

Q4 2021

QUARTERLY PRODUCTION AND ACTIVITY REPORT

October 1 to December 31, 2021



Workplace Safety and Insurance
Appeals Tribunal

Tribunal d'appel de la sécurité professionnelle et de
l'assurance contre les accidents du travail

Table of Contents

Overview	1
Key 2021 Results	1
Case Management Summary	3
Appeals Started – New and Reactivated	3
Caseload Inventory – Active and Dormant Appeals	4
Caseload Inventory – Inactive Appeals	5
Dispositions.....	6
Decisions Issued.....	7
Disposition by Issue Type	8
Median Age Timeframe – First Offered Hearing Date	9
Median Age Timeframe – Final Decisions Released	10
Decisions Released Within 120 Days	10
Median Age Timeframe – Notice of Appeal to Dispositions.....	11
Hearing Method	12
Early Intervention Program (EIP)	13
Order in Council (OIC) Adjudicator Roster	14
Glossary of Terms	15

Overview

The Workplace Safety and Insurance Appeals Tribunal (WSIAT) is the final level of appeal for workplace safety and insurance matters. As an adjudicative agency in the Ontario's administrative justice system, the WSIAT is committed to improving the timeliness and efficiency of its processes, while maintaining the high standards of impartiality, independence, and adjudicative excellence that the WSIAT's stakeholders expect and deserve.

2021 was another very busy year for the WSIAT. In 2021, the WSIAT focused its efforts on addressing the incoming volume of new appeals; conducting hearings; issuing timely decisions, promoting access to justice for hearing participants through process and technology enhancements; and protecting employees, Order in Council (OIC) appointees and in-person hearing participants during the ongoing global health crisis.

With the COVID-19 pandemic restrictions still in place in 2021, the WSIAT continued to provide most of its services remotely (teleconference, videoconference, alternative dispute resolution, and written hearings). Five in-person hearings took place in 2021 to address specific needs of the hearing participants, thus ensuring access to justice for those who cannot participate by means of a digital hearing.

In 2021, the volume of new appeals increased by 41% (2,872 in 2021 compared 2,034 in 2020). At the end of 2021, there were 3,977 cases. The 2021 total inventory was 6% higher than the 2020 total inventory (3,748 cases), but still within the WSIAT's target of fewer than 4000.

The 2022 volume is expected to be comparable to the 2021 volume or higher. In support of our commitment to timely access to justice, the WSIAT is developing strategies to boost productivity in all areas of our operations, including hearings and decisions by the Order in Council (OIC) appointees.

Key 2021 Results

Despite the increase in new appeal volumes in 2021 and continuing to provide most of its services remotely, the WSIAT achieved the following key results:

- Total decision output was 1,928 compared to 1,864 in 2020, which is a 3.4% increase.
- 92% of decisions were released within 120 days compared to 90% in 2020.
- The median age timeframe to first offered hearing was 6.3 months compared to 7.8 months in 2020.

- The median age timeframe from date of Notice of Appeal to completion of the appeal was 15.5 months compared to 15.4 months in 2020.
- 2,209 hearings were conducted compared to 1,745 hearings in 2020, which is a 27% increase.
- Written hearings represented 32% (699) of total appeal hearings and oral hearings represented 68% (1510). In 2020, written hearings represented 54% (939) of appeal hearings and oral hearings represented 46% (806). The increase in written hearings in 2020 was due to the closure of the WSIAT's offices in March 2020 following public health restriction relating to the COVID-19 pandemic. The WSIAT initially addressed appeal cases by written hearings until a process for teleconference and videoconference hearings was established.
- The Early Intervention Program (EIP) addresses appeals through alternative dispute resolution (single-party) and mediation (two-party) services. The EIP resolved 306 cases compared to 242 cases in 2020, which is a 26% increase.

The WSIAT looks forward to continuing to meet our business objectives in 2022, including delivering timely justice to our stakeholders, driving progress on our digitization initiatives (e.g. a new E-Share application will be available in Q1 2022 to allow the WSIAT to electronically and securely share case materials with hearing participants) and improving timelines for processing appeals.

