

A-Engrossed
Senate Bill 173

Ordered by the Senate March 9
Including Senate Amendments dated March 9

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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.

[Limits] **Provides that** amounts recoverable by medical service provider or health insurance provider for medical services provided in workers' compensation claim resolved by settlement **may be limited by agreement.**

A BILL FOR AN ACT

1
2 Relating to recovery of amounts owing for medical services provided in workers' compensation
3 claims; creating new provisions; and amending ORS 656.313.

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

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

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

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

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

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

18 (D) Vocational benefits ordered by the director pursuant to ORS 656.340 (16). If a denial of vo-
19 cational benefits is upheld by a final order, the insurer or self-insured employer shall be reimbursed
20 from the Workers' Benefit Fund pursuant to ORS 656.605 for all costs incurred in providing voca-
21 tional benefits as a result of the order that was appealed.

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

26 (2) If the board or court subsequently orders that compensation to the claimant should not have

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 been allowed or should have been awarded in a lesser amount than awarded, the claimant shall not
2 be obligated to repay any such compensation which was paid pending the review or appeal.

3 (3) If an insurer or self-insured employer denies the compensability of all or any portion of a
4 claim submitted for medical services, the insurer or self-insured employer shall send notice of the
5 denial to each provider of such medical services and to any provider of health insurance for the
6 injured worker. Except for medical services payable in accordance with ORS 656.247, after receiving
7 notice of the denial, a medical service provider may submit medical reports and bills for the disputed
8 medical services to the provider of health insurance for the injured worker. The health insurance
9 provider shall pay all such bills in accordance with the limits, terms and conditions of the policy.
10 If the injured worker has no health insurance, such bills may be submitted to the injured worker.
11 A provider of disputed medical services shall make no further effort to collect disputed medical
12 service bills from the injured worker until the issue of compensability of the medical services has
13 been finally determined.

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

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

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

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

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

39 (5) As used in this section, "health insurance" has the meaning for that term provided in ORS
40 731.162.

41 **SECTION 2. The amendments to ORS 656.313 by section 1 of this 2011 Act apply to**
42 **settlements of workers' compensation claims entered into on or after the effective date of**
43 **this 2011 Act.**

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