

State of New Hampshire

DEPARTMENT OF LABOR



65th Biennial Report

July 1, 2021 to June 30, 2023

As required by RSA 273:10 and

RSA 281-A:61

Mission Statement

*To serve and protect the interests
and dignity of the New Hampshire workforce*

Vision Statement

*Our vision is to be recognized by the public as
being a proactive and accessible resource to employees
and employers; ensuring fair and consistent labor practices; utiliz-
ing progressive technologies; having efficient and
responsive processes; treating all individuals with respect
and courtesy; and being competent and professional*

Commissioner

Ken Merrifield

Deputy Commissioner

Danielle N. Albert

95 Pleasant Street

Concord New Hampshire 03301

**TO THE
GOVERNOR AND EXECUTIVE COUNCIL**

HIS EXCELLENCY, GOVERNOR
CHRISTOPHER T. SUNUNU

THE HONORABLE JOSEPH D. KENNEY
EXECUTIVE COUNCILOR - FIRST DISTRICT

THE HONORABLE CINDE WARMINGTON
EXECUTIVE COUNCILOR - SECOND DISTRICT

THE HONORABLE JANET STEVENS
EXECUTIVE COUNCILOR - THIRD DISTRICT

THE HONORABLE THEODORE L. GATSAS
EXECUTIVE COUNCILOR - FOURTH DISTRICT

THE HONORABLE DAVID K. WHEELER
EXECUTIVE COUNCILOR - FIFTH DISTRICT

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STATE OF NEW HAMPSHIRE—DEPARTMENT OF LABOR
65th Biennial Report

Special thanks to the NH Department of Business & Economic Affairs—Division of Travel & Tourism for our use of their New Hampshire photography in this publication.





State of New Hampshire

Department of Labor

Ken Merrifield
Commissioner of Labor

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October 1, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

Dear Governor Sununu and Members of the Executive Council:

Pursuant to RSA 273:10 and RSA 281:A:61, the employees of the New Hampshire Department of Labor are pleased to submit their 65th Biennial Report, for the period of July 1, 2021 through June 30, 2023. As such, our report reflects the efforts and activities of our department over the past two fiscal years.

We are honored to continue our mission of protecting New Hampshire workers and helping businesses and insurers to operate successfully in our state. As always, we will seek to increase our proactive contacts with employers in the future, as a safe and fair workplace is best achieved through positive educational efforts.

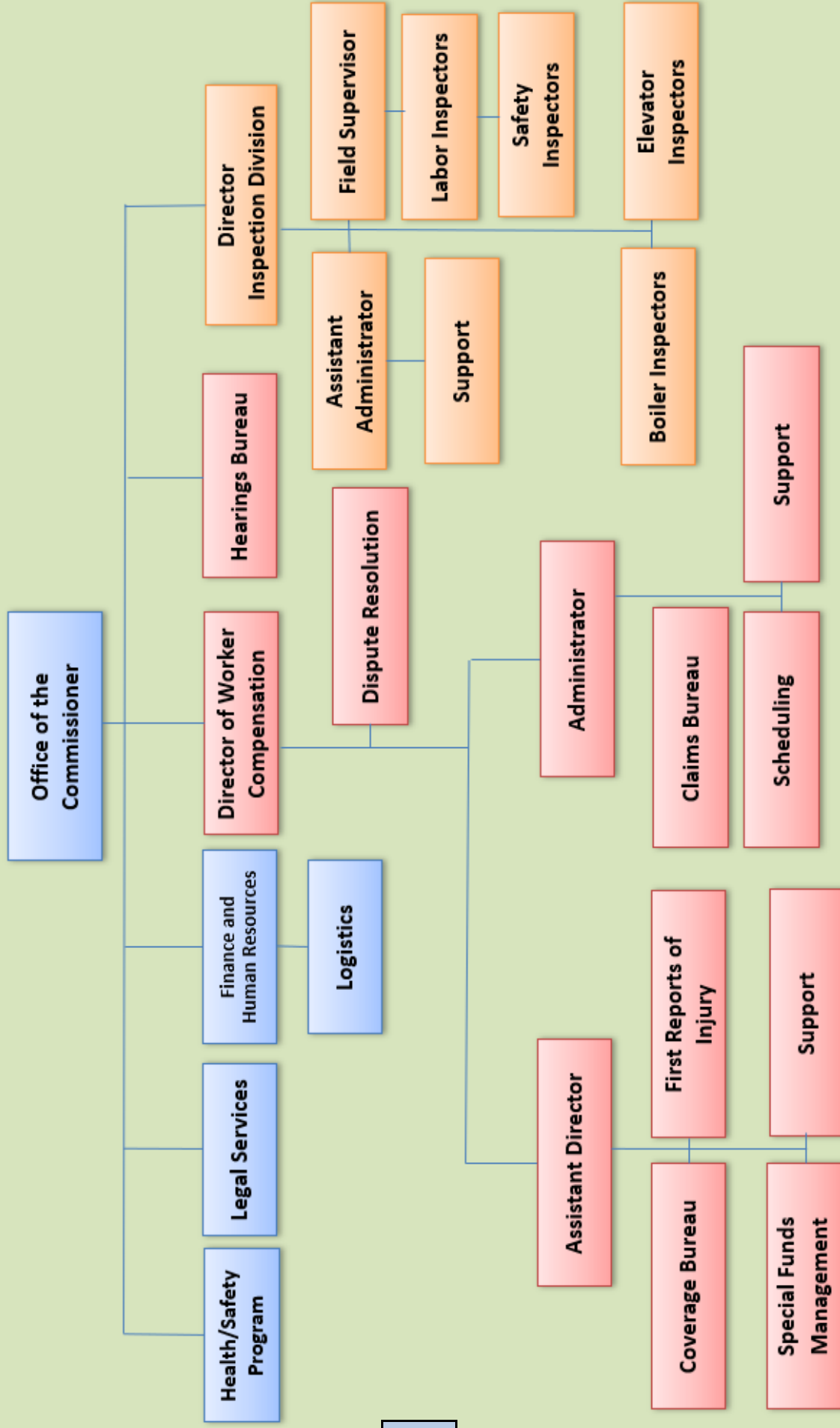
Thank you for your assistance as we strive to safeguard the interests of New Hampshire's workforce and economy.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Ken Merrifield".

Ken Merrifield
Commissioner of Labor

New Hampshire Department of Labor





Administration

The Commissioner's Office is pleased to report some of the progress being made at the Department of Labor during the last biennium:

- ◆ The Department is a General Fund contributor through its Restricted Fund, and had previously recorded its highest contribution in history in SFY 2021 at \$2.1 Million. Revenues continued to be strong in the 22-23 biennium, and the Department again recorded record GF revenue transfers of \$3.1M and \$3.4M in SFY 22 and SFY 23 respectively.
- ◆ The Workers' Compensation division continues to improve business processes to better serve clients and insurance carriers alike.
- ◆ In response to the Legislative Budget Assistant's audit of the Department in 2021, the agency has now responded to any findings that were immediately under our control. Information system improvements continue with the ultimate goal of migration away from the use of the Department's legacy AS400 mainframe.
- ◆ The Department's Policy Team, established in 2017, has continued to meet monthly and has issued 34 active internal policies and procedures.
- ◆ Deputy Commissioner Ogden was promoted to the Governor's Office and this

has resulted in the subsequent promotion of Danielle Albert to Deputy Commissioner. General Counsel Wesley Gardner has assumed the role of Workers' Compensation Division Director, and Attorney John Garrigan has recently taken the role of General Counsel as a result. Congratulations to all!

- ◆ As a result of language in the final version of HB 2 approved in June 2023, the Department has taken administrative oversight authority over The NH Healthcare Workplace Safety Commission. The activities of this commission are currently underway, and health facilities around the Granite State have begun reporting workplace violence events to the Department as required by new chapter RSA 277-C which was codified into statute as part of budget passage.

Technology Modernization

On June 15, 2022 the Governor & Executive Council approved contract amendments from the Department of Information Technology for the benefit of the Department of Labor. The two agencies have been cooperatively replacing two legacy information systems with Hyland's "OnBase" ECM product. The key goal of the project is final migration away from the Department's aging AS400 IBM mainframe. For example, over the last biennium the vendor has constructed new workflows for the Hearings Bureau, automating the notifications process and facilitating document handling for both wage claims and whistleblower cases. Some major projects currently in design and testing include case management for wage and hour complaint investigations, the ingestion of insurance carrier reporting data associated with workers' compensation coverage, as well as the generation and management of all accounts receivable for the Department. The goal here is seamless integration with the state's accounting system, NH FIRST. ARPA funding was also committed to the project by the Governor and Executive Council on April 12, 2023.

Spaulding Building Improvements

With thanks to the Department of Administrative Services, the Spaulding Building, first constructed in 1933 and the current home of the Labor Department in the Gallen Office Park in Concord, has undergone significant renovation and improvements in the last biennium.

