

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).

I66-9214 This worker suffered left chronic epididymitis. The applicable rules do not address this finding. In this case, the impairment value will be 5% of the groin. This value may be combined with any other applicable impairment values. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. I66-9214.

I67-8572 The Standards in effect at the time of claim closure do not address the worker's non-physical changes effecting earning capacity. OAR 436-35-270 through 310 (effective December 14, 1993), does adequately address non-physical changes effecting earning capacity. Therefore, the Director adopts OAR 436-35-270 through 436-35-310, effective December 14, 1993, to address this worker's disability. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. I67-8572.

A56-6922 This worker has suffered traumatic amputations on the dominant left hand. The rules do not provide a value for loss of use of the dominant extremity. The statute does not contemplate dominance in assigning degree values to extremity areas. In this case, the impairment value for loss of use of the dominant hand shall be a value of zero. Notwithstanding OAR 436-35-003, this rule applies to only WCD file no. A56-6922.

A68-8532 This worker suffered an injury to the right lower ribs resulting in intercostal symptoms which are continuing and affect earning capacity. The applicable rules do not address this finding. In this case, the impairment value for persistent intercostal symptoms affecting earning capacity shall be 3%. This value may be combined with other applicable impairment values. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. A68-8532.

B67-0517 This worker has experienced a malalignment of the tibia following a fracture which has affected function. There are two components of malalignment of the tibial shaft: leg length loss and rotational deformity. The rules currently value loss of leg length, but do not address rotational deformities. Therefore, in this case, the rotational deformity shall be valued as 8% of the leg. This value is combined with any other ratable impairment findings. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. B67-0517.

B69-2864 This worker's loss of strength is due to a fracture of the lateral malleolus of the left ankle. The rules currently value loss of strength based on either nerve injury, loss of muscle tissue, or disruption of a musculotendinous unit. In this case the strength loss shall be valued as if the nerve supplying the muscle or muscle group were injured. As a result of the impairment from loss of strength, this worker is entitled to 4% impairment of the left foot (ankle). This value is combined with any other ratable impairment findings. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. B69-2864.

C66-4016 This worker's loss of strength is due to deQuervain's tenosynovitis. The rules currently value loss of strength based on either nerve injury, or loss of muscle tissue, or disruption of a musculotendinous unit. The deQuervain's tenosynovitis is an inflammation of the tendon sheaths of the first dorsal compartment which we find analogous in function to a musculotendinous unit. In this case, the strength shall be valued as if the nerve supplying that musculotendinous unit were impaired. As a result of the disability from strength loss, this worker is entitled to 25% impairment of the radial nerve. This disability shall be combined with other impairment values for the left wrist which are rateable under current rules. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. C66-4016.

D69-1873 This worker experienced a crush injury to the fingers resulting in sensitivity to cold exposure. The rules do not provide a rating for this finding. This condition produces similar residuals to Raynaud's Disease which is addressed in the standards. This worker's residuals are similar to a Raynaud's Phenomenon which occurs with exposures to temperatures approximating 0 degrees Centigrade. In this case, the worker's cold intolerance shall be valued at 3% of the finger. This value may be combined with other ratable impairment values. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. D69-1873.

D71-7397 This worker's loss of strength is due to a radial head resection following a comminuted fracture with fragment separation. The rules currently value loss of strength based on either nerve injury, loss of muscle tissue, or disruption of a musculotendinous unit. The anatomical change from the surgery has resulted in the loss of strength. The strength shall be valued as if the nerve supplying that muscle or muscle group was impaired. As a result of the impairment from strength loss, this worker is entitled to 14% of the forearm. This impairment is combined with any other impairment ratable under the current rules. Notwithstanding OAR 436-35-003, this rule applies to only WCD file no. D71-7397.

G68-3895 This worker experienced a crush injury to the hand resulting in a loss of strength due to tendon scarring and tethering, and sensitivity to cold exposure. The rules do not provide a rating for these findings. The loss of strength produces residuals similar to those expected with a disruption of a musculotendinous unit which is addressed in the standards. In this case, the loss of strength shall be valued at 9% of the hand. The cold sensitivity produces similar residuals to Raynaud's Disease which is addressed in the standards. This worker's residuals are similar to a Raynaud's Phenomenon which occurs with exposures to temperatures approximating 0 degrees Centigrade. In this case, the worker's cold intolerance shall be valued at 3% of the hand. These values may be combined with other ratable impairment values. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. G68-3895.

C51-2235 This worker has experienced a loss of standing and walking ability due to a compensable left knee injury. The Standards do not completely address this worker's limitations as a result of this injury. The worker is limited to 2 hours or less standing and walking in an 8 hour period. As a result of this impairment, this worker is entitled to a value of 10% of the knee. This value may be combined with other applicable impairment values. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. C51-2253.

C51-9086 This worker has experienced a loss of standing and walking ability due to a compensable right knee injury. The Standards do not address this worker's limitations as a result of this injury. The worker is limited to 2 hours or less standing and walking in an 8 hour period. As a result of this impairment, this worker is entitled to a value of 15% of the knee. This value may be combined with other applicable impairment values. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. C51-9086.

