

Oregon Workers' Compensation Return-to-Work Programs, 2003

Research & Analysis Section

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A fundamental goal of Oregon's workers' compensation law is to return the injured or ill worker to work as quickly as possible, to a wage as close as possible to the pre-injury wage. First, the structure of disability benefits includes explicit incentives, for employers as well as workers, to get injured workers back to work.¹ Second, Oregon legislates against unlawful employment discrimination while providing reemployment and reinstatement rights to injured workers. The Bureau of Labor and Industries enforces those laws (in ORS 659A) as well as other civil rights. Third, the workers' compensation system attempts to assist injured workers with three employment programs.

The purpose of this report is to describe Oregon's programs for returning injured worker to work, with a brief historical overview of policy changes since 1987 as well as statistics on program use and outcomes.² The governor's Management-Labor Advisory Committee will study these programs during the 2003-2004 interim between legislative assemblies.

Oregon's return-to-work programs

Since the 1970s, the Oregon workers' compensation system has gone through numerous changes in return-to-work programs as the legislature has attempted to find better and more cost-effective ways of getting injured workers back to work. Although the specifics have changed over the years, the law currently describes two active programs: vocational assistance (ORS 656.340) and the Reemployment Assistance Program (ORS 656.622). In addition, some benefits are still being paid under the Handicapped Workers Program (ORS 656.628) for obligations on old claims.

Vocational assistance is a mandate upon insurers to provide a formal plan for returning a disabled worker to a suitable job. The program is a claim cost for injuries after 1985, paid out of insurance premiums by employers. The Reemployment Assistance Program provides incentives to employers who choose to hire injured workers (ORS 656.622), with costs borne by the Workers' Benefit Fund. In contrast to vocational assistance, the WBF is supported from equal taxes on workers and their employers, on hours worked (ORS 656.506).³ Under the authority granted to the director, the department administers the Reemployment Assistance Program as two separate entities. The Preferred Worker Program targets workers who have recovered from their injuries, while the Employer-at-Injury Program focuses on workers who are still recovering.

One of the "key outcomes" for the department is "injured workers promptly return to work at a wage as close as possible to their pre-injury wage." The performance measurement is the employment and wage patterns, derived from Oregon Employment Department data, for the 13th quarter after the disabling workplace injury or exposure. Departmental research indicates that the 13th quarter is a point at which the vast majority of injuries and diseases have been stabilized and return-to-work programs have been utilized.⁴ The department compares workers who used the benefits provided by these programs to similar workers who did not. Annual measurement began with 2001 data. The performance measurement is the percentage point difference in employment and wage-recovery rates.

¹ For example, temporary disability benefits end when the worker is "medically stationary," regardless of whether the worker has returned to a job. Temporary partial disability costs the employer less in benefits, and the part-time wages plus the compensation paid to the injured worker are higher than temporary total benefits. Unscheduled permanent partial disability benefits may be payable in higher amounts if the worker does not return to work at the time of claim closure. Senate Bill 757 of 2003 provides that, for workers injured on or after January 1, 2005, all permanent partial disability benefits will include financial incentives to employers to return their disabled workers to work.

² Statistics presented in this report are subject to revision. See technical appendix.

³ Effective July 1, 2001, the WBF also funds a portion of the department's operating costs associated with the administration of the Reemployment Assistance Program. As a result of the Second Special Session of 2002, the WBF also funds a portion of enforcement of ORS 659a by the Bureau of Labor and Industries.

⁴ Generally, current departmental research is summed up in *Return to Work in the Oregon Workers' Compensation System, Accident Year 1997 Disabling Claims* (December 2002). See the department's web page of reports available at: http://www.cbs.state.or.us/imd/wc_rtw.html

Figure 1. Employment and wage advantage for return-to-work program users



The positive numbers indicate that, overall, disabled workers who use return-to-work programs have higher employment rates and wages. Employment results for individual programs are presented below. Future research will attempt to quantify the benefits as well as costs of these programs to the Oregon economy.

Vocational assistance

Insurers provide vocational assistance, usually through professional rehabilitation organizations, to help injured workers overcome barriers to successful return to work. In 1987, the legislature significantly restricted eligibility for this program. In general, injured workers are eligible if a permanent disability resulting from the injury prevents reemployment in any job that pays at least 80 percent of the job at injury. Under current law, the typical eligible worker gets a training plan followed by direct employment (placement) services.

