

Calendar Year (CY) 2022 Bureau of Workers' Compensation Annual Report

on the effects of the 2013 workers' compensation reform act

Governor Lee, Tennessee Senators, and Representatives:

The 2013 Workers' Compensation Reform Act requires the Bureau of Workers' Compensation to provide each member of the General Assembly a report on the Bureau's findings on the impact of the reform. The results have been positive and consistent with the legislative intent of being fair to both employees and employers. Highlights of this year's report include the following:

- The mediation program's percentage of settlements continued to rise in 2022. Tennessee's approach to mediation has captured the interest of and has been duplicated by other states.
- The ombudsman program assisted over **16,000 employees** and employers in 2022. The program includes ombudsman attorneys who can provide limited legal advice.
- The most recent data shows that approximately **72%** of injured workers returned to work after their injury and settlement in post-reform cases, compared to **61%** in pre-reform cases¹.
- The average medical expenses paid per claim were **\$27,409** for post-reform claims settled in 2021 and **\$26,654** for post-reform claims settled in 2022.
- PPD decreased **5.3%** per average claim in 2022 (**\$12,450**) from 2021 (**\$13,156**); TTD increased **5.2%** per average claim in 2022 (**\$14,118**) from 2021 (**\$13,417**).
- The Bureau has conducted education and training programs across the state for employers, insurance adjusters, and medical providers. Our REWARD program, which provides training to employers on best practices in returning an injured worker to employment, and our Next Step program, which is a vocational recovery/educational assistance program, in particular, have been very successful.

¹Elevate Consulting, LLC, Trends in Tennessee Workers' Compensation Data, 2009-2020, August 2022.

The results of the 2013 Reform Act have been positive and resulted in a workers' compensation system that is timelier, provides assistance to parties who are self-represented, and is more consistent and less costly.

On December 20, 2022, the Tennessee Department of Commerce and Insurance announced that Workers' Compensation insurance premiums would decline in 2023 for most businesses for the 10th consecutive year. Commissioner Carter Lawrence signed an order on December 14th, 2022, approving a 10.2% overall decrease in the voluntary market beginning March 1st, 2023, on new and renewal policies.

We appreciate the interest of Governor Lee and the General Assembly in the workers' compensation system and the support of the reform initiative, which enables us to serve the state and its citizens better. Due to the success of the mediation program and REWARD program, more cases are mediated to a settlement without the need for a trial, and injured workers are receiving timely medical treatment and returning to work sooner.

We thank you for your interest in workers' compensation and your support in making Tennessee a leader in providing high-quality services to its citizens.

Sincerely,



Troy Haley, Administrator

Bureau Quick Facts



88,000+

Injuries reported while on the job



86%

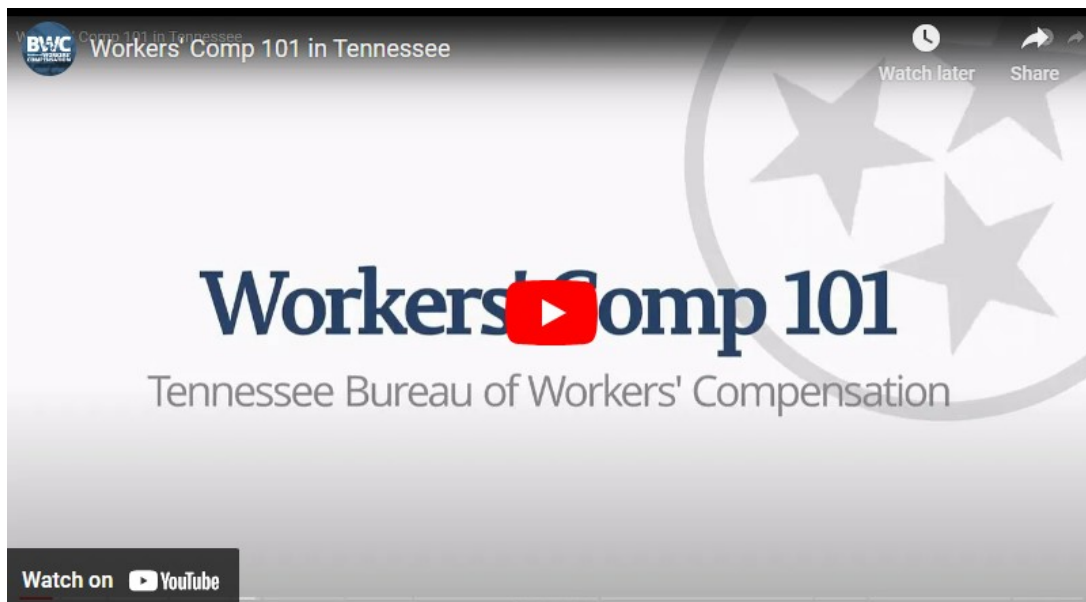
of disputed claims filed with BWC were resolved in full or in part by a BWC mediator before going to court



