

Workers' Compensation Advisory Council



- ▶ FY24 Annual Report
July 1, 2023 to June 30, 2024
- ▶ Report prepared by Executive Director Maureen O'Connell
- ▶ Council Members voted on report January 13, 2025
- ▶ Report issued on January 13, 2025

CHAIRMAN'S WELCOME

On behalf of the Advisory Council, we are delighted to present to you the Massachusetts Workers' Compensation Advisory Council Annual Report for FY 2024. The Council appreciates the meaningful work of the Department of Industrial Accidents (DIA). In FY 2024, the DIA leaned into multi-year IT modernization projects that include automating the safety grant application process, digitizing insurance records that are currently on microfilm, and reimagining the DIA website so that it is easily accessible. As we look ahead, the DIA team is in the process of updating its stakeholder publications; it is a good trend and these efforts should continue. The DIA senior leadership continues to have conversations on the medical reimbursement fee structure with the Executive Office of Health and Human Services, which sets the rates for payment for hospitals, physicians, and other health care providers. Lastly, the DIA senior leadership team is cognizant of its operating expenses and the potential impacts on the annual assessment rate; and has worked stabilize the assessment rate to reduce major shifts year over year.

We'd like to thank DIA Director Sheri Bowles for continuing to effectively lead the team and overseeing the management of teams, especially in a hybrid work environment. Thank you also to Senior Judge Omar Hernández for leading the adjudicatory process and for the success of the mediation program, and to the entire DIA management team for their dedication to the Commonwealth of Massachusetts Workers' Compensation System.

Over the past year, DIA has welcomed new employees and recognized the retirement of a few employees-we thank all employees for their contributions and dedication to supporting injured workers and DIA's mission.

The Council believes that the Massachusetts Workers' Compensation system remains a system that is held in high regard in this country. As we look ahead, the Council will continue its focus on collaborating with all stakeholders to enhance the system.

Notable highlights from FY24 include:

- ❑ Maintained the stability of the assessment rate
- ❑ Maintained the integrity of the administrative processes and pursued system upgrades and IT modernization
- ❑ Expanded the mediation program
- ❑ Listened to all stakeholders concerns about the medical reimbursement rates and the impartial fee schedule regulations and understanding that revisions will be helpful to the Workers' Compensation system.

Respectfully,

John A. Pulgini, Esq.
Chairman

Todd R. Johnson JD, AIC, ARM-P, ARM-E
Vice Chairman

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STATUTORY RESPONSIBILITIES

The Council has specific statutory responsibilities set forth in Massachusetts General Law (MGL). CH 23E [§ 9](#) and [§ 17](#) and MGL Ch 152 [§ 53A](#) and [§ 65](#) and meets on the second Wednesday of each month via WebEx. The Council is monitoring bills related to workers' compensation legislation and stakeholders' interest and will continue to follow legislation throughout the 193rd General Court (2023-2024).

- ❑ **H 1897** | An Act relative to fairness in worker's compensation disfigurement benefits by Representative Christopher Hendricks
- ❑ **H 1903** | An Act Relative to Fairness in Workers' Compensation Benefits by Representative Bradley Jones, Jr.
- ❑ **H 1927** | **An Act to Protect Injured Workers** By Representative Tram Nguyen, and others for legislation to protect injured workers.
- ❑ **S 1165** | **An Act to Protect Injured Workers** by Senator Jamie Eldrige

You can find a full list of the bills for the 2023-24 legislative session on the Joint Committee on Labor and Workforce Development website: malegislature.gov/Committees/Detail/J43/Bills

DEPARTMENT OF INDUSTRIAL ACCIDENTS

DIA DEPARTMENTS

DIA | Public Information Unit

The DIA has one (1) Boston office and four (4) regional offices throughout the Commonwealth [DIA Website](#)

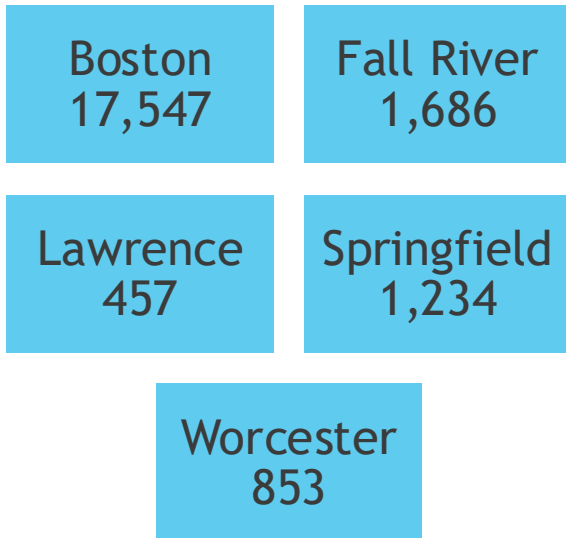
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02723 Tel: [\(508\) 676-3406](#)
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01843 Tel: [\(978\) 683-6420](#)
- ❑ 100 Front Street #310, Worcester, MA.
01608 Tel: [\(508\) 753-2072](#)
- ❑ 436 Dwight Street STE 105, Springfield, MA.
01103 Tel: [\(413\) 784-1133](#)



