

payments and must be prorated. Under POMS DI 52001.555 C.4. the proration is accomplished using one of three methods in the following order of priority:

- (1) the rate specified in the award;
- (2) the periodic rate paid prior to the lump-sum award (if no rate was specified in the lump-sum award); or
- (3) the State workers' compensation maximum weekly rate in effect at the time of the workers' compensation injury (if no rate was specified in the lump-sum award and if no prior periodic payments were made).⁴

The *Hodge* court found that Oregon workers' compensation law establishes that a lump-sum award for a permanent disability is a substitute for a stream of payments for the remainder of an individual's working life which the

court presumed to end at age 65. Because the amount of the payment and the period of time covered are known, the court concluded that by the operation of Oregon law the monthly offset amount equals the lump-sum award divided by the number of months between the date of the award and the date the worker reaches age 65.

Explanation of How SSA Will Apply The Hodge Decision Within The Circuit

This Ruling applies only to cases in which the worker receives a lump-sum award or settlement under Oregon workers' compensation law for a permanent disability and the applicant resides in Alaska, Arizona, California, Guam, Hawaii (including American Samoa), Idaho, Montana, Nevada, Northern Mariana Islands, Oregon or Washington at the time of the determination or decision at any

administrative level, i.e., initial, reconsideration, ALJ hearing or Appeals Council.

When prorating a lump-sum award or settlement made under Oregon workers' compensation law for a permanent disability, SSA will treat the lump-sum as a substitute for periodic payments and will calculate the offset rate on a monthly basis by dividing the lump-sum by the number of months between the date of the award and the date the worker reaches age 65. However, if a workers' compensation award expressly establishes an offset rate under the Oregon statutory scheme (not merely a recital of the weekly or monthly benefit rate), SSA will prorate the lump-sum award according to that expressly stated offset rate.

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⁴ See also SSR 87-21c