

WORKERS' COMPENSATION DEPARTMENT
WORKERS' COMPENSATION BENEFITS OFFSET

EXHIBIT "A"
OREGON ADMINISTRATIVE RULES
CHAPTER 436, DIVISION 100

EFFECTIVE FEBRUARY 22, 1984

TABLE OF CONTENTS

Rule	Page
436-100-001 Authority for Rules	1
436-100-002 Purpose of Rules	1
436-100-003 Applicability of Rules	1
436-100-005 Definitions.....	2
436-100-006 Administration of Rules.....	2
436-100-008 Administrative Review	3
436-100-010 Criteria for Eligibility	3
436-100-020 Requirements of Workers	3
436-100-030 Authorization of Offset Effective Date.....	4
436-100-040 Sanctions Against Worker for Failure to Cooperate With the Department	4

436-100-001 Authority for Rules

These rules are promulgated under the Director's authority contained in ORS 656.726 and 656.727.

Stat. Auth: ORS Ch. 656
Hist: WCB 7-1978, filed 6-5-78, eff. 6-6-78
WCD 4-1983 (Admin)(Temp), filed & eff. 9-1-83
WCD 2-1984 (Admin), filed & eff. 2-22-84

436-100-002 Purpose of Rules

The purpose of these rules is to establish requirements and procedures for the administration of offsetting permanent total disability benefits against social security disability benefits.

Stat. Auth: ORS Ch. 656
Hist: WCB 7-1978, filed 6-5-78, eff. 6-6-78
WCD 4-1983 (Admin)(Temp), filed & eff. 9-1-83
WCD 2-1984 (Admin), filed & eff. 2-22-84

436-100-003 Applicability of Rules

(1) These rules are effective February 22, 1984, to carry out the provisions of ORS 656.209 and ORS 656.727.

(2) These rules apply to:

(a) Those workers receiving awards for permanent total disability and are eligible for and

**WORKERS' COMPENSATION DEPARTMENT
WORKERS' COMPENSATION BENEFITS OFFSET**

receiving federal social security disability benefits; and

(b) Injured workers whose period of disability under the Social Security Administration began on or after June 1, 1965.

(3) These rules, when amended, will supersede Administrative Order WCD 4-1983 (Admin) adopted September 1, 1983.

Stat. Auth: ORS Ch. 656
Hist: WCB 7-1978, filed 6-5-78, eff. 6-6-78
WCD 4-1983 (Admin)(Temp), filed & eff. 9-1-83
WCD 2-1984 (Admin), filed & eff. 2-22-84

436-100-005 Definitions

(1) "Authorization" means an order issued by the Compliance Division directing the paying agent to offset the worker's permanent total disability benefits by the amount specified in the order.

(2) "Beneficiary" means an injured worker, and the husband, wife, child or dependent of a worker, who is entitled to receive payments under ORS 656.001 through ORS 656.794.

(3) "Compliance Division" means the Compliance Division of the Workers' Compensation Department.

(4) "Department" means the Workers' Compensation Department.

(5) "Federal Disability Benefit Limitation" means the amount determined pursuant to 42 USC 224 (a) and Social Security Administration rules.

(6) "Offset" means a reduction of permanent total disability benefits based upon the amount of federal social security disability benefits received by a worker.

(7) "Paying agency or paying agent" means the self-insured employer or insurer paying benefits to the worker or beneficiaries.

(8) "Permanent total disability benefits" means compensation to an injured worker awarded permanent total disability compensation under ORS 656.206.

(9) "Worker" means any worker receiving permanent total disability benefits.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Workers' Compensation Department – Administration.]

Stat. Auth: ORS Ch. 656
Hist: WCB 7-1978, filed 6-5-78, eff. 6-6-78
WCD 4-1983 (Admin)(Temp), filed & eff. 9-1-83
WCD 2-1984 (Admin), filed & eff. 2-22-84

436-100-006 Administration of Rules

For the purpose of administration of these rules, orders of the Compliance Division are deemed orders of the Director.

Stat. Auth: ORS Ch. 656
Hist: WCB 7-1978, filed 6-5-78, eff. 6-6-78
WCD 4-1983 (Admin)(Temp), filed & eff. 9-1-83
WCD 2-1984 (Admin), filed & eff. 2-22-84

**WORKERS' COMPENSATION DEPARTMENT
WORKERS' COMPENSATION BENEFITS OFFSET**

436-100-008 Administrative Review

(1) Any worker aggrieved by any offset authorization of the Department may apply to the Compliance Division for a reconsideration of that authorization prior to requesting a hearing.

