

New York State
Workers' Compensation Board

20
22

Annual Report

Kathy Hochul, Governor
Clarissa M. Rodriguez, Chair



Workers'
Compensation
Board

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Executive Summary



The New York State Workers' Compensation Board (Board) is pleased to submit its 2022 Annual Report. Pursuant to Workers' Compensation Law § 153, this report details the Board's work in hearing and deciding cases and related aspects of the Board's operations, including the assembly and adjudication of workers' compensation claims and payer compliance.

The Board is a special revenue agency that acts as the "court system" for a \$10 billion annual workers' compensation program. The Board ensures that wage replacement and medical benefits are paid in a timely manner, consistent with laws and regulations governing workers' compensation, volunteer firefighters, ambulance and civil defense workers, disability benefits, and as of January 2018, New York State's Paid Family Leave program.

In 2022, the Board made major strides in its modernization efforts, medical treatment guidelines, and meeting the needs of injured workers and employers, all while responding to issues and improvement opportunities highlighted by the ongoing pandemic. Maximum weekly benefits for injured workers rose to their highest levels to date¹, while employers continued to see lower assessment rates² and lower premium levels, which were affected by the COVID-19 pandemic, when fewer people were working and there were fewer on-the-job injuries and accidents.

Maximum weekly benefit reaches \$1,125.46

Calendar year	2019	2020	2021	2022	2023
Assessment rate	12.6	12.2	11.8	10.2	9.8

The Board successfully implemented the first release of its new business information system, OnBoard, moving several paper-based processes for health care providers and payers online. The Board continued making improvements to ensure high-quality, accessible health care for New York's injured workers, and expanded outreach to help workers and employers understand their rights and responsibilities. Amid the continued and evolving pandemic, the Board developed new resources to assist workers affected by work-related COVID-19 and long COVID. The Board also continued leveraging its virtual hearings system to ensure uninterrupted and timely flow of benefits to injured workers.



¹ <http://www.wcb.ny.gov/content/main/Workers/ScheduleMaxWeeklyBenefit.jsp>

² http://www.wcb.ny.gov/content/main/SubjectNos/sn046_1559.jsp

Claims



CLAIMS OVERVIEW

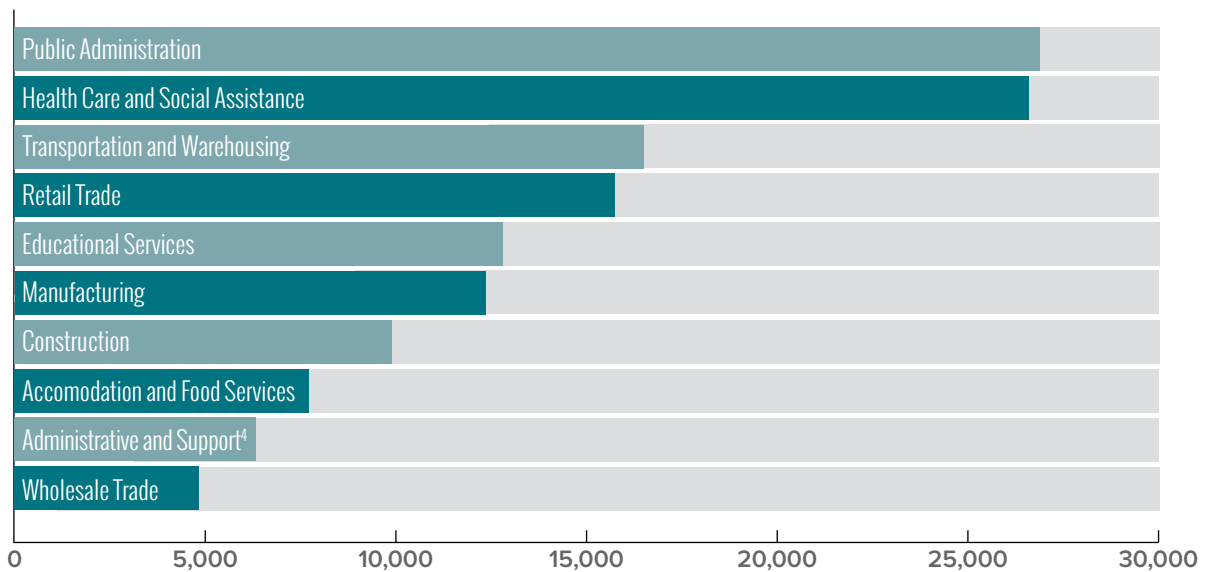
In 2022, the Board received nearly 11 million claims documents, filed by a variety of system stakeholders, including health care providers, injured workers, employers, attorneys, and insurers.

The number of claims assembled and designated complete in 2022 totaled 161,808. To be considered a complete claim, the Board must receive a formal notice of the injury from the insurer and a qualifying medical document. While still lower than pre-pandemic levels, the number of claims has been rising since 2020, when the Board recorded the lowest count of claims since the 2014 implementation of eClaims auto-assembly.

