

Status of Prior Audit Recommendations:

Our prior audit report on the Workers' Compensation Commission contained two recommendations that have been implemented or otherwise resolved.

- The Workers' Compensation Commission should maintain an accurate and up to date software inventory report that can be used as support for the annual CO-59 report. **This recommendation has been resolved.**
- The Workers' Compensation Commission should consider seeking a legislative change to the Workers' Compensation Act to reflect current practices. **This recommendation has been resolved.**

Current Audit Recommendations:

- 1. The Workers' Compensation Commission should maintain adequate documentation to ensure that medical leave absences are supported in accordance with state personnel regulations and FMLA guidelines.**

Comment:

The commission did not have medical certificates on file for 5 out of 8 medical leaves of absence we reviewed. In addition, the commission did not maintain required FMLA documentation for one of these absences.

ACKNOWLEDGMENTS

The Auditors of Public Accounts would like to recognize the auditors who contributed to this report:

Jaimie Hubeny
David Tarallo

CONCLUSION

In conclusion, we wish to express our appreciation for the courtesies and cooperation extended to our representatives by the personnel of the Workers' Compensation Commission during the course of our examination.



Jaimie Hubeny
Auditor II

Approved:



John C. Geragosian
State Auditor



Robert J. Kane
State Auditor