

Fiscal Year 2020 Annual Report

Workers' Compensation Advisory Council

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Tel: 857.321.7379

Website: [Workers' Compensation Advisory Council](#)

December 18, 2020

CHAIRMAN'S WELCOME

2020 presented this industry, and our world, with an enormous set of challenges.

At this time we present to you the Workers' Compensation Advisory Council Annual Report for Fiscal Year 2020 (July 1, 2019 to June 30, 2020).

According to MGL Chapter 23E, Section 17, the Council is charged with providing an analysis of the workers' compensation system in Massachusetts, this includes operations at the Department of Industrial Accidents ("DIA"). The DIA is fully funded by the Employers of Massachusetts and is not funded by taxpayers, a policy that dates back to 1985. A diverse group of Council members have collaborated to create this report volunteering their time to analyze a variety of workers' compensation issues, with the goal of identifying priority focus areas. Included in this report: successes, perceived challenges, and recommended guidance to improve the system.

We wish to acknowledge Senior Judge Omar Hernandez for his tireless efforts to manage the adjudicatory process through the COVID-19 pandemic, the entire DIA management team led by Interim Director Sheri Bowles who provided staff with the immediate and necessary tools to complete their jobs remotely, and Maureen O'Connell, the Advisory Council Executive Director on the development of this report,

With areas to enhance, the Council feels that the Massachusetts model remains one of the leading workers' compensation systems in the country. That said, the Council looks forward to working with all stakeholders to continue to improve our highly regarded workers' compensation system.

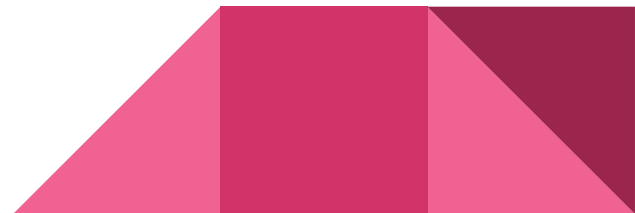
On Behalf of The Council,

John A. Pulgini

John A. Pulgini, Esq., Chairman

Todd R. Johnson

Todd R. Johnson JD, AIC, ARM-P, ARM-E, Vice Chairman



Special Recognition

We wish to publicly recognize the contributions of recently retired Judge Richard Heffernan, Judge Yvonne Vieira, Judge William Harpin, and Judge Diane Solomon who served the DIA with dignity and who were mentors, colleagues, and friends to many.

A heartfelt tribute to Judge David Braithwaite and Linda Phipps who passed away this year. Let us remember their kind hearts, dedication to the Commonwealth, and a friend to many.

A special recognition to the recent retirees and administrative staff colleagues who were long-serving members of the DIA, best wishes on your retirement.

Reader feedback is encouraged.

Please consider the environment before printing this report.

If Readers wish to print out the annual report the information within the links will not be displayed.

News

- ★ Civil Litigation Unit recovered \$984,197.00
- ★ [Covid-19 to have lasting impacts on workers' compensation premiums](#)
- ★ [Covid-19 Public Resources](#) - Interactive Map
- ★ [NCCI Insights](#) + [NCCI Legislative Trends Report](#)
- ★ In December 2019, the Workers' Compensation Rating and Inspection Bureau of Massachusetts (WCRIBMA), an industry group that represents member carriers, filed its request for an average 3.8 percent decrease in workers' compensation premiums, the decrease took effect July 1, 2020. [R2019-01; WCRIB Insurance Rate Filing; Issued March 27, 2020](#)
- ★ Each year assessment rates are determined in accordance to M.G.L. c.152 S65(4). The assessment rate has remained the same for FY 2020/2021 at 3.51. [Assessment rate](#)

Focus Areas

SAFETY

Ensuring employee and visitor health and safety remains a priority for the DIA. With the assistance of technology, the DIA provided services through its virtual platform including: Conciliations, Conferences and OEVR Team Meetings.

COVID-19

The Advisory Council monitored legislation related to Covid-19 and kept track of claim trends.

