

In the Matter of the ORS 656.260 Managed Care Dispute of

**Marina V. Nozdrin, Claimant**

Contested Case No: 06-064H

**PROPOSED & FINAL ORDER**

October 3, 2006

RODNEY S. DUDLEY ANGELIC HEALING HANDS INC., Petitioner

MARINA V. NOZDRIN, Respondent

Before David D. Lipton, Administrative Law Judge

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Pursuant to notice, a hearing was held and closed on September 18, 2006 in Portland, Oregon before David D. Lipton, Administrative Law Judge. The party requesting the hearing, Rodney Dudley(dba Angelic Healing Hands, Inc.), was present and represented himself. Claimant was present and was represented by James Guinn. The self-insured and self-administered employer, Legacy Health Systems, were represented by Diane Sawyer.

Proposed exhibits 1-23 were admitted.

**ISSUE**

Mr. Dudley protests the Medical Review Unit's (MRU) March 9, 2006 Administrative Order addressing an ORS 656.260 managed care dispute.

**FINDINGS OF FACT**

Claimant was compensably injured on December 16, 2003. Legacy accepted her claim for lumbar and left sacroiliac strains.

On August 9, 2004, Claimant presented to Angelic Healing Hands, Inc., to whom she had been referred for massage therapy by her attending physician. Claimant indicated on her "Insurance Billing Information" form that her condition was related to her employment. Claimant told her massage therapist that she had filed a Workers' Compensation Claim on December 16, 2003 for a pulled muscle in the sacroiliac region. Treatment was directed to the sacroiliac and lumbar spine.

Claimant received massage therapy at Angelic Healing Hands from August 9, 2004 through October 8, 2004. A statement for these services was presented to Legacy Health systems.

On October 4, 2004, the claims examiner returned the bill to Angelic Healing Hands, rejecting payment for failure to comply with OAR 436-010-0230(4)(a) and (b).

On October 11, 2004, Mr. Dudley, the owner of Angelic Healing Hands, billed Claimant \$1, 535.00 for the services rendered.

On December 3, 2004, Claimant's then attorney requested the MRU to review the matter, alleging that Legacy had failed to pay for Angelic Healing Hands' services. After a delay while the position of Managed Healthcare Northwest was determined, the matter was again referred to the MRU on January 12, 2006.

The MRU issued its Order on March 9, 2006. The Order noted that Claimant has an accepted lumbar and left sacroiliac strain resulting from a December 16, 2003 injury. It further noted that on August 13, 2004 and August 27, 2004 Dr. Ackerman had prescribed eight visits of massage therapy for low back pain. On October 8, Dr. Ackerman prescribed eight visits of physical therapy for lumbar strain. The Medical Reviewer noted that Claimant's receipt of medical services was governed by Legacy's contract with its Managed Care Organization (MCO). [ORS 656.245(4)]. The Medical Reviewer then noted that ancillary medical services (such as massage therapy) are carried out under a treatment plan which must be prepared before treatment begins and sent to the attending physician and the insurer within seven days of beginning such treatment. [OAR 436-010-0230(4)(a)] The treatment plan is required to include the objectives, modalities, frequency and duration of such treatment. The record before the MRU did not contain such a treatment plan prepared by Angelic Healing Hands and signed by Dr. Ackerman. Nor did the record identify that the treatment had been pre-certified by the MCO. The Medical Reviewer concluded that neither the MCO's requirements nor the administrative rules had been followed and therefore the services were not reimbursable.

Mr. Dudley filed his Request for Hearing on April 3, 2006.

### **OPINION AND CONCLUSION**

This matter is before the Workers' Compensation Board, Hearings Division, pursuant to ORS 656.704(2) for review of a managed care dispute under ORS 656.260. The Order under review may be modified only if it is not supported by substantial evidence in the evidentiary record developed by the MRU or if the Order reflects an error of law. No new medical evidence may be admitted at the hearing. OAR 436-001-0225(2).

Under a "substantial evidence" review, if, after reviewing the evidence both in favor of and against the Order, the Order is reasonable, the Order must be affirmed. Armstrong v. Asten-Hill Company, 90 Or App 200 (1988).

In protesting the Order, Mr. Dudley argued that Claimant did not identify her condition for which she sought treatment as arising from a Workers' Compensation claim or that preauthorization was required. In fact, Claimant stated at least twice that her condition was work related. Her Workers' Compensation carrier was billed for the services. Therefore, I find that Angelic Healing Hands knew, or reasonably should have known, that the services being provided were for a Workers' Compensation injury. Therefore, it was the duty of Angelic Healing Hands to follow the administrative rules before providing services for which it intended to be paid. Angelic Healing Hands failed to follow the administrative rules or the requirements of the MCO. That is the finding of the MRU in determining that these services are not reimbursable. There is substantial evidence to support that finding. The Order will be affirmed.

**ORDER**

IT IS HEREBY ORDERED that the March 9, 2006 Administrative Order in case number MMS06-185 is affirmed.