



RE

BEFORE THE DIRECTOR OF THE  
DEPARTMENT OF INSURANCE AND FINANCE  
OF THE STATE OF OREGON

SEP 11 2 38 PM '90

SECRETARY OF STATE

In the Matter of the Amendment )  
of OAR Chapter 436, Workers' ) ORDER OF ADOPTION  
Compensation Division, Division 60, ) OF TEMPORARY RULE  
Claims Administration, Rule 145, )  
Disposition of a Claim )

The Director of the Department of Insurance and Finance, pursuant to the rule making authority in ORS 656.726(3); and in accordance with the procedure provided by ORS 183.335, amends OAR 436, Workers' Compensation Division, Division 60, Claims Administration, Rule 145, Disposition of a Claim.

This amendment is being adopted by temporary rule as provided by ORS 183.335(5) and (6), without prior notice. Statement of Findings: I conclude that failure to act promptly will result in serious prejudice to the public interest.

On May 7, 1990, during a Special Session the Legislature enacted Senate Bills 1197 and 1198 which made several major changes in the Workers' Compensation Law. One of the most significant changes was to permit, for the first time in the history of the Oregon workers' compensation system, disposition of all matters regarding a compensable claim, except medical services.

On June 18, temporary Claims Administration Rules were issued which set forth the conditions under which a claim disposition could be made. Since those temporary rules were filed, the director has determined several additional elements which must be provided in a claims disposition document to ensure that the Workers' Compensation Board, pursuant to ORS 656.236, will be able to determine whether or not the proposed agreement is "unreasonable as a matter of law", or whether it contains any "misrepresentation of material fact."

Failure to require the parties to provide this information will jeopardize the Workers' Compensation Board's ability to discharge its statutory responsibility pursuant to ORS 656.236.

NOTE: To aid in using this amended rule, the amendments are made to the temporary rules governing Claims Administration adopted June 18, 1990. This amendment will be included in the proposed permanent rules to be filed September 14, 1990.

IT IS THEREFORE ORDERED:

(1) OAR Chapter 436, Division 60, Rule 145, as set forth in Exhibit "A", attached hereto, certified a true copy and hereby made a part of this Order, is temporarily adopted effective September 11, 1990.

(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 and Documents Relied Upon, 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 11 day of September, 1990.

DEPARTMENT OF INSURANCE AND FINANCE

*for*   
Theodore R. Kulongoski, Director

Distribution: A through AA;  
Plus LL

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EXHIBIT "A"

TEMPORARY RULE

DEPARTMENT OF INSURANCE AND FINANCE  
WORKERS' COMPENSATION DIVISION

OAR 436

DIVISION 60

CLAIMS ADMINISTRATION

DISPOSITION OF A CLAIM

**436-60-145** (1) Pursuant to ORS 656.236(1) the parties to a claim may dispose of any and all matters regarding the claim, except medical services, subject to the terms and conditions of this rule and OAR 438-09.

(2) The insurer or self-insurer shall have paid the claimant all benefits due and payable up to the date the disposition is sent to the claimant. For the purposes of this rule, "claimant" means an injured worker or any other person entitled to initiate or continue a claim for compensation.

(3) The insurer shall provide the claimant the information in this section in a separate notice accompanying the proposed disposition. The director may prescribe by bulletin the specific form and format for the notice. If the claimant does not read or comprehend English, or is otherwise unable to understand written language, the insurer shall provide this information in a language or other manner which ensures the worker understands the meaning of the claim disposition. The information in the notice shall include:

(a) An explanation of what it means to dispose of a claim under the Workers' Compensation Law, including that the worker's right to medical services cannot be disposed;

(b) If the claimant is receiving temporary disability compensation, the period of time the claimant will be without benefits following submission of the agreement;

(c) That if approved, the agreement is the final disposition of all matters specified in the agreement and is not subject to further review by any agency or court; and

(d) A written notice in bold type at the end of the letter which states:

**NOTICE TO CLAIMANT: YOU WILL RECEIVE A NOTICE FROM THE WORKERS' COMPENSATION BOARD TELLING YOU THE DATE THIS AGREEMENT WAS SUBMITTED TO THEM FOR APPROVAL. YOU HAVE THE RIGHT TO REJECT THIS AGREEMENT WITHIN 30 DAYS FROM THE DATE OF THE NOTICE, BY NOTIFYING THE BOARD IN WRITING. IF YOU DO NOT HAVE AN ATTORNEY, YOU HAVE THE RIGHT TO PERSONALLY MEET WITH THE BOARD TO DISCUSS THIS AGREEMENT. THERE IS NO FEE OR CHARGE FOR YOU TO MEET WITH THE BOARD. YOU MAY CONTACT THE BOARD BY WRITING OR CALLING:**

WORKERS' COMPENSATION BOARD  
480 CHURCH STREET, SE  
SALEM, OR 97310  
TELEPHONE: (503) 378-3308 BETWEEN 8:00 A.M. AND 5:00 P.M. MONDAY  
THROUGH FRIDAY.

