


THE APPEALS PROGRAM


TOPICS TO BE DISCUSSED...

- Lower Authority Appeals (LAA) National Appeals Review (NAR)
 - Lower and Higher Authority Performance
 - 2014 National Appeals Review Results
 - LAA Operations Assessment
- 

**LOWER AUTHORITY APPEALS (LAA)
NATIONAL APPEALS REVIEW (NAR)**



BACKGROUND AND PURPOSE

- Hosted annually by USDOL since mid-90' s
 - To ensure consistent interpretation of criteria and consistent reporting on Lower Authority Appeals Reports
 - Two full weeks in Washington, DC
 - Review a subsample of appeals cases and evaluate Notice of Hearing
- 

TIMELINE OF ACTIVITIES

October 2014 - formed workgroup consisting of Federal staff from national and regional offices, and state appeals experts.

November 3, 2014 - Workgroup activities commenced with state engagement.

November 2014 – March 2015:

- Reviewed and made changes to ET Handbook 382, 3rd Edition.
- Discussed critical fair hearing and due process element evaluation.
- Reviewed and made changes to ETA 9057 (Appeals Score Sheet).
- Discussed training plan and implementation strategy.
- Developed draft of ET Handbook 382, 4th Edition for final review

TIMELINE CONT.

April 2015 – Development of final documents by co-leads


- Summary of all changes
- Final draft of ET Handbook 382, 4th Edition
- Crosswalk of Criterion Changes

May 2015 – Distribution of final documents to regional appeals leads for review.

June 2015 – Review and compile changes recommended by regional offices

July 2015 – Prepare all materials for Departmental Clearance

CHANGES ON THE HORIZON...

- The “annual” peer review will become a “triennial” peer review with the next review scheduled in the Summer of 2017.
 - The name of the peer review has changed from Annual Appeals Review to National Appeals Review.
 - A training conference and other regional and/or national technical assistance initiatives will be held during the other two years of the triennial cycle.
 - There will be eight (8) critical fair hearing and due process elements instead of five (5).
 - Clarity in several of the criterion in ET Handbook 382.
- 

WHAT SHOULD YOU EXPECT...

- A training and employment notice (TEN) providing an update on all re-engineering activities
- An invite to an appeals training webinar that will announce and discuss each of the changes.
- A one or two quarter piloting period with an opportunity to provide feedback.
- Full implementation of ET Handbook, 4th edition by the Summer of 2016.

QUESTIONS?



LOWER AND HIGHER AUTHORITY PERFORMANCE



ACCEPTABLE LEVEL OF PERFORMANCE (ALP)

- ▶ The quarterly and national reviews measure whether a state's lower authority appellate process is fair to all interested parties. The ALP is that 80% of cases reviewed should have a quality score of 85% or higher.
- ▶ Time Lapse measures capture how timely a hearing is held and decision rendered. The time lapse Acceptable Level of Performance (ALP) is 60% of completed cases within 30 days and 80% of completed cases within 45 days.
- ▶ Case Aging measures are, on average, cases still waiting (in days) for a hearing and a written decision. The pending cases ALP for Lower Authority Appeals is 30 days – meaning cases should not be pending for more than 30 days. The pending cases ALP for Higher Authority is 40 days – meaning cases should not be pending for more than 40 days.

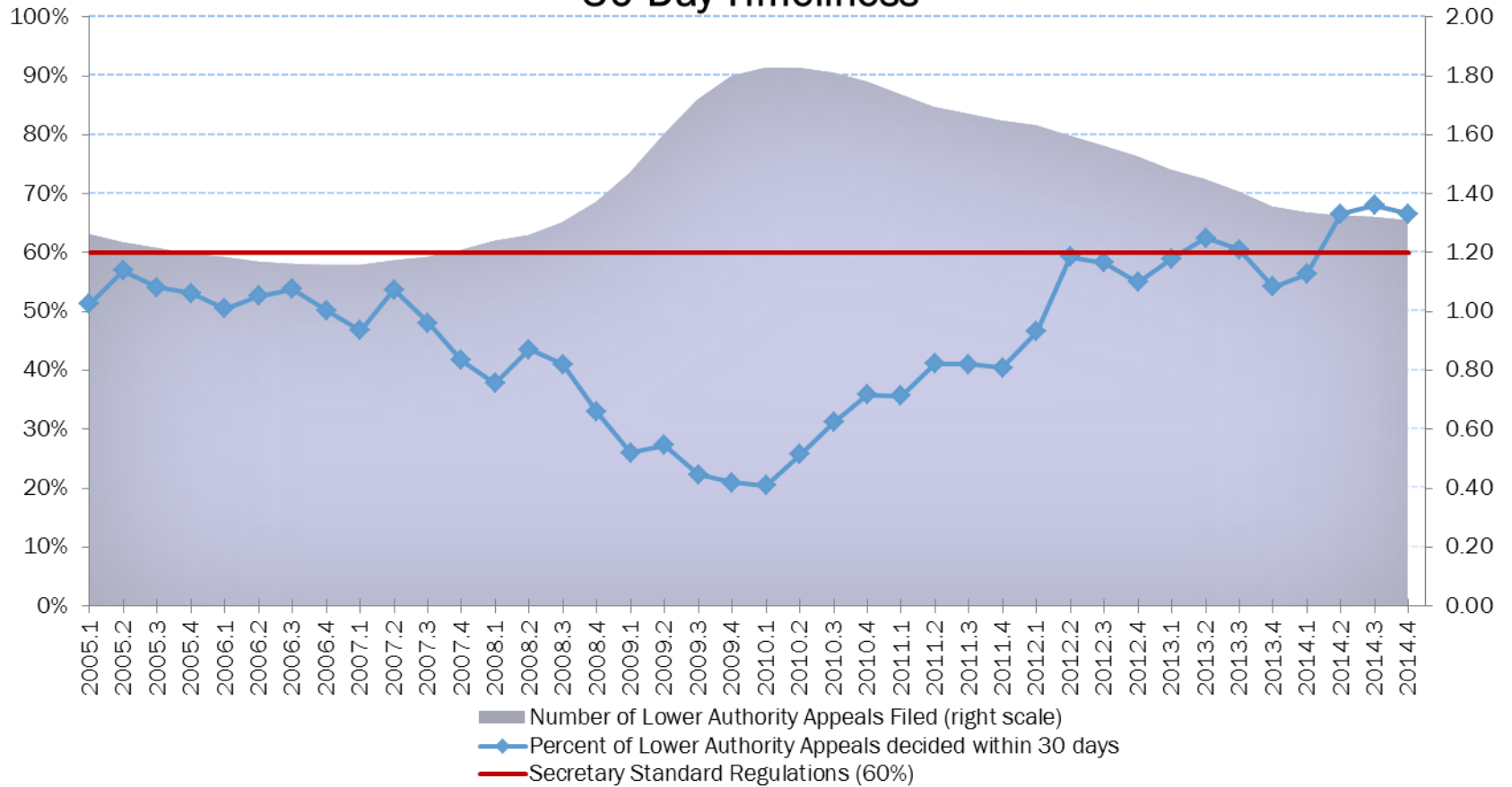
Measurement promotes consistent quality and identifies potential processes, procedures, or policy improvements.

