EXHIBIT A

438-005-0046
Filing and Service of Documents; Correspondence

(1) Filing:

(a) Except as otherwise provided in these rules, "filing" means the physical delivery of a thing to any permanently staffed office of the Board, or the date of mailing;

(b) In addition to the procedures otherwise described in these rules, "filing" may also be accomplished in the manner prescribed in OAR chapter 436, division 009 or 010 for filing a request for administrative review with the Director provided that the request involves a dispute that requires a determination of either the compensability of the medical condition for which medical services are proposed or whether a sufficient causal relationship exists between medical services and an accepted claim to establish compensability;

(c) If filing of a request for hearing or Board review of either an Administrative Law Judge's order or a Director's order finding no bona fide medical services dispute is accomplished by mailing, it shall be presumed that the request was mailed on the date shown on a receipt for registered or certified mail bearing the stamp of the United States Postal Service showing the date of mailing. If the request is not mailed by registered or certified mail and the request is actually received by the Board after the date for filing, it shall be presumed that the mailing was untimely unless the filing party establishes that the mailing was timely;

(d) If a settlement stipulation, disputed claim settlement, or claim disposition agreement results from a mediation, "filing" also includes the physical delivery of the settlement stipulation, disputed claim settlement, or claim disposition agreement to the Administrative Law Judge who mediated the settlement or agreement, regardless of location.

(e) The following things may be filed by electronic mail (e-mail) pursuant to subsection (f) of this section:

(A) Request for hearing;

(B) Request for Board review of an Administrative Law Judge's order;

(C) Request for Board review of a Director's order finding no bona fide medical services dispute;

(D) Request for extension of the briefing schedule under OAR 438-011-0020;

(E) Request for waiver of the Board's rules under OAR 438-011-0030; or

(F) Response to issues under OAR 438-006-0036.

(f) To electronically file the requests listed in subsection (e) of this section by e-mail, a party shall:

(A) Send an e-mail to: [request.wcb@oregon.gov]**request.wcb@wcb.oregon.gov**; and

(B) Attach an electronic copy of a completed Workers' Compensation Board "Request for Hearing Form," or a completed request for Board review, or a completed request for extension of the briefing schedule, or a completed request for waiver of the Board's rules, or a completed Board "Response to Issues Form." These attachments must be in a format that can be viewed by

the Board. Strict compliance with paragraph (B) of this subsection is not jurisdictional. Also, consistent with the Board's policy in OAR 438-005-0035(3), an unrepresented party shall not be held strictly accountable for failure to comply with Board rules.

(C) For purposes of this rule, the date of an electronic filing is determined by the date the Board receives the e-mail described in paragraph (A) of this subsection. An electronic filing under subsections (e) and (f) of this section received by the Board by 11:59 p.m. of a non-holiday, weekday is filed on that date.

(g) The following things may be filed by website portal pursuant to subsection (h) of this section:

(A) All actions described in subsection (e) of this section; and

(B) Filing of any other thing that the Board makes available for filing by website portal.

(h) To electronically file the things listed in subsection (g) of this section by website portal, a party shall:

(A) Register as a "user" of the portal at: https://portal.wcb.oregon.gov; and

(B) For subparagraph (g)(A) of this section, as appropriate, complete the electronic version of the Workers' Compensation Board "Request for Hearing Form," or complete a request for Board review, or complete a request for extension of a briefing schedule, or complete a request for waiver of the Board's rules, or complete a Board "Response to Issues Form"; or

(C) For subparagraph (g)(B) of this section, complete the appropriate items on the website portal.

(D) For the purposes of this rule, the date of a portal filing is determined by the date the Board receives the appropriate portal version of the form.

(E) A portal filing under subsections (g) and (h) of this section received by the Board by 11:59 p.m. of a non-holiday, weekday is filed as of that date.

(i) "Filing" includes the submission of any document (other than the exchange of exhibits and indexes under OAR 438-007-0018) to any permanently staffed office of the Board by means of a telephone facsimile communication device (FAX) provided that:

(A) The document transmitted indicates at the top that it has been delivered by FAX;

(B) The Board's facsimile transmission number is used; and

(C) The Board receives the complete FAX-transmitted document by 11:59 p.m. of a non-holiday, weekday.

