

## Executive Director’s Report for January 11, 2022

### ADMINISTRATIVE

#### *2021-2023 Biennium Budget (July 1, 2021 through June 30, 2023)*

#### *Budget Summary through November 2021*

Revenue	November 2021	Biennium to Date	% of Budget Received	2021-23 Biennium Total Budget
All sources (including cash reserves & reimbursements)	220,078	442,392	17%	2,832,630

Expenditures	November 2021	Biennium to Date	% of Budget Spent	2021-23 Biennium Total Budget
Personal Services	74,302	317,453	20%	1,586,966
Services & Supplies	38,139	182,894	15%	1,245,664
<b>Total</b>	<b>112,441</b>	<b>500,347</b>	<b>18%</b>	<b>2,832,630</b>

*Licensing fee revenue is received once a year – even-numbered years for individual licensees & odd-numbered years for facility licensees – which results in a significant revenue increase at the end of each calendar year and is the main reason why our agency must maintain a higher than average ending balance at the end of each fiscal year and each biennium (typically 8-10 months). Our agency also self-insures against unknown expenses such as costs associated with administrative hearings. It is important to note that there is a difference between the agency’s approved limitation (authorization to spend) and its cash reserve. If our agency anticipates exceeding the approved limitation total for any expense category, we must request additional limitation authority from the Oregon Legislature via an Emergency Board (Ways & Means) proceeding, even if we have a sufficient cash reserve to cover expenses.*

#### **Background on Revenue Sources**

The revenue budgeted for the biennium includes funds received from multiple sources – including ones that pass through the agency. The total for the biennium includes a beginning cash balance of **\$1,246,258** (cash reserves carried over from the previous biennium), the total amount collected for death filing fees – which supports both the Board programs and the Indigent Disposition Program (IDP) Fund – licensing fees and estimates for miscellaneous revenue such as civil penalty payments and interest.

[HB 2120](#) became effective on January 1, 2022, which requires the following allocation of the \$30 death filing fee:

- \$16 to be used for Indigent Disposition Program (IDP) Fund reimbursements, and
- \$14 to be used for the agency’s operations.

Based upon the current \$6 allocation until December 31, 2021 and the \$16 allocation for January 1, 2022 and beyond, the death filing fee is projected to collect approximately \$1,092,106 in total revenue for the 21-23 biennium. The actual amount received will depend upon the number of actual deaths registered and billed within the biennium. The revenue projection is based upon the population data provided by the [State Economist’s Office](#), which is an anticipated 80,836 deaths within the biennium.

## LICENSING

### *Licensing Transactions Executed Pursuant to Delegated Authority*

1. **Permanently Lapsed Individual Licenses:** None
2. **Permanently Lapsed Facility Licenses:** None
3. **Individual or Facility Licenses Suspended:** None
4. **Licenses Revoked:** None

**AD:** Alternative Disposition Facility; **AE:** Apprentice Embalmer; **AF:** Apprentice FSP; **CE:** Cemetery; **CM:** City owned Cemetery; **CO:** Combination Embalmer and FSP; **CR:** Crematory; **CS:** Special Tax District owned Cemetery; **CY:** County owned Cemetery; **DC:** Death Care Consultant; **EM:** Embalmer; **FE:** Funeral Establishment; **FS:** Funeral Service Practitioner; **IP:** Intern Permit; **PN:** Preneed Salesperson; **RR:** Removal Registration.

