



Oregon

Theodore R. Kulongoski, Governor

Department of Consumer and Business Services
Workers' Compensation Division
350 Winter St. NE, Room 27
PO Box 14480
Salem, OR 97309-0405
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ADDENDUM TO BULLETIN NO. 124 June 6, 2008

**TO: Workers' compensation insurers, self-insured employers,
and vocational assistance providers**

SUBJECT: Revised cost-of-living matrix and vocational assistance fee schedule

This bulletin addendum updates the cost-of-living matrix and fee schedule for vocational assistance expenditures. The cost-of-living matrix is defined in OAR 436-120-0005(2) and is used to adjust for changes in the cost of living under OAR 436-120-0007(6). This addendum replaces the cost-of-living matrix published in Bulletin 124 issued Nov. 7, 2007, and updates the vocational fee schedule in OAR 436-120-0720.

Changes to the cost-of-living matrix and fee schedule are effective July 1, 2008.

Cost-of-living matrix	
Date of Injury or Aggravation	Conversion Factors Date of Calculation: 7-1-08 — 6-30-09
7-1-08 — 6-30-09	1.00
7-1-07 — 6-30-08	1.04
7-1-06 — 6-30-07	1.10
7-1-05 — 6-30-06	1.11
7-1-04 — 6-30-05	1.15
7-1-03 — 6-30-04	1.19
7-1-02 — 6-30-03	1.21
7-1-01 — 6-30-02	1.23
7-1-00 — 6-30-01	1.26
7-1-99 — 6-30-00	1.31
7-1-98 — 6-30-99	1.37
7-1-97 — 6-30-98	1.45
7-1-96 — 6-30-97	1.52
7-1-95 — 6-30-96	1.60
7-1-94 — 6-30-95	1.61
7-1-93 — 6-30-94	1.65
Prior to 7-1-93	1.78

Fee Schedule for July 1, 2008 through June 30, 2009 (Annual adjustment of rates in OAR 436-120-0720)		
Categories of Vocational Assistance	Professional Spending Limits	Direct Worker Purchases Spending Limits
Eligibility determination without substantial handicap analysis	\$433	Not applicable (NA)
Substantial handicap analysis	\$865	NA
Direct Employment	\$5,818	\$2,909
Training*	\$14,546	\$19,200
DE/Training Combined*	\$16,162	NA
Dispute Resolution	\$485	NA

*For workers found to have an exceptional disability or exceptional loss of earning capacity as defined in OAR 436-120-0440(2)(b), the fee schedule spending limits for the Training category and DE/Training Combined category listed above are increased by 30%. OAR 436-120-0720(2).

Example 1: Calculating the adjusted weekly wage

Mr. Smith was injured on a non-union job on May 5, 2005. His weekly wage, as calculated under OAR 436-120-0007, is \$600 a week. His employer is no longer in business. The insurer is determining his eligibility for vocational assistance in November 2008. OAR 436-120-0007(6)(c) requires the use of the cost-of-living matrix to convert his weekly wage to his adjusted weekly wage.

STEP ONE: Go to the correct time range: 7-1-04 through 6-30-05. The conversion factor is **1.15**.

STEP TWO: Multiply the conversion factor by Mr. Smith's weekly wage:
 $1.15 \times \$600 = \mathbf{\$690}$ (the adjusted weekly wage).

Example 2: Calculating the adjusted pre-injury net income

Ms. Garcia is just completing a training program and needs clothing for an interview. She may be entitled to this direct worker purchase if her adjusted pre-injury net income is greater than her post-injury net income. (OAR 436-120-0710) Ms. Garcia's net income at injury in September 2003 was \$500 a week. The insurer is making the decision in November 2008.

STEP ONE: Go to the correct time range: 7-1-03 through 6-30-04. The conversion factor is **1.19**

STEP TWO: Multiply the conversion factor by Ms. Garcia's net income at injury (\$500):
 $1.19 \times \$500 = \mathbf{\$595}$ (adjusted pre-injury net income).

