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HB 3374-3

Brief summary

Removes the 180-day limit that nurse practitioners or physician associates may provide compensable medical services without a referral from an attending physician. Removes the 180-day limit that nurse practitioners or physician associates may authorize temporary disability benefits. Includes nurse practitioner in the definition of attending physician. Allows physician associates and nurse practitioners to make findings of impairment. Permits a physician associate or nurse practitioner to remain a worker's attending physician after claim closure.

Allows the State Accident Insurance Fund Corporation (SAIF) to form or acquire subsidiaries to perform any function the corporation may delegate under law. Authorizes SAIF or a subsidiary to provide managed care services to injured workers. Sets forth the membership and duties of the board of directors that governs a subsidiary. Requires an annual audit by Department of Consumer and Business Services (DCBS) of the managed care services provided by the corporation or a subsidiary. Requires DCBS to issue an annual report to the Governor, the President of the Senate and the Speaker of the House of Representatives on the results of the audit and review.

Takes effect on the 91st day following adjournment sine die.

Analysis

What the law currently does

Does not include nurse practitioners in the definition of attending physician.

Limits physician associates and authorized nurse practitioners to provide compensable medical services without a referral from an attending physician to 180 days and to authorize temporary disability benefits for a maximum of 180 days.

Does not allow a nurse practitioner without an Oregon license under ORS 678.375 to 678.390 to provide medical services without a referral from an attending physician or authorize temporary disability.

Does not allow a physician associate or nurse practitioner to make findings of impairment.

Does not permit a physician associate or nurse practitioner to assume the role of attending physician after the initial claim.

Prohibits an insurer, including SAIF, from being certified to provide managed care.

What will change if the bill is enacted

Include nurse practitioners in the definition of attending physician.

Allow nurse practitioners not licensed in Oregon under ORS 678.375 to 678.390 to become a worker's attending physician without certifying to the Director that they have reviewed the materials developed under ORS 656.795.

Remove the 180-day limit that physician associates or nurse practitioners may provide compensable medical services without a referral from an attending physician, and allow nurse practitioners and physician associates to authorize temporary disability benefits for more than 180 days.

Allow physician associates and nurse practitioners to make findings of impairment when treating injured workers who have become medically stationary.

Remove the provision that physician associates or nurse practitioners may assume the role of attending physician during the initial claim only, i.e., a worker may return to a physician associate or nurse practitioner for treatment of, e.g., an aggravation.

Allows the director to choose a nurse practitioner as a medical arbiter.

Allow SAIF to form or acquire a subsidiary corporation to perform any function of SAIF that may be delegated to the subsidiary under any provision of ORS, chapter 656.

Under this bill, SAIF or a subsidiary may:

- Provide managed care services to injured workers under ORS 656.260;
- Authorize self-insured employers or other insurers to use such managed care services on such terms as SAIF deems reasonable;
- Enter into contracts to use such managed care services, on such terms as SAIF deems reasonable, with cities that provide by ordinance or charter a disability or retirement system for firefighters and police officers that are not subject to this chapter¹; and
- Solicit and coordinate with medical service providers to provide medical services to injured workers.

¹ ORS 656.027(6) provides that firefighter and police employees of any city having a population of more than 200,000 that provides a disability and retirement system by ordinance or charter are not subject workers. As of 2025, this provision only applies to firefighter and police employed by the City of Portland.

Any subsidiary corporation formed or acquired by SAIF will be governed by a board of five directors appointed by the Governor. Three of the five members must represent SAIF, appointed from among individuals recommended by the board of SAIF.

Requires DCBS to perform an annual audit of SAIF or its subsidiary to ensure sufficient separation between claims processing operations and the provision of managed care services to injured workers and issue an annual report to the Governor, House Speaker, and Senate President on the audit results.

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

Including nurse practitioners in the definition of attending physician simplifies understanding and implementation of workers' compensation law and administrative rules.

If a worker chooses a physician associate or nurse practitioner as their attending physician, the worker does not have to change attending physician after 180 days or when the worker becomes medically stationary as both physician associate and nurse practitioner may make findings of impairment.

Allows a worker to receive medical treatment from a physician associate or nurse practitioner after the claim closes, e.g., for an aggravation.

This bill removes the historical provision that only a health care provider or group of medical service providers may form a managed care organization.

Access to SAIF's MCO may be limited for other insurers and self-insured employers as SAIF may determine which self-insured employers or other insurers may use SAIF's MCO and under what terms. If SAIF acquired an existing MCO, access for other insurers may be limited to only two MCOs.

Currently existing MCOs, in particular Majoris MCO, may see a marked decrease in enrollment by SAIF. In 2022, 85 percent of Majoris' enrolled disabling claims were SAIF claims.

