

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
DISABILITY RATING STANDARDS

EXHIBIT "A"
OREGON ADMINISTRATIVE RULES
CHAPTER 436, DIVISION 035

EFFECTIVE OCTOBER 13, 2000

436-035-0500 Temporary Rule Promulgation for Individual Claims

(1) This rule applies to the rating of permanent disability under Chapter 656 in individual cases pursuant to ORS 656.726(4)(f)(C) which requires the director to stay the reconsideration proceeding and adopt temporary rules in cases where the director finds that the worker's impairment is not adequately addressed in the disability standards.

(2) Temporary rules promulgated pursuant to ORS 656.726(4)(f)(C) will be incorporated by reference to the Workers' Compensation Division claim file number and will be applicable solely to the rating of that claim. The temporary rule will be effective upon filing with the Secretary of State and elapse 180 days thereafter in accordance with ORS 183.335(6)(a).

(3) Notice of adoption of temporary rules will be given by mailing a copy of the temporary rule to the affected parties and to others as provided in OAR 436-001-0000(3).

A87-9693 This worker's accepted post-traumatic headache condition has reached a level of severity which results in nausea, inability to take prescription medication, and permanent work restrictions resulting in a loss of earning capacity. The Director assigns an impairment value of 30% for the headaches as a result of the head injury. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A87-9693.

A91-6214 This worker sustained an injury to the left wrist which resulted in the inability to reach the neutral or zero wrist position in radial deviation. This ultimately results in a reduction in ulnar deviation. The Standards do not provide a value for the worker's ulnar deviation measured from -3 degrees to 35 degrees equaling 32 degrees of retained ulnar deviation. See OAR 436-035-0080(5). However, the value for 32 degrees of ulnar deviation does not meet the minimum threshold to receive a value pursuant to OAR 436-035-0080(7) and OAR 436-035-0007(26). The Director finds that while loss of radial deviation of -3 degrees is not covered in the Standards, the value for the resulting decrease in ulnar deviation of 32 degrees does not meet the minimum threshold to receive an impairment value. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A91-6214.

A94-0992 Following a fan laceration to the right index finger, this worker experiences cold intolerance at temperatures at or below 50 degrees Fahrenheit in the right index finger. The Director assigns a value of 35% for the right index finger for cold intolerance. This value shall be combined with any other applicable impairment values for the right index finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A94-0992.

B87-3845 This worker has impotence and infertility secondary to the accepted spinal cord injury and a displaced healed right sacroiliac joint which are not addressed by the Standards. The Director adopts a value of 20% for the sexual dysfunction and a value of 10% for the displaced right sacroiliac fracture. These values shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no.

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B87-3845.

B94-3184 Following injury to the right hand and ulnar digital nerve repair of the right ring finger, the worker experiences hypersensitivity of the finger. The Director assigns a value of 10% for hypersensitivity of the ulnar aspect of the right ring finger. This value shall be combined with any other applicable impairment values for the involved right ring finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. B94-3184.

D87-6070 Due to a laceration of the right forearm, this worker experiences cold intolerance at or below 50 degrees Fahrenheit in the right hand/forearm. The Director assigns a value of 35% for the right forearm for cold intolerance. This value shall be combined with any other applicable impairment values for the right forearm. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. D87-6070.

D91-9673 This worker sustained a left ankle and foot injury requiring an open reduction and bone graft for non-union of a fractured fifth metatarsal. The worker is unable to reach neutral or zero ankle position in dorsiflexion. This ultimately results in a reduction in plantar flexion. The Standards do not provide a value for the worker's plantar flexion measured from -7 degrees to 42 degrees (maximum threshold level is 40 degrees) equaling 33 degrees of (40-7) of plantar flexion. See OAR 436-035-0007(26) and OAR 436-035-0190(8). The value for 33 degrees of retained plantar flexion is equal to 2.8% pursuant to OAR 436-035-0190(8). The Director, therefore, assigns an impairment value of 2.8% for plantar flexion of the left ankle. This value shall be added with any other applicable range of motion values for the total loss of motion in the left foot/ankle. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. D91-9673.