Claims by Industry

Public Administration, Health Care and Social Assistance, and Transportation and Warehousing were the three industries³ producing the most workers' compensation claims in 2022. The claims represented in the top 10 industries made up 85.7% of the total claims assembled in 2022.

Claims Assembled in 2022 by NAICS Industry (Top 10)



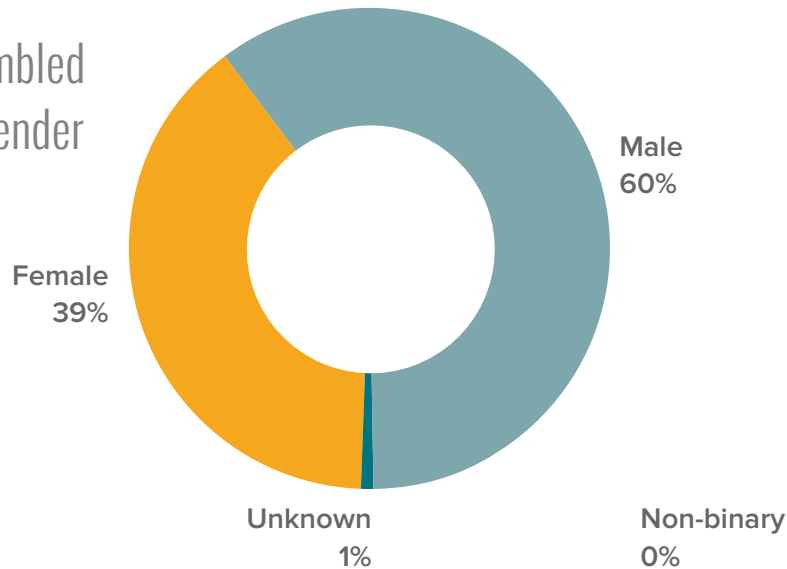
³ The North American Industry Classification System (NAICS) is the standard used by federal statistical agencies in classifying business establishments. Industry codes are reported to the Board through eClaims (the Board's implementation of the IAIABC FROI/SROI EDI standard). Industry codes are accepted "as is" and are not modified by the Board.

⁴Administrative and Support and Waste Management and Remediation

Claims by Gender

In 2022, males accounted for 60% of claims and females accounted for 39%. The injured worker's gender was unknown on 1% of claims, and 0.01% of claims were from injured workers who identified as non-binary.

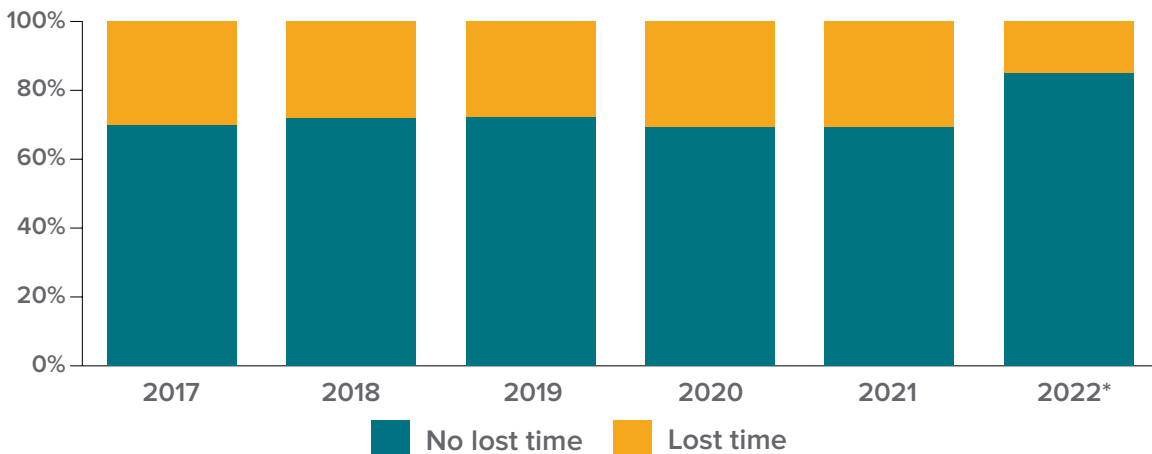
Claims assembled in 2022 by gender



Claims by Type

A workers' compensation claim may be submitted for medical treatment and for lost time (replacement of lost wages) due to a claimant's work-related injury or illness. Generally, as claims mature year to year, and additional documentation is received, the number of claims with lost time increases. While the 2022 claims are not yet mature enough to show the true breakdown of claims with or without lost time, the share of claims with no lost time was slightly lower in 2020 and 2021 compared to previous years.

