



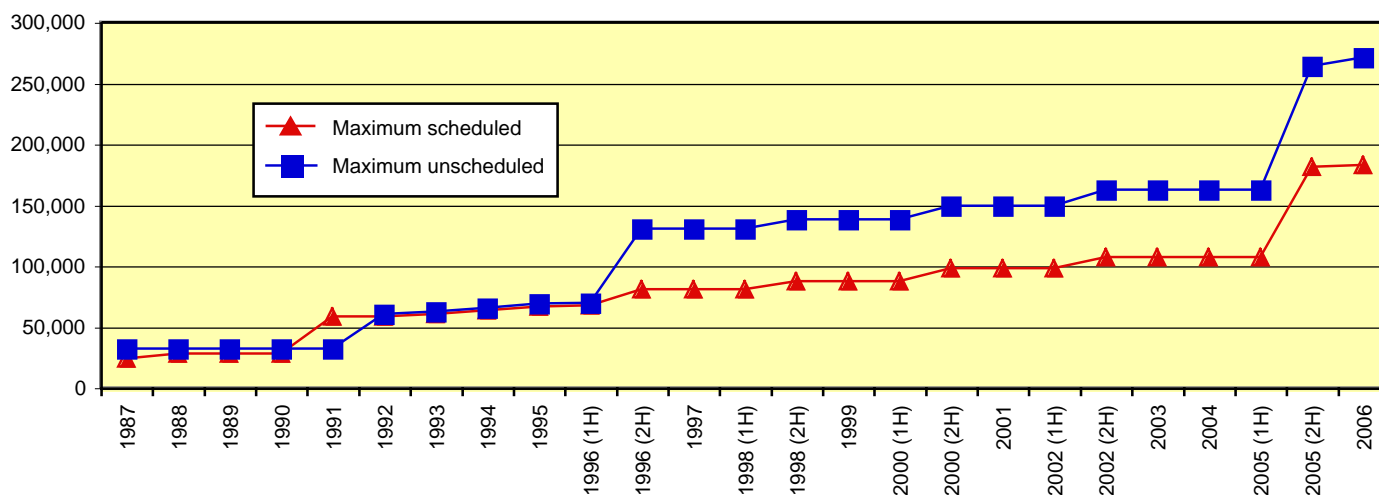
# Workers' compensation benefits: How do Oregon's restructured disability benefits rank nationally?

With the implementation of disability benefit changes in 2005, Oregon permanent partial disability (PPD) benefits changed substantially. Observers of the workers' compensation system may be interested to see how these changes have affected Oregon's position nationally in comparisons of maximum benefits. With the recent publication of national data on 2005 benefit maximums,<sup>1</sup> we can see how Oregon benefits rank nationally.

PPD benefits have been an area of frequent contention in Oregon's workers' compensation system. Claims involving PPD benefits are the most costly category of claims in most states' workers' compensation systems, including Oregon's. As a major cost driver for employers and a major source of benefits for injured workers, PPD benefits have been the subject of much controversy in reform efforts nationally. Oregon reform efforts resulted in changes affecting PPD benefit levels in the 1987, 1990, 1991, 1995, 1997, 1999, 2001, and 2003 legislative sessions (note changes in Figure 1.)

A primary rationale for PPD benefits is to replace wage income lost due to the permanent consequences of work-related injury. However, observers have very different concepts of what constitutes an adequate PPD benefit.<sup>2</sup> From a national perspective, what can be quantified to some degree is not benefit adequacy, but relative benefit generosity. Since at least 1995, the benchmark for Oregon PPD benefit generosity has been to meet or exceed national medians for maximum benefits. Since at least the early 1980s, Oregon PPD benefit maximums had been below national median benefit levels for comparable states—throughout the 1980s, near the lowest in the nation (see Table 1). This led to concerns about the overall benefit adequacy of the Oregon system. Since that time, legislative action has resulted in significant increases in maximum PPD benefit levels, and Oregon benefit maximums began to approximate national medians by the mid-1990s.

