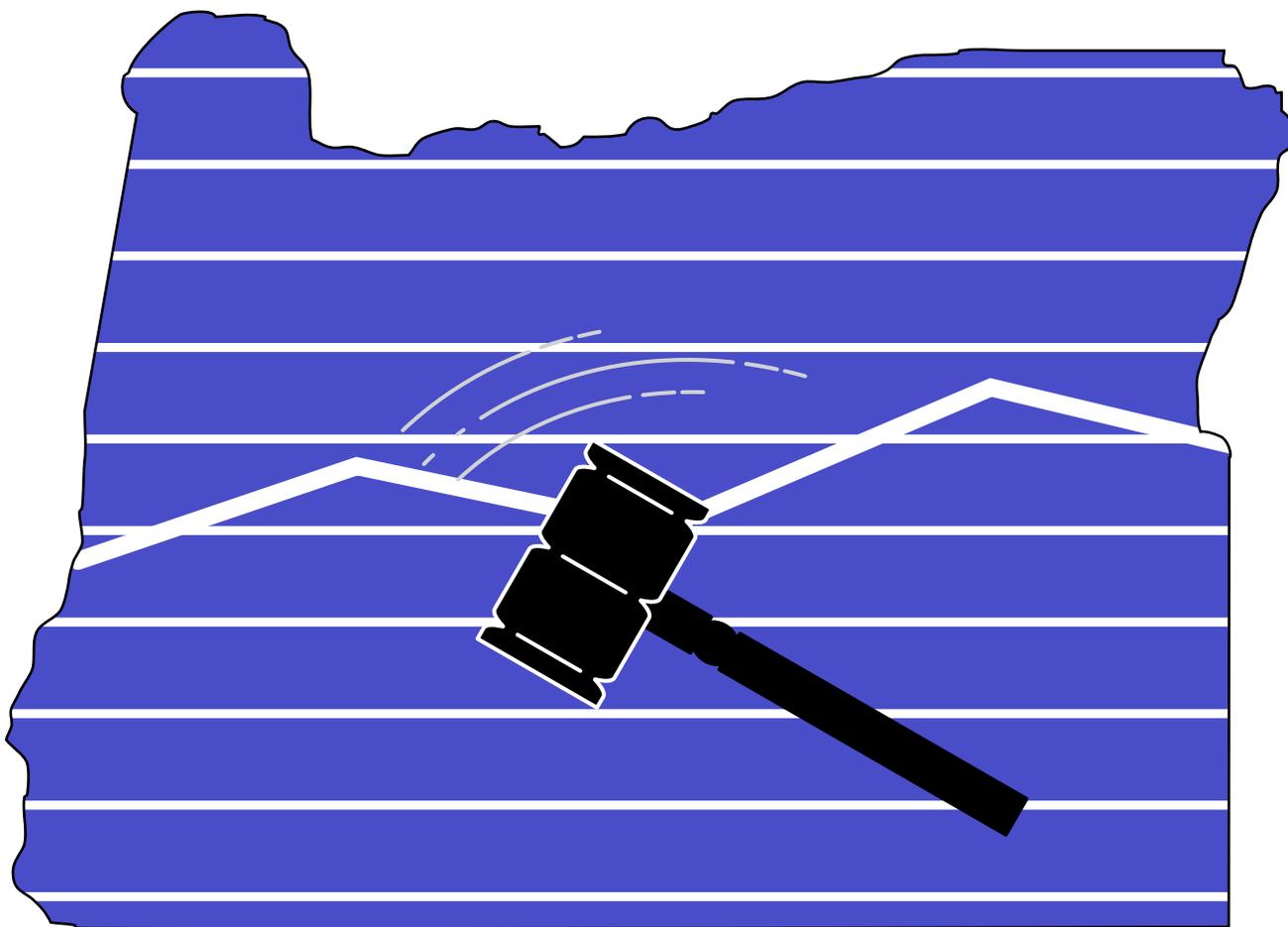


# Hearings Division Statistical Report Calendar Year 2000



Research & Analysis Section  
Oregon Department of  
Consumer & Business Services



July 2002

# Hearings Division Statistical Report Calendar Year 2000

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## Introduction

The Hearings Division of the Oregon Workers' Compensation Board provides a forum for appeal in the Oregon workers' compensation system. Hearings administrative law judges (judges) carry out this function. Parties who are dissatisfied with a decision of an insurer or the Workers' Compensation Division (of the Department of Consumer and Business Services) may appeal to the Hearings Division.

This report covers cases for which hearings orders were written during 2000, regardless of the date the hearing was requested or held. The basic unit of data is the case, not the written order. (A case is established and assigned a case number at the time of the hearing request. Sometimes an order may close more than one case.)

Excluded from this report are (1) safety cases, per Oregon Revised Statutes Chapter 654; (2) inmate injury fund

cases; (3) cases not dealing with workers' compensation claims, such as those dealing only with non-complying employer status or civil penalty assessment [exception: these cases are included in hearing request and order counts, including Figures 1 and 2]; and (4) non-closing orders, such as interim orders and orders of abatement.

Data for this report were collected by Workers' Compensation Board staff from various source documents, but primarily from the hearing order itself. Data were written to data sheets and then entered into the board's data system. Computer edits were performed in order to identify and correct data that was inconsistent or otherwise questionable.

Generally, 1978 is the first year with detailed statistical records. Unless otherwise indicated, record-high or record-low values are for the period 1978-2000.

## Highlights and Major Trends

In 2000 the Hearings Division received 10,654 **requests** for hearing, 3.9 percent fewer than in 1999.

There were 10,935 closing **orders** issued by the Hearings Division in 2000, a slight 0.8 percent increase over the previous year.

The percentage of cases **closed by** O&O, 22.5 percent, was the second-smallest percentage on record.

SAIF was the **insurer** in a record-low 29.6 percent of the cases, while the percentage for private insurers, 58.9 percent, was the highest on record.

Judges completed a record-high 280 **mediations** during the year. Over 89 percent resulted in settlement, of which some 87 percent were in the form of a disputed claim settlement. The average mediation required 13.5 work-hours.

Claim denial was the most frequent **issue**, with 40.7 percent of the cases. The next most frequent issue was partial denial, with a record-high 36.2 percent. Aggravation tied 1999's record-low 5.0 percent. Extent of temporary disability was an issue in 4.6 percent of all cases, up from 1999's record-low 3.7 percent.

In terms of issue **dispositions**, the O&O "acceptance" rate for claim denial, 43.0 percent, was the third lowest on record, while the "acceptance" rate for partial denial was 50.6 percent, the third highest ever. The "yes" rates for premature closure and insurer penalty were the second lowest and lowest on record, respectively, at about one third.

The 25.7 percent O&O "increase" rate for permanent disability was a record low, while the 15.1 percent "decrease" rate was the second highest ever. The 59.2 percent "affirm" rate was the highest ever. For temporary disability, the 49.4 percent O&O "increase" rate was up

from 1999's record-low 48.1 percent, while the 47.4 percent "affirm" rate tied 1999's record high.

Of 11 cases that included a **sanctions** request, sanctions were requested by the insurer or employer, against claimant's attorney, in 10 cases. The judge assessed a sanction in just one of the insurer-request cases; it was for \$200.

In 2000 insurers paid almost \$22.8 million to workers in 4,019 **disputed claim settlements**. DCSs accounted for 72.3 percent of all stipulations, 36.9 percent of all closing hearings orders, and 79.2 percent of all claims denied at hearings; these are all record-high percentages! The average DCS amount was \$5,662.

