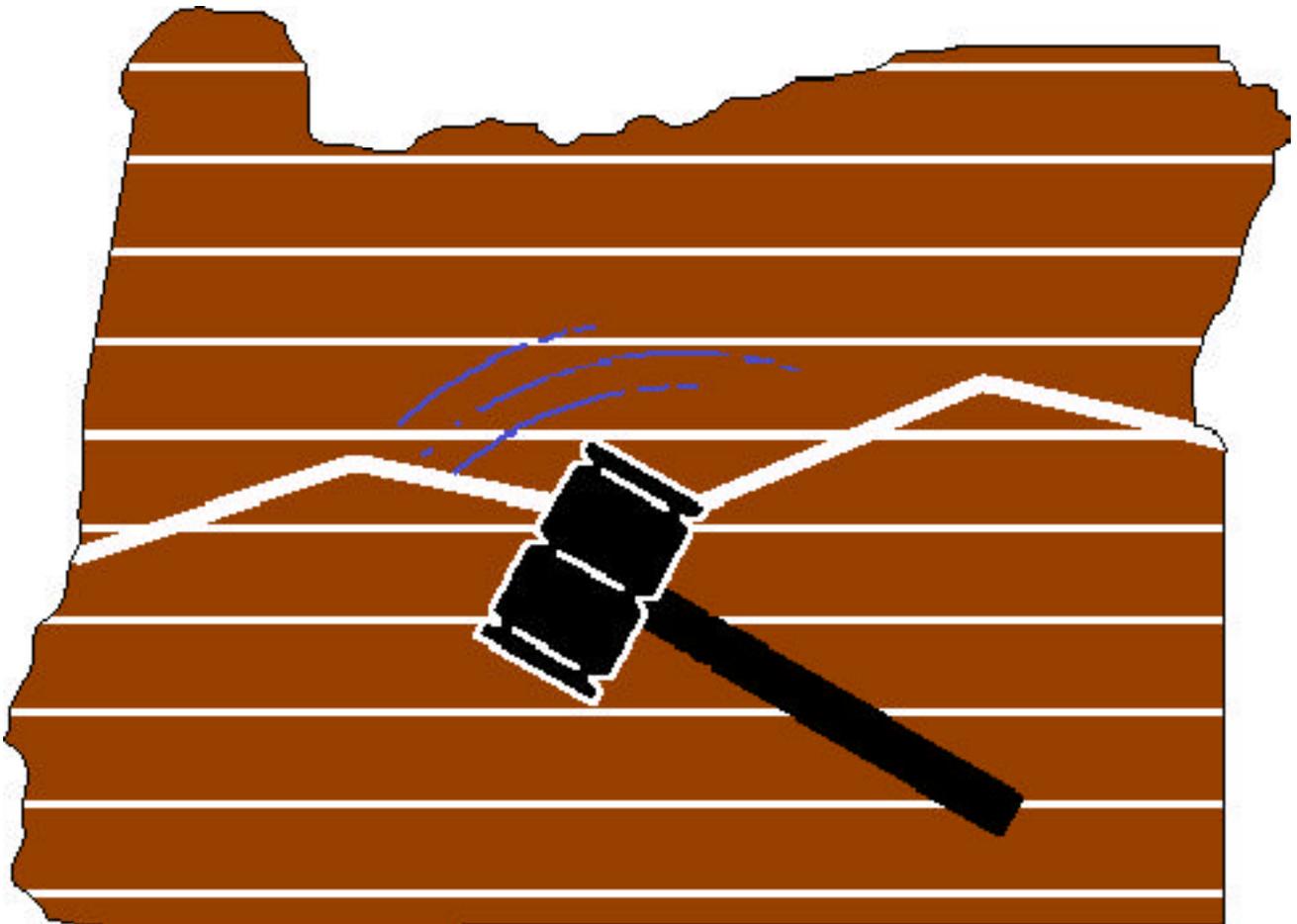


Hearings Division Statistical Report Calendar Year 1998



Research & Analysis Section
Oregon Department of
Consumer & Business Services



April 2000

Hearings Division Statistical Report Calendar Year 1998

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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 1998, 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 1998.

