C96J00
Uninsured Employers' Fund

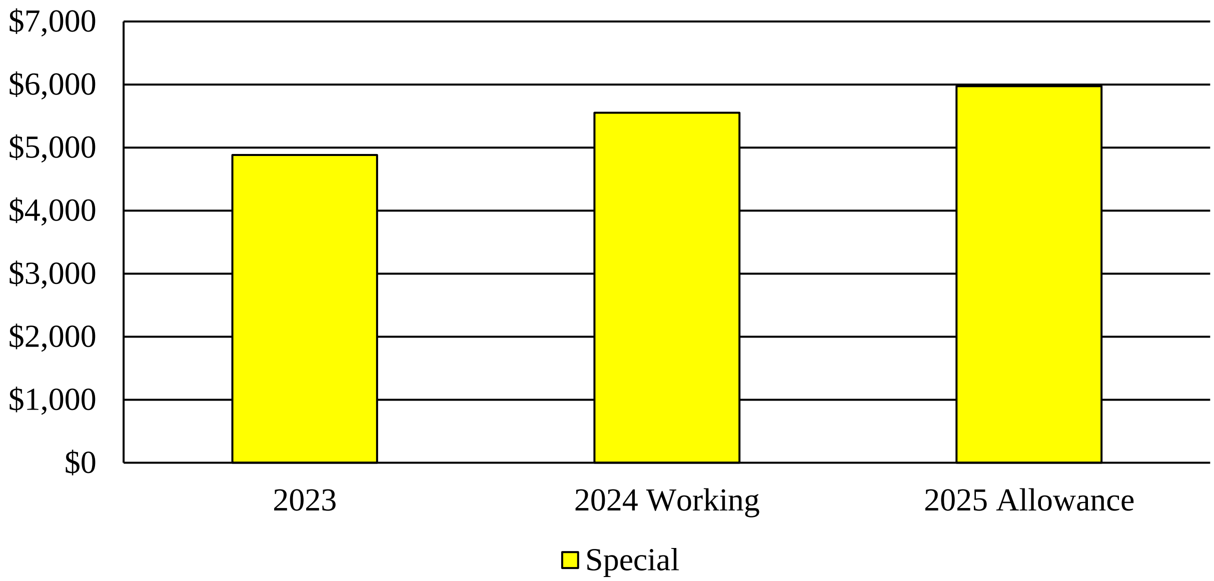
Program Description

The Uninsured Employers' Fund (UEF) protects workers whose employers are not insured under the Maryland Workers' Compensation Law. UEF reviews and investigates claims filed by employees or, in the case of death, by their dependents. If the employer does not properly compensate a claimant, the fund will directly pay the claimant's compensation benefits and medical expenses. UEF then holds the uninsured employer liable for the total benefits that the fund paid to the claimant and for certain penalties and assessments.

The cost to administer the fund and provide benefits to claimants is wholly specially funded. The special funds are derived from an assessment on (1) awards against employers or insurers for permanent disability or death and (2) amounts payable by employers or insurers under settlement agreements. UEF also collects penalties from sanctions on uninsured employers and recovers benefits paid out for uninsured claims.

Operating Budget Summary

Fiscal 2025 Budget Increases $420,873, or 7.6%, to $6.0 Million
($ in Thousands)