### *Licensing Statistics*

Type of License	Oct 5 2021	Dec 28 2021	Change from Oct-Dec	Trend
Death Care Consultants	0	0	0	—
EM Apprentices *	53	64	11	▲
FSP Apprentices *	69	78	9	▲
Interns	11	11	0	—
Embalmer Only *	14	13	1	▼
FSP Only	188	192	4	▲
Combination License: EM *	394	397	3	▲
Combination License: FSP *	394	397	3	▲
Military Combination License: EM	0	0	0	—
Military Combination License: FSP	0	0	0	—



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Preneed Salespeople **	180	189	9	▲
Funeral Establishments	195	195	0	—
Immediate Disposition Companies	7	7	0	—
Crematoriums	67	67	0	—
Cemeteries, Operating	300	302	2	▲
Cemeteries, Operating, Municipal	36	36	2	—
Cemeteries, Operating, County	7	7	0	—
Cemeteries, Operating, Special District	128	128	0	—
Cemeteries, Registered Non-Operating	49	49	0	—
Removal Registrations	33	33	0	—
Alternative Disposition Facilities	2	2	0	—
Combined Total of all Licenses, Registrations	2127	2167	40	▲

## License Examinations

For the duration of the pandemic, we have made a concerted and diligent effort to continue administering the FSP law examination and Death Care Consultant examination. The last exam was held on October 27, 2021 at Zeller Chapel of the Roses. The next exam is scheduled for January 28, 2022 and will be held at Zeller Chapel of the Roses.

Funeral Service Practitioner Law Exam					
Exam Date	Pass Rate			Score Range	
	Passed	Failed	Pass Percentage	Highest Score	Lowest Score
October 27, 2021	7	1	87.5%	97%	68%
July 22, 2021	11	0	100%	93%	78%
March 16, 2021	12	1	92.3	98%	73%
December 1, 2020	3	0	100%	87%	82%
August 25, 2020	5	0	100%	97%	78%
June 23, 2020	8	1	88.8%	96%	70%
April 7, 2020	3	0	100%	93.3%	76.6%
March 23, 2020	6	0	100%	96.6%	80%
December 30, 2019	2	0	100%	90%	80%
December 20, 2019	2	0	100%	98.3%	95%
November 25, 2019	5	0	100%	98.3%	76.6%

Death Care Consultant Law Exam					
Exam Date	Pass Rate			Score Range	
	Passed	Failed	Pass Percentage	Highest Score	Lowest Score
March 16, 2021	0	1	0%	66%	66%
December 1, 2020	0	1	0%	56%	56%
July 11, 2019	0	1	0%	68%	68%
June 18, 2019	0	1	0%	65%	65%
September 25, 2015	0	1	0%	60%	60%
September 15, 2014	0	2	0%	67%	57%

October 18, 2013	0	1	0%	53%	53%
January 25, 2013	0	1	0%	63%	63%
July 23, 2012	0	2	0%	54.5%	52%
*October 20, 2010	1	0	100%	76%	76%

\*First Death Care Consultant Exam offered.

## COMPLIANCE

### Inspections (Completed in FY 2021-2022)

#### Overview

As presented during our October 2021 board meeting, the Inspectors were able to overcome several challenges during the past year by utilizing updated inspection procedures – primarily, virtual inspections – which resulted in a completion of 335 facility inspections. OMCB’s Compliance Division has made tremendous progress in enhancing the pace and quality of our inspections through continual training and the implementation of virtual inspections.

The significant improvement of completed inspections is reflected in our agency’s Key Performance Measure #1: *Percent of licensed facilities inspected not less than once per biennium.*

**As reported in the agency’s Annual Performance Progress Report for 2021, the inspection completion rate for July 1, 2020 through June 30, 2021 was 92%.**

**\*\*It is important to note that the 92% completion rate was a 61% increase from last year’s completion rate (31%).\*\***

**Our agency is currently at 26% of our target in the second quarter of the eight-quarter biennium.**

We previously reported that we were anticipating a gradual return to in-person, on-site inspections as state leadership planned on reopening state buildings and allowing extended travel in January 2022. However, restrictions were recently extended due to the Omicron variant and increased case count. Once restrictions are lifted, the Inspectors are ready to begin in-person site inspections again, as well as continue to utilize the expanded virtual inspection process as appropriate.

