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OREGON DEPARTMENT OF INSURANCE AND FINANCE
WORKERS' COMPENSATION DIVISION
OREGON ADMINISTRATIVE RULES
CHAPTER 436, DIVISION 120

VOCATIONAL ASSISTANCE TO INJURED WORKERS

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DEPARTMENT OF INSURANCE AND FINANCE
WORKERS' COMPENSATION DIVISION
VOCATIONAL ASSISTANCE TO INJURED WORKERS

EXHIBIT "A"
OREGON ADMINISTRATIVE RULES
CHAPTER 436, DIVISION 120

436-120-001 Authority for Rules

(1) The Director has adopted OAR 436-120 by the Director's authority under ORS 656.340, ORS 656.726(3) and section 15, chapter 600, Oregon Laws 1985.

(2) An order of a division or section, issued under the Director's authority to administer ORS chapter 656 and rules adopted under that chapter, shall be considered an order of the Director.

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Amended 12/12/85 as WCD Admin. Order 7-1985, eff. 1/1/86
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436-120-002 Purpose of Rules

The purpose of these rules is to prescribe:

(1) The terms of eligibility for vocational assistance to workers with disabling compensable injuries, and the nature and extent of the assistance, pursuant to ORS 656.012(2)(c), 656.268(1) and 656.340;

(2) The standards, conditions and procedures for authorizing insurers and vocational rehabilitation organizations to be providers of vocational assistance, for certifying vocational assistance staff, and for suspending and revoking authorizations and certifications, pursuant to ORS 656.340;

(3) Fee schedules and conditions for payment by insurers for requested services of vocational assistance providers, pursuant to ORS 656.258 and 656.340;

(4) Recordkeeping and reporting requirements for insurers to assist the Department in monitoring their compliance with ORS 656.340;

(5) Procedures for resolving dissatisfaction of workers about vocational assistance actions, including procedures for the administrative review by the Director under ORS 656.283; and

(6) The terms of reimbursement to insurers for vocational assistance costs paid for injuries that were sustained prior to January 1, 1986, pursuant to section 15, chapter 600, Oregon Laws 1985.

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436-120-003 Applicability of Rules

(1) These rules govern vocational assistance pursuant to the Workers' Compensation Law on and after January 1, 1988, except as these rules provide otherwise.

(2) Under these rules a claim for aggravation will be considered a new claim. However, a reference to "pre-1986 injuries" relates to injuries sustained before January 1, 1986, and encompasses both original claims and claims for aggravation of such injuries.

(3) Vocational assistance to a worker will be due at any given time with respect only to one claim of the worker. If a dispute arises about which claim gives rise to the need for vocational assistance pursuant to these rules, the Director will designate by an order under which claim vocational assistance is to be provided.

(4) All vocational assistance under these rules must be authorized by the insurer. Appeal of a decision by the insurer shall be made pursuant to ORS 656.283 and OAR 436-120-210.

(5) The Director may modify or waive provisions of these rules if the Director finds that necessary to carry out the provisions of ORS chapter 656.

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436-120-004 Objectives and Priorities of Vocational Assistance

(1) The objective of vocational assistance is to return the worker to employment which is as close as possible to the worker's regular employment at a wage as close as possible to the worker's wage at the time of injury.

(2) For workers determined eligible for vocational assistance under these rules, insurers are required to select the appropriate type of assistance required to accomplish the objective described in section (1). Selection of the type of assistance most likely to return the worker to suitable employment must be made as soon as possible. The priorities to be considered in selecting the appropriate type of assistance are, in order:

(a) Return to suitable employment with the employer at the time of injury if that opportunity arises after the worker has been found eligible under OAR 436-120-040.

(b) Return to suitable employment with a new employer using direct employment services.

(c) Return to suitable employment using training services.

Hist: Filed 12/17/87 as WCD Admin. Order 11-1987, eff. 1/1/88

436-120-005 Definitions

Except where the context requires otherwise, the construction of these rules is governed by the definitions given in the Workers' Compensation Law and as follows:

(1) "Administrative approval" means an approval or finding in a particular matter by the administrator of the Workers' Compensation Division, or the administrator's delegate for the matter.

(2) "Department" means the Department of Insurance and Finance.

(3) "Director" means the director of the Department of Insurance and Finance or the Director's delegate for the matter.

(4) "Division" refers to the Workers' Compensation Division of the Department of Insurance and Finance.

(5) "Employer" means a subject employer, pursuant to ORS chapter 656; and, in the context of the job where an original claim or a claim for aggravation occurred, the person in whose employ the worker sustained the injury or made the claim for aggravation, respectively.

(6) "Employment" used with certain modifiers has the following meanings:

(a) "Suitable employment" means employment of the kind for which the worker has the necessary physical capacities, knowledge, transferable skills and abilities; located where the worker customarily worked, or within reasonable commuting distance of either the worker's residence at the time of claim or current residence.

(A) For the purpose of determining eligibility for vocational assistance, suitable employment includes a wage within 20% of the wage currently being paid for employment which is the regular employment for the worker.

(B) For the purpose of providing vocational assistance, the meaning of "suitable employment" also includes the objective that the employment provide a wage as close as possible to the wage currently being paid for the worker's regular employment. This wage may be considered suitable if not within 20% of the previous wage, if the wage is as close as possible to the previous wage. For other than full-time, permanent employment, suitable wage is determined as described in OAR 436-120-025.

(b) "Regular employment" means employment of the kind the worker held at the time of the injury or the claim for aggravation, whichever gave rise to the eligibility for vocational assistance; or, the worker's customary employment. "Customary employment" is the worker's regular employment when it is other than the job at injury, and is the primary means by which the worker earns a livelihood.

(7) "Insurer" means the State Accident Insurance Fund, an insurer authorized under ORS chapter 731 to transact workers' compensation insurance in Oregon, or a self-insured employer. It also may include, except where the context requires otherwise, a vocational assistance provider with respect to any function the insurer requested the provider to perform. "The insurer" refers to whichever insurer has the worker's claim.

(8) "Return-to-work plan" means either the program of vocational assistance designed to result in the return to work of an injured worker, or the document which establishes and governs that program. A return-to-work plan may be either a "direct employment plan" or a "training plan."

(9) "Section" means the Rehabilitation Review Section of the Workers' Compensation Division of the Department of Insurance and Finance.

(10) "Substantial handicap to employment", for the purposes of determining eligibility for vocational assistance, means the worker, because of the injury, lacks the necessary physical capacities, knowledge, skills and abilities to be employed in suitable employment. "Knowledge", "skills" and "abilities" have meanings as follows:

(a) "Knowledge" means an organized body of factual or procedural information derived from the worker's education, training and experience.

(b) "Skills" means the demonstrated mental and physical proficiency to apply knowledge.

(c) "Abilities" means the mental and physical capability to apply the worker's knowledge and skills.

(11) "Transferable skills" means the knowledge and skills demonstrated in past training or employment which make a worker employable in suitable new employment. More general characteristics such as aptitudes or interests do not, by themselves, constitute transferable skills.

(12) "Vocational assistance" means any of the services, goods, allowances and temporary disability compensation under these rules for assisting in the return to work of an injured worker. The term does not include activities for determining a worker's eligibility for vocational assistance.

(13) “Vocational assistance provider” means an insurer or other public or private organization authorized under these rules to provide vocational assistance to injured workers.

(14) Worsened substantially, or a variation, means the worker, subsequent to becoming medically stationary, has an accepted aggravation claim.

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Amended 5/22/80 as WCD Admin. Order 6-1980, eff. 6/1/80
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436-120-010 Rehabilitation Review Section

The Rehabilitation Review Section is established within the Workers' Compensation Division of the Department of Insurance and Finance for the following principal purposes under these rules:

(1) Assuring that injured workers receive timely, appropriate and cost-effective vocational assistance pursuant to ORS 656.340 and these rules.

(2) Assisting to prevent or resolve dissatisfaction of workers about vocational assistance matters, and assisting in the administrative review by the Director under ORS 656.283(2).

(3) Providing for the authorization of vocational assistance providers and certification of individuals qualified to provide vocational assistance.

(4) Maintaining the integrity of the Department's reimbursement of vocational assistance costs paid by insurers for pre-1986 injuries.

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436-120-020 Reinstatement Rights; Responsibilities of Insurer and Worker

(1) The insurer shall inform a worker of the employment reinstatement rights and responsibilities of the worker under ORS chapter 659 and this rule, and of the insurer's responsibility under ORS 656.340 to make the reinstatement demand on behalf of the worker. This information shall be given:

(a) At the time of claim acceptance, per ORS 656.262(6);

(b) At the time of contact of the worker under OAR 436-120-035 about the need for vocational assistance, per ORS 656.340 (1); and

(c) Within five working days of receiving knowledge of the attending physician's release of the worker to return to work, per ORS 656.340(3).

(2) Subsection (1)(c) and section (3) of this rule apply only to workers with disabling compensable injuries who, because of the injury, have not returned to suitable employment.

(3) The insurer, within five working days of receiving knowledge of the attending physician's release, shall make demand on the employer for reinstatement or reemployment of the worker. This shall be considered a demand of the worker under ORS 659.415 and 659.420. To the extent possible under the insurer's knowledge of the release, the insurer shall make an effective demand in accordance with those statutes and the rules adopted thereunder by the Oregon Bureau of Labor and Industries.

(4) Nothing in this rule affects the responsibility of the attending physician under ORS 656.252(2) to advise the insurer and the worker, at the same time, within five days of the date the worker is released to return to work.

