

2013 ANNUAL REPORT

WORKERS' COMPENSATION BOARD



Andrew M. Cuomo, Governor

Robert E. Beloten, Chair

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WORKERS' COMPENSATION BOARD'S 2013 ANNUAL REPORT

Executive Summary

The Workers' Compensation Board is pleased to submit its *2013 Annual Report*. Pursuant to Workers' Compensation Law § 153, this report sets forth basic data regarding 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.

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 9,325 SWOs. In 2013, the Board issued 1,191 SWOs, the overwhelming majority issued downstate – 955 in New York City (A-2).

Claims

Assembly

Claim assembly^[1] 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 (Form C-669) from the carrier.

The number of assembled claims decreased approximately 3% to 122,615 (A-3). The geographic distribution of assembled claims is reflected in the map at A-5.

^[1] Claim assembly was introduced in 2008 in connection with the *Rocket Docket* regulations for controverted claims, part of the 2007 reform. Prior to 2008, new claims were both assembled and "indexed" when the Board received notice of the workplace injury. The standard for assembling a claim is very similar to that of indexing for claims before 2008. The count of assembled claims excludes claims that are assigned a Board claim number but for which the Board does not receive sufficient information, despite requests, to take further action.

Reopened Claims

There was a 2% increase in reopened claims from 2012: 229,897 versus 224,412 (A-3). A reopened claim is one that has been reactivated to resolve new issues following a finding that no further action was necessary.

Controverted Claims

In a controverted claim, the insurance carrier or self-insured employer challenges the injured worker's eligibility for workers' compensation benefits and then a pre-hearing conference is held.^[2] 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-6). There was a very slight increase (0.1%) in controverted claims in 2013 (A-6). The rate of controversy, measured at 90, 180, and 360 days, has not changed significantly from 2012; it ranges from 7.5-7.9% (A-8).

The expedited hearing process sets a goal of holding a pre-hearing conference within 30 days and resolving controverted claims within 90 days. Pre-hearing conferences are held within a median of 26 days of controversy. On average, the controversy is resolved within 76 days (A-10 and A-11). This is similar to 2012, when the average was 26 and 73 days respectively. Approximately 57% of claims controverted between January and September 2013 were resolved within the 90 day timeframe, while another 23% were resolved within 180 days (A-9).

Accepted Claims

Regulations require the Board to issue a decision determining 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 ANCR^[3] or ODNCR.^[4]

In 2013, the Board established 104,137 claims. Of these, 103,579 were under the Workers' Compensation Law and 558 were under the Volunteer Firefighters' and Volunteer Ambulance Workers' Benefit Laws. This represents a 2.5% decrease in accepted claims from 2012 (A-12). The time to establish accepted claims increased relative to 2012. Only 19.2% were accepted in 90 days or fewer, compared to 21.5% in 2012. With regard to longer timeframes, 56.3% were accepted in less than 180 days, compared with 62.4% in 2012 (A-14).

^[2] Carriers file a Notice of Controversy (Form C-7) 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 or the claimant does not pursue the claim.

^[3] Accident, Notice, and Causal Relationship.

^[4] Occupational Disease, Notice, and Causal Relationship.

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 decision 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 2013, the Board issued 329,146 resolutions, on par with 2012 (A-15). Slightly more than half required hearings, with 48.6% in regular hearings and 5.1% in Section 32 agreement hearings. Approximately 26% of resolutions were by conciliation, compared to 24% in 2012 (A-15). The percentage of administrative determinations is down slightly from 2012 (20.3% v. 21.8%), though the total number of administrative determinations is down 7.4%, 66,725 versus 72,063 (A-15).

Hearings

The Board is unique in the United States for its use of formal hearings to address issues in workers' compensation claims. In 2013, the Board held 262,878 hearings, up by 6,670 from 2012 (A-17). On average, 1.4 hearings were required before the first indemnity benefit was awarded for those claims handled by the hearing process, a slight decrease from 2012 (A-19).

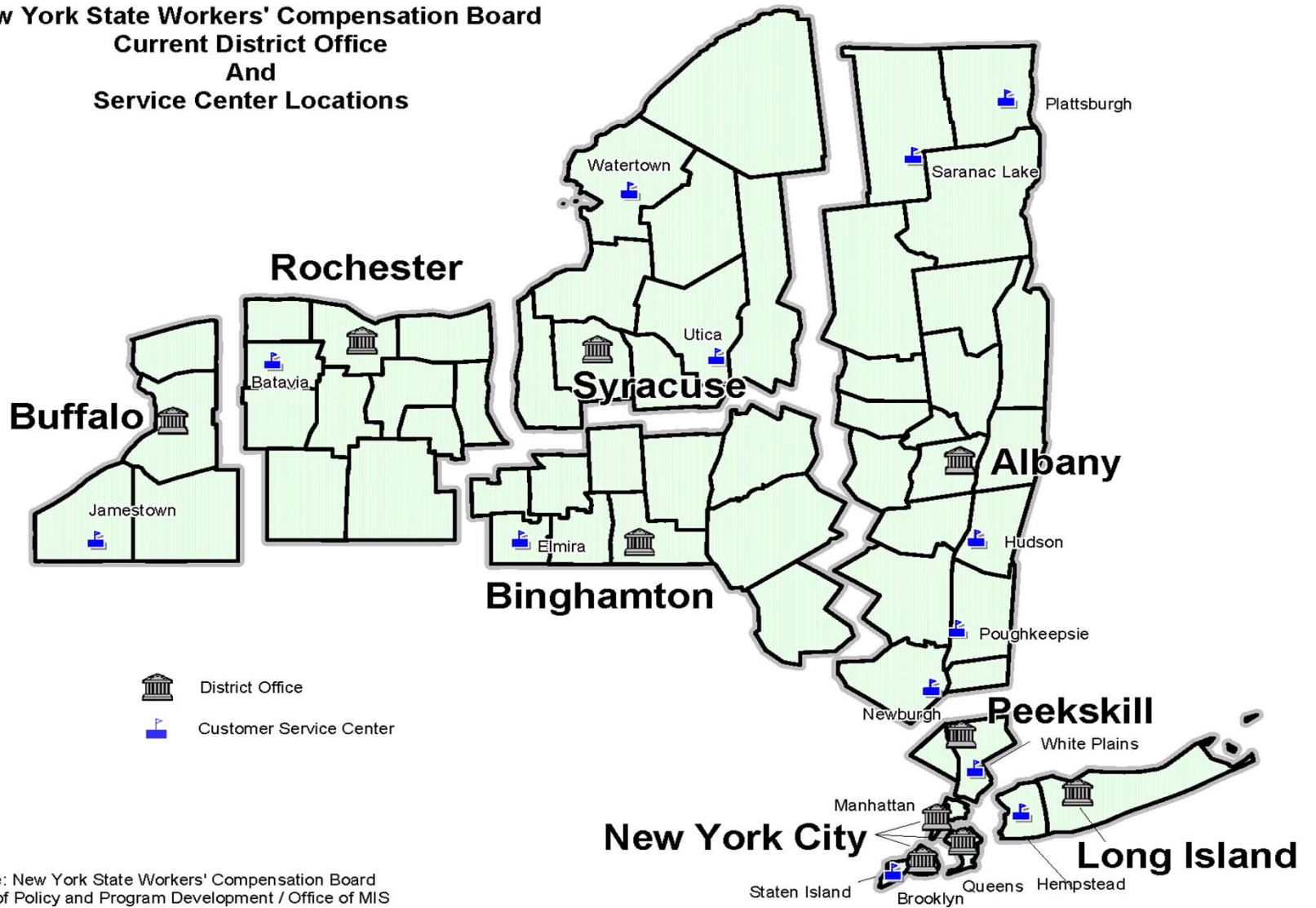
There was an increase in the number of pending claims, to 110,208, at the end of 2013.

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 2013, the maximum benefit rate was \$803.21, based on a 2012 SAWW of \$1,204.81.

