

2015 ANNUAL REPORT

WORKERS' COMPENSATION BOARD



**Workers'
Compensation
Board**

Andrew M. Cuomo, Governor

Robert E. Beloten, Chair

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WORKERS' COMPENSATION BOARD'S 2015 ANNUAL REPORT

Executive Summary

The Workers' Compensation Board is pleased to submit its *2015 Annual Report*. Pursuant to Workers' Compensation Law § 153, this report states in detail the work the Board has done in hearing and deciding cases and related aspects of the Board's operations, including assembly and adjudication of workers' compensation claims and issuance of stop work orders against employers that fail to maintain appropriate workers' compensation coverage.

Board Operations

The Board maintains 9 district offices throughout the state (A-1). In 2012, the Board combined the Hempstead and Hauppauge district offices into a single Long Island district. The Board maintains a hearing point in Hempstead.

Stop Work Orders

Nearly all employers in New York State are required to secure workers' compensation coverage. Since 2007, the Board is authorized to issue a stop work order (SWO) if an employer fails to maintain required workers' compensation coverage or to pay Board penalties (WCL § 141-a). The SWO has proven an effective vehicle in promoting compliance. Since 2007, the Board has issued 12,679 SWOs. In 2015, the Board issued 1,881 SWOs, the overwhelming majority issued downstate – 1,399 in New York City (A-2).

Claims

EDI (Electronic Data Interchange)

In 2013, the Board began conversion of administrative filings to the Electronic Data Interchange (EDI) format and New York became the 39th jurisdiction in the United States to adopt the data standard promulgated by the International Association of Industrial Accident Boards and Commissions (IAIABC). Enabling regulations (12 NYCRR 300.22) set the mandatory electronic standard, mandatory for all carriers and administrators as of April 23, 2014.

Assembly

A claim is “assembled” once the Board learns of a workplace injury and assigns the claim a Board claim number. The Board [assembles a claim when an injured worker has lost more than one week of work, has a serious injury that may result in a permanent disability], or when the claim is disputed by the carrier or employer, the Board receives a claim form from the injured worker or a notice of claim action from the carrier.

The number of assembled claims decreased approximately 13.6% to 142,830 (A-3).

Controverted Claims

A claim is “controverted” when the insurance carrier or self-insured employer challenges the injured worker's eligibility for workers' compensation benefits. When a claim is controverted, a pre-hearing

conference is held.¹¹ The expedited hearing process sets a goal of holding a pre-hearing conference within 30 days and resolving controverted claims within 90 days.

There was an increase (5%) in controverted claims in 2015 (A-3). The rate of controversy, measured at 90, 180, and 360 days, has not changed significantly from 2014; it ranges from 5.1-6.9% (A-5).

In 2015, pre-hearing conferences were held within a median 25 days of controversy. On average, the controversy is resolved within 80 days (A-6 and A-7). This is similar to 2014, when the median and average were 25 and 79 days respectively.

Established Claims

Regulations require the Board to issue a decision determining employer liability in all claims involving more than one week of lost time, even if the carrier has accepted the claim and is making payment. The Board also issues such determinations in claims that are assembled where there is no compensatory lost time. To find liability, the Board must determine that there was (1) an accident or occupational disease arising out of and in the course of employment, (2) timely notice given to the employer, and (3) a causal relationship between the work injury or illness and the consequential disability. This is known as ANCR² or ODNCR.³

Claim Resolution

By statute, the Board resolves issues in workers' compensation claims through both formal and informal means. Formal resolution refers to the formal hearing process, in which a workers' compensation law judge receives evidence, hears testimony, decides disputed legal and factual questions, and awards benefits. Informal resolutions do not involve hearings. Decisions are made based on information collected in the electronic case file of the injured worker. Informal resolutions, which include administrative determinations and conciliation, memorialize certain events in a claim that require a Board to make or to propose a decision when there is no significant dispute between the parties. Informal resolutions are proposed by the Board and are not effective if either party objects within 30 days.

In 2015, the Board issued 354,426 resolutions, slightly more than in 2014 (A-11). Slightly less than half required hearings, with 45.2% in regular hearings and 4.8% in Section 32 agreement hearings. Approximately 24.7% of resolutions were by conciliation, compared to 24.9% in 2014 (A-11). The percentage of administrative determinations (23.1%) is up slightly from 2014 (25.3%), and the total number of administrative determinations is up 13.1%, 79,330 versus 89,794 (A-11).

Hearings

In 2015, the Board held 261,446 hearings, down by 5,497 from 2014 (A-13). There was an increase in the number of pending claims, to 164,972, at the end of 2015. On average, 1.4 hearings were required before the first indemnity benefit was awarded for those claims handled by the hearing process, similar to 2014 (A-15).

¹ Carriers file a notice with the Board that the right to compensation is controverted (by filing of a C-7, FROI-04 and SROI-04) to challenge a claim, but the Board's business rules do not designate a claim controverted unless a qualifying medical form is filed by an authorized health care provider. In many claims, the carrier withdraws the C-7, FROI-04 and SROI-04 or the claimant does not pursue the claim.

² Accident, Notice, and Causal Relationship.

³ Occupational Disease, Notice, and Causal Relationship.

