

**REVISION-MARKED COPY**

[Bracketed 8 point text is deleted]; **bold/underlined text is added**

**EFFECTIVE April 1, 2005**

**OREGON ADMINISTRATIVE RULES  
CHAPTER 436, DIVISION 009  
OREGON MEDICAL FEE AND PAYMENT RULES**

**NOTE: Only adopted, amended, and repealed rules are included in this document:**

**TABLE OF CONTENTS**

<b>Rule</b>		<b>Page</b>
436-009-0004	Adoption of Standards .....	1
436-009-0008	Administrative Review and Contested Cases .....	1
436-009-0010	General Requirements for Medical Billings .....	4
436-009-0015	Limitations on Medical Billings .....	6
436-009-0020	Hospital Fees.....	8
436-009-0030	Insurer's Duties and Responsibilities .....	10
436-009-0040	Calculating Medical Provider Fees .....	13
436-009-0070	Oregon Specific Code, Other Services .....	14
436-009-0080	Durable Medical Equipment and Medical Supplies .....	19
436-009-0090	Pharmacy Fees .....	20
Appendix A 436-009-0030	.....	22

**The Workers' Compensation Division (WCD) adopts, by reference, parts of the Centers for Medicare & Medicaid Services Medicare Resource-Based Relative Value Scale (RBRVS), the American Society of Anesthesiologists (ASA) Relative Value Guide, and Current Procedural Terminology (CPT®). See OAR 436-009-0004 for details and updated citations.**

- To order the **RBRVS**, contact:  
United States Government Bookstore  
www.nara.gov  
**Ask for: 69 Federal Register No. 219, November 15, 2004**

This copy of the Federal Register is located at:  
**[http://www.access.gpo.gov/su\\_docs/fedreg/a041115c.html](http://www.access.gpo.gov/su_docs/fedreg/a041115c.html)**

- To order the **ASA Relative Value Guide**, contact:  
American Society of Anesthesiologists  
520 N. Northwest Highway  
Park Ridge, IL 60068-2573  
Phone (847) 825-5586  
**Ask for: 2005 Relative Value Guide**
- To order the **CPT® 2005**, contact:  
American Medical Association  
515 North State Street  
Chicago, IL 60610  
Phone (800) 621-8335
- To order the **NUBC UB-92 Data Specifications Manual**, contact:  
National Uniform Billing Committee  
American Hospital Association  
29<sup>th</sup> Floor  
One North Franklin  
Chicago, IL 60606  
Phone (312) 422-3390  
**Ask to: Become a subscriber of the NUBC UB-92 Specifications Manual.**

These rules (OAR 436-009), the RBRVS, and the ASA Relative Value Guide are available from WCD on diskette. See the **Order Form 440-3093** on the last page of these rules, or on the Workers' Compensation Division's Web site:

**[wcd.oregon.gov/policy/bulletins/formsbyno.html](http://wcd.oregon.gov/policy/bulletins/formsbyno.html)**

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

**EXHIBIT "A"  
OREGON ADMINISTRATIVE RULES  
CHAPTER 436, DIVISION 009**

**436-009-0004 Adoption of Standards**

(1) The director adopts, by reference, the Centers for Medicare & Medicaid Services (CMS) 200[4]5 Medicare Resource-Based Relative Value Scale (RBRVS) Addendum B "Relative Value Units (RVUs) and Related Information" except the "status indicators," and Addendum C "Codes with Interim RVUs," [68]69 Federal Register No. [216]219, November [7]15, 200[3]4 as the fee schedule for payment of medical service providers except as otherwise provided in these rules.

(2) The director adopts, by reference, the *American Society of Anesthesiologists (ASA), Relative Value Guide 200[4]5* as a supplementary fee schedule for payment of anesthesia service providers except as otherwise provided in these rules for those anesthesia codes not found in the Federal Register.

(3) The director adopts *The Physicians' Current Procedural Terminology (CPT)*<sup>®</sup> 200[4]5, Fourth Edition Revised, 200[3]4 for billing by medical providers except as otherwise provided in these rules. The guidelines are adopted as the basis for determining level of service.

(4) Specific provisions contained in OAR chapter 436, divisions 009, 010, and 015 shall control over any conflicting provision in Addenda B and C, [68]69 Federal Register No. [216]219, November [7]15, 200[3]4, ASA Relative Value Guide 200[4]5, or CPT<sup>®</sup> 200[4]5.

**Stat Auth:** ORS 656.248, 656.726(4)

**Stats Implemented:** ORS 656.248

**Hist:** Filed 5/27/99 as Admin. Order 99-057, eff. 7/1/99  
Amended 03/15/00 as Admin. Order 00-051, eff. 04/01/00  
Amended 3/8/01 as WCD Admin. Order 01-051, eff. 4/1/01  
Amended 2/25/02 as WCD Admin. Order 02-052, eff. 4/1/02  
Amended 5/28/03 as WCD Admin. Order 03-055, eff. 7/1/03  
Amended 3/4/04 as WCD Admin. Order 04-054, eff. 4/1/04  
Amended 3/23/05 as WCD Admin. Order 05-051, eff. 4/1/05

**436-009-0008 Administrative Review and Contested Cases**

Administrative review before the director:

(1)(a) The director has exclusive jurisdiction to resolve all disputes concerning medical fees and non-payment of compensable medical bills. A party need not be represented to participate in the administrative review before the director except as provided in ORS chapter 183 and OAR chapter 436, division 001.

(b) Any party may request the director provide voluntary mediation after a request for administrative review or contested case hearing is filed. When a dispute is resolved by agreement of the parties to the satisfaction of the director, any agreement shall be reduced to writing and approved by the director. If the dispute does not resolve through mediation, a director's order shall be issued.

(2) The medical provider, injured worker, or insurer may request review by the director in the event of a dispute about either the amount of a fee or non-payment of bills for medical services on a compensable injury. The following time frames and conditions apply to requests

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

for administrative review before the director under this rule:

(a) For all MCO enrolled claims where a party disagrees with an action or decision of the MCO, the aggrieved party shall first apply to the MCO for dispute resolution within 30 days pursuant to OAR 436-015-0110. When the aggrieved party is a represented worker, and the worker's attorney has given written notice of representation, the 30 day time frame begins when the attorney receives written notice or has actual knowledge of the dispute. Administrative review by the director must be requested within 60 days of receipt of the MCO's final decision under the MCO's dispute resolution process. If a party has been denied access to the MCO dispute process or the process has not been completed for reasons beyond a party's control, the party may request director review within 60 days of the failure of the MCO process. If the MCO does not have a process for resolving fee and billing disputes, the insurer shall advise the medical provider or worker that they may request review by the director.

(b) For all claims not enrolled in an MCO, or for disputes which do not involve an action or decision of the MCO, the aggrieved party must request administrative review by the director within 90 days of the date the party knew, or should have known, there was a dispute over the provision of medical services. This time frame only applies if the aggrieved party other than the insurer is given written notice that they have 90 days in which to request administrative review by the director. When the aggrieved party is a represented worker, and the worker's attorney has given written notice of representation, the 90 day time frame begins when the attorney receives written notice or has actual knowledge of the dispute. For purposes of this rule, the date the insurer should have known of the dispute is the date action on the bill was due pursuant to OAR 436-009-0030. Filing a request for administrative review under this rule may also be accomplished in the manner prescribed in OAR chapter 438, division 005.

(c) The director may, on the director's own motion, initiate a medical services review at any time.

(d) When there is a formal denial of the underlying condition or a denial of the causal relationship between the medical service and the accepted condition, the issue must first be decided by the Hearings Division of the Workers' Compensation Board.

(3) Parties [shall] **must** submit requests for administrative review to the director in the form and format prescribed by the director. **When an insurer or the worker's representative submits a request without the required information, at the director's discretion the administrative review may not be initiated until the information is submitted. Unrepresented workers may contact the director for help in meeting the filing requirements.** The requesting party [shall] **must** simultaneously notify all other interested parties of the dispute, and their representatives, if known, as follows:

- (a) Identify the worker's name, date of injury, insurer, and claim number.
- (b) Specify the issues in dispute and the relief sought.
- (c) Provide the specific dates of the unpaid disputed treatment **or services**.

