Q2 2022

QUARTERLY PRODUCTION AND ACTIVITY REPORT

April 1 to June 30, 2022

Ontario

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.

Q2 2022 has been a positive quarter and the WSIAT remains well positioned to deliver solid annual productivity results. The volume of new and reactivated appeals in Q2 2022 declined by 11% compared to the same period in 2021. Year-to-date (January 1 to June 30, 2022), the incoming volume of new and reactivated appeals declined by 7% compared to the same period in 2021. However, 2021 was the first year following the COVID-19 pandemic and a year where the volume of incoming new appeals increased by 41% over 2020 and 31% over 2019. It was expected that the incoming volume of new appeals would stabilize somewhat to the pre-COVID experience, despite its generally cyclical nature.

We continue to make progress on important metrics, including the timeliness to first hearing (4.6 months to end of June 30, 2022) and the total time to close appeals (12.4 months to end of June 30, 2022). Our active inventory of 3,995 cases remains below our target of 4,000 cases (+/- 5%).

Most of the hearings conducted in the first half of 2022 were oral hearings by videoconference or teleconference. Four in-person hearings were conducted in Toronto to accommodate the specific needs of the appellants. Several more in-person hearings in Toronto and two in-person regional hearings are scheduled to take place by the end of 2022.

WSIAT employees have been working in the office 1-2 days per week since April 2022. Our employees who provide essential mail and print services have been working in the office since March 2020. Effective September 26, 2022, WSIAT employees will be working in the office 2-3 days per week.

The WSIAT also increased its roster of Order in Council (OIC) appointees in the first half of 2022 with the appointment of six Vice-Chairs and six Members (three Representative Members of Workers and three Representative Members of Employers).

The table below presents a summary of the Q2 production metrics and the year to date ending June 30, 2022 production metrics comparison, for 2022 and 2021.

More detailed information about these metrics is provided in the body of the report.

Production metrics	Q2 Production			Year to date Production		
	2022	2021	% Change	2022	2021	% Change
Appeals started (New and Reactivated)	813	913	11% ▼	1,640	1,758	7% ▼
Decisions issued	484	523	7% ▼	988	977	1% ▲
Hearings conducted	560	627	11% ▼	1,087	1,180	8% ▼
Median age timeframe (months):						
First offered hearing date [1]	4.1	6.4	36% ▼	4.6	7.6	39% ▼
Final decision released [2]	1.5	1.3	.02%▲	1.8	1.2	.06%▲
Appeals Closed [3]	12.3	16.4	25% ▼	12.4	16.3	24% ▼
Final decisions released within 120 days	92%	93%	1% ▼	90%	93%	3% ▼
Early Intervention Program appeals resolved	56	73	23% ▼	125	139	10% ▼

Notes:

1. 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. Final decision released - from the last date the Final decision was ready for decision writing, to the date the Final decision was released.
3. Appeals Closed - 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 by the appellant.

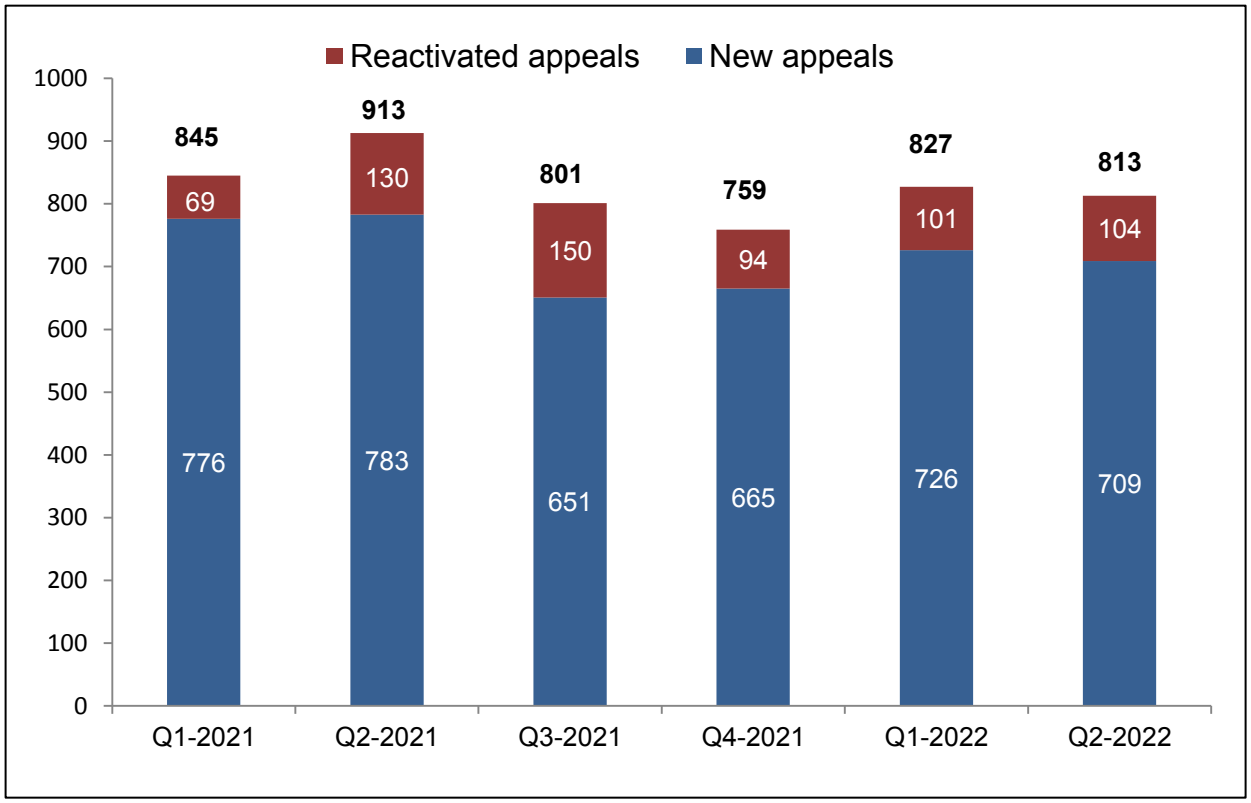
If you have any questions about the information in this report, please contact the WSIAT's main number at 416-314-8800. You may also call toll free (within Ontario) at 1-888-618-8846.

