



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY**

**BUREAU OF WORKERS' COMPENSATION
INCLUDING
MEDICAL ADVISORY COMMITTEE
MEDICAL PAYMENT COMMITTEE**

Performance Audit Report

October 2017

Justin P. Wilson, Comptroller



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October 30, 2017

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Ladies and Gentlemen:

We have conducted a performance audit of selected programs and activities of the Bureau of Workers' Compensation, including the Medical Advisory Committee and the Medical Payment Committee, for the period July 1, 2014, through June 30, 2017. This audit was conducted pursuant to the requirements of the Tennessee Governmental Entity Review Law, Section 4-29-111, *Tennessee Code Annotated*.

Our audit disclosed certain findings which are detailed in the Audit Conclusions section of this report. Management of the Bureau of Workers' Compensation, including the Medical Advisory Committee and Medical Payment Committee, has responded to the audit findings; we have included the responses following each finding. We will follow up the audit to examine the application of the procedures instituted because of the audit findings.

October 30, 2017
Page Two

This report is intended to aid the Joint Government Operations Committee in its review to determine whether the Bureau of Workers' Compensation, Medical Advisory Committee, and Medical Payment Committee should be continued, restructured, or terminated.

Sincerely,

A handwritten signature in black ink that reads "Deborah V. Loveless". The signature is written in a cursive style with a large initial 'D'.

Deborah V. Loveless, CPA
Director

DVL/jcd

17/302



Division of State Audit

Bureau of Workers' Compensation and Related Committees

Performance Audit - October 2017

Our mission is to make government work better.

AUDIT HIGHLIGHTS

We have audited the Bureau of Workers' Compensation, including the Medical Advisory Committee and the Medical Payment Committee, for the period July 1, 2014, through June 30, 2017. Our audit scope included a review of internal controls and compliance with laws, regulations, policies, and procedures in the following areas:

- penalties assessed against employers and insurers that have not complied with workers' compensation law;
- information systems;
- statutorily required annual reporting on the impact of the Workers' Compensation Reform Act of 2013;
- injured workers' access to medical care;
- courtroom security;
- collection and distribution of funds;
- administrative reviews of the bureau's initial decisions about disputed claims issues; and
- the committee members' conflict of interest disclosures, meeting attendance, and fulfillment of statutory requirements and other responsibilities.

**Scheduled Termination
Date for All Entities:**

June 30, 2018

KEY CONCLUSIONS

Findings

- Bureau management lacked adequate policies and procedures to ensure that staff collected penalties from noncompliant employers and insurers (page 10).
- The Bureau did not provide adequate internal controls in one specific area (page 14).

Observations

The following topics are included in this report because of the effect on the operations of the Bureau of Workers' Compensation and the citizens of

Tennessee:

- for the past six years, the bureau has been unable to replace the outdated Workers' Compensation System (page 14);
- the 2016 annual report to the General Assembly contained inaccurate statistics on pre- and post-reform workers' compensation claims (page 17);
- the bureau has taken steps to ensure that injured workers have timely access to medical care but should continue to monitor patient care (page 20); and
- the Court of Workers' Compensation should continue to seek alternatives to improve security measures for its courtrooms (page 22).

**Performance Audit
Bureau of Workers' Compensation
and Related Committees**

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Performance Audit Bureau of Workers' Compensation and Related Committees

INTRODUCTION

AUDIT AUTHORITY

This performance audit of the Bureau of Workers' Compensation, including the Medical Advisory Committee and Medical Payment Committee, was conducted pursuant to the Tennessee Governmental Entity Review Law, *Tennessee Code Annotated*, Title 4, Chapter 29. Under Section 4-29-239, the Bureau of Workers' Compensation, the Medical Advisory Committee, and the Medical Payment Committee are scheduled to terminate June 30, 2018. The Comptroller of the Treasury is authorized under Section 4-29-111 to conduct a limited program review audit of the agencies and to report to the Joint Government Operations Committee of the General Assembly. This audit is intended to aid the committee in determining whether the Bureau of Workers' Compensation, the Medical Advisory Committee, and the Medical Payment Committee should be continued, restructured, or terminated.

BACKGROUND

Workers' compensation is a system of insurance that protects employees and employers from some of the losses caused by on-the-job accidents and work-related illnesses. Workers' compensation provides three main types of benefits:

1. payment for medical care for work-related injuries and illnesses;
2. temporary disability benefits for employees who are unable to work or who work at reduced pay while recovering from their injuries; and
3. additional disability benefits for employees whose injuries have a permanent impact on their ability to work.

The bureau's mission statement is "to fulfill the promise of workers' compensation today... and tomorrow."

Under this system, all employers with five or more full- or part-time employees, unless covered by a specific exemption,¹ are required to carry workers' compensation insurance on their

¹ Tennessee's workers compensation law does not cover domestic servants; farm or agricultural workers; federal government workers; or workers covered by special federal programs, such as maritime workers and railroad workers employed in interstate commerce. Employers in the construction and coal mining industries are required to carry coverage for their employees, even if there are fewer than five. Special rules may also apply to state or local government employees.

employees. According to Sections 4-3-1408 and 4-3-1409, *Tennessee Code Annotated*, the Bureau of Workers' Compensation is responsible for administering Tennessee's workers' compensation system.

WORKERS' COMPENSATION REFORM ACT OF 2013

The Workers' Compensation Reform Act of 2013, which took effect on July 1, 2014, included the following reforms:

- The Bureau of Workers' Compensation, which had previously operated as a division of the Department of Labor and Workforce Development, became an independent agency administratively attached to the department.
- An ombudsman program was created to provide information and assistance to all parties, especially employees pursuing their claims without attorneys.
- Previously, if disputes over whether someone should receive benefits could not be resolved through mediation, the parties filed claims in the state's chancery or circuit courts. Under the new system, if workers' compensation cases cannot be settled through mediation, they are heard in administrative court within the bureau. The act also created an appeals board, composed of three judges, to hear appeals to the court's decisions.
- The reform expanded coverage to include occupational diseases as compensable injuries. Additionally, workers' compensation injuries are now limited to those occurring "primarily in the course and scope" of work, whereas injuries causally related to workplace accidents were eligible for compensation prior to the reform. The act also altered the calculation of benefits in certain situations, which included changing the method of rating an injured employee's degree of permanent impairment and reducing the maximum disability benefits available in some instances.
- The reform required the bureau to develop a standard set of advisory guidelines for the treatment of workers' compensation injuries.
- Employers and their representatives are now allowed to communicate with the physicians treating their employees and view medical records related to the injuries, whereas they had been prohibited from doing so prior to the reform.

BUREAU OF WORKERS' COMPENSATION

The Bureau of Workers' Compensation is organized into several areas, as described below:

Court of Workers' Compensation: The court hears disputed workers' compensation claims if the date of injury is on or after July 1, 2014. The court's mission is to provide employees and employers with a fair, efficient, and professional system for workers' compensation cases. Courtrooms are located in the following cities: Memphis, Jackson, Nashville, Murfreesboro, Cookeville, Chattanooga, Knoxville, and Kingsport.