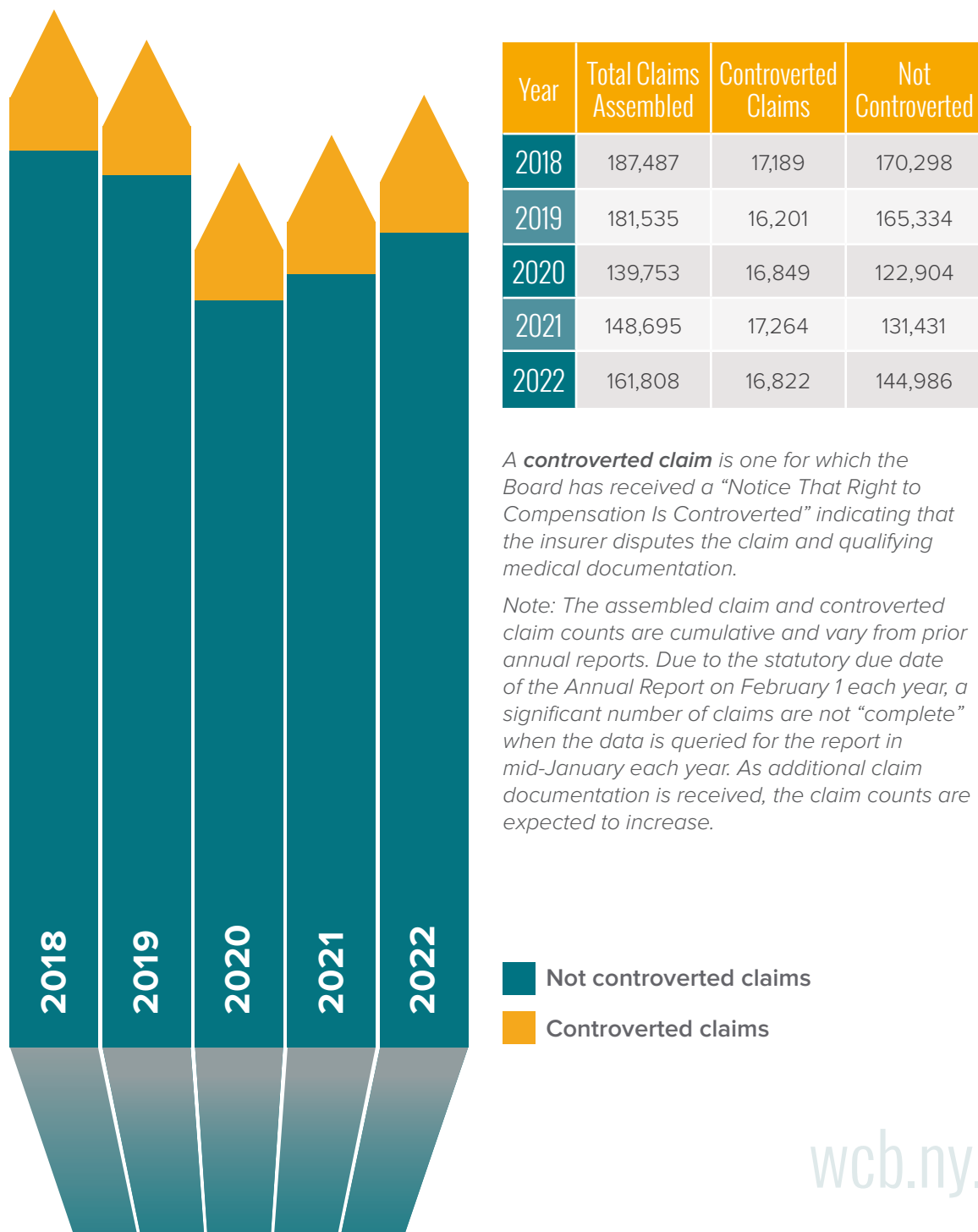
Assembled claims with lost time vs. no lost time by assembled year



*Claims for 2022 are not yet fully mature. The number of claims with lost time will increase over time, as supporting documentation is added and benefits are awarded.

Although workers' compensation is a no-fault insurance system, insurance carriers and self-insured employers dispute or "controvert" the injured worker's eligibility for workers' compensation benefits in a small number of cases. When a claim is disputed, the Board strives to resolve it within 90 days through its expedited hearing process. An important step in that process is scheduling pre-hearing conferences, ideally within 30 days. In 2022, the Board's median time frame for scheduling pre-hearing conferences for controverted claims was within 28 days of receiving a complete claim.

