

1 Workers' Compensation Full Board Meeting Minutes

2
3 **Date:** Tuesday, November 19, 2024

4 **Location:** 328 State St., Schenectady, NY
5 Room 324

6 **Time:** Webcast Live
10:00 a.m.

7 **MEMBERS OF THE BOARD**

8 Clarissa M. Rodriguez, Chair
9 Freida Foster, Vice Chair (Appeared remotely per Public
10 Officers Law § 103-a[2][c])

11 Mark Higgins

12 Loren Lobban, Esq. (Excused)

13 Samuel Williams

14 Linda Hull

15 Steven A. Crain, Esq.

16 Mark R. Stasko

17 Pamela Caggianelli

18 Arelis Tavares

19 Martin M. Dilan

20 Renee Delgado, Esq.

21 Gloribelle Perez, Esq.

22 **EXECUTIVE DIRECTOR**

23 Steven M. Scotti, Esq.

24 **SECRETARY TO THE BOARD**

Laura Inglis

GENERAL COUNSEL

Heather MacMaster, Esq.

ASSOCIATE ATTORNEY

Heather Justice, Esq.

ALSO PRESENT:

Joe Cavalcante, Advocate for Injured Workers

1 CLARISSA RODRIGUEZ: Good morning, everyone.
2 ALL: Good morning.
3 CLARISSA RODRIGUEZ: Welcome. Thank you.
4 Thank you for joining us all. I'm -- do you mind
5 closing the door -- I'm Clarissa Rodriguez, Chair of
6 the New York State Workers' Compensation Board.
7 Today's Full Board meeting is being webcast live for
8 our members of the public, so welcome. It is also
9 being facilitated by American Sign Language
10 Interpreters. Thank you so much for joining us, our
11 Interpreters.
12 And I now have the honor of calling the 1,037th
13 meeting of the Full Board to order. Madam Secretary,
14 will you please call attendance?
15 LAURA INGLIS: Vice Chair Foster.
16 FREIDA FOSTER: Here.
17 LAURA INGLIS: Board Member Higgins.
18 MARK HIGGINS: Here.
19 LAURA INGLIS: Board Member Williams.
20 SAMUEL WILLIAMS: Here.
21 LAURA INGLIS: Board Member Hull.
22 LINDA HULL: Here.
23 LAURA INGLIS: Board Member Crain.
24 STEVEN CRAIN: Here.

1 LAURA INGLIS: Board Member Stasko.
2 MARK STASKO: Here.
3 LAURA INGLIS: Board Member Tavares.
4 ARELIS TAVARES: Here.
5 LAURA INGLIS: Board Member Caggianelli.
6 PAMELA CAGGIANELLI: Here.
7 LAURA INGLIS: Board Member Dilan.
8 MARTIN DILAN: Here.
9 LAURA INGLIS: Board Member Delgado.
10 RENEE DELGADO: Here.
11 LAURA INGLIS: Board Member Perez.
12 GLORIBELLE PEREZ: Here.
13 LAURA INGLIS: Madam Chair, Board Member
14 Lobban has requested to be excused.
15 CLARISSA RODRIGUEZ: Yes. And Vice Chair
16 Foster is joining us remotely.
17 LAURA INGLIS: Remotely.
18 CLARISSA RODRIGUEZ: Yes, thank you. Board
19 Members, may I please have a motion to approve the
20 absence of Board Member Loren Lobban?
21 MARK HIGGINS: So moved.
22 CLARISSA RODRIGUEZ: Thank you. Is there a
23 second?
24 MARTIN DILAN: Second.

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LINDA HULL: Second.

CLARISSA RODRIGUEZ: Thank you. Is there any opposition to the motion? Okay, hearing none, Board Members all in favor, please say aye.

ALL: Aye.

