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October 28, 2026

JOY DOUGHERTY, BOARD CHAIR
WORKERS' COMPENSATION BOARD
2601 25TH ST. SE, STE. 150
SALEM, OR 97302

Re: Biennial attorney fee review - proposed change to OAR 438-015-0033

Dear Board Chair Dougherty and Board Members:

SAIF Corporation (SAIF) thanks the Workers' Compensation Board (Board) for the opportunity to suggest changes to OAR 438-015-0033 as part of the Board's biennial review of attorney fees.

OAR 438-015-0033 establishes the process for claimant's attorney to request an attorney fee for actual time spent during a personal or telephonic statement or deposition. To obtain a fee, the attorney must submit a bill that includes the time spent, the attorney's signature, and a copy of the retainer agreement unless it was previously provided. The attorney may use the Board's form but is not required to.

SAIF proposes the Board amend the current rule to require the attorney to use the Board's prescribed form to create a consistent and transparent process for claimant attorneys and insurers. Standardization of the form creates consistency in the manner of the attorney fee request and easier identification by claims adjusters to ensure prompt payment.

In addition, SAIF proposes that the rule requires the attorney to separately submit the fee request to ensure it is not submitted as part of a packet of records that impacts the insurer's ability to quickly and easily identify the fee request and issue payment.

Lastly, SAIF requests clarification within the rule that if the request is not submitted in accordance with the rule's requirements, then the insurer is not required to pay the fee nor request a hearing. Instead, claimant's attorney may submit an amended fee request. This ensures a clear path for resolution of incomplete or incorrect fee requests.

SAIF appreciates the Board's consideration of SAIF's comments as well as the Board's engagement and collaborative approach to the biennial attorney fee review.

Sincerely,

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