



Noncomplying Employers Oregon Administrative Rules Chapter 436, Division 080

Effective June 19, 2020

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*Temporary rule 0040 was issued with an effective date of June 1, 2020. The temporary rule was suspended on June 18, 2020. The rule in effect starting Jan. 1, 2019 was reinstated effective June 19, 2020.

NOTE: Revisions are marked as follows: added | ~~deleted~~.

HISTORY LINES: These rules include only the most recent “History” lines. The history line shows when the rule was last revised and its effective date. To obtain a comprehensive history for OAR chapter 436, please call the Workers’ Compensation Division, 503-947-7627, or visit the division’s website: https://wcd.oregon.gov/laws/Documents/Rule_history/436_history.pdf.

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
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NONCOMPLYING EMPLOYERS**

**OREGON ADMINISTRATIVE RULES
CHAPTER 436, DIVISION 080**

Summary of changes effective Jan. 1, 2019:

- Repealed rule 0001 included a statement of the director's authority for promulgating rules – removed because this authority is provided under ORS chapter 656, and it does not need to be stated in rule.
- Repealed rule 0002 included a statement of purpose that has been moved, with wording changes, to rule 0003.
- Amended rule 0003 includes a statement of purpose to replace the statement in repealed rule 0002, and the rule explains that the director may waive procedural rules as justice requires, unless otherwise obligated by statute.
- Amended rule 0005 defines “noncomplying employer order,” and removes definitions of certain terms no longer used in these rules or that are defined in ORS chapter 656.
- Repealed rule 0006 explained that orders issued by the division are considered to be orders of the director; however, all orders under these rules are orders of the director.
- Amended rule 0010 describes the procedure for an employer to contest a noncomplying employer order and the consequence of not appealing the order within the time allowed.
- Repealed rule 0020 explained the consequences if an employer does not appeal a noncomplying employer order within the time allowed, and this provision has been moved to rule 0010.
- Repealed rule 0030 explained procedures for an employer to contest a noncomplying employer order, and this provision has been moved and reworded to rule 0010. The provisions of rule 0030 related to the agency's participation in hearing are replaced with a reference to OAR 436-001-0030.
- Amended rule 0040:
 - Provides for the director's discretion to impose civil penalties under ORS 656.735(2) in amounts less than \$250 per day, consistent with statute;
 - Specifies methods that may be used for the calculation of premium amounts that would have been paid if the employer had obtained coverage, to include estimation of payroll when necessary, and application of assigned risk rates established by the National Council on Compensation Insurance; and
 - Has clearer wording and is reorganized to enhance clarity.
- Amended rule 0060 has clearer wording and includes a statement that OAR 436-001-0030(2) to (5) apply to hearings regarding nonsubjectivity determinations.
- Amended rule 0065 has clearer wording regarding determination of an assigned claims agent.
- Amended rule 0070 has clearer wording regarding reimbursement of the assigned claims agent.
- Amended rule 0080 has clearer wording and removes a provision explaining which section within the Department of Consumer and Business services is responsible for collection of moneys owed by noncomplying employers.

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436-080-0001 Authority for Rules (*Repeal*)

~~These rules are promulgated under the director's authority contained in ORS 656.726 and 656.054.~~

Stat. Auth.: ORS 656.054, ORS 656.726
 Stats. Implemented: ORS 656.726
 Hist: Amended 12/3/03 as WCD Admin Order 03-065, eff. 1/1/04
 Repealed 11/14/18 as WCD Admin. Order 18-062, eff. 1/1/19

436-080-0002 Purpose (*Repeal*)

~~It is the purpose of the director that under ORS 656.726(4) and ORS 656.054 rules be established to ensure the requirements of ORS 656.017 are met. To meet that responsibility the director has delegated to the division the responsibility of ensuring the requirements of the statutes, rules, and bulletins of the department are complied with as they relate to employer coverage.~~

Stat. Auth.: ORS 656.054, ORS 656.726
 Stats. Implemented: ORS 656.726
 Hist: Amended 12/3/03 as WCD Admin Order 03-065, eff. 1/1/04
 Repealed 11/14/18 as WCD Admin. Order 18-062, eff. 1/1/19

436-080-0003 Applicability and Purpose of Rules**(1) Purpose.**

These rules carry out the provisions of ORS 656.017, 656.052, 656.054, 656.407, 656.735, and 656.740.