CLARISSA RODRIGUEZ: Okay, all opposed? Seeing and hearing none, I am, I also approve, and that motion is passed. Thank you. Agenda Item 1, approval of the October 22, 2024 meeting minutes. Board Members, you've all received a copy of the October meeting minutes for your review. Are there any questions or need for discussion? Okay, hearing none, may I please have a motion to approve the Board meeting minutes for October 2024?

PAMELA CAGGIANELLI: Madam Chair, this is Board Member Caggianelli, and I move that we approve the October 22, 2024 Board meeting minutes.

CLARISSA RODRIGUEZ: Thank you, Board Member Caggianelli. Is there a second?

MARK STASKO: Yes, second.

CLARISSA RODRIGUEZ: Okay, thank you, Board Member Stasko. Is there any opposition to the motion? Okay, Board Members all in favor, please say aye.

ALL: Aye.

1 CLARISSA RODRIGUEZ: All opposed? I am
2 also a yes, that motion is passed. Thank you. Agenda
3 Item 2, Office of General Counsel's Departmental
4 Report. General Counsel, Heather MacMaster, will now
5 present the Office of the General Counsel's
6 Departmental Report for the month of October.

7 HEATHER MACMASTER: Thank you, Madam Chair,
8 Madam Vice Chair, Members of the Board. In October of
9 2024 in the Office of General Counsel, the
10 Adjudication Division held 15,271 hearings, 9,883
11 cases were resolved at the hearing, and 287 Reserve
12 Decisions were issued. There were also 1,550 Waiver
13 Agreements finalized.

14 In the Administrative Review Division, 1,067
15 applications were received, 998 were processed, and
16 there are currently 7,957 applications pending. In
17 Legal Affairs, there were 108 Full Board Review
18 applications received, 78 were processed, and there
19 are currently 194 pending. Thank you.

20 CLARISSA RODRIGUEZ: Thank you, Heather.
21 Board Members, are there any questions or need for
22 discussion? Okay, hearing none, may I please have a
23 motion to accept the Office of General Counsel's
24 Departmental Report?

1 LINDA HULL: Yes, Madam Chair, this is Board
2 Member Hull, and I move that we accept the Board
3 minutes -- the Adjudication -- Office of General
4 Counsel, Heather MacMaster's report.

5 CLARISSA RODRIGUEZ: Thank you, Board
6 Member Hull. Is there a second?

7 STEVEN CRAIN: Second.

8 CLARISSA RODRIGUEZ: Thank you, Board
9 Member Crain. Is there any opposition to the motion?
10 Okay, hearing none, Board Members all in favor, please
11 say aye.

12 ALL: Aye.

13 CLARISSA RODRIGUEZ: Thank you. All
14 opposed? Hearing none, I am also a yes, that motion
15 is passed. License Applications. Associate Attorney,
16 Heather Justice, will now present Licensing
17 Applications for the prior month.

18 HEATHER JUSTICE: Good morning, Madam Chair,
19 Madam Vice Chair, Board Members, and Colleagues. You
20 have before you the recommendations from the Assigned
21 Board Panel regarding the Licensing Applications
22 listed in Part 3 of today's agenda. Pursuant to
23 Workers' Compensation Law Section 50 (3-d), AmTrust
24 North America, Inc., QO Susan Howe, for a three-year

1 renewal. And Number 2, Markel Service, Inc., new QO
2 Todd M. Jones, Esq., three-year renewal. I present
3 these recommendations to the Board for your
4 consideration.

5 CLARISSA RODRIGUEZ: Okay, thank you,
6 Heather. Board Members, are there any questions or
7 need for discussion? Okay, hearing, none, may I
8 please have a motion to accept the recommendations as
9 presented?

10 SAMUEL WILLIAMS: Board Member Williams, I
11 make a motion to accept the recommendations.

12 CLARISSA RODRIGUEZ: Thank you, Board
13 Member Williams. Is there a second?

14 ARELIS TAVARES: Second.

15 CLARISSA RODRIGUEZ: Thank you, Board
16 Member Tavares. Is there any opposition to the
17 motion? Okay, hearing none, Board Members all in
18 favor, please say aye.

