



*State of Delaware*

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*Department of  
Labor*

*3<sup>RD</sup> Annual Report*

*on the*

*Status of Workers' Compensation*

*Case Management*

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DEPARTMENT OF LABOR  
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*February 15, 2001*

*The Department is proud of the progress that has been made since the passage of the Workers' Compensation Improvement Act of 1997. 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.*

A handwritten signature in cursive script that reads "Karen Peterson".

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

A handwritten signature in cursive script that reads "John F. Kirk III".

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

## **Year in Review 2000**

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The Department and the Industrial Accident Board continue to reduce the pending case inventory despite another record high number of petitions filed. The number of petitions filed in CY '2000 was 5,461; the agency's caseload reached a fifteen-year low of 1,274 cases.

The Office of Workers' Compensation continues to maintain its "no backlog" status. A "backlog" is defined as more than four months' worth of petitions. As of January 1, 2001, that number would have been 1,820 but only 1,274 were pending.

The Office of Workers' Compensation continues to meet the fourteen-day statutory requirement for issuing decisions in 100% of the cases requiring a fourteen-day decision.

The Workers' Compensation Specialist assisted 1,290 injured workers in processing their claims for benefits. She also provided technical assistance to 1,741 other callers including attorneys, carriers, and employers.

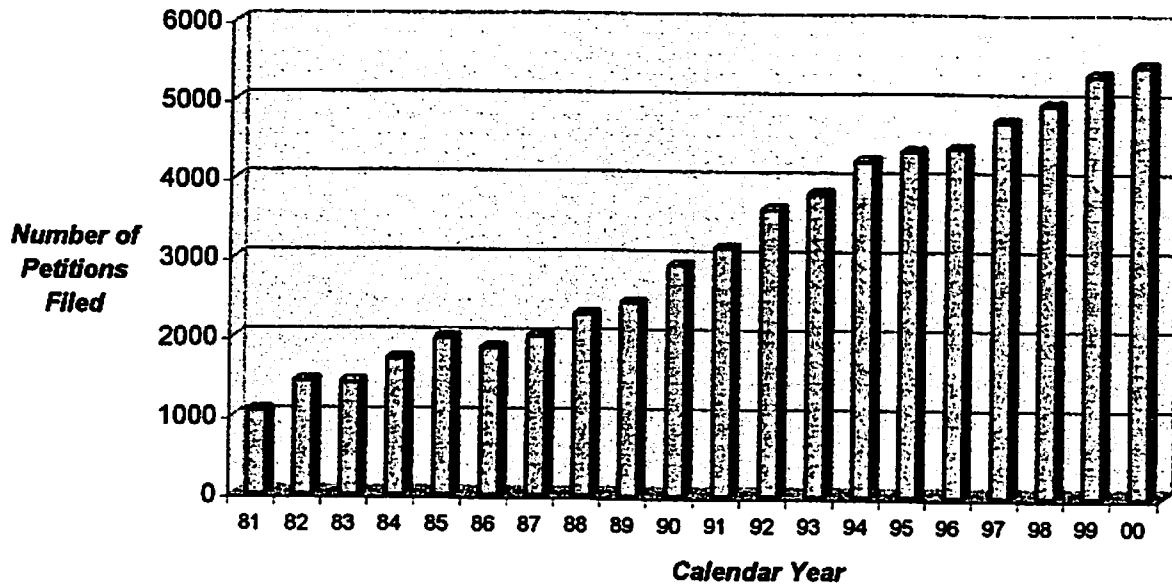
In May 2000, Governor Carper filled two Industrial Accident Board vacancies by appointing Harold B. Barber and John D. Daniello.

Hearing Officers conducted hearings in 731 cases which would otherwise had to have been heard by the Board.

