

In the Matter of the Compensation of
WCB Case No. 13-06225
DAIN EICHEL, Claimant
ORDER OF DISMISSAL
Jodie Phillips Polich, Claimant Attorneys
Richard J Cantwell, Defense Attorneys

Reviewing Panel: Members Lanning and Curey.

The self-insured employer requested, and claimant cross-requested, review of Administrative Law Judge (ALJ) Fulsher's order that: (1) set aside the employer's denial of claimant's occupational disease claim for a mental disorder; and (2) awarded a \$19,500 attorney fee. The parties have submitted a proposed "Disputed Claim Settlement" (DCS) that is designed to resolve all issues raised or raisable between them, in lieu of the ALJ's order.

Pursuant to the settlement, claimant agrees that the employer's denial, as supplemented by the agreement, "shall remain in full force and effect." The settlement further provides that "the parties agree that the Request for Hearing shall be dismissed with prejudice and said amount shall be accepted in full and final settlement."

By this order, we approve the parties' agreement, thereby fully and finally resolving their dispute, in lieu of the ALJ's order.¹ Accordingly, this matter is dismissed with prejudice.

IT IS SO ORDERED.

Entered at Salem, Oregon on March 4, 2016

¹ A provision in the settlement states that a portion of claimant's share of the proceeds shall be distributed in satisfaction of the private health insurer's lien. 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 if "the services are determined to be compensable." ORS 656.313(4)(b).) Nonetheless, 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. *Wanda D. Gangle*, 55 Van Natta 3655 (2003); *Robert D. Surina*, 40 Van Natta 1955 (1988). Therefore, in granting our approval of the settlement, we have interpreted the agreement as providing that claimant has assigned a portion of his share of the settlement proceeds in satisfaction of the non-workers' compensation carrier's lien. For the reasons previously expressed, such an assignment is not statutorily prohibited.