

# Senate Bill 669

Sponsored by Senator SHIELDS; Senator C STARR (at the request of Oregon Association of Naturopathic Physicians)

## 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**.

Authorizes person licensed as naturopathic doctor or physician to serve as attending physician for workers' compensation claim within certain limitations.

## A BILL FOR AN ACT

1  
2 Relating to attending physicians for workers' compensation claims; amending ORS 656.005 and  
3 656.262.

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

5 **SECTION 1.** ORS 656.005 is amended to read:

6 656.005. (1) "Average weekly wage" means the Oregon average weekly wage in covered em-  
7 ployment, as determined by the Employment Department, for the last quarter of the calendar year  
8 preceding the fiscal year in which the injury occurred.

9 (2) "Beneficiary" means an injured worker, and the husband, wife, child or dependent of a  
10 worker, who is entitled to receive payments under this chapter. "Beneficiary" does not include:

11 (a) A spouse of an injured worker living in a state of abandonment for more than one year at  
12 the time of the injury or subsequently. A spouse who has lived separate and apart from the worker  
13 for a period of two years and who has not during that time received or attempted by process of law  
14 to collect funds for support or maintenance is considered living in a state of abandonment.

15 (b) A person who intentionally causes the compensable injury to or death of an injured worker.

16 (3) "Board" means the Workers' Compensation Board.

17 (4) "Carrier-insured employer" means an employer who provides workers' compensation cover-  
18 age with a guaranty contract insurer.

19 (5) "Child" includes a posthumous child, a child legally adopted prior to the injury, a child to-  
20 ward whom the worker stands in loco parentis, an illegitimate child and a stepchild, if such  
21 stepchild was, at the time of the injury, a member of the worker's family and substantially dependent  
22 upon the worker for support. An invalid dependent child is a child, for purposes of benefits, re-  
23 gardless of age, so long as the child was an invalid at the time of the accident and thereafter re-  
24 mains an invalid substantially dependent on the worker for support. For purposes of this chapter,  
25 an invalid dependent child is considered to be a child under 18 years of age.

26 (6) "Claim" means a written request for compensation from a subject worker or someone on the  
27 worker's behalf, or any compensable injury of which a subject employer has notice or knowledge.

28 (7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appli-  
29 ances, arising out of and in the course of employment requiring medical services or resulting in  
30 disability or death; an injury is accidental if the result is an accident, whether or not due to acci-  
31 dental means, if it is established by medical evidence supported by objective findings, subject to the

**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 following limitations:

2 (A) No injury or disease is compensable as a consequence of a compensable injury unless the  
3 compensable injury is the major contributing cause of the consequential condition.

4 (B) If an otherwise compensable injury combines at any time with a preexisting condition to  
5 cause or prolong disability or a need for treatment, the combined condition is compensable only if,  
6 so long as and to the extent that the otherwise compensable injury is the major contributing cause  
7 of the disability of the combined condition or the major contributing cause of the need for treatment  
8 of the combined condition.

9 (b) "Compensable injury" does not include:

10 (A) Injury to any active participant in assaults or combats which are not connected to the job  
11 assignment and which amount to a deviation from customary duties;

12 (B) Injury incurred while engaging in or performing, or as the result of engaging in or per-  
13 forming, any recreational or social activities primarily for the worker's personal pleasure; or

14 (C) Injury the major contributing cause of which is demonstrated to be by a preponderance of  
15 the evidence the injured worker's consumption of alcoholic beverages or the unlawful consumption  
16 of any controlled substance, unless the employer permitted, encouraged or had actual knowledge of  
17 such consumption.

18 (c) A "disabling compensable injury" is an injury which entitles the worker to compensation for  
19 disability or death. An injury is not disabling if no temporary benefits are due and payable, unless  
20 there is a reasonable expectation that permanent disability will result from the injury.

21 (d) A "nondisabling compensable injury" is any injury which requires medical services only.

22 (8) "Compensation" includes all benefits, including medical services, provided for a compensable  
23 injury to a subject worker or the worker's beneficiaries by an insurer or self-insured employer pur-  
24 suant to this chapter.

25 (9) "Department" means the Department of Consumer and Business Services.

26 (10) "Dependent" means any of the following-named relatives of a worker whose death results  
27 from any injury: Father, mother, grandfather, grandmother, stepfather, stepmother, grandson,  
28 granddaughter, brother, sister, half sister, half brother, niece or nephew, who at the time of the  
29 accident, are dependent in whole or in part for their support upon the earnings of the worker.  
30 Unless otherwise provided by treaty, aliens not residing within the United States at the time of the  
31 accident other than father, mother, husband, wife or children are not included within the term "de-  
32 pendent."

33 (11) "Director" means the Director of the Department of Consumer and Business Services.

34 (12)(a) "Doctor" or "physician" means a person duly licensed to practice one or more of the  
35 healing arts in any country or in any state, territory or possession of the United States within the  
36 limits of the license of the licentiate.

37 (b) Except as otherwise provided for workers subject to a managed care contract, "attending  
38 physician" means a doctor or physician who is primarily responsible for the treatment of a worker's  
39 compensable injury and who is:

40 (A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the  
41 Board of Medical Examiners for the State of Oregon or an oral and maxillofacial surgeon licensed  
42 by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state,  
43 territory or possession of the United States; [or]

44 (B) For a period of 30 days from the date of first visit on the initial claim or for 12 visits,  
45 whichever first occurs, a doctor or physician licensed by the State Board of Chiropractic Examiners

1 [for the State of Oregon] or a similarly licensed doctor or physician in any country or in any state,  
 2 territory or possession of the United States; or

3 **(C) For a period of 30 days from the date of first visit on the initial claim or for 12 visits,**  
 4 **whichever first occurs, a doctor or physician licensed by the Board of Naturopathic Exam-**  
 5 **iners or a similarly licensed doctor or physician in any country or in any state, territory or**  
 6 **possession of the United States.**

7 (c) “Consulting physician” means a doctor or physician who examines a worker or the worker’s  
 8 medical record to advise the attending physician or nurse practitioner authorized to provide  
 9 compensable medical services under ORS 656.245 regarding treatment of a worker’s compensable  
 10 injury.

11 (13)(a) “Employer” means any person, including receiver, administrator, executor or trustee, and  
 12 the state, state agencies, counties, municipal corporations, school districts and other public corpo-  
 13 rations or political subdivisions, who contracts to pay a remuneration for and secures the right to  
 14 direct and control the services of any person.

15 (b) Notwithstanding paragraph (a) of this subsection, for purposes of this chapter, the client of  
 16 a temporary service provider is not the employer of temporary workers provided by the temporary  
 17 service provider.

18 (c) As used in paragraph (b) of this subsection, “temporary service provider” has the meaning  
 19 for that term provided in ORS 656.850.

20 (14) “Guaranty contract insurer” and “insurer” mean the State Accident Insurance Fund Cor-  
 21 poration or an insurer authorized under ORS chapter 731 to transact workers’ compensation insur-  
 22 ance in this state or an assigned claims agent selected by the director under ORS 656.054.

