

Q4 2022

QUARTERLY PRODUCTION AND ACTIVITY REPORT

October 1 to December 31, 2022



Workplace Safety and Insurance
Appeals Tribunal

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

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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 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.

The fourth quarter (Q4) 2022 performance was an improvement on or comparable to Q4 2021 performance. Total decisions released in Q4 2022 were higher than in Q4 2021. The median age to the first offered hearing date and the median age timeframe to close appeals were lower in Q4 2022 compared to Q4 2021.

In terms of overall 2022 case management performance, highlights include:

- The active caseload inventory was 3,938, which was within the WSIAT's preferred target of 4,000 cases (+/- 5%).
- The total hearings heard in 2022 were slightly less than in 2021 (2,061 vs 2,206), but the total decisions issued were higher (1,984 vs 1,928).
- The median age to first offered hearing of 4.5 months in 2022 outperformed the WSIAT's 2022 objective of offering a first hearing date within 6 months.
- The median age to close appeals was 12.8 months in 2022 vs 15.5 months in 2021, which brings the WSIAT closer to its objective of closing appeals within 12 months, or better.

The WSIAT's success in reducing the time to first offered hearing and closing appeals within 12 months in 2022 was largely due to the ongoing acceptance of teleconference and videoconference hearings by the WSIAT's stakeholders and the WSIAT's focus on improving productivity in all aspects of its processing of appeals.

Although the WSIAT makes every effort to resolve appeals in a timely manner and continually strives to improve case management performance, a number of factors influence case management outcomes. The volume of incoming appeals is cyclical and fluctuating. The time to first offered hearing and the number of hearings heard are impacted by the type of cases available to be scheduled for a hearing, the availability of the parties for an early hearing date, the type of hearing method required to resolve the appeal, and the number of adjournments. In 2023, the WSIAT will continue to seek further efficiencies in case processing, leverage new technologies to help improve case record quality through enhanced electronic services, and explore new opportunities to better support our stakeholders in the resolution of their appeals and applications.

The table below presents a summary of the Q4 2022 and Q4 2021 production metrics and the year to date 2022 and 2021 production metrics. More detailed information about these metrics is provided in the body of the report.

Production metrics	Fourth Quarter			Year to date		
	2022	2021	% Change	2022	2021	% Change
Appeals initiated (New and Reactivated)	775	760	2% ▲	3,168	3,319	5% ▼
Decisions issued	527	463	14% ▲	1,984	1,928	3% ▲
Hearings conducted	495	532	7% ▼	2,061	2,206	7% ▼
Median age (in months) to the first offered hearing date ¹	4.1	4.4	7% ▼	4.5	6.3	29% ▼
Median age (in months) to the final decision issued ²	1.7	2.0	15% ▼	1.7	1.4	21% ▲
Median age (in months) to closing the appeal ³	13.2	13.4	1% ▼	12.8	15.5	17% ▼
Final decisions issued within 120 days	88.6%	89.2%	0.6% ▼	88.7%	92.3%	4% ▼
Early Intervention Program (EIP) appeals resolved	69	90	23% ▼	266	309	14% ▼

Notes:

1. Median age (in months) to the first offered hearing date - from the date the appeal was made ready to proceed to a hearing, to the date of the first hearing date offered to the parties.
2. Median age (in months) to the final decision issued - from the last date the final decision was ready for decision writing, to the date the final decision was issued.
3. Median age (in months) to closing the appeal - from the date the Notice of Appeal form was received to the date the appeal was closed, either by the release of a final decision, a withdrawal, or abandonment of the appeal by the appellant.

Questions about the information in this report should be directed to the WSIAT's Call Centre at 416-314-8800 or 1-888-618-8846, or via TTY at 416-314-1787, 8:30 a.m. to 5:00 p.m. Monday to Friday.

