



# Permanent Partial Disability 2023 Biennial Update

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## Introduction

In 2003, the Oregon Legislature passed Senate Bill (SB) 757, which modified the permanent partial disability (PPD) rating criteria and benefit calculations, effective for injury dates beginning on Jan. 1, 2005. The bill included a sunset on the new rating structure. In 2005, the Legislature passed House Bill (HB) 2408, which further modified PPD rating criteria.

In 2007, the Legislature passed HB 2244. This bill removed the sunset making the new benefit structure permanent. The bill also charged the Management-Labor Advisory Committee (MLAC) with a biennial review of PPD benefits.

This document provides information on PPD trends for this biennial review, including on the number of claims receiving PPD benefits and the average amount of benefits workers receive. The history of the legislative changes and descriptions of the benefit structures are in the appendices.

## Highlights

- While the total number of claims has slightly increased over the last several years, the number and percentage of claims with PPD awards has fallen.
- In 2022, about 11 percent of indemnity payments for accepted disabling claims were PPD awards.<sup>1</sup>
- In 2022, fewer than 1 percent of the PPD awards were issued for claims under the pre-2005 benefit structure. These were primarily from Workers' Compensation Board (WCB) Own Motion orders.
- In 2022, 97.2 percent of PPD award dollars were granted by insurer closures, 1.3 percent from Workers' Compensation Division (WCD) reconsideration orders, and 1.5 percent by WCB orders.
- PPD benefits are calculated based on the statewide average weekly wage, which usually increases. Because of this, the statutory maximum PPD award has increased from about \$284,000 in Jan. through June 2005 to the current amount of about \$497,000.
- In 2022, the average award for impairment-only claims was about \$6,300; the average award for work disability claims was about \$43,200. The largest PPD award granted was about \$275,300.

## Claims with PPD awards

There are two ways for an accepted disabling claim to be closed:

- The insurer can close a claim once the worker is determined to be medically stationary. When claimants are considered medically stationary, temporary disability benefits end and PPD awards are determined, if applicable.
- The worker and insurer can agree to a Claim Disposition Agreement (CDA) before claim closure. There are no PPD awards when a claim is closed by a CDA.

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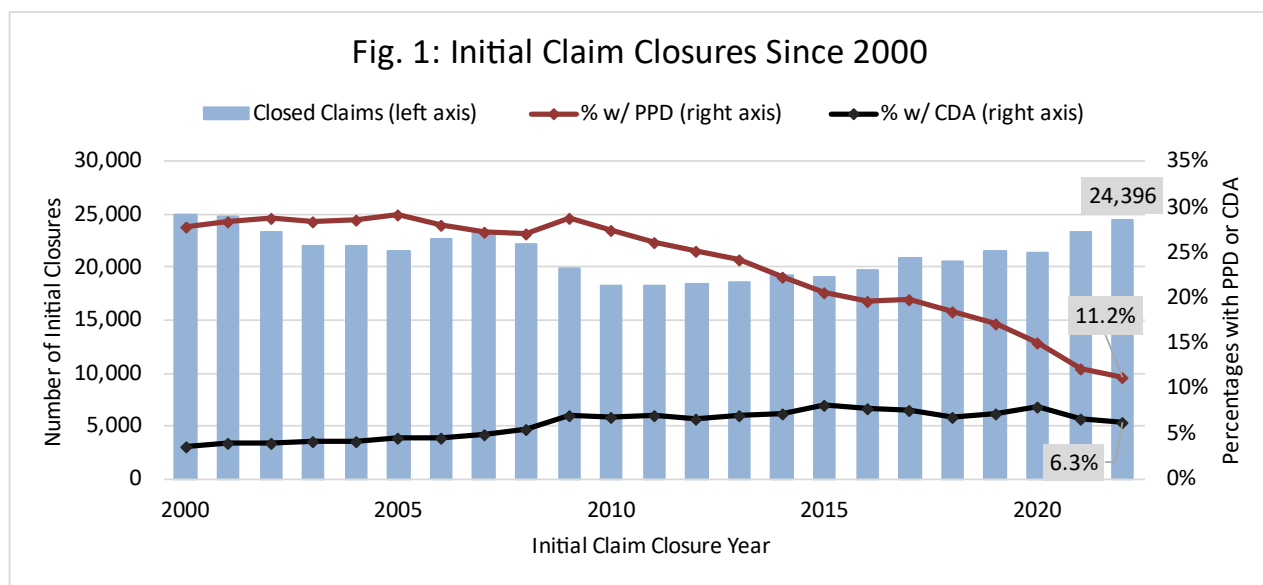
<sup>1</sup> This information is provided in the workers' compensation system report. The indemnity data is at <https://www.oregon.gov/DCBS/reports/compensation/indemnity/insurer-paid-benefits/Pages/index.aspx>

