

**BEFORE THE DIRECTOR OF THE  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
OF THE STATE OF OREGON**

In the Matter of the Amendment of OAR Chapter    )  
436, Workers' Compensation Division, Division    )  
035, Disability Rating Standards                    )       **ORDER OF ADOPTION  
OF TEMPORARY RULES**

The Director of the Department of Consumer and Business Services, pursuant to the rule making authority in ORS 656.726(3), and in accordance with the procedure provided by ORS 183.355, amends OAR Chapter 436, Workers' Compensation Division, Division 035, Disability Rating Standards, Rule 0330.

This rule is being adopted by temporary rulemaking, as provided by ORS 183.335(5) and (6), without prior notice. This temporary rule is needed to correct a scrivener's error that resulted in the omission of ratings for some range of motion impairments. I conclude that failure to act promptly will result in serious prejudice to the public interest.

**PURSUANT TO ADA GUIDELINES, ALTERNATE FORMAT COPIES OF THE RULES WILL BE MADE AVAILABLE TO QUALIFIED INDIVIDUALS UPON REQUEST TO THE DIVISION.**

**If you have questions about these rules or need them in an alternate format, contact the Workers' Compensation Division at (503) 947-7810.**

IT IS THEREFORE ORDERED:

- (1) OAR Chapter 436, Division 35, Rule 0330 as set forth in Exhibit "A", attached hereto, a certified true copy and hereby made part of this Order, is temporarily adopted effective October 28, 1998.
- (2) A certified true copy of Order of Adoption and these Rules, Exhibit "A", with Exhibit "B" consisting of the Citation of Statutory Authority, Statement of Need, Principal Documents Relied Upon and Statement of Emergency Justifications, hereby made a part of this Order, be filed with the Secretary of State.
- (3) A copy of the Rules and the attached Exhibit "B" be filed with the Legislative Counsel, pursuant to the provision of ORS 183.715 within 10 days after filing with the Secretary of State.

Dated this 28th day of October, 1998.

DEPARTMENT OF CONSUMER  
AND BUSINESS SERVICES

/s/ Michael Greenfield  
Michael Greenfield, Director

Attachments

Distribution: WCD-ID, S, T, U, AT, CE, EG, IA, LU, NM, CI, DD, ML

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
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EXHIBIT "A"  
 OREGON ADMINISTRATIVE RULES  
 CHAPTER 436, DIVISION 035 (TEMPORARY RULE)

**SHOULDER JOINT**

**436-035-0330** (1) The following ratings are for loss of forward elevation in the shoulder joint:

Position of Maximum Forward Elevation in the Shoulder/Percentage of Impairment

180° = 0.0%	142° = 1.8%	94° = 3.6%	46° = 5.4%	18° = 7.6%
179° = 0.1%	141° = 1.9%	93° = 3.7%	45° = 5.5%	17° = 7.9%
178° = 0.2%	130°-140° = 2.0%	92° = 3.8%	44° = 5.6%	16° = 8.2%
177° = 0.3%	129° = 2.1%	91° = 3.9%	43° = 5.7%	15° = 8.5%
176° = 0.4%	128° = 2.2%	70°- 90° = 4.0%	42° = 5.8%	14° = 8.8%
175° = 0.5%	127° = 2.3%	69° = 4.1%	41° = 5.9%	13° = 9.1%
174° = 0.6%	126° = 2.4%	68° = 4.2%	30°- 40° = 6.0%	12° = 9.4%
173° = 0.7%	125° = 2.5%	67° = 4.3%	29° = 6.1%	11° = 9.7%
172° = 0.8%	124° = 2.6%	66° = 4.4%	28° = 6.2%	10° = 10.0%
171° = 0.9%	123° = 2.7%	65° = 4.5%	27° = 6.3%	9° = 10.3%
150°-170° = 1.0%	122° = 2.8%	64° = 4.6%	26° = 6.4%	8° = 10.6%
149° = 1.1%	121° = 2.9%	63° = 4.7%	25° = 6.5%	7° = 10.9%
148° = 1.2%	100°-120° = 3.0%	62° = 4.8%	24° = 6.6%	6° = 11.2%
147° = 1.3%	99° = 3.1%	61° = 4.9%	23° = 6.7%	5° = 11.5%
146° = 1.4%	98° = 3.2%	50°- 60° = 5.0%	22° = 6.8%	4° = 11.8%
145° = 1.5%	97° = 3.3%	49° = 5.1%	21° = 6.9%	3° = 12.1%
144° = 1.6%	96° = 3.4%	48° = 5.2%	20° = 7.0%	2° = 12.4%
143° = 1.7%	95° = 3.5%	47° = 5.3%	19° = 7.3%	1° = 12.7%
				0° = 13.0%