Case Management Summary

Appeals Started – New and Reactivated

In Q2 2022, 813 appeals were started: 709 New appeals received and 104 appeals were Reactivated from the Inactive caseload inventory. This is an 11% decrease compared to the 913 appeals started in Q2 2021 (783 New appeals and 130 Reactivated). Year to date, there has been a 7% decrease in appeals started (1,640 in 2022 vs 1,758 in 2021). Although there has been a decrease in appeals started, the volume of New appeals has remained at higher levels in 2022 compared to the pre-2021 to 2019 experience.

Table 1: Appeals Started per Quarter

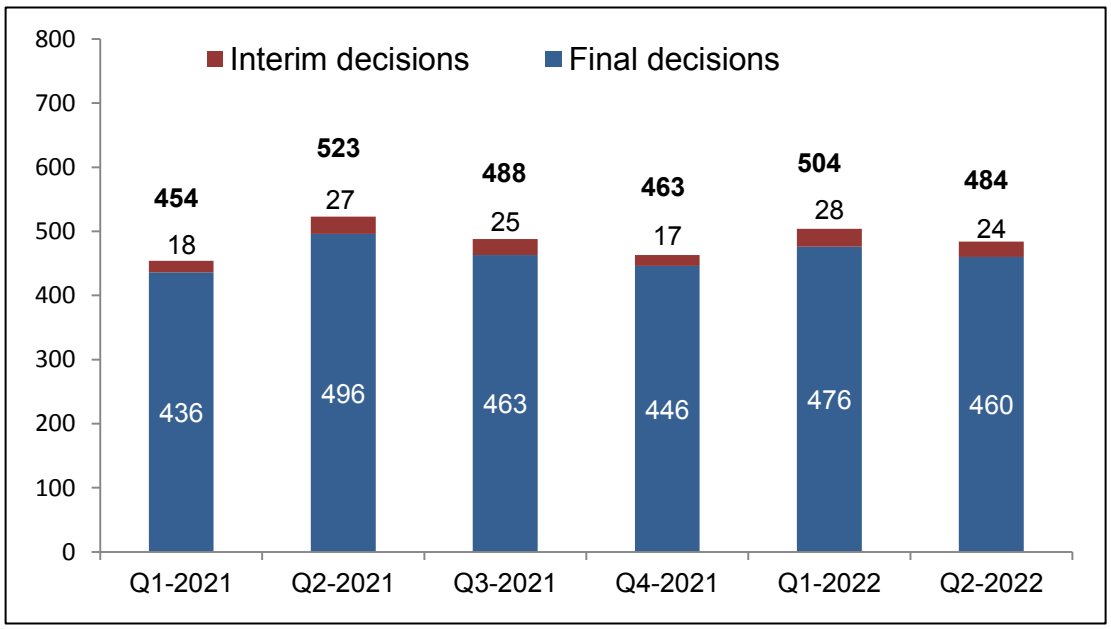


Decisions Issued

In Q2 2022, 484 decisions were issued: 460 Final decisions and 24 Interim decisions. Total decisions issued in Q2 2022 were 7% lower than in Q2 2021 (523). The lower number of decisions issued is due in part to OIC attrition experienced in Q4 2021 and the first half of 2022 and the onboarding of new appointees in April and May of 2022. Newly appointed adjudicators must undergo extensive training before they are assigned appeal work.

Year to date, there has been a 1% increase in decisions issued (988 in 2022 vs 977 in 2021).