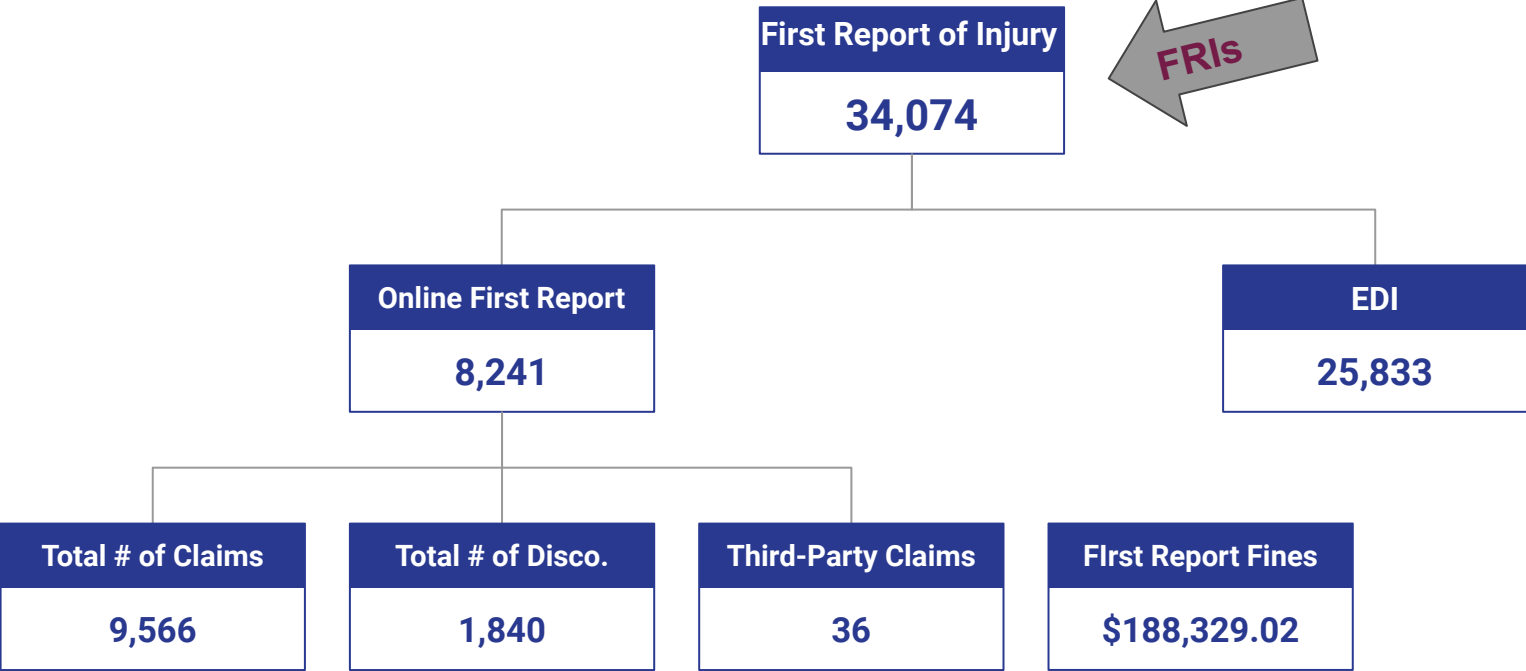
COMPLIANCE

While field investigations were suspended as of March 13, 2020 (and later resumed in August/September 2020), in-house compliance investigations continued operating by the DIA Office of Investigations.

DIA -

- Office of Claims Administration
- Office of Safety
- Revenue Sources | Collections and Expenditures

