

# Workers' Compensation Advisory Council

## FY '21 Annual Report

Lafayette City Center  
2 Avenue de Lafayette  
Boston, MA 02111

[Website](#)

January 18, 2022

# Index

Page 3 | Chairman's Welcome

Page 4 | Focus Areas

Page 5 | News

Page 6 | DIA Assessment Rates

Page 7 | Collections and Expenditures Report

Page 8 | Workers' Compensation Trust Fund  
Budget

Page 9 - 18 | Department of Industrial  
Accidents

Page 19 - 20 | Regional Offices

Page 21 - 23 | Advisory Council Members +  
Website Links

# Chairman's Welcome

The past two years have presented this industry, and our world, with an enormous set of challenges. The Commonwealth of Massachusetts quickly pivoted to a virtual environment with the edition of the WebEx platform, and that model remains in place. According to MGL Chapter 23E, Section 17, the Advisory Council is charged with providing an analysis of the workers' compensation system in Massachusetts, this includes operations at the Department of Industrial Accidents ("DIA"). The DIA is fully funded by the Employers of Massachusetts and is not funded by taxpayers, a policy that dates back to 1985. A diverse group of Council members have collaborated to create this report volunteering their time to analyze a variety of workers' compensation issues, with the goal of identifying priority focus areas. Included in this report: successes, recognized challenges, and recommended guidance to improve the system.

We'd like to acknowledge and say thank you to the following: Senior Judge Omar Hernandez for his determined efforts to manage the adjudicatory process through the COVID-19 pandemic and, the entire DIA management team led by Interim Director Sheri Bowles who provided staff with the immediate and necessary tools to complete their jobs remotely, and Maureen O'Connell, the Advisory Council Executive Director on the development of this report, We also wish to remember the employees that retired during FY '21 and FY '22 and sadly the ones we lost.

With areas to strengthen, the Council feels that the Massachusetts model remains one of the leading workers' compensation systems in the country. The Council looks forward to working with all stakeholders to continue to improve our highly regarded workers' compensation system. That said, we present to you the Workers' Compensation Advisory Council Annual Report for Fiscal Year 2020 (July 1, 2020 to June 30, 2021).

On Behalf of The Council,

*John A. Pulgini*

John A. Pulgini, Esq., Chairman

*Todd R. Johnson*

Todd R. Johnson JD, AIC, ARM-P, ARM-E, Vice Chairman

# Focus Areas

## Safety

Ensuring employee and visitor health and safety remains a priority for the DIA. With the assistance of technology, the DIA continues to provide services through its virtual platform including Conciliations and Office of Education and Vocational Rehabilitation Team Meetings.

## COVID-19

The Advisory Council monitored legislation related to COVID-19 and kept track of claim trends. For a full list [Joint Committee Bills](#)

**SB 1155** | An Act relative to COVID-19 and improving workers' benefits

**SB 1187** | An Act to protect injured workers during and after the COVID-19 pandemic

**HB 1986** | An Act creating a presumption of relatedness for workers suffering from COVID-19

## Compliance

In-house investigations continued during the pandemic (March 2020 - August 2021) while field investigations resumed in August 2021.

# News

- ★ Civil Litigation Unit recovered **\$393,212.00** since the beginning of FY '22 (July 1, 2021).
  - For Fiscal Year 2021, a total of 83 new Section 65 injuries were recorded.
  
- ★ The WCTF paid **\$5,761,538.00** in payments against uninsured claims during FY 2021.
  
- ★ According to NCCI, *COVID-19 Claim Activity Nationwide | As of year-end 2020, private carriers and state funds reported 45,000 pandemic-related claims to NCCI associated with \$260 million in case-incurred losses—an average COVID-19 cost per claim of approximately \$6,000. **Note:** This claim count total reflects those claims with a reported payment or reserve (i.e., a loss or expense reserve).* Massachusetts is not an NCCI state.
  - For more information on COVID-19 Workers' Compensation - What We Know Now [Click Here](#)

# DIA Assessment Rates

[Website](#)

Pursuant to M.G.L. c. 152, §65 (4) & (5), the Department of Industrial Accidents (DIA) has established the insured assessment rates to be calculated for all policies **effective July 1, 2021**.