Table 2: Decisions Issued per Quarter



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

Timeliness of Decisions Issued

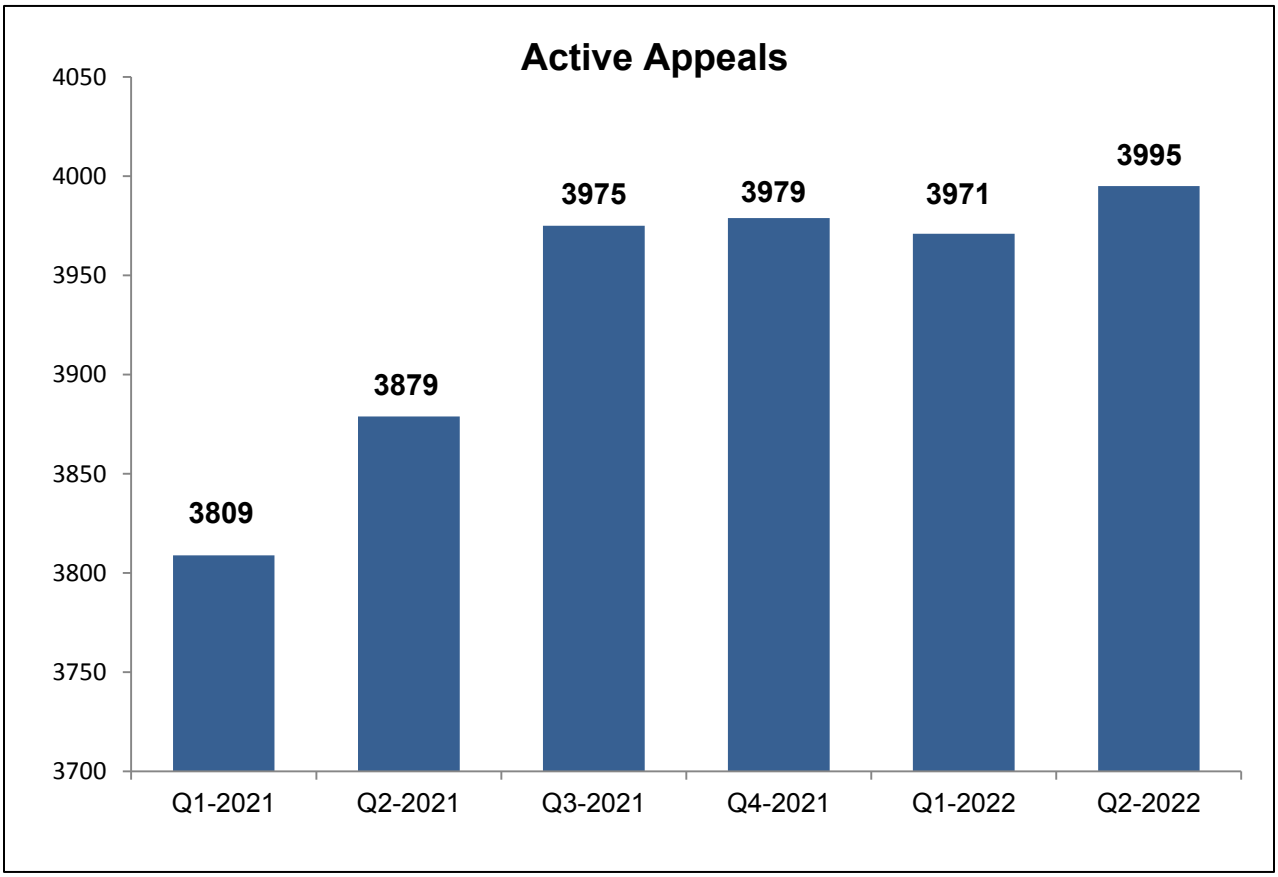
In Q2 2022, 92% of Final decisions were released within 120 days compared to 93% in Q2 2021, a 1% decrease. Year to date, 90% of decisions were released within 120 days in 2022 compared to 93% in 2021, a 3% decrease. The WSIAT's target for Final decisions released within 120 days is 90%. The target has been met for Q2 2022 and year to date.

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 Q2 2022 totaled 3,995 cases compared to 3,879 cases at the end of Q2 2021. This is due to an increase in Reactivated cases. Although the active caseload inventory at end of Q2 2022 was 3% higher than in Q2 2021, it remains within the 2022 target of maintaining an active inventory of less than 4,000 cases (+/- 5%).