Claims assembled – Controverted vs. not controverted from 2018-2022



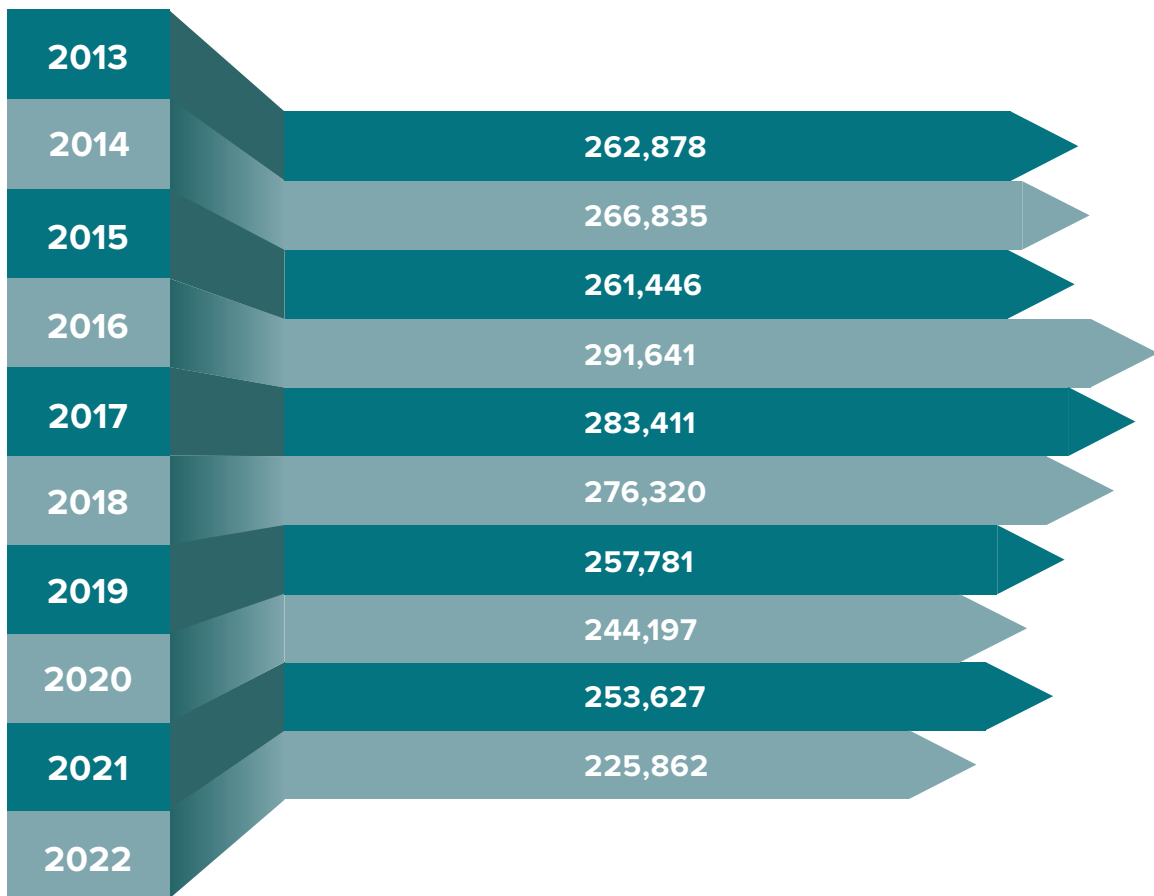
Hearings



HEARINGS HELD

In 2022, the Board held 225,862 hearings, all conducted remotely through the virtual hearings system as hearing points remained closed to the public. The dip in the number of hearings was largely attributable to staff shortages, which the Board partially mitigated toward the end of the year with the hiring of 14 new Workers' Compensation Law Judges. The new judges were onboarded and trained in the fall and slated to be scheduled for cases in early 2023. As these judges reach a full caseload over time, the Board anticipates the number of hearings will increase, bringing the counts closer to prior year levels.

