



Workers Compensation 39th Annual Statistical Report

Fiscal Year 2013



KANSAS DEPARTMENT OF LABOR

Division of Workers Compensation 39th Annual Statistical Report Fiscal Year 2013

January 2014

**Lana Gordon, Secretary of Labor
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MESSAGE FROM THE SECRETARY OF LABOR

Our mission at the Kansas Department of Labor is to enhance the economic well-being of all Kansans through responsive workforce services. Providing quality, timely services to those who are impacted by an injury in the workplace is very important to us. Each year we attempt to summarize these services into an annual report which presents the data from the previous fiscal and calendar year.

In Fiscal Year (FY) 2013, the division processed 14,070 applications for hearings. The business section issued 145 self-insurance permits to employers. The compliance section established 857 employer contacts. This year, the fraud and abuse unit collected \$301,209.46 in restitution and civil penalties. In addition, the ombudsman section answered information requests from 18,199 parties and the research unit responded to more than 43,000 requests for workers compensation histories.

We continue to pursue utilizing technology to make workers compensation claims easier for our customers to file and for us to process. The Electronic Data Interchange (EDI) which allows for electronic reporting of initial injuries and follow-up by insurers has more than 90 trading partners submitting data on behalf of more than 300 insurance carriers and self-insured employers. During FY 2013, 50 percent of all original accident reports were filed electronically. We anticipate this number will grow as we complete migration to a mandatory EDI system in January 2014.

We offer web-based services in the area of coverage verification. This allows external users to access coverage information through the Kansas Department of Labor website: www.dol.ks.gov. We will continue to update and utilize our website to make more information available to our customers.

Would you please provide us with your feedback? We would like to know what sections of this report are most helpful to you. We would also like to know how we can best improve our services to you, our customer. Please email us at wc@dol.ks.gov with your comments.

Sincerely,



Lana Gordon
Secretary, Department of Labor

INTRODUCTION

The Kansas Legislature enacted the State's first law governing workers compensation, as a no-fault system, more than one hundred years ago – in 1911. Although many significant changes to its provisions have been made since then, the basic premise and purpose of the law have remained much the same. The premise is that those injured in industrial accidents should be compensated regardless of who is at fault. The purpose is to provide protection to the injured employee through employer safety efforts, medical treatment and partial compensation for lost income.¹

Until 1939, the responsibility for administering the workers compensation law resided with a "workmen's compensation commissioner" whose authority extended from a series of public commissions to which the position reported, including the Public Safety Commission in the 1920s and the Commission of Labor and Industry in the 1930s. In 1939, the Kansas Legislature created and transferred jurisdiction over workers compensation to a stand-alone agency named the Office of the Workmen's Compensation Commissioner. In 1961, the legislature reorganized the office again, into the Office of the Director of Workers Compensation. This office subsequently became a division under the Department of Labor.

The current workers compensation law covers all employers in Kansas, regardless of the number of employees or the kind of work they do, with two exceptions: employers engaged in agricultural pursuits and any employer who during a given calendar year has an estimated payroll less than \$20,000, unless the employer is a subcontractor. The State of Kansas pays no workers compensation benefits to injured workers unless they are state employees. Private employers pay all benefits owed to their injured workers, either directly from the employer's own resources or indirectly through another party. While most covered employers obtain insurance from private carriers or group pools, provisions in the law establish criteria for certain employers to become self-insured. Potentially eligible employers must apply for approval to use the self-insurance option from the Director of Workers Compensation. Criteria include continuous operation for at least five years, a minimum level of after-tax earnings and a minimum debt/equity ratio. The Kansas Insurance Department approves the formation of group-funded self-insurance pools and determines whether employers qualify for membership in a pool.

¹ Madison v. Key Work Clothes, 182 Kan. 186, 192, 318 P. 2d 991 (1957).

BENEFITS INFORMATION

COMPENSATION

Kansas' Workers Compensation Law requires that an employer or its insurance carrier pay an injured employee two-thirds of the employee's gross average weekly wage, up to the amount of the applicable maximum benefits listed below. To find the appropriate maximum using the list below, look for the range of dates that contain the date of injury and then go to the right to find the maximum dollar amount of the benefit. For example, if the date of injury was August 21, 2013, the maximum weekly benefit one could receive would be \$587. The actual amount a worker receives is the lesser of two amounts: either two-thirds of the worker's gross average weekly wage or the maximum in effect at the date of the injury. This effective maximum does not change over the life of one's claim, even though the maximum benefit level for each new 12-month interval usually increases by a small amount.

Maximum Compensation Schedule

| Date of Injury | Maximum Benefit |
|--------------------------------|------------------------|
| July 1, 2003-June 30, 2004 | \$440 |
| July 1, 2004-June 30, 2005 | \$449 |
| July 1, 2005-June 30, 2006 | \$467 |
| July 1, 2006-June 30, 2007 | \$483 |
| July 1, 2007-June 30, 2008 | \$510 |
| July 1, 2008-June 30, 2009 | \$529 |
| July 1, 2009-June 30, 2010 | \$546 |
| July 1, 2010-June 30, 2011 | \$545 |
| July 1, 2011-June 30, 2012 | \$555 |
| July 1, 2012-June 30, 2013 | \$570 |
| July 1, 2013-June 30, 2014 | \$587 |
| Current Weekly Minimum: | \$25 |

MEDICAL

A person injured on the job is entitled to all medical treatment that may be needed to cure or relieve the effects of the injury. Under the law, the employer has the right to choose the treating physician. If the worker seeks treatment from a doctor not authorized or agreed upon by the employer, the insurance company is only liable for a maximum of \$500 toward such medical bills. The employee does have the right to apply to the Director of Workers Compensation for a change of doctor. An injured worker is generally entitled to mileage reimbursement for trips to see a physician for distances in excess of five miles for the round trip. The injured worker generally also can obtain reimbursement if transportation must be hired. Weekly compensation is payable at the above applicable rate for the duration of the disability. In no case can such payments exceed a total of \$155,000 for permanent total or \$130,000 for permanent partial or temporary disability.

BENEFITS INFORMATION

CATEGORIES OF DISABILITY COMPENSATION BENEFITS

Temporary Total Disability is paid when the employee, due to an injury, is unable to engage in any type of substantial and gainful employment. Benefits are paid for the duration of the disability.

Permanent Total Disability is paid when the employee, due to an injury, has been rendered completely and permanently incapable of engaging in any type of substantial and gainful employment. The loss of both eyes, both hands, both arms, both feet or both legs, and any combination thereof, in the absence of proof to the contrary, shall also constitute a permanent total disability. Substantially total paralysis or incurable imbecility or insanity resulting from injury independent of all other causes also shall constitute permanent total disability.

Permanent Partial Scheduled Disability is paid when the employee sustains complete or partial loss of use of a body part, such as an arm, due to a job-related injury. Compensation is limited to a percentage of the scheduled number of weeks.

Permanent Partial General Disability is paid when the employee sustains permanent partial disability not specifically covered by the schedule. Compensation is based on the percentage of disability remaining after recovery and is limited to 415 weeks.

Survivors' Benefits of \$300,000 are paid to an employee's surviving spouse and dependent children if death occurs as a result of injury. If there is no surviving spouse or dependents, the legal heirs are entitled to \$25,000. Burial expenses up to \$5,000 also are covered.

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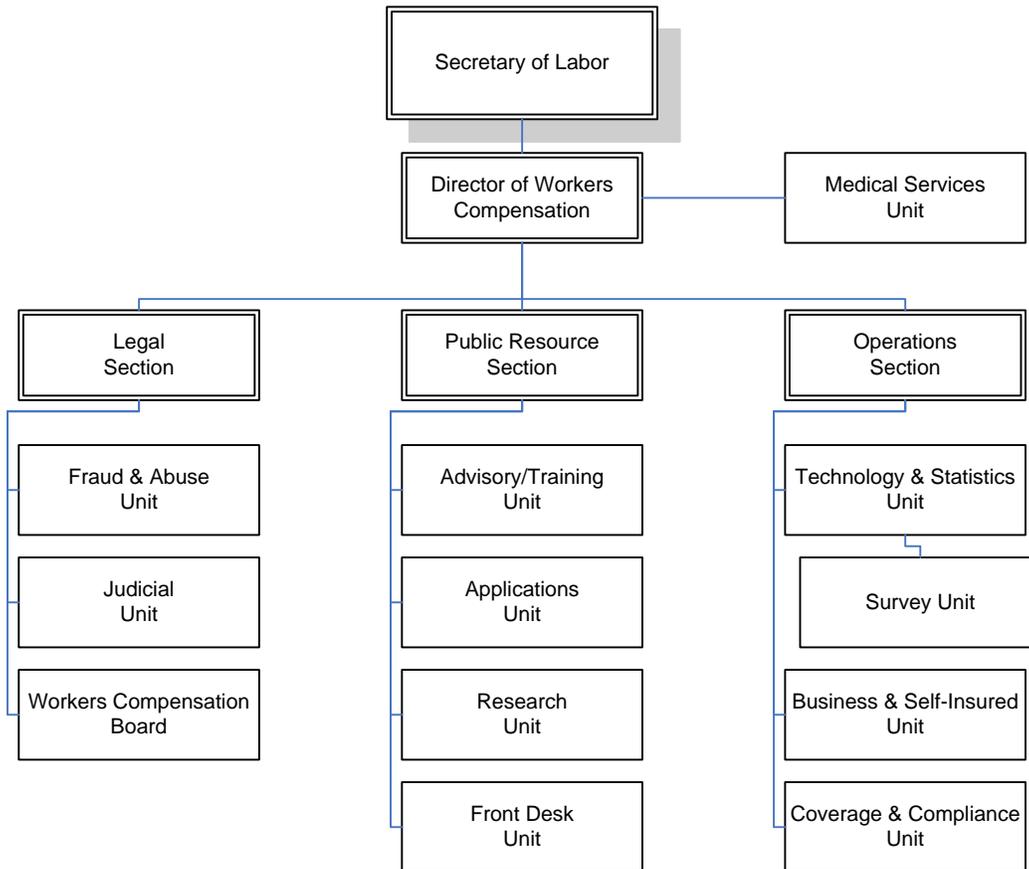
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Section 1

Administrative Profile of the Kansas Division of Workers Compensation FY 2013

**Figure 1-1
Organizational Chart
Kansas Department of Labor
Division of Workers Compensation
FY 2013**



OPERATIONS SECTION

Business and Self-Insurance

Objective

Administer the state self-insurance program and manages the business operations of the division.

Tasks

- Conducts in-depth company and financial review of self-insured employers.
- Responsible for the assessment of workers compensation fees.
- Manages all assessment accounting, mathematical calculations, data accumulation and storage, voucher preparation, fee fund deposits, ordering and accounting for equipment and supplies for the division.
- Conducts registration for the annual division seminar.
- Prepares the annual division fiscal year budget.
- Sells the Workers Compensation Law Book and the Medical Fee Schedule.

