

Q3 2022

QUARTERLY PRODUCTION AND ACTIVITY REPORT

July 1 to September 30, 2022



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
Case Management Summary	3
Appeals Started – New and Reactivated	3
Decisions Issued	4
Timeliness of Decisions Issued	4
Active Appeals Inventory	5
Inactive Appeals Inventory	6
Appeals Closed	7
Median Age Timeframe – First Offered Hearing Date	8
Median Age Timeframe – Final Decisions Released	9
Median Age Timeframe – Appeals Closed	10
Appeal Issue Type	11
Hearing Method	12
Early Intervention Program (EIP)	12
Order in Council (OIC) Adjudicator Roster	13
Glossary of Terms	14

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 third quarter (Q3) 2022 case management performance was similar to the second quarter (Q2) 2022 performance. This has contributed to positive year to date (January 1 to September 30, 2022) performance:

- The active inventory of appeals remained under 4,000 cases
- Although the volume of new and reactivated appeals declined by 7% compared to the same period in 2021, this is likely due to the cyclical nature of incoming appeal volumes (For example, the volume in 2021 was 39% higher than in 2020)
- The median time to the first offered hearing was reduced to 4.5 months compared to 6.6 months in the same period in 2021
- The median time to close appeals was reduced to 12.6 months compared to 15.9 months in the same period in 2021

The WSIAT continued to resolve appeals through teleconference and videoconference hearings. In-person hearings were provided on an exceptional basis. At the end of September 30, 2022, six in-person hearings were heard. Three additional in-person hearings are scheduled to be heard by the end of 2022.

It is expected that in-person hearings will increase in 2023, including some regional hearings, subject to public health guidelines and the WSIAT's criteria when determining whether an in-person hearing is appropriate (see [Interim Guideline on the Gradual Resumption of In-Person Hearings – Phase 2](https://www.wsiat.on.ca/interim-guideline-on-the-gradual-resumption-of-in-person-hearings-phase-2) (www.wsiat.on.ca)).

The WSIAT offers two digital services (E-File and E-Share) that are convenient and secure. These services allow stakeholders to file and to receive appeal-related documents. Information about these services and how to register may be found on the WSIAT's website: [E-Filing](#) or [E-Sharing](#). Questions or requests for assistance should be directed to the WSIAT 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.

The table below presents a summary of the Q3 2022 production metrics and the year to date production comparisons, for 2022 and 2021.

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

Production metrics	Third Quarter (July 1-September 30)				Year to date (January 1 -September 30)			
	2022	2021	% Change		2022	2021	% Change	
Appeals initiated (New and Reactivated)	755	801	6%	▼	2,392	2,559	7%	▼
Decisions issued	469	488	4%	▼	1,457	1,465	1%	▼
Hearings conducted	485	496	2%	▼	1,566	1,674	6%	▼
<u>Median age timeframe (months)</u>								
First offered hearing date ¹	4.4	4.8	8%	▼	4.5	6.6	32%	▼
Final decision released ²	1.7	1.7	0.0%	n/a	1.8	1.4	29%	▲
Appeals Closed ³	13.4	14.4	7%	▼	12.6	15.9	21%	▼
Final decisions released within 120 days	89%	93%	4%	▼	89%	93%	4%	▼
Early Intervention Program appeals resolved	72	79	9%	▼	197	218	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 of the appeal by the appellant.

