

ORDER NUMBER 03-074

OREGON DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION

REVISION-MARKED COPY

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

EFFECTIVE JANUARY 1, 2004

OREGON ADMINISTRATIVE RULES
CHAPTER 436, DIVISION 060
CLAIMS ADMINISTRATION

436-060-0008 Administrative Review

(1) Any party as defined by ORS 656.005~~[(21)]~~, including an assigned claims agent as a designated processing agent pursuant to ORS 656.054, aggrieved by an action taken pursuant to these rules in which a worker's right to compensation or the amount thereof is directly in issue, may request a hearing by the Hearings Division of the Workers' Compensation Board in accordance with ORS chapter 656 and the Board's Rules of Practice and Procedure for Contested Cases under the Workers' Compensation Law except where otherwise provided in ORS chapter 656.

(2) Contested case hearings of Sanctions and Civil Penalties: Any party as described in section (1) aggrieved by a proposed order or proposed assessment of civil penalty of the director or division issued pursuant to ORS 656.254, 656.735, 656.745 or 656.750 may request a hearing by the Hearings Division of the Workers' Compensation Board in accordance with ORS 656.740 (section 9, chapter 170, Oregon Laws 2003).

(a) The request for hearing must be sent in writing to the Administrator of the Workers' Compensation Division. No hearing ~~[shall]~~will be granted unless the request specifies the grounds upon which the person requesting ~~[said]~~the hearing contests the proposed order or assessment.

(b) The aggrieved person must file a hearing ~~[The]~~ request ~~[for hearing must be filed]~~ with the Administrator of the Workers' Compensation Division within 60 days ~~[of receipt by the aggrieved person of notice]~~ after the mailing of the proposed order or assessment. No hearing ~~[shall]~~will be granted unless the request for hearing is mailed or delivered to the ~~[A]~~administrator within ~~[said]~~ 60 days of ~~[receipt]~~ the mailing date of ~~[notice]~~the proposed order or assessment.

(3) Contested cases before the ~~[Hearing Officer Panel]~~Office of Administrative Hearings: Any party as ~~[described in section (1)]~~ defined by ORS 656.005 aggrieved by an action or order of the director or division pursuant to these rules, other than as described in section (2), where such action or order qualifies for review ~~[by hearing before the director]~~ as a contested case, may request review pursuant to ORS 183.310 through 183.550 as modified by these rules pursuant to ORS 183.315(1). When the matter qualifies for review as a contested case, the process for review ~~[shall]~~will be as follows:

(a) The request for hearing must be sent in writing to the Administrator of the Workers' Compensation Division. No hearing ~~[shall]~~will be granted unless the request specifies the grounds upon which the action or order is contested and is mailed or delivered to the ~~[A]~~administrator within 30 days of the action or from the date of mailing or other service of an order.

(b) The hearing ~~[shall]~~will be conducted by ~~[the director or the director's designee]~~ an Administrative Law Judge of the Office of Administrative Hearings.

(c) Any proposed order ~~[in a contested case]~~ issued by ~~[another person on behalf of the director]~~ the administrative law judge is ~~[a proposed order]~~ subject to revision by the director. The director may allow objections to the proposed order to be filed for the director's consideration within 30 days of issuance of the proposed order.

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(4) Administrative review by the director or designee: Any party [described in section (1)] aggrieved by an action taken pursuant to these rules by another person except as described in sections (1) through (3) above may request administrative review by the division on behalf of the director. The process for administrative review of such matters [shall] **will** be as follows:

(a) The request for administrative review shall be made in writing to the Administrator of the Workers' Compensation Division within 90 days of the action. No administrative review [shall] **will** be granted unless the request specifies the grounds upon which the action is contested and is mailed or delivered to the [A] **administrator** within 90 days of the contested action unless the director or the director's designee determines that there was good cause for delay or that substantial injustice may otherwise result.

(b) [The review, including whether the request is timely and appropriate, may be conducted by the Administrator, or the Administrator's designee, on behalf of the director.

(c) In the course of [said] **the** review, the [person conducting the review] **division** may request or allow such input or information from the parties [as he or she] **deem[s] ed** to be helpful.

([d] **c**) The **division's** determination [by the person conducting the review] will specify whether [the determination constitutes] **it is** a final order or whether an aggrieved party may request a contested case hearing before the [director] **Office of Administrative Hearings** pursuant to ORS 183.310.

([e] **d**) [Any request for a contested case hearing before the director regarding a review determination made pursuant to this section] **The hearing request** must comply with the procedures provided in section (3) above.

(5) Contested cases before the Hearings Division of the Workers' Compensation Board: A party may request a hearing before the Hearings Division of the Workers' Compensation Board on any action taken pursuant to these rules where a worker's right to compensation or the amount thereof is directly an issue in accordance with the provisions of ORS chapter 656.

Stat. Auth: ORS 656.704, 656.726(4), and 656.745

Stat. Impltd: ORS 656.245, 656.260, 656.704, 656.726(4), and 656.740(1) (**section 9, chapter 170, Oregon Laws 2003**)

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