

In the ORS 656.245 Medical Services Dispute and
ORS 656.260 Managed Care Dispute of

John D. Swartz, Claimant

Contested Case No: 09-022H and 09-023H

PROPOSED & FINAL ORDER

June 4, 2009

JOHN D. SWARTZ, Petitioner
SAIF CORP., Respondent

Before Geoffrey G. Wren, Administrative Law Judge

Pursuant to notice, a hearing was scheduled for April 13, 2009 before the undersigned administrative law judge. Prior to hearing, the parties advised that the matter could be submitted on the documentary record with written closing arguments. Claimant is represented by L. Leslie Bush. The employer, LDN Excavation, Inc., and its insurer, SAIF Corporation, are represented by Elaine Goeders. The record closed on May 14, 2009.

Exhibits 1 through 6 in Contested Case No. 09-023H are admitted as exhibits in this proceeding.

ISSUE

Medical Services: Claimant challenges a Defer and Transfer Order dated January 15, 2009 and an Administrative Order of Dismissal dated February 13, 2009.

STATEMENT OF FACTS

Claimant has an accepted claim for low back contusion. He sought authorization for lumbar facet injections as diagnostic medical services. When SAIF declined authorization, claimant sought review by the Director.

By Defer and Transfer Order dated January 15, 2009, the Director deferred action on claimant's medical services issue pending decision on compensability of the facet injections. By Administrative Order of Dismissal dated February 13, 2009, the Director declined to reconsider its Defer and Transfer Order and provided appeal rights.

ULTIMATE FINDING OF FACT

The Hearings Division has subject matter jurisdiction over compensability of the proposed facet injections.

CONCLUSIONS OF LAW AND OPINION

Claimant contends that he is entitled to facet joint injections proposed by Dr. Koon, his treating doctor, because the injections would be diagnostic of the cause and extent of his July 20, 2007 compensable work injury. Subject matter jurisdiction over that issue lies with the Hearings Division. ORS 656.704(3)(b)(C); *Hazel M. Hand*, 59 Van Natta 1028, 1033 (2007). The

Director appropriately deferred action on claimant's medical services request pending resolution of the compensability of the proposed diagnostic treatment.¹

ORDER

IT IS HEREBY ORDERED that the Defer and Transfer Order dated January 15, 2009 and an Administrative Order of Dismissal dated February 13, 2009 are affirmed.

IT IS FURTHER ORDERED that all other relief is denied.

¹ An Opinion and Order issued on May 14, 2009 finding that the proposed injections are not compensably related to claimant's work injury. (Administrative File).