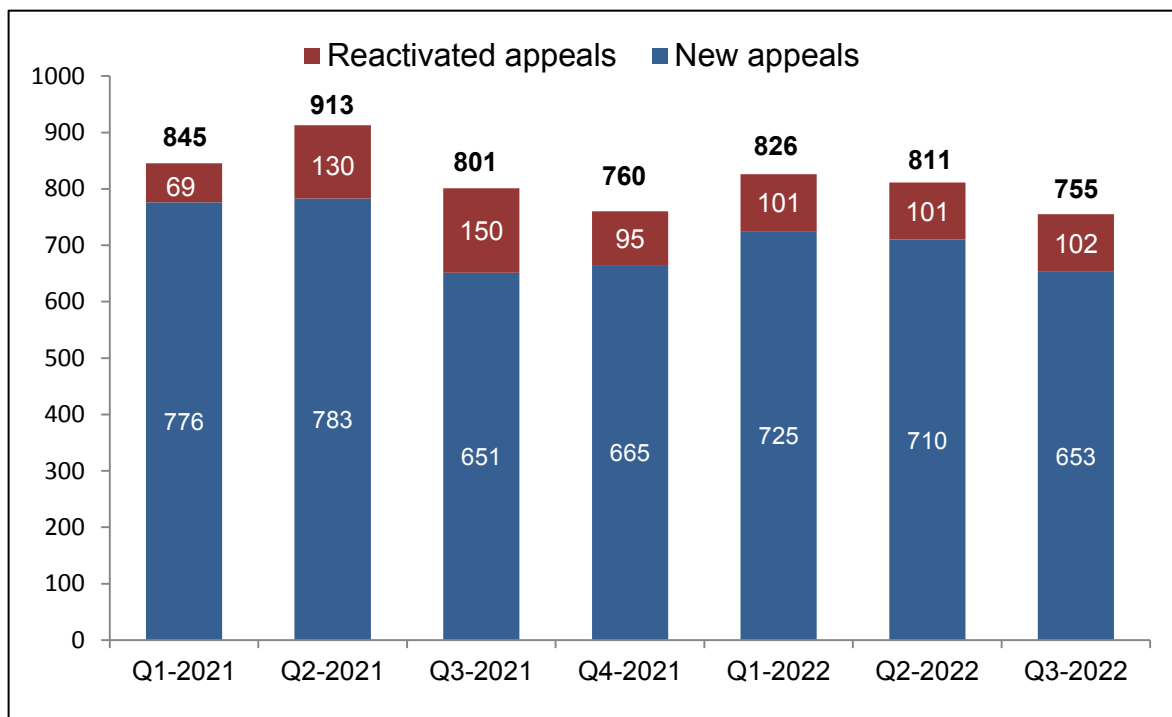
Questions about the information in this report should be directed to the WSIAT's Call Centre at 416-314-8800 or 1-888-618-8846, or via TTY at 416-314-1787, 8:30 a.m. to 5:00 p.m. Monday to Friday.

Case Management Summary

Appeals Started – New and Reactivated

In Q3 2022, 755 appeals were started: 653 new appeals received and 102 appeals were reactivated from the inactive caseload inventory. This is a 6% decrease compared to the 801 appeals started in Q3 2021 (651 new appeals and 150 reactivated appeals). At the end of September 30, 2022, there was a 7% decrease in appeals started (2,392 in 2022 vs 2,559 in 2021). This is likely due to the cyclical nature of incoming appeal volumes. (For example, the annual volume in 2021 was 39% higher than in 2020.)

Table 1: Appeals Started per Quarter

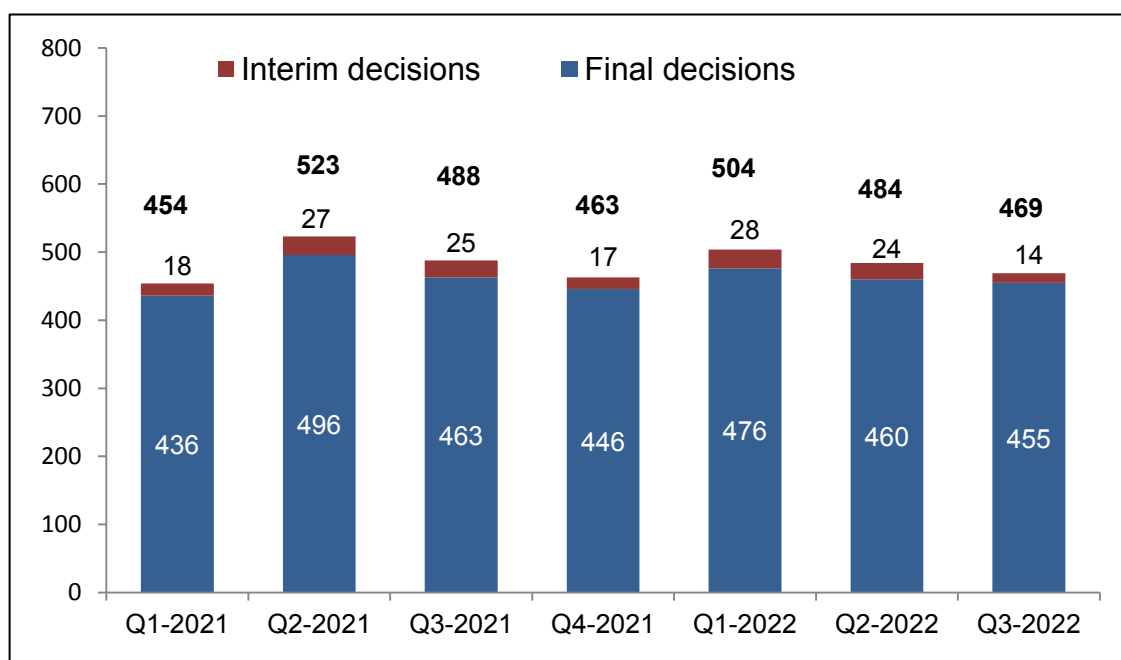


Decisions Issued

In Q3 2022, 469 decisions were issued: 455 final decisions and 14 interim decisions. Total decisions issued in Q3 2022 were 4% lower than in Q3 2021 (488). The lower number of decisions issued is due in part to Order in Council (OIC) adjudicator 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.

