

2022 medical malpractice statistical summary

Data submitted by insurers and self-insurers

Claims closed from Jan. 1, 2018 through Dec. 31, 2022

June 2023

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Introduction

In 2006, the Washington state Legislature enacted comprehensive health care liability reform that requires all insuring entities¹ and self-insurers² to report medical malpractice closed claim data to the Office of the Insurance Commissioner (OIC).³ The OIC, in turn, must post summary statistics about medical malpractice closed claims on its website.⁴

This statistical summary includes data for claims closed with an indemnity payment to a claimant and/or defense and cost containment expenses incurred by an insuring entity or self-insurer.⁵ Each closed claim is associated with one defendant.

This summary report includes data for medical malpractice claims closed in calendar years 2018 through 2022.⁶ There are three types of data summarized in this report:

1. **Defense costs:** These are expenses paid by the insuring entity or self-insurer to defend an insured and are also called *defense and cost containment expenses*. These are expenses allocated to a specific claim, such as court costs and fees paid to defense attorneys or expert witnesses. They do not include internal costs to settle claims, such as salaries for claims staff or operating overhead for a claims department.⁷
2. **Economic damages:** The vast majority of these amounts are an estimate of the claimant's economic damages⁸ by the insuring entity or self-insurer when a claimant receives an indemnity payment. In a few cases, a court specifies economic damages when issuing a verdict, and these economic damages are included in the totals.
3. **Paid indemnity:** These are amounts paid by an insuring entity or self-insurer to the claimant to resolve the claim.

¹ Insuring entities are defined in [RCW 48.140.010](#)(8) and include insurance companies, joint underwriting associations, and risk retention groups.

² Self-insurer is defined in [RCW 48.140.010](#)(11).

³ [House Bill 2292 – 2005-06 session](#) and [RCW 48.140.020](#).

⁴ [RCW 48.140.040](#)(2). On Feb. 13, 2023, Insurance Commissioner Mike Kreidler notified the Legislature that the OIC would post statistical summaries by July 1.

⁵ See [WAC 284-24D-060](#).

⁶ Data submitted on or before March 31, 2023, and audited through June 14, 2023.

⁷ See [WAC 284-24D-020](#)(1), [WAC 284-24D-330](#) and [WAC 284-24D-340](#).

⁸ See [RCW 4.56.250](#)(1)(a), [WAC 284-24D-350](#), [WAC 284-24D-360](#), [WAC 284-24D-362](#), [WAC 284-24D-364](#) and [WAC 284-24D-370](#).

The OIC has also provided a summary of “incident-level”⁹ data. One medical incident may result in more than one claim, so incident-level data is the sum of two or more claims. Available incident-level data is incomplete for several reasons.

For example:

- Claims related to one incident may close over a period of years. An insuring entity or self-insurer may close some claims quickly and report them to the OIC, while other claims related to an incident may remain open and unresolved. When multiple claims are connected to a single incident, smaller claims tend to close more quickly than larger claims.
- Defendants may not be part of the same organization or be insured by the same company. In this situation, unrelated insuring entities or self-insurers do not have the means to link the claims together.

In spite of the limitations, there is enough data available to show that incidents of medical malpractice involving more than one defendant are more costly to resolve than individual claims data suggests.

In addition to the closed claim data submitted by insurers and self-insurers, which is summarized in this report, the OIC also receives medical malpractice settlement data from attorneys, which is summarized in a separate report. For several reasons, data in this statistical summary cannot be compared to data submitted by attorneys.

- First, insuring entities and self-insurers report all claims closed with a payment to a claimant or instances in which they have expenses to defend a claim. In comparison, attorneys report settlements only if they file a lawsuit against one or more defendants.
- Second, insuring entities and self-insurers report data separately for each defendant, as each claim is resolved. Attorneys submit one settlement report that includes payments made by all defendants whom the attorney sued. An attorney must wait until all claims are resolved. Consequently, the timing of their reports will be different from insurers and self-insurers.
- Finally, since attorneys report all payments made by all defendants, the average settlement will be higher than the average closed claim reported by insuring entities and self-insurers.

⁹ [RCW 48.140.030](#)(1) says insuring entities and self-insurers must provide an incident identifier for “companion claims,” which are defined as “...separate claims involving the same incident of medical malpractice made against other providers or facilities...”

Key 2022 closed claim statistics

Claims

- The number of closed claims increased 6.7% in 2022.