23 (15) “Consumer and Business Services Fund” means the fund created by ORS 705.145.

24 (16) “Invalid” means one who is physically or mentally incapacitated from earning a livelihood.

25 (17) “Medically stationary” means that no further material improvement would reasonably be  
 26 expected from medical treatment, or the passage of time.

27 (18) “Noncomplying employer” means a subject employer who has failed to comply with ORS  
 28 656.017.

29 (19) “Objective findings” in support of medical evidence are verifiable indications of injury or  
 30 disease that may include, but are not limited to, range of motion, atrophy, muscle strength and  
 31 palpable muscle spasm. “Objective findings” does not include physical findings or subjective re-  
 32 sponses to physical examinations that are not reproducible, measurable or observable.

33 (20) “Palliative care” means medical service rendered to reduce or moderate temporarily the  
 34 intensity of an otherwise stable medical condition, but does not include those medical services ren-  
 35 dered to diagnose, heal or permanently alleviate or eliminate a medical condition.

36 (21) “Party” means a claimant for compensation, the employer of the injured worker at the time  
 37 of injury and the insurer, if any, of such employer.

38 (22) “Payroll” means a record of wages payable to workers for their services and includes  
 39 commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or  
 40 similar advantage received from the employer. However, “payroll” does not include overtime pay,  
 41 vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments  
 42 to reward workers for safe working practices. Bonus pay is limited to payments which are not an-  
 43 ticipated under the contract of employment and which are paid at the sole discretion of the em-  
 44 ployer. The exclusion from payroll of bonus payments to reward workers for safe working practices  
 45 is only for the purpose of calculations based on payroll to determine premium for workers’ com-

1 pension insurance, and does not affect any other calculation or determination based on payroll for  
2 the purposes of this chapter.

3 (23) "Person" includes partnership, joint venture, association, limited liability company and  
4 corporation.

5 (24)(a) "Preexisting condition" means, for all industrial injury claims, any injury, disease, con-  
6 genital abnormality, personality disorder or similar condition that contributes to disability or need  
7 for treatment, provided that:

8 (A) Except for claims in which a preexisting condition is arthritis or an arthritic condition, the  
9 worker has been diagnosed with such condition, or has obtained medical services for the symptoms  
10 of the condition regardless of diagnosis; and

11 (B)(i) In claims for an initial injury or omitted condition, the diagnosis or treatment precedes  
12 the initial injury;

13 (ii) In claims for a new medical condition, the diagnosis or treatment precedes the onset of the  
14 new medical condition; or

15 (iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment  
16 precedes the onset of the worsened condition.

17 (b) "Preexisting condition" means, for all occupational disease claims, any injury, disease, con-  
18 genital abnormality, personality disorder or similar condition that contributes to disability or need  
19 for treatment and that precedes the onset of the claimed occupational disease, or precedes a claim  
20 for worsening in such claims pursuant to ORS 656.273 or 656.278.

21 (c) For the purposes of industrial injury claims, a condition does not contribute to disability or  
22 need for treatment if the condition merely renders the worker more susceptible to the injury.

23 (25) "Self-insured employer" means an employer or group of employers certified under ORS  
24 656.430 as meeting the qualifications set out by ORS 656.407.

25 (26) "State Accident Insurance Fund Corporation" and "corporation" mean the State Accident  
26 Insurance Fund Corporation created under ORS 656.752.

27 (27) "Subject employer" means an employer who is subject to this chapter as provided by ORS  
28 656.023.

29 (28) "Subject worker" means a worker who is subject to this chapter as provided by ORS  
30 656.027.

31 (29) "Wages" means the money rate at which the service rendered is recompensed under the  
32 contract of hiring in force at the time of the accident, including reasonable value of board, rent,  
33 housing, lodging or similar advantage received from the employer, and includes the amount of tips  
34 required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of  
35 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips  
36 reported, whichever amount is greater. The State Accident Insurance Fund Corporation may estab-  
37 lish assumed minimum and maximum wages, in conformity with recognized insurance principles, at  
38 which any worker shall be carried upon the payroll of the employer for the purpose of determining  
39 the premium of the employer.

40 (30) "Worker" means any person, including a minor whether lawfully or unlawfully employed,  
41 who engages to furnish services for a remuneration, subject to the direction and control of an em-  
42 ployer and includes salaried, elected and appointed officials of the state, state agencies, counties,  
43 cities, school districts and other public corporations, but does not include any person whose services  
44 are performed as an inmate or ward of a state institution or as part of the eligibility requirements  
45 for a general or public assistance grant. For the purpose of determining entitlement to temporary

1 disability benefits or permanent total disability benefits under this chapter, “worker” does not in-  
 2 clude a person who has withdrawn from the workforce during the period for which such benefits are  
 3 sought.

4 (31) “Independent contractor” has the meaning for that term provided in ORS 670.600.

5 **SECTION 2.** ORS 656.005, as amended by section 2, chapter 811, Oregon Laws 2003, is amended  
 6 to read:

7 656.005. (1) “Average weekly wage” means the Oregon average weekly wage in covered em-  
 8 ployment, as determined by the Employment Department, for the last quarter of the calendar year  
 9 preceding the fiscal year in which the injury occurred.

10 (2) “Beneficiary” means an injured worker, and the husband, wife, child or dependent of a  
 11 worker, who is entitled to receive payments under this chapter. “Beneficiary” does not include:

12 (a) A spouse of an injured worker living in a state of abandonment for more than one year at  
 13 the time of the injury or subsequently. A spouse who has lived separate and apart from the worker  
 14 for a period of two years and who has not during that time received or attempted by process of law  
 15 to collect funds for support or maintenance is considered living in a state of abandonment.

16 (b) A person who intentionally causes the compensable injury to or death of an injured worker.

17 (3) “Board” means the Workers’ Compensation Board.

18 (4) “Carrier-insured employer” means an employer who provides workers’ compensation cover-  
 19 age with a guaranty contract insurer.

20 (5) “Child” includes a posthumous child, a child legally adopted prior to the injury, a child to-  
 21 ward whom the worker stands in loco parentis, an illegitimate child and a stepchild, if such  
 22 stepchild was, at the time of the injury, a member of the worker’s family and substantially dependent  
 23 upon the worker for support. An invalid dependent child is a child, for purposes of benefits, re-  
 24 gardless of age, so long as the child was an invalid at the time of the accident and thereafter re-  
 25 mains an invalid substantially dependent on the worker for support. For purposes of this chapter,  
 26 an invalid dependent child is considered to be a child under 18 years of age.

27 (6) “Claim” means a written request for compensation from a subject worker or someone on the  
 28 worker’s behalf, or any compensable injury of which a subject employer has notice or knowledge.