To the end of September 30, 2022, there has been a 1% decrease in decisions issued (1,457 in 2022 vs 1,465 for the same period 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

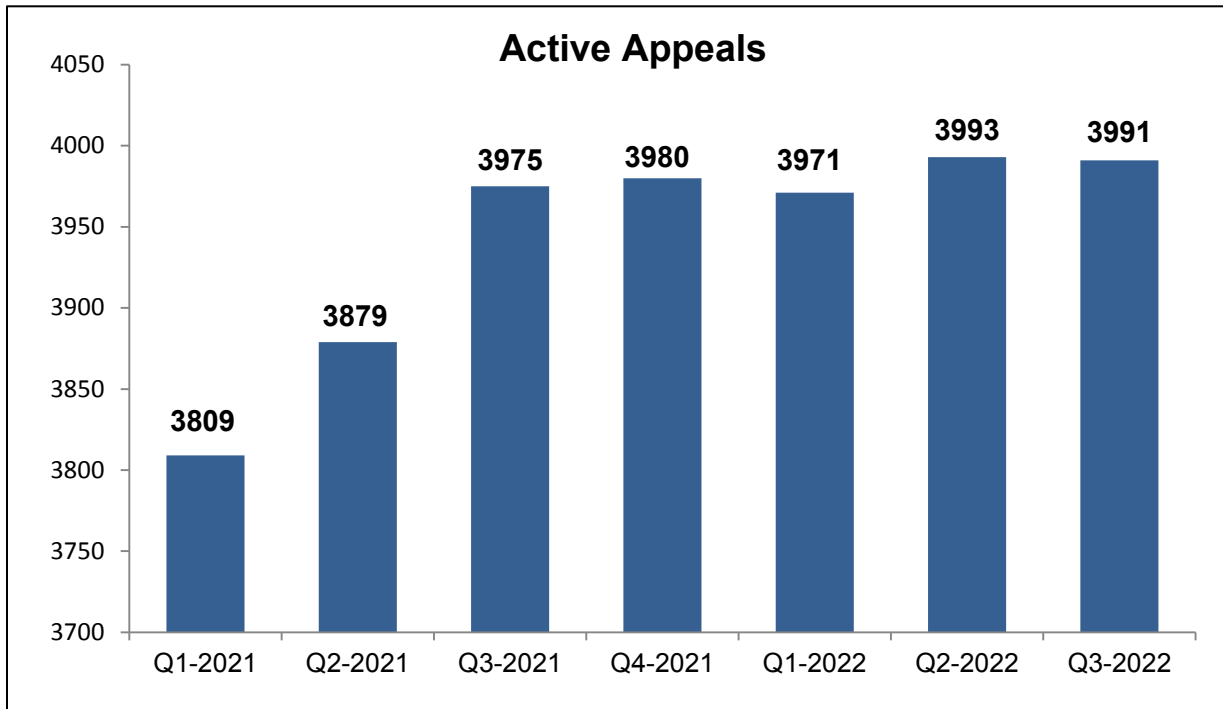
In Q3 2022, 89% of final decisions were released within 120 days compared to 93% in Q3 2021 (4% decrease). The same result occurred for decisions issued year to date, 89%. The WSIAT's target for final decisions released within 120 days is 90%. It is expected that this target will be achieved by the end of 2022.

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 Q3 2022 totaled 3,991 cases compared to 3,975 cases at the end of Q3 2021. The active caseload inventory is within the target of 4,000 cases (+/-5%).