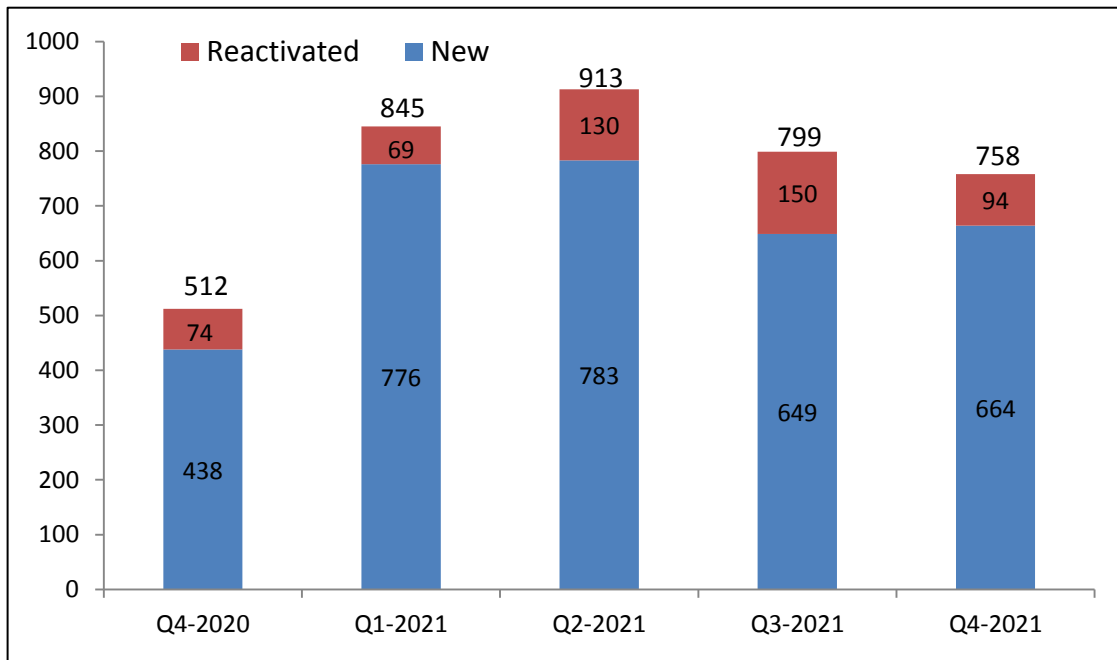
If there are questions about the information in this report, please contact the WSIAT's Call Centre at 416-314-8800.

Case Management Summary

Appeals Started – New and Reactivated

In Q4 2021, 758 appeals were initiated: 664 new appeals were received and 94 appeals were reactivated from the Inactive caseload inventory. This is a 48% increase compared to the 512 appeals initiated in Q4 2020 (438 new appeals and 74 reactivated appeals). The volume of new appeals accounted for a 52% increase in Q4 2021 compared to Q4 2020.

Chart 1: Appeals Initiated per Quarter



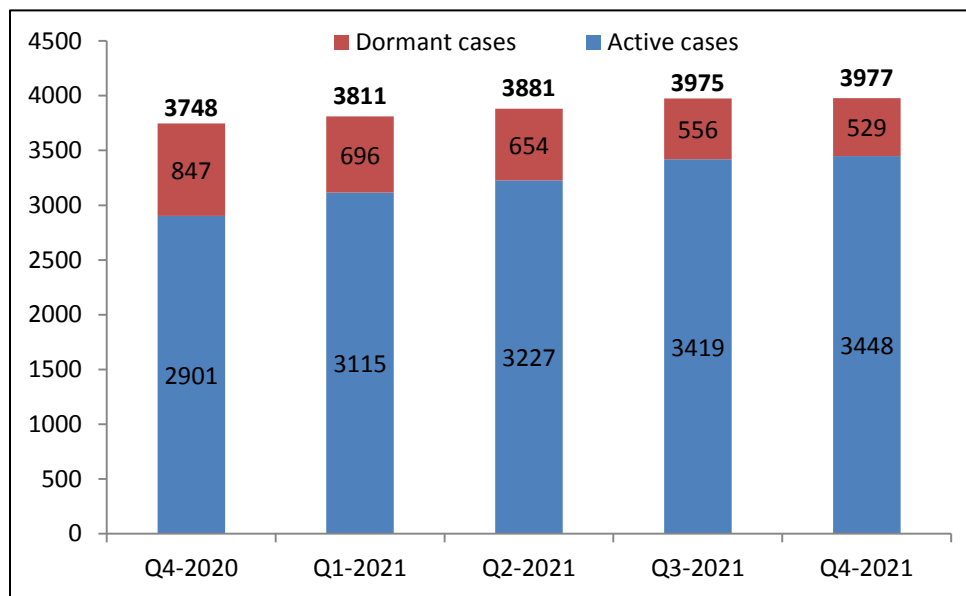
Caseload Inventory – Active and Dormant Appeals

An Active appeal is one that is in progress and actively being processed at any stage of an appeal, including pre-hearing, post-hearing, and decision writing stages.