Average Weekly Wage

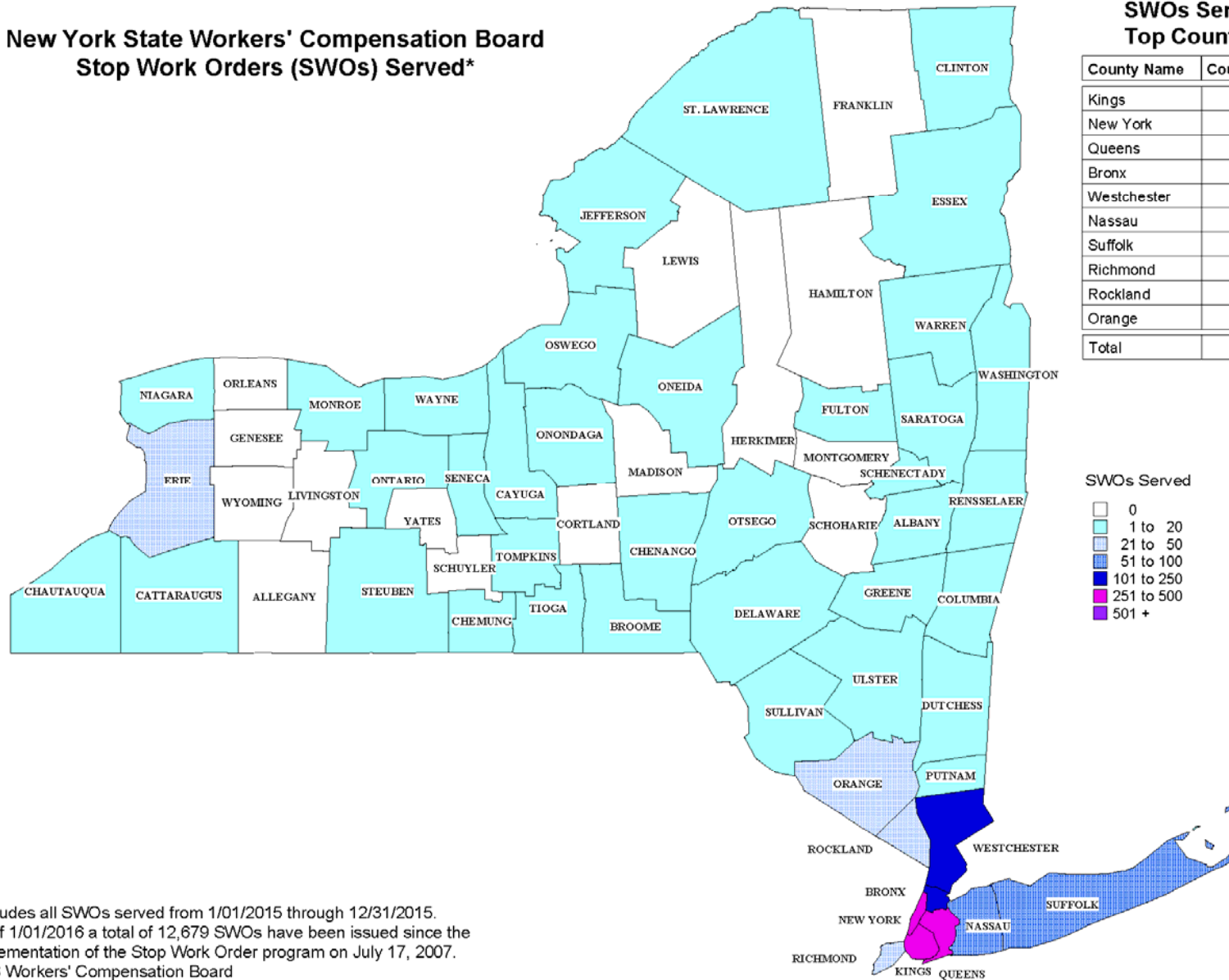
Indemnity benefits are based on the injured worker's average weekly wage (AWW) in the year prior to the accident, subject to statutory maximum benefit rates. Since July 1, 2010, the maximum benefit rate has been 2/3 of the prior year's statewide average weekly wage (SAWW), as determined by the Department of Labor. In July 2015, the maximum benefit rate was \$844.29, based on a 2014 SAWW of \$1,266.44.

There is a wide distribution of AWW in accepted claims in 2015. Approximately one-third of claims had an AWW of less than \$600. About 23% had an AWW between \$600-899. Nearly 44% had an AWW of \$900 or more (A-17).

**New York State Workers' Compensation Board
Current District Office
And
Service Center Locations**



New York State Workers' Compensation Board Stop Work Orders (SWOs) Served*



SWOs Served Top Counties

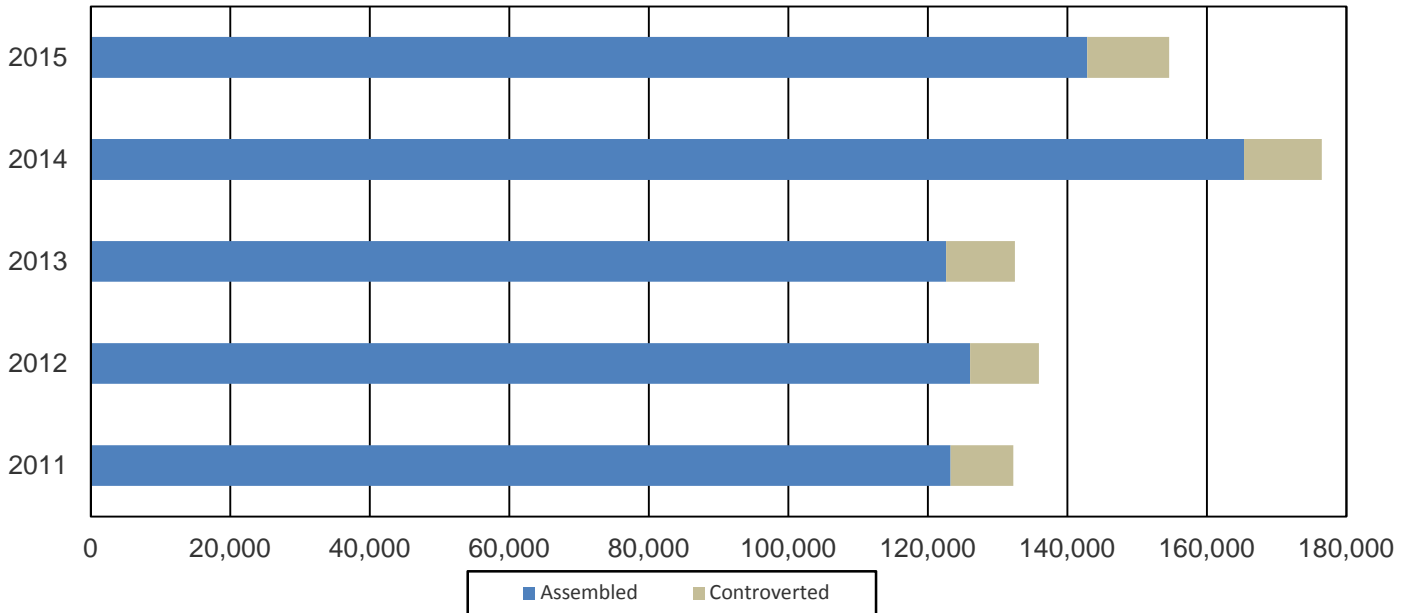
County Name	Count
Kings	491
New York	466
Queens	275
Bronx	117
Westchester	114
Nassau	61
Suffolk	52
Richmond	50
Rockland	43
Orange	37
Total	1,881

SWOs Served

- 0
- 1 to 20
- 21 to 50
- 51 to 100
- 101 to 250
- 251 to 500
- 501 +

*Includes all SWOs served from 1/01/2015 through 12/31/2015.
As of 1/01/2016 a total of 12,679 SWOs have been issued since the implementation of the Stop Work Order program on July 17, 2007.
NYS Workers' Compensation Board

Claims Assembled and Controverted From 2011 to 2015



Assembled and Controverted Claims From 2011 to 2015

Year	Reopened Claims	Assembled Claims	Controverted Claims*	Percent Controverted
2011	227,030	123,245	9,008	7.3%
2012	224,412	126,064	9,838	7.8%
2013	229,897	122,615	9,850	8.0%
2014	225,450	165,304	11,175	6.8%
2015	250,804	142,830	11,743	8.2%