Number of hearings held from 2013 to 2022



Resolution Process



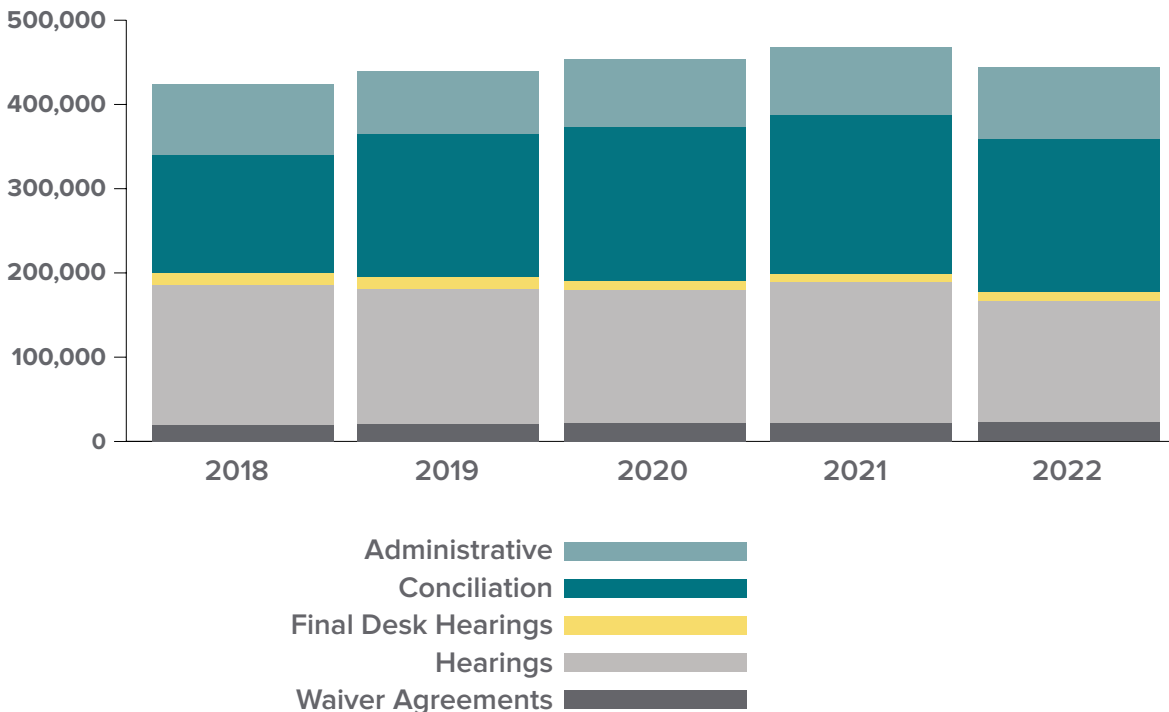
RESOLUTION PROCESS

The Board adjudicates claims either formally or informally. Formal resolution is achieved via an actual hearing in front of a Workers' Compensation Law Judge. In 2022, the Board held over 225,000 hearings. In approximately 67% of those hearings, all issues presented were resolved at the hearing.

Informal resolution includes administrative actions such as issuing desk decisions and proposed decisions based on the submitted documents. The types of issues that are treated as informal resolutions include, but are not limited to, legal objections to medical bills, penalties, procedural decisions on schedule loss development, and undisputed periods of lost time.

In 2022, over 62% of resolutions were resolved through informal methods, including Conciliation, which is used to resolve issues that do not warrant a formal hearing before a Workers' Compensation Law Judge. Conciliation decisions remained high due to a concerted effort to route as many issues as feasible through this process. Using informal resolution methods allows the Board to spend more time on formal hearings for more complex disputes. Resolving a case may take more than a single hearing or informal decision. In total, the Board issued 444,140 claim resolutions over the course of the year.

Claim resolution by Board processes 2018 to 2022



Claim resolution by Board processes 2018 to 2022

CLAIM RESOLUTIONS	RESOLUTION YEAR				
	2018	2019	2020	2021	2022
Informal	237,872	259,123	273,596	279,412	277,084
Administrative	83,518	75,603	79,891	80,466	84,759
Conciliation	140,293	168,940	183,180	189,475	182,654
Final Desk Determinations	14,061	14,580	10,525	9,471	9,671
Formal	185,466	180,520	179,700	188,894	167,056
Hearings	166,301	159,513	157,657	166,865	144,690
Waiver Agreements	19,165	21,007	22,043	22,029	22,366
TOTAL	423,338	439,643	453,296	468,306	444,140

Administrative includes Administrative Determinations, Administrative Closures, and Claim Consolidations.

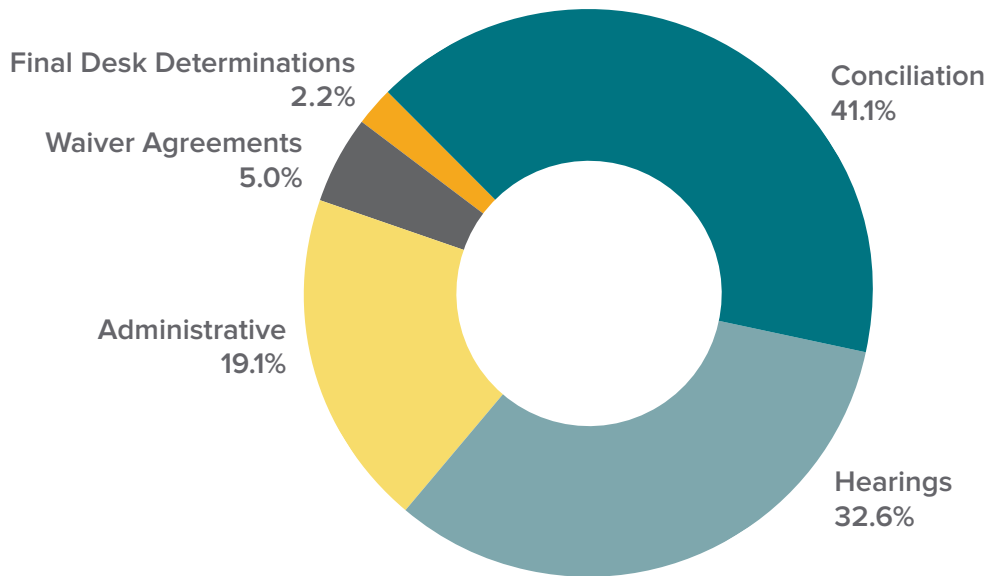
Conciliation provides an informal and prompt resolution of the claim based upon the cooperation of both parties: the injured worker and the insurance carrier/self-insured employer.