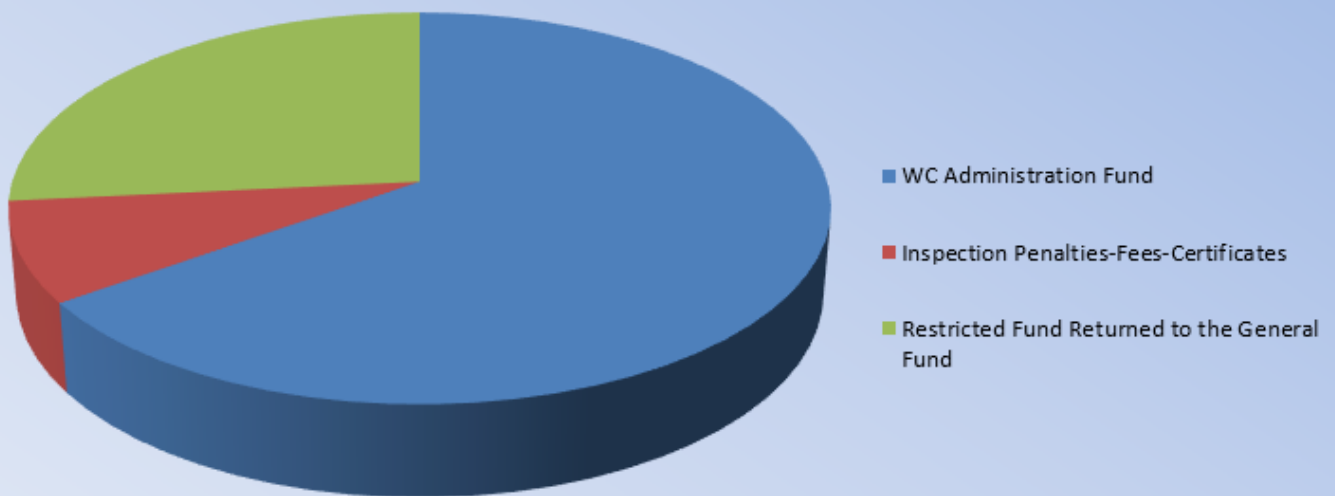
Air conditioning has been provided by an aging cooling tower to the west of the building, and this has now been replaced with a "state of the art" tower. Also replaced were console heating and cooling units located in each individual office and corridor in the building. Modern temperature controls have also been added.

In addition, the Spaulding Building roof was completely replaced during 2022. The interior of the building remains largely the same as it was following the early 1990's retrofit for Labor's occupancy.

Receipts for the Biennium by Class

	<u>SFY 2022</u>	<u>SFY 2023</u>
006 RESTRICTED FUND SUPPORTING OPERATIONS	1,303,170	1,075,625
009 WC ADMINISTRATION FUND SUPPORTING OPERATIONS	6,691,739	8,420,512
006 RESTRICTED FUND TRANSFER TO GENERAL FUND	3,064,110	3,435,841
TOTAL OPERATING REVENUES	11,059,019	12,931,978
003 REVOLVING FUNDS - WAGE CLAIM SETTLEMENTS	23,607	12,632
003 REVOLVING FUNDS - SPECIAL FUND FOR 2ND INJURY	16,414,323	16,629,725
TOTAL REVOLVING FUND RECEIPTS	16,437,930	16,642,357
<i>**non-appropriated, revolving accounts</i>		

Department of Labor SFY 2023 Actual Operating Revenue Source of Funds

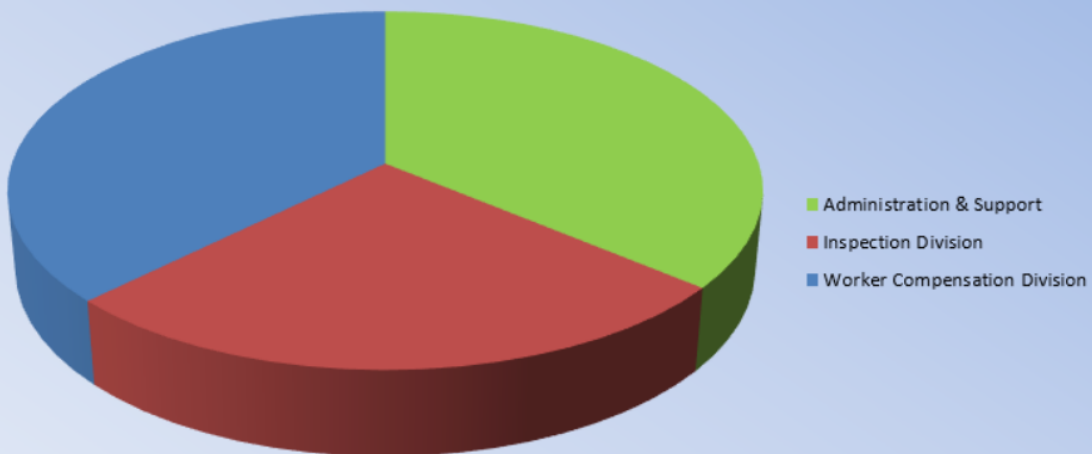


Expenditures for the Biennium by Class

	<u>SFY 2022</u>	<u>SFY 2023</u>
010 PERSONAL SERVICES PERM CLAS	\$3,398,829	\$3,579,853
011 PERSONAL SERVICES UNCLASSIF	\$125,935	\$132,296
012 PERSONAL SERVICES UNCLASSIF	\$119,078	\$125,093
017 FT EMPLOYEES SPECIAL PAYMEN	\$61,424	\$9,075
018 OVERTIME	\$3,430	\$4,904
020 CURRENT EXPENSES	\$211,492	\$132,000
022 RENTS-LEASES OTHER THAN STA	\$10,421	\$10,949
024 MAINT OTHER THAN BUILD-GRN	\$0	\$0
026 ORGANIZATIONAL DUES	\$2,979	\$4,412
027 TRANSFERS TO DOIT	\$1,098,306	\$1,100,808
028 TRANSFERS TO GENERAL SERVIC	\$293,993	\$278,605
030 EQUIPMENT NEW REPLACEMENT	\$5,307	\$153,503
039 TELECOMMUNICATIONS	\$67,529	\$58,902
040 INDIRECT COSTS	\$154,300	\$229,999
041 AUDIT FUND SET ASIDE	\$0	\$0
046 CONSULTANTS	\$0	\$0
049 TRANSFER TO OTHER STATE AGE	\$6,850	\$9,753
050 PERSONAL SERVICE TEMP APPOI	\$179,492	\$214,270
057 BOOKS PERIODICALS SUBSCRIPT	\$4,260	\$1,876
060 BENEFITS	\$2,013,510	\$2,090,592
061 UNEMPLOYMENT COMPENSATION	\$0	\$0
062 WORKERS COMPENSATION	\$5,310	\$16,642
064 RET PENSION BENE HEALTH INS	\$260,758	\$254,194
065 BOARD EXPENSES	\$359,445	\$311,675
066 EMPLOYEE TRAINING	\$26,079	\$32,373
070 IN STATE TRAVEL REIMBURSEME	\$38,650	\$32,634
080 OUT OF STATE TRAVEL REIMB	\$4,426	\$1,787
089 TRANSFER TO DAS MAINT FUND	\$18,750	\$18,750
211 CATASTROPHIC CASUALTY INS	\$6,251	\$6,678
TOTAL OPERATING EXPENSE	\$8,476,805	\$8,811,623
054 TRUST FUND EXPENDITURES	16,521,746	\$16,645,883

**non-appropriated, revolving accounts

Department of Labor SFY 2023 Actual Expenditures by Division



Personnel

86 fulltime authorized positions as reflected in the 24-25 Budget Request. Position 43050 has been added to this listing per HB 2 to staff the NH Health Care Workplace Safety Commission.

WORKER COMPENSATION DIVISION	
ADMINISTRATIVE ASSISTANT I	1
ADMINISTRATIVE ASSISTANT II	1
ADMINISTRATIVE SECRETARY	1
ADMINISTRATOR I	1
ADMINISTRATOR III	1
ADMINISTRATOR IV	1
BUSINESS SYSTEMS ANALYST II	1
CLAIMS AND HEARINGS CLERK I	3
CLAIMS AND HEARINGS CLERK II	3
CLAIMS PROCESSOR II	1
DATA CONTROL CLERK I	1
DATA CONTROL CLERK II	3
HEARINGS EXAMINER	1
HEARINGS OFFICER	5
LEGAL SECRETARY II	1
PROGRAM ASSISTANT I	3
PROGRAM ASSISTANT II	5
PROGRAM SPECIALIST I	3
PROGRAM SPECIALIST II	1
RESEARCH ANALYST	1
SUPERVISOR I	1
WKRS COMP SPECIAL FUNDS COORD	1
	40

INSPECTION DIVISION	
ADMINISTRATOR I	1
ADMINISTRATOR IV	1
BOILER INSPECTOR	2
CHIEF BOILER INSPECTOR	1
CHIEF ELEVATOR INSPECTOR	1
ELEVATOR INSPECTOR	3
LABOR INSPECTOR	16
PROGRAM ASSISTANT II	4
PROGRAM SPECIALIST I	1
SUPERVISOR IV	1
	31

ADMINISTRATION DIVISION	
ACCOUNTING TECHNICIAN	1
ADMINISTRATIVE ASSISTANT II	2
ADMINISTRATOR III	1
ATTORNEY II	1
ATTORNEY III	1
ATTORNEY IV	1
BUSINESS ADMINISTRATOR II	1
COMMISSIONER (DEPT OF LABOR)	1
DEPUTY COMMISSIONER (LABOR)	1
HUMAN RESOURCES COORDINATOR II	1
PARALEGAL I	1
PROGRAM ASSISTANT I	2
PROGRAM ASSISTANT II	1
	15

Statutes Administered by the Department

The New Hampshire Department of Labor was established by Chapter 48 of the Laws of 1893.

RSA 273 Department of Labor Principally provides for the operation and organization of the Department of Labor.

RSA 157-A Boiler and Pressure Vessel Inspection Law Establishes that the Department of Labor certifies boilers and pressure vessels for safe operation and issues licenses for all boiler inspectors active within the state.