F91-6225 As a result of the accepted condition and reparative surgery, the worker is unable to extend her left hip to the neutral position resulting in a loss of flexion. Flexion measured from -10 degrees to 95 degrees equals 85 degrees yielding a 3.0% impairment value. See OAR 436-035-0220(6). The Director adopts the value of 3.0% for loss of flexion of the left hip. This value shall be added to any other left hip loss of ranges of motion values and then combined with any other applicable hip findings. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F91-6225.

H87-1056 Following a severe crush injury to the right middle and ring fingers, this worker experiences cold intolerance at temperatures at or below 60 degrees Fahrenheit in the right middle and ring fingers. The Director assigns a value of 88% for the right middle finger and 88% of the right ring finger for cold intolerance. The Director adopts a value of 10% for the right middle finger as a result of scarring causing the middle finger to cross underneath the ring finger producing a loss of use or function when flexing the fingers. The worker has a dorsal angulation of the right ring finger. The Director assigns an impairment value of 10% for dorsal angulation of the right ring finger. These values shall be combined with any other applicable impairment values for the right middle and right ring finger and then converted to the right hand. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. H87-1056.

H93-2234 This worker sustained an injury to the right ankle which resulted in the inability to reach the neutral or zero ankle position. This ultimately results in a reduction in plantar flexion. The Standards do not provide a value for the worker's plantar flexion measured from -3

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degrees to 38 degrees equaling 35 degrees of retained plantar flexion. The Director therefore assigns an impairment value of 2.0% for plantar flexion of the right ankle. See OAR 436-035-0190(8). This value shall be added to any other appropriate right ankle and subtalar impairment values for loss of range of motion to obtain the total loss of motion and then combined with any other applicable impairment values for the right ankle. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. H93-2234.

H93-3196 Following a crush injury to the left index finger, this worker experiences cold intolerance at temperatures at or below 55 degrees Fahrenheit in the left index finger. The Director assigns a value of 63% for the left index finger for cold intolerance. This value shall be combined with any other applicable impairment values for the left index finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. H93-3196.

I41-4835 This worker has residual mild instability of the metacarpophalangeal (MP) joint of the left thumb due to the accepted left thumb fracture with repair of the ulnar collateral ligament. This impairment is not addressed by the Standards. The Director assigns a value of 2.0% for mild metacarpophalangeal joint instability of the left thumb. This value shall be combined with any other applicable impairment findings for the left thumb. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I41-4835.

I95-6917 This worker sustained a crush like laceration of the right long finger. Subsequently, the worker developed severe hypersensitivity at the distal tip of the finger resulting in a significant loss of use or function. The Director finds the loss of use or function due to marked hypersensitivity similar to the loss of sensation ("total loss") of 1/2 the distal phalanx of the right long finger. The Director assigns an impairment value of 15% for the right long finger. See OAR 436-035-0110(1). This impairment value is combined with any other ratable impairment under the Standards. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I95-6917.

A95-0778 This worker sustained an injury to the left wrist which resulted in the inability to reach neutral or zero wrist position in ulnar deviation. This ultimately results in a reduction in radial deviation, equaling 8 degrees of retained radial deviation which receives a value of 2.4%. See OAR 436-035-0080(7). The Director adopts the impairment value of 2.4% for radial deviation for this worker's left wrist. Notwithstanding OAR 436-035-0003, this rule applies only to A95-0778.

A95-1645 Following injury to the left hand and repair of the radial digital nerve of the left middle finger, the worker experiences hypersensitivity of the radial side of the tuft of the distal phalanx. The Director assigns a value of 5% for hypersensitivity for the left middle finger. This value shall be combined with any other applicable impairment values for the involved left middle finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A95-1645.

C92-4439 Following a crush/fracture injury to the right ring finger, this worker experiences a crossing over deformity of the right ring finger. The Director assigns an impairment value of 10% for this deformity of the right ring finger. This value shall be combined with any other applicable impairment values for the right ring finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. C92-4439.

