



Oregon WC Department may now appoint two-member medical arbiter panels

By Michael H. Jones ■ July 12, 2017

An Oregon legislative bill that allows the Director of Department of Consumer and Business Services under certain circumstances to appoint a two- or three-member medical arbiter panel has become law. The bill was signed into law by Oregon Governor Kate Brown on May 17, 2017, and will take effect on January 1, 2018. The Department will promulgate rules to implement the amendments.

Currently, when either the worker or employer/insurer requests a panel arbiter examination, the director must appoint a panel of three arbiters. The director cannot appoint fewer than three arbiters. This is partly due to the need for a “tie-breaking” vote if there is disagreement among the members. It is common practice for employers/insurers to request a panel examination, as we see better results when there is more than one physician determining permanent impairment.

HB 2335, which amends ORS 656.268, is designed to increase efficiency and reduce costs in the medical arbiter process, particularly, in rural areas of Oregon. The Department is having a difficult time retaining certified physicians in rural parts of the state, which often necessitates a worker traveling, at the employer’s/insurer’s expense, to a larger metro area for an exam. In addition, there has been some difficulty finding three physicians of certain specialties for particular cases. The bill will allow the appointment of two-member panels according to criteria set by the Department. As of the date of this blog post, the Department has not published the proposed rule changes.

This legislation likely will result in net savings to employers/insurers and will enable faster resolution of reconsideration proceedings. This would be achieved through decreased need for worker travel, more efficient scheduling, and less expensive examinations. At this time, it is difficult to predict whether the use of two-member panels could result in overall larger or smaller impairment awards. However, it would seem any increase in awards could be offset by efficiency savings.

The bill had wide-ranging support in the legislature, and was passed unanimously by both houses. Its popularity is further demonstrated by its support from the Oregon Workers’ Compensation Association (formerly OSIA) and the Management-Labor Advisory Committee.

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Overall, this should be a good thing for employers/insurers. We will be monitoring the Department for the proposed rules establishing criteria for determining whether a two-member panel is appropriate. Feel free to contact a Reinisch Wilson Weier attorney for an update or for any other claims question. ■

The Oregon Workers' Compensation Division has posted proposed rules to its website regarding medical services and other issues. The Division has scheduled a public rulemaking hearing on this topic for July 25, 2017, 9 AM, Labor & Industries Building in Salem. The public may also listen to the hearing or testify by telephone: dial-in number is 1-213-787-0529; Access code is 9221262#.

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