Table 3: Active Appeals Inventory at the end of each Quarter



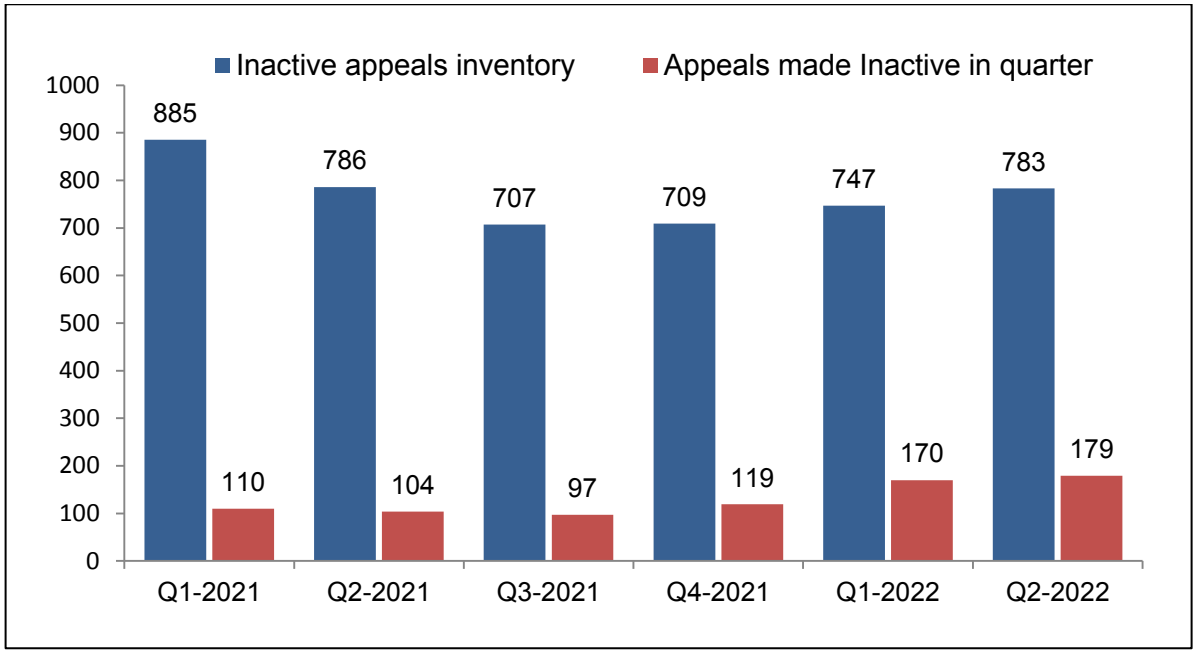
Inactive Appeals Inventory

An appeal is made Inactive when active processing of an appeal 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. In Q2 2022, 179 appeals were made Inactive, compared to 104 appeals in Q2 2021. At the end of Q2 2022, there were 783 appeals in the Inactive appeals inventory, compared to 786 appeals at the end of Q2 2021.

The increase in Inactive cases in 2022 is due to more appellants indicating that they are not ready to proceed with their appeal because they are 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

