

Claim Disposition Agreements in the Oregon Workers' Compensation System, Fiscal Year 2000

Research & Analysis Section

Department of Consumer & Business Services

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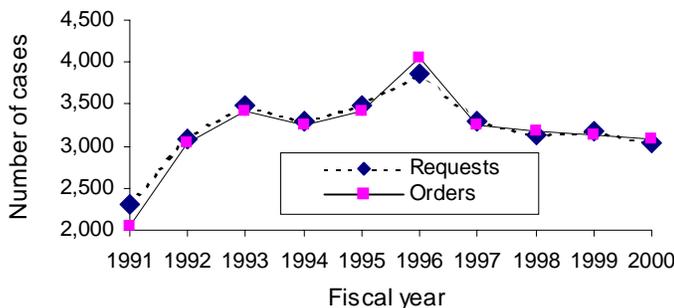
by Pilane Munidasa

Introduction. Oregon Revised Statute 656.236 in part states: "parties to a claim, by agreement, may make such disposition of any or all matters regarding a claim, except for medical services, as the parties consider reasonable, subject to such terms and conditions as the Workers' Compensation Board may prescribe." This law became effective July 1, 1990.

The agreement between the worker and the insurer, called the Claim Disposition Agreement (CDA), is legal when approved by the Workers' Compensation Board (board) in accordance with rules set by the board. Some of the salient features of the CDA process are: only accepted issues can be released; medical services are still retained for life; the worker can request the board to disapprove the CDA within 30 days (commonly referred to as the cooling-off period) of the request, unless the claimant is represented by an attorney at the time the CDA is signed, and the CDA provides for a waiver of the cooling-off period; the board order approving the CDA is not subject to review; and submission of a CDA stays all other action on that claim except for medical services.

Requests and orders. During the fiscal year ending June 30, 2000, the Workers' Compensation Board received 3,049 requests for approval of CDAs—an average of 254 a month. This is a decrease of 3.9 percent over the previous year. During this year 3,078 agreements were approved, two were disapproved, and five were withdrawn. This compares with 3,124 approvals, four disapprovals, and three withdrawals in FY 1999. The two disapproved this year were considered unreasonable as a matter of law. Figure 1 below gives the distribution of requests and orders for fiscal years 1991 through 2000.

Figure 1. CDAs requested and disposed, FY 1991-2000

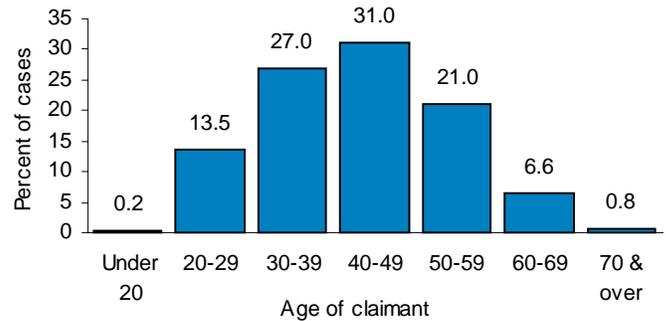


Note: Orders include approvals, disapprovals, and withdrawals.

Characteristics of Claimants Involved in Approved CDAs

Age of claimants. A little over one quarter (27.0 percent) of the claimants were between 30 and 39 years, and the large majority (92.4 percent) were between 20 and 59 years at the time of approval of the CDA. (See Figure 2.) Just over 7 percent were 60 and over; 0.2 percent

Figure 2. Percent CDAs by age of claimant, FY 2000

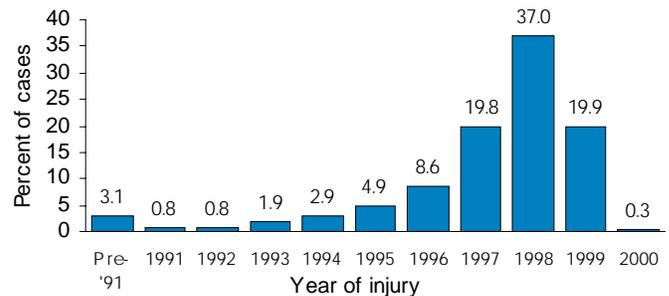


were under 20. The average age at time of CDA approval was 43.3 years, almost the same as last year. The frequency distribution of claimant age was very similar to that of FY 1999.

The average age at injury in these cases was 40.3 years, about two and a half years more than the historical average age at injury for all accepted disabling claims.

