

Permanent Partial Disability Trends:
2019 Update to the
Workers' Compensation Management-Labor Advisory Committee

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Introduction

In 2003, the Oregon Legislature passed Senate Bill (SB) 757, which modified the permanent partial disability (PPD) rating criteria and benefit calculations. To allow time to implement the changes, the bill made the changes effective for injury dates beginning on Jan. 1, 2005. The bill included a sunset on the new rating structure. In 2005, the Legislature passed House Bill (HB) 2408, which further modified PPD rating criteria.

In 2007, the Legislature passed HB 2244. This bill made the new benefit structure permanent by removing the sunset. The bill also charged the Management-Labor Advisory Committee (MLAC) with a biennial review of PPD benefits.

This document provides information on PPD trends for this biennial review. The primary focus is on PPD awards under the new benefit system. The history of the legislative changes and descriptions of the benefit structures are in the appendices.

Highlights

This report covers PPD trends through 2018.

- While the total number of claims is increasing, the number and percentage of claims with PPD awards has fallen.
- In 2018, about 17 percent of indemnity payments for accepted disabling claims were PPD awards.¹
- In 2018, just 1 percent of the PPD awards were issued for claims under the pre-2005 benefit structure. These were from WCB Own Motion orders.
- In 2018, 95.6 percent of PPD award dollars were granted by insurer closures, 2.8 percent from WCD reconsideration orders, and 1.6 percent by WCB orders.
- PPD benefits are tied to the statewide average weekly wage, which usually increases. Because of this, the statutory maximum PPD award has increased from \$283,917 in Jan. through June 2005 to the current amount of \$400,308.
- In 2018, the average impairment-only claim was awarded about \$5,800; the average work disability claim was awarded about \$47,000. The largest PPD award granted was about \$298,000.

¹ This information is provided in the workers' compensation system report. The indemnity data is at <https://www.oregon.gov/dcbs/reports/compensation/indemnity/ins-benefits/Pages/index.aspx>

Claims with PPD awards

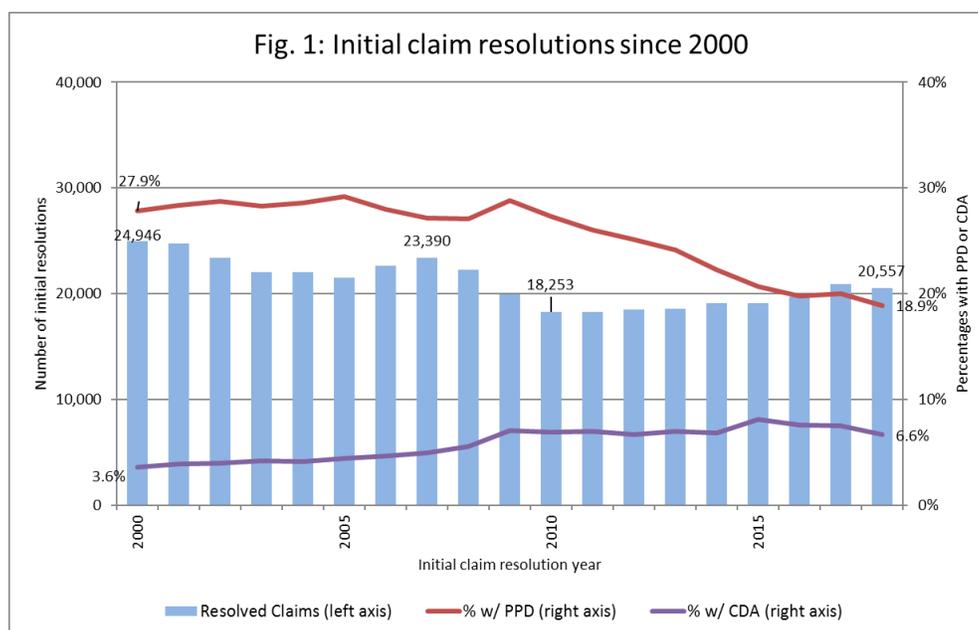
There are two ways for an accepted disabling claim to be resolved:²

