



# Kentucky Labor Cabinet Strategic Plan 2010-2014



## **EXECUTIVE SUMMARY AND STATEMENT OF ALIGNMENT**

The Kentucky Labor Cabinet performs all the state's administrative functions concerned with employer-employee relations, including workplace standards and workers' compensation. We accomplish our legislative mandate through education, mediation, adjudication, and enforcement. Fulfilling the agency's mission by accomplishing the goals we have set will promote economic development, help protect and sustain the working families of the Commonwealth, and strengthen government operation, efficiency and transparency.

The programs administered by the Labor Cabinet have the potential to affect economic development in dramatic ways. The Department of Workers' Claims focuses upon the effective administration of the Kentucky Workers' Compensation Program. This program is designed to efficiently, effectively and fairly deliver benefits to workers injured on the job. In doing so, the Department of Workers' Claims emphasizes this be done in a manner that is fiscally responsive and responsible to the worker and employer. The operation of the system must always insure the rights of both the employer and employee are considered and protected.

The Department of Workplace Standards, in alignment with the United States Department of Labor, has placed an emphasis on enforcement of employment and safety standards and has continued to grow its program of voluntary consultation and training programs, which allow employers to take positive, pro-active approaches to complying with workplace standards. All of these efforts help make the Commonwealth a more attractive place to expand or locate a business.

The regulatory duties performed by the Labor Cabinet helps sustain families by ensuring that workers are safe, healthy, and fairly compensated. The Cabinet is committed to enhancing the impact of those regulatory programs, which enforce safety and health standards, and promote fair and equitable pay. The Cabinet is targeting the most hazardous workplaces and those never before inspected to reinforce all workplace standards. Furthermore, the Cabinet is focusing efforts on the Hispanic migrant workers who appear to be repeatedly abused by unscrupulous contractors who attempt to circumvent the current prevailing wage laws. Workers compensation laws, designed to compensate employees for workplace injuries, provide a safety net when wage earners cannot provide for their families due to temporary or permanent working disabilities.

In an effort to improve the services it provides, the Labor Cabinet is constantly striving to strengthen the efficiency and operation of the Agency by emphasizing technology, communication and human resources. We are investing in our workforce and in new technologies and processes in order to better serve our stakeholders during a period of continued budget cuts.

Furthermore, the Agency recognizes that diversity invigorates the workplace, infusing it with new ideas that enhance the efficiency and operation of government. Finally, the Labor Cabinet is playing a vital role in building positive labor-management relationships throughout the Commonwealth and fills the role as a liaison between organized labor and the Office of the Governor.

## **MISSION STATEMENT:**

The Labor Cabinet's mission is to administer Kentucky's workplace standards and workers compensation laws through education, mediation, adjudication and enforcement, in order to promote safe, healthful and quality working environments for employees and employers; to foster cooperative relationships between labor and management; and to promote fair compensation.

## **VISION:**

- To be a fair, aggressive, national leader in ensuring safe, equitable workplaces and in promoting cooperative labor-management relationships.
- To advocate quality working environments and fair compensation in the workplace.
- To have a highly-skilled, trained, and committed workforce, equipped with the latest technology to ensure the responsible administration and prompt delivery of Labor Cabinet services.

## **CORE VALUES:**

**Integrity:** To perform our duties ethically, impartially, professionally and consistently

**Accountability:** Being ethically, fiscally, and professionally responsible in accordance with statutory and regulatory parameters.

**Service:** To utilize our resources efficiently and competently in order to meet the needs of those we serve in a respectful and courteous manner.

**Innovative:** To be adaptable and creative in our pursuit of continuous improvement in the delivery of services.

**Commitment:** Being dedicated to performing our duties to the best of our abilities while striving for continuous improvement to fulfill the Cabinet's mission.

**Transparency:** To promote public confidence and trust.

## **Goals and Objectives**

**Goal 1: Aggressively pursue available technology to continuously improve Labor Cabinet Services.**

**Objective 1.1:** Develop a data and statistical repository for historical performance data.

**Objective 1.2:** Develop information technology for better integration of division software.

**Objective 1.3:** Utilize social media to expand communication with stakeholders.

**Objective 1.4:** Identify technologies to develop and expand online services.

**Goal 2: Effectively communicate information regarding activities of each division to the staff and general public to improve teamwork and coordination among the divisions and promote positive relationships with our stakeholders.**

