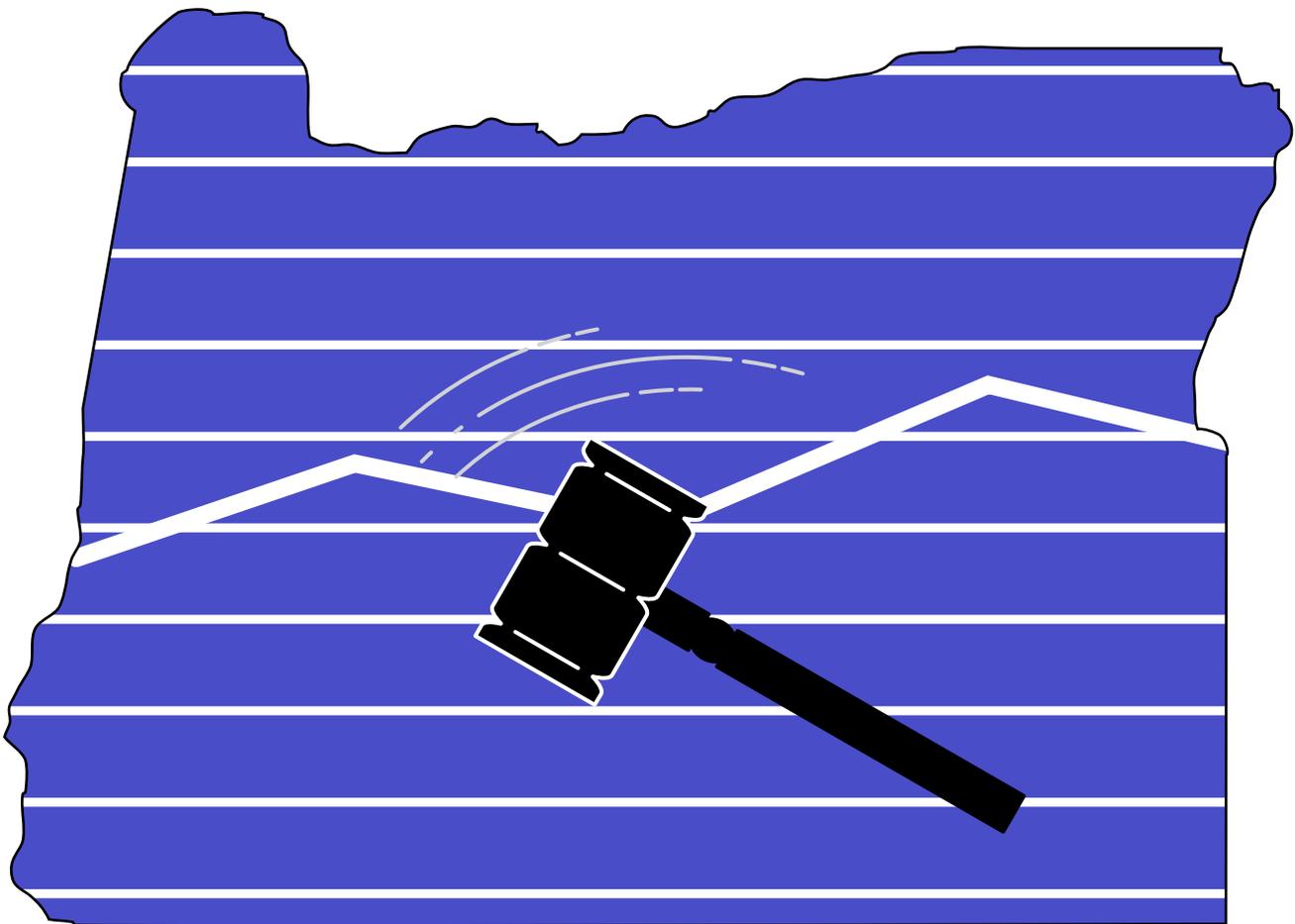


# Hearings Division Statistical Report Calendar Year 1997



Research & Analysis Section  
Oregon Department of  
Consumer & Business Services



June 1999

# Hearings Division Statistical Report Calendar Year 1997

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## Introduction

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

This report covers cases for which Hearings orders were written during 1997, regardless of date of injury or date the hearing was requested or held. However, the basic unit of data is the **case**, not the written order. (A case is established and assigned a case number at time of hearing request.) Sometimes an order may close two or more cases, so there will be more cases closed than orders written.

Safety cases (ORS chapter 654) are excluded from this report. With the exception of the number of hearing requests and cases closed, only cases dealing with claimant compensation or directly related issues are included here. Cases where the issue is noncomplying employer status or civil penalty assessment

are not included. Also, orders issued subsequent to an opinion and order, stipulation, or dismissal – such as amendments, reconsiderations, orders of abatement, opinion and orders on remand, and orders of reinstatement – are not included. Inmate injury fund cases are also excluded.

The **data** for this report were collected by the WCB from source documents such as Department of Consumer & Business Services (DCBS) Form 801 (report of occupational injury or disease), orders on reconsideration, hearings requests, and hearings orders. Data were transmitted by magnetic tape to DCBS, Research & Analysis Section, where computer edits were performed and attempts were made to resolve discrepancies, correct errors, and provide missing data.

1978 is the first year with detailed statistical records. Data on some parameters are available for earlier periods. Unless otherwise indicated, trends and record-high/low values are for the period 1978 through 1997.

