

Q1 2023

QUARTERLY PRODUCTION AND ACTIVITY REPORT

January 1 to March 31, 2023



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 Q1 2023 appeal production volumes and performance measurements were comparable to Q1 2022. The volume of appeals initiated (854) was similar, as was the number of hearings conducted (515). Total decisions released (476) in Q1 2023 were slightly lower than in Q1 2022. However, the median age to the first offered hearing date (4.3 months) and the median age to close appeals (12.2 months) were lower in Q1 2023 compared to Q1 2022. These positive results illustrate that the WSIAT's proactive case management efforts are making a difference in ensuring the timely resolution of appeals.

Table 1 below summarizes key production metrics for Q1 2023 vs Q1 2022. Detailed information about these metrics is provided in the Case Management Summary.

Conducting timely hearings and closing appeals generally within 12 months remain key case management performance objectives for the WSIAT. To recap recent key annual performance, in 2022, the median age to first offered hearing was 4.5 months (vs 6.3 months in 2021) and the median age to close appeals was 12.8 months (vs 15.5 months in 2021). In 2023, the WSIAT will continue its efforts to improve the timeliness of its adjudicative processes as well as the hearing participants' overall experience. One specific example is the implementation of the WSIAT's new pre-hearing process, scheduled for November 6, 2023. The new pre-hearing process will improve access to justice (plain language forms / Practice Directions and the introduction of navigation services); eliminate the 2-year notice period; and promote procedural fairness (informed consent).

Table 1: Key Production Metrics Summary

Production metrics	Q1 2023	Q1 2022	% Change	
Appeals initiated (New and Reactivated)	854	827	3%	▲
Decisions issued	476	504	6%	▼
Hearings conducted	515	525	2%	▼
Median age (in months) to the first offered hearing date ¹	4.3	4.9	12%	▼
Median age (in months) to the final decision issued ²	1.5	2.2	32%	▼
Median age (in months) to closing the appeal ³	12.2	12.4	2%	▼
Final decisions issued within 120 days	88.1%	88.0%	.01%	▲
Early Intervention Program appeals resolved	90	69	30%	▲

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.

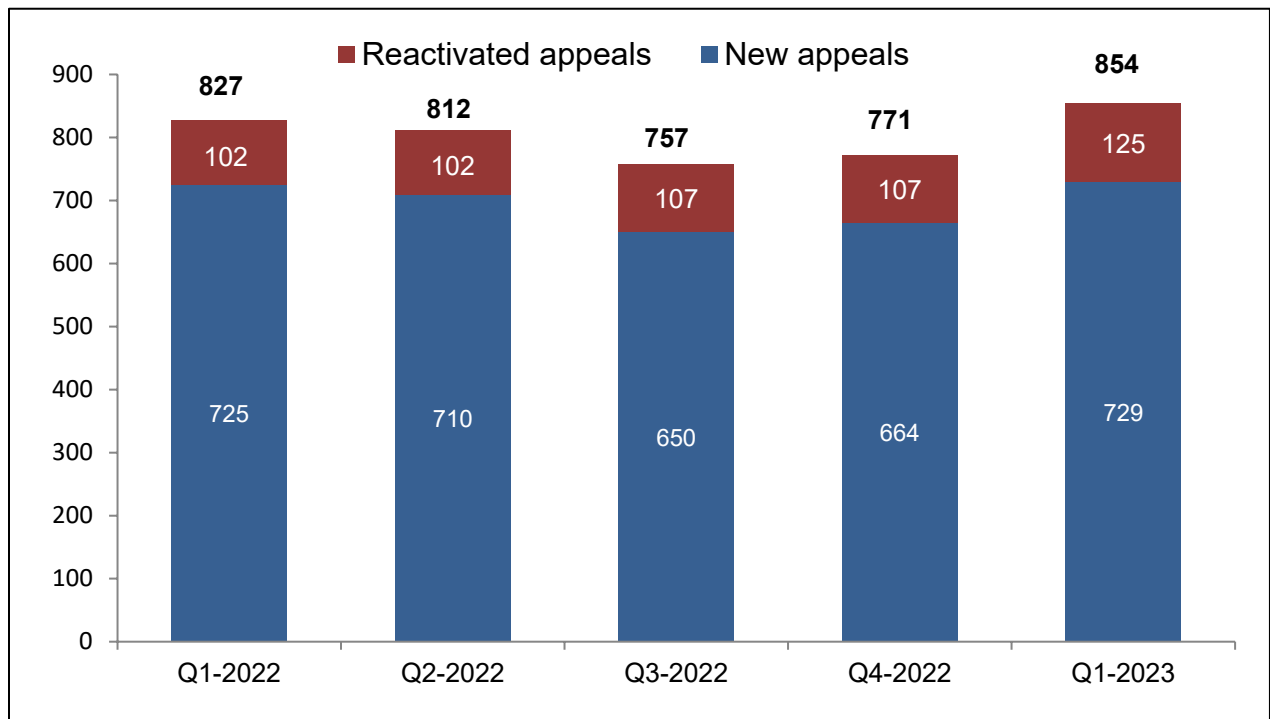
Questions about the information in this report should be directed to the WSIAT's Call

Case Management Summary

Appeals Started – New and Reactivated

- Appeals started in Q1 2023 totaled 854, comprised of 729 new appeals and 125 appeals reactivated from the inactive caseload inventory.
- Appeals started in Q1 2023 were 3% higher compared to appeals started in Q1 2022 (827).
- The volume of appeals started at the beginning of the calendar year is typically higher.