The average **permanent partial disability** award increases were 11.6 scheduled degrees, 27.7 unscheduled degrees, and 20.7 degrees combined (the largest since 1991). The net amount awarded for PPD at hearings in 2000 was \$189 thousand, the 13th consecutive decrease in that total and the smallest value on record.

There were a record-low three **permanent total disability** grants in 2000, one of which was by stipulation.

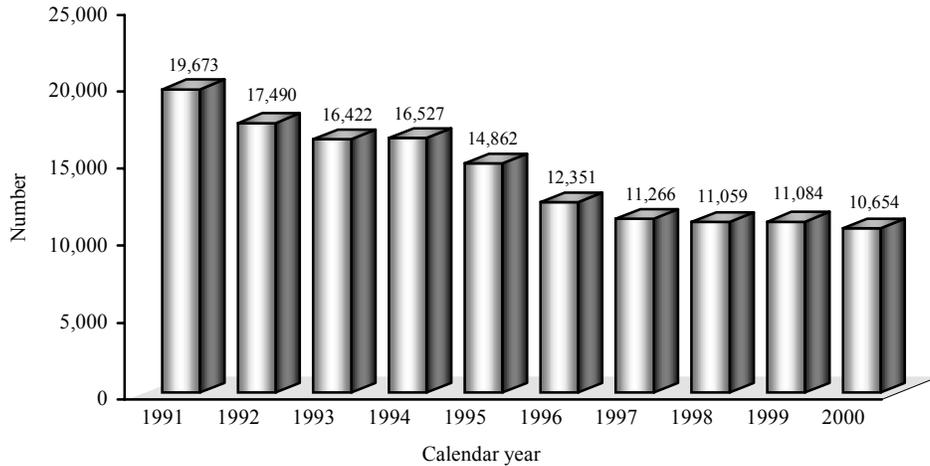
For opinion and order cases, the median **time lag** from hearing request to order was 188 days, the longest since 1987. For O&O cases *without a postponement*, the median request-to-order time was only 133 days. The percentage of O&Os with at least one postponement was 37.9 percent, the highest since 1997.

Claimant **attorney fees** totaling over \$9.1 million were approved for payment out of worker compensation or assessed against insurers in 2000 hearings orders, exceeding 1999's total by 6.9 percent. About 51.3 percent of the fees were paid out of compensation or DCS consideration.

## Requests for Hearing

In 2000 the Hearings Division of the Oregon Workers' Compensation Board received 10,654 requests for hearing, 3.9 percent fewer than in 1999 and the fewest since 1978. See Figure 1. (Hearing requests peaked in 1989 with 27,549 requests.) The number of requests in 2000 includes 943 "received stipulations," stipulations that were received without a prior hearing request.

**Figure 1. Requests for hearing, Oregon, 1991 - 2000**



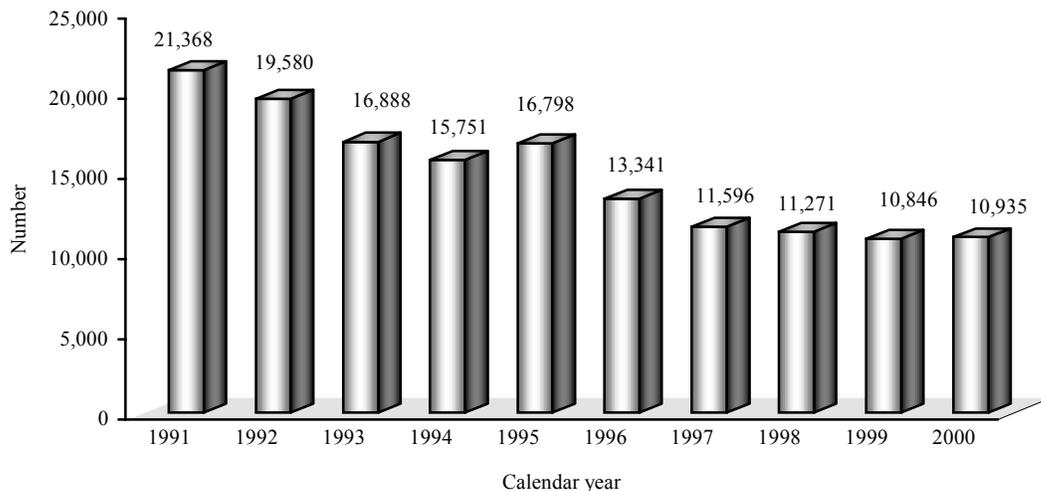
## Cases Closed

There were 10,935 closing orders issued by the Hearings Division in 2000, a slight 0.8 percent increase over the previous year (Figure 2).

Table 1 provides data on cases closed, by order type. An **opinion and order** is written when a hearing is conducted and the administrative law judge decides the issues. (A judge may, on occasion, decide the case on the written record, alone.) A **stipulation** is an order written to record and approve an agreement of the parties. Stipulations include disputed claim settlements. In a **dismissal**, the

judge dismisses the hearing request and there generally is no hearing. Dismissals are written when (1) the hearing requester withdraws the request; (2) the judge rules to dismiss for untimely filing, lack of jurisdiction, or other legal basis; (3) the Workers' Compensation Board approves a claim disposition agreement that disposes of all contested issues; and (4) a judge determines that there is no substantial evidence to support a responsibility finding against a particular insurer, per ORS 656.308(2)(c).

**Figure 2. Hearing cases closed, all orders, Oregon, 1991- 2000**



The percentage of cases **closed by O&O**, 22.5 percent, was the smallest percentage since 1990's record-low 20.6 percent. The percentage closed by stipulation was the highest since 1991. See Figure 3. About 70.6 percent of the dismissals were issued because the requester withdrew the hearings request.

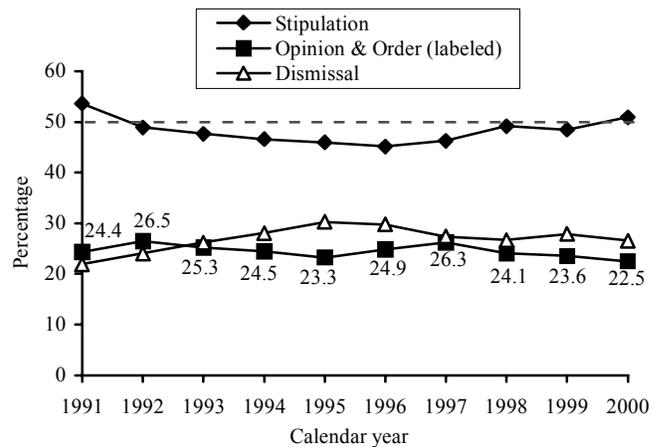
The breakout of cases by **requester** is given in Table 2. The worker filed the request in 87.6 percent of the cases, the smallest percentage on record. Received stipulations are classified as "joint" requests.

SAIF was the **insurer** in just 29.6 percent of the cases, the tenth successive decrease and ninth successive record-low value. The percentage for private insurers, 58.9 percent, was the highest on record. (The values reported for private insurer and self-insured employer for 1998 were inaccurate due to wrong insurer classification in some cases.) See Table 3 and Figure 4. Responsibility disputes are treated as multiple cases, each with its own insurer. Some of the cases with an "unknown" insurer are appeals of department non-subjectivity determinations (disputes about whether the worker, or the employer, is subject to workers' compensation law).

