

## Executive Director’s Report for October 12, 2021

### ADMINISTRATIVE

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

#### *Budget Summary through July 2021*

Revenue	July 2021	Biennium to Date	% of Budget Received	2021-23 Biennium Total Budget
<i>All sources (including cash reserves &amp; reimbursements)</i>	41,968	41,968	>1%	2,832,630

Expenditures	July 2021	Biennium to Date	% of Budget Spent	2021-23 Biennium Total Budget
Personal Services	59,815	59,815	4%	1,586,966
Services & Supplies	6,661	6,661	>1%	1,245,664
<b>Total</b>	<b>66,476</b>	<b>66,476</b>	<b>~4.5%</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 \$1,248,592 (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](#) becomes effective on January 1, 2022, which requires that the following allocation of the soon-to-be implemented \$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	July 2 2021	Oct 5 2021	Change from July - Oct	Trend
Death Care Consultants	0	0	0	—
EM Apprentices *	39	53	14	▲
FSP Apprentices *	58	69	11	▲
Interns	5	11	6	▲
Embalmer Only *	13	14	1	▲
FSP Only	183	188	5	▲
Combination License: EM *	389	394	5	▲
Combination License: FSP *	389	394	5	▲
28Military Combination License: EM	0	0	0	—
Military Combination License: FSP	0	0	0	—
Preneed Salespeople **	169	180	11	▲



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Funeral Establishments	191	195	4	▲
Immediate Disposition Companies	7	7	0	▲
Crematoriums	65	67	2	▲
Cemeteries, Operating	296	300	4	▲
Cemeteries, Operating, Municipal	34	36	2	▲
Cemeteries, Operating, County	7	7	0	—
Cemeteries, Operating, Special District	124	128	4	▲
Cemeteries, Registered Non-Operating	49	49	0	—
Removal Registrations	32	33	1	▲
Alternative Disposition Facilities	2	2	0	—
Combined Total of all Licenses, Registrations:	2052	2127	75	▲

## 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 July 22, 2021, at Mt. Hood Community College. The next exam is scheduled for October 27, 2021, 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
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

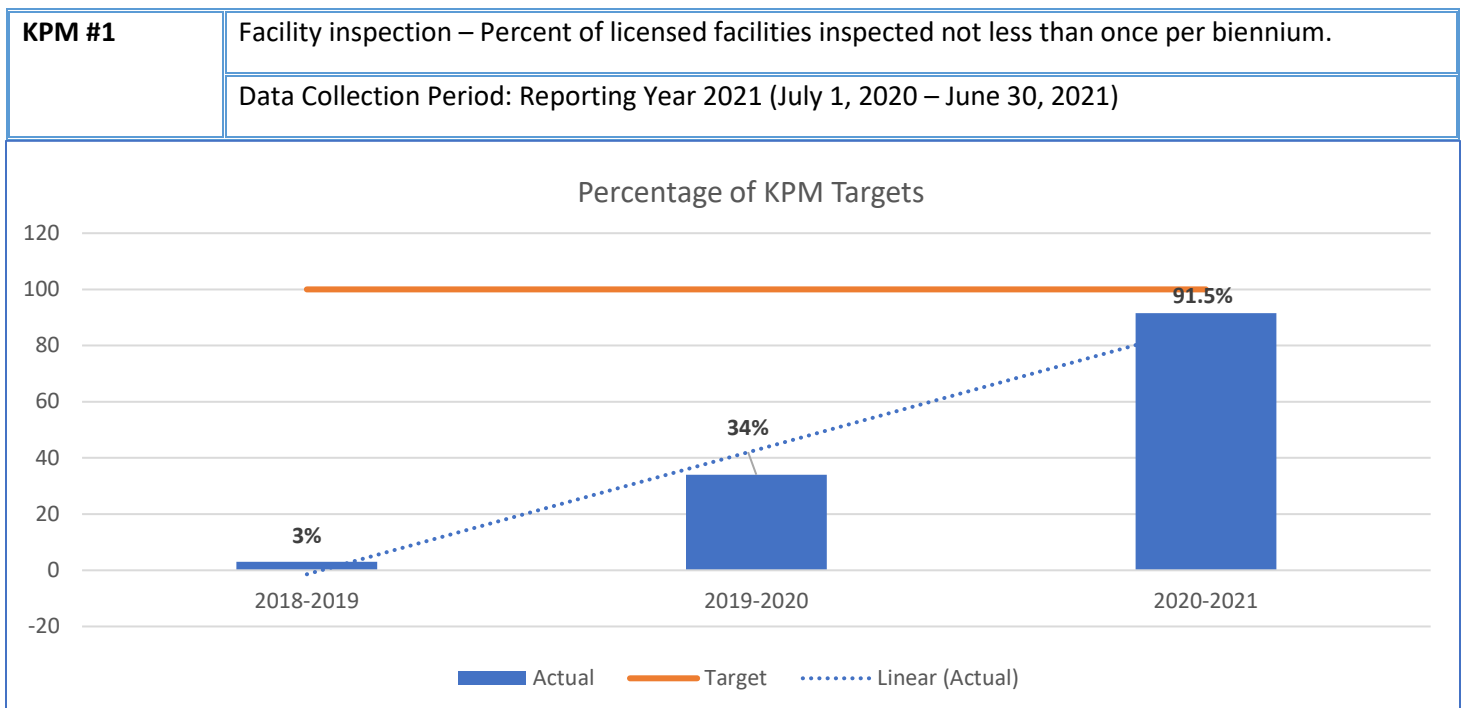
### *Inspections (Completed in FY 2021-2022)*