A closed claim may be reopened because of a new or omitted condition, an aggravation of the accepted condition, or for vocational training. The closure may also be appealed to modify, add, or rescind PPD awards. Further, reopened claims may be closed with a CDA.

Figure 1 below shows the number of initial claim closures since 2000 and the percentages of these claims awarded PPD or closed with a CDA. For simplicity, we exclude reopened claims from this figure. The number of claims declined during the early 2000s and then grew as employment grew. The number then dropped again during the Great Recession, falling to fewer than 18,300 resolved claims in 2010. Since 2010, the number of claims has generally increased. In 2022, there were just under 24,400 initial claim closures, 14 percent more than in 2020. About 2,600 of these initial claim closures are for COVID-related illnesses.

From 2000 to 2010, about 28 percent of claims had PPD awards. Over the past decade, the percentage has declined, and in 2022, 11.2 percent of the claims had PPD awards. Overall, the number of closed claims with PPD awards declined by 39 percent in the last 10 years.

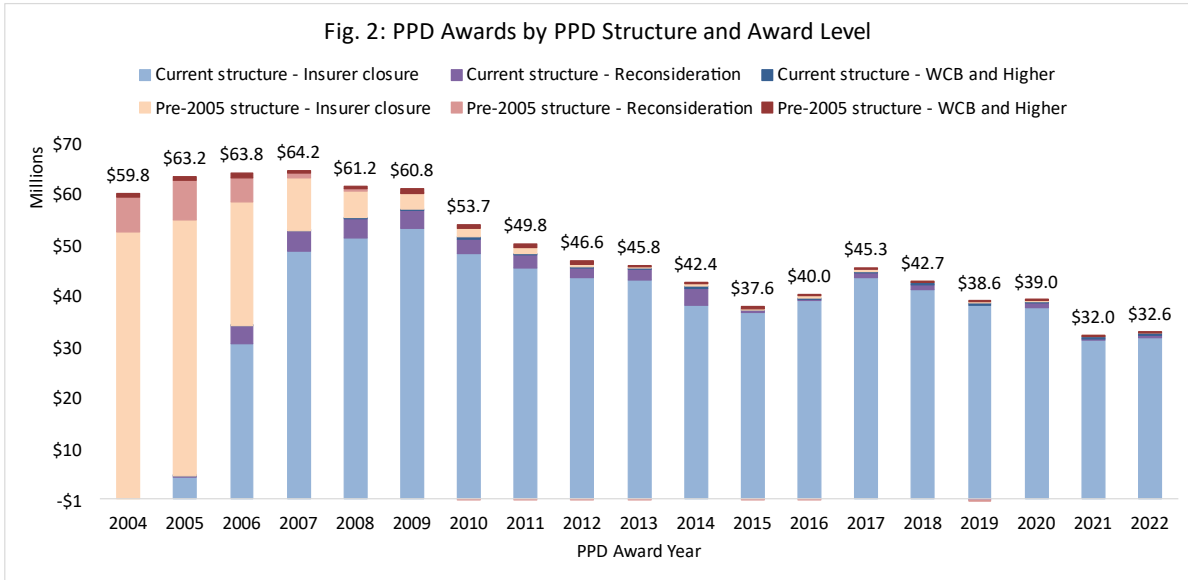
The PPD figures are affected by CDAs before claim closure. When a CDA is reached before claim closure, there will be no PPD award. The number of initial CDAs grew by 17.3 percent between 2013 and 2022, while the percent of claims with CDAs remained stable.



