



State of Delaware Department of Labor

**9th Annual Report
on the
Status of Workers'
Compensation
Case Management**

February 12, 2007

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 2006

Secretary of Labor Sharp met with the Workers' Compensation Advisory Council five times in 2006. The purpose of the meetings was to make recommendations to the Governor regarding workers' compensation reform. A bill was presented to the council in May 2006; however, it did not receive the support of the majority of the council. The bill (Senate Bill 362) was introduced in the Senate small business committee in June 2006. It was not brought out of committee for debate before the end of the legislative session.

In August 2006 a working group consisting of members of the administration and members of the labor, business, legal, and medical communities began to meet to develop a compromise bill for workers' compensation reform. On December 11, 2006, the group recommended a proposed bill that featured indemnity, other non-medical, medical and rate filing reform provisions.

The Office of Workers' Compensation entered into a contract to redesign its automated computer system for case processing. The system, *Scheduling Case Management Accounting Reporting System (SCARS)*, is a web based system and is scheduled to replace the existing system in early 2007.

The Office of Workers' Compensation relocated the Industrial Accident Board hearing rooms from the Carvel State Office Building to the Fox Valley office in November 2006. The move has reduced parking and travel costs and allows for better service to injured workers by making other Department of Labor services available at the same site.

The Department of Labor and the Industrial Accident Board (IAB) continue to reduce the pending case inventory despite the high number of petitions filed. The actual number of petitions in calendar year 2006 was 7,553.

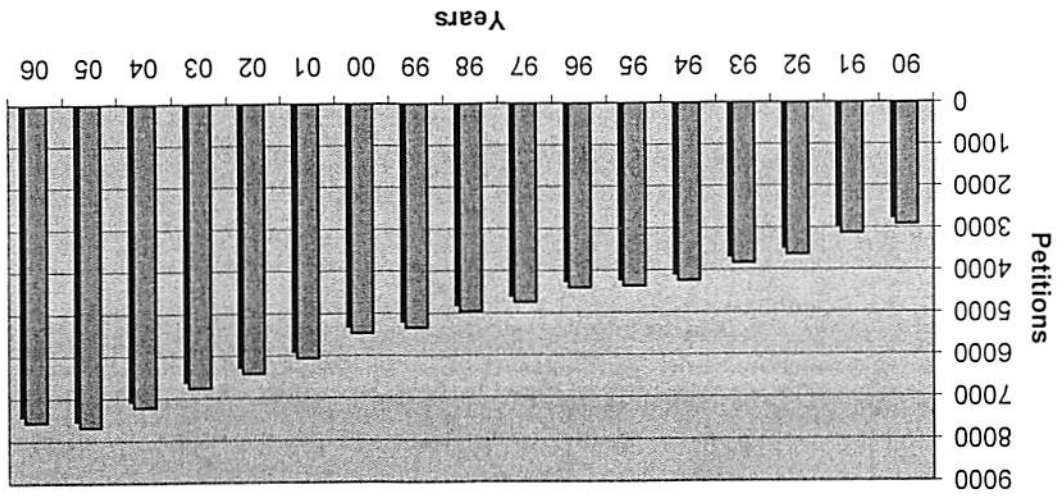
The Office of Workers' Compensation continues to maintain its "no backlog" status. A "backlog" is defined as more than four months worth of petitions. As of January 1, 2007, that number would have been 2,519 but only 387 were pending.

The workers' compensation specialists assisted 1,552 injured workers (as compared to 1,422 in CY 2005, 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. They also provided technical assistance to 10,447 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 12,136 this year, an increase of 11,106 over CY 2005.