In 1995, the legislature further restricted eligibility for vocational assistance, for claims reopened due to aggravation of the injury. Thus, the number of new vocational assistance cases has declined from 8,506 in 1987 to 1,192 in 1995 and a relatively stable 725-750 over the last five years.

Eligibility for vocational assistance is not a mandate upon workers to use the benefits. Since 1994, only about one-third of workers complete their cases—defined as placement in a job or receipt of maximum services. Maximum service is 16 months of training or 21 months for “exceptional” cases, plus four months of direct employment services (OAR 440-120).

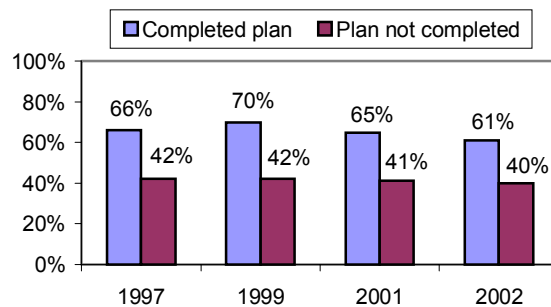
Since 1994, at least 40 percent of cases end with a Claim Disposition Agreement, where the worker releases all rights to vocational assistance and most other disability benefits in exchange for a lump-sum settlement. The CDA was legalized in 1990. Departmental research shows that, in general, workers who settle their claims have low post-injury employment rates and wages.

The short-term return-to-work rate peaked in 1996 at 91 percent. This rate measures placement in a job as the immediate outcome of a completed case. The 69 percent registered for 2002 is likely due to the state’s general economic stagnation. The count of return-to-work cases was 144 in 2002, compared to 3,602 in 1987.

Total benefits stood at \$36.5 million for cases closed in 1987. Recent years’ benefits have been about \$9 million annually. The break down for 2002 cases is typical of current trends: \$4.0 million for time loss (worker subsistence) during training; \$1.8 million for purchases of goods and services, such as tuition; and \$3.0 million to authorized providers of vocational assistance for plan development, counseling and guidance, placement, etc.

The department’s standardized measurement of the effectiveness of return-to-work programs is a comparison of outcomes in the 13th quarter after injury: in this case, workers who completed a vocational assistance plan and similarly disabled workers who did not complete their plans.

Figure 2. Employment rates for vocational assistance cases



Employment rates have been consistently higher, by at least 20 percentage points, for workers who complete their plans. In general, workers eligible for vocational assistance are also Preferred Workers, and those who complete their plans have been more likely to use Preferred Worker Program benefits.

Preferred Workers

Although optional incentives such as wage subsidy and worksite modification have been available for many years, the current version of the Preferred Worker Program was outlined during the 1990 Special Session. A worker automatically receives a Preferred Worker ID Card when the insurer reports that the worker has a work-related permanent disability that prevents return to regular work, and that the worker has not refused other suitable employment with the employer at injury.

Workers may also request qualification as a Preferred Worker from the department. The ID Card informs prospective employers that they may be eligible for the program's benefits.

The trend for the number of workers identified as Preferred Workers has been downward, roughly similar to the trend for disabling claims. The figure of 2,239 Preferred Workers identified in Fiscal Year 2003 is a record low.

Use of the Preferred Worker Program is at the option of the injured worker as well as the prospective employer. The program does not include placement benefits. A Preferred Worker has three years from identification to start using the program's benefits. In recent years, not quite 25 percent of Preferred Workers actually use the ID Card to get a job.

An eligible employer choosing to hire a Preferred Worker is exempt from workers' compensation premiums on the worker for a period of three years; if the worker moves to another job within the three-year period, the premium exemption may be transferred to the new employer. The department reimburses the insurer for all claim costs, including administrative expenses, for any claim filed during the three-year period of premium exemption.

Three other benefits are available for Preferred Workers and hiring employers (OAR 440-110). Wage subsidy is a 50-percent reimbursement for six months—with higher benefits for "exceptional" levels of disability. Worksite modification alters worksites within Oregon to accommodate the worker's restrictions. Obtained employment purchase provides uniforms, licenses, etc: items that are required of any new hire.