(j) Except for the documents specified in subsections (c), (e), or (g) of this section, filing of any other thing required to be filed within a prescribed time may be accomplished by mailing by first class mail, postage prepaid. An attorney's certificate that a thing was deposited in the mail on a stated date is proof of mailing on that date. If the thing is not received within the prescribed time and no certificate of mailing is furnished, it shall be presumed that the filing was untimely unless the filing party establishes that the filing was timely.

(2) Service:

(a) A true copy of any thing delivered for filing under these rules shall be simultaneously served personally, by means of a facsimile transmission, by means of e-mail or website portal regarding requests, responses, or any other thing filed under OAR 438-005-0046(1)(e), (f), (g), or (h), or by

mailing by first-class mail, postage prepaid, through the United States Postal Service, to each other party, or to their attorneys. Service by mail is complete upon mailing, service by facsimile transmission is complete upon disconnection following an error-free transmission, and service by e-mail or website portal regarding requests, responses, or any other thing filed under 438-005-0046(1)(e), (f), (g), or (h), is complete upon successful transmission, provided that the copy is sent in a format readable by the recipient;

(b) Any thing delivered for filing under these rules shall include or have attached thereto either an acknowledgment of service by the person served or proof of service in the form of a certificate executed by the person who made service showing personal delivery, service by means of a facsimile transmission, service by means of e-mail or website portal regarding requests, responses, or any other thing filed under OAR 438-005-0046(1)(e), (f), (g), or (h), or deposit in the mails together with the names and addresses of the persons served.

(3) Correspondence. All correspondence to the Board shall be captioned with the name of the claimant, the WCB Case number and the insurer or self-insured employer claim number. Correspondence to the Hearings Division shall also be captioned with the date of the hearing and name of the assigned Administrative Law Judge, if any.

(4) Signatures.

(a) Any thing delivered for filing under these rules shall include the signature of the party or the party's attorney, which may be provided in writing, by facsimile transmission, by electronic scanning, by the website portal, or by other electronic means.

(b) The user name and password required to file a document with the Board by means of the website portal shall constitute the signature of the filer and for any other purpose for which a signature is required.

(c) Except for documents filed under subsection (b) of this section, any document filed by electronic means must include a signature block that includes the printed name of the filer, preceded by an electronic symbol intended to substitute for a signature (such as a scan of the filer's handwritten signature or "s/") in the space where the signature would otherwise appear.

(d) Any order, notice, or any other document issued by an Administrative Law Judge or a Board Member may include their signature in writing, by facsimile transmission, by electronic scanning, by the website portal, or by other electronic means permitted under the Board's rules.

(e) Any electronically transmitted signature shall have the same force and effect as an original signature, provided that the electronically transmitted signature is executed or adopted by a person with the intent to sign the document as prescribed in ORS Chapter 84 (Uniform Electronic Transactions Act).

Statutory/Other Authority: ORS 656.726(5)

Statutes/Other Implemented: ORS 656.726(5)

History:
WCB 2-2022, minor correction filed 03/15/2022, effective 03/15/2022
WCB 1-2016, f. 9-15-16, cert. ef. 11-1-16
WCB 1-2014, f. 6-20-14, cert. ef. 9-1-14
WCB 2-2013, f. 12-10-13, cert. ef. 4-1-14
WCB 1-2012, f. 8-22-12, cert. ef. 11-1-12

WCB 2-2007, f. 12-11-07, cert. ef. 1-1-08
WCB 1-2007, f. 1-19-07, cert. ef. 3-1-07
WCB 1-2000, f. 3-29-00, cert. ef. 4-3-00
WCB 1-1999, f. 8-24-99, cert. ef. 11-1-99
WCB 2-1999(Temp), f. 9-24-99, cert. ef. 10-23-99 thru 4-14-00
WCB 8-1991, f. 11-6-91, cert. ef. 11-7-91
WCB 3-1991(Temp), f. 5-24-91, cert. ef. 5-28-91
WCB 11-1990, f. 12-13-90, cert. ef. 12-31-90
Reverted to WCB 5-1987, f. 12-18-87, cert. ef. 1-1-88
WCB 7-1990(Temp), f. 6-14-90, cert. ef. 7-1-90
WCB 5-1987, f. 12-18-87, cert. ef. 1-1-88

EXHIBIT B

438-005-0050
Notice of Claim Acceptance and Hearing Rights under ORS 656.262(6)(d)

(1) Every notice of claim acceptance shall include all of the information prescribed by ORS 656.262(6)(b) and OAR 436-001-0600 (including Bulletin No. 379).