#### *Overview*

The previous fiscal year presented several unprecedented challenges as agency staff dealt with restrictions related to the COVID-19 pandemic, wildfires, and remote working. While we were limited in all travel and in-person contact, our updated protocols to expand and increase virtual inspections were extremely successful. As previously reported, OMCB’s Compliance Division has made tremendous progress in enhancing the pace and quality of our inspections through training and implementation of virtual inspections. This improvement in inspection numbers is reflected in the chart below for KPM #1, the percent of licensed facilities inspected not less than once per biennium. At the last board meeting we reported that this was 88% completion rate for FY 2020-2021. As we’ve been able to close out the biennium, we were able to fully review our inspections for the previous year. Our actual inspections completed were 91.5%.

We previously reported that we anticipate a gradual return to in-person, on-site inspections as restrictions are eased. However, this has not come to fruition as current restrictions are set to continue at least to January 2022. The expanded virtual inspection process will continue to be utilized through this quarter. Our Inspectors are well-trained and experienced with the process. We have streamlined our initial and follow up communications with facilities. We anticipate meeting our target goals for inspections this quarter and throughout FY 2021-2022.

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



OMCB currently regulates 730 licensed facilities located throughout the state. Our agency’s statutory mandate is to inspect at least half of these (approximately 365) during each fiscal year. Q1 of the current FY is off to a very good start. To achieve our inspection targets, each Inspector must complete approximately 16 inspections per month or 48 per quarter on average. For the past three quarters, Inspectors have met or exceeded those averages. The previous and **current quarter** are available in the chart below.

<b>Total Inspections Completed During Reporting Year 2021 (July 1, 2020 – June 30, 2021)</b>				
<b>Facility Type</b>	<b>April – June 2021 (Q4)</b>	<b>July – Sept. 2021 (Q1)</b>	<b>Oct. – Dec. 2021 (Q2)</b>	<b>Jan. – March 2022 (Q3)</b>
<b>Funeral Establishment</b>	27	20	-	-
<b>Cemetery Authority</b>	68	67	-	-
<b>Crematory Authority</b>	4	9	-	-
<b>Alternative Disposition Facility</b>	0	1	-	-
<b>Immediate Disposition Company</b>	5	1	-	-
<b>Total Full Biennial Inspections Completed per Quarter</b>	<b>104</b>	<b>98</b>	-	-
<b>Total Non-Biennial Licensing Action (LA) Inspections</b>	2	0*	-	-
<b>Total Inspections Completed per Quarter</b>	<b>106</b>	<b>98</b>	-	-
<b>Total Biennial Inspections for FY 2021-2020</b>		<b>98</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 inspections within the Thentia platform. We are in discussions with Thentia to bring inspections 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. It is anticipated it will initiate sometime during this fiscal year.