29 (7)(a) A “compensable injury” is an accidental injury, or accidental injury to prosthetic appli-  
 30 ances, arising out of and in the course of employment requiring medical services or resulting in  
 31 disability or death; an injury is accidental if the result is an accident, whether or not due to acci-  
 32 dental means, if it is established by medical evidence supported by objective findings, subject to the  
 33 following limitations:

34 (A) No injury or disease is compensable as a consequence of a compensable injury unless the  
 35 compensable injury is the major contributing cause of the consequential condition.

36 (B) If an otherwise compensable injury combines at any time with a preexisting condition to  
 37 cause or prolong disability or a need for treatment, the combined condition is compensable only if,  
 38 so long as and to the extent that the otherwise compensable injury is the major contributing cause  
 39 of the disability of the combined condition or the major contributing cause of the need for treatment  
 40 of the combined condition.

41 (b) “Compensable injury” does not include:

42 (A) Injury to any active participant in assaults or combats which are not connected to the job  
 43 assignment and which amount to a deviation from customary duties;

44 (B) Injury incurred while engaging in or performing, or as the result of engaging in or per-  
 45 forming, any recreational or social activities primarily for the worker’s personal pleasure; or

1 (C) Injury the major contributing cause of which is demonstrated to be by a preponderance of  
2 the evidence the injured worker's consumption of alcoholic beverages or the unlawful consumption  
3 of any controlled substance, unless the employer permitted, encouraged or had actual knowledge of  
4 such consumption.

5 (c) A "disabling compensable injury" is an injury which entitles the worker to compensation for  
6 disability or death. An injury is not disabling if no temporary benefits are due and payable, unless  
7 there is a reasonable expectation that permanent disability will result from the injury.

8 (d) A "nondisabling compensable injury" is any injury which requires medical services only.

9 (8) "Compensation" includes all benefits, including medical services, provided for a compensable  
10 injury to a subject worker or the worker's beneficiaries by an insurer or self-insured employer pur-  
11 suant to this chapter.

12 (9) "Department" means the Department of Consumer and Business Services.

13 (10) "Dependent" means any of the following-named relatives of a worker whose death results  
14 from any injury: Father, mother, grandfather, grandmother, stepfather, stepmother, grandson,  
15 granddaughter, brother, sister, half sister, half brother, niece or nephew, who at the time of the  
16 accident, are dependent in whole or in part for their support upon the earnings of the worker.  
17 Unless otherwise provided by treaty, aliens not residing within the United States at the time of the  
18 accident other than father, mother, husband, wife or children are not included within the term "de-  
19 pendent."

20 (11) "Director" means the Director of the Department of Consumer and Business Services.

21 (12)(a) "Doctor" or "physician" means a person duly licensed to practice one or more of the  
22 healing arts in any country or in any state, territory or possession of the United States within the  
23 limits of the license of the licentiate.

24 (b) Except as otherwise provided for workers subject to a managed care contract, "attending  
25 physician" means a doctor or physician who is primarily responsible for the treatment of a worker's  
26 compensable injury and who is:

27 (A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the  
28 Board of Medical Examiners for the State of Oregon or an oral and maxillofacial surgeon licensed  
29 by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state,  
30 territory or possession of the United States; *[or]*

31 (B) For a period of 30 days from the date of first visit on the initial claim or for 12 visits,  
32 whichever first occurs, a doctor or physician licensed by the State Board of Chiropractic Examiners  
33 *[for the State of Oregon]* or a similarly licensed doctor or physician in any country or in any state,  
34 territory or possession of the United States; **or**

35 **(C) For a period of 30 days from the date of first visit on the initial claim or for 12 visits,**  
36 **whichever first occurs, a doctor or physician licensed by the Board of Naturopathic Exam-**  
37 **iners or a similarly licensed doctor or physician in any country or in any state, territory or**  
38 **possession of the United States.**

39 (c) "Consulting physician" means a doctor or physician who examines a worker or the worker's  
40 medical record to advise the attending physician regarding treatment of a worker's compensable  
41 injury.

42 (13)(a) "Employer" means any person, including receiver, administrator, executor or trustee, and  
43 the state, state agencies, counties, municipal corporations, school districts and other public corpo-  
44 rations or political subdivisions, who contracts to pay a remuneration for and secures the right to  
45 direct and control the services of any person.

1 (b) Notwithstanding paragraph (a) of this subsection, for purposes of this chapter, the client of  
2 a temporary service provider is not the employer of temporary workers provided by the temporary  
3 service provider.

4 (c) As used in paragraph (b) of this subsection, “temporary service provider” has the meaning  
5 for that term provided in ORS 656.850.

6 (14) “Guaranty contract insurer” and “insurer” mean the State Accident Insurance Fund Cor-  
7 poration or an insurer authorized under ORS chapter 731 to transact workers’ compensation insur-  
8 ance in this state or an assigned claims agent selected by the director under ORS 656.054.

9 (15) “Consumer and Business Services Fund” means the fund created by ORS 705.145.

10 (16) “Invalid” means one who is physically or mentally incapacitated from earning a livelihood.

11 (17) “Medically stationary” means that no further material improvement would reasonably be  
12 expected from medical treatment, or the passage of time.

13 (18) “Noncomplying employer” means a subject employer who has failed to comply with ORS  
14 656.017.

15 (19) “Objective findings” in support of medical evidence are verifiable indications of injury or  
16 disease that may include, but are not limited to, range of motion, atrophy, muscle strength and  
17 palpable muscle spasm. “Objective findings” does not include physical findings or subjective re-  
18 sponses to physical examinations that are not reproducible, measurable or observable.

19 (20) “Palliative care” means medical service rendered to reduce or moderate temporarily the  
20 intensity of an otherwise stable medical condition, but does not include those medical services ren-  
21 dered to diagnose, heal or permanently alleviate or eliminate a medical condition.

22 (21) “Party” means a claimant for compensation, the employer of the injured worker at the time  
23 of injury and the insurer, if any, of such employer.

24 (22) “Payroll” means a record of wages payable to workers for their services and includes  
25 commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or  
26 similar advantage received from the employer. However, “payroll” does not include overtime pay,  
27 vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments  
28 to reward workers for safe working practices. Bonus pay is limited to payments which are not an-  
29 ticipated under the contract of employment and which are paid at the sole discretion of the em-  
30 ployer. The exclusion from payroll of bonus payments to reward workers for safe working practices  
31 is only for the purpose of calculations based on payroll to determine premium for workers’ com-  
32 pensation insurance, and does not affect any other calculation or determination based on payroll for  
33 the purposes of this chapter.

34 (23) “Person” includes partnership, joint venture, association, limited liability company and  
35 corporation.

