

January 8, 2021

Fred Bruyns
Rules Coordinator
Oregon Workers' Compensation Division
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Re: Proposed permanent rules for processing workers' compensation claims for COVID-19 or SARS-CoV-2 exposure

Dear Mr. Bruyns:

Thank you for the opportunity to comment on the proposed permanent administrative rules regarding COVID-19 claim processing. Those signed on to this letter strongly supported the adoption of the temporary administrative rule, on which this permanent rule is based. We believe that workers across Oregon who contract COVID-19 in their workplace should be covered under the workers' compensation system.

Following an extensive review and discussion at MLAC, temporary rules were enacted to ensure a uniform investigative process for COVID-19 claims. The goal was to create a solution that would assist workers in work-related conditions accepted, while not detrimentally impacting the workers' compensation system as a whole. The initial temporary rule threaded that needle: it made sure that insurance companies were appropriately investigating claims for COVID-19 including obtaining a medical or expert opinion, without upending Oregon's successful workers' compensation system.

The proposed permanent rule shifts away from requiring insurers to obtain an expert or medical opinion as part of a reasonable investigation. To ensure that all work-related claims that should be accepted are accepted, there need to be more investigations that include an expert or medical opinion, not fewer. We are concerned that changing the denial criteria will result in fewer investigations, and therefore less control over problematic denials for workers who do have legitimate COVID-19 workers' compensation claims.

In addition, the draft permanent rule gives discretion to the department about whether to investigate certain denials whereas the temporary rule required WCD to audit all COVID-19 claims. A required audit ensures that deviations from the processing requirements are identified quickly so that workers' claims are appropriately processed.

We urge you to adopt the language of the temporary rule, instead of the proposed permanent rule language that has been released. This approach is the best way to ensure that workers who are entitled to workers' compensation are receiving the treatment they need.



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