LOWER AUTHORITY APPEALS (LAA)

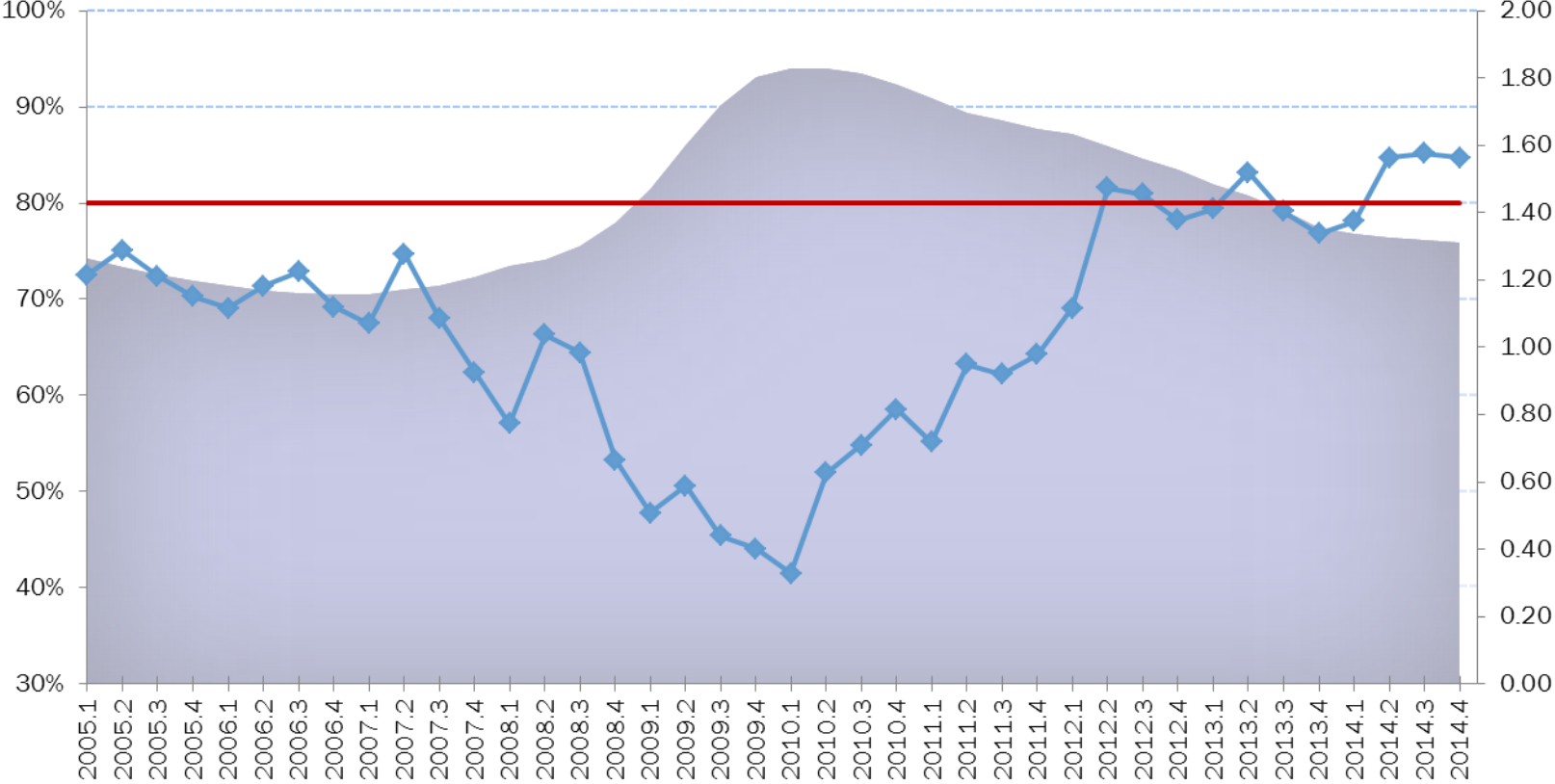
The 'fair hearing' provision in section 303(a)(3) of the Social Security Act requires a reasonable opportunity for workers whose claims are denied to be heard by an impartial tribunal in an adjudicatory proceeding which assures them of elementary fairness.

The 'methods of administration' provision in section 303(a)(1) requires that procedures for appeals and hearings be reasonably calculated to pay benefits promptly when due.