If WCD were required to perform the annual audit, WCD may need to create a new program, as the current audit unit within the division has no experience to perform an audit like the one described in the bill.

Questions/relevant information for the bill sponsor or primary proponent

This bill retains the current requirement that only nurse practitioners licensed under ORS 678.375 to 678.390 must, prior to providing compensable medical services or authorizing temporary disability benefits, certify in a form acceptable to the Director of DCBS that the nurse practitioner has reviewed the materials developed under ORS 656.795². This means that nurse practitioners licensed in Oregon must

² ORS 656.795 provides that the Director of the Department of Consumer and Business Services shall develop and make available to nurse practitioners informational materials about the workers' compensation system, including, but not limited to, the management of indemnity claims, standards for authorization of temporary disability benefits,

review informational materials about the workers' compensation system prior to assuming the role of attending physician, whereas nurse practitioners not licensed in Oregon may assume the role of attending physician without having to review such informational materials. Is that intended?

ORS 656.268(8)(d) provides that an arbiter, or panel of medical arbiters, must be chosen from among a list of physicians qualified to be attending physicians referred to in ORS 656.005 (12)(b)(A) whom the director selected in consultation with the Oregon Medical Board and the committee referred to in ORS 656.790. Under the -2 amendments, physician associates and nurse practitioners are listed as physicians under ORS 656.005 (12)(b)(A). Because physician associates are licensed by the Oregon Medical Board, the director may select a physician associate as an arbiter under this bill. On the other hand, nurse practitioners, while listed as physicians under ORS 656.005 (12)(b)(A), are licensed by the Oregon State Board of Nursing, and therefore, may not be available to the director to be chosen as an arbiter.

Under this bill, SAIF is the only insurer allowed to provide managed care services, either directly or via a subsidiary, and determine the terms under which self-insured employers or other insurers may use SAIF's MCO.

Under this bill, SAIF is the only insurer allowed to form an MCO.

OAR 436-015-0037 requires a contract between an insurer and an MCO. If SAIF formed an MCO directly, i.e., not through a subsidiary, would SAIF be required to have a contract with itself?

OAR 436-015-0037(2) prohibits an MCO from contracting exclusively with a single insurer. Would this apply to SAIF's MCO?

Current statute and HB 3374 do not provide any enforcement authority to DCBS, or any division within DCBS (DFR or WCD), if an audit shows that there is not enough separation between claims processing operations and the provision of managed care services to injured workers.

While this bill requires SAIF to pay the cost of the audit, DCBS and the division that is assigned the responsibility of the report would bear the cost of issuing the report to the Governor, the President of the Senate and the Speaker of the House of Representatives. Is that intended? If not, subsection (4) of section 4 may need to be amended to read: "The cost of the audit **and the report** required under subsections (2) **and** (3) of this section shall be paid by the State Accident Insurance Fund Corporation."

Legislative history

Has this bill been introduced in a prior session?

☒ No ☐ Yes Years Bill numbers

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

return to work responsibilities and programs, and general workers' compensation rules and procedures for medical service providers.

☐ No ☒ Yes Specify ORS 656.005, 656.214, 656.245, 656.250, 656.252, 656.260, 656.262, 656.268, 656.325, 656.340, 656.726, 656.752, 656.797, 657.170, 659A.046, 659A.049, and 659A.063.

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 Division of Financial Regulation (DFR)

Other impacts

Does this bill have a fiscal impact to DCBS?

☐ No ☒ Yes ☐ Unknown Explain:

The bill would require DCBS to conduct an annual audit of SAIF or of the subsidiary who is providing managed care services to ensure that there is sufficient separation between claims processing operations and the provision of managed care services to injured workers. DCBS would submit a report to the Governor, House Speaker, and Senate President on an annual basis. DCBS also may conduct rulemaking necessary to implement and support the new laws. It is unclear whether the responsibilities given to DCBS would go to WCD or DFR. Should this come to pass, DCBS may want to propose in statute or rule, that SAIF pay external auditors to do that work and report it.

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

Section 4.

Does this bill have an economic impact to stakeholders?

☐ No ☐ Yes ☒ Unknown Explain:

It is unknown whether giving physician associates and nurse practitioners full attending physician status will have an impact on claims costs or employer premiums.

If SAIF forms its own MCO, enrollment of injured workers by SAIF in existing MCOs may decline substantially, potentially limiting the three other MCOs' business opportunities. On the other hand, if SAIF acquired an existing MCO, other insurers and self-insured employers may be limited to enrolling workers in just the two remaining MCOs.

Sponsors

Representative Pham H

Possible interested stakeholders

Insurers, managed care organizations, medical providers, injured workers, 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 |