

2023 New York State Workers' Compensation Board ANNUAL REPORT



Workers' Compensation Board

**Kathy Hochul, Governor
Clarissa M. Rodriguez, Chair**

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Executive Summary



The New York State Workers' Compensation Board (Board) is pleased to submit its 2023 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 \$9 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 New York State's Paid Family Leave program.

In 2023, the Board advanced its modernization efforts, while improving access to medical care and meeting the needs of injured workers and employers. Maximum weekly benefits for injured workers rose to their highest levels to date, while employers continued to see lower assessment rates and lower premium levels, a continuing after-effect of the COVID-19 pandemic, when fewer people were working and there were fewer on-the-job injuries and accidents.

The Board continued to make progress on its multi-year OnBoard modernization program, which is moving historically paper-based systems online. Following the successful 2022 launch of OnBoard: Limited Release, the first release of the Board's new business information system, the Board implemented more than 60 enhancements to the system, many based on feedback from key users including health care providers and payers. The Board continued efforts to ensure high-quality, accessible health care for New York's injured workers, including the addition of telehealth as a permanent part of the New York State workers' compensation system.

In 2023, the Board performed extensive outreach to help injured workers, employers, and other stakeholders understand their rights and responsibilities. While hearing sites remained closed to the public, the Board's virtual hearings system enabled the Board to hold 244,458 hearings (about 1,000 hearings per day), ensuring the uninterrupted and timely flow of benefits to injured workers.

**Based on actual workers' compensation insurance premiums reported in 2022.*

Claims



CLAIMS OVERVIEW

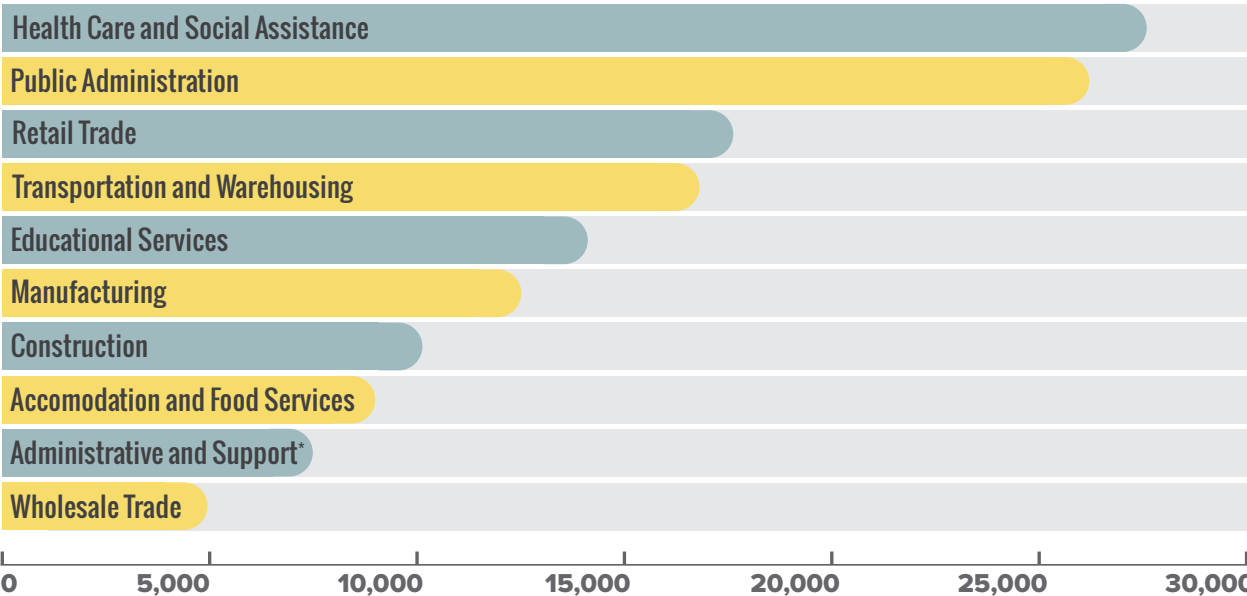
In 2023, the Board received over nine million claims documents, filed by a variety of system stakeholders, including health care providers, injured workers, employers, attorneys, and insurers. This is a reduction of more than two million documents compared to 2022, due to the shift toward online processing through OnBoard.

The number of claims assembled and designated complete in 2023 was 169,967. To be considered a complete claim, the Board must receive a formal notice of the injury from the insurer and a qualifying medical document. Now approaching 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

Health Care and Social Assistance, Public Administration, and Retail Trade were the three industries producing the most workers' compensation claims in 2023. The claims represented in the top 10 industries made up 85.5% of the total claims assembled in 2023.

