Minnesota Workers' Compensation Dispute Issue Tracking Study Report 3: Claim Petition Disputes from 2003

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Executive Summary

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

This is the third report from that project. It deals with claim-petition disputes filed in 2003.[1] Claim-petition disputes differ from medical-request and rehabilitation-request disputes in that their resolution process generally occurs entirely at the Office of Administrative Hearings (OAH), unless the parties pursue mediation at DLI, or OAH refers the dispute back to DLI as provided in rule.[2] This report analyzes the paths taken by the issues in the 2003 claim-petition disputes through the resolution process at the Office of Administrative Hearings (OAH). It also analyzes the time the issues take to travel these different paths.

A diagrammatic analysis of the major resolution paths for these 2003 claim-petition disputes is provided in Figures 2.1 and 2.3 (pp. 15, 16). Appendices 1 and 2 present a brief description of the dispute resolution process and a glossary of terms.

Following are some of the main findings for the 2003 claim-petition disputes:

Dispute characteristics

- About 81 percent of the disputes involved sprains, strains, tears, and pain. This compares with 60 percent of all workers' compensation paid indemnity claims for the period concerned. This difference is to be expected because this type of injury is often more difficult to verify than more objective injuries such as fractures.
- About 91 percent of these claim-petition disputes had an indemnity benefit at issue, most often temporary total disability (TTD) benefits. About 68 percent had a medical service at issue and 41 percent had a vocational rehabilitation (VR) service at issue (usually eligibility for consultation).
- About 83 percent of the disputes had primary liability or causation (or both) at issue.

Major dispute resolution paths

- About 69 percent of the disputes were initially scheduled for settlement conference; of these, 40 percent were then certified for hearing.[3]
- About seven percent of the disputes were initially certified for hearing, while another 15 percent were initially scheduled for hearing without certification.
- The remaining 10 percent of disputes were neither certified for hearing nor scheduled for a proceeding; most of these disputes were resolved via an award on stipulation or other agreement.

[1] The first two reports deal with medical and rehabilitation disputes respectively; they are available at www.dli.mn.gov/RS/WcDispTrack.asp.

[2] For 2003 disputes, Minnesota Rules, part 5220.2620, subp. 2 provided that a claim petition containing only medical issues could be treated in the same manner as a medical request if the insurer was not denying primary liability. Currently, Minnesota Rules, part 1415.3700, supb. 10 provides that a claim petition containing only medical or rehabilitation issues shall be dealt with by DLI unless DLI refers the dispute to OAH.

[3] Throughout this report, "certified for hearing" means the issuance of a notice by OAH that the dispute has been assigned to an OAH judge to be scheduled for hearing. This is entirely separate from the dispute certification process at DLI under Minnesota Statutes §176.081, subd. 1(c).

- In all, 52 percent of the disputes had a hearing scheduled at some point.

- Findings-and-orders were issued in 10 percent of the disputes; awards on stipulation occurred in another 75 percent; of the remaining 15 percent of the disputes, about half were resolved by agreement of the parties, and most of the others were dismissed or withdrawn.

Effects of dispute characteristics on resolution paths and outcomes

- An analysis of factors affecting dispute resolution paths found the following:
  - Disputes with more issues are more likely to have a hearing scheduled.
  - The likelihood of a dispute being scheduled for hearing without certification (the shortest path to hearing) was substantially higher if the dispute had a surgery-not-yet-provided issue or there was an affidavit of significant financial hardship. Both findings are expected in view of the OAH practice of scheduling expedited hearings in these situations.[4]
  - The presence of a permanent total disability issue or of payor or provider intervenors substantially raised the likelihood that the dispute would follow the path of being certified for hearing after settlement conference (the longest path to hearing).

Timelines

- For disputes initially scheduled for settlement conference, the time from the claim petition to the first scheduled conference date was 212 days (7.0 months) at the median and 236 days (7.8 months) at the 90th percentile.

- For disputes initially scheduled for hearing without certification (the shortest path to hearing), the time from claim petition to first scheduled hearing date was 169 days (5.6 months) at the median and 339 days (11.1 months) at the 90th percentile.

- For disputes scheduled for hearing after settlement conference and certification for hearing (the most common and the longest path to hearing), the time to first scheduled hearing date was 409 days (13.4 months) at the median and 690 days (22.7 months) at the 90th percentile.

- The time to a findings-and-order for all paths combined was 452 days (14.9 months) at the median and 586 days (19.3 months) at the 75th percentile.[5] Where the hearing was scheduled after certification following a settlement conference, the median time was 563 days (18.5 months).

- The time to an award on stipulation for all paths combined was 339 days (11.1 months) at the median and 685 days (22.5 months) at the 90th percentile. Among cases where a hearing and/or settlement conference had been scheduled, the median time ranged from 267 days (8.8 months) where a hearing was initially scheduled without certification to 553 days (18.2 months) where a hearing was scheduled after certification following a settlement conference.

Re-sets of proceeding dates

- Re-sets of proceeding dates occurred for 32 percent of settlement conferences and 26 percent of hearings.

- Where re-sets occurred, the median time between subsequent scheduled proceeding dates was 76 days for both settlement conferences and hearings.

- Where there were multiple re-sets, the total time taken by re-sets was, for settlement conferences, 86 days at the median and 299 days at the 90th percentile, and for hearings, 98 days and 204 days, respectively.

[4] Minnesota Rules, part 1420.2150, subp. 1, effective 2005, provides for expedited hearings on not-yet-provided surgery issues. Minnesota Statutes §176.341, subd. 6 provides for expedited hearings in cases of financial hardship.

[5] Insufficient sample size prevents the presentation of data at the 90th percentile for these cases.

Association between timing of scheduled proceedings and agreements

- A statistical analysis was performed to analyze the possible correlation between the scheduling of proceedings and the timing of agreements where the proceeding is cancelled because of agreement of the parties. The analysis found that earlier scheduling of hearings is associated with earlier resolution by the parties where the hearing is canceled because of an award on stipulation or informal agreement. The agreement tends to occur about one day earlier for each day earlier the hearing was scheduled to occur.

- No association between proceeding scheduling and timing of agreements was found for settlement conferences.

Observations

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

- **The amount of time from the claim petition to the first scheduled hearing varies greatly according to the major dispute path.** It may be helpful to explore whether some disputes that now follow the longer major paths to a scheduled hearing may be amenable to shorter paths to the same end.

- **The time to resolution varies even when the path is the same.** It may be helpful to explore whether it is possible to shorten the time consumed in resolving those disputes that take significantly longer than the usual time for a given resolution path.

- **Re-sets add time to the process.** Consequently, their use should be limited as much as possible. As provided in statute and rule, "continuances are disfavored and will be granted only upon a showing of good cause."[6]

- **The timing of scheduled hearings affects the timing of resolution by the parties where they reach agreement outside of the proceeding.** This is in addition to the expectation that earlier scheduling should bring about earlier findings-and-orders where the parties do not reach agreement. It adds to the value of scheduling hearings as promptly as possible with sufficient time for the parties to prepare.

[6] Minn. Stat. § 176.341, subd. 4; Minn. Rules part 1415.2800 (in effect in 2003); Minn. Rules part 1420.2800, subp. 1 (currently in effect). See note 19 on p. 31.

Introduction

Background

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

The goal notwithstanding, Minnesota's workers' compensation system has experienced an increasing dispute rate during the past several years. From 1997 to 2009, the proportion of filed indemnity claims with one or more disputes rose from 15.4 percent to 21.6 percent, and the proportion of claims with formal litigation rose from 14.1 percent to 18.7 percent.[7] These trends have focused attention on the importance of dispute prevention and resolution.

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

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

However, the database does not currently track individual issues through the system. It is structured to track disputes, which may include several issues. The data system thus does not provide data on the characteristics of issues, nor does it follow different issues in a dispute when they proceed along different paths, which sometimes happens. In addition, the system does not always completely track the disputes themselves. For example, when an appeal (via a request for hearing) is filed from an administrative-conference decision-and-order from DLI or OAH, the system treats the appeal as a new dispute. Being able to track issues through the dispute-resolution system is important for evaluating its performance and developing options for improvement.

Issue-tracking project

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

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

Since that time, DLI has made several enhancements in its dispute-resolution process,

[7] *Minnesota Workers' Compensation System Report, 2009,* DLI Policy Development, Research and Statistics, forthcoming. These statistics are by year of injury. Because many claims are not yet complete, especially for more recent years, the statistics are projected to full maturity.

including earlier identification of dispute-resolution opportunities, greater emphasis on early dispute-resolution and more active management of the process (see Appendix 3). In recognition of this, a second sample of medical- and rehabilitation-request disputes was coded, this one consisting of medical disputes presented from May through August 2007 and rehabilitation disputes presented from May through December 2007.[8] These disputes were coded from 2008 through 2010. During 2008 and 2009, the project coded a sample of claim-petition disputes that began in 2003. Issues in the coded disputes have been tracked through the dispute-resolution system, starting with their first appearance at DLI and continuing to their final resolution at DLI, OAH or beyond.

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

This report

This is the third report from the issue-tracking project. It analyzes the coded claim-petition disputes filed in 2003. There are 800 disputes in the sample.

Data presentation

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

A second weighting procedure is used to express numbers of disputes throughout the report as numbers per 1,000 total disputes. By this means, the number of disputes per 1,000 translates directly to a percentage. For example, 350 disputes per 1,000 is 35 percent.

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

Many tables in the report show lengths of time between major events in a dispute, such as between the presentation of the dispute and the scheduling of a settlement conference or hearing. Where sample size permits, these tables show the times, expressed in days, at different points in the distribution ranging from the 5th to the 95th percentile. For some of these tables, the sample size is not large enough to permit showing the times in the ends of the distribution. In these cases, some of the lower and higher percentiles are omitted.[9]

Some figures present statistical significance levels for certain findings. For example, for disputes resolved by an award on stipulation, if the amount of time to this resolution differs between dispute paths, it may be asked whether this is because of chance or because of a true difference between the paths. A statistical test estimates the likelihood that the observed difference in the sample cases could have occurred merely by chance in the absence of any underlying difference between the paths. If this probability is lower than a specified threshold

[8] Rehabilitation disputes were coded from a longer period to increase the number of these disputes in the sample, since they are less frequent than medical disputes.

[9] The criterion adopted for presenting data for any percentile is that at least ten sample cases must lie on the opposite side of that point from the middle of the distribution.

(e.g., .05), the finding is said to be statistically significant at that level.

Analysis of claim-petition disputes from 2003

Dispute characteristics

The claim-petition disputes from 2003 had an average of 3.5 claimant issues (Figure 1.1; see note 2 in figure). Twenty-six percent of the disputes had five or more claimant issues. About 42 percent of the disputes had one or more payor-intervenor issues (see note 3 in figure).[10]

There was an average of 8.5 codable events per dispute (Figure 1.2). Ten percent of the disputes had 15 or more codable events.

About 81 percent of the claim-petition disputes involved sprains, strains, tears and pain (Figure 1.3). This compares with roughly 60 percent of all workers' compensation paid indemnity claims for the period concerned.[11] This difference is to be expected because this type of injury is often more difficult to link to a particular injury event or exposure than are more objective injuries such as fractures. The distribution by nature of injury varies only slightly according to whether indemnity benefits, medical benefits, or vocation rehabilitation (VR) benefits are at issue.

Each issue in the dispute involves a particular benefit or service at issue. About 91 percent of the claim-petition disputes had indemnity benefits at issue (Figure 1.4), with temporary total disability (TTD) being by far the most common (631 disputes per 1,000). About 68 percent of the disputes had medical services at issue, the most common being office visits, surgery, and diagnostic imaging. About 41 percent of the disputes included a VR service at issue, the most common by far being eligibility for consultation.

The benefits at issue varied widely as to whether they were introduced on the original claim petition or later in the dispute. Some 93 percent of TTD benefit issues, for example, were introduced on the original claim petition, but only 60 percent of permanent partial disability (PPD) issues were. In general, indemnity benefit and VR issues were more likely to be introduced on the original claim petition (96 percent and 85 percent, respectively) than were medical issues (65 percent).

Combinations of benefits at issue are also of interest. Figure 1.5 shows the most common combinations of up to two, three, and four benefits at issue (please see note 1 in figure). The number of benefits at issue that are counted in the clusters is limited — to two, three, or four — in order for each combination to show the total number disputes per 1,000 that have that combination, *with or without* other benefits at issue present. The six most common combinations of up to two issues involve TTD plus either VR consultation, a medical service, or another indemnity benefit, the most common being TTD plus VR consultation (269 disputes per 1,000). The four most common three-issue combinations involve TTD and VR consultation along with a medical issue or another indemnity benefit issue. TTD and VR consultation also figure prominently in the four-issue combinations; however, TTD and PPD occur more often as single issues than do any other combinations of up to four issues.[12]

[10] Payor intervenor issues were tracked separately because they are generally separate from the interests of the claimant. Provider intervenor issues were not tracked separately because there is typically a claimant issue where there is a provider-interenor issue (typically, where a provider intervenor desires payment, the claimant also wants payment to be made). However, the study did track the *presence* of provider intervenors.

[11] Computed from the DLI workers' compensation claims database.

[12] When similar tabulations are performed with no restriction on the number of benefits at issue in a cluster, the most frequent clusters are as follows: TTD only (40 disputes per 1,000), PPD only (35 disputes per 1,000), TTD and VR consultation only (25 disputes per 1,000), TPD only (23 disputes per 1,000), and PTD only (21 disputes per 1,000). Because of the highly detailed categories, the remaining categories have small numbers of disputes per 1,000.

Another perspective arises when clusters of just medical benefits are considered (Figure 1.6; please see note 1 in figure). The three most common combinations of up to two issues involve an office visit plus diagnostic imaging, surgery, or physical therapy. When three- and four-issue medical benefit clusters are considered, surgery, office visits, and chiropractic services are more common as single issues than are any other combinations of up to three or four medical issues. [13]

"Point in dispute" is the reason the insurer and employee disagree about whether the service at issue should be provided or paid for (Figure 1.7). It is sometimes referred to as "insurer defense." For about four percent of all benefits at issue, the request from the employee or provider was not disputed. The percentage not disputed ranged from 2.2 percent for medical services to 5.9 percent for indemnity benefits.

Among disputed cases, 83 percent had either primary liability or causation (or both) as a point in dispute. This varied from 76 percent for indemnity benefits to 92 percent for medical services. The next most common points in dispute were job or labor market issues, claimant participation in required activities, timeliness of request, and reasonableness and necessity. For seven percent of benefits at issue, and most commonly for VR services, a point in dispute was not indicated in the documents.

[13] When similar tabulations are performed with no restriction on the number of medical services at issue in a cluster, the results are the same as shown for clusters of up to four medical services at issue in Figure 1.6. This is because with no restrictions on the number of medical services counted in a cluster, the most frequent clusters all involve no more than two medical services at issue, so that counting only up to four (as in the bottom panel of Figure 1.6) does not change the outcome.

Figure 1.1
Number of issues in dispute

Number of issues in dispute	Disputes per 1,000 [1] Claimant issues [2]	Payor intervenor issues [3]
0		584
1	154	306
2	204	89
3	209	19
4	170	3
5	101	
6	79	
7	41	
8	23	
9	11	
10	6	
11	3	
All disputes	1,000	1,000
Average number of issues per dispute	3.5	0.6

1. Numbers may not add exactly to total because of rounding (see p. 2).
2. These are instances where the injured worker is seeking indemnity benefits, medical or vocational rehabilitation services, reimbursement for such services, or reimbursement for ancillary expenses (mileage, food, lodging) related to these services.
3. These are instances where a payor intervenor is seeking recovery of cash benefits paid directly to the injured worker or of payments to a medical service provider. For each payor intervenor, one intervenor recovery issue is counted for cash benefits and one for medical benefits as applicable.