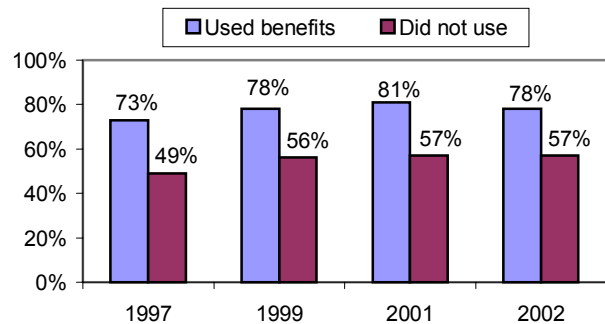
The department, not insurers, delivers benefit under the Preferred Worker Program, via agreements with Preferred Workers and their employers. Total contract (agreement) counts illustrate demand for the benefits and provide a rough measurement of departmental workload. The number of new contracts reached 3,341 in Fiscal Year 1996. A steady decrease in activity since then has been met by elimination of some positions. The count of total contracts for Fiscal Year 2003 was 1,307, the lowest on record.

Total program benefits climbed steadily following the implementation of the current program in 1990, peaking at \$11.8 million for contracts started in Fiscal Year 1998.

Total benefits for Fiscal Year 2003 currently stand at \$5.5 million, though the department will continue to pay benefits for those contracts for another year or so.

The department's standardized measurement of the effectiveness of return-to-work programs is a comparison of outcomes in the 13th quarter after injury: in this case, Preferred Workers who used benefits and those who didn't—excluding workers also eligible for vocational assistance.

Figure 3. Employment rates for Preferred Workers



Employment rates have been consistently higher, by at least 20 percentage points, for Preferred Workers who use the program's benefits. In general, benefit users are more likely to have participated in the Employer-at-Injury Program during their recuperation.

The Employer-at-Injury Program

In 1993, the department used its authority under ORS 656.622 to create the Employer-at-Injury Program (OAR 436-105). The EAIP is available to any eligible employer with an injured worker who has an open claim and has not been released to regular work but can return to a light-duty, transitional job. Insurers arrange placements, for which they receive a flat fee. Assistance to employers generally consists of a 50-percent wage subsidy for a period up to three months. Worksite modification and early-return-to-work purchases are also available, but little used. Roughly 2 percent of employers use the program's benefits.

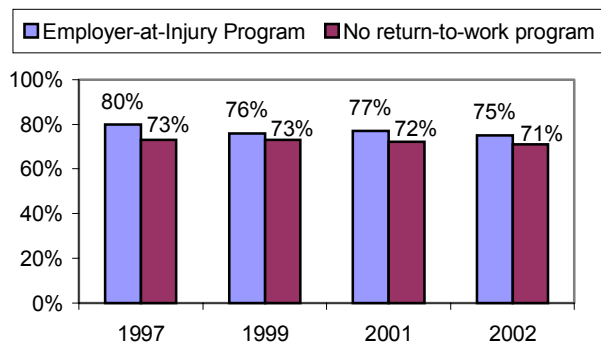
A statutory change in 1995 permitted extension of the program to include nondisabling (medical-only) as well as disabling claims. One result has been to preclude many nondisabling claims from becoming disabling, by getting the worker back to a job soon after the injury or illness.

Statute provides that the insurer may be able to reduce or discontinue time loss benefits if the worker refuses modified work, including an EAIP placement. Effective mid-2001, Senate Bill 485 conferred upon injured workers new rights to refuse modified work. A worker may refuse modified work if the job requires a commute that is beyond the worker's physical ability; is more than 50 miles away; is not with the employer at injury or not at that employer's worksite; or is inconsistent with the employer's practices or a collective bargaining agreement.

The peak year for EAIP activities came in 1998, when the department approved 10,066 placements, at a total of \$11.7 million in benefits. The trend since then has been downward. For 2002, placements came to 6,404, with \$9.1 million in benefits.

The department's standardized measurement of the effectiveness of return-to-work programs is a comparison of outcomes in the 13th quarter after injury. Here, the comparison is disabled workers placed into transitional work under the EAIP and permanently disabled workers—excluding workers who also

Figure 4. Employment rates for Employer-at-Injury Program and workers not using assistance



participated in the Preferred Worker Program or vocational assistance.

Although the differences have been relatively minor, workers placed into transitional work under the EAIP have had higher rates of employment. Possibly, use of the EAIP lessens the need for post-recovery programs—vocational assistance and Preferred Worker—as well.

