

In the ORS 656.245 Medical Services of

Glenn L. Gatliff, Claimant

Contested Case No: 10-011H

PROPOSED & FINAL ORDER

May 18, 2010

GLENN L. GATLIFF, Petitioner

WEYERHAEUSER COMPANY, Respondent

Before Douglas C. Crummé, Administrative Law Judge

Pursuant to notice, a hearing was held on the record in this matter on April 22, 2010, in Salem, Oregon, before Administrative Law Judge Douglas Crummé. Claimant Glenn L. Gatliff personally appeared. An attorney did not represent Mr. Gatliff. John M. Pitcher, Attorney at Law, represented the self-insured employer, Weyerhaeuser-Willamette Industries, Inc., and its claims processing agent, Specialty Risk Services. Exhibits 1 through 113, excluding 109, 110, and 111, are admitted. The record closed on the date of hearing.

ISSUES

Mr. Gatliff challenges the Workers' Compensation Division's (WCD's) December 21, 2009, Administrative Order of Dismissal concerning the parties' dispute about whether employer is liable for certain medical services.

FINDINGS OF FACT

On December 21, 2009, the WCD issued an Administrative Order of Dismissal in case number DMS 09-1573. The issue in that matter was whether employer is liable for medical services which Oregon Health Sciences University, Corvallis Clinic, and McKenzie-Willamette Hospital provided to claimant from January 1, 2007, through February 12, 2008, and for prescription medications dispensed to claimant from June 28, 2006, through December 14, 2006. (Ex. 107.)

The Administrative Order of Dismissal dismissed the matter on the grounds that the Workers' Compensation Board (Board) had determined in an Opinion and Order issued on November 13, 2009, that the disputed medical services are not compensable. (Ex. 107.) The Board did issue such an Opinion and Order so determining. (Ex. 104.) The record does not prove that either party timely requested Board review of the Opinion and Order.

Mr. Gatliff requested a hearing to challenge the WCD's Administrative Order of Dismissal. (Ex. 108.) The WCD referred the matter to the Board for hearing. (Official notice.)

CONCLUSIONS OF LAW AND OPINION

Mr. Gatliff challenges the WCD's December 21, 2009, Administrative Order of Dismissal concerning the parties' dispute about whether employer is liable for certain medical services.

The Administrative Order of Dismissal should be affirmed.

The Board has authority to resolve medical services disputes requiring a determination of the compensability of the medical conditions for which medical services are proposed. ORS 656.704(3)(a) and (b)(A). The Board has authority to determine any dispute that requires a determination of whether a sufficient causal relationship exists between medical services and an accepted claim to establish compensability. ORS 656.704(3)(a) and (b)(C).

The WCD has authority to resolve medical disputes requiring a determination of whether the services are excessive, inappropriate, ineffectual, in violation of the rules regarding the performance of medical services, or qualify for compensation under ORS 656.245(1)(c). ORS 656.704(3)(a) and (b)(B).

As a result, the WCD's authority concerning the parties' medical services dispute is limited to determining whether any of the disputed services that are compensable are excessive, inappropriate, ineffectual, in violation of the rules regarding the performance of medical services, or qualify for compensation under ORS 656.245(1)(c).

The standard of review of the Administrative Order on Review is whether that Order "is not supported by substantial evidence in the record or...reflects an error of law." OAR 436-001-0225(2).

Substantial evidence establishes that the Board has finally determined that the disputed medical services were not for compensable conditions and were not sufficiently causally related to the accepted claim to establish compensability. ORS 656.704(3)(a) and (b)(C).

The Administrative Order of Dismissal does not reflect an error of law. The Administrative Order on Review correctly concludes that the Board's unappealed Opinion and Order has finally determined that the disputed medical services here are not compensable, so that the WCD has no authority to determine whether employer is otherwise liable for those services. Accordingly, the Administrative Order of Dismissal should be affirmed.

ORDER

IT IS THEREFORE ORDERED that the December 21, 2009, Order of Dismissal is affirmed.