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BASICS ABOUT . . . WORKERS' COMPENSATION

Workers' compensation insurance is intended to be exclusive "no-fault" insurance providing fixed benefits to employees (or their dependents) in case of employment-related accident, dispensing with proof of negligence and the need for legal action. From its inception in the early decades of the 20th century, workers' compensation was one of the original "no-fault" insurance plans. The package of benefits under Oregon workers' compensation law is comprehensive, including medical care, return-to-work assistance, and disability payments.

Definitions of terms frequently used in workers' compensation debates:

Compensability: Eligibility for workers' compensation benefits [ORS 656.005(7)].

Non-complying employer: Employer who does not provide workers' compensation coverage as required by law [ORS 656.005(8)].

Palliative care: Medical treatment to provide temporary relief from symptoms, rather than treatment to cure the injury [OAR 436-10-005(32)].

Permanent disability: Continuous loss of use or function of any part of the body that prevents a worker from performing work [ORS 656.206].

Reemployment: Worker gets his/her job back after recovering from on-the-job injury/illness [ORS 659.415].

Temporary disability: Recovering from injury or illness that prevents a worker from performing work [ORS 656.210].

Who is covered by workers' compensation insurance? Almost all Oregon employees are covered by workers' compensation and 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 covered, and are therefore not eligible for benefits [ORS 656.027].

Must all employers provide workers' compensation insurance coverage for their workers? Generally, yes, except as noted above. Coverage must be provided through the purchase of an insurance policy unless the employer is self-insured.

Who provides workers' comp coverage? The state-owned SAIF Corp. has about a 33 percent share of the Oregon market. Private insurance companies (Liberty Northwest is the largest) total about 50 percent, with the remaining 17 percent being self-insured employers.

Several years ago, Oregon's workers' compensation system was described as one of the most expensive in the nation. Why? In 1986, Oregon ranked sixth 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 charged that too many benefits were provided for questionable disabilities, and too many benefits were going to lawyers and dubious care providers.

What changes made Oregon's system better? Significant changes were made in 1990. The definitions of "compensable injury" were restricted to work-related conditions corroborated by objective medical evidence. 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 settlement negotiations, and doubled benefit awards for certain injuries. Law changes also denied benefits to jailed workers, denied benefits to workers injured as a result of alcohol or illegal drug use, mandated employer safety committees, and strengthened injured worker re-employment rights.

What was the result? The 1990 reforms made Oregon's workers' compensation system much more efficient, although some critics of the reform maintain that the system now unfairly restricts the rights of injured workers. Between 1990 and 1995, the accepted claims rate per 100 workers declined by 25 percent and premium rates dropped 35.8 percent. Oregon employers saved a cumulative amount of over \$1.5 billion during that period. According to proponents of workers' compensation reform, however, several case appeals and court decisions threatened to undo many of the important 1990 improvements. Legislation to shore up the 1990 reforms was introduced in the 1995 session of the Oregon Legislature.

What 1995 Oregon legislation addressed workers' compensation? The main workers' compensation bill passed by the 1995 Oregon Legislature, SB 369, set more restrictive limitations on the compensability of preexisting conditions, stress claims, and injuries involving drug/alcohol abuse. SB 369 also established a one-year claim-filing deadline, established a new medical fee schedule, established workers' compensation insurance as the exclusive remedy for worker illness/injury even if the claim is denied, and required courts to interpret the law impartially rather than giving benefit of doubt to workers. The new law also redefined "casual labor" and increased the penalties on non-complying employers. Some critics believe that these changes have gone well beyond the notion of returning to the 1990 reforms and feel that the law is now tilted against workers with legitimate injuries.

What can be done to reduce the costs of workers' compensation? The best way to keep insurance costs down is to prevent losses. The best way for employers to reduce their workers' compensation costs is to reduce on-the-job accidents and job-related illnesses. Oregon appears to be headed in the right direction. Fatality rates dropped by one-half from 1988 to 1995. Fatalities decreased by 41 percent over the same period. Injury and illness rates (lost workday incidence rates) dropped 22 percent from 1988 to 1994. Insurance carriers, private associations, and Oregon's occupational safety agency (OR-OSHA) are helping employers provide safer worksites, better training, and greater safety-consciousness among employees. The annual number of OR-OSHA job-safety consultations with employers, for example, has increased 150 percent since 1990.

For More Information:

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