

KWORCC Select Claims Report

Presented June 24, 2021



Claim Summary – Reserve Advisory

Employer:	Barber County	Date of Injury:	03/03/2021
Claim No.:	21843962	Job Description:	Deputy
Employee Age:	31	Updated:	6/14/2021
AWW:	656.55	TTD Rate:	437.72
Attorneys:	Jeff Cooper	Employer:	Ron Laskowski

Adjuster: Amanda Chamberland

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
Reserves:	\$ 30,750.00	\$ 24,252.64	\$ 0.00	\$ 7,500.00	\$ 6,812.50	\$ 69,315.14
Amount Paid:	\$ 8,630.93	\$ 5,677.25	\$ 0.00	\$ 0.00	\$ 418.95	\$ 14,727.13
Outstanding:	\$ 22,119.07	\$ 18,575.39	\$ 0.00	\$ 7,500.00	\$ 6,393.55	\$ 54,588.01

Accident Description / Nature of Injury:

- While claimant was responding to a call in her county vehicle, another vehicle suddenly appeared at the crest of a hill. Claimant veered to the right, went airborne off the road, and landed in the ditch.

Investigation / Compensability:

- The claimant was in the course and scope of her duties and denies pre-existing injury. She was wearing a seatbelt. The claims is accepted as compensable.
- Although the mechanism is compensable, the injuries associated with the claim are questioned and being reviewed in litigation.

Medical Management:

- The claimant treated originally in the ER at Medicine lodge and her account of her diagnosis was different than our information. Specifically, claimant alleged a severe head trauma resulting in seizures. There is no indication of this in the medical reports. At time of injury, claimant reported pain in her right hip, right elbow and right foot and ankle. Claimant later reported primary pain in her neck and her left shoulder. Post-accident, claimant temporarily moved in with her mother in a city away from her normal home and workplace. She resisted return to work or to be evaluated by a physician for follow up. When told that she would be required to see a medical provider, she retained counsel. Claimant now alleges bilateral hip pain, bilateral shoulder pain, depression, head injury, back and cervical complaints along with leg radiculopathy. She is being assessed by Dr. Do for recommendations on which injuries are consistent with her mechanism of injury and her timeline of complaints from origin of symptomology.

Periods of Disability:

- The employee missed 13 weeks of work post injury. She has now returned to work in a light duty capacity.

Permanent Partial Impairment / Permanent Disability:

- The file is reserved for an estimated 6% to the body as a whole. This will be re-evaluated after the initial litigation assessment is received.

Subrogation / Other Issues:

- We have not attached a subrogation lien at this time because the other driver was not cited for any fault in the event. However, counsel will continue to evaluate subrogation potential as the claim progresses.

Plan of Action:

- Medical report of Dr. Do will be reviewed to determine which body parts will be covered as part of the worker's compensation claim
- If there is a disagreement in covered allowances, a third party IME is likely for further evaluation
- As the claim is litigated, ultimately it will conclude in a settlement
- We will attempt to reduce exposure through our investigation of the file and by attempting to settle the file, full and final



Claim Summary – Settlement Request

Employer:	Brown County	Date of Injury:	02/16/2009
Claim No.:	2009036719	Job Description:	Former Law Enforcement
Employee Age:	55	Updated:	6/14/2021
AWW:	560.47	TTD Rate:	373.65
Attorneys:	George Pearson	Employer:	Ron Laskowski
Adjuster:	Amanda Chamberland		

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
Reserves:	\$170,000.00	\$ 166,687.02	\$ 0.00	\$ 8,000.00	\$ 11,500.00	\$ 356,187.02
Amount Paid:	\$ 109,189.70	\$ 91,687.02	\$ 0.00	\$ 141.80	\$ 7,427.95	\$ 208,446.47
Outstanding:	\$ 60,810.30	\$ 75,000.00	\$ 0.00	\$ 7,858.20	\$ 4,072.05	\$ 147,740.55

Accident Description / Nature of Injury:

- In 2009 while taking empty meal tubs out of the corrections building a step crumbled on the employer’s premises and the employee fell backwards. The employee alleged injury to his lower back.

Investigation / Compensability:

- The event was witnessed and determined compensable.
- The claimant had significant pre-existing chronic back complaints pre- injury. However, pre 2011 law change the courts found that even "one iota" of causation related to a new work injury could result in a compensable file.
- The claimant retained counsel early in his file and treatment was authorized as compensable.

