

**BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION**

In the Matter of the Amendment of Oregon Administrative Rules (OAR) chapter 436, division:
 001, Procedural Rules Governing Rulemaking and Hearings.....05-061
 009-0008, Oregon Medical Fee and Payment.....05-062
 045-0008, Reopened Claims Program05-063
 070-0008, Workers' Benefit Fund Assessment05-064
 075-0008, Retroactive Program05-065
 080-0070, Noncomplying employers.....05-066
 085-0008, Premium Assessment.....05-067
 140-0008, Construction Carve-Out Programs05-069
 150-0008, Workers' Benefit Fund Claims Program..05-070
 In the Matter of the Repeal of Oregon Administrative Rules (OAR) chapter 436, division:
 130, Rehabilitation Facilities05-068

**ORDER OF
ADOPTION**

The Director of the Department of Consumer and Business Services, under the general rulemaking authority in ORS 656.726(4), and in accordance with the procedure provided by ORS 183.335, amends OAR chapter 436.

On August 12, 2005, the Workers' Compensation Division filed with the Secretary of State a *Notice of Proposed Rulemaking/Hearing* and *Statement of Need and Fiscal Impact*. The division mailed copies of the *Notice* and *Statement* to interested persons and legislators in accordance with ORS 183.335 and OAR 436-001-0000, and posted copies to its Web site. The Secretary of State included notice of the public hearing in its September 2005 *Oregon Bulletin*.

On September 26, 2005, a public hearing was held as announced. In addition, the record was held open for written testimony through September 30, 2005. The Workers' Compensation Division received written testimony about proposed revisions to this rule. A summary of this testimony and the agency's responses are on file and available for public inspection upon request during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, in the Administrator's Office, Workers' Compensation Division, Labor & Industries Building, 350 Winter Street NE, PO Box 14480, Salem, Oregon 97309-0405.

RULE SUMMARY

The Workers' Compensation Division has amended OAR chapter 436, division 001, "Procedural Rules Governing Rulemaking and Hearings," and several related rules in divisions 009, 045, 070, 075, 080, 085, 140, and 150. Most of the changes are related to passage of House Bill 2091 (Oregon Laws 2005, chapter 26), which moves hearings on workers' compensation matters currently processed by the Office of Administrative Hearings to the Workers' Compensation Board, for all hearings held on or after January 2, 2006. The division has repealed several rules

in OAR 436-001 because the Workers' Compensation Board already has rules in place that govern the conduct of hearings. In addition, OAR 436-001 has been reorganized to place rules in a sequence more aligned with the sequence of appeals and hearings.

The Workers' Compensation Division has repealed OAR chapter 436, division 130, "Rehabilitation Facilities," in its entirety. ORS 656.530, the statute implemented by OAR 436-130, was repealed by Oregon Laws 1999, chapter 273, section 1.

FINDINGS

Having reviewed and considered the record and being fully informed, I make the following findings:

- a) The applicable rulemaking procedures have been followed.
- b) These rules are within the director's authority.
- c) The rules being adopted are a reasonable administrative interpretation of the statutes and are required to carry out statutory responsibilities.

IT IS THEREFORE ORDERED THAT

- 1) Amendments to OAR chapter 436, as set forth in Exhibit "A", are attached, incorporated by reference, and **adopted on this 19th day of October 2005, to be effective January 2, 2006.**
- 2) A certified copy of the adopted rules will be filed with the Secretary of State.
- 3) A copy of the amended rules with revision marks will be filed with the Legislative Counsel under ORS 183.715 within ten days after filing with the Secretary of State.

DATED this 19th day of October 2005.

DEPARTMENT OF CONSUMER
AND BUSINESS SERVICES

/s/ John L. Shilts

John L. Shilts, Administrator
Workers' Compensation Division

Under the Americans with Disabilities Act guidelines, alternative format copies of the rules will be made available to qualified individuals upon request.

If you have questions about these rules or need them in an alternate format, contact the Workers' Compensation Division at (503) 947-7810.

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
REHABILITATION FACILITIES

EXHIBIT "A"
OREGON ADMINISTRATIVE RULES
CHAPTER 436, DIVISION 130

436-130-0000 Authority for Rules

Stat. Auth.: ORS 656.530; Repealed by OL 1999, ch. 273, section 1

Hist: Filed 4-1-94 as Admin. Order 94-051, eff. 5-1-94; Repealed 10/19/05 as Admin. Order 05-068, eff. 1/2/06

436-130-0010 Purpose

Stat. Auth.: ORS 656.530

Hist: Filed 4-1-94 as Admin. Order 94-051, eff. 5-1-94; Repealed 10/19/05 as Admin. Order 05-068, eff. 1/2/06

436-130-0020 Applicability of Rules

Stat. Auth.: ORS 656.530

Hist: Filed 4-1-94 as Admin. Order 94-051, eff. 5-1-94; Repealed 10/19/05 as Admin. Order 05-068, eff. 1/2/06

436-130-0030 Definitions

Stat. Auth.: ORS 656.530

Hist: Filed 4-1-94 as Admin. Order 94-051, eff. 5-1-94; Repealed 10/19/05 as Admin. Order 05-068, eff. 1/2/06

