

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
DISABILITY RATING STANDARDS

---

EXHIBIT "A"  
OREGON ADMINISTRATIVE RULES  
CHAPTER 436, DIVISION 035

EFFECTIVE OCTOBER 14, 1999

**436-035-0500 Temporary Rule Promulgation for Individual Claims**

(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).

A88-7382 This worker sustained an injury to her right foot resulting in a Lisfranc dislocation fracture. The worker was unable to dorsiflex her 2nd, 3rd, and 4th toes to a neutral position at the metatarsophalangeal (MTP) joints. This ultimately results in a reduction in dorsiflexion of the 2nd, 3rd, and 4th MTP joints. The standards do not provide a value for the worker's impairment. The retained dorsiflexion in the 2nd MTP joint is 25 degrees, 3rd MTP joint is 35 degrees, and 4th MTP joint is 40 degrees. The Director assigns an impairment value of 10.5% for the 2nd MTP, 3.5% for the 3rd MTP, and 0.0% for the 4th MTP. See OAR 436-035-0160(5). Each toe value is added to the value for decreased motion in plantar flexion in each MTP joint, and then combined with any other applicable impairment values to the right toes. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A88-7382.

A89-0780 As a result of the multiple surgeries to the worker's right breast due to exploration for foreign bodies (slivers) and the removal of slivers, the worker no longer has the ability to deliver milk from this breast. The standards do not provide a value for this loss of use or function of the breasts. In this case, the impairment value for the inability to deliver milk from the right breast is 2.5%, rounded to 3% pursuant to OAR 436-035-0007(15). 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. A89-0780.

A91-0674 This worker's accepted head contusion resulting in neuritic head pain in the left temple 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 impairment. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A91-0674.

C91-0512 This worker has a shortening of the shaft of the right 4th metacarpal as a result of an accepted 4th metacarpal fracture. The Director finds the impairment due to shortening of the metacarpal as a result of fracture is similar in loss of use or function to a partial amputation of

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
DISABILITY RATING STANDARDS**

---

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. C91-0512.

D81-0814 This worker had a fracture of the left sacroiliac joint which was fused, but in a displaced position. This impairment is not addressed by the standards. The Director adopts a value of 10% for the healed displaced fracture of the left sacroiliac joint post fusion. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. D81-0814.

D87-3420 This worker sustained a fracture of the left proximal tibia complicated by anterior and lateral compartment syndrome and damage to the left popliteal artery. The worker lacked 5 degrees of extension (dorsiflexion) in the left ankle. Ultimately, this results in a reduction of plantar flexion. The standards do not provide a value for the worker's measured plantar flexion from -5 degrees to 54 degrees equaling 49 degrees of plantar flexion. See OAR 436-035-0190(6). However, the value for 49 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 5 degrees of extension is not covered in the standards, the value for the resulting decrease in plantar flexion of 49 degrees does not meet the minimum threshold and assigns an impairment value of 0%. The worker experiences some hypersensitivity on the plantar surface of the left foot which is not addressed by the standards. The Director assigns an impairment value of 5% for loss of use or function of the left foot due to the hypersensitivity. This value shall be combined with any other applicable impairment values for the left foot. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. D87-3420.

E90-7599 This worker sustained an injection type injury to the right index finger when a latex paint gun fired into the pad of the finger. Subsequently, the worker developed marked hypersensitivity in the pad of the finger resulting in a significant loss of use or function of the finger. The Director finds the loss of use or function due to marked hypersensitivity similar to the loss of sensation ("total loss") of 1/2 the distal phalanx of the right index finger and assigns an impairment value of 15%. See OAR 436-035-0110(1). 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. E90-7599.

F87-8389 This worker developed a prolapsed uterus following heavy lifting on the job. The worker underwent a hysterectomy. The loss of function for the uterus would be the inability to carry the products of fertilization. The Director assigns an impairment value of zero percent as this worker was no longer within the generally accepted child bearing years. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F87-8389.

G76-8267 This worker sustained a left thumb amputation at the level of the metacarpophalangeal joint; the thumb was not reattached. The worker underwent a lengthening of the first metacarpal and a deepening of the first web space to create a thumb-like appendage. The standards do not provide impairment values for loss of opposition of the fingers of the left hand to the new thumb-like appendage. See OAR 436-035-0040(4). The Director finds the worker's loss of opposition for the digits similar to an amputation and reattachment of the digit

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
DISABILITY RATING STANDARDS**

---

(thumb) at the level of the mid-shaft of the proximal phalanx of the thumb. The Director assigns a loss of opposition value of 40% for the left index finger, 40% for the left middle finger, 20% for the left ring finger, and 10% for the left little finger. See OAR 436-035-0040(1)(2)(4). These values shall be combined with any other applicable impairment values for each finger, and then converted to left hand values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G76-8267.