19 ALL: Aye.

20 CLARISSA RODRIGUEZ: Thank you. All
21 opposed? I am also a yes, that motion is passed.
22 Thank you, Board Members. Legal Appeals, Heather
23 MacMaster will now present the recommendations
24 concerning decisions by the Appellate Division.

1 HEATHER MACMASTER: Thank you, Madam Chair.
2 With respect to items 4A through 4P, it is the
3 recommendation of the Office of General Counsel that
4 the decisions of the Appellate Division, Third
5 Department, be adopted as the decisions of the Board.

6 CLARISSA RODRIGUEZ: Thank you, Heather.
7 Board Members, are there any questions or need for
8 discussion? Okay, may I have a motion to accept the
9 recommendations of the Office of General Counsel?

10 GLORIBELLE PEREZ: So moved.

11 CLARISSA RODRIGUEZ: Thank you, Board
12 Member --

13 GLORIBELLE PEREZ: Perez.

14 CLARISSA RODRIGUEZ: -- Perez, sorry. I
15 knew that. Is there a second?

16 LINDA HULL: Board Member Hull, second.

17 CLARISSA RODRIGUEZ: Okay, thank you, Board
18 Member Hull. Is there any opposition to the motion?
19 Okay, hearing none, Board Members all in favor, please
20 say aye.

21 ALL: Aye.

22 CLARISSA RODRIGUEZ: Thank you. All
23 opposed? I am also a yes, that motion is passed.
24 Thank you all. Agenda Item 6, there are no Mandatory

1 cases on for Full Board Review this month. So we'll
2 move on to our Discretionary Full Board Review cases.
3 I now turn this portion of the agenda over to Vice
4 Chair Freida Foster.

5 FREIDA FOSTER: Thank you, Madam Chair. For
6 the cases, for the cases listed in Item 6 on your
7 agenda, it's been recommended that Full Board Review
8 be granted. Those cases are 6A, Matter of New York
9 City Transit Authority; 6B, Matter of Department of
10 Citywide Administration; and 6C, Matter of Price
11 Chopper. I move to refer the case, these cases, back
12 to their respective Panels for further consideration.

13 CLARISSA RODRIGUEZ: Thank you, Vice Chair
14 Freida Foster. Is there a second?

15 PAMELA CAGGIANELLI: Yes, Madam Chair, this
16 is Board Member Caggianelli, and I second that motion.

17 CLARISSA RODRIGUEZ: Thank you. Does
18 anyone need to be recused from any of these cases?

19 UNIDENTIFIED MALE SPEAKER: No.

20 CLARISSA RODRIGUEZ: Okay. Is there any
21 opposition to the motion? Okay, hearing none, Board
22 Members all in favor, please say aye.

23 ALL: Aye.

24 CLARISSA RODRIGUEZ: Thank you. All

1 opposed? Okay, hearing none, I am also a yes, that
2 motion is passed. Thank you, Board Members. Agenda
3 Item 7, is there any other business? Okay, hearing
4 none, then we'll move on to our guest speaker today.

5 I would now like to introduce to you all, and
6 welcome, today's presenter, the Board's Advocate for
7 Injured Workers, Joe Cavalcante. Please join me in
8 welcoming Joe, who will give us some insight about the
9 details surrounding the workers' compensation system,
10 including the rights, responsibilities, and resources
11 available to both injured workers and business owners
12 across New York State.

13 Joe will be giving a presentation that's similar
14 to what folks may have heard if they attended our
15 annual conference this year in October. With a little
16 bit more detail about the claims process. Thank you,
17 Joe, for being here. Take it away.

