

# A WCRI FLASHREPORT

## ***Benchmarking Oregon's Permanent Partial Disability Benefits***

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## **BENCHMARKING OREGON'S PERMANENT PARTIAL DISABILITY BENEFITS**

Oregon's system for determining permanent partial disability (PPD) benefits is unusual in at least three respects. First, unscheduled losses are compensated differently based on the worker's return to regular work, or being released by a doctor to return to work without restrictions. Under either of these conditions, the basis of compensation is impairment only. If neither condition is met, the compensation is on the basis of loss of wage-earning capacity. Second, determining loss of wage-earning capacity involves a formula that modifies the medical impairment rating according to age, education and "adaptability" (that is, the ability to adapt to a given job function). Finally, Oregon is one of a handful of states that does not base its PPD awards for scheduled or unscheduled losses on the worker's preinjury wage.

Oregon's Workers' Compensation Management-Labor Advisory Committee (through its PPD Subcommittee) has been examining ways to improve the adequacy and equity of Oregon PPD benefits. To this end, we undertake this study in order to determine, "How do Oregon's PPD benefits compare with other states' estimated statutory PPD benefits at various wage levels?" The reader should remember that we examine only the statutory benefit – not the actual benefit received by workers.

This study benchmarks Oregon's PPD benefits by: (1) comparing statutory unscheduled PPD benefits that are based on impairment only in Oregon with those for similar injuries in nine other large states that pay impairment benefits; (2) comparing statutory unscheduled PPD benefits in Oregon that are based on loss of wage-earning capacity (known here as "impairment plus modifiers") with the same nine other states; and (3) comparing statutory scheduled PPD benefits in Oregon (based on impairment only) with the other nine states. The methods used to compare statutory benefits are drawn from an earlier WCRI study.<sup>1</sup> The methods and data are discussed further in the Appendix.

### **MAJOR FINDINGS**

Among the major findings of this study are:

- Oregon's statutory unscheduled impairment-only PPD benefits are generally lower than the other study states.
- Oregon's statutory unscheduled "impairment plus modifiers" PPD benefits are:
  - Higher than most other states at \$400 average weekly wage (AWW).
  - Lower than most other states at Oregon's statewide average weekly wage (SAWW) and for higher wages, except for 50-percent impairment ratings.
  - For 50-percent impairment ratings, PPD benefits are much higher at \$400 AWW, higher at Oregon's SAWW and above the middle at \$800 AWW.
- Oregon's statutory scheduled PPD benefits are generally higher than the other study states at all wage levels.

### **OREGON'S PPD BENEFIT STRUCTURE**

Oregon Revised Statute (ORS 656.214) defines permanent partial disability as permanent, complete or partial loss of use of bodily extremities, including vision and hearing, "or any other injury known in surgery to be permanent partial disability." When the loss is to a body part named in the statute, the disability is "scheduled," and the criteria for rating the disability is impairment, which is the permanent loss of use or function of the body part. A scheduled PPD award for the same injury to two different workers will be the same regardless of the wages earned, although the amount of each monthly benefit payment will be higher (and the number of monthly payments lower) for higher-wage workers. Injuries not listed, such as the back, are "unscheduled," and are rated based on the permanent loss of earning capacity from the compensable condition. Earning capacity is further defined at ORS 656.726(3)(f) as permanent impairment due to the industrial injury when the worker returns (or in some cases, could have returned) to regular work at the job held at the time of injury. For most workers who have not returned to work, loss of

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<sup>1</sup> Ballantyne, D. 2001. *Workers' Compensation in Kentucky: Administrative Inventory*. Cambridge, MA: Workers Compensation Research Institute.

earning capacity is rated on impairment as modified by the factors of age, education, and adaptability to perform a given job. Like scheduled injuries, unscheduled benefits are not dependent on the worker's wage.

For accepted disabling claims in Oregon, temporary disability benefits generally continue until the worker either returns to work or is declared medically stationary (that is, the worker reaches maximum medical improvement) by the worker's attending physician. At this point, the claim closure process begins. The insurer or self-insurer stops temporary disability payments and determines the extent of permanent disability. To close the claim, the insurer or self-insurer issues a notice of closure to the worker.<sup>2</sup>

Attending physicians report findings on impairment using methods described in the *AMA Guides to the Evaluation of Permanent Impairment*.

