

MILLIMAN WEBINAR

LEGACY RISKS

Federal Black Lung Liability – Understanding the DOL

1pm - 2pm ET
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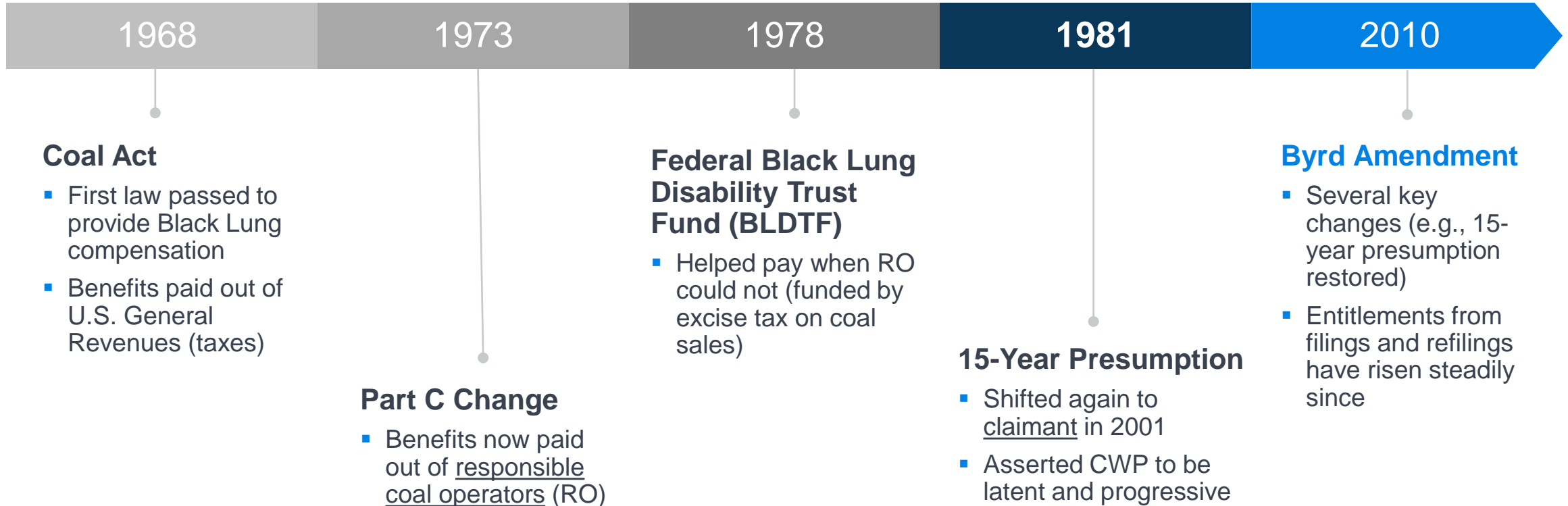
Introduction to the Industry

Black Lung Disease & Brief History



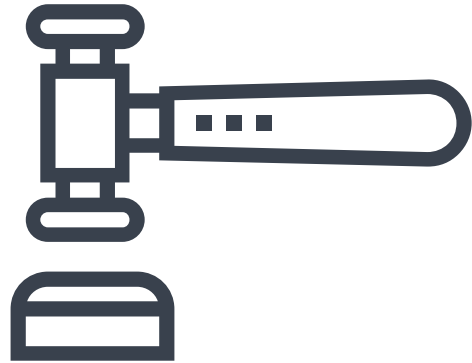
- **Simple Coal Workers Pneumoconiosis (CWP)** – results from inhaling coal mine dust (which differs by type of occupation)
 - Not usually disabling nor presumptively compensable under Coal Act – burden is on worker
- **Complicated CWP** – Progressive Massive Fibrosis (PMF)
 - Compensable by presumption under the Coal Act – burden on responsible operator (RO)
- “Clinical” vs. “Legal” Definition
- Former workers with CWP and/or PMF compensated via U.S. General Revenues and then ROs