Claims Assembled in 2023 by NAICS Industry (Top 10)

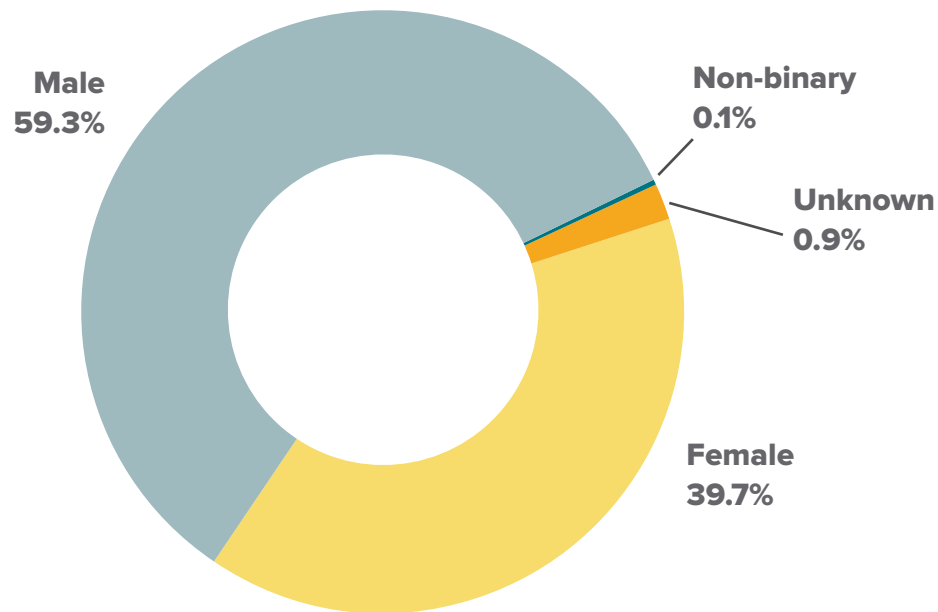


*Administrative and Support and Waste Management and Remediation

Claims by Gender

In 2023, males accounted for 59.3% of claims and females accounted for 39.7%. The injured worker's gender was unknown for 0.9% of claims, and 0.1% of claims were from injured workers who identified as non-binary.

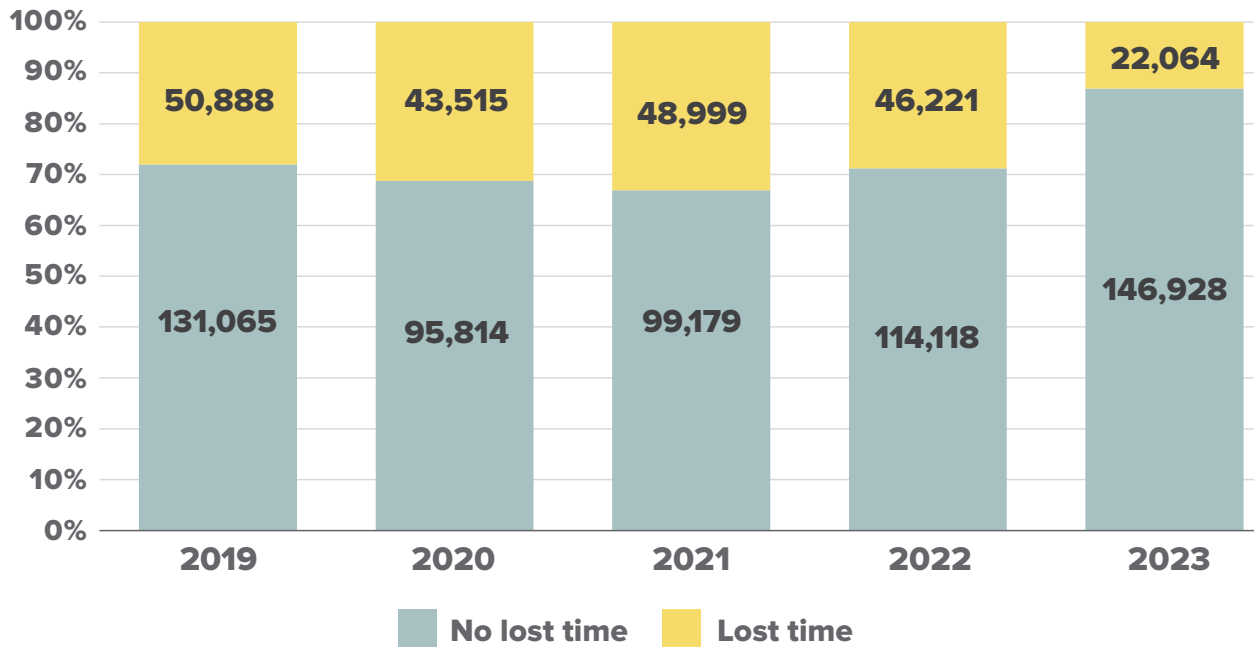
Claims assembled in 2023 by gender



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 2023 claims are not yet mature enough to show the true breakdown of claims with or without lost time, the majority of claims received in 2023 have no lost time, which is similar in comparison to previous years.

