

Income Benefit Disputes in the Texas Workers' Compensation System 2003–2013

July 2014



Texas Department of Insurance

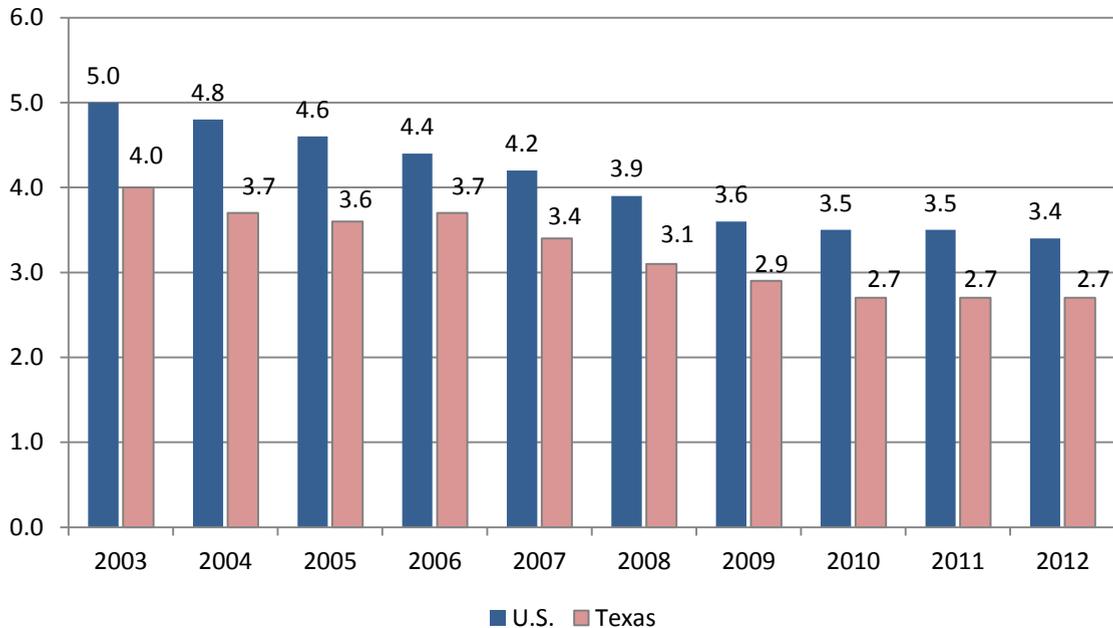
Workers' Compensation Research and Evaluation Group

Introduction and Background

Key system indicators decreasing

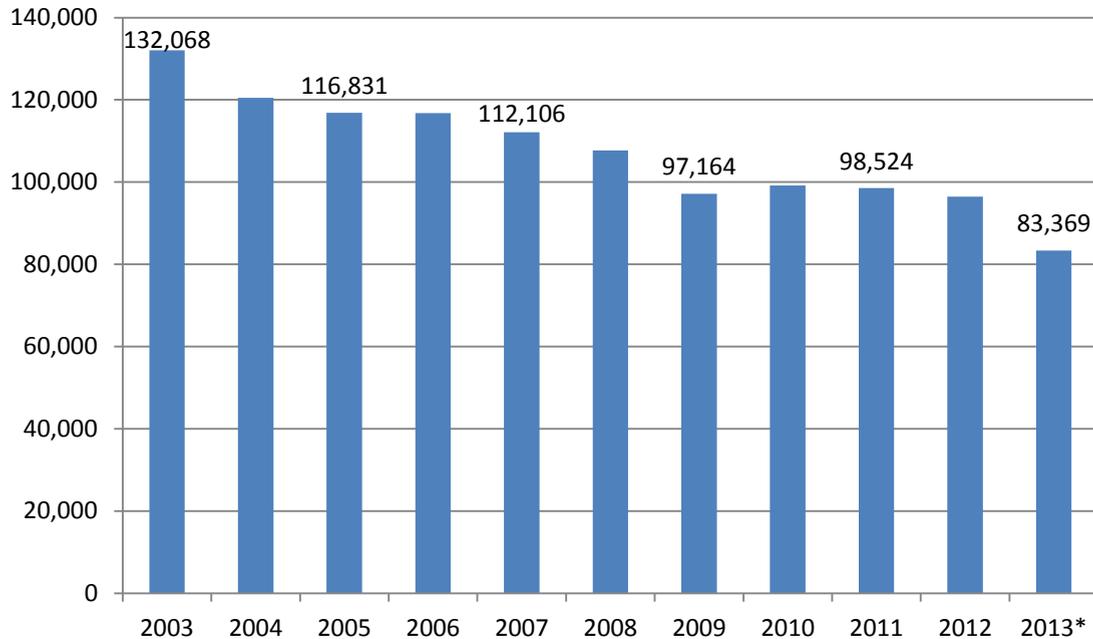
- The injury rate and the number of claims reported down 33 percent since 2003.
- The number of initial whole-claim denials/disputes down 43 percent since 2005.
- The number of medical disputes fell 70 percent from 2003 to 2013.
- The number of claims with DWC indemnity dispute proceedings at the lowest level since 2008.

Occupational Injury and Illness Rates per 100 Full-time Employees



Source: Texas Department of Insurance, Division of Workers' Compensation and U.S. Department of Labor, Bureau of Labor Statistics, *Annual Survey of Occupational Injuries and Illnesses*, 2014.

Number of Claims Reported by Injury Year



Note*: Workers' compensation claims are reported to DWC if there is a fatality, an occupational disease or an injury involving more than 1 day of lost time. The number of claims reported per calendar year is expected to increase over time as injured employees with medical only claims begin to lose time away from work.

Source: Texas Department of Insurance, Division of Workers' Compensation, and Workers' Compensation Research and Evaluation Group, 2014, data through March 2014.



Reportable Claims Initially Denied/Disputed by Insurance Carriers (Whole Claim Initial Denials/Disputes)

Injury Year	Number of PLN1 Denials Reported to DWC*	Number of Reportable Claims	Denials as a Percentage of Reportable Claims
2005	18,296	116,831	15.7%
2006	16,898	116,738	14.5%
2007	16,390	112,106	14.6%
2008	14,994	107,727	13.9%
2009	12,040	97,164	12.4%
2010	11,110	99,171	11.2%
2011	11,110	98,524	11.3%
2012	10,962	96,430	11.4%
2013	10,513	83,369**	12.6%

Note *: A PLN1 is a Notice of Denial of Compensability/Liability and Refusal to Pay Benefits. These numbers do not reflect denied and disputed claims that were subsequently approved after the parties exchanged additional documentation or approved as a result of dispute resolution.