## Highlights and Major Trends

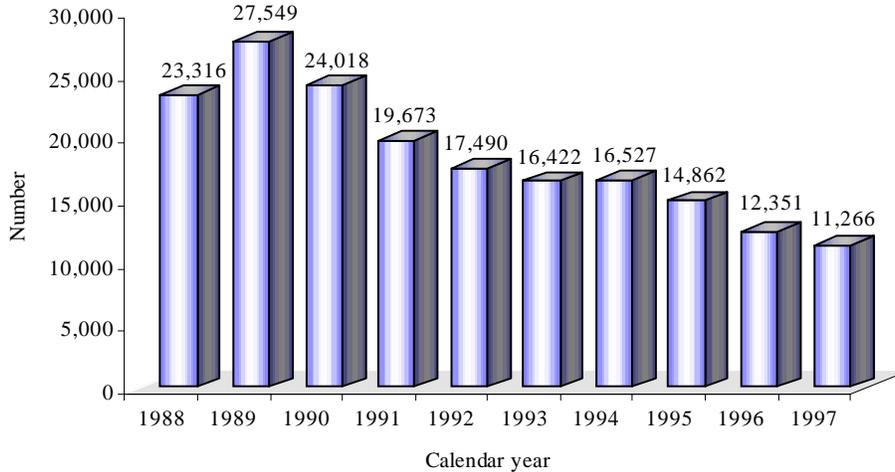
- \* In 1997 there were 11,266 requests for hearing, 8.8 percent fewer than in 1996.
- \* There were 11,676 closing orders issued in 1997, about 12.5 percent fewer than in 1996.
- \* The percentage of cases closed by stipulation, 46.3 percent, rose for the first time in seven years.
- \* The worker filed the request in 89.7 percent of the cases, the lowest percentage on record.
- \* The percentage of cases with SAIF and private insurers were the lowest and highest on record, respectively. SAIF's share was 33.5 percent.
- \* Administrative law judges completed 250 mediations, of which about 91.6 percent resulted in settlement. Some 82 percent of these settlements were in the form of a disputed claim settlement (DCS).
- \* Claim denial was the most frequent issue, with 46.6 percent of the cases. The percentage of cases with the issues of insurer penalty was the lowest on record at 5.9 percent.
- \* In 1997 insurers paid almost \$19.0 million to workers in 3,846 DCS cases. The average payment was \$4,929.
- \* There were 844 cases involving extent of permanent disability, a record-low 10.1 percent of the cases. The percentage granting an increased award, 49.4 percent, was the smallest percentage on record.
- \* The net amount awarded for permanent partial disability (PPD) at hearings in 1997 was less than \$1.3 million, the tenth consecutive decrease in that total and the smallest value on record.
- \* There were seven permanent total disability (PTD) grants, three of which were by stipulation.
- \* For opinion and order (O&O) cases, the median time from hearing request to order was 155 days, one day shorter than in 1996. For such cases without a postponement, the lag was only 117 days.
- \* Claimant attorney fees totaled over \$8.5 million, 6.4 percent less than in 1996. About 48.5 percent of the fees were paid out of compensation. The average fee was \$1,447.

## Requests for Hearing

In 1997 the Hearings Division of the Oregon Workers' Compensation Board received 11,266 requests for hearing, 8.8 percent fewer than in 1996. See Figure 1. The

number of requests includes 883 "received stipulations," stipulations that are received without a prior hearing request.

**Figure 1. Requests for hearing, Oregon, 1988 - 1997**



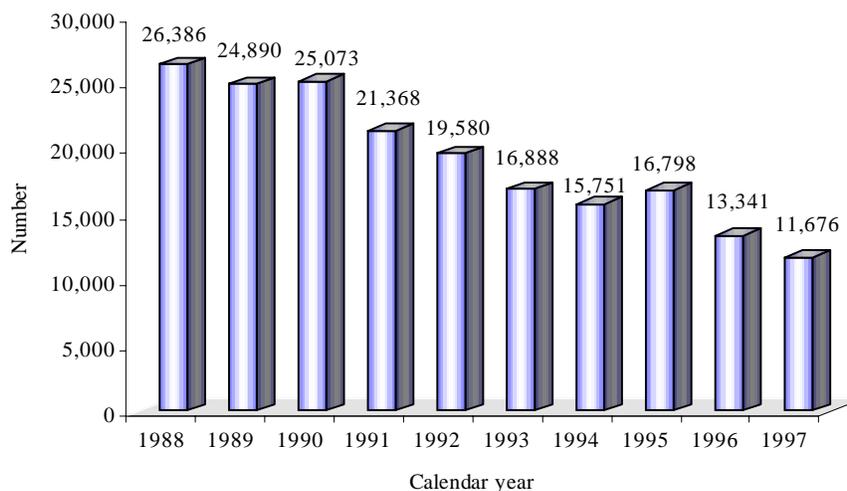
## Cases Closed

There were 11,676 closing orders issued by the Hearings Division in 1997, about 12.5 percent fewer than in 1996 (Figure 2).

Table 1 provides data on cases closed, by order type. An opinion and order (O&O) is written when a hearing is conducted and the judge decides the issues. A stipulation is an order written to record and approve an agreement between the parties; stipulations include disputed claim settlements (DCSs). In a dismissal, the judge dismisses the request and there generally is no hearing; dismissals include withdrawals and cases where a judge rules to dismiss for untimely filing, lack of jurisdiction, or other

legal basis. Dismissals also include cases where the Workers' Compensation Board approves a claim disposition agreement (CDA) that disposes of all contested issues in a pending hearing request. A few dismissals are written when a judge finds there is no substantial evidence to support a responsibility finding against a particular insurer, per ORS 656.308(2)(c). An arbitrator's decision is a judge's resolution of a dispute involving responsibility when no insurer denies compensability, usually after designation of a paying agent per ORS 656.307.

**Figure 2. Hearings cases closed, all orders, Oregon, 1988 - 1997**



The percentage of cases **closed by** O&O rose for the second time after 1995's near-record-low value. It was the highest percentage since 1992. The percentage closed by stipulation also increased, following decreases for six straight years. See Figure 3. About two thirds of the dismissals were issued because the requester withdrew the hearings request.

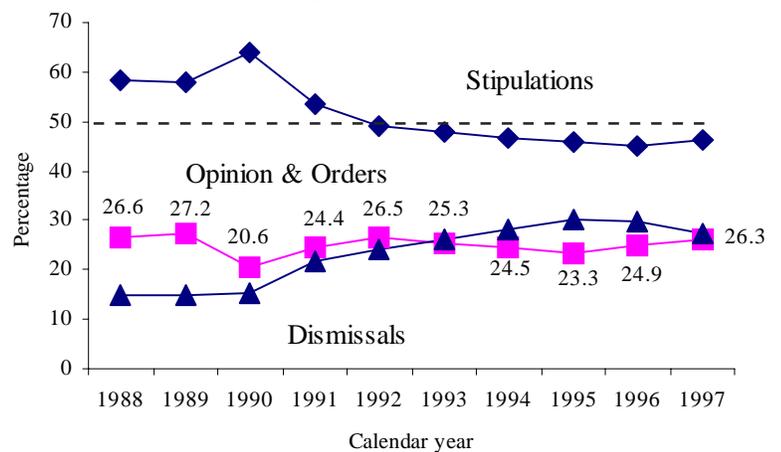
The breakout of cases by **requester** is given in Table 2. The worker filed the request in 89.7 percent of the cases. It was the first time this percentage has been less than 90. Stipulations received without a prior hearing request are classified as "joint" requests.