**Table 1. Hearing compensation cases closed by order type, Oregon, 2000**

Type of order	Number	Percentage
Opinion & Order	2,449	22.5%
Stipulation	5,555	50.9%
Dismissal	2,899	26.6%
Total	10,903	100.0%

**Figure 3. Distribution of hearing cases closed by order type, Oregon, 1991 - 2000**



**Table 2. Hearing compensation cases by requester and order type, Oregon, 2000**

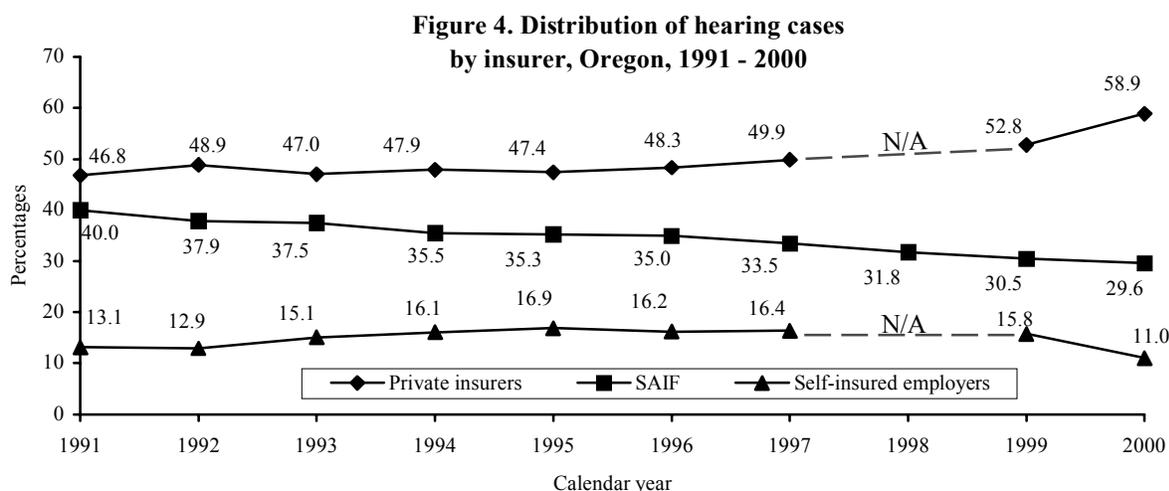
Requester	Opinion & Order		Stipulation		Dismissal		Withdrawal		All order types	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
Claimant	2,268	92.6	4,496	80.9	780	91.4	2,005	98.0	9,549	87.6
Employer	12	0.5	16	0.3	8	0.9	7	0.3	43	0.4
Joint	-	0.0	951	17.1	4	0.5	-	0.0	955	8.8
Insurer	162	6.6	86	1.5	47	5.5	33	1.6	328	3.0
Other	7	0.3	6	0.1	14	1.6	1	0.0	28	0.3
Total	2,449	100.0	5,555	100.0	853	100.0	2,046	100.0	10,903	100.0

Note: Due to rounding, the sum of percentages may not equal 100.

**Table 3. Hearing compensation cases by insurer and order type, Oregon, 2000**

Insurer	Opinion & Order		Stipulation		Dismissal		Withdrawal		All order types	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
SAIF	719	29.4	1,612	29.0	256	30.0	645	31.5	3,232	29.6
Private	1,440	58.8	3,327	59.9	512	60.0	1,147	56.1	6,426	58.9
Self-Insured	281	11.5	597	10.7	81	9.5	244	11.9	1,203	11.0
Unknown	9	0.4	19	0.3	4	0.5	10	0.5	42	0.4
Total	2,449	100.0	5,555	100.0	853	100.0	2,046	100.0	10,903	100.0

Note: Due to rounding, the sum of percentages may not equal 100.



Note: 1998 data for Private & Self-insured unavailable.

## Mediations

To help settle disputes without formal litigation, administrative law judges completed a record-high 280 mediations during the year. Over 89 percent resulted in settlement, of which some 87 percent were in the form of a disputed claim settlement. The average mediated DCS consideration was over \$16,700 (per case, not per mediation), almost three times the average for *all* DCSs. (“Mediated DCSs” in 2000 included a few very large ones, including one for over \$944,000.)

About 43 percent of the mediations included issues in addition to workers’ compensation issues (employment rights, Americans with Disability Act, tort, etc.). The

average mediation required 13.5 work-hours on the part of the judge.

A record-high 64 percent of successfully mediated cases had the issue of partial denial, and most of the rest were about whole-claim denial. Only 41 percent (a record low) were about disease claims, and 32 percent included mental disease (equalling the 1996-2000 average).

The median time from mediation request to the date of the mediation was a record-high 77 days, and the median time from the mediation to the order (for cases where the mediation resulted in settlement) was a typical 42 days.

## Issues

These **12 issues** are recorded for hearings opinion and order and stipulation cases:

- (1) extent of permanent disability – the number of degrees of permanent partial disability or whether the worker is permanently and totally disabled.
- (2) extent of temporary disability – eligibility for, or duration of, temporary disability (often called “time loss”), including interim compensation awarded pending an insurer decision to accept or deny a claim.
- (3) claim denial – denial of a new claim, denial of the whole claim.
- (4) partial denial – denial of part of a claim, denial of a new condition in an accepted claim.
- (5) aggravation – worsening after the latest compensation award, whether the claim should be reopened.
- (6) responsibility – which insurer should accept a claim and pay benefits.
- (7) premature closure – whether the claim was closed before claimant was medically stationary.
- (8) medical services – whether the insurer should provide or pay for medical treatment when the underlying issue is *not* whether the condition to be treated is work-related.
- (9) penalties – “additional amounts” paid by the insurer to the worker and/or worker’s attorney, usually for unreasonable claims processing conduct.
- (10) attorney fees – whether claimant’s attorney should be awarded fees, and how much, for efforts or results achieved *outside* of hearings.
- (11) subjectivity – whether the worker or employer are subject to Oregon workers’ compensation law (ORS 656.027).
- (12) other issue — any issue not specified above.

Notes about issues:

- (1) **Claim denial** excludes claims denied for reasons other than work-relatedness (“course and scope”). Examples of excluded issues are denial because the worker failed to cooperate [ORS 656.262(15)], the worker or employer is not subject to workers’ compensation law (ORS 656.027), another insurer is responsible (ORS 656.307), and the claim was not timely. Flare-up of a preexisting condition due to *work activities* is this issue.
- (2) **Partial denial** includes consequential conditions, flare-up of a preexisting condition due to a *compensable injury*, scope of acceptance disputes in accordance with ORS 656.262(6)(d), and current condition disputes.
- (3) The issue of **responsibility**, even though raised, is not recorded in a DCS (it’s really the compensability denial that is sustained). Also, it isn’t coded when the claim is found not compensable (the responsibility issue is not reached).

(4) The issue of claimant **attorney fees** is recorded when fees are requested for attorney efforts or results achieved outside of hearings, *not* when fees are requested for the hearing outcome.

(5) The issue of **subjectivity** was first coded in 2000. Previously, it was coded as “other” issue.

The 8,004 O&O and stipulation cases in 2000 included a total of 8,988 issues, or 1.12 issues per case. Only issues that are resolved (decided by the judge, or settled by the parties) are recorded for a case. See Table 4 for numbers of issues in cases. **No issue** is recorded for a case when (1) all raised issues are “reserved” or “preserved” to be resolved later, (2) the hearings request is dismissed in an order captioned as an O&O, (3) all issues are withdrawn at hearing in an order *not* captioned as a dismissal, and (4) the numbers of cases exceeds the number of distinct denials.