Table 3: Active Appeals Inventory



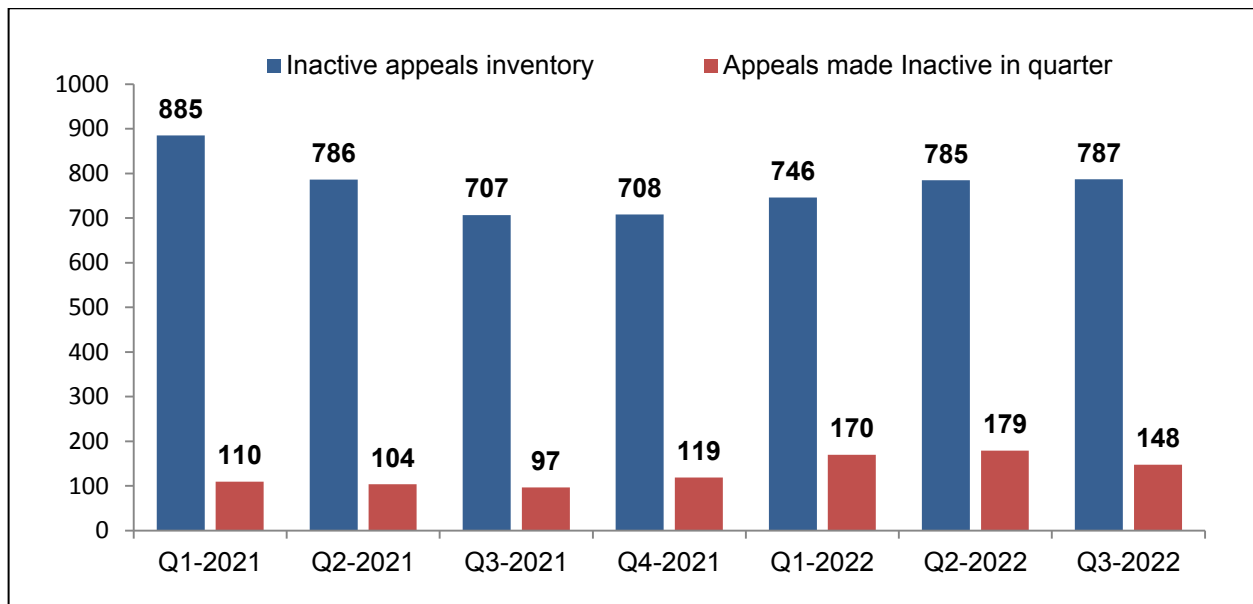
Inactive Appeals Inventory

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 third quarter. In Q3 2022, 148 appeals were made inactive, compared to 97 appeals in Q3 2021. At the end of September 30, 2022, there were 787 appeals in the inactive appeals inventory, compared to 707 appeals in 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