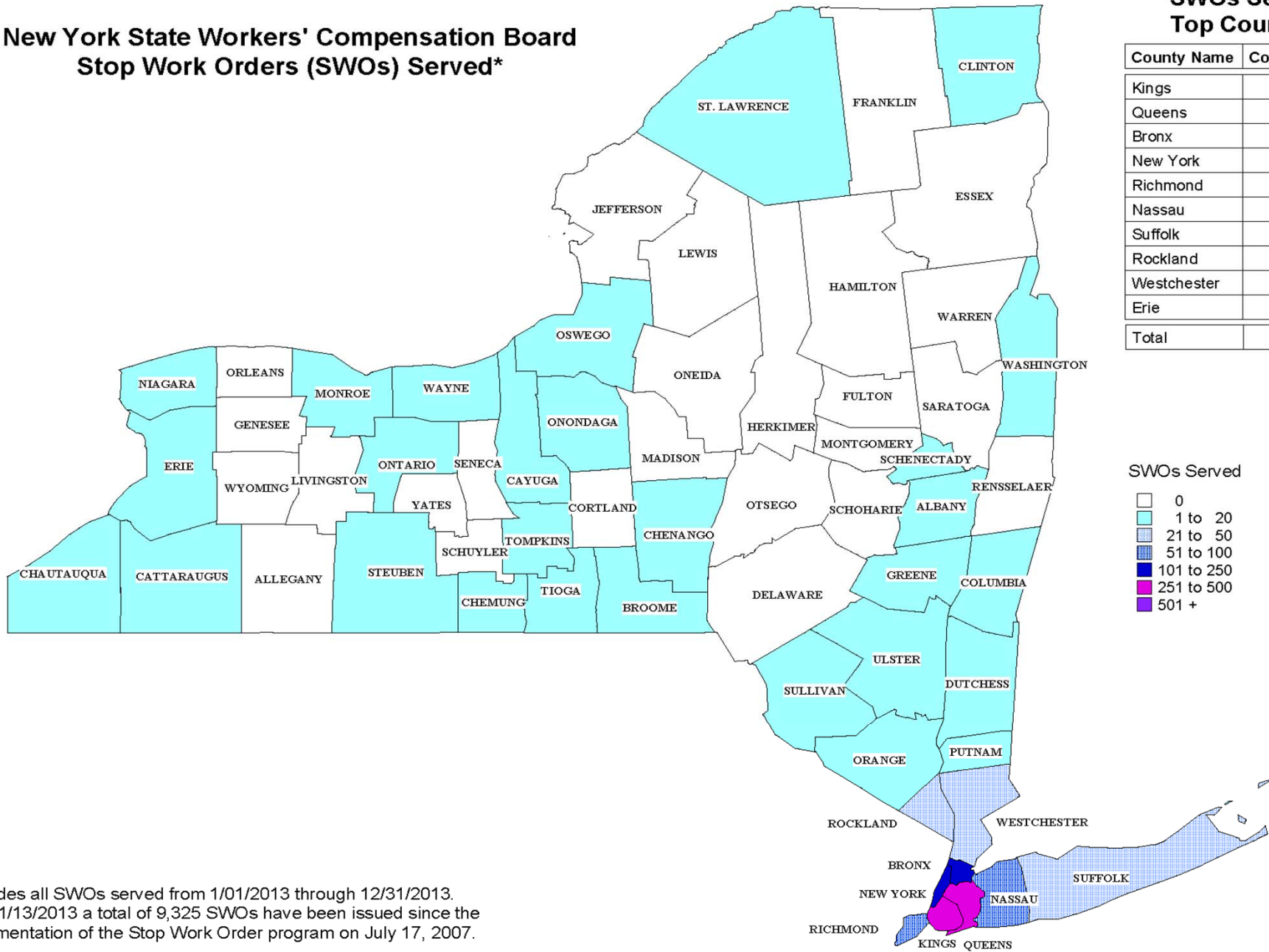
There is a wide distribution of AWW in accepted claims in 2012. Approximately one-third of claims had an AWW of less than \$600. One quarter of claims had an AWW between \$600-899. Nearly 40% of claims had an AWW of \$900 or more (A-21).

**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
As of 11/13/2013

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



SWOs Served Top Counties

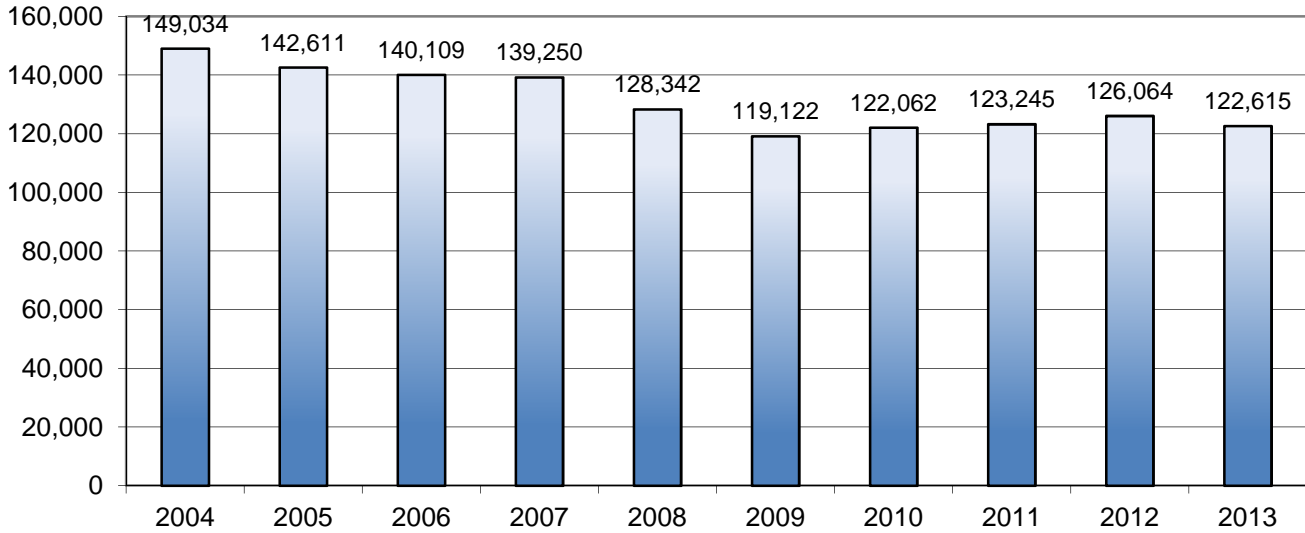
County Name	Count
Kings	383
Queens	263
Bronx	116
New York	112
Richmond	81
Nassau	63
Suffolk	38
Rockland	25
Westchester	22
Erie	10
Total	1,191

SWOs Served

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

*Includes all SWOs served from 1/01/2013 through 12/31/2013.
As of 1/13/2013 a total of 9,325 SWOs have been issued since the implementation of the Stop Work Order program on July 17, 2007.

Claims Assembled from 2004 to 2013 Ten Year Trend



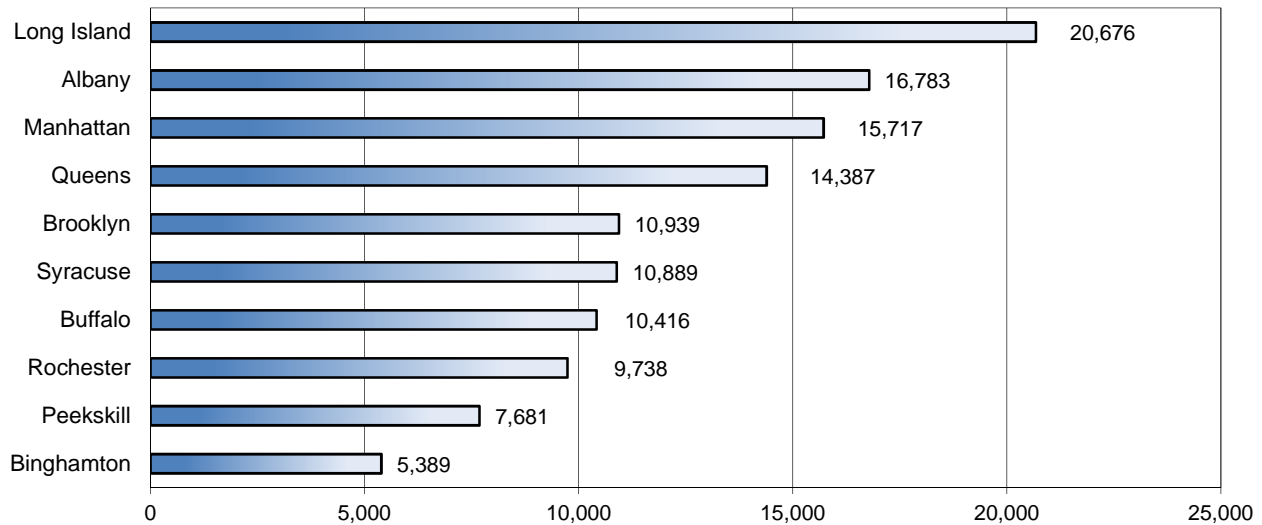
Claims Assembled and Claims Reopened Ten Year Trend

Calendar Year	Total Assembled Claims	Total Reopened Claims
2004	149,034	172,812
2005	142,611	177,480
2006	140,109	182,028
2007	139,250	181,943
2008	128,342	191,805
2009	119,122	201,134
2010	122,062	196,160
2011	123,245	227,030
2012	126,064	224,412
2013	122,615	229,897

The count of claims assembled post WCB reform (after September 28, 2008) excludes claims that were assigned a WCB claim number but for which the Board did not receive sufficient information, despite requests, to take further action. The WCB has changed its claim assembly process several times over the past few years. While this makes trend analysis difficult, the number of claims assembled continues to reflect the number of reported workplace injuries for which the agency may be called upon to resolve issues, monitor compliance and ensure the timely and appropriate payment of benefits.

