

Oregon Court of Appeals 2001 Workers' Compensation Summary

Research & Analysis Section

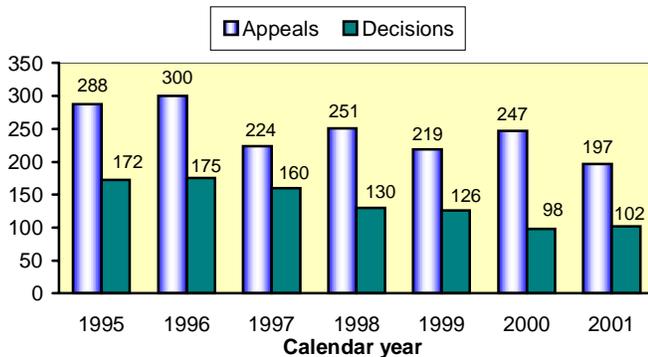
Department of Consumer & Business Services

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Appeals. In calendar year 2001 there were 197 appeals of Workers' Compensation Board (WCB) decisions to the Oregon Court of Appeals, 20.2 percent fewer than in the previous year. See Figure 1. The number of board orders on review decreased by 29.0 percent from 2000 to 2001, and the appeal rate (for all orders) rose slightly from 21.2 to 22.9 percent. The petitioner was the claimant in a record-high 75.4 percent of the cases, well above the 1992-1999 average of 60.1 percent.

Figure 1. Number of appeals and decisions



Orders. There were 102 court decisions in 2001 (based on the date of the slip opinion), up slightly from 2000's record-low 98 decisions. This count **excludes** court dismissals, 2 orders on reconsideration by the court, and 16 court remands to the board. (In 2000 there were 12 remands, second fewest of the past 10 years.) An order is classified as "remand" when the court did *not* rule on the primary issue, nor direct a specific resolution by the board. The **reasons for remanding**: the board needs to determine something (6 cases), the court couldn't determine whether the board considered something or the order was otherwise inadequate for review (6 cases), the board did not have benefit of a recent court decision (2 cases), the board erred (1 case), and the board misinterpreted something (1 case).

Order counts here exclude Department of Consumer and Business Services (DCBS) contested cases (discussed briefly in the final section of this report) and safety cases.

Issues. The number and the relative frequency of each issue are given in the table. Cases without one of the specified issues are counted in the "other issues" category. The relative frequency of extent of disability (13.7 percent) was up from 2000's record-low 10.2 percent, but only half of 1990's 27.0 percent. On the other hand, the percentage for compensability (67.6 percent) was the highest on record (2000's 60.2 percent was the prior record), over twice 1990's 32.6 percent. The

percentage of cases classified as "other issue" (18.6 percent) was the lowest on record (going back to 1988). The most frequent **other issues** (including those in cases with a specified issue) were insurer penalty (13 cases), responsibility (6 cases), remand (5 cases), claimant attorney fees (4 cases), and timeliness (4 cases).

2001 Court of Appeals issues, frequencies, dispositions, WCB affirmation rates, and remands

Issue & disposition	Cases*	% of cases*	RateWCB affirmed*	Remands
Extent of permanent disability	12	11.8	100.0	1
Affirm/no change	12			
Increase	-			
Decrease	-			
Reverse**	-			
Extent of temporary disability	2	2.0	100.0	2
Affirm/no change	2			
Increase	-			
Decrease	-			
Reverse**	-			
ALL EXTENT OF DISABILITY	14	13.7	100.0	3
Claim denial	44	43.1	97.7	4
WCB accept	14	13.7	100.0	2
Court accept	14			
Court deny	-			
Court reverse**	-			
WCB deny	30	29.4	96.7	2
Court accept	1			
Court deny	29			
Court reverse**	-			
Aggravation denial	4	3.9	100.0	1
WCB accept	0	0.0	-	0
Court accept	-			
Court deny	-			
Court reverse**	-			
WCB deny	4	3.9	100.0	1
Court accept	-			
Court deny	4			
Court reverse**	-			
Partial denial	21	20.6	95.2	5
WCB accept	3	2.9	100.0	3
Court accept	3			
Court deny	-			
Court reverse**	-			
WCB deny	18	17.6	94.4	2
Court accept	1			
Court deny	17			
Court reverse**	-			
ALL COMPENSABILITY	69	67.6	97.1	10
OTHER ISSUES	19	18.6	84.2	3
ALL ISSUES	102	100.0	95.1	16

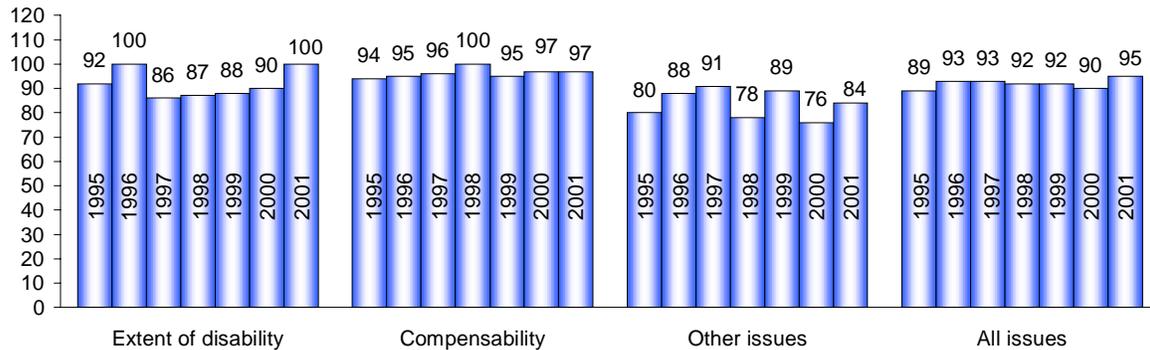
* Remands are excluded from these counts and calculations.

** For this table, "reverse" indicates no court decision on the broad issue. Percentages may not add to totals due to rounding.

Issue Disposition. Court dispositions and WCB affirmation rates are given in the table. The court reversed the board in 2 compensability cases and 3 other-issue cases. (These counts exclude remands; remand counts for each issue are also given in the table.) The **WCB affirmation rates** were 100 percent for extent of disability, 97.1 percent for the compensability, and 95.1 percent overall, the highest since 1990. See Figure 2.

For the three compensability issues, the court acceptance rate was 27.5 percent. For these 69 cases, the WCB acceptance rate was 24.6 percent. Last year, these figures were 27.1 and 30.5 percent, respectively.

Figure 2. WCB affirmation rates (percent)



Other Data. SAIF was the **insurer** in 31.4 percent of the cases. There was only one case about **permanent total disability** (PTD was awarded at some level): the court affirmed a board decision that rescinded a PTD award. The median **time lag** from *appeal* to order was 426 days (14.0 months), 50 days longer than in 2000 and the longest time on record. The median time from *injury* to court order was 1,281 days (3.5 years).

an administrative law judge) were decided by the court in 2001 (based on the date of the slip opinion). This count excludes dismissals and settlements. Dispute types were vocational assistance, medical services, and subjectivity. The worker was the petitioner in all three cases. The court affirmed the director in all three cases, so none were decided in favor of the worker. [In a 2000 decision, omitted from last year’s report, the court affirmed the judge’s decision in a medical services dispute; the insurer had requested review, and the worker prevailed.]

DCBS Contested Cases. Three contested cases (disputes heard for the Workers’ Compensation Division by

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