The values of the loss-of-earning capacity factors are determined as follows: Workers who are age forty and above receive an age factor of one; all others receive a zero. The range for the education factor is from zero to six. Workers who have been released or have returned to their regular work (or work requiring greater strength) or workers with a high school diploma or GED receive a value of zero. Workers with no high school diploma or GED receive a value of one. In addition, a value (from one to four) is allowed for the worker's specific vocational preparation (SVP) based on the job or jobs the worker performed in the five years preceding the date of determination.<sup>3</sup>

The adaptability factor ranges from one to seven. Adaptability is measured in two ways. In the first, the individual's base functional capacity (BFC), or demonstrated physical capacity before the injury or disease, is compared with his or her residual functional capacity (RFC), or remaining ability to perform work-related activities. BFC is determined primarily by using the *Dictionary of Occupational Titles*, published by the U.S. Department of Labor, to determine the strength factor for the most physically demanding job that the worker successfully performed in the past five years preceding the date of closure. Another method for measuring BFC is to use a preinjury physical-capacities evaluation. RFC is determined by the attending physician, by a physical-capacities evaluation, or by a work-capacities evaluation. The worker then is assigned an adaptability rating using the higher rating from a table that compares the BFC to the RFC.

Disability ratings are translated into dollar awards by first converting into "degrees" of disability. For scheduled injuries, injuries are rated relative to a specified degree maximum for that body part — 100 percent of a leg equals 150 degrees, for example. For unscheduled injuries, 100 percent of the whole person is 320 degrees. Scheduled awards (for the period January 1, 2002 through December 31, 2004) are paid at a flat rate of \$559 per degree. Unscheduled injuries (from January 1, 2002 through December 31, 2004) are paid according to a three-tiered structure, with the first 64 degrees (equal to 20 percent of the whole person) at \$184 per degree, the next 96 degrees (30 percent) at \$321 per degree, and the remaining 160 degrees (50 percent) at \$748 per degree. Awards up to \$6,000 are paid in a lump sum. Larger awards are generally paid out in monthly installments, at the monthly equivalent of the worker's TTD rate.<sup>4</sup>

## Example

Suppose a 45-year-old worker with a 10th-grade education falls off a loading dock, injuring his lower back and shoulder. He receives a combined 22 percent impairment rating from the insurer and is released to modified work. His age factor is 1: He is over 40. His education factor is 4: 1 for lack of a high school diploma or GED plus an SVP of 3. His adaptability score is 5. The age and education total (5) multiplied by the adaptability factor (5) equals 25. That amount (as a percentage) is added to the 22 percent impairment rating, giving the worker a total disability rating of 47 percent. Forty-seven percent of 320 degrees (for the whole body) equals 150.4 degrees. The first 64 degrees are paid at a rate of \$184, while the remaining 86.4 degrees are paid at a rate of \$321, for a total award of \$39,510.40.<sup>5</sup>

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<sup>2</sup> Oregon Department of Consumer & Business Services, 1999, *Permanent Partial Disability in the Oregon Workers' Compensation System, 1986-1997*.

<sup>3</sup> SVP is the time required by a typical worker to learn the techniques, acquire the information, and develop the facility needed for average performance in a specific job situation.

<sup>4</sup> If the award is greater than \$6000, the insurer or the director can approve a lump sum payment if the order is final by law or the worker has waived the right to appeal the adequacy of the award.

<sup>5</sup> This is the value prior to adjustment for the present value of the payments. See Appendix for methodology.

## METHODS

We compared three types of statutory PPD benefits in Oregon with nine other large states with PPD based on impairment. These states are Colorado, Connecticut, Florida, Georgia, Indiana, New Jersey, North Carolina, Texas and Washington.

- Statutory unscheduled PPD benefits rated on the basis of “impairment only”
- Unscheduled PPD benefits rated according to “impairment plus modifiers”
- Statutory scheduled PPD benefits rated according to impairment only

By “statutory benefits”, we mean the benefit payments that the statute says a worker *should* get if he or she receives a specified impairment rating for a certain type of injury. The actual payments received may differ from statutory benefits because of the way that (1) ratings are done, (2) judges make decisions, or (3) settlements are negotiated. In a prior WCRI study, we found sizable differences in Florida between the statutory and actual PPD benefits.<sup>6</sup>

To estimate Oregon unscheduled PPD benefits “impairment plus modifiers,” we started with statutory unscheduled PPD benefits rated on the basis of impairment only and increased these benefits according to average values for modifiers (age, education and adaptability) that were computed by the Oregon Department of Consumer & Business Services for 2001 (See Appendix for a description of how this was done).