Figure 1.2
Number of events in dispute

Number of events in dispute	Disputes per 1,000 [1]
2	25
3	45
4	104
5	126
6	110
7	85
8	84
9	74
10	64
11	58
12	56
13	36
14	35
15	16
16	18
17	14
18	9
19	10
20	9
21	5
22	5
23	3
24	3
25	4
27	1
30	1
32	1
36	1
All disputes	1,000
Average number of events per dispute	8.5

1. Numbers may not add exactly to total because of rounding (see p. 2).

Figure 1.3
Nature of injury

Nature of injury [1]	Percentage of benefits at issue with nature of injury by type of benefit at issue [4]			
	Indemnity benefits	Medical services	Vocational rehabilitation services	All benefits at issue
Sprains, strains, tears [2]	81.9%	79.0%	82.7%	80.8%
Back	*48.5%*	*48.5%*	*46.3%*	*48.2%*
Shoulder	*19.9%*	*21.7%*	*19.4%*	*20.9%*
Neck	*15.9%*	*16.6%*	*19.1%*	*16.5%*
Knee	*12.0%*	*9.4%*	*10.1%*	*10.8%*
Other	*10.2%*	*9.2%*	*10.2%*	*9.8%*
Peripheral nerve disorders [3]	8.8%	10.6%	10.5%	9.7%
Fractures	6.9%	6.1%	6.7%	6.6%
Mental disorders or syndromes	3.0%	2.4%	2.1%	2.7%
Intracranial injuries, concussions	2.1%	2.8%	2.5%	2.4%
Bruises, contusions, crushes	2.7%	1.9%	2.6%	2.4%
Cuts, punctures, open wounds, abrasions	1.2%	1.3%	.6%	1.1%
Burns (heat and other)	1.2%	.8%	1.9%	1.1%
Poisonings and toxic effects	.7%	1.2%	.3%	.9%
Ear and hearing disorders	.6%	.9%	.1%	.7%
Respiratory system diseases	.7%	.5%	.6%	.7%
Other	3.3%	3.4%	2.5%	3.3%
Nonclassifiable or not indicated	1.0%	.2%	.3%	.6%
Disputes per 1,000 with benefit at issue	909	684	414	1,000

1. In this figure, nature of injury is counted without regard to part of body. If the same nature of injury affects more than one body part, it is counted once here.
2. Also includes reflex sympathetic dystrophy. The sum over the part-of-body subcategories is greater than the total for this nature of injury because the same nature of injury may affect more than one body part.
3. Includes carpal tunnel syndrome among others.
4. The sum of the percentages over the nature-of-injury categories is greater than 100 percent because any benefit at issue may be related to more than one injury.

Figure 1.4
Benefit at issue

Benefit at issue	Disputes per 1,000	Benefit at issue introduced on claim petition: Disputes per 1,000	Benefit at issue introduced on claim petition: Pctg. [4]	Benefit at issue introduced later in dispute: Disputes per 1,000	Benefit at issue introduced later in dispute: Pctg. [4]
Any indemnity benefit	**909**	**869**	**96%**	**40**	**4%**
Temporary total disability	631	586	93%	45	7%
Permanent partial disability	326	196	60%	130	40%
Temporary partial disability	299	259	87%	40	13%
Permanent total disability	116	93	80%	24	20%
Supplementary benefits	18	4	21%	14	79%
Other or unspecified indemnity benefits	15	14	92%	1	8%
Any medical service	**684**	**445**	**65%**	**239**	**35%**
Office or clinic visit	320	190	59%	130	41%
Surgery (and associated services)	250	135	54%	115	46%
Diagnostic imaging	194	73	37%	121	63%
Physical therapy services [1]	146	59	40%	88	60%
Chiropractic services [2]	144	83	57%	61	43%
Referral or consultation	85	29	34%	56	66%
Medications	64	28	43%	36	57%
Emergency services	60	38	63%	23	38%
Therapeutic injection	39	9	23%	30	77%
Unspecified clinic or doctor services	35	8	21%	28	79%
Mental health services	30	6	21%	24	79%
Equipment and supplies for claimant use	29	9	30%	20	70%
Nerve testing	23	10	44%	13	56%
In-patient hospitalization	19	8	40%	11	60%
Pain clinic	18	5	29%	13	71%
Pathology and laboratory services	15	8	50%	8	50%
Unspecified hospital services	11	3	22%	9	78%
Other or unspecified medical services	54	21	40%	33	60%
Any vocational rehabilitation service	**414**	**354**	**85%**	**60**	**15%**
Eligibility for consultation	324	293	90%	31	10%
Retraining [3]	49	45	92%	4	8%
Through VR plan [3]	43	40	94%	3	6%
Not through plan [3]	6	5	80%	1	20%
Unpaid QRC bills	29	4	13%	25	87%
Change of QRC	10	4	38%	6	63%
Eligibility for VR services	5	3	50%	3	50%
Other or unspecified VR services	10	6	63%	4	38%
Claimant mileage, food, and lodging	113	53	47%	60	53%

1. Includes any service performed by a physical therapist.
2. Includes any service performed by a chiropractor.
3. Includes exploration of retraining.
4. Percentages may not add to 100% because of rounding.

Figure 1.5
Benefit-at-issue clusters for all types of benefits at issue [1]

				Disputes per 1,000
Clusters of up to two benefits at issue				
TTD	VR consultation			269
TTD	Office visit			219
TTD	TPD			208
TTD	Surgery			193
TTD	PPD			173
TTD	Diagnostic imaging			145
TPD	VR consultation			118
Office visit	VR consultation			115
TTD	Physical therapy [2]			113
Office visit	Diagnostic imaging			99
Surgery	VR consultation			99
TPD	PPD			98
TPD	Office visit			94
TTD	Chiropractic servs. [3]			91
PPD	VR consultation			91
Office visit	Surgery			90
PPD	Office visit			83
PPD	Surgery			80
Office visit	Physical therapy [2]			78
TTD	Ancillary expenses [4]			74
Surgery	Diagnostic imaging			74
Clusters of up to three benefits at issue				
TTD	TPD	VR consultation		94
TTD	Office visit	VR consultation		94
TTD	Surgery	VR consultation		88
TTD	PPD	VR consultation		70
TTD	Office visit	Diagnostic imaging		70
TTD	TPD	Office visit		69
TTD	TPD	PPD		68
TTD	Office visit	Surgery		65
TTD	Office visit	Physical therapy [2]		63
TTD	PPD	Surgery		60
TTD	Diagnostic imaging	VR consultation		56
TTD	PPD	Office visit		53
TTD	TPD	Surgery		51
TTD	Surgery	Diagnostic imaging		51
TTD	PPD	Diagnostic imaging		50
Clusters of up to four benefits at issue				
TTD				40
PPD				35
TTD	TPD	Office visit	VR consultation	33
TTD	TPD	PPD	VR consultation	30
TTD	Office visit	Surgery	VR consultation	29
TTD	PPD	Surgery	VR consultation	26
TTD	Office visit	Physical therapy [2]	Diagnostic imaging	25
TTD	VR consultation			25

(Notes on following page.)

Figure 1.5
Benefit-at-issue clusters for all types of benefits at issue [1]

Notes

"TTD" = temporary total disability.
"TPD" = temporary partial disability.
"PPD" = permanent partial disability.
"VR" = vocational rehabilitation.

1. For the clusters in this figure, the counting of benefits at issue is limited to a maximum of two, three, or four as indicated. For example, in the "up to two" category, all disputes with TTD and VR consultation at issue are counted in the same category regardless of whether there are other benefits at issue. This gives a complete count of disputes with these two benefits at issue. A dispute may have more than one of the benefit-at-issue clusters indicated, and may therefore be counted in multiple categories. In this respect, this figure is similar to Figure 1.4, where a dispute may have more than one benefit at issue and may therefore be counted in multiple categories. Only the most common clusters are shown. Where clusters are shown with fewer than the maximum number of benefits at issue (two, three or four) for the type of cluster concerned, this is because the disputes concerned have no additional benefits at issue; these clusters are more common than those lower on the list with more benefits at issue. For example, in the "up to four" category, the TTD-only and PPD-only clusters are more common than any others when the cluster is allowed to include up to four benefits at issue.
2. Includes any service performed by a physical therapist.
3. Includes any service performed by a chiropractor.
4. Claimant mileage, food, and lodging.

Figure 1.6

Benefit-at-issue clusters for medical services at issue [1]

			Disputes per 1,000
Clusters of up to two medical services at issue			
Office visit	Diagnostic imaging		99
Office visit	Surgery		90
Office visit	Physical therapy [2]		78
Surgery	Diagnostic imaging		74
Surgery			73
Office visit			59
Office visit	Chiropractic servs. [3]		58
Physical therapy [2]	Surgery		53
Physical therapy [2]	Diagnostic imaging		49
Referral or consult.	Office visit		48
Chiropractic servs. [3]			48
Chiropractic servs. [3]	Diagnostic imaging		46
Office visit	Medications		41
Referral or consult.	Diagnostic imaging		38
Office visit	Emergency servs.		38
Referral or consult.	Surgery		33
Diagnostic imaging	Emergency servs.		33
Medications	Diagnostic imaging		31
Surgery	Medications		26
Diagnostic imaging	Therapeutic injection		25
Office visit	Therapeutic injection		24
Clusters of up to three medical services at issue			
Surgery			73
Office visit			59
Chiropractic servs. [3]			48
Office visit	Surgery	Diagnostic imaging	34
Office visit	Physical therapy [2]	Diagnostic imaging	29
Office visit	Surgery		29
Office visit	Chiropractic servs. [3]	Diagnostic imaging	26
Office visit	Physical therapy [2]	Surgery	26
Office visit	Medications	Diagnostic imaging	25
Office visit	Diagnostic imaging	Emergency servs.	21
Referral or consult.	Office visit	Diagnostic imaging	20
Physical therapy [2]	Surgery	Diagnostic imaging	19
Office visit	Physical therapy [2]		18
Diagnostic imaging			18
Office visit	Chiropractic servs. [3]		16
Office visit	Diagnostic imaging	Therapeutic injection	16
Clusters of up to four medical services at issue			
Surgery			73
Office visit			59
Chiropractic servs. [3]			48
Office visit	Surgery		29
Office visit	Physical therapy [2]		18
Diagnostic imaging			18
Office visit	Chiropractic servs. [3]		16
Physical therapy [2]			15
Surgery	Diagnostic imaging		14

(Notes on following page.)

Figure 1.6
Benefit-at-issue clusters for medical services at issue [1]

Notes

1. For the clusters in this figure, the counting of benefits at issue is limited to a maximum of two, three, or four medical services as indicated. For example, in the "up to two" category, all disputes with office visit and diagnostic imaging at issue are counted in the same category regardless of whether there are other medical services at issue. This gives a complete count of disputes with these two medical services at issue. A dispute may have more than one of the benefit-at-issue clusters indicated, and may therefore be counted in multiple categories. In this respect, this figure is similar to Figure 1.4, where a dispute may have more than one benefit at issue and may therefore be counted in multiple categories. Only the most common clusters are shown. Where clusters are shown with fewer than the maximum number of benefits at issue (two, three or four) for the type of cluster concerned, this is because the disputes concerned have no additional benefits at issue; these clusters are more common than those lower on the list with more benefits at issue. For example, for each type of cluster, surgery and some other benefits at issue occur more frequently by themselves than do clusters of multiple benefits at issue lower on the respective list. Under clusters of up to four medical services at issue, no clusters of more than two are shown. This is because the counting of up to four services at issue subdivides the categories that occur when only up to two or three services are counted, giving fewer cases in each category.
2. Includes any service performed by a physical therapist.
3. Includes any service performed by a chiropractor.

Figure 1.7
Point in dispute [1]

Point in dispute [1]	Percentage of benefits at issue with point in dispute by type of benefit at issue [4]			
	Indemnity benefits	Medical services	Vocational rehabilitation services	All benefits at issue
Not disputed	5.9%	2.2%	3.7%	4.3%
Disputed	94.1%	97.8%	96.3%	95.7%
	Percentage of disputed benefits at issue			
Any primary liability or causation [2]	76.4%	91.5%	80.8%	82.8%
Primary liability	46.0%	64.5%	56.2%	54.4%
Causation	50.7%	56.2%	47.2%	52.6%
Insurer asserts employee fully recovered	30.5%	27.6%	26.8%	28.9%
Other causation issue	25.2%	33.5%	25.7%	28.7%
Job or labor market issues	12.1%		15.0%	7.6%
Termination for cause	2.9%		5.5%	2.0%
Voluntarily leaving employment	3.2%		3.0%	1.9%
Withdrawal from overall job market [3]	2.9%		3.0%	1.7%
Issues with RTW job taken or offered	2.2%		3.7%	1.5%
Refusal of suitable job offer	1.5%		1.9%	1.0%
Participation in required activities [4]	9.6%	3.3%	10.5%	7.3%
Insurer asserts benefits or provider change not requested timely	6.0%	8.0%	8.6%	7.1%
Reasonableness and necessity		8.7%	12.5%	4.9%
Poole arguments [5]			10.2%	1.2%
Medical treatment parameters		2.8%		1.1%
Other reasonabless and necessity issues		5.9%	2.6%	2.7%
Permanent partial disability rating	10.2%			4.8%
Pre-injury average weekly wage	7.5%			3.5%
Permanent total disability eligibility	2.0%			1.0%
Other issues affecting indemnity benefit eligibility or amount	2.5%			1.2%
Apportionment [6]	1.1%	.4%	.4%	.7%
Other reason	4.8%	2.1%	3.4%	3.6%
No reason given	5.8%	7.5%	10.0%	7.2%
Disputes per 1,000 with benefit at issue	909	684	414	1,000

Note: RTW = return to work.

1. See Appendix 2 for definitions of point in dispute and of major point-in-dispute categories.
2. This percentage is less than the sum of the percentages for primary liability and causation because some benefits at issue may have both primary liability and causation as points in dispute.
3. Includes retirement.
4. Required activities include job search, vocational rehabilitation plan, medical treatment, independent medical examination and independent vocational examination.
5. The Poole arguments are a set of criteria in case law relating to the suitability of a vocational rehabilitation plan.
6. Apportionment relates to the relative shares of liability of different insurers for the same medical condition. Different insurers may share liability if the condition results from more than one work injury.

Major dispute paths

Claim-petition disputes differ from medical-request and rehabilitation-request disputes in that their entire resolution process generally occurs at the Office of Administrative Hearings (OAH), unless the parties pursue mediation at DLI or OAH refers the dispute back to DLI as provided in rule.[14] Figure 2.1 shows the major dispute resolution paths at OAH for the 2003 claim-petition disputes, along with the mean and median times to final resolution for each path. The process shown is reduced to its major steps. Subsequent references in this report to the dispute-resolution "process" relate to the simplified version presented in Figure 2.1. The next section of the report deals with possible reasons disputes may follow one path or another.

At the first step, 69 disputes per 1,000 were certified for hearing[15] without the more common process of having a settlement conference first. A hearing was scheduled in 86 percent of these cases (see note 3 in figure).

Of the 931 disputes per 1,000 that were not initially certified for hearing, 146 per 1,000 (16 percent) were nonetheless scheduled for hearing, 687 (74 percent) were scheduled for settlement conference, and the remaining 98 (11 percent) were not scheduled for either type of proceeding. As will be seen (Figure 3.1-A), a surgery-not-yet-provided issue or an affidavit of significant financial hardship is a common characteristic of the disputes scheduled for hearing without certification. Also to be seen later (Figure 6.6), most disputes in the last category (not certified and no proceeding scheduled) are resolved by agreement, either by an award on stipulation or other means.

For disputes scheduled for settlement conference, the record usually contains no indication of whether the conference actually occurred. Of these 687 disputes per 1,000, 40 percent were certified for hearing, with a hearing scheduled 94 percent of the time, and 60 percent were not certified, although a hearing was scheduled for 15 percent of these.

As indicated in the two right columns of Figure 2.1, the 2003 claim-petition disputes took 338 days, at the median, to achieve final resolution and 409 days at the mean. As expected, the time to final resolution varied with the path taken, the longest being for disputes scheduled for hearing after settlement conference and certification (563 days at the median, 662 at the mean), and the shortest being for disputes not certified for hearing and with no proceeding scheduled (60 and 90 days, respectively).

As shown in Figure 2.2, a total of 523 disputes per 1,000 were scheduled for pre-trial or hearing, and thus counted as "scheduled for hearing" in Figure 2.1 (see note 3 in Figure 2.1). Of these, 506 had a hearing scheduled (with or without pre-trial), and 17 had a pre-trial but not a hearing scheduled.

