

2011 LEGISLATION ALERTS

WORKERS' COMPENSATION

CERTIFICATION OF MANAGED CARE ORGANIZATIONS ORS 656.260

2011 OR LAWS CH 98 (HB 2093)

HB 2093 amends ORS 656.260, which will now require the Workers' Compensation Division director to certify a managed care organization before it will be allowed to do any of the following: (1) restrict a worker's choice of health care or medical service providers; (2) restrict a worker's access to any category of medical service provider; (3) restrict a medical service provider's ability to refer a worker to another provider; (4) require preauthorization or precertification to determine the necessity of medical services or treatment; or (5) restrict treatment provided to a worker by a medical service provider to specific treatment guidelines, protocols, or standards.

This bill does not apply to (1) a medical service provider who refers a worker to another medical service provider; (2) the use of an on-site medical service facility by the employer to assess the nature or extent of a worker's injury; or (3) treatment or transportation provided by a medical service provider to a worker in an emergency or trauma situation.

If the director finds that a person has violated the new requirements of the bill (ORS 656.260(20)), the director may impose a sanction that may include a civil penalty not to exceed \$2,000 for each violation. If the violation is repeated or willful, the director

may order the person committing the violation to cease and desist from making any future communications with injured workers or medical service providers or from taking any other actions that directly or indirectly affect the delivery of medical services provided under this chapter.

Penalties imposed under this subsection are subject to enforcement, collection, and review as provided in ORS 656.735 (4) through (6) and 656.740. Cease-and-desist orders issued under this subsection are subject to review under ORS 656.740.

Effective date: January 1, 2012.

DELAY OF RECONSIDERATION PROCEEDINGS ORS 656.268

2011 OR LAWS CH 98 (HB 2094)

Section 1 of HB 2094 amends ORS 656.268 to allow the Workers' Compensation Division director to authorize one delay of a reconsideration proceeding (of a claim closure) for up to 45 calendar days, provided that the parties submit their request for a delay within the first 18 days following the request for reconsideration. The worker shall continue to be paid compensation that is otherwise due during the period of the delay.

On the next calendar day following the expiration of the delay, reconsideration will resume according to the normal time line as though the delay had never been granted.

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Reconsideration will resume prior to the expiration of the 45-day period if a party requests that the director resume reconsideration or the parties reach a settlement and the director receives a copy of the approved settlement documents.

Effective date: January 1, 2012.

The amendments apply to requests for reconsideration made on or after the effective date.

**COVERAGE FOR LANDSCAPE CONTRACTORS'
EMPLOYEES
ORS 671.525, 671.565, 671.610
2011 OR LAWS CH 283 (HB 2157)**

HB 2157 first amends ORS 671.565, which governs applications for landscape contracting businesses made to the State Landscape Contractors Board. The bill applies to businesses that are classified as nonexempt independent contractors under ORS 671.525 and that are applying for or renewing a license. Such applicants must be prepared to provide evidence that workers' compensation coverage is in effect when they apply for or renew a license, and that coverage is maintained throughout the license period.

The bill contains a similar provision for applicants classified as exempt independent contractors under ORS 671.525 who contract with worker-leasing companies or temporary service providers, as defined in ORS 656.850, to obtain workers for the landscaping business. Such applicants must be prepared to provide evidence that the required workers' compensation coverage is in effect when they apply for or renew a license, and that coverage is maintained throughout the license period.

This bill amends ORS 671.610 to allow the Board to enforce ORS 671.565 by suspending, revoking, or refusing to issue or renew the license of a landscape construction contractor if the contractor fails to maintain and provide evidence of workers' compensation coverage.

Effective date: January 1, 2012.

The bill applies to license applications filed with the State Landscape Contractors Board on or after the effective date. However, the bill does not require a worker-leasing company or temporary service provider to alter any rights or duties under a contract entered into prior to that date.

**RECOVERY OF AMOUNTS OWED FOR MEDICAL
SERVICES IN WORKERS' COMP CLAIMS
ORS 656.313
2011 OR LAWS CH 80 (SB 173)**

ORS 656.313 currently provides that in a workers' compensation disputed claim settlement, the insurer will pay the medical providers directly for up to 50% of the amount payable under the workers' compensation medical fee schedule. The statute further allows the medical provider to recover the balance of the bill directly from the worker.

SB 173 provides that the provider's right to recover the balance of the bill directly from the worker does not apply if the worker agrees to have all of the medical providers' bills paid directly from the proceeds of the claim settlement proceeds.

Effective date: January 1, 2012.

The bill applies to workers' compensation claim settlements entered into on or after the effective date of the Act.