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

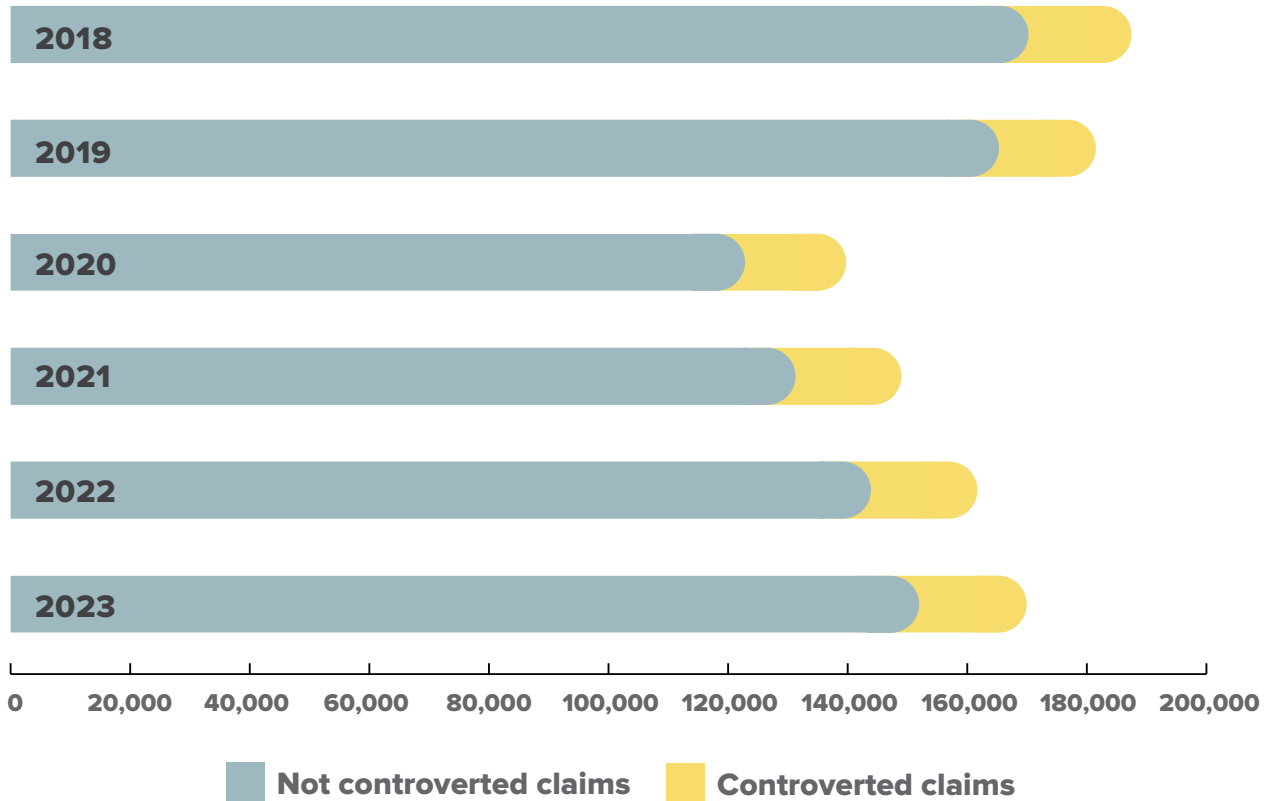


The above chart shows a breakdown of assembled claims with and without lost time, by assembled claim year. As reflected by claims assembled in earlier years, 2023 claims are not yet mature enough to show the true breakdown of lost time. The proportion of claims with no lost time was slightly lower in 2020 and 2021 compared to previous years.



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 claim is subject to the statutory expedited hearing process, which seeks to resolve the claim within 90 days. An important step in that process is scheduling pre-hearing conferences, ideally within 30 days. In 2023, the Board's median time frame for scheduling pre-hearing conferences for controverted claims was within 27 days of receiving a complete claim, a day faster than in 2022.

Claims assembled — Controverted vs. not controverted from 2018-2023



Year	Total Claims Assembled	Controverted Claims	Not Controverted
2018	187,486	17,211	170,275
2019	181,537	16,221	165,316
2020	139,755	16,896	122,859
2021	148,694	17,362	131,332
2022	161,742	17,852	143,890
2023	169,961	17,903	152,058

A **controverted claim** is one for which the Board has received:

- 1) "Notice That Right to Compensation Is Controverted" indicating that the carrier disputes the claim, and
- 2) qualifying medical documentation.

The total number of controverted claims for a given assembly year will increase over time.