Indemnity payments

- After significant decreases in 2020 and 2021, the average indemnity payment increased 65% to \$875,375.
- Total paid indemnity increased 67.4% to \$245.1 million.
- The number of indemnity payments increased 1.4% to 280.

Defense costs

- Following a significant decrease in 2021, the average defense cost increased 60.3% to \$110,815.
- Total defense costs increased 76.9% to \$61.5 million.
- The number of claims with defense costs increased 10.3% to 555.

Calendar year comparison¹⁰

Data submitted by reporting entities to the OIC for the five-year period ending Dec. 31, 2022:

Year closed	2018	2019	2020	2021	2022
Total claims closed	824	665	603	564	602
Claims with indemnity payments	414	304	266	276	280
Total paid indemnity	\$188,379,498	\$188,608,420	\$156,831,379	\$146,427,178	\$245,104,899
Total economic damages	\$110,899,936	\$153,690,350	\$100,996,578	\$89,974,971	\$167,620,465
Average indemnity payment	\$455,023	\$620,422	\$589,592	\$530,533	\$875,375
Average economic damages	\$267,874	\$505,560	\$379,686	\$325,996	\$598,645
Claims with defense costs	710	595	554	503	555
Total defense costs	\$51,795,179	\$44,828,433	\$54,898,075	\$34,765,443	\$61,502,572
Average defense cost	\$72,951	\$75,342	\$99,094	\$69,116	\$110,815

Number of claims

- For calendar year 2022, insuring entities and self-insurers submitted 602 medical malpractice¹¹ closed claim reports to the OIC, an increase of 6.7% from the previous year.

Payments to claimants

- In 2022, insuring entities and self-insurers paid \$245.1 million on 280 claims, an average of \$875,375 per paid claim.
- The number of indemnity payments increased 1.4%, while the average payment increased 65% from the previous year.

Economic damages

- In 2022, insuring entities and self-insurers paid \$167.6 million for economic damages.
- Average economic damages were \$598,645 per paid claim, an increase of 83.6% from the previous year.
- Economic damages accounted for 68.4% of the total indemnity payments in 2022, as compared to an average of 67% over the previous four years.

¹⁰ [RCW 48.140.040](#) requires the commissioner to provide a calendar year summary of data.

¹¹ See [RCW 48.140.010\(9\)](#).

Defense and cost containment

In 2022, insuring entities and self-insurers paid \$61.5 million to defend 555 claims. The average defense cost increased 60.3% to \$110,815 per claim. Insuring entities and self-insurers reported defense and cost containment expenses for 92.2% of all claims.

Year closed	2018	2019	2020	2021	2022
Total claims closed	824	665	603	564	602
Claims with defense counsel	586	533	471	443	498
Total paid to defense counsel	\$37,342,246	\$32,324,818	\$38,667,938	\$26,665,535	\$49,485,652
Average paid to defense counsel	\$63,724	\$60,647	\$82,098	\$60,193	\$99,369
Claims with experts hired	429	342	310	277	297
Total paid to experts	\$6,588,874	\$6,834,546	\$4,649,769	\$4,925,506	\$7,878,823
Average paid to experts	\$15,359	\$19,984	\$14,999	\$17,782	\$26,528
Claims with other defense costs	437	380	339	268	255
Total paid for other defense costs	\$7,864,059	\$5,669,069	\$11,580,368	\$3,174,402	\$4,138,097
Average paid for other defense costs	\$17,996	\$14,919	\$34,160	\$11,845	\$16,228
Claims with defense costs (all types)	710	595	554	503	555
Total paid defense costs (all types)	\$51,795,179	\$44,828,433	\$54,898,075	\$34,765,443	\$61,502,572
Average paid defense cost (all types)	\$72,951	\$75,342	\$99,094	\$69,116	\$110,815

Payments to defense counsel

- The average amount paid for defense counsel increased 65.1% in 2022.
- Insuring entities and self-insurers reported payments to defense counsel for 82.7% of all claims, as compared to an average of 76.5% over the previous four years.

Payments to expert witnesses

- The average amount paid for expert witnesses increased 49.2% in 2022.
- Insuring entities and self-insurers reported payments to expert witnesses for 49.3% of all claims in 2022.

Million-dollar claims

Insuring entities and self-insurers closed 46.5% of claims in 2022 with an indemnity payment to the claimant.

