

EXHIBIT "A"

**CHAPTER 436
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
DIVISION 35**

DISABILITY RATING STANDARDS

TEMPORARY RULE PROMULGATION FOR INDIVIDUAL CLAIMS

436-35-500 (1) This rule applies to the rating of permanent disability under Chapter 656 in individual cases pursuant to ORS 656.726(3)(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(3)(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 436-01-000(2).

A58-2159 The current range of impact for adaptability is from 0 to +7. The rule establishes the adaptability factor based on a comparison of the strength demands of the worker's job at time of injury with the worker's maximum RFC at time of determination. The adaptability factor for a non-strength related injury should be based on the severity of impairment due to the compensable injury. Therefore, the worker is entitled to a value of 6 for adaptability as a result of the injury. Notwithstanding OAR 436-35-003, this rule applies only to WCD file number A58-2159.

B59-4533 This worker can no longer perform the majority of the regular work activities associated with his occupation as a result of his reaction to chemical fumes. The rules currently allow 13% for a chemical allergic reaction which prevents most regular work-related activities. This worker's loss of ability to perform regular work activities is similar to a worker who develops an allergic reaction to a chemical exposure. Therefore, the worker's inability to return to his work environment in this case is valued at 13%. This value would be combined with any other impairment values this worker is due. Notwithstanding OAR 436-35-003, this rule applies only to WCD file number B59-4533.

E61-4228 This worker's loss of strength is due to loss of joint integrity. The rules currently value loss of strength based on either nerve injury, loss of muscle tissue, or disruption of a musculotendinous unit. The decreased strength in this case is similar to a loss of muscle tissue or a disruption of a musculotendinous unit. In accordance with the rules, the strength loss shall be valued as if the nerve supplying that muscle was impaired. As a result of the disability from strength loss, this worker is entitled to 8.8% for the right hand and 8.8% for the left hand. These values may be combined with the values for loss of range of motion, sensory changes, and chronic condition. Notwithstanding OAR 436-35-003, this rule applies only to WCD file number E61-4228.

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I59-2031 The current range of impact for adaptability is from 0 to +7. The rule establishes the adaptability factor based on a comparison of the strength demands of the worker's job at time of injury with the worker's maximum RFC at time of determination. The adaptability factor for a non-strength related injury should be based on the severity of impairment due to the compensable injury. Therefore, the worker is entitled to a value of 4 for adaptability as a result of the injury. Notwithstanding OAR 436-35-003, this rule applies only to WCD file number I59-2031.

I64-3064 This worker has experienced a loss of standing and walking ability due to a chondral fracture. The worker is restricted from standing and walking for 15 minutes at any one time or 2 hours cumulative in any 8 hour period. The rules currently allow an impairment rating of 15 percent of the foot for a similiar restriction in the foot. Therefore, as a result of this disability, the worker is entitled to a value of 15 percent of the leg. This value is to be combined with the other applicable knee impairment values. Notwithstanding OAR 436-35-003, this rule applies only to WCD file number I64-3064.

Stat Auth: ORS 656.726(3)

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