Workers' Compensation Board
Thursday, March 19, 2026
10 a.m.

MEETING MINUTES

In-Person/By Zoom Staff:
Joy Dougherty, Board Chair
Katherine Caldwell, Board Member
Melissa Douglas, Board Member
Roger Ousey, Board Member
Moisés Ceja, Board Member
Kerry Anderson, Project Manager
Jacqueline Jacobson, Presiding Administrative Law Judge
Lauren Eldridge, Managing Attorney
Cathy Ostrand, Assistant Managing Attorney
Christina Alston, WCB Budget and Policy Analyst
Autumn Blake, Board Review Coordinator
Christo de Villiers, Administrative Law Judge

In-Person/By Zoom Attendees:
Elaine Schooler, SAIF Corporation
Ivo Trummer, SAIF Corporation
Skylar Hall, SAIF Corporation
Julene Quinn, Quinn & Heus
Theodore Heus, Quinn & Heus
Aaron Clingerman, Dunn & Roy
Keith Semple, OTLA & Johnson Johnson Lucas et al
Rebecca Watkins, SBH Legal
Spencer Aldrich, Aldrich & Brunot
Derek Swanson, The Dalton Law Firm
Lourdes Sanchez, Law Offices of Lourdes Sanchez

Call to Order
Chair Dougherty called the meeting to order and thanked staff members for their work in preparing for the meeting. The public and Workers' Compensation Board (WCB) staff members participated in the meeting by Zoom and in person in the Salem office.

Roll Call
Board Review Coordinator Autumn Blake took roll, reflected in the attendee list above.

Approval of Agenda and Order of Business
Chair Dougherty asked for a motion to approve the agenda and order of business.

Member Ousey moved for approval of the agenda and order of business. Member Caldwell seconded. The Members voted as follows: Dougherty, aye; Ousey, aye; Ceja, aye; Caldwell, aye; Douglas, aye. Motion passed; 5-0.

Approval of Past Minutes
Chair Dougherty asked for a motion to approve the December 18, 2025, meeting minutes. Member Ousey moved for approval of minutes from the December 18, 2025, meeting. Member Caldwell seconded. The Members voted as follows: Dougherty, aye; Ousey, aye; Ceja, aye; Caldwell, aye; Douglas, aye. Motion passed; 5-0.

Division Reports/Updates
There were no division reports.

New Business
Consideration of the advisory committee report on OAR 438-015-0019 "Cost Bill Procedures; Assessed Attorney Fees When the Claimant Prevails in a Cost Bill Dispute"

Chair Dougherty explained that House Bill (HB) 2799 (2025) increased the cap on reasonable expenses and costs in the litigation of denied claims from $1,500 to $3,500 with an annual adjustment based on the average weekly wage effective January 1, 2026. The adjustment will be published by bulletin. In fall 2025, the Board engaged in rulemaking to make its rules consistent with the amended statute. The amended rules became effective January 1, 2026.

The SAIF Corporation and the Oregon Trial Lawyers Association (OTLA) submitted a joint request to the Board to consider changes to its cost bill procedures. An advisory committee met and submitted its report to the Board with recommended changes.

Chair Dougherty thanked the committee for its work. The committee recommended that OAR 438-015-0019 be amended to use the term "paid" instead of "incurred" expenses; to require the use of the Board's cost bill form; and to extend the timeline to submit the form. The committee did not reach consensus on requiring documentation of expenses and costs.

Chair Dougherty invited public comments on the advisory committee's report and its recommendations.

Ivo Trummer gave some background on the SAIF/OTLA request. HB 2799 was initially filed without a cap on expenses and costs. The interested parties were able to negotiate to $3,500 with an automatic annual adjustment. He expressed his disappointment that the committee was not able to come to a consensus regarding documentation of expenses and costs. He asked the Board to consider that every business keeps track of money going in and out and keeps a record of transactions. He stated that if a worker is reimbursed for

costs they must submit receipts. Finally, Trummer said that being required to submit documentation would safeguard against a situation in which a provider might indicate they would charge for a service and then later change their mind, resulting in an overpayment.

Keith Semple represented claimants bar and OTLA on the advisory committee. Some members stated that submitting receipts with every cost bill would be burdensome and could cause additional litigation on whether that documentation is appropriate. He believed that any potential disputes over costs could be resolved through discussions. Attorneys are accustomed to signing documents and asserting to their reliability.

