

Senate Bill 445

Sponsored by Senator PATTERSON (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act would let SAIF form or acquire subsidiaries. The Act would let SAIF or a subsidiary provide managed care to injured workers. The Act would require the Department of Consumer and Business Services to make an annual audit of the managed care that they provide. (Flesch Readability Score: 60.6).

Authorizes the State Accident Insurance Fund Corporation to form or acquire subsidiaries to perform any function the corporation may delegate under law. Authorizes the corporation or a subsidiary to provide managed care services to injured workers. Sets forth the membership and duties of the board of directors that governs a subsidiary. Requires an annual audit of the managed care services provided by the corporation or a subsidiary.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to medical services for injured workers; creating new provisions; amending ORS 656.260
3 and 656.752; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 656.752 is amended to read:

6 656.752. (1) The State Accident Insurance Fund Corporation is created for the purpose of
7 transacting workers' compensation insurance and reinsurance business. The State Accident Insur-
8 ance Fund Corporation also may insure an Oregon employer against any liability such employer may
9 have on account of bodily injury to a worker of the employer arising out of and in the course of
10 employment as fully as any private insurance carrier.

11 (2) The functions of the State Accident Insurance Fund Corporation shall be:

12 (a) To confer with and solicit employers and to determine, handle, audit and enforce collection
13 of premiums, assessments and fees of insured employers insured with the State Accident Insurance
14 Fund Corporation;

15 (b) To make insurance available to as many Oregon employers as inexpensively as may be con-
16 sistent with the overall integrity of the Industrial Accident Fund, in accordance with ORS 656.634
17 and sound principles of insurance;

18 (c) To receive and handle and process the claims of workers and beneficiaries of workers injured
19 in the employ of insured employers insured with the State Accident Insurance Fund Corporation;
20 and

21 (d) To perform all other functions which the laws of this state specifically authorize or which
22 are necessary or appropriate to carry out the functions expressly authorized.

23 (3) The State Accident Insurance Fund Corporation in its name may sue and be sued.

24 **(4) The State Accident Insurance Fund Corporation may form or acquire a subsidiary**
25 **corporation to perform any function of the State Accident Insurance Fund Corporation that**
26 **may be delegated to the subsidiary under any provision of this chapter.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 [(4)] (5) The State Accident Insurance Fund Corporation [*may authorize self-insured employers*
 2 *or other insurers to use any physical rehabilitation center operated by the State Accident Insurance*
 3 *Fund Corporation on such terms as the State Accident Insurance Fund Corporation deems*
 4 *reasonable.*] **or a subsidiary may:**

5 (a) **Provide managed care services to injured workers under ORS 656.260;**

6 (b) **Authorize self-insured employers or other insurers to use such managed care services**
 7 **on such terms as the State Accident Insurance Fund Corporation deems reasonable; and**

8 (c) **Solicit and coordinate with medical service providers to provide medical services to**
 9 **injured workers.**

10 [(5)] (6) The State Accident Insurance Fund Corporation **or a subsidiary**, in its own name,
 11 may:

12 (a) Acquire, lease, rent, own and manage real property[.];

13 (b) [*It may*] Construct, equip and furnish buildings or other structures as are necessary to ac-
 14 commodate its needs[.];

15 (c) [*It may*] Purchase, rent, lease or otherwise acquire for its use all supplies, materials, equip-
 16 ment and services necessary to carry out its functions[.]; **and**

17 (d) [*It may*] Sell or otherwise dispose of any property acquired under this subsection.

18 [(6)] (7) Any real property acquired and owned by the State Accident Insurance Fund Corpo-
 19 ration **or a subsidiary** under this section shall be subject to ad valorem taxation.

20 [(7)] (8) The State Accident Insurance Fund Corporation may furnish advice, services and excess
 21 workers' compensation and employer liability insurance to any employer qualified as a self-insured
 22 employer under the provisions of ORS 656.407, on such terms and conditions as the State Accident
 23 Insurance Fund Corporation deems reasonable.

