

Chapter 655

1987 REPLACEMENT PART

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BENEFITS FOR INJURED INMATES OF PENITENTIARY, CORRECTIONAL INSTITUTION OR WORK CAMP

655.505 Definitions for ORS 655.505 to 655.550. As used in ORS 655 505 to 655 550

(1) "Authorized employment" means the employment of an inmate

(a) As authorized by ORS 421 305 to 421 340,

(b) As authorized by ORS 421 450 to 421 480, or

(c) In any activity for which compensation has been established pursuant to ORS 421 408

(2) "Department" means the Department of Justice

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

(4) "Inmate" means a person committed to the physical and legal custody of the Department of Corrections

(5) The terms "beneficiary," "child" and "dependent" are defined as provided in ORS 656 005 [1963 c 527 §1, 1967 c 504 §10, 1969 c 247 §6, 1969 c 597 §63, 1975 c 631 §1, 1987 c 320 §241]

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 655 550 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 655 550 is the exclusive remedy of an inmate or beneficiary of the inmate for injuries compensable under ORS 655 505 to 655 550 against the state or its political subdivisions, regardless of negligence [1963 c 527 §§2, 4]

655.515 Payment of benefits under ORS 655.505 to 655 550. If an inmate sustains an injury as described in ORS 655 510 (1), benefits shall be paid in the same manner as provided for injured workers under the workers' compensation laws of this state, except that

(1) No benefits, except rehabilitation services, shall accrue to the inmate until the date of release from confinement and shall be based upon the condition of the inmate 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 ORS 655 540 (1) in an amount approved by the Department of Justice 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 655 550 shall be filed by application with the Department of Justice in the manner provided for workers' claims in ORS 656 001 to 656 794, to the extent not inconsistent with ORS 655 505 to 655 550. 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 department may, before acting upon a claim, require further information for determination of eligibility under ORS 655 505 to 655 550.

(2) When a claim is approved, the department shall make an initial award conditioned as provided in ORS 655 515 (1). Upon release of the inmate from confinement, the department shall reaffirm or modify its initial award in a manner appropriate to the condition of the inmate upon release.

(3) The rights to benefits under ORS 655 505 to 655 550 shall be barred unless written claim is filed with the department 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 department on the ground that, for good and sufficient reason, the claim could not be filed on time [1963 c 527 §5, 1965 c 285 §79d].

655.525 Review of claim under ORS 655.505 to 655.550. An inmate or the beneficiary of the inmate may obtain review of action taken on the claim as provided in ORS 656 283 to 656 304 [1963 c 527 §6, 1965 c 285 §79e, 1983 c 740 §241a].

655.530 Benefits under ORS 655.505 to 655.550 not assignable; exemption. No benefits payable under ORS 655 505 to 655 550 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. (1) The Department of Corrections and the Department of Justice shall enter into an agreement requiring the Department of Justice, as adjusting agent, to adjust and process claims and benefits payable to inmates and their beneficiaries. The agreement shall authorize the Department of Justice to make all expenditures necessary under ORS 655 505 to 655 550.

(2) The Department of Justice shall be reimbursed for expenses of services rendered in the administration of ORS 655 505 to 655 550 from the receipts under ORS 655 505 to 655 550 [1963 c 527 §§8, 12, 1981 c 211 §1, 1987 c 320 §242].

655.540 Inmate Injury Fund. (1) There is created an Inmate Injury Fund, to be held by the State Treasurer and to be deposited by the State Treasurer in such banks as are authorized to receive deposits of the General Fund. All payments of benefits under ORS 655 505 to 655 550 shall be made from the Inmate Injury Fund. Notwithstanding ORS 291 238 and 293 145, the moneys deposited in the Inmate Injury Fund are continuously appropriated for the purpose of paying benefits and administrative expenses of the Department of Justice. All moneys in the Inmate Injury Fund may be invested as provided in ORS 293 701 to 293 776, 293 810 and 293 820, 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 655 550 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 655 550 [1963 c 527 §§9, 11, 1967 c 335 §54, 1967 c 637 §§25, 25a].

655.545 Liability for benefits contingent on reserves in fund; precedence of expenses; priority among claimants. Liability of the Department of Justice or the Inmate Injury Fund for the payment of benefits under ORS 655 505 to 655 550 is contingent upon and limited by the availability of reserves in the Inmate Injury Fund. In the event that the reserves in the Inmate Injury Fund are not sufficient to meet the benefit payments and administration cost for a given period, the expenses of the department 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 Assessment of Inmate Injury Fund. The Workers' Compensation Board may from time to time assess the Inmate Injury Fund for the reasonable cost of services provided by the board under ORS 655 505 to 655 550 [1965 c 285 §79g].

BENEFITS FOR INJURED OCCUPATIONALLY HANDICAPPED TRAINEES

655.605 Definitions for ORS 655.605 and 655.615. As used in ORS 655 605 and 655 615

(1) "Employer" means any person who provides on-the-job training for trainees in cooperation with the Vocational Rehabilitation Division or the Commission for the Blind even though no wages or salary is paid to the trainee

(2) "Employment" means work experience through nonremunerative, on-the-job training as a part of a special training program of the Vocational Rehabilitation Division or the Commission for the Blind occurring on the premises of the employer or at such other places as the Vocational Rehabilitation Division or the Commission for the Blind and the employer may agree

(3) "Injury" means any personal injury sustained by a trainee by accident, disease or infection arising out of and in the course of employment, or death resulting proximately therefrom as provided in ORS chapter 656

(4) "State Accident Insurance Fund Corporation" and "corporation" mean the State Accident Insurance Fund Corporation created under ORS 656 752

(5) "Trainee" or "client" means an occupationally handicapped person who is participating in a special training or evaluation program of the Vocational Rehabilitation Division or the Commission for the Blind in which the trainee is enrolled

(6) "Division" means the Vocational Rehabilitation Division or the Commission for the Blind [1971 c 581 §1, 1973 c 429 §1, 1979 c 814 §5 1981 c 184 §1]

655.615 Payment of benefits to injured occupationally handicapped trainees. (1) All clients participating in a work evaluation or work experience program of the division are considered as workers subject to ORS 656 001 to 656 794 for purposes of this section

(2) The division shall submit a written statement to the State Accident Insurance Fund Corporation that includes a description of the work to be performed by such clients

(3) Upon receiving the written statement, the corporation may fix assumed wage rates for the clients enrolled in the work evaluation or work experience program, without regard to ORS chapter 652, ORS 653 010 to 653 545 or 653 991, which may be used only for purposes of computations under ORS 656 001 to 656 794

(4) The division shall maintain a separate list of the names of those enrolled in its work evaluation or work experience program, and shall, upon request, furnish or make such list available to the corporation. Clients covered under this section are entitled to the benefits of ORS 656 001 to 656 794 and they are entitled to such benefits if injured as provided in ORS 656 156 and 656 202 while performing any duties arising out of and in the course of their participation in the work evaluation or work experience program, provided the duties being performed are among those described in the written statement referred to in subsection (2) of this section

(5) The filing of claims for benefits under this section is the exclusive remedy of a trainee or the beneficiary of the trainee for injuries compensable under ORS 656 001 to 656 794 against the state, its political subdivisions, its officers and employes, or the person who provides on-the-job training or job evaluation services for the injured client, regardless of negligence except that the exclusive remedy provisions shall not apply in the case of suits brought under the provisions of ORS 656 576 to 656 595 against third parties [1971 c 581 §2 1981 c 184 §2, 1983 c 706 §1]

655 990 [Amended by 1965 c 285 §86, 1967 c 359 §698, renumbered as part of 652 990]

