

Claim Closure and Reconsideration, Oregon, Calendar Year 2001

Research & Analysis Section

Department of Consumer & Business Services

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The statute covering the claim closure and reconsideration processes is Oregon Revised Statutes 656.268. The administrative rules are Oregon Administrative Rules 436-030 and 436-060. Information about legislative history and its effect on the Oregon workers' compensation system can be found in the division's publication *Monitoring the Key Components of Legislative Reform* and the *Oregon Major Contributing Cause Study*. More information about PPD awards can be found in the division's publications *Permanent Partial Disability in the Oregon Workers' Compensation System* and *Oregon Permanent Partial Disability Benefits: Historical Trends and Interstate Comparisons*. More information about litigation and settlements can be found in several of the division's reports: *Claim Disposition Agreements in the Oregon Workers' Compensation System*, *Hearings Division Statistical Report*, *Workers' Compensation Board Activity Summary*, *Oregon Court of Appeals Workers' Compensation Summary*, and *Oregon Supreme Court Workers' Compensation Summary*.

Introduction

Oregon workers who suffer an occupational injury or disease may receive workers' compensation benefits by filing a claim with their workers' compensation insurer or self-insured employer. If the insurer finds the claim to be compensable, the insurer will accept the claim and pay related medical expenses and any benefits for time lost from work. Claims for which timeloss benefits are due or for which there is an expectation of permanent disability or a death are classified as "disabling" claims; other, medical-only claims are "nondisabling." For accepted disabling claims, temporary disability benefits generally continue until the worker either returns to work or is declared medically stationary by the worker's attending physician. At this point, the claim closure process begins. The insurer stops temporary disability payments and determines the extent of permanent disability. To close the claim, the insurer issues a notice of closure to the worker.¹

Workers dissatisfied with a claim closure may request the reconsideration of the closure by the Workers' Compensation Division Appellate Review Unit.² This administrative appeal process was created in Senate Bill 1197, a large-scale reform of the workers' compensation system accomplished in May 1990 during a legislative special session. Workers must file an appeal within 60 days of the mailing date of the closure order. ARU then conducts a *de novo* review of the closure. All parties may provide evidence for consideration. If there is a dispute about the impairment findings, ARU refers the worker to a medical arbiter physician for an exam. The costs of the exam are paid by the insurer or self-insured employer.³

ARU's Orders on Reconsideration may be appealed by workers or insurers to the Workers' Compensation Board Hearings Division. The parties have 30 days from the

¹ Insurers have closed all claims only since January 1, 2001. This change was included in Senate Bill 220, passed by the 1999 legislature. This was the culmination in a shift of responsibility. Prior to 2001, insurers could either close a claim or request closure by the Workers' Compensation Division Evaluation Unit. Prior to 1980, the Evaluation Unit had sole authority to close claims. In 1980, insurers were authorized to close claims involving only temporary disability. In 1987, insurers' authority was expanded to include the closure of claims in which the worker's condition was medically stationary and the worker had returned to work. In 1990, the legislature further expanded insurers' authority to close claims in which the worker's condition had become medically stationary and the attending physician had released the worker to return to regular or modified employment. Senate Bill 220 transferred the responsibility for closing all workers' compensation claims and for reclassifying nondisabling claims to workers' compensation insurers and self-insured employers. In this report, claim closures refer to both insurer closures and Evaluation Unit closures.

² At the time the Evaluation Unit was closing claims, either the worker or the insurer could appeal an Evaluation Unit order.

³ Insurers also issue Notices of Classification, which are insurer determinations of whether a claim is disabling or nondisabling. They are completed upon a worker's request. These decisions can also be appealed to ARU. For ease of the discussion in this report, these classifications are included with the claim closures and their appeals are included with the reconsideration orders.

mailing date of the reconsideration order to appeal. They are prohibited from submitting evidence that was not submitted during the reconsideration process. After the Hearings Division, the route of appeal goes through Board review at WCB and the Oregon Court of Appeals to the Oregon Supreme Court.

Table 1 provides a summary of the number of claim closures since 1989 and the number of reconsiderations since 1991. There were 26,961 claim closures in 2001. This is 30 percent fewer than in

1991. There were 4,239 substantive reconsideration orders in 2001.

Prior to the creation of the reconsideration process, more than 20 percent of the closures were appealed to the Hearings Division. In recent years, about 15 percent of the closures have been appealed for reconsideration; about a third of the reconsideration orders have been appealed to the Hearings Division. As a result, only 5 percent of closures are now appealed to the Hearings Division.

Table 1. Claim closures and reconsideration orders, with appeal rates, 1989-2001

	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Claim Closures	48,732	46,488	38,351	34,506	33,823	34,631	35,657	33,784	31,649	30,789	28,898	27,637	26,961
% appealed to reconsideration	N/A	N/A	16.8%	17.3%	17.2%	16.9%	16.6%	15.8%	14.6%	14.5%	14.8%	14.5%	15.6%
Reconsideration orders	N/A	N/A	4,784	6,359	5,950	5,976	6,507	6,246	4,767	4,568	4,535	4,228	4,239
% appealed to hearing	N/A	N/A	49.0%	53.4%	48.1%	47.8%	43.1%	36.4%	36.4%	35.6%	36.3%	32.0%	33.7%
% of closures appealed to hearing	21.1%	N/A	8.2%	9.3%	8.3%	8.1%	7.2%	5.7%	5.3%	5.2%	5.4%	4.7%	5.3%

The reconsideration process began in mid-1990. 1990 figures are not available.

Claim closures

Accepted disabling claims are closed when the worker becomes medically stationary, when the compensable condition is no longer the major contributing cause of the disability, when the worker finishes a vocational training program, or after the worker fails to keep medical appointments.⁴ At that time, the final timeloss and partial disability benefits are calculated. Temporary total disability benefits are paid as 66 2/3 percent of the worker's weekly wage. For injuries on or after January 1, 2002, the maximum benefit is 133 percent of the Statewide Average Weekly Wage, currently \$857.85 (see the appendix).

Permanent partial disability awards are divided into scheduled and unscheduled awards. Scheduled PPD awards are those listed (or scheduled) in ORS 656.214(2)-(4). Scheduled body parts include the arms and legs, plus hearing and sight. The criterion for rating disability is the permanent loss of use or function (partially or totally) of a particular body part. For an injury involving multiple body parts, there may be separate awards for different

scheduled body parts. The maximum scheduled award for the loss of function of a body part ranges from 4 degrees for the toe to 192 degrees for an arm. For injuries on or after January 1, 2002, scheduled PPD is paid at \$559 per degree. Therefore, the maximum award for the loss of an arm is currently \$107,328.

