

Fishermen's Fund Summary Information
Prepared By: Grey Mitchell and Velma Thomas
Division of Workers' Compensation
Date: 03-29-2019

Statutory & Regulatory Authority:

- AS 23.35.010 – 23.35.150, Commercial Fishermen's Fund
- 8 AAC 55.010 – 55.900, Fishermen's Fund

Statutory Changes:

- In 2010, the Fund reimbursement limit was raised from \$2,500 to \$10,000 and the vessel owner's P&I 50 percent deductible expense reimbursement was added.

Fishermen's Fund Statistics

	FY2019	FY2018	FY2017
Year-end Fund Balance	\$11,764.1*	\$12,033.7	\$11,789.0
Fund Appropriation	\$1,389.6	\$1,458.9	\$1,456.6
Total Fund Revenues	\$1,120.0*	\$1,069.3	\$1,144.3
Actual Expenditures	\$717.4**	\$824.6**	\$962.5
Benefits Paid	\$531.2**	\$551.4**	\$731.9
Number of claims filed	273**	323**	402
Approved	139**	221**	291
Denied	31**	27**	25
Closed/Pending***	28**	55**	72
Extensions of Benefits (exceeding \$10.0)			
Number of Extensions	5**	2**	5
Amount Approved	\$138.2**	\$20.9**	\$108.5
Vessel owner claims	43**	17**	23
Claims Paid	5**	9**	13
Total \$ Paid	\$6.3**	\$18.4**	\$33.8
Total Deductible Values	\$172.5**	\$74.0**	\$145.0

* Projected

**As of 03/01/2019

***Claims are closed or pending if the Fund has not received required documentation or additional requested information (medical chart notes, EOBs, etc.) to continue processing the claim. Claims must be submitted within one year of the initial treatment date.

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- Vessel owners should insure their potential liabilities for crewmembers, however there are some who do not, therefore the crewmember and or representative could rightly sue the vessel owner and pursue a lien on the vessel.
- Skippers/Vessel Owners can purchase P&I insurance with coverage provisions for crew, vessel and some offer coverage for skipper/vessel owner and family members.
- Crewmembers' wages are typically a percentage of the catch.
- If a fisherman was injured, lost wages, and the vessel owner has not taken responsibility for the injured worker, the fisherman should seek legal counsel.

Fishermen's Fund Advisory and Appeals Council

- The Fishermen's Fund Advisory and Appeals Council consists of five members and one Commissioner appointed designee.
- Term: five years

District	Area	Appointee	Term Expiration
1	Wrangell and areas south	Bezenek, Clay	03/01/2022
2	Areas north of Wrangell, includes Yakutat	Saldi, Mark	03/01/2023
3	Areas west of Yakutat to the East Coast Alaska Peninsula, includes Prince William Sound, Cook Inlet, and Kodiak	Alward, Renee	03/01/2021
4	Areas west of Alaska Peninsula to Cape Newenham, includes Bristol Bay	Toyukak, Moses	03/01/2024
5	Areas north of Cape Newenham, includes Kuskokwim, Yukon, Kotzebue and the Arctic	Charles, Marilyn	03/01/2020

- How often does the Council meet?
 - The Council meets twice a year, typically in the spring (April/May) and fall (Sept./Oct.).
- What determinations does the Council make?
 - The department, through the Fund Administrator, makes the initial decision regarding whether a fisherman is entitled to benefits from the fund, the Council reviews all denials and all extensions of benefits over \$10,000 and extensions for treatment.
- The Council reviews approximately 20 claim denials at each meeting.

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Qualifying for Benefits

- The department makes the initial determination regarding whether a fisherman is entitled to benefits.
- Crewmembers with injury or illness connected to operations as a commercial fisherman are covered.
- A claimant must hold a valid commercial fishing license or limited entry permit before the time of injury or illness to qualify for benefits.
 - Eligibility of a limited entry permit holder is based on the embossed date of the permit, not the date on which it was paid or when payment was received.
- Initial treatment must be received within 60 days after onset of injury or illness.
- An application for reimbursement must be submitted within one (1) year after initial treatment.
- Each treatment must be documented by a medical chart note and submitted.
- Injury must have occurred in Alaska or in Alaskan waters.
- If the vessel has P&I coverage and the cost of the injury will exceed skipper/vessel owner's deductible, they must file a claim against the P&I carrier.

Benefit Payments

- Benefits will be paid only to the medical provider or to the fisherman.
 - To the provider if the bill is outstanding; or
 - To the Fisherman if payment is verified by evidence such as cancelled checks, receipts, or bills or statements from medical providers.
- The vessel owner may be reimbursed 50 percent of the vessel owner's P&I deductible, up to a maximum of \$5,000, if the fisherman files a claim against the P&I carrier. P&I carriers provide marine coverage for skippers, crewmembers, and hull coverage.

Remedies Available to Crewmembers

- Commercial fishermen are not covered under the Alaska Workers' Compensation Act, so they are statutorily exempt. An insurance carrier in the workers' compensation voluntary market cannot write a policy for a commercial fisherman. The fisherman could seek the following remedies:
 - Private insurance to cover any potential personal liabilities,
 - Enforce the Jones Act (Federal jurisdiction) which applies to U.S. navigable waters and points on the outer continental shelf of the U.S. The Jones Act only covers seamen (crewmembers of a vessel)
 - Any seaman who suffers a personal injury in the course of employment, at his election, may maintain an action for damages at law (sue skipper/vessel owner). In the case of death, the personal representative may sue for damages at law with the right of a trial by jury.

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Fishermen's Fund Background Information

- Established in 1951, the Fishermen's Fund provides for the medical treatment and care of Alaska licensed commercial fishermen who have been injured while fishing in Alaska or in Alaska waters out to the 200-mile limit. It provides for the treatment and care of injured commercial fisherman. The Fund does not provide wage replacement.
- Benefits from the Fund are financed from revenue received from each resident and nonresident commercial fisherman's license and permit fee.
- The Fund is a payer of last resort, which means that benefits are awarded only after full consideration of other coverage from private health or vessel insurance, and public programs, including Veterans' Affairs or Medicare. (Medicaid is an exception).
- The Commissioner of Labor and Workforce Development oversees administration of the program with the assistance of the Fishermen's Fund Advisory and Appeals Council.
- The Council is composed of the Commissioner or her designee, who serves as chair, and five members appointed by the Governor.
- The Fund pre-dates statehood and is a grand-fathered dedicated fund.
- The Legislature may appropriate up to 50% of the interest income earned by the state on the balance of the fund for a grant for statewide marine safety training and education.

Fishermen's Fund Revenue Sources

- The Fishermen's Fund is funded through a 39% share of the cost of each limited entry permit (owner) and commercial fishing license (crewmember) issued up to a maximum of \$50 per license or permit (AS 23.35.060).
- In essence, commercial fishers in Alaska pay a "contribution fee" each time they buy a crewmember license or renew their permit.

What Benefits are Available

- Up to \$10,000 per injury / accident
- Up to one year for treatment
 - Except for compelling reasons, benefits for the care of any one person involving a single injury or disability will not be paid beyond one year from the date of initial allowance, and cannot exceed \$10,000.
 - The Council may approve extensions of treatment of care timeframe and extension of benefits beyond the \$10,000 limit. (AS 23.35.140).
- A vessel owner may be reimbursed 50 percent of the vessel owner's protection and indemnity (P&I) insurance policy deductible, up to a maximum of \$5,000, if a fisherman files a claim against the P&I insurance policy of the vessel owner. (AS 23.35.145).