

Oregon Department of Consumer and Business Services
Information Management Division

**Permanent Partial Disability Trends:
A 2009 Update to the
Workers' Compensation Management Labor
Advisory Committee**

February 2009

Permanent Partial Disability Trends: A 2009 Update to the Management Labor Advisory Committee

Introduction

In 2003, the Legislature passed Senate Bill 757, modifying Permanent Partial Disability (PPD) rating criteria and benefit calculations. In order to give time to implement and observe the impact of the changes, the bill made the changes effective for dates of injury beginning 1-1-05, and included a sunset provision that would revert PPD benefits to their prior (2001) structure effective 1-1-08.

In 2005, the Legislature passed House Bill 2408, further modifying PPD rating criteria, and mandated that the Department of Consumer and Business Service collect data and report to the Seventy-fourth Legislative Assembly by January 30, 2007, on the impact to permanent partial disability awards in workers' compensation claims of each of these two law changes. Among the agreed goals of the designers of the PPD changes in SB 757 was that the benefit structure, based on the wages and benefits being paid at that time, would be roughly cost neutral with the benefit structure it replaced. Analyses by DCBS and NCCI staff indicated that no change to premium rates would be associated with the bill, and no rate change was filed.

The principal finding of the HB 2408 study was that the new PPD benefit structure, and its associated implementing rules, was indeed cost neutral with respect to the baseline PPD benefits and wages in effect at the time the bill was drafted. This was evidenced by the lack of a statistically significant difference between the average PPD awards made under the old (pre-2005) PPD benefit structure and either of the new structures and their associated rating criteria. The study also confirmed that the new benefit structure redistributed PPD benefits from workers that are able to return to work more quickly toward workers with longer-term injuries and work disability. This was based on a comparison of patterns of PPD awards within several quarters of injury, comparing new and old benefit PPD claims.

Based in part on the study findings, HB 2244 was passed in the 2007 legislative session. That bill made the new benefit structure permanent by removing the sunset, and also charged MLAC with a biennial review of PPD benefits. The purpose of this document is to provide current data on trends in PPD awards and benefits as background for that review, with a primary focus on awards of PPD made under the new benefit system. The data used in this document come in large part from data contained in the WCD Claims Information System on awards of PPD occurring system-wide.

System trends and PPD awards.

A number of factors influence PPD award trends, including:

- Overall frequency of disabling claims and underlying injury severity.
- Trends in wages:
 - the state average weekly wage, which adjusts impairment benefits and overall benefit maximums, and
 - wages of injured workers, which drive work disability awards

- The share of claims that settle (CDA) rather than go through the claim closure process. For claims that have a CDA before a closure, there is no way to know whether there would have been a PPD award. However, it is safe to say that without the settlement, some would have been awarded PPD.
- The share of claims that are awarded PPD at claim closure, and
- Trends in appeals on extent of disability

Several of these system trends are detailed below. These charts draw from data published in the Oregon Workers' Compensation Biennial Report, Ninth Edition. Figure 1 shows two system trends affecting the number of PPD awards made, the PPD rate across the covered workforce (an indicator of injury frequency and severity, computed as PPD claims per 100,000 covered employees) and the share of closed claims that are awarded PPD. The overall PPD rate dropped by almost half during the period of this chart, reflecting decreasing overall claims rates. Among accepted disabling claims, the share of claims with PPD was very stable at around 30%. The counts and rates described below include PPD from all injury years, and thus both old and new benefit types.

