

5-Year Rule Review Report

Rule number: OAR 438-015-0115 (Fees for Attorneys Representing Insurers and Self-Insured Employers)

Date adopted: March 6, 2020

Advisory committee used? X Yes No

If yes, identify members. After completing its review, the agency must provide advisory committee members a copy of its report. ORS 183.405(4).

Advisory committee members: Jennifer Flood (Ombuds Office for Oregon Workers), Arthur Stevens, III, Theodore Heus, William Replogle, and Elaine Schooler (SAIF Corporation). Administrative Law Judge Mark Mills served as facilitator.

1. Did the rule achieve its intended effect? X Yes No

a. What was the intended effect?

OAR 438-015-0115 was adopted to reflect the Workers' Compensation Board's authority under ORS 656.388(4) and (5) to establish a schedule of fees for attorneys representing insurers and self-insured employers.

b. How did the rule succeed or fail in achieving this effect?

The rule requires that a "client-paid fee" as defined under OAR 438-015-0005(5) be reasonable under the factors described in OAR 438-015-0010(4) and not exceed the agreed amount in the retainer agreement between the client and its attorney, thus establishing a schedule of fees for attorneys representing insurers and self-insured employers.

2. Was the fiscal impact statement underestimated or overestimated or X just about right or unknown? (Check one).

a. What was the estimated fiscal impact?

The Board estimated that the adoption of several rules and rule amendments included in the same statement of need and fiscal impact would likely lead to increased attorney fee awards. However, the statement of need did not describe an estimated fiscal impact specific to the adoption of this rule.

b. What was the actual fiscal impact?

The Board did not receive any comments regarding the fiscal impact of adopted rule. Accordingly, it does not appear that the rule has had a noteworthy fiscal impact.

c. If the answer to question 2 is unknown, briefly explain why.

3. Have subsequent changes in the law required the rule be repealed or amended?
_____ Yes X No If yes, explain.


4. Is the rule still needed? X Yes _____ No Explain.

OAR 438-015-0115 fulfills the Board's statutory requirement under ORS 656.388(4) and (5) to establish a schedule of fees for attorneys representing insurers and self-insured employers and to consider fees earned by attorneys representing insurers and self-insured employers.

Dated this 26th day of June, 2025.

Workers' Compensation Board

by: 
Joy Dougherty, Board Chair


Sally Anne Curey, Board Member


Moisés Ceja, Board Member


Roger Ousey, Board Member


Jenny Ogawa, Board Member