

# 2009 Legislative summaries

by Cara Filsinger



The 2009 legislative session brought several changes that will affect the workers' compensation system in Oregon. A summary of key legislation is listed below.

## House Bill 2045 — chiropractor impairment findings

House Bill 2756 (2007) removed chiropractors' ability to make impairment findings for the purpose of evaluating a worker's disability. The bill restores chiropractors' ability to make impairment findings if serving as the attending physician at the time of claim closure.

*Effective Jan. 1, 2010*

*Contact: Kevin Willingham, 503-934-6014*

## House Bill 2195 — vocational assistance streamlining

This bill was introduced at the request of the Department of Consumer and Business Services (DCBS). It makes three changes to the vocational assistance processes: replaces certification with a registry for vocational provider organizations, allows longer voluntary payment of temporary disability during training programs, and clarifies the appeal language for vocational disputes.

*Effective Jan. 1, 2010*

*Contact: Barbara Smith, 503-947-7568*

## House Bill 2197 — regulatory streamlining

This bill was introduced at the request of DCBS. It makes a number of streamlining changes, including eliminating some duplication in the

claim closure law, clarifying the Re-employment Assistance Program employer requirements, and clarifying duration of premium assessment exemption for preferred workers. The bill also corrects a drafting error from 2007's House Bill 2756 (expanding health care provider authority) to clarify that the treatment time frames for "other" health care providers (such as acupuncturists and psychologists) start from the date of the worker's first visit and not the date of injury. The bill also clarifies that administrative review of medical fee disputes is not mandatory and that parties can resolve the dispute informally without requesting director review.

*Effective Jan. 1, 2010*

*Contact: Jerry Managhan, 503-947-7501*

## House Bill 2420 — firefighter cancer presumption

Current workers' compensation law establishes a "presumption" for certain occupational diseases for firefighters, including diseases of the lungs, respiratory tract, hypertension, or cardiovascular-renal disease. This bill adds 12 conditions, including a variety of cancers, to the existing firefighter presumption for employment-caused occupational diseases. This bill limits these added conditions to nonvolunteer firefighters, sets a time limit to file an occupational disease claim using the presumption, and sets an age limit for filing a claim with a prostate cancer presumption.

*Effective Jan. 1, 2010*

*Contact: Mary Schwabe, 503-947-7651*

### **House Bill 2705 — vocational eligibility**

This bill modifies the circumstances that require insurers and self-insured employers to evaluate injured workers for vocational assistance eligibility. The bill allows insurers and self-insured employers to forego a vocational evaluation if the worker is released for regular work, but for whatever reason, has not returned to work.

*Effective Jan. 1, 2010*

*Contact: Barbara Smith, 503-947-7568*

### **House Bill 2707 — supplemental disability**

In 2001, the legislature established that when a worker suffers a disabling injury and is unable to work in the job at injury as well as other jobs he or she holds, the worker receives temporary disability benefits that cover loss of income from all jobs up to the maximum benefit. Temporary disability from the non-job at injury is referred to as supplemental disability benefits. Workers are currently required to provide proof of multiple jobs to the insurer within 30 days of the date of injury. This bill clarifies that a worker has 60 days from the insurer's mailing date to the worker requesting documentation of wages in order to correctly determine the supplemental disability amount. The bill also authorizes the director to adopt rules about how supplemental disability benefits are calculated.

*Effective Jan. 1, 2010*

*Contact: Mary Schwabe, 503-947-7651*

### **House Bill 2815 — combined enforcement network**

This bill requires multiple state agencies, including DCBS, to work together on enforcement issues relating to classification of workers, independent contractors, and cash-basis businesses. Due to a budget note associated with the bill, the agencies must first submit a plan to the Emergency Board about how the network intends to operate.

*Effective: July 1, 2009*

*Contact: Jerry Managhan, 503-947-7501.*

### **House Bill 3345 — attorney fees**

This bill provides attorney fees in five circumstances in which workers' attorneys currently are not compensated for services. The bill increases statutory caps on attorney fees and provides a mechanism for increasing the caps annually based on changes in the state average weekly wage. The bill also provides a new basis for a penalty, in addition to an attorney fee, if the workers' compensation insurer fails to make payment under a disputed claim settlement.

*Effective Jan. 1, 2010*

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### **Senate Bill 110 — death benefits**

This bill was requested by DCBS on behalf of the Management-Labor Advisory Committee. The bill recommends improvements to the benefits provided to beneficiaries when a worker is killed on the job or dies while he or she is permanently and totally disabled from a work injury. The bill also clarifies that if a worker dies before his or her permanent partial disability award is fully paid, and if the worker has no beneficiaries as defined under ORS Chapter 656, the insurer must pay the full remainder of the permanent disability benefit to the worker's estate.

*Effective Jan. 1, 2010*

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