## Total PPD awarded

Figure 2 below shows the amount of PPD awarded each year since 2004.<sup>2</sup> It illustrates the decline in the amount awarded under the pre-2005 structure (orange and peach colored regions) and the source of the PPD award. In 2022, PPD awards totaled \$32.6 million. Of this amount, 99.4 percent were under the current benefit structure; the remaining 0.6 percent were PPD awards under the pre-2005 benefit structure in WCB Own Motion cases. Of the total amount, just over 97 percent of PPD award dollars were granted by the insurer, 1.3 percent by WCD reconsideration orders, and 1.5 percent by WCB orders, hearings, and Own Motion cases. Because the date of injury determines the award structure, the amounts awarded under the pre-2005 structure are expected to continue to fall to \$0.

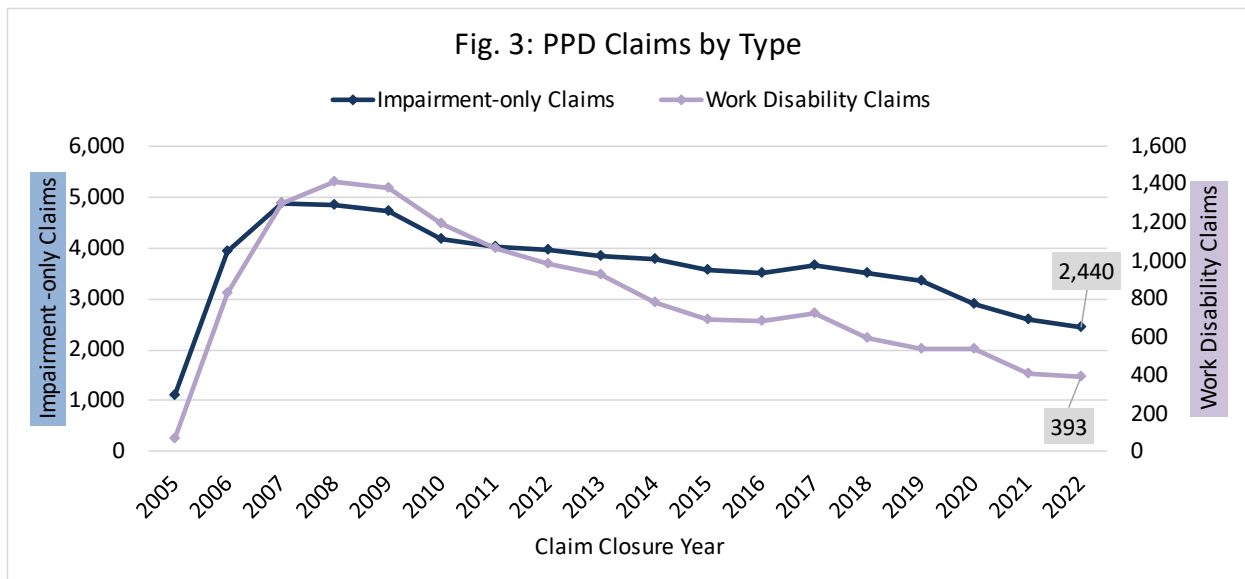
<sup>2</sup> The data in this figure are by the year of the award. If an insurer awards PPD for a claim in one year and the reconsideration process modifies the PPD award in the next year, the data will be reported in the two different years.