### **Caveats**

When comparing PPD benefits based on loss of wage-earning capacity in Oregon with PPD benefits based in impairment in nine other states, two caveats are in order. First, statutory PPD benefits for the other study states represent minimum amounts; actual payments are probably higher (by an unknown amount). Second, our comparison states do not include those that rate PPD according to loss of wage-earning capacity.<sup>7</sup> This is because comparable data are not available for other states to estimate the modifiers used to convert impairment ratings to ratings based on loss of wage-earning capacity.

## BENCHMARKING OREGON’S STATUTORY PPD BENEFITS

### ***Back Injuries – Impairment Only***

Statutory impairment-only PPD benefits in Oregon are generally lower than in the other states studied. For workers earning \$645 (Oregon’s SAWW in effect on January 1, 2002), they are 24-78 percent of the statutory PPD (impairment) benefit in all but one of the nine other states studied.<sup>8</sup> Figure 1 and Table 1 show the benchmarking comparisons for back injuries to a 39-year-old worker who earns \$645 per week. The figure and table show the statutory benefit for a range of impairment ratings.

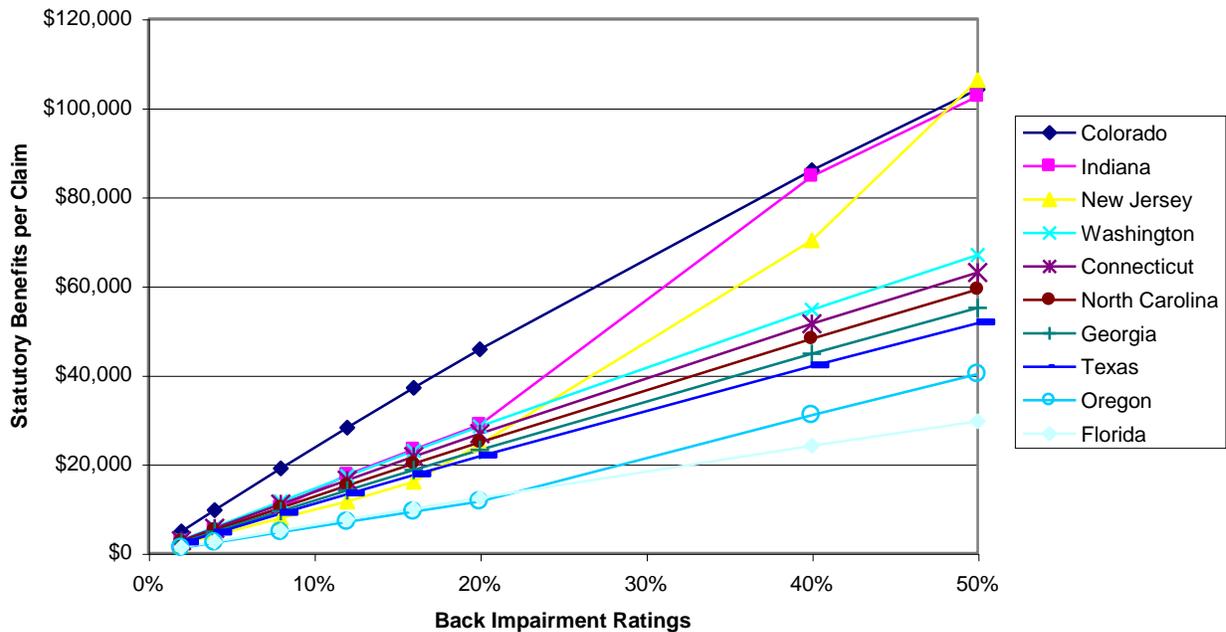
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<sup>6</sup> Victor, R. and Ballantyne, D. 2001 (September). *Benchmarking Florida’s Permanent Impairment Benefits*. Cambridge, MA: Workers Compensation Research Institute Report.

<sup>7</sup> Colorado, an impairment-based PPD state, adjusts impairment benefits for unscheduled injuries upward (using a multiplier) for workers who are less than 40 years old. For example, for a 39-year old worker, the impairment rating would be multiplied by 1.42. Thus, a 10-percent impairment rating would become 14.2.

<sup>8</sup> Oregon’s estimated impairment-based benefits range from 92 to 136 percent of Florida’s permanent impairment benefits, depending on the back rating.

**Figure 1 Oregon Impairment-Only Benefits Are Lower Than Almost All Impairment States For Back Injuries**



Note: Figures are benefits established by statute for a 39-year-old worker with a back injury who earns \$645 per week. Actual payments may vary from the statutory benefit.