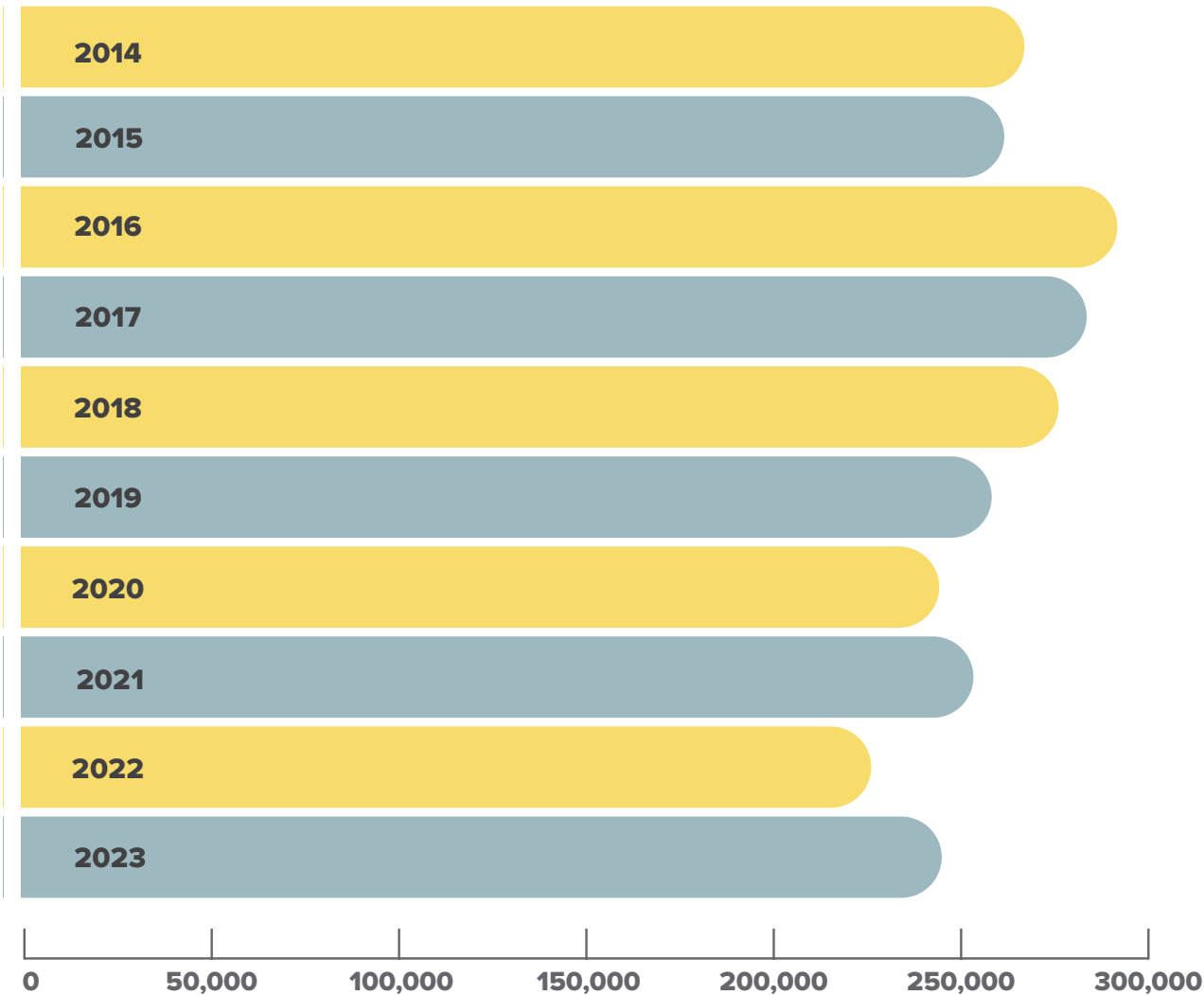
Hearings



HEARINGS HELD

In 2023, the Board held 244,458 hearings, all conducted remotely through the virtual hearings system as hearing points remained closed to the public. The increase in the number of hearings was made possible through the hiring of 15 new Workers' Compensation Law Judges, who were onboarded and trained throughout the year. The addition of these judges will enable the Board to hold more hearings in 2024.

Number of hearings held from 2014 to 2023



Through 2015, the number of hearings excludes commissioner hearings, Board panel reviews and Section 32 waiver agreements. It includes hearings held at district offices, customer service centers and hearing point locations. Starting in 2016, the count includes Section 32 hearings.

If a hearing was held to resolve the issues in more than one claim for an individual injured worker, then the total number of hearings in this report reflects the total number of claims addressed at the hearing.