(2) Applicability.-

These rules are effective January 1, 2004 and apply to all orders issued under ORS 656.052, 656.735, or 656.740 on or after the effective date of these rules. carry out the provisions of:

~~—(1) ORS 656.017—Employer required to pay compensation and perform other obligations and duties.~~

~~—(2) ORS 656.052—Prohibition against employment without coverage; proposed order declaring noncomplying employer; effect of failure to comply.~~

~~—(3) ORS 656.054—Claim of injured worker of noncomplying employers; notice of proposed penalty; recovery of costs from noncomplying employer.~~

~~—(4) ORS 656.735—Civil penalty for noncomplying employers; amount; liability of corporate officers; effect of final order; penalty as preferred claim; disposition of moneys collected.~~

~~—(5) ORS 656.740—Review of proposed order declaring noncomplying employer; proposed assessment or civil penalty; insurer as party; hearing.~~

(3) Director's discretion.

The director may waive procedural rules as justice requires, unless otherwise obligated by statute.

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Stat. Auth.: ~~ORS 656.054~~, ORS 656.726
 Stats. Implemented: ~~ORS 656.017; 656.052; 656.054; 656.735 and 656.740~~ ORS 656.726
 Hist: Amended 12/3/03 as WCD Admin Order 03-065, eff. 1/1/04
~~Amended 11/14/18 as WCD Admin. Order 18-062, eff. 1/1/19~~
 See also the *Index to Rule History*: https://wcd.oregon.gov/laws/Documents/Rule_history/436_history.pdf.

436-080-0005 Definitions

Unless a term is defined in these rules or the context otherwise requires, the definitions of ORS chapter 656 are incorporated by reference and made part of these rules. For the purpose of these rules, unless the context requires otherwise:

- ~~(1) “Department” means the Department of Consumer and Business Services.~~
- ~~(1) “Board” means the Workers’ Compensation Board and includes its Hearings Division.~~
- (2) “Director” means the director of the Department of Consumer and Business Services or the director’s designee~~legate~~.
- ~~(3) “Division” means the Workers’ Compensation Division of the Department of Consumer and Business Services.~~
- ~~(3) “Noncomplying employer order” means an order issued under these rules declaring an employer to be a noncomplying employer and containing the amount of civil penalty assessed under ORS 656.735, if any.~~
- ~~(4) “Hearings Division” means the Hearings Division of the Workers’ Compensation Board.~~

Stat. Auth.: ~~ORS 656.054~~, ORS 656.726
 Stats. Implemented: ORS 656.726
 Hist: Amended 12/3/03 as WCD Admin Order 03-065, eff. 1/1/04
~~Amended 11/14/18 as WCD Admin. Order 18-062, eff. 1/1/19~~
 See also the *Index to Rule History*: https://wcd.oregon.gov/laws/Documents/Rule_history/436_history.pdf.

436-080-0006 Administration of Rules (*Repeal*)

~~Any order issued by the division in carrying out the director’s authority to enforce ORS chapter 656 and the rules adopted pursuant thereto is considered an order of the director.~~

Stat. Auth.: ORS 656.054, ORS 656.726
 Stats. Implemented: ORS 656.052, ORS 656.054, ORS 656.726
 Hist: Amended 12/3/03 as WCD Admin Order 03-065, eff. 1/1/04
~~Repealed 11/14/18 as WCD Admin. Order 18-062, eff. 1/1/19~~
 See also the *Index to Rule History*: https://wcd.oregon.gov/laws/Documents/Rule_history/436_history.pdf.

