

Audit Report

Subsequent Injury Fund

April 2021



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

Joint Audit and Evaluation Committee

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Gregory A. Hook, CPA
Legislative Auditor

April 19, 2021

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Carol L. Krimm, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Subsequent Injury Fund (SIF) for the period beginning November 14, 2016 and ending October 31, 2020. SIF pays workers' compensation awards in connection with certain claims for employees' subsequent occupational injuries or deaths, and collects assessments from certain employers and insurance companies to fund these awards and its operating costs. During fiscal year 2020, assessment collections totaled approximately \$28.9 million and claim payments totaled approximately \$20.2 million.

Our audit disclosed that SIF did not refer all delinquent assessment accounts to the State's Central Collection Unit (CCU). From November 2016 to October 2020, only 554 delinquent accounts were referred to CCU and, as of October 2020, there were 3,469 accounts totaling \$5.3 million that were older than 90 days.

Our audit also included a review to determine the status of the five findings contained in our preceding audit report. We determined that SIF satisfactorily addressed four of these findings. The remaining finding is repeated in this report.

SIF's response to this audit is included as an appendix to this report. We reviewed the response to our findings and related recommendations, and have concluded that the corrective actions identified are sufficient to address all audit issues.

We wish to acknowledge the cooperation extended to us during the audit by SIF and its willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in black ink that reads "Gregory A. Hook". The signature is written in a cursive style with a prominent initial "G".

Gregory A. Hook, CPA
Legislative Auditor

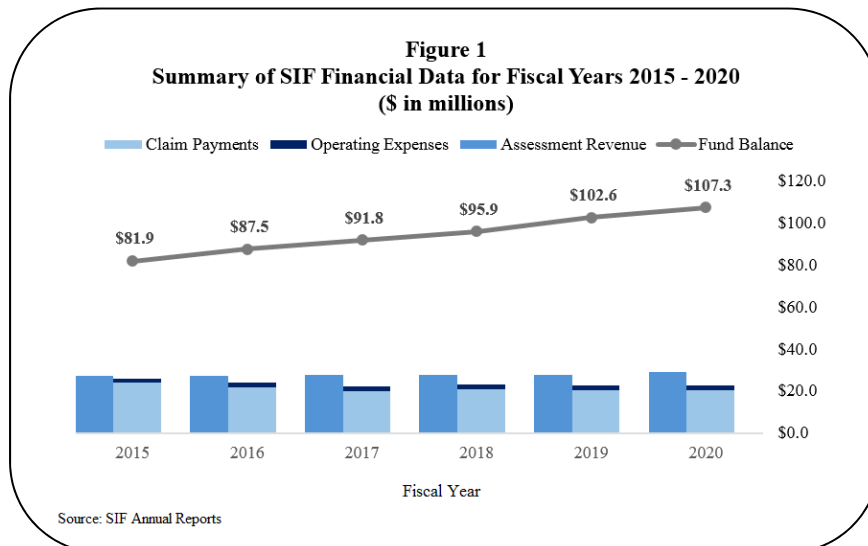
Background Information

Agency Responsibilities and Financial Activity

The purpose of the Subsequent Injury Fund (SIF) is to encourage the employment of individuals with pre-existing health conditions by limiting an employer’s liability should a subsequent occupational injury render an individual permanently disabled or result in the individual’s death. Specifically, the employer’s liability under these circumstances is limited to compensation for damages from the current injury. SIF incurs the liability associated with the combined effects of all injuries. The administration of the SIF is supervised by the Subsequent Injury Fund Board, which consist of three members appointed by the Governor.

SIF collects assessments against certain employers and insurance companies to fund claim payments and SIF’s operating expenses. Specifically, SIF assesses each award against an employer or its insurer for permanent disability or death and each amount payable by an employer or its insurer under a settlement agreement approved by the Workers’ Compensation Commission. Historically, these assessments were 6.5 percent of the aforementioned award amounts; however, Chapter 495, Laws of Maryland 2020, temporarily decreased the assessment rate to 5.5 percent during fiscal year 2021.

