



Office of Workers' Compensation Programs

Division of Federal Employees', Longshore and Harbor Workers' Compensation

**Annual Longshore
Conference:**

March 21 – 22, 2024



UNITED STATES DEPARTMENT OF LABOR

Antonio Rios, Director

Division of Federal Employees', Longshore and Harbor Workers' Compensation (DFELHWC)



Agenda

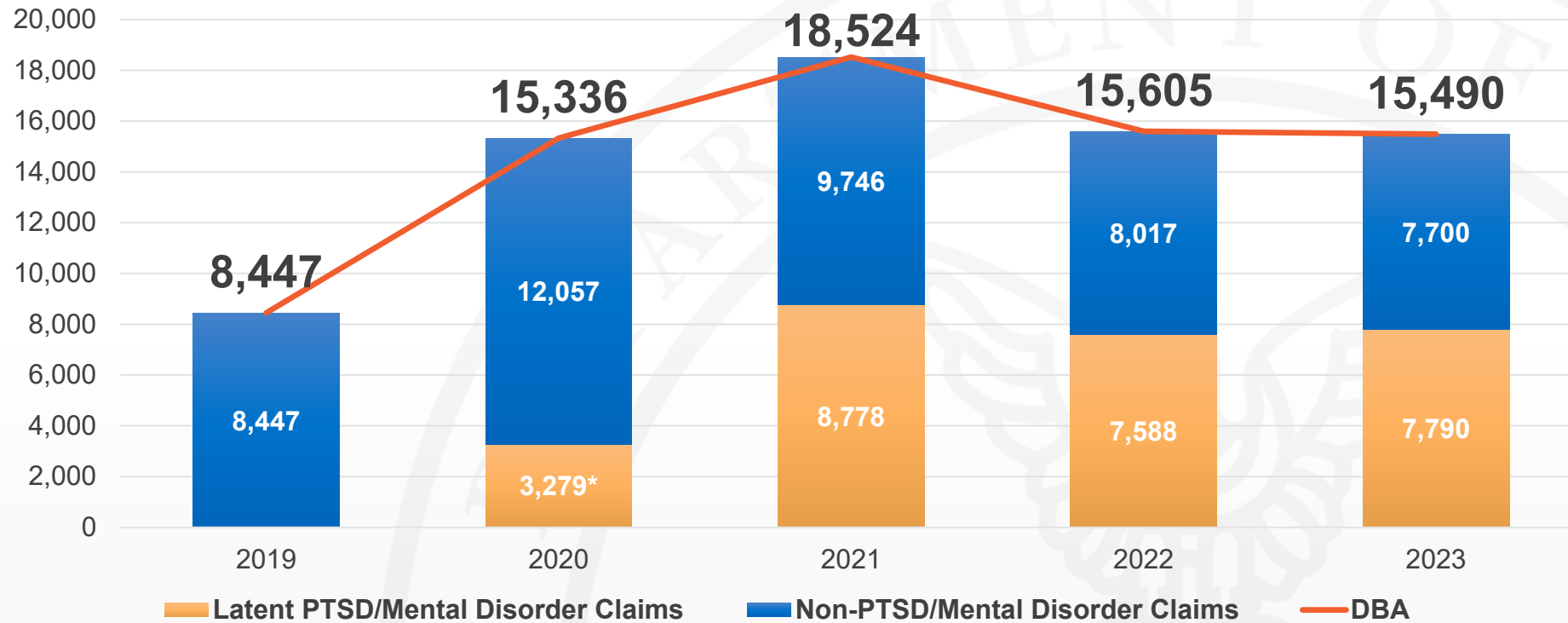
- WHCA
- Longshore Organizational Structure
- National Performance
- Claims Trends
- What the Industry is Seeing?
- Ombuds Office
- ECOMP
- Paperwork Reduction Act (PRA)
- Medical and Default Orders
- Settlements
- Attorney Fees



War Hazard Compensation Act



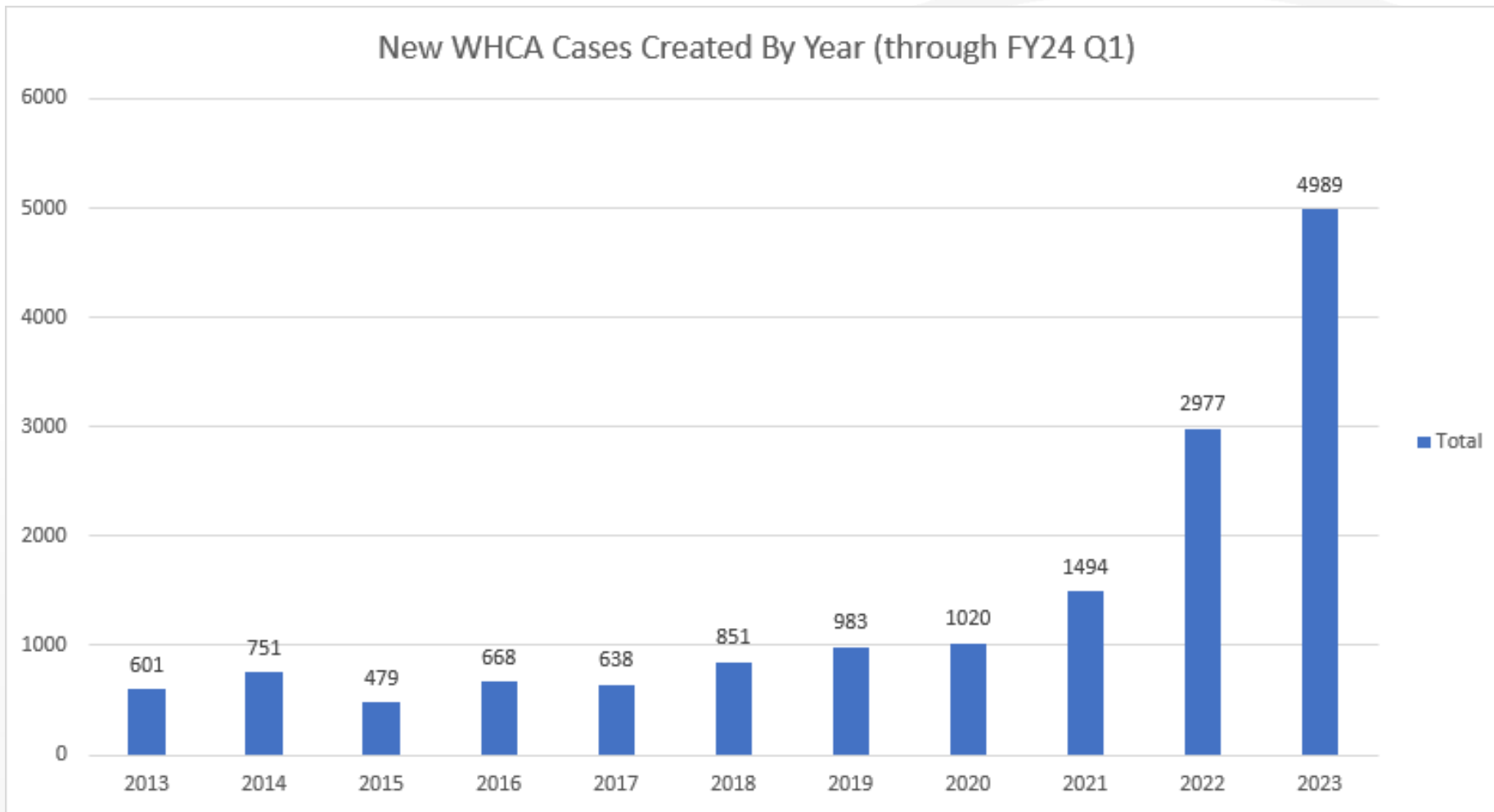
Trends – DBA Claims Reported FY2020 – FY2023