The insured assessment rates for Private Employers are as follows:

- ★ Insured Assessment Rate: 0.0418
- ★ Self-Insured Assessment Rate: 0.0445
- ★ Group S.I. Assessment Rate: 0.0460

For private opt-out, the rates are NA for Insured Assessment Rate, 0.0159 for Self-Insured assessment Rate, and 0.0165 for Group S.I. Assessment Rate

For more information and to read the DIA Assessment Rate Letters [Click Here](#)

# DIA – Collections and Expenditures

## Collections and Expenditures Report

### **SPECIAL FUND FY'21 | COLLECTIONS**

Interest \$5,359.00

Assessments \$18,133,990.00

Referral Fees \$3,407,003.00

First Report Fines \$182,071.00

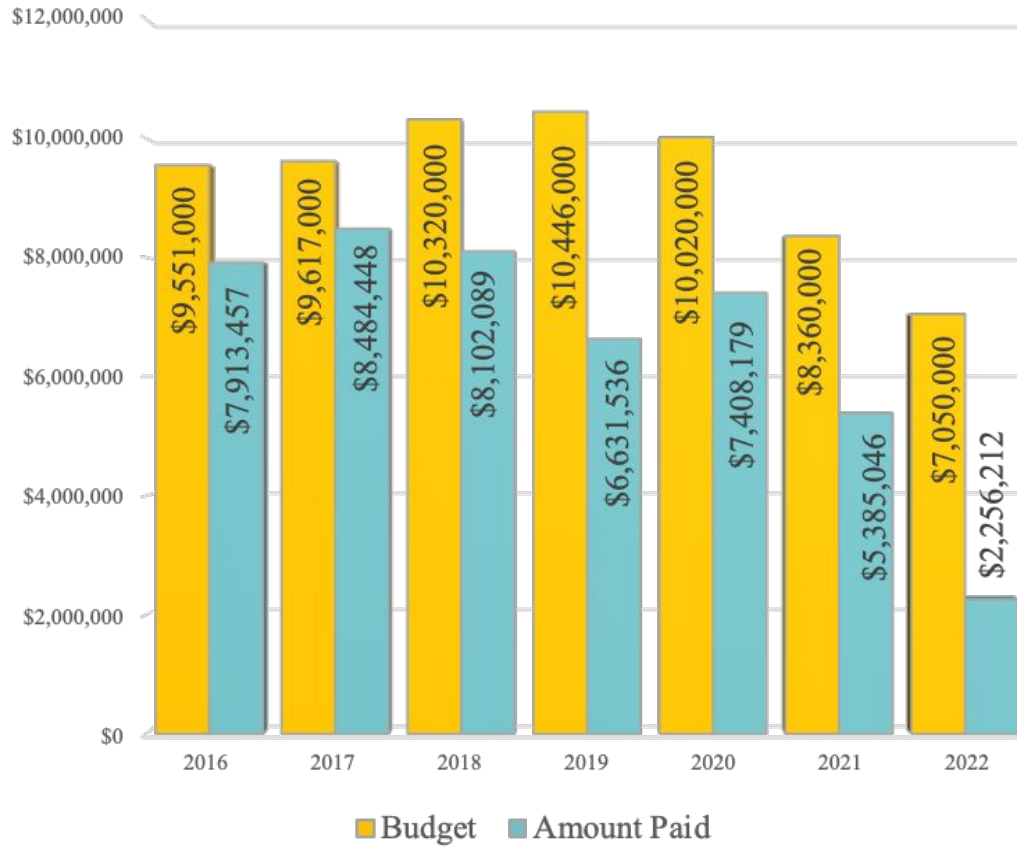
