

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).

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 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.

B85-1508 **This worker sustained a crush injury to the left index finger with laceration and fracture of the distal phalanx. The rules do not provide impairment values for the loss of use or function of the left index finger due to malalignment/non-union of the finger tuft, hypersensitivity (pain response), and non-Raynaud's (non-vascular) cold intolerance. In this case, the Director assigns the following impairment values: 10% for malalignment of the tuft, 8% for**

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hypersensitivity, and 3% for non-Raynaud's cold intolerance. These impairment values are combined with any other ratable impairment under the Standards. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. B85-1508.

E84-8454 This worker has a shortening of the left metacarpal as a result of the accepted comminuted fracture at the base of the 5th metacarpal. This shortening was manifested by a 1 centimeter decrease in the left little finger. The Director adopts a value of 10% of the left hand for shortening of the left 5th metacarpal. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E84-8454.

H78-6911 This worker has an avulsion of the talus bone (astragalectomy). The only motion of the foot occurs at the tibiocalcanean joint which is not addressed in the Standards. The Director adopts the current Standards at OAR 436-035-0190 to address the loss of motion in the ankle/forefoot. The Director assigns an impairment value of 20% of the left foot for the loss of the talus bone. These values shall be combined with any other applicable impairment values for the foot and leg. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. H78-6911.

I43-6347 This claim was remanded to the Director for promulgation of a temporary rule to address the medical arbiter's opinion that the worker had permanent impairment as a result of a ilioinguinal nerve resection. Since this nerve has a sensory function, permanent impairment would be associated with loss of sensation and/or pain/discomfort in the leg, penis, and scrotum. In addition, the injury may cause sexual dysfunction, which was not noted for this worker. The Director adopts the current Standards to address the loss of sensation in the leg. See OAR 436-035-0230(1). The medical evidence did not describe pain/discomfort as being severe nor frequent enough to cause disruption of the activities of daily living, require adjustments in work activity, or the need for continuing prescribed medication or need for treatment. The Director adopts the value of zero percent impairment for the whole person from the AMA Guides, Third Edition, revised, regarding loss of function of the ilioinguinal nerve for this worker. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I43-6347.

I82-6879 This worker has a "rocker bottom deformity" and non-union of the 2nd through the 4th metatarsals resulting in a greater loss of function than is contemplated in the current Standards. The Director assigns the value of 14% for the rocker bottom deformity of the right foot and 3% for each of the right metatarsals (second, third, and fourth). These values shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I82-6879.

Stat Auth: ORS 656.726(3)

Stat Implt'd: 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)

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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)

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