Lower Authority Appeals 30-Day Timeliness

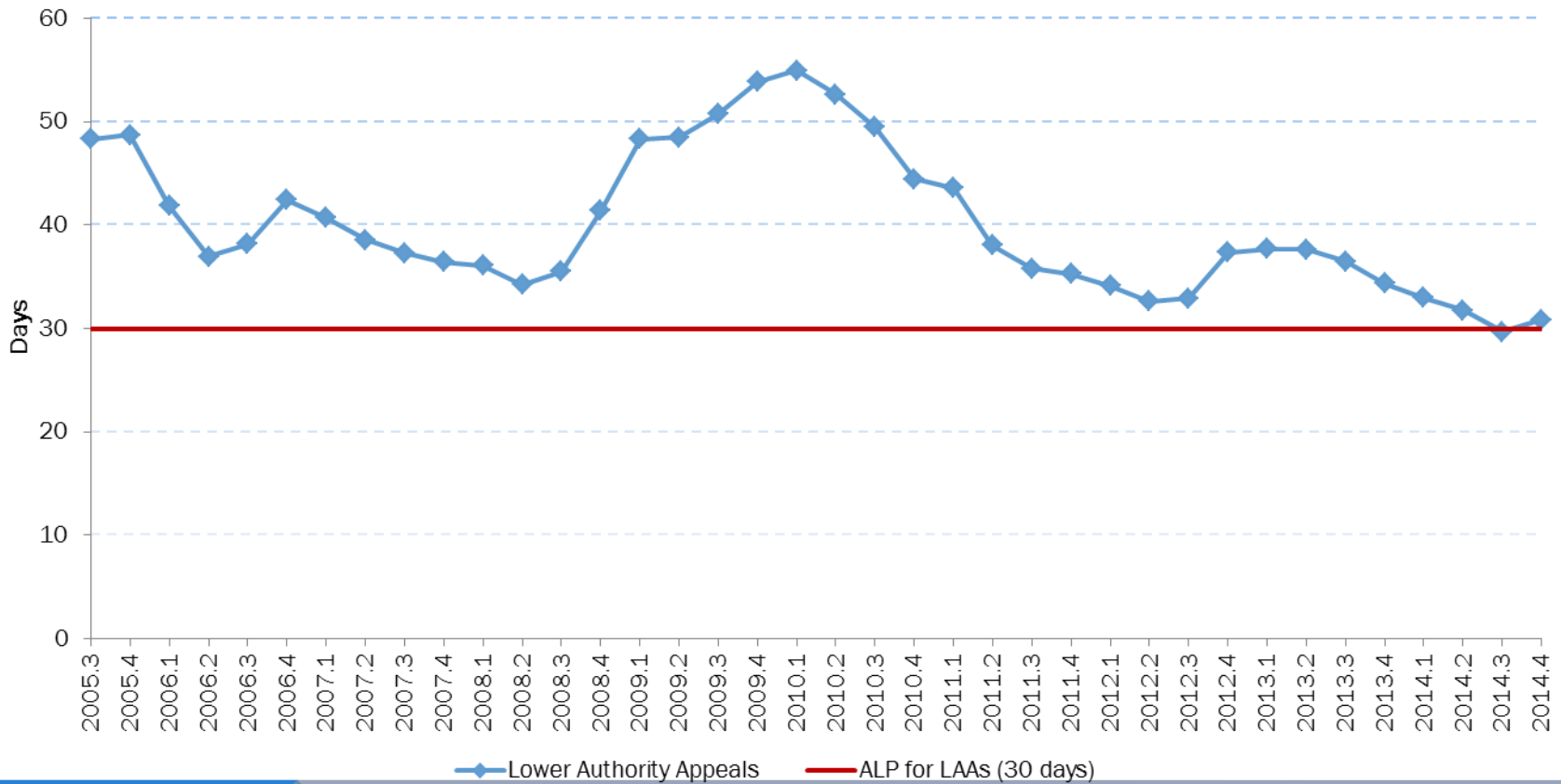


Lower Authority Appeals 45-Day Timeliness

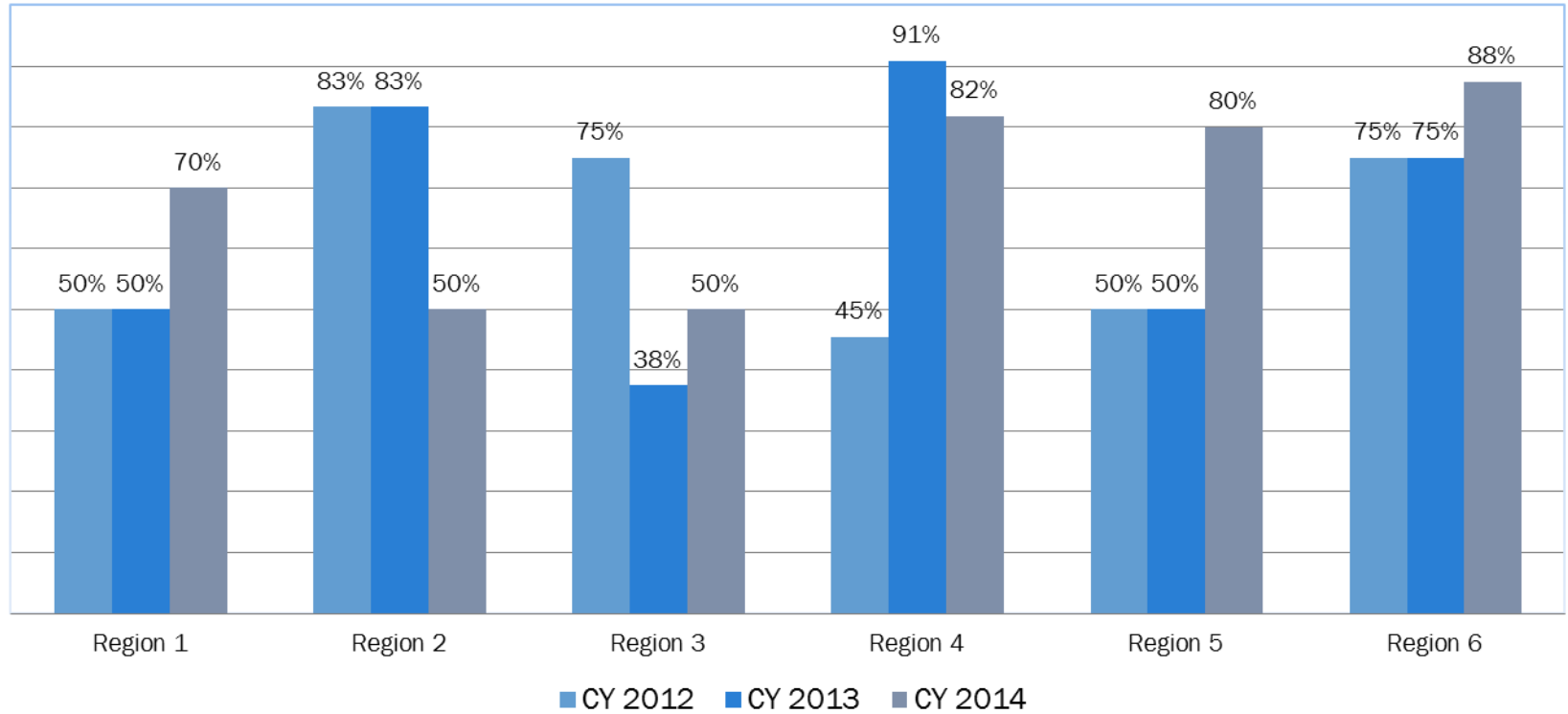


- Number of Lower Authority Appeals Filed (right scale)
- ◆ Percent of Lower Authority Appeals decided within 45 days
- Secretary Standard Regulations (80%)

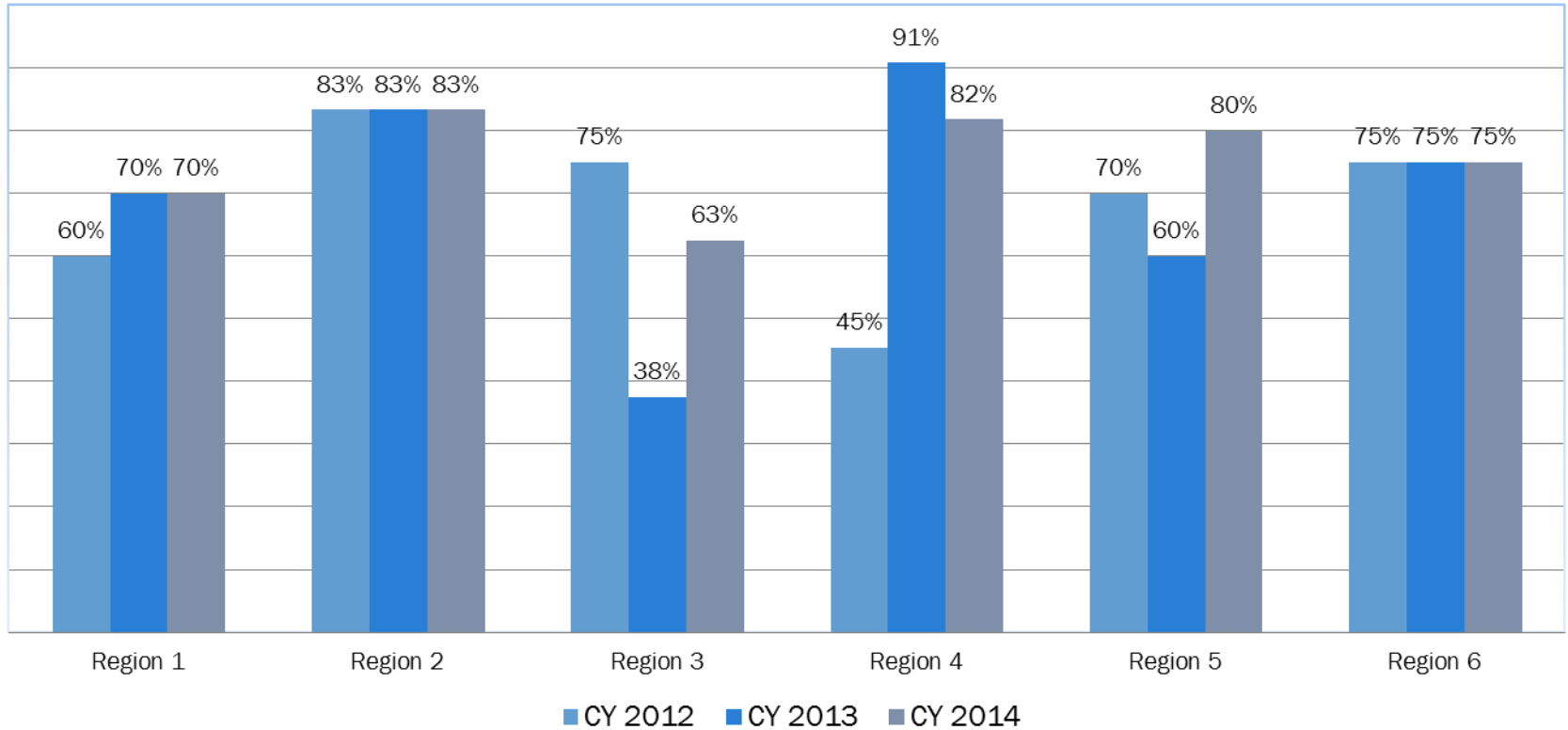
Average Age of Pending Appeals Lower Authority Appeals



