

BRUYNS Fred H * DCBS

From: Melissa Craig <Melissa@questaff.com>
Sent: Thursday, April 26, 2018 11:07 AM
To: BRUYNS Fred H * DCBS
Cc: CLARK Christopher M * DCBS; BREITENSTEIN Adam J * DCBS; MCCOMAS Roger B * DCBS; BAKER Lorrie D * DCBS; PACE Ana K * DCBS
Subject: RE: Proposed rules affecting worker leasing

Fred –

Regarding the email I sent earlier and the phone conversation we had, I read through the transcript hoping to find the dialogue about concerns regarding the disclosure of personal information on the Leasing Application. The transcript in the link is only from Oct 16. Is there transcript from the first day the committee discussed the rules? I recall this being a topic of discussion and there were a number of committee members who expressed concern about this.

To reiterate my thoughts, requiring personal information, such as date of birth and personal residential address introduces security concerns to PEO controllers that seem unnecessary to the evaluation of an organization's viability to be approved as a certified PEO. If this type of personal information is to be required, should there also be a statement indicating why it's necessary and WCD's plan for how it will remain protected? Many PEO's are large employers. It is common for PEO's to have thousands of employees. For security of all staff, our policy is to limit sharing personal information. DOB and personal address would certainly qualify.

Melissa Craig
President, Quest Staffing Services
Regional Manager, Summit Staffing Solutions
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Melissa's focus for the day:

"A mentally healthy person is able to criticize, complement and laugh at themselves with equal balance."

From: BRUYNS Fred H * DCBS [mailto:Fred.H.Bruyns@oregon.gov]
Sent: Thursday, April 26, 2018 9:46 AM
To: Melissa Craig
Cc: CLARK Christopher M * DCBS; BRUYNS Fred H * DCBS; BREITENSTEIN Adam J * DCBS; MCCOMAS Roger B * DCBS; BAKER Lorrie D * DCBS; PACE Ana K * DCBS
Subject: RE: Proposed rules affecting worker leasing

Good morning Melissa,

Thank you for submitting testimony. I will post your questions and comments to our website today, and agency staff will fully consider them.

As we discussed by phone, here is a link to a transcript of the advisory committee meeting of 10/16/17:
<http://wcd.oregon.gov/laws/Documents/rule-meetings/2017/2017-10-16-worker-leasing/Transcript-RAC-2017-10-16.pdf>.

Additional committee records are posted here:
<http://wcd.oregon.gov/laws/Pages/2017-information.aspx>.

Sincerely,

Fred Bruyns, policy analyst/rules coordinator
Department of Consumer and Business Services
Workers' Compensation Division
503-947-7717; fax 503-947-7514
Email: fred.h.bruyns@oregon.gov



From: Melissa Craig [<mailto:Melissa@questaff.com>]
Sent: Thursday, April 26, 2018 8:39 AM
To: BRUYNS Fred H * DCBS
Cc: CLARK Christopher M * DCBS
Subject: RE: Proposed rules affecting worker leasing

Thank you for the opportunity to follow-up my participation in the rule making committee.

After reading and considering the proposed rules, I have three questions. My questions and comments are italicized and in green font. The black font is the verbiage from the rules.

Regarding the definition of "Worker leasing Company":

"Worker leasing company" means a "person ," as described in section (14) of this rule, who that provides workers to a client, by contract and for a fee, as established in ORS 656.850 but does not include a person who provides workers to a client on a temporary basis. For the purposes of these rules, a professional employer organization (PEO) is considered to be a worker leasing company.

Question: Would it be helpful to reference 436-180-120(2) in the definition?

Termination of client coverage. A worker leasing company may terminate its obligation to provide coverage to a client by providing **prior** written notice of the termination subject to the following... *Question: Prior to what?*

Regarding the application for a leasing license, I remember discussion expressing concern about why this level of personal information was necessary. Was there follow-up discussion the second day? Are you able to provide explanation for why such personal information is necessary? For example, date of birth and address of personal residence?

Please reply, or you prefer to have a phone discussion, you're welcome to call my cell phone: 503-329-6014.

Thank you!

Melissa Craig
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Melissa's focus for the day:

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From: BRUYNS Fred H * DCBS [<mailto:Fred.H.Bruyns@oregon.gov>]

Sent: Thursday, March 29, 2018 2:53 PM

To: BRUYNS Fred H * DCBS

Cc: CLARK Christopher M * DCBS

Subject: Proposed rules affecting worker leasing

Caption: Worker leasing licensing, workers' compensation coverage of clients, recordkeeping, and reporting

Dear committee members,

The Oregon Workers' Compensation Division has published proposed rules on worker leasing, http://wcd.oregon.gov/laws/Documents/Proposed_rules_and_testimony/Div-050-180-2018-04-24/50_180-18XXXp.pdf:

- OAR 436-050, Employer/Insurer Coverage Responsibility, and
- OAR 436-180, Worker Leasing.

