

Senate Bill 253

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Administrative Law Judge who mediates workers' compensation claim to approve disposition agreement in certain circumstances.

A BILL FOR AN ACT

1
2 Relating to approval of workers' compensation claim disposition agreement; amending ORS 656.236.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 656.236 is amended to read:

5 656.236. (1)(a) The parties to a claim, by agreement, may make such disposition of any or all
6 matters regarding a claim, except for medical services, as the parties consider reasonable, subject
7 to such terms and conditions as the Workers' Compensation Board may prescribe. For the purposes
8 of this section, "matters regarding a claim" includes the disposition of a beneficiary's independent
9 claim for compensation under this chapter. Unless otherwise specified, a disposition resolves all
10 matters and all rights to compensation, attorney fees and penalties potentially arising out of claims,
11 except medical services, regardless of the conditions stated in the agreement. [*Any such*] **Each**
12 disposition shall be filed [*for approval*] with the board **for approval by the Administrative Law Judge**
13 **who mediated the agreement or by the board**. If the worker is not represented by an attorney,
14 the worker may, at the worker's request, personally appear before the board. Submission of a dis-
15 position shall stay all other proceedings and payment obligations, except for medical services, on
16 that claim. The disposition shall be approved in a final order unless:

17 (A) **The Administrative Law Judge who mediated the agreement or** the board finds the
18 proposed disposition is unreasonable as a matter of law;

19 (B) **The Administrative Law Judge who mediated the agreement or** the board finds the
20 proposed disposition is the result of an intentional misrepresentation of material fact; or

21 (C) Within 30 days of submitting the disposition for approval, the worker, the insurer or self-
22 insured employer requests **the Administrative Law Judge who mediated the agreement or** the
23 board to disapprove the disposition.

24 (b) Notwithstanding paragraph (a)(C) of this subsection, a disposition may provide for waiver of
25 the provisions of that subparagraph if the worker was represented by an attorney at the time the
26 worker signed the disposition.

27 (2) Notwithstanding any other provision of this chapter, an order approving disposition of a
28 claim pursuant to this section is not subject to review. However, an order disapproving a disposition
29 is subject to review pursuant to ORS 656.298. The board shall file with the Department of Consumer
30 and Business Services a copy of each disposition that **the Administrative Law Judge who medi-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 **ated the agreement or** the board approves. If **the Administrative Law Judge who mediated the**
 2 **agreement or** the board does not approve a disposition, **the Administrative Law Judge or** the
 3 board shall enter an order setting aside the disposition.

4 (3) Unless the terms of the disposition expressly provide otherwise, no payments, except for
 5 medical services, pursuant to a disposition are payable until **the Administrative Law Judge who**
 6 **mediated the agreement or** the board approves the disposition. The Court of Appeals or Supreme
 7 Court shall remand to the board cases in which proposed dispositions are submitted to the court for
 8 approval.

9 **(4) When the parties to a claim file a disposition authorized by this section and a disputed**
 10 **claim settlement authorized by ORS 656.289 for approval with the board at the same time,**
 11 **the board shall make the decisions to approve or disapprove the disposition and the disputed**
 12 **claim settlement.**

13 [(4)] (5) If a worker is represented by an attorney in the negotiation of a disposition under this
 14 section, the insurer or self-insured employer shall pay to the attorney a fee prescribed by **the Ad-**
 15 **ministrative Law Judge who mediated the agreement or** the board.

16 [(5)] (6) Except as otherwise provided in this chapter, none of the cost of workers' compensation
 17 to employers under this chapter, or in the court review of any claim therefor, shall be charged to
 18 a subject worker.

19 [(6)] (7) Any claim in which the parties enter into a disposition under this section shall not be
 20 eligible for reimbursement of expenditures authorized by law from the Workers' Benefit Fund with-
 21 out the prior approval of the Director of the Department of Consumer and Business Services.

22 [(7)] (8) Insurers or self-insured employers who are parties to an approved claim disposition
 23 agreement under this section shall not be joined as parties in subsequent proceedings under this
 24 chapter to determine responsibility for payment for any matter for which disposition is made by the
 25 agreement. Insurers or self-insured employers may be joined as parties in subsequent proceedings
 26 under this chapter to determine responsibility for medical services for claim conditions for which
 27 disposition is made by an approved claim disposition agreement, but no order in any subsequent
 28 proceedings may alter the obligations of an insurer or self-insured employer set forth in an approved
 29 claims disposition agreement, except as those obligations concern medical services.

30 [(8)] (9) No release by a worker or beneficiary of any rights under this chapter is valid, except
 31 pursuant to a claim disposition agreement under this section or a release pursuant to ORS 656.593.

32 [(9)] (10) Notwithstanding ORS 656.005 (21), as used in this section, "party" does not include a
 33 noncomplying employer.

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