

2014 ANNUAL REPORT

WORKERS' COMPENSATION BOARD



**Workers'
Compensation
Board**

Andrew M. Cuomo, Governor

Robert E. Beloten, Chair

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WORKERS' COMPENSATION BOARD'S 2014 ANNUAL REPORT

Executive Summary

The Workers' Compensation Board is pleased to submit its *2014 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 10 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. In 2013, the Board closed or relocated 5 hearing points. In 2014, the Board closed or relocated 3 hearing points.

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 10,726 SWOs. In 2014, the Board issued 1,307 SWOs, the overwhelming majority issued downstate – 883 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, as 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

Claim assembly occurs when 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, is disputed by the carrier or employer, or receives a claim form from the injured worker (Form C-3) or a notice of claim action from the carrier.

The number of assembled claims increased approximately 35% to 165,304 (A-3).

Controverted Claims

In a controverted claim, the insurance carrier or self-insured employer challenges the injured worker's eligibility for workers' compensation benefits. When this happens, a pre-hearing conference is held.¹ The expedited hearing process sets a goal of holding a pre-hearing conference within 30 days and resolving controverted claims within 90 days.

In 2014, pre-hearing conferences were held within a median 25 days of controversy. On average, the controversy is resolved within 79 days (A-7 and A-8). This is similar to 2013, when the median and average were 26 and 76 days respectively. Approximately 54% of claims controverted between January and September 2014 were resolved within the 90 day timeframe, while another 24% were resolved within 180 days (A-6).

Following implementation of the expedited hearing process (also known as the Rocket Docket) in 2008, the number of controverted claims fell by approximately 50% (A-3). There was an increase (13.5%) in controverted claims in 2014 (A-3). The rate of controversy, measured at 90, 180, and 360 days, has not changed significantly from 2013; it ranges from 6.6-8.1% (A-5).

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 2014, the Board issued 343,541 resolutions, slightly more than in 2013 (A-12). Slightly more than half required hearings, with 47.0% in regular hearings and 4.9% in Section 32 agreement hearings.

¹ Carriers file a Notices That Right To Compensation Is Controverted (includes C-7, FROI-04 and SROI-04) to challenge a claim, but the Board's business rules do not treat a claim as 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.

Approximately 24.9% of resolutions were by conciliation, compared to 26% in 2013 (A-12). The percentage of administrative determinations is up slightly from 2013 (20.3% v. 23.1%), and the total number of administrative determinations is up 10.1%, 66,725 versus 79,330 (A-12).

Hearings

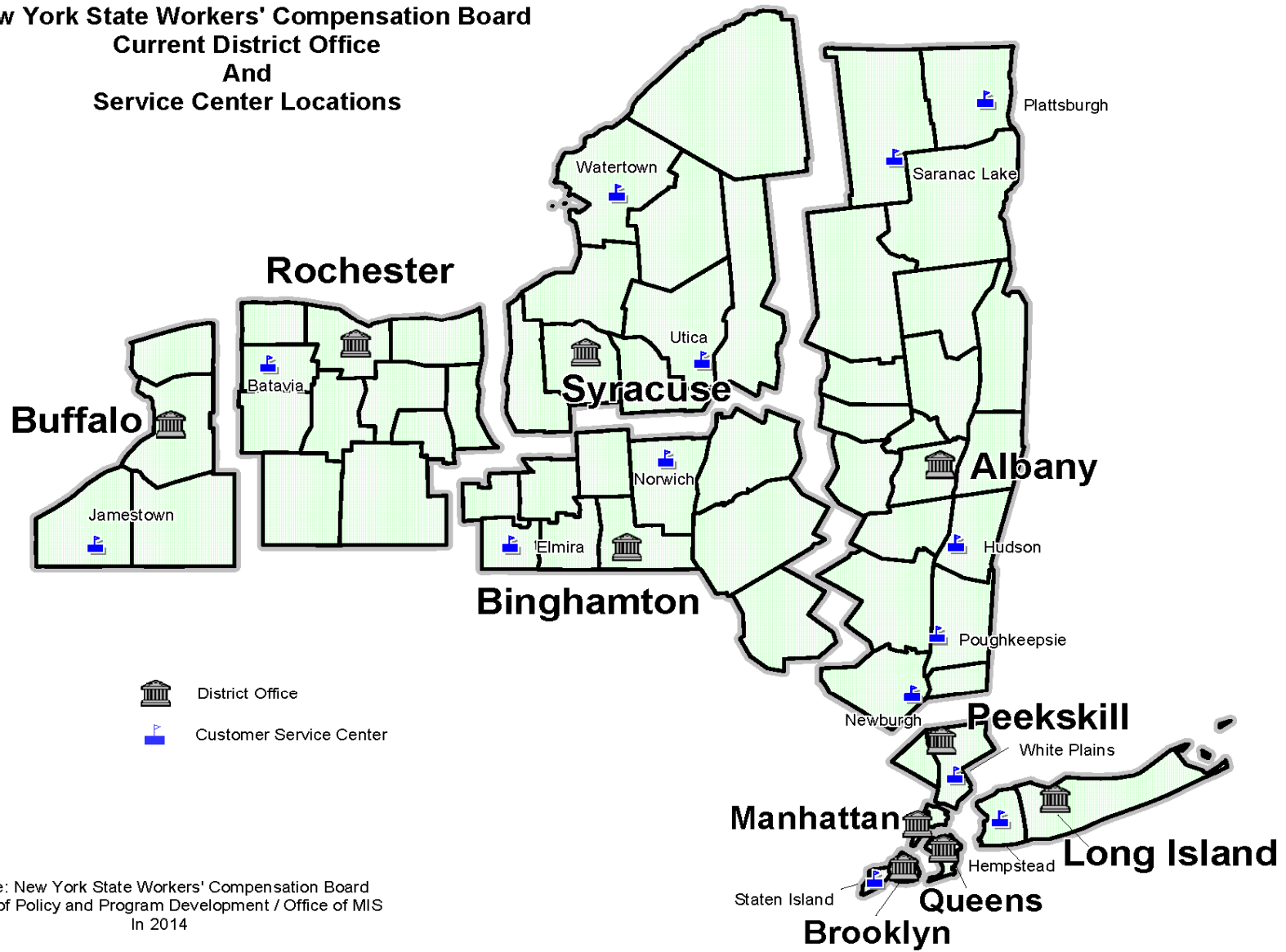
In 2014, the Board held 266,943 hearings, up by 4,065 from 2013 (A-14). On average, 1.4 hearings were required before the first indemnity benefit was awarded for those claims handled by the hearing process, similar to 2013 (A-16). There was an increase in the number of pending claims, to 142,422, at the end of 2014.

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 2014, the maximum benefit rate was \$808.69, based on a 2013 SAWW of \$1,212.98.

There is a wide distribution of AWW in accepted claims in 2014. Approximately one-third of claims had an AWW of less than \$600. About one quarter had an AWW between \$600-899. Nearly 42% had an AWW of \$900 or more (A-18).