36 (24)(a) “Preexisting condition” means, for all industrial injury claims, any injury, disease, con-  
37 genital abnormality, personality disorder or similar condition that contributes to disability or need  
38 for treatment, provided that:

39 (A) Except for claims in which a preexisting condition is arthritis or an arthritic condition, the  
40 worker has been diagnosed with such condition, or has obtained medical services for the symptoms  
41 of the condition regardless of diagnosis; and

42 (B)(i) In claims for an initial injury or omitted condition, the diagnosis or treatment precedes  
43 the initial injury;

44 (ii) In claims for a new medical condition, the diagnosis or treatment precedes the onset of the  
45 new medical condition; or

1 (iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment  
 2 precedes the onset of the worsened condition.

3 (b) “Preexisting condition” means, for all occupational disease claims, any injury, disease, con-  
 4 genital abnormality, personality disorder or similar condition that contributes to disability or need  
 5 for treatment and that precedes the onset of the claimed occupational disease, or precedes a claim  
 6 for worsening in such claims pursuant to ORS 656.273 or 656.278.

7 (c) For the purposes of industrial injury claims, a condition does not contribute to disability or  
 8 need for treatment if the condition merely renders the worker more susceptible to the injury.

9 (25) “Self-insured employer” means an employer or group of employers certified under ORS  
 10 656.430 as meeting the qualifications set out by ORS 656.407.

11 (26) “State Accident Insurance Fund Corporation” and “corporation” mean the State Accident  
 12 Insurance Fund Corporation created under ORS 656.752.

13 (27) “Subject employer” means an employer who is subject to this chapter as provided by ORS  
 14 656.023.

15 (28) “Subject worker” means a worker who is subject to this chapter as provided by ORS  
 16 656.027.

17 (29) “Wages” means the money rate at which the service rendered is recompensed under the  
 18 contract of hiring in force at the time of the accident, including reasonable value of board, rent,  
 19 housing, lodging or similar advantage received from the employer, and includes the amount of tips  
 20 required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of  
 21 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips  
 22 reported, whichever amount is greater. The State Accident Insurance Fund Corporation may estab-  
 23 lish assumed minimum and maximum wages, in conformity with recognized insurance principles, at  
 24 which any worker shall be carried upon the payroll of the employer for the purpose of determining  
 25 the premium of the employer.

26 (30) “Worker” means any person, including a minor whether lawfully or unlawfully employed,  
 27 who engages to furnish services for a remuneration, subject to the direction and control of an em-  
 28 ployer and includes salaried, elected and appointed officials of the state, state agencies, counties,  
 29 cities, school districts and other public corporations, but does not include any person whose services  
 30 are performed as an inmate or ward of a state institution or as part of the eligibility requirements  
 31 for a general or public assistance grant. For the purpose of determining entitlement to temporary  
 32 disability benefits or permanent total disability benefits under this chapter, “worker” does not in-  
 33 clude a person who has withdrawn from the workforce during the period for which such benefits are  
 34 sought.

35 (31) “Independent contractor” has the meaning for that term provided in ORS 670.600.

36 **SECTION 3.** ORS 656.262 is amended to read:

37 656.262. (1) Processing of claims and providing compensation for a worker shall be the respon-  
 38 sibility of the insurer or self-insured employer. All employers shall assist their insurers in processing  
 39 claims as required in this chapter.

40 (2) The compensation due under this chapter shall be paid periodically, promptly and directly  
 41 to the person entitled thereto upon the employer’s receiving notice or knowledge of a claim, except  
 42 where the right to compensation is denied by the insurer or self-insured employer.

43 (3)(a) Employers shall, immediately and not later than five days after notice or knowledge of any  
 44 claims or accidents which may result in a compensable injury claim, report the same to their  
 45 insurer. The report shall include:

1 (A) The date, time, cause and nature of the accident and injuries.

2 (B) Whether the accident arose out of and in the course of employment.

3 (C) Whether the employer recommends or opposes acceptance of the claim, and the reasons  
4 therefor.

5 (D) The name and address of any health insurance provider for the injured worker.

6 (E) Any other details the insurer may require.

7 (b) Failure to so report subjects the offending employer to a charge for reimbursing the insurer  
8 for any penalty the insurer is required to pay under subsection (11) of this section because of such  
9 failure. As used in this subsection, "health insurance" has the meaning for that term provided in  
10 ORS 731.162.

11 (4)(a) The first installment of temporary disability compensation shall be paid no later than the  
12 14th day after the subject employer has notice or knowledge of the claim, if the attending physician  
13 or nurse practitioner authorized to provide compensable medical services under ORS 656.245 au-  
14 thORIZES the payment of temporary disability compensation. Thereafter, temporary disability com-  
15 pensation shall be paid at least once each two weeks, except where the Director of the Department  
16 of Consumer and Business Services determines that payment in installments should be made at some  
17 other interval. The director may by rule convert monthly benefit schedules to weekly or other pe-  
18 riodic schedules.

19 (b) Notwithstanding any other provision of this chapter, if a self-insured employer pays to an  
20 injured worker who becomes disabled the same wage at the same pay interval that the worker re-  
21 ceived at the time of injury, such payment shall be deemed timely payment of temporary disability  
22 payments pursuant to ORS 656.210 and 656.212 during the time the wage payments are made.

23 (c) Notwithstanding any other provision of this chapter, when the holder of a public office is  
24 injured in the course and scope of that public office, full official salary paid to the holder of that  
25 public office shall be deemed timely payment of temporary disability payments pursuant to ORS  
26 656.210 and 656.212 during the time the wage payments are made. As used in this subsection, "public  
27 office" has the meaning for that term provided in ORS 260.005.

28 (d) Temporary disability compensation is not due and payable for any period of time for which  
29 the insurer or self-insured employer has requested from the worker's attending physician or nurse  
30 practitioner authorized to provide compensable medical services under ORS 656.245 verification of  
31 the worker's inability to work resulting from the claimed injury or disease and the physician or  
32 nurse practitioner cannot verify the worker's inability to work, unless the worker has been unable  
33 to receive treatment for reasons beyond the worker's control.

34 (e) If a worker fails to appear at an appointment with the worker's attending physician or nurse  
35 practitioner authorized to provide compensable medical services under ORS 656.245, the insurer or  
36 self-insured employer shall notify the worker by certified mail that temporary disability benefits may  
37 be suspended after the worker fails to appear at a rescheduled appointment. If the worker fails to  
38 appear at a rescheduled appointment, the insurer or self-insured employer may suspend payment of  
39 temporary disability benefits to the worker until the worker appears at a subsequent rescheduled  
40 appointment.

41 (f) If the insurer or self-insured employer has requested and failed to receive from the worker's  
42 attending physician or nurse practitioner authorized to provide compensable medical services under  
43 ORS 656.245 verification of the worker's inability to work resulting from the claimed injury or dis-  
44 ease, medical services provided by the attending physician or nurse practitioner are not  
45 compensable until the attending physician or nurse practitioner submits such verification.

1 (g) Temporary disability compensation is not due and payable pursuant to ORS 656.268 after the  
2 worker's attending physician or nurse practitioner authorized to provide compensable medical ser-  
3 vices under ORS 656.245 ceases to authorize temporary disability or for any period of time not au-  
4 thorized by the attending physician or nurse practitioner. No authorization of temporary disability  
5 compensation by the attending physician or nurse practitioner under ORS 656.268 shall be effective  
6 to retroactively authorize the payment of temporary disability more than 14 days prior to its issu-  
7 ance.