Statutory impairment-only benefits in Oregon are the lowest or next to lowest for all impairment ratings depicted in Figure 1 and Table 1 for back injuries. This conclusion would not be materially different for older or younger workers, or for workers with higher or lower weekly earnings. Table 1 shows this worker in Oregon would be entitled to receive a \$9,297 statutory benefit for a 16 percent impairment, compared to over \$37,000 in Colorado, nearly \$23,000 in Washington state, and \$16,000-\$23,200 in New Jersey, Texas, Georgia, North Carolina, Connecticut, and Indiana.

**Table 1 Statutory Impairment Benefit Comparisons for Back Injuries – Oregon Impairment-Only versus Nine Large States with Impairment Benefits, Worker Earning \$645 Weekly**

State	Impairment Rating							
	2%	4%	8%	12%	16%	20%	40%	50%
Colorado	\$4,853	\$9,642	\$19,035	\$28,185	\$37,098	\$45,781	\$85,940	\$104,131
Indiana	\$2,589	\$5,161	\$10,250	\$17,562	\$23,231	\$28,808	\$84,589	\$102,547
New Jersey	\$2,001	\$3,974	\$7,840	\$11,601	\$15,985	\$24,417	\$70,193	\$106,200
Washington	\$2,903	\$5,807	\$11,604	\$17,316	\$22,931	\$28,449	\$54,653	\$66,928
Connecticut	\$2,789	\$5,554	\$11,013	\$16,379	\$21,653	\$26,837	\$51,457	\$62,993
North Carolina	\$2,570	\$5,122	\$10,173	\$15,154	\$20,068	\$24,913	\$48,161	\$59,196
Georgia	\$2,390	\$4,764	\$9,463	\$14,097	\$18,668	\$23,175	\$44,801	\$55,066
Texas	\$2,241	\$4,466	\$8,871	\$13,216	\$17,501	\$21,727	\$42,001	\$51,624
Oregon	\$1,178	\$2,355	\$4,710		\$9,297	\$11,585	\$30,941	\$40,226
Florida	\$1,285	\$2,561	\$5,086	\$7,577	\$10,034	\$12,457	\$24,081	\$29,598

Note: Figures are benefits established by statute for a 39-year-old worker with a back injury who earns \$645 per week. Actual payments may vary from the statutory benefit.

## **Back Injuries – Impairment Plus Modifiers**

Oregon’s “impairment plus modifiers” PPD statutory benefits are both higher and lower than the other study states, depending on the wage level and the back impairment rating. Generally, these benefits are:

- Higher than most other study states for workers earning \$400 per week
- Lower than most other study states for workers earning \$645 , except 50-percent rating
- Lower than most other study states for workers earning \$800 , except 50-percent rating
- For 50-percent rating: much higher for workers earning \$400; higher at \$645 and above the middle at \$800 per week.

Table 2 compares these statutory benefits in Oregon with other study states at \$645 AWW. Looking at ratings from 2 to 40 percent we see that Oregon’s benefits are: 42 to 98 percent of that in Colorado, Indiana, Connecticut and Washington; and 58 to 110 percent higher than Florida. Compared with Georgia, North Carolina and Texas, Oregon’s statutory impairment plus modifiers PPD benefits are generally less for lower ratings and more for higher ratings. Compared with New Jersey, Oregon’s statutory benefits are higher for ratings of 2-20 percent and lower for ratings of 40-50 percent. For 50-percent ratings, these benefits in Oregon are higher than 6 of 9 other study states.

**Table 2 Statutory PPD Benefit Comparisons for Back Injuries – Oregon “Impairment Plus Modifiers” Benefit as a Percent of Each of Nine Large States with Impairment Benefits, Worker Earning \$645 Weekly**