Year of injury. For CDAs approved in FY 2000, 90.2 percent of the injuries had occurred in the five-year period beginning with calendar

Figure 3. Percent CDAs by year of injury, FY 2000



year 1995. The corresponding proportion last year was 89.4 percent. The year of injury with the highest percent of the approved CDAs (37.0 percent) was 1998. In cases with more recent injuries, 19.9 percent had a 1999 date of injury and 0.3 percent (10 cases) had a 2000 injury. (See Figure 3.)

Award type. Once a claimant with an accepted claim becomes medically stationary, the claim is closed and evaluated for permanent disability. The disability level such as Permanent Partial Disability (PPD) or Permanent Total Disability (PTD) is determined at time of closure. Of the approved CDAs, 42.3 percent were on claims that had never been closed or had been closed without an award, up from 41.8 percent last year.

An award had already been made in 57.7 percent of the claims resolved by a CDA, compared to 58.2 percent last year: PPD in 34.9

percent, TTD by itself in 22.1 percent, PTD in 0.5 percent; 0.2 percent involved fatalities. (TTD may also have been awarded in those cases with a PPD or a PTD award.) Percent of cases with PPD dropped 3.2 percentage points with a corresponding increase in open or no-award claims and TTD claims. The proportions of PTDs and fatalities disposed of by CDAs were the same as last year.

Litigation. Almost three-fourths (72.0 percent) of the CDAs had previous or current litigation. Litigation was pending in 736 cases at the time of filing of the CDA, 89.4 percent of which were pending at Hearings Division.

Body part. As expected, the back was the body part most frequently injured in these CDAs (27.0 percent). Injuries or illnesses involving other unscheduled body parts accounted for 40.8 percent of the CDAs, while 32.2 percent dealt with scheduled body parts (extremities such as arms and legs). This is very similar to the FY 1999 distribution.

Historically, the back accounted for about 27 percent of the accepted disabling claims, and scheduled body parts for about 45 percent.

Insurer. A little over one half (52.8 percent) of the claims involving CDAs were insured by private insurers; 32.0 percent had the SAIF Corporation as the insurer, and self-insured employers accounted for 14.5 percent of the cases; for FY 1999, the respective percentages were 50.5 percent, 35.0 percent and 14.1 percent. Non-complying employers were involved in yet another 0.8 percent in FY 2000. For calendar years 1996 through 1999, the average share of accepted disabling claims for SAIF Corporation, private insurers, and self-insured employers was 30.6 percent, 50.0 percent, and 19.2 percent respectively. (See Figure 4.) Self-insured employers' use of CDAs for release of claims is significantly less than SAIF Corporation's or private insurers'.

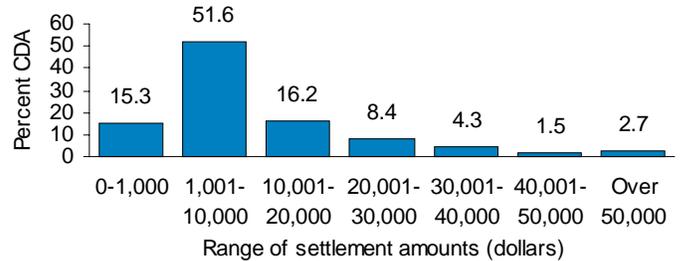
CDA Outcomes

Issues released. Of the approved CDAs, 99.4 percent released all issues (except medical services). There were three cases with just one issue released.

Settlement amounts. The total settlement amount (inclusive of attorney fees) for the approved cases was \$37.6 million for an average of \$12,218, compared to \$39.1 million last year for an average of

\$12,531. Of this, fees for the claimants' attorneys were authorized up to \$5.9 million in 2,687 cases for an average of \$2,204 per case, compared to \$5.8 million in 2,760 cases last year for an average of \$2,112 per case. The maximum attorney fees permitted by the board rules were awarded in 77.7 percent of the 2,687 cases with fees; 21.7 percent had less than the maximum and 0.6 percent had extraordinary fees. A little over half of the settlement amounts this year were over \$1,000 but less than or equal to \$10,000; 95.8 percent were \$40,000 or less. (See Figure 5.) Twenty-three cases (0.75 percent) had a settlement amount of over \$100,000. The average settlement amount decreased steadily from FY 1991, the first year CDAs were authorized,

Figure 5. Distribution of CDA settlement amount, FY 2000



Note: Total percent may not equal 100 due to rounding.

