

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
DISABILITY RATING STANDARDS  
TEMPORARY RULE PROMULGATION FOR INDIVIDUAL CLAIMS**

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

**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). A89-1510 Prior to becoming medically stationary in regards to his accepted conditions, this worker died as a result of causes unrelated to his accepted compensable injury. The Court of Appeals in *Shaw v. Steinfelds*, 160 Or App 77 (1999) ruled former OAR 436-035-0007(23)(b)(A) was inconsistent with ORS 656.218. Since the current OAR 436-035-0007(24)(b)(A) is substantially the same as the former rule, the ruling by the Court would also apply to the current rule. Therefore, the Director assigns an impairment value of 0% for the accepted conditions of left hip and sacrum contusion and bilateral sacroiliac strain. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A89- 1510.

D98-5601 Prior to becoming medically stationary in regards to his accepted conditions, this worker died as a result of causes unrelated to his accepted compensable injury. The Court of Appeals in *Shaw v. Steinfelds*, 160 Or App 77 (1999) ruled former OAR 436-035-0007(23)(b)(A) was inconsistent with ORS 656.218. Since the current OAR 436-035-0007(24)(b)(A) is substantially the same as the former rule, the ruling by the Court would also apply to the current rule. In determining this worker's residual impairment, as if he had survived and become medically stationary, the Director assigns an impairment value of 2% for the left hand. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. D98-5601.

E91-8215 This worker has an accepted sexual dysfunction condition. The Director assigns a value of 20% unscheduled disability for the sexual dysfunction. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E91-8215.

H94-8094 This worker has a displaced healed sacroiliac joint which is not addressed by the Standards. The Director adopts a value of 10% for displaced right sacroiliac fracture. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. H94-8094.

I82-8270 As a result of a crush injury and multiple surgical procedures, the worker developed cold sensitivity of the right hand. The cold sensitivity is not Raynaud's phenomenon.

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The Director finds this loss of function similar to loss of function experienced with Raynaud's phenomenon and assigns an impairment value of 35% of the right hand. *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. I82-8270.

I95-4862 Prior to becoming medically stationary in regards to his accepted conditions, this worker died as a result of causes unrelated to his accepted compensable injury. The Court of Appeals in *Shaw v. Steinfelds*, 160 Or App 77 (1999) ruled former OAR 436-035-0007(23)(b)(A) was inconsistent with ORS 656.218. Since the current OAR 436-035-0007(24)(b)(A) is substantially the same as the former rule, the ruling by the Court would also apply to the current rule. The Director finds the worker's current unscheduled permanent partial disability is equal to 21% for the lumbar spine. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I95-4862.

**A95-9779 Following the crush injury to the left ring finger and left little finger, the worker experiences cold intolerance at temperatures less than 1.6 degrees Centigrade. The Director assigns a value of 15% for the left ring finger and 15% for the left little finger for cold intolerance. This value shall be combined with any other applicable impairment values for the fingers. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A95-9779.**

**A97-6962 This worker sustained an injury to the left thumb/hand which resulted in the inability to reach the neutral or zero position in extension of the carpometacarpal joint. This results in a reduction in extension. The Director assigns an impairment value of 3% for extension of the left carpometacarpal joint. See OAR 436-035-0075(3). These values shall be added to any other appropriate left hand impairment values for loss of motion to obtain the total motion loss and then combined with any other applicable impairment values for the left hand. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A97-6962.**

**A99-7375 Following a fracture and laceration, the worker experiences hypersensitivity of 1/2 of the distal phalanx of the right index finger. The Director assigns a value of 12% for hypersensitivity for the right index finger. This value shall be combined with any other applicable impairment values for the involved right index finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A99-7375.**

**C82-7198 Following a fracture of the fifth metatarsal, sural nerve ligation and neuroma removal, the worker experiences hypersensitivity in the right foot. The Director assigns a value of 10% for the hypersensitivity in the right foot. This value shall be combined with any other applicable impairment values for the involved right foot. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. C82-7198.**

**D78-1251 This worker has sexual dysfunction as a direct medical sequelae of the accepted lumbar fusion. The Director assigns a value of 10% unscheduled disability for the mild sexual dysfunction. This value shall be combined with any other applicable unscheduled impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. D78-1251.**

