

Md  
U824  
.1  
R425  
2006  
C.2

LEGISLATIVE SERVICES

OCT 11 2006

LIBRARY

**REPORT**

**TO**

**GOVERNOR ROBERT L. EHRLICH, JR.**

**2006**

**UNINSURED EMPLOYERS' FUND BOARD**

LEGISLATIVE SERVICES  
OFFICE OF POLICY ANALYSIS  
LIBRARY  
90 STATE CIRCLE  
ANNAPOLIS, MARYLAND 21401-1991

**Paul Richards, Chairman**  
**Jacqueline Sales, Member**  
**Samuel Hoyle, Member**

**Marshall H. Feldman, Executive Director**

**Pursuant to Labor & Employment § 10-320(b)**

24117-16002

## UNINSURED EMPLOYERS' FUND

The Uninsured Employers' Fund has operated as an independent state agency since 1983. It operates under the Labor and Employment Article-Title 9. Workers' Compensation-Subtitle 10. Uninsured Employers.

### Program Description

The Uninsured Employers' Fund reviews and investigates claims filed by employees, or in the case of death, by their dependents. If the employer does not pay what is due the claimant, the Fund will directly pay the compensation benefits and medical expenses, and attempt to recover all benefits paid plus certain assessments from the uninsured employer.

The cost of administering the Uninsured Employers' Fund and providing benefits to the claimants is derived from assessments placed upon awards of compensation per Labor & Employment Article, Sections 9-1005 through 9-1007.

### Personnel

The Uninsured Employers' Fund Board is composed of three members appointed by the Governor: one member each representing labor, management and the public. Paul Richards (Chairman) represents labor, the public member is Samuel Hoyle, and Jacqueline Sales represents management. Marshall H. Feldman was appointed by the Board and has been serving as its Director since October of 1988.

In addition to the Director, the other full time employees include an administrative officer, three claims investigators, two office secretaries III, a fiscal accounts clerk II, and three Assistant Attorneys General. The staff reports to the Director and is responsible for reviewing and investigating claims filed by employees, or in case of death, by their dependents against the employer who has failed to secure workers' compensation insurance. The Fund's offices are located in Suite 402, Hampton Plaza, 300 E. Joppa Road, Towson, Maryland 21286.

### Mission:

To promptly pay awards ordered by the Workers' Compensation Commission in favor of injured workers against non-insured employers who default on payments, and to maintain an adequate fund balance from which to pay claims through the collection of applicable fines, assessments, and benefit recoveries.

## Vision:

A state that insures that all injured workers awarded benefits by the Workers' Compensation Commission are promptly and correctly paid.

## Funding

In accordance with the Labor and Employment Article, Section 9-1007, the Workers' Compensation Commission assesses 1% on all awards rendered against the employer for permanent disability or death, and all settlement agreements approved by the Commission. This assessment is paid to the Uninsured Employers' Fund by an employer or, if insured, by the employer's insurance carrier. These payments are made in addition to any payment of compensation to employees or their dependents.

In addition, the Workers' Compensation Commission imposes the following assessments against an uninsured employer, to maintain the Fund's solvency.

- . The Workers' Compensation Commission imposes an assessment of at least \$150 but not exceeding \$500 against an uninsured employer when the Commission renders a decision on a claim for compensation.
- . The Workers' Compensation Commission also imposes an additional assessment against an uninsured employer of 15% of the award made in each such claim. This additional assessment shall not exceed \$2,500.00 on any one claim.
- . The Workers' Compensation Commission assesses an insurer \$300.00 if the insurer fails to comply with the Commission's requirements concerning certification of insurance.
- . If the Commission determines that payment of compensation is not awarded because of death, or lack of a claimant eligible, they may levy an assessment equal to 10 percent of the amount of compensation; however, in no case can the assessment exceed \$4,500.00.
- . If an employee dies as a result of an accidental injury or occupational disease that arises out of and in the course of his employment without any surviving dependents, the Commission assesses the insurer or self-insured employer \$4,500.00.

The Uninsured Employers' Fund is a "Specially Funded" Agency. The costs of administering the Fund and providing benefits to the claimants comes from the assessments imposed under Labor and Employment Article Section 9-1007. All other funds received by the Uninsured Employers' Fund through their assessment process are promptly remitted to the State Treasurer. These funds are used to pay all employee compensation payments awarded by the Commission against an uninsured employer. The Treasurer is the custodian of the Fund and invests any surplus monies in securities that constitute legal investments.

Under Labor and Employment Article 9-1011 when the amount of the Fund equals at least \$5,000,000, the payment of assessments by employers and insurers is

suspended and will be resumed if the amount of the Fund becomes less than \$3,000,000.