18 JOE CAVALCANTE: Okay. Good morning. And
19 good morning to Vice Chair Foster and Board Members.

20 ALL: Morning.

21 JOE CAVALCANTE: And to Colleagues and to
22 any of the public who are watching us this morning.
23 We had a conference last month where both Chair
24 Rodriguez and Executive Director Steve Scotti shared a

1 great amount of system data during their remarks.

2 We had a detailed section on claim data all set,
3 but we ultimately decided to save it, because of the
4 length of it, and it would have been additional time,
5 and the relative complexity of that data for that
6 audience. However, it's great data, and it's the kind
7 of information everyone on the Board can easily
8 absorb.

9 So the Chair has given me the honor of sharing it
10 with everyone today. So this is what we would have
11 shared that day. This is not Joe. These are the
12 system statistics about (inaudible, crosstalk).

13 LAURA INGLIS: Is it on? Did you hit on?

14 JOE CAVALCANTE: It's not on.

15 LAURA INGLIS: I will do it for you. Just
16 do next slide.

17 JOE CAVALCANTE: Oh, you did it?

18 LAURA INGLIS: I did it.

19 JOE CAVALCANTE: Thank you, Laura. MVP
20 Laura Inglis. So we're going to look at some general
21 information about injured workers including wage data,
22 including some wage data that we collected. For the
23 first time you are going to see some things now that
24 you've not seen before. We're going to present the

1 data in a way that we don't, we haven't presented it
2 before. We're going to begin with an overview of the
3 system with a number of incidents that we've
4 confronted in 2023. And then we're going to segment
5 them into complete claims and incomplete claims.

6 And we're looking at claims that received their
7 first indemnity benefits in the year 2023. This is
8 going to give us a true snapshot of how the system is
9 functioning today. That was the Chair's intent for
10 that forum, was to show the system as it works today.

11 We're going to sort the claims into seven
12 familiar claim types, because then we can report on
13 the important events within those claim types. So you
14 are going to see this report in a new way. For
15 example, this month the Board announced that we have
16 processed 2 million PARs, Prior Authorization
17 Requests, through OnBoard, 2 million.

18 We're now going to show you where they are.
19 We're now going to show you which claim types are
20 getting PARs, and on average how many, and so forth.
21 So we have this prospective here on detail now.

22 And that's just one of these data points we're
23 going to show. And then we're going to close by
24 recapping controversies because they are significant

1 in terms of energies expended. And then finally the
2 moment when you all entered the picture, this is new,
3 appealed claims. We'll show you where the appeals
4 are.

5 So let's begin with the landscape for injured
6 workers and their experience in the system that's
7 designed to give them healthcare and to pay cash
8 benefits after an incident at work. Out of the nearly
9 20 million people in New York, 9.8 million were
10 working at the end of 2023. For claims with a 2023
11 injury year, there were 2.81 injuries per 100 workers
12 in our state. You can see on this slide that not
13 surprisingly there is a bit of a dip from 2019 to
14 2020, pandemic, but then the trend line comes back up
15 to the historic. So last 2023, about 2.81%, if you
16 want to convert it to percentages.

17 This is new. We're reporting the median wage of
18 our injured workers against the statewide median wage.
19 Everyone will recall from statistics the median is the
20 point where half a population is above, half a
21 population is below. It's the mid point. It's very
22 different from an average.

23 So the median wage of injured workers with claims
24 established in '23 was about \$55,500 a year, or \$1067

1 a week. The \$1067 a week, just for some general
2 context, that's just below what the maximum benefit
3 was at that time, just for general context. However,
4 you can compare what workers in our system are earning
5 on a median basis to what the statewide median wage
6 was at the same time. Statewide was 5% higher at
7 about \$58,600. So it's a general context.

8 Here we see what's called Nature of Injury.
9 These five are the top five injuries, and they are 78%
10 of all the injuries in established claims in 2023. So
11 there's strains, and contusions, and sprains, and
12 tears, and fractures, and lacerations.

