October 29, 2025

Proposed Changes to Workers' Compensation Rules

Caption: Implementation of HB 2802 (2025), changes to OAR 436-060 Claims Administration

The Workers' Compensation Division proposes to amend:

- OAR 436-060 Claims Administration
- OAR 436-030 Claim Closure and Administration (limited change)
- OAR 436-075 Retroactive Program (limited change)

When is the hearing?	November 19, 2025 at 2 p.m.
Where is the hearing?	Virtual By video or telephone conference – Microsoft Teams: https://teams.microsoft.com/l/meetup-join/19%3ameeting_MzMyODdkOGQtZWQ5Yi00MjRhLWEzOGQtZTA2MjE4MDFiZGFm%40thread.v2/0?context=%7b%22Tid%22%3a%22aa3f6932-fa7c-47b4-a0ce-a598cad161cf%22%2c%22Oid%22%3a%22419bb41f-34a1-4d77-8afc-abd87db857e0%22%7d Meeting ID: 234 315 219 352 0 Passcode: vS94yy2M **Dial in by phone** +1 503-446-4951,,206387437# United States, Portland Phone conference ID: 206 387 437#
How can I make a comment?	Attend the hearing (virtually) and speak, send written comments, or do both. Send written comments by: Email – WCD.Policy@dcbs.oregon.gov, Attention: rules coordinator *Or* Attn: Rules Coordinator

Workers' Compensation Division
350 Winter Street NE (for courier or in-person delivery)
PO Box 14480 (for mail delivery)
Salem, OR 97309-0405
Or
Fax – 503-947-7514

The closing date for written comments is November 26, 2025.

Questions? Contact Marie Rogers, 971-286-0316.

Proposed rules and public testimony are available on the Workers' Compensation Division's website: **http://wcd.oregon.gov/laws/Pages/proposed-rules.aspx**. Or, call 971-286-0316 to get paper copies.

Auxiliary aids for persons with disabilities are available upon advance request.

Summary of proposed changes:

OAR 436-060

- OAR 436-060-0018 is amended to:
  - Remove obsolete mandatory notice language that is no longer in effect as of Oct. 1, 2024.
  - Specify that an appeal of the worker's request for reconsideration is a request for review, and that an appeal of the director's order is a request for hearing.
- OAR 436-060-0020 is amended to:
  - Remove obsolete mandatory notice language that is no longer in effect as of Oct. 1, 2024.
- OAR 436-060-0025 is amended to:
  - Define a fluctuating pay rate and specify how to calculate the worker's weekly wage when the worker has wages paid at a fluctuating pay rate.
  - Specify when a one-time bonus (such as a sign-on or relocation bonus) may not be included in the weekly wage calculation.
- OAR 436-060-0030 is amended to:
  - Clarify post-injury wages are not limited to only wages "from any kind of work."
  - Remove obsolete mandatory notice language that is no longer in effect as of Oct. 1, 2024.
  - Clarify that post-injury wages must offset the temporary disability benefit paid when a modified job no longer exists or the job offer is withdrawn.
- OAR 436-060-0035 is amended to:
  - Specify that an appeal related to the end of, or eligibility for, supplemental disability benefits is a request for hearing.
  - Clarify that the worker may request a hearing on the assigned processing administrator's decision concerning eligibility for supplemental disability or the rate of supplemental disability.
- OAR 436-060-0060 is amended to align with statutory changes under HB 2802 (2025), effective Jan. 1, 2026.
- OAR 436-060-0075 is amended to clarify the end date of permanent total disability benefits.
- OAR 436-060-0095 is amended to:
  - Remove obsolete mandatory notice language that is no longer in effect as of Oct. 1, 2024.
- OAR 436-060-0105 is amended to remove obsolete mandatory notice language that is no longer in effect as of Oct. 1, 2024.
- OAR 436-060-0135 is amended to remove obsolete mandatory notice language that is no longer in effect as of Oct. 1, 2024.
- OAR 436-060-0137 is amended to:
  - Specify that an appeal related to the director's decision approving or denying more than three vocational evaluations is a request for hearing.
  - Remove obsolete mandatory notice language that is no longer in effect as of Oct. 1, 2024.
- OAR 436-060-0140 is amended to:
  - Clarify when a Modified Notice of Acceptance must be issued.

    - Specify the title of a document when a Modified Notice of Acceptance is combined with an Updated Notice of Acceptance.
- OAR 436-060-0141 is repealed.
- OAR 436-060-0155 is amended to change when a penalty payment following a stipulation is due.
- OAR 436-060-0200 is amended to remove and update provisions related to civil penalties, performance audits, and considerations for assessing penalties.
- OAR 436-060-0500 is amended to clarify what settlements must be submitted to the division in order to receive reimbursement from the Workers' Benefit Fund for supplemental disability benefits.