Lower Authority Appeals % States meet the 30-day Timelapse Measure (60%)

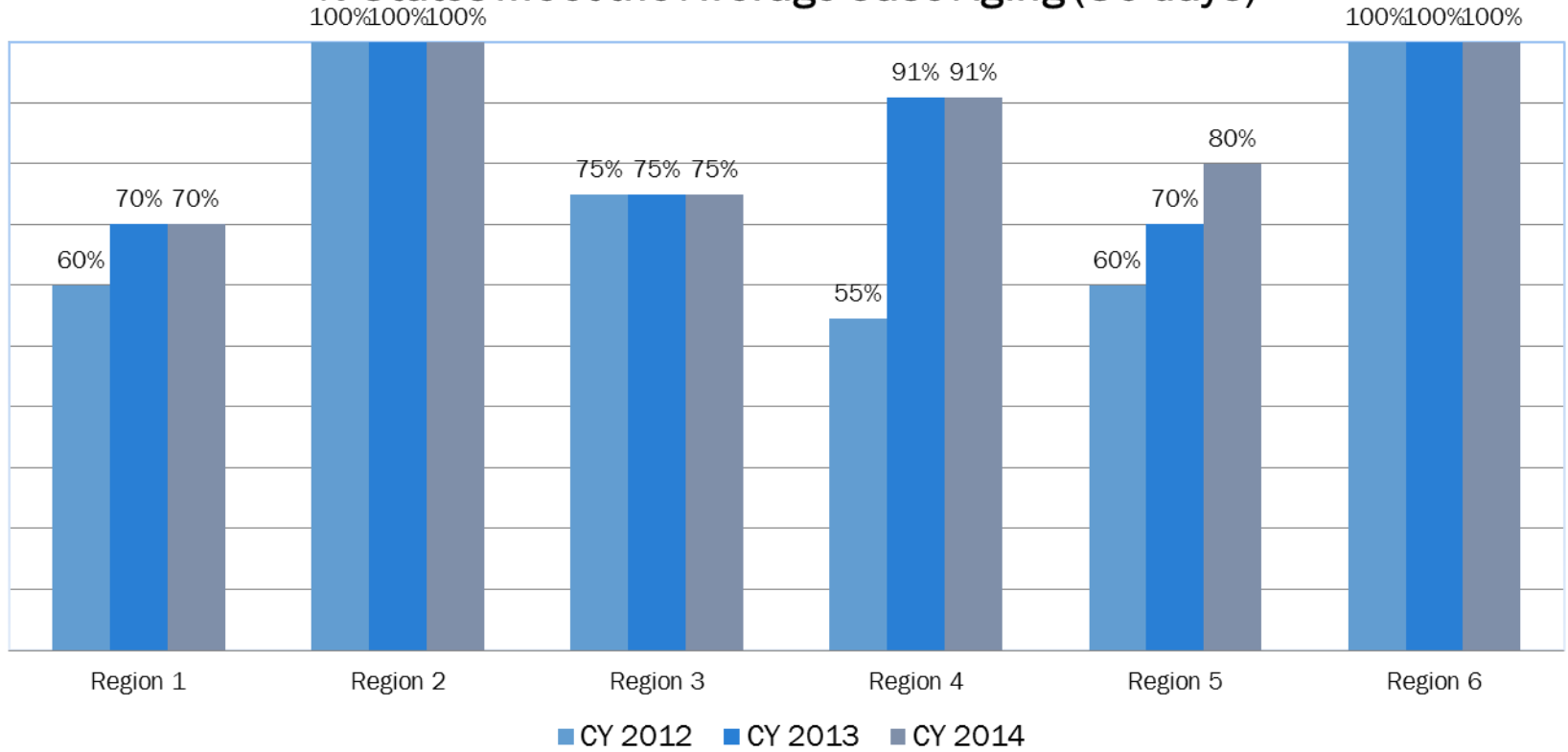


Lower Authority Appeals % States meet the 45-day Timelapse (80%)