Final Desk Determinations reflect resolutions outside the hearing process, which include the following types of Board decisions: Notice of Stipulated Decision (Non-Schedule Loss), Notice of Stipulated Decision (Schedule Loss), Desk Decision Death with Dependents, Desk Decision Death without Dependents, and Proposed Decision (Section 32). The Proposed Decision (Section 32) waiver agreement has been in effect since March 1, 2016. The stipulation agreements have been in effect since November 2, 2016.

A claim resolved by the **hearing** process is one in which a judge has determined that no further action by the Board is necessary at the conclusion of the hearing; this includes pre-hearing conferences. A pre-hearing conference provides a mechanism for the identification of issues and relevant evidence and permits parties of interest to assess their case and to resolve outstanding issues prior to scheduling a hearing regarding those issues. The count of hearings also includes Administrative and Full Board Review resolutions.

Waiver agreements settle any or all issues in a claim for workers' compensation benefits, subject to the Board's approval.

Claim resolution by Board processes in 2022



CLAIM RESOLUTIONS	NUMBER OF RESOLUTIONS	PERCENTAGE OF RESOLUTIONS
Informal	277,084	62.4%
Administrative	84,759	19.1%
Conciliation	182,654	41.1%
Final Desk Determinations	9,671	2.2%
Formal	167,056	37.6%
Hearings	144,690	32.6%
Waiver Agreements	22,366	5.0%
TOTAL	444,140	100.0%

Terms in chart are defined under the Claim Resolution by Board Processes 2018-2022 chart, above.

Administrative Appeals

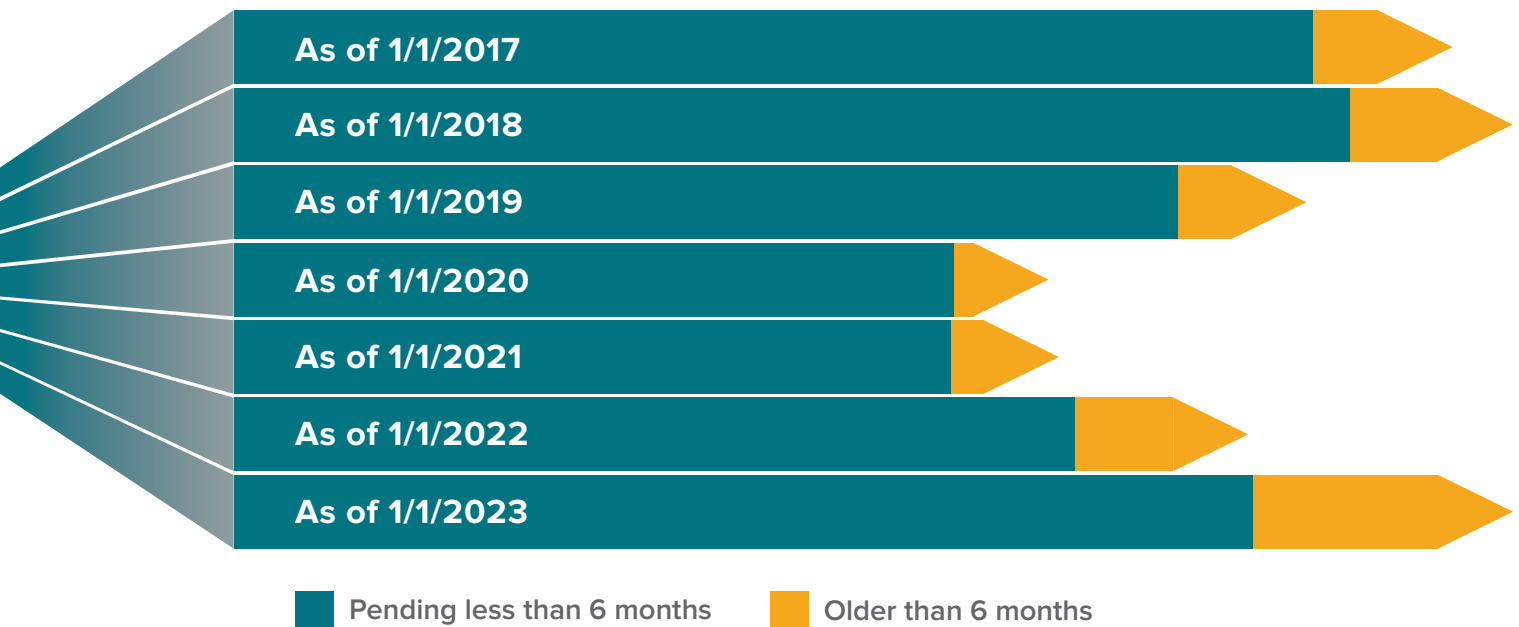


ADMINISTRATIVE APPEALS

If either party disagrees with a judge's decision, they may request review of the decision by a panel of three Board Members. The prompt resolution of these appealed claims has remained a focus for the Board.

