Chapter 655

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Benefits for Sick or Injured Employes

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CONTRACTS BY EMPLOYERS FOR MEDICAL CARE OF EMPLOYES

655.010 Definitions for ORS 655.010 to 655.160. As used in ORS 655.010 to 655.160:

(1) "Employer" means and includes any person, firm, company, corporation or association doing business within this state.

(2) "Contractor" means and includes any person, firm, company, association or corporation contracting or agreeing with any employer in this state to furnish or provide for medical, surgical or hospital care, or all of them, and attention and related services and care for the employes of such employer.

(3) "Commissioner" means the State Insurance Commissioner.

655.020 Authority of employer to contract to furnish medical care to employes and retain portion of employe's wages. (1) An employer may enter into a written contract to provide for or furnish to his employes medical and surgical attention, hospital care, X-rays, ambulance, nursing or any related service or care contingent upon sickness or injury, and may collect or retain a portion of the wages of the employes for such purposes, and may pay the same over to the contractor as provided in ORS 655.010 to 655.160.

(2) No employer shall collect or retain any part of the wages of any employe for medical, surgical or hospital care and attention, or for any of the services mentioned in this section or use or expend any part of the wages so collected or retained for such purposes, except as provided in ORS 655.010 to 655.160.

655.030 Terms of contract; inspection by employe; posting notice of execution. (1) Every contract entered into under ORS 655.010 to 655.160 shall state in clear and well-defined terms the services and care to be provided for the employes, and such contract shall at all times be open to inspection by any employe for whose benefit it is made.

(2) The employer shall post and keep posted, in conspicuous places about his plant, notices stating that such a contract has been entered into for the benefit of the employes and is on file in the office of the employer.

655.040 Rejection of contract coverage by employe. Any employe may reject the coverage of any contract entered into pursuant to ORS 655.020 at the time the contract is entered into or at the time of his employment, if entering employment after the date of the contract, by giving written notice to the employer of his desire so to do, or, having been under such a contract, by giving such notice in writing not less than 30 days in advance of its anniversary date. No employer shall retain any portion of the wages of any employe who has filed such notice of rejection, and such employe shall not be entitled to any of the benefits of the contract; provided, that any employe who has filed such notice of rejection shall have the right, by withdrawing his rejection and subject to acceptance by the medical contractor, to come under the coverage of the contract at a future date to be agreed upon with the medical contractor.

655.050 Filing copy of contract with commissioner. (1) The contractor shall keep on file with the State Insurance Commissioner true copies of the forms for contracts in use by the contractor.

(2) Any contractor not required to qualify under ORS chapter 742 and who is exempt from paying the annual license fee prescribed by ORS 742.040 shall, at the time of entering into any contract under ORS 655.010 to 655.160 and before such a contract shall be effective, file a true copy of such contract with the commissioner and pay to the commissioner a filing fee of $5 for each of the first two such contracts so filed and a filing fee of $1 for each additional contract so filed, but no contractor shall be required to pay more than $25 in the aggregate in any one calendar year.

655.060 Certificate of approval of contract by commissioner; revocation of certificate. (1) If the commissioner finds that the contract as filed complies with ORS 655.010 to 655.160, he shall so certify to the contractor and employer.

(2) If the commissioner finds upon examination or other evidence, after reasonable notice to the employer and the contractor and a hearing for that purpose, that the contractor has failed to comply with the law or with the provisions of the contract filed by him or that the contractor has failed to submit to examination his books, records or accounts and papers in his possession or control relating to his contract and

its performance, for examination and inspection of the commissioner, his deputy or examiner, when required, the commissioner shall revoke or suspend his certificate of approval granted for such contract and shall cause notice to be given to such contractor and employer and no further deductions shall be made from pay of employes under such contract.

655.070 Duration of contract; cancelation by commissioner. (1) No contract entered into pursuant to ORS 655.020 shall be valid or effective between an employer and a contractor for a period of more than one year, except that the contractor may make a valid contract for two years with the previous consent of the commissioner.