24 [(8)] (9) With the approval of the Director of the Department of Consumer and Business Ser-
 25 vices, the State Accident Insurance Fund Corporation may provide reinsurance coverage to Oregon
 26 employers on such terms and conditions as the State Accident Insurance Fund Corporation deems
 27 reasonable.

28 [(9)] (10) The State Accident Insurance Fund Corporation may contract with the Oregon De-
 29 partment of Administrative Services to provide claim management services for claims filed under
 30 ORS 655.505 to 655.555 by adults in custody of institutions of the Department of Corrections.

31 **SECTION 2. (1)(a) A subsidiary corporation formed or acquired by the State Accident**
 32 **Insurance Fund Corporation shall be governed by a board of five directors appointed by the**
 33 **Governor as follows:**

34 (A) **One member with expertise or an interest in labor.**

35 (B) **One member with expertise or an interest in management.**

36 (C) **Three members representing the State Accident Insurance Fund Corporation ap-**
 37 **pointed from among individuals recommended by the board of the State Accident Insurance**
 38 **Fund Corporation.**

39 (b) **Members of the board of directors are subject to confirmation by the Senate pursuant**
 40 **to section 4, Article III of the Oregon Constitution.**

41 (2) **No member of the board of directors of a subsidiary shall have any pecuniary interest,**
 42 **other than an incidental interest which is disclosed and made a matter of public record at**
 43 **the time of appointment to the board, in any corporation or other business entity doing**
 44 **business in the workers' compensation insurance industry.**

45 (3)(a) **The term of office of a member is four years, but a member serves at the pleasure**

1 of the Governor.

2 (b) Notwithstanding the term of office specified under paragraph (a) of this subsection,
 3 of the members first appointed to a board after the formation or acquisition of a subsidiary,
 4 at the choice of the Governor:

5 (A) One shall serve for a term of two years.

6 (B) Two shall serve for a term of three years.

7 (C) Two shall serve for a term of four years.

8 (c) Before the expiration of the term of a member, the Governor shall appoint a succes-
 9 sor.

10 (d) A member is eligible for reappointment.

11 (e) If there is a vacancy for any cause, the Governor shall make an appointment to be-
 12 come immediately effective for the unexpired term.

13 (4) A member of the board of directors is entitled to compensation and expenses as pro-
 14 vided in ORS 292.495.

15 (5) The board of directors shall select one of its members as chairperson and another as
 16 vice chairperson, for such terms and with such duties and powers as the board of directors
 17 considers necessary for performance of the functions of those offices.

18 (6) A majority of the members of the board of directors constitutes a quorum for the
 19 transaction of business.

20 (7) The board of directors shall meet at least once every three months at a time and
 21 place determined by the board. In addition, the board of directors shall meet at such other
 22 times and places specified by the call of the chairperson or of a majority of the members of
 23 the board.

24 (8) It is the function of the board of directors to establish the policies for the operation
 25 of the subsidiary that it governs in accordance with all applicable provisions of law.

26 (9) Not later than April 15 of each year, the board of directors shall file with the State
 27 Accident Insurance Fund Corporation a report covering the activities and operations of the
 28 subsidiary for the preceding year.

29 **SECTION 3.** ORS 656.260, as amended by section 112, chapter 73, Oregon Laws 2024, is
 30 amended to read:

31 656.260. (1)(a) **The State Accident Insurance Fund Corporation** and any health care provider
 32 or group of medical service providers may make written application to the Director of the Depart-
 33 ment of Consumer and Business Services to become certified to provide managed care to injured
 34 workers for injuries and diseases compensable under this chapter.

35 (b) [However] **Notwithstanding paragraph (a) of this subsection**, nothing in this section au-
 36 thORIZES an organization that is formed, owned or operated by an insurer or employer other than a
 37 health care provider **or the State Accident Insurance Fund Corporation** to become certified to
 38 provide managed care.

39 (c) **As used in this section:**

40 (A) **“Contract review”** means the methods and processes whereby the managed care or-
 41 ganization monitors and enforces its contracts with participating providers for matters other
 42 than matters enumerated in subparagraphs (D), (F) and (G) of this paragraph.