(d) If the request for review is submitted by either the insurer or medical provider, it shall state specific code(s) of service(s) in dispute and include sufficient documentation to support the review request, including but not limited to copies of original HCFA/CMS bills, chart notes, bill

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

analyses, operative reports, any correspondence between the parties regarding the dispute, and any other documentation necessary to evaluate the dispute. The insurer or medical provider requesting review shall certify that the involved parties have been provided a copy of the request for review and attached supporting documentation and, if known, that there is no issue of causation or compensability of the underlying claim or condition.

(4) The division shall investigate the matter upon which review was requested.

(a) The investigation may include, but shall not be limited to, request for and review of pertinent medical treatment and payment records, interviews with the parties to the dispute, or consultation with an appropriate committee of the medical provider's peers.

(b) Upon receipt of a written request for additional information, the party shall have 14 days to respond.

(c) A dispute may be resolved by agreement between the parties to the dispute. When the parties agree, the director may issue a letter of agreement in lieu of an administrative order, which will become final on the 10<sup>th</sup> day after the letter of agreement is issued unless the agreement specifies otherwise. Once the agreement becomes final, the director may revise the agreement or reinstate the review only under one or more of the following conditions:

(A) A party fails to honor the agreement;

(B) The agreement was based on misrepresentation;

(C) Implementation of the agreement is not feasible because of unforeseen circumstances;

or

(D) All parties request revision or reinstatement.

(d) Pursuant to section (6) of this rule, within 30 days of the administrative order, any party may appeal to a contested case before the [director] **Office of Administrative Hearings**.

(5) The director may on the director's own motion reconsider or withdraw any order that has not become final by operation of law. A party may also request reconsideration of an administrative order upon an allegation of error, omission, misapplication of law, incomplete record, or the discovery of new information which could not reasonably have been discovered and produced during the review. The director may grant or deny a request for reconsideration at the director's sole discretion. A request must be mailed to the director before the administrative order becomes final.

(6) Contested cases before the [director] **Office of Administrative Hearings**: Pursuant to **ORS 183.310** through 183.[550]**690**, as modified by OAR [c]chapter 436, [d]division 001 and ORS 656.704(2), any party that disagrees with an action or order of the director pursuant to these rules, may request a contested case **hearing** [before the director]. For purposes of these rules, "contested case" has the meaning prescribed in ORS 183.310(2) and OAR chapter 436 division 001. A party may appeal to the director as follows:

(a) The party must send a written request to the administrator of the Workers' Compensation Division. The request must specify the grounds upon which the order or other action of the director is contested and include a copy of the order being appealed.

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

(b) The appeal must be mailed within 30 days of the mailing date of the order or notice of action being appealed.

(7) Contested case hearings of sanction and civil penalties: Under ORS 656.740 [(§9, ch. 170, OL 2003)], any party that disagrees with a proposed order or proposed assessment of a civil penalty issued by the director pursuant to ORS 656.254, or 656.745 may request a hearing by the Hearings Division of the Workers' Compensation Board as described in OAR 436-010-0008(15).

(8) Director's administrative review of other actions: Any party seeking an action or decision by the director or aggrieved by an action taken by any other party, not covered under sections (1) through (7) of this rule, pursuant to these rules, may request administrative review by the director. Any party may request administrative review as follows:

(a) A written request for review must be sent to the administrator of the Workers' Compensation Division within 90 days of the disputed action and must specify the grounds upon which the action is contested.

(b) The division may require and allow such input and information as it deems appropriate to complete the review.

(c) A director's order may be issued and will specify if the order is final or if it may be appealed in accordance with section (6) of this rule.

**Stat. Auth.:** ORS 656.704, 656.726(4)

**Stats. Implemented:** ORS 656.704

**Hist:** Renumbered from OAR 436-010-0110(1), (2), (3), (4), and (5) to OAR 436-009-0008(2), (3), (4), and (5);  
from OAR 436-010-0110(6) to OAR 436-009-0008(1)(b); and,  
Filed 5/3/96 as Admin. Order 96-059, eff. 6/1/96  
Amended 4/3/98 as Admin. Order 98-052, eff. 7/1/98  
Amended 5/27/99 as Admin. Order 99-057, eff. 7/1/99  
Amended 03/15/00 as Admin. Order 00-051, eff. 04/01/00  
Amended 3/8/01 as WCD Admin. Order 01-051, eff. 4/1/01  
Amended 2/25/02 as WCD Admin. Order 02-052, eff. 4/1/02  
Amended 5/28/03 as WCD Admin. Order 03-055, eff. 7/1/03  
Amended 12/12/03 as WCD Admin. Order 03-068, eff. 1/1/04 (Temporary)  
Amended 3/4/04 as WCD Admin. Order 04-054, eff. 4/1/04  
Amended 3/23/05 as WCD Admin. Order 05-051, eff. 4/1/05

#### **436-009-0010      General Requirements for Medical Billings**

(1) Only treatment that falls within the scope and field of the practitioner's license to practice will be paid under a worker's compensation claim.

(2) All medical providers shall submit bills to the insurer or managed care organization, as provided by their contract for medical services, on a current UB92 or HCFA/CMS 1500 form, except for:

(a) Dental billings which shall be submitted on American Dental Association dental claim forms;

(b) Pharmacy billings, which shall be submitted on the most current NCPDP form;

(c) EDI transmissions of medical bills pursuant to OAR 436-009-0030(3)(c). Computer-generated reproductions of these forms may also be used. Billings shall include the worker's full name, date of injury, the employer's name and, if available, the insurer's claim number.

(3)(a) All original medical provider billings shall be accompanied by legible chart notes

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

documenting services which have been billed, and identifying the person performing the service and license number of person providing the service. Medical doctors are not required to provide their medical license number if they are already providing other identification such as a federal tax reporting identification number, or Unique Provider Identification Number (UPIN).

(b) When processing billings via EDI, the insurer may waive the requirement that billings be accompanied by chart notes. The insurer remains responsible for payment of only compensable medical services. The medical provider may submit their chart notes separately or at regular intervals as agreed with the insurer.

(4) Codes listed in CPT<sup>®</sup> 200[4]5 or Oregon Specific Codes (OSC) shall be used when billing medical services. All billings shall be fully itemized and include ICD-9-CM codes. Services shall be identified by the code numbers and descriptions provided in these rules. A "zz" [modifier] **qualifier** shall be used when billing electronically for services that use Oregon Specific Codes.

(a) If there is no specific code for the medical service, the medical provider shall use the appropriate unlisted code at the end of each medical service section of CPT<sup>®</sup> 200[4]5 and provide a description of the service provided.

(b) Any service not identifiable with a code number shall be adequately described by report.

(5) Billings for treatment shall be rendered at reasonable intervals not to exceed 60 days following treatment. Late billings may be subject to discounts, not to exceed 10 percent for each 30 day period or fraction thereof, beyond 60 days, provided the medical provider has notice or knowledge of the responsible workers' compensation insurer or processing agent.

(6) Rebillings shall indicate that the charges have been previously billed.

(7) The medical provider shall bill their usual and customary fee charged to the general public. The submission of the bill by the medical provider shall serve as a warrant that the fee submitted is the usual fee of the medical provider for the services rendered. The department shall have the right to require documentation from the medical provider establishing that the fee under question is the medical provider's usual fee charged to the general public. For purposes of this rule, "general public" means any person who receives medical services, except those persons who receive medical services subject to specific billing arrangements allowed under the law which require providers to bill other than their usual fee.

(8) Medical providers shall not submit false or fraudulent billings. As used in this section, "false or fraudulent" shall mean an intentional deception or misrepresentation issued with the knowledge that the deception could result in unauthorized benefit to the provider or some other person. The medical provider shall not bill for services not provided.

(9) When a worker with two or more separate compensable claims receives treatment for more than one injury or illness costs shall be divided among the injuries or illnesses, irrespective of whether there is more than one insurer.

(10) Workers may make a written request to a medical provider to receive copies of medical billings. Upon receipt of a request, the provider may furnish the worker a copy during

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

the next billing cycle, but in no event later than 30 days following receipt of the request. Thereafter, worker copies shall be furnished during the regular billing cycle.