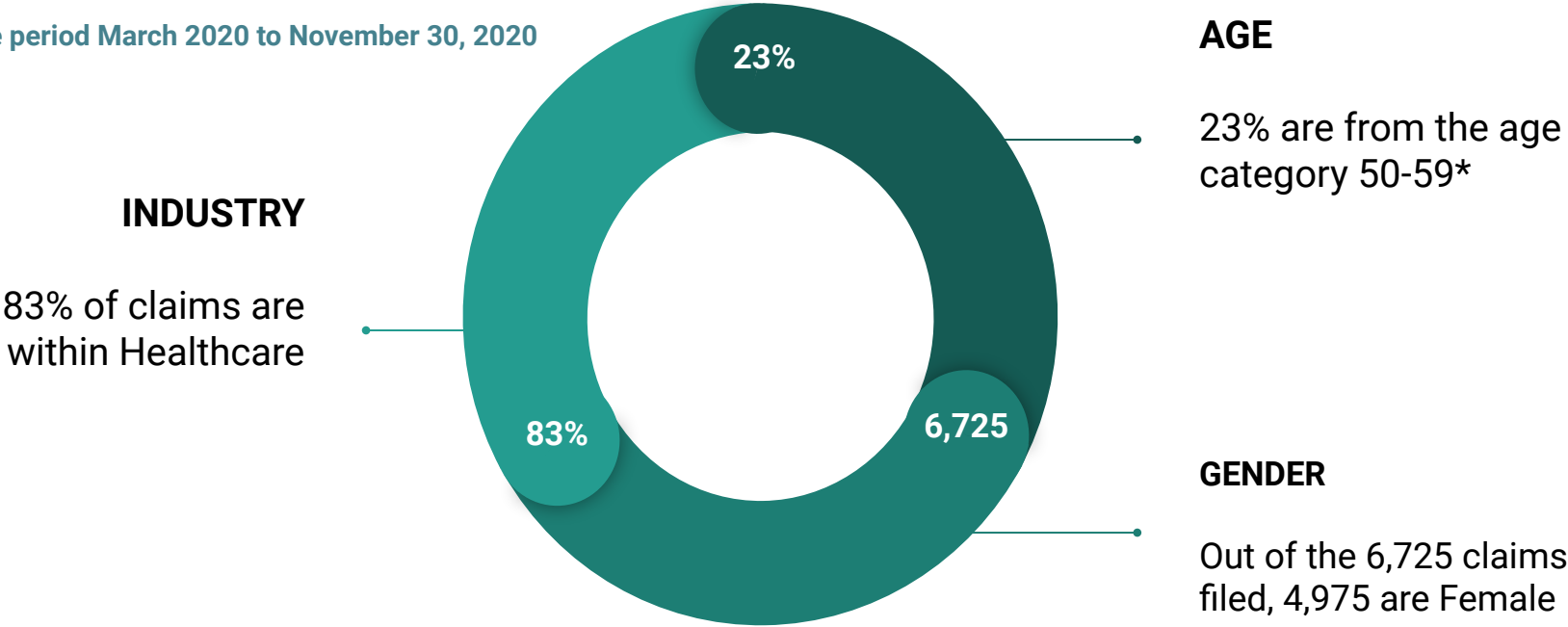
DIA - Office of Claims Administration



Approximately 50% of claims are resolved during conciliation.

COVID-19 Claims

For the period March 2020 to November 30, 2020



INDUSTRY

83% of claims are within Healthcare

AGE

23% are from the age category 50-59*

GENDER

Out of the 6,725 claims filed, 4,975 are Female

Approximately 100 individuals filed Form 110s.

*The oldest worker was 95 years of age and the youngest worker was 16 years of age.

Workplace Safety

DIA - Office of Safety

SAMPLE GRANTS

- ★ \$3,395.00 Western MA Co., provided First Aid/CPR training and hazard communication
- ★ \$9,350.00 - Fall River Electrical Co, provided electrical training and fall prevention.
- ★ \$25,000.00 - Cape Cod Landscaping Co., provided OSHA-30 training

RECIPIENTS

Grant recipients:
89% of grant recipients completed some/most of their training using 65% of the allocated budget

- ★ The effect to these industries was significant. Municipalities, service industries, small manufacturing companies, and construction were closed. Those that were in operation were doing so using emergency crews only.

SUMMARY

At the time of the Covid-19 pandemic, the Office of Safety was set to award training grants to **49** companies/organizations to train approximately **7,046** workers in the Commonwealth of Massachusetts. They communicated with clients and transitioned the training via virtual platform of Zoom/WebEx.

Workplace Safety

According to a December 31, 2019 article in the State House News Service, **47** Massachusetts workplace fatalities occurred in 2019, reports Massachusetts Coalition for Occupational Safety and Health (MassCOSH). Although these numbers are trending downward (2018, **69** job-related deaths), workplace fatalities are a focus of concern in Massachusetts. The latest data from the Bureau of Labor Statistics report 320 deaths, nationally, in construction during 2018.

[WBJournal](#)

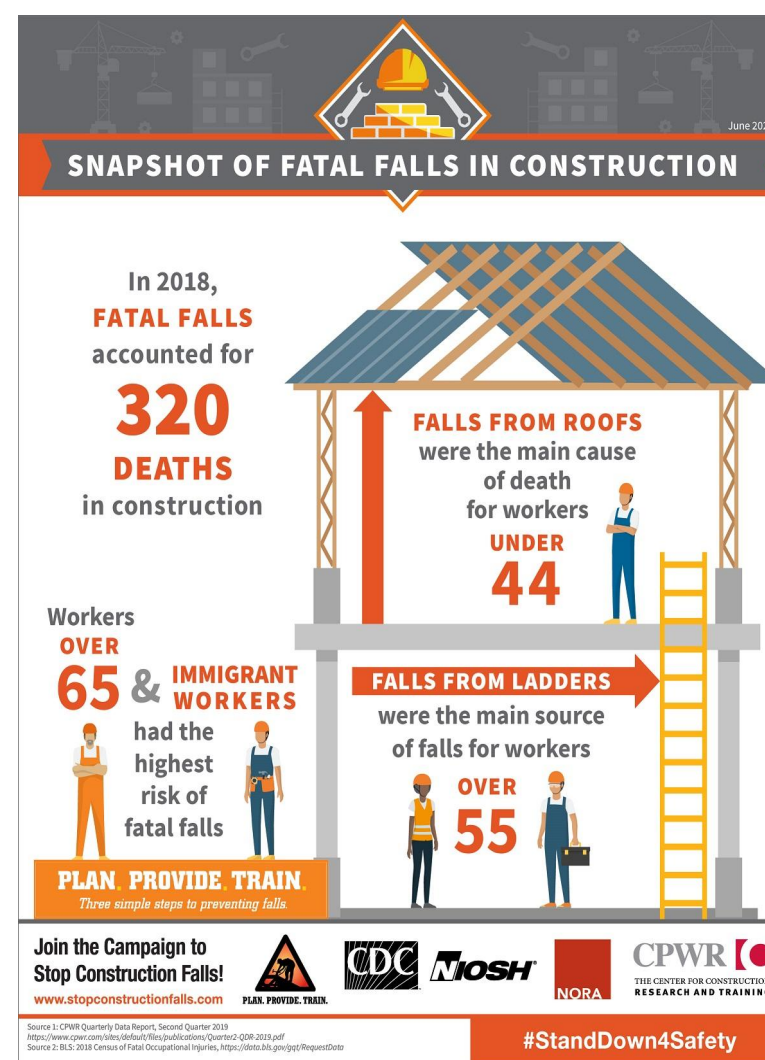
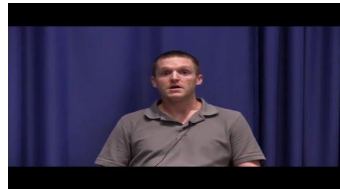
National Institute for Occupational Safety & Health (NIOSH) video on construction safety:

[Construction Safety](#)

Most recent workplace fatality data, United States Bureau of Labor Statistics (BLS)

[Bureau of Labor Statistics](#)

2019 Snapshot of Fatal Falls in Construction Infographic - Retrieved from: BLS census



DIA - Revenue Sources

REVENUE SOURCES

Private Employer
Assessment Referral Fees

Fines

FUNDS ARE ALLOTTED TO

Private Trust Fund (not
appropriated)

Special Fund
(Operating Budget, subject
to appropriation)

FUNDS ARE USED FOR

Insurer reimbursements

Uninsured claims defense
of the fund.

DIA operations (State
General Fund, repayment
quarterly)

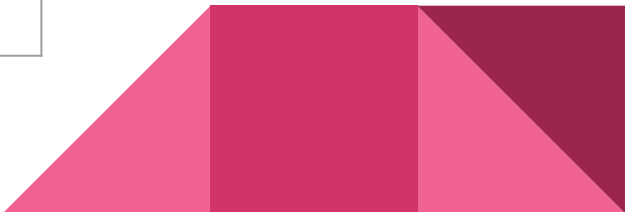
Collections and Expenditures

Special Fund	FY 2020	FY 2019
Total Special Fund Collections	\$24,080,832.00	\$27,148,395.00
Balance brought forward	\$15,552,604.00	\$15,243,340.00
Less Expenditures	\$27,773,372.00	\$26,839,130.00
Balance	\$11,860,065.00	\$15,552,604.00

For a more comprehensive view of the Public and Private Trust fund collections and expenditures data click [here](#)

[Advisory Council Publications](#)

This link contains prior fiscal year collections and expenditures data.





Legislation

Joint Committee on Labor & Workforce Development

This year presented challenges in the workers' compensation industry in Massachusetts and on a global scale with respect to the Covid-19 pandemic. Advisory Council Members monitored legislation related to MGL Chapter 152 and Covid-19.

According to the Joint Committee on Labor & Workforce Development website, "It shall be the duty of the committee on Labor and Workforce Development to consider all matters concerning discrimination with respect to employment, the labor laws, workers' compensation and such other matters as may be referred".

- House Bill [H.4739](#) - An Act creating a presumption of relatedness for essential workers suffering from COVID-19
- House Bill [H.4746](#) - An Act for unemployment rules for gig economy
- House Bill [H.4748](#) - An Act establishing unemployment expansion during public health emergencies
- House Bill [H.4749](#) - An Act providing worker compensation protection to emergency response and medical personnel related to Covid-19 infection
- House Bill [HD5181](#) - An Act relative to preventing a Covid --19 resurgence.
- Senate Bill [S2732](#) - An Act relative to a Covid-19 presumption for public employees

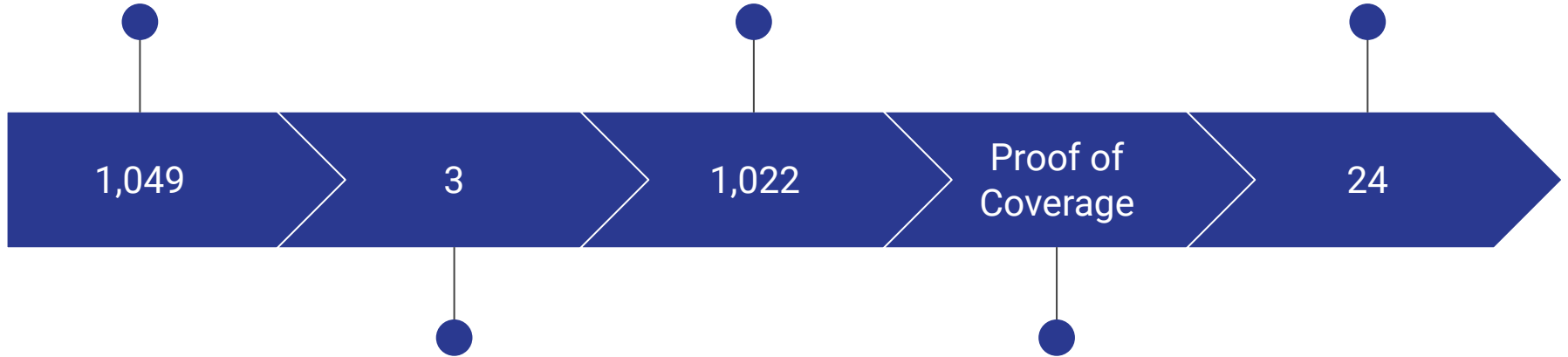
DIA - Office of Investigations

All businesses operating in the Commonwealth of Massachusetts must have proof of workers' compensation insurance coverage pursuant to M.G.L. c. 152, Sec. 25A. If a business fails to provide proof of coverage a Stop Work Order (SWO) is issued immediately.

