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Return to Work & Claims Administration Policy Analyst

Workers' Compensation Division

971-286-0308

HB 2802 – 1 amendment

Brief summary

Amends workers' compensation law regarding lump sum payments of permanent partial disability.

Analysis

What the law currently does

Workers who are permanently 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 after the date of the closure. When paid out, the award can be paid in a lump sum or in monthly installments.

ORS 656.230 provides that if a worker requests a lump sum, the insurer is required to make a lump sum payment unless any of the following exceptions apply:

- 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 monthly installments.

However, in all cases where the PPD award does not exceed \$6,000, the insurer or self-insured employer is automatically required to pay the entire award in a lump sum. The worker does not have to make a request for a lump sum in this circumstance.

What will change if the bill is enacted

The bill changes the circumstances where a lump sum payment is required, and the threshold for automatic lump sum payments.

When the PPD award exceeds \$9,000, and the worker requests a lump sum payment, the insurer or self-insured employer will be required to make the payment if any of the following circumstances apply:

- 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 in any of the following circumstances:

- The insurer or self-insured employer timely requests reconsideration of the notice of closure under ORS 656.268 (5)(e) and the reconsideration proceeding has not yet been completed;
- Payment of compensation has been stayed pending a request for hearing or review under ORS 656.313; or
- The worker is enrolled and actively engaged in vocational training according to rules adopted pursuant to ORS 656.340 and 656.726.

The circumstances where payment is not required will take priority over the circumstances where payment is required. For example, if the worker waives the right to request reconsideration, but the insurer has requested reconsideration, a lump sum payment would not be required.

When the PPD award does not exceed \$9,000, the insurer or self-insured employer will be required to pay the entire award in a lump sum.

These changes would apply to claims where a notice of closure is issued on or after January 1, 2026.

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

- When the PPD award exceeds \$9,000, and the worker requests a lump sum, the insurer or self-insured employer will be required to make the payment if the worker waives the right to request reconsideration of 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.
- More PPD awards will automatically be paid in a lump sum.

Questions/relevant information for the bill sponsor or primary proponent

None.

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

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

Workers' Compensation Board

Other impacts

Does this bill have a fiscal impact to DCBS?

No Yes Unknown

Passage of this bill will require the Workers' Compensation Division (WCD) to conduct rulemaking to revise administrative rules in addition to updating forms and publications related to lump sum payments. Rulemaking and document updates is a workload is already being performed by WCD and it is assumed that it would be absorbed with existing staff.

If Yes or Maybe, which section(s) of the bill trigger the fiscal impact?

Section 1, see explanation above.

Does this bill have an economic impact to stakeholders?

No Yes Unknown

The changes in the bill are 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 and self-insured employers may need to make minimal process adjustments and train adjusters on the changes, but that should not create any significant cost.

Insurers and self-insured employers will be required to automatically issue lump sum payments more frequently. This may result in more overpayments of PPD, since the amount of the award could be

reduced later on (e.g., if there is litigation about the PPD award, or if PPD is redetermined after vocational training).

Sponsors

Workers' Compensation Division

Possible interested stakeholders

Workers, insurers, self-insured employers, service companies, 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 |