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(2) The following ratings are for forward elevation ankylosis in the shoulder joint:

Joint Ankylosed at/Percentage of Impairment

0° = 15.0%	18° = 9.6%	56° = 11.2%	74° = 13.8%	102° = 16.2%
1° = 14.7%	19° = 9.3%	57° = 11.4%	75° = 14.0%	103° = 16.3%
2° = 14.4%	20°- 40° = 9.0%	58° = 11.6%	76° = 14.2%	104° = 16.4%
3° = 14.1%	41° = 9.1%	59° = 11.8%	77° = 14.4%	105° = 16.5%
4° = 13.8%	42° = 9.2%	60° = 12.0%	78° = 14.6%	106° = 16.6%
5° = 13.5%	43° = 9.3%	61° = 12.1%	79° = 14.8%	107° = 16.7%
6° = 13.2%	44° = 9.4%	62° = 12.2%	80° = 15.0%	108° = 16.8%
7° = 12.9%	45° = 9.5%	63° = 12.3%	81° = 15.1%	109° = 16.9%
8° = 12.6%	46° = 9.6%	64° = 12.4%	82° = 15.2%	110°-150° = 17.0%
9° = 12.3%	47° = 9.7%	65° = 12.5%	83° = 15.3%	151° = 17.1%
10° = 12.0%	48° = 9.8%	66° = 12.6%	84° = 15.4%	152° = 17.2%
11° = 11.7%	49° = 9.9%	67° = 12.7%	85° = 15.5%	153° = 17.3%
12° = 11.4%	50° = 10.0%	68° = 12.8%	86° = 15.6%	154° = 17.4%
13° = 11.1%	51° = 10.2%	69° = 12.9%	87° = 15.7%	155° = 17.5%
14° = 10.8%	52° = 10.4%	70° = 13.0%	88° = 15.8%	156° = 17.6%
15° = 10.5%	53° = 10.6%	71° = 13.2%	89° = 15.9%	157° = 17.7%
16° = 10.2%	54° = 10.8%	72° = 13.4%	90°-100° = 16.0%	158° = 17.8%
17° = 9.9%	55° = 11.0%	73° = 13.6%	101° = 16.1%	159° = 17.9%
				160°-180° = 18.0%

(3) The following ratings are for loss of backward elevation in the shoulder joint:

Position of Maximum Backward Elevation in the Shoulder/Percentage of Impairment

50° = 0.0%	46° = 0.4%	42° = 0.8%	8° = 1.2%	4° = 1.6%
49° = 0.1%	45° = 0.5%	41° = 0.9%	7° = 1.3%	3° = 1.7%
48° = 0.2%	44° = 0.6%	[20]10°-40° = 1.0%	6° = 1.4%	2° = 1.8%
47° = 0.3%	43° = 0.7%	9° = 1.1%	5° = 1.5%	1° = 1.9%
				0° = 2.0%

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(4) The following ratings are for backward elevation ankylosis in the shoulder joint:

Joint Ankylosed at/Percentage of Impairment

50° = 18.0%	44° = 17.4%	38° = 16.8%	32° = 16.2%	16° = 15.6%
49° = 17.9%	43° = 17.3%	37° = 16.7%	31° = 16.1%	15° = 15.5%
48° = 17.8%	42° = 17.2%	36° = 16.6%	20°-30° = 16.0%	14° = 15.4%
47° = 17.7%	41° = 17.1%	35° = 16.5%	19° = 15.9%	13° = 15.3%
46° = 17.6%	40° = 17.0%	34° = 16.4%	18° = 15.8%	12° = 15.2%
45° = 17.5%	39° = 16.9%	33° = 16.3%	17° = 15.7%	11° = 15.1%
				0°-10° = 15.0%

(5) The following ratings are for loss of abduction in the shoulder joint:

Position of Maximum Abduction in the Shoulder/Percentage of Impairment

170°-180° = 0.0%	128° = 1.2%	86° = 2.4%	64° = 3.6%	12° = 5.6%
169° = 0.1%	127° = 1.3%	85° = 2.5%	63° = 3.7%	11° = 5.8%
168° = 0.2%	126° = 1.4%	84° = 2.6%	62° = 3.8%	10° = 6.0%
167° = 0.3%	125° = 1.5%	83° = 2.7%	61° = 3.9%	9° = 6.1%
166° = 0.4%	124° = 1.6%	82° = 2.8%	20° - 60° = 4.0%	8° = 6.2%
165° = 0.5%	123° = 1.7%	81° = 2.9%	19° = 4.2%	7° = 6.3%
164° = 0.6%	122° = 1.8%	70° - 80° = 3.0%	18° = 4.4%	6° = 6.4%
163° = 0.7%	121° = 1.9%	69° = 3.1%	17° = 4.6%	5° = 6.5%
162° = 0.8%	90°-[110]120° = 2.0%	68° = 3.2%	16° = 4.8%	4° = 6.6%
161° = 0.9%	89° = 2.1%	67° = 3.3%	15° = 5.0%	3° = 6.7%
130°-160° = 1.0%	88° = 2.2%	66° = 3.4%	14° = 5.2%	2° = 6.8%
129° = 1.1%	87° = 2.3%	65° = 3.5%	13° = 5.4%	1° = 6.9%
				0° = 7.0%

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(6) The following ratings are for abduction ankylosis in the shoulder joint:

Joint Ankylosed at/Percentage of Impairment

0° = 8.0%	16° = 5.8%	52° = 6.2%	78° = 7.8%	104° = 9.4%
1° = 7.9%	17° = 5.6%	53° = 6.3%	79° = 7.9%	105° = 9.5%
2° = 7.8%	18° = 5.4%	54° = 6.4%	80° = 8.0%	106° = 9.6%
3° = 7.7%	19° = 5.2%	55° = 6.5%	81° = 8.1%	107° = 9.7%
4° = 7.6%	20°-30° = 5.0%	56° = 6.6%	82° = 8.2%	108° = 9.8%
5° = 7.5%	31° = 5.1%	57° = 6.7%	83° = 8.3%	109° = 9.9%
6° = 7.4%	32° = 5.2%	58° = 6.8%	84° = 8.4%	110°-140° = 10.0%
7° = 7.3%	33° = 5.3%	59° = 6.9%	85° = 8.5%	141° = 10.1%
8° = 7.2%	34° = 5.4%	60°-70° = 7.0%	86° = 8.6%	142° = 10.2%
9° = 7.1%	35° = 5.5%	71° = 7.1%	87° = 8.7%	143° = 10.3%
10° = 7.0%	36° = 5.6%	72° = 7.2%	88° = 8.8%	144° = 10.4%
11° = 6.8%	37° = 5.7%	73° = 7.3%	89° = 8.9%	145° = 10.5%
12° = 6.6%	38° = 5.8%	74° = 7.4%	90°-100° = 9.0%	146° = 10.6%
13° = 6.4%	39° = 5.9%	75° = 7.5%	101° = 9.1%	147° = 10.7%
14° = 6.2%	40°-50° = 6.0%	76° = 7.6%	102° = 9.2%	148° = 10.8%
15° = 6.0%	51° = 6.1%	77° = 7.7%	103° = 9.3%	149° = 10.9%
				150°-180° = 11.0%