8 (h) The worker's disability may be authorized only by a person described in ORS 656.005  
9 (12)(b)(B) **or** (C) or 656.245 for the period of time permitted by those sections. The insurer or self-  
10 insured employer may unilaterally suspend payment of temporary disability benefits to the worker  
11 at the expiration of the period until temporary disability is reauthorized by an attending physician  
12 or nurse practitioner authorized to provide compensable medical services under ORS 656.245.

13 (i) The insurer or self-insured employer may unilaterally suspend payment of all compensation  
14 to a worker enrolled in a managed care organization if the worker continues to seek care from an  
15 attending physician or nurse practitioner authorized to provide compensable medical services under  
16 ORS 656.245 that is not authorized by the managed care organization more than seven days after  
17 the mailing of notice by the insurer or self-insured employer.

18 (5) Payment of compensation under subsection (4) of this section or payment, in amounts not to  
19 exceed \$500 per claim, for medical services for nondisabling claims, may be made by the subject  
20 employer if the employer so chooses. The making of such payments does not constitute a waiver or  
21 transfer of the insurer's duty to determine entitlement to benefits. If the employer chooses to make  
22 such payment, the employer shall report the injury to the insurer in the same manner that other  
23 injuries are reported. However, an insurer shall not modify an employer's experience rating or  
24 otherwise make charges against the employer for any medical expenses paid by the employer pur-  
25 suant to this subsection.

26 (6)(a) Written notice of acceptance or denial of the claim shall be furnished to the claimant by  
27 the insurer or self-insured employer within 60 days after the employer has notice or knowledge of  
28 the claim. Once the claim is accepted, the insurer or self-insured employer shall not revoke accept-  
29 ance except as provided in this section. The insurer or self-insured employer may revoke acceptance  
30 and issue a denial at any time when the denial is for fraud, misrepresentation or other illegal ac-  
31 tivity by the worker. If the worker requests a hearing on any revocation of acceptance and denial  
32 alleging fraud, misrepresentation or other illegal activity, the insurer or self-insured employer has  
33 the burden of proving, by a preponderance of the evidence, such fraud, misrepresentation or other  
34 illegal activity. Upon such proof, the worker then has the burden of proving, by a preponderance  
35 of the evidence, the compensability of the claim. If the insurer or self-insured employer accepts a  
36 claim in good faith, in a case not involving fraud, misrepresentation or other illegal activity by the  
37 worker, and later obtains evidence that the claim is not compensable or evidence that the insurer  
38 or self-insured employer is not responsible for the claim, the insurer or self-insured employer may  
39 revoke the claim acceptance and issue a formal notice of claim denial, if such revocation of ac-  
40 ceptance and denial is issued no later than two years after the date of the initial acceptance. If the  
41 worker requests a hearing on such revocation of acceptance and denial, the insurer or self-insured  
42 employer must prove, by a preponderance of the evidence, that the claim is not compensable or that  
43 the insurer or self-insured employer is not responsible for the claim. Notwithstanding any other  
44 provision of this chapter, if a denial of a previously accepted claim is set aside by an Administrative  
45 Law Judge, the Workers' Compensation Board or the court, temporary total disability benefits are

1 payable from the date any such benefits were terminated under the denial. Except as provided in  
2 ORS 656.247, pending acceptance or denial of a claim, compensation payable to a claimant does not  
3 include the costs of medical benefits or burial expenses. The insurer shall also furnish the employer  
4 a copy of the notice of acceptance.

5 (b) The notice of acceptance shall:

6 (A) Specify what conditions are compensable.

7 (B) Advise the claimant whether the claim is considered disabling or nondisabling.

8 (C) Inform the claimant of the Expedited Claim Service and of the hearing and aggravation  
9 rights concerning nondisabling injuries, including the right to object to a decision that the injury  
10 of the claimant is nondisabling by requesting reclassification pursuant to ORS 656.277.

11 (D) Inform the claimant of employment reinstatement rights and responsibilities under ORS  
12 chapter 659A.

13 (E) Inform the claimant of assistance available to employers from the Reemployment Assistance  
14 Program under ORS 656.622.

15 (F) Be modified by the insurer or self-insured employer from time to time as medical or other  
16 information changes a previously issued notice of acceptance.

17 (c) An insurer's or self-insured employer's acceptance of a combined or consequential condition  
18 under ORS 656.005 (7), whether voluntary or as a result of a judgment or order, shall not preclude  
19 the insurer or self-insured employer from later denying the combined or consequential condition if  
20 the otherwise compensable injury ceases to be the major contributing cause of the combined or  
21 consequential condition.

22 (d) An injured worker who believes that a condition has been incorrectly omitted from a notice  
23 of acceptance, or that the notice is otherwise deficient, first must communicate in writing to the  
24 insurer or self-insured employer the worker's objections to the notice pursuant to ORS 656.267. The  
25 insurer or self-insured employer has 60 days from receipt of the communication from the worker to  
26 revise the notice or to make other written clarification in response. A worker who fails to comply  
27 with the communication requirements of this paragraph or ORS 656.267 may not allege at any  
28 hearing or other proceeding on the claim a de facto denial of a condition based on information in  
29 the notice of acceptance from the insurer or self-insured employer. Notwithstanding any other pro-  
30 vision of this chapter, the worker may initiate objection to the notice of acceptance at any time.

31 (7)(a) After claim acceptance, written notice of acceptance or denial of claims for aggravation  
32 or new medical or omitted condition claims properly initiated pursuant to ORS 656.267 shall be  
33 furnished to the claimant by the insurer or self-insured employer within 60 days after the insurer  
34 or self-insured employer receives written notice of such claims. A worker who fails to comply with  
35 the communication requirements of subsection (6) of this section or ORS 656.267 may not allege at  
36 any hearing or other proceeding on the claim a de facto denial of a condition based on information  
37 in the notice of acceptance from the insurer or self-insured employer.

38 (b) Once a worker's claim has been accepted, the insurer or self-insured employer must issue a  
39 written denial to the worker when the accepted injury is no longer the major contributing cause  
40 of the worker's combined condition before the claim may be closed.

41 (c) When an insurer or self-insured employer determines that the claim qualifies for claim clo-  
42 sure, the insurer or self-insured employer shall issue at claim closure an updated notice of accept-  
43 ance that specifies which conditions are compensable. The procedures specified in subsection (6)(d)  
44 of this section apply to this notice. Any objection to the updated notice or appeal of denied condi-  
45 tions shall not delay claim closure pursuant to ORS 656.268. If a condition is found compensable

1 after claim closure, the insurer or self-insured employer shall reopen the claim for processing re-  
2 garding that condition.