43 (B) **“Dispute resolution”** includes the resolution of disputes arising under peer review,
 44 service utilization review and quality assurance activities between insurers, self-insured
 45 employers, workers and medical and health care service providers, as required under the

1 **certified plan.**

2 (C) **“Managed care applicant” means the State Accident Insurance Fund Corporation, a**
3 **health care provider or group of medical service providers that apply for certification under**
4 **this section.**

5 (D) **“Peer review” means evaluation or review of the performance of colleagues by a**
6 **panel with similar types and degrees of expertise. Peer review requires participation of at**
7 **least three physicians prior to final determination.**

8 (E) **“Primary care physician” means a physician who is qualified to be an attending phy-**
9 **sician referred to in ORS 656.005 (12)(b)(A) and who is a family practitioner, a general prac-**
10 **titioner or an internal medicine practitioner.**

11 (F) **“Quality assurance” means activities to safeguard or improve the quality of medical**
12 **care by assessing the quality of care or service and taking action to improve it.**

13 (G) **“Service utilization review” means evaluation and determination of the reasonable-**
14 **ness, necessity and appropriateness of a worker’s use of medical care resources and the**
15 **provision of any needed assistance to clinician or member, or both, to ensure appropriate**
16 **use of resources. “Service utilization review” includes prior authorization, concurrent re-**
17 **view, retrospective review, discharge planning and case management activities.**

18 (d) **As used in this section and ORS 656.245, 656.248 and 656.327, “medical service**
19 **provider” means a person duly licensed to practice one or more of the healing arts in any**
20 **country or in any state or territory or possession of the United States.**

21 (2) Each application for certification shall be accompanied by a reasonable fee prescribed by the
22 director. A certificate is valid for such period as the director may prescribe unless sooner revoked
23 or suspended.

24 (3) Application for certification shall be made in such form and manner and shall set forth such
25 information regarding the proposed plan for providing services as the director may prescribe. The
26 information shall include, but not be limited to:

27 (a) A list of the names of all individuals who will provide services under the managed care plan,
28 together with appropriate evidence of compliance with any licensing or certification requirements
29 for that individual to practice in this state.

30 (b) A description of the times, places and manner of providing services under the plan.

31 (c) A description of the times, places and manner of providing other related optional services
32 the applicants wish to provide.

33 (d) Satisfactory evidence of ability to comply with any financial requirements to [*insure*] **ensure**
34 **delivery of service in accordance with the plan which the director may prescribe.**

35 (4) The director shall certify a [*health care provider or group of medical service providers*]
36 **managed care applicant** to provide managed care under a plan if the director finds that the plan:

37 (a) Proposes to provide medical and health care services required by this chapter in a manner
38 that:

39 (A) Meets quality, continuity and other treatment standards adopted by the [*health care provider*
40 *or group of medical service providers*] **managed care applicant** in accordance with processes ap-
41 proved by the director; and

42 (B) Is timely, effective and convenient for the worker.

43 (b) Subject to any other provision of law, does not discriminate against or exclude from partic-
44 ipation in the plan any category of medical service providers and includes an adequate number of
45 each category of medical service providers to give workers adequate flexibility to choose medical

1 service providers from among those individuals who provide services under the plan. However,
2 nothing in the requirements of this paragraph shall affect the provisions of ORS 441.055 relating to
3 the granting of medical staff privileges.

4 (c) Provides appropriate financial incentives to reduce service costs and utilization without
5 sacrificing the quality of service.

6 (d) Provides adequate methods of peer review, service utilization review, quality assurance,
7 contract review and dispute resolution to ensure appropriate treatment or to prevent inappropriate
8 or excessive treatment, to exclude from participation in the plan those individuals who violate these
9 treatment standards and to provide for the resolution of such medical disputes as the director con-
10 sidered appropriate. A majority of the members of each peer review, quality assurance, service utili-
11 zation and contract review committee shall be physicians licensed to practice medicine by the
12 Oregon Medical Board. *[As used in this paragraph:]*

13 *[(A) "Peer review" means evaluation or review of the performance of colleagues by a panel with*
14 *similar types and degrees of expertise. Peer review requires participation of at least three physicians*
15 *prior to final determination.]*

