

Report of the
Department of Human Resource Management
Workers' Compensation Program
Settlements in Fiscal Year 2016
Year to Date

Pursuant to
2015 Virginia Acts of Assembly
Chapter 665, Item 81.F.5.a

October 30, 2015

Workers' Compensation Settlements in Fiscal 2016 YTD

The Workers' Compensation Program has settled one Workers' Compensation claim during Fiscal 2016 year to date saving \$17,196.86 in expected future costs. This one settlement is unrelated to the accelerated closure project authorized in the 2015 Acts of Assembly Chapter 665, Item 81.F.5.a. although it was one of the claims identified as a potential candidate for the project. The detail is provided in Exhibit A. Savings are calculated as follows:

Total Case Reserves (Future Exposure)	\$49,196.86
Total Settlement Amounts	\$32,000.00
Savings due to Settlements	\$17,196.86

The settlement was approved by the Virginia Workers' Compensation Commission as being in the best interest of the claimant or the dependents as required by Rule 1.7 of the Rules of the Commission.

Prior to the approval of all settlements, the Workers' Compensation Program staff must:

- obtain the most current medical information
- obtain a current rehabilitation report indicating the employee's inability to return to any type of gainful employment
- determine if the employee has taken disability or service retirement through the Virginia Retirement System
- determine if the employee is receiving social security disability benefits
- confirm that the employee does not have health insurance through Department of Human Resource Management
- conduct an analysis of the benefit to the Commonwealth of Virginia when comparing the amount of settlement to the estimated future exposure that would be created for the Virginia Retirement System
- obtain approval from the Director of Workers' Compensation

After it has been determined that it is in both the claimant's and the Commonwealth of Virginia's best interest to settle the claim, it is submitted to the Office of the Attorney General for approval. If the Office of the Attorney General concurs with the recommendation, the proposed compromise settlement is submitted to the Virginia Workers' Compensation Commission for their approval.

Status of the Workers' Compensation Claims Settlement Program

Objective

The report provides an update on the status of the Workers' Compensation Claims Settlement Program to the Governor, the General Assembly and the Director of the Department of Planning and Budget.

Status

The Department of Human Resource Management received funding access effective July 1, 2015 to a working capital advance of up to \$20,000,000 to identify and potentially settle certain workers' compensation claims open for more than one year but less than 10 years. Since then, the program has

- Requested and received an updated list of 1, 275 potential claims for settlement from Marsh Risk Services, building on the previous list of 1,274 candidates identified in the study titled "Risk Management and Occupational Safety and Health Programs to Reduce Injury and Illness Incidence Rates and Claim Inventory Workout: An Accelerated Claim Closure Initiative" provided to the Governor and General Assembly in the 2014 Reports to the General Assembly, item [RD290](#);
- Determined that claims where the injured worker remains a participant in a health insurance plan administered by the Department's Office of Health Benefits will be excluded from the settlement program to avoid cost shifting to another state program;
- Worked with the Office of Health Benefits to obtain a suitable release of information form for the injured worker's signature so as to determine which claims should be excluded without violating HIPAA privacy provisions;
- Worked with the current workers' compensation claim service provider to develop a form letter and mail merge to facilitate the distribution of over 1,200 letters with releases to injured workers;
- Begun the process of creating the letters for mailing.

Next steps

- As the releases arrive, the Program will coordinate with the Office of Health Benefits to determine which claims are candidates for settlement negotiations;
- Engage Marsh Risk Services to triage the identified claims. The Triage deliverables will include:
 - A spreadsheet listing all claims in the triage project together with:
 - Projected closure timeframes based on the proposed plan of action. The timeframes will be categorized into 8 (eight) groupings:
 - Claims that may close in less than 6 months
 - Claims that may be expected to close in 6 – 12 months
 - Claims that may be expected to close in 12 – 24 months
 - Claims that may be expected to close in greater than 24 months
 - Claims that are considered Lifetime medical
 - Claims that are considered Lifetime indemnity

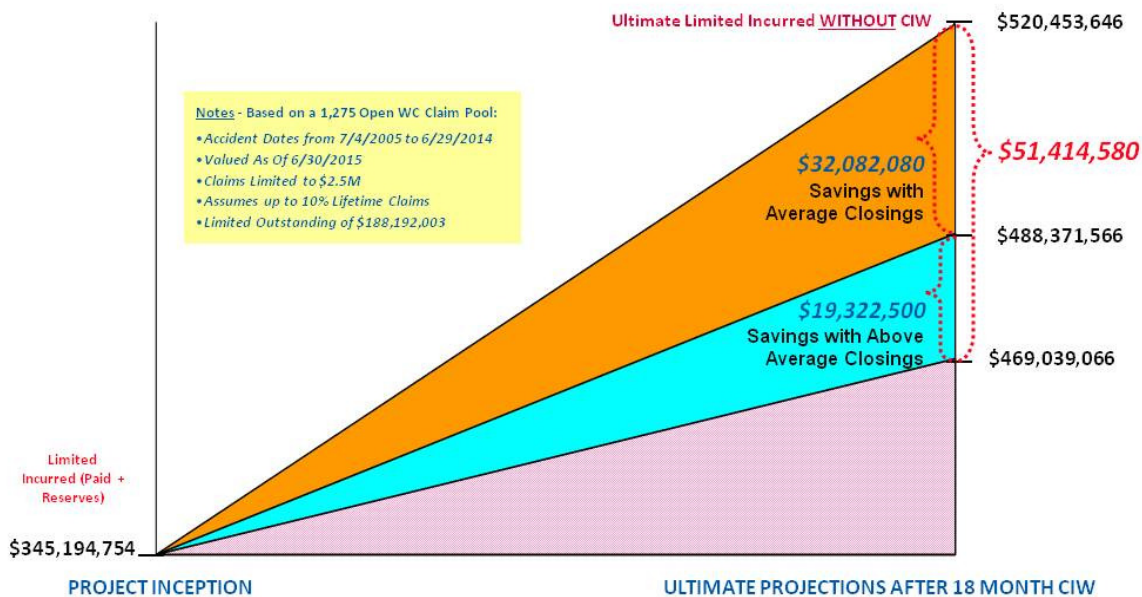
- Claims that are considered Lifetime medical and indemnity
- Claims that closed during the triage process, if any
- Reserve adequacy comments noted for each file.
- An action plan outlining key steps for those claims that may be expected to close in less than 12 months.
- A narrative summary of the findings of the triage process. It is important to note that the triage process will not include projected settlement values due to constraints associated with the need to secure additional medical, disability and/or Medicare Set-Aside information as part of the action plan;
- Engage Marsh Risk Services to provide training to the existing claim service provider staff on settlement strategy and operations to enable them to work with less complex settlements and ultimately handle all settlement negotiations in-house;
- As claims are identified and an estimate is available of the amount needed to reach settlement, periodic requests will be made as indicated in the Budget Act to the Secretary of Administration and the Secretary of Finance to begin to draw down the available \$20 million dollars in working capital advance.

