HB 2802 A STAFF MEASURE SUMMARY

Carrier: Rep. Munoz

House Committee On Labor and Workplace Standards

Action Date:	03/05/25
Action:	Do pass with amendments. (Printed A-Eng.)
Vote:	7-0-0-0
Yeas:	7 - Boshart Davis, Elmer, Fragala, Grayber, Munoz, Nelson, Scharf
Fiscal:	Has minimal fiscal impact
Revenue:	No revenue impact
Prepared By:	Erin Seiler, LPRO Analyst
Meeting Dates:	2/3, 3/5

WHAT THE MEASURE DOES:

The measure requires an insurer to make a lump sum payment of permanent partial disability award if a worker waives reconsideration of the notice of closure or the award has become final by operation of law. Provides circumstances when a lump sum payment is not required. The measure clarifies that the lump sum payment is not required if the insurer or self-insured employer timely requests reconsideration *and* the reconsideration proceeding has not been completed.

ISSUES DISCUSSED:

- Worker may have to wait up to 60 days for award to become final by law, even if they waive right to appeal
- Insurer may decline to pay permanent partial disability award in a lump sum, because the award is not final by operation of law
- 2023 Court of Appeals decision, *Giltner v. SAIF,* resulted in court interpreting the statute different than industry practice
- Reasons insurer may deny the lump sum payment
- Frequency that permanent partial disability payments are paid as a lump sum
- Pending Management-Labor Advisory Committee (MLAC)

EFFECT OF AMENDMENT:

The amendment restores the $6,000 cap for automatic permanent partial disability lump sum payment. The amendment clarifies that the lump sum payment is not required if insurer or self-insured employer timely requests reconsideration *and* the reconsideration proceeding has not been completed.

BACKGROUND:

Workers who are partially disabled as a result of their workers' compensation claim may receive a permanent partial disability award (PPD). PPD is awarded to the worker when the insurer issues a notice of closure at the end of a claim. If the worker does not appeal the notice of closure, the PPD award becomes final 60 days from the date of the closure. When paid out, the award may be paid in a lump sum or in installments.

ORS 656.230 provides that if a worker requests a lump sum, the insurer is required to make a lump sum payment unless an exception applies:

- The worker has not waived the right to appeal the adequacy of the award.
- The award has not become final by operation of law.
- Payment of compensation has been stayed pending a request for hearing or review under ORS 656.313.
- The worker is enrolled and actively engaged in vocational training.

Currently, when the worker waives their right to appeal the adequacy of the award, the insurer may deny the lump sum payment if the award is not final by operation of law. This means that even if the worker does not want to appeal the award, they may need to wait until the award becomes final (60 days after the notice of claim closure) to successfully request a lump sum. If the award is not paid in a lump sum, it is paid in installments.

House Bill 2802 A shifts the law from reasons why a lump sum payment may be denied, to stating the circumstances where a lump sum payment is required. The measure requires an insurer to make a lump sum payment of permanent partial disability award if the worker waives reconsideration of a notice of closure or the award has become final by operation of law.

The measure provides three circumstances where a lump sum payment is not required:

- The insurer or self-insured employer timely requests reconsideration of the Notice of Closure.
- Payment of compensation has been stayed pending a request for hearing or review.
- The worker is enrolled and actively engaged in vocational training.