13 Now let's look at the big picture with respect to
14 claims. For 2023, our baseline year here, we
15 assembled about 260,000 -- 267,000 claims. So that's
16 how many incidents there were in the system. The
17 overwhelming majority of these instances were reported
18 by payors, but 12% were reported by workers on the
19 Employee Claim Form or the C-3.

20 That worker filing rate has been constant for the
21 last several years. A claim is considered complete
22 when the Board receives a medical report on the one
23 hand, and a notice of incident on the other. And the
24 notice can come from the employer on what's called a

1 FROI, or the worker on the C-3. 61% of all the claims
2 assembled in 2023 are complete. That totals about
3 163,000.

4 Now this data was pulled less than two months
5 ago, and just to note, over time claims do move from
6 incomplete status to complete status as more documents
7 arrive. The incomplete claims are in our files, those
8 hundred, three hundred, four thousand, they are in our
9 files, but they don't see the type of activity I'm now
10 going to report because they are incomplete.

11 We try to get those claims completed, but we do
12 need the participation of employers and payors and
13 especially providers in completing those claims. So
14 this is just a reminder that if anyone is obligated to
15 report, please do it. Anything that any of us can do
16 to help complete these claims is going to create a
17 better functioning system. And of course, by law,
18 workers cannot be retaliated against or discriminated
19 against for reporting an incident.

20 Now with respect to the complete claims, from
21 2023, 70% of the time all the injured worker needed
22 was medical care. We call these claims medical onlys,
23 because the only benefit paid was that medical care.
24 They're payable, but the worker hasn't lost enough

1 time to create an indemnity payment at that moment.
2 These claims, the medical onllys now, they tend to have
3 far less activity per claim than those that pay
4 indemnity benefits.

5 So we're now going to focus on a different subset
6 of claims. We shall now review the claims that
7 received indemnity for the first time in 2023. Now
8 this is the new way of looking at data. On the left
9 you can see there are seven types of claims that
10 received lost wage or indemnity payments. Sorting the
11 claims in this manner allows us to drill down into the
12 benefits being provided. And to also see the
13 different types of activity occurring in the system.

14 These seven claim types with their indemnity
15 payments, they received the most activity. So we're
16 going to see where the system is expending its energy
17 and its efforts, and then we'll also fulfill what the
18 Chair wished, we will be getting a sense of the
19 different aspects of the worker's experience,
20 accessing medical care and lost wages. And of course
21 this will also show the activity of the payors, and
22 the attorneys, and the providers, and everyone else as
23 well.

24 So we pinpointed claims that were in these

1 statuses for the first time in 2023. We captured all
2 their historic activity, up to September 22nd of this
3 year, that's when we did this poll, in order to more
4 accurately show what happens to these claims during
5 their life cycle.

6 We're not just interested in just like one year
7 of data, we're interested in what happens to claims
8 during their life cycle. And we'll walk through the
9 one claim type at a time. And we're going to begin
10 with the temporary total disability claims. And then
11 we'll move into other ones. But this is our biggest
12 subset now. These are the people that are 100%
13 disabled on a temporary basis. This pool of claims,
14 they got their first indemnity last year.

15 Now let's start with how long they spent in
16 temporary total status. You can see on the left, that
17 large one, 85% of these claims were in temp total
18 status for six months or less. And you can see on the
19 other end, almost 3% got two years or more of
20 benefits.

21 Now this is the table you will see a few times.
22 This is our largest subset. Of these nearly 27,000
23 claims, the first thing we're seeing is 16.9% of them
24 enjoyed 21-a status. Colloquially known as pay

1 without prejudice. So for just a moment I would like
2 to just reiterate the rules on 21-a, which are that
3 the payors may not simply pay the minimum comp rate.
4 We announced this about 14 months ago, that payments
5 must conform to the medical reports in the Board file.
6 And information in the payor's possession concerning
7 wages. And this is the general practice, but it's
8 worth it sometimes just to reiterate. So thanks to
9 everyone who is compliant with this.