A Dormant appeal is one that is still in the “Notice” stage and is waiting for the appellant to take an action so the appeal can be advanced to the next stage in processing (i.e. filing a Notice of Appeal, Readiness form, or Confirmation of Appeal form).

The Active and Dormant caseload inventory at the end of Q4 2021 totaled 3,977 cases compared to 3,748 cases at the end of Q4 2020. This is within the 2021 target to maintain an active inventory of less than 4,000 +/- 5% cases. The slightly higher Active caseload inventory at the end of Q4 2021 compared to Q4 2020 is due to the higher volume of incoming new appeals.

Chart 2: Active and Dormant Inventory at the end of each Quarter

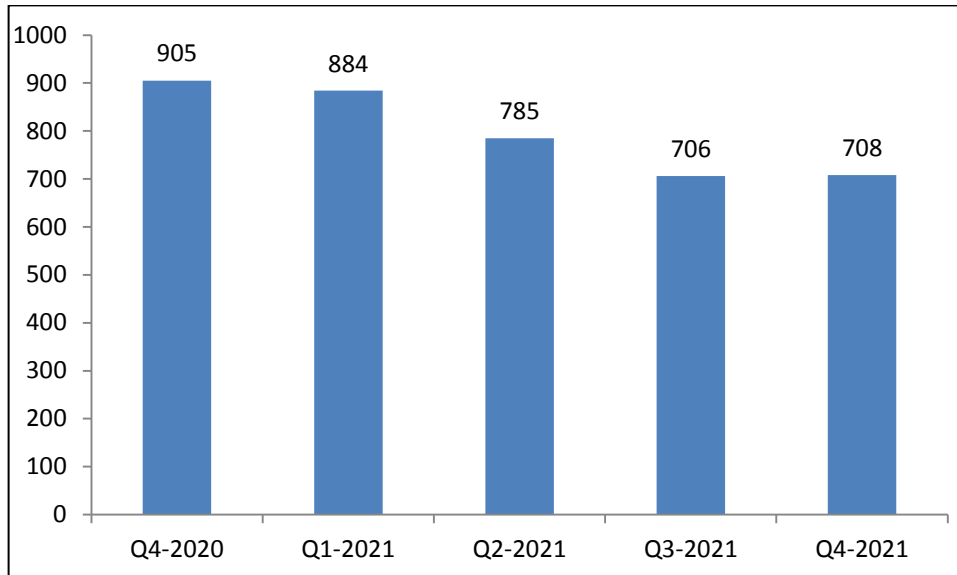


Caseload Inventory – Inactive Appeals

An appeal may be disposed of as “Inactive” when the case is not ready to proceed to a hearing after the appellant has submitted their completed Confirmation of Appeal (COA) form. The most common reasons for an Inactive disposition are to allow an appellant to obtain additional medical reports or other relevant evidence; retain a representative; or obtain a final ruling from the Workplace Safety and Insurance Board (WSIB) related to an issue before the WSIAT.

The Inactive appeals inventory at the end of Q4 2021 is comprised of cases that were made Inactive in Q4 2021, as well as those cases remaining Inactive from the prior period. At the end of Q4 2021, there were 708 appeals in the Inactive appeals inventory compared to 905 appeals in the Inactive appeals inventory at the end of Q4 2020.

