

State of Delaware Department of Labor

**4th Annual Report
on the
Status of Workers'
Compensation
Case Management**





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The Department of Labor is proud of the continuing progress in the processing of workers' compensation cases. 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 Delaware General Assembly for its ongoing support.

*John F. Kirk, III, Acting Director
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Year in Review 2001

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 2001 surpassed 6,000. The actual number of petitions was 6,060. Despite the increase in filing, the agency's caseload reached a sixteen-year low of pending 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, 2002, that number would have been 2,020 but only 1,176 were pending.

The workers' compensation specialist assisted 1,410 injured workers (up from 1,290 in CY 2000) in processing their claims for benefits. She also provided technical assistance to 2,046 callers (up from 1,741) in CY 2000. The other contacts included attorneys, insurance carriers and employers.

Governor Minner filled two Industrial Accident Board vacancies by appointing Garrett L. Wilson in August 2001 and Anthony Murowany in September 2001.

Hearing officers conducted hearings in 979 cases which would otherwise had to have been heard by the IAB.

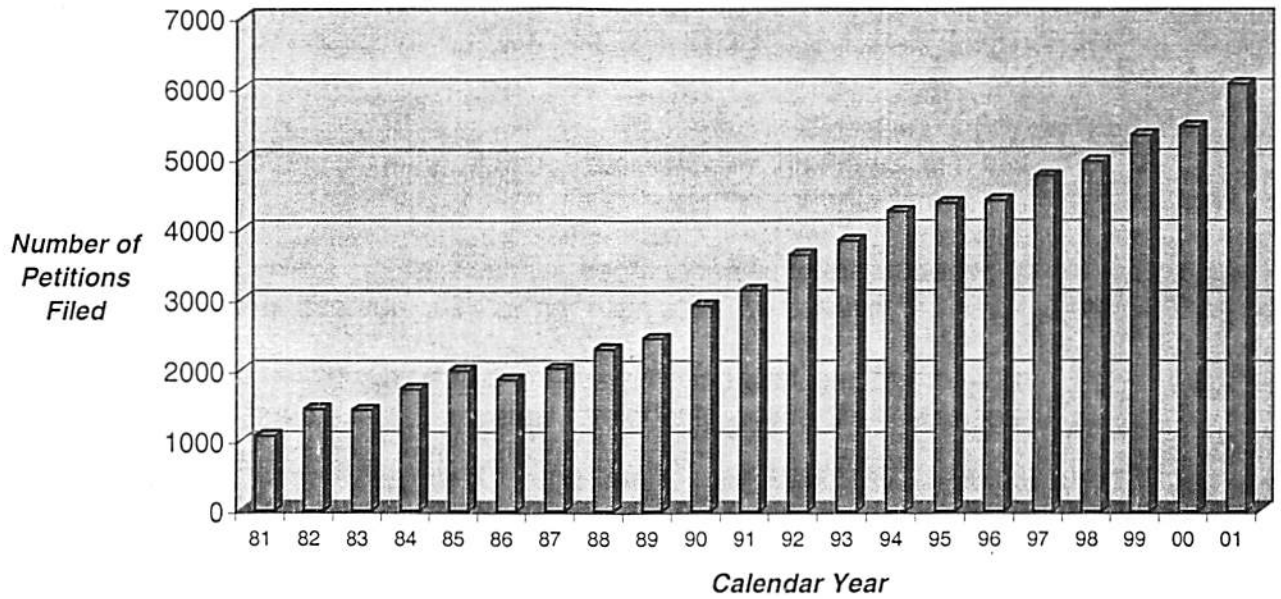
The worker's compensation statute was amended by House Bill 158 to require an employer to notify employees of benefits to which they are entitled if they are injured on the job. A summary of the law is to be provided with the employee's copy of the First Report of Injury. Governor Minner signed this bill into law on July 9, 2001.

House Bill 262 changes the length of time that workers' compensation payments shall commence by an employer or insurance carrier. Previously payment was to be made within 30 days of the agreement or board order. Payments are now to be made within 14 days of written agreement or 14 days after an IAB order. If the employer or insurance carrier fails in its responsibilities a fine of no less that \$500 and no more than \$2,500 will be assessed. This bill was signed into law by Governor Minner on July 19, 2001.

