



MEMORANDUM

January 9, 2026

To: Workers' Compensation Board Members

From: Ian Brown
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Bin Chen
Darren Lee
Keith Semple
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Subject: Cost Bill Advisory Committee

In accordance with Board Chair Dougherty's October 9, 2025, letter, the Cost Bill Advisory Committee met to consider issues related to OAR 438-015-0019, which provides procedures for a claimant's reimbursement of reasonable expenses and costs for records, expert opinions, and witness fees incurred when finally prevailing over a denial under ORS 656.386(2). This conversation was prompted by House Bill (HB) 2799, which increased the maximum reimbursable cost amount from \$1,500 to \$3,500. The committee met on December 5, 2025, and January 9, 2026.

The committee reached general agreement regarding four potential changes to OAR 438-015-0019(3) to improve the process of cost bill reimbursements:¹

¹ OAR 438-015-0019(3) states:

"If an order under section (2) does not specify the amount of a reasonable award for expenses and costs, the claimant shall submit, within 30 days after the order under section (2) becomes final, a cost bill to the insurer or self-insured employer. The cost bill, which may be submitted on a form prescribed by the Board, shall contain, but is not limited to, the following information:

"(a) An itemization of the incurred expenses and costs for records, expert opinions, and witness fees that are due to the denied claim(s); and

"(b) The claimant's signature confirming that the claimed expenses and costs were incurred in the litigation of the denied claim(s)."

- Specifying that reimbursement must be for expenses and costs that had been paid, not merely “incurred”
- Requiring that the cost bill be separately submitted on the Board’s prescribed form
- Allowing 60 days after the order awarding reasonable expenses and costs becomes final for the submission of the cost bill
- Specifying that a claimant’s attorney may sign the cost bill

The committee did not reach consensus regarding providing documentation of reimbursable expenses and costs or the timing of submitting such documentation.

Documentation Requirement

Some committee members observed that cost bill submissions are sometimes vague and lack required information. They indicated that submission of receipts along with requests for reimbursement is a normal business practice, and transparency is necessary to ensure that the cost bill describes “reasonable expenses and costs.” They further noted that claimants’ offices vary in their responsiveness to requests for clarification and documentation of reimbursable expenses and costs.

Other members indicated that they did not see problems with the current process that cannot be resolved between the parties, but they acknowledged the value of transparency in billing. They noted that some medical service providers do not send specific receipts verifying bill payment. Consequently, they expressed concern regarding a requirement for a receipt provided by the medical service provider. However, they noted that alternative documentation of payment could be provided. The other members agreed that a documentation requirement would not necessarily require receipts if claimants provide alternative documentation of payment.

One member indicated that a blanket requirement for documentation of payment with all cost bills could be burdensome for some practitioners, particularly those in small offices. Because most cost bills do not result in disputes, they suggested that requiring documentation upon request, rather than with the cost bill, would be more efficient.

Other members responded that, if documentation were required only upon request, some insurers and employers would find it more efficient to simply request such documentation in all cases. In that case, they reasoned, requiring documentation only upon request would actually reduce the efficiency of the overall process.

Oregon Trial Lawyers Association (OTLA) does not support an expansion of the rule to require documentation or an additional burden of documentation if certification from the attorney is not sufficient. OTLA’s position is that disputes over insufficient documentation should be resolved at hearing. Other members indicated that this would increase litigation and attorney fees should not be awarded based on documentation that is first provided at hearing on such a dispute.

Some members offered a possible compromise to require documentation when an amount over \$1,500 is submitted for reimbursement.

Paid Expense and Cost Requirement

A question arose regarding whether the rule should make room for situations in which an expense has been incurred but not yet paid. Uncertainty was expressed regarding whether the reference in OAR 438-015-0019(3) to "incurred" expenses and costs already allows for the inclusion of expenses and costs that had not yet been paid by the claimant.

Several members noted that providers sometimes decide not to bill, even if the claimants anticipate being billed. If payment were required for expenses and costs incurred but not yet paid, a claimant might receive payment for costs that the claimant is not ultimately required to pay. The committee agreed that the purpose of the rule is to reimburse claimants for expenses and costs actually paid. Therefore, the committee recommends changing the word "incurred" to "paid."

Form Requirement

Several members noted that the form of cost bill submissions vary considerably in detail, formality, and identifiability. For example, a cost bill might be submitted in the form of a casual email simply asserting a dollar amount of reimbursable expenses and costs without the itemization required by the rule. Cost bills are also sometimes submitted within packets of other documents, causing difficulty for insurers and employers attempting to identify and timely respond to the requests. The lack of standardization results in hard-to-identify submissions and missing or incomplete itemizations that cause inefficiencies and delays.

The committee agreed that identifiability and uniformity of cost bill submissions would promote efficient processing and would not present a hardship to claimants' attorneys. Further, the committee agreed that the Board's current form (the use of which is currently permissive rather than mandatory) is a good solution to these concerns. Therefore, the committee recommends changing the word "may" to "shall." Further, the committee recommends requiring that the form be submitted separately.

60-Day Submission Period

The deadline of 30 days after the finality of the order awarding expenses and costs is 60 days after the order itself issues, and an ALJ's order may be issued up to 30 days after the hearing concludes. This period of 60 to 90 days from the date of the hearing is usually sufficient for services to be billed, payments to be made, documentation of the payments to be obtained, and the cost bill to be submitted.

However, some committee members noted that providers are sometimes slow in billing, which results in delays in the actual payment of qualifying expenses and costs. Many doctors do not take direct responsibility for billing, but instead contract billing out to third-party services. Providers sometimes take months to bill. Additionally, timelines can be compressed in the context of stipulated settlements. Consequently, there was a suggestion to extend the cost bill deadline to 60 days after the order awarding reimbursable expenses becomes final.

One member indicated that there did not appear to be a problem with the current timeline, but a longer timeline would be reasonable in light of a requirement for documentation of payment. They agreed to a longer timeline in the hopes that a documentation requirement would be added to the rule.

The committee recognized that extending “30 days” to “60 days” may not provide sufficient time to include all expenses and costs, but the committee recognized the rarity of a provider billing so late that the extended deadline would fail to allow submission of a cost bill. The committee also recognized the interest that insurers and employers have in finality. The committee agreed that the interests of claimants and those of insurers and employers were reasonably balanced by extending the deadline for cost bill submission to 60 days from the finality of the order awarding expenses and costs. Therefore, the committee recommends changing “30 days” to “60 days.”

Signature Requirement

Observing that OAR 438-015-0019(3)(b) requires the “claimant’s” signature on the cost bill, one member suggested changing the rule to allow a claimant’s attorney to sign the document. Some claimants are not proficient with electronic signatures and may find it burdensome to physically sign the cost bill. Not all committee members viewed the rule’s language as preventing an attorney from signing on the claimant’s behalf, but no member opposed language that would clarify that an attorney may sign a cost bill. Therefore, the committee recommends changing “claimant’s signature” to “the signature of the claimant or the claimant’s attorney.”

Conclusion

The committee reached consensus that the cost bill should be for reimbursement of costs and expenses actually paid, that the cost bill should be submitted separately using the Board’s form, that the submission deadline be extended to 60 days after the order awarding expenses and costs becomes final, and that the signature requirement be clarified to allow a claimant’s attorney’s signature.

The committee did not reach an agreement regarding a proof-of-payment requirement.