



Oregon

Tina Kotek, Governor

Workers' Compensation Board

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PROPOSED CHANGES TO WORKERS' COMPENSATION BOARD RULES

Caption: Updating Workers' Compensation Board rule related to cost bill submissions.

The Workers' Compensation Board proposes to amend OAR 438-015-0019 relating to the submission of cost bills for reasonable expenses and costs when a claimant finally prevails against a claim denial under ORS 656.386(1).

Summary of proposed changes:

- Extend the time frame to submit the cost bill from 30 days to 60 days.
- Make use of the Board's cost bill form mandatory.
- Require the cost bill form to be submitted separately.
- Allow the claimant's attorney to sign the cost bill form on the claimant's behalf.

Comments must be received by: 5 p.m. July 6, 2026

Comments on the proposed rule amendments may be sent to:

Autumn Blake
Rules Coordinator
Workers' Compensation Board
2601 25th St SE Ste 150
Salem OR 97302
Fax: 503-373-1684
autumn.k.blake@wcb.oregon.gov

Or provided at the rulemaking hearing:

When: Monday, June 22, 2026, at 9:30 a.m.

Where: Virtually by video – <https://www.zoomgov.com/j/1655752317>

Virtually by telephone – 833-568-8864 (US toll-free), meeting ID 165 575 2317

The Board requests public comments on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

If you have any questions, contact Autumn Blake at 503-934-0123.

Need for rule:

Practitioners requested that the Board consider amendments to OAR 438-015-0019 (Cost Bill Procedures; Assessed Attorney Fees When the Claimant Prevails in a Cost Bill Dispute), to streamline and standardize the process of submitting a cost bill. The Board appointed an advisory committee, which recommended specific amendments.

Under ORS 656.386(2), if a claimant finally prevails against a denied claim, the claimant may recover reasonable expenses and costs for records, expert opinions, and witness fees from the insurer or self-insured employer. OAR 438-015-0019(3) provides the procedure for the claimant to submit a cost bill to the insurer or self-insured employer, and the information the cost bill must include. The Board proposes to amend the rule to extend the time frame to submit the cost bill from 30 days to 60 days, to make use of the Board's cost bill form mandatory, to require the cost bill form be submitted separately, and to allow the claimant's attorney to sign the cost bill form on the claimant's behalf.

The changes are needed to increase efficiency and reduce cost bill disputes.

Documents relied upon and where they are available:

- [January 9, 2026, Advisory Committee Report](#)
- [March 19, 2026, Board Meeting Minutes](#)
- [May 5, 2026, Memorandum to Board Members](#)
- May 12, 2026, Board Meeting Minutes

These documents are or will be available on the Board's website at wcb.oregon.gov, or by calling 503-934-0123.

Statement identifying how adoption of rule will affect racial equity in this state:

The proposed rule amendments are intended to standardize and streamline the cost bill process, reduce disputes, and ensure claimants are reimbursed for reasonable costs and expenses related to litigation. The Board does not have sufficient data to estimate the specific effects on racial equity but invites public input.

Fiscal and economic impact:

The proposed rule has a potential impact on insurers, self-insured employers, workers' compensation claimants, and any state agencies and local governments who employ claimants. By allowing an additional 30 days for claimants to submit cost bills, this may increase the amount of costs claimants are able to recover and the amount of costs insurers and self-insured employers are required to pay.

By amending the rule to require the use of a standardized cost bill form, it is anticipated that insurers and self-insured employers will be able to more efficiently process cost bills and provide timely payment to claimants.

Statement of cost of compliance:

Attorney firms that represent workers in workers' compensation disputes may have a cost of compliance from the rule. There are approximately 1000 attorney firms within the workers' compensation system. The majority are considered small businesses as defined by ORS 183.310(10). Many of those firms represent workers and will be required to comply with the amended rule. There may be a slightly increased administrative burden from the requirement to use the Board's form instead of other means.

While employers who employ workers' compensation claimants, including other state agencies and local governments, and insurers and self-insured employers are subject to the proposed rule, their cost of compliance would not increase.

Describe how small businesses were involved in the development of the rule:

Claimant attorneys who are employed by or run small businesses were on the advisory committee and provided public comment at the Board's meetings regarding the proposed rule amendments. The workers' compensation Small Business Ombudsman was on the advisory committee and provided input on the committee's recommendations.

Was an administrative rule advisory committee consulted?

Yes.

Proposed changes to rule:

438-015-0019

Cost Bill Procedures; Assessed Attorney Fees When the Claimant Prevails in a Cost Bill Dispute

(1) If a claimant finally prevails against a denial under ORS 656.386(1), the Administrative Law Judge or the Board may order payment of the claimant's reasonable expenses and costs for records, expert opinions, and witness fees incurred in the litigation of the denied claim(s).

(2) In ordering payment under section (1), an Administrative Law Judge or the Board may award reasonable expenses and costs that the claimant incurred as a result of the litigation of the denied claim(s) under ORS 656.386(1). If the parties stipulate to the specific amount of the reasonable expenses and costs, the Administrative Law Judge's or the Board's award of expenses and costs shall be included in the order finding that the claimant finally prevails against a denied claim(s) under 656.386(1). In the absence of the parties' stipulation, the Administrative Law Judge or the Board may award reasonable expenses and costs as described in section (1), which the claimant may claim by submitting a cost bill under section (3) to the insurer or the self-insured employer.

(a) Reasonable costs and expenses may not exceed \$3,500, unless the claimant demonstrates extraordinary circumstances justifying payment of a greater amount.

(b) The maximum expenses and costs awarded under this section are subject to an annual adjustment on July 1 as calculated by the Workers' Compensation Division (on behalf of the Director) by the same percentage increase as made to the average weekly wage defined in ORS 656.211, if any. Before July 1 of each year, the Board will publish the maximum fee by bulletin, after adjusting the fee by the same percentage increase, if any, to the average weekly wage. Dollar amounts will be rounded to the nearest multiple of \$100.

(3) 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~~ 60 days after the order under section (2) becomes final, a cost bill to the insurer or self-insured employer. The cost bill, ~~which may~~ must be submitted as a separate submission on a form prescribed by the Board, ~~shall~~ and must 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 or, if represented, the claimant's attorney's signature confirming that the claimed expenses and costs were incurred in the litigation of the denied claim(s).

(4) If the parties disagree whether a claimed fee, expense, or cost is reasonable, a party may request a hearing seeking resolution of that dispute. The resolution of disputes under this section shall be made by a final, appealable order.

(5) Unless a hearing is requested by the insurer or self-insured employer under section (4), payments for witness fees, expenses, and costs shall be made by the insurer or self-insured employer within 30 days of its receipt of the cost bill submitted in accordance with section (3) or within 30 days after the order under section (2) becomes final, whichever is later, and are in addition to compensation payable to the claimant and in addition to attorney fees.

(6) In disputes involving a claim for costs, if the claimant prevails on the claim for any increase of costs, the Administrative Law Judge or the Board shall award a reasonable assessed attorney fee to the claimant's attorney.

Statutory/Other Authority: ORS 656.726(5)

Statutes/Other Implemented: ORS 656.386(2), ORS 656.386(4), ~~OR Ch L 2025 c. 152~~