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. Indemnity benefits also include vocational assistance benefits paid on behalf of severely disabled workers to get them back to work. There are two types of settlements typically paid as lump sums: claim disposition agreements and disputed claim settlements, which are negotiated amounts paid to the worker. For more details about vocational assistance, see the chapter on return to work. For agreements and settlements, see the chapter on disputes.

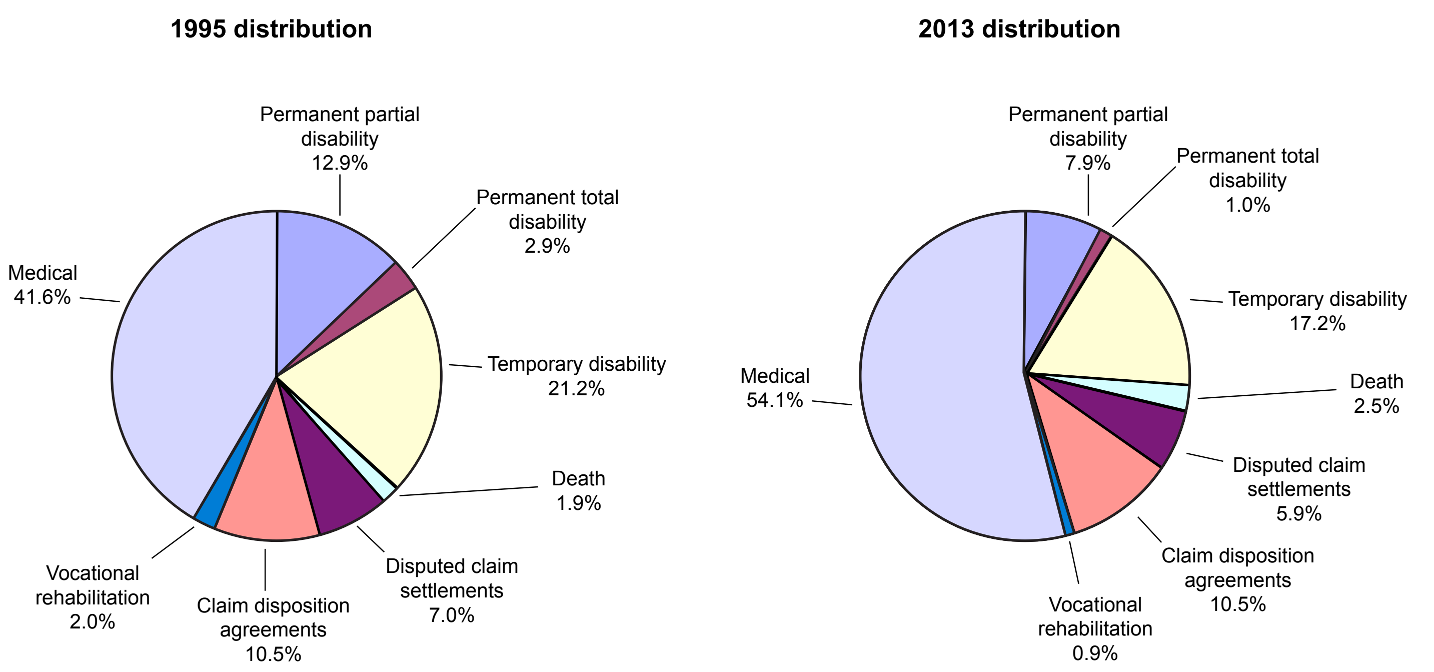
In 2013, about $586.3 million in total benefits were paid by insurers from premiums. Indemnity was 45.9 percent of total benefits, a percentage that reflects a gradual decline relative to medical costs, although both medical and indemnity have risen in absolute terms. Accepted disabling claims typically account for 93 percent to 95 percent of indemnity: $250.8 million paid in 2013 for accepted disabling claims. The average for those claims was almost $13,000.

In addition to indemnity benefits paid from premiums, several programs that assist employers and injured workers are paid from the Workers' Benefit Fund. The WBF is financed by assessments; its two major programs are the Retroactive Program, which pays cost-of-living increases for permanent total disability and death benefits; and the Re-employment Assistance Program, which provides incentives for injured workers to return to work through the Employer-at-Injury Program and the Preferred Worker Program (see the chapter on return to work). Payments in 2013 for those programs came to $73.8 million.