10 Now moving across this Table, four out of these,
11 four out of five of these claims did not have a
12 hearing. But once they started going to hearings,
13 they went to an average of about three and a half
14 hearings each. So 80% zero hearings, 20% an average
15 of three and a half hearings.

16 About 7% of the claims were controverted, which
17 is less than last year's overall rate. About 42% of
18 these temp total workers had legal representation.
19 We're going to see that workers tend to retain
20 representation as their claims progress.

21 This is a table you will see on most of the rest
22 of the claim types. We're now showing you the
23 activity in a claim. These are total disability, so
24 these workers are getting medical care. Just over

1 half of them had a Prior Authorization Request or PAR.
2 I'm going to call them PARs.

3 These cases that involve PARs had an average of
4 almost six PARs each. And please note, we're counting
5 the PAR instances. So if this was Level 1, Level 2,
6 Level 3, that's one instance. Because all we care
7 about is the treatment, not the paper in this context.

8 Nearly a third of these claims had an average of
9 about two IMEs each. So the other two-thirds had
10 zero. One-third had an average of two.

11 Now the C-8.1B. This is when payors are filing
12 billing disputes. So this happened in just over a
13 third of these temp total claims. It happened an
14 average of about 12 times per claim. So this captures
15 the controverted claims, the established claims,
16 everything. Healthcare providers also file payment
17 disputes in about one in seven claims. And when they
18 were filing they had an average of about seven each.

19 Now we're going to move to the temp partials.
20 Workers who heal from temp total to temp partial, they
21 are in this category. Okay. There is no double
22 counting. We're giving you the most recent category.

23 Half of the workers in temp partial claims
24 received indemnity for six months or less. And then

1 on the other end, about 16%, one in six, had 18 months
2 or more of indemnity, as temp partial. The temp
3 partials had the second lowest controversy rate, 11%.
4 That was the average controversy rate in 2023.
5 Statewide.

6 About half of these claims had a hearing, had at
7 least one hearing. And they had an average of about
8 four per claim. So if you started having hearings,
9 temp partial, you had an average of four or so. And
10 the representation by counsel is up now to two-thirds.

11 We're also now going to see more activity in the
12 area of medical care and opinions. Nearly
13 three-quarters of these workers had PARs an average of
14 almost ten times each. Two-thirds of workers in this
15 group had IMEs, an average of almost three each. The
16 payors disputed medical bills in around half of these
17 claims, about 20 times on average, so the other half
18 had zero.

19 Treating providers filed medical billing disputes
20 for their part in a quarter of these claims. And for
21 that quarter they were at a rate of about eight
22 requests per review each. We'll also see, or we will
23 see, that payors dispute more medical bills than the
24 treating providers do. And finally, this is temp

1 partial, so the data also shows that payors raised the
2 labor market attachment argument in at least 2300 of
3 these claims.

4 Now we're moving into permanency. I know I'm
5 moving quickly, but we kind of have to. Let's talk
6 about permanency here, the claims where workers suffer
7 permanent injuries received the most attention in our
8 system. Right now, we're going to consider permanent
9 partial, permanent total. So permanent partial is
10 here, permanent total you will see we're going to
11 aggregate permanent total and total industrial
12 disability.

13 But right now we're in the PPD universe, which is
14 about 4800 claims for 2023. Nearly all of them had
15 hearings. On average, an average of almost five
16 different exams per claim. The payors disputed
17 medical bills in four out of five, roughly, of these
18 claims, an average of twenty and a half times per.

19 Treating providers filed their billing, filed
20 billing disputes in 44% of these claims, an average of
21 a dozen times per claim. The rates and the averages
22 for IMEs and both of these medical bill dispute
23 categories are higher here, than in the temporary
24 claims. And of course the Board has a prominent role

1 in resolving these disputed medical bills for
2 treatment.

