

2009 GOSH CONFERENCE OREGON WORKERS' COMPENSATION DIVISION

REGULATORY UPDATE

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Workers' Compensation Mission

System Outcomes

Medical costs continue to be an important cost driver to the system

Worker disability benefits have increased

Workers are receiving timely and accurate benefits

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Mission

To efficiently and impartially enforce the workers' compensation law:

- To restore the injured worker physically and economically to a self-sufficient status expeditiously and to the greatest extent possible.
- To ensure a fair and just administrative system for the delivery of medical and financial benefits to injured workers and for resolving disputes quickly and fairly.
- To ensure that subject employers obtain and provide workers' compensation coverage for their employees.

Oregon's workers' compensation system received national recognition in 2008. The Workers' Compensation Research Institute released a study called

“Lessons from the Oregon Workers' Compensation System,”

which highlighted Oregon's recent successes.

The study outlined four key lessons from Oregon's workers' compensation system:

- cooperation between management and labor through the Management-Labor Advisory Committee;
- accurate and timely benefits for injured workers;
- reduced litigation over benefits; and
- return-to-work programs that help get injured workers back to work.

SYSTEM OUTCOMES

Injured workers with disabling claims receive indemnity benefits, such as temporary disability payments, permanent disability awards, and medical services. The amount paid for indemnity benefits has remained fairly constant over the past decade, while the amount paid for medical benefits has increased.

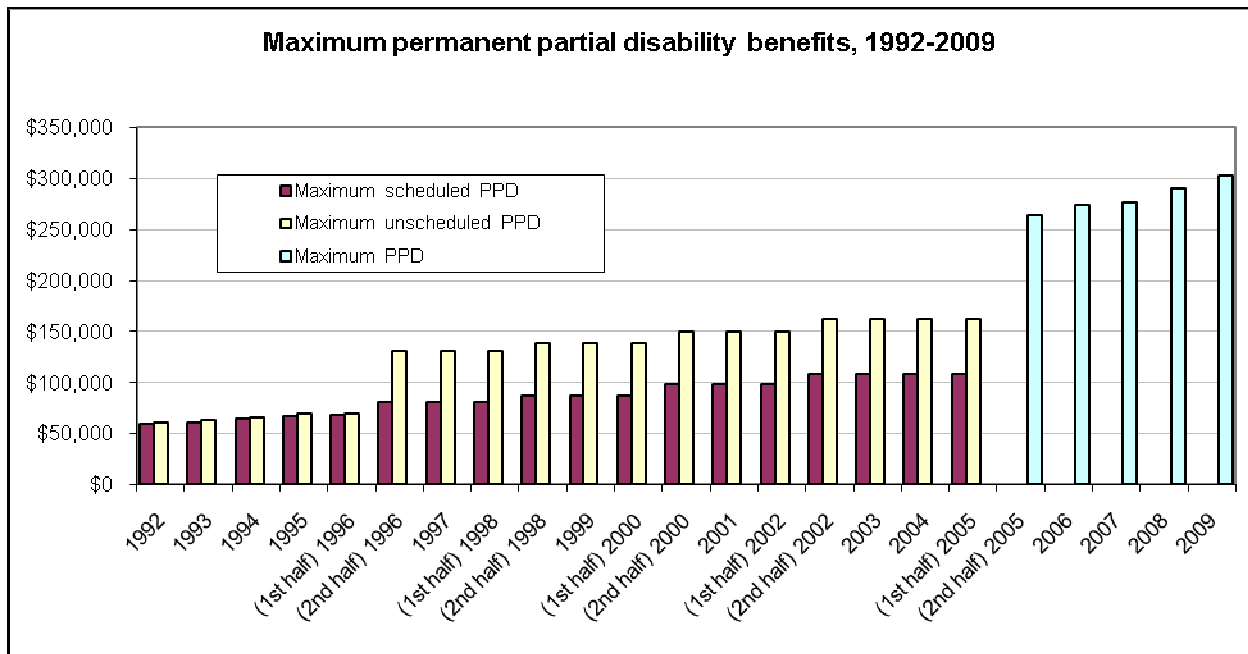
Medical costs continue to be an important cost driver to the system.

- In 2007, an estimated \$319.4 million was paid for workers' compensation medical services. The three largest service categories were physical medicine, evaluation & management, and surgery.
- About 46 percent of paid benefits in 2007 were indemnity benefits. By comparison, in 1995 more than 56 percent of benefits were indemnity benefits.
- In 2007, 42 percent of indemnity benefits for accepted disabling claims were temporary disability benefits, 28 percent were permanent partial disability benefits, and 21 percent were settlements.
- Injured workers are not usually enrolled in managed care organizations until their claims are accepted. In 2007, 42 percent of injured workers with accepted disabling claims were enrolled in MCOs. SAIF enrolled 66 percent of its injured workers, private insurers enrolled 7 percent of their injured workers, and self-insured employers enrolled 34 percent.

