
In the Matter of the Compensation of
WAYNE M. PIERCE, JR., Claimant
WCB Case No. 15-02048
ORDER ON REVIEW
Andrews Ersoff & Zantello, Claimant Attorneys
SAIF Legal Salem, Defense Attorneys

Reviewing Panel: Members Weddell and Curey.

Claimant requests review of Administrative Law Judge (ALJ) Poland's order that held that the Hearings Division did not have jurisdiction over a medical service dispute arising from a Managed Care Organization (MCO), as well as penalties/attorney fees concerning that matter. On review, the issue is jurisdiction.

We adopt and affirm the ALJ's order with the following supplementation.

Under ORS 656.260(7),¹ the Director has exclusive jurisdiction over an "MCO-related" medical services dispute. *See Kathleen M. Butler*, 47 Van Natta 2202 (1981) (Hearing Division lacked jurisdiction to directly resolve an MCO medical service dispute); *see also Job G. Lopez*, 48 Van Natta 1098, 1099 (1988) (on remand) (because the matter at issue pertained to an MCO medical services dispute, exclusive jurisdiction rested with the Director, not the Hearings Division).

Moreover, under these circumstances, the Hearings Division also lacks jurisdiction over the penalty and attorney fee related issues regarding this medical service dispute. *See Craig A. Olsen*, 65 Van Natta 1976, 1978 (2013) (jurisdiction to resolve medical bill dispute rests exclusively with the Director and the Hearings Division/Board lacked jurisdiction to consider related penalty

¹ ORS 656.260(7) provides, in pertinent part:

"Any issue concerning the provision of medical services to injured workers subject to a managed care contract and service utilization review, quality assurance, dispute resolution, contract review and peer review activities as well as authorization of medical services to be provided by other than an attending physician pursuant to ORS 656.245 (2)(b) shall be subject to review by the director or the director's designated representatives. The decision of the director is subject to review under ORS 656.704. * * *"

and attorney fees issues); *see also Dewey W. Kennedy*, 48 Van Natta 897 (1996) (Hearings Division/Board lacked jurisdiction over an MCO medical services dispute and were without authority to award a penalty and attorney fees related to such disputes).

ORDER

The ALJ's order dated September 4, 2015 is affirmed.

Entered at Salem, Oregon on February 16, 2016