If you have questions about this bulletin, please contact the Employment Services Team at 503-947-7816.

/s/ Jerry Managhan for

John L. Shilts, Administrator
Workers' Compensation Division

Distribution: WCD-ID, LY, S0, S1, S5, S8,



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BULLETIN NO. 124 (Revised)
Nov. 7, 2007

TO: Workers' compensation insurers, self-insured employers
and vocational assistance providers

SUBJECT: Required forms and procedures under the rules governing
vocational assistance to injured workers

EFFECTIVE: Dec. 1, 2007

The purpose of this bulletin is to provide the forms and procedures for insurers and vocational assistance providers to use under the vocational rules, OAR 436-120. The bulletin and attached forms have been revised to comply with changes to the rules, effective Dec. 1, 2007. This bulletin replaces Bulletin 124 dated July 12, 2005, and its addendum dated June 4, 2007.

FORMS AND NOTICES

You may reproduce the attached forms or download copies of the Microsoft Word 2000® (automated) forms from the Workers' Compensation Division's Web site at:

www.wcd.oregon.gov/policy/bulletins/forms.html

Send one copy of each form or notice to the division:

Form/notice number	Title
1081	Return-to-Work Plan, Training
1083	Return-to-Work Plan, Direct Employment
1084	Request for Administrative Approval
2800	Vocational Closure Report
	Notice of Eligibility
	Notice of Ineligibility
	Notice of End of Training
	Notice of End of Eligibility for Vocational Assistance

Department of Consumer and Business Services
Workers' Compensation Division
350 Winter St. N.E.
P.O. Box 14480
Salem, Oregon 97309-0405

Appeal rights must give the address and phone number of the division's Rehabilitation Review Unit:

Department of Consumer and Business Services
Workers' Compensation Division
Rehabilitation Review Unit
350 Winter St. NE
PO Box 14480
Salem, OR 97309-0405
503-947-7816

Copies of the Notice of Eligibility for Vocational Assistance must give the division's toll free number for injured workers: 800-452-0288.

NOTE: Copies of all notices must be sent to a worker's attorney, if applicable. The time period to appeal an insurer's decision will not start until both the worker and the worker's attorney are properly notified, in accordance with OAR 436-120-0004(2)(c).

CALCULATION OF ADJUSTED WEEKLY WAGE UNDER OAR 436-120-0007

Before determining a worker's suitable wage for purposes of determining eligibility or providing vocational assistance [OAR 436-120-0005 (13)], the insurer must first calculate the worker's adjusted weekly wage, which is the wage currently being paid for the worker's regular employment as calculated under OAR 436-120-0007.

Before beginning the calculation, the insurer must answer the following questions:

1. Is the worker's potential eligibility based on the initial claim opening or an aggravation?
2. Is the worker's regular employment the job at injury [as defined in OAR 436-120-0007(1)(e)] or the job(s) at aggravation [as defined in OAR 436-120-0007(1)(d)]?
3. What kind(s) of employment is the worker's regular employment? Permanent, year-round employment [OAR 436-120-0007(1)(f)]? Employment with an annual salary set by contract? Self-employment (job at injury)? Volunteer or other covered employment with no wages (job at injury)? Other?
4. Did the worker receive unemployment benefits during the 52 weeks prior to the injury or aggravation? If so, how many weeks of unemployment benefits did the worker receive?
5. Did the worker hold two or more jobs at injury? Two or more jobs at aggravation? If so, how many weeks was the worker employed at each job?
6. Is the applicable employer still in business? If not, was the worker's job covered by a union contract? Have there been any cost of living or collective bargaining adjustments?

Based on the answers to questions 1 through 5, the insurer will select the applicable section from OAR 436-120-0007(3) through (5) and calculate the weekly wage. Based on the answers to question 6, the insurer will then convert the weekly wage to the adjusted weekly wage under OAR 436-120-0007(6)(a), (b), or (c).