* Reflects data captured as of OWCS go-live in May of 2020

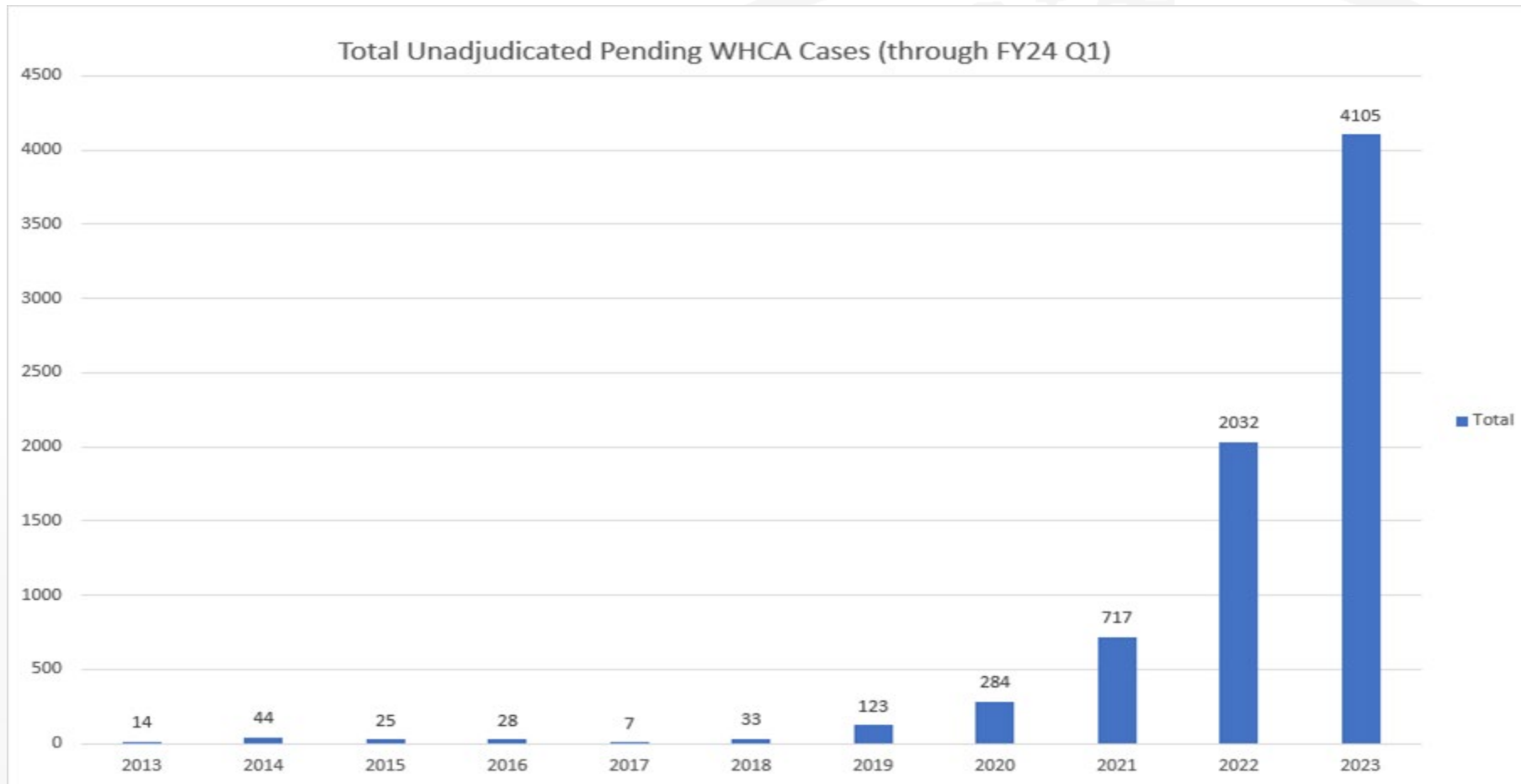


Total New WHCA Cases Created





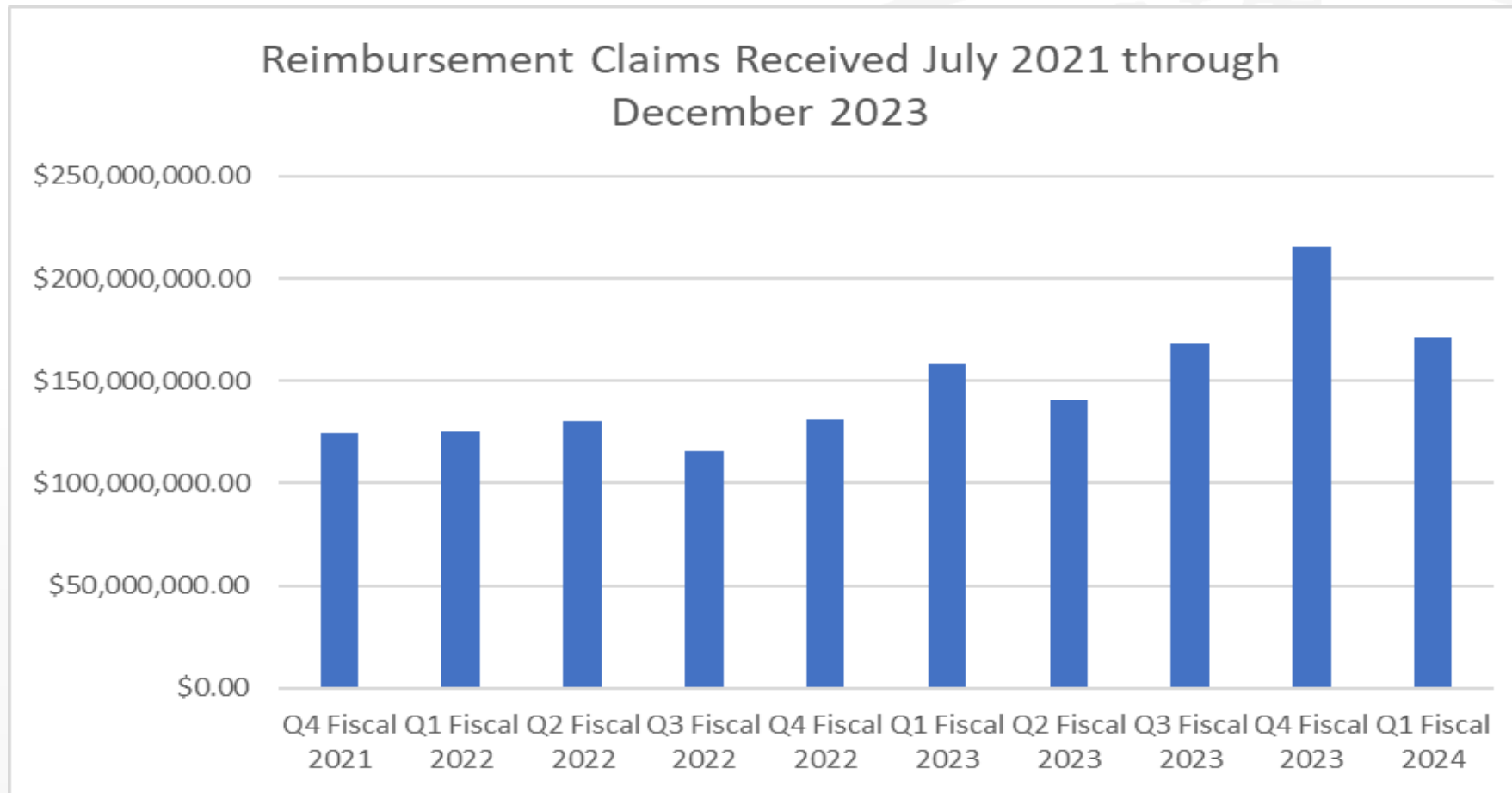
Total Unadjudicated Pending WHCA Cases



Incoming Reimbursements
Reimbursement Approvals
Pending Reimbursements



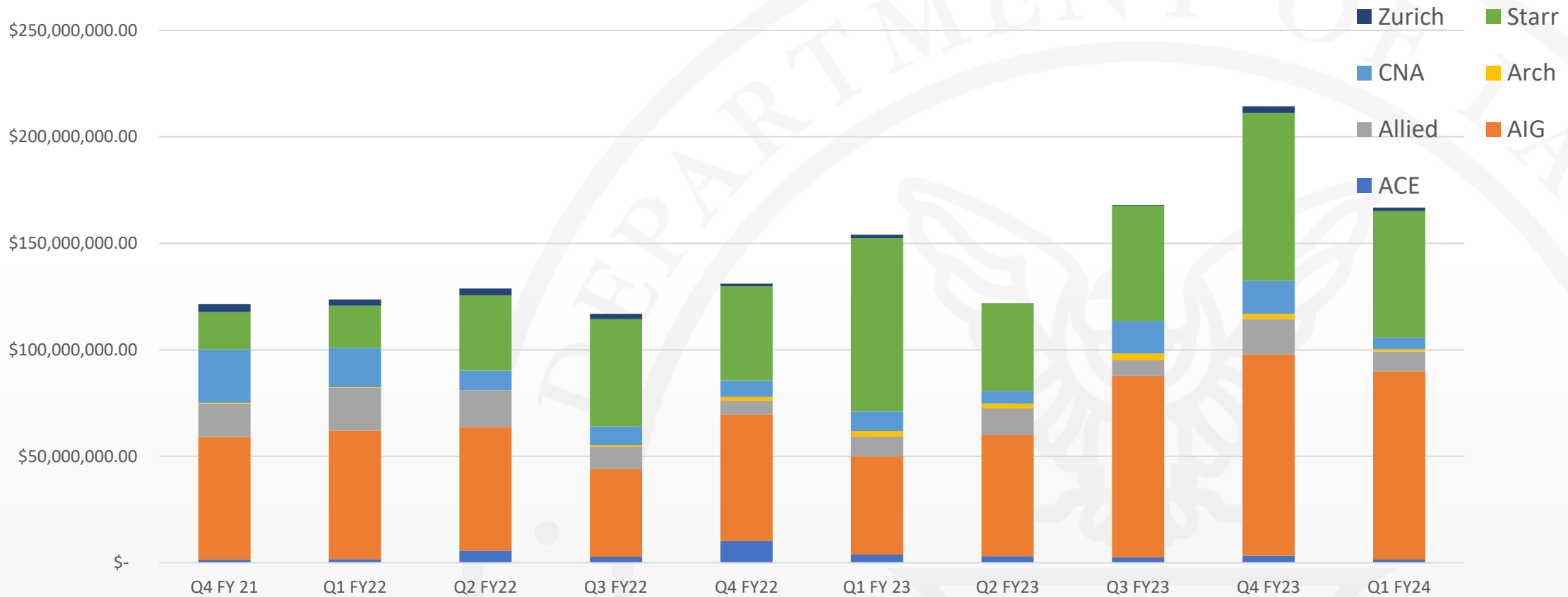
Total Incoming Reimbursements Requests





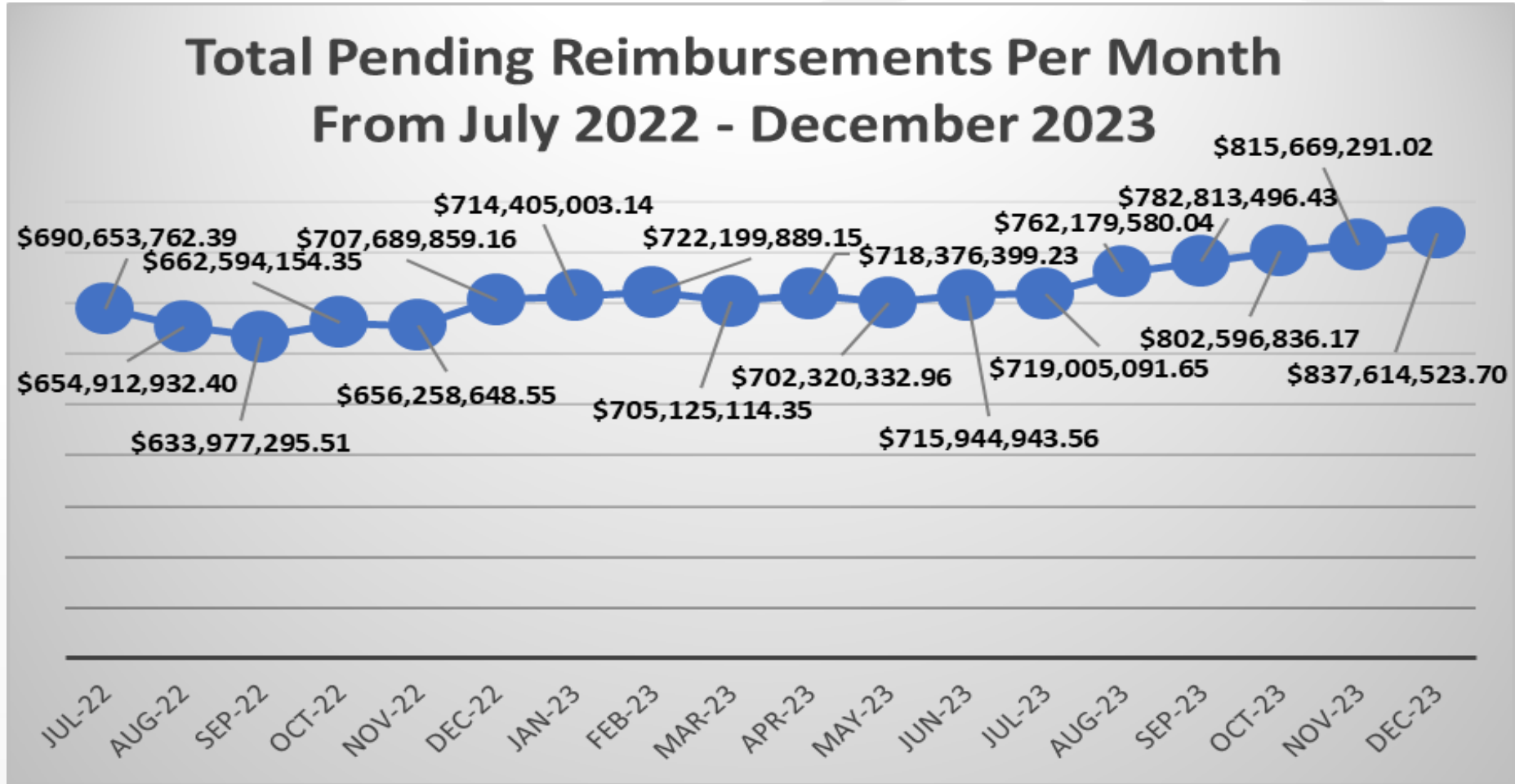
Total Incoming Reimbursements By Carrier

Reimbursement Claims Received July 2021 – Dec. 2023 By Total and Carrier





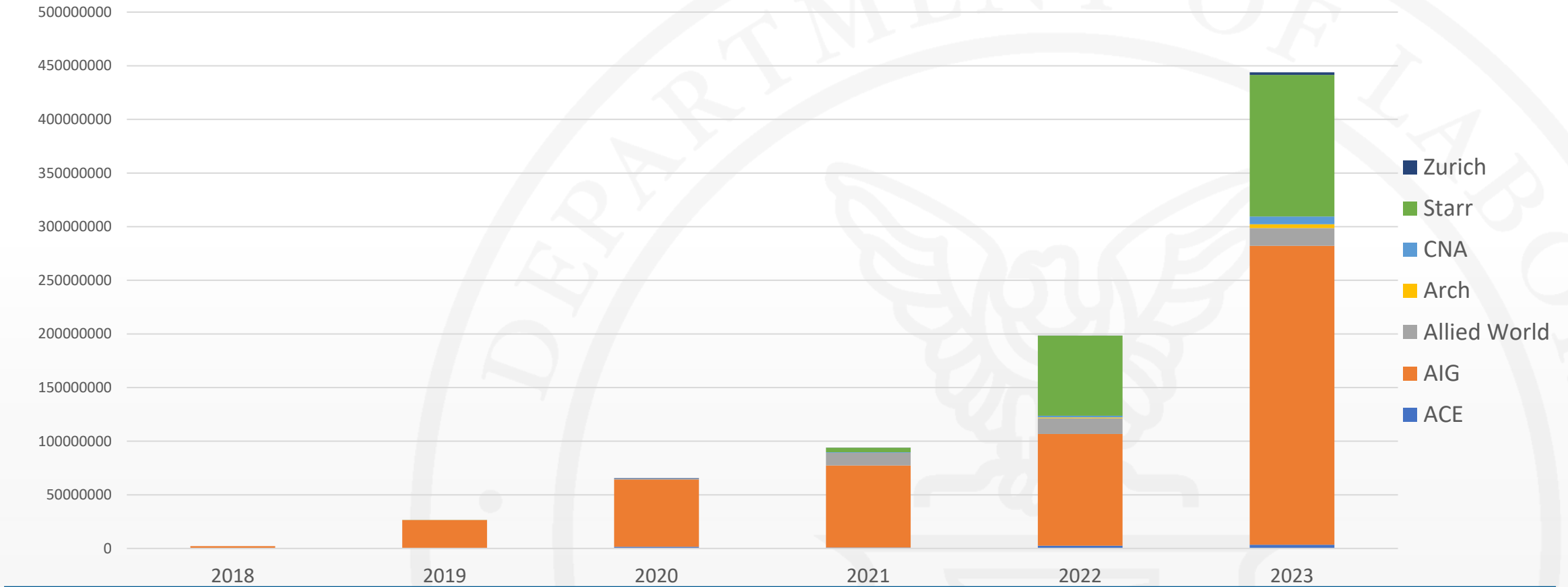
Total Pending Reimbursements Monthly





Total Pending Reimbursements By Year

Pending Reimbursements By Year By Carrier





WHCA Listening Sessions:

- Held: June 12, 2023 in New York
 - Agenda:
 - Background and Recent Changes
 - Data Comparisons
 - Current Processing Practices and Potential Alternatives
 - Feedback and Discussion
- Next Session: April 10, 2024 in New York



Overall Changes Made to WHCA Claims Processing

- In the Second Half of CY2022, process improvements were implemented to improve War Hazard claims processing.
- Installed a new management / supervisory team, and organizational structure, which allowed leadership to further focus on War Hazards claims processing.
- Adjusted claims staff performance standards to reflect our priorities, especially improving our reimbursement processing volumes while also maintaining process and payment quality.

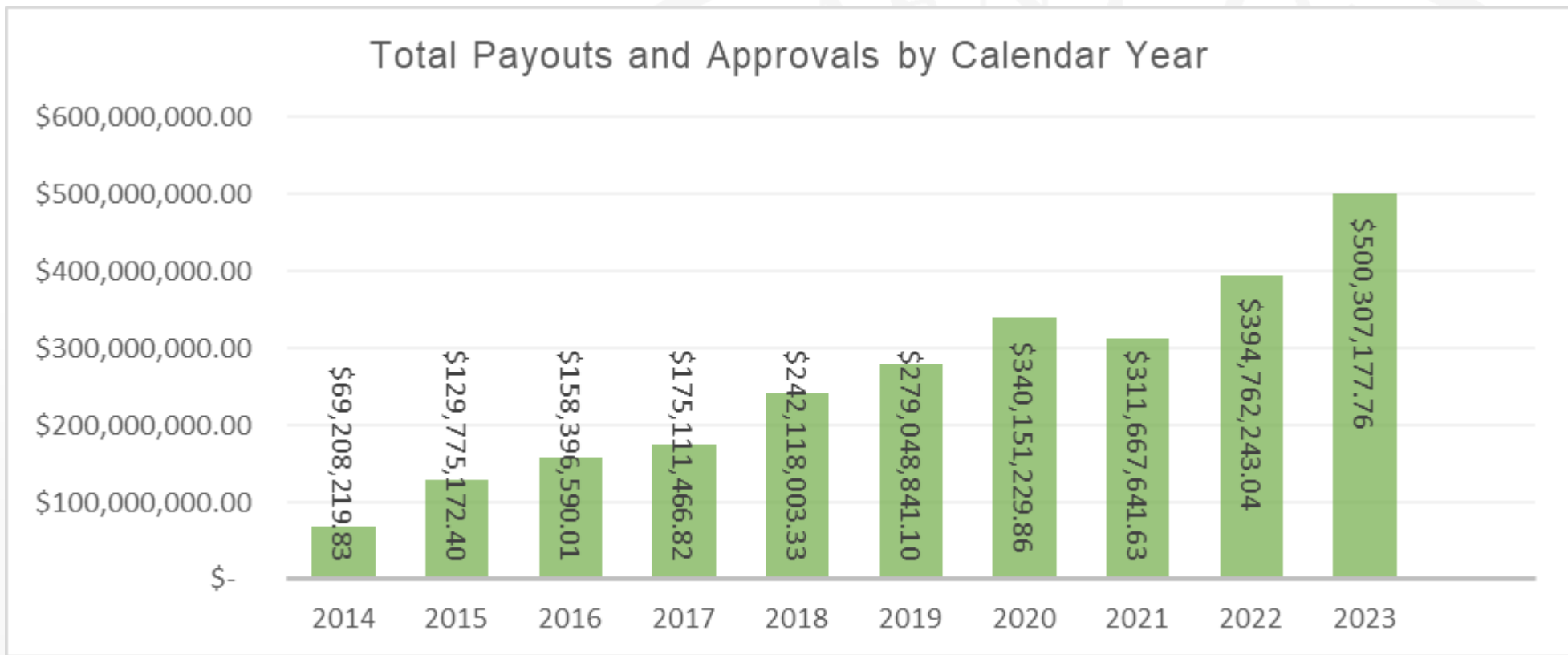


Some of the Changes Implemented...

- The assignment of carriers' reimbursement claims across claims examiners, allowing more flexibility in how we deploy our resources.
- Now, rather than one or two claims examiners being assigned a specific carrier's reimbursement claims, all claims examiners may be assigned reimbursement claims from any carrier.
- The assignment of reimbursement AND adjudication of to all claims examiners, rather than having a sub-set of claims examiners solely focused on case adjudication or processing reimbursements.

