In the Managed Care of
Shannon Wofford, Claimant
Contested Case No: 07-124H
PROPOSED & FINAL ORDER
December 17, 2008
SHANNON WOFFORD, Petitioner
SAFEWAY, Respondent
Before John Mark Mills, Administrative Law Judge

Hearing in this matter was set before Administrative Law Judge John Mark Mills on April 17, 2008. Prior to the time of hearing the parties advised that the matter could be submitted on the documentary record. Claimant was represented by his attorney, James Guinn. The employer, Safeway, which is self insured, was represented by their attorney, Ronald Bohy.

At the time that the hearing was initially taken off the docket it was anticipated that claimant would be filing an additional Request for Hearing concerning a second Administrative Order and that that case would be consolidated with this one. However, that did not occur. After the parties were advised to file written closing arguments concerning the first Order, Safeway did so, but claimant did not. The record was then closed on November 26, 2008.

Workers' Compensation Division (WCD) submitted an exhibit list, 1 through 44. Safeway submitted its own exhibit list, 1 through 88 and has represented that those exhibits were all submitted to WCD as part of this proceeding. Based on that representation, exhibits 1 through 88, are received.

ISSUES

Claimant's Request for Hearing contests an Administrative Order of Dismissal dated September 27, 2007. The employer defends the Order which found that the medical services dispute raised by claimant before WCD was not ripe for review. The Order was issued by the resolution team (RT) on behalf of the Director of WCD.

FINDINGS OF FACT

I adopt the findings of fact set forth in the Administrative Order. No additional findings of fact are made. The scope of review in this case, which concerns medical treatment managed by a managed care organization (MCO), is limited to the substantial evidence and error of law standard. While OAR 436-001-0225(2) arguably suggests that some type of new evidence can be received during such a hearing, the Court of Appeals has made it clear that substantial evidence review does not contemplate that the reviewing body will make additional or supplemental findings of fact. *Liberty Northwest Insurance, Co., v. Kraft*, 205 Or App 59 (2005).

CONCLUSIONS AND OPINION

The issue in this case concerns medical services provided to claimant by Northwest Primary Care from April 13, 2005 through February 1, 2006. Claimant asserted that these services had not been paid for by the employer.

Substantial evidence supports the RT's findings of fact which are that medical services for most of the dates at issue had been paid and that, with regard to the remaining dates, the medical services had not been paid, but that was because the employer had not yet received bill forms (HCFA) or chart notes for the medical services provided on those dates.

The RT's order correctly noted that OAR 436-009-0010(2) requires that medical providers submit bills on the HCFA form in order to receive payment. In addition OAR 436-009-0010(3)(a) also requires that the bill be accompanied by chart notes.

Since the employer had not received the documentation supporting a claim for the medical services provided on the dates remaining at issue, the RT correctly concluded that Safeway was not yet obligated to pay for the medical services and there was, therefore, no medical services dispute which was ripe for adjudication before WCD. The order then properly dismissed the request for administrative review without prejudice. There was no error of law.

Accordingly, I approve the Administrative Order dated September 27, 2007.