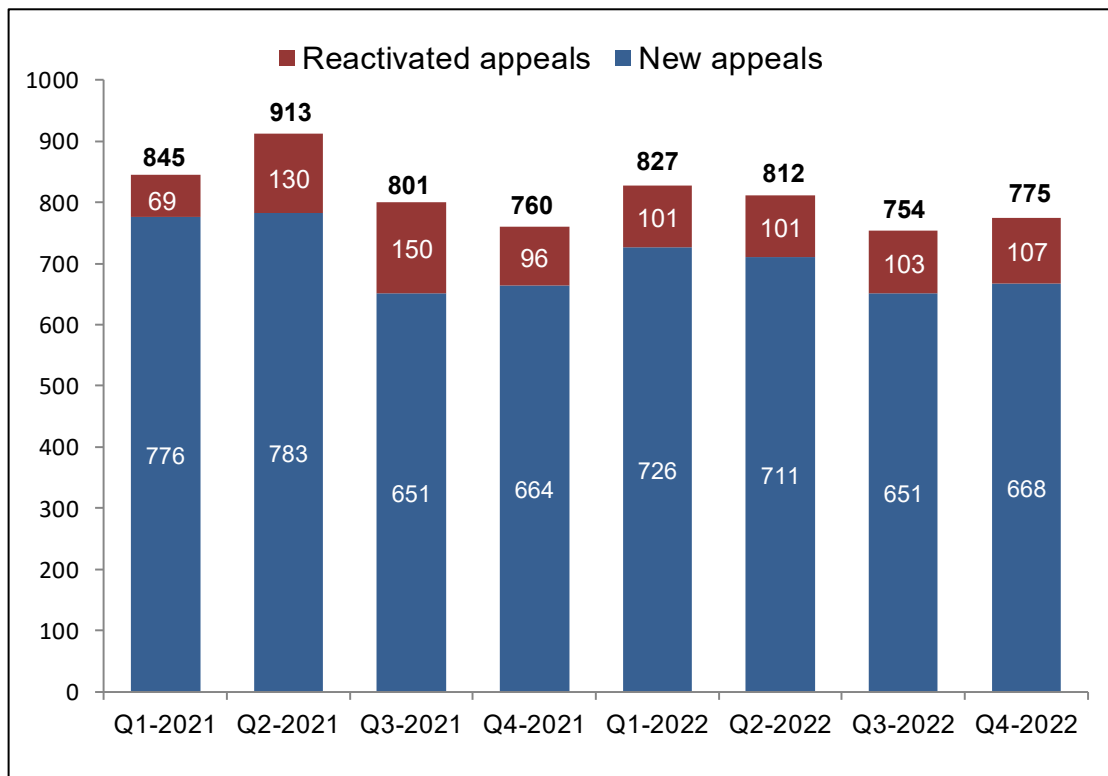
Case Management Summary

Appeals Started – New and Reactivated

In Q4 2022, 775 appeals were started: 668 new appeals received and 107 appeals reactivated from the inactive caseload inventory. This is a 2% increase compared to the 760 appeals started in Q4 2021 (664 new appeals and 96 reactivated appeals).

In 2022, 3,168 new appeals were started. This figure represents a decrease of 5% compared to 3,319 appeals started in 2021. New appeals were 4% lower in 2022 than 2021 (2,756 in 2022 compared to 2,874 in 2021). Reactivated appeals were 7% lower in 2022 than 2021 (412 in 2022 compared to 445 in 2021). This outcome reflects the cyclical and fluctuating nature of incoming and reactivated appeals.

Table 1: Appeals Started per Quarter

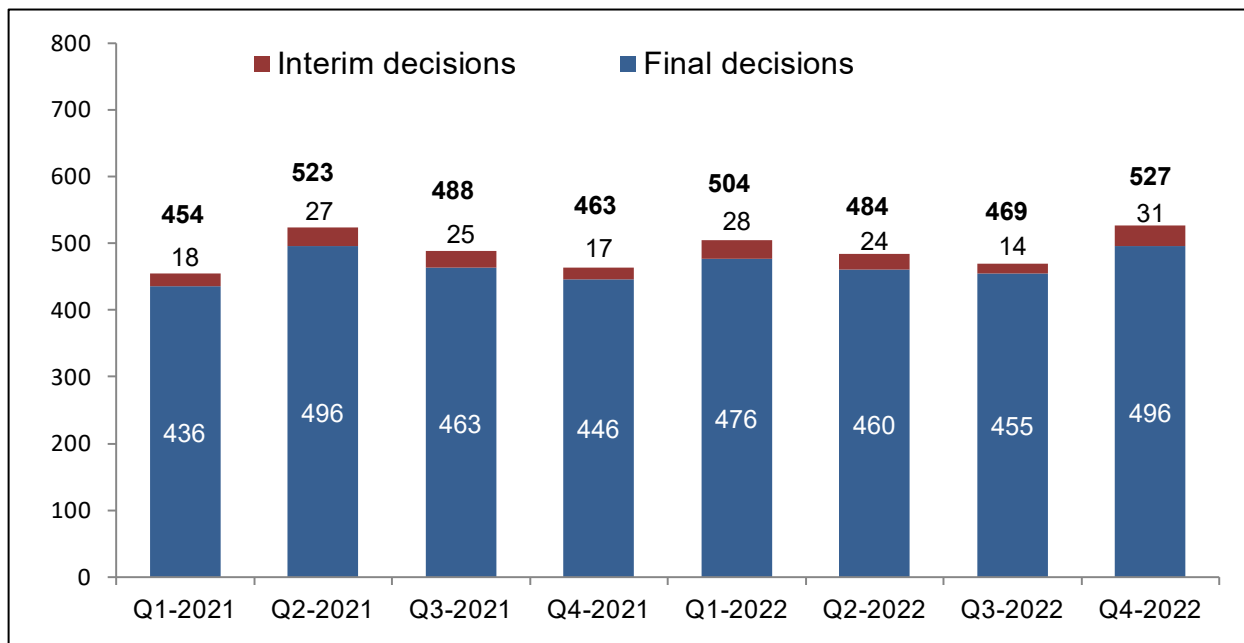


Decisions Issued

In Q4 2022, 527 decisions were issued: 496 final decisions and 31 interim decisions. Total decisions issued in Q4 2022 were 14% higher than in Q4 2021 (463).

In 2022, the WSIAT issued a total of 1,984 decisions. This figure includes 1,887 final decisions and 97 interim decisions. Total decisions issued in 2022 were 3% higher than in 2021 (1,984 decisions vs 1,928).

Table 2: Decisions Issued per Quarter



Note: Decisions issued from a reconsideration request are excluded in the above decision totals.