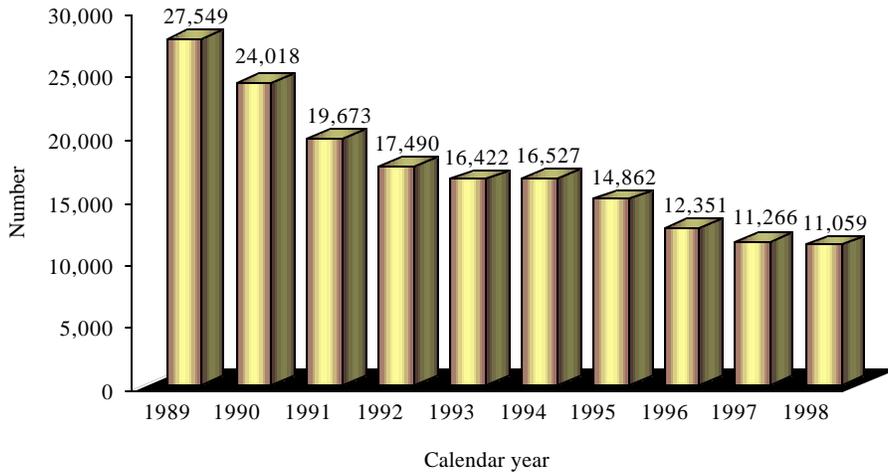
Highlights and Major Trends

- In 1998 the Hearings Division of the Oregon Workers' Compensation Board received 11,059 requests for hearing, 1.8 percent fewer than in 1997.
- There were 11,294 closing orders issued by the Hearings Division in 1998, about 3.3 percent fewer than in 1997.
- The percentage of cases closed by O&O, 24.1 percent, was the fourth lowest on record, while the percentage closed by stipulation was the highest since 1991.
- The worker filed the request in 88.9 percent of the cases, the smallest percentage on record.
- SAIF was the insurer in a record-low 31.8 percent of the cases, while the percentage for private insurers was over 50 percent and the highest on record.
- Administrative law judges completed 233 mediations during the year, of which 90.1 percent resulted in settlement (usually in the form of a disputed claim settlement). The average mediation required about 13.8 work-hours on the part of the judge. Almost 98 percent of the successfully mediated cases included one of the compensability issues.
- Claim denial was the most frequent issue with 42.9 percent of the cases, and partial denial was the next most frequent issue with a near-record 33.4 percent.
- Hearings judges in 1998 decided 3,459 issues in 2,710 opinion and order cases, an average of 1.3 issues per case.
- In 1998 insurers paid over \$20.3 million to workers in 3,921 disputed claim settlements. DCSs accounted for 34.9 percent of all closing hearings orders and over \$4.0 million in claimant attorney fees.
- There were 626 cases involving extent of permanent disability in 1998, 25.8 percent below 1997's record-low 844 cases. The 7.6 percent relative frequency was also a record-low percentage.
- The net permanent partial disability awarded at hearings in 1998 was \$0.74 million. There were six permanent total disability grants, no affirmations of PTD awards, and no PTD rescissions.
- For opinion and order cases, the median time from hearing request to order was 160 days, five days longer than in 1997. For O&O cases without a postponement, the median request-to-order time was only 121 days.
- Claimant attorney fees totaling about \$8.9 million were approved for payment out of worker compensation or assessed against insurers in 1998 hearings orders, 4.1 percent more than in 1997. The average fee was \$1,508.

Requests for Hearing

In 1998 the Hearings Division of the Oregon Workers' Compensation Board received 11,059 requests for hearing, 1.8 percent fewer than in 1997. See Figure 1. The number of requests includes 909 "received stipulations," stipulations that were received without a prior hearing request.

Figure 1. Requests for hearing, Oregon, 1989 - 1998



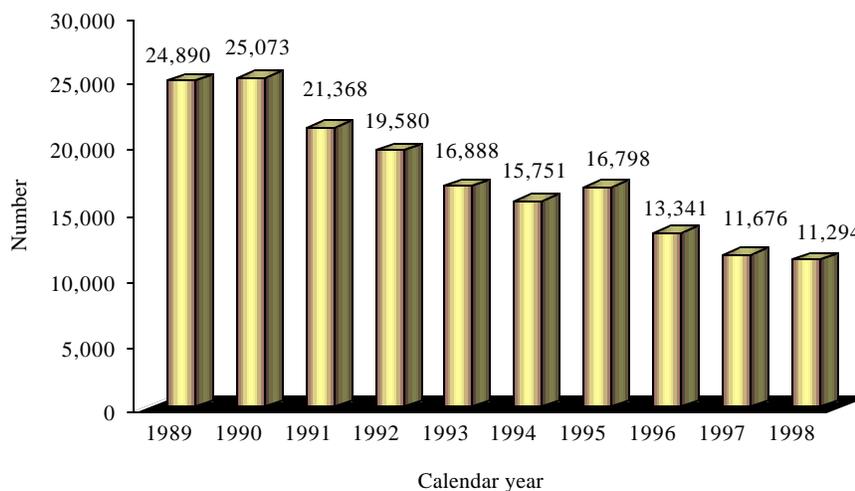
Cases Closed

There were 11,294 closing orders issued by the Hearings Division in 1998, about 3.3 percent fewer than in 1997 (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 judge decides the issues. (Sometimes, the judge decides 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. Hearings cases closed, all orders, Oregon, 1989 - 1998



The percentage of cases **closed by O&O** was relatively low, the fourth lowest on record. On the other hand, the percentage closed by stipulation was the highest since 1991. See Figure 3. About 70.0 percent of the dismissals were issued because the requester withdrew the hearings request. There were no “arbitrator’s decision” cases (in previous years, decisions in pure responsibility disputes were written with this caption).

SAIF was the **insurer** in just 31.8 percent of the cases, the eighth successive decrease and seventh successive record-low value. The percentage for private insurers was the highest on record; it exceeded 50 percent for the first time. 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 is subject to workers’ compensation law).

The breakout of cases by **requester** is given in Table 2. The worker filed the request in 88.9 percent of the cases, the smallest percentage on record. Stipulations received without a prior hearing request are classified as “joint” requests.

Table 1. Hearings compensation cases by order type, Oregon, 1998

Type of order	Number	Percentage
Opinion & Order	2,710	24.1
Stipulation	5,525	49.2
Dismissal	3,000	26.7
Total	11,235	100.0