0.1%

of 2.3k disputed claims appealed to the TN Supreme Court

Need a recap of Workers' Comp?



The following pages show the impact of the Workers' Compensation Reform Act of 2013 and the changes built on the principles of fairness for all parties that followed the 2013 reform. The reform's effects are ongoing and the full impact of the reform is still years away. We will see the reform in full effect when more claims have reached the end of the payment of benefits. The end of the 2022 Calendar year (CY) marks the 8th year since the start of the Workers' Compensation Reform Act, which was effective July 1, 2014.

In Tennessee, workers' compensation insurance claims are paid by private insurance companies and reported to us.



72%

of workers who returned to the same employer increased from 61% pre-reform¹ to 72% post reform



25.6

average number of weeks from the date of maximum medical improvement (MMI) to date of conclusion decreased from 50.6 weeks pre-reform¹ to 25.6 weeks post-reform. This decrease was statistically significant.



2,868

First Reports of injury related to COVID-19

¹Elevate Consulting, LLC, Trends in Tennessee Workers' Compensation Data, 2009-2020, August 2022.

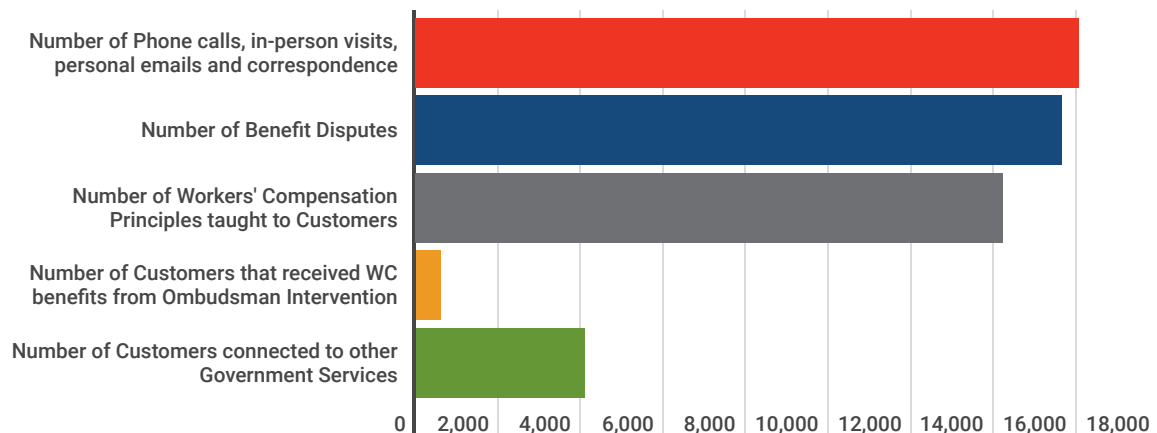
Alternative Dispute Resolution

Alternative Dispute Resolution resolves disputes without going through a court hearing. The Mediation and Ombudsman Services of Tennessee (MOST) program offers three different services to help resolve workers' compensation disputes between injured employees, their employers, and their insurance companies. The goal of this program is to resolve disputes that involve compensability, medical treatment including future medical benefits, and/or temporary disability benefits that an employee believes might be due.

