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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 436
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION

FILED

10/29/2021 2:56 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Revision of agency email address in notices to workers and employers

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/22/2021 11:55 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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Filed By:
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NEED FOR THE RULE(S)

This rule change is needed to ensure workers and employers have the correct information for contacting the Preferred Worker Program by email. Current email addresses will continue to work for a period of time, but insurers, self-insured employers, and service companies should update email contact information on notices to workers and employers by April 1, 2022.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Document (file) named: "Email-address-change-for-WCD-staff.pdf." This document is available for public inspection upon request to the Workers' Compensation Division, 350 Winter Street NE, Salem, Oregon 97301-3879. Please contact Fred Bruyns, rules coordinator, 971-286-0316, WCD.Policy@dcbs.oregon.gov.

FISCAL AND ECONOMIC IMPACT:

The proposed amendment will not have a fiscal or economic impact on the agency.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

a. The agency estimates that proposed rule changes will not affect costs to state agencies for compliance with the rule.

b. The agency estimates that proposed rule changes will not affect costs to units of local government for compliance with the rule, with the possible exceptions of cities and counties that are self-insured for workers' compensation. See the estimate of impacts on self-insured employers in 1.c. (below).

c. The agency estimates that proposed rule changes may entail a small, one-time cost to the public for compliance with the rule. Insurers, self-insured employers, and service companies will have to revise programs that generate notices to workers and employers under OAR 436-110-0240. The agency does not have data that would allow it to estimate the extent of the impact, but it would welcome testimony about the costs.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Insurers and self-insured employers are generally not small businesses, but as many as ten service companies are small businesses and are subject to these rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

Amendment of notices to workers and employers may entail a small one-time cost to adjust the programs that generate the letters. Otherwise, the proposed changes will not affect costs for reporting, recordkeeping, or other administrative activities required for compliance, including professional services.

c. Equipment, supplies, labor and increased administration required for compliance:

Amendment of notices to workers and employers may entail a small one-time cost to adjust the programs that generate the letters. Otherwise, the proposed changes will not affect costs for equipment, supplies, labor, or increased administration required for compliance.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The agency did not consult business representatives regarding the proposed update to agency email addresses. Except as explained above, these minor, technical changes to the domain name should not affect the interests of businesses large or small, but the agency welcomes input about any impacts.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Revision of email domain names affects multiple agencies of the State of Oregon, and the Workers' Compensation Division does not have discretion to prevent or modify that revision. Forming and consulting an advisory committee would not be an appropriate use of stakeholders' time.

AMEND: 436-110-0240

RULE SUMMARY: Amended rule 0240 updates agency email addresses for use in notices to workers and employers. The Department of Consumer and Business Services' domain names now include "dcbs," as in pwp.oregon@dcbs.oregon.gov.

CHANGES TO RULE:

436-110-0240

Insurer Participation in the Preferred Worker Program II

(1) Insurer participation. The insurer of the employer at injury must be an active participant in providing re-employment assistance under the Preferred Worker Program.¶

(2) Notice of assistance available. The insurer must notify the worker and employer at injury in writing of the assistance available from the Preferred Worker Program. A notice must be issued:¶

(a) Within five days of the worker being declared medically stationary;¶

(b) Upon determination of the worker's eligibility or ineligibility for vocational assistance under ORS 656.340 and OAR 436-120; and¶

(c) Upon approval of a claim disposition agreement.¶

(3) Required notice language.¶

(a) The notice to the worker required by section (2) of this rule must be in bold type and contain the following language:¶

The Preferred Worker Program helps Oregon's injured workers get back to work. To find out whether you qualify, contact the Preferred Worker Program.¶

Call: 503-947-7588 or 800-445-3948 (toll-free).¶

Fax: 503-947-7581¶

Or write the Preferred Worker Program at P.O. Box 14480, Salem, Oregon 97309-0405 or

pwp.oregon@dcbs.oregon.gov.¶

(b) The notice to the employer at injury required by section (2) of this rule must be in bold type and contain the following language:¶

As the employer of an injured worker, you may be eligible for valuable Preferred Worker Program incentives if the worker cannot return to regular work and has permanent restrictions caused by the injury.¶

If the worker's Preferred Worker Program eligibility has not been determined, you may contact the Workers' Compensation Division for an eligibility review.¶

To be eligible for exemption from paying workers' compensation premiums for this worker for three years, you must:¶

"Bring back your preferred worker to a new or modified job; and¶

"Notify the Workers' Compensation Division within 90 days of the date the worker is determined eligible or within 90 days of the date you bring the worker back to work, whichever is later.¶

To request all other Preferred Worker Program benefits, you must contact the Workers' Compensation Division within 180 days of the worker's claim closure date.¶

To find out more about the Preferred Worker Program, contact the program.¶

Call: 503-947-7588 or 800-445-3948 (toll-free)¶

Fax: 503-947-7581¶

Or write the Preferred Worker Program at P.O. Box 14480, Salem, Oregon 97309-0405 or

pwp.oregon@dcbs.oregon.gov.¶

(4) Reporting information to the division. The insurer must provide the division with preferred worker information upon the following:¶

(a) Claim closure according to ORS 656.268, by submitting Form 1503, "Insurer Notice of Closure Summary," as prescribed by OAR 436-030-0015(1);¶

(b) Within 30 calendar days of an order on reconsideration, opinion and order of an administrative law judge, order on review by the board, decision of the Court of Appeals or Supreme Court, or stipulation between the parties that grants initial permanent disability after the latest opening of the worker's claim; and¶

(c) Approval of a claim disposition agreement, if documented medical evidence indicates permanent restrictions exist as a result of the injury or disease, and the worker is unable to return to regular work. If a claim disposition agreement is approved before the worker is medically stationary, the insurer must continue to process the claim to medically stationary for purposes of the Preferred Worker Program.¶

[ED. NOTE: Forms referenced are available from the agency.]

Statutory/Other Authority: ~~ORS 656.340, 656.622, ORS 656.726(4)~~

Statutes/Other Implemented: ~~ORS 656.340(1), (2), (3), 656.622, ORS 656.726(4)~~