Among the 523 disputes per 1,000 that were scheduled for hearing (or pre-trial) at some point, a hearing was actually held in 108 cases per 1,000, or 21 percent of the time (Figure 2.3; see note 3 in figure). A findings-and-order was issued in 100 of these cases. In all, 751 disputes per 1,000 were resolved by means of an award on stipulation, with roughly half of these occurring after a hearing had been scheduled and half without a hearing scheduled. Final resolution events for the 149 disputes per 1,000 with neither a findings-and-order nor an award on stipulation are shown in Figure 6.6.

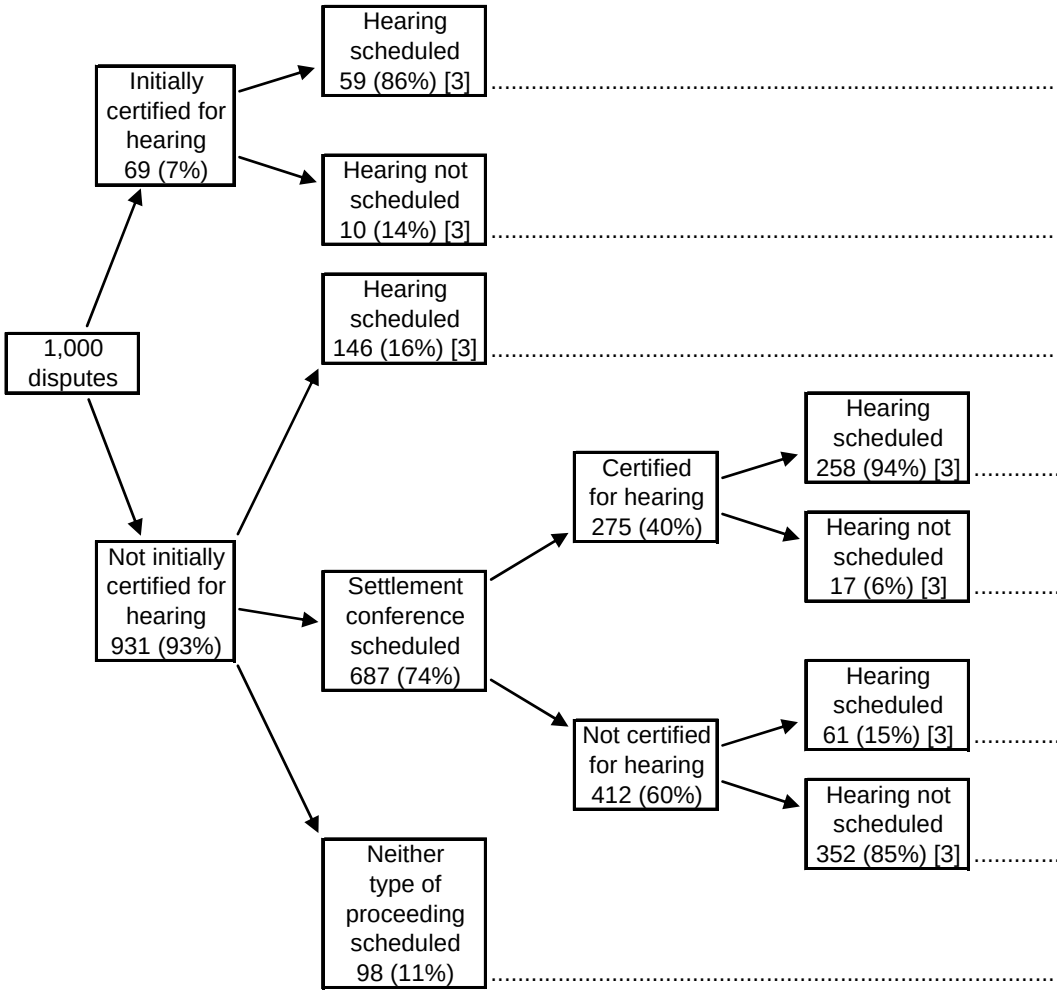
The remainder of this report follows disputes along the different paths shown in Figures 2.1, providing detail on timelines and outcomes.

[14] For 2003 disputes, Minnesota Rules, part 5220.2620, subp. 2 provided that a claim petition containing only medical issues could be treated in the same manner as a medical request if the insurer was not denying primary liability. Currently, Minnesota Rules, part 1415.3700, supb. 10 provides that a claim petition containing only medical or rehabilitation issues shall be dealt with by DLI unless DLI refers the dispute to OAH.

[15] Throughout this report, "certified for hearing" means the issuance of a notice by OAH that the dispute has been assigned to an OAH judge to be scheduled for heairng. This is entirely separate from the dispute certification process at DLI under Minnesota Statutes §176.081, subd. 1(c).

Figure 2.1

Major dispute resolution paths for claim petition disputes filed in 2003 [1]



	Days to final resolution [2]	
	Median	Mean
Hearing scheduled 59 (86%) [3]	457	470
Hearing not scheduled 10 (14%) [3]	[4]	[4]
Hearing scheduled 146 (16%) [3]	267	363
Hearing scheduled 258 (94%) [3]	563	662
Hearing not scheduled 17 (6%) [3]	[4]	[4]
Hearing scheduled 61 (15%) [3]	461	524
Hearing not scheduled 352 (85%) [3]	272	309
Neither type of proceeding scheduled 98 (11%)	60	90
All disputes	338	409

1. All numbers are numbers of disputes per 1,000 total disputes. Percentages at each step in the diagram are relative to the total number of disputes at the preceding step. Relevant percentages may not add to 100 percent because of rounding.
2. These numbers measure the amount of time from the first claim petition to the last recorded event in the dispute. They include all types of resolution for the given dispute path; consequently, care is required in relating these numbers to other resolution timelines in this report, which refer to particular types of resolution within the given dispute path. The differences among the medians and means for the different dispute paths are statistically significant at the .01 level.
3. In this diagram, "hearing ever scheduled" includes scheduled pre-trials, the rationale being that a dispute with a pre-trial scheduled has begun the hearing process. As shown in Figure 2.2, 17 disputes per 1,000 shown with "hearing scheduled" had a pre-trial but not an actual hearing scheduled.
4. Not given because of insufficient sample size.

Figure 2.2
Disputes with scheduled pre-trial or hearing [1]

Type of proceeding scheduled	Disputes per 1,000
Pre-trial and hearing	361
Pre-trial only	17
Hearing only	145
Total with pre-trial	378
Total with hearing	506
Total with pre-trial or hearing [2]	523

1. These numbers indicate whether a pre-trial or hearing was scheduled, regardless of whether it was actually held.
2. This is the sum of the categories "hearing scheduled" in Figure 2.1.

Figure 2.3
Summary of dispute resolution paths with and without hearings scheduled for claim petition disputes filed in 2003

	Final resolution event at OAH		
	Findings and order	Award on stipulation	Other
1,000 disputes → All disputes with hearing ever scheduled 523 (52%) [2] → Hearing held 108 (21%) [3]	100	6	2
1,000 disputes → All disputes with hearing ever scheduled 523 (52%) [2] → Hearing not held 415 (79%) [3]	0	369	46
1,000 disputes → All disputes with hearing never scheduled 477 (48%) [2]	0	376	101
Total	100	751	149

1. All numbers are numbers of disputes per 1,000 total disputes. Percentages at each step in the diagram are relative to the total number of disputes at the preceding step.
2. In this diagram, "hearing ever scheduled" includes scheduled pre-trials. As shown in Figure 2.2, 17 disputes per 1,000 shown with "hearing scheduled" had a pre-trial but not an actual hearing scheduled.
3. The "hearing held" category only counts actual hearings held, not pre-trials.

Effects of dispute characteristics on resolution paths and outcomes

Figure 3.1-A shows, for different dispute characteristics, the percentage of 2003 claim-petition disputes following the five major paths in Figure 2.1. Most of the characteristics analyzed relate to the presence of certain types of benefits or services at issue, but the characteristics also include presence of an affidavit of significant financial hardship and presence of intervenors (see note 5 in figure). The possible effect of each characteristic on the dispute path can be seen by comparing the percentages for that characteristic to those for all disputes combined, in the last column.

Figure 3.1-A shows that disputes with permanent total disability (PTD) benefits at issue are more likely than other disputes to be initially certified for hearing (13 percent vs. 7 percent for all disputes), and to be certified for hearing after being scheduled for settlement conference (38 percent vs. 28 percent). Disputes with surgery-not-yet-provided issues have an elevated likelihood of being scheduled for hearing without certification (40 percent vs. 15 percent for all disputes), reflecting OAH practice of scheduling these disputes for expedited hearings.[16] Disputes with an affidavit of significant financial hardship have an especially elevated likelihood of being scheduled for hearing without certification (79 percent vs. 15 percent for all disputes), which is expected in view of the provision for expedited hearings in these cases except where the request (via the affidavit) is denied.[17] The last two rows in Figure 3.1-A are discussed below.

Figure 3.1-B is similar to the prior figure, except the row categories relate to major dispute outcomes divided according to whether a hearing was scheduled as in Figure 2.3. The figure shows that in comparison with all disputes (last column), those with a surgery-not-yet-provided issue and with an affidavit of significant financial hardship have highly elevated likelihoods of being scheduled for hearing (83 percent for surgery, 98 percent for affidavit of hardship, 52 percent for all disputes); this is expected in view of the foregoing discussion. The disputes with surgery-not-yet-provided issues have elevated likelihoods of both a findings-and-order and an award on stipulation after a hearing is scheduled; by contrast, those with an affidavit of hardship have a highly elevated likelihood of a stipulation after scheduled hearing and only a slightly elevated likelihood of a findings-and-order.

Figure 3.1-A shows that for all benefit-at-issue categories but one (other indemnity benefits), there is an elevated likelihood of being in one of the first three paths (certified for hearing or initially scheduled for hearing). This is of interest because these paths arguably involve more contentious and/or complicated dispute resolution than the last two (not certified and not initially scheduled for hearing). The fact that *all* benefit-at-issue categories raise the likelihood of being in one of these paths suggests that it is not only the type of benefit at issue that matters, but also the fact of an additional issue being present.

Similarly, in Figure 3.1-B, all benefit-at-issue categories have an elevated likelihood, relative to all disputes, of having a hearing scheduled. This suggests that the mere fact of an additional issue raises the likelihood of being scheduled for hearing.

Figures 3.2-A and 3.2-B speak to these hypotheses. They show the average numbers of benefits at issue for the major dispute paths and outcomes, respectively, in Figures 3.1-A and 3.1-B. Each figure shows that the average number of benefits at issue is relatively high for the first three paths or outcomes and relatively low for the last two. This supports the theory that in addition to the types of benefits at issue, the number of issues in itself affects the likely path and outcome of the dispute, with larger numbers of issues tending to lead to more complicated and contentious paths characterized by certification for hearing and/or being scheduled for hearing.

The results in Figures 3.1-A and 3.1-B, while illuminating, are not conclusive. This is because the presence or absence of each characteristic in

[16] This practice was codified in Minnesota Rules, part 1420.2150, subp. 1 in 2005.

[17] Minnesota Statutes §176.341, subd. 6.

a dispute (column headings) may be correlated with other dispute characteristics (including those represented by other column headings) that could also affect the dispute path or outcome. In other words, these analyses do not provide control for the effects of the other variables.

In order to provide such control, statistical analyses were performed corresponding to the simple analyses in Figures 3.1-A and 3.1-B; the results are presented in Figures 3.3-A and 3.3-B. As indicated in note 1 of each figure, the analyses estimate the effect of each dispute characteristic on the major path (Figure 3.3-A) or major outcome (Figure 3.3-B), statistically holding constant the remaining characteristics shown in the figure. These analyses exclude the presence of an affidavit of significant financial hardship as an explanatory variable, because the model yields implausible results when this variable is included.[18]

The first column in each figure is the "base estimate", which shows the estimated number of disputes per 1,000 following each path, or having each outcome, for disputes that are average with respect to the characteristics in question (see note 3 in each figure). The base estimate provides a reference point for viewing the results in the remaining columns.

The estimated effect of each characteristic shown is the difference between the numbers of disputes per 1,000 following the given path (Figure 3.3-A) or having the given outcome (Figure 3.3-B) when that characteristic is present and when it is not present. For example, in Figure 3.3-A, when PTD benefits are at issue, an estimated 464 disputes per 1,000 are certified for hearing after being scheduled for settlement conference, while only 289 disputes are estimated to follow this path when PTD benefits are not at issue, holding the other dispute characteristics constant at their average levels. In other words, disputes with PTD benefits at issue are 175 per 1,000 more likely to follow this path than if PTD benefits are not at issue, other things equal. The lower panel in each figure expresses this difference relative to the base estimate for the given path or outcome. Returning to the example, the difference of 175 disputes per 1,000 is 54 percent of the base estimate of 325 disputes per 1,000 for the path concerned.

The characteristic with the largest effect on the major dispute path is the presence of a surgery-not-yet-provided issue (Figure 3.3-A). An estimated 373 disputes per 1,000 with this characteristic are scheduled for hearing without certification, as opposed to 103 without, for a difference of 270 disputes per 1,000, or 201 percent of the base estimate for this path. The increased number of disputes following this path is accompanied by a decrease of 242 disputes per 1,000 that are not certified for hearing after being scheduled for settlement conference.

Also in Figure 3.1-A, disputes with other medical services not yet provided are somewhat more likely than those without such services at issue (53 per 1,000) to be certified for hearing after being scheduled for settlement conference, and less likely (79 per 1,000) to be scheduled for a settlement conference without being certified for hearing afterwards. Disputes with VR benefits at issue, as compared with those without, are more likely to follow the second and third paths shown. Disputes with payor or provider intervenors, as compared with those without, are much more likely to follow the path of certification for hearing after being scheduled for settlement conference (119 per 1,000), and much less likely to follow the least complicated path — not certified for hearing and not scheduled for either type of proceeding (132 per 1,000).

Interestingly, each benefit at issue in Figure 3.1-A, when present, reduces the likelihood of the dispute following the paths represented by the last two rows in each panel. This supports the observation previously made, that apart from the nature of the issue, the mere presence of an additional issue increases the chances that the dispute will take a more complex and contentious path to resolution.

Figure 3.3-B is similar to the prior figure, except the row categories relate to major dispute outcomes rather than paths. This figure shows

[18] This may be because of very small numbers of disputes with this characteristic for some paths and outcomes (Figures 3.1-A and 3.1-B).

that the presence of a surgery-not-yet-provided issue increases the likelihood of a findings-and-order (by 116 disputes per 1,000) and of a stipulation and other outcome after hearing scheduled (by 127 and 53 per 1,000), while reducing the likelihood of outcomes that occur without a hearing scheduled, particularly an award on stipulation without hearing scheduled (by 269 disputes per 1,000)

Notably, each benefit at issue shown, when present, reduces the likelihoods of outcomes that occur with no hearing scheduled (last two rows of each panel), though in varying degrees. As in the previous figure, this supports the notion that the mere presence of an additional issue increases the chances that the dispute will take a more complex and contentious path to resolution.

Also of note, each dispute characteristic is estimated to increase the likelihood of an award on stipulation that occurs after a hearing is scheduled; again, part of this reflects the mere presence of an additional issue. The largest effects here are for permanent total disability benefits (a difference of 189 disputes per 1,000), other indemnity benefits (182 disputes per 1,000), and intervenors (194 disputes per 1,000).

Additional comments are in order regarding the effects of intervenors. First, in a different statistical model to explain the presence of intervenors, each benefit-at-issue variable in Figures 3.3-A and 3.3-B, with the exception of PTD benefits, exerts a strong and statistically siginificant positive effect on the likelihood of payor or provider intervenors being present. That is, intervenors are substantially more likely to be present when each of these benefits is at issue than when it is not.

Second, when intervenors are excluded from the analyses described in Figures 3.3-A and 3.3-B, the results for some of the other dispute characteristics change substantially. In particular, medical bills become highly significant in affecting the likelihoods of the major paths (Figure 3.3-A) and of the major outcomes (Figure 3.3-B). This means that much of the effect of the presence of medical bills on dispute paths and outcomes occurs through an effect on the likelihood of intervenors being present. When intervenors are included in the analysis (as in Figures 3.3-A and 3.3-B), the estimated effect of medical bills is confined to what *does not* occur through the presence of intervenors, causing the effects of medical bills to become statistically insignificant in these instances. Alternative versions of Figures 3.3-A and 3.3-B are presented in Appendix 6, with intervenors removed from the analysis. In those figures, the estimated effects of the different benefits at issue *include* those effects that occur through the presence of intervenors.