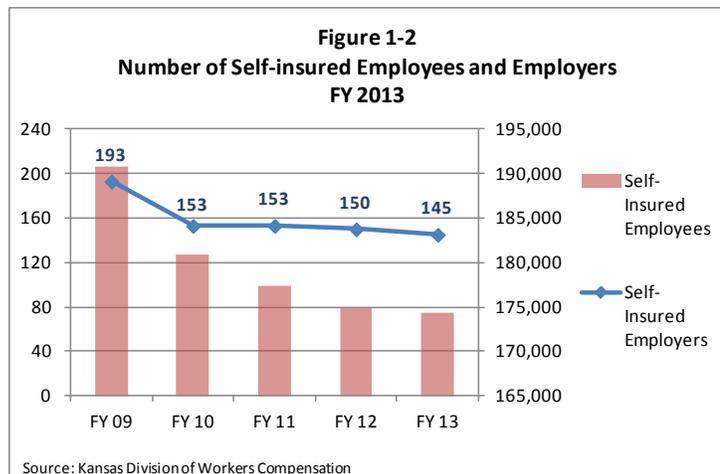
Quick Facts

Assessments Collected to Finance 2014

- \$461,433,904 reported losses paid in CY 2012.
- \$12,838,254 assessments collected in FY 2013.
- Current assessment factor is .0279.
- 823 carriers, pools and self-insurers reported to the division.

Self Insurance

- 2 employers' new applications approved.
- 7 permits cancelled.



OPERATIONS SECTION

Coverage and Compliance

Objective

Ensure all businesses in Kansas are aware of their responsibilities and in compliance with the Workers Compensation Act.

Tasks

- Administers and enforces mandated proof of coverage and compliance.
- Assures all accident reports are timely filed.
- Ensures all accident reports are properly processed and checked for complete information.
- Enters new and updated information into database.
- Verifies Social Security numbers with Social Security Administration.
- Gathers employer and carrier information from accident reports and quickly researches and resolves incomplete information.

Quick Facts

Coverage and Compliance

- 23,248 employers researched.
- 857 employers contacted for no proof of coverage with 269 of these referred to the fraud unit for investigation.
- 101 employers obtained coverage, 225 employers provided proof of coverage or explanation for exemption and 945 employers provided renewed certificates of coverage.

Data Entry

- 30,333 accident reports entered into database.
- 3,876 employers created and 4,488 updated in database.

Social Security Verification

- 13,301 claimants created and 30,427 updated in database.

Research

- 17,914 EDI accidents, 1,141 elections and 366 dockets required additional research.

OPERATIONS SECTION

Technology and Statistics

Objective

Deliver workers compensation information to the Kansas Department of Labor, the Legislature and the general public.

Tasks

- Administers the division's statutory Electronic Data Interchange (EDI) program.
- Publishes annual statistical report and closed claim study.
- Coordinates with KDOL Information Technology Division to maintain and enhance the database and resolve operational database implementation issues.
- Maintains several data marts of Kansas workers compensation claims information on work-related accidents.
- Generates reports from research studies and evaluations.
- Responds to ad hoc research requests from internal and external customers.
- Manages content for the division Web pages on the KDOL website.

Quick Facts

- Migration from KS EDI Release 1 to Release 3 began April 1, 2013, with a phased implementation approach over three quarters.
- K.A.R. 51-9-17 mandates all first and subsequent reports of injuries to be reported electronically using KS EDI Release 3.
- Migration to KS EDI Release 3 will be completed by January 2014.
- More than 90 trading partners utilized EDI to send reports on behalf of 300 insurance carriers and 20 self-insured employers.
- EDI first reports of injury constituted 31,998 or over 50 percent of all accident reports filed.

OPERATIONS SECTION

Survey

Objective

Administer the Survey of Occupational Injuries and Illnesses (SOII) and Census of Fatal Occupational Injuries (CFOI) programs. Provide occupational injury and illness and employment data to the Occupational Safety and Health Administration (OSHA).

Tasks

- Administers surveys for the Bureau of Labor Statistics and the Occupational Safety and Health Administration.
- Contacts survey non-respondents to try and collect data.
- Contacts survey respondents to clarify data and ensure quality.
- Maintains and updates survey respondent database.
- Utilizes specialized software and troubleshoots survey respondent issues.
- Researches, verifies and documents workplace fatalities.
- Generates materials for media releases and publication of survey results and statistics.
- Tests software for Bureau of Labor Statistics regional office.

Quick Facts

SOII

- Estimates annual counts and incidence rates of non-fatal workplace injuries and illnesses.
- Case circumstances and workers characteristics are reported for cases that involve days away from work.
- Private sector survey responses are mandatory under Public Law 91-596.
- Public sector survey responses are voluntary.

CFOI

- Each fatality case must have at least two substantiating documents.
- A qualifying document can include death certificates, workers compensation accident reports, OSHA reports, news accounts, coroner's reports, obituaries, employer questionnaires and other federal and state records.
- Each fatality is counted in the state where the incident occurs regardless of state of employment to eliminate duplicate reporting.
- Heart attacks and illness victims are excluded from the count.

OSHA

- Tracks occupational injuries and illnesses on a national level by industry type.
- Utilized for enforcement purposes.
- Survey responses are mandatory under Public Law 91-596.
- Kansas collects data for a six-state area: Kansas, Nebraska, South Dakota, North Dakota, Montana and Idaho.

LEGAL SECTION

Workers Compensation Appeals Board

Objective

The Board has jurisdiction to review appeals from all final orders and certain preliminary hearing orders entered by the state's ten administrative law judges and to review appeals from orders entered in utilization review proceedings.

Tasks

- Makes timely decisions while maintaining consistency and fairness within the law.
- Reviews appeals from all final orders and certain preliminary hearing orders.
- Reviews appeals from orders entered in utilization review proceedings.
- Appeals of Board decisions are taken directly to the Kansas Court of Appeals.

Quick Facts

- 385 decisions issued.
- 431 applications for review received.
- 434 dispositions generated including dismissals and settlements.

Visit the Board's website at: www.dol.ks.gov/WC/about_board.html.

LEGAL SECTION

Administrative Law Judges

Objective

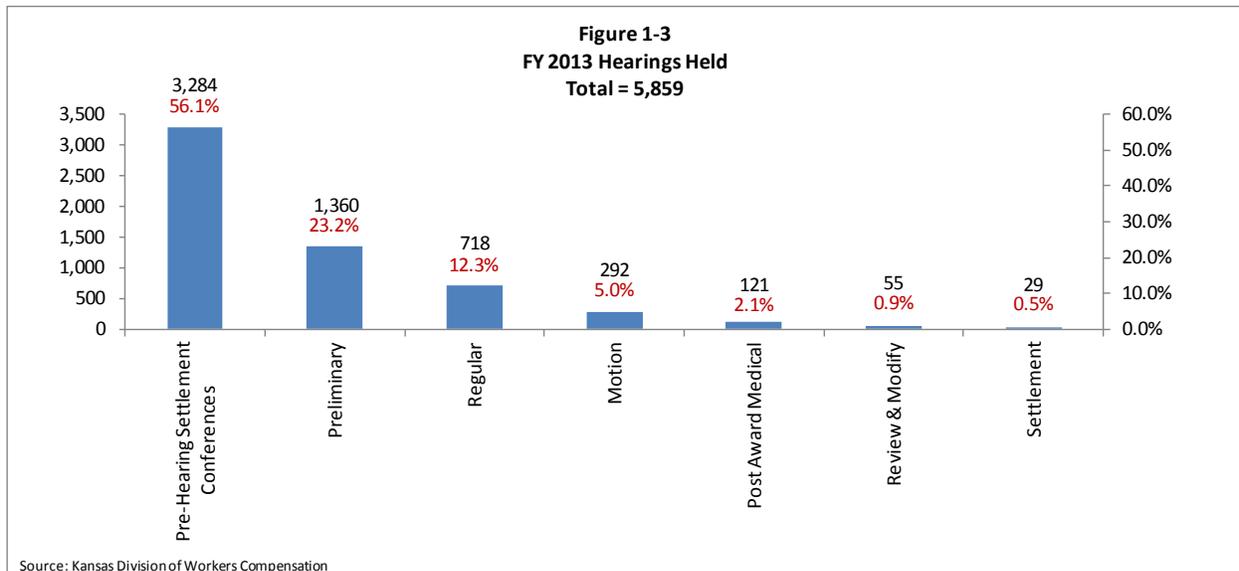
Hold hearings and issue decisions in contested workers compensation claims.