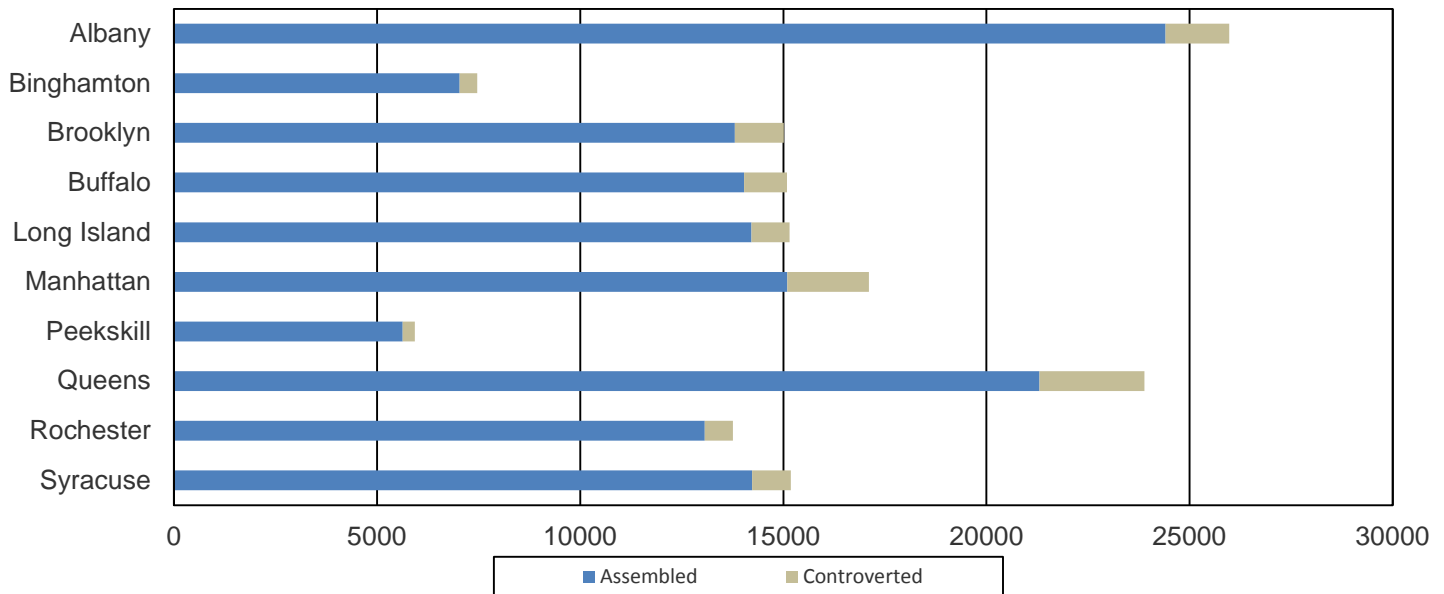
* Approximately five percent of the Controverted Claims reported may have data issues that cannot be resolved without manual intervention

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 implementation of Electronic Data Interchange (EDI) by all carriers in April 2014 enables the Board to auto-assemble claims upon receipt of the First Report of Injury (FROI). Now, 94% of assembled claims are auto-assembled. When the carrier learns of the disability event (workplace injury), it must file a FROI with the Board. The higher number of assembled cases after 2013 reflects the effectiveness of EDI, which in turn supports the Board's efforts to monitor and ensure compliance with filing and payment obligations.

Claims Assembled and Controverted in 2015 By District Office



District Office	Reopened Claims	Assembled Claims	Controverted Claims*	Percent Controverted
Albany	31,112	24,409	1,568	6.4%
Binghamton	8,624	7,033	435	6.2%
Brooklyn	32,524	13,803	1,208	8.8%
Buffalo	23,637	14,037	1,055	7.5%
Long Island	28,946	14,217	939	6.6%
Manhattan	32,393	15,100	2,004	13.3%
Peekskill	6,880	5,629	305	5.4%
Queens	47,950	21,307	2,580	12.1%
Rochester	15,939	13,063	697	5.3%
Syracuse	22,799	14,232	952	6.7%
Total**	250,804	142,830	11,743	8.2%

* Approximately five percent of the Controverted Claims reported may have data issues that cannot be resolved without manual intervention.

** 98 claims removed from this population due to data anomalies.

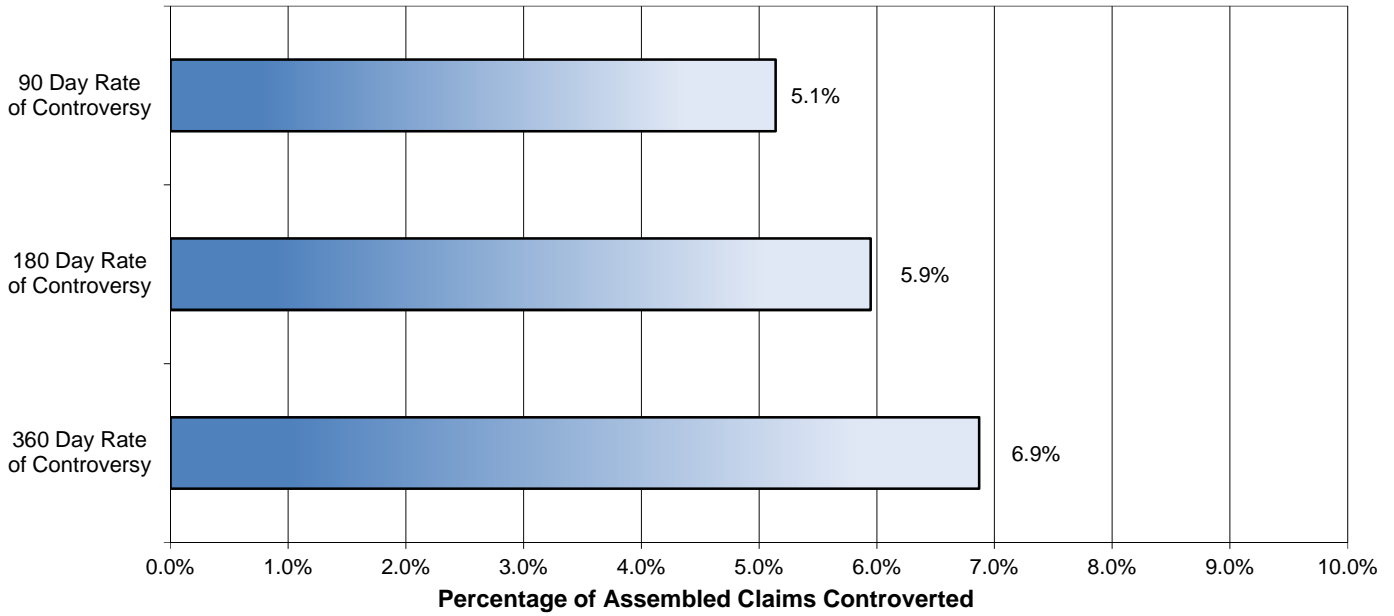
A controverted claim is one for which the Board has received: 1) "Notice That Right To Compensation Is Controverted" indicating that the Carrier disputes the claim, and 2) qualifying medical documentation.

Hempstead and Hauppauge district offices merged into the newly created Long Island district as of February 24, 2012 so all claims assembled in Hempstead or Hauppauge are listed under the Long Island District.

The implementation of Electronic Data Interchange (EDI) by all carriers in April 2014 enables the Board to auto-assemble claims upon receipt of the First Report of Injury (FROI). Now, 94% of assembled claims are auto-assembled. When the carrier learns of the disability event (workplace injury), it must file a FROI with the Board. The higher number of assembled cases in 2014 reflects the effectiveness of EDI, which in turn supports the Board's efforts to monitor and ensure compliance with filing and payment obligations.

A reopened claim is one which has been reactivated to resolve new issues following a finding that no further action was necessary.