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

Claims Assembled in 2013 By District Office



Assembled and Reopened Claims in 2013 By District Office

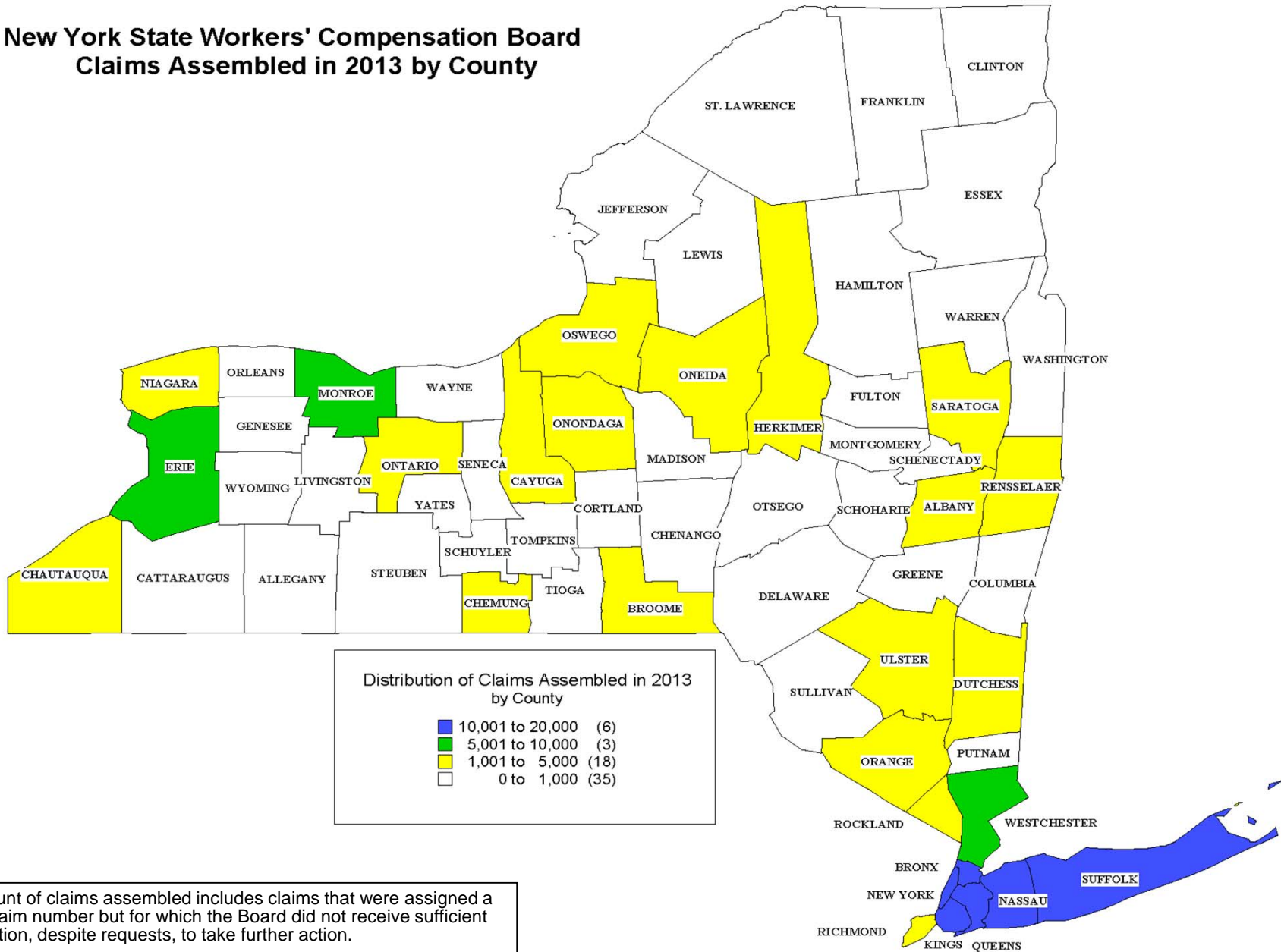
District Office	Claims Assembled	Claims Reopened
Long Island	20,676	37,486
Albany	16,783	28,528
Manhattan	15,717	25,499
Queens	14,387	26,683
Brooklyn	10,939	20,157
Syracuse	10,889	22,436
Buffalo	10,416	25,721
Rochester	9,738	17,211
Peekskill	7,681	15,601
Binghamton	5,389	10,575
Total	122,615	229,897

The count of claims assembled post WCB reform (after September 28, 2008) excludes claims that were assigned a WCB claim number but for which the Board did not receive sufficient information, despite requests, to take further action.

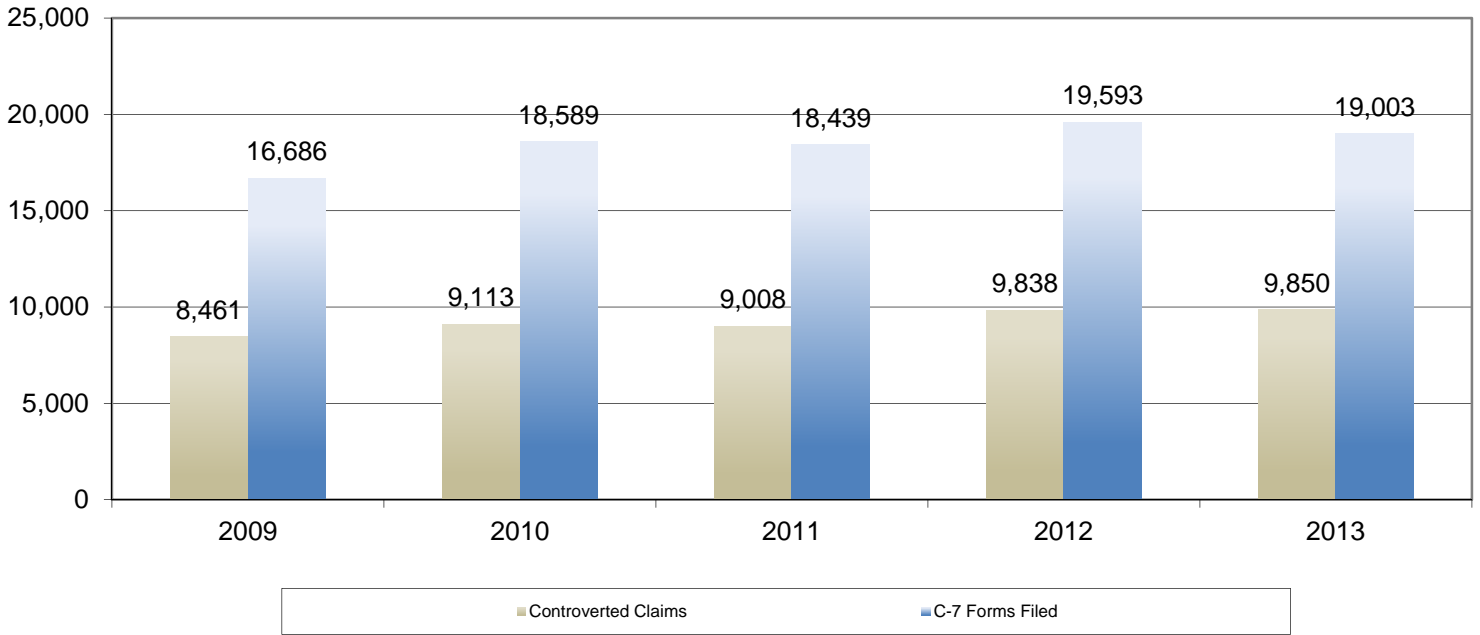
A reopened claim is one which has been reactivated to resolve new issues following a finding that no further action was necessary.

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.

