

State of Delaware
Department of Labor



1st Annual Report
on the
Status of Workers' Compensation
Case Management

February 12, 1999



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The Workers' Compensation Improvement Act of 1997 states that the Department of Labor shall conduct an annual review of the "effectiveness of the management of the Board's caseload." The Act requires that the Department report: an analysis of dispositional speed; the caseload backlog; the number of continuances granted and grounds therefore; the number of appeals and the reversal rate of the Board; and compliance with hearing and decisional deadlines set forth in Title 19 of the Delaware Code.

This "First Annual Report" provides all of the information required by the statute. The Department is proud of the progress that has been made in the past year and recognizes the contributions of the Industrial Accident Board and Workers' Compensation Advisory Council in this effort.

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Year in Review 1998

- ◆ The Workers' Compensation case backlog was eliminated in 1998. This is the first time in seventeen years that there is no backlog of cases.
- ◆ 2,689 petitions requiring hearing within 120 days were filed in 1998. Of those 2,593 (96%) were actually heard or resolved within the statutory timeframe. The remaining 96 petitions (4%) were not heard within 120 days due to continuances granted for legitimate reasons
- ◆ 520 cases requiring decisions within 14 days from the date of hearing were processed in 1998. 519 of those decisions (99.8%) were completed within the statutory timeframe; the remaining decision was delayed two days due to illness of the hearing officer.
- ◆ The Workers' Compensation Specialist was hired on March 1, 1998. The Specialist assisted more than 100 injured workers in processing their claims for benefits. In addition, she provided technical assistance to hundreds of callers.
- ◆ In August of 1998, Governor Carper appointed Lowell L. Groundland as Chair of the Industrial Accident Board.
- ◆ The Board completed its stay in "temporary" quarters at First Federal Plaza and returned to the Carvel Building on January 8, 1999.
- ◆ Hearing officers were requested to conduct hearings in ten cases (in lieu of the Board).
- ◆ During the reporting period, the Office of Workers' Compensation set up a procedure whereby parties may present uncontested petitions to terminate benefits and uncontested commutations to a hearing officer for summary disposition. This eliminated the potentially costly and unduly time-consuming requirement that the parties to these largely perfunctory proceedings appear before the Board. Under the new procedure, the parties stipulate that the matter may be adjudicated by a hearing officer who then makes a determination based on the records. In the month of December 1998, this procedure resolved fifty-one uncontested matters.

- ◆ **The final amendment to the Board's rules was considered and approved at the Boards meeting on March 10, 1998. The rules now conform to the Statute.**

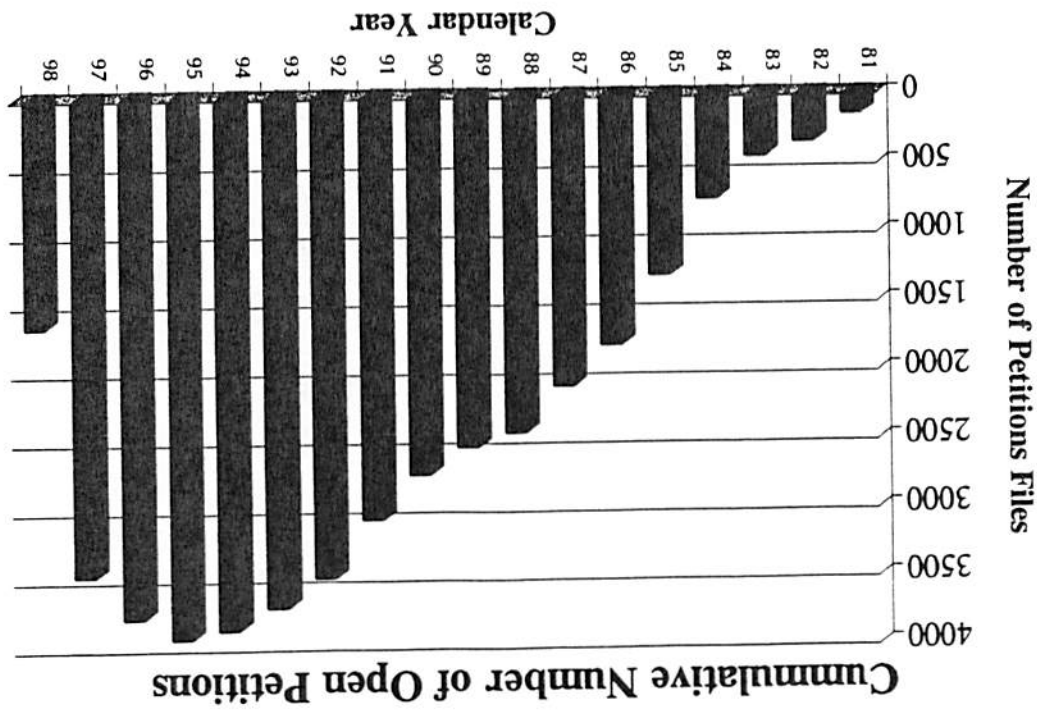
- ◆ **Board nominations (two) have been sent to the Senate Executive Committee for review. If confirmed by the Senate, the Board will have a full membership of ten.**

