Insurance and Self-insurance

Oregon law requires every employer to provide workers' compensation coverage for its employees. Employers have three insurance options: self-insurance, insurance through a private insurance company, or insurance through the state fund (SAIF Corporation). The department's Insurance Division provides financial, rate, and trade practices regulation of insurance companies including SAIF, while the Workers' Compensation Division regulates benefits, coverage, and claims practices. WCD also regulates self-insured employers.

Every two years, the department studies the workers' compensation insurance rates in other states. An index is then created that applies each state's rates to Oregon's distribution of occupations. Using this measure, Oregon's average premium rate ranking was sixth highest in the nation in 1986. After the early reforms, it dropped from eighth highest in 1990 to 32nd highest in 1994. Oregon's average ranking was 39th highest in 2008.

History of reform

In the late 1980s, the Oregon workers' compensation insurance market was under financial strain. Premiums and system losses were at all-time highs, and SAIF was losing $1 million each week. As a result, SAIF canceled the policies of thousands of small employers. Many employers were unable to get new policies from private insurers and ended up in the assigned risk pool. This situation was one the of the principal reasons for the Legislature's 1990 special session.

Prior to 1990, HB 2900 (1987) allowed employers to exclude some claims costs from their loss experience. Employers were allowed to pay up to $500 in medical costs for nondisabling claims; these costs were excluded from their rating experience. HB 3318 (2005) increased the exclusionary amount from $500 to $1,500. SB 762 (2007) added an annual adjustment of this amount, based on the change in the medical services Consumer Price Index, rounded to the nearest $100.

The reforms also provided employer incentives to lower some claims costs by limiting claim duration. Through the Preferred Worker Program, employers are encouraged to hire injured workers who have not returned to work. HB 2900 excluded claim costs incurred as a result of an injury sustained by a preferred worker during the first two years of hire. SB 1197 (1990) extended this exemption from two to three years.

HB 2900 also restricted the eligibility for board's own motion relief (aggravation more than five years after the first claim closure) and directed that these costs be paid from the Workers' Benefit Fund and excluded from the employers' loss experience.

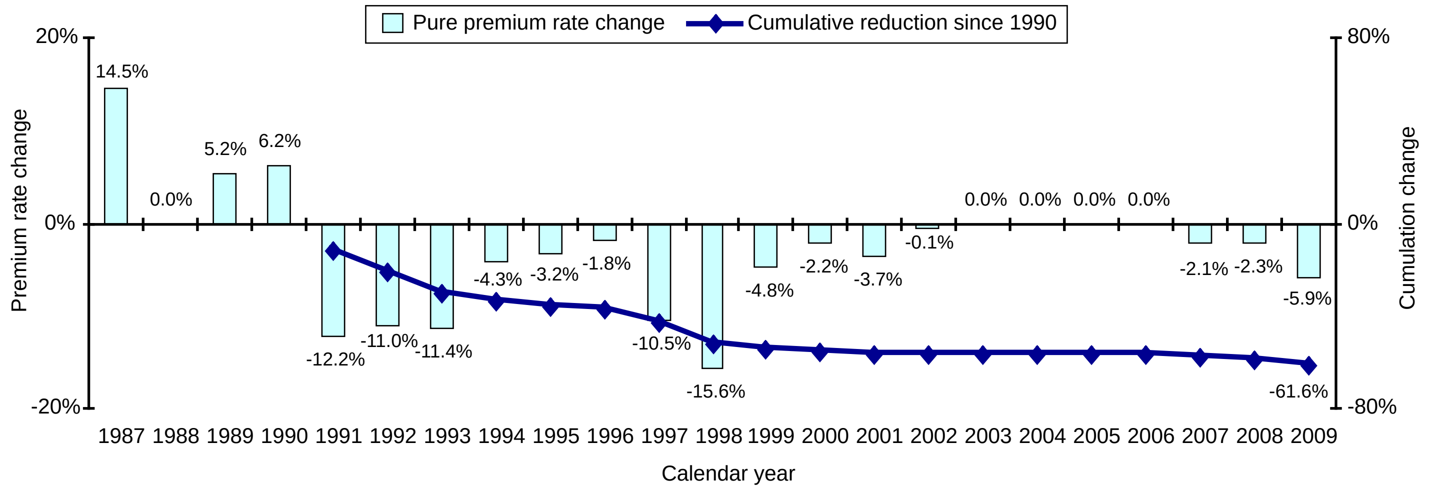
Workers' compensation premiums and rates

Oregon has employed a competitive rate-making system for workers' compensation insurance since July 1, 1982. Under this system, the National Council on Compensation Insurance develops pure premium rates for each of the almost 600 rating classifications, based on expected losses. These rates are subject to the approval of the Oregon insurance commissioner. Pure premium covers benefit costs only; it is based on claims from recent injuries.