SAIF was the **insurer** in just 33.5 percent of the cases, the seventh successive decrease and sixth successive record-low value. The percentage for private insurers was the highest on record at nearly 50 percent. See Table 3 and Figure 4. Responsibility disputes are treated as multiple cases, each with its own insurer. Many of the cases with an "unknown" insurer are appeals of department non-subjectivity determinations (disputes about whether the worker is subject to workers' compensation law).

**Table 1. Hearings compensation cases by order type, Oregon, 1997**

Type of order	Number	Percentage
Opinion & Order	3,038	26.3
Stipulation	5,360	46.3
Dismissal	3,171	27.4
Arbitrator's decision	2	0.0
Total	11,571	100.0

**Figure 3. Distribution of hearings cases by order type, Oregon, 1988 - 1997**



**Table 2. Hearings Compensation cases by requester and order type, Oregon, 1997**

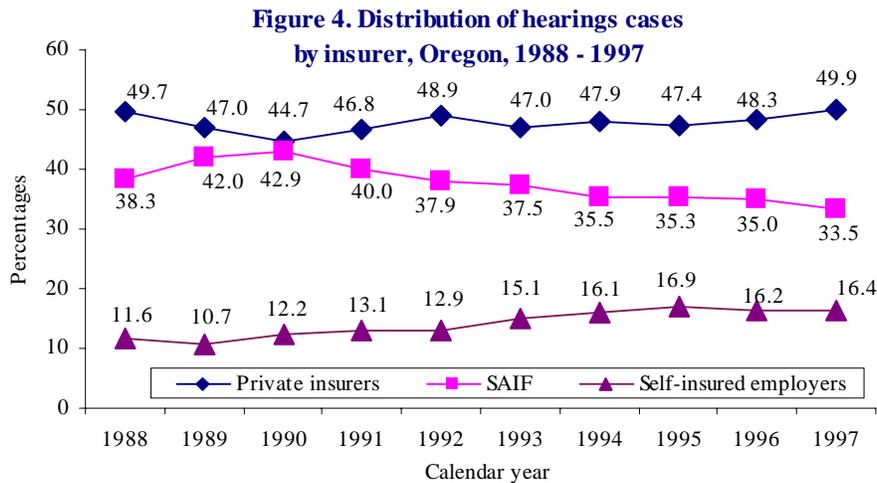
Requester	Opinion & Order		Stipulation		Dismissal		Withdrawal		Total cases	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
Claimant	2,880	94.8	4,417	82.4	969	94.1	2,112	98.6	10,380	89.7
Employer	27	0.9	13	0.2	16	1.6	9	0.4	65	0.6
Joint	-	-	868	16.2	4	0.4	-	-	872	7.5
Insurer	121	4.0	55	1.0	41	4.0	17	0.8	234	2.0
Director	10	0.3	7	0.1	-	-	3	0.1	20	0.2
Total	3,038	100.0	5,360	100.0	1,030	100.0	2,141	100.0	11,571	100.0

Note: Due to rounding, the sum of percentages may not equal 100. Total cases includes arbitrator's decisions.

**Table 3. Hearings compensation cases by insurer and order type, Oregon, 1997**

Requester	Opinion & Order		Stipulation		Dismissal		Withdrawal		Total cases	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
SAIF	1,067	35.1	1,698	31.7	372	36.1	733	34.2	3,871	33.5
Private	1,427	47.0	2,825	52.7	511	49.6	1,006	47.0	5,769	49.9
Self-Insured	533	17.5	831	15.5	143	13.9	394	18.4	1,902	16.4
Non-complying	3	0.1	-	-	1	0.1	2	0.1	6	0.1
Multiple	2	0.1	-	-	1	0.1	1	0.0	4	0.0
Unknown	6	0.2	6	0.1	2	0.2	5	0.2	19	0.2
Total	3,038	100.0	5,360	100.0	1,030	100.0	2,141	100.0	11,571	100.0

Note: Due to rounding, the sum of percentages may not equal 100. Total cases includes arbitrator's decisions.



## Mediations

To help settle disputes without formal litigation, administrative law judges completed 250 mediations during the year. About 91.6 percent resulted in settlement. Some 82 percent of these settlements were in the form of disputed claim settlements. The average value of the DCS consideration was about \$10,500, over twice the average for all DCSs.

Over 40 percent of the mediations included issues in addition to workers' compensation (employment rights, Americans with Disability Act, tort, etc.). The average mediation required about 12 work-hours on the part of the judge.

Over 50 percent of the mediated cases had the issue of claim denial, and over 90 percent had one of the compensability issues. Over half were about disease claims, and over 30 percent included the "psychological" body part.

The median time from mediation request to the date of the mediation was 25 days, and the median time from the mediation to the order (for cases where the mediation resulted in settlement) was 31 days. Overall, the median time from hearing request to order for the mediated cases was 176 days.

## Issues

These 11 issues are recorded for hearings:

- (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 as not being caused by the injury or accepted conditions.
- (5) aggravation — worsening after the latest award of compensation, whether the claim should be reopened.

**Claim denial** excludes claims denied for reasons other than work-relatedness (“course and scope”). Examples are denial because (1) the worker failed to cooperate (ORS 656.262(15)), (2) the worker or employer are not subject to workers’ compensation law (ORS 656.027), and (3) another insurer is responsible (ORS 656.307).

**Partial denial** includes consequential conditions, flare-up of a preexisting condition due to a compensable injury, scope of acceptance disputes (ORS 656.262(6)(d)), and current condition disputes.

The issue of **responsibility**, even though raised, is not recorded (1) in a DCS (it’s really the compensability denial that is sustained), and (2) when it is determined that the claim is not compensable (the responsibility issue is not reached).

The issue of claimant **attorney fees** is recorded when fees are requested for the attorney’s efforts or results outside of hearings, not for a hearing outcome. For this report, the attorney fee issue is excluded from analyses and counts due to temporary misapplication of coding criteria during the year.

O&Os and stipulations may contain any of the 11 issues. Arbitrator’s decisions involve the issue of responsibility, may also include the penalty issue, but rarely include any additional issues.

