

EXHIBIT "A"

CHAPTER 436
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
DIVISION 035

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).

A83-5359 This worker's loss of ability to discriminate temperatures (between hot and cold) and proprioception (texture and placement of objects) due to neurapraxia affecting other nerve fibers than those responsible for two point discriminatory sensation is not addressed in the Standards. The Director finds the loss of function similar to the loss of function when the two point discriminatory nerve fibers have been damaged and assigns a value of 19% for the right thumb. See OAR 436-035-0110(1)(c). This impairment shall be combined with any other impairment ratable under the Standards. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A83-5359.

A85-2018 This worker sustained a displaced fracture of the left tibial plateau which resulted in medial lateral and anterior instability of the left knee. There was no evidence of actual damage to the medial collateral, lateral collateral, or anterior cruciate ligaments. The ligaments were rendered loose when accommodating the depressed central tibial plateau fracture. The Director assigns the value of 23% for the left knee instability. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A85-2018.

C81-9952 This worker sustained a left ankle sprain resulting in anterior ankle stability without lateral or medial collateral ligamentous instability. The Director assigns the value of 10% for the anterior left ankle instability. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. C81-9952.

E55-9496 This worker sustained an interarticular fracture of the left wrist which required multiple surgeries at the level of the carpal bones and the radius. The Director assigns an impairment value of 5% for the radiocarpal fusion surgery. This impairment value is combined with any other ratable impairment under the Standards. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E55-9496.

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E72-7758 This worker has experienced mitral valve regurgitation, left ventricle dysfunction, and arrhythmia in the form of chronic atrial fibrillation as a result of physical trauma to the heart (myocardial contusion). The standards do not address this worker's loss of cardiac function as a result of the accepted conditions. This loss of cardiac function due to trauma shall be valued as 39% unscheduled impairment. This value shall be combined with any other unscheduled impairment due this worker. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E72-7758.

F61-8155 This worker required a "re-do" replacement of the femoral head component of a total hip replacement after loosening. The Director adopts a value of 5% of the left leg (hip) for the replacement of the femoral head. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F61-8155.

F83-7544 As a result of the accepted carpal tunnel syndrome, the worker developed cold intolerance of the left hand due to nerve problems. The standards do not address this disability. The Director finds this loss of function similar to the loss of function experienced with Raynaud's Syndrome and assigns an impairment value of 35% of the left hand only. See OAR 436-035-0110(6). This value shall be combined with any other applicable impairment values for the left hand. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F83-7544.

F86-6621 This worker experienced a malalignment of the tibial shaft of the right lower leg of 10 degrees following a fracture. The malalignment deformity affects the function of the entire leg. The current standards do not address malalignment of the tibial shaft. Therefore, in this case, the malalignment shall be valued as 17% of the right leg. This value shall be combined with any other ratable impairment findings. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F86-6621.

G32-9876 This worker has developed a mixed headache condition with two components. One component (muscle tension type) does not result in any disruption of activities of daily living, work restrictions, or ongoing medical treatment. The migraine type headache component results in photophobia, sonophobia, nausea, and vomiting. The worker must have monitored prescription medication and has permanent work restrictions. The headaches are not entirely responsive to prescription medication. The Director assigns an impairment value of 10% for this case. This value shall be combined with any other impairment findings. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G32-9876.

G60-2516 This worker sustained a hemipelvectomy and direct medical sequelae from the traumatic amputation and subsequent repairs which are not addressed by the standards. The Director adopts a value of 33% for the loss of the right side of the pelvis (pubic symphysis, sacrum, ischium, ilium), 30% for the loss of the right abdominal wall structures (supported by soft tissue and Marlex mesh only), and 15% for the integumentary system as a result of the chronic sinus tract between the Marlex mesh and perineum, associated with drainage and chronic infections, and requiring ongoing medical care. These values shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G60-2516.

G74-2871 As a result of surgical procedures to address the accepted condition, this worker has a rotation in the second metacarpal resulting in a rotation and lateral deviation of the index finger. The standards address rotation in a phalange, but not in a metacarpal. The Director

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adopts a value of 19% for the right index finger as a result of malrotation of the second 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. G74-2871.

G81-2430 Following a crush injury resulting in left thumb fracture and laceration of the left index and long fingers, the worker has developed cold intolerance. The cold intolerance was due to the crushing of the small blood vessels and not Raynaud's Phenomenon. The standards do not address this disability. The Director finds this loss of function similar to the loss of function experienced with Raynaud's syndrome and assigns an impairment value of 35% of the left hand. See OAR 436-035-0110(6). This value shall be combined with any other applicable impairment values for the left hand. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G81-2430.

G83-2249 This worker has a loss of function and loss of earning capacity as a result of the accepted cervical vertigo with associated headaches and dizziness. The worker has been prescribed medications and permanent restrictions regarding commercial driving and working around dangerous equipment. The loss of function and loss of earning capacity is similar to vestibular dysfunction, damage to the eighth cranial nerve. See OAR 436-035-0390(7). The Director assigns an impairment value of 23% for the cervical vertigo (considered as other body system/condition). This value shall be combined with any other ratable objective findings due to the accepted conditions. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G83-2249.

G85-5641 This worker sustained a right tibial plateau fracture which resulted in laxity in the medial collateral ligament without actual ligament damage. The medial collateral ligament was rendered loose when it was not shortened to accommodate the depressed lateral tibial plateau fracture. The Director assigns the value of 10% for the right medial collateral knee instability. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G85-5641.

H81-4914 This worker has a separation of the right sacroiliac joint as the result of a fall which is not addressed by the standards. The Director adopts a value of 10% for the healed displaced sacroiliac joint. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. H81-4914.

I86-3008 This worker has a shortening of the left index finger as a result of the accepted comminuted fracture of the proximal phalanx. This shortening was manifested by a 0.3cm decrease in the index finger length when compared with the right index finger. The Director adopts a value of 10% of the left index finger for shortening. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I86-3008.

I86-9133 This worker has a shortening of the right index finger as a result of the accepted comminuted fracture. This shortening was manifested by a 6mm decrease in length of the right index finger when compared to the left index finger. The Director adopts a value of 10% of the right index finger for shortening. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I86-9133.

Stat Auth: ORS 656.726(3)
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(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)
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(D75-4912) (D79-9425) (E76-7631) (E80-1282) (F74-8492) (G72-8281) (I61-2741) (I79-2365) (I80-9262)
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(E72-7758) (F61-8155) (F83-7544) (F86-6621) (G32-9876) (G60-2516) (G74-2871) (G81-2430) (G83-2249) (G85-5641)
(H81-4914) (I86-3008) (I86-9133)

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