Stop Work Orders
(SWOs) issued

(Small) Employers
1-10 employees

(Medium) Employers
11-75 employees



(Large) Employers
75+ employees

Section 25C. (1) Whenever the commissioner or his designee determines that an employer who is required to provide for the payment to his employees of the compensation provided for by the chapter has failed to do so, a stop work order shall be served on said employer, requiring the cessation of all business operations at the place of employment or job site. [Section 25C](#)

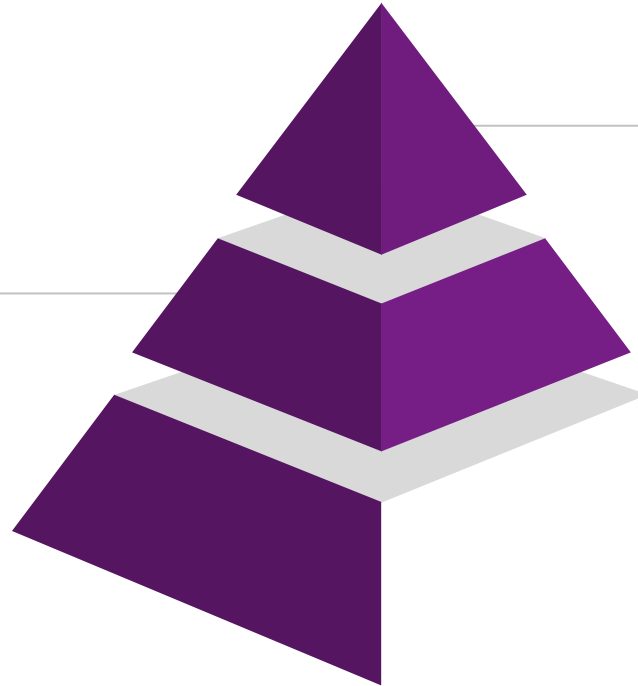
Stop Work Orders

Total amount collected in fines - **\$490,400.00**

Total # of Employees covered under workers' compensation as a result of SWOs

3,311

2



Stop Work Orders

2,748

In-house Compliance Investigations*

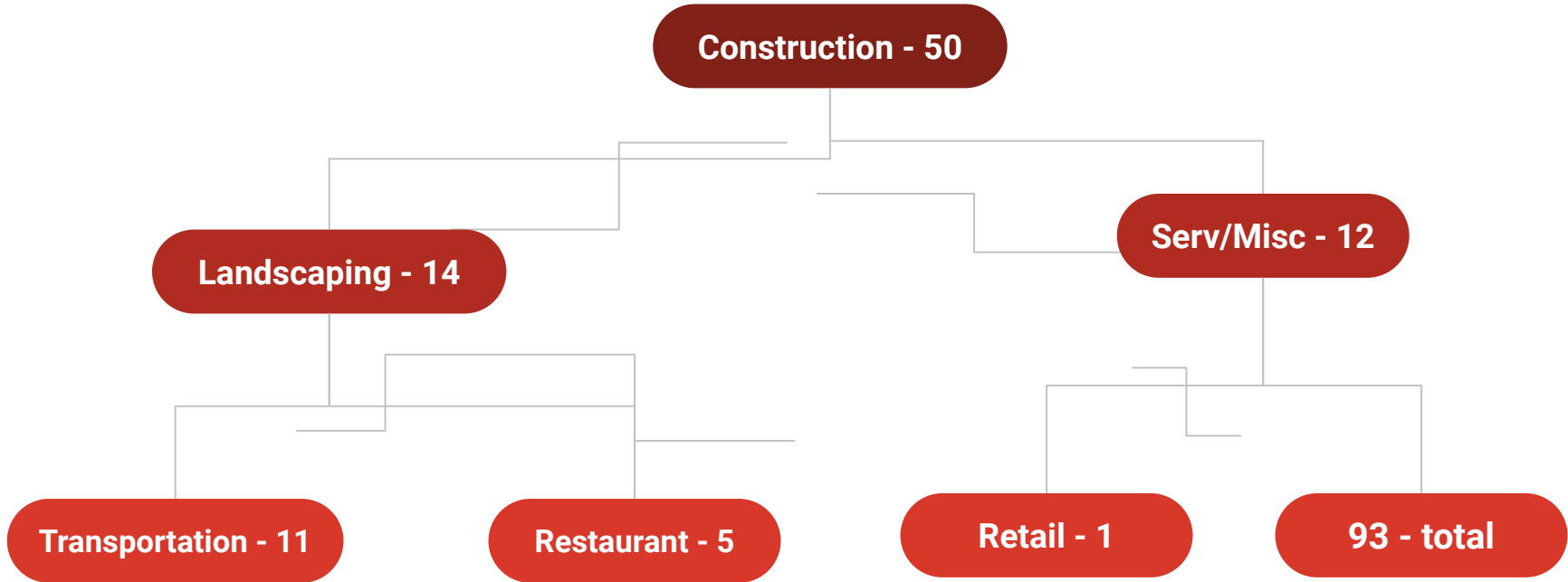
69,873

* Due to the Covid-19 pandemic, Field compliance checks were suspended in March and resumed in August/September of 2020.



