



Policy Research Perspectives

Professional Liability Insurance Indemnity Payments, Expenses and Claim Disposition, 2004-2013

By José R. Guardado, PhD

Introduction

This Policy Research Perspective (PRP) presents new information on indemnity payments and allocated loss adjustment expenses (hereafter *expenses*) for professional medical liability insurance (PLI) claims that closed between 2004 and 2013. An indemnity payment is a dollar amount paid to a claimant or plaintiff for adjudicated damages incurred in the resolution of a claim. Expenses are monetary outlays that are incurred while administering or adjudicating a claim, such as payments to defense attorneys and expert witnesses. The PRP also describes how claims are disposed, and it reports indemnity and expense payments by claim disposition.

The information contained in this PRP comes from the PIAA. PIAA is an insurance industry trade association that represents entities doing business in the PLI arena and whose members insure more than two-thirds of America's private practice physicians.¹ To better evaluate trends in liability claims, in 1985 the PIAA began to share and aggregate individual member data through the Data Sharing Project (DSP). Currently, twenty-four PIAA member companies report claims data to the DSP. National trends in physician liability claims based on the DSP are then reported in PIAA's annual publication titled *Closed Claim Comparative* (CCC).

The information in this PRP comes from the 2014 edition of the CCC, and to a lesser extent from earlier CCC editions.² The 2014 CCC is based on data from 94,228 closed claims including 7,875 that closed in 2013. Note that the claim information in this PRP is not specialty-specific and is thus not representative of any particular specialty. We refer the interested reader to the 2014 edition of the CCC for more detailed information.

Indemnity Payments and Expenses on Closed Claims, 2004-2013

Indemnity Payments

Data on indemnity payments are presented in Table 1. Those data are based on claims that closed between 2004 and 2013 and for which indemnity payments were made to the claimants (hereafter *paid claims*). The average and median payments are reported in both

¹ PIAA Closed Claim Comparative, 2014 Edition.

² Editions of PIAA's reports that were published prior to 2013 and which reported similar data to the CCC were titled *Claim Trends Analysis*.

nominal and real terms, as are the cumulative and average annual changes over time.³ Figure 1 shows the same information graphically.

In 2013, the average indemnity payment was \$336,452—slightly higher than in the previous year. The median payment fell to \$180,000—a 10 percent decrease from 2012. The trend in indemnity payments over the 2004-2013 period is one of relative stability, particularly since 2006. Accounting for inflation, however, indemnity payments were considerably lower in 2013 than in 2004.

Figure 1 shows that the trends in average and median indemnity payments are largely similar. Note that because some indemnity payments are relatively very high, the averages are considerably higher than the medians. This is reflected in Table 2, which shows how paid claims are distributed over different ranges of payment. Over 37 percent of paid claims involved payments that were less than \$100,000. However, they only accounted for 4.2 percent of indemnity payments in total. In contrast, although only 8.7 percent of paid claims involved payments of \$1 million or more, those large claims accounted for 35.5 percent of total indemnity payments.

Allocated Loss Adjustment Expenses

Average expenses for claims that closed between 2004 and 2013 are presented in Table 3. Figure 2 presents this information graphically. In 2013 the average expense was \$48,879—a decrease of 1.2 percent from the previous year. Expenses have been relatively stable since 2009, especially compared to the period of pronounced growth between 2005 and 2009. During that four year period, average expenses increased by 62.8 percent—an average of 13 percent per year. Over the entire 2004-2013 period shown in the figure, average expenses rose by 66.7 percent. Even after accounting for inflation, that increase was 35.2 percent.

Indemnity Payments and Expenses by Claim Disposition, 2013

Indemnity Payments

Table 4 reports indemnity payments for claims that closed in 2013 according to how they were disposed. Similar to all paid claims, average payments were higher than the medians for all types of disposition. The table also shows that trial awards were much larger than indemnity payments from other disposition categories. The average trial award was \$1,090,050, compared to \$322,349 for settlements and \$255,176 for claims resolved by an alternate dispute resolution (ADR).⁴

Note that indemnity payments made on all paid claims resemble those from settlements rather than those from trial awards. This is because the vast majority of paid claims (91.8 percent) are settled, whereas only 2.3 percent result from plaintiff verdicts.