Board of Appeals: The appeals board, which is composed of three judges who are appointed by the Governor, reviews cases on appeal from the Court of Workers' Compensation.

Mediation and Ombudsman Services of Tennessee: The ombudsman program helps those employees and employers without attorneys to understand their rights and responsibilities. The program provides legal information (but not advice) to parties regarding workers' compensation claims, assists parties with filing forms for the bureau, helps mediate disputes, explains the compensation claim process, and connects injured employees with their claims adjusters.

Mediation helps resolve disputes between injured employees and insurance adjusters (or employers) in workers' compensation claims. The parties conduct mediation privately, with the assistance of mediation specialists from the bureau. The mediation specialists serve a neutral role and attempt to resolve the disputed issues by communicating with the parties; learning their individual concerns and positions; and seeking to reach a voluntary agreement.

Compliance: Compliance staff investigate and penalize employers that either do not carry workers' compensation coverage or misclassify workers as self-employed or independent contractors.

Administrative Legal Services: The bureau's Legislative Liaison serves as the director for this section. The section also includes the Penalty Program, which enforces penalties for

- failure to pay temporary disability benefits on time;
- failure to comply with an order or judgment on time;
- failure to file claims forms on time; and
- various other violations (other than those covered by the Compliance Section).

According to the workers' compensation law, collected penalties are placed into the Second Injury Fund when they relate to workers' compensation claims for injuries occurring prior to July 1, 2014. Penalties are placed into the bureau's general operating account when they relate to workers' compensation claims for injuries occurring on or after July 1, 2014.

Second Injury Fund: The Second Injury Fund pays benefits to workers who already had a permanent disability but sustained a second injury that leaves them permanently and totally

disabled. The fund pays benefits to the employee after the employer's insurance has covered the employer's portion related to the second injury. The Second Injury Fund's purpose is to encourage employers to hire workers with existing handicaps or permanent disabilities. The fund receives revenue from an allocation of employers' premium taxes and penalties collected by the Administrative Legal Services Section. (As of May 9, 2017, the Second Injury Fund was renamed the Subsequent Injury and Vocational Recovery Fund.)

Medical: The Medical unit collects registration fees from case managers² and those who perform utilization reviews.³ It also oversees the Medical Impairment Rating Registry, a registry of physicians who will see an injured worker and provide an impartial impairment rating, if an injured worker has visited more than one physician and there is a dispute regarding the impairment rating and percentage of impairment. Additionally, the unit answers questions regarding the utilization review and medical treatment process.

Quality Assurance: This unit works with other units to create new procedures intended to improve the bureau's efficiency in meeting its mission, while ensuring that new and existing policies and procedures comply with workers' compensation legal requirements.

Claims: The employees in this unit act as the recordkeepers for the claims process. This unit obtains injury reports, initial payment reports, and other filings from employers and insurers. It provides claims information to the parties involved with the claim and produces reports for the U.S. Department of Labor and other agencies on specific data, such as the number of work-related fatalities and the amounts spent on specific types of claims.

Coverage: The Coverage unit handles the workers' compensation insurance filings used to determine whether employers comply with the workers' compensation law, rules, and regulations. This unit also keeps records of all self-insured employers in the state and handles calls concerning who can be included or excluded from workers' compensation policies.

Drug Free Workplace Program: The Tennessee Drug Free Workplace Program is designed to increase productivity for Tennessee employers and promote safe worksites for employees by promoting drug- and alcohol-free workplaces. An employer certified by the Tennessee Drug Free Workplace Program is entitled to

- a 5% premium credit on its workers' compensation insurance policy;
- the presumption that drugs or alcohol were the proximate cause of the injury when an employee is injured at work and fails a post-accident drug or alcohol test; and

² As defined by the *Rules of the Tennessee Department of Labor and Workforce Development Division of Workers' Compensation*, case managers are licensed nurses or Certified Case Managers (CCMs) who coordinate injured and disabled workers' medical care services. Insurers and self-insured employers may choose to provide case management services or contract for case management services through third-party administrators.

³ Utilization reviews are evaluations of medical care services that are recommended by the authorized treating physicians and provided to injured employees. These evaluations help to ensure that the services are necessary, appropriate, and likely to be effective. Utilization reviews are performed by employers, their insurers, or third-party administrators that meet certification and accreditation requirements of the state to perform utilization review services.

- the presumption that the employer has cause to discharge or discipline an employee, or refuse to hire a job applicant, who is in violation of the employer’s drug-free workplace program.

The bureau uses the following business unit codes in Edison: 33703 (general administration and Uninsured Employers Fund); 33708 (Subsequent Injury and Vocational Recovery Fund, formerly the Second Injury Fund); and 33715 (Employee Misclassification Education and Enforcement Fund). An organization chart of the bureau is on page 6.

RELATED ENTITIES

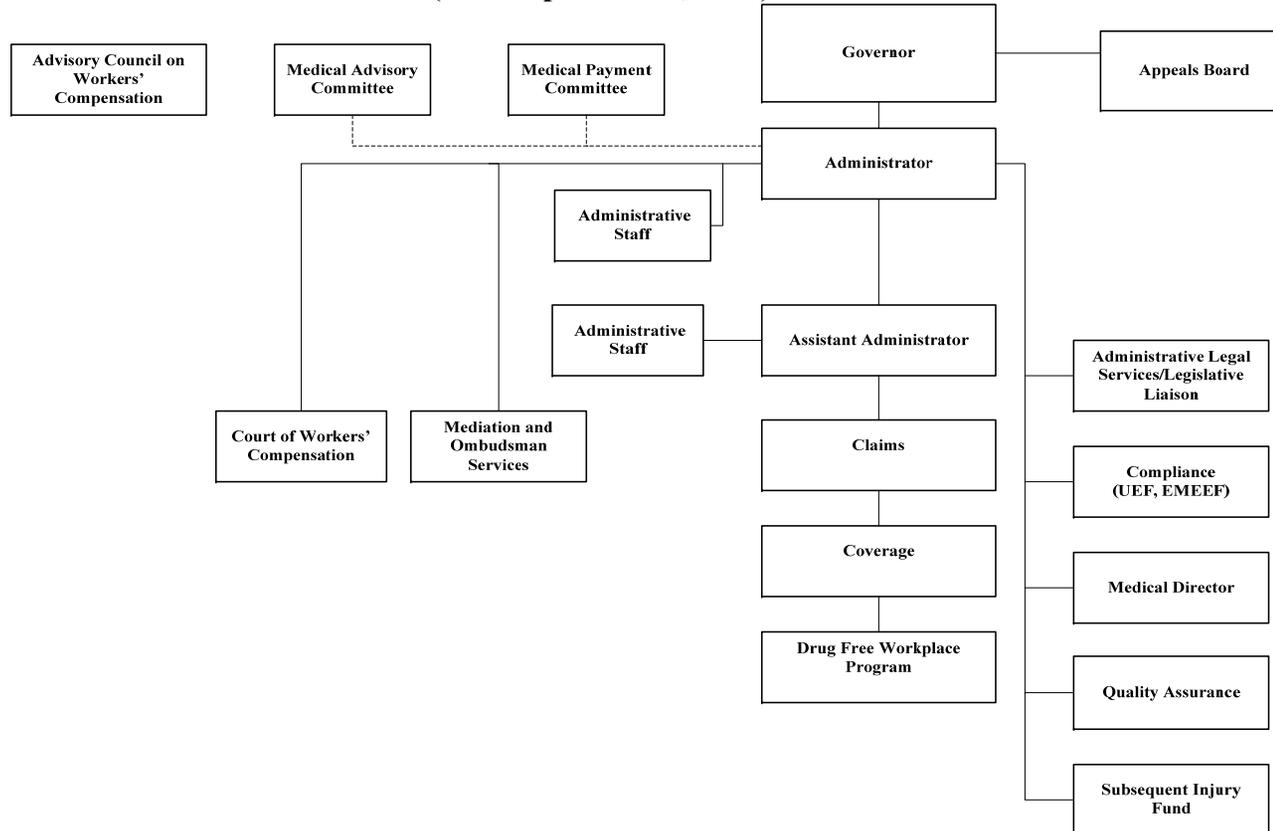
Although not under the Bureau of Workers’ Compensation’s supervision, the Advisory Council on Workers’ Compensation,⁴ the Medical Payment Committee, and the Medical Advisory Committee are also parts of the state’s workers’ compensation system.