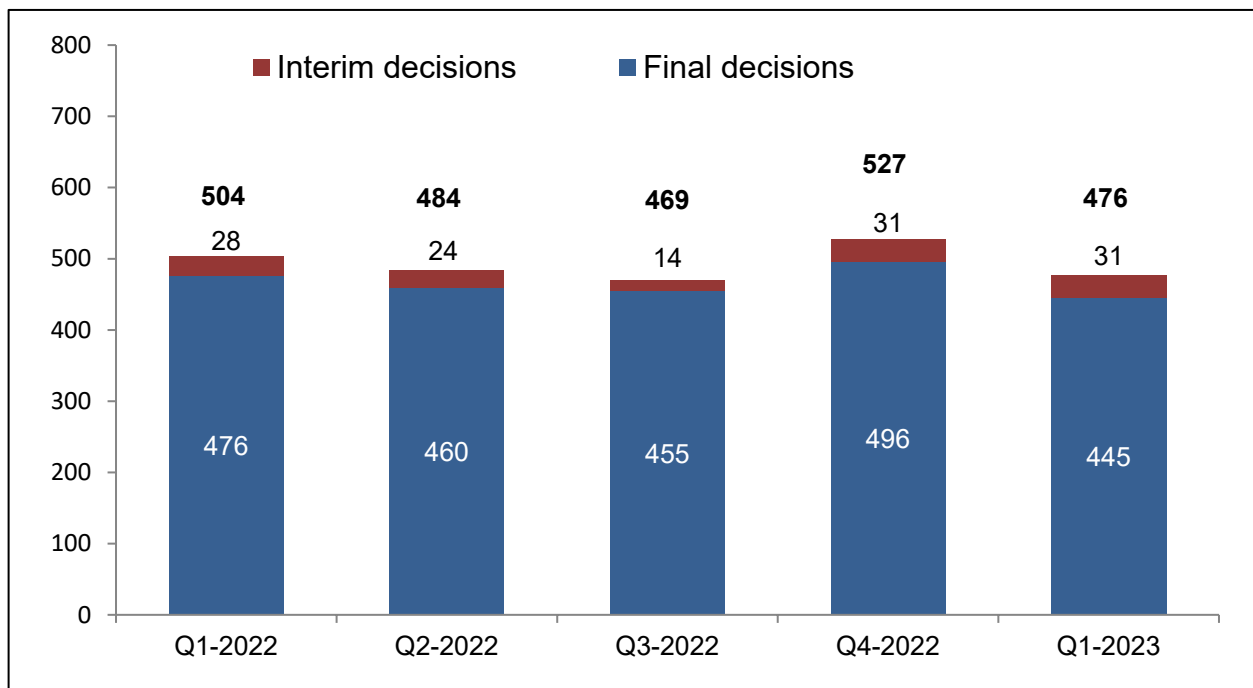
Chart 1: Appeals Started per Quarter



Decisions Issued

- Decisions issued in Q1 2023 totaled 476, comprised of 445 final decisions and 31 interim decisions.
- Decisions issued in Q1 2023 were 6% lower than in Q1 2022 (504). This is a reasonable margin of fluctuation for quarterly performance.
- Decision production generally increases in subsequent quarters.

Chart 2: Decisions Issued per Quarter



Note: Decisions issued from a reconsideration request are excluded in the above decision totals. In Q1 2023, 35 decisions were issued from reconsideration requests.

Timeliness of Decisions Issued

Section 127 of the *Workplace Safety and Insurance Act, 1997* requires the WSIAT to issue decisions within 120 days of a hearing, or such longer time as the WSIAT may permit. The WSIAT's annual target is to issue 90% of final decisions within 120 days.