Pursuant to Labor and Employment Article, Section 9-1007(b), the Uninsured Employers' Fund Board has directed the Workers' Compensation Commission to assess an additional 1% under Section 9-1007(a). The current Uninsured Employers' Fund assessment on permanency awards, death claims and settlement agreements is 2%. Subsequent Injury Fund's assessment will remain at 6 1/2%. The SIF/UEF assessment now totals 8 1/2% and became effective Monday, August 18, 2003.

This action was made necessary as a result of Bethlehem Steel Corporation's default in paying its Workers Compensation claims.

Attached as Exhibit I is a breakdown of the status of Bethlehem Steel claims dated July 20, 2006, handled by the Injured Workers' Insurance Fund. When the Uninsured Employers' Fund Board determines that the reserves of the Fund are adequate to meet anticipated losses, this 1% assessment will be suspended.

The Agency's FY 2007 Budget is \$1,080,666.00 and is comprised entirely of Special Funds.

#### Post Award Process

The Uninsured Employers' Fund has adopted a pro-active approach to the handling of claims and expedite payments once U.E.F. requirements are met. Awards payments are authorized by the Director. Our computer system provides a breakdown of all award payment data.

All assessments are established promptly and vigorously pursued in every case. Liens are promptly filed on unpaid assessments. Identifying employers who have been issued licenses to do business in the State of Maryland is standard procedure. The Director has made contact and established procedures with the Department of Licensing and Regulation, the Comptroller's Office, as well as local jurisdictions, to identify licenseholders and to request license suspensions of those who owe monies to the Uninsured Employers' Fund. These requests have brought positive results. Unfortunately, the vast majority of businesses are not licensed.

Procedures are in place to obtain payment of ordered assessments and/or awards from employers. Three letters are sent to the employer 30 days apart, demanding reimbursement of payments made by the Fund and unpaid assessments including an initial assessment letter, a follow-up letter sent by Certified Mail-Return Receipt Requested advising of all sanctions for non-payment and a final letter as well as telephone contacts. If these procedures do not result in recovery after this 90-day period, the account is promptly forwarded to the Central Collection Unit as required under COMAR 17.01.01. For those cases awaiting a hearing before the Commission which would likely result in additional amounts being due or when additional expenses



are imminent (i.e. medical bill pending), an additional 90-day extension has been authorized.

### Trends

Claimant's benefits paid by the Fund in FY 06 totaled \$5,805,334.00 compared with \$3,068,614.00 for FY 05. New cases received in FY 2006 totaled 843 compared to 907 in FY 05. The number of cases scheduled for hearings in FY 2006 totaled 1040 compared to 1152 in FY 2005.

The Fund in three prior legislative sessions had introduced legislation to make officers of corporations who have responsibility for the overall management, responsible for awards and assessments ordered by the Workers' Compensation Commission. These attempts were unsuccessful.

This past session, Delegates Luiz Simmons and Brian Feldman of Montgomery County introduced House Bill 1035, which provided that a certain officer of a corporation who has responsibility for the general management of the corporation in the State is jointly and severally liable for payment of the award and assessment if the officer failed to secure Workers' Compensation insurance. Similar language included a member of a Limited Liability Company (LLC).

An amendment was added to this bill requiring that the Officer of the Corporation or member of the Limited Liability Company "knowingly failed to secure Workers' Compensation Insurance.

Although the Bill passed with this amendment, the proof required to collect will be difficult if not impossible. It should be noted that the burden of proving that the officer of a corporation or member of the Limited Liability Company "knowingly" failed to secure Workers' Compensation Insurance does not apply to any other employer under Workers' Compensation law.

The Uninsured Employers' Fund and Subsequent Injury Fund share a fiscal unit which handles accounts payable and accounts receivable operations for both Agencies. This unit is physically located at the S.I.F. location.

### **UEF GOALS**

Goal 1. To efficiently investigate and defend all designated non-insured cases.

Strategy 1.1 Check for insurance

Strategy 1.2 Determine proper employers; statutory employers

Strategy 1.3 Determine compensability of claim; i.e., accidental injury, causal connection.

Goal 2. To monitor awards and follow established procedures to ensure prompt payment to claimants and healthcare providers.

Strategy 2.1 Attorney who handled case signs off on award or recommends appeal to director

Strategy 2.2 Payment procedures are initiated upon notification of employer's default.

Goal 3. To track and collect fines, assessments, and awards benefits paid by the Fund; and maintain the adequacy and integrity of the Fund balance.

Strategy 3.1 Negotiate repayment plans with employer.

Strategy 3.2 Monitor monthly computerized delinquent accounts list.

Strategy 3.3 Refer delinquent accounts to the State's Central Collection Unit.

Strategy 3.4 Monitor monthly account balance statements.