(2) In the event that the insurer or self-insured employer disagrees with all or any portion of a worker's objections to a notice of claim acceptance under ORS 656.262(6)(d), the insurer's or self-insured employer's written response shall specify the reasons for the disagreement, and shall contain a notice, in prominent or bold-face type, as follows:

"IF YOU DISAGREE WITH THIS DECISION, YOU MAY FILE A REQUEST FOR HEARING BY ANY OF THE FOLLOWING MEANS: (1) MAIL A LETTER TO THE WORKERS' COMPENSATION BOARD, 2601 25TH STREET SE, SUITE 150, SALEM, OREGON 97302-1280; (2) SEND AN E-MAIL TO: [request.wcb@oregon.gov]**request.wcb@wcb.oregon.gov**; (3) SEND A FAX TO: 503-373-1600; OR (4) PHYSICAL DELIVERY OF A LETTER TO A WORKERS' COMPENSATION BOARD OFFICE (IN SALEM, PORTLAND, EUGENE, OR MEDFORD). YOUR LETTER, E-MAIL, OR FAX SHOULD STATE THAT YOU WANT A HEARING, YOUR ADDRESS, THE DATE OF YOUR INJURY, AND YOUR CLAIM NUMBER.

"IF YOUR CLAIM QUALIFIES, YOU MAY RECEIVE AN EXPEDITED HEARING WITHIN 30 DAYS. YOUR REQUEST CANNOT, BY LAW, AFFECT YOUR EMPLOYMENT. YOU MAY BE REPRESENTED BY AN ATTORNEY OF YOUR CHOICE AT NO COST TO YOU FOR ATTORNEY FEES. IF YOU HAVE QUESTIONS YOU MAY CALL THE WORKERS' COMPENSATION DIVISION TOLL FREE AT 1-800-452-0288 OR THE [OMBUDSMAN FOR INJURED WORKERS]**OMBUDS OFFICE FOR OREGON WORKERS** TOLL FREE AT 1-800-927-1271."

Statutory/Other Authority: ORS 656.307, 656.388, 656.593 & 656.726(5)
Statutes/Other Implemented: ORS 656.262(6)
History:
WCB 1-2019, amend filed 04/02/2019, effective 06/01/2019
WCB 1-2012, f. 8-22-12, cert. ef. 11-1-12
WCB 2-2007, f. 12-11-07, cert. ef. 1-1-08
WCB 3-2005, f. 11-15-05, cert. ef. 1-1-06
WCB 1-2004, f. 6-23-04 cert. ef. 9-1-04
WCB 1-1999, f. 8-24-99, cert. ef. 11-1-99
WCB 2-1995, f. 11-13-95, cert. ef. 1-1-96
WCB 5-1987, f. 12-18-87, ef. 1-1-88
WCB 1-1984, f. 4-5-84, ef. 5-1-84

EXHIBIT C

438-005-0055
Notice of Claim Denial and Hearing Rights

(1) Except for a denial issued under ORS 656.262(15), in addition to the requirements of 656.262 and OAR 436-001-0600 (Bulletin No. 379), the notice of denial shall specify the factual and legal reasons for denial; and shall contain a notice, in prominent or bold-face type, as follows:

"IF YOU THINK THIS DENIAL IS NOT RIGHT, WITHIN 60 DAYS AFTER THE MAILING OF THIS DENIAL YOU MUST FILE A REQUEST FOR HEARING BY ANY OF THE FOLLOWING MEANS: (1) MAIL A LETTER TO THE WORKERS' COMPENSATION BOARD, 2601 25TH STREET SE, SUITE 150, SALEM OREGON 97302-1280; (2) SEND AN E-MAIL TO: [request.wcb@oregon.gov]**request.wcb@wcb.oregon.gov**; (3) SEND A FAX TO: 503-373-1600; OR (4) PHYSICAL DELIVERY OF A LETTER TO A WORKERS' COMPENSATION BOARD OFFICE (IN SALEM, PORTLAND, EUGENE, OR MEDFORD). YOUR LETTER, E-MAIL, OR FAX MUST STATE THAT YOU WANT A HEARING, YOUR ADDRESS AND THE DATE OF YOUR ACCIDENT IF YOU KNOW THE DATE.

