

Report of the
Department of Human Resource Management
Workers' Compensation Program
Settlements in Fiscal Year 2017
Pursuant to
2016 Virginia Acts of Assembly
Chapter 780, Item 84.F.3.

October 30, 2017

Workers' Compensation Settlements in Fiscal Year 2017

The Workers' Compensation Services program completed settlements on **61 workers' compensation claims** in FY 2017 under the Working Capital Advance authorized in the 2016 Acts of Assembly Chapter 780, Item 84 F.3.

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. In FY 2017, the program

- Completed settlements on **61 workers' compensation claims**, paying **\$4.86 million in settlement** and producing **\$14.73 million in cost avoidance** due to accelerated closure of the claims under the Working Capital Advance authorized in the 2016 Acts of Assembly Chapter 780, Item 84 F.3¹;
- Continued to evaluate claims where the injured worker or their counsel submitted a settlement demand;
- Continued to collect medical releases from injured workers in the pool of potential settlements and submit them to the DHRM Office of Health Benefits to determine eligibility based on whether the individual is enrolled in a state health benefits plan;
- Worked with the program's actuary, Oliver Wyman, to develop a method to forecast the ultimate cost avoidance as a result of the cost avoidance realized through the accelerated closure of these certain claims;
- Worked with the Department of Planning and Budget and Oliver Wyman to develop a methodology to credit cost avoidance to the individual agency whose claims were settled and to allocate the repayment cost of the Working Capital Advance to the affected agency from premiums over the seven year period as outlined in 2016 Acts of Assembly Chapter 780, Item 84 F.3.a. (please refer to our report "[RD313](#) - Report of the Department of Human Resource Management Workers' Compensation Program Settlements in Fiscal Year 2017 and Experience-based Premium Recommendations" for details); and
- Developed a workflow to transfer the analysis and negotiation of settlements in FY 2018 from a DHRM staff member to the program's Third Party Administrator for

¹ An additional claim reached settlement agreement (Raisor) for \$25,000 at the end of FY 2017. The drawdown transferred from the Working Capital Advance to Workers' Compensation Services on June 30, 2017, but the settlement was not disbursed until FY 2018. This \$25,000 accounts for the difference between the \$4.86 million shown above and the \$4.90 million shown in Exhibit A. (Please refer to our report "[RD313](#) - Report of the Department of Human Resource Management Workers' Compensation Program Settlements in Fiscal Year 2017 and Experience-based Premium Recommendations" for details.)

workers' compensation claims, while retaining settlement authority authorization within the DHRM Workers' Compensation Services program.

Recommendation

DHRM recommends continuing a budget provision for the Working Capital Advance to support accelerated closure of certain claims in the 2019/2020 budget cycle.

- 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](#) anticipated that accelerated claim closure working with the identified 1,275 claims would produce ultimate cost avoidance in the range of \$32 to \$54 million.
- Actual results achieved by settling only 61 of the potential 1,275 claims have already produced documented cost avoidance of \$14.73 million. Based on these results, it would appear that the potential for even deeper cost avoidance is possible.
- Actuarial estimates of the program's undiscounted reserve were projected in the June 2016 study to grow from \$967.6 million as of June 30, 2016 to \$1,002.9 million as of June 30, 2017. The updated estimated undiscounted reserve as of June 30, 2017 (using June 30, 2017 data) is \$990.4 million, which is \$12.5 million lower than the previous projection. This reduction can be attributed to the settlement project. (There were other influences which served to dampen the impact of the settlement pilot under the Working Capital Advance.
 - FY2017 payroll increased about 1.5% from last year's projection which led to an increase in estimated ultimate losses for FY2017.
 - Loss development over the past year for accidents occurring in FY 2012 through 2016 was higher than expected, leading to an increase in estimated ultimate losses for these accident years.)

Please see Exhibit A for a list of all settlements under the Working Capital Advance in FY 2017.