PPD awards for other body parts are unscheduled awards. The criteria for rating disability differs from that used for scheduled awards. It is the permanent loss of earning capacity due to the injury. This is the impairment for the body part; for workers who have not returned to work or refused an offer of work there are also modifications due to the worker's age, education, and adaptability. When an injury affects multiple body parts, the percents of impairment to the different body parts are combined and converted to degrees of disability. In recording these awards, the degrees are assigned to the unscheduled body part that has the largest impairment. As a result, there is no more than one unscheduled award per closure. An injury has

⁴ Not all accepted disabling claims are closed. A worker and insurer may reach a compromise and release agreement, called a Claim Disposition Agreement. These agreements must be approved by the Workers' Compensation Board. The agreement can settle all accepted issues except for medical services; workers retain for life the right to medical services for their compensable conditions. While the majority of CDAs are reached after claim closure, about 5 percent of accepted disabling claims are not closed because a CDA is reached before claim closure.

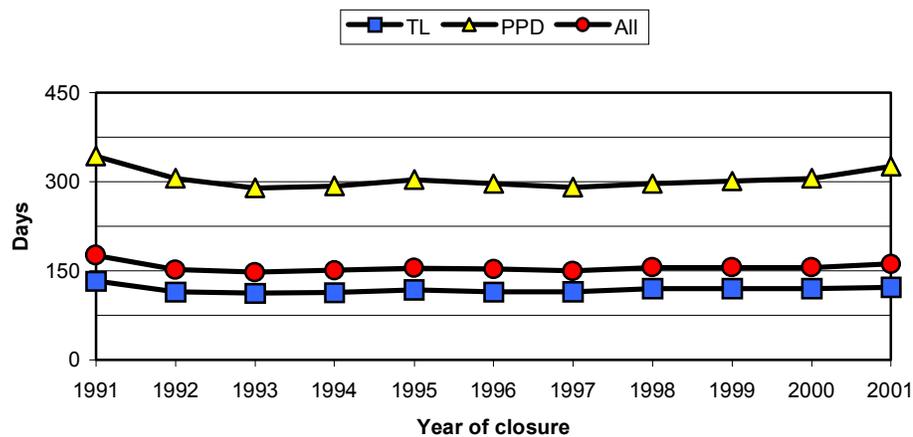
a potential maximum of 320 unscheduled degrees. Benefits are paid according to a three-tiered scale. For injuries on or after January 1, 2002, the scale is \$184 per degree for the first 64 degrees, \$321 per degree for the next 96 degrees, and \$748 per degree for the degrees above 160.

Claims may have several closures. Some closures are corrections of earlier closures. Claims may also be reopened if a new medical condition becomes

compensable or if the accepted condition becomes aggravated. There are about 1.14 closures per claim.

For claims first closed in 2001, the median number of calendar days between injury and the first claim closure was 162 days (see Figure 1). This is the highest median since 1991. The increase is mostly due to an increase in the number of days to close PPD claims. For PPD claims, the median was 326 days, up from 306 days in 2000. For timeloss claims, the median was 122 days.

Figure 1. Median days from injury to first closure, 1991 - 2001



Benefit types

There are four main types of workers’ compensation indemnity benefits awarded to claimants on claim closure: temporary disability (both temporary total disability and temporary partial disability), permanent partial disability, permanent total disability, and fatality awards. Although a claim may have multiple benefits, it is classified by the highest benefit received.

In 2001, there were 26,961 claim closures. This is 2 percent fewer than in 2000 and reflects the continuing

decline in the number of accepted disabling claims. In recent years this decline is mostly attributable to the 1996 expansion of the Employer-at-Injury Program to nondisabling claims.⁵ Sixty-eight percent of the closures were timeloss orders, and 26 percent were PPD orders (see Table 2). Most of the other orders were correcting orders, closing orders with no additional timeloss or PPD, closing orders after the end of vocational training programs, classification notices, and the rescission of other closures.

Table 2. Claims closures, by closure type, 1997 - 2001

Closure Year	Timeloss closures			PPD closures			Fatal	PTD closures				Other	Total
	Grant	Modify	Total	Grant	Modify	Total		Affirm	Grant	Reduce	Total		
1997	20,171	453	20,624	7,739	311	8,050	54	7	11	1	19	2,902	31,649
1998	19,799	599	20,398	7,405	313	7,718	43	8	9	4	21	2,609	30,789
1999	18,538	540	19,078	7,125	254	7,379	43	9	16	7	32	2,366	28,898
2000	18,050	597	18,647	6,779	187	6,966	41	5	6	6	17	1,966	27,637
2001	17,731	488	18,219	6,791	199	6,990	33	0	10	13	23	1,696	26,961
2001 %	65.8%	1.8%	67.6%	25.2%	0.7%	25.9%	0.1%	0.0%	0.0%	0.0%	0.1%	6.3%	100%

Note: Most of the “other” closures are corrections and closures with no additional timeloss or PPD.

⁵ The Employer-at-Injury Program provides wage subsidies and other benefits to employers who bring their injured workers back to work under certain conditions. Workers have been brought back to work more quickly, thereby making nondisabling some claims that otherwise would have been disabling.

Insurers first gained the responsibility to make fatality awards with the passage of SB 220 in 1999. In 2001, there were 33 claim determinations with a fatality award. This is fewer than the 41 awards in 2000.

As with fatality awards, insurers first gained the responsibility to make permanent total disability awards in SB 220. According to the administrative rules, insurers must reexamine PTD awards at least once every two years. In order to receive or retain a PTD award, a worker must be incapable of working regularly, be willing to seek regular and gainful employment, and make a reasonable effort to find work or actively participate in a vocational assistance program, unless medical or

vocational findings make such an effort futile. In 2001, insurers granted 10 PTD awards and reduced 13 existing PTD awards. Insurers did not report the affirmation of any existing PTD awards.

Claim costs at closure

At the time of claim closure, insurers report their claim costs to the department. They report three cost components: the total medical costs paid, including charges received but not paid as of the date of the closure; the total temporary disability paid; and the amount of PPD paid by body part. They also report the number of weeks or days for which timeloss was paid. The department has this data for a 20-year period (see Table 3).

