

## BRUYNS Fred H \* DCBS

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**From:** Kevin Anderson <kanderson@sbhlegal.com>  
**Sent:** Wednesday, January 26, 2022 1:15 PM  
**To:** 'Bruyns Fred H'  
**Subject:** RE: [EXT] FW: Agenda for rulemaking committee meeting on Jan. 26 regarding attorney fees

Fred, Andrew from our office was not able to join today but wanted to pass along his thoughts:

Concern/reaction to the “awarded” language is that the ARU/Order on Reconsideration does not “award” temporary disability, it merely identifies dates of authorization and it is then up to the insurer to determine what is “due and payable.” In the instance of a rescinded closure, future/prospective amounts (substantive or procedural) would become “due and payable” as a result of the Order on Reconsideration, but they would not, and could not, be “awarded” by the Order because the ARU could not even contemplate what those future amounts might be. Given the ARU’s limitations in this, “due and payable” seems like the appropriate language.

Also, I continue to think that an assessed fee based on an agreed-upon multiplier of the worker’s weekly disability rate is the most appropriate basis for the instance of a closure being rescinded and causing TL to again be due and payable (since the rule’s proposed matrix would not fit that circumstance). It would be easily calculable, comparably reflect the benefit provided the worker, and it would provide an identifiable floor/ceiling.



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Please note that SBH has a new address. Please direct correspondence to 1200 SW Main Street, Portland OR 97205. While we have started our return to in-person working, we still have many of our team members working remotely and we continue to encourage electronic communication.

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**From:** BRUYNS Fred H \* DCBS <[Fred.H.BRUYNS@dcbs.oregon.gov](mailto:Fred.H.BRUYNS@dcbs.oregon.gov)>  
**Sent:** Wednesday, January 19, 2022 2:04 PM  
**To:** BRUYNS Fred H \* DCBS <[Fred.H.BRUYNS@dcbs.oregon.gov](mailto:Fred.H.BRUYNS@dcbs.oregon.gov)>  
**Cc:** OSTRAND-PONSIOEN Cathy \* DCBS <[Cathy.OSTRAND-PONSIOEN@dcbs.oregon.gov](mailto:Cathy.OSTRAND-PONSIOEN@dcbs.oregon.gov)>  
**Subject:** Agenda for rulemaking committee meeting on Jan. 26 regarding attorney fees

Good afternoon everyone,

We have posted an agenda for a virtual rulemaking advisory committee meeting scheduled for Jan. 26, 2022, 9:30 a.m. The agenda is also attached to this message.

Link to agenda: <https://wcd.oregon.gov/laws/Documents/rule-meetings/2022/001-2022-01-26/SRAC-agenda-2022-01-26.pdf>.

Many of you confirmed that you will attend, or you participated in a preliminary meeting on Oct. 8. All are welcome, and if you cannot join us (or even if you can), feel free to forward this invitation to others who have an interest in attorney fees under OAR 436-001.

Join ZoomGov Meeting:

<https://www.zoomgov.com/j/1601337156?pwd=VEg2MVREdFZkcjRyYb1paZmNpcGZ3Zz09>

Meeting ID: 160 133 7156 | Passcode: 051610

Dial in: 1 833 568 8864 US Toll-free | Meeting ID: 160 133 7156

Let me know if you have questions. We look forward to talking with you next week!

Sincerely,

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