Stop Work Orders \$165,286.00

Late Assessment Fines N/A

Miscellaneous 0

### **SPECIAL FUND COLLECTIONS**

**TOTAL: \$21,925,934.00**

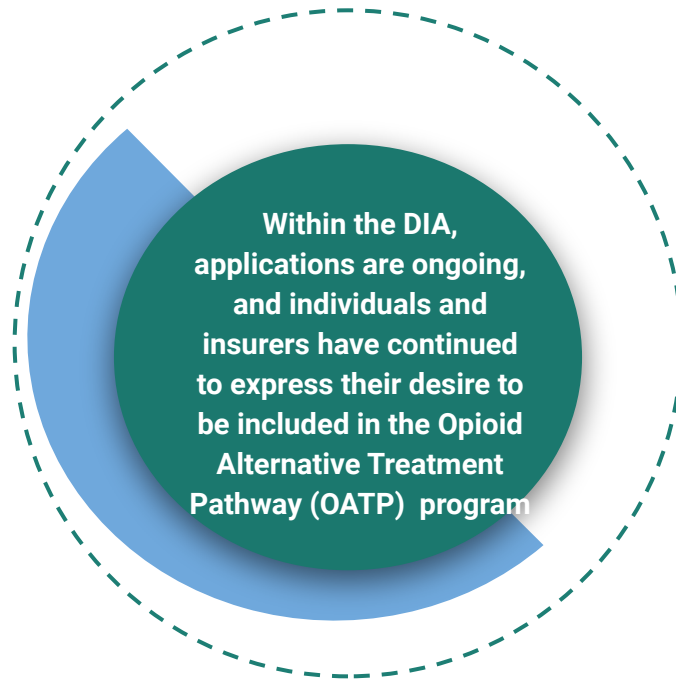


## Workers' Compensation Trust Fund Budget and Amount Paid



# Department of Industrial Accidents

# Opioid Rx



Cora Roelofs, ScD for the Center for the Promotion of Health in the New England Workplace, University of Massachusetts Lowell provided an update to the Advisory Council on the OATP program in September 2021. Recommendations were made to the 19A guidelines.

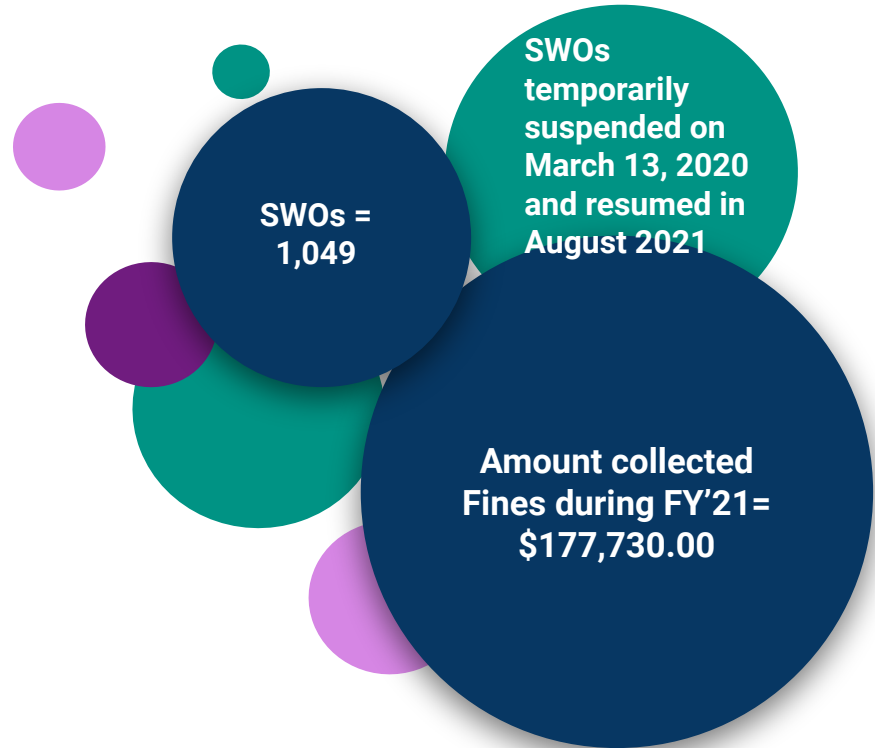
**[The National Institute of Health conducted study tests on Opioids and COVID-19, click link below.](#)**