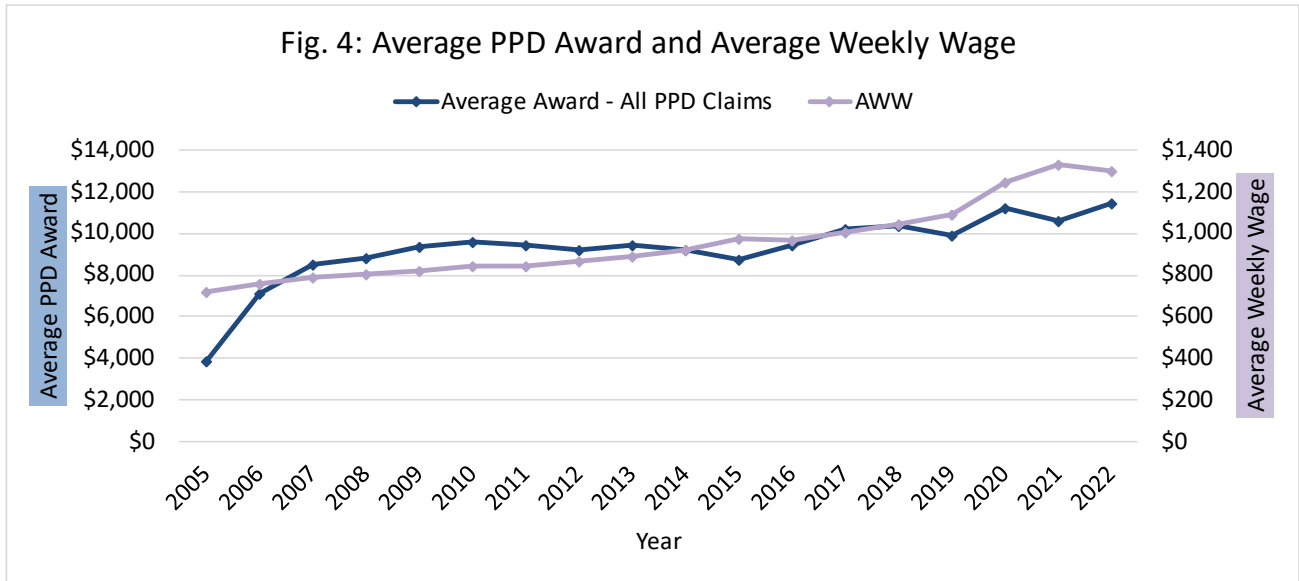
## Impairment and work-disability awards

PPD benefits comprise two parts – impairment (for loss of function) and work disability (for inability to return to regular work). When the worker is not released to return to regular work, work disability benefits are awarded in addition to impairment benefits. Thus, some workers will receive one PPD benefit type (impairment) while others receive both types (impairment and work disability).

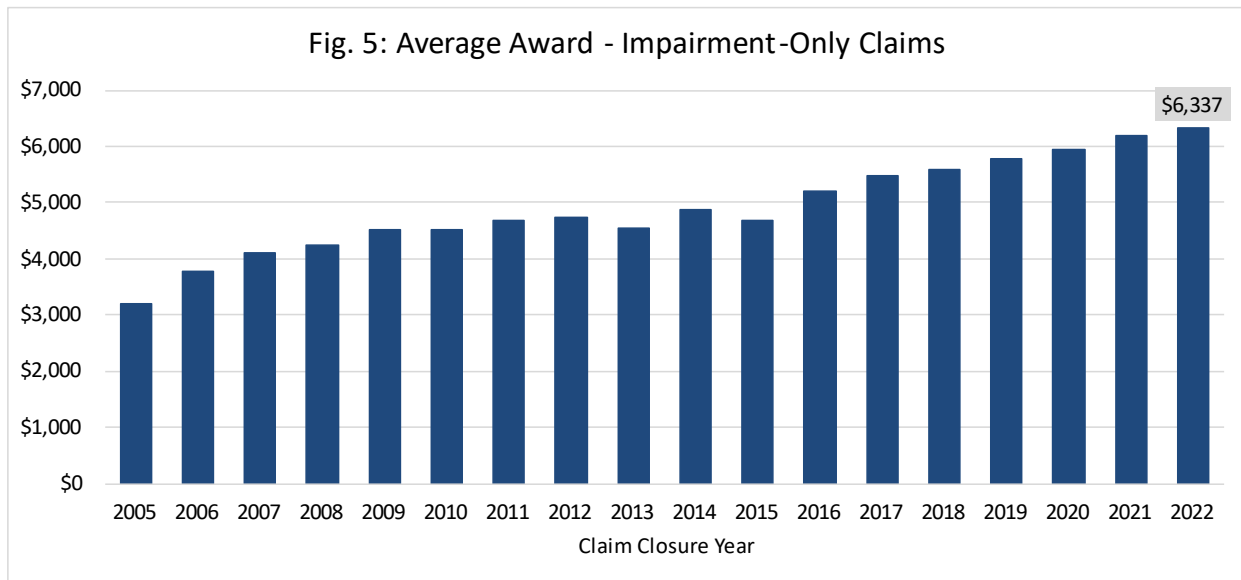
Figure 3 shows the number of closed claims with PPD since 2005 by closure year. The two lines are plotted against separate axes (impairment-only on the left, work disability on the right) to more easily compare the trends since 2005. Impairment-only claims peaked in 2007 with over 4,800. That number declined to 2,440 claims in 2022. Impairment-only claims were 86 percent of the PPD claims in 2022. The decline in work-disability claims has been steeper. There were over 1,400 work-disability claims in 2008 and 393 in 2022.



