

# Minnesota Workers' Compensation Dispute Issue Tracking Study Report 1

by  
David Berry  
with  
Brian Zaidman  
William Boyer  
Sean O'Loughlin

May 2009



Policy Development, Research and Statistics

443 Lafayette Road N.  
St. Paul, MN 55155-4307  
(651) 284-5025  
[dli.research@state.mn.us](mailto:dli.research@state.mn.us)  
[www.dli.mn.gov/research.asp](http://www.dli.mn.gov/research.asp)

This report is available at [www.dli.mn.gov/pdf/dispstudy01.pdf](http://www.dli.mn.gov/pdf/dispstudy01.pdf). Information in this report can be obtained in alternative formats by calling the Department of Labor and Industry at 1-800-342-5354 or TTY at (651) 297-4198.



## Executive Summary

Although the Department of Labor and Industry (DLI) workers' compensation database contains a large amount of information to assist in the dispute-resolution process, it does not provide all of the data needed to monitor the performance of that process. In consideration of this, DLI began an issue-tracking project in the fall of 2006. The project tracks individual dispute issues through the dispute-resolution system, using a database and coding structure separate from the main DLI database. The coded data comes primarily from imaged documents in the DLI database, but also from an electronic log of dispute-resolution activities. The project has been tracking medical and rehabilitation disputes filed in 2003 and in 2007 and claim petition disputes filed in 2003.

This report, the first from that project, deals with medical disputes filed in 2003 and 2007. It analyzes the paths taken by the issues in those disputes through the resolution process at DLI and the Office of Administrative Hearings (OAH). It also analyzes the time the issues take to travel these different paths. Not all of the coded data on those disputes is presented here. Additional data will be presented in future reports.

A diagrammatic analysis of the major resolution paths for the 2003 and 2007 disputes is provided in Figures 3.1 and 3.2 (pp. 11, 12) and Figure 9.1 (p. 37). Appendices 1 and 2 present a brief description of the dispute-resolution process and a glossary of terms. Appendix 3 describes enhancements made in the DLI dispute-resolution process between 2005 and 2007.

Following are some of the main findings for the 2003 and 2007 medical disputes:

### Dispute characteristics

- Some 77 percent of the 2003 disputes and 82 percent of the 2007 disputes involved sprains, strains, tears and pain. This compares with 54 to 60 percent of all workers' compensation paid indemnity claims for injury years 2003 through 2007.

This difference is to be expected because this type of injury is often more difficult to verify than more objective injuries such as fractures. In addition, there tends to be more diversity of medical opinion regarding appropriate treatment for these types of injuries, giving more latitude for disagreement.

- The two most common services at issue in these disputes were diagnostic imaging and surgery.
- The most common point in dispute was causation; the second most common was reasonableness and necessity.

### Dispute-resolution activity at DLI

- The percentage of medical disputes not certified rose from 31 percent to 38 percent between 2003 and 2007. This increase is attributable to a larger percentage of disputes being resolved in the certification process.
- Among certified disputes,<sup>1</sup> the percentage scheduled for an administrative conference at DLI increased from 33 percent to 60 percent between 2003 and 2007, while the percentage referred to OAH fell from 39 percent to 19 percent.
- The total number of disputes referred to OAH fell from 310 per 1,000 to 149 per 1,000 between 2003 and 2007. Most of this change resulted from the 2005 legislated increase from \$1,500 to \$7,500 in the threshold delineating the jurisdictions of DLI and OAH in medical disputes.<sup>2</sup> Some of the change resulted from a decrease in the number of disputes under DLI jurisdiction that were referred on a discretionary basis.

<sup>1</sup> In this analysis, disputes not certified because of pending litigation and disputes without a recorded certification decision are counted with certified disputes.

<sup>2</sup> DLI has jurisdiction over medical disputes with a disputed amount no greater than the threshold at the time of dispute filing, provided that primary liability is not in dispute.

- For disputes with a conference scheduled at DLI, the median time from first medical request to scheduled conference date fell by a third between 2003 and 2007, from 66 days to 44 days.
- Twenty-one percent of scheduled DLI conferences had re-sets for 2003, and 19 percent for 2007. There was a median of 27 days from the originally scheduled date to the re-set date for 2003, and 23 days for 2007.
- Where the scheduled DLI conference was not held, the median time from the medical request to the final dispute-resolution event was as follows:

For 2003 disputes:

- 61 days where the dispute was resolved informally at DLI.
- 122 days where the final event was an award on stipulation after action at DLI.
- 347 days where the final event was an award on stipulation after action at OAH.

For 2007 disputes:

- 49 days where the dispute was resolved informally at DLI.
- 98 days where the final event was an award on stipulation after action at DLI.<sup>3</sup>
- Where DLI issued a decision-and-order after a conference, the median time from the medical request to the decision-and-order fell from 92 days for 2003 disputes to 65 days for 2007 disputes.
- When the employee was the prevailing party in a DLI decision-and-order for 2003, the employer filed an appeal 38 percent of the time. When the employer was the prevailing party, the employee appealed 75 percent of the time. The percentages were roughly the same for 2007 disputes.
- For 2003 disputes with appeals from DLI decision-and-orders, the median time from medical request to final resolution was 274

days. For 10 percent of these disputes, the time was 531 days or longer.

### Dispute-resolution activity at OAH for 2003 disputes referred from DLI

- Most disputes scheduled for a hearing at OAH (not counting appeals from DLI or OAH decision-and-orders) had a surgery issue or an order for consolidation with other disputes. Most disputes scheduled for an administrative conference at OAH had neither of these characteristics.
- The median time from medical request to first scheduled proceeding date was 78 days for disputes initially scheduled for an OAH administrative conference, and 83 days for those initially scheduled for hearing.
- Twenty-one percent of scheduled OAH administrative conferences had re-sets. There was a median of 40 days from the originally scheduled date to the re-set date.
- Where OAH issued a decision-and-order after a conference, it occurred, at the median, 14 days after the conference and 99 days after the first medical request.
- The appeal rate from OAH decision-and-orders was 32 percent when the employee prevailed, and 65 percent when the employer prevailed. These are somewhat below the appeal rates from DLI decision-and-orders.
- The median time to final resolution for these appeals (usually an award on stipulation or findings-and-order) was 285 days from the first medical request. For 10 percent of these cases, the time was 632 days or more.
- Of the disputes scheduled for hearing (not counting appeals), about three-quarters were scheduled initially for hearing while about one-quarter were scheduled first for an OAH administrative conference. In the former case, the median time from referral to OAH to the scheduled hearing date was 69 days; in the latter, it was 182 days.

<sup>3</sup> The amount of time to final resolution at OAH was not computed for the 2007 disputes because many of them were still in process at the time of coding.

- Thirty-two percent of scheduled OAH hearings (not counting appeals) had re-sets.<sup>4</sup> There was a median of 62 days from the originally scheduled date to the re-set date.
- A findings-and-order was issued for 29 percent of the disputes scheduled for hearing; for the remaining cases, the parties typically reached agreement, usually through an award on stipulation. At the median, the findings-and-order came 210 days after the medical request where the hearing was the first scheduled proceeding, and 361 days where an OAH administrative conference had been scheduled first.
- A statistical analysis was performed to analyze the possible correlation between the scheduling of proceedings and the timing of agreements where the proceeding is canceled because of agreement (e.g., informal agreement or award on stipulation). The analysis found that for DLI administrative conferences, OAH administrative conferences and OAH hearings, the agreement tends to occur approximately one day earlier for each day earlier the proceeding had been scheduled, and that this relationship is highly statistically significant. The timing of the proceeding notice itself does not seem to affect the timing of the agreement other than through its effect on the timing of the scheduled proceeding date.

## Observations

The data analysis in this report leads to the following observations:

- **Some disputes take far longer to reach resolution than others with seemingly the same sequence of events.** An effort should

be made to determine how to reduce the time consumed in resolving these longer disputes.

- **Re-sets of proceedings at DLI and OAH add time to the process.** Consequently, their use should be limited as much as possible, using authority in rule. In 2005, DLI began approving re-sets of administrative conferences only upon showing of good cause.<sup>5</sup>
- **For disputes that go to hearing at OAH, the time to resolution is far longer if an OAH administrative conference has been scheduled first.** Consequently, an effort should be made to determine which disputes, after being referred to OAH, are likely to go ultimately to hearing so they can be scheduled for hearing initially rather than incurring long delays by being first scheduled for an administrative conference that does not occur.
- **Enhancements made by DLI in its dispute-resolution process between 2005 and 2007 have brought about major reductions in the time taken to resolve disputes.**<sup>6</sup>
- **The data shows that earlier scheduling of proceedings leads to earlier agreement where the parties reach resolution before the proceeding.** This is in addition to the expectation that earlier scheduling should bring about earlier decisions where the parties do not reach agreement. It adds to the value of scheduling proceedings as promptly as possible with sufficient time for the parties to prepare.

<sup>4</sup> These hearings include pre-trials and exclude *de novo* hearings (hearings on appeal).

<sup>5</sup> The data suggests a reduction in the frequency of re-sets at DLI between 2003 and 2007, but are not conclusive (see p. ii).

<sup>6</sup> These enhancements are described in Appendix 3.



# Contents

Executive summary.....	i
Figures.....	vii
Introduction .....	1
Background .....	1
Issue-tracking project .....	1
This report .....	2
Data presentation .....	2
Analysis of medical disputes from 2003 and 2007 .....	4
Dispute characteristics.....	4
Major dispute paths and DLI.....	10
DLI dispute-resolution process for 2003 and 2007 disputes .....	13
Dispute certification decisions.....	13
First major event at DLI for certified disputes.....	17
Disputes scheduled for DLI conference.....	25
Disputes with DLI conference held .....	29
Disputes with DLI decision-and-orders .....	32
Major dispute paths at OAH.....	36
OAH dispute-resolution process for 2003 disputes.....	38
First major event at OAH.....	38
Disputes scheduled for OAH administrative conference .....	41
Disputes with OAH decision-and-orders .....	45
Disputes scheduled for OAH hearing .....	48
Correlation between scheduling of proceedings and occurrence of agreements .....	54
Observations .....	57
Appendices	
1. Disputes and the dispute-resolution process.....	61
2. Glossary.....	63
3. Recent enhancements in the DLI dispute-resolution process .....	67
4. Sample-selection procedure.....	68
5. Data items coded .....	69
6. Benefit-at-issue categories.....	71
7. Codable events .....	72
8. Dispute profile tables.....	75





## Figures

1.1	Number of disputes analyzed .....	2
2.1	Number of issues in dispute by dispute certification status .....	5
2.2	Number of codable events in dispute by dispute certification status .....	6
2.3	Nature of injury .....	7
2.4	Service at issue .....	8
2.5	Point in dispute .....	9
3.1	Major dispute-resolution paths at the Department of Labor and Industry, 2003 disputes .....	11
3.2	Major dispute-resolution paths at the Department of Labor and Industry, 2007 disputes .....	12
4.1	Number of certification decisions per dispute .....	14
4.2	Referrals to OAH and selected final events for disputes without a certification decision .....	14
4.3	Number of days from presentation of dispute to first certification decision, for disputes with at least one certification decision .....	15
4.4	Nature of dispute certification decision .....	15
4.5	Number of days from first certification decision to last decision, for disputes with more than one decision .....	16
4.6	First and last certification decisions for disputes with more than one decision .....	16
5.1	Final event for disputes neither referred to the Office of Administrative Hearings nor scheduled for conference at the Department of Labor and Industry .....	19
5.2	Timelines related to conference scheduling at the Department of Labor and Industry .....	20
5.3	Referral reason for all disputes referred to the Office of Administrative Hearings .....	20
5.4	Timelines related to referral to the Office of Administrative Hearings .....	21
5.5	Nature of injury for the four major dispute paths at the Department of Labor and Industry .....	22
5.6	Service at issue for the four major dispute paths at the Department of Labor and Industry .....	23
5.7	Point in dispute for the four major dispute paths at the Department of Labor and Industry .....	24
6.1	Re-sets of conferences at the Department of Labor and Industry during dispute .....	26
6.2	Party requesting re-set of scheduled conference at the Department of Labor and Industry .....	26

6.3	Time between scheduled dates of re-set administrative conferences at the Department of Labor and Industry, 2003 disputes.....	26
6.4	Reason not held for scheduled conferences at the Department of Labor and Industry that were not held.....	27
6.5	Final event for disputes with scheduled conferences at the Department of Labor and Industry that were not held.....	27
6.6	Timelines to final events for disputes with scheduled conferences at the Department of Labor and Industry that were not held.....	28
7.1	Timelines related to conference decision-and-orders at the Department of Labor and Industry.....	29
7.2	Final event for disputes with conference held at the Department of Labor and Industry and no decision-and-order.....	30
7.3	Time to final event where there was no decision-and-order after a conference held at the Department of Labor and Industry and the final event was a resolution at the Department of Labor and Industry.....	31
8.1	Prevailing party in conference decision-and-orders at the Department of Labor and Industry.....	33
8.2	Appeals (requests for hearing) from conference decision-and-orders issued by the Department of Labor and Industry.....	33
8.3	Timelines related to appeals (requests for hearing) from conference decision-and-orders issued by the Department of Labor and Industry.....	34
8.4	Final event for disputes with appeals from conference decision-and-orders issued by the Department of Labor and Industry.....	34
8.5	Time to final event for disputes with appeals from conference decision-and-orders issued by the Department of Labor and Industry, 2003 disputes.....	35
9.1	Major dispute-resolution paths at the Office of Administrative Hearings for 2003 disputes referred from the Department of Labor and Industry.....	37
10.1	Reason referred to the Office of Administrative Hearings by first scheduled proceeding there (administrative conference or hearing), 2003 disputes.....	39
10.2	Selected characteristics of disputes referred to the Office of Administrative Hearings by first scheduled proceeding there (administrative conference or hearing), 2003 disputes.....	39
10.3	Final event for disputes referred to OAH and not scheduled for administrative conference or hearing, 2003 disputes.....	40
10.4	Timelines related to scheduling of first proceeding (administrative conference or hearing) at the Office of Administrative Hearings, 2003 disputes.....	40

11.1	Re-sets of administrative conferences at the Office of Administrative Hearings, 2003 disputes.....	42
11.2	Time between scheduled dates of re-set administrative conferences at the Office of Administrative Hearings, 2003 disputes .....	42
11.3	Characteristics of disputes scheduled for OAH administrative conference by major event after scheduled conference, 2003 disputes .....	42
11.4	Time to decision-and-order at the Office of Administrative Hearings, 2003 disputes .....	43
11.5	Final event where there is no decision-and-order or hearing following a scheduled administrative conference at the Office of Administrative Hearings, 2003 disputes.....	43
11.6	Time to final event where there is no decision-and-order or hearing following a scheduled administrative conference at the Office of Administrative Hearings, 2003 disputes.....	44
12.1	Prevailing party in administrative conference decision-and-orders at the Office of Administrative Hearings, 2003 disputes .....	45
12.2	Appeals (requests for hearing) from administrative conference decision-and-orders issued by the Office of Administrative Hearings, 2003 disputes .....	46
12.3	Timelines related to appeals (requests for hearing) from administrative conference decision-and-orders issued by the Office of Administrative Hearings, 2003 disputes .....	46
12.4	Final event for disputes with appeals from administrative conference decision-and-orders issued by the Office of Administrative Hearings, 2003 disputes .....	47
12.5	Time to final event for disputes with appeals from administrative conference decision-and-orders issued by the Office of Administrative Hearings, 2003 disputes .....	47
13.1	Scheduled hearings and pretrials, 2003 disputes.....	50
13.2	Re-sets of OAH hearings, 2003 disputes .....	50
13.3	Time between scheduled dates of re-set hearings at the Office of Administrative Hearings, 2003 disputes .....	50
13.4	Timelines related to scheduling of hearings for 2003 disputes referred to the Office of Administrative Hearings .....	51
13.5	Time to findings-and-order at the Office of Administrative Hearings, 2003 disputes.....	52
13.6	Final event where there was no findings-and-order following a scheduled hearing at the Office of Administrative Hearings, 2003 disputes .....	52
13.7	Time to final event when there was no findings-and-order following a scheduled hearing at the Office of Administrative Hearings, 2003 disputes .....	53

14.1 Estimated effects of timing of proceeding notice and scheduled proceeding date on  
timing of agreement where proceeding is canceled because of agreement..... 56

15.1 Amount of time from medical request to selected major events in the dispute-resolution  
process, measured at 10th, 50th and 90th percentiles ..... 60

# Introduction

## Background

A major goal in workers' compensation is to minimize the number of disputes and to resolve those disputes that do occur as quickly as possible and with the least possible amount of formal litigation. In Minnesota, dispute prevention and resolution services are provided by the Department of Labor and Industry (DLI) and the Office of Administrative Hearings (OAH). These services are described in Appendix 1 and a glossary of related terms is provided in Appendix 2.

The goal notwithstanding, Minnesota's workers' compensation system has experienced an increasing dispute rate during the past several years. From 1997 to 2007, the proportion of filed indemnity claims with disputes rose from 15.4 percent to 19.1 percent, and the proportion of claims with formal litigation rose from 13.9 percent to 16.8 percent.<sup>7</sup> These trends have focused attention on the importance of dispute prevention and resolution.

To effectively prevent and resolve disputes, it is essential to have data both to carry out the dispute prevention and resolution process itself and to monitor the performance of that process.

The DLI workers' compensation database records a large amount of information to assist in the dispute-resolution process. Much of this information is in the form of imaged documents. All workers' compensation claim documents filed with DLI, including dispute documents, are stored in the database as images. These are available to DLI dispute-resolution specialists and OAH judges to facilitate their dispute-resolution work. In addition, the database records certain actions in the dispute-resolution

process, such as informal resolutions at DLI and decision documents issued by DLI or OAH.

However, the database does not currently track individual issues through the system. It is structured to track disputes, which may include several issues. The data system thus does not provide data on the characteristics of issues, nor does it follow different issues in a dispute when they proceed along different paths, which sometimes happens. In addition, when an appeal is filed from administrative-conference decision-and-order from DLI or OAH,<sup>8</sup> the system treats the appeal as a new dispute, further complicating efforts to track the original issues. Being able to track issues through the dispute-resolution system is important for evaluating its performance and developing options for improvement.

## Issue-tracking project

In consideration of this, DLI began an issue-tracking project in the fall of 2006. The project has been carried out by DLI's Policy Development, Research and Statistics (PDRS) unit. The project tracks individual dispute issues through the system, using a database and coding structure created by PDRS. The coded data comes primarily from imaged documents in the DLI database. Additional data comes from an electronic log of dispute-resolution activities maintained primarily by DLI but also, to a lesser degree, by OAH.

The project has been tracking three types of disputes: medical-request disputes, rehabilitation-request disputes and claim-petition disputes. It began with medical-request disputes and rehabilitation-request disputes that were filed in 2003, to allow enough time for those disputes to reach completion by the time of

---

<sup>7</sup> *Minnesota Workers' Compensation System Report, 2007*, to be published in spring 2009. These statistics are by year of injury. Because many claims are not yet complete, especially for more recent years, the statistics are projected to full maturity.

---

<sup>8</sup> As described in Appendices 1 and 2, such an appeal is filed via a request for *de novo* hearing at OAH. For brevity, this report refers to a request for hearing as an appeal, even though it is not technically that because the issues are heard anew and new evidence may be presented.

coding. Disputes from throughout 2003 were included.

Since that time, DLI has made several enhancements in its dispute-resolution process, including earlier identification of dispute-resolution opportunities, greater emphasis on early dispute-resolution and more active management of the process (see Appendix 3). In recognition of this, a second sample of medical- and rehabilitation-request disputes was coded, this one consisting of disputes presented from May through August 2007. These disputes were coded in the summer of 2008. Because of the recent initiation of these disputes, those that went to OAH were generally tracked only through the first event that put them at OAH, such as a referral or claim petition. However, if the dispute went to OAH because of a request for hearing after a DLI decision-and-order or because of a stipulation to formalize an agreement reached at DLI, all events at OAH were recorded. During 2008 and early 2009, the project coded a sample of claim-petition disputes that began in 2003. With the exceptions noted for the 2007 medical- and rehabilitation-request disputes, the issues in the coded disputes are tracked through the dispute-resolution system, starting with their first appearance at DLI and continuing to their final resolution at DLI, OAH or beyond.

Appendices 4 through 7 describe the sample selection procedure and present lists of coded data items and issue and event categories. Multiple occurrences of issues in the same category in the same dispute were counted as a single issue. For an event to be “codable,” it had to be on the list or otherwise necessary for understanding the course of the dispute. A “dispute” was operationally defined as a set of issues where each issue shared at least one dispute event or resolution event with at least one other issue in the group. For example, all issues presented on a medical request were counted as part of the same dispute.

## This report

This is the first report from the issue-tracking project. It analyzes the medical-request disputes from 2003 and 2007. Figure 1.1 shows the

numbers of medical disputes analyzed for the two years. Many of the 2007 disputes could not

**Figure 1.1**  
Number of disputes analyzed

	Number analyzed
2003 disputes	1,718
2007 disputes	1,297

be coded to completion because insufficient time had elapsed by the time of coding. Consequently, some of the statistics in this report — particularly, those for the OAH dispute-resolution process — only apply to the 2003 disputes.

Not all available data items in the coded data are analyzed here. Future reports will analyze these other data items, and will also analyze vocational rehabilitation and claim petition disputes.

## Data presentation

In presenting data, the report uses a weighting procedure to allow for the fact that different issues in the same dispute may take different paths. One issue, for example, may be settled informally while the other goes to conference. In the analysis, each issue is followed separately while being weighted inversely to the number of issues in the dispute. For example, if a dispute has three issues, each issue is tracked separately with one-third weight given to each. In this way, different issues in the same dispute can be counted in different categories if they take different paths. But the total weight for the dispute is the same regardless of the number of issues.

A second weighting procedure is used to express numbers of disputes throughout the report as numbers per 1,000 total disputes. This allows for ready comparison between the 2003 and 2007 data even though different numbers of disputes were coded for the two years. A second benefit is that the number of disputes per 1,000 translates directly to a percentage. For example, 350 disputes per 1,000 is 35 percent.

Because of these weighting procedures, the numbers presented are rounded versions of decimal numbers, and therefore do not always add exactly to the totals presented.<sup>9</sup>

---

<sup>9</sup> A third weighting procedure, which also contributes to rounded numbers sometimes not adding exactly to totals, is related to sample selection for the 2003 disputes and is described in Appendix 4.

## Analysis of medical disputes from 2003 and 2007

### Dispute characteristics

Most of the medical-request disputes had only one issue (Figure 2.1). Only 25 percent of the 2003 disputes and 23 percent of the 2007 disputes had more than one issue. The number of issues per dispute is relatively small for noncertified disputes because noncertified disputes tend to be simpler and not all issues may be reported on the certification request (often a medical request is not present in a noncertified dispute). Notably, the difference between the noncertified and certified disputes is smaller for 2007 than for 2003, judging from both the average number of issues per dispute and the percentage of disputes with multiple issues.<sup>10</sup>

The 2003 disputes had an average of 5.5 codable events, 2.7 for not-certified disputes and 6.8 for certified disputes (Figure 2.2). About 23 percent of the certified disputes had 10 or more codable events. The average number of events for not-certified disputes was somewhat less for 2007 than for 2003. Data is not shown for certified disputes for 2007 because many of these could not be tracked to completion.

Some 77 percent of disputes for 2003 and 82 percent for 2007 involved sprains, strains, tears and pain (Figure 2.3).<sup>11</sup> This compares with 54 to 60 percent of all workers' compensation paid indemnity claims for injury years 2003 through 2007.<sup>12</sup> This difference is to be expected because this type of injury is often more difficult to link to a particular injury event or exposure than are more objective injuries such as fractures. In addition, there tends to be more diversity of medical opinion regarding appropriate treatment for these types of injuries, giving more latitude for disagreement.