Overall pure premium rates were reduced 5.9 percent for CY 2009. Pure premium rates have been reduced or left unchanged in each of the past 19 years. There were reductions of more than 10 percent in 1991, 1992, 1993, 1997, and 1998. As a result of these reductions, the CY 2009 pure premium rate is 38.5 percent of the CY 1990 rate.

Under Oregon's rate-making system, each insurer develops an expense loading factor to cover operating expenses, taxes, profit, and contingencies. This factor is multiplied by the pure premium rate for a classification to arrive at the manual rate to be applied to the employer's payroll to determine gross premium. The average expense loading factor for SAIF and private insurers rose slightly in 2007 to 30 percent, the highest percentage on record.

Figure 31. Pure premium rate changes, 1987-2009

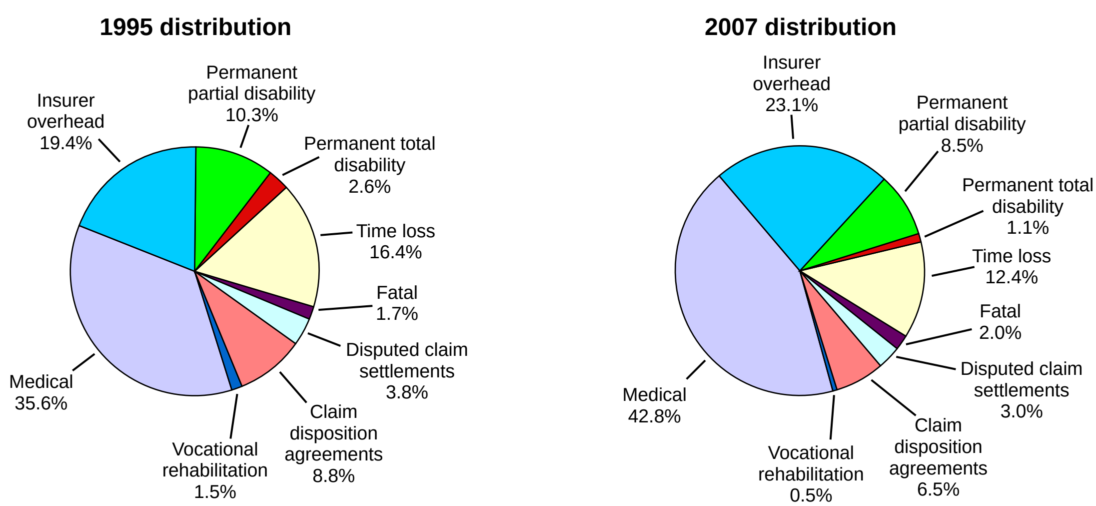


Workers' compensation total system written premiums totaled $1,192.9 million in 2007. (The department defines total system written premiums as the premium written by insurers, the simulated premium that the department calculates for each self-insured employer to set its workers' compensation assessment, and the estimated premium from large-deductible premium policies.) Premiums have grown steadily since 1999, when they were $607.6 million. The average annual growth rate since 1999 has exceeded 8 percent.

The loss ratio (defined as incurred losses divided by earned premiums) is one measure of an insurer's financial condition. SAIF's loss ratio was 86.4 percent in 2007. SAIF's loss ratio had been above 100 percent in five of the eight years prior to 2007. Its loss ratio has been volatile, due in part to substantial adjustments to its reserves. Private insurers' average loss ratio was 69.7 percent, below the average for the previous five years. The combined loss ratio for SAIF and private insurers in 2007 was 79.1 percent.

Insurers may pay dividends to their policy holders. Dividends depend on premiums and insurers' profitability in previous years. For the previous six years, little has been paid in dividends. But, 2007 saw a large increase in SAIF's dividend to $60.0 million. Private insurers continued their low dividend rate and paid $1.9 million in dividends in 2007.

Figure 32. Breakdown of workers' compensation premium, calendar years 1995 and 2007



There have been changes over time in the distribution of the costs that premiums cover. The percent of premiums paying for medical benefits increased from 36 percent in 1995 to 43 percent in 2007, while the percent paying for indemnity benefits decreased from 45 percent to 34 percent. Insurer overhead expenses were 23 percent of premiums in 2007.