DIA | Public Information Unit

The Public Information Unit collected data for all DIA offices, two of the main areas of focus are phone inquiries and the number of visitors to each office.

Total number of calls/visitors for all 5 DIA offices in FY 2024 is 21,777.



DIA Language Mix FY 2024			
Language	Total Calls	Total Minutes	Total Spent
Spanish	336	4,975	\$1,990.00
Portuguese	85	1,148	\$688.80
Mandarin	18	192	\$115.20
Creole	11	144	\$86.40
Vietnamese	5	77	\$46.20
Cantonese	4	55	\$33.00
Cape Verdean	4	41	\$24.60
Cambodian/Khmer	3	79	\$47.40
Korean	3	34	\$20.40
Arabic	1	3	\$1.80
Romanian	1	12	\$7.20
Russian	1	29	\$17.40

The Office of Multilingual Services partners with the Public Information Unit to ensure that we engage with those who need our services.

"One trend since last fiscal year is that total cases, employee claims, and third-party claims have **decreased**, otherwise filings have been fairly consistent with no major changes in the number of injuries being reported or claims filed year over year. It has remained unchanged over the years with the exception during the pandemic when COVID-19 reports started coming in and a period after that until it normalized. The claims department has moved to an almost entirely paperless submissions with most forms from Insurers, Attorneys, and Employers being submitted entirely online and only about 2% of employee claims being submitted via paper form."

Franciso Pena, Director
Office of Claims Administration

DIA | Office of Claims Administration

The Office of Claims Administration starts the dispute resolution process within the DIA when it receives filings from employers, insurance companies, attorneys, and third parties.

When an Employee is incapable of earning full wages for 5 or more days or dies, as a result of a work-related injury or disease, an Employer must submit the Employer's First Report of Injury or Fatality (FROI | Form 101). If the employer does not send the Form 101 to the insurer within 30 days of your injury, the injured worker can complete the DIAs Employee Claim (Form 110).

- See the chart on the right for a fiscal year review for the past four fiscal years. **FY'24 saw a decrease in total cases filed**, employee claims, and insurance dispositions, while there was an **increase in third-party claims**.
- **In FY 2024**
 - **31,473 First Reports of Injury filed**, strains / sprains account for approximately 40% of the reports filed
 - **874 cases filed per month (average)**

Cases filed	2024	2023	2022	2021
Total Cases	10,462	10,560	10,345	10,650
EE Claims	8,538	8,545	8,546	8,508
Insur Dispo	1,880	1,990	1,762	2,109
TPC	44	25	37	33

As of September 2024, the Massachusetts Labor Force was 3,850,486, which includes 3,703,676 employed and 146,810 unemployed (but actively looking for work) individuals.

[Department of Economic Research](#)