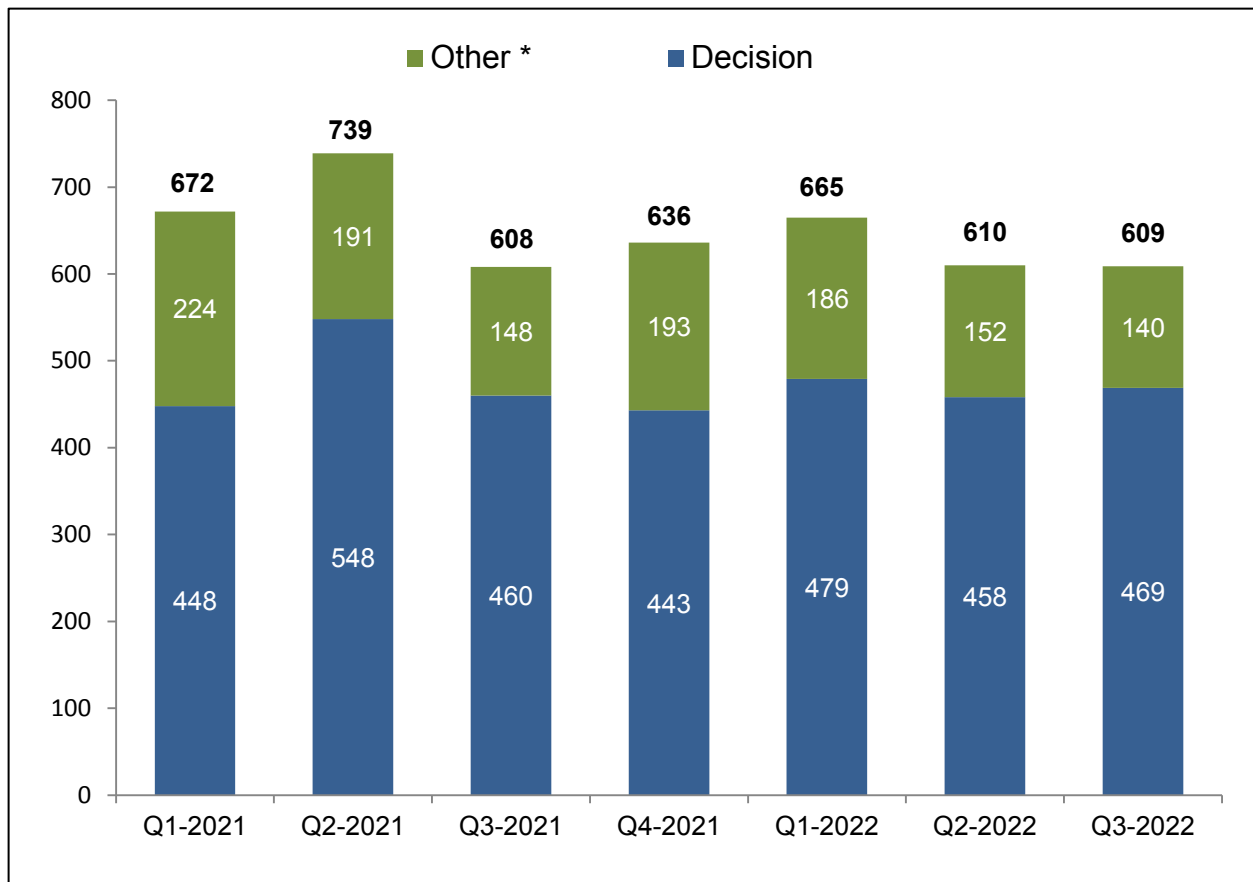


Appeals Closed

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

In Q3 2022, 609 appeals were closed, comprised of 469 closures by final decision and 140 closures by a withdrawal or an abandonment of the appeal by the appellant. Appeals closed in Q3 2021 totaled 608. At the end of September 2022, appeals closed in 2022 (1,884) were 7% lower than in 2021 (2,019).

Table 5: Appeals Closed per Quarter



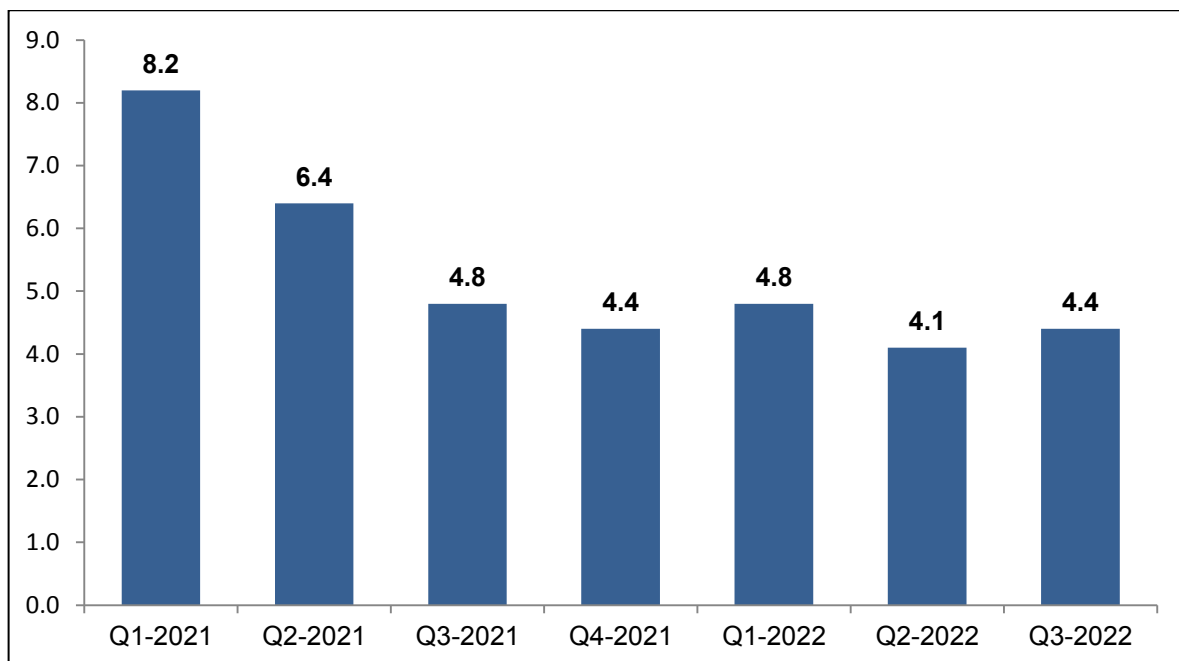
Note: *Other appeals closed are appeals withdrawn or abandoned by the appellant. Appeals closed arising from final decisions released may not equal the number of decisions released in a year due to administrative processes at the quarter end that preclude the appeal from being closed immediately following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

Median Age Timeframe – First Offered Hearing

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 Q3 2022, the median age timeframe to the first offered hearing was 4.4 months compared to 4.8 months in Q3 2021 (8% decrease). At the end of September 30, 2022, the median age timeframe was 4.5 months compared to 6.6 months in 2021 (32% 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. Since mid-2020, regional hearings have been conducted almost entirely by teleconference or videoconference. At the end of September 30, 2022, only one regional in-person hearing was conducted and one more hearing is scheduled to be conducted by the end of 2022.

