LAWRENCE J. HOGAN, JR.
GOVERNOR

MICHAEL W. BURNS
Director
michael.burns1@maryland.gov

STATE OF MARYLAND

MARTIN E. LEWIS
CHAIR

CASEY BRYANT
DONCELLA S. WILSON
MEMBERS

STATE OF MARYLAND
UNINSURED EMPLOYERS' FUND
300 East Joppa Road, Suite 402
Towson, MD 21286
PHONE - (410) 321-4136
FAX - (410) 321-3975

September 28, 2021

The Honorable Larry Hogan
Governor
State of Maryland
State House
100 State Circle
Annapolis, Maryland 21401

Re: Report required by Labor and Employment Article §10-320 (b)

Dear Governor Hogan,

As required by Maryland law, Labor and Employment Article § 10-320(b), the Maryland Uninsured Employers' Fund (UEF/agency/fund) respectfully submits the following Annual Report to you, including details concerning the balances and expenses of the Fund during the reporting period.

The UEF is a statutorily-created, self-funded agency which does not receive general funding. The agency was created decades ago in order to protect Maryland workers who are injured on the job from an accidental injury or an occupational disease under certain circumstances. The agency provides workers' compensation benefits to such injured workers, and to their families and dependents as appropriate, in cases where an uninsured employer fails to carry Workers' Compensation Insurance: an employee is injured; benefits are awarded by the Maryland Workers' Compensation Commission (WCC/Commission) and the uninsured employer fails to pay the WCC award as ordered. The agency's obligation to provide benefits and/or compensation is triggered when an uninsured employer defaults on an award issued by the Commission. The agency also provides coverage for claims for compensation for injured workers employed by insolvent self-insured employers as well.

The UEF was originally designed to be a limited stop-gap fund for injured workers whose employers failed to maintain legally required workers' compensation insurance. It was apparently believed when the agency was established that there would only be a fairly small number of such cases because employers would maintain workers compensation insurance to cover their employees since that was, and still is, required of most employers under the law. Over the years this prediction has proven to be erroneous. Some employers, especially in the dangerous construction and landscaping industries, routinely fail to carry required insurance because it enables them to underbid their competition and thus obtain work. Add to this honest employers who simply fail to have coverage for various reasons and then have a claim from an injured worker, as well as bankrupt self-insured employers such as the Bethlehem Steel Corporation (BSC) and A&P Supermarkets (A & P), and by 2021 the result is that the UEF has now grown to cover hundreds of injured workers at any one time – currently approximately 700 active cases, including approximately 26 permanently totally disabled cases, with expenditures for both lost wages and medical bills totaling millions of dollars per year. A&P and BSC, both self-insured, have become insolvent and the UEF has become responsible for tens of millions of dollars in workers' compensation payments for these two corporations, a responsibility which continues at the present time, is ongoing and will continue for decades to come.

UEF coverage for a claim can last for any amount of time depending on the Order of the WCC: weeks, months, years, a lifetime. Workers sometimes come back to the WCC with a claim for worsening of their condition, requiring a new hearing, resulting in a new order, multiple times. Even if a claimant does not claim a worsening of their condition the agency is still responsible for casually-related medical treatment for the rest of the claimant's life. Over time, cases can result in millions of dollars in medical and related expenses.

The UEF is a special fund. It is funded by fines levied by the WCC against uninsured employers and assessments imposed on awards of indemnity benefits. The agency also is to receive reimbursement from uninsured employers for expenditures made to claimants. Many uninsured employers do not make these required payments and reimbursements which has made collecting these funds a challenge to collect.

The UEF receives funding to provide for operations and injured workers by various mechanisms. It collects fines and assessments, it seeks reimbursement of the benefits paid from the relevant liable uninsured employers, it engages in collection and enforcement actions. The agency pursues suspension of business licenses and permits, and seeks criminal penalties against employers who fail to secure insurance and/or fail to pay benefits awarded by the commission.