Mediation, or alternative dispute resolution, can help resolve disputes between injured employees and an insurance adjuster (or employer) in a workers' compensation claim. Mediation is conducted privately between the parties with the assistance of a Mediation Specialist from the Tennessee Bureau of Workers' Compensation. It is both quicker and less expensive to settle the matter through an alternative dispute resolution process than through the court system.

Ombudsman Program

The 2013 Reform Act created a new program to aid injured workers, family members, people claiming death benefits, and employers who are not represented by an attorney. The program answers benefit questions, directs people to published educational materials (both online and hard copy), and provides dispute resolution assistance. [Learn more about the Ombudsman program here.](#)



Ombudsman Attorneys



187



Number of Total Customers Served in 2022



110

Number of New Customers in 2022



287

Limited Legal Advice



276

Services Provided



246

Basic Legal Principles



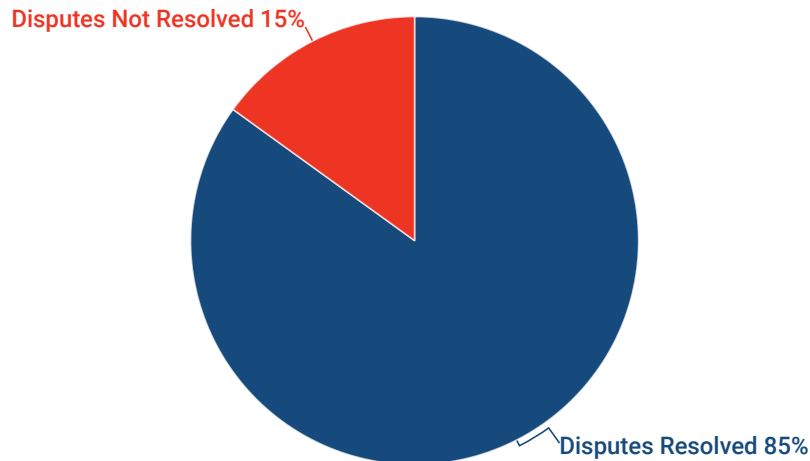
187

Reasons to request the ombudsman attorney's assistance

Mediation

Mediators help injured workers, attorneys, employers, and insurance companies resolve workers' compensation disputes through compromise, education, and information exchange. Mediation benefits employees by saving them time, money, and reducing the risks associated with court, where they carry the legal burden to prove their claims. [Learn more on why mediation works here.](#)

Mediations for Medical Care, Lost Wages and Permanent Disability



Court of Workers' Compensation Claims

The Court of Workers' Compensation Claims has remained true to its mission as articulated in 2014: to provide a fair, efficient, and professional system to employees and employers that will promote economic prosperity for all Tennesseans.

Looking to just one of those goals—efficiency—the Court continues to make significant progress. Before the Reform Act in 2013, one of the chief complaints about the workers' compensation system was how long it took to obtain a decision from the trial judge. We presently hold major evidentiary hearings in three categories: expedited, compensation, and summary judgment. The numbers below reflect the sizeable

decrease in time it now takes to receive a decision on a case, as well as the total number of hearings the 12 judges held in the past year. [Learn more about the Court of Workers Compensation here.](#)

Timeliness of opinions released by Court of Workers' Compensation

	Compensation Hearings	Expedited Hearings	Motions for Summary Judgment
 Timeliness of Opinions Released by CWCC Judges	9.3 days	7.5 days	6.5 days
 Total number of cases for 2022	31	82	34

In addition, the Court continues to receive positive feedback from practitioners regarding the quality of their written opinions as well as for their judicial demeanor during hearings.

Settlement Approvals

Along with adjudicating cases, the Court approves settlements using the statutory criteria to ensure that injured workers are receiving substantially the benefits they are entitled to or that the settlement is in their best interest. In 2022, 8,514 settlements were approved.



