

House Bill 3325

Sponsored by COMMITTEE ON BUSINESS AND LABOR

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**.

Allows certain medical service providers to recover directly from worker cost of services not payable from proceeds of disputed claim settlement only up to amount allowable for services under medical service fee schedules for workers' compensation claims.

A BILL FOR AN ACT

1
2 Relating to recovery of medical service costs from injured workers; amending ORS 656.313.

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

4 **SECTION 1.** ORS 656.313 is amended to read:

5 656.313. (1)(a) Filing by an employer or the insurer of a request for hearing on a reconsideration
6 order before the Hearings Division, a request for Workers' Compensation Board review or court
7 appeal or request for review of an order of the Director of the Department of Consumer and Busi-
8 ness Services regarding vocational assistance stays payment of the compensation appealed, except
9 for:

10 (A) Temporary disability benefits that accrue from the date of the order appealed from until
11 closure under ORS 656.268, or until the order appealed from is itself reversed, whichever event first
12 occurs;

13 (B) Permanent total disability benefits that accrue from the date of the order appealed from until
14 the order appealed from is reversed;

15 (C) Death benefits payable to a surviving spouse prior to remarriage, to children or dependents
16 that accrue from the date of the order appealed from until the order appealed from is reversed; and

17 (D) Vocational benefits ordered by the director pursuant to ORS 656.283 (2). If a denial of vo-
18 cational benefits is upheld by a final order, the insurer or self-insured employer shall be reimbursed
19 from the Workers' Benefit Fund pursuant to ORS 656.605 for all costs incurred in providing voca-
20 tional benefits as a result of the order that was appealed.

21 (b) If ultimately found payable under a final order, benefits withheld under this subsection shall
22 accrue interest at the rate provided in ORS 82.010 from the date of the order appealed from through
23 the date of payment. The board shall expedite review of appeals in which payment of compensation
24 has been stayed under this section.

25 (2) If the board or court subsequently orders that compensation to the claimant should not have
26 been allowed or should have been awarded in a lesser amount than awarded, the claimant shall not
27 be obligated to repay any such compensation which was paid pending the review or appeal.

28 (3) If an insurer or self-insured employer denies the compensability of all or any portion of a
29 claim submitted for medical services, the insurer or self-insured employer shall send notice of the
30 denial to each provider of such medical services and to any provider of health insurance for the
31 injured worker. Except for medical services payable in accordance with ORS 656.247, after receiving

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 notice of the denial, a medical service provider may submit medical reports and bills for the disputed
 2 medical services to the provider of health insurance for the injured worker. The health insurance
 3 provider shall pay all such bills in accordance with the limits, terms and conditions of the policy.
 4 If the injured worker has no health insurance, such bills may be submitted to the injured worker.
 5 A provider of disputed medical services shall make no further effort to collect disputed medical
 6 service bills from the injured worker until the issue of compensability of the medical services has
 7 been finally determined.

8 (4) Except for medical services payable in accordance with ORS 656.247:

9 (a) When the compensability issue has been finally determined or when disposition or settlement
 10 of the claim has been made pursuant to ORS 656.236 or 656.289 (4), the insurer or self-insured em-
 11 ployer shall notify each affected service provider and health insurance provider of the results of the
 12 disposition or settlement.

13 (b) If the services are determined to be compensable, the insurer or self-insured employer shall
 14 reimburse each health insurance provider for the amount of claims paid by the health insurance
 15 provider pursuant to this section. Such reimbursement shall be in addition to compensation or
 16 medical benefits the worker receives. Medical service reimbursement shall be paid directly to the
 17 health insurance provider.

18 (c) If the services are settled pursuant to ORS 656.289 (4), the insurer or self-insured employer
 19 shall reimburse, out of the settlement proceeds, each medical service provider for billings received
 20 by the insurer or self-insured employer on and before the date on which the terms of settlement are
 21 agreed as specified in the settlement document that are not otherwise partially or fully reimbursed.

22 (d) Reimbursement under this section shall be made only for medical services related to the
 23 claim that would be compensable under this chapter if the claim were compensable and shall be
 24 made at one-half the amount provided under ORS 656.248. In no event shall reimbursement made to
 25 medical service providers exceed 40 percent of the total present value of the settlement amount,
 26 except with the consent of the worker. If the settlement proceeds are insufficient to allow each
 27 medical service provider the reimbursement amount authorized under this subsection, the insurer
 28 or self-insured employer shall reduce each provider's reimbursement by the same proportional
 29 amount. Reimbursement under this section shall not prevent a medical service provider or health
 30 insurance provider from recovering the balance of amounts owing for such services directly from the
 31 worker **up to the amount allowable under ORS 656.248.**

32 (5) As used in this section, "health insurance" has the meaning for that term provided in ORS
 33 731.162.