(2) The commissioner may cancel any contract entered into under ORS 655.020 after notice to the employer and the contractor and a hearing for that purpose, if the commissioner finds that the service and care furnished or provided for are not reasonably efficient or that the contract is not being substantially performed or that the employer or contractor has failed to comply with ORS 655.010 to 655.160.

655.080 Amount of fee retained by employer. The fees to be collected and retained by the employer and paid over to the contractor under ORS 655.010 to 655.160 shall be such as are fixed by contract, except that no fee in excess of 10 cents per day shall be retained from the wages of any employe who works three days or less.

655.090 Effect of employe leaving or changing employment. (1) Any employe who has paid a fee for a full month, or any part thereof, under any contract entered into under ORS 655.020, and who leaves the employment in which he was engaged at the time such fee was paid before the expiration of the full period for which he has paid, is entitled to a receipt from the employer showing the period and the purpose for which such payment was made. Such employe is entitled to the protection and benefits of the contract under which the fee was paid to the end of the period for which the employe's payment applied.

(2) If such employe enters the employ of another employer during the period for which the fee was collected and retained from his wages, and files the receipt given him under subsection (1) of this section with such employer, no further fee shall be collected or retained from his wages for the period stated in the receipt.

655.100 Complaints by employe to commissioner; effect on fee collections. If any employe from whose wages fees have been retained under ORS 655.010 to 655.160 complains in writing to the commissioner as to the manner or the amounts of the deductions, the employer shall not, after notice by the commissioner to the employe and the contractor and hearing for that purpose, retain any further amounts from the employe's wages, except in the manner and in the amounts approved by the commissioner.

655.110 Prohibited use by employer of fees retained from employe's wages. (1) No employer shall retain, directly or indirectly, any part of the money collected or retained pursuant to ORS 655.010 to 655.160 for his own use or benefit.

(2) No employer engaged in a hazardous occupation, as defined by the workmen's compensation laws, shall apply, directly or indirectly, any portion of the money so collected to his cost of compensation or to the cost of any medical, surgical or hospital care and attention for employes on account of injuries sustained by them in the course of their employment, whether such employer has elected to accept or reject the coverage of the workmen's compensation law.

655.120 Commissions for soliciting contracts prohibited except for employes or agents of contractor. No contractor shall pay any fee or commission to any employer, employe or any third person, except duly appointed employes or agents of the contractor, for soliciting or securing the contracts referred to in ORS 655.020. No employer, employe or any other person, except duly appointed employes or agents of the contractor, shall accept, directly or indirectly, any fee or commission from any contractor, or any other person, for soliciting or securing any such contract.

655.130 Fees collected by employer are trust funds; separate accounts; priority on bankruptcy or insolvency of employer. (1) All moneys collected from employes or retained from their wages under ORS 655.010 to 655.160 are trust funds and shall be placed and kept in separate accounts by the employer and shall promptly be paid over to the contractor. Such funds shall in no

event become a part of the assets of the employer.

(2) If the employer fails to place and keep said funds in separate accounts and pay them over to the contractor as provided in ORS 655.010 to 655.160 or if the funds become commingled with the funds of the employer and the employer becomes bankrupt, insolvent or goes through voluntary or involuntary liquidation, or if a receiver is appointed to operate or liquidate the affairs of the employer, the funds not paid to the contractor shall be entitled to the same preference as given to claims of the State Industrial Accident Commission, as provided in ORS 656.562.

655.140 Record by employer; report to commissioner; inspection of records. (1) Each employer subject to ORS 655.010 to 655.160 shall keep a true and accurate record of the number of employes to which any contract made pursuant to ORS 655.020 applies, the amount of moneys collected or retained each month thereunder and such other information as the commissioner may require.