DIA | Division of Dispute Resolution



Mediation Process

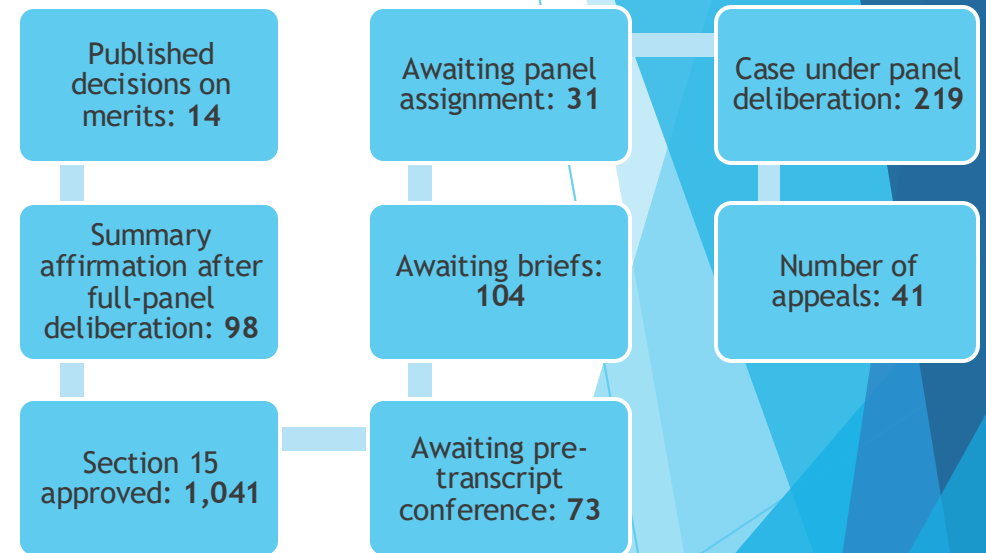
- ▶ Under the supervision of the senior judge, the Division of Dispute Resolution assists in the voluntary settlement of cases through a fair and efficient system for solving disputed workers' compensation cases.
 - ▶ The DIA instituted court sponsored mediations in 2016. Mediations were created by Senior Judge Omar Hernández of the DIA as well as several attorneys working with the Massachusetts Bar Association's Workers' Compensation Section Council. The mediation process was brought in to bring trials down while bringing up claims resolutions - mediation adds another dispute resolution step to the workers' compensation litigation practice and generally takes place before the case is tried at an evidentiary hearing.
 - ▶ 200+ mediations (on average) have taken place at the DIA over the last fiscal year.
 - ▶ The dedication of the Administrative Judges and attorneys is what makes the mediation program successful. The feedback has been overwhelmingly positive, parties are taking advantage of the added process, and no case is too small for mediation.
- For more information on the DIA Mediation process, interested parties should visit the Department of Industrial Accidents Mediation Information page at [Mediations | Mass.gov](https://www.mass.gov/info-details/mediations)

DIA | Division of Dispute Resolution & Reviewing Board

FY 2024

- Cases resolved at conciliation: 5,684 | average of 489 cases per month are resolved at the conciliation stage (approximately 50% of all cases)
- Conference queue: Average of 687 per month
- Hearing queue: Average of 1,700 per month
- The Impartial Physicians Roster includes 70 physicians, a decrease from FY'23

Reviewing Board Decisions: [2024 DIA Reviewing Board decisions](#)



The Reviewing Board is made up of 2 panels of 3 administrative law judges (ALJs). The panels function as the appellate body of the Department of Industrial Accidents. Decisions are formally published. The reviewing board presides over lump sum settlements, medical lien disputes for reasons other than financial hardship, and reviews/approves Petition for Approval of third party settlement.



DIA | Opioid Alternative Treatment Pathway

- ▶ DIA's Opioid Alternative Treatment Pathway (OATP) continues to be an effective resource for those injured workers who unfortunately have become dependent on high levels of opioids.
- ▶ The insurer or injured worker can initiate a request to participate in the OATP. If both parties agree to participate, the **insurer** incurs the cost of the program including alternative medical treatment for the injured worker. There is **minimal** cost (staff/scheduling) incurred by the DIA for the program.
- ▶ In FY 2024, **three** more individuals successfully entered the OATP.
- ▶ With support from the Massachusetts Department of Public Health Occupational Health Surveillance Program, the Department of Industrial Accidents, and the support of several of their colleagues, Cora Roelofs, ScD, produced a guidance document to assist providers in reducing or eliminating long-term opioid therapy through tapering for their injured worker patients. Cora developed a comprehensive best practice guide to help primary care providers overcome the numerous barriers to reducing opioid dependence to patients with legitimate prescriptions.

"The Office of Investigations continued on its mission to ensure all employers are in compliance with Massachusetts General Laws governing Workers' Compensation. Investigators issued Stop Work Orders (SWOs) to a wide variety of employers, ensuring equal enforcement across all levels of employment. As a result of the proactive enforcement efforts, over 4,100 additional employees are now covered by workers' compensation insurance. While the enforcement side of the unit has a direct and immediate impact for employees, investigators also play an important role in the resolution of claims made against the Workers Compensation Trust Fund. The Office of Investigations also attended several community and professional gatherings in an effort to educate the general public and trade professionals about Massachusetts General Laws requiring workers' compensation for all employers. The unit maintains working relationships with OSHA, ABCC, DOR, DUA, local law enforcement, numerous municipal inspectional services and the Governor's Task Force on the Underground Economy. The Office of Investigations increased efforts to educate employers to avoid repeat offenders and decrease the number of Stop Work Orders issued."