Table 3. Average claim cost at closure, 1982 - 2001

Year	Claims determined	Medical costs paid	Timeloss dollars paid	Mean TL days paid	Median TL days paid	PPD dollars paid	Total dollars paid
1982	36,610	\$2,151	\$2,709	71	18	\$584	\$5,443
1983	35,697	\$2,284	\$2,889	73	17	\$774	\$5,947
1984	39,913	\$2,360	\$2,880	71	17	\$808	\$6,049
1985	41,591	\$2,559	\$3,090	75	18	\$833	\$6,482
1986	43,337	\$2,966	\$3,504	85	20	\$949	\$7,419
1987	44,832	\$3,520	\$3,768	90	21	\$1,024	\$8,311
1988	45,649	\$3,590	\$3,588	85	21	\$951	\$8,128
1989	44,849	\$4,144	\$3,968	95	23	\$1,296	\$9,408
1990	43,333	\$4,764	\$4,165	98	22	\$1,241	\$10,170
1991	36,711	\$4,819	\$4,041	89	21	\$1,192	\$10,051
1992	32,983	\$4,680	\$3,731	80	20	\$1,401	\$9,811
1993	32,426	\$4,787	\$3,517	74	20	\$1,506	\$9,810
1994	32,819	\$4,548	\$3,300	68	19	\$1,523	\$9,371
1995	32,891	\$4,649	\$3,179	64	19	\$1,547	\$9,376
1996	30,195	\$4,728	\$2,986	60	17	\$1,694	\$9,408
1997	28,795	\$4,606	\$2,913	56	16	\$1,699	\$9,217
1998	28,096	\$5,017	\$3,078	57	18	\$1,708	\$9,804
1999	26,537	\$5,350	\$3,207	57	18	\$1,747	\$10,304
2000	25,622	\$5,519	\$3,135	54	17	\$1,828	\$10,482
2001	25,305	\$6,063	\$3,573	58	19	\$2,042	\$11,679
2001 closures by award type							
Timeloss only	18,863	\$3,460	\$2,278	39	14	\$0	\$5,738
PPD awarded	6,402	\$12,614	\$6,876	107	48	\$8,068	\$27,558

Notes: "Claims determined" are unique claim closures. They exclude closures that are amended by other closures, but they include multiple closures per claim. Therefore, the number of determined claims differs from the number of closures in Table 2.

Costs are derived from insurer reports. They exclude PTD and fatal indemnity; vocational assistance; medical-only claim costs; settlements; timeloss paid prior to claim denial and prior to settlement when the claim was not closed; and compensation awarded or modified on appeal. Average PPD dollars are calculated across all disabling claims. Due to rounding, the components may not sum to the totals.

In 2001, the average claim cost at closure was \$11,679. For timeloss claims, the average cost was \$5,738; for PPD claims, the average was \$27,558.

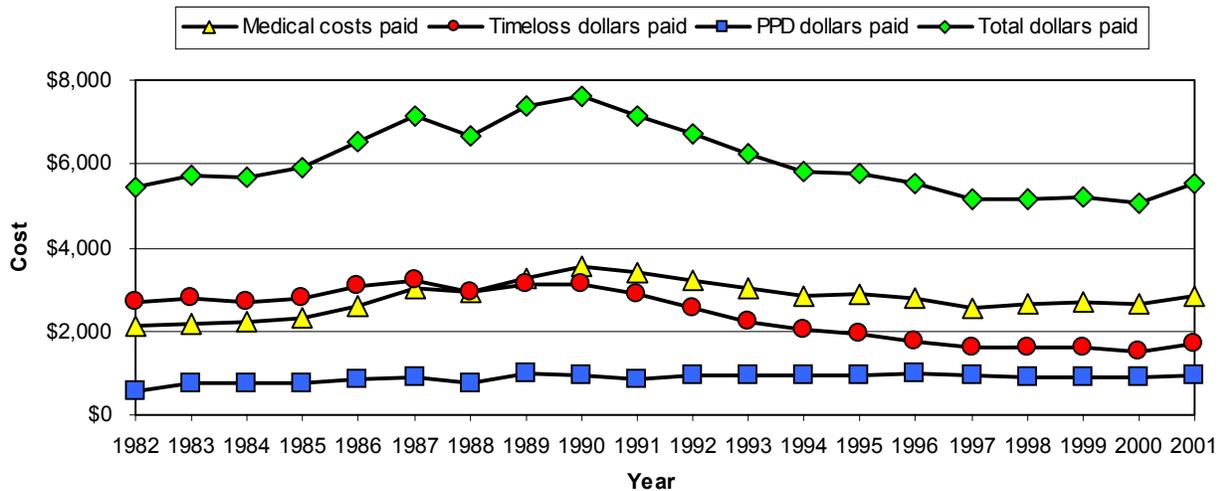
In 2001, medical costs were 52 percent of the average cost. In 1982, they were 40 percent of the average cost. The percentage has grown steadily, and in 1996 they became more than half of the average cost at closure.⁶

Workers retain the right to treatment for their compensable conditions after claim closure. The majority of claims do not have medical costs after closure. However, some claims can have high costs. For 1998 closures, the average medical cost after closure as of the end of 2000 was more than \$600. This was in addition to the average medical cost of \$5,017 at closure.

The trends in claim costs at closure can best be seen when accounting for changes in wages over time. In 1982, the Oregon Statewide Average Weekly Wage was \$304.60. By 2001, the SAWW had more than doubled to \$645.00. The yearly changes in the SAWW can be used to define constant dollars (see Figure 2).

The average cost at closure declined steadily between 1990 and 1997. Since then, excluding 2000, average costs have grown somewhat faster than wages. The steepest decrease was in the timeloss payments, which declined by almost half. This is a result of the number of days of paid timeloss; the mean number of paid days fell from 98 in 1990 to 56 in 1997. Medical costs declined more slowly, with most of the decline occurring between 1990 and 1994.

Figure 2. Average claim cost at closure, in constant dollars, 1982 - 2001



In 2001, timeloss benefits were 31 percent of the total claim cost at closure. The average number of paid timeloss days was 58; the median number of days was 19. Early in 2001, the department revised its insurer reporting form and began collecting both temporary total

disability and temporary partial disability data (see Table 4). On average, the total timeloss of 58 days consisted of 38 days of temporary total disability and 20 days of temporary partial disability. Fewer than half of the closures, however, had any temporary partial disability.

Table 4. Average timeloss, split into TTD and TPD, 2001

	Days		Dollars	
	Mean	Median	Mean	Median
Total timeloss	58	19	\$3,573	\$926
Temporary total disability	38	10	\$2,719	\$553
Temporary partial disability	20	0	\$854	\$0

Note: Data are reported for determined claims.

