HB 4104-2
(LC 188)
2/10/14 (CJC/ps)

PROPOSED AMENDMENTS TO
HOUSE BILL 4104

On page 1 of the printed bill, delete lines 5 through 30 and delete page 2 and insert:

"**SECTION 1.** ORS 656.247 is amended to read:

"656.247. (1) Except for medical services provided to workers subject to ORS 656.245 (4)(b)(B), payment for medical services provided to a subject worker in response to an initial claim for a work-related injury or occupational disease from the date of the employer's notice or knowledge of the claim until the date the claim is accepted or denied shall be payable in accordance with subsection (4) of this section**.** [*if the expenses are for:*]

"[*(a) Diagnostic services required to identify appropriate treatment or to prevent disability;*]

"[*(b) Medication required to alleviate pain; or*]

"[*(c) Services required to stabilize the worker's claimed condition and to prevent further disability.*]

"(2) Notwithstanding subsection (1) of this section, no payment shall be due from the insurer or self-insured employer if the insurer or self-insured employer denies the claim within 14 days of the date of the employer's notice or knowledge of the claim.

"(3)(a) Disputes about whether the medical services provided to treat the claimed work-related injury or occupational disease under subsection (1) of this section are excessive, inappropriate or ineffectual or are consistent with the criteria in subsection (1) of this section shall be resolved by the Director

of the Department of Consumer and Business Services. The director may order a medical review by a physician or panel of physicians pursuant to ORS 656.327 (3) to aid in the review of such services. If a party is dissatisfied with the order of the director, the dissatisfied party may request review under ORS 656.704 within 60 days of the date of the director's order. The order of the director may be modified only if it is not supported by substantial evidence in the record or if it reflects an error of law.

"(b) Disputes about the amount of the fee or nonpayment of bills for medical treatment and services pursuant to this section shall be resolved pursuant to ORS 656.248.

"(c) Except as provided in subsection (2) of this section, when a claim is settled pursuant to ORS 656.289 (4), all medical services payable under subsection (1) of this section that are provided on or before the date of denial shall be paid in accordance with subsection (4) of this section. The insurer or self-insured employer shall notify each affected service provider of the results of the settlement.

"[*(4)(a) If the claim in which medical services are provided under subsection (1) of this section is accepted, the insurer or self-insured employer shall make payment for such medical services subject to the limitations and conditions of this chapter.*]

"[*(b)*] **(4)(a)** If the claim in which medical services are provided under subsection (1) of this section [*is denied*] **has not been accepted or denied** and a health benefit plan provides benefits to the worker, the health benefit plan shall [*be the first payer of the expenses*] **expedite preauthorizations and guarantee payment of expenses** for medical services **provided prior to acceptance or denial of the claim** according to the terms, conditions and benefits of the plan. Except as provided by subsection (2) of this section, after payment by the health benefit plan, the workers' compensation insurer or self-insured employer shall pay any balance remaining for such services subject to the limitations and conditions of this chapter.

"**(b) If the claim for which medical services are provided under subsection (1) of this section is accepted, after the claim has been accepted the insurer or self-insured employer shall pay for the medical services provided for accepted conditions, including reimbursements for medical expenses, copayments and deductibles paid by the injured worker or the health benefit plan. Payments made under this subsection are subject to the fee schedules, limitations and conditions of this chapter.**

"(c) If the claim for which medical services are provided under subsection (1) of this section is denied and a health benefit plan provides benefits to the worker, after the claim is denied the health benefit plan shall pay for medical services provided according to the terms, conditions and benefits of the plan.

"[*(c)*] **(d)** As used in this subsection, 'health benefit plan' has the meaning given that term in ORS 743.730 **and also means self-insured benefit plans and health benefit plans offered by the Oregon Educators Benefit Board and the Public Employees' Benefit Board**.

"(5) An insurer or self-insured employer may recover expenses for **denied** medical services paid under subsection (1) of this section as an overpayment as provided by ORS 656.268 (14).

"SECTION 2. (1) A health benefit plan may not exclude, and shall expedite preauthorizations required for, work-related injuries or occupational diseases if:

"(a) The injured worker is covered by workers' compensation insurance and the health benefit plan; and

"(b) The injured worker has submitted a workers' compensation claim for the work-related injury or occupational disease that has not been accepted or denied by the workers' compensation carrier.

"(2) A health benefit plan subject to this section shall guarantee payment for preauthorized medical services to the provider of those

medical services according to the terms, conditions and benefits of the plan if the claim is found not to be a compensable workers' compensation claim.

"(3) As used in this section, 'health benefit plan' has the meaning given that term in ORS 743.730 and also means self-insured benefit plans and health benefit plans provided by the Oregon Educators Benefit Board and the Public Employees' Benefit Board.

"(4) The provisions of ORS 743A.001 do not apply to this section.

"SECTION 3. Section 2 of this 2014 Act is added to and made a part of the Insurance Code.".