"IF YOUR CLAIM QUALIFIES, YOU MAY RECEIVE AN EXPEDITED HEARING WITHIN 30 DAYS. YOUR REQUEST CANNOT, BY LAW, AFFECT YOUR EMPLOYMENT. IF YOU DO NOT FILE A REQUEST WITHIN 60 DAYS, YOU WILL LOSE ANY RIGHT YOU MAY HAVE TO COMPENSATION UNLESS YOU CAN SHOW GOOD CAUSE FOR DELAY BEYOND 60 DAYS. AFTER 180 DAYS ALL YOUR RIGHTS WILL BE LOST. YOU MAY BE REPRESENTED BY AN ATTORNEY OF YOUR CHOICE AT NO COST TO YOU FOR ATTORNEY FEES.

"IF YOU MAKE A TIMELY REQUEST FOR HEARING ON A DENIAL OF COMPENSABILITY OF YOUR CLAIM AS REQUIRED BY ORS 656.319(1)(a) THAT IS BASED ON ONE OR MORE REPORTS OF EXAMINATIONS CONDUCTED AT THE REQUEST OF THE INSURER OR SELF-INSURED EMPLOYER UNDER ORS 656.325(1)(a) AND YOUR ATTENDING PHYSICIAN DOES NOT CONCUR WITH THE REPORT OR REPORTS, YOU MAY REQUEST AN EXAMINATION TO BE CONDUCTED BY A PHYSICIAN SELECTED BY THE DIRECTOR. THE COST OF THE EXAMINATION AND THE EXAMINATION REPORT SHALL BE PAID BY THE INSURER OR SELF-INSURED EMPLOYER.

"IF YOU HAVE QUESTIONS YOU MAY CALL THE WORKERS' COMPENSATION DIVISION TOLL FREE AT 1-800-452-0288 OR THE [OMBUDSMAN FOR INJURED WORKERS]**OMBUDS OFFICE FOR OREGON WORKERS** TOLL FREE AT 1-800-927-1271."

(2) If an insurer or self-insured employer intends to deny a claim under ORS 656.262(15) because of a worker's failure to cooperate in the investigation of the claim, in addition to the requirements of 656.262, the notice of denial shall specify the factual and legal reasons for denial, and shall contain a notice, in prominent or bold-face type, as follows:

"IF YOU THINK THIS DENIAL IS NOT RIGHT, WITHIN 60 DAYS AFTER THE MAILING OF THIS DENIAL YOU MUST FILE A REQUEST FOR HEARING BY ANY OF THE FOLLOWING MEANS: (1) MAIL A LETTER TO THE WORKERS' COMPENSATION BOARD, 2601 25TH STREET SE, SUITE 150, SALEM OREGON 97302-1280; (2) SEND AN

E-MAIL TO: [request.wcb@oregon.gov]**request.wcb@wcb.oregon.gov**; (3) SEND A FAX TO: 503-373-1600; OR (4) PHYSICAL DELIVERY OF A LETTER TO A WORKERS' COMPENSATION BOARD OFFICE (IN SALEM, PORTLAND, EUGENE, OR MEDFORD).YOUR LETTER, E-MAIL, OR FAX MUST STATE THAT YOU WANT AN EXPEDITED HEARING, YOUR ADDRESS AND THE DATE OF YOUR ACCIDENT IF YOU KNOW THE DATE.

"YOU WILL RECEIVE AN EXPEDITED HEARING WITHIN 30 DAYS. YOUR REQUEST CANNOT, BY LAW, AFFECT YOUR EMPLOYMENT. IF YOU DO NOT FILE A REQUEST WITHIN 60 DAYS, YOU WILL LOSE ANY RIGHT YOU MAY HAVE TO COMPENSATION UNLESS YOU CAN SHOW GOOD CAUSE FOR DELAY BEYOND 60 DAYS. AFTER 180 DAYS ALL YOUR RIGHTS WILL BE LOST. YOU MAY BE REPRESENTED BY AN ATTORNEY OF YOUR CHOICE AT NO COST TO YOU FOR ATTORNEY FEES. IF YOU HAVE QUESTIONS YOU MAY CALL THE WORKERS' COMPENSATION DIVISION TOLL FREE AT 1-800-452-0288 OR THE [OMBUDSMAN FOR INJURED WORKERS]**OMBUDS OFFICE FOR OREGON WORKERS** TOLL FREE AT 1-800-927-1271."