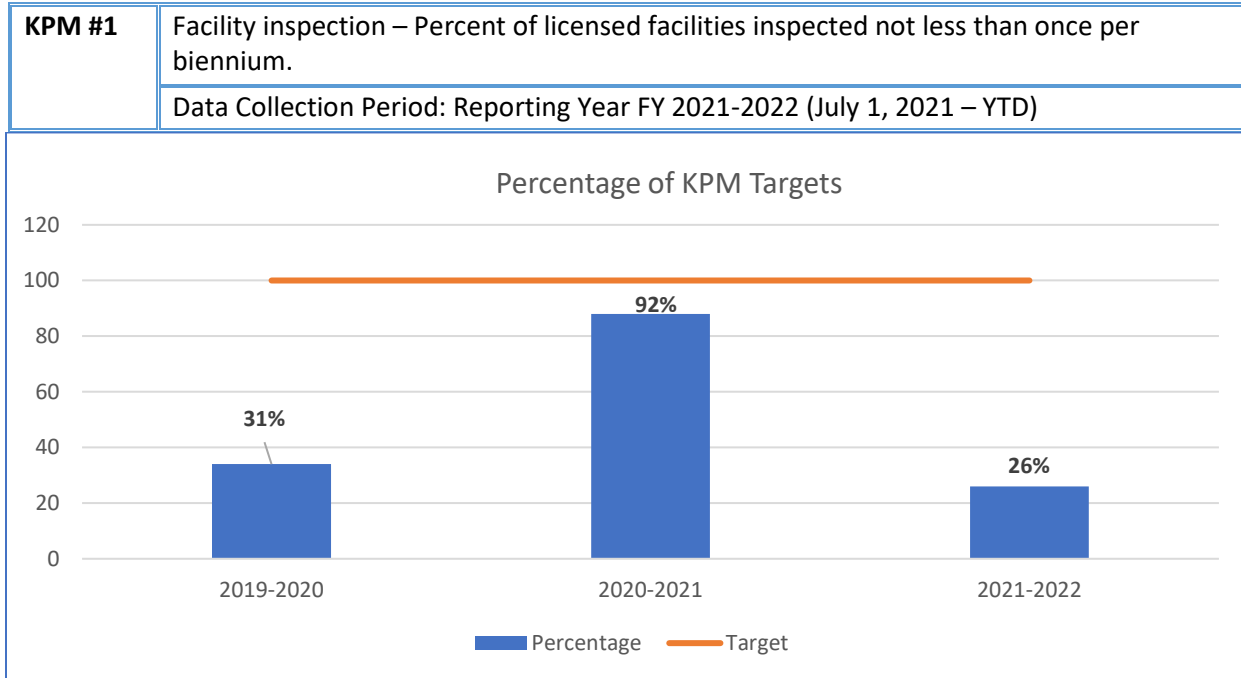
In early December 2021, OMCB Education & Compliance Program Manager and Inspectors met with Board Officers and the Executive Director to present a strategic plan designed to help ensure we continue meeting our inspection requirements. Due to a lack of inspections in 2019-2020 and a concentration of inspections in 2020-2021, we have found ourselves with an imbalance of facilities coming due for inspections if our current schedule is maintained. At this time, we have adjusted our rolling calendar of eligible facilities to correct that imbalance. Essentially, we needed to spread out/redistribute our inspections over the next two years to better align and balance out all facilities over the entirety of the biennium. With this adjustment, we will schedule inspections within a two-year window, but not, with very rare exception, within a one-year window.

Of course, we want to do this fairly and equitably. We don’t want any misperceptions that a facility is being selected for inspection sooner or on a different timeframe than others. In this scenario, our guiding strategy would be to select the oldest inspection available. When necessary, if we must conduct an inspection within a year, we’d be looking at facilities

with multiple violations as an additional factor. We are currently notifying facility representatives what they can expect in terms of these timelines and our authority to inspect in our inspection communications.