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

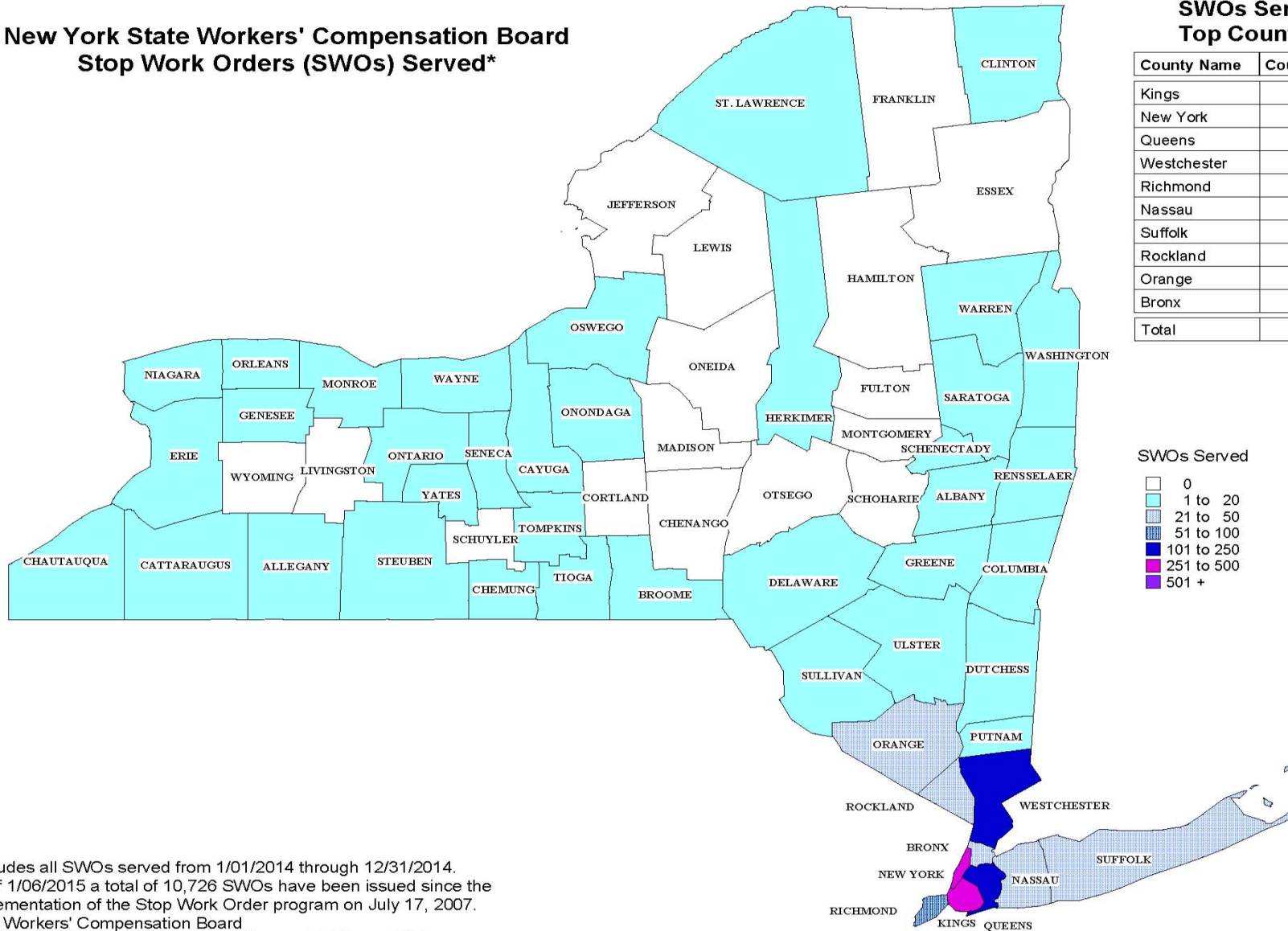


Source: New York State Workers' Compensation Board
Division of Policy and Program Development / Office of MIS
In 2014

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

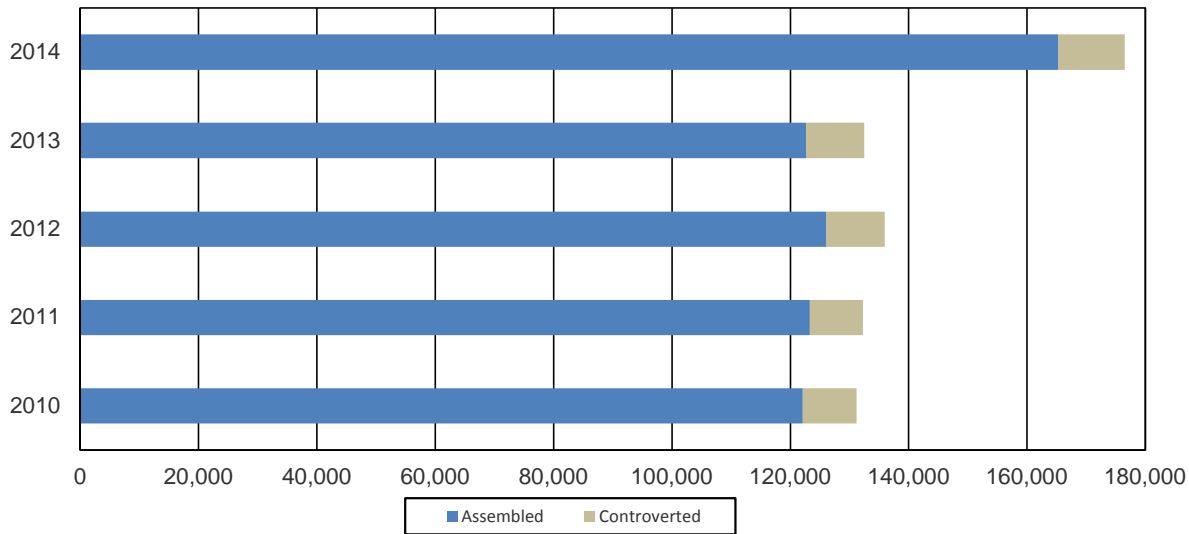
SWOs Served Top Counties

County Name	Count
Kings	330
New York	265
Queens	203
Westchester	105
Richmond	55
Nassau	50
Suffolk	43
Rockland	39
Orange	31
Bronx	30
Total	1,307



*Includes all SWOs served from 1/01/2014 through 12/31/2014.
As of 1/06/2015 a total of 10,726 SWOs have been issued since the implementation of the Stop Work Order program on July 17, 2007.
NYS Workers' Compensation Board
Division of Policy and Program Development / Office of MIS

**Claims Assembled and Controverted
From 2010 to 2014**



**Assembled and Controverted Claims
From 2010 to 2014**

Year	Reopened Claims	Assembled Claims	Controverted Claims*	Percent Controverted
2010	196,160	122,062	9,113	7.5%
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%