Figure 3.1-A

Percentages of disputes following different major paths by presence of selected dispute characteristics

	Percentage following dispute path for disputes with given characteristic [2]								
	Benefit at issue								
Major dispute path [1]	Permanent total disability benefits	Other indemnity benefits	Surgery not yet provided [3]	Other medical services not yet provided [3]	Medical bills [4]	Vocational rehabili-tation benefits	Affidavit of significant financial hardship present	Inter-venors present [5]	All disputes [6]
Initially certified for hearing	13%	6%	10%	8%	6%	6%	9%	6%	7%
Initially scheduled for hearing without certification	6%	15%	40%	17%	16%	20%	79%	18%	15%
Initially scheduled for settlement conference									
Certified for hearing	38%	28%	26%	32%	31%	31%	2%	33%	28%
Not certifiied for hearing	41%	41%	18%	36%	43%	36%	8%	39%	41%
Not certified and not scheduled for settlement conference or hearing	2%	10%	6%	6%	5%	7%	1%	3%	10%
First three paths combined (certified for hearing or initially scheduled for hearing)	57%	49%	76%	57%	53%	57%	91%	57%	49%
Last two paths combined (not certified and not initially scheduled for hearing)	43%	51%	24%	43%	47%	43%	9%	43%	51%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%

1. These are the five major dispute paths shown in Figure 2.1.
2. Percentages may not add exactly to 100 percent because of rounding.
3. The surgery category only counts surgeries that had not occurred as of the date of the first claim petition. "Other medical services" includes surgeries that had occurred before the first claim petition (and where the issue was payment only).
4. This category refers to bills for medical services already provided as of the date of the first claim petition.
5. An intervenor is deemed to be present if there is a notice granting intervention status (to either a payor or provider intervenor), if the dispute includes issues in which a payor intervenor is seeking recovery, or if the document for any coded event makes reference to a payor or provider intervenor.
6. The percentages in this column are the same as in Figure 2.1 for each path (where the percentage in Figure 2.1 corresponds to the number of disputes per 1,000 relative to all disputes).

Figure 3.1-B

Percentages of disputes with different major outcomes by presence of selected dispute characteristics

	Percentage with dispute outcome for disputes with given characteristic [2]								
	Benefit at issue								
Major dispute outcome [1]	Permanent total disability benefits	Other indemnity benefits	Surgery not yet provided [3]	Other medical services not yet provided [3]	Medical bills [4]	Vocational rehabili-tation benefits	Affidavit of significant financial hardship present	Inter-venors present [5]	All disputes [6]
Hearing scheduled	60%	53%	83%	63%	57%	61%	98%	63%	52%
Findings-and-order	11%	9%	24%	13%	11%	11%	13%	12%	10%
Award on stipulation [7]	46%	39%	48%	45%	41%	44%	78%	46%	37%
Other outcome [7]	3%	4%	11%	5%	4%	6%	7%	5%	5%
Hearing not scheduled	40%	47%	17%	37%	43%	39%	2%	37%	48%
Award on stipulation	31%	37%	11%	30%	37%	33%	1%	32%	38%
Other outcome	8%	9%	6%	6%	6%	7%	1%	5%	10%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%

1. These are categories, or combinations of categories, shown in Figure 2.3.
2. Percentages may not add exactly to 100 percent because of rounding.
3. The surgery category only counts surgeries that had not occurred as of the date of the first claim petition. "Other medical services" includes surgeries that had occurred before the first claim petition (and where the issue was payment only).
4. This category refers to bills for medical services already provided as of the date of the first claim petition.
5. An intervenor is deemed to be present if there is a notice granting intervention status (to either a payor or provider intervenor), if the dispute includes issues in which a payor intervenor is seeking recovery, or if the document for any coded event makes reference to intervenors.
6. The percentages in this column are the same as in Figure 2.3 for each path or combination of paths (where the percentage in Figure 2.3 corresponds to the number of disputes per 1,000 relative to all disputes). For example, for disputes with "other outcome" after hearing scheduled, there are 48 disputes per 1,000 in Figure 2.3 (46 + 2), which is 5 percent of the total (rounded), shown in this figure.
7. This category combines the cases where the scheduled hearing is held and not held.

Figure 3.2-A
Number of benefits at issue by major dispute path

Major dispute path [1]	Average number of benefits at issue
Initially certified for hearing	3.4
Initially scheduled for hearing without certification	4.1
Initially scheduled for settlement conference	
Certified for hearing	4.3
Not certifiied for hearing	3.2
Not certified and not scheduled for settlement conference or hearing	2.2
All disputes	3.5

1. These are the five major dispute paths shown in Figure 2.1.

Figure 3.2-B
Number of benefits at issue by major dispute outcome

Major dispute outcome [1]	Average number of benefits at issue
Findings-and-order	4.2
Award on stipulation after hearing scheduled [2]	4.2
Other outcome after hearing scheduled [2]	3.9
Award on stipulation with no hearing scheduled	3.0
Other outcome with no hearing scheduled	2.3
All disputes	3.5

1. These are categories, or combinations of categories, shown in Figure 2.3.
2. This category combines the cases where the scheduled hearing is held and not held.

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in order for the two portions of each of the following two figures
to appear on facing pages.)

Figure 3.3-A

Estimated effects of selected benefits at issue and presence of intervenors on likelihood of different major dispute paths [1]

(continued on next page)

		Permanent total disability benefits			Other indemnity benefits			Surgery not yet provided [4]		
		Significance level = .01			Not statistically significant [7]			Significance level = .01		
Major dispute path [2]	Base estimate [3]	Part of dispute? No	Part of dispute? Yes	Difference [8]	Part of dispute? No	Part of dispute? Yes	Difference [8]	Part of dispute? No	Part of dispute? Yes	Difference [8]
	Estimated number of disputes per 1,000 following dispute path									
Initially certified for hearing	49	45	87	42				47	57	10
Initially scheduled for hearing without certification	134	154	76	-77				103	373	270
Initially scheduled for settlement conference										
Certified for hearing	325	289	464	175				331	310	-21
Not certifiied for hearing	419	424	360	-64				445	203	-242
Not certified and not scheduled for settlement conference or hearing	72	87	12	-75				74	58	-17
Total	1,000	1,000	1,000					1,000	1,000	
	Estimated number of disputes per 1,000 following dispute path as percentage of base estimate									
Initially certified for hearing	100%	91%	176%	85%				95%	115%	20%
Initially scheduled for hearing without certification	100%	114%	57%	-58%				76%	277%	201%
Initially scheduled for settlement conference										
Certified for hearing	100%	89%	143%	54%				102%	96%	-7%
Not certifiied for hearing	100%	101%	86%	-15%				106%	48%	-58%
Not certified and not scheduled for settlement conference or hearing	100%	121%	17%	-104%				103%	80%	-23%

1. The numbers here are estimates from a statistical model (multinomial logit) that estimates the likelihood of a dispute following each of the five major paths shown given specified characteristics of the dispute. The characteristics employed in this estimation were the presence or absence of benefits at issue and of intervenors as shown in the column headings. For each characteristic indicated by a column heading, the numbers shown are the estimated numbers of disputes per 1,000 following each dispute path when the dispute has that characteristic versus when it does not, assuming the dispute is average with respect to the other characteristics shown (i.e., the likelihoods of the other characteristics being present are the same as for the overall sample). Therefore, the estimates can be interpreted as showing what happens to the dispute when the characteristic in question is changed, given that the dispute is typical with respect to the other characteristics.
2. These are the five major dispute paths shown in Figure 2.1.
3. The "base estimate" is the estimated number of disputes per 1,000 following each major path when these disputes have the average levels of the characteristics modeled (indicated by the column headings). (The "average" level of a characteristic in this case is actually a probability because the characteristic is "yes"/"no".) The base estimate is the reference point for the other estimates. The base estimates are different from the actual numbers of disputes per 1,000 following the five major paths (Figure 2.1); there are two possible reasons for this. First, the model does not perfectly capture all factors affecting the dispute path. Second, the base estimates are derived for 1,000 disputes all of which are average with respect to the characteristics modeled. By contrast, the actual numbers of disputes per 1,000 following each path represent the experience of disputes with widely varying values of these characteristics.
4. These categories refer to services that had not been provided as of the date of the first claim petition.

Figure 3.3-A

Estimated effects of selected benefits at issue and presence of intervenors on likelihood of different major dispute paths [1]

(continued from previous page)

	Other medical services not yet provided [4]			Medical bills [5]			Vocational rehabilitation benefits			Intervenors [6]		
	Not statistically significant [7]			Not statistically significant [7]			Significance level = .01			Significance level = .01		
	Part of dispute?		Difference	Part of dispute?		Difference	Part of dispute?		Difference	Part of dispute?		Difference
Major dispute path [2]	No	Yes	[8]	No	Yes	[8]	No	Yes	[8]	No	Yes	[8]
	Estimated number of disputes per 1,000 following dispute path											
Initially certified for hearing							52	42	-10	72	53	-19
Initially scheduled for hearing without certification							112	165	53	108	153	45
Initially scheduled for settlement conference												
Certified for hearing							301	354	53	224	342	119
Not certifiied for hearing							451	382	-69	430	418	-12
Not certified and not scheduled for settlement conference or hearing							84	57	-27	166	34	-132
Total							1,000	1,000		1,000	1,000	
	Estimated number of disputes per 1,000 following dispute path as percentage of base estimate											
Initially certified for hearing							106%	85%	-21%	146%	107%	-39%
Initially scheduled for hearing without certification							84%	123%	40%	80%	114%	33%
Initially scheduled for settlement conference												
Certified for hearing							93%	109%	16%	69%	105%	36%
Not certifiied for hearing							107%	91%	-16%	103%	100%	-3%
Not certified and not scheduled for settlement conference or hearing							116%	79%	-37%	229%	47%	-182%

5. This category refers to bills for medical services already provided as of the date of the first claim petition.
6. An intervenor is deemed to be present if there is a notice granting intervention status (to either a payor or provider intervenor), if the dispute includes issues in which a payor intervenor is seeking recovery, or if the document for any coded event makes reference to intervenors.
7. Results are only shown for characteristics that are statistically significant at least at the .10 level.
8. Equal to the number of disputes (per 1,000) where the characteristic is present minus the number where it is not.

Figure 3.3-B

Estimated effects of selected benefits at issue and presence of intervenors on likelihood of different major dispute outcomes [1]

(continued on next page)

		Permanent total disability benefits			Other indemnity benefits			Surgery not yet provided [4]		
		Significance level = .01			Significance level = .01			Significance level = .01		
	Base estimate	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence
Major dispute outcome [2]	[3]	No	Yes	[8]	No	Yes	[8]	No	Yes	[8]
	Estimated number of disputes per 1,000 following dispute path									
Findings-and-order	84	83	96	13	131	79	-51	70	186	116
Award on stipulation after hearing scheduled [9]	460	431	620	189	296	477	182	443	569	127
Other outcome after hearing scheduled [9]	35	37	21	-16	61	32	-29	31	84	53
Award on stipulation with no hearing scheduled	339	359	225	-134	382	335	-47	370	101	-269
Other outcome with no hearing scheduled	82	90	38	-52	130	76	-54	87	59	-27
Total	1,000	1,000	1,000		1,000	1,000		1,000	1,000	
	Estimated number of disputes per 1,000 following dispute path as percentage of base estimate									
Findings-and-order	100%	98%	114%	16%	155%	94%	-61%	83%	222%	138%
Award on stipulation after hearing scheduled [9]	100%	94%	135%	41%	64%	104%	39%	96%	124%	27%
Other outcome after hearing scheduled [9]	100%	107%	61%	-46%	176%	91%	-84%	89%	241%	152%
Award on stipulation with no hearing scheduled	100%	106%	66%	-40%	113%	99%	-14%	109%	30%	-79%
Other outcome with no hearing scheduled	100%	110%	47%	-64%	159%	93%	-66%	106%	72%	-34%

1. The numbers here are estimates from a statistical model (multinomial logit) that estimates the likelihood of a dispute having each of the five major outcomes shown given specified characteristics of the dispute. The characteristics employed in this estimation were the presence or absence of benefits at issue and of intervenors as shown in the column headings. For each characteristic indicated by a column heading, the numbers shown are the estimated numbers of disputes per 1,000 having each major outcome when the dispute has that characteristic versus when it does not, assuming the dispute is average with respect to the other characteristics shown (i.e., the likelihoods of the other characteristics being present are the same as for the overall sample). Therefore, the estimates can be interpreted as showing what happens to the dispute when the characteristic in question is changed, given that the dispute is typical with respect to the other characteristics.
2. These are categories, or combinations of categories, shown in Figure 2.3.
3. The "base estimate" is the estimated number of disputes per 1,000 having each major outcome when these disputes have the average levels of the characteristics modeled (indicated by the column headings). (The "average" level of a characteristic in this case is actually a probability because the characteristic is "yes"/"no".) The base estimate is the reference point for the other estimates. The base estimates are different from the actual numbers of disputes per 1,000 with the five major outcomes (Figure 2.3); there are two possible reasons for this. First, the model does not perfectly capture all factors affecting the dispute outcome. Second, the base estimates are derived for 1,000 disputes all of which are average with respect to the characteristics modeled. By contrast, the actual numbers of disputes per 1,000 with each outcome represent the experience of disputes with widely varying values of these characteristics.
4. These categories refer to services that had not been provided as of the date of the first claim petition.

Figure 3.3-B

Estimated effects of selected benefits at issue and presence of intervenors on likelihood of different major dispute outcomes [1]

(continued from previous page)

	Other medical services not yet provided [4]			Medical bills [5]			Vocational rehabilitation benefits			Intervenors [6]		
	Significance level = .05			Not statistically significant [7]			Not statistically significant [7]			Significance level = .01		
	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence
Major dispute outcome [2]	No	Yes	[8]	No	Yes	[8]	No	Yes	[8]	No	Yes	[8]
	Estimated number of disputes per 1,000 following dispute path											
Findings-and-order	78	96	18							67	113	46
Award on stipulation after hearing scheduled [7]	412	503	91							291	485	194
Other outcome after hearing scheduled [7]	34	41	8							50	35	-15
Award on stipulation with no hearing scheduled	380	296	-84							432	319	-113
Other outcome with no hearing scheduled	96	64	-32							160	48	-112
Total	1,000	1,000								1,000	1,000	
	Estimated number of disputes per 1,000 following dispute path as percentage of base estimate											
Findings-and-order	93%	114%	21%							79%	134%	55%
Award on stipulation after hearing scheduled [7]	90%	109%	20%							63%	105%	42%
Other outcome after hearing scheduled [7]	97%	118%	22%							142%	100%	-43%
Award on stipulation with no hearing scheduled	112%	87%	-25%							128%	94%	-33%
Other outcome with no hearing scheduled	118%	79%	-39%							196%	59%	-137%

5. This category refers to bills for medical services already provided as of the date of the first claim petition.
6. An intervenor is deemed to be present if there is a notice granting intervention status (to either a payor or provider intervenor), if the dispute includes issues in which a payor intervenor is seeking recovery, or if the document for any coded event makes reference to intervenors.
7. Results are only shown for characteristics that are statistically significant at least at the .10 level.
8. Equal to the number of disputes (per 1,000) where the characteristic is present minus the number where it is not.
9. This category combines the cases where the scheduled hearing is held and not held.

Timelines to scheduling of first proceeding

As shown in Figure 2.1, 69 disputes per 1,000 were certified for hearing without first being scheduled for a settlement conference. As shown in Figure 4.1, this occurred, at the median, 58 days after the first claim petition, and at the mean, 90 days later. For 25 percent of these disputes, the time was 112 days or longer.

At the median, there were 198 days (6.5 months) from the certification to the hearing notice, and 106 days (3.5 months) from the notice to the first scheduled hearing date, resulting in a median of 308 days (10.1 months) from certification to first scheduled hearing date. From the claim petition to the first scheduled hearing date for these cases, there was a median of 376 days (12.4 months).