Expenses

Table 5 reports average expenses for claims that closed in 2013 according to their claim disposition. The proportion of total expenses incurred by each disposition category is also presented. By far, the highest average expense was for tried claims that resulted in plaintiff

³ Throughout the report, dollar values reported in "real terms" or "accounting for inflation" were adjusted by the data source (PIAA) to be comparable with \$2013.

⁴ The ADR category includes claims resolved by a *Contract Agreement*.

verdicts (\$251,541). The next highest was for trials that resulted in defendant verdicts (\$140,239). That was more than twice the average expense incurred on settled claims (\$68,423). The smallest average expense was for claims that were dropped, dismissed or withdrawn (\$28,350). Nonetheless, those claims accounted for 37.9 percent of total expenses given that such a large fraction of claims (65.3 percent) fall into that category.

Distribution of Claims by Disposition

Claim Disposition

Table 6 shows the distribution of claims that closed in 2013 according to their disposition. Most claims (65.3 percent) were dropped, dismissed or withdrawn, and 24.4 percent were settled. In contrast, relatively few claims (7.6 percent) were decided by trial verdict, and the vast majority of those (91.9 percent) were won by the defendant. In fact, less than 1 percent of claims resulted in plaintiff verdicts. Finally, 2.0 percent of claims were decided by an ADR.⁵

The proportions of claims that closed in 2013 with and without indemnity payments are presented in the bottom portion of Table 6. As follows from the information presented above, indemnity payments were made to claimants in just over a quarter (26.6 percent) of claims. That percentage was stable over the period of study.

Conclusion

This PRP presents information on indemnity payments, expenses and claim disposition for PLI claims that closed between 2004 and 2013.

During that period, average indemnity payments were relatively stable, particularly since 2006. A relatively small fraction of claims contributed to a disproportionate share of total indemnity payments. Although only 8.7 percent of paid claims involved payouts of at least \$1 million, they accounted for 35.5 percent of indemnity payments in total.

Most claims continue to be dropped, dismissed or withdrawn. Nonetheless, although the average expense for those claims is much lower than for settled and tried claims, dropped claims account for 37.9 percent of total expenses because of their prevalence. Relatively few claims were decided by a trial verdict, and the vast majority of those (91.9 percent) were won by the defendant.

Expenses have been relatively stable since 2009, but this was preceded by a period of sharp growth between 2005 and 2009. That resulted in an increase in expenses of almost 67 percent over the 2004-2013 period. In fact, total expenses incurred on claims have been rising much faster than total indemnity payments. In 2013, total indemnity payments were three times higher than in 1985.⁶ In contrast, the increase in total expenses was seven-fold. Consequently, the share of total costs incurred on expenses increased from 19 percent to 35 percent over that period. Taking non-monetary factors into account, such as time spent defending claims, compromised reputation and other psychic costs physicians face, one may infer that total costs associated with PLI claims are even higher than indicated in this report.

⁵ Over 78% of claims resolved by ADR or contract agreement involved indemnity payments.

⁶ The earliest year for which PIAA's CTA provided data is 1985.