**Objective 2.1:** Disseminate internal Cabinet information on a regular basis.

**Objective 2.2:** Provide Cabinet information to our stakeholders on a regular basis.

**Objective 2.3:** Pursue inter-agency agreements and partnerships.

**Objective 2.4:** Investigate opportunities to improve dialogue with stakeholders.

**Goal 3: Strengthen the impact of regulatory and other program activities**

**Objective 3.1:** Comprehensive review of our enabling statutes and regulations.

**Objective 3.2:** Increase awareness of regulatory, program, and other Cabinet activities.

**Objective 3.3:** Promote inter-division and inter-agency cooperation.

**Goal 4: Aggressively address issues pertaining to the changing demographics of the Commonwealth workforce**

**Objective 4.1:** Identify current and future trends.

**Objective 4.2:** Review current programs to assess effectiveness.

**Objective 4.3:** Customize Cabinet programs to reach targeted groups.

**Goal 5: Devise strategies to better utilize Cabinet resources.**

**Objective 5.1:** Prioritize Cabinet Services.

**Objective 5.2:** Review distribution of manpower.

**Objective 5.3:** Seek alternative forms of funding.

**Objective 5.4:** Identify alternative means of providing Cabinet services.

**Objective 5.5:** Evaluate overall operating budget.

## **DEPARTMENT OF WORKPLACE STANDARDS**

The Kentucky Labor Cabinet's Department of Workplace Standards operates under the authority of KRS Chapters 336, 337, 338, 339, 342, 343, 388, and Executive Order 2009-537. These chapters specifically relate to the authority of the Kentucky Labor Cabinet with respect to wages and hours of employment; occupational safety and health; child labor; apprenticeship; education and training; and workers' compensation insurance payments through the Workers' Compensation Special Fund.

The Department is comprised of the Division of Occupational Safety and Health Compliance (OSH); the Division of Employment Standards, Apprenticeship and Mediation; the Division of Occupational Safety and Health Education and Training; and the Division of Workers' Compensation Funds.

Personnel of the Department, through the Divisions of Occupational Safety and Health Compliance and the Division of Employment Standards, Apprenticeship and Mediation, conduct routine onsite investigations with regard to issues involving jobsite safety and health, minimum wage, overtime, unpaid wages, illegal deductions and remittance of gratuities that remain unresolved. Violations and fines are levied against businesses who engage in unfair labor practices with regard to child labor, overtime, prevailing wage violations, wage discrimination based on sex, and workplace safety violations.

The Department, through the Division of Workers' Compensation Funds, is responsible for the administration and legal representation of the Special Fund and the maintenance of records regarding the payment of workers' compensation injury claims by these funds. Executive Order 2001-1294 created the Division of Workers' Compensation Funds to provide for the administration and legal representation of the Special Fund and the former Coal Workers' Pneumoconiosis Fund. This division exists to provide legal representation, pay awarded benefits, and maintain payment records for the Special Fund and the former Coal Workers' Pneumoconiosis Fund. The Fund is used to pay a portion of income benefits awarded in injury and occupational disease claims.

The Department is also actively involved in industrial education and training through the programs of the Division of Occupational Safety and Health Education and Training. Since 1973, the Department has offered a full range of voluntary compliance services, including cost-free on-site consultation, technical assistance, training programs, and publications. Several programs are in place to recognize employers who aspire to providing the safest work places possible.

The Department of Workplace Standards is funded with restricted agency receipts garnered through the Workers' Compensation Funding Commission under the authority of KRS 342; federal funding received from the U.S. Department of Labor, Occupational Safety and Health Administration; and General Fund dollars that support only the

Division of Employment Standards, Apprenticeship and Mediation Services. This division does not receive restricted or federal dollars.

### **Division of Employment Standards, Apprenticeship, and Mediation**

Pursuant to KRS Chapters 336, 337, 339, 343, and Executive Order 2009-537, the Division of Employment Standards, Apprenticeship and Mediation is responsible for enforcing areas of Kentucky labor laws including minimum wage, overtime, prevailing wage, child labor, wage discrimination based on sex, apprenticeship and training and mediation.

In addition to conducting investigations, the Employment Standards Division has the responsibility of preparing unresolved cases for litigation. Issues involving minimum wage, overtime, unpaid wages, illegal deductions and remittance of gratuities that are not resolved are subject to administrative review. Case files are prepared for administrative hearings and the investigative staff, in concert with the Office of General Counsel, issues legal documents such as tentative findings of fact. Investigators are required to work with attorneys, accountants, consultants and other professionals in the course of these investigations to ensure the workers of the Commonwealth are protected as provided by statutes.

The Division of Employment Standards, Apprenticeship and Mediation receives in excess of 2,000 complaints a year and completes approximately 700 routine inspections annually. Complaints and inspections reveal approximately 1, 300 violations annually which are, in over 95 percent of the cases, corrected by investigative personnel. Violations that are not resolved in the field are processed through an administrative procedure. Civil financial penalties are assessed, collected and forwarded to the General Fund. Back wages are collected and returned to over 4,000 employees per year.

The Apprenticeship program administers the apprenticeship statutes addressed in KRS 343. This program encourages employers and employees to enter into voluntary agreements of apprenticeship that will equip the apprentice with valuable skills. This program closely monitors apprenticeship programs to assure they are meeting the standards of providing quality training and instruction.

The Division of Employment Standards, Apprenticeship, and Mediation is funded entirely by General Fund dollars.

