



STATE OF NEVADA – DEPT OF BUSINESS & INDUSTRY – DIVISION OF INDUSTRIAL RELATIONS

Workers' Compensation Section

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May 10, 2022

Senior Appeals Officer Michelle L. Morgando, Esq.
Department of Administration
Hearings Division
2200 S. Rancho Drive, Suite 220
Las Vegas NV 89102

RE: Review of Lung and Heart Disease Denied Claims in the Appeals Process

Dear Ms. Morgando:

A review of denied claims related to an occupational disease pursuant to NRS 617.455 and 617.457 was conducted by the Division of Industrial Relations, Workers' Compensation Section, covering the period of July 14, 2018, through June 30, 2021. A summary of the results is enclosed for your review. Please review the results and let us know if you have any questions by June 20, 2022.

If you have any questions regarding the report findings, please contact Yerania (Yeri) De Luca, Chief Worker's Compensation Section at 775-684-7278.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Verre".

Charles J. Verre
Chief Administrative Officer
Workers' Compensation Section

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS
WORKERS' COMPENSATION SECTION

REPORT
REVIEW OF LUNG AND HEART DISEASE CLAIMS¹
IN THE APPEAL PROCESS FOR LONGER THAN SIX (6) MONTHS
SUMMARY OF FINDINGS
DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION

Contributors to this review:

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Compliance Audit Investigator

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Compliance Audit Supervisor

Yerania Martell-De Luca

Chief Compliance Audit Investigator

May 5, 2022

Victoria Carreón

Administrator

Division of Industrial Relations

Charles J. Verre

Chief Administrative Officer

Workers' Compensation Section

¹ Claims for lung diseases as occupational diseases of firefighters, police officers, and arson investigators per NRS 617.455 and NRS 617.457.

Division of Industrial Relations

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INTRODUCTION

1. BACKGROUND

In accordance with NRS 617.455, Section 10 and 617.457, Section 15, the Division of Industrial Relations shall review claim files that have been in the appeals process for longer than 6 months to determine the circumstance causing the delay in processing the claim. The Department of Administration, Hearing Division oversees the appeal process and provides the Division of Industrial Relations, Workers' Compensation Unit a listing of denied claims for the periodic review.

2. OBJECTIVE AND SCOPE

OBJECTIVE

To identify claims in the appeal process for longer than 6 months and determine the circumstances causing the delay in accordance with NRS 617.455, section 10 and NRS 617.457, section 15.

SCOPE

The period covered by the review is July 14, 2018, through June 30, 2021, and only claims processed by the Hearings Office in Las Vegas and does not include claims processed in Northern Nevada.

3. SUMMARY

Out of ninety-three (93) claims identified in the scope of the review, seventy-eight (78) or 83% were in the appeals process for longer than 6 months as of August 30, 2021.

4. RESULTS

A. Claims in the Appeals Process for Longer than 6 months

A total of 78 claims were identified as being in the in the appeals process for longer than 6 months. It was determined that the most frequent reason for delays is medical questions and/or medical propounding discoveries, which accounts for 32 claims or 41% as noted in the table below.

The second most frequent reason is due to consolidations of two or more appeals filed for the same claim, 17 claims fall under this category. Additionally, 7 claims have been delayed due to the lockdown and office closures. Other less frequent reasons for continuance include scheduling conflicts, absence, technical issues, and the need for an expert witness or testimonies. Of the 78 claims, 28 remain open as of the review date.

No	Reasons	# Of Claims	%
1	Medical question/propounding discovery	32	41
2	Claims consolidation	17	22
3	Unknown/unspecified	16	20
4	Lockdown/office closure	7	9
5	Expert witness HRG/Claimant to testify	2	3
6	Scheduling conflict	2	3
7	Failed to show	1	1
8	Technical issues	1	1
Total		78	100

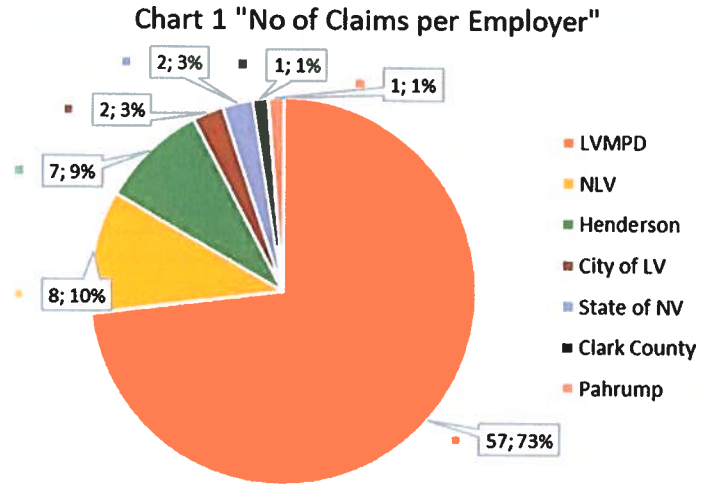
NRS 617.455 10(a) and NRS 617.457 15(a) specify in part that the appeals process "Begins on the date on which the claimant first files or submits a request for a hearing or an appeal of a determination regarding the claim". Table 2 shows the number of claims processed per year considering two variables: the year on which a hearing request is filed, and the year on which an appeal is filed, both regarding the same claim. The majority of the requests for hearings and appeals were filed within the same calendar year, 11 requests for hearings and appeals regarding the same claim were filed in different calendar years.

Year Hearing was Requested	Year Appeal was Requested	Hearing and Appeal same year	No of Claims
2017	2018		1
		2018	23
2018	2019		4
		2019	41
2019	2020		6
		2020	3
Total Claims			78

The following tables and graphs show a breakdown of the number of claims that have been in the appeals process for longer than six (6) months per employer and per TPA.

