

In the Compensation of  
**Jimmy D. Monroe Jr., Claimant**

Contested Case No: 08-032H

**PROPOSED & FINAL ORDER**

July 2, 2008

JIMMY D. MONROE JR., Petitioner

SAIF CORPORATION, Respondent

Before Jill Riechers, Administrative Law Judge

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Pursuant to a request for hearing filed by claimant, a hearing was scheduled for June 2, 2008. Claimant was not present, nor was an attorney present on his behalf. The employer, Silver Eagle Manufacturing Company, and its insurer, SAIF Corporation, were represented by Janelle Irving. At hearing, Exhibits 1 through 4, submitted by Becky Miner of the Workers' Compensation Division, Department of Consumer & Business Services, on March 19, 2008, were admitted. Employer/ SAIF did not move for dismissal of the case, but asked that a Proposed and Final Order be issued.

**ISSUE**

Claimant filed an appeal of the February 6, 2008 Administrative Order of Dismissal, DMS 08-128, which dismissed claimant's request for review of SAIF's non-payment of medical bills for treatment rendered by Glen R. Stream, M.D. (Exs 3, 4).

**FACTS**

The Findings of Fact set forth in the February 6, 2008 Administrative Order are hereby incorporated by reference. See *Liberty Northwest Insurance Corporation v. Kraft*, 205 Or App 59, 62-63 (2006).

**CONCLUSIONS OF LAW AND OPINION**

Claimant's workers' compensation claim was denied on July 11, 2007. The denial was not appealed. (Ex 3-1). The Director noted that the applicable administrative rules provided that when a claim was denied, the medical service provider shall first bill the health benefit plan, and after payment is received from the health benefit plan, the medical service provider may bill the workers' compensation insurer. See OAR 436-009-0035(6), (7) and (8); OAR 436-009-0010. If the worker has no health benefit plan, the workers' compensation insurer is not required to pay for interim medical benefits. (Ex 3-2). See *Reese Blacknall, Jr.*, 12 CCHR 316 (2007).

The Director noted that if claimant had a private health care plan to cover the bills for the April 4, 12 and 24, 2007 dates of service, he would qualify for payment of interim medical benefits. (Ex 3-2). The Director further stated, "However, since this is a denied claim, the director ultimately has no jurisdiction over this matter."

Here, there is no evidence that claimant had a health benefit plan, and further, there is no evidence that the Director had jurisdiction to consider the matter, since the denial was

unappealed. Under the circumstances, no error on the part of the Director has been established, and substantial evidence supports the Director's decision to dismiss the matter.

**ORDER**

IT IS THEREFORE ORDERED that the February 6, 2008 Administrative Order, DSM 08-128 is affirmed.