⁶ National data shows that Oregon workers' compensation insurers pay a higher proportion of benefits as medical expenditures than do insurers in most other states. For all Oregon claims (including nondisabling claims) in 1996, 69 percent of the benefits paid to injured workers were medical benefits and 31 percent were cash benefits. Nationally, 48 percent were medical benefits and 52 percent were cash benefits. See "Workers' Compensation Benefits Paid to Workers, 1985 - 1996," by John F. Burton and Florence Blum, in *Workers' Compensation Policy Review*, January/February 2001.

Return to work

The new insurer reporting form also provides new return-to-work information (see Table 5). In 2001, 79 percent of workers returned to work with the same employer they were with at the time of their injury or aggravation. Five percent returned to work with another employer, and 16 percent were not employed. When workers returned to the same employer, 94 percent returned to the same job. Eighty-nine percent of the workers were released to work without any restrictions, 5 percent were released to work with restrictions

due to their compensable conditions, and 1 percent were restricted due to non-compensable conditions.

The workers who went to a new employer after their claim closure had more restrictions. Eighteen percent were restricted because of their compensable conditions; 2 percent were restricted because of other conditions. The workers who did not return to work were even more likely to have been released with restrictions.

Table 5. Return-to-work employer and status, 2001

Return-to-work employer	Closures	% of closures	Return-to-work status					Release-to-work status				
			Same job at injury or aggravation	Modified/restricted duty	New job	No job	Total	Job without restrictions	Restricted due to compensable condition	Restricted due to other conditions	No medical information-admin. closure	Total
Same employer	16,296	78.6%	94.0%	5.0%	0.5%	0.5%	100%	89.1%	4.7%	1.1%	5.1%	100%
New employer	1,103	5.3%	4.4%	3.0%	90.9%	1.7%	100%	67.0%	18.5%	2.2%	12.3%	100%
Not employed	3,322	16.0%	6.2%	2.0%	1.1%	90.7%	100%	53.2%	27.9%	9.1%	9.8%	100%
Total	20,721	100.0%	75.2%	4.4%	5.4%	15.0%	100%	82.2%	9.1%	2.4%	6.3%	100%

Note: Data are reported for determined claims without missing information. Fatality and PTD closures are excluded.

Reconsideration of claim closures

In 2001, the Appellate Review Unit received 4,350 requests for reconsideration, 3 percent more than in 2000. The basis for a request for reconsideration may be one or more of several issues: temporary disability dates; the statutorily qualified or medically stationary date; premature or improper claim closure; the extent of scheduled permanent disability; the rating of impairment as a component of the unscheduled permanent disability award; age, education, and adaptability as a component of the unscheduled permanent disability award; and, other issues, such as whether an injury was disabling or nondisabling. A request for reconsideration results in the review of the entire disputed closure.

As shown earlier in Table 1, 16 percent of claim closures were appealed in 2001; this is slightly higher than in the past several years. PPD awards are often contentious issues; in 2001, 22 percent of the closures with PPD awards were appealed for reconsideration. In contrast, 13 percent of the closures that provided only timeloss benefits were appealed.

The statute provides 18 working days to process reconsiderations, unless there is a need for postponement. In 2001, 82 percent of the requests were postponed. Most postponements are made for a medical arbiter exam. The

average processing time for all cases completed during 2001 was 72 calendar days; for non-postponed cases, the average was 24 days (about 17 working days). The average processing time for the cases that involved medical arbiter exams was 84 days.

Medical arbiters conducted 3,589 exams in 2001 as a part of the reconsideration process. Physicians were paid \$7.5 million for these exams and the associated reports and record reviews.

Reconsideration orders issued

In 2001, ARU issued 4,253 reconsideration orders. ARU issued 4,239 substantive orders, 11 more than in 2000. ARU orders are defined as substantive, except those for which ARU issues a general denial of the reconsideration request or loses jurisdiction.

As with claim closures, a reconsideration order is classified according to the net effect on the highest level of awarded benefits. Therefore, while an order may resolve several issues, it will have only one primary outcome. For example, if a reconsideration order modifies timeloss benefits and reduces permanent partial disability, then the primary outcome is a PPD reduction.

In 2001, the primary outcome of 49 percent of the substantive reconsideration orders concerned permanent partial disability (see Table 6). 2001 was the first year in which the primary outcome of less than half of the substantive orders involved PPD. Of these PPD orders, 71 percent granted or increased PPD benefits, 14 percent reduced the awards, and 15 percent affirmed the awards.

Of the other primary outcomes, 26 percent involved timeloss orders. In 49 percent of these orders, the timeloss dates were modified.

ARU also granted one PTD award and affirmed another.

Ten percent of the substantive orders were cases in which the closure was rescinded due to premature or improper closure. Four percent of the orders were dismissals after the parties concluded a CDA, and 3 percent affirmed or changed the disabling status. Many of the other resolutions were withdrawn requests for reconsideration and amending orders.

Table 6. Primary outcomes of substantive reconsideration orders, 1997 - 2001

Order year	Timeloss orders			PPD orders					PTD orders				Rescind closure	Disabling status	CDA		Total
	Affirm	Modify	Total	Affirm	Grant	Increase	Reduce	Total	Affirm	Grant	Reduce	Total			dismissal	Other	
1997	831	224	1,055	453	751	984	535	2,723	1	2	1	4	320	93	142	430	4,767
1998	705	293	998	370	721	971	481	2,543	2	1	0	3	371	105	165	383	4,568
1999	585	524	1,109	346	717	896	406	2,365	0	2	0	2	378	119	161	401	4,535
2000	466	507	973	303	687	856	346	2,192	2	3	0	5	406	116	168	368	4,228
2001	554	538	1,092	304	687	795	302	2,088	1	1	0	2	405	133	159	360	4,239
2001 %	13.1%	12.7%	25.8%	7.2%	16.2%	18.8%	7.1%	49.3%	0%	0%	0%	0%	9.6%	3.1%	3.8%	8.5%	100%

Note: Most of the "other" orders are withdrawn requests and amending orders; orders that were later rescinded are also included in this category.

During the reconsideration process, ARU conducts a complete review of the closure. Therefore, orders may include multiple changes. ARU's review specialists record all of the decisions in the closure that they changed (see Table 7).