- The insurer can close the claim once the worker is determined to be medically stationary, end temporary disability benefits, and determine PPD awards. The claim may be reopened because of a new or omitted condition, an aggravation of the accepted condition, or for vocational training.³ In addition, the closure may be appealed and PPD awards modified, added or rescinded.
- The worker and insurer can agree to a Claims Disposition Agreement (CDA) before claim closure. In this case, there are no PPD awards.⁴

Figure 1 shows the number of initial claim resolutions since 2000 and the percentages of these claims awarded PPD or with a CDA. The number of claims declined during the early 2000s and then grew as employment grew. The number then dropped during the recession, falling to fewer than 18,300 resolved claims in 2010. The number has since grown as the economy has grown. There were about 20,600 initial claim resolutions in 2018, 13 percent more than in 2010.

Between 2000 and 2010, between 27 percent and 29 percent of these resolved claims had PPD awards. Over the past decade, the percentage has declined, and in 2018, 18.9 percent of the resolved claims had PPD awards. Overall, the number of resolved claims with PPD awards declined by 22 percent between 2010 and 2018.

The PPD figures are affected by CDAs before claim closure. When a CDA is reached before claim closure, there will be no PPD award. The number of initial CDAs grew by 9 percent between 2010 and 2018. Many of these claims could have had PPD awards if they had been closed rather than settled with a CDA.



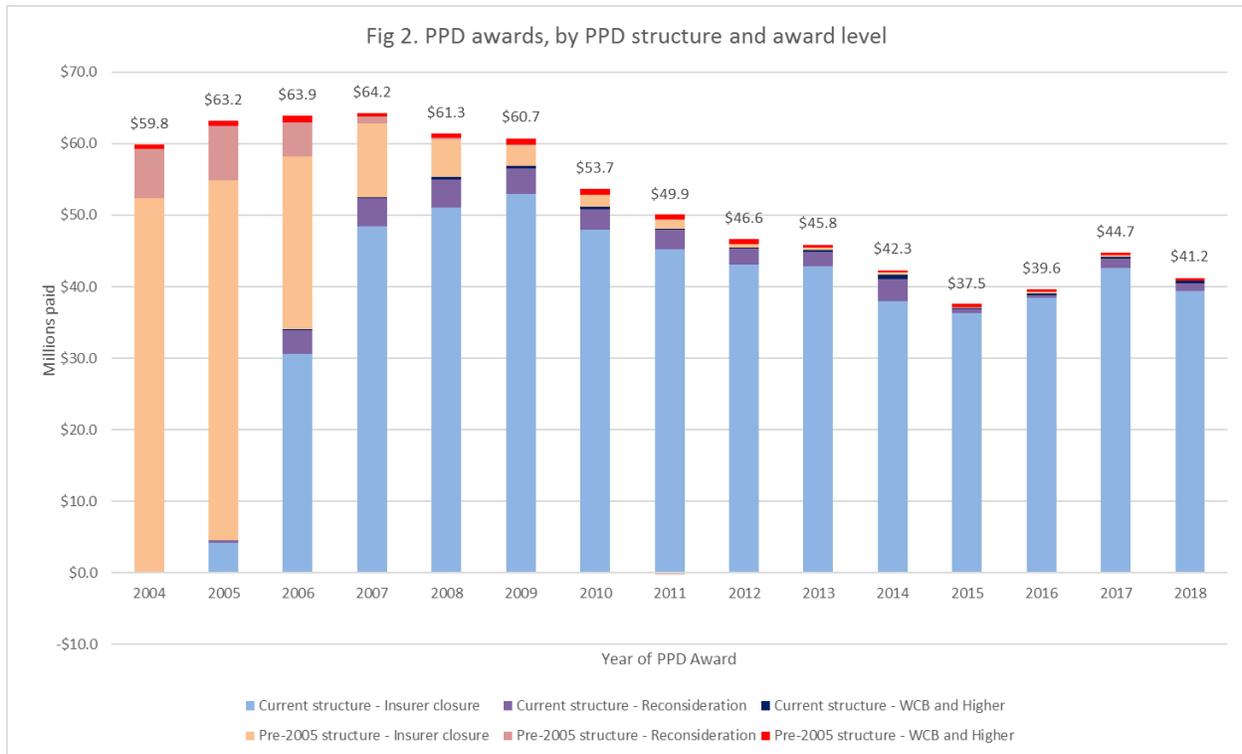
² “Resolved” is not a statutory term. It has been coined to signify an ending for accepted disabling claims.