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

	Claimant Name	Date of Injury	Date of settlement payment	Settlement Amount	Total Future Exposure	Cost Avoidance due to Settlement
1	Teresa Jackson	7/24/2009	9/7/2016	\$ 31,250.00	\$ 226,857.81	\$ 195,607.81
2	George Sumner	9/12/2013	8/29/2016	\$ 150,000.00	\$ 589,879.52	\$ 439,879.52
3	Jane Tristany	9/17/2012	8/15/2016	\$ 85,000.00	\$ 305,456.28	\$ 220,456.28
4	James Morton	2/22/2011	8/17/2016	\$ 19,500.00	\$ 69,215.52	\$ 49,715.52
5	Wilfred Tyree	3/23/2011	11/7/2016	\$ 53,000.00	\$ 99,036.08	\$ 46,036.08
6	Sharon Knight Pooley	2/28/2012	9/14/2016	\$ 65,000.00	\$ 456,386.31	\$ 391,386.31
7	Jack Gentry	7/17/2008	9/16/2016	\$ 19,000.00	\$ 45,056.41	\$ 26,056.41
8	Mardoqueo Henriquez	1/15/2010	9/28/2016	\$ 50,000.00	\$ 145,500.15	\$ 95,500.15
9	Nancy Megginson	12/1/2010	9/16/2016	\$ 80,000.00	\$ 164,431.86	\$ 84,431.86
10	Terrell Jones	12/20/2013	11/1/2016	\$ 120,000.00	\$ 612,232.90	\$ 492,232.90
11	Marion Lewis	1/18/2013	11/15/2016	\$ 150,000.00	\$ 334,321.64	\$ 184,321.64
12	Barbara Roark	3/8/2014	11/23/2016	\$ 65,000.00	\$ 526,864.28	\$ 461,864.28
13	Anna Caddell	3/25/2013	12/12/2016	\$ 80,000.00	\$ 272,554.72	\$ 192,554.72
14	Immanuel King	2/9/2012	10/4/2016	\$ 62,500.00	\$ 193,971.86	\$ 131,471.86
15	Chiquita Roberson	9/17/2012	11/1/2016	\$ 52,500.00	\$ 312,109.64	\$ 259,609.64
16	Cassandra Powell	3/23/2009	10/28/2016	\$ 25,000.00	\$ 71,703.66	\$ 46,703.66
17	Raymond Tucker, Sr.	2/3/2010	11/4/2016	\$ 70,000.00	\$ 193,883.49	\$ 123,883.49
18	Ted McGill	2/8/2010	11/4/2016	\$ 220,000.00	\$ 560,041.26	\$ 340,041.26
19	Jacqueline Mazur-Carter	6/13/2007	1/25/2017	\$ 24,999.00	\$ 111,190.41	\$ 86,191.41
20	Elizabeth Harris	9/5/2013	12/8/2016	\$ 24,500.00	\$ 153,793.78	\$ 129,293.78
21	Richard Whitaker	2/13/2007	10/27/2016	\$ 100,000.00	\$ 362,611.07	\$ 262,611.07
22	Derra McNamara	5/25/2010	10/27/2016	\$ 37,500.00	\$ 105,021.68	\$ 67,521.68
23	Elizabeth Lawson	8/5/2011	12/6/2016	\$ 60,000.00	\$ 159,578.51	\$ 99,578.51
24	Ross Stroud	11/3/2010	12/12/2016	\$ 65,000.00	\$ 288,510.84	\$ 223,510.84
25	Christopher Rosson	1/17/2012	4/28/2017	\$ 350,000.00	\$ 2,103,121.25	\$ 1,753,121.25
26	Emma Boyd	3/24/2013	12/20/2016	\$ 20,000.00	\$ 98,717.63	\$ 78,717.63
27	Allen R. Harris	11/23/2010	11/30/2016	\$ 22,000.00	\$ 153,610.73	\$ 131,610.73
28	Mary Booker	3/24/2012	1/20/2017	\$ 55,000.00	\$ 93,449.79	\$ 38,449.79
29	Kenneth Jones	3/20/2014	1/23/2017	\$ 50,000.00	\$ 321,820.48	\$ 271,820.48
30	Clarice Cypress	10/14/2013	2/2/2017	\$ 87,500.00	\$ 265,156.68	\$ 177,656.68
31	Richetta Cooke	8/16/2006	1/25/2017	\$ 15,000.00	\$ 70,876.63	\$ 55,876.63
32	James Atwell	7/23/2012	1/18/2017	\$ 55,000.00	\$ 112,420.21	\$ 57,420.21
33	Dorothy Schilling	7/11/2008	2/6/2017	\$ 80,000.00	\$ 210,716.00	\$ 130,716.00
34	Regina Malden	2/12/2006	1/20/2017	\$ 55,000.00	\$ 158,156.74	\$ 103,156.74
35	Lynette Hendricks	7/2/2009	4/20/2017	\$ 280,000.00	\$ 1,164,567.29	\$ 884,567.29
36	Vivian Smith	11/16/2010	2/27/2017	\$ 140,000.00	\$ 373,540.60	\$ 233,540.60
37	Michael Hill	9/26/2011	2/17/2017	\$ 55,000.00	\$ 167,098.49	\$ 112,098.49
38	Marshall Harris	11/15/2012	2/13/2017	\$ 125,000.00	\$ 522,556.52	\$ 397,556.52
39	Benjamin Swann	4/1/2009	4/14/2017	\$ 25,000.00	\$ 75,952.81	\$ 50,952.81
40	Jerry Basch	5/31/2013	3/21/2017	\$ 50,000.00	\$ 117,243.00	\$ 67,243.00
41	Robin Hayden	7/17/2013	3/9/2017	\$ 95,000.00	\$ 281,045.33	\$ 186,045.33
42	Sonja Clanton	3/28/2011	2/24/2017	\$ 90,000.00	\$ 256,825.82	\$ 166,825.82
43	Bridgette Yates	3/1/2010	4/18/2017	\$ 70,000.00	\$ 176,501.34	\$ 106,501.34
44	Vincent Philpott	8/27/2010	5/23/2017	\$ 260,000.00	\$ 760,446.18	\$ 500,446.18
45	Emily Williams	5/1/2011	3/23/2017	\$ 95,000.00	\$ 453,203.24	\$ 358,203.24
46	Teresa Wilkerson	6/11/2013	3/31/2017	\$ 130,000.00	\$ 801,278.62	\$ 671,278.62
47	Debbie Crowell	11/28/2011	3/17/2017	\$ 50,000.00	\$ 133,121.54	\$ 83,121.54
48	Timothy Robinson	10/1/2012	4/6/2017	\$ 20,000.00	\$ 146,216.50	\$ 126,216.50
49	Demetra Doyle	1/23/2009	4/14/2017	\$ 10,000.00	\$ 210,519.35	\$ 200,519.35