Resolution Process



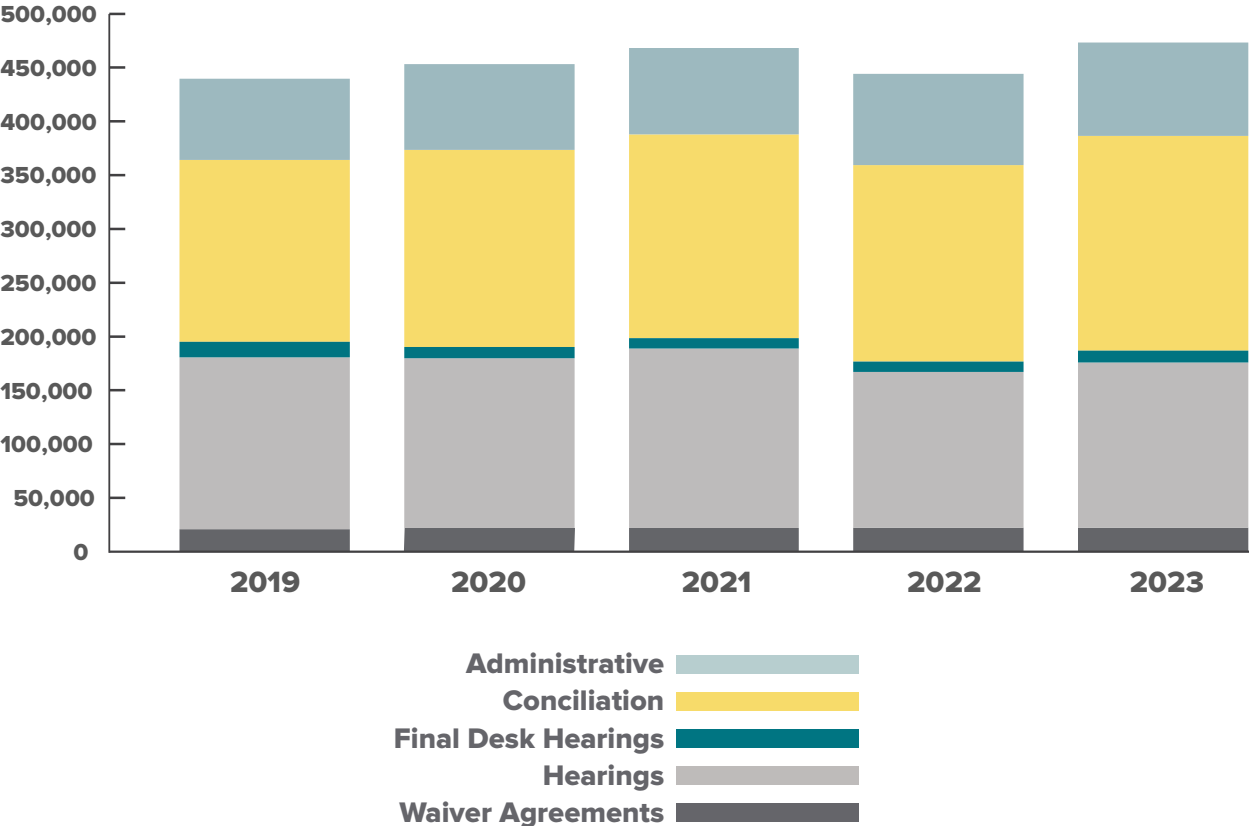
RESOLUTION PROCESS

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 2023, the Board held over 244,458 hearings. In approximately 67.6% 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 2023, over 62.8% of resolutions were resolved through informal methods, including Proposed Administrative and Conciliation decisions, which allow the Board to issue expedited findings to resolve issues that do not warrant a formal hearing before a Workers' Compensation Law Judge. In 2023, approximately 88% of Proposed and Conciliation decisions were agreed to by the parties. 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 473,307 claim resolutions over the course of the year.

Claim resolution by Board processes 2019 to 2023



Claim resolution by Board processes 2019 to 2023

CLAIM RESOLUTIONS	RESOLUTION YEAR				
	2019	2020	2021	2022	2023
Informal	259,123	273,596	279,412	277,084	297,400
Administrative	75,603	79,891	80,466	84,759	86,734
Conciliation	168,940	183,180	189,475	182,654	199,687
Final Desk Determinations	14,580	10,525	9,471	9,671	10,979
Formal	180,520	179,700	188,894	167,056	175,907
Hearings	159,513	157,657	166,865	144,690	153,505
Waiver Agreements	21,007	22,043	22,029	22,366	22,402
TOTAL	439,643	453,296	468,306	444,140	473,307



Administrative includes Administrative Determinations, Administrative Closures, and Cancellations (a claim is cancelled if it is determined to be a duplicate).