Extent of temporary disability was an issue in 4.6 percent of all cases, up from 1999’s record-low 3.7 percent. Claim denial was the most frequent issue (as it’s been every year since 1988), with 40.7 percent of the cases. The percentage of cases with partial denial was a record-high 36.2 percent. The percentage of cases with the issues of insurer penalty was 7.4 percent, while aggravation tied 1999’s record-low 5.0 percent. Responsibility was an issue in 181 O&O and stipulation cases (2.3 percent). Permanent disability is discussed in another section of this report.

**Table 4. Number of issues per hearing compensation case, Oregon, 2000**

Number of issues	Cases
One	6,747
Two	892
Three	126
Four	16
Five	3
More than one issue	1,037
No issues	220
<b>Total issues</b>	<b>8,988</b>

## Opinion and Orders

Hearings judges in 2000 decided 3,013 issues in 2,449 cases, an average of 1.23 issues per case. Information on the relative frequency of the various issues is given in the “percentage of cases” column of Table 6. The most frequent issues in O&Os were claim denial (35.6 percent), partial denial (25.1 percent), permanent disability (17.8 percent), and penalty (14.7 percent).

Table 5 and Figure 5 provide information about the number of O&O cases with extent of disability (temporary and/or permanent) at issue and the type of disability increase. In 2000 the worker’s disability award was increased in 187 cases (the sum of the last four columns of the table), about 33 percent of the 559 disability-issue cases.

The right column of Table 6 provides information about the disposition of issues in O&O cases. Figures 6 through 9 provide historical data on O&O dispositions for the various issues.

The “acceptance” rate for claim denial, 43.0 percent, was the third lowest on record; historically, this rate has been consistent, ranging from 41 to 49 percent. The “acceptance” rate for partial denial was 50.6 percent, the highest since 1993 and the third highest ever. The “yes” rates for premature closure and insurer penalty were the second lowest and lowest on record, respectively.

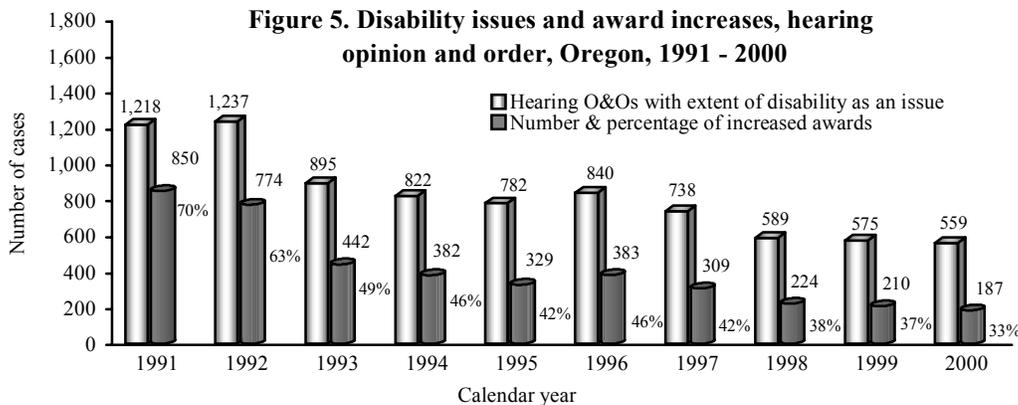
The 25.7 percent “increase” rate for permanent disability was well below 1998’s record-low 30.0 percent, while the 15.1 percent “decrease” rate was the second highest ever. The 59.2 percent “affirm” rate was the highest ever. For temporary disability, the 49.4 percent “increase” rate was up from 1999’s record-low 48.1 percent, while the 47.4 percent “affirm” rate tied 1999’s record-high value.

The percentage of O&O cases decided in favor of the claimant for permanent and temporary disability were 42.0 and 52.6 percent, respectively. (In 1999 these percentages were 45.3 and 51.1 percent, respectively.) These “favorable” rates reflect award increases plus cases with no change in the award when the insurer or employer requested the hearing.

ORS 656.390 allows a judge to impose **sanctions** against an attorney for a hearing request that is frivolous, made in bad faith, or for the purpose of harassment. Data are not collected automatically about the sanctions issue, but 11 cases are known. In all but one case, sanctions were requested by the insurer or employer, against claimant’s attorney. The judge assessed a sanction in just one of the insurer-request cases; it was for \$200. In another insurer-request case, the judge denied sanctions, but directed that “the insurer should pay claimant’s attorney a reasonable fee [\$500] for its frivolous raising of a sanctions issue.”

**Table 5. Disability issues and type of disability increase, hearing opinion and order, Oregon, 1991-2000**

Calendar year	Extent of disability as an issue	PPD awards increased over previous award	PPD awards no previous PPD award	PTDs awarded	TTD award increase and no increased PPD award
1991	1,218	428	113	32	277
1992	1,237	391	103	23	257
1993	895	228	58	7	149
1994	822	167	61	11	143
1995	782	169	46	6	108
1996	840	217	59	7	100
1997	738	155	70	4	80
1998	589	100	38	4	82
1999	575	99	49	2	60
2000	559	82	28	2	75