Permanent disability is the issue most commonly modified in reconsideration orders. In 2001, 42 percent of the substantive orders included changes in PPD. Nineteen percent of the orders included an increase in

scheduled PPD, 17 percent included an increase in unscheduled impairment, and 8 percent included an increase in the age, education, and adaptability component of the unscheduled permanent disability award. Far fewer awards were reduced.

A third of the substantive orders included changes in temporary disability dates; 88 percent of these changes involved increasing the timeloss periods.

Table 7. Issues decided in substantive reconsideration orders, Oregon, 2001

Issue	Percentage of substantive orders		
	Increase	Decrease	Change
Timeloss dates	29.2%	4.1%	
Statutorily qualified/ Medically stationary date			7.6%
Premature/improper closure			9.5%
Scheduled disability	19.2%	3.8%	
Unscheduled: impairment	17.3%	3.9%	
Unscheduled: age, education, and adaptability	8.1%	1.6%	
Other issues			6.7%

Note: PPD grants are included in the "Increase" column.

Claimant attorney fees

The reconsideration process does not include personal appearances by the parties to the claim or their representatives, unless requested by the department.⁷ Nevertheless, in 2001, 94 percent of the injured workers with a substantive reconsideration order were represented by an attorney.

Attorney fees are set by law at 10 percent of any additional compensation awarded to the worker, up to a maximum of \$4,600 in PPD cases and \$12,500 in PTD cases. The fees are paid out of the additional compensation awarded. Data on fees paid by workers to attorneys are estimated only for PPD cases. In 2001, attorney fees totaled \$777,100. Attorney fees were incurred in 71 percent of the represented PPD cases; for these cases the average attorney fee was \$617.

Insurers

The SAIF Corporation provided coverage in 33 percent of the substantive reconsideration cases completed in 2001 (see Table 8). Private insurers carried 49 percent of the cases, and self-insured employers carried 18 percent of the cases. This is approximately the same distribution as the distribution of claim closures.

OAR 436-30-175 provides for penalties paid by insurers to claimants when reconsiderations of closures order at least 25 percent additional permanent disability compensation and a rating of at least 64 degrees. There were 22 penalty cases in 2001, resulting in more than \$70,000 in penalties.

Table 8. Claim closures, substantive reconsideration orders, and penalties, by insurer, 2001

Insurer	Claim closures		Recon. orders		Penalty	
	Number	% of total	Number	% of total	cases	Penalties
SAIF	9,506	35.3%	1,384	32.6%	8	\$19,566
Private insurers	12,416	46.1%	2,058	48.5%	8	\$35,852
Self-insured employers	4,947	18.3%	753	17.8%	6	\$15,122
Noncomplying employers	92	0.3%	44	1.0%	0	\$0
Total	26,961	100%	4,239	100%	22	\$70,540

Subsequent litigation

Reconsideration orders may be appealed to the Hearings Division by either party to the dispute. As shown earlier in Table 1, 34 percent of the 2001 substantive reconsideration orders were appealed. Prior to the implementation of Senate Bill 369 in mid-1995, the appeal rate was over 45 percent; afterward it dropped to about 36 percent. This drop may have been a result of the SB 369 provisions that changed the appeal period and limited the evidence allowed at the hearing.

Because many of the appealed 2001 reconsiderations have not had hearing orders as of the date of this report, the following data covers appealed 2000 reconsiderations. Thirty-two percent of the 2000 substantive reconsideration orders were appealed. As would be expected, the appeal rate of reconsideration

orders that reduced PPD awards was higher, 52 percent, than the appeal rate of reconsideration orders that granted or raised PPD awards, 33 percent. Of those appeals for which there have been hearing orders (a small number have not yet been resolved), 37 percent of the hearing requests were withdrawn, dismissed, or settled with a CDA. Another 23 percent were resolved with a stipulation agreement.

The remaining 40 percent of the cases were resolved by an Opinion & Order (O&O). Seventy-six percent of the O&Os included PPD as an issue. Of these orders, 24 percent increased the PPD awards, and 16 percent reduced the PPD awards; the other 60 percent did not change the PPD awards.

⁷ Effective January 1, 2002, workers may submit a deposition to the reconsideration record. The deposition is limited to the testimony and cross-examination of a worker about the worker's condition at the time of the claim closure. The cost is paid by the insurer.

Permanent partial disability at closure and reconsideration

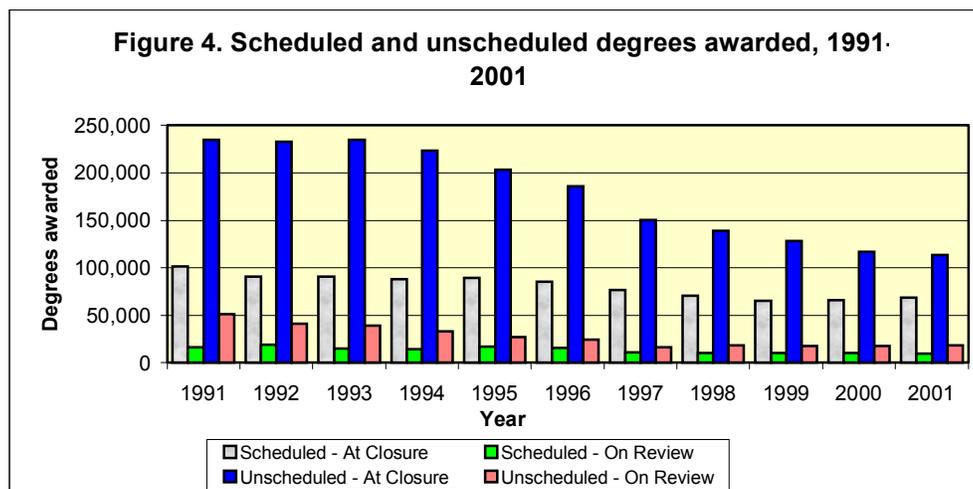
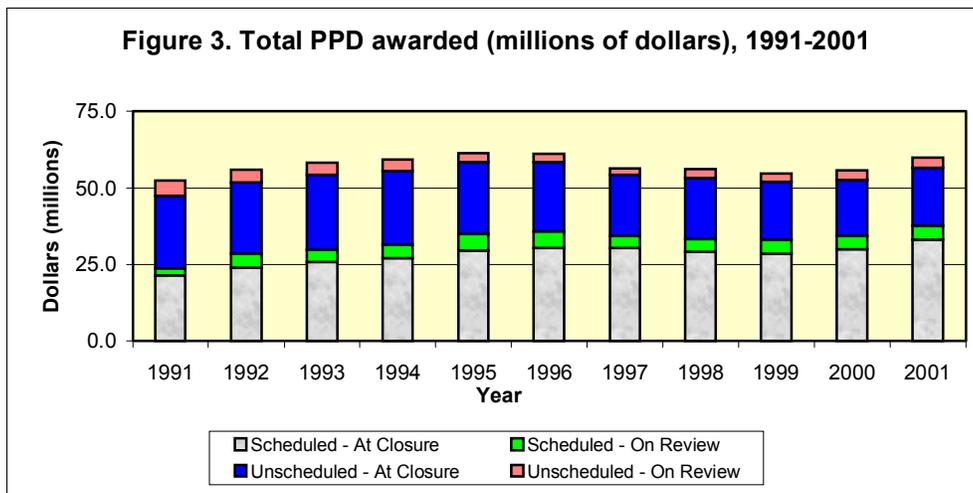
As was shown in Figure 2, PPD awards are the smallest of the three cost components at closure. In 2001, these awards were 17 percent of the average cost at closure, the same as in the previous three years. In constant dollars, there has been little change since 1990 in the average PPD award at closure.