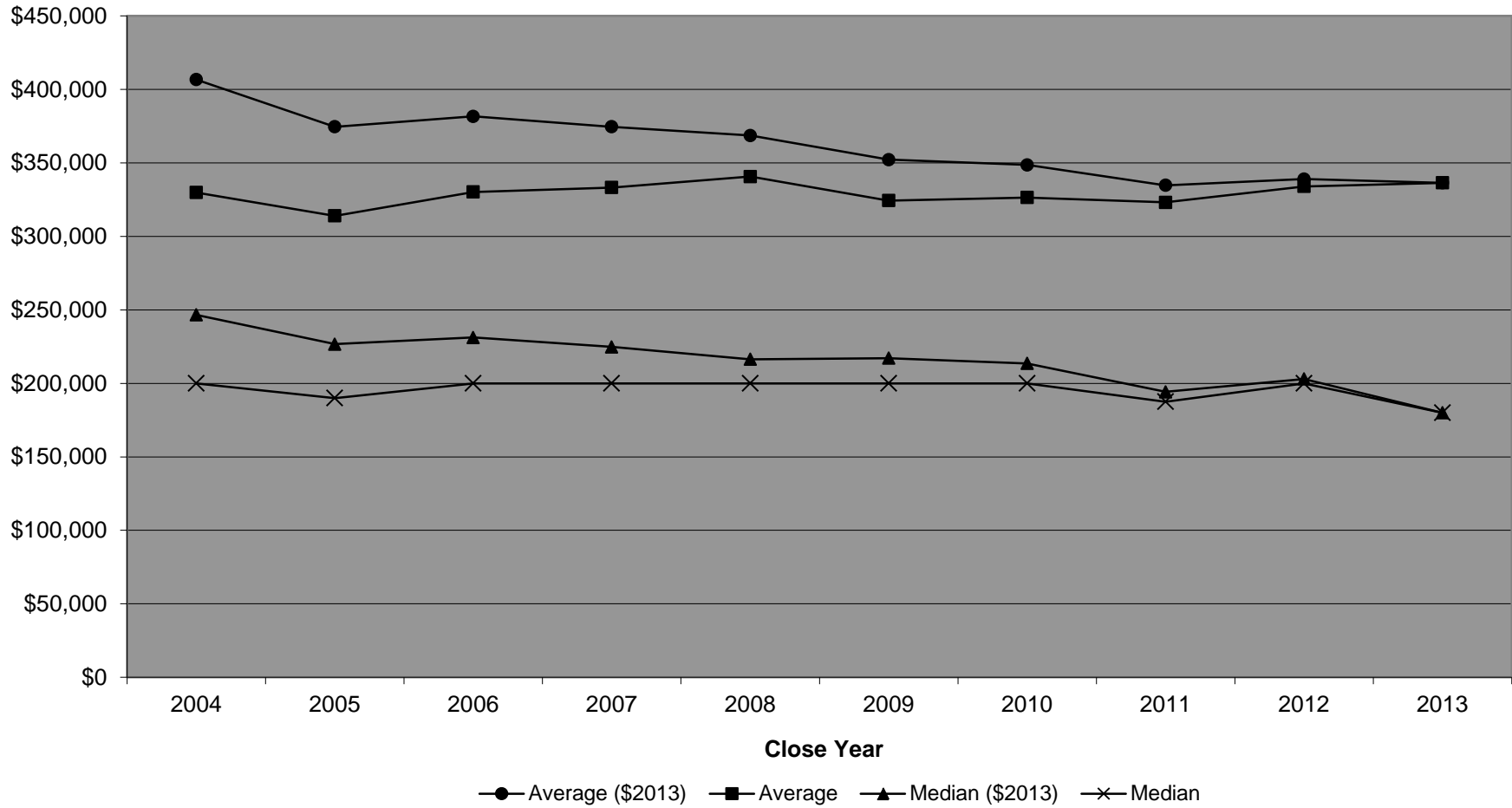
Table 1. Indemnity Payments for Paid Claims, 2004-2013

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Change '04-'13	Avg. Annual Change '04-'13
	(\$)											
Average	329,837	313,990	330,213	333,308	340,712	324,371	326,450	323,174	334,026	336,452	2.0%	0.2%
Average (2013\$)	406,689	374,589	381,726	374,639	368,650	352,267	348,648	334,809	339,036	336,452	-17.3%	-2.1%
Median	200,000	190,000	200,000	200,000	200,000	200,000	200,000	187,500	200,000	180,000	-10.0%	-1.2%
Median (2013\$)	246,600	226,670	231,200	224,800	216,400	217,200	213,600	194,250	203,000	180,000	-27.0%	-3.4%
# Paid Claims	2,556	2,657	2,146	2,339	2,291	2,534	2,765	2,799	2,613	2,093		

Source: PIAA Closed Claim Comparative, 2014 Edition.