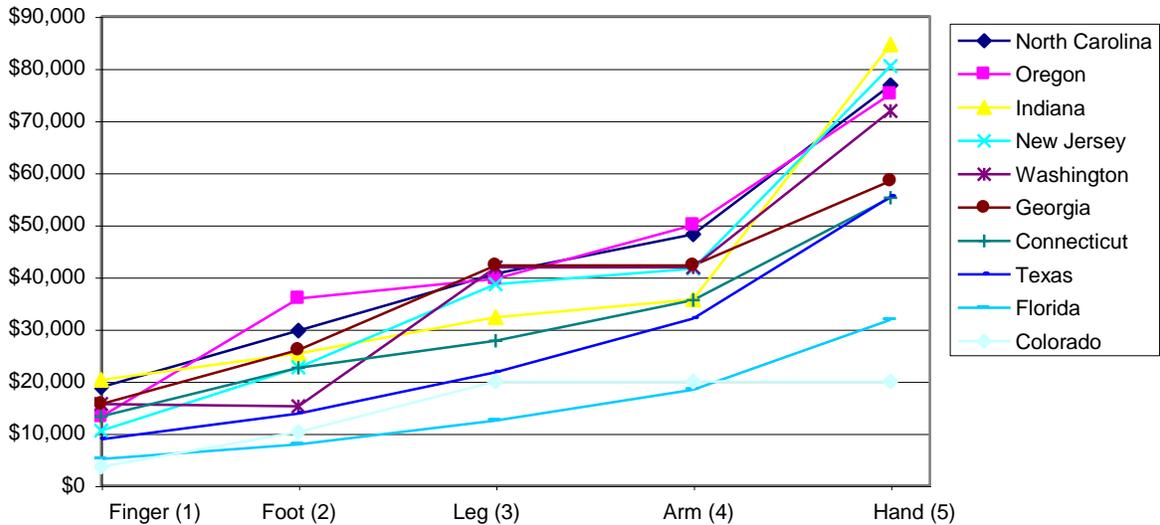
State	Impairment Rating							
	2%	4%	8%	12%	16%	20%	40%	50%
Colorado	42	42	42	44	51	56	59	75
Indiana	78	79	79	70	82	89	60	76
New Jersey	101	102	103	106	119	105	72	73
Washington	70	70	70	71	83	91	92	116
Connecticut	73	73	73	75	88	96	98	123
North Carolina	79	79	79	81	95	103	105	131
Georgia	85	85	85	87	102	111	113	141
Texas	90	91	91	93	109	119	120	150
Florida	158	158	159	162	190	207	210	262

*Note:* Figures are benefits established by statute for a 39-year-old worker with a back injury who earns \$645 per week. Impairment rating categories for Oregon are before modifiers are taken into account. Actual payments may vary from the statutory benefit.

## **Limb Injuries**

As shown in Figure 2 and Table 3, Oregon’s statutory benefits for injuries to limbs are generally higher than most other study states at all wage levels.

**Figure 2 Oregon Statutory PPD Benefits Are Higher Than Impairment States for Limb Injuries**



**Table 3 Statutory Impairment Benefit Comparisons for Injuries to Limbs – Oregon versus Nine Large States with Impairment Benefits, Worker Earning \$645 Weekly**

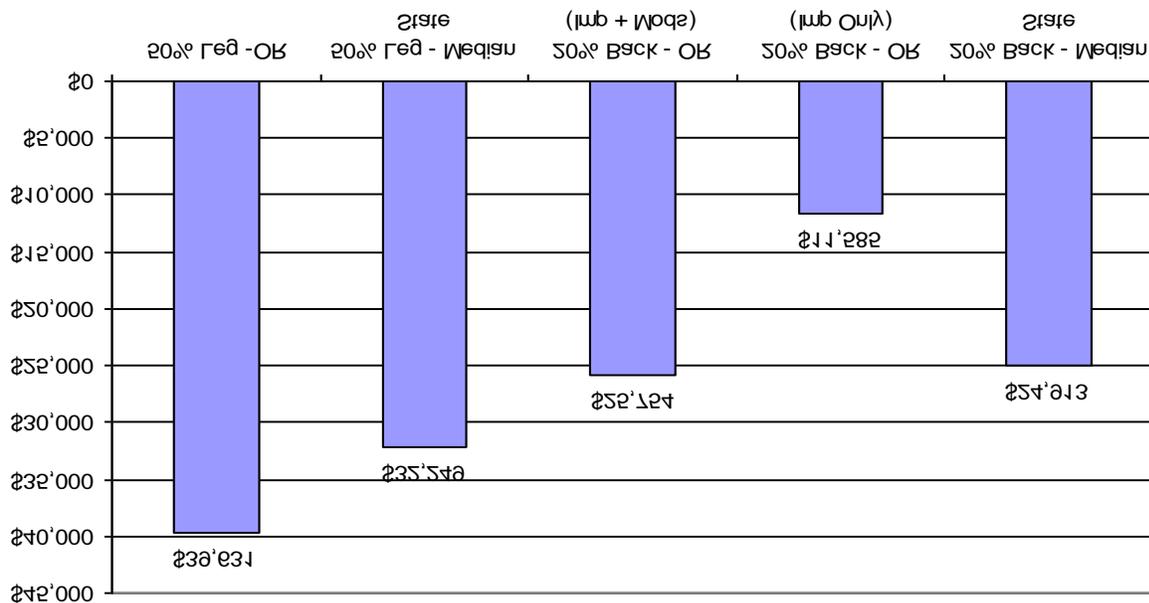
State	Body Part				
	Finger	Foot	Leg	Arm	Hand
North Carolina	\$18,846	\$29,692	\$40,590	\$48,161	\$76,759
Oregon	\$13,170	\$35,866	\$39,631	\$49,952	\$75,048
Indiana	\$20,219	\$25,333	\$32,249	\$35,655	\$84,589
New Jersey	\$10,515	\$22,604	\$38,576	\$41,596	\$80,417
Washington	\$15,613	\$15,185	\$41,834	\$41,834	\$71,822
Georgia	\$15,628	\$25,961	\$42,179	\$42,179	\$58,409
Connecticut	\$13,205	\$22,582	\$27,763	\$35,537	\$55,181
Texas	\$8,871	\$13,755	\$21,727	\$32,039	\$55,381
Florida	\$5,086	\$7,886	\$12,457	\$18,369	\$31,752
Colorado	\$3,619	\$10,254	\$19,911	\$19,911	\$19,911