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

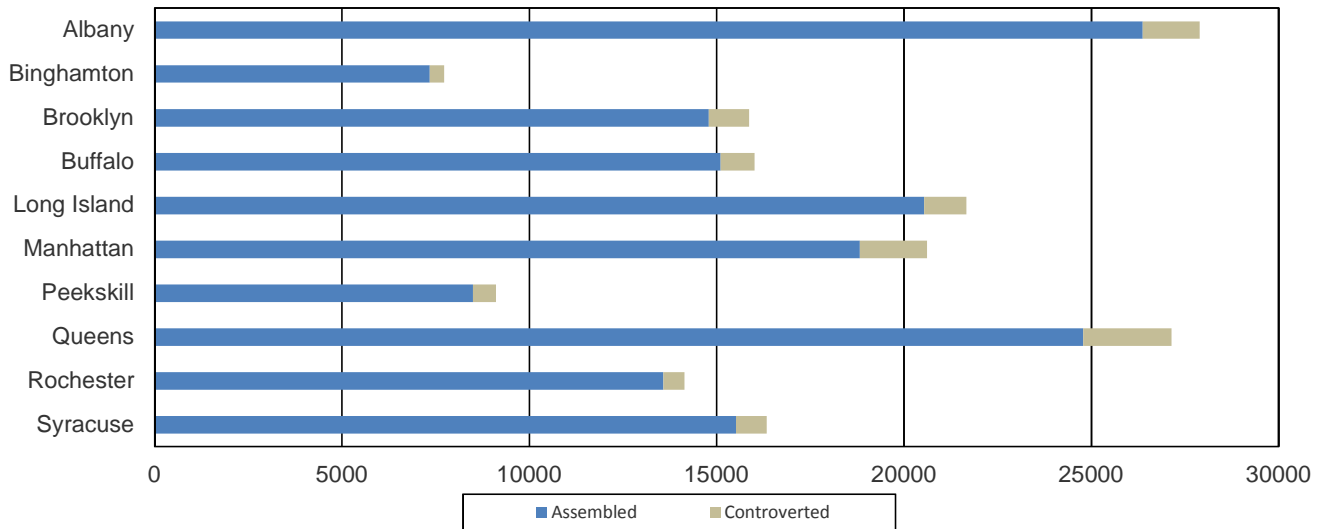
A controverted claim is one for which the Board has received:

- 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 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.

Claims Assembled and Controverted in 2014 By District Office



District Office	Reopened Claims	Assembled Claims	Controverted Claims*	Percent Controverted
Albany	28,523	26,372	1,513	5.7%
Binghamton	8,173	7,337	387	5.3%
Brooklyn	24,425	14,790	1,076	7.3%
Buffalo	22,438	15,100	906	6.0%
Long Island	29,223	20,533	1,133	5.5%
Manhattan	24,318	18,821	1,794	9.5%
Peekskill	13,781	8,489	619	7.3%
Queens	37,664	24,777	2,364	9.5%
Rochester	15,180	13,571	566	4.2%
Syracuse	21,725	15,514	817	5.3%
Total**	225,450	165,304	11,175	6.8%

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

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

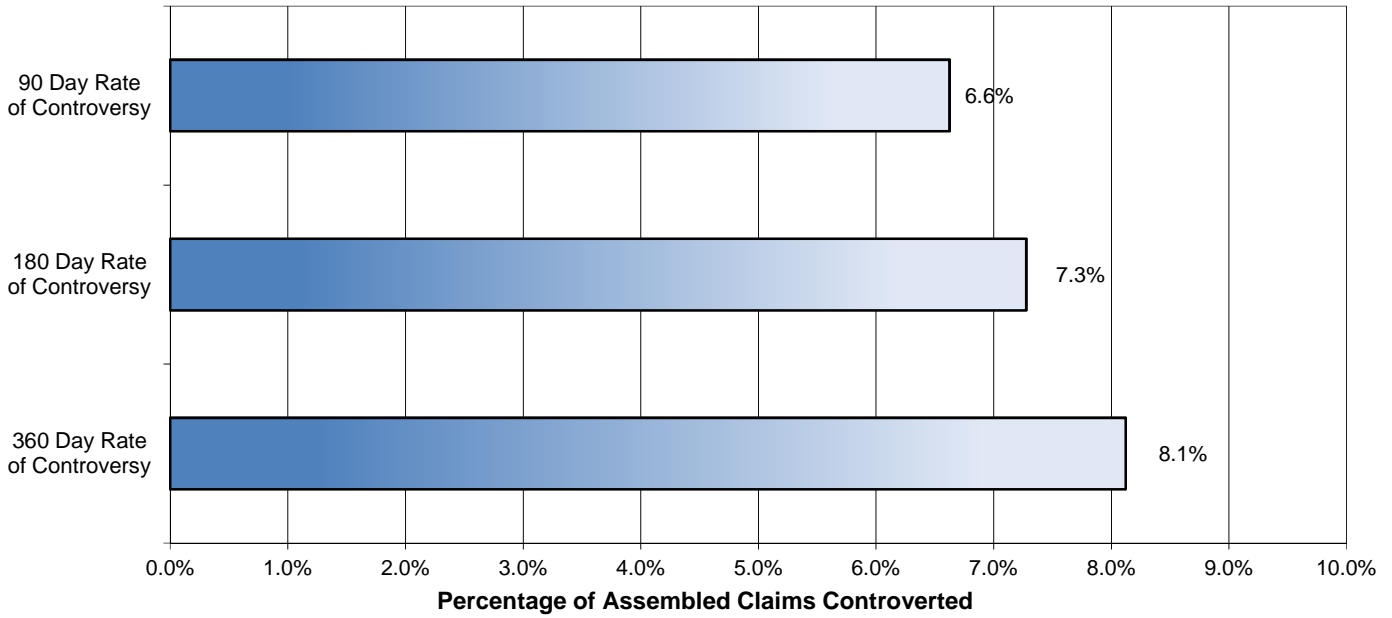
A controverted claim is one for which the Board has received: 1) "Notice That Right To Compensation Is Controverted" indicating that the Carrier disputes the claim, and 2) qualifying medical documentation.

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.

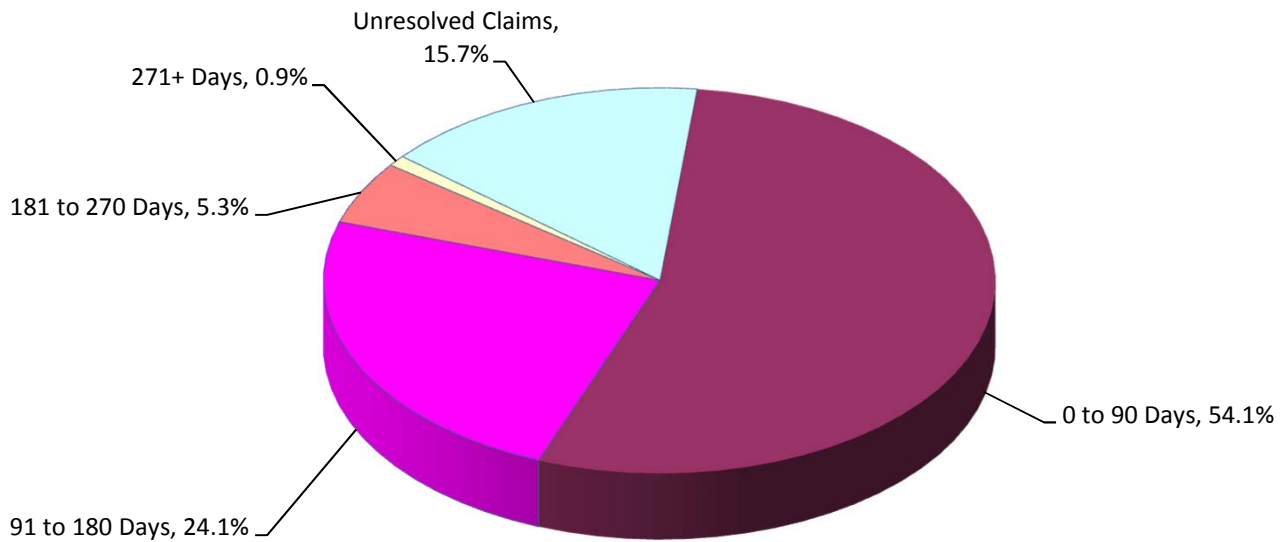
Percentage of Assembled Claims Controverted 2014 Report



