

# Workers' Compensation Board 2006 Board-Review Summary

Information Management Division

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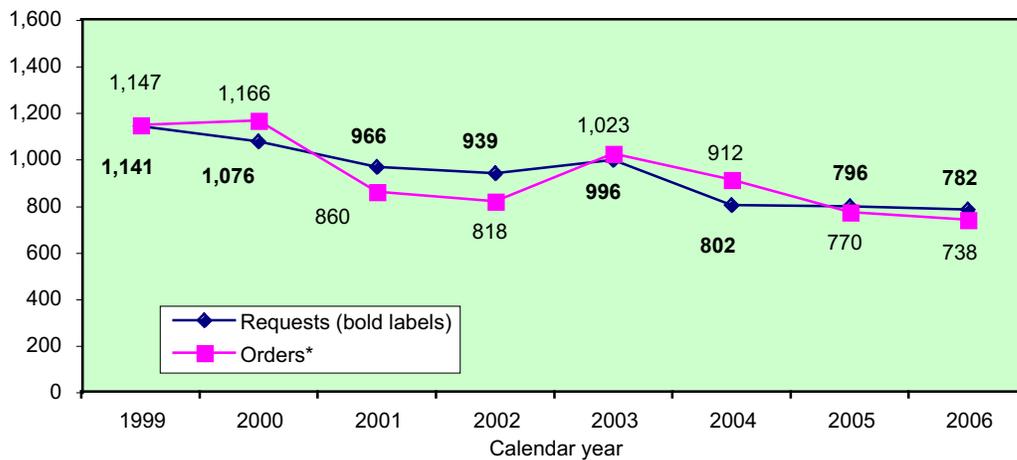
## Requests

In 2006 there were 782 requests for Oregon Workers' Compensation Board review of decisions by the board's Hearings Division, slightly fewer than in 2005. The worker was the appellant in 60.1 percent of the cases.

## Original orders

The board issued 738 original orders during 2006, 4.2 percent fewer than in 2005 (see graph). "Original orders" exclude reconsideration orders, orders on remand from the courts, two third-party cases, and two crime victim cases. The breakout of original board-review orders by order type is: orders on review, 88.4 percent; all settlements, 3.9 percent; and dismissals, 7.6 percent.

**Board review requests and original orders**



Order counts exclude reconsideration orders, orders on remand, third-party orders, and 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 in 2006, (2) original orders affirmed or dismissed by the courts in 2006, and (3) board on-remand orders in 2006 (court "reverse and remand" cases). See Table 1. Cases pending court review or board order on remand are not analyzed.

## Issue frequency

The "percentage of orders" column in Table 2 gives issue relative frequencies for orders on review and orders on remand. The percentage of cases with the issues of whole-claim or partial denial (82.6 percent) and responsibility (5.7 percent) were the highest on record. On the other hand, the percentage of cases about extent of permanent disability was a record-low 13.1 percent. Issues of subjectivity, premature closure, attorney fee, and time-loss rate (first recorded in 2005) together rose from 4.8 percent to 6.3 percent.

## Permanent disability orders

The board, in 2006, issued 85 orders on extent of permanent disability, including stipulations. For all order types, dispo-

**Table 1. Board review order types, 2006, as analyzed**

Order type	Count	Percentage
Order on review	613	83.5%
Stipulation	5	0.7%
Disputed claim settlement (DCS)	28	3.8%
Dismissal	58	7.9%
<b>Subtotal</b>	<b>704</b>	<b>95.9%</b>
Order on remand	6	0.8%
Stipulation on remand	6	0.8%
DCS on remand	17	2.3%
Dismissal on remand	1	0.1%
<b>Subtotal, on remand</b>	<b>30</b>	<b>4.1%</b>
All order types	734	100.0%

See explanation in text. Excludes remands to hearing.

tions were: affirm, 77.6 percent; decrease award, 14.1 percent; and increase award, 8.2 percent. For orders on review and orders on remand (only), dispositions are given in Table 2.