RSA 157-B Elevator & Accessibility Lift Law Establishes that the Department of Labor certifies elevators and accessibility lifts for safe operation and issues licenses for all elevator and accessibility lift inspectors and mechanics active within the state.

RSA 275 Protective Legislation Governs the conditions of employment such as the prompt and proper payment of wages. Additionally this chapter provides a platform for the recovery of unpaid wages.

RSA 275-A Citizens Job Protection This law addresses labor strikes and employment of undocumented workers.

RSA 275-E Whistleblowers' Protection Act This act provides protection against retaliation for an employee reporting violations of law or for refusing to execute illegal directives

RSA 275-F WARN Act The Worker Adjustment and Retraining Notification Act protects workers by requiring advance notice of significant employment losses at employers numbering seventy-five or more employees.

RSA 276-A Youth Employment Sets forth the requisite standards and safeguards relative to the engagement of workers under the age of 18.

RSA 277 Safety and Health of Employees Establishes that the Department of Labor is responsible for addressing workplace safety issues and incidents in the public sphere.

RSA 277-A Workers' Right to Know Law Sets forth notice requirements for public employers that have a workforce that is exposed to toxic substances in the workplace.

RSA 277-B Employee Leasing Companies Establishes that the Department of Labor regulates Employee Leasing Companies in order to protect employers' and employees' payroll and benefits including tax payments

RSA 279 Minimum Wage Law Provides for the Enforcement of minimum wage and overtime payments

RSA 281-A Workers' Compensation Law Provides that the Department of Labor administers the workers' compensation system in New Hampshire, inclusive of processing claims, adjudicating benefits and enforcing coverage requirements.

Legislative Items of Note 2022 & 2023

SB345 (2022)

Title: relative to youth employment. **This bill made changes to the laws regarding employment of youths and removed the law on night work for youths.**

HB589 (2022)

Title: requiring workers' compensation to cover prophylactic treatment for critical exposure. **This bill amended the definition of "critical exposure" within the workers' compensation law to provide for payment of testing and treatment by a medical provider.**

SB357 (2022)

Title: relative to mental health training for first responders. **This bill, relative to the Department of Labor, reestablished the commission to study incidence of post traumatic stress disorder in first responders.**

SB71 (2023)

Title: relative to workers' compensation for firefighter cancer disease. **This bill made an amendment which allowed for workers' compensation for firefighter cancer diseases of all types.**

SB269 (2023)

Title: relative to tip pooling and sharing. **This bill removed the reference to service charge within the definition of tip and clarified that an employer may administer a valid tip pooling or sharing arrangement provided it does not require or coerce employee participation.**

HB358 (2023)

Title: relative to the filing and adoption of proposed administrative rules and relative to overpayment of unemployment compensation and relative to policies relating to nursing mothers. **This bill, relative to the Department of Labor, implemented requirements on employers for nursing mothers to include notification of policies, a requirement to provide sufficient space, and a requirement to provide reasonable break periods.**



Workers' Compensation Division

OUR MISSION

To protect the rights of all parties effectively, efficiently, and equitably - administering the workers' compensation statute and treating all parties with dignity and respect.



OUR PURPOSE

Support Regulations | Enhance Service | Promote Knowledge

WORKERS' COMPENSATION DIVISION OVERVIEW

The Workers' Compensation Division of the New Hampshire Department of Labor is committed to enforcing the State's Workers' Compensation Law (RSA 281-A). The Law requires all employers to secure compensation for all employees in case of accidental injury, death, or occupational disease. Workers' Compensation is a "no fault" system that provides compensation in the form of medical payments, wage replacement, and/or disability benefits to injured employees.

The Workers' Compensation Division is comprised of multiple units:

- Coverage Unit
- First Report of Injury Unit
- File Intake Unit
- Claims Unit
- Scheduling Unit
- Vocational Rehabilitation Program
- Appeals Board
- Special Funds
- Director's Office

A primary function of the Division is to educate insurance carriers, employers, and employees about the workers' compensation system. All parties need to understand their rights and responsibilities in order for the system to work properly. The Division works with various State and Federal agencies, in addition to private associations, to conduct training on the law and administrative regulations.

WORKERS' COMPENSATION BY THE NUMBERS



40

Classified Positions



9

Bureaus and Units



+55.7%

Revenue in 22 & 23 over 20 & 21



205 Memos of Payment
Received Weekly on Average



87,803

Reported Workplace Injuries



3,375 Hearings Scheduled



17 Voc. Rehab Providers



1,178 Injuries
Resulting in Permanencies

CLAIMS

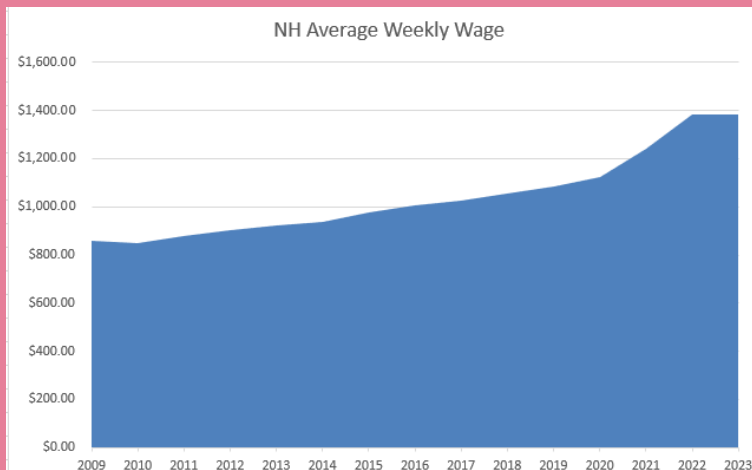
UNIT

The Claims Unit serves as the initial point of contact for all parties involved in the workers' compensation system. Injured workers, their attorneys, employers, and insurance carriers are all groups that are in contact with the Department of Labor whether they have a question or are filing official correspondence.

The Claims Unit is responsible for receiving phone calls and providing basic technical guidance about the workers' compensation system. A primary focus of this Unit is to process Memos of Payment (MOP) filed by insurance carriers to demonstrate that a claim is being compensated. This process takes shape in the form of an acceptance or rejection based on the regulatory statutes and guidelines for this benefit.

These MOPs utilize calculations to determine the "Average Weekly Wage" (AWW) to calculate the appropriate compensation rate based in conjunction with the State's annual adjustment and the injured worker's earnings. RSA 281-A:15 is the statute followed for these calculations.

This chart below shows the growth in the States AWW over recent history.



FILE INTAKE

UNIT

The File Intake Unit initializes primary steps in both a Workers' Compensation claim and other correspondence to the Department. This Unit receives and processes a variety of correspondence which is then forwarded to the appropriate Division or Unit for review and further action. Accurate and timely action in this Unit is required for the rest of the Department to continue their functions.

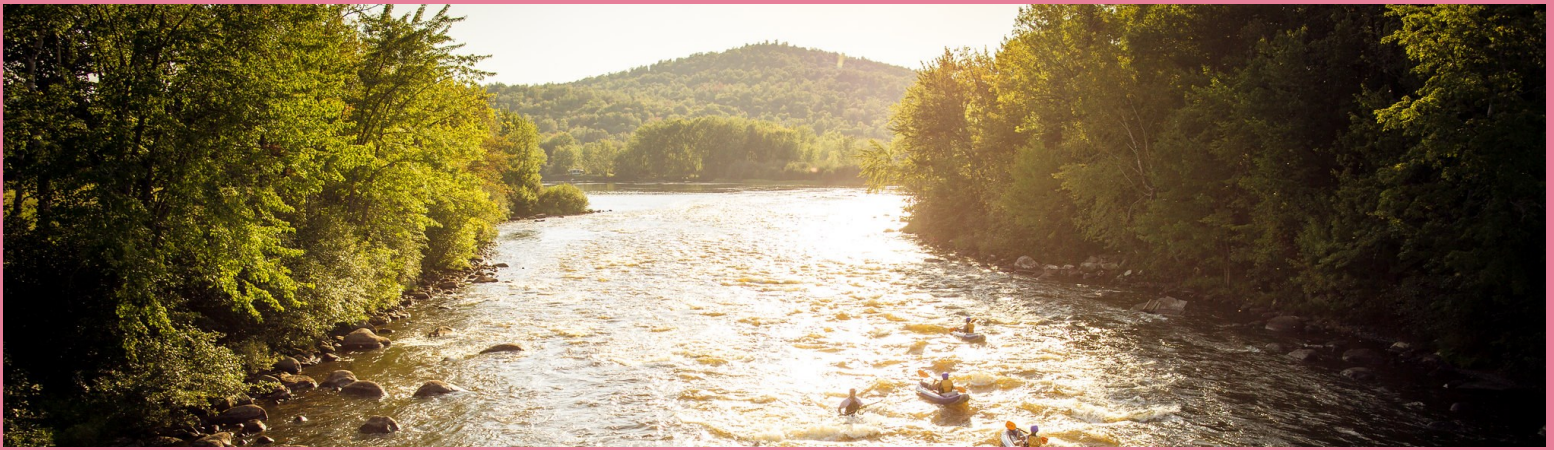


SCHEDULING

UNIT

The Scheduling Unit is responsible for scheduling hearings for newly contested Workers' Compensation cases, first-level continued hearings, and lump sum settlements. This Unit holds the responsibility for preparing accurate files and ensuring proper documentation is included for the Hearing Officers upon receipt.

