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Workers' Compensation Division

971-701-3921

HB 3490 (Introduced)

Brief summary

Removes the limits on the duration of medical services, the number of visits and the areas of practice for chiropractic physicians serving as attending physicians in workers' compensation claims.

Analysis

What the law currently does

- Defines, in relevant part, attending physician as:
 - A medical doctor, doctor of osteopathy, podiatric physician and surgeon, or oral and maxillofacial surgeon; or
 - For 60 days from the date of first visit or 18 cumulative visits, whichever occurs first, a chiropractic physician or naturopathic physician.
- Allows chiropractic physicians to serve as attending physician on the initial claim only.
- Allows chiropractic physicians to authorize payment of temporary disability compensation for a period of up to 30 days from the date of the first visit.
- Does not allow naturopathic physicians to make findings of impairment.
- Requires chiropractic physicians to certify that they have reviewed informational materials about the workers' compensation system developed by the director prior to providing any compensable medical services or authorizing payment of temporary disability benefits.

What will change if the bill is enacted

This bill gives chiropractic physicians full attending physician status equal to medical doctors, doctors of osteopathy, oral and maxillofacial surgeons, and podiatric physicians and surgeons; i.e., as attending physicians, chiropractic physicians are no longer limited to 60 days/18 visits from the first visit to a chiropractic or naturopathic physician, they may authorize the payment of temporary disability compensation for more than 30 days, and they may serve as the attending physician on closed claims or aggravation claims.

When providing services upon referral from the attending physician, chiropractic physicians would no longer be considered ancillary care providers, and instead would assume the role of specialist physicians. As such, they would no longer be subject to the treatment plan requirements under OAR 436-010-0230(7).

This bill amends ORS 656.245(2)(b)(C) to allow a naturopathic physician who is serving as the attending physician at the time of claim closure to make findings regarding the worker's impairment.

This bill does not amend ORS 656.260(4)(g)(D), which defines a "primary care physician" as a physician who is qualified to be an attending physician referred to in ORS 656.005 (12)(b)(A) and who is a family practitioner, a general practitioner or an internal medicine practitioner. Since this bill amends ORS 656.005(12)(b)(A) to include chiropractic physicians, they could be considered "primary care physicians."

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

Under this bill, workers may keep a chiropractic physician as the attending physician for more than 60 days or 18 visits. Many workers' compensation cases require treatment for three to four months. This bill would allow workers to stay with a chiropractic physician as their attending physician for their entire claim. Currently, workers must change their attending physician from a chiropractic physician to a provider with unlimited authority, or a physician associate or authorized nurse practitioner after 60 days. Additionally, workers with a chiropractic physician as their attending physician would not need to change attending physicians if there are work restrictions lasting more than 30 days.

Further, this bill would allow workers to choose or keep a chiropractic physician as their attending physician on closed or aggravation claims.

There may be an increase in the number of claims in which a chiropractic physician functions as the attending physician as well as an increase in visits to chiropractic physicians per claim.

Questions/relevant information for the bill sponsor or primary proponent

This bill does not modify ORS 656.799, i.e., chiropractic physicians would continue to be required to certify to the director that they have read informational material prior to providing any compensable medical service or authorizing payment of temporary disability.

This bill amends ORS 656.245(2)(b)(C) to allow a naturopathic physician who is serving as the attending physician at the time of claim closure to make findings regarding the worker's impairment. If this is not intended, the insertion of "(B)" and the "or" after "ORS 656.005 (12)(b)(A)" on page 7, line 7 should be removed.

Under current law, "primary care physician" means a physician who is qualified to be an attending physician referred to in ORS 656.005 (12)(b)(A) and who is a family practitioner, a general practitioner or an internal medicine practitioner, i.e., chiropractic physicians are not

considered “primary care physicians.” This bill, as written, includes chiropractic physicians in the meaning of “primary care physician.” If this is not intended, an “(i)” should be inserted on page 11, line 9 as follows:

“be an attending physician referred to in ORS 656.005 (12)(b)(A)(i) and who is a family practitioner, a”

Legislative history

Has this bill been introduced in a prior session?

☐ No ☒ Yes Years 2023 Bill numbers [HB 3150](#)

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

☐ No ☒ Yes Specify ORS 656.005, 656.245 and 656.260

Is this bill related to a legal decision?

☒ No ☐ Yes Case citation, AG opinion, date, etc.

Should another DCBS division review this measure?

☒ No ☐ Yes Divisions

Other impacts

Does this bill have a fiscal impact to DCBS?

☒ No ☐ Yes ☐ Unknown Explain

If Yes or Maybe, which section(s) of the bill trigger the fiscal impact?

Explain

Does this bill have an economic impact to stakeholders?

☐ No ☐ Yes ☒ Unknown Explain: Overall system impact cannot be determined since medical and indemnity costs are dependent upon several factors including worker choice, access to providers, and provider treatment patterns.

Sponsors

Representative TRAN; Representatives ELMER, YUNKER, Senators GELSER BLOUIN, THATCHER

Possible interested stakeholders

Chiropractic physicians, medical and other health care providers, insurers, self-insured employers, managed care organizations, workers.

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 |
| <input type="checkbox"/> Nondepository programs | <input type="checkbox"/> Other |