Our Inspectors are well-trained and experienced with the inspection process. We have streamlined our initial and follow up communications with facilities, developed a long-term scheduling plan, and anticipate that our agency will meet the inspection target for 2022-2023.

**Inspection Key Performance Measure (July 1, 2020 through June 30, 2021)**



OMCB currently regulates 756 licensed facilities located throughout the state. Our agency’s statutory mandate is to inspect at least half of these (approximately 378) during each fiscal year.

To achieve our inspection targets, each Inspector must complete approximately 16 inspections per month or 48 per quarter on average. For the past five quarters, Inspectors have met or exceeded those averages. As evidenced by the chart above, inspections are currently over 25% at Q2 of the eight-quarter biennium. Inspection totals by quarter are in the chart below.

Total Inspections Completed During Previous 3 Quarters				
FACILITY TYPE	April – June 2021 (Q4)	July – Sept. 2021 (Q1)	Oct. – Dec. 2021 (Q2)	Jan. – March 2022 (Q3)
Funeral Establishment	27	20	4	-
Cemetery Authority	68	67	78	-
Crematory Authority	4	9	14	-
Alternative Disposition Facility	0	1	0	-
Immediate Disposition Company	5	1	0	-
<b>Total Full Biennial Inspections Completed per Quarter</b>	<b>104</b>	<b>98</b>	<b>95</b>	<b>-</b>
<b>Total Non-Biennial Licensing Action (LA) Inspections</b>	<b>2</b>	<b>0*</b>	<b>0*</b>	<b>-</b>
<b>Total Inspections Completed per Quarter</b>	<b>106</b>	<b>98</b>	<b>95</b>	<b>-</b>
<b>Total Biennial Inspections for FY (YTD)</b>	<b>334</b>	<b>98</b>	<b>194</b>	<b>-</b>

\*All LA inspections were full biennial inspections this quarter.

**Special Projects/Other items:**

The Education & Compliance Program Manager and Inspectors have completed streamlining post-inspection communication to facilities. This new process will be implemented during the current quarter.

Inspectors are also still responding to requests for information related to Eternal Hills, which can take time away from their essential duties.

A continuing challenge will be implementing inspection information/data within the Thentia platform. We are in discussions with Thentia to bring the inspection portal online. While this will bring challenges, we do not anticipate this will affect our ability to complete inspections in a timely manner. It is difficult to say when this transition will occur. We are ready to implement, but still reliant on our current database and procedures in the meantime.

Around 63% or approximately 457 of our 730 licensees are cemeteries. Of these around 160 are municipal or special district cemeteries. Many are inactive or perform only a few interments a year. As such, some may qualify for certain exemptions including exemptions from full biennial inspections. OMCB Compliance Division is working with DOJ to identify which and how many cemeteries may qualify for exemptions and what that may look like. We anticipate having more information on this topic to provide to the Board for consideration during our April board meeting.