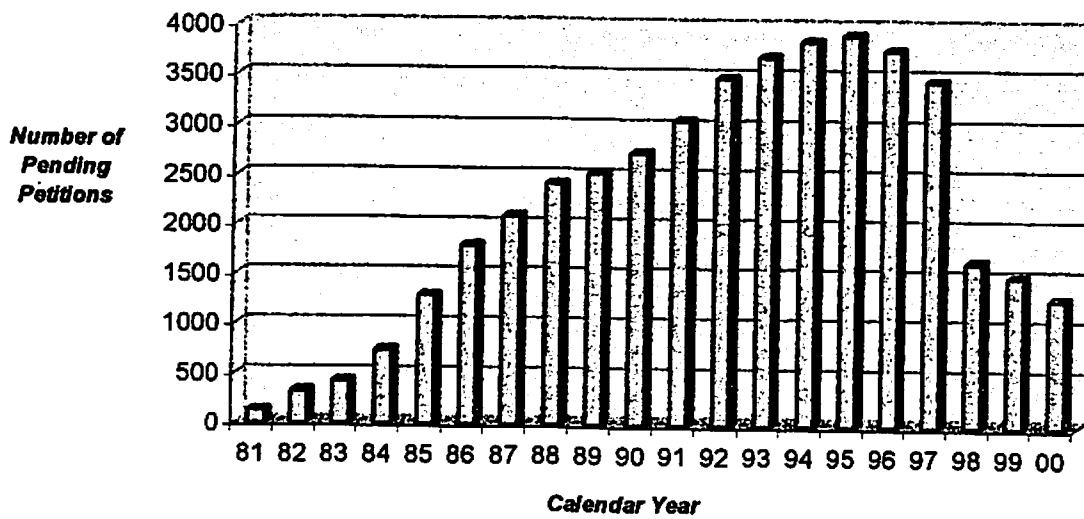
The Workers' Compensation Advisory Council met three times in 2000.

Despite a record number of petitions filed in 2000, the number of pending petitions continued to decline for the fifth year in a row.

### Workers' Compensation Petitions Filed Annually



### Pending Petitions

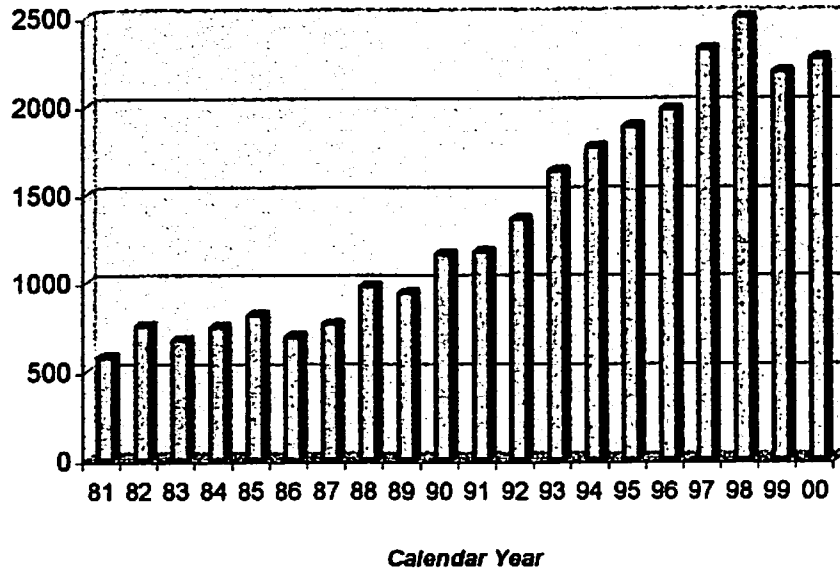


## Petitions Heard by the Board/Hearing Officers

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The number of petitions heard by the Board or by Hearing Officers decreased as shown on the graph below. This is attributable to an increase in the number of settlements prior to hearing.

Petitions Heard by Board or Hearing Officer



## **Continuances**

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During calendar year 2000, a total of 176 continuances were granted (compared with 179 continuances in 1999).

The grounds for the continuances were as follows:

- The unavailability of a party, attorney, material witness or medical witness for reasons beyond their control (illness, conflicting court appearance, emergency) 125
  
- A justifiable substitution of counsel for a party 17

Any unforeseen circumstances beyond the control of the parties:

Employee missed employer-scheduled medical exam	13
Records unavailable for review by parties prior to hearing	4
Defendant(s)/issues added prior to hearing	10
State of Emergency (snow)	2
Board vacated prior order	1
AM hearing ran into PM time slot	2
Board member not available for remand hearing	1
Defense attorney had family emergency	1

## Board Member Activities\*

During 2000, individual Board members were scheduled to conduct hearings on the following number of days:

	Days Scheduled
Barber <sup>1</sup>	119
Daniello <sup>2</sup>	93
Groundland	196
Hastings	167
Levitt	167
Mitchell	178
Robinson	173
Seward	139
Stone <sup>3</sup>	51
Wright	177

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

	Days
Barber <sup>1</sup>	53
Daniello <sup>2</sup>	41
Groundland	117
Hastings	90
Levitt	71
Mitchell	67
Robinson	82
Seward	65
Stone <sup>3</sup>	23
Wright	95

Available for hearings:

<sup>1</sup> Barber 8 out of 12 months

<sup>2</sup> Daniello 8 out of 12 months

<sup>3</sup> Stone 4 out of 12 months

\*Scheduled days versus actual days differ due to case settlements and continuances.

## **Caseload of Individual Hearing Officers**

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<b>Hearing Officer:</b>	<b>Number of Decisions &amp; Orders Written:</b>
L. Anderson	123
C. Baum	178
W. O'Brien	252
J. Schneikart	147
P. Schwartz	197
L. Wilson	163
[J. Polk, Chief]	11



## Compliance with Hearing & Decisional Deadlines

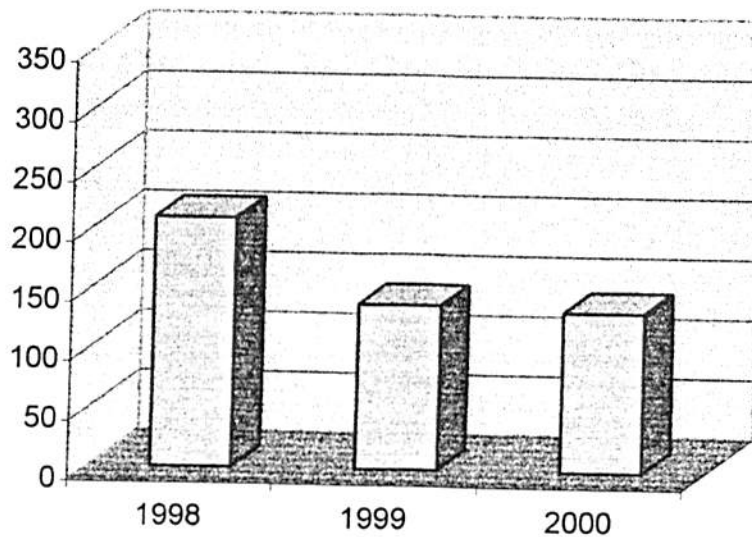
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- 2,735 petitions requiring hearing within 120 days were filed in 2000. Of those 96% were heard or settled within the statutory timeframe. The remaining 4% were not heard within the 120 days due to continuances granted for valid reasons.
- **406** cases requiring a written decision within 14 days from the Board or hearing officers' decision were heard in 2000. The statutory requirements were met in 100% of those cases.

## Analysis of Dispositional Speed

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The 2000 average dispositional speed for processing all petitions (from the filing of the petition to the issuance of the decision) was 134 days (down from 138 days in 1999 and 209 in 1998).



## Summary of Appeals

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During the three years since the Workers' Compensation Improvement Act of 1997 took effect:

- The Board (or hearing officers) have rendered decisions "on the merits" of a case in 1,215 cases.
- 262 of those decisions (21.6%) have been appealed to the Superior Court.
- The Superior Court has reversed the Board/Hearing Officers' decisions in 32 cases. This represents a reversal rate of only 3.6% of all decisions rendered during the three-year period.

### Summary of Appeals

Decisions rendered "on the merits" 12/1/97 to 11/17/00	1,215
Appeals filed in Superior Court:	262
Affirmed	102
Reversed	32
Dismissed/WD	83
Pending	45

## **Departmental Recommendations for Legislative Action or Board Rule Change**

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### **Legislation**

There are two recommendations for legislative change the Department proposes.

- The Department recommends legislation to correct an error in the statute and provide specific guidance as to when penalties may be assessed for failure to pay benefits in a timely manner.
  - The Department also recommends legislation that would remove workers' compensation insurance policy approval from Title 19 (Labor) and place it in Title 18 (Insurance).
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- The Council strongly recommends that the current vacancy on the Industrial Accident Board be promptly filled