Statutory/Other Authority: ORS 656.726(5)
Statutes/Other Implemented: ORS 656.262(6) & 656.262(15)
History:
WCB 1-2019, amend filed 04/02/2019, effective 06/01/2019
WCB 1-2012, f. 8-22-12, cert. ef. 11-1-12
WCB 1-2009, f. 10-7-09, cert. ef. 1-1-10
WCB 2-2007, f. 12-11-07, cert. ef. 1-1-08
WCB 3-2005, f. 11-15-05, cert. ef. 1-1-06
WCB 1-2004, f. 6-23-04 cert. ef. 9-1-04
WCB 2-2001, f. 11-14-01, cert. ef. 1-1-02
WCB 1-1999, f. 8-24-99, cert. ef. 11-1-99
WCB 2-1995, f. 11-13-95, cert. ef. 1-1-96
WCB 1-1994, f. 11-1-94, cert. ef. 1-1-95
WCB 11-1990, f. 12-13-90, cert. ef. 12-31-90
WCB 5-1987, f. 12-18-87, ef. 1-1-88
WCB 1-1984, f. 4-5-84, ef. 5-1-84

EXHIBIT D

438-007-0020
Subpoenas; Witness Fees

(1) Whenever a party has requested a hearing, a subpoena may be issued to compel:

(a) Attendance and testimony at a hearing; or

(b)The production of documentary or physical evidence under a witness' control at or before a hearing.

(2) Subpoenas may be issued by an Administrative Law Judge or the attorney of record of a party. Upon request, the Hearings Division shall provide blank subpoenas.

(3) Subpoenas issued on behalf of a party may be served by the party or the party's representative. Service may be made in person or by certified mail or other mail that provides for a receipt signed by the recipient.

(4) Subpoenas shall be served far enough in advance of an appearance to allow the witness or party a reasonable time to comply with the subpoena or to file an objection.

(5) Witness fees and mileage shall be provided at the time the subpoena is served, in the amount provided for in civil actions.

(6) "Individually identifiable health information," as defined in ORCP 55(H)(1)(a), may be obtained through a subpoena under the following procedures:

(a) At the time a subpoena for individually identifiable health information is issued, the party issuing the subpoena must serve a copy of the subpoena to the party or the attorney for the party whose individually identifiable health information is being subpoenaed. Such service shall be as provided in section (3) above.

(b) The subpoena shall provide notice to the person or the person's attorney, if represented, whose individually identifiable health information is being subpoenaed of the extent of the information being sought, and shall describe the procedure for submitting a timely objection to the disclosure of such information. The subpoena shall include the following in prominent or boldface type:

"IF YOU OPPOSE THE DISCLOSURE OF THE INFORMATION INCLUDED IN THIS SUBPOENA, YOU MUST FILE A WRITTEN OBJECTION, WITH THE WORKERS' COMPENSATION BOARD, 2601 25TH STREET SE, SUITE 150, SALEM OREGON 97302-1280. YOUR OBJECTION MUST BE FILED WITHIN TEN (10) CALENDAR DAYS OF THE MAILING DATE OF THIS NOTICE, AND MUST STATE THAT YOU OBJECT TO THE RELEASE OF THE INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION, THE BASIS FOR YOUR OBJECTION, YOUR ADDRESS, AND THE DATE OF YOUR INJURY IF YOU KNOW THE DATE. A COPY OF YOUR LETTER MUST ALSO BE PROVIDED SIMULTANEOUSLY TO THE RECIPIENT OF THE SUBPOENA, AS WELL AS TO THE PARTY ISSUING THE SUBPOENA. IF YOU HAVE QUESTIONS YOU MAY CALL THE WORKERS' COMPENSATION BOARD AT (503) 378-3308 OR TOLL-FREE AT 1-877-311-8061, OR THE [OMBUDSMAN FOR INJURED WORKERS]**OMBUDS OFFICE FOR OREGON WORKERS** TOLL-FREE AT 1-800-927-1271.

"THE CUSTODIAN OF THE RECORDS SHALL PROVIDE THE RECORDS IN THE MANNER PRESCRIBED. THE RECORDS SHALL BE PROVIDED NO SOONER THAN 14 DAYS AFTER ISSUANCE OF THIS SUBPOENA, BUT NOT LATER THAN 21 DAYS AFTER ISSUANCE.

