Chapter 445

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Indigents Injured in Motor Vehicle Accidents

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CROSS REFERENCES

Deaths or injuries to be reported, Ch. 146

445.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Ambulance operator" means any person operating an ambulance for hire.

(2) "Care" means:

(a) Treatment in and by a hospital.

(b) Professional services of a doctor.

(c) Professional services of a nurse.

(d) Medicines, substances, articles, appliances or physical therapy supplied on the prescription or order of the doctor in charge of the case.

(e) Transportation and services by an ambulance operator.

(f) Supplying prosthetic appliances and services.

(g) Any combination of any two or more of the services listed in this subsection.

(h) Professional services of a licensed physical therapist.

(3) "Claimant" means a hospital, doctor, nurse, pharmacy, ambulance operator, supplier of prosthetic appliances and services or licensed physical therapist, who supplies care to an indigent patient, and who files a claim for charges therefor pursuant to this chapter. In respect of a hospital, it includes the operator or managing officer thereof. "Claimant" also means an indigent patient, or a personal representative of the patient after the death of the patient, but claims allowed shall be paid directly to those who supply care to the indigent patient; and an indigent claimant, or personal representative of the patient, has no right of appeal under ORS 445.160 (1969 Replacement Part).

(4) "Division" means the Adult and Family Services Division of the Department of Human Resources.

(5) "Doctor" means a person licensed by the appropriate board of this state to practice one or more of the healing arts.

(6) "Hospital" includes nursing homes and means any institution that has a provider agreement with the division and which admits and cares for patients suffering from motor vehicle injuries and applies for the benefits of this chapter in the manner provided in ORS 445.110.

(7) "Indigent patient" means a person who has suffered a motor vehicle injury and who is unable to pay the cost of the care supplied on account of such injury and, except in the case of a claim filed after a claim arising out of the same motor vehicle injury has been allowed by the division or finally adjudged affirmatively by a court on appeal, whose account therefor remains unpaid at the expiration of 90 days after the termination of the care and who is not entitled to the benefits of the Workers' Compensation Law of this state or any other state or country on account of such injury.

(8) "Motor vehicle injury" means any personal injury suffered by a human being, and accidentally caused in, by, or as the proximate result of, the movement of a motor vehicle on a public way, street or highway within this state, whether the injured person is the operator of the vehicle, a passenger in the same or another vehicle, a pedestrian or whatever the relationship of the injured person to the movement of the vehicle, and whether or not the vehicle is under the control of a human being at the time of the injury.

(9) "Nurse" means a person registered or licensed to practice nursing by the Oregon State Board of Nursing.

(10) "Pharmacy" means a place of business licensed by the State Board of Pharmacy, whereat drugs, medicines, prescriptions, chemicals or poisons are compounded, dispensed or sold at retail.

(11) "Supplier of prosthetic appliances and services" means a place of business or person licensed to manufacture or supply prosthetic appliances and services.

(12) "Licensed physical therapist" means a physical therapist within the State of Oregon licensed by the Physical Therapist Licensing Board. [Amended by 1953 c.399 §1; 1965 c.376 §1; 1969 c.247 §4; 1969 c.260 §1; 1973 c.141 §1; 1983 c.740 §164; 1985 c.279 §3]

445.020 Determination of indigency. (1) A person injured by the movement of a motor vehicle is deemed unable to pay the charges for care if it appears that, upon due and diligent search and inquiry, the person, or any other person chargeable by law with the care or support of the person, cannot be found for service of summons, or that, should an action be brought and judgment secured against the person, or against any other person chargeable by law with the care or support of the person, for the amount of the charges, execution thereon would be unavailing.

(2) Indigency of a patient shall be determined as of the date on which the patient becomes unable to pay the cost of the care.

445.030 Motor Vehicle Accident Fund; source; uses. (1) There is created a fund to be known as the Motor Vehicle Accident Fund, to be held and deposited by the State Treasurer in such banks as are authorized to receive deposits of the General Fund.