The 8,398 O&O and stipulation cases in 1997 included a total of 9,392 issues, or 1.1 issues per case (excludes at-

- (6) responsibility — which insurer should accept the claim and pay benefits.
- (7) premature closure — claim closure before claimant is 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 compensable (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) other issue — any issue not specified above.

torney fee issue). 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 when (1) all raised issues are “reserved” or “preserved” to be resolved later, (2) all issues are withdrawn at hearing in an order not captioned as a dismissal, and (3) the numbers of cases exceeds the number of distinct denials.

Extent of **temporary disability** was an issue in 4.4 percent of all cases. **Claim denial** was the most frequent issue (as it’s been every year since 1988), with 46.6 percent of the cases. The percentage of cases with **partial denial** was 24.6 percent, down significantly from 1996’s record-high 34.4 percent. The percentage of cases with the issues of insurer **penalty** was the lowest on record (5.9 percent). **Responsibility** was an issue in 201 O&O and stipulation cases, in addition to the two arbitrator’s decision cases (one responsibility dispute).

**Table 4. Number of issues per hearings compensation case, Oregon, 1997**

Number of issues	Cases
One	7,216
Two	834
Three	144
Four	19
<b>Total cases (O&amp;O + stipulation)</b>	<b>8,398</b>
More than one issue	997
No issues	108

Note: Excludes “attorney fee” issue

## Opinion and Orders

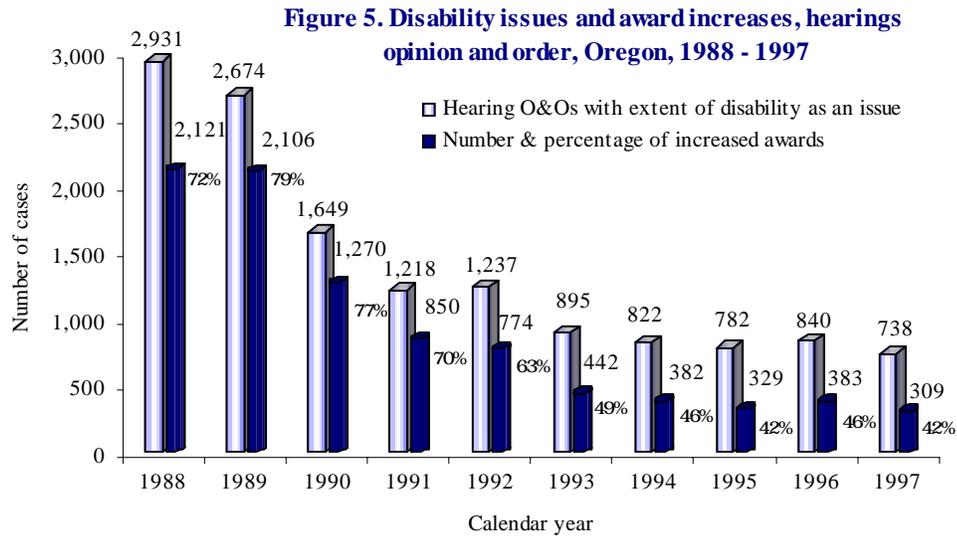
Hearings judges in 1997 decided 3,679 issues in 3,038 cases, an average of 1.2 issues per case (excludes attorney fee issue). Information on the relative frequency of the various issues is given in the “percentage of cases” column of Table 6. Claim denial was the most frequent issue, and extent of permanent disability was the second most frequent issue at 20.1 percent (the second-highest percentage since 1990).

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 1997 the worker’s disability award was

increased in 309 cases (the sum of the last four columns of the table), about 42 percent of the 738 disability 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 percentage of O&O cases decided in favor of the claimant for permanent and temporary disability were 46.1 and 57.5 percent, respectively. These percentages reflect award increases, plus cases with no award change when the insurer or employer requested the hearing.



**Table 5. Disability issues and type of disability increase, hearings opinion and order, Oregon, 1988 - 1997**

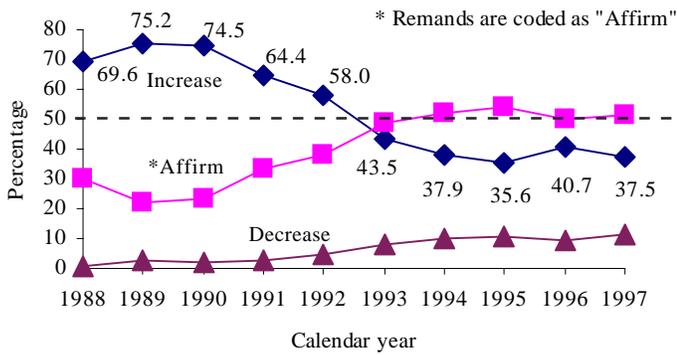
Calendar year	Extent of disability as an issue	PPD awards increased over previous award	PPD awards no previous PPD award	PTDs awarded	TTD award increase and no increased PPD award
1988	2,931	1,215	442	119	345
1989	2,674	1,086	532	78	410
1990	1,649	717	243	45	265
1991	1,218	428	113	32	277
1992	1,237	391	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