99%

Average percentage of reviewed settlements approved each month




11,147

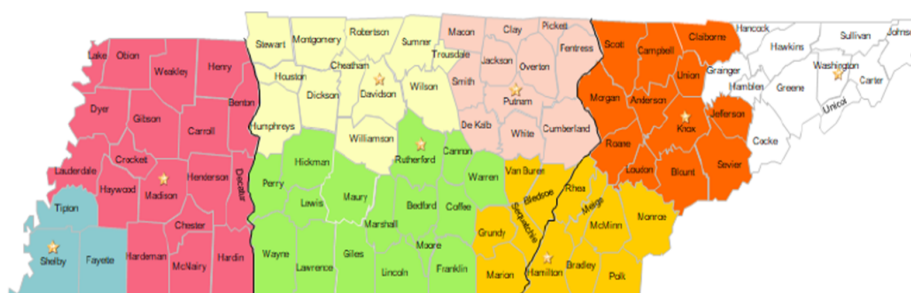
Total number of Hearings

Appeals Board

The Workers' Compensation Appeals Board, created by the 2013 Reform Act, hears appeals of interlocutory and final orders from the Court of Workers' Compensation Claims. [Learn more about the Workers' Compensation Appeals Board here.](#)

Metric	Interlocutory Appeals	Compensation Appeals
 Total number of Cases	37 Cases	19 Cases
 Average number of days to issue opinions	16 Days	29 days

Geographic Source of New Appeals



Offices	Totals
Memphis	10
Jackson	9
Nashville	12
Murfreesboro	9
Cookeville	3
Chattanooga	11
Knoxville	0
Gray	4

Medical

Access to quality medical care improves the outcomes for injured workers and lowers the ultimate costs of claims.

UR Appeals

The Bureau resolved 1099 (-3% from calendar year 2021) Utilization Review medical treatment denials that were appealed, reversing 30% of the Utilization Review Organization's previous denials. Once records were received, the Bureau issued its determination in fewer than two business days. This has a direct impact on redthe time it takes to get medical treatment for injured workers when their treatment has been denied. [Learn more about Utilization Review and the appeals process here.](#)



1,099

Total number of UR Appeals resolved

Case Management

1400 case managers and case manager assistants remain registered with the Bureau. The Bureau makes sure licensing, accreditation and continuing education requirements are fulfilled and current.



1400

Case Managers and Case Manager Assistants Registered

Medical Payment Committee

The Bureau received 99 cases of payment disputes from providers with 30 being administratively closed after notification. Most closures occur when payments were revised upwards. The committee made determinations in 60 cases, over 90% in favor of the provider. Nine cases remained unresolved at the end of the year.

Medical Advisory Committee

With the American Medical Association (AMA) moving to an annual revision and digital format for the AMA Guides® to the Evaluation of Permanent Impairment, the committee deferred the required statutory recommendation until the revisions to the chapters for the spine and the extremities can be evaluated in late 2023.

The committee quarterly reviewed changes to the adopted ODG by MCG treatment guidelines and sent two suggestions to the publisher's research unit.

The committee has also suggested rule changes to be evaluated by the Administrator.

The following information is not part of the 2013 Workers' Compensation Reform Act, however it is still important information about many other programs in the Bureau of Workers' Compensation.

Drug-Free Workplace

The Tennessee Drug-Free Workplace Program is designed to increase productivity for Tennessee employers and promote safe worksites for employees by promoting drug- and alcohol-free workplaces. Worksites where workers are not impaired by drugs and alcohol are safer and can operate in an enhanced competitive position that is free from the costs, delays, and tragedies that accompany workplace accidents resulting from substance abuse-related injuries. [Learn more about the Drug-Free Workplace Program here.](#)