Each issue in the dispute involves a particular service at issue. The whole range of medical services is involved in these disputes (Figure 2.4). The most common service at issue for both years was diagnostic imaging, followed by surgery and office or clinic visits. In 2003, diagnostic imaging was noticeably more often in dispute than the second-most-common category, surgery, but the difference had largely disappeared by 2007.

"Point in dispute" is the reason the insurer and the employee disagree about whether the service at issue should be provided or paid for (Figure 2.5). It is sometimes referred to as "insurer defense." The most common point in dispute for both years was "no reason given or not disputed" (461 disputes per 1,000 for 2003 and 511 for 2007). As will be seen in Figure 5.7, a majority of the cases with "no reason given or not disputed" were not certified. This is because when DLI determines a dispute does not exist or is able to resolve the dispute (and thus renders the decision "not certified"), a point in dispute often does not come to light. The increase between 2003 and 2007 in the proportion of disputes with "no reason given or not disputed" occurred because (as seen in Figures 3.1 and 3.2) a higher proportion of disputes were not-certified in 2007.<sup>13</sup>

The most common point in dispute, where this was given, was causation. Disputes with causation numbered 326 per 1,000 for 2003 and 245 per 1,000 for 2007. The second most common point in dispute was reasonableness and necessity, numbering 163 per 1,000 for 2003 and 133 per 1,000 for 2007.

---

<sup>10</sup> See note 3 in Figure 2.1.

<sup>11</sup> These percentages are implied by the figures in the "disputes per 1,000" column.

<sup>12</sup> Computed from the DLI workers' compensation claims database.

---

<sup>13</sup> Among disputes with a decision of "not-certified," 83 percent had a point in dispute of "no reason given or not disputed" for 2003 and 86 percent did for 2007 (computed from data in Figure 5.7).



**Figure 2.1**  
**Number of issues in dispute by dispute certification status**

Number of issues in dispute	Number of disputes per 1,000 [1]					
	2003 disputes			2007 disputes		
	Certification status [2]		Total	Certification status [2]		Total
	Decision: not certified	Certified or no decision [3]		Decision: not certified	Certified or no decision [3]	
1	265	478	743	309	464	773
2	34	117	151	53	95	148
3	11	55	67	14	41	55
4	3	20	23	3	14	17
5	1	12	13	2	3	5
6		2	2	~	1	2
7		1	1			
14		~	~			
All disputes	314	686	1,000	381	619	1,000
Average number of issues per dispute	1.22	1.53	1.43	1.26	1.39	1.34
Percentage of disputes with two or more issues	16%	30%	25%	19%	25%	23%

1. Numbers may not add exactly to totals because of rounding (see pp. 2, 3). "~" means a positive number less than 0.5.
2. Disputes not certified because of pending litigation are counted with certified disputes because they continue through the dispute-resolution process.
3. Some disputes do not show evidence of a certification decision. They are counted with certified disputes because the dispute-resolution experience for them more closely resembled that of certified disputes than that of not-certified disputes. More information about disputes without a certification decision is presented in Figures 4.1, 4.2 and 4.4.

Figure 2.2

## Number of codable events in dispute by dispute certification status

Number of codable events in dispute	Number of disputes per 1,000 [1]					
	2003 disputes			2007 disputes		
	Certification status [2]		Total	Certification status [2]		Total
	Decision: not certified	Certified or no decision [3]		Decision: not certified	Certified or no decision [3]	
1	~	3	3	~	[4]	[4]
2	243	108	351	287		
3	38	41	79	53		
4	11	50	61	29		
5	6	75	81	8		
6	2	77	79	3		
7	2	74	76	~		
8	2	54	56	~		
9	2	46	48	1		
10	2	54	55			
11	2	34	36			
12	1	21	21	1		
13	1	13	14			
14	~	11	12			
15	~	7	7			
16	1	4	5			
17		5	5			
18		3	3			
19		1	1			
20		2	2			
21		1	1			
22						
23		~	~			
24	~	~	1			
25		~	~			
27		~	~			
All disputes	314	686	1,000	381	619	1,000
Average number of codable events	2.65	6.81	5.50	2.42		

1. Numbers may not add exactly to totals because of rounding (see pp. 2, 3). "~" means a positive number less than 0.5.
2. Disputes not certified because of pending litigation are counted with certified disputes because they continue through the dispute-resolution process.
3. Some disputes do not show evidence of a certification decision. They are counted with certified disputes because the dispute-resolution experience for them more closely resembles that of certified disputes than of not-certified disputes. More information on disputes without a certification decision is presented in Figures 4.1, 4.2 and 4.4.
4. The number of events is not shown for 2007 disputes that were certified (or did not have a certification decision) because many of these disputes were not complete at the time of data collection.

**Figure 2.3**  
**Nature of injury**

Nature of injury [1]	2003 disputes		2007 disputes	
	Disputes per 1,000	Pctg. of all natures of injury [2]	Disputes per 1,000	Pctg. of all natures of injury [2]
Sprains, strains, tears, pain [3]	774	74%	815	77%
<i>Back</i>	445	[6]	437	[6]
<i>Neck</i>	149		163	
<i>Shoulder</i>	135		158	
<i>Knee</i>	68		107	
<i>Other</i>	113		118	
Peripheral nerve disorders [4]	49	5%	53	5%
Fractures	35	3%	42	4%
Mental disorders or syndromes	10	1%	20	2%
Intracranial injuries, concussions	6	1%	20	2%
Bruises, contusions, crushes	22	2%	15	1%
Cuts, punctures, open wounds, abrasions	12	1%	10	1%
Other	41	4%	32	3%
Nonclassifiable or not indicated	97	9%	53	5%
<b>Total disputes</b>	<b>1,000</b>		<b>1,000</b>	
<b>Total natures of injury per 1,000 disputes [5]</b>	<b>1,047</b>	<b>100%</b>	<b>1,057</b>	<b>100%</b>

1. In this figure, nature of injury is counted without regard to part of body. If the same nature of injury affects more than one body part, it is counted once here.
2. The percentage in this column is expressed relative to the total number of natures of injury, rather than to the total number of disputes, to make the percent distribution of natures of injury comparable between the two years. Since the average number of natures of injury per dispute is different for the two years, this would tend to make the percentage of disputes with any given injury different between the two years even if the relative preponderance of different natures of injury were the same.
3. Also includes reflex sympathetic dystrophy. The sum of disputes in the subcategories (part of body) is greater than the number in the overall category (nature of injury) because more than one subcategory may be present in the same dispute.
4. Includes carpal tunnel syndrome among others.
5. Total natures of injury is greater than total disputes because a dispute may have more than one nature of injury.
6. Percentages are not given for these subcategories because the percentages are relative to the total natures of injury, each nature of injury being counted once regardless of the number of body parts affected.

**Figure 2.4**  
Service at issue

Service at issue	2003 disputes		2007 disputes	
	Disputes per 1,000	Pctg. of all services at issue [1]	Disputes per 1,000	Pctg. of all services at issue [1]
Diagnostic imaging	248	17%	182	14%
Surgery (and associated services)	157	11%	170	13%
Office or clinic visit	140	10%	142	11%
Medications	116	8%	133	10%
Referral or consultation	100	7%	112	8%
Physical therapy services [2]	146	10%	101	8%
Chiropractic services	97	7%	78	6%
Therapeutic injections	44	3%	69	5%
Ancillary services (mileage, food, lodging)	60	4%	52	4%
Equipment and supplies for claimant use	47	3%	50	4%
Change of doctor	40	3%	35	3%
Mental health services	20	1%	25	2%
Emergency services	23	2%	25	2%
Functional capacity evaluation [2]	15	1%	23	2%
Pain clinic	26	2%	17	1%
Nerve-testing [3]	1	0%	16	1%
Pathology and laboratory services	15	1%	10	1%
Varied medical services	10	1%	8	1%
Exercise program	8	1%	7	1%
Health club membership	11	1%	7	1%
Acupuncture	5	0%	6	0%
Surgical implants and prosthetics	7	0%	4	0%
Chronic management	12	1%	4	0%
In-patient hospitalization	3	0%	3	0%
Other medical services	30	2%	25	2%
Unspecified medical services	44	3%	32	2%
<b>Total disputes</b>	<b>1,000</b>		<b>1,000</b>	
<b>Total services at issue per 1,000 disputes [4]</b>	<b>1,427</b>	<b>100%</b>	<b>1,338</b>	<b>100%</b>

1. The percentage in this column is expressed relative to the total number of services at issue, rather than to the total number of disputes, to make the percent distribution of services at issue comparable between the two years. Since the average number of services at issue per dispute is different for the two years, this would tend to make the percentage of disputes with any given service at issue different between the two years even if the relative preponderance of different services at issue were the same.
2. Functional capacity evaluation (FCE) falls under the broad category of physical therapy services, but was coded separately because it is an evaluation rather than a treatment. A code was not available for FCE initially for the 2003 data, but the physical therapy services for 2003 were re-examined and re-coded to FCE as appropriate.
3. A separate code for nerve-testing was not used for the 2003 data. However, "other" services were specified in the coding and those specified as nerve-testing were re-classified. The relatively small number of these cases as compared with 2007 suggests that some may have been missed. However, only five issues for 2003 were coded as "other" without specification.
4. The number of issues is greater than the number of disputes because a dispute may have more than one issue.

Figure 2.5  
Point in dispute [1]

Point in dispute [1]	2003 disputes		2007 disputes	
	Disputes per 1,000	Pctg. of all points in dispute [2]	Disputes per 1,000	Pctg. of all points in dispute [2]
Primary liability	44	4%	65	6%
Causation [3]	326	29%	245	23%
<i>IR claims pre-injury status or full recovery</i>	104	[5]	57	[5]
<i>Other causation defense</i>	255		199	
Reasonableness and necessity	163	15%	133	12%
IR asserts it needs bills or other financial documents	17	2%	30	3%
IR asserts issue closed out in prior stipulation	3	0%	22	2%
Choice of provider	31	3%	17	2%
Amount of payment	19	2%	14	1%
IR wants or is waiting for IME or second opinion	2	0%	13	1%
IR asserts CMCO disp. res. process not exhausted	7	1%	3	0%
Other reason	39	4%	32	3%
No reason given or not disputed	461	41%	511	47%
Total disputes	1,000		1,000	
Total points in dispute per 1,000 disputes [4]	1,112	100%	1,083	100%

Note: IR = insurer; IME = independent medical examination; CMCO = certified managed care organization.

1. See Appendix 2 for definitions of point in dispute and of major point-in-dispute categories.
2. The percentage in this column is expressed relative to the total number of points in dispute, rather than to the total number of disputes, to make the percent distribution of points in dispute comparable between the two years. Since the average number of points in dispute per dispute is different for the two years, this would tend to make the percentage of disputes with any given point in dispute different between the two years even if the relative preponderance of different points in dispute were the same.
3. The sum of disputes in the subcategories is greater than the number in the overall category because both subcategories may be present in the same dispute.
4. Total points in dispute is greater than total disputes because a dispute may have more than one point in dispute.
5. Percentages are not given for these subcategories because the percentages are relative to total points in dispute in the broad categories, and both subcategories may apply.

## Major dispute paths at DLI

Figures 3.1 and 3.2 show the major dispute paths within DLI for the 2003 and 2007 medical-request disputes, respectively, beginning with the presentation of the certification request or medical request. The process shown is reduced to its major steps. Subsequent references in this report to the dispute-resolution “process” relate to the simplified version presented in these figures.

As mentioned previously, DLI made several enhancements in its dispute-resolution process between 2005 and 2007, which are described in Appendix 3. The results for the 2003 and 2007 disputes should be viewed with these process changes in mind.

At the first step shown in Figures 3.1 and 3.2, 314 disputes per 1,000 were not-certified for 2003; this number rose to 381 per 1,000 for 2007. As seen in Figure 4.4 (p. 15), this change primarily involved a shift from the “no certification decision” category to “not certified — resolved.”

At the second step in the process depicted in Figures 3.1 and 3.2, the dispute may be scheduled for a DLI administrative conference, referred to OAH or otherwise resolved (neither scheduled nor referred). Between 2003 and 2007, the number of disputes scheduled for conference rose from 226 per 1,000 (33 percent of those certified) to 371 per 1,000 (60 percent). During the same period, disputes referred to OAH fell from 267 per 1,000 (39 percent of those certified) to 117 (19 percent).<sup>14</sup> The

number neither scheduled nor referred also fell markedly. Part of the reason is that the number of disputes certified (or with no recorded decision) was lower in the first place for 2007 than for 2003.

For both 2003 and 2007 disputes, conferences were actually held for about half of the disputes scheduled for conference, but the *number* of disputes having conferences was higher for 2007 (184 per 1,000 versus 108) because of the larger number of disputes scheduled for conference in the first place.

For both years, decision-and-orders were issued for not quite three-quarters of the disputes with conferences held, and among these, appeals were filed (via a request for hearing) somewhat more than half of the time. At all of these steps, the absolute numbers of disputes per 1,000 were higher for 2007 than for 2003 because of the larger number of disputes scheduled for conference for 2007.

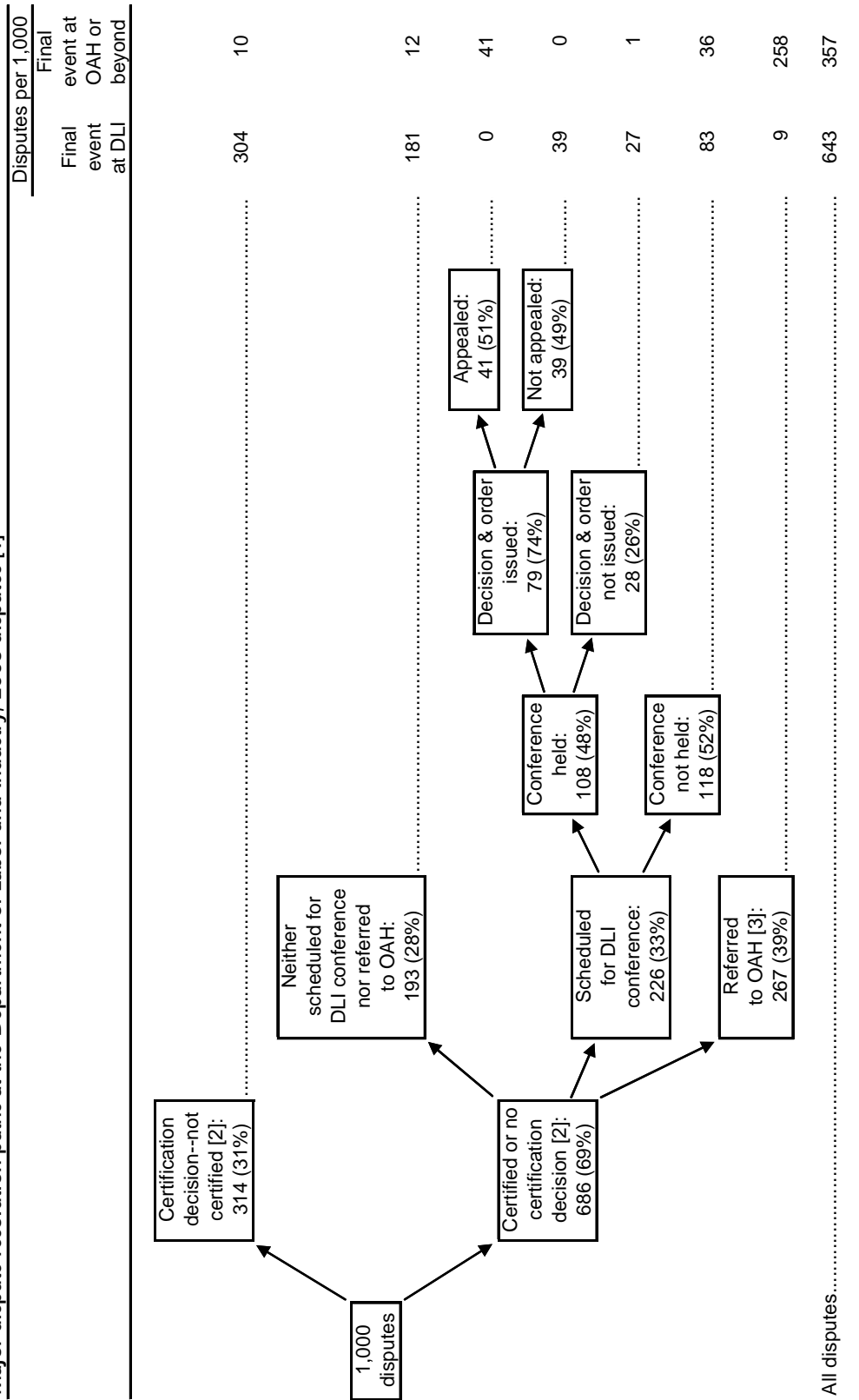
The right-hand columns in the two figures show the final event location (generally meaning the place of final resolution) for disputes following each path. Most not-certified disputes, for example, resolved at DLI (usually in the certification process), but a small number of these ended up at OAH. Appendix 8 shows more detailed information about the final events for the disputes following each path.

The remainder of this report follows disputes along the different paths shown in Figures 3.1 and 3.2, providing detail on timelines and outcomes.

---

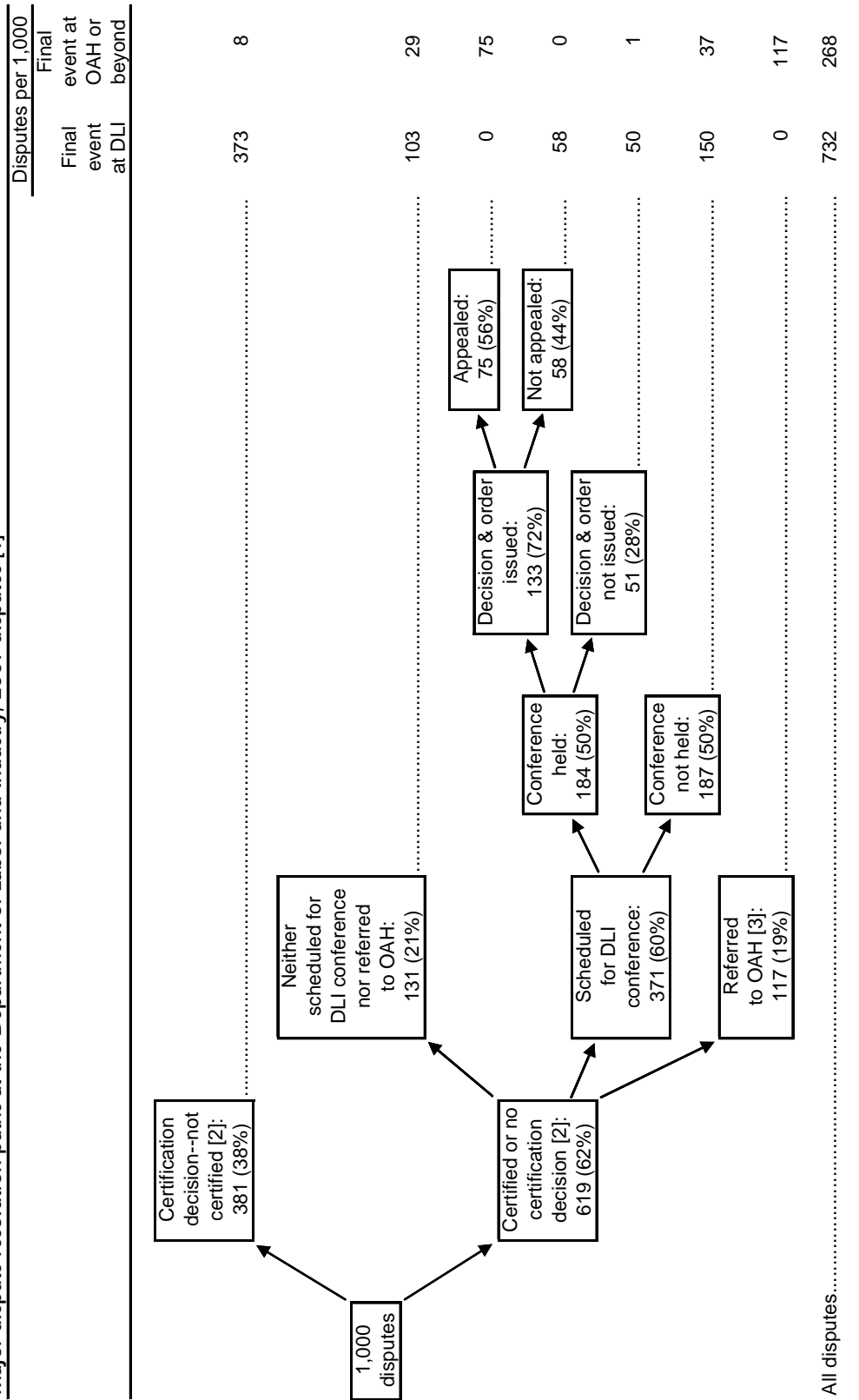
<sup>14</sup> See note 3 in the two figures regarding the total number of referrals to OAH.

Figure 3.1  
Major dispute-resolution paths at the Department of Labor and Industry, 2003 disputes [1]



1. All numbers are numbers of disputes per 1,000 total disputes. Percentages at each step are relative to the total number of disputes at the preceding step. More detail is provided in Appendix 8.  
 2. Disputes not certified because of pending litigation are counted with certified disputes because they continue through the dispute-resolution process. Some disputes do not show evidence of a certification decision. They are counted with certified disputes because the dispute-resolution experience for them more closely resembles that of certified disputes than of not-certified disputes. More information about disputes without a certification decision is presented in Figures 4.1, 4.2 and 4.4.  
 3. This counts those disputes referred to OAH that were certified (or had no certification decision) and were not scheduled for a DLI conference. An additional 43 disputes per 1,000 that were not certified or were scheduled for conference were eventually referred to OAH.

Figure 3.2  
Major dispute-resolution paths at the Department of Labor and Industry, 2007 disputes [1]



1. All numbers are numbers of disputes per 1,000 total disputes. Percentages at each step are relative to the total number of disputes at the preceding step. More detail is provided in Appendix 8.

2. Disputes not certified because of pending litigation are counted with certified disputes because they continue through the dispute-resolution process. Some disputes do not show evidence of a certification decision. They are counted with certified disputes because the dispute-resolution experience for them more closely resembles that of certified disputes than of not-certified disputes. More information about disputes without a certification decision is presented in Figures 4.1, 4.2 and 4.4.

3. This counts those disputes referred to OAH that were certified (or had no certification decision) and were not scheduled for a DLI conference. An additional 32 disputes per 1,000 that were not certified or were scheduled for conference were eventually referred to OAH.



## DLI dispute-resolution process for 2003 and 2007 disputes

### Dispute certification decisions

For 2003, 141 disputes per 1,000 did not show evidence of a certification decision in the imaged documents or the DLI log (Figure 4.1). By 2007 this number had fallen to 76. Among the remaining disputes, most had one certification decision, although 60 per 1,000 for 2003 and 71 per 1,000 for 2007 had two or more, most of these having two decisions.

Among disputes without a certification decision, 38 percent for 2003, and 39 percent for 2007, were referred to OAH (Figure 4.2). Of those not referred, a majority were resolved informally, were determined in need of no further action, had a medical response indicating already paid or agree to pay, or were withdrawn. Some, however, such as those with a certification request or medical request as final event, have no indication of closure in the record.

The first certification decision typically happens within seven days of the presentation of the dispute (median days in Figure 4.3).<sup>15</sup> However, for 10 percent of disputes, the certification process took roughly a month or longer (32 days and 28 days at the 90th percentile for the two years). Because the distribution of days to the certification decision is skewed to the right,<sup>16</sup> the

average number of days was 14 and 12 per 1,000 for the two years respectively.

