

LC 561

SUBJECT: Allows a beneficiary of a deceased worker one year to request reconsideration of the closure of a workers' compensation claim when the beneficiary is not mailed a copy of the notice of closure. Allows a beneficiary to pursue a request for reconsideration that was filed by the deceased worker before the worker's death. Requires an insurer or a self-insured employer to pay for interpreter services for a worker's deposition in a reconsideration proceeding.

SPONSOR: Oregon State Bar

Existing Law:

- Requires an insurer or a self-insured employer to mail notice of the closure of a workers' compensation claim to the worker, the worker's attorney, and to the director.
- Allows a worker to request reconsideration of a notice of closure within 60 days.
- Requires an insurer or a self-insured employer to pay for a court reporter and transcripts for a worker's deposition in a reconsideration proceeding.

This bill:

- Allows an insurer or a self-insured employer to mail a notice of closure to known or potential beneficiaries of a deceased worker.
- Requires the notice of closure to be mailed to the estate of a deceased worker.
- Allows beneficiaries mailed a notice of closure to request reconsideration within 60 days.
- Allows beneficiaries not mailed a notice of closure to request reconsideration within one year.
- Allows beneficiaries to pursue a request for reconsideration that was filed by the deceased worker before the worker's death.
- Requires an insurer or a self-insured employer to pay for interpreter services for a worker's deposition in a reconsideration proceeding.
- Declares emergency, effective on passage. Applies to notices of closure issued on or after the effective date.

Analysis:

1. Under the existing law, an insurer or a self-insured employer is required to mail a notice of closure to the worker, the worker's attorney, and to the director. If the worker has died before the claim is closed, the bill requires that a copy of the notice of closure also be addressed to the estate of the deceased worker. The bill also gives the insurer or self-insured employer the option to mail the notice of closure to any known or potential beneficiary of the deceased worker.

2. Currently, case law has interpreted the statute to allow beneficiaries to request reconsideration on a notice of closure. This bill codifies the case law interpretation. Under the bill, any beneficiary that is not mailed a copy of a notice of closure has one year to request reconsideration of the notice of closure, while any beneficiary that is mailed the notice of closure has 60 days. The bill also allows beneficiaries to pursue a request for reconsideration that was filed by the deceased worker before the worker's death.
3. The bill will likely encourage insurers and self-insured employers to provide notice to the beneficiaries of a deceased worker in order to trigger the 60 day appeal period as opposed to the extended one year appeal period. As a result, the number of beneficiaries requesting reconsideration is likely to increase.
4. Under current law, some interpreter services are specifically required to be paid by insurers, however there is question whether depositions during reconsideration are covered by the law. This bill requires insurers and self-insured employers to pay for interpreter services for a worker's deposition in a reconsideration proceeding.

Questions and/or suggested amendments:

1. What are the mailing requirements for a notice of closure addressed to the beneficiary of a deceased worker? Is such notice valid only when sent to a known address of the beneficiary?
2. Does the bill intend to address or otherwise impact the standing of the estate of the deceased worker to file a request for reconsideration or hearing?

Fiscal Impact to DCBS: While the agency may receive an increased number of requests for reconsideration from beneficiaries of deceased workers, the number of claims relating to deceased workers represents a small proportion of the total number of claims reviewed by the division. As a result, the bill is unlikely to cause a significant fiscal impact to DCBS.

Other Economic Impact: Because the number of beneficiaries requesting reconsideration of notices of closure is likely to increase, insurers and self-insured employers may incur a small increase in legal and administrative costs related to the litigation of notices of closure.

Support: Oregon State Bar

Opposition: Unknown

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