

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.

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

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

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 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

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

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.

A83-5562 This worker sustained a crush injury to the left hand with amputation of the middle finger and comminuted fracture of the tuft of the ring finger. Subsequently, the worker developed hypersensitivity along the radial border (fingernail area) of 1/2 the distal phalanx of the ring finger. The former rules do not provide an impairment value for loss of use or function due to hypersensitivity. The Director finds the loss of use or function due to hypersensitivity similar to the loss of sensation ("less than normal") for the radial side of 1/2 the distal phalanx of the ring finger and assigns an impairment value of 5%. See former OAR 436-035-0110(1). This impairment value is combined with any other ratable impairment under the former Standards. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. A83-5562.

A86-1481 Following a crush injury resulting in left small finger partial amputation and left ring finger cross-flap reconstruction, the worker developed cold intolerance in the involved fingers. 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

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

value of 35% of the left ring finger and 35% of the left small finger. See former OAR 436-035-0110(6). These values shall be combined with any other applicable impairment values for each involved finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. A86-1481.

B86-5204 This worker has a shortening of the shaft of the left first metacarpal as a result of an accepted first metacarpal fracture. The Director finds the impairment due to shortening of the metacarpal as a result of a fracture is similar in loss of use or function to a partial resection of the metacarpal. The Director adopts a value of 10% of the left hand for shortening of the first 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. B86-5204.

E84-8500 This worker experienced a severe crush injury to his left hand. As a result of the crush injury, the worker has loss of blood flow in the ulnar artery resulting in cold intolerance. The resulting cold intolerance is not Raynaud's Phenomenon, but the resulting disability is similar. See former OAR 436-035-0110(6)(c). The Director adopts an impairment value of 35% for the cold intolerance in the left hand due to vascular damage. This value shall be combined with any other ratable impairment findings. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. E84-8500.

E85-7684 This worker has shortening of the left 4th metacarpal as a result of the accepted fracture of the 4th metacarpal. The Director finds the impairment due to shortening of the metacarpal as a result of a fracture is similar to the loss of use or function associated with a partial resection of a metacarpal. See former OAR 436-035-0030(4). The Director adopts a value of 10% of the left hand for shortening of the left 4th 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. E85-7684.

F79-5346 This worker sustained a left ankle injury resulting in degenerative joint disease and osteochondritis dissecans associated with secondary weakness and chronic effusion. The severity of the osteochondritis dissecans was equated to grade IV chondromalacia in the ankle. The Director finds this worker's loss of use or function similar to grade IV chondromalacia in the knee with secondary weakness and/or chronic effusion. See former OAR 436-035-0230(13). The Director assigns the value of 5% for the left ankle grade IV chondromalacia. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. F79-5346.

G69-1876 This worker sustained a fracture of the left lateral tibial plateau which resulted in medial lateral instability of the left knee. There was no evidence of actual damage to a ligament. At the time of closure, the former rules did not address knee instability without evidence of ligament damage. See former OAR 436-035-0230(3). The Director adopts the current Standards, Admin. Order 98-055, effective July 1, 1998, specifically OAR 436-035-0230(3)(a) to address this worker's 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. G69-1876.

G86-8605 This worker has residual grade IV (severe) instability of the metacarpal phalangeal (MP) joint of the left thumb resulting in a backward buckling of the thumb on open handed grasping and pinching. This impairment is not addressed by the Standards. The Director assigns a value of 6% for grade IV instability of the left thumb. This value shall be combined with any other applicable impairment findings for the thumb. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. G86-8605.

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

G87-7426 This worker has residual mild instability of the metacarpophalangeal (MP) joint of the right thumb due to the accepted ulnar collateral ligament tear. This impairment is not addressed by the Standards. The Director assigns a value of 2% for metacarpophalangeal joint instability of the right thumb. This value shall be combined with any other applicable impairment findings for the right thumb. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. G87-7426.

G88-7067 This worker sustained a crush injury to the right index finger with a laceration of the distal phalanx with the development of a neuroma resulting in hypersensitivity. The Standards do not provide an impairment value for the loss of use or function due to hypersensitivity. The Director finds the loss of use or function due to hypersensitivity similar to the loss of sensation (protective sensation) for 1/2 the distal phalanx of the right index finger and assigns an impairment value of 12%. See former OAR 436-035-0110(1). This impairment value shall be combined with any other ratable impairment under the Standards. Notwithstanding OAR 436-035-0003, this rule applies to only WCD file No. G88-7067.

H87-5177 Following various amputations and lacerations of all fingers of the left hand, the worker experiences hypersensitivity and cold intolerance in the little finger and remaining portion of the hand. These are not addressed in the Standards. The loss of use or function is similar to that experienced with loss of sensation. The Director assigns a value of 12% for the little finger and 15% for the remaining distal portion of the palmar surface of the left hand. See former OAR 436-035-0110(1). The cold intolerance was due to Raynaud's-like phenomena. 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 former OAR 436-035-0110(6). These values shall be combined with any other applicable impairment values for the involved fingers and left hand not to exceed 100% of the involved body part pursuant to former OAR 436-035-0010(4). Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. H87-5177.

I82-2391 This worker is afflicted with focal dystonia of the lips manifested by a persistent, reproducible, observable, moderate degree of tremor of her upper lip which prevents her from maintaining a constant air flow with resulting severe disruption of performance of her work activities. The dystonia appears whenever the worker attempts to play the flute, whistle or maintain lip contraction in a controlled dexterous fashion. The Standards do not address this worker's disability. The Director finds this dysfunction is similar to the loss of use or function associated with permanent damage to the VII cranial nerve (facial). See former OAR 436-035-0390(6). The Director assigns a value of 15% for focal dystonia of the lips. This value may be combined with other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. I82-2391.

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)

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

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)

Amended 03/31/98 as WCD Admin. Order 98-054, eff. 03/31/98 (Temp) (A83-5359) (A85-2018) (C81-9952) (E55-9496) (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)

Amended 7/13/98 as WCD Admin. Order 98-056, eff. 7/15/98 (Temp) (A83-5562) (A86-1481) (B86-5204) (E84-8500) (E85-7684) (F79-5346) (G69-1876) (G86-8605) (G87-7426) (G88-7067) (H87-5177) (I82-2391)

S:\WP_PROJRUL_DRFT\35_500\TMP50012.SAM\07\10\98\flr