436-130-0040 Administration of Rules

Stat. Auth.: ORS 656.530

Hist: Filed 4-1-94 as Admin. Order 94-051, eff. 5-1-94; Repealed 10/19/05 as Admin. Order 05-068, eff. 1/2/06

436-130-0050 Administrative Review

Stat. Auth.: ORS 656.530

Hist: Filed 4-1-94 as Admin. Order 94-051, eff. 5-1-94; Repealed 10/19/05 as Admin. Order 05-068, eff. 1/2/06

436-130-0060 Criteria for Eligibility

Stat. Auth.: ORS 656.530

Hist: Filed 4-1-94 as Admin. Order 94-051, eff. 5-1-94; Repealed 10/19/05 as Admin. Order 05-068, eff. 1/2/06

436-130-0070 Refunds

Stat. Auth.: ORS 656.530

Hist: Filed 4-1-94 as Admin. Order 94-051, eff. 5-1-94; Repealed 10/19/05 as Admin. Order 05-068, eff. 1/2/06

436-130-0080 Assessment of Civil Penalties

Stat. Auth.: ORS 656.530

Hist: Filed 4-1-94 as Admin. Order 94-051, eff. 5-1-94; Repealed 10/19/05 as Admin. Order 05-068, eff. 1/2/06

436-130-0090 Issuance/Service of Penalty Orders

Stat. Auth.: ORS 656.530

Hist: Filed 4-1-94 as Admin. Order 94-051, eff. 5-1-94; Repealed 10/19/05 as Admin. Order 05-068, eff. 1/2/06

436-130-0100 Audits

Stat. Auth.: ORS 656.530

Hist: Filed 4-1-94 as Admin. Order 94-051, eff. 5-1-94; Repealed 10/19/05 as Admin. Order 05-068, eff. 1/2/06

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the
PERMANENT Rule(s) adopted on

October 19, 2005 by the
Date prior to or same as filing date

Department of Consumer and Business Services
Workers' Compensation Division
Agency and Division

OAR chapter 436
Administrative Rules Chapter No.

Fred Bruyns
Rules Coordinator

(503) 947-7717
Telephone

350 Winter Street NE; Salem OR 97301-3879, PO Box 14480, Salem OR 97309-0405
Address

to become effective January 2, 2006 was published in the September 2005 *Oregon Bulletin*.**
Date upon filing or later Month and Year

RULEMAKING ACTION

List each rule number separately, 000-000-0000.

ADOPT: 436-001-0023, 436-001-0027, 436-001-0252, 436-001-0259, 436-001-0296

AMEND: 436-001-0003, 436-001-0004, 436-001-0030, 436-001-0170, 436-001-0225, 436-001-0240,
436-001-0265, 436-001-0300, 436-009-0008, 436-045-0008, 436-070-0008, 436-075-0008,
436-080-0070, 436-085-0008, 436-140-0008, 436-150-0008

REPEAL: 436-001-0001, 436-001-0007, 436-001-0008, 436-001-0110, 436-001-0150, 436-001-0160,
436-001-0185, 436-001-0201, 436-001-0210, 436-001-0226, 436-001-0260, 436-130-0000,
436-130-0010, 436-130-0020, 436-130-0030, 436-130-0040, 436-130-0050, 436-130-0060,
436-130-0070, 436-130-0080, 436-130-0090, 436-130-0100

AMEND AND RENUMBER:

From 436-001-0000 to 436-001-0009
From 436-001-0155 to 436-001-0019
From 436-001-0275 to 436-001-0246

ORS 656.726(4)
Statutory Authority

Other Authority

ORS 656.704, Enrolled House Bill 2091 – OL 2005, chapter. 26; OL 1999, chapter 273, section 1
Statutes being Implemented

RULE SUMMARY

The Workers' Compensation Division has amended OAR chapter 436, division 001, "Procedural Rules Governing Rulemaking and Hearings," and several related rules in divisions 009, 045, 070, 075, 080, 085, 140, and 150. Most of the changes are related to passage of House Bill 2091 (Oregon Laws 2005, chapter 26), which moves hearings on workers' compensation matters currently processed by the Office of Administrative Hearings to the Workers' Compensation Board, for all hearings held on or after January 2, 2006. The division has repealed several rules in OAR 436-001 because the Workers' Compensation Board already has rules in place that govern the conduct of hearings. In addition, OAR 436-001 has been reorganized to place rules in a sequence more aligned with the sequence of appeals and hearings.

Certificate and Order for Filing Permanent Administrative Rules
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The Workers' Compensation Division has repealed OAR chapter 436, division 130, "Rehabilitation Facilities," in its entirety. ORS 656.530, the statute implemented by OAR 436-130, was repealed by Oregon Laws 1999, chapter 273, section 1.

Direct questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; or e-mail fred.h.bruyns@state.or.us. Rules are available on the internet: <http://www.wcd.oregon.gov/policy/rules/rules.html>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

/s/ John L. Shilts
Authorized Signer

10/19/05
Date

John L. Shilts, Administrator, Workers' Compensation Division
Printed name

*Copies include a photocopy of this certificate with paper and electronic copies of each rule listed in the Rulemaking Action.

**The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 p.m. on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 p.m. the preceding workday.