**Stat. Auth.:** ORS 656.245 [(§3, ch. 811, OL 2003)], 656.252, 656.254

**Stats. Implemented:** ORS 656.245, 656.252, 656.254

**Hist:** Renumbered from OAR 436-010-0010(5) and (6) to OAR 436-009-0010(1) and (2) ;  
from 436-010-0040(3)(d) and (e) to 436-009-0010(3) and (4);  
from 436-010-0040(7) and (9) to 436-009-0010(4) and (5);  
from 436-010-0040(11) to 436-009-0010(11); and  
Filed 5/3/96 as Admin. Order 96-059, eff. 6/1/96  
Amended 10-2-96 as Admin. Order 96-069, eff. 1-1-97  
Amended 4/3/98 as Admin. Order 98-052, eff. 7/1/98  
Amended 5/27/99 as Admin. Order 99-057, eff. 7/1/99  
Amended 03/15/00 as Admin. Order 00-051, eff. 04/01/00  
Amended 3/8/01 as WCD Admin. Order 01-051, eff. 4/1/01  
Amended 9/13/01 as WCD Admin. Order 01-058, eff. 9/17/01  
Amended 2/25/02 as WCD Admin. Order 02-052, eff. 4/1/02  
Amended 5/28/03 as WCD Admin. Order 03-055, eff. 7/1/03  
Amended 3/4/04 as WCD Admin. Order 04-054, eff. 4/1/04  
Amended 3/23/05 as WCD Admin. Order 05-051, eff. 4/1/05

#### **436-009-0015      Limitations on Medical Billings**

(1) An injured worker shall not be liable to pay for any medical service related to an accepted compensable injury or illness or any amount reduced by the insurer pursuant to OAR chapter 436. A medical provider shall not attempt to collect payment for any medical service from an injured worker, except as follows:

(a) When the injured worker seeks treatment for conditions not related to the accepted compensable injury or illness;

(b) When the injured worker seeks treatment that has not been prescribed by the attending physician or authorized nurse practitioner, or a specialist physician upon referral of the attending physician or authorized nurse practitioner. This would include, but not be limited to, ongoing treatment by non-attending physicians in excess of the 30 day/12 visit period or by nurse practitioners in excess of the 90 day period, as set forth in ORS 656.245 [(§3, ch. 811, OL 2003)] and OAR 436-010-0210;

(c) When the injured worker seeks palliative care that is either not compensable or not authorized by the insurer or the director pursuant to OAR 436-010-0290, after the worker has been provided notice that the worker is medically stationary;

(d) When the injured worker seeks treatment outside the provisions of a governing MCO contract after insurer notification in accordance with OAR 436-010-0275; or

(e) When the injured worker seeks treatment after being notified that such treatment has been determined to be unscientific, unproven, outmoded, or experimental.

(2) A medical provider may not charge any fee for completing a medical report form required by the director under this chapter or for providing chart notes required by OAR 436-009-0010(3) of this rule.

(3) The preparation of a written treatment plan and the supplying of progress notes are integral parts of the fee for the medical service.

(4) No fee shall be paid for the completion of a work release form or completion of a PCE

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

form where no tests are performed.

(5) No fee is payable for a missed appointment except a closing examination or an appointment arranged by the insurer [or the department] or for a Worker Requested Medical Examination. Except as provided in OAR 436-009-0070 **(9)(d) and** (10)(d), when the worker fails to appear without providing the medical provider at least 24 hours notice, the medical provider shall be paid at 50 percent of the examination or testing fee. [A medical arbiter may also receive payment for a file review as determined by the director.]

(6) Pursuant to ORS 656.245 (3), the director has excluded from compensability the following medical treatment. While these services may be provided, medical providers shall not be paid for the services or for treatment of side effects.

- (a) DMSO, except for treatment of compensable interstitial cystitis,
- (b) Intradiscal electrothermal therapy (IDET)
- (c) Surface EMG (electromyography) tests,
- (d) Rolfing,
- (e) Prolotherapy, and
- (f) Thermography.

(7) Only one office visit code may be used for each visit except for those code numbers relating specifically to additional time.

(8) Mechanical muscle testing may be paid a maximum of three times during a treatment program when prescribed and approved by the attending physician or authorized nurse practitioner: once near the beginning, once near the middle, and once near the end of the treatment program. Additional mechanical muscle testing shall be paid for only when authorized in writing by the insurer prior to the testing. The fee for mechanical muscle testing includes a copy of the computer printout from the machine, written interpretation of the results, and documentation of time spent with the patient.

(9)(a) When a physician or authorized nurse practitioner provides services in hospital emergency or outpatient departments which are similar to services that could have been provided in the physician's or authorized nurse practitioner's office, such services shall be identified by CPT<sup>®</sup> codes and paid according to the fee schedule.

(b) When a worker is seen initially in an emergency department and is then admitted to the hospital for inpatient treatment, the services provided immediately prior to admission shall be considered part of the inpatient treatment. Diagnostic testing done prior to inpatient treatment shall be considered part of the hospital services subject to the hospital fee schedule.

(10) Physician assistant, [or] **authorized** nurse practitioner, **or out-of-state nurse practitioner** fees shall be paid at the rate of 8[0]5 percent of a physician's allowable fee for a comparable service. The bills for services by these providers [shall] **must** be marked with modifier "81." Chart notes shall document when medical services have been provided by a physician assistant or nurse practitioner.

(11) Except as otherwise provided in OAR 436-009-0070, when a medical provider is

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

asked to prepare a report, or review records or reports prepared by another medical provider, insurance carrier or their representative, the medical provider should bill for their report or review of the records utilizing CPT<sup>®</sup> Codes such as 99080. Refer to specific code definitions in the CPT<sup>®</sup> for other applicable codes. The billing should include the actual time spent reviewing the records or reports.

**Stat. Auth.:** ORS 656.245, 656.252, 656.254

**Stats. Implemented:** ORS 656.245, 656.252, 656.254

**Hist:** Filed 5/27/99 as Admin. Order 99-057, eff. 7/1/99  
Amended 03/15/00 as Admin. Order 00-051, eff. 04/01/00  
Amended 3/8/01 as WCD Admin. Order 01-051, eff. 4/1/01  
Amended 9/13/01 as WCD Admin. Order 01-058, eff. 9/17/01  
Amended 2/25/02 as WCD Admin. Order 02-052, eff. 4/1/02  
Amended 5/28/03 as WCD Admin. Order 03-055, eff. 7/1/03  
Amended 12/12/03 as WCD Admin. Order 03-068, eff. 1/1/04 (Temporary)  
Amended 3/4/04 as WCD Admin. Order 04-054, eff. 4/1/04  
**Amended 3/23/05 as WCD Admin. Order 05-051, eff. 4/1/05**

### **436-009-0020 Hospital Fees**

(1) Hospital inpatient charges billed to insurers shall include ICD-9-CM diagnostic and procedural codes. Unless otherwise provided for by a governing MCO contract, insurers shall pay hospitals for inpatient services using the current adjusted cost/charge ratio (see Bulletin 290). For purposes of this rule, hospital inpatient services include, but are not limited to, those bills coded "111" through "118" in space #4 on the UB92 billing form. The audited bill shall be multiplied by the hospital's adjusted cost/charge ratio to determine the allowable payment.

(2) Hospital outpatient charges billed to insurers shall include ICD-9-CM diagnostic and procedural codes, CPT<sup>®</sup> codes, HCPCS codes, and National Drug Codes (NDC), where applicable. Unless otherwise provided for by a governing MCO contract, insurers shall pay hospitals for outpatient services according to the following: the insurer shall first separate out and pay charges for services covered under the CPT<sup>®</sup> and RBRVS. These charges should be subtracted from the total bill and the adjusted cost/charge ratio should be applied only to the balance. For all outpatient therapy services (physical therapy, occupational therapy, and speech language pathology), use the non-facility total column. All other charges billed using both the hospital name and tax identification number will be paid as if provided by the hospital.

