



# Workers' Compensation Board 2007 Board-Review Summary

Information Management Division

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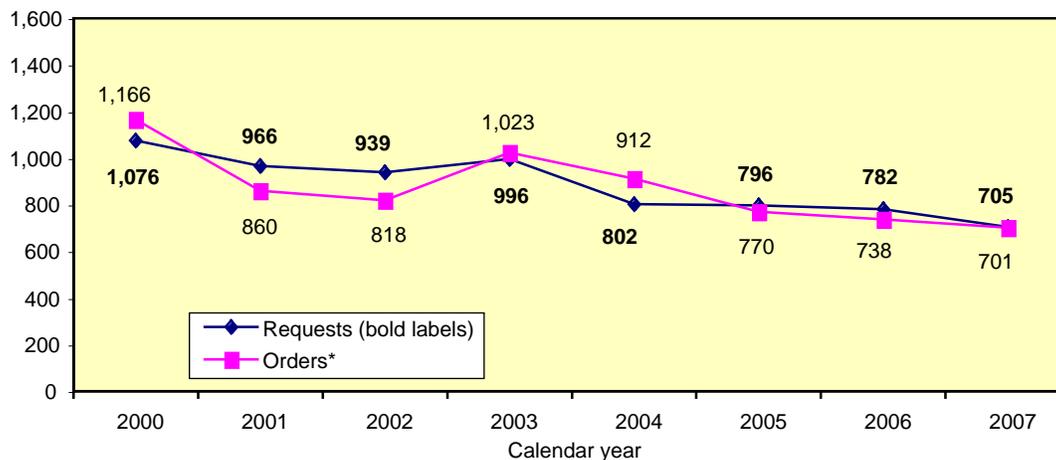
## Requests

In 2007, there were 705 requests for Oregon Workers' Compensation Board review of decisions of the board's Hearings Division, 9.8 percent fewer than in 2006. The worker was the appellant in 63.1 percent of these cases.

## Original orders

The board issued 701 original orders in 2007, 5.0 percent fewer than in 2006 (see graph). "Original orders" exclude reconsiderations, orders on remand from the courts, third-party cases (four), and crime-victim cases (three). The breakout of original orders by order type: orders on review, 85.6 percent; all settlements, 4.2 percent; and dismissals, 10.2 percent.

**Board review requests and original orders**



\*Note: 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 and one order.

## Analyzed orders

To correctly analyze data about the final disposition of issues, analyses below considered (1) un-appealed original orders in 2007, (2) original orders affirmed or dismissed by the courts in 2007, and (3) board on-remand orders in 2007 (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 relative frequencies of issues for orders on review and orders on remand. The percentage of cases about whole-claim and partial denial was 78.4 percent, down from 2006's record high of 82.6 percent. Cases about responsibility tied the 2006 high of 5.7 percent. On the other hand, the percentage of cases about the extent of permanent disability was a near-record low of 13.2 percent. Penalty was an issue in 9.2 percent of orders, the second lowest since 1983. The issues of subjectivity, premature closure, attorney fee, and time-loss rate (all first recorded in 2005) together rose from 6.3 in 2006 to 9.7 percent in 2007.

**Table 1. Board review order types, 2007, as analyzed**

Order type	Count	Percentage
Order on review	593	82.6%
Stipulation	1	0.1%
Disputed claim settlement (DCS)	34	4.7%
Dismissal	69	9.6%
<b>Subtotal</b>	<b>697</b>	<b>97.1%</b>
Order on remand	4	0.6%
Stipulation on remand	2	0.3%
DCS on remand	14	1.9%
Dismissal on remand	1	0.1%
<b>Subtotal, on remand</b>	<b>21</b>	<b>2.9%</b>
All order types	718	100.0%

See explanation in text. Excludes remands to hearing.

## Permanent disability orders

The board, in 2007, issued 82 orders on the extent of permanent disability, including stipulations. Their dispositions: affirm, 85.4 percent; decrease award, 11.0 percent; and increase award, 3.7 percent. Dispositions for orders on review and orders on remand (only) are given in Table 2.