Figure 3. Distribution of hearings cases by order type, Oregon, 1989 - 1998

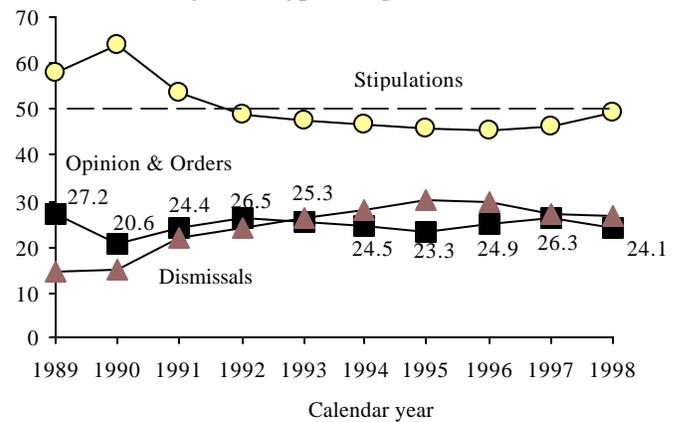


Table 2. Hearings compensation cases by requester and order type, Oregon, 1998

Requester	Opinion & Order		Stipulation		Dismissal		Withdrawal		Total cases	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
Claimant	2,546	93.9	4,527	81.9	859	95.6	2,060	98.0	9,992	88.9
Employer	30	1.1	16	0.3	7	0.8	7	0.3	60	0.5
Joint	1	0.0	914	16.5	1	0.1	-	-	916	8.2
Insurer	126	4.6	63	1.1	31	3.4	32	1.5	252	2.2
Director	7	0.3	5	0.1	1	0.1	2	0.1	15	0.1
Total	2,710	100.0	5,525	100.0	899	100.0	2,101	100.0	11,235	100.0

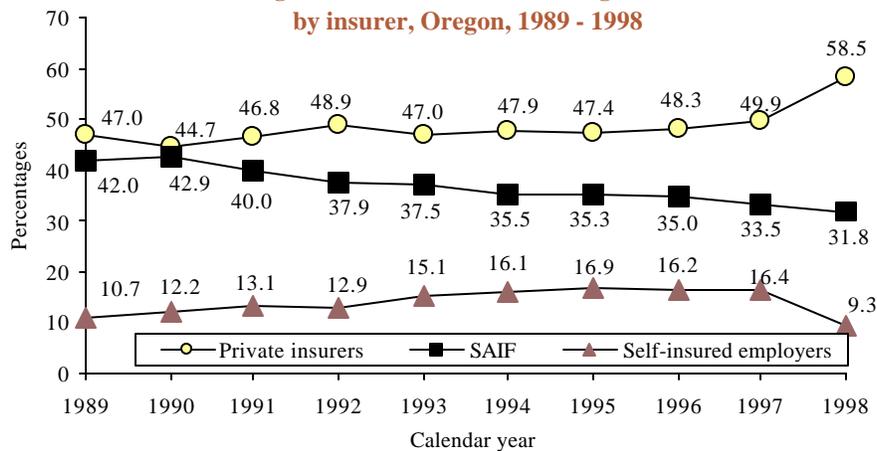
Note: Due to rounding, the sum of percentages may not equal 100.

Table 3. Hearings compensation cases by insurer and order type, Oregon, 1998

Requester	Opinion & Order		Stipulation		Dismissal		Withdrawal		Total cases	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
SAIF	867	32.0	1,728	31.3	308	34.3	665	31.7	3,568	31.8
Private	1,545	57.0	3,348	60.6	500	55.6	1,185	56.4	6,578	58.5
Self-Insured	288	10.6	436	7.9	84	9.3	241	11.5	1,049	9.3
Non-complying	3	0.1	3	0.1	3	0.3	4	0.2	13	0.1
Multiple	1	0.0	-	-	1	0.1	-	-	2	0.0
Unknown	6	0.2	10	0.2	3	0.3	6	0.3	25	0.2
Total	2,710	100.0	5,525	100.0	899	100.0	2,101	100.0	11,235	100.0

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

Figure 4. Distribution of hearings cases by insurer, Oregon, 1989 - 1998



Mediations

To help settle disputes without formal litigation, administrative law judges completed 233 mediations during the year. About 90.1 percent resulted in settlement, of which some 87 percent were in the form of a disputed claim settlement. The average mediated DCS consideration was about \$10,700, over twice the average for all DCSs.

About 47 percent of the mediations included issues in addition to workers' compensation (employment rights, Americans with Disability Act, tort, etc.). The average mediation required about 13.8 work-hours on the part of the judge.

Almost 49 percent of successfully mediated cases had the issue of partial denial, while almost 47 percent were

about claim denial. Almost 98 percent had one of the compensability issues (claim denial, partial denial, aggravation), compared to 90 percent in 1997. Over 44 percent were about disease claims (50 percent in 1997), and about 30 percent included mental disease (the same as in 1997).

The median time from mediation request to the date of the mediation was 50 days, and the median time from the mediation to the order (for cases where the mediation resulted in settlement) was 34 days. The median time from hearing request to order for the mediated cases was 184 days. (This time lag computation includes cases with postponements – cases that had been postponed before the mediation request, and cases in which the hearing was postponed in order to do the mediation.)

Issues

These 11 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 — 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 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.

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.
- (2) 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.
- (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 not compensable (the responsibility issue is not reached).

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

The 8,235 O&O and stipulation cases in 1998 included a total of 9,524 issues, or 1.2 issues per case (excludes attorney 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) 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 3.9 percent of all cases, tying 1995’s record-low value. Claim denial was the most frequent issue (as it’s been every year since 1988), with 42.9 percent of the cases. The percentage of cases with partial denial was 33.4 percent, near 1996’s record-high 34.4 percent. The percentage of cases with the issues of insurer penalty was 7.2 percent, up from 1997’s record-low 5.9 percent. Responsibility was an issue in 184 O&O and stipulation cases.

Table 4. Number of issues per hearings compensation case, Oregon, 1998

Number of issues	Cases
One	6,861
Two	1,037
Three	172
Four	17
Five	1
Total cases (O&O + stipulation)	8,235
More than one issue	1,227
No issues	69

Note: Excludes “attorney fee” issue.