(7) The following ratings are for loss of adduction in the shoulder joint:

Position of Maximum Adduction in the Shoulder/Percentage of Impairment

40-50° = 0.0%	38° = 0.2%	36° = 0.4%	34° = 0.6%	32° = 0.8%
39° = 0.1%	37° = 0.3%	35° = 0.5%	33° = 0.7%	31° = 0.9%
				0°-30° = 1.0%

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(8) The following ratings are for adduction ankylosis in the shoulder joint:

Joint Ankylosed at/Percentage of Impairment

50° = 11.0%	44° = 10.4%	18° = 9.8%	12° = 9.2%	6° = 8.6%
49° = 10.9%	43° = 10.3%	17° = 9.7%	11° = 9.1%	5° = 8.5%
48° = 10.8%	42° = 10.2%	16° = 9.6%	10° = 9.0%	4° = 8.4%
47° = 10.7%	41° = 10.1%	15° = 9.5%	9° = 8.9%	3° = 8.3%
46° = 10.6%	20°-40° = 10.0%	14° = 9.4%	8° = 8.8%	2° = 8.2%
45° = 10.5%	19° = 9.9%	13° = 9.3%	7° = 8.7%	1° = 8.1%
				0° = 8.0%

(9) The following ratings are for loss of internal rotation in the shoulder joint:

Position of Maximum Internal Rotation in the Shoulder/Percentage of Impairment

80°- 90° = 0.0%	74° = 0.6%	58° = 1.2%	52° = 1.8%	26° = 2.4%
79° = 0.1%	73° = 0.7%	57° = 1.3%	51° = 1.9%	25° = 2.5%
78° = 0.2%	72° = 0.8%	56° = 1.4%	30°- 50° = 2.0%	24° = 2.6%
77° = 0.3%	71° = 0.9%	55° = 1.5%	29° = 2.1%	23° = 2.7%
76° = 0.4%	60°- 70° = 1.0%	54° = 1.6%	28° = 2.2%	22° = 2.8%
75° = 0.5%	59° = 1.1%	53° = 1.7%	27° = 2.3%	21° = 2.9%
				0°- 20° = 3.0%

(10) The following ratings are for internal rotation ankylosis in the shoulder joint:

Joint Ankylosed at/Percentage of Impairment

0°-60° = 4.0%	66° = 4.6%	72° = 5.2%	78° = 5.8%	84° = 6.4%
61° = 4.1%	67° = 4.7%	73° = 5.3%	79° = 5.9%	85° = 6.5%
62° = 4.2%	68° = 4.8%	74° = 5.4%	80° = 6.0%	86° = 6.6%
63° = 4.3%	69° = 4.9%	75° = 5.5%	81° = 6.1%	87° = 6.7%
64° = 4.4%	70° = 5.0%	76° = 5.6%	82° = 6.2%	88° = 6.8%
65° = 4.5%	71° = 5.1%	77° = 5.7%	83° = 6.3%	89° = 6.9%
				90° = 7.0%

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(11) The following ratings are for loss of external rotation in the shoulder joint:

Position of Maximum External Rotation in the Shoulder/Percentage of Impairment

90° - 60° = 0.0%	56° = 0.4%	52° = 0.8%
59° = 0.1%	55° = 0.5%	51° = 0.9%
58° = 0.2%	54° = 0.6%	0° - [40]50° = 1.0%
57° = 0.3%	53° = 0.7%	

(12) The following ratings are for external rotation ankylosis in the shoulder joint:

Joint Ankylosed at/Percentage of Impairment

0° = 4.0%	6° = 4.6%	32° = 5.2%	38° = 5.8%	64° = 6.4%
1° = 4.1%	7° = 4.7%	33° = 5.3%	39° = 5.9%	65° = 6.5%
2° = 4.2%	8° = 4.8%	34° = 5.4%	40° - 60° = 6.0%	66° = 6.6%
3° = 4.3%	9° = 4.9%	35° = 5.5%	61° = 6.1%	67° = 6.7%
4° = 4.4%	10° - 30° = 5.0%	36° = 5.6%	62° = 6.2%	68° = 6.8%
5° = 4.5%	31° = 5.1%	37° = 5.7%	63° = 6.3%	69° = 6.9%
				70° - 90° = 7.0%