3 (8) The assigned claims agent in processing claims under ORS 656.054 shall send notice of ac-  
4 ceptance or denial to the noncomplying employer.

5 (9) If an insurer or any other duly authorized agent of the employer for such purpose, on record  
6 with the Director of the Department of Consumer and Business Services denies a claim for com-  
7 pensation, written notice of such denial, stating the reason for the denial, and informing the worker  
8 of the Expedited Claim Service and of hearing rights under ORS 656.283, shall be given to the  
9 claimant. A copy of the notice of denial shall be mailed to the director and to the employer by the  
10 insurer. The worker may request a hearing pursuant to ORS 656.319.

11 (10) Merely paying or providing compensation shall not be considered acceptance of a claim or  
12 an admission of liability, nor shall mere acceptance of such compensation be considered a waiver  
13 of the right to question the amount thereof. Payment of permanent disability benefits pursuant to a  
14 notice of closure, reconsideration order or litigation order, or the failure to appeal or seek review  
15 of such an order or notice of closure, shall not preclude an insurer or self-insured employer from  
16 subsequently contesting the compensability of the condition rated therein, unless the condition has  
17 been formally accepted.

18 (11)(a) If the insurer or self-insured employer unreasonably delays or unreasonably refuses to  
19 pay compensation, or unreasonably delays acceptance or denial of a claim, the insurer or self-  
20 insured employer shall be liable for an additional amount up to 25 percent of the amounts then due  
21 plus any attorney fees assessed under this section. The fees assessed by the director, an Adminis-  
22 trative Law Judge, the board or the court under this section shall be proportionate to the benefit  
23 to the injured worker. The board shall adopt rules for establishing the amount of the attorney fee,  
24 giving primary consideration to the results achieved and to the time devoted to the case. An attor-  
25 ney fee awarded pursuant to this subsection may not exceed \$2,000 absent a showing of extraor-  
26 dinary circumstances. Notwithstanding any other provision of this chapter, the director shall have  
27 exclusive jurisdiction over proceedings regarding solely the assessment and payment of the addi-  
28 tional amount and attorney fees described in this subsection. The director's action and review  
29 thereof shall be subject to ORS chapter 183 and such other procedural rules as the director may  
30 prescribe.

31 (b) When the director does not have exclusive jurisdiction over proceedings regarding the as-  
32 sessment and payment of the additional amount and attorney fees described in this subsection, the  
33 provisions of this subsection shall apply in the other proceeding.

34 (12) The insurer may authorize an employer to pay compensation to injured workers and shall  
35 reimburse employers for compensation so paid.

36 (13) Injured workers have the duty to cooperate and assist the insurer or self-insured employer  
37 in the investigation of claims for compensation. Injured workers shall submit to and shall fully co-  
38 operate with personal and telephonic interviews and other formal or informal information gathering  
39 techniques. Injured workers who are represented by an attorney shall have the right to have the  
40 attorney present during any personal or telephonic interview or deposition. However, if the attorney  
41 is not willing or available to participate in an interview at a time reasonably chosen by the insurer  
42 or self-insured employer within 14 days of the request for interview and the insurer or self-insured  
43 employer has cause to believe that the attorney's unwillingness or unavailability is unreasonable  
44 and is preventing the worker from complying within 14 days of the request for interview, the insurer  
45 or self-insured employer shall notify the director. If the director determines that the attorney's un-

1 willingness or unavailability is unreasonable, the director shall assess a civil penalty against the  
2 attorney of not more than \$1,000.

3 (14) If the director finds that a worker fails to reasonably cooperate with an investigation in-  
4 volving an initial claim to establish a compensable injury or an aggravation claim to reopen the  
5 claim for a worsened condition, the director shall suspend all or part of the payment of compen-  
6 sation after notice to the worker. If the worker does not cooperate for an additional 30 days after  
7 the notice, the insurer or self-insured employer may deny the claim because of the worker's failure  
8 to cooperate. The obligation of the insurer or self-insured employer to accept or deny the claim  
9 within 60 days is suspended during the time of the worker's noncooperation. After such a denial, the  
10 worker shall not be granted a hearing or other proceeding under this chapter on the merits of the  
11 claim unless the worker first requests and establishes at an expedited hearing under ORS 656.291  
12 that the worker fully and completely cooperated with the investigation, that the worker failed to  
13 cooperate for reasons beyond the worker's control or that the investigative demands were unrea-  
14 sonable. If the Administrative Law Judge finds that the worker has not fully cooperated, the Ad-  
15 ministrative Law Judge shall affirm the denial, and the worker's claim for injury shall remain  
16 denied. If the Administrative Law Judge finds that the worker has cooperated, or that the investi-  
17 gative demands were unreasonable, the Administrative Law Judge shall set aside the denial, order  
18 the reinstatement of interim compensation if appropriate and remand the claim to the insurer or  
19 self-insured employer to accept or deny the claim.

20 (15) In accordance with ORS 656.283 (4), the Administrative Law Judge assigned a request for  
21 hearing for a claim for compensation involving more than one potentially responsible employer or  
22 insurer may specify what is required of an injured worker to reasonably cooperate with the inves-  
23 tigation of the claim as required by subsection (13) of this section.

24 **SECTION 4.** ORS 656.262, as amended by section 10, chapter 811, Oregon Laws 2003, is  
25 amended to read:

26 656.262. (1) Processing of claims and providing compensation for a worker shall be the respon-  
27 sibility of the insurer or self-insured employer. All employers shall assist their insurers in processing  
28 claims as required in this chapter.

29 (2) The compensation due under this chapter shall be paid periodically, promptly and directly  
30 to the person entitled thereto upon the employer's receiving notice or knowledge of a claim, except  
31 where the right to compensation is denied by the insurer or self-insured employer.

32 (3)(a) Employers shall, immediately and not later than five days after notice or knowledge of any  
33 claims or accidents which may result in a compensable injury claim, report the same to their  
34 insurer. The report shall include:

35 (A) The date, time, cause and nature of the accident and injuries.

36 (B) Whether the accident arose out of and in the course of employment.

37 (C) Whether the employer recommends or opposes acceptance of the claim, and the reasons  
38 therefor.

39 (D) The name and address of any health insurance provider for the injured worker.

40 (E) Any other details the insurer may require.

41 (b) Failure to so report subjects the offending employer to a charge for reimbursing the insurer  
42 for any penalty the insurer is required to pay under subsection (11) of this section because of such  
43 failure. As used in this subsection, "health insurance" has the meaning for that term provided in  
44 ORS 731.162.

45 (4)(a) The first installment of temporary disability compensation shall be paid no later than the

1 14th day after the subject employer has notice or knowledge of the claim, if the attending physician  
2 authorizes the payment of temporary disability compensation. Thereafter, temporary disability com-  
3 pensation shall be paid at least once each two weeks, except where the Director of the Department  
4 of Consumer and Business Services determines that payment in installments should be made at some  
5 other interval. The director may by rule convert monthly benefit schedules to weekly or other pe-  
6 riodic schedules.

