

Chapter 655

1963 REPLACEMENT PART

Benefits for Sick or Injured Employes, Trainees and Inmates

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CONTRACTS BY EMPLOYERS FOR MEDICAL CARE OF EMPLOYEES

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 pur-

suant 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 employees under such contract.

655.070 Duration of contract; cancellation 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 employee 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 655.400 [Reserved for expansion]

BENEFITS FOR MENTALLY RETARDED MINOR INJURED IN SPECIAL EDUCATIONAL TRAINING PROGRAM

655.405 Definitions for ORS 655.405 to 655.450. As used in ORS 655.405 to 655.450:

(1) "Beneficiary" means a parent, guardian or other person who has paid expenses of a minor which are compensable under the provisions of ORS 655.405 to 655.450.

(2) "Commission" means the State Industrial Accident Commission.

(3) "Employer" means any person who provides on-the-job training for trainees in cooperation with a school district even though no wages or salary is paid to the trainee.

(4) "Employment" means work experience through nonremunerative, on-the-job training as a part of a special education program of the school district occurring on the premises of school buildings of the district

or at such other places as the school district and the employer may agree.

(5) "Injury" means any personal injury sustained by a trainee by accident, disease or infection arising out of and in the course of his employment, or death resulting proximately therefrom.

(6) "Trainee" means a mentally retarded minor who is participating in a special educational training program of the school district in which the minor is enrolled, and who shall be considered sui juris for the purposes of ORS 655.405 to 655.450.

[1963 c.472 §1]

655.410 Trainees to receive benefits for injuries in employment; exclusive remedy.

(1) Every trainee shall receive benefits as provided in ORS 655.405 to 655.450 for injury sustained in his employment:

(a) Where the injury is proximately caused by or received in the course of his employment, with or without negligence of the trainee.

(b) Where injury is not intentionally self-inflicted:

(2) The filing of claims for benefits under ORS 655.405 to 655.450 is the exclusive remedy of a trainee or his beneficiary for injuries compensable under ORS 655.405 to 655.450 against the state, its political subdivisions, the school district board, its members, officers and employes, or any employer, regardless of negligence.

[1963 c.472 §§2, 5]

655.415 Payment of benefits. If a trainee sustains an injury, benefits shall be paid in the same manner as provided for injured workmen under the workmen's compensation laws of this state, except that:

(1) If the injury results in a temporary partial disability, no benefits shall accrue to the trainee on account of loss of wages due to such disability.

(2) Costs of rehabilitation services to disabled trainees shall be paid out of the Special Injury Fund established under ORS 655.445 in an amount approved by the commission which shall be the reasonable and necessary cost of such services, including services of a physician or rehabilitation facility specially qualified to render rehabilitation services. Expenses of rehabilitation may include travel, board and room, when necessary.

(3) The maximum amount payable for medical, surgical or hospital expenses, com-

pensation and rehabilitation on any one claim shall not exceed \$7,500.

[1963 c.472 §4]

655.420 Filing claim for benefits; limitations. (1) Claims for benefits under ORS 655.405 to 655.450 shall be filed by application with the commission in the manner provided for workmen's claims in ORS 656.272 to 656.284. The commission may, before granting the claim, require further information for determination of eligibility under ORS 655.405 to 655.450.

(2) The rights to benefits under ORS 655.405 to 655.450 shall be barred unless written claim is filed with the commission within 90 days after the injury, or if death results therefrom, within 90 days after death. However, if death occurs more than one year after the injury, the right shall be barred unless prior written claim based on the injury has been timely filed. The requirements of this subsection may be waived by the commission on the ground that, for good and sufficient reason, the claim could not be filed on time.

[1963 c.472 §6]

655.425 Judicial review of commission's action. If the trainee or his beneficiary is dissatisfied with the final decision of the commission, he may appeal any question of law or fact to the circuit court of the county where the injury occurred within 30 days from the date of mailing of such decision by the commission.

[1963 c.472 §9]

655.430 Benefits not assignable; exemption. No benefits payable under ORS 655.405 to 655.450 are subject to assignment prior to their receipt by the person entitled thereto, nor shall they pass by operation of law. These benefits and the right to receive them are also exempt from seizure on execution, attachment or garnishment, or by the process of any court.

[1963 c.472 §7]

655.435 Employers to keep records; evidentiary effect. (1) Every employer of a trainee shall maintain a record of the name and address of the trainee and a description of the work performed by such trainee.