(3) Each hospital's HCFA/CMS 2552 form and financial statement shall be the basis for determining its adjusted cost/charge ratio. If a current 2552 is not available, then financial statements may be used to develop estimated data. If the adjusted cost/charge ratio is determined from estimated data, the hospital will receive the lower ratio of (1) the hospital's last published cost/charge ratio or, (2) the hospital's cost/charge ratio based on estimated data.

(a) The basic cost/charge ratio shall be developed by dividing the total net expenses for allocation shown on Worksheet A, and as modified in subsection (b), by the total patient revenues from Worksheet G-2.

(b) The net expenses for allocation derived from Worksheet A shall be modified by adding, from Worksheet A-8, the expenses for:

(A) Provider-Based physician adjustment;

(B) Patient expenses such as telephone, television, radio service and other expenses

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

determined by the department to be patient-related expenses; and

(C) Expenses identified as for physician recruitment.

(c) The basic cost/charge ratio shall be further modified to allow a factor for bad debt and the charity care provided by each hospital. The adjustment for bad debt and charity care is calculated in two steps. Step one: Add the dollar amount for net bad debt to the dollar amount for charity care. Divide this sum by the dollar amount of the total patient revenues, from Worksheet G-2, to compute the bad debt and charity ratio. Step two: Multiply the bad debt and charity ratio by the basic cost/charge ratio calculated in (3)(a) to obtain the factor for bad debt and charity care.

(d) The basic cost/charge ratio shall be further modified to allow an adequate return on assets. The director will determine a historic real growth rate in the gross fixed assets of Oregon hospitals from the audited financial statements. This real growth rate, and the projected growth in a national fixed weight price deflator will be added together to form a growth factor. This growth factor will be multiplied by the total fund balance, from Worksheet G of each hospital's HCFA/CMS 2552 to produce a fund balance amount. The fund balance amount is then divided by the total patient revenues from Worksheet G-2, to compute the fund balance factor.

(e) The factors resulting from subsections (3)(c) and (3)(d) of this rule will be added to the ratio calculated in subsection (3)(a) of this rule to obtain the adjusted cost/charge ratio. In no event will the adjusted cost/charge ratio exceed 1.00.

(f) The adjusted cost/charge ratio for each hospital will be revised annually, at a time based on their fiscal year, as described by bulletin. Each hospital shall submit a copy of their HCFA/CMS 2552 and financial statements each year within 150 days of the end of their fiscal year to the Information Management Division, Department of Consumer and Business Services. The adjusted cost/charge ratio schedule will be published by bulletin twice yearly, to be effective for the six-month period beginning April 1, and to be effective for the six-month period beginning October 1.

(g) For those newly formed or established hospitals for which no HCFA/CMS 2552 has been filed **or for which there is insufficient data**, or for those hospitals that do not file Worksheet G-2 with the submission of their HCFA/CMS 2552, the division shall determine an adjusted cost/charge ratio for the hospital based upon the adjusted cost/charge ratios of a group of hospitals of similar size and/or geographic location.

(h) If the financial circumstances of a hospital unexpectedly and/or dramatically change, the division may revise the hospital's adjusted cost/charge ratio to allow equitable payment.

(i) If audit of a hospital's HCFA/CMS 2552 by the CMS produces significantly different data from that obtained from the initial filing, the division may revise the hospital's adjusted cost/charge ratio to reflect the data developed subsequent to the initial calculation.

(j) Notwithstanding subsections (c) through (i) of this section, the cost/charge ratio shall be 1.000 for out-of-state hospitals, unless a lower rate is negotiated between the insurer and the hospital.

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

(k) Notwithstanding section (1) and (2) of this rule, the director may exclude rural hospitals from imposition of the adjusted cost/charge ratio based upon a determination of economic necessity. The rural hospital exclusion will be based on the financial health of the hospital reflected by its financial flexibility index, as originally developed by Dr. William Cleverley. All rural hospitals having a financial flexibility index at or below the median for hospitals nationwide with a bond rating of BBB+, BBB, or BBB- will qualify for the rural exemption. Rural hospitals that are designated as critical access hospitals under the Oregon Medicare Rural Hospital Flexibility Program are automatically exempt from imposition of the adjusted cost/charge ratio.

**Stat. Auth.:** ORS 656.726(4), also see 656.012, 656.236(5), 656.327(2), 656.313(4)(d)

**Stats. Implemented:** ORS 656.248; sec. 2, ch. 771, Oregon Laws 1991; 656.252; 656.256

**Hist:** Renumbered from OAR 436-010-0090(1) through (4), (7) through (32) to OAR 436-009-0020(1) through (29), (32) and (33); from OAR 436-010-0040(4)(b)(A) and (c) to OAR 436-009-0020(30) and (31); from OAR 436-010-0047(6) and (7) to OAR 436-009-0020(34) through (37), and; filed 5/3/96 as Admin. Order 96-059, eff. 6/1/96

Amended 10-2-96 as Admin. Order 96-069, eff. 1-1-97

Amended 4-21-97 as Admin. Order 97-053, eff. 7-1-97

Amended 7-9-97 as WCD Admin. Order 97-056, eff. 7-9-97 (Temp)

Amended 12-15-97 as WCD Admin. Order 97-056, eff. 12-15-97

Amended 4/3/98 as WCD Admin. Order 98-052, eff. 7/1/98

Amended 5/27/99 as Admin. Order 99-057, eff. 7/1/99

Amended 3/8/01 as WCD Admin. Order 01-051, eff. 4/1/01

Amended 2/25/02 as WCD Admin. Order 02-052, eff. 4/1/02

Amended 5/28/03 as WCD Admin. Order 03-055, eff. 7/1/03

Amended 3/4/04 as WCD Admin. Order 04-054, eff. 4/1/04

**Amended 3/23/05 as WCD Admin. Order 05-051, eff. 4/1/05**

### **436-009-0030 Insurer's Duties and Responsibilities**

(1) The insurer shall pay for medical services related to a compensable injury claim, except as provided by OAR 436-060-0055.

(2) The insurer, or its designated agent, may request from the medical provider, any and all necessary records needed to review accuracy of billings. The medical provider may charge an appropriate fee for copying documents in accordance with OAR 436-009-0070(1). If the evaluation of the records must be conducted on-site, the provider shall furnish a reasonable work-site for the records to be reviewed at no cost. These records shall be provided or made available for review within 14 days of a request.

(3) Insurers shall date stamp medical bills and reports upon receipt and pay bills for medical services on accepted claims within 45 days of receipt of the bill, if the billing is submitted in proper form in accordance with OAR 436-009-0010(2) through (4) and clearly shows that the treatment is related to the accepted compensable injury or disease. Billings not submitted in the proper form must be returned or a request for chart notes on EDI billings must be made, to the medical provider within 20 days of receipt of the bill. The number of days between the date the insurer returns the billing or requests for chart notes from the provider and the date the insurer receives the corrected billing or chart notes, shall not apply toward the 45 days within which the insurer is required to make payment.

(a) The insurer shall retain a copy of each medical provider's bill received by the insurer or shall be able to reproduce upon request data relevant to the bill, including but not limited to, provider name, date of service, date the insurer received the bill, type of service, billed amount, coding submitted by the medical provider as described in OAR 436-009-0010(2) and insurer

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

action, for any fee reduction other than a fee schedule reduction. This includes all bills submitted to the insurer even when the insurer determines no payment is due.

(b) Any service billed with a code number commanding a higher fee than the services provided shall be returned to the medical provider for correction or paid at the value of the service provided.

(c) When a medical provider renders a bill via EDI, it shall be considered "mailed" in accordance with OAR 436-010-0005.

(4) Payment of medical bills is required within 14 days of any action causing the service to be payable, or within 45 days of the insurer's receipt of the bill, whichever is later.

(5) Failure to pay for medical services timely may render insurer liable to pay a reasonable monthly service charge for the period payment was delayed, if the provider customarily levies such a service charge to the general public.

(6) When there is a dispute over the amount of a bill or the appropriateness of services rendered, the insurer shall, within 45 days, pay the undisputed portion of the bill and at the same time provide specific reasons for non-payment or reduction of each medical service code. Resolution of billing disputes shall be made in accordance with OAR 436-009-0008, 436-010-0008 and 436-015.