(2) All moneys received by the Adult and Family Services Division under this chapter

and by the Department of Transportation under ORS 802.110 shall forthwith be paid to the State Treasurer, and shall become a part of the fund.

(3) The following shall be paid from the fund:

(a) All claims and benefits allowed by the division or finally adjudged affirmatively by a court on appeal in the amounts allowed or adjudged and within the limitations of ORS 445.060 and 445.070.

(b) All expenses of litigation incurred by the division on any appeal.

(c) All court costs and disbursements assessed against the division.

(d) All salaries, clerk hire, advances and reimbursement of travel costs and expenses incurred by the division in the administration of this chapter.

(4) Liability for payment of claims or judgments thereon, or both, and expenses authorized by this chapter shall be limited to the fund and all additions thereto made under this chapter. [Amended by 1965 c.376 §2; 1983 c.338 §29; 1983 c.740 §165; 1985 c.279 §4]

445.040 [Repealed by 1961 c.672 §2]

445.050 Jurisdiction and rulemaking. The division may:

(1) Hear and determine all questions within its jurisdiction.

(2) Promulgate and enforce all rules and regulations as may be proper in the administration and enforcement of this chapter. [Amended by 1985 c.279 §5]

445.060 Limitation on benefits for care supplied. Except as provided in ORS 445.070, the payment of benefits authorized by this chapter is limited to care supplied within one year from the date of the motor vehicle injury and is further limited so that for care supplied to any one indigent patient by reason of any one motor vehicle injury:

(1) No hospital or hospitals shall receive from the fund more than $3,000, in the aggregate.

(2) No doctor or doctors shall receive from the fund more than $1,250, in the aggregate.

(3) No nurse or nurses shall receive from the fund more than $500, in the aggregate.

(4) No pharmacy or pharmacies shall receive from the fund more than $500, in the aggregate.

(5) No ambulance operator or ambulance operators shall receive from the fund more than $250, in the aggregate.

(6) No supplier or suppliers of prosthetic appliances and services shall receive from the fund more than $500, in the aggregate.

(7) No licensed physical therapist or licensed physical therapists shall receive from the fund more than $500, in the aggregate. [Amended by 1953 c.399 §2; 1969 c.260 §2; 1973 c.141 §2]

445.070 Additional benefits permitted within limits. If it is made to appear to the division that the limitations of ORS 445.060 are not sufficient to provide necessary and adequate care of an indigent patient and that the condition of the indigent patient warrants such action, the division, in its sole discretion, the exercise of which shall be conclusive and not in any wise subject to review, may authorize the supplying of additional care to the indigent patient of the same type as the types of initial care authorized by this chapter and may pay for the same from the Motor Vehicle Accident Fund. No claim for additional care shall be enforceable under this chapter unless the division first approves and authorizes in writing the supplying of such additional care. No single authorization shall be for more than:

(1) For additional care supplied by a hospital or hospitals, $500.

(2) For additional care supplied by a doctor or doctors, $300.

(3) For additional care supplied by a nurse or nurses, $200.

(4) For additional care supplied by a pharmacy or pharmacies, $100.

(5) For additional care supplied by an ambulance operator or ambulance operators, $50.

(6) For additional care supplied by a supplier or suppliers of prosthetic appliances and services, $100.

(7) For additional care supplied by a licensed physical therapist or licensed physical therapists, $100. [Amended by 1969 c.260 §3; 1973 c.141 §3; 1985 c.279 §6]

445.080 [Amended by 1983 c.45 §1; repealed by 1985 c.279 §14]

445.090 Filing of claims; time for filing. (1) At the time of filing a claim under this chapter, the claimant shall submit to the division such information and data as the division may reasonably require.

