



NORTHWEST FOREST WORKER CENTER

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Exhibit
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February 20, 2017

Fred Bruyns, rules coordinator
Workers' Compensation Division
350 Winter Street NE
PO Box 14480, Salem, OR 97309-0405

Submitted to fred.h.bruyns@oregon.gov

Dear Mr. Bruyns:

On behalf of the board, staff and members of the Northwest Forest Worker Center I am pleased to offer the following comment on the state of Oregon's "Proposed Changes to Workers' Compensation Rules" published on January 17, 2017.

We are particularly concerned about section 436-009-0110(1) "Choosing an Interpreter." The proposed rule leaves the current language in the Oregon Administrative Rules unchanged. It gives the patient the right to choose an interpreter at medical exams. This is problematic because 1) job foremen often serve as interpreters and they may not provide the most trustworthy interpretation, 2) workers may feel pressured to choose the job foreman even if they would prefer a different interpreter, 3) children of the injured worker may not have the vocabulary needed to interpret adequately, or their parent may feel inhibited to reveal facts about his or her medical condition to his or her child, and 4) the current language regarding choosing an interpreter in the Workers' Compensation Rules conflicts with other Oregon laws.

In the forestry services industry, an industry with job-related injury and fatality rates that are 3 and 9 times, respectively, the average for all Oregon workers, it is quite common for workers to be told to lie at the hospital emergency room and say that their injury was not job-related. This is one of the most common complaints we hear from forest workers at the Northwest Forest Worker Center. In such cases, typically the job foreman interprets for the worker at the medical exam. It is quite clear that if the foreman has instructed the worker to lie about his or her injury at the outset of the medical exam, that he is not going to provide accurate interpretation during the exam.

Giving injured workers the right to choose any interpreter they want, may be fair and democratic in principle, but in practice it could easily be otherwise. If a worker shows up at an emergency room with his or her job foreman, s/he may feel obligated to choose the foreman even though s/he may prefer a different interpreter. Workers in the forestry services industry fear being fired or retaliated against in some way for being injured on the job. In fact, in research that the Northwest Forest Worker Center has conducted in collaboration with the Universities of California and Washington in southern Oregon, fear of being fired is the most common reason forest workers give for not reporting their injuries to their supervisors. If the worker has already risked being fired, in his or her mind, by letting the foreman know

that s/he has been injured, s/he may very well not want to increase the risk of retaliation by choosing an interpreter other than the job foreman.

A third reason leaving the rules governing the choice of interpreter unchanged is problematic is that children may not be competent to interpret at medical exams. If a worker goes to a medical facility to seek treatment for a job-related injury without the job foreman, s/he may take one of his or her children along to serve as an interpreter. It is not uncommon for workers to seek treatment for job-related injuries a day or more after being injured if symptoms do not subside or if they worsen. In such cases, children may not have the vocabulary necessary to interpret adequately. Moreover, the parent may feel embarrassed or ashamed to fully disclose the nature of the injury and its symptoms in front of his or her child.

Finally, the administrative rules of the Oregon Workers' Compensation Division should be brought into concordance with the requirements in the Oregon Revised Statutes regarding interpretation at medical exams. Currently section 413.552(4) of the Oregon Revised Statutes states that, "It is the policy of the Legislative Assembly that health care for persons with limited English proficiency be provided according to the guidelines established under the policy statement issued August 30, 2000, by the U.S. Department of Health and Human Services, Office for Civil Rights, entitled, 'Title VI of the Civil Rights Act of 1964; Policy Guidance on the Prohibition Against National Origin Discrimination As It Affects Persons With Limited English Proficiency,' and the 1978 Patient's Bill of Rights." Title VI requires medical services providers to assure that qualified interpreters are present at medical exams.

For all these reasons, we urge the Division to revise section 436-009-0110(1) "Choosing an Interpreter" to require the use of certified, third-party interpreters at all medical exams.

Sincerely,

A handwritten signature in cursive script that reads "Carl Wilmsen".

Carl Wilmsen, Ph.D.
Executive Director