New York State Workers' Compensation Board Claims Assembled in 2013 by County



Controverted Claims and C-7 Forms Filed From 2009 to 2013



Controverted Claims and C-7 Forms Filed From 2009 to 2013

Year	Controverted Claims*	Percent Change	C-7 Forms Filed	Percent Change
2009	8,461	-47.4%	16,686	-40.8%
2010	9,113	7.7%	18,589	11.4%
2011	9,008	-1.2%	18,439	-0.8%
2012	9,838	9.2%	19,593	6.3%
2013	9,850	0.1%	19,003	-3.0%

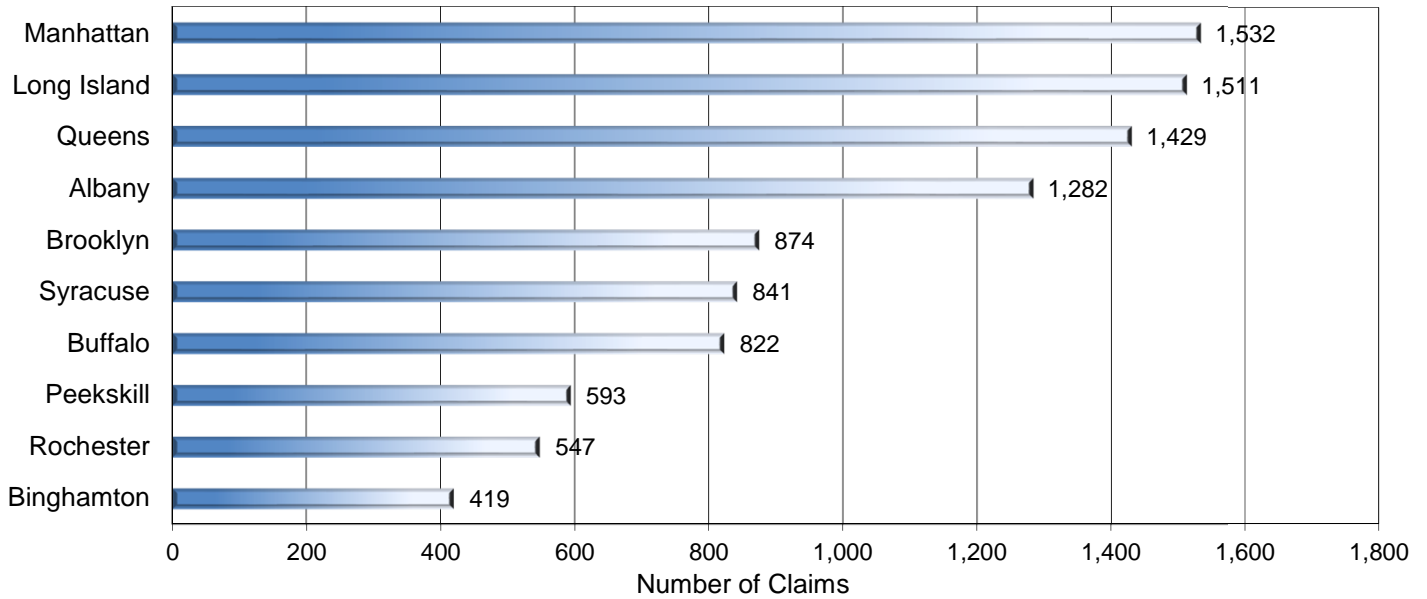
* Approximately five percent of the Controverted Claims reported may have data issues that cannot be resolved without manual intervention

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

- 1) "Notice That Right To Compensation Is Controverted" (C-7) indicating that the Carrier disputes the claim, and
- 2) qualifying medical documentation.

"C-7 Forms Filed" is a count of the "Notice That Right To Compensation Is Controverted" forms filed with the Board.

Claims Controverted in 2013 By District Office



District Office	Number of Claims Controverted*
Manhattan	1,532
Long Island	1,511
Queens	1,429
Albany	1,282
Brooklyn	874
Syracuse	841
Buffalo	822
Peekskill	593
Rochester	547
Binghamton	419
Total**	9,850

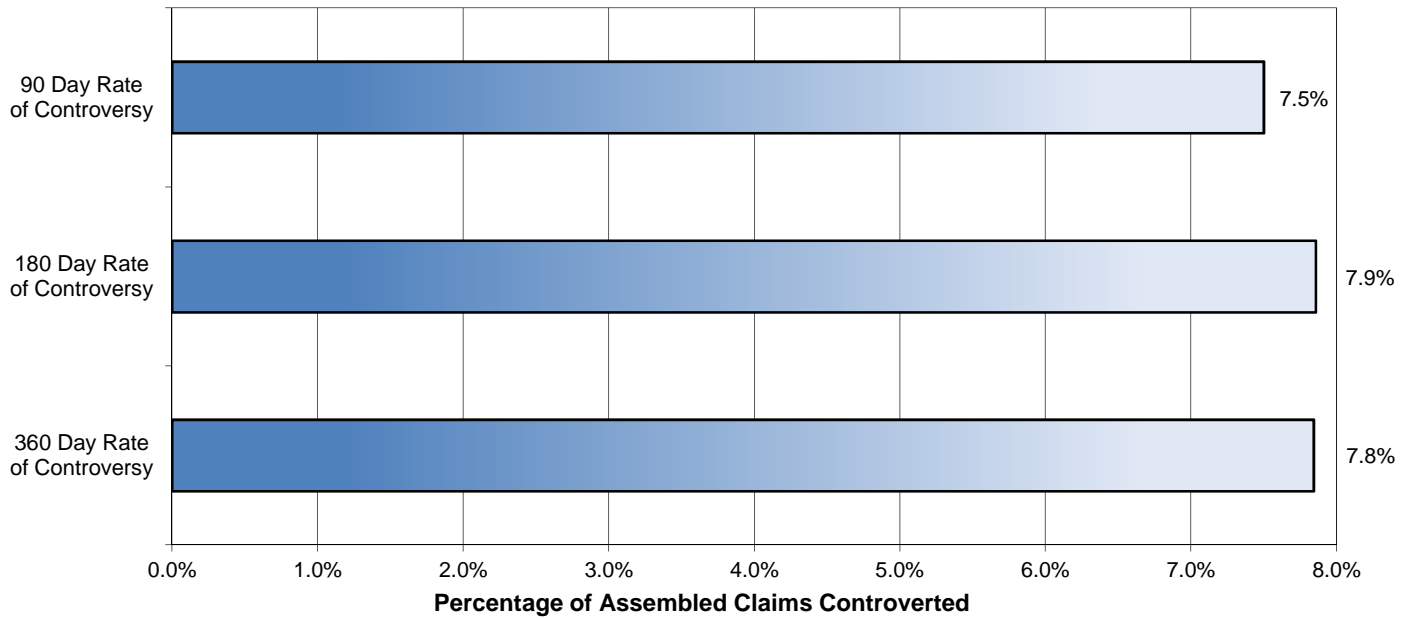
* Approximately five percent of the Controverted Claims reported may have data issues that cannot be resolved without manual intervention.

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

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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.

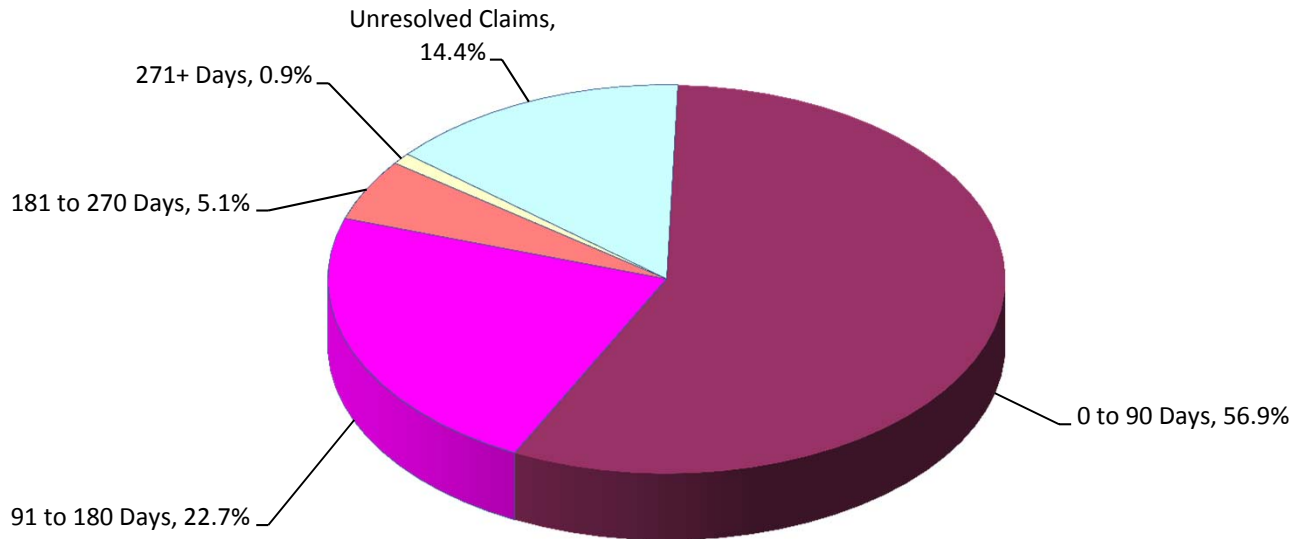
Percentage of Assembled Claims Controverted 2013 Report



