

Workers' Compensation Board 2004 Board-Review Summary

Information Management Division

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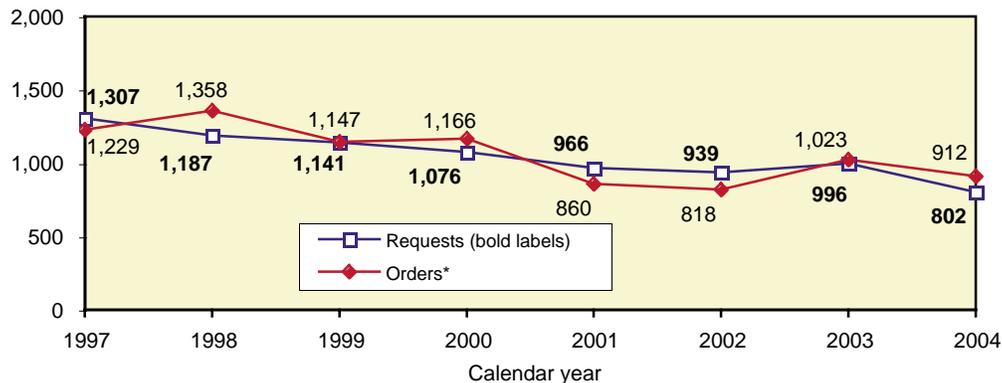
Requests

In 2004 there were 802 requests for Oregon Workers' Compensation Board review of decisions by the board's Hearings Division, about 19.5 percent fewer than in 2003. The worker was the appellant in 58.1 percent of the cases.

Original orders

The board issued 912 original orders during 2004, 10.9 percent fewer than in 2003. See the graph, nearby. Original orders exclude (1) reconsideration orders (50), (2) orders on remand from the courts (36), (3) third-party cases (three), and (4) crime victim cases (four). The data below, except the graph, exclude board remands to the Hearings Division and cases not directly dealing with worker claims. The breakout of original board-review orders by order type: orders on review, 86.2 percent; all settlements, 5.6 percent; and dismissals, 8.1 percent.

Board review requests and original orders



*Note: Order counts exclude reconsideration orders, orders on remand, third party cases, crime victim cases and attorney fee cases. Multiple-case requests and orders are counted as one request or order.

Analyzed orders

In order to correctly analyze data about the final disposition of board orders, the analyses below considered (1) un-appealed original orders dated in 2004, (2) original orders affirmed or dismissed by the court in 2004, and (3) board on-remand orders in 2004 (court "reverse and remand" cases). See Table 1. Cases pending court review or board on-remand order at the end of 2004 were not analyzed.

Insurer

SAIF was the insurer in 31.4 percent of the cases in 2004.

Issue frequency

Table 2 ("percentage of orders" column) gives issue relative frequencies for 2004 orders on review and orders on remand. The percentage of cases with the compensability issues of whole-claim or partial denial (69.5 percent) was the highest on record, while the percentage about aggravation (2.8 percent) was the lowest on record.

Table 1. Board review order types, 2004, as analyzed

Order type	Count	Percentage
Order on review	772	82.6%
Stipulation	11	1.2%
Disputed claim settlement	40	4.3%
Dismissal	76	8.1%
Subtotal	899	96.1%
Order on remand	11	1.2%
Stipulation on remand	2	0.2%
DCS on remand	22	2.4%
Dismissal on remand	1	0.1%
Subtotal, on remand	36	3.9%
All order types	935	100.0%

Issue dispositions

Table 2 (right column) gives data about 2004 issue dispositions for orders on review and orders on remand. For compensability (except aggravation), set-aside-denial rates since 1995 have ranged from 33.1 to 40.8 percent.

Permanent disability

In 2004 the board issued 107 orders (includes stipulations) on extent of permanent disability. For orders on review and orders on remand, dispositions are given in Table 2. For all order types, dispositions were affirm, 79.4 percent; decrease award, 14.0 percent; and increase award, 6.5 percent.

Average permanent partial disability decreases in 2004 were 16.1 scheduled degrees, 45.9 unscheduled degrees, and 36.0 degrees combined. Total net PPD awarded (the value of all increases, less the value of all decreases) was a net decrease of \$119,100. There were no orders issued on permanent total disability.

Sanctions

The board denied two employer requests for sanctions against claimant attorneys for appeals that were frivolous, made in bad faith, or for harassment purposes.

Hearing affirmation rates

For extent of disability, the rates are given in Table 2 (percentage disposition of "affirm"). For the issues of compensability, aggravation, and penalty, the rates were 83.2 percent, 92.9 percent, and 71.7 percent, respectively. (These rates for 2003 were 86.3, 76.9, and 74.6 percent.)

Based on the overall effect of the order, 77.3 percent of all 2004 orders on review and orders on remand (combined) affirmed the administrative law judge on all issues (compared to 80.7 percent in 2003). About 10.8 percent reversed the judge, and 11.9 percent affirmed part of the judge's order.

Disputed claim settlements

The board approved 62 DCSs (includes reconsideration orders and on-remand orders). In consideration for not contesting denials, insurers paid to workers \$1,065,000 (\$17,178 per order).

Table 2. Issues and dispositions of 772 board orders on review and 11 orders on remand in 2004

Issue and disposition	Number of orders	Percentage of orders*	Percentage disposition
Compensability	544	69.5%	
Set aside denial	202		37.1%
Affirm denial	342		62.9%
Permanent disability	104	13.3%	
Increase	5		4.8%
Decrease	14		13.5%
Affirm	85		81.7%
Temporary disability	28	3.6%	
Increase	2		7.1%
Decrease	3		10.7%
Affirm	23		82.1%
Aggravation	22	2.8%	
Set aside denial	7		31.8%
Affirm denial	15		68.2%
Responsibility	24	3.1%	
Penalty	68	8.7%	
Yes	19		27.9%
No	49		72.1%
Other issue	202	25.8%	
Favor of worker	71		35.1%
Favor of insurer	131		64.9%
Total issues	992		

Notes: Table excludes settlements. *Some orders resolve more than one issue, so the sum of percentages exceeds 100.

Time lags

The median request-to-order time for orders on review was 168 days (5.5 months), the same as for 2003. The median times from court remand to board order on remand (excludes settlements and dismissals) was 40 days.

Attorney fees

The board directed payment of fees totaling over \$790,000 to claimant attorneys. The average fee was \$2,439 (compared to \$2,261 for 2003). About 72.5 percent of all fees were assessed against insurers (70.4 percent in 2003), 25.4 percent were taken from DCS consideration, and 2.1 percent were out of increased awards.

The board also reduced hearing-awarded fees by almost \$409,000 in 2004 (about 4.6 percent of all 2004 hearing fees). Most of these fee reductions were due to reversal of the judge on the primary issue, while some were due to successful challenges to the fee amounts.

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