Worker disability benefits have increased

Senate Bill 757 in 2003 and House Bill 2408 in 2005 revised the permanent disability benefit structure, increasing benefits for the most severely injured workers. The bills eliminated the distinction between scheduled and unscheduled permanent partial disability. All workers with permanent disabilities now receive an award for their impairment. In addition, workers' who are unable to return to regular work due to their injury also receive a work-disability award.

Disability is now rated on a "whole person" basis. The maximum permanent partial disability award is now \$302,946 for workers unable to return to regular work. Benefits will adjust annually with wage changes. The chart below shows the increased benefits since the major workers' compensation reforms.



Workers are receiving timely and accurate benefits

Oregon's injured workers receive timely and accurate benefits 91 percent of the time, a very high rate of compliance in comparison to other states. WCD is focusing its attention towards problem areas in the system having the greatest impact on workers.

The 2008 Workers' Compensation Research Institute study showed a 15-state median in which 41 percent of workers received their first benefit payment within 21 days of injury. In 2007, 90 percent of Oregon injured workers received their first benefit payment within 14 days.

Targeted Enforcement Efforts – Risk Based audits

Vocational Eligibility Determinations

Complaints

Injured workers are returning to work

After the prevention of injuries, one of the most important goals of the workers' compensation system is returning injured workers to their jobs quickly and restoring them to their pre-injury wages. Oregon's return-to-work programs are effective in achieving these goals. Workers who have used the department's return-to-work programs have higher employment rates and higher wages than workers who have not used these programs.

In 2008, workers who used Preferred Worker and Vocational Assistance return-to-work programs have employment rates that are at least 20 percentage points higher than those who do not use their benefits. Their rate of wage recovery is similarly significantly higher than those who did not.

- The **Preferred Worker Program** provides incentives for employers to hire workers with permanent disabilities who are unable to return to regular work. As of July 2008, 26 percent of the workers issued cards in 2004 had used them to gain employment.
- Use of the **Employer-at-Injury Program**, which provides benefits to employers who return their injured employees to work quickly, has increased since 2005; approximately 9,000 workers used the program in 2008.

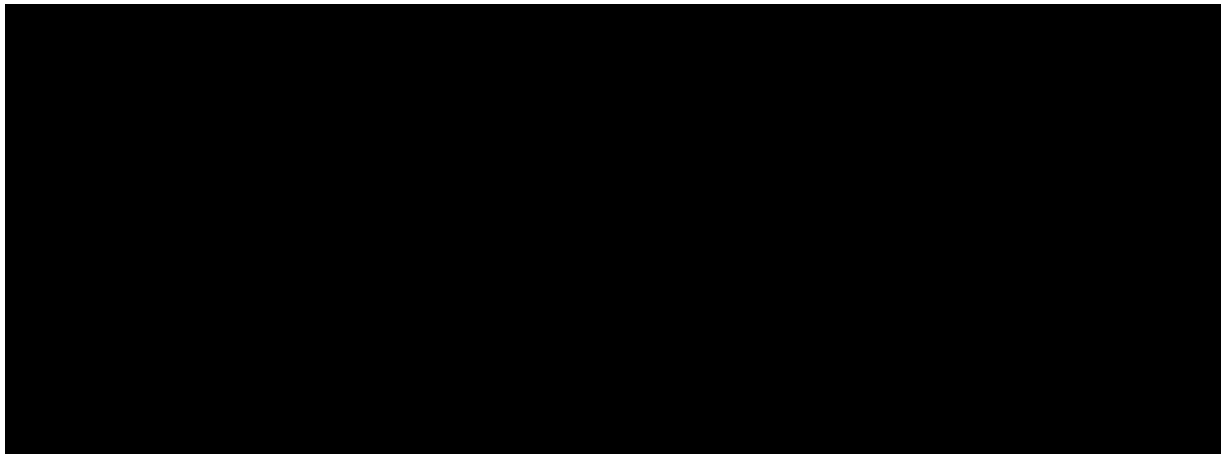
WCD has continued to enhance return-to-work programs. In 2007 and 2008, the division adopted new rules that make it easier for employers and workers to use these programs by simplifying the requirements, providing more flexibility, and streamlining processes.

Litigation levels have decreased

Prior to the mandatory reconsideration process (when claim closures are in dispute), more than 20 percent of claim closures were appealed to the Hearings Division of the Workers' Compensation Board. Since 1995, the number of requests for reconsideration of claim closures has declined along with the number of claim closures. The rate of requests for reconsideration also declined. The percentage of reconsideration orders appealed to hearings has dropped from more than 50 percent to 23.4 percent in 2007. The percentage of closures that are appealed to hearings has dropped to 3.8 percent.