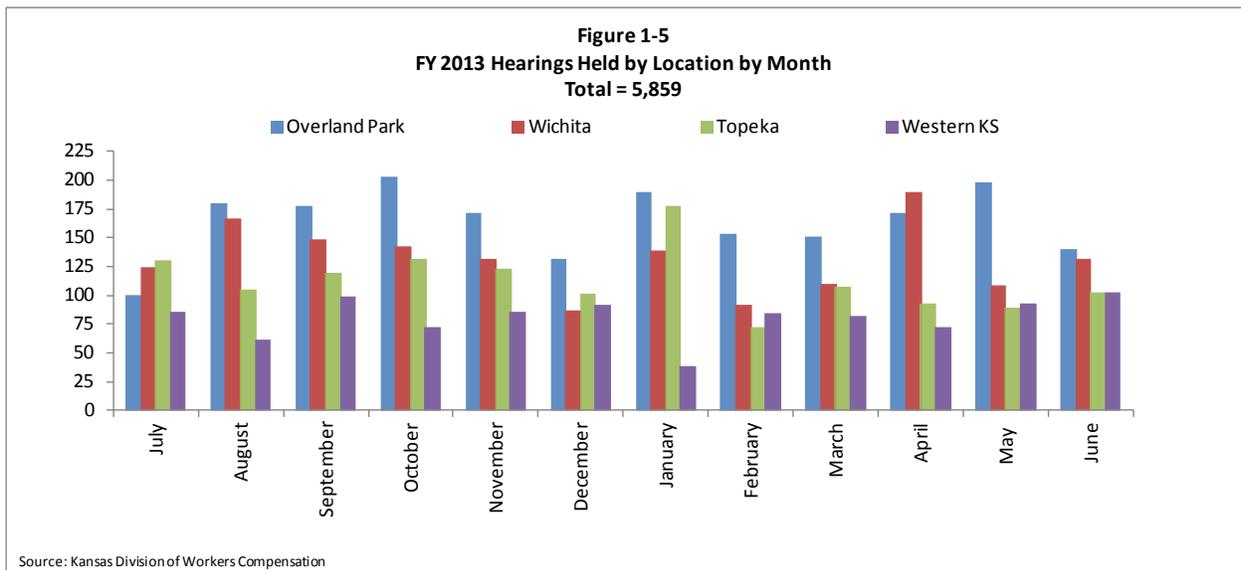
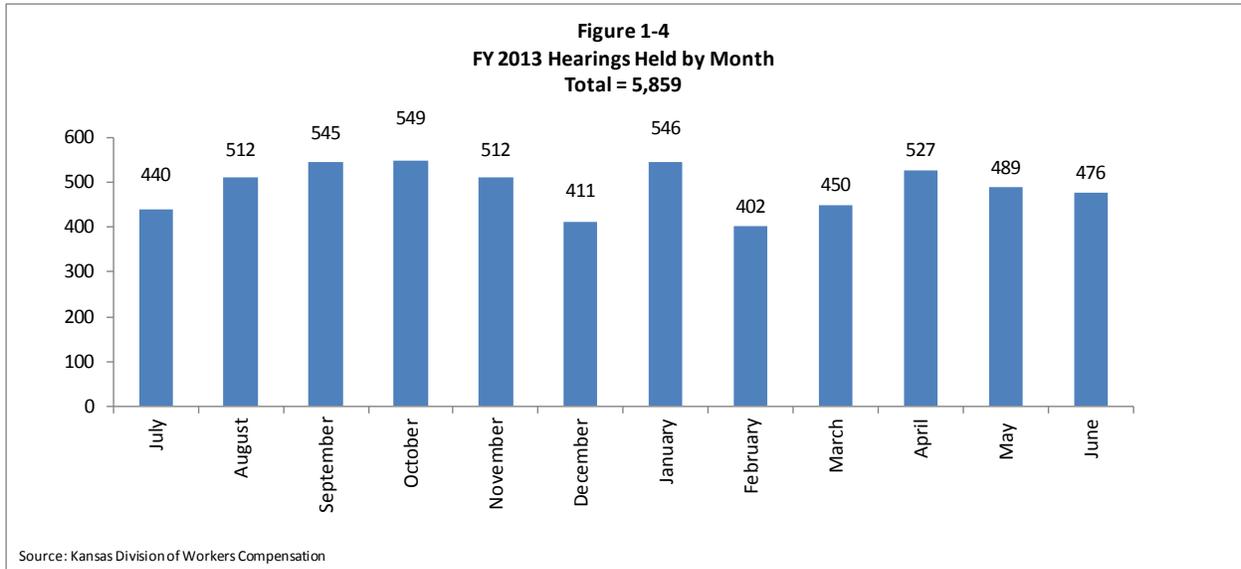
Tasks

- Employs 10 full-time administrative law judges (ALJs) to hold hearings and issue decisions.
- Employs special administrative law judges to hold settlement hearings and approve settlements.
- Holds hearings in five offices throughout the state: Garden City, Overland Park, Salina, Topeka and Wichita.
- Holds hearings in satellite locations including Cimarron, Ellsworth, Emporia, Great Bend, Hays, Hutchinson, Independence, Lawrence, Liberal, McPherson, Ottawa and Pittsburg.

Quick Facts

- 5,859 total hearings held by regular ALJs. Fifty-six percent were pre-settlement conferences (see Figure 1-3).
- October 2012 ranked the highest month for hearings with a total of 549 (see Figure 1-4). Fifty-seven percent were pre-hearing settlement conferences, 22 percent were preliminary hearings and 12 percent were regular hearings (see Table 1-1).
- January 2013 ranked 2nd highest month for hearings with 546 (see Figure 1-4). Forty-eight percent were pre-hearing conferences, 22 percent were preliminary hearings and 12 percent were regular hearings (see Table 1-1).
- Overland Park held the most hearings with 1,966, followed closely by Wichita with 1,571. See Figure 1-5 for hearings held by location per month.
- 5,468 total settlement hearings held by special ALJs of which 2,851 were docketed cases and 2,617 were undocketed cases.





**Table 1-1
Administrative Law Judges Monthly Case Report
by Hearing Type FY 2013**

| Month | Hearing Type | | | | | | | Total |
|-----------|--------------|--------|---------|------------|--|-----------------------|---------------------------|-------|
| | Preliminary | Motion | Regular | Settlement | Pre-Hearing Settlement Conferences | Review & Modify | Post- Award Medical | |
| July | 98 | 18 | 39 | 4 | 264 | 4 | 13 | 440 |
| August | 111 | 19 | 71 | 1 | 292 | 4 | 14 | 512 |
| September | 125 | 25 | 67 | 7 | 308 | 3 | 10 | 545 |
| October | 123 | 24 | 67 | 1 | 312 | 8 | 14 | 549 |
| November | 125 | 19 | 73 | 6 | 275 | 7 | 7 | 512 |
| December | 96 | 18 | 55 | 2 | 228 | 6 | 6 | 411 |
| January | 125 | 75 | 74 | 0 | 261 | 4 | 7 | 546 |
| February | 90 | 16 | 43 | 1 | 240 | 6 | 6 | 402 |
| March | 122 | 10 | 49 | 4 | 248 | 2 | 15 | 450 |
| April | 127 | 22 | 56 | 0 | 306 | 3 | 13 | 527 |
| May | 97 | 29 | 62 | 2 | 289 | 5 | 5 | 489 |
| June | 121 | 17 | 62 | 1 | 261 | 3 | 11 | 476 |
| Total | 1,360 | 292 | 718 | 29 | 3,284 | 55 | 121 | 5,859 |

Source: Kansas Division of Workers Compensation

Table 1-2 combines information from Table 1-1 and Figure 2-5 and displays the monthly case load by hearing type for each hearing location.

**Table 1-2
Administrative Law Judges Monthly Case Report FY 2013**

| Location | Hearing Type | Month | | | | | | | | | | | | Total |
|-----------------------------|------------------------------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|--------------|
| | | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | |
| Overland Park | Preliminary | 35 | 41 | 37 | 41 | 34 | 34 | 44 | 28 | 22 | 41 | 37 | 28 | 422 |
| | Motion | 3 | 7 | 8 | 12 | 7 | 7 | 8 | 8 | 5 | 6 | 9 | 10 | 90 |
| | Regular | 6 | 17 | 10 | 20 | 21 | 9 | 11 | 10 | 10 | 14 | 19 | 10 | 157 |
| | Pre-Hearing Settlement Conferences | 51 | 109 | 120 | 118 | 105 | 77 | 125 | 99 | 113 | 108 | 132 | 90 | 1,247 |
| | Review and Modify | 0 | 2 | 2 | 6 | 3 | 4 | 1 | 6 | 0 | 0 | 0 | 0 | 24 |
| | Post-Award Medical Settlements | 5 | 4 | 1 | 6 | 0 | 0 | 1 | 2 | 1 | 2 | 0 | 2 | 24 |
| | | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 2 |
| Total | | 100 | 180 | 178 | 203 | 171 | 131 | 190 | 153 | 151 | 171 | 198 | 140 | 1,966 |
| Topeka | Preliminary | 23 | 25 | 35 | 26 | 26 | 18 | 38 | 18 | 41 | 20 | 19 | 29 | 318 |
| | Motion | 4 | 3 | 6 | 5 | 2 | 8 | 60 | 1 | 3 | 9 | 12 | 1 | 114 |
| | Regular | 17 | 26 | 20 | 22 | 19 | 21 | 33 | 12 | 18 | 14 | 14 | 22 | 238 |
| | Pre-Hearing Settlement Conferences | 79 | 48 | 47 | 70 | 67 | 52 | 47 | 40 | 35 | 46 | 41 | 48 | 620 |
| | Review and Modify | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 3 |
| | Post-Award Medical Settlements | 1 | 2 | 6 | 7 | 4 | 1 | 0 | 1 | 6 | 4 | 2 | 3 | 37 |
| | | 4 | 1 | 5 | 1 | 5 | 1 | 0 | 1 | 3 | 0 | 1 | 0 | 22 |
| Total | | 130 | 105 | 119 | 131 | 123 | 101 | 178 | 73 | 107 | 93 | 89 | 103 | 1,352 |
| Western Kansas ¹ | Preliminary | 20 | 17 | 23 | 25 | 27 | 24 | 15 | 27 | 27 | 16 | 19 | 25 | 265 |
| | Motion | 7 | 3 | 8 | 2 | 7 | 2 | 4 | 5 | 1 | 2 | 3 | 5 | 49 |
| | Regular | 6 | 5 | 5 | 9 | 12 | 5 | 5 | 9 | 12 | 6 | 16 | 10 | 100 |
| | Pre-Hearing Settlement Conferences | 53 | 33 | 60 | 37 | 38 | 56 | 14 | 43 | 37 | 47 | 53 | 58 | 529 |
| | Review and Modify | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 2 | 2 | 1 | 6 |
| | Post-Award Medical Settlements | 0 | 3 | 3 | 0 | 2 | 4 | 1 | 0 | 4 | 0 | 0 | 3 | 20 |
| | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 |
| Total | | 86 | 61 | 99 | 73 | 86 | 92 | 39 | 84 | 82 | 73 | 93 | 102 | 970 |
| Wichita | Preliminary | 20 | 28 | 30 | 31 | 38 | 20 | 28 | 17 | 32 | 50 | 22 | 39 | 355 |
| | Motion | 4 | 6 | 3 | 5 | 3 | 1 | 3 | 2 | 1 | 5 | 5 | 1 | 39 |
| | Regular | 10 | 23 | 32 | 16 | 21 | 20 | 25 | 12 | 9 | 22 | 13 | 20 | 223 |
| | Pre-Hearing Settlement Conferences | 81 | 102 | 81 | 87 | 65 | 43 | 75 | 58 | 63 | 105 | 63 | 65 | 888 |
| | Review and Modify | 2 | 2 | 1 | 2 | 4 | 1 | 3 | 0 | 1 | 1 | 3 | 2 | 22 |
| | Post-Award Medical Settlements | 7 | 5 | 0 | 1 | 1 | 1 | 5 | 3 | 4 | 7 | 3 | 3 | 40 |
| | | 0 | 0 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 4 |
| Total | | 124 | 166 | 149 | 142 | 132 | 87 | 139 | 92 | 110 | 190 | 109 | 131 | 1,571 |
| Grand Total | | 440 | 512 | 545 | 549 | 512 | 411 | 546 | 402 | 450 | 527 | 489 | 476 | 5,859 |

¹ Garden City and Salina locations combined

Source: Kansas Division of Workers Compensation

Table 1-3 displays the Administrative Law Judge preliminary order activity. It represents requests by order type and whether each was denied or granted.