Large-deductible premium policies

In 1996, large-deductible premium policies were added as an option to workers' compensation in Oregon. Under deductible policies, insurers administer the workers' compensation claims and pay the claims costs. Employers reimburse insurers for claims costs up to the specified deductible amount. In return for purchasing policies with a deductible, employers pay lower premiums. Insurers and employers are assessed on premium prior to deductible credits.

Few credits were applied in 1996, but the program has grown rapidly since. An estimated $96.8 million were applied in 2007. This amount was 21 percent of private insurers' written premium. (The state's two largest insurers, SAIF and Liberty Northwest, do not write large-deductible premium credits.)

Self-insured employers and groups

There were 146 self-insured employers active in Oregon at the end of 2007. These employers must meet specific financial criteria and must obtain excess workers' compensation insurance from an authorized company. This excess insurance protects the self-insured employer in the event of a catastrophic claim. In addition, the self-insured employer must have deposits with the Workers' Compensation Division. These deposits protect injured employees in the event of the employer's bankruptcy.

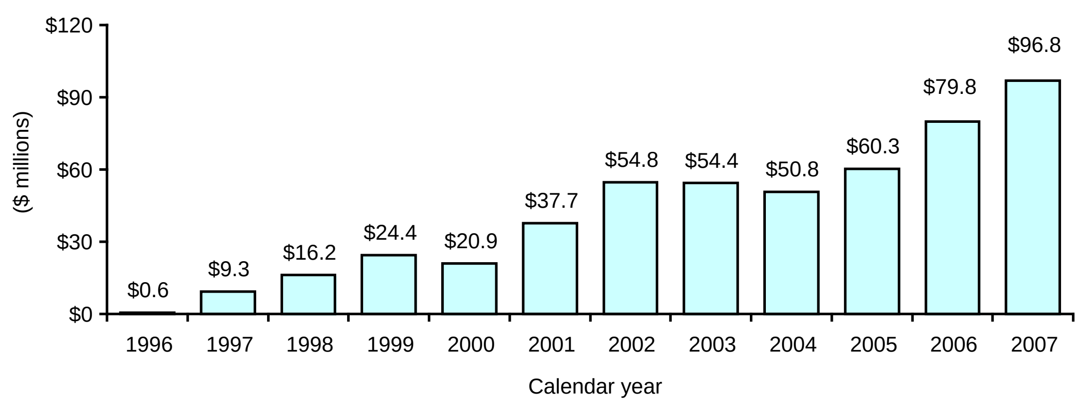
There are also six employer groups, combining more than 1,250 employers. Employers can form groups if the grouping of employers is likely to improve accident prevention and claims handling for the employers. Employers who are members of the group are jointly liable for one another's workers' compensation claims.

Market share

Workers' compensation market share can be determined using total system written premiums, including the estimated premiums for self-insured employers and for large-deductible premium credits. In 2007, SAIF's share of the market was 49 percent, the highest percentage since 1978. Over the past several years, the market has been at its most concentrated level in more than 20 years.

Although 432 private insurers were authorized to write workers' compensation insurance in Oregon, only 178 reported positive premium written in 2007. Private insurers, including Liberty Northwest, had 39 percent of the market; Liberty Northwest's market share was 10 percent. Self-insured employers made up 12 percent of the market.

Figure 33. Earned large-deductible premium credits, 1996-2007



NOTE: SAIF Corporation reports that its 2007 written premium amount is artificially inflated due to a policy system conversion, which now recognizes annual written premium at policy inception. SAIF estimates that this one-time adjustment has inflated 2007's written premium by $143.8 million.

Oregon Workers' Compensation Insurance Plan (Assigned Risk Pool)