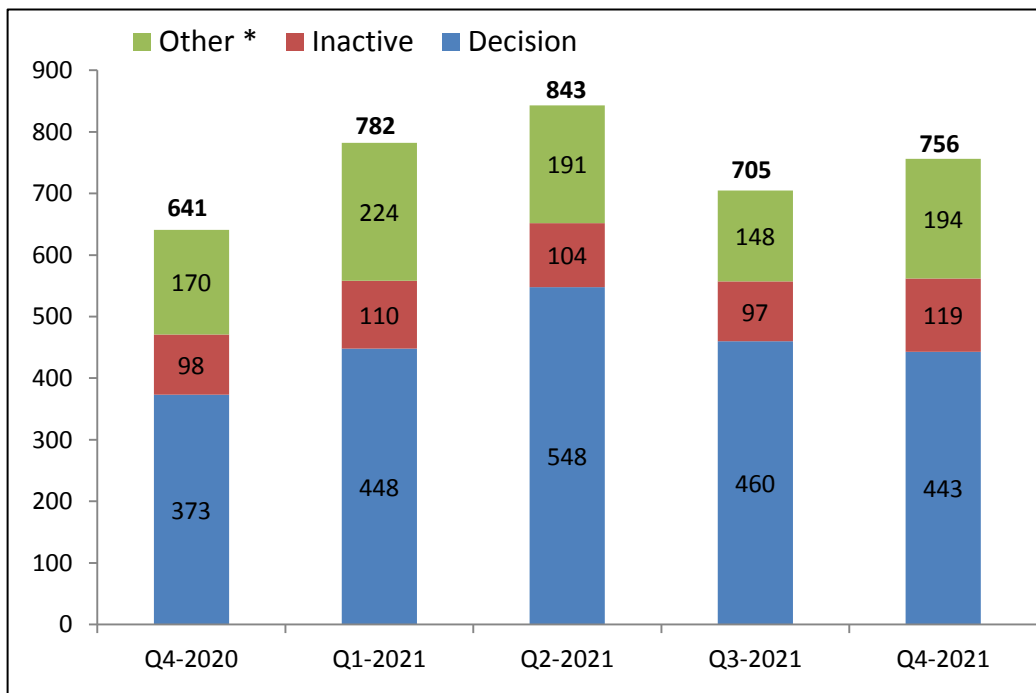
Chart 3: Inactive Appeals Inventory at the end of each Quarter



Dispositions

In Q4 2021, there were 756 dispositions, comprised of 443 Final decisions, 194 closed appeals by abandonment or withdrawal of the case, and 119 cases moved to Inactive status. Total dispositions in Q4 2021 (756) were 18% higher than total dispositions in Q4 2020 (641).

Chart 4: Dispositions per Quarter



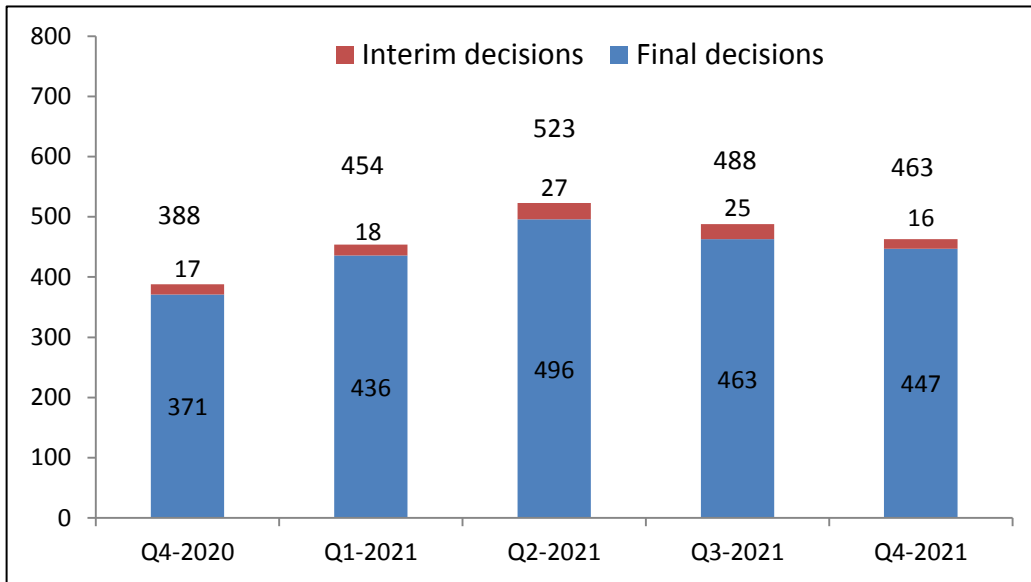
Note 1: * Other closed dispositions include appeals Withdrawn or Abandoned.

Note 2: Dispositions arising from decisions may not exactly equal the number of decisions released in a year (See Chart 2) due to administrative processing at the quarter end that precluded the appeal from being disposed immediately following the decision.