**436-080-0010 ~~Initiation of Proceedings;~~ Issuance of Noncomplying Employer Order;
Requests for Hearing****(1) Issuance of noncomplying employer order.**

~~If an employer has failed to comply with ORS 656.017, the division will investigate. If the division director finds~~determines that a person has engaged as ~~the employer is~~ a subject employer ~~without qualifying as~~ that has failed to file proof of qualification in the manner required by ORS 656.407, as either a carrier-insured employer or a self-insured employer ~~as provided in ORS 656.017 and 656.407~~, the ~~division director~~ will issue a ~~Proposed and Final Order~~ declaring the employer to be a noncomplying employer, and assess a civil penalty pursuant to ORS 656.735(1) for violation of ORS 656.052: ~~noncomplying employer order.~~

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(2) Request for hearing.

An employer may contest a noncomplying employer order by requesting a hearing under ORS 656.740, subject to the following:

- (a) The request for hearing must be made in writing;
- (b) The request must specify the grounds upon which the employer contests the order;
- (c) The request must be filed with the director within 60 calendar days after the mailing date of the order; and
- (d) OAR 436-001-0030(2) through (5) apply to hearings requested under this section.

(3) Proceedings to enjoin a noncomplying employer.

The director may request the Department of Justice to commence proceedings to enjoin a noncomplying employer that does not request a hearing within the timeframe specified under subsection (2)(c) of this rule from employing subject workers without complying with ORS 656.017.

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.017, ~~ORS 656.052, 656.407, ORS 656.735, ORS 656.740~~

Hist: Amended 12/3/03 as WCD Admin Order 03-065, eff. 1/1/04

~~Amended 11/14/18 as WCD Admin. Order 18-062, eff. 1/1/19~~

See also the *Index to Rule History*: https://wcd.oregon.gov/laws/Documents/Rule_history/436_history.pdf.

436-080-0020 When a Hearing on the Order Is Not Requested (*Repeal*)

~~If the employer does not request a hearing on the order within the 60 days allowed by ORS 656.740, the division may request the Department of Justice to commence proceedings to enjoin the employer under ORS 656.052(3).~~

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.052, ORS 656.735, ORS 656.740 (section 9, chapter 170, Oregon Laws 2003)

Hist: Amended 12/3/03 as WCD Admin Order 03-065, eff. 1/1/04

~~Repealed 11/14/18 as WCD Admin. Order 18-062, eff. 1/1/19~~

See also the *Index to Rule History*: https://wcd.oregon.gov/laws/Documents/Rule_history/436_history.pdf.

436-080-0030 When a Hearing on the Order Is Requested (*Repeal*)

~~(1) A request for hearing on an order issued under OAR 436-080-0010 or 436-080-0040 must specify the grounds upon which the employer contests the order and must be mailed or delivered to the division within 60 calendar days after the mailing of the order.~~

~~(2) When a person who is served with an order timely files a request for a hearing, the division will forward the request and other pertinent information to the Hearings Division.~~

~~(3) A division officer or employee is authorized to appear (but not make legal argument) on behalf of the director in a hearing or in a class of hearings in which the Attorney General or the Deputy Attorney General has given written consent for such representation. A copy of the list of contested case hearings for which the Attorney General or the Deputy Attorney General has given consent is maintained by the division and the Department of Justice.~~

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~~(4) "Legal argument" as used in ORS 183.452 and this rule has the same meaning as in the Attorney General's Model Rule of Procedure 137-003-0008 (1) (c) and (d), which is hereby adopted by reference.~~

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.052, ORS 656.735, ORS 656.740

Hist: Amended 12/3/03 as WCD Admin Order 03-065, eff. 1/1/04

~~Repealed 11/14/18 as WCD Admin. Order 18-062, eff. 1/1/19~~

See also the *Index to Rule History*: https://wcd.oregon.gov/laws/Documents/Rule_history/436_history.pdf.

436-080-0040 Assessment of Civil Penalties Against Non-complying Employer; ~~Hearing on Proposed Assessment~~

(1) Calculation of premium amounts.