As noted, the UEF is entirely self-funded and typically receives approximately 80% of its funding from a 2% assessment on most WCC permanency awards and settlements (with the remainder of funding coming mostly from payments received from uninsured employers). This 2% is the statutory maximum assessment available to the agency and has been the statutory maximum for many years. The 2020 session of the legislature raised that assessment amount temporarily for a period of one year to 3%. During the 2021 legislative session the agency requested, as a result of the COVID pandemic disruption and shutdown, that the temporary 3% figure be extended for one year. Although supported by the Administration the House Economic Matters Committee declined to extend the assessment increase and it therefore terminated on June 30, 2021.

Under the leadership brought in by Governor Hogan's Administration the agency has, in recent years, worked, effectively and successfully, to address the situation of dysfunction and failure that existed at the agency upon their arrival. The COVID pandemic of 2020-21, although challenging, was also met successfully by the agency.

As was noted last year, the COVID pandemic resulted in a number of disruptions, challenges and changes to the functioning of government in 2020 and 2021 and the UEF was not spared from those events. The agency has, however, successfully come through that situation. Thanks to the agency staff, Office of the Attorney General (OAG) staff, and the staff of the agency's third-party claims administrator (TPA) the agency was able to set up a successful remote teleworking program which enabled us to continue to function effectively remotely. As a result of constant planning and preparation by staff the agency was able to resume functioning in our office when State Government was reopened by the Governor seamlessly and without incident. At direction of the Administration, the agency now utilizes telework to a greater extent than before the pandemic and can report with no disruption or reduction in the agency's production, efficiency or work product. The agency recognizes the leadership of Governor Hogan in turning what was a serious disruption into a successful system for the functioning of government as we reopened in office in 2021.

The agency, under the guidance of Department of Management and Budget (DBM) has made increased use of telework in the months since State government reopened offices to our staff. Balancing in-person, in-office time with telework has proven to be a valid and effective way to function. Office production and efficiency remains excellent under this hybrid model, which is due in no small measure to the outstanding and professional staff that make up our total staffing, including state employees, OAG staff, and CorVel staff. The results of this hybrid staffing are such that the agency will continue to utilize it going forward.

The contract for third-party claims services with the CorVel Corporation (CorVel), the agency's (TPA) continues be a success, providing cost savings and competent professional services to the agency for a reasonable cost. Administration, investigation, cost management and other benefits the agency has received under the contract more than recoup the cost of CorVel's services.

Since starting on the program with CorVel, expenditures for claims have declined. From FY 2020 to FY 2021 there has been a 10% reduction in open claims and a 12% reduction in claim payments. From our start of the onset of CorVel there has been more than a 50% decrease in the total open claims and roughly a 39% decrease in money spent on claims. These savings are substantial and could have only been achieved with the agency procuring such TPA services from a competent national TPA. The contract with CorVel was, and remains, one of the main reasons for the agency's success over the past four years.

We are pleased to present this information regarding the claims management success of the agency to the Administration and once again thank the Administration for providing the UEF with the support to engage in the RFP process for TPA services for the first time which resulted in hiring a competent, professional TPA. That process of selection and contracting has paid enormous dividends to the agency and is a success story for this Administration.

The one-year increase in the agency's assessment to 3% provided additional funding support for the agency reflected in bottom line receipt numbers. Although the Legislature choose not to provide an additional year of funding at the 3% level in 2021, the one-year increase to that level clearly provided evidence of the effect of that change in real numbers and amounts received by the agency by way of the assessment for future evaluation.

In spite of the pandemic, agency staff continued to grow the agency's collections reach and effectiveness in recovery funds owed by uninsured employers to the agency and maintained a high success rate even with the effects of the COVID pandemic to work through. Increases in enforcement and collections utilizing business license suspensions and the full implementation of criminal enforcement were a highlight and the agency notes that both programs continue to grow in scope, effectiveness and receipts.

The UEF has been and remains solvent as of this report. Appendix A details expenditures and revenues for the 2017-2021 period for review and comparison. Appendix F indicates the various Fiscal Year-End Fund balances from 2012-2021. As Appendix F shows, the fund balance has gone from approximately $8,822,208.54 on June 30, 2016, before current agency leadership, to approximately $8,472,365.19 on June 30, 2021. What is striking is that the agency has increased staffing and contracted for a competent third-party claims administrator during this period and yet the fund balance is approximately the same today as it was before these necessary and over-due improvements and expenditures took place. This is a result of better claims management and cost containment, increased effectiveness at investigations, better case preparation, and increased and more effective recovery of funds owed to the agency.

