
In the ORS 656.260 Managed Care Dispute of

RANDALL L. PARR Claimant

Contested Case No: H05-102

INTERIM ORDER REMANDING

September 9, 2005

RANDALL L. PARR, Petitioner

SAIF CORP. AND MANAGED HEALTH CARE NW, Respondent

Before Lawrence S. Smith, Administrative Law Judge, Administrative Hearings

HISTORY OF THE CASE

Claimant appeals the Administrative Order issued on June 8, 2005, by the Medical Review Unit (MRU) of the Workers' Compensation Division (WCD), Department of Consumer and Business Services (director or the department). On July 22, 2005, WCD referred the matter to the Office of Administrative Hearings (OAH).

On September 1, 2005, Administrative Law Judge Lawrence S. Smith conducted a contested case hearing. Petitioner Randall L. Parr (Claimant) was represented by his attorney, Randy Elmer. SAIF Corporation (SAIF) was represented by Assistant Attorney General David Runner. Providence MCO, a managed care organization (MCO) waived appearance. No one testified at the hearing. During the hearing, a factual error was noted in the Administrative Decision.

ISSUE

Whether MRU incorrectly determined that various medical services provided to Claimant, as listed in the Administrative Order, are not reimbursable.

EVIDENTIARY RULINGS

WCD Exhibits 1 through 111 and Claimant's Exhibits 26A and 34A were received into the record without objection, although SAIF had one week after the hearing to file an objection Exhibits 26A and 34A. SAIF's objection to Exhibits 112 and 113 was sustained.

FINDINGS OF FACT

(1) On February 9, 2004, the Workers' Compensation Board ordered SAIF to accept Claimant's condition of zerostomia¹ and "resultant dental caries." (Ex. 26A.)

CONCLUSION OF LAW

The issue is remanded to WCD for further consideration.

OPINION

¹ Actually spelled xerostomia.

WCD exercises jurisdiction over MCO disputes. ORS 656.260(6). Among the powers of the administrative law judge is the authority to remand. OAR 436-001-0170.² The Administrative Order specifically found no evidence to support Claimant's assertion that his dental caries was an accepted a condition. The Order's conclusions relied on this lack of evidence of acceptance. At the hearing, Claimant provided evidence of such acceptance of dental caries in the WCB's Order (Ex. 26A). WCD and MRU should be given the opportunity to consider this WCB Order, which will probably have a substantial effect on their conclusions. Therefore, the matter is remanded to WCD/MRU for reconsideration.

ATTORNEY FEES

Claimant has not finally prevailed in a contested case hearing, and therefore, is entitled to no attorney fee.

ORDER

Claimant's appeal of the Administrative Order dated June 8, 2005, is remanded pursuant to OAR 436-001-0170(1) for further consideration in light of a new fact.

² "Duties and Powers of the Administrative Law Judge

(1) The administrative law judge may remand a dispute to the director for further administrative action."