

EXHIBIT "A"

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

DISABILITY RATING STANDARDS

Temporary Rule Promulgation For Individual Claims

436-035-0500 (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 436-001-0000(2).

A76-0401 This worker's loss of strength is a result of the inability to fix the scapula against the chest wall due to the weakness in the serratus anterior causing problems with the scapular-thoracic rhythm leading to symptoms of anterior shoulder pain. The rules value loss of strength based on either nerve damage, loss of muscle tissue, or disruption of a musculotendinous unit. The problems with the scapular-thoracic rhythm results in a similar loss of function as disruption of the musculotendinous unit. The strength shall be valued as if the nerve supplying the muscle group was impaired. As a result of the impairment from strength loss, this worker is entitled to 1.0% of the right shoulder. This impairment is combined with any other loss of strength in the shoulder and then combined with other impairment ratable under the former rules. Notwithstanding OAR 436-35-003, this rule applies only to WCD file No. A76-0401.

B74-7423 This worker has experienced a loss of standing and walking ability due to degenerative joint disease and surgical sequelae. 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, the worker is entitled to a value of 10% of the right leg. This impairment is combined with any other impairment ratable for the leg under the former rules. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. B74-7423.

B76-5803 This worker sustained an crush injury to the left index finger followed by osteomyelitis and subsequently requiring a debridement of the distal tuft. The rules do not provide a value for hypersensitivity or cold intolerance of the fingers. In this case, the impairment value for hypersensitivity of the left index finger is 8% and for cold intolerance is 3%. These impairment values are combined with any other ratable impairment under the former Standards. Notwithstanding OAR 436-35-003, this rule applies to only WCD file no. B76-5803.

E73-6324 This worker's loss of strength is associated with a left ankle sprain and avascular necrosis of the talus. Loss of strength due to left ankle sprain and avascular necrosis is similar to a loss of function as a result of a disruption of the musculotendinous unit. The strength shall be valued as if the nerve supplying the muscle group was impaired. As a result of the impairment from strength loss, this

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

worker is entitled to a value of 2% of the left foot/ankle. This impairment is combined with any other impairment ratable under the former rules. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. E73-6324.

F72-3750 This worker's loss of the 5th digit adductor strength is due to damage of the third interosseous muscle in the hand. The loss of function is a proportion to the loss of strength in the hand. The strength shall be valued as if the nerve supplying the muscle was impaired. As a result of the impairment from strength loss, this worker is entitled to 1.0% of the hand. This impairment is combined with any other impairment ratable under the former rules. Notwithstanding OAR 436-35-003, this rule applies only to WCD file No. F72-3750.

G41-0094 This worker has experienced a loss of standing and walking ability due to osteoarthritis and surgical sequelae. 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, the worker is entitled to a value of 10% of the left leg. This impairment is combined with any other impairment ratable for the leg under the former rules. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. G41-0094.

G71-9125 This worker's angular deformity in the humerus due to mid shaft fracture has resulted in an increased lateral deviation of 12 degrees at the elbow. The rules do not address such deformities. As a result of this impairment from the angular deformity, this worker is entitled to a value of 7% of the right arm. This impairment is combined with any other impairment ratable for the arm under the former rules. Notwithstanding OAR 436-35-003, this rule applies to only WCD file no. G71-9125.

B72-2366 As a result of the accepted fracture of the left index finger, this worker has a rotational deformity which is not addressed by the former Standards. The Director adopts the value of 10% for rotational deformity of a digit from the current Standards. See OAR 436-035-0060 (10). 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. B72-2366.

C69-5254 This worker has experienced a loss of standing and walking ability due to a torn medial meniscus and chondromalacia of the medial femoral condyle. The Standards at the time of closure did not address this worker's limitations as a result of this injury. The Director adopts the current Standards, Admin. Order 96-051, OAR 436-035-0230 (13)(14)(16), to address this worker's limitations in standing and walking in an 8 hour period. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. C69-5254.

C75-2485 This worker has experienced a loss of standing and walking ability due to a torn medial meniscus. The standards at the time of closure did not address this worker's limitations as a result of this injury. The Director adopts the current Standards, WCD Admin. Order 96-051, specifically OAR 436-035-0230 (13)(14)(16) to address this worker's limitations in standing and walking in an 8 hour period. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. C75-2485.

