



Oregon

John A. Kitzhaber, MD, Governor

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ADDENDUM TO BULLETIN NO. 124 May 26, 2011

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

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

This addendum updates the cost-of-living matrix and fee schedule for vocational assistance expenditures provided in Bulletin 124. The cost-of-living matrix is defined in OAR 436-120-0005(3) 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. 3, 2010, and provides the vocational fee schedule used under OAR 436-120-0720.

Changes to the cost-of-living matrix and fee schedule are effective July 1, 2011.

Cost-of-living matrix	
Date of Injury or Aggravation	Conversion Factors Date of Calculation: 7-1-11 — 6-30-12
7-1-11 — 6-30-12	1.00
7-1-10 — 6-30-11	1.03
7-1-09 — 6-30-10	1.05
7-1-08 — 6-30-09	1.07
7-1-07 — 6-30-08	1.11
7-1-06 — 6-30-07	1.17
7-1-05 — 6-30-06	1.18
7-1-04 — 6-30-05	1.22
7-1-03 — 6-30-04	1.27
7-1-02 — 6-30-03	1.29
7-1-01 — 6-30-02	1.31
7-1-00 — 6-30-01	1.34
7-1-99 — 6-30-00	1.40
7-1-98 — 6-30-99	1.46
7-1-97 — 6-30-98	1.54
7-1-96 — 6-30-97	1.62
7-1-95 — 6-30-96	1.70
7-1-94 — 6-30-95	1.72
7-1-93 — 6-30-94	1.76
Before 7-1-93	1.90

Fee Schedule for July 1, 2011 through June 30, 2012 (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	\$461	Not applicable (NA)
Substantial handicap analysis	\$922	NA
Direct Employment	\$6,202	\$3,101
Training*	\$15,505	\$20,467
DE/Training Combined*	\$17,228	NA
Dispute Resolution	\$517	NA

*For workers found to have an exceptional disability or exceptional loss of earning capacity as defined in OAR 436-120-0443, 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, 2007. 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 2011. 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: 7-1-06 through 6-30-07. The conversion factor is **1.17**.

STEP TWO: Multiply the conversion factor by Mr. Smith's weekly wage:
 $1.17 \times \$600 = \mathbf{\$702}$ (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 2005 was \$500 a week. The insurer is making the decision in November 2011.

STEP ONE: Go to the correct time range: 7-1-05 through 6-30-06. The conversion factor is **1.18**

STEP TWO: Multiply the conversion factor by Ms. Garcia's net income at injury (\$500):
 $1.18 \times \$500 = \mathbf{\$590}$ (adjusted pre-injury net income).

Please contact the Employment Services Team at 503-947-7816 if you have questions about this bulletin.

/s/ John L. Shilts

John L. Shilts, Administrator
Workers' Compensation Division

Distribution: WCD-LY, S0, S1, S5



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**BULLETIN NO. 124 (Revised)
Nov. 3, 2010**

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

The purpose of this bulletin is to provide the forms, procedures, examples, and checklists for insurers and vocational assistance providers to use under the vocational rules, OAR 436-120. The Workers' Compensation Division revised this bulletin and Form 440-2800, "Vocational Closure Report," as a result of changes to the rules, effective Nov. 15, 2010. This bulletin replaces Bulletin 124 dated Dec. 23, 2009, and its addendum dated June 3, 2010.

FORMS AND NOTICES

You may reproduce the attached forms or download copies of the Microsoft Word® (automated) forms from the Workers' Compensation Division's website 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
2800	Vocational Closure Report
	Notice of Eligibility
	Notice of Ineligibility
	Notice of End of Training
	Notice of End of Eligibility for Vocational Assistance

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 (19)], 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 before 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 2004, Mr. Jones worked as a sales clerk for Morton's Drugs. His temporary total disability (TTD) is based on \$360 per week. Morton's owner states that all sales clerks have received a 5% increase since 2004.

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

STEP TWO: Determine the weekly wage on which TTD was based: \$360 (weekly wage).

STEP THREE: Convert the weekly wage to the adjusted weekly wage as described in OAR 436-120-0007(6)(a): $\$360 \times 1.05 = \378 .

\$378 is the adjusted weekly wage.

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

At the time of aggravation in June 2005, Ms. Stern was working as a shipping and receiving clerk for XYZ Corporation. She earned a monthly salary of \$2150. XYZ confirms that this was a permanent year-round position, and that all shipping and receiving clerks have received a 4% raise since 2005.

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: $\$2150 \div 4.35 = \494.25 (weekly wage).

STEP THREE: Convert the weekly wage to the adjusted weekly wage as described in OAR 436-120-0007(6)(a): $\$494.25 \times 1.04 = \514.02

\$514.02 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 \$40,000. 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. $\$40,000 \div 52 = \769.23 (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.

\$769.23 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 before 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 \$720 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: \$720 (weekly wage).

STEP THREE: Convert the weekly wage as described in OAR 436-120-0007(6)(b): $\$720 \times 1.03 = \741.60 .

\$741.60 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 before the injury or aggravation:

At the time of his injury, Dec. 2, 2006, 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 2006, 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)
3,300 (UI benefits)
\$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)
10 weeks (UI benefits)
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.

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.

Please contact the Employment Services Team 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)
440-2800 (Rev. 11/10)

Distribution: WCD-BT, 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 fee schedule are effective July 1, 2010.

Cost-of-living matrix	
Date of Injury or Aggravation	Conversion Factors Date of Calculation: 7-1-10 — 6-30-11
7-1-10 — 6-30-11	1.00
7-1-09 — 6-30-10	1.02
7-1-08 — 6-30-09	1.04
7-1-07 — 6-30-08	1.08
7-1-06 — 6-30-07	1.14
7-1-05 — 6-30-06	1.15
7-1-04 — 6-30-05	1.19
7-1-03 — 6-30-04	1.23
7-1-02 — 6-30-03	1.26
7-1-01 — 6-30-02	1.27
7-1-00 — 6-30-01	1.30
7-1-99 — 6-30-00	1.36
7-1-98 — 6-30-99	1.42
7-1-97 — 6-30-98	1.50
7-1-96 — 6-30-97	1.58
7-1-95 — 6-30-96	1.66
7-1-94 — 6-30-95	1.67
7-1-93 — 6-30-94	1.71
Prior to 7-1-93	1.84

Fee Schedule for July 1, 2010 through June 30, 2011 (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	\$448	Not applicable (NA)
Substantial handicap analysis	\$896	NA
Direct Employment	\$6,031	\$3,016
Training*	\$15,080	\$19,905
DE/Training Combined*	\$16,755	NA
Dispute Resolution	\$502	NA

*For workers found to have an exceptional disability or exceptional loss of earning capacity as defined in OAR 436-120-0440(3)(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 2010. 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 **1.19**.

STEP TWO: Multiply the conversion factor by Mr. Smith's weekly wage:
 $1.19 \times \$600 = \mathbf{\$714}$ (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 2010.

STEP ONE: Go to the correct time range: 7-1-03 through 6-30-04. The conversion factor is **1.23**

STEP TWO: Multiply the conversion factor by Ms. Garcia's net income at injury (\$500):
 $1.23 \times \$500 = \mathbf{\$615}$ (**adjusted pre-injury net income**).

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