16 *[(B) "Service utilization review" means evaluation and determination of the reasonableness, neces-*
17 *sity and appropriateness of a worker's use of medical care resources and the provision of any needed*
18 *assistance to clinician or member, or both, to ensure appropriate use of resources. "Service utilization*
19 *review" includes prior authorization, concurrent review, retrospective review, discharge planning and*
20 *case management activities.]*

21 *[(C) "Quality assurance" means activities to safeguard or improve the quality of medical care by*
22 *assessing the quality of care or service and taking action to improve it.]*

23 *[(D) "Dispute resolution" includes the resolution of disputes arising under peer review, service*
24 *utilization review and quality assurance activities between insurers, self-insured employers, workers*
25 *and medical and health care service providers, as required under the certified plan.]*

26 *[(E) "Contract review" means the methods and processes whereby the managed care organization*
27 *monitors and enforces its contracts with participating providers for matters other than matters enu-*
28 *merated in subparagraphs (A), (B) and (C) of this paragraph.]*

29 (e) Provides a program involving cooperative efforts by the workers, the employer and the
30 managed care organizations to promote workplace health and safety consultative and other services
31 and early return to work for injured workers.

32 (f) Provides a timely and accurate method of reporting to the director necessary information
33 regarding medical and health care service cost and utilization to enable the director to determine
34 the effectiveness of the plan.

35 (g)(A) Authorizes workers to receive compensable medical treatment from a primary care phy-
36 sician or chiropractic physician who is not a member of the managed care organization, but who
37 maintains the worker's medical records and is a physician with whom the worker has a documented
38 history of treatment, if:

39 (i) The primary care physician or chiropractic physician agrees to refer the worker to the
40 managed care organization for any specialized treatment, including physical therapy, to be furnished
41 by another provider that the worker may require;

42 (ii) The primary care physician or chiropractic physician agrees to comply with all the rules,
43 terms and conditions regarding services performed by the managed care organization; and

44 (iii) The treatment is determined to be medically appropriate according to the service utilization
45 review process of the managed care organization.

1 (B) Nothing in this paragraph is intended to limit the worker's right to change primary care
2 physicians or chiropractic physicians prior to the filing of a workers' compensation claim.

3 (C) A chiropractic physician authorized to provide compensable medical treatment under this
4 paragraph may provide services and authorize temporary disability compensation as provided in ORS
5 656.005 (12)(b)(B) and 656.245 (2)(b). However, the managed care organization may authorize
6 chiropractic physicians to provide medical services and authorize temporary disability payments
7 beyond the periods established in ORS 656.005 (12)(b)(B) and 656.245 (2)(b).

8 *[(D) As used in this paragraph, "primary care physician" means a physician who is qualified to*
9 *be an attending physician referred to in ORS 656.005 (12)(b)(A) and who is a family practitioner, a*
10 *general practitioner or an internal medicine practitioner.]*

11 (h) Provides a written explanation for denial of participation in the managed care organization
12 plan to any licensed health care provider that has been denied participation in the managed care
13 organization plan.

14 (i) Does not prohibit the injured worker's attending physician from advocating for medical ser-
15 vices and temporary disability benefits for the injured worker that are supported by the medical
16 record.

17 (j) Complies with any other requirement the director determines is necessary to provide quality
18 medical services and health care to injured workers.

19 (5)(a) Notwithstanding ORS 656.245 (5) and subsection (4)(g) of this section, a managed care or-
20 ganization may deny or terminate the authorization of a primary care physician or chiropractic
21 physician to serve as an attending physician under subsection (4)(g) of this section or of a nurse
22 practitioner or physician associate to provide medical services as provided in ORS 656.245 (5) if the
23 physician, nurse practitioner or physician associate, within two years prior to the worker's enroll-
24 ment in the plan:

25 (A) Has been terminated from serving as an attending physician, nurse practitioner or physician
26 associate for a worker enrolled in the plan for failure to meet the requirements of subsection (4)(g)
27 of this section or of ORS 656.245 (5); or

28 (B) Has failed to satisfy the credentialing standards for participating in the managed care or-
29 ganization.