Timeline: Compensation for Black Lung



Affordable Care Act - Byrd Amendment

15-Year Presumption



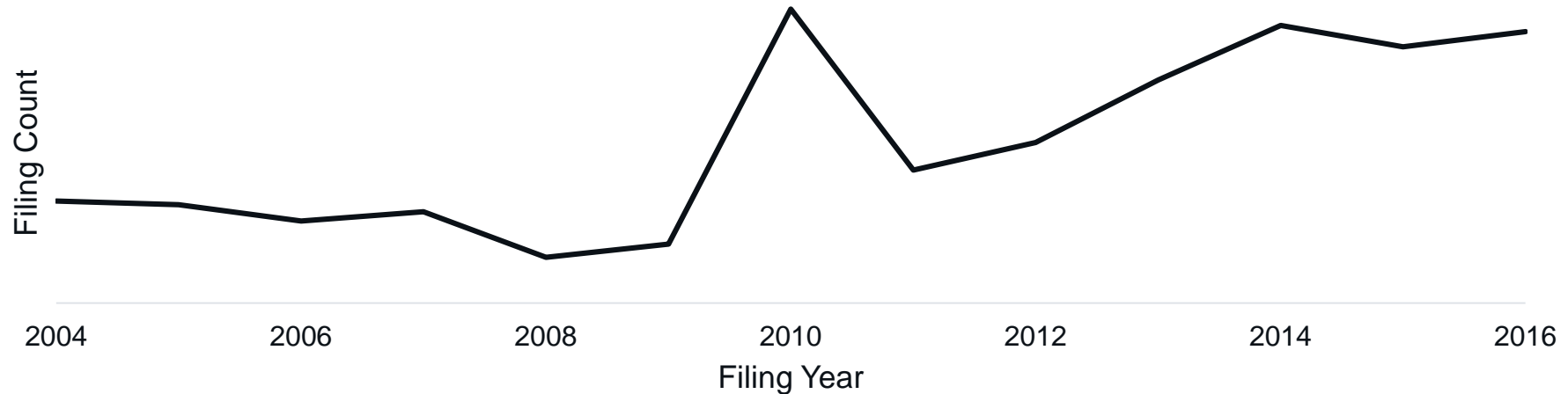
Smoking



Survivors



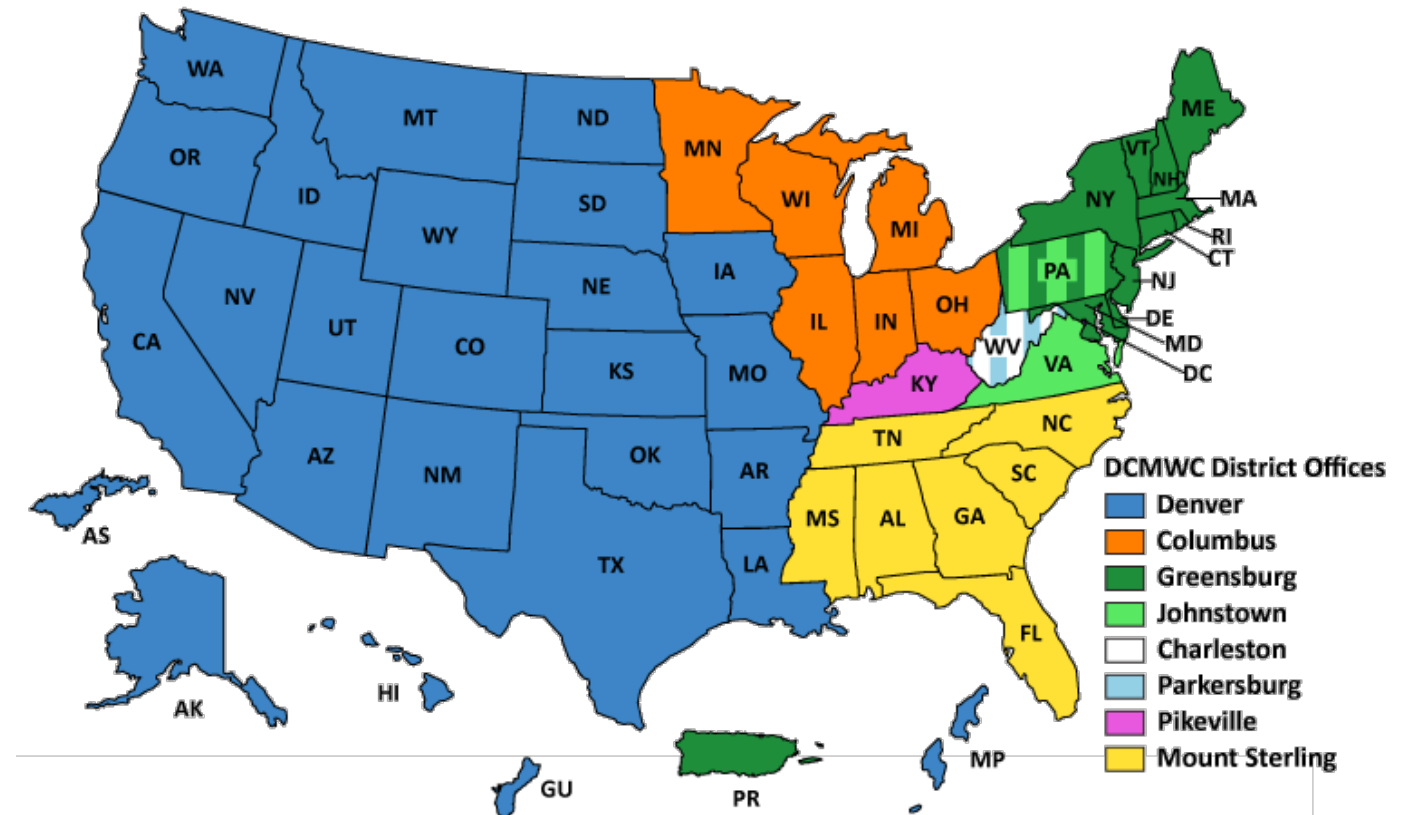
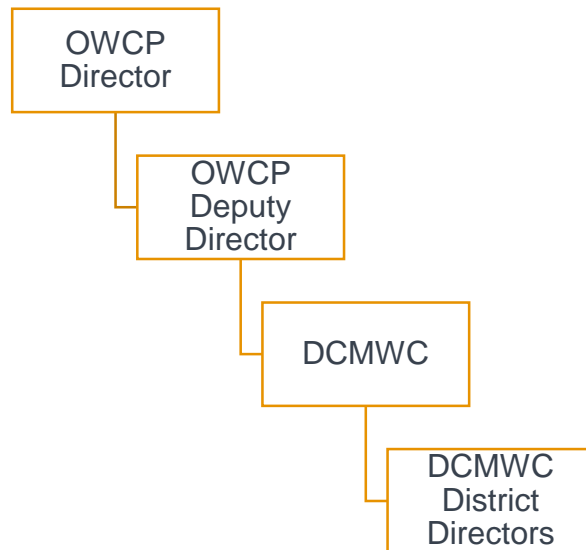
Impact



Department of Labor (DOL) – How do they fit in?



- The Office of Workers' Compensation Programs (OWCP) administers the Coal Mine Workers' Compensation Program
 - OWCP regulations
 - Public commentary
- DCMWC administers claims under the Black Lung Benefits Act of 1973



Federal Black Lung Trust Fund – Role of DOL

The Black Lung Disability Trust Fund: What is it?