DIA -
Workers' Compensation Trust Fund

Workers' Compensation Trust Fund



Number of Section 65 uninsured claims (and leading industries with the most uninsured claims) for FY 2020.

For more information on the WCTF click [here](#)

DIA -

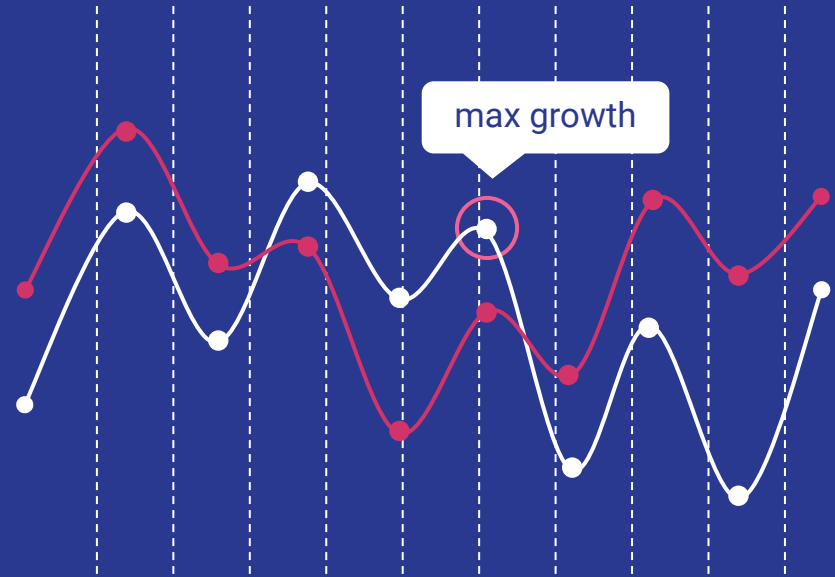
- Impartial Medical Unit
- Opioid Rx
- Reviewing Board

Opioid Rx

According to the National Institute on Drug Abuse, “In 2018, Massachusetts providers wrote 35.3 opioid prescriptions for every 100 persons. This was among the **lowest prescribing rates in the country** and less than the average U.S. rate of 51.4 prescriptions”.

Within the DIA, individuals have continued to express interest in the Opioid Alternative Treatment Pathway (OATP) program and applications are ongoing.

1. Retrieved from: Centers for Disease Control and Prevention. U.S. Opioid Prescribing Rate Maps. (2019, October 3). [Center for Disease Control US Map](#)



DIA Reviewing Board

FY 2020

70 - Total number of appeals resolved by Reviewing Board

31 - Full panel published decision on the merit

34 - Summary affirmations after full panel deliberation

0 - Lump sum conference - Lump sum approved

10 - Withdrawals/dismissals for failing to file briefs/memos of disposition

Inventory as of June 30, 2020

11- Case not ready for panel assignment - Awaiting a pre-transcript conference

- ★ 0 - With steno unit for transcript prep -0
- ★ 22 - Awaiting briefs from the parties
- ★ 3- Awaiting panel assignment
- ★ 17 - Cases under panel deliberation

Other

15 - Number of lump sum conferences scheduled

1,363 - Number of Section 15 petitions reviewed

6 - Number of Section 46A conferences heard

[2020 Reviewing Board Decisions](#)