Average permanent partial disability decreases in 2006 were 13.7 scheduled degrees, 48.9 unscheduled degrees, and 36.1 degrees combined. The board reduced one post-2005 whole-body impairment award from 15 percent to zero. Total net PPD awarded (the value of all increases, less the value of decreases) was a net decrease of \$105,000. The board made no permanent total disability changes, but affirmed one hearings PTD grant.

### Hearing affirmation rates

The board affirmed administrative law judges (ALJs) on permanent and temporary disability issues at 79.0 and 68.8 percent, respectively (Table 2, percentage disposition of “affirm”). For the issues of whole-claim denial, partial denial, aggravation, and penalty, the rates were 89.8 percent, 84.0 percent, 100 percent, and 69.2 percent, respectively (Table 2 gives dispositions of these issues, except for penalty, with respect to the insurer decision.)

In 2006, board orders on review and orders on remand affirmed 83.0 of ALJ decisions on all issues (the highest since 1997, when data were first captured). About 10.4 percent reversed the ALJ, and 6.6 percent affirmed part of the judge’s order. Beginning with 2005, these values were determined case-by-case, instead of for each order, so 2005-2006 values are not directly comparable to prior years.

### Time lags

The median times from board-review request to order on review was 173 days (5.7 months). The median time from docket date (the date the briefing schedule is completed) to order date was only 84 days.

### Disputed claim settlements

The board approved 45 DCSs in 2006 (includes original orders, reconsideration orders, and on-remand orders). In consideration for not contesting denials, insurers paid to workers \$735,000 (\$16,300 per settlement).

### Insurer

SAIF was the insurer in 35.2 percent of all cases reviewed by the board in 2006.

### Attorney sanctions

The board denied three sanctions requests, made by workers against insurer attorneys, for appeals that were allegedly frivolous, made in bad faith, or for harassment purposes.

### Attorney fees

The board directed payment of fees totaling more than \$757,000 to claimant attorneys. The average fee was \$2,715 (compared to \$2,425 in 2005). About 76.5 percent of all fees

**Table 2. Issues and dispositions of orders on review and orders on remand, 2006**

Issue and disposition	Number of orders	Percentage of orders**	Percentage disposition
<b>Claim denial</b>	<b>310</b>	<b>50.1%</b>	
Set aside denial	110		35.5%
Affirm denial	200		64.5%
<b>Partial denial</b>	<b>201</b>	<b>32.5%</b>	
Set aside denial	67		33.3%
Affirm denial	134		66.7%
<b>Aggravation denial</b>	<b>20</b>	<b>3.2%</b>	
Set aside denial	5		25.0%
Affirm denial	15		75.0%
<b>Permanent disability</b>	<b>81</b>	<b>13.1%</b>	
Increase*	7		8.6%
Decrease*	10		12.3%
Affirm*	64		79.0%
<b>Temporary disability</b>	<b>32</b>	<b>5.2%</b>	
Increase*	6		18.8%
Decrease*	4		12.5%
Affirm*	22		68.8%
<b>Responsibility</b>	<b>35</b>	<b>5.7%</b>	
<b>Penalty</b>	<b>62</b>	<b>10.0%</b>	
Yes	22		35.5%
No	40		64.5%
<b>Subjectivity</b>	<b>3</b>	<b>0.5%</b>	
Yes	0		0.0%
No	3		100.0%
<b>Premature closure</b>	<b>11</b>	<b>1.8%</b>	
Yes	0		0.0%
No	11		100.0%
<b>Attorney fee</b>	<b>20</b>	<b>3.2%</b>	
Yes	9		45.0%
No	11		55.0%
<b>Temporary disability rate</b>	<b>5</b>	<b>0.8%</b>	
Increase*	0		0.0%
Decrease*	2		40.0%
Affirm*	3		60.0%

Notes: Excludes settlements. \*Dispositions stated with respect to the hearing award. \*\*Orders may resolve more than one issue, so percentages add to more than 100.

were assessed against insurers (71.4 percent in 2005), 19.3 percent were taken from DCS consideration, and 4.2 percent were out of disability award increases.

The board also reduced hearing-awarded fees by more than \$361,000 in 2006 (about 3.7 percent of total 2006 hearing fees). Most of these fee reductions were due to reversal of the ALJ’s order on the primary issue, but some were due to successful challenges to the fee amounts.

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