**Table 6. Opinion and order cases by issue, disposition, and insurer, Oregon, 1997**

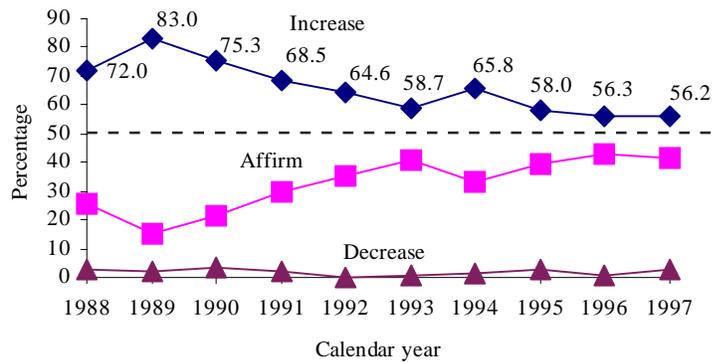
Issues & Disposition	Insurer				Percentage of cases	Percentage disposition
	All Insurers	SAIF	Private	Self-insured		
<b>Permanent Disability</b>						
Total cases	610	179	323	107	20.1	-
Increase	229	66	121	42	-	37.5
Decrease	68	19	30	18	-	11.1
Same	313	94	172	47	-	51.3
<b>Temporary Disability</b>						
Total cases	153	59	62	32	5.0	-
Increase	86	33	35	18	-	56.2
Decrease	4	-	-	4	-	2.6
Same	63	26	27	10	-	41.2
<b>Claim Denial</b>						
Total cases	1,290	507	560	219	42.5	-
Accept	596	234	267	94	-	46.2
Deny	694	273	293	125	-	53.8
<b>Partial Denial</b>						
Total cases	461	146	227	87	15.2	-
Accept	194	58	99	37	-	42.1
Deny	267	88	128	50	-	57.9
<b>Aggravation</b>						
Total cases	219	60	106	53	7.2	-
Accept	69	20	34	15	-	31.5
Deny	150	40	72	38	-	68.5
<b>Responsibility this insurer?</b>						
Total cases	184	71	89	24	6.1	-
Yes	86	27	49	10	-	46.7
No	98	44	40	14	-	53.3
<b>Premature closure</b>						
Total cases	57	22	24	11	1.9	-
Yes	21	7	11	3	-	36.8
No	36	15	13	8	-	63.2
<b>Penalties</b>						
Total cases	293	108	143	42	9.6	-
Yes	146	43	82	21	-	49.8
Denied	147	65	61	21	-	50.2
<b>Other Issues</b>						
Total cases	412	136	203	68	13.6	-
Yes	263	87	131	44	-	63.8
No	149	49	72	24	-	36.2
No issues*	60	21	31	6	2.0	-
Total issues	3,679	1,288	1,737	643	-	-
Total cases	3,038	1,067	1,427	533	-	-

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.

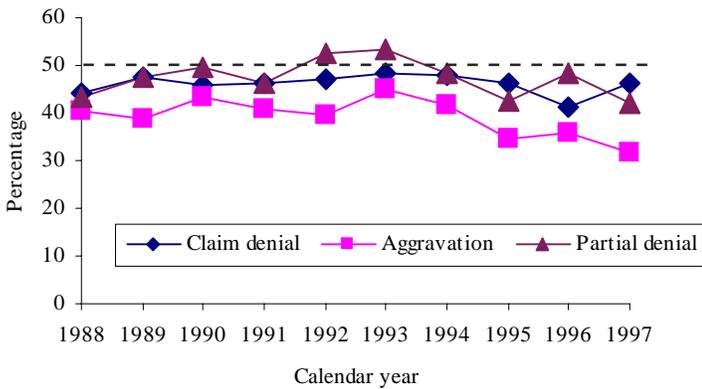
**Figure 6. Disposition of extent of permanent disability cases, hearings opinion and order, Oregon, 1988 - 1997**



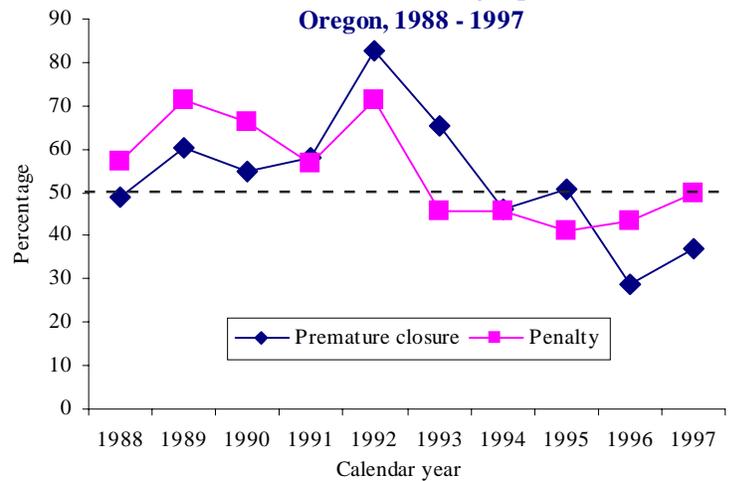
**Figure 7. Disposition of extent of temporary disability cases, hearings opinion and order, Oregon, 1988 - 1997**



**Figure 8. Acceptance rates for compensability cases, hearings opinion and order, Oregon, 1988 - 1997**



**Figure 9. Percentage of decisions favorable to claimants for miscellaneous issues, hearings opinion and order, Oregon, 1988 - 1997**



**Stipulations**

In 1997, disputing parties settled 5,713 issues in 5,360 stipulated cases. Table 7 gives information about issue relative frequency and disposition. Claim denial and partial denial were by far the most frequent issues. Dispositions of “accept” for the compensability issues (claim denial, partial denial, and aggravation) are low because stipulations include DCSs, where the denial is always sustained (no longer contested) in exchange for consideration (usually cash).

There were four cases with the issue of medical services, all settled in favor of the worker. In each case, the agreement is that the insurer will pay medical bills, and there is no indication that the dispute is about the compensability of the underlying condition.

**Disputed claim settlements**

In 1997 insurers paid almost \$19.0 million to workers in

3,846 cases. See Table 8. For all issues, the average payment was \$4,929. The largest amount paid in a single settlement was almost \$219,000. The DCS amount was unspecified (usually, the insurer will pay medical bills and the amount is not mentioned in the order) in five cases.

DCSs accounted for 71.8 percent of all stipulations, the largest percentage on record (1996 had the previous record, at 67.1 percent). They also constituted 33.2 percent of all closing hearings orders and 74.5 percent of all claims denied at hearings (excludes aggravations). Figure 10 provides historical information on DCSs.

DCSs accounted for claimant attorney fees of almost \$3.7 million, 42.9 percent of all fees at hearings. About 99.2 percent of these fees were paid out of the DCS consideration amount.