Member Douglas asked Semple how cost bill procedures in civil practice are done. Semple answered that receipts are not required in most civil proceedings and that their position is consistent with civil procedure.

Chair Dougherty asked about Semple's position on changing the term "incurred" in the rule to "paid." He stated that it was his position that the rule is intended to reimburse and not advance payment. He added that an attorney's certification that costs are incurred should be sufficient and that if there is concern as to the legitimacy of a claimed expense, it can be raised by the insurer through a proceeding. Chair Dougherty observed that Semple used "incurred" and "paid" interchangeably. He agreed with her observation.

Member Ousey asked Semple if he was in favor of changing "incurred" to "paid." Semple answered that he did not personally believe there was a distinction between the terms. He thought that extending the time in which a cost bill is due would help in situations where a cost would need to be paid instead of incurred.

Skylar Hall said that requiring documentation for expenses would provide greater accountability. Cost bill reimbursement statistics are shared with the National Council on Compensation Insurance (NCCI). Costs are used to determine experience ratings for employer policies. These statistics help NCCI create pure premium rates. Documentation ensures the data used by NCCI is credible.

Hall continued that the purpose of the rule is to reimburse paid expenses and it is reasonable to expect a receipt. The Workers' Compensation Division rules require workers to produce receipts in order to be reimbursed, which most do without incident.

Member Douglas asked Hall if the costs reported to NCCI go into the individual employer rating and what documentation is submitted. Hall responded that legal costs are considered an indemnity expense which impacts the employer experience rating and premium rate, and the overall pure premium rate. She also stated that SAIF submits numerical data that needed to be credible in order to facilitate NCCI's process. Member Ousey asked if Hall doubted that a signed statement in civil litigation was

sufficient to make an award of costs. Hall deferred, stating that she did not have experience practicing civil litigation.

Member Ceja asked about situations in which a worker is unrepresented and if there are times when documentation is not accepted or submitted, if those situations are tracked, reasons why documentation might not be accepted, and the manner in which documentation is submitted. Hall responded that if documentation is requested from and provided by a worker, they are reimbursed according to the rules which also allow for additional time to submit. She stated that she was not aware of any tracking mechanism. SAIF allows workers to submit through the mail, pictures, or scanned documents. Requests might be denied based on insufficient mileage based on where a medical appointment is scheduled.

Member Caldwell asked Hall if assessed fees are also reported to NCCI. Hall responded that assessed fees are reported as indemnity costs and that claim costs are reported as either medical or indemnity.

Spencer Aldrich commented as a small business owner regarding the question of incurred versus paid. He stated that he receives bills late once or twice per quarter, even in cases where it had been previously resolved. The costs may be incurred before a hearing but they will not receive the bill for months. He stated that worker costs are usually simple transactions but medical billing is more complicated.

Member Caldwell pointed out that litigation costs are higher than worker reimbursed costs. She asked how Aldrich documents costs to clients and what percentage of his cases have all billing completed within 60 days of the order issuing. Aldrich answered that his clients cover all costs to a reasonable degree, but it can fluctuate. If he receives documentation from the provider, he enters it in the file. In his experience, invoices can be disconnected from preauthorization and payment. Having everything documented within 60 days varies depending on what providers he's working with. He observed that larger providers have a slower billing system.

Member Ousey asked Aldrich what would happen if he were to receive a bill after the 60-day deadline. Aldrich replied that his firm would have to absorb the cost.

Member Caldwell asked him about his firm's process to record costs incurred but not yet paid. Aldrich replied that he documents the cost with opposing counsel and his client and holds it in trust.

The members asked Aldrich if he had ever been to hearing over a denied cost bill or denied extraordinary costs. Aldrich answered he did not have experience with either, but he believed his partner had been to hearing for denied extraordinary costs.
Theodore Heus commented that he agreed with Aldrich regarding the process of

receiving bills from providers. He expressed that he did not understand the problem defense bar was attempting to address by asking for documentation as he could not recall any instance where he was asked to produce a receipt for costs submitted. He pointed out that claimant attorneys would not be compensated for compiling cost documentation and that there is a distinction between workers submitting for reimbursement and attorneys who declare under penalty of perjury as to the accuracy of costs. He suggested that the Board could adjust the rule language to not require receipts if an attorney signs the cost bill form but to require them if a worker signs it. He also offered that the time spent preparing the cost bill be payable.