According to State records, during fiscal year 2020, assessment collections totaled approximately \$28.9 million, claim payments totaled approximately \$20.2 million, and SIF operating expenses totaled approximately \$2.4 million. As shown in Figure 1 below, SIF’s fund balance as of August 31, 2020, totaled approximately \$107.3 million, which represents a 31 percent increase over a six-year period.



Resolution of Claim Against the Subsequent Injury Fund

On April 10, 2012, the Uninsured Employers' Fund (UEF) requested that SIF return \$544,000 in assessments that UEF believed it had erroneously paid in connection with a 2006 memorandum of understanding (MOU). The MOU addressed the processing of workers' compensation claims associated with employees of the former Bethlehem Steel Corporation (BSC), which had filed for federal bankruptcy protection in 2001. Under the terms of the 2006 MOU, the Chesapeake Employers' Insurance Fund (CEIC), on behalf of the State of Maryland, was to process workers' compensation claims of former BSC employees, and UEF was to reimburse CEIC for the claims paid. In accordance with the MOU, UEF reimbursed CEIC for the claim payments but subsequently discovered that some of these payments improperly included SIF assessments related to BSC claims. UEF requested SIF to return the assessment payments related to the BSC claims.

In our preceding audit report, we commented that, as of June 2017, SIF had preliminarily agreed to reimburse UEF for certain of these assessments, totaling \$441,468 (including lost interest). In accordance with the terms of a December 2017 settlement agreement, SIF paid this amount to UEF to fully resolve this claim.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the five findings contained in our preceding audit report dated September 26, 2017. As disclosed in Figure 2 on page 5, we determined that SIF satisfactorily addressed four of the five findings. The remaining finding is repeated in this report.

**Figure 2
Status of Preceding Findings**

Preceding Finding	Finding Description	Implementation Status
Finding 1	SIF did not ensure claim payments agreed with amounts awarded by the Workers' Compensation Commission, resulting in potential overpayments going undetected.	Not repeated
Finding 2	SIF did not always pursue recovery of claim payments improperly disbursed to deceased individuals.	Not repeated
Finding 3	SIF did not ensure that all assessments were recorded in its accounts receivable system and did not conduct independent reviews of adjustments to these accounts. Additionally, SIF did not properly separate certain accounts receivable and cash receipts functions.	Not repeated
Finding 4	SIF did not document its efforts to collect delinquent assessment accounts and did not refer all delinquent accounts to the State's Central Collection Unit.	Repeated (Current Finding 1)
Finding 5	SIF did not have adequate procedures and controls over collections processed by remote deposit.	Not repeated

Findings and Recommendations

Assessment Accounts

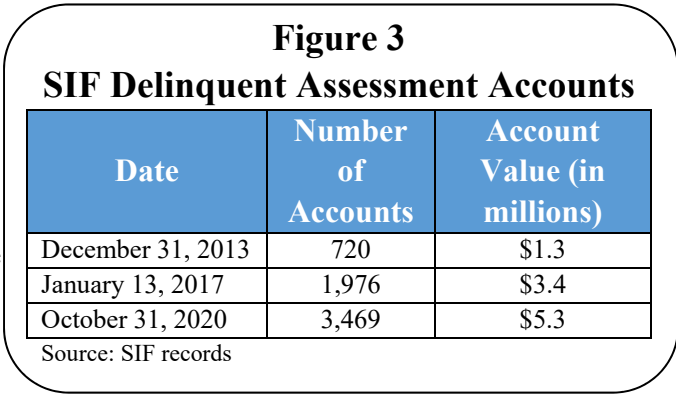
Finding 1

The Subsequent Injury Fund (SIF) did not refer all delinquent assessment accounts to the State's Central Collection Unit.