**Table 7. Stipulation cases by issue, disposition, and insurer, Oregon, 1997**

Issues & Disposition	Insurer				Percentage of cases	Percentage disposition
	All Insurers	SAIF	Private	Self-insured		
<b>Permanent Disability</b>						
Total cases	234	81	115	38	4.4	-
Increase	188	65	91	32	-	80.3
Decrease	18	9	7	2	-	7.7
Same	28	7	17	4	-	12.0
<b>Temporary Disability</b>						
Total cases	213	79	118	16	4.0	-
Increase	201	75	113	13	-	94.4
Decrease	3	-	2	1	-	1.4
Same	9	4	3	2	-	4.2
<b>Claim Denial</b>						
Total cases	2,620	898	1,335	386	48.9	-
Accept	462	180	223	58	-	17.6
Deny	2,158	718	1,112	328	-	82.4
<b>Partial Denial</b>						
Total cases	1,601	464	876	260	29.9	-
Accept	169	59	92	17	-	10.6
Deny	1,432	405	784	243	-	89.4
<b>Aggravation</b>						
Total cases	466	116	266	84	8.7	-
Accept	57	15	37	5	-	12.2
Deny	409	101	229	79	-	87.8
<b>Responsibility this insurer?</b>						
Total cases	17	10	6	1	0.3	-
Yes	8	4	3	1	-	47.1
No	9	6	3	-	-	52.9
<b>Premature closure</b>						
Total cases	4	2	2	-	0.1	-
Yes	2	1	1	-	-	50.0
No	2	1	1	-	-	50.0
<b>Medical Services</b>						
Total Cases	4	-	3	1	0.1	-
Yes	4	-	3	1	-	100.0
No	0	-	0	0	-	0
<b>Penalties</b>						
Total cases	201	57	120	24	3.8	-
Yes	193	56	117	20	-	96.0
Denied	8	1	3	4	-	4.0
<b>Other Issues</b>						
Total cases	353	100	178	71	6.6	-
Yes	325	90	167	67	-	92.1
No	28	10	11	4	-	7.9
No issues*	48	19	22	7	0.9	-
Total issues	5,713	1,807	3,019	881	-	-
Total cases	5,360	1,698	2,825	831	-	-

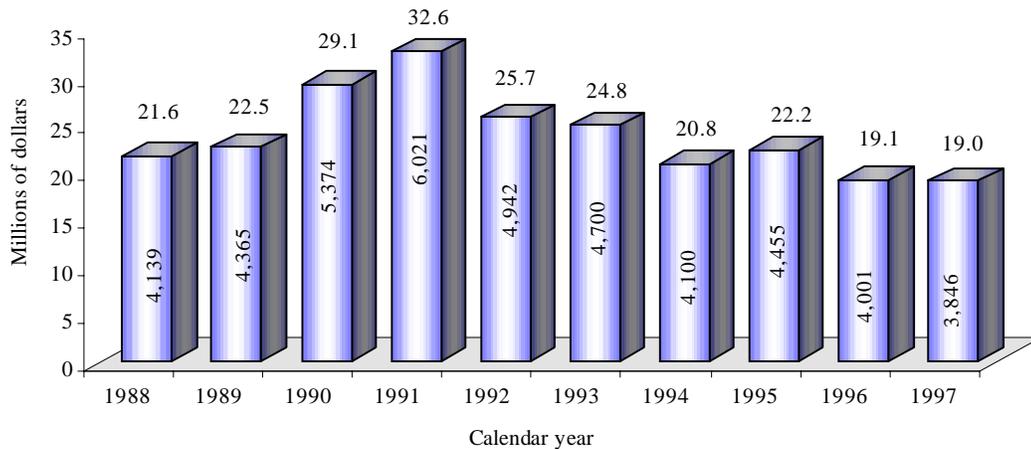
Notes: "Percentage of cases" is the fraction of all cases that contain each issue; many cases have more than one issue, so the sum of these percentages will exceed 100. "Percentage disposition" gives the breakout of how the issues were decided; for each issue, the sum of these percentages will equal 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. Hearings disputed claim settlements by principal issue, Oregon, 1997**

Principal issue*	Number of cases	Percentage of cases	Total amount	Average amount	Total fees
Claim denial	2,124	55.2	\$10,942,000	\$5,151	\$2,103,000
Partial denial	1,395	36.3	6,657,000	4,772	1,280,000
Aggravation	321	8.3	1,342,000	4,181	273,000
All other issues	6	0.2	15,000	2,422	2,000
All issues	3,846	100.0	18,956,000	4,929	3,659,000

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

**Figure 10. Hearings disputed claim settlement amounts, Oregon, 1988 - 1997**



### Permanent Disability

There were 844 cases involving extent of permanent disability in 1997, the fewest on record and 91.0 percent below 1987's peak of 9,372 cases. The 10.1 percent relative frequency was also a record-low percentage. Case dispositions were as follows: increase the award, 49.4 percent (the smallest percentage on record); decrease the award, 10.2 percent; and no change in the award, 40.4 percent.

The number and size of permanent disability awards, by most measures, have generally been decreasing over the past 10 years, particularly since 1990. There seem to be two primary reasons for this change. The first reason is annual decreases in the number of accepted disabling claims. The second reason is the law changes enacted in May 1990 by Senate Bill 1197. Required reconsidera-

tion, medical arbiters for impairment disputes, limitations on new evidence, "tighter" disability standards, and claim disposition agreements have all probably contributed to this trend.

Two changes made in SB-369 may have also contributed to the reduction of disability awarded at hearings: the limitation of evidence at hearing 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 hear-

ings award. The average award increases were 13.2 scheduled degrees and 25.1 unscheduled degrees. Combining scheduled and unscheduled disability awards, the average award increase was 19.5 degrees, the largest since 1991.

There were 52 and 39 cases where scheduled and unscheduled awards, respectively, were decreased. The average decreases were 14.7 scheduled degrees and 24.4 unscheduled degrees.

The net amount awarded for PPD at hearings in 1997 was less than \$1.3 million, the tenth consecutive decrease in that total and the smallest value on record. 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 seven PTD grants (including one reinstatement) in 1997, as shown in Figure 12. Three of the grants were by stipulation. In addition, there were two affirmations of PTD awards, both by O&O. There were no PTD rescissions, so the net number of awards was seven. The average previous award was 118 degrees (combined scheduled and unscheduled); in two of the stipulated grants there was no prior PPD awarded.