Thank you assisting with this rulemaking, at the advisory committee meetings in September and October of 2017, and by providing written advice.

We have scheduled a public rulemaking hearing:

April 24, 2018, 9 a.m.

Labor & Industries Building

350 Winter Street NE, Room B (basement)

Salem, Oregon 97301

Written comments may be sent to:

fred.h.bruyns@oregon.gov

Fred Bruyns, rules coordinator

Workers' Compensation Division

350 Winter Street NE (for courier or in-person delivery)

PO Box 14480, Salem, OR 97309-0405

Fax – 503-947-7514

The public may also listen to the hearing or testify by telephone: Dial-in number is 1-213-787-0529; Access code is 9221262#.

The closing date for written comments is April 30, 2018.

A summary of the proposed rule changes is provided at the end of this message.

Please let me know if you have questions.

Sincerely,

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Summary of proposed changes

The agency proposes to amend “OAR 436-050, Employer/Insurer Coverage Responsibility,” as follows:

- Amended rule 0003 deletes references to ORS 656.850 and 656.855 from the “Statutes implemented” list, because worker leasing provisions will be removed from this rule division.
- Amended rule 0005 deletes definitions relevant to worker leasing, because worker leasing provisions will be removed from this rule division.
- Repealed rule 0400 addressed the responsibility to provide coverage under a worker leasing arrangement, and similar provisions will be adopted under OAR 436-180.
- Repealed rule 0410 addressed certain reporting requirements for worker leasing companies, and similar provisions will be adopted under OAR 436-180.
- Repealed rule 0420 explained differences between temporary workers and leased workers, and similar provisions will be adopted under OAR 436-180.
- Repealed rule 0440 described licensing requirements for worker leasing companies, and similar provisions will be adopted under OAR 436-180.
- Repealed rule 0450 explained recordkeeping and reporting requirements for worker leasing companies, and similar provisions will be adopted under OAR 436-180.
- Repealed rule 0455 explained recordkeeping and reporting requirements for self-insured worker leasing companies, and similar provisions will be adopted under OAR 436-180.
- Repealed rule 0460 explained reasons and procedures for suspension and revocation of a worker leasing license, and similar provisions will be adopted under OAR 436-180.
- Repealed rule 0470 explained how the director would monitor and audit worker leasing companies and their clients, and similar provisions will be adopted under OAR 436-180.
- Repealed rule 0480 listed violations of statutes and rules that could result in civil penalties against worker leasing companies, and similar provisions will be adopted under OAR 436-180.

The agency proposes to adopt “OAR 436-180, Worker Leasing,” as follows:

- Adopted rule 0003 describes the purpose of the rules in division 180 and explains that the director may waive procedural rules as justice requires, unless otherwise obligated by statute.
- Adopted rule 0005 defines words and terms used in division 180.
- Adopted rule 0008 describes procedures for parties to request administrative review and hearings.
- Adopted rule 0100 explains responsibilities of worker leasing companies to provide workers’ compensation coverage for their clients, and also when a client’s workers’ compensation policy coverage extends to leased workers; rule 0100 also states that a person may not obtain workers by contract and for a fee on a non-temporary basis from an unlicensed worker leasing company.
- Adopted rule 0110 describes reporting requirements for worker leasing companies – notice of client coverage, changes or corrections to coverage information, termination of client coverage, and reinstatement of coverage.
- Adopted rule 0120 explains the differences between leased workers and workers who are provided on a temporary basis.

- Adopted rule 0140 describes licensing requirements for worker leasing companies – full licensing, limited licensing, renewals, denials, disqualifications, and appeals of denials or disqualifications.
- Adopted rule 0150 describes recordkeeping requirements for worker leasing companies.
- Adopted rule 0155 describes requirements for a self-insured worker leasing company to maintain and report to the National Council on Compensation Insurance (NCCI) separate statistical data for each client.
- Adopted rule 0160 explains procedures for suspension or revocation of a worker leasing license.
- Adopted rule 0170 explains how the director will monitor and audit worker leasing companies, temporary service providers, and clients.
- Adopted rule 0200 describes potential civil penalties that may be applied for violations of worker leasing statutes, rules, or orders of the director, and that any person or controlling person that knowingly makes a false statement may also be subject to penalties under ORS 656.990.