In 2001, insurers awarded \$51.8 million in PPD (see Figure 3). This is 8 percent more than in 2000 and reflects an increase in the average scheduled award and in the benefit levels. Additional awards totaling \$8.1 million were awarded at reconsideration and higher levels of appeal.⁸ The combined total of \$59.9 million is the highest dollar amount since 1996.

The total number of degrees for scheduled PPD awards in 2001 was 78,400 (see Figure 4). Insurer closures

produced 87 percent of these awards; the reconsideration process and higher levels of appeal added the remaining 13 percent. Over the past decade, the total number of scheduled degrees has fallen 34 percent. Most of this is a result of the 30 percent drop in the number of closures, but the average scheduled award has also declined 13 percent.

The total number of unscheduled degrees has fallen more sharply, 54 percent between 1991 and 2001. In 2001, 132,200 total degrees were awarded, 86 percent by insurers. This decline over time is due mostly to a decline in the number of claims with unscheduled awards. This reflects a decline in the number of awards for back conditions.



⁸ There was little change in PPD at higher levels of appeal in 2001. Hearings Division orders had the net effect of increasing PPD awards by \$32,000; Board Review orders had the net effect of reducing PPD awards by \$95,000.

When looking at claims with PPD grants (ignoring later modification upon appeal), there has been little change over the past decade. The total number of claims with grants has declined by 30 percent, as has the total number of claim closures. In 2001, 91 percent of the grants were made by insurers at closure; the rest were made by ARU

and higher levels of appeal. This percentage has remained steady. The number of claims with scheduled PPD grants has declined 18 percent; the number with unscheduled grants has declined 44 percent. There has also been a decline in the average degrees awarded; for scheduled awards this trend has been reversed the past two years.

Table 9. PPD grants, 1991-2001

Year of the first awards				Scheduled				Unscheduled			
	PPD grant	Closure %	Review %	Claims	Average degrees	Closure %	Review %	Claims	Average degrees	Closure %	Review %
1991	9,980	92	8	5,487	17.6	95	5	4,995	45.5	90	10
1992	9,562	90	10	5,249	17.2	91	9	4,786	47.9	88	12
1993	9,349	89	11	5,242	17.1	91	9	4,666	51.0	88	12
1994	9,529	90	10	5,434	16.2	91	9	4,601	49.2	89	11
1995	9,491	89	11	5,602	16.2	90	10	4,377	47.2	87	13
1996	9,060	89	11	5,570	15.6	91	9	3,984	47.1	87	13
1997	8,064	91	9	5,106	15.2	92	8	3,315	45.9	89	11
1998	7,764	91	9	4,932	14.5	93	7	3,200	44.9	87	13
1999	7,445	90	10	4,709	14.3	92	8	3,069	42.8	88	12
2000	7,058	91	9	4,608	14.6	93	7	2,763	43.6	87	13
2001	6,986	91	9	4,507	15.3	93	7	2,789	41.8	87	13

PPD awards by body part

Sixty-two percent of the PPD awards in 2001 were for scheduled body parts (see Table 10). There were about 1,660 awards for the knee, 1,200 awards for fingers, and 800 awards for wrists. Awards for the knee made up 18 percent of the awards at closure, but just 11 percent of the awards on review. The average PPD award for knee conditions was \$5,884, just below the average of \$6,064 for all scheduled awards.

In general for scheduled body parts, the most expensive conditions were rare; injuries to sight, the thigh, and lower

leg had the highest average PPD awards. Injuries to the hand, however, were both common and expensive. PPD awards for hand conditions made up 5 percent of all awards; the average PPD award was \$11,467.

Seventy-six percent of the unscheduled awards were for injuries to the lower back and the shoulder. Awards for lower back conditions were 13 percent of the awards at closure and 19 percent on review. PPD awards averaged \$6,312, more than the average of \$5,892 for all unscheduled awards.