(2) Each employer shall, on or before the twentieth day of January, April, July and October of each year, report to the commissioner the amount of moneys collected or retained from his employes and the amounts paid over to the contractor. These reports shall be made as prescribed by the commissioner, on forms which he deems reasonable and necessary for the proper administration of ORS 655.010 to 655.160.

(3) The contracts, books and records of any contractor relating to contracts with employers shall be open at all reasonable times to inspection by the commissioner or his agents on request of the commissioner.

655.150 Effect of ORS 655.010 to 655.160 and contracts made thereunder on benefits of workmen's compensation law. (1) The contracts made pursuant to ORS 655.020 do not apply to sickness or injuries arising out of any hazardous employment eligible to coverage under the workmen's compensation law of Oregon, whether the employer has elected to accept or reject the coverage of that law.

(2) ORS 655.010 to 655.160 do not supersede or in any wise impair the benefits or any medical, surgical or hospital care to which the employe is or would be entitled under such workmen's compensation law.

655.160 Railroads exempted. ORS 655.010 to 655.160 do not apply to any class 1 railroad company engaged in interstate commerce.

655.170 Contracts for medical care of employes by employers who have rejected coverage under the workmen's compensation law. (1) Employers who have rejected the coverage of the workmen's compensation law of this state may, at their own expense, enter into written contracts with duly authorized medical contractors to provide for or furnish services and care for injured workmen made necessary by injuries arising during and in the course of their employment.

(2) All such contracts shall provide for or furnish first aid, including supplies and transportation, and medical, surgical and hospital services and related services and care of the same class and to the same extent as provided for by similar contracts established and in use by the State Industrial Accident Commission pursuant to the authority granted that commission under the workmen's compensation law of this state.

(3) The rates to be paid under such contracts for the several classes of industries shall be subject to the approval of the State Industrial Accident Commission, but in no case shall be less than necessary to provide adequate medical care.

(4) The employer shall file a copy of any such contract with the State Industrial Accident Commission within 10 days after such contract has been entered into, together with $5 for administrative expense.

(5) All such contracts shall be subject to the same supervision and regulations as is provided for similar contracts authorized and entered into by the State Industrial Accident Commission pursuant to ORS 656.242 to 656.248.

655.180 to 655.200 [Reserved for expansion]

LIABILITY OF CERTAIN EMPLOYERS FOR MEDICAL CARE OF EMPLOYES

655.210 Liability of certain employers for medical care of employes arising out of injuries sustained in course of employment. (1) Every employer employing at any one time 10 or more employes and carrying on a hazardous occupation in this state, as

defined by the workmen's compensation law of this state, having elected not to provide for compensation for his employes through the Industrial Accident Fund for injuries sustained during and in the course of such employment, who makes settlement with an employe or his beneficiary growing out of a claim of an injury to the employe in the course of the employe's employment in such occupation, shall be liable for the medical, surgical and hospital care, X-rays, medical or surgical supplies, nursing, ambulance and related services made necessary by such injury.

(2) The doctor, druggist, hospital, nurse or other party rendering the service shall have a cause of action against such an employer for the value thereof but not exceeding the sums fixed by the schedule of fees and charges adopted by the State Industrial Accident Commission for payment of like fees and charges by it and in effect at the time the goods were furnished or the services rendered; provided, that notice of pending claims for such services shall be filed in writing with the employer by the doctor, druggist, hospital, nurse or other party rendering such services within 60 days from the date the injury was sustained or claimed to have been sustained. The employer shall not be directly liable to the persons rendering such services for any claims for such services unless notice thereof is filed with the employer within such 60-day period.

655.220 to 655.980 [Reserved for expansion]

PENALTIES

655.990 Penalties. (1) Violation of any of the provisions of ORS 655.010 to 655.160 by any employer or contractor is punishable, upon conviction, by a fine of not less than $50 nor more than $500.

(2) Violation of ORS 655.170 is a misdemeanor.