

Insurance and Self-insurance

Oregon law requires that every employer 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 (WCD) 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 was 149 percent of the national median in 1990. After the initial reforms in 1994, it dropped to 85 percent of the national median. Since then, Oregon's rates have generally been between 79 percent and 85 percent of the national median. Oregon's average rate was 74 percent of the national median in 2014.

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 of the principal reasons for the Legislature's 1990 special session.

Before 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 claim 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 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 ratemaking 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 more than 500 rating classifications, based on expected losses. These rates are subject to the approval of the Oregon insurance commissioner. Pure premium only covers benefit costs; it is based on claims from recent injuries.

Oregon had a period of 21 years, from 1991 through 2011, without an increase in workers' compensation pure premium rates. Small pure premium increases were approved for 2012 and 2013 rates. Fairly large pure premium decreases were approved for the 2014 and 2015 rates. The cumulative effect of these pure premium rate changes is that 2015 pure premium rates are 81 percent of the 2007 rates.

Under Oregon's ratemaking system, each insurer develops a loss-cost multiplier, which covers the insurer's operating expenses, taxes, profit, and contingencies. This factor is multiplied by the pure premium rate for a rating classification to arrive at the manual rate. The manual rate is applied to the employer's payroll to determine gross premium. In 2013, the average expense-loading factor for SAIF and private insurers was 25.6 percent.

Workers' compensation total system written premiums totaled \$880.1 million in 2013. Premiums exceeded

\$1 billion in 2007. From 2007 to 2010, the premium dropped 30 percent to \$729.1 million. With the economic recovery, premiums have begun growing again.

The department defines total system written premiums as:

- Premiums written by SAIF
- Premiums written by private insurers
- Credits from the large-deductible premium policies issued by private insurers, and
- Simulated premium that is calculated for each self-insured employer to set its workers' compensation assessment.

Total system written premiums can be used to determine workers' compensation market share. In 2013, SAIF's share of the market was 50 percent. This represents SAIF's largest market share since at least 1980.

Although 481 private insurers were authorized to write workers' compensation insurance in Oregon, only 213 reported positive premium written in 2013. Private insurers had 35 percent of the market.

One measure of an insurer's financial condition is its loss ratio. The loss ratio is defined as incurred losses divided by earned premiums. In 2013, SAIF's loss ratio was 55.0 percent, and private insurers' average loss ratio was 51.2 percent. These ratios are among the lowest loss ratios reported in the past 25 years.

Another measure of an insurer's financial condition is the dividends it pays to its policyholders. Dividends depend on premiums and insurers' profitability in previous years. SAIF paid about \$630 million in dividends during the period from 2010 to 2013. Private insurers paid \$3.4 million over the same period.

Large-deductible premium policies

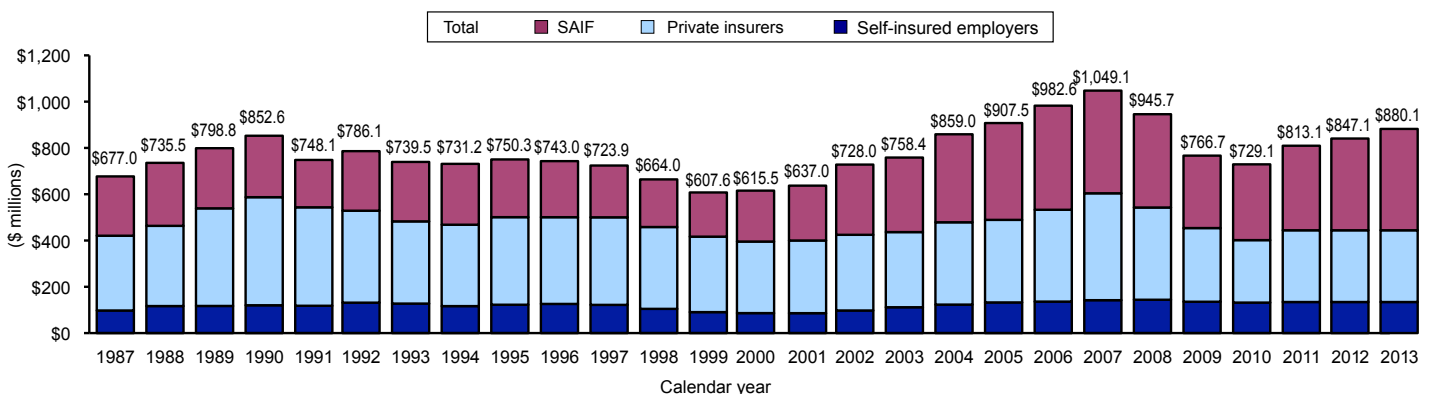
In 1996, large-deductible premium policies were added as an option for Oregon employers. Under these policies, insurers administer workers' compensation claims and pay the claims costs. Employers then reimburse insurers for claims costs up to the specified deductible amount. Employers pay lower premiums for these policies. However, insurers and employers are assessed on the premium before the deductions. Premium credits, a measure of the market share of this arrangement, represent the differences in premium with and without the reported deductions.

