

In the ORS 656.327 Medical Treatment Dispute of

**WILLIAM T. BROWN JR., Claimant**

Contested Case No: H04-152

**FINAL ORDER**

June 21, 2005

LIBERTY NORTHWEST INSURANCE CORP., Petitioner

WILLIAM T. BROWN JR., Respondent

Before John Shilts, Administrator, Workers' Compensation Division

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Petitioner insurer, through its attorney Leah Sideras, submitted exceptions to Office of Administrative Hearings Administrative Law Judge (ALJ) Catherine P. Coburn's May 3, 2005 Proposed and Final Order. Respondent claimant, through his attorney Robert D. Carlson, waived response. No other party participated in the exceptions process. The director limits her review to the issue raised by insurer, and adopts and affirms the proposed order as corrected below.

Insurer raises a clerical error in the proposed order, contending the body of the proposed order appears to overturn the August 18, 2004 Administrative Order, but the proposed order states that the August 18, 2004 Administrative Order is affirmed. Insurer asks that the Proposed and Final Order be re-issued to correct the misstated disposition.

The underlying issue is appropriateness of prostheses. The Medical Review Unit, in the August 18, 2004 Administrative Order, found the prostheses appropriate and insurer liable for them. In the May 3, 2005 Proposed and Final Order, the "Order" section states: "The Administrative Order dated August 18, 2004 is affirmed." However, a review of the "Conclusion of Law" and "Opinion" sections of the proposed order reveals that the ALJ in fact intended to reverse the outcome of the unit's order. The ALJ's "Conclusion of Law" states: "Bilateral above the knee prosthetic sockets prescribed by Peter Kuhn, MD are not reimbursable medical services." In the "Opinion," the ALJ goes on to explain that while the unit's conclusion that the prostheses are appropriate is supported by substantial evidence, "the disputed medical services were not authorized by the attending physician, therefore are not reimbursable." The ALJ also found that claimant did not prevail, and therefore is not entitled to an attorney fee.

It is apparent that the result of the ALJ's proposed order is that the unit's order is reversed. While the unit's conclusion that the prostheses are appropriate is not reversed, the unit's conclusion that insurer is liable for the prostheses is reversed. Therefore, the "Order" contains an error. It should state: "The Administrative Order dated August 18, 2004 is reversed."

**IT IS HEREBY ORDERED** the May 3, 2005 Proposed and Final Order is adopted and affirmed with the following correction: The "Order" section on page 6 should read: "The Administrative Order dated August 18, 2004 is reversed."