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

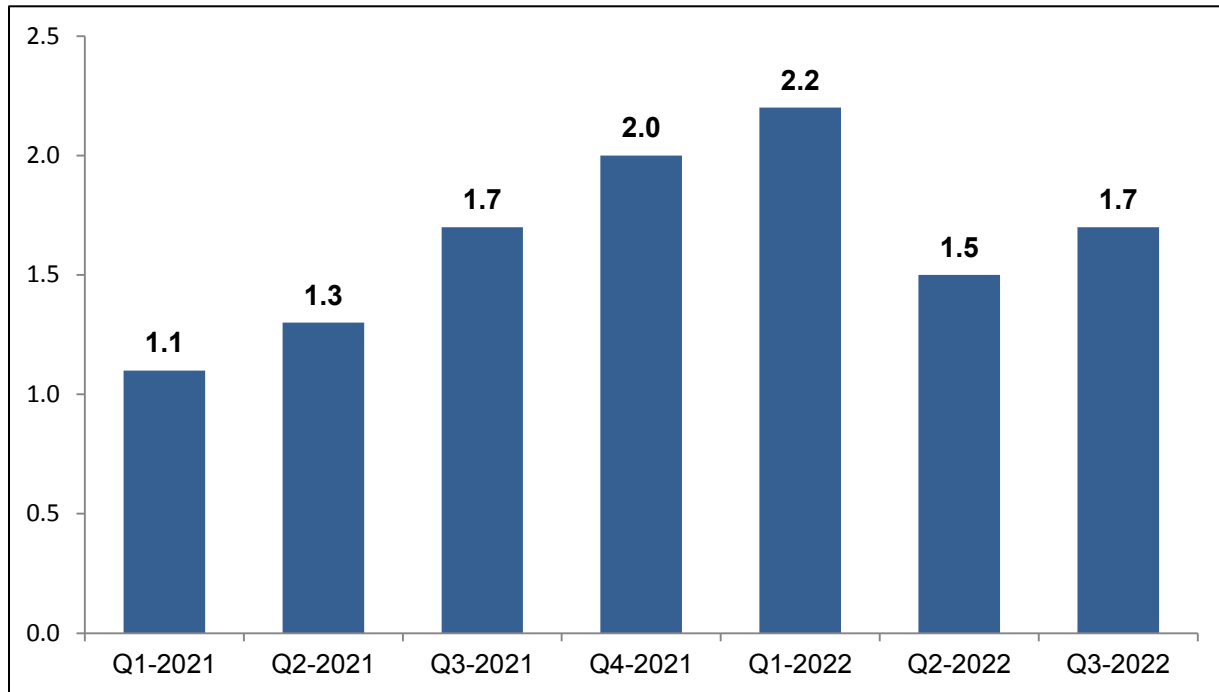


Median Age Timeframe – Final Decisions Released

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

In Q3 2022, the median age timeframe to the final decision released was 1.7 months; it was also 1.7 months in Q3 2021. At the end of September 30, 2022, the median age timeframe in 2022 was 1.8 months compared to 1.4 months in 2021.

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

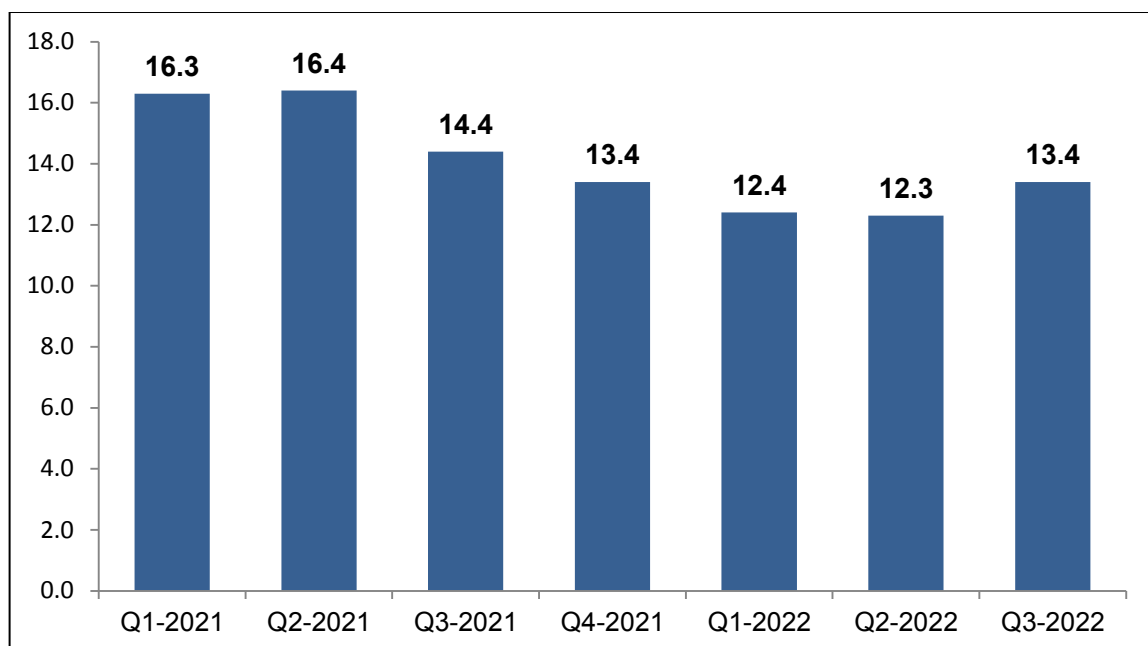


Median Age Timeframe – Appeals Closed

The “appeals closed” timeframe 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 of the appeal by the appellant. The WSIAT’s strategic goal is to close appeals within 12 months, or better.