³ The data in Figure 1 exclude the closures of aggravations and closures after vocational training. The data will change for claims for which the original closures are rescinded and then reissued.

⁴ There may be CDAs after claim closure. These CDAs are not included in Figure 1.

Total PPD awarded

The next figure shows the amount of PPD awarded each year since 2004.⁵ It illustrates the decline in the amount awarded under the pre-2005 structure and the source of the PPD award. In 2018, PPD awards totaled \$41.2 million. Of this amount, 99 percent were under the current benefit structure; the remaining 1 percent were PPD awards under the pre-2005 benefit structure in WCB Own Motion cases. Of the total amount, 95.6 percent of PPD award dollars were granted by the insurer, 2.8 percent by WCD reconsideration orders, and 1.6 percent by WCB orders.



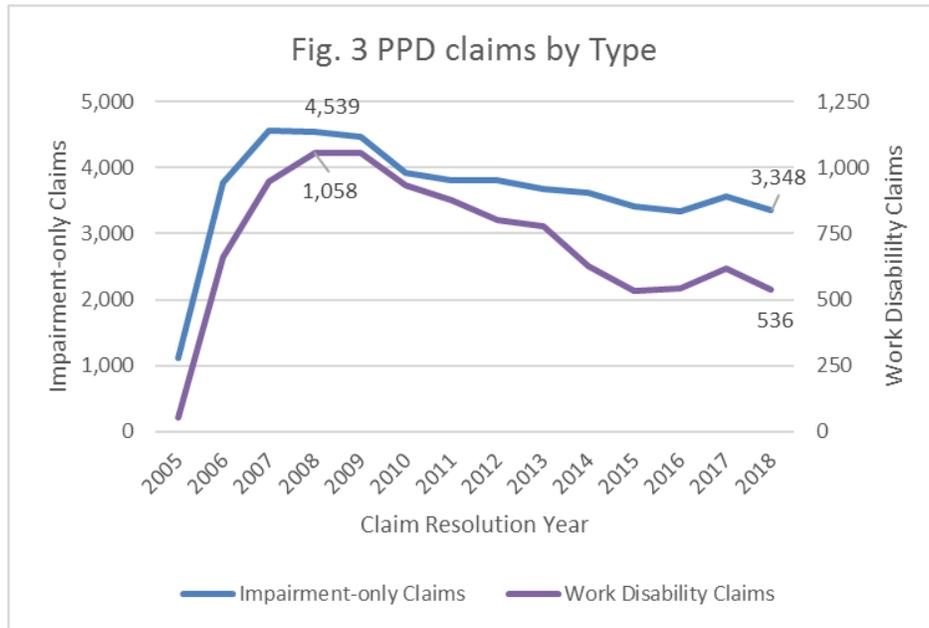
Impairment and work-disability awards

PPD benefits comprise two parts – impairment (for loss of function) and work disability (for inability to return to work). 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 3 shows the number of closed claims with PPD since 2005 by resolution year. The two lines are plotted against separate axes (impairment-only on the left, work disability on the right) to illustrate the similarities and differences between the trends since 2005. There were over 4,500 impairment-only claims in 2008. That number has declined, and there were fewer than 3,400 impairment-only claims in 2018. Impairment-only claims were 86 percent of the PPD

⁵ The data in this figure are by the year of the award. If an insurer awards PPD for a claim in one year and the reconsideration process modifies the PPD award in the next year, the data will be reported in the two different years.