Figure 1. Maximum permanent partial disability benefits, FY 1987-2006



<sup>1</sup> US Department of Labor, Office of Workers' Compensation Programs, "State Workers' Compensation Laws, Benefit Table 9a." <http://www.dol.gov/esa/regs/statutes/owcp/stwclaw/stwclaw.htm>

<sup>2</sup> One recent approach to examining benefit adequacy has been to compare post-injury wages of injured workers with estimates of what their earnings would have been without the injuries. The benefits received are then compared with the difference in actual and expected earnings. While this approach has substantial merit, the complexity, time, and expense of such analyses has limited the use of this technique to a handful of states. The largest such study examined five states. See Robert T. Reville, Leslie I. Boden, Jeffrey E. Biddle, and Christopher Mardesich, An Evaluation of New Mexico Workers' Compensation Permanent Partial Disability and Return to Work, MR-1414-ICJ (Santa Monica, CA: RAND Institute for Civil Justice, 2001).

**Table 1. Oregon percentile ranking for maximum disability benefits, 1988-2005**

| Year | TTD | Scheduled PPD | Unscheduled PPD | PTD |
|------|-----|---------------|-----------------|-----|
| 1988 | 68  | 10            | 6               | 70  |
| 1994 | 73  | 33            | 8               | 73  |
| 1996 | 71  | 48            | 46              | 75  |
| 1998 | 74  | 46            | 47              | 74  |
| 2000 | 74  | 49            | 46              | 74  |
| 2002 | 88  | 50            | 38              | 66  |
| 2004 | 86  | 43            | 40              | 64  |
| 2005 | 88  | 85            | 70              | 64  |

**The old Oregon PPD benefit and rating system: scheduled and unscheduled PPD benefits.**

Like most states, Oregon law prior to 2005 divided injured body parts and benefit levels for permanent partial disability into two categories, scheduled and unscheduled. For certain body parts—hands, arms, legs, sight, and hearing among them—benefits were specified or “scheduled” in the law. For all remaining body parts, known as “unscheduled” parts, benefits are determined in relation to a separate maximum for the “whole person.” The two types of PPD benefits had different benefit levels and rating criteria. Unlike most states, benefits were not adjusted with changes in statewide wage levels, and the benefit computation did not consider the wage of the worker. Finally, the benefit structure for unscheduled injuries was “tiered” in such a way that over two-thirds of cases received benefits in the lowest tier (where dollar values had not kept pace with wage inflation<sup>3</sup>), raising equity issues.

**The new Oregon PPD benefit and rating system: impairment and work disability PPD benefits.**

Senate Bill 757, enacted in 2003 and effective 1/1/2005, remedied a number of the perceived inequities in the PPD benefit system. All workers with PPD receive a benefit for impairment, while those who cannot return to regular work receive an additional benefit for work disability. The new law eliminates the distinction between scheduled and unscheduled body parts and benefits, annually adjusts benefit levels with changes in the State Average Weekly Wage, and ties work disability benefits to the worker’s wage at injury<sup>4</sup>. By using an annual adjustment mechanism, the problem of erosion of benefits by inflation is avoided.

The new benefit structure was designed to produce overall PPD benefit costs similar to the previous structure at then-existing (2003) wage levels. This was accomplished

by reallocating benefits toward those with the greatest economic losses—those unable to return to regular work, particularly for higher-wage workers. The new structure increased maximum benefits to levels substantially higher than the old law; these benefit levels had not changed since 2002. Using the current national median as a benchmark, Oregon’s percentile ranking for maximum scheduled and unscheduled benefits for comparable body parts<sup>5</sup> increased from the 43rd and 40th percentiles in 2004, to 85th and 70th in 2005 respectively (see Table 1.)

**The Benefit Level Index (BLI)**

The most basic interstate PPD comparison involves a simple listing of maximum statutory benefit levels. One criticism of this approach is that the maximum is a worst-case example, and not a good indicator of benefits to the typical worker. Unfortunately, there is a dearth of data from which comparisons of benefits for typical workers can be made; thus the approach of comparing statutory maximum benefits continues in use. Another criticism is that because state wage levels differ substantially, the same dollar amount of benefits in a high-wage state replaces a smaller share of wages than in a low-wage state.

An improvement on comparisons of PPD maximums is the benefit level index, or BLI, developed by the DCBS Research & Analysis Section. The BLI method produces a more meaningful comparison of the relative generosity of maximum PPD benefits by controlling for differences in wage levels by state, and expressing the result relative to the median state. A BLI value above 1.00 indicates a maximum benefit (with respect to that state’s average wage) that exceeds the national median. As of 1999, Oregon’s BLI values indicated that maximums were somewhat below the median: 0.94 for scheduled, 0.85 for unscheduled. For Oregon’s 2005 benefit levels, the BLI values of 1.64 (scheduled) and 1.31 (unscheduled) indicate that Oregon’s maximum benefits are now above the national median in this measure of generosity. These results are shown graphically in Figures 2 and 3.