Note: *Paid claims* are closed claims in which an indemnity payment was made.

Figure 1. Indemnity Amounts for Paid Claims



Source: PIAA Closed Claim Comparative, 2014 Edition

Table 2. Distribution of Paid Claims and Total Indemnity Payments by Range of Indemnity Payment, 2013

Indemnity Payment Range	Proportion of Paid Claims	Proportion of Total Indemnity Payments
Less than \$100,000	37.2%	4.2%
\$100,000 <= Payment < \$250,000	20.9%	10.1%
\$250,000 <= Payment < \$500,000	17.7%	17.9%
\$500,000 <= Payment < \$1,000,000	15.5%	32.4%
\$1,000,000 or more	8.7%	35.5%
Total	100.0%	100.0%

Source: PIAA Closed Claim Comparative, 2014 Edition.

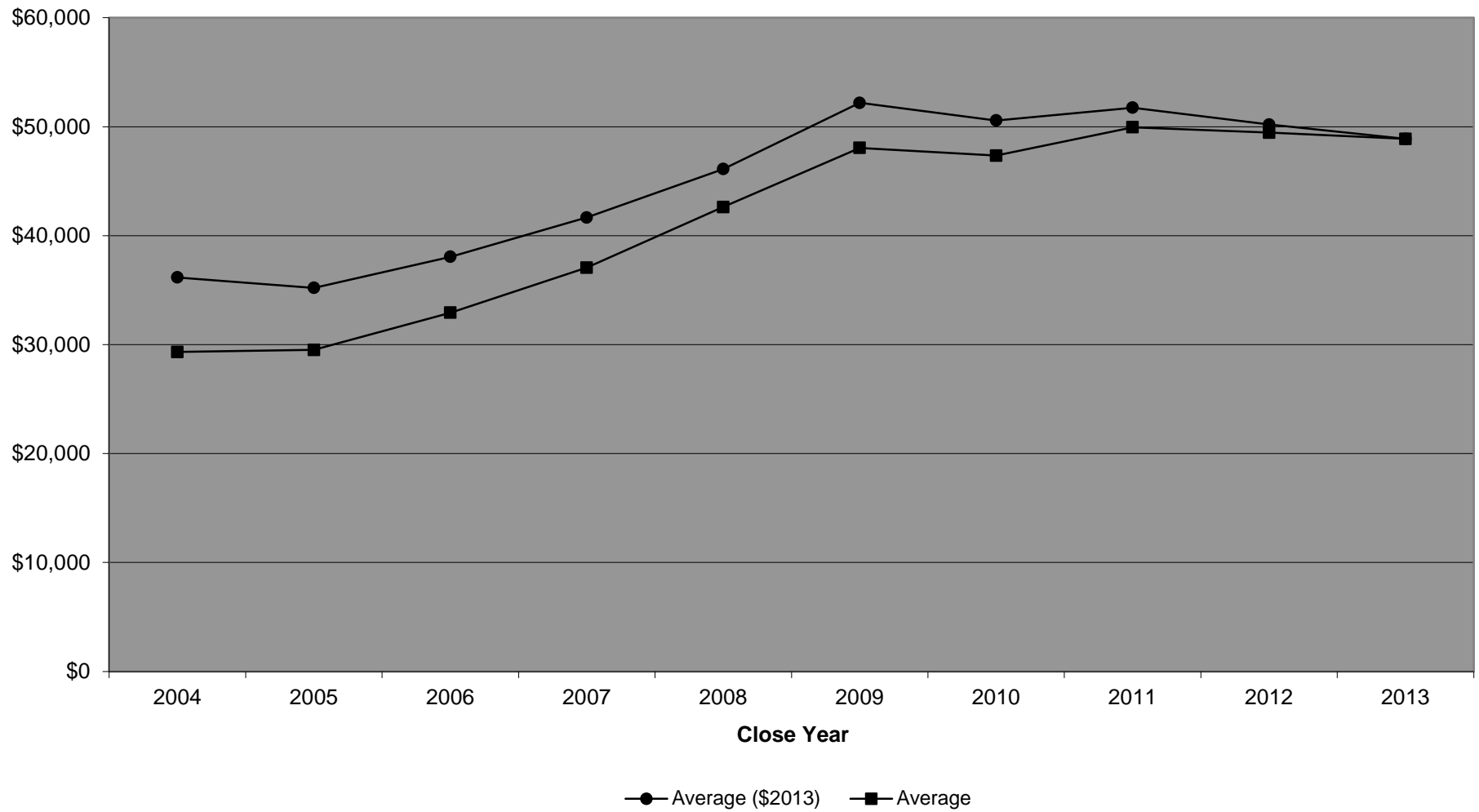
Notes: *Paid claims* are closed claims in which an indemnity payment was made. There were 2093 paid claims that closed in 2013. *Total indemnity payments* are the sum of payments across all paid claims.