- **What does the Trust Fund do?**

- **Who runs the Trust Fund?**

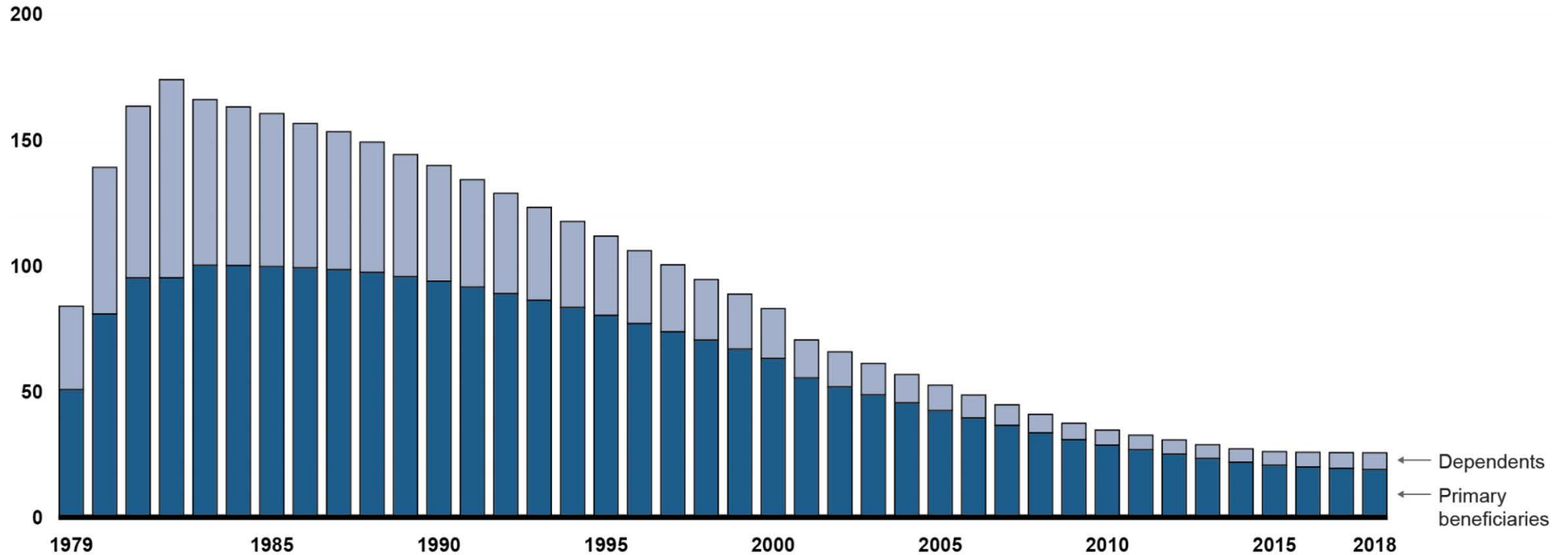
- **How is the Trust Fund paid for?**

- **Is the Trust Fund self-sufficient?**

The Black Lung Disability Trust Fund: Is it sustainable?

Figure 1: Black Lung Beneficiaries, Fiscal Years 1979 through 2018

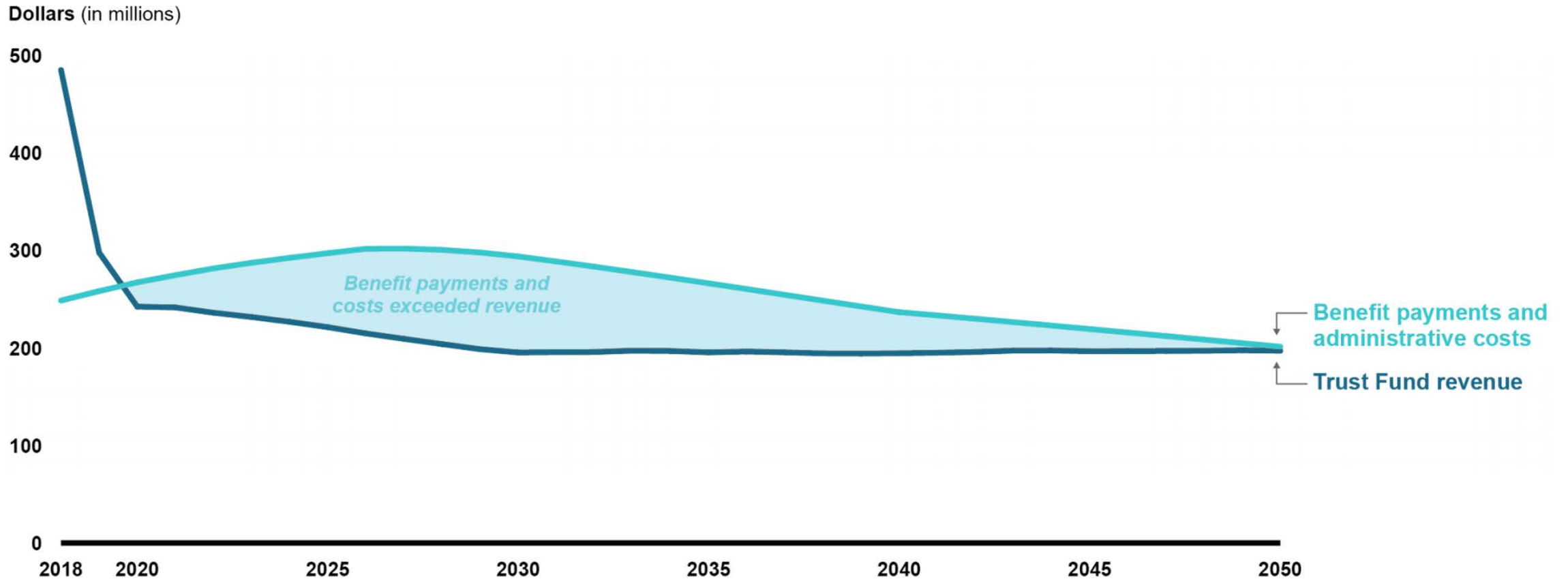
Number of beneficiaries (in thousands)



Source: GAO analysis of Department of Labor data. | GAO-19-622T

The Black Lung Disability Trust Fund: Is it sustainable?

Figure 2: Black Lung Disability Trust Fund Simulated Revenue and Black Lung Benefit Payments and Administrative Costs Based on Moderate Case Assumptions, Fiscal Years 2018 through 2050