Timeliness of Decisions Issued

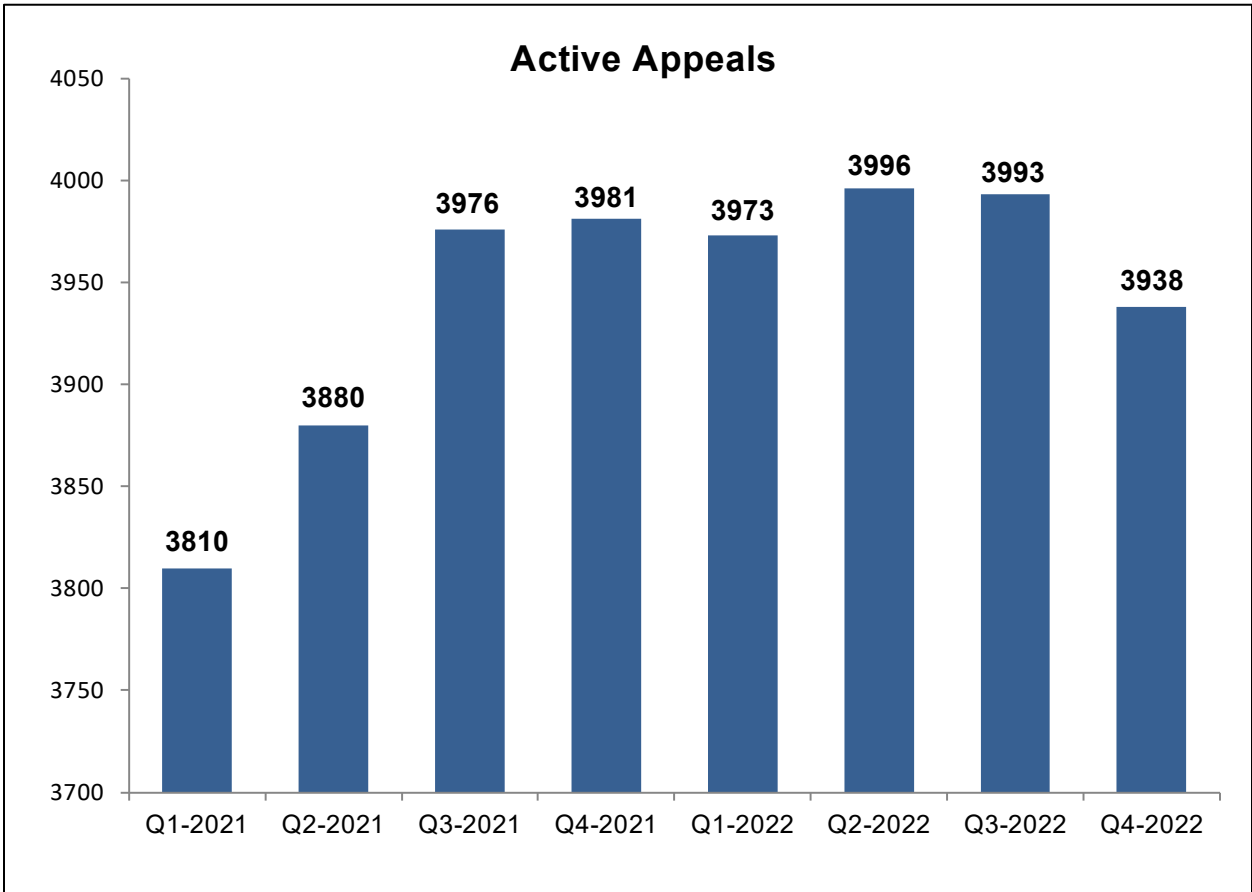
Section 127 of the WSIA requires the WSIAT to issue decisions within 120 days of a hearing, or such longer time as the WSIAT may permit. The WSIAT's 2022 target for final decisions issued within 120 days was 90%. The WSIAT fell just shy of this goal, with 89% of the WSIAT's final decisions issued within 120 days in 2022, compared to 92% in 2021. Additional efforts are planned for 2023 to ensure the timely issuance of final decisions.

Active Appeals Inventory

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.

The active caseload inventory at the end of 2022 totaled 3,938 cases compared to 3,981 cases at the end of 2021. The active caseload inventory was within the WSIAT's preferred target of 4,000 cases (+/-5%).