Figure 2.1 shows that among the 931 disputes per 1,000 not initially certified for hearing, 146 were scheduled for hearing and 687 were scheduled for settlement conference. Figure 4.2 compares the timelines related to the scheduling of the first proceeding for these disputes.

For disputes first scheduled for hearing, the time to the first proceeding notice was 68 days at the median, 100 days at the mean, and 235 days (7.7 months) or longer in 10 percent of the cases. For disputes scheduled for settlement conference, the time to the notice was longer — 138 days (4.5 months) at the median and 136 days (4.5 months) at the mean. However, there was substantially less variation for the settlement conference notices: at the 90th percentile, for example, the time was 162 days (5.3 months) as compared with 235 days (7.7 months) for disputes scheduled for hearing.

While the time to notice was *greater* for settlement conferences than for hearings, the time from notice to proceeding date was *less* (72 days vs. 99 days at the median, for example). The net result was an interval from claim petition to first scheduled proceeding date of 169 days (5.6 months) at the median for hearings and 212 days (7.0 months) for settlement conferences, and 194 and 212 days (6.4 and 7.0 months), respectively, at the mean. For disputes initially scheduled for hearing, the time from first claim petition to first scheduled hearing date was 339 days (11.1 months) or longer in 10 percent of the cases. For settlement conferences, the comparable interval was 236 days (7.8 months). As shown at the bottom of Figure 4.2, the differences between the means and medians for the two types of proceedings are all statistically significant.

Figure 4.3 shows timelines related to hearing scheduling for disputes that were certified for hearing after settlement conference. For these disputes, there was a median of 7 days from the last settlement conference to the first certification for hearing, and a mean of 26 days; in 10 percent of cases, the time was 46 days or longer. Given the times from certification to hearing notice and from notice to hearing date, the time from certification to the first scheduled hearing date was 160 days (5.3 months) at the median and 175 days (5.8 months) at the mean, and 235 days (7.7 months) or longer in 10 percent of the cases. From the claim petition to the first scheduled hearing date, the time was 409 days (13.4 months) at the median, 470 days (15.5 months) at the mean, and 690 days (22.7 months) or longer for 10 percent of cases.

Figure 4.4 shows timelines related to hearing scheduling for disputes not certified for hearing after settlement conference. For these disputes, at the median, the first scheduled hearing date was 147 days (4.8 months) after the last settlement conference and 387 days (12.7 months) after the first claim petition. In 25 percent of cases, the time from the claim petition to the scheduled hearing date was 437 days (14.4 months) or longer.

Table 6.1, further below, compares the times from claim petition to *last* scheduled hearing date for these different dispute paths.

Figure 4.1
Timelines related to scheduling of hearing for claim petition disputes intially certified for hearing

	Number of days				
	First claim petition to first certification for hearing	First certification for hearing to first hearing notice	First hearing notice to first scheduled hearing date	First certification to first scheduled hearing date	First claim petition to first scheduled hearing date
Mean (average)	90	182	104	286	383
25th percentile	22	100	93	205	362
50th percentile (median)	58	198	106	308	376
75th percentile	112	242	121	350	407
Disputes with data per 1,000 [1]	69	57	57	57	57

1. The number of disputes in the last four columns is 57 rather than 59 per 1,000 because this table only counts scheduling of actual hearings; two of the 59 disputes per 1,000 that are shown in Figure 2.1 as scheduled for hearing had a pre-trial but not an actual hearing scheduled.

Figure 4.2
Timelines related to scheduling for first proceeding where this occurs before certification for hearing

	Number of days		
First scheduled proceeding	First claim petition to first proceeding notice	First proceeding notice to scheduled proceeding date	First claim petition to scheduled proceeding date
Hearing			
Mean (average)	100	95	194
10th percentile	44	56	123
25th percentile	54	78	141
50th percentile (median)	68	99	169
75th percentile	117	113	210
90th percentile	235	127	339
Disputes with data per 1,000 [1]	138	138	138
Settlement conference			
Mean (average)	136	76	212
5th percentile	59	53	154
10th percentile	104	56	176
25th percentile	120	63	196
50th percentile (median)	138	72	212
75th percentile	150	85	222
90th percentile	162	102	236
95th percentile	174	112	255
Disputes with data per 1,000 [1]	687	687	687
Statistical significance level of difference between the two proceeding types			
Means	.01	.01	.05
Medians	.01	.01	.01

1. The number of disputes in this row is 138 rather than 146 per 1,000 because this table only counts scheduling of actual hearings; eight of the 146 disputes per 1,000 that are shown in Figure 2.1 as scheduled for hearing had a pre-trial but not an actual hearing scheduled.

Figure 4.3

Timelines related to scheduling of hearing for claim petition disputes certified for hearing after settlement conference

	Number of days					
	Last settlement conference to first certification for hearing	First certification for hearing to first hearing notice	First hearing notice to first scheduled hearing date	First certification to first scheduled hearing date	Last settlement conference to first scheduled hearing date	First claim petition to first scheduled hearing date
Mean (average)	26	68	106	175	200	470
5th percentile	0	14	58	99	113	349
10th percentile	1	16	70	119	133	357
25th percentile	4	31	87	140	154	376
50th percentile (median)	7	57	107	160	177	409
75th percentile	20	82	126	200	218	509
90th percentile	46	130	140	235	285	690
95th percentile	97	168	147	289	353	808
Disputes with data per 1,000 [1]	275	253	253	253	253	253

1. The number of disputes in the last five columns is 253 rather than 258 per 1,000 because this table only counts scheduling of actual hearings; five of the 258 disputes per 1,000 that are shown in Figure 2.1 as scheduled for hearing had a pre-trial but not an actual hearing scheduled.

Figure 4.4

Timelines related to scheduling of hearing for claim petition disputes not certified for hearing after settlement conference

	Number of days			
	Last settlement conference to first hearing notice	First hearing notice to first scheduled hearing date	Last settlement conference to first scheduled hearing date	First claim petition to first scheduled hearing date
Mean (average)	58	96	154	383
25th percentile	28	83	126	353
50th percentile (median)	50	100	147	387
75th percentile	89	112	183	437
Disputes with data per 1,000 [1]	59	59	59	59

1. The number of disputes here is 59 rather than 61 per 1,000 because this table only counts scheduling of actual hearings; 2 of the 61 disputes per 1,000 that are shown in Figure 2.1 as scheduled for hearing had a pre-trial but not an actual hearing scheduled.

Re-sets of proceeding dates

Re-sets[19] occurred for 32 percent of settlement conferences, 9 percent of pre-trials, and 26 percent of hearings (Figure 5.1). Among proceedings with one or more re-sets, multiple re-sets occurred 41 percent of the time for settlement conferences and 24 percent of the time for hearings.

At the median, the time between subsequent scheduled proceeding dates where re-sets occurred was 76 days for both settlement conferences and hearings, but just 21 days for pre-trials (Figure 5.2). At the 90th percentile, the time was 114 days (3.7 months) for settlement conferences and 159 days (5.2 months) for hearings.

Table 5.3 shows the total amount of time attributable to re-sets where they occurred, counting all re-sets in the dispute. At the median, the total time attributable to re-sets, where they occurred, was 86 days for settlement conferences and 98 days for hearings; at the mean, the time was 128 days and 106 days, respectively; at the 90th percentile, it was 299 days (9.8 months) and 204 days (6.7 months). For five percent of settlement conferences with re-sets, the total time taken by these re-sets was a year or longer.

[19] In this report, the term "re-set" means an advance rescheduling of the date on which a proceeding was to occur. This term is used to distinguish this instance from the case where the proceeding continued on a later date after beginning on the originally scheduled date. Both cases are included in the term "continuance" as used in Minn. Stat. §176.341, subd. 4, Minn. Rules part 1420.2800 (in effect in 2003), and Minn. Rules part 1420.2800, subp. 1 (currently in effect), which provide the authority for continuances of OAH proceedings.

Figure 5.1
Number of re-sets by proceeding type [1]

Number of re-sets	Settlement conferences: Disputes per 1,000	Settlement conferences: Pctg. of total	Pre-trials: Disputes per 1,000	Pre-trials: Pctg. of total	Hearings: Disputes per 1,000	Hearings: Pctg. of total
None	488	68%	344	91%	372	74%
One or more	232	32%	34	9%	134	26%
1	*136*	*19%*	*28*	*7%*	*102*	*20%*
2	*50*	*7%*	*5*	*1%*	*24*	*5%*
3	*25*	*4%*	*1*	*0%*	*8*	*1%*
4	*15*	*2%*				
5	*3*	*0%*			*1*	*0%*
6	*1*	*0%*				
7	*1*	*0%*				
Total	720	100%	378	100%	506	100%

1. Numbers may not add exactly to totals because of rounding.

Figure 5.2
Time between subsequent scheduled dates of re-set proceedings [1]

	Number of days: Settlement conferences	Number of days: Pre-trials	Number of days: Hearings	Statistical significance level of difference among proceeding types [2]
Mean (average)	74	42	80	.01
5th percentile	15			
10th percentile	26		5	
25th percentile	49		30	
50th percentile (median)	76	21	76	.01
75th percentile	92		119	
90th percentile	114		159	
95th percentile	134			
Re-sets per 1,000 disputes	404	42	178	

1. Because of limited sample size, statistics are not shown for all percentiles. See p. 2 including note 9.
2. This significance level refers to the differences among all three proceeding types. For the mean number of days, settlement conferences and hearings are statistically different at the .05 level. For the median number of days, these two proceeding types are not statistically different from each other.

Figure 5.3
Total time attributable to re-sets of scheduled proceedings [1]

	Number of days			Statistical significance level of difference among proceeding types [2]
	Settlement conferences	Pre-trials	Hearings	
Mean (average)	128	51	106	.01
5th percentile	16			
10th percentile	35		8	
25th percentile	61		36	
50th percentile (median)	86	36	98	.01
75th percentile	150		148	
90th percentile	299		204	
95th percentile	370			
Disputes per 1,000 with re-sets	232	34	134	

1. This counts the total amount of time attributable to re-sets of proceeding dates, including, where they occur, multiple re-sets of the same proceeding and re-sets of different proceedings. The time between different proceedings of the same type is not counted if it is not attributable to re-sets. Because of limited sample size, statistics are not shown for all percentiles. See p. 2 including note 9.
2. This significance level refers to the differences among all three proceeding types. For the mean number of days, settlement conferences and hearings are statistically different at the .10 level. For the median number of days, these two proceeding types are not statistically different from each other.

Final resolution timelines and events

Figures 4.1-4.4 showed timelines related to the first scheduled hearing date for the four dispute paths where a hearing occurs (Figure 2.1). Figure 6.1 shows, for these four paths, the time from the first claim petition to the last scheduled hearing date. Where there are multiple scheduled hearings and/or re-sets, the time is to the last scheduled date of the last hearing.

The shortest times occur, not surprisingly, when the dispute is scheduled for hearing with no settlement conference and no prior certification. For these disputes, the time from the claim petition to the last scheduled hearing date was 194 days (6.4 months) at the median and 251 days (8.3 months) at the mean. The longest times were for disputes with settlement conference and then certification. For these, the time was 451 days (14.8 months) at the median and 562 days (18.5 months) at the mean. For 10 percent of these disputes, the time was 918 days (30.2 months) or more. For the other two paths — certification without settlement conference and settlement conference without certification — the times were similar: not quite 400 days at the median and close to 440 days at the mean. For all disputes with hearings combined, the time from the claim petition to the last scheduled hearing date was 393 days (12.9 months) at the median and 449 days (14.8 months) at the mean.

Figure 6.2 shows timelines related to findings-and-orders for disputes certified for hearing after settlement conference (upper panel) and for all disputes with a findings-and-order (lower panel). The timelines for the other three paths with scheduled hearing are not shown because of limited sample size. Where the hearing occurred after a settlement conference and certification, the time to the last scheduled hearing date was somewhat longer where a findings-and-order occurred than for all of these disputes (second column vs. first column) — 496 days vs. 451 days at the median. This distinction is made because the time to the hearing *where a findings-and-order occurred* is relevant for understanding the total time to the findings-and-order for these disputes. The time from the last scheduled hearing date to the findings-and-order in these cases was 62 days at the median and 60 days at the mean. In all, for these disputes, the time from the first claim petition to the findings-and-order was 563 days (18.5 months) at the median and 675 days (22.2 months) at the mean.

The corresponding times for all disputes with findings-and-orders (lower panel) were substantially less than for those with settlement conference and certification (upper panel), because the times to hearing (Figure 6.1) were less for the three paths not shown here. For all disputes with findings-and-orders, the time from the first claim petition to the findings-and-order was 452 days (14.9 months) at the median and 528 days (17.4 months) at the mean.

Figure 6.3 shows timelines related to award on stipulation for the four dispute paths where a hearing was scheduled. The figure divides the time from the claim petition to the stipulation in two ways: (1) from claim petition to last hearing notice and from notice to stipulation and (2) from claim petition to last scheduled hearing date and from hearing date to stipulation. Both divisions are used because sometimes the stipulation occurs before the scheduled hearing date. Not surprisingly, among the four dispute paths, there is only minor variation in the time from the notice to the stipulation and in the time from the scheduled hearing date to the stipulation (second and fourth columns). Instead, the variation across the four paths in the time from the claim petition to the stipulation results primarily from variation in the time to the last hearing notice and to the last scheduled hearing date (first and third columns).

As with findings-and-orders, the longest timelines occur when the hearing was scheduled after a settlement conference and subsequent certification for hearing (third panel). For disputes with stipulations that followed this path, measuring from the first claim petition, the median time was 334 days (11.0 months) to the last hearing notice, 440 days (14.5 months) to the last scheduled hearing date, and 553 days (18.2 months) to the award on stipulation. For ten percent of these disputes, the time to the stipulation was 915 days (30.1 months) or longer.

The fastest path to an award on stipulation for disputes scheduled for hearing was where there was no settlement conference and no certification for hearing (second panel). For this path, the stipulation occurred, at the median, 267 days (8.8 months) after the first claim petition. Intermediate times to the stipulation occurred when the hearing was scheduled after certification without settlement conference, or after settlement conference without certification — 467 days and 461 days, respectively, at the median, or somewhat over 15 months.

Combining all cases where an award on stipulation occurred after the dispute was scheduled for hearing, the stipulation occurred, at the median, 462 days (15.2 months) after the first claim petition. At the 90th and 95th percentiles, the times were 787 days (25.9 months) and 1,008 days (33.1 months), respectively.

Figure 6.4 shows timelines related to award on stipulation where the dispute was scheduled for settlement conference but not certified for hearing or scheduled for hearing. This was the most common path to a stipulation: 305 disputes per 1,000 followed this path, as compared with 179 disputes per 1,000 for the most common path shown in the previous figure (stipulation after settlement conference, certification, and scheduling of hearing). For the present disputes, the stipulation occurred, at the median, 134 days (4.4 months) after the last conference notice and 43 days after the last scheduled conference date. The negative numbers of days at the 5th and 10th percentiles of the time from the scheduled conference date to the stipulation reflect stipulations occurring before the scheduled conference date. The total time to the stipulation for these disputes was 283 days (9.3 months) at the median, 307 days (10.1 months) at the mean, and 445 days (14.6 months) at the 90th percentile.

The fastest path from the claim petition to an award on stipulation is where there is no certification for hearing and no proceeding scheduled (Figure 6.5). In this case, the time was 105 days (3.5 months) at the median and 128 days (4.2 months) at the mean.

Figure 6.6 shows final events for claim-petition disputes without a findings-and-order or award on stipulation, for the four most common paths where such final events occur and in total. The 149 disputes per 1,000 represented here are the same as those shown in the same category in Figure 2.3. In 70 per 1,000 these disputes, the final event was an agreement among the parties, of which the two most frequent forms were a letter resolving the issue and an answer (from the insurer) to the claim petition expressing agreement or willingness to pay. The next most common final events were an order for dismissal and a withdrawal of the dispute.