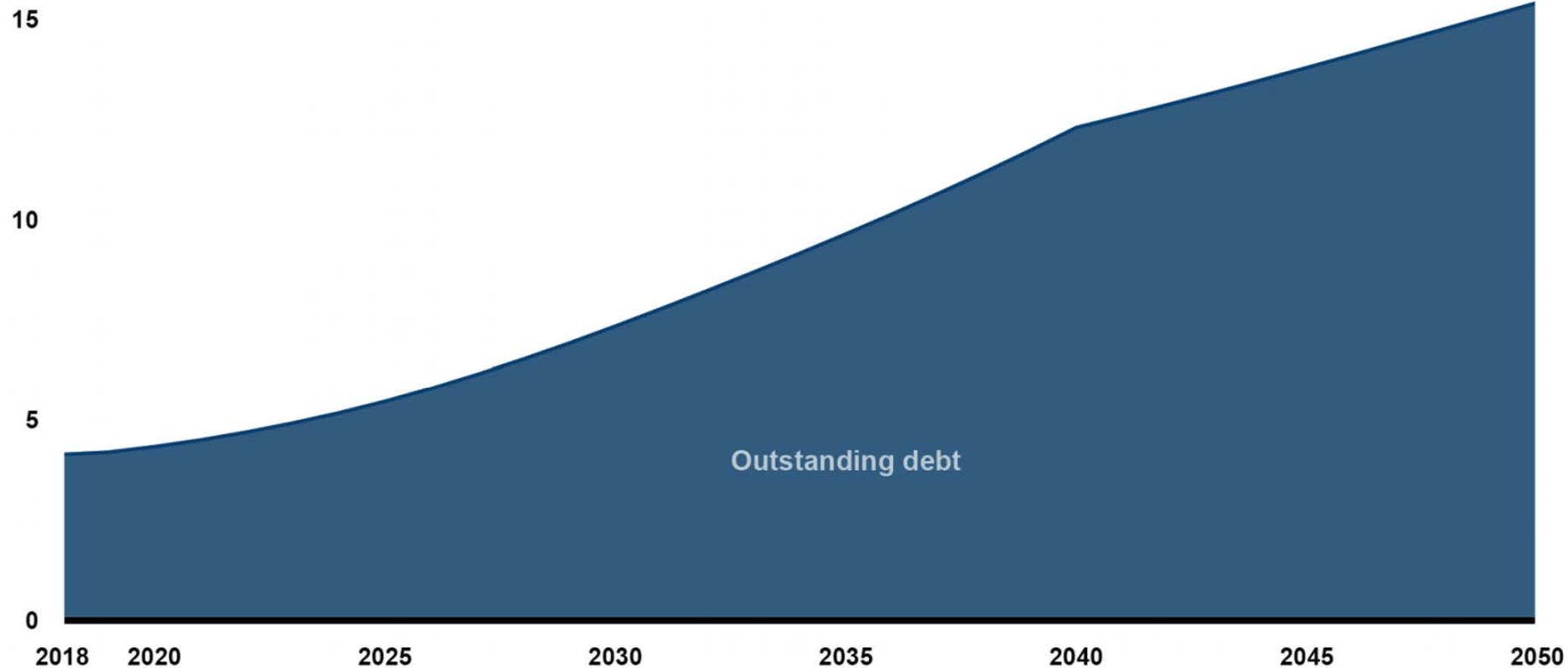


Source: GAO simulation based on data from the Departments of Labor and Treasury, the Energy Information Administration, and the Office of Management and Budget. | GAO-19-622T

The Black Lung Disability Trust Fund: Is it sustainable?

Figure 3: Black Lung Disability Trust Fund Simulated Principal Amount of Outstanding Debt to Treasury's General Fund Based on Moderate Case Assumptions, Fiscal Years 2018 through 2050

Outstanding debt (in billions of dollars)



Source: GAO simulation based on data from the Departments of Labor and Treasury, the Energy Information Administration, and the Office of Management and Budget. | GAO-19-622T

The Black Lung Disability Trust Fund: The wrong solution?

1

Coal operators must secure their Black Lung obligations

2

The Department of Labor determines security requirements, but the law is vague about how

3

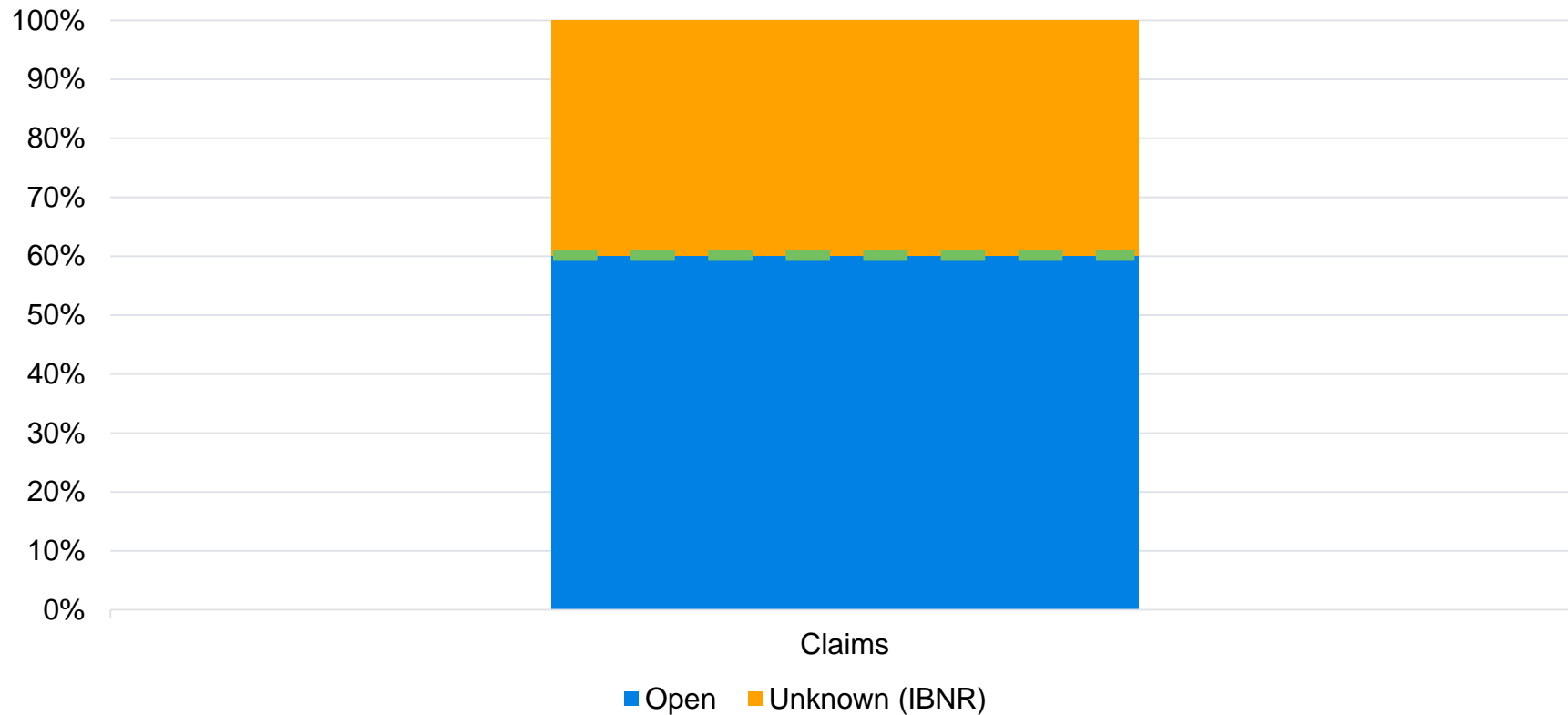
DOL now trying to shore up the Trust Fund's finances with massive, sudden security increases

RESULT:

A BIG MESS

Evaluating Future Claim Liabilities

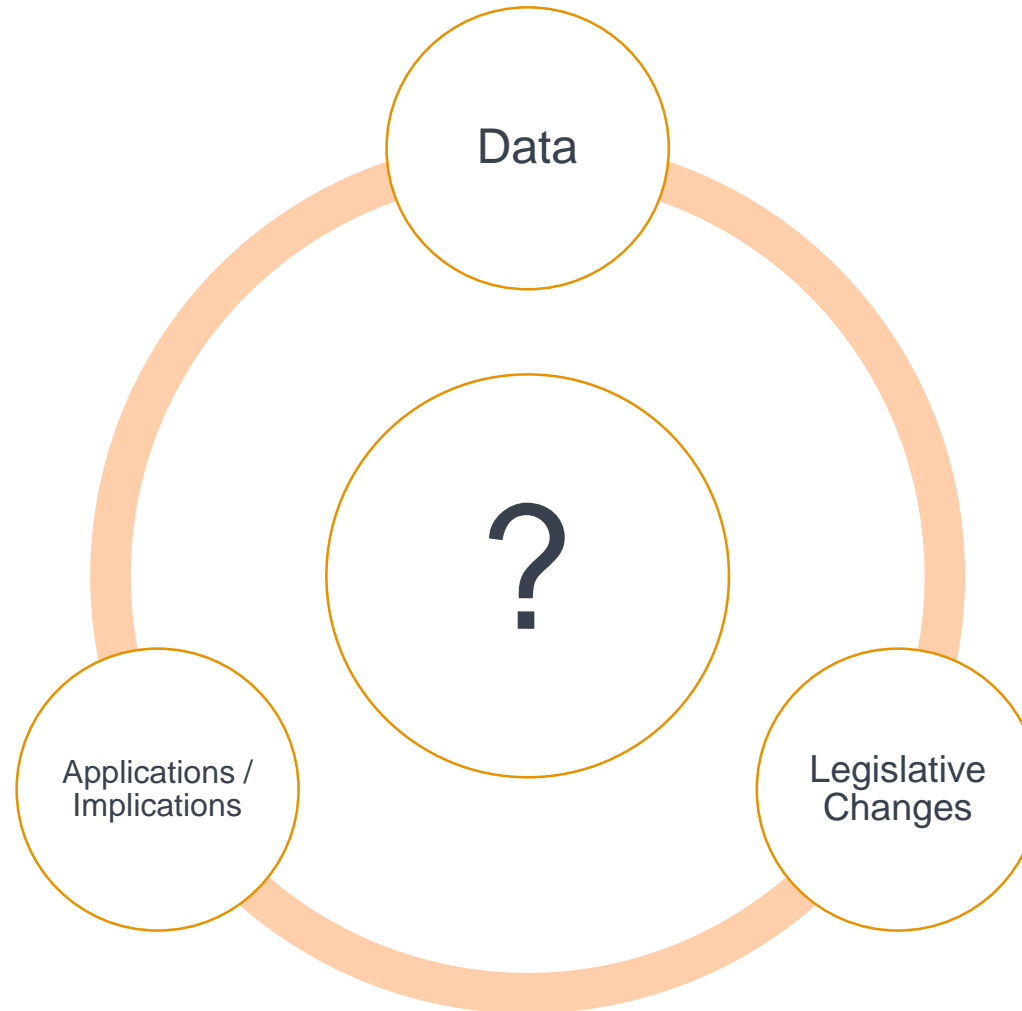
Future Liabilities = Known Claims + Unknown Claims



Challenges with Evaluating *Known Claims*



Challenges with Evaluating *Unknown (IBNR)* Claims



Department of Labor Database

What's included?

Quarterly data includes:

- Claim Type (Living Miner, Living Widow, Living Dependent)
- Claim Record Number (Filing Number)
- Application Date
- Dates of Birth & Death
- Date of Last Coal Miner Employment (CME)
- State of Last CME
- Number of Dependents
- Trust Fund / Non-Trust Fund Indicator
- Responsible Operator
- Insurance Company
- Decision Information (Number of, as well as individual decision information)

Department of Labor Database

What's NOT included?

Quarterly data does not include:



- Financial data



- Payment information



- Workforce (e.g. exposure) information



- Accurate and timely responsible operator indicators

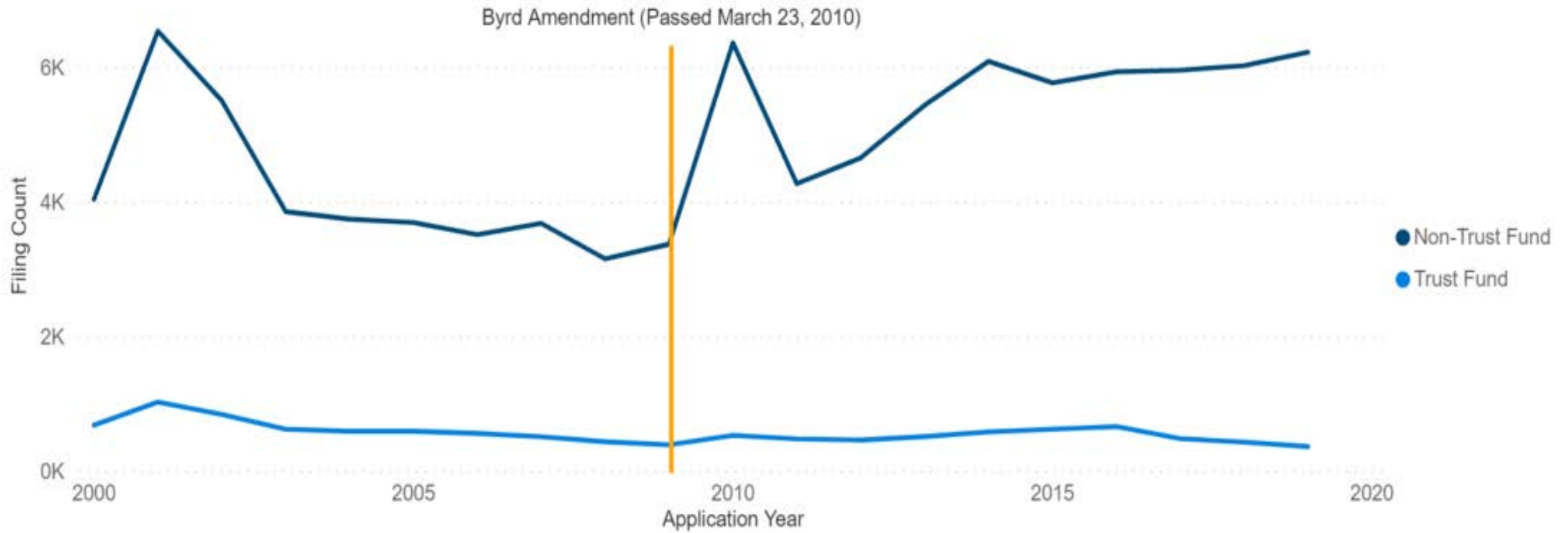
Department of Labor Database as of June 30, 2020

