



Oregon House Bill 3022 in light of the Oregon Supreme Court ruling in *Elvia Garcia-Solis*

By Caroline A. Hopkins ■ June 11, 2019

House Bill 3022 recently passed the Oregon House and now awaits Senate action. HB 3022 proposes to amend ORS 656.245(1)(c) to make diagnostic services compensable if they are reasonable and necessary to identify the nature or extent of a medical condition that may be related to a work injury or occupational disease. The necessity of HB 3022 is now potentially questioned in light of the recent Oregon Supreme Court ruling in *Garcia-Solis v. Farmers Ins. Co.*¹

The proposed amendment would enact changes to the workers' compensation scheme that were initially denied with the Oregon Court of Appeals ruling in *Garcia-Solis*.² The appellate court held a diagnostic psychological referral was not compensable because the worker failed to show it was related to any of the medical conditions that had been accepted. The Court of Appeals reasoned precedent established that medical services under ORS 656.245(1)(a) had to be for a "compensable injury" and "compensable injury" meant only those conditions previously accepted.³

The Supreme Court disagreed and recently overturned the court of appeals. The court noted that ORS 656.245(1)(a) reads, "For every compensable injury, the insurer ... shall cause to be provided medical services for conditions caused in material by the [work accident]."⁴ The Supreme Court held the term "injury" as used in ORS 656.245(1)(a) means the "work accident."⁵

On its face, this ruling appears to be a broader reading than the proposed amendment in HB 3022. It should be noted, however, that *Garcia-Solis* involved the compensability of a diagnostic medical service. Future litigation regarding the breadth of the *Garcia-Solis* ruling will undoubtedly define the case's impact. In the meantime, the Supreme Court ruling negates the necessity of the proposed amendment to ORS 656.245(1)(c) in HB 3022. It remains to be seen if the Senate agrees. ■



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¹ *Garcia-Solis v. Farmers Ins. Co.*, 365 Or 26 (2019).

² *Garcia-Solis v. Farmers Ins. Co.*, 288 Or App 1 (2017).

³ *Garcia-Solis*, 288 Or App at 5.

⁴ *Garcia-Solis*, 365 Or at 42.

⁵ *Id.* at 42-43.