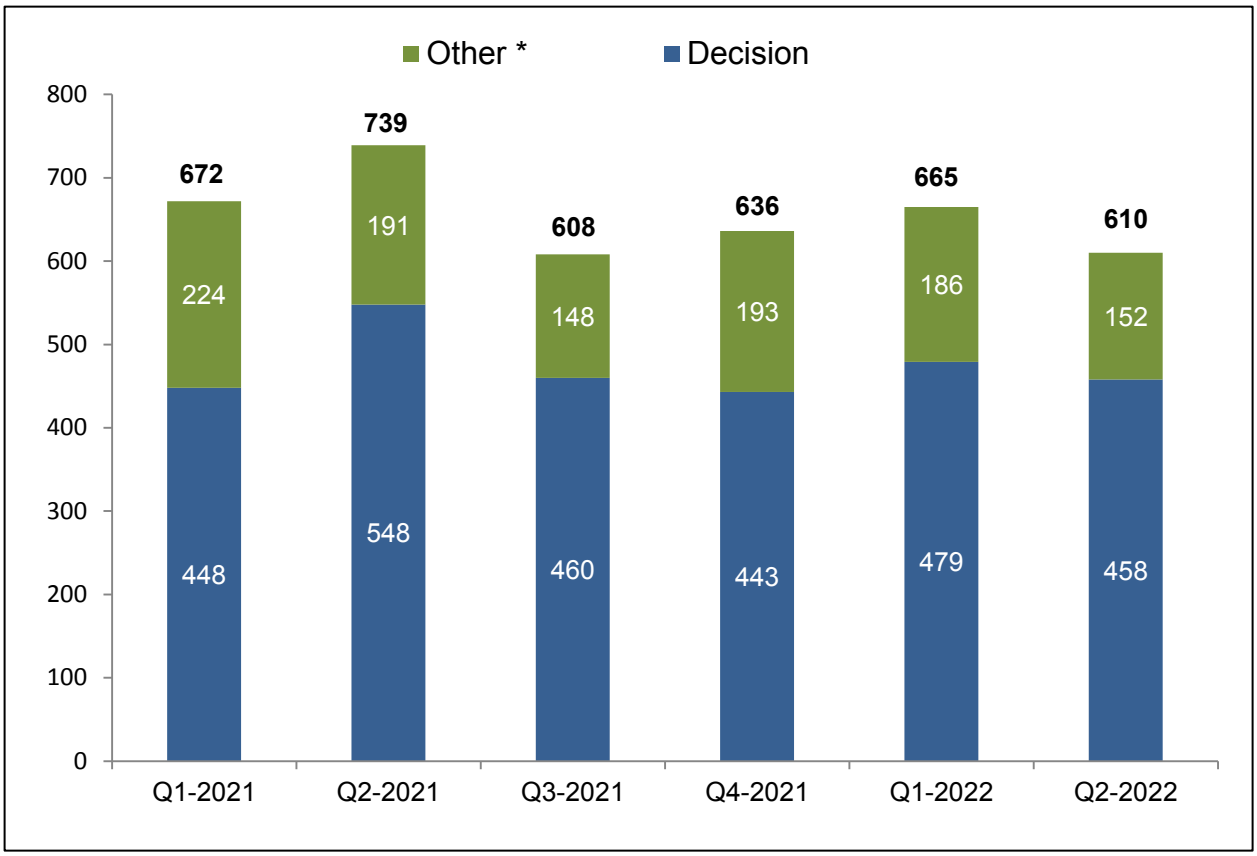


Appeals Closed

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

In Q2 2022, 610 appeals were closed, comprised of 458 closures by Final decision and 152 closures by a withdrawal or an abandonment of the case. Appeals closed in Q2 2022 (610) were 17% lower than in Q2 2021 (739). Year to date, appeals closed in 2022 (1,275) were 10% lower than in 2021 (1,411).

Table 5: Appeals Closed per Quarter



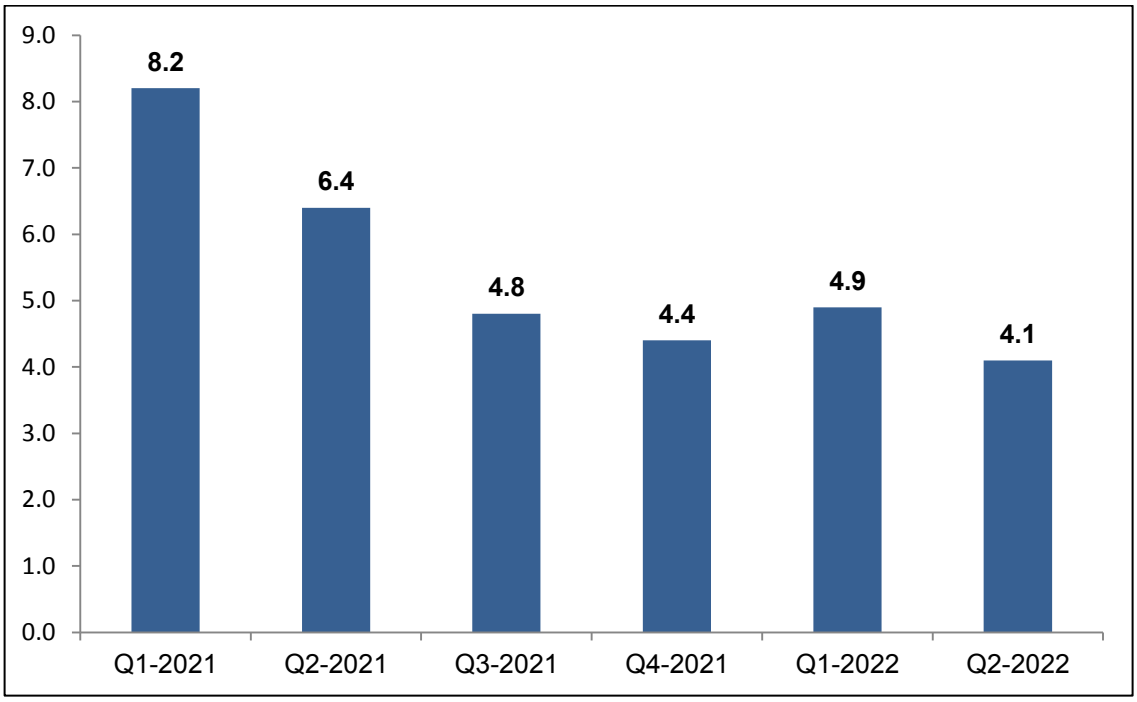
Note: *Other appeals closed are appeals withdrawn or abandoned by the appellant. Appeals closed arising from Final decisions released may not equal the number of decisions released in a year due to administrative processes at the quarter end that preclude the appeal from being closed immediately following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

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 Confirmation of Appeal form, indicating their readiness for hearing, to the hearing date first offered to the parties.

In Q2 2022, the median age timeframe First Offered Hearing Date was 4.1 months, compared to 6.4 months in Q2 2021. The median age timeframe in Q2 2022 was 36% lower than Q2 2021. Year to date, the median age timeframe for first offered hearing was 4.6 months in 2022 compared to 7.6 months in 2021 (39% decrease). This positive decrease is largely due to the ongoing acceptance of teleconference and videoconference hearings by the WSIAT's stakeholders. In-person hearings generally take longer to schedule, particularly regional in-person hearings that require travel to different cities across the province.

