



Oregon Court of Appeals 2002 Workers' Compensation Summary

Research & Analysis Section

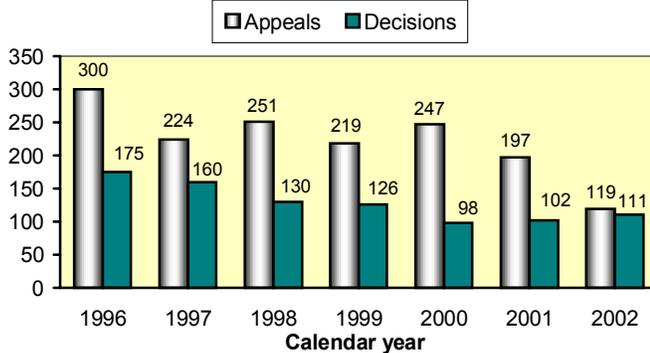
Department of Consumer & Business Services

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Appeals. In calendar year 2002 there were 119 appeals of Workers' Compensation Board (WCB) decisions to the Oregon Court of Appeals, 39.6 percent fewer than in the previous year. See Figure 1. The total number of board-review orders decreased by 4.8 percent. The rate at which these orders were appealed to the court dropped from 22.9 percent in 2001 to 14.5 percent (the lowest percentage since 1989). This drop occurred in part because dismissals and settlements, which are either rarely appealed or not appealable, constituted a greater percentage of board orders in 2002 (19.2 percent) than in 2001 (13.8 percent). The petitioner was the claimant in 72.8 percent of the cases, down from 2001's record-high 75.4 percent.

Figure 1. Number of appeals and decisions



Decisions. There were 111 court decisions in 2002 (based on the date of the slip opinion), 8.8 percent more than in 2001. This count **excludes** court dismissals, 1 order on reconsideration by the court, 3 cases remanded from the Oregon Supreme Court, and 14 court remands to the board. 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, board reasoning was not explained, or the order was otherwise inadequate for review (4 cases); the board did not have benefit of a recent court decision (2 cases); the board erred (1 case); and the board misread or misinterpreted something (1 case). Dismissals include cases where the parties, after appeal to the court, have entered into a settlement to be approved by the board.

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 (18.0 percent) increased from

2000 and 2001 to near the 1988-2002 average of 18.1 percent. On the other hand, the percentage for compensability (56.8 percent) dropped by almost 11 percentage points from 2001's record-high 67.6 percent. The percentage of cases classified as "other issue" (25.2 percent) was up from 2001's record-low 18.6 percent. The most frequent **other issues** (including those in cases with a specified issue) were insurer penalty (15 cases), claimant attorney fees (15 cases), responsibility (11 cases), evidence (8 cases), claim processing (8 cases), and jurisdiction (6 cases).

2002 Court of Appeals issues, frequencies, dispositions, WCB affirmation rates, and remands

Issue & disposition	Cases*	% of cases*	RateWCB affirmed*	Remands
Extent of permanent disability	18	16.2	100.0	1
Affirm/no change	18			
Increase	-			
Decrease	-			
Reverse**	-			
Extent of temporary disability	2	1.8	100.0	2
Affirm/no change	2			
Increase	-			
Decrease	-			
Reverse**	-			
ALL EXTENT OF DISABILITY	20	18.0	100.0	3
Claim denial	36	32.4	94.4	5
WCB accept	8		87.5	1
Court accept	7			
Court deny	1			
Court reverse**	-			
WCB deny	28		96.4	4
Court accept	1			
Court deny	27			
Court reverse**	-			
Aggravation denial	2	1.8	100.0	0
WCB accept	1		100.0	0
Court accept	1			
Court deny	-			
Court reverse**	-			
WCB deny	1		100.0	0
Court accept	-			
Court deny	1			
Court reverse**	-			
Partial denial	25	22.5	92.0	1
WCB accept	5		80.0	0
Court accept	4			
Court deny	1			
Court reverse**	-			
WCB deny	20		95.0	1
Court accept	1			
Court deny	19			
Court reverse**	-			
ALL COMPENSABILITY	63	56.8	93.7	6
OTHER ISSUES	28	25.2	85.7	5
ALL ISSUES	111	100.0	92.8	14

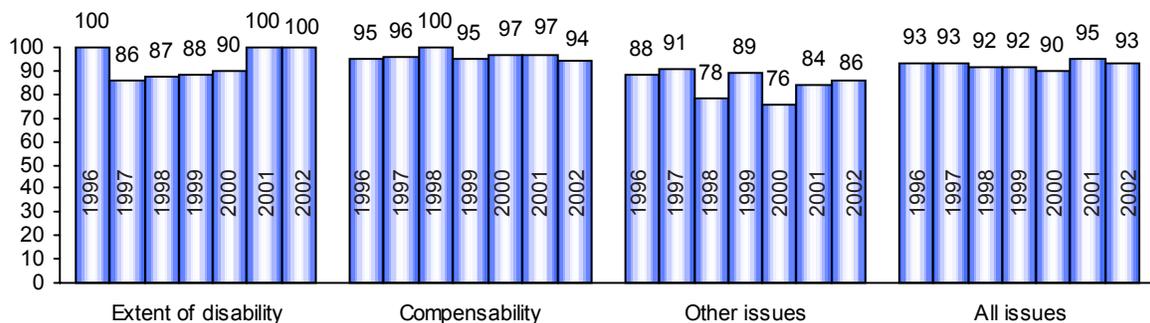
* Remands are excluded from these counts and calculations.

** 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 4 compensability cases and 4 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, 93.7 percent for compensability, and 92.8 percent overall (see Figure 2).

For the three compensability issues, the rate at which the court set aside insurer denials was 22.2 percent, the lowest percentage on record (beginning 1989). That rate for WCB (for these 63 cases) was the same 22.2 percent.

Figure 2. WCB affirmation rates (percent)



Other Data. SAIF was the **insurer** in 44.8 percent of the cases (includes multiple-insurer disputes). There were no cases about **permanent total disability** (where PTD was awarded at some level). The median **time lag** from *appeal* to order was 458 days (15.1 months), 32 days longer than in 2001 and the longest time on record. The median time from *injury* to order was 1,311 days (3.6 years).

administrative law judge) were decided by the court in 2002. (This count is based on the date of the slip opinion and excludes court dismissals.) In one case, SAIF appealed a decision that it should pay for medical services, and the court reversed. In the other case, the worker appealed a decision denying eligibility for vocational services; the court affirmed. The worker therefore did not prevail in either case.

DCBS Contested Cases. Two contested cases (disputes heard for the Workers' Compensation Division by an

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