The Advisory Council on Workers’ Compensation, which is attached to the Department of Treasury for administrative purposes, provides information on workers’ compensation issues to the General Assembly, the Department of Commerce and Insurance, and the Department of Labor and Workforce Development. It consists of 7 voting members and 10 non-voting members, including those representing both employers and employees. One voting member is statutorily required to be the state Treasurer or his representative.

For more information on the Medical Payment Committee and the Medical Advisory Committee, see page 25.

⁴ The Advisory Council on Workers’ Compensation is not scheduled to terminate until June 30, 2020, and was not included in our audit work.

**Bureau of Workers' Compensation
Organization Chart
(as of September 6, 2017)**



UEF - Uninsured Employers Fund
EMEEF - Employee Misclassification Education and Enforcement Fund

Source: Bureau of Workers' Compensation.

AUDIT SCOPE

We have audited the Bureau of Workers' Compensation, including the Medical Advisory Committee and the Medical Payment Committee, for the period July 1, 2014, through June 30, 2017. Our audit scope included a review of internal controls and compliance with laws, regulations, policies, and procedures in the following areas:

- penalties assessed against employers and insurers that have not complied with workers' compensation law;
- information systems;
- statutorily required annual reporting on the impact of the Workers' Compensation Reform Act of 2013;
- injured workers' access to medical care;
- courtroom security;
- collection and distribution of funds;
- administrative reviews of the bureau's initial decisions about disputed claims issues; and
- the committee members' conflict of interest disclosures, meeting attendance, and fulfillment of statutory requirements and other responsibilities.

Management of the Bureau of Workers' Compensation, including the Medical Advisory Committee and Medical Payment Committee, is responsible for establishing and maintaining effective internal control and for complying with applicable laws, regulations, and provisions of contracts and grant agreements.

For our sample design, we used nonstatistical audit sampling, which was the most appropriate and cost-effective method for concluding on our audit objectives. Based on our professional judgment, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that nonstatistical sampling provides sufficient appropriate audit evidence to support the conclusions in our report. Our sample results may provide perspective; however, because the samples are nonstatistical, the sample results should not be projected to determine the likely impact on the populations. We present more detailed information about our methodologies in the individual report sections.

We conducted our audit 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.

PRIOR AUDIT FINDINGS

Section 8-4-109, *Tennessee Code Annotated*, requires that each state department, agency, or institution report to the Comptroller of the Treasury the action taken to implement the recommendations in the prior audit report. The audit report on the Department of Labor and Workforce Development dated March 2009 contained two findings involving the Division of Workers' Compensation and the Medical Care and Cost Containment Committee. Under the Workers' Compensation Reform Act of 2013, the division became the Bureau of Workers' Compensation, and the committee was replaced by the Medical Payment Committee and the Medical Advisory Committee. The Department of Labor and Workforce Development filed its report with the Comptroller of the Treasury on October 8, 2009. We conducted a follow-up of the prior audit findings related to workers' compensation as part of the current audit.

RESOLVED AUDIT FINDINGS

The current audit disclosed that the Bureau of Workers' Compensation has corrected the previous audit finding concerning waivers of the 10-day requirement for conducting administrative reviews and that the Medical Payment Committee and the Medical Advisory Committee have corrected the previous audit finding related to low member attendance at committee meetings.

AUDIT CONCLUSIONS

INVESTIGATING AND PENALIZING NONCOMPLIANCE

The Bureau of Workers' Compensation investigates and penalizes employers and insurers that do not properly maintain workers' compensation insurance coverage or that otherwise violate workers' compensation law. The bureau's Compliance Section is specifically responsible for investigating and penalizing employers that fail to provide workers' compensation coverage, as well as construction service providers that misclassify their employees.⁵ The Administrative Legal Services Section investigates and penalizes all other areas of noncompliance (e.g., when an

⁵ Section 50-6-901, *Tennessee Code Annotated*, defines a construction services provider as "any person or entity engaged in the construction industry." While Tennessee's workers' compensation law only requires most employers to provide workers' compensation coverage if they have five or more employees, construction services providers must carry workers' compensation insurance even if they have only one employee. Construction services providers that identify employees as independent contractors or as self-employed workers can avoid paying minimum wage, overtime, employer taxes on behalf of their workers, and can also avoid providing workers' compensation coverage and other occupational protections required by law. These employers might also underreport the number of employees or the total amount of payroll, misrepresent the type of work performed, or unlawfully deduct workers' compensation insurance premiums from workers' paychecks. Misclassification allows noncompliant employers to gain unfair competitive bidding advantage over law-abiding employers.

employer or insurer fails to comply with a judge’s order or does not routinely file statistical data forms about work-related injuries).

Both of these sections receive notice of potential violations through external and internal referrals. The Compliance Section’s investigators visit employers and use statistical analysis software to identify instances of noncompliance. The Administrative Legal Services Section receives copies of court orders and monitors whether employers and insurers comply with the orders.

If the Compliance Section determines that an employer or insurer has not complied with the law, it is authorized to impose a monetary penalty. Initial monetary penalties are one and one-half times the average yearly workers’ compensation premium for the employer or, for construction employers, the greater of one thousand dollars or one and one-half times the average yearly workers’ compensation premium. The bureau imposes additional penalties for continued noncompliance or subsequent violations. If considered necessary, the bureau may also file injunctions to prohibit employers from continuing to do business; seek to prevent construction service providers from obtaining exemptions for coverage;⁶ or request that the Department of Commerce and Insurance revoke self-insurers’ certificates of authority.

