

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
OF THE STATE OF OREGON**

PUBLIC RULEMAKING HEARING

In the Matter of the Amendment of OAR:)	TRANSCRIPT OF TESTIMONY
436-001, Procedural Rules, Rulemaking, Hearings, and Attorney Fees)	
436-009, Oregon Medical Fee and Payment)	
436-010, Medical Services)	
436-015, Managed Care Organizations)	

The proposed amendment to the rules was announced in the Secretary of State’s Oregon Bulletin dated Feb. 1, 2018. On Feb. 21, 2018, a public rulemaking hearing was held as announced at 10 a.m. in Room F of the Labor and Industries Building, 350 Winter Street NE, Salem, Oregon. Fred Bruyns, from the Workers’ Compensation Division, acted as hearing officer. The record will be held open for written comment through Feb. 26, 2018.

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TRANSCRIPT OF PROCEEDINGS

Fred Bruyns (hearing officer):

Good morning and welcome. This is a public rulemaking hearing. My name is Fred Bruyns, and I’ll be the presiding officer for the hearing.

The time is 10 a.m. on Wednesday, Feb. 21, 2018. We are in Room F of the Labor & Industries Building, 350 Winter St. NE, in Salem, Oregon. We are making an audio recording of today’s hearing.

If you wish to present oral testimony today, please sign in on the “Testimony Sign-In Sheet.” It’s on the table by the entrance. If you plan to testify over the telephone, I will sign in for you.

The Department of Consumer and Business Services, Workers’ Compensation Division proposes to amend chapter 436 of the Oregon Administrative Rules, specifically:

- Division 1, Procedural Rules, Rulemaking, Hearings, and Attorney Fees,
- Division 9, Oregon Medical Fee and Payment Rules,
- Division 10, Medical Services, and
- Division 15, Managed Care Organizations.

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The department has summarized the proposed rule changes in the Notices of Proposed Rulemaking Hearing. These hearing notices, Statements of Need and Fiscal Impact, and proposed rules with marked changes, are on the table by the entrance. Public testimony is posted to the division's website as it arrives.

The Workers' Compensation Division: filed the Notices of Proposed Rulemaking Hearing and Statements of Need and Fiscal Impact with the Oregon Secretary of State on Jan. 19, 2018; mailed the Notices and Statements to its postal and electronic mailing lists; notified Oregon Legislators as required by ORS chapter 183; and posted public notice and proposed rules to its website.

The Oregon Secretary of State published the hearing notices in its Oregon Bulletin dated Feb. 1, 2018.

This hearing gives the public the opportunity to provide comment about the proposed rules. In addition, the division will accept written comment through and including Feb. 26, 2018, and will make no decisions until all of the testimony is considered. We are ready to receive testimony. If you are reading from written testimony and give the agency a copy of that testimony, we will add it to the rulemaking record.

Is there anyone here who would like to testify this morning? Is there anyone on the telephone who would like to testify?

[No response]

Okay, it is our policy to keep the hearing open, or at least, the opportunity for testimony, for a half an hour at a minimum. So, we will remain here and accept testimony if someone happens to arrive late. In a moment I will recess the hearing, and we will resume for additional testimony, if there is any. For the record, no additional people wish to testify at this time. Keep in mind that you may submit... Hello ...

Keith Semple: Actually, Fred. Fred, this is Keith Semple. I was just looking at a couple of the rules that talk about some things that are within the administrative law judge's discretion, the ability to conduct hearing by telephone is one example; the discretion to substitute an accurate description for an object of evidence. I guess my preference would be to leave those in the rules, just because it helps, you know, if a person is unrepresented, and they may not know all of the things that an administrative law judge has discretion to do, but they could find some of these in the rules that currently are there. And, I just think those things are helpful for clarity. I don't see a good reason to get rid of them, so I guess my opinion would be to just leave those. I don't see a reason to remove those.

Fred Bruyns: Okay. Well, thank you, Keith.

Keith Semple: That's all. Thank you.

Fred Bruyns: Thank you for testifying this morning.

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Would anyone else like to testify?

[No response]

Okay. I'll just remind you, in terms of the ways you may submit testimony, you may submit it in any written form, whether hard copy or electronic. I encourage you to submit your testimony by email or as attachments to email. However, you may also use fax, USPS mail, courier, or you may hand deliver testimony to the Workers' Compensation Division Central Reception on the second floor of this building. On the table by the entrance are business cards that include my contact information, and I will acknowledge all testimony received.

As a reminder the record remains open for written testimony through, and including, Feb. 26, 2018.

And, with that, this hearing is recessed at 10:04 a.m.

The hearing is resumed at 10:30 a.m.

Is there anyone here present or on the telephone who would like to testify?

Hearing no one, I want to thank you for attending. This hearing is adjourned. It's still 10:30.

Transcribed from a digital audio recording by Fred Bruyns, Feb. 22, 2018.

Amended, Feb. 26, 2018 - added name of Mr. Semple's law firm, page 1. Fred Bruyns