



Oregon

Kate Brown, Governor

Workers' Compensation Board

2601 25th St SE, Ste 150

Salem, OR 97302-1280

503-378-3308

1-877-311-8061

www.wcb.oregon.gov

May 27, 2021

BULLETIN NO. 1 (Revised)

Effective: July 1, 2021

TO: All Interested Parties

SUBJECT: Attorney Fees: ORS 656.262(11)(a); ORS 656.262(14)(a); ORS 656.308(2)(d)

This bulletin publishes the annual adjustment to attorney fees awarded under ORS 656.262(11)(a), ORS 656.262(14)(a), and ORS 656.308(2)(d). See OAR 438-015-0033; OAR 438-015-0038; OAR 438-015-0055(5); OAR 438-015-0110(3). This bulletin replaces Bulletin No. 1 dated June 15, 2020.

Summary:

Effective January 1, 2016, House Bill 2764 section 2 (2015) raised the maximum attorney fee under ORS 656.262(11)(a) to \$4,000 absent a showing of extraordinary circumstances. ORS 656.262(11)(a) and ORS 656.308(2)(d) provide that the attorney fees awarded under those subsections are adjusted annually on July 1 by the same percentage increase, if any, as made to the state's average weekly wage (SAWW) under ORS 656.211. In accordance with these statutes, OAR 438-015-0038, OAR 438-015-0055(5) and OAR 438-015-0110(3) provide that the maximum attorney fee (in the absence of extraordinary circumstances) is subject to an annual adjustment on July 1 by the same percentage increase as made to the SAWW defined in ORS 656.211, if any, as calculated by the Workers' Compensation Division (on behalf of the Director).

In addition, on March 6, 2020, the Board adopted amendments to OAR 438-015-0033, which concerns the reasonable hourly rate for an attorney's time spent during a personal or telephonic interview or deposition conducted under ORS 656.262(14)(a). The prescribed hourly rate (currently \$366) is subject to an annual adjustment on July 1 by the same percentage increase as made to the SAWW defined in ORS 656.211, if any, as calculated by the Workers' Compensation Division (on behalf of the Director).

Effective July 1, 2021, the SAWW is \$1,247.13, an increase of **14.059** percent over the SAWW for the previous year (July 1, 2020 through June 30, 2021). See Workers' Compensation Division's Bulletin 356 (Revised) dated May 21, 2021.

Applying this 14.059 percentage increase results in the following:

Effective July 1, 2021:

- An attorney fee awarded under ORS 656.262(11)(a) shall not exceed **\$5,471** absent a showing of extraordinary circumstances. OAR 438-015-0110(3).

- An attorney fee awarded under ORS 656.308(2)(d) shall not exceed **\$3,946**, absent a showing of extraordinary circumstances. OAR 438-015-0038; OAR 438-015-0055(5).
- An attorney fee awarded under ORS 656.262(14)(a) shall be **\$418** per hour. OAR 438-015-0033.

These adjusted maximum fees apply to attorney fees awarded under ORS 656.262(11)(a) and ORS 656.308(2)(d) by orders issued on July 1, 2021 through June 30, 2022, and to a claimant's attorney's time spent during a personal or telephonic interview or deposition under ORS 656.262(14)(a) between July 1, 2021 and June 30, 2022.

A handwritten signature in black ink that reads "Constance L. Wold". The signature is written in a cursive style and is positioned above a horizontal line.

Constance L. Wold, Board Chair
Workers' Compensation Board