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436-120-025 Establishing Base Wage to Determine Suitable Wage

(1) For the purpose of establishing a base wage from which to calculate a suitable wage when the worker's job at the time of injury is other than a full-time permanent job, the following standards apply:

(a) Volunteer employment. A volunteer's wage is the computed wage established to calculate temporary total disability payments and the employer's workers' compensation premium under OAR 436-60. When the worker's customary employment is other than the volunteer job, and the worker cannot return to that customary employment, the base wage is the computed wage calculated at a rate based on the time worked in the worker's customary employment.

(b) Seasonal and temporary employment. When the worker's customary employment pattern is periods of seasonal or temporary employment followed by periods in which unemployment insurance benefits are collected, the wage is established by including earned wages and unemployment insurance benefits for the 52 weeks preceding the injury. The combined income for the preceding 52 weeks is calculated at a full-time rate to establish the base wage.

(c) Part-time employment, two jobs. When the worker is employed in two part-time jobs and the worker is unable to return to either job, the base wage is the wage rate with the employer at the time of injury, calculated at a rate based on the combined amount of time worked in both jobs.

(2) The Director may prescribe additional standards for establishing a base wage from which the wage described in OAR 436-120-005(6)(a) can be determined.

Hist: Filed 12/17/87 as WCD Admin. Order 11-1987, eff. 1/1/88

436-120-035 Likely Eligibility, Determining Eligibility and Contact of Worker

(1) The insurer shall determine if the worker is likely eligible for vocational assistance when one of the following occurs:

(a) The insurer receives a request for vocational assistance from the worker or the worker's authorized representative; or

(b) The insurer receives a medical report indicating a need for vocational assistance; or

(c) The worker has had 90 consecutive days of time loss.

(2) For likely eligibility to exist, the worker must have an accepted disabling claim or claim for aggravation; and the following information must be sufficient to indicate the worker will probably meet the eligibility criteria under OAR 436-120-040:

(a) A Report of Occupational Injury or Disease (Form 801) or medical report which indicates the severity of the injury; and

(b) A description of the duties, including physical demands, of the job at injury, and the types of jobs available at the employer at injury; and

(c) Information about the worker's work history and education.

(3) If the information required in section (2) is not available, the insurer shall obtain the information within 30 days of the occurrence of any one of the events in subsections (1)(a), (b) or (c) of this rule.

(4) If the worker is found likely eligible, the insurer shall contact the worker within five days of such finding to determine eligibility for vocational assistance.

(5) When the worker becomes medically stationary, if an eligibility determination has not previously been made, and the worker has not returned to regular employment or other suitable employment with the employer at the time of injury, the insurer must contact the worker within five days of learning the worker is medically stationary to determine eligibility for vocational assistance.

(6) As soon as possible, and not more than 30 days after the contact under sections (4) and (5) of this rule, the insurer shall determine whether the worker is eligible for vocational assistance. The individual making this determination for the insurer shall hold certification under OAR 436-120-205.

(7) An evaluation to determine if the worker has a substantial handicap to employment, using those services under OAR 436-120-075(1), shall be provided as part of the eligibility determination if the conditions under OAR 436-120-040(3)(a) and (b) have been satisfied, and a file review is not sufficient to determine if the worker has a substantial handicap to employment.

(8) Upon determining the worker is eligible the insurer and worker shall agree upon a vocational assistance provider pursuant to OAR 436-120-070 and cause vocational assistance to begin.

(9) If the worker has been determined ineligible, and the insurer subsequently receives knowledge of the worker's likely eligibility for vocational assistance, the insurer shall redetermine, by certified staff, whether the worker is eligible pursuant to the conditions in OAR 436-120-055.

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436-120-040 Eligibility for Vocational Assistance

A worker is eligible for vocational assistance when all of the following conditions have been met:

(1) The worker has sustained an accepted disabling compensable injury.

(2) There is medical evidence which indicates that, because of the injury, the worker will likely have a permanent disability; or, the worker has a Determination Order, Order of a Referee, Order on Review by the Workers' Compensation Board, decision of the Court of Appeals or an approved stipulation which grants permanent disability.

(3) As a result of the limitations caused by the injury, the worker:

(a) Is not able to return to regular work or other customary work;

(b) Is not able to return to any other suitable and available work with the employer; and

(c) Has a substantial handicap to employment and requires assistance to overcome that handicap.

(4) The worker is not limited by personal, psychological or physical problems which would materially interfere with the worker's ability to participate in or benefit from vocational assistance.

(5) The worker is authorized to work in the United States. Under OAR 436-120-055(2)(b), the insurer must redetermine eligibility if the worker subsequently obtains authorization to work in the United States.

(6) The worker is available in Oregon for vocational assistance.

(7) None of the conditions under OAR 436-120-050 for end of eligibility:

(a) Applies under the current opening of the claim;

(b) Has previously caused an end of eligibility under the current opening of the claim, except as provided under OAR 436-120-055; or

(c) Has previously caused an end of eligibility under a previous opening of the claim that

reasonably still applies to the determination of eligibility under the current opening of the claim.

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436-120-050 End of Eligibility for Vocational Assistance

The eligibility of a worker for vocational assistance ends when any of the following conditions have occurred:

(1) The worker's lack of suitable employment is no longer due to the disability caused by the injury. Under ORS 656.268(9), however, if the attending physician has approved the worker's return to employment and there is a labor dispute in progress at the place of employment, the refusal of the worker to return to that employment will not cause the loss of any vocational assistance available under these rules.

(2) The worker has been employed in suitable employment after the injury or claim for aggravation for 60 days. This provision shall not apply if the worker is not medically stationary, and further vocational assistance is required to overcome obstacles to the worker's continued employment.

(3) The worker's suitable employment after the injury or aggravation ended for a reason unrelated to the injury.

(4) The worker has refused an offer of suitable employment, or has failed to fully participate in available light-duty work intended to result in suitable employment.

(5) The worker has declined vocational assistance, has become unavailable in Oregon for vocational assistance, or has retired. This does not apply if the worker was compelled to accept early retirement, or a retirement settlement, and seek work elsewhere in lieu of accepting unsuitable employment.

(6) The worker has failed, after written warning, to fully participate in an evaluation of eligibility or a vocational evaluation required by the insurer, or to provide requested information which is material to such evaluations.

(7) The worker has failed, after written warning, to cooperate in the development of a return-to-work plan.

(8) The worker has failed, after written warning, to fully comply with the worker's responsibilities in a return-to-work plan under OAR 436-120-105.

(9) The worker has stopped attending training without notifying either the vocational assistance provider or the insurer.

(10) The worker's lack of suitable employment cannot be resolved by currently providing vocational assistance.

(11) The worker has misrepresented a matter which was material to the evaluation of eligibility or the provision of vocational assistance.

(12) The worker has been determined under ORS 656.268 to have no permanent disability. However, a subsequent stipulation that permanent disability exists will, unless its terms provide otherwise, rescind the end of eligibility under this section, and no interruption in eligibility will be considered to have occurred.

(13) The insurer has denied the claim under which the eligibility was determined.

(14) It is determined the worker is not authorized to work in the United States. Under OAR 436-120-055, the insurer must restore eligibility if the worker subsequently obtains authorization to work in the United States.

(15) The worker has refused to return property provided by the insurer under OAR 436-120-087, or reimburse the insurer, after the insurer has notified the worker of the repossession; or, the worker has misused funds provided for the purchase of property or services under OAR 436-120-087.

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436-120-055 Restoring and Redetermining Eligibility for Vocational Assistance

(1) The insurer may restore the eligibility of a worker if the circumstances which caused the end of eligibility of a worker under OAR 436-120-050(5) or (10) had a reasonable cause but have changed so that there would no longer be a cause for such an ending of eligibility. At any time, the insurer may restore the worker's eligibility if it has determined the original decision to end eligibility to have been made in error. No interruption in eligibility will be considered to have occurred.

(2) The insurer shall redetermine eligibility for a worker previously determined ineligible only under the following conditions:

(a) It was previously determined that the worker could not benefit from vocational assistance because of physical, psychological or other personal problems, and those conditions have changed so that the worker can now benefit from assistance;

(b) It was previously determined that the worker was not authorized to work in the United States, and the worker has subsequently obtained such authorization.

(c) The worker, for good cause, was not available or had declined vocational assistance and is now able to participate;

(d) The insurer had erred in its previous eligibility determination;

(e) The worker's physical condition has substantially worsened, if the worker was medically stationary at the time of the latest eligibility determination; or

(f) The worker had returned to work on the basis of the physician's trial work release and the job was unsuitable.

(3) Except as provided in section (1) of this rule, a worker will not again become eligible, under the current opening of a claim, after eligibility has once ended under OAR 436-120-050.

Hist: Filed 12/12/85 as WCD Admin. Order 7-1985, eff. 1/1/86
Amended and Renumbered from OAR 436-120-095, 12/17/87 as WCD Admin. Order 11-1987, eff. 1/1/88

436-120-070 Selection of Vocational Assistance Provider

(1) The insurer shall select an individual certified under OAR 436-120-205 to determine whether the worker is eligible for vocational assistance. The insurer may make such an evaluation by use of its own certified staff, or may assign the worker to a vocational assistance provider holding authorization under OAR 436-120-200.

(2) For a worker determined eligible for vocational assistance under OAR 436-120-040, the insurer and worker shall agree on the selection of a vocational assistance provider. If they are unable to agree, the insurer shall notify the Rehabilitation Review Section immediately. The Section will attempt to resolve the dispute in accordance with the provisions of OAR 436-120-210. If agreement is not reached, the Director shall select the provider. Such selections are at the sole discretion of the Director. In making such selections the Director may consider, but is not limited to, any or all of the following criteria:

(a) The performance of the provider in returning workers to suitable employment.