EXHIBIT A

	Claimant Name	Date of Injury	Date of settlement payment	Settlement Amount	Total Future Exposure	Cost Avoidance due to Settlement
50	Theresa Fisher	1/27/2014	3/9/2017	\$ 31,250.00	\$ 136,479.76	\$ 105,229.76
51	Theresa Apker	10/17/2011	4/27/2017	\$ 130,000.00	\$ 326,398.47	\$ 196,398.47
52	Ricky Tingler	8/25/2008	5/16/2017	\$ 24,500.00	\$ 185,077.28	\$ 160,577.28
53	Carrol Lineberry	5/22/2013	4/18/2017	\$ 70,000.00	\$ 212,460.60	\$ 142,460.60
54	William Bacon	12/2/2011	4/18/2017	\$ 50,000.00	\$ 376,061.57	\$ 326,061.57
55	Patricia Baker	1/25/2014	4/19/2017	\$ 150,000.00	\$ 599,021.11	\$ 449,021.11
56	Dianne Hill	4/25/2011	5/22/2017	\$ 45,000.00	\$ 119,135.47	\$ 74,135.47
57	Steven Endicott	3/21/2010	5/12/2017	\$ 24,900.00	\$ 82,620.24	\$ 57,720.24
58	Dominic Jones	5/3/2015	5/30/2017	\$ 125,000.00	\$ 317,107.22	\$ 192,107.22
59	Shanaqua Daniels	10/30/2010	6/6/2017	\$ 30,000.00	\$ 104,359.37	\$ 74,359.37
60	Kathleen Overman	12/12/2007	6/5/2017	\$ 40,000.00	\$ 99,957.09	\$ 59,957.09
61	Marta Umana De Andrade	12/14/2009	6/22/2017	\$ 150,000.00	\$ 1,398,049.46	\$ 1,248,049.46
62	Rebecca A Raisor*	1/16/2013	7/6/2017	\$ 25,000.00	\$ 71,243.48	\$ 46,243.48

\$ 4,889,899.00 \$ 19,616,343.57 \$ 14,726,444.57

*Drawdown for Raisor settlement transferred in FY 17, but settlement paid in FY 18. Drawdown included for purposes of repayment only.