Notes to Figure 2 and Table 3:

Injuries are for a 39-year-old worker who earns \$645 per week. Injuries are as follows:

1. Amputation of an index finger at the proximal (or second joint), (8.6 percent of the whole body as specified by the AMA Guides);
2. 50-percent loss of use of a foot (12.5 percent of the whole body);
3. 50-percent loss of use of a leg (20 percent of the whole body);
4. 50-percent loss of use of an arm (30 percent of the whole body);
5. Total loss of use of a hand (but not amputation) (54 percent of the whole body).

Actual benefits may differ from statutory benefits.



Impairments at \$402 Weekly Wage  
 Figure 3 Statutory PPD Compensation Values for Comparable Whole-Body

### Comparing Injuries With Similar Whole-Body Impairments

Another way to benchmark benefits is to compare different injuries which result in similar levels of impairment. One method for doing this is to choose impairments that represent the same percentage of the whole body according to an overall rating system. While states employ a number of different systems for rating impairments, here we have chosen to apply the most widely used one: the AMA Guides 4<sup>th</sup> Edition. Tables 4 and 5 and Figure 4 compare PPD benefits in Oregon for limb and back injuries that have the same percentage loss of use of the body as a whole, according to the AMA Guides, with the median of the other study states.

State	Index Finger at \$400 AWW	8-Percent Back Impairment at \$400 AWW	Index Finger at \$645 AWW	8-Percent Back Impairment at \$645 AWW	Index Finger at \$800 AWW	8-Percent Back Impairment at \$800 AWW
Oregon Impairment Only	\$13,027	\$4,710	\$13,170	\$4,710	\$13,216	\$4,710
Oregon Impairment Plus Modifiers	—	\$7,958	—	\$8,077	—	\$8,028
Median	\$10,419	\$7,226	\$13,205	\$10,173	\$15,625	\$10,278

<b>Table 5: Fifty-Percent Loss of Use of a Leg and a 20-Percent Back Impairment (Both Equal to 20-Percent Loss of Use of the Whole Body)</b>						
<b>State</b>	<b>Leg @ \$400 AWW</b>	<b>20-Percent Back Impairment @ \$400 AWW</b>	<b>Leg @ \$645 AWW</b>	<b>20-Percent Back Impairment @ \$645 AWW</b>	<b>Leg @ \$800 AWW</b>	<b>20-Percent Back Impairment @ \$800 AWW</b>
Oregon Impairment Only	\$38,322	\$11,475	\$39,631	\$11,585	\$40,058	\$11,621
Oregon Impairment Plus Modifiers	—	\$25,190	—	\$25,754	—	\$25,931
Median	\$25,172	\$17,607	\$32,249	\$24,913	\$32,977	\$28,558

Oregon provides higher PPD benefits for loss of a limb (at all wages shown) than either impairment only or impairment plus modifiers for back injuries that have the same whole body rating according to the AMA Guides 4<sup>th</sup> Edition. For example, Oregon’s PPD benefits for 50-percent loss of use of a leg range from more than triple a 20-percent back impairment (impairment only) to more than 50 percent higher (impairment plus modifiers). By comparison, for the median of the other states, PPD benefits for the leg impairment are about 15 to 40 percent higher depending on the wage level.