**Table 1-3
Administrative Law Judges Preliminary Order Activity FY 2013**

| Preliminary Order | Granted | | | Denied | | | Total | |
|---------------------------------------|-----------------------|-----------|----------------|----------------------|----------|----------------|---------------|-------------------|
| | No. of orders granted | % Granted | % Total Orders | No. of orders denied | % Denied | % Total Orders | No. of orders | % of Total Orders |
| Penalty | 10 | 58.8% | 0.8% | 7 | 41.2% | 0.6% | 17 | 1.4% |
| Change Physician | 2 | 10.0% | 0.2% | 18 | 90.0% | 1.4% | 20 | 1.6% |
| Additional Medical | 54 | 52.4% | 4.3% | 49 | 47.6% | 3.9% | 103 | 8.2% |
| Preliminary Temporary Total & Medical | 922 | 83.1% | 73.8% | 188 | 16.9% | 15.0% | 1,110 | 88.8% |
| Temporary Total | 128 | 75.7% | 10.2% | 41 | 24.3% | 3.3% | 169 | 13.5% |
| Medical | 532 | 86.2% | 42.6% | 85 | 13.8% | 6.8% | 617 | 49.4% |
| Temporary Total & Medical | 237 | 79.3% | 19.0% | 62 | 20.7% | 5.0% | 299 | 23.9% |
| Temporary Total, not Medical | 1 | 100.0% | 0.1% | n/a | n/a | n/a | 1 | 0.1% |
| Medical, not Temporary Total | 24 | 100.0% | 1.9% | n/a | n/a | n/a | 24 | 1.9% |
| Total Preliminary Orders* | 988 | 79.0% | 79.0% | 262 | 21.0% | 21.0% | 1,250 | 100.0% |

*Does not include terminating orders.

Source: Kansas Division of Workers Compensation

LEGAL SECTION

Medical Services

Objective

The medical services section of the Division of Workers Compensation develops a fee schedule at least biennially that is reasonable, fair and sufficient to ensure availability of treatment for workers compensation clients. The section mediates concerns between providers and payers/employers and monitors medical issues relating to workers compensation.

Tasks

- Publishes [The Kansas Workers Compensation Schedule of Medical Fees](#).
- Provides both administrative and developmental services for the medical fee schedule.
- Administers utilization and peer review programs.
- Acts as a liaison for all parties involved in health care-related workers compensation issues.
- Works closely with the Kansas Department of Health and Environment to assure that payments to health care providers remain current, reasonable and fair.

LEGAL SECTION

Fraud and Abuse

Objective

To protect the employee, employer and insurance carrier from fraudulent and/or abusive acts and practices; ensure businesses within the state are compliant in maintaining workers compensation insurance coverage; and ensure the division receives reports of injury within the time period set by statute.

Tasks

- Reviews referrals or allegations of fraud or abuse to determine need to investigate these violations of the workers compensation laws, as set forth in K.S.A. 44-532, K.S.A. 44-557, K.S.A. 44-5,120 and K.S.A. 44-5,125.
- Refers allegations to another state or federal agency if the fraud and abuse unit lacks jurisdiction over the matter.
- Investigates referrals by interviewing witnesses and collecting evidence to eventually create and submit summaries to the assistant attorney general or the Kansas Insurance Department if the misconduct is on the part of an insurance agent or company.
- Initiates criminal or administrative action against individuals and entities.
- Testifies in administrative and criminal actions.
- Forms and maintain liaisons with law enforcement groups and special investigation units within the insurance industry.
- Collects fines or restitution requested by a judge or hearing officer.

Quick Facts

Referrals

- 509 total referrals received. See Table 1-4 below for a breakdown by referral type.
- 505 total cases investigated of which 455 were compliance cases, 49 were fraud/abuse cases and one was criminal case.

Prosecutions

- 45 cases referred for administrative charges.
- An additional 21 criminal cases prosecuted in the Kansas City/Johnson County area.

Collections

- \$521,710.32 assessed in fines and restitution.
- \$301,209.46* total collected with \$6,717.31 in fraud and abuse fines (K.S.A 44-5,120), \$281,604.98 in compliance fines (K.S.A. 44-532 & 44-557) and \$12,887.17 in restitution.

* Money received as a result of compliance violations is deposited in the state treasury to the credit of the workers compensation fund. Money received as a result of fraud and failure to timely file accident reports is deposited in the state treasury and credited to the workers compensation fee fund.

**Table 1-4
Number of Fraud, Abuse and Compliance Cases Reported by Referral
FY 2013**

| Type of Fraud, Abuse and Compliance Referrals | Total |
|---|------------|
| Obtaining or denying benefits by making false statements either orally or written: K.S.A. 44-5,120 (d)(4)(A) | 30 |
| Refusing to pay compensation as and when due: K.S.A. 44-5,120(d)(18) | 7 |
| Failure to confirm medical compensation benefits to anyone providing treatment to a claimant: K.S.A. 44-5,120 (d)(15) | 1 |
| Collecting from an employee, through a deduction from wages or a subsequent fee, any premium or other fee paid by the employer to obtain workers compensation insurance coverage K.S.A. 44-5,120 (d)(1) | 4 |
| Misrepresenting the provisions of the workers compensation act to an employee, legal beneficiary, employer, or health care provider K.S.A. 44-5,120 (d)(11) | 1 |
| Failing to maintain workers compensation insurance when required: K.S.A. 44-532 (d) | 286 |
| Employers duty to report accidents: K.S.A. 44-557 | 173 |
| All other fraudulent and abusive practices | 7 |
| Total | 509 |

Source: Kansas Division of Workers Compensation

FRAUD HOTLINE

1-800-332-0353 24 hrs/day
1-785-296-4000 ext. 2174 (8:00 a.m.-5:00 p.m.)

FRAUD E-MAIL ADDRESS

wcfraud@dol.ks.gov

PUBLIC RESOURCE SECTION

Ombudsman

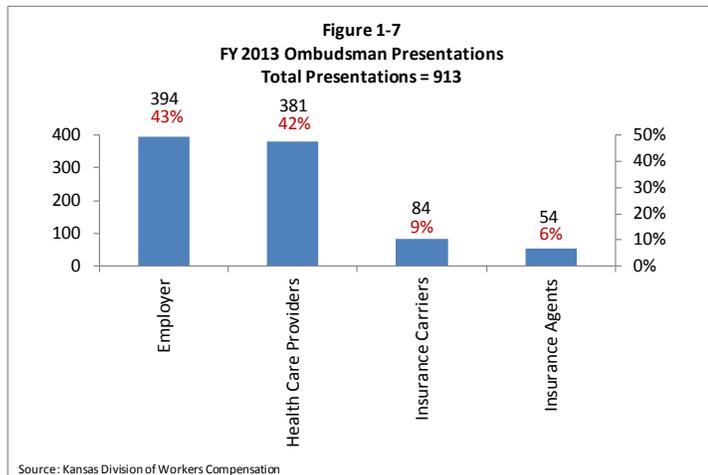
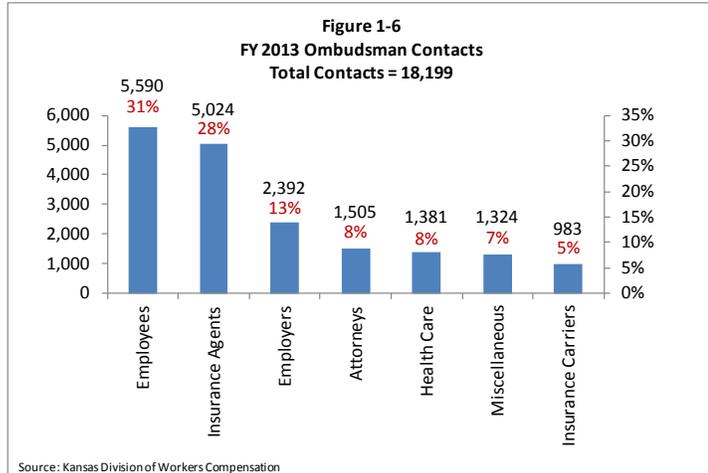
Objective

Assist injured workers, employers and other parties to protect their rights under the Workers Compensation Act.

Tasks

- Provides technical assistance to all parties on workers compensation issues.
- Assists unrepresented claimants in obtaining a hearing, mediation or appeal.
- Conducts presentations and provides training opportunities to interested parties.
- Utilizes the Web to increase public awareness through online forms and coverage verification.

Quick Facts



PUBLIC RESOURCE SECTION

Mediation

Objective

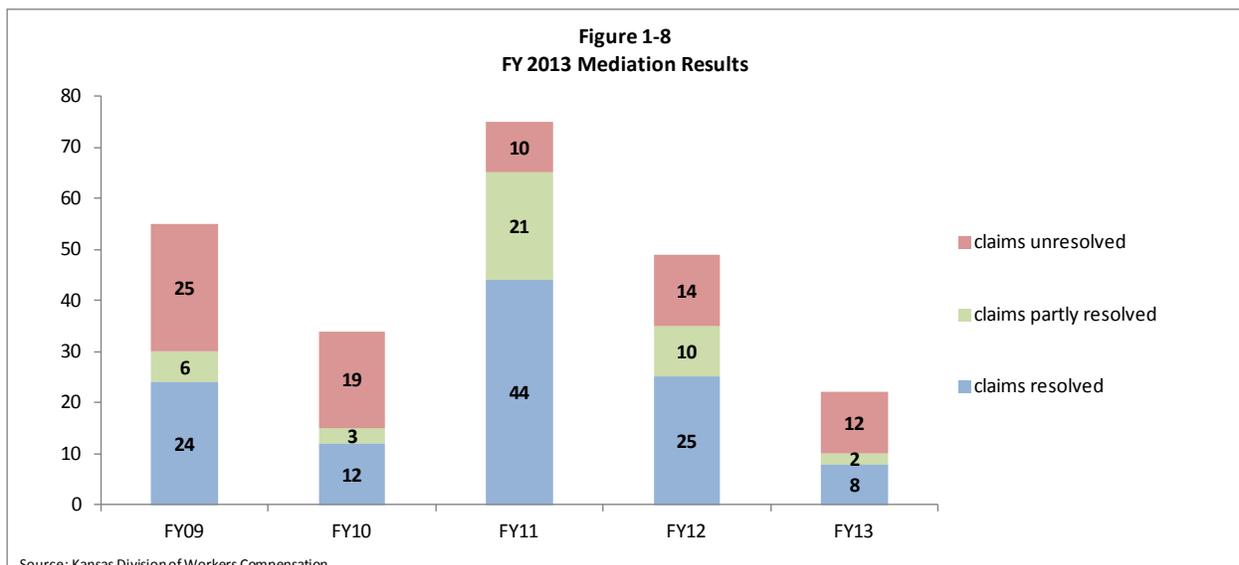
Provide a means of resolving disputes in an informal, non-adversarial setting where parties make use of a neutral third party to facilitate their discussion.

Tasks

- Conducts mediation conferences in accordance with the Dispute Resolution Act.
- Mediators are approved by the director and are qualified pursuant to the Dispute Resolution Act.

Quick Facts

- 15 average mediation contacts per week were made in FY 2013.
- 22 total mediations held in FY 2013. See Figure 1-8 for a breakdown of the results of these mediations.