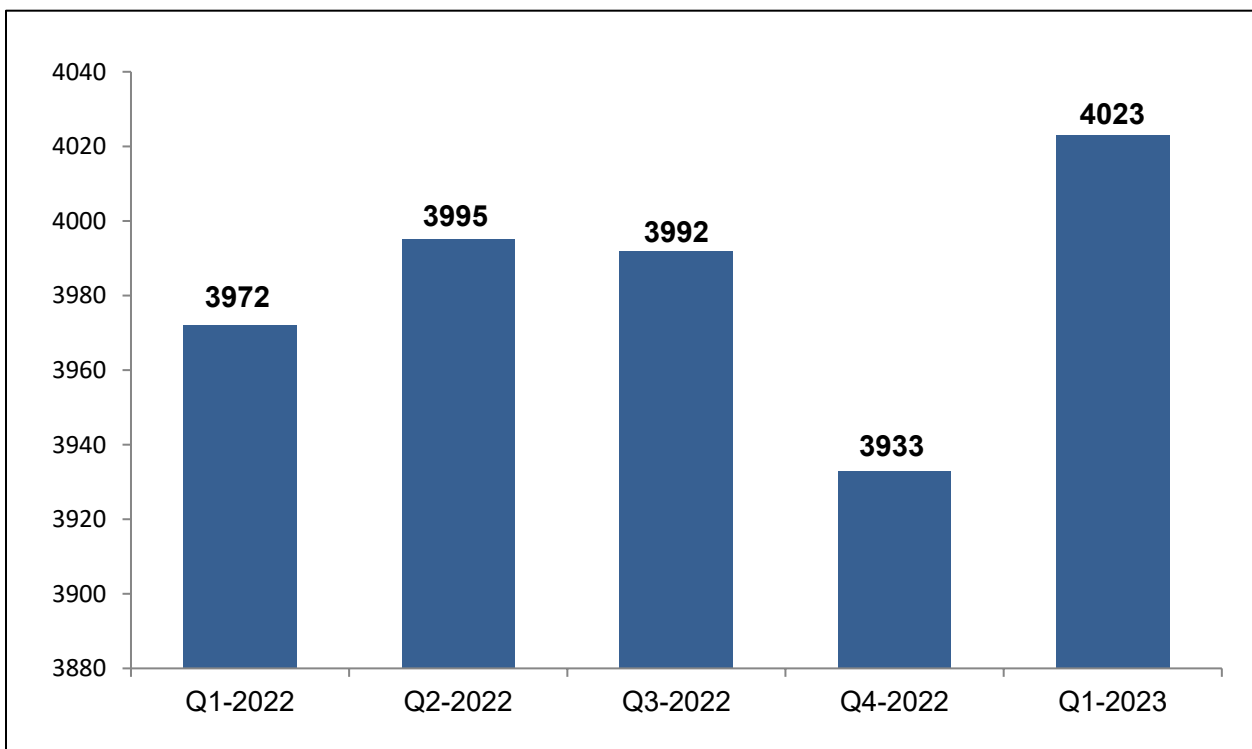
- In Q1 2023, 88.1% of final decisions were issued within 120 days.
- In Q1 2022, 88.0% of final decisions were issued within 120 days.
- Efforts continue to ensure final decisions are issued in a timely manner.

Active Appeals Inventory

An active appeal is one that is 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 Q1 2023 totaled 4,023 cases. This was within the WSIAT's preferred target of 4,000 cases (+/- 5%).
- At the end of Q1 2022 the active caseload inventory totaled 3,972, which was 1.3% lower than Q1 2023.
- The slightly higher active appeals inventory in Q1 2023 was due to the 3% higher appeal volume in Q1 2023 and the timing of the various processing stages for appeals.
- The active appeals inventory has been under 4,000 cases for April and May, 2023 and is expected to remain within the preferred target of 4,000 cases (+/- 5%) throughout the year.

