

In the ORS 656.245 Medical Services Dispute of
Sumpter, Brian , Claimant

Contested Case No: H01-035

FINAL ORDER

July 25, 2002

LIBERTY NORTHWEST INSURANCE CORPORATION , Petitioner
BRIAN SUMPTER, Respondent

Before John L. Shilts, Workers' Compensation Division Administrator

The Medical Review Unit (MRU) of the Department of Consumer and Business Services, Workers' Compensation Division (WCD) issued an administrative order on February 23, 2001 which found respondent's athletic club membership and use of a personal trainer constituted compensable medical services and were reimbursable.

On November 15, 2001, Hearing Officer Paul Vincent conducted a telephone hearing. Petitioner, Liberty Northwest Insurance Corporation (insurer), was represented by attorney Scott Monfils. Attorney Douglas A. Swanson represented respondent Brian Sumpter (claimant). Assistant Attorney General Carol A. Parks represented the WCD. Claimant testified on his own behalf. No other witnesses testified.

The petitioner¹ filed exceptions to Hearings Officer Vincent's February 28, 2002 Proposed and Final Contested Case Hearing Order, which determined the prescribed athletic club membership was reimbursable because it did not constitute treatment subject to OAR 436-010-0210(3). The respondent and the WCD timely responded to the exceptions. Before the Director, the issue is whether athletic club membership is reimbursable when an injured worker is permanently totally disabled (PTD) and those services are provided outside the direct control and supervision of the attending physician.

After considering the entire record, consisting of a tape recording of the hearing, all evidence received, all documents filed, and the arguments of the parties, the director adopts and affirms Hearings Officer Vincent's Proposed Order in its entirety.

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IT IS HEREBY ORDERED that the February 28, 2002 Proposed and Final Contested Case Hearing Order is affirmed.

¹ Attorney Meg Carman represented petitioner at the exceptions process.

Dated this 25th day of July 2002.

**MARY NEIDIG, DIRECTOR
DEPARTMENT OF CONSUMER
AND BUSINESS SERVICES**

By: _____
John Shilts, Administrator
Workers' Compensation Division