Who Setstles in Workers’ Compensation?
An Analysis of How Trends in Claim Settlements Relate to Workers’ Compensation Benefit Changes in Oregon

Workplace injury is costly to workers and firms (Leigh, 2011). Workers’ compensation is designed to ensure that workers are compensated for medical costs and wage losses associated with a workplace injury and, at the same time, to limit the firm’s exposure to the overall costs associated with the injury. The process of determining benefits and adequate compensation can be costly and complicated. Sometimes, the benefit process evolves smoothly; at other times, the process can lead to extended negotiation or disputes to determine the appropriate benefit and can potentially result in a claim settlement in lieu of benefits.

In this report, we explore how permanent workers’ compensation benefits and settlements interact. In some cases, a worker who settles relinquishes the right to pursue permanent partial disability (PPD) or other indemnity benefits. As a result, changes in the value of the PPD benefits a worker anticipates receiving could affect that worker’s decision to settle.

We examine a policy change in Oregon as a case study. In 2003, Oregon Senate Bill 757 (SB 757) made substantial changes to PPD benefits in the Oregon workers’ compensation system, simplifying the evaluation system and the benefit-calculation process (see Oregon Legislative Assembly, 2003). As a result of this simplification, some claimants received substantially higher PPD benefits than they would have prior

KEY FINDINGS

■ While initial settlements increased after the policy change, the findings do not show evidence that changes in potential benefit values result in strategic decisions to settle.

■ Possible reasons for this include uncertainty about the policy’s effects and other factors, such as liquidity constraints.

■ Even in the case of large policy changes, not all actors in the system may immediately understand the detailed effects and implications of policy changes.

■ Incentives to change settlement behavior need to be salient to individuals for them to respond.
Background and Prior Research on Settlements

What Is a Settlement?

Settlement is a relatively broad term that can mean different things depending on the context (Torrey, 2007). Essentially, a settlement is a resolution between disputing parties. It can happen before a hearing or court action has begun or while it is ongoing. Settlements are very common in the civil litigation landscape. The key idea is that various stakeholders in a dispute have different expectations about what the outcome should be, and there is some uncertainty in what the ultimate decision on the outcome will look like. In the case of a court action, the disputing parties may opt to settle rather than go to trial to avoid the uncertainty about the judge or jury’s decision on the case. In the case of workers’ compensation, parties may opt for settlement to avoid the uncertainty of how long disability payments may continue when the path to recovery is uncertain; the uncertainty associated with determining the extent or rating of disability; or, in the case of a dispute, the uncertainty associated with the decision to reconsider or appeal.

Compromise and release (C&R) settlements have become increasingly common in state workers’ compensation systems over the past several decades. There are four main elements to this type of settlement: (1) The payment of benefits is usually (although not always) made in a lump sum, rather than paid out over time as with other workers’ compensation benefits; (2) the settlement represents a compromise between the positions of the claimant and the insurer or employer; (3) such agreements typically involve a partial or full release of the employer and insurer from further liability for the injury; and (4) the settlements are approved by the state (Hunt and Barth, 2010; Torrey, 2007). In any workers’ compensation settlement, there are many stakeholders, often with competing interests and incentives. We consider the different perspectives and expectations of the worker and the employer, as well as the roles of the insurer, the attorney, and the state.

The worker usually faces the trade-off between regular benefits payments and a lump-sum
settlement payment. As Hunt and Barth point out, although
the issue can be reduced simply to assumptions about the anticipated duration of disability and the workers’ rate of discount (or time preference). However, this ignores the very real dimensions of uncertainty for the worker. (Hunt and Barth, 2010, p. 4)

These dimensions include whether the worker will be able to return to the same job at the same wage, whether the insurer will pay benefits as long as the worker thinks they will be needed, and whether the benefits will be sufficient to meet the worker’s needs. These uncertainties, along with a high discount rate, often incentivize the worker to accept a settlement (Hunt and Barth, 2010). Additionally, workers must take other financial considerations into account, such as whether they have sufficient incomes to draw on during an extended dispute or whether they need cash in the short term. Settlements often provide workers with income relatively quickly compared with the alternative of waiting for the outcome of an extended legal negotiation.

Workers have the option of hiring attorneys to help resolve claims, either to guide the workers through the settlement process or help them negotiate the final terms of claim closure. Workers need not hire attorneys, but when they do, the attorneys can be a major influence and, in some cases, may pressure their client into accepting a settlement (Hunt and Barth, 2010). In 1991, Thomason showed that plaintiff attorneys paid on a contingent fee basis (e.g., only after the case has been resolved successfully) have an incentive to accept smaller settlements than their clients. His results showed that workers represented by attorneys received smaller settlements than workers without attorneys (Thomason, 1991). A survey of workers who settled their claims and workers who went to hearings supports this finding: 45 percent of the workers who settled felt pressure either to settle or to go to a hearing, and 40 percent of the settling workers separately reported that they felt pressured to settle by their attorneys (Zaidman, Boyer, and Berry, 2013). Facing the question of whether they would settle again or go to a hearing if given the choice, only 29 percent said they would choose to settle (Zaidman, Boyer, and Berry, 2013). In Oregon, attorneys receive a percentage of the settlement as part of their final compensation. However, if the attorneys are, instead, involved in any appeals of the permanent disability award, they are also entitled to a percentage of any resulting increase in the award.¹

On the other hand, the employer primarily aims to minimize the costs associated with the claim and finalize disputes as quickly and cleanly as possible. Employers work closely with the insurer to achieve these goals. In many cases, insurers may want to pursue a settlement if they anticipate that this would result in a lower total cost for the claim than would continuing weekly benefit payments. In some cases, critics have argued that insurers pressure financially vulnerable claimants into accepting settlements that are considerably less than the amount to which they would be entitled if the claim were resolved through a hearing. (Thomason and Burton, 1993)