Figure 6. Average CDA Settlement amount, FY 1991-2000

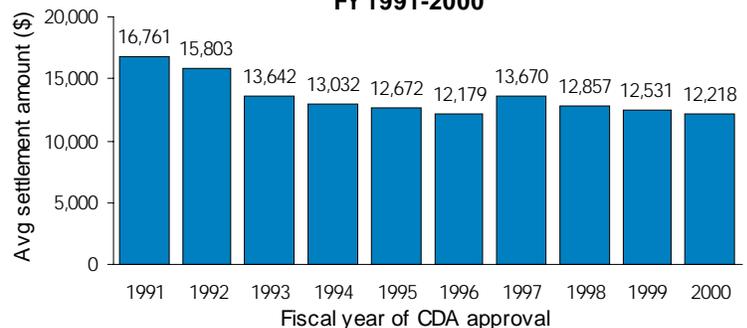
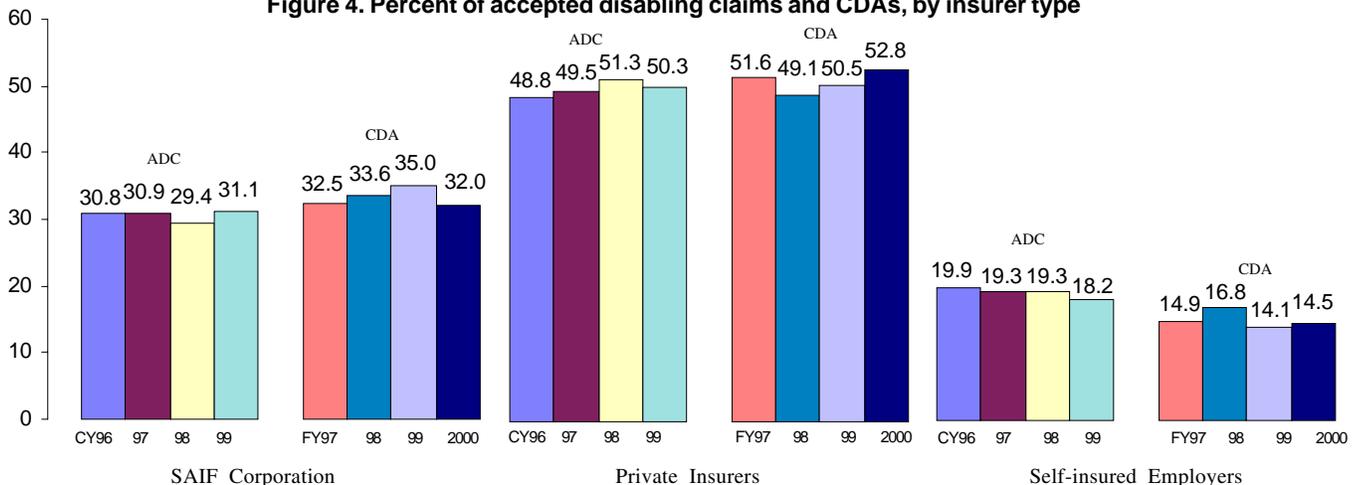


Figure 4. Percent of accepted disabling claims and CDAs, by insurer type



Notes: The first four bars in each group are accepted disabling claims (ADC) share for calendar year 1996-1999; the last four are the CDA share for fiscal years 1997-2000.

through FY 1996. This trend was interrupted with an increase in FY 1997 and decreases thereafter. (Figure 6). When cases were grouped according to various claim characteristics, the average settlement amount varied, sometimes considerably. See Table 1.

The largest variation was seen in the different award types. The average for TTD was the lowest at \$5,460, while the settlement amounts for fatalities and PTDs averaged \$89,416 and \$112,483 respectively.

For disabling claims, the average settlement was \$13,489, over \$10,000 more than that for non-disabling claims. For claims involving injury to scheduled body parts, the average was \$10,876, about \$1,978 less than that for unscheduled body parts (back and other). Claims without a history of litigation were settled for an average of \$14,113, about \$2,631 more than for litigated cases.

Looking at the settlement amounts by insurer type, self-insured employers had the lowest average with \$11,205; SAIF averaged \$11,709, and private carriers \$12,571.

Type of settlement. Almost all of the CDAs (99.4%) were settled by a lump sum payment, almost the same as last year; the rest were by structured settlement.