As of January 1, 2023, 81% of the appealed claims were pending less than six months, and the overall inventory of appeals stood at 4,842. While these numbers represent a slight dip in prompt resolution of appeals and a corresponding increase in inventory, they remain a significant improvement compared to 2016, when just 67% of appealed claims were pending less than six months and the Board started the year with an inventory of 6,740 appeals. The inventory as of January 1, 2023 was slightly higher than recent years due to a number of factors, including staff shortages, cases on hold pending Court of Appeals action, extensive review of COVID-19 decisions, and a December 2021 amendment to the Workers' Compensation Law that allows appellants extra time to submit information on incomplete appeals.

Appealed claims inventory

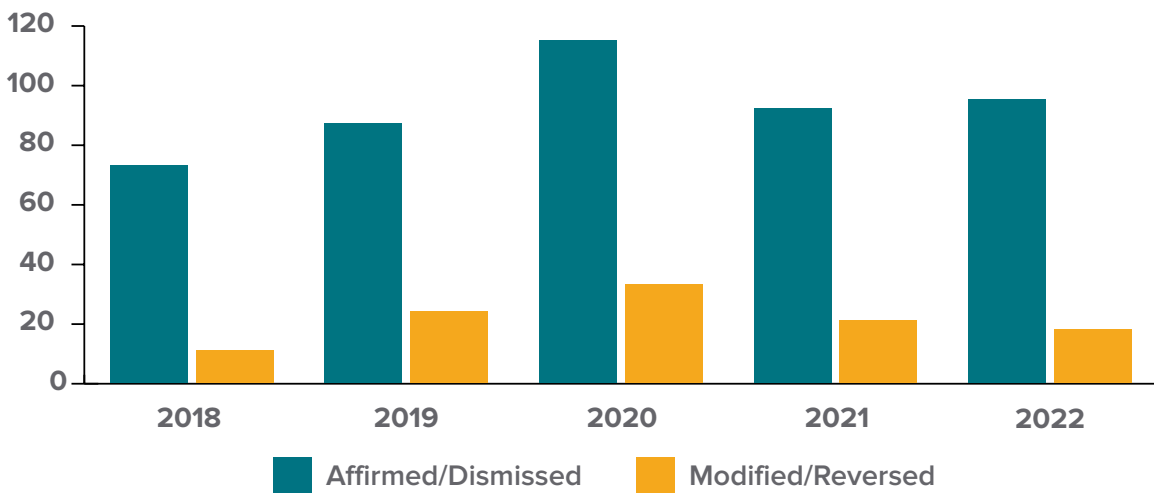


AS OF DATE	INVENTORY	OLDER THAN 6 MONTHS	PERCENTAGE PENDING LESS THAN 6 MONTHS
1/1/2017	4,547	315	93%
1/1/2018	4,840	430	91%
1/1/2019	3,834	262	93%
1/1/2020	2,575	96	96%
1/1/2021	2,626	162	94%
1/1/2022	3,550	481	87%
1/1/2023	4,842	903	81%

Age is measured from the application date of the administrative review. Accuracy of age depends on availability and accuracy of the “Appeal Application Date” of the claim. Note that approximately one third of the appeals older than six months as of 1/1/2023 are attributable to COVID-19 reviews, Court of Appeals cases, or WCL 23-a.

If either party disagrees with a Board panel decision, they may appeal the case to the State of New York Supreme Court, Appellate Division, Third Department. Of the 113 appeals decided by the Third Department in 2022, 84% were affirmed or dismissed, and just under 16% were modified or reversed.

Appellate decisions by year



Board Progress on Key Initiatives



MODERNIZING AND MOVING KEY PROCESSES ONLINE

Through the multi-year OnBoard modernization program, the Board is moving New York's paper-based workers' compensation system online, making it easier for system stakeholders to interact with one another and the Board, and increasing efficiency in getting benefits to injured workers.

In May 2022, the Board launched the first phase of its new business information system, OnBoard: Limited Release. Since then, health care providers and payers have been using OnBoard to submit, review, and approve prior authorization requests (PARs) for medical treatment. Providers are also using it to submit requests for decisions on unpaid medical bills. By year-end, more than 522,100 PARs successfully flowed through the new system. Additionally, 128,500 requests for decisions on unpaid medical bills were submitted through OnBoard. Moving these processes online has improved accuracy and completeness of data, while also eliminating the need for the Board to scan and process hundreds of thousands of paper forms.

Over time, OnBoard is expected to eliminate the scanning of more than **900,000** documents and forms per year.

RESPONDING TO COVID-19

As the pandemic continued to affect employers and workers throughout 2022, the Board maintained measures to keep both Board staff and the public safe, while also partnering with Governor Hochul to raise awareness of new resources to help workers affected by work-related COVID-19.

All workers' compensation hearings — approximately 950 each day — were held remotely, using the Board's virtual hearings system. This enabled injured workers, payers, attorneys, and other parties to attend hearings via their computer or mobile device.