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C93-6258 Following a fracture and crush injury to the left foot/lower leg, the worker experiences dysesthesia. The Director assigns a value of 5% for dysesthesia of the left foot/lower leg. This value shall be combined with any other applicable impairment values for the involved left foot/lower leg. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. C93-6258.

E91-8135 As a result of the accepted carpal tunnel syndrome, the worker developed cold intolerance of the right 3rd and 4th fingers due to nerve injury. The standards do not address this disability. The Director finds this loss of function to be similar to the loss of function experienced with Raynaud's Syndrome and assigns an impairment value of 35% of the right 3rd digit and 35% of the right 4th digit. See OAR 436-035-0110(6). This value shall be combined with any other applicable impairment values for the right hand. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E91-8135.

E94-2036 Following a laceration injury to the right forearm, this worker experiences cold intolerance at temperatures at or below 40 degrees Fahrenheit in the right thumb and index finger. The Director assigns a value of 35% for the right thumb and 35% of the right index finger for cold intolerance. These values shall be combined with any other applicable impairment values for the right thumb and right index finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E94-2036.

F93-6308 This worker sustained a rupture of the left distal biceps tendon requiring surgical repair. Muscle strength in the biceps muscle with the arm in full supination was graded as 5-/5 while the muscle strength with the arm in the neutral position was graded at 4/5. The standards do not provide a method for valuing the same muscle with two separate grades of weakness when measured with the elbow joint in two different angles. The Director adopts the use of OAR 436-035-0007(20) to determine the muscle strength for the biceps muscle. The Director assigns an impairment value of 3% of the left arm for loss of strength of the biceps muscle. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F93-6308

H75-6914 The worker is unable to reach neutral or zero ankle position due to a right ankle fracture and surgical repair. This ultimately results in a reduction in plantar flexion, equal to 11 degrees of retained plantar flexion which receives a value of 10.6% pursuant to OAR 436-035-0190(8). The Director therefore, assigns an impairment value of 10.6% for plantar flexion of the right ankle. In addition, the worker has some early degenerative change in the medial malleolus in the right ankle. The Director adopts the criteria as set forth in OAR 436-035-0230(13) for the foot/ankle. The Director finds the worker's early degenerative arthritis did not meet the definitive threshold criterion as found in OAR 436-035-0230(13), and assigns an impairment value of zero percent. These values shall be combined with any other applicable impairment values for the right ankle. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. H75-6914.

H92-7893 This worker sustained a fracture of the left 5th metacarpal resulting in joint incongruity. The attending physician indicated a 10 degree difference in the mobility of the left 5th CarpoMetaCarpal joint compared with 20 degrees in the right 5th CMC joint. The Director adopts an impairment value of 6% of the left hand for this worker's loss of motion. This value shall be combined with any other applicable objective finding of

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impairment for the left hand. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. H92-7893.

H95-0015 Due to a laceration of the right thumb resulting in damage to the distal radial nerve, this worker experiences hypersensitivity in the right hand limiting activity. The Director assigns a value of 6% for the right hand for hypersensitivity. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. H95-0015.

H95-3028 This worker has left abdominal muscle weakness as a result of the accepted L1-2 disc herniation and post operative status which is not addressed by the standards. The Director finds this weakness causes a loss of use or function which is similar to palpable abdominal wall defects as noted in the AMA Guides, Third Edition (revised 1990). Therefore, the Director adopts a value of 5% for the abdominal muscle weakness. This value shall be combined with any other applicable impairment values in the unscheduled injured body parts/areas. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. H95-3028.

Stat Auth: ORS 656.726(4)

Stat Impltd: ORS 656.268(6); ORS 656.726(4)(f)(C)