Analysis

SIF did not refer all delinquent assessment accounts to the State's Central Collection Unit (CCU). According to SIF records, as of October 31, 2020, there were 10,144 outstanding accounts totaling \$6.9 million, of which 3,469 accounts, totaling \$5.3 million, were older than 90 days. Our review of CCU records disclosed that, during the period from November 14, 2016 to October 31, 2020, SIF had only referred 554 delinquent accounts (totaling \$893,000) to CCU. SIF

management advised us that it had not referred all of the delinquent accounts to CCU due to staffing shortages. Similar conditions were commented upon in our two preceding audit reports, and the number of delinquent accounts have significantly increased each audit (see Figure 3).



State regulations generally require three written demands for payment be made at 30-day intervals after which the account is to be sent to CCU for collection assistance. The failure to pursue outstanding debts may decrease the likelihood of collecting the funds.

Recommendation 1

We recommend that SIF refer all delinquent accounts to CCU for collection assistance, as required (repeat).

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Subsequent Injury Fund (SIF) for the period beginning November 14, 2016 and ending October 31, 2020. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine SIF’s financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included assessment collections and billings, claim payments, and information systems security and control. We also determined the status of the findings contained in our preceding audit report.

Our assessment of internal controls was based on agency procedures and controls in place at the time of our fieldwork. Our tests of transactions and other auditing procedures were generally focused on the transactions occurring during our audit period of November 14, 2016 to October 31, 2020, but may include transactions before or after this period as we considered necessary to achieve our audit objectives.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, tests of transactions, and to the extent practicable, observations of SIF operations. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, the results of the tests cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State's Financial Management Information System (such as revenue and expenditure data). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from this source were sufficiently reliable for the purposes the data were used during this audit. We also extracted data from SIF's automated accounts receivable and accounts payable system for the purpose of testing assessment accounts receivable and claim payment monitoring. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit. Finally, we performed other auditing procedures that we considered necessary to achieve our audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

SIF's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records; effectiveness and efficiency of operations, including safeguarding of assets; and compliance with applicable laws, rules, and regulations are achieved. As provided in *Government Auditing Standards*, there are five components of internal control: control environment, risk assessment, control activities, information and communication, and monitoring. Each of the five components, when significant to the audit objectives, and as applicable to SIF, were considered by us during the course of this audit.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes a finding relating to a condition that we consider to be a significant deficiency in the design or operation of internal control that could adversely affect SIF's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. This condition is also a significant instance of noncompliance with applicable laws, rules, or regulations.

SIF's response to our finding and recommendation is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise SIF regarding the results of our review of its response.

APPENDIX

STATE OF MARYLAND

LAWRENCE J. HOGAN, JR.
GOVERNOR

EDGAR G. DODD, III
DIRECTOR



MARGARETA A. CRAMPTON
VALERIE L. FRALING
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THE SUBSEQUENT INJURY FUND

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April 14, 2021

Gregory A. Hook, CPA
Legislative Auditor
Department of Legislative Services
Office of Legislative Audits
301 West Preston Street, Room 1202
Baltimore, Maryland 21201

Dear Mr. Hook:

The Subsequent Injury Fund response to the fiscal compliance audit for the period beginning November 14, 2016, and ending October 31, 2020, are submitted for your review and consideration.

The Subsequent Injury Fund concurs with the audit findings.

The responses detail the procedural changes that will bring the Subsequent Injury Fund in full compliance with the audit findings and recommendations.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read "Edgar G. Dodd, III".

Edgar G. Dodd, III
Executive Director

EGD/seg

Subsequent Injury Fund

Agency Response Form

Assessment Accounts

Finding 1

The Subsequent Injury Fund (SIF) did not refer all delinquent assessment accounts to the State's Central Collection Unit.

We recommend that SIF refer all delinquent accounts to CCU for collection assistance, as required (repeat).

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	SIF concurs.		
Recommendation 1	Agree	Estimated Completion Date:	April 2022
Please provide details of corrective action or explain disagreement.	The SIF developed a plan to analyze all delinquent accounts prior to the audit. The personnel time demands of the process hindered progress. A contractual hire has been assigned full time responsibility for past due assessment invoice collections and CCU referrals. A delinquent invoice collections and CCU referral process, compliant with Maryland regulations, is in place.		

AUDIT TEAM

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