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D92-8385 This worker sustained an injury to his right foot resulting in a fracture of the right calcaneus. This worker lacks 10 degrees of arc of motion in dorsiflexion in the 2<sup>nd</sup> and 3<sup>rd</sup> metatarsophalangeal (MTP) joint. The Director assigns an impairment value of 7% for the 2<sup>nd</sup> MTP joint and 7% for the 3<sup>rd</sup> MTP joint. See OAR 436-035-0160(5). This value is added to the value for decreased plantar flexion for the total loss of motion in the right 2<sup>nd</sup> toe MTP joint and the 3<sup>rd</sup> toe MTP joint. In addition, the worker has traumatic arthrosis of the subtalar joint of the right foot. The Standards do not address arthritis in the foot/ankle. Therefore, the Director adopts the criteria set forth in OAR 436-035-0230(13) for the foot/ankle. The Director finds the worker's subtalar arthritis does not meet the minimum threshold of "extensive arthritis", and therefore, assigns an impairment value of zero percent. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. D92-8385.

E94-4832 The worker is unable to reach neutral or zero ankle position due to a right ankle fracture and surgical repair. This results in a reduction in plantar flexion, equal to 25 degrees of retained plantar flexion. The Director assigns an impairment value of 5.5% for plantar flexion of the right ankle. See OAR 436-035-0190(8). This value shall be added to any other ankle or subtalar range of motion loss, and the total shall be combined with any other applicable impairment values for the right ankle. In addition, the worker has degenerative arthritis in the right ankle. The Director adopts the criteria set forth in OAR 436-035-0230(13) for the foot/ankle. The Director finds the worker's degenerative arthritis did not meet the threshold criterion as found in OAR 436-035-0230(13), and assigns an impairment value of zero percent. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E94-4832.

E95-3421 Due to a right ulnar aneurysm this worker experiences cold intolerance at temperatures at or below 10 degrees Centigrade in the right long, ring and little fingers. The Director assigns a value of 35% for the right middle finger, 35% for the right ring finger, and 35% for the right little finger for cold intolerance. These values shall be combined with any other applicable impairment values for the middle, ring and little fingers in accordance with the Standards. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E95-3421.

G95-9549 The worker is unable to reach neutral or zero ankle position due to a right ankle fracture and surgical repair. This results in a reduction in plantar flexion, equal to 30 degrees of retained plantar flexion. The Director assigns an impairment value of 4.0% for plantar flexion of the right ankle. See OAR 436-035-0190(8). This value shall be added to any other ankle or subtalar range of motion loss and the total 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. G95-9549.

G98-5992 Following a fracture and laceration of the left little finger, the worker experiences hypersensitivity of the distal phalanx. The Director assigns a value of 19% for hypersensitivity for the left little finger. This value shall be combined with any other applicable impairment values for the involved little finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G98-5992.

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**I94-6363 Prior to becoming medically stationary in regards to his accepted conditions, this worker dies as a result of causes not related to his accepted conditions. The Court of Appeals in *Shaw v. Steinfelds*, 160 Or App 77 (1999), ruled former OAR 436-035-0007(23)(b)(A) was inconsistent with ORS 656.218. Since the current OAR 436-035-0007(24)(b)(A) is substantially the same as the former rule, the ruling by the Court would also apply to the current rule. The Director assigns the scheduled permanent partial disability of 48% for the right leg (knee). Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I94-6363.**

**I95-4150 Following crush and laceration type injury to the right thumb, the worker experiences cold intolerance at temperatures less than 15 degrees Centigrade. The Director assigns a value of 63% for the right thumb for cold intolerance. This value shall be combined with any other applicable impairment values for the right thumb. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I95-4150.**

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)

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)

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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)

Amended 01/12/01 as WCD Admin. Order 01-050, eff. 01/12/01 (Temp) (A51-3646) (A94-8686) (A96-7137) (E38-6617) (E91-1129) (E97-6899) (F95-1474) (G89-1516) (G91-0652) (H83-2574) (H96-0745) (H97-8463) (I94-6278) (I95-9534)

Amended 04/13/01 as WCD Admin. Order 01-052, eff. 04/13/01 (Temp) (A89-1510) (D98-5601) (E91-8215) (H94-8094) (I82-8270) (I95-4862)

**Amended 07/13/01 as WCD Admin. Order 01-055, eff. 07/13/01 (Temp) (A95-9779) (A97-6962) (A99-7375) (C82-7198) (D78-1251) (D92-8385) (E94-4832) (E95-3421) (G95-9549) (G98-5992) (I94-6363) (I95-4150)**