### **Division of Occupational Safety and Health Compliance**

The Kentucky OSH Program was initially approved in 1973 and received final state plan approval on June 13, 1985. The primary purpose of the Program is to promote the safety,

health, and general welfare of workers by ensuring that employers are preventing hazards to the safety and health of all employees arising from exposure to harmful conditions and practices in the work environment. The Program was further expanded on July 1, 1994, to improve safety and health practices in the workplace; to assure compliance with industrial health and safety regulations; and to expedite the processing of contested citations and appeals.

Through a Safety Inspection Branch and a Health Inspection Branch, the Division maintains a field staff of safety compliance officers and industrial hygienists who conduct inspections of workplaces in which hazardous conditions are identified, violations of safety and health standards are cited and abatement dates are assigned. In some cases, penalties and fines are assessed for violations. Contested cases are heard by hearing officers under the auspices of the Kentucky Occupational Safety and Health Review Commission.

OSH Compliance also has a discrimination investigator who is attached to the safety branch and is assigned the responsibility for conducting investigations into allegations of retaliation for participating in an OSH compliance inspection, informing the employer of safety and health concerns, filing an OSH complaint, has testified, or is about to testify in any hearing or other formal proceeding, or engaging in some other protected activity.

### **OSH Federal-State Coordinator**

The OSH Federal-State Coordinator acts as an advisor to program policymakers and is involved in coordinating policy planning, program review and evaluation, financial management, and personnel utilization.

Prepares and submits all State Plan changes. This involves tracking federal program changes and recommending the appropriate changes for the state program. It also includes informing the U.S. Department of Labor of any state initiated program changes;

Assures the timely submission of reports which must be forwarded to the U.S. Department of Labor including compliance activity, OSH discrimination, and general information about the program operation. The standards adopted and variances granted or denied must also be made available to the U.S. Department of Labor. Likewise, grant application to obtain federal funds must be prepared and submitted annually. The OSH Federal-State Coordinator is also responsible for the preparation and submission of responses to federal evaluations of the state program. Therefore, continuous contact with each section and division in the program is necessary.

Coordinates the activities of the OSH program as they relate to other state and federal agencies, which is especially important because of the jurisdictional boundaries that must be maintained in the enforcement of the occupational safety and health laws in Kentucky. Every effort is made to determine exact jurisdictional boundaries;

The Coordinator's office also monitors the agency's investigations and litigation of cases in which discrimination has been alleged in violation of KRS 338.121. Citations for violations of KRS 338.121 as well as penalty calculations emanate from the OSH Federal/State Coordinator's Office, and oversees and supervises the Office of Standards Interpretation and Development; and, oversees the coordination of, communication with, and logistical support to the Kentucky OSH Standards Board.

### **Standards Interpretation and Development**

The OSH Standards Specialists, via written correspondence and telephone conversation, respond to inquiries from employers and employees, as well as the general public, concerning occupational safety and health. In addition, specialists perform the following duties:

- Conduct OSH-related safety and health research and issue official standards interpretations of Kentucky OSH standards;
- Assists in the preparation of responses to OSHA directives;
- Provides direct support to the OSH Standards Board by coordinating meetings and processing regulations through the regulation review system;
- Conducts occupational health standards training for the OSH program staff;
- Analyzes federal and state OSH standards, regulations, and other professional literature pertinent to the field; and, provides that analysis to the Kentucky OSH Standards Board and to Cabinet management;
- Processes all safety and health standards adopted by the OSH Standards Board through the LRC Administrative Regulation review process. Drafts and recommends new or amended standards and regulations to the Kentucky Occupational Standards Board;
- Ensures Kentucky regulations are at least as effective as OSHA standards;
- Testifies on technical issues before the OSH Standards Board in public hearings concerning proposed standards. Testifies before appropriate legislative

committees with reference to standards approved for adoption by the OSH Standards Board;

- Interprets and provides information on OSH regulations and standards to Labor Cabinet staff, employers, and employees in both public and private sectors; and,
- Analyzes and make recommendations on requests for variances in standards made to the Labor Cabinet by employers throughout the state. Conducts job safety and health research and issues Standards Interpretation Directives for OSH Standards Board.

### **Division Of Workers' Compensation Funds**

The Division of Workers' Compensation Funds (WCF) exists pursuant to KRS 342.120 to administer and provide legal representation for the special fund and Kentucky coal workers' pneumoconiosis fund. The special fund has income benefit liability for workplace injuries and diseases when the date of injury (or for disease, the date of last injurious exposure) occurred prior to December 12, 1996. By contrast, the Kentucky coal workers' pneumoconiosis fund is liable for income and retraining benefits awarded to coal miners who develop compensable pneumoconiosis (black lung disease) and were last exposed to occupational coal dust after December 12, 1996.

The Division has one branch known as the Payment Branch which processes all benefit payments, services awards and maintains payment records. Approximately 10,400 special fund awards remain open, along with about 125 coal fund awards. The Division pays nearly \$69 million per year in benefits to over 6,500 injured workers.

