

## 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).

**A82-2866** This worker has a residual range of motion of 55 degrees of flexion of the IP joint of the left thumb which is not addressed by the Standards. The Director adopts the value of 14% for the impairment value for 55 degrees of flexion of the IP joint of the left thumb. This value shall be combined with any other applicable impairment. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. A82-2866.

**B77-8377** This worker has a left sternoclavicular joint subluxation resulting in loss of function. The current Standards do not address this impairment. In this case, the chronic subluxation of the sternoclavicular joint shall be valued at 7% for the left shoulder. This value shall be combined with other applicable impairment values ratable under the Standards. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. B77-8377.

**D81-7448** This worker has experienced a comminuted fracture of the distal shaft of the tibia which healed in 20 degrees of valgus angulation. This angulation affects the function of the entire leg. The rules currently do not address healed tibial shaft fractures with angulation. The Director assigns a value of 32% for the right leg for the valgus angulation of the tibial shaft. This value is combined with any other ratable impairment findings. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. D81-7448.

**I82-0858** This worker has hypersensitivity in the third and fourth toes and a loss of sensation of the medial one quarter of the plantar surface of the right foot as a result of nerve damage following a crush injury. For the hypersensitivity of the toes and loss of sensation of the medial one quarter of the plantar surface of the right foot, the Director assigns the value of 5% for this altered sensation. This award is in lieu of partial loss of sensation for the foot. See OAR 436-035-0170(1)(b) and 436-035-0200(1). This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. I82-0858.

**C84-3004** This worker has experienced head trauma which has resulted in post-traumatic headaches. During a post-traumatic headache episode the worker experiences photophobia, nausea, vomiting, has disruption of the activities of daily living and is unable to work. The headaches are not

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entirely responsive to prescription medication. The Director assigns an impairment value of 10% for this case. Notwithstanding former OAR 436-035-0003, this rule applies only to WCD file No. C84-3004.

D82-9639 As a result of the accepted head contusion and concussion, the worker has severe intermittent headaches. This worker's headaches are accompanied by nausea, vomiting, photophobia and sonophobia requiring prescription medications. There is disruption of the activities of daily living and inability to work during a headache episode. An impairment value of 10% is given for this case. Notwithstanding former OAR 436-035-0003, this rule applies only to WCD file No. D82-9639.

G83-6389 This worker is permanently restricted from exposure to a chemical irritant which results in chronic rhinitis. The reaction to the irritants is not addressed by the Standards. The Director adopts the value of 3% for the irritant response which is similar to an immune system allergic response. This value is combined with any other applicable impairment values. Notwithstanding former OAR 436-035-0003, this rule applies only to WCD file No. G83-6389.

**D29-9140 This worker had a triple arthrodesis resulting in ankylosis of 10 degrees of subtalar eversion which is not addressed by the former Standards. The Director adopts current WCD Admin. Order 96-072, OAR 436-035-0190(5), to address this impairment. This value shall be combined with any other applicable impairment. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. D29-9140.**

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)  
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)

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Amended 01/15/97 as WCD Admin. Order 97-050, eff. 01/15/97 (Temp) (A82-2866) (B77-8377) (D81-7448) (182-0858)  
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)

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