

State of Delaware
Department of Labor



2nd Annual Report
on the
Status of Workers' Compensation
Case Management

February 15, 2000



STATE OF DELAWARE
DEPARTMENT OF LABOR
DIVISION OF INDUSTRIAL AFFAIRS
4425 NORTH MARKET STREET
WILMINGTON, DELAWARE 19802

TELEPHONE (302) 761-8200
FAX (302) 761-6601

February 15, 2000

The Department of Labor is proud of the progress that has been made in the past year despite a shortage of Industrial Accident Board members and a record high number of petitions being filed. The year in review outlines the specific achievements regarding workers' compensation issues.

The Department wants to thank the Industrial Accident Board members for their hard work, the Workers' Compensation Advisory Council for their contributions, and the members of the General Assembly for their ongoing support.

*Karen E. Peterson, Director
Division of Industrial Affairs*

*John F. Kirk, III, Administrator
Office of Workers' Compensation*

TABLE OF CONTENTS

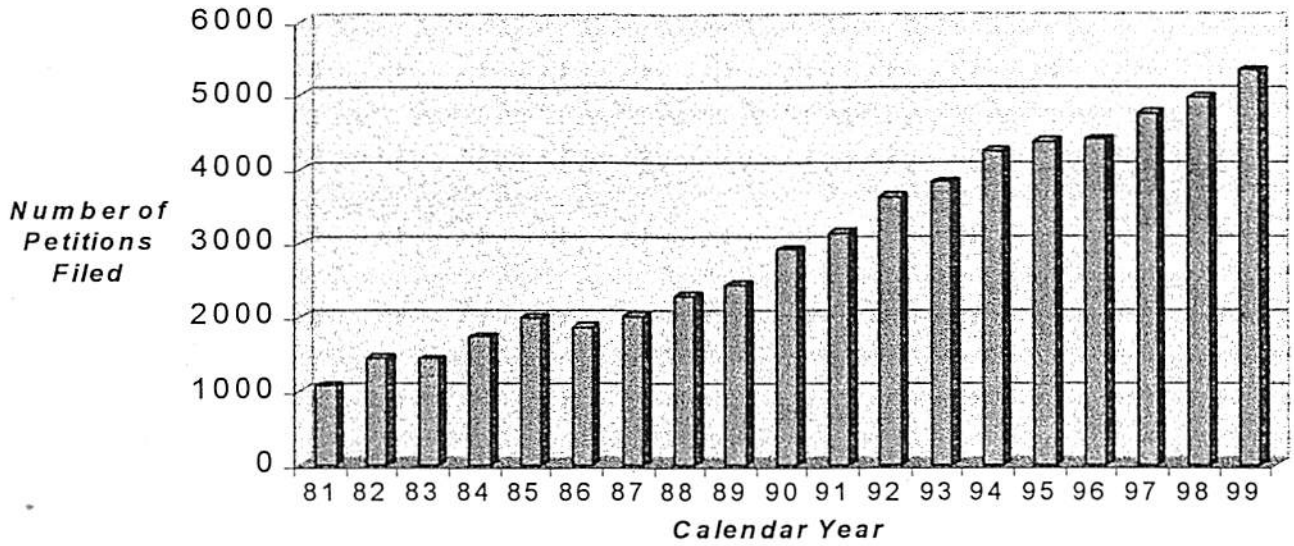
YEAR IN REVIEW 1999	1
PETITIONS FILED	2
CASELOAD	2
PETITIONS HEARD BY BOARD	3
CONTINUANCES	4
BOARD MEMBER ACTIVITIES	5
CASELOAD OF INDIVIDUAL HEARING OFFICERS	6
COMPLIANCE WITH HEARING & DECISIONAL DEADLINES	7
ANALYSIS OF DISPOSITIONAL SPEED	7
NUMBER OF APPEALS & REVERSAL OF THE BOARD	8
DEPARTMENTAL RECOMMENDATIONS FOR LEGISLATIVE ACTION OR BOARD RULE CHANGE	9