Tables

Handicapped Workers Program claims and costs, FY 1987-2003		
Fiscal year	New claims	Total costs (\$ millions)
1987	380	\$9.8
1988	312	12.1
1989	222	11.8
1990	200	10.7
1991	0	9.0
1992	0	6.4
1993	0	4.5
1994	0	3.8
1995	0	2.6
1996	0	1.8
1997	0	2.1
1998	0	2.0
1999	0	2.2
2000	0	1.7
2001	0	1.3
2002	0	1.3
2003	0	1.4

Beginning in May 1990, no new applications were accepted. Costs for approved claims will steadily decline, despite the small uptick recently.

Vocational assistance, 1987-2002			
Year	Cases opened	Cases closed	Total cost (\$ millions)
1987	8,506	8,762	\$36.5
1988	2,363	5,874	29.8
1989	2,247	2,914	21.6
1990	1,879	2,320	20.9
1991	1,432	2,294	25.5
1992	1,277	1,757	20.2
1993	1,333	1,494	17.9
1994	1,188	1,314	15.3
1995	1,192	1,329	14.8
1996	1,064	1,196	14.2
1997	816	937	12.0
1998	756	814	10.8
1999	739	684	8.9
2000	713	607	9.2
2001	755	606	9.2
2002	725	625	8.8

The number of new cases opened has dropped by over 90 percent since 1987, while the total cost of closed cases has been cut by more than 75 percent. Costs excludes eligibility determinations and CDA amounts. Currently, most cases either end by CDA soon after eligibility or go on to receive training services.

Note: Data for cases closed and total cost will change whenever redeterminations result in reopened eligibility.

Vocational assistance plans and return-to-work rates, 1987-2002			
Year	DE plans	Training plans	RTW rates
1987	3,139	1,054	74%
1988	1,944	873	74%
1989	753	738	69%
1990	347	747	69%
1991	212	931	78%
1992	110	723	80%
1993	61	616	78%
1994	58	503	79%
1995	50	504	85%
1996	39	497	91%
1997	22	439	83%
1998	6	382	85%
1999	5	313	83%
2000	4	290	81%
2001	4	270	79%
2002	7	277	69%

The number of vocational assistance cases in Direct Employment Plans has decreased to a handful. The return-to-work rate for workers who completed their program peaked in 1996.

Note: Data will change whenever redeterminations result in reopened eligibility.

Preferred Worker premium exemption program, FY 1991-2003		
Fiscal year	Cards issued	Workers using benefits
1991	4,189	1,523
1992	3,548	1,116
1993	3,104	990
1994	3,351	981
1995	3,627	1,114
1996	4,223	1,102
1997	3,536	957
1998	2,938	759
1999	2,814	605
2000	2,469	573
2001	2,317	508
2002	2,591	416
2003	2,239	266

For workers who receive a Preferred Worker card, roughly one-quarter are expected to use the card for employment. ID Cards issued have declined along with PPD claims.

Note: Data for workers using benefits are complete through 2000. Preferred Workers have three years in which to begin using benefits.

Preferred Worker contracts started, FY 1988-2003		
Fiscal year	Contracts	Total cost (\$ millions)
1988	1,877	\$3.0
1989	1,920	2.7
1990	2,003	3.2
1991	2,334	4.2
1992	2,594	5.8
1993	2,591	6.3
1994	2,849	8.5
1995	2,761	9.1
1996	3,341	11.0
1997	3,195	11.4
1998	3,010	11.8
1999	2,521	10.9
2000	2,071	9.6
2001	1,766	8.6
2002	1,448	7.8
2003	1,307	5.5

Demand for Preferred Worker benefits has declined substantially in recent years

Note: Data for the most recent years are revised as reimbursement requests are received and paid.

Preferred Worker contract costs, FY 1988-2003			
Fiscal year	Worksite mods (\$ millions)	Premium exempt (\$ millions)	Wage subsidies (\$ millions)
1988	\$0.4	-	\$2.6
1989	0.2	-	2.4
1990	0.2	-	2.6
1991	0.8	\$0.0	3.0
1992	2.2	0.4	3.0
1993	2.3	0.7	3.1
1994	3.0	1.7	3.5
1995	2.2	3.0	3.6
1996	3.0	3.0	4.5
1997	3.0	3.2	4.6
1998	3.3	3.1	4.7
1999	2.6	3.7	4.1
2000	2.2	3.3	3.6
2001	1.9	3.0	3.4
2002	1.7	3.0	2.7
2003	1.6	2.3	1.4

The decrease in demand for benefits has been across the board. Obtained employment purchases totaled \$4.5 million from 1988 to 2003. Premium relief, the predecessor of premium exemption, reached nearly \$1 million in total costs for the life of the program.

