

Permanent Total Disabilities in the Oregon Workers' Compensation System, 2004

Information Management Division

Oregon Department of Consumer & Business Services

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Permanent total disability (PTD) is defined as “the loss, including preexisting disability, of use or function of any ... portion of the body which permanently incapacitates the worker from regularly performing work at a gainful and suitable occupation” (ORS 656.206).

In 2004, 20 Oregon workers received PTD grants, all by insurer closure or the Workers' Compensation Board's Hearings Division. See Table 1 for various counts, by level, for recent years. There have been no PTD grants or rescinds by the Court of Appeals since 1990.

Nine of the grants were reinstatements of prior awards, eight of which were by stipulation approved by the Hearings Division.

Net PTD grants, Oregon, 1988-2004

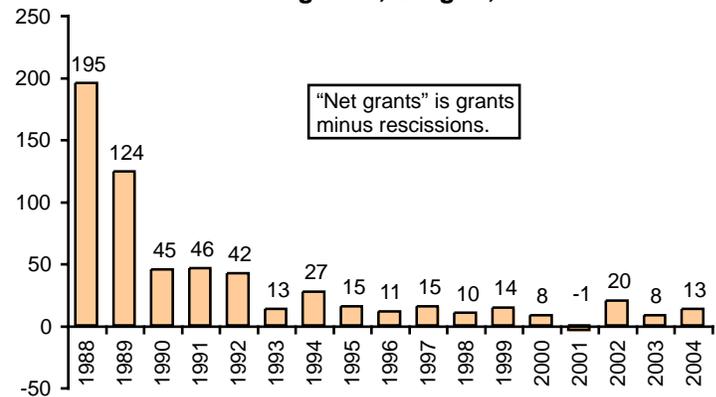


Table 1. PTD award grants and rescissions, by order level, Oregon, 1997-2004

Year of award	Claim closure			Reconsideration			Hearing			Board review			All levels			Net grants
	Grant		Re-scind	Grant		Re-scind	Grant		Re-scind	Grant		Re-scind	Grant		Re-scind	
	Orig.	Re-in.		Orig.	Re-in.		Orig.	Re-in.		Orig.	Re-in.		Orig.	Re-in.		
1997	11	0	1	2	0	1	5	2	0	0	0	3	18	2	5	15
1998	9	0	4	1	0	0	4	2	0	0	0	2	14	2	6	10
1999	16	0	7	2	0	0	3	3	2	0	1	2	21	4	11	14
2000	6	0	6	3	0	0	2	3	0	0	0	0	11	3	6	8
2001	11	0	13	1	0	0	0	1	1	0	0	0	12	1	14	-1
2002	12	0	3	4	1	0	0	6	0	0	0	0	16	7	3	20
2003	7	0	6	1	1	0	0	4	0	0	1	0	8	6	6	8
2004	11	1	7	0	0	0	0	8	0	0	0	0	11	9	7	13

Notes: “Claim closure” includes department determination orders and insurer notices of closure. (Claim closure responsibility was transferred from the department to insurers and self-insured employers in 2000.) “Grant” includes original awards (Orig.) and reinstatements of awards (Re-in.).

All seven of the PTD awards rescinded in 2004 have since been reinstated, five in 2004. These workers had PTD status for an average of 14.9 years (range: 6.6 to 20.0 years) prior to the rescission. The reinstatements came an average of 0.54 years after the rescission (range: 0.28 to 0.93 years). Six of the seven claims had a claim disposition agreement (mean value: \$104,100) as of June 2005.

The graph gives historical values of net PTD grants. PTD grants, and hence net grants, have declined substantially since 1988, greatly exceeding the drop in claims. For example, accepted disabling claims dropped by 50.0 percent from 1988 to 2003, while net PTD grants dropped by 95.9 percent.