Rate of Controversy	Totals
90 Day Rate of Controversy	7.5%
Claims Assembled (Oct. 2012 to Sept. 2013)	117,726
Claims Controverted	8,830
180 Day Rate of Controversy	7.9%
Claims Assembled (July 2012 to June 2013)	119,162
Claims Controverted	9,364
360 Day Rate of Controversy	7.8%
Claims Assembled (Jan. 2012 to Dec. 2012)	123,131
Claims Controverted	9,658

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, 2014. 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 2013 By Number of Days to Resolve the Issues



Days	Controverted Claims*	Percentage of Claims
Unresolved Claims	1,047	14.4%
0 to 90 Days	4,128	56.9%
91 to 180 Days	1,646	22.7%
181 to 270 Days	372	5.1%
271+ Days	68	0.9%
Total**	7,261	100.0%

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

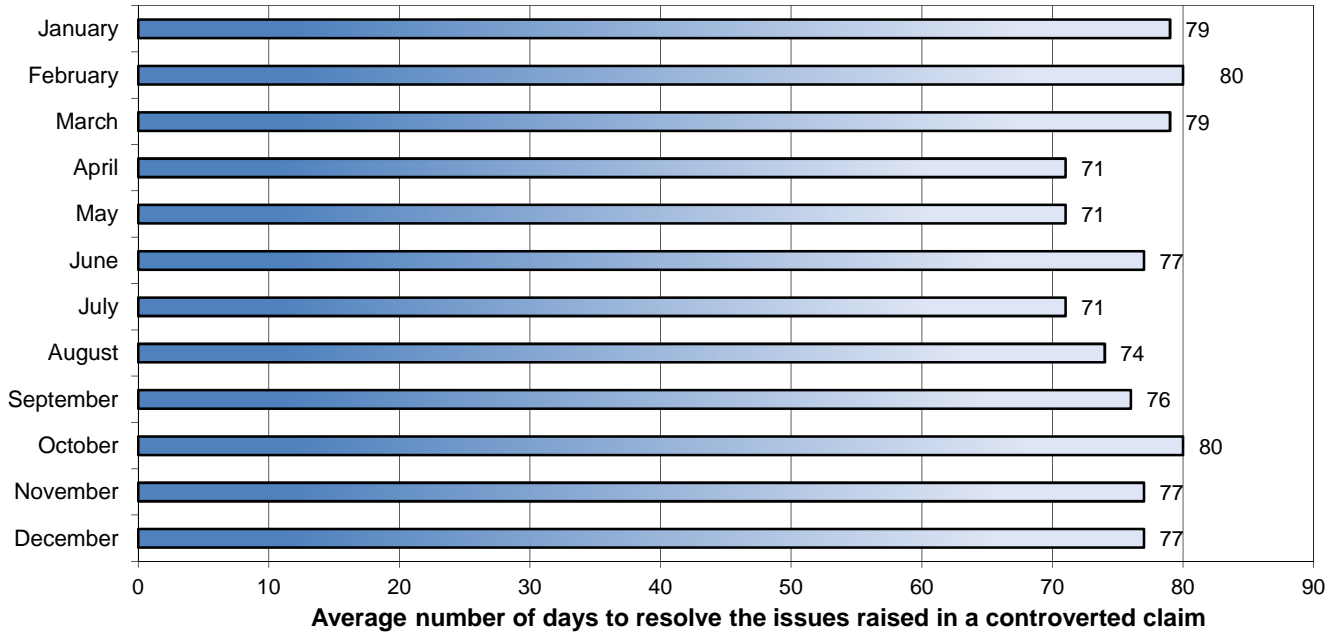
** 64 claims removed from this population due to data anomalies.

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

- 1) "Notice That Right To Compensation Is Controverted" (C-7) indicating that the Carrier disputes the claim, and
- 2) qualifying medical documentation.

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" indicating the controversy is resolved.

Average Number of Days to Resolve the Issues Raised in a Controverted Claim in 2013 By Month



Month	Average Number of Days
January	79
February	80
March	79
April	71
May	71
June	77
July	71
August	74
September	76
October	80
November	77
December	77
Average	76

A claim is considered eligible for hearing as a controverted claim only if a C-7 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" indicating the controversy is resolved.

**Pre-Hearing Conferences (PHC) Held in 2013
Median Days from Controversy to PHC
By Month**

Month	Total PHC	Eligible PHC*	Median Days from Controversy to PHC	Unknown Controversy Date***
January	838	775	27	63
February	654	604	26	50
March	700	650	25	50
April	844	782	27	62
May	859	806	26	53
June	776	717	26	59
July	839	784	26	55
August	782	730	26	52
September	693	644	26	49
October	818	755	26	63
November	780	746	26	34
December	804	759	25	45
Total**	9,387	8,752	26	635

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 is 10,148; out of these claims, 761 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" (C-7) indicating that the Carrier disputes the claim, and 2) qualifying medical documentation.

**Claims Accepted in 2013
By Claim Type and Month**

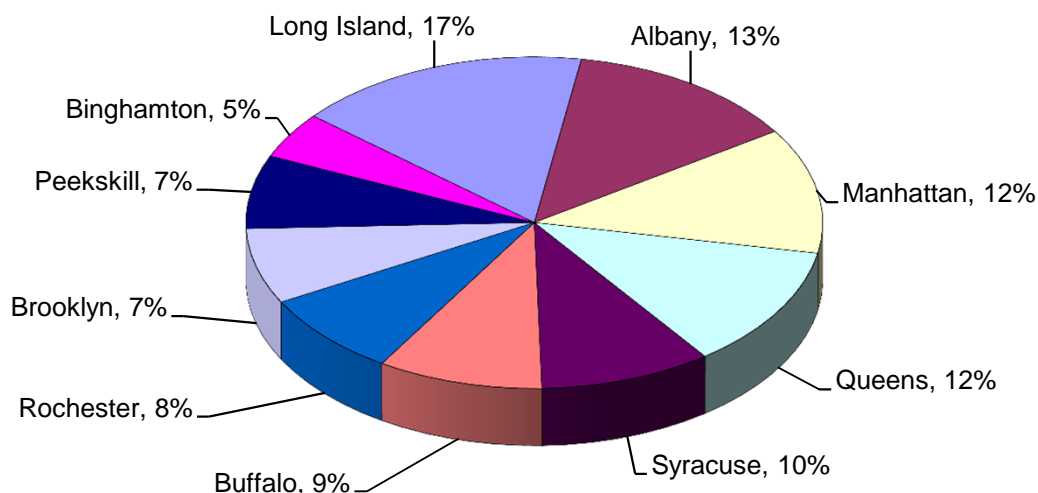
Month Accepted	Total Claims Accepted	WCL Claims (1)	VFBL Claims (2)	VAWBL Claims (3)
January	10,089	10,034	50	5
February	8,839	8,786	51	2
March	8,877	8,822	47	8
April	8,829	8,788	35	6
May	9,353	9,295	49	9
June	7,820	7,776	42	2
July	8,141	8,102	37	2
August	8,748	8,705	39	4
September	7,462	7,421	41	0
October	9,279	9,229	46	4
November	8,048	8,019	26	3
December	8,652	8,602	46	4
Total	104,137	103,579	509	49

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

Claims Accepted: 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; and (3) there is a causal relationship between the work injury or illness and a consequent disability.