Table 3: Active Appeals Inventory



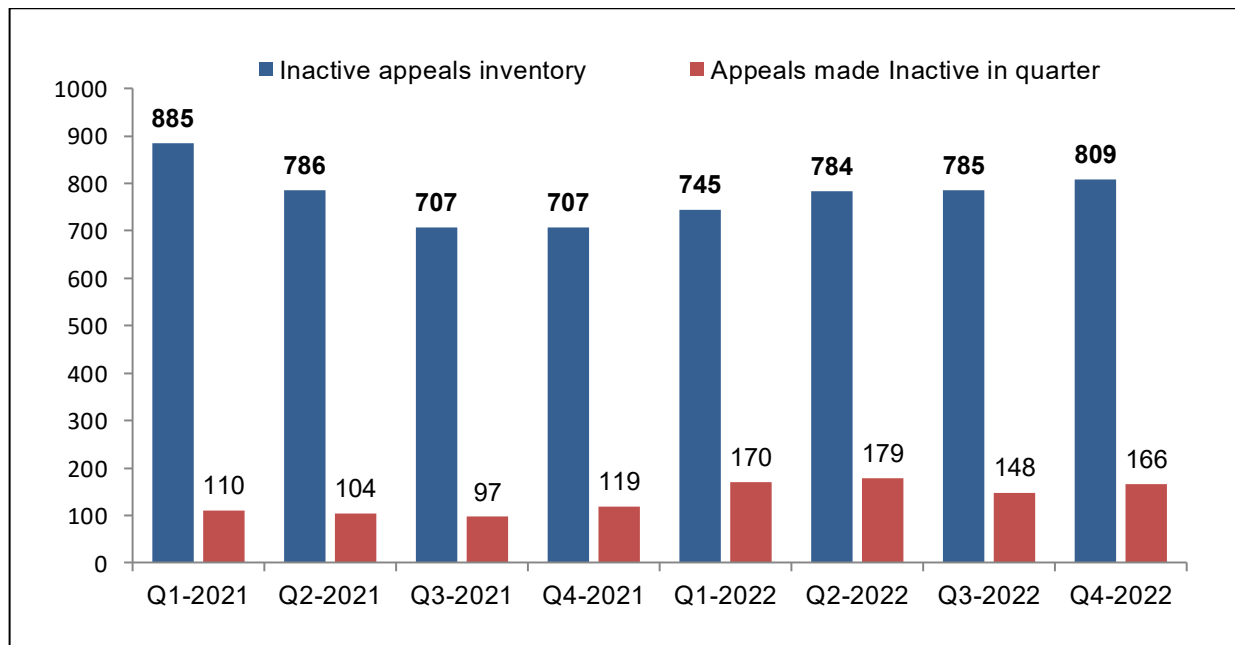
Inactive Appeals Inventory

An appeal is made inactive when active processing cannot proceed due to the absence of critical information 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.

The inactive appeals inventory is comprised of cases that were made inactive in the current quarter or in a prior quarter, and had not been reactivated or closed by the end of the fourth quarter. In Q4 2022, 166 appeals were made inactive, compared to 119 appeals in Q4 2021. In 2022, there were 809 appeals in the inactive appeals inventory, compared to 707 appeals in 2021.

The increase in inactive appeals in 2022 was largely due to more appellants indicating that they were not ready to proceed with their appeal because they were pursuing other issues with the WSIB and/or other information to support their appeal.

Table 4: Inactive Appeals Inventory at the end of each Quarter



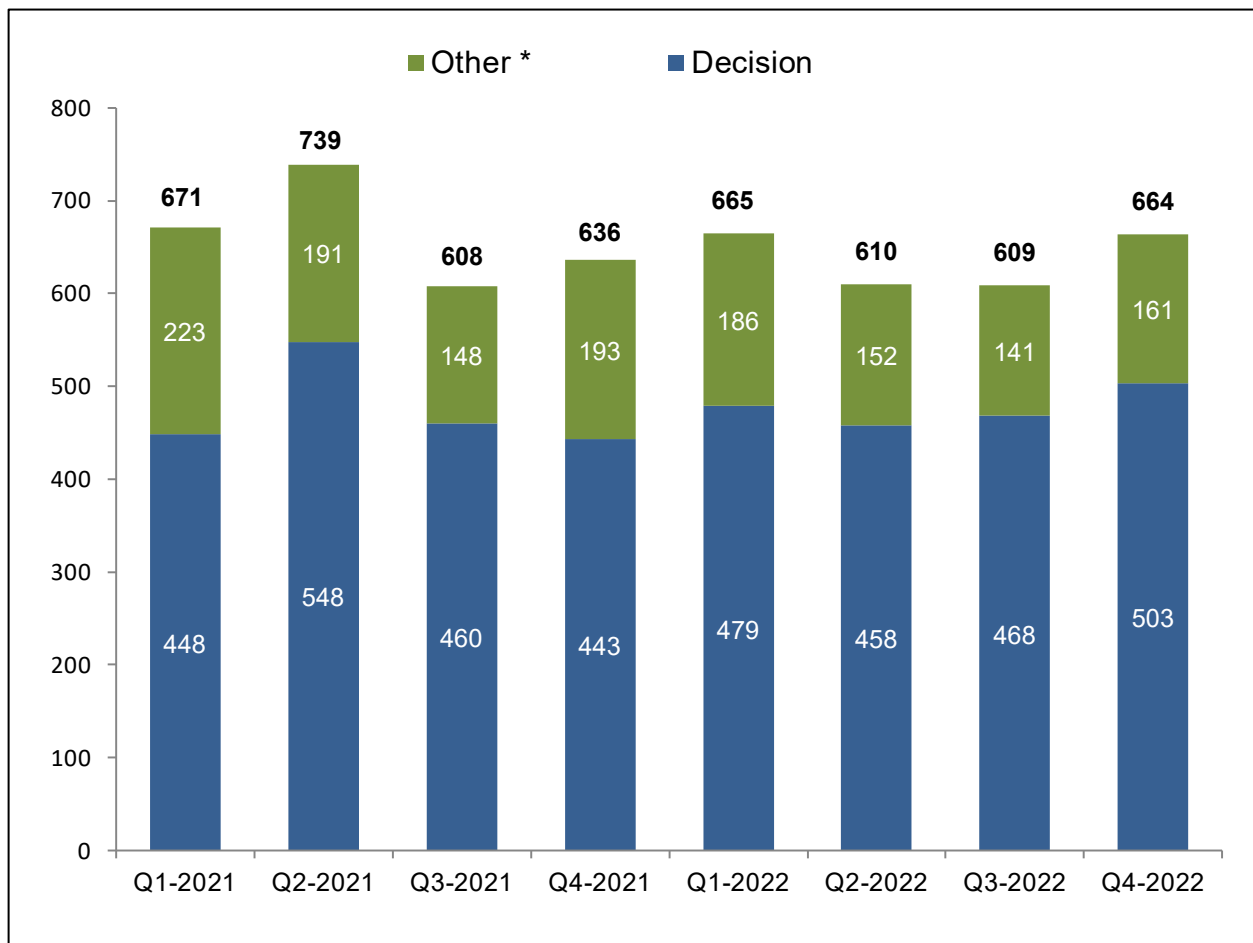
Appeals Closed

An appeal may be closed either by the issuance of a final decision, a withdrawal, or abandonment of the appeal by the appellant.

