

1 **EVIDENTIARY RULINGS**

2 The following exhibits were offered without objection and accordingly admitted into
3 evidence: WCD Exhibits 1-70.

4 **FINDINGS OF FACT**

5 I adopt the factual findings made by Medical Review Unit (MRU) in the disputed
6 administrative orders. (Exs. 57, 58, 64, 65).

7 **CONCLUSIONS OF LAW**

8 These are medical services disputes arising under ORS 656.245. The scope of my review
9 is *de novo*. OAR 436-001-0225(1). The burden of proof is on the claimant. ORS 183.450(2).
10 In each case the file contains a notice to claimant that “the agency file or files on the subject of
11 the contested case automatically become part of the contested case record upon default for the
12 purpose of proving a prima facie case. Having reviewed the hearing record in its entirety, I find
13 that the claimant has failed to show by a preponderance of the evidence that the agency decisions
14 in these matters should not be affirmed. I find that the hearing record presented supports the
15 agency’s decision in each matter.¹

16 **Attorney Fees**

17 Claimant has not prevailed and is therefore not entitled to an attorney fee. ORS
18 656.385(1).

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23 _____
24 ¹ Pursuant to OAR 137-003-0670(2), “an order adverse to a party may be issued upon default
25 only upon a prima facie case made on the record. The record may consist of oral (transcribed,
recorded or reported) or written evidence or a combination of oral and written evidence. In all
cases, the record must contain evidence that persuades the agency of the existence of facts
necessary to support the order.”

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ORDER

IT IS HEREBY ORDERED that MRU administrative orders MS 98-113, MS 98-114, MS 98-115 and MS 98-116 are affirmed.

DATED this ___ day of May, 2001.

By: _____
Paul Vincent, Hearings Judge
Hearing Officer Panel

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2 **NOTICE OF REVIEW AND APPEAL RIGHTS**

3 As provided in ORS 183.460, the parties are entitled to file written exceptions, including
4 argument, to this Proposed and Final Contested Case Hearing Order. The exceptions must
5 be served on the parties and filed with the Administrator of the Workers' Compensation
6 Division at the address set forth below within 30 days following the date of service of this
7 order. Written responses to exceptions must be filed within 20 days of service of the
8 exceptions. Replies, if desired, must be filed within 10 days of service of the response.

9 If no exceptions are filed, this order shall become final upon expiration of 30 days following
10 the date of service on the parties.

11 After this order becomes final, you are entitled to judicial review pursuant to the
12 provisions of ORS 183.480. Judicial review may be obtained by filing a petition with the
13 Court of Appeals within 60 days from the date that this order becomes final.

14 Mail any exceptions and a copy of any petition for judicial review to:

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