PPD benefits are a percentage of the statewide average weekly wage at the time of injury, so the average benefits will grow at approximately the same rate as the average weekly wage. Figure 4 below shows the average PPD award for all PPD claims compared to the average weekly wage since 2005. Despite a 2.2 percent decrease in the average weekly wage in 2022, driven by recovering low-wage job employment that declined in 2020 and 2021 due to COVID-19 pandemic work restrictions, the average weekly wage has grown about 4.6 percent per year since 2013. The average PPD award has grown about 2.5 percent per year over the same period.

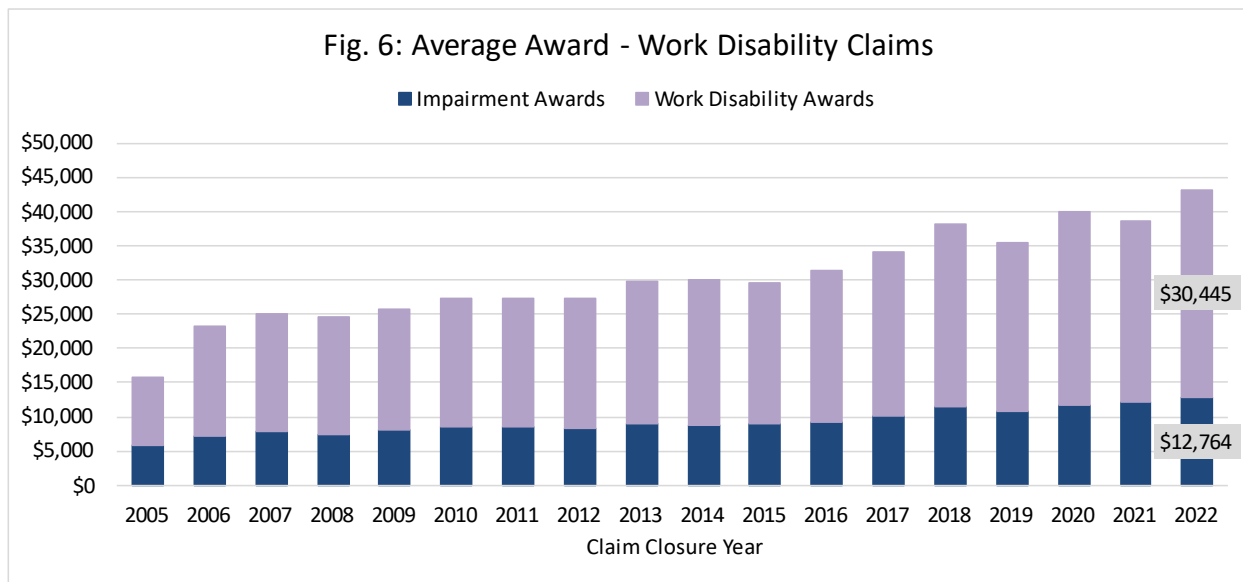


Figures 5 and 6 below show the average award by PPD benefit type, including the relative contribution of impairment and work disability benefits to the average PPD claim with work disability. The average PPD award for impairment-only claims has grown 3.8 percent since 2013 and was just over \$6,300 in 2022.