**Table 9. Hearings PPD award increase over previous award, by order type, Oregon, 1997**

Type of order	Scheduled disability				Unscheduled disability				Total hearing \$increases
	Number of cases	Average prior award	Average hearing award	Total hearing \$ increase	Number of cases	Average prior award	Average hearing award	Total hearing \$ increases	
Opinion & order Stipulation	68	16.4	13.8	\$329,000	95	48.5	23.0	\$281,000	\$610,000
	74	21.9	9.6	246,000	75	48.0	17.2	158,000	404,000
All orders	142	19.3	11.6	575,000	170	48.3	20.4	439,000	1,014,000

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. Hearings PPD awards, no previous award, by order type, Oregon, 1997**

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 Stipulation	35	20.9	\$277,000	37	43.3	\$193,000	\$470,000
	25	11.6	108,000	17	32.3	66,000	174,000
All orders	60	17.0	385,000	54	39.9	259,000	644,000

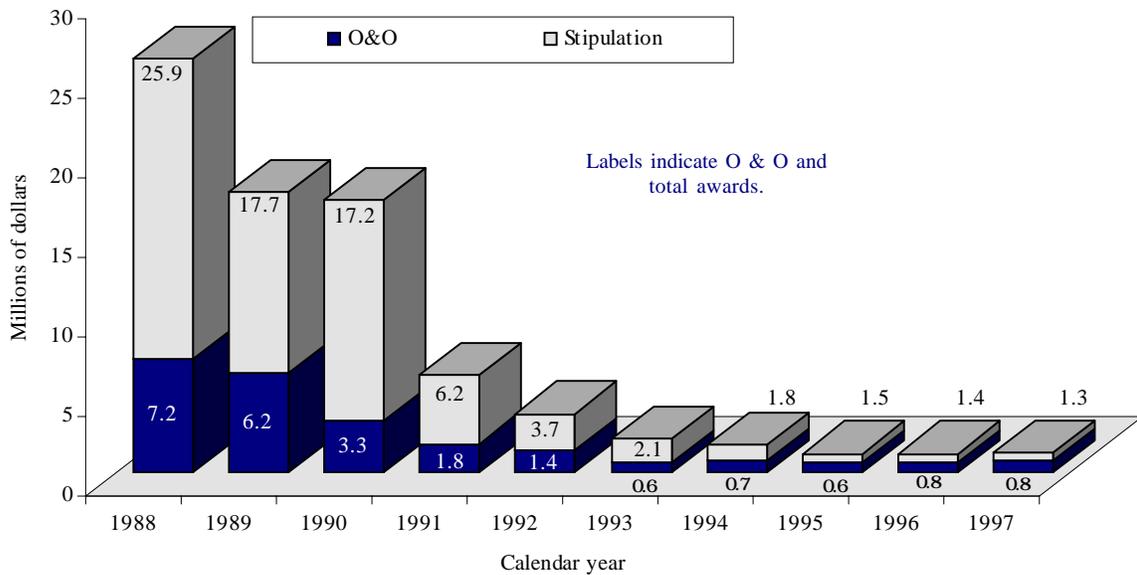
Note: Award units are degrees. Dollar increases are based on degree value for the date of injury. Dollar values may not add to totals due to rounding.

**Table 11. Disposition of hearings PPD cases by order type and prior award, Oregon, 1997**

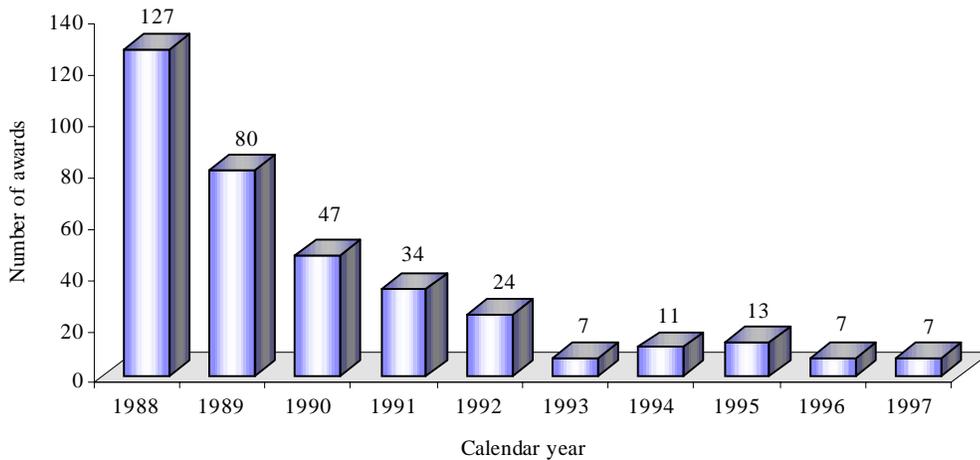
Order type	No prior award		Prior award			All cases			All
	Increase	Affirm	Increase	Decrease	Affirm	Increase	Decrease	Affirm	
Opinion & order	70 25.0%	210 75.0%	155 47.8%	68 21.0%	101 31.2%	225 37.3%	68 11.3%	311 51.5%	604
Stipulation	42 80.8%	10 19.2%	143 79.9%	18 10.1%	18 10.1%	185 80.1%	18 7.8%	28 12.1%	231
All orders	112 33.7%	220 66.3%	298 59.2%	86 17.1%	119 23.7%	410 49.1%	86 10.3%	339 40.6%	835

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 11. Net hearings PPD awards by order type, Oregon, 1988 - 1997**



**Figure 12. PTD awards granted at hearings, Oregon, 1988 - 1997**



## Time Lags

For all hearings orders in 1997, the median time from injury to hearing request was 316 days. Table 12 provides various time lags by order type and insurer classification.

shorter than in 1996. 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 117 days (3.8 months).

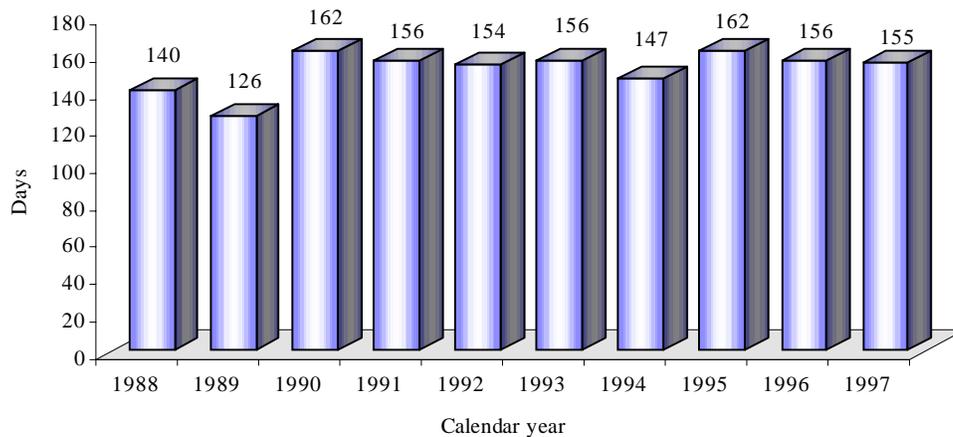
For opinion and order cases, the median time from hearing request to order was 155 days (5.1 months), one day

