

SAIF is committed to get workers back to work quickly and safely after an injury. This is also one of the legislature's goals, as set forth in ORS 656.012. We strongly believe this is best achieved by timely medical care, where the worker engages with their medical provider regularly.

Challenges with time loss

Medical providers should have regular consistent contact with a worker while authorizing time loss to ensure the worker is receiving proper care. The current system allows workers to be taken off work indefinitely and sent home without another medical appointment. This is an inappropriate standard of care. There is no consistent standard for medical providers and workers to update work restrictions once time loss is authorized.

Guidelines from the American College of Occupational and Environmental Medicine show workers who engage with their medical provider and receive timely care have better recoveries, fewer days of missed work, and improved outcomes compared to workers with gaps in care.

Members of the Medical Advisory Committee (MAC) agreed there should be a consistent standard for medical providers to address time loss. The majority of members agreed 30 days was a reasonable standard.

The lack of predictability from not having a standard creates confusion for workers and providers and potentially unanticipated adjustments to time-loss benefits including potential overpayments or underpayments.

Fixing time-loss benefits in Oregon's system

Any solution should encompass both prospective and retroactive time loss authorizations to comprehensively address the root causes of unanticipated adjustments to time-loss benefits.

Improving worker and provider communication will:

- Improve the workers' access to benefits
- Provide better treatment for their injury
- Enable a smoother return to the workforce.

Fixing only the way the system *responds* to overpayments created by medically inappropriate time-loss authorizations is a band-aid instead of a cure and is a disservice to workers.

While OTLA, SAIF, and defense attorneys had been negotiating on the issues of time loss, OTLA chose to break off negotiations and file a bill that only addresses the issuance of retroactive releases without also addressing the problems with issuance of prospective releases: House Bill 4138. It proposes limiting the instances that overpayments are created by allowing the attending physician more time to retroactively authorize time loss and limiting how an overpayment is recovered. This doesn't fix the problem.

Encouraging better communication between workers and providers

SAIF supports a system that encourages worker access to benefits, treatment for injuries, and a return to the workforce.

It is critical that the system encourages regular and ongoing communication between an injured worker and their attending physician. Creating a clear standard for authorizing prospective time loss benefits will be easier for providers and workers to follow and is simple for insurers to communicate and administer.

Workers and providers should connect at least every 30 days while a worker is receiving time-loss benefits. Regular contact with a medical provider is the best method to achieve this goal because it:

- Promotes communication among all parties
- Ensures employers are accommodating the worker's current work restrictions
- Reduces the "hassle factor" on medical providers to respond to ongoing requests from insurers for status updates
- Delivers timely and accurate benefits to workers
- Results in fewer instances of overpayments or underpayments

While the exceptions OTLA has outlined sometimes technically allow an insurer to end time-loss benefits, these measures don't serve workers. They are unduly harsh and often result in unnecessary litigation to restore benefits. They are used as a last resort in the rare instance a worker isn't seeing their physician, and don't incentivize the worker or physician to continue care discussions.

When medical providers fail to provide timely care, workers suffer with delays in their recovery and return to work. The best way to support workers as they recover and return to work is to focus on emphasizing timely care, enabling better recoveries, and facilitating appropriate work releases.

Sincerely,

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Addendum: What are time-loss benefits?

Under workers' compensation statute and rules, a worker is eligible for wage compensation, called "time-loss benefits," if their attending physician authorizes them to be away from work.

A time-loss authorization may be retroactive, prospective, or both.

- A **prospective** time-loss authorization allows for time-loss benefits from the date of the authorization forward. A medical provider is not required to provide an end date to their authorization. A time-loss authorization without an end date is called an "open-ended release."
- A **retroactive** time-loss authorization allows for time loss benefits prior to the date of the authorization. Under current statute, a medical provider may authorize up to 14 days of retroactive time loss.

There are two kinds of time loss, temporary total and temporary partial.

- **Temporary total disability** means the worker cannot perform any type of work.
- **Temporary partial disability** means the worker can perform some work. Time-loss benefits are only paid if the employer cannot accommodate the work restrictions outlined by the medical provider.

During the life of a claim, there could be an overpayment or underpayment of time-loss benefits.

- **Overpayments** may be recovered from the worker's future benefits including future time-loss benefits, worker reimbursements, and permanent partial disability benefits with certain limitations. SAIF does not ask workers to return payment to SAIF for overpaid benefits.
- **Underpayments** are paid by the insurer as soon as they're identified.