"RECIPIENT: IF YOU RECEIVE A TIMELY OBJECTION FROM THE PARTY (OR THE PARTY'S ATTORNEY) WHOSE INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION IS BEING SUBPOENAED, THE RECIPIENT SHALL COMPLY WITH THE SUBPOENA BY MAILING THE INFORMATION SOUGHT TO THE WORKERS' COMPENSATION BOARD, AT 2601 25TH STREET SE, SUITE 150, SALEM OREGON 97302-1280."

(c) The subpoena must also contain the following certification: "I certify that I mailed a copy of this subpoena to [the person or the person's attorney, if represented] at [address] on [date] by certified mail return receipt requested."

(d) "File," as used in this section, has the same meaning as OAR 438-005-0046.

(e) If the person whose individually identifiable health information is being subpoenaed does not timely object or waives any objection, the recipient of the subpoena shall comply with the subpoena.

(f) If the recipient of the subpoena receives a timely objection from the party whose individually identifiable health information is being subpoenaed, the recipient shall comply with the subpoena by mailing the information sought to the Workers' Compensation Board, at 2601 25TH STREET SE, SUITE 150, SALEM OREGON 97302-1280.

(g) If the person whose individually identifiable health information is being subpoenaed timely objects, an expedited pre-hearing conference will be conducted under the provisions of ORS 656.283.

(h) A party who receives information under this section is required to disclose that information under OAR 438-007-0015.

Statutory/Other Authority: ORS 656.726(5)
Statutes/Other Implemented: ORS 656.283(7), 656.724(4) & 656.726(2)(c)
History:
WCB 2-2019, amend filed 09/24/2019, effective 01/01/2020
WCB 2-2013, f. 12-10-13, cert. ef. 4-1-14
WCB 1-2005, f. 6-29-05, cert. ef. 9-1-05
WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03
WCB 5-1987, f. 12-18-87, ef. 1-1-88
WCB 1-1984, f. 4-5-84, ef. 5-1-84

EXHIBIT E

438-009-0010
Disputed Claim Settlements

(1) Any document submitted for approval by the Board or the Hearings Division as a settlement of a denied or disputed claim shall be in the form specified by this rule.

(2) A disputed claim settlement shall recite, at a minimum:

(a) The date and nature of the claim;

(b) That the claim has been denied and the date of the denial;

(c) That a bona fide dispute as to the compensability of all or part of the claim exists and that the parties have agreed to compromise and settle all or part of the denied and disputed claim under the provisions of ORS 656.289(4);

(d) The factual allegations and legal positions in support of the claim;

(e) The factual allegations and legal positions in support of the denial of the claim;

(f) That each of the parties has substantial evidence to support the factual allegations of that party;

(g) A list of medical service providers who shall receive reimbursement in accordance with ORS 656.313(4), including the specific amount each provider shall be reimbursed, and the parties' acknowledgment that this reimbursement allocation complies with the reimbursement formula prescribed in 656.313(4)(d); and

(h) The terms of the settlement, including the specific date on which those terms were agreed.

(3) If an accepted claim is later denied entirely at any time based on fraud, misrepresentation or other illegal activity by the worker, the disputed claim settlement shall further recite the specific factual allegations and legal positions of the parties concerning the fraud, misrepresentation or other illegal activity.

(4) If a claim was previously accepted in good faith but later denied, in whole or in part, based on later obtained evidence that the claim is not compensable or evidence that the paying agent is not responsible for the claim, the disputed claim settlement shall further recite:

(a) If the accepted claim is later denied entirely at any time up to two years from the date of claim acceptance, an allegation that the self-insured employer or insurer has obtained later evidence that the claim is not compensable or that the paying agent is not responsible for the claim; or

(b) If the denial is a denial of aggravation, current need for medical services or a partial denial of a medical condition on the ground that the condition is not related to the accepted injury, that the claimant retains all rights that may later arise under ORS 656.245, 656.273, 656.278 and 656.340, insofar as these rights may be related to the original accepted claim.