### **Agency IT Strategic Direction**

#### Summary of IT Environment

##### Background:

Prior to 1998, most administrative support functions were provided to SIF and UEF by the Workers' Compensation Commission. This included both Fiscal and IT support. Fiscal operations were separated in 1998, and the IT support achieved its maximum possible level of independence during FY2003. SIF/UEF will continue to need access to data housed on the WCC IBM AS-400 computer and their document imaging system, but all critical agency software systems used by SIF/UEF are operating on the SIF IBM AS-400 computer. With regard to internal IT resources, this agency has become almost completely self-reliant. UP to this point, the IT efforts have been performed as ancillary duties by two staff members in non-IT positions. Matters beyond the technical expertise of these individuals have been handled by an outside data services contractor.

##### Drivers and Issues:

- 1) Both agencies perceive a need to develop better means of tracking and controlling the events associated with their involvement in workers' compensation cases. (See SIF Strategy 1.1.1, above.)
- 2) While maximum IT independence from WCC has been achieved, the need to access their data will always remain.
- 3) As a result of the increased reliance upon information technology in all agency operations and the need to improve both data security and disaster recovery, the agency is planning to convert an exiting position to hire an IT professional.

#### IT Goals and Strategies:

- 1) Now that both agencies have up to date equipment, the next logical undertaking would be to examine how to improve agency processes and controls by more effective utilization of information technology.
- 2) Disaster recovery and security remain important considerations which will be addressed by the planned new IT position.

#### IT Accomplishments:

- 1) Both agencies now have new network servers and all PCs use either the Windows 2000 or the Windows XP operating system.
- 2) Both agencies are protected by firewalls and constantly updated anti-virus software.
- 3) Both agencies have Internet access through a high speed DSL connection. UEF has access to the SIF AS-400 via a virtual private network eliminating the previous connection through WCC. Another VPN links SIF to the Annapolis Data Center.
- 4) A full T-1 line has been installed between SIF and WCC to facilitate the rapid retrieval of document images.
- 5) Programming and operational changes have been completed which now allow the payment of claimant benefits to be made via electronic deposit.
- 6) Other programming changes have been made to both the Accounts Receivable and Claimants Payable systems which have improved the productivity of the SIF Fiscal Office.

#### Agency Support of the State IT Master Plan:

- 1) Maryland Technology Architecture Framework – Aside from attending a meeting  
Requesting information, there has not been a great deal of involvement in the process.
- 2) IT Infrastructure – SIF and UEF each have their own LANs which are connected via a VPN. Another VPN links SIF to the Annapolis Data Center. Both agencies connect to WCC via a frame relay circuit. The UEF-WCC circuit is 56K, but the SIF-WCC circuit is a full T-1 connection to allow for more efficient access of imaged documents at WCC. The inventory of applications and equipment is as follows:

#### SIF

Accounts Receivable – all receivable accounts are maintained with a detailed history of transactions. The system will create assessment notices (invoices) to insurance companies and non-insured employers. The resulting payments are posted to each account and tabulated for bank deposit and object coding for FMIS. Daily reports show the new assessments, the revenue posted each day, and any adjustments that may be necessary. Other reports will provide account balances, aging of accounts, delinquent notices, etc. Only SIF Fiscal Office staff can post entries to this system.

Accounts Payable – accounts of all payments of workers compensation benefits to claimants are maintained with a detailed transaction history. The system creates payment lists, which are transmitted to FMIS for the production of checks. Record maintenance is performed to establish accounts and make changes as necessary. Daily reports show payment lists, and record maintenance activity. Other reports show the account balances and provide a notification of accounts for which payment start dates are approaching.  
Only SIF Fiscal Office staff can post entries to this system.

Case Tracking – Claimant case information is maintained by this old system. This system is felt to be in need of a complete re-design.

Computer Room Equipment:

IBM AS400, model 970  
Gateway LAN server, model 960  
APC Smart UPS, model 1400  
Netscreen firewall, model 5GT  
3 Com Baseline Switch, model 2250  
Cisco 2501 router  
Adtran TSU, model LT  
Racal-Datacom DSU, model 6424

UEF

Similar to above with exception of the AS-400.

- 3) Network Maryland – Following a need and cost analysis, SIF/UEF was excused from participation. Internet service is provided via a DSL connection to Quantum Internet Service. WAN connections are by frame relay as noted above.
- 4) Consolidation and Standardization of Agency Web Sites – Action has not yet been taken on this initiative. Both existing web sites are the products of in-house HTML capabilities. If agency staff skills and / or funding is adequate this project may be addressed during FY 2007.
- 5) IT Disaster Recovery and Security Program – A recent IT audit has highlighted the need for increased effort to be expended in this area. The full understanding, implementation, and compliance with DBM's Info. Tech. Security Policy and Standards and its Disaster Recovery Guidelines will be a high priority task for the new IT position.