Table 10. PPD awards by body part, 2001

	At Closure				On Review				Total			
	Awards	PPD dollars	Average award	Average degrees	Awards	PPD dollars	Average award	Average degrees	Awards	PPD dollars	Average award	Average degrees
Scheduled												
124 Hearing	140	\$1,220,339	\$8,717	21.2	18	\$62,716	\$3,484	7.7	158	\$1,283,055	\$8,121	19.7
130 Sight	45	\$780,434	\$17,343	44.9	0	\$0	\$0	0.0	45	\$780,434	\$17,343	44.9
311 Arm	544	\$5,328,739	\$9,795	20.4	225	\$1,151,208	\$5,116	10.7	769	\$6,479,947	\$8,426	17.5
315 Forearm	53	\$576,285	\$10,873	22.4	17	\$31,120	\$1,831	4.1	70	\$607,405	\$8,677	18.0
320 Wrist	556	\$3,156,350	\$5,677	11.7	246	\$624,925	\$2,540	5.3	802	\$3,781,275	\$4,715	9.7
330 Hand	375	\$4,978,331	\$13,276	27.0	100	\$468,610	\$4,686	9.8	475	\$5,446,941	\$11,467	23.4
341 Thumb	321	\$1,542,824	\$4,806	9.5	30	\$76,214	\$2,540	5.4	351	\$1,619,038	\$4,613	9.1
342 Index Finger	287	\$1,052,028	\$3,666	7.2	22	\$37,158	\$1,689	3.5	309	\$1,089,186	\$3,525	6.9
343 Middle Finger	193	\$512,462	\$2,655	5.2	21	\$23,663	\$1,127	2.3	214	\$536,125	\$2,505	4.9
344 Ring Finger	154	\$174,155	\$1,131	2.2	16	-\$687	-\$43	-0.1	170	\$173,468	\$1,020	2.0
345 Little Finger	175	\$151,047	\$863	1.7	19	\$3,909	\$206	0.4	194	\$154,956	\$799	1.6
441 Hip	39	\$517,930	\$13,280	27.9	25	\$98,717	\$3,949	8.2	64	\$616,647	\$9,635	20.2
500 Leg	156	\$1,271,902	\$8,153	18.0	58	\$243,968	\$4,206	9.0	214	\$1,515,870	\$7,084	15.6
511 Thigh	10	\$218,997	\$21,900	47.0	6	\$31,861	\$5,310	10.8	16	\$250,858	\$15,679	33.4
513 Knee	1,387	\$8,611,147	\$6,208	12.6	266	\$1,115,432	\$4,193	8.9	1,653	\$9,726,579	\$5,884	12.0
515 Lower Leg	34	\$433,484	\$12,750	26.3	9	\$34,098	\$3,789	7.4	43	\$467,582	\$10,874	22.3
520 Ankle	279	\$1,688,216	\$6,051	12.4	113	\$625,142	\$5,532	11.7	392	\$2,313,358	\$5,901	12.2
530 Foot	117	\$669,565	\$5,723	12.1	62	\$49,331	\$796	1.5	179	\$718,896	\$4,016	8.4
541 Great Toe	42	\$103,365	\$2,461	4.9	11	\$418	\$38	0.1	53	\$103,783	\$1,958	3.9
542-545 Other Toes	25	\$12,962	\$518	1.0	19	\$9,635	\$507	1.0	44	\$22,597	\$514	1.0
Total, scheduled	4,932	\$33,000,561	\$6,691	13.9	1,283	\$4,687,437	\$3,653	7.7	6,215	\$37,687,998	\$6,064	12.6
Unscheduled												
110 Brain	21	\$287,852	\$13,707	65.2	23	\$100,435	\$4,367	26.6	44	\$388,287	\$8,825	45.0
126 Auditory System	0	\$0	\$0	0.0	4	\$18,875	\$4,719	32.0	4	\$18,875	\$4,719	32.0
198 Head	2	\$12,879	\$6,440	48.0	6	\$48,360	\$8,060	45.9	8	\$61,239	\$7,655	46.4
200 Neck	352	\$2,386,319	\$6,779	41.5	166	\$471,304	\$2,839	16.1	518	\$2,857,623	\$5,517	33.4
410 Abdomen	7	\$51,666	\$7,381	45.3	4	\$18,819	\$4,705	39.6	11	\$70,485	\$6,408	43.2
420 Back, Multiple	53	\$443,871	\$8,375	46.7	51	\$191,813	\$3,761	21.6	104	\$635,684	\$6,112	34.4
422 Upper or Middle Back	75	\$336,297	\$4,484	26.8	29	\$38,100	\$1,314	7.4	104	\$374,397	\$3,600	21.4
423 Lower Back	1,013	\$8,052,415	\$7,949	48.1	432	\$1,068,108	\$2,472	14.5	1,445	\$9,120,523	\$6,312	38.0
430 Chest	2	\$7,344	\$3,672	24.0	0	\$0	\$0	0.0	2	\$7,344	\$3,672	24.0
440 Hip	21	\$191,988	\$9,142	55.0	12	\$69,707	\$5,809	26.7	33	\$261,695	\$7,930	44.7
445 Pelvis	4	\$54,790	\$13,698	74.4	4	\$27,676	\$6,919	33.6	8	\$82,466	\$10,308	54.0
450 Shoulder	1,111	\$6,357,885	\$5,723	35.9	289	\$846,385	\$2,929	17.2	1,400	\$7,204,270	\$5,146	32.0
600 Integumentary System	14	\$23,844	\$1,703	11.2	7	\$27,126	\$3,875	21.9	21	\$50,970	\$2,427	14.8
801 Circulatory System	0	\$0	\$0	0.0	1	\$3,969	\$3,969	28.8	1	\$3,969	\$3,969	28.8
802 Heart	1	\$2,205	\$2,205	16.0	2	\$0	\$0	0.0	3	\$2,205	\$735	5.3
803 Hematopoietic	1	\$2,448	\$2,448	16.0	0	\$0	\$0	0.0	1	\$2,448	\$2,448	16.0
820 Excretory System	8	\$106,918	\$13,365	55.2	3	\$28,839	\$9,613	40.5	11	\$135,757	\$12,342	51.2
840 Central Nervous System - Spine	2	\$118,466	\$59,233	185.6	0	\$0	\$0	0.0	2	\$118,466	\$59,233	185.6
850 Respiratory System	3	\$41,634	\$13,878	73.6	4	\$91,529	\$22,882	67.2	7	\$133,163	\$19,023	69.9
880 Other Body Systems	13	\$171,825	\$13,217	67.4	6	\$106,486	\$17,748	54.4	19	\$278,311	\$14,648	63.3
881 Psychological Condition	6	\$101,420	\$16,903	97.1	6	\$222,476	\$37,079	114.1	12	\$323,896	\$26,991	105.6
900 Other Parts/Condtns	2	\$15,184	\$7,592	52.8	2	\$17,142	\$8,571	59.2	4	\$32,326	\$8,082	56.0
Total, unscheduled	2,711	\$18,767,251	\$6,923	41.9	1,051	\$3,397,148	\$3,232	17.6	3,762	\$22,164,399	\$5,892	35.2
Total	7,643	\$51,767,812	\$6,773	-	2,334	\$8,084,585	\$3,464	-	9,977	\$59,852,397	\$5,999	-

Notes: Dollars and degrees are the net awards: grants and modifications. 'On Review' includes the reconsideration process and higher levels of appeal.

PPD awards at reconsideration

In 2001, there was a change to PPD benefits in 1,690 reconsideration orders (see Table 11). These include new PPD awards and both increases and decreases to existing awards. This is 7 percent fewer than in 2000. The total

net increase in PPD was \$8.1 million, almost \$470,000 more than in 2000. The increase was due both to an increase in the average number of degrees awarded and in the benefit level.