264,203

Total number of employees currently covered in program



2,875

Total number of employers currently covered in program

Uninsured Employers Fund

The Uninsured Employers Fund works to assure a fair and competitive business environment by enforcing Tennessee's Workers' Compensation law. The law requires most businesses to protect their employees from the negative consequences of workplace injuries by maintaining workers' compensation insurance. Businesses who illegally fail to maintain workers' compensation insurance or who illegally misclassify employees as "independent contractors" or "subcontractors" are subject to financial penalties. These fines are collected by the State and are used to provide workers' compensation benefits to any eligible employee who is injured while working for an illegally uninsured employer. [Learn more about the uninsured employers fund here.](#)



11,952

Total number of workers who gained coverage due to the program



9

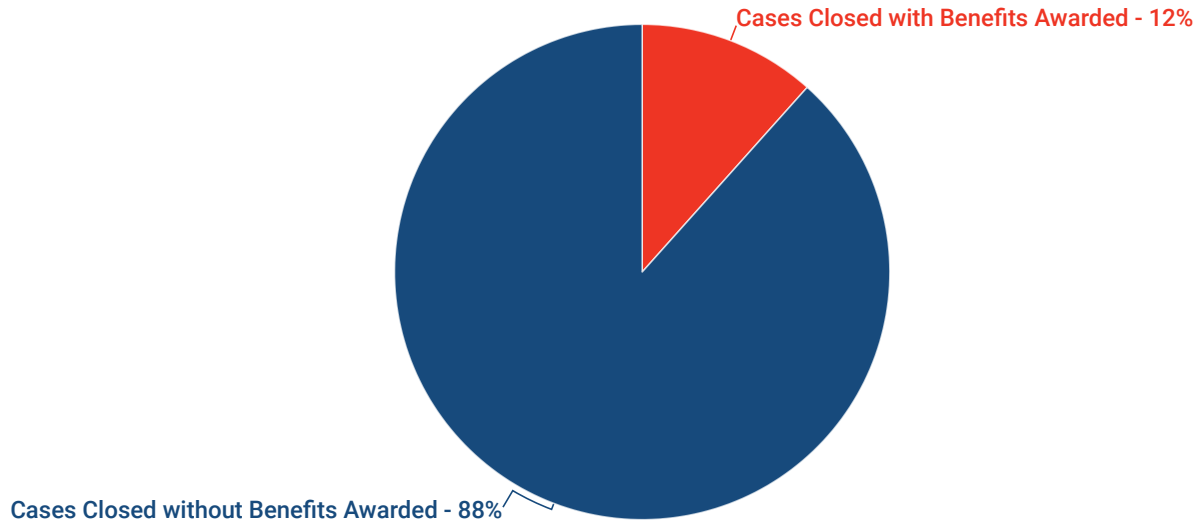
Total number of qualified employees who received medical and/or weekly benefits from the UEF fund

Subsequent Injury and Vocational Recovery Fund

The Subsequent Injury Fund (SIF) encourages employers to employ or retain workers who have previous permanent physical disabilities from either work-related or non-work-related injuries by limiting the employer's exposure in a subsequent work-related injury that renders the employee totally disabled. The Subsequent Injury Fund remains viable with the Reform Act of 2013. The SIF received 188 new cases during calendar year 2022. SIF benefits were paid on roughly 11% of all SIF cases closed during this period. While no Subsequent Injury Fund apportionment cases have been decided in the new Court of Workers' Compensation Claims, it is anticipated that permanent total disability awards will continue as in pre-reform courts if the employee's injury meets the new definition of injury. Experience with Subsequent Injury Fund cases under the reform has proven to be less costly because of the change in the definition of injury requiring the work incident to contribute "more than fifty percent" in causing the death, disablement, or need for medical treatment, "considering all causes."

