

HB 4138 STAFF MEASURE SUMMARY

House Committee On Business and Labor

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Meeting Dates: 2/9, 2/14

WHAT THE MEASURE DOES:

Amends provisions of workers' compensation laws related to payment of temporary disability benefits. Requires insurer or self-insured employer to provide written notice to worker that temporary disability benefits will end. Requires written notice to: be mailed within five business days of receipt of information; and state reason for ending temporary disability benefits. Replaces 14-day retroactive authorization with 60-day retroactive authorization from written notice that temporary disability benefits will end. Clarifies that no statement from attending medical provider may establish medically stationary status more than 60 days before the worker is notified that the worker has become medically stationary. Limits recovery of overpayments, offsets, or credits for wage loss to no more than 50 percent of the worker's total award. Removes requirement that hearing for failure to process or an allegation that claim was processed incorrectly be requested within two years of alleged action or inaction.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Workers' compensation law requires most employers to provide their workers with workers' compensation insurance coverage; the law provides an exclusive remedy for job-related injuries and occupational diseases.

Temporary disability or time loss is a wage replacement benefit designed to compensate a worker who has missed work and lost wages due to a work injury. Time loss rates are calculated as 66.6 percent of a worker's average earnings with a minimum and maximum weekly benefit. A worker who is able to return to work, but is earning less because of the injury, is eligible for time loss benefits reduced based on the wages paid by the employer. Time loss must be authorized by the worker's attending medical service provider and generally continues until the worker is determined to be "medically stationary" meaning the worker's condition cannot reasonably be expected to improve with either further treatment or the passage of time. Current law allows an attending physician to retroactively authorize time loss benefits up to 14 days.

House Bill 4138 makes several changes to Oregon's workers' compensation laws. First, the measure requires insurers and self-insured employers to provide written notice before suspending time loss payments. Second, the measure replaces the 14-day retroactive authorization of time loss with a 60-day retroactive authorization that is triggered by the written notice from the insurer suspending time loss payments. Third, the measure prohibits medically stationary status from being established more than 60 days before the worker is notified that they are medically stationary. Fourth, the measure limits the recovery of overpayments to no more than 50 percent of the worker's total award. Finally, the measure removes the two-year time limit to request a hearing for failure to process or an allegation that a claim was processed incorrectly.