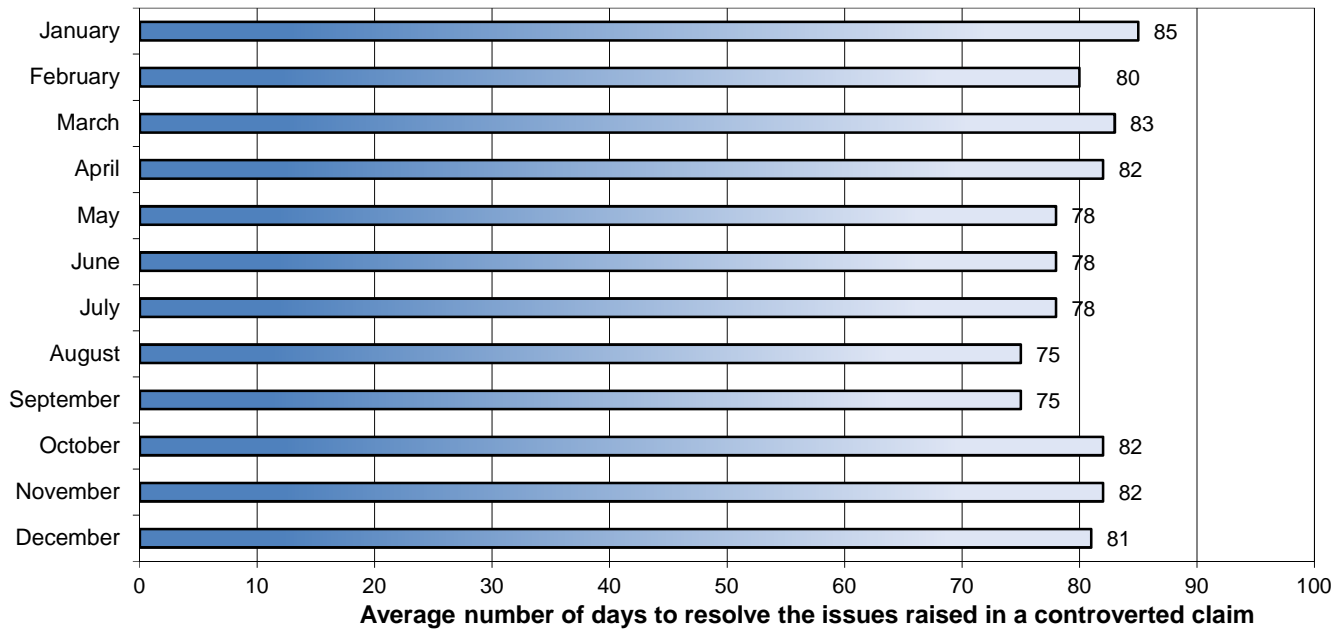
Percentage of Assembled Claims Controverted 2015 Report



Rate of Controversy	Totals
90 Day Rate of Controversy	5.1%
Claims Assembled (Oct. 2014 to Sept. 2015)	144,735
Claims Controverted	7,441
180 Day Rate of Controversy	5.9%
Claims Assembled (July 2014 to June 2015)	151,106
Claims Controverted	8,989
360 Day Rate of Controversy	6.9%
Claims Assembled (Jan. 2014 to Dec. 2014)	162,822
Claims Controverted	11,186

This report is run with a '90 day', '180 day' and '360 day' lag. It presents the rates of controversy for claims assembled during the 12 month periods ending 90 days ago, 180 days ago and 360 days ago as of January 1, 2016. Claims that were handled using an Alternative Dispute Resolution (ADR) program were not included in the above count of claims. ADR claims are handled outside of the traditional Workers' Compensation System in New York State.

Average Number of Days to Resolve the Issues Raised in a Controverted Claim in 2015 By Month



Month	Average Number of Days
January	85
February	80
March	83
April	82
May	78
June	78
July	78
August	75
September	75
October	82
November	82
December	81
Average	80

A claim is considered eligible for hearing as a controverted claim only if a C-7, FROI-04, or SROI-04 form and a qualifying medical form have been filed.

Controversy is resolved when the Board accepts the claim, closes it administratively, decides that no further action is necessary, or files a typist form letter "Notice to Carrier Regarding Action Taken on Form C-7, FROI-04, and SROI-04" indicating the controversy is resolved.

**Pre-Hearing Conferences (PHC) Held in 2015
Median Days from Controversy to PHC
By Month**

Month	Total PHC	Eligible PHC*	Median Days from Controversy to PHC	Unknown Controversy Date***
January	725	671	27	54
February	777	715	25	62
March	929	833	25	96
April	982	859	26	123
May	949	825	26	124
June	1,158	979	25	179
July	974	824	25	150
August	1,004	821	25	183
September	1,004	840	26	164
October	939	802	25	137
November	945	820	25	125
December	1,041	930	25	111
Total**	11,427	9,919	25	1,508

Approximately five percent of the Controverted Claims reported may have data issues that cannot be resolved without manual intervention.

* An 'Eligible PHC' is the first pre-hearing conference for a controverted claim.

** The total number of PHCs held in calendar year 2015 was 12,206; out of these claims, 779 had a PHC in the previous year.

*** The 'Unknown Controversy Date' number reflects re-opened controverted claims, data anomalies, and claims with unknown controversy dates.

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 governing Board regulation directs that the pre-hearing conference be held within 30 days, and this benchmark is consistently met by the Board.

**Claims Established in 2015
By Claim Type and Month**

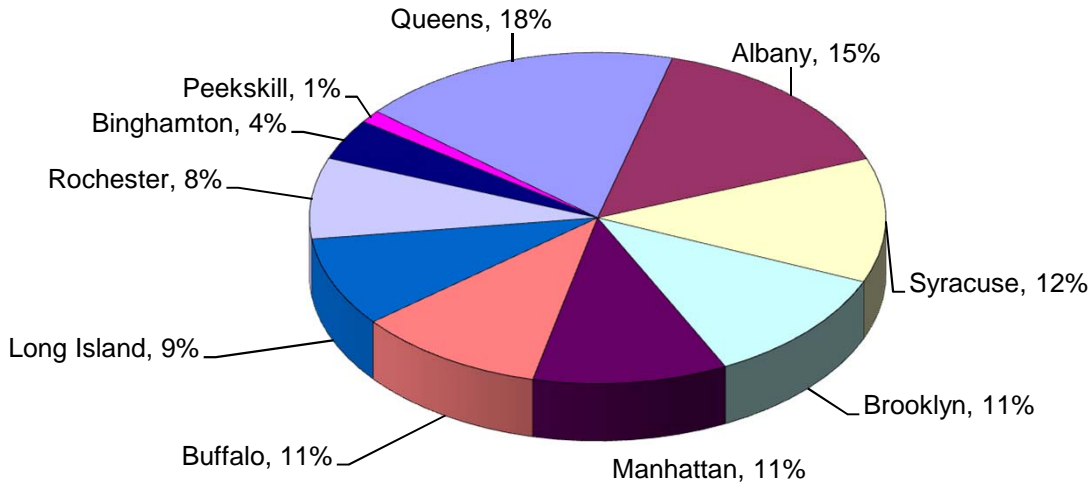
Month Established	Total Claims Established	WCL Claims (1)	VFBL Claims (2)	VAWBL Claims (3)
January	9,867	9,817	47	3
February	10,382	10,308	69	5
March	12,963	12,879	81	3
April	11,686	11,611	67	8
May	11,617	11,537	71	9
June	10,555	10,489	63	3
July	9,337	9,289	44	4
August	9,740	9,679	56	5
September	10,739	10,660	76	3
October	11,927	11,860	58	9
November	10,940	10,871	61	8
December	14,373	14,268	97	8
Total	134,126	133,268	790	68

- (1) Claims under the Workers' Compensation Law
- (2) Claims under the Volunteer Firefighters' Benefit Law
- (3) Claims under the Volunteer Ambulance Workers' Benefit Law

An "established claim" is one where the WCB has made a finding of a work-related accident or injury.