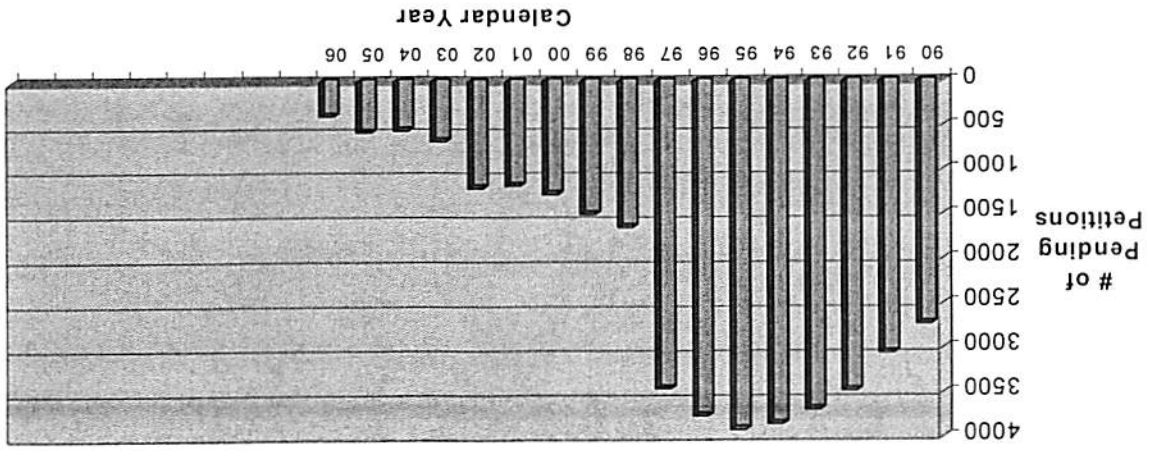
Hearing officers conducted hearings in 1,502 cases which would otherwise had to have been heard by the IAB, a decrease of 8% from CY 2005.

Despite the high number of petitions filed in 2006 (more than 7,500), the agency continues to maintain a "no backlog" of cases.

Workers' Compensation Petitions Filed Annually



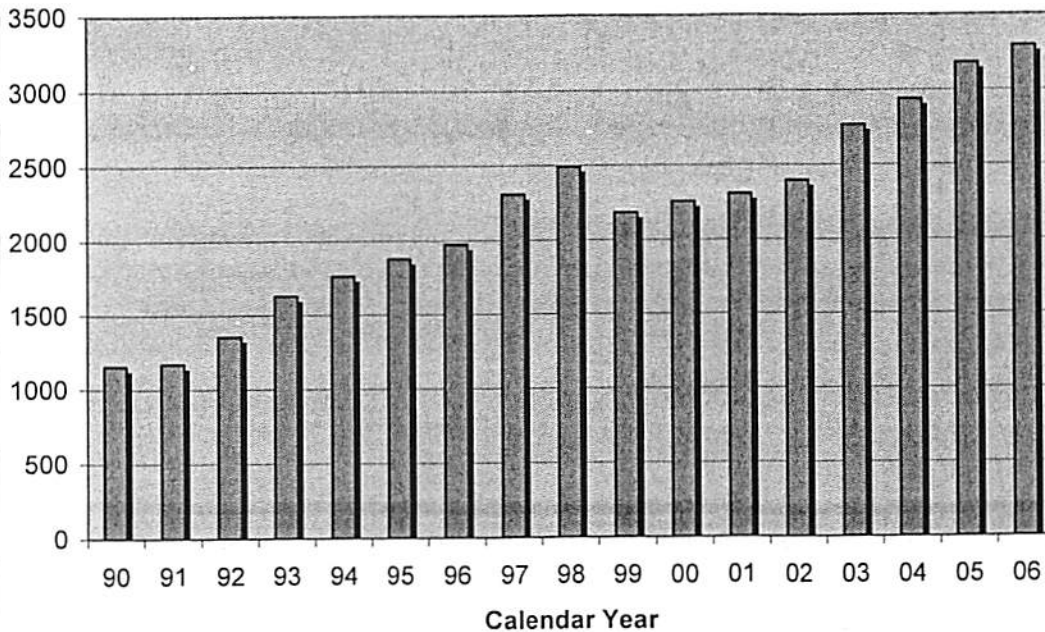
Pending Petitions



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 2006, a total of 424 continuances were granted (compared with 452 continuances in 2005, 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) 359