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

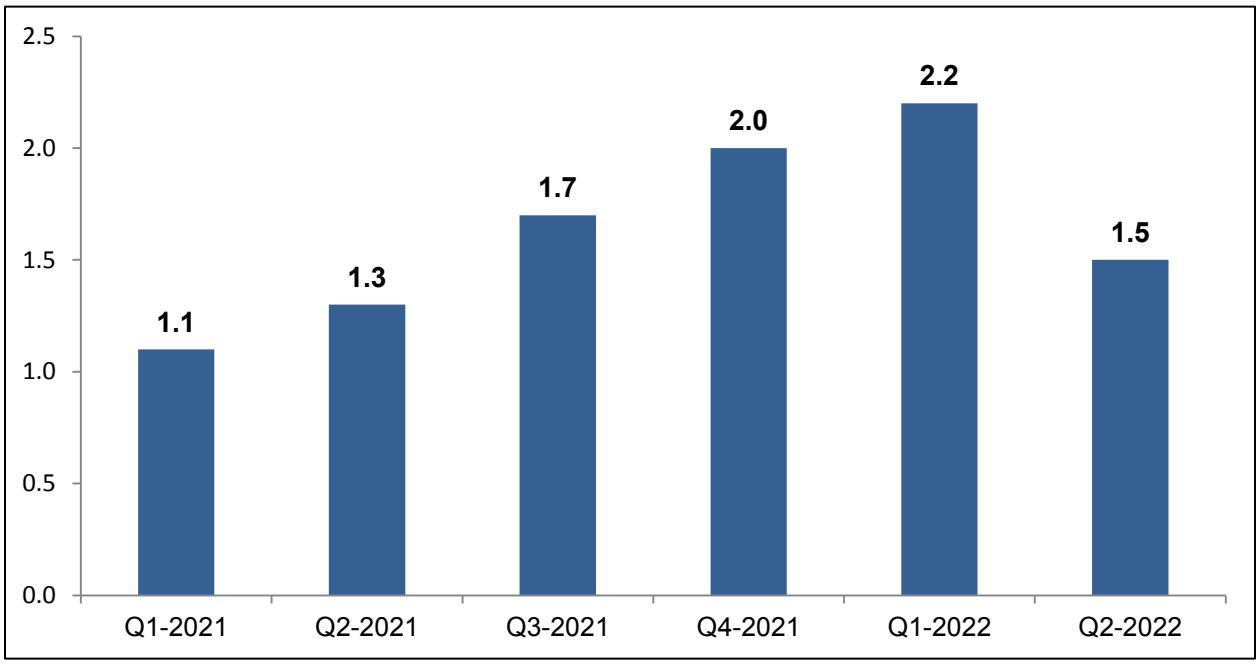


Median Age Timeframe – Final Decisions Released

The timeframe Final Decisions Released encompasses the period from the last date the Vice-Chair was ready to write the Final decision, to the date the Final decision was released.

In Q2 2022, the median age timeframe Final Decisions Released was 1.5 months compared to 1.3 months in Q2 2021. Year to date, the median age timeframe in 2022 was 1.8 months compared to 1.2 months in 2021.

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



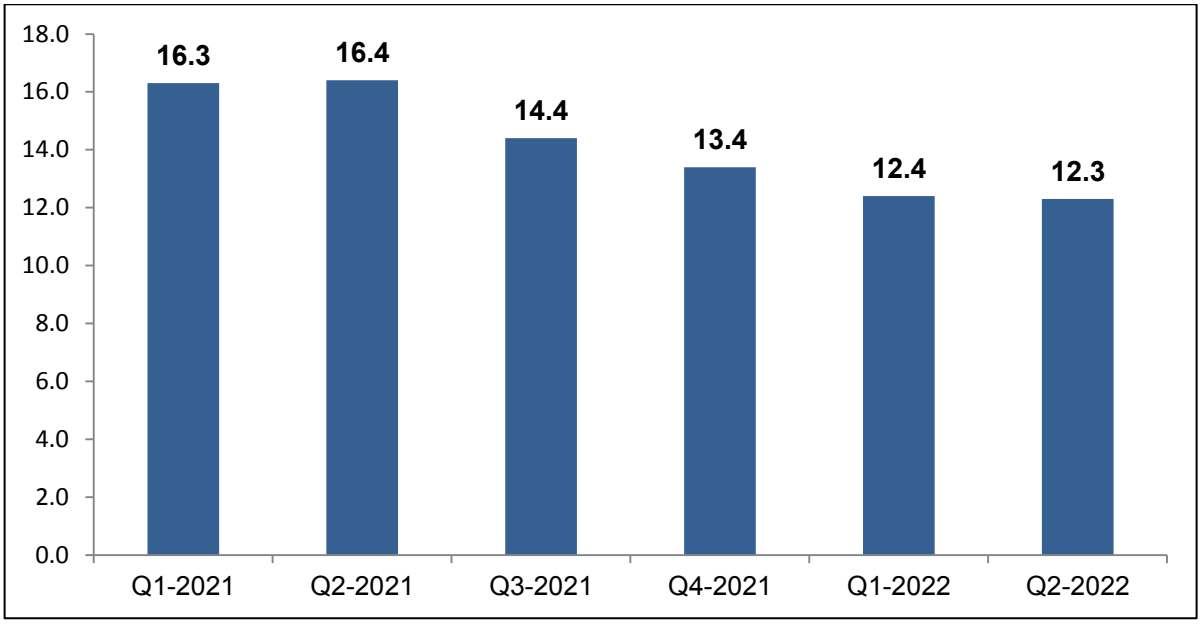
Median Age Timeframe – Appeals Closed

The median age timeframe for Appeals Closed encompasses the period 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 by the appellant.