OAR 436-030

- OAR 436-030-0135 is amended to clarify when a reconsideration proceeding will not be conducted, due to the worker obtaining a lump sum after waiving the right to request reconsideration.

OAR 436-075

- OAR 436-075-0030 is amended to add a reference to OAR 436-060, to clarify the end date of permanent total disability benefits.

The agency requests public comment on whether other options should be considered for achieving the rules' substantive goals while reducing the negative economic impact of the rules on business.

Need for the rule(s): Rule amendments are needed to align with Enrolled House Bill 2802 (2025), improve the efficiency and effectiveness of claims processing, and enhance clarity.

Documents relied upon and where they are available: House Bill 2802 (2025), rulemaking advisory committee minutes. These documents are available for public inspection upon request to the Workers' Compensation Division, 350 Winter Street NE, Salem, Oregon 97301-3879. Please contact Marie Rogers, rules coordinator, 971-286-0316, WCD.Policy@dcbs.oregon.gov.

Fiscal and economic impact: The agency projects the proposed rule amendments, if adopted, will not affect the agency's cost to carry out its responsibilities under ORS chapter 656 and OAR chapter 436. Possible impacts on stakeholders are included under "Statement of Cost of Compliance" below."

Statement of cost of compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

a. The agency estimates that proposed rule changes will not increase costs to state agencies for compliance with the rules.

b. The agency estimates that proposed rule changes will not increase costs to units of local government for compliance with the rules, with the exception of self-insured cities and counties, which are addressed under part c. below.

c. The agency estimates that proposed rule changes will not significantly affect costs to the public for compliance with the rule, but invites public testimony on any possible impacts. The proposed rule changes would primarily affect insurers, self-insured employers and service companies (i.e., "claim processors"). In the following areas, there may be some impact on the cost to comply with the rule, though the agency is unable to quantify the extent of any cost increase or decreases. However, the rule changes do not significantly alter how workers' compensation claims are processed, and will likely only require slight modifications in claim processors' administrative activities.

- To comply with changes related to lump sum payments of permanent partial disability, if a claim processor uses an electronic version of Form 1174, this form would need to be modified to align with changes in rule and statute.
- To the extent that OAR 436-060-0141 increased the cost to comply with the rule when originally adopted, repealing the rule may decrease costs to comply with OAR 436-060. However, there has been a significant decrease in COVID related claims reported to the division, so any decreases in the cost to comply may be minimal.
- If a claim processor opts to combine a Modified Notice of Acceptance and a Updated Notice of Acceptance, there may be a reduction in administrative burden, since the process for issuing these notices would be more efficient.

2. Cost of compliance effect on small business (ORS 183.336):
a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
The businesses affected by the proposed rule amendments are primarily insurers, self-insured employers, and service companies. However, insurers and self-insured employers tend to be large employers and not small businesses as defined in ORS 183.310. There are 23 active service companies, some of which are small businesses and subject to these rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
Possible impacts are described under 1.c. above. However, service companies process claims for insurers and self-insured employers, so any additional costs for service companies due to proposed rule changes will probably be passed along to insurers and self-insured employers.

c. Equipment, supplies, labor and increased administration required for compliance:
Possible impacts are described under 1.c. above. However, service companies process claims for insurers and self-insured employers, so any additional costs for service companies due to proposed rule changes will probably be passed along to insurers and self-insured employers.

How were small businesses involved in the development of this rule? The agency sent rule advisory committee invitations to more than 5,500 stakeholders, including representatives of small businesses.

Statement identifying how adoption of the rule will affect racial equity in this state:
The Workers' Compensation Division does not collect data about race or ethnicity related to workplace injuries and illness in Oregon, but the United States Bureau of Labor Statistics publishes lists of occupations and numbers of Americans employed broken down by race. Black/African Americans and

Hispanic/Latino workers are represented in some of the more dangerous occupations in higher numbers than their respective shares of the U.S. workforce. To the extent Oregon workers in these racial groups suffer more on-the-job injuries and illnesses, changes in the workers' compensation system and benefits may impact these racial groups more than others. The agency does not have sufficient data needed to estimate specific effects on racial equity in Oregon, but invites public input.

Administrative Rule Advisory Committee consulted?: Yes. **If not, why**?

	Matt West	10/29/25
Authorized Signer	Printed name	Date

Mailing distribution: US Mail – WCD – S, U, AT, CE, EG, NM, CI, PW, RE, VR | agency email lists