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November 20, 2020

Fred Bruyns  
Policy Analyst/Rules Coordinator  
Workers' Compensation Division  
[fred.h.bruyns@oregon.gov](mailto:fred.h.bruyns@oregon.gov)

RE: Comment on amendments to OAR 436-060 – Reporting of Workers' Social Security Numbers.

Dear Mr. Bruyns,

I write on behalf of the Northwest Workers' Justice Project (NWJP), an advocacy and legal organization representing low wage, immigrant, and contingent workers in Oregon, to submit these comments to the Workers' Compensation Division (WCD) in response to the notice of proposed rulemaking relating to amendments to OAR 436-060, specifically changes to reporting of workers' Social Security numbers (SSNs) on forms.

We applaud the Division's plan to remove the SSN box on Form 801 "Report of Job Injury or Illness." As you know, this form is one way that employees may make a report of injury and start their claim for compensation. By removing the box, the Division will be removing a barrier that prevents workers who are undocumented from making lawful claims.

At NWJP, the vast majority of our clients are immigrants, particularly from Mexico and Central America, who work in low-wage and physically demanding industries in Oregon. Many of those immigrants work without immigration authorization. It is essential that all workers, regardless of immigration status, have access to workers' compensation benefits in the event of a workplace injury. That principle prevents a race to the bottom by unscrupulous employers seeking to avoid responsibility for workplace health and safety by hiring undocumented workers instead of U.S. and work authorized immigrants.

However, a number of barriers prevent immigrants, work authorized or not, from making lawful workers' compensation claims. This includes fear and experience of retaliation, making workers' compensation retaliation the most common discrimination claim that we handle at NWJP. Another is a simple concern about whether they are entitled to make a claim from the employer's insurance carrier and whether, by doing so, they will put their immigration status at issue. When the request for SSN is in a box on the form, it seemingly confirms the workers' fears right from the beginning, chilling valid workers' compensation claims.

By removing the SSN, the Division clearly signals to all workers that having a SSN is not a requirement to make a claim. I know that the Division has made an effort to communicate that principle in "A Guide for Workers Recently Hurt on the Job," but removing the box prevents any miscommunication about the Division's stance and the workers' right to make a claim.

Removing the SSN box protects all workers. In our experience handling workers' compensation retaliation cases, injured workers fill out Form 801 with supervisors, crew leaders and the help of other workers, who should not have access to the injured workers' SSN. By removing the SSN box from a form that often is viewed and handled by more than an employer's authorized "human resources" staff, the Division also helps to protect workers from identity theft.

I also encourage the Division to move forward to remove the SSN box from Form 827, "Worker's and Health Care Provider's Report for Workers' Compensation Claims." Based on feedback from participants in advisory meetings, I understood that many health care providers decline to enter the SSN into the form because of privacy concerns. Therefore, it is also an unnecessary barrier to reports of injury.

We have work to do as a community make sure that injured workers are protected from retaliation and are making lawful claims, regardless of immigration status. But, the Division's proposed amendments to OAR 436-060 and Form 801 remove a key barrier that has chilled workers from making claims.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. Spencer-Scheurich".

Corinna Spencer-Scheurich  
Director of NWJP