In Q2 2022, the median age timeframe Appeals Closed was 12.3 months, compared to 16.4 months in Q2 2021. This significant improvement was helped by the shorter timeframe to first-offered hearing (4.1 months in Q2 2022 compared to 6.4 months in Q2 2021). Year to date, the median age timeframe Appeals Closed in 2022 was 12.4 months compared to 16.3 months in 2021 (a 24% decrease).

The WSIAT's strategic goal is to close appeals within 12 months. It should be noted that this metric is subject to how quickly parties to an appeal (or their representatives) return the Confirmation of Appeal form once they are provided with the case materials. If the Confirmation of Appeal form is not returned in a timely manner, the additional time adds to the total time to close the appeal.

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 Q2 2022 compared to the decisions issued in Q2 2021. The issue percentage does not fluctuate significantly from quarter to quarter. One notable exception is the volume of Second Injury and Enhancement Fund (SIEF) appeals: 8% in Q2 2022 compared to 3% in Q2 2021. However, year to date, the volume of SIEF appeals in 2022 was 8% compared to 5% in 2021.

Table 9: Issues Most Frequently Appealed in Decisions Issued

Issue Type	% Volume Q2 2022	% Volume Q2 2021
1. Loss of earnings entitlement	24%	24%
2. Entitlement to a new area of injury	9%	10%
3. Second Injury and Enhancement Fund (SIEF)	8%	3%
4. Work transition	8%	6%
5. Initial entitlement	8%	10%
6. Multiple issues*	7%	8%
7. Non-economic loss quantum	7%	7%
8. Non-economic loss entitlement	6%	6%
9. Ongoing entitlement	6%	6%
10. Health care benefits	4%	4%
11. Chronic pain	3%	4%
12. Other	3%	4%
13. Psychotraumatic disability	3%	4%
14. Chronic and Traumatic stress	2%	2%
15. Recurrence	2%	2%

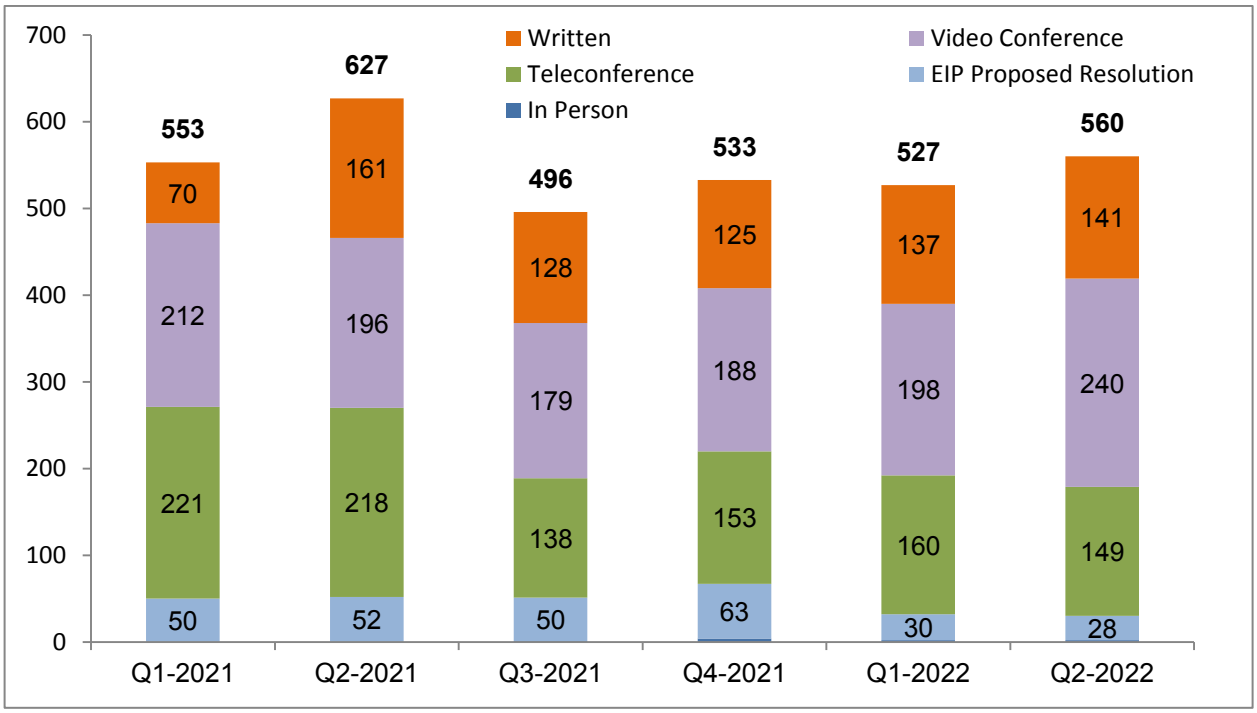
Note**:** Multiple issues are comprised of several individual issues that are each 1% or less than 1% of total issues. Combining these issues into a single group was done to simplify the presentation of the Issues table.

