

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).

A81-8005 This worker has sexual dysfunction as a result of the accepted L1 burst fracture damaging the spinal cord which is not addressed by the Standards. The Director adopts a value of 5% for the sexual dysfunction. The worker also sustained multiple fractures and dislocations to both lower extremities. Due to neurological deficits caused by the spinal cord injury, the Director finds the worker's loss of muscle strength and limitations regarding standing and walking will be addressed pursuant to former OAR 436-035-0230(12). Since the loss of range of motion is due to both the fractures and to spinal cord damage, the Director finds the worker's active range of motion shall be awarded per former OAR 436-035-0190. These values shall be combined with any other applicable impairment values in the scheduled and unscheduled injured body parts/areas. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A81-8005.

A84-0262 This worker sustained a comminuted intra-articular burst type fracture of the left calcaneus. Subsequently, the worker developed dysesthesia of the plantar surface of the left heel. The rules do not provide an impairment value for the loss of use or function due to dysesthesia. The Director finds the loss of use or function due to dysesthesia similar to a partial loss of plantar sensation and assigns an impairment value of 5%. See OAR 436-035-0200(1). This impairment value is combined with any other ratable impairment under the Standards. Notwithstanding OAR 436-035-0003, this rule applies to only WCD file no. A84-0262.

A85-3518 This worker has an accepted sexual dysfunction condition manifested by an erectile dysfunction (cauda equina and syndrome) which is not addressed by the Standards. The Director adopts a value of 5% for the erectile dysfunction. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A85-3518.

A86-8939 The worker had a total destruction of the fat pad of his right heel as a direct medical sequelae of a crushing injury to the right foot when the soft tissue became necrotic and infected requiring debridement. Subsequent skin grafting could not restore the padding. The Director adopts an

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

Order No.99-053

impairment value of 10% of the foot for the tissue loss in the heel pad. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A86-8939.

B88-3694 This worker sustained an injury to the right calcaneus which resulted in the inability to reach neutral or zero degree ankle position. This ultimately results in a reduction in plantar flexion. The Standards do not provide a value for the worker's measured plantar flexion measured from -6 degrees to 32 degrees equaling 26 degrees of plantar flexion. See OAR 436-035-0190(6). The Director therefore assigns an impairment value of 5.2% for plantar flexion of the right ankle. See OAR 436-035-0190(8). This value shall be combined with any other applicable impairment values to the right ankle. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. B88-3694.

D88-4287 Following amputations of the right ring and little fingertip and injuries to the digital nerves, the worker experiences hypersensitivity and cold intolerance. The Director assigns a value of 8% for the right ring finger and 8% for the right little finger for hypersensitivity. The Director assigns an impairment value of 35% for the right ring finger and 35% for the right little finger for cold intolerance. These values shall be combined with any other applicable impairment values for the involved right ring finger and little finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. D88-4287.

D89-0679 This worker has residual moderate 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 4.0% for moderate 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. D89-0679.

F83-8609 This worker has anterior inferior instability of the left shoulder resulting in a loss of use or function. The Standards do not address this impairment. The Director assigns an impairment value of 15% of the left shoulder for anterior inferior instability. This value shall be combined with any other applicable impairment values ratable under the Standards. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F83-8609.

F85-3096 Following the laceration of the right median nerve at the wrist in two places, the worker developed cold intolerance in his hand due to damage to the median nerve. 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 63% for the right hand. See former OAR 436-035-0110(6)(d). This value shall be combined with any other applicable impairment values for the involved right upper extremity. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F85-3096.

H91-0152 This worker sustained a crush injury with an open fracture of the distal phalanx of the right little finger resulting in a dorsal deviation deformity at the fracture site. The Standards do not provide an impairment value for a dorsal deviation deformity in a digit. The Director finds the loss of use or function due to the dorsal deviation similar to the loss experienced with digit bony deformity resulting in lateral or rotational deviation and assigns an impairment value of 10%. See OAR 436-035-0060(10). This impairment value shall be combined with any other applicable impairment values ratable under the Standards. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. H91-0152.

I84-4190 This worker experienced a malalignment of the left lower leg of 16 degrees (varus deformity) with external rotation following fractures of the tibia and fibula. The malalignment affects the function of the entire leg. The current Standards do not address this malalignment. The Director assigns an impairment value of 26% of the left 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. I84-4190.

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

Order No.99-053

B82-5920 This worker's altered temperature perception in the C6 nerve root distribution affecting the thumb and index web space is not addressed in the standards. The loss of ability to perceive temperature in this area would affect such activities as grasping, and, therefore, is considered as the hand. The Director finds the loss of function similar to the loss of function when the two-point discriminatory nerve fibers have been damaged in the palm and assigns a value of 7% for the altered temperature perception in the hand. See OAR 436-035-0110(1). This impairment is combined with any other impairment ratable under the current rules. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. B82-5920.

B83-1332 This worker's accepted post-traumatic headache condition has reached a level of severity which results in disruption of activities of daily living, work restrictions, and ongoing medical treatment, including prescription medication. The Director assigns an impairment value of 10% for this head injury. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. B83-1332.