Figure 6.1

Time from first claim petition to last scheduled hearing by major dispute resolution path, for disputes with hearing [1]

	Number of days from first claim petition to last scheduled hearing date by major dispute resolution path					Statistical significance level of differences among resolution paths [2]
	Certification for hearing without settlement conference	No settlement conference, no certification	Settlement conference, then certification	Settlement conference, no certification	All disputes with hearing	
Mean (average)	436	251	562	446	449	.01
5th percentile			352		140	
10th percentile		127	362		167	
25th percentile	365	154	388	353	332	
50th percentile (median)	389	194	451	398	393	.01
75th percentile	495	295	641	480	526	
90th percentile		429	918		747	
95th percentile			1,062		940	
Disputes with data per 1,000 [2]	57	138	253	59	506	

1. Where there are multiple scheduled hearings and/or re-sets, the time counted is to the last scheduled date of the last hearing. Because of limited sample size, statistics are not shown for all percentiles. See p. 2 including note 9.
2. Only actual OAH hearings, not pre-trials, are considered here. Therefore, the number of disputes in each of the first four columns is somewhat less than the number shown for the corresponding dispute resolution path in Figure 2.1.

Figure 6.2
Timelines related to findings-and-order, for disputes certified for hearing after settlement conference and for all disputes [1]

	Number of days			
	First claim petition to last scheduled hearing			
	All disputes with hearing scheduled	Disputes with findings-and-order	Last hearing to findings-and-order	First claim petition to findings-and-order
Settlement conference, then certification				
Mean (average)	562	615	60	675
5th percentile	352			
10th percentile	362			
25th percentile	388	392	57	451
50th percentile (median)	451	496	62	563
75th percentile	641	664	68	760
90th percentile	918			
95th percentile	1,062			
Disputes with data per 1,000 [2]	253	55	55	55
All disputes				
Mean (average)	449	475	53	528
5th percentile	140			
10th percentile	167			
25th percentile	332	351	38	375
50th percentile (median)	393	399	59	452
75th percentile	526	529	63	586
90th percentile	747			
95th percentile	940			
Disputes with data per 1,000 [3]	506	100	100	100

1. Where there are multiple scheduled hearings and/or re-sets, the time counted is to the last scheduled date of the last hearing. Because of limited sample size, statistics are not shown for all percentiles. See p. 2 including note 9.
2. Only actual OAH hearings, not pre-trials, are considered here. Therefore, the 253 disputes per 1,000 shown with hearing scheduled after settlement conference and certification is somewhat less than in Figure 2.1.
3. The total of 506 disputes per 1,000 with hearing scheduled is equal to the number shown in Figure 2.3.

Figure 6.3

Timelines related to award on stipulation where this occurred after the dispute was scheduled for hearing [1]

Major dispute resolution path leading to scheduling of hearing	Number of days: First claim petition to last hearing notice	Last hearing notice to award on stipulation	First claim petition to last scheduled hearing date	Last scheduled hearing date to award on stipulation	First claim petition to award on stipulation
Certified without settlement conference					
Mean (average)	344	153	451	46	496
50th percentile (median)	296	168	389	47	467
Disputes with data per 1,000	41	41	41	41	41
No settlement conference, no certification					
Mean (average)	163	194	260	97	357
25th percentile	60	121	156	30	214
50th percentile (median)	92	147	197	54	267
75th percentile	192	198	320	96	411
Disputes with data per 1,000	103	103	103	103	103
Settlement conference, then certification					
Mean (average)	431	175	535	71	606
10th percentile	260	54	358	-41	393
25th percentile	283	116	378	12	422
50th percentile (median)	334	161	440	61	553
75th percentile	516	223	637	115	730
90th percentile	732	294	848	197	915
Disputes with data per 1,000	179	179	179	179	179
Settlement conference, no certification					
Mean (average)	316	160	414	63	477
50th percentile (median)	302	144	398	47	461
Disputes with data per 1,000	40	40	40	40	40
Total					
Mean (average)	332	176	434	75	509
5th percentile	56	45	147	-63	188
10th percentile	68	61	167	-30	224
25th percentile	214	115	323	24	350
50th percentile (median)	294	154	391	54	462
75th percentile	406	211	518	102	618
90th percentile	616	285	731	187	787
95th percentile	750	353	895	244	1,008
Disputes with data per 1,000 [2]	364	364	364	364	364
Statistical significance level of difference between dispute paths					
Means	.01	N.S.	.01	N.S.	.01
Medians	.01	N.S.	.01	N.S.	.01

"N.S." = not statistically significant.

1. Where there are multiple scheduled settlement conferences and/or re-sets, the time counted is to the last scheduled date of the last settlement conference. Because of limited sample size, statistics are not always shown for all percentiles. See p. 2 including note 9.
2. Only actual OAH hearings, not pre-trials, are considered here. Therefore, the 364 disputes per 1,000 shown in this row is less than the 374 (368 + 6) disputes per 1,000 indicated in Figure 2.2 as occurring in disputes where a hearing has been scheduled (see note 2 in that figure).

Figure 6.4
Timelines related to award on stipulation for disputes scheduled for settlement conference, not certified for hearing, and not scheduled for hearing [1]

	Number of days				
	First claim petition to last conference notice	Last conference notice to award on stipulation	First claim petition to last scheduled conference date	Last scheduled conference date to award on stipulation	First claim petition to award on stipulation
Mean (average)	152	156	250	57	307
5th percentile	80	35	167	-34	177
10th percentile	104	53	184	-19	194
25th percentile	122	98	203	20	235
50th percentile (median)	140	134	218	43	283
75th percentile	158	185	271	82	344
90th percentile	206	273	334	135	445
95th percentile	246	356	447	186	525
Disputes with data per 1,000	305	305	305	305	305

1. Where there are multiple scheduled settlement conferences and/or re-sets, the time counted is to the last scheduled date of the last settlement conference.

Figure 6.5
Number of days from first claim petition to award on stipulation for disputes not certified for hearing and not scheduled for settlement conference or hearing [1]

Mean (average)	128
25th percentile	50
50th percentile (median)	105
75th percentile	145
Disputes with data per 1,000 [3]	46

1. Because of limited sample size, statistics are not shown for all percentiles. See p. 2 including note 9.

Figure 6.6

Final event for disputes without a findings-and-order or award on stipulation, by major dispute resolution path

	Disputes per 1,000					
	Major dispute resolution path [1]					
	Settlement conference not scheduled, not certified, hearing scheduled, not held	Settlement conference scheduled, certified, hearing scheduled, not held	Settlement conference scheduled, not certified, hearing not scheduled	Not certified, no proceeding scheduled	Other	Total
Agreement of the parties [2]	9	2	21	31	6	70
Letter resolving issue	*7*	*1*	*12*	*17*	*2*	*39*
Answer to claim petition [3]			*1*	*10*	*1*	*12*
Other agreement [4]	*2*	*1*	*8*	*4*	*3*	*18*
Order for dismissal [2]	3	7	14	8	3	35
Withdrawn [2]	3	4	4	6	5	22
Decision other than findings-and-order [2,5]	1		3	3	0	7
Scheduled proceeding [6]	2	3	1		1	7
Order to strike		1	3			4
Other [7]	0		1	3	0	5
Total	18	18	46	51	16	149

"0" means a positive number less than 0.5.

"Certified" means certified for hearing.

1. The paths shown are the common ones where a final event other than a findings-and-order or award on stipulation occurs.
2. If an order for dismissal is preceeded by agreement of the parties, withdrawal, or decision other than findings-and-order, the case is re-classified accordingly. Order for dismissal includes an order dismissing an insurer or intervenor.
3. Includes rehab response and amendment of answer to claim petition.
4. Includes issue resolved by parties (no document), document indicating issue resolution, letter or other document confirming agreement at proceeding, hearing cancelled (agreement reached or in process), award on agreement (OAH), OAH mediation held (informal agreement), and stipulation status conference cancelled (agreement reached or in process).
5. Includes DLI conference decision-and-order, order on discontinuance, temporary order and WCCA decision.
6. Includes stipulation status conference (status not indicated), settlement conference (status not indicated), pre-trial (status not indicated), hearing (status not indicated), and hearing (cancelled, reason not indicated).
7. Includes answer to claim petition (refuse to pay), amendment of claim petition, DLI dispute certification decision, certification for hearing, order for consolidation, order for joinder and other document issued.

Association between scheduling of proceedings and occurrence of agreements

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

Figure 7.1 presents scatterplots showing how the timing of an award on stipulation (where it occurs) and the timing of an informal agreement between the parties (where it occurs) are related to the timing of the first scheduled hearing date (where this occurs), all being measured from the date of the first claim petition where the hearing is cancelled because of the agreement.[20] In each case, the scatterplot shows a strong connection between the variables concerned. Further, in each case, the relationship seems to be linear, and there seems to be roughly a one-to-one relationship between the number of days to the scheduled hearing date and the number of days to the agreement.

Figure 7.2 shows scatterplots representing the association between the timing of the same two types of agreement (where they occur) and the timing of the first scheduled settlement conference (where this occurs). In contrast with the scatterplots in Figure 7.1, these show virtually no association between the timing of the agreement and the scheduling of the settlement conference. With some minor exceptions in the upper panel, the points lie essentially in a vertical pattern for both types of agreement, indicating that while most settlement conferences are scheduled at 200 to 250 days from the claim petition, the time to the agreement ranges from 200 days to 1,000 or more for an award on stipulation and from 200 days to more than 750 for an informal agreement. The upper panel, relating to awards on stipulation, does show a few cases lying along an upward diagonal, suggesting that an association does exist for a few cases.

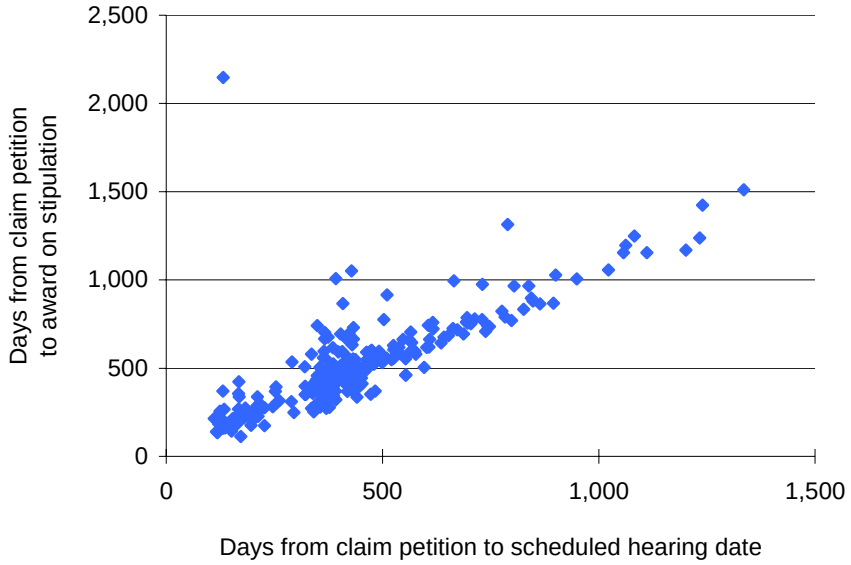
Figure 7.3 shows the results of a more formal approach to the analysis in Figure 7.1. For each of the agreement types concerned, a statistical model estimated the effect of the timing of the scheduled hearing date on the timing of the agreement where the hearing was canceled because of agreement. For each type of agreement, the coefficient is the estimated effect of the timing of the scheduled hearing date on the timing of the agreement. In particular, the coefficient is the estimated change in the number of days to the agreement associated with a one-day change in the scheduled date of cancelled hearing.

For both agreement types, the estimated coefficient is highly statistically significant. Where the hearing was cancelled because of an award on stipulation, the coefficient of 1.0 indicates that the stipulation is estimated to occur one day earlier for each day earlier the hearing had been scheduled. For informal agreements, the estimate is 0.9 day sooner.

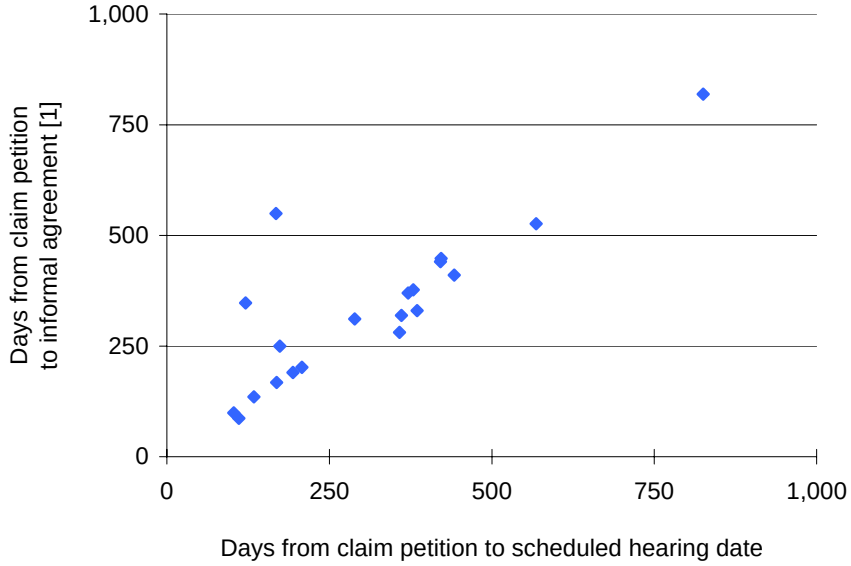
[20] Informal agreement here includes answer to claim petition (agree to pay), letter or document resolving issue, resolved by parties (no document), and withdrawn.

Figure 7.1
Scheduled hearing date and timing of agreement where the hearing is canceled because of agreement between the parties

A: Award on stipulation



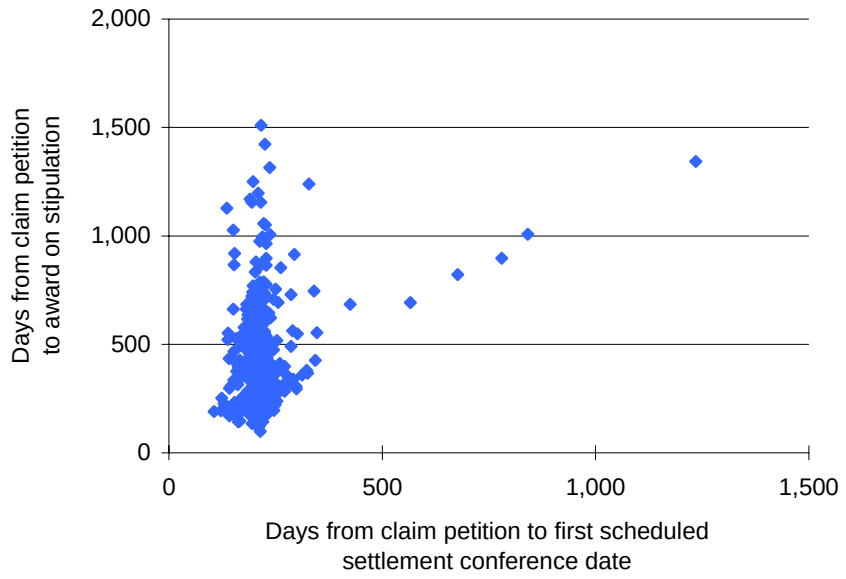
B: Informal agreement [1]



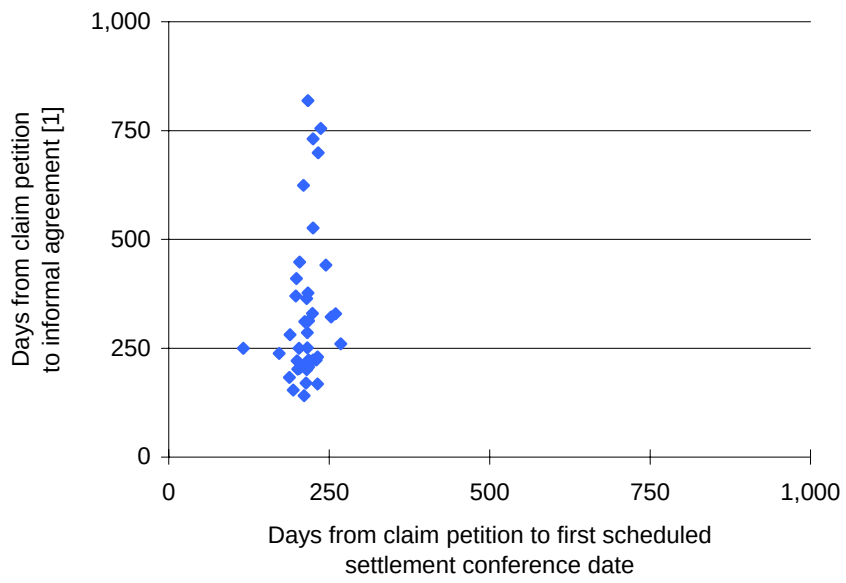
1. Informal agreement includes answer to claim petition (agree to pay), letter or document resolving issue, resolved by parties (no document), and withdrawn.

