

State of Delaware Department of Labor

8th Annual Report on the Status of Workers' Compensation Case Management

February 17, 2006

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 2005

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 2005 surpassed 7,600, (a 6% increase from CY 2004), and a 12% increase from CY 2003.) The actual number of petitions was 7,672.

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, 2006, that number would have been 2,557 but only 568 were pending.

The workers' compensation specialist assisted 1,422 injured workers (as compared to 1,470 in CY 2004, 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 2,758 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 1030 this year, an increase of 38% from CY 2004.

Hearing officers conducted hearings in 1,628 cases which would otherwise had to have been heard by the IAB, an increase of 6% from CY 2004.

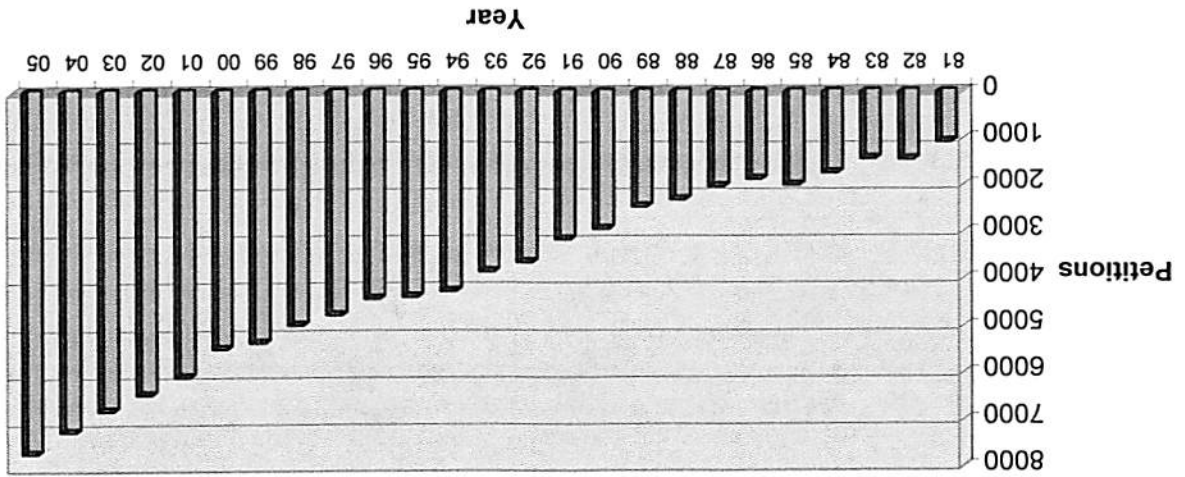
In June 2004 the agency started tracking the turnaround time needed to process a record for decisions appealed to the Superior Court. This tracking was the result of notification from the court that records were required within twenty days. From June 1, 2004 to December 31, 2004 the average time to process the record for appeal was 16.2 days. The average time for CY 2005 was 15.1 days.

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.

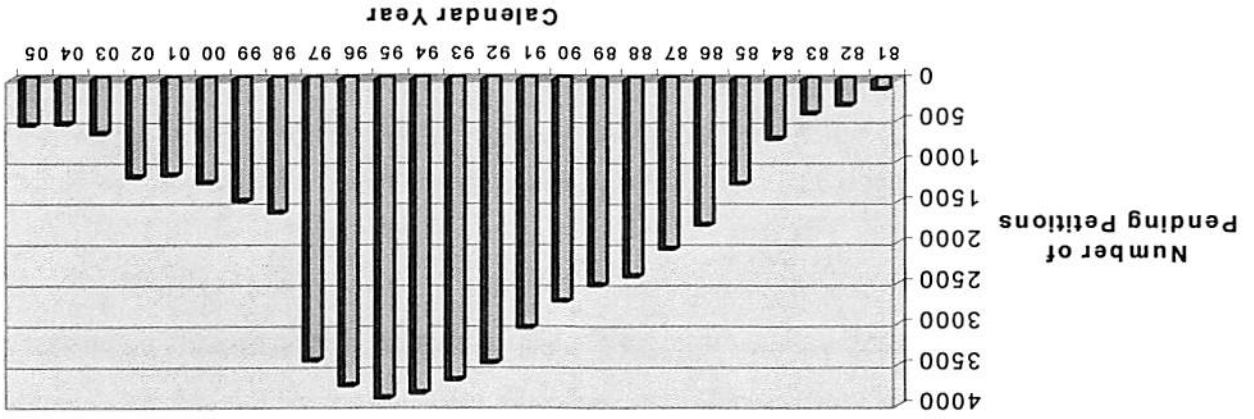
At the request of Governor Minner, Secretary of Labor Sharp met with the Worker's Compensation Advisory Council four times in 2005. The purpose of the meetings was to make recommendations to the governor regarding workers' compensation reform.