The Administrative Legal Services Section may assess monetary penalties that range from \$10 to \$10,000 or more, depending on the violations and dates of the related injuries. The bureau may also request that the Department of Commerce and Insurance revoke insurance companies’ licenses in cases of continued noncompliance.

For a violation, or “case,” that results in a penalty, the bureau issues a court order specifying the amount and a payment plan with the amounts that the penalized party must pay each month. At their discretion, the bureau’s staff use billing statements and phone calls to obtain payment. The bureau can also refer a past due account to the state’s approved collection agency or, if the balance is \$10,000 or more, to the Attorney General’s Office.

Audit Results

Audit Objective: Did the bureau investigate potential violations of Tennessee’s workers’ compensation law and, as necessary, assess penalties and conduct adequate follow-up to ensure collection?

Conclusion: Based on our audit work, the bureau investigated potential violations and monitored employers’ and insurers’ compliance with court orders but did not have sufficient policies and procedures to ensure that staff collected penalties timely (see **Finding 1**).

⁶ Construction services providers may register with the Secretary of State to obtain an exemption from workers’ compensation coverage requirements for themselves, though they must still provide coverage for any employees. Without the exemption, construction services providers are required to carry workers’ compensation insurance on themselves and all employees.

Methodology to Achieve Objective

To obtain an understanding of the processes for identifying and investigating violations of workers' compensation law and penalizing noncompliant employers, we conducted interviews with applicable bureau personnel. We also reviewed *Tennessee Code Annotated*, the *Rules of the Tennessee Department of Labor and Workforce Development Division of Workers' Compensation*, the bureau's policies and procedures, penalty-related reports, and spreadsheets used to track potential violations. We selected a nonstatistical random sample of 60 cases of potential violations recorded by the bureau during the period July 1, 2014, through April 30, 2017: 30 cases from the Compliance Section's population of 1,427 cases, and 30 cases from the Administrative Legal Services Section's population of 5,907 cases. We reviewed case file records and payments recorded in the state's accounting system to determine if staff properly investigated these cases and appropriately followed up on any that resulted in assessed penalties to ensure timely collection. Specifically, we noted any penalty accounts from our samples without a payment or a documented letter or phone call to the penalized party in at least three months.

Finding 1 – Bureau management lacked adequate policies and procedures to ensure that staff collected penalties from noncompliant employers and insurers

The bureau did not have sufficient policies and procedures to ensure staff followed up on unpaid penalties. According to the policies for the Administrative Legal Services and Compliance Sections, the bureau's staff should send employers/insurers two past-due notices for any delinquent penalty. The policies further state that an unpaid penalty should be referred to the Attorney General's Office or the state's collection agency if the employer or insurer does not respond to its second past-due notice. The policies, however, do not specify how or when staff should follow up on penalty cases, or when unpaid penalties should be considered delinquent.

The U.S. Government Accountability Office's *Standards for Internal Control in the Federal Government* (Green Book)⁷ states that "management should implement control activities through policies" and that these instructions "may include the timing of when a control activity occurs and any follow-up corrective actions to be performed."

According to the Administrator, management had identified deficiencies in the collections processes prior to our audit and was in the process of revising the bureau's collection policies to account for changes to its processes. The Administrator stated that the bureau had started generating billing statements automatically through the state's accounting system in April 2017 and was developing a new database that would be used to generate reports that showed the penalty payments that should be received each month.

⁷ The *Standards for Internal Control in the Federal Government*, published by the United States Government Accountability Office, identify the standards for internal control in the federal government, as required by Title 31, *United States Code*, Sections 3512 (c) and (d). As noted in the foreword, these standards "may also be adopted by state, local, and quasigovernmental entities, as well as not-for-profit organizations, as a framework for an internal control system."

By not properly monitoring overdue accounts, the bureau allowed penalties to remain unpaid for extended periods, increasing the risk of not collecting on penalties in full. From the 60 items in our testwork, the bureau assessed penalties in 25 cases. Based on our review, bureau staff did not regularly review and follow up on 8 of these 25 cases (32%), allowing penalized employers and insurers to avoid paying a total of \$21,280 in penalties for at least five months without contacting them.

- For the one penalty assessed by the Administrative Legal Services Section, the bureau granted a 90-day stay on October 14, 2015, while the employer had related legal action in court systems outside the bureau. The Workers' Compensation Compliance Specialist responsible for the penalty case did not monitor the status of the legal proceedings and was not aware that the lawsuit against the employer settled in federal court on April 29, 2016, until after we inquired about it. (After the director for the Administrative Legal Services Section notified the employer's attorney that the bureau would proceed with collection efforts, the employer paid the penalties in August 2017.)
- For 7 of the 24 Compliance Section penalties we reviewed, the Workers' Compensation Program Coordinator allowed periods of inactivity ranging from 5 to 31 months to elapse before either receiving a payment or contacting the parties regarding their outstanding balances.

Without the proper policies and procedures to govern collection of unpaid penalties, the bureau's staff are ineffective in encouraging entities to comply with workers' compensation law through monetary penalization. Penalizing noncompliant employers and insurers for their violations does not serve as an effective deterrent if the bureau allows the penalties to remain uncollected.

Recommendation

The Administrator should ensure the bureau has policies and procedures in place that specify the methods and the frequency with which staff should attempt to collect unpaid penalties. In addition, the Compliance Section and Administrative Legal Services Section management should take the necessary steps to ensure that staff comply with these policies and follow up on unpaid penalties so that entities who fail to comply with the state's workers' compensation law are appropriately penalized.

Management's Comment

Management concurs. Management identified areas of the collection processes of both the Compliance Section and Administrative Services Section that needed improvement and has implemented changes that will correct the finding.

The Compliance Section has instituted new policies and procedures to document when initial payments are received on an assessment. The Compliance Section now audits payments for unpaid penalties each month to verify that the required payments have been received. If

payments were not received timely, a statement is generated and mailed to the noncompliant employer. Penalty accounts are monitored each month and, if the noncompliant employer has not made the required payments for unpaid penalties after three statements (a final notice is included in the third statement) have been generated and sent from Edison, the account is turned over to the appropriate agency for collection assistance (state's collection agency or Attorney General's office based on the amount of the unpaid amount). The Compliance program is finalizing the development of a Microsoft Access data base that will allow the Compliance Section to produce a monthly report that will identify employers that did not make payments within a given month.