(2) A claim filed under this chapter must be filed with the division within one year after the termination of the care supplied by the claimant. However, in computing the time there shall not be included that period beginning when any claim under ORS chapter 656 arising out of the same motor vehicle accident is filed by the indigent patient with the division, and ending when that claim has been finally decided. [Amended by 1953 c.399 §3; 1959 c.676 §1; 1965 c.376 §3; 1969 c.260 §4; 1983 c.45 §2]

445.100 [Repealed by 1965 c.376 §6]

445.110 Hospital claims; form and contents. Each claim shall be made in writing in the form prescribed by the division, and shall show, and be accompanied by, the following matters and things:

(1) The name and last-known post-office address of the person to whom care has been given.

(2) The number of days' care, with the dates of admission to the hospital and of discharge therefrom or other termination of care.

(3) The amount of the claim.

(4) A statement in writing showing the effort made by the hospital to collect the amount of the claim, the facts indicating the indigency of the patient, and the amount, if any, of money received from the patient or others in payment of the account of the patient.

(5) If reasonably obtainable, the affidavit of the indigent patient or of the person or agency, if any, responsible for the patient, and, if reasonably obtainable, the statement in writing of a public or private agency engaged in the relief of the poor, verifying the indigency of the patient. If the affidavit or statement does not accompany the claim, and it is alleged in the claim that such absence is owing to the fact that the affidavit or statement is not reasonably obtainable, the claim shall set forth the facts upon which such assertion is based.

(6) Any other information and data the division may reasonably require. [Amended by 1965 c.376 §4; 1983 c.45 §3; 1985 c.279 §7]

445.120 Filing of claims generally; combining claims. (1) The claim of a claimant other than a hospital shall be in form and substance like that provided in ORS 445.110 in so far as applicable and be accompanied by the same supporting documents. However, only one set of supporting documents need be filed in respect of any one indigent patient in regard to any one motor vehicle injury.

(2) An account for the services of an orthodontist for orthodontia performed by the orthodontist on the order of the doctor in charge of the case or an account for care supplied by a nurse, pharmacy, ambulance operator, supplier of prosthetic appliances and services or services of a licensed physical therapist may be, with the consent of the doctor, assigned to, and included as a part in and of the claim of, a hospital or doctor. [Amended by 1969 c.260 §5; 1973 c.141 §4]

445.130 Effect of liability of third person or commencement of legal action on settlement of claim. For the purposes of claims under ORS 445.110 and 445.120, an indigent patient who is not otherwise able to pay the charges for care supplied shall not be deemed to be able to pay them because a third person might be held liable in an action to recover damages on account of the motor vehicle injury, if an action has not been commenced. If an action has been commenced, the claim shall show that fact. In that event the division may suspend the determination of the claim until the action has been terminated and from time to time require the claimant to supply such further information and data in respect of the action as the division may deem necessary in order to determine the ultimate ability of the patient to pay the charges for which the claim is filed. [Amended by 1985 c.279 §8]

445.140 Audit and determination of validity of claims. The division shall examine and audit each claim filed with it under this chapter. From the information and data contained in the claim, the reports of the claimant, the documents so accompanying and supporting the claim and such other evidence as it may reasonably require or itself adduce, the division shall find and determine:

(1) Whether or not the claim has been filed within the time limited in ORS 445.090.

(2) Whether or not the claim is predicated upon care supplied to a person suffering from a motor vehicle injury.

(3) Whether or not the injured person is unable to pay the charges for which the claim is filed, within the meaning of ORS 445.020.

(4) Whether or not the claimant has made reasonable and timely effort to effect collection of its claim. [Amended by 1969 c.260 §6; 1985 c.279 §9]

445.150 Order allowing or rejecting claim; notice. (1) If, in the matter of the claim, the division finds and determines in the affirmative in respect of items listed in ORS 445.140, it shall, by its order made and filed in the matter, allow the claim in such amount, not exceeding the limitations in ORS 445.060 and 445.070, less such amount as has been paid on the account.