Rate of Controversy	Totals
90 Day Rate of Controversy	6.6%
Claims Assembled (Oct. 2013 to Sept. 2014)	151,812
Claims Controverted	10,057
180 Day Rate of Controversy	7.3%
Claims Assembled (July 2013 to June 2014)	139,428
Claims Controverted	10,147
360 Day Rate of Controversy	8.1%
Claims Assembled (Jan. 2013 to Dec. 2013)	119,208
Claims Controverted	9,682

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, 2015. 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.

Claims Controverted in the First Nine Months of 2014 By Number of Days to Resolve the Issues



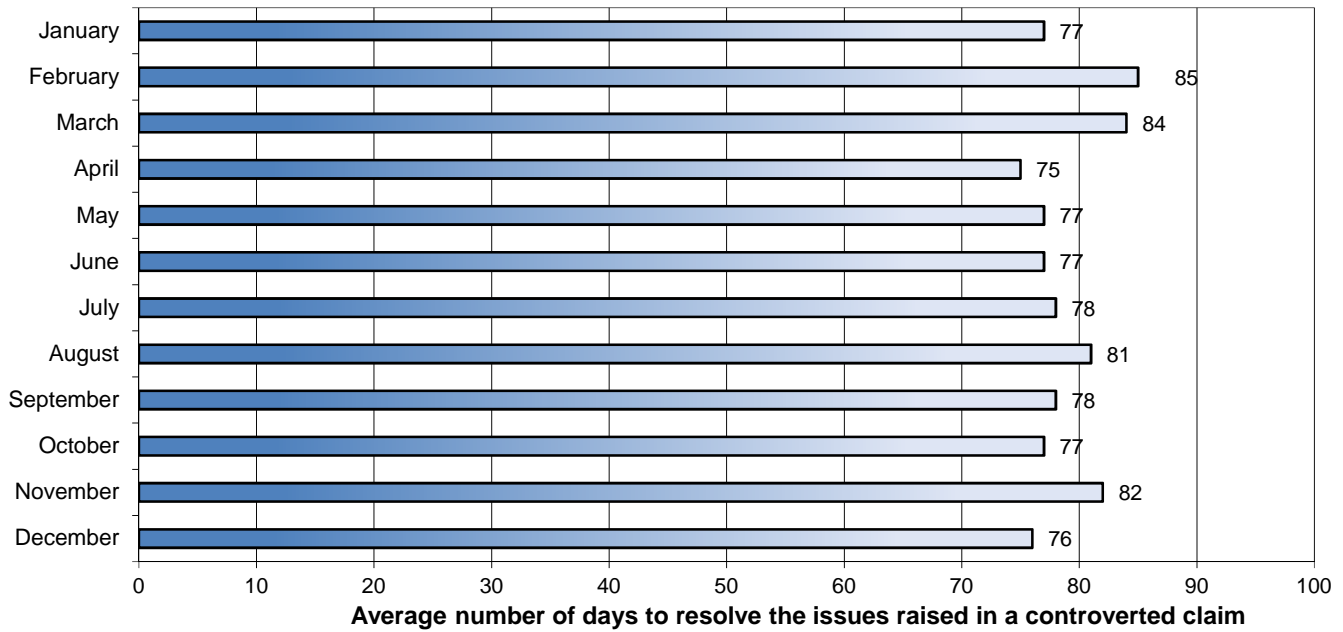
Days	Controverted Claims*	Percentage of Claims
Unresolved Claims	1,290	15.7%
0 to 90 Days	4,458	54.1%
91 to 180 Days	1,983	24.1%
181 to 270 Days	436	5.3%
271+ Days	74	0.9%
Total**	8,241	100.0%

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

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

Controverted claims are resolved through a rocket docket process. The majority of cases are resolved fully within 90 days. Complex cases, including uninsured claims, and most occupational diseases, take longer to resolve (and the governing regulation permits the extended time frame). The cases categorized as “unresolved claims” are those where the injured worker fails to pursue the claim, needs additional time to obtain medical evidence to support the claim, or where the parties advise the Board that they are involved in settlement negotiations.

Average Number of Days to Resolve the Issues Raised in a Controverted Claim in 2014 By Month



Month	Average Number of Days
January	77
February	85
March	84
April	75
May	77
June	77
July	78
August	81
September	78
October	77
November	82
December	76
Average	79

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 2014
Median Days from Controversy to PHC
By Month**

Month	Total PHC	Eligible PHC*	Median Days from Controversy to PHC	Unknown Controversy Date***
January	779	718	26	61
February	730	665	25	65
March	744	690	24	54
April	981	910	25	71
May	870	818	25	52
June	832	749	25	83
July	905	834	26	71
August	708	645	25	63
September	875	799	26	76
October	924	867	26	57
November	892	825	25	67
December	1,026	968	26	58
Total**	10,266	9,488	25	778

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 2014 was 10,995; out of these claims, 729 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 2014
By Claim Type and Month**