The four primary reasons for decreasing PTD awards are as follows:

1. Fewer injuries and accepted disabling claims;
2. Law changes in 1987 by HB 2900 (DCBS director-prescribed disability standards, reduced own-motion authority of the Workers' Compensation Board, and changed court review standard to “substantial evidence”);
3. Law changes in 1990 by SB 1197 (claim disposition agreements, required reconsideration of claim closures, elimination of “clear and convincing evidence” as a reason to exceed the disability standards, and medical arbiters for impairment disagreements);

Table 2. Average reported total incurred costs for PTD grants, and all-insurer net cost (\$ millions), Oregon, 1997-2004

Year	Indemnity	Medical	Total	% Med.	Net cost
1997	0.337	0.855	1.192	71.7%	17.9
1998	0.417	1.804	2.221	81.2%	22.2
1999	0.376	0.683	1.059	64.5%	14.8
2000	0.287	1.059	1.346	78.7%	10.8
2001	0.442	0.986	1.428	69.0%	-1.4
2002	0.354	0.918	1.272	72.2%	25.4
2003	0.410	1.127	1.537	73.3%	12.3
2004	0.407	1.170	1.577	74.2%	20.5
2003-2004 change:	-0.84%	3.9%	2.6%	1.2%	

Notes: Costs are amounts already paid plus remaining reserves. Costs exclude "expenses" (mostly attorney fees) and any reimbursements from handicapped-worker, preferred-worker, or retroactive programs. Costs are prior to any release of benefits in a claim disposition agreement. Net cost is the product of average total costs and net grants for all insurers. Values may not add to totals due to rounding.

Table 3. Characteristics of Oregon claims with PTD grants in 2004

Item	Classification	Cases	Percentage
Insurer	SAIF	13	65.0%
	Liberty group	4	20.0%
	Other private insurer	1	5.0%
	Self-insured employer	2	10.0%
Gender	Male	14	70.0%
	Female	6	30.0%
Type work	Blue-collar	15	75.0%
	White-collar	1	5.0%
	Unknown	4	20.0%
Industry	Manufacturing	6	30.0%
	Construction	3	15.0%
	All other	9	45.0%
	Unknown	2	10.0%
Body part (principle)	Back	11	55.0%
	Head	3	15.0%
	Multiple	3	15.0%
	All other	3	15.0%
Nature	Sprain/strain	5	25.0%
	Fracture	3	15.0%
	Multiple	3	15.0%
	All other	7	35.0%
	Unknown	2	10.0%
Event	Fall	6	30.0%
	Transport accident	5	25.0%
	Overexertion	3	15.0%
	All other	4	20.0%
	Unknown	2	10.0%

4. Law changes in 1995 by SB 369 (limitation on evidence at levels beyond reconsideration, prohibiting issues that were not raised at nor arise out of the reconsideration, and the definition of "gainful occupation").

Average and total net costs for PTD grants are in Table 2. The relatively small number of grants explains both the costs variability and long-term cost increase: average 2004 medical costs were almost 12 times 1988 costs, not just because of inflation and medical cost increases, but also because now only the most severely injured workers are granted PTD.

Table 3 provides information about the claims and workers with PTD grants, and Table 4 provides time-lag data about these claims. Average worker age at award and time from injury to award have been increasing in recent years mostly because reinstatements are an increasing share of grants.

Eleven grants had a prior award of permanent partial disability. The average prior award was 131.2 unscheduled degrees and (for three claims) 91.2 scheduled degrees. Three of the grants were for claims that included accepted psychological conditions.

Table 4. Time lags (years), Oregon 2004 PTD grants

Time lag	Mean	Range of values	2003 mean*
Tenure at injury	4.3	0.0 to 18.7	3.2
Age at injury	42.3	23.4 to 69.6	43.3
Age at award			
Original awards	52.7	27.8 to 71.8	53.6
Reinstatements	61.9	55.5 to 66.1	61.0
All PTD grants	56.8	27.8 to 71.8	56.7
Time, injury to award			
Original awards	6.6	1.3 to 29.6	5.1
Reinstatements	24.2	16.7 to 32.2	24.6
All PTD grants	14.5	1.3 to 32.2	13.5

Notes: Data on tenure were not available for two workers.

*Data for 2003 are provided for comparison.

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