Reimbursements from departmental reserves. Claims of some claimants qualify for reimbursement of compensation (partially or fully) from departmental reserves. CDA settlements may also qualify for reimbursement in these cases. Insurers were reimbursed for CDA payments in CDAs approved by the board in FY 2000 as follows: seventeen claims from the Retroactive Reserve for \$876,232, nineteen from the Reemployment Assistance Program for \$301,900 and two from the Reopened Claims Program for \$6,300.

CDAs and disputed claim settlements (DCSs). Of the CDAs approved in FY 2000, 1,201 (39.0 percent) had some denied issue associated with the same injury or illness settled by a DCS between one and 120 days before the CDA approval. The average CDA settlement amount in these cases was \$9,938, less than that for all CDAs by 18.7 percent.

Time lags. In the CDAs that were approved by the board, the median time lag between the request and the order was seven days, same as last year; 99 percent were approved within 42 days of the request. The dramatic reduction of the request to order lag since FY 1995 was due to the waiving of the 30-day cooling-off period when the claimant was represented by an attorney. The median time lag from injury to order was 633 days (1.73 years).

Table 1. Average CDA settlement amounts by various claim characteristics, FY 1999 and FY 2000

Characteristic	FY 1999		FY 2000		Settlement Amount					
	Number of Cases	Percent of Total	Number of Cases	Percent of Total	Total	Percent of Total	Average	Total	Percent of Total	Average
	FY 1999		FY 2000		FY 1999			FY 2000		
Insurer Type										
SAIF	1,092	35.0%	984	32.0%	\$15,090,358	38.5%	\$13,819	\$11,521,440	30.6%	\$11,709
Private	1,579	50.5%	1,624	52.8%	\$19,242,888	49.2%	\$12,187	\$20,415,692	54.3%	\$12,571
Self-insured	439	14.1%	446	14.5%	\$4,520,065	11.5%	\$10,296	\$4,997,320	13.3%	\$11,205
Non-complying Employer	14	0.4%	24	0.8%	\$294,873	0.8%	\$21,062	\$672,405	1.8%	\$28,017
Award Type										
Unknown	1,305	41.8%	1,304	42.4%	\$17,359,893	44.3%	\$13,303	\$17,298,957	46.0%	\$13,266
TTD	605	19.4%	681	22.1%	\$3,364,272	8.6%	\$5,561	\$3,718,265	9.9%	\$5,460
PPD	1,191	38.1%	1,075	34.9%	\$15,590,343	39.8%	\$13,090	\$14,657,206	39.0%	\$13,635
PTD	17	0.5%	14	0.5%	\$1,590,422	4.1%	\$93,554	\$1,574,765	4.2%	\$112,483
Fatal	6	0.2%	4	0.1%	\$1,243,253	3.2%	\$207,209	\$357,665	1.0%	\$89,416
Litigation Status										
Not Litigated	908	29.1%	861	28.0%	\$14,192,941	36.3%	\$15,631	\$12,151,012	32.3%	\$14,113
Litigated	2,216	70.9%	2,217	72.0%	\$24,955,243	63.7%	\$11,261	\$25,455,845	67.7%	\$11,482
Body Part										
Scheduled	1,004	32.1%	990	32.2%	\$10,925,447	27.9%	\$10,882	\$10,767,575	28.6%	\$10,876
Back	867	27.8%	832	27.0%	\$10,715,033	27.4%	\$12,359	\$10,019,831	26.6%	\$12,043
Other	1,253	40.1%	1,256	40.8%	\$17,507,703	44.7%	\$13,973	\$16,819,451	44.7%	\$13,391
First Closure Status										
With Closure	1,872	59.9%	1,825	59.3%	\$22,214,991	56.7%	\$11,867	\$20,543,090	54.6%	\$11,256
Without Closure	1,252	40.1%	1,253	40.7%	\$16,933,193	43.3%	\$13,525	\$17,063,767	45.4%	\$13,618
Disability Status										
Disabling	2,774	88.8%	2,696	87.6%	\$37,848,635	96.7%	\$13,644	\$36,365,208	96.7%	\$13,489
Non-Disabling	350	11.2%	382	12.4%	\$1,299,549	3.3%	\$3,713	\$1,241,650	3.3%	\$3,250
ALL CASES	3,124	100.0%	3,078	100.0%	\$39,148,183	100.0%	\$12,531	\$37,606,858	100.0%	\$12,218

Notes: The "Unknown" award type consists mainly of open cases. Of the 1,253 cases in FY 2000 without first closure, 354 (28 percent) were non-disabling, compared to 26 percent in FY 1999. Percents and dollars may not sum to total due to rounding.

