



Information Management Division

Medical-Dispute Activity, Oregon, Fiscal Year 2004

Department of Consumer & Business Services

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Highlights for FY 2004

In FY 2004, the department received 1,353 medical-dispute requests, an increase of 11 percent from FY 2003 (1,214). Also, 1,282 disputes were resolved by order, an increase of 17 percent from FY 2003 (1,096). Of the 1,076 orders issued in FY 2004 (excluding IME and compensability issues), 10 percent (106) were appealed to contested-case hearings.

Introduction

Under Oregon workers' compensation law, injured workers, insurers, and medical providers may request that the director of the Department of Consumer and Business Services resolve medical disputes. The parties may request review of disputes involving medical services, managed care organizations (MCOs), fees, treatments, post-medically stationary services, interim medical benefits, changes of attending physicians, requests for additional insurer medical exams (IMEs), and disputes regarding compensability issues.

The Workers' Compensation Division's Medical Review Unit (MRU) is responsible for handling the majority of medical disputes, including compensability disputes involving MCOs. The Workers' Compensation Board (WCB) Hearings Division is responsible for all other compensability disputes.

Statutory authority to resolve medical disputes is given to the director under Oregon Revised Statutes (ORS) 656.245, 656.247, 656.248, 656.260, 656.325, 656.327, and 656.704. Oregon Administrative Rules (OAR) Chapter 436, Divisions 009 and 010, provide the guidelines for administering the delivery of and payment for medical services and for resolving disputes.

Medical Disputes

Disputes involving medical services, managed care organizations (MCOs), fees, treatments, post-medically stationary services, interim medical benefits, changes of attending physicians, requests for additional insurer medical exams (IMEs), and disputes regarding compensability issues.

Table 1. Medical dispute activity, FY 1995-2004

	Fiscal year	Medical disputes	Reconsiderations	General issues	Total disputes
Received	1995	431	-	345	776
	1996	919	-	132	1,051
	1997	753	5	132	890
	1998	838	11	141	990
	1999	883	9	167	1,059
	2000	992	5	114	1,111
	2001	1,079	8	139	1,226
	2002	1,219	4	142	1,365
	2003	1,214	12	117	1,343
	2004	1,353	16	156	1,525
	Distribution	88.7%	1.0%	10.2%	100.0%
Resolved	1995	433	-	347	780
	1996	595	-	116	711
	1997	923	27	135	1,085
	1998	793	21	131	945
	1999	824	18	156	998
	2000	840	11	133	984
	2001	1,110	14	133	1,257
	2002	1,183	11	153	1,347
	2003	1,096	15	116	1,227
	2004	1,282	23	151	1,456
	Distribution	88.0%	1.6%	10.4%	100.0%

Reconsiderations

A case in which the department reconsiders its own order. The parties may request reconsideration of an order within 30 days of an initial order if they believe the order contains errors or misapplications of the law or if they have new evidence that could not reasonably have been discovered or produced during the department's review.

General Issues

Requests that require some investigation to clarify the issue, requests for information of a general nature, or requests (that the director take action) by workers or their attorneys that prove to be premature. General issues do not require action by the director to be resolved; rather, letters are sent in response to the requests.

Types of medical dispute issues

Medical service: A dispute about the services to which a worker is entitled. This category was created in December 1996. Medical service disputes are the most common disputes.

MCO: A dispute about the actions of MCOs. MCOs must have an internal dispute resolution process, although they may choose to have the department resolve certain types of issues. MCO disputes come to the department either because the MCO does not have a resolution process for a particular type of issue or because the MCO's decision is being appealed. This category was created in October 1999.

Fee: A dispute between an insurer and provider regarding the amount of payment or non-payment for compensable medical services.

Treatment: A dispute in which a worker or an insurer claims that the medical provider's treatment is inappropriate, excessive, ineffectual, or in violation of the administrative rules.

Post-medically stationary status: A dispute that arises when a worker or a worker's attending physician requests approval for medical care after the worker is

Table 2. Reconsiderations, FY 2004

Approved	1
Upheld	9
Modified	2
Stipulation	-
Reversed	1
Disapproved	-
Denied	10
Total	23

declared medically stationary. Requests may be for palliative and curative care, prescription medication or prosthetic devices, or services to monitor and care for medication or prosthetic devices. This category was created in September 2004; prior to that, this category was only used for palliative-care disputes.

Interim medical benefits: A dispute about the payment of medical services provided to the worker prior to the claim's initial acceptance or denial. This category was created in October 2002 in response to new legislation.