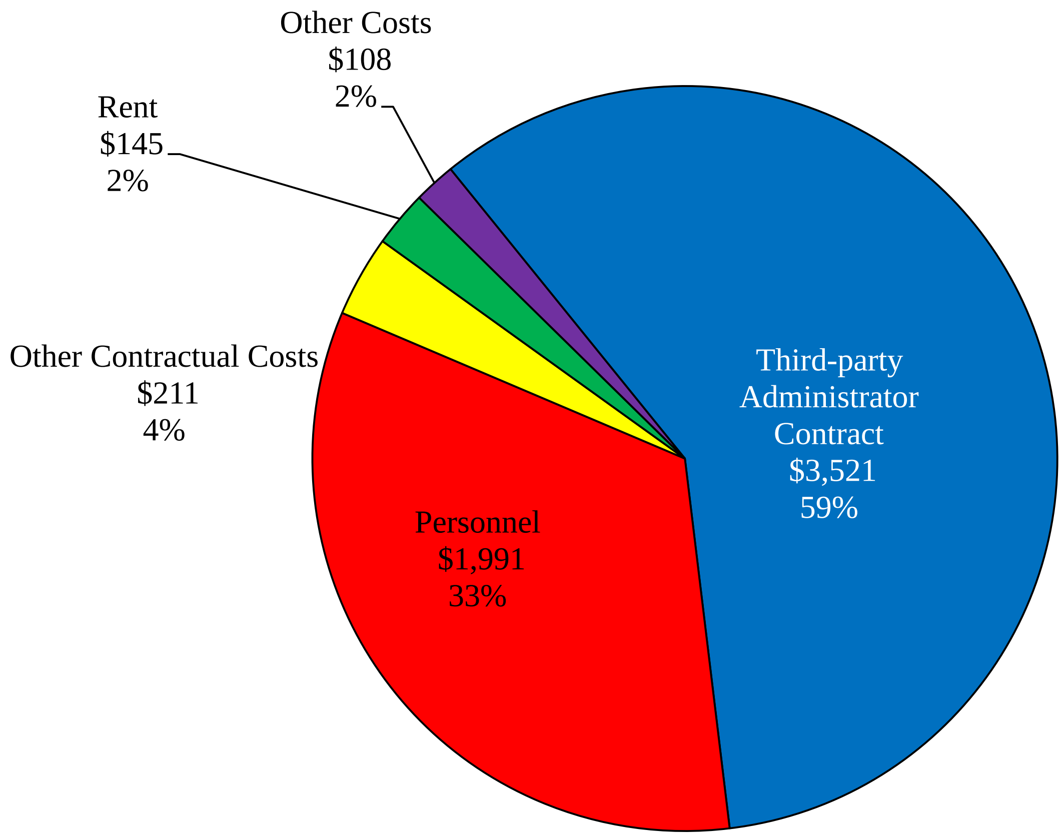
Note: The fiscal 2024 impacts of statewide salary adjustments appear in the Statewide Account in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency's budget. The fiscal 2025 impacts of the fiscal 2024 statewide salary adjustments appear in this agency's budget. The fiscal 2025 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency's budget.

For further information contact: Elizabeth Waibel Elizabeth.Waibel@mlis.state.md.us

Fiscal 2025 Overview of Agency Spending

Most of the fiscal 2025 allowance (59%) goes to a contract for a third-party administrator (TPA) that manages claims for UEF. One-third of the allowance is for regular personnel.

Exhibit 1
Overview of Agency Spending
Fiscal 2025 Allowance
($ in Thousands)



Note: The fiscal 2025 statewide salary adjustments are centrally budgeted in the Department of Budget and Management and are not included in this agency's budget.

Source: Governor's Fiscal 2025 Budget Books

Proposed Budget Change

The fiscal 2025 allowance increases by $420,873 compared to the fiscal 2024 working appropriation, as shown in **Exhibit 2**. The largest change in the fiscal 2025 allowance is a $200,000 increase for the TPA contract, which increases from $3.3 million in fiscal 2024 to $3.5 million in fiscal 2025. Regular personnel costs increase about $159,000 due to cost-of-living adjustments and increments. The number of authorized positions remains the same.

Exhibit 2
Proposed Budget
Uninsured Employers' Fund
($ in Thousands)

How Much It Grows:	**Special Fund**	**Total**
Fiscal 2023 Actual	$4,881	$4,881
Fiscal 2024 Working Appropriation	5,555	5,555
Fiscal 2025 Allowance	5,976	5,976
Fiscal 2024-2025 Amount Change	$421	$421
Fiscal 2024-2025 Percent Change	7.6%	7.6%

Where It Goes:	**Change**
Personnel Expenses	
Salary increases and associated fringe benefits including fiscal 2024 cost-of-living adjustment and increments	$159
Other Changes	
Third-party administrator contract	200
Office equipment and supplies	29
Shared services allocations	7
Other	26
Total	**$421**

Note: Numbers may not sum to total due to rounding. The fiscal 2024 impacts of statewide salary adjustments appear in the Statewide Account in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency's budget. The fiscal 2025 impacts of the fiscal 2024 statewide salary adjustments appear in this agency's budget. The fiscal 2025 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency's budget.