3 Now this chart shows where these workers were
4 classified in terms of loss of wage earning capacity.
5 More than a third of workers have lost 30% or less of
6 their wage earning capacity. Those are the two
7 columns on the left.

8 The workers in orange on the right edge, everyone
9 in orange there was classified above the 75% mark, so
10 they are about 6.2% of the total workers who were
11 classified.

12 Permanent total and total industrial disability.
13 They provide a lifetime indemnity benefit to workers
14 at the workers maximum rate. And total industrial
15 disability was awarded seven times in 2023. So we're
16 combining those seven with the 178 permanent totals,
17 because it's the same benefit.

18 These claims almost always have about 11 hearings
19 per claim over their life cycle. Only two of these
20 workers were not represented. Almost every element in
21 every table here is higher than in any other claim
22 type, except the total number of claims, that 185, and
23 also the controversy rate. The 24% here is not our
24 highest rate.

1 More than three-quarters of these workers had an
2 average of 16 PARs each. Just about every worker here
3 went to an average of nine IMEs. In 84% of these
4 claims, payors disputed the medical bill, some element
5 of the medical bill, an average of about 31 times.
6 And in about half of the claims, the treating
7 providers also disputed their payment an average of
8 about 14 times.

9 Here now is a direct comparison of the average
10 benefit cost in dollars on the two claims. So this is
11 a benefit cost, we don't have the data to show you on
12 the payor's administrative expenses here. This is the
13 benefit cost, the permanent total benefits are the
14 most in our system on a dollar basis.

15 So in a direct comparison, the medical expenses
16 in permanent partials are almost exactly half the
17 amount spent in permanent total. Both, both are
18 lifetime benefits, of course. The indemnity is a
19 lifetime benefit only in the permanent totals. And
20 these workers ultimately receive three and a half
21 times what workers receive in permanent partials. And
22 then the total benefit dollars for each are on the
23 screen.

24 We're coming into the homestretch. Schedule loss

1 of use claims, or SLUs. They are (inaudible) when a
2 worker suffers a permanent loss of use in a limb.
3 Each item has, or each body part, I should say, has a
4 different benefit amount. We are also including
5 hearing loss and vision loss in this grouping.

6 On screen you can see the top five body sites.
7 And for those of us watching at home, each finger and
8 toe has its own benefit amount, and therefore would be
9 in its own category. SLUs, schedule loss of use, are
10 our third largest volume of claims by type today.
11 Just under the two temporary categories.

12 Also only temp totals have a higher rate of
13 claims that receive benefits without hearing. And
14 only, again, temp totals have fewer hearings per
15 claim. The SLUs have an average controversy rate.
16 And more than nine out of ten of these claims have
17 legal representation.

18 Compared to our other claim types, SLUs are on
19 the lower end of these claim events. Their average
20 number of PARs and IMEs are appreciably lower than
21 other categories. An average benefit cost in dollars
22 now, indemnity is about 10% more than the treatment
23 cost for these permanent injuries, but this right here
24 is definitely the closest ratio we have amongst the

1 claims we're looking at today.

2 Claims may be permanently closed by Section 32
3 Waiver Agreements. These provide lump sum payment to
4 injured workers in exchange for permanently closing
5 the indemnity or the medical benefits, or both. It's
6 entirely a result of what the worker and payor agree
7 to do.

8 This detailed chart here continues our
9 presentation method today, because it contains the
10 type of claim that resulted from the injuries on the
11 far left, and then some financial information. We
12 combined temp total and temp partial into that first
13 line, by the way.

14 The largest settlement amounts were paid in
15 fatality claims. And then second most was permanent
16 total disability claims. These settlements almost
17 always involved attorney representation for the
18 workers. The bottom line in yellow, that's the
19 average of all of the Section 32s. The approved
20 amount, the total is the medical plus indemnity, so
21 that middle column is medical plus indemnity and the
22 average was \$70,309.