Terminology

Last CME Year	Filings	FASL	Entitlements
<p>“Coal Miner Employment” Year</p>	<p>Claimant files for Black Lung benefits; no statute of limitations on the number of filings per claimant</p> <p>If denied, individuals can refile for benefits at any time</p> <p>A filing year is also referred to as an application year</p>	<p>Federal Adjudication Status Level</p>	<p>Entitled to benefits</p> <p>Also referred to as “approved” – entitled</p> <p>Is not permanent and can be reversed at any time until payment is made to claimant</p>

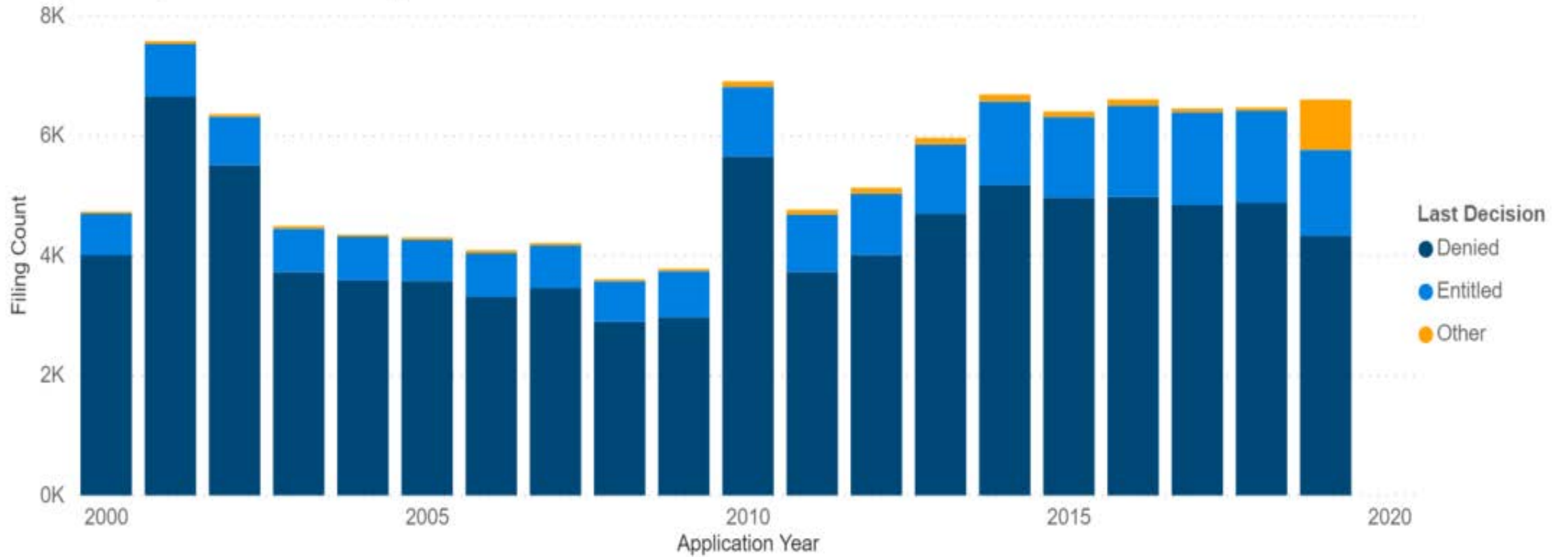
Impact of Byrd Amendment on DOL Data

Filing Count between Trust Fund and Non-Trust Fund Claims by Application Year



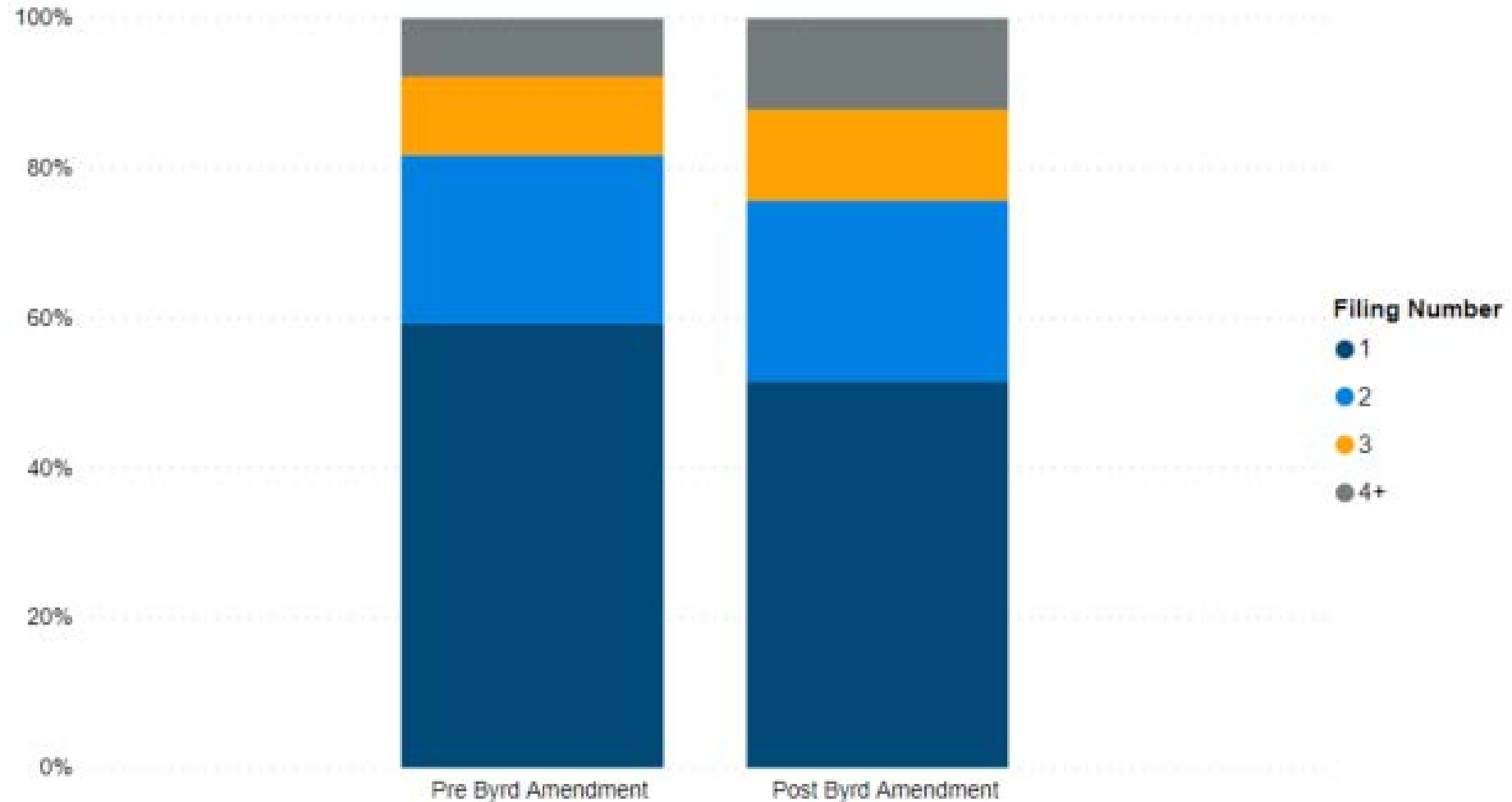
Impact of Byrd Amendment on DOL Data

Filing Count by Last Decision and Application Year



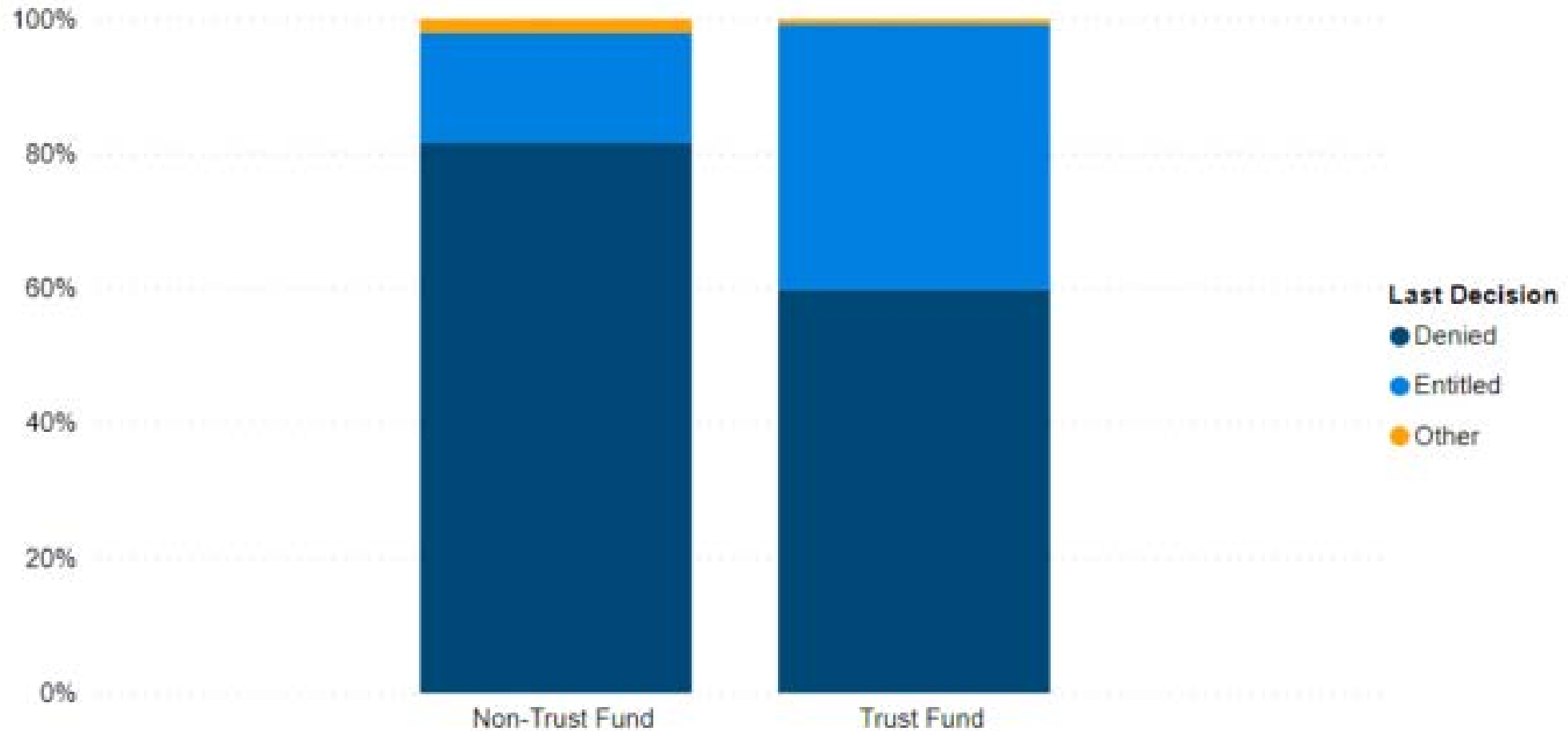
Impact of Byrd Amendment on DOL Data