The board increased awards in two “pre-2005 injury” PPD cases and one “post-2005 injury” PPD case, and they decreased awards in five “pre-2005 injury” PPD and four “post-2005 injury” PPD cases. Here, “PPD” refers to permanent partial disability. Total net PPD awarded (the value of all increases, less the value of decreases) was a net decrease of \$54,000. The board made no permanent total disability changes, but affirmed one department reconsideration grant.

## Hearing affirmation rates

The board affirmed administrative law judges (ALJs) on permanent and temporary disability issues at 84.8 and 85.2 percent, respectively (Table 2, right column). For the issues of claim denial, partial denial, aggravation, and penalty, the rates were 90.1 percent, 79.8 percent, 88.9 percent, and 75.0 percent, respectively. (Table 2 gives dispositions of these issues, except for penalty, with respect to the insurer decision.)

In 2007, board orders on review and orders on remand affirmed 80.5 percent of ALJ decisions on all issues. About 10.4 percent of these orders reversed the ALJ’s order, and 9.1 percent affirmed part of the judge’s order. Beginning with 2005, these values were determined case-by-case, instead of for each order, so 2005-2007 values are not directly comparable to prior years.

## Attorney fees

The board directed payment of fees totaling more than \$746,000 to claimant attorneys. The average fee was \$3,008 (compared to \$2,715 in 2006). About 79.1 percent of all fees were assessed against insurers, 20.4 percent were taken from DCS consideration, and 0.5 percent were out of disability award increases.

The board also reduced hearing-awarded fees by more than \$439,000 in 2007 (about 4.6 percent of total 2007 hearing fees). Most 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.

## Other data

The median **time lag** from request to order on review was 180 days (5.9 months). The median time from docket date (the date the briefing schedule is completed) to order date was 93 days. The board approved 48 **disputed claim settlements** in 2007 (includes original, reconsideration, and on-remand orders). In consideration for not contesting denials, insurers paid to workers \$787,000 (\$16,400 per settlement). SAIF was the **insurer** in 35.2 percent of all cases reviewed by the board in 2007. The board denied two **attorney sanctions** requests, made by employers against worker attorneys, per ORS 656.390.

**Table 2. Issues and dispositions of orders on review and orders on remand, 2007**

Issue and disposition	Number of orders	Percentage of orders**	Percentage disposition
<b>Claim denial</b>	<b>268</b>	<b>44.9%</b>	
Set aside denial	84		31.3%
Affirm denial	184		68.7%
<b>Partial denial</b>	<b>200</b>	<b>33.5%</b>	
Set aside denial	71		35.5%
Affirm denial	129		64.5%
<b>Aggravation denial</b>	<b>19</b>	<b>3.2%</b>	
Set aside denial	5		26.3%
Affirm denial	14		73.7%
<b>Permanent disability</b>	<b>79</b>	<b>13.2%</b>	
Increase*	3		3.8%
Decrease*	9		11.4%
Affirm*	67		84.8%
<b>Temporary disability</b>	<b>27</b>	<b>4.5%</b>	
Increase*	1		3.7%
Decrease*	3		11.1%
Affirm*	23		85.2%
<b>Responsibility</b>	<b>34</b>	<b>5.7%</b>	
<b>Penalty</b>	<b>55</b>	<b>9.2%</b>	
Yes	16		29.1%
No	39		70.9%
<b>Subjectivity</b>	<b>1</b>	<b>0.2%</b>	
Yes	0		0%
No	1		100%
<b>Premature closure</b>	<b>18</b>	<b>3.0%</b>	
Yes	8		44.4%
No	10		55.6%
<b>Attorney fee</b>	<b>35</b>	<b>5.9%</b>	
Yes	22		62.9%
No	13		37.1%
<b>Temporary disability rate</b>	<b>4</b>	<b>0.7%</b>	
Increase*	2		50.0%
Decrease*	1		25.0%
Affirm*	1		25.0%

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.

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