Medical Management:

- The claimant treated with multiple different providers through the litigation process of his file, with a general consensus that he would require pain management care only on a long term basis. After an indemnity settlement in 2010 with open medical, Dr. Peter Rosa treated claimant for local pain management medication distribution only, as primary care physician (PCP). Unfortunately, as time passed the claimant exhibited pain medication addiction. Claimant reported that he smoked marijuana in combination with his pain meds. Also, he would frequently lose and request replacement scripts. When medication was cut off, claimant would feign new intervening accidents to have the medications re-issued. Claimant’s PCP became rightfully concerned, but instead of consulting with us on a plan of action he referred the claimant, without authorization, to Dr. Burton for further evaluation. Dr. Burton found that the claimant needed a spinal cord stimulator as well as continued pain management. When we became aware of this referral the recommendations had already been made. In response, we set up an IME with a pain management physician for evaluation. Dr. Aks found that the claimant did not need a spinal cord stimulator but that he did need chronic pain medications which needed to be more closely monitored and weaned. The claimant then re- initiated his attorney involvement. A court ordered IME with Dr. Carabetta is schedule to take place in late June, and we are concerned that he will agree with Dr. Burton (i.e., claimant needs a dorsal column stimulator and continuing medication and assistance of pain management physician). The result would be to dramatically increase the costs exposure of the claim.

Periods of Disability:

- The claimant is no longer working and is receiving no TTD payments for his off work status. He previously received \$21,041.60 in TTD payments.

Permanent Partial Impairment / Permanent Disability:

- The prior settlement for the claimant in 2010 entitled the claimant to open medical for life and an indemnity settlement of \$70,266.25

Subrogation / Other Issues:

- The employee is a Medicare recipient and Medicare's interest will need considered to close the file
- There may be a conditional payment lien owed to Medicare post settlement if the claimant's PCP did not properly bill his healthcare needs.

Plan of Action:

- Risks of not settling the file are of continued medical care for life to include lab drug testing compliance, chronic pain management medications, mileage to a qualified pain management specialist, a dorsal cord stimulator and so on. The costs of future claim handling with the new claim developments would be in the \$280,000 range.
- Settlement is requested in the amount of 75,000 for counsel to incentivize the claimant to close out his medical needs via Medicare set aside. A Medicare set aside estimate has been obtained and provides a figure of \$33,107.15. This amount would need to be paid in addition to the \$75,000 requested.



Claim Summary – Reserve Advisory

Employer:	Dickinson County	Date of Injury:	04/14/2021
Claim No.:	21847440	Job Description:	Detention Supervisor
Employee Age:	41	Updated:	6/14/2021
AWW:	804.24	TTD Rate:	536.18
Attorneys:	N/A	Employer:	N/A

Adjuster: Amanda Chamberland

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
Reserves:	\$ 21,700.00	\$ 6,432.54	\$ 0.00	\$ 550.00	\$ 3,380.00	\$ 32,062.54
Amount Paid:	\$ 1,043.73	\$ 0.00	\$ 0.00	\$ 0.00	\$ 78.07	\$ 1,121.80
Outstanding:	\$ 20,656.27	\$ 6,432.54	\$ 0.00	\$ 550.00	\$ 3,301.93	\$ 30,940.74

Accident Description / Nature of Injury:

- As part of controlled forces training in Goodland claimant’s training partner applied force to claimant’s left wrist, causing pain and injury.

Investigation / Compensability:

- The employee was found to be in the course and scope of her employment and no pre-existing defenses are known at this time. The claim is accepted as compensable.

Medical Management:

- The employee treated initially with her local urgent care facility for recommendations. Upon referral to Dr. Palmgren, he requested a left wrist arthroscopy with TFCC debridement versus repair. The surgery was authorized.

Periods of Disability:

- The employee is not expected to miss more than one week of work as her work has accommodations for her.

Permanent Partial Impairment / Permanent Disability:

- The file is reserved for an expected scheduled PPI to her wrist in the range of 5%

Subrogation / Other Issues:

- The claimant is a new employee to the county and left her prior employer after a highly litigated discrimination lawsuit was settled. She has been difficult to reach and frequently does not return contact.

