

HB 2032

SUBJECT: Prohibits employer or insurer from requiring injured worker to obtain nonemergency medical services from a specific provider. Exempts employer or insurer that has managed care organization contract. Requires employer to provide injured worker with written notice of medical treatment rights in workers' compensation claim.

SPONSOR: Representative Olson

Existing Law:

- Provides that a worker has the right to choose an attending doctor, physician, or nurse practitioner within the state of Oregon.
- Allows a self-insured employer or insurer to require a worker to receive medical services in the manner prescribed by a managed care organization (MCO) contract, if applicable.
- Requires employers to supply director-prescribed forms to workers for reporting injuries to their employers, upon the worker's request.

This bill:

- Prohibits self-insured employer or insurer from requiring a worker to obtain nonemergency medical care from a specific medical provider, except when the worker is enrolled in an MCO.
- Requires an employer to supply a director-prescribed form to the worker whenever a workers files a notice of accident.
- Requires an employer to provide, upon receipt of notice of an accident, written notice to the worker explaining his or her medical treatment rights.
- Requires that an employer and worker sign the notice and that the employer provide a copy to the worker.
- Allows the employer to obtain post-injury drug testing at a facility of the employer's choice.

Analysis:

1. Current law states that a worker may choose a medical provider of his or her choice to act as their attending physician. Current administrative rules also provide that it is the worker's right to choose his or her attending physician. The exception is that insurers may require a worker to treat with a managed care organization (MCO) panel provider upon enrollment in an MCO. This bill emphasizes that an employer cannot direct a worker to particular provider for treatment. It provides one exception that allows an employer to direct a worker to a particular facility for drug testing immediately after an injury occurs, but clarifies that the worker may seek treatment with his or her chosen provider afterwards.

2. The director currently publishes Form 3283, “A Guide for Workers Recently Hurt on the Job,” that explains a worker’s right to receive medical treatment from a health care provider of his or her choice. Insurers are required to provide this form to their insured employers. Employers must provide this form to a worker at the time the worker files a work-related accident. In lieu of distributing the form separately, the employer may also print the information on the back of the claim form completed by the worker. A medical provider is also required to give Form 3283 to the worker when the worker seeks treatment and must provide a copy of the completed Form 827 (the provider’s and worker’s report for a claim) to the worker. Currently, it is possible for a worker to receive provider choice information twice.
3. This bill requires an employer give the worker the provider choice information at the time the employer receives notice of an accident. While this often occurs at the same time the worker files a claim, it can be a separate occasion. In those instances, this bill would require the provider choice information be provided sooner than currently required and in situations where the worker doesn’t intend to file a claim for injury.
4. This bill requires the employer and worker to sign a form, possibly a separate form than the currently required Form 3283, and specifically that the worker received the information, and that a copy be given to the worker and retained by the employer. Requiring parties’ signatures is a common practice for documenting an action or agreement. However, this bill does not address the employer’s retention of a copy of the form.

Questions and/or suggested amendments:

1. Many insurers and self-insured employers allow electronic or telephonic reporting of workers’ compensation claims. Would this bill allow such practices?
2. Since the employer must also sign the form, does this bill intend that the employer keep a copy as documentation? If so, should this be stated in the bill?
3. What happens if an employer does not provide the form, sign the form, provide a copy to the worker, or depending on the answer to #1, maintain a copy? Would the employer be subject to civil penalties?

Fiscal Impact to DCBS: None anticipated.

Other Economic Impact: For insurers and self-insured employers that allow electronic or telephonic claims reporting, there will be increased costs for providing hard-copy notices. Employers will incur some additional costs in making copies of the signed form, and maintaining records of compliance, if required. Employers may also incur some small cost in providing claim forms and provider choice notices to workers who do not intend to file claims.

Support: Vern Saboe, DC

Opposition: Unknown

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