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HB 3412

Brief summary

Authorizes physician assistants to provide compensable medical services and authorize payment of temporary disability benefits under same rules as nurse practitioners for workers' compensation claims.

Analysis

What the law currently does

- Defines attending physician as:
 - A medical doctor, doctor of osteopathy, podiatric physician and surgeon, or oral and maxillofacial surgeon; or
 - For 60 days from the date of first visit or 18 cumulative visits, whichever occurs first, a chiropractic physician, naturopathic physician, or physician assistant.
- Allows physician assistants to authorize payment of temporary disability compensation for a period of up to 30 days from the date of the first visit.
- Allows physician assistants to serve as attending physician on the initial claim only.
- Requires physician assistants to certify that they have reviewed informational materials about the workers' compensation system developed by the director prior to providing any compensable medical services or authorizing temporary disability benefits.
- Provides that authorized nurse practitioners may provide compensable medical services for 180 days from the date of the first visit on the initial claim and may authorize the payment of temporary disability benefits for a period not to exceed 180 days from the date of the first visit on the initial claim.

What will change if the bill is enacted

The bill gives physician assistants attending physician status for 180 days rather than the current 60 days, and allows physician assistants to authorize the payment of temporary disability compensation for 180 days rather than the current 30 days. The bill does not specify a limit for the number of visits to a physician assistant.

This bill allows a worker to return to the physician assistant after initial claim closure for evaluation of a possible worsening of the worker's condition. The physician assistant must then refer the worker to an attending physician and the insurer shall compensate the physician assistant for the examination performed.

Likely impacts, results, or consequences if the bill is enacted

Notwithstanding ORS 656.005(12)(b), the intent of this bill appears to be to allow workers to keep a physician assistant as the attending physician for up 180 days rather than the current 60 days or 18 visits. Many workers' compensation cases require treatment for 3 to 4 months. This bill could allow many workers to stay with a physician assistant as their attending physician for the duration of their claim. Workers currently cannot do this, as they have to change their attending physician from a physician assistant to a provider with unlimited authority or to an authorized nurse practitioner after 60 days. Additionally, workers choosing a physician assistant as their attending physician would not need to change attending physicians if there are work restrictions lasting no more than 180 days.

There may be an increase in the number of claims in which a physician assistant functions as the attending physician. There may be a slight decrease in medical costs, as physician assistants are currently paid at 85% of the maximum fee schedule amounts under the medical fee schedule (OAR 436-009-0040(8)). However, overall system impact cannot be determined since medical and indemnity costs are dependent upon several factors including worker provider choice, access to providers, and provider treatment patterns.

Questions/relevant information for the bill sponsor or primary proponent

- The bill does not amend ORS 656.005(12) which specifically limits the time physician assistants can treat a worker as an attending physician on an initial claim (highlighted below). If the intent of the bill is to remove duration and visit limits for physician assistants, this law probably should be amended.

“(12)(a) “Doctor” or “physician” means a person duly licensed to practice one or more of the healing arts in any country or in any state, territory or possession of the United States within the limits of the license of the licensee.

(b) Except as otherwise provided for workers subject to a managed care contract, “attending physician” means a doctor, physician or physician assistant who is primarily responsible for the treatment of a worker's compensable injury and who is:

(A) A physician licensed under ORS 677.100 to 677.228 by the Oregon Medical Board, or a podiatric physician and surgeon licensed under ORS 677.805 to 677.840 by the Oregon Medical Board, an oral and maxillofacial surgeon licensed by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state, territory or possession of the United States; or

(B) For a cumulative total of 60 days from the first visit on the initial claim or for a cumulative total of 18 visits, whichever occurs first, to any of the medical service providers listed in this subparagraph, a:

(i) Doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon under ORS chapter 684 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States;

(ii) Physician assistant licensed by the Oregon Medical Board in accordance with ORS 677.505 to 677.525 or a similarly licensed physician assistant in any country or in any state, territory or possession of the United States; or

(iii) Doctor of naturopathy or naturopathic physician licensed by the Oregon Board of Naturopathic Medicine under ORS chapter 685 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States.” (Emphasis added.)

- It is unclear whether the sponsors intend for the bill to also apply to other related laws, such as:

ORS 656.245(5)(a) creates a “come-along” provision for nurse practitioners in a Managed Care Organization (MCO): “A nurse practitioner licensed under ORS 678.375 to 678.390 who is not a member of the managed care organization is authorized to provide the same level of services as a primary care physician as established by ORS 656.260 (4) if the nurse practitioner maintains the worker’s medical records and with whom the worker has a documented history of treatment, if that nurse practitioner agrees to refer the worker to the managed care organization for any specialized treatment, including physical therapy, to be furnished by another provider that the worker may require and if that nurse practitioner agrees to comply with all the rules, terms and conditions regarding services performed by the managed care organization.”

ORS 656.245(5)(b) requires an MCO to allow a nurse practitioner to assume a role similar to an attending physician, such as providing appropriate medical services and authorizing temporary disability payments for a minimum of 180 days from the first visit to a nurse practitioner.

Legislative history

Has this bill been introduced in a prior session?

No Yes Years Bill numbers

Does this bill amend current state or federal law or programs?

No Yes Specify ORS 656.245

Is this bill related to a legal decision?

No Yes Case citation, AG opinion, date, etc.

Should another DCBS division review this measure?

No Yes Divisions

Other impacts

Does this bill have a fiscal impact to DCBS?

No Yes Unknown Explain

Does this bill have an economic impact to stakeholders?

No Yes Unknown: Overall system impact cannot be determined since medical and indemnity costs are dependent upon several factors including worker provider choice, access to providers, and provider treatment patterns.

Sponsors

Representative Grayber; Oregon Society of Physician Assistants

Possible interested stakeholders

Physician assistants, medical providers, insurers, self-insured employers, and workers.

Public policy topics

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| <input type="checkbox"/> Agency operations | <input type="checkbox"/> Other lines of insurance |
| <input type="checkbox"/> Building codes | <input type="checkbox"/> Prescription drugs |
| <input type="checkbox"/> Financial institutions and lending | <input type="checkbox"/> Property and casualty insurance |
| <input type="checkbox"/> Health insurance | <input type="checkbox"/> Public records/public meetings law |
| <input type="checkbox"/> Involvement with other agencies | <input type="checkbox"/> Rulemaking |
| <input type="checkbox"/> Licensure | <input type="checkbox"/> Securities |
| <input type="checkbox"/> Manufactured structures | <input type="checkbox"/> Task force/reports |
| <input checked="" type="checkbox"/> MLAC legislative review | <input type="checkbox"/> Worker safety |
| <input type="checkbox"/> New program | <input checked="" type="checkbox"/> Workers' compensation system |
| <input type="checkbox"/> Nondepository programs | <input type="checkbox"/> Other |