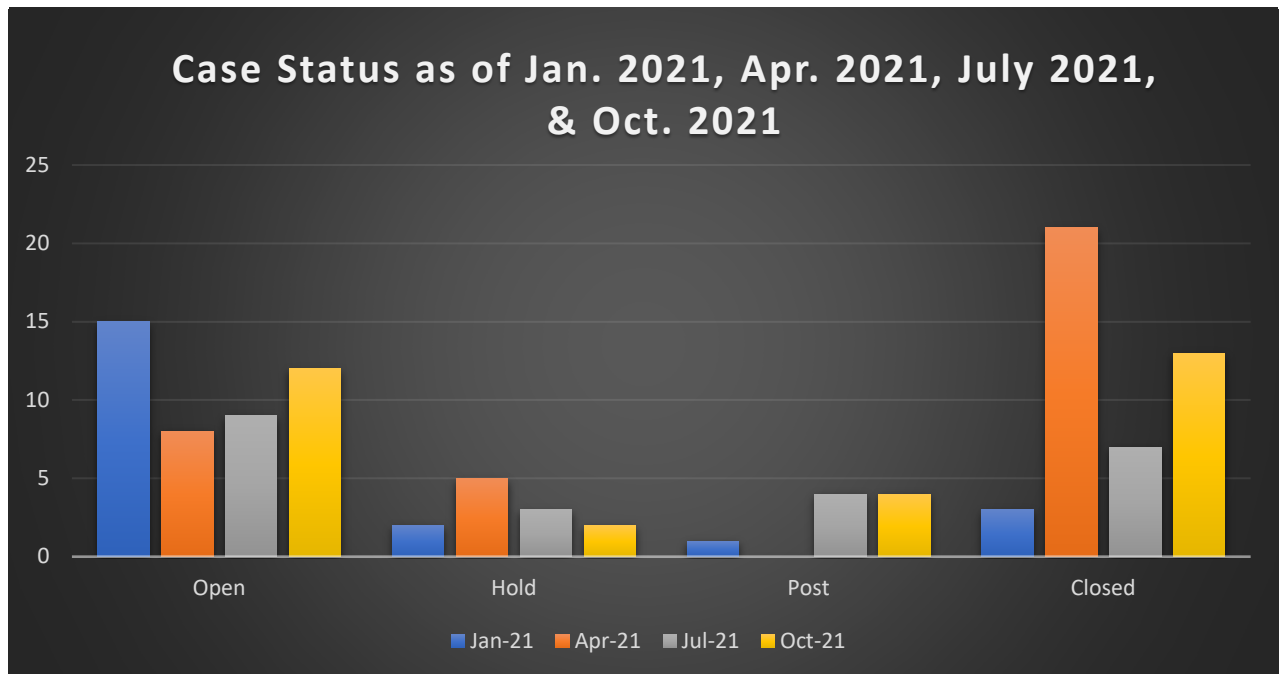
Around 63% or approximately 457 of our 730 licensees are cemeteries. Of these around 160 are municipal or special district cemeteries. Many are inactive or perform only a few interments a year. As such, some may qualify for certain exemptions including exemptions from full biennial inspections. OMCB 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 at our January 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.

As reported during previous board meetings, we had prioritized all post status cases so they can be closed as quickly as possible. Our progress in resolving/closing older, historical cases has been paused as staff has had to support IDP essential duties. We fully anticipate continuing that project in the next quarter, since the IDP Administrator position has been filled. We have closed **13** cases since the last board meeting.

Please note that in order to be consistent with case counts, we are counting related cases individually. For example, a case with multiple respondents, separated by individual investigations, like 21-0000ABC. Each separate case A, B, and C will be counted individually, so that would be three cases. These cases are often investigated together and go to the Board together. 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 quarter to quarter and a yearly total.



Case Status by the Numbers January 1, 2020 to October 1, 2021					
Case Status	January 2021	April 2021 (5/4/21)	July 2021	October 2021	FY 2021
<b>Open</b>	15	8	9	12	44
<b>Hold</b>	2	5	3	2	12
<b>Post</b>	1	0	4	4	9
<b>Closed</b>	3	21	7	13	44

**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.

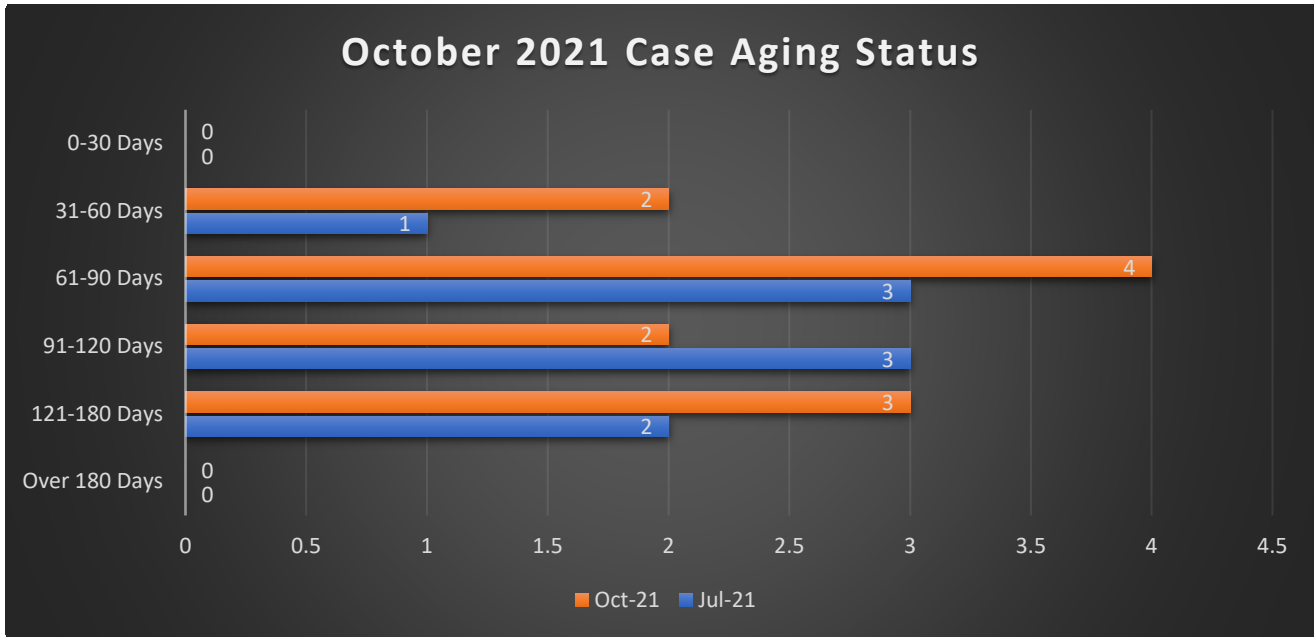
**“Post”:** Cases that have been presented, but there is post-meeting activity still required before closure. This includes closing out cases resulting in no action, as well as all activity relating to cases where action is being taken, through the course of any negotiations, appeals, or related activity. 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 for a period of time, such as in the case of a negotiated consent period, when there are relevant consent order terms to be monitored.