(5) If the claimant is unrepresented, the denial of the claim which is being settled by any document described in section (1) of this rule shall not be contained within that document, but rather shall be issued separately. In addition, any document described in section (1) of this rule shall recite that the unrepresented claimant has been orally advised of the following matters:

(a) The right to an attorney of the claimant's choice at no cost to the claimant for attorney fees;

(b) The existence of the [office of the Ombudsman]**<u>Ombuds</u> Office for Oregon Workers** pursuant to ORS 656.709;

(c) Except with the consent of the worker, reimbursement made to medical service providers from the proceeds of a disputed claim settlement shall not exceed 40 percent of the total present value of the settlement amount; and

(d) Reimbursement from the proceeds of a disputed claim settlement made to medical service providers shall not prevent a medical service provider or health insurance provider from recovering the balance of amounts owing for such services directly from the worker, unless the worker agrees to pay all medical service providers directly from the settlement proceeds the amount provided under ORS 656.248.

(6) Any document described in section (1) of this rule shall also recite that the claimant has been orally advised that:

(a) The claimant has the right to request a hearing concerning the claim, after which an Administrative Law Judge will determine whether the claimant will receive workers' compensation benefits;

(b) If, following the hearing, the claim is finally determined compensable, the claimant would be entitled to workers' compensation benefits, which could include temporary disability, permanent disability, medical treatment, and vocational rehabilitation;

(c) If, following the hearing, the claim is finally determined not compensable, the claimant would not be entitled to workers' compensation benefits;

(d) As a result of this agreement, the claimant's rights to seek workers' compensation benefits concerning this claim would be extinguished;

(e) Both parties agree that the terms of the agreement are reasonable; and

(f) The agreement shall not be binding upon the parties unless and until the agreement is approved by an Administrative Law Judge or the Board, depending upon which forum is considering the dispute.

(7) No document described in section (1) of this rule shall be approved unless the document submitted by the parties establishes that a bona fide dispute as to compensability exists and the proposed disposition of the dispute is reasonable. If an Administrative Law Judge or the Board is not satisfied that a bona fide dispute exists or that disposition of the dispute is reasonable, the Administrative Law Judge or Board may reject the agreement or specify the manner in which objection(s) can be cured.

(8) All disputed claim settlements shall:

(a) Recite whether a claim disposition agreement in the claim has been filed; and

(b) Be in a separate document from a claim disposition agreement.

Statutory/Other Authority: ORS 656.726(5)
Statutes/Other Implemented: ORS 656.236, 656.289(4) & 656.313(4)
History:
WCB 1-2011, f. 11-2-11, cert. ef. 1-1-12

WCB 2-2007, f. 12-11-07, cert. ef. 1-1-08
WCB 1-2004, f. 6-23-04 cert. ef. 9-1-04
WCB 3-2001, f. 11-14-01, cert. ef. 1-1-02
WCB 2-1995, f. 11-13-96, cert. ef. 1-1-96
WCB 3-1993, f. 10-27-93, cert. ef. 11-4-93
WCB 11-1990, f. 12-13-90, cert. ef. 12-31-90
Reverted to WCB 5-1990, f. 4-19-90, cert. ef. 5-21-90
WCB 7-1990(Temp), f. 6-14-90, cert. ef. 7-1-90
WCB 5-1990, f. 4-19-90, cert. ef. 5-21-90
WCB 5-1987, f. 12-18-87, ef. 1-1-88
WCB 1-1984, f. 4-5-84, ef. 5-1-84

EXHIBIT F

438-009-0022
Required Information in a Claim Disposition Agreement

(1) If a claim disposition agreement involves more than one claim, the disposition shall contain all of the information required by this rule for each claim including a separate first page of the claim disposition agreement as set forth in section (3) of this rule.

(2) The insurer/self-insured employer shall provide the claimant information explaining claim dispositions in a separate enclosure accompanying the proposed claim disposition agreement. The Board shall prescribe by a bulletin the specific form and format for the enclosure. If the claimant does not read or comprehend English, or is otherwise unable to understand written language, the insurer/self-insured employer shall provide this information in a language or other manner which ensures the worker understands the meaning of the disposition.

(3) The first page of the claim disposition agreement shall include, but not be limited to, the following information:

(a) The worker's name;

(b) The case number assigned to the claim by the Board, if any;

(c) The insurer's/self-insured employer's claim number;

(d) The date of the compensable injury or disease;

(e) The file number assigned to the claim by the Workers' Compensation Division, if known;

(f) The name of the insurer/self-insured employer;

(g) Specific identification of all benefits, rights and insurer/self-insured employer obligations under Workers' Compensation Law which are released by the agreement;

(h) The total attorney fee, if any, to be paid to claimant's attorney;

(i) The total amount (excluding attorney fee) to be paid to the claimant; and

(j) A statement indicating whether or not the parties are waiving the "30-day" approval period of ORS 656.236(1)(a)(C) as permitted by 656.236(1)(b).