YEAR IN REVIEW 1999

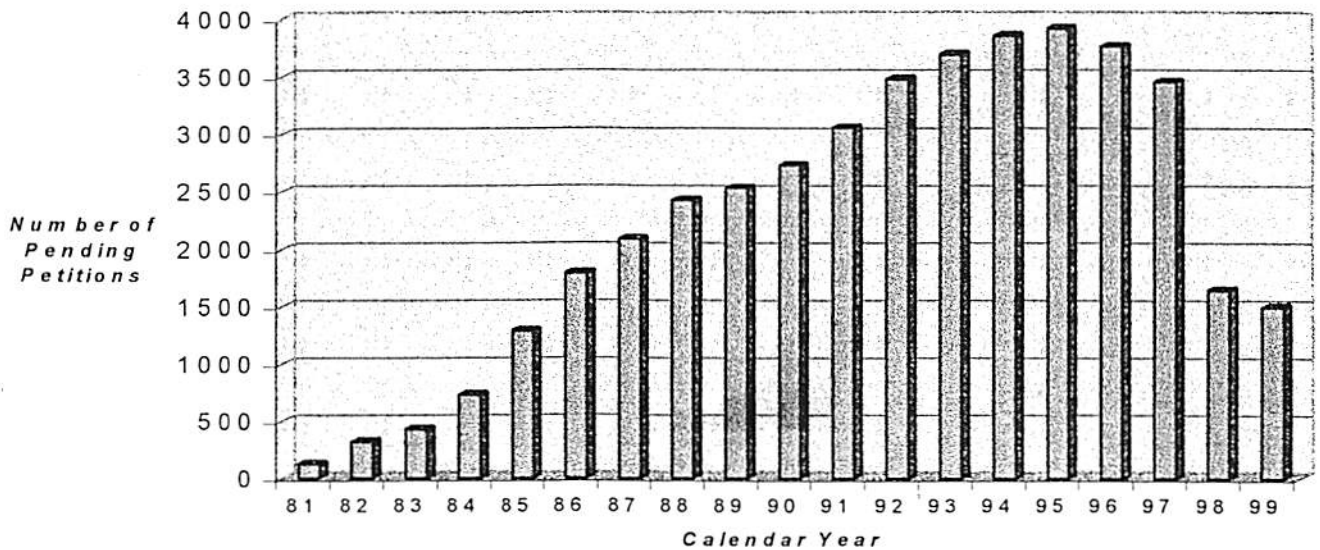
- ◆ The most significant achievement in 1999 was the reduction of pending cases despite a record high number of petitions filed. For the first time in history, the number of petitions filed in one year exceeded 5,000. Despite that, the agency's caseload reached a fourteen-year low.
- ◆ The Office of Workers' Compensation has no backlog of cases. A "backlog" is defined as more than four months' worth of petitions. As of January 1, 2000, that number would have been 1,779; only 1,496 petitions were pending on that date.
- ◆ 2,865 petitions requiring hearing within 120 days were filed in 1999. Of those, 2,759 (96%) were actually heard or resolved within the statutory timeframe. The remaining 4% were not heard within the 120 day timeframe due to continuances granted for valid reasons.
- ◆ The Office of Workers' Compensation met the fourteen-day statutory requirement for issuing decisions in 100% of the cases requiring a fourteen-day decision.
- ◆ The Workers' Compensation Specialist assisted 1,385 injured workers in processing their claims for benefits. She also provided technical assistance to 1,337 other callers including attorneys, carriers and employers.
- ◆ In May 1999, Governor Carper filled one of the Industrial Accident Board vacancies by appointing Romaine Seward.
- ◆ Hearing Officers handled 623 cases in 1999 which would otherwise have required a board hearing:
 - 605 involved uncontested petitions to terminate benefits and uncontested commutations;
 - 18 were contested cases "on the merits" (up from five cases in 1998).
- ◆ The Workers' Compensation Advisory Council met five times in 1999. At its November 1999 meeting, the council agreed that it is not ready to propose any legislation mandating managed care and/or medical fee schedules. This is due, in part, to the overall net reduction in workers' compensation insurance premiums over the past two years.

Despite a record number of petitions filed in 1999, the number of pending petitions dropped for the fourth year in a row.