(b) The ability of the provider to meet any special needs of the worker.

(c) The cost of the provider's services.

(d) The performance of the provider in developing return-to-work plans which conform to these rules.

(e) The geographic proximity of the provider to the worker.

(3) Any change in the selection of vocational assistance provider must be agreed to by the worker and insurer, and is subject to the approval of the Director.

(4) Immediately upon suspension or revocation of the authorization of a vocational assistance provider under OAR 436-120-203, the insurer shall reassign the affected worker to another authorized provider.

(5) In accordance with ORS 656.258, if the insurer assigns a worker to a vocational assistance provider for vocational assistance services or determining the worker's eligibility for vocational assistance, the insurer shall pay, within 60 days of receipt, the provider's billings duly rendered under the agreement between the insurer and the provider. The insurer shall not deny payment on the grounds that the worker was not eligible for the assistance, if the provider performed the services in good faith without knowledge of the ineligibility.

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436-120-075 Kinds of Vocational Assistance

The following kinds of vocational assistance are available under the terms of these rules:

(1) Vocational evaluation. A vocational evaluation shall be provided if the insurer determines from a review of the existing file information and contacts with the worker, employers and physicians,

or any of these, that the existing information is insufficient to determine the nature and extent of vocational assistance needed by the worker to obtain suitable new employment. A vocational evaluation includes any one or more of the following services:

(a) Vocational testing. Vocational testing is used to measure intelligence, aptitudes, achievements, abilities, interests and personality, by using standard and generally accepted measures.

(b) Work evaluation. Work evaluation is the use of standardized work samples, psychometric and other vocational tests, in a systematic and comprehensive process to determine worker's vocational abilities and needs, and the interpretive report which documents the results and meaning of the evaluation.

(c) On-the-job evaluation. On-the-job evaluation is provided to evaluate a worker's work traits, aptitudes, limitations, potentials and habits in an actual job experience.

(d) Other similar evaluations.

(e) Job analysis. Job analysis is the detailed description, or making the description, of the demands, physical and otherwise, of a job or occupational goal.

(f) Labor market survey. Labor market survey is the information compiled, or the compiling activity, to determine the wages and availability of suitable employment, currently or expected at a future time, obtained from direct contact with employers, others having actual labor market information or from other recently completed surveys of this kind.

(2) Direct employment plan. A direct employment plan assists a worker to obtain suitable new employment, with the help of one or more direct employment services as follows:

(a) Employment counseling.

(b) Job search skills instruction. Job search skills instruction is used to teach workers how to write resumes, locate suitable new employment, complete employment applications, interview for employment and other skills related to looking for suitable new employment.

(c) Job development. Job development is locating, or assisting the worker to locate prospective employers, and assisting the worker in related return-to-work activity.

(d) Return-to-work follow-up. Return-to-work follow-up is contacting a worker and employer after the worker returns to work to determine if the worker needs further assistance, while the worker remains eligible, to help continue the employment.

(e) Labor market survey.

(f) Job analysis.

(g) Other services of a direct employment nature. For pre-1986 injuries, administrative approval is required.

(3) Training plan. A training plan assists a worker to obtain suitable employment and consists of one or more of the kinds of training described in this section, together with plan development, progress monitoring and, as necessary, one or more of the direct employment services under section (2) of this rule. The kinds of training are as follows:

(a) On-the-job training. This is a wage-paying job furnishing instruction in job skills to qualify

the worker for the continuation of permanent, suitable employment with the employer providing the job and the training. During the training the wages are subsidized as specified by a contract between the employer and the insurer, and the temporary disability compensation payable to the worker is reduced as provided in ORS 656.212.

(b) Skills training. This teaches the worker job skills in a self-contained program under the auspices of a community college, but with the training site at the location of an employer who teaches the skills on behalf of the college.

(c) Sheltered workshop training. This is provided in a facility established and operated to provide evaluation, training and employment for severely disabled individuals.

(d) Basic education. This raises the worker's relatively low level of education so the worker can obtain suitable employment directly or through participation in other training.

(e) Formal training. This teaches the worker job skills in a vocational school, community college or other post-secondary educational facility.

(f) Other services of a training nature. For pre-1986 injuries, administrative approval that the services provide necessary training assistance is required.

(4) Direct worker purchases. The goods, services and allowances described in OAR 436-120-087 may be provided by the insurer to the worker in conjunction with the plans and services under these rules, or to meet the requirements of obtained employment.

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436-120-080 Vocational Evaluation

(1) Vocational evaluations shall incorporate, and not duplicate, information derived from an evaluation to determine whether the worker has a substantial obstacle to employment.

(2) Vocational testing. Any test used must have a sufficient level of validity and reliability for the population which includes the worker. The reporting of test results shall include any applicable cautions relating to the reliability and validity of the results.

(3) On-the-job evaluation. On-the-job evaluation is subject to all of the following conditions:

(a) The job experience is primarily for the worker's benefit;

(b) The job experience will not necessarily result in a permanent job with the cooperating employer;

(c) The employer does not expect a substantial gain from the worker's activity; and

(d) The worker does not displace another worker.

Hist: Filed 12/17/87 as WCD Admin. Order 11-1987, eff. 1/1/88

436-120-083 Direct Employment

(1) The insurer shall develop a direct employment plan for an eligible worker when the insurer

finds one or more direct employment services under OAR 436-120-075 sufficient to enable the worker to obtain suitable new employment. A finding that a direct employment plan is sufficient also requires a finding that the worker has the necessary transferable skills for the new employment.

(2) The insurer shall provide return-to-work follow-up during the first 60 days after the worker becomes employed, while direct employment services are available under section (4) of this rule, and for as long as the insurer finds necessary to help continue the employment while the worker remains eligible.

(3) Direct employment services shall not be provided to a worker after the insurer has found that the obstacle to obtaining suitable employment is the condition of the labor market rather than the worker's disability. This can only be found by establishing that:

(a) The worker's permanent limitations have been defined, as evidenced by a determination under ORS 656.268 or otherwise;

(b) The worker has adequate job search skills; and

(c) Positions of suitable employment exist in a reasonable quantity, and are likely to remain so, regardless whether the positions are currently available.

(4) Except as provided in section (5) of this rule, direct employment services shall not be provided to a worker after four months from the earliest Determination Order, Opinion and Order of a Referee, Order on Review by the Board, decision of the Court of Appeals or stipulation which grants or continues a permanent disability award after the latest opening of the worker's claim. However, if there has been no previous eligibility under that claim opening, the four months will start to run upon the insurer's determining that the worker is eligible.

(5) Section (4) of this rule does not apply to labor market surveys or job analyses as part of an eligibility evaluation, vocational evaluation, or to return-to-work follow-up during the first 60 days after the worker becomes employed. Direct employment services may be available beyond the expiration date under section (4) if circumstances caused the worker to receive less than the normal extent of services and to need further services. For pre-1986 injuries such additional services require administrative approval.

(6) Vocational assistance costs during direct employment services are subject to the conditions under OAR 436-120-087, 215 and 220.

(7) The insurer may provide other services of a direct employment nature not described in these rules. For pre-1986 injuries, administrative approval is required.

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436-120-085 Training

(1) The insurer shall develop a training plan for an eligible worker only when the insurer finds that a direct employment plan is not sufficient for the worker to obtain suitable new employment, other than by reason of the condition of the labor market; and, the worker, only with the training provided under section (2), can return to employment which pays a wage significantly closer to the wage at the time of injury. "Significantly closer" may vary depending on several factors, including the worker's wage at injury.

(2) Training of any and all kinds is limited to an aggregate duration of 16 months, subject to extension to 21 months by the Director for a worker with an exceptional disability. An "exceptional disability" means the complete loss, or loss of use, of two or more limbs. Such extent of disability shall be the standard for determining whether other disabilities are exceptional under this section.

(3) A worker enrolled and actively engaged in training shall receive temporary total disability compensation subject to the limits in section (1). At the insurer's discretion, training costs may be paid for periods longer than 21 months, but in no event shall temporary total disability compensation be paid for a period longer than 21 months. Temporary total disability compensation and vocational assistance costs during training are also subject to the conditions under OAR 436-120-087, 215, 220, 230 and 250.

(4) The selection of the plan objectives and kind of training shall attempt to minimize the length and cost of training necessary to prepare the worker for suitable employment.

(5) The insurer shall not provide any further training to a worker who has completed one training plan, unless the worker's physical condition has worsened substantially so as to render the worker incapable of obtaining suitable employment; or, the previous plan is inadequate to prepare the worker for suitable employment because of an error or omission by the insurer.

(6) On-the-job training shall be the first option considered in developing a training plan. If on-the-job training is not possible, skills training shall be considered before formal training.

(7) Basic education is limited to a duration of six months. It is normally provided as part of a plan in conjunction with on-the-job training, skills training or formal training.

(8) On-the-job training and skills training are limited to a duration of 12 months.

(9) Skills training is subject to the following conditions:

(a) The employer makes no guarantee of employing the worker when the training is completed;

(b) The worker does not displace another worker;

(c) No wage is paid to the worker;

(d) The employer does not expect a substantial gain from the worker;

(e) The activity is primarily for the worker's benefit; and

(f) The employer has a sufficient number of employes to accomplish the regular work of the employer and the training of the worker.

(10) Training shall end if any of the following applies:

(a) The work which is the vocational objective could not be performed adequately by the worker as documented by a physical capacities evaluation.