Appendices C, D, E, and F provide extensive detailed information – including monthly balance, payment and expense information - as to the agency's performance, claims, payments, and status. Numerous data points are recorded and presented therein for the period of August 2017 through June 2021. In particular, detailed monthly amounts are presented for compensation payments, medical payments, and operating expenses.

These detailed statements of the balances and expenses of the Fund are included for purposes of providing data for this report and to comply with the requirements of L and E section 10-320(b) as regards information which may be due for previous annual reports regarding balances and expenses of the fund

Detailed performance data indicates the following information for the period of FY 2020 and 2021 including balances and expenses:

	FY 2020	FY 2021
Number of claims filed	423	462
Number of investigations conducted	423	462
Number of claims where coverage found	153	183
Percentage claims where coverage found	36.2%	39.6%
Number of claims where agency responsible	280	195
Average number of open claims (per month)	835	678
Number of cases resolved	616	600
Number of benefit payments made	2,139	1,984
Compensation and medical payments made (in dollars)	8,784,084	5,110,196
Contract Cost for TPA Services	(inc. above)	3,114,910
Agency operating expenditures (in dollars)	2,013,893	1,942,458
Total expenditures (in dollars)	10,797,977	10,167,564
Amount of assessments collected (in dollars)	9,927,746	10,948,564
Interest on Fund balance (in dollars)	96,035	20,075
Amount of benefit payments owed by uninsured		
Employers recovered (in dollars)	1,319,496	1,340,995
Total revenue (in dollars)	11,343,277	12,309,634
Ration of Total expenditures to Total revenue (year)	.95:1	.83:1

Appendix B indicates the history of reserves for the agency. It shows that as of June, 2021 the agency has liability reserves currently set at $57,841,096. These reserves are estimates of the agency's liability for the claims currently being paid by the agency for any particular month as well as anticipated claim obligations. Those reserves do not, and cannot, completely predict future increases, including yearly rising medical costs, new claims and claimant worsening changes, which will increase the agency's liability substantially in the years ahead. Additionally, the impact of the COVID experience remains estimated at this point in time.

As to administrative costs the TPA contract is estimated to cost $3.2 million per year (such costs are included in the "compensation and medical payments made" entries of Appendix A for the years 2017 through 2020). Agency operating expenses are currently at approximately $2 million with costs expected to increase now that the pandemic shutdown is over and recruiting and hiring for vacant positions has resumed.

The agency again emphasizes that it is not an insurance company. Whatever cases are found to be the responsibility of the agency are the cases it will cover; it is difficult to predict what the UEF's true future liabilities are for medical and compensation payments with any rational degree of certainty over time. Due to the unique nature of our mission, the UEF is quite literally at the mercy of events as to future costs and expenditures. And, of course, the COVID pandemic and its ongoing nature continues to add uncertainty going forward to all aspects of our work as well.

As was noted last year, although the agency faces challenges it does so from a position which has improved in every area of functioning from the condition which faced the Administration only a few years ago. The improvements in the UEF between over the past few years are documented, numerous and substantial. The agency's response to the COVID pandemic, from planning to implementation to the successful functioning of remote work was remarkable – the ability of the agency to transition to remote work simply and quickly was something that did not exist before the Administration's intervention in the agency in 2016. What was impossible in 2016 was, frankly, easily accomplished in 2020.

There remains work to do at the agency, but we face that work with confidence.

The agency could not have made this progress without the help and support of others in State Government. We thank the Governor, his outstanding staff who began the process of making this a functioning agency and provided support and encouragement all during this process. We thank the Legislature and their staff for their interest in our efforts and their desire to work with us to make this agency work. We thank the countless State employees from many agencies, including DBM, DGS, and the OAG, who have supported and assisted the UEF in its work and its success over the past few years.

Our ongoing success would not have been possible without their support and involvement and our accomplishments here are a reflection of the hard work and support of many in government.

Respectfully submitted,

Michael W. Burns, Esq.
Director

MB/

Encls.

cc: Sarah Albert, Department of Legislative Services (5 copies)