

In the ORS 656.327 Medical Treatment Dispute of

ROBERT A. SHADDY, Claimant

Contested Case No: H04-143

INTERIM ORDER REMANDING

November 02, 2004

RLC INDUSTRIES, INC., Petitioner

ROBERT A. SHADDY, Respondent

Before Ella D. Johnson, Administrative Law Judge, Administrative Hearings

Insurer appeals an August 6, 2004 Administrative Order issued by the Medical Review Unit (MRU), Workers' Compensation Division (WCD), Department of Consumer and Business Services (department or director). MRU found that that insurer RLC Industries, Inc. (RLC) was barred from challenging the appropriateness of the proposed L4-5, L5-S1 fusion, with TLIF approach because RLC failed to comply with OAR 436-010-0250. RLC timely requested a hearing challenging MRU's decision. On September 17, 2004, the department referred the case to the Office of Administrative Hearings (OAH) for hearing.

On October 26, 2004, OAH Administrative Law Judge Ella D. Johnson initiated a telephone hearing in this matter. Petitioning insurer was represented by Attorney at Law R. Ray Heysell. Attorney at Law Christine Jensen represented respondent Robert A. Shaddy (claimant). Prior to going on the record, I raised the issue of exhibits submitted by both RLC and claimant, noting that the medical record was closed necessitating a remand for MRU to consider the new evidence. Both parties asserted that the proffered documents, marked as Exhibits 100A-1 and 2, 100B, and 118-2, had previously been submitted to MRU but had not been included in the record transmitted to OAH.

Consequently, the parties agreed to a remand of the matter to MRU to consider the proffered documents inasmuch as they bear both on appropriateness of the proposed surgery and insurer's defense to its alleged failure to comply with OAR 436-010-0250. The parties requested in light of claimant's need for resolution concerning the proposed surgery that the review on remand be expedited. Accordingly, this matter is remanded to MRU for an expedited review to consider Exhibits 100A-1 and 2, 100B, and 118-2.

IT IS SO ORDERED.