- ◆ **The Workers' Compensation Advisory Council met seven times in 1998. The Council is working primarily on medical cost containment issues.**

Caseload/Backlog

The graph below shows the total number of open petitions at the end of each year beginning in 1981. As the graph shows, the number of open petitions increased every year from 1981 thru 1995. That trend ended in 1995 and, despite the fact that the number of petitions filed has increased each year since, the number of open petitions has decreased during the same period.

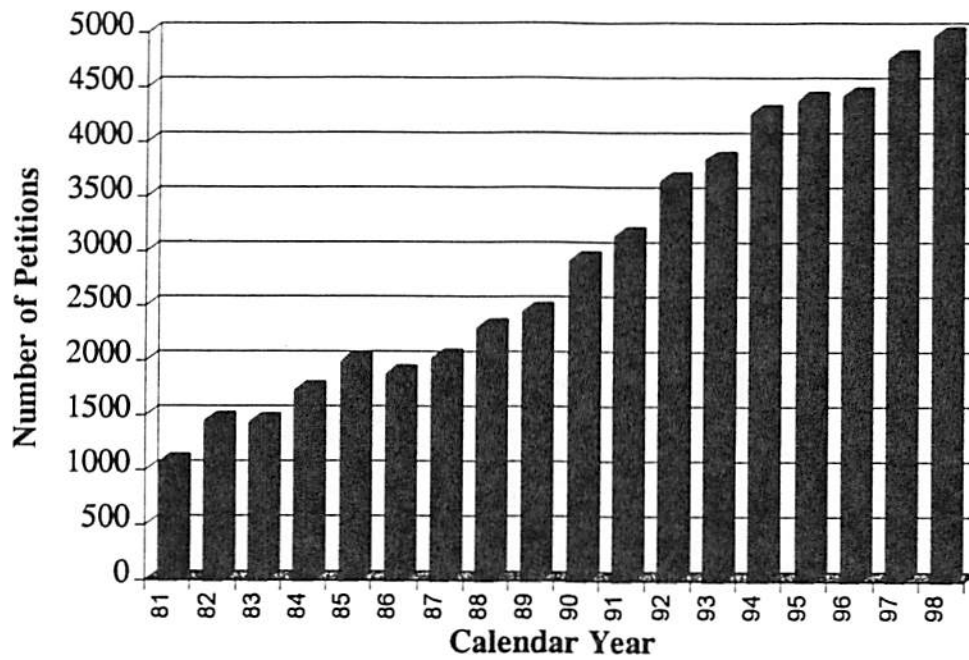
The Department's goal was to reduce the number of open petitions to an amount equal to four months worth of petitions (1,653 petitions based on 1998 statistics). This goal was accomplished as of December 31, 1998 when the number of open petitions was 1,641; 12 petitions less than the four-month caseload.



Petitions Filed

The number of petitions filed each year continues to increase as shown on the graph below.