G81-2920 This worker developed right shoulder and elbow conditions as a result of repetitive work activities. As a result of the accepted conditions and reparative surgery, the worker is unable to adduct her right shoulder to the neutral position. The standards address zero degrees of adduction. See OAR 436-035-0330(7). However, there is a resulting loss of abduction not addressed in the standards. A value for the worker's abduction measured from -10 degrees to 95 degrees equaling 85 degrees of abduction yields a 2.5% impairment value. See OAR 436-035-0330(5). The Director adopts the value of 2.5% for loss of abduction. This value shall be added to any other shoulder range of motion values and then combined with any other applicable impairment findings. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G81-2920.

G89-0989 This worker has permanent anterior interosseous entrapment neuropathy affecting the flexor pollicis longus muscle resulting in loss of function. The anterior interosseous nerve is located in the mid-forearm as it branches off the median nerve. The Director assigns the loss of function of the anterior interosseous nerve a value of 5% of the forearm. This impairment shall be combined with any other impairment ratable under the current rules. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G89-0989.

I87-8203 Following severe penetration of the left hand with rotten wood, the worker experiences cold intolerance at temperatures less than 70 degrees Fahrenheit. The Director assigns a value of 88% for the left hand cold intolerance. The worker has a torsional type deformity resulting in a loss of function in the left index finger with grasping. The Director adopts an impairment value of 10% for the left index finger deformity. These values shall be combined with any other applicable impairment values for the left hand and left index finger, respectively. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I87-8203.

I90-5353 This worker sustained an injury to his left foot resulting in a closed non-displaced fracture of the 2nd and 3rd metatarsophalangeal joint. This ultimately results in a reduction in dorsiflexion of both metatarsophalangeal joints. The standards do not provide a value for the worker's dorsiflexion measured from 25 to 30 degrees equaling 5 degrees of retained dorsiflexion in the 2nd metatarsophalangeal joint or a value for dorsiflexion measured from 21 to 30 degrees equaling 9 degrees of retained dorsiflexion in the 3rd metatarsophalangeal joint. See OAR 436-035-0160(5). The Director therefore assigns an impairment value of 25% of the left 2nd toe for loss of dorsiflexion in the metatarsophalangeal joint and 21.8% of the left 3rd toe for loss of dorsiflexion in the metatarsophalangeal joint. This value shall be added to the value for decreased motion in

plantar flexion and then combined with any other applicable impairment values for the left toes. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I90-5353.

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
DISABILITY RATING STANDARDS

---

I90-9959 The Director adopts a value of 10% for the left index finger as a result of malrotation of the second metacarpal causing a rotational deformity of the index finger producing a loss of use or function when making a fist. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I90-9959.

**A84-7550 This worker died as a result of causes unrelated to her accepted compensable conditions. The standards do not provide a value for a worker whose disability arises under ORS 656.218. A medical arbiter estimated loss of range of motion in the right hip, leg length discrepancy in the right lower extremity, and limitations of repetitive use for the right hip. Therefore, the Director assigns an impairment value of 26% for the right hip based on loss of range of motion, leg length discrepancy, and limitations in repetitive use of the hip. This value is in lieu of the impairment value awarded at the time of claim closure. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A84-7550.**

**A89-0685 This worker has developed erectile dysfunction manifested as a direct medical sequelae of the accepted right inguinal hernia and right inguinal nerve entrapment and subsequent surgeries. The Director adopts a value of 10% of the penis 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. A89-0685.**

**A89-6055 This worker sustained a trimalleolar fracture of her right ankle resulting in the inability to reach neutral or zero ankle position in dorsiflexion. This ultimately results in a reduction in plantar flexion. The Standards do not provide a value for the worker's plantar flexion measured from -10 degrees to 25 degrees equaling 15 degrees of plantar flexion. See OAR 436-035-0190(6)(8). The impairment value for 15 degrees of plantar flexion is equal to 9.0%. See OAR 436-035-0190(8). The Director adopts the value of 9.0% for loss of plantar flexion of the right ankle. This value shall be added to the subtalar ankylosis value and the right ankle range of motion (dorsiflexion) value and this total shall then be combined with any other applicable ankle/foot findings. See OAR 436-035-0190(10)(b)(B). Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A89-6055.**