The claims established data for 2015 include some previously established claims for which a Board finding during calendar year 2015 amended or reaffirmed the claim's status; it is estimated that these affirmations account for less than 5% of the total.

Percentage of All Claims Established in 2015 By District Office



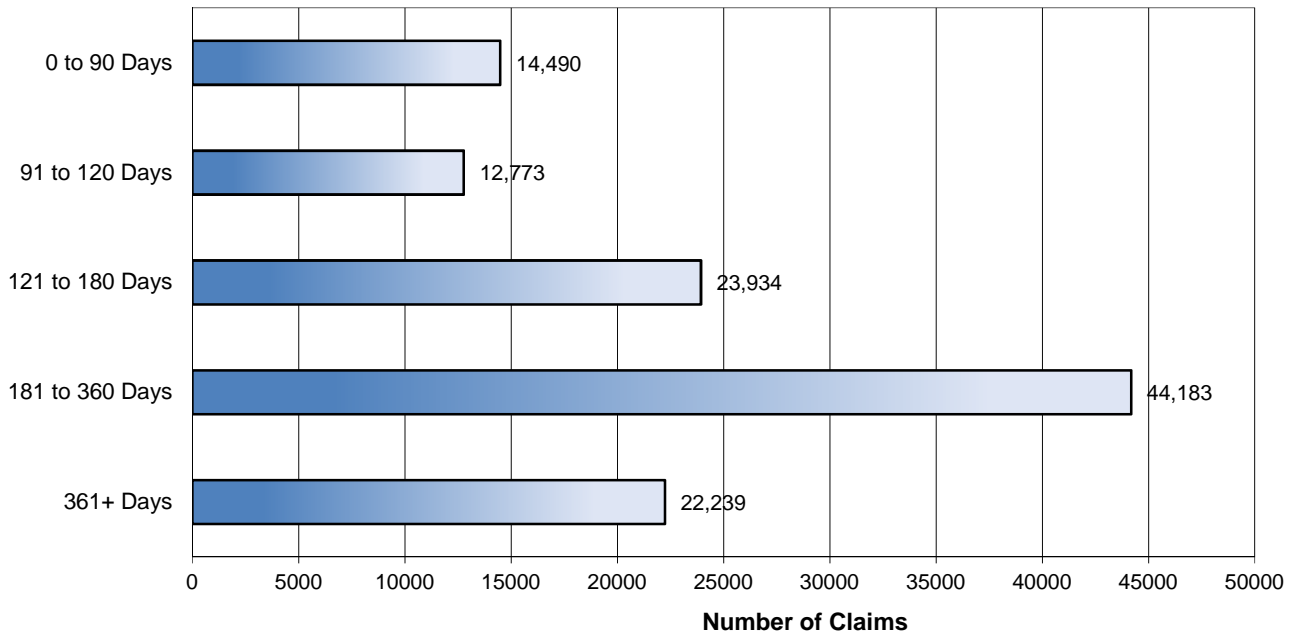
Claims Established in 2015 By District Office

District Office	Claims Established
Queens	24,241
Albany	20,109
Syracuse	16,293
Brooklyn	15,258
Manhattan	14,632
Buffalo	14,185
Long Island	11,744
Rochester	10,620
Binghamton	5,392
Peekskill	1,652
Total	134,126

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(The claims established data for 2015 includes some previously established claims for which a Board finding during calendar year 2015 amended or reaffirmed the claim's status; it is estimated that these affirmations account for less than 5% of the total.)

**Established Claims in 2015
By Number of Days from Assembly to Established**



**Established Claims in 2015
By Number of Days from Assembly to Established**

Days	Accepted Claims	Percent
0 to 90 Days	14,490	12.3%
91 to 120 Days	12,773	10.9%
121 to 180 Days	23,934	20.3%
181 to 360 Days	44,183	37.6%
361+ Days	22,239	18.9%
Total Claims	117,619	100.0%

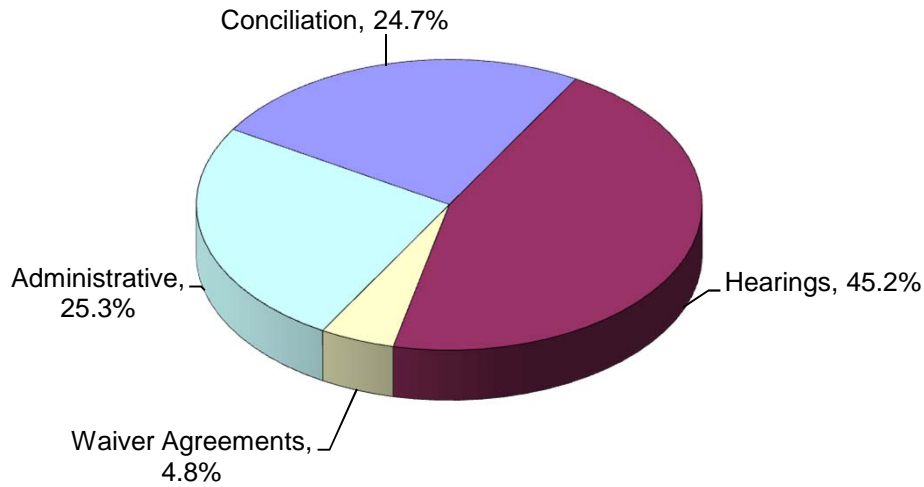
Note: 16,507 claims were excluded from this analysis due to data anomalies

With Electronic Data Interchange (EDI), which took effect fully as of April 2014, 94% of all claims are auto-assembled.

An “established claim” is one where the WCB has made a finding of a work-related accident or injury.

(The claims established data for 2015 includes some previously established claims for which a Board finding during calendar year amended or reaffirmed the claim’s status; it is estimated that these affirmations account for less than 5% of the total.)