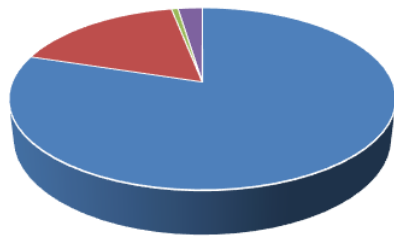
In addition to scheduling cases, this Unit maintains a calendar of attorney availability which contributes towards accurate and efficient scheduling efforts within the 6-week time frame permitted for scheduling a hearing of Workers' Compensation disputes per RSA 281- A:43.



COVERAGE UNIT

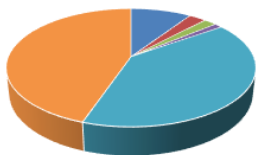
The Coverage Unit's mission is to inform, educate, and ensure compliance with New Hampshire Workers' Compensation Laws among employers with employees performing work in New Hampshire. This ensures that all employers in the State of New Hampshire provide adequate workers' compensation coverage to their employees. Additionally, the Coverage Unit is responsible for overseeing carriers to ensure they provide accurate and timely filings of proof of coverage. In cases where carriers fail to provide this information accurately or in a timely manner, the Coverage Unit takes necessary compliance actions. Housed within the Workers' Compensation Division, the Coverage Unit actively monitors employer and carrier compliance and takes action against those who violate requirements of RSA 281-A. The charts below provide a visual representation of the coverage area's activities.

Coverage Activity by Type SFY 2022 & 2023



- Voluntary Coverage
- Assigned Risk
- Self-insured
- Leasing
- Wrap-up

Coverage Termination Reasons SFY 2022 & 2023



- Change of Carrier
- Out of Business
- Business Sold
- No Employee
- Premium Payment Due
- Request of Carrier
- Revocation

Industry Group Description	Highest Experience Modification	Lowest Experience Modification
Manufacturing	1.82	0.67
Contracting	2.32	0.68
Office and Clerical	2.18	0.52
Goods and Services	2.32	0.55
Miscellaneous	2.32	0.67
F-Class	0.95	0.95

Source: National Council on Compensation Insurance, Inc. (NCCI) "NH Highest and Lowest Intrastate Experience Modifications by Industry Group for 2022" extracted in September 2023.

1—Includes NH Intrastate Experience Modifications

2—Industry Group was determined by using the governing class for the policy

3—Excludes cancelled flat policies, POC notices, or policies where the premium for NH = 0



MANAGED CARE ORGANIZATIONS

Employers may satisfy the requirements of RSA 281-A:23 to provide injured workers with reasonable, necessary, causally related medical treatment through participation in an approved Managed Care Organization (MCO). Specified criteria and certification through the Workers' Compensation Advisory Council must be met in order to operate as a Managed Care Organization for workers' compensation. There are currently six Managed Care Organizations approved in New Hampshire

Managed Care Organization	Recertification Date
<p>CorVel Corp. 170 South River Road Bedford, NH 03110</p>	<p>September 2025</p>
<p>Coventry Healthcare Workers' Compensation Inc. 118 Portsmouth Ave. Suite A202 Stratham, NH 03885</p>	<p>October 2025</p>
<p>Liberty Mutual Managed Care 150 Liberty Way Dover, NH 03820</p>	<p>October 2027</p>
<p>Tandem Injury Management LLC PO Box 1718 Manchester, NH 03105</p>	<p>May 2025</p>
<p>Travelers Insurance Managed Care Program 8 Commerce Drive Bedford, NH 03110</p>	<p>May 2028</p>
<p>Windham Group 500 N. Commercial St. Suite 301</p>	<p>September 2026</p>

VOCATIONAL REHABILITATION

The Workers' Compensation law, through RSA 281-A:25, provides vocational rehabilitation benefits to injured workers with compensable work-related injuries. Vocational Rehabilitation benefits include services to injured workers who, as a result of a work-related injury, are unable to return to the work for which they have training and experience. The purpose of the benefit is to restore injured workers to, or as close as possible to, their previous earning capacity.

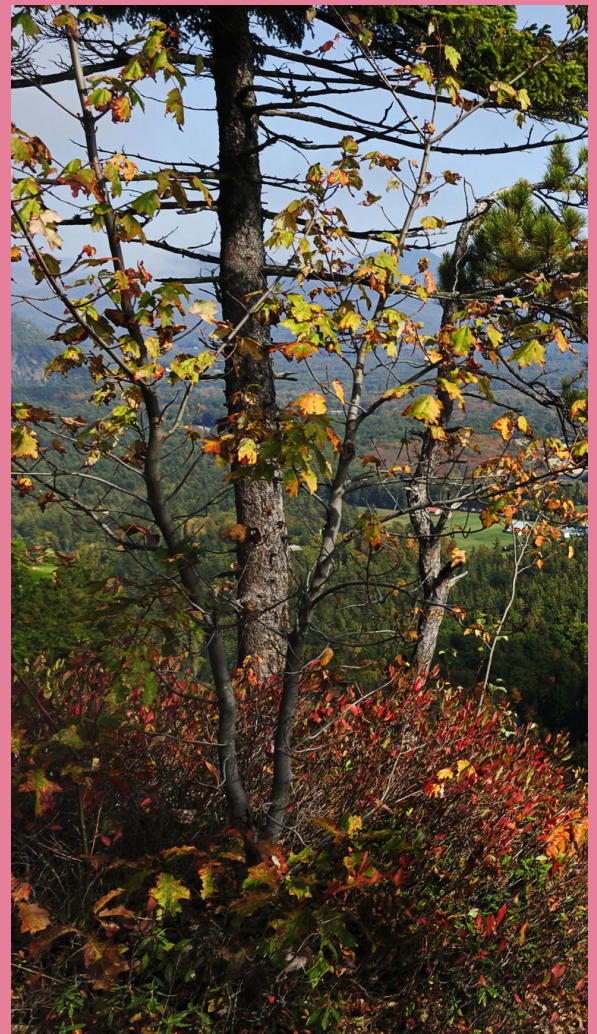
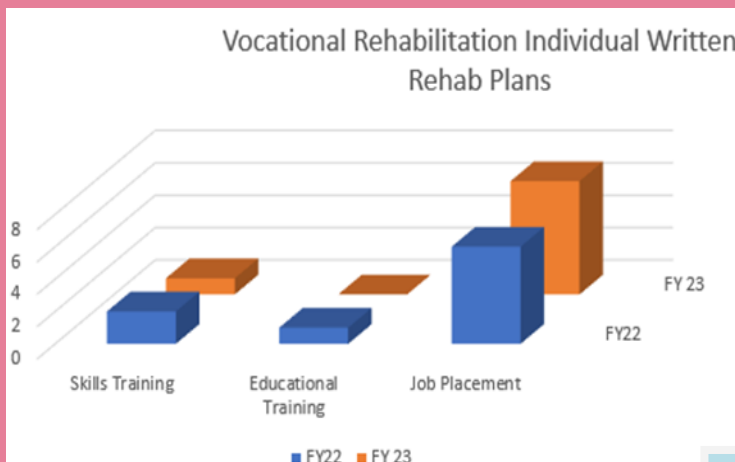
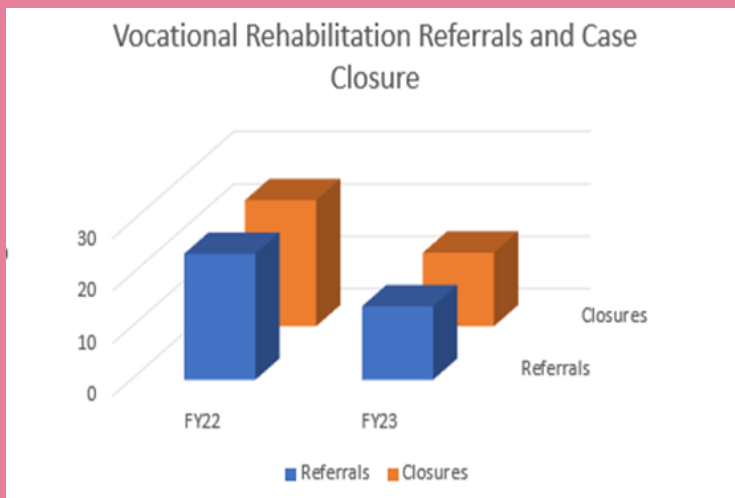
ELIGIBILITY AND SERVICES

Injured workers who are disabled from performing work for which they have training or experience may be eligible for vocational rehabilitation services. Once an eligibility determination is made, a referral for services is filed with the Department of Labor, and an Individualized Written Rehabilitation Plan (IWRP) is developed. IWRPs detail the specific vocational services provided to the injured worker as approved by the Department. A closure report is submitted to the Department once services have concluded.

The charts below provide data on vocational rehabilitation services including total number of referrals, approved IWRPs service types, and case closure.