Few credits were applied in 1996, but the program grew rapidly to \$96.9 million in credits in 2007. Although the number of credits fell during the recession, the number had returned to \$97.0 million in 2013. These credits represented 32 percent of the private-sector portion of the workers' compensation market.

Self-insured employers and groups

To become self-insured, an employer 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. The self-insured

Figure 17. Total system written premiums, by insurer type, 1987-2013



* See note in premium table at end of chapter.

employer must also have deposits with the Workers' Compensation Division. These deposits protect injured employees in the event of the employer's bankruptcy.

Employers can form into self-insured employer groups if all of the employers in the group are members of an organization; the employers in the group constitute at least 50 percent of the employers in the organization (unless the number of covered workers in the group exceeds 500, in which case the employers in the group must constitute at least 25 percent of the employers in the organization); and the grouping of employers is likely to improve accident prevention, claims handling for the employers, and reduce expenses. Employers who are members of the group are jointly liable for one another's workers' compensation claims. Self-insured groups must also provide surety bonds or letters of credit to the department to securitize their claim liabilities.

In 2010, there were seven self-insured employer groups. A self-insured employer group representing the contracting industry filed for bankruptcy in early 2011, the first time a group had become insolvent. Another group decertified in 2012, and the department came close to decertifying an additional group in 2013.

As a result of these issues, the Legislature enacted SB 1558 (2014). The legislation created a number of reforms. It required that the group members vote by July 1, 2014, to remain a group. Those groups that voted to dissolve or were already out of operation are allowed use of Workers' Benefit Fund monies to pay claim costs. The legislation also gave the director more authority over these decertified groups. The three groups in financial trouble were decertified under the provisions of this legislation.

SB 1558 also set additional requirements for the remaining four self-insured employer groups.

Oregon Workers' Compensation Insurance Plan (assigned risk plan)

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

such a plan. In 1980, the commissioner adopted rules constituting the Oregon Workers' Compensation Insurance Plan and establishing the state's assigned risk plan (ARP).

In 1991, a tiered rating plan was introduced for ARP employers too small to qualify for experience rating plans. Under the plan, small employers receive a premium discount. Most of the employers in the ARP 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 half a million dollars a year.

In 2007, the department released a report that it completed with technical expertise and guidance from the National Council on Compensation Insurance. The report found that the Oregon assigned risk plan was working well and did not need major changes. Recommendations were made in three areas:

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

HB 2250, effective Jan. 1, 2008, allows a surcharge to ARP members to help pay the costs of assigned risk plan losses when they exceed premiums. Before this, when losses exceeded premiums, the voluntary market had to make up the difference. The current plan is not to implement this surcharge but to carry on as before. This bill implements one of the recommendations from the ARP study.

Currently under Oregon's assigned risk plan, SAIF, LM Insurance Corp., and Travelers Property & Casualty Insurance Co. of America act as service providers. Premium rates paid by ARP 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 use of the assigned risk plan has risen and fallen over time. At the most recent peak in 2005 over 13,000 employers were in the plan. With an effort to encourage employers to enroll in the voluntary market and due to the effects of the recession, the number of employers in the plan fell to fewer than 8,000 in 2010. With the recent recovery, the number of employer is increasing again. In 2013, there were about 8,800 plan participants; the premiums paid by these employers were 6.8 percent of all written premium (per NCCI).

Oregon Insurance Guaranty Association

The Oregon Insurance Guaranty Association (OIGA) 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.

Workers' compensation premium assessment

An assessment on workers' compensation premium funds much of the regulation of the Oregon workers' compensation system. Insurers collect the assessment revenue based on workers' compensation premiums earned in Oregon. For self-insured employers and self-insured employer groups, the assessment is based on a simulated premium calculated by the department. The revenue is deposited into the Premium Assessment Operating Account (PAOA). The PAOA also receives some fines and penalties, federal grant money, investment income, and other miscellaneous revenue. The account funds the department's programs related to workplace safety and workers' compensation. Senate Bill 592 in 1999 established the current rules for setting the assessment rate. Some funds are paid to the Oregon Institute of Occupational Health Sciences at the Oregon Health and Science University. At times, the Legislature has also used the account to fund other programs.