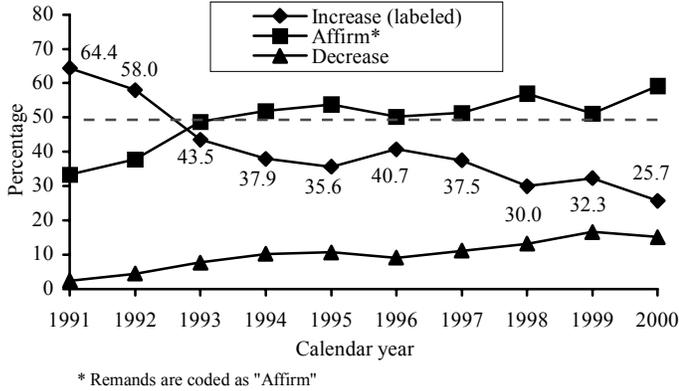


**Table 6. Opinion and order cases by issue, disposition, and insurer, Oregon, 2000**

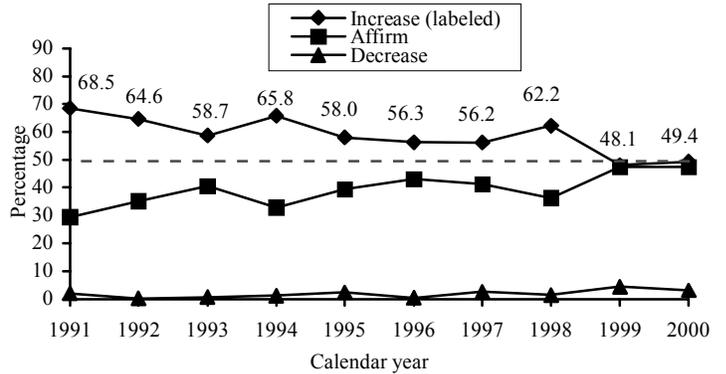
Issues & disposition	Insurer				Percentage of cases	Percentage disposition
	SAIF	Private	Self-insured	All insurers		
<b>Permanent disability</b>						
Affirm	72	164	22	258	-	59.2
Decrease	17	43	6	66	-	15.1
Increase	39	68	5	112	-	25.7
Total cases	128	275	33	436	17.8	
<b>Temporary disability</b>						
Affirm	24	46	3	73	-	47.4
Decrease	2	3	0	5	-	3.2
Increase	25	49	2	76	-	49.4
Total cases	51	98	5	154	6.3	
<b>Claim denial</b>						
Accept	108	246	20	375	-	43.0
Deny	169	301	26	498	-	57.0
Total cases	277	547	46	873	35.6	
<b>Partial denial</b>						
Accept	72	220	19	311	-	50.6
Deny	83	210	11	304	-	49.4
Total cases	155	430	30	615	25.1	
<b>Aggravation</b>						
Accept	4	15	1	21	-	23.9
Deny	12	47	8	67	-	76.1
Total cases	16	62	9	88	3.6	
<b>Responsibility</b>						
No	36	55	2	93	-	54.1
Yes	19	55	5	79	-	45.9
Total cases	55	110	7	172	7.0	
<b>Premature closure</b>						
No	13	33	3	49	-	66.2
Yes	3	21	1	25	-	33.8
Total cases	16	54	4	74	3.0	
<b>Penalty</b>						
No	68	165	7	240	-	66.7
Yes	31	82	5	120	-	33.3
Total cases	99	247	12	360	14.7	
<b>Attorney fee</b>						
No	10	13	0	23	-	43.4
Yes	6	23	1	30	-	56.6
Total cases	16	36	1	53	2.2	
<b>Subjectivity</b>						
No	2	0	0	3	-	75.0
Yes	0	1	0	1	-	25.0
Total cases	2	1	0	4	0.2	
<b>Other issue</b>						
No	30	61	13	105	-	57.1
Yes	22	55	2	79	-	42.9
Total cases	52	116	15	184	7.5	
No issues*	18	47	8	73	3.0	
Total issues	867	1,976	162	3,013		

Notes: "Percentage of cases" is the fraction of all cases that contain each issue; many cases have more than one issue, so the sum of these percentages will exceed 100. "Percentage disposition" gives the breakout of how the issues were decided; for each issue, the sum of these percentages will equal 100 (except for rounding). "All insurers" includes cases with multiple insurers, no insurer, or unknown insurer. Cases remanded to the director on extent of permanent disability are coded as "affirm." \* See the *Issues* section for situations where no issues are recorded for an order.

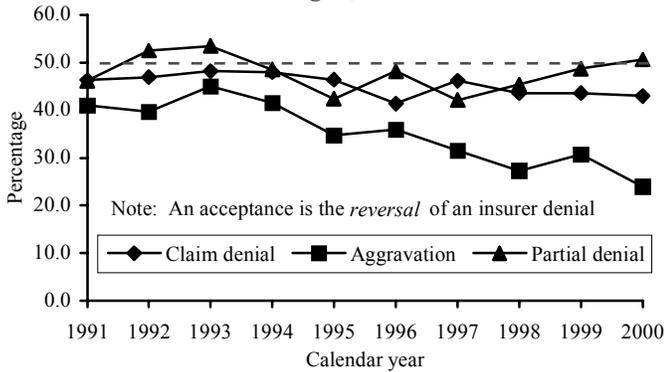
**Figure 6. Disposition of extent of permanent disability cases, hearing opinion and order, Oregon, 1991 - 2000**



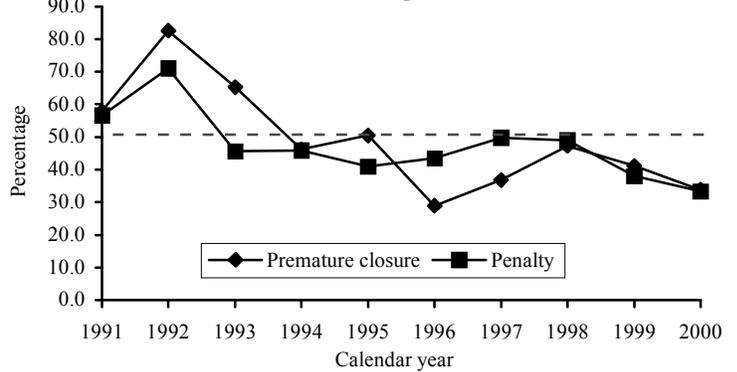
**Figure 7. Disposition of extent of temporary disability cases, hearing opinion and order, Oregon, 1991 - 2000**



**Figure 8. Acceptance rates for compensability cases, hearing opinion and order, Oregon, 1991 - 2000**



**Figure 9. Percentage of decisions favorable to claimants for miscellaneous issues, hearing opinion and order, Oregon, 1991 - 2000**



## Stipulations

In 2000, disputing parties settled 5,975 issues in 5,555 stipulated cases. Table 7 gives information about issue relative frequency and disposition. Claim denial and partial denial were by far the most frequent issues, which is typical. Dispositions of “accept” for the compensability issues are always low because stipulations include DCSs, where the denial is always sustained.

### Disputed claim settlements

In 2000 insurers paid to workers, as consideration for no longer contesting a denial, almost \$22.8 million in 4,019 DCSs. This dollar amount is 16.1 percent more than in 1999 and the most since 1993. See Table 8. For all issues, the average payment was \$5,662. The largest amount paid in a single settlement was over \$944,000; amounts were almost \$100,000 in seven other DCSs. The DCS amount was unspecified in 11 cases (usually, this happens when the insurer is to pay medical bills and the amount was not mentioned in the order).

The issues in the DCS cases were claim denial (49.9 percent, the second lowest on record), partial denial (48.1 percent, the second highest on record), and aggravation (1.8 percent, the lowest on record).

DCSs accounted for 72.3 percent of all stipulations, 36.9 percent of all closing hearing orders, and 79.2 percent of all claims denied at hearing (excludes aggravations); these are all record-high percentages. Figure 10 provides historical information on DCSs.

DCSs accounted for claimant attorney fees of almost \$4.4 million, 48.1 percent of all fees at hearing. The average DCS fee was \$1,093, the highest on record. About 98.7 percent of DCS fees were paid out of the DCS consideration.

**Table 7. Stipulation cases by issue, disposition, and insurer, Oregon, 2000**

Issue & disposition	Insurer				Percentage of cases	Percentage disposition
	SAIF	Private	Self-insured	All insurers		
<b>Permanent disability</b>						
Affirm	13	48	14	75	-	45.7
Decrease	9	16	2	28	-	17.1
Increase	20	33	8	61	-	37.2
Total cases	42	97	24	164	3.0	
<b>Temporary disability</b>						
Affirm	6	31	10	48	-	22.2
Decrease	1	3	0	4	-	1.9
Increase	45	107	11	164	-	75.9
Total cases	52	141	21	216	3.9	
<b>Claim denial</b>						
Accept	97	234	21	352	-	14.8
Deny	683	1,209	135	2,034	-	85.2
Total cases	780	1,443	156	2,386	43.0	
<b>Partial denial</b>						
Accept	88	195	21	305	-	13.4
Deny	516	1,225	229	1,974	-	86.6
Total cases	604	1,420	250	2,279	41.0	
<b>Aggravation</b>						
Accept	7	27	7	41	-	13.0
Deny	56	199	19	275	-	87.0
Total cases	63	226	26	316	5.7	
<b>Responsibility</b>						
No	2	2	0	4	-	44.4
Yes	2	2	1	5	-	55.6
Total cases	4	4	1	9	0.2	
<b>Premature closure</b>						
No	5	25	7	37	-	86.0
Yes	1	4	1	6	-	14.0
Total cases	6	29	8	43	0.8	
<b>Medical services</b>						
No	0	0	0	0	-	0.0
Yes	1	1	0	2	-	100.0
Total cases	1	1	0	2	0.0	
<b>Penalty</b>						
No	1	5	2	8	-	3.4
Yes	39	171	17	227	-	96.6
Total cases	40	176	19	235	4.2	
<b>Attorney fee</b>						
No	0	0	0	0	-	0.0
Yes	19	57	5	81	-	100.0
Total cases	19	57	5	81	1.5	
<b>Subjectivity</b>						
No	0	2	0	3	-	100.0
Yes	0	0	0	0	-	0.0
Total cases	0	2	0	3	0.1	
<b>Other issue</b>						
No	6	15	2	24	-	10.0
Yes	51	136	28	217	-	90.0
Total cases	57	151	30	241	4.3	
No issues*	45	92	10	147	2.6	
Total issues	1,668	3,747	540	5,975		

