



Oregon

Tina Kotek, Governor



Workers'
Compensation
Division

Department of Consumer
and Business Services

Industry Notice

June 27, 2024

To: Workers' compensation insurers, self-insured employers, service companies, vocational assistance providers, vocational assistance counselors, injured workers, and attorneys

Subject: Rule changes related to vocational assistance for workers not authorized to work in the United States effective July 1, 2024

The Workers' Compensation Division (WCD) revised Oregon Administrative Rule (OAR) chapter 436, division 120 to expand eligibility for vocational training assistance to include workers who are not authorized to work in the United States. Effective July 1, 2024, authorization to work in the U.S. will no longer be an eligibility requirement for vocational assistance.

The revised rules apply to vocational assistance eligibility evaluations completed on or after July 1, 2024. Additionally, in some cases, insurers must redetermine eligibility for workers previously found ineligible due to their authorization status (OAR 436-120-0175(2)).

This notice includes some of the rule revisions and required actions, but does not cover all changes. Interested parties are advised to review the full rule revisions. A list of the changes and the revised division 120 rules are available on WCD's website [here](#). A copy of the division 120 rules with all changes marked is available [here](#).

Vocational assistance eligibility – OAR 436-120-0145(2)

Effective July 1, 2024, the eligibility condition "The worker is authorized to work in the United States" is removed from the rule. Under the revised rule, authorization to work in the U.S. is no longer an eligibility requirement. Workers must still meet all of the other requirements listed under OAR 436-120-0145(2) to be eligible for limited vocational training assistance under OAR 436-120-0511. Workers who are not authorized to work in the U.S. will only be eligible for limited training.

Redeterminations of vocational assistance eligibility – OAR 436-120-0175(2) and (3)

If a worker was found ineligible for vocational assistance before July 1, 2024, solely on the basis that the worker was not authorized to work in the U.S., the insurer must redetermine eligibility under the circumstances and timeframes included in rule:

OAR 436-120-0175(2)(a)

If the worker received the insurer's notice of ineligibility or end of eligibility on or after Dec. 30, 2023, the insurer must redetermine eligibility no later than July 31, 2024.

OAR 436-120-0175(2)(b)

- The insurer must redetermine eligibility within 30 days of the worker’s second request for redetermination if all of the following conditions are met:
 - The worker received the insurer’s notice of ineligibility or end of eligibility before Dec. 30, 2023.
 - The worker requested redetermination within six months of the date they received the insurer’s notice of ineligibility or end of eligibility.
 - The worker submitted evidence to the insurer within six months of the date they received the insurer’s notice of ineligibility or end of eligibility that the worker had applied for authorization to work in the U.S. and was awaiting a decision by the U.S. Citizenship and Immigration Services (USCIS).
 - The worker submitted the second request for redetermination on or after July 1, 2024.
- Workers who request redetermination under OAR 436-120-0175(2)(b) are not required to be authorized to work in the U.S. However, the worker may not request redetermination after 30 days from receiving a decision from USCIS.

Vocational assistance available – OAR 436-120-0511

- Workers who are not authorized to work in the U.S. are only eligible for limited training.
- Limited training plans include the vocational assistance specified under OAR 436-120-0443, 436-120-0445, 436-120-0500, and 436-120-0510.
 - A limited training plan must meet all requirements and comply with limitations specified under OAR 436-120-0443, 436-120-0445, 436-120-0500, and 436-120-0510.
 - OAR 436-120-0520, 436-120-0523, 436-120-0527, and 436-120-0720 apply to limited training plans.
- The following are excluded from limited training plans:
 - On-the-job training
 - Direct employment services
 - Job placement services
 - Return-to-work monitoring under OAR 436-120-0443(17)
 - Return-to-work services under OAR 436-120-0500(6)
- If a worker becomes authorized to work in the U.S. before or during a limited training plan, the insurer must reconsider the category of vocational assistance. A worker who is authorized to work in the U.S. is eligible for direct employment services or training. See OAR 436-120-0511(4) and OAR 436-120-0177(3).

If you have questions about this notice, contact the Employment Services Team Manager Charity Steffen at 503-947-7018 or by email, Charity.S.Steffen@dcbs.oregon.gov.



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