In Q4 2022, 664 appeals were closed, comprised of 503 closures by final decision and 161 closures by a withdrawal or an abandonment of the appeal by the appellant. Appeals closed in Q4 2021 totaled 636.

Total appeals closed in 2022 were 4% lower than total appeals closed in 2021 (2,548 compared to 2,654). This outcome was partly impacted by 273 adjournments of appeals (at pre- and post-hearing) in 2022. Appeals closed by decision were 75% of the total (1,908). Appeals closed by withdrawal or abandonment were 25% of the total (640).

Table 5: Appeals Closed per Quarter



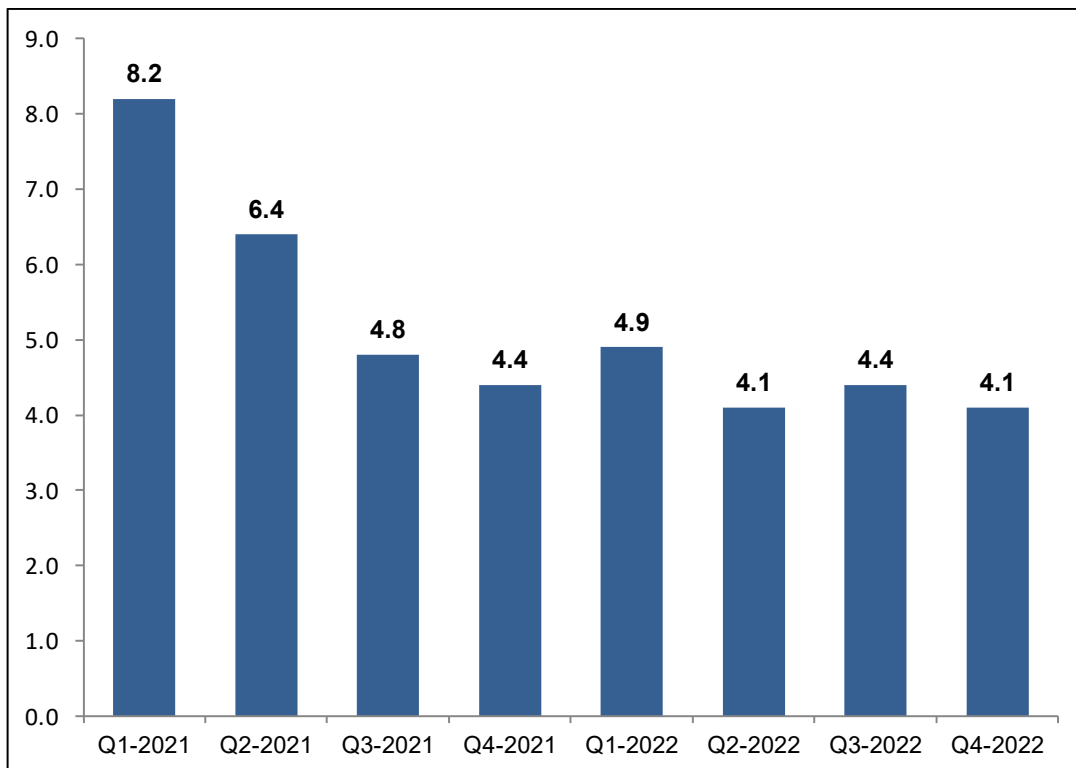
Note: *Other appeals closed are appeals withdrawn or abandoned by the appellant. Appeals closed arising from final decisions issued may not equal the number of decisions issued in a year due to administrative processes at the quarter end that preclude the appeal from being closed immediately following the decision.

Median Age – First Offered Hearing

The first offered hearing timeframe encompasses the period from the date the WSIAT received the appellant’s completed Confirmation of Appeal form, indicating their readiness for hearing, to the hearing date first offered to the parties.

In Q4 2022, the median age to the first offered hearing date was 4.1 months compared to 4.4 months in Q4 2021 (7% decrease). In 2022, the median age was 4.5 months compared to 6.3 months in 2021 (29% decrease). In-person hearings generally take longer to schedule, particularly regional in-person hearings that require travel to different cities across the province. Since mid-2020, regional hearings have been conducted almost entirely by teleconference or videoconference. In 2022, nine in-person hearings were conducted, two of which were regional in-person hearings. In 2023, it is anticipated that there will be a gradual increase of in-person hearings, including regional hearings, subject to public health guidelines and the WSIAT’s criteria for determining whether an in-person hearing is appropriate (see *Workplace Safety and Insurance Appeals Tribunal (WSIAT) Interim Guideline on the Gradual Resumption of In-Person Hearings – Phase 2* on the WSIAT’s website).