Following are examples illustrating calculation of the adjusted weekly wage in specific circumstances:

EXAMPLE A: The job at injury was permanent year-round employment:

At the time of his injury in May 1997, Mr. Jones worked as a sales clerk for Morton's Drugs. His temporary total disability (TTD) is based on \$260 per week. Morton's owner states that all sales clerks have received a 5% increase since 1997.

STEP ONE: Go to OAR 436-120-0007(4).

STEP TWO: Determine the weekly wage on which TTD was based: \$260 (weekly wage).

STEP THREE: Convert the weekly wage to the adjusted weekly wage as described in OAR 436-120-0007(6)(a): $\$260 \times 1.05 = \273 .

\$273 is the adjusted weekly wage.

EXAMPLE B: The job at aggravation was permanent year-round employment:

At the time of aggravation in June 1998, Ms. Stern was working as a shipping and receiving clerk for XYZ Corporation. She earned a monthly salary of \$1710.60. XYZ confirms that this was a permanent year-round position, and that all shipping and receiving clerks have received a 4% raise since 1998.

STEP ONE: Go to OAR 436-120-0007(5), which requires using the same methods used to calculate temporary disability provided in the OAR 436-060 rules.

STEP TWO: For workers paid monthly, the OAR 436-060 rules require dividing the monthly salary by 4.35: $\$1710.60$ divided by $4.35 = \$393.24$ (weekly wage).

STEP THREE: Convert the weekly wage to the adjusted weekly wage as described in OAR 436-120-0007(6)(a): $\$393.24 \times 1.04 = \408.97

\$408.97 is the adjusted weekly wage.

EXAMPLE C: The job at aggravation was employment with an annual salary set by contract. At the time of aggravation, Mr. Ustinov was employed as a high school teacher who worked 10 months a year with an annual salary of \$35,000. There have been no cost-of-living increases or collective bargaining adjustments since the date of aggravation.

STEP ONE: Go to OAR 436-120-0007(5), which requires using the same methods used to calculate temporary disability provided in the OAR 436-060 rules.

STEP TWO: For teachers and similarly paid workers, the OAR 436-060 rules require dividing the annual salary by 52 weeks. $\$35,000$ divided by $52 = \$673.08$ (weekly wage).

STEP THREE: Convert the weekly wage to the adjusted weekly wage as described in OAR 436-120-0007(6)(a). There have been no cost-of-living or collective bargaining increases, so the adjusted weekly wage is the same as the weekly wage.

\$673.08 is the adjusted weekly wage.

EXAMPLE D: The job at injury was temporary or seasonal and the worker held only one job at the time of injury and did not receive unemployment compensation during the 52 weeks prior to injury: Mr. Bledsoe was employed as a union carpenter for New Home Builders at the time of his injury. His hours varied from week to week, depending on the weather. The job was temporary, intended to last only through the building of a new housing development. Mr. Bledsoe's temporary total disability (TTD) was based on an average wage of \$420 per week. New Home Builders has gone out of business. There has been a 3% collective bargaining increase through the Carpenter's Union since the date of Mr. Bledsoe's injury.

- STEP ONE: Go to OAR 436-120-0007(3)(a).
- STEP TWO: Use the weekly wage on which TTD is based: \$420 (weekly wage).
- STEP THREE: Convert the weekly wage as described in OAR 436-120-0007(6)(b): $\$420 \times 1.03 = \432.60 .

\$432.60 is the adjusted weekly wage.

EXAMPLE E: The job at injury or aggravation was temporary or seasonal and the worker held one or more jobs at the time of injury or aggravation, and received unemployment insurance (UI) benefits during the 52 weeks prior to the injury or aggravation:

At the time of his injury, Dec. 2, 2000, as a Christmas tree harvester for Seasonal Trees, Mr. Graham also worked evenings as a cashier at Handy Stores. After his injury, he was unable to return to either job. Seasonal Trees confirmed that Mr. Graham's job was temporary through the Christmas tree cutting season. Mr. Graham worked seven weeks for Seasonal Trees, earning a total of \$2,900. He worked 22 weeks for Handy Stores, earning a total \$4,500. He received \$3,300 unemployment insurance benefits for 10 weeks before working at Handy Stores. He worked as a logger for High Mountain for 13 weeks in February, March, and April 2000, earning \$10,000. Seasonal Trees reports that there have been no increases in pay since Mr. Graham's injury.