(2) If in its judgment the maintenance of the solvency of the Motor Vehicle Accident Fund so requires, the division may make payment in monthly installments of any claim which has been allowed by it, or finally adjudged affirmatively by a court on appeal.

(3) If the division finds and determines in the negative in respect of any item listed in ORS 445.140, it shall, by its order made and filed therein, reject the claim.

(4) The division promptly shall serve the claimant with a copy of its order, addressed

to the claimant at the claimant's last-known post-office address as shown by the records and files of the division. [Amended by 1983 c.45 §5; 1983 c.740 §116; 1985 c.279 §10]

445.155 Judicial review. Judicial review of regulations under ORS 445.050 and orders under ORS 445.150 shall be in accordance with ORS 183.310 to 183.550, provided that the amount involved in the appeal from the order exceeds $100, and provided further that the amount involved in the appeal from the decision of the court exceeds $500. [1971 c.734 §62]

445.160 [Repealed by 1971 c.734 §21]

445.170 [Repealed by 1985 c.279 §14]

445.180 Reassignment of rights to claimant on notice of finding person liable for care. (1) If it comes to the knowledge of a claimant who has received payment of a claim under this chapter that the patient in respect of whom the claim has been paid, or any other person chargeable by law with the care or support of the patient, has been paid, or is able to pay, the amount of the claim, the claimant shall diligently pursue such payment.

(2) A claimant who has received payment of a claim from the division under this chapter shall inform the division promptly and in writing if:

(a) The claimant receives any payment from or on behalf of the patient in respect of whom the claim has been paid or from any person chargeable by law with the care or support of the patient;

(b) The claimant knows or has reason to believe that the patient or any person chargeable by law with the care or support of the patient is able to pay the amount of the claim or any part thereof; or

(c) The claimant or any person on behalf of the claimant institutes an action against the patient or any person chargeable by law with the care or support of the patient to recover all or part of the amount of the claim.

(3) All moneys paid to or for the use or benefit of the claimant by or on behalf of the patient shall, after deduction of the reasonable cost of recovering them, be paid to the division for deposit in the Motor Vehicle Accident Fund. [Amended by 1985 c.279 §11]

445.185 When deduction may be made from payments on claim. When a claimant fails to pursue payment as required by ORS 445.180 or to pay to the division the amount required by ORS 445.180 to be paid, the division shall, after 60 days, deduct the amount paid by it on the claim from any subsequent payment made to the claimant unless it is made to appear to the satisfaction of the division that:

(1) Upon due and diligent search and inquiry neither the patient nor any person chargeable by law with the care or support of the patient can be found;

(2) An action against the patient or a person chargeable by law with the care or support of the patient has been instituted and is pending; or

(3) An action has been prosecuted to final judgment, all legal remedies for satisfaction of the judgment have been exhausted and the judgment has not been collected. [1985 c.279 §13]

445.190 [Repealed by 1985 c.279 §14]

445.200 [Repealed by 1985 c.279 §14]

445.210 [Repealed by 1985 c.279 §14]

445.220 [Repealed by 1985 c.279 §14]

445.230 [1961 c.470 §2; repealed by 1985 c.279 §14]

445.240 [1961 c.470 §3; 1983 c.45 §4; repealed by 1985 c.279 §14]

445.250 [1961 c.470 §4; repealed by 1985 c.279 §14]

445.260 [1961 c.470 §5; repealed by 1985 c.279 §14]

445.270 Limitation on entitlement to benefits. (1) Notwithstanding any other provision of this chapter, benefits are not available under this chapter for any person who is entitled to benefits under ORS 414.032.

(2) Nothing in this section limits any payment specifically provided by law to the Adult and Family Services Division from the Motor Vehicle Accident Fund for the purpose of reimbursing the Adult and Family Services Division for the costs of care provided to indigent patients under ORS 414.032. [1983 c.126 §3]