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Permanent Partial Disability and Permanent Total Disability Benefits

HB 2337

One of the goals of the workers' compensation system is "To restore the injured worker physically and economically to a self-sufficient status in an expeditious manner and to the greatest extent practicable" (ORS 656.012). One way this is achieved is by compensating a worker for the permanent loss of use or function due to their work-related injury. There are two types of permanent disability benefits.

Permanent Total Disability. The first benefit category is permanent total disability (PTD) benefits. PTD recipients are the most severely injured workers, as they are permanently incapacitated from regular work at a gainful and suitable occupation. They typically receive the benefit for their lifetime. The current minimum benefit is 90% of the worker's wage, or \$50, whichever is less. The maximum benefit is 66 2/3% of the worker's wages, subject to a cap of 100% of the state average weekly wage (currently \$974.20). There are about 600 existing permanently and totally disabled workers in the system, with about 10 new awards per year. Not all of these workers would be impacted by the proposal.

HB 2337 increases the statutory award ranges for permanent disability benefits. For permanent total (PTD) benefits, the bill increases the minimum benefit to 33% of the state average weekly wage, an amount that approximates the federal poverty level for a family of two. The bill also increases the maximum PTD benefit to 133% of the state average weekly wage, but retains the basis of the benefit at 66 2/3 of the worker's wages.

The cost to insurers for new PTDs is expected to be minimal (less than \$50,000 per year). The Workers' Benefit Fund will have additional expenditures for benefit adjustments to existing PTD claims of \$1.7 million per year (\$2.6 million for the 18 months of biennium 2017-19.) The fund balance is sufficient to absorb this expenditure and it not expected to impact the fund's assessment rate.

Permanent Partial Disability. The second benefit category, permanent partial disability (PPD) benefits, was recently evaluated by the Department of Consumer and Business Services. The department reviewed Oregon claims with the two types of permanent partial disability (PPD) benefits and compared them to workers with less serious (non-disabling) injuries. Both group's post-injury wages were tracked over time to see how well disabled workers' wages, plus their workers' compensation benefits, compared to those of their non-disabled peers. The data showed that workers with PPD awards have reduced wage and employment recovery over time compared to less injured workers. This bill proposes an increase to the PPD to more fully and equitably restore workers' economic losses.

The department is requesting an amendment to remove the proposed changes to the permanent partial disability benefits (section 2 of the bill).