Employer-at-Injury placements approved, 1993-2002			
Year	Workers	Employers	Total cost (\$ millions)
1993	446	140	\$0.4
1994	2,400	727	3.0
1995	3,739	1,189	5.0
1996	6,080	1,345	7.6
1997	8,357	1,514	9.9
1998	10,066	1,776	11.7
1999	9,440	1,836	10.6
2000	7,854	1,578	9.5
2001	8,584	1,655	11.2
2002	6,404	1,235	9.1

After six years of steady growth, the trend since 1999 has been downward for both placements and benefits. Roughly 2 percent of employers use the program.

Technical Appendix: Oregon Workers' Compensation Return-to-work Programs 2003 edition

Unless otherwise noted in the main text, all data summarized in this analysis come from the department's Claims Information System, as of September 2003. Currently, the department is converting the format of its storage ("warehouse") for data on return-to-work programs. Conversion is resulting in minor changes to counts.

Vocational assistance. Insurers and self-insured employers report these data. The basic unit of accounting is the eligibility period. Under this scheme, the original eligibility for the claim opening is distinct from any "redeterminations" that extend or reinstate eligibility.

For this report, the basic unit of accounting is the case. A claim may have more than one case: benefits provided for a claim aggravation, for example, signal the beginning of a new case.

The case is derived data, because it collapses all eligibility periods during a given opening of the claim into one count. The case has a definite start date. However, the end date, total benefits, and other characteristics of the case may change if a redetermination results in an additional period of eligibility. Thus, counts other than "cases opened" may change for a given year.

Counts may also change due to updates in data entry, in particular for closing reports received by the department from insurers.

The basis for statistics provided in this analysis is reports CERA060 and CERA061, as listed in the department's Report Catalog. Counts on the basis of eligibility period are also available.

Preferred Worker Program. Employers, workers, and insurers report data when they request the benefits provided by the program. The department reports the actual dollar amounts of benefits provided. The basic units of accounting are the ID Card and the contract, also known as the agreement.

A claim opening may have more than one ID card. A claim opening may also have one or several contracts.

Beginning with this analysis—which counts all ID Cards, even if they are subsequently rescinded—changes to counts of ID Cards should be minimal. However, counts and percentages for benefit use relative to ID Cards issued will change during the three years that administrative rule gives the worker to begin to use benefits. In this analysis, figures for benefit use should be final for ID Cards issued through Fiscal Year 2000.

Normally, contract counts change minimally. Late reporting is limited mainly to activations of premium exemption. Benefits paid on those contracts will change, however; the department updates information on reimbursements for a contract for as much as 18 to 20 months after a contract is started. Benefits for premium exemption (claim cost reimbursements) should not change, as data are available to count this benefit by the date of expenditure from the Workers Benefit Fund.

Audits may result in recovery of Preferred Worker Program benefits paid out of the WBF, but benefit totals reported in this analysis do not reflect audit recoveries.

The basis for statistics provided in this analysis is reports CERA057 and CERA059, as listed in the department's Report Catalog.

Employer-at-Injury Program. Insurers and self-insured employers report data as they request the benefits provided by the program. The department reports the actual dollar amounts of benefits provided. The basic units of accounting are the request, also known as agreement, and the reimbursement transaction.

For this report, the basic unit of accounting is the placement, which corresponds to a worker receiving benefits during a claim opening. A claim opening may have only one placement. A claim may have more: benefits provided for a claim aggravation, for example, signal the beginning of a new placement.



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The placement is derived data, because it collapses all requests and reimbursements during a given opening of the claim into one count. The placement has a definite start date, which is the date of the original approved request for assistance under the claim opening. Normally, placement counts will change minimally. However, total benefits may change if the department approves more than one reimbursement request for a placement. The effect on annual totals for benefits should be minimal.

Audits may result in recovery of Employer-at-Injury Program benefits paid out of the WBF, but benefit totals reported in this analysis do not reflect audit recoveries.

The basis for statistics provided in this analysis is report CERA056, as listed in the department's Report Catalog. Totals are available for assistance for nondisabling versus disabling claims, but those counts are not stable, because they fluctuate with changes in the claim's status.

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