30 (b) The director shall adopt by rule reporting standards for managed care organizations to re-
31 port denials and terminations of the authorization of primary care physicians, chiropractic physi-
32 cians, nurse practitioners and physician associates who are not members of the managed care
33 organization to provide compensable medical treatment under ORS 656.245 (5) and subsection (4)(g)
34 of this section. The director shall annually report to the Workers' Compensation Management-Labor
35 Advisory Committee the information reported to the director by managed care organizations under
36 this paragraph.

37 (6) The director shall refuse to certify or may revoke or suspend the certification of **the State**
38 **Accident Insurance Fund Corporation**, any health care provider or group of medical service
39 providers to provide managed care if the director finds that:

40 (a) The plan for providing medical or health care services fails to meet the requirements of this
41 section.

42 (b) Service under the plan is not being provided in accordance with the terms of a certified plan.

43 (7) Any issue concerning the provision of medical services to injured workers subject to a
44 managed care contract and service utilization review, quality assurance, dispute resolution, contract
45 review and peer review activities as well as authorization of medical services to be provided by

1 other than an attending physician pursuant to ORS 656.245 (2)(b) shall be subject to review by the
2 director or the director's designated representatives. The decision of the director is subject to re-
3 view under ORS 656.704. Data generated by or received in connection with these activities, includ-
4 ing written reports, notes or records of any such activities, or of any review thereof, shall be
5 confidential, and shall not be disclosed except as considered necessary by the director in the ad-
6 ministration of this chapter. The director may report professional misconduct to an appropriate li-
7 censing board.

8 (8) No data generated by service utilization review, quality assurance, dispute resolution or peer
9 review activities and no physician profiles or data used to create physician profiles pursuant to this
10 section or a review thereof shall be used in any action, suit or proceeding except to the extent
11 considered necessary by the director in the administration of this chapter. The confidentiality pro-
12 visions of this section shall not apply in any action, suit or proceeding arising out of or related to
13 a contract between a managed care organization and a health care provider whose confidentiality
14 is protected by this section.

15 (9) A person participating in service utilization review, quality assurance, dispute resolution or
16 peer review activities pursuant to this section shall not be examined as to any communication made
17 in the course of such activities or the findings thereof, nor shall any person be subject to an action
18 for civil damages for affirmative actions taken or statements made in good faith.

19 (10) No person who participates in forming consortiums, collectively negotiating fees or other-
20 wise solicits or enters into contracts in a good faith effort to provide medical or health care services
21 according to the provisions of this section shall be examined or subject to administrative or civil
22 liability regarding any such participation except pursuant to the director's active supervision of
23 such activities and the managed care organization. Before engaging in such activities, the person
24 shall provide notice of intent to the director in a form prescribed by the director.

25 (11) The provisions of this section shall not affect the confidentiality or admission in evidence
26 of a claimant's medical treatment records.

27 (12) In consultation with the committees referred to in ORS 656.790 and 656.794, the director
28 shall adopt such rules as may be necessary to carry out the provisions of this section.

29 *[(13) As used in this section, ORS 656.245, 656.248 and 656.327, "medical service provider" means*
30 *a person duly licensed to practice one or more of the healing arts in any country or in any state or*
31 *territory or possession of the United States.]*

32 *[(14)] (13)* Notwithstanding ORS 656.005 (12) or subsection (4)(b) of this section, a managed care
33 organization contract may designate any medical service provider or category of providers as at-
34 tending physicians.

35 *[(15)] (14)* If a worker, insurer, self-insured employer, the attending physician or an authorized
36 health care provider is dissatisfied with an action of the managed care organization regarding the
37 provision of medical services pursuant to this chapter, peer review, service utilization review or
38 quality assurance activities, that person or entity must first apply to the director for administrative
39 review of the matter before requesting a hearing. Such application must be made not later than the
40 60th day after the date the managed care organization has completed and issued its final decision.

41 *[(16)] (15)* Upon a request for administrative review, the director shall create a documentary
42 record sufficient for judicial review. The director shall complete administrative review and issue a
43 proposed order within a reasonable time. The proposed order of the director issued pursuant to this
44 section shall become final and not subject to further review unless a written request for a hearing
45 is filed with the director within 30 days of the mailing of the order to all parties.