**[NIH study tests - Opioids + COVID-19](#)**

# DIA - Compliance and Enforcement

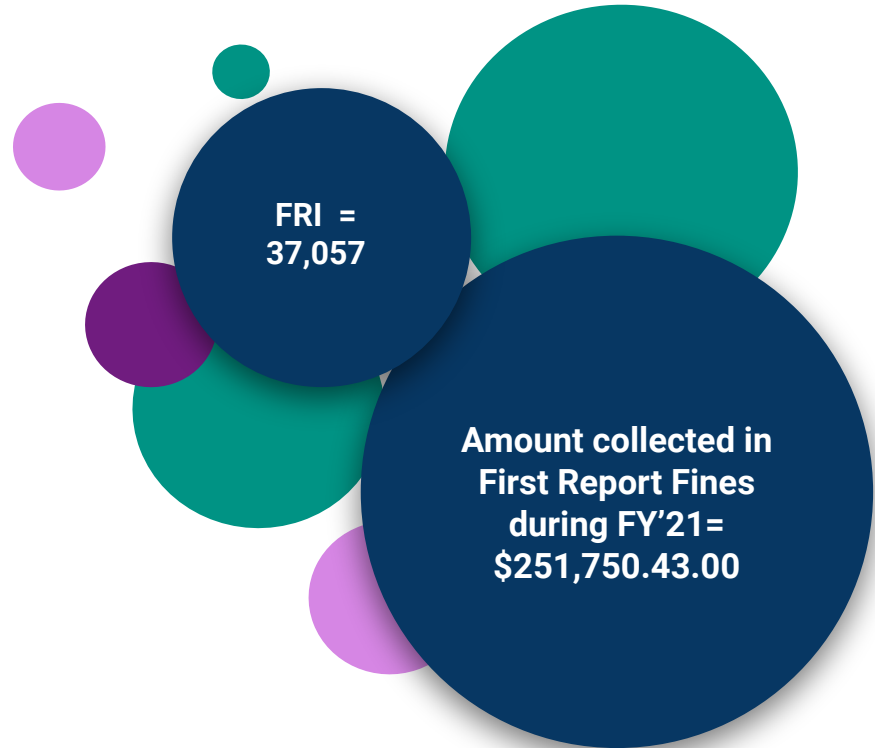
- ★ In March 2020, at the start of the pandemic, the DIA Investigation Unit continued to perform in-house compliance checks while working remotely, as a result of the WebEx platform, Field investigations were reorganized due to the pandemic.
- ★ 41,271 Compliance Checks were conducted.
- ★ The months with the most number of checks:
  - March 2021 - 4,230
  - August 2021 - 4,627

During FY '22, two Investigators were added to the Investigations Unit



# DIA – Office of Claims Administration

- ★ Total Number of First Report of Injury – 37,057
  - Online First Report - 5,749
  - EDI -31,308
- ★ Total number of claims, discontinuances, and third-party claims processed
  - Claims - 8,508
  - Discontinuances - 2,109
  - Third party claims - 33
- ★ Total number of referrals to Conciliation - 10,650