(7) Bills for medical services rendered at the request of the insurer and bills for information submitted at the request of the insurer, which are in addition to those required in OAR 436-010-0240 must be paid for within 45 days of receipt by the insurer even if the claim is denied.

(8) The insurer shall establish an audit program for bills for all medical services to determine that the bill reflects the services provided, that appropriate prescriptions and treatment plans are completed in a timely manner, that payments do not exceed the maximum fees adopted by the director, and that bills are submitted in a timely manner. The audit shall be continuous and shall include no fewer than 10 percent of medical bills. The insurer shall provide upon request documentation establishing that the insurer is conducting a continuous audit of medical bills. This documentation shall include, but not be limited to, medical bills, internal audit forms, and any medical charge summaries prepared by private medical audit companies.

**(9) The insurer must pay a medical provider for any bill related to the claimed condition received by the insurer on or before the date the terms of a disputed claim settlement (DCS) were agreed on, but was either not listed in the approved DCS or was not paid to the medical provider as set forth in the approved DCS. Payment must be made by the insurer as prescribed by ORS 656.313(4)(d) and OAR 438-009-0010(2)(g) as if the bill had been listed in the approved settlement or as set forth in the approved DCS, except if the DCS payments have already been made, the payment must not be deducted from the settlement proceeds. Payment must be made within 45 days of the insurer's knowledge of the outstanding bill.**

<sup>[(9)]</sup>**(10)** Insurers that had at least 100 accepted disabling claims in the previous calendar year, as determined by the director, are required to submit detailed medical service billing data to the Information Management Division of the Department of Consumer and Business Services at

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

350 Winter St NE, Room 300, PO Box 14480, Salem OR 97309-0405. Once an insurer has reached the minimum number of accepted disabling claims, they must continue to report in subsequent years unless there is a significant decrease below the 100 claim minimum which is expected to continue. **If the insurer drops below the 100 disabling claim level or encounters other significant hardships,** [T]the insurer may apply **to the director** for exemption from the reporting requirement. The reporting requirements are as follows:

(a) The director will notify the affected insurers when they reach the minimum. The transmission data and format requirements are included in Appendix A;

(b) The data shall include all payments made during each calendar quarter for medical services that are covered by the department's fee schedules. The following apply:

(A) Hospital Inpatient: Each hospital inpatient stay should be reported as one record summarizing all services related to the inpatient stay using provider type "HI." Report ICD-9-CM procedure code in the service code field.

(B) Hospital Outpatient: Report at the individual service-code level using provider type "HO." A service code, whether CPT<sup>®</sup>, HCPCS or other, is required on all "HO" records in addition to the ICD-9-CM diagnostic code.

(C) Adjustments to payments must be associated with specific services.

(c) The affected insurers shall submit the medical data within 45 days of the end of each calendar quarter. A grace period of two calendar quarters may be granted for revised requirements and also for insurers which are newly affected by these requirements. The calendar quarter due dates are as outlined in the table below:

**QUARTERLY DUE DATES Table**

QUARTER	MONTH OF PAYMENT	DUE NEXT
First	January, February & March	May 15th
Second	April, May & June	August 14th
Third	July, August & September	November 14th
Fourth	October, November & December	February 14th

(d) Technical Requirements: Data for each quarter calendar year must be transmitted as an individual file. Insurers transmitting data for more than one insurer may batch multiple insurer data files in one transmission. Data must be transmitted in electronic text files either on a 3.5 inch diskette, CD, or by file transfer protocol (FTP). Contact the Information Management Division (IMD) to arrange submission by FTP files or other electronic transmission methods. The record length must be fixed, 129 bytes, no packed fields, and in conformance with the records layout in Appendix A. Diskettes must be ASCII format, high density. Diskettes and CDs must have a physical label that indicates "Medical Data," the name of the group submitting, the quarter reported, and the date the file was created. Include a cover letter in the same package with each diskette or CD. Contact IMD for e-mail cover letter instructions. The cover letter must include the label information and the following: a list of all insurance companies' data included in the transmission; number of records; a contact person's name, address, and telephone number; and any known problems with the data.

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

(e) Data Quality: The director will conduct electronic edits for blank or invalid data. Affected insurers are responsible for pre-screening the data they submit to check that all the required information is reported. Files which have more than five percent missing or invalid data in any field, based on initial computerized edits, will be returned to the insurer for correction and must be resubmitted within three weeks (21 days) from the date it was returned by the department.

(f) Audit Quality: The director may also conduct field audits of actual payments reported for individual claims. When an audit occurs, in order to be in compliance with this rule and OAR 436-009-0025, audited data must have no more than 15 percent inaccurate data in any field.

**Stat. Auth.:** ORS 656.726(4)

**Stats. Implemented:** ORS 656.252, 656.325, 656.245, 656.248, 656.260, 656.264

**Hist:** Filed 2/23/82 as Admin. Order 5-1982, eff. 3/1/82  
Amended 1/16/84 as Admin. Order 1-1984, eff. 1/16/84  
Renumbered from OAR 436-69-801, eff. 5/1/85  
Amended 12/10/85 as Admin. Order 6-1985, eff. 1/1/86  
Amended 1/20/88 as Admin. Order 1-1988, eff. 2/1/88  
Amended 9/6/88 as Admin. Order 6-1988, eff. 9/15/88  
Amended 1/5/90 as Admin. Order 1-1990, eff. 2/1/90  
Amended 6/20/90 as Admin. Order 6-1990, eff. 7/1/90 (Temp)  
Amended 12/10/90 as Admin. Order 32-1990, eff. 12/26/90  
Amended 6/11/92 as Admin. Order 13-1992, eff. 7/1/92  
Amended 12/20/94 as Admin. Order 94-064, eff. 2/1/95  
Renumbered from OAR 436-010-0100(8) through (15), (27) and (28) to OAR 436-009-0030 and  
Filed 5/3/96 as Admin. Order 96-059, eff. 6/1/96  
Amended 10-2-96 as Admin. Order 96-069, eff. 1-1-97  
Amended 4-21-97 as Admin. Order 97-053, eff. 7-1-97  
Amended 4/3/98 as WCD Admin. Order 98-052, eff. 7/1/98  
Amended 5/27/99 as Admin. Order 99-057, eff. 7/1/99  
Amended 03/15/00 as Admin. Order 00-051, eff. 04/01/00  
Amended 2/25/02 as WCD Admin. Order 02-052, eff. 4/1/02  
Amended 5/28/03 as WCD Admin. Order 03-055, eff. 7/1/03  
Amended 3/4/04 as WCD Admin. Order 04-054, eff. 4/1/04  
**Amended 3/23/05 as WCD Admin. Order 05-051, eff. 4/1/05**

### **436-009-0040      Calculating Medical Provider Fees**

(1) Medical fees shall be paid at the provider's usual and customary fee or in accordance with the fee schedule whichever is less. For all MCO enrolled claims, payment of medical fees shall be at the provider's usual and customary fee or according to the fee schedule, whichever is less, unless otherwise provided by MCO contract. Where there is no maximum payment established by the fee schedule, an insurer may challenge the reasonableness of a provider's billing on a case by case basis by asking the director to review the billing under OAR 436-009-0008. If the director determines the amount billed is unreasonable, the director may establish a different fee to be paid to the provider based on at least one, but not limited to, the following: reasonableness, the usual and customary fees of similar providers, the services provided in the specific case, fees for similar services in similar geographic regions, and any extenuating circumstances.

(2)(a) When using RBRVS, the RVU is determined by reference to the appropriate CPT<sup>®</sup> code. Where the procedure is performed inside the medical service provider's office, use Year 2004 non-facility total column. Where the procedure is performed outside the medical service provider's office, use Year 2004 facility total column. Use the global column to identify the follow up days when applicable. For all outpatient therapy services (physical therapy,

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

occupational therapy, and speech language pathology), use the Year 2004 non-facility total column. No other column applies.

(b) When an Oregon Specific Code is assigned, the RVU for multidisciplinary program services is found in OAR 436-009-0060(5), or for other services in OAR 436-009-0070 (13).

(c) When using the ASA Relative Value Guide, a basic unit value is determined by reference to the appropriate Anesthesia code. The [basic unit]**anesthesia** value includes **the basic** unit value, time units, and modifying units.