For the purpose of this rule, "premium for the period of noncompliance" means the estimated premium the employer would have paid during the period of noncompliance if workers' compensation insurance had been provided. The director will estimate the premium for the period of noncompliance, subject to the following:

(a) The director will use the applicable assigned risk rates established by the National Council on Compensation Insurance effective during the period of noncompliance. The rates are available for purchase at www.ncci.com, or are available for review during regular business hours at the Workers' Compensation Division, 350 Winter Street NE, Salem OR 97301;

(b) If the employer provides payroll information that is adequate to determine actual payroll amounts and duties performed by workers, the director will assign the payroll amounts to the applicable assigned risk rates; and

(c) If the employer does not provide payroll information that is adequate to determine actual payroll amounts and duties performed by workers:

(A) The director may estimate payroll by multiplying the total number of workers employed during the period of noncompliance by the state average weekly wage; and

(B) The director may assign all estimated payroll to the classification that best describes the employer's type of business.

(2) Assessment of civil penalties under ORS 656.735(1).

The director will assess a civil penalty under ORS 656.735(1) ~~In accordance with ORS 656.735(1), the amount of penalty for a person's first violation of ORS 656.052(1) shall be in an amount equal to~~ the greater of:

(a) \$1,000; or

(b) ~~twice~~200 percent of the premium for the period of noncompliance the employer would have paid during the non-complying period if insurance had been provided.

(3) Assessment of civil penalties under ORS 656.735(2).

If an employer continues to violate ORS 656.052(1) after an order under OAR 436-080-0010 has become final, the director will assess an additional civil penalty of not more than \$250 for each calendar day the violation continues, commencing with the first day of

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noncompliance after the initial noncomplying period. To determine the amount of a civil penalty assessed under this section, the director may consider factors including, but not limited to:

- (a) The number of subject workers employed by the noncomplying employer;
- (b) The nature of the noncomplying employer's business;
- (c) The premium for the period of noncompliance; and
- (d) The employer's compliance history.

(4) Penalty reductions.

The director may reduce the amount of a civil penalty assessed under section (2) or (3) of this rule, subject to the following:

(a) To be eligible for a reduced penalty, the employer must:

~~(a) The division may reduce the amount of the penalty due, to 105% of the amount of premium the employer would have paid during the noncomplying period if insurance had been provided if, prior to the penalty order becoming final, the employer:~~

~~(A) Agrees to not contest the penalty order;~~

~~(B) Provides evidence that the employer has complied with ORS 656.017, or satisfactory to the division that it is no longer a subject employer or, if it is still a subject employer, that it has now complied with ORS 656.052(1);~~

~~(C) Provides adequate payroll information to enable the division director to calculate the amount of the premium for the the employer would have paid during the noncomplying period of noncompliance under subsection (1)(b) of this rule if insurance had been provided; and~~

~~(D) Makes arrangements satisfactory to the division for prompt payment of the reduced penalty amount.;~~

(b) The director will not reduce a civil penalty if the employer fails to comply with subsection (a) before the order assessing the penalty becomes final, unless the director determines there was good cause for the delay;

~~(bc) A penalty assessed under section (2) of this rule may be reduced to the greater of:~~

~~(A) \$500; or~~

~~(B) If 105% percent of the amount of premium for the employer would have paid during the period of noncomplying period is less than \$500, the reduced penalty will be \$500.; and~~

~~(2d) A penalty assessed under section (3) of this rule may be reduced to the greater of:~~

~~The amount of penalty, when assessed against the employer pursuant to ORS 656.735(2), shall be \$250 per day for each calendar day the employer has continued to violate ORS 656.052(1), commencing with the first day of such violation:~~