With the passage of the new law, all cases filed with the Bureau of Workers' Compensation, including Subsequent Injury Fund cases, are concluded quicker than they were under the pre-reform act. Under the new law, a Petition for Benefit Determination, which is the initiating document, cannot be filed until there is a disputed issue at hand. The Reform Act also contains numerous time limitations and scheduling requirements to ensure that even the complicated Subsequent Injury Fund cases are concluded more expediently. [Learn more about Subsequent Injury & Vocational Recovery Fund here.](#)

Subsequent Injury Claims



Next Step Program

A vocational rehabilitation fund designed to assist qualified injured workers in obtaining training to re-enter the workforce. The Next Step Program connects permanently disabled injured workers with a public institution and monetary resources to acquire the knowledge, skills, and abilities needed to return to meaningful employment. [Learn more about the Next Step Program here.](#)



107

Total Number of Next Step Applicants
2018 through 2022



70

Helped Return to Work



35

Helped Go to School



09

Next Step Scholarships Awarded

Workers' Comp Exemption Registry

The Exemption Registry allows business owners in the construction industry, known as Construction Services Providers, to exclude themselves from the requirement that they maintain workers' compensation on themselves. Being listed on the Exemption Registry does not exclude the business from the requirements of maintaining workers' compensation insurance on their employees. [Learn more about the Workers' Compensation Exemption Registry here.](#)



16,561

Application renewals, reinstatements, and new applications were processed in 2022.

Communciations Unit

Workers' Compensation, or workers' comp as most people know it, is misunderstood. Most people seem to associate the word "compensation" with money rather than with injuries or recoveries and often confuse workers' compensation with unemployment insurance. Perhaps it was mis-named in 1919 when Tennessee passed its initial legislation to address workplace injuries and should have been called Workers' Recovery instead.

The focus of the Bureau is on the recovery much more than the money. To that end, the Bureau has a vibrant Communications and Outreach Program to help educate the public about ways to hasten injured employees' recoveries that increases the likelihood of their return to work.

The Communications portion of the program includes our website, brochures, forms, newsletters, and other related tools that the public can access. The website was updated continuously in 2022 with meeting notices, rule or statutory updates and notices about upcoming bureau activities. Four new and updated brochures, including a revised Pro Se Handbook and a Right to Interpreter document, were posted. Due to Tennessee's changing demographics, numerous forms were translated into foreign languages. The Comp Courier, the internal newsletter for bureau staff, published five editions in 2022 while the Bureau Bulletin, the bureau's general information external newsletter, was published four times. The AdMIRable Review, a publication targeting medical providers was published twice and the REWARD Report, targeting employers, was published four times. [Find all of this information and more here.](#)

Outreach

The Outreach portion of the program includes an annual Educational Conference, a voluntary Adjuster Certification Program, a Certified Physician Program, presentations to professional organizations, and multiple social media platforms. The conference, after being virtual in 2020 and 2021, returned to an in-person event in August with over **300 attendees**. The Adjuster Certification Program hosted four virtual sessions last year with **129 adjusters** being trained on Tennessee-specific claims handling requirements and achieving their certification. The first in-person offering of this training since the pandemic began will be in June of 2023. The Certified Physician Program, a self-paced virtual learning platform for physicians that provides training on best practices for treating and evaluating injured workers was unveiled in June. Physicians who complete the course are better equipped to assist their patients in returning to work and in providing accurate impairment ratings. There have been **48 physicians** to complete the program thus far.

Bureau leadership made over **50 virtual and in-person presentations** to stakeholder groups such as an orthopedic staff in Memphis, the Roane County Alliance, the Kingsport Bar Association, students at MTSU, and the Upper Cumberland SHRM Chapter reaching several hundred individuals in the process. Our social media platforms (which includes Facebook, Twitter, LinkedIn, YouTube, and Instagram) have a combined **1,907 followers—and growing**—with each platform seeing a substantial increase in growth. We posted information on each platform at least twice per week last year.



48

Number of Physicians Educated



50+

Number of Virtual and In-person Presentations



129

Number of Adjusters Certified



300+

Number of Attendees at Educational Conference



1900+

Number of Followers/Subscribers on Social Media Platforms

Social Media



656

Total Followers



281

Total Subscribers



413

Total Followers



142

Total Followers



415

Total Followers



Administrator

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**Bureau of WORKERS'
COMPENSATION**

tn.gov/workerscomp

Questions about this report?

General Inquiries

can be made to WC.info@tn.gov

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