23 Less than one in five Section 32 Waiver
24 Agreements left the medical open. Nearly all closed

1 the indemnity as well. We'll see on average six and a
2 half years will pass from the date of the injury to
3 the finalization of the Section 32 Waiver Agreement
4 paperwork. And then on average, these agreements are
5 finalized by the Board 67 days from when we receive
6 the final correct C-32 document.

7 And the community certainly seems to understand
8 the work flow, and what's required here, because only
9 1% of Section 32 Waiver Agreements have been
10 disallowed over the past ten years.

11 Finally, the fatality claim. So to editorialize
12 for just one moment, if I may, I hope that the entire
13 community agrees that in this instance we must all
14 extend every human courtesy and consideration to
15 bereaved families. Thank you.

16 Here's some data on the 151 fatality claims that
17 were established last year. Nearly nine in ten had
18 hearings, for an average of nearly five hearings each.
19 Nearly nine in ten of the beneficiaries were
20 represented. And nearly two-thirds of fatality claims
21 were controverted.

22 Here are the industries with the most established
23 fatality claims. These are the standard categories
24 used by federal agencies here. So please note that

1 the public administration category, the second one,
2 that refers to federal, state, and local government
3 agencies that manage and oversee and administer public
4 programs and services. This listing here, the top ten
5 represents more than eight out of ten fatality claims.

6 The Chair felt that the participants in our
7 system and the Board expend enough resources on
8 controverted claims, that it's helpful to just take
9 the controversy rate off of each of our detailed
10 slides and present it here as a group. That is
11 possible, of course, for any of these data points, we
12 could easily do that.

13 In 2023, the general controversy rate was 11%
14 based on a current analysis. Technically it's 10.89
15 so round it to 11. The temp totals were under that
16 rate, you can see on screen. The temp partials and
17 the SLUs were at that rate, so that right away is 78%
18 of all the claims we looked at today. PPDs were
19 initially controverted a bit more frequently than the
20 average. Section 32s experienced a controversy rate
21 of one in five.

22 Nearly a quarter of the permanent totals were
23 controverted during their life cycle. And nearly two
24 in three of the fatality claims that were established

1 in '23 were initially controverted.

2 Finally, our last slide here, what you may have
3 been waiting for, appeals by claim type. So now we're
4 in your realm. For each of these claim types we
5 looked into the file for an RB-89. And that means
6 that these were appealed at some point in their life
7 cycle. So here are the results of that review.

8 Temp total and Section 32s have the lowest appeal
9 rate, at 5% each. Temp partials and SLUs come next, a
10 bit higher, but under 10%. The rates change for the
11 PPDs, the permanent partials, about a third of those
12 are appealed at some point during their life cycle.
13 61% of the permanent totals were appealed at some
14 point during their life cycle. That's our highest
15 rate. And then finally, those fatalities, 40% of
16 those were appealed at some point during their life
17 cycle.

18 That is probably a quick pace, but that is the
19 claim detail that I had to report to everyone. Thank
20 you all for your attention and support.

21 CLARISSA RODRIGUEZ: Thank you, so much,
22 Joe. Appreciate the presentation and the claim
23 detail.

24 ALL: Thank you.

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CLARISSA RODRIGUEZ: And with that, Board Members, maybe I please have a motion to adjourn today's meeting?

BOARD MEMBER CRAIN: Motion to adjourn.

CLARISSA RODRIGUEZ: Thank you. May I have a second?

BOARD MEMBER HULL: I second that.

CLARISSA RODRIGUEZ: Thank you. Board Members -- any opposition to the motion? Okay, hearing none, Board Members all in favor, please say aye.

ALL: Aye.

CLARISSA RODRIGUEZ: All opposed? Hearing none, I am also a yes, that motion is passed. Meeting adjourned. Thank you, everyone. Have a good afternoon.

(Whereupon, the meeting was adjourned.)