Decisions Issued

In Q4 2021, 463 decisions were issued: 447 Final decisions and 16 Interim decisions. Total decisions issued in Q4 2021 were 19% higher than in Q4 2020 (388).

Chart 5: Decisions Issued per Quarter



Note: Decisions issued from Reconsideration requests are excluded in the above decision totals. In Q4 2021, 29 Reconsideration decisions were issued.

Disposition by Issue Type

The chart below lists the top 10 appealable issues disposed in 2021 and their per cent volume. Appeals relating to loss of earnings, entitlement for a new area of injury and initial entitlement are issues most often appealed.

The issue types and their volume are relatively similar from quarter to quarter.

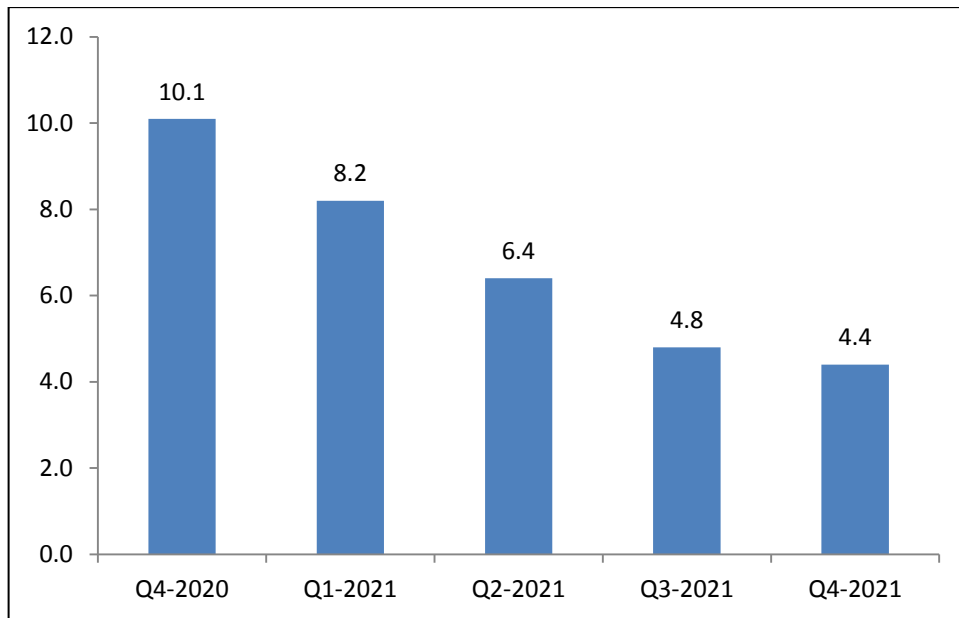
CHART 6: Disposition by Issue Type

Issue Type	% Volume
1. Loss of earnings entitlement	25%
2. Entitlement of a new area of injury	25%
3. Initial entitlement	10%
4. Non-economic loss entitlement	7%
5. Non-economic loss quantum	6%
6. Second Injury and Enhancement Fund	6%
7. Work transition	6%
8. Ongoing entitlement	6%
9. Health care benefits	5%
10. Multiple issues each totaling less than 1% of total	4%

Median Age Timeframe – First Offered Hearing Date

The timeframe “First Offered Hearing Date” encompasses the period from the date the WSIAT received the appellant’s completed COA form, indicating their readiness for hearing, to the hearing date first offered to the parties. In Q4 2021, this median age timeframe was 4.4 months, compared to 10.1 months in Q4 2020. The WSIAT continues to seek to reduce the time to hearing in support of its goal of processing appeals within a year.