- A justifiable substitution of counsel for a party 11

- Any unforeseen circumstances beyond the control of the parties:
 - Employee missed employer-scheduled medical exam 34
 - Records unavailable for review by parties prior to hearing 10
 - Defendant(s)/issues added prior to hearing 4
 - Additional medical testing 2
 - Relocation of hearing rooms 4

During 2006, individual board members were scheduled to conduct hearings on the following number of days:

Board Member Activities*

	Days Scheduled
Barber	162
Bowen	140
Daniello	126
Epolito	113
Groundland	172
Levitt	100
Mitchell, A	122
Murowany	143
Seward	90
Shannon	109

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

	Days
Barber	134
Bowen	93
Daniello	76
Epolito	68
Groundland	104
Levitt	74
Mitchell, A	63
Murowany	78
Seward	43
Shannon	74

Available for hearings:

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

Caseload of Individual Hearing Officers

Hearing Officer:	Number of Decisions & Orders Written:
L. Anderson	67
J. Bucklin	104
S. Mack	89
N. Palladino	77*
M. Ripple	61**
J. Schneikart	98
[C. Baum, Chief]	116
Contract Attorneys:	
W. O'Brien	28

*Extended medical leave from 4/19-6/19/06

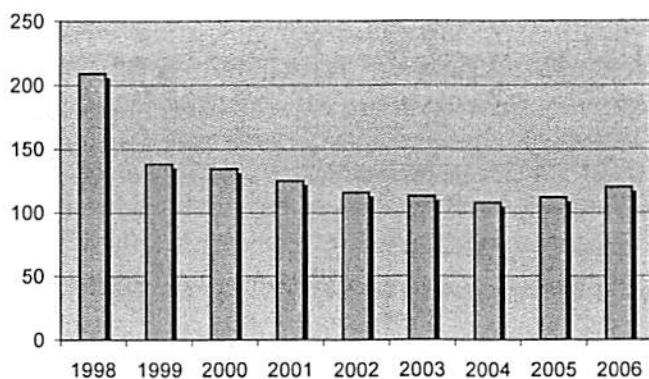
** Resigned from agency on 12/1/06

Compliance with Hearing & Decisional Deadlines

- **3815** petitions requiring a hearing within 120 days were filed in 2006. 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.
- **485** cases requiring a written decision within 14 days from the Board or hearing officers' decision were heard in 2006, which is an increase over prior years (477 in 2005; 436 in 2004). The agency did not meet the 14-day requirement in all cases, despite the fact that more written decisions were issued (459) than in any of the prior five years. This delay is attributable to problems associated with personnel vacancies (including extended medical leaves) and because appellate court rulings have required a greater degree of sophistication in the decisions. The greater time devoted to writing the decisions, however, has resulted in another benefit: In 2006, a record low number of decisions were appealed to Superior Court (only 69, compared to the previous average of over 90 appeals),

Analysis of Dispositional Speed

The 2006 average dispositional speed for processing all petitions (from the filing of the petition to the issuance of the decision) was **120** days (112 days in 2005, 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, 2006)

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>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
<u>Total Number of Decisions:</u>	422	440	436	452	459
<u>Total Number of Appeals:</u>	109	86	89	101	69
<u>Affirmed:</u>	46	43	41	62	9
<u>Reversed and/or Remanded:</u>	20	16	19	8	3
<u>Dismissed/Withdrawn:</u>	43	27	29	28	17
<u>Pending:ⁱ</u>	0	0	0	3	40

CUMULATIVE

<u>Total Number of Decisions:</u>	2209
<u>Total Number of Appeals:</u>	454
<u>Affirmed:</u>	201
<u>Reversed and/or Remanded:</u>	66
<u>Dismissed/Withdrawn:</u>	144
<u>Pending:</u>	43

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

Board Rule Change

The Department of Labor will meet with the Industrial Accident Board in 2007 to assist in amending the board rules to comply with the new statute.