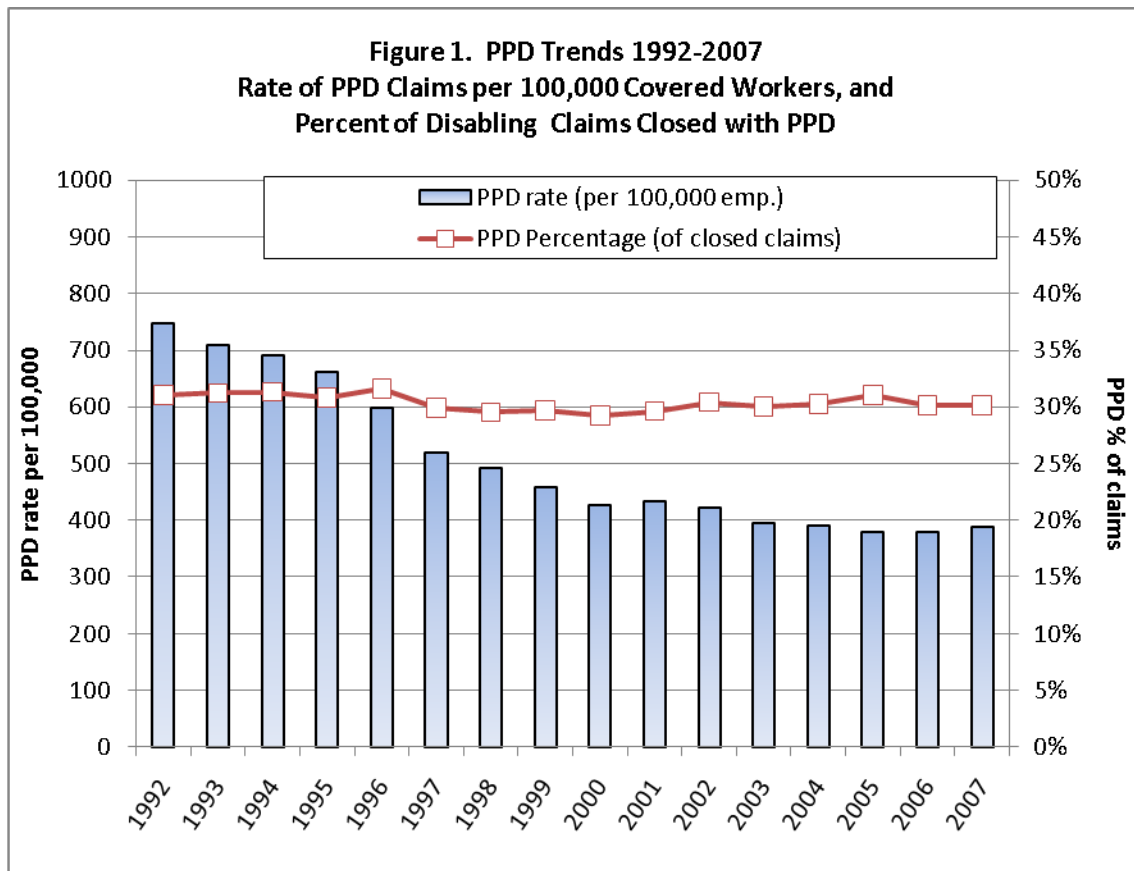
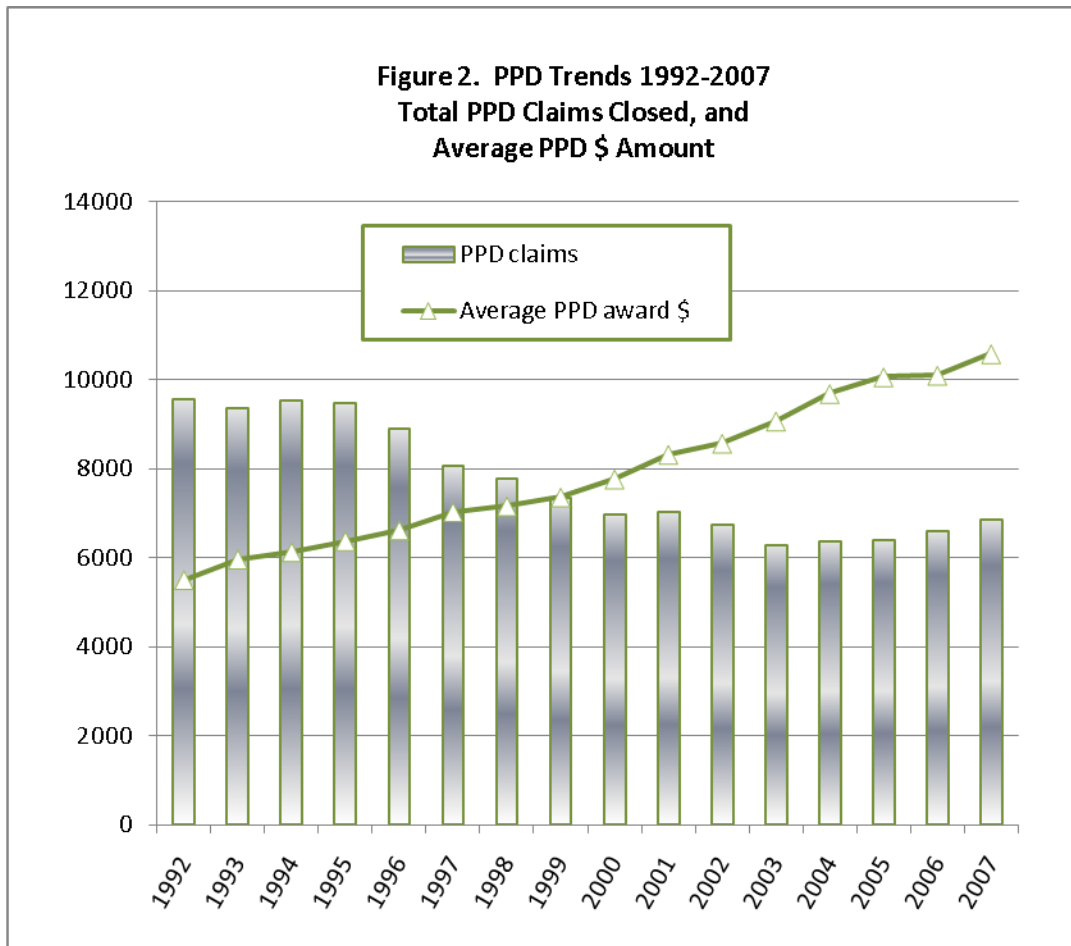