***Investigations***

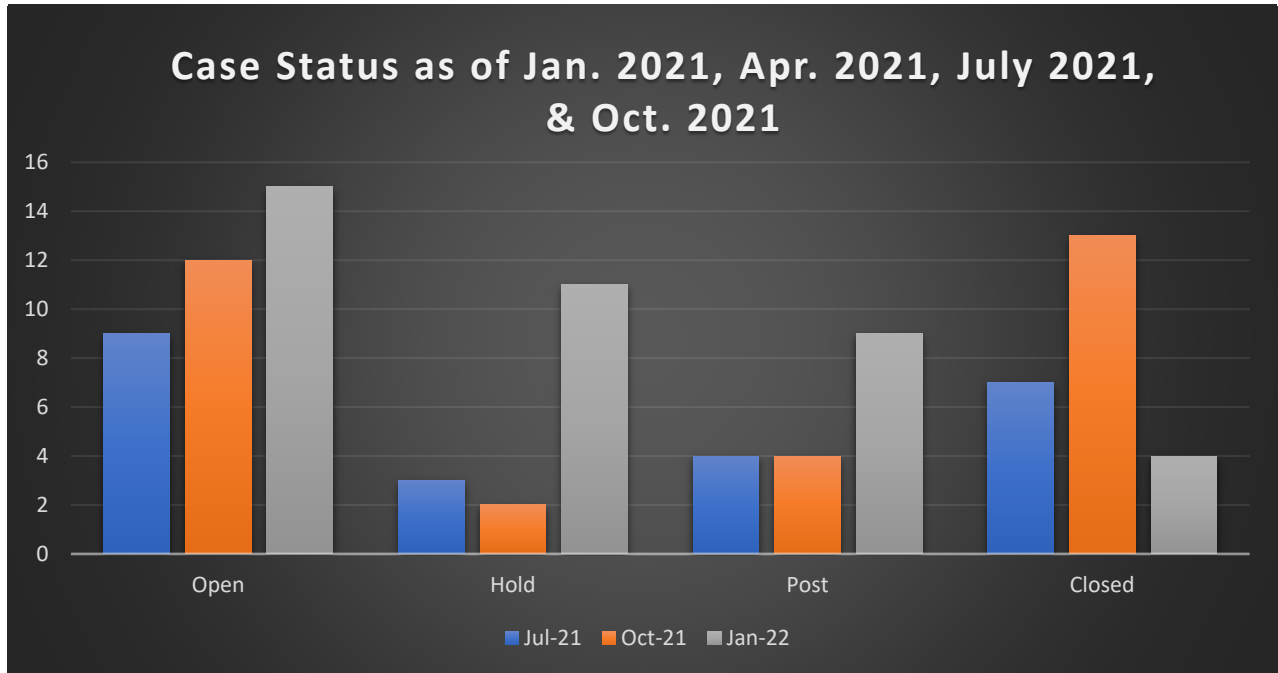
The following chart shows the total number of cases by phase through FY 2021. Cases that were opened in prior years but did not close during the prior calendar year are included until closed.

Please note that in order to be consistent with case counts, related cases are counted individually. For example, a case with multiple respondents – separated by individual investigations, like 21-0000ABC – will be counted individually (A, B and C) and tracked/reported as three different cases. These cases are often investigated together and are presented simultaneously to the Board. However, they often close at different stages, so it is more practical to count them as individual cases. We have applied that count change to the numbers below. We are also showing month by month comparisons with a FY total. This will show the flow of cases from quarter to quarter and a yearly total.



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Case Status by the Numbers: July 2021 to December 2021			
Case Status	July 2021	October 2021	January 2021
Open	9	12	15
Hold	3	2	11
Post	4	4	9
Closed	7	13	4

**Case Phases:**

**“Open”:** All cases not yet reported to the Board and are in various stages of review or investigation – such as intake, investigation, writing investigative report, or presenting to Board.

**“Hold”:** Cases that have been presented to the Board but require some other activity or action by another entity before the Board completes deliberation on a case. This may include cases awaiting determination by another agency, or findings in civil or criminal proceedings. In some cases, it can also mean additional investigation is required for clarification before returning to the Board for review/discussion.



**“Post”**: Cases that have been presented, but there is post-meeting activity still required before closure. This includes closing out cases resulting in no action, as well as all activity relating to cases where action is being taken, through the course of any negotiations, appeals, or related activity. This process has the potential of taking years before a case can be closed.

**“Closed”**: Cases that have been moved completely through the Post phase and have been closed out. This may include closed cases requiring some form of monitoring or follow-up, such as in the case of a negotiated consent period, when there are relevant consent order terms to be monitored.