(b) The worker's performance in the training falls below the level which is satisfactory to obtain employment in the field which is the vocational objective. In an academic program, failure for two consecutive grading periods to maintain at least a 2.00 cumulative grade point average, or failure for two grading periods to complete the minimum credit hours required under the training plan, is prima facie evidence of unsatisfactory performance. The worker shall be given written warning of the possible end of training at the end of the first grading period of unsatisfactory performance.

(c) The worker has failed to cooperate in meeting the requirements of the training plan.

(d) The worker is not enrolled and actively engaged in the training. However, none of the following will be considered as ending the worker's training status:

(A) A regularly scheduled break of not more than six weeks between fixed school terms.

(B) A break of not more than two weeks between the end of one kind of training and the start of another, such as on-the-job training, for which the starting date is flexible.

(C) A period of illness or recuperation which does not prevent completion of the training by the planned date.

(e) The worker has obtained suitable employment.

(f) Any of the conditions under OAR 436-120-050 for ending eligibility applies.

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436-120-087 Direct Worker Purchases

(1) Direct worker purchases shall be provided as necessary for the worker's participation in vocational assistance; as necessary elements of evaluation, direct employment or training services; and, as necessary to meet the requirements of an obtained job. The insurer shall provide direct worker purchases under the conditions and limitations in this rule. In determining the necessity of such purchases, the insurer shall consider, among all factors, the worker's pre-injury net income as compared with the worker's post-injury net income. Except for purchases under subsections (2)(a) and (c) of this rule, the worker's pre-injury net income must be found greater than the worker's post-injury net income, to find the purchase necessary. Permanent partial disability award payments shall not be considered as income under this rule. The worker shall provide the information reasonably requested for determining necessity.

(2) Direct worker purchases include partial purchase, lease, rental and payment. For pre-1986 injuries, OAR 436-120-220 prescribes further conditions for some purchases over $1,000. The conditions and limits for direct worker purchases are as follows:

(a) Tuition, fees, books and supplies for training or studies. The items shall have been identified as mandatory by the instructional facility, trainer or employer, and shall pertain to the following:

(A) Training.

(B) A class necessary to meet the requirements of an available job.

(C) Vocational or academic studies, or basic education, for a worker not medically stationary, to enable earlier return to work of a worker not needing training, or earlier completion of training of a worker not yet capable of fully participating in training.

(b) Travel expenses for transportation, meals and lodging required for participation in vocational assistance. The conditions and rates for payment of travel expenses are as follows:

(A) Transportation. Costs shall be paid at public transportation rates when public transportation is available. Otherwise, private car mileage for reasonable distances shall be paid at $.21 per mile. Mileage payment in conjunction with moving expenses shall be allowed only for one

vehicle and for a single one-way trip. Costs incidental to the private vehicle mileage, such as parking fees, also shall be paid. For workers receiving temporary total disability, transportation costs shall be paid only for those costs in excess of what the worker paid for transportation at the time of injury.

(B) Meals, non-overnight travel. Actual meal costs up to a total of $10 shall be paid for a day during which the worker was away from home for at least 10 hours.

(C) Meals and lodging, overnight travel. For overnight travel, meal and lodging expense will be reimbursed under a 24-hour allowance system. The total allowance, with receipts for commercial lodging, is $46 for a 24-hour period of travel, increased or decreased by $1 for each hour of travel more or less than the 24-hour period. The adjustment will be based on the number of hours after rounding to the nearest whole number.

(D) Special travel costs. Payment shall be made in excess of the amounts specified in paragraphs (A), (B) and (C) of this subsection when special transportation or lodging is necessary because of the physical needs of the worker, or when the insurer finds that prevailing costs in the travel area are substantially higher than average.

(c) Tools and equipment for training or obtained employment. The items shall be limited to those which are mandatory for the training or initial employment, such as starter sets. Purchases shall not include what the trainer or employer ordinarily would provide to all employes or trainees in the training or employment, what the worker possesses or, in the case of obtained employment, what the worker could reasonably be expected to provide.

(d) Clothing required for participation in vocational assistance or for obtained employment. Purchases shall not include what the trainer or employer would provide. In determining whether a purchase is necessary, the insurer shall consider the clothing the worker possesses. Purchases for training shall be limited to specialized clothing not possessed by the worker.

(e) Moving expenses. Payment requires that the worker have obtained employment outside reasonable commuting distance, or that moving is the most feasible and economical way for the worker to participate in training. Payment shall be limited to covering the moving of household goods weighing in total not more than 10,000 pounds and, if necessary, paying reasonable costs of meals and lodging for the worker's family. In determining the necessity of paying moving expenses the insurer shall consider the availability of employment which does not require moving, or which requires less than the proposed moving distance. The insurer shall inform the worker that payment for moving expenses is limited to a single one-way trip, unless an exception is made for unusual circumstances. For pre-1986 injuries the exception requires administrative approval.

(f) Second residence allowance. The purpose of the second residence must be to enable the worker to participate in training outside reasonable commuting distance. The allowance shall equal the rental expense reasonably necessary, plus not more than $100 per month toward all other expenses of the second residence, excluding refundable deposits, which are in addition to the continuing expenses of the primary residence.

(g) Primary residence allowance. This allowance shall be limited to first and last months' rent, and requires the worker to have changed residence for training or obtained employment.

(h) Medical examinations and psychological examinations. Payment requires that these be for conditions not related to the compensable injury and only for determining the worker's ability to

participate in vocational assistance.

(i) Physical capacities evaluation. Physical capacities evaluation is the objective assessment, directly observed, measuring the worker's ability to perform a variety of physical tasks combined with statements of the worker's abilities by the worker and the evaluator. Physical tolerance screening, Blankenship's Functional Evaluation, functional capacity assessment and work tolerance screening shall be considered as having the same meaning. Physical capacities evaluations are used to determine whether the worker can perform a specific job or whether a particular vocational goal is within the worker's physical capacities.

(j) Dental work, eyeglasses, hearing aids and prosthetic devices. Payment requires that these be for conditions not related to the compensable injury and for enabling the worker to obtain suitable employment.

(k) Dues and fees of a labor union. Payment shall be limited to initiation fees, or back dues and one month's current dues, of a labor union which is the bargaining agent for the employment obtained by the worker.

(l) Vehicle rental or lease. This requires that there be no reasonable alternative for enabling the worker to participate in vocational assistance or accept an available job, and the that the worker is not receiving temporary total disability compensation or equivalent income. The cost under this category is limited to $1,000.

(m) Child and disabled adult care services. These are payable at rates not exceeding the prevailing rates, if the services are required to enable the worker to participate in vocational assistance. For workers receiving temporary total disability compensation or equivalent income, these costs shall be paid only when in excess of what the worker paid for such services at the time of injury, and where such costs result from a change in the worker's schedule at the time of injury.

(n) Living expense allowance during vocational evaluation. This allowance requires that the worker be involved in a vocational evaluation at least five hours daily for four or more consecutive days, and not be receiving temporary disability payments or equivalent income. The allowance shall not exceed what the worker would receive for temporary total disability if the worker's claim were reopened.

(o) Work adjustment cost. Payment is limited to covering necessary work adjustment activity for up to eight weeks.

(p) Any other direct worker purchase the insurer considers necessary under the standards of section (1) of this rule. Payment is limited to $500 for this category.

(3) Administrative approvals under this rule will be based on whether the purchases are necessary under the standards of section (1) of this rule, and such other limits as may be established by the Director. The insurer's request for administrative approval shall be accompanied by information showing such necessity.

(4) Direct worker purchases shall not include purchases of real property, payment of fines or other penalties, or payment of additional driver's license costs or any other costs attributable to problems with the worker's driving record.

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436-120-105 Return-to-Work Plans and Plan Support

(1) Return-to-work plans shall be in the form and format prescribed by the Director.

(2) Return-to-work plan support shall contain all of the following:

(a) A description of the worker's current medical condition, relating the worker's limitations to the vocational objectives.

(b) A description of the worker's education and work history, including job durations, wages and specific job duties.

(c) If a direct employment plan, a description of the worker's transferable skills which relate to the vocational objectives. If a training plan, why direct employment services are not sufficient to return the worker to suitable employment.

(d) A summary of the results of any vocational evaluations which relate to the vocational objectives.

(e) A summary of labor market information which supports vocational objectives, and documents that the worker has been informed of the condition of the labor market. If the labor market does not support the vocational objectives, the insurer shall explain why the objectives remain the goal for the worker.

(3) Training plan support shall contain a job analysis made by the vocational assistance provider, signed by the provider or treating physician, and based on a visit to a worksite comparable to what the worker could expect at the completion of training.

(4) If, in the development or implementation of a return-to-work plan, there appears the likelihood of suitable employment with the employer, plan development or efforts to obtain new employment shall cease. The insurer shall then provide services with the objective of returning the worker to the employer until suitable employment with a new employer appears more feasible. If the worker is actively engaged in training, training shall not cease until and unless the insurer is certain the job is suitable employment.

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436-120-115 Return-to-Work Plans; Responsibilities of the Worker and the Provider

Workers and vocational assistance providers have the following responsibilities in connection with return-to-work plans:

(1) The worker shall maintain contact with the vocational assistance provider as required in the plan, and fully participate in plan services.

(2) In addition to the requirements in OAR 436-120-085(10), workers in training plans have the following responsibilities:

(a) In formal training, the worker shall take the maximum courseload consistent with the worker's capabilities. This shall be at least 15 credit hours per term or nine hours per summer term, or the equivalent courseload at the particular training facility. Twelve credit hours will be an acceptable courseload for one term if the worker has reduced capabilities because of medical problems, prolonged time since last attending school or need of remedial education. To the extent feasible the courses shall relate to the vocational objective.