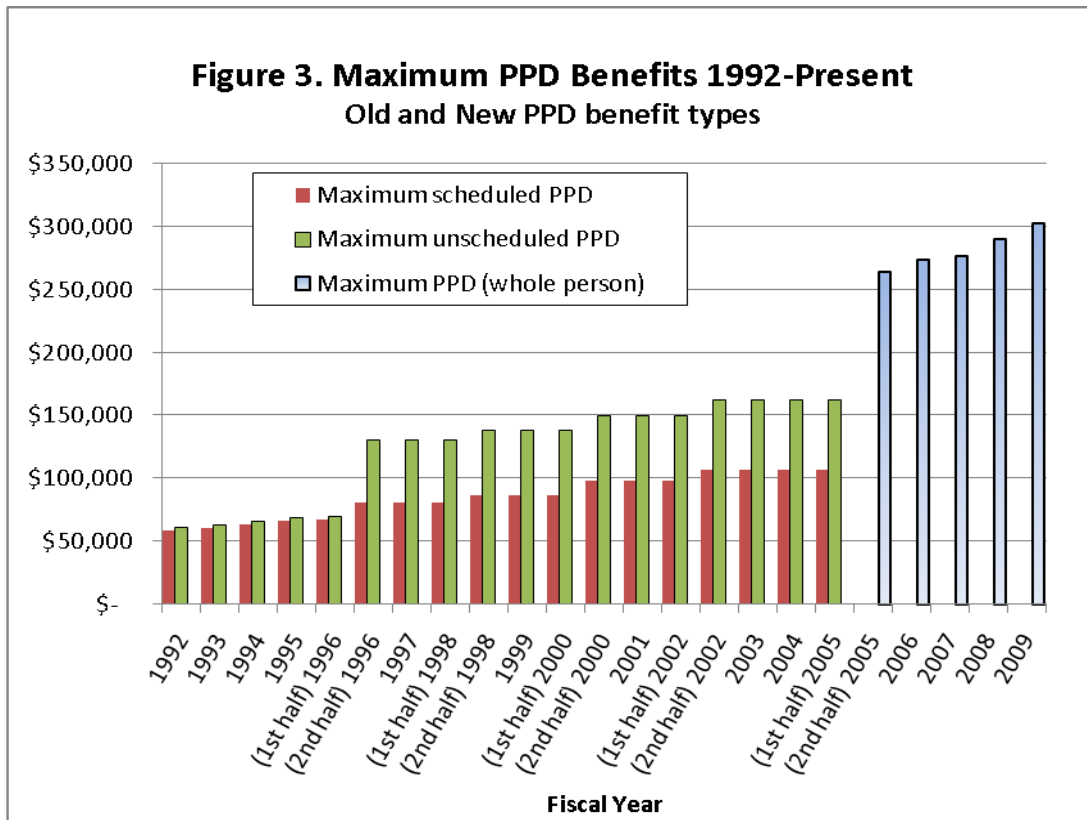