D87-5966 This worker sustained an injury to the left ankle which resulted in the inability to reach neutral or zero ankle position. This ultimately results in a reduction of plantar flexion. The standards do not provide a value for the worker's plantar flexion measured from -5 degrees to 20 degrees equaling 15 degrees of plantar flexion. In this case, a comparison with the uninjured right ankle is necessary to determine the appropriate impairment value. See OAR 436-035-0007(23) and 436-035-0190(8). The comparison results in a range of motion of 20 degrees. The Director, therefore, assigns an impairment value of 7% for plantar flexion of the left ankle. See OAR 436-035-0190(8). This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. D87-5966.

D90-9018 This worker sustained a 15 centimeter laceration extending from the temporal scalp to just proximal to the left oral commissure and a chip fracture of the left zygomatic bone. Subsequently, the worker developed marked hypersensitivity of the scar on the left side in the trigeminal nerve distribution. The rules do not provide an impairment value for loss of use or function due to hypersensitivity in the trigeminal nerve distribution. The Director finds the loss of use or function due to hypersensitivity similar to the loss of sensation on one side in the trigeminal nerve distribution and assigns an impairment value of 10%. See OAR 436-035-0390(4)(a). 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. D90-9018.

D91-3299 This worker sustained a fracture of the left thumb. The thumb healed with a dorsal angulation deformity. The standards do not provide an impairment value for this deformity in a thumb. The Director finds the loss of use or function due to the dorsal deformity is similar to the loss experienced with digit bony deformity in lateral or rotational deviation and assigns an impairment value of 10% for the left thumb. See OAR 436-035-0050(7). 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. D91-3299.

E89-7114 This worker sustained fractures to the toes of the right foot with inability to reach neutral or zero toe position. The standards do not provide a value for the worker's dorsiflexion measured from -5 degrees to 25 degrees equaling 20 degrees of dorsiflexion. See OAR 436-035-0160(5). The Director therefore assigns an impairment value of 14% for dorsiflexion of the right lesser toes (2nd, 3rd, 4th, and 5th). This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. E89-7114.

F45-1513 This claim was remanded for a temporary rule to address left shoulder weakness due to periarticular fibrosis which was not covered by the standards in effect at the time of claim

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

Order No.99-053

closure. The Director assigns an impairment value of 13% for the left shoulder weakness. This value shall be combined with any other applicable impairment values ratable under the standards. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. F45-1513.

H86-4536 This worker sustained a crush injury to his left leg which resulted in the inability to reach neutral or zero ankle position. This ultimately resulted in a reduction in plantar flexion. The standards do not provide a value for the worker's plantar flexion measured from -4 degrees to 46 degrees equaling 42 degrees of plantar flexion. See OAR 436-035-0190(6). However, the value for 42 degrees of plantar flexion does not meet the minimum threshold to receive a value pursuant to OAR 436-035-0190(8) and 436-035-0007(26). The Director finds that while the loss of dorsiflexion of -4 degrees is not covered in the standards, the value for the resulting decrease in plantar flexion of 42 degrees does not meet the minimum threshold to receive a value; therefore, the impairment value for this loss shall be a value of zero. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. H86-4536.

H91-8266 This worker sustained an amputation of the right middle finger through the tip of the distal phalanx. Subsequently, the worker developed hypersensitivity of 1/2 the distal phalanx of the right middle finger involving both the ulnar and radial side. The rules 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") for 1/2 the distal phalanx of the right middle finger and assigns an impairment value of 12%. See OAR 436-035-0110(1)(c). 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. H91-8266.

I86-3678 This worker has a shortening of the 4th metacarpal as a result of an accepted right hand fracture. The Director finds the impairment due to a 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 right hand for shortening of the right 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. I86-3678.

I86-6219 This claim was remanded for consideration of temporary rules to address loss of the lateral femoral cutaneous nerve in the thigh and sexual dysfunction as direct medical sequelae of the accepted conditions. The Director finds the worker's loss of the lateral femoral cutaneous nerve in his thigh is ratable under OAR 436-035-0230(1); however, the impairment value for this loss shall be a value of zero. The sexual dysfunction is not addressed by the standards. The Director adopts a value of 5% for the sexual dysfunction. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. I86-6219.

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

Order No.99-053

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)
Amended 10/15/98 as WCD Admin. Order 98-058, eff. 10/15/98 (Temp) (A83-2469) (A83-2921) (A85-8493) (A86-6157) (A86-7591) (A86-7963) (A87-9961) (B89-7196) (D75-3984) (D83-4235) (F87-2368) (I86-0887)
Amended 01/11/99 as WCD Admin. Order 99-050, eff. 01/15/99 (Temp) (A81-8005) (A84-0262) (A85-3518) (A86-8939) (B88-3694) (D88-4287) (D89-0679) (F83-8609) (F85-3096) (H91-0152) (I84-4190)
Amended 4/13/99 as WCD Admin. Order 99-053 eff. 04/15/99 (Temp) (B82-5920) (B83-1332) (D87-5966) (D90-9018) (D91-3299) (E89-7114) (F45-1513) (H86-4536) (H91-8266) (I86-3678) (I86-6219)