



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

MLAC | Management-Labor Advisory Committee

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February 11, 2022

Rep. Paul Holvey
Chair
House Business and Labor Committee

Dear Rep. Holvey:

The Workers' Compensation Management-Labor Advisory Committee (MLAC) has completed review of HB 4138.

The committee supports the bill with a conceptual amendment as presented by stakeholders. A copy of the language reviewed is attached.

Sincerely,

Patrick Priest
Management Co-chair

Scott Strickland
Labor Co-chair

Members

Tammy Bowers
May Trucking Company

Matthew Calzia
Oregon Nurses Association

Sara Duckwall
Duckwall Fruit

Jill Fullerton
Clackamas Co. Fire District #1

Marcy Grail
IBEW Local 125

Lynn McNamara
Paladin Consulting

John McKenzie
JE Dunn Construction

Patrick Priest
Citycounty Insurance Services
Management co-chair

Scott Strickland
IUOE Local 701
Labor co-chair

Margaret Weddell
Labor representative

Andrew Stolfi
Director, Oregon Department of
Consumer & Business Services,
Ex-Officio

Committee administration

Theresa Van Winkle
Committee Administrator

FINAL Amendments to Legislative Counsel (AT edits 7 pm 2-10-22)

Amendments to introduced version on HB 4138

Delete Page 2 lines 34-35 and replace with “ *[issuance]* **45 days prior to its issuance. The provisions of paragraph (g) do not apply during periods where there is a denial under the jurisdiction of Workers’ Compensation Board that affects the worker’s ability to obtain temporary disability authorizations, a dispute over the identity of or treatment with an attending physician that affects the worker’s ability to obtain temporary disability authorizations, or when notice is not given pursuant to 656.262(4)(j).**”

Question: WHY IS THIS ALSO ON PAGE 8, LINES 13-14?

Delete Page 3 lines 1-5 and replace and replace with “**The insurer or self-insured employer may not end temporary disability compensation until written notice is mailed or delivered to the worker and their attorney, if represented. The attending physician may retroactively authorize temporary disability for up to 45 days from the date of the notice. If notice is given more than 45 days after the worker was no longer eligible for benefits, the attending physician may retroactively authorize temporary disability back to the date benefits were no longer due and payable, so long as the authorization is written within either 30 days of mailing or delivery of written notice to the worker, and attorney if represented, whichever occurs first, that the eligibility ended. The notice must state the reason for temporary disability benefits are no longer due and payable.**”

Question: WHY IS THIS ALSO ON PAGE 8, LINES 25-29?

Delete Page 12 lines 29, after the words “permanent disability.” And delete Page 12 lines 30-32 and replace with “**Notwithstanding any other provision of this chapter, no statement by the physician shall be effective to retroactively declare a worker medically stationary more than 60 days prior to its issuance except for claims subject to subsection (13). An insurer must mail or deliver written notice to a worker within 7 days of receipt of information that the worker is medically stationary.**”

Amend page 12 lines 38, 42, 43 and 26 by deleting the periods and restoring the deleted language.
Amend line 32 by removing the period and adding a semi-colon.

Amend page 19 line 2 by adding after the period. “**An insurer may not declare an overpayment of any compensation that was paid more than two years before the declaration.**”

Question: WHY SAME PRIOR ADDITION ALREADY THERE on PAGE 19, LINES 12-15, 21, 25 and 26 and also PAGE 25 LINES 28-31?

Amend page 26 lines 10-12 by restoring the deleted language.

Amend page 26 line 16 of the introduced version of HB 4138 by adding a new section:

Section 6. This 2022 Act takes effect on January 1, 2024. The amendments to statutes in Sections 1 to 5 apply to all claims or causes of action that exist or that arise on or after January 1, 2024, regardless of the date of injury or the date the claim is presented.