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## LC 394

### Brief summary

LC 394 amends workers' compensation law to require a lump sum payment of permanent partial disability upon the worker's request, if the worker has waived the right to appeal the claim closure.

### Analysis

#### What the law currently does

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 can 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 according to rules adopted pursuant to ORS 656.340 and 656.726.

Under current law, even if 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. If the award is not paid in a lump sum, it is paid in installments.

## What will change if the bill is enacted

LC 394 requires the insurer or self-insured employer to make a lump sum payment if:

- The worker has waived the right to request reconsideration of the notice of closure; or
- The award has become final by operation of law.

The insurer or self-insured employer would not be required to make a lump sum payment if:

- Payment of compensation is stayed pending a request for hearing or review under ORS 656.313;
- The worker is enrolled and actively engaged in vocational training according to rules adopted pursuant to ORS 656.340 and 656.726; or
- The insurer or self-insured employer timely requests reconsideration of the notice of closure under ORS 656.268 (5)(e).

## Likely impacts, results, or consequences if the bill is enacted

A lump sum payment will be required if the worker waives the right to appeal the notice of closure, or the PPD award becomes final by operation of law.

Insurers and self-insured employers will not be required to issue a lump sum payment under certain circumstances. A lump sum payment will not be required if the insurer has requested a hearing or review, the worker is in vocational training, or the insurer has requested reconsideration of the notice of closure.

## Questions/relevant information for the bill sponsor or primary proponent

### Legislative history

#### Has this bill been introduced in a prior session?

No    Yes   Years   Bill numbers

#### Does this bill amend current state or federal law or programs?

No    Yes   Specify ORS 656.230

#### Is this bill related to a legal decision?

No    Yes   Matter of Comp. of Giltner, 325 Or App 566, 529 P3d 986 (2023), rev den, 371 Or 333 (2023)

#### Should another DCBS division review this measure?

No    Yes   Divisions

## Other impacts

### Does this bill have a fiscal impact to DCBS?

No  Yes  Unknown

Passage of this bill will require the Workers' Compensation Division to conduct rulemaking to revise administrative rules in addition to updating forms for requesting lump sum payments. This workload is already being performed by WCD and it is assumed that it would be absorbed with existing staff. The division anticipates approximately 73 hours of staff time at an estimated cost of \$5,152.

### Does this bill have an economic impact to stakeholders?

No  Yes  Unknown

LC 394 is limited to adjusting the circumstances where lump sum payment is required. It does not change the amount of compensation the worker will receive, or how much the insurer is obligated to pay. Insurers may need to make minimal process adjustments and train adjusters on the changes, but that should not create any significant cost for insurers.

## Sponsors

Workers' Compensation Division

## Possible interested stakeholders

Workers, insurers, self-insured employers, and attorneys.

## Public policy topics

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|---|--|
| <input type="checkbox"/> Agency operations                  | <input type="checkbox"/> Other lines of insurance                |
| <input type="checkbox"/> Building codes                     | <input type="checkbox"/> Prescription drugs                      |
| <input type="checkbox"/> Financial institutions and lending | <input type="checkbox"/> Property and casualty insurance         |
| <input type="checkbox"/> Health insurance                   | <input type="checkbox"/> Public records/public meetings law      |
| <input type="checkbox"/> Involvement with other agencies    | <input type="checkbox"/> Rulemaking                              |
| <input type="checkbox"/> Licensure                          | <input type="checkbox"/> Securities                              |
| <input type="checkbox"/> Manufactured structures            | <input type="checkbox"/> Task force/reports                      |
| <input checked="" type="checkbox"/> MLAC legislative review | <input type="checkbox"/> Worker safety                           |
| <input type="checkbox"/> New program                        | <input checked="" type="checkbox"/> Workers' compensation system |
| <input type="checkbox"/> Nondepository programs             | <input type="checkbox"/> Other                                   |