7 (b) Notwithstanding any other provision of this chapter, if a self-insured employer pays to an  
8 injured worker who becomes disabled the same wage at the same pay interval that the worker re-  
9 ceived at the time of injury, such payment shall be deemed timely payment of temporary disability  
10 payments pursuant to ORS 656.210 and 656.212 during the time the wage payments are made.

11 (c) Notwithstanding any other provision of this chapter, when the holder of a public office is  
12 injured in the course and scope of that public office, full official salary paid to the holder of that  
13 public office shall be deemed timely payment of temporary disability payments pursuant to ORS  
14 656.210 and 656.212 during the time the wage payments are made. As used in this subsection, "public  
15 office" has the meaning for that term provided in ORS 260.005.

16 (d) Temporary disability compensation is not due and payable for any period of time for which  
17 the insurer or self-insured employer has requested from the worker's attending physician verification  
18 of the worker's inability to work resulting from the claimed injury or disease and the physician  
19 cannot verify the worker's inability to work, unless the worker has been unable to receive treatment  
20 for reasons beyond the worker's control.

21 (e) If a worker fails to appear at an appointment with the worker's attending physician, the  
22 insurer or self-insured employer shall notify the worker by certified mail that temporary disability  
23 benefits may be suspended after the worker fails to appear at a rescheduled appointment. If the  
24 worker fails to appear at a rescheduled appointment, the insurer or self-insured employer may sus-  
25 pend payment of temporary disability benefits to the worker until the worker appears at a subse-  
26 quent rescheduled appointment.

27 (f) If the insurer or self-insured employer has requested and failed to receive from the worker's  
28 attending physician verification of the worker's inability to work resulting from the claimed injury  
29 or disease, medical services provided by the attending physician are not compensable until the at-  
30 tending physician submits such verification.

31 (g) Temporary disability compensation is not due and payable pursuant to ORS 656.268 after the  
32 worker's attending physician ceases to authorize temporary disability or for any period of time not  
33 authorized by the attending physician. No authorization of temporary disability compensation by the  
34 attending physician under ORS 656.268 shall be effective to retroactively authorize the payment of  
35 temporary disability more than 14 days prior to its issuance.

36 (h) The worker's disability may be authorized only by a person described in ORS 656.005  
37 (12)(b)(B) **or** (C) or 656.245 (5) for the period of time permitted by those sections. The insurer or  
38 self-insured employer may unilaterally suspend payment of temporary disability benefits to the  
39 worker at the expiration of the period until temporary disability is reauthorized by an attending  
40 physician.

41 (i) The insurer or self-insured employer may unilaterally suspend payment of all compensation  
42 to a worker enrolled in a managed care organization if the worker continues to seek care from an  
43 attending physician that is not authorized by the managed care organization more than seven days  
44 after the mailing of notice by the insurer or self-insured employer.

45 (5) Payment of compensation under subsection (4) of this section or payment, in amounts not to

1 exceed \$500 per claim, for medical services for nondisabling claims, may be made by the subject  
2 employer if the employer so chooses. The making of such payments does not constitute a waiver or  
3 transfer of the insurer's duty to determine entitlement to benefits. If the employer chooses to make  
4 such payment, the employer shall report the injury to the insurer in the same manner that other  
5 injuries are reported. However, an insurer shall not modify an employer's experience rating or  
6 otherwise make charges against the employer for any medical expenses paid by the employer pur-  
7 suant to this subsection.

8 (6)(a) Written notice of acceptance or denial of the claim shall be furnished to the claimant by  
9 the insurer or self-insured employer within 60 days after the employer has notice or knowledge of  
10 the claim. Once the claim is accepted, the insurer or self-insured employer shall not revoke accept-  
11 ance except as provided in this section. The insurer or self-insured employer may revoke acceptance  
12 and issue a denial at any time when the denial is for fraud, misrepresentation or other illegal ac-  
13 tivity by the worker. If the worker requests a hearing on any revocation of acceptance and denial  
14 alleging fraud, misrepresentation or other illegal activity, the insurer or self-insured employer has  
15 the burden of proving, by a preponderance of the evidence, such fraud, misrepresentation or other  
16 illegal activity. Upon such proof, the worker then has the burden of proving, by a preponderance  
17 of the evidence, the compensability of the claim. If the insurer or self-insured employer accepts a  
18 claim in good faith, in a case not involving fraud, misrepresentation or other illegal activity by the  
19 worker, and later obtains evidence that the claim is not compensable or evidence that the insurer  
20 or self-insured employer is not responsible for the claim, the insurer or self-insured employer may  
21 revoke the claim acceptance and issue a formal notice of claim denial, if such revocation of ac-  
22 ceptance and denial is issued no later than two years after the date of the initial acceptance. If the  
23 worker requests a hearing on such revocation of acceptance and denial, the insurer or self-insured  
24 employer must prove, by a preponderance of the evidence, that the claim is not compensable or that  
25 the insurer or self-insured employer is not responsible for the claim. Notwithstanding any other  
26 provision of this chapter, if a denial of a previously accepted claim is set aside by an Administrative  
27 Law Judge, the Workers' Compensation Board or the court, temporary total disability benefits are  
28 payable from the date any such benefits were terminated under the denial. Except as provided in  
29 ORS 656.247, pending acceptance or denial of a claim, compensation payable to a claimant does not  
30 include the costs of medical benefits or burial expenses. The insurer shall also furnish the employer  
31 a copy of the notice of acceptance.

32 (b) The notice of acceptance shall:

33 (A) Specify what conditions are compensable.

34 (B) Advise the claimant whether the claim is considered disabling or nondisabling.

35 (C) Inform the claimant of the Expedited Claim Service and of the hearing and aggravation  
36 rights concerning nondisabling injuries, including the right to object to a decision that the injury  
37 of the claimant is nondisabling by requesting reclassification pursuant to ORS 656.277.

38 (D) Inform the claimant of employment reinstatement rights and responsibilities under ORS  
39 chapter 659A.

40 (E) Inform the claimant of assistance available to employers from the Reemployment Assistance  
41 Program under ORS 656.622.

42 (F) Be modified by the insurer or self-insured employer from time to time as medical or other  
43 information changes a previously issued notice of acceptance.

44 (c) An insurer's or self-insured employer's acceptance of a combined or consequential condition  
45 under ORS 656.005 (7), whether voluntary or as a result of a judgment or order, shall not preclude

1 the insurer or self-insured employer from later denying the combined or consequential condition if  
2 the otherwise compensable injury ceases to be the major contributing cause of the combined or  
3 consequential condition.