(13) Shoulder surgery is rated as follows:

<b>Shoulder Surgery</b>	<b>Unscheduled Impairment</b>
Partial resection of either clavicle (no additional value is allowed for multiple partial resections of the clavicle)	5%
Total removal of either clavicle	15%
Partial resection of the acromion (no additional value is allowed for multiple partial resections of the acromion)	5%
Total shoulder arthroplasty	30%

(14) Chronic dislocations of the shoulder joint, are valued at 15% unscheduled impairment when a preponderance of medical opinion places permanent new restrictions on the worker which necessitate a reduction in the strength lifting category pursuant to OAR 436-035-0270 and 436-035-0310.

(15) When two or more ranges of motion are restricted, add the impairment values for decreased range of motion.

(16) When two or more ankylosis positions are documented, select the one direction

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representing the largest impairment. That will be the impairment value for the shoulder represented by ankylosis.

(17) Injuries to a unilateral specific named peripheral nerve with resultant loss of strength in the shoulder or back shall be determined based upon a preponderance of medical opinion that reports loss of strength pursuant to OAR 436-035-0007(19) and establishes which specific named peripheral nerve is involved. Impairment shall be described pursuant to OAR 436-035-0007(19) using the following table:

<b>Unilateral Nerve</b>	<b>% Impairment Due to Loss of Strength</b>
Accessory (Spinal Accessory)	10%
Anterior Thoracic (Pectoral)	3%
Axillary	21%
Dorsal Scapular	3%
Long Thoracic	9%
Subscapular	3%
Suprascapular	9%
Thoracodorsal	6%

Example 1: A worker suffers a dislocation of the shoulder. Upon recovery, the attending physician reports 4/5 strength of the deltoid muscle. The axillary nerve innervates the deltoid muscle. Complete loss of the axillary nerve is a 21% impairment value. 4/5 strength, pursuant to OAR 436-035-0007(19), is a 20% loss of strength. Final impairment is determined by multiplying 21% by 20% for a final value of 4.2% impairment of the shoulder.

Example 2: A worker suffers a laceration of the long thoracic nerve. Upon recovery, the attending physician reports 0/5 strength of the upper back. The long thoracic nerve has a 9% impairment value. 0/5 strength, pursuant to OAR 436-035-0007(19), is 100% loss of strength. Final impairment is determined by multiplying 9% by 100% for a final value of 9% impairment of the upper back.

(18) Multiple or bilateral impairment of specific named nerves shall be determined by combining the values in OAR 436-035-0330(17).

(19) Valid loss of strength to an unscheduled body part or area, substantiated by clinical findings shall be valued pursuant to section (17) of this rule as if the nerve supplying (innervating) the weakened muscle was impaired.

**Stat. Auth.:** ORS 656.726  
**Stats. Impltd.:** ORS 656.005, 656.214, 656.268, 656.726  
**Hist:** Formerly OAR 436-30-480;

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Filed 6-3-87 as WCD Admin. Order 3-1988, eff. 7-1-88;  
Amended 8-19-88 as WCD Admin. Order 5-1988 (temp), eff. 8-19-88;  
Amended 12-21-88 as WCD Admin. Order 6-1988, eff. 1-1-89;  
Amended 3-26-91 as WCD Admin. Order 2-1991, eff. 4-1-91;  
Amended 2-14-92 as WCD Admin. Order 6-1992, eff. 3-13-92.  
Amended 1-29-96 as WCD Admin. Order 96-051, eff. 2-17-96  
Amended 1-8-97 as WCD Admin. Order 96-072, eff. 2-15-97  
Amended 5-13-98 as WCD Admin. Order 98-055, eff. 7-1-98  
**Filed 10-28-98 as WCD Admin. Order 98-059 (temp), eff. 10-28-98**

