

March 30, 2023

Cara Filsinger,  
Legislative Coordinator  
Senior Policy Analyst  
Management-Labor Advisory Committee Administrator  
Oregon Workers Compensation Division

RE: SAIF Corporation's written comments regarding HB 3412 A-Engrossed

Dear Ms. Filsinger:

SAIF Corporation has reviewed the A-Engrossed version of HB 3412. After our review of the A-Engrossed version of HB 3412 we believe there are a few minor areas where clarification could be beneficial. Each minor area below is marked as an addition in bold.

The first area of clarification is within ORS 656.245(4) and focuses on a sentence that references ORS 656.260(4) relating to continuing treatment with a specific medical provider when a worker is enrolled in an MCO.

ORS 656.245 (4)(b)(B) If the insurer or self-insured employer gives notice that the worker is required to receive treatment from the managed care organization, the insurer or self-insured employer must guarantee that any reasonable and necessary services so received, that are not otherwise covered by health insurance, will be paid as provided in ORS 656.248, even if the claim is denied, until the worker receives actual notice of the denial or until three days after the denial is mailed, whichever event first occurs. The worker may elect to receive care from a primary care physician, **physician assistant** or nurse practitioner authorized to provide compensable medical services under this section who agrees to the conditions of ORS 656.260 (4)(g). However, guarantee of payment is not required by the insurer or self-insured employer if this election is made.

The second area of clarification is within ORS 656.245(5)(a). It is not clear that definitions from 656.005(12)(b) which focus on non-MCO situations would necessarily carry over to MCO situations.

Specifically, if a worker was in an MCO and treated in Idaho with an Idaho licensed physician assistant it is not clear that the "similarly licensed physician assistant in any country or in any state, territory or possession of the United States." clause of the definition described in ORS 656.005(12)(b)(C) would apply in the MCO context. Adding in the same phraseology or a cross reference would help avoid potential unintended consequences such as a challenge to whether a worker enrolled in an MCO treating outside Oregon could treat with a local Physician Assistant that is properly licensed in that state.

**ORS 656.245 (5)(a)** A nurse practitioner or a physician assistant, **as defined by ORS 656.005(12)(b)(C)**, who is not a member of the managed care organization is authorized to provide the same level of services as a primary care physician as established by ORS 656.260 (4)..."

The third area relates to ORS 656.260(5)(a) which focuses on an MCO's ability to deny or terminate the "come along" provider status that may be granted by ORS 656.265(4).

**ORS 656.260(5)(a)** Notwithstanding ORS 656.245 (5) and subsection (4)(g) of this section, a managed care organization may deny or terminate the authorization of a primary care physician or chiropractic physician to serve as an attending physician under subsection (4)(g) of this section or of **a physician assistant or a nurse practitioner** to provide medical services as provided in ORS 656.245 (5) if the physician, **physician assistant** or nurse practitioner, within two years prior to the worker's enrollment in the plan:

(A) Has been terminated from serving as an attending physician or nurse practitioner for a worker enrolled in the plan for failure to meet the requirements of subsection (4)(g) of this section or of ORS 656.245 (5); or (B) Has failed to satisfy the credentialing standards for participating in the managed care organization.

(b) The director shall adopt by rule reporting standards for managed care organizations to report denials and terminations of the authorization of primary care physicians, chiropractic physicians, **physician assistants** and nurse practitioners who are not members of the managed care organization to provide compensable medical treatment under ORS 656.245 (5) and subsection (4)(g) of this section.

We have shared the above thoughts with WCD staff and stakeholders. If you have any questions, feel free to contact me.

Sincerely,

*Kevin Barrett*

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