



WORKERS' COMPENSATION BOARD
2601 25TH St. SE, Ste. 150,
Hearing Room (TBD)
Salem, OR 97302-1280

Sept. 6, 2023

AMENDED
NOTICE OF BOARD MEETING

The Workers' Compensation Board will hold a meeting at 1:00 pm on Monday, Sept. 18, 2023, in a hearing room to be determined, at 2601 25th St. SE, Suite 150, Salem, OR. To participate either in-person or telephonically, arrangements have been made to allow board members, interested parties, practitioners and the general public to participate in the meeting by a "phone conference" link.

The "phone conference" link will be available the week before the meeting. Any questions regarding this link may be directed to Thomas Taylor, 2601 25th St SE, Suite 150, Salem, OR 97302, by phone at (503) 378-3308, by email to thomas.taylor@wcb.oregon.gov or by fax at (503) 373-1458.

Due to the logistical challenges of distributing written comments to the members and meeting participants on the day of the meeting, parties, practitioners and the general public are encouraged to submit all written comments well in advance of the meeting. Written comments should be directed to Katy Gunville, WCB's Executive Assistant at 2601 25th St SE, Suite 150, Salem, OR 97302, katy.e.gunville@wcb.oregon.gov, or via fax at (503) 373-1684.

On the agenda is:

- Regular quarterly scheduled meeting. OAR 438-021-0010(1).
- Discussion of written comments and public testimony regarding the Biennial Review of Attorney Fee Schedules under ORS 656.388(4).
- Discussion of proposed rule concept concerning mandatory denial language (attached).

If you have any questions concerning the meeting, please contact:
Katy Gunville, Workers' Compensation Board, (503) 934-0123.

August 9, 2023

JENNY OGAWA, ACTING BOARD CHAIR
WORKERS' COMPENSATION BOARD
2601 25TH ST. SE, STE. 150
SALEM, OR 97302

Re: Request for proposed concept regarding denial language

Dear Acting Board Chair Ogawa and Board Members:

SAIF Corporation received a request for clarification regarding the parties July 20, 2023 request for proposed rulemaking regarding mandatory denial language. Please consider the parties July 20, 2023 letter a proposed concept for the board's consideration.

Thank you for your time and attention to this matter. Please notify the parties if additional information is needed.

Sincerely,

Elaine Schooler
SAIF Corporation
elasch@saif.com

Jovanna Patrick
Hollander Lebenbaum & Patrick
jovanna@hollanderlaw.com

Keith Semple
Johnson Johnson Lucas et al
ksemple@justicelawyers.com

July 20, 2023

JENNY OGAWA, ACTING BOARD CHAIR
WORKERS' COMPENSATION BOARD
2601 25TH ST. SE, STE. 150
SALEM, OR 97302

Re: Request for Proposed Rulemaking regarding denial language

Dear Acting Board Chair Ogawa and Board Members:

SAIF Corporation and the Oregon Trial Lawyers Association jointly request the Workers' Compensation Board utilize its rulemaking process to consider simplifying and improving the readability of the board's required denial language in OAR 438-005-0055. Both parties participated in an advisory committee meeting with the Workers' Compensation Division regarding simplification of workers' compensation correspondence. During the course of that meeting, the denial language contained in the board's rules was noted as an area that could be improved. The parties see this work as a timely opportunity to request a review and simplification of the denial language required by the board's rules.

In addition, the Access to Justice Committee and Executive Committee of the Workers' Compensation section of the Oregon State Bar drafted potential language to simplify the required denial language and improve its readability. A copy is attached.

The parties appreciate the board's consideration of this topic when planning its next quarterly meeting and look forward to offering our ideas for ways to improve the denial language.

Sincerely,

Elaine Schooler
SAIF Corporation
elasch@saif.com

Jovanna Patrick
Hollander Lebenbaum & Patrick
jovanna@hollanderlaw.com

Keith Semple
Johnson Johnson Lucas et al
ksemple@justicelawyers.com

400 High Street SE
Salem, OR 97312
P: 800.285.8525
F: 503.373.8020

IF YOU DISAGREE with this DENIAL, you must file an APPEAL WITHIN 60 DAYS of the DENIAL DATE by doing one of the following:

(1) MAILING a letter to the Workers' Compensation Board, 2601 25th Street SE, Suite 150, Salem, Oregon 97302-1280;

(2) Sending an E-MAIL to: request.wcb@oregon.gov;

(3) Sending a FAX to: 503-373-1600; or

(4) PHYSICAL DELIVERY of a letter to a Workers' Compensation Board Office (in Salem, Portland, Eugene, or Medford).

Your letter, email, fax, or physical delivery must state that you want a hearing, your address, the date of the denial and the date of your accident if you know the date. If the Workers' Compensation Board receives your appeal more than 60 days after the date of this letter, you may have to prove you sent the appeal within 60 days.

IF YOU DO NOT APPEAL WITHIN 60 DAYS of this denial, YOU WILL LOSE ANY RIGHT you may have to compensation. The only exception is if you can show good cause for delay beyond the 60 days. After 180 days, all of your rights will be lost. If your claim qualifies, you may receive an expedited hearing within 30 days.

By law, your appeal cannot affect your employment.

You may request an examination by a physician selected by the Workers' Compensation Division at no cost to you if: (1) you timely request a hearing on a denial of compensability, (2) the denial is based on one or more medical reports of insurer or self-insured employer requested medical examinations, and (3) your attending physician does not agree with or did not comment on the report(s).

You may be REPRESENTED BY AN ATTORNEY of your choice at NO COST TO YOU for attorney fees.

If you have questions you may contact:

(1) The Workers' Compensation Division toll free AT 1-800-452-0288,
<https://wcd.oregon.gov>.

(2) The Ombudsman for Injured Workers toll free AT 1-800-927-1271,
<https://www.oregon.gov/dcbs/OIW>.