

## **HB 4104-2**

**SUBJECT: Expands medical services payable under interim medical benefits.**

**SPONSOR: House Interim Committee on Consumer Protection and Government Efficiency**

**Existing Law:**

- Interim medical benefits are medical services provided from the date of the employer's knowledge of a claim to the date the claim is accepted or denied. However, interim medical benefits are limited to the following medical services:
  - Diagnostic services required to identify appropriate treatment or to prevent disability;
  - Medication to alleviate pain; or
  - Services required to stabilize the worker's claimed condition and to prevent further disability.
- Interim medical benefits are not due when the insurer denies the claim within 14 days of the date of employer's notice.
- When a claim is denied and a health benefit plan provides benefits to the worker, the health plan becomes the first payer of medical services according to the terms, conditions, and benefits of the plan. The workers' compensation insurer then pays any balance remaining, up to the workers' compensation fee schedule.

**This bill, with -2 amendments:**

- Provides that when a workers' compensation claim has not yet been accepted or denied, the health benefit plan must expedite pre-authorization and guarantee payment of expenses for medical services provided prior to claim acceptance or denial according to the terms, conditions, and benefits of the health benefit plan.
- Provides that when a workers' compensation claim has been accepted, the workers' compensation insurer must pay for any medical services related to the compensable conditions that were provided prior to claim acceptance. This includes reimbursing any medical expenses, co-payments, and deductibles paid by the health benefit plan or the injured worker for such medical services.
- Provides that when a workers' compensation claim has been denied, the health benefit plan must pay for medical services provided prior to claim denial according to the terms, conditions, and benefits of the plan. After payment by the health benefit plan, the workers' compensation insurer must pay any balance remaining for services provided prior to claim denial up to the workers' compensation fee schedule. Any payments issued by the workers' compensation insurer under this bullet (i.e. on denied claims), may be recovered as an overpayment by the workers' compensation insurer as provided under ORS 656.268 (14).

- Clarifies that, for the purpose of interim medical benefits, self-insured benefit plans and health benefit plans offered by the Oregon Educators Benefit Board and the Public Employees' Benefit Board are considered health benefit plans.
- Amends the insurance code:
  - Prohibits health benefit plans from excluding work-related injuries or occupational disease if the worker is covered by workers' compensation insurance and the health benefit plan and the injured worker has submitted a workers' compensation claim that has not yet been accepted or denied by the workers' compensation insurer.
  - Requires health benefit plans to expedite pre-authorization required for work-related injuries or occupational disease if the worker is covered by workers' compensation insurance and the health benefit plan and the injured worker has submitted a workers' compensation claim that has not been accepted or denied by the workers' compensation insurer yet.
  - Requires health benefit plans to guarantee payment of the pre-authorized medical services according to the terms, conditions, and benefits of the plan if the claim is found not to be a compensable workers' compensation claim.
  - Clarifies that, for the purpose of interim medical benefits, health benefit plan has the same meaning given that term in ORS 734.730 and that self-insured benefit plans and health benefit plans offered by the Oregon Educators Benefit Board and the Public Employees' Benefit Board are considered health benefit plans.

**Analysis:**

1. Under current law, interim medical benefits for workers are limited to three distinct types of services – diagnostic, medication, and stabilizing services. This bill would expand the medical services that qualify for interim medical benefits and include any service covered by the worker's health benefit plan.
2. Under current law, medical services that attempt to cure a claimed condition, such as certain surgeries or physical therapies do not qualify as interim medical benefits. Under this bill, medical services that attempt to cure a claimed condition would likely qualify as interim medical benefits because, generally, these are benefits payable under health benefit plans.
3. This bill will not affect how quickly medical providers receive payments for services that qualify as interim medical benefits, since health benefit plans do not have to issue payments prior to the workers' compensation decision. However, providers may be less hesitant to accept injured workers as patients because the health benefit plan has to guarantee payment.
4. Workers' compensation insurers should expect an increase in costs for interim medical benefits because more services will qualify as interim medical benefits. It is not possible to quantify the amount of additional cost to insurers.
5. The department will need to clarify some aspects of this bill through administrative rule. For example, how to address treatments that are currently excluded from compensability under ORS 656.245 (e.g., intradiscal electrothermal therapy, prolotherapy) that may be covered services by the health benefit plan.

**Questions and/or suggested amendments:**

- The bill requires workers' compensation insurer to reimburse the worker for any co-payment or deductible paid for by the worker when the claim is accepted. There is no such provision when the claim is denied.

**Fiscal Impact to DCBS:** None expected.

**Other Economic Impact:** There may be an increase in medical services qualifying as interim medical benefits with associated increased costs to workers' compensation insurers.

**Support:** Rep. Holvey

**Opposition:** Unknown

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