The penalty unit in the Administrative Legal Services Section has also completed an analysis of its methods and implemented the following new policies and procedures to improve collections of penalties: (1) A past due notice #1 is emailed to the employer/carrier from a penalty unit staff member when it is determined that a penalty was not paid by the deadline in the penalty notification. This notice advises the party their account is delinquent and provides the payment due date. (2) If the employer/carrier does not return calls or remit payment by the deadline, a past due notice #2 is mailed to the employer from a Bureau attorney via certified mail. This notice advises the employer/carrier their account is delinquent, provides a payment due date, and states further action will be taken to collect the penalty if no response is received. (3) If the employer/carrier does not respond to the past due notice #2 from the Bureau attorney, files are prepared for referral to the Attorney General's Office (Collection Unit) or the state-approved collection agency for additional collection efforts based on the amount due. (4) Files referred to the Attorney General's Office (Collection Unit) are reviewed quarterly by a Bureau attorney. Contact is made with the Attorney General's Office (Collection Unit) to request the status of program files if no payments have been received. If collection efforts are unsuccessful, the Attorney General's Office (Collection Unit) notifies the unit that the account is uncollectable. (5) Files referred to the state-approved collection agency are reviewed quarterly by a penalty staff member for collection activity. The state-approved collection agency provides a monthly status report of all cases referred for collection. A separate spreadsheet for the bureau's work units with collections issues was developed and will be sent to the collection agency on all uncollected accounts, which will help to monitor the status of unpaid penalties. If collection efforts are unsuccessful, the state-approved collection agency notifies the program that the account is uncollectable.

INFORMATION SYSTEMS

The Bureau of Workers' Compensation is administratively attached to the Department of Labor and Workforce Development and relies on the department's Division of Information Technology for information systems support.

To achieve its mission, the bureau uses the Workers' Compensation System (WCS), implemented in 1999, as the main application to record information about workers' compensation claims. Specifically, the bureau uses WCS to track information about issues such as injury reports, claim approvals, medical providers, claimant payments, and case outcomes. Bureau staff manually enter data in WCS and process Electronic Data Interchange transfers with outside entities, such as medical providers and insurance companies. Due to concerns about the age of WCS and its lack of functionality in keeping up with program demands, the bureau received \$2,169,800 in fiscal year 2012 to replace the system.

Audit Results

1. Audit Objective: Did bureau management follow state information systems security policies and industry best practices regarding information system controls?

Conclusion: Based on procedures performed, we determined bureau management did not follow security policies for its systems controls (see **Finding 2**).

2. Audit Objective: Did bureau management make reasonable progress toward implementing the new system to replace WCS?

Conclusion: Management has taken several steps toward implementing its new system but has been unable to replace WCS in the 6 years since the bureau received funding. The project's completion is approximately 18 months behind schedule, raising concerns about further delays and a need for additional funds to complete the project (see **Observation 1**).

Methodology to Achieve Objectives

We compared management's internal control activities to state information systems security policies and industry best practices.

To obtain an understanding of the steps that bureau management has taken to implement its new system, we met with key personnel from the bureau and the department's Division of Information Technology to review the project's history, progress, and expected full implementation date. We also reviewed information in the state's budget and in Edison (the state's accounting system) about the amounts budgeted and expended for the new system.

Finding 2 – The bureau did not provide adequate internal controls in one specific area

The Bureau of Workers' Compensation did not design and monitor internal system controls in one specific area. Ineffective implementation of internal controls increases the likelihood of fraud, errors, or data loss. The details of this finding are confidential pursuant to Section 10-7-504(i), *Tennessee Code Annotated*. We provided the bureau with detailed information regarding the specific condition we identified, as well as the related criteria, causes, and our specific recommendations for improvement.

Recommendation

Management should ensure that these conditions are remedied by prompt development and consistent implementation of internal controls. Management should implement effective controls to ensure compliance with applicable requirements; assign staff to be responsible for ongoing monitoring of the risks and mitigating controls; and take action if deficiencies occur.

Management's Comment

Management concurs. The Bureau of Workers' Compensation will work with the applicable departments and divisions to address the noted deficiencies.

Observation 1 – For the past six years, the bureau has been unable to replace the outdated Workers' Compensation System

Based on our discussions with bureau management, the Workers' Compensation System (WCS) is no longer sufficient to perform all the necessary functions. WCS does not have modules for the Court of Workers' Compensation Claims, the appeals board, or the Mediation and Ombudsman Services unit, all of which were created after the passage of the Workers' Compensation Reform Act of 2013. The system also uses an outdated Electronic Data Interchange format, and, as a result, some insurers and medical providers must submit information to the bureau as hard copy reports. Although management of both the bureau and the Department of Labor and Workforce Development's Division of Information Technology originally estimated that they would replace WCS by June 30, 2016, they have been unable to develop and implement the new system, TNCOMP, as of July 20, 2017. A timeline of the efforts to replace WCS is presented in Table 1.

Table 1
Timeline of Events
Workers' Compensation System (WCS) Replacement

Date/Fiscal Year(s)	Description of Events
2012	The bureau received \$2,169,800 to replace its outdated system.
2012–2014	After researching the type of system needed and whether an off-the-shelf product could be purchased, Division of Information Technology management concluded that purchasing an off-the-shelf system or hiring a vendor to create a new system would cost \$8 million to \$12 million. The Department of Finance and Administration's Business Solutions Delivery unit assigned a consultant to the project in May 2013, but this individual left in April 2014.
2014	The bureau purchased a document storage system, SmartSearch (part of the overall upgrade in conjunction with TNCOMP). The bureau incurred costs on the project for Division of Information Technology staff to implement the system and began paying the Department of Finance and Administration's Division of Strategic Technology Solutions (STS) a monthly fee for SmartSearch server hosting.
2015	The bureau's Administrator requested that an additional \$5 million be included in the bureau's funding for the next year so that it could hire a vendor to develop the new system. When the additional funding was not included in the proposed budget for fiscal year 2016, management of the bureau and Division of Information Technology began planning to develop TNCOMP in-house.
2016	Division of Information Technology management assigned two contract employees to develop TNCOMP. The bureau entered into an agreement with STS to host servers for the TNCOMP system.
2017	Division of Information Technology staff developed and tested TNCOMP modules for the Court of Workers' Compensation Claims and the Mediation and Ombudsman Services unit. Division management planned to implement these modules in May 2017, but testing identified problems with SmartSearch.

Source: Discussions with bureau and division management and review of applicable documentation.

According to bureau and division management, the TNCOMP project was delayed for the following reasons:

- the bureau did not begin planning to create TNCOMP in-house for some time because the original plan was to purchase an off-the-shelf product;
- the project was further delayed during fiscal year 2015 while waiting to hear if the request for additional funding to contract with a vendor was approved;
- the two independent contractor positions assigned to work on the project in 2016 had multiple turnovers; and

- the division’s priorities were focused on implementing new departmental applications, including the state’s new unemployment insurance system, rather than the bureau’s TNCOMP project.

As of April 12, 2017, the Department of Labor and Workforce Development’s Administrator for the Division of Information Technology estimated that the final modules for TNCOMP would be completed by December 2018. Although division management stated to us that they are hopeful that the remaining funds will be sufficient to complete the project, there is an increased risk that management of both the bureau and Division of Information Technology will not have adequate funding to complete the new system if there are further delays and costs incurred to reach significant milestones. As of July 20, 2017, the bureau had expended \$1,410,787 and had \$759,014 in remaining funds for the project.