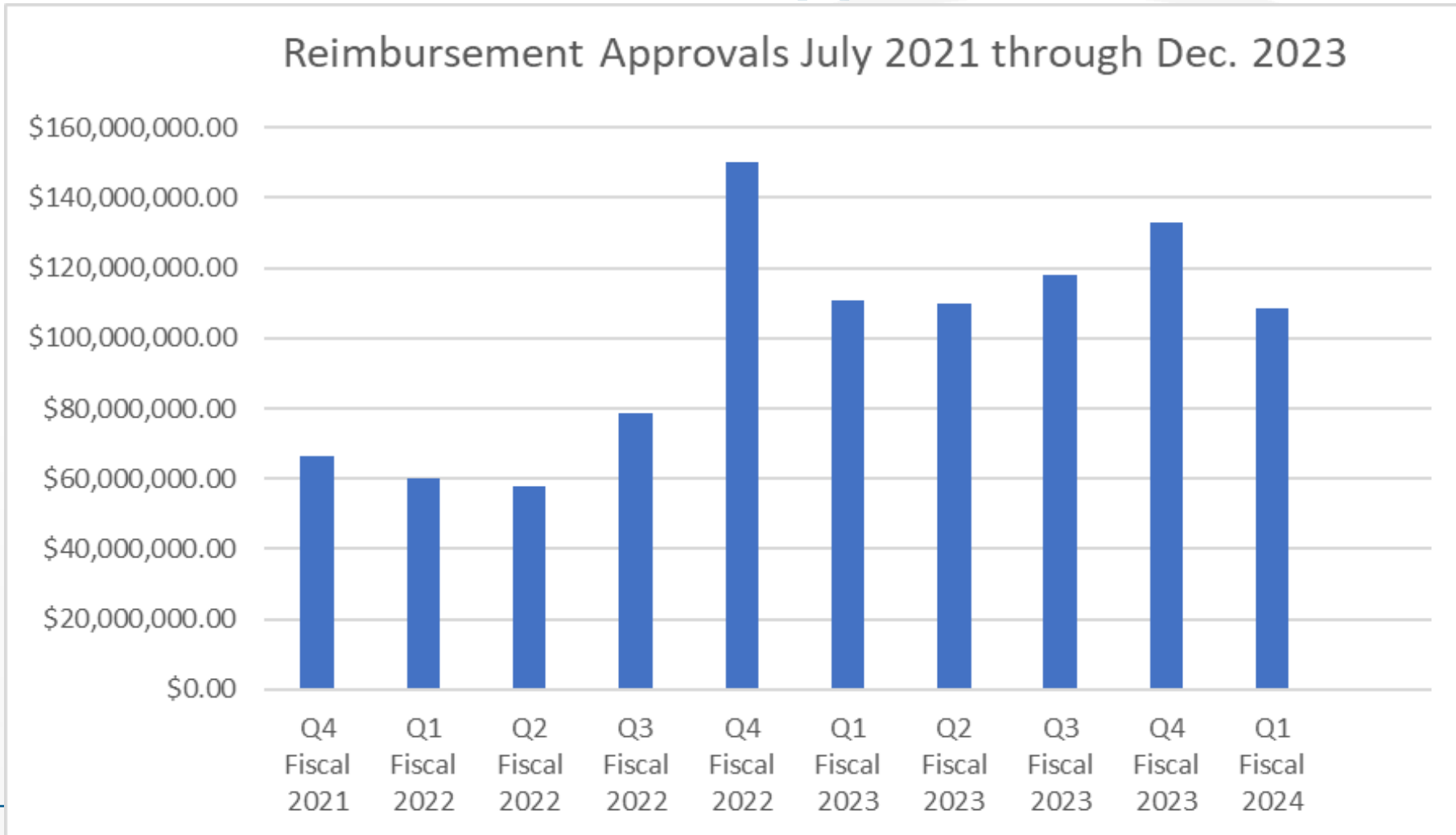


War Hazard Compensation Act Reimbursements





Reimbursement Approvals





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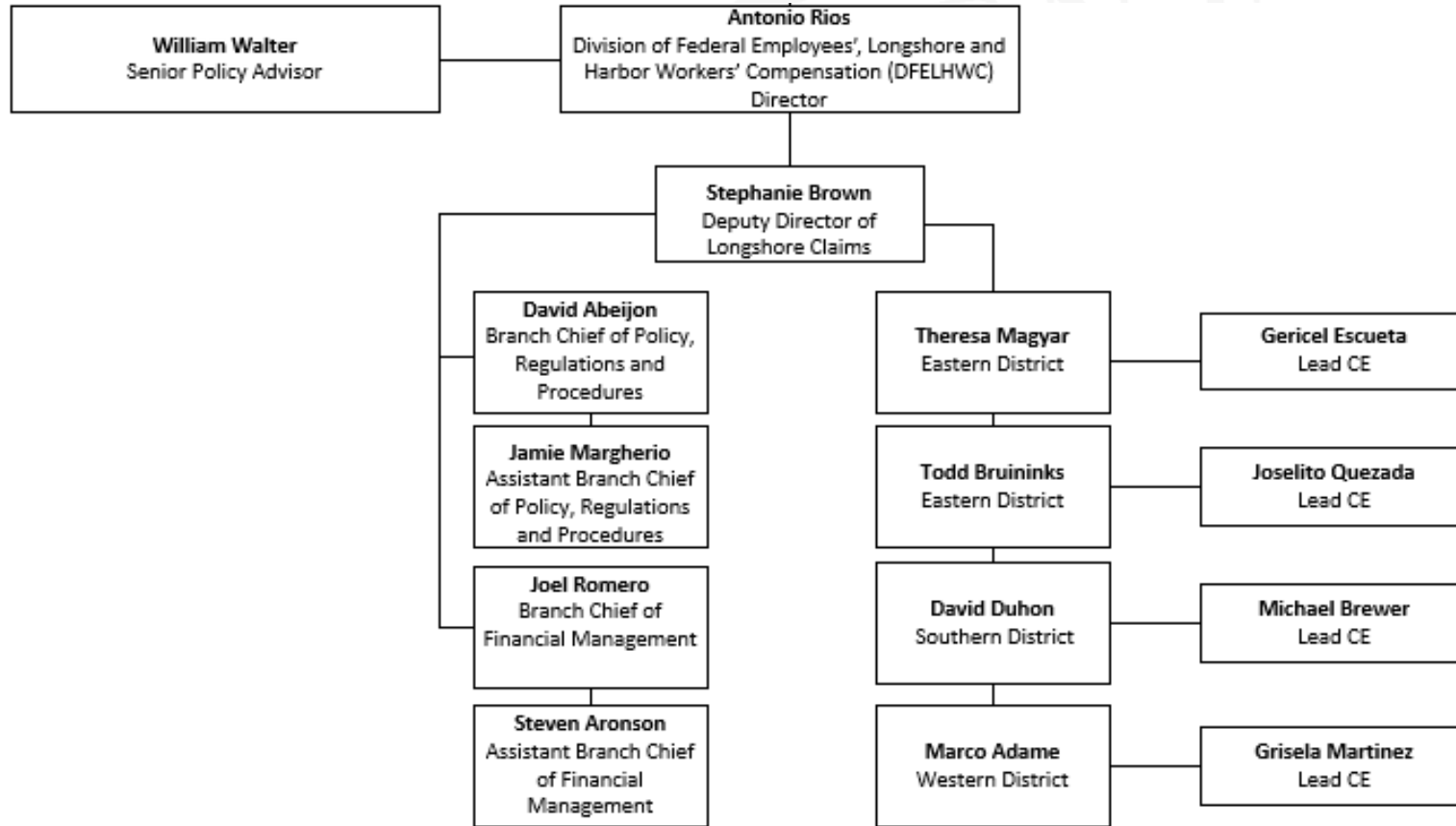
Stephanie Brown, Deputy Director of Longshore Claims

**Division of Federal Employees', Longshore and
Harbor Workers' Compensation (DFELHWC)**

Longshore Organizational Structure

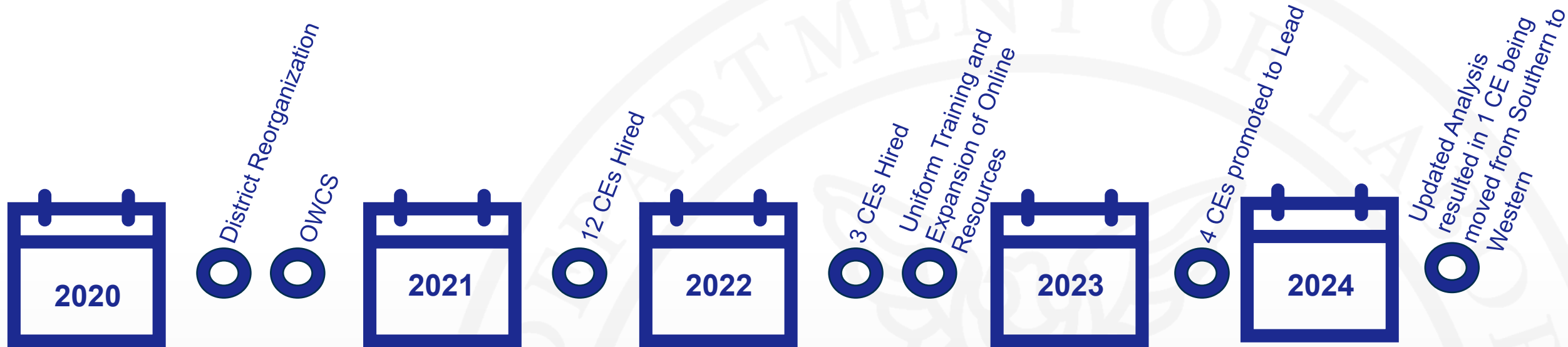


DFELHWC – Longshore Organizational Chart





Longshore Workforce (2020-2024)

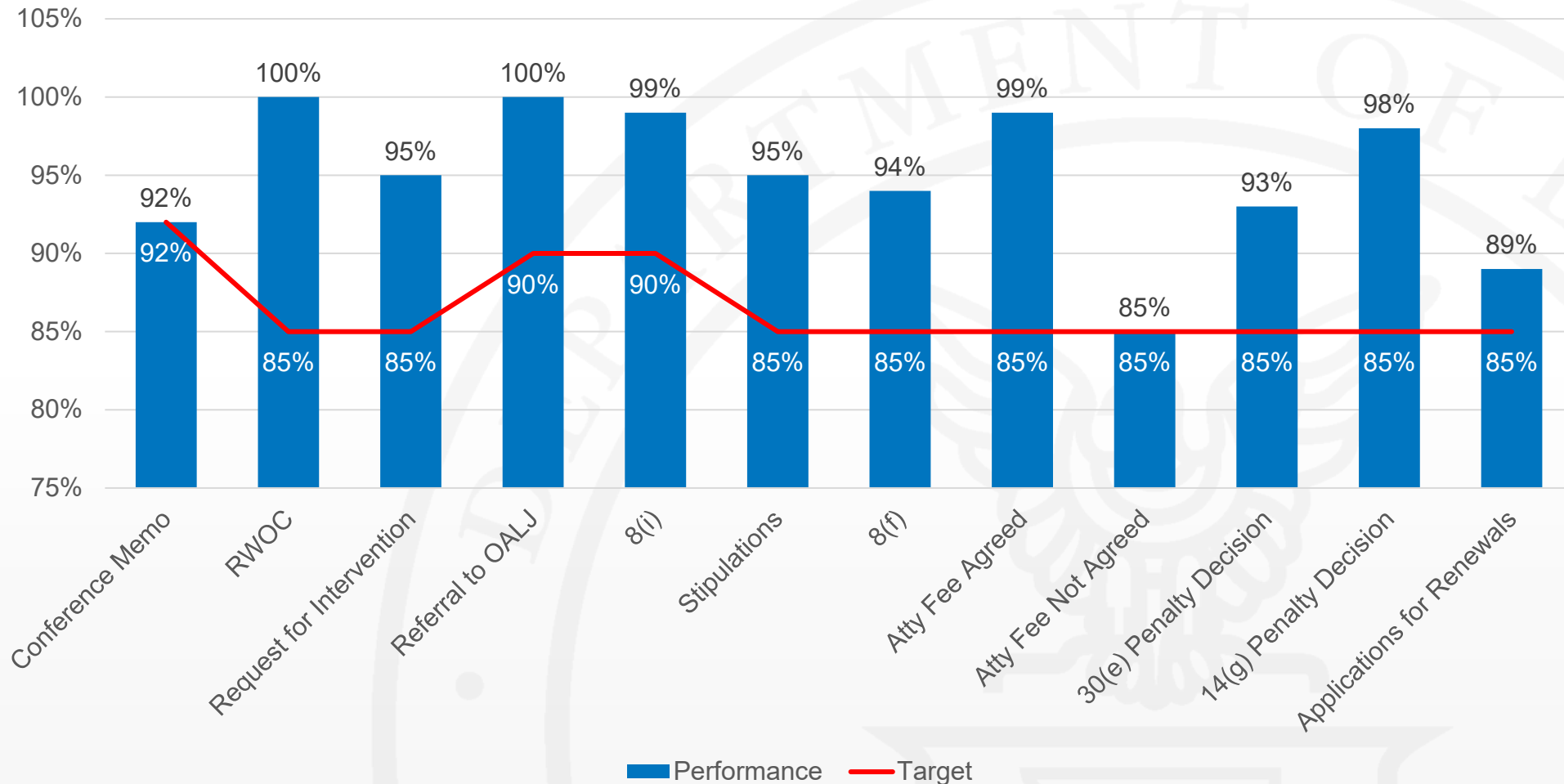


- The model built allows the program the flexibility to reorganize and reassign based on need (patterns/trends/workload analysis).

