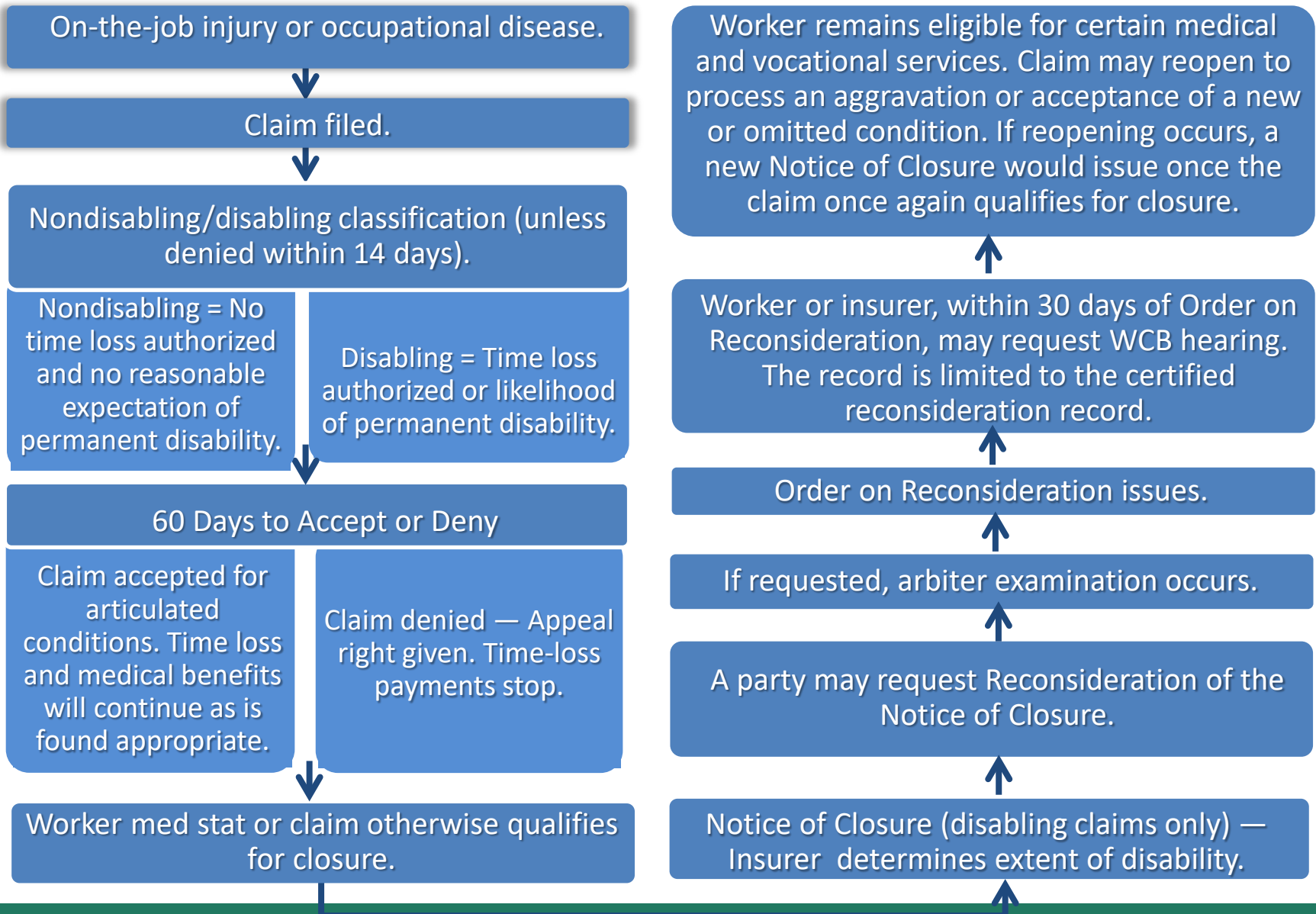




# Medical Arbiters

June 4, 2018

# Workers' Compensation Flowchart



# History of the Reconsideration and Medical Arbiter Process

1990 statutory changes = The start of the medical arbiter process. At that time, legislators sought the following:

- Faster resolution of disputes.
- An appeal process to allow workers to receive benefits with little or no litigation.
- Avoidance of gridlock between “dueling doctors” from the insurer and injured worker.

