

In the ORS 656.248 Medical Fee Dispute of

Kevin M. Lyon, Claimant

Contested Case No: 06-137H

FINAL ORDER

July 13, 2007

KEVIN M. LYON, Petitioner

SAIF CORPORATION, Respondent

Before John L. Shilts, Workers' Compensation Division Administrator

Claimant, through his attorney Christopher D. Moore, timely filed exceptions to Workers' Compensation Board Administrative Law Judge Douglas C. Crummé's March 23, 2007 Proposed and Final Order. Insurer, through its attorney Jerome P. Larkin, responded to the exceptions.

The issue is whether insurer is liable to directly pay claimant interest on medical bills for which payment was stayed pending insurer's appeal of the compensability of the claim. The Medical Review Unit, in an August 22, 2006 Director's Review and Order, found that insurer was not liable to pay claimant interest on the medical bills stayed during the appeals process. Claimant requested a hearing. ALJ Crummé affirmed, denying claimant's request to order insurer to pay the disputed interest directly to claimant. I adopt and affirm ALJ Crummé's proposed order.

Interest is defined as "compensation for the use or forbearance of another's money." *Haret v. State Accident Insurance Fund Corp.*, 72 Or App 668, 672 (1985) citing *Portland Gen. Elec. Co. v. Dept. of Rev.*, 7 OTR 444, 445 (1978). At no time did insurer owe claimant the payment for medical services and at no time did claimant forbear from collecting that payment. Rather it was the medical provider who was unable to collect for the provided medical services until the issue of compensability was determined. Even if it had been found that insurer was not required to pay for the medical services and claimant was, it was still the medical provider who was unable to enforce payment, not claimant. Therefore, if interest is due, it would be payable to the medical provider as compensation for the forbearance of collecting their money during the period payment was stayed.

IT IS HEREBY ORDERED the March 23, 2007 Proposed and Final Order is affirmed.