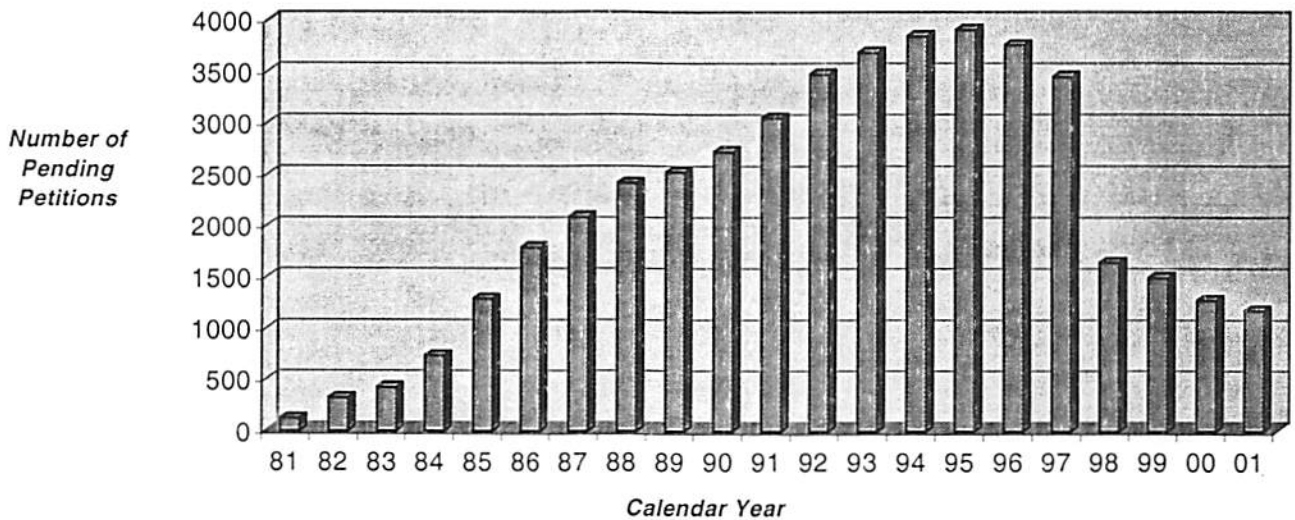
The Worker's Compensation Advisory Council met five times in 2001.

Despite a record number of petitions filed in 2001 (more than 6,000), the number of pending petitions continued to decline for the sixth year in a row.

Workers' Compensation Petitions Filed Annually



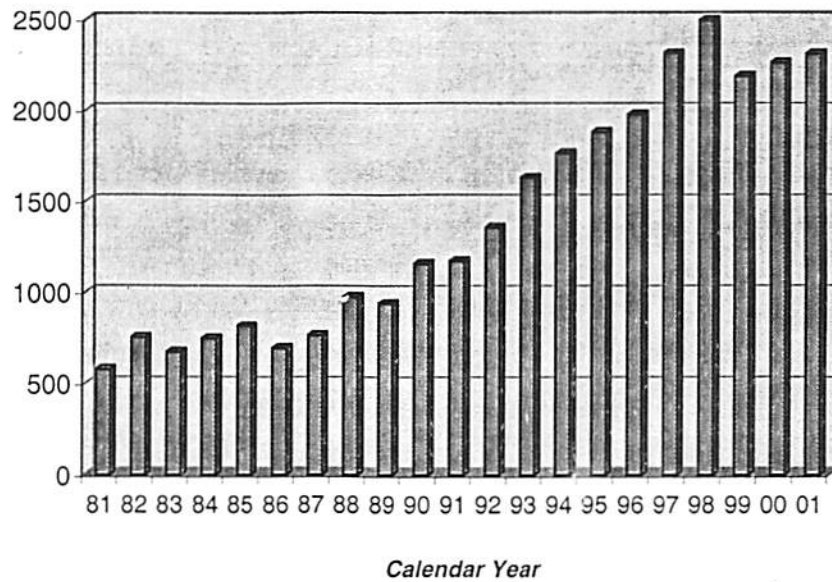
Pending Petitions



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 or Hearing Officer



Continuances

During calendar year 2001, a total of 201 continuances were granted (compared with 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) 151