- STEP ONE: Go to OAR 436-120-0007(3)(d).
- STEP TWO: Combine Mr. Graham's earned income from the two jobs he held at the time of injury, and add the income he received from unemployment insurance:
- | |
|----------------------------|
| \$ 2,900 (Seasonal Trees) |
| 4,500 (Handy Stores) |
| <u>3,300 (UI benefits)</u> |
| \$10,700 |
- STEP THREE: Combine the number of weeks Mr. Graham worked at all jobs held at the time of injury plus the number of weeks he received UI benefits. Mr. Graham held the jobs at Seasonal Trees and at Handy Stores concurrently, so the job with the longest duration is counted.
- | |
|-------------------------------|
| 22 weeks (Handy Stores) |
| <u>10 weeks (UI benefits)</u> |
| 32 weeks |
- STEP FOUR: Divide the total earned income by the number of weeks worked or during which he received unemployment insurance benefits. $\$10,700$ divided by 32 weeks = \$334.38 (weekly wage).

NOTE: Neither the income nor weeks worked at High Mountain are to be used for these calculations. Only income from unemployment insurance and from jobs held at the time of injury or aggravation are used for these calculations.

STEP FIVE: Convert the weekly wage to the adjusted weekly wage as described in OAR 436-120-0007(6)(a). Since there have been no cost-of-living increases, the adjusted weekly wage is the same as the weekly wage.

\$334.38 is the adjusted weekly wage.

FEE SCHEDULE (OAR 436-120-0720)

ORS 656.340(9)(d) requires the director to establish a fee schedule for direct worker purchases and vocational assistance provider services. The fee schedule limits are set at a level adequate to provide necessary services for the vast majority of workers and do not represent an entitlement for any individual worker. The director will issue a revised fee schedule annually to take into account changes in the cost of living.

TRAVEL REIMBURSEMENT

Worker and vocational assistance provider travel expenses will be reimbursed at the same rate established for the State of Oregon classified employees. These rates are published in Bulletin 112.

PLAN SUPPORT FILING

Under OAR 436-120-0530, an insurer is not required to include support information with its filings of return-to-work plans unless the director notifies the insurer otherwise. The division will periodically require insurers to submit plan support for purposes of plan review. The division may also periodically audit insurers' claim files to review plan support documentation.

Please contact the Rehabilitation Review Unit of the Benefit Services Section at 503-947-7816 if you have questions about this bulletin.

/s/ Jerry Managhan for

John L. Shilts, Administrator
Workers' Compensation Division

Attachments: Time Frames Chart
RTW Plan & Plan Support Documentation Checklist
Cost-of-Living Matrix and Vocational Assistance Fee Schedule
Forms: 440-1081 (Rev. 12/07)
440-1083 (Rev. 12/07)
440-1084 (Rev. 12/07)
440-2800 (Rev. 12/07)

Distribution: WCD-ID, S0, S5, S8, PT, LY

RTW Plan & Plan Support Documentation Checklist

Are the following items included in RTW training plan and plan support? (Form 1081)		
	Yes	No
Specific vocational goal(s)?		
SOC/DOT code(s) correct?		
Expected return-to-work wage(s)?		
Training activities correctly entered?		
Start & end dates of plan		
Responsibilities of worker/provider? [Front]		
Worker, counselor, insurer signatures on plan?		
Plan Support		
Worker's physical capacities consistent with plan goal(s)?		
Education, work history?		
Discussion of why DEP will not return worker to suitable employment?		
Plan will result in "significantly closer" wage?		
Is a waiver required?		
Is the waiver included?		
Vocational test data?		
Labor market summary?		
Job analysis signed by worker & attending physician?		
OJT: Signed OJT contract		
Skills training: Written curriculum?		
Formal Training: Curriculum description listed term-by-term?		
DWPs identified?		
Plan & plan support signed/initialed & dated by worker?		