PUBLIC RESOURCE SECTION

Seminar Planning

Objective

Produce an education-based event to share information about Kansas workers compensation through formal and informal sessions.

Tasks

- Guides staff and external planning committee members to develop agenda and select presenters.
- Establishes syllabus and learner objectives for each topic.
- Develops Web and printed promotion.
- Submits continuing education applications.

Quick Facts

- 39th Annual Workers Compensation Seminar was held at the Hyatt Regency Wichita on August 6 & 7, 2013.
- The seminar hosted a total of 376 attendees.
- 32 companies sponsored the seminar and 35 were exhibitors.
- 165 attorneys, 37 nurses and 15 certified case managers received continuing education credits.
- Assisted 23 attendees with proof of attendance who were licensed or certified in occupations not pre-approved for continuing education credits.

PUBLIC RESOURCE SECTION

Applications

Objective

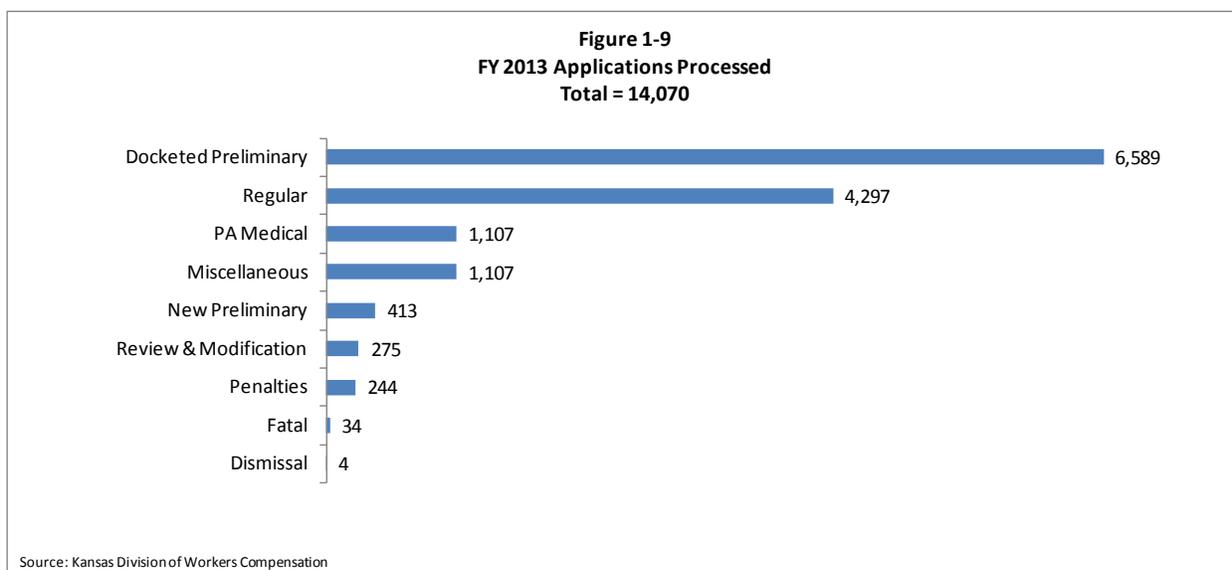
Process all applications and motions for hearing.

Tasks

- Enters application for hearing into database and creates a physical docket.
- Generates and sends notices of hearing to involved parties.
- Enters employer request for records into database and transfers them to archives.
- Manages attorney address files in the database.

Quick Facts

- 14,070 total applications processed. See Figure 1-9 for a breakdown of types of applications.
- 5,667 contacts received and/or initiated which includes instructions to file applications, providing docketed information and clarifying information.



PUBLIC RESOURCE SECTION

Research

Objective

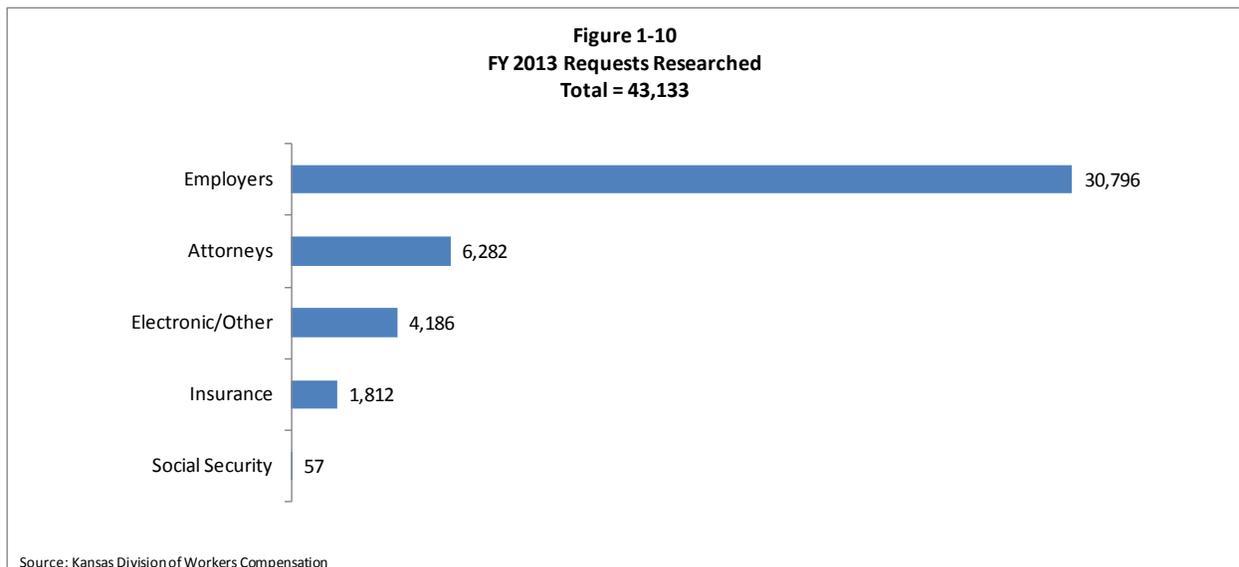
Conduct research on all requests for records regarding prior claim information.

Tasks

- Scans documents and uploads research into database.
- Reviews and enters into database all awards, settlements, joint petitions and final receipts.
- Manages docketed claimant files.

Quick Facts

- 43,133 total requests researched. See Figure 1-10 for a breakdown of types of requests researched.
- Scanned 29,245 accident reports, 2,242 election forms and 3,196 undocketed settlements, final receipts and joint petitions.
- Entered 7,760 awards, settlements, joint petitions and final receipts into database.



PUBLIC RESOURCE SECTION

Rehabilitation

Objective

Coordinate provision of vocational rehabilitation services to injured workers under the Kansas Workers Compensation Act.

Tasks

- Determines whether professionals and entities qualify to provide vocational rehabilitation services to injured workers based on ability to meet regulatory standards.
- Monitors services provided to injured workers.
- Reviews documentation submitted by qualified rehabilitation providers to determine the need for referral to other vocational programs and services.
- Provides technical assistance to qualified vocational rehabilitation providers.

Quick Facts

- Two of six vocational cases with private providers closed with a vendor-assisted return to work; one closed due to settlement; and three closed for other reasons.
- One state rehabilitation agency case closed with a successful return to work.
- 342 closure reports of medical management cases were received.
- Of the 342 medical management closures, 182 resulted in a return to work with the time-of-injury employer.
- Documentation for the remaining 160 medical management closures was reviewed to determine whether the claimants in those cases might be in need of vocational rehabilitation or community services.
- Based on those reports received, 71 claimants were selected to receive informational letters on vocational rehabilitation services.

Section 2

Occupational Injuries and Illnesses in Kansas FY 2013

Background

The State of Kansas has a compelling interest in the safety, health and productivity of its workforce. An important aspect of that commitment is the division's daily monitoring of the workplace environment and periodic analysis of the incidence and severity of occupational injuries and illnesses within the state. Every year the division publishes its decision support data for the Legislature and interested parties in the form of this *Annual Statistical Report*.

This section provides statistics on occupational injuries for all employers covered under the Workers Compensation Act through fiscal year 2013 (July 1, 2012 up to and including June 30, 2013). This report includes the cause, nature, body member implicated and county location of the reported injuries and illnesses.

Changes

Reporting occupational injuries by severity will change going forward to coincide with the mandate to electronically report first and subsequent reports of injury to the State of Kansas. This change will affect the reporting of time-lost and no time-lost injuries.

Electronic reporting of occupational injuries requires Kansas to use the International Accident Boards and Commissions (IAIABC) Electronic Data Interchange (EDI) Release 3 standards. This standard currently does not allow the flexibility to collect the data necessary to determine time-lost and no time-lost injuries. Therefore, these two severity categories can no longer be

reported. However, occupational injuries resulting in fatalities still can be identified and will continue to be reported.

Also affected is the ability to determine the industry where the occupational injury occurred. With the migration to the IAIABC EDI Release 3 standard, Kansas now only accepts the North American Industry Classification System (NAICS) 2012 codes which are a shift away from previously using both the Standard Industrial Classification (SIC) and NAICS codes. However, by end of FY 2014, reporting occupational injuries by industry codes will return as the coding will be standardized.

Data source

Employers covered under the Workers Compensation Act are required to report all employee occupational injuries and illnesses that "incapacitate the person injured from labor or service for more than the remainder of the day, shift or turn" to the Division of Workers Compensation within 28 days of the employer becoming aware of the injury or illness.

The division, by law, is able to collect data on the entire population of workplace injuries and illnesses in Kansas because it has the legal authority to collect injury data on state and local public sector employees in addition to the private sector.² This is important because the state and local public sector workforce is one of the largest employers in Kansas and reports a significant percentage of the total workplace injuries and illnesses each year.

² Under its commerce power granted by the United States Constitution, and as interpreted by the United States Supreme Court (See *U.S. v. Lopez*, 514 U.S. 558-559 (1995); "[there are] three broad categories of activity that Congress may regulate under its commerce power...Congress may regulate the use of the channels of interstate commerce...Congress is empowered to regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities...Congress' commerce authority includes the power to regulate those activities having a substantial relation to interstate commerce,...i.e., those activities that substantially affect interstate commerce." The federal government can require employers to log all occupational injuries and illnesses and report them to BLS and/or OSHA. The United States Constitution, however, does not give Congress the authority to regulate the states (and its political subdivisions) as states and therefore, compel them to report the workplace injuries of state and local public servants to the Bureau of Labor Statistics.

Total Kansas Occupational Injuries and Illnesses

Aggregate total

Table 2-1 and Figure 2-1 show the aggregate totals of Kansas' occupational injuries and illnesses from FY 2004 to FY 2013.