(3) Payment according to the fee schedule shall be determined by multiplying the assigned RVU or basic unit value by the applicable conversion factor. Where the code is designated by an RVU of "0.00" or IC (individual consideration) for Anesthesia codes, it shall be paid at the provider's usual and customary rate.

(4) The table below lists the conversion factors to be applied to services, assigned an RVU, rendered by all medical professionals.

Service Categories	Conversion Factors
Evaluation / Management	\$68.40
Anesthesiology	\$53.45
Surgery	\$93.66
Radiology	\$68.00
Lab & Pathology	\$60.00
Medicine	\$75.04
Physical Medicine and Rehabilitation	\$65.79
Multidisciplinary and Other Oregon-Specific Codes	\$60.00

**Stat. Auth.:** ORS 656.726(4)

**Stats. Implemented:** ORS 656.248

**Hist:** Filed 5/27/99 as Admin. Order 99-057, eff. 7/1/99

Amended 03/15/00 as Admin. Order 00-051, eff. 04/01/00

Amended 3/8/01 as WCD Admin. Order 01-051, eff. 4/1/01

Amended 2/25/02 as WCD Admin. Order 02-052, eff. 4/1/02

Amended 5/28/03 as WCD Admin. Order 03-055, eff. 7/1/03

Amended 3/4/04 as WCD Admin. Order 04-054, eff. 4/1/04

**Amended 3/23/05 as WCD Admin. Order 05-051, eff. 4/1/05**

#### **436-009-0070 Oregon Specific Code, Other Services**

(1) Copies of requested medical records shall be paid under OSC-R0001.

(2) A brief narrative by the attending physician or authorized nurse practitioner, including a summary of treatment to date and current status, and, if requested, brief answers to one to five specific questions related to the attending physician's or authorized nurse practitioner's current or proposed treatment, shall be paid under OSC-N0001.

(3) A complex narrative by the attending physician or authorized nurse practitioner, may include past history, history of present illness, attending physician's or authorized nurse practitioner's treatment to date, current status, impairment, prognosis, and medically stationary information, shall be paid under OSC-N0002.

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

(4) Fees for a PCE and a WCE shall be based upon the type of evaluation requested. The description of each level of evaluation and the maximum allowable payment shall be as follows:

(a) **FIRST LEVEL PCE:** This is a limited evaluation primarily to measure musculoskeletal components of a specific body part. These components include such tests as active range of motion, motor power using the 5/5 scale, and sensation. This level requires not less than 45 minutes of actual patient contact. A first level PCE shall be paid under OSC-99196 which includes the evaluation and report. Additional 15-minute increments may be added if multiple body parts are reviewed and time exceeds 45 minutes. Each additional 15 minutes shall be paid under OSC-99193 which includes the evaluation and report.

(b) **SECOND LEVEL PCE:** This is a PCE to measure general residual functional capacity to perform work or provide other general evaluation information, including musculoskeletal evaluation. It may be used to establish Residual Functional Capacities for claim closure. This level requires not less than two hours of actual patient contact. The second level PCE shall be paid under OSC-99197 which includes the evaluation and report. Additional 15 minute increments may be added to measure additional body parts, to establish endurance and to project tolerances. Each additional 15 minutes shall be paid under OSC-99193 which includes the evaluation and report.

(c) **WCE:** This is a residual functional capacity evaluation which requires not less than 4 hours of actual patient contact. The evaluation may include a musculoskeletal evaluation for a single body part. A WCE shall be paid under OSC-99198 which includes the evaluation and report. Additional 15 minute increments (per additional body part) may be added to determine endurance (e.g. cardiovascular) or to project tolerances (e.g., repetitive motion). Each additional 15 minutes shall be paid under OSC-99193 which includes the evaluation and report. Special emphasis should be given to:

(A) The ability to perform essential physical functions of the job based on a specific job analysis as related to the accepted condition;

(B) The ability to sustain activity over time; and

(C) The reliability of the evaluation findings.

(5) When an attorney requires a consultation with a medical provider, the medical provider shall bill under OSC-D0001.

(6) The fee for a deposition shall be billed under OSC-D0002. This code should include time for preparation, travel and deposition. Payment of the hourly rate may be limited to a customary fee charged by similar providers.

(7) When an insurer obtains an Insurer Medical Examination (IME), the medical service provider shall bill under OSC-D0003. This code shall be used for a report, file review or examination.

(8) The fee for interpretive services shall be billed under OSC-D0004.

(9) Fees for all arbiters and panel of arbiters used for director reviews pursuant to OAR 436-030-0165 shall be established by the director. This fee determination will be based on the complexity of the examination, the report requirements and the extent of the record review. The

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

level of each category is determined by the director based on the individual complexities of each case as compared to the universe of claims in the medical arbiter process. When the examination is scheduled, the director shall notify the medical arbiter and the parties of the authorized fee for that medical arbiter review based on a combination of separate components.

- (a) Level 1 OSC-A0001 Exam
- Level 2 OSC-A0002 Exam
- Level 3 OSC-A0003 Exam
- Limited OSC-A0004 Exam

As determined by the director, a level 1 exam generally involves a basic medical exam with no complicating factors. A level 2 exam generally involves a moderately complex exam and may have complicating factors. A level 3 exam generally involves a very complex exam and may have several complicating factors. A limited exam generally involves a newly accepted condition, or some other partial exam.

- (b) Level 1 OSC-A0011 Report
- Level 2 OSC-A0012 Report
- Level 3 OSC-A0013 Report

As determined by the director, a level 1 report generally includes standard questions. A level 2 report generally includes questions regarding complicating factors. A level 3 report generally includes questions regarding multiple complicating factors.

- (c) Level 1 OSC-A0021 File Review
- Level 2 OSC-A0022 File Review
- Level 3 OSC-A0023 File Review
- Level 4 OSC-A0024 File Review
- Level 5 OSC-A0025 File Review

As determined by the director, a level 1 file review generally includes review of a limited record. A level 2 file review generally includes review of an average record. A level 3 file review generally includes review of a large record or disability evaluation without an exam. A level 4 file review generally includes an extensive record. A level 5 file review generally includes an extensive record with unique factors.

(d) The director shall notify the medical arbiter and the insurer of the approved code for each component to establish the total fee for the medical arbiter review. **If a worker fails to appear for a medical arbiter examination without giving each medical arbiter at least 48 hours notice, each medical arbiter shall be paid at 50 percent of the examination or testing fee. A medical arbiter may also receive payment for a file review as determined by the director.**

(e) If the director determines that a supplemental medical arbiter report is necessary to clarify information or address additional issues, an additional report fee may be established. The fee is based on the complexity of the supplemental report as determined by the director. The

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

additional fees are established as follows:

Limited    OSC-A0031

Complex    OSC-A0032

(f) Prior to completion of the reconsideration process, the medical arbiter may request the director to redetermine the authorized fee by providing the director with rationale explaining why the physician believes the fee should be different than authorized.

(g) The director may authorize testing which shall be paid according to OAR 436-009.

(h) Should an advance of costs be necessary for the worker to attend a medical arbiter exam, a request for advancement shall be made in sufficient time to ensure a timely appearance. After receiving a request, the insurer must advance the costs in a manner sufficient to enable the worker to appear on time for the exam. If the insurer believes the request is unreasonable, the insurer shall contact the director in writing. If the director agrees the request is unreasonable, the insurer may decline to advance the costs. Otherwise, the advance must be made timely as required in this subsection.

(10) A single physician selected pursuant to ORS 656.327 or 656.260, to review treatment, perform reasonable and appropriate tests, or examine the worker, and submit a report to the director shall be paid at an hourly rate up to a maximum of 4 hours for record review and examination.

(a) The physician will be paid for preparation and submission of the report. Billings for services by a single physician shall be billed under OSC-P0001 for the examination and under OSC-P0003 for the report.

(b) Physicians selected pursuant to OAR 436-010-0008, to serve on a panel of physicians shall each receive payment based on an hourly rate up to a maximum of 4 hours for record review and panel examination. Each physician shall bill for the record review and panel examination under OSC-P0002. The panel member who prepares and submits the panel report shall receive an additional payment under OSC-P0003.