Among disputes with a certification decision, 60 percent were certified for 2003 and 55 percent for 2007 (Figure 4.4). Most disputes with a “not certified” decision had that result because they were resolved in the certification process. The major change between 2003 and 2007 was a shift in disputes from “no decision” (down 65, from 141 to 76 per 1,000) to “not certified — resolved” (up 73, from 258 to 331 per 1,000). The degree to which this reflects a real shift as opposed to an improvement in recordkeeping is unknown.

For those disputes with more than one certification decision, there was a median of 56 days between the first and last decisions for 2003, and 48 days for 2007 (Figure 4.5). Between the two years, the gap between the first and last decisions fell markedly at the upper end of the distribution — for example, from 308 days to 176 days at the 90<sup>th</sup> percentile.

Figure 4.6 shows how often the certification decision changed or remained the same between the first and last decisions in these cases. For 43 percent of the cases for 2003, and 54 percent of the cases for 2007, the decision remained the same. A common occurrence was a change from not certified to certified (43 percent of the 2003 disputes and 38 percent for 2007).

---

<sup>15</sup> The presentation of the dispute in this analysis is the date of the first dispute document, generally either a dispute certification request or a medical request.

<sup>16</sup> A distribution is said to be skewed to the right (or left) if it extends out farther from the median in that direction than in the other direction.

**Figure 4.1**  
**Number of certification**  
**decisions per dispute**

Number of certification decisions	Disputes per 1,000 [1]	
	2003 disputes	2007 disputes
None	141	76
One or more	859	924
1	799	854
2	54	66
3	5	5
4	~	
5	1	
Total	1,000	1,000

1. Numbers may not add exactly to totals because of rounding (see pp. 2, 3). "~" means a positive number less than 0.5.

**Figure 4.2**  
**Referrals to OAH and selected final events for disputes without a certification decision**

	2003 disputes		2007 disputes	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
Referred to OAH	53	38%	30	39%
No referral to OAH indicated	88	62%	46	61%
Final event:				
Resolved informally while issue is at DLI or DLI determines no further action needed	14	10%	14	18%
Medical response — already paid or agree to pay	21	15%	10	13%
Issue withdrawn	34	24%	8	11%
Certification request or medical request	4	3%	5	7%
Medical request rejected by DLI	4	3%	1	1%
Other [1]	11	8%	8	11%
Total	141	100%	76	100%

1. Includes claim petition, medical response (refuse to pay), award on agreement (DLI), conference decision and order (DLI), order for consolidation, award on stipulation and other document issued (DLI).

**Figure 4.3**  
**Number of days from presentation of dispute to first certification decision, for disputes with at least one certification decision**

	Number of days	
	2003 disputes	2007 disputes
Mean (average)	14	12
5th percentile	0	0
10th percentile	0	1
25th percentile	3	3
50th percentile (median)	7	7
75th percentile	17	14
90th percentile	32	28
95th percentile	43	38
Disputes with data per 1,000 [1]	854	923

1. Some of the disputes concerned (859 per 1,000 for 2003, 924 for 2007) are excluded because of missing or unreliable dates.

**Figure 4.4**  
**Nature of dispute certification decision [1]**

Nature of decision [2]	2003 disputes		2007 disputes	
	Disputes per 1,000	Pctg. among disputes with decision	Disputes per 1,000	Pctg. among disputes with decision
Disputes with decision	859	100%	924	100%
Certified	516	60%	509	55%
Not certified	342	40%	416	45%
<i>Resolved [3]</i>	258	30%	331	36%
<i>Litigation pending</i>	28	3%	34	4%
<i>Other [3]</i>	56	7%	51	6%
Disputes without decision	141		76	
Total	1,000		1,000	

1. Numbers may not add exactly to totals because of rounding (see pp. 2, 3).
2. If the dispute has more than one certification decision, the last decision is counted here.
3. In Figures 3.1 and 3.2, "not certified" consists of the categories "not certified — resolved" and "not certified — other" in the present figure. The category "certified or no certification decision" in Figures 3.1 and 3.2 comprises the remaining categories in the present figure. As noted in Figures 3.1 and 3.2, disputes not certified because of pending litigation are counted with certified disputes because they continue through the dispute-resolution process.

Figure 4.5

Number of days from first certification decision to last decision, for disputes with more than one decision

	Number of days	
	2003 disputes	2007 disputes
Mean (average)	104	70
5th percentile	5	6
10th percentile	6	8
25th percentile	23	23
50th percentile (median)	56	48
75th percentile	117	83
90th percentile	308	176
95th percentile	357	265
Disputes with data per 1,000 [1]	52	57

1. Some of the disputes concerned (60 per 1,000 for 2003, 71 for 2007) are excluded because of missing or unreliable dates.

Figure 4.6

First and last certification decisions for disputes with more than one decision

First decision	Last decision	2003 disputes		2007 disputes	
		Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
Certified	Certified	14	23%	12	17%
Not certified	Not certified	12	20%	26	37%
Total with decision staying the same		26	43%	38	54%
Certified	Not certified	8	13%	5	7%
Not certified	Certified	26	43%	27	38%
Total with decision changing		34	57%	32	45%
Total		60	100%	71	100%

1. Numbers may not add exactly to totals because of rounding (see pp. 2, 3).

## First major event at DLI for certified disputes

As shown in Figures 3.1 and 3.2, a large number of certified disputes (193 per 1,000 for 2003 and 131 for 2007) were neither scheduled for a DLI conference nor referred to OAH.

As shown in Figure 5.1, most of these disputes reached resolution or at least had their final event at DLI or after DLI action. The most common final event was the dispute certification decision itself. Apparently in these cases the parties did not pursue the dispute after it was certified. The final-event categories in the figure generally indicate the parties were settling the dispute or not pursuing it further.

For those certified disputes scheduled for DLI conference, the median time from the first medical request to the first conference notice dropped from 29 days to 11 days between 2003 and 2007 (Figure 5.2). The median days from notice to scheduled conference date was about the same for the two years — 34 days for 2003 and 32 days for 2007. As a result, the median amount of time from the first medical request to the first scheduled conference date dropped from 66 days for 2003 to 44 days for 2007. Because of the more prompt issuance of the conference notice for 2007, the time intervals measured from the presentation of the dispute also dropped.

For disputes referred to OAH, the most prominent referral reason changed noticeably between 2003 and 2007 (Figure 5.3).<sup>17</sup> The monetary threshold limiting DLI jurisdiction in medical disputes was raised from \$1,500 to \$7,500 by the 2005 Legislature. Consequently, the number of disputes referred because they were above the threshold dropped from 151 per 1,000 in 2003 (49 percent of referred disputes) to 27 per 1,000 in 2007 (18 percent). Interestingly, the number of disputes referred because of a surgery issue was essentially the

same between the two years, although this number made up a larger percentage of the total referred in 2007. The numbers of disputes referred because of concurrent litigation or pain management issues also fell between 2003 and 2007. However, most of the decrease in the total number of disputes referred was attributable to the decrease in disputes referred because they were above the monetary threshold.

When DLI refers a dispute to OAH, the referral usually happens early in the dispute-resolution process (Figure 5.4). For disputes certified and not scheduled for conference (first two columns in the figure), the median referral time for 2003 was eight or 22 days depending on whether the time was measured from the medical request or presentation of the dispute. For 2007, the median time was about the same as measured from the first medical request, but had fallen to 15 days as measured from dispute presentation, with relatively large declines at the upper end of the distribution. The total number of disputes referred to OAH (last two columns in the figure) includes those in the first two columns plus (1) those first scheduled for conference and then referred and (2) those with a certification decision of “not certified.” When this overall total is considered, the referral times are somewhat longer than for the smaller group of referrals (first two columns).

One question of interest is whether there are any observable differences in the characteristics of disputes traveling the three major paths for certified disputes in addition to the “not certified” path in Figures 3.1 and 3.2. Figures 5.5 through 5.7 compare the disputes along these four major paths with respect to nature of injury, service at issue and point in dispute.

The disputes along the four major paths do not seem to differ significantly by nature of injury (Figure 5.5). For the 2003 disputes, the percentage with sprains, strains, tears or pain ranged from 69 percent to 79 percent for the four dispute paths. For 2007, the percentage ranged from 74 percent to 84 percent. For both years, this injury category was somewhat more prominent among the disputes referred to OAH than among the others, but this was a weak tendency.

---

<sup>17</sup> OAH currently has jurisdiction in medical disputes where the disputed amount is more than \$7,500, and in medical and vocational rehabilitation disputes where primary liability is at issue. DLI at its discretion may refer other medical and vocational rehabilitation disputes to OAH. Minnesota Statutes §176.106.

With regard to service at issue (Figure 5.6), the four major paths do not show much difference from each other except where surgery is concerned. Not only was surgery most prevalent among those disputes referred to OAH, but it was much more so for 2007 than for 2003. Although surgery was at issue in somewhat fewer disputes referred to OAH in 2007 than in 2003 (81 per 1,000 as opposed to 94), it accounted for 48 percent of all services at issue in these disputes for 2007 as opposed to 20 percent for 2003. This is because of the same reason as in Figure 5.3 — namely, that about as many disputes were being referred because of a surgery issue in 2007 as in 2003, but fewer disputes were being referred for other reasons. Apart from surgery, there are some differences among the four major dispute paths in the relative prevalence of different issues. However, there do not seem to be any strong differences that are consistent across the two years.

With regard to point in dispute, the picture is mixed (Figure 5.7). For disputes with a certification decision of “not certified,” the percentage of disputes with “no reason given or not disputed” was 83 and 86 percent for 2003 and 2007, respectively.<sup>18</sup> For disputes neither scheduled for DLI conference nor referred to OAH, the percentage was 65 and 60 percent for the two years; for the other two major dispute paths the percentage was relatively low.

The high percentage of disputes with “no reason given or not disputed” is to be expected for “not

certified” disputes and for those neither scheduled for conference nor referred to OAH, because many of these disputes are resolved informally or withdrawn at an early stage (Figures 4.4, 5.1). More generally, the longer a dispute continues, especially if it is heard in a conference or hearing, the more likely a point in dispute (insurer defense) will come to light in the source data.

For both 2003 and 2007, the disputes scheduled for DLI conference and those referred to OAH showed similar distributions among the reported point-in-dispute categories, with exceptions involving causation and choice of provider for 2003. Disputes with a certification decision of “not certified” and those neither scheduled for conference nor referred to OAH (especially the former category) showed a relatively low prevalence of causation and reasonableness and necessity as dispute points. In a relatively high percentage of disputes “not certified” (compared to the other three major dispute paths), the insurer was asserting it needed bills. This was especially true for 2007 (37 percent of “not certified” disputes). This makes sense because if the insurer’s need for bills is the reason for nonpayment, the dispute should be especially amenable to informal resolution through the dispute certification process. For 2003 and 2007, the percentage of disputes with “other reason” as a dispute point was relatively high for “not certified” disputes and for those neither referred to OAH nor scheduled for conference.

---

<sup>18</sup> These percentages are not shown in the figure because of limited space, given that the percentages shown are with respect to the number of *reported* points in dispute (see note 7 in the figure).

Figure 5.1

Final event for disputes neither referred to the Office of Administrative Hearings nor scheduled for conference at the Department of Labor and Industry

Final event	2003 disputes		2007 disputes	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
Final event is at DLI or after DLI action	181	94%	103	79%
Dispute certification decision [1]	52	27%	42	32%
Medical response—already paid or agree to pay	40	21%	15	11%
Issue resolved by parties or DLI intervention	25	13%	12	9%
Issue withdrawn	34	18%	9	7%
Award on stipulation [2]	16	8%	9	7%
DLI determines issues need no further action [3]	0	0%	7	5%
Certification request or medical request	5	3%	5	4%
Medical request rejected by DLI	4	2%	1	1%
Nonconference decision-and-order (DLI)	3	2%	0	0%
Other [4]	2	1%	3	2%
Final event is at OAH or after OAH action [5]	12	6%	29	22%
<b>Total</b>	<b>193</b>	<b>100%</b>	<b>131</b>	<b>100%</b>

1. Most of these certification decisions were to certify the dispute; a smaller number were to not certify because of pending litigation.
2. An award on stipulation is counted as occurring at OAH or after OAH action if it was preceded by any events occurring at OAH; otherwise, it is counted as occurring at DLI or after DLI action. This category excludes mediation award and order on agreement.
3. This code was only used for 2007.
4. Includes medical response (refuse to pay), insurer-filed independent medical examination report, amendment of medical request, informal agreement at mediation and order staying medical request.
5. For 2007 disputes, 20 of the 29 cases per 1,000 with final event at OAH had a claim petition on the same issues, while for 2003 disputes this was true in only five of the 12 cases per 1,000.

Figure 5.2

## Timelines related to conference scheduling at the Department of Labor and Industry

	Number of days				
	First medical request to first conference notice	Presentation of dispute to first conference notice	First conference notice to scheduled conference date	First medical request to scheduled conference date	Presentation of dispute to scheduled conference date
<b>2003 disputes</b>					
Mean (average)	35	54	36	71	89
5th percentile	8	17	16	36	42
10th percentile	13	21	19	41	49
25th percentile	20	29	23	53	62
50th percentile (median)	29	43	34	66	82
75th percentile	45	63	46	85	104
90th percentile	63	94	56	106	136
95th percentile	77	117	63	117	155
Disputes with data per 1,000 [1]	211	214	214	214	217
<b>2007 disputes</b>					
Mean (average)	16	38	33	50	71
5th percentile	2	6	16	27	34
10th percentile	3	8	19	31	36
25th percentile	6	15	23	36	46
50th percentile (median)	11	26	32	44	60
75th percentile	22	43	41	58	79
90th percentile	35	76	52	74	119
95th percentile	44	108	60	89	151
Disputes with data per 1,000 [1]	353	356	356	354	358

1. Some of the disputes concerned (226 per 1,000 for 2003, 371 for 2007) are excluded because of missing or unreliable dates or the presence of intervening events that might change the course of the dispute.

Figure 5.3

## Referral reason for all disputes referred to the Office of Administrative Hearings [1]

Referral reason	2003 disputes		2007 disputes	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
Amount in dispute above threshold [2]	151	49%	27	18%
Surgery issue	79	25%	75	50%
Concurrent litigation on same issue(s)	47	15%	26	18%
Primary liability issue(s)	4	1%	7	5%
Pain management issue(s)	18	6%	5	3%
Requested by parties	2	1%	2	2%
Order for consolidation	2	1%	1	1%
Other reason or reason not given	7	2%	6	4%
Total [1]	310	100%	149	100%

1. This figure includes all cases referred to OAH, including those not certified or first scheduled for a DLI conference.

2. \$1,500 for 2003, \$7,500 for 2007.



**Figure 5.4**  
**Timelines related to referral to the Office of Administrative Hearings**

	Number of days			
	Disputes referred that were certified and not scheduled for conference [1]		All disputes referred [2]	
	First medical request to first referral	Presentation of dispute to first referral	First medical request to first referral	Presentation of dispute to first referral
<b>2003 disputes</b>				
Mean (average)	15	39	23	46
5th percentile	1	4	1	4
10th percentile	1	7	1	7
25th percentile	4	11	5	13
50th percentile (median)	8	22	11	26
75th percentile	19	43	24	53
90th percentile	30	71	53	103
95th percentile	45	116	89	136
Disputes with data per 1,000 [3]	259	266	301	309
<b>2007 disputes</b>				
Mean (average)	11	24	22	34
5th percentile	0	0	0	1
10th percentile	0	4	1	6
25th percentile	3	8	4	9
50th percentile (median)	7	15	8	24
75th percentile	13	31	28	43
90th percentile	29	52	59	73
95th percentile	49	73	87	96
Disputes with data per 1,000 [3]	112	117	144	149

1. "Certified disputes" include, in addition to those actually certified, those with no certification decision and those not certified because of pending litigation.
2. Includes the disputes in the first two columns plus those that were not certified or were scheduled for conference but eventually referred to OAH.
3. Disputes without certification decisions are not counted in the first column within each pair of columns. Therefore, the number of disputes with data is lower in the first column than in the second column within each pair. For 2003, some disputes are excluded because of missing or unreliable dates.

**Figure 5.5**  
**Nature of injury for the four major dispute paths at the Department of Labor and Industry**

Nature of injury [1]	Certification decision — not certified [2]		Certified or no certification decision [2]					
			Neither scheduled for DLI conference nor referred to OAH		Scheduled for DLI conference		Referred to OAH [3]	
	Disputes per 1,000	Pctg. of all natures of injury [4]	Disputes per 1,000	Pctg. of all natures of injury [4]	Disputes per 1,000	Pctg. of all natures of injury [4]	Disputes per 1,000	Pctg. of all natures of injury [4]
<b>2003 disputes</b>								
Sprains, strains, tears, pain [5]	227	69%	141	71%	180	76%	226	79%
<i>Back</i>	123	[9]	82	[9]	103	[9]	139	[9]
<i>Neck</i>	43		21		46		38	
<i>Shoulder</i>	27		22		38		48	
<i>Knee</i>	18		14		14		22	
<i>Other</i>	39		18		26		30	
Peripheral nerve disorders [6]	15	5%	6	3%	14	6%	15	5%
Fractures	9	3%	9	5%	8	3%	10	4%
Mental disorders or syndromes	2	1%	2	1%	3	1%	3	1%
Intracranial injuries, concussions	1	0%	1	1%	2	1%	2	1%
Bruises, contusions, crushes	10	3%	5	3%	2	1%	5	2%
Cuts, punctures [7]	7	2%	2	1%	2	1%	1	0%
Other	14	4%	7	4%	6	3%	11	4%
Nonclassifiable or not indicated	42	13%	28	14%	17	7%	10	4%
<b>Total disputes</b>	<b>314</b>		<b>193</b>		<b>226</b>		<b>267</b>	
<b>Total natures of injury per 1,000 disputes [8]</b>	<b>327</b>	<b>100%</b>	<b>198</b>	<b>100%</b>	<b>236</b>	<b>100%</b>	<b>285</b>	<b>100%</b>
<b>2007 disputes</b>								
Sprains, strains, tears, pain [5]	310	78%	106	79%	296	74%	102	84%
<i>Back</i>	151	[9]	60	[9]	181	[9]	44	[9]
<i>Neck</i>	62		22		58		20	
<i>Shoulder</i>	55		17		67		19	
<i>Knee</i>	44		13		28		21	
<i>Other</i>	52		14		40		13	
Peripheral nerve disorders [6]	17	4%	8	6%	23	6%	5	4%
Fractures	14	4%	6	4%	17	4%	5	4%
Mental disorders or syndromes	2	1%	1	1%	15	4%	2	2%
Intracranial injuries, concussions	9	2%	2	1%	9	2%	1	1%
Bruises, contusions, crushes	6	2%	1	1%	7	2%	2	2%
Cuts, punctures [7]	3	1%	2	1%	3	1%	2	2%
Other	16	4%	2	1%	14	3%	4	3%
Nonclassifiable or not indicated	24	6%	8	6%	19	5%	2	2%
<b>Total disputes</b>	<b>381</b>		<b>131</b>		<b>371</b>		<b>117</b>	
<b>Total natures of injury per 1,000 disputes [8]</b>	<b>399</b>	<b>100%</b>	<b>135</b>	<b>100%</b>	<b>401</b>	<b>100%</b>	<b>122</b>	<b>100%</b>

1. In this figure, nature of injury is counted without regard to part of body. If the same nature of injury affects more than one body part, it is counted once.
2. Disputes not certified because of pending litigation are counted with certified disputes because they continue through the dispute-resolution process.
3. Additional disputes — 43 per 1,000 for 2003, 32 per 1,000 for 2007 — that were not certified or were scheduled for conference were eventually referred to OAH.
4. See note 2 in Figure 2.3, which applies here to the four major dispute paths.
5. Also includes reflex sympathetic dystrophy. The sum of disputes in the subcategories (part of body) is greater than the number in the overall category (nature of injury) because more than one subcategory may be present in the same dispute.
6. Includes carpal tunnel syndrome among others.
7. Includes open wounds and abrasions.
8. Total natures of injury is greater than total disputes because a dispute may have more than one nature of injury.
9. Percentages are not given for these subcategories because the percentages are relative to the total natures of injury, each nature of injury being counted once regardless of the number of body parts affected.

**Figure 5.6**  
**Service at issue for the four major dispute paths at the Department of Labor and Industry**

Service at issue	Certification decision — not certified [1]		Certified or no certification decision [1]					
			Neither scheduled for DLI conference nor referred to OAH		Scheduled for DLI conference		Referred to OAH [2]	
	Disputes per 1,000	Pctg. of all services at issue [3]	Disputes per 1,000	Pctg. of all services at issue [3]	Disputes per 1,000	Pctg. of all services at issue [3]	Disputes per 1,000	Pctg. of all services at issue [3]
<b>2003 disputes</b>								
Diagnostic imaging	68	18%	62	24%	50	16%	68	14%
Surgery (and associated servs.)	39	10%	20	8%	5	2%	94	20%
Office or clinic visit	49	13%	24	9%	29	9%	37	8%
Medications	37	10%	18	7%	31	10%	31	6%
Referral or consultation	22	6%	17	7%	32	10%	29	6%
Physical therapy services [4]	39	10%	22	9%	39	12%	47	10%
Chiropractic services	22	6%	13	5%	27	9%	35	7%
Therapeutic injections	7	2%	6	2%	14	4%	17	4%
Ancillary services [5]	17	4%	11	4%	12	4%	19	4%
Equip. & supp. for claimant use	10	3%	10	4%	13	4%	15	3%
Change of doctor	12	3%	9	4%	14	4%	6	1%
Mental health services	3	1%	4	2%	5	2%	8	2%
Emergency services	6	2%	3	1%	5	2%	9	2%
Functional capacity evaluation [4]	3	1%	5	2%	5	2%	3	1%
Pain clinic	5	1%	3	1%	3	1%	16	3%
Other services	42	11%	28	11%	29	9%	44	9%
<b>Total disputes</b>	<b>314</b>		<b>193</b>		<b>226</b>		<b>267</b>	
<b>Total services at issue per 1,000 disputes [6]</b>	<b>381</b>	<b>100%</b>	<b>255</b>	<b>100%</b>	<b>313</b>	<b>100%</b>	<b>478</b>	<b>100%</b>
<b>2007 disputes</b>								
Diagnostic imaging	81	17%	18	11%	73	14%	10	6%
Surgery (and associated servs.)	48	10%	25	15%	16	3%	81	48%
Office or clinic visit	52	11%	17	10%	62	12%	11	7%
Medications	49	10%	12	7%	62	12%	10	6%
Referral or consultation	43	9%	14	9%	46	9%	8	5%
Physical therapy services [4]	32	7%	16	10%	49	9%	5	3%
Chiropractic services	16	3%	13	8%	42	8%	7	4%
Therapeutic injections	26	5%	10	6%	32	6%	2	1%
Ancillary services [5]	24	5%	6	4%	16	3%	6	4%
Equip. & supp. for claimant use	23	5%	8	5%	18	3%	2	1%
Change of doctor	10	2%	3	2%	21	4%	2	1%
Mental health services	5	1%			17	3%	3	2%
Emergency services	9	2%	2	1%	12	2%	2	1%
Functional capacity evaluation [4]	7	1%	2	1%	12	2%	2	1%
Pain clinic	7	1%	2	1%	11	2%	5	3%
Other services	47	12%	16	6%	38	12%	13	3%
<b>Total disputes</b>	<b>381</b>		<b>131</b>		<b>371</b>		<b>117</b>	
<b>Total services at issue per 1,000 disputes [6]</b>	<b>479</b>	<b>100%</b>	<b>164</b>	<b>100%</b>	<b>527</b>	<b>100%</b>	<b>169</b>	<b>100%</b>

1. Disputes not certified because of pending litigation are counted with certified disputes because they continue through the dispute-resolution process.
2. Additional disputes — 43 per 1,000 for 2003, 32 per 1,000 for 2007 — that were not certified or were scheduled for conference were eventually referred to OAH.
3. See note 1 in Figure 2.4, which applies here to the four major dispute paths.
4. Functional capacity evaluation (FCE) falls under the broad category of physical therapy services, but was coded separately because it is an evaluation rather than a treatment. A code was not available for FCE initially for the 2003 data, but the physical therapy services for 2003 were re-examined and re-coded to FCE as appropriate.
5. Mileage, food and lodging.
6. Total services at issue is greater than total disputes because a dispute may have more than one service at issue.