Although the timeline on the previous page indicates continuing progress, it is critical that the bureau and the Division of Information Technology continue efforts to replace the aging WCS system. The bureau’s Administrator should work with the Administrator for the Division of Information Technology to closely monitor the progress of the TNCOMP project and ensure that the new system implementation remains on schedule. Division management should ensure that adequate staff resources are devoted to the project; that project costs are closely monitored; and that action is taken quickly to mitigate any risks that threaten further delays. Additionally, before obtaining funds for any future projects, bureau management should adequately consider how the bureau will complete the projects, as well as the likely costs of doing so.

WORKERS’ COMPENSATION REFORM ACT OF 2013 REPORTING

The Workers’ Compensation Reform Act of 2013 was enacted in an effort to improve medical care and dispute resolution for workers’ compensation claims. As a part of the reform, the Bureau of Workers’ Compensation must, “on or before July 1, 2015, and annually thereafter, review the impact of the Workers’ Compensation Reform Act of 2013 on the workers’ compensation system in this state and deliver a report of its findings to each member of the general assembly.” Since *Tennessee Code Annotated* does not specify the content for the annual report, bureau management must use its own judgment in preparing the report each year, based on factors including perceived legislative concerns and the initial intent of the Reform Act.

Audit Results

Audit Objective: Did the bureau review and report on the impact of the Workers’ Compensation Reform Act of 2013, as required by state statute?

Conclusion: Although bureau management annually reviewed and reported on the Reform Act and the state’s workers’ compensation system, a table in the bureau’s 2016 annual report included inaccurate statistics on pre- and post-reform cases (see **Observation 2**).

Methodology to Achieve Objective

We conducted interviews with bureau management and staff to determine how they prepare the annual report. In addition, we reviewed the 2015 and 2016 annual reports and selected a table in the 2016 annual report comparing pre- and post-reform cases for our testwork.⁸ After we obtained the results of queries of the Workers' Compensation System, as well as a corrected version of the table comparing pre- and post-reform cases that management prepared for us, we reconciled the data from the query results to the revised table.

Observation 2 – The 2016 annual report to the General Assembly contained inaccurate statistics on pre- and post-reform workers' compensation claims

The bureau's 2016 annual report included a table that presented statistics about claims resolved during the two years before the Reform Act and the two years after it. With the table, the bureau included a footnote advising readers to take into account that the pre-reform data included "some claims that may have been more severe" than the post-reform claims.⁹ The statistics in the table, however, were also unreliable because of several errors made by the bureau's staff.

As a result of our request for the data underlying the statistics in the report, the Program Coordinator and the Administrative Services Assistant discovered that they had not accurately divided the pre- and post-reform claims data. In particular, they noted that many of the statistics in the "Two Years Before Reform Act" column included claims for injuries and illnesses that were covered under the pre-reform law but that had not been closed until fiscal year 2016. (Due to the lengths of time that these claims were outstanding, they were inherently more costly and time-consuming than the ones resolved in the two years prior to the Reform Act's implementation that should have been measured.) After identifying their errors, the Program Coordinator and the Administrative Services Assistant ran the queries again and provided us with the data and amounts that should have been presented in the report. (Bureau management and staff were preparing the 2017 annual report at the time they identified the errors and did not reissue the 2016 annual report with the corrected amounts.) The following table shows the original statistics in the report alongside the figures as they should have been presented. Although the corrected measures still indicate improvements under the Reform Act, there are substantial differences between these amounts and the ones in the 2016 annual report.

⁸ The 2015 and 2016 annual reports were the most current editions of the report available to us during our audit fieldwork. Bureau management did not include a comparison of pre- and post-reform claims in either the 2015 annual report or the 2017 annual report, which was issued after the end of our audit period.

⁹ The data about pre-reform cases consisted of all claims that were resolved, regardless of the onset dates for the injuries and illnesses. The data about post-reform cases, on the other hand, consisted of claims that began *and* were resolved within the two years since the Reform Act took effect.

**Table 2
Impact of the Reform Act at a Glance
2016 Original/Reported and Corrected Amounts**

Measure	Original/Reported		Corrected	
	Two Years Before Reform Act	Two Years After Reform Act	Two Years Before Reform Act	Two Years After Reform Act
Workers' compensation claims filed	195,785	200,442	195,785	191,148
Average indemnity cost per claim settled	\$21,062	\$7,857	\$14,689	\$6,378
Percentage of claimants who return to work after settlement	66%	83%	81%	90%
Average medical costs per claim settled	\$32,163	\$14,419	\$24,091	\$12,005
Average duration of Temporary Total Disability (TTD) period in claims settled	177 days	53 days	93 days	44 days
Average number of weeks from Date of Injury to Date of Conclusion for claims settled	164	49	95	39
Average number of weeks from Date of Injury to Maximum Medical Improvement for claims settled	79	30	54	24
Average number of weeks from Maximum Medical Improvement to Date of Conclusion for claims settled	63	20	37	16

Bureau management should develop a system of controls to ensure the accuracy of information in the annual report and, if necessary, a process for communicating errors that are identified after the submission of an annual report. In order to reduce the risk of error and the difficulties associated with redesigning the report each year, the bureau's Administrator may wish to consider working with General Assembly members and other stakeholders to develop a consistent format for the report and to identify measures that staff will need to provide on a consistent basis.

ACCESS TO MEDICAL CARE

One of the three main types of benefits available to injured employees through the workers' compensation system is medical care. According to Section 50-6-204(a)(3)(A)(i), *Tennessee Code Annotated*,

in any case when the employee has suffered an injury and expressed a need for medical care, the employer shall designate a group of three (3) or more independent reputable physicians, surgeons, chiropractors or specialty practice groups . . . from which the injured employee shall select one (1) to be the treating physician.

State statute also requires the employer to provide a list of at least three specialists should the initial physician need to make a referral, or, if the employer's preference, for the initial physician to select the specialist. Unless the employee agrees to exchange this right for a monetary award at the time the claim is settled, employees with on-the-job injuries are entitled to receive all reasonable and necessary medical care for their injuries for the rest of their lives. There is no dollar limit on these lifetime medical benefits, and the only requirement is that the treatments must be reasonable, necessary, and related to the work injury.

Audit Results

Audit Objective: Did the Bureau of Workers' Compensation take reasonable action to ensure that injured workers had access to medical care?

Conclusion: We determined the bureau took reasonable action to ensure that injured workers had access to medical care but should continue to monitor patient access to and satisfaction with care (see **Observation 3**).

Methodology to Achieve Objective

We reviewed applicable state statutes and interviewed bureau management to obtain an understanding of the requirements and processes for providing medical care under the state's workers' compensation system. We obtained reports from management about the assistance that the bureau provided to injured workers and the fines it imposed on employers for not reporting injuries or not providing injured employees with a choice of physicians in a timely manner. We reviewed an independent study of workers' compensation cases in Tennessee, as well as research from the Association of American Medical Colleges about the number of physicians in states nationwide, and discussed the results of these studies with management.