Jon Solomon, Director
Office of Investigations

DIA | Office of Investigations

The Office of Investigations monitors businesses and organizations across the Commonwealth to ensure that employers in Massachusetts have workers' compensation insurance. This office also handles Compliance and Enforcement. The Office of Investigations saw *an increase in compliance checks, compliance letters, and SWO fines collected.*

Stop Work Orders (SWOs)

- A Stop Work Order (SWO) is a citation that is issued to a company if the business does not have workers' compensation insurance as indicated by M.G.L. c. 152, § 25A. A SWO shall be issued by an investigator duly authorized by the Director of the DIA.

Fiscal Year	Compliance Checks	Compliance Letters	Stop Work Orders Issued	Fines Collected
FY 2024	79,550	18,699	1,342	\$1,158,659
FY 2023	64,505	16,788	1,375	\$936,757
FY 2022	60,435	17,271	1,295	\$797,974
FY 2021	41,271	14,724	1,049	\$167,729

For FY 2025, there are plans to increase the availability of technology to investigators, start an apprentice program, and continue educational efforts.



DIA | Office of Safety

The Department of Industrial Accidents Workplace Safety Grant Program helps employers reduce the risk of injury and illness to workers and promote safe and healthy conditions in the workplace through training, education, and other preventative measures.

In FY 2024, the Healey Driscoll Administration awarded \$800,000 in Workplace Safety Grants Program reaching 135 grantees representing organizations in regions across Massachusetts. The DIA opened the application period for three weeks through a digital platform in October 2023. The DIA received overwhelming interest from 163 applicants, 135 were awarded funding totaling \$2,727,663.50 in funding requests, 7,125 employees were trained, and 12 out of the 14 counties in Massachusetts were represented. The DIA operating budget for this program is \$800,000 per fiscal year.

Given the overwhelming response to the Office of Safety's outreach efforts, it was decided to provide as much funding as possible to the greatest number of qualified applicants, having a significant impact on those organizations and the health and safety of their employees.

For more details: [Workplace Safety Grant Program](#)

During 2022, [employers reported 2.8 million workplace injuries](#), up 7.5% from 2021 (includes cases of COVID-19).

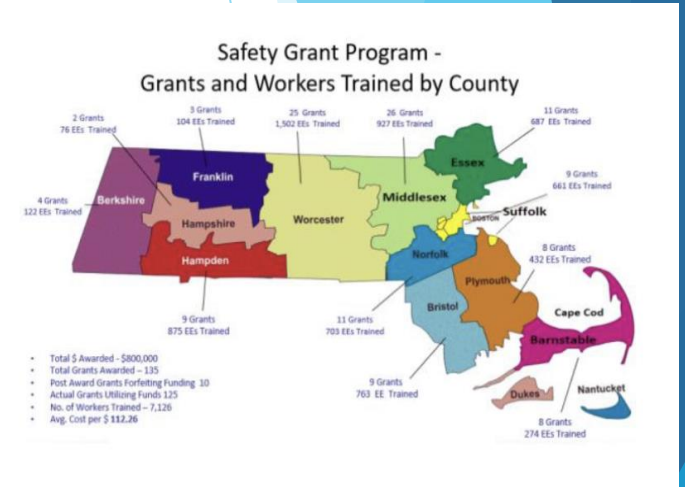
Source: U.S. Bureau of Labor Statistics

County	Number of Grants Funded	Number of Employees Trained
Barnstable	8	274
Berkshire	4	122
Bristol	9	763
Duke	0	0
Essex	11	687
Franklin	3	104
Hamden	9	875
Hampshire	2	76
Middlesex	26	926
Nantucket	0	0
Norfolk	11	703
Plymouth	8	432
Suffolk	9	661
Worcester	25	1502

Workplace Safety Grant Program

Sample of Awarded Grants

- ▶ \$2,600 awarded to Seekonk, MA municipality for roadwork and construction
- ▶ \$4,750 awarded to Hudson, MA for company specializing in bridge work
- ▶ \$22,000 awarded to Greenfield, MA municipality for technical assistance



Above: County map displaying the grants and workers trained by each County in Massachusetts

DIA | Workers' Compensation Trust Fund

- ▶ The Workers' Compensation Special Fund and Workers' Compensation Trust Fund were established pursuant c. 152 [§ 65](#). The proceeds are expended for the operating expenses for the DIA, the payment of uninsured claims, Sections 34B, 35F, 37, 37A. The reasonable and necessary costs of administering and representing the Workers' Compensation Trust Fund may be paid out, without appropriation, of said trust fund.
- Both the Special Fund and the Trust Fund are funded by revenues generated from **assessments** imposed on all insured employers subject to MGL c. 152.
- In FY 2024 there were 104 new Section 65 injuries recorded. Construction and laborer remain the **highest** uninsured claims by industry and occupation. The Civil Litigation Unit makes every effort to recover money owed by utilizing the authority of MGL Chapter 152 to recover money paid on uninsured claims through legal action against the employer in question.