Figure 5.7

## Point in dispute for the four major dispute paths at the Department of Labor and Industry

Point in dispute [3]	Certification decision — not certified [1]		Certified or no certification decision [1]					
			Neither scheduled for DLI conference nor referred to OAH		Scheduled for DLI conference		Referred to OAH [2]	
	Disputes per 1,000	Pctg. of all reported points in dispute [4]	Disputes per 1,000	Pctg. of all reported points in dispute [4]	Disputes per 1,000	Pctg. of all reported points in dispute [4]	Disputes per 1,000	Pctg. of all reported points in dispute [4]
<b>2003 disputes</b>								
Primary liability	11	20%	9	12%	8	3%	16	6%
Causation	12	22%	29	38%	122	51%	163	58%
Reasonableness and necessity	5	9%	11	14%	68	29%	79	28%
IR asserts it needs bills	6	11%	3	4%	4	2%	4	1%
IR asserts issue previously closed in stipulation			2	3%	~	0%	1	0%
Choice of provider	3	5%	3	4%	18	8%	7	2%
Amount of payment	4	7%	7	9%	4	2%	3	1%
IR wants IME or second opinion	1	2%			~	0%	1	0%
IR asserts CMCO dispute-resolution process not exhausted	3	5%	1	1%	1	0%	1	0%
Other reason [5]	9	16%	11	14%	10	4%	7	2%
No reason given or not disputed	262		126		37		36	
<b>Total disputes</b>	<b>314</b>		<b>193</b>		<b>226</b>		<b>267</b>	
Total points in dispute per 1,000 disputes [6]	317		202		274		319	
Reported points in dispute per 1,000 disputes [7]	55	100%	76	100%	237	100%	283	100%
<b>2007 disputes</b>								
Primary liability	6	10%	14	23%	33	10%	12	12%
Causation	9	15%	24	39%	163	47%	49	48%
Reasonableness and necessity	4	7%	8	13%	96	28%	24	24%
IR asserts it needs bills	22	37%	3	5%	4	1%	1	1%
IR asserts issue previously closed in stipulation	2	3%	3	5%	13	4%	4	4%
Choice of provider	~	0%			15	4%	2	2%
Amount of payment	3	5%	3	5%	7	2%	2	2%
IR wants IME or second opinion	5	8%	1	2%	2	1%	6	6%
IR asserts CMCO dispute-resolution process not exhausted	2	3%			2	1%		
Other reason [5]	9	15%	6	10%	13	4%	5	5%
No reason given or not disputed	327		78		76		30	
<b>Total disputes</b>	<b>381</b>		<b>131</b>		<b>371</b>		<b>117</b>	
Total points in dispute per 1,000 disputes [6]	387		140		423		132	
Reported points in dispute per 1,000 disputes [7]	60	100%	62	100%	347	100%	102	100%

Note: IR = insurer; IME = independent medical examination; CMCO = certified managed care organization.

- Disputes not certified because of pending litigation are counted with certified disputes because they continue through the dispute-resolution process. "~" means a positive number less than 0.5.
- Additional disputes — 43 per 1,000 for 2003, 32 per 1,000 for 2007 — that were not certified or were scheduled for conference were eventually referred to OAH.
- See Appendix 2 for definitions of point in dispute and of the major point-in-dispute categories.
- See note 2 in Figure 2.5, which applies here to the four major dispute paths.
- Detail unavailable.
- Total points in dispute is equal to reported points in dispute plus disputes with "no reason given or not disputed." It is greater than total disputes because a dispute may have more than one point in dispute.
- A reported point in dispute is one that is indicated in the record. Reported points in dispute is equal to total points in dispute minus disputes with "no reason given or not disputed."

## Disputes scheduled for DLI conference

A variety of experiences occur for disputes scheduled for administrative conference at DLI.

Among these disputes, 21 percent had one or more re-sets<sup>19</sup> for 2003, as did 19 percent for 2007 (Figure 6.1). As indicated in Appendix 3, under changes initiated in 2005, DLI began approving re-sets only upon showing of good cause. The slight reduction in the frequency of re-sets between the 2003 and 2007 disputes suggests a downward trend, but is not conclusive.

In most of the disputes with re-sets there was just one, but a small number had more than one. For 2003, the numbers of re-sets were about the same for conferences held and those not held, although for 2007 re-sets were somewhat more common among conferences held.

In slightly more than half of these re-sets, the reason for the re-set was not indicated in the record (Figure 6.2). Approximately 30 percent of the re-sets for both 2003 and 2007 were requested by the employee (or attorney). Ten percent of the re-sets for 2003 and 13 percent for 2007 were requested by the insurer (or attorney).

For re-set conferences, there was a median of 27 days between the original and re-set proceeding dates for 2003, which dropped to 23 for 2007 (Figure 6.3). For 10 percent of the cases, there were two months or more between re-set

conference dates (gauging from data at the 90<sup>th</sup> percentile).

As shown in Figures 3.1 and 3.2, about half of the scheduled conferences were actually held for both years. For those not held, the most common reason was an agreement had been reached or was in progress (Figure 6.4). In other cases, the dispute had been referred to OAH or withdrawn, or the parties had agreed to use mediation.

More information is given about the outcome of these disputes in Figure 6.5. Only limited information is given for the 2007 disputes because many of them were not complete at the time of coding. Among the 2003 disputes where the scheduled conference was not held, most resolved informally, had an award on stipulation or were withdrawn. Somewhat more than two-thirds of the resolutions were at (or after action at) DLI as opposed to OAH. The data available at this point for the 2007 disputes suggests a similar pattern.

The timelines associated with these resolutions are shown in Figure 6.6. For the 2003 disputes, the median time from first medical request to final event was 61 days where the dispute resolved informally at DLI, 122 days for an award on stipulation after DLI action and 347 days for an award on stipulation after OAH action (see note 3 in the figure). At the 90<sup>th</sup> percentile, these times were considerably longer. For the 2007 disputes, the times had fallen significantly for informal resolutions and awards on stipulation after DLI action.

---

<sup>19</sup> As used in this report, the term “re-set” means an instance of rescheduling a proceeding where the proceeding did not begin on the originally scheduled date. In this instance, the rescheduling notice is typically sent to the parties before the originally scheduled proceeding date. The term “re-set” is used to distinguish this instance from the case where the proceeding continued on a later date after beginning on the originally scheduled date. Both cases are included in the term “continuance” as used in Minnesota Rules part 1415.3700, subp. 6.

Figure 6.1

## Re-sets of conferences at the Department of Labor and Industry during dispute [1]

Number of re-sets	2003 disputes						2007 disputes					
	Conference not held		Conference held		Total		Conference not held		Conference held		Total	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
None	94	80%	85	79%	179	79%	156	83%	143	78%	299	81%
One or more	24	20%	23	21%	47	21%	31	17%	41	22%	72	19%
1	20	17%	17	16%	38	17%	26	14%	33	18%	60	16%
2	3	3%	5	5%	7	3%	4	2%	7	4%	11	3%
3	1	1%	1	1%	2	1%	1	1%	1	1%	2	1%
4	~	0%			~	0%						
Total	118	100%	108	100%	226	100%	187	100%	184	100%	371	100%

1. Numbers may not add exactly to totals because of rounding (see pp. 2, 3). "~" means a positive number less than 0.5.

Figure 6.2

## Party requesting re-set of scheduled conference at the Department of Labor and Industry

Party requesting re-set	2003 disputes		2007 disputes	
	Re-sets per 1,000 disputes	Pctg. of total	Re-sets per 1,000 disputes	Pctg. of total
Employee (or attorney)	17	29%	26	30%
Insurer (or attorney)	6	10%	11	13%
Employee and insurer (or attorneys)	1	2%	2	2%
DLI staff [1]	4	7%	2	2%
Not indicated	31	53%	45	52%
Total	59	100%	86	100%

1. Re-sets initiated by DLI staff are typically in response to events in the dispute, such as a late motion to intervene.

Figure 6.3

## Time between scheduled dates of re-set administrative conferences at the Department of Labor and Industry, 2003 disputes

	Number of days	
	2003 disputes	2007 disputes
Mean (average)	32	27
5th percentile	2	2
10th percentile	4	4
25th percentile	13	10
50th percentile (median)	27	23
75th percentile	45	41
90th percentile	63	61
95th percentile	77	68
Resets with data per 1,000 disputes [1]	57	84

1. Some disputes are excluded because of missing or unreliable dates.

Figure 6.4

Reason not held for scheduled conferences at the Department of Labor and Industry that were not held

Reason conference not held	2003 disputes		2007 disputes	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
Agreement reached or in process	64	54%	115	61%
Referred to OAH	30	25%	26	14%
Withdrawn	18	15%	25	13%
Parties using mediation	1	1%	4	2%
Other	5	4%	17	9%
<b>Total</b>	<b>118</b>	<b>100%</b>	<b>187</b>	<b>100%</b>

Figure 6.5

Final event for disputes with scheduled conferences at the Department of Labor and Industry that were not held

Final event	2003 disputes		2007 disputes [1]	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
Final event is at DLI or after DLI action	83	70%		
Issue resolved informally [2]	40	34%	67	36%
Award on stipulation [3]	20	17%	40	21%
Issue withdrawn	16	14%	24	13%
Medical response — already paid or agree to pay	3	3%	9	5%
Other [4]	4	3%		
Final event is at OAH or after OAH action	36	31%		
Award on stipulation [3]	19	16%		
Conference decision-and-order	4	3%		
Findings-and-order	4	3%		
Issue withdrawn	3	3%		
Order for dismissal	2	2%		
Other [5]	4	3%		
<b>Total</b>	<b>118</b>	<b>100%</b>	<b>187</b>	<b>100%</b>

1. For 2007 disputes, final events are not shown for DLI — other or for OAH, because the 2007 disputes were still in process and it was not yet known how many of these disputes would fall into these categories.
2. Includes (in declining order of frequency) letter resolving issue, resolved by parties (no document), resolved by DLI intervention, mediation award or other written agreement, letter or other document confirming agreement at proceeding and DLI determines no further action needed.
3. An award on stipulation is counted as occurring at OAH or after OAH action if it was preceded by any events occurring at OAH; otherwise, it is counted as occurring at DLI or after DLI action. This category excludes mediation award and order on agreement.
4. Primarily includes medical response (refuse to pay) and DLI conference not held.
5. Includes issue resolved by parties, OAH administrative conference scheduled, OAH order on agreement and WCCA decision.

Figure 6.6

Timelines to final events for disputes with scheduled conferences at the Department of Labor and Industry that were not held

	Number of days					
	Medical request to final event			Presentation of dispute to final event		
	Final event:			Final event:		
	Resolved informally at DLI [1]	Award on stipulation after DLI action [2]	Award on stipulation after OAH action [2]	Resolved informally at DLI [1]	Award on stipulation after DLI action [2]	Award on stipulation after OAH action [2]
<b>2003 disputes</b>						
Mean (average)	72	155	367	92	173	390
5th percentile	30	45	110	35	53	117
10th percentile	34	85	117	41	93	161
25th percentile	45	96	217	56	106	239
50th percentile (median)	61	122	347	71	146	355
75th percentile	84	195	488	107	218	515
90th percentile	120	311	664	140	320	679
95th percentile	163	314	788	242	350	788
Disputes with data per 1,000 [4]	57	20	18	57	20	19
<b>2007 disputes</b>						
Mean (average)	52	118	[3]	74	138	[3]
5th percentile	17	50		22	52	
10th percentile	21	52		31	62	
25th percentile	34	73		45	77	
50th percentile (median)	49	98		60	117	
75th percentile	63	136		87	211	
90th percentile	89	242		132	253	
95th percentile	102	275		181	295	
Disputes with data per 1,000 [4]	96	39		98	40	

1. Includes the following categories from Figure 6.4 where final event is at DLI or after DLI action: issue resolved informally, issue withdrawn and medical response — already paid or agree to pay.
2. An award on stipulation is counted as occurring after OAH action if it has been preceded by any events occurring at OAH; otherwise, it is counted as occurring after DLI action. This category excludes mediation award and order on agreement.
3. Statistics are not computed for awards on stipulation at OAH for 2007 disputes because these disputes were still in process.
4. Some disputes are excluded because of missing or unreliable dates.



## Disputes with DLI conference held

DLI decision-and-orders in most cases follow fairly soon after the administrative conference. The median time from conference to decision-and-order was nine days for 2003 and seven days for 2007, while the mean was 22 and 20 days respectively (Figure 7.1). However, for 10 percent of the cases, the time was almost seven weeks or more for 2003 and nine weeks or more for 2007. Because of the earlier scheduling of conferences in 2007, the median time from first medical request to decision-and-order fell from 92 days to 65 days between 2003 and 2007, while the time from initial dispute presentation to the decision-and-order fell from 107 to 84 days.

Figure 7.2 shows the outcomes for disputes with a conference held but no decision-and-order. For more than 60 percent of these cases for both years, there was an order on agreement or mediation award instead of a decision-and-order. For most other cases, some other form of agreement was reached or the issue was withdrawn.

In these cases without a decision-and-order, the median time from conference date to final event was five days for 2003 and two days for 2007 (Figure 7.3). From the first medical request to the final event, the median time was 75 days for 2003, but this had dropped to 60 days by 2007. Measured from dispute presentation, the median time was about two weeks longer.

**Figure 7.1**  
Timelines related to conference decision-and-orders at the Department of Labor and Industry

	Number of days		
	Conference date to decision-and-order [1]	First medical request to decision-and-order	Presentation of dispute to decision-and-order
<b>2003 disputes</b>			
Mean (average)	22	114	132
5th percentile	1	47	53
10th percentile	1	53	62
25th percentile	3	72	82
50th percentile (median)	9	92	107
75th percentile	27	120	142
90th percentile	47	182	226
95th percentile	73	227	279
Disputes with data per 1,000 [2]	79	78	79
<b>2007 disputes</b>			
Mean (average)	20	75	94
5th percentile	1	35	40
10th percentile	1	37	45
25th percentile	3	45	59
50th percentile (median)	7	65	84
75th percentile	22	94	109
90th percentile	63	118	162
95th percentile	78	148	201
Disputes with data per 1,000	133	133	133

1. Where a conference was continued, i.e., held open after the conference date to allow additional evidence to be submitted, the continuation date (the date through which it was held open) was substituted for the last scheduled conference date in counting the time to the decision-and-order.
2. Some 2003 disputes are excluded in the middle column because of missing or unreliable dates.

Figure 7.2

Final event for disputes with conference held at the Department of Labor and Industry and no decision-and-order [1]

Final event	2003 disputes		2007 disputes [2]	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
Final event is at DLI or after DLI action	27	97%		
Order on agreement or mediation award	18	62%	32	63%
Other agreement [3]	6	22%	12	23%
Withdrawn	3	10%	2	5%
Other [4]	1	2%		
Final event is at OAH or after OAH action	1	3%		
Total	28	100%	51	100%

1. Numbers may not add exactly to totals because of rounding (see pp. 2, 3).
2. For 2007 disputes, final events are not shown for DLI — other or for OAH, because the 2007 disputes were still in process and it was not yet known how many of these disputes would fall into these categories.
3. Includes (in declining order of frequency) award on stipulation, informal agreement at proceeding, resolved by parties (no document), letter or other document confirming agreement at proceeding, letter resolving issue, proceeding held (agreement to be written) and medical response (agree). (An award on stipulation is counted as occurring at OAH or after OAH action if it has been preceded by any events occurring at OAH; otherwise, it is counted as occurring at DLI or after DLI action.)
4. For 2003 disputes, consists of conference held (no agreement).

Figure 7.3

Time to final event where there was no decision-and-order after a conference held at the Department of Labor and Industry and the final event was a resolution at the Department of Labor and Industry [1]

	Number of days		
	Conference date to final event [2]	First medical request to final event	Presentation of dispute to final event
<b>2003 disputes</b>			
Mean (average)	26	95	112
5th percentile	0	41	49
10th percentile	0	42	49
25th percentile	0	59	68
50th percentile (median)	5	75	88
75th percentile	15	95	131
90th percentile	55	146	190
95th percentile	68	158	229
Disputes with data per 1,000 [3]	26	26	26
<b>2007 disputes</b>			
Mean (average)	16	78	95
5th percentile	0	30	41
10th percentile	0	36	42
25th percentile	1	43	52
50th percentile (median)	2	60	76
75th percentile	9	88	109
90th percentile	29	134	187
95th percentile	121	205	218
Disputes with data per 1,000 [3]	46	46	46

1. Includes the disputes from Figure 7.2 where the final event is an order on agreement, median award, other agreement or withdrawal and occurs at DLI.
2. The zeros occur at the lower percentiles in this column because of informal resolutions occurring at the conference or on the same day (or being recorded in the log on the same date as the conference).
3. Some disputes are excluded because of missing or unreliable dates.

## Disputes with DLI decision-and-orders

For 2003, the employee was the prevailing party in DLI conference decision-and-orders 63 percent of the time (Figure 8.1); by 2007, this proportion had fallen to 51 percent. This difference is statistically significant.<sup>20</sup> There are many possible reasons for the difference, but this is beyond the scope of this analysis.

Figure 8.2 presents data on appeal rates from DLI decision-and-orders. (The appeals take the form of requests for *de novo* hearing at OAH.) The overall appeal rate was 52 percent for 2003 and 56 percent for 2007. When the employee was the prevailing party in the decision-and-order, appeals were filed 38 or 37 percent of the time (by the insurer or employer), depending on the year. When the employer prevailed, appeals were filed 75 or 79 percent of the time (by the employee). In other words, the employee was about twice as likely as the employer to appeal if the other side prevailed. These statistics are remarkably similar between the two years.

Minnesota statute requires appeals to be filed within 30 days of the decision-and-order,<sup>21</sup> and this is reflected in actual experience. The median time from the decision-and-order to the request for hearing was 17 days for 2003 and 16 days for 2007 (Figure 8.3). At the 95<sup>th</sup> percentile, the times were 29 days and 31 days, respectively. From the request for hearing to the scheduled hearing date, the median time was 88 days for 2003, but 10 days less for 2007. The main reason is the median time from the hearing notice to the hearing date fell from 63 days to 49 days. Measuring from earlier points in the dispute, the median time from the medical request to the hearing date fell from 190 days for

2003 to 147 days for 2007, and a similar decline occurred when measured from the initial dispute presentation. The declines were largest for the longest cases. For the time from the medical request to the scheduled hearing date, the declines ranged from 38 days to 47 days for the 5<sup>th</sup> through 75<sup>th</sup> percentiles. At the 90<sup>th</sup> and 95<sup>th</sup> percentiles, the declines exceeded 100 days. Some of the decline as measured from the medical request and the initial dispute presentation resulted from the earlier scheduling of conferences at DLI (Figure 5.2).

The most common final event for appeals from DLI decision-and-orders was an award on stipulation (Figure 8.4). This happened 50 percent of the time for 2003 and 47 percent of the time for those 2007 disputes that were finalized. The relative frequency of other outcomes is also remarkably similar between the two years, gauging from the finalized disputes for 2007. About a quarter of the cases ended with a findings-and-order, 15 percent were resolved by letter or withdrawn and another 10 percent had an order to strike or dismiss.

Timelines to final events can only be considered for the appealed 2003 disputes because 21 percent of the appealed 2007 disputes were still in progress (Figure 8.5).<sup>22</sup> Nor can the times be considered separately for different outcomes for 2003, because the number of cases is too small. For all appeals for 2003, the median time to the final event was 141 days from the hearing notice, 274 days from the first medical request and 307 days from the presentation of the dispute. A quarter of the cases took 430 days (14 months) or more from the initial medical request, and 10 percent took 531 days (almost 17.5 months) or more.

<sup>20</sup> The difference is statistically significant at the .05 level, meaning there is only a 5-percent chance or less that a difference at least this large would result from random variation in the data in the absence of an underlying tendency.

<sup>21</sup> Minnesota Statutes, §176.106, subd. 7.

<sup>22</sup> If timelines were computed for those 2007 cases that had reached completion by the time of coding, the result would be biased downward because the times will be longer for the cases not yet complete.

**Figure 8.1**  
**Prevailing party in conference decision-and-orders at the Department of Labor and Industry**

Prevailing party	2003 disputes		2007 disputes	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
Employee	50	63%	68	51%
Employer	28	36%	58	44%
Split decision [1]	1	1%	7	5%
<b>Total</b>	<b>79</b>	<b>100%</b>	<b>133</b>	<b>100%</b>

1. A split decision here is a decision on a particular issue where each party prevailed in part. It does not include instances where different parties prevailed on different issues in the dispute. In those instances, each issue is counted separately, with partial weight, according to whether the employee or employer prevailed (see p. 2). For 2007, "split decision" includes one case where the issue was dismissed because of insufficient information and another where no decision was made because of a primary liability issue.

**Figure 8.2**  
**Appeals (requests for hearing) from conference decision-and-orders issued by the Department of Labor and Industry**

Appeal (request for hearing) filed?	Prevailing party							
	Employee		Employer		Split decision [1]		Total	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
<b>2003 disputes</b>								
Yes	19	38%	21	75%	1	100%	41	52%
No	31	62%	7	25%	0	0%	38	48%
<b>Total</b>	<b>50</b>	<b>100%</b>	<b>28</b>	<b>100%</b>	<b>1</b>	<b>100%</b>	<b>79</b>	<b>100%</b>
<b>2007 disputes</b>								
Yes	25	37%	46	79%	4	57%	75	56%
No	43	63%	12	21%	3	43%	58	44%
<b>Total</b>	<b>68</b>	<b>100%</b>	<b>58</b>	<b>100%</b>	<b>7</b>	<b>100%</b>	<b>133</b>	<b>100%</b>

1. A split decision here is a decision on a particular issue where each party prevailed in part. It does not include instances where different parties prevailed on different issues in the dispute. In those instances, each issue is counted separately, with partial weight, according to whether the employee or employer prevailed (see p. 2). For 2007, "split decision" includes one case where the issue was dismissed because of insufficient information and another where no decision was made because of a primary liability issue.