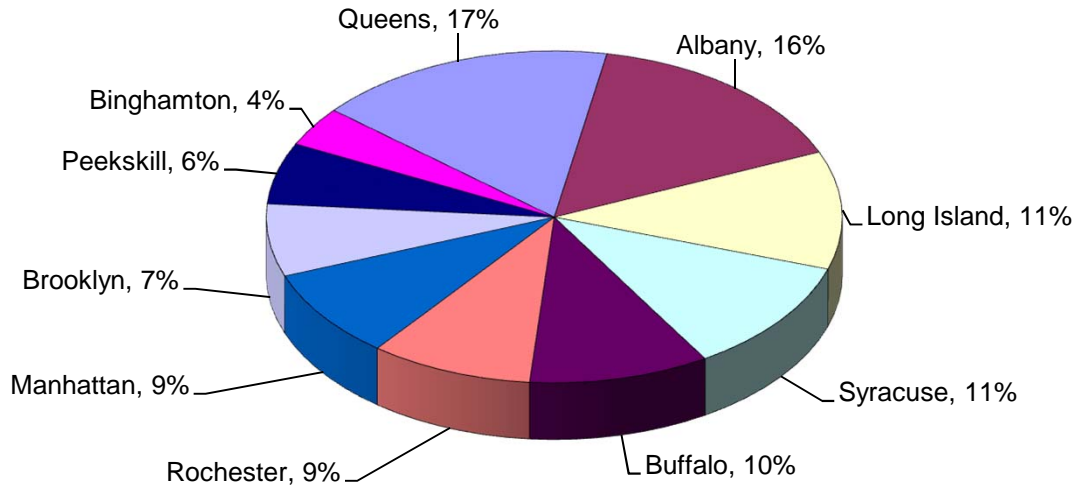
Month Established	Total Claims Established	WCL Claims (1)	VFBL Claims (2)	VAWBL Claims (3)
January	9,928	9,859	60	9
February	8,370	8,335	33	2
March	9,192	9,144	44	4
April	9,280	9,240	38	2
May	10,141	10,062	64	15
June	10,278	10,211	60	7
July	9,702	9,644	54	4
August	9,120	9,067	45	8
September	9,862	9,805	53	4
October	13,260	13,201	53	6
November	12,925	12,841	80	4
December	12,820	12,755	59	6
Total	124,878	124,164	643	71

- (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 2014 include some previously established claims for which a Board finding during calendar year 2014 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 2014
By District Office**



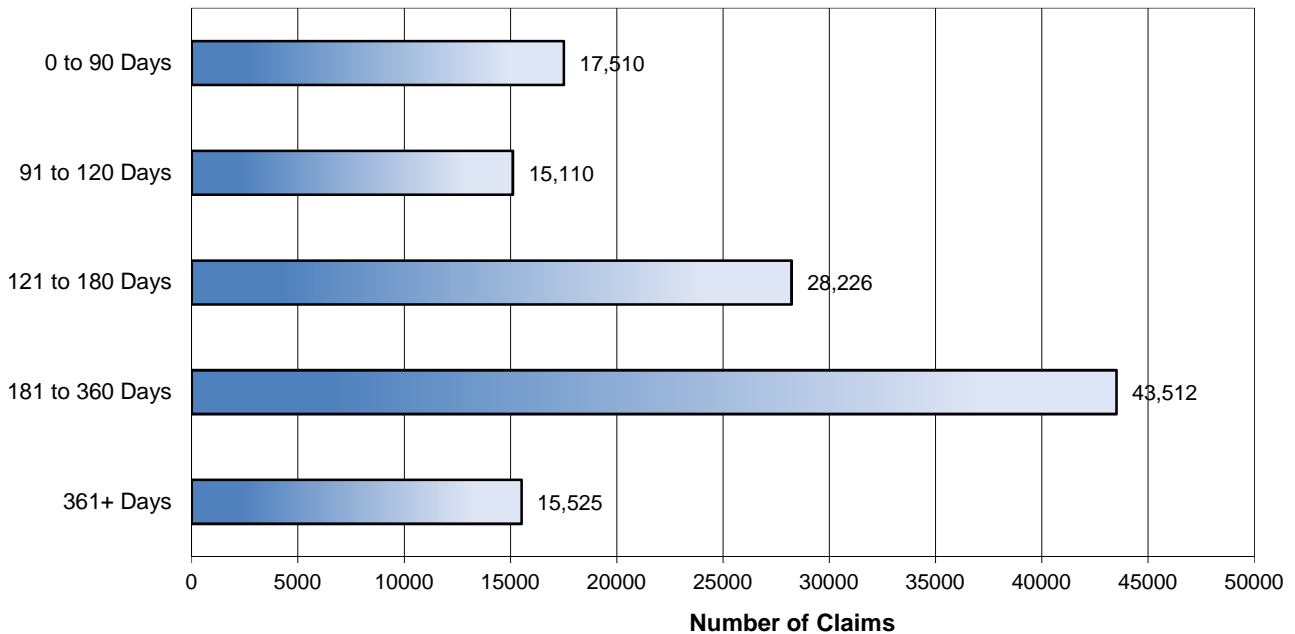
**Claims Established in 2014
By District Office**

District Office	Claims Established
Queens	21,005
Albany	19,562
Long Island	14,313
Syracuse	13,956
Buffalo	12,655
Rochester	11,428
Manhattan	10,885
Brooklyn	8,787
Peekskill	7,461
Binghamton	4,826
Total	124,878

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

(The claims established data for 2014 includes some previously established claims for which a Board finding during calendar year 2014 amended or reaffirmed the claim's status; it is estimated that these affirmations account for less than 5% of the total.)

**Established Claims in 2014
By Number of Days from Assembly to Established**



**Established Claims in 2014
By Number of Days from Assembly to Established**

Days	Accepted Claims	Percent
0 to 90 Days	17,510	14.6%
91 to 120 Days	15,110	12.6%
121 to 180 Days	28,226	23.5%
181 to 360 Days	43,512	36.3%
361+ Days	15,525	13.0%
Total Claims	119,883	100.0%

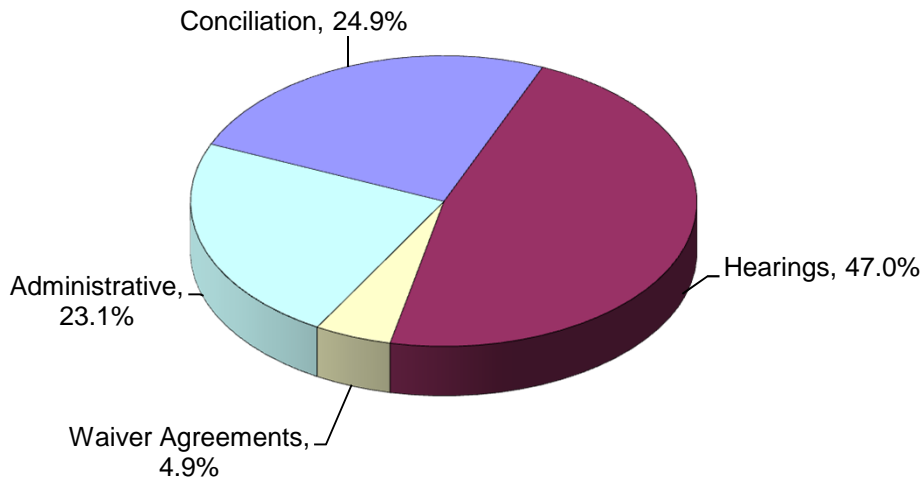
Note: 4,995 claims were excluded from this analysis due to data anomalies

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 2014 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 2014



Claim Resolution	Number of Resolutions	Percentage of Resolutions
Informal	165,017	48.0%
Administrative	79,330	23.1%
Conciliation	85,687	24.9%
Formal	178,524	52.0%
Hearings	161,604	47.0%
Waiver Agreements	16,920	4.9%
Total	343,541	100.0%