Thomason and Burton’s study found that insurers are more likely to pursue a settlement for cases in which the injured worker may not be able to fully advocate for themselves (e.g., when the claimant is a non-native English speaker) and that resulting settlement values are often lower than what the injured worker might have received had he or she not chosen to settle (Thomason and Burton, 1993). Finally, the state administrator of the workers’ compensation system also has its own set of incentives. Guided by principles of both fairness and efficiency, the administrator, if facing an overwhelming administrative and oversight burden, may encourage workers and employers to “trade continuing review and oversight of an extended claim for a quick review of a C&R settlement that terminates the claim” (Hunt and Barth, 2010). As noted earlier, the state regulates the settlement process, sometimes quite fiercely. Three main reasons for such regulation have been voiced over time: (1) concern that the worker would spend his or her lump-sum payment unwisely; (2) relatedly, the concern of not providing sustained support for the disabled; and (3) worry that the worker will shift costs to the welfare system (Hunt and Barth, 2010). Despite these concerns, many
Workers eligible for temporary disability benefits begin receiving temporary total disability (TTD) or temporary partial disability benefits after a three-day waiting period and continue to receive temporary benefits as long as a doctor certifies that they are unable to work. Eventually, the worker reaches maximum medical improvement, the point at which no further recovery is expected. At this stage, the claim closure process begins. If there is any residual incapacity due to the injury or illness, the worker is assessed for PPD benefits. If awarded, PPD benefits are provided to the worker at the time of claim closure.

Workers may opt to settle their claim through several avenues at different times during the claim process. For accepted claims, workers may opt for a claim disposition agreement (CDA). Under a CDA, workers release all rights to present and future benefits in return for a payment up front, typically provided in a lump sum. The CDA settlement does not release a worker from eligibility for medical benefits for accepted conditions or deny access to certain return-to-work programs. CDAs may occur at any time during the claim process after the claim has been accepted. For the purposes of this analysis, there are two main periods of interest: First, a claim can settle with a CDA as part of an initial settlement if the claim settles with a CDA prior to claim closure. In this case, the worker is not eligible for PPD: The CDA process essentially preempts the PPD rating process. Alternatively, CDA settlements may also occur after closure if a claim first goes through the closure process and is rated for PPD but then is later reopened and settles for a different condition or issue.

When there are questions about whether the claim should be accepted or disputes about eligible conditions, disability payments, or other aspects of the claim, workers can also pursue a disputed claim settlement. These settlements can also occur at any point during the claim process, depending on the nature of the dispute (e.g., the overall compensability of the claim, a particular aspect of benefits rating). The dispute can evolve through several phases, starting with reconsideration; followed by a hearing; a review by the Workers’ Compensation Board; and, ultimately, a review by the Court of Appeals. However, disputed claims often focus on the issue of
whether a claim should be accepted at all, rather than the decision about what type of closure or settlement to pursue, conditional on acceptance. Due to the differing incentives occurring in disputes, we focus the analysis in this report on CDA settlements.

While workers likely have limited awareness of the potential for settlement prior to any workers’ compensation claims, the Oregon Workers’ Compensation Division requires carriers to notify workers about their right to benefits and about the impact and consequences of a CDA. Additionally, the majority of claims that opt to settle involve attorneys who are more familiar with the detailed policies surrounding settlement.

Figure 1 compares trends in claims volumes that ended with CDA initial settlements with the frequency of claims with a CDA settlement after closure. Claims are plotted based on the year of injury. The left chart shows the total number of claims with CDAs, while one on the right shows the trends as a percentage of all indemnity claims in the injury year.

There are several patterns of note. First, in all injury-year cohorts, there is a higher overall frequency of settlements among claims with a settlement after closure. Second, claims with an initial CDA settlement increase from just under 1,000 per year from 2000–2004 to approximately 1,200 per year beginning in 2005 or by approximately 1 percent from just over 4 percent of all indemnity claims to 5 percent of indemnity claims. In our descriptive data analyses later, we investigate the extent to which this increase may be associated with expectations about changes in the value of PPD benefits.

**Empirical Literature**

While few studies have explicitly analyzed how a workers’ compensation benefit policy change affects settlement behavior, a handful of empirical studies have examined factors that predict workers’ compensation settlements and how settlements have affected workers. The oldest study looked at 485 cases in Michigan and discussed the differing characteristics of claimants who accepted lump-sum payments and those who did not, as well as differences in terms of benefits. Notably, the authors found that lump-sum recipients had a harder time obtaining their compensation benefits, were more likely to report that their

![Figure 1](image-url)

**FIGURE 1**

**Trends in CDA Settlement Frequency, 2000–2010**

- **Frequency**
  - Initial settlement
  - Settlement with closure

- **Percent**
  - Initial settlement
  - Settlement with closure

**SOURCE:** Data from Oregon Department of Consumer and Business Services (DCBS), Workers’ Compensation Division, 2000–2010.

**NOTE:** Data for closed indemnity claims with claim durations of four years or less.
benefit payments were suspended, were more likely to be out of work, and were more likely to rate their financial situation as poor than were weekly benefit recipients (Morgan, Snider, and Sobol, 1959). Cheit, 1961, surveyed workers’ compensation recipients in California who had accepted settlements, finding that they tended to have lower incomes than those who had not settled their claims.