Personnel Data

	FY 23 Actual	FY 24 Working	FY 25 Allowance	FY 24-25 Change
Regular Positions	13.00	13.00	13.00	0.00
Contractual FTEs	0.00	0.00	0.00	0.00
Total Personnel	**13.00**	**13.00**	**13.00**	**0.00**

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.00	0.00%
Positions and Percentage Vacant as of 12/31/23	2	15.38%
Vacancies Above Turnover	2	

Key Observations

1. Fund Balance Decreases with Downturn in Assessment Revenue

UEF's fund balance covers all of its operating costs and payments to workers injured on the job. Most revenues (about 86%) come from a 2% assessment on workers' compensation awards. The fund also gets some revenues from benefit payments owed by uninsured employers, fines collected from employers who do not carry the required insurance, and interest earned on the fund balance. Chapter 495 of 2020 increased the assessment, from 2% to 3%, for fiscal 2021 only to assist with the UEF declining fund balance.

Expenditures exceeded revenues by $1.3 million in fiscal 2023, which led to a decline in the fund balance. Expenses increased slightly in fiscal 2023, but revenues declined much more, driven by a $1.8 million decrease in assessment revenues from the prior year due to a decrease in the total value of awards and settlements made by the Workers' Compensation Commission. **Exhibit 3** shows revenues, expenditures, and the beginning fund balances for the past several years.

Exhibit 3
Uninsured Employers' Fund Balance
Fiscal 2018-2024 Est.
($ in Thousands)

	2018	2019	2020	2021	2022	2023	2024 Est.
Beginning Balance	**$7,037**	**$7,011**	**$5,782**	**$6,326**	**$8,471**	**$8,606**	**$7,190**
Revenue							
Assessments Collected	$9,586	$8,501	$9,928	$10,949	$9,036	$7,264	$7,500
Investment Income	121	123	96	20	36	216	230
Recovery of Benefit Payments and Fines Owed by Uninsured Employers	1,492	918	1,319	1,341	800	987	1,200
Total Revenue	**$11,200**	**$9,542**	**$11,343**	**$12,310**	**$9,871**	**$8,467**	**$8,930**
Expenditures							
Benefits Payments	$8,531	$7,766	$7,402	$5,110	$5,649	$4,926	$5,000
TPA Contract	918	1,007	1,382	3,115	2,121	2,362	3,321

	2018	2019	2020	2021	2022	2023	2024 Est.
Other Agency Operating Expenses	1,788	2,011	2,015	1,940	1,978	2,518	2,234
Total Expenditures	**$11,237**	**$10,784**	**$10,799**	**$10,165**	**$9,748**	**$9,806**	**$10,555**
Adjustment	$11	$12	$0	$0	$10	-$77	$0
Surplus/-Deficit	**-$37**	**-$1,241**	**$544**	**$2,144**	**$123**	**-$1,339**	**-$1,625**
Estimated Ending Balance	**$7,011**	**$5,782**	**$6,326**	**$8,471**	**$8,606**	**$7,190**	**$5,565**

TPA: third-party administrator

Note: The Uninsured Employers' Fund reports that accounting issues caused some inaccuracies in the Managing for Results data for fiscal 2022 and 2023. An adjustment value has been added to correct for these inaccuracies.

Source: Governor's Fiscal 2024 Budget Books, Uninsured Employers' Fund, Department of Budget and Management

If costs continue to outpace revenues, the fund balance will continue to decrease, endangering the fund's long-term stability and ability to meet its obligations. UEF has suggested ways to increase the amount of funding that the agency receives, such as by increasing the assessment rate on Workers' Compensation Commission (WCC) awards, from 2% to 3%, or increasing the penalty for employers that do not carry workers' compensation insurance.

