

---

In the Matter of the Compensation of  
**ANTHONY M. SILVA, Claimant**  
WCB Case No: 16-01738C  
**ORDER APPROVING CLAIM DISPOSITION AGREEMENT**  
Alvey Law Group, Claimant Attorneys  
Cummins Goodman et al, Defense Attorneys

Reviewing Panel: Members Lanning and Johnson.

On September 21, 2016, the Board received the parties' amended claim disposition agreement (CDA). In consideration of the payment of a stated sum, claimant releases certain rights to future workers' compensation benefits, except medical services-related benefits, for his compensable injury. We approve the proposed disposition.

The summary page of the amended CDA provides for a full release of "any and all benefits including \* \* \* attorney fees, and penalties except to the extent that the stated benefits in this paragraph are related to a medical services claim under ORS 656.245[.]" However, Paragraph 11 of the CDA provides, "Claimant releases his current and future rights to the following workers' compensation benefits: \* \* \* penalties, and attorney fees, and any and all other benefits and issues under Oregon Workers' Compensation except medical services under ORS 656.245." In other words, the provision in the body of the CDA could suggest that only claimant's medical services are retained. Yet, a CDA cannot resolve a claimant's right to penalties and attorney fees derived from a subsequent claim for medical services. See *Liberty Northwest Ins. Corp. v. Watkins*, 347 Or 687, 693 (2010); *Edward J. D'angelico*, 67 Van Natta 1432 (2015) (*Watkins* rationale that a CDA cannot resolve a claimant's right to "medical service-related" attorney fees also pertains to "medical service-related" penalties and related attorney fees).

Consistent with the aforementioned case precedent, and considering the more specific provision contained in the CDA summary page, we interpret the CDA as preserving claimant's right to penalties and attorney fees that derive from subsequent claims for medical services.<sup>1</sup>

---

<sup>1</sup> The Board has posted an updated CDA form on its website, which contains provisions addressing these matters. The parties may wish to follow this format when submitting subsequent proposed CDAs.

The amended agreement, as clarified by this order, is in accordance with the terms and conditions prescribed by the Board. *See* ORS 656.236(1). Accordingly, the parties' amended CDA is approved.

If the parties disagree with our interpretation of the amended CDA, they may move for reconsideration by filing a motion for reconsideration within 10 days of the date of mailing of this order. OAR 438-009-0035.

**IT IS SO ORDERED.**

Entered at Salem, Oregon on September 27, 2016