Distribution of Filing Number before and after the Byrd Amendment



Differences between Trust Fund & Non-Trust Fund Claims

Distribution of Last Decision between Trust Fund and Non-Trust Fund Claims



June 30, 2020 DOL Data

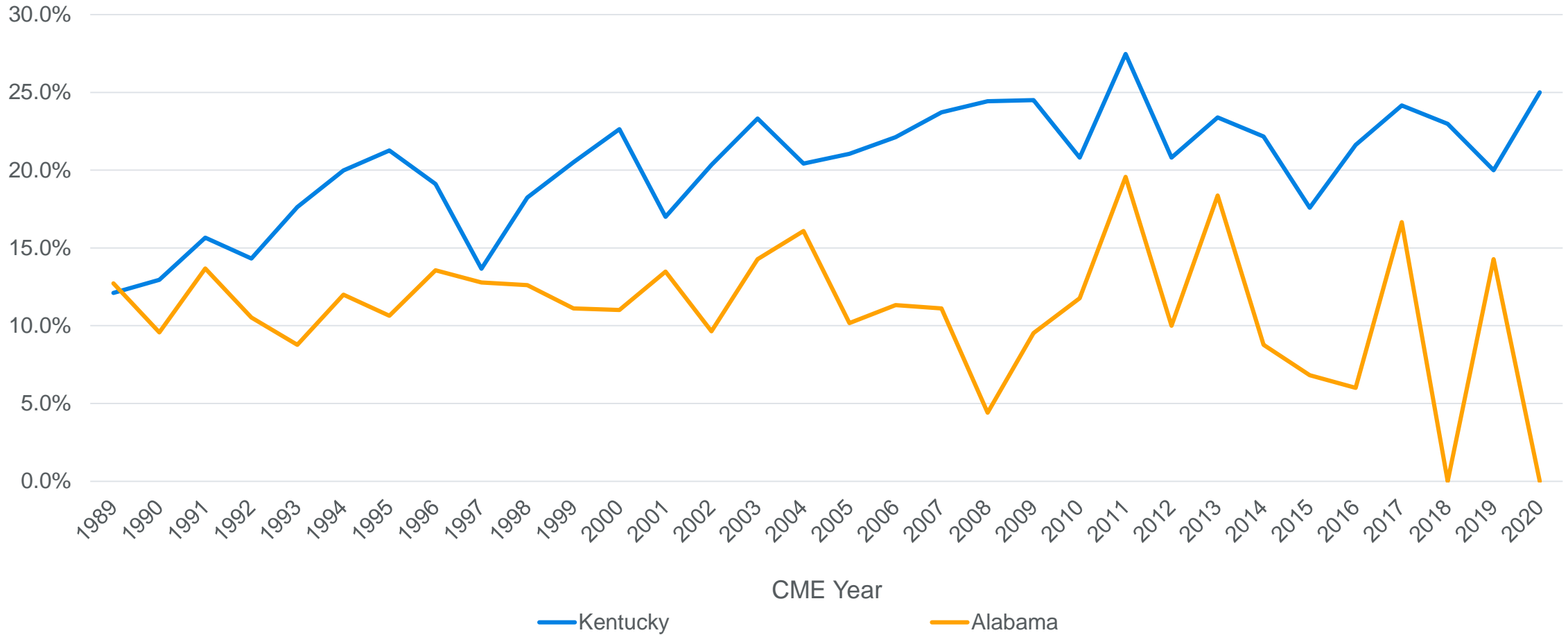
Kentucky vs. Alabama

	Kentucky	Alabama
Claimants Reported to Date	17,343	2,777
Entitled Claims	3,254	319
Historical Entitlement Ratio	18.8%	11.5%
Average Entitlement Ratio Post-Byrd Amendment¹	22.4%	11.2%
Average Years from First Filing to Entitlement	11.39	11.89

Note: excludes Trust Fund claims and CME Years prior to 1989

¹ CME Years 2010-2020

Entitlement Ratios | Kentucky vs. Alabama



Note: excludes Trust Fund claims

Department of Labor Database | FASL Study

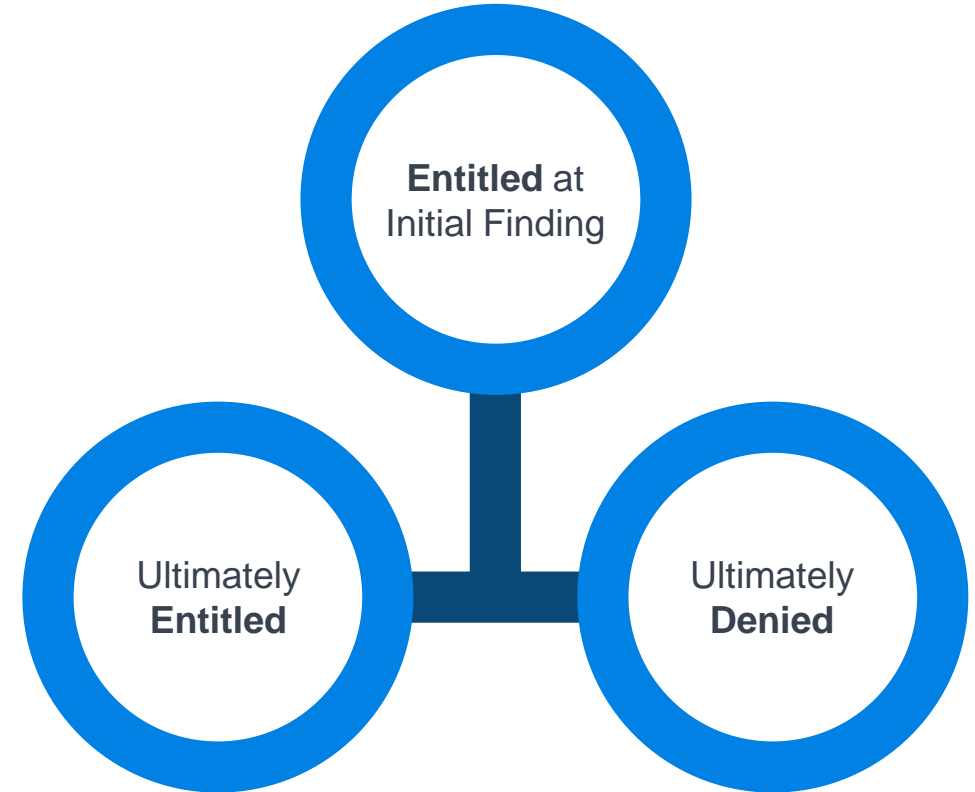
- **Federal Adjudication Status Level (FASL) Study** – used to anticipate the percentage of claims ultimately entitled at a given federal adjudication status level
 - For example, if a claim is denied at the “Initial Finding” level, what is the likelihood of it ending up entitled?
 - Subset application years to better ensure an “ultimate” decision



¹ Initial Decision includes Adjudication Levels of Initial Determination, Conference, Reconsideration/Modification, and Proposed Decision and Order

FASL Factors | Tennessee Example

Adjudication Level	% of Claims Ultimately Entitled
Initial Finding Entitlement	71%
Administrative Law Judge Entitlement	95%



Note: excludes Trust Fund claims

June 30, 2020 DOL Data

Observations & COVID-19 Implications

Month	Filing Count	Entitled Claimant Count	Death Count
Jul-19	600	78	69
Aug-19	588	109	59
Sep-19	613	71	64
Oct-19	663	78	51
Nov-19	527	47	48
Dec-19	477	57	76
Jan-20	451	70	76
Feb-20	484	46	69
Mar-20	535	70	73
Apr-20	107	66	59
May-20	167	51	32
Jun-20	114	41	23

Q&A



Thank you

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