Table 6: Median Age in Months to the First Offered Hearing Date

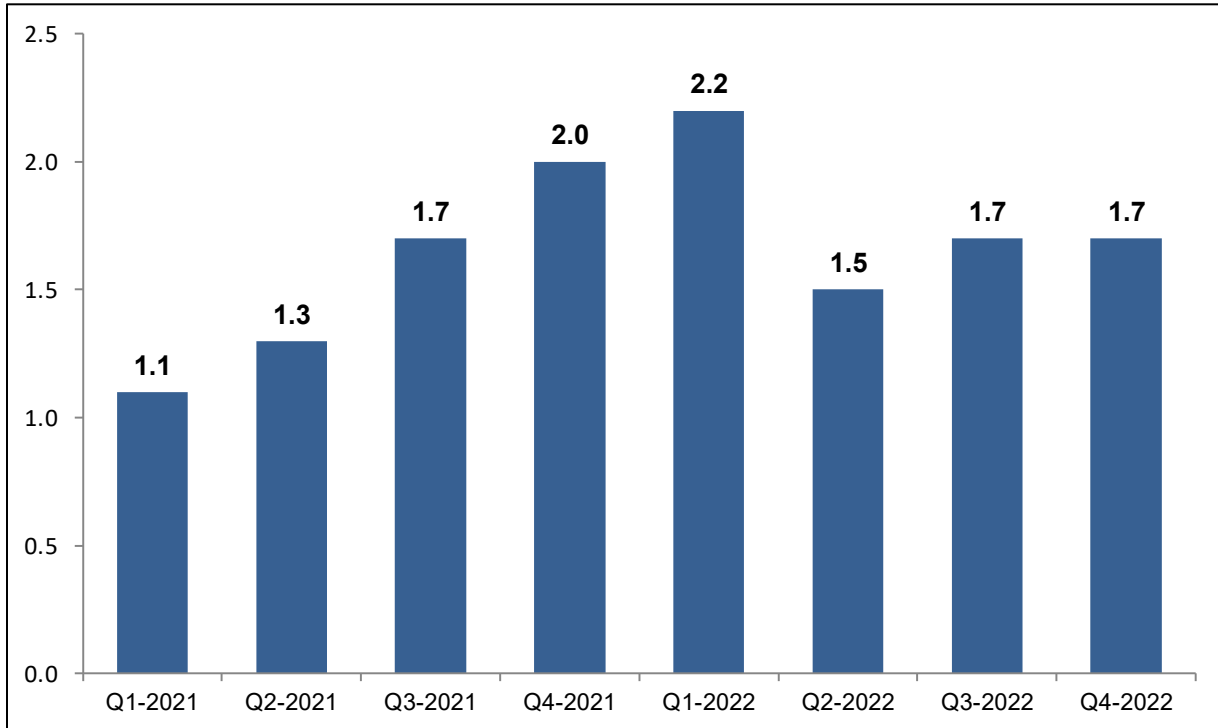


Median Age – Final Decisions Issued

The final decisions issued timeframe encompasses the period from the last date the Vice-Chair was ready to write the final decision to the date it was issued.

In Q4 2022, the median age to the final decision issued was 1.7 months, compared to 2.0 months in Q4 2021. In 2022, the median age was marginally higher (1.7 months) compared to 2021 (1.4 months).

Table 7: Median Age in Months to the Final Decisions Issue Date

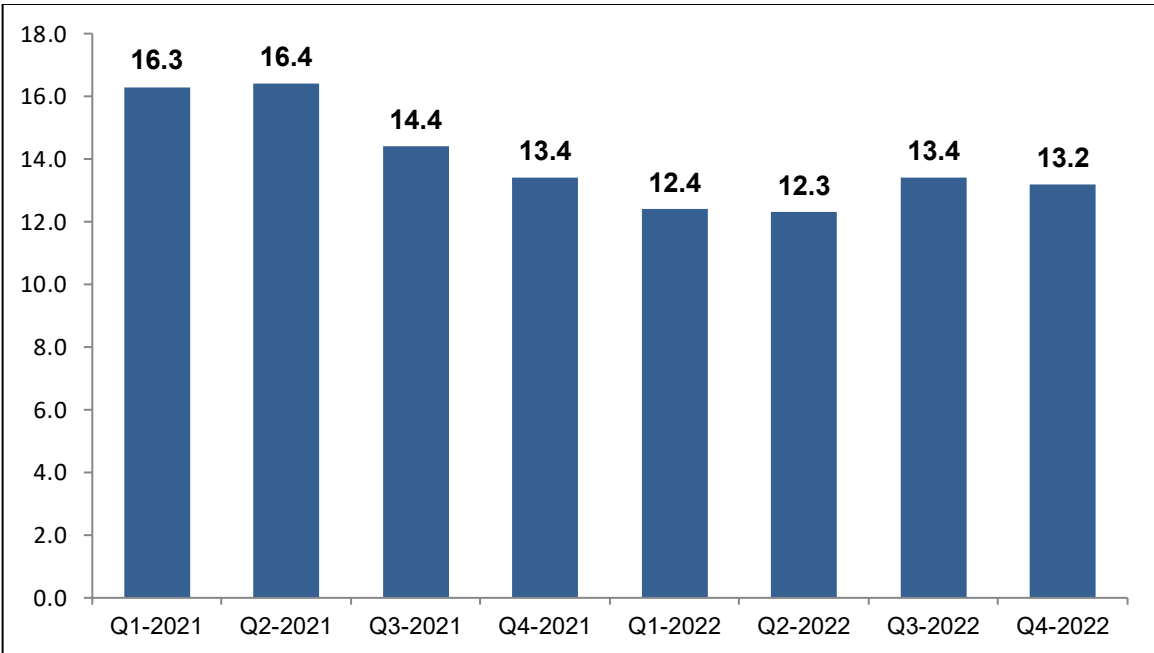


Median Age – Appeals Closed

The timeframe to close appeals encompasses the period from the date the Notice of Appeal form was received to the date the appeal was closed, either by the issuance of a final decision, a withdrawal, or abandonment of the appeal by the appellant. The WSIAT’s strategic objective is to close appeals within 12 months, or better.