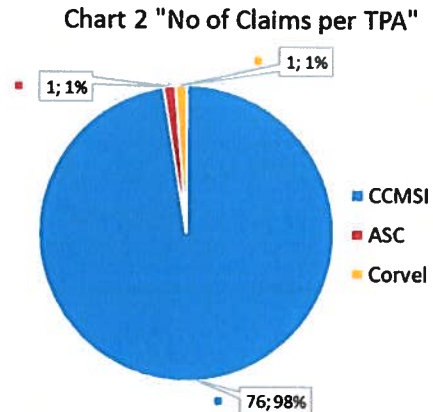
As of the date of the review, Las Vegas Metropolitan Police Department is the employer with the highest number of claims that have been in the appeal process for longer than six (6) months, with a total of 57 claims (73%).

Employer	No of Claims	%
Las Vegas Metropolitan Police Department (LVMPD)	57	73
City of North Las Vegas (NLV)	8	10
City of Henderson	7	9
City of Las Vegas	2	3
State of Nevada	2	3
Clark County	1	1
Pahrump	1	1
Total	78	100



Cannon Cochran Management Services Inc (CCMSI) is the third-party administrator with the highest number of claims, 76 claims in total (98%).

TPA	No of Claims	%
Cannon Cochran Management Services Inc (CCMSI)	76	98
Alternative Service Concepts, LLC (ASC)	1	1
Corvel Enterprise Company Inc	1	1
Total	78	100



As part of the review, a list of potential employers pertaining to lung and heart disease claims was created for northern and southern Nevada, identifying 29 employers that fall under this category. The list of possible employers will be used as a reference for the following reviews.

It was determined that 16 of the 78 claims (21%) did not show a specific reason for delay. Additional information on those claims can be found in Table 5:

#	Claim #	Last Name	First Name	Number of Days in Litigation	Condition Type	Continuance Reasons
1	18D34F638522	Albright	Steven	228	Heart	Unknown
2	18D34F540160	Andrade	Kidd	384	Heart	Unknown
3	20C51J195718	Botos	William	204	Heart	CL - Unknown
4	19D34F984307	Cox	Donald	462	Heart	Unknown
5	18D34F640025	Evans	James	284	Heart	Unknown
6	19D34F906576	Gilmore	Frederick	313	Heart	CL - unknown
7	19D34F908503	Gulli	Nicholas	816	Heart	CL - unknown
8	18D34F799739	Iverson	Felix	885	Heart	All - unknown
9	18D34F782552	Paul	Brian	492	Heart	All - unknown
10	18D34F572468	Porter	Bobby	424	Heart	All
11	19C51J056335	Prieto	Jesus	634	Heart	CL - unknown
12	18D34F640255	Ragone	Ted	622	Heart	All - unknown
13	18D34F518376	Rogers	Cory	581	Heart	All - unknown
14	18C51F795719	Santos	Andrew	696	Heart	All - unknown
15	19C52JF036963	Stier	Nikolas	575	Heart	All - unknown
16	20F02J245474	Willingham	Lester	214	Lung	Unknown

METHODOLOGY

To gain an understanding of the claim data provided by the Department of Administration, Hearings Division, we interviewed the senior appeals officer, and obtained data from their information technology representative.

The data provided by the Hearings Division Office included 93 denied claims.

NRS 617.455 (10a and 10b) and NRS 617.457 (15a and 15b), indicate that the Appeals Process begins on the date on which the claimant first files or submits a request for a hearing or an appeal of a determination regarding that claim; and continues until the date on which the claim is adjudicated to a final decision. Additionally, NRS 617.455 (11) and 617.457 (16) indicate that the review is of denied claims filed by a claimant.

The scope of the review included lung and heart disease denied claims covering the period of July 14, 2018, through June 30, 2021.

The data provided by the Hearing Division included the following: First names and last names of injured workers, date of injury, employers, TPAs, type of health condition, Claim/Hearing/Appeal number, filing and decision date for each claim while being processed by the Hearings and Appeals Office, results, reasons for continuance and comments.

The data included a total of 93 claims, we reviewed the data and identified 78 claims with *occupational disease defined* as lung or heart, 68 of these claims were identified as heart disease, 8 claims identified lung disease, and 2 cases were both heart and lung disease.

Of the total 93 claims, 15 claims were not subject to review because 6 claims were processed in less than six months, 4 claims were not related to heart or lung disease, and 5 claims were filed before the effective date of October 1, 2017².

Our review includes a quantitative approach that was applied to determine the number of claims that meet the criteria by calculating a variable named "Number of days in Litigation" which was compared to the six (6) months threshold. The total number of days in litigation was calculated as the sum of the number of days at the Hearing Office and the number of days at the Appeals Office.

$$\text{No of Days in Litigation} = \text{No of Days at HO} + \text{No of Days at AO}$$

After determining the number of claims that were in litigation for longer than six (6) months, a qualitative approach was applied to exclude those claims that were not labeled as lung or heart disease. Additionally, claims filed before the effective date, October 1, 2017, were excluded from the review.

Next, the reasons for continuance were grouped by frequency into 8 categories: medical question/propounding discovery, claims consolidation, unknown/unspecified, lockdown/office closure, expert witness HRG/Claimant to testify, scheduling conflict, failed to show, and technical issues.

² Assembly Bill (AB) 267 amended NRS 617.455 and 617.457 in 2017 to require the review of denied claims.
Review of Lung and Heart Disease Claims Report
Department of Administration, Hearings Division