Workers' Compensation Petitions Filed Annually



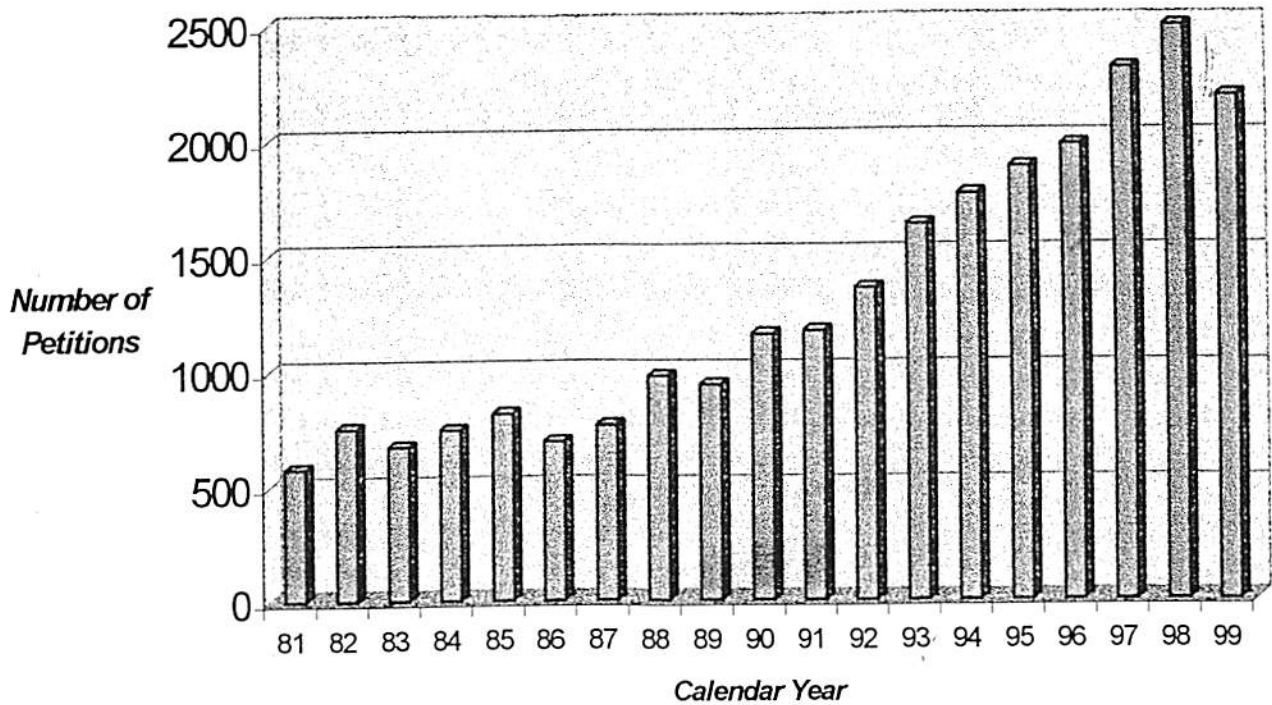
Cumulative Number of Open Petitions



PETITIONS HEARD BY THE BOARD/HEARING OFFICERS

The number of petitions heard by the Board or by Hearing Officers decreased as shown on the graph below. Offsetting this decrease was an increase in the number of petitions settled prior to hearing.

Petitions Heard By Board/Hearing Officer



CONTINUANCES

During calendar year 1999, a total of 179 continuances were granted (compared with 174 continuances in 1998):

Granted by the Board:	100
Granted by the Department:	79

The grounds for the continuances were as follows:

The unavailability of a previously scheduled material witness or medical witness.	59
The unavailability of an attorney for a party due to an unintended conflicting court appearance.	13
The illness of a party, a party's attorney, or a material witness	25
An unexpected justifiable absence from the state of a party, a party's attorney or material witness	4
A justifiable substitution of counsel for a party	11
The unavailability of a medical witness whose deposition could not be scheduled.	21
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 circumstances beyond the control of the parties:	
Employee did not attend employer scheduled medical exam	12
Records unavailable for review by parties prior to hearing	11
Defendant(s) added prior to hearing	4
State of Emergency (Hurricane Floyd)	2
Claimant unavailable for medical exam	1
Claimant's car broke down	1
Court reporter absent from deposition	2
Further medical testing required	12
Insufficient IAB members available to hear a disfigurement case	1

BOARD MEMBER ACTIVITIES

During 1999, individual Board members were scheduled to conduct hearings on the following number of days:

	<u>Days Scheduled</u>
Donohue ¹	75
Groundland	196
Hastings ²	162
Levitt	182
Mitchell	183
Robinson ³	173
Seward ⁴	79
Stone ⁵	139
Wright	184