### **Office Of The General Counsel**

The mandate of the Kentucky Labor Cabinet under the Kentucky Revised Statutes (hereinafter "KRS") 336 et seq. is to protect the working women and men of Kentucky and to promote harmonious industrial relations. The Office of the General Counsel is the legal arm of the Cabinet and is responsible for enforcing KRS 207 (prohibition of discrimination based on disability or the human immunodeficiency virus); KRS 337 (wage and hour, prevailing wage and prohibition of sex discrimination), KRS 338 (occupational safety and health), KRS 339 (child labor), KRS 342 (special fund) KRS 343 (Apprenticeship and Training), KRS 67C (collective bargaining for police officers) and KRS 345 (collective bargaining for firefighters).

The majority of the work performed by the Office of the General Counsel is the prosecution of wage and hour, prevailing wage and occupational safety and health violations. The Office is currently staffed by fourteen dedicated women and men who regularly field questions from Cabinet staff and the general public. The Office strives to accomplish the goal of the Secretary and the Governor to promote healthy working environments and to assist Kentucky's employers in reaching that goal.

There are currently no branches attached to the Office of the General Counsel.

### **Division Of Management Services**

The Division of Management Services is responsible, in accordance with all applicable statutes, regulations, and policies for all fiscal functions of the Cabinet, including budgeting and accounts receivables and payables; the processing of all personnel documents and time and attendance records for payroll purposes; employee benefits; the information technology services for the Cabinet-at-large; all postal services for the Cabinet and the routine maintenance of buildings and grounds. This division serves as the liaison between the Office of General Administration and Program Support Services (GAPS) and the Cabinet. The Division of Management Services is currently staffed by 28 highly experienced full-time personnel.

Funding for the Division of Management Services is derived from assessments against workers' compensation insurance premiums (or simulated premiums for self-insurance paid by all Kentucky employers pursuant to KRS 342.122). All assessments are collected, managed, invested, and disbursed by the Kentucky Workers' Compensation Funding Commission pursuant to KRS 342.122; KRS 342.1223; and KRS 342.1242.

The Division of Management Services is comprised of the Fiscal Branch, the Information Technology Services Branch, and the Service and Supply Branch. The Director's staff processes all personnel documents for the Cabinet. The Office of General Administrative Program Support (GAPS) processes payroll for the Cabinet and moves other completed documents for fiscal processing through the procurement system.

# **DEPARTMENT OF WORKERS' CLAIMS**

## **The Commissioner's Office**

The Commissioner's Office is responsible for overseeing and managing the daily operations of the agency. The Commissioner is appointed by the Governor and confirmed by the Senate. KRS 342.213.

## **Office of Administrative Services**

The Office of Administrative Services is responsible for all financial transactions, support of all data systems, and the management of all personnel-related activities of the agency. Specifically, the Office: manages and executes the annual budget; administers human resource and training programs and processes personnel actions; routes and disperses incoming and outgoing mail; manages leases and infrastructure for 14 agency locations; and provides daily support to agency activities and the Commissioner's Office.

## **Office of General Counsel**

The Office of General Counsel (OGC) serves the Department of Workers' Claims in providing legal assistance as needed. The Office of General Counsel assists the DWC in accomplishing its purpose and goal by providing competent legal representation, advice, and other needed assistance for all DWC divisions and staff. Specifically, the OGC provides legal advice and representation to all Divisions within the Department, promulgates administrative regulations, imposes fines and files liens against non-compliant employers, and defends the Department against civil litigation and actions before the Personnel Board.

## **Technical Support Section**

The Technical Support Section is responsible for the overall administration, support, management and maintenance of the agency's network infrastructure, voice over IP (VOIP) phone systems and related software, services and equipment. This section serves the main office location in Frankfort, as well as eleven field office locations located across the Commonwealth. Additionally, related duties undertaken by this section include, but are not limited to end-user support, research and implementation of IT hardware/software, equipment procurement/distribution, applications support, LAN/WAN design, telecommunication support, cabling, data backup/restoration and disaster recovery.

## **Design and Development Section**

The Design and Development Section is responsible for designing in-house applications that support the unique requirements for the Department of Workers' Claims and applicable laws.

## **Kentucky Workers' Compensation Advisory Council**

The Kentucky Workers' Compensation Advisory Council consists of sixteen (16) members appointed by the Governor. These appointments consist of eight (8) members representing labor and eight (8) members representing management. The Council shall not infringe upon or assume the duties of the Labor Cabinet, Department of Workers' Claims. The Council serves in an advisory capacity and makes recommendations to the Governor and the Kentucky Legislature on all matters relating to workers' compensation including, but not limited to: efficient administration; coverage of employers and employees; adequacy and delivery of the benefit structure; insurance and self-insurance; medical cost containment and medical services; rehabilitation; liability and financing of the special fund; attorney fees; and lump-sum compensation and settlement procedures. In addition, the council may recommend legislation and administrative regulations as it deems necessary, KRS 342.0012.

## **Workers' Compensation Nominating Commission**

The Workers' Compensation Nominating Commission presents names to the Governor for all appointments to the board, appoints the administrative law judges and the Commissioner, Department of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215, 342.228, and 342.230. The Workers' Compensation Nominating Commission consists of seven (7) members appointed by the Governor.