(2) Any party aggrieved may request a hearing pursuant to the provisions of ORS 656.283.

Stat. Auth: ORS Ch. 656
Hist: WCB 7-1978, filed 6-5-78, eff. 6-6-78
WCD 4-1983 (Admin)(Temp), filed & eff. 9-1-83
WCD 2-1984 (Admin), filed & eff. 2-22-84

436-100-010 Criteria for Eligibility

(1) Permanent total disability benefits shall be offset by the workers' social security disability benefits. However, the total combined benefit, permanent total disability benefits plus social security disability benefits, shall not be offset to an amount less than the greater of:

- (a) The amount the worker would have received pursuant to ORS 656; or
- (b) The federal benefit limitation.

(2) Permanent total disability benefits shall not be paid by the paying agent in an amount greater than authorized by ORS Chapter 656.

(3) Offset of permanent total disability benefits shall be made by a paying agent only in an amount and as authorized by the Director.

(4) Offset of permanent total disability benefits shall be authorized by the Director only upon actual receipt of federal social security disability benefits by the injured worker.

Stat. Auth: ORS Ch. 656
Hist: WCB 7-1978, filed 6-5-78, eff. 6-6-78
WCD 4-1983 (Admin)(Temp), filed & eff. 9-1-83
WCD 2-1984 (Admin), filed & eff. 2-22-84

436-100-020 Requirements of Workers

(1) Workers entitled to receive permanent total disability benefits shall make application for federal social security disability benefits.

(2) Workers and eligible beneficiaries shall, upon Department request, execute a release form authorizing the Social Security Administration to make disclosure to the Department of such information regarding the injured workers as will enable the Department to carry out the provisions of ORS 656.209 and these rules.

(3) Whenever there is a change in the federal social security beneficiary eligibility, the worker shall notify the Compliance Division.

(4) Upon request of the Department, the worker may be required at any time to furnish additional information regarding social security disability benefits.

Stat. Auth: ORS Ch. 656
Hist: WCB 7-1978, filed 6-5-78, eff. 6-6-78
WCD 4-1983 (Admin)(Temp), filed & eff. 9-1-83
WCD 2-1984 (Admin), filed & eff. 2-22-84

**WORKERS' COMPENSATION DEPARTMENT
WORKERS' COMPENSATION BENEFITS OFFSET**

436-100-030 Authorization of Offset Effective Date

(1) Authorization issued by the Department shall be directed to the paying agent with a copy to the injured worker.

(2) A paying agent making payment of permanent total disability benefits shall be entitled to social security disability offset only as authorized by the Department.

(3) The Department shall review the social security offset calculation when notified of a change in the status of a worker subject to social security offset. An amended authorization will be issued, if necessary.

(4) Whenever there is a change in eligibility status of the worker or any one of his/her beneficiaries receiving benefits for permanent total disability subject to offset, the paying agent shall notify the Compliance Division.

(5) The paying agent will, immediately upon the death of a worker, terminate payment of previously authorized permanent total disability benefits offset and commence payment of other compensation due under ORS Chapter 656, if any.

(6) The effective date of offset will be the effective date established in the authorization.

Stat. Auth: ORS Ch. 656
Hist: WCB 7-1978, filed 6-5-78, eff. 6-6-78
WCD 4-1983 (Admin)(Temp), filed & eff. 9-1-83
WCD 2-1984 (Admin), filed & eff. 2-22-84

436-100-040 Sanctions Against Worker for Failure to Cooperate With the Department

(1) Any worker entitled to receive permanent total disability benefits who fails to comply with these rules shall be subject to suspension of benefits until the worker has complied.

(2) If a worker fails to comply with these rules, a written demand shall be made upon him by personal service or registered mail. If the worker fails to comply within 20 days of receipt of the demand, the Director may authorize suspension of benefits until the worker complies.

(3) An Order of Suspension of benefits shall continue in force from the date issued until the date the worker actually complies with these rules.

(4) No compensation shall become due or shall be payable during a period of suspension of benefits.

Stat. Auth: ORS Ch. 656
Hist: WCB 7-1978, filed 6-5-78, eff. 6-6-78
WCD 4-1983 (Admin)(Temp), filed & eff. 9-1-83
WCD 2-1984 (Admin), filed & eff. 2-22-84