



# Oregon Court of Appeals 2003 Workers' Compensation Summary

Research & Analysis Section

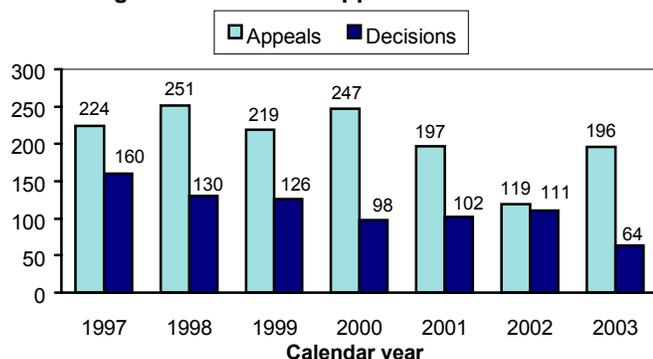
Department of Consumer & Business Services

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**Appeals.** In calendar year 2003, there were 196 appeals of Workers' Compensation Board (WCB) decisions to the Oregon Court of Appeals, almost equaling the number in 2001. See Figure 1. (There were fewer appeals in 2002 due to fewer board orders on review that year.) The rate at which board orders were appealed to the court was a typical 19.2 percent. The petitioner was the claimant in 67.6 percent of the cases, down from 2002's near-record-high value of 72.8 percent.

**Figure 1. Number of appeals and decisions**



**Orders.** There were just 64 court decisions in 2003 (based on the date of the slip opinion), 42.3 percent fewer than the 111 of 2002. The decision count **excludes** 71 court dismissals, 1 case remanded from the Oregon Supreme Court, and 10 court remands to the board (there were no orders on reconsideration by the court). **Reasons for court dismissals:** motion by petitioner, 31 cases; settlement, 23 cases; petitioner in default, 14 cases; and untimely appeal (3 cases).

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 erred (3 cases); the board needed to determine something (2 cases); the board's reasoning was not explained, or the order was otherwise inadequate for review (2 cases); the board did not have benefit of a recent court decision (2 cases); and the board applied the wrong legal standard (1 case).

Order counts exclude six 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 in the table. Cases without one of the specified issues are counted in the "other issues" category. The relative frequency of extent of disability (7.8 percent, just five cases) was the lowest on record. On the other hand, the percentage for compensability (65.6 percent) was

**2003 Court of Appeals issues, frequencies, dispositions, WCB affirmation rates, and remands**

Issue & disposition	Cases*	% of cases*	RateWCB affirmed*	Remands
<b>Extent of permanent disability</b>	<b>2</b>	<b>3.1</b>	<b>100.0</b>	<b>0</b>
Affirm/no change	2			
Increase	-			
Decrease	-			
Reverse**	-			
<b>Extent of temporary disability</b>	<b>3</b>	<b>4.7</b>	<b>100.0</b>	<b>0</b>
Affirm/no change	3			
Increase	-			
Decrease	-			
Reverse**	-			
<b>ALL EXTENT OF DISABILITY</b>	<b>5</b>	<b>7.8</b>	<b>100.0</b>	<b>0</b>
<b>Claim denial</b>	<b>27</b>	<b>42.2</b>		<b>4</b>
WCB accept	12		100.0	1
Court accept	12			
Court deny	-			
Court reverse**	-			
WCB deny	15		93.3	3
Court accept	1			
Court deny	14			
Court reverse**	-			
<b>Aggravation denial</b>	<b>1</b>	<b>1.6</b>	<b>100.0</b>	<b>0</b>
WCB accept	-		-	0
Court accept	-			
Court deny	-			
Court reverse**	-			
WCB deny	1		100.0	0
Court accept	-			
Court deny	1			
Court reverse**	-			
<b>Partial denial</b>	<b>14</b>	<b>21.9</b>	<b>100.0</b>	<b>3</b>
WCB accept	5		100.0	0
Court accept	5			
Court deny	-			
Court reverse**	-			
WCB deny	9		100.0	3
Court accept	-			
Court deny	9			
Court reverse**	-			
<b>ALL COMPENSABILITY</b>	<b>42</b>	<b>65.6</b>	<b>97.6</b>	<b>7</b>
<b>OTHER ISSUES</b>	<b>17</b>	<b>26.6</b>	<b>82.4</b>	<b>3</b>
<b>ALL ISSUES</b>	<b>64</b>	<b>100.0</b>	<b>93.8</b>	<b>10</b>

\* 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.

the second highest on record after 2001's 67.6 percent. The percentage of cases classified as "other issue" was 26.6 percent. The most frequent **other issues** (including those in cases with a specified issue) were responsibility (8 cases); insurer penalty and timeliness (5 cases each); and claimant attorney fees, premature closure, remand, and evidence (4 cases each).

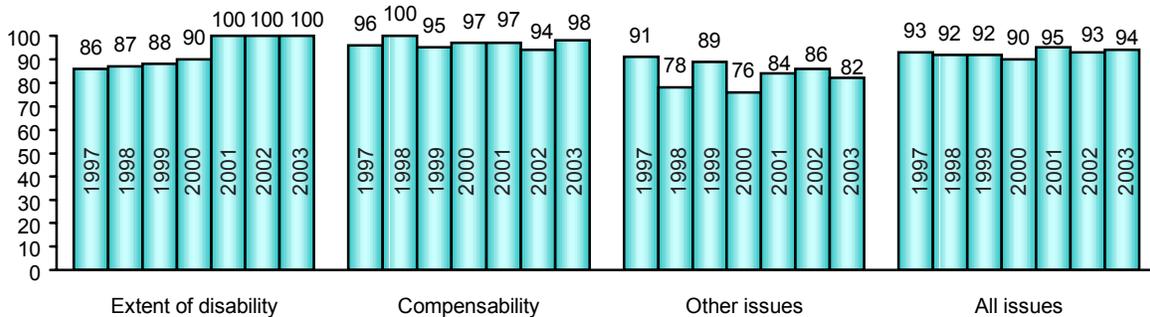
**Issue Disposition.** Court dispositions and WCB affirmation rates are in the table. The court reversed the board in one compensability case and three other-issue cases. (These counts exclude remands; remand counts for each issue are also in the table.) The **WCB affirmation rates** were 100 percent for extent of disability, 97.6 percent for the compensability, and 93.8 percent overall (see Figure 2).

For the three compensability issues, the court acceptance rate (the rate at which the court order would set aside the insurer's denial) was 42.9 percent, the highest since 1998. For these 42 cases, the WCB rate was 40.5 percent (a difference of just one case).

**Other Data.** SAIF was the **insurer** in 32.4 percent of the cases (includes multiple-insurer disputes). There were no **permanent total disability** cases (where PTD was awarded at some level). The median **time lag** from *appeal* to order was 457 days (15.0 months), 1 day less than in 2002 (which was the longest time on record). The median time from *injury* to order was 1,369 days (3.7 years). **Claimant attorney fees** in 15 *appellate judgments* in 2003 averaged \$5,163.

**DCBS Contested Cases.** Six contested cases (appeals of Workers' Compensation Division orders) were decided by the court in 2003. (This count is based on the date of the slip opinion and excludes court dismissals.) Four cases (two cases consolidated into a single appealed order and court decision are considered as one case) were about whether insurers should pay for medical services; the worker was the petitioner in two cases and SAIF was the petitioner in two cases. Workers appealed a decision on vocational assistance in the remaining two cases. The court affirmed the department's order in all six cases, so the worker prevailed in two cases.

**Figure 2. WCB affirmation rates (percent)**



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