The claims accepted data for 2013 includes some previously established claims for which a Board finding during calendar year 2013 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 Accepted in 2013 By District Office



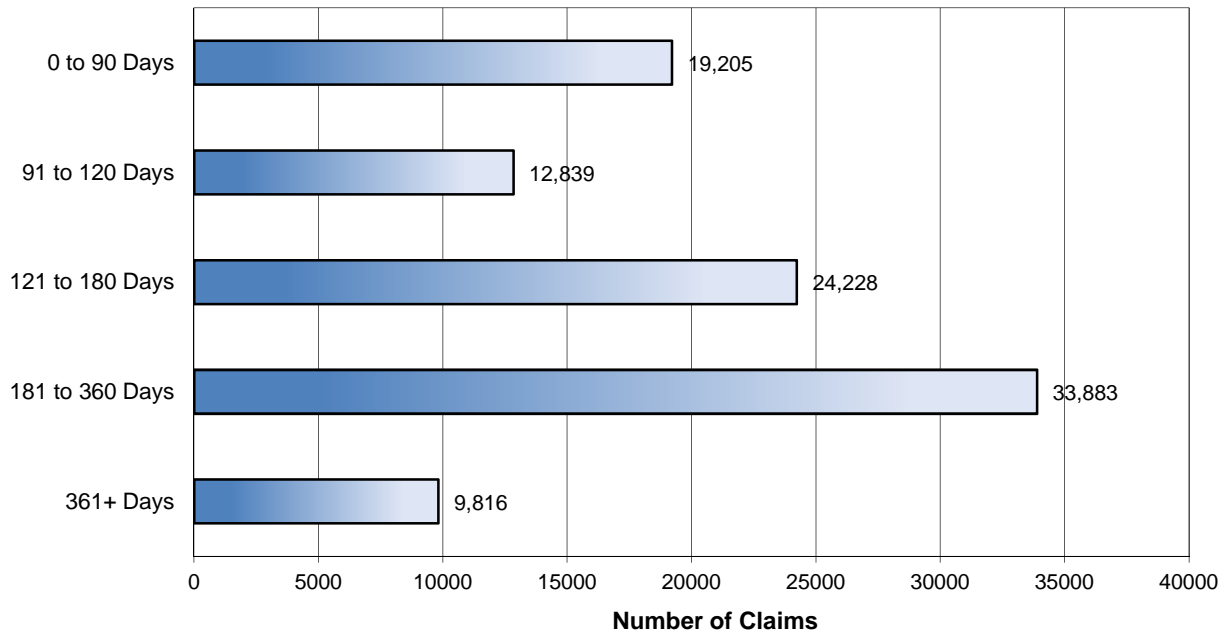
Claims Accepted in 2013 By District Office

District Office	Claims Accepted
Long Island	17,186
Albany	13,654
Manhattan	12,754
Queens	12,450
Syracuse	10,051
Buffalo	9,657
Rochester	8,519
Brooklyn	7,682
Peekskill	7,460
Binghamton	4,724
Total	104,137

Claims Accepted: 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; and (3) there is a causal relationship between the work injury or illness and a consequent disability.

(The claims accepted data for 2013 includes some previously established claims for which a Board finding during calendar year 2013 amended or reaffirmed the claim's status; it is estimated that these affirmations account for less than 5% of the total.)

**Accepted Claims in 2013
By Number of Days from Assembly to Acceptance**



**Accepted Claims in 2013
By Number of Days from Assembly to Acceptance**

Days	Accepted Claims	Percent
0 to 90 Days	19,205	19.2%
91 to 120 Days	12,839	12.8%
121 to 180 Days	24,228	24.2%
181 to 360 Days	33,883	33.9%
361+ Days	9,816	9.8%
Total Claims	99,971	100.0%

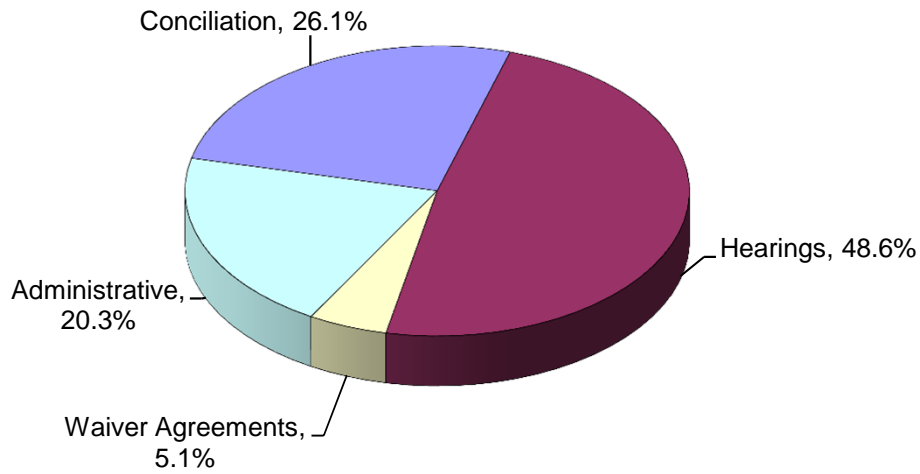
Note: 4,166 claims were excluded from this analysis due to data anomalies

Claims are assembled when the Board has received sufficient documentation that a work related accident or disease may have occurred.

Claims Accepted: 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; and (3) there is a causal relationship between the work injury or illness and a consequent disability.

(The claims accepted data for 2013 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.)

Resolutions by Board Processes in 2013



Claim Resolution	Number of Resolutions	Percentage of Resolutions
Informal	152,523	46.3%
Administrative	66,725	20.3%
Conciliation	85,798	26.1%
Formal	176,623	53.7%
Hearings	159,902	48.6%
Waiver Agreements	16,721	5.1%
Total	329,146	100.0%

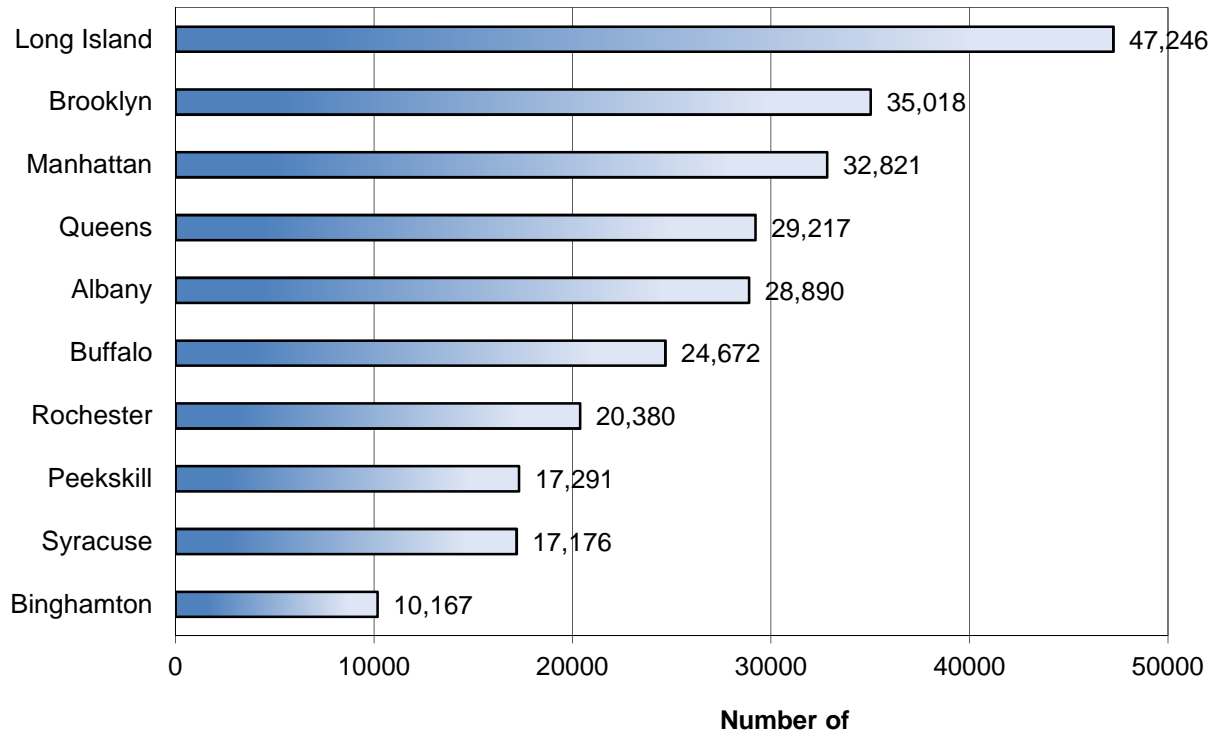
“Administrative” includes Administrative Determinations, Administrative Closures and Cancellations (A claim is cancelled if it is determined to be a duplicate).

