



# Distinguishing between injuries and diseases can impact Oregon claim processing

By Brian M. Solodky ■ June 30, 2016

Oregon law differentiates industrial injuries from occupational diseases by focusing on the development of the underlying condition causing a worker's disability. If the pathology responsible for the workers' condition develops gradually over an extended period of time, a claim for benefits most likely will be treated as an occupational disease.<sup>1</sup> Absent a traumatic on-the-job event, the sudden onset of symptoms is not enough to trigger an "injury" classification for evaluating entitlement to workers' compensation benefits.



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Why is the "injury versus disease" distinction important? Two key considerations. First, the standard for proving a compensable occupational disease is much higher for a claimant in the workers' compensation system. Workers must demonstrate that employment exposures are the major contributing cause (i.e., greater than 50 percent) of the actual condition(s) causing the need for treatment. The standard for industrial injuries only requires evidence that the on-the-job event(s) constitute a material cause (i.e., fact of consequence) to the worker's disability and/or need for treatment.

The second consideration is timely reporting. Workers must report injuries to their employers within 90 days of occurrence pursuant to ORS 656.265. A worker's failure to report an injury within 90 days could bar a subsequent claim for benefits. On the other hand, workers can submit occupational disease claims within one year of the date the worker is informed of the work-related condition by a health care provider and he/she becomes disabled as a result of the condition.<sup>2</sup> There may be situations when employers will want a claim characterized as an injury to apply the more stringent reporting requirements of ORS 656.265.

This is a very complex area of Oregon workers' compensation law. Adjusters, carriers and employers must evaluate each case on its individual merits. For more information on this topic, please feel free to contact a Reinisch Wilson Weier Oregon practice attorney. ■

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<sup>1</sup> ORS 656.802

<sup>2</sup> ORS 656.807