## **Workers' Compensation Board**

Since 1987 and pursuant to KRS 342.213 and KRS 342.285, the Kentucky Workers' Compensation Board has been the first step in the appellate process in a workers' compensation litigated claim. The three (3) members of the Board are appointed to four (4) year terms by the Governor, subject to confirmation by the Senate. Board members must possess qualifications of Court of Appeals Judges.

## **The Division of Information And Research**

The Division of Information and Research is charged with the responsibility of collecting, filing, analyzing and disseminating all of the data relative to the Department of Workers' Claims as applicable. One of the primary functions of this division is to safeguard all agency records and comply with the statutory guidelines in regard to storage and retrieval as well as ensure data integrity. This Division consists of two branches, the Records Branch and the Imaging Branch. The Records Branch includes the Data Entry Section, the EDI (Electronic Data Interchange) Section and the Research Section. The Imaging Branch includes the Open Records Section and the Imaging Section.

### **Records Branch**

The Research Section, within the Records Branch, performs complex research, writes complex Structured Query Language (SQL) queries to extract data from agency databases, prepares reports, drafts articles, designs presentations, creates charts, tables, and graphs, fills open records requests, compiles data necessary to satisfy information sharing agreements, reviews and verifies approximately 1,500 statute letters per month to ensure key subsequent report data elements submitted by the DWC's electronic trading partners are credible and complete. In addition, the Section creates departmental publications in accordance with statutes, and designs and maintains the agency's CMS internet site which includes responding to web related calls and emails. This section also works closely with the Department's General Counsel by providing reports regarding the timely filing of injury records by insurance carriers.

### **Research Section**

As directed under KRS 342.435, the Research Section publishes the Department's annual report. Other publications designed by this section include: *A Workers' Compensation Guidebook*, *The Link* (DWC's quarterly report pursuant to KRS 342.232(3)), *An Injured Worker's Guide to Vocational Rehabilitation*, the *Vocational Rehabilitation Poster*, as well as several program leaflets. In addition to hard copy material, the Research Section creates PDF files for web publishing and remote accessibility.

### **Data Entry Section**

Coding and entry of mail and pleadings associated with a workers' compensation claim is the responsibility of the Data Entry Section. This requires Data Entry staff to interpret orders prepared by Administrative Law Judges, as well as pleadings filed by attorneys, in order to properly code and enter the documents. These codes are used by research staff to generate statistics and by specialists to deliver immediate assistance to claimants, attorneys, employers and carriers.

### **EDI (Electronic Data Interchange) Section**

803 KAR 25:170 and 803 KAR 25:175 require electronic filing of information with the Department of Workers' Claims. The EDI (Electronic Data Interchange) Section monitors electronically-submitted first reports of injury and subsequent reports to ensure consistency and accuracy. As part of maintaining the First Report database, the EDI section reviews coding structures, performs data clean-up, initiates calls to electronic trading partners, and interprets electronically-generated errors. In the event no first report is on file for an injury or occupational exposure associated with a claim or agreement, the EDI section has the ability to manually generate a report to expedite the adjudication process.

### **The Imaging Branch**

#### **Open Records Section**

The Open Records Section is charged with the interpretation and application of KRS 61.884 and KRS 61.878 when determining release of public records. The inquiries are received from attorneys, insurance carriers, employers, the Social Security Administration and the general public. Additionally, Open Records personnel verify workers' compensation awards for the Department of Fish and Wildlife, prepare billing invoices for copy charges, and provide oral and written certifications as records custodians.

#### **Scanning Section**

The Scanning Section is primarily responsible for scanning and indexing workers' compensation documents into the agency's optical image system. The ability to import images without printing or scanning the document is only one of the many noteworthy benefits of the Department of Workers' Claims (DWC) integrated image system. Computer imaging makes it possible to file documents faster and more accurately and eliminates the need to retain hardcopy files. The DWC's state of the art image system is integrated with the agency's web-based information system that allows multiple users access to documents without having to leave their workstation or field office. Through the application of new technology, the agency continues to explore innovative means to serve our stakeholders in a secure and expeditious manner.

Micrographics equipment is also housed within this section and is used daily by agency and Cabinet staff and is available for use by the general public for primarily, inactive claims records. Claims information is retained for 75 years per the Department of Workers' Claims Agency Retention Schedule as required by the Kentucky Department of Libraries and Archives.

## **The Division of Claims Processing**

The Division of Claims Processing and Appeals serves as a clerk's office for the processing of all work related injury claims filed in the Kentucky workers' compensation system and managing claims from the initial filing process through appeals made to the Workers' Compensation Board and to the Kentucky appellate courts.

### **Claims Processing Branch**

The Claims Processing Branch is composed of three sections. This branch operates under the statutory framework requiring it to handle and process injury claims, occupational disease claims and hearing loss claims. Coal workers' pneumoconiosis claims are handled in a distinct and separate procedure. The assignment of those claims to the Administrative Law Judges and the regions in which the benefit review conferences will be held is also done within this branch. Medical fee disputes, motions to reopen, settlement of claims by the parties, including the final audit, and purging of each claim all begin and end in this area.

