

# **State of Delaware Department of Labor**

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## **7th Annual Report on the Status of Workers' Compensation Case Management**

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*February 14, 2005*

*The Department of Labor is proud of the continuing progress in the processing of workers' compensation cases despite another record high number of petitions being filed. The department wants to thank the members of the Industrial Accident Board for their hard work in adjudicating cases, the Workers' Compensation Advisory Council for their contributions and the members of the Delaware General Assembly for their ongoing support.*

*James G. Cagle, Jr., Director  
Division of Industrial Affairs*

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

## **Year in Review 2004**

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The Department of Labor and the Industrial Accident Board (IAB) continue to reduce the pending case inventory despite another record high number of petitions filed. For the first time in the history of the office the number of petitions filed for CY 2004 surpassed 7,200, (a 7% increase from CY 2003.), and a 13% increase from CY 2002.) The actual number of petitions was 7,213.

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, 2005, that number would have been 2,404 but only 549 were pending.

- The workers' compensation specialist assisted 1,470 injured workers (as compared to 1,285 in CY 2003, 1,245 in CY 2002, 1,410 in CY 2001 and 1,290 in CY 2000) in processing their claims for benefits. She also provided technical assistance to 2,427 callers. The other contacts included attorneys, insurance carriers and employers. The agency has had an increase in the number of parties requesting assistance electronically, more than 650 this year.

Hearing officers conducted hearings in 1,533 cases which would otherwise had to have been heard by the IAB, an increase of 10% from CY 2003.

In June 2004 the agency started tracking the turnaround time needed to process a record for decisions appealed to the Superior Court. This tracking was the result of notification from the court that records were required within twenty days. From June 1, 2004 to December 31, 2004 the average time to process the record for appeal was 16.2 days.

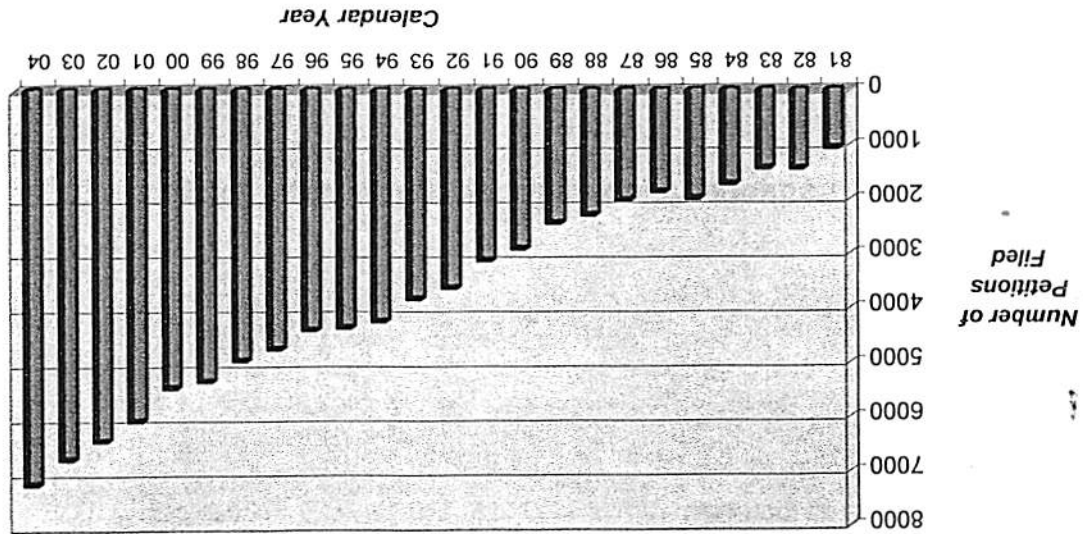
The workers' compensation statute was amended to allow the IAB the authority to require an uninsured employer to deposit a security, indemnity or bond to secure payment of benefits. Governor Minner signed this bill on July 19, 2004.

The Office of Workers' Compensation and the Office of Labor Law Enforcement again expanded their offices located in the Windsor Building, 24 N. W. Front Street, Milford in 2004 thereby increasing customer service efforts for Kent and Sussex County customers.

