

What is premature closure?

It means your claim was closed before you were medically stationary.

What is medically stationary?

It is a term used by the medical profession indicating that no further treatment or time is likely to improve your condition.

What is a statutory closure date?

This is the date the claim can be closed according to Oregon law because:

- The condition the insurer accepted is no longer the major contributing cause of the combined or consequential conditions and there is enough information to determine permanent disability.
- A worker fails to seek medical treatment for a period of 30 days without the approval of the physician.
- A worker fails to attend a mandatory closing examination.

What are the temporary disability dates on the closure?

This is the period during which you were unable to work (temporary total disability) or were able to do modified work only (temporary partial disability), according to the physician's orders.

What are impairment findings?

They are a physician's description and measurement of loss of use or function due to the accepted conditions. An appellate reviewer applies Oregon legal standards to rate your disability using the impairment findings provided by the physician.

What if I disagree with the order on reconsideration?

Any party to the claim may request a hearing within 30 days from the date of the Order on Reconsideration. A written hearing request must be sent to:

Workers' Compensation Board
25th Street, SE, Suite 150
Salem, OR 97302-1282

Important things to remember

- If you want to appeal your claim closure you must make a request for reconsideration within **60 days** of the date the claim was closed.
- Only information submitted during the reconsideration process can be considered at hearings before the Workers' Compensation Board.
- You can get help from an appellate reviewer by calling the Appellate Review Unit, (503) 947-7816, or the Benefit Consultation Unit, (800) 452-0288 (toll-free).
- The address for requesting reconsideration:
Workers' Compensation Division
Appellate Review Unit
350 Winter Street, NE, Room 27
P.O. Box 14480
Salem, OR 97309-0405
- The Web site: wcd.oregon.gov
- The **Ombudsman for Injured Workers** can also help by explaining workers' rights, the appeal process, and other benefits that might be available. Help from the ombudsman is free. Call (503) 378-3351 or (800) 927-1271 (toll-free).

Appellate Review Unit Mission

- Provide accurate, timely and impartial review of claim closures.
- Issue orders in accordance with laws and rules.
- Provide clearly explained reconsideration orders.
- Respect everyone's contribution.

Understanding the Reconsideration Process



*A guide for
injured workers*



What is reconsideration?

Reconsideration is the first level of appeal for those who believe their workers' compensation claims were closed in error. Reconsideration is a review of the written record of a claim closure by an appellate reviewer within the Workers' Compensation Division (WCD).

How do I request reconsideration?

You must request reconsideration by mail or phone within **60 days** of the date your claim was closed. Appellate reviewers can explain the reconsideration process to you and can help you fill out the *Request for Reconsideration* (Form 440-2233a). Reviewers can also mail the forms you need to request reconsideration. For assistance call the Appellate Review Unit, (503) 947-7816, or the Benefit Consultation Unit, (800) 452-0288 (toll-free). *Request for Reconsideration* forms are also on WCD's Web site, wcd.oregon.gov.

Important

- Appellate reviewers are not advocates and cannot provide legal advice. If you need legal advice, please contact a lawyer specializing in workers' compensation law.
- If your permanent partial disability award is more than \$6,000, you can request a lump-sum payment from the insurance company; however, if you do so and cash the check the insurer sends you, the permanent partial disability portion of the award cannot be reviewed at reconsideration.

What happens after I request reconsideration?

When you request reconsideration, WCD sends a letter to you, your attorney (if represented), the insurer, and the insurer's attorney acknowledging the request and indicating that the reconsideration process has begun.

If an insurer requests reconsideration, WCD also sends an acknowledgment letter to the parties, but for reconsideration to proceed, one of three things must happen:

- You must also request reconsideration
- You must tell WCD that the process can begin
- It must be 61 days since the claim was closed

Then WCD sends the parties another letter, saying that the reconsideration process has begun.

An *Order on Reconsideration* or a *Notice of Postponement* will be issued by WCD on or before the eighteenth workday after the date the reconsideration process begins. The *Order on Reconsideration* may be postponed for up to an additional 60 calendar days for reasons such as scheduling a medical arbiter exam or requesting additional information.

What if I disagree with the information from my attending physician that was considered at claim closure or I think something was missing from the medical evidence?

Explain in writing why you think the information at closure was incorrect or incomplete and send a copy of that and any omitted reports from your attending physician to WCD and the insurer. Remember, reconsideration is a review of the *written* record, so submit all evidence in writing.

What if I disagree with information on the updated Notice of Acceptance sent when my claim was closed?

At claim closure, if you think a condition was omitted from the *Updated Notice of Acceptance* or that the notice was incomplete or otherwise incorrect, you must send written notification to the insurer about the error. The issue of conditions that may have been omitted cannot be addressed at reconsideration; it must be appealed to the Workers' Compensation Board. The Appellate Review Unit can consider only accepted conditions in the *Updated Notice of Acceptance*.

What if I disagree with the impairment findings used to close my claim?

You should request a medical arbiter exam, which is a physical examination by an impartial physician, scheduled by WCD. The medical arbiter examines only those conditions that were accepted by the insurer at the time of claim closure. The purpose of the exam is to help settle disputes about permanent impairment. After the exam, the physician will send a written report to the appellate reviewer for

the record. Because the medical arbiter's role is to impartially assess an injured worker's impairment, the medical arbiter cannot offer medical treatment. For more information about the medical arbiter examination, see "What is a medical arbiter examination?" on WCD's Web site, wcd.oregon.gov or call WCD to request it, (503) 947-7672.

Do I get a hearing in front of the appellate reviewer?

No. Reconsideration of a claim closure is an informal process for reviewing the written records of the claim; it is not a hearing. You may talk to the appellate reviewer about the reconsideration process and submit a written explanation of why you disagree with the closure of your claim. You may ask anyone for a written statement to help you present your side of the story. You may also submit a deposition (testimony given under oath) to support your position. Reconsideration is the last opportunity to provide new information about your claim.

Sample statement:

I was working as a waitress when I was injured. I have returned to work as a cashier. My hours have been cut back to only 34 hours a week, and I was working 40 hours when I got hurt. My doctor told me I would probably need more surgery. I am still seeing my doctor and had an appointment on June 23. My doctor sent me for more physical therapy. My claim should remain open because I still need medical care and am unable to return to my regular job. There is an error in the paperwork, in that I did not graduate from high school, and I do not have a GED.

The appellate reviewer will review all written information and issue an *Order on Reconsideration*.

What is an Order on Reconsideration?

An *Order on Reconsideration* is a legal document explaining impairment findings, including temporary and permanent disability.

Can benefits be reduced at reconsideration?

Yes, it is possible. Reconsideration is a complete review of the claim closure; benefits may increase, decrease, or stay the same.