Chart 3: Active Appeals Inventory



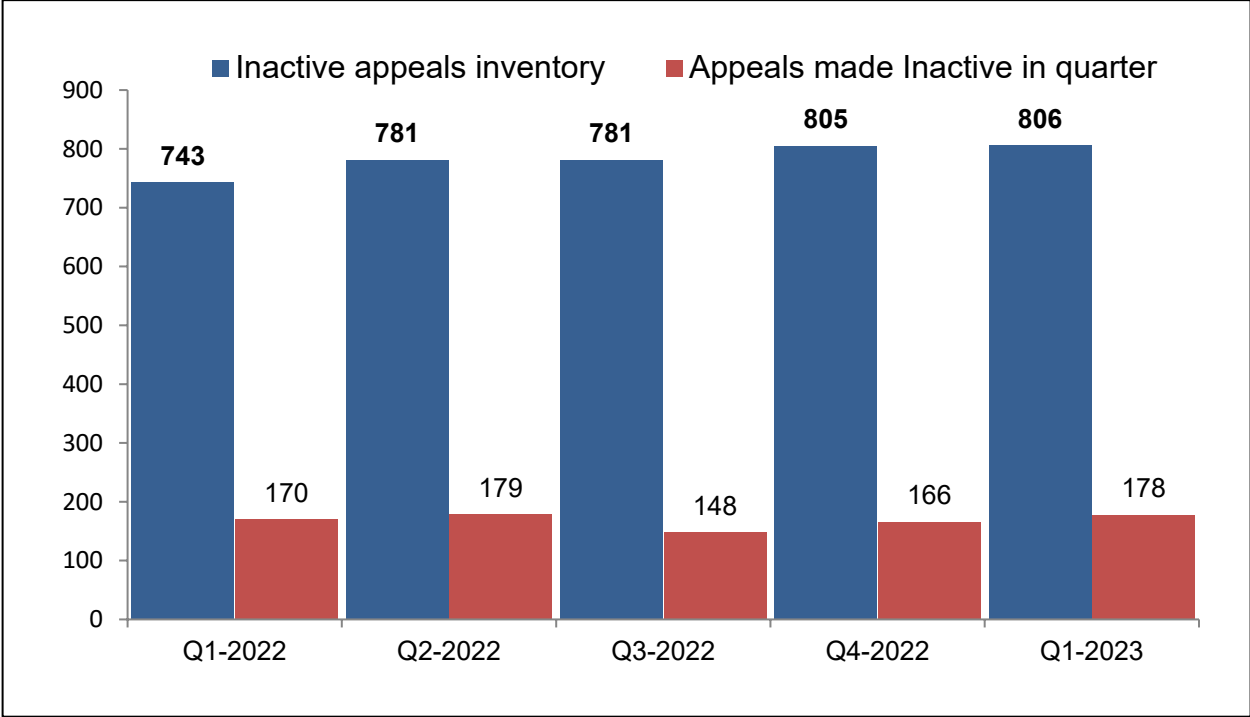
Inactive Appeals Inventory

An appeal is made inactive when active processing cannot proceed for various reasons, such as the absence of critical information required by the WSIAT to adjudicate the case or outstanding issues being pursued at the WSIB. 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 current quarter.

- At the end of Q1 2023, the inactive appeals inventory totaled 806.

- At the end of Q1 2022, the inactive appeals inventory totaled 743, which was 8% lower than the inactive inventory at the end of Q1 2023.
- Chart 4 shows that the number of appeals made inactive in each quarter has averaged approximately 168 appeals.
- This metric is influenced by the amount of time that some parties and their representatives require to obtain additional information and/or address an outstanding issue(s) at the Workplace Safety and Insurance Board (WSIB) before proceeding with their appeal.

Chart 4: Inactive Appeals Inventory and Appeals made Inactive

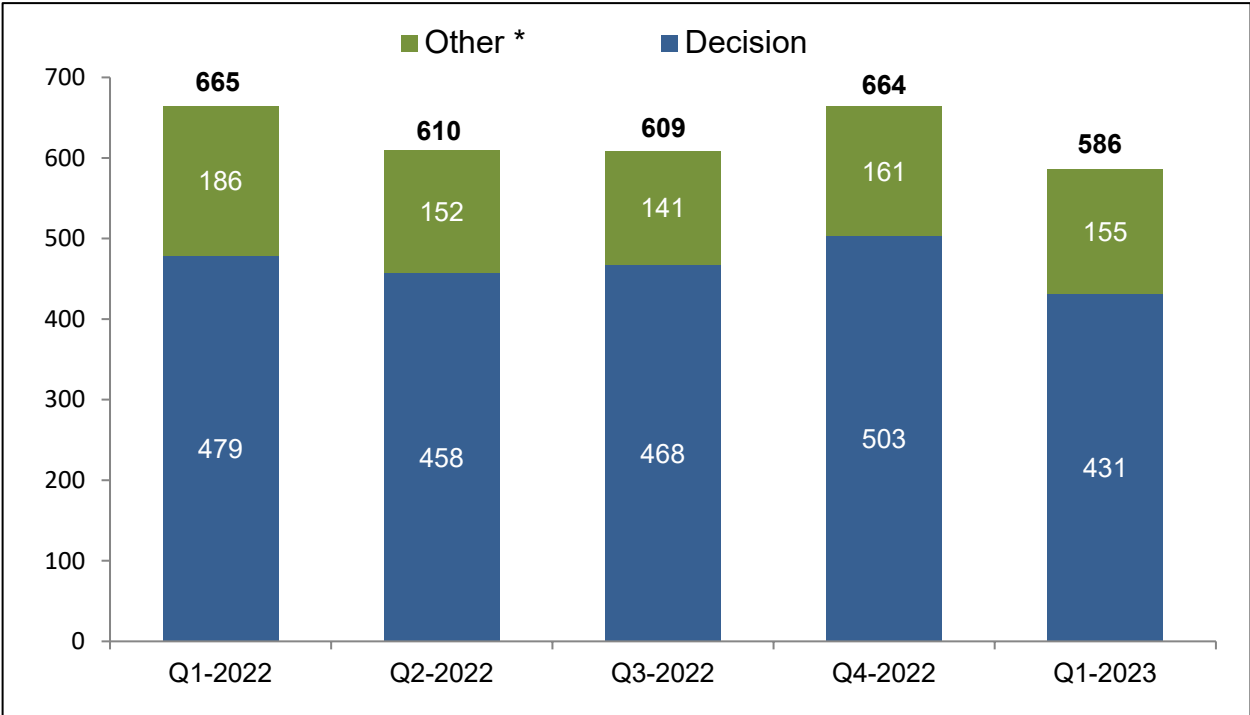


Appeals Closed

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

- In Q1 2023, 586 appeals were closed, comprised of 431 closed by final decision and 155 closed by a withdrawal or an abandonment of the appeal by the appellant.
- In Q1 2022, 665 appeals were closed, which was 12% higher than Q1 2023.
- The lower number of appeals closed in Q1 2023 was mainly due to the timing of processing appeals. It is anticipated that the number of cases closed will increase in subsequent quarters.