## **CONCLUSIONS AND POLICY IMPLICATIONS**

Oregon’s Management Labor Advisory Committee PPD Benefits Subcommittee has been looking at ways to restructure PPD benefits. The following policy objectives were identified:

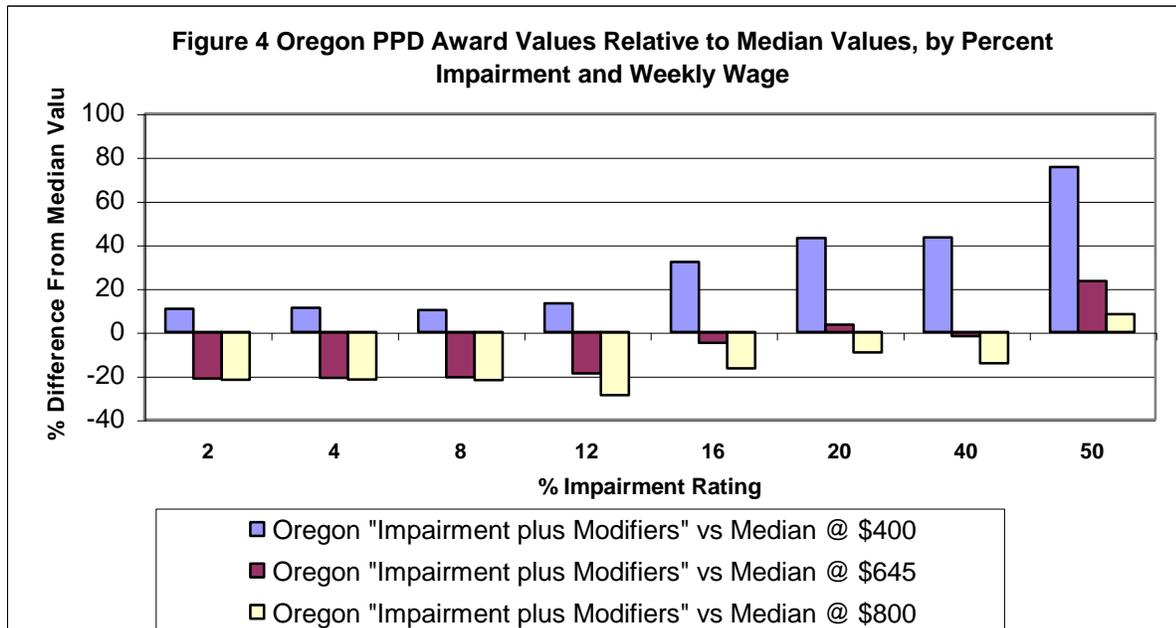
- Retain predictable, objective factors;
- Explore wage-based benefits in order to better match compensation to lost earnings;
- Simplify the tiered benefit structure;
- Achieve, maintain, or exceed parity with the benefit generosity of other states; and
- Encourage return to work.

Here we offer three observations about Oregon’s statutory PPD benefits when compared with the other study states so as to assist the PPD Subcommittee in its work.

First, Oregon’s statutory unscheduled impairment only PPD benefits are generally lower than the other study states at \$400, \$645 and \$800 AWW. For lower wage earners (\$400 AWW) these benefits in Oregon for back injuries were about 65 percent of the median of the other study states for back injury impairment ratings of from 2 to 20 percent and 89-94 percent for ratings 40-50 percent. For average wage earners (\$645) in Oregon, these percentages were lower, ranging from 46 to 64 depending on the back impairment rating. For higher wage earners, these percentages were lower still, ranging from 40 to 55.

Second, Oregon’s statutory unscheduled “impairment plus modifiers” PPD benefits are both higher and lower than the median study state according to wage and Oregon’s benefit tier.

Figure 3 shows the impact of wages and Oregon's three-tier benefit structure for "impairment plus modifiers" PPD benefits. We compare Oregon with the median state for workers earning \$400, \$645 and \$800 per week with back impairment ratings from 2-50 percent. Figure 3 shows that Oregon's PPD benefits are 11-76 percent higher than the median state at \$400 AWW for all ratings. For workers earning \$645, Oregon is about 20 percent lower than the median state for impairment ratings of from 2 to 12 percent; about equal at ratings of 16 to 40 percent, higher at 20 percent and higher at 50 percent. For workers earning \$800 per week, Oregon's benefits are about 20-30 percent below the median state for impairment ratings of from 2 to 16 percent, 10-15 percent lower for ratings of 20 and 40 percent, and about 10 percent higher than the median state at an impairment rating of 50 percent.



Third, Oregon's scheduled PPD benefits are generally higher than the other study states for workers at all wage levels. As shown previously in Table 3, for the worker earning the typical Oregon wage (\$645), PPD benefits for limbs varied widely when compared with other states, depending in the type of injury. When compared with North Carolina, which is equal to or close to the median of the other study states across all injuries, Oregon's PPD benefits for limbs ranged from lower (70 percent for amputation of an index finger) to about equal (for 50-percent loss of use of a leg and total loss of use of a hand) to slightly higher for 50-percent loss of use of an arm to significantly higher for 50-percent loss of use of a foot.