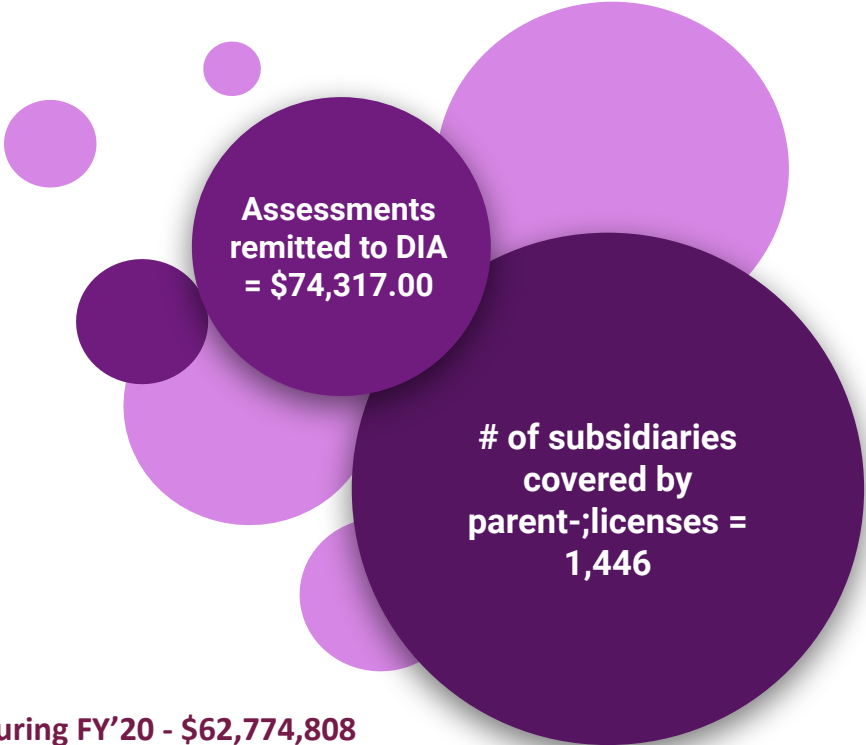
DIA -

- Office of Insurance
- Assessment and Compliance
- Office of Education and Vocational Rehabilitation
- Office of Health Policy + Health Care Services Board

DIA - Insurance and Assessment

Insurance

- The number of new self-insurance licenses issued during FY'20 - **0**
- The total number of self-insured employers (parent-licensed) in FY'20 - **73**
- The number of subsidiaries covered by these parent-licenses - **376**



**Assessments
remitted to DIA
= \$74,317.00**

**# of subsidiaries
covered by
parent-licenses =
1,446**

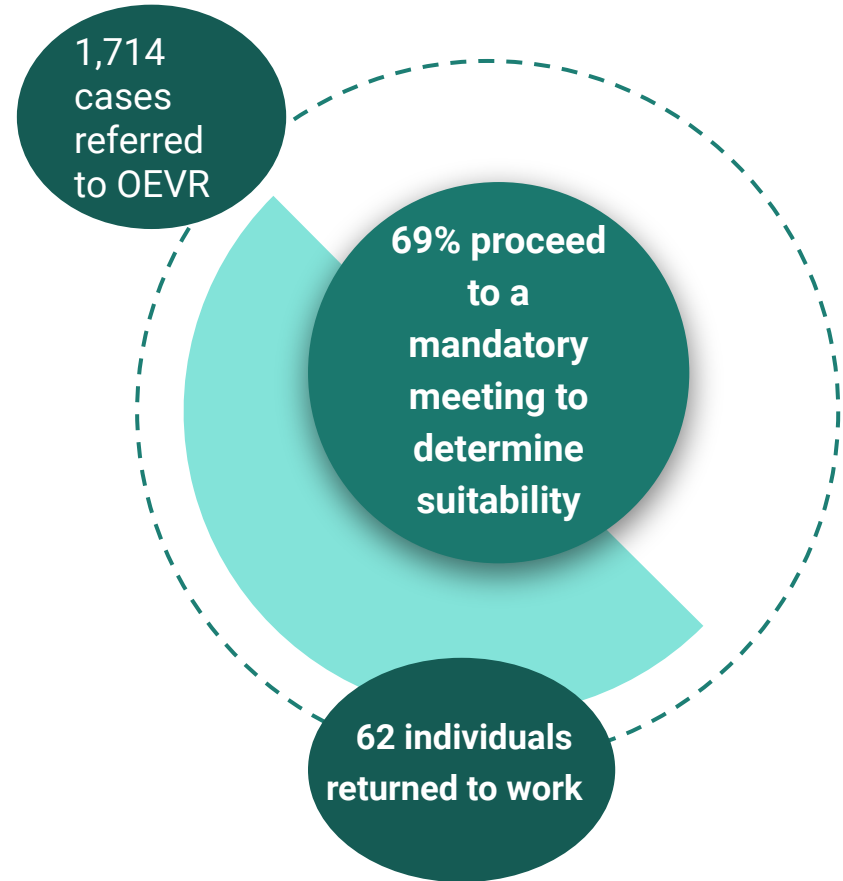
The total additional amount collected from insurance companies during FY'20 - \$62,774,808

DIA - Office of Education and Vocational Rehabilitation

OEVR was able to pivot to a remote working environment with DIAs virtual platform while still providing vocational services to their clients.

In FY 2020, there was a 41% success ratio of those injured workers who completed plans and returned to work.

For more information on OEVR click [here](#)