In 2022, the average PPD award for work disability claims was about \$43,200. Of this, about \$12,800 (30 percent of the award) was for impairment and about \$30,500 (70 percent) was for

work disability. While work disability claims made up only 14 percent of PPD claims, they had 52 percent of the PPD dollars. Further, for worker disability claims in 2022, the average dollars for the impairment portion are about twice as much as the entire average impairment-only claim (see Figures 5 and 6).



## Appendix 1 – Timeline of changes to the PPD system

The following is a timeline of changes to the PPD system. In the 1980s, PPD was the most frequently litigated issue in the Oregon workers' compensation system, PPD benefit maximums were among lowest in the U.S., and there was no method for cost-of-living adjustments.

- 1987: Mandated consistent rating standards at all levels of appeal
- 1990: Scheduled benefits more than doubled, to a maximum that approximated the national median; unscheduled benefits remained the same. The reconsideration process was created for the appeal of claim closures. This included the medical arbiter process for impairment disputes.
- 1991: Benefit levels became tiered and tied to the average weekly wage growth
- 1995: Benefit tiers were increased, the average wage tier was deleted, and the appeal process was clarified
- 1997: Benefits were increased
- 2001: Benefits were increased, with a sunset in 2004
- 2001-2003: MLAC subcommittee developed PPD concepts for a replacement system
- 2003: SB 757 passed with the new PPD structure for dates of injury from Jan. 1, 2005. Benefit increases were tied to changes in average weekly wage. Included a sunset to return to the old PPD structure on January 2008.
- 2005: SB 757 implemented. HB 2408 passed; it modified the return-to-work criteria and mandated a PPD study.
- 2006: Study confirmed that the PPD benefit changes were cost neutral and redistributed benefits to the more serious cases in which the injured worker could not return to the job at injury.
- 2007: HB 2244 passed, removing the sunset on the new PPD structure. It mandated a biennial PPD review by MLAC.
- 2009: First mandated MLAC PPD update
- 2024: Ninth MLAC PPD update

## Appendix 2 - PPD benefit structure

### Pre-2005 PPD rating structure

From 1914 until the implementation of SB 757, Oregon's workers' compensation system distinguished between scheduled and unscheduled body parts for PPD.

When the loss is to a body part named in ORS 656.214(1)–(4), the disability is scheduled. The scheduled body parts are the bodily extremities, plus vision and hearing. The criterion for rating the disability is impairment, which is the permanent loss of use or function of the body part. Physicians report findings on impairment, while the insurer rates disability at the time of claim closure. A scheduled PPD award for the same injury to two workers will be the same regardless of the wages earned.

Losses to other body parts not named in ORS 656.214(1)–(4), such as to the back, are unscheduled disabilities. Since 1988, they have been rated on impairment modified by the factors of age, education, and adaptability to perform a given job. Therefore, unscheduled awards for the same injury to two workers may differ.

Disability ratings are translated into dollar awards by converting ratings into degrees of disability. For scheduled injuries, injuries were rated relative to a specified degree maximum for the body part. For example, the loss of 100 percent of the function in a leg equals 150 degrees. For unscheduled injuries, 100 percent of the whole person (total disability) is 320 degrees.

### Current PPD benefit structure

In 2003, SB 757 created a new structure for permanent partial disability awards. The changes apply to claims for injuries occurring on or after Jan. 1, 2005. Injuries to all body parts are rated in relation to the whole person. There is no longer a distinction between scheduled and unscheduled awards, and awards are no longer measured in degrees.

Workers with permanent disability receive an impairment benefit. Impairment is defined as the loss of use or function of a body part or system due to the compensable injury or disease; it is expressed as a percentage of the whole person determined in accordance with the AMA Version 3 Impairment Rating System. The impairment award is the product of 100 times the impairment value times the average weekly wage. Benefits are adjusted annually in accordance with the change in the statewide average weekly wage.

Workers unable to return to regular work receive a work disability benefit based on the impairment modified by age, education, adaptability factors, and earnings at the time of injury. The work disability award is the impairment value, modified by the age, education, and adaptability factors multiplied by 150 times the worker's weekly wage. In 2005, HB 2408 modified this structure; workers injured since Jan. 1, 2006, who are released to regular work are specifically excluded from work disability benefits.