

## Oregon Workers' Compensation

### Workers' Compensation Claim Closure Dispute Resolution \_\_\_\_\_

# Topic of Interest

#### Requests for reconsideration:

Oregon Law sets a process that an injured worker can follow to disagree with the terms of a claim closure the insurer or self-insured employer issues. The worker can ask the director to review specific issues on the closure. The name of this review process is **Reconsideration**.

A worker must make their request for reconsideration within **60 days** of the mailing date of the closure. A reviewer in the Appellate Review Unit of the Benefit Services Section does the review. Issues the worker can dispute include (at least):

- When the worker's condition was medically stationary,
- Whether the claim was closed incorrectly or before it should have been,
- How long temporary disability benefits were authorized,
- Whether permanent disability was awarded and, if it was, the amount of that award, and
- Eligibility for death benefits.

An insurer or self-insured employer may also request reconsideration of the closure. However, they must make their request within **7 days** of the mailing date of the closure. The insurer or self-insured employer can only disagree with the impairment findings used as the basis for a permanent disability award.

Because reconsideration is the last chance to add new information to the official claim closure record, both parties in the dispute must provide all their documents during the reconsideration process. The worker or insurer/self-insured employer may:

- Correct information in the record,
- Submit additional materials, including evidence that should have been—but was not—submitted by the attending physician at the time the claim was closed.

The injured worker may also submit written statements:

- Explaining their condition at the time the claim was closed,
- Giving the reasons for their disagreement with the claim closure,
- From other people who support their position.

The department must either:

- Complete the reconsideration process by the 18<sup>th</sup> working day after the reconsideration proceeding begins, or
- Postpone issuing an order for an additional 60 days if they need more information or a medical arbiter examination (see below).

An appellate reviewer will study all information received from the injured worker and the insurer. After reviewing the information (including any report from a medical arbiter), the reviewer will issue an Order on Reconsideration.

**Reference:** ORS 656.268, OAR 436-030-0165

### **Medical Arbiter Examination**

When there is a dispute over impairment findings for an injured worker's accepted condition at the time the insurer closes the claim, the department may need to have the worker examined by a medical arbiter. The medical arbiter:

- Must be a medical doctor as defined by Oregon law,
- Must be in good standing with the Oregon Board of Medical Examiners,
- Is chosen at random from the department's list of qualified doctors,
- Has not seen or treated the worker during the time the claim was open,
- Reviews the medical records and examines the worker's accepted condition, and
- Provides the appellate reviewer with a written report describing the objective findings of impairment.

**Reference:** ORS 656.268, OAR 436-030-0165

**For more information, contact:** Appellate Review Unit: (503) 947-7816