Temporary disability

Temporary disability benefits compensate injured workers 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

Figure 7. Benefits paid by insurers and self-insured employers, calendar years 1995 and 2013



for multiple claim openings: the initial claim, new or omitted medical condition, aggravation of an accepted condition, and active engagement in training under vocational assistance. Temporary disability benefits were 40 percent of indemnity paid in 2013 for accepted disabling claims, an estimated $100.71 million. The average paid for accepted disabling claims resolved in 2013 was $5,658, compensating an average 73 days with lost wages.

The last major legislation affecting temporary disability benefits was SB 485 of 2001, which 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 from the Workers' Benefit Fund in addition to temporary disability when the worker has an accepted disabling claim and is unable to work in other jobs held as well. In 2013, $968,000 million in supplemental disability was paid.

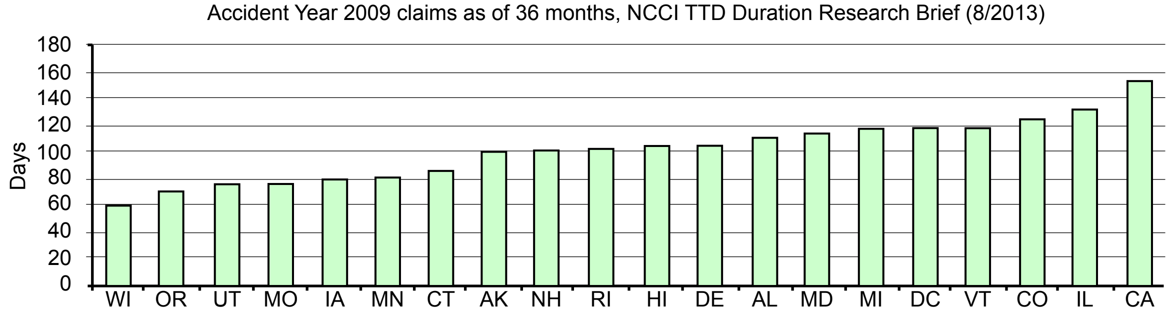
The number of temporary disability days paid is a measure of claim duration, which is a dimension of severity. One goal of Oregon's system has been to reduce the severity of disabling claims along with their incidence. Duration of temporary disability is influenced by the impairment and restrictions from the injury or illness, but also by the behavior of the worker, medical provider, employer, and insurer, and the interaction of those parties – as well as economic factors. A recent publication by National Council on Compensation Insurance, Inc. (NCCI) has provided comparative duration statistics for insured employers (excluding self-insurers) across several states for which NCCI provides insurance rate and loss cost recommendations. For 20 states with a similar three-day waiting period for temporary disability benefits, Oregon had the second lowest average duration.

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. Since 2005, permanent impairment of all body parts and systems is rated in relation to the whole person. Workers receive an impairment benefit based on the statewide average weekly wage multiplied by the percentage of impairment. Benefits are adjusted annually in accordance 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. Maximum PPD benefits, for claims with dates of injury between July 2014 and June

Figure 8. Temporary Disabilty Duration, mean days compensated
for states with 3-day wait period
Accident Year 2009 claims as of 36 months, NCCI TTD Duration Research Brief (8/2013)



2015, are $340,508 per claim. Oregon's maximum indemnity benefit levels are among the more generous nationally, exceeding the median values for comparable states. The average PPD benefit paid for PPD claims resolved in 2013 was $11,112, continuing the generally upward trend since 1995. The trend is arguably mostly attributable to statutory increases in benefits.

Permanent partial disability benefits paid in 2013 were $46.3 million, continuing the declining trend that began in 2008. One contributing factor is the increase in initial claims that are resolved by claim disposition agreements (CDA). Between 6 percent and 7 percent of claims resolved since 2009 have been resolved by a CDA. Those claims receive no PPD benefits, instead releasing rights to potential future benefits in exchange for cash, typically in a lump sum. Also, just over 26 percent of claims that resolved by claim closure in 2013 received PPD benefits, continuing a downward trend that began in 2009, compared to about 30 percent historically.

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. 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. There has been only one rescission since 2009, and, in 2013, there were 14 grants of PTD.

Death benefits are provided to surviving family members of a worker who dies on the job or while permanently and totally disabled. Passage of SB 110 in 2009 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 2013, insurers paid an estimated $5.86 million for PTD and $14.94 million for death benefits. Together, these benefits 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, $13.99 million for PTD and $31.53 million for death benefits in 2013. These reimbursements have declined from a peak of $66 million in 2000 to less than $50 million in 2013.

Figure 9. Insurer-paid and WBF-reimbursed death and PTD benefits, 2013 ($ millions)