Despite a record number of petitions filed in 2005 (more than 7,600), the agency continues to maintain a "no backlog" of cases.

Workers' Compensation Petitions Filed Annually



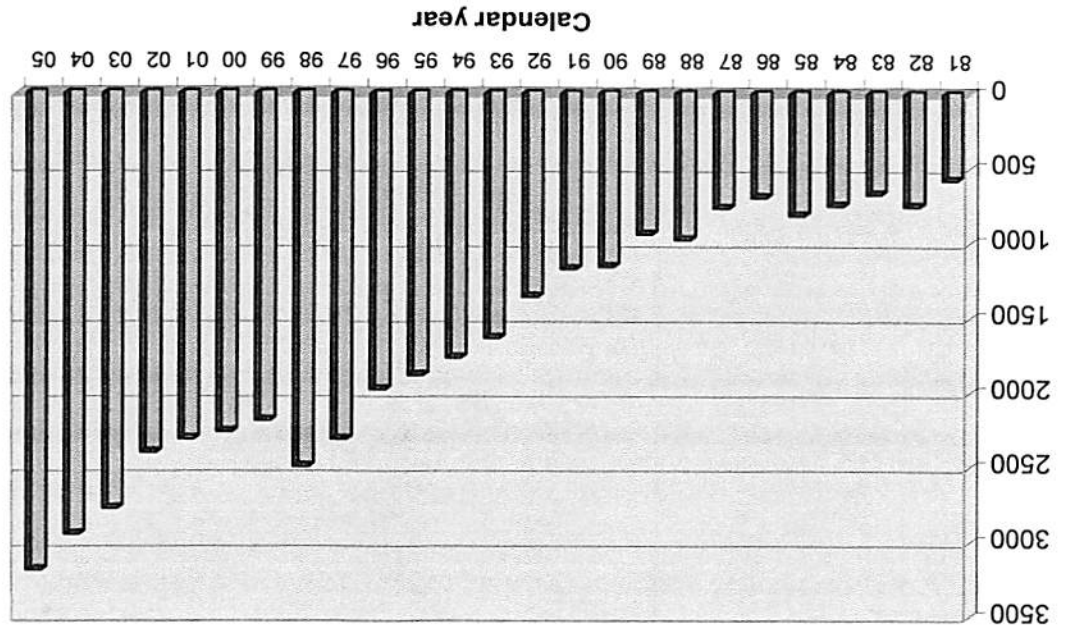
Pending Petitions



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.

Petitions Heard by Board and Hearing Officers



Continuances

During calendar year 2005, a total of 452 continuances were granted (compared with 323 continuances in 2004, 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) 361

- A justifiable substitution of counsel for a party 15

- Any unforeseen circumstances beyond the control of the parties:
 - Employee missed employer-scheduled medical exam 49
 - Records unavailable for review by parties prior to hearing 13
 - Defendant(s)/issues added prior to hearing 14

During 2005, individual board members were scheduled to conduct hearings on the following number of days:

Board Member Activities*

	Days Scheduled
Barber	172
Bowen	113
Daniello	145
Epolito	159
Groundland	194
Levitt	132
Mitchell, A	131
Murowany	150
Seward	116
Shannon	0**
Wilson	29***