## IT Personnel:

Vacant: Agency CIO.

Sharon Goldsmith, Administrative Specialist: provides first line support for IT related problems.

Jennifer Rowe, Fiscal Accounts Technician II: provides first line support for IT related problems.

## Future Agency IT Environment

Both agencies have made significant progress over the past five years with their IT infrastructure. In addition to simply keeping abreast of current technology, the agencies wish to more fully utilize the IT resources to promote the efficient execution of their functions. Over the next five years, efforts will be taken to more fully integrate IT into daily operations, mainly through the development of a comprehensive case tracking and control system. Underlying all IT efforts will be a high concern for the security of our data.

## **Agency Information Technology Investment Portfolio**

Project Title: **Ongoing Operations**

Major project: No

Project Description: This encompasses all of the IT efforts of both agencies. It includes the maintenance of existing IT capabilities and the gradual replacement of equipment as it becomes outmoded. Now that the agency application programs have been transferred from WCC, their continuing improvement and infrastructure support are a part of Ongoing Operations.

Project Management: Vacant, CIO

Sharon Dean, Administrative Specialist

Jennifer Rowe, Fiscal Accounts Technician II

Project Status: This project is in the operations phase.

Project Title: **Case Tracking Systems (UEF and SIF)**

Major Project: No

Project Description: This project will develop the case tracking systems for both SIF and UEF. Many similarities exist between the two agencies which will be reflected in the ultimate system design, but there are also requirements unique to each agency. This project is expected to take several years to complete due to the time required to thoroughly analyze all agency office procedures and to design the greatest efficiencies and controls into the system.

Project Management: Vacant, CIO

Project Status: This project is not currently active. It is hoped that concept development and planning may begin in the FY 2007 or FY 2008 appropriation year.

### Agency IT Investment Portfolio

Baseline IT Budget		Total FY07 Budget	Requested FY08 Budget		
		<b>152,436 *</b>	<b>171,666</b>		
* FY 2007 is the first year that a position has been dedicated to IT					
Current IT Projects – Non-Major	Total Anticipated Project Cost	Total Project Expenditures Thru FY06	FY07 Appropriation	Total FY08 Requested Dollars	Status – SDLC Phase
<b>Ongoing Operations</b>			<b>148,436</b>	<b>165,666</b>	<b>Operations &amp; Maint.</b>
New FY08 Requested IT Projects Non-Major	Total Anticipated Project Cost	Total Project Expenditures Thru FY06	FY07 Appropriation	Total FY08 Requested Dollars	Status – SDLC Phase
<b>Case Tracking</b>	<b>80,000</b>	<b>0</b>	<b>4,000</b>	<b>6,000</b>	<b>Planning</b>

Uninsured Employers Fund  
Statement of Change of Fund Balance  
for  
Fiscal Year Ended June 30, 2006

Revenue:

2% Assessment on Awards	\$6,753,965.56
Uninsured Employer Assessment	149,211.21
Non-Certification Penalty	14,310.75
Interest on Fund Balance	491,506.26
Recovery of Benefits	161,580.78
CCU Collections	125,227.61

Total Revenue		\$7,695,802.17
---------------	--	----------------

Expenditures:

Operating	953,785.58
Claimant Benefits	2,977,265.59
Beth Steel Claim Payouts	1,874,283.46

Total Expenditures		5,805,334.63
--------------------	--	--------------

Excess of Revenue over Expenditures		\$1,890,467.54
-------------------------------------	--	----------------

Fund Balance as of 6/30/2005		10,332,007.31
------------------------------	--	---------------

Fund Balance as of 6/30/2006		\$12,222,474.85
------------------------------	--	-----------------

**IWIF** Workers'  
Compensation  
Insurance

July 20, 2006

Marshall Feldman, Director  
Uninsured Employers' Fund  
Hampton Plaza - Suite 402  
300 East Joppa Road  
Towson, Maryland 21286

Re: Bethlehem Steel Workers' Compensation Claims

Dear Mr. Feldman:

This letter will provide you with a current status of the Bethlehem Steel claims being handled by IWIF.

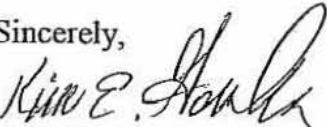
As of July 1, 2006, there are 114 open claims with reserves. The amounts paid to date are:

<b>Benefit Paid</b>	<b>Dollar Amount</b>
Indemnity	\$10,933,557
Medical	\$3,423,303
Total	\$14,356,686

Outstanding reserves are \$11,441,597.

We continue to focus on resolution of all remaining claims.

If you have any questions, please feel free to call me at 410-494-2475.

Sincerely,  
  
Kim E. Gentry  
Director of Claims Operations