In Q3 2022, the median age timeframe for appeals closed was 13.4 months, compared to 14.4 months in Q3 2021. This timeframe improvement was helped by the shorter timeframe to the first offered hearing (4.4 months in Q3 2022 compared to 4.8 months in Q3 2021). At the end of September 30, 2022, the median age timeframe for appeals closed in 2022 was 12.6 months compared to 15.9 months in 2021 (21% decrease).

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 Q3 2022 compared to the decisions issued in Q3 2021.

Table 9: Issues Most Frequently Appealed in Decisions Issued

Issue Rank in Q3 2022	Issue Type	% Volume Q3 2022	% Volume Q3 2021
1st	Loss of earnings	24%	23%
2nd	Entitlement of a new area of injury	9%	9%
3rd	Multiple Issues *	8%	10%
4th	Non-economic loss	8%	6%
5th	Work Transition	8%	7%
6th	Non-economic loss quantum	7%	7%
7th	Initial entitlement	7%	7%
8th	Second Injury and Enhancement Fund	6%	4%
9th	Ongoing entitlement	5%	6%
10th	Other	4%	3%
11th	Health care benefits	4%	5%
12th	Psycho traumatic disability	4%	4%
13th	Chronic pain	3%	3%
14th	Chronic and Traumatic stress	2%	2%
15th	Recurrence	2%	4%

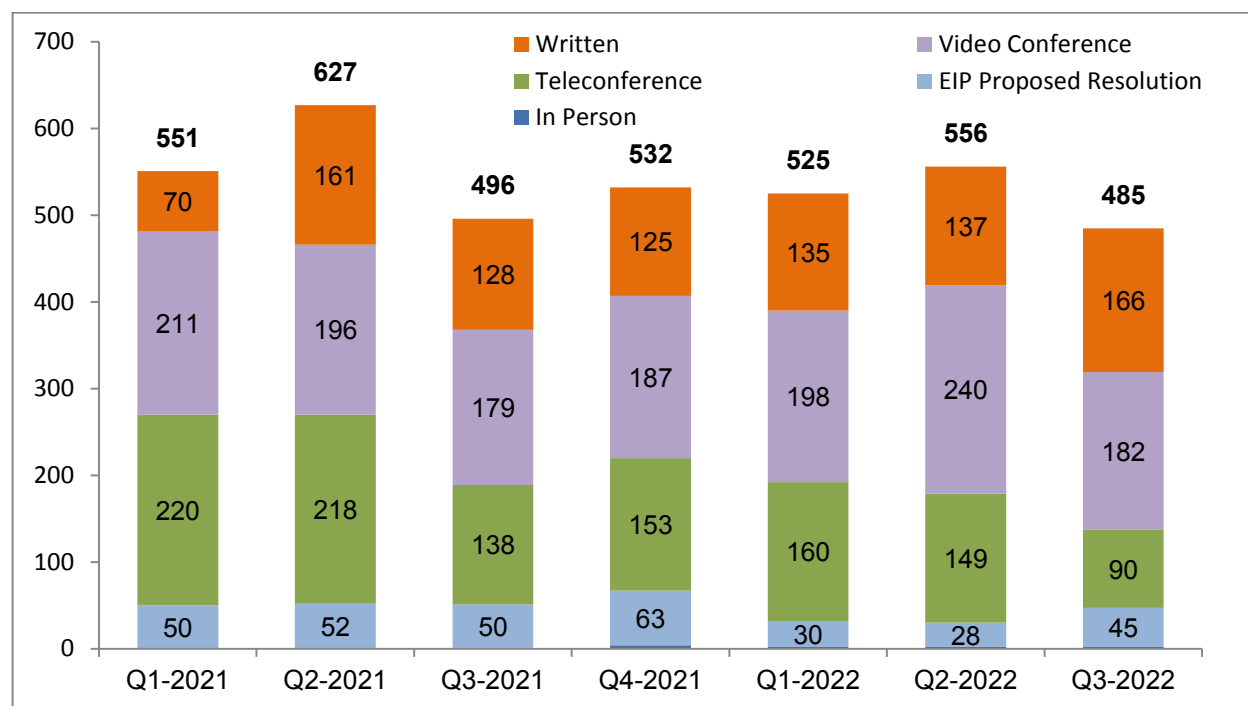
Note: Multiple issues are comprised of several individual issues that are each 1% or less than 1% of total issues. Combining these issues into a single group was done to simplify the presentation of the Issues table.