~~(aA) \$1,000; or~~

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- ~~(B) The division may reduce the amount of the penalty due to 150% percent of the amount of premium for the employer would have paid during the non-complying period of noncompliance. if insurance had been provided if, prior to the penalty order becoming final, the employer:~~
- ~~(A) Agrees to not contest the penalty order;~~
- ~~(B) Provides evidence satisfactory to the division that it is no longer a subject employer or, if it is still a subject employer, that it has now complied with ORS 656.052(1);~~
- ~~(C) Provides adequate payroll information to enable the division to calculate the amount of premium the employer would have paid during the noncomplying period if insurance had been provided; and~~
- ~~(D) Makes arrangements satisfactory to the division for prompt payment of the reduced penalty amount.~~
- ~~(b) If 150% percent of the amount of premium the employer would have paid during the noncomplying for the period of noncompliance is equal to or greater than \$250 per calendar day of noncompliance, there will be no reduction of the penalty amount.~~
- ~~(e) If 150% of the amount of premium the employer would have paid during the noncomplying period is less than \$1000, the reduced penalty will be \$1000.~~
- ~~(3) For the purpose of this rule, "premium the employer would have paid during the noncomplying period" means:(a) If payroll records are available, actual premium using the applicable occupational base rate premium applied to the payroll of the employer during the period of noncompliance; or~~
- ~~(b) If payroll records are not available, estimated premium based upon the number of workers employed during the noncomplying period times the average weekly wage as defined in ORS 656.005(1), using the applicable assigned risk base rated premium during the period of noncompliance.~~
- ~~(4) The division will mail or otherwise serve an order assessing a civil penalty, with a notice to the employer of rights under ORS 656.740.~~
- ~~(5) When a penalty order becomes final, the division will transfer the matter to Fiscal and Business Services of the department to collect the penalty.~~

Stat. Auth.: ~~ORS 656.052, ORS 656.726, ORS 656.735~~

Stats. Implemented: ~~ORS 656.052, 656.054 (section 1, chapter 170, Oregon Laws 2003), ORS 656.735, ORS 656.740~~

Hist.: ~~Amended 11/14/18 as WCD Admin. Order 18-062, eff. 1/1/19~~

~~Amended 5/28/20 as WCD Admin. Order 20-057, eff. 6/1/20 (temporary)~~

~~Suspended eff. 6/18/20 as WCD Admin. Order 20-058, eff. 6/18/20 (temporary)~~

~~Reinstated 6/18/20 as WCD Admin. Order 18-062, eff. 6/19/20~~

See also the *Index to Rule History*: https://wcd.oregon.gov/laws/Documents/Rule_history/436_history.pdf.

436-080-0060 When a Worker Files a Claim for an Injury

- (1) Referral of claim to assigned claims agent.**

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~~If When the division issues an order under OAR 436-080-0010 declaring an employer a noncomplying employer, and a subject worker has filed a claim for an injury sustained during the period of noncompliance while the worker was employed by such a noncomplying employer, the division director will:~~

~~(a) Refer the claim, with a copy of the noncomplying employer order and the results of ~~its the compliance~~ investigation, to the assigned claims agent for processing ~~as required by ORS 656.054;~~ and~~

~~(b) Issue a Notice of Referral and~~

~~(b) Inform to the worker, the worker's representative, if represented, and the employer that the claim has been referred to the assigned claims agent;~~

~~(2) The notice to the employer will inform the employer of the ~~its~~ right to object to the claim.~~

(32) Request for hearing to object to a claim.

~~If the An employer wishes to may request a hearing to object to the a claim referred to the assigned claims agent under this rule, the employer shall request a hearing. The request for hearing must be filed with the board within 60 calendar days from after the mailing date of the mailing of the Notice of Referral issued under subsection (1)(b) of this rule.~~

(43) Processing of claim.

When the assigned claims agent accepts or denies the claim, it ~~shall~~ **must** notify the worker, employer, and the ~~division director of its action~~ within the time provided by ORS 656.262.

(54) Nonsubjectivity determinations.

~~When If a worker files a claim for an injury and the division director finds determines that at the time of the injury, either the worker was not a subject worker, or the employer was not a subject employer, the director will notify the worker and the employer shall be notified of such determination by issuing a nonsubjectivity determination.~~

(5) Request for hearing on nonsubjectivity determination.