(c) The director may in a complex case requiring extensive review by a physician pre-authorize an additional fee. Complex case review shall be billed under OSC-P0004.

(d) If a worker fails to appear for a director required examination without providing the physician with at least 48 hours notice, each physician shall bill under OSC-P0005.

(e) Should an advance of costs be necessary for the worker to attend an exam under ORS 656.327 or 656.260, a request for advancement shall be made in sufficient time to ensure a timely appearance. After receiving a request, the insurer must advance the costs in a manner sufficient to enable the worker to appear on time for the exam. If the insurer believes the request is unreasonable, the insurer shall contact the director in writing. If the director agrees the request is unreasonable, the insurer may decline to advance the costs. Otherwise, the advance must be made timely as required in this subsection.

(11) The fee for a Worker Requested Medical Examination shall be billed under OSC-W0001. This code shall be used for a report, file review, or examination.

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

(12) The table below lists the **Oregon Specific Codes for Other Services**.

<b>Codes</b>	<b>Relative Value</b>	<b>Description</b>
R0001		Copies of medical records when requested shall be paid at \$10.00 for the first page and \$.50 for each page thereafter and identified on billings
N0001	1.71	Brief narrative by the attending physician or authorized nurse practitioner
N0002	3.41	Complex narrative by the attending physician or authorized nurse practitioner
99196	[2.73] <b>3.00</b>	First Level PCE
99197	[4.87] <b>5.36</b>	Second Level PCE
99198	[10.28] <b>11.31</b>	WCE
99193	[0.70] <b>0.77</b>	Additional 15 minutes
D0001	0.00	Attorney consultation time
D0002	0.00	Deposition time
D0003	0.00	Insurer Medical Examination and report
D0004	0.00	Interpretive services
A0001	5.12	Level 1 arbiter exam
A0002	6.82	Level 2 arbiter exam
A0003	8.53	Level 3 arbiter exam
A0004	2.56	Level 4 arbiter exam
A0011	0.88	Level 1 arbiter report
A0012	1.32	Level 2 arbiter report
A0013	1.77	Level 3 arbiter report
A0021	0.88	Level 1 arbiter file review
A0022	2.21	Level 2 arbiter file review
A0023	5.30	Level 3 arbiter file review
A0024	10.23	Level 4 arbiter file review
A0025	13.65	Level 5 arbiter file review
A0031	0.88	Limited arbiter report
A0032	1.77	Complex arbiter report
P0001	4.27	Director single medical review/exam
P0002	4.27	Director panel medical review/exam
P0003	2.17	Director single medical review/report
P0004	5.12	Director complex case review/exam
P0005	2.17	Failure to appear director required examination
W0001	0.00	Worker Requested Medical Examination and report

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

**Hist:** Filed 7/1/99 as Admin. Order 99-057, eff. 7/1/99  
Amended 03/15/00 as Admin. Order 00-051, eff. 04/01/00  
Amended 3/8/01 as WCD Admin. Order 01-051, eff. 4/1/01  
Amended 2/25/02 as WCD Admin. Order 02-052, eff. 4/1/02  
Amended 5/28/03 as WCD Admin. Order 03-055, eff. 7/1/03  
Amended 12/12/03 as WCD Admin. Order 03-068, eff. 1/1/04 (Temporary)  
Amended 3/4/04 as WCD Admin. Order 04-054, eff. 4/1/04  
Amended 3/23/05 as WCD Admin. Order 05-051, eff. 4/1/05

**436-009-0080 Durable Medical Equipment and Medical Supplies**

(1) Fees for durable medical equipment shall be paid as follows:

(a) The insurer shall pay for the purchase of all compensable DME and other devices that are ordered and approved by the physician, at 85% of the manufacturer's suggested retail price (MSR).

(b) The DME provider shall be entitled to payment for any labor and reasonable expenses directly related to any subsequent modifications other than those performed at the time of purchase, or repairs. A subsequent modification is one done other than as a part of the initial set-up at the time of purchase. Labor shall be paid at the provider's usual and customary rate.

(c) The provider may offer a service agreement at an additional cost.

(d) Rental of all compensable DME and other devices shall be billed at the provider's usual and customary rate. Within 90 days of the beginning of the rental, the insurer shall be entitled to purchase the DME or device at the fee provided in this rule, with a credit for rental paid up to 2 months.

(2) Fees for all prosthetics as defined in OAR 436-010-0230 (12), orthotics, and other medical supplies shall be listed as 0.00.

(a) Testing for hearing aids must be done by a licensed audiologist or an otolaryngologist.

(b) Based on current technology, the preferred types of hearing aids for most workers are programmable BTE, ITE, and CIC multi channel. Any other types of hearing aids needed for medical conditions will be considered based on justification from the attending physician or authorized nurse practitioner.

(c) Without approval from the insurer or director, hearing aids should not exceed \$5000.00 for a pair of hearing aids, or \$2500.00 for a single hearing aid.

(3) The worker shall have the right to select the service provider, except for claims enrolled in a managed care organization (MCO) where service providers are specified by the MCO contract.

(4) Except as provided in subsection (2)(c) of this rule, this rule shall not apply to a worker's direct purchase of DME and medical supplies, and shall not limit a worker's right to reimbursement for actual out-of-pocket expenses pursuant to OAR 436-009-0025.

(5) DME, medical supplies and other devices dispensed by a hospital (inpatient or outpatient) shall be billed **and paid** pursuant to OAR 436-009-0020.

**Stat. Auth.:** ORS 656.726(4)

**Stats. Implemented:** ORS 656.248

**Hist:** (See Rule 0999, Admin. Order 99-053 (Temp), eff 3/31/99)

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

Filed 5/27/99 as Admin. Order 99-057, eff. 7/1/99  
Amended 3/8/01 as WCD Admin. Order 01-051, eff. 4/1/01  
Amended 2/25/02 as WCD Admin. Order 02-052, eff. 4/1/02  
Amended 12/12/03 as WCD Admin. Order 03-068, eff. 1/1/04 (Temporary)  
Amended 3/4/04 as WCD Admin. Order 04-054, eff. 4/1/04  
**Amended 3/23/05 as WCD Admin. Order 05-051, eff. 4/1/05**

**436-009-0090 Pharmacy Fees**

(1) Except for in-patient hospital charges, pharmacy fees shall be paid at the provider's usual and customary rate or the maximum allowable fee established by this rule, whichever is the lower.

(a) The Average Wholesale Price (AWP) effective on the day the drug was dispensed shall be used to determine the maximum allowable fee.

(b) The maximum allowable fee is determined as follows:

(A) For generic drugs and for brand name drugs without a generic equivalent, 88% of the AWP for the dispensed drug plus \$8.70 dispensing fee.

(B) For brand name drugs with a generic equivalent, if the prescribing medical service provider writes "Do not substitute" or a similar notation on the prescription, 88% of the AWP for the dispensed drug plus \$8.70 dispensing fee.

(C) For brand name drugs with a generic equivalent, if the prescribing medical service provider did not write "Do not substitute" or a similar notation on the prescription, the lower of 88% of the AWP for the dispensed drug plus \$8.70 dispensing fee, or 88% of the average AWP for the class of generic drugs plus \$8.70 dispensing fee, or, in the event that the pricing guides have not established an average AWP, 88% of the calculated average AWP of the generic drugs listed in the pricing guide plus \$8.70 dispensing fee.

(c) All providers who are licensed to dispense medications in accordance with their practice must be paid similarly regardless of profession.

(2) All prescription medications are required medical services and do not require prior approval under the palliative care provisions of OAR 436-010-0290.

(3) Under ORS 689.515(2) licensed providers may dispense generic drugs to injured workers.

(4) Payment for Oxycontin<sup>®</sup>, Vioxx<sup>®</sup>, Celebrex<sup>®</sup>, and Bextra<sup>®</sup> **and COX-2 inhibitors** is limited to an initial five-day supply unless the prescribing medical service provider writes a clinical justification for prescribing that drug rather than a less costly drug with a similar therapeutic effect.

(a) The clinical justification may accompany the prescription and be submitted by the pharmacist or may be given directly to the insurer by the medical provider.