Figure 2 shows trends for the count of PPD claims and average award amount by year of award. These trends affect the total dollars of PPD awarded. Over the period shown, counts of PPD claims have been declining or largely flat in recent years, while average dollar awards have been increasing steadily. The interaction of these two factors is the reason for the relatively flat dollar totals in PPD benefits awarded in recent years. Note that these charts use data by year of closure, rather than year of injury, which factors out much of the effect of differences in claim maturity.



Maximum statutory benefits

With the new benefit structure, Oregon no longer has Scheduled and Unscheduled PPD benefit types; all disabilities are rated on the “whole person” basis. Benefit maximums rose substantially in the new benefit structure due to reallocation of benefits to those with greater economic loss, and annual adjustments keep benefits in line with wage changes. Figure 3 shows benefit maximums for the period 1992 to present.

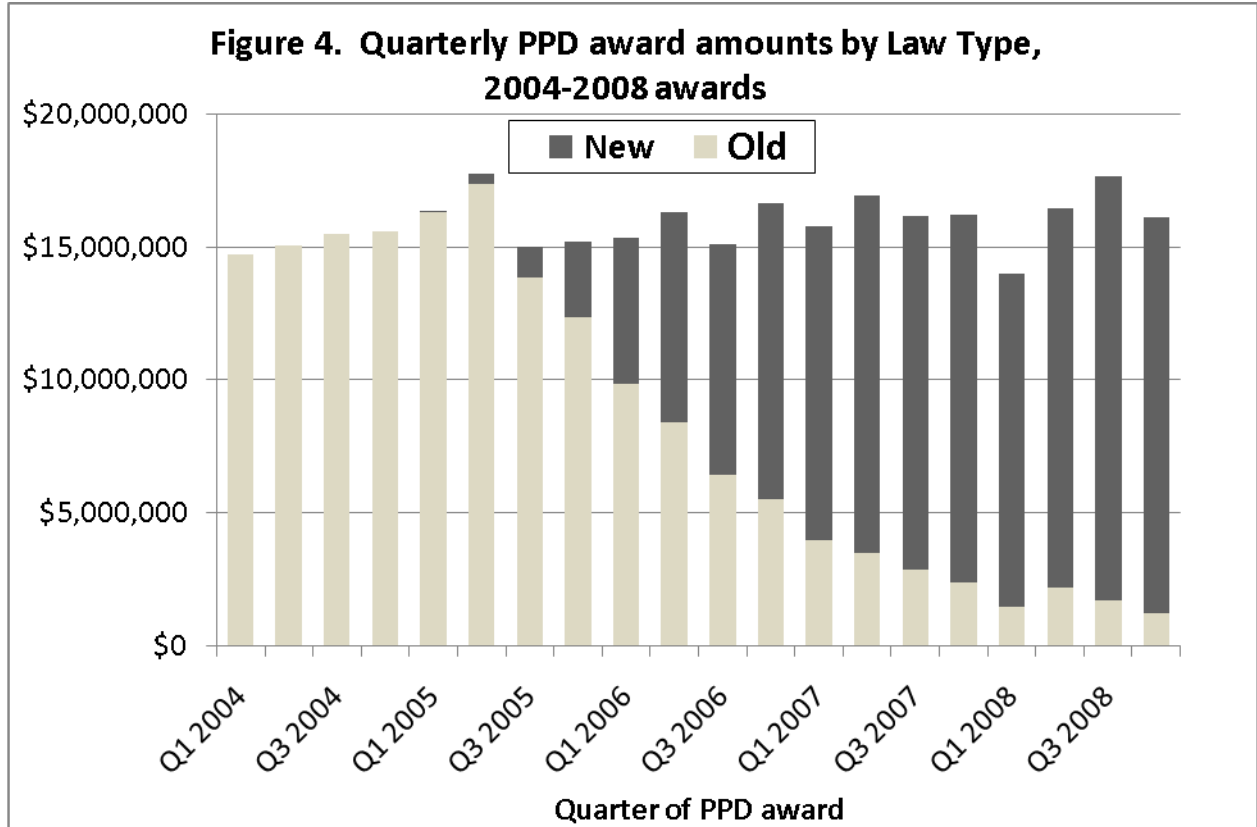


Unfortunately, current data are not available to compare Oregon’s maximum PPD benefits to other states. The last such publication by the US Department Labor was for 2006, and in that comparison Oregon’s whole-person PPD maximum was at the 70th percentile of comparable states, or in the upper third nationally. Because states change benefit formulas infrequently, and Oregon benefits have been growing with average wages, it is likely that Oregon has maintained its relative position since 2006.

