



# Oregon

Theodore R. Kulongoski, Governor

## Department of Consumer and Business Services

Workers' Compensation Division

350 Winter Street NE

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Salem, Oregon 97309-0405

1-800-452-0288, (503) 947-7810

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[www.wcd.oregon.gov](http://www.wcd.oregon.gov)

May 16, 2007

To: Workers' compensation insurers, self-insured employers, and third-party administrators

Subject: Vocational eligibility determination audits

The Workers' Compensation Division (WCD) will begin audits next month to verify whether workers are evaluated and notified of their eligibility or ineligibility for vocational assistance. ORS 656.340 requires insurers to determine a worker's eligibility for vocational assistance when the worker is medically stationary and has not returned to regular or other suitable employment with the employer at the time of injury or aggravation. OAR 436-120-0320(2) clarifies when an eligibility evaluation is not required.

A WCD study of claims closed in 2002 and 2003 revealed that a large number of required eligibility evaluations were not being completed. Therefore, WCD conducted system-wide quarterly reviews from the first quarter of 2004 through the first quarter of 2006 on claims that did not appear to have had a required eligibility evaluation completed. During the quarterly reviews, the division sent lists of identified workers to insurers and required them to submit a response for each worker. The industry response was mixed. Some insurers did not understand when eligibility evaluations were required. Others did not respond at all, and the division issued a number of penalties for failure to respond. During contacts with insurers, WCD explained statutory and rule requirements for vocational assistance eligibility evaluations, in an effort to help insurers comply. However, follow-up data gathered recently reveals that many required evaluations are still not being completed.

**As a result, WCD will immediately begin on-site audits of claims where it appears a required eligibility evaluation was not completed.** The division will identify these claims based on claim closures reported between July 2005 and December 2006. The audit focus is to ensure that workers entitled to eligibility evaluations are evaluated and notified of their eligibility or ineligibility for vocational assistance and to gather industry performance data. The audits will be limited to the vocational eligibility evaluation process; thus, **our audit team will conduct these reviews quickly, with minimal intrusion to insurers.** During the audits, the division will review the following requirement areas in identified claims to answer the questions:

- Did the insurer complete an eligibility evaluation in a timely manner?
- Did the insurer send a copy of the Notice of Eligibility or Notice of Ineligibility to the worker?
- Did the notice contain the information required by OAR 436-120, and was it copied to the division?
- Did the insurer correctly determine that the worker did not qualify for an eligibility evaluation (in claims in which the insurer did not complete an evaluation)? These claims will be identified for companies so that the insurer may complete any required evaluations.

Insurers and self-insured employers may be subject to civil penalties if the audits find that they failed to comply with the requirements of ORS 656.340 or OAR 436-120.



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Audit staff members will begin contacting your companies to schedule these audits.

If you have any questions regarding the upcoming audits described in this notice, please contact Sally Coen, Field Audit Unit Manager, at (503) 947-7687 or send e-mail to [sally.c.coen@state.or.us](mailto:sally.c.coen@state.or.us).

Please direct questions regarding vocational eligibility requirements to Rand Schledorn, Rehabilitation Review Unit Manager, at (503) 947-7764 or send e-mail to [rand.d.schledorn@state.or.us](mailto:rand.d.schledorn@state.or.us).

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John Shilts, Administrator  
Workers' Compensation Division

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