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Inside this Brief

- **Background**
- **History in Oregon – 1990 Reforms**
- **1995 Reforms**
- **Management-Labor Advisory Committee**
- **Recent Activities**
- **Recent Legislation – 2003 Session**
- **Staff and Agency Contacts**

Legislative Committee Services
State Capitol Building
Salem, Oregon 97301
(503) 986-1813

Background Brief on...

Worker's Compensation

Prepared by: Cara Filsinger

Background

Oregon has had some form of workers' compensation program since 1914. The system is designed to provide appropriate medical treatment and benefits to help injured workers recover and return to work as soon as possible, and to resolve disputes quickly and fairly.

Workers' compensation insurance provides medical treatment and lost wages to employees (or their dependents) in the case of employment-related accidents. In Oregon, workers' compensation insurance is what is known as "no-fault" insurance – this essentially bypasses the concept of one party or the other being at fault, which in turn eliminates lawsuits arising out of work place injuries or illnesses.

Oregon employers are required to carry workers' compensation insurance or be self-insured. Almost all Oregon employees are covered by workers' compensation, but employees are eligible for benefits whether or not their employers are in compliance with the law. Certain corporate officers, partners and family-member business owners, as well as independent contractors, are not required to be covered by workers' compensation insurance (ORS 656.027).

Employers can purchase insurance from the State Accident Insurance Fund (SAIF) Corporation (a publicly owned nonprofit), from a private insurance company, or opt to self-insure. According to the 2001 year end figures, SAIF Corporation had about a 38.4 percent share of the premium in the Oregon market. Private insurance companies (the largest being Liberty Northwest) account for about 48.3 percent, and the remaining 13.3 percent of premium share is self-insured employers.

History in Oregon - 1990 Reforms

In 1986, Oregon ranked 6th highest in the nation in average workers' compensation premium rates and had one of the country's highest injury and illness claim frequencies. Medical and disability costs for injured workers were among

the highest anywhere, but benefit levels for some types of injuries were among the lowest in the country. Critics of the system had charged that too many benefits were provided for questionable disabilities, and too many benefits were going to lawyers and dubious care providers. Significant changes were made in 1990, based on the recommendations of a management-labor task force (commonly referred to as the "Mahonia Hall Group") convened by then-Governor Neil Goldschmidt. Generally, the compromise increased benefits to injured workers, but decreased the number of workers getting benefits. The definition of "compensable injury" was changed to require work exposure to be the "major contributing cause" of some conditions in order to qualify for benefits. Criteria for reopening claims were tightened. Other changes limited the status of chiropractors, eliminated naturopaths as attending physicians, restricted "palliative" care, eliminated the formal hearings process for resolving treatment disputes, required the use of strict standards in determining disability awards, allowed lump-sum settlements for accepted claims, and doubled benefit awards for certain injuries. There was also a substantial commitment made to the use of return-to-work and safety programs.

1995 Reforms

The system was further revised in 1995. Senate Bill 369 set more restrictive limitations on the compensability of pre-existing conditions, stress claims, and injuries involving drug or alcohol abuse. Senate Bill 369 also established a one-year claim-filing deadline, established a new medical fee schedule, and established workers' compensation insurance as the exclusive remedy for worker illness or injury even if the claim is denied. The new law also redefined "casual labor" and increased the penalties on non-complying employers. As a result of the 1990 and 1995 reforms, the number of accepted disabling claims has gone from 3.7 per 100 workers in 1987 to 1.6 per 100 workers in 2000.

Workers' compensation premium rates also declined significantly over this time period.

Management-Labor Advisory Committee

The Management-Labor Advisory Committee (MLAC), originally known as the "Mahonia Hall Group," was initially created by Governor Goldschmidt to draft the 1990 workers' compensation reforms. MLAC was later put into statute to advise the Legislature and the Director of the Department of Consumer and Business Services (DCBS, where the Workers' Compensation Division is housed) on matters concerning workers' compensation.

Today, MLAC is charged with studying the workers' compensation system in areas such as court decisions, adequacy of benefits, medical and legal costs, adequacy of assessments paid into the department's reserve programs and the operation of programs funded by the Workers' Benefit Fund. The committee also reviews the standards regarding evaluation of permanent disability and advises DCBS and its Workers' Compensation Division on proposed changes in programs. The ten members are appointed by the Governor and include five labor and five management representatives.

Recent Activities

Provisions of the 1995 reforms were scheduled to sunset on December 31, 2000. The 1999 Legislature extended the reforms for five more years, requiring the 2005 Legislature to revisit the changes.

The 2001 Legislature enacted Senate Bill 485. Senate Bill 485 clarifies the process injured workers must follow to exhaust their workers' compensation remedies, shielding all parties from the extra cost of having to pursue both workers' compensation claims and court cases at the same time.

Recent Legislation – 2003 Session

Senate Bill 757 modified the method for calculating permanent partial disability awards

for workers' compensation injuries. The lower limit for a permanent partial disability benefit increases from 33% to 50% of Oregon's average weekly wage. The bill also clarifies how the worker's return to work status impacts their permanent partial disability award and how disability benefits are determined on the worker's weekly wage with minimum and maximum levels. In workers' compensation cases, permanent disabilities are divided into scheduled and unscheduled awards. Scheduled awards are for loss, or loss of use or function, of certain body parts, and are paid at a fixed dollar amount per degree of loss, regardless of the return-to-work status of the worker. Unscheduled awards are for body parts such as the back, or for conditions such as allergic reactions, that affect

the whole body. This measure eliminates the distinction between scheduled and unscheduled awards. All workers with permanent disability will receive an impairment benefit, which pays all workers at the same rate (based on state average weekly wage) per percentage of impairment. Workers who are unable to return to regular work will also receive a disability benefit, which is based on the impairment and on age, education, and adaptability factors and the workers' earnings at the time of injury. The provisions sunset on January 1, 2008.

Staff and Agency Contacts

Oregon Department of Consumer and Business Services, Workers' Compensation Division, John Shilts, Administrator, 503-947-7551