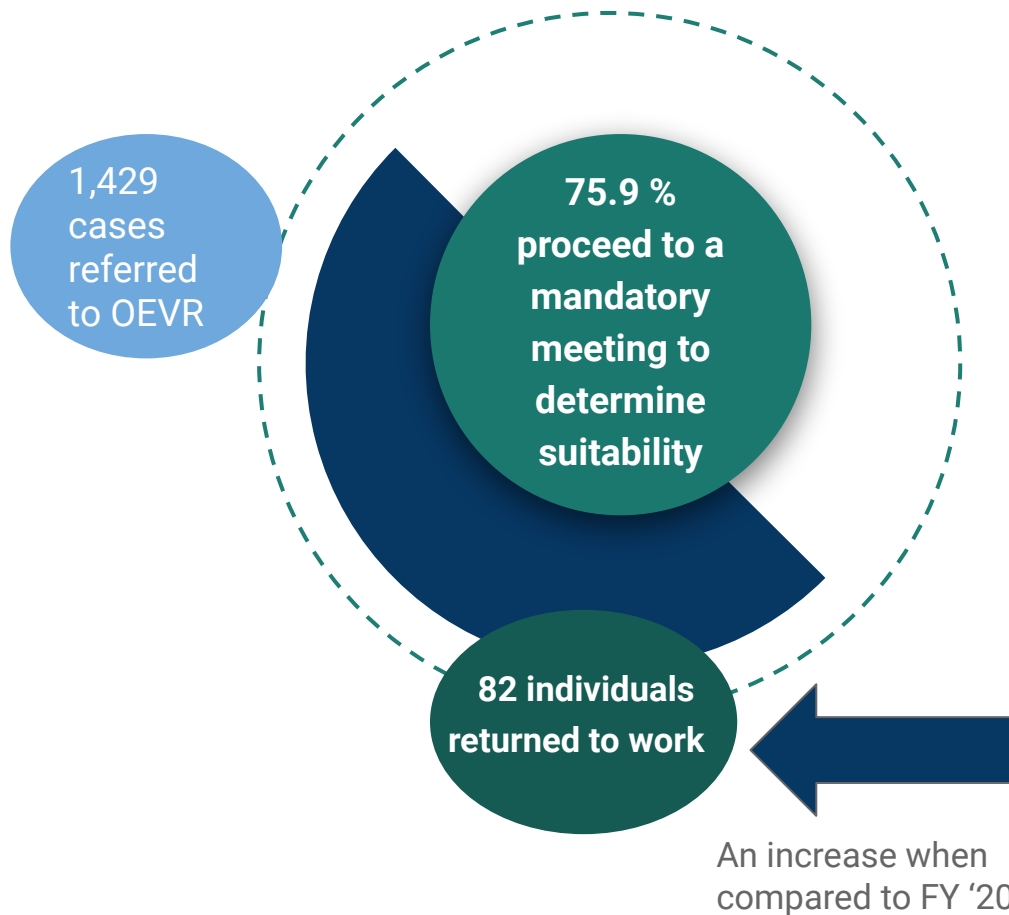


# DIA – Office of Education & Vocational Rehabilitation

OEVR continues to operate in a remote working environment, successfully pivoting in March 2020 with DIAs WebEx platform while still providing vocational services to their clients.

For more information on OEVR click [here](#)

FY'21 encumbrances of the Trust Fund totaled **\$16,147.00** for vocational rehabilitation services.



# DIA – Office of Insurance + Assessment & Compliance

- ★ The number of new self-insurance licenses issued during FY'21 - 0
- ★ The total number of self-insured employers (parent-licensed) in FY'21 - 68
- ★ The number of subsidiaries covered by these parent-licenses - 291
- ★ The total number of inquiries to the insurance office for historical information from the insurer register in FY'21 -1412

As a result of CPA reviews

**Assessments  
remitted to DIA  
= \$37,021.00**

**Total additional  
amount collected from  
insurance companies  
during FY'21=  
\$58,066,467.00**

# DIA – Office of Health Policy

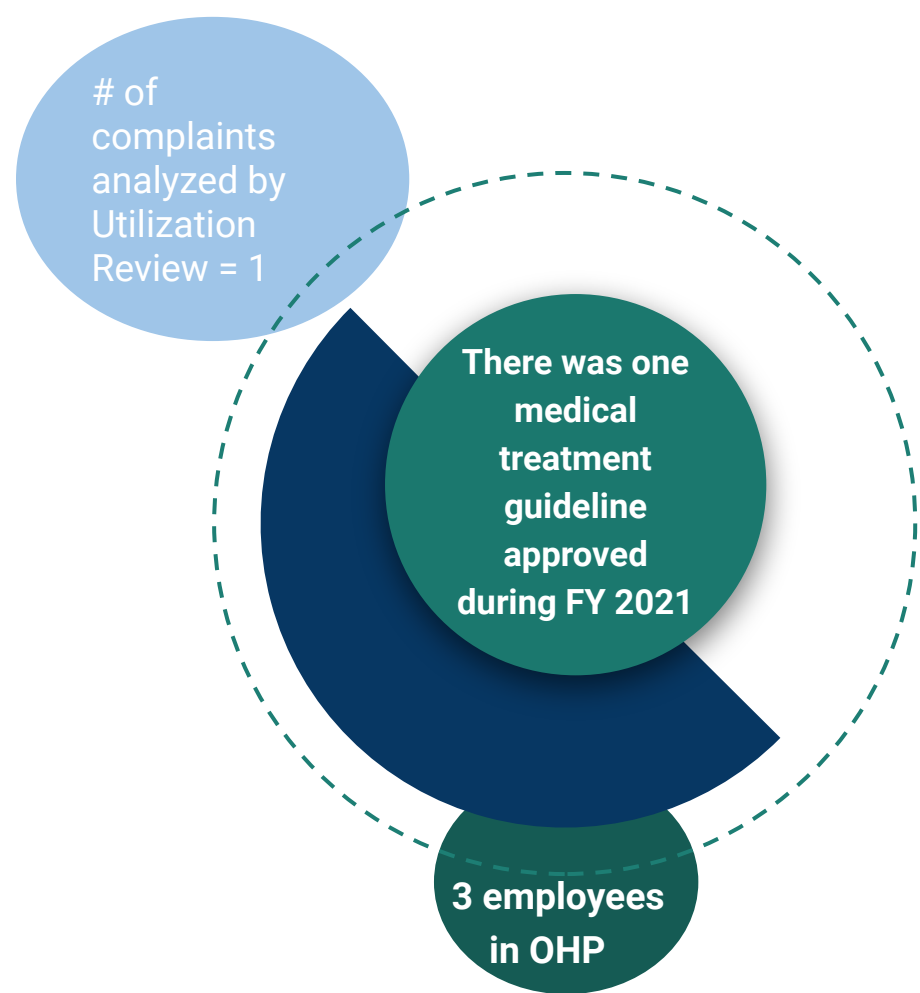
## [Office of Health Policy](#)