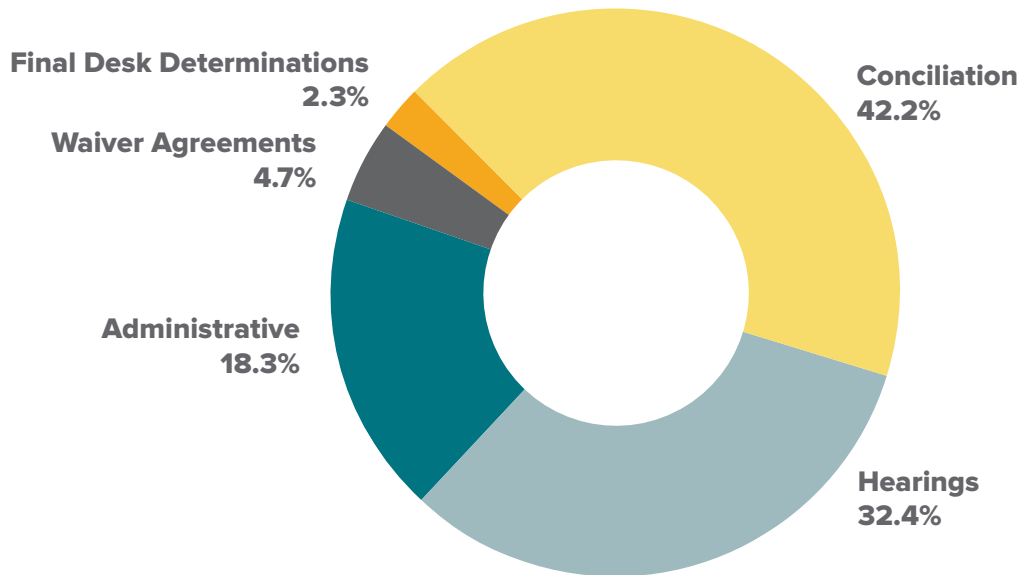
Conciliation provides an informal and prompt resolution of the claim based upon the cooperation of both parties: the injured worker and the insurance carrier/self-insured employer.

Final Desk Determinations reflect final desk decisions, which are identified by Board decision forms (NOSD-SL, NOSD-NSL, C67-D, C68A-D, and PD-32). The PD-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 for 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 2023



CLAIM RESOLUTIONS	NUMBER OF RESOLUTIONS	PERCENTAGE OF RESOLUTIONS
Informal	297,400	62.8%
Administrative	86,734	18.3%
Conciliation	199,687	42.2%
Final Desk Determinations	10,979	2.3%
Formal	175,907	37.2%
Hearings	153,505	32.4%
Waiver Agreements	22,402	4.7%
TOTAL	473,307	100.0%

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Administrative Appeals



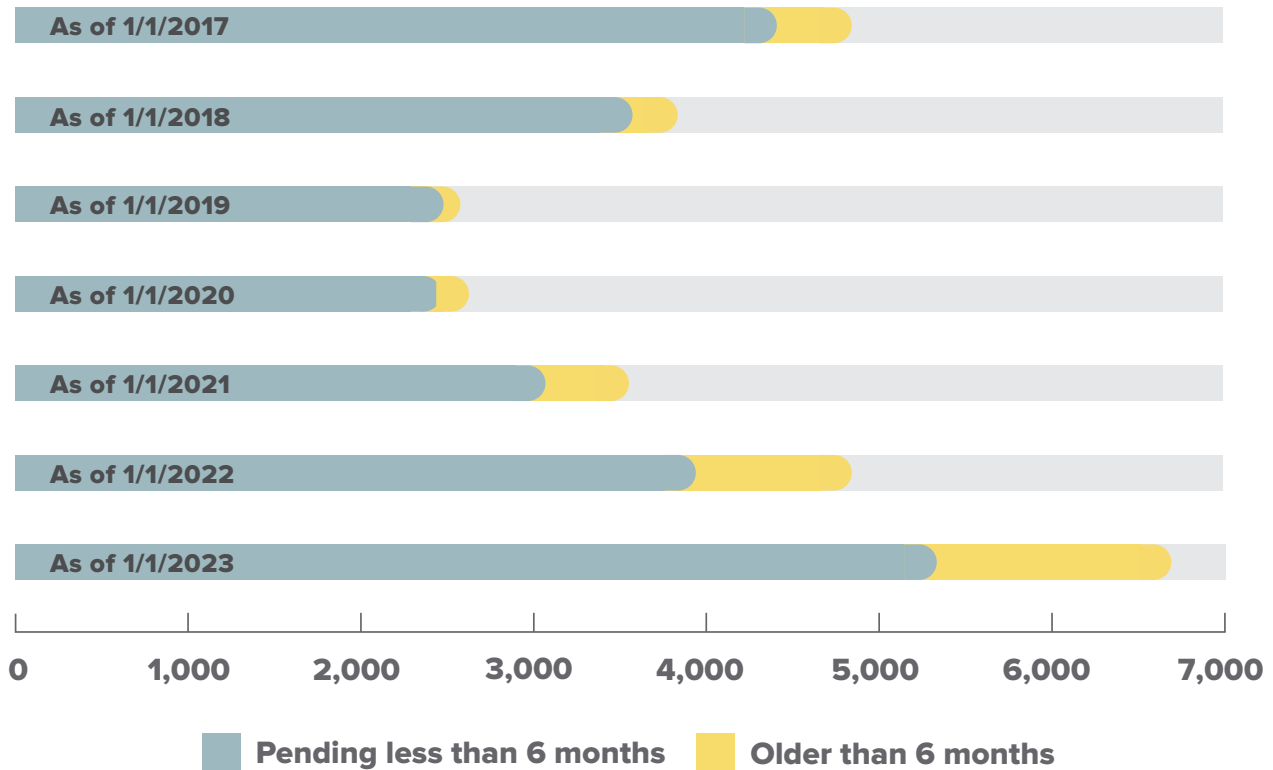
ADMINISTRATIVE APPEALS



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, 2024, the overall inventory of appeals stood at 6,692, 80% of which were pending less than six months. The overall inventory was higher than other recent years due to several 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