Plan of Action:

- I will continue to reach out to the claimant to assist with her claim and try to avoid litigation
- I will work with her employer to find a light duty accommodation and reduce lost time potential
- Once the claimant is placed at MMI will request a rating and attempt to settle her file, full and final



Claim Summary – Reserve Advisory

Employer:	Doniphan County	Date of Injury:	02/24/2021
Claim No.:	21850039	Job Description:	Deputy
Employee Age:	61	Updated:	6/14/2021
AWW:	868.77	TTD Rate:	579.20
Attorneys:	Adam Brillhart	Employer:	Ron Laskowski
Adjuster:	Amanda Chamberland		

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
Reserves:	\$ 15,450.00	\$ 9,000.00	\$ 0.00	\$ 7,000.00	\$ 2,352.50	\$ 33,802.50
Amount Paid:	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Outstanding:	\$ 15,450.00	\$ 9,000.00	\$ 0.00	\$ 7,000.00	\$ 2,352.50	\$ 33,802.50

Accident Description / Nature of Injury:

- While in training the employee was placed in handcuffs for demonstration. His instructor pulled back his right arm and bent it behind his back, his right shoulder popped.

Investigation / Compensability:

- The employee was in the course and scope of his employment and the event mechanism is compensable.
- The claim was not turned in to the employer’s worker’s compensation contact until May although the event occurred in February. Before contact could be made and a determination rendered, the claimant hired counsel. Our post litigation investigation shows this potentially was a timely reported event due to the supervisor being aware of the event at time of occurrence. Although, it can and will be disputed that it was the employee’s duty to assert clear injuries at the time of the event and make clear he suffered a work accident.

Medical Management:

- The county directed claimant to Concentra Health, where an MRI is recommended. Due to the intervening notice of litigation, we are discussing further medical direction with counsel.

Periods of Disability:

- The employee has not missed any work due to the work event.

Permanent Partial Impairment / Permanent Disability:

- The exposure on this claim is unknown as there has not been sufficient medical evaluation to determine PPI exposure. A general reserve of \$9,000 is set aside for estimated settlement on a litigated claim.

Subrogation / Other Issues:

- N/A

Plan of Action:

- Litigation plan of action will be discussed with counsel
- If medical care is allowed, such will be directed to the point of MMI and expected PPI rating
- If there is no medical evaluation pursued further, we will attempt to settle the claim on a nuisance value -- without acceptance of compensability



Claim Summary – Settlement Request

Employer:	Gove County	Date of Injury:	09/24/2020
Claim No.:	21837441	Job Description:	Sheriff
Employee Age:	63	Updated:	6/14/2021
AWW:	994.08	TTD Rate:	662.75
Attorneys:	Matt Bretz	Employer:	Ron Laskowski
Adjuster:	Amanda Chamberland		

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
Reserves:	\$ 25,000.00	\$ 310,000.00	\$ 0.00	\$ 15,000.00	\$ 6,000.00	\$ 356,000.00
Amount Paid:	\$ 0.00	\$ 0.00	\$ 0.00	\$ 118.30	\$ 2,490.50	\$ 2,608.80
Outstanding:	\$ 25,000.00	\$ 310,000.00	\$ 0.00	\$ 14,881.70	\$ 3,509.50	\$ 353,391.20

Accident Description / Nature of Injury:

- The employee is deceased. The claim has been filed on his behalf posthumously as a COVID related death potentially resulting from work activities

Investigation / Compensability:

- The claim is disputed considering the definition of everyday diseases of life per KS statute, the lack of timely reporting, and the possibility of his death being an aggravation of underlying and pre-existing health conditions
 - 1) Per Kansas statute ordinary diseases of life to which the general public are exposed are not compensable. COVID is recognized at pandemic status making it indeed a disease of ordinary life. There is no way of knowing for certain that the employee did not contact COVID via other daily activities such as at the grocery store, gas station, etc.
 - 2) The report of COVID related illness was not filed by the employer until after the employee’s death, months after the original diagnosis. The Undersheriff, now the current Sheriff, reports they the county did believe that the claimant’s COVID diagnosis was work related and that they failed to report timely on his behalf. However, although the Clerk acknowledged that the claimant had COVID she denied acknowledgement that this was a reportable worker’s compensation related condition.
 - 3) The deceased reportedly suffered from chronic underlying respiratory health issues which could have contributed to the cause of his death. The death certificate cites the cause of death as Anoxic ischemic encephalopathy, acute and chronic hypoxemic respiratory failure with ARDS, COVID and pneumonia.