Member Douglas asked Heus what documentation would be required during litigation of extraordinary costs and if that litigation would provide a means to be paid for time. He responded that if a request for hearing is filed on a dispute of costs that he would be entitled to attorney fees if he prevails. If he lost, he would not and not be reimbursed for costs. *Siegrist* was not specific regarding when evidence of costs incurred needs to be presented. He said that requiring documentation in every case would add hours of administrative time and that it is too much of a burden when he is not compensated for it.

Rebecca Watkins addressed the statements made by the claimants attorneys who had commented. She shared that there was more concern with the increase of the cap. She stated that requiring documentation could avoid litigation and that nonbillable overhead costs are a part of doing business. Watkins said that medical billing issues can be addressed with the Workers' Compensation Division (WCD). She observed that civil litigation is different from workers' compensation in that civil costs are not generally recoverable, require a detailed petition, and are evaluated by the court. Most of the time, asking for more information about costs is informal and uneventful, but there are outliers. By litigating a cost dispute, the insurer would be required to pay an attorney fee it would not have otherwise if documentation was provided when first requested. She observed that documentation should already exist for each cost.

Member Douglas asked if the advisory committee discussed whether attorneys should be compensated for the time it takes to fill out the cost form. Watkins responded that they had not. Doing so would not make sense if they were already receiving an attorney fee where they can add that time to their request.

Member Ousey asked if Watkins had any experience where a request for reimbursement was denied and for clarification about her statement regarding billing remedies through WCD. She replied that there had been times when she pushed back and claimant's attorney had clarified or conceded, but she had not gone to hearing over the dispute. She believed that requiring the Board's form would help. Watkins thought WCD's medical billing rules would apply the same to claimants attorneys as defense attorneys. More generally, there are medical billing rules through the Oregon Health Authority that might apply.

Aaron Clingerman commented that, as attorneys, they sign documents under oath and they have a duty of candor to the forum; therefore, there was no reason to require additional documentation. He believed it creates an extra level of bureaucracy for what seems to be an infrequent problem. They are not required to submit documentation of costs for disputed claim settlements or claim disposition agreements. He said that he sends an email to the carrier listing his costs but if the form is required that he would use it.

Presiding Administrative Law Judge Jacqueline Jacobson shared that, while the Board did not track this exact issue, she did not believe there were many hearings on cost bill disputes. She had not found any Board cases on this issue, only regarding the amount of costs and what could be claimed as a cost.

Ivo Trummer estimated that SAIF Corporation had paid approximately $1.5 million to $2 million on these types of costs. He stated that the amount would grow significantly with the increase on the cap and expressed doubt that documentation could not be produced.

There being no further public comments, Chair Dougherty closed receipt of public comments and moved to Board Member discussion.

Member Ousey stated that if a documentation provision was added to the rule that it should be permissive rather than compulsory, as arguments in favor of documentation addressed exceptions to the process.

Member Douglas stated that she would honor the committee's agreed upon recommended changes, but the report did not address what documentation would be sufficient. She agreed that there should be some form of documentation but was not sure what form that should take. She would have liked the committee to reconvene to address what would constitute sufficient documentation and, if time compiling that were to be paid, what that would entail.

Member Caldwell observed that requiring documentation to take a certain form seemed overly burdensome but not defining it could increase litigation. She saw the requirement as creating a paper trail instead of an issue of mistrust. She acknowledged that there is not currently much litigation, that may change with the cap increase. Member Caldwell saw the change from incurred to paid as more complicated than the committee report described.

Member Ceja said that he would approve of the points where the committee reached consensus. He stated that he understood why defense was requesting documentation but he considered it onerous to be required in every case, especially when there was no historical issue. For that reason, he would probably not approve of the requirement.

Chair Dougherty would support making use of the Board's form a requirement; she did not like the informality of submissions through an email. Additionally, she supported the requirement of the form being a separate submission. Extending the timeline to submit the form made sense to her based on billing delays. She supported allowing the claimant's attorney to sign the form on the claimant's behalf. Chair Dougherty observed that attorneys are bound by ethical rules. If a cost dispute goes to litigation, they can rely on attorneys honoring their ethical obligation. She had reservations about requiring costs to be "paid" by the deadline when the parties are aware that billing is forthcoming. She respected that the committee had agreed, however, she was conflicted about the change. She considered the Board's required cost bill form as documentation. While she recognized that the concerns needed to be addressed, she would move forward with these changes and later evaluate if they solve those concerns.