- There were 56,009 total occupational injuries and illnesses reported to the Division of Workers Compensation during FY 2013. The FY 2013 total reflects all accidents occurring during the year, including fatalities, and represents a decrease of 2,243 reported injuries and illnesses, or a 3.9 percent decrease, from the previous year's total.
- From another perspective, 153 employees per day were either injured or killed on the job in Kansas last fiscal year.
- The average annual decrease between FY 2004 and FY 2013 of the total occupational injuries and illnesses reported is 1.4 percent and the overall decrease is 13 percent. Figure 2-2 shows the trend of annual changes in total accidents compared to incidence rates.

Table 2-1
Total Kansas Occupational Injuries and Illnesses
FY 2004 - FY 2013

| Fiscal Year | Total | Annual Change | Avg Annual Change | Total Change |
|-------------|--------|---------------|-------------------|--------------|
| | | | -1.43% | -12.99% |
| FY 04 | 64,374 | | | |
| FY 05 | 64,761 | 0.60% | | |
| FY 06 | 66,469 | 2.64% | | |
| FY 07 | 69,211 | 4.13% | | |
| FY 08 | 70,263 | 1.52% | | |
| FY 09 | 63,130 | -10.15% | | |
| FY 10 | 58,188 | -7.83% | | |
| FY 11 | 58,296 | 0.19% | | |
| FY 12 | 58,252 | -0.08% | | |
| FY 13 | 56,009 | -3.85% | | |

Source: Kansas Division of Workers Compensation

Incidence rate

One limit of reporting aggregate totals is they do not account for year-to-year changes in the Kansas workforce population. For a fair year-to-year comparison of occupational injury and illness behavior in Kansas, the division calculates its own occupational injury incidence rates (see Appendix A). The incidence rate per 100 full-time equivalent workers is displayed in Table 2-2 and Figure 2-1. There is no absolute acceptable level of injury incidence. However, relatively speaking, the lower the rate of injury the better.

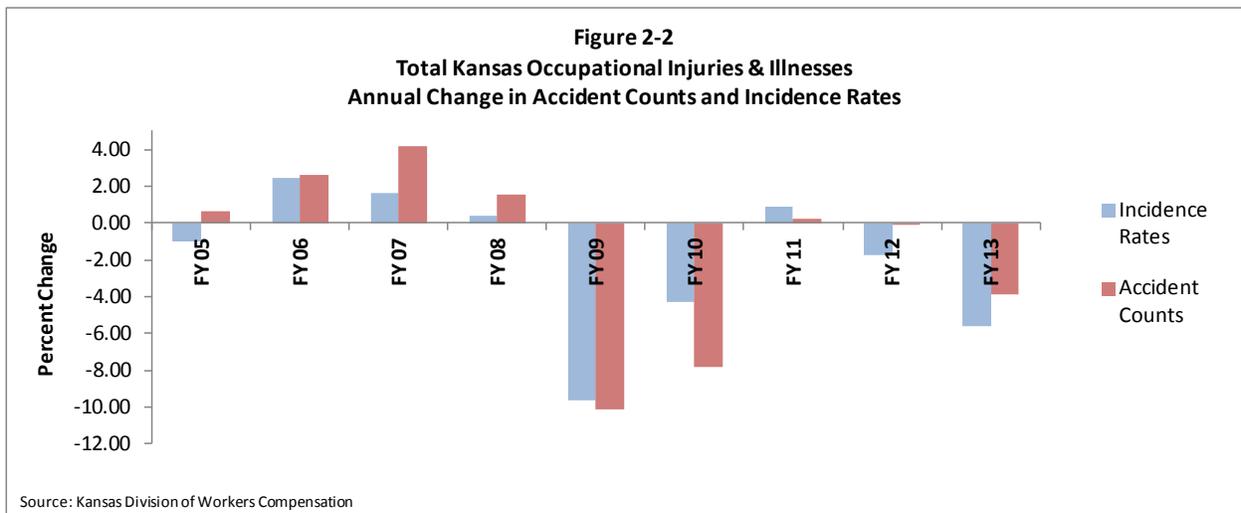
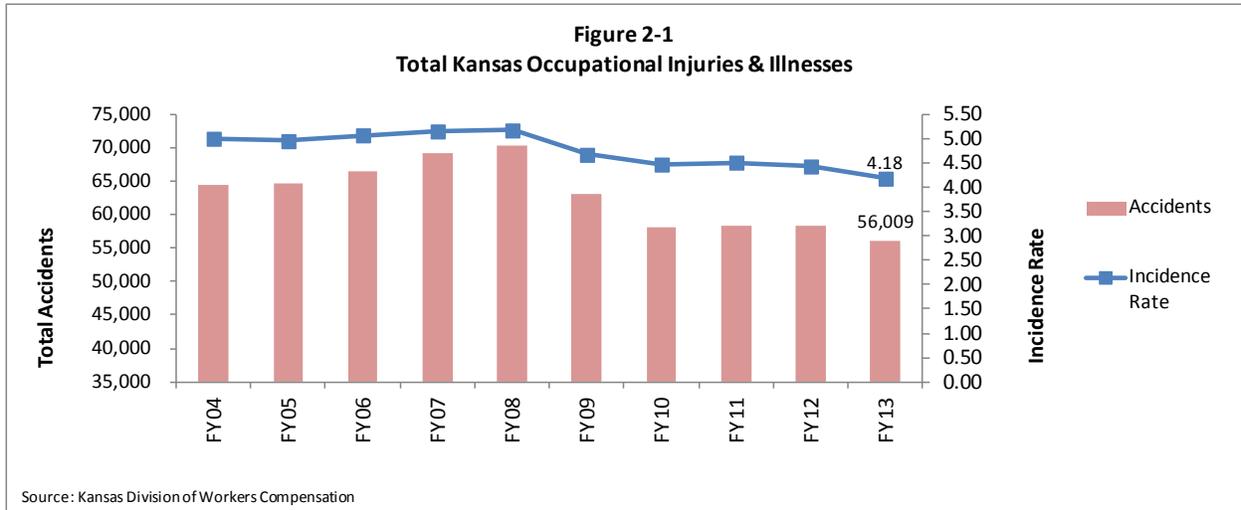
- The total occupational injuries and illnesses incidence per 100 full-time equivalent workers (FTE) in the private and public sectors in Kansas was 4.2 in FY 2013. This was a decrease by 5.6 percent from last fiscal year.
- The average annual decrease between FY 2004 and FY 2013 of the incidence rate per 100 full-time workers (FTE) for total occupational injuries and illnesses is 1.9 percent and the overall decrease is 16.4 percent. Figure 2-2 shows the trend of annual changes in total accidents compared to incidence rates.

Table 2-2
Total Kansas Occupational Injuries and Illnesses
Incidence Rate* FY 2004 - FY 2013

| Fiscal Year | Total | Annual Change | Avg Annual Change | Total Change |
|-------------|-------|---------------|-------------------|--------------|
| | | | -1.90% | -16.40% |
| FY 04 | 5.00 | | | |
| FY 05 | 4.95 | -1.00% | | |
| FY 06 | 5.07 | 2.42% | | |
| FY 07 | 5.15 | 1.58% | | |
| FY 08 | 5.17 | 0.39% | | |
| FY 09 | 4.67 | -9.67% | | |
| FY 10 | 4.47 | -4.28% | | |
| FY 11 | 4.51 | 0.89% | | |
| FY 12 | 4.43 | -1.77% | | |
| FY 13 | 4.18 | -5.64% | | |

*Per 100 Full-time Equivalent Non-Federal Workers

Source: Kansas Division of Workers Compensation, Kansas Labor Market Information Services



Kansas Fatal Occupational Injuries and Illnesses

Aggregate total and incidence rate

Data on workplace fatalities, the most severe type of injury, is summarized below. Table 2-3 shows the number of fatalities that occurred each year from FY 2004 to FY 2013 while Table 2-4 shows the fatality incidence rate per 100 full-time equivalent (FTE) workers over the same period. Figure 2-3 graphically shows the trend for both fatal injury totals and incidence rates.

- Workplace fatalities decreased in FY 2013 by 30 percent from the previous year (to 35 from 50 reported deaths) and were less than the 10-year average of 46 reported deaths (see Table 2-3).
- The average annual decrease between FY 2004 and FY 2013 of workplace fatalities reported is .3 percent and the overall decrease is 20.5 percent (see Table 2-3). Figure 2-4 shows the trend of annual changes in fatal accidents compared to incidence rates.
- The fatality incidence rate for FY 2013 was .0026 which is a decrease of 31.6 percent from the previous year and is 25.7 percent below the average of .0035 since FY 2004. The average annual decrease was .4 percent and the fatality incidence rate decreased 23.5 percent overall between FY 2004 and FY 2013 (see Table 2-4).

Table 2-3
Kansas Fatal Occupational Injuries and Illnesses
FY 2004 - FY 2013

| Fiscal Year | Total | Annual Change | Avg Annual Change | Total Change |
|-------------|-------|---------------|-------------------|--------------|
| | | | -0.29% | -20.45% |
| FY 04 | 44 | | | |
| FY 05 | 57 | 29.55% | | |
| FY 06 | 50 | -12.28% | | |
| FY 07 | 49 | -2.00% | | |
| FY 08 | 43 | -12.24% | | |
| FY 09 | 34 | -20.93% | | |
| FY 10 | 46 | 35.29% | | |
| FY 11 | 54 | 17.39% | | |
| FY 12 | 50 | -7.41% | | |
| FY 13 | 35 | -30.00% | | |

