

Audit Report

Workers' Compensation Commission

April 2019



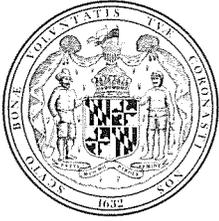
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DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
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Gregory A. Hook, CPA
Legislative Auditor

April 2, 2019

Senator Craig J. Zucker, Co-Chair, Joint Audit Committee
Delegate Shelly L. Hettleman, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Workers' Compensation Commission (WCC) for the period beginning November 5, 2014 and ending August 5, 2018. WCC adjudicates claims for compensation arising under the Workers' Compensation Law and is responsible for the approval and monitoring of Maryland self-insured employers. WCC expenditures are recovered from assessments to insurance companies and self-insured employers.

Our audit disclosed that WCC had not taken timely action to schedule compliance hearings before the Commission to address employers identified as potentially lacking required insurance coverage. As of September 2018, WCC's records disclosed 1,184 such employers that WCC had initially contacted 4 to 20 months earlier, but for which there was no documentation of a sufficient response from the employer, nor evidence that a hearing had been scheduled or conducted. State law authorizes WCC to order such an employer to attend a hearing to explain the lack of insurance and, if subsequently found noncompliant, order the employer to obtain insurance and assess a monetary penalty of up to \$10,000.

In addition, we noted a lack of adequate controls for ensuring that WCC's collections, which totaled \$25.5 million in fiscal year 2018, were deposited in a complete and timely manner. Further, we found that adjustments to certain human resources records were not reviewed for propriety, total payroll as reflected in the State's Central Payroll Bureau payroll registers was not reconciled with the Statewide Personnel System's (SPS) payroll summary reports, and employee access capabilities in the SPS were not appropriately restricted.

Finally, our audit included a review to determine the status of the two findings contained in our preceding audit report. We determined that WCC satisfactorily addressed both of these findings.

WCC's response to this audit is included as an appendix to this report. We reviewed the response to our findings and related recommendations, and have concluded that the corrective actions identified are sufficient to address all audit issues.

We wish to acknowledge the cooperation extended to us during the audit by WCC and its willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in black ink that reads "Gregory A. Hook". The signature is written in a cursive style with a large, prominent initial "G".

Gregory A. Hook, CPA
Legislative Auditor

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Background Information

Agency Responsibilities

The Workers' Compensation Commission (WCC) administers Title 9 of the Labor and Employment Article of the Annotated Code of Maryland, also known as the Maryland Workers' Compensation Law. WCC receives reports of workplace accidents, adjudicates claims for compensation arising under the law, conducts hearings of contested workers' compensation cases, refers claimants requiring rehabilitation to appropriate rehabilitation service providers, and assesses penalties against employers for failing to provide workers' compensation insurance coverage as required by law. For adjudicated claim awards that involve permanent disability or death, the awards include provisions to fund Maryland's Subsequent Injury Fund and Uninsured Employer's Fund through WCC-imposed assessments and penalties against employers or insurers. Finally, WCC is responsible for approving employers who wish to be self-insured in the State and for monitoring their activities and financial solvency. According to WCC's records, it received 24,041 workers' compensation claims and approved 16,641 awards totaling approximately \$394 million during fiscal year 2018.

In accordance with State law, all of WCC's expenditures, as well as the expenditures of certain programs within the Department of Labor, Licensing, and Regulation (DLLR), are funded by assessments billed to insurance companies that issue workers' compensation insurance policies and companies that self-insure for workers' compensation coverage. According to the State's records, fiscal year 2018 assessments totaled approximately \$25.3 million, including \$14.4 million to fund WCC expenditures and \$10.9 million to fund DLLR programs.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the two findings contained in our preceding audit report dated June 1, 2015. We determined that WCC satisfactorily addressed these findings.

Findings and Recommendations

Employer Compliance

Background

Effective October 1, 2013, State law gives the Workers' Compensation Commission (WCC) the authority to order an employer without proper workers' compensation insurance to attend a hearing to give the employer the opportunity to explain why the employer should not be considered in violation of the law requiring such insurance. An employer found to be in violation of the law is described as noncompliant, and WCC may order the employer to obtain insurance and may assess a penalty against the employer not to exceed \$10,000.

WCC identifies potentially uninsured employers by reviewing reports, provided by the National Council on Compensation Insurance (NCCI),¹ of employers who have cancelled their current workers' compensation insurance policies. WCC may also identify uninsured employers through workers' compensation claim hearings. For each employer identified, WCC mails the employer a letter requesting information about current insurance coverage or documentation supporting why coverage is no longer needed. When an employer fails to respond to the letter with appropriate documentation, WCC issues an order directing the employer to attend a hearing before the Commission. Based on WCC's case dockets and hearing orders, WCC held its first employer compliance hearing in April 2014 and, as of September 2018, had held hearings on 33 days on which 1,827 compliance cases were scheduled.