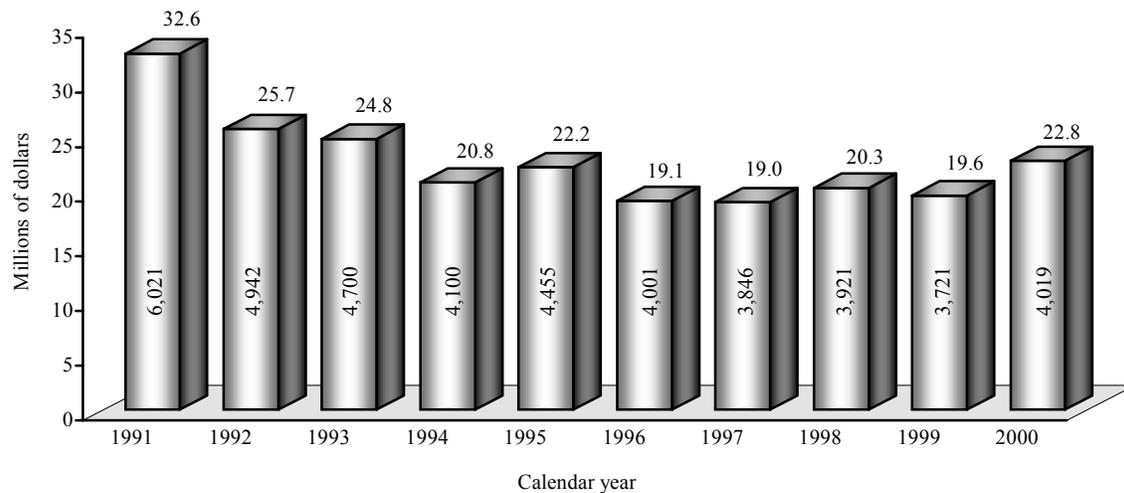
Notes: "Percentage of cases" is the fraction of all cases that contain each issue; many cases have more than one issue, so the sum of these percentages will exceed 100. "Percentage disposition" gives the breakout of how the issues were decided; for each issue, the sum of these percentages will equal 100 (except for rounding). "All insurers" includes cases with multiple insurers, no insurer, or unknown insurer. \* See the *Issues* section for situations where no issues are recorded for an order.

**Table 8. Hearing disputed claim settlements by principal issue, Oregon, 2000**

Principal issue*	Number of cases	Percentage of cases	Total amount	Average amount	Total fees
Claim denial	2,005	49.9	\$11,883,000	\$5,927	\$2,296,000
Partial denial	1,935	48.1	10,650,000	5,504	2,055,000
Aggravation	71	1.8	167,000	2,346	33,000
All other issues	8	0.2	55,000	6,831	11,000
All issues	4,019	100.0	\$22,754,000	\$5,662	\$4,394,000

\*Only the highest-ranking issue is identified with each case. Values may not add to all issues totals due to rounding.

**Figure 10. Hearing disputed claim settlement amounts, Oregon, 1991 - 2000**



Note: Numbers within bars are case counts

## Permanent Disability

There were 600 cases involving extent of permanent disability in 2000, the fewest on record and slightly fewer than 1999's 606 cases. The 7.5 percent relative frequency was also a record-low percentage. Case dispositions were as follows: increase the award, 28.8 percent (the smallest percentage on record and 12.3 percentage points below 1999's rate); decrease the award, 15.7 percent; and no change in the award, 55.5 percent (these figures include stipulations).

The number and size of hearings permanent disability awards, by most measures, have generally been decreasing over the past 13 years. There seem to be three primary reasons for this change. First, the number of

accepted disabling claims has been decreasing. Second, law changes enacted in May 1990 by Senate Bill 1197: required reconsideration, medical arbiters for impairment disputes, "tighter" disability standards, and claim disposition agreements. Finally, law changes enacted in June 1995 by Senate Bill 369: limitation of evidence at hearings, prohibition of issues that were not raised at nor arose out of the reconsideration, and the limitation on disability when a worker returns to work.

## Permanent partial disability

Information about cases where PPD awards were increased is provided in Tables 9 and 10 for cases with and without a prior award, respectively. "No prior award"

means that there had been no previous award of PPD, either scheduled or unscheduled, at the time of the hearings award. The average scheduled award **increases** were 11.6 scheduled degrees and 27.7 unscheduled degrees. Combining scheduled and unscheduled disability awards, the average award increase was 20.7 degrees, the largest since 1991.

There were 49 and 52 cases where scheduled and unscheduled awards, respectively, were decreased. Average award **decreases** were 13.7 scheduled degrees and 37.9 unscheduled degrees.

The net amount awarded for PPD at hearings in 2000 was \$189 thousand, the 13th consecutive decrease in that total and 44 percent less than 1999's record-low total. See Figure 11. The value of each degree of disability is based on the date of injury.

Table 11 depicts the overall disposition of hearings PPD cases. Here, the dollar value of scheduled and unscheduled awards are considered in determining whether the case is classified as an increase or decrease when there's an increase in one award type and a decrease in the other.

**Permanent total disability**

There were a record-low three PTD grants in 2000, as shown in Figure 12. (Grant counts include reinstatements.) One of the grants was by stipulation. There were no affirmations of PTD awards, and no rescissions, so the net number of PTD grants was three. The average previous PPD award for the PTD grants was 83.2 degrees (all awards were unscheduled).

**Table 9. Hearing PPD award increase over previous award, by order type, Oregon, 2000**

Type of order	Scheduled disability				Unscheduled disability				Total hearing \$ increases
	Number of cases	Average prior award	Average hearing award	Total hearing \$ increases	Number of cases	Average prior award	Average hearing award	Total hearing \$ increases	
Opinion & order	41	18.0	11.3	\$194,000	43	47.6	24.5	\$166,000	\$360,000
Stipulation	22	19.8	12.4	117,000	23	46.0	22.3	92,000	209,000
All orders	63	18.7	11.6	\$311,000	66	47.0	23.8	\$258,000	\$569,000

Note: Award units are degrees. Dollar increases are based on degree value for the date of injury. Dollar values may not add to totals due to rounding.