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

	Days
Barber	74
Bowen	48
Daniello	65
Epolito	69
Groundland	111
Levitt	46
Mitchell, A	69
Murowany	74
Seward	47
Shannon	2**
Wilson	13***

Available for hearings:

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

** Appointed to the IAB on 11/05/05

*** Resigned from the IAB on 6/30/05

Caseload of Individual Hearing Officers

Hearing Officer:	Number of Decisions & Orders Written:
C. Baum	139
J. Bucklin	57*
S. Mack	76
M. Ripple	71****
J. Schneikart	98
K. Starr	75**
[J. Polk, Chief]	49***
 Contract Attorneys:	
L. Anderson	6
W. O'Brien	19

*Extended medical leave from 1/1-6/13/06

** Resigned from agency on 9/9/05

*** Resigned from agency on 9/30/05

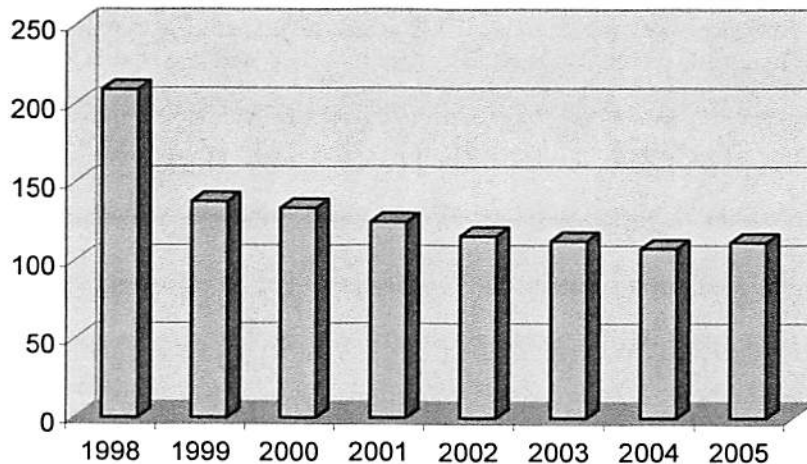
****Military Leave from 6/6/05 to 8/31/05

Compliance with Hearing & Decisional Deadlines

- **4159** petitions requiring a hearing within 120 days were filed in 2005. 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.
- **477** cases requiring a written decision within 14 days from the Board or hearing officers' decision were heard in 2005. The statutory requirements were met in 90% of those cases.

Analysis of Dispositional Speed

The 2005 average dispositional speed for processing all petitions (from the filing of the petition to the issuance of the decision) was **112** days (108 days in 2004, 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 31, 2005)

In the last five years, the Board (or Hearing Officers) has rendered 2152 decisions on the merits. 477 of those decisions (22%) were appealed (an average of 95.4 per year.) 407 of those appeals have been resolved. Only 71 decisions have been reversed and/or remanded, in whole or in part. This represents a "reversal rate" of only 3% of all decisions rendered in those five years.

<u>Year Appeal Taken In</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
<u>Total Number of Decisions:</u>	402	422	440	436	452
<u>Total Number of Appeals:</u>	91	109	86	89	102
<u>Affirmed:</u>	46	46	43	39	20
<u>Reversed and/or Remanded:</u>	18	20	16	16	1
<u>Dismissed/Withdrawn:</u>	27	43	27	28	17
<u>Pending:ⁱ</u>	0	0	0	6	64

CUMULATIVE

<u>Total Number of Decisions:</u>	2152
<u>Total Number of Appeals:</u>	477
<u>Affirmed:</u>	194
<u>Reversed and/or Remanded:</u>	71
<u>Dismissed/Withdrawn:</u>	142
<u>Pending:</u>	70

ⁱ 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 2003, 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

Legislation

The Department of Labor has met each month beginning in September 2005 with the Workers' Compensation Advisory Council. A report will be submitted to the Governor with recommendations on improving Delaware's workers' compensation system no later than the end of the current legislative session.