Observation 3 – The bureau has taken steps to ensure that injured workers have timely access to medical care but should continue to monitor patient care

Under Tennessee’s workers’ compensation system, any physician in the state may provide treatment to a workers’ compensation patient. As a result, the bureau does not keep a registry of physicians for workers’ compensation claims, nor does it track how long it takes for claimants to receive medical treatment or how far they travel for treatment. The bureau has, however, taken other actions to monitor worker satisfaction and help ensure timely access to necessary medical treatment, as described below.

Ombudsman Service

The 2013 Reform Act implemented an ombudsman program to assist parties who are not represented by an attorney. If an injured worker has difficulty making an appointment with a medical provider from the list provided by the employer, the ombudsman can contact the employer or insurance provider and determine if the employer will provide another option for medical care.

Penalty Program

As of March 22, 2015, the bureau is authorized to impose monetary penalties on any employer that does not comply with the statute requiring employers to provide injured workers with a list of medical providers in a timely manner. The bureau had imposed seven penalties totaling \$1,950 as of May 2017.

Independent Study

The bureau obtained a report conducted by the Workers’ Compensation Research Institute, a nonprofit organization that studies workers’ compensation issues. The report, conducted in 2014, documented the results of surveys of workers in Tennessee and 14 other states. For its study, the institute contacted 402 Tennessee workers who had been injured during 2011. According to survey results, small percentages of Tennessee workers reported significant problems with their access to medical care:

- Of Tennessee respondents, 17% indicated that they had “big problems” (as opposed to “small problems” or “no problems”) getting desired medical services. Of those that reported “big problems,” 7% answered that not getting appointments soon enough was the cause for their problem.
- Of Tennessee respondents, 18% indicated that they had “big problems” when asked about problems getting their desired providers. As the reasons for their dissatisfaction, 17% of these respondents cited not getting an appointment soon enough and 4% indicated that their desired provider would not accept workers’ compensation patients.

In our discussions with management, they noted that one issue with workers’ compensation in general is that some physicians do not like to treat workers’ compensation

claimants for reasons such as the burden of extra administrative tasks and potential disagreements about recommended treatments. The Administrator stated, however, that she does not believe there is a problem with the number of physicians able to see patients. She also noted that there may be a lack of certain types of specialists in parts of the state, but patients can be reimbursed for travel expenses.

While bureau management has taken steps to monitor and respond to issues regarding access to medical care, it should continue to do so to ensure that the bureau fulfills its responsibility to help injured workers. Bureau management should consider obtaining and compiling information about injured workers' appointments with physicians and specialists in order to formally analyze whether the claimants have sufficient medical care.

COURTROOM SECURITY

The Workers' Compensation Reform Act of 2013 established the Court of Workers' Compensation, an administrative law court, to hear the state's workers' compensation cases. The bureau's courtrooms, located in its offices in Memphis, Jackson, Nashville, Murfreesboro, Cookeville, Chattanooga, Knoxville, and Kingsport, have varying levels of security. Although some of the buildings have unarmed guards, none of these security personnel are in the courtrooms during trials. When notified that someone may act disruptively, management requests the presence of a Tennessee Highway Patrol (THP) officer in the courtroom. To be assured of an officer for the hearing, however, the bureau must notify the THP approximately one week before the court date.

Audit Results

Audit Objective: Is security in the bureau's courtrooms adequate to ensure the safety of court officials and visitors?

Conclusion: Although there are no statutory requirements or other formal standards governing courtroom security applicable to the bureau's court, security improvements to the bureau's courtrooms should be evaluated (see **Observation 4**).

Methodology to Achieve Objective

We reviewed applicable state statutes and the *Court of Workers' Compensation Claims' Practices and Procedures*. We discussed courtroom security with the bureau's Administrator, Assistant Administrator, and the Chief Judge for the Court of Workers' Compensation Claims, as well as the Department of General Services' Deputy Commissioner and Director of Facilities Management. We also reviewed summaries of court security from officials in eight other states and descriptions of each of the bureau's courtrooms provided by the Chief Judge.

Observation 4 – The Court of Workers’ Compensation should continue to seek alternatives to improve security measures for its courtrooms

In our discussions with the bureau’s Administrator and the Chief Judge for the Court of Workers’ Compensation, they expressed concern for the safety of court officials and others present at the administrative hearings in the bureau’s courtrooms. Management’s concern stemmed from the fact that injured workers and others are often under considerable stress during legal proceedings and that its courtrooms are fully accessible to the public. In addition to the lack of courtroom security officers (commonly known as bailiffs), none of the bureau’s courtrooms have bag checks, metal detectors, or security buttons at the judges’ benches.

According to the Chief Judge, the ideal security setting would include the following: screening all persons and their belongings prior to entry; having an armed guard present during a trial; and equipping each judge’s bench with a security button to alert others of potential threats.

At our request, the Chief Judge made inquiries of other states about their security measures. Based on the information he obtained from the respondent states, he found that the level of security in workers’ compensation courts appears to vary widely from state to state. For example, South Carolina and Kansas officials reported no formal security, whereas a Florida judge reported that his state’s courts had armed guards and metal detectors for screenings. The Florida judge also noted that the state began providing courtroom security in 1997, one year after an injured worker who was upset with the settlement from his accident took four individuals hostage at a law office, eventually killing himself and one of his hostages. In our discussions with the Chief Judge for the Court of Workers’ Compensation, he noted that, although no one in Tennessee had been seriously harmed, frustrated individuals had caused safety disturbances at the bureau’s Jackson and Chattanooga offices.

Bureau management has discussed courtroom security with officials at the Department of General Services, which is responsible for managing the state’s real estate assets including providing security in state buildings. The Department of General Services’ Deputy Commissioner identified several obstacles to improving courtroom security:

- since many of the courtrooms are in leased buildings, the lessors would have to approve the presence of armed guards;
- security personnel would need to be scheduled for certain times because trials are only held for several hours a week on average;
- the use of metal detectors and bag checks would also require an official with the authority to detain someone found to have a weapon or explosive device; and
- security improvements in each of the bureau’s eight offices would need to be balanced with available funding.

At the time of our audit fieldwork, management for the bureau and the Department of General Services indicated that they would continue working together to enhance courtroom security.

CONTROLS OVER THE COLLECTION AND DISTRIBUTION OF FUNDS

The Bureau of Workers' Compensation receives revenue from various fees and penalties, which are deposited into the bureau's general operating account or one of three special purpose funds:

- the Uninsured Employers Fund (UEF);
- the Employee Misclassification Education and Enforcement Fund (EMEEF); and
- the Second Injury Fund (renamed the Subsequent Injury and Vocational Recovery Fund as of May 9, 2017).

In addition to normal administrative expenses, the bureau also distributes benefits from these funds to those who meet qualifications based on the funds' purposes.

Audit Results

Audit Objective: Did the bureau have internal controls over the collection and distribution of funds?

Conclusion: Based on our audit work, we found that the bureau had designed and implemented internal controls over the collection and distribution of funds, and these controls were operating effectively, with only minor exceptions.