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 Q3 2022, 485 hearings were conducted, which was 2% lower than the number of hearings conducted in Q3 2021 (496). At the end of September 30, 2022, the number of total hearings conducted in 2022 was 1,566 compared to 1,674 in 2021 (6% decrease).

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 and 2 in Q3 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.

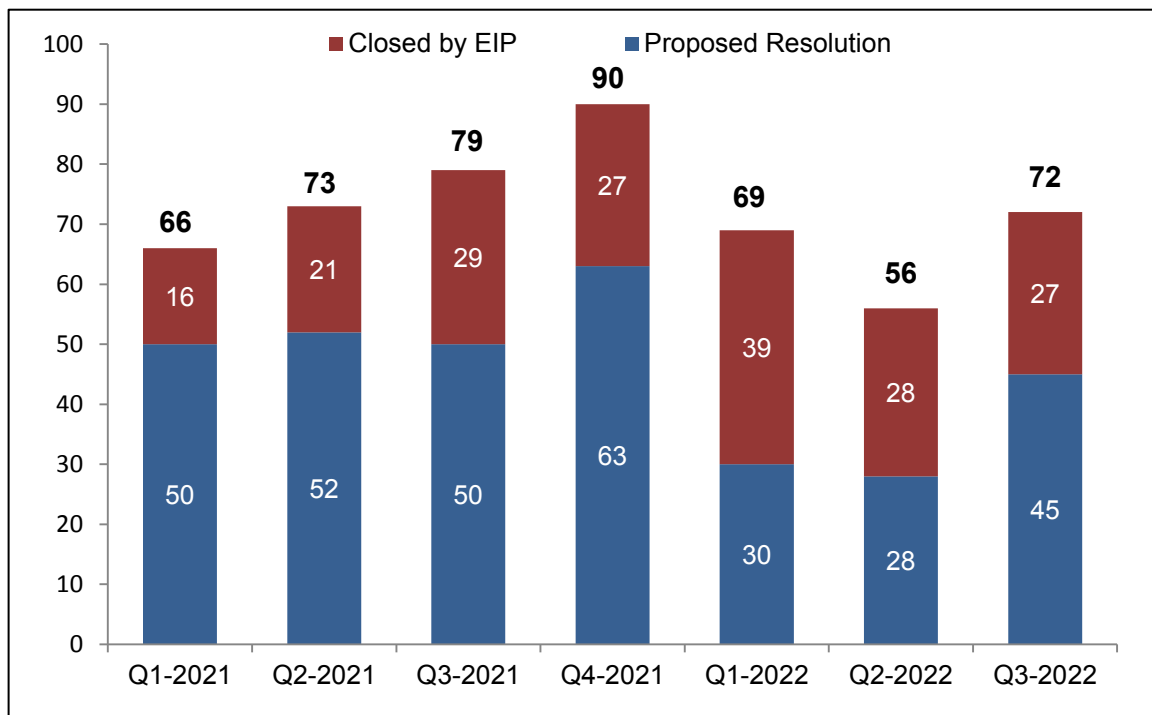
Early Intervention Program (EIP)

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 Q3 2022, 45 proposed resolutions were assigned for review by a Vice-Chair and the EIP staff closed 27 appeals pre-hearing. In Q3 2021, 50 proposed resolutions were assigned for review by a Vice-Chair and 29 were closed pre-hearing. At the end of

September 30, 2022, 103 proposed resolutions were assigned for review by a Vice-Chair and the EIP staff closed 94 appeals pre-hearing. In 2021, 152 proposed resolutions were assigned for review by a Vice-Chair and the EIP staff closed 66 appeals pre-hearing. The decrease in productivity in 2022 is due to staffing changes in the EIP team.

Table 11: Early Intervention Program Production in each Quarter



Order in Council (OIC) Adjudicator Roster

At the end of September 30, 2022, the OIC adjudicator roster was composed of 15 full-time Vice-Chairs; 35 part-time Vice-Chairs; 6 full-time Members and 20 part-time Members. There were no new OIC appointments in Q3 2022.

At the end of September 30, 2021, the OIC adjudicator roster was composed of 16 full-time Vice-Chairs; 30 part-time Vice-Chairs; 6 full-time Members and 15 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 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 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 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 of the appeal by the appellant.

Median Age Timeframe – First Offered Hearing

The timeframe to the first offered hearing 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 to 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.