CERTIFIED VOCATIONAL REHABILITATION PROVIDERS

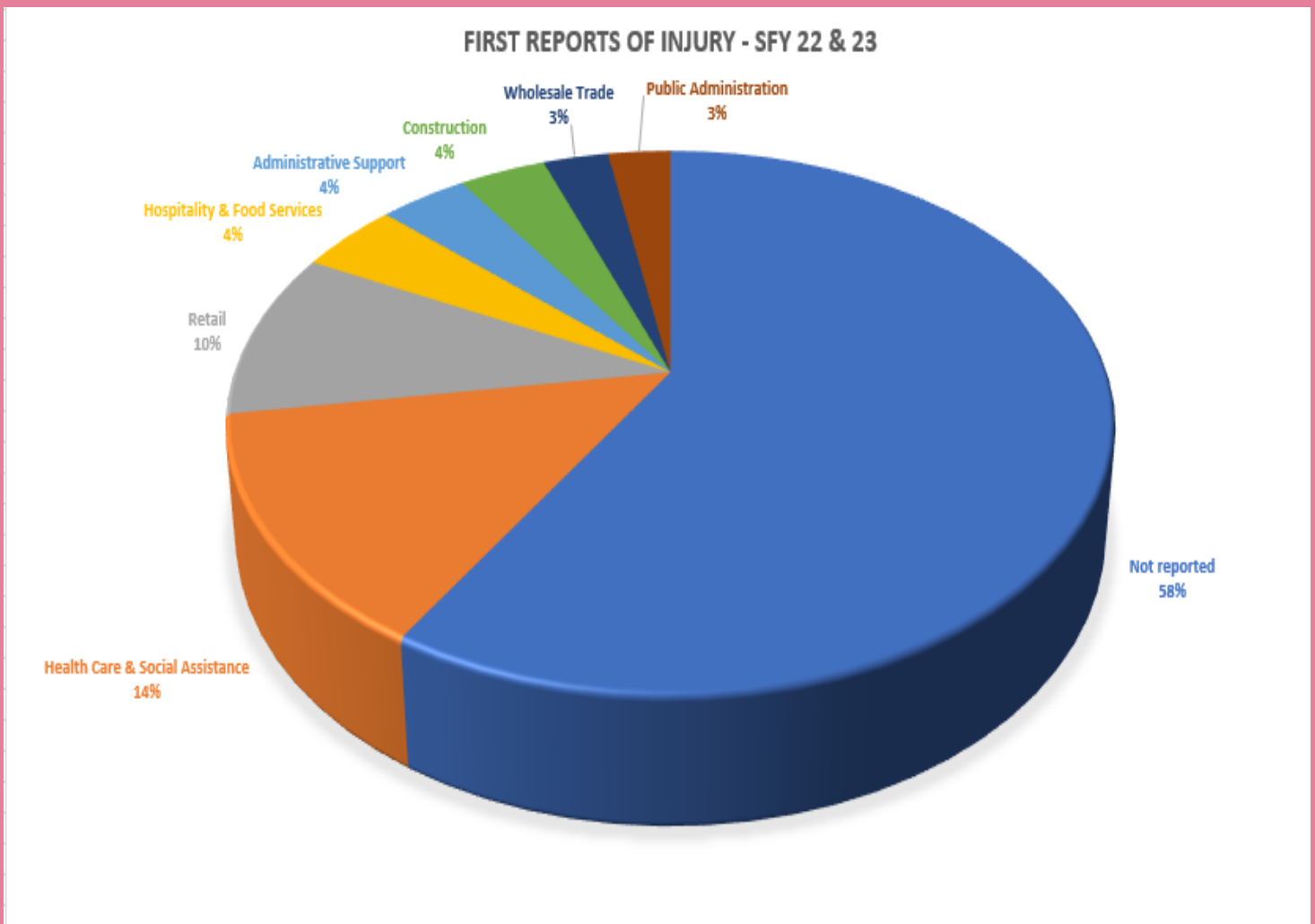
Vocational Rehabilitation services are provided by Certified Vocational Rehabilitation Providers (CVRP). CVRPs are employed by private rehabilitation companies and paid for by the employer or the employers' insurance carrier. Any CVRP providing services to an injured worker is certified through the New Hampshire Department of Labor and VR Provider Advisory Board, as required by RSA 281-A:68. CVRP's are required to be recertified on a biennial basis.



FIRST REPORTS OF INJURY

The first report of injury is an important function of the Workers' Compensation system as it is the initial step needed before an injured worker may open a claim and start receiving indemnity benefits through the employer's insurance carrier.

The First Report of Injury Unit is responsible for ensuring these reports are filed completely, accurately, and within the proper time frames. Employers are required to file within five days of being notified by the employee of an occupational injury or illness. Failure to file timely can result in delayed payments to injured workers and medical providers. Accordingly, through education and enforcement, the Department works to ensure that employers file properly.



Note: Industries reporting less than 2% of the total were not included in this chart for purposes of clarity. As you can see, most reports included no reference to industry.

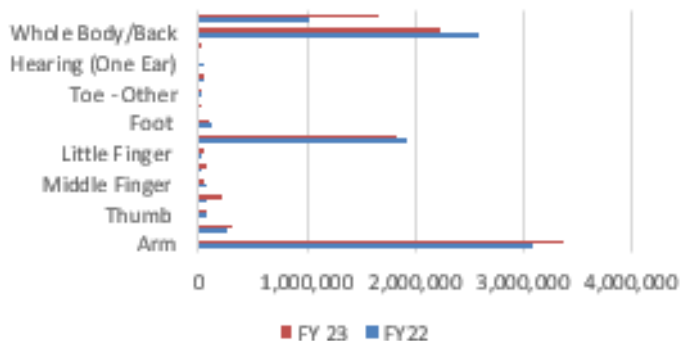
PERMANENT IMPAIRMENT

The Workers' Compensation law allows for a monetary award, called a permanent impairment award, in instances when a work-related injury or illness causes permanent loss of use of certain compensable body parts as scheduled by statute. A permanent impairment award may be paid when an injured worker reaches maximum medical improvement and has had an impairment rating performed by a medical provider.

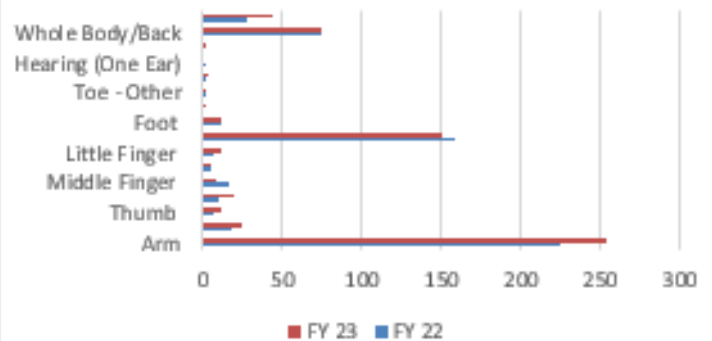
The following tables present figures relating to the occurrence of injuries resulting in permanent impairment awards, the types of injuries and average award for each type of compensable injury paid.

	FY 2020 Avg. Award	FY 2021 Avg. Award	FY 2022 Avg. Award	FY 2023 Avg. Award
Arm	\$13,766	\$11,759	\$13,820	\$11,328
Hand	\$14,052	\$9,905	\$14,861	\$15,636
Thumb	\$3,830	\$7,568	\$9,287	\$9,052
Index Finger	\$7,683	\$9,479	\$8,630	\$10,313
Middle Finger	\$4,749	\$7,625	\$4,930	\$4,702
Ring Finger	\$3,757	\$2,594	\$4,654	\$2,493
Little Finger	\$1,867	\$1,542	\$1,040	\$1,733
Leg	\$12,413	\$12,372	\$12,151	\$8,551
Foot	\$5,806	\$8,147	\$9,551	\$7,661
Vision	\$15,612	\$0	\$38,291	\$3,400
Hearing	\$0	\$0	\$44,748	\$17,878
Whole Body - Back	\$30,807	\$31,461	\$34,630	\$31,094
Whole Body - Multiple	\$21,881	\$36,966	\$36,785	\$37,947

Amount Paid in Permanency Benefits by Body Part



Number of Injuries Resulting in Permanent Impairment Award



Pro Se Dispute Resolution

The Pro Se Dispute Resolution Coordinator position is created by RSA 281-A:42-c "Position Established for Assisting Unrepresented Injured Employees". This position was established to assist unrepresented injured workers understand their rights under New Hampshire workers' compensation law, as well as the rules and procedures used to monitor and regulate the workers' compensation system, claims, and administrative hearings. This includes communicating with medical providers, workers' compensation insurance carriers and self-insurers, and employers in order to assist with resolving disputes outside of a hearing, as well as preparing injured workers for hearing. This position's duties do not include representation of the injured workers at hearing.

The Pro Se Dispute Resolution Coordinator may assist injured workers with:

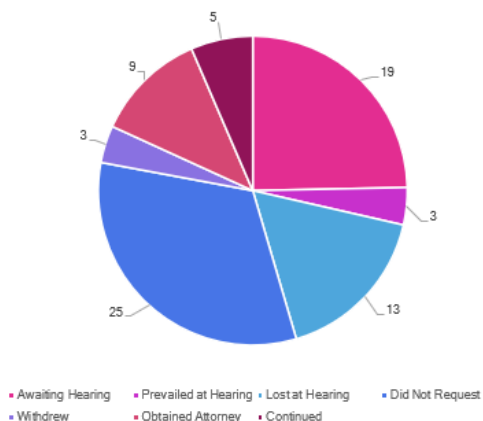
- Missing or late weekly payments
- Assistance with contacting insurance carriers and adjusters
- Disputes with employers regarding work capacity
- Understanding the hearings process
- How to request a hearing
- General workers' compensation questions



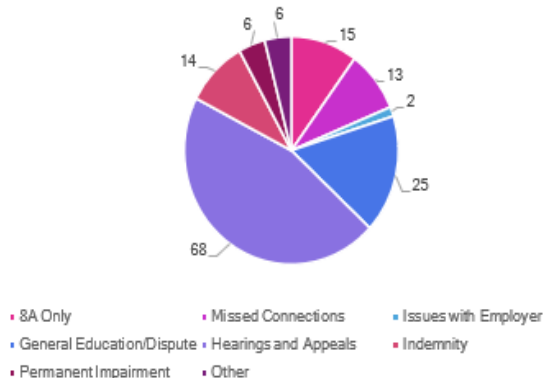
Between April 18, 2023 and August 10, 2023, this position made 148 contacts with injured workers. Out of these 148 contacts, 68 needed hearings, wanted hearings, or were already in the process of preparing for hearing. Of the 68 contacts needing hearings, 19 had yet to go to hearing or were awaiting hearing decisions. 16 contacts had a decision issued. Of those contacts with decisions issued, 2 prevailed at hearing on all issues, 1 prevailed at hearing on some issues, and 13 did not prevail. 25 contacts had yet to request a hearing. 5 contacts continued cases pending rescheduling. 9 contacts have since obtained representation. 3 contacts withdrew their hearing requests.