DIA - Office of Health Policy

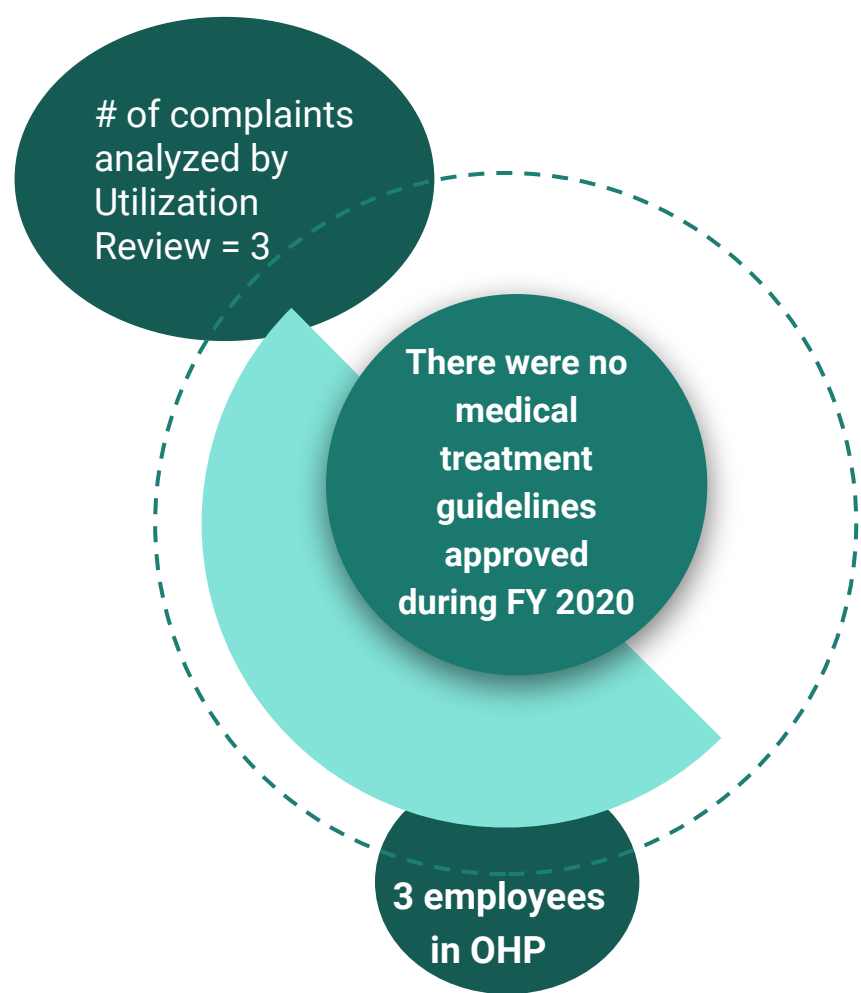
The Office of Health Policy was able to conduct utilization review audits through the DIAs virtual platform. The Health Care Services Board (HCSB) conducted quarterly meetings via WebEx.

[Office of Health Policy](#)

[Health Care Services Board](#)

The partnership continues with the Executive Office of Health and Human Services and the Department of Industrial Accidents on the medical reimbursement rate review.

[Medical Reimbursement Rate Review](#)



DIA - Regional Offices

Boston

The following metrics for Boston and the regional offices are for the period July 1, 2019 to June 30, 2020.

Visitors: 14,772
Switchboard: 16,434
Information: 11,765

Fall River

Visitors: 9,258
Calls: 3,730

Lawrence

Visitors: 5,287
Calls: 2,692

Due to the COVID-19 pandemic, all in-person hearings were suspended in Boston and the regions.

Springfield

Visitors: 4,191
Calls: 3,301

Worcester

Visitors: 7,057
Calls: 4,522

The DIAs technology platform provided the flexibility needed to quickly adapt to providing services in the virtual world with minimal interruption to services.

Appendix

Advisory Council Members

1. Overview of the Workers' Compensation Advisory Council
2. Workers' Compensation Advisory Council Publications

Department of Industrial Accidents

Executive Office of Labor & Workforce Development

Council Members

Labor Representatives

* Voting Member

***Stephen P. Falvey**, The Carpenters Center,
750 Dorchester Ave., MA, 02125

***Stephen Joyce**, The Carpenters Center, 750
Dorchester Ave., Boston, MA 02124

***Mickey Long**, AFL-CIO, 193 Old Colony
Ave., P. O. Box E-1, Boston, MA 02127

***John A. Pulgini**, Pulgini & Norton LLP, 10
Forbes Rd., Suite 240, Braintree, MA 02184

***Patrick Walsh**, Laborer's Local 223, 12
Everdean St., #A, Dorchester, MA 02122

Council Members

Business Representatives

* Voting Member

***Teri McHugh**, Boyle | Shaughnessy Law, PC,
695 Atlantic Ave., MA 02111

***Todd R. Johnson**, USI Insurance Services, 12
Gill St., Suite 5500, Woburn, MA 01801

***John R. Regan**, Associated Industries of
Massachusetts, One Beacon St., 18th Floor,
Boston, MA 02108

***James Steenbruggen**, First Electric Motor
Service, Inc., 73 Olympia Ave., Woburn, MA
01801

***(VACANT)**

Council Members

Insurance Representative

Claimant's Bar Representative

Non-voting Member

Insurance Representative:

Michael P. Kelley, HUB International
New England, 299 Ballardville St.,
Wilmington, MA 01887

Claimant's Bar:

Bernard J. Mulholland, Ford
Mulholland & Moran, 288 North Main
St., P. O. Box 4499, Brockton, MA
01887

(VACANT) - Medical Provider

(VACANT) - Vocational Rehabilitation

Ex-Officio
+
Director

**Commonwealth of Massachusetts
Workers' Compensation Advisory Council**

Secretary Rosalin Acosta, Executive
Office of Labor and Workforce
Development

Secretary Michael Kennealy,
Executive Office of Housing and
Economic Development

Maureen O'Connell, Director, Workers'
Compensation Advisory Council

[Website](#)
