



## ANALYSIS OF LEGISLATIVE CONCEPT 698

As Drafted on October 27, 2016

**NCCI estimates that changes proposed in Legislative Concept 698 (LC 698), if introduced and ultimately enacted, may impact Oregon workers compensation (WC) system costs by +0.1% (\$0.7M)<sup>1</sup>.**

### Summary of Proposed Changes

Currently in Oregon, the surviving spouse, children, and dependents of a fatally injured worker or a worker who dies during the period of permanent total disability (PTD) are provided with monthly benefits per §656.204 of the Oregon Revised Statutes (ORS) as follows:

- The surviving spouse receives 4.35 times 66-2/3 percent of the state average weekly wage (SAWW) until remarriage<sup>2</sup>
- Each child of the deceased worker who is dependent on the worker's surviving spouse receives 4.35 times 10 percent of the SAWW until the age of 18, or until the age of 23 while attending secondary education
- Each child of the deceased worker who is not dependent on the worker's surviving spouse receives 4.35 times 25 percent of the SAWW until the age of 18, or until the age of 23 while attending secondary education
- When there is no surviving spouse, each child of the deceased worker receives 4.35 times 25 percent of the SAWW until the age of 18, or until the age of 23 while attending secondary education
- Each child or dependent of the deceased worker who does not have a surviving parent at the time of the worker's death receives 4.35 times 66-2/3 percent of the SAWW between the ages of 18 and 23 while attending secondary education

Currently, the total monthly benefit awarded to the surviving spouse and/or children is capped at 4.35 times 133-1/3 percent of the SAWW.

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<sup>1</sup> Overall system costs are based on NAIC Annual Statement data. The estimated dollar impact is the percentage impact(s) displayed multiplied by 2015 written premium of \$679M from NAIC Annual Statement data for Oregon. This figure does not include self-insurance, the policyholder retained portion of deductible policies, or adjustments for subsequent changes in premium levels. The use of premium as the basis for the dollar impact assumes that expenses and other premium adjustments will be affected proportionally to the change in benefit costs. The dollar impact on overall system costs inclusive of self-insurance is estimated to be \$0.9M, where data on self-insurance is approximated using the National Academy of Social Insurance's October 2016 publication "Workers' Compensation: Benefits, Coverages, and Costs, 2014."

<sup>2</sup> Upon remarriage or cohabitation with another person for an aggregate period of more than one year and a child has resulted from the relationship, the surviving spouse receives 36 times the monthly benefit in a lump sum as final payment.

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The following provisions of LC 698 have quantifiable impacts:

- Creates a uniform monthly benefit rate of 4.35 times 25 percent of the SAWW for each dependent child, excluding orphaned children attending secondary education who receive monthly benefits at a rate of 4.35 times 25 percent of the SAWW.
- Restructures the existing cap on total monthly benefits, such that the cap of 4.35 times 133-1/3 percent of the SAWW applies to total dependent child benefits, excluding orphaned children attending secondary education. The monthly cap would not include surviving spousal benefits.

The following provisions of LC 698 are unquantifiable but are not expected to have a material impact:

- Creates a uniform duration of benefits for children under age 19. Currently, the duration of benefits varies for children between the ages of 18 and 19 based on the child's age when they leave high school.
- Broadens the eligibility requirement for dependent children completing secondary education. Currently, dependent children ages 19 to 23 are eligible for benefits, conditional on beginning secondary education within six months of leaving high school. Under LC 698 dependent children ages 19 to 26 would be eligible for benefits for up to 48 months, without the stipulation that they must begin secondary education within six months of leaving high school.

There is no explicit effective date included in the proposal. Per ORS § 171.022, NCCI has assumed an effective date of January 1, 2018 for this analysis.

### **Actuarial Analysis**

LC 698 proposes numerous revisions to the current death benefit structure in Oregon; however per ORS § 656.208, the surviving spouse and dependents of a worker who dies during the period of PTD are also entitled to monthly death benefits. Changes to the death benefit structure as a result of LC 698 will, therefore, also have a corresponding impact on PTD benefit payments.

Under LC 698 the monthly benefit rate for children of a deceased worker that are dependent on the workers' surviving spouse would increase from 4.35 times 10 percent of the SAWW to 4.35 times 25 percent of the SAWW.

Additionally, LC 698 separates the combined cap on total monthly benefits for a surviving spouse and children. Under LC 698, the cap of 4.35 times 133-1/3 of the SAWW applies

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solely to monthly benefits for dependent children, excluding orphaned children attending secondary education. This would result in an increase in benefits payable to dependent children in cases that are currently limited by the combined cap (including spousal benefits) but would not be limited by the separate cap (excluding spousal benefits). Monthly benefits awarded to a surviving spouse remain intact at 4.35 times 66-2/3 percent of the SAWW.

In analyzing the cost impact of the proposed changes, NCCI utilized annuity calculations, along with a countrywide distribution of dependents and average ages, to estimate the indemnity benefits payable to spouses, children, and dependents for a hypothetical 1,000 cases. The estimated impact on Oregon workers compensation system costs due to the proposed changes to benefits contained in LC 698 are summarized in the table below:

	(A) Estimated Impact	(B) <sup>3</sup> Indemnity Cost Distribution	(C) = (A) X (B) Estimated Impact on Indemnity Benefit Costs
Fatal	+6.3%	5.0%	0.3%
Permanent Total	+0.1%	1.7%	0.0%
(1) Total Estimated Impact on Oregon Indemnity Benefit Cost = sum of column C			0.3%
(2) Indemnity Costs as Percentage of Overall Workers Compensation Benefit Costs in Oregon <sup>4</sup>			43.2%
<b>(3) Total Estimated Impact on Overall Workers Compensation System Costs in Oregon = (1) X (2)</b>			<b>0.1%</b>

**NCCI estimates that the changes proposed in LC 698, if introduced and ultimately enacted, may impact Oregon workers compensation system costs by +0.1% (\$0.7M).**

### Additional Considerations

- LC 698 modifies the language regarding lump sum remarriage awards; however, NCCI assumed that this change would not result in the discontinuation of monthly benefits for any child who is entitled to compensation on account of the death of an injured worker.

<sup>3</sup> Based on NCCI Workers Compensation Statistical Plan data for Oregon for policies becoming effective between January 2011 and December 2012 on the 7/1/2015 law level date developed to an ultimate basis by type of injury.

<sup>4</sup> Based on NCCI Financial Call data for Oregon for Policy Years 2013 and 2014, projected to 1/1/2018

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- Per Sections 4 & 5 of LC 698, certain provisions of the proposal would apply retroactively if adopted. Under the proposal, retroactive adjustments would be funded by the Workers Benefit Fund through the Retroactive Program. This analysis does not consider any increases in Workers Benefit Fund assessments as a result of this proposed change.

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