Proposed Legislation Would Increase Penalties

SB 216, introduced at the request of UEF, would raise the penalty for employers that do not carry workers' compensation insurance from the current maximum of $10,000 to a mandatory $25,000. Following discussions between the two agencies, UEF and WCC have agreed the legislation should be amended to set the fine at a maximum of $25,000, rather than a mandatory amount. That would allow WCC, which imposes fines, to set higher penalties for employers when warranted while still maintaining judicial discretion to set lower fines, particularly for small businesses for whom a higher penalty could mean having to close.

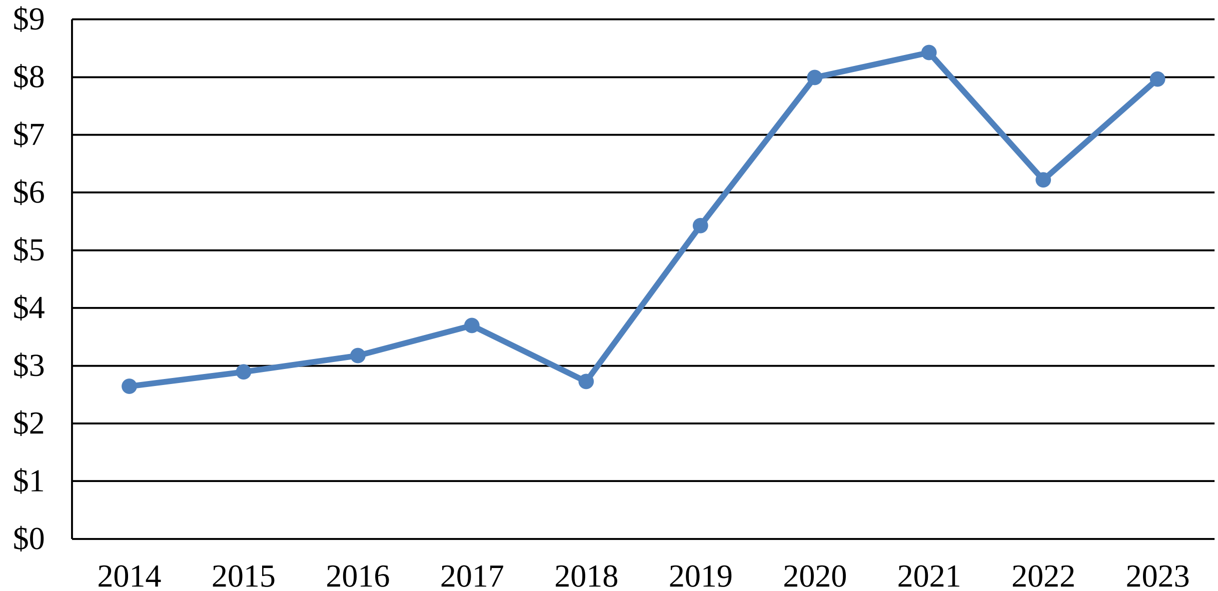
It is unclear how much of a financial difference for UEF such a change would make. UEF has stated that its hope that a higher potential penalty would be a deterrent to companies failing to carry insurance, ultimately leading to fewer claims that the agency must pay out. Theoretically, the agency could also receive more money in penalties from higher fines assessed against noncompliant employers, but this is difficult to estimate for several reasons. The number of penalties that WCC issues annually against employers for failing to carry insurance varies widely. Excluding fiscal 2021 when WCC did not set any hearings on this topic due to the pandemic, WCC issued between 19 and 600 penalty orders each year from fiscal 2014 through 2022, for an average of 163 orders per year. The average amount of each penalty was $7,172 over that time period. Not all of these fines are paid, however. While UEF works internally and with the State's Central

Collections Unit to collect the penalties ordered by WCC, the actual amount that the agency receives is significantly less. Additionally, according to WCC, many orders are rescinded after the penalty order is sent out because the fine gets the attention of the employer, and they provide proof of coverage or other documentation that shows compliance. In short, raising the penalties for employer noncompliance would not provide a stable source of long-term revenue. **UEF should comment on whether fines are the best source of an increase in revenue or whether other measures, such as raising the assessment rate, should be considered.**

2. Cost Per Claim Increases

One gauge of administrative productivity is operating cost per claim. Different cases merit different costs in terms of investigative costs and legal fees. **Exhibit 4** shows the average cost per resolved claim over the past 10 years.