18 contacts involved 8AWCA filings or issues with First Reports of Injury, 15 of which were 8AWCA-only disputes. 21 contacts involved dropped weekly payments, discrepancies in payments, or disputes regarding indemnity payments. 50 contacts ranged from general information or disputes regarding the workers' compensation system, permanent impairments, "missed connections" between adjusters and injured workers, death benefits, understanding rights relative to returning to work, and medical bills. Some of these contacts did have overlapping issues.

CASES INVOLVING HEARINGS



TYPES OF ISSUES





Inspection Division

The **Inspection Division** is responsible for administering and enforcing the Protective Legislation Law, Citizens Job Protection Law, Whistleblowers’ Protection Act, Youth Employment Law, Minimum Wage Law, WARN Act (Worker Adjustment and Retraining Notification Act), Boiler and Pressure Vessel Law, Elevator and Accessibility Lift Law, Safety & Health Laws, and the Worker’s Right to Know Law. Division staff process and investigate alleged violations of labor laws. The investigation results in a finding. If a violation is found, these cases are either resolved via an informal/settlement conference or a hearing. The inspector participates in both the conference or hearing.

In response to complaints, the Division conducts business inspections to ensure employers are in compliance with NH labor laws, which may result in payment of wages due, and also civil penalties. The Division has implemented an **informal settlement process** for employers to demonstrate compliance efforts and to reduce civil penalties without the need for a formal hearing.

Education has been a major objective of the Inspection Division through live or remote webinars held for employers throughout the state, as well as for individual companies/organizations upon request. The division also uses email alerts and its website to keep employers informed about changes in labor law.

The Division also monitors the employment of workers under age 18 by assuring compliance with the NH Youth Employment Law, including permits, hours worked, and the types of work performed by young people. Students participating in school-sponsored work programs are protected by labor laws, such programs as Educational Learning Opportunities and Co-op Programs. These must be registered and approved by the Division to ensure a safe, quality learning experience.

The Inspection Division also ensures compliance with elevator, accessibility lift, boiler, and pressure vessel safety codes adopted by the State of New Hampshire. This is accomplished through inspection, enforcement, administration, and licensing processes which protect employees and other citizens who may be present in facilities where these devices are operating.

In addition to safety related inspections in New Hampshire public work places, the Division performs safety training webinars for employers to inform them of their obligations. Our staff assists employers to develop their own safety program. We also monitor workplaces for compliance with state safety rules.

Find more helpful information about the Division at

<https://www.nh.gov/labor/inspection/index.htm>

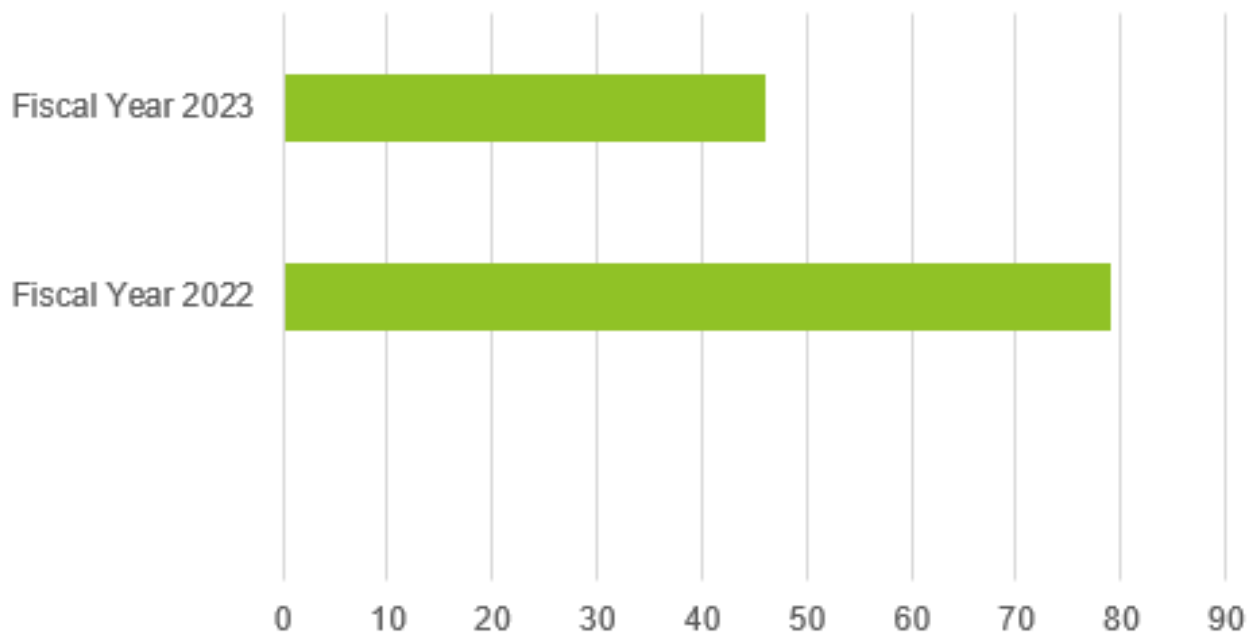
Our Mission:
“To protect public safety and the economic well-being of New Hampshire’s workforce through enforcement and education.”

Intake Coordinators

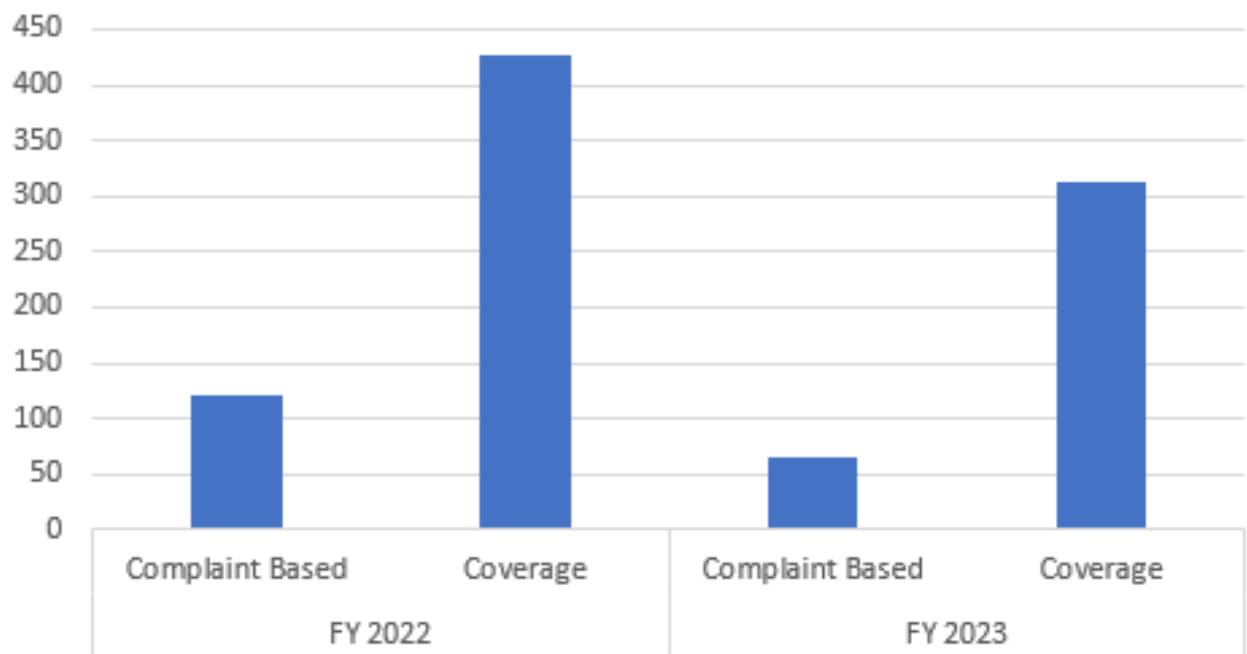
Intake coordinators field calls from the public to determine the severity of a violation and the potential need for an inspection. They also answer questions regarding labor laws, help the public navigate divisions within the Department and may provide contact information for resources that fall outside of the Department’s jurisdiction. They assist employees to find labor laws that apply to the situation. They also may make courtesy calls on behalf of employees to resolve labor law violations without the need for a hearing or penalty.