“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 [in interest] an opportunity to assess their case and to resolve outstanding issues prior to [trial] 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.

Hearings Held in 2013 By District Office

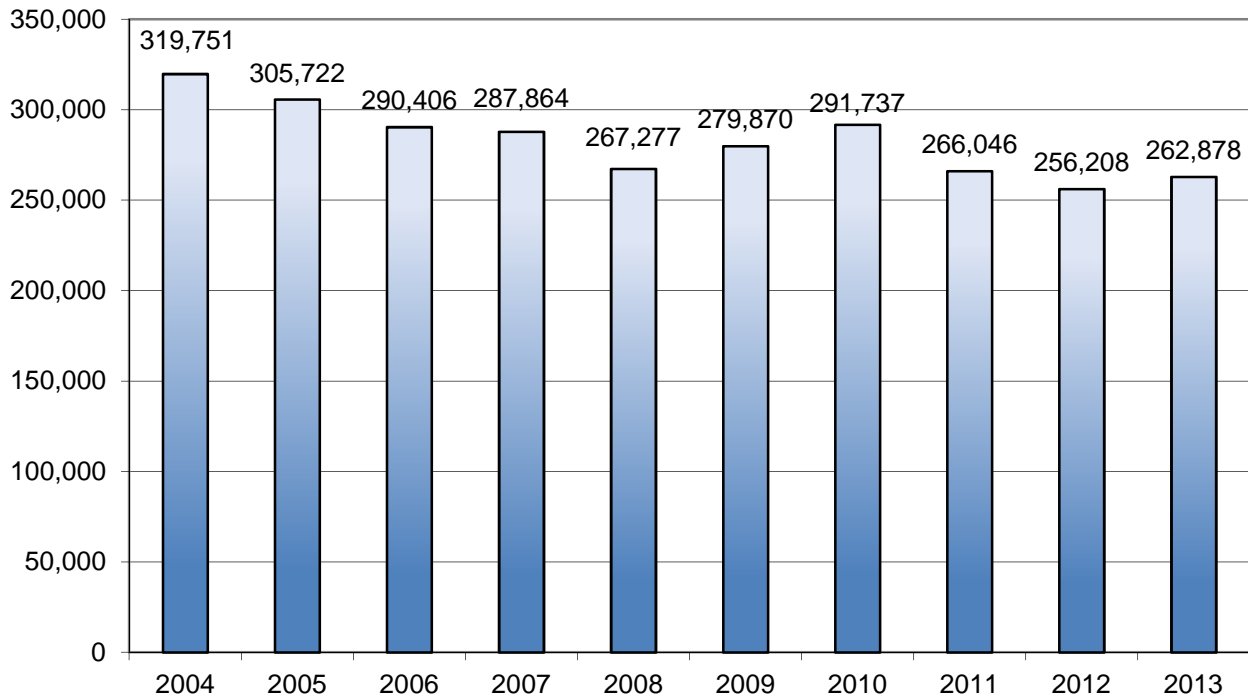


District Office	Number of Hearings
Long Island	47,246
Brooklyn	35,018
Manhattan	32,821
Queens	29,217
Albany	28,890
Buffalo	24,672
Rochester	20,380
Peekskill	17,291
Syracuse	17,176
Binghamton	10,167
Total	262,878

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.

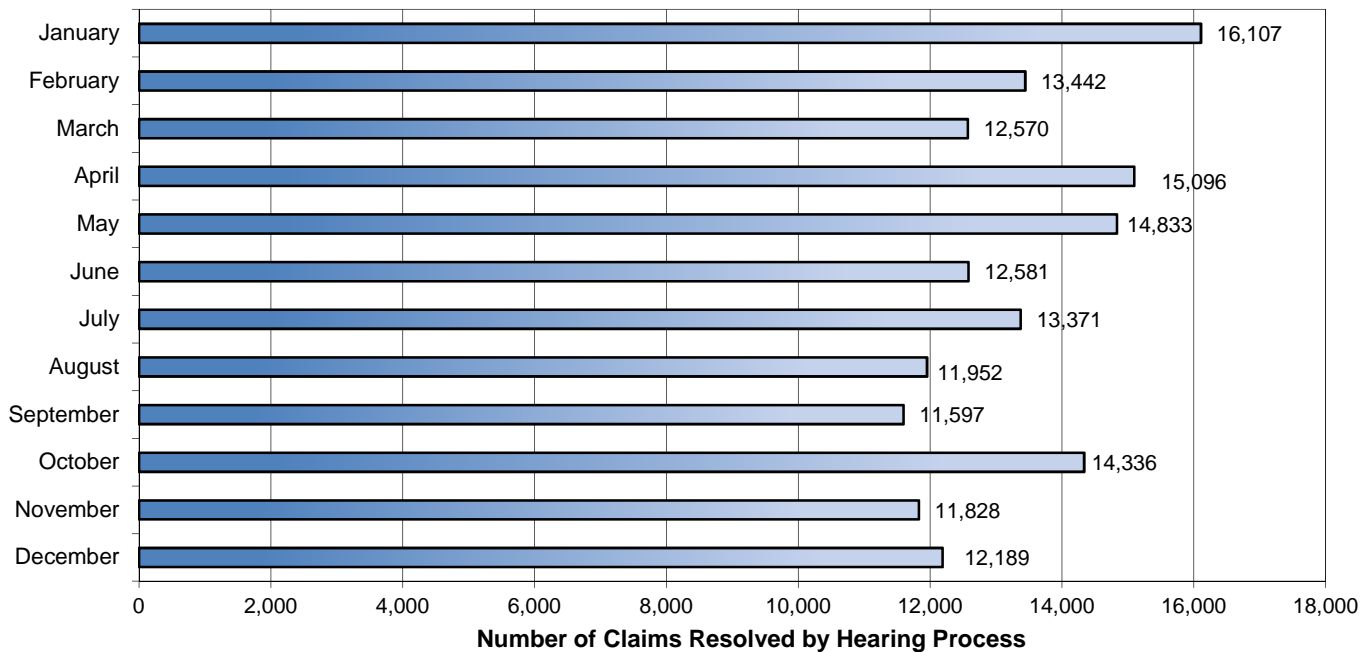
Number of Hearings Held from 2004 to 2013 Ten Year Trend



Year	Total Hearings Held	Claims Pending at Years End	Ratio of Hearings Held to Claims Pending
2004	319,751	137,735	2.3
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

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

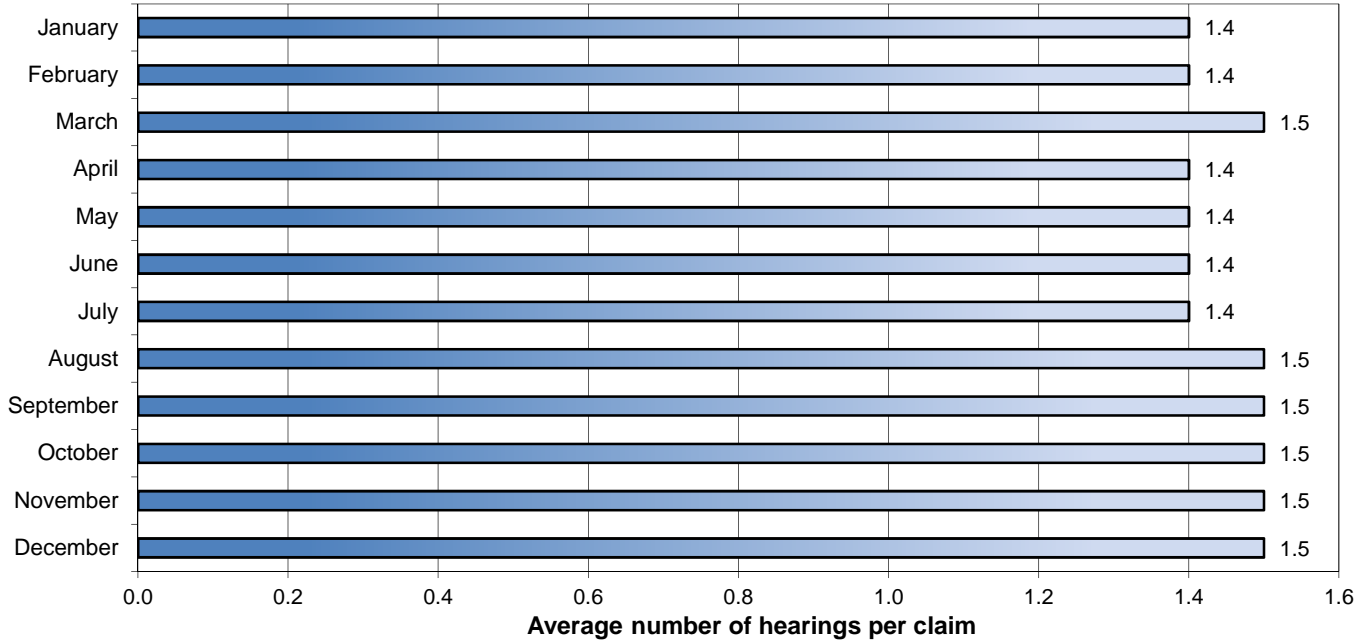
Number of Claims Resolved by Hearing Process in 2013 By Month



Month	Resolved by Hearing Process
January	16,107
February	13,442
March	12,570
April	15,096
May	14,833
June	12,581
July	13,371
August	11,952
September	11,597
October	14,336
November	11,828
December*	12,189
Total	159,902

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 [in interest] an opportunity to assess their case and to resolve outstanding issues prior to [trial] scheduling a hearing regarding those issues.