Longshore Performance

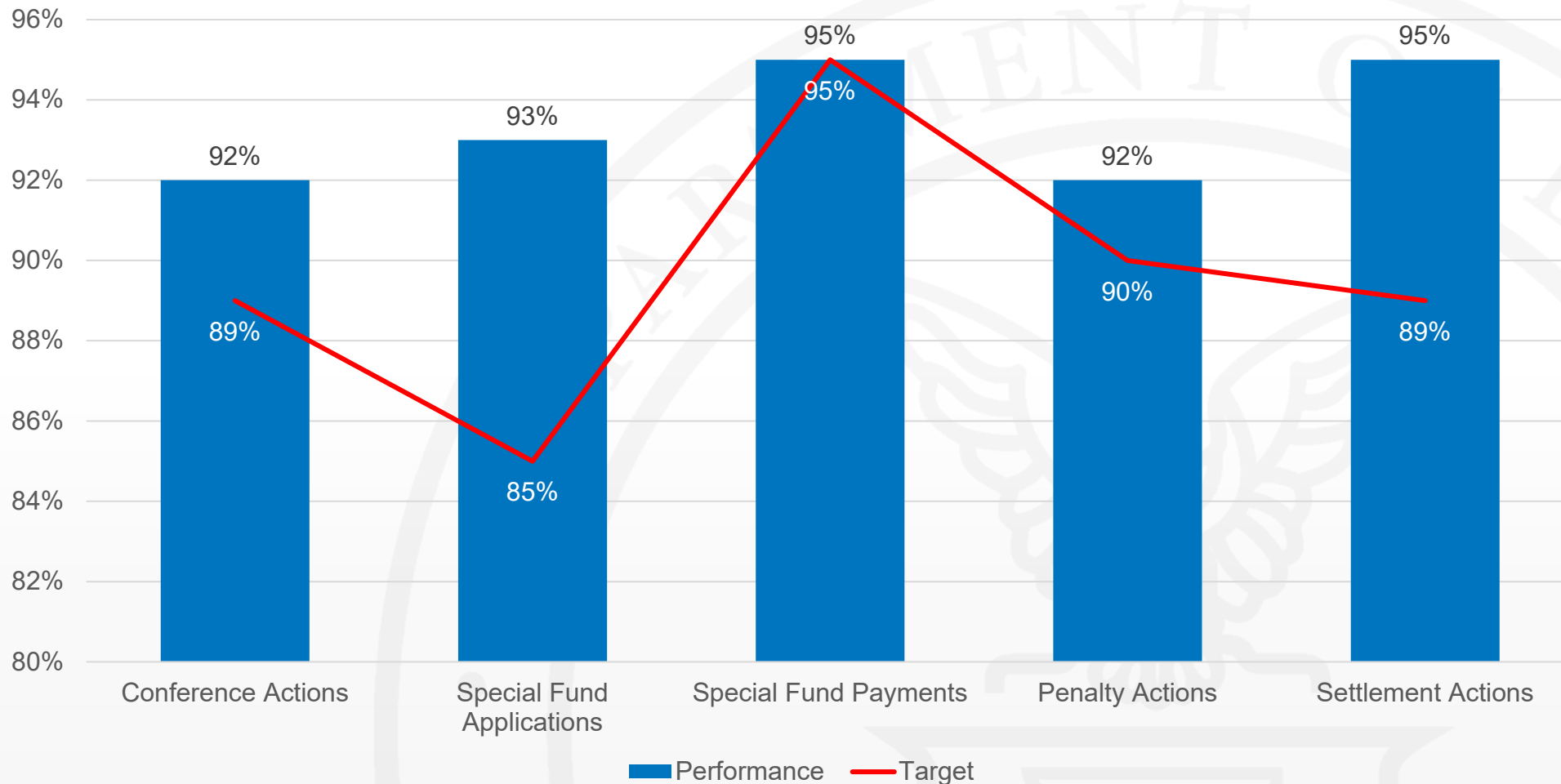


FY23 Longshore Performance (Timeliness)





FY23 Longshore Performance (Quality)





FY23 Longshore Performance (Timeliness)

- 98% of penalty decisions for Notices of Payment resolved within 90 days (goal is 85%)
- 93% of penalty decisions for First Reports of Injury resolved within 90 days (goal is 85%)
- 92% of conference memorandum issued within 10 days (goal is 92%)
- 100% of recommendation(s) for intervention issue made within 90 days if no conference is held (goal is 85%)
- 95% of actions completed on requests for intervention within 15 days (goal is 85%)
- 100% of referrals to the Office of Administrative Law Judges processed within 21 days (goal is 90%)
- 99% of settlement applications processed within 18 days (goal is 90%)
- 95% of stipulation applications processed within 30 days (goal is 85%)
- 94% of Second Injury Fund requests processed within 45 days (goal is 85%)
- 99% of attorney fees agreed upon processed within 15 days (goal is 85%)
- 85% of attorney fees not agreed upon processed within 120 days (goal is 85%)
- 89% of applications and annual renewals for workers' compensation coverage processed within 45 days (goal is 85%)



FY23 Longshore Performance (Quality)

- 95% of settlement actions sampled for quality rated as correct (goal is 90%)
- 93% of Second Injury Fund applications actions sampled for quality rated as correct (goal is 85%)
- 95% of Second Injury Fund payments sampled for quality rated as correct (goal is 95%)
- 92% of penalty actions sampled for quality rated as correct (goal is 85%)
- 92% of informal conference actions sampled for quality are rated as correct (goal is 89%)



Industry Performance



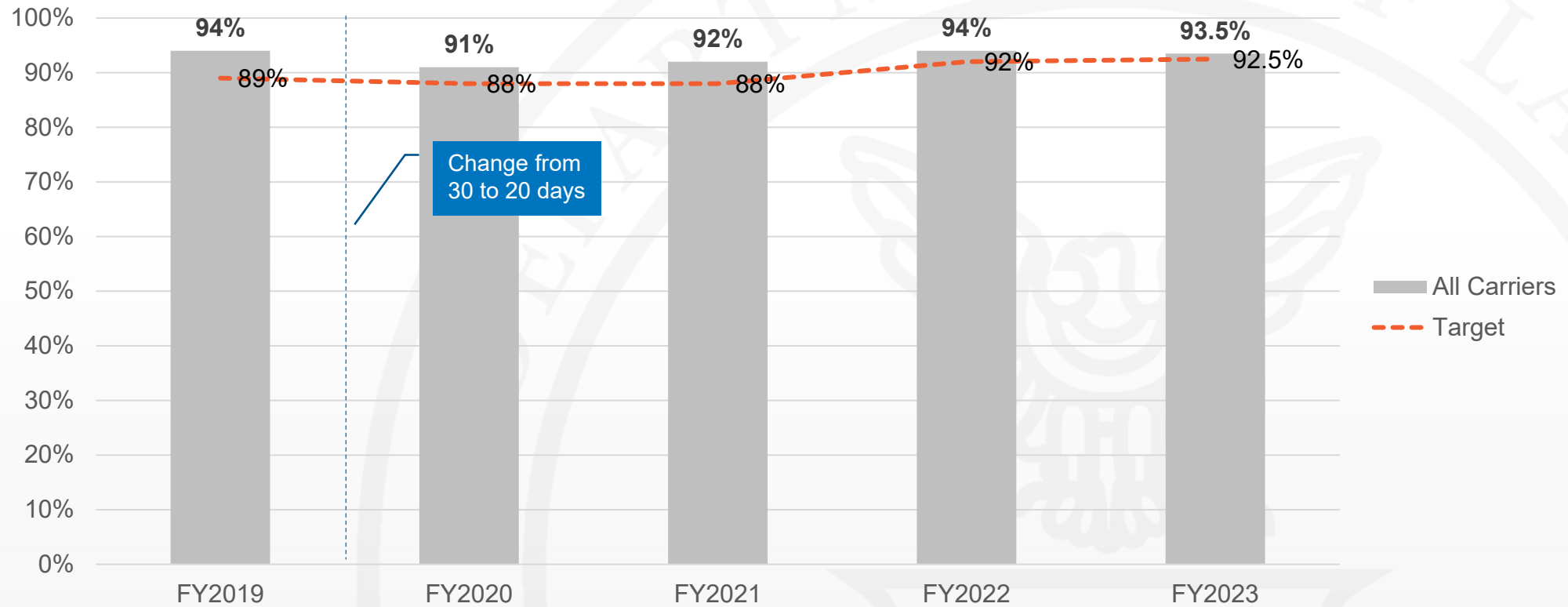
FY23 Longshore and Special Fund Industry Performance

Measure	FY23 Result	FY23 Target
1st Report of Injury filed within 20 days for non-DBA cases	93.5%	92.5%
Percent of Final Assessment Bills collected within 60 days	90%	90%

- 93.5% of Employers' First Report of Injury filed within 20 days for non-DBA cases (goal is 92.5%)
- 90% of Industry Special Workers' Compensation Fund (Longshore Trust) Final Assessment bills collected within 60-days of issuance (goal is 90%)



Industry Performance First Report of Injury within 20 days Non-DBA





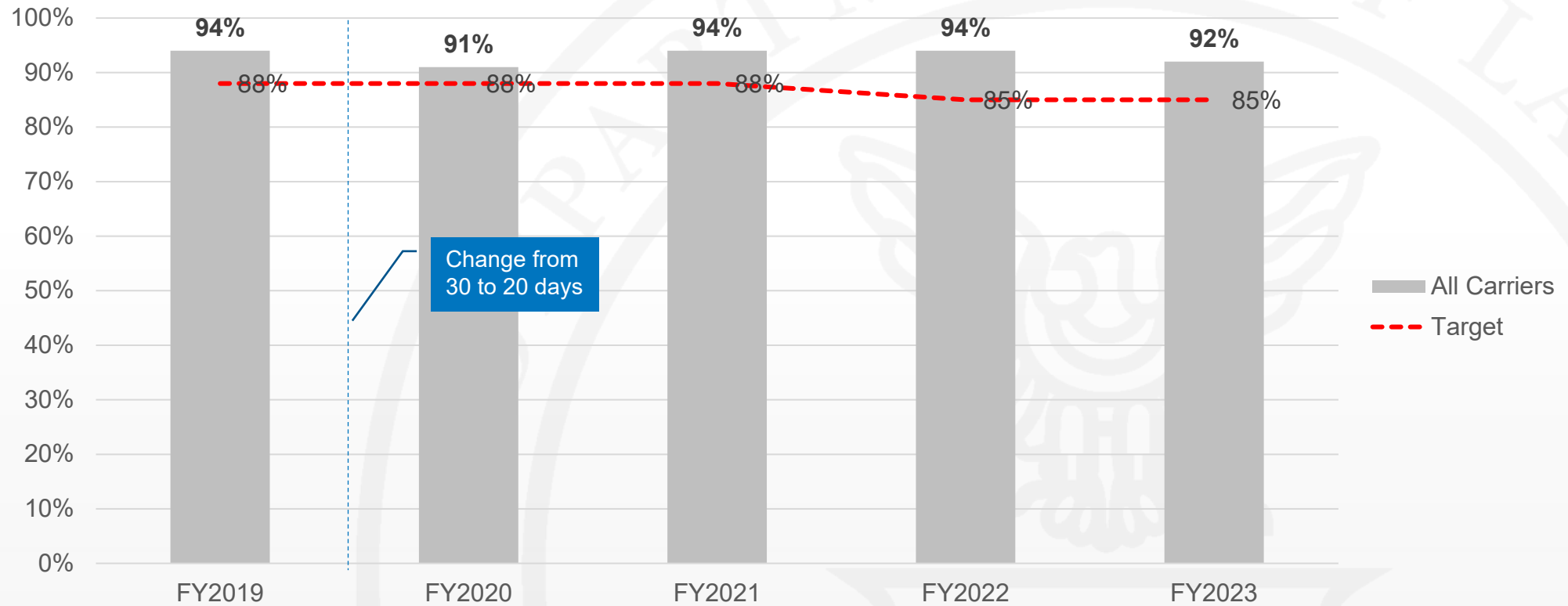
FY23 DBA Industry Performance

Measure	FY23 Result	FY23 Target
1st Report of Injury filed within 20 days for DBA cases	92%	85%

■ 92% of Employers' First Report of Injury filed within 20 days for DBA cases (goal is 85%)



Industry Performance First Report of Injury within 20 days DBA

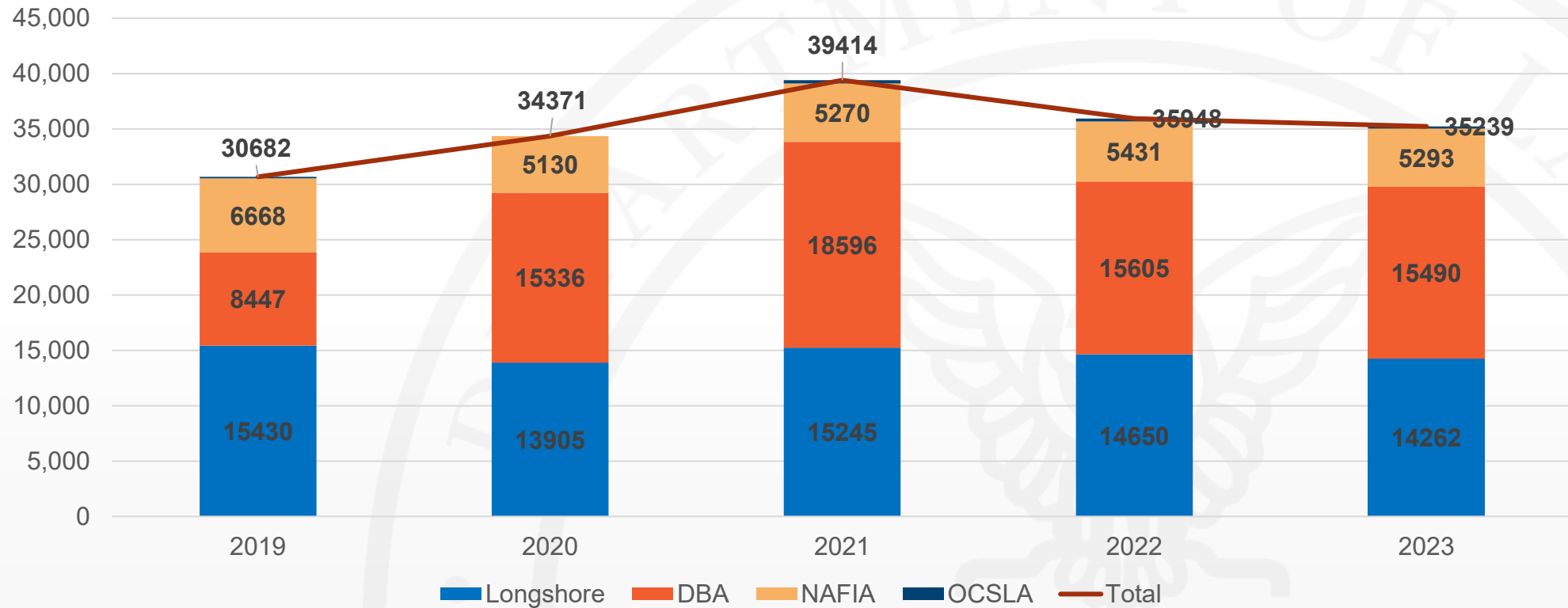




Claims Trends

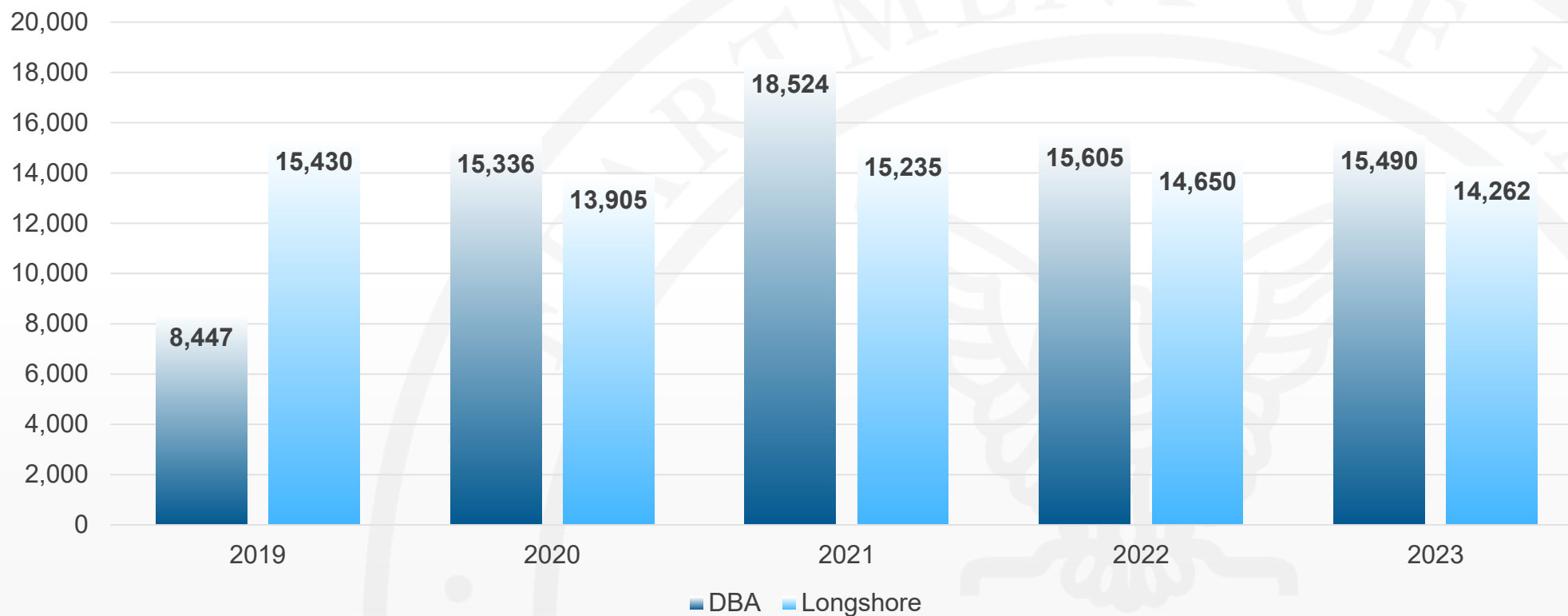


New Cases Created by Act (FY2019 to FY2023)