In 1971, Barton reviewed 4,268 compensation cases from the Texas Industrial Accident Board (Barton, 1971). He found that first payments came more slowly in compromise settlements than in informal types of settlement. Initial payment of weekly benefits in compromise settlement agreements (CSAs) was usually deferred until the final settlement, which pressured the worker to accept the terms offered. Workers involved in CSAs did not fare as well with respect to postinjury employment as those in informal settlements but actually did better than workers involved in board and court settlements. Barton concluded that

insurance companies were willing, in the case of short-term disability cases, to pay a small premium for the quick, final settlement provided by CSAs. (Barton, 1971)

The next empirical study of settlements in workers’ compensation was Thomason and Burton, 1993. Using a sample of New York partial permanent disability claims, the authors analyzed factors that affected whether a claim was settled or was resolved through a hearing and whether the type of resolution affected the size of the settlement or award. Their prediction exercises suggest that insurers are able to influence the probability of settlement and that, on average, the predicted settlement value is lower than the estimated stream of payments that would have been received had the worker not settled.

A 1995 paper examining 1990 claims data from Australia was concerned with determining the characteristics that distinguished lump-sum payment recipients from other workers’ compensation claimants. Of the 10,192 cases, 12.25 percent were settled with lump-sum awards (Morrison, Wood, and Macdonald, 1995). The type of injury was an important determinant of whether lump-sum settlement occurred, as injuries with “protracted claims with high medical expenses, but where functional impairment is difficult to diagnose” were the most likely to result in early settlement. In terms of demographic characteristics, men were more likely to receive a lump-sum settlement. The authors concluded that both injured workers and insurance companies try to maximize their outcomes—workers through the legal process and the companies through “early intervention with ‘protracted’ cases” (Morrison, Wood, and Macdonald, 1995).

Reville et al., 2001, presents a comparative study of PPD and return to work in New Mexico. Keeping in mind that New Mexico discouraged settlements and, thus, had a low settlement rate, the authors found a “10-year estimated income replacement rate of 47 percent for PPD claimants and only 31 percent for compromise claimants” (Hunt and Barth, 2010).

Hyatt, 2010, analyzes the effects of lump-sum settlements in California’s workers’ compensation system. The sample consisted of individuals injured in 2001–2002 whose cases were heard at the Workers Compensation Appeals Board before or during 2005, who had been working in the two quarters preceding injury, and who settled for between $25,000 and $50,000 at least six quarters after the date of injury (Hyatt, 2010). Hyatt used regression models to estimate the differences in labor supply between recipients of annuity and lump-sum payments. He found that claimants who settled through C&R show a clear and immediate increase in labor-force participation, which is actually inconsistent with a strong “liquidity effect.” This suggests that lump-sum payments delay return to work because the receipt of cash allows workers to afford longer recovery times.

Savych, 2012, analyzes return to work after a lump-sum settlement in Michigan in 2008. Savych compared the worker’s employment status in the quarter the settlement occurred with that after settlement. He found that the average employment rate increased from 25 percent in the quarter of the settlement to 32 percent four quarters later. More important is his finding that most people did not change their employment behavior due to settlement: “The majority of workers in our sample did not work before a settlement and did not return to work within one year after a settlement.” Savych also examined various worker and claim characteristics, and found
that age had a slight negative effect on return to work after settlement.

A 2016 study examined bodily injury liability insurance claims from Texas for cases closed between 1988 and 2012. Out of approximately 130,000 claims, 6.84 percent involved structured settlements, which are paid out over time in installments like an annuity, rather than in a lump sum (Born and Puelz, 2016). The empirical analysis finds support for the hypothesis that structured settlements are more likely for workers who are more likely to live longer or otherwise face less-predictable future needs, consistent with the idea that workers use settlements to minimize their exposure to uncertainty. On the other hand, lump-sum payments are more likely for cases with larger economic damages.

There have been a few Oregon-specific studies of workers’ compensation. In 1996, Gardner, Telles, and Moss evaluated significant reforms to the workers’ compensation system in 1990 that introduced the CDA settlement type. Prior to 1990, the only type of settlement was the disputed claim settlement. By comparing claims before and after the policy change (in 1989 and 1991), the authors found that the introduction of CDAs sped resolution and reduced TTD duration in a small group of claims: about 5 percent of all indemnity claims and one-eighth of PPD claims. Although the average lump-sum settlement amount in claims resolved through a CDA increased to about $5,500 in 1991, the increase in total indemnity was only about 3 percent per year. One possible explanation for this increase in lump-sum amounts was that in negotiating, parties may have substituted settlement payments for the 16.5 week decline in TTD duration over the period. At $240 per week (the average TTD rate), this substitution would account for most of the increase in the average settlement payment. (Gardner, Telles, and Moss, 2016)

Oregon Senate Bill 757

The policy reform of main interest in this study is SB 757, a new policy effective in 2005 that dramatically changed the calculation of PPD benefits. Before this policy change, PPD benefits were designed to measure the severity of injury to particular body parts. Injuries were determined to be either scheduled or unscheduled. For scheduled injuries, the injured body part could be found on a preexisting list of guidelines in the law. For example, injuries to the hand or foot or hearing loss were considered scheduled injuries. By contrast, unscheduled injuries, including back pain, shoulder pain, and mental conditions, were not explicitly listed in the law. Scheduled and unscheduled injuries had different rating procedures prior to 2005: For scheduled injuries, the extent of impairment was determined relative to the injured body part; for unscheduled injuries, the extent of impairment was determined relative to the whole body. In addition to different rating procedures, benefits for scheduled and unscheduled injuries had different maximums that were updated only occasionally to adjust for inflation. Maximum PPD benefits were higher for unscheduled injuries. For example, from January 2002 to December 2004, the maximum PPD benefit for unscheduled injuries was $162,272, but the maximum for scheduled injuries was $107,338 (DCBS, Information Management Division, Research and Analysis Section, 2006, p. 49). Finally, workers with unscheduled injuries were also assessed for work disability prior to 2005, but workers with scheduled injuries were not. The work disability assessment process determined the extent to which an injury might prevent future work by taking into account the worker’s age, education, and vocational factors.