(b) The worker shall provide specific training and grade reports as required by the insurer or section (3) of this rule.

(3) For pre-1986 injuries the worker and vocational assistance provider shall have the following additional responsibilities:

(a) The worker shall provide to the vocational assistance provider, by the fifth day of each month, a written training report about the previous month which documents attendance, training progress, and problems or special needs.

(b) The worker shall forward each grade report to the vocational assistance provider within 10 days of the worker's receipt of the report.

(c) The vocational assistance provider shall visit each training site to establish the curriculum and assist the worker in enrollment. The provider shall contact the worker, trainers and training facility counselors to the extent necessary to assure the worker's participation and progress in the training meet the requirements of these rules and is satisfactory to achieve the training plan objective. If the training site is outside Oregon or is otherwise not reasonably accessible, telephone contact should be used. If the vocational assistance provider fails to reasonably verify the worker's participation and progress in accordance with this subsection and additional costs thereby result, the insurer or provider may be required to bear the additional costs, including additional costs under OAR 436-120-250(4).

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436-120-160 Notices to Worker, Attorney and Department

(1) The insurer shall notify a worker in writing, by means of the return-to-work plan or otherwise, whenever the insurer:

(a) Determines the worker is not likely eligible under OAR 436-120-035, if this determination was initiated by the worker's request for vocational assistance.

(b) Determines under OAR 436-120-040 that the worker is eligible or ineligible for vocational assistance. However, no notice of ineligibility is required if the worker was determined ineligible because of return to regular or other suitable employment with the employer. Every notice of ineligibility shall notify the worker of possible assistance available at no cost from the Employment Division or the Vocational Rehabilitation Division. Such notice shall also inform the worker that the insurer shall send the list of vocational assistance providers authorized under OAR 436-120-200 upon the worker's request.

(c) Reaches agreement with an eligible worker on the initial selection of a vocational assistance provider; or, any agreement to change the provider.

(d) Denies particular or further vocational assistance, and the worker then indicates dissatisfaction about the nature or extent of vocational assistance which will be provided.

(e) Ends training, whether or not the insurer anticipates resumption of training.

(f) Ends eligibility for vocational assistance.

(2) Warning notices required under OAR 436-120-050 and 085(10) shall state the reason, the relevant and material rules and, if applicable, the corrective action needed within a specified time to

avoid the ending of vocational assistance.

(3) Every notice stating the worker's ineligibility for vocational assistance, denying particular or further vocational assistance, or ending eligibility for vocational assistance, shall contain a brief explanation of the decision, a citation of the relevant and material rules, and an explanation of the worker's appeal rights. The equivalent of the following shall be used to explain the appeal rights: if you disagree with this decision, you should contact (use appropriate reference to the insurer). If you remain dissatisfied you should contact Rehabilitation Review Section, Workers' Compensation Division, Department of Insurance and Finance, (use appropriate mailing address). This contact must be made within 60 days of receiving this letter or you will lose your right to appeal this decision." Pursuant to ORS 656.331(1)(b), copies of such notices shall be sent simultaneously to the worker's attorney.

(4) Every notice shall be dated and shall state the effective date of the action of which notice is given.

(5) The insurer shall give the same written notice to the Department as to the worker, unless the Director prescribes otherwise. The Director will also prescribe the time and place for giving the notice to the Department.

(6) The Director may prescribe other specific contents for the notices required under this rule.

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436-120-170 Filing of Status Report, Return-to-Work Plan and Supporting Information; Review

(1) The insurer shall file a status report with Rehabilitation Review Section for each worker whom the insurer was required under OAR 436-120-035 to contact to determine eligibility for vocational assistance. The report shall provide information about the determination of vocational assistance eligibility and the development of a return-to-work plan, and other information prescribed by the Director. The insurer shall make the filing as indicated for the first to occur of the following:

(a) The development of a return-to-work plan, or the completed negotiation of an agreement under the Workers' Reemployment Reserve rules. The filing shall be within ten days after the signing of, and shall be accompanied by, the plan or contract.

(b) The 135th day after the date of injury or claim for aggravation. The filing shall be no later than that 135th day.

(c) For a pre-1986 injury, the submission of the insurer's first reimbursement request under the claim. The filing shall accompany the request.

(2) The insurer shall make subsequent filings of status reports as prescribed by the Director.

(3) The insurer shall complete development of a return-to-work plan no later than:

(a) Two months after the determination of eligibility under OAR 436-120-035 if the worker was medically stationary at the time of such determination; or

(b) Four months after the determination of eligibility under OAR 436-120-035 if the worker was not medically stationary at the time of such determination.

(4) The insurer shall file the plan with Rehabilitation Review Section within ten days after completion.

(5) If the plan is subsequently changed with respect to vocational objective or kind of vocational assistance, the insurer shall file the amended plan with Rehabilitation Review Section within ten days after completing the development of the amended plan. Related vocational objectives developed in the course of a direct employment plan will not require filing of an amended plan.

(6) Unless the Director prescribes otherwise, and so notifies the insurer, an insurer shall include with its filings of return-to-work plans the supporting information for the plan. In determining whether a particular insurer will not be required to file the supporting information, the Director will consider the Department's findings on conformance to these rules of previous plan and plan support filings of the insurer or the insurer group with which the insurer is affiliated.

(7) To the extent the Director considers necessary, Rehabilitation Review Section will review return-to-work plans and the supporting information for conformance to these rules. If the Section notifies an insurer that a plan or its supporting information does not conform to these rules, the insurer shall respond with appropriate changes or reasons why no change should be made.

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436-120-180 Informing Worker of Rights and Responsibilities

(1) The insurer shall inform a worker, at the indicated times, of the following matters:

(a) The worker's rights and responsibilities, and the procedures for resolving any dissatisfaction of the worker with an action of the insurer or the Department, regarding vocational assistance. Such information shall include the worker's participation in the selection of a vocational assistance provider. This information shall be given no later than the time the insurer informs the worker of the eligibility determination.

(b) Employment reinstatement matters, as provided under OAR 436-120-020.

(c) The assistance available to employers and workers from the Workers' Reemployment Reserve. This information shall be given at the time of acceptance of the claim or claim for aggravation; upon release for work by the attending physician, pursuant to ORS 656.340(3); and, upon contact of the worker by the insurer pursuant to ORS 656.340(2).

(2) The Director may prescribe, as the means for satisfying some or all of the requirements of this rule, that the insurer furnish workers with specified written material at specified times.

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436-120-190 Other Obligations of Insurers and the Department

(1) The insurer shall provide the information the Department needs under these rules about specific claims and about the insurer's vocational assistance program, including vocational assistance cost information, as prescribed by the Director.

(2) Upon written request by a worker, a worker's authorized representative or a worker's attending physician, that individual may review the vocational file of the insurer or the Department or be provided copies of vocational file information. If the "authorized representative" is other than the worker's attorney, that individual must have a written release signed by the worker. The insurer may review the Department's file.

(3) All disclosures by the Department of vocational information shall be made in accordance with the provisions of the Oregon Public Records Law, ORS 192.410 through 192.500; ORS 657.665 (Employment Division records); ORS 344.600 (Vocational Rehabilitation Division records); and, Title 42 United States Code, sections 290dd-3 and 290ee-3 (drug and alcohol abuse records).

(4) The department may charge a fee for each document, staff time, accounting fees and mailing costs, as prescribed by rules of the Director.

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Filed 6/30/83 as WCD Admin. Order 2-1983, eff. 6/30/83
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Amended 12/17/87 as WCD Admin. Order 11-1987, eff. 1/l/88

436-120-200 Authorization of Vocational Assistance Providers

(1) A vocational assistance provider must hold an authorization from the Director under this section. To become authorized the provider shall meet the requirements prescribed by the Director for its technical services, and its vocational assistance staff shall each hold certification by the Director under OAR 436-120-205. The provider also shall meet other applicable state and federal business requirements.

(2) The application of a vocational assistance provider for authorization shall be as prescribed by the Director, and shall include the provider's roster of certified staff and proposal for its technical services. The authorization will limit the provider to providing specified kinds of services, as determined by the Director's evaluation of the proposal for technical services and of the certifications of staff.

(3) Individuals seeking authorization as a vocational assistance provider shall be limited to three attempts to have an application for authorization approved by the Department. The Department shall not accept further applications until the applicants have completed one year of experience, subsequent to the third application, as a certified staff person with an authorized vocational assistance provider in Oregon.

(4) Vocational assistance providers authorized prior to January 1, 1988, wishing to continue providing vocational assistance under these rules, must submit new technical proposals, as prescribed by the Director, not later than December 31, 1988. The Director may consider the provider's previous plan conformance rate, or use additional criteria, when determining whether the provider's authorization may be continued.

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436-120-203 Standards for Authorized Providers; Sanctions

(1) Vocational assistance providers must comply with the following requirements in order to maintain their authorization under these rules:

(a) Maintain certified staff as indicated in its proposal for technical services;

(b) Maintain on file with Rehabilitation Review Section a correct current roster of certified staff;

(c) Meet applicable state or federal business requirements;

(d) Provide adequate training and supervision of certified staff;

(e) Provide each certified staff person with Department rules, bulletins or other information prescribed by the Director;

(f) Maintain such plan conformance rate as may be prescribed by the Director;

(g) Apply before the expiration date of the existing authorization for continuation of its authorization, as prescribed by the Director. Denial of continuation of an authorization will be considered a revocation.