(2) Records shall be open for inspection during the usual business hours by members of the commission or its authorized employees. The employer shall furnish the commission on request such information in the

records as is required for the administration of ORS 655.405 to 655.450.

(3) The information contained in such record shall be prima facie evidence of information on which the commission may rely in paying claims of trainees under ORS 655.405 to 655.450.

[1963 c.472 §3]

655.440 Agreement for administration of program; reimbursement of commission.

(1) The Department of Education and the commission shall enter into an agreement requiring the commission, as adjusting agent, to adjust and process claims and benefits payable to trainees and their beneficiaries. The agreement shall authorize the commission to make all expenditures necessary under ORS 655.405 to 655.450.

(2) The commission shall be reimbursed for expenses of services rendered in the administration of ORS 655.405 to 655.450, but such expenses shall not exceed 13 percent of the total receipts under ORS 655.405 to 655.450.

[1963 c.472 §§8, 13]

655.445 Special Injury Fund; federal contributions.

(1) There hereby is created a fund to be known as the Special Injury Fund, to be held by the State Treasurer and be by him deposited in such banks as are authorized to receive deposits of the General Fund. All moneys received by the commission pursuant to ORS 655.405 to 655.450 from the state or from the Federal Government shall be forthwith paid to the State Treasurer and shall become part of the Special Injury Fund. All payments of benefits under ORS 655.405 to 655.450 shall be made from the fund. Notwithstanding the provisions of ORS 291.238 and 293.145, the moneys deposited in the fund hereby are continuously appropriated for the purpose of paying benefits and administrative expenses of the commission. All moneys in the Special Injury Fund may be invested by the State Treasurer in the class of securities authorized by ORS 293.710, 293.720, 293.735 and 293.745 to 293.770, and the earnings from such investment shall be credited to the Special Injury Fund.

(2) Funds credited to the Special Injury Fund for the purposes of ORS 655.405 to 655.450 may be used to effect insurance or reinsurance with any authority or instrumentality, public or private, or otherwise to distribute the liability for compensation payable to persons entitled to recover under ORS 655.405 to 655.450.

(3) The commission may also accept and deposit to the credit of the Special Injury Fund contributions for premiums or compensation of persons entitled to recover under ORS 655.405 to 655.450 from the Federal Government or any of its agencies.

[1963 c.472 §§10, 12, 14]

655.450 Liability for benefits contingent on reserves in fund; precedence of expenses; priority among claimants. Liability of the commission or the Special Injury Fund for the payment of benefits under ORS 655.405 to 655.450 is contingent upon and limited by the availability of reserves in the fund. In the event that the reserves in the fund are not sufficient to meet the benefit payments and administration cost for a given period, the expenses of the commission shall have precedence over all other claims. Thereafter, priority among claimants is determined according to the time of filing of the claim.

[1963 c.472 §11]

BENEFITS FOR INJURED INMATES OF PENITENTIARY OR CORRECTIONAL INSTITUTION

655.505 Definitions for ORS 655.505 to 655.545. As used in ORS 655.505 to 655.545:

(1) "Authorized employment" means the employment of an inmate on an industrial, institutional or other work project as authorized under ORS 421.305 to 421.480.

(2) "Board" means the Oregon State Board of Control.

(3) "Commission" means the State Industrial Accident Commission.

(4) "Injury" is defined as provided in ORS chapter 656.

(5) "Inmate" means a prisoner of the Oregon State Penitentiary or the Oregon State Correctional Institution.

(6) The terms "beneficiary," "child" and "dependent" are defined as provided in ORS 656.002.

[1963 c.527 §1]

655.510 Inmates to receive benefits for injuries in authorized employment; exclusive remedy. (1) Every inmate shall receive benefits as provided in ORS 655.505 to 655.545 for injury sustained in an authorized employment:

(a) Where the injury is proximately caused by or received in the course of the authorized employment, with or without negligence of the inmate;

(b) Where the injury is not intentionally self-inflicted; and

(c) Where the injury is not a result of a wilful violation of work rules.

(2) The filing of claims for benefits under ORS 655.505 to 655.545 is the exclusive remedy of an inmate or his beneficiary for injuries compensable under ORS 655.505 to 655.545 against the state or its political subdivisions, regardless of negligence.

[1963 c.527 §§2, 4]

655.515 Payment of benefits. If an inmate sustains an injury as described in subsection (1) of ORS 655.510, benefits shall be paid in the same manner as provided for injured workmen under the workmen's compensation laws of this state, except that:

(1) No benefits, except rehabilitation services, shall accrue to the inmate until the date of his release from confinement and shall be based upon his condition at that time.