Opinion and Orders

Hearings judges in 1998 decided 3,459 issues in 2,710 cases, an average of 1.3 issues per case. 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 partial denial was the next most frequent issue in O&Os.

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 1998 the worker’s disability award was increased in 224 cases (the sum of the last four columns of the table), about 38 percent of the 589 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 increase rate for permanent disability was the lowest on record, while the affirm and decrease rates were the highest ever. The acceptance rate for

claim denial was the third lowest on record; historically, this rate has been consistent, ranging from 41 to 49 percent. The acceptance rate for aggravation was the lowest ever.

The percentage of O&O cases decided in favor of the claimant for permanent and temporary disability were 43.0 and 64.4 percent, respectively. These percentages 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 three cases are known. In each, sanctions were requested against claimant’s attorney. The judge denied sanctions in two of the cases, and imposed a \$500 sanction in the other case.

Figure 5. Disability issues and award increases, hearings opinion and order, Oregon, 1989 - 1998

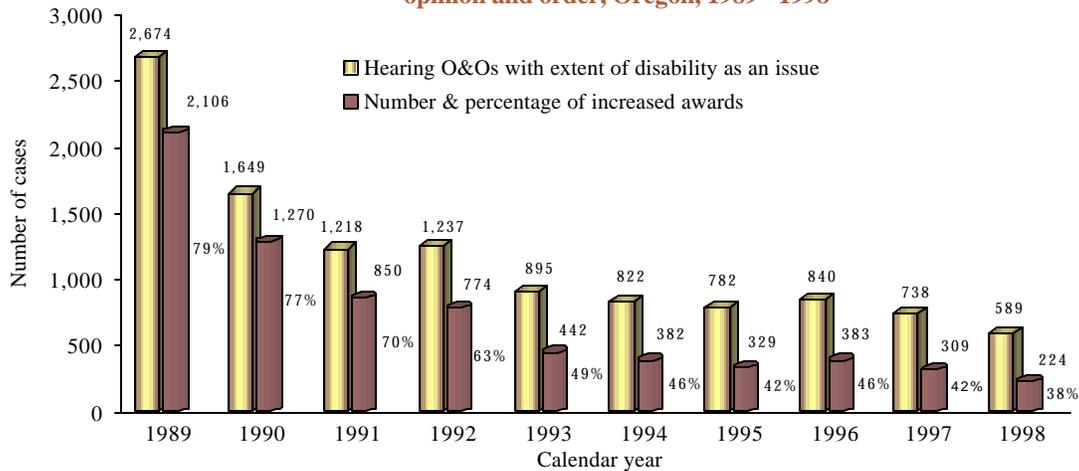


Table 5. Disability issues and type of disability increase, hearings opinion and order, Oregon, 1989 - 1998

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
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
1998	589	100	38	4	82

Table 6. Opinion and order cases by issue, disposition, and insurer, Oregon, 1998

Issues & Disposition	Insurer				Percentage of cases	Percentage disposition
	All Insurers	SAIF	Private	Self-insured		
Permanent Disability						
Total cases	474	148	293	33	17.5	-
Increase	142	44	87	11	-	30.0
Decrease	62	24	37	1	-	13.1
Affirm	270	80	169	21	-	57.0
Temporary Disability						
Total cases	135	43	82	10	5.0	-
Increase	84	28	50	6	-	62.2
Decrease	2	1	1	0	-	1.5
Affirm	49	14	31	4	-	36.3
Claim Denial						
Total cases	1,084	342	600	142	40.0	-
Accept	473	152	259	62	-	43.6
Deny	611	190	341	80	-	56.4
Partial Denial						
Total cases	571	172	330	68	21.1	-
Accept	259	72	162	25	-	45.4
Deny	312	100	168	43	-	54.6
Aggravation						
Total cases	176	61	95	20	6.5	-
Accept	48	15	25	8	-	27.3
Deny	128	46	70	12	-	72.7
Responsibility this insurer?						
Total cases	155	56	88	11	5.7	-
Yes	67	24	36	7	-	43.2
No	88	32	52	4	-	56.8
Premature closure						
Total cases	55	12	38	5	2.0	-
Yes	26	5	17	4	-	47.3
No	29	7	21	1	-	52.7
Penalties						
Total cases	335	114	199	21	12.4	-
Yes	164	53	100	11	-	49.0
No	171	61	99	10	-	51.0
Other Issues						
Total cases	474	150	285	31	17.5	-
Yes	224	70	136	16	-	47.3
No	250	80	149	15	-	52.7
No issues*	41	8	24	8	1.5	-
Total issues	3,459	1,098	2,010	341	-	-
Total cases	2,710	867	1,545	288	-	-

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, 1989 - 1998

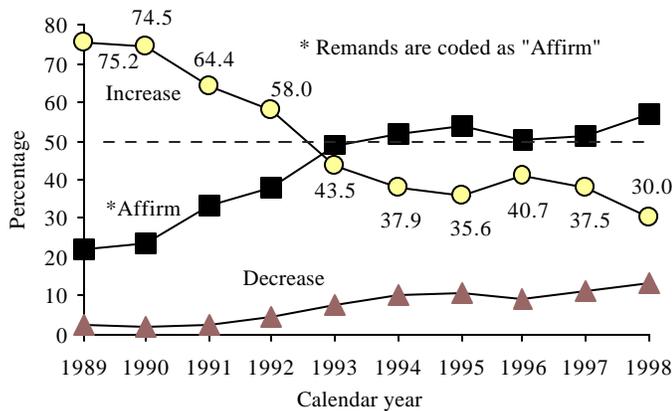


Figure 7. Disposition of extent of temporary disability cases, hearings opinion and order, Oregon, 1989 - 1998