**Table 12. Median hearings time lags by insurer and order type, Oregon, 1997**

Lag periods	Opinion & order				Stipulation				Dis-missal	All cases
	SAIF	Private insurer	Self-insured employer	All cases	SAIF	Private insurer	Self-insured employer	All cases		
Injury date to request date	293	347	383	329	211	270	335	261	343	316
Injury date to order date	527	561	628	563	398	442	538	442	509	502
Request date to order date	147	157	162	155	112	119	125	118	102	122
Request date held date	89	89	90	89	-	-	-	-	-	89
Held date to closed date	0	0	0	0	-	-	-	-	-	0
Closed date to order date	27	27	25	27	-	-	-	-	-	27

Note: Dashes indicate that time lags are not applicable. Lag time segments do not add to total lag times because figures are medians.

**Figure 13. Median time lags, hearing request to order, opinion and order cases, Oregon, 1988 - 1997**



## Claimant Attorney Fees

Claimant attorney fees totaling over \$8.5 million were approved for payment out of worker compensation or assessed against insurers in 1997 hearings orders. See Table 13. Total fees dropped 6.4 percent from 1996. About 48.5 percent of the fees were paid out of compensation. The average fee was \$1,447, about 5.2 percent higher than for 1996. Figure 14 depicts average fees, by source, for the past 10 years, while Figure 15 does the same for total fees.

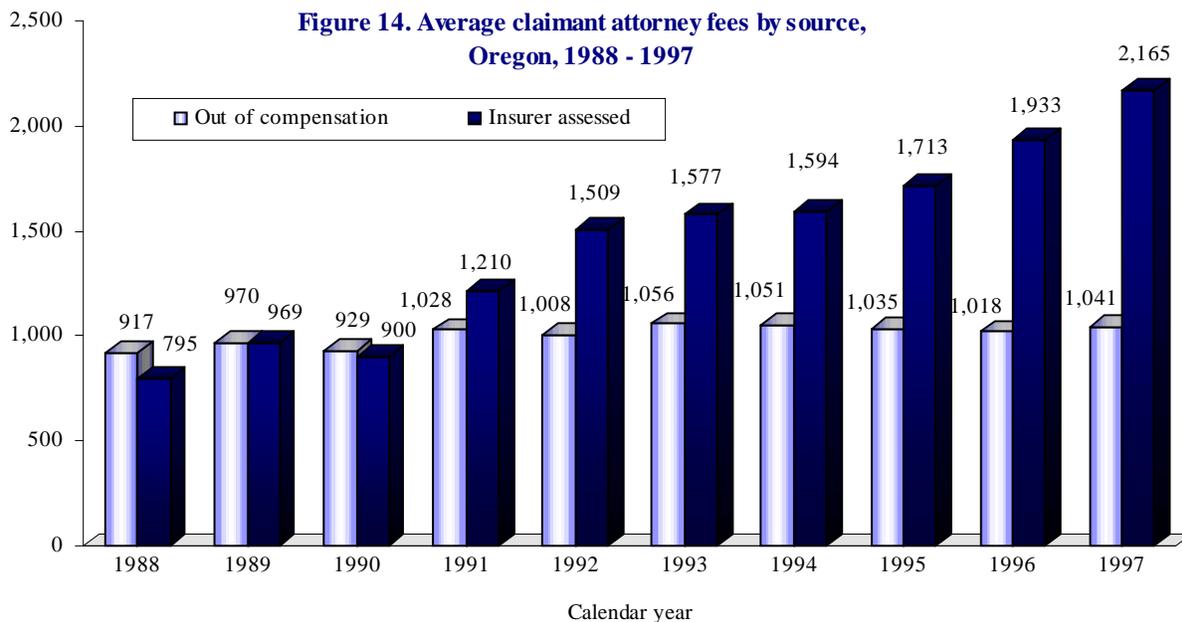
Attorneys representing workers receive fees for (1) getting a denial overturned, (2) getting an increase in compensation for their clients, and (3) for preventing a reduction in compensation. Most of the fees were determined at hearings (decided by the judge or stipulated by the parties and approved by the judge) for attorney efforts and results on issues *raised at hearings*. Other fees are determined by hearings judges for attorney efforts or results achieved *outside* of hearings. They include cases where claimant attorney fees was an issue at hearings, and also fees decided in nine “order awarding attorney fees” cases.

The percentage of claimants represented by counsel was about 96.1 percent for O&O cases and 90.4 percent for all cases.

**Table 13. Claimant attorney fees by order type and source, Oregon, 1997**

	Opinion and order	Stipulation	Dismissal	Arbitrator's decision	Order awarding attorney fees	Total cases
<b>Out of claimant compensation</b>						
Cases with fees	274	3,697	0	0	2	3,973
Total fees	\$304,000	\$3,830,000	\$0	\$0	\$800	\$4,135,000
Average fee	\$1,110	\$1,036	-	-	\$400	\$1,041
<b>Assessed against insurer</b>						
Cases with fees	1,062	955	0	1	7	2,025
Total fees	\$3,120,000	\$1,260,000	\$0	\$1,800	\$2,446	\$4,384,000
Average fee	\$2,938	\$1,319	-	\$1,800	\$349	\$2,165
<b>From both sources</b>						
Cases with fees	1,295	4,582	0	1	9	5,887
Total fees	\$3,424,000	\$5,089,000	\$0	\$1,800	\$3,246	\$8,518,000
Average fee	\$2,644	\$1,111	-	\$1,800	\$361	\$1,447

Notes: Fees were paid both out of compensation and assessed against the insurer in 111 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.



Attorney fees that are recorded for hearings cases are not necessarily the actual amount paid. For example, in cases where the period of temporary disability is extended and the ending date is not specified, the fees recorded are the maximum allowable amount (\$1,050). In other cases, fees are reversed (reduced or eliminated) when the judge's decision in favor of the claimant is reversed or modified by the board or courts.

Attorney fees are missing (could not be determined from information in the published order) in about 60 cases. Two thirds of these fees are based on insurer penalties. The total amount of these unknown fees is probably less than a half percent of the total value of known fees.

**Figure 15. Total hearings claimant attorney fees (\$m), Oregon, 1988 - 1997**