(4) The claim disposition agreement shall also contain, but not be limited to, the following:

(a) Identification of the accepted conditions that are the subject of the disposition;

(b) The date of the first claim closure, if any;

(c) The amount of any permanent disability award(s), if any;

(d) Whether the worker has ever been able to return to the work force following the industrial injury or occupational disease;

(e) The worker's age, highest education level, and the extent of vocational training (or in the event that the worker is deceased, the age, highest education level, and the extent of vocational training of the worker's beneficiaries);

(f) A list of occupations that the worker has performed (or in the event that the worker is deceased, a list of occupations that each of the deceased worker's beneficiaries has performed);

(g) That the worker has been provided the informational enclosure prescribed by bulletin pursuant to section (2) of this rule (attachment of the informational enclosure to the parties' claim disposition agreement is not required, unless the enclosure is expressly incorporated into the agreement); and

(h) The following notice in prominent or bold face type, which shall either be included in the claim disposition agreement or incorporated by reference into the agreement:

"NOTICE TO CLAIMANT: UNLESS YOU ARE REPRESENTED BY AN ATTORNEY AND YOUR CLAIM DISPOSITION AGREEMENT INCLUDES A PROVISION WHICH WAIVES THE 30-DAY "COOLING OFF" PERIOD, YOU WILL RECEIVE A NOTICE FROM THE WORKERS' COMPENSATION BOARD OR THE ADMINISTRATIVE LAW JUDGE WHO MEDIATED THE AGREEMENT TELLING YOU THE DATE THIS AGREEMENT WAS RECEIVED BY THEM FOR APPROVAL. YOU HAVE 30 DAYS FROM THE DATE THE BOARD OR THE ADMINISTRATIVE LAW JUDGE WHO MEDIATED THE AGREEMENT RECEIVES THE AGREEMENT TO REJECT THE AGREEMENT, BY TELLING THE BOARD OR THE ADMINISTRATIVE LAW JUDGE WHO MEDIATED THE AGREEMENT IN WRITING. DURING THE 30 DAYS ALL OTHER PROCEEDINGS AND PAYMENT OBLIGATIONS OF THE INSURER/SELF-INSURED EMPLOYER, EXCEPT FOR MEDICAL SERVICES, ARE STAYED ON YOUR CLAIM. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY DISCUSS THIS AGREEMENT WITH THE BOARD IN PERSON WITHOUT FEE OR CHARGE. TO CONTACT THE BOARD, WRITE OR CALL: WORKERS' COMPENSATION BOARD, 2601 25TH STREET SE, SUITE 150, SALEM, OREGON 97302-1280, TELEPHONE: (503) 378-3308, TOLL-FREE AT 1-877-311-8061, 8:00 TO 5:00, MONDAY THROUGH FRIDAY.

"YOU MAY ALSO DISCUSS THIS AGREEMENT WITH THE [OMBUDSMAN FOR INJURED WORKERS]**OMBUDS OFFICE FOR OREGON WORKERS**, WITHOUT FEE OR CHARGE. TO CONTACT THE [OMBUDSMAN]**OMBUDS OFFICE**, WRITE OR CALL: [OMBUDSMAN FOR INJURED WORKERS]**OMBUDS OFFICE FOR OREGON WORKERS**, LABOR & INDUSTRIES BUILDING, 350 WINTER STREET NE, SALEM, OR 97310, TELEPHONE: TOLL-FREE AT 1-800-927-1271, 8:00 TO 5:00, MONDAY THROUGH FRIDAY. "YOU MAY ALSO CALL THE WORKERS' COMPENSATION DIVISION'S INJURED WORKER HOTLINE, TOLL-FREE AT 1-800-452-0288."

Statutory/Other Authority: ORS 656.726(5)
Statutes/Other Implemented: ORS 656.236
History:
WCB 1-2012, f. 8-22-12, cert. ef. 11-1-12
WCB 2-2007, f. 12-11-07, cert. ef. 1-1-08
WCB 1-1999, f. 8-24-99, cert. ef. 11-1-99
WCB 2-1995, f. 11-13-96, cert. ef. 1-1-96