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 Q2 2022, the WSIAT conducted a total of 560 hearings, which was 11% lower than the number of hearings conducted in Q2 2021 (627). Year to date, the number of total hearings conducted in 2022 was 1,087 compared to 1,180 in 2021 (8% decrease). This decrease is due largely to an increase in hearing adjournments.

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 and 2 in Q2 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.

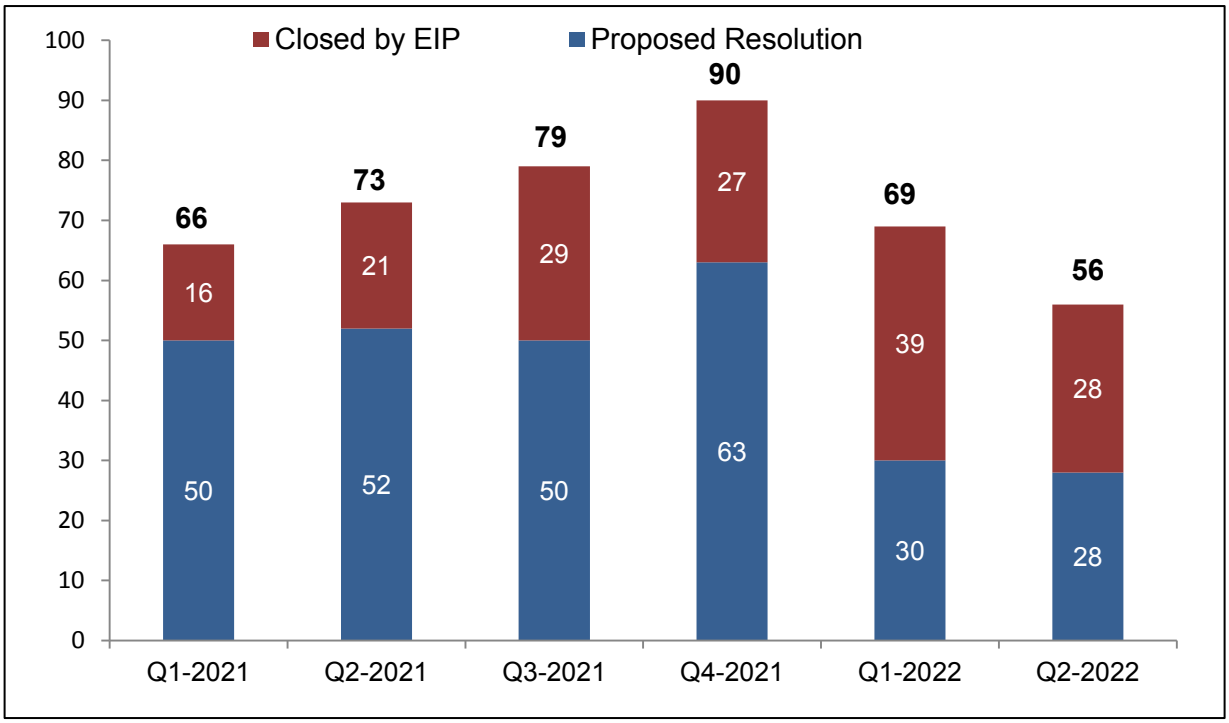
Early Intervention Program (EIP)

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 Q2 2022, 28 Proposed Resolutions were assigned for review by a Vice-Chair and the EIP staff closed 28 appeals pre-hearing. In Q2 2021, 52 Proposed Resolutions were

assigned for review by a Vice-Chair and 21 were closed pre-hearing. The lower volume of Proposed Resolutions is due in part to a change in staffing in the department. The vacant position has since been filled.

Table 11: Early Intervention Program Production in each Quarter



Order in Council (OIC) Adjudicator Roster

At the end of Q2 2022, the OIC adjudicator roster was increased with the appointment of six Vice-Chairs and six Members (three Member Representatives of Workers and three Member Representatives of Employers).

At the end of Q2 2022, the OIC adjudicator roster was composed of 16 full-time Vice-Chairs; 35 part-time Vice-Chairs; 5 full-time Members and 20 part-time Members.

At the end of Q2 2021, the OIC adjudicator roster was composed of 16 full-time Vice-Chairs; 29 part-time Vice-Chairs; 4 full-time Members and 17 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 release of a Final decision, withdrawal, or abandonment 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 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 of an appeal 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 Timeframe – 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 release of a Final decision, a withdrawal, or abandonment by the appellant.

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 Confirmation of Appeal form, indicating their readiness for hearing, to the hearing date first offered to the parties.

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.

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.