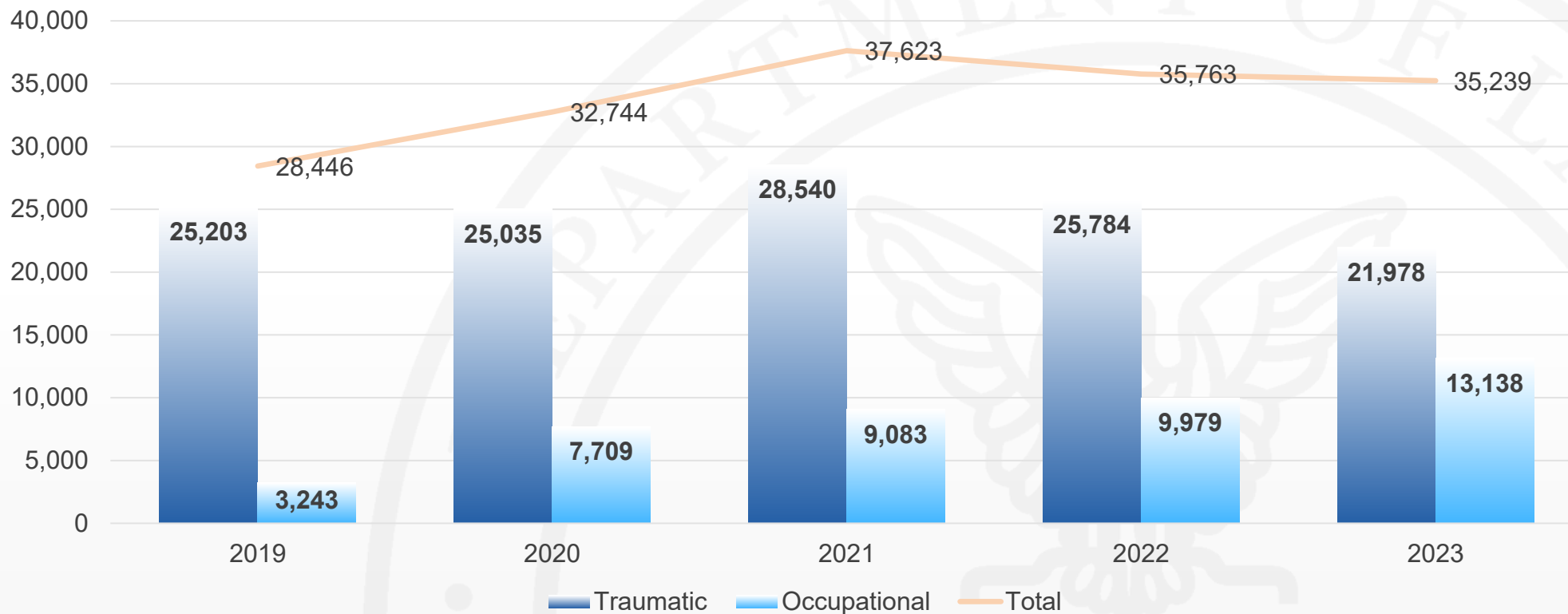


Trends – Claims Reported FY2019 – FY2023 Longshore and DBA





Trends – New Claims Reported FY2019 – FY2023 Traumatic and Occupational





What the Industry is Seeing



Claims-Related Issues

Issue	OWCP's Stance
<ul style="list-style-type: none">Requesting OALJ referral without medical evidence	<ul style="list-style-type: none">Sharing medical is necessary to make a good faith effort to resolve disputesOWCP may delay referral to the OALJ where there is not <i>any</i> medical on file and develop for it, or where medical was submitted with the referral but sufficient time for defense to review has not elapsed. Our obligation and preference is to refer the case when requested by parties though.





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Claims-Related Issues

Issue	OWCP's Stance
<ul style="list-style-type: none"> OALJ Rejection of referrals for various reasons 	<ul style="list-style-type: none"> Change made to the referral letter to limit avoidable rejections Expect outreach from CEs regarding discrepancies between the LS-18 data and the case file (i.e. name variations, case #s, addresses) Submit LS-18 as a stand-alone document so that it can be referred without delay.

Stephen R. Henley, Chief Judge
Office of Administrative Law Judges
U. S. Department of Labor
800 K. Street, N.W., Suite 400 North
Washington, DC 20001-8002

Dear Judge Henley:

In accordance with the provisions of 33 U.S.C. § 919(d) and 20 C.F.R. § 702.331, this matter is referred for a formal hearing under the Longshore and Harbor Workers' Compensation Act ("the Act").

The following is provided for your information: (May choose several)

- Enclosed is the claimant's pre-hearing statement.
- Enclosed is the employer/carrier's pre-hearing statement.
- The case was previously referred on (insert date). We now have received the Pre-Hearing statement from (insert name). The statement is being forwarded for inclusion with prior documents.
- This case involves a dispute regarding **Last Responsible Employer**.
- The parties request this case be consolidated with OWCP No. (insert case number) for hearing.
- Section 8(f) has not been raised.
- Section 8(f) is not an issue.
- Section 8(f) has been raised prematurely. The employer's right to later seek Section 8(f) relief is herewith reserved.
- Section 8(f) has been considered and denied. Attached is a copy of the Section 8(f) petition and the denial letter.
- The employer did not submit a fully completed Section 8(f) petition within the time frame allowed, or to date, and the Director will assert the absolute defense in accordance with § 8(f)(3) of the Act.

Pre-Hearing Statement
Longshore and Harbor Workers' Compensation

This form will be used by OWCP to refer the claim for a formal collection of information unless it displays a currently valid OWCP Case No.

Submit form to the OWCP/DFELHWC Central Mail Receipt site at the following address:
U.S. Department of Labor, Office of Workers' Compensation Programs
Division of Federal Employees', Longshore and Harbor Workers' Compensation
400 West Bay Street, Room 63A, Box 28
Jacksonville, FL 32202

1. Employee's name (First, middle initial, last) _____

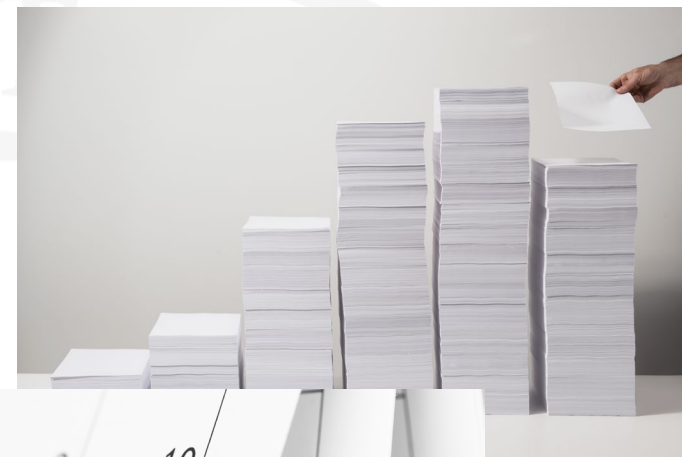
OWCP Case: **LS-06123456**
OWCP Office: National Office
Injured Employee: _____
Date of Injury: 12/30/1967
Employer: _____
Act: LHWCA

OWCP No. **06654321**



Claims-Related Issues

Issue	OWCP's Stance
<ul style="list-style-type: none">• Copy Requests	<ul style="list-style-type: none">• Work with opposing counsel (who can now access case files on ECOMP).• Do not request as a matter of course in the Notice of Appearance letter. Remove language requesting copy from NOA – only request as needed.





Budget and Innovation

Issue	OWCP's Stance
FY23 to FY24 budget and outlook	<ul style="list-style-type: none">• Level or less• Development freeze
Creative Innovation	<ul style="list-style-type: none">• Where we can innovate without development or utilize our in-house staff and current partnerships, we are, as always pushing forward.• Where development is required or major projects such as ECOMP access for Employers/Carriers, the program plan has not changed, <i>but the timeline has.</i>



China Waiver Application

- Does the China Waiver apply to Hong Kong?



China does have a current active waiver, but it does not apply to Hong Kong. A separate waiver for Hong Kong would need to be submitted following the DBA waiver guidance.



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Shalonda Cawthon
Ombudsperson, OWCP

Office of Workers'
Compensation Programs



OWCP Ombuds Office

Federal Employees', Longshore and Black Lung Programs



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- The OWCP Ombuds Office is a newly created office that functions within the Office of Workers' Compensation Programs (OWCP) focused on the Federal Employees', Longshore and Black Lung Programs.
 - Supports the mission of OWCP by serving as an independent, impartial and confidential resource that receives and helps to resolve inquiries and concerns from OWCP claimants and other external interested parties.
 - Accept inquiries and concerns by email and phone. Online Inquiry Form in development. Will be located on the OWCP website.
 - Partners with program staff to address inquiries and resolve individual claimant concerns in order to promote improved customer service and enhance the overall customer experience.
-



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The OWCP Ombudsperson can ...

- Listen objectively to understand an individual's question and/or concern
- Share OWCP resources and appropriate contacts in response to inquiries
- Help to resolve concerns related to OWCP's handling of claims, after assistance has first been sought through established procedures
- Identify trends and systemic issues that may have an impact on customer experience
- Recommend systemic changes to help avoid similar concerns in the future

The OWCP Ombudsperson cannot ...

- Handle matters regarding the Division of Energy Employees Occupational Illness Compensation (DEEOIC) - they have their own Ombuds office
 - Advocate for or represent an individual or entity
 - Make or recommend decisions in individual claims
 - Overturn decisions made by OWCP program staff or others involved in the adjudicatory process of a claim
 - Provide legal advice or representation
-



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OWCP Ombuds Office



Shalonda Cawthon, Ombudsperson

OWCP.Ombuds@dol.gov

202-354-9599



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Jamie Margherio, Deputy Branch Chief of Policy, Regulations and Procedures

**Division of Federal Employees', Longshore and
Harbor Workers' Compensation (DFELHWC)**



ECOMP



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ECOMP

Are you a Claimant or Claimant's Attorney who would like online access to your cases?



Welcome to ECOMP

The Employees' Compensation Operations & Management Portal

Increasing Users

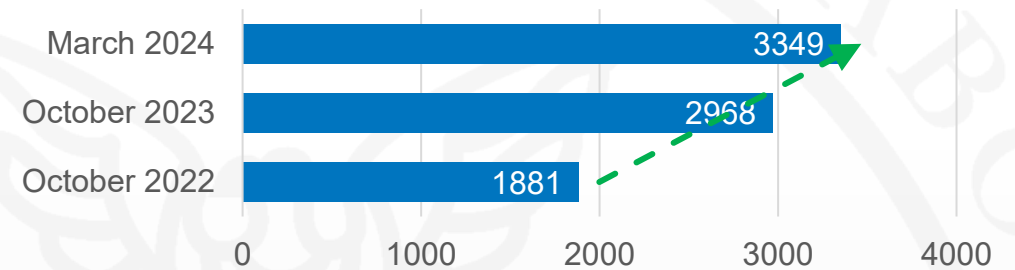
Total DFELHWC Users – 788,039

- Includes 783,955 registered FECA claimants
- **Longshore Claimants – 4,084 registered, 3,349 identity verified**

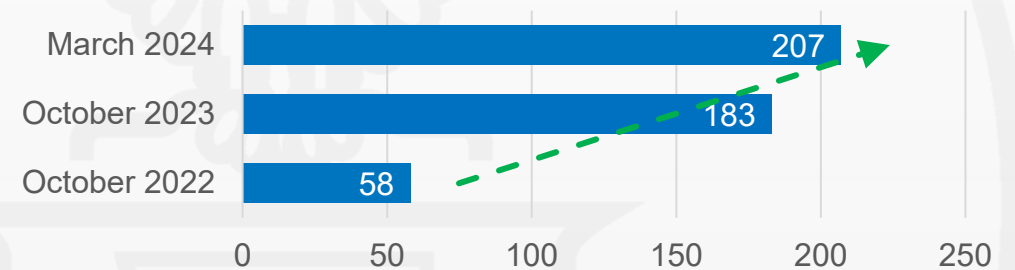
Entities

- FECA – 777 Entities (law firms, unions, non-attorney reps)
- **Longshore - 207 Entities (law firms)**

Longshore ID Verified Claimants



Longshore Entities





ECOMP – History

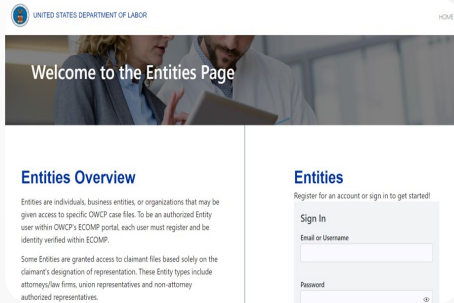
2021

Longshore joined other OWCP divisions in offering Claimants access to ECOMP to view their case files and case details online.