D59-9600 This worker's loss of strength is due to pain, as a result of adhesive capsulitis. The Standards currently value loss of strength based on either nerve injury, or loss of muscle tissue, or disruption of a musculotendinous unit. Adhesive capsulitis is manifested by pain, stiffness, and limitation of motion resulting in a loss of strength which we find analogous in loss of function to a disruption of a musculotendinous unit. In this case, the strength shall be valued as if the nerve supplying that musculotendinous unit were impaired. As a result of the disability from strength loss, this worker is entitled to 4% impairment of the axillary nerve in the left shoulder and 5% impairment of the musculocutaneous nerve in the left arm. This disability shall be combined with other impairment values for the left shoulder and the left arm which are ratable under the current Standards. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. D59-9600.

D69-3198 This worker suffered a rotational deformity of the index finger as a result of a fracture of the second metacarpal phalangeal joint (MP). The applicable Standards do not address this deformity. In this case, the impairment value for rotational deformity of the index finger at the MP joint due to a fracture will be 20% of the left index finger. This value may be combined with any other applicable impairment values for the left index finger. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. D69-3198.

E74-0161 This worker has chronic subluxations of the second and third ribs at the sternocostal joint resulting in permanent work limitations. The applicable Standards do not address these findings. In this case, the permanent rib subluxation at the sternocostal joint shall be valued at 7% of the chest wall. This value may be combined with other impairment values ratable under the Standards. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. E74-0161.

F68-5951 This worker's loss of strength is due to right wrist tenosynovitis in the finger flexor muscles. The Standards currently value loss of strength based on either nerve injury, loss of muscle tissue, or disruption of a musculotendinous unit. Tenosynovitis is an inflammation of the tendon sheaths which we find analogous in function to a musculotendinous unit. In this case, the strength shall be valued as if the nerves supplying the musculotendinous units were impaired. As a result of the disability from strength loss, this worker is entitled to a 3% impairment of the ulnar nerve and 4% impairment of the median nerve for a combined value of 7%. This impairment shall be combined with other impairment values of the right hand/wrist which are rateable under the Standards. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. F68-5951.

G55-5440 This worker's loss of strength is due to an excision of the transverse carpal ligament to decompress the median nerve causing an anatomical change affecting the mechanics of the flexion function used for grasping. The Standards currently value loss of strength based on either nerve injury, loss of muscle tissue, or disruption of a musculotendinous unit. The anatomical change from the surgery has resulted in the loss of strength. The strength shall be valued as if the nerve supplying the muscles or muscle group was impaired. As a result of impairment from strength loss, this worker is entitled to 9% of the wrist/forearm. This impairment is combined with any other impairment ratable under the current Standards. Notwithstanding OAR 436-35-003, this rule applies to only WCD file no. G55-5440.

G69-3682 This worker has suffered a laceration of the radial side of the distal phalanx of the left index finger. The Standards do not provide a value for hypersensitivity of the fingers. The impairment for hypersensitivity is based on the particular damaged nerve (radial palmar digital branch of the median nerve) and the extent of the effect to the body part (left index finger). In this case, the impairment value for hypersensitivity of the left index finger shall be given a value of 3%. This impairment is combined with any other impairment ratable under the current Standards. Notwithstanding OAR 436-35-003, this rule applies to only WCD file no. G69-3682.

I75-8738 This worker's loss of strength is due to a persistent dislocation of the sternoclavicular joint. The anatomical change results in a change in the fulcrum activity of the clavicle for the muscle attachments. The Standards currently value loss of strength based on either nerve injury, loss of muscle tissue, or disruption of a musculotendinous unit. The anatomical change from the persistent dislocation of the sternoclavicular joint has resulted in the loss of strength. The strength shall be valued as if the nerve supplying that muscle or muscle group was impaired. As a result of the impairment from strength loss, this worker is entitled to 5% of the right shoulder. This impairment is combined with any other impairment ratable under the current Standards. Notwithstanding OAR 436-35-003, this rule applies to only WCD file no. I75-8738.

A69-9328 This worker has suffered a laceration avulsion of the skin of the palm of the left hand resulting in a disruption of the underlying soft tissue and formation of sensitive granulation tissue. During grasping activities, the worker experiences a loss of grip strength due to pain. The rules currently value loss of strength based on either nerve injury, loss of muscle tissue, or disruption of a musculotendinous unit. The disruption of the tissue has resulted in the loss of strength. The strength shall be valued as if the nerve supplying the area was impaired. As a result of the strength loss, this worker is entitled to 14% scheduled disability for impairment in the hand. This impairment is combined with any other impairment ratable under the current rules. Notwithstanding OAR 436-35-003, this rule applies to only WCD file no. A69-9328.

I73-9896 This worker has suffered a partial tear of the radial collateral ligament of the right third finger at the metacarpophalangeal (MP) joint resulting in a loss of grip strength due to pain at the MP joint. The rules provide a value for loss of strength when there is loss of a nerve, loss of muscle tissue, or disruption of a musculotendinous unit. This loss of strength is found similar to a loss due to a disruption of a musculotendinous unit. The strength shall be valued as if the nerve supplying the muscle or muscle group was impaired. As a result of the strength loss, this worker is entitled to 9% scheduled disability for impairment in the hand. This impairment is combined with any other impairment ratable under the current rules. Notwithstanding OAR 436-35-003, this rule applies to only WCD file no. I73-9896.

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