4 (d) An injured worker who believes that a condition has been incorrectly omitted from a notice  
5 of acceptance, or that the notice is otherwise deficient, first must communicate in writing to the  
6 insurer or self-insured employer the worker's objections to the notice pursuant to ORS 656.267. The  
7 insurer or self-insured employer has 60 days from receipt of the communication from the worker to  
8 revise the notice or to make other written clarification in response. A worker who fails to comply  
9 with the communication requirements of this paragraph or ORS 656.267 may not allege at any  
10 hearing or other proceeding on the claim a de facto denial of a condition based on information in  
11 the notice of acceptance from the insurer or self-insured employer. Notwithstanding any other pro-  
12 vision of this chapter, the worker may initiate objection to the notice of acceptance at any time.

13 (7)(a) After claim acceptance, written notice of acceptance or denial of claims for aggravation  
14 or new medical or omitted condition claims properly initiated pursuant to ORS 656.267 shall be  
15 furnished to the claimant by the insurer or self-insured employer within 60 days after the insurer  
16 or self-insured employer receives written notice of such claims. A worker who fails to comply with  
17 the communication requirements of subsection (6) of this section or ORS 656.267 may not allege at  
18 any hearing or other proceeding on the claim a de facto denial of a condition based on information  
19 in the notice of acceptance from the insurer or self-insured employer.

20 (b) Once a worker's claim has been accepted, the insurer or self-insured employer must issue a  
21 written denial to the worker when the accepted injury is no longer the major contributing cause  
22 of the worker's combined condition before the claim may be closed.

23 (c) When an insurer or self-insured employer determines that the claim qualifies for claim clo-  
24 sure, the insurer or self-insured employer shall issue at claim closure an updated notice of accept-  
25 ance that specifies which conditions are compensable. The procedures specified in subsection (6)(d)  
26 of this section apply to this notice. Any objection to the updated notice or appeal of denied condi-  
27 tions shall not delay claim closure pursuant to ORS 656.268. If a condition is found compensable  
28 after claim closure, the insurer or self-insured employer shall reopen the claim for processing re-  
29 garding that condition.

30 (8) The assigned claims agent in processing claims under ORS 656.054 shall send notice of ac-  
31 ceptance or denial to the noncomplying employer.

32 (9) If an insurer or any other duly authorized agent of the employer for such purpose, on record  
33 with the Director of the Department of Consumer and Business Services denies a claim for com-  
34 pensation, written notice of such denial, stating the reason for the denial, and informing the worker  
35 of the Expedited Claim Service and of hearing rights under ORS 656.283, shall be given to the  
36 claimant. A copy of the notice of denial shall be mailed to the director and to the employer by the  
37 insurer. The worker may request a hearing pursuant to ORS 656.319.

38 (10) Merely paying or providing compensation shall not be considered acceptance of a claim or  
39 an admission of liability, nor shall mere acceptance of such compensation be considered a waiver  
40 of the right to question the amount thereof. Payment of permanent disability benefits pursuant to a  
41 notice of closure, reconsideration order or litigation order, or the failure to appeal or seek review  
42 of such an order or notice of closure, shall not preclude an insurer or self-insured employer from  
43 subsequently contesting the compensability of the condition rated therein, unless the condition has  
44 been formally accepted.

45 (11)(a) If the insurer or self-insured employer unreasonably delays or unreasonably refuses to

1 pay compensation, or unreasonably delays acceptance or denial of a claim, the insurer or self-  
2 insured employer shall be liable for an additional amount up to 25 percent of the amounts then due  
3 plus any attorney fees assessed under this section. The fees assessed by the director, an Adminis-  
4 trative Law Judge, the board or the court under this section shall be proportionate to the benefit  
5 to the injured worker. The board shall adopt rules for establishing the amount of the attorney fee,  
6 giving primary consideration to the results achieved and to the time devoted to the case. An attor-  
7 ney fee awarded pursuant to this subsection may not exceed \$2,000 absent a showing of extraor-  
8 dinary circumstances. Notwithstanding any other provision of this chapter, the director shall have  
9 exclusive jurisdiction over proceedings regarding solely the assessment and payment of the addi-  
10 tional amount and attorney fees described in this subsection. The director's action and review  
11 thereof shall be subject to ORS chapter 183 and such other procedural rules as the director may  
12 prescribe.

13 (b) When the director does not have exclusive jurisdiction over proceedings regarding the as-  
14 sessment and payment of the additional amount and attorney fees described in this subsection, the  
15 provisions of this subsection shall apply in the other proceeding.

16 (12) The insurer may authorize an employer to pay compensation to injured workers and shall  
17 reimburse employers for compensation so paid.

18 (13) Injured workers have the duty to cooperate and assist the insurer or self-insured employer  
19 in the investigation of claims for compensation. Injured workers shall submit to and shall fully co-  
20 operate with personal and telephonic interviews and other formal or informal information gathering  
21 techniques. Injured workers who are represented by an attorney shall have the right to have the  
22 attorney present during any personal or telephonic interview or deposition. However, if the attorney  
23 is not willing or available to participate in an interview at a time reasonably chosen by the insurer  
24 or self-insured employer within 14 days of the request for interview and the insurer or self-insured  
25 employer has cause to believe that the attorney's unwillingness or unavailability is unreasonable  
26 and is preventing the worker from complying within 14 days of the request for interview, the insurer  
27 or self-insured employer shall notify the director. If the director determines that the attorney's un-  
28 willingness or unavailability is unreasonable, the director shall assess a civil penalty against the  
29 attorney of not more than \$1,000.

30 (14) If the director finds that a worker fails to reasonably cooperate with an investigation in-  
31 volving an initial claim to establish a compensable injury or an aggravation claim to reopen the  
32 claim for a worsened condition, the director shall suspend all or part of the payment of compen-  
33 sation after notice to the worker. If the worker does not cooperate for an additional 30 days after  
34 the notice, the insurer or self-insured employer may deny the claim because of the worker's failure  
35 to cooperate. The obligation of the insurer or self-insured employer to accept or deny the claim  
36 within 60 days is suspended during the time of the worker's noncooperation. After such a denial, the  
37 worker shall not be granted a hearing or other proceeding under this chapter on the merits of the  
38 claim unless the worker first requests and establishes at an expedited hearing under ORS 656.291  
39 that the worker fully and completely cooperated with the investigation, that the worker failed to  
40 cooperate for reasons beyond the worker's control or that the investigative demands were unrea-  
41 sonable. If the Administrative Law Judge finds that the worker has not fully cooperated, the Ad-  
42 ministrative Law Judge shall affirm the denial, and the worker's claim for injury shall remain  
43 denied. If the Administrative Law Judge finds that the worker has cooperated, or that the investi-  
44 gative demands were unreasonable, the Administrative Law Judge shall set aside the denial, order  
45 the reinstatement of interim compensation if appropriate and remand the claim to the insurer or

1 self-insured employer to accept or deny the claim.

2 (15) In accordance with ORS 656.283 (4), the Administrative Law Judge assigned a request for  
3 hearing for a claim for compensation involving more than one potentially responsible employer or  
4 insurer may specify what is required of an injured worker to reasonably cooperate with the inves-  
5 tigation of the claim as required by subsection (13) of this section.

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