Of those claims, 66 closed with paid indemnity of \$1 million or more. The average payment increased 29.5% to \$3,030,099.

Claims closed for \$1 million or more					
Year closed	2018	2019	2020	2021	2022
Number of indemnity payments	50	46	46	42	66
Total paid indemnity	\$123,626,292	\$146,253,121	\$118,499,537	\$98,294,568	\$199,986,543
Average indemnity payment	\$2,472,526	\$3,179,416	\$2,576,077	\$2,340,347	\$3,030,099

There were 214 claims closed with paid indemnity of less than \$1 million. For these claims, the average payment increased 2.5% to \$210,833.

Claims closed for less than \$1 million					
Year closed	2018	2019	2020	2021	2022
Number of indemnity payments	364	258	220	234	214
Total paid indemnity	\$64,753,206	\$42,355,299	\$38,331,842	\$48,132,610	\$45,118,356
Average indemnity payment	\$177,893	\$164,168	\$174,236	\$205,695	\$210,833

Comparison of individual claim data and incident-level data

One medical incident¹² can result in multiple claims against different medical providers or facilities. If this is the case, the insuring entity or self-insurer links these claims together so the OIC can total the costs to settle all claims related to the medical incident. This table shows how individual claim data compares to “incident-level” data for incidents involving more than one medical provider or facility over the 15-year period ending Dec. 31, 2022.

Category	Individual claim data	Incident-level data
Number of claims/incidents	13,224	1,530
Number with indemnity payments	6,207	790
Total paid indemnity	\$2,091,532,602	\$567,682,086
Total economic damages	\$1,275,788,463	\$322,694,006
Average indemnity payment	\$336,964	\$718,585
Median indemnity payment	\$61,500	\$350,000
Average economic damages	\$205,540	\$408,473
Number with defense costs	11,433	1,510
Total defense costs	\$689,264,249	\$227,431,369
Average defense cost	\$60,287	\$150,617

For claims against more than one medical provider or facility, compensation to the claimant is much higher. Average paid indemnity at the incident level is 113.3% higher than average paid indemnity per claim, and the median indemnity payment is more than five times as high.

Since there can be a significant period of time between when the first claim related to an incident is closed and when the last claim related to that incident is closed, incident-level data will always be incomplete. For example, based on the reported number of defendants for the 1,530 incidents, 15.1% of the individual claims related to these incidents have not yet been reported. Since incident-level data is incomplete, the true average indemnity payments and defense costs at the level are likely to be higher than the averages from reports received by the OIC.

¹² See [RCW 48.140.030\(1\)\(b\)](#).

Calendar-incident year comparisons

Insurers report several dates associated with each claim. The tables below show claim counts, average indemnity, and average defense costs sorted by the year the claim was closed and the year of the incident that led to the medical malpractice claim. These tables¹³ show that the longer a claim remains open and unresolved, the more expensive it is to defend and settle.

Closed claim count											
Incident year											
Year closed	Prior	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
2018	101	87	159	176	110	138	53				
2019	92	0	121	141	114	102	72	23			
2020	92	0	0	93	125	112	92	77	12		
2021	96		0	0	90	127	80	82	72	17	
2022	130			0	0	77	123	116	71	70	15

Average paid indemnity (in thousands)											
Incident year											
Year closed	Prior	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
2018	\$1,300	\$605	\$643	\$364	\$481	\$126	\$30				
2019	\$1,373		\$881	\$925	\$416	\$276	\$239	\$13			
2020	\$1,097			\$1,006	\$444	\$619	\$344	\$232	\$37		
2021	\$607				\$414	\$698	\$422	\$800	\$373	\$10	
2022	\$1,846					\$1,391	\$994	\$402	\$809	\$200	\$8

Average defense cost (in thousands)											
Incident year											
Year closed	Prior	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
2018	\$197	\$85	\$68	\$52	\$43	\$13	\$1				
2019	\$133		\$123	\$56	\$57	\$42	\$13	\$3			
2020	\$157			\$90	\$44	\$233	\$32	\$8	\$1		
2021	\$125				\$77	\$67	\$52	\$33	\$36	\$7	
2022	\$252					\$158	\$72	\$58	\$28	\$12	\$3

¹³ [RCW 48.140.040](#) requires the OIC to summarize calendar-incident year data. The amount of data the OIC can display in these tables is limited by confidentiality laws.