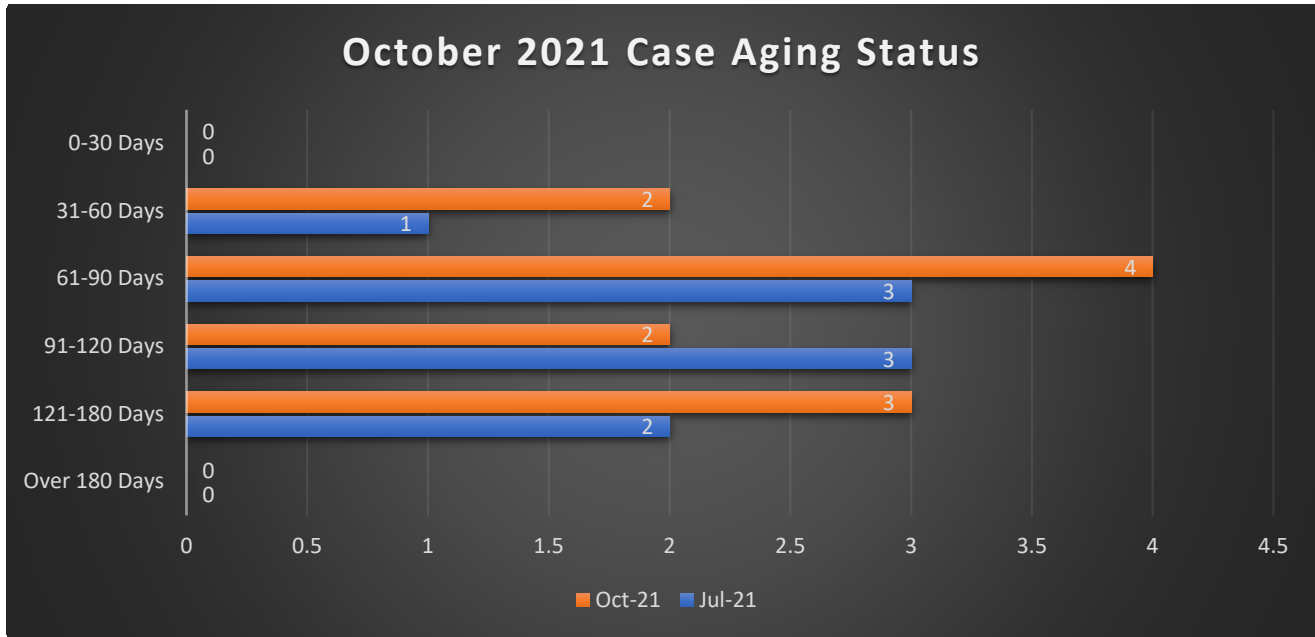
***Case Status from the October 12, 2021 Board Meeting***

There were seven cases presented to the Board during the October board meeting. We have closed **five of those cases**. The remaining two are currently working through a negotiated consent order with our AAG representative.

Cases Presented During Last Board Meeting (October 12, 2021)			
Case Number	Case Action/No Action	Current Case Status	Note/Comment
21-1008	No Action	Closed	
21-1014A	Action	Post NPDA	Pending Negotiated Consent Order - with AAG
21-1014B	Action	Post NPDA	Pending Negotiated Consent Order - with AAG
21-1015A	No action	Closed	
21-1015B	No action	Closed	
21-1016	No Action	Closed	
21-1017	No action	Closed	

## Case Aging

The following chart identifies the specific aging for all open cases and provides a comparison of numbers reported at the previous board meeting and current numbers. These show the totals by age period, **including** the cases presented to the Board during the July meeting.



**NOTE:** Approval of the Executive Director’s Report will also authorize up to an additional 60 days for case reporting to the Board under ORS 676.165 to cover any cases where aging will exceed the aging limits based on the date of the next available scheduled meeting. All aging will continue to accrue and any case reports exceeding aging limits will be reported both here as well as on legislative key performance measures.

## Indigent Disposition Program (IDP) Fund

The Indigent Disposition Program (IDP) Fund is funded by a portion of the death filing fee. The death filing fee has historically been \$20 per death report filed, billed to funeral homes monthly. On June 23, 2021, Governor Brown signed House Bill 2120, which increases the death filing fee from \$20 to \$30 in order to ensure that the IDP Fund remains sustainable at least through 2026.