Exhibit 4
Cost Per Resolved Claim
Fiscal 2014-2023
($ in Thousands)

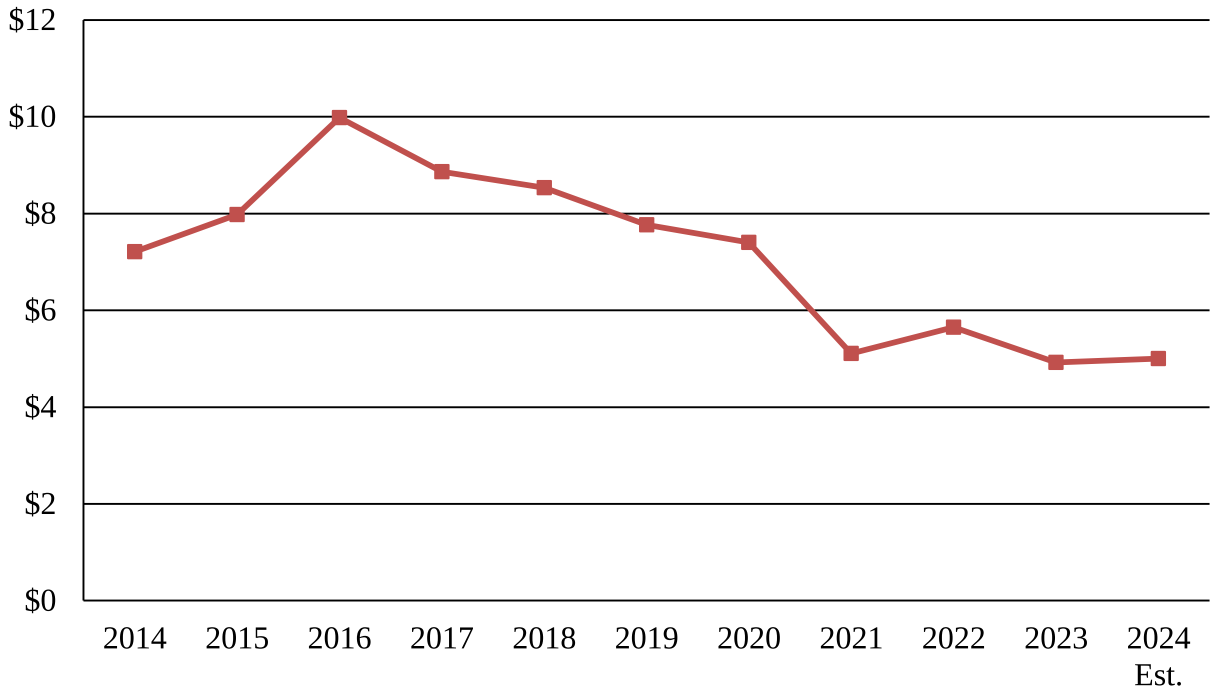


Source: Department of Budget and Management

The increase in cost per case corresponds with UEF hiring a TPA to manage its claims, a move that has increased UEF's overall operating costs. UEF began a contract with Corvel, Inc. in September 2017 under an emergency procurement and subsequently procured a five-year contract with the company that began in June 2019. The current contract ends June 30, 2024, and will be rebid through the State's procurement process.

Although costs per claim have gone up, UEF reports that TPA has improved the overall functioning of the agency and provides a level of service that the agency would not be able to replicate in-house. UEF reports that TPA has increased the number of cases where external insurance is found, meaning that the injured worker has coverage from another payer, and UEF does not have to pay their medical bills. This has resulted in UEF having to spend less on benefits payments, as shown in **Exhibit 5**. It appears that the increased cost and attention spent on cases has resulted in more effective case management. However, if contract or other operating costs increase substantially in future years, those could offset the savings from better case management.