Note **: The number of claims reported per calendar year is expected to increase over time as injured employees with medical only claims begin to lose time away from work.

Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Medical Disputes Submitted to TDI

by Type of Medical Dispute

Year Dispute Received	Pre-authorization	Fee Disputes	Retrospective Medical Necessity Disputes	Total Number of Disputes
2003	11%	70%	19%	17,433
2004	13%	60%	27%	14,291
2005	13%	68%	19%	13,257
2006	16%	70%	14%	9,706
2007	27%	72%	1%	8,810
2008	22%	75%	3%	12,244
2009	24%	74%	2%	12,293
2010	41%	58%	1%	7,596
2011	35%	63%	2%	7,795
2012	35%	64%	1%	7,939
2013	27%	72%	1%	5,068

Note: These numbers reflect the # of requests for an Independent Review Organization review of medical necessity disputes as well as the number of requests for medical fee dispute resolution.

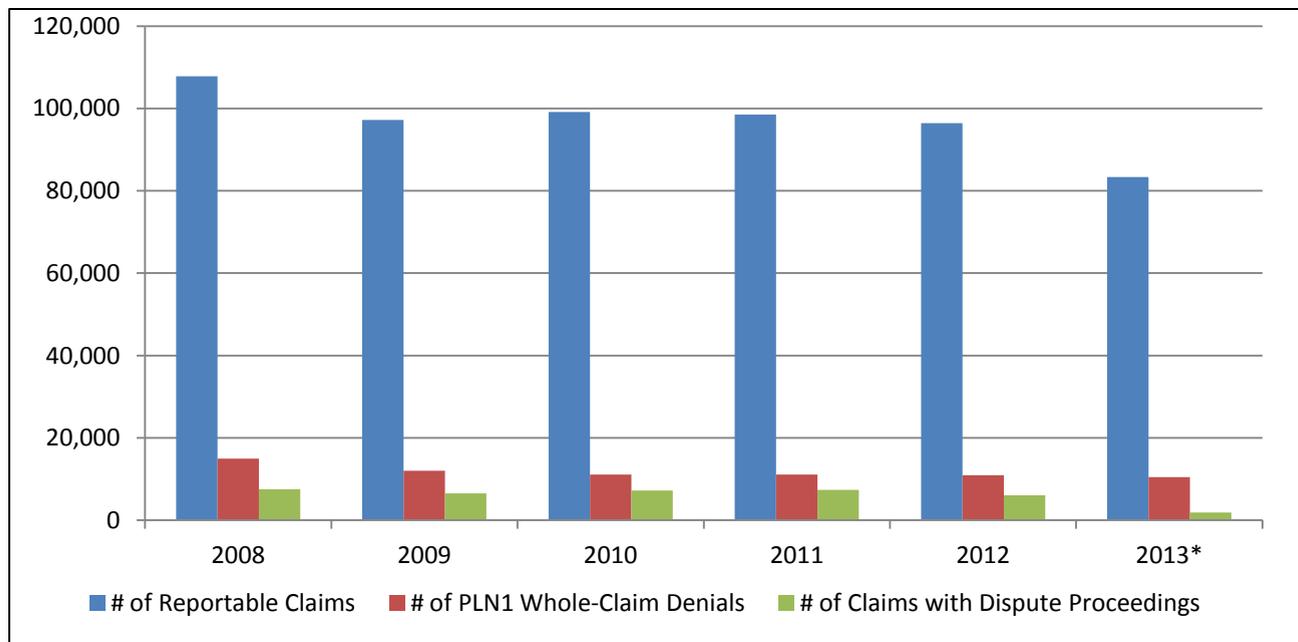
Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Claims with DWC Indemnity Dispute Proceedings by Injury Year

Calendar Year of Injury	Total Number of Claims	Number of Claims with Dispute Proceeding	Percent of Claims with a Dispute Proceeding
2008	107,779	7,511	7%
2009	97,164	6,553	7%
2010	99,171	7,240	7%
2011	98,524	7,416	8%
2012	96,430	6,044	6%
2013	83,369	1,914	2%*

Note *: The percentage of claims with a dispute proceeding may continue to increase as issues arise on more recent injury claims.
Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, 2014, data through December 2013.

Claims with Denials and Dispute Proceedings by Injury Year



Note*: The number of claims with a dispute proceeding may increase as issues arise on more recent injury claims, or decrease as disputed issues may be subsequently approved after the dispute proceedings.

Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, 2014, data through December 2013.

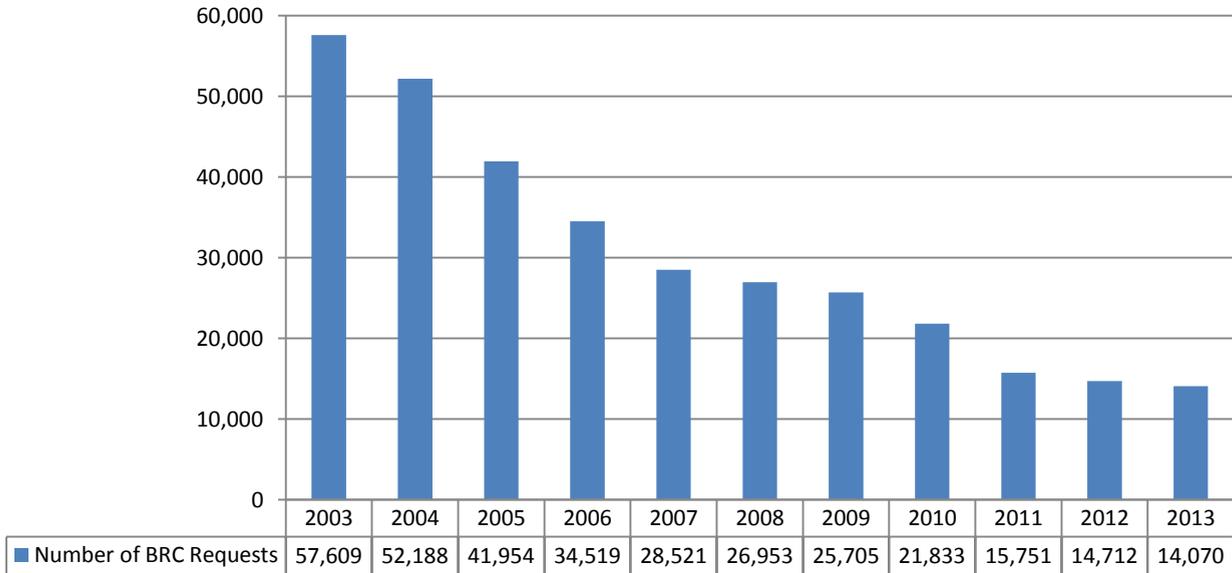
Benefit Review Conferences (BRCs)

On a decreasing trend, with exceptions in 2011 and 2012*

- The number of BRC requests fell by 76% from 2003 to 2013.
- The number of concluded BRCs in 2013 is approximately 48% lower than in 2003, even after increases in 2011 and 2012.

