



# Workers' Compensation Board 2005 Board-Review Summary

Information Management Division

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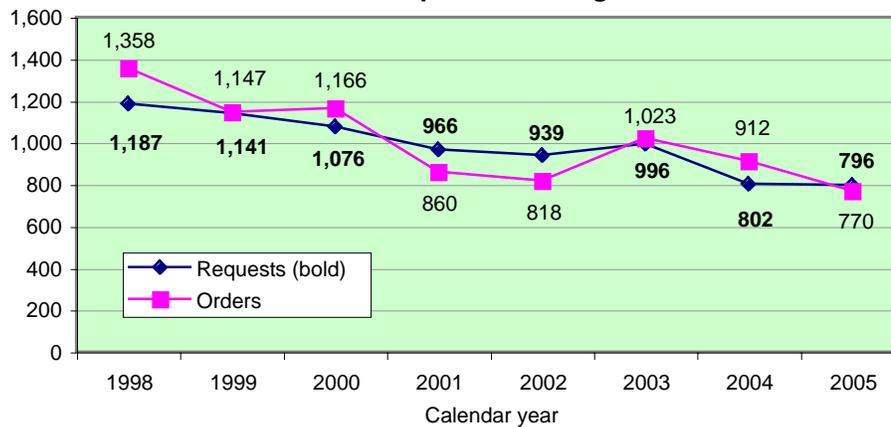
## Requests

In 2005 there were 796 requests for Oregon Workers' Compensation Board review of decisions by the board's Hearings Division, slightly fewer than in 2004. The worker was the appellant in 58.6 percent of the cases.

## Original orders

The board issued 770 original orders during 2005, 15.6 percent fewer than in 2004 (see graph). "Original orders" exclude reconsideration orders and orders on remand from the courts; the count also excludes six third-party cases and six crime victim cases. The breakout of original board-review orders by order type is: orders on review, 85.8 percent; all settlements, 5.7 percent; and dismissals, 8.5 percent.

**Board review requests and original orders**



Order counts exclude reconsideration orders, orders on remand, third-party orders, crime-victim 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 issues in board orders, analyses below considered (1) unappealed original orders dated in 2005, (2) original orders affirmed or dismissed by the courts in 2005, and (3) board on-remand orders in 2005 (court "reverse and remand" cases). See Table 1. Cases pending court review or board order on remand are not analyzed.

## Issue frequency

Table 2, in the "percentage of orders" column, gives issue relative frequencies for orders on review and orders on remand. Note that issues of partial denial, subjectivity, premature closure, attorney fee, and time-loss rate are recorded for the first time. The percentage of cases about aggravation (2.9 percent) was the second-lowest on record. The percentage of cases with the issues of whole-claim or partial denial (77.2 percent) was the highest on record (before 2005, these were coded as a single issue).

**Table 1. Board review order types, 2005, as analyzed**

Order type	Count	Percentage
Order on review	647	79.7%
Stipulation	13	1.6%
Disputed claim settlement (DCS)	36	4.4%
Dismissal	71	8.7%
<b>Subtotal</b>	<b>767</b>	<b>94.5%</b>
Order on remand	14	1.7%
Stipulation on remand	3	0.4%
DCS on remand	24	3.0%
Dismissal on remand	4	0.5%
<b>Subtotal, on remand</b>	<b>45</b>	<b>5.5%</b>
All order types	812	100.0%

See explanation in text. Excludes remands to hearing.

## Permanent disability orders

The board, in 2005, issued 112 orders on extent of permanent disability, including stipulations. For all order types, dispositions were: affirm, 75.0 percent; decrease award, 11.6 percent; and increase award, 13.4 percent. For orders on review and orders on remand, dispositions are given in Table 2.

Average permanent partial disability decreases in 2005 were 18.0 scheduled degrees, 44.3 unscheduled degrees, and 30.1 degrees combined. Total net PPD awarded (the value of all increases, less the value of all decreases) was a net increase of \$26,000. There were no orders about permanent total disability (where the board granted, rescinded, or affirmed the award of PTD).

## Hearing affirmation rates

Affirmation rates for extent of disability are given in Table 2 (percentage disposition of "affirm"). For the issues of compensability, aggravation, and penalty, the rates were 89.9 percent, 76.5 percent, and 81.8 percent, respectively. (Rates for 2004 were 83.2, 92.9, and 71.7 percent, respectively.)

In 2005, board orders on review and orders on remand affirmed 81.4 percent of administrative law judge decisions on all issues, about 10.8 percent reversed the judge, and 7.8 percent affirmed part of the judge's order. For 2005, these values were determined case-by-case, instead of for each order, so values are not directly comparable with previous years.

## Time lags

The median times from board-review request to order on review was 145 days (4.8 months), 23 days less than in 2004.

## Disputed claim settlements

The board approved 60 DCSs in 2005 (includes original orders, reconsideration orders, and on-remand orders). In consideration for not contesting denials, insurers paid to workers \$822,000 (\$13,700 per settlement).

## Insurer

SAIF was the insurer in 35.3 percent of all cases reviewed by the board in 2005.

## Sanctions

The board denied two sanction requests for appeals that were frivolous, made in bad faith, or for harassment purposes. One was sought against a claimant's attorney, the other against an employer's attorney.

## Attorney fees

The board directed payment of fees totaling almost \$762,000 to claimant attorneys. The average fee was \$2,425 (compared to \$2,439 in 2004). About 71.4 percent of all fees were as-

**Table 2. Issues and dispositions of orders on review and orders on remand, 2005**

Issue and disposition	Number of orders	Percentage of orders*	Percentage disposition
<b>Claim denial</b>	<b>321</b>	<b>48.6%</b>	
Set aside	118		36.8%
Affirm	203		63.2%
<b>Partial denial</b>	<b>189</b>	<b>28.6%</b>	
Set aside	62		32.8%
Affirm	127		67.2%
<b>Aggravation denial</b>	<b>19</b>	<b>2.9%</b>	
Set aside	3		15.8%
Affirm	16		84.2%
<b>Permanent disability</b>	<b>107</b>	<b>16.2%</b>	
Increase	12		11.2%
Decrease	11		10.3%
Affirm	84		78.5%
<b>Temporary disability</b>	<b>35</b>	<b>5.3%</b>	
Increase	6		17.1%
Decrease	3		8.6%
Affirm	26		74.3%
<b>Responsibility</b>	<b>30</b>	<b>4.5%</b>	
<b>Penalty</b>	<b>63</b>	<b>9.5%</b>	
Yes	20		31.7%
No	43		68.3%
<b>Subjectivity</b>	<b>2</b>	<b>0.3%</b>	
Yes	0		0%
No	2		100%
<b>Premature closure</b>	<b>15</b>	<b>2.3%</b>	
Yes	7		46.7%
No	8		53.3%
<b>Attorney fee</b>	<b>10</b>	<b>1.5%</b>	
Yes	8		80.0%
No	2		20.0%
<b>Temporary disability rate</b>	<b>5</b>	<b>0.8%</b>	
Increase	1		20.0%
Decrease	1		20.0%
Affirm	3		60.0%

Notes: Excludes settlements. \*Orders may resolve more than one issue, so percentages add to more than 100.

essed against insurers (72.5 percent in 2004), 22.1 percent were taken from DCS consideration, and 6.5 percent were out of workers' disability award increases.

The board also reduced hearing-awarded fees by almost \$492,000 in 2005 (about 5.2 percent of total 2005 hearing fees). Most of these fee reductions were due to reversal of the judge's order on the primary issue, but some were due to successful challenges to the fee amounts.

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