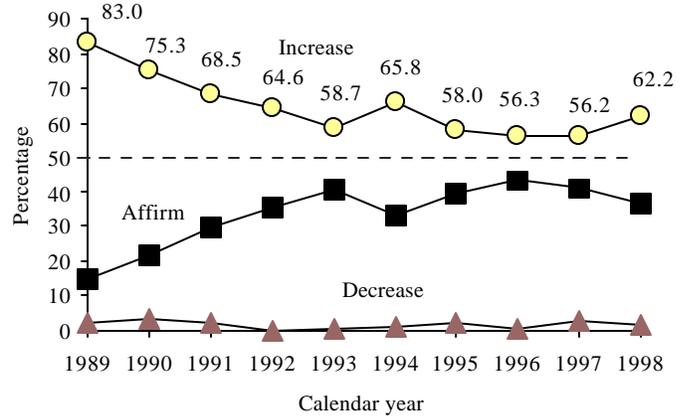


Figure 8. Acceptance rates for compensability cases, hearings opinion and order, Oregon, 1989 - 1998

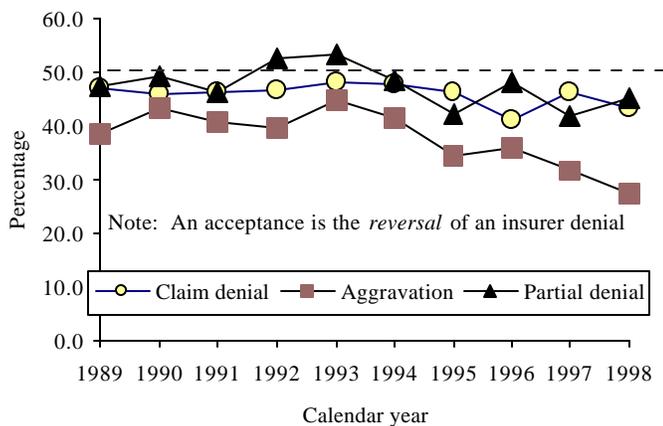
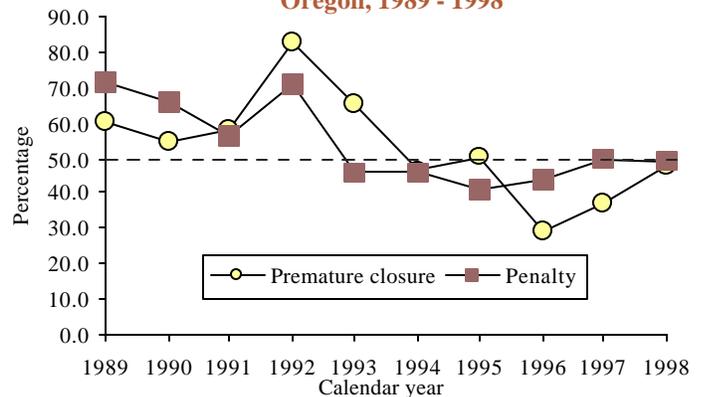


Figure 9. Percentage of decisions favorable to claimants for miscellaneous issues, hearings opinion and order, Oregon, 1989 - 1998



Stipulations

In 1998, disputing parties settled 6,065 issues in 5,525 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 are always low because stipulations include DCSs, where the denial is always sustained (no longer contested) in exchange for consideration (usually cash).

There were 11 cases with the issue of medical services, all settled in favor of the worker. In each case, the agreement was that insurer will pay medical bills, and there was no indication that the dispute is about the compensability of the underlying condition.

Disputed claim settlements

In 1998 insurers paid over \$20.3 million to workers in 3,921 DCSs. See Table 8. For all issues, the average payment was \$5,190, almost 5.3 percent greater than in 1997. The largest amount paid in a single settlement was

\$150,000. The DCS amount was unspecified (usually, the insurer was to pay medical bills and the amount was not mentioned in the order) in eight cases.

The percentage of DCS cases with the issue of claim denial and partial denial were the second lowest and second highest on record, respectively, after the 1996 record values.

DCSs accounted for 71.0 percent of all stipulations, second highest on record after 1997’s 71.8 percent. They also constituted 34.9 percent of all closing hearings orders and 75.7 percent of all claims denied at hearings (excludes aggravations), both record-high values. Figure 10 provides historical information on DCSs.

DCSs accounted for claimant attorney fees of over \$4.0 million, 45.2 percent of all fees at hearings. About 98.7 percent of DCS fees were paid out of the DCS consideration amount.

