

Senate Bill 214

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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**.

Conforms definition of "average weekly wage" as used in death benefits section to definition used generally in ORS chapter 656. Authorizes payment from Workers' Benefit Fund of compensation due beneficiaries from defaulting insurer.

A BILL FOR AN ACT

1
2 Relating to workers' compensation benefits; amending ORS 656.204 and 656.445.

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

4 **SECTION 1.** ORS 656.204, as amended by section 1, chapter 6, Oregon Laws 2022, is amended
5 to read:

6 656.204. If death results from an accidental injury, payments must be made as follows:

7 (1)(a) The cost of final disposition of the body and funeral expenses, including but not limited
8 to transportation of the body, must be paid, not to exceed 20 times the average weekly wage in any
9 case.

10 (b) The insurer or self-insured employer shall pay bills submitted for disposition and funeral
11 expenses up to the benefit limit established in paragraph (a) of this subsection. If any part of the
12 benefit remains unpaid 60 days after the date of death or the date of claim acceptance, whichever
13 is later, the insurer or self-insured employer shall pay the unpaid amount to the estate of the
14 worker.

15 (2)(a) If a worker is survived by a spouse, monthly benefits must be paid in an amount equal to
16 4.35 times 66-2/3 percent of the average weekly wage to the surviving spouse until remarriage. Only
17 one person may qualify as a spouse for the purposes of this paragraph. The payment shall cease at
18 the end of the month in which the remarriage occurs.

19 (b) Upon remarriage, a surviving spouse must be paid 36 times the monthly benefit in a lump
20 sum as final payment of the surviving spousal benefit.

21 (c) If, after the date of the subject worker's death, the surviving spouse cohabits with another
22 person, such that the relationship would be subject to the provisions of ORS 107.105 to 107.136 and
23 107.700 to 107.735, the surviving spouse must be paid 36 times the monthly benefit in a lump sum
24 as final payment of the surviving spousal benefit.

25 (3)(a) If a worker leaves a child under 19 years of age, a monthly benefit equal to 4.35 times 25
26 percent of the average weekly wage must be paid to each such child until the child becomes 19
27 years of age.

28 (b) The total benefits provided for in this subsection may not exceed 4.35 times 133-1/3 percent
29 of the average weekly wage. If the sum of the individual benefits exceeds this maximum, the benefit
30 for each child must be reduced proportionally.

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 (4)(a) If a worker leaves a dependent, a monthly payment must be made to each dependent that
 2 is equal to 50 percent of the average monthly support the dependent actually received from the
 3 worker during the 12 months preceding the occurrence of the accidental injury. If a dependent is
 4 under the age of 19 years at the time of the accidental injury, the payment to the dependent must
 5 cease when the dependent becomes 19 years of age. The payment to any dependent must cease under
 6 the same circumstances that would have terminated the dependency had the injury not happened.

7 (b) The total benefits provided for in this subsection may not exceed 4.35 times 10 percent of the
 8 average weekly wage. If the sum of the individual benefits exceeds this maximum, the benefit for
 9 each dependent must be reduced proportionally.

10 (5) If a child is incapacitated at the time the child otherwise becomes ineligible for benefits
 11 under this section, the payment to the child must continue while the child remains an incapacitated
 12 child. If an individual is entitled to payment because the individual is an incapacitated child, pay-
 13 ment must terminate when the individual ceases to be an incapacitated child.

14 (6)(a) If a child or dependent is between 19 and 26 years of age at the time of a worker's death,
 15 or becomes 19 years of age after the worker's death, monthly benefits must be paid for not more
 16 than 48 months until the age of 26 during a period in which the child or dependent is completing
 17 secondary education, is obtaining a general educational development certificate or is attending a
 18 program of higher education. The child or dependent must provide an insurer or self-insured em-
 19 ployer with documentation that enables the insurer or self-insured employer to determine the child's
 20 or dependent's eligibility for monthly benefits.

21 (b) If a child or dependent who is eligible for benefits under this subsection does not have a
 22 surviving parent, the child or dependent must receive 4.35 times 66-2/3 percent of the average
 23 weekly wage.

24 (c) As used in this subsection, "attending a program of higher education" means regularly at-
 25 tending community college, college or university, or regularly attending a course of vocational or
 26 technical training designed to prepare the participant for gainful employment. A child or dependent
 27 enrolled in an educational course load of less than one-half of that determined by the educational
 28 facility to constitute "full-time" enrollment is not "attending a program of higher education."

29 (7) As used in this section, "average weekly wage" has the meaning [for] **given** that term [*pro-*
 30 *vided*] in ORS [656.211] **656.005**.

31 **SECTION 2.** ORS 656.445 is amended to read:

32 656.445. (1) If an insurer defaults in payment of compensation due [*an injured worker*] **injured**
 33 **workers or the workers' beneficiaries**, the Director of the Department of Consumer and Business
 34 Services may advance funds from the Workers' Benefit Fund to **the injured workers or their ben-**
 35 **eficiaries** [*who have not received payment of compensation due from the insurer in default*].

36 (2) The maximum expenditures that may be made under this section may not exceed the amount
 37 of securities on deposit for the insurer pursuant to ORS 731.628.

38 (3) The director shall adopt rules to regulate, manage and disburse moneys in the Workers'
 39 Benefit Fund for the purposes of subsection (1) of this section. The rules shall include but not be
 40 limited to eligibility criteria, procedures for distributing funds, accounting procedures and a maxi-
 41 mum expenditure limitation on payments made under subsection (1) of this section from the fund.

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