To harmonize PPD awards across beneficiaries, SB 757 introduced a new rating procedure and benefit calculation to be applied to all PPD cases. Injuries are no longer classified as scheduled or unscheduled. PPD awards after 2005 had two components: an impairment award and a work disability award. All injuries occurring in or after 2005 that reach maximum medical improvement are assessed on the extent of impairment to the whole person, and the impairment award is based on an impairment rating and the state average weekly wage, rather than a different benefit maximum depending on the injury. In addition to the impairment award, all claims are also considered for a work disability award, using the same prior work disability assessment process based on considerations of age, education,
vocational factors, and the severity of injury (Oregon Administrative Code Ch. 436, Div. 035, Sec. 0011). The value of the work disability award varies with the worker’s preinjury weekly wage and the extent of work disability determined by the assessment. SB 757 was passed in 2003 but applies only to injury dates beginning in 2005. The policy did not explicitly make other large changes to administration or judicial aspects of the system.6

The changes in SB 757 affect the value of the award in several ways. First, both the fact that all claims are now assessed for work disability and the establishment of a generous benefit calculation for the work disability award increase the potential value of the PPD benefits for claimants who are unable to return to work. This is true both for injuries that would have been classified as unscheduled prior to 2005 (when work disability would be taken into account for claims before and after the policy change, but the value of the benefit could increase starting in 2005) and for injuries that would have been classified as scheduled prior to 2005 (work disability first began to be taken into account starting in 2005).

Second, all disabilities began to be rated on the extent of impairment to the full person rather than to the body part (as scheduled injuries had been measured before). If the injury is determined to result in a relatively small impairment to the full person, the new impairment award could result in a smaller PPD benefit than what a scheduled injury might have received prior to 2005. On the other hand, for an injury determined to reflect a large impairment to the full person, the impairment portion of the award could increase compared with what a similar injury would have received prior to 2005.

These changes could have several potential effects on the probability of both initial settlements and settlements after closure. First, because work disability increases the value of the PPD award starting in 2005, accepted claims with a low likelihood of returning to work could be more likely to forego an initial settlement to maintain their eligibility for a PPD award. Furthermore, workers with high weekly wages prior to injury could see a larger work disability award after the policy change, because the preinjury weekly wage factors into the work disability benefit calculation. As a result, a higher weekly wage could lead to a lower likelihood of initial settlement starting in 2005. On the other hand, workers with less-severe injuries could be more likely to pursue an initial settlement because their potential PPD award could fall starting in 2005 if the injury is likely to receive a low impairment rating with respect to the whole person. Workers and attorneys may be more likely to pursue a settlement after closure if, because of the policy change, the final PPD value is different from what they expected. Of course, for these changes in settlement behavior to occur, all actors in the system would need to understand and be aware of the implications of the policy change for the PPD benefit and understand how this would interact with the potential settlement. We explored potential changes of this sort through the stakeholder interviews and data analyses.

Stakeholder Interview Methods and Findings

We begin our exploration by summarizing discussions with stakeholders in workers’ compensation. To gain context and background information about the Oregon workers’ compensation system, we reached out to a variety of experts and actors, including plaintiffs’ attorneys, workers’ compensation insurance representatives, and Oregon Workers’ Compensation Board attorneys. We searched for contacts in main agencies in the state, the Oregon Department of Consumer and Business Services provided additional suggestions about individuals to contact, and we snowballed interview requests from there. Individuals on the RAND Institute for Civil Justice board provided additional leads for contacts. We also identified relevant agencies, organizations, and actors and cold-emailed them for interview requests. While we contacted 29 stakeholders with a variety of perspectives, our outreach efforts resulted in only two interviews. While response to such requests is typically low, the fact that we were analyzing a policy change from nearly 15 years ago limited our ability to reach out to actors who were actively working in the Oregon workers’ compensation system around the time of the policy change.
The two interviews still provided helpful insight into the system from two different perspectives. We spoke with an attorney for the Workers’ Compensation Board and a senior claims manager for a large workers’ compensation insurer in Oregon. Both interviewees have decades of experience working in the workers’ compensation industry in Oregon and were in similar positions (on the attorney and claim management side) at the time of the policy change in 2005.

Although these two individuals represent different perspectives in the workers’ compensation system, they have similar recollections of the effects of SB 757. Both respondents recalled that SB 757 was viewed as a significant change in policy. In particular, both noted that the work disability provisions in the new law were significant and drew a lot of attention soon after the law was passed. Both respondents indicated that this change meant that all actors in the system monitored work activity more closely and collected more-thorough information about the job at the time of injury.

However, neither actor recalled that this change led to substantial changes in actual settlement behavior or to changes in the philosophy or strategy about which cases warrant settlement. One respondent recalled an increase in the number of cases that were litigated right after the change; workers and attorneys were uncertain about how benefits would change and used the litigation process to investigate the potential changes and gain a better understanding of the new system. However, this respondent indicated that the frequency of litigation has declined over time as actors gained a better understanding of the law and potential implications for permanent benefits and settlement values.

**Descriptive Data Analyses and Findings**

**Data and Sample**

We next examine the relationship between changes in PPD benefits and the likelihood of settlement empirically. To conduct this analysis, we used administrative data on closed workers’ compensation claims the Workers’ Compensation Division of the Oregon Department of Business and Consumer Services provided us. The administrative claims data provide detailed information on worker characteristics, including age; gender; preinjury weekly wage; occupation and industry at the time of injury; injury characteristics, including body part, nature of the injury, and the injury event; claim characteristics, including date of injury, date of claim closure, and total values of temporary and permanent disability payments; estimated TTD duration; and, importantly for this study, settlement values. The data set includes all claims with indemnity benefits that were closed at the time of data extraction in 2014.