Table 3. Medical dispute activity by issue, FY 1995-2004

	Fiscal year	MRU medical disputes								Total MRU disputes	WCB Compensability	Total disputes received
		Medical service	MCO	Fee	Treatment	Post-med stationary	Interim benefits	Change physician	Additional IME			
Received	1995	-	-	207	113	41	-	44	26	431	-	431
	1996	9	-	395	369	73	-	53	20	919	-	919
	1997	77	1	317	243	63	-	37	15	753	-	753
	1998	423	-	140	195	32	-	35	13	838	-	838
	1999	533	3	34	212	48	-	33	11	874	9	883
	2000	325	51	72	120	164	-	23	26	781	211	992
	2001	382	62	160	115	148	-	24	8	899	180	1,079
	2002	356	127	269	152	110	1	12	10	1,037	182	1,219
	2003	419	139	158	160	60	3	16	10	965	249	1,214
	2004	510	223	160	142	75	5	12	9	1,136	217	1,353
Distribution	37.7%	16.5%	11.8%	10.5%	5.5%	0.4%	0.9%	0.7%	84.0%	16.0%	100.0%	
Resolved	1995	-	-	218	106	42	-	41	26	433	-	433
	1996	-	-	232	257	32	-	52	22	595	-	595
	1997	57	-	426	285	101	-	40	14	923	-	923
	1998	356	-	202	165	24	-	33	13	793	-	793
	1999	482	-	35	228	36	-	34	9	824	-	824
	2000	373	16	56	138	103	-	28	29	743	97	840
	2001	358	73	131	123	207	-	24	7	923	187	1,110
	2002	369	108	297	121	100	1	12	9	1,017	166	1,183
	2003	401	127	154	143	71	-	17	12	925	171	1,096
	2004	481	193	165	132	72	4	12	9	1,068	214	1,282
Distribution	37.5%	15.1%	12.9%	10.3%	5.6%	0.3%	0.9%	0.7%	83.3%	16.7%	100.0%	

Change of attending physician: A dispute that arises when a worker requests a change of attending physician beyond the two changes allowed in statute.

Additional IME: A dispute that arises when an insurer requests that a worker undergo an insurer medical exam beyond the three allowed in statute.

Compensability: A dispute regarding the compensability of the underlying medical condition or the causal relationship between the accepted condition and the medical service. Compensability disputes are resolved by WCB, except for those involving MCOs which are resolved by MRU. These disputes are resolved by a hearings order before any other disputed medical issues are addressed. MRU transferred responsibility for compensability disputes to the Hearings Division in October 1999. Prior to a legislative change in 1999, compensability disputes were categorized as medical-service disputes.

Types of medical dispute outcomes

Approved: An order that approves payment to providers, post-medically-stationary care, the medical provider's treatment, or an additional change of attending physician or an additional IME. When an additional change of attending physician or an additional IME is allowed, it is considered "Approved."

Facilitated: An order in which MRU facilitates a partial agreement between the parties, but at least one issue is not resolved by agreement.

Disapproved: An order that disapproves payment to providers, post-medically-stationary care, the medical provider's treatment, or an additional change of attending physician or an additional IME.

Table 4. Medical dispute activity by requestor and issue, FY 2004

	Requestor	MRU disputes								WCB	Total disputes received
		Medical service	MCO	Fee	Treatment	Post-med stationary	Interim benefits	Change physician	Additional IME	Compensability	
Count	Worker	258	171	16	93	59	3	11	1	203	815
	Provider	240	50	140	16	15	2	-	-	8	471
	Insurer	9	1	1	33	1	-	1	8	6	60
	Department	3	1	3	-	-	-	-	-	-	7
	Total	510	223	160	142	75	5	12	9	217	1,353
Distribution	Worker	51%	77%	10%	65%	79%	60%	92%	11%	94%	60%
	Provider	47%	22%	88%	11%	20%	40%	-	-	4%	35%
	Insurer	2%	0%	1%	23%	1%	-	8%	89%	3%	4%
	Department	1%	0%	2%	-	-	-	-	-	-	1%
	Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Table 5. Medical dispute outcomes by issue, FY 2004

Outcomes	MRU Disputes									Total MRU		WCB	Total disputes resolved
	Medical service *	MCO	Fee	Treatment	Post-med stationary	Interim benefits	Change of physician	Additional IME	Outcomes	Distribution	Compensability		
Approved	115	45	78	46	17	-	8	5	314	29.4%	-	314	
Facilitated	155	7	25	6	6	2	1	1	203	19.0%	1	204	
Disapproved	60	103	7	27	22	1	2	2	224	21.0%	-	224	
Partially approved	18	11	6	2	3	-	-	1	41	3.8%	1	42	
Stipulation	59	6	21	4	6	-	-	-	96	9.0%	105	201	
Transfer	-	-	-	3	-	-	-	-	3	0.3%	1	4	
Causally related	-	-	-	-	-	-	-	-	-	-	19	19	
Causally unrelated	-	-	-	-	-	-	-	-	-	-	17	17	
Dismissed	73	21	28	44	18	1	1	-	186	17.4%	70	256	
Count	481	193	165	132	72	4	12	9	1,068	100.0%	214	1,282	
Distribution	37.5%	15.1%	12.9%	10.3%	5.6%	0.3%	0.9%	0.7%	83.3%		16.7%	100.0%	

* One medical-service dispute under deferral.