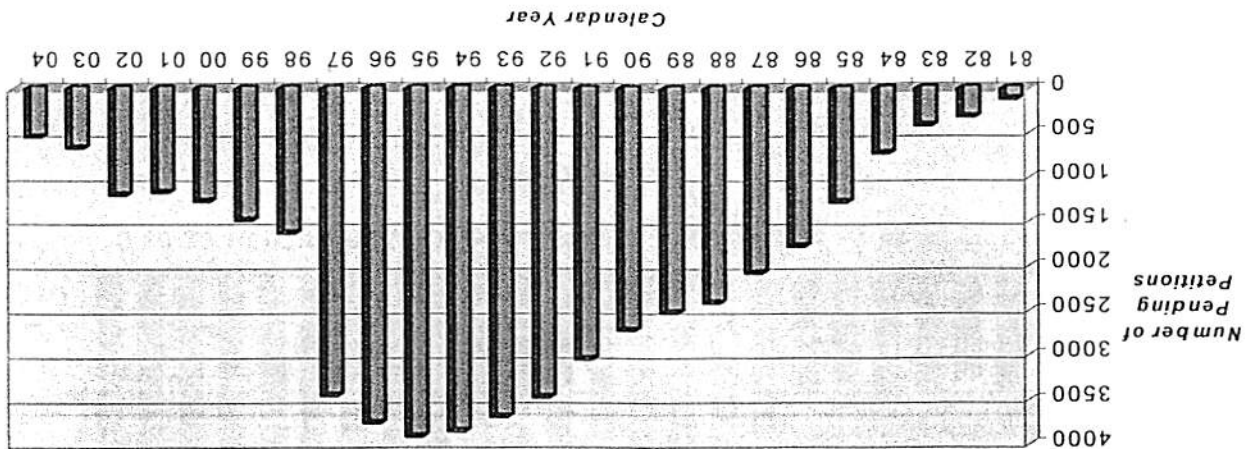
The Worker's Compensation Advisory Council met one time in 2004.

Despite a record number of petitions filed in 2004 (more than 7,200), the agency continues to maintain a "no backlog" of cases.

Workers' Compensation Petitions Filed Annually

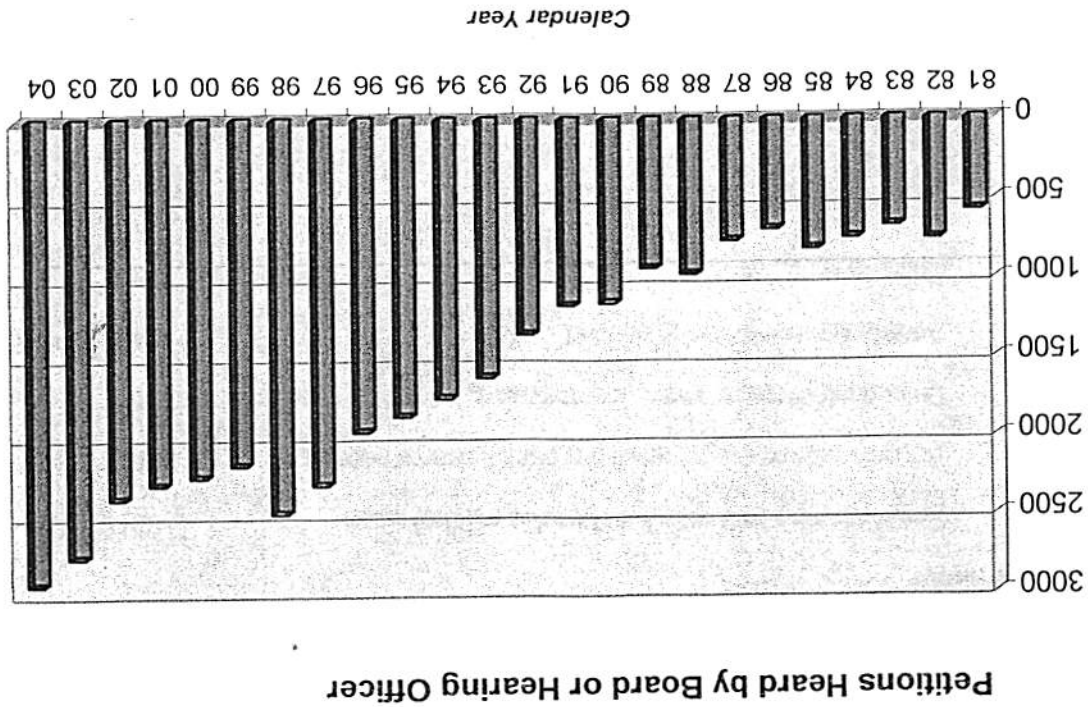


Pending Petitions



## Petitions Heard by the Board/Hearing Officers

The number of petitions heard by the Board or by Hearing Officers increased as shown on the graph below. The number of settlements prior to hearing also continues to increase.