DIA | Workers' Compensation Trust Fund

	FY 2024	FY 2023	FY 2022	FY 2021
Fiscal Year Payments Made Against Open Claims	\$6,246,527 **	\$7,726,621	\$6,924,993	\$5,385,046
Civil Litigation Unit Recovery	\$704,963	\$1,061,271	\$1,283,640	\$972,368
New Section 65 Injuries	104	95	83	83

Every effort is made to recover money owed by the uninsured employer pursuant to CH 152 [§65 \(8\)](#)

**Represents payments made on all open claims to include those made in prior years.

DIA | Office of Health Policy & Health Care Services Board

- ▶ The statute authorizes the Office of Health Policy (OHP) to approve utilization review (UR) agents, allowing them to conduct reviews on Massachusetts workers' compensation claims. The OHP monitors the conduct of agents and workers' compensation utilization review programs to ensure compliance with the requirements of regulation 452 CMR 6.00.
- ▶ The Health Care Services Board (HCSB) is a 14-member advisory group established by [MGL c. 152, § 13](#). The board members are appointed by the Director of the Department of Industrial Accidents. The members represent a variety of professions concerned with the treatment and care of injured workers.
- ▶ Under the statutory mandate [MGL c.152 § 8\(4\)](#) and [§ 11A](#), the HCSB has the responsibility to develop the eligibility criteria in order to select and maintain the Impartial Physician Roster.

In FY 2024

- ▶ 1 complaint analyzed for the HCSB
- ▶ 1 medical treatment guideline adopted
- ▶ With two employees, the Office of Health Policy conducted 22 audits on utilization review agents
- ▶ 6 complaints for utilization review were analyzed

DIA | Office of Education & Vocational Rehabilitation

OEVR assists injured workers with an accepted or established workers' compensation claim return to meaningful employment. The goal of vocational rehabilitation services is to return an employee to their pre-injury average weekly wage. OEVR is responsible for overseeing these services.

- ▶ In FY 2024, OEVR was headed by a Director and staffed by 6 Rehabilitation Review Officers, and 2 Clerks. There are no Disability Analysts on staff.
- ▶ 1,572 cases were referred to OEVR. Out of these cases, 1,286 proceeded to a mandatory informational meeting for a determination of suitability for vocational rehabilitation services.
- ▶ For those cases that received a mandatory meeting, 174 were found suitable and were referred to the insurer/self-insurer with a request to initiate vocational rehabilitation services by an OEVR certified provider.
- ▶ There were 103 individual work plans completed and 37 injured workers returned to work.
- ▶ With 25 vocational rehabilitation providers approved, the encumbrances of the Trust Fund totaled \$0.00 for vocational rehabilitation services.

All services provided by the OEVRs certified list of vocational providers are paid for by the employer's workers' compensation carrier.

DIA | Office of Insurance and Office of Assessment

The DIA's Office of Insurance maintains a record of the workers' compensation insurer for every employer in the state.

- ❑ The number of new self-insurance licenses issued: 0
- ❑ Total number of self-insured employers (parent-licensed): 66
- ❑ The number of subsidiaries covered by these parent-licenses: 378
- ❑ Total number of inquiries to the insurance for historical information from the insurer register: 1,400
- ❑ Total additional amount collected from insurance companies
 - **Insurance Companies:** \$73,125,521.77
 - **Self-Insured Companies:** \$7,035,502.11
 - **SIGs:** \$1,724,532.85

Office of Assessment

The total number of assessments remitted to the DIA, from CPA reviews, during FY'24: \$216,361

Actual payments received in FY'24: \$13,187

The total of **additional** payments that should be received in FY'24, but Audit needs to confirm if they have been received= \$83,588

ADVISORY COUNCIL MEMBERS

VOTING AND NON-VOTING REPRESENTATIVES

ADVISORY COUNCIL MEMBERS

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Executive Office of Housing and Economic
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Executive Director | Maureen O'Connell

Workers' Compensation Advisory Council

[WCAC website](#)