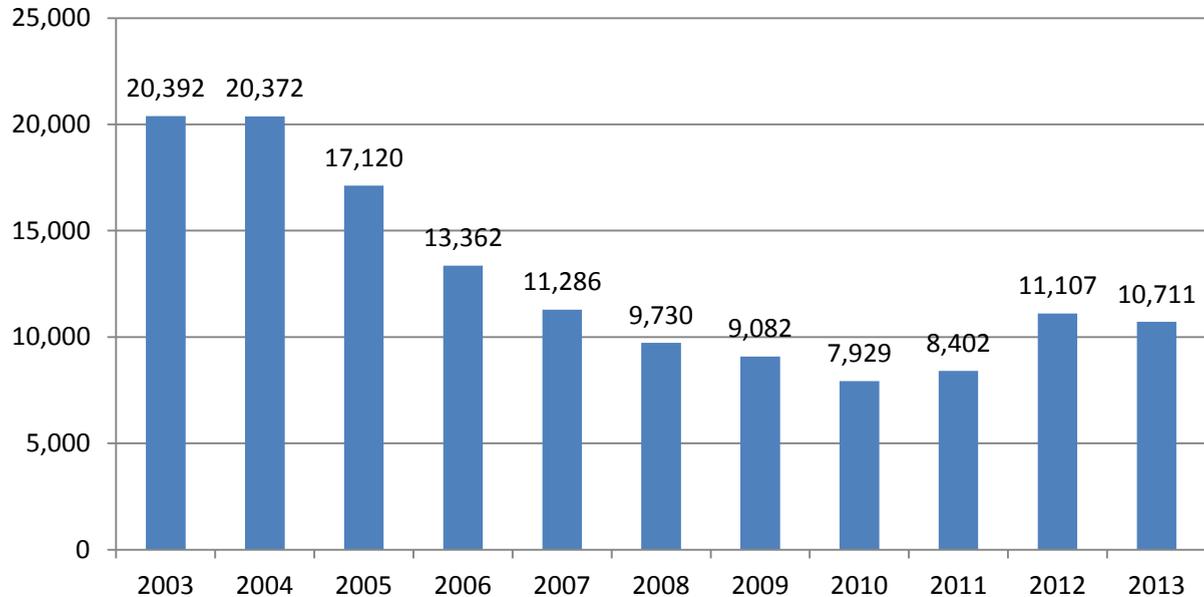
*: The Division of Workers' Compensation implemented new BRC rules in 2011, which clarified that disputing parties must request a BRC to stop the 90-day finality of the first impairment rating and date of Maximum Medical Improvement (MMI) in accordance with Labor Code, Section 408.123. Also in 2011, HB 2605, 82nd Legislature required "good cause" and deadlines for rescheduling BRCs.

Number of BRC Requests by Injury Year



Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Number of Concluded BRCs by Calendar Year



Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Concluded BRCs by Number of Sessions by Calendar Year

Concluded BRCs	2008		2009		2010		2011		2012		2013	
	Concluded with one session	3,975	41%	3,749	41%	3,133	40%	3,197	38%	3,733	34%	4,068
Concluded with multiple sessions	5,755	59%	5,333	59%	4,796	60%	5,205	62%	7,374	66%	6,643	62%
Total	9,730	100%	9,082	100%	7,929	100%	8,402	100%	11,107	100%	10,711	100%

Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014, data as of March 2014.

Benefit Review Conferences

Requests for BRCs increasing over designated doctors' decisions*

- The share of BRCs over DD decisions rose from 28% in 2008 to 60% in 2012.
- The number of issues per BRC hearing has fluctuated moderately.

*: In accordance with the Texas Workers' Compensation Act, Designated Doctor (DD) decisions have presumptive weight in BRC and CCH proceedings, but the presumptive weight can be overcome by a preponderance of the evidence.

Number of Disputed Issues Raised at BRCs by Fiscal Year

Fiscal Year	Number of Concluded BRCs	Number of Disputed Issues Raised at BRCs	Average Number of Disputed Issues Raised at BRCs
2008	9,730	21,557	2.2
2009	9,082	19,137	2.1
2010	7,929	16,362	2.1
2011	8,402	15,935	1.9
2012	11,107	22,648	2.0
2013	10,711	24,609	2.3

Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014, data as of March 2014.

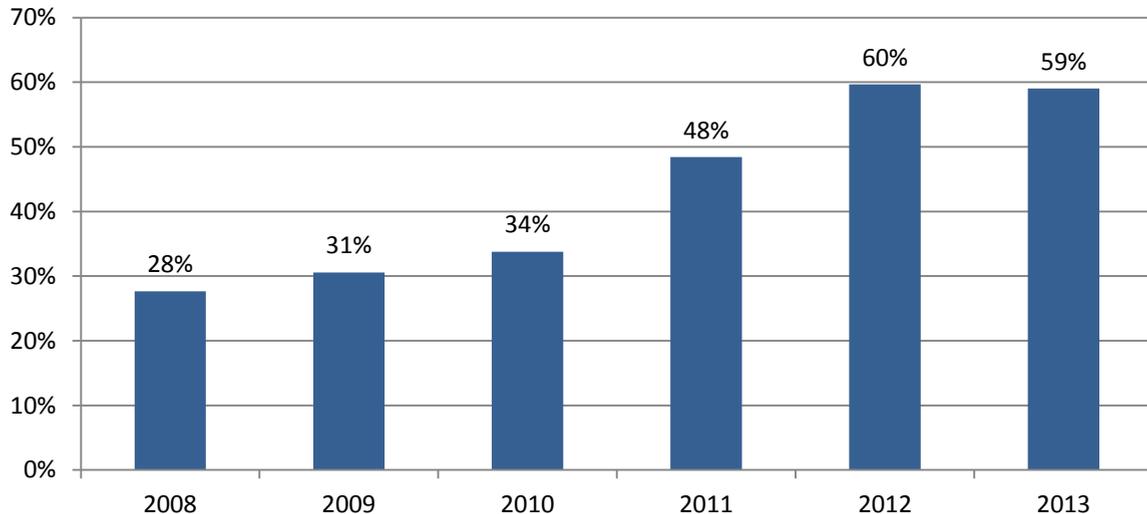
Number of Disputed Issues Raised at BRCs by Issue Type, by Fiscal Year