Table 7. Stipulation cases by issue, disposition, and insurer, Oregon, 1998

Issues & Disposition	Insurer				Percentage of cases	Percentage disposition
	All Insurers	SAIF	Private	Self-insured		
Permanent Disability						
Total cases	152	53	83	16	2.8	-
Increase	110	38	60	12	-	72.4
Decrease	21	13	8	0	-	13.8
Affirm	21	2	15	4	-	13.8
Temporary Disability						
Total cases	189	49	119	21	3.4	-
Increase	184	48	115	21	-	97.4
Decrease	0	0	0	0	-	0.0
Affirm	5	1	4	0	-	2.6
Claim Denial						
Total cases	2,450	826	1,420	194	44.3	-
Accept	388	131	234	23	-	15.8
Deny	2,062	695	1,186	171	-	84.2
Partial Denial						
Total cases	2,176	661	1,361	153	39.4	-
Accept	368	110	232	26	-	16.9
Deny	1,808	551	1,129	127	-	83.1
Aggravation						
Total cases	404	94	264	46	7.3	-
Accept	75	20	44	11	-	18.6
Deny	329	74	220	35	-	81.4
Responsibility this insurer?						
Total cases	29	7	20	2	0.5	-
Yes	14	5	8	1	-	48.3
No	15	2	12	1	-	51.7
Premature closure						
Total cases	9	2	5	2	0.2	-
Yes	6	2	3	1	-	66.7
No	3	0	2	1	-	33.3
Medical Services						
Total Cases	11	0	9	2	0.2	-
Yes	11	0	9	2	-	100.0
No	0	0	0	0	-	0.0
Penalties						
Total cases	261	51	191	19	4.7	-
Yes	228	49	162	17	-	87.4
No	33	2	29	2	-	12.6
Other Issues						
Total cases	384	103	242	35	7.0	-
Yes	313	80	206	25	-	81.5
No	71	23	36	10	-	18.5
No issues*	28	16	12	0	0.5	-
Total issues	6,065	1,846	3,714	490	-	-
Total cases	5,525	1,728	3,348	436	-	-

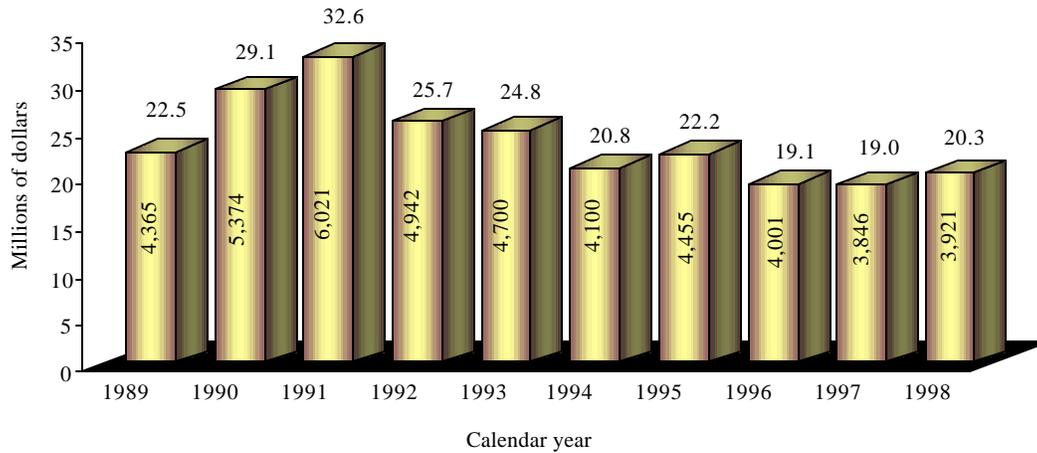
Notes: "Percentage of cases" is the fraction of all cases that contain each issue; many cases have more than one issue, so the sum of these percentages will exceed 100. "Percentage disposition" gives the breakout of how the issues were decided; for each issue, the sum of these percentages will equal 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, 1998

Principal issue*	Number of cases	Percentage of cases	Total amount	Average amount	Total fees
Claim denial	2,023	51.6	\$10,740,000	\$5,310	\$2,136,000
Partial denial	1,743	44.5	8,999,000	5,163	1,745,000
Aggravation	153	3.9	607,000	3,971	125,000
All other issues	2	0.1	2,000	1,000	0
All issues	3,921	100.0	\$20,348,000	5,190	\$4,006,000

*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, 1989 - 1998



Permanent Disability

There were 626 cases involving extent of permanent disability in 1998, the fewest on record and 25.8 percent below 1997's record-low 844 cases. The 7.6 percent relative frequency was also a record-low percentage. Case dispositions were as follows: increase the award, 40.3 percent (the smallest percentage on record); decrease the award, 13.3 percent; and no change in the award, 46.5 percent.

The number and size of hearings permanent disability awards, by most measures, have generally been decreasing over the past 10 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 arise 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 13.2 scheduled degrees and 25.0 unscheduled degrees. Combining scheduled and unscheduled disability awards, the average award increase was 19.3 degrees.

There were 40 and 45 cases where scheduled and unscheduled awards, respectively, were decreased. The average decreases were 13.4 scheduled degrees and 28.1 unscheduled degrees.

The net amount awarded for PPD at hearings in 1998 was \$0.74 million, the eleventh 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 a record-low six PTD grants (includes reinstatements) in 1998, as shown in Figure 12. Two of the grants were by stipulation. There were no affirmations of PTD awards, and no rescissions, so the net number of awards was six. The average previous PPD award was 195 degrees (combined scheduled and unscheduled); in one of the stipulated grants there was no prior PPD awarded.