The Office of Health Policy has been able to conduct utilization review audits through the DIA's virtual platform. The Health Care Services Board (HCSB) conducts their quarterly meetings through WebEx

## [Health Care Services Board](#)

The partnership continues with the Executive Office of Health and Human Services and the Department of Industrial Accidents on the medical reimbursement rate review.

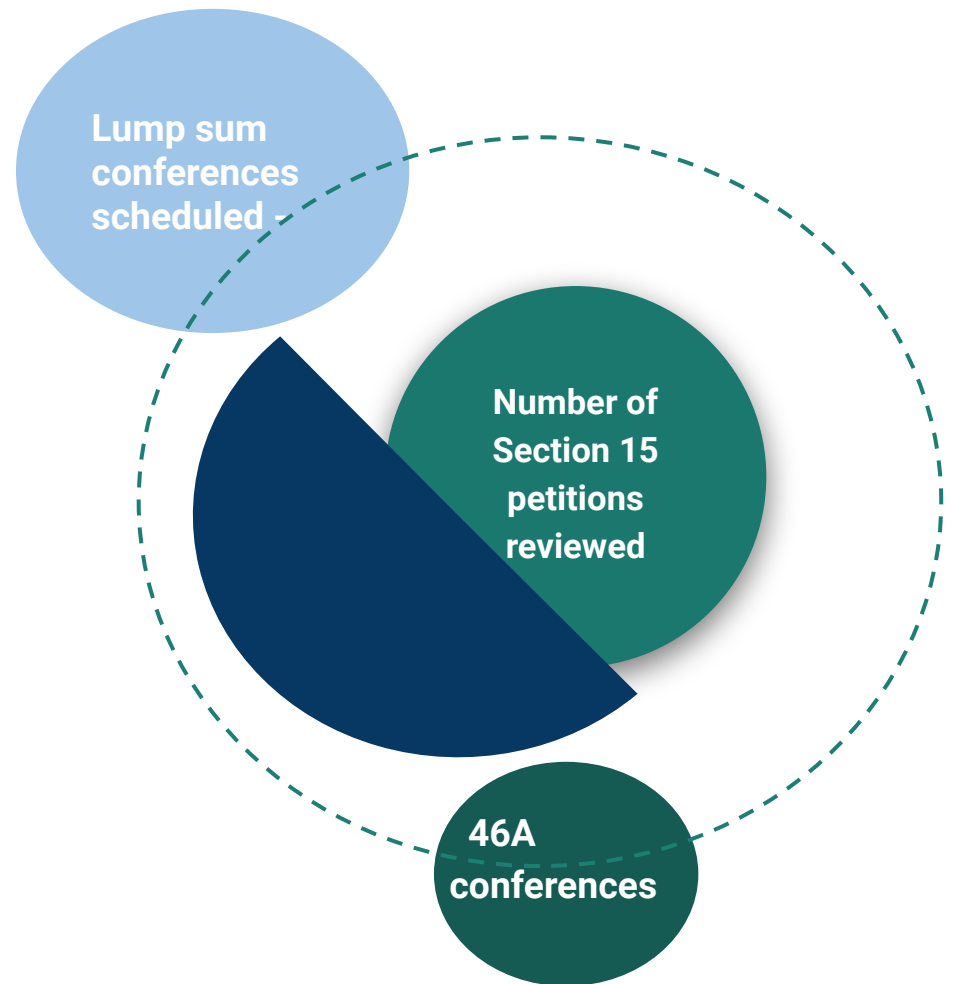
## [Medical Reimbursement Rate Review](#)



For more information on Massachusetts' treatment guidelines [Click Here](#)