Unpaid Wages delivered to employees		
	FY 2022	FY 2023
Courtesy Calls	\$74,576.67	\$66,929.57
Wage Adjustments	\$475,584	\$1,234,246
Total	\$550,160.67	\$1,301,175.57

Settlement Agreements



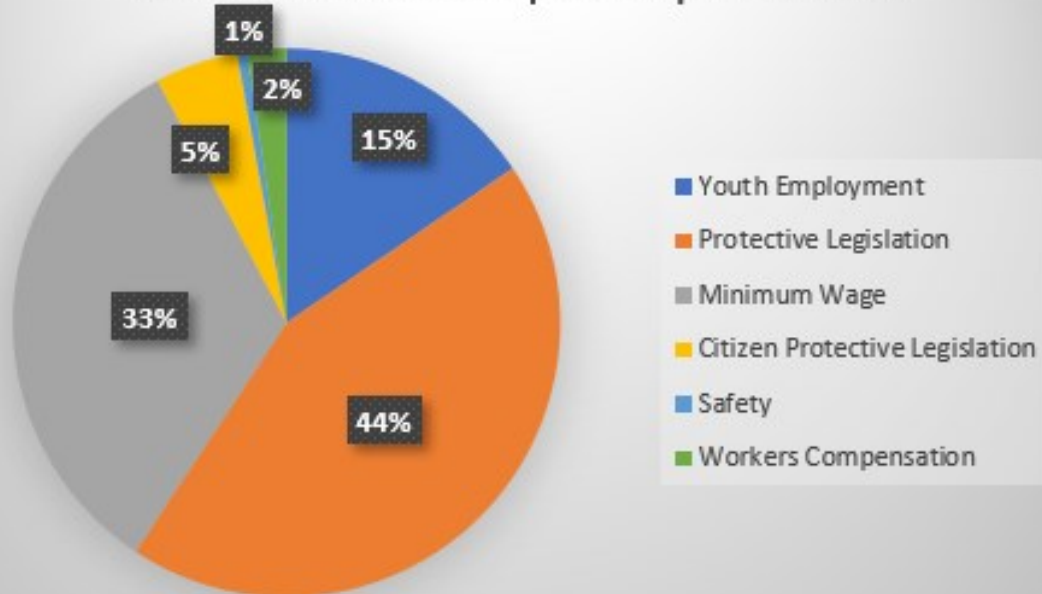
Inspections Completed



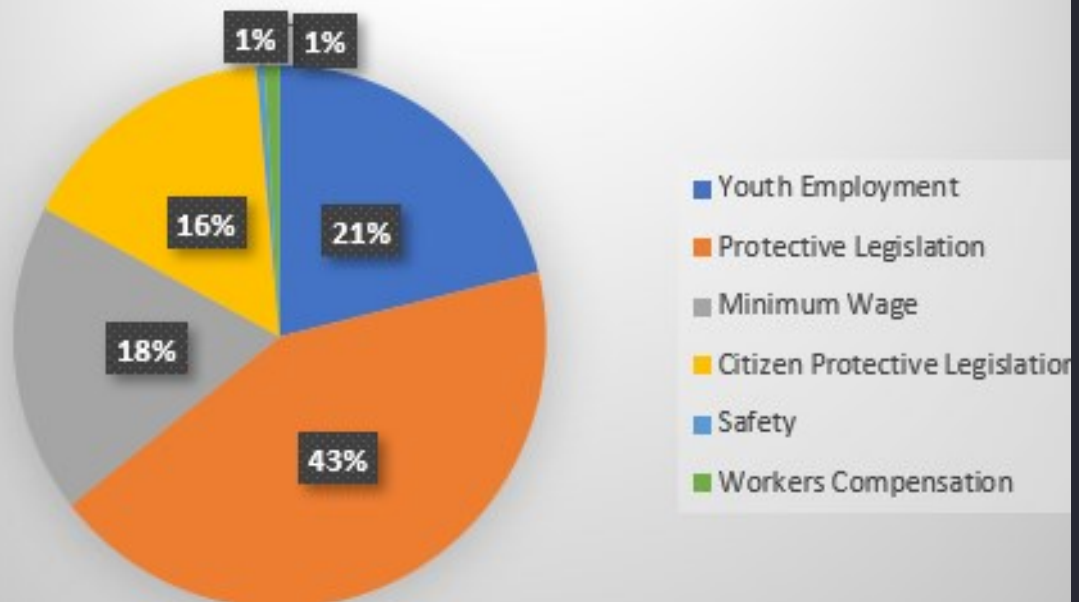
Informal Conferences

The Inspection Division attempts to resolve compliance issues with employers by offering an opportunity to meet informally. Employers are educated and encouraged to bring their company into compliance. Any civil penalty amount is typically resolved in an amount less than what could be sought at a hearing. In the end, if the Department has received proof that the employer understands and can apply the law correctly, then no reinspection is required.

Violations Cited for Complaint Inspections: 2022



Violations Cited for Complaint Inspections: 2023





Youth Employment

A minor **16- or 17-year-old** who wishes to work must have written permission from a parent or legal guardian, and the employer must keep this document on file.

The parental permission must include the following:

- (1) The employer's name and location;
- (2) The date permission is given by the parent or legal guardian;
- (3) The signature of the parent or legal guardian;
- (4) The title of the position the minor will fill or a description of the work activities; and
- (5) The minor's date of birth.

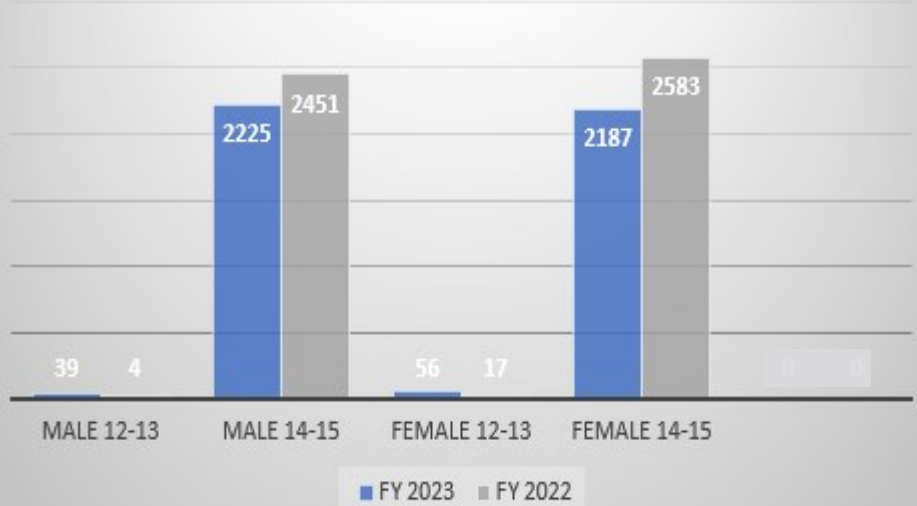
The parental permission must be on file at the establishment's worksite prior to the first day of employment. Parents can find a sample form for this purpose at: <https://www.nh.gov/labor/documents/parental-permission.pdf>

Under age 16, the prospective employer completes a form called an Employer's Request for Child Labor and gives it to the youth. The youth then bring this form either:

- to their local school or school superintendent's office to obtain the certificate (RSA 276-A:5), or
- to their parent or legal guardian, who may also complete the Youth Employment Certificate.

Whoever issues a certificate to a youth under the age of 16 should be making a favorable judgment as to the academic status and health status of the young person. They should revoke the certificate if they become dissatisfied with these conditions and notify the Department of Labor within 48 hours. The employer must have the certificate on file within three days of the employment date.