Chart 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

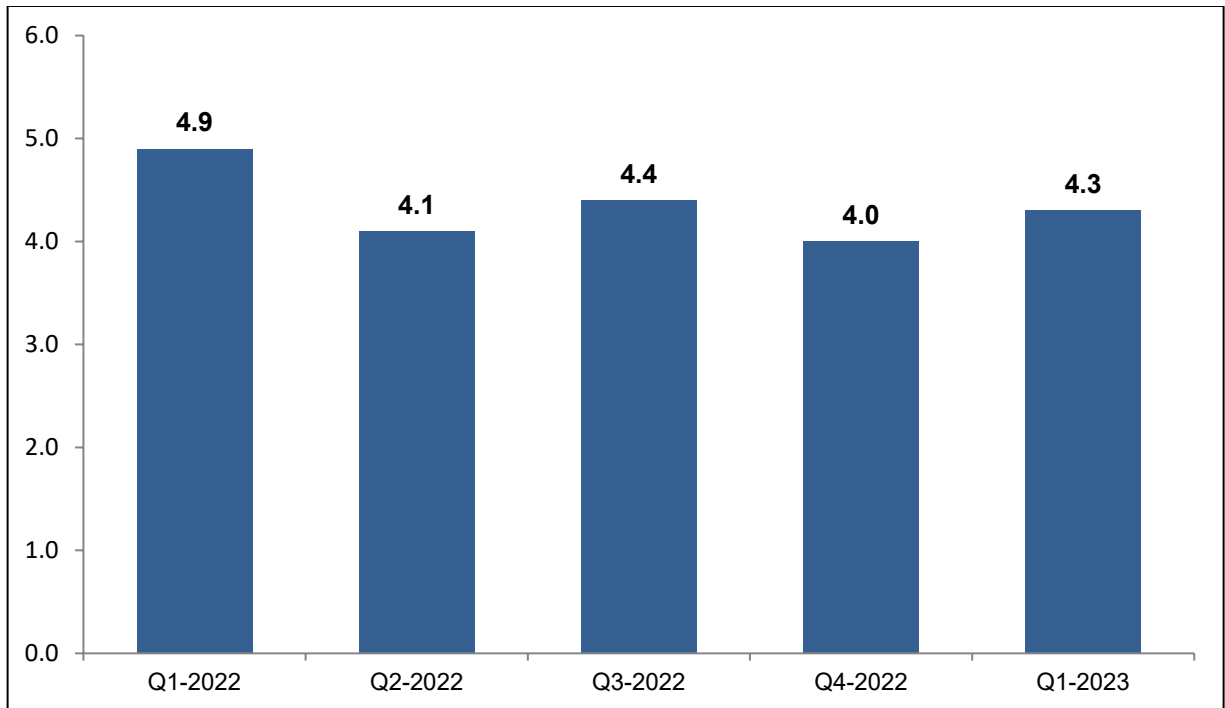
The timeframe for first offered hearing is the period from the date the WSIAT received the appellant’s completed Confirmation of Appeal form, indicating their readiness for hearing, to the hearing date first offered to the parties. The WSIAT’s annual target is to offer the first hearing within 6 months, or less.

- In Q1 2023, the median age to the first offered hearing date was 4.3 months.

- In Q1 2022, the median age to the first offered hearing date was 4.9 months.
- The median age to the first offered hearing date is expected to continue to be within the 2023 target of 6 months, or less.

This metric is influenced by the number of in-person hearings, which take longer to schedule. Although the WSIAT anticipates more in-person hearings in 2023 vs 2022, the majority of hearing parties continue to prefer videoconference hearings.