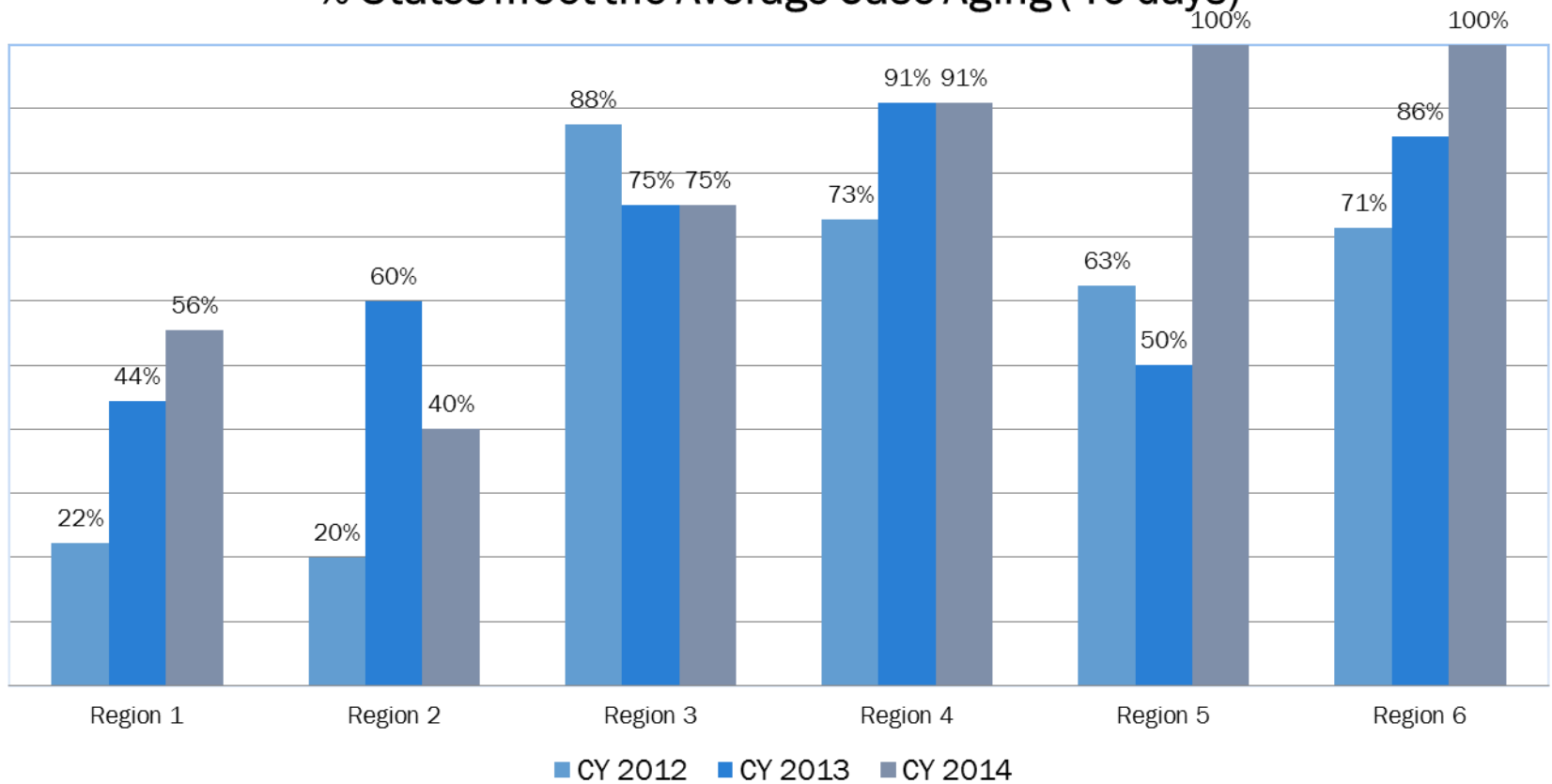


Lower Authority Appeals

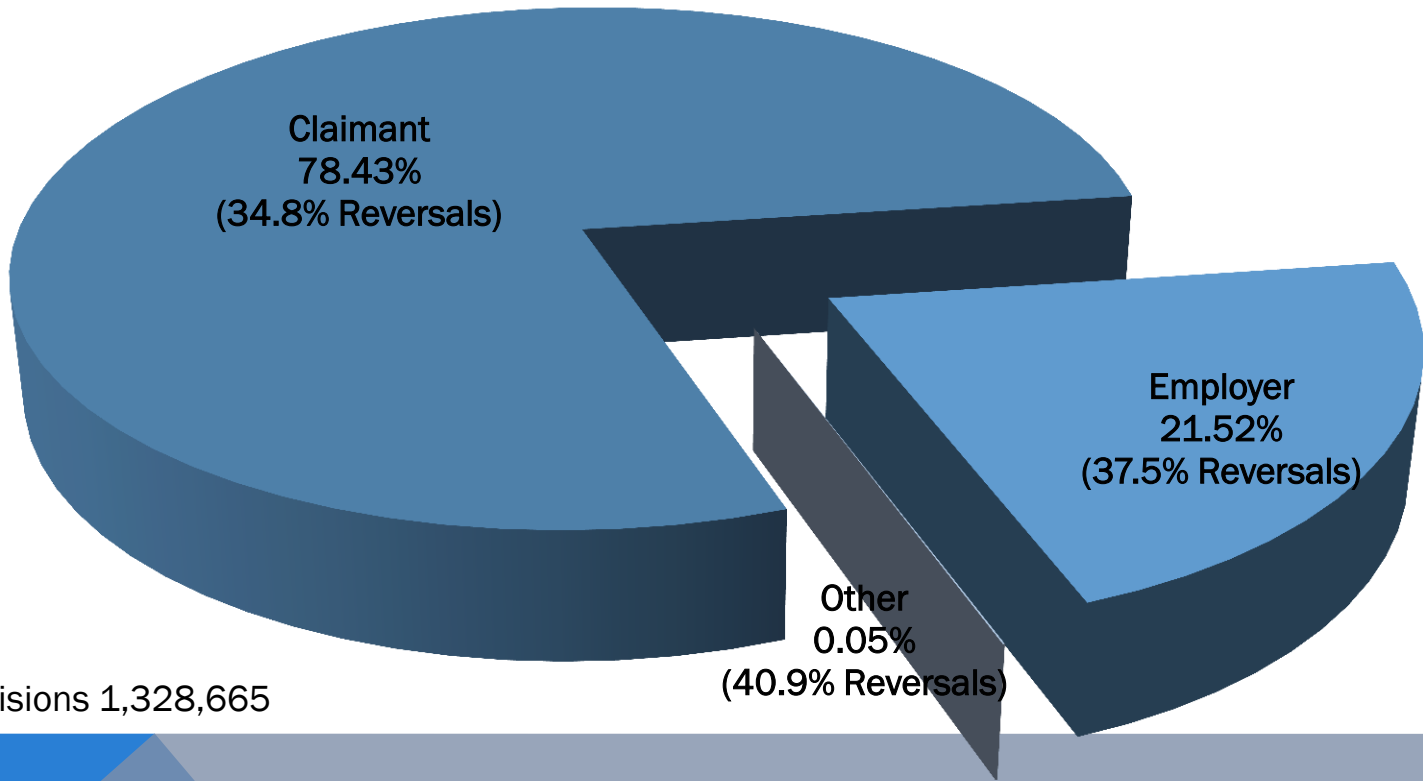
% States meet the Average Case Aging (30 days)



Higher Authority Appeals % States meet the Average Case Aging (40 days)