Figure 8.3

Timelines related to appeals (requests for hearing) from conference decision-and-orders issued by the Department of Labor and Industry

	Number of days					
	Decision-and-order to request for hearing	Request for hearing to hearing notice [1]	Hearing notice to scheduled hearing date [1]	Request for hearing to scheduled hearing date [1]	First medical request to scheduled hearing date [1]	Presentation of dispute to scheduled hearing date [1]
<b>2003 disputes</b>						
Mean (average)	17	32	67	99	207	231
5th percentile	6	11	36	55	128	139
10th percentile	7	13	40	59	140	148
25th percentile	10	18	49	74	162	178
50th percentile (median)	17	26	63	88	190	208
75th percentile	24	36	86	117	224	250
90th percentile	28	57	103	153	321	354
95th percentile	29	89	113	172	347	418
Disputes with data per 1,000 [2]	41	41	41	41	40	40
<b>2007 disputes</b>						
Mean (average)	18	28	54	82	153	174
5th percentile	5	11	21	43	83	92
10th percentile	6	13	31	54	102	114
25th percentile	11	15	43	64	121	140
50th percentile (median)	16	24	49	78	147	161
75th percentile	26	34	64	91	177	213
90th percentile	30	45	83	116	212	227
95th percentile	31	52	99	129	230	286
Disputes with data per 1,000 [2]	75	69	70	70	71	71

1. Hearing includes pre-trial.

2. Some disputes are excluded in some columns because of missing or unreliable dates.

Figure 8.4

Final event for disputes with appeals from conference decision-and-orders issued by the Department of Labor and Industry [1]

Final event	2003 disputes		2007 disputes		
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Pctg. of finalized disputes [2]
Award on stipulation	20	50%	28	37%	47%
Findings and order	10	25%	14	19%	24%
Resolved by letter or withdrawn	6	15%	9	12%	15%
Order to strike or dismiss [3]	4	10%	7	9%	11%
Other [4]	~	1%	2	2%	3%
Dispute still in process			16	21%	
Total	41	100%	75	100%	

1. "~" means a positive number less than 0.5.

2. This percentage is relative to the 59 (75 minus 16) disputes for 2007 that were not still in process.

3. If the order to strike or dismiss is preceded by an event in one of the three preceding categories (e.g., resolved by letter or withdrawn), the dispute is counted in that other category.

4. Includes OAH mediation award and Workers' Compensation Court of Appeals decision.

Figure 8.5

Time to final event for disputes with appeals from conference decision-and-orders issued by the Department of Labor and Industry, 2003 disputes

	Number of days to final event			
	From hearing notice [1]	From request for hearing	From medical request	From presentation of dispute
<b>2003 disputes</b>				
Mean (average)	213	228	354	379
5th percentile	50	66	169	176
10th percentile	70	78	176	191
25th percentile	100	113	220	233
50th percentile (median)	141	161	274	307
75th percentile	244	272	430	455
90th percentile	389	417	531	573
95th percentile	611	620	808	876
Disputes with data per 1,000 [2]	41	41	40	40

1. Hearing includes pre-trial.

2. Some disputes are excluded in the last two columns because of missing or unreliable dates.

## Major dispute paths at OAH

Figure 9.1 shows the major dispute-resolution paths for disputes from 2003 that were referred to OAH. These do not include disputes with appeals from DLI decision-and-orders (which have already been considered). As in Figures 3.1 and 3.2 depicting the DLI process, the process is reduced to its major steps. Subsequent references in this report to the OAH dispute-resolution “process” relate to the simplified version presented in this figure.

For 2003, DLI referred a total of 310 disputes per 1,000 to OAH, consisting of 267 that were referred directly after being certified (or without a certification decision) and another 43 referred after being scheduled for a DLI conference or after an initial decision not to certify (see note 3 in Figure 3.1). Of these 310 disputes, 56 percent were initially scheduled for an OAH administrative conference, 36 percent were scheduled for hearing without first being scheduled for an administrative conference and the remaining 7 percent were not scheduled for either type of proceeding.<sup>23</sup>

Unlike the DLI data, the OAH data does not directly indicate whether a scheduled proceeding

took place.<sup>24</sup> Among the disputes scheduled for conference, 42 percent had a decision-and-order issued, 19 percent were scheduled for hearing without a decision-and-order and the remaining 38 percent experienced neither event. Some 46 percent of the disputes with decision-and-orders had appeals (requests for hearing), as compared with 51 percent of the 2003 disputes with decision-and-orders from DLI (Figure 3.1).

Combining the disputes originally scheduled for hearing and those scheduled for hearing after being scheduled for conference, 146 disputes, or 47 percent of the total referred to OAH, were eventually scheduled for hearing. (Again, these do not include appeals from decision-and-orders.) Findings-and-orders were issued in 29 percent of these cases.

The right-hand columns in Figure 9.1 give summary data on the outcomes of all of these disputes. Appendix 8 shows more detailed information about the final events for the disputes following each path.

The following sections of this report track these disputes through the major paths shown in the figure, showing timelines and outcomes.

---

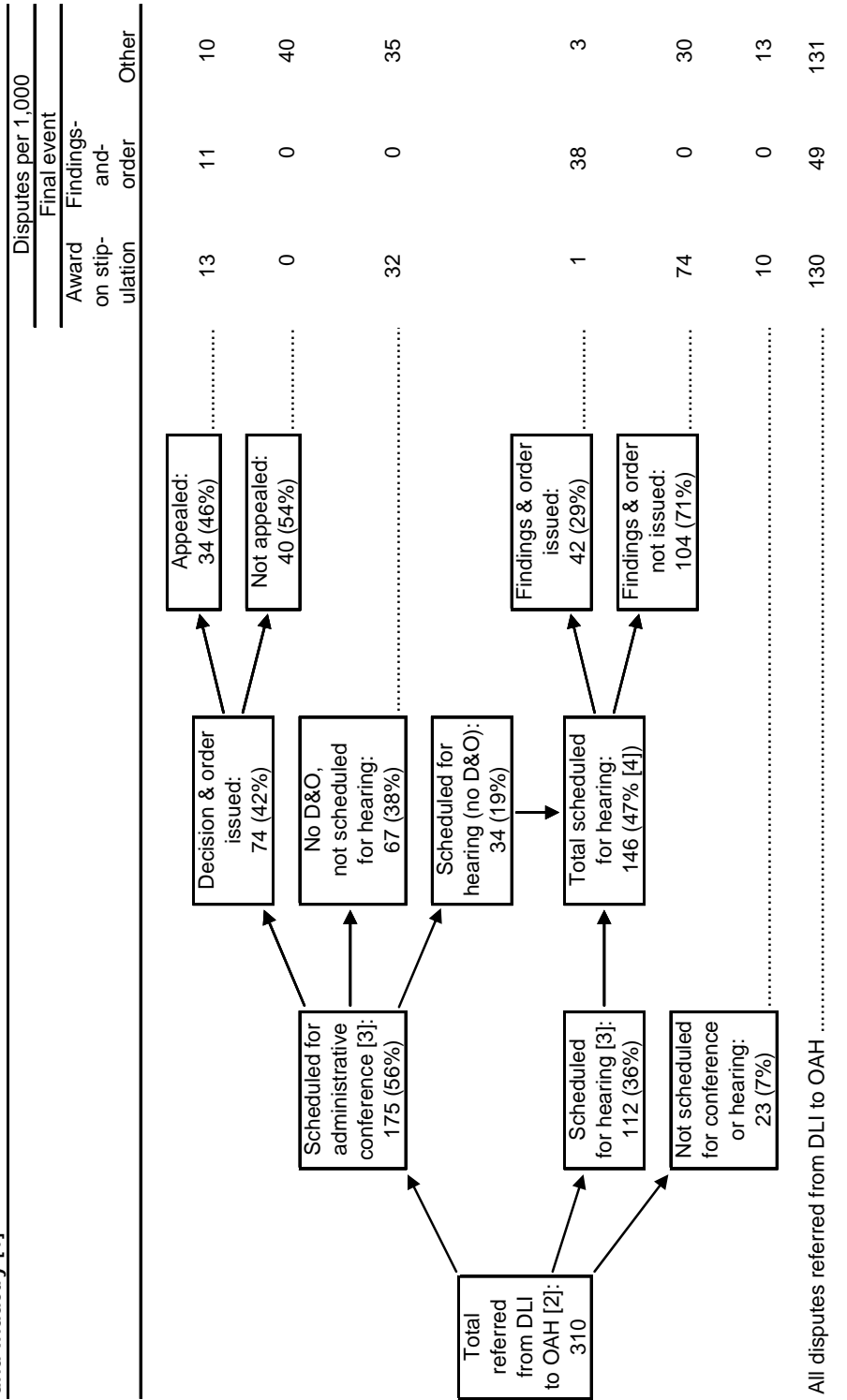
<sup>23</sup> Of the 112 disputes per 1,000 that were scheduled for hearing without first being scheduled for an administrative conference, nine per 1,000 were scheduled for a settlement conference before the hearing. In seven of these, there was a claim petition (after the medical request) or order for consolidation.

---

<sup>24</sup> In many instances, it is known that a proceeding occurred, such as when a decision-and-order is issued. But when a decision document is not issued, the scheduled proceeding may or may not have taken place.



**Figure 9.1**  
Major dispute-resolution paths at the Office of Administrative Hearings for 2003 disputes referred from the Department of Labor and Industry [1]



1. All numbers are numbers of disputes per 1,000 total disputes. Percentages at each step are relative to the total number of disputes at the preceding step. More detail is provided in Appendix 8.  
 2. Includes 267 disputes per 1,000 that were referred after certification without being scheduled for DLI conference plus 43 disputes per 1,000 that were not certified or were scheduled for conference and then referred. See notes 2 and 3 in Figure 3.1.  
 3. At the first step of the OAH process after referral from DLI, disputes are counted as scheduled for conference or hearing according to which of the two proceeding types was scheduled first. Hearing includes pre-trial. Other types of proceedings are ignored in this classification. Nine of the 112 disputes per 1,000 that were scheduled for hearing were first scheduled for a settlement conference.  
 4. This percentage indicates the percentage of all referrals to OAH eventually scheduled for hearing, excluding appeals from conference decision-and-orders. Hearing includes pre-trial.

## OAH dispute-resolution process for 2003 disputes

### First major event at OAH

Figures 10.1 and 10.2 examine the possible reasons why different disputes were initially scheduled for administrative conference, scheduled for hearing without first being scheduled for administrative conference, or neither as their first major event at OAH.

Figure 10.1 shows the distribution of referral reasons for disputes following these three paths at OAH. Among disputes scheduled for conference, 72 percent had been referred because the total disputed amount was above the \$1,500 threshold, a far higher percentage than for the other disputes. Among those scheduled for hearing without first being scheduled for conference, surgery was the predominant referral reason (64 percent).<sup>25</sup> Of those not scheduled for either type of proceeding, concurrent litigation was a more prominent reason (47 percent) than for those scheduled for one type of proceeding or the other (13 or 14 percent).

A comparison on the basis of dispute characteristics yields similar results (Figure 10.2). Sixty-nine percent of disputes scheduled for hearing without being first scheduled for conference had a surgery issue present, 21 percent had an order for consolidation (before the first OAH proceeding was scheduled) and 9 percent had a primary liability issue. In all, 85 percent of the disputes scheduled for hearing without first being scheduled for conference had either a surgery issue or an order for consolidation (or both), and 88 percent had either of these or a primary liability issue. In the other two dispute categories, far smaller percentages had a surgery issue, virtually none had an order for consolidation and smaller percentages had a primary liability issue.

<sup>25</sup> When a medical request has a surgery issue where the surgery has not yet occurred, OAH schedules the issue for an “expedited hearing” rather than for an administrative conference because of the high likelihood that a conference decision would be appealed.

Among the disputes not scheduled for either type of proceeding, 44 percent were resolved with an award on stipulation and 37 percent had a different type of agreement or were withdrawn (Figure 10.3).<sup>26</sup>

Figure 10.4 shows timelines related to the scheduling of the first OAH proceeding for both administrative conferences and hearings. The median time from the medical request to the referral to OAH was somewhat less for disputes scheduled for hearing than for those scheduled for administrative conference.<sup>27</sup> The median time from referral to proceeding notice was about the same for the two proceeding types; however, the average was greater for hearings than for conferences (32 versus 19 days), because the times in the upper part of the distribution (e.g., at the 90<sup>th</sup> and 95<sup>th</sup> percentiles) were substantially longer for hearings. Given a somewhat longer interval from the notice to the scheduled proceeding date for hearings than for conferences, the interval from the referral to the scheduled proceeding date was also longer for hearings. The difference between the averages (84 versus 62 days) was greater than between the medians (69 versus 57 days), again because the difference between the two proceeding types was larger in the upper end of the distribution.

These differences carry over into the interval from the medical request and from the initial dispute presentation to the first scheduled proceeding date. The difference between administrative conferences and hearings is dampened here, however, because of the somewhat shorter time for initial referral to OAH for disputes that go to hearing. Measuring from the first medical request, the median times to first scheduled proceeding date were 78 days for conference and 83 days for hearing; at the 90<sup>th</sup> percentile, the times were 135 days (4.5 months) and 155 days (5 months), respectively.

<sup>26</sup> Too few cases are in the sample to analyze timelines to final resolution for these disputes.

<sup>27</sup> Perhaps this is because of the preponderance of surgery cases among the disputes scheduled for hearing, insofar as the surgery issue is a readily identifiable dispute characteristic that can be responded to quickly. Also, if the disputes scheduled for OAH conference are generally less complex than those scheduled for hearing, DLI may attempt to resolve more of those disputes than the ones scheduled for hearing before referring them.

Figure 10.1

Reason referred to the Office of Administrative Hearings by first scheduled proceeding there (administrative conference or hearing), 2003 disputes [1]

Referral reason	First scheduled proceeding at OAH (administrative conference or hearing) [2]							
	Administrative conference		Hearing [3]		Neither conference nor hearing [3]		All disputes referred to OAH	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
Amount in dispute above \$1,500	126	72%	16	15%	8	35%	151	49%
Surgery issue	4	2%	72	64%	2	10%	79	25%
Concurrent litigation on same issues	22	13%	16	14%	9	37%	47	15%
Pain management issue(s)	13	7%	4	3%	1	6%	18	6%
Primary liability issue(s)	2	1%	1	1%	1	3%	4	1%
Requested by parties	2	1%			~	0%	2	1%
Order for consolidation			2	2%			2	1%
Other or not indicated	5	3%	1	1%	2	8%	7	2%
<b>Total [1]</b>	<b>175</b>	<b>100%</b>	<b>112</b>	<b>100%</b>	<b>23</b>	<b>100%</b>	<b>310</b>	<b>100%</b>

1. Numbers may not add exactly to totals because of rounding (see pp. 2, 3). "~" means a positive number less than 0.5.
2. Proceedings other than administrative conferences, hearings and pre-trials are ignored in this classification. In nine disputes of the 112 per 1,000 counted under hearing, a settlement conference was scheduled before the pre-trial or hearing.
3. Hearing includes pre-trial. See note 2.

Figure 10.2

Selected characteristics of disputes referred to the Office of Administrative Hearings by first scheduled proceeding there (administrative conference or hearing), 2003 disputes [1]

Selected dispute characteristic	First scheduled proceeding at OAH (administrative conference or hearing) [2]							
	Administrative conference		Hearing [3]		Neither conference nor hearing [3]		All disputes referred to OAH	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
Surgery issue present	16	9%	77	69%	4	17%	97	31%
Order for consolidation before first proceeding scheduled [4]	~	0%	23	21%	~	0%	24	8%
Primary liability issue present	8	5%	10	9%	1	4%	19	6%
Surgery issue or order for consolidation [5]	17	10%	95	85%	4	17%	116	37%
Surgery, order for consolidation or primary liability [5]	24	14%	98	88%	5	22%	127	41%
<b>Total disputes</b>	<b>175</b>	<b>100%</b>	<b>112</b>	<b>100%</b>	<b>23</b>	<b>100%</b>	<b>310</b>	<b>100%</b>

1. "~" means a positive number less than 0.5.
2. Proceedings other than administrative conferences, hearings and pre-trials are ignored in this classification. In nine disputes of the 112 per 1,000 counted under hearing, a settlement conference was scheduled before the pre-trial or hearing.
3. Hearing includes pre-trial. See note 2.
4. An order for consolidation was counted as being "before" the scheduled proceeding if it occurred no later than one week after the hearing notice.
5. A dispute is counted in this category if one or more of the characteristics indicated is present. Therefore, the number of disputes in this category (and the associated percentage) may be less than the sum of those for the individual characteristics concerned.

Figure 10.3

Final event for disputes referred to OAH and not scheduled for administrative conference or hearing, 2003 disputes [1]

Final event	Disputes per 1,000	Pctg. of total
Award on stipulation	10	44%
Otherwise agreed or withdrawn [2]	9	37%
Other [3]	4	19%
<b>Total</b>	<b>23</b>	<b>100%</b>

- Hearing includes pre-trial.
- Includes medical response (agree to pay), letter resolving issue, dispute not certified (resolved by DLI intervention) dispute not certified (resolved by parties), order on agreement (DLI), issue resolved by parties and issue withdrawn.
- Includes order for dismissal (OAH), medical request rejected by DLI, issue referred from DLI to OAH and medical response (refuse to pay).

Figure 10.4

Timelines related to scheduling of first proceeding (administrative conference or hearing) at the Office of Administrative Hearings, 2003 disputes

First scheduled proceeding at OAH (administrative conference or hearing) [1]	Number of days					
	Medical request to first referral	Referral to first proceeding notice	First proceeding notice to first scheduled proceeding date	Referral to first scheduled proceeding date	Medical request to first scheduled proceeding date	Presentation of dispute to first scheduled proceeding date
<b>Administrative conference</b>						
Mean (average)	28	19	43	62	90	120
5th percentile	1	1	20	35	43	48
10th percentile	1	3	27	37	49	56
25th percentile	5	7	31	46	60	72
50th percentile (median)	13	16	40	57	78	99
75th percentile	26	25	51	76	103	135
90th percentile	77	36	67	91	135	189
95th percentile	97	50	73	101	171	259
Disputes with data per 1,000 [3]	172	174	174	174	172	174
<b>Hearing [2]</b>						
Mean (average)	17	32	52	84	99	115
5th percentile	1	2	21	34	45	49
10th percentile	1	5	26	39	49	61
25th percentile	4	8	34	51	63	74
50th percentile (median)	8	18	49	69	83	95
75th percentile	22	28	67	96	110	135
90th percentile	44	69	87	139	155	184
95th percentile	58	112	95	188	201	205
Disputes with data per 1,000 [3]	109	99	101	99	100	101

- Proceedings other than administrative conferences, hearings and pre-trials are ignored in this classification.
- Hearing includes pre-trial.
- Some disputes are excluded in some columns because of missing or unreliable dates. Under "hearing," nine disputes with a settlement conference scheduled before the hearing are also excluded. See note 1 in this figure and note 2 in Figure 10.1.

### Disputes scheduled for OAH administrative conference

About 21 percent of the disputes from 2003 that were scheduled for administrative conference at OAH had one or more re-sets (Figure 11.1). This is the same as for DLI administrative conferences for the same year (Figure 6.1). For OAH administrative conferences, however, multiple re-sets were more common: about one-third of the disputes with any re-sets had more than one, as opposed to about a fifth for the DLI administrative conferences.

The amount of time between re-sets of OAH administrative conferences for the 2003 disputes ranged from eight days at the 5<sup>th</sup> percentile to 91 days at the 95<sup>th</sup> percentile with a median of 40 days (Figure 11.2). This median was half again as long as the 27 days for DLI administrative conferences for 2003 disputes (Figure 6.3).

Figure 11.3 presents a rudimentary analysis of why the 2003 disputes scheduled for OAH administrative conference received a decision-and-order, became scheduled for hearing without a decision-and-order, or neither. The disputes scheduled for hearing had somewhat larger incidences of surgery issues and of primary liability issues than did the other disputes. However, the major distinguishing feature of the disputes scheduled for hearing is that 61 percent had an order for consolidation present, as opposed to only 8 percent for the other two categories. In all, 66 percent of the disputes scheduled for hearing had either a surgery issue or an order for consolidation (or both), and 72 percent had at least one of the three characteristics. The contrasts here are

different from those among disputes *initially* scheduled for the two types of proceedings (or neither) after referral to OAH. The presence of a surgery issue was the predominant factor distinguishing disputes *initially* scheduled for hearing (Figure 10.2).

The median time to an OAH decision-and-order following an administrative conference for 2003 disputes was 14 days (Figure 11.4), as compared with nine days for a DLI decision-and-order (Figure 7.1). However, the times at the upper end of the distribution were less for OAH (e.g., 49 days versus 73 days at the 95<sup>th</sup> percentile); consequently, the mean time was somewhat less for OAH (19 days versus 22). The median time from first medical request to decision-and-order was about a week longer for the OAH cases (99 days) than for the DLI cases (92 days).

Among the cases with no decision-and-order after the scheduled OAH conference, almost half ended with an award on stipulation and another 42 percent otherwise agreed or were withdrawn (Figure 11.5).

For these cases with no decision-and-order, a median of 72 days elapsed from the last conference notice to the final event (Figure 11.6). Measured from the first medical request, the median time to final event was 128 days, substantially longer than the 75 days for similar cases at DLI (Figure 7.3). At the 90<sup>th</sup> percentile, the time extended to 388 days for the OAH cases, as compared with 146 days for the DLI cases. Because of the lengthier times at the upper end for the OAH cases, the mean for these cases was double the mean for the DLI cases (190 days versus 95 days).

**Figure 11.1**  
 Re-sets of administrative conferences at the Office of Administrative Hearings, 2003 disputes

Number of re-sets	Disputes per 1,000	Pctg. of total
None	139	79%
One or more	36	21%
1	25	14%
2	6	3%
3	3	2%
4	1	1%
5	1	1%
Total	175	100%

**Figure 11.2**  
 Time between scheduled dates of re-set administrative conferences at the Office of Administrative Hearings, 2003 disputes

	Number of days
Mean (average)	45
5th percentile	8
10th percentile	10
25th percentile	21
50th percentile (median)	40
75th percentile	63
90th percentile	90
95th percentile	91
Resets with data per 1,000 disputes [1]	53

1. The total number of re-sets concerned is 55 per 1,000 disputes (obtained by multiplying the numbers of re-sets in Figure 11.1 by the respective numbers of disputes with those re-sets). Some of these re-sets are excluded because of missing or unreliable dates.

**Figure 11.3**  
 Characteristics of disputes scheduled for OAH administrative conference by major event after scheduled conference, 2003 disputes

Dispute characteristic	Major event after scheduled conference							
	Decision-and-order issued		Scheduled for hearing [1]		No decision-and-order, not scheduled for hearing [1]		Total	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
Surgery issue present	7	9%	5	14%	4	7%	16	9%
Order for consolidation present	6	8%	21	61%	6	8%	33	19%
Primary liability issue present	3	4%	3	9%	3	4%	8	5%
Surgery issue or order for consolidation [2]	12	17%	23	66%	10	15%	45	26%
Surgery, order for consolidation or primary liability [2]	14	19%	24	72%	12	18%	51	29%
Total disputes	74	100%	34	100%	67	100%	175	100%

1. Hearing includes pre-trial.
2. A dispute is counted in this category if one or more of the characteristics indicated is present. Therefore, the number of disputes in this category (and the associated percentage) may be less than the sum of those for the individual characteristics concerned.

Figure 11.4

## Time to decision-and-order at the Office of Administrative Hearings, 2003 disputes

	Number of days to OAH decision-and-order			
	From last scheduled OAH administrative conference [1]	From referral to OAH	From first medical request	From presentation of dispute
Mean (average)	19	90	112	148
5th percentile	1	42	56	59
10th percentile	2	49	59	70
25th percentile	5	62	75	86
50th percentile (median)	14	79	99	127
75th percentile	30	107	133	168
90th percentile	42	133	163	229
95th percentile	49	157	210	307
Disputes with data per 1,000 [2]	73	74	73	73

1. Where a conference was continued, i.e., held open after the conference date to allow additional evidence to be submitted, the continuation date (the date through which it was held open) was substituted for the last scheduled conference date in counting the time to the decision-and-order.
2. Some disputes are excluded in some columns because of missing or unreliable dates.