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

Donohue	36
Groundland	125
Hastings	103
Levitt	106
Mitchell	95
Robinson	81
Seward	46
Stone	71
Wright	108

Available for hearings:

¹ Donohue - 5 out of 12 months

² Hastings - 11 out of 12 months

³ Robinson - 11 out of 12 months

⁴ Seward - 7 out of 12 months

⁵ Stone - 11 out of 12 months

CASELOAD OF INDIVIDUAL HEARING OFFICERS

Hearing Officer:	Number of Decisions & Orders Written:
L. Anderson	111
C. Baum	130
W. O'Brien	140
J. Schneikart	104
P. Schwartz	143
L. Wilson*	70
[J. Polk, Chief	7]

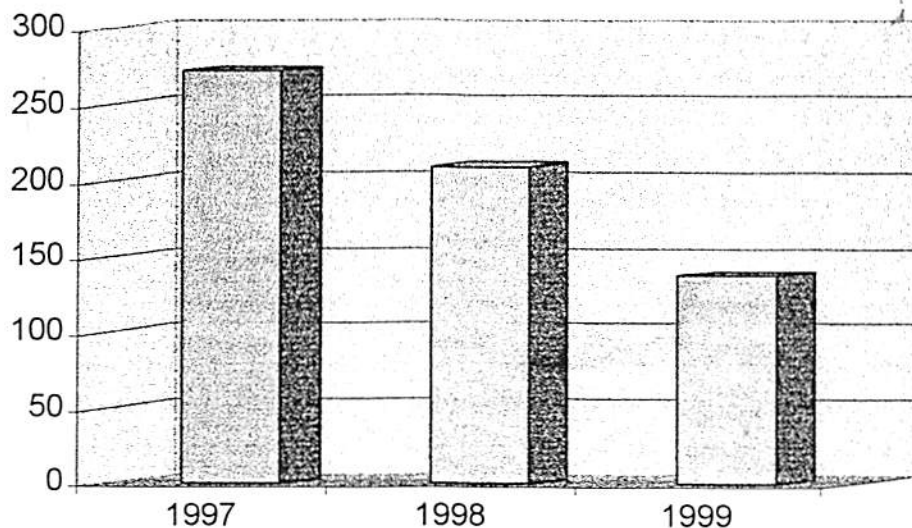
* Figures cover period from April 9, 1999 to December 31, 1999.

COMPLIANCE WITH HEARING AND DECISIONAL DEADLINES

- ◆ 2,865 petitions requiring hearing within 120 days were filed in 1999. Of those, 2,759 96% were actually heard or settled within the statutory timeframe. The remaining 4% were not heard within the 120 days due to continuances granted for valid reasons.
- ◆ **442** cases requiring a written decision within 14 days from the date the Board concluded deliberations were processed in 1999. **All 442** of those decisions were completed within the statutory timeframe.

ANALYSIS OF DISPOSITIONAL SPEED

- The 1999 average dispositional speed for processing petitions (from the filing of the petition to the issuance of the decision) was 138 days (down from 209 days in 1998 and 272 in 1997).



NUMBER OF APPEALS AND REVERSAL OF THE BOARD

Number of Appeals filed in Superior Court 169

Disposition of Appeals

Affirmed 57

Reversed 10

Dismissed/withdrew 41

Pending 51

Total 169

Explanation:

This listing includes decisions from the court in cases that were heard by the Board/Hearing Officers from December 1, 1997 to October 1, 1999.

DEPARTMENTAL RECOMMENDATIONS FOR LEGISLATIVE ACTION OR BOARD RULE CHANGE

Legislation

There are two recommendations for legislative change the Department proposes.

- ◆ The Department recommends a statute of limitations for submitting petitions for reimbursement from the Workers' Compensation Fund for total disability resulting from two permanent injuries. Currently there is no time limit for such claims.
- ◆ The Department also recommends legislation adopting the procedure used by Superior Court for issuing subpoenas.
- ◆ The Department had recommended legislation that would authorize it to destroy case files for which the statute of limitations has expired. This issue was resolved administratively.

Rule Changes

The Department recommends that the Board adopt a rule requiring the parties to provide the name, address, and telephone numbers of the workers' compensation insurance carrier indemnifying the employer; third party administrator; or, if the employer is self-insured, the employer's registered agent for service.