

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING**  
A Statement of Need and Fiscal Impact accompanies this form.

Dept. of Consumer and Business Services,  
Workers' Compensation Board

OAR Chapter 438

Agency and Division

Administrative Rules Chapter Number

Katy Gunville

2601 25<sup>th</sup> St. SE, Ste. 150, Salem, OR 97302-1280

(503) 378-3308

Rules Coordinator

Address

Telephone

**RULE CAPTION**

Amends OAR 438-005-0055, OAR 438-015-0050(1), and OAR 438-015-0052(1), regarding mandatory denial language and attorney fees for settlements.

**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

June 28, 2024

10:00 a.m.

By Telephone Conference

Lauren Eldridge

Hearing Date

Time

Location

Hearings Officer

*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

**ADOPT:**

**AMEND:** OAR 438-005-0055, OAR 438-015-0050(1), OAR 438-015-0052(1)

**REPEAL:**

**RENUMBER:**

**AMEND & RENUMBER:**

Stat. Auth.: ORS 656.388; ORS 656.726(5)

Other Auth.:

Stats. Implemented: ORS 656.388; ORS 656.726(5); ORS 656.236(4); ORS 656.289(4)

**RULE SUMMARY**

The Board proposes amending the mandatory denial language in its rule to make the denial language more clear and readable. Additionally, the Board proposes to amend its rule providing for certain caps on attorney fees recoverable out of the proceeds of a claim disposition agreement (CDA) and disputed claim settlement (DCS). Specifically, the proposed amendments would remove the ten percent cap on attorney fees for CDA and DCS proceeds over \$50,000.

**Request for public comment:** The Board requests public comment on whether other options should be considered for achieving the rule amendment's substantive goals while reducing negative economic impact of the rule amendments on business. The Board further request public comment on the effective date of the proposed amendments.

Pending the hearing, written comments regarding these rules may be submitted for admission into the record by directing such comments by mail, FAX (503-373-1684), or e-mail ([rulecomments.wcb@wcb.oregon.gov](mailto:rulecomments.wcb@wcb.oregon.gov)). The comments may be addressed to the attention of Lauren Eldridge, Rulemaking Hearing Officer, Workers Compensation Board 2601 25<sup>th</sup> St. SE Ste. 150, Salem OR 97302-1280. The hearing will be conducted via telephone conference. Instructions for attending the hearing and providing testimony will be posted on the Board's website.

June 28, 2024

**Last Day for Public Comment** (Last day to submit written comments to the Rulemaking Hearings Officer)



Signature

Joy Dougherty  
Printed name

6/3/24  
Date