2022

Claimants with SSNs can designate an attorney in ECOMP and provide that attorney with access to the case file.



2023

Recognizing that foreign nationals without SSN could not be identity verified and therefore, could not access ECOMP, the Program piloted the ECOMP Foreign Waiver program.



2024

The ECOMP Foreign Waiver Program will be open to all attorneys of foreign nationals who wish to provide their attorney access to ECOMP.



Future

Employer/Carrier and Defense Attorney access to ECOMP.





ECOMP – Entity Experience

Register here!



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<https://owcp.industrypartners.dol.gov>

HOME



Entities Overview

Entities are individuals, business entities, or organizations that may be given access to specific OWCP case files. To be an authorized Entity user within OWCP's ECOMP portal, each user must register and be identity verified within ECOMP.

Some Entities are granted access to claimant files based solely on the claimant's designation of representation. These Entity types include attorneys/law firms, union representatives and non-attorney authorized representatives.

Entities

Register for an account or sign in to get started!

Sign In

Email or Username

Password



ECOMP – Entity Dashboard

MY DASHBOARD HELP **JOHN ESQUIRE**

YOU'RE SIGNED IN AS AN ENTITY MANAGER

[ACCOUNT](#)

[SIGN OUT](#)

Entity Case Dashboard

Your Entity Case Dashboard allows you, as an authorized Entity, to view the case(s) to which you have been granted access. The cases associated with your Entity organization are listed below in the Case Associations tab.

The New Association Requests tab has new representation requests that are pending your response. For each you will see who is making the request with the claimant's name and case number. You must make a decision on each request to either accept the request for association, or deny the request for association. (This tab will not apply to Entities such as Longshore Employer and Carriers since case association is based solely on the parties in each claim and not on a specific request.)

If you represent a claimant and the case is not listed below, this means the claimant has not requested this association through ECOMP. While it is not a requirement that claimants or representatives use ECOMP for any proceeding in OWCP, if a representative wishes to view a case in ECOMP, the claimant must request that association through ECOMP. There is no option within ECOMP for you to request access to a claimant's case. The claimant must initiate this selection in ECOMP. Helpful instructional videos to assist claimants with selection of a representative within ECOMP are available on our HELP site.

Test Esquire Law Firm - Cases

New Requests
(Not Yet Accepted)

Case Associations (1)		New Association Requests (0)			
Case Number	Claimant	Organization	Status	Primary Contact	Visibility
LS-02515355	Foreign National	BAE System Ship Repair Inc.	ACCEPTED		FULL

Click on the case number to navigate to the case page

1 Results < 1 >

Currently Associated Cases (Accepted)



ECOMP – Entity Experience

HOME / DASHBOARD / CASE REVIEW

Link to SEAPortal

[Return to Dashboard](#)

[SEAPortal](#)

CASE LS-02515355

Employer: ██████████
Claimant Name: ██████████
Date of Injury: ██████████
Date of Birth: ██████████

SSN: ██████████

Details of the case such as AWW, CR, Body part, etc.

Shows Employer, Carrier and Attorneys on file

Representation **ASSIGNED**

[Test Esquire Law Firm](#)
 No Primary Contact Preference
 Full Visibility
[Review Representation settings](#)
 >

CASE DATA	PAYMENT HISTORY	PARTIES	CASE IMAGING
Act	Defense Base Act		
Average Weekly Wage	\$500.00		
Compensation Rate	\$300.00		
Payment Status	E/C Pay		
Date of Knowledge	--		
Body Part	Leg		
Appeal Status	--		

Payments made by OWCP Special Fund

Documents in the OWCP case file



Case Documents: No more waiting for copies

CASE DATA PAYMENT HISTORY PARTIES **CASE IMAGING**

Sort

Case Documents

[Clear Favorites](#) [Download Documents](#)

Authored Date

Received Date

Filter By Date: Start

Filter By Date: End

[Clear Date Filter](#)

Favorites Only (0)

+ Incoming (4)

+ Incoming Form (3)

+ Penalty (2)

+ Waiver (1)

+ Adjudication (1)

+ Medical (1)

Fav	Subject	Category	Authored	Received
☆	14(g) Late/Missing LS-208	Penalty	01/05/2024	01/05/2024
☆	ECOMP Foreign Waiver	Incoming	12/22/2023	12/22/2023
☆	Confirmation Email	Waiver	12/22/2023	12/22/2023
☆	Settlement	Adjudication	12/22/2023	12/22/2023
☆	14(g) Late/Missing LS-208	Penalty	12/19/2023	12/19/2023
☆	208 Notice of Payment	Incoming Form		12/19/2023
☆	Carrier's Letter	Incoming	11/16/2023	11/16/2023
☆	18 Pre-hearing Statement	Incoming Form	11/16/2023	11/16/2023
☆	Address Change	Incoming	11/16/2023	11/16/2023
☆	Unspecified	Medical	11/16/2023	11/16/2023
☆	Carrier's Letter	Incoming	06/06/2023	06/12/2023
☆	202 Report of Injury	Incoming Form		05/31/2023

Filter



Case Documents:

CASE DATA PAYMENT HISTORY PARTIES **CASE IMAGING**

Case Documents

[Clear Favorites](#) [Download Documents](#)

Authored Date

Received Date

Filter By Date: Start

Filter By Date: End

[Clear Date Filter](#)

Favorites Only (3)

1- Select Favorites

Fav	Subject	Category	Authored	Received
★	14(g) Late/Missing LS-208	Penalty	01/05/2024	01/05/2024
★	208 Notice of Payment	Incoming Form		12/19/2023
★	Address Change	Incoming	11/16/2023	11/16/2023

2- Filter

3 Results < 1 >

3- Download and Print

Select Favorites, Filter and Download.
Or, download the entire file.



Demystifying PRA



PRA (Paperwork Reduction Act)

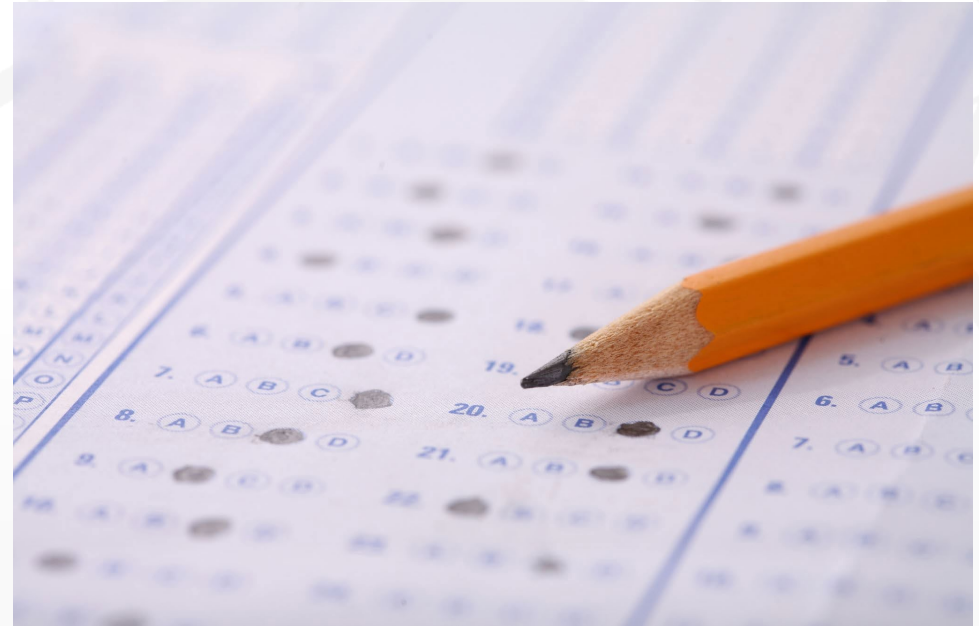
- Federal law enacted in 1980 that requires agencies to obtain approval from the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget before collecting information from ten or more members of the public.
- Requires agencies to seek public comment
- Also known as Information Collection Requests (ICR)
 - ICRs include:
 - Forms
 - Surveys
- Goal of the PRA: Minimize burden on the public when collecting information.





Forms

- Forms are information collection requests (ICRs) – obtaining information from the public necessary to complete the mission.
- Sometimes, but not always, associated with a rulemaking
- Maximum approval of 3 years (per cycle)





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Agency Review

- Form expiring in 6 to 9 months



Federal Register 60 Day

- Posted in FR for 60 Days for Public Comment



FEDERAL REGISTER
The Daily Journal of the United States Government



Evaluate/Edit

- Evaluate Comments and Edit if necessary

Federal Register 30 Day

- Posted in FR for 30 Days for Public Comment (sample of new form available)

Evaluate/Edit
Submit to OIRA

- Submit for OMB Approval

ICR Approval Process



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Rulemaking

- Rulemaking is long and complicated
- Used to introduce new or change existing regulation
- Consists of two stages - Proposed Rule and Interim or Final Rule
- Often accompanied by more extensive outreach such as internet postings soliciting feedback, email blasts, industry notices.
- Not ongoing: Twice yearly calendar for rulemaking (Spring and Fall)

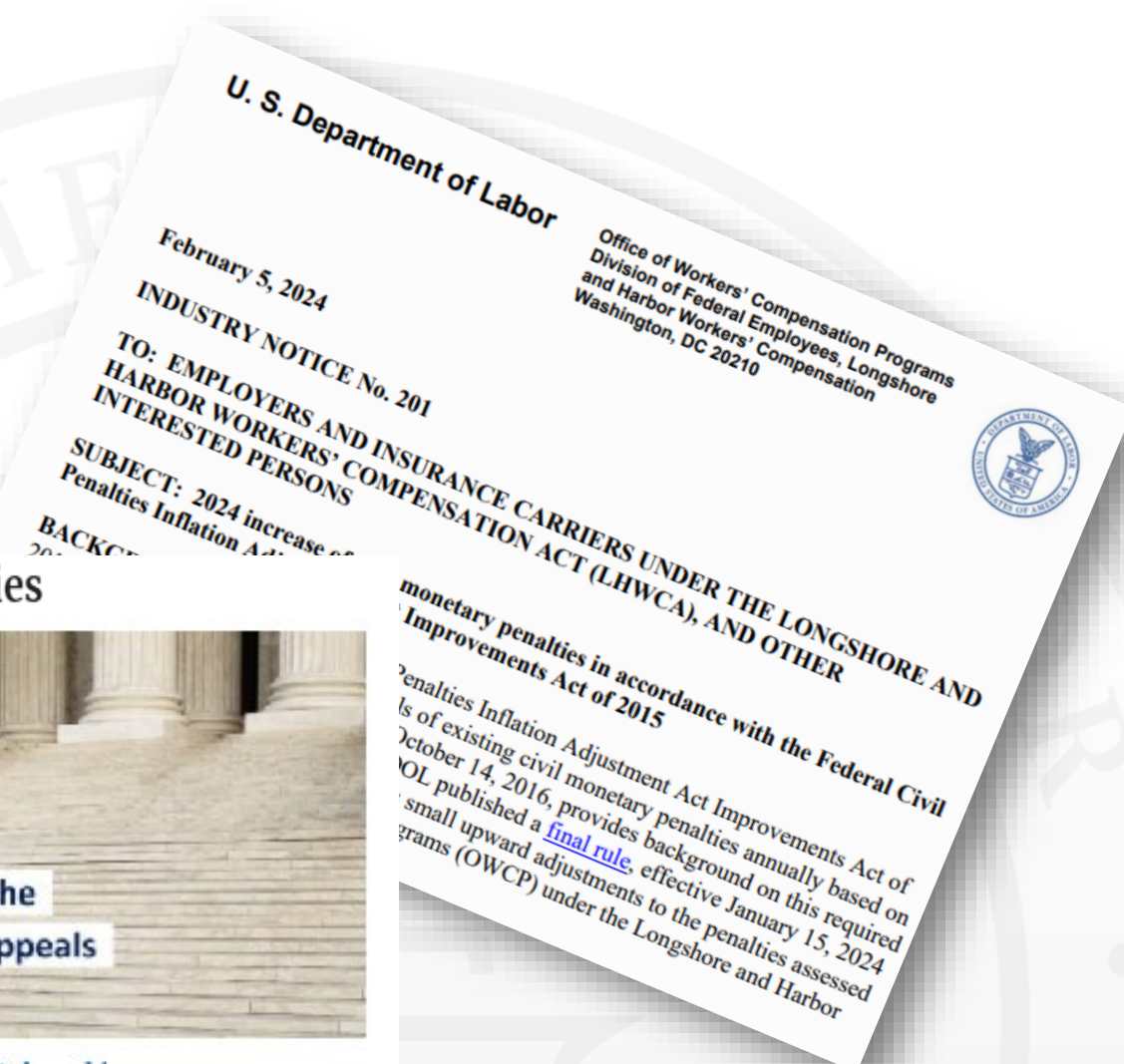
Featured Stories



**Streamlining the
Penalty and Appeals
Processes**

Notice of Proposed Rulemaking

Longshore and Harbor Workers' Compensation Act: Civil Money
Penalties Procedures



U. S. Department of Labor

February 5, 2024

INDUSTRY NOTICE No. 201
TO: EMPLOYERS AND INSURANCE CARRIERS UNDER THE LONGSHORE AND
HARBOR WORKERS' COMPENSATION ACT (LHWCA), AND OTHER
INTERESTED PERSONS

SUBJECT: 2024 increase of
Penalties Inflation Adjustments

Office of Workers' Compensation Programs
Division of Federal Employees, Longshore
and Harbor Workers' Compensation
Washington, DC 20210



monetary penalties in accordance with the Federal Civil
Improvements Act of 2015
Penalties Inflation Adjustment Improvements Act of
2015 provides background on this required
October 14, 2016, provides background on this required
VOL published a [final rule](#), effective January 15, 2024
small upward adjustments to the penalties assessed
grams (OWCP) under the Longshore and Harbor



Let's Work Together

Participation



Your feedback before and during the comment period(s).

Consideration



OWCP's commitment to listen to the customer.

Process




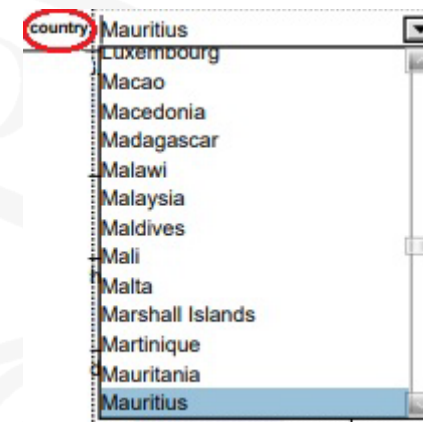
Collectively, we make the process of OMB approval work.