C75-4352 This worker is permanently restricted from exposure to chemical and fiber irritants which result in right maxillary sinusitis. The reaction to the irritants is not addressed by the former Standards. The Director adopts the value of 3% for the irritant response which is similar to an immune system allergic response. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. C75-4352.

D58-5410 This worker has experienced a loss of standing and walking ability due to an acute knee injury which ultimately resulted in a total right knee arthroplasty. The Standards at the time of closure did not address this worker's limitations as a result of this injury. The Director adopts the current Standards Admin. Order 96-051, OAR 436-035-0230 (13)(14)(16), to address this worker's limitations

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

in standing and walking in an 8 hour period. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. D58-5410.

E60-2070 As a result of the accepted post traumatic arthritis and surgical sequelae, this worker has a valid loss of strength in the biceps muscle which is not addressed by the former Standards. The Director adopts the current OAR 436-035-0110 (8)(a), Admin. Order 96-051, to address this worker's valid loss of strength. Any value granted in accordance with these rules shall be combined with other applicable impairment findings for the right arm. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E60-2070.

E67-3492 This worker sustained fractures of the right distal radius and olecranon and a partial tear of the right triceps and as result developed reflex sympathetic dystrophy. The reflex sympathetic dystrophy had a severe vascular component which was termed non Raynaud's phenomenon. The Director adopts the former Standards at OAR 436-035-0110 (6) and assigns a Class 4 level to address this worker's vascular impairment for the right arm. The worker has a loss of range of motion in right thumb and finger extension which was not addressed in the former Standards. The Director adopts the impairment values in the current Standards OAR 436-035-0050 and 436-035-0060, Admin. Order 96-051. These values may be combined with any other impairment rateable in accordance with applicable rules. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E67-3492.

E75-7774 The Director finds the loss of lifting ability arising out of the worker's accepted condition is addressed in the statute pursuant to ORS 656.214(5). Under ORS 656.214(2-4), the worker's loss of use or function is addressed in the former Standards. Therefore, no value is given for loss of lifting ability for a scheduled body part in a single joint. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E75-7774.

E76-8051 This worker's loss of strength is a result of scarring at the lateral epicondyle of the right elbow. The former rules valued the loss of strength based on either nerve damage, loss of muscle tissue, or disruption of a musculotendinous unit. Scarring changes in the musculotendinous unit results in a similar loss of function as disruption of the musculotendinous unit. The loss of strength shall be valued as if the nerves supplying the muscle groups were impaired. As a result of the impairment from strength loss, this worker is entitled to 15% of the arm. This impairment is combined with any other impairment rateable under the current rules. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E76-8051.

E78-0741 This worker has a lateral deviation deformity of the left ring finger which is not addressed by the former Standards. The Director adopts the value of 10% for lateral deviation deformity of a digit from the current Standards. See OAR 436-035-0060 (10), Admin. Order 96-051. This value shall be combined with any other applicable impairment values for the left ring finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E78-0741.

F41-3719 This worker has experienced a loss of standing and walking ability due to bilateral knee injuries. The standards at the time of closure did not address this worker's limitations as a result of this injury. The Director adopts the current Standards, Admin. Order 96-051, specifically OAR 436-035-0230 (13)(14)(16) to address this worker's bilateral limitations in standing and walking in an 8 hour period. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F41-3719.

F71-5463 This worker has loss of strength in the right upper extremity and right shoulder which is not addressed by the former Standards. The Director adopts the rating of loss of strength as set forth in the current Standards. See OAR 436-035-0110 (8) and 436-035-0350 (3)(5), Admin. Order 96-051. These values shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F71-5463.

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

G79-8212 This worker's loss of the 5th digit adductor strength is due to disruption of a musculotendinous unit in the hand as a result of a Colles fracture. The loss of function is a proportion to the loss of strength in the hand. The strength shall be valued as if the nerve supplying the muscle was impaired. As a result of the impairment from strength loss, this worker is entitled to 1.0% of the hand. This impairment is combined with any other impairment ratable under the former rules. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G79-8212.

H66-7437 This worker has experienced a loss of standing and walking ability due to a torn lateral meniscus and post traumatic arthritis. The standards at the time of closure did not address this worker's limitations as a result of this injury. The Director adopts the current Standards, Admin. Order 96-051, OAR 436-035-0230 (13)(14)(16), to address this worker's limitations in standing and walking in an 8 hour period. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. H66-7437.