(2) The Director is not obligated to look beyond the completed application and the Department's certification records to approve, deny or continue authorization. The Director may, subject to appeal under ORS 656.704(2), deny an application for authorization, reprimand the provider, place the provider on probation for a specified period, suspend or revoke the provider's authorization, levy fines or take any other action the Director deems appropriate if the Director finds:

(a) The provider has committed fraud or misrepresentation, or has made a serious error or omission, in connection with an application for authorization, a return-to-work plan or report, a billing, or the business activities or responsibilities of the provider or its staff under these or other rules of the Department; or

(b) The provider has failed to comply with the requirements in section (1) of this rule, or any other requirements of these rules.

Hist: Filed 12/17/87 as WCD Admin. Order 11-1987, eff. 1/1/88

436-120-205 Certification of Vocational Assistance Staff

(1) Vocational assistance staff, and individuals making determinations of workers' eligibility for vocational assistance, are required to hold certification from the Director under this rule.

(2) To be certified, an individual shall furnish an application, as prescribed by the Director, which demonstrates that the individual meets the requirements under section (3) of this rule. However, an individual certified prior to January 1, 1986, must reapply for certification under this rule no later

than December 31, 1988. If such application is not made, the existing certification shall automatically expire on December 31, 1988.

(3) The types of certification, and qualification requirements, for an individual to become certified are described as follows:

(a) Full certification. This allows the individual to provide all eligibility evaluation and vocational assistance services except vocational testing and work evaluation. Full certification requires a master's degree in vocational rehabilitation; or, a master's degree in a field related to vocational rehabilitation, and one year of experience in performing vocational evaluations or developing individualized return-to-work plans; or, a bachelor's degree, and two years of such experience. All degrees must have been earned at an accredited institution. Regardless of these requirements, an individual will be considered qualified for full certification if accredited as a "Certified Rehabilitation Counselor (CRC)" by the Commission on Rehabilitation Counselor Certification; as a "Certified Insurance Rehabilitation Specialist (CIRS)" by the Certified Insurance Rehabilitation Specialist Commission; or, as a "Certified Vocational Evaluation Specialist (CVE)" or "Certified Work Adjustment Specialist (CWA)" by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists.

(b) Conditional certification. This allows the individual to provide, under the conditions specified in this subsection, all services allowed by full certification except for eligibility determination. This also allows the individual to provide, under the conditions specified in this subsection, the services allowed by certification for work evaluation. The following conditions apply to conditional certification:

(A) The individual shall work under the direct supervision of a designated staff individual who holds full certification or certification for work evaluation, respectively, and who cosigns and assumes responsibility for all return-to-work plans, vocational and billing reports of the conditionally certified individual.

(B) The vocational assistance staff of the provider shall be comprised of at least one individual with full certification or certification for work evaluation for each individual with the respective conditional certification.

(C) With respect to full certification services, the individual shall have the same education as for full certification but may lack up to two years of the qualifying experience. The deficit in qualifying experience will be canceled at the rate of one month for each conforming return-to-work plan developed by the individual for return to work with a new employer and filed with the Rehabilitation Review Section, unless the Director prescribes otherwise. The Section will determine the number of plans which need to be submitted, 95% of which must be found in conformance with these rules, or the individual will be denied full certification and will automatically receive limited certification. Upon cancellation of the entire deficit within two years under the conditional certification, as verified to the Director by the individual’s supervisor or supervisors, the individual will receive full certification. Otherwise, the conditional certification will expire at the end of two years.

(D) With respect to work evaluation services, the individual with a master's degree in counseling, psychology or a closely related discipline may lack up to one year of qualifying experience. An individual holding a bachelor's degree but lacking up to one year of qualifying

experience administering recognized and standardized work sampling systems, may be granted conditional certification if the individual has one year of experience administering and interpreting vocational aptitude, dexterity and interest tests as well as experience using the Dictionary of Occupational Titles (DOT); or, has one year of a combination experience using recognized and standardized work sampling systems and the testing and use of the DOT set forth above. All degrees must have been earned from an accredited institution. The remaining deficit in qualifying experience will be canceled at the rate of one month for each work evaluation and interpretive report completed by the individual and cosigned by a supervisor who is fully certified for work evaluation under subsection (3)(e). Upon cancellation of the entire deficit within one year under the conditional certification, as verified to the Director by the individual's supervisor, the individual will receive certification for work evaluation. Otherwise, the conditional certification will expire at the end of one year.

(c) Limited certification. This allows the individual to determine if the worker is eligible for vocational assistance, except where such determination requires a judgement as to whether the worker has a substantial handicap to suitable employment. Limited certification also allows the individual to provide the following direct employment services: Job search skills instruction, job development, return-to-work follow-up, labor market survey and job analysis. This certification requires a high school diploma or the equivalent, and one year of experience in processing workers' compensation claims, or in any one or more of job development, employe recruitment and selection in a wide range of occupations, job search skills instruction or a related field.

(d) Eligibility certification. This allows the individual to determine if the worker is eligible for vocational assistance based on information as to whether the worker can return to regular employment, other available and suitable employment with the employer at injury or customary work; or, whether the worker has a substantial handicap to employment. Eligibility certification requires a bachelor's degree from an accredited institution and two years experience reviewing medical and vocational information to determine the nature and extent of vocational assistance required to return the worker to suitable employment. This experience must have been gained within a workers' compensation or other similar insurance system.

(e) Certification for work evaluation. This certification requires a master's degree with an emphasis on work evaluation; or, a master's degree in counseling, psychology or a closely related discipline, and one year of experience using recognized and standardized work sampling systems; or, a bachelor's degree and two years of experience using recognized and standardized work sampling systems; or, a bachelor's degree and one year of experience using recognized and standardized work sampling systems, and one year of experience administering and interpreting vocational aptitude tests, dexterity tests, and interest tests, together with experience using the Dictionary of Occupational Titles.

(4) To do vocational testing but make no analysis of the test results in terms of implications for vocational assistance, an individual does not need certification under section (3) of this rule but shall hold authorization by the appropriate bodies other than the Department to administer the relevant tests. A vocational assistance provider which administers vocational test shall maintain documentation of this authorization.

(5) Equivalent experience, as determined by the Director, will be substituted for a required degree. The Director will make all evaluations of qualifications, including the determination whether particular experience is related to vocational assistance.

Hist: Filed 12/17/87 as WCD Admin. Order 11-1987, eff. 1/1/88

436-120-207 Standards for Certified Staff; Sanctions

(1) Certified individuals must comply with the following standards of conduct in order to maintain their certification:

(a) Certified individuals shall provide assistance in an objective manner, in accordance with these rules, in order to return the worker to suitable employment. Individuals shall not provide assistance if they have a material conflict of interest, or relevant and material prejudice concerning the worker.

(b) Certified individuals shall provide only vocationally relevant information regarding workers in written and oral reports.

(c) Certified individuals shall recommend workers only for employment which is suitable for the worker.

(d) Certified individuals shall not enter into any relationship with the worker to promote personal gain, or the gain of a person or organization in which the certified individual has an interest.

(e) Certified individuals shall not engage in the sexual harassment of workers. "Sexual harassment" means deliberate or repeated unsolicited comments, gestures or physical contact of a sexual nature.

(f) Certified individuals shall not make vocational assistance subject to any conditions other than those prescribed by these rules.

(g) Certified individuals shall fully inform the worker of the purpose of all testing and evaluations.

(2) The Director may, subject to appeal under ORS 656.704(2), take any one or more of the following actions against a certified individual or an applicant for certification: Denial of certification, reprimand, probation, suspension or revocation of certification, fines or such other action the Director deems appropriate. Such actions may be taken if the Director finds that the individual:

(a) Has failed to meet the certification requirements under OAR 436-120-205;

(b) Has failed to comply with the standards and prohibitions in section (1) of this rule;

(c) Has committed fraud or misrepresentation, or has made a serious error or omission, in connection with an application for certification, report or return-to-work plan, or the vocational assistance activities or responsibilities of a vocational assistance provider under these or other rules of the Department, or in connection with a comparable program in another jurisdiction;

(d) Has engaged in collusion to withhold information, or submit false or misleading information to an insurer, a vocational assistance provider or the Department;

(e) Has engaged in collusion to violate these rules or other rules of the Department, or any policies, guidelines or procedures issued by the Director; or

(f) Has failed to comply with generally accepted standards of conduct in the vocational rehabilitation profession.

Hist: Filed 12/17/87 as WCD Admin. Order 11-1987, eff. 1/1/88

436-120-210 Vocational Assistance Disputes, Administrative Reviews and Director's Orders

(1) Under ORS 656.283, a worker must first apply to the Director for administrative review of a vocational assistance matter before requesting a hearing on the matter. Such application must be made not later than the 60th day after the date the worker received notice of the insurer's action, when such notice is dated on or after January 1, 1988. An order of the Director under section (6) of this rule constitutes such a review.

(2) A worker who is dissatisfied with an action of the insurer in a vocational assistance matter should first attempt to resolve the matter with the insurer. The insurer shall promptly respond to the worker's request.

(3) A worker with unresolved dissatisfaction about a vocational assistance matter may request Rehabilitation Review Section to assist in resolving the matter. The section will promptly respond to the request.

(4) If Rehabilitation Review Section is not otherwise able to achieve resolution of a worker's dissatisfaction about a vocational assistance matter, the section may convene a conference of the parties. The section may require attendance by particular parties.

(5) A worker must provide information and participate in the administrative review as requested by the Rehabilitation Review Section. Failure to comply with this section, without reasonable cause, will cause dismissal of the request. Once dismissed, under the provisions of this section, the worker may not subsequently request a review on the vocational assistance matter which prompted the initial request.