Claim Resolutions by Board Processes in 2015



Claim Resolution	Number of Resolutions	Percentage of Resolutions
Informal	177,220	50.0%
Administrative	89,794	25.3%
Conciliation	87,426	24.7%
Formal	177,206	50.0%
Hearings	160,291	45.2%
Waiver Agreements	16,915	4.8%
Total	354,426	100.0%

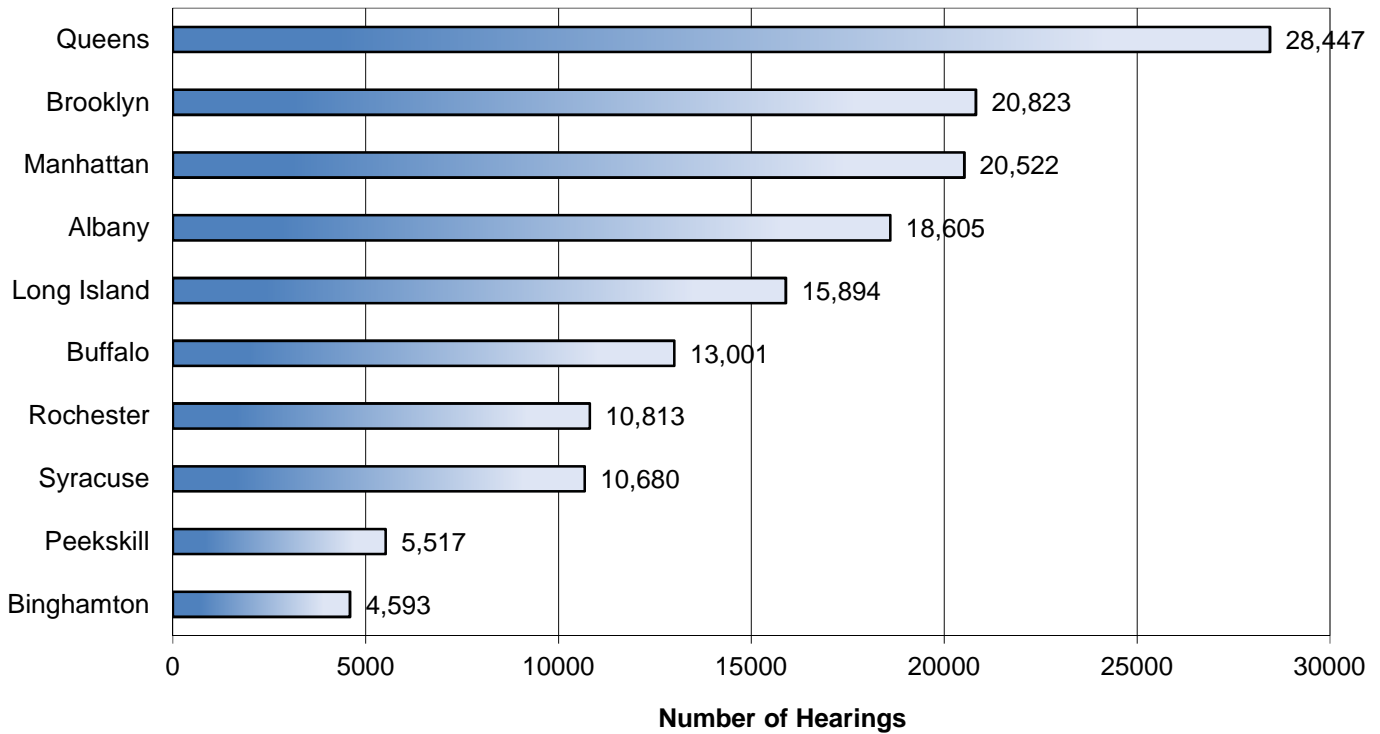
“Administrative” includes Administrative Determinations, Administrative Closures and Cancellations (A claim is cancelled if it is determined to be a duplicate).

“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.

A claim resolved by the “Hearing” process is one for which a judge had determined that no further action by the Board was 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 to permit parties of interest an opportunity to assess their case and to resolve outstanding issues prior to scheduling a hearing regarding those issues.

“Waiver Agreements” settle any or all issues in a claim for workers’ compensation benefits, subject to the Board’s approval.

Hearing Count in 2015 By District Office

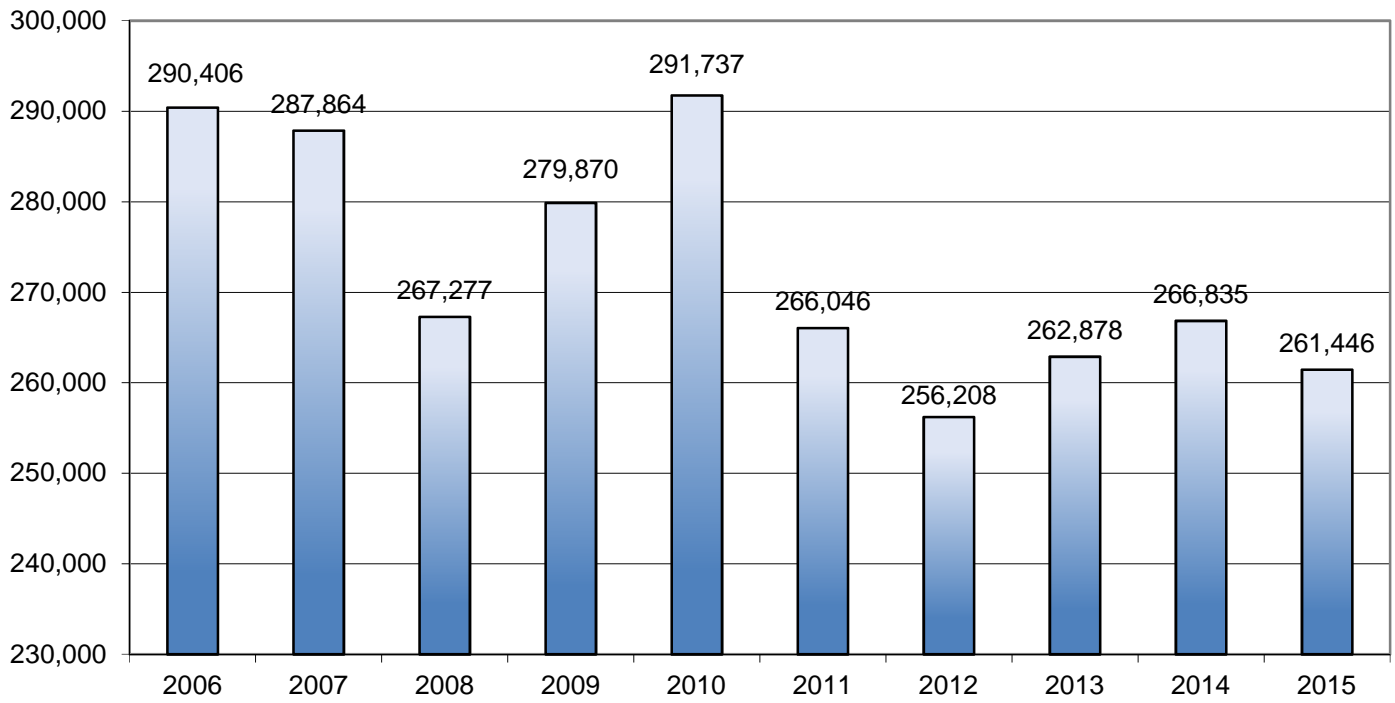


District Office	Number of Hearings	Distinct Claim Count per District
Queens	52,538	28,447
Brooklyn	39,233	20,823
Manhattan	38,001	20,522
Albany	30,464	18,605
Long Island	27,687	15,894
Buffalo	22,935	13,001
Rochester	17,733	10,813
Syracuse	16,903	10,680
Peekskill	8,129	5,517
Binghamton	7,823	4,593
Total	261,446	148,895