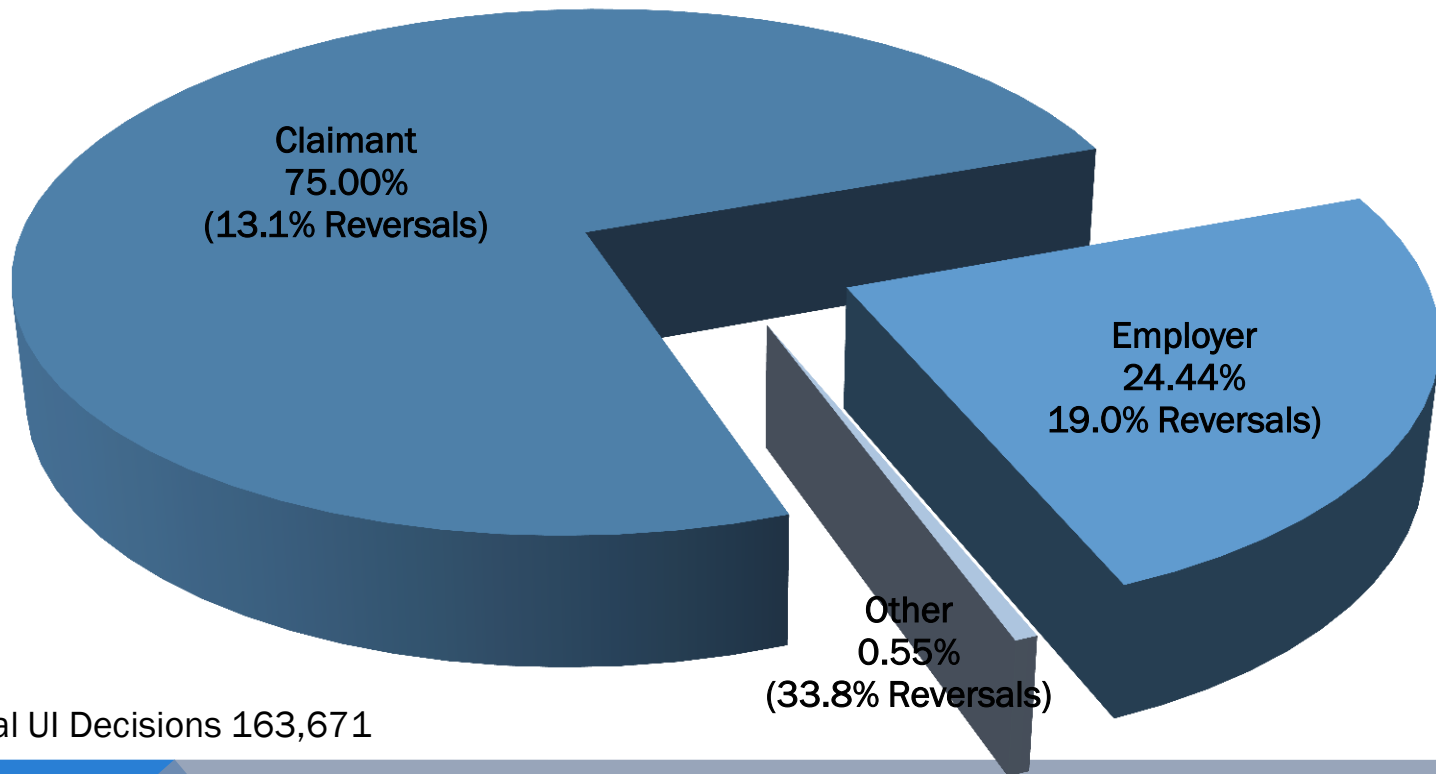


UI Lower Authority Appeals Decisions by Type of Appellant CY 2014



Total UI Decisions 1,328,665

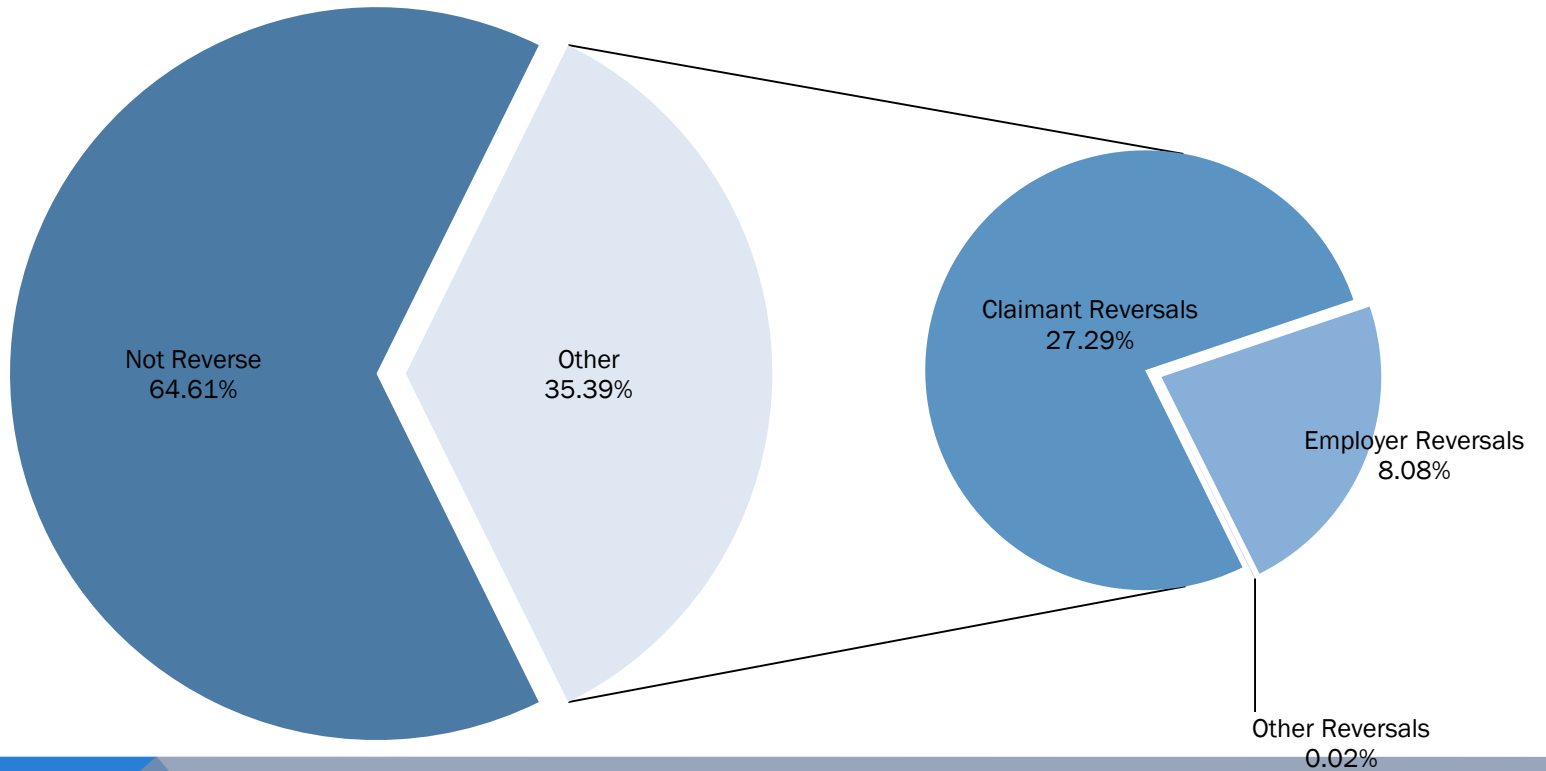
UI Higher Authority Appeals Decisions by Type of Appellant CY 2014