Partially approved: An order that approves part, but not all, of the request for additional payments to providers, post-medically stationary care, or the medical provider's treatment.

Stipulation: A written agreement between the parties, reached through MRU's alternative-dispute-resolution process.

Transfer: An MRU order that transfers responsibility of disputes involving compensability-only issues to WCB Hearings Division.

Causally related and Causally unrelated: Orders used by the Hearings Division when determining the compensability of the underlying medical condition or the causal relationship between the accepted condition and the medical service.

Dismissed: An order that dismisses a medical dispute request, usually because the issue has been withdrawn by the requesting party.

Average processing days

A portion of the processing time is spent clarifying the issue and developing the record. Additional time can be attributed to the involvement of outside physician reviewers. These reviewers or panels of reviewers are appointed by the department to review the appropriateness of disputed treatments, medical services, or palliative care. Processing time is the length of time between the date the department receives the request letter and the date the order is issued.

Because all compensability disputes, except those involving MCOs, are handled by WCB, MRU's figures are shown separately before being added to the total, which includes WCB's figures.

Table 6. Average processing days for orders, FY 2004

Medical dispute issues	Number	Average days	Number with physician review	Percent with physician review	Average days *
Medical service	481	78	1	0.0%	40
MCO	194	103	53	27.3%	42
Fee	165	61	-	-	-
Treatment	135	99	53	39.3%	42
Post-med stat	72	116	4	5.6%	37
Interim benefits	4	131	-	-	-
Change of physician	12	84	-	-	-
Additional IME	9	37	-	-	-
MRU issues	1,072	85	111	10.4%	41
Compensability	217	250	-	-	-
All issues	1,289	113	111	8.6%	41
Reconsiderations	16	17	-	-	-
General requests	151	52	1	0.7%	41

* Processing time for a physician review is the time from the date the department establishes an outside review to the date the department receives the outside review's report.

Appeals of orders

Orders from disputed and reconsidered issues, other than IMEs and compensability, can be appealed through contested case hearings. Parties have 30 days in which to appeal an MRU order. (IME orders and compensability orders are appealed to the Hearings

Division.) Prior to August 1, 1999, hearings officers were under the director's jurisdiction, they have since become part of a centralized hearings panel in the Oregon Employment Department.

Table 7. Appeals of orders by outcome and issue, FY 2003

	Medical service	MCO	Fee	Treatment	Post-med stationary	Interim benefits	Change physician	Total orders	
Orders	408	130	154	147	71	-	17	927	
Number appealed	22	22	3	25	6	-	2	80	
Distribution	5.4%	16.9%	1.9%	17.0%	8.5%	-	11.8%	8.6%	
Outcome of appeals								Appeals	Distribution
Affirmed	10	8	-	10	1	-	-	29	38.7%
Reversed	2	1	2	2	1	-	-	8	10.7%
Partial	2	-	-	-	-	-	-	2	2.7%
Stipulation	-	-	1	1	-	-	-	2	2.7%
Remand/other	1	1	-	-	-	-	-	2	2.7%
Dismissed/withdrawn	7	8	-	11	4	-	2	32	42.7%
Pending	-	4	-	1	-	-	-	5	100.0%
Number appealed	22	22	3	25	6	-	2	80	

Note: In this table, reconsidered issues are included with the original disputed issue.

Table 8. Appeals of orders by outcome and issue, FY 2004

	Medical service	MCO	Fee	Treatment	Post-med stationary	Interim benefits	Change physician	Total orders	
Orders	484	203	165	135	72	4	13	1,076	
Number appealed	29	33	18	17	8	-	1	106	
Distribution	6.0%	16.3%	10.9%	12.6%	11.1%	-	7.7%	9.9%	
Outcome of appeals								Appeals	Distribution
Affirmed	6	10	-	4	3	-	-	23	29.9%
Reversed	2	-	2	-	-	-	-	4	5.2%
Partial	-	-	-	2	-	-	-	2	2.6%
Stipulation	2	-	-	-	-	-	-	2	2.6%
Remand/other	5	3	-	-	-	-	-	8	10.4%
Dismissed/withdrawn	6	14	14	3	-	-	1	38	49.4%
Pending	8	6	2	8	5	-	-	29	100.0%
Number appealed	29	33	18	17	8	-	1	106	

Note: In this table, reconsidered issues are included with the original disputed issue.

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