Finding 1

WCC had not taken timely action to schedule hearings before the Commission for known or potentially uninsured employers, and its monitoring records were incomplete.

Analysis

WCC had not taken timely action to schedule hearings for known or potentially uninsured employers. In addition, the tracking records WCC used to monitor its actions to follow up on these employers were incomplete.

¹ NCCI is an insurance rating and data collection bureau specializing in workers' compensation, which gathers and analyzes related data, including workers' compensation claims and policies, and maintains associated databases for the benefit of its member organizations across the country, including WCC.

WCC's tracking records, as of September 2018, disclosed 1,184 known or potentially uninsured employers that had been sent an initial letter of inquiry 4 to 20 months earlier, for which there was either no documentation of a sufficient response from the employer or no formal hearing before the Commission had been scheduled, as required. In addition, WCC's case dockets showed that hearings scheduled for September 2018 related to 100 employers that had been sent initial letters of inquiry during the period between October 2016 and January 2017. State law requires WCC to set hearings as soon as practicable for employers who fail to secure the required insurance coverage. Although the law does not set a specific timeframe for when a hearing must be scheduled, given the implications of employers not maintaining required workers' compensation insurance, WCC should take timely action to follow up on these employers. Workers' compensation claim payments ordered by WCC that are not covered by uninsured employers are paid by the State's Uninsured Employers' Fund, which must then attempt recovery from the noncompliant employer.

In addition, we noted that WCC's tracking records did not include all cases that had been scheduled for hearings and, therefore, were not a reliable tool for monitoring purposes. The tracking records are created when potential noncompliant employers are first identified for the purpose of assisting WCC in monitoring the disposition of cases of potential noncompliance. For example, our examination of the case docket records for the 9 days' of hearings held between April 4, 2018 through September 5, 2018, disclosed that 192 cases out of 449 cases scheduled for a hearing were not listed in the tracking records. WCC could not explain how these cases were scheduled for hearings even though they were not recorded in the tracking records. Further, we noted that WCC did not have a procedure to periodically compare its tracking records with the separately maintained docket records. Accordingly, there is no assurance that all identified employers are appropriately followed-up on to ensure compliance with workers' compensation laws.

Recommendation 1

We recommend that WCC

- a. take timely action to schedule employer compliance hearings for known or potentially uninsured employers; and**
- b. periodically compare its tracking and docket records, to ensure completeness and accuracy.**

Cash Receipts

Finding 2

WCC lacked adequate procedures to ensure that all collections received were deposited, and that deposits were made in a timely manner.

Analysis

WCC lacked adequate procedures to ensure that all collections received were deposited, since the employee responsible for performing the deposit verifications had access to the collections and maintained the related accounts receivable records. In addition, collections were not always deposited timely. Collections received directly by WCC during fiscal year 2018 totaled approximately \$25.5 million, of which \$25.3 million related to assessment payments.

Specifically, the employee responsible for verifying the initial record of collections received to the validated deposit documentation from the bank also had access to the safe where collections were stored prior to deposit. The deposit verification was also not documented. In addition, this employee created the invoices for assessments billed to insurance companies and self-insured employers, and maintained the related accounts receivable records, which generated the resultant collections. Under the current conditions, errors or other discrepancies could occur without timely detection.

Furthermore, we found that checks were not always deposited in a timely manner. Our review of 16 deposits made between February 2017 and September 2018 totaling approximately \$25.4 million, disclosed that 5 deposits totaling \$5.1 million were made 4 to 6 business days after receipt of the related collections.

The Comptroller of Maryland's (COM) *Accounting Procedures Manual* requires the establishment of sufficient internal controls over cash receipts, including independent verification of collections to deposit, the depositing of cash receipts within one working day, and the segregation of cash receipts handling duties and the accounts receivable record keeping functions.

Recommendation 2

We recommend that WCC comply with the COM's *Accounting Procedures Manual*. Specifically, we recommend that WCC

- a. ensure that employees responsible for performing the deposit verifications and for accounts receivable recordkeeping do not have access to the related collections,**
- b. ensure that deposit verifications are adequately documented, and**
- c. deposit collections in a timely manner.**

Payroll

Finding 3

Adequate controls had not been established to ensure the propriety of WCC's payroll, employee leave balances, and user access capabilities in the Statewide Personnel System (SPS).

Analysis

WCC had not established adequate controls over the processing of payroll under SPS, which the State implemented in May 2016. Specifically, total biweekly payroll payments from the State's Central Payroll Bureau (CPB) were not reconciled with total payroll as reflected in the payroll reports generated from SPS. In addition, adjustments to employee leave balances were not reviewed for propriety by independent supervisory personnel and WCC did not perform periodic security reviews to ensure that user access capabilities in SPS were restricted only to WCC employees who required such access to perform their job duties. According to State records, WCC's payroll expenditures totaled approximately \$7.4 million in calendar year 2017.