NH Youth Employment Reported to Labor



Educational Learning Opportunities

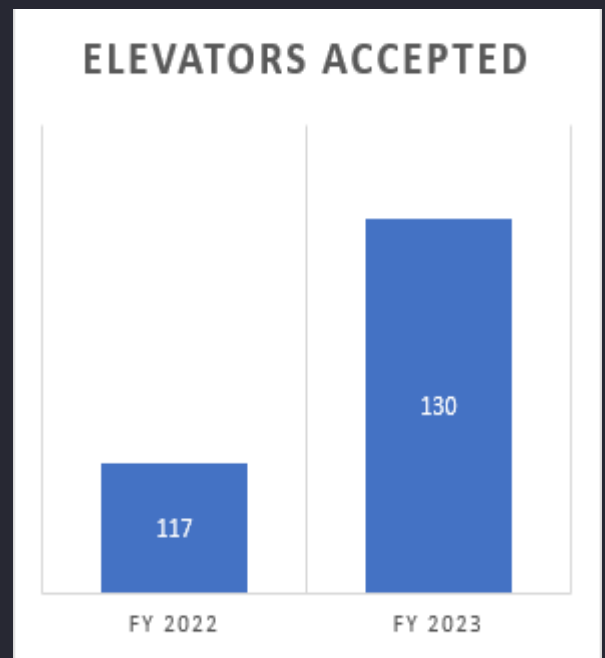
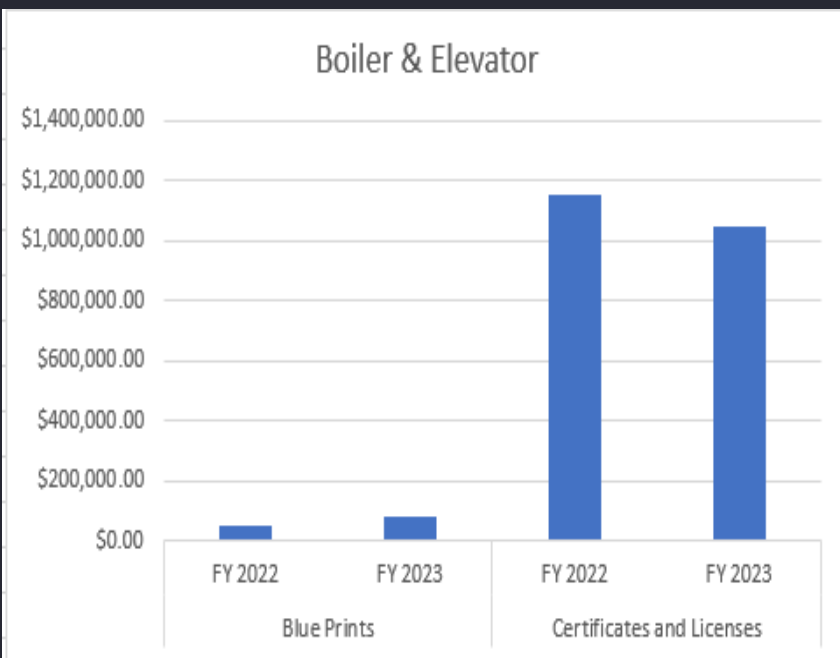
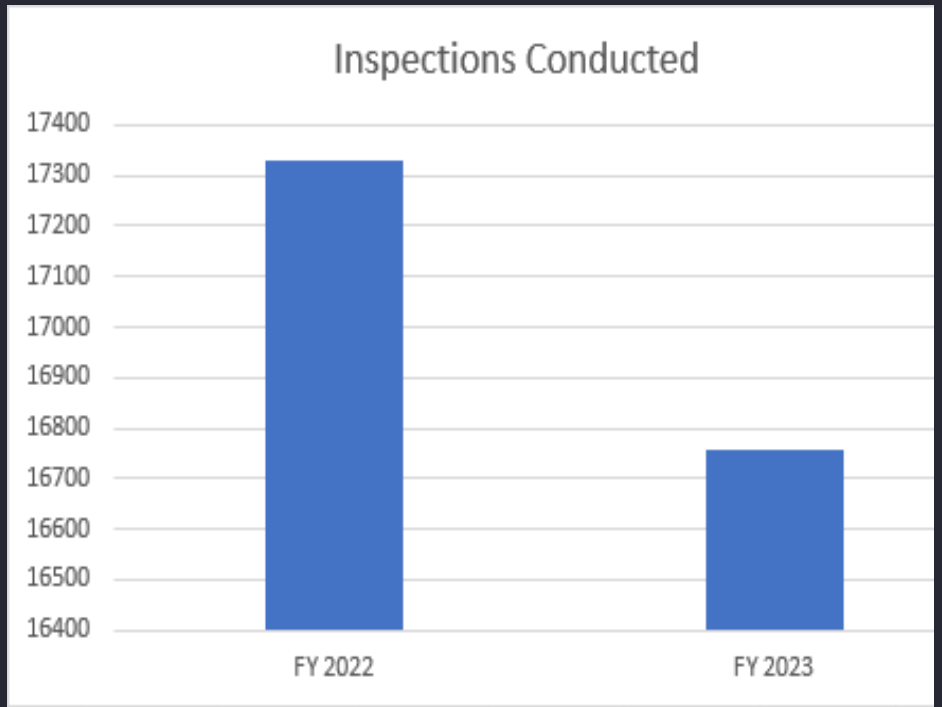
Work-based learning plays an integral role in workforce preparation. The goal of the Educational Learning Opportunities (ELO) is to allow for the preparation of students and workers with disabilities to obtain skills which will allow them to enter the workforce, thus enhancing our economic strength. Communities must work together in partnership to build a foundation of work-based learning and to provide the resources necessary to help ELO workers acquire the skills necessary to become independent and productive citizens. The Department reviews/approves programs to maintain a balance. The balance the Department is charged with maintaining is to ensure ELO workers receive educational value in exchange for their efforts while their rights are being upheld. We ensure employers are able to prep the pipeline with future employees but in such a way as to not supplant our workforce with free (or lower than minimum wage) labor.



Boiler & Elevator Inspection

The Inspection Division is also responsible for enforcing the state's Boiler and Pressure Vessel Law, and its Elevator and Accessibility Lift Law (RSA 157-A and RSA 157-B). Our highly trained staff ensure the safety of workers and the general public where these devices are present and in use.

It is our legal responsibility to seek compliance with safety codes through the inspection, enforcement, administration, and licensing process, for the protection of workers or the public who enter commercial buildings heated with boilers or equipped with pressure vessels, elevators, or accessibility lifts.



Safety & Training

Safety and health on-site inspections and statewide training sessions continue to be an important function of the Inspection Division. We provide these services to numerous public and private employers. The topics include safety, coverage, and laws pertaining to wages.

Trainings are offered year round either initiated by the Department or at the request of a public or private employer. If requested, the employer chooses the topic and we create a presentation tailored to the expressed needs. We offer both in person and remote trainings.

Safety compliance inspections conducted in the public sector encompass state agencies, all municipalities, and public schools.

Safety Inspectors provide onsite training during inspections or upon the request of an employer on a topic of the employer's choosing.

We provide training to employers both in the public and private sectors, in order to assist them in understanding how to stay in compliance with NH labor laws.

Employers can also contact us to conduct "pencil audits". If we conduct an inspection at the request of an employer, as long as they correct any violations, there will be no penalty. These audits are typically narrowed in scope but the information provided can then be applied to the remainder of the employer's worksite.

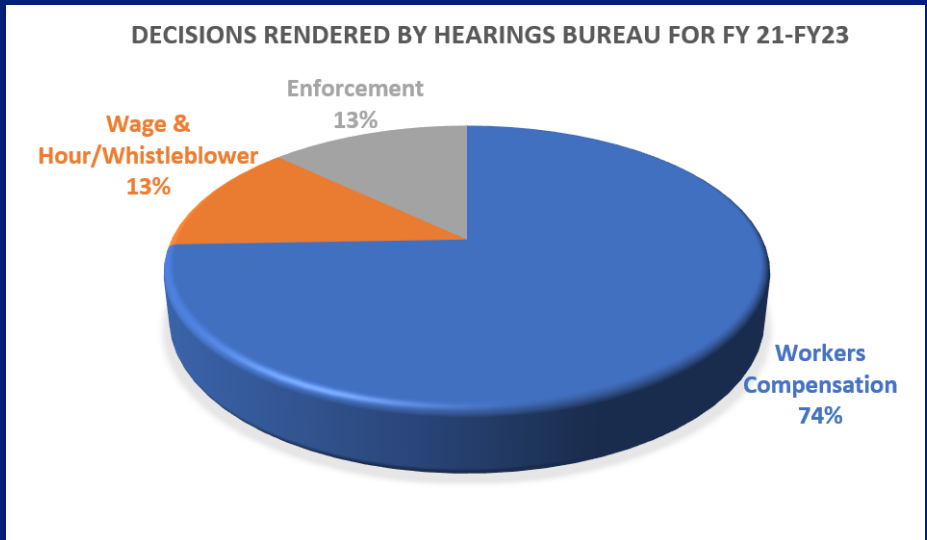


Hearings Bureau

The Hearings Bureau, established by RSA 273:4-b, is comprised of five hearing officers, three support staff, and overseen by a hearings administrator, and is responsible for adjudication of matters which are regulated by the Department. These include workers' compensation and wage claim disputes, whistleblower complaints, and labor law enforcement actions.

The Hearings Bureau is an independent entity from other Divisions within the Department, so as to assure that decisions are made in a fair and impartial manner. Hearings are decided pursuant to statutory and administrative rule authority that govern the adjudicative process. Requests for hearing received by the Department are scheduled within six weeks of the date of receipt of the request. Administrative hearings are conducted informally in an office type setting and are based on a "preponderance of the evidence" legal standard. Hearing decisions are issued within 30 days from the close of the hearing record.

The majority of cases heard by the Hearings Bureau in FY 2022 and FY 2023 were workers' compensation claim disputes pursuant to RSA 281-A and alleged wage and hour violations pursuant to RSA 275 and RSA 279. In addition to formal hearings relative to disputed claims, the Hearings Bureau also conducts hearings pursuant to RSA 281-A:37 with regards to approval and/or rejection of workers' compensation claim lump sum settlement agreements. Over the FY 2022 and FY 2023 biennium period the Hearings Bureau presided over 3,100 cases, of which approximately 2,300 were workers' compensation claim related.



50% of those workers' compensation cases heard were requested and scheduled at the request of the injured worker. In addition to workers' compensation cases, the Hearings Bureau heard approximately 390 cases involving disputes between employees and employers alleging wage and hour and whistleblower complaints, and over 400 enforcement actions involving the Department of Labor seeking assessment of civil penalties for violations of legislation governed by the Department.

Participants in a Department of Labor hearing can appear pro-se, meaning without legal representation, or with an attorney to represent their interests. The majority of participants in workers' compensation cases are represented by counsel, whereas the majority of participants in wage and hour and other cases appear pro-se. All parties to a Department of Labor hearing proceeding are held to the same legal standard,

regardless of whether or not the party is represented. The party with the burden of proof proceeds first at the hearing, in accordance with applicable administrative regulation. Parties aggrieved by a decision rendered by a hearing officer have a right to appeal in accordance with applicable law. Any party aggrieved by a decision rendered in a workers' compensation case may appeal the decision to the Workers' Compensation Appeals board for a *de novo* hearing, in accordance with parameters set forth in RSA 281-A. Parties aggrieved by a wage and hour decision may appeal the decision to the Superior Court, in accordance with parameters set forth in RSA 275. The Superior Court will not conduct a new hearing and will only review the matter for errors of law. Employers aggrieved by a decision regarding assessment of civil penalties may appeal the matter to the Civil Penalty Appeals Board, in accordance with parameters set forth in RSA 273.