2007

- **Approx. one out of six (16%) claim closures asked for Reconsideration**
- **23% of Reconsideration Orders Appealed to WCB**
- **Hearing requests on claims – 3.8% vs. over 20% before reforms**



Oregon employers maintain a high level of compliance

Oregon workers are better protected because employers have workers' compensation insurance and employers having the required workers' compensation insurance helps ensure a fair playing field for businesses.

Oregon maintained its consistent low rate of uninsured employers despite a 50 percent increase in the number of Oregon employers and workers during the past 18 years. The number of disabling claims by workers of uninsured employers has been steady; in 2008, there were

WCD monitors about 90,000 employers

3.5 disabling NCE claims for every 1,000 accepted disabling claims

of workers of insured employers, indicating a high rate of compliance with coverage requirements.

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Oregon employers have reduced workers' compensation premium rates

Workers' compensation premium rates paid by Oregon employers declined for 12 straight years, stayed unchanged for four consecutive years, and decreased again in 2007, 2008, and 2009 – a reduction of more than 10 percent in the past three years alone.

Since 1991, there has been a 62 percent reduction in pure premium rates, resulting in an estimated **\$16.4 billion savings to Oregon employers**. Insurers base their premium charges on the pure premium rates set by the DCBS director.

- The insurance commissioner approved overall pure premium rate reductions of 2.3 percent for 2008 and 5.9 percent for 2009.
- The 2009 workers' compensation pure premium rate is 38 percent of the 1990 rate.
- Workers' compensation total system written premiums in Oregon totaled \$1,193 million for 2007, up 21 percent from 2006.

Oregon has improved in its national ranking among the states in workers' compensation costs from sixth most expensive in the nation in 1986 to 39th most expensive in 2008.

Legislative update – 2007 session

HB 2756 – Expanded the authority of certain care providers to serve as attending physicians.

The law change allows

**chiropractors, podiatrists, naturopaths, and
physician assistants**

to act as attending physicians for up to 60 days or 18 visits, whichever comes first. These provider groups can also authorize time loss for up to 30 days and manage a worker's return to work during that period.

SB 559 - Simplifies proof of coverage filing requirements for insurers and employers by requiring the insurer to provide policy information to the department as proof of coverage. This will enable insurers to report information through electronic data interchange (EDI).

SB 835 - Mandated an interim study of death benefits and a report to the 2009 Legislative Assembly. The Management Labor Advisory Committee completed the review and SB 110 is now being considered by the 2009 legislature. The bill increases death benefits for beneficiaries.

2009 Session?

- **Death Benefits - SB 110**
- **Streamlining – HB 2195 and HB 2197**
- **Cancer Presumption for paid firefighters - HB 2420**
- **Independent Contractors – Misclassified workers - HB 2815**

Worker's Compensation

System Statistics

Workers' Compensation System Calendar Year Data						
	2002	2003	2004	2005	2006	2007
Employers with active coverage	84,432	85,310	86,115	87,150	89,685	91,551
Subject Oregon workers	1,596,100	1,585,800	1,630,500	1,682,000	1,734,400	1,763,800
Accepted disabling claims	23,482	21,832	22,325	22,114	23,371	23,433
Claim disputes resolved	5,617	5,809	5,771	5,800	5,923	6,391
Reemployment assistance provided	8,409	8,402	9,208	8,928	9,291	9,305
Benefit payments audited for timeliness	22,855	21,361	26,177	28,853	27,551	25,960

In 2007, the Workers' Compensation Division and the Workers' Compensation Board resolved more than 16,000 disputes through orders, stipulations, agreements, and mediation.

■ In 2007, 16 percent of claim closures were appealed for reconsideration. More than 4,000 reconsideration orders were written; 23 percent of these orders were appealed to the Hearings Division.

■ The Vocational Rehabilitation Unit resolved 446 vocational disputes in 2007. Of these cases, 28 percent were resolved through agreements. Another 43 percent of the disputes were dismissed, often because vocational assistance benefits were released in claim disposition agreements.

■ There were more than 9,300 hearing requests in 2007, a third of the number of requests in 1989.

■ Claims denial was an issue in 38 percent of the approximately 9,300 hearing orders issued in 2007. Partial denial of claims was an issue in 41 percent of the hearing orders.

■ Claimant attorney fees totaled \$19.2 million in 2007. Sixty-four percent of these fees were taken out of claim disposition agreements and disputed claim settlements. Insurer attorney fees totaled \$29.7 million.

Complete statistical data available at the DCBS Website:

http://www.cbs.state.or.us/imd/rasums/2362/08web/08_2362.pdf