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

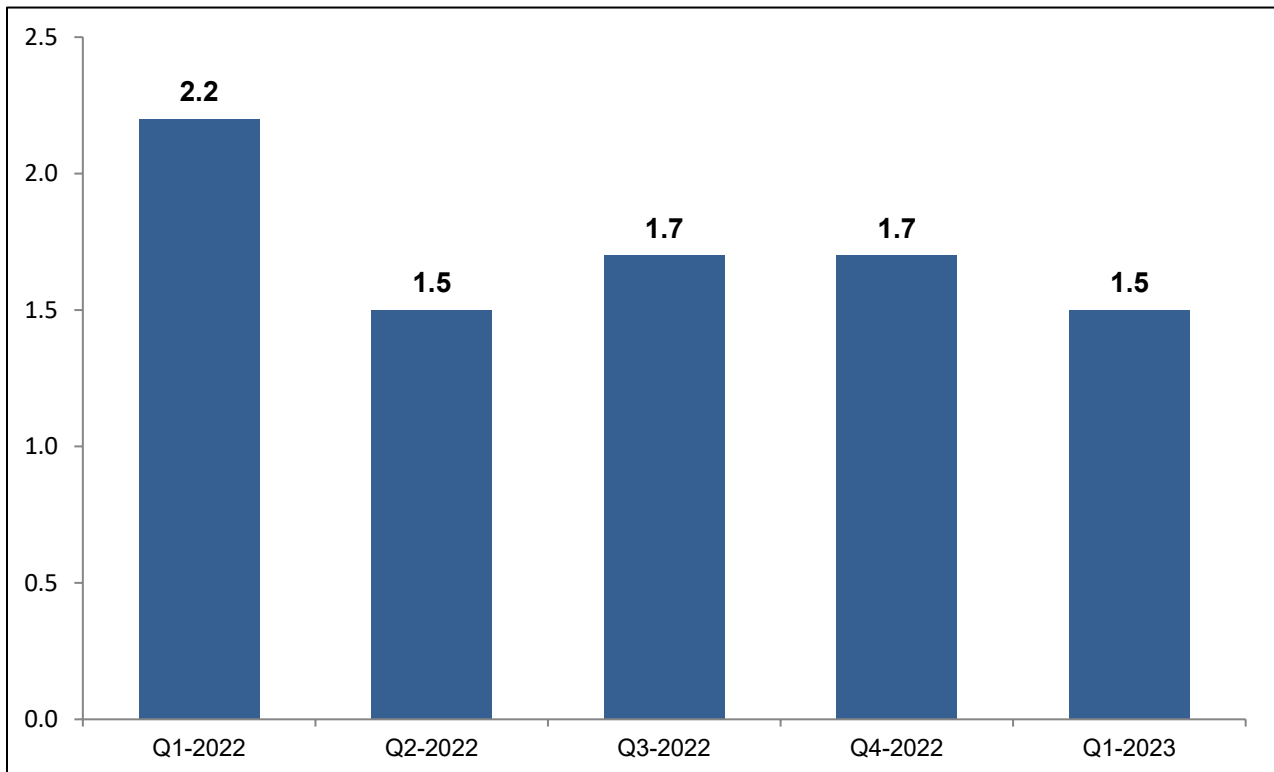


Median Age – Final Decisions Issued

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

- In Q1 2023, the median age to the final decision issued was 1.5 months.
- In Q1 2022, the median age to the final decision issued was 2.2 months.
- For 2023, the median age to the final decision issued is expected to continue to be in the range of 1.5 – 2.0 months.

Chart 7: Median Age in Months to the Final Decisions Issued Date

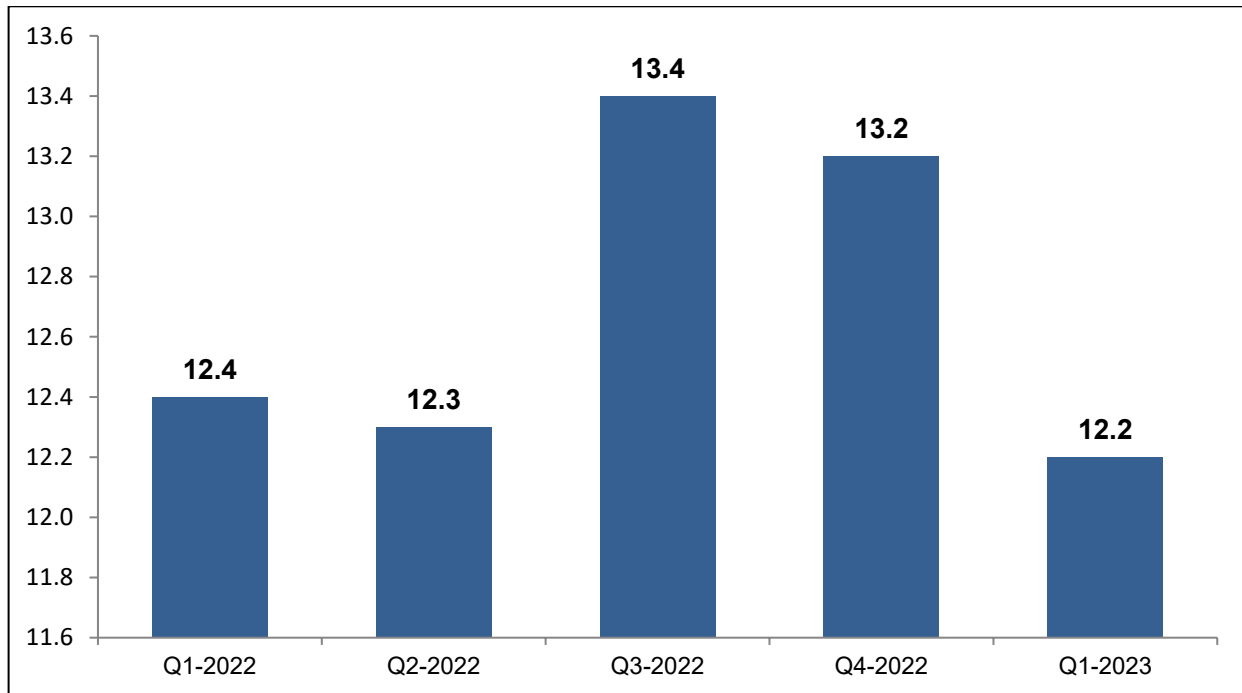


Median Age – Appeals Closed

The timeframe for appeals closed is 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.

- In Q1 2023, the median age for appeals closed was 12.2 months.
- In Q1 2022, the median age for appeals closed was 12.4 months.
- The WSIAT's efforts to reduce processing times have largely been successful in reducing the overall time to close appeals.

Chart 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 Q1 2023 compared to the decisions issued in Q1 2022.

Despite anticipating many COVID-19 related appeals, the WSIAT received only 14 appeals by the end of Q1 2023.