Figure 11.5

## Final event where there is no decision-and-order or hearing following a scheduled administrative conference at the Office of Administrative Hearings, 2003 disputes

	Disputes per 1,000	Pctg. of total
Award on stipulation	33	49%
Otherwise agreed or withdrawn [1]	28	42%
Order for dismissal (not otherwise resolved)	2	4%
Other	3	5%
Total	67	100%

1. Includes (in descending order of frequency), withdrawn, letter resolving issue, resolved by parties (no document), medical response (already paid or agree to pay), mediation award or order on agreement (OAH), proceeding held — informal agreement, proceeding cancelled — agreement reached or in process, letter or other document confirming agreement at proceeding and letter resolving issue.

Figure 11.6

Time to final event where there is no decision-and-order or hearing following a scheduled administrative conference at the Office of Administrative Hearings, 2003 disputes

	Number of days to final event			
	From last OAH administrative conference notice	From referral to OAH	From first medical request	From presentation of dispute
Mean (average)	111	157	190	213
5th percentile	6	29	38	43
10th percentile	20	36	47	55
25th percentile	36	59	74	86
50th percentile (median)	72	99	128	138
75th percentile	133	171	237	255
90th percentile	264	361	388	428
95th percentile	398	450	521	741
Disputes with data per 1,000 [1]	67	67	65	67

1. Some disputes are excluded in the third column because of missing or unreliable dates.



**Disputes with OAH decision-and-orders**

For the 2003 disputes with OAH decision-and-orders, the employee prevailed 52 percent of the time and the employer 38 percent of the time, with a split decision in 10 percent of the cases (Figure 12.1).<sup>28</sup> By comparison, the employee prevailed 63 percent of the time in the 2003 DLI cases (Figure 8.1). For the 2007 disputes at DLI, the frequency of the employee prevailing was about the same as for the 2003 OAH cases. However, split decisions seem to be more common for the OAH cases.

The appeal rate from these OAH decision-and-orders was 45 percent (Figure 12.2), somewhat less than the 52 percent and 56 percent, respectively, for the 2003 and 2007 DLI cases (Figure 8.2). As with the DLI cases, appeals were far more likely when the employer prevailed than when the employee prevailed. Among the OAH cases, 32 percent were appealed (by the employer) when the employee prevailed, while 65 percent were appealed (by the employee) when the employer prevailed.

The timelines for appeals from OAH decision-and-orders for 2003 are shown in Figure 12.3. There was a median of 20 days from the decision-and-order to the request for hearing, 87 days from the request for hearing to the scheduled hearing date and 188 days from the first medical request to the scheduled hearing date. This last timeline compares with 190 days for DLI decision-and-orders for 2003 (Figure 8.3). By 2007, however, the latter timeline had been reduced to 147 days (part of which was because of a decrease in the time from request for hearing to scheduled hearing date).

Among the appeals from OAH decision-and-orders, some 40 percent ended with an award on stipulation, while another 34 percent ended with a findings-and-order (Figure 12.4). In comparison with the analogous DLI cases from 2003 (Figure 8.4), 10 percent fewer of the OAH cases had an award on stipulation (40 versus 50 percent) and 9 percent more had a findings-and-order (34 versus 25 percent). A similar comparison holds when made with the 2007 DLI

cases, which had similar outcomes to the 2003 DLI cases.

Figure 12.5 shows the amount of time to these final events for the appeals from OAH decision-and-orders. The median time to the final event was 120 days from the hearing notice, 153 days from the request for hearing and 285 days (about 9.5 months) from the first medical request. The variation in time is also of interest. As measured from the first medical request, the amount of time to the final event varied from 136 days (4.5 months) at the 5<sup>th</sup> percentile to 708 days (23 months) at the 95<sup>th</sup> percentile. These times are fairly close to those for appeals from DLI decision-and-orders for 2003 (Figure 8.5).

**Figure 12.1**  
Prevailing party in administrative conference decision-and-orders at the Office of Administrative Hearings, 2003 disputes [1]

Prevailing party	Disputes per 1,000	Pctg. of total
Employee	38	52%
Employer	28	38%
Split decision [2]	7	10%
Total	74	100%

1. Numbers may not add exactly to totals because of rounding (see pp. 2, 3).
2. A split decision here is a decision on a particular issue where each party prevailed in part. It does not include instances where different parties prevailed on different issues in the dispute. In those instances, each issue is counted separately, with partial weight, according to whether the employee or employer prevailed (see p. 2).

<sup>28</sup> See note 2 in the figure.

Figure 12.2

Appeals (requests for hearing) from administrative conference decision-and-orders issued by the Office of Administrative Hearings, 2003 disputes [1]

Appeal (request for hearing) filed?	Prevailing party							
	Employee		Employer		Split decision [2]		Total	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
Yes	12	32%	18	65%	3	38%	34	45%
No	26	68%	10	35%	4	62%	40	55%
Total	38	100%	28	100%	7	100%	74	100%

1. Numbers may not add exactly to totals because of rounding (see pp. 2, 3).
2. A split decision here is a decision on a particular issue where each party prevailed in part. It does not include instances where different parties prevailed on different issues in the dispute. In those instances, each issue is counted separately, with partial weight, according to whether the employee or employer prevailed (see p. 2).

Figure 12.3

Timelines related to appeals (requests for hearing) from administrative conference decision-and-orders issued by the Office of Administrative Hearings, 2003 disputes

	Number of days					
	Decision-and-order to request for hearing	Request for hearing to hearing notice	Hearing notice to scheduled hearing date	Request for hearing to scheduled hearing date	First medical request to scheduled hearing date	Presentation of dispute to scheduled hearing date
Mean (average)	18	32	62	94	198	229
5th percentile	3	9	27	52	119	127
10th percentile	5	10	34	57	131	135
25th percentile	9	18	43	69	157	184
50th percentile (median)	20	29	57	87	188	215
75th percentile	27	36	78	105	223	274
90th percentile	30	49	101	127	272	339
95th percentile	31	50	113	145	317	358
Disputes with data per 1,000 [1]	34	33	33	33	33	33

1. Some disputes are excluded in some columns because of missing or unreliable dates.

Figure 12.4

Final event for disputes with appeals from administrative conference decision-and-orders issued by the Office of Administrative Hearings, 2003 disputes

Final event	Disputes per 1,000	Pctg. of total
Award on stipulation [1]	13	40%
Findings and order	12	34%
Order to strike or dismiss	3	10%
Resolved by parties or withdrawn	2	7%
Other	3	9%
Total	34	100%

1. Includes award on stipulation at the Workers' Compensation Court of Appeals.
2. Excludes cases where order for dismissal followed agreement among the parties or withdrawal.

Figure 12.5

Time to final event for disputes with appeals from administrative conference decision-and-orders issued by the Office of Administrative Hearings, 2003 disputes

	Number of days to final event			
	From hearing notice	From request for hearing	From medical request	From presentation of dispute
Mean (average)	166	238	352	392
5th percentile	24	44	136	152
10th percentile	51	70	162	176
25th percentile	85	106	213	238
50th percentile (median)	120	153	285	330
75th percentile	203	268	391	405
90th percentile	345	490	632	709
95th percentile	471	706	708	911
Disputes with data per 1,000 [1]	33	34	33	34

1. Some disputes are excluded in some columns because of missing or unreliable dates.

## Disputes scheduled for OAH hearing

The last remaining path to be analyzed in the medical-request dispute process is the one involving disputes scheduled for hearing at OAH. As indicated in Figure 9.1, these disputes for 2003 included 112 per 1,000 that were scheduled for hearing without first being scheduled for an OAH administrative conference and another 34 per 1,000 that were scheduled for hearing after being scheduled for an OAH conference that did not occur. (Again, these disputes do not include those with appeals from decision-and-orders at DLI or OAH.)

In the analysis of these disputes, pre-trials are counted as hearings. This is done for simplicity, because disputes scheduled for pre-trial have begun on the hearing track. If a dispute is scheduled for pre-trial, it is counted as scheduled for hearing even if it was not eventually scheduled for an actual hearing.

As shown in Figure 13.1, of the 146 disputes per 1,000 counted in this manner as being scheduled for hearing, 97 percent were scheduled for an actual hearing (a majority of which were scheduled for hearing only and not pre-trial) while only 3 percent were scheduled for a pre-trial and not an actual hearing.

For these disputes, 32 percent had one or more re-sets, or 31 percent if only re-sets of the actual hearing are counted (Figure 13.2). This is significantly more than the 21 percent for re-sets of DLI conferences (Figure 6.1) and OAH conferences (Figure 11.1) for 2003 disputes. In about a fifth of the cases with re-sets, there were more than one.

Where these re-sets occurred, a median of 62 days elapsed between the successive scheduled hearing dates (Figure 13.3). This is more than double the 27 days for re-sets of DLI administrative conferences (Figure 6.3) and half-again the 40 days for OAH administrative conferences (Figure 11.2).

As shown in Figure 13.4, the timelines for scheduling of OAH hearings for the 2003 disputes varied dramatically according to whether an administrative conference was

scheduled at OAH before the hearing. Where a conference was not scheduled first, a median of 18 days elapsed from referral to OAH to the hearing notice, versus 113 days when a conference had been scheduled first. Interestingly, the time from the notice to the scheduled hearing date was also somewhat longer where a conference had been scheduled first — 62 days versus 49 days. Because of these differences, the median time from referral to scheduled hearing date was 182 days for the one case versus 69 days for the other. Measured from the first medical request, the difference was even greater — 241 days where a conference was scheduled first, but only 83 days where it was not. At the 90<sup>th</sup> percentile, a year elapsed from the first medical request to the scheduled hearing date where a conference had been scheduled first.

As indicated in Figure 9.1, a findings-and-order was issued in 29 percent of the cases scheduled for hearing. Given the above differences, the median time from referral to findings-and-order was 294 days where a conference had been scheduled first as opposed to 191 days where this was not the case (Figure 13.5). From the medical request to the findings-and-order, nearly a year elapsed at the median where a conference had been scheduled first, versus 210 days (seven months) otherwise. For some reason, the median time from hearing to findings-and-order was somewhat *less* where the conference had been scheduled first (27 days versus 47 days).<sup>29</sup>

Where a findings-and-order did not occur (71 percent of the cases scheduled for hearing), 72 percent of the disputes ended with an award on stipulation (Figure 13.6). Although the number of cases is fairly small where a conference had been scheduled first, the percentage with an award on stipulation seems to be relatively high for that category. Smaller numbers of cases had other types of agreement or were withdrawn, or had an order to strike or dismiss.

Figure 13.7 shows the amounts of time to the final event for the cases without a findings-and-order. As with the times to a findings-and-order, the times to the final event where there was no

---

<sup>29</sup> There are not enough cases in the sample to analyze the reasons for this.

findings-and-order were far greater where an administrative conference had been scheduled before the hearing. As measured from the first medical request, the time to the final event was 191 days (more than six months) where a conference was not scheduled first, but 423 days (14 months) where a conference was initially scheduled.

It is interesting to compare the times to the final event between findings-and-orders (Figure 13.5) and other final events (Figure 13.7). Where an administrative conference *was* scheduled before the hearing, both the mean and median times to the final event were greater where the final event was not a findings-and-order (Figure 13.7 versus Figure 13.5, lower section, last three columns). Where an administrative conference *was not* scheduled first (upper section of each figure), the *mean* time to the final event was still greater where the final event was not a findings-and-order (Figure 13.7), but the *median* time was less.

The reason for this difference is the very wide variation in the amount of time to a final event other than a findings-and-order (usually an award on stipulation, as shown in Figure 13.6). Where the final event *was* a findings-and-order (Figure 13.5), the amount of time from the last scheduled hearing to this event varied from two days to 258 days where a conference was not scheduled first. Where the final event *was not* a findings-and-order, the variation was from 13 days to 588 days, measured from the hearing notice. Given this variation, there were enough cases settling in relatively short periods of time that the *median was smaller* than for a findings-and-order (e.g., 191 days versus 210 days from the first medical request). However, the same variation meant there were so many cases taking very long periods to settle that the *mean was greater* than for a findings-and-order (e.g, 287 days versus 242 days from the first medical request). At the 90<sup>th</sup> percentile, the time from the medical request to the final event was 622 days where that event *was not* a findings-and-order (usually an award on stipulation) versus 485 days where that event *was* a findings-and-order.

Figure 13.1

## Scheduled hearings and pretrials, 2003 disputes

Scheduled proceeding(s)	Disputes per 1,000	Pctg. of total
Hearing (with or without pre-trial)	142	97%
<i>Hearing only</i>	100	69%
<i>Hearing and pre-trial</i>	42	29%
Pre-trial only	4	3%
Total	146	100%

1. Numbers may not add exactly to totals because of rounding (see pp. 2, 3).

Figure 13.2

## Re-sets of OAH hearings [1], 2003 disputes

Number of re-sets	Hearings and pre-trials		Hearings only	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
None	99	68%	101	69%
One or more	47	32%	45	31%
1	37	26%	36	25%
2	7	5%	6	4%
3	3	2%	2	2%
Total	146	100%	146	100%

1. Hearing includes pre-trial.

Figure 13.3

## Time between scheduled dates of re-set hearings [1] at the Office of Administrative Hearings, 2003 disputes

	Number of days
Mean (average)	67
5th percentile	8
10th percentile	14
25th percentile	33
50th percentile (median)	62
75th percentile	88
90th percentile	118
95th percentile	153
Resets with data per 1,000 disputes [2]	59

1. Hearing includes pre-trial.

2. The total number of re-sets concerned is 60 per 1,000 disputes (obtained by multiplying the numbers of re-sets in Figure 13.2 by the respective numbers of disputes with those re-sets). Some of these re-sets are excluded because of missing or unreliable dates.

Figure 13.4

Timelines related to scheduling of hearings for 2003 disputes referred to the Office of Administrative Hearings [1]

	Number of days				
	Referral to OAH to hearing notice	Hearing notice to scheduled hearing date	Referral to OAH to scheduled hearing date	First medical request to scheduled hearing date	Presentation of dispute to scheduled hearing date
<b>OAH administrative conference not scheduled first</b>					
Mean (average)	32	53	84	99	115
5th percentile	2	21	34	45	49
10th percentile	5	26	39	49	62
25th percentile	8	34	51	63	75
50th percentile (median)	18	49	69	83	97
75th percentile	28	67	96	110	131
90th percentile	69	87	139	155	184
95th percentile	112	95	188	201	205
Disputes with data per 1,000 [2]	100	102	101	102	102
<b>OAH administrative conference scheduled first</b>					
Mean (average)	150	61	211	239	276
5th percentile	47	19	100	107	107
10th percentile	63	21	106	116	116
25th percentile	72	38	133	147	147
50th percentile (median)	113	62	182	241	246
75th percentile	232	83	298	327	362
90th percentile	266	97	345	362	436
95th percentile	302	107	362	369	520
Disputes with data per 1,000 [2]	28	28	28	28	28

1. Hearing includes pre-trial.

2. Some of the disputes concerned (112 per 1,000 without an administrative conference scheduled first, 34 per 1,000 with an administrative conference scheduled first) are excluded because of missing or unreliable dates or the presence of an intervening event (usually a scheduled settlement conference) that might change the course of the dispute.

Figure 13.5

Time to findings-and-order at the Office of Administrative Hearings,  
2003 disputes

	Number of days to findings-and-order			
	From last scheduled hearing [1]	From referral to OAH	From first medical request	From presentation of dispute
<b>OAH administrative conference not scheduled first</b>				
Mean (average)	70	227	242	261
5th percentile	2	46	60	64
10th percentile	7	56	64	72
25th percentile	19	81	91	112
50th percentile (median)	47	191	210	249
75th percentile	60	318	329	364
90th percentile	147	457	485	525
95th percentile	258	546	548	575
Disputes with data per 1,000	32	32	32	32
<b>OAH administrative conference scheduled first [2]</b>				
Mean (average)	39	349	385	396
5th percentile				
10th percentile				
25th percentile				
50th percentile (median)	27	294	361	377
75th percentile				
90th percentile				
95th percentile				
Disputes with data per 1,000	10	10	10	10

1. Where a hearing was continued, i.e., held open after the hearing date to allow additional evidence to be submitted, the continuation date (the date through which it was held open) was substituted for the last scheduled hearing date in counting the time to the findings-and-order.
2. Because of a small number of sample cases where an administrative conference was scheduled before the hearing, only the mean and median times are shown and even these should be viewed with caution.

Figure 13.6

Final event where there was no findings-and-order following a scheduled hearing at the  
Office of Administrative Hearings, 2003 disputes [1]

	OAH administrative conference not scheduled first		OAH administrative conference scheduled first		Total	
	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total	Disputes per 1,000	Pctg. of total
Award on stipulation [2]	54	67%	21	88%	75	72%
Otherwise agreed or withdrawn	13	16%	2	10%	15	14%
Order to stike or dismiss	10	12%	~	2%	10	10%
Other	3	4%	~	0%	4	4%
Total	80	100%	24	100%	104	100%

1. "~" means a positive number less than 0.5.
2. Includes award on stipulation at the Workers' Compensation Court of Appeals.



Figure 13.7

Time to final event when there was no findings-and-order following a scheduled hearing at the Office of Administrative Hearings, 2003 disputes

	Number of days to last event			
	From last hearing notice	From referral to OAH	From first medical request	From presentation of dispute
<b>OAH administrative conference not scheduled first</b>				
Mean (average)	162	270	287	303
5th percentile	13	45	55	58
10th percentile	28	55	64	75
25th percentile	63	97	117	141
50th percentile (median)	110	175	191	207
75th percentile	182	364	366	393
90th percentile	375	592	622	624
95th percentile	588	702	788	783
Disputes with data per 1,000 [2]	77	80	79	80
<b>OAH administrative conference scheduled first [1]</b>				
Mean (average)	163	412	444	477
5th percentile				
10th percentile				
25th percentile				
50th percentile (median)	151	408	423	462
75th percentile				
90th percentile				
95th percentile				
Disputes with data per 1,000 [2]	23	24	23	24

1. Because of a small number of sample cases where an administrative conference was scheduled before the hearing, only the mean and median times are shown, and even these should be viewed with caution.
2. Some disputes are excluded in some columns because of missing or unreliable dates.

## Correlation between scheduling of proceedings and occurrence of agreements

The preceding analysis of the timing of proceeding scheduling and dispute outcomes raises the question of what relationship might exist between the two. Certainly, the sooner a proceeding is scheduled, the sooner one can expect the corresponding decision document (e.g., a decision-and-order or findings-and-order) to be issued when the parties do not agree. However, when the parties do reach agreement, what consequences does the scheduling of the proceeding have for the timing of that form of resolution?

This question was analyzed by applying a formal statistical analysis to the data for 2003 and 2007. The analysis considered three types of proceedings: DLI administrative conferences, OAH administrative conferences and OAH hearings. The OAH proceedings were only considered for the 2003 disputes because the 2007 dispute data was not sufficiently mature. For each proceeding type, separate consideration was given to informal agreements and awards on stipulation.<sup>30</sup>

For each type of proceeding and type of agreement, the statistical analysis estimated the effects of the timing of the proceeding notice and of the scheduled proceeding date on the timing of the agreement where the proceeding was canceled because of agreement. In the statistical model, there was one “outcome” variable — the time from the medical request to the agreement (for the given proceeding and agreement type) — and two explanatory variables — (1) the amount of time from the proceeding notice to the scheduled proceeding date and (2) the amount of time from the medical request to the proceeding notice. The statistical model estimated the effect of the each explanatory variable on the outcome variable

with the other explanatory variable statistically held constant.

The results are shown in Figure 14.1. Each line in the figure corresponds to one estimation of the model for the given proceeding type, agreement type and dispute data year. The model yields a coefficient for each explanatory variable. The coefficient is the estimated effect of the associated explanatory variable on the outcome variable with the other explanatory variable statistically held constant. The coefficient is the estimated change in the outcome variable associated with a one-unit change in the respective explanatory variable. The asterisks in the “statistical significance” column indicate the degree of statistical significance of the estimated coefficient being different from zero, with three asterisks being the highest level of significance.<sup>31</sup> Blanks in the coefficient column and the associated statistical significance column mean the coefficient was not statistically significant.

For example, for DLI conferences for the 2003 dispute data, when the conference was canceled because of an informal agreement, it is estimated that a one-day increase in the time from the proceeding notice to the scheduled proceeding date (first explanatory variable) is associated with a 0.8-day increase in the time from the medical request to the informal agreement. Conversely, if the scheduled proceeding date is one day sooner, the agreement is estimated to occur 0.8 day sooner.

The coefficients for the time from the medical request to the proceeding notice (second explanatory variable) represent the effect of simultaneously changing the timing of the notice and the scheduled proceeding date by one day. This is because these coefficients are estimated with the first explanatory variable — the time from the notice to the scheduled proceeding date — statistically held constant. For example, continuing in the first line of the figure, the coefficient of 1.0 for informal agreements for DLI conferences for the 2003 dispute data means that if the proceeding notice and the scheduled proceeding date are both moved one day sooner (holding constant the interval

<sup>30</sup> Informal agreement included medical response (agree to pay), letter resolving issue, resolved by DLI intervention, resolved by parties (no document), withdrawn, and agreement referred from DLI to OAH for stipulation.

<sup>31</sup> See note 3 in the figure.

between them), the informal agreement is estimated to occur one day sooner than otherwise.

The estimated coefficients for the proceeding notice variable are all statistically significant (all but one at the highest level), ranging from 1.0 to 1.6 in magnitude. By contrast, the coefficients for the scheduled proceeding date are not all significant and are more variable in magnitude. None of the coefficients for either explanatory variable is statistically different from 1.0. This means the estimates are consistent with the hypothesis that a one-day difference in the scheduled proceeding date (whether or not accompanied by a one-day difference in the notice date) makes a one-day difference in the same direction in the timing of the agreement.

The coefficients of the proceeding notice variable are generally similar in magnitude to the respective coefficients of the proceeding date variable. (The one exception is the coefficients

of 2.1 and 1.4 for informal agreements for OAH conferences, although the 2.1 coefficient has a relatively low significance level.) This supports the hypothesis that the scheduled proceeding date, as opposed to the timing of the notice by itself, is the crucial explanatory factor. In other words, changing the proceeding date seems to have a similar magnitude of effect whether or not the proceeding notice date is changed simultaneously.

An alternative version of the model, whose results are not shown here, found that changing the date of the proceeding notice, while holding constant the scheduled proceeding *date* (as opposed to the *interval* from the notice to the proceeding date), generally did not have a significant effect on the timing of the agreement. This supports the same conclusion — that the crucial explanatory variable is the timing of the scheduled proceeding date, and the timing of the notice matters only insofar as it affects the timing of the scheduled proceeding date.