1 [(17)] (16) At the contested case hearing, the order may be modified only if it is not supported
 2 by substantial evidence in the record or reflects an error of law. No new medical evidence or issues
 3 shall be admitted. The dispute may also be remanded to the managed care organization for further
 4 evidence taking, correction or other necessary action if the Administrative Law Judge or director
 5 determines the record has been improperly, incompletely or otherwise insufficiently developed. De-
 6 cisions by the director regarding medical disputes are subject to review under ORS 656.704.

7 [(18)] (17) Any person who is dissatisfied with an action of a managed care organization other
 8 than regarding the provision of medical services pursuant to this chapter, peer review, service
 9 utilization review or quality assurance activities may request review under ORS 656.704.

10 [(19)] (18) Notwithstanding any other provision of law, original jurisdiction over contract review
 11 disputes is with the director. The director may resolve the matter by issuing an order subject to
 12 review under ORS 656.704, or the director may determine that the matter in dispute would be best
 13 addressed in another forum and so inform the parties.

14 [(20)] (19) The director shall conduct such investigations, audits and other administrative over-
 15 sight in regard to managed care as the director deems necessary to carry out the purposes of this
 16 chapter.

17 [(21)(a)] (20)(a) Except as otherwise provided in this chapter, only a managed care organization
 18 certified by the director may:

19 (A) Restrict the choice of a health care provider or medical service provider by a worker;

20 (B) Restrict the access of a worker to any category of medical service providers;

21 (C) Restrict the ability of a medical service provider to refer a worker to another provider;

22 (D) Require preauthorization or precertification to determine the necessity of medical services
 23 or treatment; or

24 (E) Restrict treatment provided to a worker by a medical service provider to specific treatment
 25 guidelines, protocols or standards.

26 (b) The provisions of paragraph (a) of this subsection do not apply to:

27 (A) A medical service provider who refers a worker to another medical service provider;

28 (B) Use of an on-site medical service facility by the employer to assess the nature or extent of
 29 a worker's injury; or

30 (C) Treatment provided by a medical service provider or transportation of a worker in an
 31 emergency or trauma situation.

32 (c) Except as provided in paragraph (b) of this subsection, if the director finds that a person has
 33 violated a provision of paragraph (a) of this subsection, the director may impose a sanction that may
 34 include a civil penalty not to exceed \$2,000 for each violation.

35 (d) If violation of paragraph (a) of this subsection is repeated or willful, the director may order
 36 the person committing the violation to cease and desist from making any future communications
 37 with injured workers or medical service providers or from taking any other actions that directly or
 38 indirectly affect the delivery of medical services provided under this chapter.

39 (e)(A) Penalties imposed under this subsection are subject to ORS 656.735 (4) to (6) and 656.740.

40 (B) Cease and desist orders issued under this subsection are subject to ORS 656.740.

41 **SECTION 4. (1) Individuals employed by the State Accident Insurance Fund Corporation**
 42 **or a subsidiary who receive and process claims may not provide managed care services to**
 43 **injured workers.**

44 **(2) The Director of the Department of Consumer and Business Services shall conduct an**
 45 **annual audit of the State Accident Insurance Fund Corporation or a subsidiary that provides**

1 managed care services to injured workers under ORS 656.260 to ensure that the corporation
2 or subsidiary has sufficient separation between claims processing operations and the pro-
3 vision of managed care services to injured workers.

4 (3) The director shall issue an annual report to the Governor, the President of the Senate
5 and the Speaker of the House of Representatives on the results of the audit and review.

6 (4) The cost of the audit required under subsection (2) of this section shall be paid by the
7 State Accident Insurance Fund Corporation.

8 (5) The director may adopt any rules the director considers necessary or appropriate for
9 the implementation of this section.

10 SECTION 5. Sections 2 and 4 of this 2025 Act are added to and made a part of ORS
11 chapter 656.

12 SECTION 6. This 2025 Act takes effect on the 91st day after the date on which the 2025
13 regular session of the Eighty-third Legislative Assembly adjourns sine die.

14