YOU MAY ALSO DISCUSS THIS AGREEMENT WITH THE WORKERS' COMPENSATION  
OMBUDSMAN WITHOUT ANY FEE OR CHARGE. YOU MAY CONTACT THE OMBUDSMAN BY  
WRITING OR CALLING:

WORKERS' COMPENSATION OMBUDSMAN  
LABOR & INDUSTRIES BUILDING  
SALEM, OR 97310  
TELEPHONE: (503) 378-3351 BETWEEN 8:00 A.M. AND 5:00 P.M. MONDAY  
THROUGH FRIDAY.

YOU MAY ALSO CALL, TOLL-FREE IN OREGON, THE INJURED WORKERS' HOTLINE IN  
THE WORKERS' COMPENSATION DIVISION AT 1-800-452-0288.

(4) Pursuant to ORS 656.236, reimbursement under ORS 656.506(3), 656.622,  
656.625, or 656.628 for a claim disposition under these rules requires the  
prior approval of the director as prescribed in OAR 436-40, 436-45, 436-75 and  
436-110.

(5) Where SAIF Corporation is the designated processing agent pursuant to  
ORS 656.054, reimbursement for any claim disposition under this rule requires  
prior approval of the director.

(6) Dispositions of claims must contain all of the elements in the  
sequential order set forth in this section:

(a) A complete identity of the worker, contained in a caption, including:

(A) The worker's full name.

(B) The processing numbers assigned to the claim by the Workers'  
Compensation Board ("WCB number"), Court of Appeals and Supreme Court, if  
known.

(C) The insurer's or self-insurer's claim number.

(D) The date of the compensable injury or disease.

(E) The processing number assigned to the claim by the Workers'  
Compensation Division ("WCD number"), if known.

(F) The worker's social security number.

(G) The name of the insurer or self-insurer.

(b) Identification of the accepted conditions that are the subject of the disposition.

(c) The date of the first claim closure, if any.

(d) The amount of any permanent disability award(s).

(e) Whether the worker has been able to return to the work force.

(f) The worker's age, highest education level, and the extent of vocational training.

[(b)](g) A specific identification of all benefits and rights and insurer's or self-insurer's obligations under the Workers' Compensation Law which are disposed and released under the agreement.

[(c)](h) The amount of the consideration to be paid the claimant.

[(d)](i) That the worker was provided the notice containing all of the information about claims disposition prescribed in section (3).

(7) For the purpose of accurate data collection, the director will prescribe by bulletin a summary sheet which shall accompany the disposition when it is submitted to the Board.

(8) Pursuant to OAR 438-09, the Board will not accept submission of any proposed claim disposition which lacks any of the elements required in this rule.

Hist: Filed 6/18/90 as WCD Admin. Order 8-1990, eff. 7/1/90 (Temporary)  
Amended 9/11/90 as WCD Admin. Order 18-1990, eff. 9/11/90  
(Temporary)

EXHIBIT "B"

BEFORE THE DIRECTOR OF THE  
DEPARTMENT OF INSURANCE AND FINANCE  
OF THE STATE OF OREGON

In the Matter of the Amendment	)	CITATION OF STATUTORY AUTHORITY;
of OAR Chapter 60, Workers'	)	STATEMENT OF NEED; PRINCIPAL
Compensation Division, Division 60,	)	DOCUMENTS RELIED UPON; FISCAL AND
Claims Administration, Rule 145,	)	ECONOMIC IMPACT
Disposition of a Claim	)	

1. Citation of Statutory Authority: The statutory authority for promulgation of this rule is ORS 656.726(3) and 656.622.
2. Statement of Need: Legislation enacted May 7, 1990 in Chapter 2, Oregon Laws 1990, Special Session, made significant changes in the Workers' Compensation Law. These changes in the law become effective upon passage of Senate Bills 1197 and 1198 on May 7, 1990, or on July 1, 1990; and, where applicable, apply to all injured workers' claims existing on or arising after July 1, 1990.

Immediate action is necessary to ensure the implementation of ORS 656.236 pertaining to the disposition of compensable claims and ensure the Workers' Compensation Board is able to exercise its oversight responsibilities as required by the letter and intent of the law. Immediate adoption of this temporary rule will assure consistent review of claims dispositions by the Board by providing the same information in all proposed claims dispositions.

The scale of the changes caused by this legislation requires that all parties and the department have a period of time to work through the inevitable problems inherent in the implementation of such complex legislation, to assure that the permanent rules will be as consistent with the intent and letter of the law, and as administratively practical as possible. These temporary rules will afford the public that opportunity.

3. Principal Documents Relied Upon:
  - a. ORS Chapter 656.
  - b. Chapter 2, Oregon Laws 1990, Special Session.
  - c. ORS Chapter 183 and the Oregon Attorney General's Administrative Law Manual, June, 1988.
  - d. Letter of August 27, 1990 from C. Dianne Perry, Chairman, Workers' Compensation Board.

4. Economic Impact:

The following entities are economically affected: (a) Oregon subject workers; (b) Oregon subject employers; (c) workers' compensation insurers, self-insured employers and service companies.

Dated this 11 of September, 1990, at Salem, Oregon.

DEPARTMENT OF INSURANCE AND FINANCE

*for*   
Theodore R. Kulongoski, Director

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