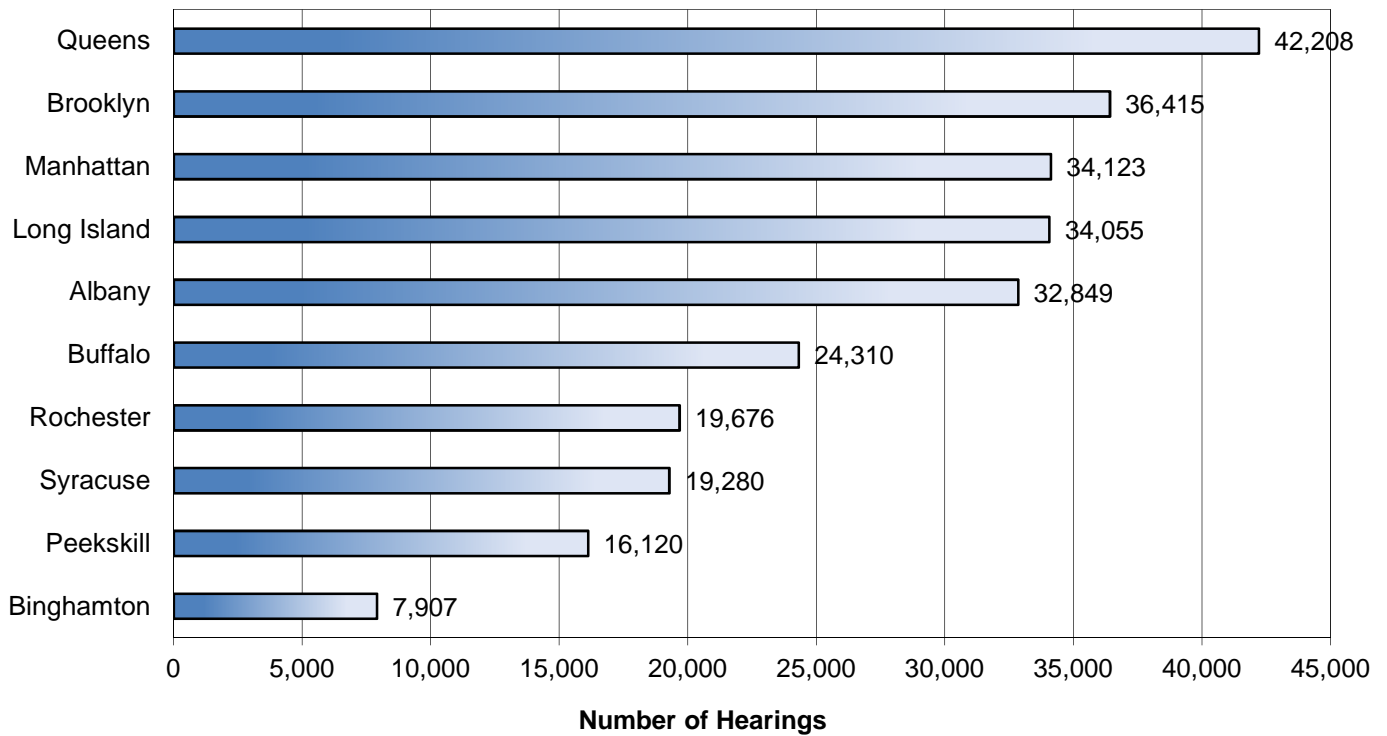
“Administrative” includes Administrative Determinations, Administrative Closures and Cancellations (A claim is cancelled if it is determined to be a duplicate).

“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 2014 By District Office

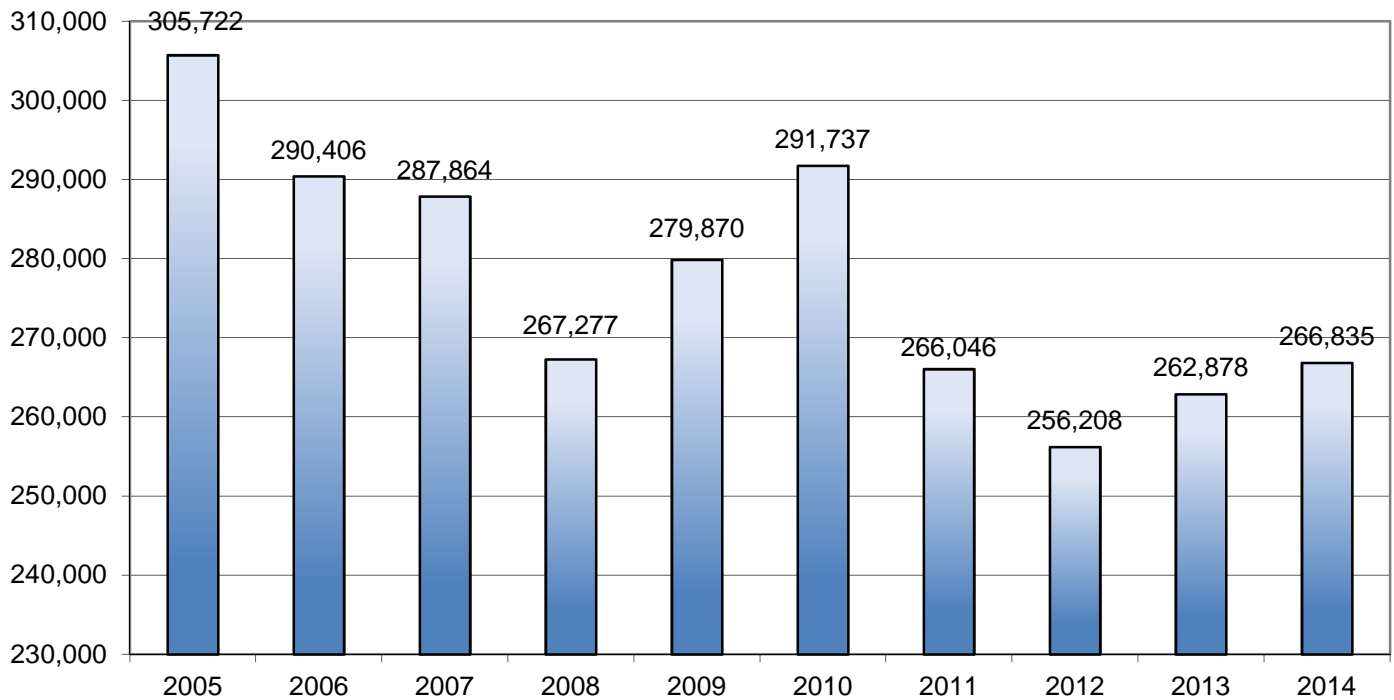


District Office	Number of Hearings	Distinct Claim Count per District
Queens	42,208	24,154
Brooklyn	36,415	19,224
Manhattan	34,123	18,565
Long Island	34,055	20,936
Albany	32,849	20,179
Buffalo	24,310	14,070
Rochester	19,676	12,041
Syracuse	19,280	12,058
Peekskill	16,120	9,198
Binghamton	7,907	4,726
Total	266,943	155,151

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.