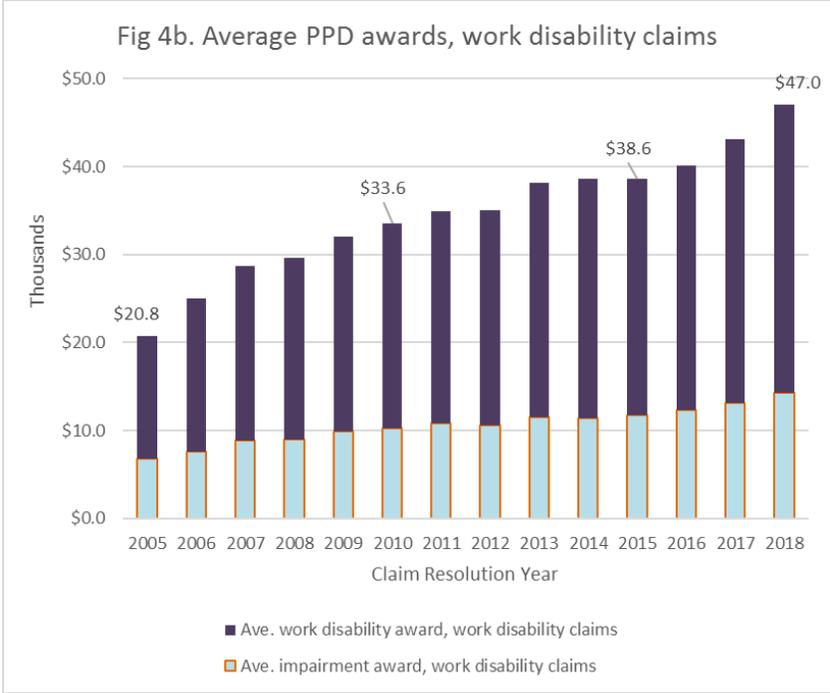
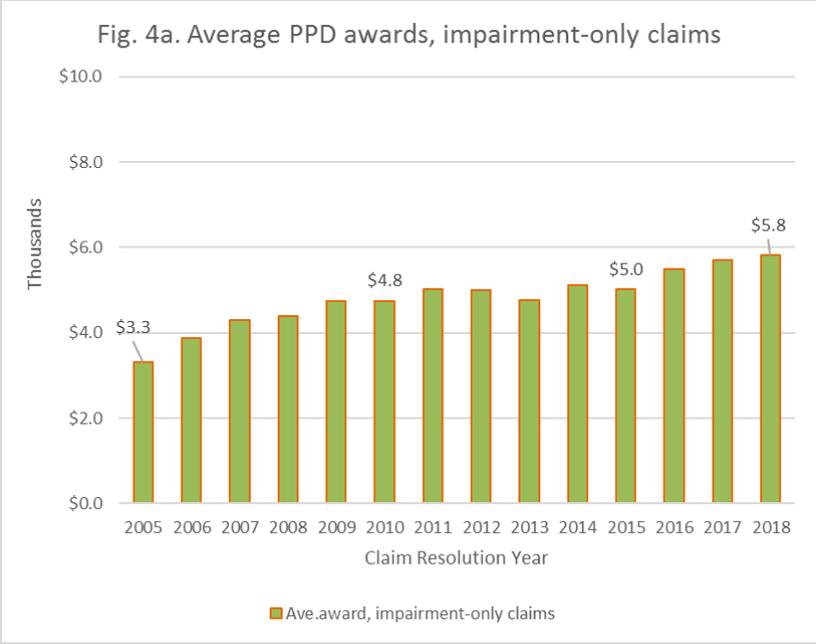
claims in 2018. The decline in work-disability claims has been steeper. There were over 1,000 work-disability claims in 2008 and over 500 in 2018.



The next two figures show 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. PPD benefits are tied to the statewide average weekly wage at the time of injury, so the averages will grow at approximately the same rate as the average weekly wage.

The average PPD award for impairment-only claims has grown 2.4 percent per year and reached about \$5,800 in 2018. (The average weekly wage has grown 2.7 percent per year since 2008.)