### **Agreements Section**

The Agreements Section receives and processes Settlement Agreements and Motions to Substitute Party for Widows' Benefits. Pre-litigation agreements between injured employees and employers, and/or their insurance carriers and widow's benefit calculations are given immediate attention by the staff of this Section. There are four employees within this section who were responsible for processing 4,409 Agreements on First Report of Injury and 7,816 miscellaneous settlements during FY 2008-2009.

### **Claims Review Section**

The Claims Review section is now the starting place for all resolution of injury, occupational disease, coal workers' pneumoconiosis, or hearing loss claims that are filed. The main focus of this section is the examination, routing, insurance research/verification, and file compilation for each claim filing in preparation of assignment to an Administrative Law Judge.

### **Claims Assignment Section**

The Claims Assignment section shoulders the responsibility of the data entry and acknowledgment of receipt for each new claim filing or medical fee dispute and must notify, by letter, each named party. These new claims and older claims (from the motion docket to be assigned) are then assigned by the staff, to the Administrative Law Judges. Staff responsibilities also include: tracking and routing of motions on unassigned files; routing of attorney fees to motion docket, scheduling, x-ray, exhibit and other pertinent records custodian responsibilities.

## **Appeals Section**

The Appeals Section of the Division of Claims Processing processes and readies appeals from Administrative Law Judge decisions to the Workers' Compensation Board (WCB), the Court of Appeals, and the Supreme Court. Appeals Section personnel monitor and track all filings and pleadings, assign cases to Board members and prepare files for the WCB motion docket on a weekly basis, maintain databases regarding appeals, and compile, index and transfer files to the Kentucky Court of Appeals in the form and timeframe required by law. All subsequent orders and opinions handed down by the WCB, the Kentucky Court of Appeals and the Supreme Court are then processed and entered into the appropriate databases by Appeals Branch personnel.

## **The Office of Administrative Law Judges**

The Administrative Law Judges (ALJ) are appointed to four-year terms by the Governor, subject to confirmation by the Senate. The ALJs must be licensed attorneys who have five years of experience in the Commonwealth in the practice of workers' compensation law or a related field. KRS 342.230 authorizes the appointment of up to 19 ALJs, one of whom is designated to serve as the Chief Administrative Law Judge. There are currently 15 ALJs. Their offices are located in Elizabethtown, Henderson, Madisonville, Louisville, Florence, Lexington, Richmond, Bowling Green, Owensboro, and Pikeville. The Office of the Chief Administrative Law Judge is at the Department of Workers' Claims in Frankfort. In the performance of their regular duties, the ALJs travel to hearing sites located in Pikeville, Pineville, Hazard, London, Lexington, Ashland, Florence, Louisville, Madisonville, Bowling Green, Owensboro and Paducah.

The Administrative Law Judges (ALJ) are responsible for the adjudication of the workers' compensation cases filed at the Department of Workers' Claims. In the course of adjudicating claims, the ALJs are required to rule on motions, objections, and requests for interlocutory relief in the claims assigned to them. The ALJ to whom the claim is assigned presides at a benefit review conference and a formal hearing in each case, unless the claim is settled. The ALJ is required to issue a decision within 60 days after the formal hearing.

Additionally, a motion docket and settlement docket are held weekly at the Department of Workers' Claims in Frankfort. Ordinarily the Chief Administrative Law Judge presides at the motion docket and settlement docket. Motions in claims that are not currently assigned to an ALJ are heard during motion docket. These motions include, but are not limited to post-award medical fee disputes, motions to reopen based on an alleged change of the compensable condition, and motions to substitute beneficiaries after the death of the injured worker.

The Chief Administrative Law Judge also works with the Enforcement and Compliance Branch by presiding at enforcement hearings when an appeal from a civil penalty is filed.

## **The Division of Security And Compliance**

The Division of Security and Compliance, through the efforts of the Coverage, Self-Insurance and Enforcement Branches, protects injured workers by ensuring that non-exempt Kentucky employers have workers' compensation insurance coverage or maintain sufficient assets to pay claims if the company is authorized to self-insure.

### **Self-Insurance Branch**

The Self-Insurance Branch evaluates individual self-insured employers for financial soundness and the ability to pay its workers' compensation obligations. The Branch Auditors review the application of prospective employers who seek to self-insure; audits, calculates the appropriate financial security and the annual simulated premium for current self-insured's, and provides oversight to the administration of former self-insured employers who have defaulted on their workers' compensation obligations. Self-insured companies pay an assessment on the simulated premium for the special fund, similar to that imposed upon the voluntary market premium, to fund the entire workers' compensation program in Kentucky.