Hist: Filed 12/31/92 as Admin. Order 18-1992, eff. 12/31/92 (Temp) (A58-7576) (D60-5352)
Amended 4/28/93 as WCD Admin. Order 93-051, eff. 4/28/93 (Temp) (A58-2159) (B59-4533) (E61-4228) (I59-2031)
Filed 6/29/93 as Admin. Order 93-053, eff. 6/29/93
Amended 9/2/93 as WCD Admin. Order 93-054, eff. 9/2/93 (Temp) (I64-3064)
Amended 10/22/93 as WCD Admin. Order 93-055, eff. 10/22/93 (Temp) (A61-7196) (F60-7468)
Amended 5/26/94 as WCD Admin. Order 94-053, eff. 5/26/94 (Temp) (A64-0903) (B33-4465) (B52-7039) (B63-9980) (C64-7847) (D50-0623) (D60-2551) (G45-4281) (I59-4285)
Amended 7/15/94 as WCD Admin. Order 94-056, eff. 7/15/94 (Temp) (C43-2644) (C50-4886) (D61-6586) (E38-6617) (E51-8953) (G37-3015)
Amended 8/31/94 as WCD Admin. Order 94-057, eff. 8/31/94 (Temp) (A66-7148) (C66-9882) (F67-9790) (G37-9847) (G66-0945) (G68-2891) (I66-9214) (I67-8572)
Amended 11/14/94 as WCD Admin. Order 94-061, eff. 11/14/94 (Temp) (A56-6922) (A68-8532) (B67-0517) (B69-2864) (C66-4016) (D69-1873) (D71-7397) (G68-3895)
Amended 01/26/95 as WCD Admin. Order 95-050, eff. 01/26/95 (Temp) (C51-2235) (C51-9086) (D59-9600) (D69-3198) (E74-0161) (F68-5951) (G55-5440) (G69-3682) (I75-8738)
Amended 03/02/95 as WCD Admin. Order 95-051, eff. 03/02/95 (Temp) (A69-9328) (I73-9896)
Amended 04/13/95 as WCD Admin. Order 95-052, eff. 04/13/95 (Temp) (A32-5947) (C54-7329) (F62-2845)
Amended 05/31/95 as WCD Admin. Order 95-053, eff. 05/31/95 (Temp) (A66-7308) (H69-9099)
Amended 07/11/95 as WCD Admin. Order 95-055, eff. 07/11/95 (Temp) (A55-1299) (A68-5802) (B75-0788) (C72-7919) (E47-5755) (F72-6107) (G52-8324)
Amended 10/05/95 as WCD Admin. Order 95-064, eff. 10/05/95 (Temp) (A72-7487) (B67-2012) (B75-5795) (G55-8472) (H77-3065)
Amended 11/02/95 as WCD Admin. Order 95-067, eff. 11/02/95 (Temp) (C77-9244) (F74-8492) (G72-5640) (I59-0763)
Amended 12/07/95 as WCD Admin. Order 95-072, eff. 12/07/95 (Temp) (A79-2845) (B78-6344) (D67-0149) (D75-7661) (F72-4844) (H75-1172)
Amended 02/01/96 as WCD Admin. Order 96-054, eff. 02/01/96 (Temp) (A74-3939) (A79-7277) (C76-4285) (E71-9980) (E74-3188) (F54-7926) (F69-1607) (F70-0225) (F77-9704) (I75-7201)
Amended 03/20/96 as WCD Admin. Order 96-058, eff. 03/20/96 (Temp) (A76-0401) (B74-7423) (B76-5803) (E73-6324) (F72-3750) (G41-0094) (G71-9125)
Amended 07/03/96 as WCD Admin. Order 96-063, eff. 07/03/96 (Temp) (B72-2366) (C69-5254) (C75-2485) (C75-4352) (D58-5410) (E60-2070) (E67-3492) (E75-7774) (E76-8051) (E78-0741) (F41-3719) (F71-5463) (G79-8212) (H66-7437) (H67-5437) (H74-6802) (I58-7732)
Amended 08/07/96 as WCD Admin. Order 96-067, eff. 08/07/96 (Temp) (B81-6992) (E73-5763) (F77-1642) (F78-3857) (F79-7581) (G77-2943) (I77-7807)
Amended 10/31/96 as WCD Admin. Order 96-071, eff. 10/31/96 (Temp) (A75-6135) (A81-4630) (B70-9869) (C78-2717) (D75-4912) (D79-9425) (E76-7631) (E80-1282) (F74-8492) (G72-8281) (I61-2741) (I79-2365) (I80-9262)
Amended 01/15/97 as WCD Admin. Order 97-050, eff. 01/15/97 (Temp) (A82-2866) (B77-8377) (D81-7448) (I82-0858)
Amended 01/08/97 as WCD Admin. Order 96-072, eff. 02/15/97
Amended 03/12/97 as WCD Admin. Order 97-052, eff. 03/13/97 (Temp) (C84-3004) (D82-9639) (G83-6389)
Amended 05/14/97 as WCD Admin. Order 97-054, eff. 05/14/97 (Temp) (D29-9140)
Amended 09/09/97 as WCD Admin. Order 97-060, eff. 09/09/97 (Temp) (B85-1508) (E84-8454) (H78-6911) (I43-6347) (I82-6879)