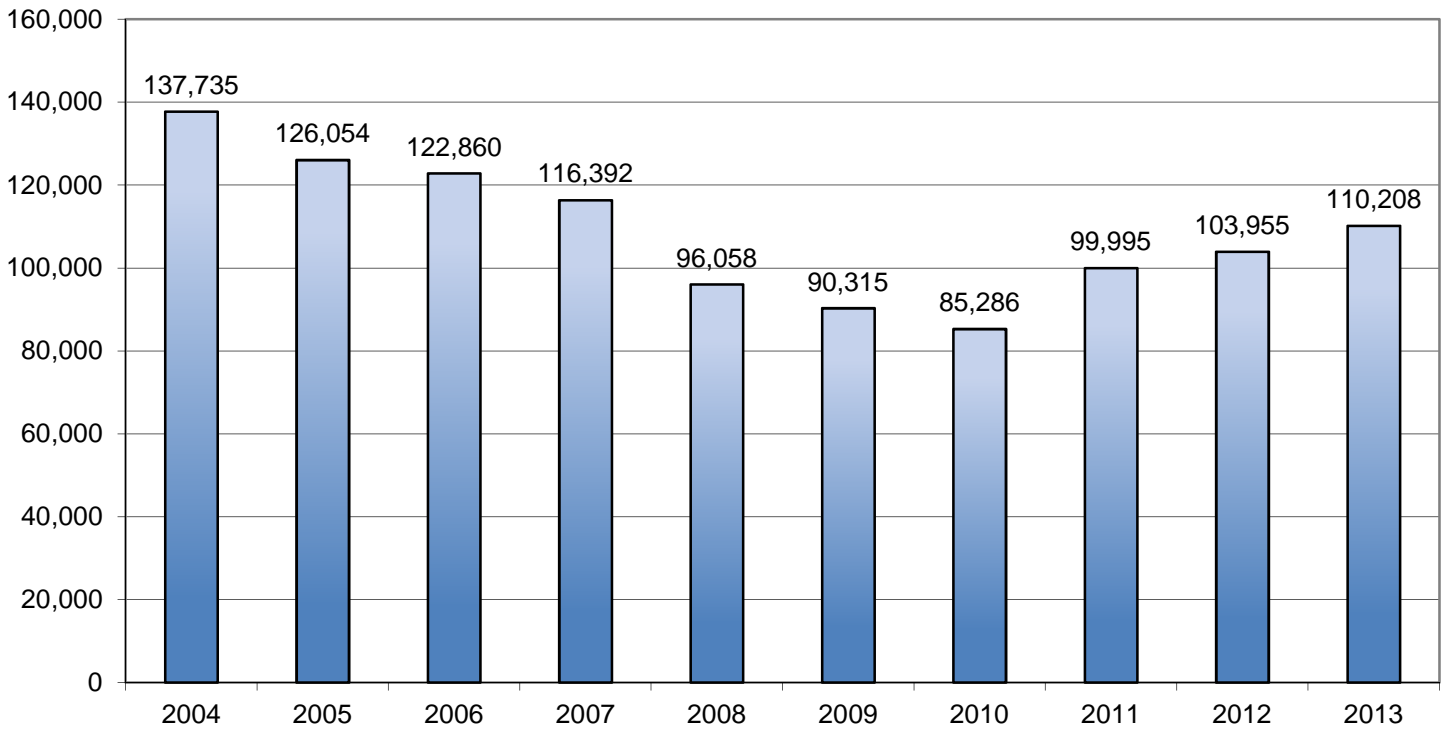
Average Number of Hearings to First Indemnity Award for Claims that Required Hearings in 2013 By Month



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

Accepted 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 2004 to 2013
Ten Year Trend**

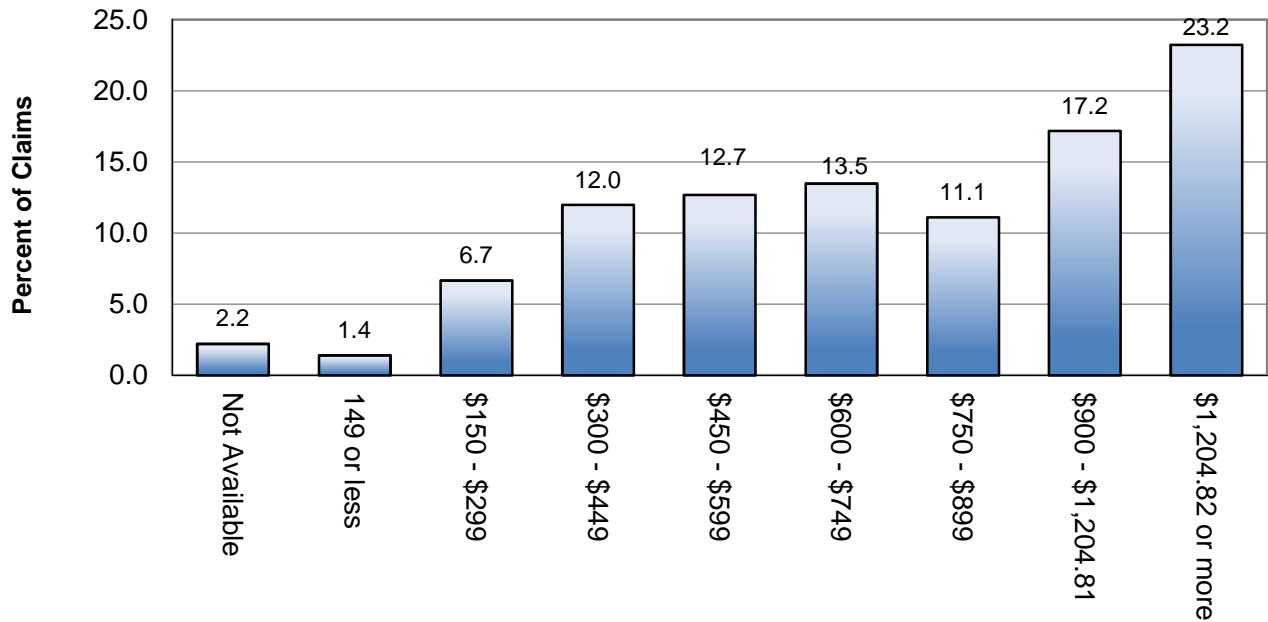


**Number of Claims Pending
Ten Year Trend**

Calendar Year	Claims Pending at End of Year	Annual Percent Change in Claims Pending
2004	137,735	-7.9%
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%

A pending claim is one with unresolved issues.

**Average Weekly Wage
For Accepted Claims with First Indemnity Award in 2013**



Average Weekly Wage

Average Weekly Wage	Number of Claimants	Percentage of Claimants
Not Available	1,604	2.2%
149 or less	1,020	1.4%
\$150 - \$299	4,831	6.7%
\$300 - \$449	8,685	12.0%
\$450 - \$599	9,191	12.7%
\$600 - \$749	9,769	13.5%
\$750 - \$899	8,046	11.1%
\$900 - \$1,204.81	12,447	17.2%
\$1,204.82 or more	16,834	23.2%
Totals	72,427	100.0%

The maximum benefit rate effective 7/1/2013 is based upon the Statewide Average Weekly Wage of \$1,204.81.

Claims Accepted: 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; and (3) there is a causal relationship between the work injury or illness and a consequent disability

(The claims accepted data for 2013 includes some previously established claims for which a Board finding during calendar year 2013 amended or reaffirmed the claim's status; it is estimated that these affirmations account for less than 5% of the total.)