**Conclusion**

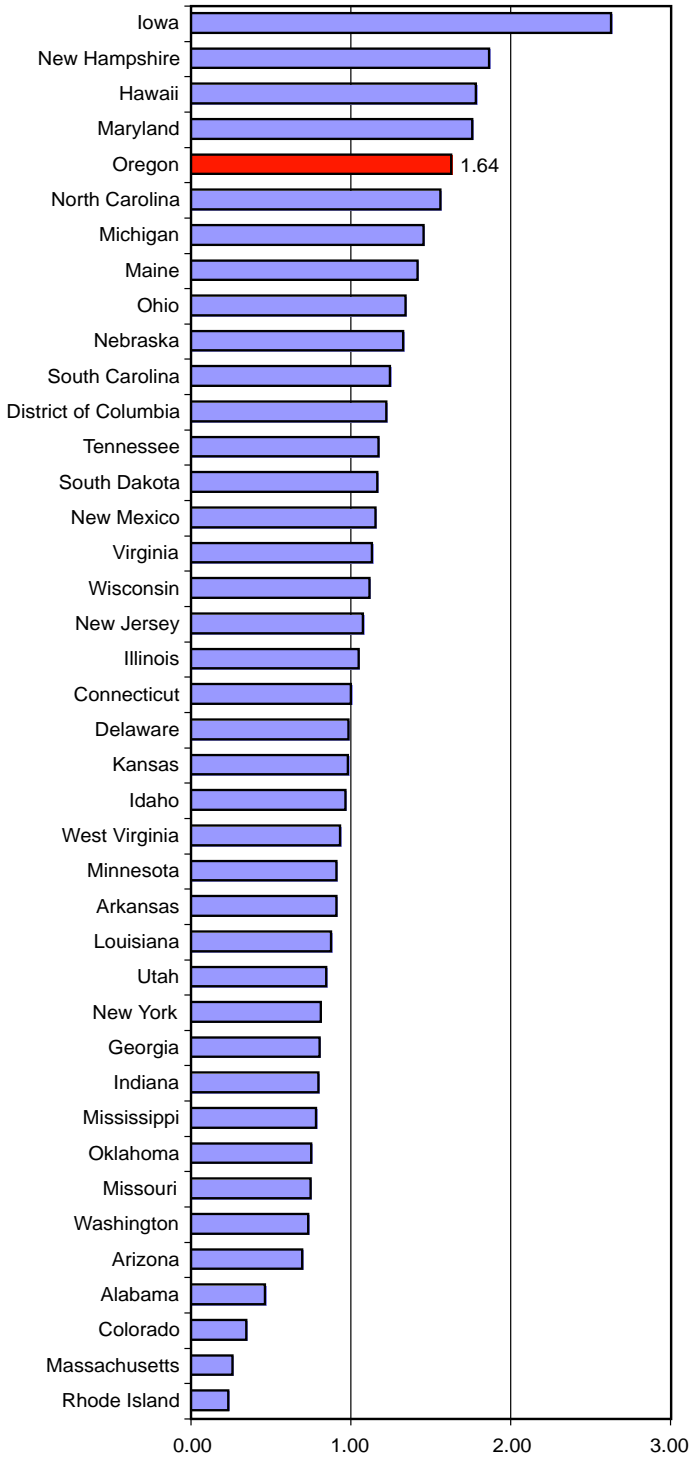
As recently as 1994, Oregon benefit maximums in at least one major category, unscheduled PPD, were in the lowest tenth of states. By 1999, maximum PPD benefit levels had been raised to just below national benefit medians. Recent benefit revisions have led to a substantial improvement in Oregon’s national standing in benefit comparisons, and Oregon now exceeds the benchmark of the national median following the 2005 changes. Because PPD benefit levels now adjust with wage changes, it is unlikely that this ranking will erode substantially over time, unlike most prior benefit changes.

<sup>3</sup> A DCBS study found that the bottom tier of Oregon unscheduled PPD benefits had declined in value relative to wages by over 25 percent from 1982 to 1999. [Oregon Permanent Partial Disability Benefits: Historical Trends and Interstate Comparisons](#) (Oregon DCBS, 2000).

