

**Presentation by
Holly O'Dell, vice president of legal and strategic services at SAIF
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Good morning Chair Riley and members of the committee. My name is Holly O'Dell. I am the Vice President of Legal & Strategic Services for SAIF Corporation. Prior to SAIF, I worked as a public health nurse.

Thank you for allowing me to testify today. SAIF is Oregon's not-for-profit workers' compensation insurance company, insuring approximately 54% of Oregon's businesses. For more than 100 years, we've been taking care of injured workers, helping people get back to work, and keeping rates low by focusing on workplace safety.

Today I will briefly comment on Senate Bill 801, and then Senate Bill 802.

SAIF was surprised to learn of the proposal with 801, which mandates that SAIF process all the workers' compensation claims for all Oregon self-insured employers. We are flattered by the suggestion and encouraged that our claims work is appreciated. However, we have three specific hesitations. First, we estimate compliance would require startup time and resources inconsistent with the current lead time in the mandate, including about \$10 million and 15 months solely to onboard the necessary claims-specific staff, which is only one of the required resources to process that number of claims. Second, the bill as drafted doesn't provide a mechanism for SAIF to be fully reimbursed for monies it would incur in processing these claims, which leaves a funding gap. Third, as drafted, the bill does not clearly articulate the complete new structure for claims processing, such as who acts as the legal representative of the self-insured employer, a function we perform for our insureds.

Moving now to Senate Bill 802, I'd like to provide information specific to the COVID-19-related workers' compensation claims filed with SAIF and detail on how the Oregon system has responded for Oregon workers and employers. As you will see, the system is working as intended.

Close to three quarters of the COVID-19 claims that have been filed in Oregon have been filed with SAIF. More than 70% of claims have been from health care workers (including long term care and first responders), followed by public employees and agriculture workers.

As of February 1, SAIF accepted more than 90% of the claims filed for COVID-19 disease. All workers with denied claims are informed of their right to appeal and to be represented by an attorney at no cost to themselves. Of the five appeals, two have been dismissed.

Some of the most common reasons SAIF denied claims included the worker not having COVID-19, but another condition; the worker not being present at work during the time the worker contracted the illness; or the worker contracting COVID-19 from a household member known to have the condition, rather than at work.

Early on, SAIF was recognized as having an effective process in place for managing COVID-19 claims. SAIF worked with stakeholders and the Management and Labor Advisory Committee (MLAC) to recommend draft rules based on this approach, which were adopted by the Workers' Compensation Division (WCD). They require insurers and self-insured employers to take specific steps to thoroughly investigate these claims. If a worker filed a

claim because of a COVID-19 illness diagnosis, the insurer must investigate the source of the worker's exposure.

The rules were effective October 1 and have resulted in a significant reduction in denials. Since implementing the rule, denials of COVID-19 disease claims have dropped across all insurers. As of February 1, 87% of the disabling COVID-19 claims in Oregon have been accepted— an acceptance rate that exceeds the rate for workers' comp claims as a whole.

The new rules also require WCD to audit all insurers with five or more denied claims. Oregon's system is producing higher acceptance rates than other states nationwide and most COVID-19 claims are being covered. WCD's audit shows claims are being processed correctly. A presumption would replace the worker and case-specific inquiry that's working so well with an assumption that each covered worker filing a claim was exposed at work, rather than off-the-job.

Approximately 700,000 to 1 million Oregon workers would likely fall under the definition of essential worker in the bill. Given the CDC's estimated infection rate of 14%, around 121,550 of these individuals have experienced COVID-19 infection. The proposal allows for claims to be reported decades after the exposure occurred, at which point it will be extremely difficult to tell whether the worker suffered from work-related COVID-19, or something else.

Oregon's workers' compensation system is generally designed to compensate workers for work-related injuries or illnesses. The dynamics created by this proposal are contrary to this fundamental principle and would make it extremely difficult for insurers to price and reserve adequately for future costs from these claims. Uncertainty in predicting costs may lead insurers to raise rates, increase reserves, and/or increase capital to ensure promises to policyholders and injured workers are kept. The problem, of course, is that the worker may not have been injured at work. As Oregon Health Authority has indicated, COVID-19 is a community illness. During the week of March 6, 2021, only 43% of Oregon cases were traced to a known source. Assuming, as a presumption does, that work is always the source, creates a disparity between science and policy.

The workers' compensation system is already designed to make sure injured workers have coverage for any future medical treatment related to their accepted condition – not just their current condition or treatment. If a worker believes they have work-related COVID-19, they should follow the process as it was intended, and file a claim with their employer.

SAIF is dedicated to the long-term health of Oregon's workers' compensation system. We are committed to ongoing conversations around these targeted gaps and opportunities, and we would be pleased to provide any additional information you may find helpful. Thank you for your time, and we are happy to answer any questions.