Workers' Compensation Board

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News & Case Notes

BOARD NEWS

Amendments to OAR 438-015-0019 Go Into Effect October 1, 2026 1

Annual Mediation Evaluation 1

September 24, 2026, Board Meeting – Biennial Review of Schedule of Attorney Fees Under ORS 656.388(4) 1

CASE NOTES

APPELLATE PROCEDURE: All Parties Did Not Receive Timely Notice of Request for Board Review 2

FIREFIGHTER PRESUMPTION: Worker's Employment History Established Rebuttable Presumption Applied – Carrier Did Not Rebut Presumption 2

PREMATURE CLOSURE: Carrier Not in Strict Compliance with Administrative Closure Rule 2

BOARD NEWS

September 24, 2026, Board Meeting – Biennial Review of Schedule of Attorney Fees Under ORS 656.388(4)

At its August 6, 2026, meeting, the Board requested public comments related to its biennial review of attorney fee schedules under ORS 656.388(4). It has scheduled a public meeting for Thursday, September 24, 2026, at 10 a.m.to receive public comment. The meeting will be held through Zoom and in Hearing Room A at the Board's Salem office (2601 25th St. SE, Ste. 150).

The agenda for the Board meeting includes:

- Receipt of public comments regarding biennial attorney fee review under ORS 656.388(4).

A formal announcement regarding the Board meeting was electronically distributed to those individuals, entities, and organizations who have signed up to receive those notifications.

Amendments to OAR 438-015-0019 Go Into Effect October 1, 2026

Amendments to OAR 438-015-0019 related to cost bill submissions become effective October 1, 2026, to apply to cost bills submitted on or after that date.

The amendments change requirements related to the submission of cost bills when a claimant prevails against a claim denial:

- The time frame to submit the cost bill will be extended to 60 days.
- Use of the Board's cost bill form will be mandatory.
- The cost bill form must be submitted as a separate document.
- The claimant's attorney may sign the cost bill form on the claimant's behalf.

Annual Mediation Evaluation

The Workers' Compensation Board (WCB) will be conducting a mediation evaluation from September 1, 2026 through November 30, 2026. WCB will send evaluations to attendees of all mediations held. The purpose of the evaluation is to receive feedback from participants about their mediation experience. Evaluations will be sent by mail and will include a postage-paid return envelope for your convenience. An option to complete the survey electronically via a QR code or website will be included as well. WCB would appreciate your participation in providing us with feedback during this 3-month period.

CASE NOTES

FIREFIGHTER PRESUMPTION: Worker's Employment History Established Rebuttable Presumption Applied – Carrier Did Not Rebut Presumption

Philip Amaya, 78 Van Natta 466 (August 3, 2026). The Board determined that the predicate facts to apply the rebuttable presumption under ORS 656.802(5)(b) to the claimant's bladder cancer claim were established by the record. Contrasting the statutory construction of ORS 656.802(5)(b) with ORS 656.802(7), the Board found that nothing in the text of ORS 656.802(5)(b) requires a firefighter to complete five years of qualifying employment by a certain date or event and that the legislature would have included such a restriction if that had been its intent. The Board also noted that case law and legislative history supports its conclusion.

Moving to the facts of the case, the Board determined that the claim met the threshold to apply the rebuttable presumption. The carrier conceded that it lacked clear and convincing evidence that the claimant's bladder cancer was not caused or contributed in material part by his employment. Therefore, the Board found the claim compensable.

APPELLATE PROCEDURE: All Parties Did Not Receive Timely Notice of Request for Board Review

Ronald J. Wagner, DCD, 78 Van Natta 481 (August 11, 2026). Applying the notice requirements in ORS 656.295, the Board found that not all parties received timely notice of the claimant's request for Board review and dismissed the request. While the claimant timely requested review by the Board, the record did not establish that the carrier or its attorney was provided with a copy of the request or received actual knowledge of the request within the 30-day appeal period. Because there is no "good cause" exception to the 30-day appeal deadline and the Board is not able to relax this jurisdictional requirement, the request for review was dismissed.

PREMATURE CLOSURE: Carrier Not in Strict Compliance with Administrative Closure Rule

Deirdre Fitzpatrick, 78 Van Natta 510 (August 19, 2026). Analyzing ORS 656.268(1)(c), the Board found that the carrier did not strictly comply with the requirements for administrative claim closure under OAR 436-030-0034(1) and (2) and that the claim was prematurely closed.

The Board stated that under OAR 436-030-0034(1) and (2), a carrier cannot administratively close a claim unless it provides certain notice to the worker. Here, the carrier's notice stated that the claimant must treat with an "authorized attending physician," where the statute requires that the claimant

treat with an “authorized health care provider.” Additionally, the carrier’s assertions that the claimant did not satisfy other obligations were not supported by the record. Therefore, the Board set aside the claim closure and remanded the claim to the employer for further processing.

APPELLATE DECISIONS

There were no Board-related decisions from the court in August.

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