Total Payroll Disbursements Were Not Verified

Biweekly payroll payments from CPB were not reconciled, in the aggregate, to the payroll payments reflected in reports generated from SPS. Generally, employees recorded their work time directly into SPS for online approval by their assigned supervisors. Employee payroll payments were processed by CPB based on the approved work time for the pay period and the salary information reflected in SPS. However, WCC did not compare the total payroll, as reflected in the CPB payroll registers, with the SPS payroll summary reports reflecting the amounts that should have been paid based on each employee's approved work time and salary information. WCC advised us that, for select employees each pay period, the hours worked and earnings as reflected in the SPS reports were agreed to their hours and earnings in the corresponding CPB check register. However, there was no documentation of this comparison, which did not include payroll payments in the aggregate.

This reconciliation is particularly important with respect to SPS because certain unique system design features often result in differences between the CPB and SPS reports. For example, SPS payroll summary reports for a particular pay period will reflect all activity relevant to the pay period irrespective of when the transactions were processed. Conversely, CPB payroll registers only reflect activity processed during the particular pay period. When reconciliations are not performed, WCC lacks assurance that payroll payments were proper and supported by the related time records and salary information maintained within

SPS. We obtained WCC's payroll register from CPB for one pay period and were able to verify that the amounts to be paid according to the SPS payroll summary report agreed with the amounts paid by CPB.

Adjustments to Employee Leave Balances Were Not Independently Reviewed

Adjustments to employee leave balances were not reviewed for propriety by independent supervisory personnel. Specifically, WCC did not have a procedure in place to verify the propriety of leave balance adjustments that were processed by an employee directly in SPS. WCC also did not use an available system output report of all leave adjustments recorded to ensure that only authorized adjustments were processed. During the period from May 25, 2016 through August 5, 2018, WCC processed 35 leave adjustments that increased employee leave balances by 1,939 hours.

Periodic Security Reviews Were Not Performed

WCC did not periodically request and review reports of users' SPS assigned access capabilities to ensure that SPS access capabilities were assigned only to employees who required the access to perform their job duties. According to the State of Maryland's *Information Security Policy*, agencies must monitor the security controls over their information systems at least annually to ensure access is strictly controlled and restricted to appropriate personnel, and that only authorized individuals have access to confidential information.

Recommendation 3

We recommend that WCC

- a. compare total payroll as reflected in CPB payroll registers each pay period with SPS payroll summary reports, reconcile any differences, and ensure that this reconciliation is documented;**
- b. independently verify leave balance adjustments, as reflected on SPS output reports, to ensure that only authorized adjustments have been processed; and**
- c. periodically request and review reports of users' SPS assigned access capabilities to ensure that user access capabilities are restricted to those employees who require them for their job duties.**

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Workers' Compensation Commission (WCC) for the period beginning November 5, 2014 and ending August 5, 2018. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the 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 a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine WCC's financial transactions, records and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included assessments, cash receipts, procurements and disbursements, and payroll. We also determined the status of the findings contained in our preceding audit report.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of WCC's operations, and tests of transactions. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, the results of the tests cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State's Financial Management Information System (such as revenue and expenditure data) and the State's Central Payroll Bureau (payroll data). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from these various sources were sufficiently reliable for the purposes the data were used during this audit. We also extracted data from WCC's assessment database and accounts receivable database for the purpose of testing assessment transactions and reviewing user access, and from the Statewide Personnel System (SPS) for the purpose of testing related payroll and leave transactions, including the conversion of employee data to SPS.

We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit. Finally, we performed other auditing procedures that we considered necessary to achieve our audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

WCC's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records; effectiveness and efficiency of operations including safeguarding of assets; and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect WCC's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes findings related to significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to WCC that did not warrant inclusion in this report.

WCC's response to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise WCC regarding the results of our review of its response.

APPENDIX

LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lt. Governor

MARY K. AHEARN
Chief Executive Officer



**WORKERS'
COMPENSATION COMMISSION**

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DELIA TURANO SCHADT
TRACEY PARKER WARREN
Commissioners

March 28, 2019

Mr. Gregory A. Hook, CPA
Office of Legislative Audits
301 W. Preston Street
Room 1202
Baltimore, MD 21201

Dear Mr. Hook:

The Workers' Compensation Commission (WCC) appreciates the opportunity to provide responses to the Draft Audit Report for the period beginning November 5, 2014 and ending August 5, 2018. The WCC's responses are presented using the Agency Response Form provided by your office.

