

Enrolled
House Bill 2211

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor for Oregon Self-Insurers Association)

CHAPTER

AN ACT

Relating to civil penalties imposed for claims processing violations of workers' compensation claim; amending ORS 656.745 and 656.780.

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

SECTION 1. ORS 656.745 is amended to read:

656.745. (1) The Director of the Department of Consumer and Business Services shall assess a civil penalty against an employer or insurer who intentionally or repeatedly induces claimants for compensation to fail to report accidental injuries, causes employees to collect accidental injury claims as off-the-job injury claims, persuades claimants to accept less than the compensation due or makes it necessary for claimants to resort to proceedings against the employer to secure compensation due.

(2) The director may assess a civil penalty against an employer, insurer, [or] managed care organization **or service company** that:

(a) Fails to pay assessments or other payments due to the director under this chapter and is in default; or

(b) Fails to comply with statutes, rules or orders of the director regarding reports or other requirements necessary to carry out the purposes of this chapter.

(3) Except as specified in ORS 656.780, the director may assess a penalty against a service company only for claims processing performance deficiencies revealed in annual audits associated with claims processing performance. The director may assess only one penalty for each separate violation by an employer, insurer or service company for deficiencies revealed in annual audits associated with claims processing performance.

[(3)] (4) A civil penalty shall be not more than \$2,000 for each violation or \$10,000 in the aggregate for all violations within any three-month period. Each violation, or each day a violation continues, shall be considered a separate violation.

[(4)] (5) ORS 656.735 (4) to (6) and 656.740 also apply to orders and penalties assessed under this section.

SECTION 2. ORS 656.780 is amended to read:

656.780. (1) The Director of the Department of Consumer and Business Services shall:

(a) Adopt by rule standards for certification of workers' compensation claims examiners that shall be administered by workers' compensation insurers, self-insured employers and [third party administrators] **service companies**; and

(b) Develop or approve any training curriculum used by insurers, self-insured employers and [third party administrators] **service companies** that is related to interactions with independent medical examination providers required under ORS 656.325.

(2)(a) Each insurer, self-insured employer and [third party administrator] **service company** shall maintain records of the certification and training of their workers' compensation claims examiners. These records are subject to inspection and review by the director.

(b) The director may impose a civil penalty against any insurer, self-insured employer or [third party administrator] **service company** that fails to:

(A) Maintain or produce certification and training records as required by the rules of the director; or

(B) Provide training based on a curriculum approved by the director related to interactions with independent medical examination providers required under ORS 656.325.

(3) Insurers, self-insured employers and [third party administrators] **service companies** may employ only certified workers' compensation claims examiners to process workers' compensation claims. The director may impose a civil penalty against any insurer, self-insured employer or [third party administrator] **service company** that violates this subsection.

Passed by House April 16, 2015

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 20, 2015

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State