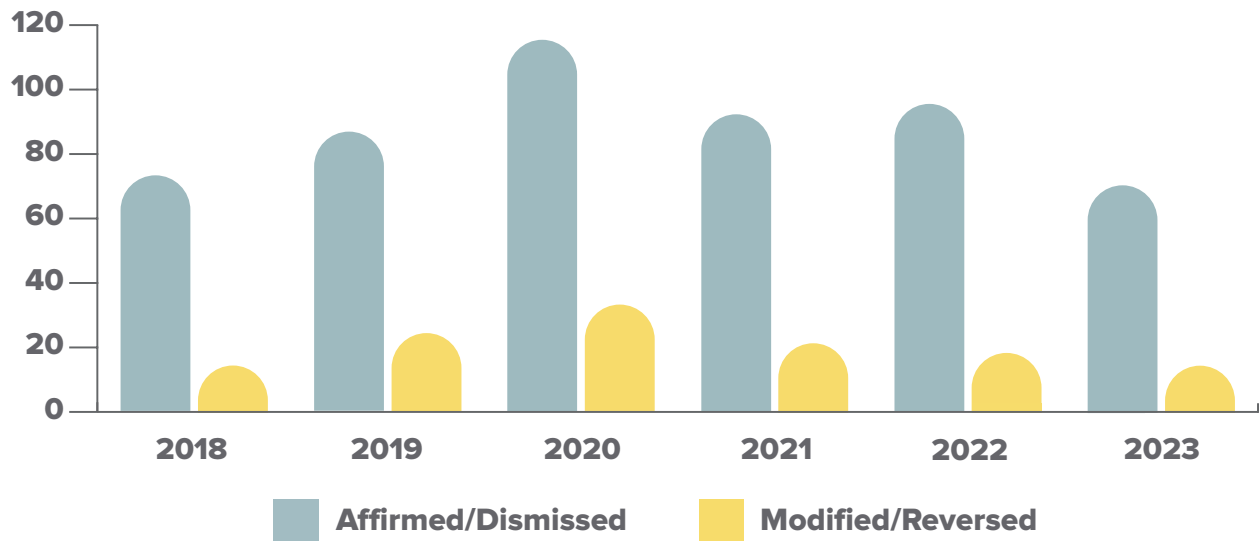


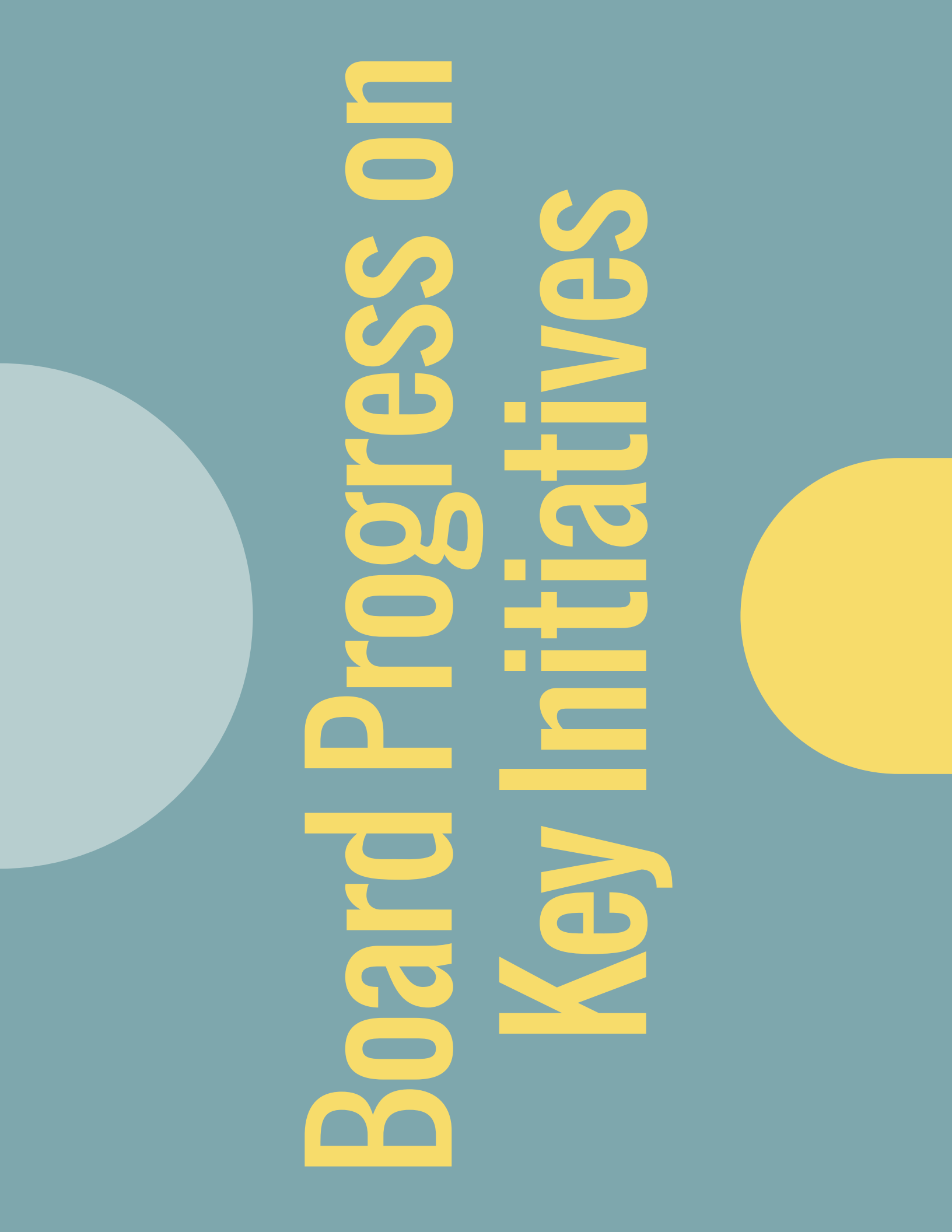
AS OF DATE	INVENTORY	OLDER THAN 6 MONTHS	PERCENTAGE PENDING LESS THAN 6 MONTHS
1/1/2018	4,840	430	91%
1/1/2019	3,834	262	93%
1/1/2020	2,575	96	96%
1/1/2021	2,626	162	94%
1/1/2022	3,550	481	87%
1/1/2023	4,842	903	81%
1/1/2024	6,692	1,358	80%

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.

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 84 appeals decided by the Third Department in 2023, 83% were affirmed or dismissed, and just under 17% 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, which health care providers and payers have been using 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. Since the release, the Board has made over 60 enhancements to improve the system, many based on feedback from stakeholders gathered through extensive outreach and training programs.

During 2023, more than 826,483 PARs successfully flowed through the new system, helping injured workers get timely medical care. Additionally, 160,971 requests for decisions on unpaid medical bills were submitted through OnBoard. In addition to improving efficiency in getting care to injured workers, 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.

Since the release of OnBoard, the Board has made over **60 system enhancements**.

MAKING TELEHEALTH A PERMANENT PART OF THE SYSTEM

In July, the Board adopted permanent regulations for telehealth appointments in certain situations for workers who sustain a work-related injury or illness. While telehealth was permitted during the COVID-19 pandemic, it was only allowed due to the institution of several emergency regulations. Now, telehealth is a permanent option within the workers' compensation system, improving the experience of both injured workers and treating providers. To help stakeholders understand how and by whom telehealth can be used in the workers' compensation system, the Board launched a special **Telehealth page on its website**.

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 2023. 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 the year, the percentage of all *CMS-1500* forms submitted via XML rose to 42%, up from 19% in 2022.