Forms Roundup: FY23-24 updates

- LS-204, 201, 262, 203, etc. – New expiration: 10/31/2026
 - Claim forms (201, 203, 262): Where gender was on the previous form, updated in accordance with [Executive Order 14075](#) and [SOGI Best Practices](#); Exact place of injury for DBA; Non-substantive changes (typos, contact info, OLAF (one look and feel) (Ex: made all forms ask for “Name” as Last, First, MI, countries dropdown, etc.)
 - Other forms in collection: Non-substantive (OLAF)
- LS-1 – New expiration: 11/30/2026
 - Non-substantive (OLAF)
- LS-18 – New expiration 01/31/2027
 - Non-substantive (OLAF)
- LS-210 and LS-202
 - LS-202: Based on feedback from Claims Examiners and stakeholders, added an “Amended” box. 
 - Non-substantive (OLAF)



23. Exact place where accident occurred (Street address, city, town, country) (For Longshore also include: name of vessel, pier, terminal, etc.)
 (For DBA also include: name of the DOD facility or associated worksite - i.e. base, FOB, camp, etc.)


Is this an Amended filing?
 If yes, list Box(es) Amended (i.e. Box 12, 19, etc.)

Yes No



Other Recently Updated Forms (Industry Notice No 197)

- Instrumental in expediting delivery of benefits
- Available on Longshore Internet - File format changed – no more need for download – can be opened and filled out in browser
- LS-7 Request for Intervention updated to allow for identification of a specific “Other” issue (free form)
- LS-8 Settlement Application updated to allow easier completion of a single form for multiple claims
 - One LS-8 for up to 4 cases.
 - Submit to one case file, not all.

Settlement Approval Request Section 8(i) U.S. Department of Labor
Office of Workers' Compensation Programs 

You must use this form to request approval of a settlement under Section 8(i) of the Longshore and Harbor Worker's Compensation Act and its Extensions. You must attach a fully executed 8(i) settlement agreement. OMB No.: 1240-0058
Expires: 03/31/2026

Submit form and attachments to the OWCP/DLHWC Central Mail Receipt site by certified mail with return receipt requested or commercial delivery service with tracking capability at the following address:
U.S. Department of Labor, Office of Workers' Compensation Programs
Division of Longshore and Harbor Workers' Compensation
400 West Bay Street, Suite 63A, Box 28
Jacksonville, FL 32202

Or upload directly to the case file using the Secure Electronic Access Portal (SEAPortal)
Access the SEAPortal directly at:
<https://seaportal.dol.gov/portal/>

You must include the following in the 8(i) settlement agreement: Brief summary of facts; Issues in dispute; Claimant's current work status; Medical reports describing injuries, impairment, and date of maximum medical improvement; Anticipated future medical treatment, the costs thereof, and medical paid in the last three years; Collateral sources for future medical treatment, if medical benefits are being settled; Explanation of why the settlement is adequate and not signed under duress; and Signatures of all parties. The application must be self-sufficient when read on its own without any background information. See 20 C.F.R. 702.242, 702.243.

1. Date of Accident/Illness:	2. Carrier's No.	3. OWCP No.
4. Name of Injured Worker and Claimant <i>if other than injured worker</i>		
5. Claimant's Telephone Number <i>(required if claimant is not represented by an attorney)</i>		
6. Average Weekly Wage	7. Compensation Rate	
8. Settlement Amount for Compensation (Provide the Case # and Amount for Each Case – up to 4 cases)		
9. Settlement Amount for Medical Treatment (Provide the Case # and Amount for Each Case – up to 4 cases)		



Forms: A look ahead at close of FY24 and FY25

Forms:

- Finishing out the FY24 – 2 more forms (LS-207 “Notice of Controversion”/208 “Notice of Payments” are in the FR for the 60 Day right now).
- FY25 is a slow year for forms – LS-570 and LS-426

DEPARTMENT OF LABOR
Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice of Controversion of Right to Compensation

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of the Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DEPARTMENT OF LABOR
Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice of Payments

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of the Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.



Other Updates and Resources



Updated 8(f) Letter

New Language in 8(f)
Approval Letter
Pursuant to U.S.
Treasury Mandate to
pay Claimants by
EFT

The Application for Section 8(f) Relief received on XX/XX/XXXX has been considered. Section 8(f) Relief for XX % pre-existing: binaural hearing loss supported by audiogram dated XX/XX/XXXX, pursuant to the following terms:

- The Average Weekly Wage (AWW) is \$X,XXX.XX with a corresponding compensation rate of \$X,XXX.XX.

Parties stipulate that the Injured Worker sustained a XX %: binaural hearing loss entitling XXXXXXXXX to XX weeks at \$X,XXX.XX per week totaling \$XX,XXX.XX.

- Employer is liable for XX% binaural hearing loss yielding XXX weeks beginning XX/XX/XXXX at \$X,XXX.XX per week totaling \$XX,XXX.XX, plus interest from date of judicial demand XX/XX/XXXX.
- Section 8(f) Relief may be granted for the pre-existing XX% binaural hearing loss yielding XXX weeks beginning XX/XX/XXXX at \$X,XXX.XX per week totaling \$XX,XXX.XX, plus interest.

If all parties agree to the terms outlined above and upon receipt of signed stipulations **along with the beneficiary's EFT information**, a Compensation Order Award of Benefits and Section 8(f) Relief will be issued.

If you have questions concerning this process, please contact the National Office at (202) 513-6809.



Online Resources - SEAPortal

- Updated HELP menu with new resources

- Instructional video – **NEW!**

- Submit New Claim or Report of Injury
- Check Status
- **HELP**
- FAQs
- Longshore Home Page
- SEAPortal Training video
- Longshore Claims Forms Training video (Coming Soon!)
- ECOMP
- Document Category List

UNITED STATES DEPARTMENT OF LABOR

Employer and Carrier tips:

- LHWCA nationwide number:
(202) 513-6809

Notice of claim

Copy of claim

If a case number already exists, submit through the "Uploading Documents to an existing case" section of SEAPortal.

- Forms training video – Coming Soon!



Online Resources – Web page translation

As part of OWCP's Language Access Plan, the most frequently visited web pages have been translated into Spanish, Arabic and Farsi.

OWCP > Longshore Program > Claimant/Injured Worker Page

Claimant/Injured Worker Page

Claimant/Injured Worker Page
Pamphlet LS-560
DFELHWC Longshore Forms
For Case Create Forms

English **Spanish** Arabic Farsi

Division of Federal Employees', Longshore and Harbor Workers' Compensation (DFELHWC)

You'll notice new toggle buttons at the top of some of the most frequently trafficked Longshore web pages.



DBA Online Resources - Longshore Internet

■ DBA Page



Defense Base Act

The Defense Base Act provides workers' compensation protection to civilian employees working outside the United States on U.S. military bases or under a contract with the U.S.

ON THIS PAGE

- [What's New](#)
- [Overview](#)
- [Insurance Information](#)
- [DBA Waivers](#)
- [Benefits and Claims](#)
- [Law Reference Materials](#)
- [War Hazards Compensation Act Resources](#)
- [Industry Notice No. 187 – Defense Base Act \(DBA\) Waivers](#)



Centralized Mailing



- Do you have (or have you considered) Centralized mail?
- Benefits:
 - Don't miss mail: if it all goes to the *same* place, it all goes to the *right* place.
 - We get a lot of returned mail, which means you're not getting it and we're busy researching it when it comes back.
- If you:
 - notice a pattern of not getting mail, *or*,
 - you're interested in working with us to establish a central address,

Contact David Abeijon and Jamie Margherio so we can assist.



Communications

Central Mail Receipt:

U. S. Department of Labor
Office of Workers' Compensation Programs
Division of Longshore and Harbor Workers'
Compensation
400 West Bay Street, Suite 63A, Box 28
Jacksonville, FL 32202

Case Create Documents only: **FAX (202) 513-6814**

Telephone Number for all offices: **(202) 513-6809**

- *Be prepared with Case # to reach assigned Claims Examiner directly.*

Electronic Submissions:

SEAPortal: <https://seaportal.dol.gov>

OWCP Ombuds Office: OWCP.Ombuds@dol.gov

ECOMP Longshore page for
Claimants: <https://dlhwc.dol.gov/>

ECOMP Longshore page for
Entities: <https://owcp.industrypartners.dol.gov>

Section 7 Order Requests: Section-7-Order-Request@dol.gov



UNITED STATES DEPARTMENT OF LABOR

**David Duhon
District Director,
Southern Compensation District**

**Division of Federal Employees', Longshore and
Harbor Workers' Compensation (DFELHWC)**



Medical and Default Orders



MEDICAL ORDERS – Section 7



Section 7(a) of the LHWCA provides:

The employer shall furnish such medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus, for such period as the nature of the injury or the process of recovery may require.

- The claimant must establish that the medical expenses are related to the compensable injury. *Pardee v. Army & Air Force Exch. Serv.*, 13 BRBS 1130 (1981); *Suppa v. Lehigh Valley R.R. Co.*, 13 BRBS 374 (1981).
- The employer is liable for medical services for all legitimate consequences of the compensable injury, including the chosen physician's unskillfulness or errors of judgment. *Lindsay v. George Wash. Univ.*, 279 F.2d 819 (D.C. Cir. 1960); see also *Austin v. Johns-Manville Sales Corp.*, 508 F. Supp. 313 (D. Me. 1981).



UNITED STATES DEPARTMENT OF LABOR

MEDICAL ORDERS – Section 7, cont.

Section 7(b) Physician selection; administrative supervision; change of physicians and hospitals.

The employee shall have the right to choose an attending physician authorized by the Secretary to provide medical care under this Act as hereinafter provided. If, due to the nature of the injury, the employee is unable to select his physician and the nature of the injury requires immediate medical treatment and care, the employer shall select a physician for him. The Secretary shall actively supervise the medical care rendered to injured employees, shall require periodic reports as to the medical care being rendered to injured employees, shall have authority to determine the necessity, character, and sufficiency of any medical aid furnished or to be furnished, and may, on his own initiative or at the request of the employer, order a change of physicians or hospitals when in his judgment such change is desirable or necessary in the interest of the employee or where the charges exceed those prevailing within the community for the same or similar services or exceed the provider's customary charges.



UNITED STATES DEPARTMENT OF LABOR

MEDICAL ORDERS – Section 7, cont.

- Change of physicians at the request of employees shall be permitted in accordance with regulations of the Secretary.
 - Active supervision of the injured employee's medical care is to be performed by the Director through the district directors (formerly called deputy commissioners) and their designees. 20 C.F.R. § 702.407. See *Roulst v. Marco Constr. Co.*, 15 BRBS 443 (1983) (the Board held that the deputy commissioner may order a change of physicians under Section 7(b)). The 1984 Amendments add a provision that the Secretary may also order such a change where the charges exceed those prevailing in the community for the same or similar services or exceed the provider's customary charge. 33 U.S.C. § 907(a).
-



UNITED STATES DEPARTMENT OF LABOR

MEDICAL ORDERS – Section 7, cont.

Section 7(c)(2) of the 1984 LHWCA provides that when the employer or carrier learns of its employee's injury, either through written notice or as otherwise provided by the LHWCA, it must authorize medical treatment by the employee's chosen physician.

- Once a claimant has made his initial, free choice of a physician, he may change physicians only upon obtaining prior written approval of the employer, carrier, or deputy commissioner. See 33 U.S.C. § 907(c)(2); 20 C.F.R. § 702.406.
- Where the authorized physician withdraws/retires from the practice of medicine and refers his patients to a new doctor, no new authorization is required. According to the Board, the reasonable conclusion is that the claimant's initial physician provided the care of another physician whose services were necessary for the proper care and treatment of the claimant's compensable injury, and the new doctor must be considered to be the physician authorized to provide medical treatment. *Maguire v. Todd Pac. Shipyards Corp.*, 25 BRBS 299, 301-02 (1992).
- Consent to change physicians **shall** be given when the employee's initial free choice was not of a specialist whose services are necessary for, and appropriate to, proper care and treatment. Consent may be given in other cases upon a showing of good cause for change. *Slattery Assocs. v. Lloyd*, 725 F.2d 780, 16 BRBS 44 (CRT) (D.C. Cir. 1984); *Maguire*, 25 BRBS at 301-02; *Swain v. Bath Iron Works Corp.*, 14 BRBS 657 (1982). The regulation only states that an employer **may** authorize a change for good cause; it is **not required** to authorize a change for this reason. *Swain*, 14 BRBS at 665.



UNITED STATES DEPARTMENT OF LABOR

MEDICAL ORDERS – Section 7, cont.

Section 7(d)(4) of the LHWCA as amended in 1984 provides that the Secretary or judge may, by order, suspend the payment of all further compensation to an employee during any period in which he unreasonably refuses to submit to medical or surgical treatment, or to an examination by the employer's chosen physician, unless the circumstances justified the refusal.

- Section 7(d)(4) cannot be applied retroactively. It is inconsistent with the statutory language and case law to apply Section 7(d)(4) to terminate payments for a period prior to the employer's raising the issue. *Dodd v. Newport News Shipbuilding & Dry Dock Co.*, 22 BRBS 245 (1989).



UNITED STATES DEPARTMENT OF LABOR

MEDICAL ORDERS – Section 7, cont.

WHY DO MEDICAL ORDERS GET ISSUED?

1. Clear choice of physician issues - Claimant's doctor refers to a specialist; claimant's doctor retires or refuses to provide additional medical treatment, etc.
2. Employer/Carrier does not provide 2nd medical opinion to support their position that a request for medical treatment is not reasonable or necessary.
 - An adjuster's opinion is not sufficient to support denial of medical treatment.
3. Claimant refuses to attend Employer's 2nd Medical Examination. (Order Suspending Compensation)
4. Order to Pay for Department of Labor Independent Medical Examination. (This is not optional for an Employer to dispute)

MEDICAL ORDERS CANNOT BE ISSUED WHEN THE REQUEST IS BASED ON SUBSTANTIVE FACTUAL DISPUTES (CAUSATION, LRE, ETC.).



UNITED STATES DEPARTMENT OF LABOR

DEFAULT ORDERS

§ 918. Collection of defaulted payments; special fund

(a) In case of default by the employer in the payment of compensation due under any award of compensation for a period of thirty days after the compensation is due and payable, the person to whom such compensation is payable may, within one year after such default, make application to the deputy commissioner making the compensation order or [for] a supplementary order declaring the amount of the default. After investigation, notice, and hearing, as provided in section 19 [33 USC § 919], the deputy commissioner shall make a supplementary order, declaring the amount of the default, which shall be filed in the same manner as the compensation order. In case the payment in default is an installment of the award, the deputy commissioner may, in his discretion, declare the whole of the award as the amount in default. The applicant may file a certified copy of such supplementary order with the clerk of the Federal district court for the judicial district in which the employer has his principal place of business or maintains an office, or for the judicial district in which the injury occurred.