Table 2: Issues Most Frequently Appealed in Decisions Issued

Issue Rank in Q1 2023	Issue Type	% Volume Q1 2023	% Volume Q1 2022
1st	Loss of earnings	21.0%	23.0%
2nd	Entitlement of a new area of injury	9.2%	11.0%
3rd	Non-economic loss quantum	7.7%	8.2%
4th	Entitlement for non-economic loss	7.6%	7.0%
5th	Second Injury and Enhancement Fund	7.2%	5.0%
6th	Work Transition	7.2%	6.0%
7th	Initial entitlement	7.1%	7.6%
8th	Health care benefits	6.1%	5.0%
9th	Multiple issues each totaling 1% or less than total	5.5%	9.0%
10th	Ongoing entitlement	5.4%	4.6%
11th	Other	3.7%	3.0%
12th	Psychotraumatic disability	3.6%	4.0%
13th	Chronic pain	2.6%	2.0%
14th	Recurrence	2.0%	3.0%
15th	Occupational disease	1.6%	less than 1%
16th	Chronic and traumatic stress	1.4%	1.9%
17th	Permanent disability quantum (for accident dates prior to January 2, 1990)	1%	1.9%

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 the fall of 2022, the WSIAT changed the default hearing method from teleconference to videoconference, with the understanding that there will be a gradual increase in the availability of in-person hearings in 2023. Hearing participants can indicate their preference for the method of hearing that they believe is appropriate for their appeal.

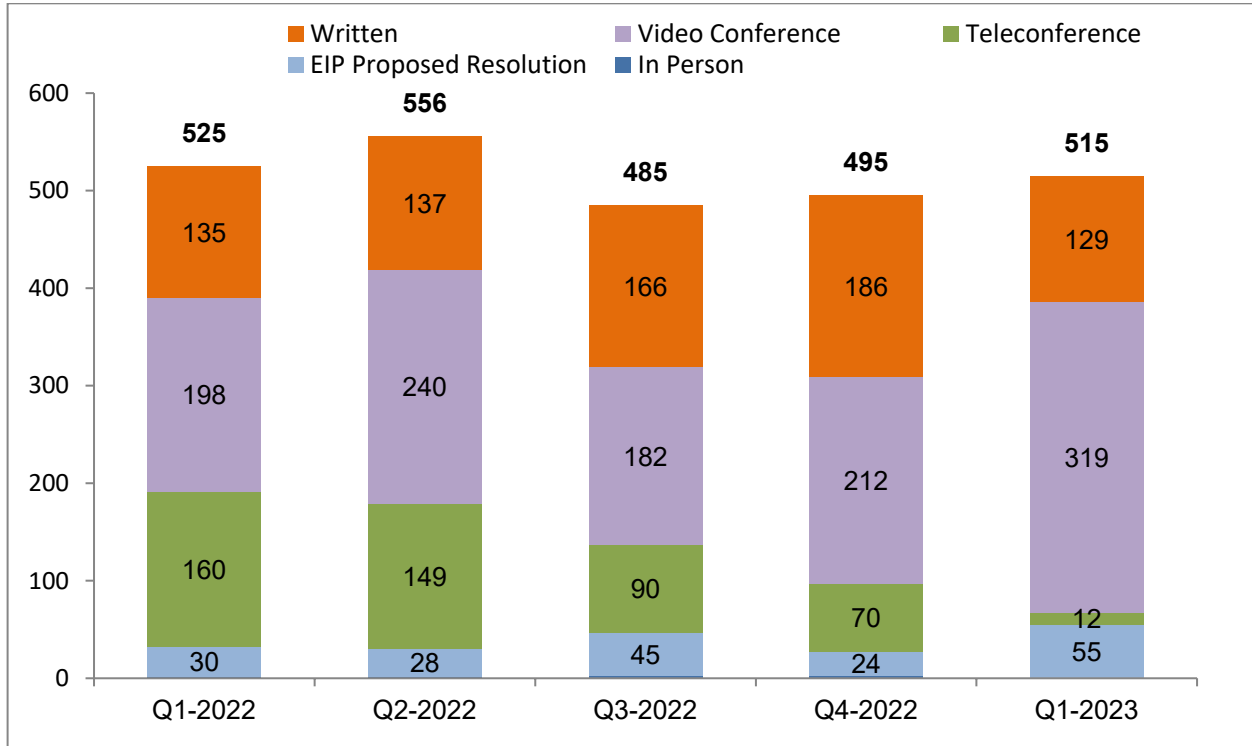
The WSIAT determines the most appropriate method of hearing, taking into account the submissions of the parties and the circumstances of the case. The WSIAT's criteria for determining whether an in-person hearing is appropriate is outlined in the document, [Workplace Safety and Insurance Appeals Tribunal \(WSIAT\) Interim Guideline on the Gradual Resumption of In-Person Hearings – Phase 2](#), which can be found on the WSIAT's website.

- In Q1 2023, the majority of hearings were conducted by videoconference (62%), and that percentage has increased in comparison to videoconferences held in Q1 2022 (38%)
- There were no in-person hearings in Q1 2023. Several in-person hearings have been scheduled to be heard later in the year and a few in early 2024.