### **Enforcement Branch**

The Enforcement Branch monitors Kentucky businesses to verify compliance with the Workers' Compensation Act. Compliance officers strategically located throughout the Commonwealth conduct on-site investigations of more than 10,000 employers each year in a proactive effort to encourage timely and voluntary compliance with the workers' compensation laws prior to the occurrence of an injury. The penalties raised by these efforts is used to help cover the benefits awarded to employees of companies who have defaulted on their obligations. In addition to the investigative effort, the Enforcement Branch participates in public seminars and disseminates information explaining the workers' compensation laws and the responsibilities of the employer.

### **Coverage Branch**

The Coverage Branch maintains a comprehensive database documenting workers' compensation insurance coverage for every Kentucky employer. More than 300 insurance companies, including the competitive state fund, Kentucky Employers' Mutual Insurance Company (KEMI), insure the Commonwealth's employers through the voluntary market and provide information to the Coverage Branch via an EDI (Electronic Data Interchange).

## **The Division of Ombudsman & Workers' Compensation Services**

The Division of Ombudsman and Workers' Compensation Specialist Services is the constituent services arm of the Department of Workers' Claims. It is comprised of the Ombudsman and Workers' Compensation Specialists Branch, Medical Cost Containment Section and Vocational Rehabilitation Section.

### **Ombudsman and Workers Compensation Specialist Branch**

Presently, a staff consisting of eight (8) Workers' Compensation Specialists is located at the Department of Workers' Claims office in Frankfort. The Branch also has offices located in Louisville and Pikeville. The Specialists provide information to the public through toll-free phone lines and speaking engagements when requested. The work of the Branch is supervised by two (2) staff attorneys, one of whom acts as the chief specialist. The specialists assist unrepresented workers in the completion of claims forms and gather information for claims filing, perform mediation services in attempt to resolve conflicts or disputes related to claims; reporting suspected unfair claims settlement practices to the Department's Office of General Counsel, assists with the preparation of reports to the governor, legislature and elected officials on constituent issues involving workers' compensation. The ombudsman/specialists receive and report complaints to the Enforcement Division concerning fraud, lack of coverage, and failure of employers to comply with workers' compensation laws and regulations.

### **Cost Containment Section**

The Cost Containment Section is responsible for administering all medical cost containment programs designed to reduce the medical costs associated with the state's workers' compensation program. Personnel certify, approve, monitor and assure compliance with regulations of managed care plan organizations and utilization review plans. This Section prepares the annual hospital cost-to-charge ratio, or hospital fee schedule, and helps compile the biennial medical fee schedule which regulates medical charges, and schedules and assists with university evaluations ordered by the Administrative Law Judges. Section personnel routes the chest x-rays to B-reader physicians in the black lung consensus program, pays bills, and compiles data for the Department, industry and oversight committees of the State Legislature.

### **Vocational Rehabilitation Section**

The Vocational Rehabilitation Section assists injured workers in the obtainment of vocational assessments and retraining with a goal of returning them to the workforce. The section provides information to injured workers, insurance carriers, government agencies, education and testing facilities and the public. It oversees the provision of vocational rehabilitation services that have been either awarded by an Administrative Law Judge or agreed upon by settlement. The section assists in the development of

approved vocational rehabilitation curriculum via educational institutions and programs.

## **General Administration and Program Support Shared Services (GAPS)**

General Administration and Program Support Shared Services (GAPS) offers centralized, professional resources and expertise to support three cabinets as they carry out their core mission. GAPS Shared Services are attached to the Labor Cabinet for administrative purposes, but also serves the Public Protection Cabinet and the Energy and Environment Cabinet.

GAPS serves as the central point of contact for fiscal, budget, payroll and operations for the three cabinets. The Division of Information Services within GAPS provides IT services to the Energy and Environment Cabinet and the Public Protection Cabinet. The Labor Cabinet does not utilize shared IT services, but maintains separate IT support within the Division of Management Services.

GAPS Executive Director's Office provides leadership and direction for each of the four divisions of GAPS and houses the Operations Branch. The Operations Branch administers the Cabinets' motor vehicle pool, oversees matters related to lease and rental of properties and equipment, maintains the Cabinets' contracts for cell phones and other mobile communications equipment, and installation and maintenance of the Cabinets' telephone systems and computer wiring systems.

GAPS Division of Fiscal Management (DFM) provides oversight, direction, and support to the three cabinets for all fiscal functions. The Division is assigned pre-audit authority for the cabinets' numerous divisions and offices. In addition, DFM acts as liaison with the Finance and Administration Cabinet, the Legislative Research Commission, federal awarding agencies, and the Auditor of Public Accounts. DFM oversees all centralized accounting and purchasing functions. Management staff act as the fiscal officer, E-Mars security lead, and negotiates the indirect cost plan. Other functions of this division include answering audit inquiries, issuing special reports, coordinating fiscal year-end closing and maintaining centralized fiscal documents. The Division consists of a director's office with three branches, Accounting Branch I, Accounting Branch II, and Purchases & Payments Branch.