- A justifiable substitution of counsel for a party 10

Any unforeseen circumstances beyond the control of the parties:

Employee missed employer-scheduled medical exam	25
Records unavailable for review by parties prior to hearing	4
Defendant(s)/issues added prior to hearing	3
AM hearing ran into PM time slot	1
Insurance carrier filed bankruptcy	3
Overbooked calendar	1
Parties trying to negotiate settlement	1
Additional medical testing needed	1
Milford office move	1

Board Member Activities*

During 2001, individual board members were scheduled to conduct hearings on the following number of days:

	Days Scheduled
Barber	174
Daniello	149
Groundland	196
Hastings ¹	97
Levitt	156
Mitchell	168
Murowany ²	25
Robinson	154
Seward	139
Wilson ³	63
Wright ⁴	97

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

	Days
Barber	55
Daniello	74
Groundland	109
Hastings ¹	44
Levitt	64
Mitchell	80
Murowany ²	25
Robinson	64
Seward	60
Wilson ³	34
Wright ⁴	59

Available for hearings:

-
- ¹ Hastings 7 out of 12 months
 - ² Murowany 4 out of 12 months
 - ³ Wilson 5 out of 12 months
 - ⁴ Wright 9 out of 12 months

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

Caseload of Individual Hearing Officers

Hearing Officer:	Number of Decisions & Orders Written:
G. Alderson¹	29
C. Baum	143
J. Bucklin²	39
W. O'Brien³	85
J. Schneikart	87
P. Schwartz	121
L. Wilson	100
[J. Polk, Chief]	23

¹ Alderson 5 out of 12 months

² Bucklin 5 out of 12 months

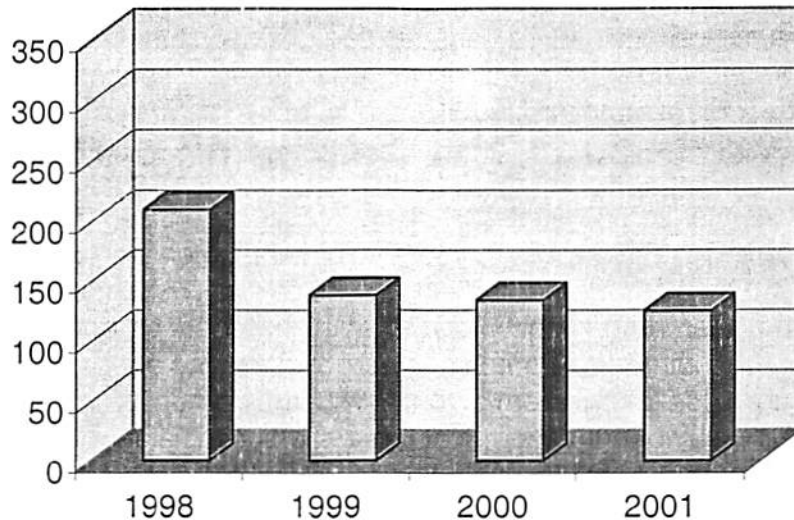
³ O'Brien 6 out of 12 months

Compliance with Hearing & Decisional Deadlines

- **2,922** petitions requiring hearing within 120 days were filed in 2001. 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

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



Summary of Appeals

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

- The IAB (or hearing officers) rendered decisions "on the merits" of a case in 1,770 cases.
- 361 of those decisions (20.39%) have been appealed to the Superior Court. This is an average of 90.25 per year.
- The Superior Court has reversed the board/hearing officers' decisions in 44 cases. This represents a reversal rate of only 2.48% of all decisions rendered during the four-year period.

Summary of Appeals

Decisions rendered "on the merits" 12/1/97 to 12/15/01 1,770

Appeals filed in Superior Court: 361

Affirmed	149 (42%)
Reversed	44 (12%)
Dismissed/WD	30 (30%)
Pending	59 (16%)

Departmental Recommendations for Legislative Action or Board Rule Change

Legislation

The Department of Labor proposes one legislative change at this time.

- The department recommends legislation that would remove workers' compensation insurance policy approval from Title 19 (Labor) and place it in Title 18 (Insurance). This bill, H.B. 263, passed in the House of Representatives with a technical amendment during the last session. The bill is presently pending in the Senate.