(b) Clinical justification means a written document from the medical service provider stating the reason he or she believes the drug ordered is the one the patient should have. The justification may be included on the prescription itself and may simply be a brief statement. Insurers and self-insured employers cannot challenge the adequacy of the clinical justification. However, they can challenge whether or not the medication is excessive, inappropriate, or

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

ineffectual in accordance with ORS 656.327.

(c) An additional clinical justification is not necessary for refills of that medication.

(5) Insurers shall use the prescription pricing guide published by First DataBank Inc, Thomson Healthcare, Inc., or Facts & Comparisons (a Wolters Kluwer Health, Inc., Company) for calculating payments to the licensed provider. Insurers must update their source at least monthly.

(6) The worker shall have the right to select the pharmacy, except for claims enrolled in a managed care organization (MCO) where pharmacy service providers are specified by the MCO contract.

(7) Except for sections 2, 3, 4 and 6 of this rule, this rule shall not apply to a worker's direct purchase of prescription medications, and shall not limit a worker's right to reimbursement for actual out-of-pocket expenses pursuant to OAR 436-009-0025.

(8) The insurer shall be required to pay the retail-based fee for over-the-counter medications.

(9) Drugs dispensed by a hospital (inpatient or outpatient) shall to be billed **and paid** pursuant to OAR 436-009-0020.

**Stat. Auth.:** ORS 656.726(4)

**Stats. Implemented:** ORS 656.248

**Hist:** Filed 5/27/99 as Admin. Order 99-057, eff. 7/1/99

Amended 3/8/01 as Admin. Order 01-051, eff. 4/1/01

Amended 2/25/02 as WCD Admin. Order 02-052, eff. 4/1/02

Amended 5/28/03 as WCD Admin. Order 03-055, eff. 7/1/03

Amended 3/4/04 as WCD Admin. Order 04-054, eff. 4/1/04

**Amended 3/23/05 as WCD Admin. Order 05-051, eff. 4/1/05**

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

---

**Appendix A 436-009-0030****RECORD LAYOUT FOR ELECTRONIC DATA TRANSMISSION**

<b>DESCRIPTION</b>	<b>ALPHA NUMERIC</b>	<b>POSITION</b>	<b>LENGTH</b>	<b>REQUIREMENT</b>
Insurer's WCD number	9	1	4	Required
Insurer's claim number	X	5	20	Required
Claimant's SSN	9	25	9	Required
Date of injury (YYYYMMDD)	9	34	8	Required
Medical-only or disabling (M or D)	X	42	1	Optional
Medical provider-type	X	43	2	Required
Medical provider specialty	X	45	3	Required
Medical provider FEIN	X	48	10	Required
Medical provider other Federal Tax Reporting ID number or UPIN	X	58	9	Optional
MCO number	X	67	6	Required
ICD-9-CM diagnosis code	X	73	6	Required
Secondary ICD-9-CM diagnosis code	X	79	6	Optional
Service, drug, or procedure code	X	85	11	Required
Modifier code	X	96	2	Required
Date of service (YYYYMMDD)	9	98	8	Required
Date of payment (YYYYMMDD)	9	106	8	Required
Charge amount sign	X	114	1	Required
Charge amount	9	115	6	Required
Payment amount sign	X	121	1	Required
Payment amount	9	122	6	Required
Number of units or services	9	128	2	Required

1. Refer to Bulletin 220 for additional special field reporting instructions.

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
OREGON MEDICAL FEE AND PAYMENT RULES**

**Appendix A 436-009-0030****RECORD LAYOUT SPECIAL FIELD REQUIREMENTS**

<b>DESCRIPTION</b>	<b>Special Field Requirements</b>
Alpha Numeric (Table Column)	X = Character or alphanumeric data: No lower-case letters; fill empty spaces with blanks and left justify. 9 = Numeric data; right justify numbers including leading zeros; fill empty spaces with zeros.
Length (Table Column)	No compressed or packed fields.
Insurer's WCD number	Workers' Compensation Division insurer number National Association of Insurance Commissioners (NAIC) number, where applicable, is included for reference.
Date of injury (YYYYMMDD)	All dates in the form YYYYMMDD, for example, February 8, 2004 would appear as "20040208."
Medical provider-type	Use code from list of provider-type codes in this appendix.
Medical provider specialty	Use code from list of provider specialty codes in this appendix.
Medical provider FEIN	Use the federal employer identification number that is used for federal tax reporting purposes.
Medical provider other Federal Tax Reporting ID number or UPIN	Report the nine-digit other federal tax reporting identification number that is used for federal tax reporting purposes, or the Unique Provider Identification Number of the individual providing the medical service.
MCO number	See instructions in Bulletin 220.
ICD-9-CM diagnosis code	See instructions in Bulletin 220.
Secondary ICD-9-CM diagnosis code	See instructions in Bulletin 220.
Service, drug, or procedure code	See instructions in Bulletin 220.
Modifier code	Optional CPT <sup>®</sup> or HCPCS modifier codes are required when needed to report a modified service. Do not report physical status modifiers for anesthesia services. See instructions in Bulletin 220 for usage of adjustment modifiers "RF" and "DC" for adjustments. See instructions in Bulletin 220 for usage of modifiers "SG", "NT", "81", "50", and "zz".
Date of service (YYYYMMDD)	All dates in the form YYYYMMDD, for example, February 8, 2004 would appear as "20040208."
Date of payment (YYYYMMDD)	All dates in the form YYYYMMDD, for example, February 8, 2004 would appear as "20040208."
Charge amount sign	If this is a refund or other negative amount, put a minus-sign in this field, otherwise fill with a blank.
Charge amount	Rounded to the nearest whole dollar, for example, a \$300.05 payment would be shown as "000300."
Payment amount sign	If this is a refund or other negative amount, put a minus-sign in this field, otherwise fill with a blank.
Payment amount	Rounded to the nearest whole dollar, for example, a \$300.05 payment would be shown as "000300."
Number of units or services	See instructions in Bulletin 220.

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
 WORKERS' COMPENSATION DIVISION  
 OREGON MEDICAL FEE AND PAYMENT RULES

Appendix A 436-009-0030

Data and Format Requirements:

**PROVIDER TYPES:** Use the following codes to describe the type of medical provider:

TABLE OF MEDICAL PROVIDER-TYPE CODES	
PROVIDER DESCRIPTION	CODE
Acupuncturist	AC
Chiropractor	CH <sub>1</sub>
Dentist	DE
Hospital Inpatient	HI <sub>1</sub>
Hospital Outpatient	HO <sub>1</sub>
Laboratory	LA
Medical Doctor	MD <sub>1</sub>
Medical Supplies	MS
Naturopath	NA
Occupational Therapist	OT
Optometrist	OP
Osteopath	OS <sub>1</sub>
Pharmacy	PH
Physical Therapist	PT
Physician's Assistant	PA <sub>1</sub>
Podiatrist	PO
Radiologist	RA
Registered Nurse Practitioner	NP <sub>1</sub>
Other Medical Provider	OM

1. ICD-9-CM diagnosis codes are required on records with these types.

**PROVIDER SPECIALTY:** If the medical provider-type is "MD", use the following codes to designate the medical provider specialty:

TABLE OF MEDICAL PROVIDER SPECIALTY CODES	
PROVIDER SPECIALTY	CODE
Anesthesiologist	ANE
Dermatologist	DER
Emergency Medicine	EMM
Family Practice	FPR
General Practice	GPR
General Surgeon	GSU
Internist <sub>3</sub>	INT
Neurologist	NEU
Neurosurgeon	NSU
Occupational Medicine	OCC
Ophthalmologist	OPH
Oral Surgeon	OSU
Orthopedist/Orthosurgeon	ORS
Otolaryngologist	OTO
Pathologist	PTH
Physiatrist	PMR
Plastic Surgeon	PSU
Psychiatrist	PSY
Urologist	URO
Other Surgical/non-Surgical Specialists <sub>1</sub>	OTH
Unknown Specialist <sub>2</sub>	UNK

1. Indicates provider specialty does not fit any of the above categories.
2. Indicates provider specialty cannot be determined.
3. All internal medicine specialties.