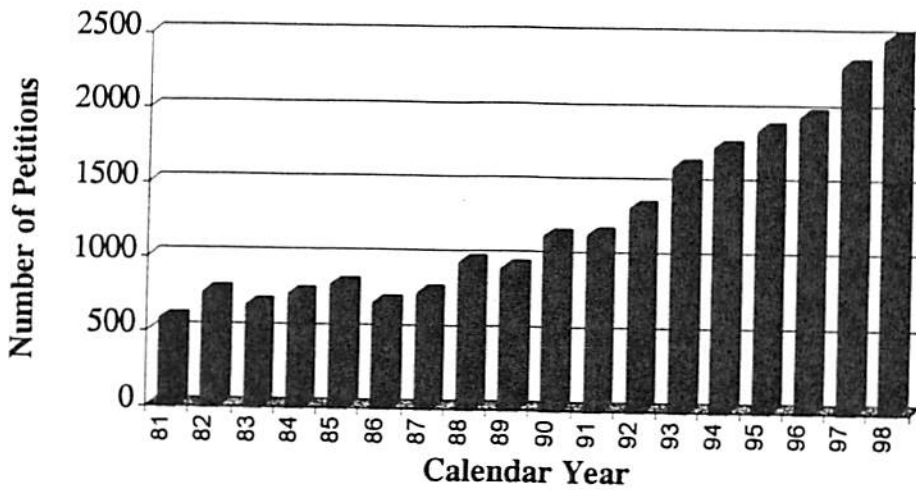
Workers' Compensation Petitions Filed Annually



Petitions Heard By Board

The number of petitions heard by the Board each year has increased dramatically since 1981 as shown on the graph below.

Petitions Heard By Board Annually



Continuances

During calendar year 1998, a total of 174 continuances were granted (compared with 324 continuances in 1997):

Granted by the Board: 53
Granted by the Department: 121

The grounds for the continuances were as follows:

The unavailability of a previously scheduled medical or other material witness.	73
The unavailability of an attorney for a party due to an unintended conflicting court appearance.	35
The illness of a party, a party's attorney or a material witness.	20
An unexpected justifiable absence from the state of a party, a party's attorney or material witness.	2
A justifiable substitution of counsel for a party.	8
The unavailability of a medical witness whose deposition could not be scheduled.	6
Inadequate notice from the Department and/or the Board which would have prevented a party from having a full and fair opportunity to be heard.	0
Any unforeseen circumstance beyond the control of the parties:	
Employee did not attend employer scheduled medical exam.	12
Records unavailable for review by parties prior to hearing.	9
Defendant(s) added prior to hearing.	2
State of emergency in Sussex County.	1
Board erroneously postponed case.	1
Case scheduling difficulty.	2
Board member funeral.	3