(6) If a worker's dissatisfaction about a vocational assistance matter has not been resolved by a conference or otherwise, the Director will issue a written decision within a reasonable time. This decision will be the final order of the Director in the matter, as prescribed in ORS 656.283. Appeal may be made as provided in that statute, but shall not stay compliance with the order.

(7) At any time, the Director may order the insurer to provide specified vocational assistance in order to achieve compliance with ORS chapter 656 and these rules. For pre-1986 injuries the order may provide that reimbursement, either partially or totally, will not be made for the costs of the specified vocational assistance or the previous vocational assistance, or both. The purpose of the reimbursement denial would be that the insurer not receive reimbursement for vocational assistance provided other than in accordance with ORS chapter 656 and these rules. Appeal may be made as provided in ORS chapter 656 but shall not stay compliance with the order.

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Amended 12/17/87 as WCD Admin. Order 11-1987, eff. 1/1/88

436-120-215 Fee Schedule and Conditions for Payment of Vocational Assistance Costs

(1) Insurers shall pay vocational assistance providers according to this rule for vocational services to workers found eligible on or after January 1, 1988. This rule also applies to services provided to workers determined eligible prior to and receiving services on January 1, 1988, when the type of service changes from evaluation to plan development, or from one type of plan to another; and, to all workers receiving vocational assistance no later than April 1, 1988.

(2) The maximum amounts the insurer may spend per service each time the service is provided, except where the insurer determines that the case warrants exceeding the limit, are described in this section. All activities normally associated with each category of service are included in the fee ceiling except those which are separately identified in the schedule.

(a) Eligibility evaluation.

(A) To determine whether the worker can return to the job at injury, other suitable jobs with the employer, other customary employment, and whether the worker has a substantial handicap to employment: $500

(B) To perform the determination in paragraph (A), except whether the worker has a substantial handicap to employment: $300

(b) Vocational evaluation. To determine the nature and extent of vocational assistance the worker needs to return to suitable new employment. If done immediately after an eligibility evaluation, any unused balance from the eligibility evaluation may be used in addition to the amount provided for vocational evaluation: $200

(c) Vocational testing and work evaluation. Payment shall be at the usual and customary rates for the service.

(d) Computer-generated assessments. Entering data and analyzing the results: $100

(e) On-the-job evaluation. Arranging the job experience, and observing and evaluating the worker's performance in the job setting: $800

(f) Job analysis. Requires an on-site visit: $100

(g) Job search skills:

(A) Individual instruction, per worker: $300

(B) Group instruction, including any activities related to preparation for the class. The total charges for the group session shall be prorated over the number of workers in the group, according to the following schedule:

(i) 2 workers: $525

(ii) 3 workers: $555

(iii) 4 workers: $585

(iv) 5 workers: $615

(v) 6 workers: $645

(vi) 7 workers: $675

(vii) 8 workers: $705

(viii) 9 workers: $735

(ix) 10 more workers: $825

(h) Labor market survey. Collecting and compiling labor market information for an occupation: $200

(i) Direct employment plan development: $800

(j) Training plan development. Including the arrangement of training sites: $1500

(k) Training progress monitoring. The amount paid for the duration of the training must not exceed the number of months of training multiplied by the following average monthly fee: $150

(l) Job development, per month: $350

(m) Return-to-work bonus. Paid only if the worker has returned to suitable employment for 60 days. This bonus shall be a percentage of the worker's gross monthly return-to-work wage, according to the following schedule:

(A) RTW within three months of date of assignment: 50%

(B) RTW within two months of training completion date: 40%

(C) RTW, difficult case: 60%

(D) RTW, all other: 30%

(n) Return-to-work follow up, per month: $150

(o) Workers' Reemployment Reserve assistance negotiation. Contacts with the worker, employer, physician, and vendors to arrange worksite modification, wage subsidy or obtained employment purchases under OAR 436-110, according to the following schedule:

(A) Worksite modification: $750

(B) Wage subsidy: $150

(p) Travel/wait, meals and lodging and mileage.

(A) Travel/wait time charges shall not exceed $25 per hour. Wait time shall not be paid for any period longer than one-half hour.

(B) Meals, lodging and mileage shall be paid at the rates under OAR 436-120-220(4).

(p) Dispute resolution participation. For file review and attendance at conferences convened by the Rehabilitation Review Section, when such participation is required by the insurer or the Section: $150

(3) The maximum amounts the insurer may spend for each eligible worker, except where the insurer determines that the case warrants exceeding the limit, are as follows:

(a) Training.

(A) Professional services: $7,500

(B) Total direct worker purchases: $9,000

(C) Tuition and training fees, under paragraph (B): $4,500

(b) Non-training.

(A) Professional services: $3,000

(B) Direct worker purchases: $1,500

(4) If the Rehabilitation Review Section finds that a return-to-work plan does not conform to these rules because the plan is not likely to result in suitable employment, and the insurer implements the plan after being notified of nonconformance by the Section, the insurer shall not charge the costs of the plan to the insured employer by means of assessment, increased premium, change in classification or experience rating, or by any other means unless the employer agrees with the plan.

Hist: Filed 12/17/87 as WCD Admin. Order 11-1987, eff. 1/1/88

436-120-220 Reimbursement of Vocational Assistance Costs for Pre-1986 Injuries

(1) This rule applies only to pre-1986 injuries, and carries out the provisions of section 15, chapter 600, Oregon Laws 1985.

(2) The Department will reimburse insurers for costs of vocational assistance with respect to pre-1986 injuries only. Reimbursement is subject to the availability of funds.

(3) The following kinds of reimbursements are the only kinds allowable under these rules:

(a) Reimbursement of costs of direct worker purchases under OAR 436-120-087, including necessary costs of repossession.

(b) Reimbursement of charges for vocational assistance services of vocational assistance providers under selections made in accordance with OAR 436-120-070, and reimbursement of costs of vocational assistance services provided by certified staff of insurers which are authorized vocational assistance providers. This subsection does not refer to charges or costs relating to determination of a worker's eligibility for vocational assistance, except for that portion of such determination requiring an evaluation to determine under OAR 436-120-035 whether the worker has a substantial handicap to employment.

(c) Reimbursement for temporary disability compensation as provided in OAR 436-120-250.

(d) Reimbursement for wage subsidy payments under on-the-job training contracts as described in OAR 436-120-075(3)(a).

(4) The following procedures and conditions apply to reimbursement for costs of vocational assistance:

(a) Reimbursement shall only be claimed and made for vocational assistance provided in accordance with ORS chapter 656 and these rules.

(b) Reimbursement will only be made if the vocational assistance provider was appropriately authorized under OAR 436-120-200, and the providing staff had the appropriate certifications under OAR 436-120-205.

(c) Reimbursement will only be made if the insurer had authorized the vocational assistance and, before the reimbursement, obtained any required administrative approvals. Reimbursement of costs for vocational assistance provided under a waiver pursuant to OAR 436-120-003 shall only be made if the waiver was granted prior to providing the assistance.

(d) Reimbursement will only be made if the insurer's request for reimbursement is accompanied by the supporting billing reports of the vocational assistance provider and, unless

otherwise prescribed by the Director, the supporting vocational progress reports. These reports shall be in the form prescribed by the Director, shall provide information on the worker's vocational progress since the previous report, and shall document the kinds of services, amounts of time spent, costs paid for direct worker purchases, and charges of the provider, as well as other relevant information prescribed by the Director. Requests for reimbursement shall be made in the manner prescribed by the Director. Reimbursement to any particular insurer will be no less often than once in each calendar quarter. This subsection does not apply to reimbursement under OAR 436-120-250 of temporary disability compensation.

(e) Reimbursement for costs exceeding the fee schedule under OAR 436-120-215, or the control figures established by the Director shall be made only with administrative approval. The Director shall establish control figures for vocational assistance staff services, including travel, and for the total of direct worker purchases. In both cases, the control figures shall be separate for vocational assistance involving training and not involving training. These control figures will be set at levels sufficiently high, in the judgment of the Director, to cover at least 90 percent of the cases, according to expenditure data available to the Department or estimated where necessary. An administrative approval under this subsection will be based on whether the costs exceeding the control figure were necessary and not unreasonably high under the circumstances. This subsection does not apply to reimbursement under OAR 436-120-250 of temporary disability compensation.

(f) The maximum reimbursable hourly rate under this rule for professional service hours of vocational assistance staff is $50 per hour. This hourly rate is superseded by the fee schedule under OAR 436-120-215, at the times set forth in section (1) of that rule. The maximum reimbursable rate under this rule for travel time and waiting time shall not exceed $25 per hour.

(g) The Department will reimburse for travel expenses for transportation, meals and lodging of vocational assistance staff in connection with providing vocational assistance. The conditions and rates for reimbursement are as follows:

(A) Transportation. Private car mileage will be reimbursed at $.21 per mile. Costs incidental to the private car mileage, such as parking fees, will also be reimbursed. Travel by commercial carrier will be reimbursed if justified by lower overall cost.

(B) Meals and lodging. Expenses for non-overnight travel will not be reimbursed. For overnight travel, meal and lodging expense will be reimbursed under a 24-hour allowance system. The total allowance, with receipts for commercial lodging, is $46 for a 24-hour period of travel, increased or decreased by $1 for each hour of travel more or less than the 24-hour period. The adjustment will be based on the number of hours after rounding to the nearest whole number. For travel without commercial lodging receipts the allowance is $33, with the other conditions remaining the same.

(h) OAR 436-120-250, in addition to this rule, applies to reimbursement for temporary disability compensation.