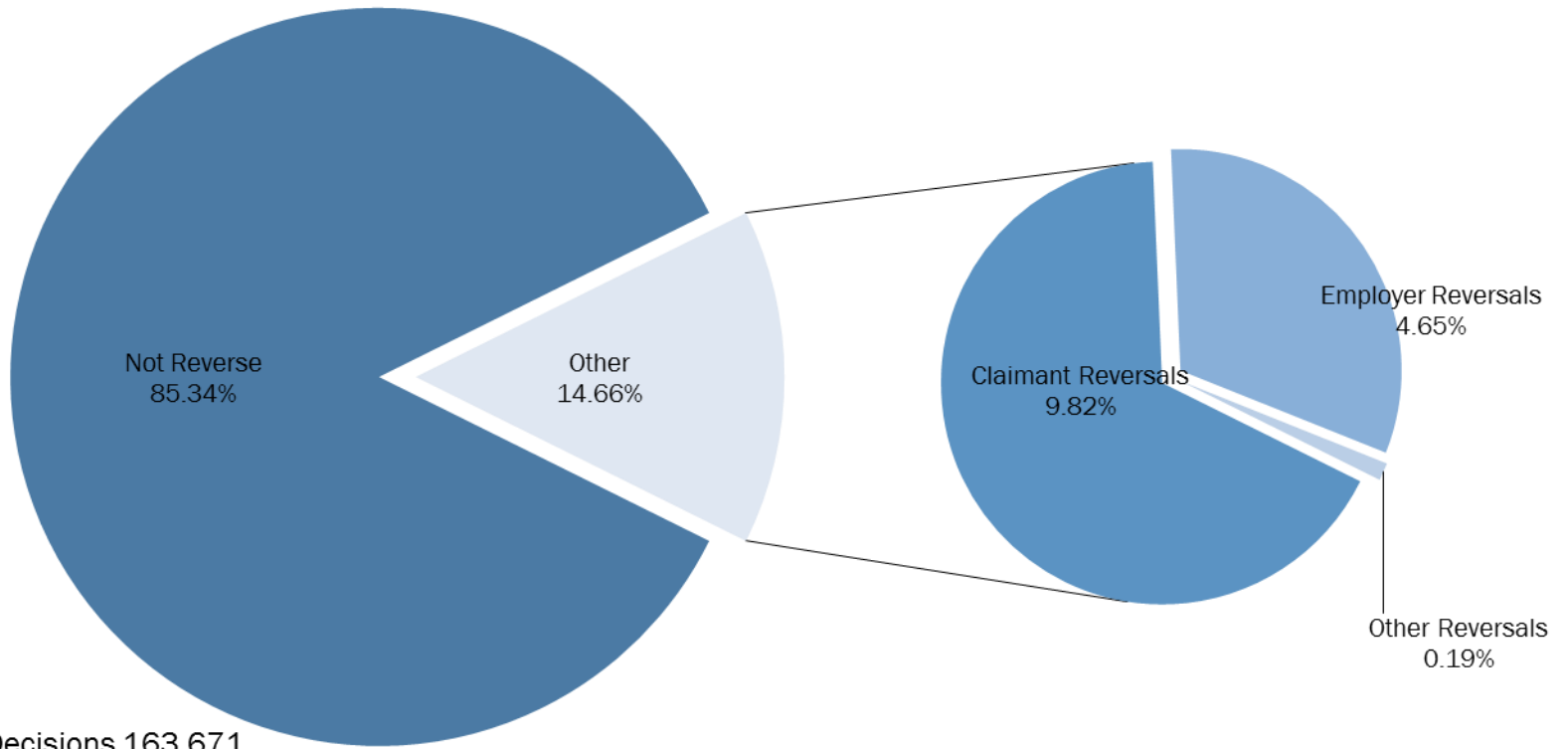
Total UI Decisions 163,671

All UI Lower Authority Appeals Decisions Reversals CY 2014

Total UI Decisions 1,328,665



All UI Higher Authority Appeals Decisions Reversals CY 2014




QUESTIONS?



2014 ANNUAL APPEALS REVIEW



2014 ANNUAL APPEALS SUMMARY

- 17 states participated in the review (AR, CA, CO, HI, ID, KY, MD, MI, MN, MI, MO, OH, OK, SC, TN, WA, WI)
 - 11 large states were: FL, MD, NY, CA, GA, IL, AZ, NC, TX, WA, PA
 - 610 of 630 cases were reviewed
 - 20 cases were not scored because of missing recordings, missing documents, incorrect sample submissions, etc.
- 

REGION 1: BOSTON

State	State and Review Team Comparison				Review Team Score			Criteria Breakdown		
	Number of Cases Scored	Average State Score	Average Review Team Score	Difference Between State and Review Team	Cases Scored Below 85%	Cases Scored Between 85 and 89%	Cases Scored 90% or >	Criteria with 3 or > or 5 or > Fair and Unsatisfactory Scores	Number of Criteria Scored Fair	Number of Criteria Scored Unsatisfactory
Connecticut	10	93	89	4	1	5	4	5	17	8
Maine	10	92	92	0	1	3	6	5	13	9
Massachusetts	10	92	88	4	1	5	4	6	12	12
New Hampshire	9	96	96	0	0	1	8	1	6	4
New Jersey	10	94	93	1	1	2	7	6	12	4
New York	20	95	94	1	0	3	17	4	18	8
Puerto Rico	8	96	96	0	1	0	7	1	8	3
Rhode Island	10	94	89	5	1	1	8	3	15	11
Vermont	10	92	90	2	3	2	5	5	13	6

REGION 2: PHILADELPHIA

State	State and Review Team Comparison				Review Team Score			Criteria Breakdown		
	Number of Cases Scored	Average State Score	Average Review Team Score	Difference Between State and Review Team	Cases Scored Below 85%	Cases Scored Between 85 and 89%	Cases Scored 90% or >	Criteria with 3 or > or 5 or > Unsatisfactory Scores	Number of Criteria Scored Fair	Number of Criteria Scored Unsatfactor y
Delaware	10	99	96	3	0	1	9	3	11	2
District of Columbia	9	99	92	7	1	0	8	2	13	11
Maryland	20	91	93	2	3	1	16	2	15	9
Pennsylvania	20	97	94	3	0	4	16	3	16	6
Virginia	10	97	90	7	2	1	7	5	15	6
West Virginia	10	98	93	5	0	1	9	3	11	3

REGION 3: ATLANTA

State	State and Review Team Comparison				Review Team Score			Criteria Breakdown		
	Number of Cases Scored	Average State Score	Average Review Team Score	Difference Between State and Review Team	Cases Scored Below 85%	Cases Scored Between 85 and 89%	Cases Scored 90% or >	Criteria with 3 or > or 5 or > Unsatisfactory Scores	Number of Criteria Scored Fair	Number of Criteria Scored Unsatisfactory
Alabama	10	92	91	1	1	1	8	4	9	10
Florida	20	95	93	2	2	1	17	7	17	7
Georgia	20	95	93	2	2	3	15	4	18	10
Kentucky	10	99	95	4	0	2	8	2	6	2
Mississippi	10	93	92	1	1	1	8	1	12	5
North Carolina	18	96	93	3	0	4	14	3	17	5
South Carolina	7	99	96	3	0	1	6	0	7	2
Tennessee	10	97	92	5	1	2	7	5	10	9