Trends. Fiscal year 2000 is the tenth year since CDAs were first introduced. CDA characteristics that have shown noticeable trends are graphed in Figures 6-10. The mean settlement amount which was \$16,761 in FY 1991 decreased steadily through FY 1996; this trend was broken by an increase in FY 1997 and reductions again from FY 1998 (Figure 6).

There has been a consistent increase in the percent of open cases disposed of by CDA (Figure 7), rising steadily from 16.3 percent in FY91 to 40.7 in FY2000, and the median time lag between injury and

CDA approval has shown a distinct downward trend (Figure 8). The average age of claimants in claims settled by a CDA has shown a slight increase during the last five years (Figure 9).

As far as benefit types are concerned, the only noticeable trend is in PPD; the percent of cases with PPD awards disposed of by a CDA shows a decreasing trend (Figure 10). Even though no particular trend is seen in TTD cases, they showed a slight but steady increase in FY 1995 and FY 1996, dropped in FY 1997 and showed a slight increase from FY 1998.

Figure 7. CDAs on open cases, FY 1991-2000

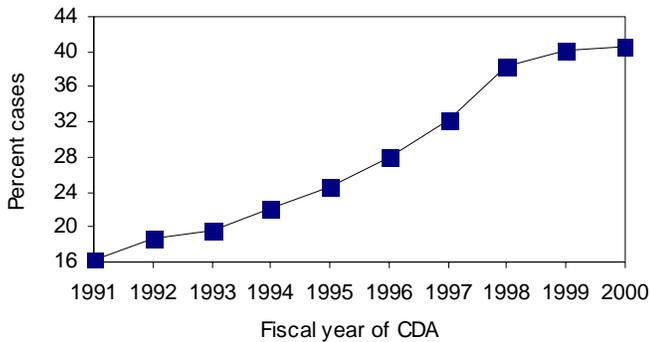
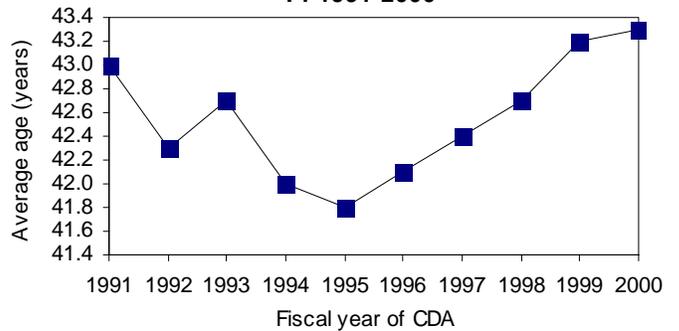


Figure 9. Average age of CDA claimants, FY 1991-2000



Note: The 1996 value has been revised

Figure 8. Median time lag between injury and CDA approval, FY 1991-2000

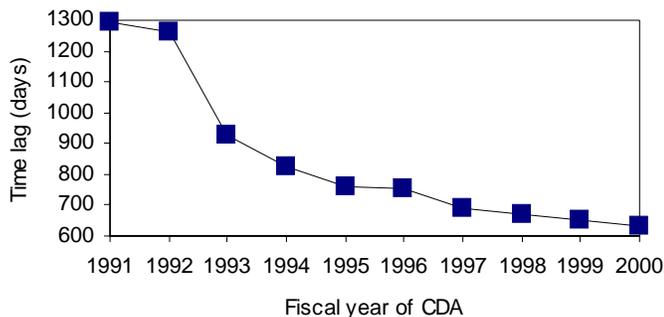
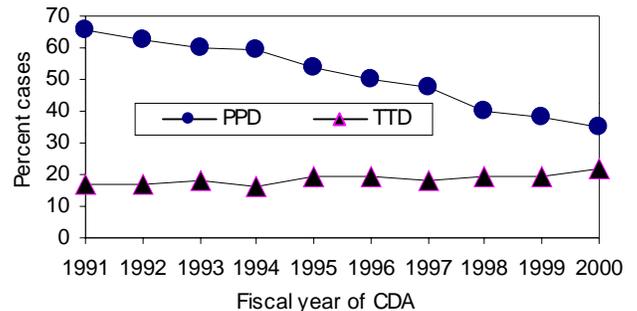


Figure 10. Percent CDAs by benefit type, FY 1991-2000



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