Methodology to Achieve Objective

To obtain an understanding of the bureau's internal controls, we conducted interviews with applicable personnel and reviewed copies of the mail log for checks, the spreadsheet used to record UEF and EMEEF revenues, deposit logs, and the revenue tracking spreadsheet maintained by the bureau's Executive Administrative Assistant. We also reviewed *Tennessee Code Annotated*, the *Rules of the Tennessee Department of Labor and Workforce Development Division of Workers' Compensation*, and the bureau's cashing procedures. From a population of 22,831 expenditures from the UEF, EMEEF, and Second Injury Funds for the period July 1, 2014, through March 31, 2017, we tested a nonstatistical random sample of 75 expenditures and one additional payment to a workers' compensation claimant that appeared unusual to determine if the bureau's staff properly reviewed expenditures for allowability before issuing payments. We also performed testwork on a nonstatistical random sample of 60 revenue transactions from a population of 52,823 revenue transactions received by the bureau in the period July 1, 2014, through March 31, 2017, to determine if staff accurately processed collections and approved the deposits.

ADMINISTRATIVE REVIEWS OF DISPUTED CLAIMS ISSUES

Pursuant to statute, the bureau provides benefit reviews to assist injured workers and employers with resolving workers' compensation disputes for injuries that occurred prior to July 1, 2014 (i.e., before the Workers' Compensation Reform Act of 2013 took effect). When an injured employee and employer fail to reach a consensus on workers' compensation issues, they must exhaust the benefit review process before filing suit in court. This process begins with a bureau specialist accepting evidence from both parties and issuing an order outlining the determination. If either party disagrees with the determination at this level, the party has seven calendar days to request an administrative review. Section 50-6-238(d)(2)(A), *Tennessee Code Annotated*, requires that the Administrator of the Workers' Compensation Division (or a designee) conduct administrative reviews within 10 calendar days of the requests. The bureau schedules administrative reviews outside of the 10-calendar-day period when all parties agree, to allow unrepresented parties to hire attorneys or due to personal or family illnesses or emergencies. In our 2009 audit of the Department of Labor and Workforce Development, we noted that the Division of Workers' Compensation¹⁰ lacked policies and procedures for waiving the 10-day requirement for administrative reviews, even though a substantial number of reviews did not occur within the required time limit.

Audit Results

1. Audit Objective: Does the bureau have policies and procedures for waiving the time limit for administrative reviews?

Conclusion: The bureau has policies and procedures that describe the circumstances under which the 10-day time limit may be waived and how the reasons should be documented.

2. Audit Objective: Did the bureau follow its policies and procedures for documentation when it waived the 10-day time limit?

Conclusion: Based on our testwork, the bureau followed its policies and procedures for documenting when administrative reviews were not held within 10 calendar days of the requests.

Methodology to Achieve Objectives

We conducted interviews with applicable staff and reviewed the bureau's "Administrative Review Policies and Procedures" to obtain an understanding of the benefit review process. We obtained a listing of the 582 administrative review orders filed during the period July 1, 2014, to April 13, 2017, and tested a nonstatistical random sample of 25

¹⁰ Prior to the Workers' Compensation Reform Act of 2013, the Bureau of Workers' Compensation operated as a division of the Department of Labor and Workforce Development.

administrative reviews that were not held within 10 calendar days of the review requests¹¹ to determine if staff documented valid reasons for the delays.

MEDICAL PAYMENT COMMITTEE AND MEDICAL ADVISORY COMMITTEE

The Workers' Compensation Reform Act of 2013 replaced the Medical Care and Cost Containment Committee with two new committees:

Medical Payment Committee: The Medical Payment Committee addresses disputes on medical bill payments between providers and insurers and advises the bureau's administrator on issues relating to the medical fee schedule and medical care cost containment in the workers' compensation system. Pursuant to statute, the committee is comprised of six members appointed by the bureau's administrator: three medical provider industry representatives and three workers' compensation insurance industry representatives. The bureau's medical director is the seventh member by virtue of the position.

Medical Advisory Committee: The Medical Advisory Committee contains 16 members representing employers, employees, the insurance industry, and those with experience treating workers' compensation injuries.¹² In addition, the bureau's medical director serves as a nonvoting ex-officio member of the committee by virtue of the position. The committee provides guidance to the administrator on issues related to the effective and efficient treatment of injured workers as well as the proper source of reference for determining permanent impairment ratings. During several of its early meetings, the committee focused on how to minimize the risk of opioid abuse by injured workers.

Audit Results

1. Audit Objective: Did the Medical Payment and Medical Advisory Committees meet statutory requirements for member composition?

Conclusion: Based on our review, the Medical Payment and Medical Advisory Committees met the statutory requirements for member composition.

2. Audit Objective: Did the Medical Payment and Medical Advisory Committee members complete annual conflict of interest disclosures?

¹¹ Since the bureau conducted many administrative reviews within 10 calendar days of the requests, we selected additional items from the listing until we identified 25 administrative reviews that were not completed within 10 calendar days.

¹² State statute does not specify the number of members for the Medical Advisory Committee. Section 50-6-135, *Tennessee Code Annotated*, instructs the Administrator for the Bureau of Workers' Compensation "to achieve a geographic balance" and "assure, to the extent possible, that the membership of the committee reflects the diversity of specialties involved in the medical treatment and management of workers' compensation claimants" when making appointments to the committee.

Conclusion: The members of the Medical Payment and Medical Advisory Committees completed conflict of interest disclosure forms annually, except for four members of the Medical Advisory Committee who did not complete forms during fiscal year 2016.¹³

3. Audit Objective: Did the Medical Payment and Medical Advisory Committees have quorums present for their meetings?

Conclusion: The Medical Payment Committee and the Medical Advisory Committee had quorums present for their meetings.

4. Audit Objective: Did the Medical Advisory Committee act to address the risk of opioid abuse?

Conclusion: We learned that the Medical Advisory Committee recommended to the Bureau of Workers' Compensation that it incorporate into its Treatment Guidelines the Department of Health's Chronic Pain Guidelines, the Work Loss Data Institute's Official Disability Guidelines (ODG), and ODG Drug Formulary Guidelines.

Methodology to Achieve Objectives

We reviewed statutory requirements, the *Rules of the Tennessee Department of Labor and Workforce Development Division of Workers' Compensation – Medical Advisory Committee*, the *Medical Payment Committee By-Laws*, and committee meeting minutes. We obtained documentation from management regarding committee members' qualifications and meeting attendance. We obtained Conflict of Interest Policy Acknowledgment and Conflict of Interest Disclosure forms for the committees for the period July 1, 2014, through June 30, 2017. We discussed with bureau management the opioid epidemic in Tennessee and the Medical Advisory Committee's response to it. We reviewed the Medical Advisory Committee meeting minutes for the period July 1, 2014, through June 30, 2017, and noted instances in which the committee discussed ways to combat opioid abuse by workers' compensation patients.

¹³ All four of these committee members completed disclosure forms for fiscal years 2015 and 2017.