In 2018, the average PPD award for work disability claims was about \$47,000. Of this \$14,000 (30 percent of the award) was for impairment and about \$33,000 (70 percent) was for work disability. While work-disability claims made up 14 percent of the PPD claims, they had 56 percent of the PPD dollars. Again, note that these two figures use different axes to illustrate the trends. The impairment portion of the work disability claims (the light-blue region in the right-hand figure) is considerably larger than the awards in the impairment-only claims.



Appendix 1 – Timeline of changes to the PPD system

The following is a timeline of changes to the PPD system. In the 1980s, PPD was the most frequently litigated issue in the Oregon workers' compensation system, PPD benefit maximums were among lowest in the U.S., and there was no method for cost-of-living adjustments.

- 1987: Mandated consistent rating standards at all levels of appeal
- 1990: Scheduled benefits more than doubled, to a maximum that approximated the national median; unscheduled benefits remained the same. The reconsideration process was created for the appeal of claim closures. This included the medical arbiter process for impairment disputes.
- 1991: Benefit levels became tiered and tied to the average weekly wage growth
- 1995: Benefit tiers were increased, the average wage tier was deleted, and the appeal process was clarified
- 1997: Benefits were increased
- 2001: Benefits were increased, with a sunset in 2004
- 2001-2003: MLAC subcommittee developed PPD concepts for a replacement system
- 2003: SB 757 passed with the new PPD structure for dates of injury from January 1, 2005. Benefit increases were tied to changes in average weekly wage. Included a sunset to return to the old PPD structure on January 2008.
- 2005: SB 757 implemented. HB 2408 passed; it modified the return-to-work criteria and mandated a PPD study.
- 2006: Study confirmed that the PPD benefit changes were cost neutral and redistributed benefits to the more serious cases in which the injured worker could not return to the job at injury.
- 2007: HB 2244 passed, removing the sunset on the new PPD structure. It mandated a biennial PPD review by MLAC.
- 2009: First mandated MLAC PPD update
- 2019: Sixth MLAC PPD update

Appendix 2 - PPD benefit structure

Pre-2005 PPD rating structure

From 1914 until the implementation of SB 757, Oregon's workers' compensation system distinguished between scheduled and unscheduled body parts for PPD.

When the loss to a body part is named in ORS 656.214(1)–(4), the disability is scheduled. The scheduled body parts are the bodily extremities, plus vision and hearing. The criterion for rating the disability is impairment, which is the permanent loss of use or function of the body part. Physicians report findings on impairment, while the insurer rates disability at the time of claim closure. A scheduled PPD award for the same injury to two workers will be the same regardless of the wages earned.

Losses to other body parts not named in ORS 656.214(1)–(4), such as to the back, are unscheduled disability. Since 1988, they have been rated on impairment modified by the factors of age, education, and adaptability to perform a given job. Therefore, unscheduled awards for the same injury to two workers may differ.

Disability ratings are translated into dollar awards by converting ratings into degrees of disability. For scheduled injuries, injuries were rated relative to a specified degree maximum for the body part. For example, the loss of 100 percent of the function in a leg equals 150 degrees. For unscheduled injuries, 100 percent of the whole person (total disability) is 320 degrees.

Current PPD benefit structure

In 2003, SB 757 created a new structure for permanent partial disability awards. The changes apply to claims for injuries occurring since January 1, 2005. Injuries to all body parts are rated in relation to the whole person. There is no longer a distinction between scheduled and unscheduled awards, and awards are no longer measured in degrees.

Workers with permanent disability receive an impairment benefit. Impairment is defined as the loss of use or function of a body part or system due to the compensable injury or disease; it is expressed as a percentage of the whole person determined in accordance with the AMA Version 3 Impairment Rating System. The impairment award is the product of 100 times the impairment value times the average weekly wage. Benefits are adjusted annually in accordance with the change in the statewide average weekly wage.

Workers unable to return to work receive a work disability benefit based on the impairment modified by age, education, adaptability factors, and earnings at the time of injury. The work disability award is the impairment value, modified by the age, education, and adaptability factors multiplied by 150 times the worker's weekly wage. In 2005, HB 2408 modified this structure; workers injured since January 1, 2006, who are released to regular work are specifically excluded from work disability benefits.