

representative pursuant to OAR 836-005-0112 and 137-003-0555. The employer called Ruth Cox and Rita Jordan as his only witnesses. The employer offered Exhibits 1 to 5 as his documentary evidence. All of the employer's exhibits were admitted into the record. The insurer appeared and was represented by David B. Hatton, an Assistant Attorney General assigned to represent the insurer. The insurer called Joseph Rick as its only witness. The insurer offered Exhibits A1 to A25 as its documentary evidence. All of the insurer's exhibits were admitted into the record.

On 1/12/04, OAH issued a proposed order pursuant to ORS 183.460 and OAR 137-003-0645. The proposed order recommended that the director affirm the billing for two reasons. One reason was that the insurer was required by applicable rules to include in its premium calculation \$600 paid to an employee because the payment was to reimburse the employee for cost of gasoline he incurred commuting to and from work, and not for an expense he incurred on behalf of the employer. The second reason was that the insurer was required by applicable rules to reclassify from classification code 0037 (Farm/Field Crops Raising) to code 0083 (Cattle Raising) the wages paid to an employee for two months because the employer did not maintain verifiable records of the amount of time that the employee spent in the activities within each classification. The proposed order informed the employer and insurer that they could file with the director written exceptions to the proposed order within 30 days after the proposed order was served on the employer and insurer, pursuant to OAR 137-003-0650. On the same date, OAH mailed a copy of the proposed order to the employer and insurer.

The director did not receive any exceptions from the employer or the insurer.

Therefore, the director now makes the following final decision in this proceeding pursuant to ORS 731.248 and 183.470, and OAR 137-003-0655 and 137-003-0665.

Findings of Fact, Conclusions of Law and Opinion

The director adopts, and incorporates herein by this reference, the findings of fact, conclusions of law, and opinion of proposed order as the facts, conclusions, and reasoning of this final order.

Order

The billing is affirmed.

Notice of Right to Judicial Review

Each party may have the right to appeal this final order to the Oregon Court of Appeals pursuant to ORS 183.480 and 183.482. If a party wants to appeal the order, the party must file a petition for judicial review with the Court of Appeals within 60 days from the date this order was served on the party. If the order was personally delivered to a party, then the date of service is the day the party received the order. If the order was mailed to a party, then the date of service is the day the order was mailed to the party, not the day the party received the order. If a party does not file a petition within the 60-day time period, then the party will lose the right to appeal this order. If a party appeals the order, the party should also send a copy of the petition to the Insurance Division by delivering it to Labor and Industries Building, 350 Winter Street NE, Room 440 (4th Floor), Salem, Oregon; or mailing it to PO Box 14480, Salem, OR 97309-0405, or faxing it to 503-378-4351; or e-mailing it to mitchel.d.curzon@state.or.us.

Dated April 16, 2004

/s/ Joel Ario
Joel Ario
Insurance Administrator
Department of Consumer and Business Services

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