

Date prepared: March 13, 2023

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971-286-0308

SB 418 – 2 amendment

Brief summary

Broadens current law on when injured workers are entitled to temporary disability benefits for injury related medical appointments.

Analysis

What the law currently does

When a worker files a workers' compensation claim they may be entitled to partial wage replacement benefits if an authorized provider finds the worker is unable to perform their regular job duties. Wage replacement benefits are called temporary disability or "time loss."

If the worker has an accepted disabling compensable injury, and they are required to leave work for a period of four hours or more to receive medical consultation, examination, or treatment for the compensable injury, under ORS 656.210(4) the worker is entitled to temporary disability for the period they were absent. However, no temporary disability is payable if the worker's employer pays wages for the absence.

What will change if the bill is enacted

The -2 amendment replaces the original bill. The -2 amendment changes ORS 656.210(4) to remove the requirement that the absence from work for the medical treatment must be for four hours or more. If this bill is enacted, workers with accepted disabling claims who seek medical treatment and who are absent for any amount of time to attend a medical appointment will now be entitled to temporary disability to attend the appointment.

The -2 amendment adds a provision that the notice required under ORS 656.262(4)(j)¹ will not apply to temporary disability benefits paid pursuant to ORS 656.210(4). This law requires that insurers or self-

¹ Note: this provision of statute does not take effect until 1/1/2024. See 2022 Oregon Laws Chapter 73 (enrolled HB 4138) https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2022orlaw0073.pdf

insured employers may not end temporary disability benefits until written notice has been mailed or delivered to the worker and the worker's attorney, if the worker is represented.

The -2 amendment declares an emergency, and would take effect on passage, but the law changes become operative on January 1, 2024.

Likely impacts, results, or consequences if the bill is enacted

- Workers with an accepted disabling compensable injury will be entitled to temporary disability whenever they must leave work for medical appointments related to their injury.
- Workers will not receive the written notice under ORS 656.262(4)(j) when temporary disability paid for attending medical appointments ends.
- Claims costs for insurers may increase, since more workers will be entitled to temporary disability for medical appointments. However, the exact increase in claims costs is not quantifiable, since it is unknown how often workers will use the new provision or if they will be paid by their employer for the absence.

Questions/relevant information for the bill sponsor or primary proponent

None

Legislative history

Has this bill been introduced in a prior session?

No Yes

Does this bill amend current state or federal law or programs?

No Yes ORS 656.210(4)

Is this bill related to a legal decision?

No Yes

Should another DCBS division review this measure?

No Yes

Other impacts

Does this bill have a fiscal impact to DCBS?

No Yes Unknown Explain

This bill may increase claims costs generally, which could impact expenditures from the Workers' Benefit Fund (WBF). Funds from the WBF are used to reimburse costs of certain claims. Insurers may request reimbursement for claims costs when a preferred worker files a claim while employed under premium exemption. Insurers may also request reimbursement for additional amounts of compensation payable to a worker that resulted from an award made by the Workers' Compensation Board or voluntary claim reopening under ORS 656.278. However, the Workers' Compensation Division (WCD) does not have data available to quantify the possible increase in claims costs and impact on WBF expenditures.

Additionally, since more workers would be eligible for temporary disability under ORS 656.210(4), there could be an increase in the number of disputes and penalties for unreasonable delay or refusal to pay compensation under ORS 656.262(11). However, the WCD does not have data available to quantify any possible increase in disputes and corresponding penalties.

Does this bill have an economic impact to stakeholders?

No Yes Unknown

Workers with an accepted disabling compensable injury will be entitled to temporary disability whenever they must leave work for medical appointments related to their injury.

Claims costs for insurers may increase, since the bill expands when they are required to pay temporary disability for medical appointments. However, the exact increase in claims costs is not quantifiable, since it is unknown how many workers may use the new provision or how often workers will be paid by their employer for the absence.

Sponsors

Senator Gorsek (at the request of Oregon AFSCME)

Possible interested stakeholders

Workers, insurers, self-insured employers, employers, and service companies.

Public policy topics

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| <input type="checkbox"/> Agency operations | <input type="checkbox"/> Other lines of insurance |
| <input type="checkbox"/> Building codes | <input type="checkbox"/> Prescription drugs |
| <input type="checkbox"/> Financial institutions and lending | <input type="checkbox"/> Property and casualty insurance |
| <input type="checkbox"/> Health insurance | <input type="checkbox"/> Public records/public meetings law |
| <input type="checkbox"/> Involvement with other agencies | <input type="checkbox"/> Rulemaking |
| <input type="checkbox"/> Licensure | <input type="checkbox"/> Securities |
| <input type="checkbox"/> Manufactured structures | <input type="checkbox"/> Task force/reports |
| <input checked="" type="checkbox"/> MLAC legislative review | <input type="checkbox"/> Worker safety |
| <input type="checkbox"/> New program | <input checked="" type="checkbox"/> Workers' compensation system |

Nondepository programs

Other