We made several important sample restrictions. First, we focused our analysis on injuries occurring between 2000 and 2010. This time frame provides a sufficient window of several years of claims both before and after the implementation of SB 757. Claims with particularly long durations may have unique settlement patterns that would not be fully captured in an analysis of the later years in the data set. Because the data set includes only closed claims, the most recent years in it may not yet contain complete information on all claims that are still working their way through the system, leading to right censoring. Recent work analyzing claim durations in California’s workers’ compensation system determined that right censoring is a relevant concern even three years after the injury, particularly for claims with permanent disabilities, which take longer to resolve (Dworsky et al., 2016; Dworsky, Rennane, and Broten, 2018). We therefore set the last injury cohort as 2010 to allow sufficient time for claims to resolve and close before the time of data extraction, whether through settlement or otherwise. Furthermore, we restricted the analysis to claims that lasted four years or less, from the date of injury until the resolution date, to analyze a sample of claims with constant maturity throughout the entire sample.7 We focused on injury year cohorts rather than the date of resolution because the policy regime for PPD benefit calculation is determined by date of injury (DCBS, Workers’ Compensation Division, 2015).

Secondly, because the analysis considers whether the change in PPD benefits affects settlement decisions, we further restricted the sample to claims that either received PPD benefits or had an initial CDA
settlement. Because a claimant is no longer eligible to receive PPD if the claim ends in an initial settlement, the administrative data do not provide any information about PPD benefits for such claims. As we will describe in detail later, we focus the analysis on characteristics documented at the beginning of the claim that were observed for all claimants, regardless of whether the claim ended in settlement or closure.

Furthermore, because the data set includes information only on claims with indemnity payments, it is outside the scope of our research to examine the effects of settlements with payments for medical care only. Given that the policy change of interest affects one type of indemnity benefit (PPD) and that medical-only claims are typically less severe, the selected sample is a relevant population to examine. These restrictions result in more than 60,000 claims in the total sample, ranging from approximately 5,000 to 7,000 claims per year.

**Trends in Settlements and PPD Claims**

Figure 2 shows the trends in the frequency of claims in the sample for the analysis. The overall frequency of PPD claims (including claims that had a settlement after closure) declined from more than 6,000 in 2000 to approximately 4,200 in 2010. However, the overall frequency of indemnity claims was declining over the same period. As a result, the share of claims with a PPD benefit remained relatively stable, around 25 percent, over the decade. The share of claims with a PPD benefit did peak at 28.6 percent in 2004, before declining to 25.3 percent in 2008, and remaining between 25 and 26 percent through 2010.

At the same time, initial settlements through CDA increased, albeit by a relatively small amount. Initial CDA settlements increased from just under 1,000 per year from 2000–2004 to approximately 1,200 per year beginning in 2005. In percentage terms, the share of claims with an initial CDA settlement ranged between 3.8 and 4.2 percent before 2005; increased by one percentage point, to 5.1 percent in 2005; and continued to rise, to 6.5 percent by 2010. We tested whether these changes represented

![Figure 2](image.png)

**FIGURE 2**

Frequency of PPD Claims and Initial CDA Settlements, 2000–2010 Injury Cohorts

*SOURCE: Data from DCBS, Workers’ Compensation Division, 2000–2010.
NOTE: Sample restricted to closed indemnity claims with claim durations of four years or less.*
a statistically significant break in the trend by using interrupted time-series regressions. There was a small, statistically significant increase in the probability of having a claim settled through initial CDA after 2005, and a statistically significant decline in the probability of a PPD award after 2005. The probability of a PPD award declined by approximately 0.9 percentage points, or 3 percent relative to the overall sample mean. At the same time, the probability of an initial CDA settlement increased by 0.7 percentage points, or 14 percent relative to the sample mean. However, the fact that these trends occurred at the same time does not necessarily mean that the two are related.

We conducted additional analyses to test whether there were significant changes in observable characteristics of claims that settled or claimed PPD before or after the policy change. Statistically significant changes in other claim characteristics would suggest that there were other shifts in the case mix of claims that settled or received PPD rather than simply changes in the overall frequency of settlements and PPD claims. In particular, we tested for statistically significant changes in characteristics that would be factored into the calculation of the PPD award, including preinjury weekly wage and body part of injury. We found that there were statistically significant increases in the share of CDA settlements among upper extremity injuries after 2005 and in the preinjury weekly wage among PPD claims after 2005. However, Table 1 shows little evidence of other statistically significant trend breaks in these observable characteristics.

Approximately 10 percent of claims in our sample received settlements. Typical claimants were in their early to mid-forties. Approximately two-thirds of all PPD claimants and claimants who settled were male. There were significant differences in the nature of injuries between claims receiving PPD and claims with initial settlement: While just over one-third of PPD claims were for muscle strains and sprains, more than one-half of claims with initial settlement were for strains and sprains. The share of initial settlement

### TABLE 1
Regression Coefficients of Trend Breaks in Observable Characteristics

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<th></th>
<th>Preinjury Weekly Wage</th>
<th>Back Injuries</th>
<th>Lower Extremity Injuries</th>
<th>Upper Extremity Injuries</th>
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<td><strong>Panel A: Initial CDA</strong></td>
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<td>Post-2005</td>
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<tr>
<td>R-squared</td>
<td>0.003</td>
<td>0.002</td>
<td>0.000</td>
<td>0.001</td>
<td>0.003</td>
</tr>
<tr>
<td>Mean</td>
<td>721.3</td>
<td>0.229</td>
<td>0.212</td>
<td>0.224</td>
<td>0.117</td>
</tr>
</tbody>
</table>

