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In the ORS 656.245 Medical Services Dispute of

**NEDZAD MUSIC, Claimant**

Contested Case No: 07-065H

**FINAL ORDER**

February 27, 2008

NEDZAD MUSIC, Petitioner

LIBERTY NORTHWEST INSURANCE CORP., Respondent

Before John Shilts, Workers' Compensation Division Administrator

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Claimant, through attorney Michael A. Gilbertson, timely filed exceptions to Workers' Compensation Board Administrative Law Judge Monte Marshall's November 8, 2007 proposed and final order. Insurer, through attorney Raymond T. Smitke, timely responded. This matter comes before the director for a final order under ORS 656.704(2)(a) and OAR 436-001-0246. The issue is compensability of medical services. I adopt and affirm.

The issue is whether insurer is required to pay for an interferential stimulator with back garment prescribed by Dr. Koon on February 11, 2006. The Medical Resolution Team (RT), in its May 11, 2007 administrative order, disapproved the interferential stimulator and back garment. RT found that the stimulator is not a medication compensable under ORS 656.245(1)(c)(B), is not curative care under ORS 656.245(1)(c)(L), and does not meet the requirements for palliative care under ORS 656.245(1)(c)(J)<sup>1</sup> because claimant was not employed or enrolled in a vocational training program.

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<sup>1</sup> The relevant provisions of ORS 656.245 provide:

“(c) Notwithstanding any other provision of this chapter, medical services after the worker's condition is medically stationary are not compensable except for the following:

“\* \* \* \* \*

“(B) Prescription medications.

“\* \* \* \* \*

“(J) With the approval of the insurer or self-insured employer, palliative care that the worker's attending physician referred to in ORS 656.005 (12)(b)(A) prescribes and that is necessary to enable the worker to continue current employment or a vocational training program. If the insurer or self-insured employer does not approve, the attending physician or the worker may request approval from the Director of the Department of Consumer and Business Services for such treatment. The director may order a medical review by a physician or panel of physicians pursuant to ORS 656.327 (3) to aid in the review of such treatment. The decision of the director is subject to review under ORS 656.704.

“\* \* \* \* \*

ALJ Marshall affirmed, finding that RT's order is supported by substantial evidence in the record and contains no errors of law.

Claimant states that the interferential stimulator and back garment is an appropriate palliative prescription and therefore insurer should be required to pay for it.

On my review of the record I find no basis to modify RT's order. Accordingly, the November 8, 2007 proposed and final order is adopted and affirmed. The interferential stimulator with back garment is not compensable palliative care.

**IT IS HEREBY ORDERED** the November 8, 2007 Proposed and Final Order is adopted and affirmed.