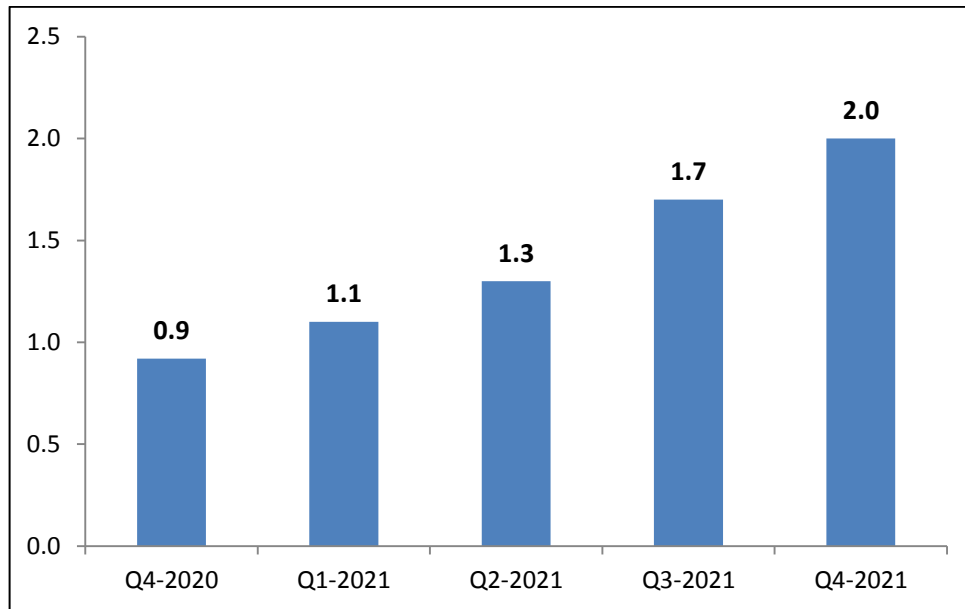
Chart 7: Median Age in Months to the First Offered Hearing Date



Median Age Timeframe – Final Decisions Released

The timeframe “Final Decisions Released” encompasses the period from the date the Vice-Chair was ready to write the Final decision, to the date the Final decision was released. In Q4 2021, the median age timeframe was 2.0 months, compared to 0.9 months in Q4 2020. This increase was due to a higher volume of oral hearings conducted and final decisions issued.

Chart 8: Median Age in Months to the Final Decisions Released Date



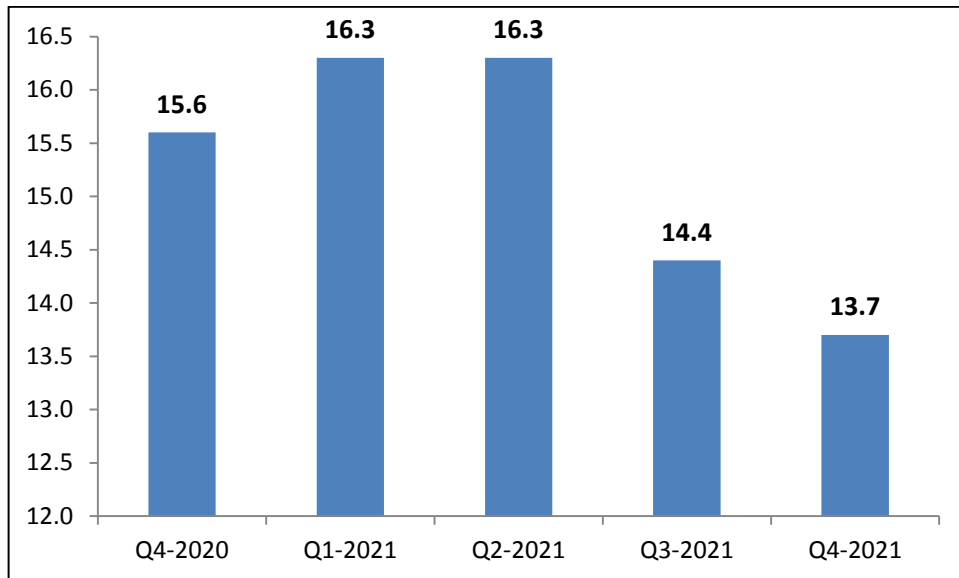
Decisions Released Within 120 Days

The WSIAT strives to release 90% of decisions within 120 days and this objective is clearly communicated to OIC appointees. In Q4 2021, 89% of final decisions were released within 120 days compared to 96% in Q4 2020. The WSIAT did meet its target in 2021, with 92% of decisions released within 120 days compared to 90% in 2020.

Median Age Timeframe – Notice of Appeal to Dispositions

The timeframe “Notice of Appeal to Dispositions” encompasses the period from the date the WSIAT received notice of the appeal, to the date of the disposition. In Q4 2021, the median age timeframe was 13.7 months, compared to 15.6 months in Q4 2020. This improvement is in part due to a decrease in the time to first offered hearing (4.4 months in Q4 2021 compared to 10.1 months in Q4 2020).