HB 2120 specifies the following allocation for the increased death filing fee of \$30:

- 1) \$14 shall be deposited into OMCB’s agency account (no change)
- 2) \$16 shall be deposited into the IDP Fund (an increase of \$10)

The death filing fee increase became effective on January 1, 2022. Two email reminders were sent to all licensees/stakeholders & interested persons – the first one was sent on November 10th & the second one was sent on December 28th.

It is important to note that the death filing fee is only collected for the initial report of a death and is not associated with the cost for certified copies of a record of death (formerly called death certificates). With the updated fee amount, \$16 from each \$30 received will be allocated to support the IDP Fund and its administration.



## ***Indigent Disposition Program (IDP) Fund Background***

In January of 2016, the death filing fee management and IDP Fund administration was transferred from the Public Health Division to OMCB via legislative action. Additionally, changes to ORS 97.170 took effect, which established additional requirements that a funeral establishment or immediate disposition company must complete prior to performing final disposition for an indigent person and applying for reimbursement.

During the four years prior to OMCB taking over administration of the IDP Fund, the fund paid indigent claims for 0.9% to 1.3% of deaths in the state, depending upon the year. Although the maximum reimbursement rate was set at \$650, the fund was rarely able to pay the maximum amount. Over the five years prior to the transfer of the fund's management, the average amount paid was \$492, with monthly averages varying widely – while the fund was able to reimburse nearly the maximum during some months, reimbursements averaged only \$262 during others.

When OMCB took over administration, the law changed to provide funeral establishments and immediate disposition companies with a more predictable, fixed rate – the initial amount was \$461. The reimbursement rate was set in mid-2015 as a calculation of the maximum amount that the fund could provide given a 100% payment rate by funeral establishments for death filing fees and the anticipated death rate for 2015 and 2016.

In July of 2018, the Board voted to increase the reimbursement rate from \$461 to \$500, based upon death rate projections and IDP Fund solvency.

During the April 9, 2019 meeting, the Board voted to keep the reimbursement amount at \$500.

### *IDP Fund Numbers (Calendar Year 2018 through 2021):*

Indigent Claims Received	CY 2018	CY 2019	CY 2020	CY 2021 YTD
<b>Total Number of Claims Received</b>	421	398	475	455
<b>Number of Claims paid</b>	399	324	304	477
<b>Approved, Processing</b>	N/A	49	111	164
<b>Currently Open Claims (Waiting on additional information, researching, etc.)</b>	N/A	4	39	72
<b>Withdrawn/Denied</b>	21	21	18	14

Indigent Claims Reimbursed	CY 2018	CY2019	CY 2020	CY 2021
<b>Average Amount Reimbursed per <i>Qualifying Claim</i>*</b>	\$474	\$497	\$485	\$500
<b>Total Amount Reimbursed</b>	\$172,470	\$212,612	\$248,536	\$150,148
<b>Average Number of <i>Total</i> Claims received per Month</b>	35.1	44.2	39.5	38
<b>Average Number of <i>Qualifying</i> Claims received per Month</b>	33.3	41.4	34.5	39.8**

\*Claims are reimbursed at the actual amount claimed up to the maximum of \$500.

\*\*Backlog in processing claims due to IDP Admin open position skews this number lower than trend.

### *Solvency*

Indigent Claims Reimbursed	FY 18/2019	FY 19/2020	FY 20/2021	FY 21/2022
Filing Fee Total	\$735,510	\$731,504	\$691,180	\$378,800
30% to IDF	\$220,653	\$219,462	\$207,354	\$113,640
Net Cash By FY	\$8,041	<b>-\$29,074</b>	\$57,205	\$44,640
Ending Cash Balance	\$97,697	\$68,623	\$118,473	\$170,469