Recognizing the importance and success of telemedicine as an effective option for treatment, the Board provided for telemedicine through emergency regulations and continued efforts on a regulation to make telehealth a permanent part of the workers' compensation system.

With the support and partnership of the Governor, the Board launched an extensive outreach campaign to aid workers who have long COVID with filing workers' compensation claims. This included a press release, a new series of free educational webinars on COVID-19 and workers' compensation, and the creation of patient-focused materials distributed to long COVID clinics and health care providers.

In 2022, the Board held **11** COVID-19 & Workers' Compensation webinars. Approximately **2,300** participants attended the sessions, which were also recorded and posted to the Board's website for additional reach.

EXPANDING MEDICAL TREATMENT GUIDELINES

In 2022, the Board made significant progress in improving medical treatment by updating and expanding the *New York Medical Treatment Guidelines (MTGs)*. The *MTGs* establish a consistent standard of high-quality care for injuries and illnesses commonly treated through the workers' compensation system. In total, 16 new or updated *MTGs* were released in 2022, along with corresponding training for both health care providers and non-medical staff.

ATTRACTING PROVIDERS TO IMPROVE ACCESS TO CARE

In recent years, the Board has been working to attract more health care providers so injured workers have more treatment options and better access to care. One of the key elements of this effort is reducing the unique paperwork requirements associated with the New York State workers' compensation system. In 2022, the Board completed a multi-year effort to reduce the administrative burden on health care providers by successfully transitioning to the *CMS-1500* universal medical billing form.

The Board's preferred method of receiving the *CMS-1500*, via extensible markup language (XML), gained momentum over the year. This type of electronic submission provides the Board with valuable data that can be leveraged for detailed analysis and new automations. By the end of 2022, the percentage of all *CMS-1500* forms submitted via XML rose to 19%, up from 2% at the start of the year.

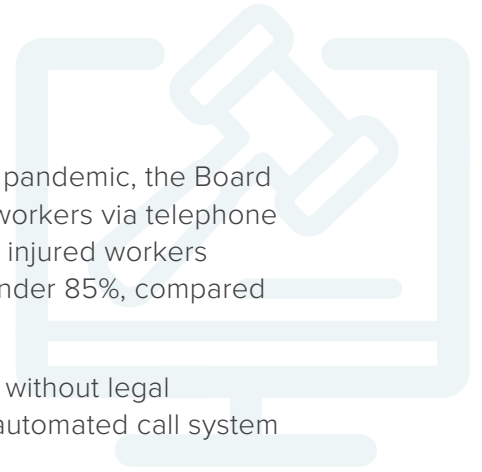
The transition to the *CMS-1500* follows other recent improvements for providers. These include online processing of key activities through OnBoard; increased medical fee schedules; an easy, online authorization and renewal process; expanded training opportunities; and implementation of the *2020 Expanded Provider Law*, which enabled more provider specialties to become Board authorized.

In 2022, the Board authorized and welcomed **3,080** new health care providers to the system, on top of an ongoing stream of authorization renewals and reinstatements. New outreach was conducted to educate health care providers about becoming Board authorized. At year-end, the Board had over **19,200** authorized providers statewide.

ENCOURAGING HEARING ATTENDANCE

After switching to 100% remote hearings in March 2020 due to the pandemic, the Board saw a dramatic increase in the rate of participation among injured workers via telephone and the virtual hearings system. In 2022, the rate of attendance for injured workers themselves (not their legal representatives) remained high at just under 85%, compared to 70.1% for 2019, the last full year of in-person hearings.

In 2022, the Board continued efforts to encourage injured workers without legal representation to participate in their hearings by implementing an automated call system to inform them of remote attendance options.



ENSURING PROMPT PAYMENT AND NOTIFICATION

Continued efforts to educate payers, monitor their performance against legal time frames, and systematically penalize lapses have resulted in insurers paying timely lost-wage benefits to injured workers and timely filing of benefit suspensions.

In 2022, nine in 10 injured workers received their first benefit payment timely (within 18 days of disability or 10 days from the worker notifying the employer of an injury, whichever is later).

In instances when benefits to injured workers have been suspended, payers must file documentation within 16 days of stopping payment to an injured worker. In 2022, the Board's first full year of monitoring, 82.4% of Subsequent Report of Injury (SROI) suspension transactions transmitted by payers were timely.

A Better Board

2022 was a year of significant progress for the Board, despite staffing challenges and the ongoing pandemic. With positive advances for injured workers, employers, payers, and health care providers alike, the Board made good on its promise to be “Better for Workers, Better for Business, and Better for Providers.”

In 2023, the Board will continue building on these successes with new OnBoard modernization projects and a renewed focus and commitment to continuous improvement Board-wide.



Workers' Compensation Board

The New York State Workers' Compensation Board protects the rights of employees and employers by ensuring the proper delivery of benefits and by promoting compliance with the law.

To learn more about the Workers' Compensation Board, visit wcb.ny.gov.

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