Table 3. Average Expense Payments for all Closed Claims, 2004-2013

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Change '04-'13	Avg. Annual Change '04-'13
	(\$)											
Average	29,328	29,512	32,925	37,069	42,622	48,056	47,352	49,946	49,462	48,879	66.7%	5.8%
Average (2013\$)	36,162	35,208	38,062	41,666	46,117	52,188	50,572	51,744	50,204	48,879	35.2%	3.4%
Closed Claims	10,206	11,031	8,619	8,901	8,267	8,703	9,816	10,446	10,364	7,875		

Source: PIAA Closed Claim Comparative, 2014 Edition.

Figure 2. Expense Payments for All Closed Claims



Source: PIAA Closed Claim Comparative, 2014 Edition

Table 4. Indemnity Payments by Claim Disposition, 2013

	All Paid Claims	Settlements	Plaintiff Verdicts	ADR/Contract Agreement
Average Payment	\$336,452	\$322,349	\$1,090,050	\$255,176
Median Payment	\$180,000	\$175,000	\$500,000	\$160,000
<i>N</i>	2093	1922	49	155

Source: PIAA Closed Claim Comparative, 2014 Edition. Medians were provided by PIAA upon request.
Notes: *ADR* represents an alternative dispute resolution. There were 54 paid claims whose disposition is unknown.

Table 5. Average Expenses by Claim Disposition, 2013

Claim Disposition	Average Expense	Expenses as % of Total Expenses	<i>N</i>
Dropped, Dismissed, or Withdrawn	\$28,350	37.9%	5142
Settlements	\$68,423	34.2%	1922
Defendant Verdicts	\$140,239	20.1%	553
Plaintiff Verdicts	\$251,541	3.2%	49
ADR or Contract Agreement	\$99,217	4.0%	155

Source: PIAA Closed Claim Comparative, 2014 Edition
Note: *ADR* represents an alternative dispute resolution.

Table 6. Distribution of Claims by Claim Disposition, 2013

Claim Disposition	Disposition Category as a % of All Closed Claims
Dropped, Dismissed or Withdrawn	65.3%
Settlements	24.4%
Defendant Verdicts	7.0%
Plaintiff Verdicts	0.6%
ADR or Contract Agreement	2.0%
Unknown	0.7%
Total	100.0%
Paid	26.6%
Unpaid	73.4%
Total	100.0%
Number of Closed Claims	7,875

Source: PIAA Closed Claim Comparative, 2014 Edition
Note: *ADR* represents an alternative dispute resolution.