

'03 Session Legislation on EDI and Coverage Issues

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Senate Bill 233

Subject:

- additional claim closure penalties issued to non-complying employers
- legal representation for assigned claims agent
- security for self-insured employers
- **notice of election of coverage and notice of cancellation of coverage by employer**
- **termination of guaranty contracts**
- joint and several liability for multiple entities certified as one self-insured employer
- **electronic records, and rules regarding electronic transmission notice**
- orders and appeal periods

Effective Date: January 1, 2004

Relevant rules: OAR 436-050 and OAR 436-160.

Proposed rules are pending. Planned filing date is 9/15/03.

SB 233, Section 5 – ORS 656.427 – changes the end liability date for termination of guaranty contracts; the liability end date will no longer be contingent **on receipt of notice by the director**, but rather on proper notice to the employer. ORS 427 will require that insurers terminate liability by providing notice to the employer and DCBS “in accordance with rules adopted by the director.” The bill also eliminates the statutory requirement to send the director a list of workers affected by coverage elections.

Comments: The focus returns to the business relationship between the insurer and its insured accounts. In the event of disputes over responsibility or liability under a Guaranty Contract, the insurer will bear the burden of proof to establish it complied with statutes for terminating liability.

Senate Bill 250

Subject: Employment Department Data Systems

Effective date: January 1, 2004

Relevant rules: TBD

Comments: This bill allows DCBS and other agencies to be partners in the Interagency Shared Information System, upon approval of the Director of the Employment Department. It creates a new Performance Reporting Information System in conformance with the Federal Workforce Investment Act of 1998, and the Oregon Workforce Investment Act, and further will allow the Director of the Employment Department to enter into agreements with other public bodies and

organizations to participate in the new information system.

IMD and WCD have anticipated increased opportunities through the Interagency Shared Information System, and the new reporting system established by this bill will allow the Division and agency to continue to have interagency agreements to meet the needs of both agencies. For example, WCD hopes to be able to obtain SIC/NAICS industry codes from the Employment Department and consequently has made those data elements “optional” for EDI reporting.

Senate Bill 914

Subject:

- Requires the director to administer and pay supplemental disability or to assign administration and payment to a paying agent (if the insurer elects not to administer).
- **Deletes the 21-day claim reporting requirement.**
- **Amends ORS 656.264 to require that denied claims be reported to the director.**
- **Requires the director to evaluate claim reporting requirements and report findings to the Management Labor Advisory Committee by 12/15/04.**

Effective Date: January 1, 2004

Relevant rules: OAR 436-060

Temporary rules, effective 9/2/03, have been issued to address the department’s processing of supplemental disability claims and payment. Permanent rule-making will begin immediately.

Comments: Whereas this bill deleted existing the 21-day reporting requirement, the director continues to have authority to prescribe the form and format of reporting claims. Effectively, reporting of so-called “deferred claims” will be eliminated. During the Administrative Rule process, the actual reporting time will be clarified and likely could be the earlier of the insurer’s decision to accept/deny the claim or perhaps 60/90 days after the employer’s knowledge of the injury. The requirement of reporting denied claims already was a statutory requirement, so this bill reinforces that concept.

Note: The agency has started a long-term “claim reporting review project” as required by this bill, coordinated by Meg Reinhold, former Senior Policy Advisor to DCBS. This comprehensive review will involve all workers’ compensation industry customers and stakeholders and is due to the Management-Labor Advisory Committee by December 15, 2004.