**SOURCE:** Data from DCBS, Workers’ Compensation Division, 2000–2010.

**NOTES:** Data for closed claims with total durations less than four years. Test for statistically significant trend breaks in observable characteristics in 2005. Dependent variable for each regression is shown in the column header. Sample is restricted to the type of settlement indicated in each panel header (e.g., Panel A tests whether there statistically significant changes in the trends of observable characteristics among Initial CDA claims). + p < 0.1, * p < 0.05, ** p < 0.01.
claims with muscle strains or sprains declined after 2005. Approximately one-fourth of claims with initial settlements had multiple or unknown injuries settle, compared with one in ten claims with PPD benefits. Furthermore, the share of initial settlement claims with multiple or unknown injuries increased after 2005.

### Table 2

Summary Statistics by Receipt of Settlement and PPD

<table>
<thead>
<tr>
<th>Demographics</th>
<th>All PPD Claims</th>
<th>Initial CDA Claims</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pre-2005</td>
<td>Post-2005</td>
</tr>
<tr>
<td>Age</td>
<td>43.14*</td>
<td>44.73*</td>
</tr>
<tr>
<td>Gender</td>
<td>0.72</td>
<td>0.71</td>
</tr>
<tr>
<td>Weekly wage</td>
<td>830.58*</td>
<td>793.55*</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Nature of Injury</th>
<th>All PPD Claims</th>
<th>Initial CDA Claims</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trauma</td>
<td>0.10*</td>
<td>0.18*</td>
</tr>
<tr>
<td>Fractures/breaks</td>
<td>0.31</td>
<td>0.31</td>
</tr>
<tr>
<td>Strains/sprains</td>
<td>0.39*</td>
<td>0.27*</td>
</tr>
<tr>
<td>Wounds/cuts/burns</td>
<td>0.10*</td>
<td>0.07*</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Body Part of Injury</th>
<th>All PPD Claims</th>
<th>Initial CDA Claims</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head/face/neck</td>
<td>0.06*</td>
<td>0.05*</td>
</tr>
<tr>
<td>Internal</td>
<td>0.02</td>
<td>0.02</td>
</tr>
<tr>
<td>Shoulder</td>
<td>0.12</td>
<td>0.14</td>
</tr>
<tr>
<td>Back/spine</td>
<td>0.13*</td>
<td>0.10*</td>
</tr>
<tr>
<td>Upper extremities</td>
<td>0.31</td>
<td>0.29</td>
</tr>
<tr>
<td>Lower extremities</td>
<td>0.26</td>
<td>0.27</td>
</tr>
<tr>
<td>Multiple/unknown</td>
<td>0.11*</td>
<td>0.14*</td>
</tr>
</tbody>
</table>

| Observations        | 30,704 | 31,921 | 4,557  | 7,015   |

SOURCE: Data from DCBS, Workers’ Compensation Division, 2000–2010.
NOTES: Data for closed claims with total durations of four years or less. Asterisks indicate that the difference-in-difference between PPD claims before and after 2005 and a CDA initial settlement is statistically significant at the 5-percent level. P-values in statistical significance tests adjusted for multiple hypothesis testing with the Hoch-Bonferroni correction.
Empirical Approach

Next, we used a logistic regression analysis to analyze whether components of the PPD award process were associated with the likelihood of settlement and to analyze whether this relationship changed after 2005. The key thought experiment is to consider whether a claimant would have a higher or lower likelihood of settling after the policy change in 2005 than what he or she would have done if injured prior to 2005. Of course, we did not observe the same claimant in both policy regimes; in practice, we analyzed the effects of key factors that changed the PPD benefit value after 2005, conditional on controls for other characteristics of the claim. We first analyzed how the likelihood of settlement varied with specific claim characteristics that are treated differently in the PPD benefit calculation process before and after 2005, including the preinjury weekly wage, body part of injury, and probability of having a work disability. Then, we analyzed how the likelihood of settlement varied with the expected value of the PPD award. In all analyses, the key outcome measures are indicators for whether a claim had an initial CDA settlement or whether the claim ever had a CDA settlement (e.g., via initial settlement or settlement after closure).

Before presenting our estimates of the regressions, we address several issues related to missing data. First, the administrative data contain information only about whether claimants received a work disability award after 2005. However, because the work disability award was an important factor in the overall value of the PPD award after 2005, it is necessary to determine whether pre-2005 claims would likely have been eligible for a work disability award if they had been (hypothetically) assessed under the post-2005 benefit calculation. We therefore estimated the probability that a claim would receive a work disability award based on characteristics that are available in the data for all claims, regardless of the time frame, and used this estimated probability of receiving a work disability award in the analysis.

Second, while the data provide the value of the actual PPD award for claimants who received PPD, we did not observe a PPD value for claimants who opted for an initial settlement in lieu of a PPD award. We followed a similar process to impute an expected value of the PPD award for all claimants based on characteristics we observed for all claims, such as injury type and duration of claim.

We chose the observable characteristics in the imputation by following an iterative procedure based on Imbens, 2015. First, we selected key baseline observable characteristics guaranteed to be included in the propensity score. Given the factors considered in the calculation of the PPD award, we selected the worker’s preinjury weekly wage, indicators for broad injury categories, and body parts as guaranteed controls.