Are the following items included in DEP plan and plan support? (Form 1083)		
	Yes	No
Specific vocational goal(s)?		
SOC/DOT code(s) correct?		
Expected return-to-work wage(s)?		
Training activities correctly entered?		
Start & end dates of plan		
Responsibilities of worker/provider? [Front]		
Worker, counselor, insurer signatures on plan?		
Plan Support		
Worker's physical capacities consistent with plan objective?		
Education, work history?		
Description of transferable skills which relate to vocational goals?		
Discussion of why training will not result in "significantly closer" wage?		
Is a waiver required?		
Is the waiver included?		
Vocational test data?		
Labor market summary?		
DWPs identified?		
Plan & plan support signed/initialed & dated by worker?		

Cost-of-living matrix and vocational fee schedule

Cost-of-living matrix	
Date of Injury or Aggravation	Conversion Factors Date of Calculation: 7-1-07 — 6-30-08
7-1-07 — 6-30-08	1.00
7-1-06 — 6-30-07	1.05
7-1-05 — 6-30-06	1.06
7-1-04 — 6-30-05	1.10
7-1-03 — 6-30-04	1.14
7-1-02 — 6-30-03	1.16
7-1-01 — 6-30-02	1.17
7-1-00 — 6-30-01	1.20
7-1-99 — 6-30-00	1.26
7-1-98 — 6-30-99	1.31
7-1-97 — 6-30-98	1.39
7-1-96 — 6-30-97	1.46
7-1-95 — 6-30-96	1.53
7-1-94 — 6-30-95	1.55
7-1-93 — 6-30-94	1.58
Prior to 7-1-93	1.70

Fee Schedule for July 1, 2007 through June 30, 2008 (Annual adjustment of rates in OAR 436-120-0720)		
Categories of Vocational Assistance	Professional Spending Limits	Direct Worker Purchases Spending Limits
Eligibility determination without substantial handicap analysis	\$414	Not applicable (NA)
Substantial handicap analysis	\$828	NA
Direct Employment	\$5,571	\$2,786
Training*	\$13,928	\$18,385
DE/Training Combined*	\$15,475	NA
Dispute Resolution	\$464	NA

*For workers found to have an exceptional disability or exceptional loss of earning capacity as defined in OAR 436-120-0440(2)(b), the fee schedule spending limits for the Training category and DE/Training Combined category listed above are increased by 30%. OAR 436-120-0720(2).

Example 1: Calculating the adjusted weekly wage

Mr. Smith was injured on a non-union job on May 5, 2005. His weekly wage, as calculated under OAR 436-120-0007, is \$600 a week. His employer is no longer in business. The insurer is determining his eligibility for vocational assistance in November 2007. OAR 436-120-0007(6)(c) requires the use of the cost-of-living matrix to convert his weekly wage to his adjusted weekly wage.

STEP ONE: Go to the correct time range: 7-1-04 through 6-30-05. The conversion factor is **1.10**.

STEP TWO: Multiply the conversion factor by Mr. Smith's weekly wage:
 $1.10 \times \$600 = \mathbf{\$660}$ (the adjusted weekly wage).

Example 2: Calculating the adjusted pre-injury net income

Ms. Garcia is just completing a training program and needs clothing for an interview. She may be entitled to this direct worker purchase if her adjusted pre-injury net income is greater than her post-injury net income. {OAR 436-120-0710} Ms. Garcia's net income at injury in September 2003 was \$500 a week. The insurer is making the decision in November 2007.

STEP ONE: Go to the correct time range: 7-1-03 through 6-30-04The conversion factor is **1.14**

STEP TWO: Multiply the conversion factor by Ms. Garcia's net income at injury (\$500):
 $1.14 \times \$500 = \mathbf{\$570}$ (**adjusted pre-injury net income**).

The director will issue a revised cost-of-living matrix and a revised fee schedule annually in Bulletin 124 or an addendum to Bulletin 124.