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. Further increases to the medical fee schedules are planned for early 2024.

In 2023, the Board authorized and welcomed **3,024 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 **22,014 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 2023, 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 2023, the Board continued efforts to encourage injured workers without legal representation to participate in their hearings through use of an automated call system to inform them of remote attendance options. The Board also worked to encourage video attendance in virtual hearings by sharing a Virtual Hearings Claimant Toolkit and adding a prominent QR code and step-by-step instructions to hearing notices. By scanning the code, injured workers are automatically directed to the virtual hearings webpage.



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 2023, 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 2023, the Board's second full year of monitoring, 81.9% of Subsequent Report of Injury (SROI) suspension transactions transmitted by payers were timely.



A Better Board

2023 was a year of significant progress for the Board. Substantive advances were made for injured workers, employers, payers, and health care providers alike, as the Board made good on its promise to be “Better for Workers, Better for Business, and Better for Providers.”

In 2024, the Board will continue building on these successes while implementing important legislative changes such as increasing the minimum weekly benefit for injured workers. Current OnBoard users will continue to see enhancements to the system, including expanded capabilities for provider delegates, while other OnBoard program projects will move from the planning phase toward execution.

Throughout the year, the Board will continue to engage regularly with stakeholders to identify improvement areas, share best practices, and provide important information on Board and legislative initiatives.

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.

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