(i) The insurer shall request reimbursement only of those costs which the insurer has paid. Reimbursed costs shall not be charged by the insurer to the insured employer as claim costs or by any other means. Reimbursements requested by the insurer before the insurer has paid the respective costs are subject to denial or recovery by the Department, in addition to any penalties under ORS chapter 656 and these rules. The insurer's payment check issued within reasonable time for the insurer's internal processing after the payment authorization will be considered payment as of the time of the

authorization.

(5) Further procedures and conditions relating to reimbursement for direct worker purchases are as follows:

(a) If the cost for a single item is over $1,000, three competitive quotes shall be obtained. If three quotes are not available, documentation of the efforts to obtain three quotes shall be made (i.e., sole source). The lowest quote shall normally be selected.

(b) The insurer shall not issue multiple orders to circumvent the requirements of this section.

(6) The insurer shall retain right and title to the nonexpendable property paid for under this rule for the period of time that the insurer considers necessary to determine the success of the vocational assistance, normally 60 days of continuous employment. At the end of that period the insurer shall either assign the right and title to the worker if the worker is working in the occupation for which the property was provided, or repossess the property. The following procedures and conditions apply with respect to nonexpendable property paid for under this rule:

(a) Property repossessed by the insurer shall, if feasible, be reassigned to another worker eligible for the property; or, the property may be transferred to another insurer for such reassignment. Each insurer shall maintain documentation of such transfers for audit purposes, including the estimated value of the property. Unless so reassigned, the property shall be sold within six months and the proceeds transmitted promptly to the Department. If property to which title is held by the insurer suffers an insured loss, the insurance proceeds shall be transmitted promptly to the Department.

(b) If the worker fails to meet the conditions prescribed by the insurer for the care and protection of property in the worker's custody, and the property suffers damage or loss, the insurer shall not replace it.

(7) The insurer and each vocational assistance provider shall maintain case files, records, reports, receipts and canceled checks documenting vocational assistance costs for which reimbursement has been requested. These records shall be maintained in accordance with OAR 436-50 or for a period of three years after the last reimbursement request.

(8) Under ORS 656.593, if the worker or the worker's beneficiaries recover damages from the employer or a third person, the proceeds are subject to lien by the department and recovery of its share of any reimbursements made to the insurer under these rules.

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436-120-230 Temporary Disability Compensation During Training

(1) OAR 436-60, in addition to this rule, applies to payment of awards for permanent disability and payment of temporary disability compensation.

(2) Workers injured after December 31, 1973, are entitled to temporary disability compensation from the insurer while enrolled and actively engaged in training under these rules. Upon

completion, termination or interruption of the training, any award payment shall be resumed. If no award payment remains due, temporary disability compensation shall continue pending a subsequent determination under ORS 656.268 unless the worker has returned to regular employment.

(3) If, for a worker injured after December 31, 1973, the insurer provides training after the issuance of a Determination Order, Opinion and Order of a Referee, Order on Review, or decision of the Court of Appeals, the insurer shall suspend any award payments due under the order and pay temporary disability compensation in accordance with section (2) of this rule. During periods when temporary disability compensation is not due in accordance with section (2) of this rule, the insurer shall resume any suspended award payments. Upon completion or ending of the training, unless the worker then is not medically stationary, the insurer shall stop temporary disability compensation payments and resume any suspended award payments.

(4) Temporary disability compensation paid to a medically stationary worker while the worker was not enrolled and actively engaged in training may be recovered through the procedure under ORS 656.268(4).

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436-120-250 Reimbursement of Temporary Disability Compensation Costs for Pre-1986 Injuries

(1) This rule applies only to pre-1986 injuries, and carries out the provisions of section 15, chapter 600, Oregon Laws 1985.

(2) Subject to all of the conditions of these rules, the Department will reimburse an insurer for the net amount of sums paid in accordance with these rules as temporary disability compensation to a worker during the time enrolled and actively engaged in training after the date the worker became medically stationary.

(3) The insurer shall make application to the Department at the end of each calendar quarter for reimbursement under this rule. The Department will approve the application and reimburse funds after deducting amounts owed the Department, if:

(a) The insurer started vocational assistance in a timely manner; and

(b) The net amount of compensation paid is verifiable upon audit by the Department.

(4) An insurer which has made a timely effort to recover overpayments as provided in OAR 436-120-230(4) may be reimbursed for unrecovered overpayments unless they resulted from the insurer's failure to monitor the training status of the worker. If the insurer recovers an overpayment after reimbursement, the insurer shall repay the Department to the extent of the recovery.

(5) Whenever reimbursement is denied, the insurer shall not charge the costs of temporary disability compensation to the insured employer by means of assessment, increased premium or change in classification or experience rating, or by any other means.

(6) An insurer aggrieved by a decision of the Department under this rule may request a hearing in accordance with ORS 656.704(2), ORS chapter 183 and this rule. The request for hearing must be made within 30 calendar days of the date of the decision. The decision of the Department becomes a final order if not appealed within 30 calendar days. Upon receipt of a request for hearing, the Director will within 30 days affirm or change the decision. If the issues are not resolved by the Director within 30 days, the Director will submit the appeal to Hearings Division for a hearing.

(7) The conduct of hearings arising under this rule, and the judicial review by the Court of Appeals, will be as provided in ORS 183.415 through 183.495, except that:

(a) The Board may promulgate rules for the conduct of these hearings;

(b) The Order of the Referee, under the rules of the Board, will be considered the final order of the Director; and

(c) The Director will have the same right to judicial review of the Order of the Referee as any other person who is adversely affected or aggrieved by the order.

Hist: Filed 12/20/73 as WCD Admin. Order 6-1973, eff. 1/11/74
Amended 11/5/74 as WCD Admin. Order 45-1974, eff. 11/5/74 (Temporary)
Amended 2/6/75 as WCD Admin. Order 4-1975, eff. 2/26/75
Amended 3/29/76 as WCD Admin. Order 1-1976, eff. 4/1/76
Amended 9/29/77 as WCD Admin. Order 3-1977, eff. 10/4/77 (Temporary)
Amended 2/1/78 as WCD Admin. Order 1-1978, eff. 2/1/78
Amended 5/22/80 as WCD Admin. Order 6-1980, eff. 6/1/80
Amended 12/4/81 as WCD Admin. Order 4-1981, eff. 1/1/82
Amended 6/30/83 as WCD Admin. Order 2-1983, eff. 6/30/83
Amended 12/14/83 as WCD Admin. Order 5-1983, eff. 1/1/84
Renumbered from OAR 436-61-430, 5/1/85
Amended 12/12/85 as WCD Admin. Order 7-1985, eff. 1/1/86
Amended 12/17/87 as WCD Admin. Order 11-1987, eff. 1/1/88

436-120-255 Audits

Insurers, vocational rehabilitation organizations and other contractors with vocational assistance providers under these rules are subject to periodic program and fiscal audits by the Department. All reimbursements are subject to subsequent audits, and may be disallowed on any of the grounds set forth in these rules. Disallowed reimbursements may be recovered by the Department directly or from future reimbursements. If the Department finds upon audit that procedures which led to disallowed reimbursements are still being used, the Department may withhold further reimbursements until corrections satisfactory to the Department are made.

Hist: Filed 12/12/85 as WCD Admin. Order 7-1985, eff. 1/1/86

436-120-260 Hearings and Litigation on Vocational Assistance

(1) ORS 656.283 and OAR 436-120-210 prescribe conditions for a hearing on a vocational assistance matter.

(2) Insurers are responsible for defending issues involving reimbursement of vocational assistance costs by the Department whenever vocational assistance is an issue for hearing or litigation, unless the Director for good cause agrees otherwise. Insurers are also responsible for paying, without

reimbursement, the costs connected with preparing for and defending such issues. The Director may deny reimbursement of vocational assistance costs for failure to comply with this section.

(3) Upon request by any party, the Department will provide a copy of relevant vocational assistance documents for use in a hearing.

(4) The Department will permit any of its employes to testify in a hearing on vocational assistance issues upon request by any party, without the need for subpoena or witness fee. However, the party shall be responsible for notification to the Department sufficiently timely to permit the employe's attendance.

Hist: Filed 5/26/82 as WCD Admin. Order 9-1982, eff. 6/1/82
Amended 6/30/83 as WCD Admin. Order 2-1983, eff. 6/30/83
Amended 12/14/83 as WCD Admin. Order 5-1983, eff. 1/1/84
Renumbered from OAR 436-61-970, 5/1/85
Amended 12/12/85 as WCD Admin. Order 7-1985, eff. 1/1/86

436-120-270 Civil Penalties; Other Sanctions

(1) An insurer failing to comply with these rules may be assessed a civil penalty of not more than $2,000 for each violation, or $10,000 in the aggregate for all violations within any three-month period. Each violation, or each day a violation continues, shall be considered a separate violation. These penalties shall be assessed in accordance with ORS 656.745.

(2) Under ORS 656.447 the Insurance Commissioner may suspend or revoke the authorization of a guaranty contract insurer which has failed to comply with orders of the Director, the provisions of ORS chapter 656 or any rule promulgated pursuant to that chapter.

Hist: Filed 12/4/81 as WCD Admin. Order 4-1981, eff. 1/1/82
Amended 6/30/83 as WCD Admin. Order 2-1983, eff. 6/30/83
Amended 12/14/83 as WCD Admin. Order 5-1983, eff. 1/1/84
Renumbered from OAR 436-61-981, 5/1/85
Amended 12/12/85 as WCD Admin. Order 7-1985, eff. 1/1/86
Amended 12/17/87 as WCD Admin. Order 11-1987, eff. 1/1/88