In Q4 2022, the median age for appeals closed was 13.2 months, compared to 13.4 months in Q4 2021. In 2022, the median age for appeals closed was 12.8 months compared to 15.5 months in 2021 (17% decrease). This significant outcome was helped by the shorter time to the first offered hearing (4.5 months compared to 6.3 months in 2021 (29% decrease)). The WSIAT intends to maintain this momentum in 2023.

Table 8: Median Age in Months – Appeals Closed



Appeal Issue Type

A WSIAT appeal may involve more than one issue arising from the WSIB decision(s) that the appellant is appealing. The table below presents the percentage volume of the issues that were most frequently appealed in the decisions issued in Q4 2022 compared to the decisions issued in Q4 2021. The annual percentage volume is very similar to the quarterly percentage volume.

Table 9: Issues Most Frequently Appealed in Decisions Issued

Issue Rank in Q4 2022	Issue Type	% Volume Q4 2022	% Volume Q4 2021
1st	Loss of earnings	23%	22.1%
2nd	Non-economic loss (NEL) quantum	9.0%	5.5%
3rd	Multiple Issues *	8.4%	5.1%
4th	Entitlement of a new area of injury	8.3%	10.7%
5th	Initial injury/disease entitlement	7.4%	8.8%
6th	Second Injury and Enhancement Fund	7.4%	3.6%
7th	Work Transition	6.8%	5.1%
8th	Entitlement for a NEL benefit	6.7%	8.9%
9th	Ongoing entitlement	5.4%	6.6%
10th	Other	4.7%	2.6%
11th	Health care benefits	3.3%	5.5%
12th	Psychotraumatic disability	3.2%	2.3%
13th	Recurrence	2.5%	3.3%
14th	Chronic pain	2.2%	2.4%
15th	Early and safe return to work	2.1%	1.8%

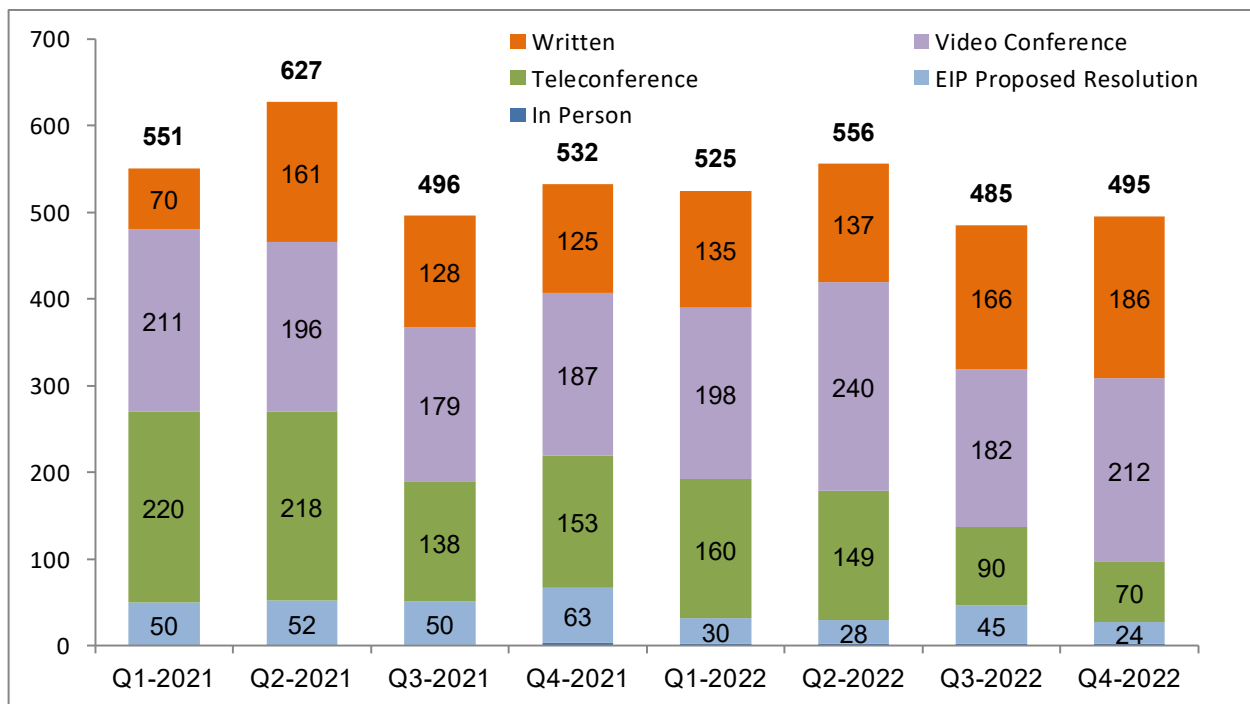
Note: Multiple issues are comprised of several individual issues that are each 1% or less than 1% of total issues. Combining these issues into a single group was done to simplify the presentation of the Issues Table.

Hearing Method

Five hearing methods are available to resolve an appeal: in-person; teleconference; videoconference; written; and proposed resolution (through the Early Intervention Program (EIP)).

In Q4 2022, 495 hearings were conducted, which was 7% lower than the number of hearings conducted in Q4 2021 (532). In 2022, the number of total hearings conducted was 2,061 compared to 2,206 in 2021 (7% decrease). There were fewer teleconference oral hearings in 2022 (469) compared to 2021 (729), but higher videoconference hearings in 2022 (832) compared to 2021 (773). This outcome demonstrates that parties are now more comfortable with videoconference hearings and/or have the appropriate technology to participate in videoconference hearings.