Please do not hesitate to contact David E. Jones, Chief Financial Officer, if you or your staff should have any questions or concerns regarding the WCC's proposed strategy for addressing these issues. David's telephone number is (410) 864-5255.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Karl Aumann', written over a horizontal line.

R. Karl Aumann
Chairman

Attachment

cc: Mary K. Ahearn, Chief Executive Officer
David E. Jones, Chief Financial Officer

Workers' Compensation Commission

Agency Response Form

Employer Compliance

Finding 1
WCC had not taken timely action to schedule hearings before the Commission for known or potentially uninsured employers, and its monitoring records were incomplete.

We recommend that WCC

- a. take timely action to schedule employer compliance hearings for known or potentially uninsured employers; and
- b. periodically compare its tracking and docket records, to ensure completeness and accuracy.

Agency Response			
Analysis	Factually Accurate		
Please explain any concerns with factual accuracy.			
Recommendation 1a	Agree	Estimated Completion Date:	10/1/2018
Please provide details of corrective action or explain disagreement.	The Commission has implemented procedures to ensure employer compliance hearings are held on a monthly basis. In addition, the number of hearings on each docket has been increased to 100.		
Recommendation 1b	Agree	Estimated Completion Date:	2/1/2019
Please provide details of corrective action or explain disagreement.	The Commission's IT Enterprise Modernization Project will provide an electronic system to assist in administering the Employer Compliance program. The docketing function will be electronically produced from the database. In the interim, the Commission has implemented a procedure to spot check that cases on the docket are on the tracking sheet. In addition, the Commission has created a docket checklist that will serve as a record that each step in the process has been completed and appropriately documented. A checklist will be maintained for each case file.		

Workers' Compensation Commission

Agency Response Form

Cash Receipts

Finding 2
WCC lacked adequate procedures to ensure that all collections received were deposited, and that deposits were made in a timely manner.

We recommend that WCC comply with the COM's *Accounting Procedures Manual*.

Specifically, we recommend that WCC

- a. ensure that employees responsible for performing the deposit verifications and for accounts receivable recordkeeping do not have access to the related collections,
- b. ensure that deposit verifications are adequately documented, and
- c. deposit collections in a timely manner.

Agency Response			
Analysis	Factually Accurate		
Please explain any concerns with factual accuracy.			
Recommendation 2a	Agree	Estimated Completion Date:	1/24/2019
Please provide details of corrective action or explain disagreement.	The combination to the safe where collections are stored has been changed. The employee who is responsible for performing the deposit verifications and for account receivable recordkeeping no longer has access to the safe and collections.		
Recommendation 2b	Agree	Estimated Completion Date:	3/26/2019
Please provide details of corrective action or explain disagreement.	All deposit verifications will be documented by the employee performing the verification by initialing the documents.		
Recommendation 2c	Agree	Estimated Completion Date:	1/24/2019
Please provide details of corrective action or explain disagreement.	All deposits will be made in a timely manner in accordance with the Comptroller's <i>Accounting Procedures Manual</i> going forward.		

Workers' Compensation Commission

Agency Response Form

Payroll

Finding 3
Adequate controls had not been established to ensure the propriety of WCC's payroll, employee leave balances, and user access capabilities in the Statewide Personnel System (SPS).

We recommend that WCC

- a. compare total payroll as reflected in CPB payroll registers each pay period with SPS payroll summary reports, reconcile any differences, and ensure that this reconciliation is documented;
- b. independently verify leave balance adjustments, as reflected on SPS output reports, to ensure that only authorized adjustments have been processed; and
- c. periodically request and review reports of users' SPS assigned access capabilities to ensure that user access capabilities are restricted to those employees who require them for their job duties.

Agency Response			
Analysis	Factually Accurate		
Please explain any concerns with factual accuracy.			
Recommendation 3a	Agree	Estimated Completion Date:	1/24/2019
Please provide details of corrective action or explain disagreement.	Each pay period the total payroll per the "CPB Payroll and Check Register" will be compared with the "SPS Payroll Summary Report." Any differences will be reconciled and the review/reconciliation will be evidenced by the reviewer signing the reconciliation as well as circling the amounts on the reports reviewed.		
Recommendation 3b	Agree	Estimated Completion Date:	1/24/2019
Please provide details of corrective action or explain disagreement.	On a quarterly basis, an independent supervisor will review the "SPS Accrual and Time Off Adjustments/Overrides" report of all leave adjustments recorded during that period. The supervisor will verify that only authorized adjustments were processed.		
Recommendation 3c	Agree	Estimated Completion Date:	3/1/2019
Please provide details of corrective action or explain disagreement.	On an annual basis, we will request and review the "SPMS Assigned Roles by Agency" report to ensure that user access capabilities are restricted to those employees who require them for their job duties.		

AUDIT TEAM

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