**B61-4705 This worker died as a result of causes unrelated to his accepted compensable conditions for this aggravation. The standards do not provide a value for a worker whose disability arises under ORS 656.218. A medical arbiter estimated the worker's expected permanent impairment would include loss of range of motion in the lumbar spine (25% due to the accepted condition), partial loss of sensation and loss of strength in the left lower extremity. In determining this worker's residual impairment, as if he had survived and become medically stationary, the Director assigns an impairment value of 7% for the left leg. The Director finds the worker's current uncheduled permanent partial disability is equal to 22% for the low back. Since the last arrangement of compensation by Opinion and Order on April 23, 1996, granted an award of uncheduled permanent partial disability of 40%, and the current uncheduled permanent partial disability equals 22%, the worker is entitled to no additional uncheduled permanent partial disability. See OAR 436-035-0007(12). However, the value for**

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
DISABILITY RATING STANDARDS

---

scheduled permanent partial disability is in addition to all previous scheduled permanent partial disability awards in this claim. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. B61-4705.

C87-7555 This worker sustained multiple bilateral lower leg fractures resulting in an equinus contracture of the right ankle causing an inability to reach neutral or zero ankle position. This ultimately results in a reduction in plantar flexion. The Standards do not provide a value for the worker's plantar flexion measured from 5 degrees to 25 degrees equaling 20 degrees of plantar flexion. See OAR 436-035-0190(6). The value for 20 degrees of retained plantar flexion is equal to 7% pursuant to OAR 436-035-0190(8). The Director therefore, assigns an impairment value of 7% for plantar flexion of the right ankle. This value shall be combined with any other applicable impairment values for the right foot/ankle. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. C87-7555.

C92-3595 This worker sustained a crush type fracture of the right great toe. Subsequently, the worker developed hypersensitivity of the plantar surface of the right toe resulting in the inability to wear steel toed shoes, inability to walk on tiptoes, inability to run, and alteration in driving a motor vehicle. The Standards do not provide an impairment value for loss of use or function due to hypersensitivity on the plantar surface of the great toe. The Director finds this worker's loss of use or function due to hypersensitivity is similar to a loss of plantar sensation of the great toe and assigns an impairment value of 10% of the right great toe. See OAR 436-035-0170(1). 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. C92-3595.

F77-3561 This worker has sexual dysfunction as a result of the accepted fracture of C6-7 with damage to the spinal cord resulting in an incomplete Brown-Sequard syndrome which is not addressed by the Standards. The Director adopts a value of 20% for the sexual dysfunction (inability to maintain an erection and inability to ejaculate). This value shall be combined with any other applicable impairment values in the unscheduled injured body parts/areas. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F77-3561.

G84-8924 This worker sustained injuries to the left knee resulting in a peroneal nerve dysfunction affecting range of motion in the left ankle and great toe. There was no damage to the left ankle or great toe joints themselves. The Director finds the loss of range of motion in the great toe and ankle is solely due to peripheral nerve damage. The Director finds the worker is not entitled to any additional impairment value for the loss of range of motion in the ankle and the great toe other than the impairment value for the loss of strength in the left ankle. The loss of strength value shall be converted to the leg, then combined with any applicable impairment value for the left leg. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G84-8924.

G90-0827 This worker developed right shoulder problems including shoulder strain with adhesive capsulitis. As a result of the accepted conditions and reparative surgery, the worker is unable to adduct her right shoulder to the neutral position. The Standards address zero degrees of adduction. See OAR 436-035-0330(7). However, there is a

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
DISABILITY RATING STANDARDS**

**resulting loss of abduction not addressed in the Standards. A value for the worker's abduction measured from -15 degrees to 85 degrees equaling 70 degrees of abduction yields a 3.0% impairment value. The Director adopts the value of 3.0% for loss of abduction of the right shoulder. This value shall be added to any other right shoulder loss of range of motion values and this total shall then be combined with any other applicable shoulder findings. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G90-0827.**

**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)  
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 04/13/99 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)  
Amended 07/15/99 as WCD Admin. Order 99-058, eff. 07/15/99 (Temp) (A88-7382) (A89-0780) (A91-0674) (C91-0512)

**ORDER NO. 99-060**

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
DISABILITY RATING STANDARDS**

---

(D81-0814) (D87-3420) (E90-7599) (F87-8389) (G76-8267) (G81-2920) (G89-0989) (I87-8203) (I90-5353) (I90-9959)  
Amended 10/13/99 as WCD Admin. Order 99-060 eff. 10/15/99 (Temp) (A84-7550) (A89-0685) (A89-6055) (B61-  
4705) (C87-7555) (C92-3595) (F77-3561) (G84-8924) (G90-0827)

\\10/06/99\fr