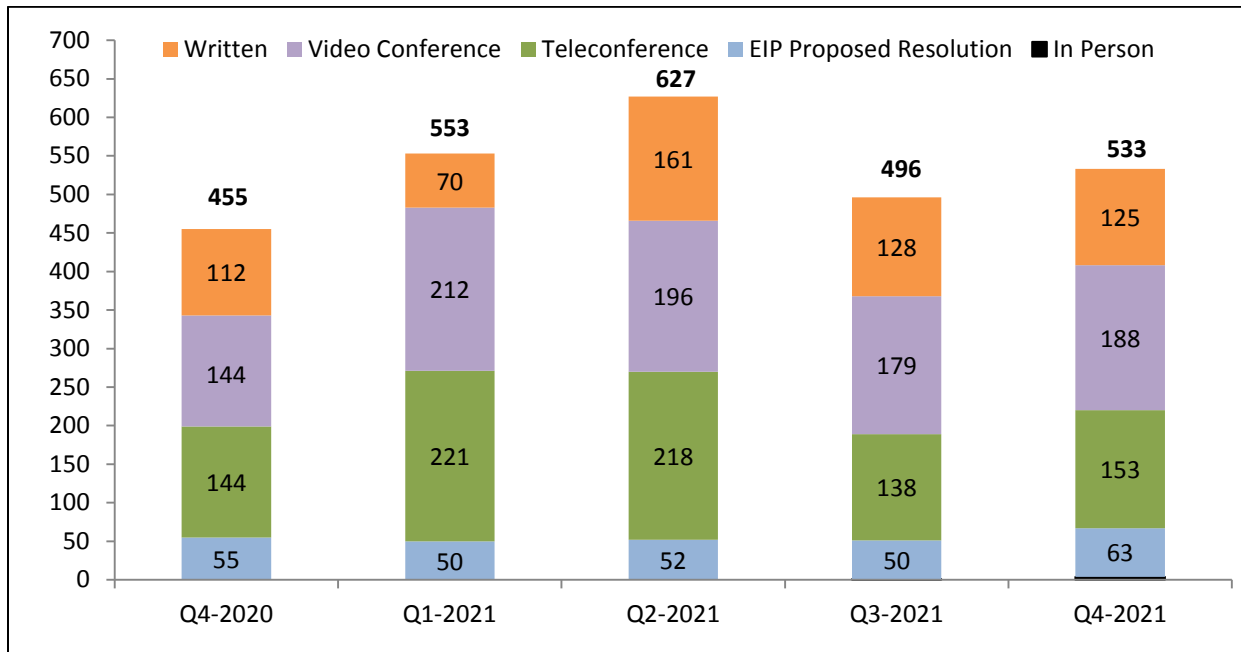
Chart 9: Median Age in Months from Notice of Appeal to Dispositions



Hearing Method

Five hearing methods are available to resolve an appeal: In Person; Teleconference, Videoconference, Written, and Proposed Resolution (through the EIP). In Q4 2021, the WSIAT held a total of 533 hearings, which was 17% higher than the number of hearings conducted in Q4 2020 (455).

Chart 10: Hearings by Hearing Type in each Quarter



Note 1: Reconsideration reviews by a Vice-Chair or Panel are excluded from this data set.

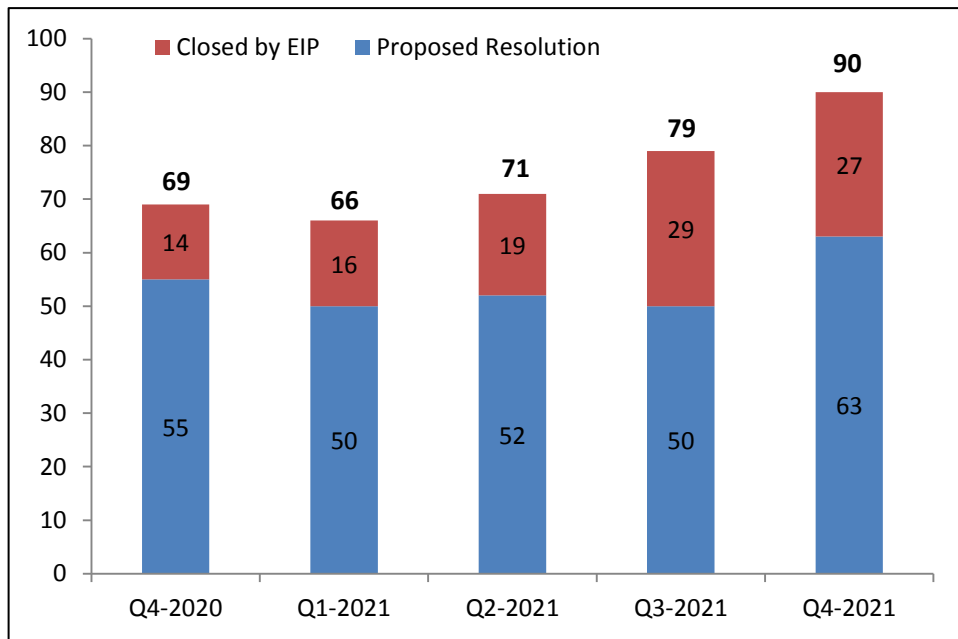
Note 2: There was 1 in-person hearing in Q3-2021 and 4 in Q4-2021. The hearing totals in Q3 and Q4-2021 include in-person hearings, but the bar chart segment for in-person hearings in those quarters is not visible due to their low volume.