One area of unanswered questions continues to be benefit adequacy, such as the share of lost wages that is replaced by disability benefits. Because of cost, complexity, and other concerns, very little new research has emerged in this area in the past half-decade.

Quarterly PPD Award trends through 2008

With 2008 data on PPD awards, we now have four years of experience with the new PPD benefit structure. The following charts draw from data PPD awards contained in the WCD Claims Information System. Figure 4 shows the experience in total PPD awards, by quarter, for the 2004-2008 period. As can be seen from the chart, there has been very little overall trend over this five-year span of PPD awards. As discussed above, the overall total of PPD dollar awards is affected by the interaction of many factors. The most significant of these factors have tended to cancel each other out, leaving mostly random variation in the quarterly dollar totals. One trend that can be seen is in the decline in old PPD benefits. Most of the claims with pre-2005 (old) PPD have already closed, although there will continue to be some in years to come.



Benefit characteristics of post-2004 (new PPD) claims

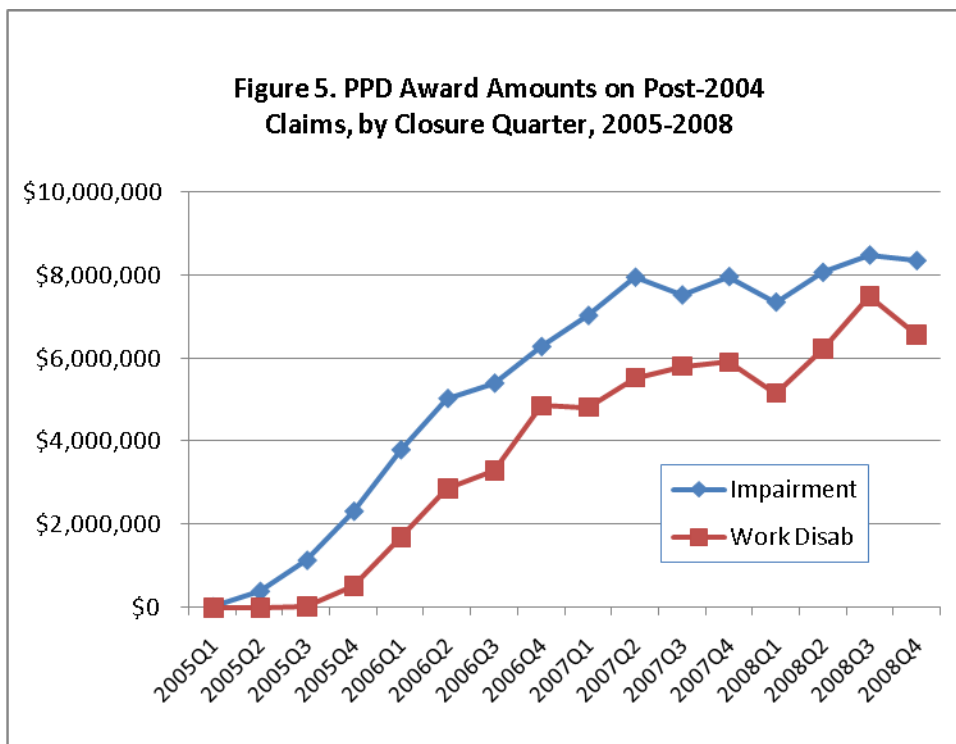
The new PPD benefit structure consists of two benefit types, both of which can be paid in the same claim:

