Indemnity Benefits

Workers' compensation indemnity benefits are cash benefits paid to injured workers that vary with the severity of the worker's disability. These can include benefits for temporary disability (time loss), permanent partial disability, permanent total disability, and death. Statute sets eligibility criteria and the rate at which insurers pay these benefits. In the case of death from work-related causes, indemnity benefits are paid to survivors. In 2009, the Legislature passed SB 110, which increased death benefits.

Indemnity benefits also include vocational assistance benefits paid on behalf of severely disabled workers to get them back to work; and claim disposition agreements and disputed claim settlements, which are negotiated amounts paid to the worker. In 2009, total indemnity and medical benefits paid by insurers from premiums were an estimated $628.5 million. Indemnity was 47 percent of the total and has been around 47 percent since 2005.

Accepted disabling claims typically account for about 94 percent of cash benefits. The annual growth rate for indemnity costs for accepted disabling claims since 2000 has been 2.9 percent. In 2009, that indemnity was $278.9 million. Temporary disability accounted for 40 percent, permanent partial disability was 22 percent, permanent total disability and death together were 8 percent, and vocational assistance was 2 percent. Disputed claim settlements and claim disposition agreements together accounted for 28 percent; for more about them see the disputes chapter. As used in this chapter, indemnity benefits don't include benefits paid from the Workers' Benefit Fund for the Employer-at-Injury and Preferred Worker programs; these benefits are not part of the insurer's benefit obligation. For more information about those programs and vocational assistance, see the chapter on return to work.

Average indemnity paid for accepted disabling claims resolved in 2009 was $13,377, an increase of 13.9 percent over the previous year. Since 2000, the annual growth in average benefits has been 4.5 percent. The unusual increase in the 2009 average was likely due to decreasing counts of new claims and a corresponding larger share of older, more expensive claims.

Temporary disability

Temporary disability benefits are paid for time lost from work, whether that loss is total or partial, while the injured worker recovers from medical restrictions. Most accepted disabling claims have temporary disability, which may be paid for multiple claim openings (for aggravation and new or omitted medical condition, as well as the initial claim). Also, these benefits are paid for a few hundred claims each year when the worker is actively engaged in training under vocational assistance. The last major legislation affecting temporary disability benefits was in 2001. SB 485 raised the ceiling on the rate of temporary disability benefits from 100 percent to 133 percent of the statewide average weekly wage. It also established supplemental disability, paid in addition to temporary disability when the worker has an accepted disabling claim and is unable to work in other jobs he or she held as well. Supplemental disability is paid from the Workers' Benefit Fund, so far between $0.75 million and $1.0 million annually. HB 2707 of 2009 clarified the provision of supplemental disability benefits.

In 2009, temporary disability benefits paid for accepted disabling claims were an estimated $111.13 million. The average temporary disability payment was $5,424 for claims resolved in 2009. This is an estimate of both the amount paid for claims resolved by claim disposition agreement (CDA) and expected development for the large majority of claims that resolve by claim closure. For more information about resolution of claims, see the chapter on claims processing.

The number of temporary disability days paid is a measure of claim duration and severity. In 2009, an average 60 days were paid for initial claims resolved by claim closure, and 201 days for initial claims resolved by CDA. Some claims resolve multiple times. Taking into account those claims that may have reopened for an aggravation, new or omitted medical condition, or training under vocational assistance, claims resolved in 2009 were paid an average 74 days of temporary disability benefits. Like the average dollar benefits paid, this is an estimate. The unusually large increases in average dollars and days paid in 2008 and 2009 were likely partly due to decreasing counts of new claims and a corresponding larger share of older, more expensive claims.

Permanent partial disability

In 2003, SB 757 created a new structure for permanent partial disability (PPD) benefits. The changes, which were made permanent by HB 2244 (2007), apply to claims for injuries and illnesses occurring since January 2005. Permanent impairment of all body parts and systems is rated in relation to the whole person. There is no longer a distinction between scheduled and unscheduled awards. Workers receive an impairment benefit based on the statewide average weekly wage multiplied by the percentage of impairment. Benefits are adjusted annually in accord with the change in the state average weekly wage. Workers unable to return to work receive a work disability benefit based on the impairment modified by age, education, adaptability factors, and earnings at the time of injury. Wage-based work disability rates are limited to a range between 50 percent and 133 percent of the state average weekly wage. By HB 2408 (2005), workers injured since January 2006 who are released to regular work are specifically excluded from work disability benefits.

HB 2244 (2007) also required the Workers' Compensation Management-Labor Advisory Committee (MLAC) to review permanent partial disability benefit amounts on a biennial basis and make recommendations to ensure the original policy goals continue to be met over time. One of those goals is to allocate PPD award dollars equitably to claims with greater economic loss.

Permanent partial disability benefits paid in 2009 were $60.19 million, a decrease of $3.5 million compared to 2007. One contributing factor is the increase in initial claims that resolved by CDA in 2008 and 2009. Those claims receive no PPD benefits; instead workers release rights to potential future benefits in exchange for cash, typically in a lump sum.

Through the years, about 30 percent of claims that resolved by claim closure have received PPD benefits. For those claims, the average PPD award has been increasing at an annual rate of 3.4 percent since 2000. The average PPD award for claims last closed in 2009 was $11,104.

Oregon's maximum indemnity benefit levels are among the more generous nationally, exceeding the median values for comparable states. Maximum PPD benefits, effective for dates of injury between July 2010 and June 2011, are $314,081 per claim.

Permanent total disability and death

Permanent total disability (PTD) benefits are paid when a worker is totally and permanently disabled due to a work injury. The number of claims receiving these benefits declined dramatically between 1988 and 1990, when disability rating standards were adopted systemwide. The creation of CDAs in 1990 led to further decline. By 2001 there were 13 grants of PTD and 14 rescissions of the benefits, for a net of negative one award. The passage of SB 386 in 2005 provided increased access to permanent total disability benefits and protections for severely injured workers. In 2009 there were 13 grants of PTD and zero rescissions, typical numbers since 2006.

Death benefits are provided to surviving family members of a worker who dies on the job or while permanently and totally disabled. In SB 835, the 2007 Legislature required a study and report by the Workers' Compensation Management-Labor Advisory Committee (MLAC) on adequacy of death benefits in the workers' compensation system. One result was the passage of SB 110 in 2009, which doubled burial benefits, established new benefits for orphans aged 18 to 23 who are attending school, and provided for payment of remaining benefits to the deceased worker's estate in the absence of legally defined beneficiaries.

In 2009, insurers paid an estimated $7.59 million for PTD and $15.36 million for death benefits. Together they accounted for 8 percent of indemnity paid from premium for accepted disabling claims. However, the majority of PTD and death benefits are paid from the Workers' Benefit Fund. The WBF reimburses insurers for payments that cover cost of living increases, as these PTD and death benefits may be paid over several decades. Because these payments are made for a long time and because of the decline in the number of new PTD and death-benefit claims, the WBF is paying for an increasing share of these benefits. In 2009, these WBF-reimbursed benefits came to $19.16 million for PTD and $36.37 million for death benefits.

Figure 7. Insurer-paid and Workers' Benefit Fund (WBF)-reimbursed death and permanent total disability (PTD) benefits, 2009 ($ millions)