Table 11. Net changes on reconsideration of PPD awards, Oregon, 2001

Type of disability	Net dollars			Net degrees	
	Cases	Total	Mean	Total	Mean
Scheduled	926	\$4,720,785	\$5,098	9,906	10.70
Unscheduled	910	\$3,396,084	\$3,732	18,366	20.18
Combined total	1,690	\$8,116,869	\$4,803	-	-

Note: As a reconsideration may modify a case's awards or grant new awards for both scheduled and unscheduled body parts, the sum of those cases will exceed the combined total of cases.

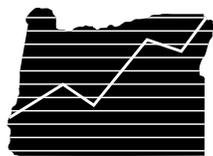
PPD reconsideration cases can also be categorized as new awards or as modifications. Modified awards include the technical conversion of body part awards, usually for scheduled parts such as limbs. If, for example, a reconsideration results in the replacement of an award for a disabled right hand with an award for the right arm, the result is treated as a modified award rather than both as a modification (a rescission in this case) of an award for the hand and a new award for a disabled arm. This inclusion of body-part conversions within modifications prevents an over-count of total dollars for new awards.

In 2001, 59 percent of the net additional dollars awarded were for new awards. Cases with modified awards of existing conditions had higher awards for those conditions after the reconsideration process. For cases in which an existing scheduled disability was modified by ARU, the result was a 56 percent increase in benefits for those conditions; in 2000, the result was a 40 percent increase in benefits. For unscheduled disability, ARU's average net increase in benefits was 23 percent; this compares with 18 percent in 2000.

Table 12. Reconsideration cases with new and modified PPD awards, 2001

	Cases	Average degree award	Total dollar award
New Awards			
Scheduled	413	14.1	\$2,803,032
Unscheduled	388	31.9	\$1,973,332
Total	762	-	\$4,776,364
Modifications:			
Increased scheduled	369	13.6	\$2,351,139
Decreased scheduled	157	-6.3	-\$453,497
Total, scheduled	526	7.7	\$1,897,642
Increased unscheduled	359	24.5	\$1,878,119
Decreased unscheduled	163	-18.2	-\$483,357
Total, unscheduled	522	11.2	\$1,394,762
Total	1,006	-	\$3,292,404

Note: As a reconsideration may modify a case's awards or grant new awards for both scheduled and unscheduled body parts, the sum of those cases will exceed the combined total of cases.



Oregon Workers' Compensation Benefits

Research & Analysis Section

Department of Consumer & Business Services

October 2001

Fiscal year beginning July 1

Examples of major benefit levels effective in year indicated.

Type of benefit	1999	2000	2001
PTD Permanent total disability (ORS 656.206) subject to social security offset (ORS 656.209 & 656.727)			
Percent of wages	66 2/3%	66 2/3%	66 2/3%
To a maximum of 100% AWW	\$601.21/week	\$628.64/week	\$645.00/week
+ for beneficiaries (up to five)	\$5.00 ea/week	NA	NA
Total maximum	\$626.21/week	NA	NA
Minimum, lesser of	\$50/week or 90% wages	\$50/week or 90% wages	\$50/week or 90% wages
DEATH Survivors of fatality (ORS 656.204) or death during PTD (ORS 656.208)			
Spouse	\$1,743.60/month (4.35 x 66 2/3% AWW)	\$1,823.15/month (4.35 x 66 2/3% AWW)	\$1,870.59/month (4.35 x 66 2/3% AWW)
Children:			
If surviving spouse: each child	\$261.53/month (4.35 x 10% AWW)	\$273.46/month (4.35 x 10% AWW)	\$280.58/month (4.35 x 10% AWW)
If no surviving spouse: each child	\$653.82/month (4.35 x 25% AWW)	\$683.65/month (4.35 x 25% AWW)	\$701.44/month (4.35 x 25% AWW)
Maximum total benefits	\$3,486.93/month (4.35 x 133 1/3% AWW)	\$3,646.02/month (4.35 x 133 1/3% AWW)	\$3,740.91/month (4.35 x 133 1/3% AWW)
Burial allowance	\$6,012.10 (10 x AWW)	\$6,286.40 (10 x AWW)	\$6,450.00 (10 x AWW)
Spouse's remarriage allowance	24 x monthly benefit (in lump sum) Effective October 23, 1999 36 x monthly benefit (in lump sum)	36x monthly benefit (in lump sum)	36 x Monthly Benefit (in lump sum)
TTD Temporary total disability (ORS 656.210)			
Percent of wages	66 2/3%	66 2/3%	66 2/3%
To maximum of 100% AWW	\$601.21/week	\$628.64/week	\$645.00/week
Minimum, lesser of	\$50/week or 90% wages	\$50/week or 90% wages	\$50/week or 90% wages
PPD Permanent partial disability (ORS 656.214)			
dollars per degree	(July thru Dec '99) Unscheduled: 3-tier rate* Scheduled: \$454.00	(Jan thru June 2000) Unscheduled: 3-tier rate* Scheduled: \$511.29	(Jul thru Dec '01) Unscheduled: 3-tier rate* Scheduled: \$511.29
Max scheduled losses (examples)			
Arm above elbow: 192°	\$87,168.00	\$98,167.68	\$98,167.68
Leg above knee: 150°	\$68,100.00	\$76,693.50	\$76,693.50
Hearing one ear: 60°	\$27,240.00	\$30,677.40	\$30,677.40
Maximum unscheduled: 320°	\$138,224.00	\$149,032.64	\$149,032.64
Average weekly wage (AWW)	\$601.21	\$601.21	\$628.64
			\$645.00
			\$645.00

NOTE:
New \$ values of PPD
degrees will be
effective 1/1/2000
thru 12/31/2001

NOTE:
New \$ values for
TTD and PPD
effective for injury
dates on
or after 1/1/2002

PTD and survivors' benefits are based on Average Weekly Wage (AWW) of injury year; TTD maximum applies to benefits paid during a fiscal year, thereby providing an escalator factor. TTD maximum increase to 133% of SAWW applies only to claims with dates of injury beginning 1/1/2002.

*From 1/1/98, thru 12/31/1999, the first 64 degrees are at \$137.80 per degree; the next 96 degrees are at \$243.80 per degree; above 160 degrees the value is \$662.50 per degree.

*From 1/1/2000, thru 12/31/2001, the first 64 degrees are at \$153.00 per degree; the next 96 degrees are at \$267.44 per degree; above 160 degrees the value is \$709.79 per degree. The middle-tier transposition error has been corrected for all awards made on or after 7/31/2001.

*From 1/1/2002, thru 12/31/2004, the first 64 degrees are at \$184.00 per degree; the next 96 degrees are at \$321.00 per degree; above 160 degrees the value is \$748.00 per degree.

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