Table 10: Hearings by Hearing Type in each Quarter



Note:

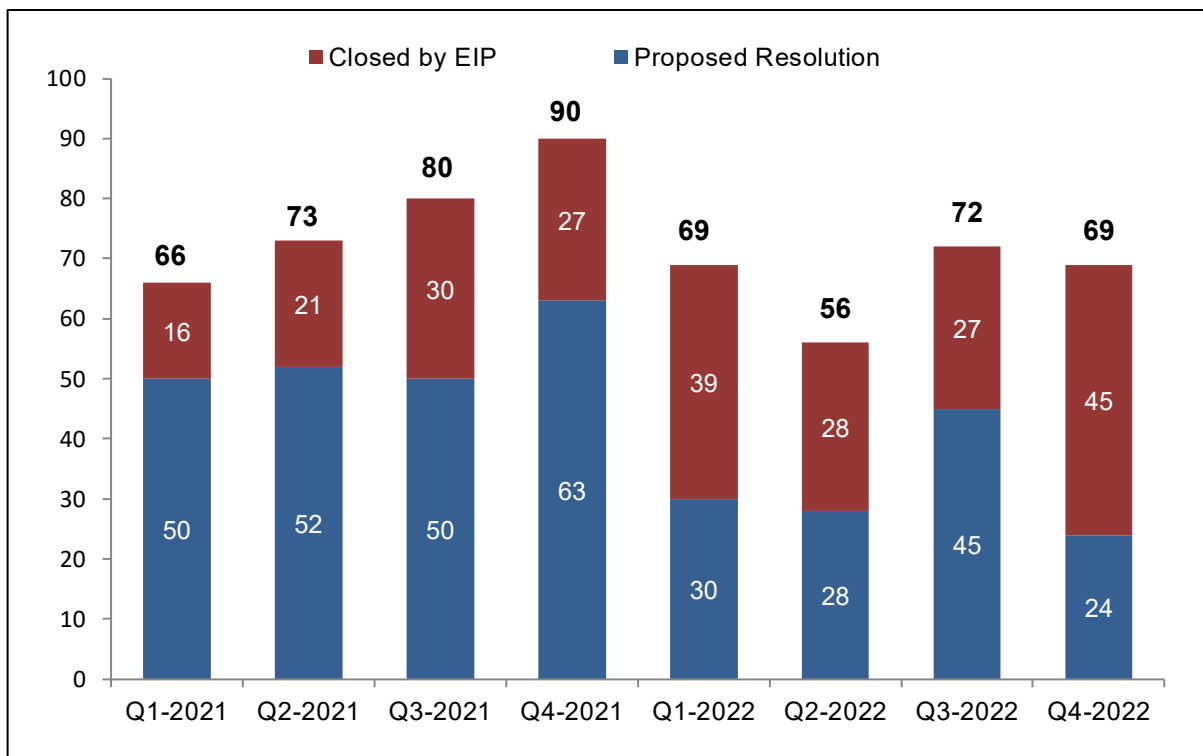
1. Reconsideration reviews by a Vice-Chair or Panel are excluded from the above hearing type presentation.
2. In-person hearings totaled 1 in Q3 2021, 4 in Q4 2021, 2 in Q1 2022, 2 in Q2 2022, 2 in Q3 2022 and 3 in Q4 2022. In-person hearings are included in each quarter total but are not visible on the quarter chart bar due to their low total compared to the other hearing types.

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 2022, 24 proposed resolutions were assigned for review by a Vice-Chair and the EIP staff closed 45 appeals pre-hearing. In Q4 2021, 63 proposed resolutions were assigned for review by a Vice-Chair and 27 were closed pre-hearing. In 2022, 127 proposed resolutions were assigned for review by a Vice-Chair and the EIP staff closed 139 appeals pre-hearing. In 2021, 215 proposed resolutions were assigned for review by a Vice-Chair and the EIP staff closed 94 appeals pre-hearing.

Table 11: Early Intervention Program Production in each Quarter



Order in Council (OIC) Adjudicator Roster

At the end of December 31, 2022, the OIC adjudicator roster was composed of 15 full-time Vice-Chairs; 34 part-time Vice-Chairs; 6 full-time Members and 18 part-time Members. There were no new OIC appointments in Q4 2022.

At the end of December 31, 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.

Glossary of Terms

Active Caseload

The active caseload is comprised of appeals in progress at any stage of processing, 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 their WSIB decision(s) in a specific claim.

Appeal Closed

An appeal may be closed either by the issuance of a final decision, withdrawal, or abandonment of the appeal by the appellant.

Confirmation of Appeal (COA)

The COA is the form submitted by the appellant affirming they are ready to proceed with their appeal to a hearing.

First Offered Hearing Date

A first 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

An appeal is made inactive when active processing cannot proceed due to the absence of critical information 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.

Median

The "median" is a statistical measure that identifies the middle ranked value in an ordered set of numbers.

Median Age – Appeals Closed

The median age timeframe for appeals closed encompasses the period from the date the Notice of Appeal form is received to the date the appeal was closed, either by the

issuance of a final decision, a withdrawal, or abandonment of the appeal by the appellant.

Median Age – First Offered Hearing

The timeframe to the first offered hearing date encompasses the period from the date the WSIAT received the appellant's completed Confirmation of Appeal form, indicating their readiness for hearing, to the hearing date first offered to the parties.

Median Age – Final Decisions Issued

The timeframe to final decisions issued encompasses the period from the date the Vice-Chair was ready to write the final decision, to the date the final decision was issued.

Notice of Appeal (NOA)

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.