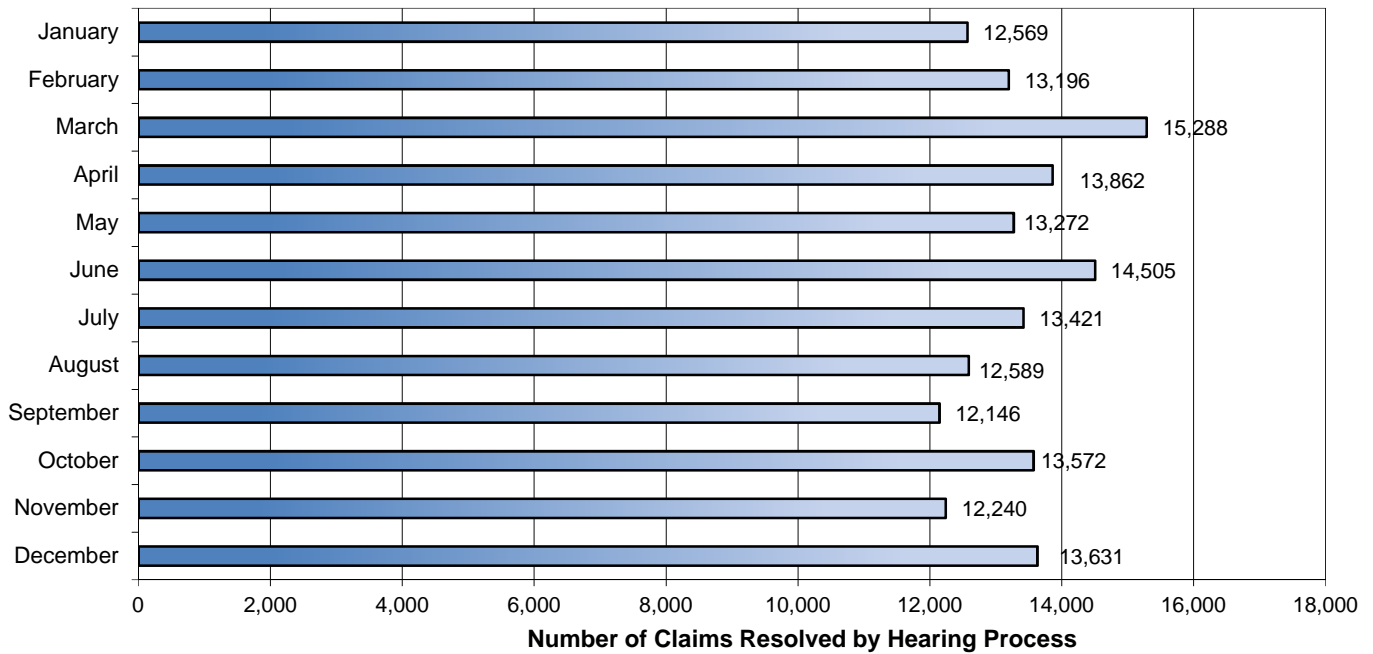
The number of hearings excludes commissioner hearings, board panel reviews and waiver agreements.

Hempstead and Hauppauge district offices merged into the newly created Long Island district as of February 24, 2012 so all claims assembled in Hempstead or Hauppauge are listed under the Long Island District. The lower number of hearings in Peekskill reflects closure of that district.

Number of Hearings Held from 2006 to 2015 Ten Year Trend



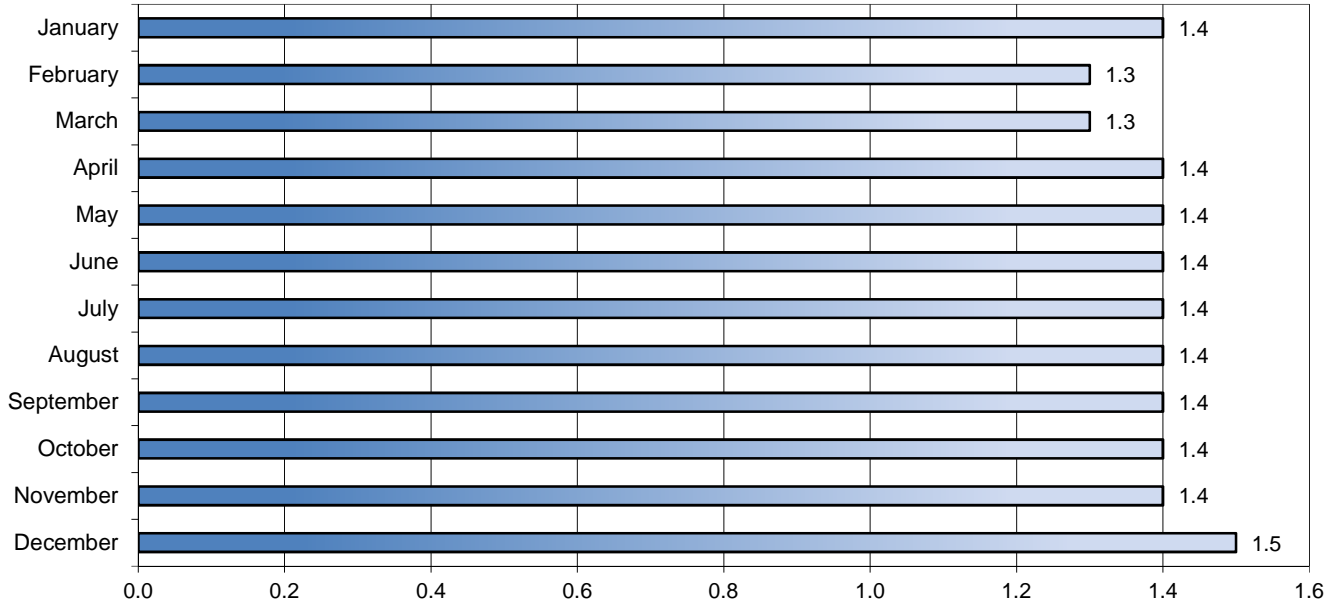
Number of Claims Resolved by Hearing Process in 2015 By Month



Month	Resolved by Hearing Process
January	12,569
February	13,196
March	15,288
April	13,862
May	13,272
June	14,505
July	13,421
August	12,589
September	12,146
October	13,572
November	12,240
December	13,631
Total	160,291

A claim resolved by the Hearing process is one for which a judge had determined that no further action by the Board was 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 to permit parties of interest an opportunity to assess their case and to resolve outstanding issues prior to scheduling a hearing regarding those issues.