(2) Benefits shall be discontinued during any subsequent period of reconfinement in a penal institution.

(3) Costs of rehabilitation services to disabled inmates shall be paid out of the Inmate Injury Fund established under subsection (1) of ORS 655.540 in an amount approved by the commission which shall be the reasonable and necessary cost of such services, including services of a physician or rehabilitation facility specially qualified to render rehabilitation services. Expenses of rehabilitation may include travel, board and room, when necessary.

[1963 c.527 §3]

655.520 Filing claim for benefits; initial award; limitations. (1) Claims for entitlement to benefits under ORS 655.505 to 655.545 shall be filed by application with the commission in the manner provided for workmen's claims in ORS 656.272 to 656.284. Such claims shall be filed within the required periods after the injury even though actual benefits may not accrue until release of the inmate from confinement. The commission may, before acting upon a claim, require further information for determination of eligibility under ORS 655.505 to 655.545.

(2) When a claim is approved, the commission shall make an initial award conditioned as provided in subsection (1) of ORS 655.515. Upon release of the inmate from confinement, the commission shall reaffirm or modify its initial award in a manner appropriate to the condition of the inmate upon his release.

(3) The rights to benefits under ORS

655.505 to 655.545 shall be barred unless written claim is filed with the commission within 90 days after the injury, or if death results therefrom, within 90 days after death. However, if death occurs more than one year after the injury, the right shall be barred unless prior written claim based on the injury has been timely filed. The requirements of this subsection may be waived by the commission on the ground that, for good and sufficient reason, the claim could not be filed on time.

[1963 c.527 §5]

655.525 Judicial review of commission's action. An inmate or his beneficiary may obtain review of action taken on his claim as provided in ORS 656.284 to 656.294, except that appeal to the circuit court shall be to the circuit court of Marion County in all cases.

[1963 c.527 §6]

655.530 Benefits not assignable; exemption. No benefits payable under ORS 655.505 to 655.545 are subject to assignment prior to their receipt by the person entitled thereto, nor shall they pass by operation of law. These benefits and the right to receive them are also exempt from seizure on execution, attachment or garnishment, or by the process of any court.

[1963 c.527 §7]

655.535 Agreement for administration of program; reimbursement of commission.

(1) The board and the commission shall enter into an agreement requiring the commission, as adjusting agent, to adjust and process claims and benefits payable to inmates and their beneficiaries. The agreement shall authorize the commission to make all expenditures necessary under ORS 655.505 to 655.545.

(2) The commission shall be reimbursed for expenses of services rendered in the administration of ORS 655.505 to 655.545, but such expenses shall not exceed 12 percent of the total receipts under ORS 655.505 to 655.545.

[1963 c.527 §§8, 12]

655.540 Inmate Injury Fund. (1) There hereby is created a fund to be known as the Inmate Injury Fund, to be held by the State

Treasurer and to be deposited by him in such banks as are authorized to receive deposits of the General Fund. All payments of benefits under ORS 655.505 to 655.545 shall be made from the fund. Notwithstanding the provisions of ORS 291.238 and 293.145, the moneys deposited in the fund hereby are continuously appropriated for the purpose of paying benefits and administrative expenses of the commission. All moneys in the Inmate Injury Fund may be invested by the State Treasurer in the class of securities authorized by ORS 293.710, 293.720, 293.735 and 293.745 to 293.770, and the earnings from such investment shall be credited to the Inmate Injury Fund.

(2) Funds credited to the Inmate Injury Fund for the purposes of ORS 655.505 to 655.545 may be used to effect insurance or reinsurance with any authority or instrumentality, public or private, or otherwise to distribute the liability for compensation payable to persons entitled to recover under ORS 655.505 to 655.545.

[1963 c.527 §§9, 11]

655.545 Liability for benefits contingent on reserves in fund; precedence of expenses; priority among claimants. Liability of the commission or the Inmate Injury Fund for the payment of benefits under ORS 655.505 to 655.545 is contingent upon and limited by the availability of reserves in the fund. In the event that the reserves in the fund are not sufficient to meet the benefit payments and administration cost for a given period, the expenses of the commission shall have precedence over all other claims. Thereafter, priority among claimants is determined according to the time of filing of the claim.

[1963 c.527 §10]

655.550 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.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1963.

Sam R. Haley
Legislative Counsel