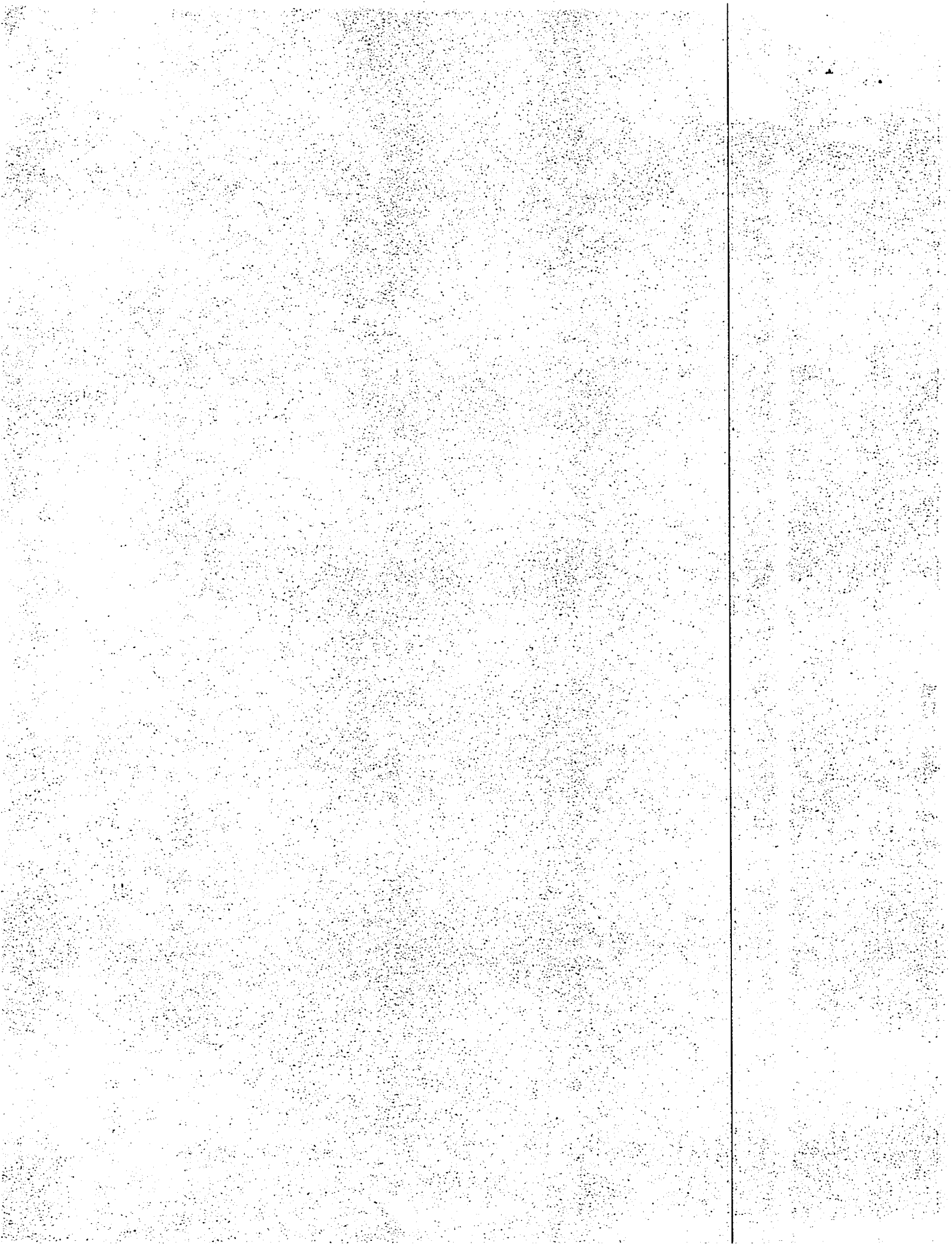
Board Member Activities

During 1998, individual Board members were scheduled to conduct hearings on the following number of days:

		<u># of months available</u>
Donohue	184 days	12 months
Episcopo	0 days	0 week
Groundland	72 days	5 months
Hastings	181 days	12 months
Levitt	177 days	12 months
Mitchell	173 days	12 months
Robinson	139 days	9 months
Seward	117 days	7.5 months
Stone	138 days	10.5 months
Wright	177 days	12 months

Individual Board Members actually conducted hearings on the following number of days:

Donohue	126 days
Episcopo	6 days
Groundland	46 days
Hastings	133 days
Levitt	130 days
Mitchell	110 days
Robinson	78 days
Seward	64 days
Stone	93 days
Wright	138 days



Caseload of Individual Hearing Officers

<u>Hearing Officer</u>	<u>Number of hearings on the merits</u>	<u>Number of decisions written</u>
L. Anderson	61	96
C. Baum	86	132
W. O'Brien	103	157
H. Richards	80	133
J. Schneikart	67	115
P. Schwartz	102	151
[J. Polk, Chief	21	37]
<hr/>		
	520	821

Compliance With Hearing and Decisional Deadlines

- ◆ 2,689 petitions requiring hearing within 120 days were filed in 1998. Of those 2,593 (96%) were actually heard or resolved within the statutory timeframe. The remaining 96 petitions (4%) were not heard within 120 days due to continuances granted for legitimate reasons
- ◆ 520 cases requiring decisions within 14 days from the date of hearing were processed in 1998. 519 of those decisions (99.8%) were completed within the statutory timeframe; the remaining decision was delayed two days due to illness of the hearing officer.

Analysis of Dispositional Speed

The 1998 average dispositional speed for processing petitions (from the filing of the petition to the issuance of the decision) was 209 days (down from 272 in 1997.)

**Number of Appeals
and
Reversal Rate of the Board
1998**

Number of Appeals filed in Superior Court * 133

Disposition of Appeals **

Board decision affirmed:	23 cases
Board decision reversed and remanded:	18 cases
Appeal dismissed:	17 cases
Appeal withdrawn:	5 cases

Total: 63 cases

* 57 appeals pertained to cases heard prior to the effective date of the new statute.

**Cases resulting in decisions from the Court that predate W.C.I.A.

**Departmental Recommendations
Regarding Legislative Action and Board Rule Changes**

Legislation

The Department has two (2) legislative recommendations for 1999 regarding methods to improve the performance of the Board and the Department.

- The first recommendation will provide for specific dates for the inspection of the Department of Labor, Division of Industrial Affairs' semi-annual administrative assessment.
- The second recommendation will clarify that the Workers' Compensation Fund is a party before the Board and may appeal adverse decisions to Superior Court.

Rule Changes

The Department has no proposals for rule changes for the Board's consideration at this time.