H67-5437 This worker has a lateral deviation deformity of the right thumb and loss of strength in both thumbs which are not addressed by the former Standards. The Director adopts the impairment value for lateral deviation deformity of the thumb and loss of strength for both thumbs from the current Standards. See OAR 436-035-0050 (7) and 436-035-0110 (8)(a), Admin. Order 96-051. These values shall be combined with any other applicable impairment values for the thumbs. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. H67-5437.

H74-6802 This worker sustained a puncture wound to the left middle finger which resulted in hypersensitivity of the digit. The rules do not provide a value for hypersensitivity of the fingers. In this case, the impairment value for hypersensitivity of the left middle finger is 12%. This impairment value is combined with any other ratable impairment under the former Standards. Notwithstanding OAR 436-035-0003, this rule applies to only WCD file no. H74-6802.

I58-7732 As a result of the accepted post-concussive encephalopathy (brain damage), this worker developed right arm and shoulder neurological dysfunction including loss of grip strength and loss of strength in internal rotation of the right shoulder. The impairment value for the right arm neurological dysfunction including loss of right grip strength is 14% based on the former Standards. However, the standards do not address loss of shoulder strength due to brain damage. The impairment value for the loss strength in internal rotation in the right shoulder is 3%. These values shall be combined with any other applicable impairment values for the right upper extremity and right shoulder. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I58-7732.

B81-6992 This worker has a lateral deviation deformity of the right middle finger which is not addressed by the former Standards. The Director adopts the Disability Rating Standards, OAR 436-035-0060(10), WCD Admin. Order 96-051. This value shall be combined with any other applicable impairment values for the right middle finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. B81-6992.

E73-5763 This worker has loss of grip strength in the left hand, ulnar side, which is not addressed by the former Standards. The Director adopts the rating of loss of strength as set forth in OAR 436-035-0007(18) and 436-035-0110(8), WCD Admin. Order 96-051. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E73-5763.

F77-1642 This worker has loss of strength in the right shoulder which is not addressed by the former Standards. The Director adopts the rating of loss of strength as set forth in OAR 436-035-0007(18), 436-035-0330(19) and 436-035-0350(3),(5), WCD Admin. Order 96-051. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F77-1642.

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

F78-3857 This worker sustained an avulsion of the tip of the left middle finger resulting in a loss of length of the finger and hypersensitivity of the tip of the digit. The Director adopts WCD Admin. Order 96-051, OAR 436-035-0030(6),(8), to address the loss of finger length. The Standards do not provide a value for hypersensitivity of the fingers. Less than normal sensation in 1/2 the distal phalanx is valued in the former Standards. In this case, the impairment for hypersensitivity is considered similar to less than normal sensation and given the value of 8%. These impairment values are combined with any other ratable impairment under the Standards. Notwithstanding OAR 436-035-0003, this rule applies to only WCD file no. F78-3857.

F79-7581 The worker has a valid loss of strength in the left shoulder as a result of his shoulder surgery. The loss of strength was not addressed by the former Standards. The Director adopts WCD Admin. Order 96-051, OAR 436-035-0007(18), 436-035-0330(19), and 436-035-0350(3),(5), to address this worker's valid loss of strength. Any value granted in accordance with these rules shall be combined with other applicable impairment findings for the left shoulder. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F79-7581.

G77-2943 This worker has experienced a loss of standing and walking ability and the loss of strength in the left quadriceps due to a torn medial meniscus and post traumatic arthritis. The Standards at the time of closure did not address this worker's limitations nor the loss of strength as a result of this injury. The Director adopts WCD Admin. Order 96-051, OAR 436-035-0230(9),(10),(13),(14),(16) and 436-035-0007(18), to address this worker's limitations in standing and walking in an eight hour period and the loss of strength. Any value granted in accordance with these rules shall be combined with any other applicable impairment findings. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G77-2943.

I77-7807 As a result of the accepted left knee condition and subsequent surgery, this worker has a loss of strength in the left knee/thigh which is not addressed by the former Standards. The Director adopts WCD Admin. Order 96-051, OAR 436-035-0007(18) and 436-035-0230(9),(10), to address this worker's loss of strength. Any value granted in accordance with these rules shall be combined with other applicable impairment findings for the left knee/leg. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I77-7807.

Stat Auth: ORS 656.726(3)

Stat Impltd: ORS 656.268(6); ORS 656.726(3)(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)

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

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)

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