Table 9. Hearings PPD award increase over previous award, by order type, Oregon, 1998

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	51	14.1	16.6	\$330,000	60	55.1	23.8	\$210,000	\$540,000
Stipulation	33	13.2	6.3	83,000	47	43.6	15.0	103,000	186,000
All orders	84	13.8	12.6	\$412,000	107	50.0	19.9	313,000	\$725,000

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, 1998

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	22	15.0	\$123,000	17	47.6	\$113,000	\$236,000
Stipulation	19	13.8	106,000	11	39.8	61,000	167,000
All orders	41	14.4	\$229,000	28	44.5	174,000	\$403,000

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, 1998

Order type & disposition	No prior award		Prior award			All cases			All
	Increase	Affirm	Increase	Decrease	Affirm	Increase	Decrease	Affirm	
Opinion & order	38 19.0%	162 81.0%	100 37.0%	62 23.0%	108 40.0%	138 29.4%	62 13.2%	270 57.4%	470
Stipulation	30 73.2%	11 26.8%	78 71.6%	21 19.3%	10 9.2%	108 72.0%	21 14.0%	21 14.0%	150
All orders	68 28.2%	173 71.8%	178 47.0%	83 21.9%	118 31.1%	246 39.7%	83 13.4%	291 46.9%	620

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, 1989 - 1998

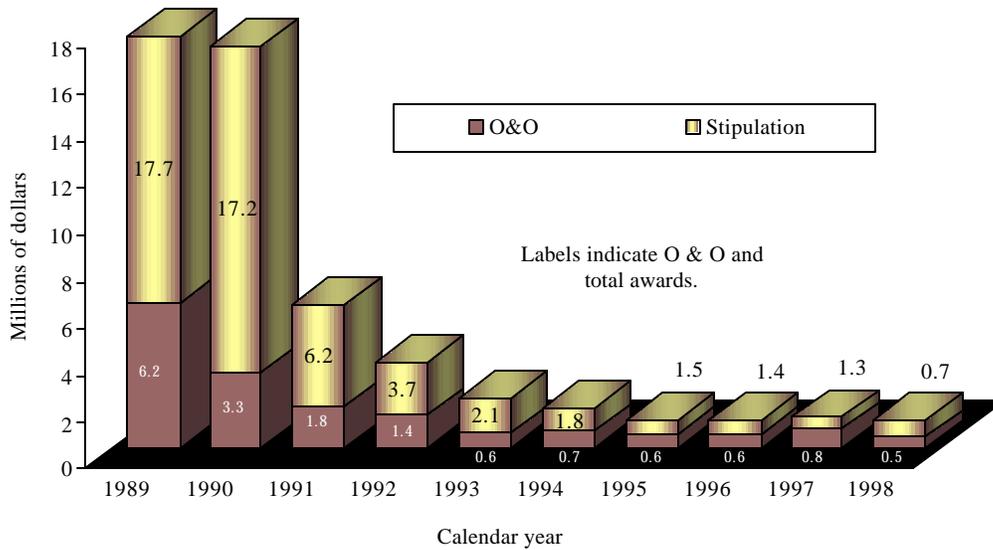
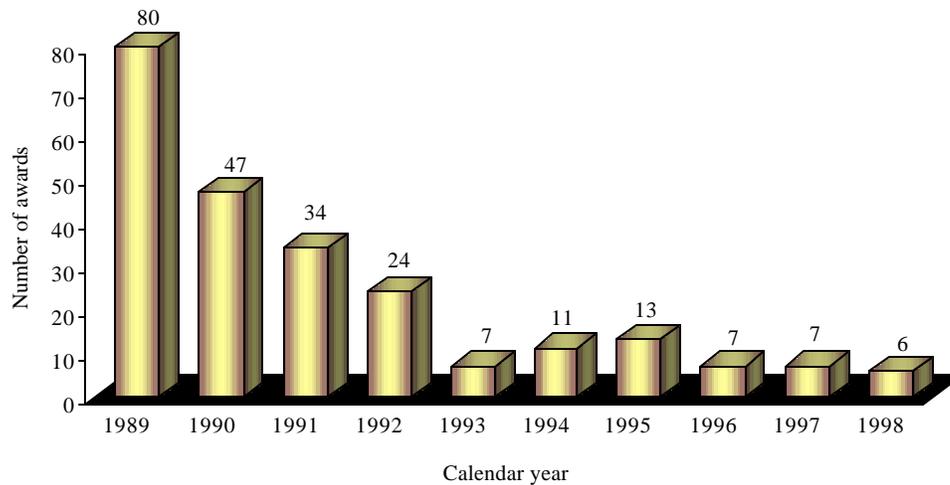


Figure 12. PTD awards granted at hearings, Oregon, 1989 - 1998



Time Lags

For all hearings orders in 1998, the median time from injury to hearing request was 300 days. Table 12 provides various time lags by order type and insurer classification.

For opinion and order cases, the median time from hearing request to order was 160 days (5.3 months), five days

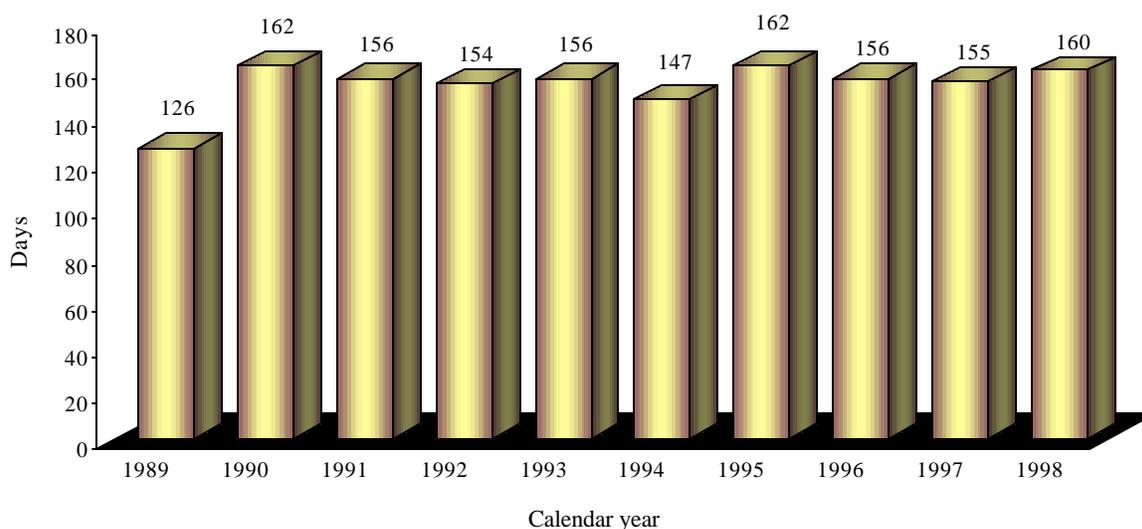
longer than in 1997. See Figure 13. These figures are for all O&O cases. For O&O cases without a postponement, the median request-to-order time was only 121 days (4.0 months). The percentage of O&Os with at least one postponement was 34.4 percent, compared to the 1991-1997 average of 41.0 percent.