## APPENDIX: METHODS AND DATA

We compared three kinds of permanent partial disability (PPD) indemnity benefits in Oregon:

- Unscheduled PPD benefits based on "impairment only"
- Unscheduled PPD benefits based on "impairment plus modifiers"
- Scheduled PPD benefits (based on impairment only)

With statutory PPD benefits in nine other large states that rate PPD benefits according to impairment (Colorado, Connecticut, Florida, Georgia, Indiana, New Jersey, North Carolina, Texas and Washington). We assumed a single worker, age 39, with an average weekly wage of \$400, \$645 and \$800. The results would not be materially different for older or younger workers. Here we assume that the AMA Guides (4<sup>th</sup> edition) was used to rate all impairments. We used the benefit formulas, including the maximum and

minimum weekly amounts, in effect in the states as of January 1, 2002 to calculate PPD benefits. All amounts are expressed at present value (discounted at 6 percent) of the benefits owed and they are paid in weekly amounts.

To estimate benefits in Oregon for unscheduled PPD “impairment plus modifiers” benefits, we first started with the base impairment rating (in degrees) for specified back injuries (that is 6.4, 12.8, 25.6, 38.4, 51.2, 64, 128, and 160 degrees). We then increased these ratings using data on average modifiers for each benefit tier of Oregon’s unscheduled PPD benefits (that is, 1 to 64, 64.1 to 160, and 160.1 degrees and above). The Department of Consumer & Business Services, using data on actual awards made in 2001, computed average modifiers. The data show that, for the first tier, the average impairment rating was 27.26 degrees and the average modifier was 19.63 degrees for a total of 46.89 (an increase of 72.03 percent.) Average impairment ratings in the second tier were 54.05 degrees and average modifiers were 39.23 degrees for an increase of 72.58 percent. Average impairment ratings in the third tier were 145.6 degrees and average modifiers were 54.2 degrees (37.23 percent increase). Using these percentage increases, we adjusted the specified back impairment ratings upward and applied the statutory values per degree. For example, a 40-percent back impairment (128 degrees) was increased by 37.23 percent to become 219.6 degrees.<sup>9</sup> A 219.6 degree award is valued at \$184 for the first 64 degrees = \$11,776 plus \$321 for the next 96 degrees = \$30,816 and the remaining 59.6 degrees are valued at \$748 = \$44,581 for a total of \$87,173. The present value of this award varied according to the worker’s AWW.

Making meaningful comparisons of statutory benefits in Oregon with other states requires care for several reasons. First, actual implementation of statutory formulas may vary based on such factors as interpretation by judges, settlement behavior of the parties, and the prospect that a worker may be awarded permanent total disability benefits. Second, not all states share the same basis for rating PPD benefits for limb injuries. Unlike Oregon, which specifies the number of degrees for scheduled body parts, and Washington state, which specifies maximum dollar amounts for scheduled body parts, and Florida and Texas, which rate losses as a percentage of the body as a whole, the other seven states provide a schedule containing a maximum number of weeks of PPD benefits for certain body parts (such as limbs). Typically, the back is not included in the schedule. Such a “nonscheduled loss” is typically rated according to a percentage of the body as a whole. Finally, not all states use a guide when rating PPD, or if they do, they do not use the same guide.<sup>10</sup> And rating behavior of medical providers also varies, within and among states. Thus, a 12-percent impairment rating, for example, may mean different things in different states, or in different parts of the same state because of differences in the ratings of individual physicians. We first compare the statutory benefits awarded for a back injury with impairment ratings of 2, 4, 8, 12, 16, 20, 40 and 50 percent. Then we compare injuries to various limbs. See notes to Figure 2 and Table 3 for the specific injuries analyzed. Evaluating these losses may involve similar variability since they involve partial loss of use and different raters may arrive at different ratings for similar injuries.

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<sup>9</sup> We use the third-tier adjustment percentage because modifiers are based on final ratings, not initial ratings.

<sup>10</sup> Oregon uses its own guide, based largely on the AMA Guides 3d edition revised. Florida uses the *Florida Impairment Rating Guide*. Colorado uses the AMA Guides 3<sup>rd</sup> Edition. Connecticut, Georgia, and Washington use the AMA Guides 4<sup>th</sup> Edition. California and North Carolina use their own guides. Texas uses the AMA Guides 3<sup>rd</sup> Edition 2d printing. Indiana requires the use of the AMA Guides (latest edition), New Jersey does not require that a guide be used.