Then, we selected additional controls to add to the propensity score model through an iterative process. We estimated the model with and without a series of additional observable characteristics and selected the observable characteristic to include if the model outcome was significantly different when the additional variable was included. We measured a significant difference by comparing the model with and without the additional variable in a likelihood ratio test and included the additional variable when the chi-square statistic likelihood ratio test exceeded 1.5 (Imbens, 2015). Potential additional controls included an exhaustive list of observable characteristics available for all claims (age, gender, industry and occupation, medical expenditures, and the value of any temporary disability benefits received); linear interactions between the potential and guaranteed controls, quadratic terms in continuous variables, and interactions between the guaranteed controls and quadratic continuous variables; and year of injury. We repeated the selection process separately to select covariates for the work disability and PPD benefit award imputations. Then, we used the coefficients from the respective regression models with the selected variables to impute a propensity score of work disability and an expected value of the PPD award for all claimants.

To test the accuracy of the predictions, Figure 3 and Table 3 compare the predicted PPD benefit value with actual PPD benefits observed in the data (all benefit values are in 2012 dollars). While the prediction captures the mean of the distribution well, it tends to underestimate higher-value PPD awards. Figure 4 compares the predicted propensity score for the sample of claims after 2005 when we were able
Main Results

Once we obtained imputed values for the likelihood of work disability and the expected value of the PPD award for initial settlements, we estimated two logistic regression models. First, we regressed an indicator of receiving a settlement on the characteristics described earlier that may be likely to affect the value of the PPD award: preinjury weekly wage, body part of injury, and probability of receiving work disability.

To test whether the relationship between these factors and settlements changed after 2005, we also included interactions between these characteristics and an indicator for awards that occurred after 2005. As described earlier, the primary sample in these regressions is the sample of claimants who either had a PPD benefit or settled (either via an initial settlement or a settlement after closure).

Table 4 shows the marginal effects from this first logistic regression model. The upper half of the regression table presents the marginal effects from these interactions to assess whether the relationship between these characteristics and the probability to observe whether the claim had a work disability award. The model assigns very low predicted propensity scores to claims that did not have work disability in reality: Over 90 percent of predicted propensity scores for this group are below 0.1. Predicted propensity scores for claims that did receive work disability are higher, with a median propensity score of 0.18 and a mean of 0.29.

Table 3 shows the marginal effects from this first logistic regression model. The upper half of the regression table presents the marginal effects from these interactions to assess whether the relationship between these characteristics and the probability
benefits by 1,000 in the regression to reflect the marginal effect of increasing PPD benefits by $1,000.

The results show a relatively small relationship between predicted PPD benefits and the probability of settlement. The second row in the initial CDA column shows that an increase in the predicted PPD benefit by $1,000 increases the probability of an initial CDA settlement by 0.8 percentage points. Relative to a mean of 15.6 percent of the sample with any initial settlement, this reflects an increase of approximately 5 percent. However, there is no detectable change in the relationship between predicted PPD benefits and settlement probability for initial CDA or any CDA after 2005.

Overall, these results do not suggest that changes in the potential PPD award, or the components of a claim that are likely to drive these changes, significantly affected the likelihood of settlement after SB 757. There are several potential explanations for the lack of an effect. First, workers may not have been aware of the policy change. Other actors in the system, such as attorneys and claims administrators, were likely aware of the change but may not have fully understood the ways it would affect the value of the PPD award compared with the potential value of the settlement, limiting their ability to respond

of settlement changed significantly after the policy change. Overall, the effects of imputed work disability and preinjury weekly wage did not change significantly after 2005: Nearly all the marginal effects are close to zero and not statistically significant.

The overall marginal effects in the lower half show that having a higher probability of work disability is associated with a higher likelihood of settlement and that injuries to certain body parts, including shoulders and upper and lower extremities, are associated with a lower likelihood of settlement. However, the fact that the interaction coefficients are not statistically significant suggest that this relationship did not change after 2005.

Next, we regressed an indicator for receiving a settlement (including initial settlement, any CDA settlement) on the imputed PPD award and the imputed PPD award interacted with an indicator for claims occurring after 2005, with other observable characteristics as controls. The significance of the marginal effect on the interacted term provided a test of the extent to which the relationship between PPD benefits (based on the observable characteristics that factor into the award) and settlement behavior may have changed after 2005. Table 5 shows the marginal effects from these regressions. We divided predicted

FIGURE 4
Distribution of Work Disability Propensity Scores

SOURCE: Data from DCBS, Workers’ Compensation Division, 2000–2010.
NOTE: Data for closed indemnity claims with permanent disability only.
strategically. Thus, the stakeholders’ suspicion that the marked increase in initial settlements after 2005 resulted from actors testing out the system to understand how the changes may work may well be correct and is worth exploring with further research.

Limitations

These findings present a preliminary examination of the relationship between CDA settlements and PPD claims that future research could bolstered. Despite our efforts to discuss how SB 757 affected settlements with various actors in the system, we succeeded in conducting only two interviews. This is likely due in part to the fact that the reform was passed over 15 years ago, and many people familiar with the reform may have changed jobs or no longer recall the details. A second important limitation stems from the missing data challenges discussed in the empirical analysis section. Future work could further test the sensitivity of the imputations conducted here; explore alternative models for analyzing the relationship among claim characteristics, PPD claims, and settlements; and engage in renewed efforts to contact stakeholders for a comprehensive qualitative study.