~~The A worker may request a hearing on a nonsubjectivity determination, subject to the following:~~

~~(a) The request for hearing must be filed by filing a hearing request within 60 days after the mailing date of the determination;~~

~~(b) The request for hearing request must be sent to the director Workers' Compensation Division administrator;~~

~~(c) The worker and employer shall be parties to any such the hearing, and will be notified by the Hearings Division of the time and place set for hearing; and~~

~~(d) OAR 436-001-0030(2) through (5) apply to hearings requested under this section.~~

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.054; 656.740

Hist: Amended 12/3/03 as WCD Admin Order 03-065, eff. 1/1/04

Amended 11/14/18 as WCD Admin. Order 18-062, eff. 1/1/19

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See also the *Index to Rule History*: https://wcd.oregon.gov/laws/Documents/Rule_history/436_history.pdf.

436-080-0065 Determination ~~Of~~ Assigned Claims Agent

(1) When selecting an assigned claims agent, the director will consider:

~~(a) claims processing performance data collected by the division. That data and data provided by potential assigned claims agents will be used to determine w~~Which claims agent can deliver the most timely and appropriate benefits to injured workers and can best control claim costs and administrative costs, based on claims processing performance and other available data-; and

~~(b) In addition, the director may use a~~Any other factors the director considers appropriate.

(2) If no qualified entity agrees to be an assigned claims agent, the director may require one or more of the three highest premium producing insurers to be assigned claims agents, based on the. In addition to the premium consideration, the criteria described inunder section (1) of this rule. ~~will be used to make that determination.~~

Stat. Auth.: ~~ORS 656.054,~~ ORS 656.726

Stats. Implemented: ORS 656.054

Hist: Amended 12/3/03 as WCD Admin Order 03-065, eff. 1/1/04

Amended 11/14/18 as WCD Admin. Order 18-062, eff. 1/1/19

See also the *Index to Rule History*: https://wcd.oregon.gov/laws/Documents/Rule_history/436_history.pdf.

436-080-0070 Reimbursement of Assigned Claims Agent for Claims Costs for Injured Workers of Noncomplying Employers

(1) Reimbursement of incurred claims costs.

The director will reimburse ~~When an~~the assigned claims agent for all claims costs the assigned claims agent incurs under pays compensation to a claimant or incurs other costs on a claim referred to it under ORS 656.054, under the terms of the contract between the assigned claims agent and the director. the ~~To request reimbursement, the assigned claims agent shall must report the payment~~ all claims costs to the department director, subject to the following:

~~(a) as established by contract with the assigned claims agent. Any amounts received by the assigned claims agent and reported to the department under subsections (5) and (6) of this rule will be offset against such expenditures. Subject to section (3) of this rule, e~~ Claims costs ~~osts incurred by the assigned claims agent for which reimbursement will be allowed include, but are not limited to:~~

~~(aA)~~ All compensation provided paid to claimant ~~a~~ subject worker or beneficiary;

~~(b)~~ All expenses incurred for medical services.

~~(eB)~~ Attorney fees paid to the claimant in addition to any compensation, and sums assessed under ORS 656.382(3) ~~and paid by the assigned claims agent,~~ but not fees and sums paid under ORS 656.262-(11) and 656.382(1); and

~~(dC)~~ A reasonable amount for administrative costs at a rate proposed by the assigned claims agent and approved by the director. The assigned claims agent must propose

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~~the rate prior to before~~ June 30 of each year. Late ~~requests-proposals~~ for a rate increase-on the rate of reimbursement, if approved, shall-will be effective on the date the request was received by the director:-

(b) If the assigned claims agent is the paying agency in any action to recover damages from a noncomplying employer or third party under ORS 656.576 to 656.595, the assigned claims agent must report to the director:

(A) The commencement and termination of each action;

(B) The status of all pending actions at the end of each calendar year; and

(C) The amount of the recovery retained by the assigned claims agent under ORS 656.593(1)(c), within 30 days after an action is settled or damages are recovered; and

(c) The amount reported under paragraph (1)(b)(C) will be offset against the amount of incurred costs reported under subsection (a).