The most recent estimate of potential cost avoidance is illustrated in this chart received from Marsh Risk Services in August 2015. The second view limits the dates of injury to the ten year period between July 4, 2005 and June 29, 2014. For these 1,275 open claims, the projected savings range from \$32,082,080 to \$51,414,580, depending on the number of claims successfully closed.



Projected CIW Impact for Commonwealth of VA

Proprietary Model uses Marsh CIW Claims Database & COV/Oliver Wyman Specific Loss Development Factors



Marsh may provide Commonwealth of VA with modeling and/or business analysis services, including hazard loss and catastrophe modeling, loss forecasting and triage, adverse event simulation, scenario and portfolio analysis, reinsurance modeling, risk rating and risk reinsurance analysis and insurance program evaluation analysis. Modeling and Analytics services will be based upon a number of assumptions, conditions and factors. Many of these, if any, are known or provided to Marsh in the course of its business or should change, the modeling and Analytics provided by Marsh could be materially affected. These services are subject to inherent uncertainty, and actual results may differ materially from those provided by Marsh. They are provided solely to Commonwealth of VA; benefits and do not constitute, and are not intended to be a substitute for, actuarial, accounting or legal advice. Marsh will not have liability for any claims in connection with these services or its Commonwealth of VA subrogated liability proceeds purchased or provided by a third party. (Subject to the Commonwealth of VA Insurers in connection with the placement of coverage by Marsh, Commonwealth of VA shall not share any of Marsh's Modeling and Analytics work product with a third party without Marsh's prior written consent.)



Background

Marsh Risk Consulting conducted an analysis to examine the impact of settling appropriate claims, including an estimate of the potential cost avoidance opportunity associated with an accelerated claim closure initiative. The study was promulgated by language included in Item 81, F.2 of Chapter 2, 2014 Special Session 1, which requires the Department of Human Resource Management to conduct a study with results due no later than October 1, 2014.

“The Department of Human Resource Management shall conduct a study, with the cooperation of all executive, legislative, judicial, and independent agencies, to include, but not be limited to, the impact of settling appropriate claims, the potential need for a risk management position in the Department of Human Resource Management to further assist state agencies not staffed with a risk management position, and the need for a risk management position for state agencies with a high incidence of claims who are not staffed with a risk management position. The department shall report its findings and cost savings recommendations for the state employee's workers' compensation program to the Governor and Chairmen of the House Appropriations and Senate Finance Committees no later than October 1, 2014.”

That analysis was titled “Risk Management and Occupational Safety and Health Programs to Reduce Injury and Illness Incidence Rates and Claim Inventory Workout: An Accelerated Claim Closure Initiative” provided to the Governor and General Assembly in the 2014 Reports to the General Assembly, item [RD290](#). The study revealed considerable opportunity to reduce future liability for the program by accelerating claim closure on appropriate claims through settlement.

Based on the results, a budget package was submitted and approved, providing a working capital advance of up to \$20,000,000 to identify and potentially settle certain workers’ compensation claims open for more than one year but less than 10 years. The Department of Human Resource Management is responsible to pay back the working capital advance from annual premiums over a seven year period. The Department of Human Resource Management is also directed to provide this report to the Governor, Director, Department of Planning and Budget, and Chairmen of the House Appropriations and Senate Finance Committees on the status of the settlement program, the number of claims settled, and the estimated state costs avoided from the settlements no later than October 30 of each year.

The Secretary of Finance and Secretary of Administration are responsible to approve the drawdowns from this working capital advance prior to the expenditure of funds. The State Comptroller is responsible to notify the Governor and the Chairmen of the House Appropriations and Senate Finance Committees of any approved drawdowns.

EXHIBIT A

Fiscal Year 2016 YTD Workers' Compensation Settlements

Claimant Name	Date of Injury	Settlement Amount	Future Exposure	Savings due to Settlement
Joseph Espinosa	8/1/2007	\$ 32,000.00	\$ 49,196.86	\$ 17,196.86
TOTALS		\$ 32,000.00	\$ 49,196.86	\$ 17,196.86