Conclusion

In this research, we analyzed settlement patterns in workers’ compensation. Through a combination of literature reviews, stakeholder discussion, and data analysis, we explored how potential changes in the expected value of permanent disability benefits may affect settlement claiming behavior. We examined a policy change in the calculation of PPD benefits in

<table>
<thead>
<tr>
<th>TABLE 4</th>
<th>Marginal Effects on Post-2005 Variables</th>
<th>Marginal Effects on Pre-2005 Variables</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Initial CDA</td>
<td>Any CDA</td>
</tr>
<tr>
<td>Pr(Work Disability)</td>
<td>–0.012 (0.014)</td>
<td>0.011 (0.022)</td>
</tr>
<tr>
<td>Weekly wage</td>
<td>0.000* (0.000)</td>
<td>–0.000 (0.000)</td>
</tr>
<tr>
<td>Head/face/neck</td>
<td>–0.004 (0.012)</td>
<td>0.011 (0.015)</td>
</tr>
<tr>
<td>Internal</td>
<td>–0.009 (0.015)</td>
<td>–0.005 (0.019)</td>
</tr>
<tr>
<td>Shoulder</td>
<td>0.002 (0.010)</td>
<td>–0.007 (0.012)</td>
</tr>
<tr>
<td>Back/spine</td>
<td>0.018* (0.009)</td>
<td>0.015 (0.011)</td>
</tr>
<tr>
<td>Upper extremities</td>
<td>0.002 (0.009)</td>
<td>–0.005 (0.011)</td>
</tr>
<tr>
<td>Lower extremities</td>
<td>0.013 (0.009)</td>
<td>0.013 (0.011)</td>
</tr>
</tbody>
</table>

SOURCE: Data from DCBS, Workers’ Compensation Division, 2000–2010.

NOTES: Each column represents a separate regression, with the outcome variable listed in the column header. The sample is limited to claimants who either received a permanent disability benefit or the settlement type shown in the column header, with claim durations of four years or less. The regression also includes controls for injury type, total medical expenditures, and total temporary indemnity payments and indicators for year of injury. There were 70,614 CDA observations, of which 64,450 were of initial CDAs. The outcome mean for initial CDAs was 0.156 and for any CDA was 0.336. * p < 0.5, ** p < 0.01.
of policy changes. This means that, while there could be some initial responses to the policy, more gradual shifts in the system may evolve over time. Additionally, although there may have been incentives for some workers to change their settlement behavior, the lack of a response suggests that policy changes must be highly salient for actors to respond.

Notes

1 Attorneys are currently eligible to receive 25 percent of any settlement up to $50,000 and an additional 10 percent of the remaining value above $50,000 (Information Technology and Research Section, 2016, p. 81). In addition to these out-of-compensation fees, attorneys are also eligible to receive additional fees directly from the insurer. See State of Oregon, undated, for more details.

2 The states not allowing C&R were Delaware, Minnesota, Nevada, New Mexico, Texas, Washington, and Wyoming (Koller, Testan, and Gilbert, 2016).

3 For example, in Arizona, the settlement may be vacated within six months; in Alaska, the parties may only settle after more than 30 days have passed since the accident; Connecticut law requires settlements to be approved by the Workers’ Compensation Commissioner.

4 See DCBS, Information Technology and Research Section, 2016, for detailed flowchart of the claim evolution, settlement, and dispute processes.

5 Oregon Workers’ Compensation Board, undated.

6 See DCBS, 2011, and DCBS, 2016, for more details on SB 757.

7 This restriction excludes only approximately 1 percent of claims in the data set.

### TABLE 5
Marginal Effects of Predicted PPD Benefit ($1,000s) on Settlement Indicators

<table>
<thead>
<tr>
<th></th>
<th>Initial CDA</th>
<th>Any CDA</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Predicted PPD benefit, post-2005</strong></td>
<td>0.002</td>
<td>−0.000</td>
</tr>
<tr>
<td></td>
<td>(0.000)</td>
<td>(0.000)</td>
</tr>
<tr>
<td><strong>Predicted PPD benefit</strong></td>
<td>0.008**</td>
<td>0.007**</td>
</tr>
<tr>
<td></td>
<td>(0.001)</td>
<td>(0.001)</td>
</tr>
<tr>
<td><strong>Sample size</strong></td>
<td>64,450</td>
<td>70,614</td>
</tr>
<tr>
<td><strong>Outcome mean</strong></td>
<td>0.156</td>
<td>0.336</td>
</tr>
</tbody>
</table>

**SOURCE:** Data from DCBS, Workers’ Compensation Division, 2000–2010.

**NOTES:** Data for closed claims with claim durations of four years or less. Each column represents a separate regression, with the outcome variable listed in the column header. The sample is limited to claimants who either received a permanent disability benefit or the settlement type shown in the column header, with claim durations of four years or less. The regression also includes controls for injury type, body part of injury, indicator for claims post-2005, preinjury weekly wage, total medical expenditures, and total temporary indemnity payments. All dollar values are in 2012 dollars. * p < 0.5, ** p < 0.01.
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DCBS—See Oregon Department of Consumer and Business Services.


Oregon Administrative Code Ch. 436, Workers’ Compensation Division, Div. 035, Disability Rating Standards, Sec. 0011, Determining Percent of Impairment, undated. As of November 19, 2019: https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=107006


Zaidman, Brian, William Boyer, and David Berry, "Workers Perspectives on Settlements and Hearings," Minnesota Department of Labor and Industry, 2013.

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**About This Report**

This report presents an analysis of the extent of the relationship between workers’ compensation indemnity benefits and the likelihood of claim settlement. The choice to settle a claim sometimes results in the worker relinquishing the right to pursue permanent partial disability or other indemnity benefits. Changes in the expected value of permanent partial disability benefits could have implications for a worker’s decision to settle; yet, these interactions have not been explored in great detail.

This report provides an analysis of the ways in which changes to permanent disability benefits could affect settlements. It provides background on the settlement process and a review of existing literature on settlements, and the empirical analyses focus on a particular policy change in Oregon as a case study from that state.

This research was conducted in the RAND Institute for Civil Justice within the Justice Policy Program.

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