Figure 14.1

Estimated effects of timing of proceeding notice and scheduled proceeding date on timing of agreement where proceeding is canceled because of agreement [1]

Proceeding type	Dispute year	Outcome variable: days from medical request to—	Explanatory variable			
			Days from proceeding notice to scheduled proceeding date		Days from medical request to proceeding notice [2]	
			Coefficient	Significance level [3]	Coefficient	Significance level [3]
DLI conference	2003	Informal agreement [4]	0.8	***	1.0	***
		Award on stipulation	1.7	*	1.6	***
	2007	Informal agreement [4]	0.9	***	1.0	***
		Award on stipulation			1.0	**
OAH conference	2003	Informal agreement [4]	2.1	*	1.4	***
		Award on stipulation			1.4	***
OAH hearing	2003	Informal agreement [4]			1.4	***
		Award on stipulation	0.9	***	1.0	***

1. These estimates are derived from a statistical model (multiple regression). The model applies to the case where a proceeding is canceled because of agreement between the parties. The model estimates the effects of the timing of the proceeding notice and of the scheduled proceeding date (explanatory variables) on the timing of the agreement (outcome variable). For each proceeding type and dispute year, the estimates are derived separately for each of two outcome variables — the number of days from the medical request to an informal agreement and to an award on stipulation, each being estimated for the cases where it occurs. For each of these two outcome variables, the effect of each explanatory variable is estimated with the other explanatory variable statistically held constant. The estimated effect of each explanatory variable on the outcome variable is represented by its coefficient. The coefficient shows the amount of change in the outcome variable associated with a one-unit change in the explanatory variable with the other explanatory variable statistically held constant. For example, for DLI conferences for 2003 disputes, for each additional day of delay in sending out the proceeding notice, the agreement is estimated to be delayed by 0.9 day (for an informal agreement) or 1.6 days (for an award on stipulation), given the amount of time from the notice to the scheduled proceeding date.
2. Care is needed in interpreting the estimated effects of this variable. The coefficients for this variable represent what happens when the time from the medical request to the proceeding notice changes, holding constant the time from the notice to the scheduled proceeding date. These coefficients, therefore, measure the effect of moving the notice date and the proceeding date simultaneously by one unit.
3. The significance level indicates whether the estimated effect (coefficient) can be attributed to an underlying tendency as opposed to random variation in the data. The significance levels here pertain to whether the estimated coefficient is statistically different from 0. For example, if the coefficient is significant at the .01 level, this means there is less than a .01 chance that a coefficient that large (or larger) would have resulted simply from random variation in the data if there were no underlying relationship between the variables (meaning the estimate is highly statistically significant).
  - \* = significant at the .10 level.
  - \*\* = significant at the .05 level.
  - \*\*\* = significant at the .01 level.

Additional tests show that none of the estimated coefficients are statistically different from 1. This supports the hypothesis that there is a one-to-one relationship between days to the conference notice or to the scheduled conference date, on one hand, and days to informal agreement or award on stipulation, on the other, where the proceeding is canceled because of agreement between the parties.
4. Informal agreement includes medical response (agree to pay), letter resolving issue, resolved by DLI intervention, resolved by parties (no document), withdrawn and agreement referred from DLI to OAH for stipulation.

## Observations

Much of the data presented in this report relates to the timelines involved in dispute-resolution. Following are some observations related to these timelines.

### **The time to resolution varies even when the path is the same.**

Different disputes typically take far different amounts of time to travel the same dispute-resolution path. As a result, a single measure of time, such as a mean or median, fails to fully capture the range of experience of different disputes. Therefore, this report has presented the durations of different dispute-resolution paths measured at multiple points in the distribution of time concerned, for example at the 10<sup>th</sup> and 90<sup>th</sup> percentiles along with others. This has demonstrated that while the system produces resolution within a reasonable amount of time for many disputes, others experience long delays.

Figure 15.1, summarizing several other figures in the report, shows the amount of time from the first medical request to selected major dispute-resolution events, measured at the 10<sup>th</sup>, 50<sup>th</sup> and 90<sup>th</sup> percentiles. For example, for 2003 disputes where a scheduled DLI administrative conference was not held and an award on stipulation occurred after OAH action, the total amount of time from the medical request was 347 days at the median and 664 days at the 90<sup>th</sup> percentile. Some other final events that took relatively long periods of time at the 90<sup>th</sup> percentile (all involving 2003 disputes) were those that occurred after an appeal (request for hearing) from a DLI decision-and-order (531 days), after an appeal from an OAH decision-and-order (632 days) and after a scheduled OAH hearing where there was no findings-and-order and an OAH administrative conference had not been scheduled first (622 days).

*An effort should be made to determine how to shorten the time consumed in resolving these longer disputes.*

### **Re-sets add time to the process.<sup>32</sup>**

Among 2003 disputes, the proportion with re-sets of proceeding dates was 21 percent for DLI administrative conferences, 21 percent for OAH administrative conferences and 32 percent for OAH hearings (Figures 6.1, 11.1 and 13.2). Among disputes that had re-sets, multiple re-sets occurred 19 percent of the time for DLI administrative conferences, 31 percent of the time for OAH administrative conferences and 21 percent of the time for OAH hearings (Figures 6.1, 11.1 and 13.2). For these three proceeding types, the median time from the original proceeding date to the re-set date was 27 days, 40 days and 62 days, respectively (Figures 6.3, 11.2 and 13.3). At the 90<sup>th</sup> percentile, the time was 63 days, 90 days and 118 days.

*Because of the time re-sets add to the dispute-resolution process, their use should be limited as much as possible. As provided in rule, “continuances are disfavored and will be granted only upon a showing of good cause for the inability or failure to appear at a conference. Good cause generally means that circumstances beyond the control of the party or party’s representative prevent attendance at the scheduled time.”<sup>33</sup> Under changes initiated in 2005, DLI began granting continuances (including re-sets) of administrative conference only upon showing of good cause.<sup>34</sup> The percentage of DLI conferences with re-sets fell from 21 percent to 19 percent between 2003 and 2007 (Figure 6.1). This suggests a downward trend but is not conclusive.*

<sup>32</sup> See note 19.

<sup>33</sup> Minn. Rules part 1415.3700, subp. 6. See note 19.

<sup>34</sup> See Appendix 3.

**For disputes that go to hearing at OAH, the time to resolution is far longer if an OAH administrative conference has been scheduled first.**

Measuring from the referral to OAH, the median time to the scheduled hearing date was 69 days if an OAH administrative conference had *not* been scheduled first versus 182 days if it had been (Figure 13.4); the median time to the findings-and-order was 191 days versus 294 days, respectively (Figure 13.5); and the median time to the final event where there was no findings-and-order following the scheduled hearing was 175 days versus 408 days, respectively (Figure 13.7).

*An effort should be made to determine which disputes, after being referred to OAH, are likely to go ultimately to hearing so they can be scheduled for hearing initially rather than incurring long delays by first being scheduled for an administrative conference that does not occur.*

**Enhancements made by DLI in its dispute-resolution process between 2005 and 2007 have produced noticeable results.**

Between 2005 and 2007, DLI introduced several enhancements to its dispute-resolution process, both to speed the process and to improve its quality. These are described in Appendix 3. The data shows the following changes between 2003 and 2007, clearly demonstrating the effects of these enhancements:

- The number of disputes not certified because they were resolved rose from 258 to 331 per 1,000 (Figure 4.4).
- The number of disputes referred to OAH because of concurrent litigation at OAH or a pain management issue dropped from 65 to 31 per 1,000 (Figure 5.3).<sup>35</sup>
- The number of disputes scheduled for DLI conference rose from 226 to 371 per 1,000.

<sup>35</sup> A larger reason for the decrease in referrals to OAH was that the 2005 Legislature raised the threshold for OAH jurisdiction in medical-request disputes from \$1,500 to \$7,500. Minnesota Statutes §176.106, subd. 1.

Consequently, larger percentages of disputes were resolved through the various events that occur after a conference is scheduled, notably including resolution by the parties either before or after the conference, often with mediation or other DLI assistance (Figures 3.1, 3.2, 6.4, 7.2).

- The time from the initial medical request to the first scheduled DLI conference fell from 66 to 44 days at the median and from 106 to 74 days at the 90<sup>th</sup> percentile (Figure 5.2).
- The time from the initial medical request to the DLI decision-and-order (where it occurred) fell from 92 to 65 days at the median and from 182 to 118 days at the 90<sup>th</sup> percentile (Figure 7.1).
- The time from the initial medical request to an informal resolution at DLI where a scheduled DLI conference was not held fell from 61 to 49 days at the median and from 120 to 89 days at the 90<sup>th</sup> percentile (Figure 6.6). The time to an award on stipulation after DLI action where a scheduled conference was not held fell from 122 to 98 days at the median and from 311 to 242 days at the 90<sup>th</sup> percentile.
- The time from the initial medical request to resolution where a scheduled DLI conference was held but there was no decision-and-order fell from 75 to 60 days at the median and from 146 to 134 days at the 90<sup>th</sup> percentile (Figure 7.3).

*The enhancements made by DLI in the dispute-resolution process between 2005 and 2007 have brought about major reductions in the time taken to resolve disputes.*

**The timing of scheduled proceedings affects the timing of resolution by the parties where they reach agreement before the proceeding.**

A statistical analysis found that earlier scheduling of proceedings is associated with earlier resolution by the parties where the proceeding is canceled because of agreement (e.g., informal agreement or award on stipulation). This was true for DLI conferences, OAH conferences and OAH hearings for 2003

disputes and for DLI conferences for 2007 disputes. The association was highly statistically significant. The agreement between the parties tends to occur about one day earlier for each day earlier the proceeding is scheduled to occur. The association had the highest statistical significance when the notice date and the scheduled proceeding date varied together (holding the interval between them statistically constant), and was less significant when the

scheduled proceeding date varied with the notice date statistically held constant.

*Not only does prompt scheduling of proceedings lead to earlier decisions by DLI or OAH where the parties do not reach agreement; earlier scheduling also prompts earlier agreement between the parties where they reach resolution before the proceeding. This adds to the value of scheduling proceedings as promptly as possible with sufficient time for the parties to prepare.*

Figure 15.1

Amount of time from medical request to selected major events in the dispute-resolution process, measured at 10th, 50th and 90th percentiles

Event	Number of days from first medical request to indicated event		
	10th percentile	50th percentile (median)	90th percentile
Award on stipulation where scheduled DLI administrative conference was not held [1]			
2003 disputes — award on stipulation occurs after DLI action [2]	85	122	311
2007 disputes — award on stipulation occurs after DLI action [2]	52	98	242
2003 disputes — award on stipulation occurs after OAH action [2]	117	347	664
DLI administrative conference decision-and-order [3]			
2003 disputes	53	92	182
2007 disputes	37	65	118
Scheduled OAH hearing after appeal (request for hearing) from DLI decision-and-order [4]			
2003 disputes	140	190	321
2007 disputes	102	147	212
Final event after appeal (request for hearing) from DLI decision-and-order — 2003 disputes [5]	176	274	531
OAH administrative conference decision-and-order — 2003 disputes [6]	59	99	163
Final event where there was no decision-and-order following a scheduled OAH administrative conference — 2003 disputes [7]	47	128	388
Final event after appeal (request for hearing) from OAH decision-and-order — 2003 disputes [8]	162	285	632
OAH findings-and-order where an OAH administrative conference was not scheduled before hearing — 2003 disputes [9,10]	64	210	485
Final event where there was no findings-and-order after a scheduled OAH hearing where an OAH administrative conference was not scheduled first — 2003 disputes [9,11]	64	191	622

1. From Figure 6.6.

2. An award on stipulation is counted as occurring at OAH or after OAH action if it was preceded by any events occurring at OAH; otherwise, it is counted as occurring at DLI or after DLI action. This category excludes mediation award and order on agreement.

3. From Figure 7.1.

4. From Figure 8.3.

5. From Figure 8.5.

6. From Figure 11.4.

7. From Figure 11.6.

8. From Figure 12.5.

9. Hearing includes pre-trial. Excludes disputes with appeals from decision-and-orders.

10. From Figure 13.5.

11. From Figure 13.7.



## Appendix 1

### Disputes and the dispute-resolution process

The following is a brief description of dispute types and the dispute-resolution process in Minnesota's workers' compensation system. The glossary in Appendix 2 provides further information on terms used.<sup>36</sup>

Disputes in Minnesota's workers' compensation system generally concern one or more of the three types of workers' compensation benefits and services:

- monetary benefits,
- medical services and
- vocational rehabilitation services.<sup>37</sup>

The injured worker and the insurer may disagree over initial eligibility for the benefit or service, the level at which it should be provided or how long it should continue. Disputes may also occur over payment for a service already provided. Payment disputes typically involve a medical or vocational rehabilitation provider and the insurer, and may also involve the injured worker.

In any workers' compensation dispute, there are one or more points of disagreement between the insurer and the injured worker or provider. The parties may disagree, for example, over primary liability, causation, reasonableness and necessity or other points.<sup>38</sup> These points of disagreement are often referred to as "insurer defenses." In this report, they are called "points in dispute."

Depending on the nature of the dispute, the form on which it is filed and the wishes of the parties, dispute-resolution may be facilitated by a dispute-resolution specialist at the Department

of Labor and Industry (DLI) or by a judge in the Office of Administrative Hearings (OAH). Administrative decisions from DLI or OAH can be appealed by requesting an OAH hearing; decisions from an OAH hearing can be appealed to the Workers' Compensation Court of Appeals (WCCA) and then to the Minnesota Supreme Court.

#### Dispute-resolution activities at the Department of Labor and Industry

DLI carries out a variety of dispute-resolution activities:

**Informal intervention** — Through informal intervention, DLI provides information or assistance to prevent a potential dispute, or communicates with the parties to resolve a dispute and/or determine whether a dispute should be certified. A resolution through intervention may occur either during or after the dispute certification process. The goal is to avoid a longer, more formal and costly process.

**Dispute certification** — In a medical or vocational rehabilitation dispute, DLI must certify that a dispute exists and that informal intervention did not resolve the dispute before an attorney may charge for services.<sup>39</sup> The certification process is triggered by either a certification request or a medical or rehabilitation request. DLI specialists attempt to resolve the dispute informally during the certification process.

**Mediation** — If the parties agree to participate, a DLI specialist conducts a mediation to seek agreement on the issues. Any type of dispute is eligible. Mediation agreements are usually recorded in a "mediation award."

<sup>36</sup> The description provided here is only intended to help the reader understand the material presented in this report. It is not intended to be legally definitive or exhaustive.

<sup>37</sup> Disputes also occur over other types of issues, such as attorney fees, that do not directly affect the employee.

<sup>38</sup> See Appendix 2 for definitions.

<sup>39</sup> Minnesota Statutes §176.081, subd. 1(c).

**Administrative conference** — DLI conducts administrative conferences on medical or vocational rehabilitation (VR) issues presented on a medical or rehabilitation request unless it has referred the issues to OAH or they have otherwise been resolved. DLI refers medical disputes involving more than \$7,500 to OAH, and it may refer medical or VR disputes for other reasons.<sup>40</sup> The DLI specialist usually attempts to bring the parties to agreement during the conference. If agreement is not reached, the specialist issues a “decision-and-order.” If agreement is reached, the specialist issues an “order on agreement.” A party may appeal a DLI decision-and-order by requesting a *de novo* hearing at OAH.<sup>41</sup>

### Dispute-resolution activities at the Office of Administrative Hearings

OAH performs the following dispute-resolution activities:

**Mediation** — If the parties agree to participate, OAH offers mediation to seek agreement on the issues. Any type of dispute is eligible. Mediation agreements are usually recorded in a “mediation award.”

**Settlement conference** — OAH conducts settlement conferences in litigated cases to achieve a negotiated settlement, where possible, without a formal hearing. If achieved, the settlement typically takes the form of a “stipulation for settlement.” A stipulation for settlement is approved by an OAH judge; it may be incorporated into a mediation award or “award on stipulation”, usually the latter.

**Administrative conference** — With some exceptions, OAH conducts administrative

<sup>40</sup> Minnesota Statutes §176.106. The 2005 Legislature increased the monetary threshold for OAH jurisdiction in medical disputes from \$1,500 to \$7,500. DLI also refers medical disputes to OAH if surgery is involved, and it may refer medical or VR disputes if litigation is pending at OAH or the issues are unusually complex. Primary liability disputes are outside of administrative conference jurisdiction and must be filed on a claim petition, which leads to a settlement conference or hearing at OAH.

<sup>41</sup> For brevity, this report refers to the filing of a request for *de novo* hearing as an appeal, even though it is not technically that because the issues are heard anew and new evidence may be presented.

conferences on issues presented on a medical or rehabilitation request that have been referred from DLI (see above). In some cases, medical- and rehabilitation-request disputes referred from DLI are heard in a formal hearing (see below). OAH also conducts administrative conferences where requested by the claimant in a dispute over discontinuance of wage-loss benefits.<sup>42</sup> If agreement is not reached, the OAH judge issues a “decision-and-order.” A party may appeal an OAH decision-and-order by requesting a *de novo* hearing at OAH.

**Formal hearing** — OAH holds formal hearings on disputes presented on claim petitions and other petitions where resolution through a settlement conference is not possible. OAH also conducts hearings on other issues, such as medical-request disputes involving surgery, medical- or rehabilitation-request disputes that have complex legal issues or have been joined with other disputes by an order for consolidation, discontinuance disputes where the parties have requested a hearing and disputes over miscellaneous issues such as attorney fees. OAH also conducts *de novo* hearings when a party files a request for hearing to appeal an administrative-conference decision-and-order from DLI or OAH. If the parties do not reach agreement, the judge issues a “findings-and-order.”

### Dispute-resolution by the parties

Often, the parties in a dispute reach agreement outside of the dispute-resolution process at DLI or OAH, although this is often spurred by DLI or OAH initiatives such as the scheduling of proceedings. Sometimes the party initiating a dispute or an appeal of a decision-and-order withdraws the dispute or the appeal. Sometimes the parties agree informally, sometimes without notifying DLI or OAH. Often they settle by means of a stipulation for settlement, which may be reached while the dispute is at DLI or OAH. The stipulation for settlement is usually incorporated into an award on stipulation issued by an OAH judge.

<sup>42</sup> Minnesota Statutes §176.239.

## Appendix 2

### Glossary

The following terms are used in this report.<sup>43</sup>

**Administrative conference** — An expedited, informal proceeding where parties present and discuss viewpoints in a dispute. With some exceptions, administrative conferences are conducted on medical and vocational rehabilitation (VR) disputes presented on a medical or rehabilitation request;<sup>44</sup> they are also conducted on disputes over discontinuance of wage-loss benefits presented by a claimant’s request for administrative conference. Medical and rehabilitation conferences are conducted at either DLI or OAH depending on whether DLI has referred the issues concerned to OAH.<sup>45</sup> Discontinuance conferences are conducted at OAH. If agreement is not achieved in the conference, the DLI specialist or OAH judge issues a “decision-and-order.” If agreement is achieved, an “order on agreement” is issued. A party may appeal a DLI or OAH decision-and-order by requesting a *de novo* hearing at OAH.<sup>46</sup>

**Answer to claim petition** — A form by which the insurer responds to a claim petition by indicating whether it has paid for (or provided) the requested services or benefits, intends to pay for them or does not intend to pay for them, and if not, why not.

**Award on stipulation** — A document issued by an OAH judge that awards to the parties in a dispute the services, benefits and payments specified in a stipulation for settlement.

---

<sup>43</sup> These definitions are only intended to help the reader understand the material presented in this report. They are not intended to be legally definitive or exhaustive.

<sup>44</sup> As indicated in Appendix 1, some issues presented on a medical or rehabilitation request are heard in a formal hearing at OAH rather than an administrative conference.

<sup>45</sup> See discussion of DLI administrative conferences (including note 40) in Appendix 1 for types of medical and VR disputes referred to OAH.

<sup>46</sup> For brevity, this report refers to the filing of a request for *de novo* hearing as an appeal, even though it is not technically that because the issues are heard anew.

**Causation** — The issue of whether the medical condition or disability for which the employee requests benefits or services was caused by an admitted injury (one for which the insurer or employer has admitted primary liability). An insurer denying benefits or services on the basis of causation is claiming the medical condition or disability in question did not arise from the admitted work injury.

**Certification request** — A form by which an employee attorney requests that DLI certify a medical or rehabilitation dispute. See dispute certification.

**Claim petition** — A form by which the injured worker contests a denial of primary liability or requests an award of indemnity, medical or rehabilitation benefits. In response to a claim petition, OAH generally schedules a settlement conference or formal hearing.

**Decision-and-order** — See administrative conference.

**Dispute certification** — A process required by statute in which, in a medical or rehabilitation dispute, DLI must certify that a dispute exists and that informal intervention did not resolve the dispute before an attorney may charge for services.<sup>47</sup> The certification process is triggered by either a certification request or a medical or rehabilitation request. DLI specialists attempt to resolve the dispute informally during the certification process.

**Findings-and-order** — See hearing.

**Hearing** — A formal proceeding on a disputed issue or issues in a workers’ compensation claim, conducted at OAH, after which the judge issues a “findings-and-order” which is binding unless appealed to the Workers’ Compensation Court of Appeals. OAH conducts formal

---

<sup>47</sup> Minnesota Statutes §176.081, subd. 1(c).

hearings on disputes presented on claim petitions and other petitions where resolution through a settlement conference is not possible. OAH also conducts hearings on disputes over discontinuance of wage-loss benefits where requested by a dispute party, disputes referred by DLI because they do not seem amenable to less formal resolution and disputes over miscellaneous issues such as attorney fees. Finally, OAH conducts *de novo* hearings when a party disagrees with an administrative-conference or nonconference decision-and-order from either DLI or OAH.

**Indemnity benefit** — A benefit to the injured or ill worker or survivors to compensate for wage loss, functional impairment or death. Indemnity benefits include temporary total disability, temporary partial disability, permanent partial disability and permanent total disability benefits; supplementary benefits; dependents' benefits; and, in insurance industry accounting, vocational rehabilitation benefits.

**Indemnity claim** — A claim with paid indemnity benefits. Most indemnity claims involve more than three days of total or partial disability, since this is the threshold for qualifying for temporary total or temporary partial disability benefits, which are paid on most of these claims. Indemnity claims typically include medical costs in addition to indemnity costs.

**Injury year** — The year in which the injury occurred or the illness began. In injury year data, all claims, costs and other statistics are tied to the year in which the injury occurred. Injury year, used with DLI, is essentially equivalent to accident year, used with insurance data.

**Intervenor** — A person or entity that is not an original party to a workers' compensation dispute but has an interest in the dispute and has been granted status as a dispute party upon application.<sup>48</sup> Intervenors are typically medical or vocational rehabilitation providers that have provided services to the claimant or entities other than the workers' compensation insurer that have paid for such services or have paid

income benefits. Intervenors may be private or public entities.

**Intervention** — 1. An instance in which DLI provides information or assistance to prevent a potential dispute, or communicates with the parties (outside of a conference or mediation) to resolve a dispute and/or determine whether a dispute should be certified. A dispute-resolution may occur through intervention either during or after the dispute certification process. 2. An instance in which an intervenor (defined above) becomes involved in a dispute after its initiation.

**Mediation award** — See mediation.

**Mediation** — A voluntary, informal proceeding conducted by DLI or OAH to facilitate agreement among the parties in a dispute. If agreement is reached, the DLI specialist or OAH judge formally records its terms in a "mediation award." A mediation occurs when one party requests it and the others agree to participate. This often takes place after attempts at resolution by phone and correspondence have failed.

**Medical dispute** — A dispute over a medical issue, such as choice of providers, nature and timing of treatments, or appropriate payments to providers.

**Medical Request** — A form by which a party to a medical dispute requests assistance from DLI in resolving the dispute. The request may lead to mediation or other efforts toward informal resolution by DLI or to an administrative conference at DLI or OAH (see administrative conference).

**Medical Response** — A form by which the insurer responds to a medical request by indicating whether it has paid for the requested medical services, intends to pay for them or does not intend to pay for them, and if not, why not.

**Nonconference decision-and-order** — A decision issued by DLI, without an administrative conference, in a dispute for which it has administrative conference authority (see "administrative conference"). The decision is

<sup>48</sup> Minnesota Statutes §176.361.

binding unless an affected party requests a formal hearing.

**Office of Administrative Hearings (OAH)** — An executive branch body that conducts hearings in administrative law cases. One section is responsible for workers' compensation cases; it conducts administrative conferences, mediations, settlement conferences and hearings.

**Order for consolidation** — An order issued by an OAH judge consolidating different disputes for the same claimant.

**Order on agreement** — See administrative conference.

**Point in dispute** — The reason the insurer and the employee disagree over whether the medical service at issue should be provided or paid for. "Point in dispute" is defined solely for purposes of this report. It is sometimes referred to elsewhere as "insurer defense."

**Primary liability** — The overall liability of the insurer for any costs associated with an injury claim when the injury is determined to be compensable. An insurer may deny primary liability (deny the injury is compensable) if it has reason to believe the injury did not arise out of and in the course of employment or is not covered under Minnesota's workers' compensation law.