GAPS Division of Human Resources Management (DHRM) serves the three cabinets as the centralized point for register requests, position action requests, quality assurance reviews, insurance, payroll, benefits coordination, employee evaluations and other personnel and payroll related functions coordinated with the Personnel Cabinet and Kentucky Retirement System. In addition, the Division provides management guidance in areas such as compliance with state and federal hiring, recruiting and employment law.

DHRM also provides new employee orientation and other training to more than 3,000 employees of the three cabinets. DHRM maintains final approval of all personnel actions for the Energy and Environment Cabinet and the Public Protection Cabinet. The director

works closely with legal staff in resolving disciplinary issues, grievances, complaints and worker's compensation issues for the Energy and Environment Cabinet and the Public Protection Cabinet. The Division of Human Management Services in the Labor Cabinet provides management guidance in these areas and handles all disciplinary actions and complaints for the Labor Cabinet. GAPS DHRM consists of three branches, Personnel Branch, Payroll Branch, and the Training & Recruiting Branch. DHRM employs 12 full-time and one part-time employees.

GAPS Budget Division has the responsibility of providing executive direction and leadership for budgeting and financial resources in the three cabinets. The Division is responsible for developing, implementing and maintaining the cabinets' budget. Budget analysts advise commissioners, executive officers, division directors and agency staff regarding budget development implementation, maintenance, modification and historical data. An analyst is assigned specific areas within the cabinets. The director plans finances and advises executive management and agency staff on all aspects of the budget process. In addition, the Division of Budgets serves as liaison to the Office of State Budget Director and the Legislative Research Commission and is responsible for preparation and update of the cabinets' biennial budget, operating budgets, six-year capital budget and capital projects. The Division of Budgets consists of one director position and six (6) analysts.

The Division of Information Services provides system support and application development, system operations support, specialized electronic systems support and computer and information technology training. DIS also supports and facilitates the permitting, inspection, enforcement and other core business activities of the cabinets' with the appropriate technology tools. Information services support is provided through GAPS DIS to the Energy and Environment Cabinet and the Public Protection Cabinet. The Division supports approximately 2,775 desktop and laptop computers and more than 200 servers. The equipment and necessary operating and office system software is monitored, maintained and updated by 13 technical, three administrative and two contract employees. There are three branches, Applications Analysis & Development Branch, Operations & Network Branch, and Geographic Information Branch.

The Labor Cabinet maintains a separate IT Branch within the Division of Management Services that provides information technology support to approximately 388 Labor Cabinet employees. GAPS and OIG are supported by GAPS DIS.

## **PROCESS**

A Leadership Team consisting of twenty-five (25) members of the Cabinet management team, met and reviewed the process of strategic planning and brainstorming. The Core Values, Vision, and Mission Statements were developed through a series of sessions in which the SWOT method of brainstorming was utilized. Follow-up meetings were held with representative members of each Cabinet division in which each SWOT item was identified and evaluated. Subsequently, the Leadership Team met and developed the goals and objectives while evaluating the information gathered during the division meetings. Strategies and timelines are being further developed and addressed during our weekly staff meetings.

**Facilitators: Mike Donta  
Tabitha Hobbs – Kim Hibbard**

### **PARTICIPATING TEAM MEMBERS**

Adkins, Jerald	Grider, James	Pettit, Mike
Anderson, Sharon	Harris, Billy	Powell, Tom
Arnold, Marjorie	Hatfield, Scott	Roark, Lyn
Aziz, Tara	Heightchew, Mike	Robinson, Terri
Beck, Rodney	Hughes, Carol	Sheets, Brenda
Benthall, Deedra	Hutcherson, Michael	Shouse, Sheila
Bowling, Ingrid	Jacobs, Carole	Slates, Steven
Brock, Pam	Johnson, Lucretia	Smith, Chip
Brown, Mark	Johnson, Rick	Staples, Joey
Buckler, Debbie	Kamunen, Stella	Stephens, Angela
Buckley, Billie	Keith, Tonya	Stevens, Carol
Burkholder, John	Klayer, Rhonda	Stinnett, Bill
Cardwell, Kay	Knight, Pamela	Stribling, Chuck
Carter, Linda	Lafoe, Shari	Stumbo, David
Chancellor, Tim	Lancaster, Shannon	Suetholz, David
Clouse, Robert Jeff	Lang, Gerald	Taluskie, Steve
Collins, Audrea	Lile, Willie	Thompson, Marilyn
Davis, Fran	Logan, Wayne	Troxell, Tammy
Dawes, Michael	Long, Tony	Vernon, Danny
Dempsey, Patricia	Lovan, Dwight	Violet, Cristina
Devine, Peggy	Maggard, Jeff	Walton, Dan
Dixon, Mike	Mann, John	Watts, Mike
Dockter, Tom	Marraccini, Diane	Wheeler, Danny
Draper, Susan	McIntosh, Deanna	Whitehouse, Lynn
Engels, Jeanette	McKenzie, Kim	Whittaker, Bob
Estep, Ashley	McNew, Clayton	Wood, James
	Monroe, Jennifer	Worland, Cara
	Perry, Kim	
	Peters, Joe	