Early Intervention Program (EIP)

The EIP offers alternative dispute resolutions (ADR) for single-party appeals and mediations for two-party appeals, without the need for a formal oral hearing.

In Q4 2021, 63 Proposed Resolutions were assigned for review by a Vice-Chair and the EIP staff closed 27 appeals pre hearing. In Q4 2020, 55 Proposed Resolutions were assigned for review by a Vice-Chair and 14 were closed pre-hearing.

Chart 11: Early Intervention Program Production in each Quarter



Order in Council (OIC) Adjudicator Roster

In 2021, the WSIAT carried out eight merit-based competitions for both full-time and part-time OIC appointees to address natural attrition of the OIC roster and the rise in incoming appeals.

At the end of Q4 2021, the OIC adjudicator roster was composed of 17 full-time Vice-Chairs; 30 part-time Vice-Chairs; 6 full-time Members and 14 part-time Members. At the end of Q4 2020, the adjudicator roster was composed of 16 full-time Vice-Chairs; 32 part-time Vice-Chairs; 5 full-time Members; and 18 part-time Members.

During Q4 2021, 1 new full-time and 1 new part-time Vice-Chairs were appointed. In 2021, there were a total of six OIC appointees: 1 full-time Vice-Chair; 3 part-time Vice-Chairs; 1 full-time Member representative of Employers and 1 full-time Member representative of Workers.

OIC recommendations remained under review at the end of Q4 2021 with new appointments slotted for Q1 2022.

Glossary of Terms

Active caseload

An active appeal is one that is in progress and actively being processed at any stage of an appeal, including pre-hearing, post-hearing, and decision writing stages.

Appeal

The process that occurs when a request is received from the appellant asking the WSIAT to review the appellant's objection to a WSIB decision(s) in a specific claim.

Confirmation of Appeal (COA)

The COA is the form submitted by the appellant affirming their readiness to proceed with their appeal to a hearing. The appellant has up to two years to file a COA to advance their appeal. If an appellant does not file the form by the required time limit, the case is closed as Abandoned.

Dormant

A dormant appeal is one that is still in the "Notice" stage and is waiting for the appellant to take an action so the appeal can be advanced to the next stage in processing (i.e. filing a Notice of Appeal, Readiness form, or Confirmation of Appeal form).

Disposition

Disposition by closure means the WSIAT has resolved the appeal either by a Final Decision or the appeal has been withdrawn or abandoned by the appellant. Dispositions can also include cases moved to Inactive status.

First Offered Hearing Date

A hearing date offered to the parties by the WSIAT's Scheduling department. If the date offered is rejected, the parties are provided with an alternative date that must be accepted.

Inactive

A disposition category in which active processing of an appeal is stopped due to the lack of critical information or an outstanding issue at the WSIB which is required by the WSIAT to adjudicate the case. When an appeal is made Inactive it is added to the Inactive caseload inventory, where it remains until it is reactivated by request from the appellant, or permanently closed by the WSIAT. The appellant has up to one year to

indicate readiness to proceed with an Inactive appeal. Two follow-up communications are always sent to the appellant advising of the possibility of closure due to inactivity.

Median Age

It is the middle ranked value in an ordered set of numbers to determine the “median” age of an appeal timeframe process.

Notice of Appeal (NOA) form

The NOA form is submitted by the appellant notifying the WSIAT of their intention to appeal a final decision from the WSIB.

Reactivated Case

An appeal returned to Active status from the Inactive status.