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In the ORS 656.248 Medical Fee Dispute of

**Alisha M. Ard, Claimant**

Contested Case No: 07-051H

**FINAL ORDER**

December 5, 2007

ALISHA M. ARD, Petitioner

GOOD SHEPARD MEDICAL CENTER, Respondent

Before John Shilts, Workers' Compensation Division Administrator

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Petitioner claimant, through attorney Daniel Mark Spencer, timely filed exceptions to Workers' Compensation Board Administrative Law Judge (ALJ) Robert Pardington's September 4, 2007 Corrected Proposed and Final Order. No response was received from respondent provider Good Shepard Medical Center or employer Safeway Stores.<sup>1</sup> I review under ORS 656.704(2)(a), and I adopt and affirm the proposed order.

The underlying issue is claimant's liability for medical bills. Claimant and employer entered into a disputed claim settlement. Pursuant to that settlement claimant's workers' compensation claim was denied. Medical bills from provider totaled \$2,934.15. By the terms of the settlement employer paid provider's bills at the audited rate of \$1,649.73. Provider then sought to collect the remaining balance from claimant. Claimant sought review by the Medical Resolution Team.

The medical reviewer, by Administrative Order of Dismissal dated April 4, 2007, dismissed for lack of jurisdiction, reasoning "[t]he director lacks authority to prevent medical service providers from billing workers at rates beyond that permitted by the Workers' Compensation Fee schedule for care outside of the Workers' Compensation Act." Claimant requested a hearing. ALJ Pardington affirmed the dismissal, reasoning that under ORS 656.248(12) the director has jurisdiction over disputes regarding fees for compensable medical services, and the medical services provided to claimant are not compensable. The ALJ stated: "I can locate no authority for the Director to decide such a dispute regarding fees for medical services on a noncompensable claim."

Claimant contends that the director has jurisdiction over this dispute based on the grammatical construction of ORS 656.248(12) which provides, in part:

"When a dispute exists between an injured worker, insurer or self-insured employer and a medical service provider regarding either the amount of the fee or nonpayment of bills for compensable medical services, notwithstanding any other provision of this chapter, the injured worker, insurer, self-insured employer or

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<sup>1</sup> The parties to this dispute are claimant and the provider, Good Shepard Medical Center. The provider participated in a pre-hearing conference call with the ALJ but otherwise waived appearance in this matter. Employer, through attorney Ronald L. Bohy, participated and submitted closing argument but acknowledged that it is not technically a party to this dispute.

medical service provider shall request administrative review by the director.”

According to claimant, the director has jurisdiction over disputes regarding nonpayment of bills for compensable medical services or disputes regarding the amount of the fee, regardless of whether the services are compensable. Claimant further contends the bills were processed according to the workers’ compensation law and the director should enforce that law.

I agree with ALJ Pardington’s interpretation of ORS 656.248(12) and adopt his reasoning and analysis. The director has jurisdiction over disputes regarding the amount of the fee for compensable medical services. Here, the medical services provided by Good Shepard are not compensable. Therefore, the director does not have jurisdiction under ORS 656.248(12).

In light of my disposition of this matter, I do not reach claimant’s policy arguments, arguments on the merits, or requests for sanctions and fees.

**IT IS HEREBY ORDERED** the September 4, 2007 Corrected Proposed and Final Order and the April 4, 2007 Administrative Order of Dismissal are affirmed.