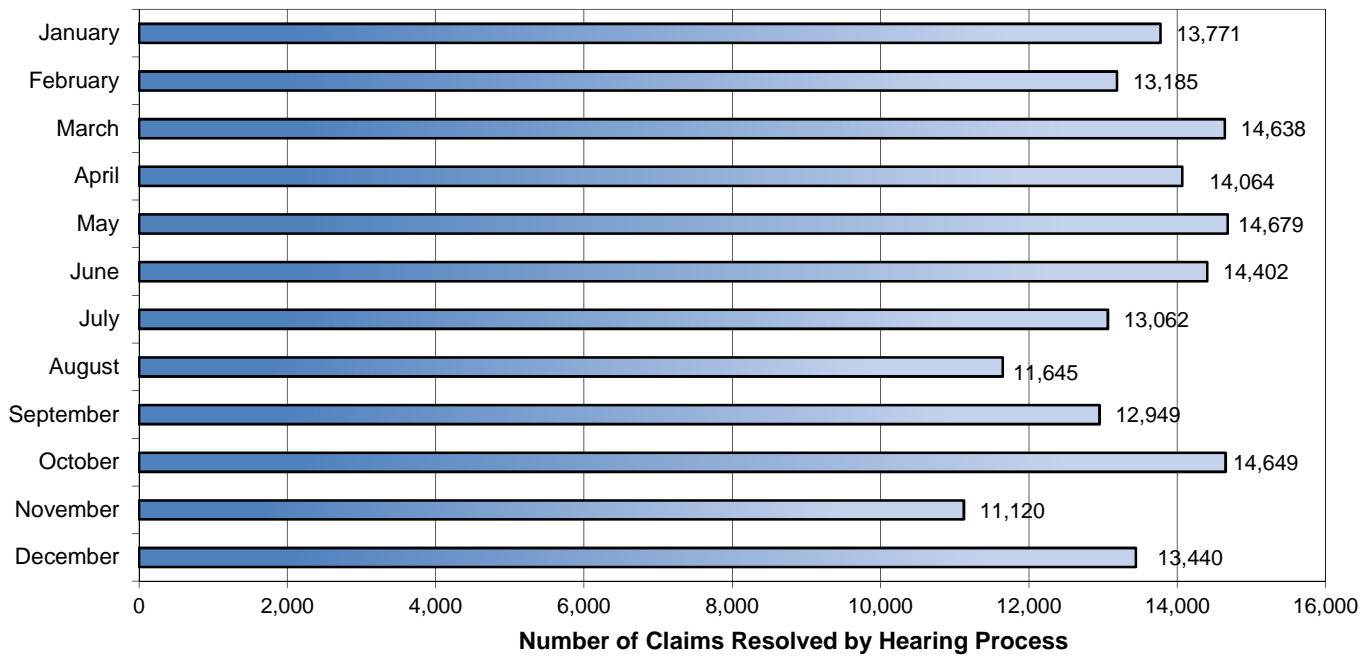
Number of Hearings Held from 2005 to 2014 Ten Year Trend



Year	Total Hearings Held	Claims Pending at Years End	Ratio of Hearings Held to Claims Pending
2005	305,722	126,054	2.4
2006	290,406	122,860	2.4
2007	287,864	116,392	2.5
2008	267,277	96,058	2.8
2009	279,870	90,315	3.1
2010	291,737	85,286	3.4
2011	266,046	99,995	2.7
2012	256,208	103,955	2.5
2013	262,878	110,208	2.4
2014	266,943	142,422	1.9

The number of hearings has remained relatively constant for the last 4 years. With Electronic Data Interchange (EDI), commencing in 2013 and taking full effect in 2014, the number of claims pending reflects all cases assembled and currently open. The ratio in 2014 supports the Board's expectation that increased carrier compliance in prompt electronic filing does not lead to an increase in disputed issues requiring a resolution. The ratio also demonstrates the positive effect of informal resolution of issues within claims. The number of hearings excludes waiver agreements and board panel oral arguments.

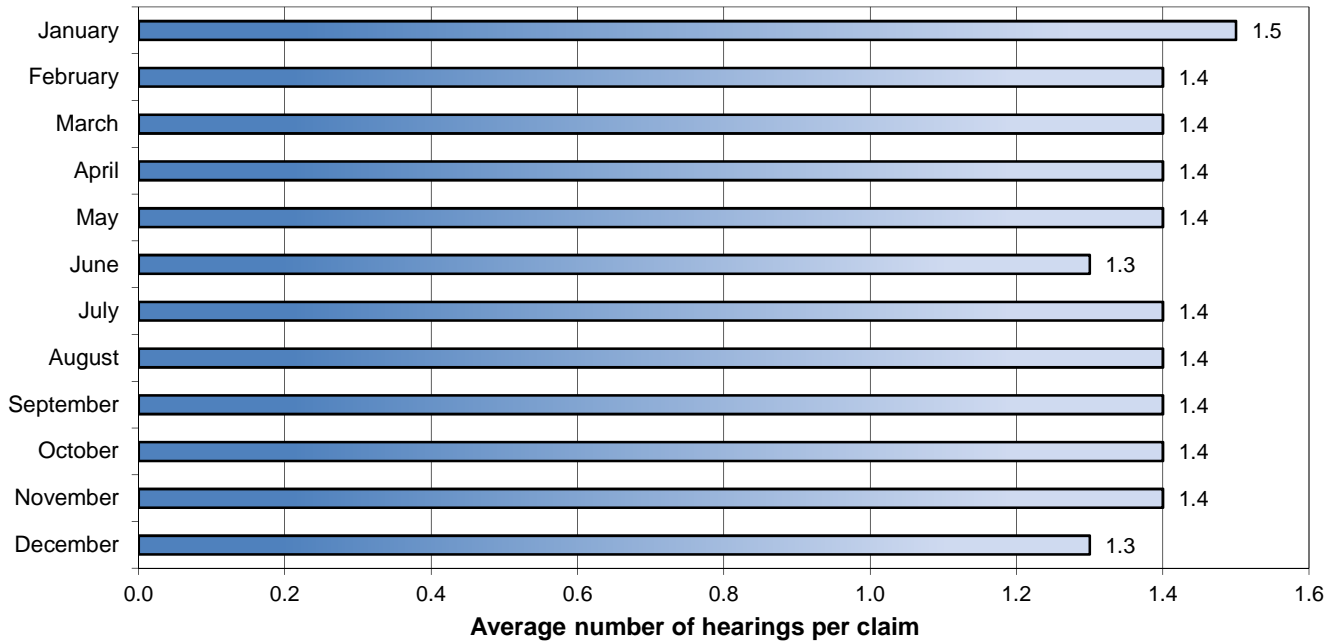
Number of Claims Resolved by Hearing Process in 2014 By Month



Month	Resolved by Hearing Process
January	13,771
February	13,185
March	14,638
April	14,064
May	14,679
June	14,402
July	13,062
August	11,645
September	12,949
October	14,649
November	11,120
December	13,440
Total	161,604

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.

