

CEASES DENIALS

OTLA proposal ([from 3/22/19 meeting materials](#))

1. Make no changes to .005(7)(a) - leave the status quo
2. For .266(2), make the current part (a), then add (b):

(b) Notwithstanding 656.266(1) and (2)(a), for denials issued under ORS 656.262(6)(c), the employer shall bear the burden of proving the combined condition is no longer compensable by proving the industrial accident is no longer the major contributing cause of the need for treatment and disability of the combined condition.

From SAIF and business lobby representatives ([from 3/22/19 meeting materials](#))

ORS 656.266(2) Notwithstanding subsection (1) of this section, for the purpose of combined condition injury claims under ORS 656.005(7)(a)(B) **or a claim for a new or omitted medical condition under ORS 656.262(7) or ORS 656.267** only:

- (a)** When the worker establishes an otherwise compensable injury the employer shall bear the burden of proof to establish the otherwise compensable injury is not the major contributing cause of the disability of the combined condition or the major contributing cause of the need for treatment of the combined condition.

(b) For denials issued under ORS 656.262(6)(c), the employer shall bear the burden of proving that the otherwise compensable condition and any other pathological effects due to the accidental injury are no longer the major contributing cause of the need for treatment or disability of the combined condition.

ORS 656.005(7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appliances, arising out of and in the course of employment requiring medical services or resulting in disability or death; an injury is accidental if the result is an accident, whether or not due to accidental means, if it is established by medical evidence supported by objective findings, subject to the following limitations:

(A) No injury or disease is compensable as a consequence of a compensable injury unless the compensable injury is the major contributing cause of the consequential condition.

(B) (i) If an otherwise compensable injury combines ~~at any time~~ with a preexisting condition to cause or prolong disability or a need for treatment, the combined condition is compensable only if, ~~so long as and to the extent that~~ the otherwise compensable injury is the major contributing cause of the disability of the combined condition or the major contributing cause of the need for treatment of the combined condition.

(ii) If a compensable injury combines at any time with a preexisting condition to cause or prolong disability or a need for treatment, the combined condition is compensable only so long as and to the extent that the otherwise compensable condition and any other pathological effects due to the accidental injury are the major contributing cause of the disability of the combined condition or the major contributing cause of the need for treatment of the combined condition.