<b>Cases Presented at Last Board Meeting – July, 2021</b>			
<b>Case Number</b>	<b>Case Action/No Action</b>	<b>Current Case Status</b>	<b>Note/Comment</b>
21-1003	No Action	Closed	
21-1004	Ratify	Closed	
21-1005	Ratify	Closed	
<b>21-1006A</b>	<b>Action</b>	<b>Open</b>	<b>Pending Notice</b>
<b>21-1006B</b>	<b>Action</b>	<b>Open</b>	<b>Pending Notice</b>
21-1006C	No Action	Closed	
21-1007	Ratify	Closed	
21-1009	No Action	Closed	
21-1011A	No Action	Closed	
<b>21-1011B</b>	<b>Action</b>	<b>Open</b>	<b>Pending Notice</b>
21-1013A	No Action	Closed	
<b>21-1013B</b>	<b>Action</b>	<b>Open</b>	<b>Pending Notice Probation Question</b>

## 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 becomes effective on January 1, 2022. Agency staff will be coordinating with Board Officers & Oregon Vital Statistics regarding messaging to licensees and other interested persons. s

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 Administrator Position***

Beginning in February of 2021, the IDP Administrator went on an extended leave of absence that lasted through March. In early April, she submitted a letter of resignation. Since that time, current OMCB staff has continued the essential duties to maintain the IDP Fund – most importantly, processing death filing fee payments and invoices & processing IDP claims and payments. While this has been a challenge and the rate of IDP claim payments has decreased, these essential duties have continued. Also, OMCB staff discovered a significant number of IDP claims that had not been processed prior to the IDP Administrator taking leave. There is a significant backlog that is currently being reviewed and processed for approval.

***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	223
<b>Number of Claims paid</b>	399	324	304	180
<b>Approved, Processing</b>	N/A	49	111	60
<b>Currently Open Claims (Waiting on additional information, researching, etc.)</b>	N/A	4	39	34



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Regulating Death Care Facilities & Practitioners in Oregon.

<b>Withdrawn/Denied</b>	21	21	18	9
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<b>Indigent Claims Reimbursed</b>	<b>CY 2018</b>	<b>CY2019</b>	<b>CY 2020</b>	<b>CY 2021 (Through July)</b>
<b>Average Amount Reimbursed per Qualifying Claim*</b>	\$474	\$497	\$485	\$500
<b>Total Amount Reimbursed</b>	\$172,470	\$212,612	\$248,536	\$103,390
<b>Average Number of Total Claims received per Month</b>	35.1	44.2	39.5	35
<b>Average Number of Qualifying Claims received per Month</b>	33.3	41.4	34.5	15.5**

\*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

<b>Indigent Claims Reimbursed</b>	<b>FY 18/2019</b>	<b>FY 19/2020</b>	<b>FY 20/2021</b>	<b>FY 21/2022</b>
Filing Fee Total	\$735,510	\$731,504	\$691,180	\$123,480
30% to IDF	\$220,653	\$219,462	\$207,354	\$37,044
Net Cash By FY	\$8,041	<b>-\$29,074</b>	\$57,205	\$15,500
Ending Cash Balance	\$97,697	\$68,623	\$118,473	\$110,329