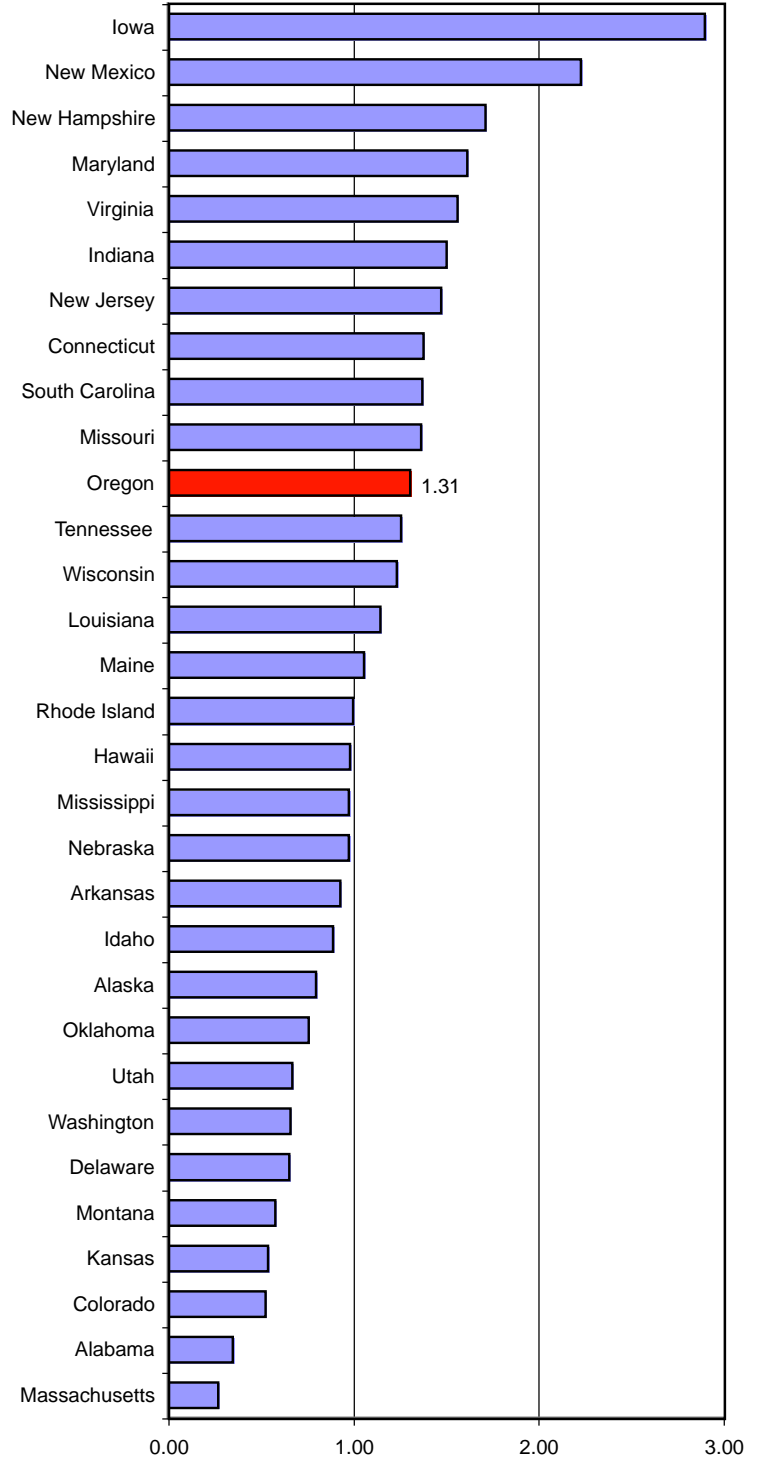
<sup>4</sup> For this computation, the worker’s wage is subject to a floor value of 50% and a ceiling of 133% of the State Average Weekly Wage.

<sup>5</sup> As a proxy for the “scheduled” maximum for 2005 in Oregon, the impairment value for complete loss of an arm was used. Impairment values for former scheduled parts such as arms were retained in the new statute as maximums, rather than set values.

**Figure 2. Benefit Level Index values for maximum scheduled PPD (loss of arm) as of 1/1/05 (national median = 1.00)**



**Figure 3. Benefit Level Index values for maximum unscheduled PPD as of 1/1/05 (national median = 1.00)**



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