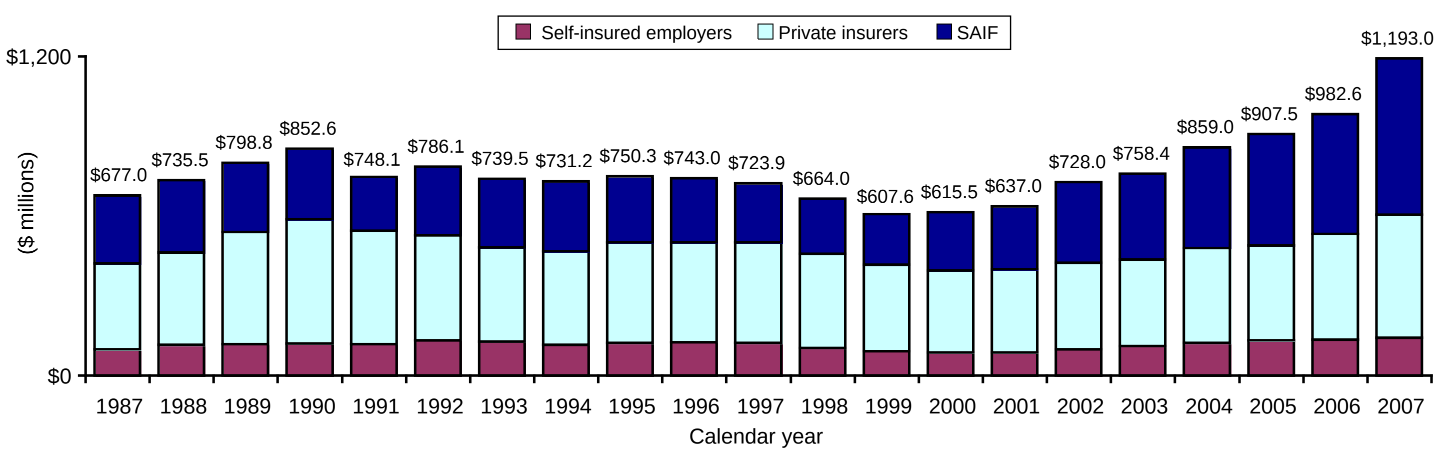
When the Legislature created SAIF in 1965 it provided that, if requested by either SAIF or the National Council on Compensation Insurance, the insurance commissioner had to promulgate an assigned risk plan to make workers' compensation insurance available to employers unable to obtain coverage in the voluntary market. The law was amended in 1979 to implement a plan. In 1980, the commissioner adopted rules constituting the Oregon Workers' Compensation Insurance Plan and establishing the state's assigned risk pool. Currently under Oregon's assigned risk plan, SAIF and Liberty Northwest act as service providers. Premium rates paid by employers for coverage reflect state pure premium rates and an expense loading factor recommended by NCCI and subject to the commissioner's approval. The National Workers' Compensation Reinsurance Pool provides reinsurance with the cost borne by all insurers in proportion to their share of all Oregon workers' compensation premiums written.

The assigned risk pool premium was in the range of 3 percent to 4 percent of written premium between 1997 and 2000. The pool grew between 2000 and 2003, becoming more than 9 percent of premium in 2003. Since then, the pool has declined as a percentage of written premium. Although the number of employers in the pool grew from 2000 to 2005, it declined in 2006 and 2007. At the end of 2007, there were more than 12,000 employers in the pool; the pool premium was 6 percent of all written premium, the lowest share since 2001.

A tiered rating plan was first mandated in 1991 for assigned risk plan employers too small to qualify for experience rating plans. Under the plan, small employers receive a premium discount. Most of the employers in the assigned risk plan received a non-experience-rated credit of 11 percent. In 1994, a second-tier credit was added to the assigned risk plan for new small businesses. The additional credit is for 15 percent. The tiered rating plan has resulted in savings in premium of about $1 million a year.

A major study of the Oregon Assigned Risk Plan (ARP) was undertaken by the Workers' Compensation Division, Insurance Division, Information Management Division, and the Small Business Ombudsman for Workers' Compensation with technical expertise and guidance from the National Council of Compensation Insurance. The study

Figure 34. Total system written premiums, by insurer type, 1987-2007



report, released in 2007, found that the Oregon Assigned Risk Program is working well and does not need major changes. Recommendations were made in three areas:

1. Improve assigned risk plan operations and pricing.
2. Help assigned risk plan employers obtain voluntary market coverage where possible.
3. Improve incentives and programs that may keep employers from entering the plan.

HB 2250, effective Jan. 1, 2008, allows a surcharge to plan members to help pay the costs of assigned risk pool losses when they exceed premiums. Prior to this, when losses exceeded premiums the voluntary market had to make up the difference. This bill implements one of the recommendations from the ARP study. All other study recommendations must be implemented and evaluated before the plan will consider using a surcharge.

Oregon Insurance Guaranty Association

The Oregon Insurance Guaranty Association is an insurance organization that pays claims costs when one of its member insurers becomes insolvent. Membership is mandatory for all private insurers. The OIGA collects assessments from its insurers to cover these costs.

In 2003, HB 3051 changed the method for generating these assessments. It authorizes the insurers to recoup the assessments by assessing each policyholder an amount that is based on the policyholder's premium.