
In the Matter of the Compensation of
KELLY HOWARD, Claimant
WCB Case No. 04-02517
ORDER ON REMAND
Dale C Johnson, Claimant Attorneys
Sather Byerly & Holloway, Defense Attorneys

Reviewing Panel: Members Kasubhai and Lowell.

This matter is before the Board on remand from the Court of Appeals. Pursuant to the court's March 30, 2006 order, we have been directed to consider the parties' proposed settlement. The parties have submitted a proposed "Disputed Claim Settlement Agreement" (DCS) that is designed to resolve all issues raised or raisable between them.

Pursuant to the agreement, the parties understand that the self-insured employer's denial "is hereby reinstated." The parties further agree that claimant's hearing request "shall be dismissed with prejudice."

We approve the parties' settlement, thereby fully and finally resolving their dispute.¹ This matter is dismissed with prejudice.

IT IS SO ORDERED.

Entered at Salem, Oregon on April 6, 2006

¹ The parties acknowledge that PacificSource Health Plans shall be reimbursed in the amount of \$1,628.62 in satisfaction of its lien on medical bills. Inasmuch as the parties' compensability dispute is being resolved by means of a DCS, only medical service providers may be directly reimbursed from the settlement proceeds. ORS 656.313(4)(c). (Health insurance providers may be directly reimbursed by the workers' compensation carrier when "the services are determined to be compensable." ORS 656.313(4)(b)). However, because proceeds from a DCS are not considered "compensation," a claimant's assignment of all or a portion of his share of the proceeds is not prohibited by ORS 656.234. *Edward A. Sprague*, 51 Van Natta 1060, n1 (1999); *Theodule Lejeune, Jr.*, 40 Van Natta 493 (1988). Therefore, in granting our approval of the settlement, we have interpreted the settlement as providing that claimant has assigned a portion of her share of the settlement proceeds to the non-workers' compensation carrier. Pursuant to *Sprague* and its progeny, such an assignment is not contrary to ORS 656.234.