# DIA – Reviewing Board Decisions

- ★ 70 - Total number of appeals resolved by Reviewing Board
- ★ 31 - Full panel published decisions on the merit
- ★ 34 - Summary affirmations after full panel deliberation
- ★ 0 - Lump sum conferences - Lump sum approved
- ★ 10 - Withdrawals/dismissals for failing to file briefs/memos of disposition



2021 Reviewing Board Decisions



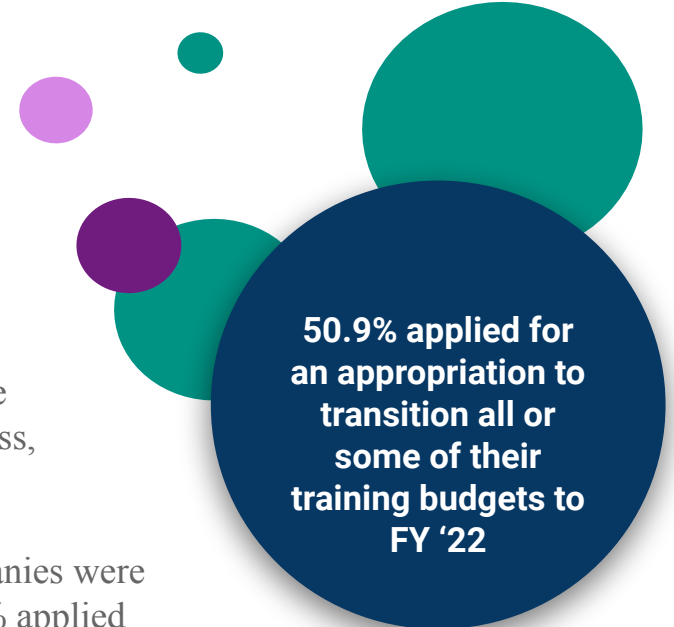
# DIA – Office of Safety

The Department of Industrial Accidents Safety Grant Program **awarded 51 grants** to companies and organizations who were poised to train 4,619 Massachusetts workers in FY 21.

COVID-19 has had a devastating impact and hit small businesses particularly hard. Grant recipients, workers and companies across industries faced a learning curve as they tried to figure out how to adapt to conditions. The Office of Safety worked hard communicating with all companies to accommodate their requests and help them move through the uncertainty. We had many conversations about the viability of their business, the news was not good.

Ultimately, **45% were able to complete all their training** as some companies were able to transition to virtual training depending on the topic. Overall, 50.9% applied for an appropriation to transition all or some of their training budgets to FY'22, this extension will enable companies to have the additional time to complete their training goals.

-Kathy Manson, Director





For more information on the DIA  
Workplace Safety Training Grant  
[Click Here](#)