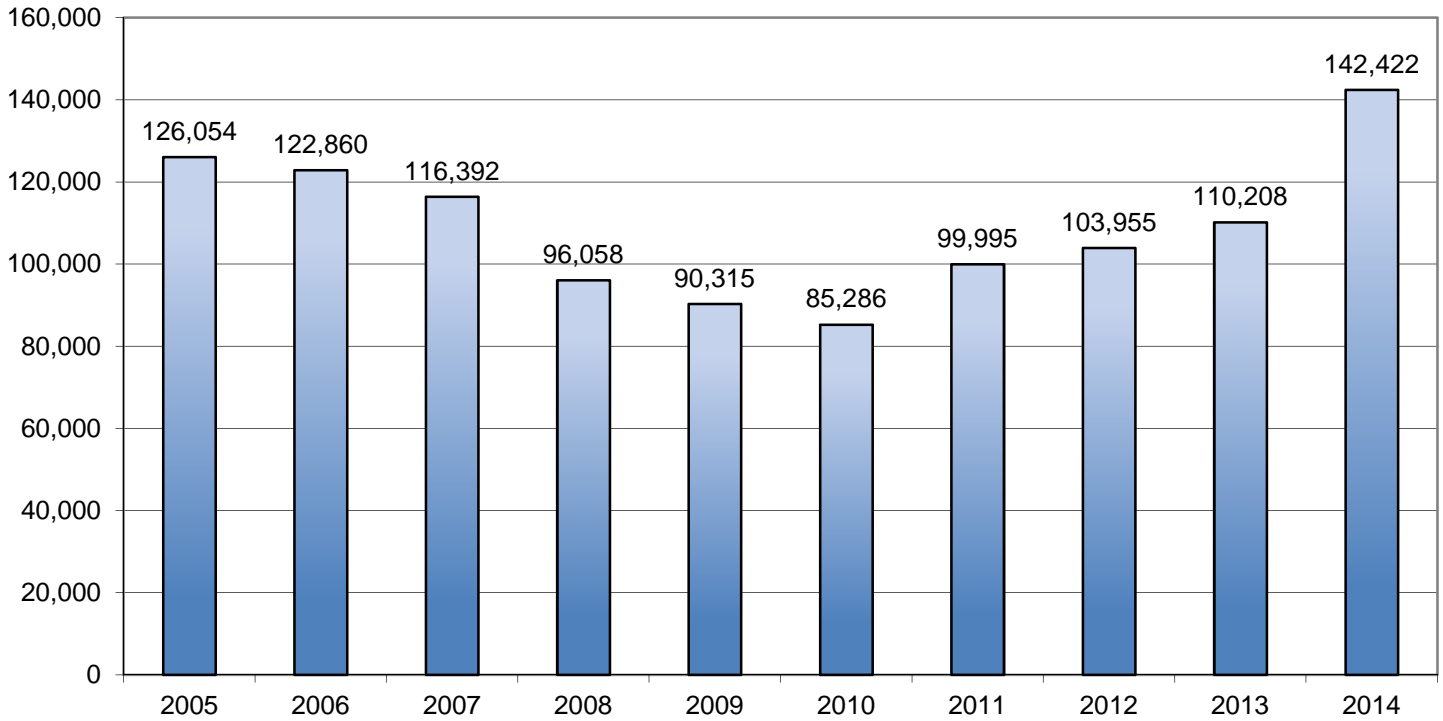
**Average Number of Hearings to First Indemnity Award
for Claims that Required Hearings in 2014
By Month**



Month	Average Hearings Per Claim
January	1.5
February	1.4
March	1.4
April	1.4
May	1.4
June	1.3
July	1.4
August	1.4
September	1.4
October	1.4
November	1.4
December	1.3
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 2005 to 2014
Ten Year Trend**

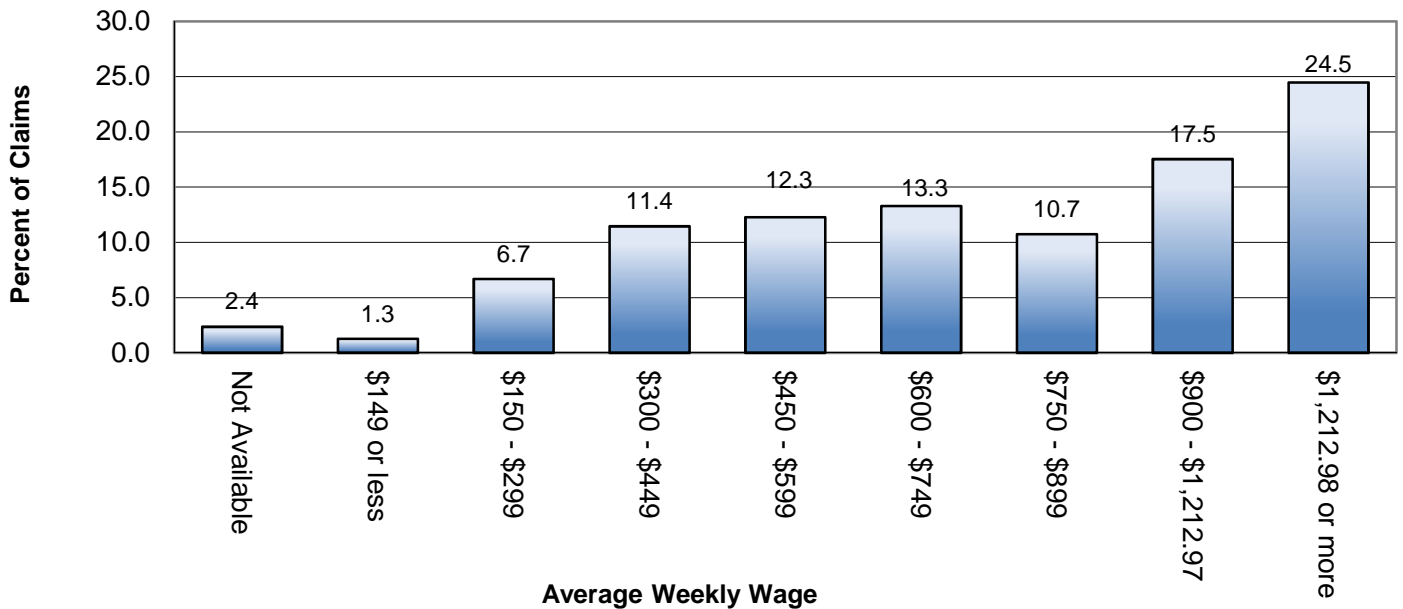


**Number of Claims Pending
Ten Year Trend**

Calendar Year	Claims Pending at End of Year	Annual Percent Change in Claims Pending
2005	126,054	-8.5%
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%

The increase in 2013 and 2014 in percentage change 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 2014**



Average Weekly Wage	Number of Claimants	Percentage of Claimants
Not Available	1,783	2.4%
\$149 or less	952	1.3%
\$150 - \$299	5,068	6.7%
\$300 - \$449	8,670	11.4%
\$450 - \$599	9,295	12.3%
\$600 - \$749	10,066	13.3%
\$750 - \$899	8,133	10.7%
\$900 - \$1,212.97	13,280	17.5%
\$1,212.98 or more	18,531	24.5%
Totals	75,778	100.0%

The maximum benefit rate effective 7/1/2014 is based upon the Statewide Average Weekly Wage of \$1,212.98.

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

(The claims established data for 2014 includes some previously established claims for which a Board finding during calendar year 2014 amended or reaffirmed the claim's status; it is estimated that these affirmations account for less than 5% of the total.)