**Table 10. Hearing PPD awards, no previous award, by order type, Oregon, 2000**

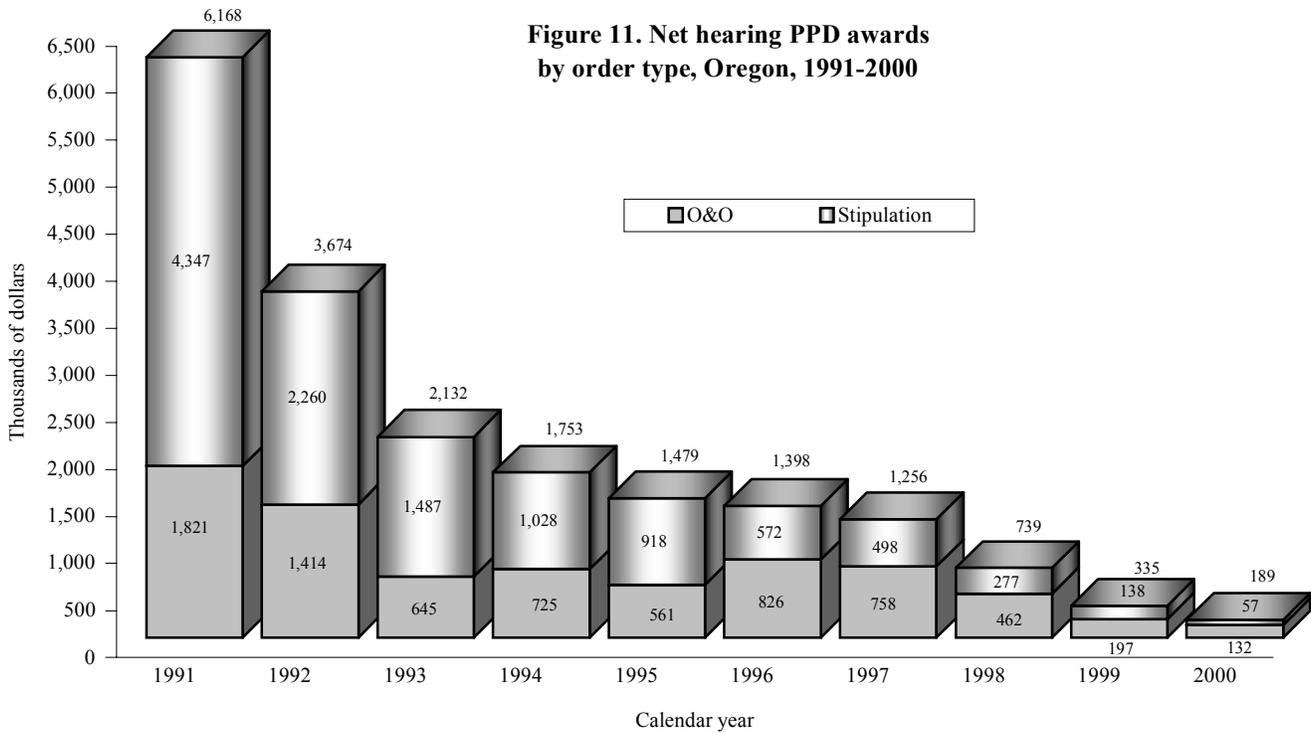
Type of order	Scheduled disability			Unscheduled disability			Total dollar award
	Number of cases	Average hearing award	Total dollar award	Number of cases	Average hearing award	Total dollar award	
Opinion & order	8	14.1	\$50,000	20	41.9	\$126,000	\$176,000
Stipulation	5	6.8	15,000	13	26.0	51,000	67,000
All orders	13	11.3	\$65,000	33	35.6	\$177,000	\$242,000

Note: Award units are degrees. Dollar increases are based on degree value for the date of injury. Dollar values may not add to totals due to rounding.

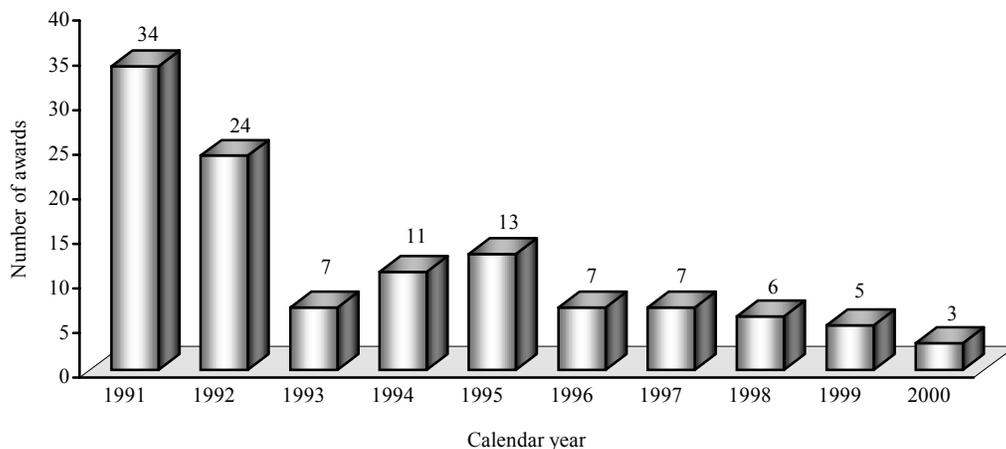
**Table 11. Disposition of hearing PPD cases by order type and prior award, Oregon, 2000**

Order type	No prior award		Prior award			All cases			All
	Increase	Affirm	Increase	Decrease	Affirm	Increase	Decrease	Affirm	
Opinion & order	28 23.3%	92 76.7%	82 26.1%	66 21.0%	166 52.9%	110 25.3%	66 15.2%	258 59.4%	434
Stipulation	16 25.0%	48 75.0%	44 44.4%	27 27.3%	28 28.3%	60 36.8%	27 16.6%	76 46.6%	163
All orders	44 23.9%	140 76.1%	126 30.5%	93 22.5%	194 47.0%	170 28.5%	93 15.6%	334 55.9%	597

Note: Table entries are the number of cases (top number) and the percentage of each order type that has the given disposition (so percentages add to 100 in the horizontal, except for rounding).



**Figure 12. PTD awards granted at hearing, Oregon, 1991 - 2000**



## Time Lags

For all hearings orders in 2000, the median time from injury to hearing request was 303 days, about the same as in 1998 and 1999. The median request-to-order lag was 128 days, the longest since 1991; the 1992-to-1999 range of this time lag was 119-125 days. Table 12 provides various time lags by order type.

For opinion and order cases, the median time from hearing request to order was 188 days (6.2 months), 18 days longer than in 1999 and the longest since 1987. See Figure 13. These figures are for *all* O&O cases. For

O&O cases *without a postponement*, the median request-to-order time was only 133 days (4.4 months). The percentage of O&Os with at least one postponement was 37.9 percent, the highest since 1997 but below the 1991-1999 average of 40.1 percent.