Medical Management:

- The sheriff tested positive in September 2020 for COVID. After the Sheriff tested positive, he was isolated for ten days following the KDHE and CDC recommendations. On the 9th day he became increasingly ill with shortness of breath. He presented to Hays Medical Center and was placed in their COVID unit. He was there five days and then released to his home with significant improvement. The emergency director reported to the County Clerk around this time that he no longer had COVID. On 10/18, the Sheriff was reported to have shortness of breath and severe respiratory distress. He was flown to the Swedish Medical Center where he was immediately placed on oxygen, sedated and on a ventilator. After being comatose for 35 days, a tracheotomy was performed, the ventilator removed, backed off of sedation and sent to Colorado for rehabilitation. On 12/13/2020, the Sheriff was found to be unresponsive at the rehabilitation facility. He was taken to Denver Health Systems where he was placed in hyperbaric treatment. A CT performed found no brain activity, only seizures. Lifesaving activities ceased as of 12/18/2020.

Periods of Disability:

- The employee was not paid for any time loss from work preceding his death.

Permanent Partial Impairment / Permanent Disability:

- A compensable death claim would result in benefits paid in excess of \$300,000.00 plus medical costs which could potentially surpass the excess threshold of \$750,000.

Subrogation / Other Issues:

- This case has the support for compensability by the Kansas Concerns for Police Officers agency
- The claim has been reported to Safety National, the excess carrier for KWORCC, in the event that payments will exceed the \$750,000 threshold for reimbursement
- The county and the commissioners have been generally supportive of this being determined a death in the line of duty
- Investigation by counsel shows that the judge assigned to this case has ruled in favor of COVID compensability in the workplace on at least one prior occasion

Plan of Action:

- Counsel has requested authority to settle the indemnity portion of this file in an amount of up to \$310,000. He would also propose authority to provide added settlement funds to cover any unpaid copayments or deductibles, the amount is not yet specified but estimated to be \$25,000 or less.
- Counsel plans to continue to defend our stance that this claim is not compensable and will *attempt* to settle with an award of deniability and a confidentiality clause
- Although the settlement may seem high for a doubtful and disputed file, it is necessary when the exposure of well over one million is considered. Additionally, allowing this case to be determined by the Administrative Law Judge could create a domino effect of possible compensability concerns for not only future KWORCC claims but COVID claims in general under Kansas statute.



Claim Summary – Reserve Advisory

Employer:	Rice County	Date of Injury:	06/04/2021
Claim No.:	21852216	Job Description:	Volunteer Fire Fighter
Employee Age:	33	Updated:	6/14/2021
AWW:	687.00	TTD Rate:	687.00
Attorneys:	N/A	Employer:	N/A
Adjuster:	Amanda Chamberland		

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
Reserves:	\$141,150.00	\$ 29,472.30	\$ 0.00	\$ 600.00	\$ 21,172.50	\$ 192,394.80
Amount Paid:	\$ 86.95	\$ 687.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 773.95
Outstanding:	\$141,063.05	\$ 28,785.30	\$ 0.00	\$ 600.00	\$ 21,172.50	\$ 191,620.85

Accident Description / Nature of Injury:

- The claimant responded to a structural fire and began to chop a manure chute with an axe to restrict the airflow from the fire. He suddenly heard yelling and reacted by running when a large wall landed on the claimant, trapping him underneath it for an undetermined amount of time. When uncovered, claimant’s right foot was resting near his left ear.

Investigation / Compensability:

- The claimant was in the course and scope of his duties and there are no known pre-existing conditions.

Medical Management:

- Original medical care was received at Hutchinson Hospital. Claimant was transported to Wesley Medical Center’s trauma unit in Wichita. Emergency surgery was performed by Dr. Scott with Advanced Orthopedic Associates, to include rod placement in the right femur and hardware in the right hip region. Claimant also sustained injury to his right knee and lower leg in general, to be addressed once the hip and femur are stabilized.

Periods of Disability:

- The employee is a volunteer and recently left his normal employment. He is expected to be off work a minimum of three months.

Permanent Partial Impairment / Permanent Disability:

- Initial reserves are set for a possible impairment of 6% to the body as a whole. This will continue to be evaluated as the claimant progresses in his care.

Subrogation / Other Issues:

- N/A

Plan of Action:

- I will work with the employee through his medical care to ensure he receives the treatment needed for a successful recovery
- I will work with the employee as he progresses medically to work towards a return to substantial employment
- If the claimant fails to progress or struggles returning to work, intervention such as nurse case management may be considered
- Due to severity I will request a rating once the claimant reaches MMI
- Once a rating is received I will attempt to settle the file, full and final