



Permanent Total Disabilities in the Oregon Workers' Compensation System, 2003

Oregon Department of Consumer & Business Services

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By Russ Reed

Definition. Permanent total disability (PTD) means the loss, including preexisting disability, of use or function of any portion of the body that permanently incapacitates the worker from regularly performing work at a gainful and suitable occupation (ORS 656.206 and OAR 436-030-0055).

Counts. In 2003, 14 Oregon workers were awarded PTD. See Table 1 for counts of awards granted and rescinded, by level, for recent years. Transfer of claim-closure responsibility from the department to insurers and self-insured employers (Senate Bill 220) was completed by the start of 2001; closure counts

Net PTD grants, Oregon, 1988-2003

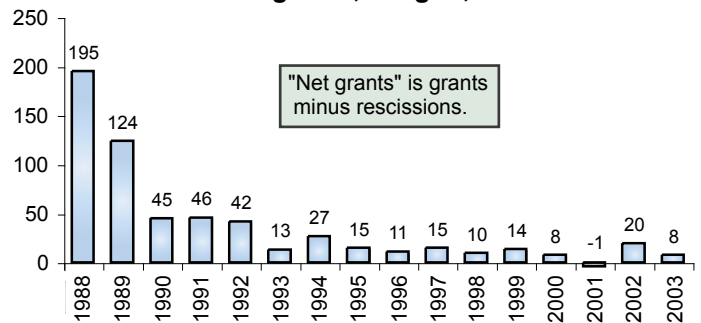


Table 1. PTD award grants and rescissions, by order level, Oregon, 1997-2003

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

Notes: "Claim closure" includes evaluations (determination orders) and insurer notices of closure. "Grant" includes original awards (Orig.) and reinstatements of awards (Re-in.). "Net grants" is total grants, less rescinds.

are now combined in one column. Of the seven 2003 grants after claim closure, all but one (a grant by reconsideration) were reinstatements of prior awards. Three of the four hearing grants were by stipulation. There have been no PTD grants or rescinds by the Court of Appeals since 1990.

One of the three awards rescinded in 2002 was reinstated in 2003. Four of the six awards rescinded in 2003 have since been reinstated (two in 2003 and two in 2004), and another has been appealed. Such reinstatements have contributed to recent fluctuations in net PTD grants.

The graph gives historical values of net PTD grants. The sharp increase in 2002 was as much due to fewer rescissions as it was to the increase in 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 38 percent from 1988 to 1998, while net PTD grants dropped by 94.9 percent.

Possible reasons for decreasing PTD awards:

1. Fewer injuries and accepted disabling claims. Improved workplace safety, changes to the Oregon industry mix, and "tighter" compensability standards (particularly major contributing cause, objective findings, disease criteria, and aggravation requirements).
2. Law changes in 1987 (HB 2900). DCBS director-prescribed disability standards, reduced Workers' Compensation Board own-motion authority, and change in the court review standard from "de novo" to "substantial evidence."
3. Law changes in 1990 (SB 1197). Claim disposition agreements (compromise and release of benefits per ORS 656.236), 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.

4. Law changes in 1995 (SB 369). Limitation on evidence at levels beyond reconsideration; prohibiting (at subsequent levels) issues that were not raised at, nor arise out of, the reconsideration; and definition of “gainful occupation.”
5. Administrative rule requirement for a certified vocational counselor to establish the futility of seeking work if claimant hasn’t made reasonable search efforts.

Costs. Average and total net costs are given in Table 2. The relatively small number of grants explains both the variability in costs and long-term cost increase: average 2002 costs were about 10 times 1988 costs not just because medical costs had increased, but also because only the most severely injured workers were granted PTD.

Table 2. Average reported total incurred costs for PTD grants, and all-insurer net cost (\$ millions), Oregon, 1997-2003

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
2002-2003 change:	15.8%	22.8%	20.8%		-51.7%

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 4. Time lags, Oregon PTD grants in 2003* (years)

Item	Mean	Range of values	2002 mean*
Tenure at injury	3.2	0.2 to 13.8	6.8
Age at injury	43.3	26.0 to 57.4	45.2
Age at award	56.7	30.5 to 68.4	54.6
Time, injury to award	13.5	1.6 to 32.5	9.4

Notes. Data on tenure were not available for two workers.
* Data for 2002 are provided for comparison.

Table 3. Characteristics of Oregon claims with PTD grants in 2003

Item	Classification	Cases	Percentage
Insurer	SAIF	7	50.0%
	Liberty group	2	14.3%
	Other private insurer	3	21.4%
	Self-insured employer	2	14.3%
Gender	Male	12	85.7%
	Female	2	14.3%
Type work	Blue-collar	13	92.9%
	White-collar	1	7.1%
Industry	Transportation	3	21.4%
	Construction	2	14.3%
	Educational services	2	14.3%
	Government	2	14.3%
	Other	4	28.6%
	Non-classifiable	1	7.1%
Body part (principle)	Head	3	21.4%
	Multiple parts	3	21.4%
	Back	2	14.3%
	Neck	2	14.3%
	Other	3	21.4%
	Non-classifiable	1	7.1%
Nature	Trauma to bones, nerves, spine	3	21.4%
	Sprain, strain	2	14.3%
	Other	7	50.0%
	Non-classifiable	2	14.3%
Event	Fall	7	50.0%
	Other	6	42.9%
	Non-classifiable	1	7.1%

Information about the PTD claims. Table 3 provides information about the claims and workers with PTD grants, and Table 4 provides time lag information about these claims. Average worker age at award, which was 43 for 1996-2000, 46 for 2001 grants, and 54 for 2002, jumped again to 56 years for 2003.

Three of the 14 grants were for claims that now have claim-disposition agreements; the average CDA amount is about \$113,000. All but three of the grants were based on medical-impairment considerations only – no non-impairment (“odd lot”) factors were mentioned. Three of the grants were for claims with accepted psychological conditions.

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Information Management Division
350 Winter St. NE, Room 300
P.O. Box 14480
Salem, OR 97309-0405
(503) 378-8254