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Amended 03/31/98 as WCD Admin. Order 98-054, eff. 03/31/98 (Temp) (A83-5359) (A85-2018) (C81-9952) (E55-9496) (E72-7758) (F61-8155) (F83-7544) (F86-6621) (G32-9876) (G60-2516) (G74-2871) (G81-2430) (G83-2249) (G85-5641) (H81-4914) (I86-3008) (I86-9133)

Amended 7/13/98 as WCD Admin. Order 98-056, eff. 7/15/98 (Temp) (A83-5562) (A86-1481) (B86-5204) (E84-8500) (E85-7684) (F79-5346) (G69-1876) (G86-8605) (G87-7426) (G88-7067) (H87-5177) (I82-2391)

Amended 10/15/98 as WCD Admin. Order 98-058, eff. 10/15/98 (Temp) (A83-2469) (A83-2921) (A85-8493) (A86-6157) (A86-7591) (A86-7963) (A87-9961) (B89-7196) (D75-3984) (D83-4235) (F87-2368) (I86-0887)

Amended 01/11/99 as WCD Admin. Order 99-050, eff. 01/15/99 (Temp) (A81-8005) (A84-0262) (A85-3518) (A86-8939) (B88-3694) (D88-4287) (D89-0679) (F83-8609) (F85-3096) (H91-0152) (I84-4190)

Amended 04/13/99 as WCD Admin. Order 99-053 eff. 04/15/99 (Temp) (B82-5920) (B83-1332) (D87-5966) (D90-9018) (D91-3299) (E89-7114) (F45-1513) (H86-4536) (H91-8266) (I86-3678) (I86-6219)

Amended 07/15/99 as WCD Admin. Order 99-058 eff. 07/15/99 (Temp) (A88-7382) (A89-0780) (A91-0674) (C91-0512) (D81-0814) (D87-3420) (E90-7599) (F87-8389) (G76-8267) (G81-2920) (G89-0989) (I87-8203) (I90-5353) (I90-9959)

Amended 10/15/99 as WCD Admin. Order 99-060 eff. 10/15/99 (Temp) (A84-7550) (A89-0685) (A89-6055) (B61-4705) (C87-7555) (C92-3595) (F77-3561) (G84-8924) (G90-0827)

Amended 01/14/00 as WCD Admin. Order 00-050 eff. 01/14/00 (Temp) (A92-9513) (B92-8683) (G91-7494) (G91-9214) (H86-8025)

Amended 04/13/00 as WCD Admin. Order 00-054 eff. 04/14/00 (Temp) (A92-0994) (B84-4216) (D54-6838) (D84-6587) (D87-4580) (E91-0653) (F89-4935) (G85-3029) (G87-5149) (G93-3700) (H88-4596) (H93-6091)

Amended 07/13/00 as WCD Admin. Order 00-056 eff. 7/14/00 (Temp) (A87-9693) (A91-6214) (A94-0992) (B87-3845) (B94-3184) (D87-6070) (D91-9673) (F91-6225) (H87-1056) (H93-2234) (H93-3196) (I41-4835) (I95-6917)

Amended 10/13/00 as WCD Admin. Order 00-057 eff. 10/13/00 (Temp) (A95-0778) (A95-1645) (C92-4439) (C93-6258) (E91-8135) (E94-2036) (F93-6308) (H75-6914) (H92-7893) (H95-0015) (H95-3028)