- Impairment, which is rated and paid for all PPD claims, and
- Work disability, which is rated and paid (in addition to impairment) when the worker is unable to return to regular work.

We would expect most impairment-only claims to reach closure more rapidly than those with work disability, a characteristic that can be seen in Figure 5. Claim closures with impairment benefits only rose rapidly in the quarters after the new law became effective, while work disability closures developed more gradually. One in five 2008 PPD closures had work disability benefits. With more years under the new system, this proportion may increase somewhat as the average maturity of post-2004 claims increases among all closures.

One of the expected effects of PPD benefit changes was to re-allocate PPD award dollars to claims with greater economic loss. We would expect that claimants who return to regular work (generally shorter-duration claims) would receive lower awards under the new benefit structure, while longer-duration claims (less likely to return to regular work) to have higher average awards than in the past. The available experience for post-2004 claims supports the expected effect.

Figure 5 shows the dollar amounts awarded under the new law. Because the typical claim with Work Disability benefits is more severe, the average benefit is higher, and thus the amounts are much closer than the award counts between the two benefit types. Note that impairment award amounts in Figure 5 include the impairment benefit portion of claims that also have work disability benefits.

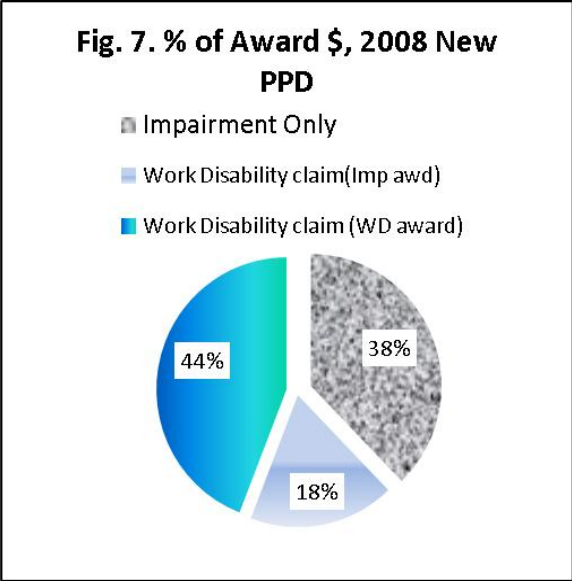
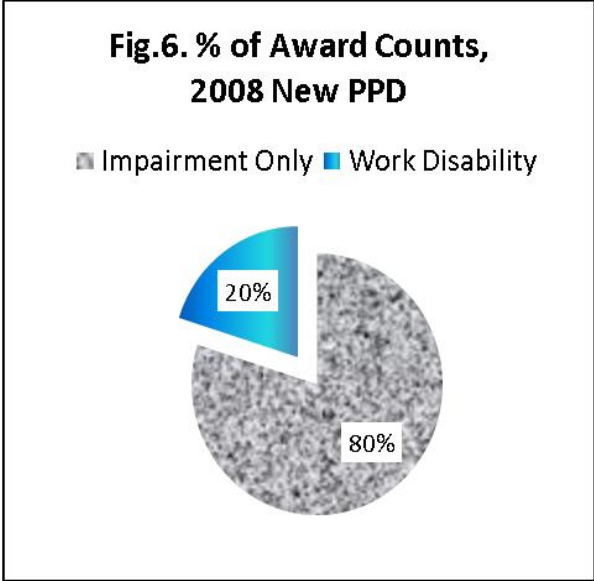