## Continuances

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During calendar year 2004, a total of 323 continuances were granted (compared with 255 continuances in 2003, 193 continuances in 2002, 201 continuances in 2001, 176 continuances in 2000 and 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) 249
- A justifiable substitution of counsel for a party 25
- Any unforeseen circumstances beyond the control of the parties:
  - Employee missed employer-scheduled medical exam 32
  - Records unavailable for review by parties prior to hearing 10
  - Defendant(s)/issues added prior to hearing 5
  - Additional medical testing needed 1
  - Settlement negotiations 1

During 2004, individual board members were scheduled to conduct hearings on the following number of days:

### **Board Member Activities\***

	<b>Days Scheduled</b>
Barber	185
Bowen	70**
Daniello	100
Epolito	167
Groundland	190
Levitt	132
Mitchell, A	141
Murowany	145
Seward	128
Wilson	156

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

	<b>Days</b>
Barber	64
Bowen	40**
Daniello	49
Epolito	56
Groundland	96
Levitt	49
Mitchell, A	69
Murowany	79
Seward	60
Wilson	65

Available for hearings:

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

\*\* Appointed to the IAB on 5/18/04

## **Caseload of Individual Hearing Officers**

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<b>Hearing Officer:</b>	<b>Number of Decisions &amp; Orders Written:</b>
C. Baum	140
J. Bucklin	111
M. Ripple	109
J. Schneikart	97
P. Schwartz	62 *
K. Starr	93
[J. Polk, Chief]	49

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\*Resigned from the agency on 8/31/04



## Compliance with Hearing & Decisional Deadlines

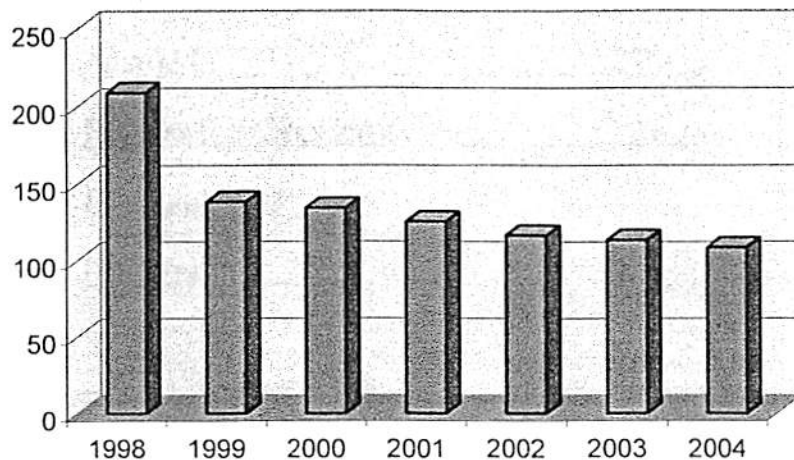
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- **3,845** petitions requiring a hearing within 120 days were filed in 2004. Of those, 94% were heard or settled within the statutory timeframe. The remaining 6% were not heard within the 120 days due to continuances granted for valid reasons.
- **436** cases requiring a written decision within 14 days from the Board or hearing officers' decision were heard in 2004. The statutory requirements were met in 93% of those cases.

## Analysis of Dispositional Speed

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The 2004 average dispositional speed for processing all petitions (from the filing of the petition to the issuance of the decision) was **108** days (down from 113 days in 2003, 116 days in 2002, 125 days in 2001, 134 days in 2000, 138 days in 1999 and 209 in 1998).



## Summary of Appeals

(Status of appeals taken as of December, 2004)

Since the Workers' Compensation Improvement Act of 1997 took effect, the Board (or Hearing Officers) have rendered 3068 decisions on the merits. 647 of those decisions (21.1%) were appealed (an average of 92.4 per year). 584 of those appeals have been resolved. Only 94 have been reversed and/or remanded, in whole or in part. This represents a "reversal rate" of only 3.06% of all decisions rendered.

<u>Year Appeal Taken In</u>	<u>1998-99</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
<u>Total Number of Decisions:</u>	962	406	402	422	440	436
<u>Total Number of Appeals:</u>	188	83	91	109	86	90
<u>Affirmed:</u>	98	35	46	45	41	10
<u>Reversed and/or Remanded:</u>	27	15	18	20	12	2
<u>Dismissed/Withdrawn:</u>	63	33	27	43	27	22
<u>Pending:<sup>1</sup></u>	0	0	0	1	6	56

### CUMULATIVE

<u>Total Number of Decisions:</u>	3068
<u>Total Number of Appeals:</u>	647
<u>Affirmed:</u>	275
<u>Reversed and/or Remanded:</u>	94
<u>Dismissed/Withdrawn:</u>	215
<u>Pending:</u>	63

<sup>1</sup> For purposes of these statistics, an appeal is no longer considered "Pending" once a Superior Court decision has been issued. Some Superior Court decisions have been appealed to the Delaware Supreme Court. If a Supreme Court decision is different from that given by the Superior Court, the statistics will be updated to reflect the final holding. Therefore, for example, while no cases are "Pending" from 2000, some of those appeal results may change in the future because of decisions by the Supreme Court.

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

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## **Legislation**

The Department of Labor proposes no legislative change at this time.