



Oregon
Kate Brown, Governor

Department of Consumer and Business Services

Workers' Compensation Division
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Sept. 12, 2017

To: Workers' compensation insurers, self-insured employers, service companies, and other interested parties

Subject: House Bills 2337 and 2338 relating to changes to PTD and fatal benefits

INDUSTRY NOTICE

During the 2017 legislative session, two bills revised current law affecting workers' compensation benefits:

[Enrolled House Bill 2337](#) amends permanent total disability (PTD) benefits under ORS 656.206. Under current law, workers who are determined to be permanently and totally disabled are entitled to compensation at a rate equal to 66 2/3 percent of their wages at the time of injury, subject to a maximum benefit of 100 percent of the state average weekly wage (SAWW) and a minimum benefit of either \$50 or 90 percent of the worker's weekly wage, whichever is less.

This bill raises the maximum PTD benefit to 133 percent of SAWW and the minimum to 33 percent of SAWW for claims with a date of injury on or after Jan. 1, 2018.

IMPORTANT: Insurers are expected to adjust benefit calculations for claims with dates of injury on or after Jan. 1, 2018. PTD claims with a date of injury before Jan. 1, 2018, are expected to become eligible for reimbursement from the Retroactive Program at the new minimum and maximum benefit levels on Oct. 1, 2019.

[Enrolled House Bill 2338](#) amends ORS 656.204 and 656.208. Under current law, the child of a worker who died as a result of a compensable injury is eligible to receive a benefit equal to 10 percent or 25 percent of SAWW, depending on whether the child is substantially dependent on the surviving spouse at the time of the worker's death. The child continues to receive the benefit until he or she turns 18, or later if the child is 17 or a full-time high school student at the time of the worker's death. Benefits may also be extended if the child is attending higher education. Total benefits payable to a surviving spouse and any eligible children are limited to 133 1/3 percent of SAWW.

This bill raises the benefit level for all children of a deceased worker to 25 percent of SAWW and extends eligibility of benefits up to the child's 19th birthday. The new law also provides up to 48 months of additional benefits while a child or dependent is attending higher education. Under the bill, benefits paid to a surviving spouse do not count toward the limit on total benefits payable to eligible children.

IMPORTANT: Insurers are expected to adjust fatal benefits to children of deceased workers for **all fatal claims, regardless of date of injury**, on Jan. 1, 2018. Adjustments to the rate and duration of benefits that result from this bill are eligible for reimbursement from the Retroactive Program. The bill does not provide for adjustments to benefits paid before Jan. 1, 2018.



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To help insurers and self-insured employers prepare for these changes, the attached table provides the effective date of recent and upcoming changes to benefits, a brief description of the changes, the affected benefits, and related publications. In addition, the division plans to publish another industry notice in November 2017 with more information on how to process and pay benefits on PTD and fatal claims.

If you have questions, contact the division at 800-452-0288 (toll-free).

Louis Savage, Administrator
Workers' Compensation Division

Distribution: GovDelivery (insurers, self-insured employers, service companies, other interested parties)



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| Date | Changes to benefits | Benefits affected | Related publications (Expected revision date) |
|---|---|---|---|
| July 1, 2017 | New rates based on 2016 SAWW. | TTD, PPD, PTD, fatal benefits for injuries on or after July 1, 2017. | Bulletin No. 111 (May 25, 2017) |
| Oct. 1, 2017 | New retroactive reimbursement rates based on 2016 base rate. Maximum retroactive PTD reimbursement rate raised to 100% of SAWW. | TTD benefits for injuries before July 1, 1973. PTD and fatal benefits for injuries before July 1, 2016. | Bulletin No. 377 (Aug. 2017) |
| Jan. 1, 2018 | Minimum PTD rate raised to 33% of SAWW. Maximum PTD rate raised to 133% of SAWW. Increased rate and duration for survivor fatal benefits. New fatal retroactive reimbursement levels based on HB 2338. | PTD benefits for injuries on or after Jan. 1, 2018. Fatal benefits to current beneficiaries of claims with any date of injury. | Bulletin No. 111 (Nov. 2017) PTD Calculator Update (Jan. 1, 2018) Bulletin No. 377 (Nov. 2017) |
| July 1, 2018 Oct. 1, 2018 July 1, 2019 | Statutory and retroactive benefit rates adjusted on normal schedules. | | |
| Oct. 1, 2019 | Minimum and maximum retroactive PTD reimbursement rates raised to levels based on HB 2337. New retroactive benefit levels based on 2018 SAWW. | PTD benefits for injuries before Jan. 1, 2018 TTD, PPD, PTD, fatal benefits for injuries before July 1, 2018. | 2019 Retroactive Program Bulletin (Sept. 2018) |