Fiscal Year	Extent of Injury		Dispute of DD Impairment Rating*		Dispute of DD MMI Date*		Other Issues		Total
	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage	
2008	3,315	15%	1,217	6%	1,425	7%	15,587	72%	21,557
2009	3,430	18%	1,150	6%	1,270	7%	13,276	69%	19,137
2010	3,215	20%	1,095	7%	1,216	7%	10,825	66%	16,362
2011	2,896	18%	2,324	15%	2,493	15%	8,216	52%	15,935
2012	4,133	18%	4,625	20%	4,752	21%	9,138	40%	22,648
2013	4,759	19%	5,083	20%	5,015	20%	9,752	41%	24,609

Note *: In accordance with the Texas Workers' Compensation Act, Designated Doctor (DD) decisions have presumptive weight in BRC and CCH proceedings, but the presumptive weight can be overcome by a preponderance of the evidence.

Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014, data as of March 2014.

Percentage Share of Total BRC Issues: Extent-of-Injury, DD Impairment Rating, and DD MMI Date*



Note *: In accordance with the Texas Workers' Compensation Act, Designated Doctor (DD) decisions have presumptive weight in BRC and CCH proceedings, but the presumptive weight can be overcome by a preponderance of the evidence.

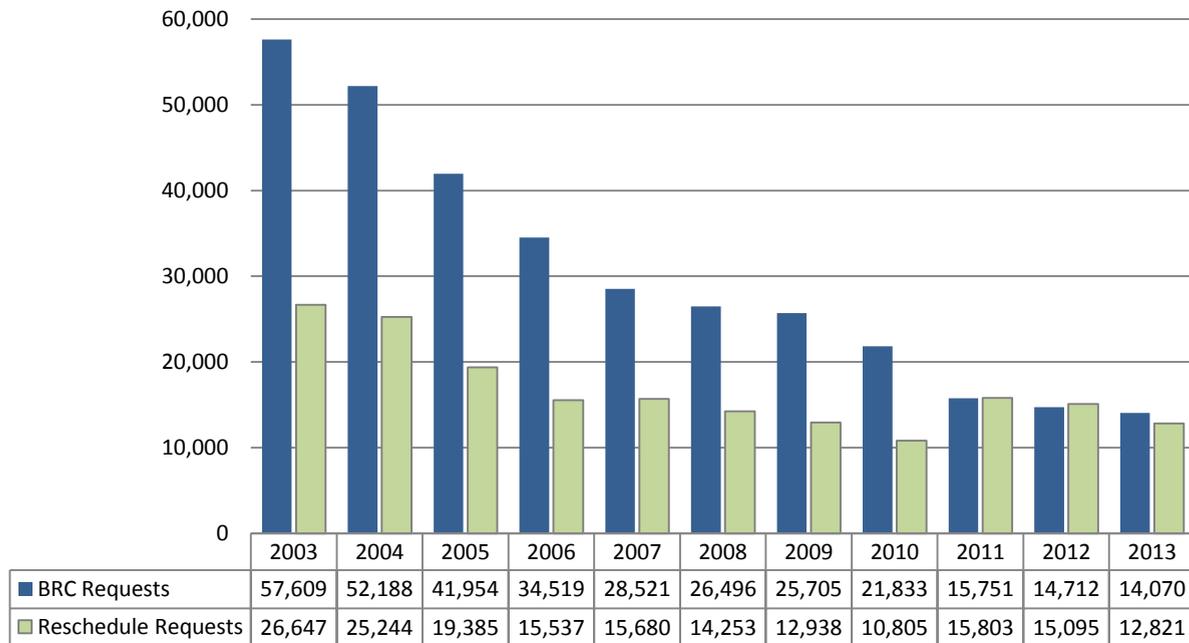
Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Benefit Review Conferences

Requests to reschedule BRCs

- As a percentage of all BRC requests, the share of requests to reschedule BRCs increased significantly in 2011, the year DWC implemented new BRC rules.
- The five most-frequently used reasons to reschedule BRCs comprise 60% of all reschedule reasons.
- The five most-frequently used reasons include needing more time, pertinent information, and medical evidence, as well as scheduling conflicts.
- Claimants and their attorneys account for 70% of all reschedule requests.

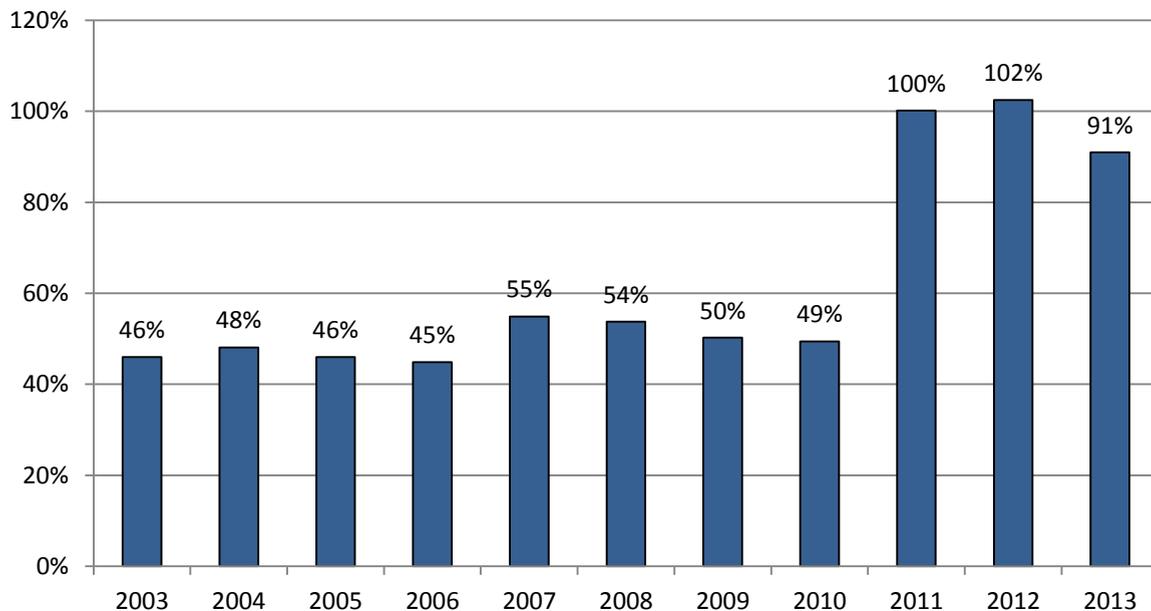
BRC Requests and Reschedule Requests* by Calendar Year



Note*: The five most-frequently used reasons cited for rescheduling BRCs include needing more time, pertinent information, and medical evidence, as well as scheduling conflicts and no-shows.

Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

BRC Reschedule Requests* as a Percentage of Total Number of BRC Requests, by Calendar Year



Note *: The five most-frequently used reasons cited for rescheduling BRCs include needing more time, pertinent information, and medical evidence, as well as scheduling conflicts and no-shows. The percentage exceeded 100% in 2012 because some BRCs had multiple reschedule requests each.

Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Shares of Reasons for Rescheduling BRCs by Request Reasons, by Calendar Year

Requests to Reschedule BRCs	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Required more time to prepare	11%	10%	8%	11%	12%	12%	12%	13%	12%	10%	9%
Scheduling conflict	11%	12%	14%	17%	15%	17%	18%	20%	16%	14%	15%
No show-unknown reason	8%	8%	9%	9%	9%	9%	7%	6%	7%	7%	6%
Pertinent information unavailable	10%	11%	13%	11%	10%	9%	10%	8%	7%	9%	11%
Party will obtain medical to support position	16%	17%	14%	14%	13%	12%	11%	12%	20%	26%	27%
Others	44%	42%	42%	38%	41%	41%	42%	41%	38%	34%	32%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

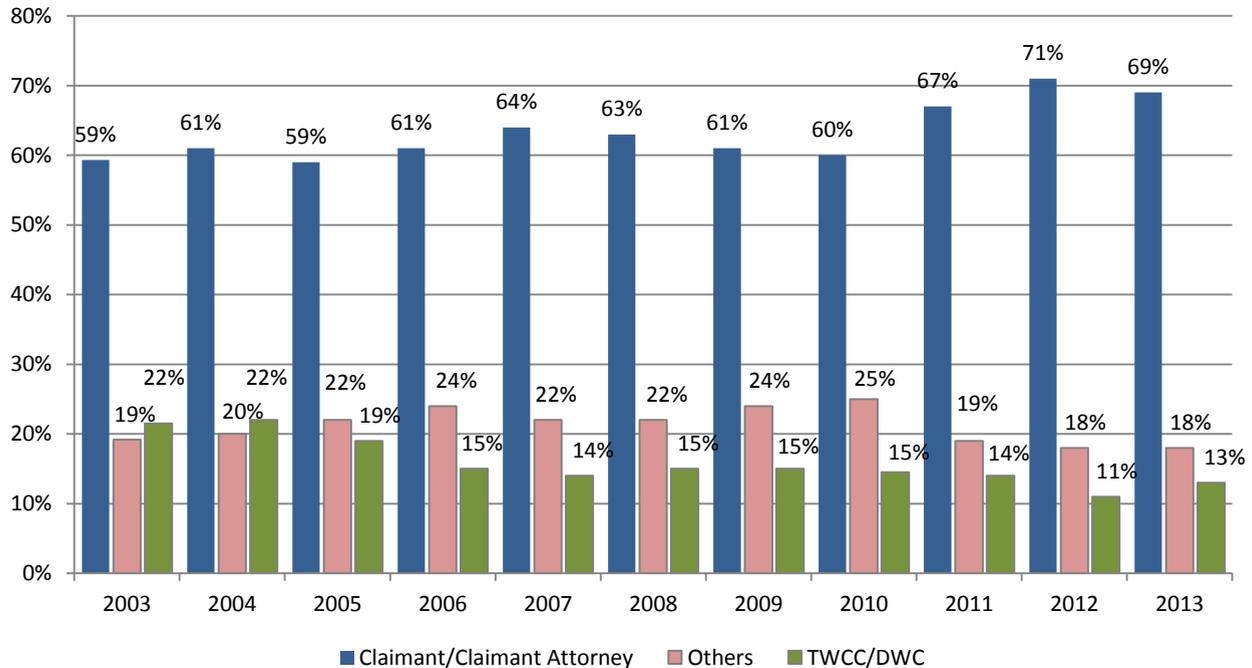
Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Percent Change in the Number of Reason Codes for Rescheduling BRCs, by Calendar Year

Requests to Reschedule BRCs	Number of Requests and Percentage Change from the Previous Year									
	2009		2010		2011		2012		2013	
Required more time to prepare	1,567	-9%	1,412	-10%	1,822	29%	1,457	-20%	1,179	-19%
Scheduling conflict	2,370	-2%	2,115	-11%	2,558	21%	2,152	-16%	1,901	-12%
No show-unknown reason	923	-25%	656	-29%	1,143	74%	1,003	-12%	797	-21%
Pertinent information unavailable	1,222	-5%	842	-31%	1,061	26%	1,375	30%	1,358	-1%
Party will obtain medical to support position	1,407	-20%	1,253	-11%	3,198	155%	3,900	22%	3,456	-11%
Other reason codes	5,449	-7%	4,527	-17%	6,021	33%	5,208	-14%	4,130	-21%
Total	12,938	-9%	10,805	-16%	15,803	46%	15,095	-4%	12,821	-15%

Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Percentage of All Requests to Reschedule BRCs by Requesting Party*, by Calendar Year



Note *: The Office of Injured Employee Counsel (OIEC) may also request to reschedule BRCs, but the data show none were submitted.
 Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Benefit Review Conferences

BRC outcomes and types of injured employee assistance

- Injured employees generally use more attorney representation than ombudsman assistance, but that is changing.

Percentage of BRC Concluded by Assistance Type for the Injured Employee, by Calendar Year

Assistance Type	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Attorney	54%	53%	57%	60%	59%	56%	54%	54%	48%	42%	45%
Ombudsman	38%	41%	39%	36%	35%	37%	38%	40%	46%	46%	43%
None	4%	3%	4%	4%	5%	6%	7%	5%	5%	11%	12%
Others*	4%	3%	1%	1%	1%	1%	1%	1%	<1%	1%	<1%
Total **	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Note *: Rather than attorney representation, ombudsman assistance, or no assistance, an injured employee may choose to have other assistance of their choosing.

Note **: Percentages may not always total 100 percent due to rounding.

Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Percent Resolution for Concluded BRCs, by Calendar year

Calendar Year	Number of Concluded BRCs	Resolved	Not Resolved	Mixed	Total %
2009	9,082	43%	42%	15%	100%
2010	7,929	44%	44%	12%	100%
2011	8,402	36%	52%	12%	100%
2012	11,107	27%	58%	15%	100%
2013	10,711	19%	62%	19%	100%

Note: "Mixed" includes those BRCs where some issues were resolved and some issues were not resolved.

Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Contested Case Hearings (CCH)*

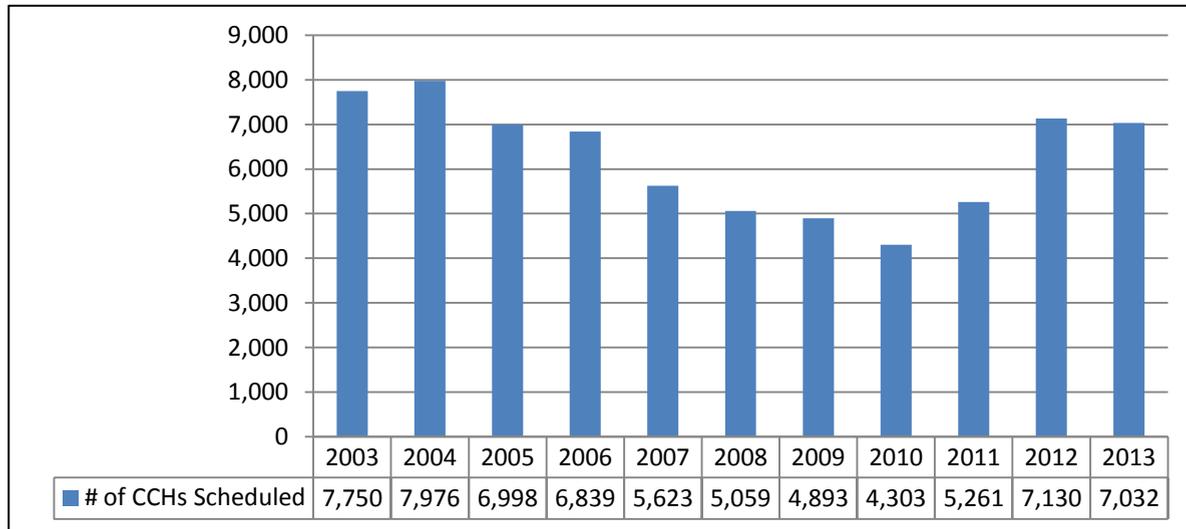
On a decreasing trend until 2011

- The number of scheduled and concluded CCHs fell steadily after 2003, but increased significantly in 2011.**
- The percentage of concluded BRCs that ended in scheduled CCHs increased from 38% in 2003 to 66% in 2013.

*: When a dispute is not resolved at a BRC, a CCH is automatically scheduled if all of the parties do not choose arbitration. A CCH is a formal hearing conducted by a TDI-DWC Hearing Officer who makes a decision about the disputed issue(s) that were not resolved at the BRC.

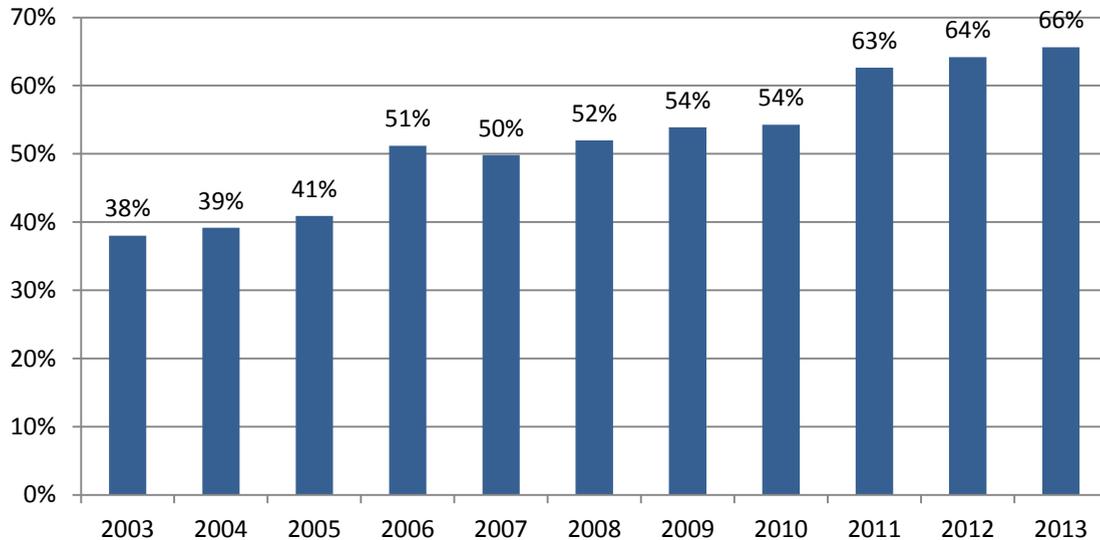
** : The Division of Workers' Compensation implemented new BRC rules in 2011, which clarified that disputing parties must request a BRC to stop the 90-day finality of the first impairment rating and date of Maximum Medical Improvement (MMI) in accordance with Labor Code, Section 408.123. Also in 2011, HB 2605, 82nd Legislature required "good cause" and deadlines for rescheduling BRCs.

Number of CCHs Scheduled by Calendar Year



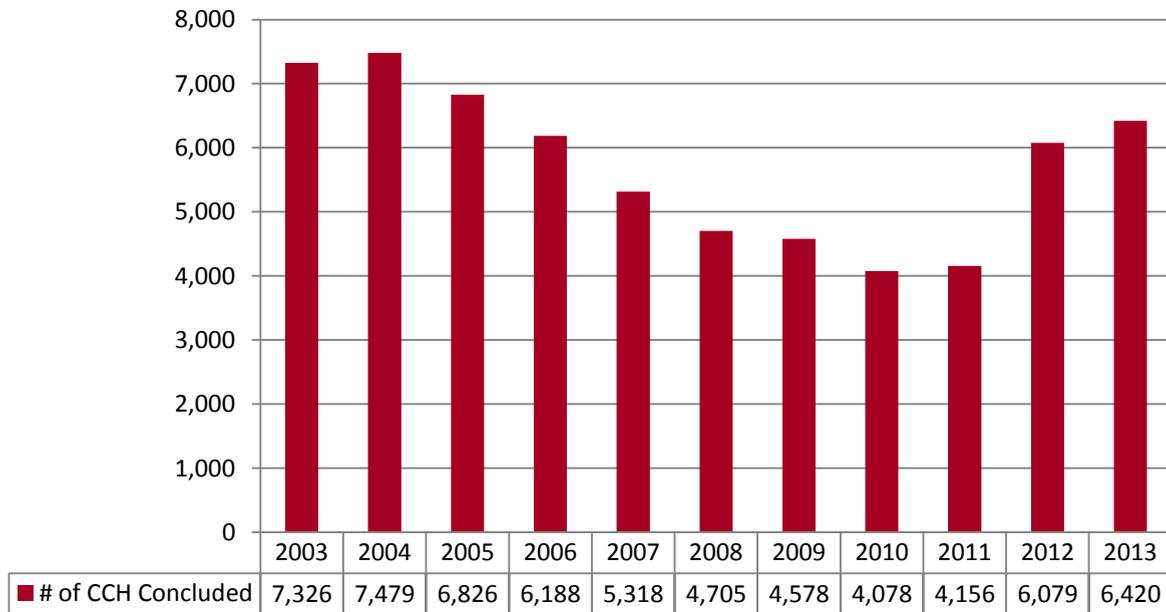
Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Percent of Concluded BRCs That End in a Scheduled CCH, by Calendar Year



Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Number of Concluded CCHs by Calendar Year



Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Number of Concluded CCHs by Number of Sessions by Calendar Year

Concluded Contested Case Hearings	2008		2009		2010		2011		2012		2013	
	Concluded with one session	2,998	66%	2,988	65%	2,770	68%	2,858	69%	4,047	67%	4,316
Concluded with multiple sessions	1,529	34%	1,590	35%	1,308	32%	1,298	31%	2,032	33%	2,104	33%
Total	4,527	100%	4,578	100%	4,078	100%	4,156	100%	6,083	100%	6,420	100%

Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014, data as of March 2014.

Contested Case Hearings

Concluded CCHs increasing over designated doctors' decisions*

- The share of CCHs over DD decisions rose from 25% in 2007 to 59% in 2013.
- The number of issues per CCH hearing has fluctuated moderately.

*: In accordance with the Texas Workers' Compensation Act, Designated Doctor (DD) decisions have presumptive weight in BRC and CCH proceedings, but the presumptive weight can be overcome by a preponderance of the evidence.

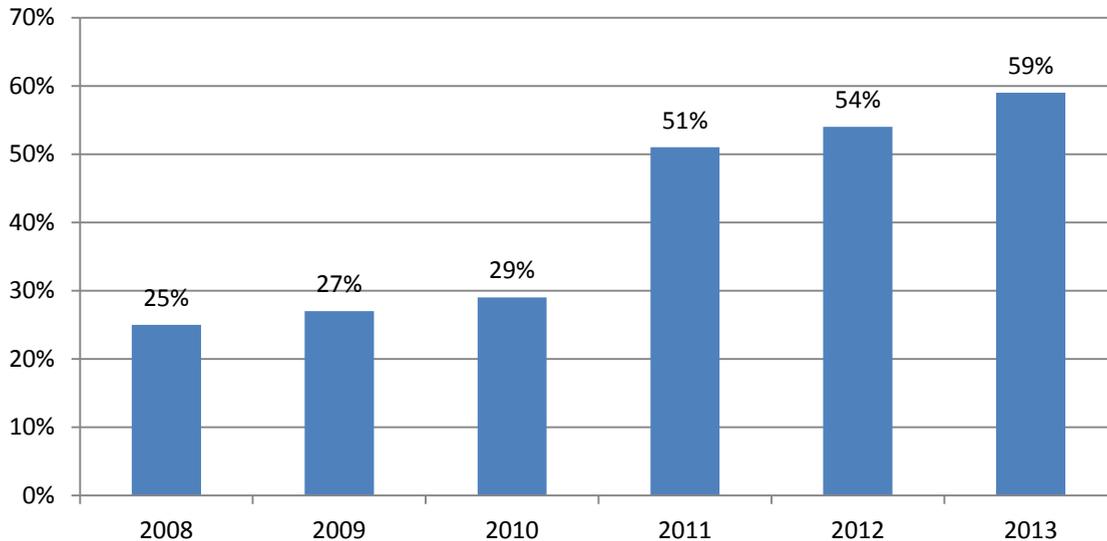
Percent of Disputed Issues Raised at CCHs by Issue Type, by Fiscal Year

Fiscal Year	Extent of Injury	Dispute of DD Impairment Rating*	Dispute of DD MMI Date*	Other Issues	Total
2008	15%	4%	6%	75%	100%
2009	18%	4%	5%	73%	100%
2010	18%	5%	6%	71%	100%
2011	18%	16%	17%	49%	100%
2012	18%	18%	18%	46%	100%
2013	19%	20%	20%	41%	100%

Note *: In accordance with the Texas Workers' Compensation Act, Designated Doctor (DD) decisions have presumptive weight in BRC and CCH proceedings, but the presumptive weight can be overcome by a preponderance of the evidence.

Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Percentage Share of Total CCH Issues: Extent-of-Injury, DD Impairment Rating, and DD MMI Date*



Note *: In accordance with the Texas Workers' Compensation Act, Designated Doctor (DD) decisions have presumptive weight in BRC and CCH proceedings, but the presumptive weight can be overcome by a preponderance of the evidence.

Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

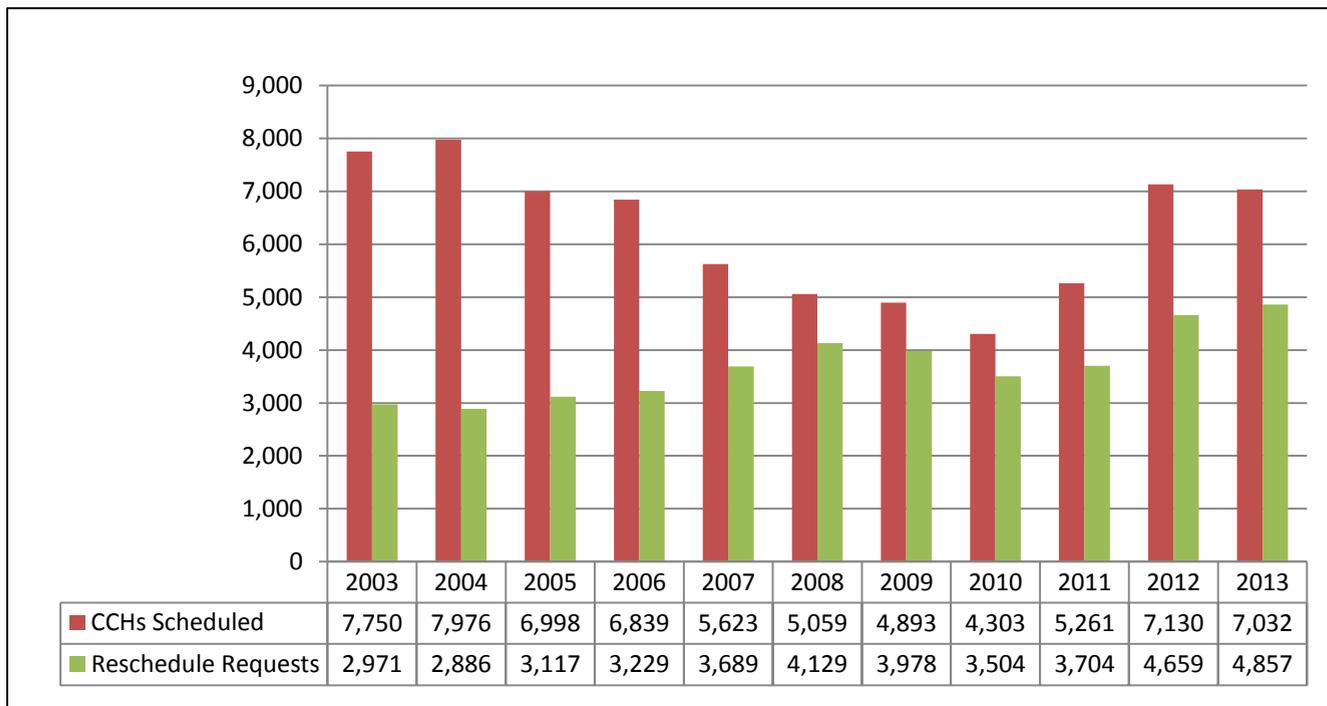
Contested Case Hearings

Requests to reschedule CCHs

- The number of requests to reschedule CCHs increased significantly in 2011 and 2012, after the implementation of new BRC rules*.
- The five most-frequently used reasons to reschedule CCHs include needing more time, scheduling conflict, and illness.
- The five most-frequently used reasons experienced decreasing shares of the total number of all reasons in recent years.
- Claimants and their attorneys account for 70% of all reschedule requests.

*: The Division of Workers' Compensation implemented new BRC rules in 2011, which clarified that disputing parties must request a BRC to stop the 90-day finality of the first impairment rating and date of Maximum Medical Improvement (MMI) in accordance with Labor Code, Section 408.123. Also in 2011, HB 2605, 82nd Legislature required "good cause" and deadlines for rescheduling BRCs.

Number of CCH Requests and Reschedule Requests by Calendar Year



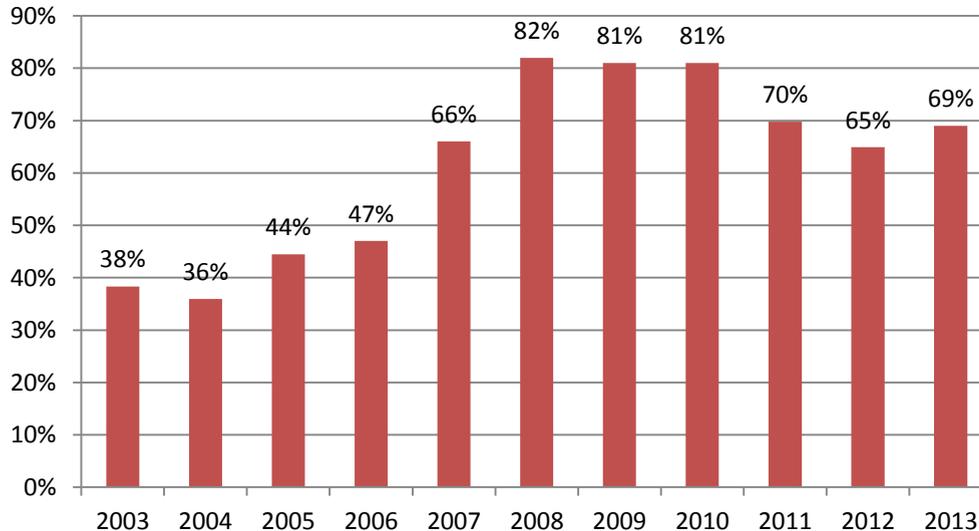
Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Shares of Reasons for Rescheduling CCHs by Reschedule Request Reason, by Calendar Year

Requests to Reschedule CCHs	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Scheduling conflict	22%	22%	23%	22%	21%	19%	21%	24%	22%	20%	18%
Required more time to prepare	10%	9%	10%	12%	11%	13%	14%	19%	17%	10%	10%
Illness of party	8%	7%	7%	6%	6%	5%	6%	6%	7%	7%	6%
Pertinent information unavailable	4%	3%	5%	4%	5%	4%	4%	4%	3%	4%	4%
Others	56%	59%	55%	56%	57%	59%	55%	47%	51%	59%	62%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Requests to Reschedule CCHs as a Percentage of the Total Number of CCH Requests, by Calendar Year



Source: Texas Department of Insurance, Division of Workers' Compensation, System Data Report, and Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2014.

Summary

- Key system indicators decreased significantly since 2003.
- The number of whole-claim denials/disputes down 43 percent since 2005.
- The number of medical disputes fell 70 percent from 2003 to 2013.
- The number of claims with dispute proceedings at the lowest level since 2008.
- The number of BRC requests fell by 76 percent from 2003 to 2013, while CCHs scheduled increased in 2011.
- The number of concluded BRCs in 2013 is approximately 48 percent lower than in 2003, even after substantial increases in 2011 and 2012.*
- The most-frequently used reasons to reschedule BRCs and CCHs include needing more time, pertinent information, and medical evidence, as well as scheduling conflicts.
- Injured employees generally use more attorney representation than ombudsman assistance for both BRCs and CCHs.

*: The Division of Workers' Compensation implemented new BRC rules in 2011, which clarified that disputing parties must request a BRC to stop the 90-day finality of the first impairment rating and date of Maximum Medical Improvement (MMI) in accordance with Labor Code, Section 408.123. Also in 2011, HB 2605, 82nd Legislature required "good cause" and deadlines for rescheduling BRCs.



Texas Department of Insurance
Workers' Compensation Research and Evaluation Group

REG's main Web page at the Texas Department of Insurance:
www.tdi.texas.gov/wc/regulation/roc

For more information, contact us at WCResearch@tdi.texas.gov.

Per Chapter 405 of the *Texas Labor Code*, the Workers' Compensation Research and Evaluation Group at the Texas Department of Insurance is responsible for conducting professional studies and research on various system issues, including:

- the delivery of benefits;
- litigation and controversy related to workers' compensation;
- insurance rates and rate-making procedures;
- rehabilitation and reemployment of injured employees;
- the quality and cost of medical benefits;
- employer participation in the workers' compensation system;
- employment health and safety issues; and
- other matters relevant to the cost, quality, and operational effectiveness of the workers' compensation system.