

Temporary disability rate history

ORS 656.210

1967 – Present

1967	<p>The temporary total disability rate, maximum benefit, and minimum benefit varied based on a variety of factors: marital status, whether a husband was disabled, and number of children the worker had. ORS 656.210 had 10 subsections explaining benefits for different family scenarios. For example:</p> <ul style="list-style-type: none"> A worker who was unmarried would receive compensation that was 50 percent of wages, but no more than \$170 per month. A worker who was married with five children would receive 74 percent of wages but no more than \$310 per month.
1969	<p>The temporary disability rate changed to 66 $\frac{2}{3}$ percent of wages. The minimum benefit was changed to \$30 a week. The maximum was also changed, and became the lesser of:</p> <ul style="list-style-type: none"> 90 percent of wages A specific dollar amount (ranging from \$60 - \$80 a week) that depended on marital status, whether a husband was disabled, and number of children the worker had.
1971	<p>The maximum benefit was changed to \$85 a week, and the personal circumstances (e.g., marital status) that affected the maximum were removed. The minimum benefit was changed to the lesser of:</p> <ul style="list-style-type: none"> 90 percent of wages a week \$50 a week
1973 - 1975	<p>The maximum benefit increased to 80 percent of the state average weekly wage (SAWW), then 100 percent of the SAWW. Additionally, an annual increase for temporary disability was added, based on the percentage the SAWW increased since the previous fiscal year.</p>
2002	<p>The maximum benefit was increased to 133 percent of the SAWW. This change originated from recommendations made by a taskforce appointed by the governor and a part of a bill reviewed by MLAC. It was anticipated that this higher limit would benefit higher paid workers who would find themselves getting lower workers' compensation time loss replacement than what their take home pay was.</p>

Note: This summary does not include all revisions of ORS 656.210. This timeline focuses on the changes related to the rate of temporary disability. Changes related to other topics, such as how the worker's weekly wage is determined or supplemental disability benefits, are not included.

Related legislation

1969 session	House Bill 1084	1975 session	Senate Bills 742 and 442
1971 session	Senate Bill 345	2001 session	Senate Bill 485
1973 session	Senate Bill 233		
1974 session	House Bill 3303		

Why 66 $\frac{2}{3}$ percent?

1967

- Before 1969, a worker's temporary disability rate varied based on their personal circumstances (e.g., whether they were married, how many children they had, and whether a husband was disabled). Additionally, maximums were generally based on set dollar amounts per month.

1969

- The temporary disability rate changed to 66 $\frac{2}{3}$ percent due to House Bill 1084 (1969).
- This change originated from the Industrial Accident Advisory Committee (IAAC), a committee appointed by the governor to study workers' compensation benefits. The IAAC recommended changing the temporary disability rate to 66 $\frac{2}{3}$ percent, along with making changes to the maximum benefit amount.¹
- The IAAC provided two reasons for revising the rate to 66 $\frac{2}{3}$ percent:
 - Recent increases in the cost of living
 - Agreement that temporary disability should be based on the worker's wage rather than the number of dependents they had.
- Two stakeholders, AFL-CIO and Associated Oregon Industries (AOI), later testified that the main purpose of the bill was to raise workers' compensation and bring better benefits.²

1971

- 1969 legislation established a general rate of 66 $\frac{2}{3}$ percent, but personal circumstances still determined what the maximum benefit was. These factors were removed by a 1971 bill, SB 345.
- When the AFL-CIO and AOI testified on SB 345, they noted they had arrived at a compromise, and that the bill would accomplish three goals:³
 - A flat weekly benefit for simplified administration;
 - Eliminating discrimination between a man and a wife, in the event the man was disabled and the wife was providing the family income; and
 - Bringing compensation up to a more realistic level.

¹ The recommendation was included in the Industrial Accident Advisory Committee's 1968 Report to the 55th Legislative Assembly. During a March 31, 1969 House Labor and Management subcommittee meeting, it was noted that HB 1084 originated from the IAAC.

² Testimony was provided before the May 19, 1969 Senate Labor and Industries committee.

³ Testimony was provided before the March 24, 1971 Senate Labor and Industries committee.

Historical context

Though the legislative record does not state exactly why 66 ⅔ percent was the percentage selected, historical information may provide some helpful context.

- In 1967, 66 ⅔ percent was commonly used as the rate for temporary disability.⁴ Decades earlier, in 1944, the U.S. Department of Labor recommended a rate of 66 ⅔ percent, based on a recommendation from the National Conference on Labor Legislation.^{5 6}
- The maximum for temporary disability benefits was lower compared to today.
 - In 1971, Oregon's maximum weekly was \$85, which was lower than the average weekly wage in Oregon in 1971 (\$137), and less than 66 ⅔ percent of \$137 (about \$91).⁷ In comparison, today, Oregon's maximum benefit is 133 percent of the state average weekly wage (currently \$1,331.48, which makes the maximum benefit \$1,770.87). Most accepted disabling claims have a weekly wage that [falls under the state average weekly wage](#).
 - In 1967, the U.S. Department of Labor noted that workers did not typically receive the full temporary disability rate due to dollar limitations on the payments, which meant the worker might receive less than the statutory percentage.⁴ To provide a maximum benefit rate that would be sufficient to maintain a standard of living above subsistence level, the U.S. Department of Labor recommended a maximum weekly benefit equal to at least 66 ⅔ percent of the state's average weekly wage.⁴ At that time, in Oregon, the maximum benefit for a worker with a wife and two children was 53.1 percent of the state average weekly wage.⁴
- According to a 1972 National Commission on State Workmen's Compensation Laws Report:

"The traditional approach has been to replace two-thirds of lost wages. This proportion represented a rough judgement about the adjustments needed to reflect the reduction in the disabled worker's work-related expenses, and to provide him an incentive to return to work."⁸

⁴ [United States. Bureau of Labor Standards. \(1967\). *State workmen's compensation laws: a comparison of major provisions with recommended standards*. Rev. ed. Washington: The Bureau of Labor Standards.](#)

⁵ [National Conference on Labor Legislation \(11th : 1944 : Washington, D., United States. Bureau of Labor Standards. \(1945\). *Reports of committees and resolutions adopted by the Eleventh National Conference on Labor Legislation: December 12, 13, and 14, 1944*. \[Washington, D.C.\]: U.S. G.P.O..](#)

⁶ [United States. Bureau of Labor Standards. \(1944\). *How good is your workmen's compensation law?: With check list of questions*. \[Washington: U.S. Govt. Print. Off..](#)

⁷ [Williams, C. Arthur \(Chester Arthur\), Barth, P. S., United States. National Commission on State Workmen's Compensation Laws. \(1973\). *Compendium on workmen's compensation*. Washington: National Commission on State Workmen's Compensation Laws; \[for sale by the Supt. of Docs., U.S. Govt. Print. Off.\].](#)

⁸ [United States. National Commission on State Workmen's Compensation Laws. \(1972\). *The report of the National Commission on State Workmen's Compensation Laws*. Washington.](#)