(b) In cases where judgment cannot be satisfied by reason of the employer's insolvency or other circumstances precluding payment, the Secretary of Labor may, in his discretion and to the extent he shall determine advisable after consideration of current commitments payable from the special fund established in section 44 [33 USC § 944], make payment from such fund upon any award made under this Act and in addition, provide any necessary medical, surgical, and other treatment required by section 7 of the Act [33 USC § 907] in any case of disability where there has been a default in furnishing medical treatment by reason of the insolvency of the employer. Such an employer shall be liable for payment into such fund of the amounts paid therefrom by the Secretary of Labor under this subsection; and for the purpose of enforcing his liability, the Secretary of Labor for the benefit of the fund shall be subrogated to all the rights of the person receiving such payment or benefits as against the employer and may by a proceeding in the name of the Secretary of Labor under section 18 [33 USC § 918] or under subsection (c) of section 21 of this Act [33 USC § 921(c)], or both, seek to recover the amount of the default or so much thereof as in the judgment of the Secretary is possible, or the Secretary may settle and compromise any such claim.



DEFAULT PROCEDURES

1. Claimant should contact Employer/Carrier's representative to see if agreement can be reached that payment under order was late. Employer/Carrier can voluntarily make 20% payment and file LS-208.

2. If no agreement can be reached, Claimant should request an Informal Conference. The parties can present their evidence and positions on whether payment due under Order was late.

3. If the District Director finds that payment due under an order was not timely paid, a Supplemental Order declaring default can be issued giving the amount due.

4. If Employer/Carrier still refuses to pay, Claimant can file the case with the District Court to enforce the District Director's Order.

11. Check Issues Requiring Intervention and attach position paper with supporting documents:

- | | |
|---|--|
| <input type="checkbox"/> Occurrence of Injury | <input type="checkbox"/> Temporary Disability |
| <input type="checkbox"/> Responsible Employer/Carrier | <input type="checkbox"/> Permanent Disability |
| <input type="checkbox"/> Jurisdiction/Situs/Status | <input type="checkbox"/> Medical |
| <input type="checkbox"/> Average Weekly Wage | <input type="checkbox"/> Special Fund Modification |
| <input type="checkbox"/> Additional Compensation | <input checked="" type="checkbox"/> Other DEFAULT ORDER REQUEST |



UNITED STATES DEPARTMENT OF LABOR

**Todd Bruininks
District Director,
Eastern Compensation District**

**Division of Federal Employees', Longshore and
Harbor Workers' Compensation (DFELHWC)**



Settlements



Settlements

Issue	OWCP's Stance
All-inclusive language in Settlement agreements	<ul style="list-style-type: none">• OWCP <i>still</i> will not approve Settlements with all-inclusive language.• OWCP will contact parties to have it stricken (either by deficiency letter or phone call).
Settling for additional conditions not originally claimed	<ul style="list-style-type: none">• Conditions not originally claimed must be supported by medical.• Specific consideration for these additional conditions must be outlined in the settlement.



Settlements

Pursuant to the agreement and stipulation submitted by and between the interested parties, and such further investigation in the above-entitled claim having been made as is considered necessary, and no hearing having been applied for by any party in interest or considered necessary by the District Director, the District Director makes the following:

FINDINGS OF FACT

1. That the claimant alleges accidental injury arising out of and in the course of employment with the employer on or about
1. That liability of the employer for compensation under the above cited Act is insured by
1. The parties desire to settle the claim on the following basis:

Lump sum of \$XXX for compensation

Lump sum of \$XXX for medical benefits

1. XX will receive \$XXX for fees and costs associated with this claim.
1. The District Director, pursuant to Section 8(i) of the Longshore and Harbor Workers' Compensation Act, as amended, finds this settlement to be adequate and not procured by duress, and hereby approves the settlement. Approval will effect a final disposition of this claim, discharging the liability of the Employer/Insurance Carrier for such compensation or medical benefits or both as agreed upon and stated above.

ORDER

Pursuant to Section 8(i) of the Longshore and Harbor Workers' Compensation Act, the District Director having reviewed the agreement and stipulation by and between the interested parties hereby approves the agreed settlement. This approval effects a final disposition of the claim, discharging the liability of the employer and insurance carrier in accordance with the terms of the settlement. **This approval is limited to the LHWCA claim described in the above findings of fact, and only resolves matters expressly within the jurisdiction of the Longshore Act.** The employer and insurance carrier are hereby ordered to pay all amounts due.

New Language in 8(i) Deficiency Letter

New Language in 8(i) Approval Letter

Dear Ladies and Gentlemen:

This notice and statement is issued as provided for in 20 CFR 702.243 (b) and (c).

The recently received settlement application is deficient for the below stated reason(s). See 20 CFR 702.242. Upon receipt of the documentary evidence or an amended application correcting the deficiencies, the settlement application will be reconsidered. The 30 day time period for the District Director to approve or disapprove the proposed settlement will begin after receipt of a complete application. See 20 CFR 702.243(b).

The settlement application attempts to resolve injuries for which no claim has been made under the Longshore and Harbor Workers' Compensation Act (or extension) involving the parties attempting to settle. This cannot be done, per 20 CFR 702.241(g). A new application should be submitted where the parties either strike the language referencing unnamed/unclaimed injuries, or provide further information and explanation why these currently unnamed injuries are referenced in the settlement application.

You can electronically submit documents in response to this notice directly into the OWCP case through the Secure Electronic Access Portal (SEAPortal). You can access SEAPortal at: <https://seaportal.dol.gov>. When you access the website, you will be asked to provide the OWCP number along with the injured worker's last name, date of birth and date of injury. The SEAPortal will then provide a Tracking Number, so you can verify when OWCP received your document. Documents will be visible in the OWCP file within 4 hours of upload. Please contact your servicing office for assistance if you are having difficulty uploading a document. Alternatively, you can mail documents to the address at the address above.

Please DO NOT submit documents by SEAPortal and mail. Only one copy is necessary.

If you have any questions, please contact me at (202) 513-6809.



Communication with OWCP - Expediting Handling

- SEAPortal is the currently the *only* method of electronic submission.
 - Documents uploaded to SEAPortal do not always appear immediately and depending on how categorized, does not always prompt quick action.
 - Categorizing properly prompts action by CE
 - Ex: Response to 8(i) deficiency? Categorize as 8(i), not medical, etc.
 - Depending on how it's categorized, it may have a longer allotted review time.
 - Ex: Substitution of counsel for conference

The screenshot displays the SEAPortal interface for the Department of Labor, Office of Workers' Compensation Programs. The header includes the department logo and name. Below the header, there are sections for 'Division of Federal Longshore and Harbor Workers' Compensation Act' and 'Secure Electronic Access'. A prominent 'Upload Document' button is visible. To the right, a dropdown menu is open, listing various document types for selection, including LS-4 Attorney Fee Applications, LS-5 Special Fund Applications, LS-7 Intervention Requests, LS-8 Settlement Applications, LS-9 Stipulations, LS-18 Formal Hearing Requests, LS-203 Employee's Claims, LS-207 Notices of Controversy, LS-208 Notices of Payment, LS-262 Claims for Death Benefits, Waiver/LS-801 and LS-802 forms, Address Change, Copy Request, DOL Vocational Rehabilitation, and Longshore Forms.



Communication with OWCP - Expediting Handling

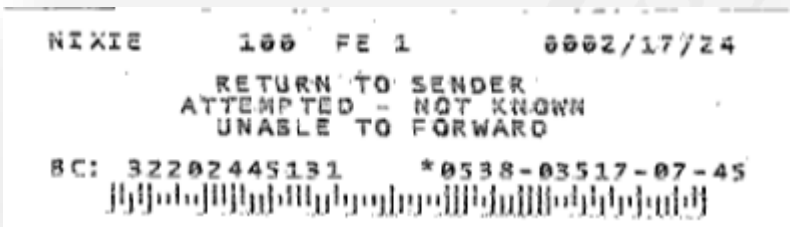
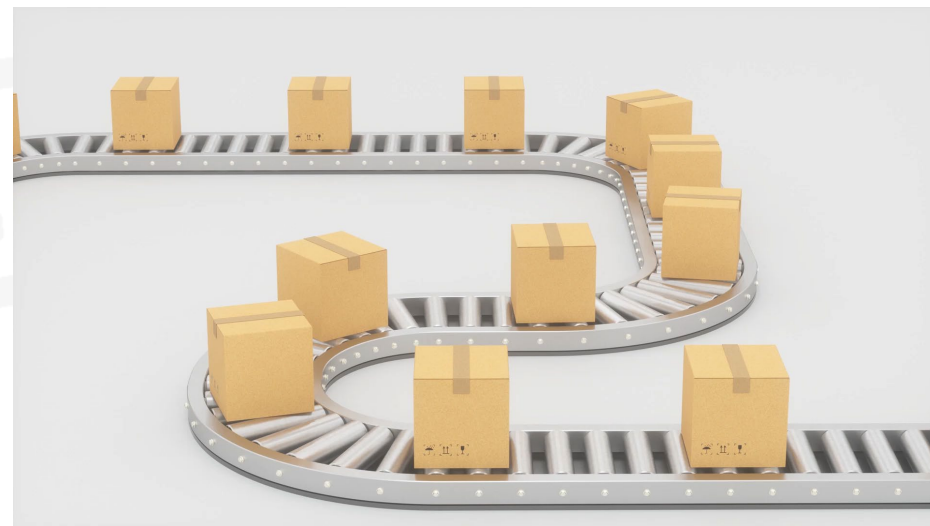


- Email – Please check with the office on whether they will accept
 - Possibility of Personally Identifiable Information (PII) violation
 - If urgent, call and work with the CE to get it to them ASAP.
- New conference vs reconsideration of the issues
 - 45+ Days vs 15 Days – reconsideration gets you there faster
- Other helpful hints when dealing with the office



Communication with OWCP - Waivers

- No duplicates – No advantage to resubmitting waivers over and over.
- Only submit if there is a change in the contact info



- Encourage claimants to file waivers for their service (especially if mail delivery is not possible or delayed) due to country of residence
- Attorneys cannot file waivers for Employer/Carrier.





UNITED STATES DEPARTMENT OF LABOR

**Marco Adame
District Director,
Western Compensation District**

**Division of Federal Employees', Longshore and
Harbor Workers' Compensation (DFELHWC)**



Attorney Fees



UNITED STATES DEPARTMENT OF LABOR

PLEASE NEGOTIATE FEES

Most of the fees in the Western District are appealed. Which means:

- Our orders are averaging 15 to 30 pages
- All case law is properly reviewed and cited
- All objections must be addressed
- Hourly rate analysis is fully explained





UNITED STATES DEPARTMENT OF LABOR

TIMEFRAMES

Receipt of application for
Attorney Fees Not Agreed

- 30 Days Elapses:
- a) IF objections received,
OWCP sends to claimant
counsel and provides **30** days
for response
 - b) IF no objections received in
30 Days, Determination will be
made absent objections.

No other filings PLEASE!

OWCP sets the time for
response: provides **30** days for
defense to submit objections

30 Days Elapses:
Determination will be made

**60 Days strict timeframe to allow for
objections and response to objections**

Determination
made within
120 Days



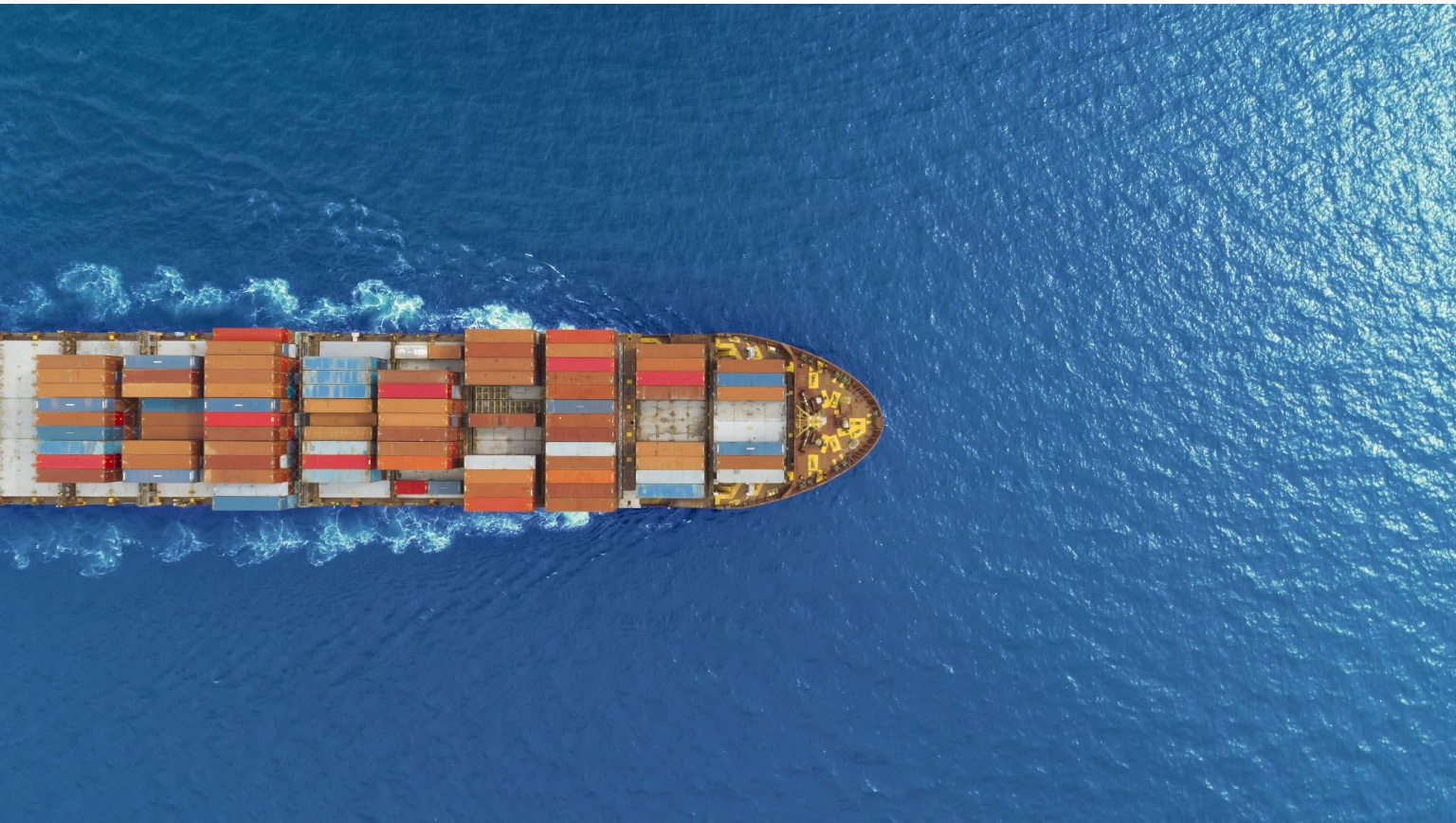
UNITED STATES DEPARTMENT OF LABOR

Requests for Reconsideration

- As well as fees being appealed, we often receive Requests for Reconsideration
- This often requires a re-review and takes time
- To expedite fee resolution...

**PLEASE NEGOTIATE
FEES**





Longshore Workers/ ILWU

- ILWU members often receive credit for hours they should have been able to work if they were not injured
- They need your help memorializing these periods in the settlement
- Please speak with your client about retirement credit for off work time
- ILWU members may need to speak to their retirement office before settling a case



Questions?