REGION 4: DALLAS

State	State and Review Team Comparison				Review Team Score			Criteria Breakdown		
	Number of Cases Scored	Average State Score	Average Review Team Score	Difference Between State and Review Team	Cases Scored Below 85%	Cases Scored Between 85 and 89%	Cases Scored 90% or >	Criteria with 3 or > or 5 or > Fair and Unsatisfactory Scores	Number of Criteria Scored Fair	Number of Criteria Scored Unsatisfactory
Arkansas	9	92	91	1	1	1	7	3	9	6
Colorado	10	94	95	1	0	0	10	3	10	5
Louisiana	8	95	91	4	1	2	5	3	10	6
Montana	10	96	96	0	0	0	10	3	8	3
New Mexico	10	97	94	3	0	1	9	2	5	5
North Dakota	10	99	94	5	1	1	8	2	13	1
Oklahoma	10	95	96	1	1	0	9	0	10	5
South Dakota	10	97	99	2	0	0	10	0	4	0
Texas	19	92	92	0	2	4	13	4	20	8
Utah	9	97	96	1	0	0	9	0	4	6
Wyoming	10	98	96	2	0	0	9	1	6	2

REGION 5: CHICAGO

State	State and Review Team Comparison				Review Team Score			Criteria Breakdown		
	Number of Cases Scored	Average State Score	Average Review Team Score	Difference Between State and Review Team	Cases Scored Below 85%	Cases Scored Between 85 and 89%	Cases Scored 90% or >	Criteria with 3 or > or 5 or > Fair and Unsatisfactory Scores	Number of Criteria Scored Fair	Number of Criteria Scored Unsatisfactory
Illinois	20	95	91	4	3	4	13	6	17	10
Indiana	10	97	92	5	0	3	7	4	15	5
Iowa	10	97	96	1	0	0	10	3	9	0
Kansas	10	89	89	0	3	1	6	3	17	7
Michigan	10	94	89	5	2	2	6	5	15	10
Minnesota	10	96	92	4	1	2	7	6	10	6
Missouri	10	96	96	0	0	1	9	1	9	4
Nebraska	10	99	94	5	1	0	9	2	12	4
Ohio	10	97	93	4	0	2	8	3	9	6
Wisconsin	10	94	93	1	0	2	8	5	14	4

REGION 6: SAN FRANCISCO

State	State and Review Team Comparison				Review Team Score			Criteria Breakdown		
	Number of Cases Scored	Average State Score	Average Review Team Score	Difference Between State and Review Team	Cases Scored Below 85%	Cases Scored Between 85 and 89%	Cases Scored 90% or >	Criteria with 3 or > or 5 or > Fair and Unsatisfactory Scores	Number of Criteria Scored Fair	Number of Criteria Scored Unsatisfactory
Alaska	9	96	95	1	1	0	8	1	7	6
Arizona	19	97	95	2	0	2	17	3	16	7
California	20	88	88	0	7	3	10	6	19	10
Hawaii	10	96	94	2	0	3	7	3	12	4
Idaho	10	95	96	1	0	0	10	1	12	2
Nevada	10	89	91	2	1	2	7	5	19	2
Oregon	10	95	93	2	0	2	8	2	10	4
Washington	16	92	92	0	1	1	14	4	15	11

TOP TEN CRITERIA DEFICIENCIES

1. **Criteria 2: Opening Statement (218)**
2. **Criteria 13: Leading Questions (162)**
3. **Criteria 1: Pre-hearing/Pre-testimony explanation (126)**
4. **Criteria 3: Exhibits (117)**
5. **Criteria 18: Closing the Hearing (93)**
6. **Criteria 26: Findings of Fact (87)**
7. **Criteria 14: Control of Interruptions (86)**
8. **Criteria 28: Logical Reasoning (75)**
9. **Criteria 12: Repetitive Irrelevant Testimony (74)**
10. **Criteria 11: Cross-examination (69)**
10. **Criteria 30: Decision States Legal Effect (69)**

QUESTIONS?



LOWER AUTHORITY APPEALS (LAA) OPERATIONS ASSESSMENT

USDOL' S RESPONSIBILITY

Program Oversight (*Proper and efficient administration*)

- Ensure parties are afforded an opportunity to a fair hearing, before an impartial tribunal
- Ensure hearing process and procedures are *simple, speedy and inexpensive*.
- Monitor state performance and reporting
- Provide technical assistance


Social Security Act, Section 303(a)(1)

- “...reasonably calculated to insure full payment of unemployment compensation when due...”

THE NEED FOR AN ASSESSMENT...

- Ongoing technical assistance and training are key strategies to ensure federal oversight is accomplished
- The number of states not meeting LAA acceptable levels of performance (timeliness and case aging) is growing
- Information on how technology can improve procedures and practices for the entire appeals process
 - Filing the appeal
 - Scheduling the hearing
 - Conducting the hearing
 - Rendering the decision
 - Interfacing with benefit system and Second Level Appeals


PURPOSE OF LAA OPERATIONS ASSESSMENT

- Provide a national profile of the status of LAA with emphasis on business processes and technical challenges
 - Review technologies available and processes in use by non-UI appeals agencies to identify those technology and processes potentially beneficial to improve UI LAA
 - Assess best practices and lessons learned from state practices and non-UI appeals practices
- 


METHODOLOGY

- Six-week process involving the Office of Unemployment Insurance (OUI), the National Association of State Workforce Agencies (NASWA) and Mathematica Policy Research.
- 30-question survey
- Distribution of survey to all 50 states, DC and Puerto Rico.
- 30-minute structured interview with nine (9) states
- Interviews with non-UI appeals entities:
 - Private Health Insurer
 - Federal agency
 - State worker's compensation board

DELIVERABLES FROM ASSESSMENT

- 44-page report summarizing appeals operations
 - Database of the results
 - Profile of each state to provide a snapshot of the appeals operation and business processes.
- 


HIGHLIGHTS

- 54 percent of states utilize same system as the benefits and tax units; 46 percent have developed separate and distinct systems (roughly half the nation still separate)
 - Most states allow a variety of ways for the claimant to file an appeal.
 - Use of automated scheduling tools is still not widely used (38 states do not use)
 - Approximately 75% of all hearings are held via telephone.
 - 32 states currently use some case management software to assist LAA administration averaging 7 years of age
- 


HIGHLIGHTS CONT.

- 36 states have some kind of a document retrieval system to track and store electronic documents that have been imaged.
- 23 states have both Case Management Software and Document Retrieval Systems
- All states digitally record their hearings
- 37 LAA states hold hearings on non-UI appeals (Worker' s Comp, Wage and Hour, Agency Personnel, etc.)
- Panel system considered to be effective:
 - Michigan – specialized hearing officers
 - Oregon - hearing officers hear ALL cases

FINDINGS

- Economic downturn resulted in the loss of Hearing Officers (attorneys) to the private sector.
 - IT systems are outdated and inflexible with upgrades being too costly.
 - The lack of support staff has resulted in the inability for Hearing Officers to maintain their case loads which has caused backlogs and challenges in meeting performance measures.
- 

TECHNICAL ASSISTANCE IDEAS

- Targeted online training or virtual institute.
 - Make additional funds available via Supplemental Funding Opportunities and specify that funds be used for appeals automation, training or enhancement to appeals business process only.
 - Develop a strategy by which a team of staff from other states can assist with backlogs when needed.
 - Facilitate communication between UI Director, Benefits Chief/Supervisor and Appeals Chief
- 

QUESTIONS?



CONTACT INFORMATION:

COREY PITTS

202-693-3357

PITTS.COREY@DOL.GOV