Member Douglas suggested that the cost form include a statement that the attorney's attestation constitutes a promise of payment and agreement that incurred costs will be paid. Member Ceja agreed.

Member Ousey saw the requirement to use the Board's form as the starting point that the other changes would originate. He agreed that the form provides documentation with the attorney's attestation of accuracy.

Member Douglas asked that different language options for "incurred" and "paid" be prepared.

Member Caldwell stated that she preferred the use of "paid" with the timeline extension and based on the committee's agreement.

Member Douglas stated that she could not vote to require the submission of documentation without further specification of what that documentation was.

There was no further member discussion.

Member Ousey moved to have staff draft proposed rule amendments to OAR 438-015-0019 to make the use of the Board's cost bill form mandatory. Member Douglas seconded. The Members voted as follows: Dougherty, aye; Ousey, aye; Ceja, aye; Caldwell, aye; Douglas, aye. Motion passed; 5-0.

Member Ousey moved to have staff draft proposed rule amendments to OAR 438-015-0019 to extend the timeframe to submit a cost bill from 30 days to 60 days. Member Caldwell seconded. The Members voted as follows: Dougherty, aye; Ousey, aye; Ceja, aye; Caldwell, aye; Douglas, aye. Motion passed; 5-0.

Member Ousey moved to have staff draft proposed rule amendments to OAR 438-015-0019 to allow the claimant's attorney to sign the cost bill form on behalf of the claimant. Member Ceja seconded. The Members voted as follows: Dougherty, aye; Ousey, aye; Ceja, aye; Caldwell, aye; Douglas, aye. Motion passed; 5-0.

Member Ousey moved to have staff draft proposed rule amendments to OAR 438-015-0019 to change the term costs "incurred" to costs "paid" and to have staff draft proposed rule amendments without the change. Member Caldwell seconded. The Members voted as follows: Dougherty, aye; Ousey, aye; Ceja, aye; Caldwell, aye; Douglas, aye. Motion passed; 5-0.

Member Douglas proposed asking the advisory committee to define what they intended to comprise documentation when they discussed the requirement. She moved to reconvene the advisory committee to discuss further specification of documentation with the possibility that they could reach consensus. Member Caldwell seconded. The Members voted as follows: Dougherty, nay; Ousey, nay; Ceja, nay; Caldwell, aye; Douglas, aye. Motion failed; 2-3.

Modernization update and discussion

Chair Dougherty invited stakeholder discussion regarding modernization. She stated that WCB's request for proposals was going to be posted on the Oregon Buys website, the State of Oregon's procurement vehicle. One of the steps in WCB's modernization process was to evaluate laws and rules governing its procedures. The term "mail" appears 58 times in ORS chapter 656. WCB is considering changes that would allow for electronic transactions. It could prepare for the 2027 legislative session and have a possible solution in 2028. Chair Dougherty observed that other courts have electronic systems and WCB would like to know what practitioners appreciate about those systems. Those comments could be directed to Chair Dougherty or Autumn Blake.

Chair Dougherty invited public comments on the matter.

Spencer Aldrich asked Chair Doughtery to clarify if she was asking for comments on the current interface, electronic mailing, or something else.

Chair Doughtery clarified that they would like to know if there are things that make accessing information easier or if there are features that other courts offer that practitioners would like WCB to adopt.
Aldrich said that he would like bar numbers to be accessible as a drop down in the request for hearing form in WCB's online portal. He also stated that there have been instances where the employer has not been notified of a hearing because there are multiple versions of the same employer listed and the incorrect one is chosen on the request for hearing.

Chair Dougherty explained that attorney information is linked to the bar registry but access is then limited to attorneys. For the new system, ideally everyone can access their case information.

Chair Doughtery encouraged practitioners to consider changes they would like. WCB will go through a more structured process to gather information as it goes through modernization.

General Public Comment
No public comments were made in person or online, or submitted prior to the meeting.

Announcements
There were no announcements.

Adjournment
Chair Dougherty asked for a motion to adjourn. Member Caldwell moved to adjourn. Member Ousey seconded. The Members voted as follows: Dougherty, aye; Ousey, aye; Ceja, aye; Caldwell, aye; Douglas, aye. Motion passed; 5-0. Meeting was adjourned.