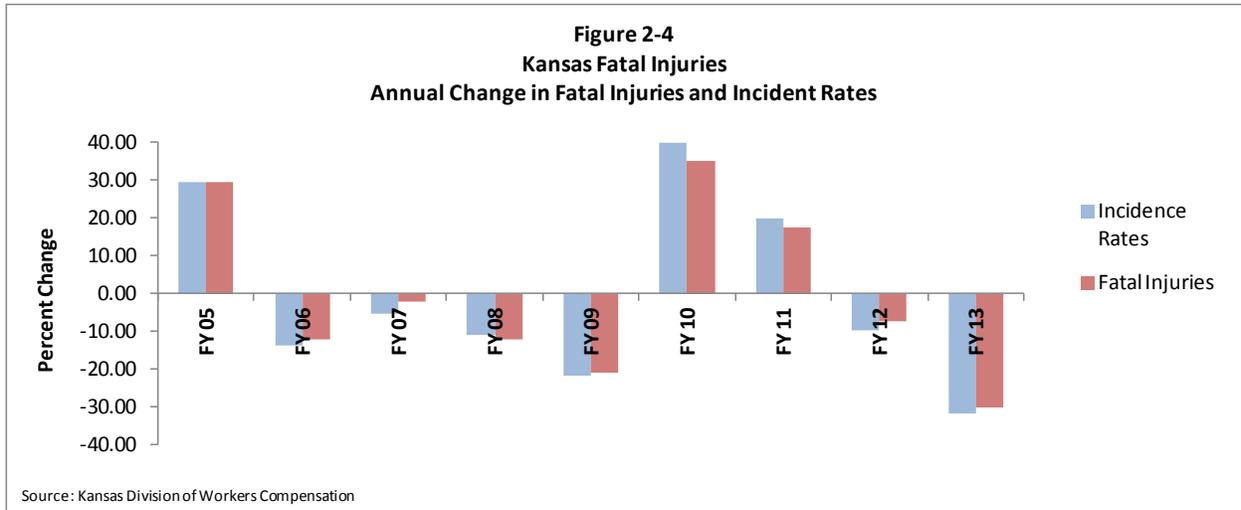
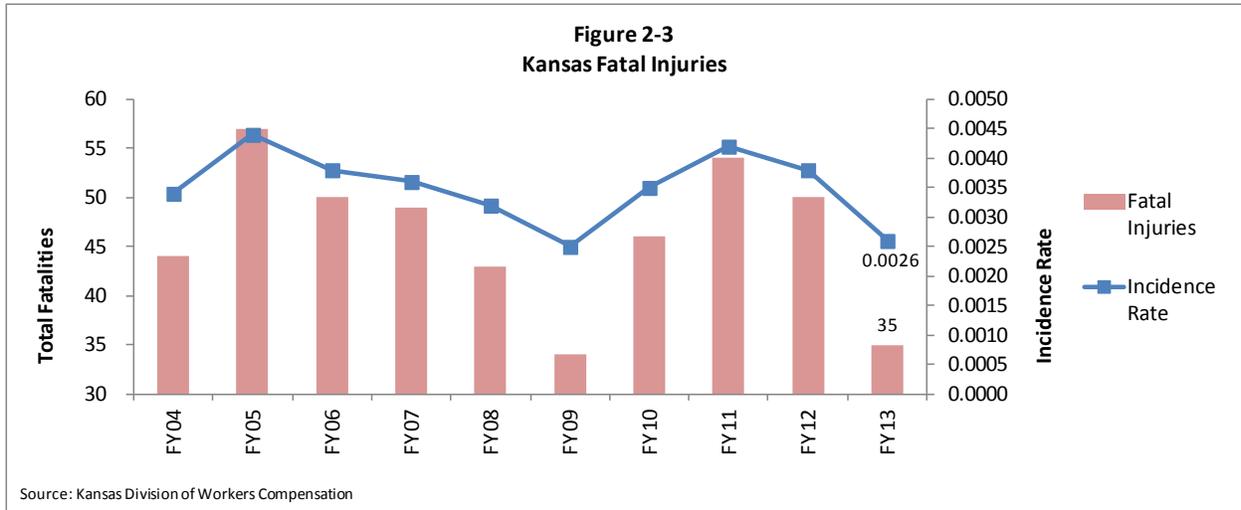
Source: Kansas Division of Workers Compensation

Table 2-4
Kansas Fatal Occupational Injuries and Illnesses
Incidence Rate* FY 2004 - FY 2013

| Fiscal Year | Total | Annual Change | Avg Annual Change | Total Change |
|-------------|--------|---------------|-------------------|--------------|
| | | | -0.40% | -23.53% |
| FY 04 | 0.0034 | | | |
| FY 05 | 0.0044 | 29.41% | | |
| FY 06 | 0.0038 | -13.64% | | |
| FY 07 | 0.0036 | -5.26% | | |
| FY 08 | 0.0032 | -11.11% | | |
| FY 09 | 0.0025 | -21.88% | | |
| FY 10 | 0.0035 | 40.00% | | |
| FY 11 | 0.0042 | 20.00% | | |
| FY 12 | 0.0038 | -9.52% | | |
| FY 13 | 0.0026 | -31.58% | | |

*Per 100 Full-time Equivalent Non-Federal Workers

Source: Kansas Division of Workers Compensation, Kansas Labor Market Information Services



Kansas Occupational Injuries and Illnesses Analysis

Introduction

To gain a better understanding and develop a more complete picture of Kansas occupational injuries and illnesses, a summary of various breakdowns can inform how injuries occur, what body parts are commonly affected and geographically where the workplace injuries took place.

Cause of Occupational Injury and Illness

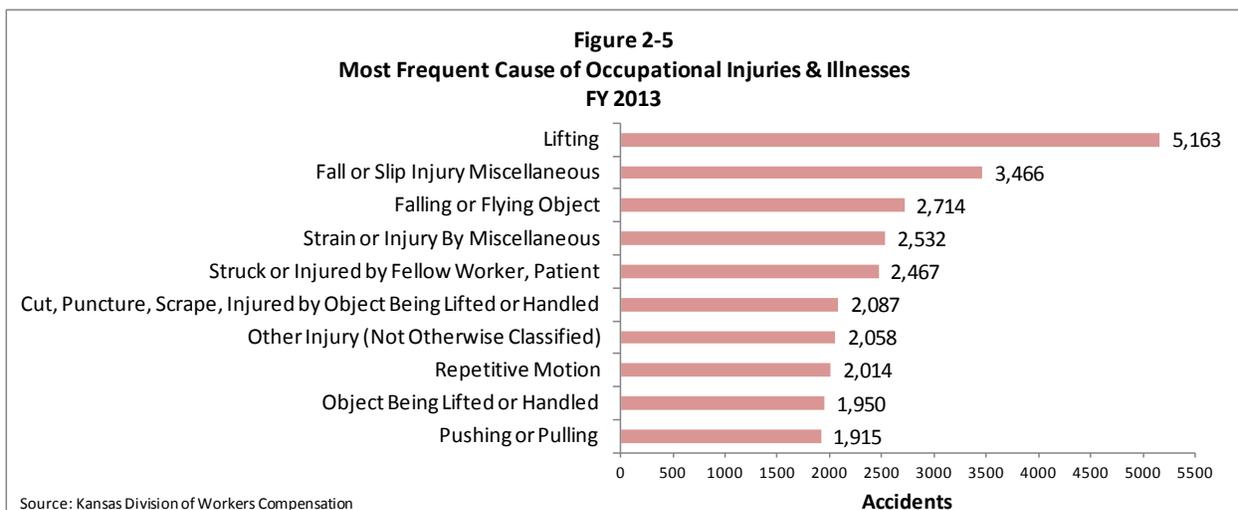
- The physical act of lifting is the most frequent cause of workplace injuries, accounting for 5,163 or 9.2 percent of the total occupational injuries and illnesses for FY 2013 (see Figure 2-5).
- Fall or slip injury miscellaneous and falling or flying object are the second and third most frequent cause of workplace injuries accounting for 3,466 and 2,714, respectively, of the total occupational injuries and illnesses for FY 2013 (see Figure 2-5).
- The top ten causes of workplace injuries listed in Figure 2-5 account for 47.1 percent of the total occupational injuries and illnesses for FY 2013.

**Table 2-5
Most Frequent Cause of Injury by Rank
FY 2009 - FY 2013**

| Cause |
|---|
| Lifting |
| Fall or Slip Injury Miscellaneous |
| Strain or Injury By Miscellaneous |
| Falling or Flying Object |
| Object Being Lifted or Handled |
| Struck or Injured by Fellow Worker, Patient |
| Other Injury (Not Otherwise Classified) |
| Pushing or Pulling |
| Hand Tool, Utensil; Not Powered |
| Repetitive Motion |

Source: Kansas Division of Workers Compensation

- Table 2-5 shows a five-year trend of most frequent causes, by rank, of occupational injuries or illnesses from FY 2009 to FY 2013. Lifting and fall or slip injury miscellaneous are the first and second most frequent cause of workplace injury, respectively, during this five-year trend, which also held true in FY 2013 as shown in Figure 2-5.



Nature of Occupational Injury and Illness

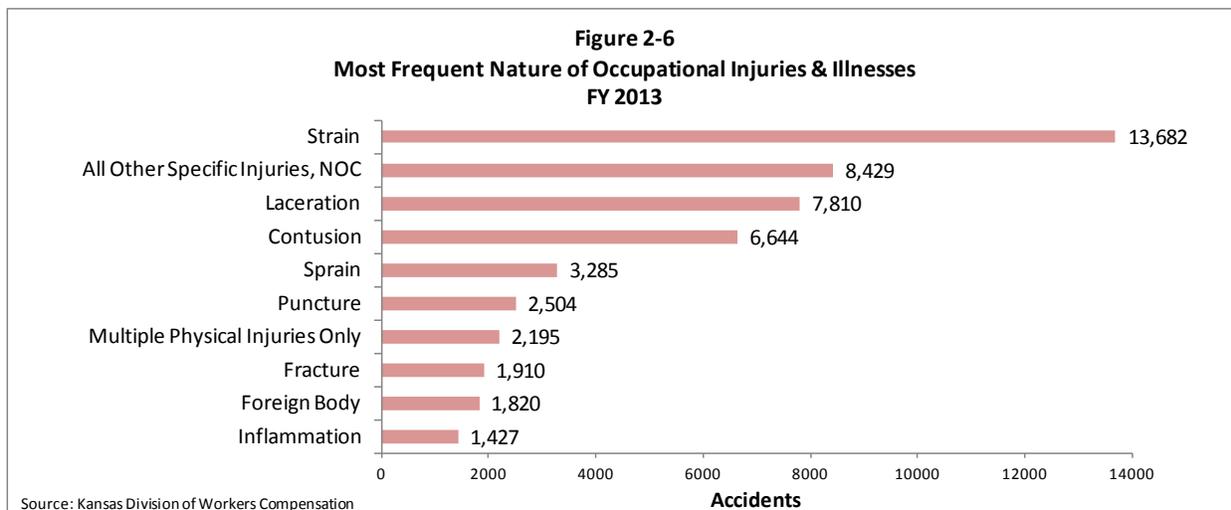
- Strain injuries are the most frequent nature of workplace injuries accounting for 13,682 or 24.4 percent of the total occupational injuries and illnesses for FY 2013 (see Figure 2-6).
- All other specific injuries, NOC (not otherwise classified) and lacerations are the second and third most frequent nature of workplace injuries accounting for 8,429 and 7,810, respectively, of the total occupational injuries and illnesses for FY 2013 (see Figure 2-6).
- The top ten most frequent nature of workplace injuries listed in Figure 2-6 account for 88.7 percent of the total occupational injuries and illnesses for FY 2013.

Table 2-6
Most Frequent Nature of Injury by Rank
FY 2009 - FY 2013

| Nature |
|----------------------------------|
| Strain |
| All Other Specific Injuries, NOC |
| Laceration |
| Contusion |
| Sprain |
| Puncture |
| Foreign Body |
| Fracture |
| Multiple Physical Injuries Only |
| Inflammation |

Source: Kansas Division of Workers Compensation

- Table 2-6 shows a five-year trend of most frequent nature, by rank, of occupational injuries or illnesses from FY 2009 to FY 2013. Strains, all other specific injuries, NOC and lacerations are the first, second and third most frequent cause of workplace injury, respectively, during this five-year trend, which also held true in FY 2013 as shown in Figure 2-6.



