

Permanent Total Disability in the Oregon Workers' Compensation System, 2011

Information Management Division

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Permanent total disability means “the loss, including pre-existing disability, of use or function of any portion of the body which permanently incapacitates the worker from regularly performing work at a gainful and suitable occupation” (ORS 656.206).

In 2011, 10 Oregon workers received **PTD grants**, as shown in Table 1. Insurers made five of the awards; others were granted by reconsideration (one), at hearing (one), and by Board own motion (three). The Court of Appeals hasn't granted or rescinded a PTD award since 1990.

Nine of the 2011 grants were first-time PTD awards, while one was a reinstatement of a rescinded award. For five workers, the PTD award was on the first claim closure. Of the other five workers, four had (at the time of the PTD grant) permanent partial disability awards averaging 85 scheduled degrees and 146 unscheduled degrees. The other worker had 10 percent impairment and 34 percent work disability before the PTD award.

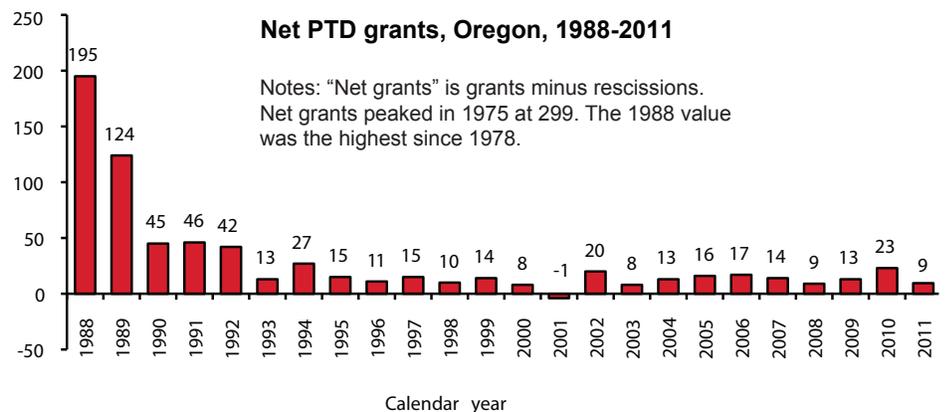
There was one **PTD rescission** in 2011, by insurer closure. Recent changes in the numbers and levels of PTD rescissions may be due in significant part to Senate Bill 386 (effective January 2006). To rescind a PTD award, the law now requires that (1) insurers show material medical or vocational improvement, (2) reports supporting rescissions include one whose author personally observed the worker, (3) benefits continue during appeal, and (4) workers are eligible for vocational assistance upon PTD termination.

Table 1. PTD award grants and rescissions, by order level, Oregon, 2002-2011

| Year of award | Claim closure | | | Reconsideration | | | Hearing | | | Board | | | 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. | | |
| 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 |
| 2004 | 11 | 1 | 7 | 0 | 0 | 0 | 0 | 8 | 0 | 0 | 0 | 0 | 11 | 9 | 7 | 13 |
| 2005 | 16 | 0 | 4 | 0 | 0 | 0 | 1 | 2 | 0 | 1 | 0 | 0 | 18 | 2 | 4 | 16 |
| 2006 | 9 | 0 | 0 | 5 | 1 | 1 | 0 | 1 | 0 | 2 | 0 | 0 | 16 | 2 | 1 | 17 |
| 2007 | 13 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 15 | 0 | 1 | 14 |
| 2008 | 8 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 10 | 0 | 1 | 9 |
| 2009 | 10 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 13 | 0 | 0 | 13 |
| 2010 | 22 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 23 | 0 | 0 | 23 |
| 2011 | 5 | 0 | 1 | 1 | 0 | 0 | 1 | 0 | 0 | 2 | 1 | 0 | 9 | 1 | 1 | 9 |

Notes: "Claim closure" includes claims in own-motion status (the 2010 count includes three such claims). "Board" includes board review and board own motion (all 2000-2010 board grants were by **own motion**). "Grant" includes original awards (Orig.) and reinstatements of awards (Re-in).

The graph gives historical values of net PTD grants. The primary reasons for decreasing PTD grants are: (1) fewer injuries and accepted disabling claims; (2) law changes in 1987 by HB 2900 (disability standards, reduced board own motion authority, and change in the court review standard to "substantial evidence");



(3) law changes in 1990 by SB 1197 (claim disposition agreements, required reconsideration of claim closures, elimination of “clear and convincing evidence” as a reason to exceed the disability standards, and medical arbiters for impairment disputes); and (4) law changes in 1995 by SB 369 (limitation on evidence and issues after reconsideration, and the definition of “gainful occupation”).

Table 2 provides **information about the claims and workers with PTD grants**. In the past several years, head and “multiple parts” have been the body parts most often injured. For 2011, five claims were classified as “multiple parts,” and two as primarily head injuries. Falls and highway accidents have been the most frequent **causal events** in recent PTD-grant claims. In 2011, the most frequent causal event was falls (two claims); one claim was for a vehicle accident. As of Jan. 18, 2012, three of the 10 workers had entered into claim disposition agreements; the average CDA amount was almost \$106,000.

Table 3 provides **time-lag** data about the PTD grants. The average hire to injury time, for the nine claims with hire data, was 4.3 years. However, in two of those claims, the worker had been on the job a half year, or less, when injured. The average age of the workers, at injury, was almost 48, but two workers were past age 60 when injured.

Table 2. Characteristics of Oregon claims with PTD grants in 2011

| Item | Classification | Cases | Percentage |
|-----------------------|----------------------------|-------|------------|
| Insurer | SAIF | 5 | 50% |
| | Self-insured employer | 3 | 30% |
| | Priv. ins. except Liberty | 1 | 10% |
| | Liberty group | 1 | 10% |
| Gender | Male | 8 | 80% |
| | Female | 2 | 20% |
| Industry | Construction | 2 | 20% |
| | Education services | 2 | 20% |
| | Health/social services | 2 | 20% |
| | All other | 4 | 40% |
| Body part (principal) | Multiple parts | 5 | 50% |
| | Back | 2 | 20% |
| | Head | 2 | 20% |
| | Eyes | 1 | 10% |
| Nature | Multiple injuries/diseases | 5 | 50% |
| | All other | 5 | 50% |
| Event | Falls | 2 | 20% |
| | Highway accident | 1 | 10% |
| | Overexertion | 1 | 10% |
| | Unknown | 6 | 60% |

Table 3. Time lags (years), Oregon 2011 PTD grants

| Time lag | Mean | Range of values | 2010 mean |
|-----------------------|------|-----------------|-----------|
| Tenure at injury | 4.3 | 0.1 - 10.0 | 6.2 |
| Age at injury | 47.7 | 23.8 - 70.4 | 45.8 |
| Age at PTD award | 56.4 | 40.5 - 71.9 | 54.8 |
| Time, injury to award | 8.7 | 1.6 - 29.7 | 9.0 |

Notes: All values are in years, rounded to 1/10 year. Data on tenure were not available for four workers. Data for 2009 (right column) are provided for comparison.

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