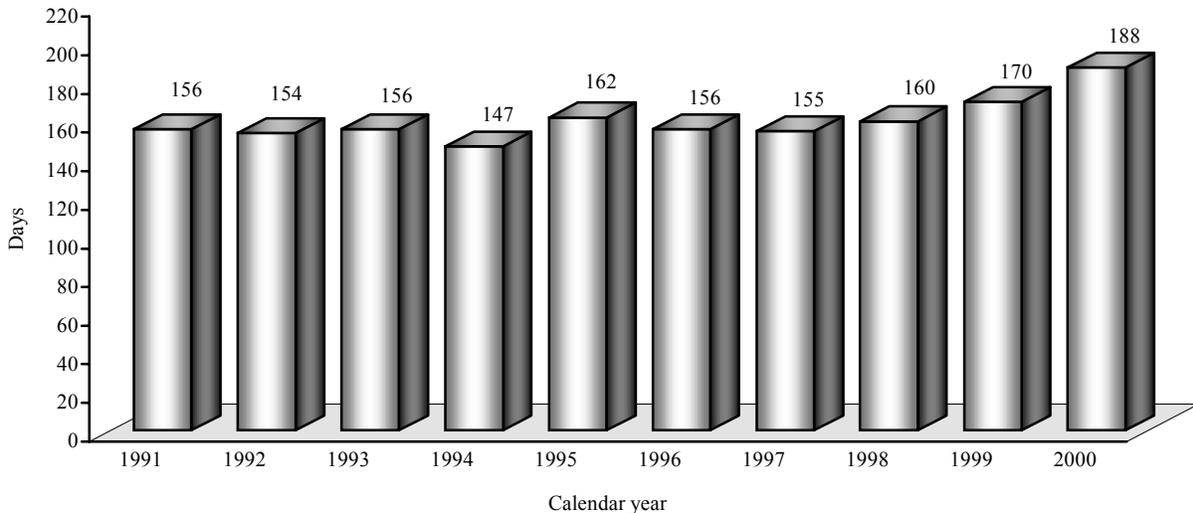
Note that request-to-order time lags include time that the record was kept open, after the hearing was concluded. Such lag times were most frequently 0 days, and the median was 0 days, but the lag may sometimes be two months or more.

**Table 12. Median hearing time lags (days) by order type, Oregon, 2000**

Lag Periods	Opinion and Order	Received stipulation*	Other stipulation*	Dismissal and withdrawal	All Orders
Injury date to request date	336	439	248	327	303
Injury date to order date	588	447	463	512	506
Request date to order date	188	6	136	112	128
Request date to hearing date	91	--	--	--	--
Hearing date to closed date	0	--	--	--	--
Closed date to order date	28	--	--	--	--

Note: Dashes indicate that time lags are not applicable. Lag time segments do not add to total lag times because figures are medians.  
 \* "Received stipulations" are settlements received without a prior hearing request; "other stipulation" includes all other settlements.

**Figure 13. Median time lags, hearing request to order, opinion and order cases, Oregon, 1991 - 2000**



## Claimant Attorney Fees

Claimant attorney fees totaling over \$9.1 million were approved for payment out of worker compensation or assessed against insurers in 2000 hearings orders. See Table 13. Total fees exceeded 1999's total by 6.9 percent and were the highest since 1995.

percentages of disability-increase dispositions have reduced this percentage. The average fee was \$1,622, about 4.7 percent greater than for 1999 and the highest ever. Figures 14 and 15 depict average and total fees (respectively), by type, for the past 10 years.

About 51.3 percent of the fees were paid out of compensation or DCS consideration, the highest percentage since 1992. In 1990, this figure was 65 percent, but fewer extent of disability cases and smaller

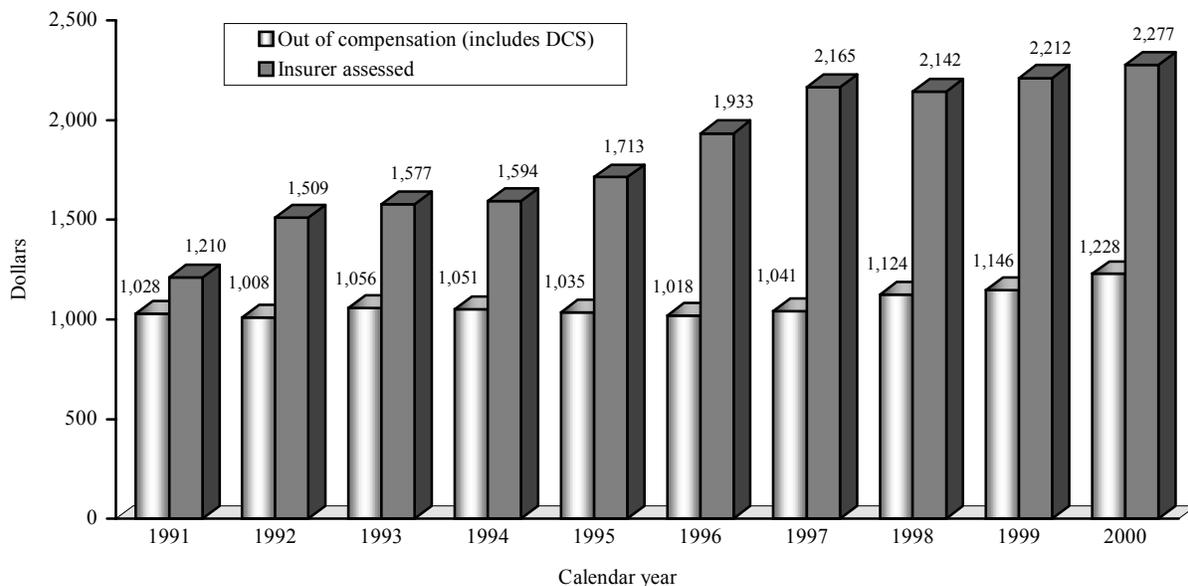
The percentage of claimants represented by counsel was about 94.4 percent for O&O cases and 89.1 percent for all cases.

**Table 13. Claimant attorney fees by order type and source, Oregon, 2000**

Source of fees	Opinion and order	Stipulation	Dismissal	Order awarding attorney fees	Total cases
<b>Out of claimant compensation</b>					
Total Fees	208,000	139,000	0	500	348,000
Average Fees	1,241	693	0	500	941
Cases	168	201	0	1	370
<b>From DCS consideration</b>					
Total Fees	0	4,338,000	0	0	4,338,000
Average Fee	0	1,259	0	0	1,259
Cases	0	3,445	0	0	3,445
<b>Assessed against insurer</b>					
Total Fees	2,979,000	1,461,000	1,950	0	4,442,000
Average Fee	3,224	1,425	975	0	2,277
Cases	924	1,025	2	0	1,951
<b>From all sources</b>					
Total Fees	3,187,000	5,938,000	1,950	500	9,128,000
Average Fee	3,018	1,299	975	500	1,622
Cases	1,056	4,570	2	1	5,629

Notes: Fees were paid both out of compensation and assessed against the insurer in 85 cases, so the number cases for each source will not add to the number from both sources. Fees may not add to totals due to rounding.

**Figure 14. Average claimant attorney fees by source, Oregon, 1991- 2000**



Attorneys representing workers receive fees for getting a denial overturned, obtaining an increase in compensation, and for preventing a decrease in compensation. Most fees are determined at hearings for attorney efforts and results on issues raised at hearings. Other fees are determined by hearings judges for attorney efforts and results achieved *outside* of hearings. They include cases where attorney fees was an issue at hearings, and also fees decided in “order awarding attorney fee” (“AF” case number) cases.

Attorney fees that are recorded for hearings cases are not necessarily the actual amounts paid. For example, in cases where the duration of time loss is extended and the ending date is not specified, the fees recorded are the

maximum allowable amount (\$1,500). In other cases, the fees may be reversed (reduced or eliminated) when the judge’s decision in favor of the claimant is reversed or modified by the board or courts, or when the amount of the fee is successfully challenged.

Attorney fees are missing (could not be determined from information published in the order) in at least 37 cases. In 90 percent of these cases, the fee was based, at least in part, on penalties against the insurer. (These figures exclude cases where *part* of a fee is missing, as with a denial reversal and an unknown penalty fee.) The total amount of these unknown fees of both types is probably well less than 1 percent of the total value of known fees.

