

September 11, 2025

Re: Five-Year Review of OAR 438-015-0125 – “Bifurcation of Attorney Fee Award” – Public Comment

In accordance with ORS 183.405, the Workers’ Compensation Board is conducting its five-year review of OAR 438-015-0125, which concerns the bifurcation of contested attorney fee awards from the underlying claim for cases at Board Review. As part of its review, the Board has requested written comments from members of the advisory committee that assisted in developing the rule.

To further assist the Board in conducting its review, the Members are also seeking written comment from the public. All comments should be directed to Autumn Blake, Board Review Coordinator, at 2601 25th St, SE, Ste. 150, Salem, OR 97302, [autumn.k.blake@wcb.oregon.gov](mailto:autumn.k.blake@wcb.oregon.gov), or via fax at 503-373-1684. The deadline for comments is November 10, 2025.

Those written comments, which will also be posted on the Board’s website, should address the following questions:

1. Did the rule achieve its intended effect?
2. Was the anticipated fiscal impact of the rule underestimated or overestimated?  
(<https://www.oregon.gov/wcb/Documents/five-yr-review/2025/2-2020stmtofneed.pdf>)
3. Have any subsequent changes in the law required that the rule be repealed or amended?
4. Is there continued need for the rule?
5. What impacts has the rule had on small business?