Body Member Associated with Occupational Injury and Illness

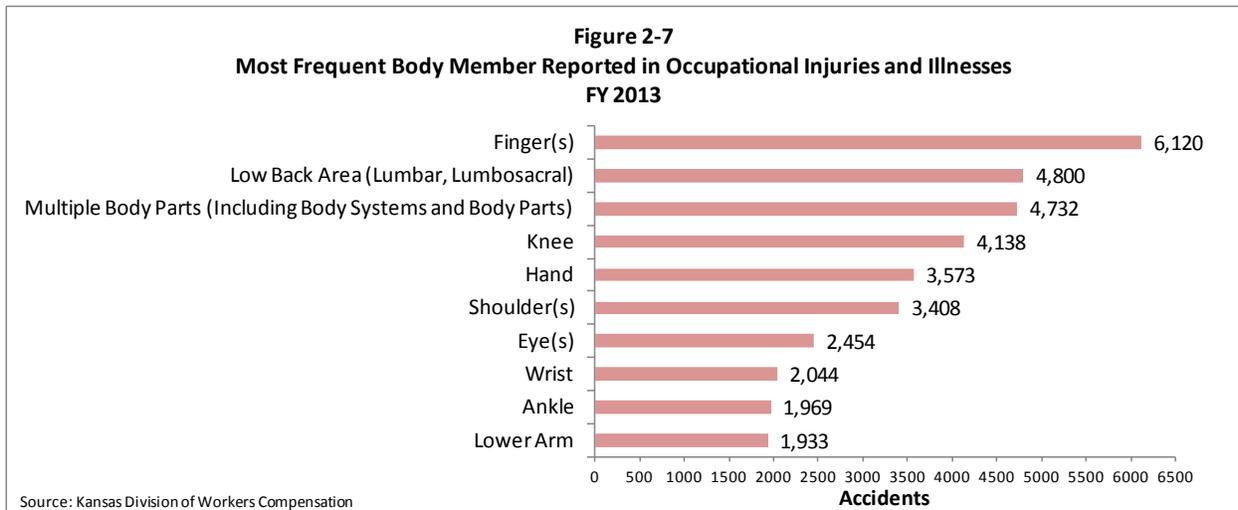
- Workplace injuries involving fingers constitute the greatest number of reported accidents for FY 2013, accounting for 6,120 or 10.9 percent of the total occupational injuries or illnesses (see Figure 2-7).
- Low back area (lumbar, lumbosacral) and multiple body parts (including body systems and body parts) are the second and third most frequently reported body member injured, accounting for 4,800 and 4,732, respectively, of the total occupational injuries and illnesses for FY 2013 (see Figure 2-7).
- The top ten most frequently injured body members listed in Figure 2-7 account for 62.8 percent of the total occupational injuries and illnesses for FY 2013.

**Table 2-7
Most Frequent Body Member Injured by Rank
FY 2009 - FY 2013**

| Body Member |
|---|
| Finger(s) |
| Low Back Area (Lumbar, Lumbosacral) |
| Multiple Body Parts (Including Body Systems and Body Parts) |
| Knee |
| Hand |
| Shoulder(s) |
| Eye(s) |
| Wrist |
| Multiple Upper Extremities |
| Ankle |

Source: Kansas Division of Workers Compensation

- Table 2-7 shows a five-year trend of most frequently injured body member, by rank, reported in workplace accidents from FY 2009 to FY 2013. Fingers, low back area (lumbar, lumbrosacral) and multiple body parts (including body systems and body parts) first, second and third most injured body member, respectively, during this five-year trend which also held true in FY 2013 as shown in Figure 2-7.



Occupational Injuries and Illnesses by County

- Table 2-8 lists the ten Kansas counties reporting the greatest number of occupational injuries and illnesses in FY 2013. As expected, counties with the largest population totals report the greatest number of workplace accidents.
- Kansas' largest city, Wichita, is located in Sedgwick County which reported the most cases (see Table 2-8).
- Johnson County, part of metropolitan Kansas City, includes the second and fifth largest cities in Kansas (Overland Park and Olathe, respectively) and reported the second highest number of workplace accidents (see Table 2-8).
- The top ten counties reporting the most workplace accidents as shown in Table 2-8 account for 52.4 percent of all occupational injuries and illnesses in Kansas for FY 2013.
- For a better understanding of which Kansas counties report the greatest amount of workplace accidents relative to their population, Table 2-9 reports the number of accidents for every 100 workers in each county.
- Wilson County reports the highest rate of occupational injuries and illnesses with 7.3 workplace accidents for every 100 workers (see Table 2-9).
- Figure 2-8 is a Kansas county map which illustrates the rate of workplace accidents per 100 workers. The darker the color the higher the workplace accident rate. Conversely, the lighter the color the lower the workplace accident rate.

**Table 2-8
Counties Reporting Greatest Number of Accidents
FY 2013**

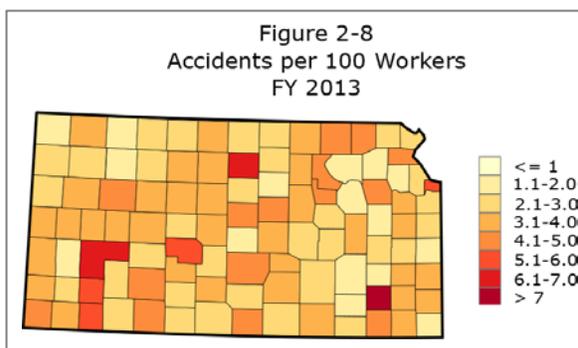
| County | Accidents |
|-----------|-----------|
| Sedgwick | 8,490 |
| Johnson | 7,927 |
| Shawnee | 3,849 |
| Wyandotte | 3,734 |
| Douglas | 1,770 |
| Reno | 1,513 |
| Riley | 1,441 |
| Saline | 1,437 |
| Finney | 1,282 |
| Ford | 894 |

Source: Kansas Division of Workers Compensation

**Table 2-9
Counties Reporting Greatest Number of Accidents per 100 Workers
FY 2013**

| County | Accidents per 100 Workers |
|-----------|---------------------------|
| Wilson | 7.28 |
| Finney | 6.76 |
| Mitchell | 6.39 |
| Seward | 5.83 |
| Wyandotte | 5.80 |
| Pawnee | 5.62 |
| Haskell | 5.12 |
| Saline | 4.98 |
| Morton | 4.94 |
| Reno | 4.73 |

Source: Kansas Division of Workers Compensation



Source: Kansas Division of Workers Compensation

Appendix A

Technical Notes: Occupational Injury and Illness Incidence Rates

Occupational Injury and Illness Incidence Rates

BLS Survey of Occupational Injuries and Illnesses: The Bureau of Labor Statistics (BLS), with the help of the state agencies, selects a non-proportional stratified probability sample of employment establishments and mails them questionnaires. Employers are instructed to record all nonfatal employee injury and illness incidents, number of days away from work for each recorded injury/illness, the number of employee hours worked and the establishment's average employment. Participants in the annual survey consist of employers who maintain Occupational Safety and Health Administration (OSHA) records on employee injuries and illnesses on a regular basis under federal law and smaller employers who are exempt from OSHA record keeping requirements. The survey "excludes the self-employed; farms with fewer than 11 employees; private households; federal government agencies; and, for national estimates, employees in state and local government agencies."³ Some states are experimenting with collecting data from the public sector,⁴ but Kansas Labor Market Information Services does not currently do so.

The data collection process differs for the employers who maintain OSHA records on employee injuries and illnesses on a regular basis under federal law and those that are exempt from OSHA record keeping requirements. The former are mailed a questionnaire in February following the survey year and are asked to transfer from their records all injuries and illnesses incurred as well as demographic and hours worked data. The latter, exempt employers (those with fewer than 11 employees and those designated as "low-hazard industries" by OSHA) are notified in December of the prior year (e.g., contacted in December of 2012 to record injuries for the 2013 survey) that they have been chosen to participate in the survey and must keep records of all employee injuries. The participating state agencies are responsible for collecting data from employers within their jurisdiction and for submitting these questionnaires to BLS for analysis.

The BLS uses its incidence rates as a benchmark to compare the frequency of injuries and illnesses occurring within jurisdictions, industries or specific occupations for a calendar year. The variable "Total Injuries and Illnesses per 100 full-time workers" is the most widely quoted incidence rate, and reflects the incidence rate of "total recordable cases." BLS defines "recordable cases" as follows:

Recordable cases include work-related injuries and illnesses that result in:

- Death
- Loss of consciousness
- Days away from work
- Restricted work activity or job transfer
- Medical treatment (beyond first aid)
- Significant work related injuries or illnesses that are diagnosed by a physician or other licensed health care professional. These include any work related case involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum.

³ BLS, 2005 News Release: *Workplace Injuries and Illnesses in 2005*, <http://stats.bls.gov/news.release/pdf/osh.pdf>.

⁴ E.g., Christine Baker, *Trends in Occupational Injuries and Illnesses: USA and California*, IAIABC Journal, Vol. 44 No. 1, 151, 169 (Spring 2007) (explaining that the California Division of Labor Statistics and Research (DSLRL) surveys approximately 800 public sector employers).

- Additional criteria that can result in a recordable case include:
 - Any needlestick injury or cut from a sharp object that is contaminated with another person's blood or other potentially infectious material.
 - Any case requiring an employee to be medically removed under the requirements of an OSHA health standard.
 - Tuberculosis infection as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional after exposure to a known case of active tuberculosis.
 - An employee's hearing test (audiogram) reveals 1) that the employee has experienced a Standard Threshold Shift (STS) in hearing in one or both ears (averaged at 2000, 3000, and 4000 Hz) and 2) the employee's total hearing level is 25 decibels (dB) or more above the audiometric zero (also averaged at 2000, 3000, and 4000 Hz) in the same ear(s) as the STS.

The incidence rate is calculated as follows:

Formula: $IR = (N/EH) \times 200,000$

IR = Incidence Rate

N = total number of occupational injuries and/or illnesses

EH = total hours worked by all [private industry] employees during the calendar year

200,000 = Base for 100 full-time equivalent workers (working 40 hours per week, 50 weeks per year)⁵

Kansas Occupational Injury and Illness Incidence Rates: The division collects data on the entire population of workplace injuries and illnesses in the state of Kansas through its first report of injury form and stores it in its relational database. Every employer covered under the Workers Compensation Act that has workplace injuries must submit first reports of injury. The division's analysts utilized the BLS statistical formula (see above) to calculate the incidence of injury for Kansas's non-federal employment hours. Injury and illness data was obtained from the Division of Workers Compensation, and the employment hour data used in the division's calculation of incidence rates was obtained from the Kansas Labor Market Information Services.

⁵ Bureau of Labor Statistics, *Occupational Safety and Health Definitions*, <http://stats.bls.gov/iif/oshdef.htm>.