(2) Approval or denial of request.

The ~~department director~~ will review the request and issue-will approve or disapprove the reimbursement ~~out of from~~ the Workers' Benefit Fund under the terms of the contract between the assigned claims agent and the director.

(3) Audit of reimbursed amounts.

The ~~department director~~ will annually conduct an annual ~~audit of~~ the noncomplying employer claim files processed by the assigned claims agent to validate the amount reimbursed ~~pursuant to under~~ section (42) of this rule. -The director will disapprove Reimbursement- reimbursement shall not be allowed, if, upon such audit, any of the conditions described under ORS 656.054(3) following are found to apply upon audit:-

(a) Compensation has been paid as a result of untimely, inaccurate, or improper claims processing;

(b) Compensation has been paid negligently for treatment of any condition unrelated to the compensable condition;

(c) The compensability of an accepted claim is questionable and the rationale for acceptance has not been reasonably documented in accordance with generally accepted claims management procedures;

(d) The separate payments of compensation have not been documented in accordance with generally accepted accounting procedures; or

(e) The payments were made pursuant to a disposition agreement as provided by ORS 656.236 without the prior approval of the department.

(4) Review of disapproval.

~~Under ORS 656.054 and 656.704(2),~~ The assigned claims agent may request review of appeal any disapproval of reimbursement made by the ~~department director~~ under this rule as provided in ORS 656.704(2) and OAR 436-001.

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~~(5) When a damage action is brought against a noncomplying employer or an action is brought against a third party by an employee of a noncomplying employer or the employee's beneficiaries, or by the assigned claims agent as the paying agency for such an employee, as authorized by ORS 656.576 to 656.595, the assigned claims agent shall report the commencement and termination of such action to the department. Thereafter, at the end of each calendar year, the assigned claims agent shall report the status of all such actions that are pending.~~

~~(6) When an action against an employer, or third party is settled or if damages are recovered, the assigned claims agent shall report within (30) days to the department the amount of the recovery retained by the assigned claims agent under ORS 656.593(1)(c).~~

(75) Collection of reimbursed costs.

~~Fiscal and Business Services of the department is responsible for~~The director will collect all collecting from noncomplying employers those costs incurred by~~reimbursed from the Workers' Benefit Fund for which the assigned claims agent is entitled to reimbursement from the department under this rule~~from the responsible noncomplying employer. Fiscal and Business Services~~The director~~ will inform each noncomplying employer of the~~its~~ liability under ORS 656.054(3) and~~keep~~advise~~the employer~~ advised~~of costs incurred by the assigned claims agent.~~

Stat. Auth.: ~~ORS 656.054~~, ORS 656.726

Stats. Implemented: ORS 656.054, 656.704, ~~OL 2005 ch 26~~

Hist: Amended 10/19/05 as WCD Admin. Order 05-066, eff. 1/2/06

Amended 11/14/18 as WCD Admin. Order 18-062, eff. 1/1/19

See also the *Index to Rule History*: https://wcd.oregon.gov/laws/Documents/Rule_history/436_history.pdf.

436-080-0080 Collection of ~~Subject Worker's Payment~~Monies Withheld from Subject Workers

~~(1) When the division~~The director will collect ~~finds the noncomplying employer has any unremitted monies withheld by a noncomplying employer withheld monies~~ from subject workers pursuant to~~under~~ ORS 656.506, it will collect such money from the noncomplying employer as described under OAR 436-070.

~~(2) Fiscal and Business Services is responsible for collecting from noncomplying employers those workers' payments not collected by the Workers' Compensation Division and referred to it by the Workers' Compensation Division.~~

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.506

Hist.: Amended 12/3/03 as WCD Admin Order 03-065, eff. 1/1/04

Amended 11/14/18 as WCD Admin. Order 18-062, eff. 1/1/19

See also the *Index to Rule History*: https://wcd.oregon.gov/laws/Documents/Rule_history/436_history.pdf.