**Reasonableness and necessity** — The issue of whether a requested medical service is appropriate for the medical condition for which it is requested.<sup>49</sup> An insurer denying services on the basis of reasonableness and necessity is claiming the services are not appropriate for the medical condition for which they are requested.

---

<sup>49</sup> Minnesota Rules, part 5221.6040, subp. 10, defines "medically necessary treatment" as health services that are "reasonable and necessary" for diagnosis, cure or significant relief of the condition in question, consistent with the workers' compensation medical treatment parameters or, if they don't apply, consistent with current accepted standards of practice within the scope of the provider's license or certification. The treatment parameters are guidelines contained in Minnesota Rules, parts 5221.6050 through 5221.6600 for the treatment of low back pain, neck pain, thoracic back pain and upper extremity disorders.

**Rehabilitation Request** — A form by which a party to a vocational rehabilitation dispute requests assistance from DLI in resolving the dispute. The request may lead to mediation or other efforts toward informal resolution by DLI or to an administrative conference, usually at DLI but occasionally at OAH (see administrative conference).

**Rehabilitation Response** — A form by which the insurer responds to a rehabilitation request by indicating whether it has paid for (or provided) the requested rehabilitation services, intends to pay for them or does not intend to pay for them, and if not, why not.

**Request for Hearing** — A form by which a party to a decision-and-order from DLI or OAH requests a *de novo* hearing at OAH. In this report and elsewhere, a request for hearing is sometimes referred to as an appeal, although it is not technically that because the issues are heard anew and new evidence may be presented.

**Settlement conference** — A proceeding conducted at OAH to achieve a negotiated settlement, where possible, without a formal hearing. If achieved, the settlement typically takes the form of a "stipulation for settlement" (see below).

**Stipulation for settlement** — A document that states the terms of settlement of a claim among the affected parties. A stipulation usually occurs in the context of a dispute, but not always. The stipulation may be reached independently by the parties or in a settlement conference or associated preparatory activities. A stipulation is approved by an OAH judge. It may be incorporated into a mediation award or an award on stipulation, usually the latter. The stipulation usually includes an agreement by the claimant to release the employer and insurer from future liability for the claim other than for medical treatment.

**Vocational rehabilitation (VR) dispute** — A dispute about a VR issue, such as whether the employee should be evaluated for VR eligibility, whether he or she is eligible, whether certain VR plan provisions are appropriate or whether the employee is cooperating with the plan.

***Workers' Compensation Court of Appeals (WCCA)*** — An executive branch body that hears appeals of workers' compensation

findings-and-orders from OAH. WCCA decisions may be appealed to the Minnesota Supreme Court.

## Appendix 3

### Recent enhancements in the DLI dispute-resolution process

Between October 2005 and May 2007, DLI made the following changes in its workers' compensation dispute-resolution process, with the purpose of increasing its speed and quality:

- Established best practices for maintaining impartiality and confidentiality, dealing with conflicts of interest, gathering and analyzing information, facilitating communication, managing dispute-resolution processes, conducting negotiations, producing agreements, drafting legal documents and other necessary activities.
- Established shorter time-frames for processing dispute certification requests and medical and rehabilitation requests.
- Set a goal of achieving informal resolutions in a higher proportion of cases in response to assistance contacts, dispute certification requests and medical and rehabilitation requests.
- Limited discretionary referrals to OAH with the goal of keeping disputes at DLI when they are capable of DLI resolution.
- Began scheduling administrative conferences in a higher proportion of disputes.
- Began scheduling administrative conferences more promptly.
- Began approving continuances (re-sets) of administrative conferences only upon showing of good cause.<sup>50</sup>
- Increased outreach on the availability of mediation.
- Set a goal of diverting more disputes into mediation, whether after an assistance contact, a medical or rehabilitation request, or the scheduling of an administrative conference.<sup>51</sup>
- Established standards for the quality of administrative conferences and mediations.
- Established a shorter time-frame for issuing administrative conference decision-and-orders.
- Established standards for the quality of decision-and-orders.
- Improved standards for managing intervenor claims.
- Consolidated the DLI dispute-resolution units in St. Paul and Duluth.
- Added staff with experience in both law and workers' compensation.

---

<sup>50</sup> Minnesota Rules part 1415.3700, subp. 6 requires that continuances be approved only upon showing of good cause. See note 19.

<sup>51</sup> The parties may agree to mediate either before or after appearing for an administrative conference.

## Appendix 4

### Sample-selection procedure

For both the 2003 and 2007 medical disputes, disputes were randomly selected from the DLI database. For 2003, disputes that had been filed at any time during the year were selected. For 2007, the selection was limited to disputes filed from May through August of that year. May was the start month because staffing increases and modifications in DLI business practices had been accomplished by that time. August was the end month to allow as much time as possible to elapse between dispute filing and data coding, which occurred for the 2007 disputes in the summer and early fall of 2008.

For the 2003 disputes, the sample was selected in three segments: disputes with a medical request and not a certification request, disputes with both a medical request and a certification request, and disputes with a certification request only. At the time, this seemed to provide some simplification because the DLI database does not identify whether a certification request has medical or rehabilitation issues (or whether it has the same issues as on a subsequent medical or rehabilitation request, if one appears). In retrospect, this system added complication. A weighting procedure was used to adjust the sample counts within these three subsamples to population proportions.

To obtain the weights, a sample was drawn from the DLI database of all claims with at least one medical request or certification request filed in 2003. The imaged documents of these claims were examined to keep only those certification requests with medical issues. Five hundred of the remaining claims were further examined to divide them into cases with a medical request only, a medical request and a certification request or a certification request only. The proportions of cases in the three categories were then used as benchmarks to which to adjust the coded 2003 medical disputes. To make the adjustment, the proportions of the coded cases in the same three categories were determined (on the basis of the actual coded data) and weights were accordingly computed.

For the 2007 disputes, a sample was drawn from the DLI database of all disputes with a medical request or certification request from May through August 2007. In the coding process, certification requests involving rehabilitation issues were ignored. The result was a random sample of cases with a medical request, a certification request involving medical issues, or both, for the sample period, so no weighting procedure of the type used with the 2003 cases was necessary.



## Appendix 5

### Data items coded

#### Overall claimant and dispute data

The following items were coded for each injured worker with dispute issues:

Date of injury  
Input date for coded data  
Combined claims (yes/no for whether multiple claims are involved in the same dispute)  
Total number of documents in case file, including combined claims (and duplicate filings)  
CMCO (yes/no for whether employer has arrangement with certified managed care organization)  
Number of workers' compensation insurers involved in dispute  
Dispute comments

#### Issue data

The following items were coded for each issue in dispute:

Benefit at issue (see Appendix 6)  
Point in dispute (up to three)  
Nature of injury (up to three)  
Part of body (up to three)  
Amount of money requested (initial) (2007 disputes only)  
Amount of money requested (ending)  
Amount of money awarded (2007 disputes only)  
Roraff and Heaton fees (attorney fees)  
Timing of service (relative to presentation and final resolution of dispute)  
Issue comments

#### Event data

The following items were coded for each event related to a coded issue:

Event type (see Appendix 7)  
Event initiator (employee, employee attorney, insurer, insurer attorney, etc.)  
Event date (date document received or issued by DLI, or date indicated in DLI log)  
Date document signed (where event is document)  
Proceeding date (for scheduled proceedings)  
Proceeding status (held, re-set (with requesting party), canceled (with reason))  
Proceeding previously scheduled (yes/no for whether proceeding was scheduled before issue was added to it) (2007 only)  
Proceeding continuation date (date to which proceeding was held open if it began on originally scheduled date)  
Employee attorney (yes/no for whether employee attorney is indicated on event)  
Insurer attorney (yes/no for whether insurer attorney is indicated on event)  
Payor intervenor (yes/no for whether payor intervenor is indicated on event)  
Provider intervenor (yes/no for whether provider intervenor is indicated on event) (2007 disputes only)

Medical issues added (yes/no for whether event adds medical issues to dispute)<sup>52</sup>  
Rehabilitation issues added (yes/no for whether event adds vocational rehabilitation issues to dispute)  
Indemnity issues added (yes/no for whether event adds indemnity issues to dispute)  
Claimant award (gross amount awarded to claimant, including indemnity, any medical or rehabilitation not counted elsewhere and indemnity-related attorney fees) (2007 only)

---

<sup>52</sup> For the 2003 medical disputes, this item pertained to any medical issues added to the dispute after the initial medical request. For the 2007 medical disputes, it was limited to any medical issues added to the dispute at OAH or beyond. Such added issues were not coded as issues in their own right; they were only recognized by coding “medical issues added” as “yes.” For this report, to make the medical disputes comparable between 2003 and 2007, medical issues added to 2007 disputes after the initial medical request but before the dispute reached OAH (which were originally coded as issues in their own right) were converted to “added issues.” That is, the “medical issues added” item was converted to “yes” and the issues were not recognized as separate issues.

## Appendix 6

### Benefit-at-issue categories

The following is the list of benefit-at-issue categories used in coding the 2003 and 2007 medical request disputes. Each category was used no more than once in the same dispute.

#### Medical treatment

- Referral or consultation
- Office or clinic visit
- Chiropractic services (any services provided by chiropractor)
- Physical therapy services (any services provided by physical therapy provider) (excluding functional capacity evaluation)
- Functional capacity evaluation
- Surgery (and associated services)
- Nursing services
- Mental health services
- Medications
- Diagnostic imaging
- Therapeutic injections
- In-patient hospitalization
- Surgical implants and prosthetics
- Equipment and supplies for claimant use
- Exercise program
- Chronic management
- Pain clinic
- Facility services (use of premises, equipment, materials or staff for medical procedure)
- Emergency services
- Pathology and laboratory services
- Nerve testing
- Other medical treatment (specify)

#### Other medical services

- Modifications to home
- Health club membership
- Ancillary expenses (mileage, food, lodging)
- Varied medical services
- Change of doctor
- Intervenor recovery (payor intervenors, medical benefits only)
- Unspecified hospital services
- Unspecified clinic or doctor services
- Unspecified ambulatory surgical center services
- Unspecified medical services
- Other known medical service — nontreatment (specify)

## Appendix 7

### Codable events

The following is the list of codable events used in coding the 2003 and 2007 medical-request disputes. Each event in the list was coded every time it occurred for at least one of the issues in the dispute (and was linked to those issues to which it related). In addition, any other event deemed important for understanding the resolution process for the issues concerned was coded. Where “detail also coded” is indicated (in parentheses), relevant detail for the event was coded separately for each issue to which the event applied.

#### Document received

- Certification request
- Medical request
- Rehabilitation request
- Claim petition
- Medical response (detail also coded — nature of response)
- Rehabilitation response (detail also coded — nature of response)
- Answer to claim petition (detail also coded — nature of answer)
- Agreement to mediate
- Request for hearing
- Notice of appeal to Workers’ Compensation Court of Appeals
- Petition for Writ of Certiorari (appeal to Supreme Court)
- Employee independent medical examination report
- Insurer independent medical examination report
- Employee independent vocational consultation report
- Employer independent vocational consultation report
- Amendment of medical or rehabilitation request or claim petition (if it adds issues)
- Amendment of medical or rehabilitation response or of answer to claim petition (detail also coded — nature of amended response or answer)
- Other amendment or update of issues
- Affidavit of significant financial hardship
- Letter resolving issue
- Vocational rehabilitation document indicating issue resolution
- Letter or other document confirming agreement at proceeding
- Other document received (specify)

#### Proceeding scheduled

- Mediation — DLI
- Medical or rehabilitation conference — DLI
- Medical or rehabilitation conference — OAH
- Discontinuance conference — OAH
- Stipulation status conference — OAH
- Settlement conference — OAH
- Pre-trial (regular) — OAH
- Pre-trial (hardship) — OAH
- Pre-trial (surgery status) — OAH

Hearing — OAH

Other proceeding scheduled (specify)

For all scheduled proceedings, if the proceeding was held and no resolution document was issued, whether an agreement was reached in the proceeding was also coded (separately for each issue) if the information was available. If the proceeding was canceled, the reason for the cancellation was coded.

### Document issued

Dispute certification decision — DLI (detail also coded — nature of decision)

Letter noting resolution by parties, no further action — DLI

Award on agreement (mediation award) — DLI

Written agreement other than mediation award — DLI

Conference decision-and-order — DLI (detail also coded — prevailing party)

Nonconference decision-and-order — DLI (detail also coded — prevailing party)

Order for consolidation — OAH (detail also coded — type of dispute(s) with which consolidated)

Order for joinder — OAH (detail also coded — requesting party)

Award on stipulation — OAH (detail also coded — nature of resolution)

Partial award on stipulation — OAH (detail also coded — nature of resolution)

Award on agreement — OAH

Conference decision-and-order — OAH (detail also coded — prevailing party)

Order on discontinuance — OAH

Findings-and-order — OAH (detail also coded — prevailing party)

Findings-and-order on discontinuance — OAH

Order to strike — OAH (detail also coded — requesting party)

Order for dismissal — OAH (detail also coded — reason for dismissal)

Temporary order — OAH

Award on stipulation — WCCA (detail also coded — nature of resolution)

Decision — WCCA (detail also coded — prevailing party)

Decision — Supreme Court (detail also coded — prevailing party)

Notice of intervention status — OAH

Order dismissing insurer from dispute — OAH

Order dismissing intervenor from dispute — OAH

Other document issued (specify)

### Other event

Issue resolved by DLI intervention

Issue determined by DLI to need no further action

Issue resolved by parties (no document)

Issue withdrawn

Issue referred from OAH to DLI (detail also coded — reason for referral)

Issue referred from DLI to OAH

Issue referred to DLI Claims Services and Investigations

Issue referred to DLI Vocational Rehabilitation Unit

Agreement referred from DLI to OAH for stipulation

Medical or rehabilitation request rejected by DLI (detail also coded — reason for rejection)

Employee dies or goes to jail

Employee gets out of jail

Other event (specify)

### **Detail regarding treatment parameters and medical fee schedule**

Additional detail regarding application of the medical treatment parameters and the medical fee schedule was also coded for certain events. If reasonableness and necessity was a point in dispute, the benefit at issue was covered by the treatment parameters, and the event was a filed dispute document (e.g., a medical response) or a resolution document (e.g., an award on stipulation or decision-and-order), it was recorded whether the treatment parameters were invoked by the dispute parties and, for a decision document, by the DLI specialist or OAH judge. If the amount of payment was a point in dispute and the event was a decision document, it was also recorded whether the payment amount was covered by the medical fee schedule and, if so, whether the DLI specialist or OAH judge invoked the fee schedule.

## Appendix 8

### Dispute profile tables

The following tables provide more detailed data on the major dispute-resolution paths depicted in Figures 3.1, 3.2 and 9.1. Panel A of each table shows the data behind those figures. Panel B

shows the major resolution events for each major dispute-resolution path and the number of disputes (per 1,000) with each major final resolution event.

Medical disputes from 2003:  
 Major dispute-resolution paths at the Department of Labor and Industry and the Office of Administrative Hearings  
 Panel A: Percentages of disputes, number per 1,000 and median days to resolution [1]

Major path [2]	Pctg. of all disputes	Percentage among disputes at prior step in path [3]		Number of disputes per 1,000 [4]			Median days to final resolution [5]
				Location of final resolution		Total	
				DLI	OAH		
Total	100%			643	357	1,000	63
Certification decision: dispute not certified (other than cases with pending litigation)		31%		304	10	314	10
Remainder of cases [6]		69%		338	347	686	113
Neither scheduled for DLI conference nor referred to OAH		28%		181	12	193	20
Final resolution at DLI			94%	181		181	18
Final resolution at OAH			6%		12	12	332
Scheduled for DLI conference		33%		148	78	226	130
Conference held		48%		66	42	108	143
Decision-and-order issued		74%		39	41	79	208
Appealed			51%		41	41	307
Not appealed			49%	39		39	98
No decision-and-order			26%	27	1	28	88
Conference not held		52%		83	36	118	117
Referred to OAH		27%		2	31	32	244
Not referred to OAH		73%		81	5	86	91
Referred to OAH (and not sched. for DLI conf.)		39%		9	258	267	190
Total referred to OAH [7]		31%		15	295	310	198
Scheduled for OAH adm. conference first		56%		4	170	175	210
Decision-and-order issued		42%			74	74	207
Appealed			46%		34	34	330
Not appealed			54%		40	40	133
No D&O, scheduled for hearing [8]		19%			34	34	398
Findings-and-order issued		29%			10	10	377
No findings-and-order		71%			24	24	462
No D&O, not scheduled for hearing		36%	38%	4	63	67	138
Scheduled for hearing first [8]				4	108	112	212
Findings-and-order issued		29%			32	32	249
No findings-and-order		71%		4	76	80	207
Not sched for adm. conf. or hearing		7%		7	16	23	95
Total scheduled for hearing [8, 9]		47%		4	142	146	251
Findings-and-order issued		29%			42	42	256
No findings-and-order		71%		4	100	104	239



Medical disputes from 2003:  
Major dispute-resolution paths at the Department of Labor and Industry and the Office of Administrative Hearings  
Panel B: Final resolution event [1]

Major path [2]	Number per 1,000 disputes (shown for most-detailed major paths only) [10]											
	Certification decision	Medical response	Resolved by DLI intervention [11]	DLI decision & order [12]	DLI mediation award [13]	Resolved by parties or withdrawn	Award on stipulation	OAH decision & order	OAH findings & order	OAH order for dismissal	Other	Total
Total	330	65	12	41	20	150	205	39	64	34	42	1,000
Certification decision: dispute not certified (other than cases with pending litigation)	278	14				7	10		2		4	314
Remainder of cases [6]												
Neither scheduled for DLI conference nor referred to OAH												
Final resolution at DLI	51	42	10	3		50	16				10	181
Final resolution at OAH							8		2	1	1	12
Scheduled for DLI conference												
Conference held												
Decision-and-order issued												
Appealed												
Not appealed				37		3	20		10	6	2	41
No decision-and-order					18	4	2				4	28
Conference not held												
Referred to OAH						4	17	4	3	2	2	32
Not referred to OAH		5	2		2	51	22		1		3	86
Referred to OAH (and not sched. for DLI conf.)		4				32	110	35	46	24	17	267
Total referred to OAH [7]	2	5		1		37	130	39	49	27	20	310
Scheduled for OAH adm. conference first												
Decision-and-order issued												
Appealed						1	13		11	5	3	34
Not appealed								39			1	40
No D&O, scheduled for hearing [8]												
Findings-and-order issued						1	21		10	2		10
No findings-and-order		2		1		23	32			3	6	67
No D&O, not scheduled for hearing												
Scheduled for hearing first [8]												
Findings-and-order issued							1		28		3	32
No findings-and-order	1					8	52			14	5	80
Not sched for adm. conf. or hearing	1	2				4	10			3	2	23
Total scheduled for hearing [8, 9]	1					10	74		38	16	8	146
Findings-and-order issued							1		38		3	42
No findings-and-order	1					9	74			16	5	104

Medical disputes from May through August 2007:  
 Major dispute-resolution paths at the Department of Labor and Industry and the Office of Administrative Hearings  
 Panel A: Percentages of disputes, number per 1,000 and median days to resolution [1]

Major path [2]	Pctg. of all disputes	Percentage among disputes at prior step in path [3]	Number of disputes per 1,000 [4]			Median days to final resolution [5]
			Location of final resolution		Total	
			DLI	OAH		
Total	100%		733	267	1,000	28
Certification decision: dispute not certified (other than cases with pending litigation)		38%	373	8	381	9
Remainder of cases [6]		62%	361	258	619	57
Neither scheduled for DLI conference nor referred to OAH		21%	103	29	131	18
Final resolution at DLI		78%	103		103	11
Final resolution at OAH		22%		29	29	35
Scheduled for DLI conference		60%	257	114	371	89
Conference held		50%	108	76	184	128
Decision-and-order issued		72%	58	75	133	163
Appealed		56%		75	75	231
Not appealed		44%	58		58	79
No decision-and-order		28%	50	1	51	78
Conference not held		50%	150	37	187	67
Referred to OAH		16%		29	29	52
Not referred to OAH		84%	150	8	158	69
Referred to OAH (and not sched. for DLI conf.)		19%		117	117	15
Total referred to OAH [7]		24%	1	147	149	24

Medical disputes from May through August 2007:  
 Major dispute-resolution paths at the Department of Labor and Industry and the Office of Administrative Hearings  
 Panel B: Final resolution event [1]

Major path [2]	Number per 1,000 disputes (shown for most-detailed major paths only) [10]											
	Certification decision	Referred by DLI to OAH	Medical response	Resolved by DLI intervention [11]	DLI decision & order [12]	DLI mediation award [13]	Resolved by parties or withdrawn	Award on stipulation	OAH findings & order	OAH order for dismissal	Other	Total
Total	388	140	42	7	57	34	121	91	16	9	94	1,000
Certification decision: dispute not certified (other than cases with pending litigation)	346	2	14	2			3	5		1	10	381
Remainder of cases [6]												
Neither scheduled for DLI conference nor referred to OAH												
Final resolution at DLI	43		15	3			19	9			15	103
Final resolution at OAH							1	2	2	1	24	29
Scheduled for DLI conference												
Conference held												
Decision-and-order issued												
Appealed							7	28	14	6	20	75
Not appealed					57			1			8	58
No decision-and-order			2			32	5	4				51
Conference not held												
Referred to OAH		27									2	29
Not referred to OAH			11	3		2	86	42			13	158
Referred to OAH (and not sched. for DLI conf.)		111						1		2	2	117
Total referred to OAH [7]	1	140						2		2	4	149

**Medical disputes from 2003 and 2007:  
Major dispute-resolution paths at the Department of Labor and Industry  
and the Office of Administrative Hearings  
Notes**

1. Some disputes have multiple issues. In these cases, a separate path and final resolution event are counted for each issue, and each issue is weighted inversely to the number of issues in the dispute. For example, if there are three issues, each issue is given one-third weight. Numbers and percentages do not always add exactly to totals or subtotals because of rounding (see pp. 2, 3).
2. The "major path" categories are simply characteristics of the disputes analyzed. They do not necessarily imply anything about actions taken or not taken by DLI or OAH. For example, "not scheduled for DLI conference or referred to OAH" does not necessarily mean DLI decided not to take either of the actions concerned. It simply means neither action occurred, which may have been true, for example, because the parties resolved the dispute beforehand.
3. This shows, among the disputes at the prior step in the path, the percentage that proceed to the current step. For example, among the disputes scheduled for DLI conference for 2003, the conference was held 48 percent of the time and not held 52 percent of the time.
4. This number reflects the percentages in the columns to the left.
5. Measured from the first event in the dispute, typically a certification request or medical request.
6. Includes disputes certified, disputes not certified because of pending litigation and disputes with no recorded certification decision in DLI data.
7. Includes (in addition to certified disputes not scheduled for DLI conference) disputes with a certification decision of "not certified" and disputes with a scheduled DLI conference that were referred to OAH. In most of the cases with a scheduled conference, the conference was not held (see "referred to OAH" under "conference not held").
8. OAH hearing includes pre-trial.
9. Includes disputes first scheduled for hearing and those scheduled for hearing after being scheduled for OAH administrative conference. Excludes disputes scheduled for hearing because of an appeal (via a request for hearing) from an administrative conference decision-and-order.
10. These figures are shown only for the most detailed paths to facilitate focus on ultimate outcomes. Numbers less than 0.5 cases per 1,000 are not shown.
11. In these cases DLI resolves the dispute after it is certified but before conference.
12. Includes conference and nonconference decision-and-order.
13. Also includes order on agreement plus a relatively small number of cases with a written agreement other than a mediation award or order on agreement.