Table 3: Hearings by Hearing Type Total and Percentage in Each Quarter

Hearing Type	Q1 2023		Q1 2022	
	Total	% of Total	Total	% of Total
In Person	0	0.0%	2	0.4%
EIP Proposed Resolution	55	10.7%	30	5.7%
Teleconference	12	2.3%	160	30.5%
Video Conference	319	61.9%	198	37.7%
Written	129	25.0%	135	25.7%
Total Hearings	515	100%	525	100%

Chart 9: Hearings by Hearing Type in each Quarter



Note:

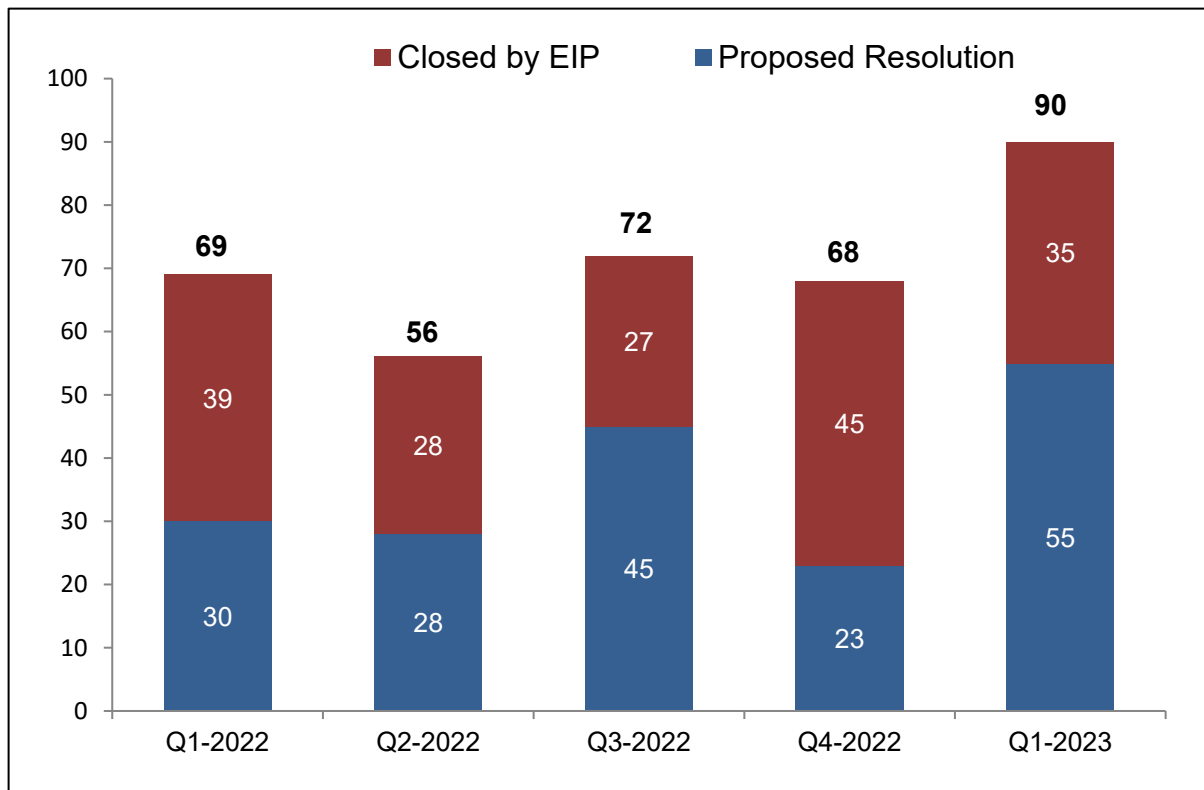
1. Reconsideration reviews by a Vice-Chair or Panel are excluded from the above hearing type presentation.
2. In-person hearings totaled 2 in Q1 2022, 2 in Q2 2022, 2 in Q3 2022, and 3 in Q4 2022. There were no in-person hearings in Q1 2023. In-person hearings are included in each quarter total but are 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 resolution (ADR) for single-party appeals and mediation for two-party appeals, without the need for a formal oral hearing.

- In Q1 2023, 55 proposed resolutions were assigned for review by a Vice-Chair and the EIP staff closed 35 appeals pre-hearing.
- In Q1 2022, 30 proposed resolutions were assigned for review by a Vice-Chair and 39 were closed pre-hearing.

Chart 10: Early Intervention Program Production in each Quarter



Order in Council (OIC) Adjudicator Roster

At the end of Q1 2023, the OIC adjudicator roster was composed of 15 full-time Vice-Chairs; 33 part-time Vice-Chairs; 6 full-time Members and 19 part-time Members. There were no new OIC appointments in Q1 2023.

At the end of Q1 2022, the OIC adjudicator roster was composed of 18 full-time Vice-Chairs; 35 part-time Vice-Chairs; 6 full-time Members and 20 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 Appeal

An appeal is made inactive when active processing cannot proceed for various reasons, such as the absence of critical information required by the WSIAT to adjudicate the case or outstanding issues being pursued at the WSIB. 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 is 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 is 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 is 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.