Table 12. Median hearings time lags by insurer and order type, Oregon, 1998

Lag periods	Opinion & order				Stipulation				Dis-missal	All cases
	SAIF	Private insurer	Self-insured employer		SAIF	Private insurer	Self-insured employer			
			insurer	employer			insurer	employer		
Injury date to request date	296	335	254	315	228	271	282	256	337	300
Injury date to order date	503	559	601	543	396	444	564	434	528	488
Request date to order date	140	162	245	160	109	117	171	116	106	121
Request date to held date	88	89	129	89	-	-	-	-	-	89
Held date to closed date	0	2	10	1	-	-	-	-	-	1
Closed date to order date	27	27	28	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, 1989 - 1998



Claimant Attorney Fees

Claimant attorney fees totaling almost \$8.9 million were approved for payment out of worker compensation or assessed against insurers in 1998 hearings orders. See Table 13. Total fees increased 4.1 percent over 1997. About 48.7 percent of the fees were paid out of compensation. The average fee was \$1,508, about 4.2 percent higher than for 1997. 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 getting a denial overturned, getting 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” cases.

The percentage of claimants represented by counsel was about 95.6 percent for O&O cases and 89.9 percent for all cases.

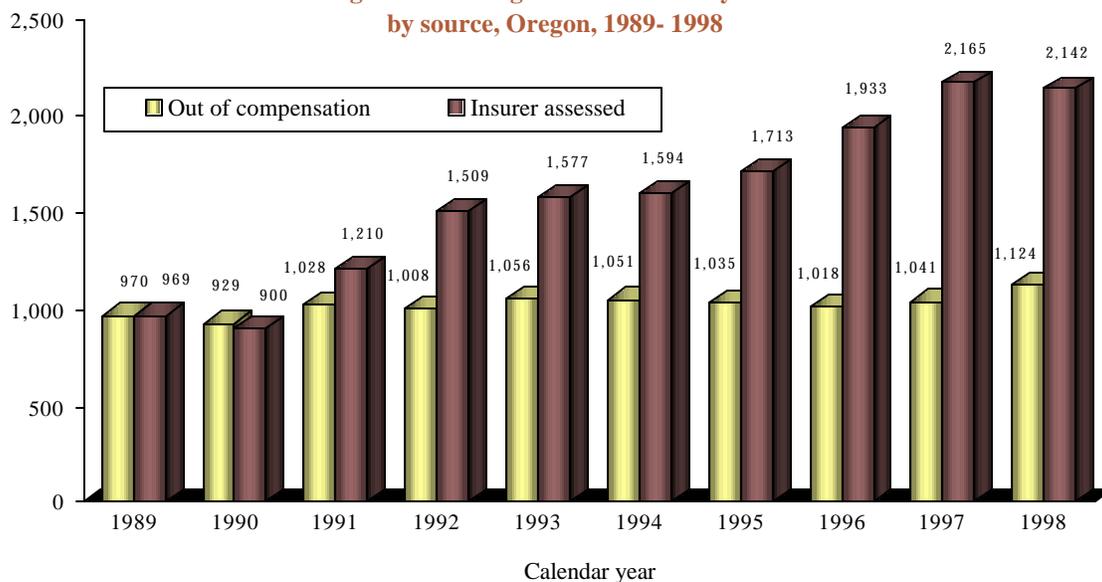
Attorney fees that are recorded for hearings cases are not necessarily the actual amounts paid. For example, in cases where the duration of time loss is extended and the

Table 13. Claimant attorney fees by order type and source, Oregon, 1998

Source of fees	Opinion and order	Stipulation	Dismissal	Order awarding attorney fees	Total cases
Out of claimant compensation					
Cases with fees	205	3,635	0	0	3,840
Total fees	\$231,000	\$4,084,000	\$0	\$0	\$4,316,000
Average fee	\$1,128	\$1,124	-	-	\$1,124
Assessed against insurer					
Cases with fees	983	1,136	0	4	2,123
Total fees	\$2,969,000	\$1,574,000	\$0	\$4,950	\$4,548,000
Average fee	\$3,020	\$1,386	-	\$1,238	\$2,142
From both sources					
Cases with fees	1,164	4,710	0	4	5,878
Total fees	\$3,200,000	\$5,659,000	\$0	\$4,950	\$8,863,000
Average fee	\$2,749	\$1,201	-	\$1,238	\$1,508

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, 1989- 1998



ending date is not specified, the fees recorded are the maximum allowable amount (\$1,050 or \$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.

percent of these cases, the fee was based, at least in part, on penalties against the insurer. In 46 percent of these cases, the fee was based on an increase in the *rate* at which time loss was paid. The total amount of these unknown fees is probably about a half percent of the total value of known fees.

Attorney fees are missing (could not be determined from information published in the order) in 65 cases. In 74