Figure 7.2
First scheduled settlement conference date and timing of agreement where parties agree via award on stipulation or informally

A: Award on stipulation



B: Informal agreement [1]



1. Informal agreement includes answer to claim petition (agree to pay), letter or document resolving issue, resolved by parties (no document), and withdrawn.

Figure 7.3

Estimated effect of timing of scheduled hearing date on timing of agreement where the hearing is canceled because of agreement between the parties [1]

	Explanatory variable		
	Days from claim petition to scheduled hearing date		
Outcome variable: Days from claim petition to—	Coefficient [2]	Statistical significance level	Number of disputes in sample
Award on stipulation	1.0	.01	277
Informal agreement [3]	.9	.01	21

1. These estimates are derived from a statistical model (simple regression). The model applies to the case where the hearing is canceled because of agreement between the parties. The model estimates the effects of the timing of the the scheduled hearing date (explanatory variable) on the timing of the agreement (outcome variable), where each is measured from the date of the first claim petition. The estimates are derived separately for each of two outcome variables — the number of days to award on stipulation and to an informal agreement, each for the cases where it occurs.
2. The estimated effect of the timing of the scheduled hearing date on the outcome variable is represented by its coefficient. The coefficient shows the amount of change in the outcome variable associated with a one-unit change in the scheduled hearing date.
3. Informal agreement includes answer to claim petition (agree to pay), letter or document resolving issue, resolved by parties (no document), and withdrawn.

Observations

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

The amount of time from the claim petition to the first scheduled hearing varies greatly according to the major dispute path.

Figure 8.1 presents data from other figures in this report for the 2003 claim-petition disputes, showing the amount of time from the first claim petition to selected major dispute-resolution events along different major resolution paths, measured at different percentiles as sample size permits.

As shown in the figure, for the 2003 claim-petition disputes, the median time from the first claim petition to the first scheduled hearing date was 169 days where the hearing was scheduled initially without certification, 376 days where it was scheduled after certification without a scheduled settlement conference, 387 days where it was scheduled after a settlement conference without certification, and 409 days where it was scheduled with certification after a settlement conference. This variation causes similar variation in the timing of findings-and-orders and awards on stipulation across the same major paths.

It may be helpful to explore whether some disputes that now follow the longer major paths to a scheduled hearing may be amenable to shorter paths to the same end. In particular, since the path to scheduled hearing is longer where a settlement conference and/or certification for hearing occurs, these results raise the question whether it may be possible to streamline the path to scheduled hearing for some of these disputes.

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

Different disputes typically take far different amounts of time to travel the same dispute-resolution path. As a result, a single measure of time, such as a mean or median, fails to fully capture the range of experience of different disputes.

For example, as shown in Figure 8.1 for the 2003 claim-petition disputes, for those disputes initially scheduled for hearing without certification, the amount of time to the last scheduled hearing date was 194 days at the median and 429 days at the 90th percentile. For disputes certified and scheduled for hearing after settlement conference, the time to findings-and-order, where it occurred, was 563 days at the median and 760 days at the 75th percentile, and the time to stipulation, where it occurred, was 553 days at the median and 915 days at the 90th percentile.

Clearly, there is wide variation in resolution time for disputes following the same paths.

It may be helpful to explore whether it is possible to shorten the time consumed in resolving those disputes that take significantly longer than the usual time for a given resolution path.

Re-sets add time to the process.[21]

The proportion of proceedings with re-sets for the 2003 claim-petition disputes was 32 percent for settlement conferences and 26 percent for hearings (Figure 5.1). When re-sets occurred, the median time between subsequent scheduled proceeding dates was 76 days at the median for both settlement conferences and hearings (Figure 5.2). The total time between first and last scheduled proceeding dates where re-sets occurred was 86 days at the median for settlement conferences and 98 days for hearings, and 299 days and 204 days, respectively, at the 90th percentile (Figure 5.3).

Because of the time re-sets add to the dispute-resolution process, their use should be limited as

[21] See note 19 on p. 31.

much as possible. As provided in statute and rule, "continuances are disfavored and will be granted only upon a showing of good cause."[22]

The timing of scheduled hearings affects the timing of resolution by the parties where they reach agreement outside of the proceeding.

A statistical analysis found that earlier scheduling of hearings is associated with earlier resolution by the parties where the proceeding is canceled because of agreement, either informal agreement or an award on stipulation. The agreement between the parties tends to occur about one day earlier for each day earlier the hearing is scheduled to occur (Figures 7.1 and 7.3).

No association between proceeding scheduling and timing of agreements was found for settlement conferences (Figure 7.2).

Not only does prompt scheduling of hearings lead to earlier findings-and-orders by OAH judges where the parties do not reach agreement; earlier scheduling also prompts earlier agreement between the parties where they reach resolution outside of the proceeding. This adds to the value of scheduling hearings as promptly as possible with sufficient time for the parties to prepare.

[22] Minn. Stat. § 176.341, subd. 4; Minn. Rules part 1415.2800 (in effect in 2003); Minn. Rules part 1420.2800, subp. 1 (currently in effect). See note 19 on p. 31.

Figure 8.1

Amount of time from first claim petition to selected major events in the dispute-resolution process along different resolution paths, for claim-petition disputes filed in 2003

	Number of days from first claim petition to indicated event for given path [1]				
	Percentile				
Event and major resolution path to event [2]	10th	25th	50th (median)	75th	90th
First scheduled settlement conference date					
Initially scheduled for settlement conference [3]	176	196	212	222	236
Last scheduled settlement conference date					
Initially scheduled for settlement conference [4]	184	203	218	271	334
First scheduled hearing date					
Initially certified for hearing [5]		362	376	407	
Initially scheduled for hearing without certification [3]	123	141	169	210	339
Certified for hearing after settlement conference [6]	357	376	409	509	690
Not certified for hearing after settlement conference [7]		353	387	437	
All paths combined	154	227	379	432	567
Last scheduled hearing date [8]					
Initially certified for hearing		365	389	495	
Initially scheduled for hearing without certification	127	154	194	295	429
Certified for hearing after settlement conference	362	388	451	641	918
Not certified for hearing after settlement conference		353	398	480	
All paths combined	167	332	393	526	747
Findings-and-order [9]					
Hearing held after settlement conference and certification		451	563	760	
All paths combined		375	452	586	
Award on stipulation					
Hearing scheduled after initial certification [10]			467		
Hearing initially scheduled without certification [10]		214	267	411	
Hearing scheduled with certification after settlement conference [10]	393	422	553	730	915
Hearing scheduled without certification after settlement conference [10]			461		
Settlement conf. scheduled, not certified or scheduled for hearing [11]	194	235	283	344	445
Neither settlement conference nor hearing scheduled, not certified [12]		50	105	145	
All paths combined [13]	176	240	339	494	685
Final resolution event [14]					
Hearing scheduled after initial certification		369	457	558	
Hearing initially scheduled without certification	160	203	267	411	590
Hearing scheduled with certification after settlement conference	394	442	563	759	1,040
Hearing scheduled without certification after settlement conference		358	461	552	
Settlement conf. scheduled, not certified or scheduled for hearing	211	229	272	340	464
Neither settlement conference nor hearing scheduled, not certified		33	60	122	
All paths combined	143	230	338	510	731

(Notes on following page.)

Figure 8.1

Amount of time from first claim petition to selected major events in the dispute-resolution process along different resolution paths, for claim-petition disputes filed in 2003

Notes

1. Numbers are not shown where there is insufficient sample size. See p. 2 including note 9.
2. See Figure 2.1 for a diagram of major resolution paths.
3. From Figure 4.2.
4. From Figure 6.4.
5. From Figure 4.1.
6. From Figure 4.3.
7. From Figure 4.4.
8. From Figure 6.1.
9. From Figure 6.2.
10. From Figure 6.3.
11. From Figure 6.4.
12. From Figure 6.5.
13. Results not shown elsewhere in report.
14. The median numbers of days to the final resolution event are also shown in Figure 2.1.

Appendix 1

Disputes and the dispute resolution process

The following is a brief description of dispute types and the dispute resolution process in Minnesota's workers' compensation system. The Glossary in Appendix 2 provides further information on terms used.[23]

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

- monetary benefits,
- medical services, and
- vocational rehabilitation services.[24]

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

In any workers' compensation dispute, there are one or more points of disagreement between the insurer and the injured worker or provider. The parties may disagree, for example, over primary liability, causation, reasonableness and necessity, or other points.[25] These points of disagreement are often referred to as "insurer defenses". In this report, they are called "points in dispute".

Depending on the nature of the dispute, the form on which it is filed, and the wishes of the parties, dispute resolution may be facilitated by a dispute-resolution specialist at the Department of Labor and Industry (DLI) or by a judge in the Office of Administrative Hearings (OAH). Administrative decisions from DLI or OAH can be appealed by requesting an OAH hearing; decisions from an OAH hearing can be appealed to the Workers' Compensation Court of Appeals (WCCA) and then to the Minnesota Supreme Court.

Dispute resolution activities at the Department of Labor and Industry

DLI carries out a variety of dispute-resolution activities:

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

Dispute certification — In a medical or vocational rehabilitation dispute, DLI must certify that a dispute exists and that informal intervention did not resolve the dispute before an attorney may charge for services.[26] The certification process is triggered by either a certification request or a medical or rehabilitation request. DLI specialists attempt to resolve the dispute informally during the certification process.

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

[23] The description provided here is only intended to help the reader understand the material presented in this report. It is not intended to be legally definitive or exhaustive.

[24] Disputes also occur over other types of issues, such as attorney fees, that do not directly affect the employee.

[25] See Appendix 2 for definitions.

[26] Minnesota Statutes §176.081, subd. 1(c).

Administrative conference — DLI conducts administrative conferences on medical or vocational rehabilitation (VR) issues presented on a medical or rehabilitation request unless it has referred the issues to OAH or they have otherwise been resolved. DLI refers medical disputes involving more than $7,500 to OAH, and it may refer medical or VR disputes for other reasons. The DLI specialist usually attempts to bring the parties to agreement during the conference. If agreement is not reached, the specialist issues a "decision-and-order". If agreement is reached, the specialist issues an "order on agreement". A party may appeal a DLI decision-and-order by requesting a *de novo* hearing at OAH.[27]

Dispute resolution activities at the Office of Administrative Hearings

OAH performs the following dispute-resolution activities:

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

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

Administrative conference — With some exceptions, OAH conducts administrative conferences on issues presented on a medical or rehabilitation request that have been referred from DLI (see above). In some cases, medical and rehabilitation request disputes referred from DLI are heard in a formal hearing (see below). OAH also conducts administrative conferences where requested by the claimant in a dispute over discontinuance of wage-loss benefits.[28] If agreement is not reached, the OAH judge issues a "decision-and-order". A party may appeal an OAH decision-and-order by requesting a *de novo* hearing at OAH.

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

Dispute resolution by the parties

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

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

[28] Minnesota Statutes §176.239.

Appendix 2

Glossary

The following terms are used in this report.[29]

***Administrative conference* —** An expedited, informal proceeding where parties present and discuss viewpoints in a dispute. With some exceptions, administrative conferences are conducted on medical and vocational rehabilitation (VR) disputes presented on a medical or rehabilitation request; they are also conducted on disputes over discontinuance of wage-loss benefits presented by a claimant's request for administrative conference. Medical and rehabilitation conferences are conducted at either DLI or OAH depending on whether DLI has referred the issues concerned to OAH. Discontinuance conferences are conducted at OAH. If agreement is not achieved in the conference, the DL I specialist or OAH judge issues a "decision-and-order". If agreement is achieved, an "order on agreement" is issued. A party may appeal a DLI or OAH decision-and-order by requesting a *de novo* hearing at OAH.[30]

***Affidavit of significant financial hardship* —** A document submitted by an injured worker to OAH requesting an expedited hearing on disputed issues on the basis of the injured worker's financial hardship. OAH may grant or deny the request.[31]

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

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

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

***Certification for hearing* —** A determination by OAH that a dispute presented on a claim petition is not amenable to resolution by agreement of the parties. The determination may be made on the basis of information presented at a settlement conference or through other channels. The certification causes the dispute to be assigned to an OAH judge to be scheduled for hearing. This certification is different from the certification of medical and rehabilitation disputes at DLI under Minnesota Statutes §176.081, subd. 1(c) (see below).

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

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

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

***Dispute certification* —** A process required by statute in which, in a medical or rehabilitation

[29] These definitions are only intended to help the reader understand the material presented in this report. They are not intended to be legally definitive or exhaustive.

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

[31] Minnesota Statutes §176.341, subd. 6.

dispute, DLI must certify that a dispute exists and that informal intervention did not resolve the dispute before an attorney may charge for services.[32] The certification process is triggered by either a certification request or a medical or rehabilitation request. DLI specialists attempt to resolve the dispute informally during the certification process.

***Findings-and-order* —** See hearing.

***Hearing* —** A formal proceeding on a disputed issue or issues in a workers' compensation claim, conducted at OAH, after which the judge issues a "findings-and-order" which is binding unless appealed to the Workers' Compensation Court of Appeals. OAH conducts formal hearings on disputes presented on claim petitions and other petitions where resolution through a settlement conference is not possible. OAH also conducts hearings on disputes over discontinuance of wage-loss benefits where requested by a dispute party, disputes referred by DLI because they do not seem amenable to less formal resolution, and disputes over miscellaneous issues such as attorney fees. Finally, OAH conducts *de novo* hearings when a party disagrees with an administrative-conference or nonconference decision-and-order from either DLI or OAH.

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

***Indemnity claim* —** A claim with paid indemnity benefits. Because of statutory provisions,[33] most indemnity claims involve more than three days of total or partial disability. Indemnity claims typically include medical costs in addition to indemnity costs.

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

***Intervenor* —** A person or entity that is not an original party to a workers' compensation dispute but has an interest in the dispute and has been granted status as a dispute party upon application.[34] Intervenors are typically medical or vocational rehabilitation providers that have provided services to the claimant, or entities other than the workers' compensation insurer that have paid for such services or have paid income benefits. Intervenors may be private or public entities.

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

***Mediation award* —** See mediation.

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

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

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

[32] Minnesota Statutes §176.081, subd. 1(c).
[33] Minnesota Statutes §176.121.
[34] Minnesota Statutes §176.361.

conference at DLI or OAH (see administrative conference).

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

***Nonconference decision-and-order* —** A decision issued by DLI, without an administrative conference, in a dispute for which it has administrative conference authority (see "administrative conference"). An affected party may appeal the decision by requesting a formal hearing at OAH.

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

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

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

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

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

***Reasonableness and necessity* —** The issue of whether or not a requested medical service is appropriate for the medical condition for which it is requested.[35] An insurer denying services on the basis of reasonableness and necessity is claiming that the services are not appropriate for the medical condition for which they are requested.

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

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

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

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

***Stipulation for settlement* —** A document that states the terms of settlement of a claim among the affected parties. A stipulation usually occurs in the context of a dispute, but not always. The stipulation may be reached independently by the

[35] Minnesota Rules, part 5221.6040, subp. 10, defines "medically necessary treatment" as health services that are "reasonable and necessary" for diagnosis, cure, or significant relief of the condition in question, consistent with the workers' compensation medical treatment parameters, or, if they don't apply, consistent with current accepted standards of practice within the scope of the provider's license or certification. The treatment parameters are contained in Minnesota Rules, parts 5221.6050-5221.6600.

parties or in a settlement conference or associated preparatory activities. A stipulation is approved by an OAH judge. It may be incorporated into a mediation award or an award on stipulation, usually the latter. The stipulation usually includes an agreement by the claimant to release the employer and insurer from future liability for the claim other than for medical treatment.

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

Workers' Compensation Court of Appeals (WCCA) — An executive branch body that hears appeals of workers' compensation findings-and-orders from OAH. WCCA decisions may be appealed to the Minnesota Supreme Court.

