

# D R A F T

## SUMMARY

Allows injured worker one year from date health benefit plan rejects claim for benefits to file workers' compensation claim. Requires health benefit plan to pay benefits in accordance with provisions of plan if workers' compensation claim is denied.

### A BILL FOR AN ACT

1  
2 Relating to payment of claims made by injured workers; amending ORS  
3 656.265.

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

5 **SECTION 1.** ORS 656.265 is amended to read:

6 656.265. (1)(a) Notice of an accident resulting in an injury or death shall  
7 be given immediately by the worker or a [*dependent*] **beneficiary** of the  
8 worker to the employer, but not later than 90 days after the accident. The  
9 employer shall acknowledge forthwith receipt of such notice.

10 **(b) Notwithstanding paragraph (a) of this subsection, if an injured**  
11 **worker has not submitted a claim under this chapter but has submit-**  
12 **ted a claim to a health benefit plan that provides benefits to the**  
13 **worker, and the health benefit plan rejects the claim as being work**  
14 **related, the injured worker may file a claim under this section within**  
15 **one year from the date the health benefit plan rejects the claim. If a**  
16 **claim filed under this section is denied, the workers' compensation**  
17 **insurer or self-insured employer shall inform the health benefit plan**  
18 **of the denial and the health benefit plan shall process the claim for**  
19 **payment in accordance with the terms, conditions and benefits of the**  
20 **plan.**

**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 (2) The notice need not be in any particular form. However, it shall be  
2 in writing and shall apprise the employer when and where and how an injury  
3 has occurred to a worker. A report or statement secured from a worker, or  
4 from the doctor of the worker and signed by the worker, concerning an ac-  
5 cident which may involve a compensable injury shall be considered notice  
6 from the worker and the employer shall forthwith furnish the worker a copy  
7 of any such report or statement.

8 (3) Notice shall be given to the employer by mail, addressed to the em-  
9 ployer at the last-known place of business of the employer, or by personal  
10 delivery to the employer or to a foreman or other supervisor of the employer.  
11 If for any reason it is not possible to so notify the employer, notice may be  
12 given to the Director of the Department of Consumer and Business Services  
13 and referred to the insurer or self-insured employer.

14 (4) Failure to give notice as required by this section bars a claim under  
15 this chapter unless the notice is given within one year after the date of the  
16 accident and:

17 (a) The employer had knowledge of the injury or death;

18 (b) The worker died within 180 days after the date of the accident; or

19 (c) The worker or beneficiaries of the worker establish that the worker  
20 had good cause for failure to give notice within 90 days after the accident.

21 (5) The issue of failure to give notice must be raised at the first hearing  
22 on a claim for compensation in respect to the injury or death.

23 (6) The director shall promulgate and prescribe uniform forms to be used  
24 by workers in reporting their injuries to their employers. These forms shall  
25 be supplied by all employers to injured workers upon request of the injured  
26 worker or some other person on behalf of the worker. The failure of the  
27 worker to use a specified form shall not, in itself, defeat the claim of the  
28 worker if the worker has complied with the requirement that the claim be  
29 presented in writing.

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