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HB 2799-2

Brief summary

The -2 amendments increase the cap on expenses and costs a worker can recover for finally prevailing against a denied claim.

Analysis

What the law currently does

Current law provides for attorney fees when workers prevail in certain disputes about workers' compensation benefits, including when a worker finally prevails against a denied claim. In addition, when a worker finally prevails against a denied claim:

- The Administrative Law Judge (ALJ), Workers' Compensation Board (Board), or appellate court may order payment of the worker's reasonable expenses and costs for records, expert opinions, and witness fees.
- The ALJ, Board, or court determines the reasonableness of the expenses and costs.
- The expenses and costs are capped at \$1,500, except in extraordinary circumstances.

Attorney fees, expenses, and costs are paid by the insurer or self-insured employer in addition to workers' compensation benefits.

What will change if the bill is enacted

The -2 amendments replace the bulk of the base bill; increase the cap on costs and expenses from \$1,500 to \$3,500; and provide for an annual adjustment to the cap.

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

1. The only change that the -2 amendments make to current law is related to the current cap on expenses and costs when the worker prevails over a claim denial. The -2 amendments increase the cap from \$1,500 to \$3,500, and provide for annual increases in the cap by the percentage increase,

if any, in the state average weekly wage, rounded to the nearest \$100. Under the -2 amendments, expenses and costs remain limited to claim denials under the Board's authority, and there would be no effect on WCD or its processes.

Questions/relevant information for the bill sponsor or primary proponent

Regarding the -2 amendments: 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 656.386

Is this bill related to a legal decision?

☒ No ☐ Yes

Should another DCBS division review this measure?

☐ No ☒ Yes

Workers' Compensation Board

Other impacts

Does this bill have a fiscal impact to DCBS?

☒ No ☐ Yes ☐ Unknown

The -2 amendments, if adopted, would have no impact on WCD.

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

Does this bill have an economic impact to stakeholders?

☐ No ☒ Yes ☐ Unknown Workers would be entitled to recover more for expenses and costs if they finally prevail against a claim denial. Insurers and self-insured employers would be required to pay more for expenses and costs.

Sponsors

Rep. Ruiz; Sen. Gorsek; Rep. Hudson and Rep. Munoz; Sen. Campos, Sen. Frederick, and Sen. Meek

Possible interested stakeholders

Workers, claimant attorneys, Oregon Trial Lawyers Association (OTLA), workers' compensation insurers, self-insured employers, employers

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 |