Exhibit 5
Annual Benefits Payments
Fiscal 2014-2024 Est.
($ in Millions)



Source: Department of Budget and Management

3. Audit Findings Not Yet Resolved

An audit by the Office of Legislative Audits (OLA) published in September 2021 reported three findings. UEF provided information to OLA in October 2022 on measures that it had taken to resolve the findings. In April 2023, OLA reported that UEF had resolved one of the findings, related to claims processing, but two repeat findings had not yet been resolved, and OLA recommended further corrective actions: (1) UEF should exercise better monitoring of the TPA performance and obtain better documentation to support charges made by the contractor; and (2) UEF should ensure its automated accounting system is producing accurate reports for the purposes of monitoring and pursuing collection activities, including ensuring that all appropriate delinquent accounts are referred to the State's Central Collection Unit. **The Department of Legislative Services (DLS) recommends restricting $150,000 of UEF's administrative budget until OLA has confirmed that each of the repeat audit findings has been corrected.**

Operating Budget Recommended Actions

1. Add the following language to the special fund appropriation:

<u>, provided that since the Uninsured Employers' Fund (UEF) had unresolved repeat audit findings in the most recent fiscal compliance audit issued by the Office of Legislative Audits (OLA), $150,000 of this agency's administrative appropriation may not be expended unless:</u>

<u>(1)</u> <u>UEF has taken corrective action with respect to all repeat audit findings on or before November 1, 2024; and</u>

<u>(2)</u> <u>a report is submitted to the budget committees by OLA listing each repeat audit finding along with a determination that each repeat finding was corrected. The budget committees shall have 45 days from the receipt of the report to review and comment to allow for funds to be released prior to the end of fiscal 2025.</u>

Explanation: Due to serious repeat audit findings regarding a lack of oversight of UEF's third-party administrator, a portion of its budget will be withheld pending the adoption of corrective action by the agency, and a determination by OLA that each finding was corrected. OLA shall submit reports to the budget committees on the status of UEF's response.

Information Request	**Author**	**Due Date**
Status of corrective actions related to the most recent fiscal compliance audit	OLA	45 days before the release of funds

Appendix 1
2023 *Joint Chairmen's Report* Responses from Agency

The 2023 *Joint Chairmen's Report* (JCR) requested that UEF prepare one report. Electronic copies of the full JCR responses can be found on the DLS Library website.

- ***Recommendations on Fines for Uninsured Employers:*** The current maximum fine for failing to carry workers' compensation insurance is $10,000, but most fines issued by WCC are at or below $7,000. These fines go into UEF's operating account. UEF recommends increasing the penalty to a mandatory $25,000 as a better deterrent against employers failing to obtain insurance. Further discussion of this issue can be found in Key Observation 1 of this analysis.

Appendix 2
Object/Fund Difference Report
Uninsured Employers' Fund

Object/Fund	FY 23 Actual	FY 24 Working Appropriation	FY 25 Allowance	FY 24 - FY 25 Amount Change	Percent Change
Positions					
01 Regular	13.00	13.00	13.00	0.00	0%
Total Positions	**13.00**	**13.00**	**13.00**	**0.00**	**0%**
Objects					
01 Salaries and Wages	$ 1,614,616	$ 1,831,729	$ 1,990,570	$ 158,841	8.7%
02 Technical and Special Fees	2,371,866	3,321,000	3,524,000	203,000	6.1%
03 Communication	16,417	21,508	29,015	7,507	34.9%
04 Travel	4,241	15,825	18,700	2,875	18.2%
08 Contractual Services	447,136	196,074	207,195	11,121	5.7%
09 Supplies and Materials	21,923	17,000	27,000	10,000	58.8%
10 Equipment – Replacement	7,254	10,000	30,000	20,000	200.0%
12 Grants, Subsidies, and Contributions	250,000	0	0	0	0.0%
13 Fixed Charges	147,159	141,577	149,106	7,529	5.3%
Total Objects	**$ 4,880,612**	**$ 5,554,713**	**$ 5,975,586**	**$ 420,873**	**7.6%**
Funds					
03 Special Fund	$ 4,880,612	$ 5,554,713	$ 5,975,586	$ 420,873	7.6%
Total Funds	**$ 4,880,612**	**$ 5,554,713**	**$ 5,975,586**	**$ 420,873**	**7.6%**

Note: The fiscal 2025 allowance does not include cost-of-living adjustments.