Appendix 3

Data items coded

Overall claimant and dispute data

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

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

Issue data

The following items were coded for each issue in dispute:

Benefit at issue (see Appendix 4)
Point in dispute (up to three)
Nature of injury (up to three)
Part of body (up to three)
Amount of money requested (initial)
Amount of money requested (ending)
Amount of money awarded
Roraff and Heaton fees (attorney fees)
Timing of service (relative to presentation and final resolution of dispute)
Issue comments

Event data

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

Event type (see Appendix 5)
Event initiator (employee, employee attorney, insurer, insurer attorney, etc.)
Event date (date document received or issued by DLI, or date indicated in DLI log)
Date document signed (where event is document)
Proceeding date (for scheduled proceedings)
Proceeding status (held, re-set (with requesting party), cancelled (with reason))
Proceeding previously scheduled (yes/no for whether proceeding was scheduled before issue was added to it)
Proceeding continuation date (date to which proceeding was held open if it began on originally scheduled date)
Employee attorney (yes/no for whether employee attorney is indicated on event)
Insurer attorney (yes/no for whether insurer attorney is indicated on event)
Payor intervenor (yes/no for whether payor intervenor is indicated on event)
Provider intervenor (yes/no for whether provider intervenor is indicated on event)

Claimant award (gross amount awarded to claimant, including indemnity, any medical or rehabilitation not counted elsewhere, and indemnity-related attorney fees)

Appendix 4

Benefit-at-issue categories

The following are the benefit-at-issue categories used in coding the 2003 claim-petition disputes. Each category was used no more than once in the same dispute.

Indemnity issues

Temporary total disability (TTD)
Temporary partial disability (TPD)
Permanent partial disability (PPD)
Permanent total disability (PTD)
Dependency benefits
Supplementary benefits
Intervenor recovery of indemnity benefits (payor intervenors only)
Other indemnity benefits (specify)
Unspecified indemnity benefits

Medical treatment

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

Other medical services

Modifications to home
Health club membership

Varied medical services
Change of doctor
Intervenor recovery of medical payments (payor intervenors only)
Unspecified hospital services
Unspecified clinic or doctor services
Unspecified ambulatory surgical center services
Unspecified medical services
Other known medical service — nontreatment (specify)

Vocational rehabilitation services

Consultation (whether required)
Vocational rehabilitation eligibility — initial or resumed
Plan content
    Retraining (includes exploration of retraining)
    Other plan content (specify)
Retraining not through plan
Plan termination (continuing eligibility)
Change of QRC
Unpaid bills
Unspecified vocational rehabilitation services
Other rehab service (specify)

Expenses related to medical or vocational rehabilitation services

Ancillary expenses (employee mileage, food, lodging)

Appendix 5

Codable events

The following were "codable" events for the claim-petition disputes. Each event indicated was coded every time it occurred for at least one issue in the dispute (and was linked to those issues to which it related). In addition, any other event deemed important for understanding the resolution process for the issues concerned was coded. Where "detail also coded" is indicated (in parentheses), relevant detail for the event was coded separately for each issue to which the event applied.

Document received

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

Proceeding scheduled

Mediation — DLI
Medical or rehabilitation conference — DLI
Mediation — OAH
Medical or rehabilitation conference — OAH
Discontinuance conference — OAH
Stipulation status conference — OAH
Settlement conference — OAH
Pre-trial — OAH
Hearing — OAH
Other proceeding scheduled (specify)

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

Document issued

Dispute certification decision — DLI (detail also coded—nature of decision)
Notice of certification for hearing — OAH
Letter noting resolution by parties, no further action — DLI
Award on agreement (mediation award) — DLI
Written agreement other than mediation award — DLI
Conference decision-and-order — DLI (detail also coded—prevailing party)
Nonconference decision-and-order — DLI (detail also coded—prevailing party)
Order for consolidation — OAH (detail also coded—type of dispute(s) with which consolidated)
Order for joinder — OAH (detail also coded—requesting party)
Award on stipulation — OAH (detail also coded—nature of resolution)
Partial award on stipulation — OAH (detail also coded—nature of resolution)
Award on agreement — OAH
Conference decision-and-order — OAH (detail also coded—prevailing party)
Order on discontinuance — OAH
Findings-and-order — OAH (detail also coded—prevailing party)
Findings-and-order on discontinuance — OAH
Order to strike — OAH (detail also coded—requesting party)
Order for dismissal — OAH (detail also coded—reason for dismissal)
Temporary order — OAH
Award on stipulation — WCCA (detail also coded—nature of resolution)
Decision — WCCA (detail also coded—prevailing party)
Order for dismissal — WCCA
Decision — Supreme Court (detail also coded—prevailing party)
Notice of intervention status — OAH
Order dismissing insurer from dispute — OAH
Order dismissing intervenor from dispute — OAH
Other document issued (specify)

Other event

Issue resolved by DLI intervention
Issue determined by DLI to need no further action
Issue resolved by parties (no document)
Issue withdrawn
Issue referred from OAH to DLI (detail also coded—reason for referral)
Issue referred from DLI to OAH
Issue referred to DLI Claims Services and Investigations
Issue referred to DLI Vocational Rehabilitation Unit
Agreement referred from DLI to OAH for stipulation
Medical or rehabilitation request rejected by DLI (detail also coded—reason for rejection)
Employee dies or goes to jail
Employee gets out of jail
Other event (specify)

Appendix 6

Alternative versions of the statistical analyses in Figures 3.3-A and 3.3-B

This appendix presents different versions of the statistical analyses in shown in Figures 3.3-A and 3.3-B (pp. 24-27, text on pp. 18-19). Those analyses estimate the effects of the presence of different benefits at issue and of intervenors on the likelihood of the dispute following different resolution paths (Figure 3.3-A) or having different outcomes (Figure 3.3-B). The analyses presented here differ from those in Figures 3.3-A and 3.3-B in that the presence of intervenors is excluded as an explanatory variable, so that the presence or absence of intervenors is not statistically controlled (or "held constant") as in Figures 3.3-A and 3.3-B. The reason is that, temporarily leaving aside the estimation model, some of the actual effects of the benefit-at-issue variables in Figures 3.3-A and 3.3-B on the dispute paths and outcomes occur by affecting the likelihood of intervenors being present. When intervenors are included as an explanatory variable, as in Figures 3.3-A and 3.3-B, their effects are statistically controlled (or "held constant"), and so the estimated effects of the benefit-at-issue variables are limited to those effects that do not occur by affecting the likelihood of intervenors being present. When intervenors are excluded, as in the figures presented here, the estimated effects of the benefit-at-issue variables include those effects that occur by affecting the likelihood of intervenors being present. The benefit-at-issue variables are thus allowed, in other words, to exert their full effects on the dispute paths and outcomes in the figures presented here.

Figure 3.3-A (alternative version)

Estimated effects of selected benefits at issue on likelihood of different major dispute paths with intervenors excluded as an explanatory variable [1]

		Permanent total disability benefits			Other indemnity benefits			Surgery not yet provided [4]			Other medical services not yet provided [4]			Medical bills [5]			Vocational rehabilitation benefits		
		Significance level = .01			Not statistically significant [6]			Significance level = .01			Significance level = .01			Significance level = .01			Significance level = .01		
	Base estimate	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence
Major dispute path [2]	[3]	No	Yes	[7]	No	Yes	[7]	No	Yes	[7]	No	Yes	[7]	No	Yes	[7]	No	Yes	[7]
	Estimated number of disputes per 1,000 following dispute path																		
Initially certified for hearing	55	50	100	50				53	60	8	50	69	20	65	58	-7	61	47	-14
Initially scheduled for hearing without certification	143	163	82	-82				104	386	282	131	156	26	136	165	29	116	174	58
Initially scheduled for settlement conference																			
Certified for hearing	314	279	449	170				320	312	-8	268	356	88	277	341	64	281	351	70
Not certifiied for hearing	408	411	357	-54				439	197	-242	448	365	-82	396	399	3	441	375	-66
Not certified and not scheduled for settlement conference or hearing	80	96	13	-84				84	45	-39	103	52	-51	127	37	-90	101	53	-49
Total	1,000	1,000	1,000					1,000	1,000		1,000	1,000		1,000	1,000		1,000	1,000	
	Estimated number of disputes per 1,000 following dispute path as percentage of base estimate																		
Initially certified for hearing	100%	91%	181%	90%				95%	109%	14%	90%	125%	35%	116%	104%	-12%	109%	84%	-25%
Initially scheduled for hearing without certification	100%	114%	57%	-57%				73%	271%	198%	92%	110%	18%	95%	116%	21%	81%	122%	41%
Initially scheduled for settlement conference																			
Certified for hearing	100%	89%	143%	54%				102%	99%	-2%	85%	113%	28%	88%	108%	20%	89%	112%	22%
Not certifiied for hearing	100%	101%	87%	-13%				108%	48%	-59%	110%	90%	-20%	97%	98%	1%	108%	92%	-16%
Not certified and not scheduled for settlement conference or hearing	100%	121%	16%	-105%				106%	57%	-50%	130%	66%	-64%	159%	47%	-113%	127%	66%	-61%

(Notes on following page.)

Figure 3.3-A (alternative version)

Estimated effects of selected benefits at issue on likelihood of different major dispute paths with intervenors excluded as an explanatory variable [1]

Notes

1. The numbers here are estimates from a statistical model (multinomial logit) that estimates the likelihood of a dispute following each of the five major paths shown given specified characteristics of the dispute. The characteristics employed in this estimation were the presence or absence of benefits at issue in the six categories shown in the column headings. For each benefit at issue indicated by a column heading, the numbers shown are the estimated numbers of disputes per 1,000 following each dispute path when that benefit at issue is part of the dispute versus when it is not, assuming the dispute is average with respect to the other benefits shown (i.e., the likelihoods of the other benefits at issue being present are the same as for the overall sample). Therefore, the estimates can be interpreted as showing what happens to the dispute when a given benefit at issue is changed (present vs. not present), given that the dispute is typical with respect to the other benefits at issue.
2. These are the five major dispute paths shown in Figure 2.1.
3. The "base estimate" is the estimated number of disputes per 1,000 following each major path when these disputes have the average levels of the characteristics modeled (indicated by the column headings). (The "average" level of a characteristic in this case is actually a probability because the characteristic is "yes"/"no".) The base estimate is the reference point for the other estimates. The base estimates are different from the actual numbers of disputes per 1,000 following the five major paths (Figure 2.1); there are two possible reasons for this. First, the model does not perfectly capture all factors affecting the dispute path. Second, the base estimates are derived for 1,000 disputes all of which are average with respect to the characteristics modeled. By contrast, the actual numbers of disputes per 1,000 following each path represent the experience of disputes with widely varying values of these characteristics.
4. These categories refer to services that had not been provided as of the date of the first claim petition.
5. This category refers to bills for medical services already provided as of the date of the first claim petition. For this category, the estimated number of disputes following the "initially certfied for hearing" path is greater than the base estimate both when these services are part of the dispute and when they are not part of the dispute. Also, the estimated number of disputes following the path "initially scheduled for settlement conference but not certified for hearing" is less than the base estimate when these services are part of the dispute and when they are not. Both of these occurrences are counter-intuitive. They occur because the estimated relationship between the presence of different types of benefits at issue and major dispute path does not follow a straight line.
6. Results are only shown for characteristics that are statistically significant at least at the .10 level.
7. Equal to the number of disputes (per 1,000) where the benefit at issue is part of the dispute minus the number where it is not part of the dispute.

Figure 3.3-B (alternative version)

Estimated effects of selected benefits at issue on likelihood of different major dispute outcomes with intervenors excluded as an explanatory variable [1]

		Permanent total disability benefits			Other indemnity benefits			Surgery not yet provided [4]			Other medical services not yet provided [4,5]			Medical bills [6]			Vocational rehabilitation benefits		
		Significance level = .01			Significance level = .01			Significance level = .01			Significance level = .01			Significance level = .01			Significance level = .01		
	Base estimate	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence	Part of dispute?		Differ-ence
Major dispute outcome [2]	[3]	No	Yes	[7]	No	Yes	[7]	No	Yes	[7]	No	Yes	[7]	No	Yes	[7]	No	Yes	[7]
	Estimated number of disputes per 1,000 with outcome																		
Findings-and-order	92	90	106	16	130	89	-41	74	209	135	80	113	33	84	110	26	87	104	17
Award on stipulation after hearing scheduled [8]	439	411	593	182	256	457	201	417	562	145	357	502	145	396	472	75	377	488	111
Other outcome after hearing scheduled [8]	37	40	24	-16	68	34	-33	33	83	50	38	42	4	43	35	-8	35	48	13
Award on stipulation with no hearing scheduled	345	364	238	-127	388	341	-47	382	96	-286	407	290	-117	359	329	-30	389	302	-86
Other outcome with no hearing scheduled	86	95	40	-56	158	79	-80	93	49	-44	119	53	-65	117	55	-63	113	58	-55
Total	1,000	1,000	1,000		1,000	1,000		1,000	1,000		1,000	1,000		1,000	1,000		1,000	1,000	
	Estimated number of disputes per 1,000 with outcome as percentage of base estimate																		
Findings-and-order	100%	98%	115%	17%	141%	97%	-45%	81%	228%	147%	87%	123%	36%	92%	120%	28%	95%	113%	19%
Award on stipulation after hearing scheduled [8]	100%	94%	135%	42%	58%	104%	46%	95%	128%	33%	81%	114%	33%	90%	107%	17%	86%	111%	25%
Other outcome after hearing scheduled [8]	100%	107%	64%	-43%	180%	92%	-89%	89%	222%	134%	102%	113%	11%	115%	93%	-22%	93%	128%	35%
Award on stipulation with no hearing scheduled	100%	105%	69%	-37%	112%	99%	-14%	111%	28%	-83%	118%	84%	-34%	104%	95%	-9%	113%	88%	-25%
Other outcome with no hearing scheduled	100%	110%	46%	-64%	183%	91%	-92%	108%	57%	-51%	137%	61%	-76%	136%	63%	-72%	130%	67%	-63%

(Notes on following page.)

Figure 3.3-B (alternative version)

Estimated effects of selected benefits at issue on likelihood of different major dispute outcomes with intervenors excluded as an explanatory variable [1]

Notes

1. The numbers here are estimates from a statistical model (multinomial logit) that estimates the likelihood of a dispute having each of the five major outcomes shown given specified characteristics of the dispute. The characteristics employed in this estimation were the presence or absence of benefits at issue in the six categories shown in the column headings. For each benefit at issue indicated by a column heading, the numbers shown are the estimated numbers of disputes per 1,000 having each outcome when that benefit at issue is part of the dispute versus when it is not, assuming the dispute is average with respect to the other benefits shown (i.e., the likelihoods of the other benefits at issue being present are the same as for the overall sample). Therefore, the estimates can be interpreted as showing what happens to the dispute when a given benefit at issue is changed (present vs. not present), given that the dispute is typical with respect to the other benefits at issue.
2. These are categories, or combinations of categories, shown in Figure 2.3.
3. The "base estimate" is the estimated number of disputes per 1,000 having each major outcome when these disputes have the average levels of the characteristics modeled (indicated by the column headings). (The "average" level of a characteristic in this case is actually a probability because the characteristic is "yes"/"no".) The base estimate is the reference point for the other estimates. The base estimates are different from the actual numbers of disputes per 1,000 having the five major outcomes (Figure 2.3); there are two possible reasons for this. First, the model does not perfectly capture all factors affecting the dispute outcome. Second, the base estimates are derived for 1,000 disputes all of which are average with respect to the characteristics modeled. By contrast, the actual numbers of disputes per 1,000 having each outcome represent the experience of disputes with widely varying values of these characteristics.
4. These categories refer to services that had not been provided as of the date of the first claim petition.
5. For this category, the estimated number of disputes with the outcome "other outcome after hearing scheduled" is greater than the base estimate both when these services are part of the dispute and when they are not. This is counter-intuitive. It occurs because the estimated relationship between the presence of different types of benefits at issue and major dispute outcome does not follow a straight line.
6. This category refers to bills for medical services already provided as of the date of the first claim petition.
7. Equal to the number of disputes (per 1,000) where the benefit at issue is part of the dispute minus the number where it is not part of the dispute.
8. This category combines the cases where the scheduled hearing is held and not held.