# What Exactly is “Reconsideration”?

**Reconsideration** → An administrative process established for the review of disputed claim closures.

**Disagree with permanent impairment?** A party may request a medical arbiter examination.

Permanent  
Impairment  
findings

PPD award =  
Permanent  
impairment +  
work disability

End date  
for Agg  
rights

Work  
release

Time-  
loss  
dates

Date claim  
qualified  
for closure

# What can be Appealed in the Reconsideration Process?

**Insurer/Self-Insured Employer**

Disagreements with the findings used to rate impairment

Must be made within 7 days of the NOC

**Worker**

Disagreements with any aspect of the NOC

Must be made within 60 days of the NOC

# The Division's Role in Reconsideration

The Appellate Review Unit (ARU) administers both the **Reconsideration Process** and the **Medical Arbiter Program**.

ARU initially has **18 working days** from the date of the request to issue an Order on Reconsideration. The time frame may be extended **60 days** if additional information is needed.

The most prevalent issue raised at reconsideration is a disagreement with impairment findings, resulting in more than **200 arbiter examinations per month**.

# The Purpose of the Medical Arbitrator Examination

- To help the division resolve disputes over impairment findings resulting from the compensable injury.
- To provide an impartial, comprehensive evaluation of the worker's impairment.
- To report findings of impairment in conformance with the Disability Rating Standards (OAR 436-035).

# Preparing for the Examination (or Records Review)

Arbiters receive the following from ARU:

- Case-specific arbiter questions
- A copy of the worker's medical record
  - Only records sent to the division are to be reviewed by the arbiter
- Billing instructions



# Examples of Issues Addressed

- Active (unassisted) ranges of motion.
- Any injury or disease in contralateral joint?
- Strength loss on 0-5/5 method and, if present, peripheral nerve(s) and/or nerve root innervating the muscles.
- Sensation.
- Hypersensitivity.
- Significant limitation in the repetitive use of one or more body parts.
- Vascular impairment (with definitions from rule provided).

# Examples of Issues Addressed

- Validity of findings.
- Cause of any deficiencies – is it from the accepted condition(s) or their direct medical sequela?
- Apportionment with any pre-existing conditions.

# Incentives to Medical Arbiters

- Monetary compensation paid by the insurer, up to \$1,677.46.
- No obligation for the arbiter (or the division) to meet a set quota of examinations.
- May decline an examination.
- May withdraw from the program without penalty.

# How are Medical Arbiters Chosen for an Exam?

- Single arbiter vs. a request for a “panel exam”
  - 1 vs. 2 or 3 arbiters
    - Deselection process
- Scope of accepted conditions
- Specialty of the doctor(s)
- Location
- Availability

*An arbiter will not be chosen if he or she, or someone in his or her clinic, has previously seen the worker.*

# What Steps is the Division Taking to Recruit More Arbiters?

- Outreach materials to recruit more doctors into the workers' compensation system.
- Speaking with doctors in the community about the arbiter process.
- Researching outreach methods for arbiters in particular.

# Tools Provided to Arbiters

- Medical arbiter resource online
- Individual training
- Feedback on reports
- Support to answer questions

# Who is Allowed to Become a Medical Arbitrator?

Must be chosen from a list of physicians who are:

- Qualified to be attending physicians under ORS 656.005(12)(b)(A)
- Whom the director selected in consultation with the Oregon Medical Board and MLAC

# The Numbers and Challenges

- Around 70 active arbiters
- Challenges:
  - Recruiting arbiters into the program
  - Specialties
  - Geography/Travel availability





**QUESTIONS?**