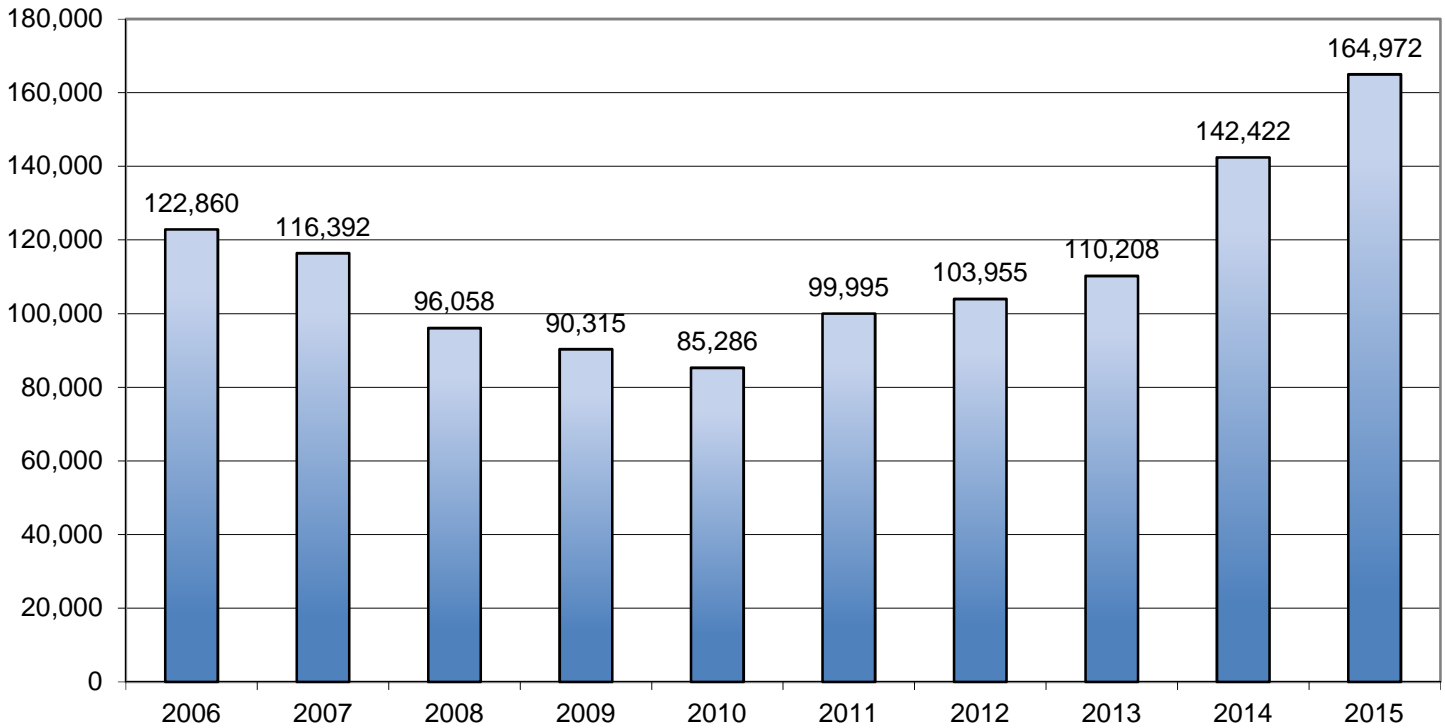
**Average Number of Hearings to First Indemnity Award
for Claims that Required Hearings in 2015
By Month**



Month	Average Hearings Per Claim
January	1.4
February	1.3
March	1.3
April	1.4
May	1.4
June	1.4
July	1.4
August	1.4
September	1.4
October	1.4
November	1.4
December	1.5
Average	1.4

Established Claims with indemnity award: Claims for which there was a finding made by the Board that (1) the claimant sustained an injury or illness arising out of and in the course of employment; (2) timely notice thereof was given to the employer; (3) there is a causal relationship between the work injury or illness and a consequent disability; and (4) the claimant received a monetary award.

**Number of Claims Pending from 2006 to 2015
Ten Year Trend**

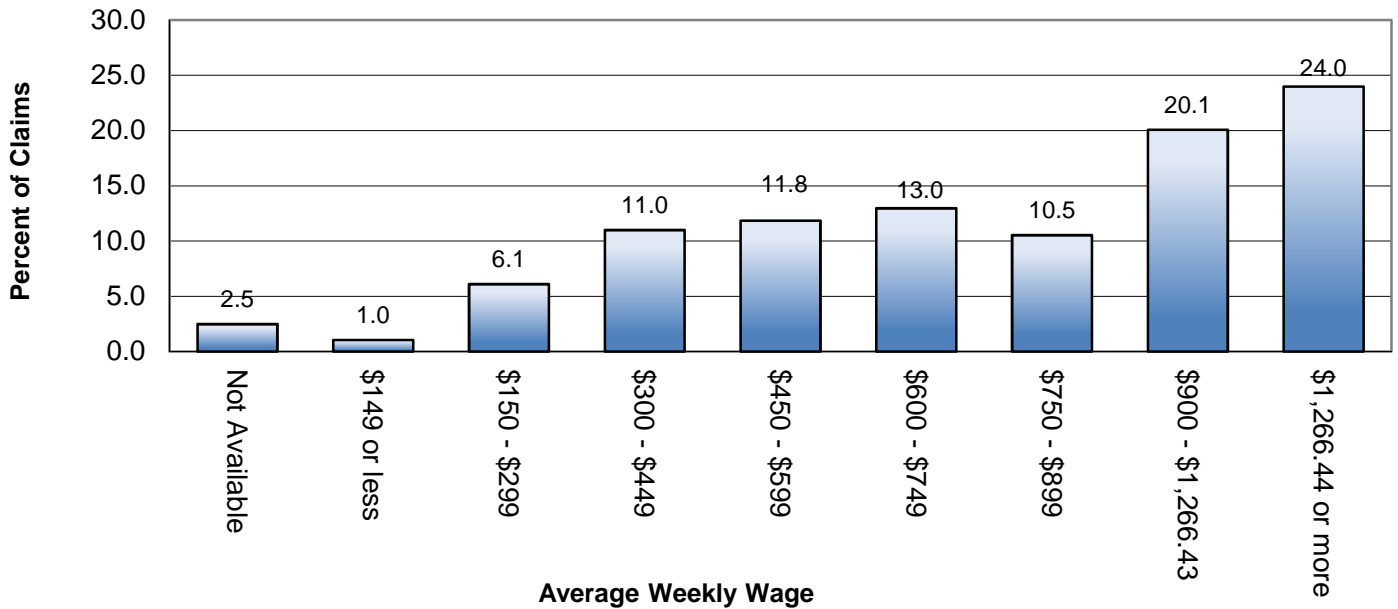


**Number of Claims Pending
Ten Year Trend**

Calendar Year	Claims Pending at End of Year	Annual Percent Change in Claims Pending
2006	122,860	-2.5%
2007	116,392	-5.3%
2008	96,058	-17.5%
2009	90,315	-6.0%
2010	85,286	-5.6%
2011	99,995	17.2%
2012	103,955	4.0%
2013	110,208	6.0%
2014	142,422	29.2%
2015	164,972	15.8%

The increase in percentage change after 2013 in claims pending is reflective of Electronic Data Interchange (EDI), which commenced in 2013 and took full effect in April 2014. The number of claims pending reflects all cases assembled and currently open.

**Average Weekly Wage
For Established Claims with First Indemnity Award in 2015**



Average Weekly Wage	Number of Claimants	Percentage of Claimants
Not Available	1,850	2.5%
\$149 or less	782	1.0%
\$150 - \$299	4,547	6.1%
\$300 - \$449	8,201	11.0%
\$450 - \$599	8,832	11.8%
\$600 - \$749	9,670	13.0%
\$750 - \$899	7,856	10.5%
\$900 - \$1,266.43	14,965	20.1%
\$1,266.44 or more	17,881	24.0%
Totals	74,584	100.0%

The maximum benefit rate effective 7/1/2015 is based upon the Statewide Average Weekly Wage of \$1,266.44.

An "established claim" is one where the WCB has made a finding of a work-related accident or injury.

(The claims established data for 2015 includes some previously established claims for which a Board finding during calendar year 2015 amended or reaffirmed the claim's status; it is estimated that these affirmations account for less than 5% of the total.)