LLC, Contractor | Norfolk County - Grant approved \$24,750.00

Oil Co | Essex County - Grant approved \$12,500.00

Graphics Co | Middlesex County - Grant approved \$11,650.00

LLC, Manufacturing Co | Southeastern MA - Grant approved \$4,690.00

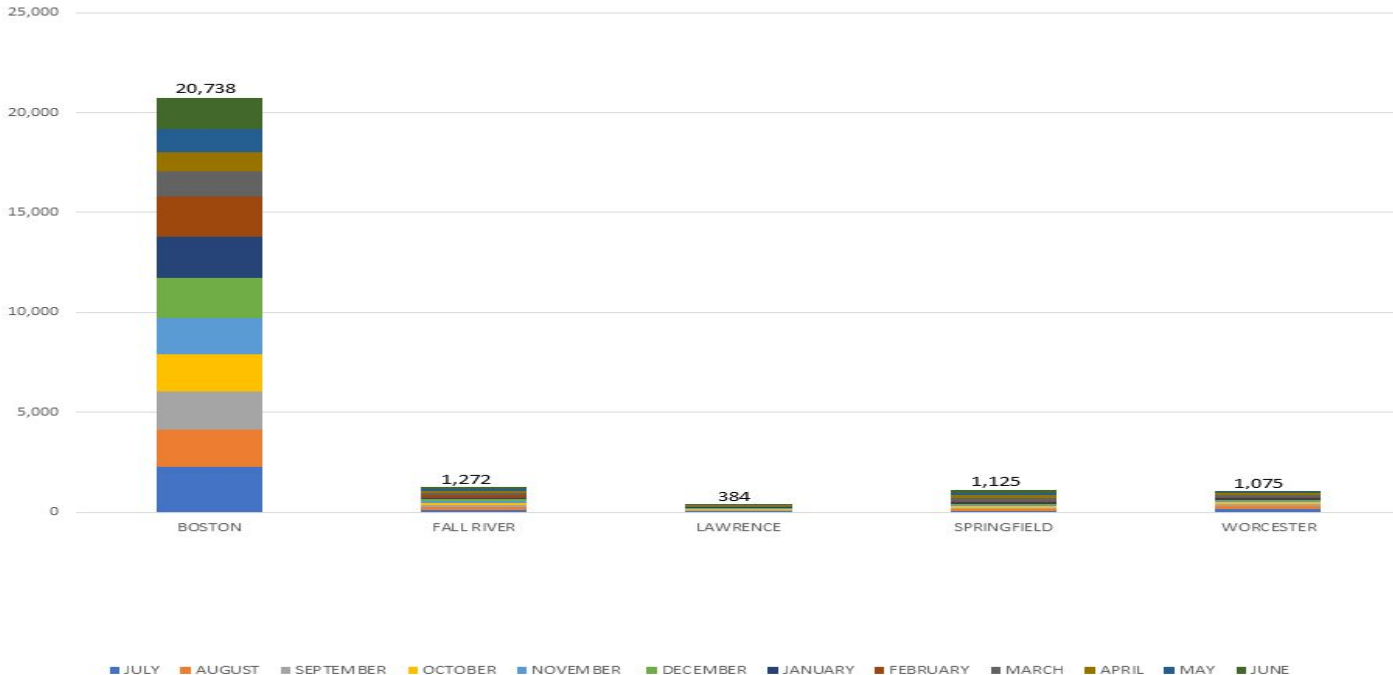
Technology Co | Western MA - Grant approved \$1,295.00

**Sample | Safety Grants awarded in FY '21**

# DIA Regional Offices

# FY 2021 Regional Comparison

FY 2021 REGIONAL COMPARISON



This chart represents **combined** incoming calls, visitors, and information (Boston only) data for the period July 1, 2020 to June 30, 2021.

# Advisory Council Members + Links

- ★ [Advisory Council Members](#)
- ★ [Overview of the Advisory Council](#)
- ★ [Advisory Council Publications](#)
- ★ [Department of Industrial Accidents](#)
- ★ [Executive Office of Labor and Workforce Development](#)

# Advisory Council Members | Voting

## Labor Representatives

\***Chairman John A. Pulgini**, Pulgini & Norton LLP, 10 Forbes Rd., Suite 240, Braintree, MA 02184

\***Stephen P. Falvey**, The Carpenters Center, 750 Dorchester Ave., MA, 02125

\***Stephen Joyce**, The Carpenters Center, 750 Dorchester Ave., Boston, MA 02124

\***Mickey Long**, AFL-CIO, 193 Old Colony Ave., P. O. Box E-1, Boston, MA 02127

\***Patrick Walsh**, Laborer's Local 223, 12 Everdean St., #A, Dorchester, MA 02122

## Business Representatives

\***Vice-Chair Todd R. Johnson**, USI Insurance Services, 12 Gill St., Suite 5500, Woburn, MA 01801

\***Teri McHugh**, Boyle | Shaughnessy Law, PC, 695 Atlantic Ave., MA 02111

\***John R. Regan**, Associated Industries of Massachusetts, One Beacon St., 18th Floor, Boston, MA 02108

\***James Steenbruggen**, First Electric Motor Service, Inc., 73 Olympia Ave., Woburn, MA 01801

\*(VACANT)

\* Voting Member

# Advisory Council Members | Non-Voting

## Insurance Representative

**Michael P. Kelley**, HUB International New England, 299 Ballardville St., Wilmington, MA 01887

## Claimant's Bar

**Bernard J. Mulholland**, Ford Mulholland & Moran, 288 North Main St., P. O. Box 4499, Brockton, MA 01887

(VACANT) - Medical Provider

(VACANT) - Vocational Rehabilitation

## Ex-Officio + Executive Director

**Secretary Rosalin Acosta**, Executive Office of Labor and Workforce Development

**Secretary Michael Kennealy**, Executive Office of Housing and Economic Development

**Maureen O'Connell**, Director, Workers' Compensation Advisory Council

[Workers' Compensation Advisory Council | Website](#)