

House Bill 3114

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 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 656.265.

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

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

5 656.265. (1)(a) Notice of an accident resulting in an injury or death shall be given immediately
6 by the worker or a [*dependent*] **beneficiary** of the worker to the employer, but not later than 90 days
7 after the accident. The employer shall acknowledge forthwith receipt of such notice.

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

16 (2) The notice need not be in any particular form. However, it shall be in writing and shall ap-
17 prise the employer when and where and how an injury has occurred to a worker. A report or
18 statement secured from a worker, or from the doctor of the worker and signed by the worker, con-
19 cerning an accident which may involve a compensable injury shall be considered notice from the
20 worker and the employer shall forthwith furnish the worker a copy of any such report or statement.

21 (3) Notice shall be given to the employer by mail, addressed to the employer at the last-known
22 place of business of the employer, or by personal delivery to the employer or to a foreman or other
23 supervisor of the employer. If for any reason it is not possible to so notify the employer, notice may
24 be given to the Director of the Department of Consumer and Business Services and referred to the
25 insurer or self-insured employer.

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

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

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

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

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 (5) The issue of failure to give notice must be raised at the first hearing on a claim for com-
2 pensation in respect to the injury or death.

3 (6) The director shall promulgate and prescribe uniform forms to be used by workers in report-
4 ing their injuries to their employers. These forms shall be supplied by all employers to injured
5 workers upon request of the injured worker or some other person on behalf of the worker. The
6 failure of the worker to use a specified form shall not, in itself, defeat the claim of the worker if the
7 worker has complied with the requirement that the claim be presented in writing.

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