PPD awards in 2008

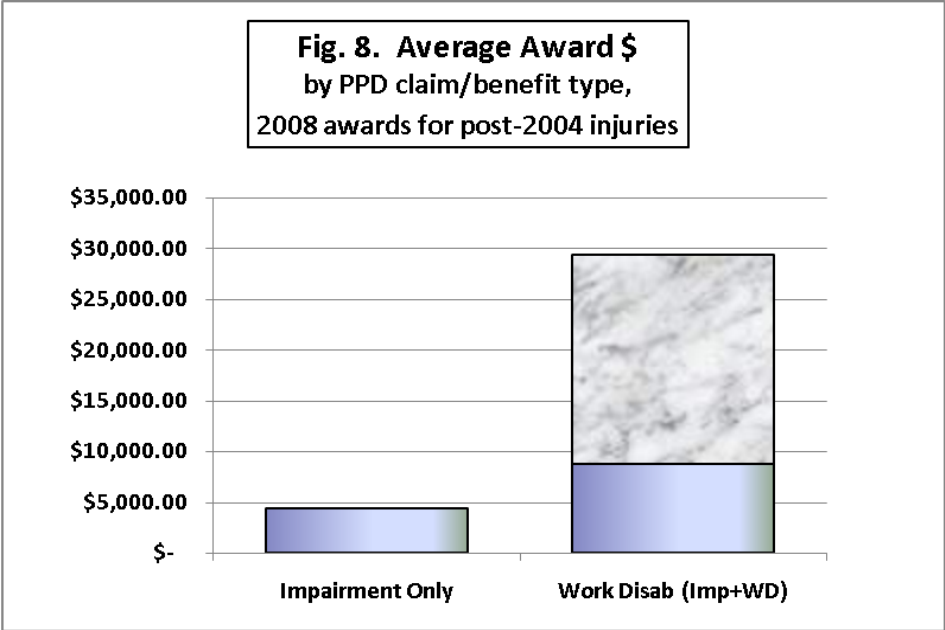
Figures 6 and 7 show the distribution of benefit types in new PPD claims for a single year of awards, 2008. Claims that close in any particular year represent a mix of claims that arose in both that year and prior years. We use 2008 closures because they are less likely to be affected by maturity issues; in other words, they are more likely to be representative of future results.

Figure 6 shows the distribution of PPD claims by benefit type. Just over one in five 2008 PPD closures in the new system had work disability benefits. With more years under the new system, this proportion may increase gradually, as the average maturity of post-2004 claims increases among all closures.

Since injury-year 2006, the worker’s release-to-regular-work status has been the threshold for work disability benefits. When the worker is not released to return to regular work, work disability benefits are awarded in addition to impairment benefits. Thus, some workers will receive one PPD benefit type (impairment) while others receive both types (impairment and work disability). Figure 7 shows the distribution of awards among these benefit/claim types. Putting the information in these two charts together, we can state that the most serious 20 percent of claims are receiving 62 percent of the PPD benefits for this set of claims.



Finally, Figure 8 shows the average award by PPD benefit type, including the relative contribution of impairment and work disability benefits to the average PPD claim with work disability. The work disability portion of benefits provides over two-thirds of the PPD award for these claims. These two benefits sum to over \$29,000 for PPD claims with work disability.



Conclusion

PPD benefit amounts overall have been quite stable in recent years, despite the major changes implemented in the system since 2004. In the four years since changes took effect, PPD award characteristics appear to be consistent with original expectations and the policy decisions that were made at the time.