

2023 medical malpractice statistical summary

Settlement data submitted by attorneys
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Introduction

In 2006, the Washington state Legislature enacted comprehensive health care liability reform¹, requiring attorneys to report medical malpractice settlement data to the Office of the Insurance Commissioner (OIC). Each year, the OIC must post summary statistics about medical malpractice lawsuits that are resolved.² [RCW 7.70.140](#) does not have tools for the OIC to use to require attorneys to report data. Voluntary compliance has been poor and the data in this summary is incomplete. The OIC cannot draw conclusions from incomplete data, so this statistical summary is limited to calendar-year statistics.

There are two types of data displayed in this statistical summary:

- **Total paid indemnity:** Total compensation paid by all defendants to the claimant stemming from a lawsuit. Indemnity payments may come from several defendants if a lawsuit named more than one party.³
- **Legal expenses:** All sums paid by the claimant to the attorney to prosecute the claim, including attorney fees, expert witness fees, court costs and all other legal expenses.⁴

¹ [HB 2292 – 2005-06](#).

² [RCW 48.140.040](#)(2). On Feb. 13, 2024, Insurance Commissioner Mike Kreidler notified the legislature that the OIC would post statistical summaries by July 1.

³ [WAC 284-24E-150](#).

⁴ [RCW 7.70.140](#)(2)(b)(v).

Key 2023 medical malpractice lawsuit statistics

- Attorneys reported 17 lawsuits were resolved with paid indemnity in 2023.
- In cases where indemnity payments were made to the claimant, average compensation to the claimant was \$1.6 million.
- Average attorney fees were \$591,853.

Calendar year comparison

This table shows data reported by attorneys for the five-year period ending Dec. 31, 2023.⁵

| Summary by year settled | | | | | |
|--|--------------|--------------|--------------|--------------|--------------|
| Item | 2019 | 2020 | 2021 | 2022 | 2023 |
| Settlements reported by attorneys | 18 | 11 | 15 | 12 | 18 |
| Total legal expenses | \$6,313,494 | \$4,818,014 | \$11,883,351 | \$5,307,299 | \$10,970,121 |
| Average legal expense per lawsuit | \$350,750 | \$438,001 | \$792,223 | \$442,275 | \$609,451 |
| Number of lawsuits with paid indemnity | 16 | 11 | 14 | 11 | 17 |
| Total paid indemnity | \$15,340,000 | \$12,520,000 | \$30,144,287 | \$16,325,000 | \$26,385,000 |
| Average indemnity payment | \$958,750 | \$1,138,182 | \$2,153,163 | \$1,484,091 | \$1,552,059 |
| Number of lawsuits with attorney fees | 16 | 11 | 14 | 11 | 17 |
| Total attorney fees | \$5,351,851 | \$4,321,180 | \$10,931,815 | \$4,901,279 | \$10,061,500 |
| Average fee paid to attorney | \$334,491 | \$392,835 | \$780,844 | \$445,571 | \$591,853 |
| Average fee ÷ average indemnity | 34.9% | 34.5% | 36.3% | 30.0% | 38.1% |

Total legal expenses

- Claimants must pay expenses to file a lawsuit regardless of whether they receive a settlement.
- The average legal expense in 2023 was \$609,451 per reported lawsuit, a 37.8% increase from 2022.

Indemnity payments to claimants

- For 2023, attorneys reported 17 lawsuits in which a claimant received compensation.
- The average indemnity payment was \$1.6 million, a 4.6% increase from 2022.

Attorney fees

- Claimants pay attorney fees based on their contracts, and these fees are related to the total indemnity paid to the claimant to resolve the lawsuit.
- The average attorney fee in 2023 was \$591,853 per reported lawsuit with attorney fees, a 32.8% increase from 2022.

⁵ Data submitted on or before March 24, 2024, and audited through June 12, 2024.